

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO

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ELIEZER WILLIAMS, a minor, by)
Sweetie Williams, his guardian ad)
litem, et al.,)

Plaintiffs,)

vs.) No. 312236

STATE OF CALIFORNIA; DELAINE)
EASTIN, State Superintendent of)
Public Instruction; STATE)
DEPARTMENT OF EDUCATION; State)
Board of Education,)

Defendants.)

DEPOSITION OF
AMY SALYER

(Pages 1 through 217)
November 12, 2001

REPORTED BY: JOHNNA FORD CSR 11268

JOB 5-113649

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ACLU OF NORTHERN CALIFORNIA, 1663 Mission Street, Suite 460, San Francisco, California 94103, represented by KATAYOON MAJD, Attorney at Law, appeared as counsel on behalf of the Plaintiffs.

ACLU FOUNDATION OF SOUTHERN CALIFORNIA, 1616 Beverly Boulevard, Los Angeles, California 90026-5752, represented by CATHERINE E. LHAMON, Attorney at Law, appeared as counsel on behalf of the Plaintiffs.

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

ALSO PRESENT: Kathleen M. Lucas, The Lucas Law Firm.

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EXAMINATION BY MR. ROSENTHAL

MR. ROSENTHAL: Q. Good morning, Ms. Salyer. My name is Michael Rosenthal and I represent the State of California in this litigation.

Can you please state and spell your name for the record, please?

A. First name is Amy, A-m-y; last name is Salyer, S-a-l-y-e-r.

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STATE OF CALIFORNIA; DELAINE EASTIN, State Superintendent of Public Instruction; STATE DEPARTMENT OF EDUCATION; State Board of Education, Defendants.

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BE IT REMEMBERED that, pursuant to notice and on Monday, November 12, 2001, commencing at 9:40 a.m. at O'Melveny & Myers LLP, 275 Battery Street, Conference Room 26 West, San Francisco, California, before me, JOHNNA FORD, a Certified Shorthand Reporter, personally appeared AMY SALYER

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

Q. Great. Thank you. Have you ever had your deposition taken before?

A. No.

Q. Okay. I'm going to go over just some general ground rules. Do you have an understanding as to how we're going to proceed here today? And I imagine your attorney has probably filled you in on some of those ground rules already. Sitting to my right, we have a court reporter who is transcribing everything that we say here today, so it is important that we follow a couple of rules, such as speaking clearly and not speaking over each other so we get a clear record. Do you understand that?

A. Yes.

Q. Also, so that the court reporter can transcribe everything that is said here today, it would be helpful if you give me verbal responses as opposed to nodding your head and shaking your head and things like that. Do you understand that?

A. Yes.

Q. Great. A couple of weeks after we complete the deposition, you'll receive a copy of the transcript and you'll have an opportunity to review the transcript and make any changes that you deem necessary. Do you understand that?

1 A. Yes.

2 Q. And do you also understand that any changes
3 you do make to the transcript, I or any other attorney
4 will have an opportunity to comment on those changes?

5 A. Yes.

6 Q. Great. Now, do you understand that the
7 testimony you are giving here today is under oath?

8 A. Yes.

9 Q. Even though we're sitting here in an
10 informal setting, it is as if you were testifying in a
11 court of law. Do you understand that?

12 A. Yes.

13 Q. It is also important that you listen to my
14 questions carefully. If for any reason you don't
15 understand something, please just let me know and
16 perhaps I can rephrase the question, but if you give me
17 an answer to a question I ask, I will assume that you
18 understood the question. Do you understand that?

19 A. Yes.

20 Q. Also, if I ask you a question that you don't
21 know the answer to, I don't want you to guess at an
22 answer, but to the extent you can give me your best
23 estimate in situations you can do that, that would be
24 helpful. Do you understand that?

25 A. Yes.

1 Q. Also, we'll probably take breaks roughly
2 every hour or so or we'll see how things go, but if you
3 need to take a break to go to the restroom, to get
4 something to drink, or for any other reason, feel free
5 to let me know that and we can do that. Do you
6 understand that?

7 A. Yes.

8 Q. The only thing I ask you is if I've asked
9 you a question, if you can give me an answer to the
10 question prior to taking the break, then we can take a
11 break after you give me the answer. Do you understand
12 that?

13 A. Yes.

14 Q. Also, we'll be covering a number of
15 different areas during today's deposition and sometimes
16 it is hard to remember everything at once, so if at
17 some point later today you remember something that was
18 responsive to a question I asked you earlier today,
19 just let me know. We'll go back to that area and you
20 can give me whatever additional information you
21 remember. Do you understand that?

22 A. Yes.

23 Q. Do you have any questions about any of these
24 ground rules?

25 A. Not at this time.

1 Q. Okay. If you have any at any point, let me
2 know.

3 Is there any reason why you might not be
4 able to give your best testimony today?

5 A. Not that I'm aware of.

6 Q. Are you on any medication or have you
7 consumed any alcohol in the recent past?

8 A. No.

9 Q. Okay. Do you suffer from any kind of
10 disabilities that would affect your ability to remember
11 events?

12 A. No.

13 Q. Okay. Thank you. Are you represented by an
14 attorney at today's deposition?

15 A. Yes.

16 Q. Can you tell me who you are represented by?

17 A. Katayoon Majd.

18 Q. Can you spell that?

19 A. K-a-t-a-y-o-o-n, M-a-j-d.

20 Q. It wasn't a spelling test. Do you have an
21 understanding as to when that representation began?

22 A. Yes.

23 Q. Can you tell me what that was?

24 A. July 27th, 2001.

25 MS. MAJD: I just want to remind you to not

1 reveal any contents of communications after that date
2 between you and me.

3 MR. ROSENTHAL: Q. Prior to July 27th,
4 2001, did anybody else represent you in connection with
5 this action?

6 A. No.

7 Q. Can you tell me what you did to prepare for
8 today's deposition?

9 MS. MAJD: I'm going to object to the extent
10 it calls for information protected by attorney/client
11 privilege. You can say what you did to prepare on your
12 own, but don't reveal what we talked about.

13 THE WITNESS: I reread my own declaration.

14 MR. ROSENTHAL: Q. Did you have any
15 meetings with your attorneys to prepare for today's
16 deposition?

17 MS. MAJD: You can answer that we had a
18 meeting.

19 THE WITNESS: Yes.

20 MR. ROSENTHAL: Q. Can you tell me who was
21 present at that meeting?

22 A. Katayoon Majd, Catherine Lhamon, and an
23 agent of Ms. Lhamon and Ms. Majd.

24 Q. When you say, "An agent," do you mean
25 somebody in the support staff?

1 A. Another attorney.
 2 Q. Do you remember that attorney's name?
 3 A. No.
 4 Q. Do you know who that attorney worked for?
 5 A. No.
 6 Q. Male or female?
 7 A. Female.
 8 Q. Just so we're clear, I'm referring to
 9 counsel. Now, is that somebody who is representing
 10 Plaintiffs in connection with this action?
 11 MS. LHAMON: Yes, the testimony should be
 12 from the witness today.
 13 MR. ROSENTHAL: I understand. I'm trying --
 14 I can question further. I'm just trying to see whether
 15 this meeting is covered by privilege or not. If you
 16 could give me a response.
 17 MS. LHAMON: The witness has already given
 18 an answer.
 19 MR. ROSENTHAL: Q. Do you know if the other
 20 attorney present is representing Plaintiffs in this
 21 action?
 22 A. I do not know.
 23 Q. We can try it this way: Can you tell me
 24 what happened at the meeting?
 25 MS. MAJD: Objection. Calls for information

1 protected by attorney/client privilege. I'm going to
 2 instruct you not to answer.
 3 MR. ROSENTHAL: Are you representing the
 4 other attorney present at the meeting was an attorney
 5 representing the Plaintiffs in this action?
 6 MS. MAJD: Yes, she was.
 7 MR. ROSENTHAL: Q. Do you recall when this
 8 meeting took place?
 9 A. Yes.
 10 Q. Can you tell me when?
 11 A. Last night.
 12 Q. Do you recall how long you met for?
 13 A. About two hours, approximately.
 14 Q. Other than you and the three attorneys
 15 you've referred to, was anybody else present at that
 16 meeting?
 17 A. No.
 18 Q. Were you shown any documents at that
 19 meeting?
 20 MS. MAJD: Objection. I'm going to instruct
 21 you not to answer. Calls for information protected by
 22 attorney/client privilege.
 23 MR. ROSENTHAL: Q. Are you going to follow
 24 that instruction?
 25 A. Yes, I am.

1 Q. Were you shown any documents that refreshed
 2 your recollection at the meeting?
 3 MS. MAJD: Objection. Calls for information
 4 protected by attorney/client privilege. I'm
 5 instructing you not to answer.
 6 MR. ROSENTHAL: Do you understand that
 7 documents that refresh the witness's recollection are
 8 not covered by the attorney/client privilege in these
 9 instances?
 10 MS. MAJD: Right, I understand that. You
 11 can ask about specific documents, but not the universe
 12 of all documents she's seen.
 13 MR. ROSENTHAL: I'm trying to figure out if
 14 she has seen any documents during that meeting that
 15 refreshed her recollection. To go through a list of
 16 documents seems like it would be a waste of the
 17 witness's time and everybody's time.
 18 MS. MAJD: I disagree with that.
 19 MR. ROSENTHAL: Why don't I try to get a
 20 "yes" or "no" answer first.
 21 Q. Were you shown any documents at the meeting
 22 that refreshed your recollection?
 23 MS. MAJD: Objection. That is vague.
 24 MR. ROSENTHAL: You can answer.
 25 THE WITNESS: I believe I need to defer to

1 my counsel's instruction not to reply based on the
 2 attorney/client privilege.
 3 MR. ROSENTHAL: I don't think your attorney
 4 instructed you not to answer that specific question.
 5 THE WITNESS: My understanding of your
 6 question was that you asked me if I had been shown any
 7 documents to refresh my memory, which, to me, sounded
 8 the same as the prior question at which point my
 9 counsel objected.
 10 MR. ROSENTHAL: Let me ask a question again
 11 and if your counsel wants to object or instruct you not
 12 to answer, we can deal with it that way.
 13 Q. Were you shown any documents at the meeting
 14 with counsel that refreshed your recollection?
 15 MS. MAJD: Objection. Vague as to "Refresh
 16 recollection."
 17 Do you understand what that means?
 18 THE WITNESS: Could you define "Refresh
 19 recollection"?
 20 MR. ROSENTHAL: Q. Did you review any
 21 documents -- were you shown -- did you see any
 22 documents at the meeting that, after looking at those
 23 documents, your recollection, what you remember, was
 24 refreshed? Do you understand the question?
 25 A. Yes, I understand the question. That was

1 not a "yes" to the question itself.

2 Q. Why don't we try the question itself now.
3 Were there any documents that were shown at that
4 meeting that refreshed your recollection?

5 MS. MAJD: Objection. I'm going to instruct
6 you not to answer that.

7 MS. MAJD: Okay. You can answer that.

8 THE WITNESS: I was not shown any documents
9 at the meeting that refreshed my recollection.

10 MR. ROSENTHAL: Great. Thank you.

11 Q. Other than reading your declaration and
12 meeting with counsel, did you do anything else to
13 prepare for your deposition today?

14 A. Tried to get a good night's sleep.

15 Q. Were you able to do that?

16 A. More or less.

17 Q. Have you spoken to anybody else about giving
18 deposition testimony here today --

19 A. Yes.

20 Q. -- putting your attorneys aside? Was that a
21 "yes"?

22 A. Yes; sorry.

23 Q. That is okay. Can you tell me who you spoke
24 to about it?

25 A. I mentioned to my family that I would be

1 A. To the best of my recollection, I said that
2 I would be in the City on Monday to be deposed in this
3 case and that it was related to us doing planning for
4 our classroom.

5 Q. Did you discuss the substance of what you
6 would be testifying about today?

7 A. No.

8 Q. How about your conversation with Ms.
9 Naranjo-Hall, can you tell me what the substance of
10 that conversation was?

11 A. Essentially the same, that I would be in the
12 City on Monday. It was in the context of letting her
13 know I would also possibly be out on Tuesday for
14 another matter.

15 Q. Did you discuss the substance of your
16 testimony here today?

17 A. No.

18 Q. How about your e-mail to Ms. Evans, can you
19 tell me the substance of that e-mail?

20 A. Trying to make a coffee date and me saying
21 that I would be here to be deposed and thus would be
22 indisposed.

23 Q. Did you discuss the substance of what you
24 testified to here today?

25 A. No.

1 coming to the City today. I mentioned to a couple of
2 colleagues at work that I wouldn't be available for
3 other activities today because I would be at the
4 deposition.

5 Q. Can you identify the colleagues that you
6 spoke to?

7 A. Nicol LaCava, N-i-c-o-l, L-a-C-a-v-a, Janie,
8 J-a-n-i-e, Naranjo, N-a-r-a-n-j-o, hyphen Hall,
9 Kathleen, K-a-t-h-l-e-e-n, Evans, E-v-a-n-s.

10 Q. Were these separate conversations you had
11 with each of these individuals or was it one
12 conversation?

13 A. As I recall, we were -- all three were
14 separate.

15 Q. Can you tell me when you had the
16 conversation with each?

17 A. I mentioned in an e-mail to Ms. Evans
18 yesterday -- I believe yesterday. It could've been
19 Saturday, this weekend -- that I would be downtown.
20 Spoke to Ms. LaCava on Friday, November the 9th. As
21 best I recall, I spoke to Ms. Naranjo-Hall also on
22 Friday, November 9th.

23 Q. Why don't we start with the conversation you
24 had with Ms. LaCava. Can you just tell me the
25 substance of that conversation?

1 Q. And all three of these individuals that you
2 identified, are they all teachers at Hawthorne
3 Elementary School?

4 A. None of them are teachers at Hawthorne
5 Elementary School.

6 Q. Are you currently employed at Hawthorne
7 Elementary?

8 A. No, I am not.

9 Q. Can you tell me where you are currently
10 employed?

11 A. International Community School, the Oakland
12 Unified School District.

13 Q. Is that where these three individuals are
14 also employed?

15 A. Yes.

16 Q. Outside of your attorneys, family members,
17 and these three colleagues you identified, did you
18 discuss the fact that you were giving a deposition here
19 today with anybody else?

20 A. Not that I recall.

21 Q. You said in preparing for your deposition,
22 you read your declaration. Did you read anybody else's
23 declaration?

24 A. No.

25 Q. Have you ever seen any other declaration --

1 A. No.

2 Q. -- in this case? Was that a "no"?

3 A. No. It was a "no."

4 Q. Okay. That is actually one of the ground
5 rules I didn't specifically cover. I might as well
6 cover it now to make sure we're clear. To make sure we
7 have a clear record, it is helpful if you give me the
8 opportunity to finish my question before you give your
9 answer and I will try to do my best to return the
10 courtesy and allow you to finish your answer before
11 moving on to my next question. It will make for a
12 clear record when it is written down on paper. Do you
13 understand that?

14 A. Yes.

15 Q. Great. Thanks. Have you ever seen a copy
16 of the first amended complaint in this action?

17 A. I believe so.

18 Q. If I showed you a copy, would you be able to
19 recognize it?

20 A. Possibly.

21 Q. Why don't we try it without marking it as an
22 exhibit. Do you want to take a look at it?

23 MS. MAJD: I'll stipulate that this is the
24 first amended complaint.

25 MR. ROSENTHAL: Great. Thank you. Just let

1 can you just tell me what you mean by that?

2 A. It had narrative from -- I guess it would be
3 from some of the Plaintiffs' statements or
4 declarations. I'm not sure where the information would
5 have come from, but it had descriptions of conditions
6 in schools in the State of California that had created
7 the need to file this action.

8 Q. Any other documents that you recall seeing
9 or reading in connection with this case?

10 MS. MAJD: I'm just going to remind you to
11 not reveal anything that was shown to you by any of the
12 counsel -- your counsel after the attorney/client
13 privilege began.

14 THE WITNESS: Can you define what you mean
15 by "Documents"?

16 MR. ROSENTHAL: I have a pretty broad
17 definition of documents. I would include things like
18 declarations, the complaint, newspaper articles,
19 e-mails, particularly anything you can think of.

20 MS. MAJD: Objection. That is vague. You
21 can answer, if you --

22 THE WITNESS: I think anything I may have
23 seen or may not have seen, anything -- any documents
24 pertaining to the case would not have come into my
25 purview until after the start of the attorney/client

1 the record reflect I'm showing the witness the first
2 amended complaint. We're not marking it as an exhibit,
3 so we don't have to make a million copies of it,
4 basically.

5 THE WITNESS: I can't say for certain this
6 is the exact same item that I have seen -- I mean,
7 because I don't have them side by side to compare. I
8 don't know if there is some change on page 46 that
9 would be different than what I have seen.

10 MR. ROSENTHAL: Q. The document you recall
11 seeing, is it similar in length and format to this
12 document?

13 A. It is shorter than that document, so I can't
14 say that it is the exact same thing. It treats the
15 case as the same case, but this may be different
16 information or documentation related to it from what I
17 can see.

18 Q. Do you recall what information was contained
19 in the documents that you recall seeing?

20 A. There was the list of attorneys representing
21 the Plaintiffs. There was, I believe, a list of
22 attorneys representing the Defendants, the State of
23 California. There was a list of Plaintiffs and then
24 there was a description of the action.

25 Q. When you say, "A description of the action,"

1 relationship and therefore as instructed by Counsel, I
2 won't testify as to whether or not I have or have not
3 seen.

4 Can I please add to that response?

5 MR. ROSENTHAL: Sure.

6 THE WITNESS: I did see my own declaration
7 after it was taken and transcribed.

8 MR. ROSENTHAL: Q. Prior to July 27th,
9 2001, did you receive any documents from any of the
10 attorneys representing the Plaintiffs in this action?

11 MS. MAJD: Objection. She has already
12 testified that she doesn't understand "Documents."

13 THE WITNESS: Can you be more specific,
14 please, about documents?

15 MR. ROSENTHAL: Q. Again, I have a very
16 broad definition of documents. I'm just wondering if
17 you've had any communication in written form or e-mail
18 form or via fax with any of the attorneys representing
19 the Plaintiffs. I'm referring to prior to the start of
20 your representation.

21 MS. MAJD: I'm going to just object to say
22 "Anything you can think of" doesn't define the term
23 "Documents."

24 MR. ROSENTHAL: You can answer.

25 THE WITNESS: To the best of my

1 recollection, what I saw prior to July 27th would be
2 written letters from the ACLU of Southern California
3 written by Catherine Lhamon with updates about the
4 progress of the case and e-mails from Catherine Lhamon
5 and possibly from Katayoon -- I can't say for sure --
6 covering the same content area how that -- what rulings
7 had been made in the case.

8 MR. ROSENTHAL: Q. Other than these e-mails
9 and written letters that you received, do you recall
10 receiving any other documents from any of the attorneys
11 representing the Plaintiffs prior to July 27th of this
12 year?

13 A. No, I do not recall.

14 MS. MAJD: That is separate from your
15 declaration, right?

16 THE WITNESS: Right, separate from the
17 declaration.

18 MR. ROSENTHAL: Great. Thank you.

19 Q. Can you tell me how you first heard about
20 this lawsuit?

21 A. I believe I heard about it in the news
22 media. I -- I don't know -- can I give a two-pronged
23 answer? I can't say for sure if I first saw a news
24 article in the news media or if I got some kind of
25 flier from my labor union in my mailbox at school.

1 A. Yes.

2 Q. Was that also approximately the same time
3 frame?

4 A. Approximately, yes.

5 Q. Do you recall the substance of that flier?

6 A. To the best of my recollection, it was some
7 kind of -- you know, flier or note or some form of
8 communication letting teachers know that an action was
9 occurring and that if teachers had something they felt
10 they wanted to share about the conditions in their
11 schools in Oakland, that they could call a certain
12 union person who could then facilitate them being able
13 to share that information.

14 Q. Was the flier from a specific individual in
15 the labor union?

16 A. Not that I'm able to recall.

17 Q. But did it have a specific name on it,
18 somebody to contact or who it was coming from?

19 A. I can't recall.

20 Q. Can you tell me how you first became
21 involved in this lawsuit, you personally?

22 MS. MAJD: Objection. Vague as to
23 "Involved."

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

1 Q. Do you recall both of those events occurring
2 at some point?

3 A. Yes.

4 Q. You just don't recall which one happened
5 first?

6 A. Right; yes.

7 Q. Do you recall the article that you saw early
8 on?

9 A. I don't recall specifically.

10 Q. Do you recall the substance of that article?

11 A. To the best of my recollection, that the
12 American Civil Liberties Union, the ACLU, on behalf of
13 school children in the State of California, had filed a
14 lawsuit against the State over school conditions and
15 then, as I recall, the articles -- you know, explained
16 what those conditions might be.

17 Q. Do you recall when that article -- when you
18 saw that article?

19 A. I cannot recall specifically.

20 Q. Do you remember approximately?

21 A. Sometime in late 2000 -- no, sometime in
22 late 1999 or early 2000. No, wait. It is 2001 now.
23 Back to late 2000, early 2001. Sorry.

24 Q. You said you also recalled receiving a flier
25 from your labor union; is that right?

1 A. Could you define "involved," please?

2 Q. Why don't we try it this way: After either
3 reading the article or receiving the flier from your
4 labor union, did you take any steps to find out more
5 information about the lawsuit?

6 A. Yes.

7 Q. Can you tell me what steps you took?

8 A. I let one of the site -- union site
9 representatives know that I would be interested in
10 sharing my experiences.

11 Q. Can you tell me the name of that site rep?

12 A. I believe it was Gabriela, G-a-b-r-e-i-l-a,
13 Gonzales, G-o-n-z-a-l-e-s. I believe it was that
14 person. I couldn't say 100 percent.

15 Q. Okay. At that time you were a teacher at
16 Hawthorne Elementary?

17 A. Yes, I was.

18 Q. Is there more than one site rep at
19 Hawthorne?

20 A. Yes, there is.

21 Q. And Ms. Gonzales is one of the site reps?

22 A. Yes, she is.

23 MS. MAJD: Are you talking about now or
24 when --

25 MR. ROSENTHAL: I'm talking about at the

1 time.
 2 THE WITNESS: At the time, yes.
 3 MR. ROSENTHAL: Q. Can you identify for me
 4 the other site reps who were at the school at the time?
 5 A. Yes, I can.
 6 Q. Can you name them for me?
 7 A. Amy Salyer would be one of them, Gabriela
 8 Gonzales, Karen Perkins, K-a-r-e-n, P-e-r-k-i-n-s,
 9 Suzanne, S-u-z-a-n-n-e, Ragghianti,
 10 R-a-g-g-h-i-a-n-t-i, and Raquel, R-a-q-u-e-l,
 11 Rodrigues, R-o-d-r-i-g-u-e-s, hyphen, Jones.
 12 Q. So when you can't be 100 percent that it was
 13 Ms. Gonzales you told, are you 100 hundred percent sure
 14 it was one of the union site reps that you identified?
 15 A. Yes.
 16 Q. Do you recall when this communication you
 17 believe was with Ms. Gonzales took place?
 18 A. To the best of my recollection, in late
 19 February or early March of 2001.
 20 Q. Now, you told me that you let the site rep
 21 know that you were interested in sharing your
 22 experiences. Was there anything else discussed during
 23 that conversation?
 24 A. Not that I recall.
 25 Q. Did the site rep you were speaking to have

1 Q. Did you subsequently meet with Ms. Lhamon to
 2 further discuss the case?
 3 A. Yes, I did.
 4 Q. Was that the next -- going chronologically,
 5 was that the next event that took place with regards to
 6 your finding out more information about the case or was
 7 there some intervening communication with somebody else
 8 or Ms. Lhamon?
 9 A. There was no intervening communication with
 10 Ms. Lhamon, aside from establishing a time and place to
 11 meet. I did ask other teachers at Hawthorne if they
 12 would like to participate.
 13 Q. Was there some reason you asked other
 14 teachers if they wanted to participate?
 15 A. Yes.
 16 Q. Can you tell me what that reason was?
 17 A. Because I knew, based on my observations,
 18 that other teachers at Hawthorne had a story to tell
 19 about our situation and that perhaps they would like to
 20 have a venue in which to do that.
 21 Q. Did Ms. Lhamon ever discuss with you the
 22 possibility of communicating with other teachers about
 23 their experiences at Hawthorne? And focusing in on
 24 that initial conversation you had with Ms. Lhamon at
 25 that time. Do you understand the question?

1 any response to you?
 2 A. As I recall, the response was that she would
 3 pass my name and number on to the -- whoever the next
 4 person in the chain would be.
 5 Q. After this conversation with one of the site
 6 reps, did you have any communication -- strike that.
 7 Can you tell me what the next step you took
 8 was as far as finding out more about the lawsuit?
 9 A. Possibly. I'm trying to remember. It has
 10 been a while. I believe I got a call or an e-mail from
 11 Ms. Lhamon. I received some kind of communication from
 12 Catherine Lhamon.
 13 Q. Can you tell me the substance of that
 14 communication?
 15 A. My recollection is that she asked if I would
 16 be interested in meeting with her to talk about -- to
 17 learn about the case and to share my experiences, if I
 18 wanted to.
 19 Q. And did you respond?
 20 A. Yes, I did.
 21 Q. How did you respond to her?
 22 A. Affirmatively.
 23 Q. Was there anything else discussed during
 24 this communication of substance?
 25 A. Of substance, no, not that I recall.

1 A. I believe I do. As I recall, Ms. Lhamon may
 2 have asked me if I knew of other teachers who would
 3 like to contribute, that I would be free to invite them
 4 to attend the meeting or to give them her phone number.
 5 Q. I know it is hard to remember specific time
 6 frames and all the events that occur, but do you
 7 remember when your conversation with Ms. Lhamon
 8 occurred, approximately?
 9 A. Late February or early March of 2001.
 10 Q. So soon after your conversation with the
 11 union site rep?
 12 A. Yes. It could've been early February, late
 13 February, but --
 14 Q. Okay. You said prior to meeting with Ms.
 15 Lhamon, you had some communications with other teachers
 16 about their experiences?
 17 MS. MAJD: Objection. I think that
 18 mischaracterizes the testimony.
 19 MR. ROSENTHAL: Q. Do you understand the
 20 question or --
 21 A. Can you define what you mean by
 22 conversations with other teachers about their
 23 experiences?
 24 Q. Well, you said -- you testified a few
 25 moments ago that prior to meeting with Ms. Lhamon, you

1 -- I believe you said you asked other teachers if they
2 were interested in meeting with Ms. Lhamon as well,
3 that other teachers had a story to tell as well. Do
4 you remember how many teachers you met with or you
5 communicated with? I'm sorry.

6 A. Okay. I did not meet with other teachers.
7 As I recall, I, myself typed a flier and put it in
8 probably 20 mailboxes at Hawthorne School saying that
9 there was an opportunity for teachers who wanted to
10 tell their story -- tell the story of their experiences
11 with the conditions in the Oakland Unified School
12 District and that I had a contact to provide them with
13 that avenue and venue.

14 Q. You said you put the flier in roughly 20
15 mailboxes. Were all those mailboxes at Hawthorne
16 Elementary?

17 A. Yes.

18 Q. And were all those mailboxes of teachers at
19 Hawthorne Elementary?

20 A. Yes.

21 Q. Did you put fliers in the mailboxes of each
22 teacher at Hawthorne or did you not do so?

23 A. No, I don't believe I put a flier in every
24 teacher's mailbox.

25 Q. Was there some reason you put fliers in some

1 Q. Do you recall any specific individual
2 teacher who had those kinds of inquiries?

3 A. Not that I recall specifically.

4 Q. You said one of the inquiries you received
5 was whether it was a union thing or some kind of an
6 outside thing and you said you explained in those
7 instances your understanding of the case. Can you just
8 briefly tell me what your understanding of the case is?

9 A. At this time or at that time?

10 Q. At that time, what you told them.

11 A. My understanding at that time was based on
12 whatever I had read in the media and whatever Ms.
13 Gonzales or whichever union rep had said that the ACLU
14 had filed a lawsuit on behalf of school children
15 regarding inequitable school conditions in the State of
16 California and that the suit was at the stage where
17 information was being taken or collected from teachers
18 and students who had been in these situations.

19 Q. When you say, "Inequitable school
20 conditions," can you just tell me what you mean by
21 that?

22 MS. MAJD: Objection. Calls for a legal
23 conclusion.

24 MR. ROSENTHAL: You can answer.

25 THE WITNESS: My definition of inequitable

1 mailboxes and not others?

2 A. Yes.

3 Q. What was that reason?

4 A. Some of the teachers were off track at the
5 time and wouldn't have been available to participate.

6 Q. So for the teachers who were on track, you
7 put fliers in each of those mailboxes, to the best that
8 you recall?

9 A. To the best that I recall.

10 Q. Subsequent to putting fliers in teacher
11 mailboxes, did you have any communications with any
12 teachers about the flier?

13 A. About the flier, no.

14 Q. How about in response to the flier?

15 A. It is possible that some teachers asked me
16 questions about -- you know, is this a union thing, or
17 is this an outside thing, or what is the point, and so
18 I might have explained to them what my understanding
19 was. I can't recall or say specifically.

20 MS. MAJD: I just want to remind you not to
21 guess if you don't know.

22 MR. ROSENTHAL: Q. Do you remember how many
23 teachers had the sorts of inquiries you've just
24 identified?

25 A. I cannot recall.

1 is that students in some schools do not receive the
2 same quality of instruction, materials, facilities, and
3 other related items that children in other schools
4 receive.

5 MR. ROSENTHAL: Q. When you said that one
6 of the -- the way you went about trying to find out if
7 other teachers wanted to attend the meeting with Ms.
8 Lhamon or otherwise get in contact with Ms. Lhamon was
9 by putting fliers in teacher mailboxes. Did any
10 teachers respond to you that they wanted to attend the
11 meeting or otherwise get in touch with Ms. Lhamon as a
12 result of doing that?

13 A. Yes.

14 Q. Can you tell me which teachers responded in
15 that manner?

16 A. I can tell you the ones that I recall.

17 Q. That is all I can ask for.

18 A. Okay. Nicholas Jackson.

19 Q. If you can try to spell the names for the
20 court reporter.

21 A. N-i-c-h-o-l-a-s, J-a-c-k-s-o-n, Nicol
22 LaCava, N-i-c-o-l, L-a-C-a-v-a, Janie, J-a-n-i-e,
23 Naranjo, N-a-r-a-n-j-o, hyphen, Hall, Albertina
24 Padilla, A-l-b-e-r-t-i-n-a, P-a-d-i-l-l-a; I believe
25 Gabriela Gonzales, G-a-b-r-i-e-l-a, G-o-n-z-a-l-e-s,

1 Karen Perkins, K-a-r-e-n, P-e-r-k-i-n-s, possibly
 2 Suzanne, S-u-z-a-n-n-e, Ragghianti,
 3 R-a-g-g-h-i-a-n-t-i.
 4 MS. MAJD: Can I clarify something? Can you
 5 read back the last question, please?
 6 (Record read by the reporter.)
 7 MS. MAJD: Okay. Well, I was just unclear.
 8 I thought the question before that mischaracterized the
 9 testimony to the extent you asked whether these
 10 teachers wanted to meet with Catherine Lhamon
 11 specifically. I don't think she testified she was
 12 asking them to meet with Catherine specifically.
 13 MR. ROSENTHAL: Q. Other than these seven
 14 teachers you've identified, do you recall any other
 15 teachers responding that they were interested in
 16 meeting with Ms. Lhamon or somebody else from the ACLU
 17 in connection with this case?
 18 A. Not that I recall.
 19 Q. Do you remember any teachers responding that
 20 they did not want to meet with Ms. Lhamon -- nothing
 21 personal -- or anybody from the ACLU in connection with
 22 this case?
 23 A. No.
 24 MS. LHAMON: If you wouldn't mind, I could
 25 take a break.

1 MR. ROSENTHAL: That is fine.
 2 (Recess taken.)
 3 MS. MAJD: I'm sorry. Before we start, can
 4 I -- do you have the witness fee for Ms. Salyer?
 5 MR. ROSENTHAL: I do not. I apologize. I
 6 was not given anything on Friday when I left and I know
 7 that we owe you several witness fees. I'm trying to
 8 think what the best thing to do is. Perhaps if you or
 9 Ms. Lhamon, if you want to provide me with a list of
 10 whoever is still outstanding.
 11 MS. LHAMON: You have a list from our office
 12 of the witness fees we sent a couple weeks ago.
 13 MR. ROSENTHAL: Okay. I know that might not
 14 be the most up-to-date list.
 15 MS. LHAMON: You all should know which ones
 16 you've paid.
 17 MR. ROSENTHAL: I apologize for that. I was
 18 -- I did realize that last night as, obviously,
 19 accounting was closed. Usually they just provide it to
 20 me in advance, but I did not receive anything. I
 21 apologize. We will get that to you as soon as we
 22 possibly can.
 23 MS. MAJD: It would be helpful in the future
 24 if you could bring them to the deposition.
 25 MR. ROSENTHAL: That has generally been our

1 practice. I recognize there have been some --
 2 MS. MAJD: Okay.
 3 MR. ROSENTHAL: It hasn't been a perfect
 4 practice.
 5 MS. MAJD: Okay.
 6 MS. LHAMON: It hasn't been the practice in
 7 San Francisco is the problem.
 8 MR. ROSENTHAL: I feel like we don't need to
 9 waste time on this, but I know that I feel like I, at
 10 least half the time, I brought them with me. I could
 11 be wrong on that. We'll check the numbers.
 12 MS. LHAMON: Okay.
 13 MR. ROSENTHAL: Q. Ms. Salyer, you
 14 understand you are still under oath?
 15 A. Yes.
 16 Q. You understand we're going to take breaks
 17 during the day and each time you come back, you'll
 18 still be under oath each time?
 19 A. Yes.
 20 Q. Great. Just prior to our break, you
 21 identified seven teachers who responded that they were
 22 interested in meeting with someone with the ACLU in
 23 connection with this case. Did you have individual
 24 communications with each of these people or did you
 25 speak to them -- did you find out about their interest

1 in some sort of a group setting or something else?
 2 A. As I recall, each person let me know, "Oh,
 3 yes. I would like to participate. Can you tell me
 4 when the meeting is and where the meeting would be?"
 5 Q. Was the substance of your conversations with
 6 each of those individuals basically the same?
 7 A. Yes.
 8 Q. Can you identify for me the substance of the
 9 conversations you had with these individuals?
 10 A. To the best of my recollection, my
 11 conversations with each of those people was the same
 12 regarding time and location of the proposed meeting.
 13 Q. Did each of the individuals indicate to you
 14 they wanted to attend the meeting with Ms. Lhamon that
 15 you were planning on attending?
 16 A. They indicated they were interested in
 17 participating in a meeting on the topic. I don't know
 18 if they said they wanted specifically to meet with
 19 Catherine Lhamon because we may not -- they may not
 20 have known her name.
 21 Q. In between the time you had these
 22 communications with the teachers you've identified and
 23 the time you met with Ms. Lhamon, did you have any
 24 other communications with anybody regarding this case?
 25 MS. MAJD: Objection. It assumes facts not

1 in evidence.

2 MR. ROSENTHAL: I can ask you that first.

3 Q. Did you at some point meet with Ms. Lhamon
4 in person or anybody else from the ACLU?

5 A. Not prior to the group meeting where all of
6 the people attended.

7 Q. At some point you had a group meeting?

8 A. Yes.

9 Q. Did Ms. Lhamon attend?

10 A. Yes.

11 Q. Do you recall when that meeting took place?

12 A. I believe early March. I don't recall the
13 exact date.

14 Q. Prior to that meeting and subsequent to the
15 conversations you had with the individual teachers
16 about attending such a meeting, did you have any other
17 communications with anybody regarding this case that
18 you recall?

19 A. I may have mentioned it to family members
20 that I was going to share my experiences at Hawthorne.

21 Q. Did you have any other communications with
22 other colleagues at Hawthorne?

23 A. I believe I told the principal of the school
24 that I was going to be attending this meeting.

25 Q. Can you just tell me the principal's name?

1 A. Yes.

2 Q. Can you tell me who was present?

3 A. Katayoon Majd of ACLU of Northern California
4 and I recall at least one other attorney from Northern
5 California ACLU.

6 Q. Do you recall if that person was male or
7 female?

8 A. Female.

9 Q. Is that the same person who attended your
10 meeting you had last night?

11 MS. MAJD: You can answer.

12 THE WITNESS: No.

13 MR. ROSENTHAL: Q. Can you tell me where
14 the meeting you had in early March took place?

15 A. Yes.

16 Q. Where was that?

17 A. World Grounds Cafe, MacArthur Boulevard,
18 Oakland, California.

19 Q. Can you tell me what the substance of the
20 meeting was?

21 A. To the best of my recollection, the
22 attorneys were introduced. It was explained for whom
23 they work. It was explained their reason for being at
24 this meeting, which is that they represented Plaintiffs
25 in a lawsuit against the State of California regarding

1 A. Susan Sperber.

2 Q. Other than a possible communication with Ms.
3 Sperber, do you recall any other communications you had
4 during this limited time frame?

5 A. Regarding this case specifically?

6 Q. Right.

7 A. Not that I recall.

8 Q. You said roughly early March you had a
9 meeting with Ms. Lhamon and some other teachers. Were
10 all of the seven teachers you identified present at
11 that meeting?

12 A. To the best of my recollection, all seven of
13 those named people were there. Somebody may have come
14 in late or something, but I -- as I recall, they were
15 all seven there.

16 Q. When you say someone may have come in late,
17 you mean one of the seven may have come in late
18 possibly?

19 A. Yes.

20 Q. Including you, there were a total of eight
21 teachers attending the meeting or were there any more?

22 A. To the best of my recollection, those were
23 the eight teachers who were there.

24 Q. Other than those eight teachers and Ms.
25 Lhamon, did any other people attend that meeting?

1 school conditions and that as part of preparing for
2 trial for that lawsuit, they were collecting stories
3 which could then become declarations from people who
4 had had experiences in California schools that they
5 thought might illuminate points in the lawsuit.

6 Q. Other than what you've just identified, did
7 they state any other reasons for holding the meeting at
8 that time?

9 A. No.

10 Q. Do you recall how long the meeting lasted?

11 A. No, not specifically.

12 Q. Can you estimate or are you not able to?

13 A. I can estimate, perhaps two hours.

14 Q. After the attorneys explained who they
15 worked for and their reason for attending the meeting,
16 what happened next at the meeting?

17 A. Each teacher had an opportunity to speak
18 with one of the attorneys and describe his or her
19 experiences working in public schools in the State of
20 California, what the conditions were like in their
21 classrooms and at their school sites.

22 Q. Just so I'm clear, the seven teachers who
23 accompanied you to the meeting, were they all teachers
24 at Hawthorne Elementary?

25 A. Yes.

1 Q. You said each teacher had an opportunity to
2 speak with an attorney. Was that on a one-on-one basis
3 or was that done in front of the group?

4 A. It was one on one.

5 Q. So did you participate in any of those
6 communications other than your communications with an
7 attorney at that time?

8 A. No.

9 Q. Can you tell me what you discussed? First
10 of all, why don't you tell me who you specifically
11 spoke to at that meeting.

12 A. I spoke with Katayoon, as I remember. I
13 spoke with Katayoon.

14 Q. Can you tell me the substance of the
15 conversation you had with Ms. Majd?

16 A. I described to her my experiences and
17 observations related to the conditions and the
18 situation at Hawthorne Elementary School in the four
19 years that I had been a teacher there.

20 Q. Was -- did Ms. Majd take notes or
21 tape-record the meeting?

22 A. She took written notes.

23 Q. Do you know if she tape-recorded the
24 meeting?

25 A. I do not know.

1 attorneys would take notes and transcribe the
2 conversations and that if we chose to, we could sign
3 the transcription as a declaration and thus have it
4 included as part of the documentation. I don't know
5 how explicitly, if it was, but that was the
6 understanding that I took away.

7 Q. You said each of the seven teachers who
8 accompanied you had the opportunity to meet with an
9 attorney. Did they all, in fact, meet with an attorney
10 to the extent you know at that meeting?

11 A. I can't answer. I concentrated only on my
12 conversation.

13 Q. Did you ever hear that any of them did not
14 meet with an attorney at that time?

15 A. I did not hear one way or the other.

16 Q. After the individual teachers were given the
17 opportunity to meet with an individual attorney, can
18 you tell me what happened next at the meeting?

19 A. We left.

20 Q. So that was the end of the meeting?

21 A. Yes. Good-bye. Thank you, but --

22 Q. After the meeting that occurred in roughly
23 early March, do you recall the next communication you
24 had with any of the attorneys representing the
25 Plaintiffs in this action?

1 Q. During your communication with Ms. Majd at
2 this time, did you have an understanding as to what the
3 reasoning was for giving the information you were
4 providing?

5 MS. MAJD: Objection. Vague.

6 THE WITNESS: What do you mean by
7 "reasoning"?

8 MR. ROSENTHAL: Q. Did you have an
9 understanding as to why you were giving the
10 information?

11 A. Is the question did I understand for what
12 purpose the information would be used?

13 Q. That is fine. If you can answer that
14 question.

15 A. Okay. My understanding was that it was to
16 support contentions made in the suit against the State
17 of California to provide additional illumination or
18 amplification.

19 Q. Did you have an understanding that the
20 information you were providing would be put into a
21 written declaration?

22 A. Yes.

23 Q. Was that your understanding at that time or
24 was that an understanding you developed later on?

25 A. As I recall, it was explained that the

1 A. I think that Ms. Lhamon sent me an e-mail or
2 a letter thanking me for participating and letting me
3 know I would be receiving a copy of my declaration to
4 review and to sign, if I so chose. That communication
5 could have been from Ms. Majd, from one or the other.

6 Q. Was there any other substance to that
7 communication that you recall?

8 A. No.

9 Q. Going forward chronologically, do you
10 remember the next communication you had with any of the
11 attorneys representing the Plaintiffs in this action?

12 A. I got in the mail a copy of my own
13 declaration from Katayoon Majd and -- which included a
14 cover letter asking me to review it for anything that I
15 thought was inaccurate or misstated.

16 Q. Do you recall when you received that in the
17 mail?

18 A. Mid to late March.

19 Q. Can you tell me what you did with the
20 declaration when you received it in the mail?

21 A. I made one minor correction on something,
22 like a date or something. Sent it back to Ms. Majd to
23 have that changed in the declaration.

24 Q. Do you remember the correction you had made?

25 A. I don't recall.

1 Q. Did you physically write the correction on
2 the draft declaration and send that back?
3 A. As I recall, yes.
4 Q. When you received the draft declaration from
5 Ms. Majd, did you review the declaration?
6 A. Yes.
7 Q. Other than the one minor correction that you
8 recall making, was the rest of the declaration
9 accurate?
10 A. I felt that the declaration reflected what I
11 had said in our conversation.
12 Q. Did it reflect what you had said in your
13 conversation accurately?
14 A. Yes.
15 Q. Moving forward again chronologically, do you
16 recall the next communication you had with any of the
17 attorneys representing the Plaintiffs in this action?
18 MS. MAJD: I'm going to object to the extent
19 that the communications are privileged to the extent
20 the communications are protected under attorney/client
21 privilege.
22 MR. ROSENTHAL: Q. Moving forward
23 chronologically, but stopping at July 27th, 2001.
24 Right now we're still in roughly mid to late March.
25 A. Right. Sometime in April, I got another

1 copy of the declaration with that one change made from
2 Ms. Majd.
3 Q. And did you do anything with that new
4 declaration you received?
5 A. I signed it, dated it, and returned it to
6 her office via US mail.
7 Q. Prior to doing that, did you review the
8 substance of the declaration?
9 A. Yes.
10 Q. And were there any errors -- or did that
11 draft of the declaration contain any errors that you
12 noticed at that time?
13 A. Not that I saw.
14 Q. After signing and dating your declaration
15 and sending it back to Ms. Majd, did you have any
16 subsequent conversations with any of the attorneys
17 representing the Plaintiffs in this case up to July
18 27th, 2001?
19 A. Conversations, no.
20 Q. Any other communications?
21 A. I believe I received from one to three
22 letters from Ms. Lhamon and/or Ms. Majd letting me know
23 what was happening in terms of judgments or actions
24 regarding the progress of the case.
25 Q. Do you recall any of the specifics of those

1 letters?
2 A. No.
3 Q. Other than the one to three letters that you
4 just testified about in between the time that you sent
5 back your signed declaration and July 27th, 2001, did
6 you have any other communications with any of the
7 attorneys representing the Plaintiffs in this action?
8 A. No.
9 Q. During that same time frame, did you ever
10 discuss the possibility of giving a deposition?
11 A. No. Could you clarify "Discuss the
12 possibility?" Do you mean with the attorneys? Do you
13 mean with other people? Do you mean with my dog? I
14 mean, discuss with whom?
15 Q. I can try to rephrase the question again. I
16 was just trying to focus on your conversations with the
17 attorneys representing the Plaintiffs during this time
18 frame.
19 A. Okay.
20 Q. But during this time frame, you've
21 identified receiving some letters and I just want to
22 get an understanding if you ever discussed the
23 possibility with any of the attorneys representing the
24 Plaintiffs in this case, whether you discussed the
25 possibility of giving deposition testimony. And,

1 again, this is prior to July 27th.
2 A. Prior to July 27th, I do not recall
3 discussing the possibility or the -- whatever the
4 trajectory would be of giving deposition testimony with
5 the attorneys.
6 Q. You testified earlier that you entered into
7 an attorney/client relationship with the ACLU on July
8 27th, 2001; is that correct?
9 A. Yes.
10 Q. Did you meet with your attorneys on that
11 day?
12 A. No.
13 Q. Did you sign some sort of contract with your
14 attorneys on that day?
15 MS. MAJD: Objection. I'm going to instruct
16 you not to answer because of attorney/client privilege.
17 She has already testified that the relationship began
18 on that date.
19 MR. ROSENTHAL: Q. Are you going to follow
20 that instruction?
21 A. I will follow Counsel's instruction.
22 Q. Are there any communications you had with
23 any of the attorneys representing the Plaintiffs within
24 the couple of weeks prior to July 27th?
25 A. No, I don't believe so.

1 Q. So you don't recall receiving any documents
2 from any of the attorneys representing the Plaintiffs
3 during the month of July, let's say, of 2001?
4 A. Not that I recall.
5 Q. And you don't recall having any telephone
6 conversations with any of the attorneys during that
7 time either?
8 MS. MAJD: Objection. Asked and answered.
9 MR. ROSENTHAL: You can answer.
10 THE WITNESS: Not that I recall.
11 MR. ROSENTHAL: Q. Do you maintain any file
12 relating to this case?
13 MS. MAJD: Objection. Vague.
14 MR. ROSENTHAL: Q. Do you understand the
15 question?
16 A. What do you mean by a "file"?
17 Q. Do you maintain any documents relating to
18 this case? Do you personally keep any documents?
19 A. I have some documents.
20 Q. And are those located someplace?
21 A. Yes.
22 Q. Can you tell me where?
23 A. On my desk at home.
24 Q. Are they organized in any way? Do you keep
25 them in a folder or --

1 A. Yes, they are in a folder.
2 Q. Do you keep documents related to this case
3 anyplace else but that folder?
4 A. No.
5 Q. If I use the word "File" to describe that
6 folder, are you comfortable with that?
7 A. That is fine.
8 Q. Can you tell me what documents are contained
9 in that file?
10 MS. MAJD: I'm going to object to the extent
11 that reveals information protected under the
12 attorney/client privilege and I instruct you not to
13 answer to that extent.
14 THE WITNESS: I will follow Counsel's
15 instruction.
16 MR. ROSENTHAL: Q. Putting aside any
17 communications you've had with your counsel on or after
18 July 27th, 2001, what other documents are contained in
19 that file?
20 MS. MAJD: I'm going to object to the extent
21 that documents that were given to you by counsel other
22 than communication is also protected under the
23 attorney/client privilege, so anything given to you
24 after July 27th you shouldn't answer.
25 THE WITNESS: What about things before July

1 27th?
2 MS. MAJD: You can answer that.
3 THE WITNESS: A copy of my declaration as I
4 had signed it, a copy of what I believe to be the same
5 or a very similar document to what you showed me
6 earlier, the first amended complaint, and I believe the
7 business cards of Ms. Lhamon and Ms. Majd, in case I
8 lose my Palm Pilot.
9 MR. ROSENTHAL: Q. Other than those
10 documents, is there anything else that is contained in
11 that file that falls within the limitation I mentioned
12 earlier?
13 A. There may be a copy of a newspaper article
14 about the case.
15 Q. How about the -- for example, a copy of the
16 flier that you put in the teachers' mailboxes?
17 A. I doubt that I saved that. It is not -- I
18 don't have a hard copy of it, no.
19 Q. Do you have a copy of it saved on your
20 computer?
21 A. I seriously doubt it.
22 Q. How about a copy of the flier you received
23 from what you believe to be your labor union back in
24 late 2000, early 2001?
25 A. No.

1 Q. How about copies of any e-mail
2 communications you had during that limited time?
3 MS. MAJD: Objection. Vague. When you say
4 "How about," what are you asking specifically?
5 MR. ROSENTHAL: I'm asking if it is
6 contained in the file you maintain.
7 THE WITNESS: Are you asking about e-mail
8 between me and my attorneys or are you asking about
9 e-mail between me and any other people such as the
10 other teachers? What kind of e-mail are you asking
11 about?
12 MR. ROSENTHAL: Why don't we deal with any
13 e-mail.
14 MS. MAJD: Any e-mail related to the case?
15 THE WITNESS: To this case?
16 MR. ROSENTHAL: I'm curious about any e-mail
17 in the file.
18 THE WITNESS: In what file?
19 MR. ROSENTHAL: In the file you maintain
20 relating to this case.
21 THE WITNESS: I believe I indicated the only
22 documents in that file that were dated prior to the
23 beginning of the attorney/client relationship were my
24 declaration, a copy of the first amended complaint, and
25 possibly a copy of a newspaper article, as well as

1 their business cards and that there were no other
2 documents in the file.

3 MR. ROSENTHAL: Q. Were there any documents
4 in the file at any other time that are no longer
5 contained in the file?

6 MS. MAJD: Objection. Vague.

7 MR. ROSENTHAL: Q. Do you understand the
8 question?

9 A. What type of documents are you asking about?

10 Q. Any. In this case, it would have to be any
11 physical documents.

12 A. When you say "Documents," are you asking
13 about letters from any of the attorneys or are you
14 talking -- I mean --

15 Q. All of the above.

16 A. What do you mean -- I only said one thing.
17 What other all of the above would you be referring to?

18 Q. Any letters, any paper at all contained in
19 that file.

20 A. Prior to July 27th, I don't believe so. I
21 mean, that newspaper article may or may not still be
22 there. If it is not still there, it probably passed
23 through that folder.

24 Q. I'm going to ask you not to destroy or
25 discard any of the documents in your possession related

1 to this case as they may be subject to discovery. Do
2 you understand that?

3 A. Yes.

4 Q. I know you've given me a list of documents
5 you believe are contained in the file. Are any of the
6 -- do you maintain -- do you still have in your
7 possession anywhere any of the updates you received
8 from any of the attorneys representing the Plaintiffs?

9 A. I don't believe so.

10 Q. How about any of the -- in this case, there
11 was only one earlier draft of your declaration. Do you
12 maintain a copy of that anywhere?

13 A. No, I only have the draft -- the version
14 that I signed as previously stated.

15 Q. Was it your practice to discard the updates
16 you received from the attorneys representing the
17 Plaintiffs?

18 MS. MAJD: Objection. Vague as to
19 "practice."

20 MR. ROSENTHAL: Q. Do you understand the
21 question or do you want me to rephrase it?

22 A. Unless there was some substantive
23 information that pertained to me personally, no, I did
24 not save those items, letters or updates.

25 MS. LHAMON: Fascinating, though, I'm sure

1 they were.

2 MR. ROSENTHAL: Q. We've covered the
3 communications you had with your counsel from the time
4 you first heard about the lawsuit until the time you
5 became represented by the ACLU. Are there any other
6 communications that took place between you and any of
7 the attorneys representing the Plaintiffs that we
8 haven't already talked about?

9 A. Not that I recall.

10 Q. We've discussed some communications you've
11 had with other teachers at Hawthorne and also we've
12 mentioned communications with your family and the
13 principal at Hawthorne. Since the meeting you had in
14 March of 2001, did you have any communications with any
15 of the teachers at Hawthorne regarding this litigation?

16 MS. MAJD: Objection. Vague.

17 THE WITNESS: Do you mean the other teachers
18 we already mentioned? Do you mean any of the other 65
19 teachers at Hawthorne? And what do you mean by
20 "communication"?

21 MR. ROSENTHAL: Q. Well, we can start with
22 the seven other individuals who attended the meeting in
23 March of 2001. Subsequent to that meeting, did you
24 have any communications with any of them and by
25 communications I mean conversations, e-mail exchanges,

1 letters, perhaps, any of those kinds of things.

2 A. To the best of my recollection, nothing more
3 substantive than, "Oh, did you get your thing from the
4 ACLU to sign?"

5 "Oh, I got mine. I sent it back already."

6 Q. Do you recall if all of the seven
7 individuals who attended the meeting in addition to you
8 received draft declarations from the attorneys
9 representing the plaintiffs?

10 MS. MAJD: Objection. Calls for
11 speculation.

12 Also, we've been on this topic for a really
13 long time. It is almost 11:15. Do you think we could
14 speed this up a little or else we'll be here forever?

15 THE WITNESS: I have no way of knowing that
16 in response to your question.

17 MR. ROSENTHAL: Q. Have you ever seen any
18 declarations of any other teachers who teach at
19 Hawthorne?

20 MS. MAJD: Objection. Asked and answered.

21 THE WITNESS: Repeating my prior answer, no,
22 I have not.

23 MR. ROSENTHAL: Q. You said you had some
24 conversations with some teachers as far as whether they
25 had received their draft declaration from the ACLU or

1 not. Do you recall any of the specifics of those
2 conversations?

3 A. No, I do not recall.

4 Q. Do you remember instances where some
5 teachers had received their declaration, their draft
6 declarations?

7 A. No, I do not recall. I think I can amend my
8 answer and say that the only person I recall speaking
9 specifically to about signing my declaration was Nicol
10 LaCava.

11 Q. And can you tell me the substance of that
12 communication?

13 A. As previously stated, "Did you receive
14 yours?"

15 "Yes, I got mine. I signed mine."

16 I do not recall what her response was.

17 Q. Just so I'm clear in that response, the
18 person you are referring to with respect to receiving
19 and signing the declaration was yourself?

20 A. Yes.

21 Q. Do you recall having any other
22 communications with any other teachers at Hawthorne
23 about this case? And I'm really trying to focus on
24 conversations of substance, not just mentioning it in
25 passing that -- you know, about the case or things like

1 Q. Other than that contact with Ms. Sperber,
2 any other communications you've had with any of
3 Hawthorne's administration regarding this case?

4 MS. MAJD: Objection. Asked and answered.

5 THE WITNESS: Not that I can recall.

6 MR. ROSENTHAL: Q. Do you have an
7 understanding as to what relief is being sought in this
8 case?

9 MS. MAJD: Objection. Vague and calls for a
10 legal conclusion.

11 THE WITNESS: The understanding that I have
12 is as a layperson, not as an attorney, and not as a
13 Plaintiff or someone who has been involved in the case
14 for a long time, but based on my reading of the
15 complaint is that the Plaintiffs seek injunctive relief
16 against the State of California to mitigate and
17 ameliorate the conditions as described in the lawsuit.

18 MR. ROSENTHAL: Q. What is that
19 understanding based on?

20 A. Reading the first -- the document that I
21 have that I believe to be the first amended complaint,
22 asking someone what the word "Injunctive" meant and
23 then clarifying with Catherine that I understood the
24 definition of that word.

25 MS. LHAMON: Remember not to disclose any

1 that.

2 MS. MAJD: Objection. Asked and answered.

3 THE WITNESS: No.

4 MR. ROSENTHAL: Q. How about any
5 communications with any of the administration at
6 Hawthorne. Have you had any of those kinds of
7 communications with anybody in that regard?

8 MS. MAJD: In what time frame?

9 MR. ROSENTHAL: At any time.

10 Q. You've identified one communication you've
11 had with the school's principal, other than that.

12 A. I recall giving Catherine Lhamon's business
13 card to Susan Sperber, the principal of Hawthorne
14 School, so that if she desired to contact Ms. Lhamon,
15 she would be able to do so directly.

16 Q. And do you know if Ms. Sperber ever
17 communicated with Ms. Lhamon?

18 MS. MAJD: Objection. Calls for
19 speculation.

20 THE WITNESS: I have no way of knowing that.

21 MR. ROSENTHAL: Q. Did Ms. Sperber ever
22 tell you one way or the other?

23 A. No.

24 Q. Did you ever ask her?

25 A. No.

1 attorney/client privilege.

2 THE WITNESS: Right.

3 MR. ROSENTHAL: Q. Just going back for one
4 final question with regard to the meeting you had in
5 March of 2001. Did you take any notes at that meeting?

6 A. I don't believe so, no, not that I recall.

7 Q. If you did, would you maintain them
8 somewhere?

9 MS. MAJD: Objection. Vague.

10 THE WITNESS: When you say "Somewhere,"
11 would you like to be more specific?

12 MR. ROSENTHAL: I'm trying to figure out
13 where you would maintain them, if you did, in fact,
14 take notes and maintain them.

15 MS. MAJD: Objection. It is an incomplete
16 hypothetical. Misstates her testimony. She said she
17 doesn't recall taking any notes.

18 THE WITNESS: I don't recall taking any
19 notes, therefore they must not exist.

20 MR. ROSENTHAL: Q. Okay. I would like to
21 move on to your educational background and work
22 history. Why don't we start with your education, if
23 you can tell me -- why don't we start where you
24 graduated high school and move forward in time.

25 A. Okay. I graduated from high school from

1 Vista High School, V-i-s-t-a, Vista Unified School
 2 District, Vista, California in 1987.
 3 In 1992, I received a bachelor's from the
 4 University of California.
 5 In 1997, I received a master's degree from
 6 Holy Names College as well as a California state
 7 teaching credential issued through Holy Names College.
 8 Q. Can you tell me what your major was in
 9 college?
 10 A. As an undergraduate?
 11 Q. Yes.
 12 A. English and American Literature major,
 13 Economics minor.
 14 Q. And which campus did you attend?
 15 A. Santa Cruz and San Diego. The degree is
 16 from San Diego.
 17 Q. In 1997, you said you received your
 18 master's. Is that a master's in education?
 19 A. Yes.
 20 MR. ROSENTHAL: If you don't mind, if we can
 21 take a quick break. We can go off.
 22 (Recess taken.)
 23 MR. ROSENTHAL: Q. In connection with your
 24 master's program at Holy Names, you said you received
 25 your teaching credential?

1 A. In connection with? They are separate
 2 programs requiring separate trajectory of class work.
 3 However, I completed the requirements for both items at
 4 the same time.
 5 Q. Other than that teaching credential, do you
 6 maintain any other teaching credentials?
 7 A. That credential has certain endorsements.
 8 Q. Can you tell me what endorsements you are
 9 referring to?
 10 A. What is called a CLAD endorsement. Cross
 11 Cultural Language and Academic Development, I believe
 12 is the -- I have a certificate in teaching English as a
 13 second language. I am qualified to teach
 14 self-contained classrooms kindergarten through 9th
 15 grade, as well as single-subject classrooms in the
 16 field of English. I recently completed the
 17 requirements for a bilingual credential, although it
 18 has not been submitted to the State of California as of
 19 this date.
 20 Q. And are you fluent in another language
 21 besides English?
 22 A. Define "Fluent."
 23 Q. Do you speak any other languages besides
 24 English?
 25 A. I am competent in Spanish in an academic

1 setting.
 2 Q. You said that you completed the requirements
 3 to obtain that additional endorsement. Can you tell me
 4 what requirements you are referring to?
 5 A. In order to receive endorsements for
 6 teaching English as a second language or for the CLAD
 7 portion of the credential, you had to take additional
 8 class work. The endorsement to teach English in
 9 self-contained classrooms is based on the fact that I
 10 have an undergraduate degree in English Literature.
 11 Q. Just so I'm clear, the CLAD endorsement, the
 12 English as a second language endorsement, the
 13 self-contained classroom endorsement, and the single
 14 subject English endorsement, were those obtained at the
 15 same time you received your credential or were those
 16 obtained subsequent to that?
 17 A. Those were all submitted with the original
 18 request to receive the credential, yes.
 19 Q. And you said you recently submitted a
 20 request for an additional endorsement for bilingual
 21 education; is that right?
 22 A. No, I didn't say that. Would you like me to
 23 restate what I said?
 24 Q. Yes.
 25 A. I said I had completed the requirements for

1 a bilingual credential, but that I had not yet
 2 submitted to the State of California to add that to my
 3 credential.
 4 Q. Can you tell me what requirements you
 5 completed?
 6 A. I took a series of three tests in the
 7 Spanish language.
 8 Q. Was there any additional course work you
 9 took to fulfill those requirements?
 10 A. I took some classes through the Alameda
 11 County Office of Education to prepare for those
 12 examinations.
 13 Q. Since receiving your master's degree, have
 14 you taken any additional course work in the education
 15 field?
 16 A. I have taken the various professional
 17 development courses.
 18 Q. Do you remember any of the specific courses
 19 you took?
 20 A. There have been many. I have taken courses
 21 in literacy, in science education, in English language
 22 development. I guess if you really need to know the
 23 title of every course, I could submit my professional
 24 record card.
 25 Q. Were any of the professional development

1 courses you took offered by Hawthorne Elementary
 2 School?
 3 A. Courses are not offered by elementary
 4 schools.
 5 Q. So none of them are offered by Hawthorne?
 6 A. When you say, "Offered by," the school was
 7 the sponsor? The class was held at the school? Can
 8 you define what you mean, "Offered by?"
 9 Q. At this point, I'm focusing on primarily
 10 whether they sponsored the course.
 11 A. The school, no.
 12 Q. Do you know if any of the courses were
 13 sponsored by the Oakland Unified School District?
 14 A. Yes.
 15 Q. Do you recall which ones?
 16 A. The vast majority of any professional
 17 development course that I've taken would have been
 18 sponsored through the Oakland Unified School District.
 19 That is not every single one, but the majority would
 20 have been sponsored through the school district.
 21 Q. Did you have to pay for those courses?
 22 A. Not for any that were sponsored by the
 23 school district.
 24 Q. And do you know what the purpose of the
 25 courses that were sponsored by the Oakland Unified

1 School District was?
 2 A. Professional development, to my knowledge.
 3 Q. And the courses that you took that were
 4 sponsored by the Oakland Unified School District, did
 5 you find those to be helpful courses?
 6 MS. MAJD: Objection. Vague as to
 7 "helpful."
 8 THE WITNESS: Can you define "helpful?"
 9 MR. ROSENTHAL: Q. You said that you took
 10 more than one course that was offered by the Oakland
 11 Unified School District; is that right?
 12 A. I did say that, yes.
 13 Q. Is that because you thought they were good
 14 courses where you were provided helpful information?
 15 MS. MAJD: Objection. Compound.
 16 THE WITNESS: Can you ask that question in
 17 two parts, please?
 18 MS. MAJD: Vague.
 19 MR. ROSENTHAL: Q. Can you tell me why you
 20 took more than one of the courses that were offered by
 21 the Oakland Unified School District?
 22 A. Because the requirement to maintain your
 23 credential, as it is to maintain your standing as a
 24 lawyer through continuing education of the Bar, is to
 25 perform a certain number of hours of professional

1 development. That would be one reason.
 2 Q. Any other reasons?
 3 A. Because it matters to me to continue to
 4 learn and grow as an educator in my field.
 5 Q. And were those courses helpful in promoting
 6 that goal?
 7 A. Can you please define "Helpful?"
 8 Q. Do you not understand the word "Helpful?"
 9 A. I would like to know what your definition
 10 is.
 11 Q. Do you have a definition of the word
 12 "Helpful?" I'm happy to use yours, if you have one.
 13 A. I would say the courses -- any course I've
 14 taken, I've taken away at least one idea or strategy to
 15 use in my classroom.
 16 Q. Why don't we move on to your work
 17 experience. It is sometimes helpful to start with your
 18 most recent position and to work backwards in time and
 19 I'm focusing on your positions that relate to
 20 education, so why don't we start with your most current
 21 and we'll try it that way.
 22 A. I'm currently an employee of the Oakland
 23 Unified School District as a classroom teacher and have
 24 been as a full-time classroom teacher since September
 25 of 1997.

1 Prior to that, I guess it would be September
 2 of 1996, I started as a substitute teacher. Might have
 3 been January, but around that period. The year prior
 4 to beginning full-time classroom teaching, I was a
 5 substitute teacher in the Oakland Unified School
 6 District.
 7 Prior to that, I worked as a nanny/tutor and
 8 household manager for a family. Simultaneously I
 9 tutored students as private clients and through one of
 10 the standardized test preparation agencies.
 11 In 1993/'94 -- it could have been '94/'95.
 12 I would have to check my own resume -- I worked as an
 13 English and social studies teacher for a private school
 14 in the city of Berkeley.
 15 Q. Does that pretty much cover all your
 16 education-related work experience?
 17 A. Yes.
 18 Q. Now, you said in either '93 or '94,
 19 '94/'95 --
 20 A. Sorry.
 21 Q. -- you were an English and social studies
 22 teacher at a private school in Berkeley. Do you
 23 remember the name of the school?
 24 A. The school was called the Rose School.
 25 Q. Were you teaching a particular grade?

1 A. 7th and 8th grade.
 2 Q. Were you there just for one year or was it
 3 for two years or --
 4 A. One academic year, so September through June
 5 or whatever their start and end dates were.
 6 Q. At the time that you were teaching at the
 7 Rose School, did you have any teaching credentials of
 8 any kind?
 9 A. I did not at that time have a state teaching
 10 credential.
 11 Q. Just so I'm clear, at that time, you had no
 12 teaching credential whatsoever?
 13 A. Right.
 14 Q. I just don't want to limit it to a state
 15 credential. I don't know if you were referring to
 16 something besides a state credential.
 17 A. Can I add something to the work history?
 18 Q. Sure.
 19 A. From July of 1992 to October of 1992, I was
 20 the office manager for the Oakland office of Teach for
 21 America.
 22 Q. Let's deal with that first. Can you just
 23 tell me briefly what your job responsibilities were in
 24 connection with that position?
 25 A. Everything from being the first person that

1 people saw when they came in to the office to arranging
 2 facilities and materials for Teach for America, teacher
 3 induction activities, similar clerical tasks related to
 4 supporting teachers in the program, and supporting the
 5 executive director.
 6 Q. When you began teaching at the Rose School,
 7 can you tell me -- can you describe for me the training
 8 you had received in regard to preparing you to be a
 9 teacher?
 10 MS. MAJD: Objection. Vague.
 11 THE WITNESS: What do you mean by
 12 "Training?"
 13 MS. MAJD: Also assumes facts not in
 14 evidence.
 15 MR. ROSENTHAL: Q. Prior to becoming a
 16 teacher of the Rose School, did you receive any
 17 training? And by "Training," I mean taking any courses
 18 or receiving instruction from anybody with regard to
 19 preparing you for becoming a teacher.
 20 A. I had the subject knowledge based on my
 21 undergraduate course work. I met several times prior
 22 to and on a continuing basis with another teacher at
 23 the school, who ultimately became the principal of the
 24 school, in order to plan curriculum and plan classroom
 25 management strategies and to discuss the progress of my

1 teaching and my students' learning.
 2 Q. Was it your opinion that you were successful
 3 at instructing your students in the classes at the Rose
 4 School?
 5 MS. MAJD: Objection. Vague.
 6 THE WITNESS: What do you mean by
 7 "Successful?"
 8 MR. ROSENTHAL: Q. What -- why don't you
 9 tell me this: What was your understanding as to what
 10 your role was as a teacher at the Rose School?
 11 A. My role was to -- was multifaceted to
 12 provide access to subject matter information in the
 13 areas of 7th and 8th grade English Literature and
 14 grammar and social studies. My role was to support the
 15 students as they developed skills and strategies that
 16 enabled them to better comprehend and utilize the
 17 subject matter material. My role was to support the
 18 students in their social and emotional growth. My role
 19 was to perform the required administrative or clerical
 20 duties that the school might have asked, such as take
 21 attendance or what have you.
 22 Q. With regard to your responsibilities in the
 23 classroom and as it relates to students as you
 24 described, were you able to accomplish those
 25 responsibilities?

1 MS. MAJD: Objection. Compound. She
 2 described many different responsibilities. It is also
 3 vague.
 4 THE WITNESS: What are you referring to
 5 specifically?
 6 MR. ROSENTHAL: Q. I can deal with each one
 7 of the things you identified separately, if you prefer.
 8 I was trying to speed things along by dealing with them
 9 generally and find out if you were able to deliver on
 10 those responsibilities.
 11 A. In my opinion, I delivered on those
 12 responsibilities to the best of my ability at that
 13 time. I did not receive any information that indicated
 14 that I was not fulfilling the obligations that had been
 15 set forth.
 16 Q. Did you receive any reviews at the Rose
 17 School?
 18 A. Formal review or informal review?
 19 Q. Formal or informal.
 20 A. I did not receive a formal evaluation.
 21 Q. Did you receive informal evaluations?
 22 A. I had discussions with the principal about
 23 how I felt things were progressing in the classroom and
 24 what she had observed when she would be in the room or
 25 passing by.

1 Q. And were her informal reviews of your
2 performance positive or negative?

3 A. To the best of my recollection, they were
4 positive.

5 Q. So did you think you were a good teacher at
6 that time?

7 MS. MAJD: Objection. Vague.

8 THE WITNESS: What do you mean by "Good?"

9 MR. ROSENTHAL: Q. I can try it this way
10 again: Do you have an understanding as to what that
11 word means in this context?

12 A. No, I do not.

13 Q. Did you think you were a bad teacher?

14 MS. MAJD: Objection. Vague.

15 THE WITNESS: What do you mean by "Bad?"

16 MR. ROSENTHAL: Q. Do you think you were an
17 effective teacher?

18 MS. MAJD: Objection. Vague as to
19 "Effective."

20 THE WITNESS: Can you define what
21 "Effective" would be?

22 MR. ROSENTHAL: Q. Why don't you try --
23 rather than getting stuck on individual words, why
24 don't you describe for me how you think you performed
25 as a teacher.

1 A. The school dissolved.

2 Q. After that time, you said you moved on to,
3 among other things, tutoring some students?

4 A. Yes.

5 Q. And you mentioned that you -- just so I'm
6 clear, did you tutor them in subjects other than
7 standardized tests?

8 A. Yes.

9 Q. Were those -- why don't you tell me what
10 subjects you tutored the students in.

11 A. Primarily English or history related for
12 secondary students. I did tutor one or two elementary
13 students in general subject areas, that would include
14 math or science or whatever they were covering in their
15 self-contained classroom. I worked with the students
16 in the area of study skills, organization skills, and
17 time management.

18 Q. Do you recall roughly for how long you
19 tutored students?

20 A. Private clients or through a testing
21 company?

22 Q. I would like to focus in on the tutoring of
23 students in particular subject matters as opposed to
24 the standardized tests.

25 A. Okay.

1 MS. MAJD: Objection. Calls for a
2 narrative. It is vague. She is also not in the
3 position to evaluate the students from the students'
4 perspective.

5 THE WITNESS: So that we can move on, I will
6 give you the best description that I can. I believe
7 that I had the subject matter knowledge. I believe
8 that I developed a rapport with the students. I
9 believe that I developed a rapport with the parents. I
10 believe that, based on the conversations I had with the
11 principal, she was satisfied with my performance. The
12 students who left my classroom went on -- were able to
13 gain admittance to several quality private high schools
14 in the Bay Area. Those students, most of them, the
15 ones that I'm aware of, are now in quality colleges.
16 No student left my classroom, in my estimation from
17 what I saw at the time and recall now, without having
18 gained some knowledge in the subject area and some
19 degree of skill and strategy use.

20 MR. ROSENTHAL: Great. Thank you.

21 THE WITNESS: Sure.

22 MR. ROSENTHAL: Q. After either -- after
23 your one year at the Rose School -- strike that.

24 Was there some reason you left the Rose
25 School after one year of time there?

1 MS. MAJD: Can I just clarify, are you
2 asking as to the length in terms of months or years or
3 are you talking about each individual tutoring session?

4 MR. ROSENTHAL: I meant just in overall time
5 you spent in your professional background tutoring.

6 THE WITNESS: From roughly mid -- no, I'm
7 sorry, early 1994 through probably late 1997, '98.

8 MR. ROSENTHAL: Q. So you did that through
9 the time that you were a substitute teacher in Oakland
10 as well?

11 A. Yes.

12 Q. Do you recall when you began your master's
13 program?

14 A. The fall of -- I think the fall of 1994.
15 Maybe it is the fall of 1995.

16 Q. Do you recall how long the program was?

17 A. I spent three years in the program. I
18 graduated in '97, so we can all count backwards.

19 Q. That is what I was doing in my head.

20 A. That is what I was trying to do, too. It is
21 the ending that you remember, not the beginning.

22 Q. Were you in the program full time or just
23 part time?

24 A. According to the construct of the program, I
25 was a full-time student.

1 Q. I'll come back to a few follow-up questions
2 with regard to your master's program, but why don't we
3 move on to the time you spent as a substitute teacher
4 in the Oakland Unified School District.

5 A. Okay.

6 Q. Were you -- did you have a designation as
7 far as being a long-term substitute or a day-to-day
8 substitute?

9 A. My recollection is that I had what is called
10 a 30-day permit, which is a day-to-day substitute. It
11 doesn't mean you can't be in the same classroom for a
12 week or something, but you are not to be in the same
13 classroom for more than 30 days. That is what I recall
14 is the designation.

15 Q. Prior to becoming a substitute teacher for
16 the Oakland Unified School District, did you obtain any
17 teaching credentials of any kind?

18 MS. MAJD: Objection. Asked and answered.

19 THE WITNESS: I was in the -- I was -- I
20 believe I was in the credential program. I finished
21 the credential program in May of '97 and continued to
22 substitute during the summer before I began my own
23 full-time classroom, so it is both.

24 MR. ROSENTHAL: Q. Were you -- so there was
25 a period of time when you were a substitute teacher

1 environment, to continue the students' learning as
2 possible with the materials and plans that were
3 available, to adhere to all District rules and
4 regulations.

5 MR. ROSENTHAL: Q. And where did you get
6 that understanding from?

7 A. I believe I attended a substitute teacher
8 orientation with the Human Resources Department of the
9 school district.

10 MS. LHAMON: Can we go off the record for a
11 second?

12 MR. ROSENTHAL: Sure.

13 (Recess taken.)

14 MR. ROSENTHAL: Q. Just before our break,
15 you identified some of the responsibilities that you
16 understood that you had as a substitute teacher in the
17 Oakland Unified School District. Were you able to
18 deliver on those responsibilities?

19 MS. MAJD: Objection. Vague.

20 THE WITNESS: As I recall, to the best of my
21 ability at the time, yes.

22 MR. ROSENTHAL: Q. As a substitute teacher
23 in the Oakland Unified School District, did you teach
24 at more than one school?

25 A. Yes.

1 prior to receiving your teaching credential?

2 A. I had a 30 day -- I had an emergency
3 teaching credential 30 day permit.

4 Q. Do you recall what you needed to do to
5 obtain the emergency teaching credential?

6 A. Yes.

7 Q. Can you tell me what those steps were?

8 A. Sure. You had to -- the requirements, as I
9 recall them, are that you have to have a college
10 degree, a bachelor's or higher. You must take and pass
11 the C BEST exam. You must be fingerprinted and put
12 through the State Department of Justice computer system
13 to ascertain whether or not you have a criminal
14 background. You must also fill out the required
15 application forms at the school district and have those
16 reviewed for accuracy.

17 Q. Any other steps that you can recall?

18 A. Not that I recall.

19 Q. Can you describe for me what your
20 understanding was as a substitute teacher, what your
21 role was?

22 MS. MAJD: Objection. Vague.

23 THE WITNESS: To be in the classroom with
24 the students, to follow the lesson plans that the
25 absent teacher had provided, to maintain a safe

1 Q. Do you remember what schools you taught at?

2 A. Several; many.

3 Q. Do you recall the names of -- can you tell
4 me which names you recall as you sit here today?

5 A. I can tell you some names, sure. I don't
6 recall all of them: Hawthorne Elementary, Martin
7 Luther King Elementary, Cole Elementary, Highland
8 Elementary, Washington Elementary, Claremont Middle
9 School. I'm sure there were others. I just don't
10 remember.

11 Q. Those are the ones you recall as you sit
12 here today?

13 A. Right.

14 Q. As a substitute in the Oakland Unified
15 School District, were there some classes in which you
16 were the substitute for only one day?

17 A. Yes.

18 Q. Were you the substitute in other classes for
19 longer periods of time?

20 A. Yes.

21 Q. Do you recall the longest period of time you
22 were ever a substitute?

23 A. Not more than three days.

24 Q. It was always between one and three days?

25 A. Yes. Amend, please. I may have subbed in a

1 class for five days, for a week.

2 MS. MAJD: Just to clarify, are you speaking
3 of consecutive days?

4 THE WITNESS: I was referring to consecutive
5 days as a single job. When you are told this is the
6 job that is available, it would say, "This is a
7 multiple-day assignment," or "This is for this day
8 only."

9 MR. ROSENTHAL: Q. So is it safe to say,
10 then, that you were never a substitute in one
11 particular class in consecutive days for more than one
12 school week?

13 A. The best I can recall. I didn't want to be
14 a long-term sub.

15 Q. Fair enough. Was one of the reasons that
16 you -- strike that.

17 Was one of the reasons a class would need a
18 substitute teacher because the regular teacher in that
19 classroom was sick?

20 MS. MAJD: Objection. Calls for
21 speculation.

22 MR. ROSENTHAL: To the extent you know.

23 THE WITNESS: To the extent that I know,
24 yes. It was because the classroom teacher was ill.

25 MR. ROSENTHAL: Q. Are there any other

1 speculation.

2 THE WITNESS: I don't recall.

3 MR. ROSENTHAL: Q. Can you tell me how you
4 obtained employment in the Oakland Unified School
5 District in September of 1997?

6 MS. MAJD: Objection. Vague.

7 THE WITNESS: Do you mean what was the
8 employment process?

9 MR. ROSENTHAL: Q. Sure. Why don't you
10 tell me about that process.

11 A. Well, it actually occurred in the summer.

12 Q. Summer of 1997?

13 A. Yes. You are required to fill out an
14 application that lists your education, and experience,
15 and references, et cetera. You are required to provide
16 copies of your credential and you are required to
17 submit fingerprints.

18 Q. Did you have any interview?

19 A. I -- some type of interview, yes, I believe.

20 Q. Do you recall who that interview was with?

21 A. One of the Human Resources hiring people.

22 Q. Was that somebody in the Oakland Unified
23 School District Human Resources Department?

24 A. Yes.

25 Q. Was there some reason that you -- strike

1 reasons that you are aware of in which a substitute
2 teacher was needed?

3 A. I would --

4 MS. MAJD: Objection. I'm sorry. Are you
5 speaking particularly to the classes that she subbed
6 in?

7 MR. ROSENTHAL: Q. Let's focus on those,
8 the classes where you were a substitute teacher. Why
9 don't you tell me the reasons, to the extent that you
10 remember, that you were needed to teach the particular
11 classes you did.

12 A. You are not told as a substitute what the
13 reason is. You are just told that this class needs a
14 substitute. There is nothing in the computer system
15 that tells you that this is the job, this is where it
16 is, and do you want it yes or no, that says why. The
17 only way you know that -- the only thing you would hear
18 is if the class did not have a teacher, instead of
19 saying the teacher's name, it would say "Vacancy," so
20 that would tell you, but there is no other reason
21 provided.

22 Q. Were there instances where you were a
23 substitute teacher in classes where there was a
24 vacancy?

25 MS. MAJD: Objection. Calls for

1 that.

2 Did you apply with the Oakland Unified
3 School District for employment?

4 A. Yes.

5 Q. Was there some reason you applied with the
6 Oakland Unified School District?

7 A. Yes.

8 Q. Can you tell me what that reason was?

9 A. They were hiring.

10 Q. Usually a good reason. Did you apply with
11 any other districts?

12 A. I filled out applications for other
13 districts. I honestly can't recall if I ever turned
14 them in or not because I knew that I could get a job in
15 Oakland.

16 Q. Subsequent to filling out and submitting the
17 application with the Oakland Unified School District,
18 can you tell me what the steps were that followed with
19 regard to eventually obtaining a position at Hawthorne?

20 A. As I recall, I was notified by the District
21 that they wanted to hire me. They did not, at that
22 time -- this was in July of '97 -- tell me specifically
23 what placement I would have. I knew that there were
24 openings at Hawthorne. I knew Susan Sperber who, at
25 that time, was not the principal. She was the dean,

1 but having substituted there, I had developed a rapport
2 with her. I let her know that I was interested in a
3 position at Hawthorne. She in turn, either herself as
4 an agent of the principal or possibly the principal
5 herself, notified Human Resources that they would like
6 to have me placed in a position at Hawthorne. The
7 chronology might be a little messed up.

8 I recall receiving a letter from Human
9 Resources telling me I had been placed in a position at
10 another school at about the same time, I -- I was on
11 vacation in the Rockies and I picked up a phone message
12 off my machine at home. A principal of a whole other
13 school was offering me a job and as soon as I got back,
14 I contacted Ms. Sperber and said, "I'm being offered
15 other positions. Is there a position for me at
16 Hawthorne? And if so, what can we do to make sure that
17 that is where I was placed?"

18 So whatever happens between the principal at
19 Hawthorne and the District Human Resources, I don't
20 know. And I was told, probably through a letter, that
21 I would be placed at Hawthorne.

22 Q. Is it fair to say you wanted to teach at
23 Hawthorne?

24 A. Yes.

25 Q. Do you recall who the principal was at the

1 A. That was in connection with my credential
2 program.

3 Q. Other than the eight weeks of student
4 teaching, did you do any other student teaching at any
5 other time?

6 A. I taught for an additional eight weeks at
7 another elementary school in Oakland at a different
8 grade level.

9 Q. Do you remember what school that was?

10 A. Yes, it is Stonehurst Elementary.

11 Q. Other than the two eight-week stints at the
12 two schools you've identified, did you do any other
13 student teaching at any other time?

14 A. Student teaching specifically, no.

15 Q. Can you tell me what your role was as a
16 student teacher?

17 MS. MAJD: Objection. Vague.

18 THE WITNESS: Are you asking about what
19 duties a student teacher performs or could you be more
20 specific about "role"?

21 MR. ROSENTHAL: Q. If you can tell me what
22 your understanding was as far as what your duties and
23 responsibilities were as a student teacher.

24 A. Okay.

25 MS. MAJD: Are you asking about one

1 time of this process you just described?

2 A. Yes.

3 Q. Can you tell me who that individual is?

4 A. Esther, E-s-t-h-e-r, middle initial R, Cohn,
5 C-o-h-n, hyphen Vargas, V-a-r-g-a-s.

6 Q. Other than having spent some time at
7 Hawthorne as a substitute teacher and developing a
8 rapport with Ms. Sperber, were there any other reasons
9 you wanted to teach at Hawthorne?

10 A. I had done eight weeks of student teaching
11 at Hawthorne and had gotten to know some of the other
12 teachers and liked the collegial environment and the
13 focus of the school and thought that would be a place
14 that was in line with my own goals or desires
15 professionally.

16 Q. When you say you liked the focus of the
17 school, what do you mean by that?

18 A. The school has a -- I guess you would call
19 it a motto -- literacy, respect, and lifelong
20 learning -- that they really centered a lot of
21 activities and work around and I liked that, that there
22 was a focus.

23 Q. You said that you spent eight weeks student
24 teaching at Hawthorne. Was that in connection with
25 your master's program?

1 particular school?

2 MR. ROSENTHAL: Q. Was it different for
3 each of the eight-week periods? Or we can deal with it
4 together. It is up to you. If you can deal with it
5 together, that will save time. If you can't, that is
6 fine, too.

7 A. For both of the placements, the expectations
8 were very similar. You work with the master teacher by
9 observing him or her in the classroom and getting an
10 understanding of how the classroom functions based on
11 that observation. You participate with the master
12 teacher in lesson design and planning. You co-teach
13 with the master teacher lessons or units and the way
14 that my program was structured, you ultimately teach
15 for ten school days, so two weeks on your own where you
16 are the primary teacher in the classroom versus being
17 the supporting teacher and then you, to the extent that
18 the master teacher wants you to, you participate in
19 student evaluation, home communication, whatever. It
20 depends on how much the master teacher wants the
21 student teacher to be involved in all of the aspects of
22 the classroom.

23 Q. Do you recall the names of the two master
24 teachers you worked with?

25 A. Yes, I do.

1 Q. Can you tell me who they were?
 2 A. The first eight-week placement at Hawthorne
 3 School was with Kimberley, Sakai-Bowen, S-a-k-a-i,
 4 B-o-w-e-n.
 5 The second placement at Stonehurst
 6 Elementary was with Shannon, S-h-a-n-n-o-n, Carey,
 7 C-a-r-e-y.
 8 Q. Just so I'm clear, you started teaching at
 9 Hawthorne as a full-time teacher in September of '97?
 10 A. Yes, unless I made an error in my
 11 chronology.
 12 Q. That is fine. I'm just trying to get it
 13 straight in my head.
 14 What grade were you teaching at that time?
 15 A. The first month of the school year, I taught
 16 a 1st and 2nd grade combination. I was then moved to a
 17 kindergarten placement and I taught the remainder of
 18 that academic year in the kindergarten classroom.
 19 Q. I believe you testified earlier that you
 20 taught at Hawthorne for four full school years; is that
 21 right?
 22 A. Yes.
 23 Q. Can you tell me what grade you taught during
 24 the '98/'99 school year, which would be your second
 25 year there?

1 A. 1st grade.
 2 Q. How about the '99/2000 school year?
 3 A. 2nd grade.
 4 Q. And finally, the 2000/2001 school year which
 5 ended this past --
 6 A. 2nd grade.
 7 Q. Do you recall when you stopped working at
 8 Hawthorne?
 9 A. August of 2001.
 10 Q. Can you tell me why you stopped working at
 11 Hawthorne?
 12 A. I had participated in the design process for
 13 opening a new school in the same neighborhood which
 14 would serve the same students and relieve some of the
 15 population burden Hawthorne had. That design team was
 16 invited to apply for teaching positions at the new
 17 school and subsequently, we were identified as the
 18 staff of the new school.
 19 Q. And this new school you are referring to is
 20 the International Community School where you are
 21 currently teaching?
 22 A. Yes.
 23 Q. And that school is part of the Oakland
 24 Unified School District?
 25 A. Yes.

1 Q. Can you tell me what grade you are teaching
 2 there currently?
 3 A. 1st and 2nd grade.
 4 Q. Is it a combination class or are you
 5 teaching more than one class?
 6 A. I am team-teaching with a partner teacher.
 7 We have two classes combined. They are 1st and 2nd
 8 grade students.
 9 Q. Can you tell me the name of the teacher you
 10 are teaching with?
 11 A. Nicol LaCava.
 12 Q. Can you tell me when the International
 13 Community School first opened?
 14 A. Do you mean the date that school started?
 15 Q. Well, let me try this question: Is this
 16 current academic school year the first year that
 17 instruction is being given at the International
 18 Community School?
 19 A. Yes.
 20 Q. Is the International Community School on a
 21 traditional school year calendar?
 22 A. It is on a modified calendar, modified
 23 traditional calendar.
 24 Q. Can you tell me what you mean by that?
 25 A. We opened -- instruction began on September

1 25th and will conclude before the end of the fiscal
 2 year, which is June 30th. I believe our last day of
 3 instruction is like June 27th or something, so instead
 4 of starting at the beginning of September and ending
 5 mid June, we start at the end of September and end at
 6 the end of June.
 7 Q. And you said that you participated in the
 8 process for opening the International Community School.
 9 Can you describe for me your role in that process?
 10 A. I can. It is a long response. I would like
 11 to use the restroom. I know you would like me to
 12 answer before, I know. It is a long process.
 13 MR. ROSENTHAL: That is fine. I'm happy to
 14 take a restroom break. That is fine.
 15 (Recess taken.)
 16 MR. ROSENTHAL: Q. Before our lunch break,
 17 I think we had a question pending and that question was
 18 basically asking you to describe for me your role in
 19 the creation of the International Community School.
 20 A. In order to describe my role, is it okay if
 21 I give a little bit about the process for creating the
 22 school?
 23 Q. That is fine.
 24 A. The Oakland Unified School District, in
 25 conjunction with the Bay Area Coalition of Essential

1 Schools, developed a policy or developed an idea to
 2 establish what are known as small autonomous schools.
 3 This idea was based on research done in New York City,
 4 specifically at Central Park East School, the work of
 5 Debra Myer, and there is a movement, a small autonomous
 6 schools movement.

7 When the district began its work with the
 8 Bay Area Coalition of Essential Schools, a policy was
 9 developed and subsequently at some point in time -- and
 10 I don't know the date adopted by the Board of
 11 Education -- that some number of new small autonomous
 12 schools would be developed in the District and that
 13 part of the process for creating those schools would
 14 involve a request for a proposal in RFP. That RFP was
 15 issued in the fall of 2000. Interested parties were
 16 able to form design teams and respond to the RFP. That
 17 response was due in December.

18 My role was that I attended meetings with
 19 other teachers, people who worked for Oakland Community
 20 Organizations, who were also, I should have said, one
 21 of the instigators of this policy and process, around
 22 what kind of school would we like to see be brought
 23 into existence.

24 In the fall of 2000, I worked with other
 25 teachers, predominantly from Hawthorne, with the

1 to learn about aspects of running a school that I might
 2 not have known as a classroom teacher.

3 Ultimately a decision was made by the design
 4 team of who would teach at each grade level, what each
 5 person's specific role would be in the new school, and
 6 at that time, it was decided by the group that I would
 7 be team teaching 1st and 2nd grade with Nicol LaCava.

8 Q. Thank you. Just a couple of questions about
 9 some of the things you mentioned. You described a
 10 movement towards the creation of small and autonomous
 11 schools and I know you said you weren't exactly clear
 12 as to when that became something that the Oakland
 13 Unified School District was interested in pursuing.
 14 Can you give me an estimate as to when that became
 15 something that they were encouraging?

16 A. I can't give you an estimate of the date. I
 17 can say that Oakland Community Organizations had been
 18 pushing for the creation of additional schools in the
 19 city of Oakland due to the -- in particular, the severe
 20 overcrowding of the schools in the Flatlands and more
 21 specifically, the schools in what is known as the
 22 Foothill Corridor, and that it was sort of a confluence
 23 of events that OCO was pushing for this to happen that
 24 teachers and others became interested in the small
 25 schools movement as an effort to bring more quality

1 intention that we would include in our proposal our
 2 intention to seek the old Montgomery Ward building site
 3 in Oakland as the site for our school. The process
 4 involved responding to the RFP questions which covered
 5 things like personnel and policy practices, curricular
 6 issues, assessment and evaluation issues, school
 7 climate issues, et cetera, the types of things that
 8 would need to be thought about when you are starting a
 9 school from the ground up.

10 We submitted our proposal, which was
 11 authored by the approximately 15 people on the design
 12 team and signed off on by a parent group, to the
 13 District in December and were notified in January that
 14 our proposal had been accepted and that our tentative
 15 site was the old Montgomery Ward building.

16 Beginning in January, we continued our
 17 regular gatherings and meetings to further expand our
 18 vision in each of the areas that were outlined in the
 19 RFP areas that we knew we would need to address
 20 beginning a school. My role was to contribute my
 21 thoughts and ideas, to respond to others' thoughts and
 22 ideas, to do research, for example, if a question came
 23 up about different modes of assessment, to participate
 24 in what other research was necessary. I attended some
 25 meetings at the District level with District personnel

1 education to students in the Flatlands schools because
 2 they were so disproportionately large in comparison to
 3 the Hills schools in Oakland, so those two interests
 4 sort of intersected. And I know that in the year prior
 5 to the RFP going out, there was work or conversation --
 6 you know, some kind of interaction between OCO and the
 7 School District. I was not involved at that point, so
 8 I can't say when it began.

9 Q. Did the RFP that you've mentioned a couple
 10 of times, did that come from the Oakland Unified School
 11 District?

12 A. Yes, it did.

13 Q. Was it your understanding that at some point
 14 in time, the Oakland Unified School District intended
 15 to encourage the development of these small autonomous
 16 schools?

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

19 THE WITNESS: I can't speak to what their
 20 intention was. They put out an RFP. They indicated
 21 that sites were being sought, including the old
 22 Montgomery Ward building at 29th and International
 23 Boulevard in Oakland, so on the basis of that
 24 observation on my part, I believe that it was a project
 25 that would move forward.

1 Q. Was it your understanding that the reason --
2 at least one of the reasons that the Oakland Unified
3 School District was seeking the creation of the small
4 autonomous schools was to alleviate the overcrowding
5 problem that existed in certain areas?

6 MS. MAJD: Objection. Calls for
7 speculation.

8 MR. ROSENTHAL: I'm just asking for your
9 understanding. I know you can't speak for the
10 District.

11 THE WITNESS: I can't speak for the
12 District. I can't speak for the superintendent. I can
13 say that I attended meetings when the superintendent
14 was present when he referred to, in particular, the
15 severe overcrowding at Hawthorne Elementary and in that
16 neighborhood as a reason why more schools needed to be
17 opened.

18 MR. ROSENTHAL: Q. You said there were a
19 number of teachers who were involved in creating a
20 proposal to open a small autonomous school that
21 eventually became the International Community School.
22 Do you recall what other teachers were involved in that
23 process?

24 A. At what stage of the process?

25 Q. Why don't you tell me the ones who were

1 Hawthorne Elementary at the time?

2 A. Yes, they were. And I'm sorry. I left off
3 another teacher, Kathleen Evans, who was not a teacher
4 at Hawthorne at the time.

5 Q. Was she a teacher somewhere else?

6 A. She was a teacher at another school in
7 Oakland.

8 Q. Do you recall which school she was teaching
9 at?

10 A. Manzanita Elementary.

11 Q. Of the teachers you just named, are all of
12 them -- are any of them still currently employed at
13 Hawthorne?

14 A. Yes.

15 Q. And I assume -- well, I know that you are
16 employed at the International Community School. Are
17 other teachers on the list also employed at the
18 International Community School?

19 A. There are other teachers from that list who
20 are employed at International Community School.

21 Q. Can you give me a breakdown just by
22 percentage as to who is teaching where?

23 A. How many people are on the list?

24 Q. Let's see, you gave me 17 names. I can do
25 it name by name if that is easier for you.

1 primarily involved.

2 A. Primarily at what stage?

3 Q. Did that vary over time?

4 A. Yes.

5 Q. Well, why don't we do it chronologically, I
6 guess. Why don't you tell me who was primarily
7 involved in the early stages?

8 MS. MAJD: Vague as to "Primarily involved."

9 THE WITNESS: I couldn't answer. I mean, I
10 could tell you who I recall signed off on the proposal
11 that was submitted.

12 MR. ROSENTHAL: Q. Why don't we start with
13 that. Who was that?

14 A. Okay. Myself, Janie Naranjo-Hall, Mariana
15 Wolak, W-o-l-a-k, Amy Wegener, W-e-g-e-n-e-r, hyphen,
16 Taganashi, T-a-g-a-n-a-s-h-i, Nicol LaCava, Cathy
17 Booker, Deveny, D-e-v-e-n-y, Dawson, D-a-w-s-o-n,
18 Raquel Rodrigues-Jones, Natalee Bauer, N-a-t-a-l-e-e,
19 B-a-u-e-r, Lisa Hiltbrand, H-i-l-t-b-r-a-n-d, Nicol
20 Knight, "night" with a K, Jeannette Badal, B-a-d-a-l,
21 Suzanne Raghianti, R-a-g-g-h-i-a-n-t-i, Albertina
22 Padilla, Wayne Abrams, Nagar Eghtessadi-Reed,
23 E-g-h-t-e-s-s-a-d-i, hyphen, Reed. Those are the
24 teachers I recall signing off on the proposal.

25 Q. And are all those teachers teachers at

1 A. However you would like to have it.

2 Q. I guess I can run down the list. Hopefully
3 I've got them all here.

4 A. Okay. I am at ICS.

5 Q. That is good. I like that. Ms.
6 Naranjo-Hall?

7 A. ICS.

8 Q. I don't have the first names here. Wolak?

9 A. ICS. Wagner-Taganashi, ICS.

10 Q. LaCava?

11 A. ICS.

12 Q. Booker?

13 A. ICS.

14 Q. Rodrigues-Jones?

15 A. ICS.

16 Q. Bauer?

17 A. ICS.

18 Q. Hiltbrand?

19 A. ICS.

20 Q. Knight?

21 A. ICS.

22 Q. Badal?

23 A. ICS.

24 Q. Raghianti?

25 A. ICS.

1 Q. Padilla?
 2 A. Hawthorne.
 3 Q. Abrams?
 4 A. Hawthorne.
 5 Q. Eghtessadi-Reed?
 6 A. No longer employed by the District.
 7 Q. Ms. Evans?
 8 A. ICS. I think we let off Dawson, ICS.
 9 Q. I did skip over that, yes. I'm sorry.
 10 A. I should say Eghtessadi-Reed is on leave. I
 11 don't know her employment status.
 12 I'm sorry. I thought of another teacher,
 13 Sara, S-a-r-a, Kahn, K-a-h-n. Thought of two more
 14 teachers who are employed part time at ICS and --
 15 Q. You are referring to Ms. Kahn now?
 16 A. Yes.
 17 Q. Was she formerly at Hawthorne?
 18 A. Yes.
 19 Q. Did you have another recollection?
 20 A. I'm not sure if the other person signed off
 21 on the proposal or not. He was involved, Jesse,
 22 J-e-s-s-e, Inclan, I-n-c-l-a-n.
 23 Q. And where is he employed now?
 24 A. At another school in the district. I'm not
 25 sure which one.

1 Q. At the time he was involved, was he employed
 2 at Hawthorne?
 3 A. Yes.
 4 Q. How many teachers are currently working at
 5 ICS?
 6 A. There are 12 classroom teachers.
 7 Q. Are there any teachers that we haven't
 8 already identified who are teaching at ICS now?
 9 A. No.
 10 Q. You said that a parent group also signed off
 11 on the proposal that was submitted. Was there a name
 12 to that parent group or --
 13 A. Parents.
 14 Q. Was it an informal group of parents of
 15 students at Hawthorne?
 16 A. Parents of students at Hawthorne who worked
 17 with the teachers in conjunction with the teachers to
 18 develop the vision and mission for the school.
 19 Q. Do you know how many parents were involved
 20 in that group?
 21 A. Maybe ten to 15. That is an approximation.
 22 There is another teacher who was involved. I mean, I
 23 don't know if this really matters.
 24 Q. You might as well give it to me.
 25 A. Rebecca Todd, T-o-d-d, was at Hawthorne, is

1 now at Manzanita.
 2 Q. In connection with your involvement in
 3 getting ICS started, can you describe for me your
 4 experience with working with District officials as far
 5 as getting it off the ground?
 6 MS. MAJD: Objection. Overbroad and vague.
 7 THE WITNESS: Can you explain what you mean
 8 by "experience"?
 9 MR. ROSENTHAL: Trying to steer clear of
 10 using particular words. I can throw some out there and
 11 see if that assists you.
 12 Q. Would you say they were encouraging of the
 13 projects? Were they helpful in getting it off the
 14 ground or would you say they were a road block in
 15 getting it off the ground? I'm trying to get your
 16 sense of what your experience was working with them.
 17 MS. MAJD: Objection. Vague.
 18 THE WITNESS: I wouldn't say one or the
 19 other. I would say that at different times, we had
 20 different experiences. Sometimes the experiences were
 21 positive and sometimes they were negative. It would
 22 depend on the specific issue, the specific District
 23 person, the time of the day, the day of the week, any
 24 number of issues.
 25 MR. ROSENTHAL: Q. Can you give me an

1 example of a positive experience in this regard?
 2 A. The superintendent of schools, Dennis
 3 Chaconas, was very determined to do something about the
 4 overpopulation at Hawthorne and was very determined to
 5 gain control of the Montgomery Ward site at
 6 International and 29th in Oakland and indicated in
 7 public meetings that he felt that it was vital that the
 8 neighborhood have another school because of the
 9 overcrowding issue at Hawthorne.
 10 Q. Can you give me an example of a negative
 11 experience you had in working with the District with
 12 respect to getting ICS off the ground?
 13 A. The District had not opened a new school in
 14 decades, therefore there was not a process or a
 15 procedure in place to do so. And so being able to
 16 accomplish certain practical tasks was sometimes
 17 difficult because there wasn't an already established
 18 procedure. Things had to be created as the process
 19 went along.
 20 Q. Going back to a couple of things we talked
 21 about before lunch. You mentioned in connection with
 22 your master's program, you had, I believe you said, 16
 23 total weeks of student teaching; is that right?
 24 A. Yes.
 25 Q. Did you have any other in-class training in

1 connection with your master's program?

2 A. I had in-class training in connection with
3 the credential program.

4 Q. Let's deal with the master's program first.
5 Aside from those 16 weeks, was there anything
6 additional?

7 A. The 16 weeks was not in connection with the
8 master's program. We need to clarify that. A master's
9 degree in education does not provide you with a
10 teaching credential in the State of California.

11 Q. Okay.

12 A. You have to fulfill the requirements for a
13 teaching credential. I chose to simultaneously receive
14 the academic degree master of education.

15 Q. Just so I'm clear, so in connection with
16 obtaining your master's in education, you were not
17 required to have any in-class training?

18 A. The master's degree was an academic degree,
19 not a classroom practice degree.

20 Q. So was my statement correct or did I
21 misstate something?

22 A. There was not classroom training in relation
23 to that academic degree.

24 Q. The 16 weeks of student teaching you had
25 were in connection with obtaining your California

1 Q. 15 separate occasions?

2 A. Right.

3 Q. And you said you also had 30 hours in one
4 classroom?

5 A. Yes.

6 Q. And was that included in the 16 weeks of
7 student teaching you had or was that over and above
8 that?

9 A. That was separate.

10 Q. Any other in-classroom training you had in
11 connection with obtaining your California teaching
12 credential?

13 A. No.

14 Q. Earlier we discussed your contacts with
15 other teachers with regard to providing them
16 information about this case and putting them in contact
17 with the attorneys for the Plaintiffs. Did you
18 undertake any similar efforts with respect to any
19 parents or students at Hawthorne?

20 A. Can I clarify that we did not say that I
21 provided information to other teachers about the case?
22 I provided information only about the opportunity to
23 meet with attorneys for the case.

24 Q. That is fair.

25 A. No, I did not have conversations with

1 teaching credential?

2 A. Yes.

3 Q. Did you have any other in-classroom training
4 in connection with obtaining your credential?

5 A. Yes.

6 Q. Can you tell me what other in-classroom
7 training you had?

8 A. There were 45 required hours of observation,
9 15 of which were to be in separate and distinct
10 classrooms, 30 of which were to be spent in one
11 classroom, as I recall.

12 Q. When you say 15 hours were in separate
13 classrooms, what do you mean by that? Was it 15 in a
14 second classroom?

15 A. 15 separate classrooms.

16 Q. So you had one hour in 15 different
17 classrooms?

18 A. An observation. There is not any required
19 duration of the observation. It could be one hour. It
20 could be a full day.

21 Q. Okay.

22 A. So I guess 15 hours of -- hours wasn't the
23 right term in that case.

24 Q. But 15?

25 A. 15 observations.

1 parents in any context, either about the case itself or
2 about meeting with the attorneys representing the
3 Plaintiffs.

4 Q. And I assume you had no conversations with
5 students either?

6 A. No.

7 Q. Were you ever asked to speak to either
8 students or parents at Hawthorne in connection with
9 this case?

10 A. I was asked if I knew of any parents who
11 would have an interest.

12 Q. And who asked you that?

13 A. Ms. Lhamon.

14 Q. And do you recall how you responded?

15 A. I believe my response was that there was
16 another teacher who would probably have better parent
17 contacts than I would.

18 Q. And did you give Ms. Lhamon that teacher's
19 name?

20 A. I think so.

21 Q. Can you tell me who the teacher you are
22 referring to is?

23 A. Albertina Padilla.

24 Q. Other than providing Ms. Lhamon with Ms.
25 Padilla's name, did you take any other steps in

1 response to her inquiry to you?

2 MS. MAJD: I also wanted to remind you this
3 is limited to before July 27th.

4 THE WITNESS: No.

5 MR. ROSENTHAL: Q. Okay. I'm going to
6 shift gears here a little bit and begin talking about
7 some of the specifics at Hawthorne and touch on the
8 various areas in which you may have had some concerns.
9 First area I'm going to focus in on is teachers. I'm
10 going to ask you this broad question. If we need to
11 narrow it down year by year, let me know. I'm going to
12 ask you how many teachers taught at Hawthorne, if that
13 has changed over the four-year period. To the extent
14 you can, let me know, but if it is a relatively
15 constant number.

16 MS. MAJD: Objection. Calls for
17 speculation.

18 MR. ROSENTHAL: Again, this is to the extent
19 you know.

20 THE WITNESS: To the extent I know, an
21 approximation is from 60 to 65 classroom teachers each
22 of the four years that I was at Hawthorne.

23 MR. ROSENTHAL: Q. In addition to classroom
24 teachers, were there any other teaching personnel who
25 were employed at Hawthorne?

1 Q. Can you describe for me the types of
2 interactions you had?

3 A. I would discuss specific students with them.

4 Q. Was there a reason you would discuss
5 specific students with the resource specialist?

6 A. I believe to answer that question in any
7 greater detail would violate the students' privacy
8 rights.

9 Q. I'm not asking for a student's particular
10 name or anything. I'm just trying to get a sense of
11 generally.

12 A. We discussed the educational progress of
13 those students.

14 Q. Were these special ed students you would be
15 discussing with the resource specialist?

16 A. I don't think I can reveal any details about
17 the students themselves. I believe that would violate
18 their rights under the family privacy law, the Buckley
19 Act.

20 Q. I have no intention about asking about the
21 individual identity. I'm speaking generally here.

22 A. Some of the students may or may not have
23 been identified as special ed students. Special ed is
24 a broad category. If you are referring to students who
25 have individual educational plans, they may or may not

1 A. Yes.

2 Q. Can you tell me what other teaching
3 personnel was employed there?

4 A. Resource specialist, speech therapist,
5 instructional assistants, teachers on special
6 assignments, prep teachers, what are called stip subs.
7 Those are substitutes who are placed at the site
8 instead of being on call for the whole District. Those
9 are the categories that come to mind.

10 Q. Again, I'm going to try and attack this for
11 the entire four-year period you were there. To the
12 extent any of it is not true for that four-year period,
13 if you could just let me know.

14 You said there was a resource specialist.
15 Was there just one of those employed at Hawthorne?

16 A. I believe that there were two.

17 Q. Do you have an understanding as to what
18 their responsibilities were?

19 MS. MAJD: Objection. Calls for
20 speculation.

21 THE WITNESS: I have no way of knowing what
22 their job duties are.

23 MR. ROSENTHAL: Q. Did you have any
24 interaction with the resource specialists?

25 A. Yes.

1 be special ed. The students I am referring to may or
2 may not have had IEP, Individual Educational Plan.

3 Q. My purpose in asking that was simply to
4 ascertain what the role of the resource specialist
5 was --

6 A. I understand.

7 Q. -- at Hawthorne, so I hope --

8 A. I understand. I just want to be very clear
9 that student privacy is very important to me and I
10 won't reveal anything that in any way will reflect on
11 their privacy issues.

12 Q. You also said there was a speech therapist
13 employed at Hawthorne. Was there one of those?

14 A. I believe there were two.

15 Q. And do you know what their role was?

16 MS. MAJD: Same objection. Calls for
17 speculation.

18 THE WITNESS: I don't have knowledge of
19 their specific job duties.

20 MR. ROSENTHAL: Q. Did you have
21 interactions with the speech therapist?

22 A. Yes.

23 Q. Can you describe for me what the kinds of
24 interactions you had were?

25 A. Conversations regarding the progress of

1 students who were receiving speech therapy or
2 conversations regarding the referral of students who I
3 thought should be evaluated for speech therapy.

4 Q. Do you know how many instructional
5 assistants were employed at Hawthorne?

6 A. I don't know.

7 Q. Did you have an instructional assistant who
8 was assigned to your class?

9 A. At times.

10 Q. Were there times when you did not have one
11 assigned to your class?

12 A. Yes. I really was supposed to have an
13 instructional assistant in my room for three hours a
14 day because I was not a qualified -- I did not have a
15 bilingual credential, but I was teaching a bilingual
16 class. However, I was not always provided with that
17 instructional assistant.

18 Q. And just so we're clear, were you teaching a
19 bilingual class during all four years at Hawthorne or
20 are you referring to a specific year?

21 A. All four years.

22 Q. Now, was there a period of time you did not
23 have an instructional assistant in your class or was it
24 throughout your entire four-year tenure there?

25 A. 1999 to 2000, for the bulk of that academic

1 MS. LHAMON: It would be helpful for all of
2 us if you were able to think about were there
3 particular months where it was more often than others.
4 To the extent you can give specificity, it would help.

5 THE WITNESS: Okay. There were certain
6 times of the year, for example, when the school was
7 doing conflict manager training, the instructional
8 assistants would be pulled to assist with that. Around
9 certain assemblies or holiday observances or
10 educational experiences, the instructional assistants
11 would be pulled for that. My first year when I was
12 teaching kindergarten, one of my instructional
13 assistants was pulled frequently to perform clerical
14 tasks that there wasn't someone else available to do.

15 MR. ROSENTHAL: Q. Did the instructional
16 assistants have other duties when there were assemblies
17 and things like that? I'm trying to get a sense of why
18 they were pulled out for assemblies.

19 A. I don't know what their job duties were. I
20 only know that they were pulled from the classroom to
21 assist in whatever way they were being asked to assist.

22 Q. Again, just trying to get your best
23 estimate. Was this something that occurred on a weekly
24 basis? Once a month? More frequently? Less
25 frequently?

1 year, there was not an instructional assistant
2 available to me and then in 2001, beginning in April
3 continuing through August, the instructional assistant
4 who had been assigned to my classroom left the District
5 to take another job and was not replaced in my
6 classroom.

7 Q. Other than the periods of time you just
8 identified, did you have instructional assistants for
9 the remainder of your time at Hawthorne?

10 A. I did provided that they were not pulled out
11 of the classroom to perform other duties.

12 Q. And were they frequently pulled out of class
13 to perform other duties or was that --

14 MS. MAJD: Objection. Vague as to
15 "Frequently."

16 THE WITNESS: Define "Frequently."

17 MR. ROSENTHAL: Q. Why don't you tell me
18 how often that occurred that an instructional assistant
19 was pulled out of your classroom to perform other
20 duties.

21 A. I couldn't make even an estimate of how
22 frequently that did or didn't occur.

23 MS. LHAMON: Michael, can I say something?
24 Do you mind?

25 MR. ROSENTHAL: No.

1 A. My first year when one of my AAs was being
2 pulled once or twice a week at least, I asked the
3 principal to not do that because I was a first-year
4 teacher, because I was not a qualified bilingual
5 teacher, because I knew the aide was there by law and I
6 really needed her there. So the remainder of that year
7 and the second year, I would say maybe once or twice a
8 month at least. My third year, for the vast majority
9 of the time, I didn't have an instructional assistant.
10 I think out of the nine months of school, I only had
11 one like two months and then my fourth year, she was
12 pulled out for the time -- I had her September to April
13 maybe once a month at the most.

14 Q. During your first year after you raised your
15 concern with the principal, did the frequency of the
16 instructional assistant being pulled out decrease?

17 A. In my classroom?

18 Q. Right.

19 A. Yes.

20 Q. You said during the '99/2000 school year,
21 you only had an instructional assistant for roughly two
22 out of the nine months. Do you have an understanding
23 of why that was the case?

24 A. Instructional assistants at Hawthorne, there
25 had been some attrition due to retirement or illness or

1 for whatever reason, I don't know. And the District
2 was not sending replacements for those people,
3 therefore there were not enough bilingual instructional
4 assistants to work in the classrooms where one was
5 required by law.

6 Q. So was it your understanding that the
7 District did not send replacement instructional
8 assistants because there weren't enough instructional
9 assistants employed at the District at the time?

10 MS. MAJD: Objection. Calls for
11 speculation.

12 THE WITNESS: I have no knowledge of what
13 the reason was.

14 MR. ROSENTHAL: Q. Did you ever hear there
15 was a district-wide shortage of instructional
16 assistants?

17 A. I believe that I probably heard the
18 principal say they don't have anybody. There isn't
19 anybody to send. They can't hire enough people.

20 MR. ROSENTHAL: Why don't we go off for a
21 second.

22 (Recess taken.)

23 THE WITNESS: Can I add a clarification or
24 amplification to something I said earlier?

25 MR. ROSENTHAL: Sure.

1 THE WITNESS: The part about that I was
2 required to have a bilingual instructional assistant in
3 the room by law, I didn't explain the reason for that.
4 I was teaching in a classroom that was designated as
5 bilingual. Content instruction was provided in primary
6 language, which for those students was Spanish. And
7 the reason for that goes back to the Civil Rights Act
8 of the early '60s, Bilingual Education Act. I was the
9 teacher for that classroom, but I did not hold a
10 bilingual credential, therefore the law says that
11 instructional support in primary language must be
12 provided for X number of hours of the day, so a
13 qualified bilingual instructional assistant was
14 supposed to be present in the room to support my
15 instruction in the student's primary language.

16 MR. ROSENTHAL: Thank you for that
17 clarification.

18 Q. When you did have an instructional assistant
19 in the classroom, could you describe for me what that
20 instructional assistant would do in the class?

21 MS. MAJD: Objection. Calls for a
22 narrative.

23 THE WITNESS: Whatever duties I asked her to
24 perform.

25 MR. ROSENTHAL: Q. Can you give me some

1 examples?

2 A. In my classroom, I generally had
3 instructional assistants work with small groups of
4 students who needed either extra support in an academic
5 area or who were ready to move on to something that the
6 bulk of the class was not. She -- mine were all shes.
7 "She" speaking of all of them -- would also help me if
8 I needed help with vocabulary if I was instructing
9 students and was suddenly at a loss for the appropriate
10 word in Spanish. I had instructional assistants work
11 with students particularly with writing because that
12 was a subject area that I found difficult to teach when
13 I wasn't teaching in my native language. I did not
14 typically have instructional assistants perform
15 clerical work for me or preparatory work, occasionally,
16 very rarely. The contact -- the work was primarily
17 student contact oriented.

18 Q. Just so I'm clear, in your classrooms, was
19 there a certain portion of the day in which instruction
20 was given in the primary language of the student and
21 another portion of the day in which instruction was
22 given in English?

23 A. As required by law in the classroom -- I was
24 teaching in a designated bilingual classroom -- access
25 to the core content curriculum was provided in primary

1 language. That means math, science, reading, writing,
2 social studies, anything defined as core curriculum or
3 content area curriculum was to be provided in primary
4 language. The law required that a certain number of
5 minutes per day be spent in English language
6 development which is essentially the teaching of
7 English as a second language.

8 Q. When you say primary language for your
9 class, are you referring to Spanish?

10 A. For my classroom, it was Spanish.

11 Q. Were there any students in any of your
12 classes that spoke a language other than Spanish as
13 their primary language?

14 A. No.

15 Q. You said during your final year at Hawthorne
16 that from roughly April through the end of the year in
17 August, you were also without an instructional
18 assistant; is that correct?

19 A. Yes, I said that.

20 Q. Do you have an understanding as to why you
21 had no instructional assistant during that period of
22 time?

23 A. The instructional assistant that had been
24 assigned to my classroom accepted a job outside of the
25 school district. A replacement was not provided and I

1 do want to clarify that the end of the year for me,
2 being in a year-round school, was August, so it was
3 April, May, June, July, and August.

4 Q. And do you have an understanding as to why
5 no additional -- no replacement instructional assistant
6 was assigned to your class?

7 MS. MAJD: Objection. Calls for
8 speculation.

9 THE WITNESS: I don't have specific
10 knowledge. My understanding from asking the principal
11 to get somebody else was that there was not somebody
12 else in the District to come, that there were not
13 adequate numbers of bodies.

14 MR. ROSENTHAL: Q. During your four years
15 at Hawthorne, did you share your instructional
16 assistant with another class?

17 A. Yes.

18 MS. MAJD: Objection. Can you just clarify
19 which years you are talking about, if you are talking
20 about all years.

21 MR. ROSENTHAL: I'm referring to all years.
22 To the extent there is any distinction to be made, let
23 me know.

24 THE WITNESS: Perhaps I could describe the
25 structure of how instructional assistants were placed

1 Q. Do you recall how many of those there were
2 at Hawthorne?

3 A. It would depend on which year.

4 Q. Why don't we start with '97/'98.

5 A. I can't say specifically. I would say
6 anywhere from one to four. Also, teacher on special
7 assignment is actually a personnel term used by the
8 District and it might be that some of the people I'm
9 thinking of were not technically TSAs, that they had
10 some other Human Resource designation.

11 Q. And do you know what the role of the TSAs at
12 Hawthorne was, what their role was?

13 A. Depended on the person.

14 Q. Can you tell me what kinds of roles the
15 various TSAs had?

16 A. Some examples, when I first came to
17 Hawthorne, there was a dean position that was not an
18 assistant principal or vice principal level position.
19 It was a dean. The person who fills that role was a
20 teacher on special assignment. At some point, there
21 was a role for a TSA as the reform coordinator that was
22 connected to a grant that the school had from the Bay
23 Area School Reform Collaborative. There were literacy
24 coaches that were credentialed teachers. I can't say
25 specifically if they were designated as TSAs because I

1 in the classroom.

2 MR. ROSENTHAL: That would be helpful.

3 THE WITNESS: The law requires that in a
4 bilingual classroom where a teacher did not have a
5 bilingual credential, which I did not at the time, that
6 there be an instructional assistant for three hours per
7 day. Depending on who the IA was, if it were a person
8 who only worked three hours a day, then she might only
9 work in my classroom. If it were a person who worked
10 six hours a day, then she would work three hours in my
11 classroom and three hours in another classroom or maybe
12 an hour and a half in a second classroom and an hour
13 and a half in a third classroom. It just depended on
14 how the schedule was established by the administration.

15 MR. ROSENTHAL: Q. Do you know what the
16 total number of instructional assistants employed at
17 Hawthorne was?

18 A. I believe I already indicated that I do not
19 have knowledge of that.

20 MR. ROSENTHAL: Just for the record, prior
21 to this break, Ms. Lucas has joined us here today.

22 Q. You also identified other teaching personnel
23 employed at Hawthorne. You said there was a teacher on
24 special assignment that was there?

25 A. Uh-huh; yes.

1 don't know the Human Resources whatever, but -- and
2 there was -- there were teachers in my last year there
3 who were -- I believe their title was instructional
4 facilitator who were connected to the newly adopted
5 reading program.

6 Q. Is there a name for the newly adopted
7 reading program you are referring to?

8 A. Open court reading. Said with glee.

9 MS. LHAMON: Was that sarcastic?

10 MR. ROSENTHAL: Q. You also said there were
11 some prep teachers employed at Hawthorne?

12 A. Yes.

13 Q. Can you tell me the number of those teachers
14 employed during your four years?

15 A. Each year or in general?

16 Q. Why don't you give me a range over the
17 four-year period.

18 MS. MAJD: If you know.

19 THE WITNESS: I guess the way to answer that
20 is to say there were the number of prep teacher hours
21 equal to the number of preps required. Our collective
22 bargaining agreement stipulates that elementary
23 classroom teachers receive two 15-minute prep periods
24 per week, therefore the number of prep teachers and the
25 number of hours -- you know, they covered would have

1 matched what was needed by the school based on the
2 number of teachers. Just in general, it was two and a
3 half to three people each year. Not a half a person
4 literally, but --

5 MR. ROSENTHAL: Q. And do you recall what
6 kind of prep teachers you had? Were they art teachers,
7 music teachers, or something else?

8 A. Consistently we had a PE teacher and the art
9 teacher. The third prep position was always nebulous
10 because it was often hard to get a third prep teacher
11 to say -- to the get the teacher to assign a third
12 person or even sometimes -- maybe sometimes it was
13 three and a half people that we needed based on the
14 number of teachers, so that third or third and a half
15 or whatever prep position was not consistent. It
16 wasn't the same teacher from year to year. It wasn't
17 the same subject area and it was not provided
18 consistently.

19 Q. And do you remember how many stip subs there
20 were at Hawthorne?

21 A. Each year?

22 Q. Again, you can give me a range if it varied
23 over the four years.

24 A. The first three years I was there, one to
25 two. Last year, I -- so for 2000/2001, I don't believe

1 Sperber, through the end of the year. Ms. Cohn-Vargas
2 left. Ms. Sperber became principal. There was some
3 intermediary temporary whose name I don't even
4 remember. My third year there, Michael Bowen was vice
5 principal. Did we have anybody else? My recollection
6 is we did not have anybody else. There may have been
7 some people passing through temporarily. Do you want
8 me to finish?

9 Q. Go ahead if you have more to add.

10 A. The fourth year I was there, Susan Sperber
11 was the principal and Michael Bowen was vice principal
12 and Antonio Jimenez, J-i-m-e-n-e-z, was vice principal
13 as well.

14 MS. MAJD: It would be good if you could try
15 to not waste Ms. Salyer's time with stuff that is
16 public record, information you could obtain otherwise.

17 MR. ROSENTHAL: Q. During your four years
18 at Hawthorne, was there any period of time when there
19 was no principal at Hawthorne? You made reference to a
20 point in time when there was an intermediary. I'm
21 trying to make sure the record is clear.

22 A. When Ms. Cohn-Vargas left for a position in
23 another district, Ms. Sperber was the acting principal
24 for some number of months. She was not the official
25 principal.

1 we had a stip sub. I could be wrong. Maybe we did for
2 part of the year.

3 Q. Do you recall when Ms. Sperber became
4 principal at Hawthorne?

5 A. At the start of the '99/2000 school year,
6 probably technically in the summer before that. I
7 think she would have become principal on July 1st of
8 2000 at the start of the fiscal year --

9 Q. And for your --

10 A. -- '99. '99.

11 Q. And for your first two years at Hawthorne,
12 was it Ms. Cohn-Vargas who was principal?

13 A. Yes, it was.

14 Q. Were there any vice principals at Hawthorne
15 during your first four years there?

16 A. Yes, there were.

17 Q. Can you tell me who they were and when they
18 were?

19 A. Okay. '97/'98, Bill Self.

20 Q. Can you spell that?

21 A. William Self, S-e-l-f, '98/'99. As I
22 recall, Bill Self retired in December. Oh, Susan
23 Sperber was vice principal also that year, the second
24 year I was there, '98/'99. Mr. Self retired in
25 December. We then had the one vice principal, Ms.

1 Q. That was during the '98/'99 school year?

2 A. That was, yeah, in the summer of '99 and
3 probably into the fall.

4 Q. And at some point, Ms. Sperber became the
5 permanent principal at Hawthorne?

6 A. Yes.

7 Q. And during your four years at Hawthorne, was
8 there ever a period of time when there was no assistant
9 principal at the school?

10 A. I believe there was.

11 Q. Do you recall when that was?

12 A. It would have been the summer of '99 as
13 well. And I would like to say, when I say, "The
14 summer," that is an academic period for that school.
15 It is a year-round multitrack school, so it is not the
16 summer and there are no kids and teachers there. The
17 school is operational.

18 Q. Just, again, so the record is clear, is that
19 the time period when Ms. Sperber was acting as the
20 acting principal of the school?

21 A. Yes.

22 Q. Do you recall when Mr. Bowen began at
23 Hawthorne?

24 MS. MAJD: Objection. Vague.

25 THE WITNESS: As vice principal? As a

1 teacher, I mean?
 2 MR. ROSENTHAL: Q. Was he a teacher there
 3 prior to becoming a principal?
 4 A. He was a teacher prior to him becoming a
 5 vice principal at the school.
 6 Q. Do you remember when he became vice
 7 principal?
 8 A. Late summer, probably early fall -- I
 9 wouldn't know his actual hire date -- of '99.
 10 Q. I would like to focus your attention on any
 11 concerns that you had regarding the teaching staff at
 12 Hawthorne Elementary. Did you have any such concerns?
 13 A. Could you be more specific, please, about
 14 "Concerns"?
 15 Q. Did you have any concerns regarding the
 16 qualifications of the teachers who were teaching at
 17 Hawthorne?
 18 MS. MAJD: Objection. Vague.
 19 THE WITNESS: Could you be more specific
 20 about "Concerns about qualifications"?
 21 MR. ROSENTHAL: Q. Was it your opinion that
 22 all the teachers who taught at Hawthorne were qualified
 23 to teach?
 24 A. I have no basis for an opinion. I was not
 25 in an evaluative position.

1 Q. So did you have no concerns about that?
 2 MS. MAJD: That is not what she said.
 3 THE WITNESS: That is not what I responded.
 4 I responded that I was not in a position to evaluate
 5 other teachers at Hawthorne school.
 6 MR. ROSENTHAL: I was trying to ascertain
 7 whether you had any concerns about the qualifications
 8 or not.
 9 MS. MAJD: Objection. Asked and answered.
 10 THE WITNESS: I would say that I had
 11 concerns in general about the issue of having, in the
 12 Oakland Unified School District, a higher-than-average
 13 number of teachers who did not -- who were not -- who
 14 did not have teaching credentials. That is not to say
 15 my answer is reflective on specific individuals, but I
 16 did have concern about the fact that there were
 17 teachers who had not had full preparation and full
 18 credential -- had not been through the full
 19 credentialing process teaching and, again, that is not
 20 about them personally.
 21 MS. MAJD: Michael, you didn't describe what
 22 "Concerns" were for her, so it is unclear what we're
 23 referring to here.
 24 MR. ROSENTHAL: Q. Did you understand the
 25 question?

1 A. I would say I'm not clear what you mean by
 2 "Concerns." I can say how -- what my interpretation
 3 was. Again, as I stated, I wasn't saying something
 4 about specific teachers because I was not in an
 5 evaluative position. It concerns me as a professional
 6 that children were being taught by teachers who might
 7 not have had the background preparation that would have
 8 better assisted them to enter a classroom.
 9 Q. Earlier you said that there was a
 10 higher-than-average number of teachers who were
 11 teaching at Hawthorne without teaching credentials.
 12 Can you describe for me what you mean with respect to
 13 "Teaching without teaching credentials"?
 14 MS. MAJD: I believe that mischaracterizes
 15 the testimony. I think she testified this was a higher
 16 than average number at OUSD.
 17 THE WITNESS: I believe that is what I said.
 18 My response was that I was aware because of published
 19 public figures that the Oakland Unified School District
 20 had more than the average number of teachers who did
 21 not possess a credential in classrooms.
 22 MR. ROSENTHAL: Q. Just so I'm clear, you
 23 are referring to that on a district-wide basis or was
 24 this a problem you were concerned about at Hawthorne
 25 specifically?

1 A. I was, when I answered the question,
 2 referring to the District as a whole. There were
 3 teachers at Hawthorne who were not fully credentialed.
 4 Q. When you say they were not fully
 5 credentialed, did they possess some other kind of
 6 teaching credential?
 7 MS. MAJD: Objection. Calls for
 8 speculation.
 9 MR. ROSENTHAL: To the extent you know.
 10 THE WITNESS: To the extent I know, my
 11 understanding of the law is that you have to be -- in
 12 order to enter the classroom as a classroom teacher,
 13 you have to be eligible to receive an emergency
 14 credential and there are requirements that go along
 15 with maintaining your status with that credential and I
 16 know that there were teachers at Hawthorne who had
 17 emergency or intern credentials, which is another type
 18 of temporary credential, that would allow that person
 19 to be in a classroom.
 20 MR. ROSENTHAL: Q. Do you recall how many
 21 teachers at Hawthorne had either emergency or intern
 22 credentials?
 23 MS. MAJD: Objection. Calls for
 24 speculation.
 25 THE WITNESS: I'm not able to say

1 specifically what specific number.

2 MR. ROSENTHAL: Q. Are you able to
3 estimate?

4 A. I can estimate out of 65 classroom teachers,
5 it is possible that there were up to ten that did not
6 have credentials.

7 Q. Is that estimate for the entire four-year
8 period you were at Hawthorne? Was that limited in
9 time?

10 A. If we look at that estimate as an average
11 over the four years and there was an average of 65
12 teachers percentage-wise, that would probably be the
13 best estimate I could make.

14 Q. So was it a concern of yours that at
15 Hawthorne, there were too many teachers without full
16 teaching credentials?

17 MS. MAJD: Objection. Vague.

18 THE WITNESS: What would the definition of
19 "Too many" be? Too many in comparison to?

20 MR. ROSENTHAL: Q. I'm asking you, did you
21 feel like it was too many teachers who were on
22 emergency or internship credentials?

23 MS. MAJD: Objection. Calls for expert
24 testimony. Calls for speculation.

25 THE WITNESS: I would say it was a concern

1 A. I believe that I could say that, yes, my
2 understanding was that this is a state-wide issue,
3 particularly in urban districts and in districts where
4 the pay was not as -- not on par with some other
5 places.

6 Can I ask for a break to confer with
7 Counsel, please?

8 MR. ROSENTHAL: Sure.

9 THE WITNESS: Thank you.

10 (Recess taken.)

11 MS. MAJD: Michael, can I bring up a point?
12 I feel like before the break, you were asking a lot of
13 questions of Amy that I found to be sort of, in fact,
14 argumentative and you spent a lot of time going over
15 information that is public record and Ms. Salyer's time
16 is really valuable and I'm sure yours is as well. It
17 would be good if you didn't drag out this deposition.
18 It is already ten minutes to 3 o'clock and we haven't
19 covered very much substantive ground at all and -- you
20 know, she is not going to be able to come back
21 indefinitely. It would be good if we could speed this
22 up and treat her a little less argumentatively. I
23 would appreciate that.

24 MR. ROSENTHAL: It is not my intention to
25 drag out this deposition at all and if you perceived

1 of mine that new teachers that I worked with were
2 coming to the classroom without the benefit of the kind
3 of preparation that I had in a credential program, that
4 they had not had the theoretical training or the
5 practical training that one receives in student
6 teaching experience with mentor teachers before they
7 entered a classroom and assumed full responsibilities
8 for instruction, classroom management, and evaluation
9 of anywhere from 20 to 31 students.

10 MR. ROSENTHAL: Q. Did you ever have an
11 understanding as to why teachers with either emergency
12 credentials or intern credentials were hired at
13 Hawthorne?

14 MS. MAJD: Objection. Calls for
15 speculation.

16 THE WITNESS: My understanding based on, say
17 -- you know, media, or District gossip, or whatever
18 source was that there simply were not enough
19 credentialed teachers available to be hired in Oakland
20 or that Oakland did not do a good enough job recruiting
21 credentialed teachers in order to have the number of
22 teachers that were needed to fill the classrooms.

23 MR. ROSENTHAL: Q. Did you ever hear that
24 the teacher shortage problem was something that was not
25 just limited to Oakland, but was state wide?

1 any of my questions as argumentative, I apologize.
2 None of them were intended to be.

3 Q. Have you ever had the opportunity to observe
4 any of the teachers at Hawthorne who have either
5 emergency or intern credentials?

6 A. Not in classroom observations, no.

7 Q. So do you have any way of gauging whether
8 those teachers are effective teachers or not in the
9 classroom?

10 MS. MAJD: Objection. Vague as to
11 "Effective."

12 THE WITNESS: Well, aside from the lack of
13 definition for "Effective," I, last year, 2000/2001
14 school year, in conjunction with another teacher, was
15 the new teacher liaison, so monthly, I met with a group
16 of new teachers, several of whom -- it is my
17 understanding. I couldn't say for sure -- but it was
18 my understanding, did not have -- had not received
19 credentials, either were just starting programs or were
20 in the process of starting programs. So in the context
21 of conversation with those teachers and providing
22 support to them through the new teacher support group,
23 I was able to hear some of the issues that they were
24 facing in their classrooms.

25 Additionally, I was the 2nd grade

1 grade-level chair. Circuit chair is the title. And
2 also had contact with teachers at twice-monthly circuit
3 meetings where some of these issues might come up.

4 MR. ROSENTHAL: Q. And based on your
5 responsibilities and these roles, do you feel you're in
6 a position to be able to gauge whether any of these
7 teachers on emergency or internship credentials were
8 effective teachers in the classroom?

9 MS. MAJD: Objection. Vague as to
10 "Effective."

11 THE WITNESS: Again, without defining
12 "Effective," I was not in an evaluative position. I
13 could only speak to the kinds of topics that they
14 brought up for discussion or asked for advice or
15 support on.

16 MR. ROSENTHAL: Q. Were the kind of topics
17 they brought up or advice they asked different from the
18 sorts of topics and advice that new teachers with full
19 credentials would have asked?

20 MS. MAJD: Objection. Calls for
21 speculation.

22 THE WITNESS: I don't have a way of knowing.
23 I would say my experience was that teachers who had not
24 been through credential programs had more concerns
25 about classroom management and about effective methods

1 resolving those concerns?

2 MS. MAJD: Objection. Compound.

3 THE WITNESS: People would say -- you know,
4 "Thank you for that information," or "Yeah, I did that
5 and it worked," or "I did that, but we're still
6 struggling, so what should we do next?"

7 MR. ROSENTHAL: Q. When teachers in those
8 situations would come back with additional or other
9 problems, what would you do in those instances?

10 A. Continue to discuss the issue with them,
11 look for other resources that might be helpful such as
12 other teachers or administrators or support personnel
13 who might be better able to facilitate getting them
14 what they needed or providing the support they needed.

15 Q. During your four years at Hawthorne, were
16 there any problems with regard to high amounts of
17 teacher turnover?

18 MS. MAJD: Objection. Vague as to "High
19 amounts of teacher turnover."

20 THE WITNESS: What would you define as a
21 high amount of teacher turnover?

22 MR. ROSENTHAL: Q. Why don't we try it this
23 way: Can you describe for me what the teacher turnover
24 was like at Hawthorne during the four years you were
25 there?

1 for delivering instruction to the student population at
2 our school than teachers who had been through
3 credential programs.

4 MR. ROSENTHAL: Q. When those sorts of
5 issues arose with teachers who were teaching on
6 emergency or internship credentials, did you do
7 anything to assist those teachers?

8 A. Yes.

9 Q. Can you tell me the sorts of things you did?

10 A. In those forums, we would discuss, as a
11 group, ways to accomplish XYZ, ways to get kids to do
12 homework, ways to manage a classroom so it wasn't an
13 out-of-control environment, ways to design instruction
14 to support student learning because most of these
15 teachers had not had lesson-planning classes that are
16 typically found in credential programs. Sometimes the
17 questions centered around "I have this problem." You
18 know, "I have" -- "There's rats in my room," or "I
19 don't have any books. Where do I get the books for
20 this topic area?" So I would try to facilitate them
21 working with the administration to get problems taken
22 care of or things that they needed.

23 Q. And did those teachers who raised those
24 kinds of concerns ever express to you that the advice
25 you provided or the steps you took were helpful in

1 MS. MAJD: Objection. Overbroad and calls
2 for a narrative. Vague. Calls for speculation.

3 THE WITNESS: There was teacher turnover.
4 This is an estimate only. Of the approximately 65
5 teachers -- well, I can tell you when I came in as a
6 new teacher to Hawthorne, I was in a group of, I think
7 like 13 new teachers, so there were 13 new teachers
8 that year. The two following years, it was around ten
9 new teachers and last year as well, so the three
10 subsequent years.

11 MR. ROSENTHAL: Q. Did you have any
12 concerns about the level of teacher turnover at
13 Hawthorne?

14 MS. MAJD: Objection. Vague as to
15 "Concerns."

16 THE WITNESS: Yes, it's having that many new
17 teachers on the staff at any given time meant that
18 there was less of a knowledge base. It meant that it
19 was harder for families to be connected to the school
20 because -- you know, their child might get a new
21 teacher every year. It meant there was less cohesion
22 on the staff. It meant that every year, we had to
23 recover ground in professional development that had
24 already been covered and try to catch people up to sort
25 of where the school was heading.

1 Frequently new teachers were not hired until
2 towards the end of September because of the
3 ever-increasing population and so those teachers were
4 very behind in terms of being what the program was
5 going on at the school and quite often, those were the
6 teachers who did not have a credential and were just
7 beginning the process, so they didn't have the
8 background knowledge coming in, so, yes, it was a
9 concern.

10 MR. ROSENTHAL: Q. Did you have any
11 understanding as to why each year you were at Hawthorne
12 approximately ten teachers left the school each year?

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

15 THE WITNESS: Based only on my own
16 observations of the situations that people were in or
17 random conversations, it was a difficult place to work.
18 It was a very big school. The multitrack year-round
19 was very hard on teachers. The poor condition of the
20 facilities made it an uncomfortable place to teach.
21 Teachers who had to rove and often late hires ended up
22 having to rove found that so detrimental to the
23 teaching process and the learning process and the
24 professional growth process that they did not want to
25 continue to have to work in that environment.

1 MR. ROSENTHAL: Q. Any other reasons for
2 the level of teacher turnover that you heard of that
3 you haven't already told me about?

4 A. I think attributing it to the difficult
5 working conditions at that school site was probably, to
6 my knowledge, the -- I'm sure that people had personal
7 reasons, other opportunities or something, but there is
8 definitely a feeling that this was -- is a really hard
9 environment to work in.

10 Q. Of the new teachers that were hired each
11 year at Hawthorne, do you have an understanding as to
12 how many were fully credentialed teachers?

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

15 THE WITNESS: I don't have a way of knowing
16 that.

17 MR. ROSENTHAL: Q. Do you know what steps
18 Hawthorne took to replace the teachers who left each
19 year?

20 MS. MAJD: Calls for speculation. Vague.

21 THE WITNESS: The school itself is not
22 necessarily responsible for replacing the teachers.
23 The way -- the structure of the District is that
24 District Human Resources has the ultimate
25 responsibility for placing teachers at a school site.

1 At different times, the District is more open to a
2 participatory process with a hiring committee at the
3 school site. Sometimes they are and sometimes they are
4 not.

5 MR. ROSENTHAL: Q. During your four years
6 at Hawthorne, are you aware of any efforts undertaken
7 by the school, by Hawthorne, to replace the teachers
8 that left each year?

9 MS. MAJD: Objection. Vague. When you talk
10 about "Hawthorne," it is not a person. Who are you
11 referring to?

12 MR. ROSENTHAL: Q. When I say "Hawthorne,"
13 do you understand what I'm referring to?

14 A. No. Could you be more specific, please?

15 Q. I'm referring to the school.

16 A. The school? I mean, the school is a
17 building. It can't hire people.

18 Q. Fine. For this question, why don't -- when
19 I'm referring to Hawthorne in this instance, I'm
20 referring to the school's administration.

21 A. The principal was willing to accept resumes
22 from people who were interested in working at
23 Hawthorne. She would -- my understanding is that when
24 there was a student teacher at the school who she
25 thought would be a good addition, she would ask that

1 person if they would be interested in applying to the
2 District and specifically for a position at Hawthorne.
3 So when she would accept a resume, she would usually
4 try to meet with that person and have a couple of
5 teachers -- if the hiring committee was not operating
6 at that point, at least have another couple of tenured
7 teachers meet that person and if the person fit what
8 the overall sort of milieu of Hawthorne, she would ask
9 the District to place that person at the school, but
10 that doesn't mean that the person would be placed at
11 the school.

12 Q. Are you aware of any other efforts
13 undertaken by Hawthorne's administration to replace
14 teachers that left each year?

15 A. Not beyond what I've stated.

16 Q. Were the efforts that you just testified
17 about successful in securing teachers during that time
18 frame?

19 MS. MAJD: Objection. Vague and calls for
20 speculation.

21 THE WITNESS: What would the definition of
22 "Successful" be?

23 MR. ROSENTHAL: Q. Were the principal's
24 efforts -- the principal's efforts in trying to get
25 teachers to come teach at Hawthorne, did that actually

1 result in teachers becoming employed at Hawthorne?

2 MS. MAJD: Objection. Calls for
3 speculation.

4 THE WITNESS: I can only comment on specific
5 -- you know, times that I can think of. "Oh, yeah. I
6 saw her meet with that person." And "Oh, look. Yes.
7 They got hired."

8 I know that sometimes she was able to -- I
9 mean, my own case is one of those cases as we discussed
10 earlier. I had student taught at Hawthorne and
11 developed a relationship with the person who ultimately
12 became principal who at that time was the dean and she
13 was able to work with Human Resources to get me placed
14 at that school. There were other times when I think
15 that that occurred. However, there were also times
16 when she wanted somebody to fill a position and the
17 District said, "No. We already have somebody we're
18 sending."

19 MR. ROSENTHAL: Q. Are you aware of the
20 efforts that were taken at the District level to
21 replace teachers each year at Hawthorne?

22 MS. MAJD: Objection. Vague and calls for
23 speculation. Assumes facts not in evidence.

24 THE WITNESS: I don't have any knowledge of
25 the workings of the vast and mysterious Human Resources

1 colleagues were the things that were beyond the
2 facilities issues and the textbooks issues and all of
3 these other detractions.

4 MR. ROSENTHAL: Q. Are there any other
5 steps that you believe the school administration could
6 have taken to reduce school -- to reduce teacher
7 turnover at Hawthorne, but did not take?

8 MS. MAJD: Objection. Calls for
9 speculation. Calls for expert testimony.

10 THE WITNESS: I have no way of knowing.

11 MR. ROSENTHAL: Q. Any steps you can think
12 of as you sit here today that you feel the school
13 should have taken to reduce teacher turnover, but they
14 did not take?

15 MS. MAJD: Asked and answered. Objection.

16 THE WITNESS: I have no way of knowing.

17 MR. ROSENTHAL: It is a "yes" or "no"
18 question.

19 MS. MAJD: She answered.

20 MR. ROSENTHAL: Q. Are there any steps that
21 you believe the school administration should have taken
22 to reduce teacher turnover at Hawthorne that they did
23 not take?

24 MS. MAJD: Objection. Asked and answered
25 and argumentative. She has already said she has no way

1 Department at the Oakland Unified School District.

2 MR. ROSENTHAL: Q. Are you aware of any
3 steps that were taken by the administration at
4 Hawthorne to decrease the level of teacher turnover at
5 the school?

6 MS. MAJD: Objection. Calls for
7 speculation.

8 THE WITNESS: I think that the Hawthorne
9 administration did the best that they could in the
10 situation that we were in, knowing that teachers had a
11 difficult time with the roving issue, that teachers did
12 not appreciate working in moldy environments, that
13 teachers did not appreciate working in classrooms full
14 of mouse droppings. The administration tried to make
15 the school a good place in other ways in terms of the
16 collegial environment, in terms of the professional
17 support given to teachers, in terms of making the
18 school feel like a community, in whatever ways those
19 were possible to try to counteract the circumstances
20 that were out of their control or teachers' control and
21 I think that teachers taught at Hawthorne for those
22 reasons. That is why I chose to teach at Hawthorne.
23 That is why I chose to stay at Hawthorne for four
24 years. That is why I chose to stay in the neighborhood
25 with the same kids and the same families and the same

1 of knowing.

2 THE WITNESS: I have no way of knowing. It
3 is not a field of expertise for me, so I don't have any
4 way to say they should have done this, or they should
5 have done this, or they shouldn't have done this, or to
6 say they did everything they could. I have no ability
7 to respond to that question as I stated twice
8 previously.

9 MR. ROSENTHAL: Q. Are you aware of any
10 steps that the Oakland Unified School District took to
11 reduce the level of teacher turnover at Hawthorne?

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

14 THE WITNESS: I have no way of knowing.

15 MR. ROSENTHAL: Q. Did anybody ever tell
16 you that the Oakland Unified School District was taking
17 certain steps to reduce the level of teacher turnover
18 at Hawthorne?

19 A. Did anybody ever tell me that specifically?
20 Are you asking if --

21 Q. Specifically or generally.

22 A. Well, are you asking if I had some kind of
23 conversation or communication with somebody on that
24 specific topic?

25 Q. I'm asking if you ever heard that.

1 A. Not to my recollection, no.
 2 Q. Have you ever heard that any classes at
 3 Hawthorne, during your four years, began the school
 4 year without a permanent teacher?
 5 A. Yes.
 6 Q. Can you tell me about those instances?
 7 MS. MAJD: Objection. Calls for a
 8 narrative. Vague and overbroad.
 9 MR. ROSENTHAL: You can answer.
 10 Q. Let me ask you this first: Do you recall
 11 how many instances there were like that?
 12 MS. MAJD: What time frame are we talking
 13 about?
 14 MR. ROSENTHAL: Over your four-year tenure
 15 at Hawthorne.
 16 THE WITNESS: I can describe a few instances
 17 specifically and my understanding is that there were
 18 more. That is the best I can give in terms of how
 19 many.
 20 MR. ROSENTHAL: Q. How many instances are
 21 you personally aware of?
 22 A. I'm thinking of four instances that had some
 23 kind of direct personal connection to me.
 24 Q. Why don't we deal with those first.
 25 A. Okay.

1 Q. Why don't you tell me about the first such
 2 instance that you recall.
 3 A. My first year, as I stated previously, I --
 4 for the first month of school, I taught a 1st and 2nd
 5 grade combination. Near the end of September of 1997,
 6 the principal came to me -- my class was not up to size
 7 and she came to me and said that that class would be
 8 combined with children from another class and instead
 9 of being a Spanish bilingual class, it would be a
 10 sheltered English class and I could continue to teach
 11 that class if I wanted to or I could take over a
 12 kindergarten class that had been with a sub for the
 13 preceding three weeks that was bilingual and that it
 14 was my choice which I wanted. I chose to take the
 15 bilingual kindergarten class.
 16 When I took over the bilingual kindergarten
 17 class, they had been with a substitute teacher for
 18 three weeks. In that situation, the kindergarten
 19 classroom classes shared a room. There was a morning
 20 class and an afternoon class. I taught the afternoon
 21 class. The morning class was just starting at the
 22 beginning of October because of their track situation.
 23 The track they were on started at the beginning of
 24 October. They were with a sub for the better part of
 25 that month, if not the entire month of October. There

1 was a substitute in the classroom before a teacher was
 2 hired to teach the class for the rest of the year, so
 3 there were two instances there.
 4 Also that year, the substitute who was
 5 teaching that morning class in October, in September,
 6 he was teaching another kindergarten class that also
 7 did not have a teacher, so they got a teacher for that
 8 class at the end of September. He then switched to
 9 this other class in October. Subbed that class until
 10 they found somebody to fill that role, so that is three
 11 instances.
 12 I hope that was clear. It is a little
 13 confusing.
 14 Q. Maybe we'll deal with each instance one at a
 15 time.
 16 A. The thing is they were all sort of tied
 17 together because it involved the same people.
 18 Q. Do you want to continue your answer, then?
 19 A. I mean, I think I've said what the situation
 20 was was there was the class I took over. There was a
 21 second kindergarten class that shared the room with me
 22 that had a substitute for a month. There was a third
 23 kindergarten class that had a substitute for at least a
 24 month, and possibly even longer, in the fall of 1997.
 25 The other -- the fourth instance that I'm

1 thinking of specifically -- I can think of a couple
 2 more as well. We'll go on to this one. In the school
 3 year '99/2000, there was a class located near mine that
 4 was an overflow class. It took students once the
 5 school year started from classrooms where it was over
 6 the class size limit; put them into this classroom and
 7 then they had a series of substitutes until like the
 8 middle of the year or later. It was a 3rd and 4th
 9 grade combination class.
 10 Also that year, there was a class that had a
 11 teacher who did not have a credential. He was from
 12 Mexico. He was hired, but he did not ultimately
 13 fulfill the requirements of the District and so in the
 14 middle of the year, he was terminated and a new teacher
 15 had to be found for that class. And they had a
 16 substitute in the intervening time, as I recall.
 17 And then last year -- so that would be --
 18 we're up to five. This would be the sixth incident
 19 that I can recall specifically. Last year in the
 20 2001/2002 school year, another overflow class was
 21 formed after about three weeks of school, again a
 22 3rd/4th grade combination, which is problematic. And
 23 the teacher that was hired for that class was not even
 24 in an intern program. She was a pre-intern. She had
 25 only a 30 day permit. She had been a sub at Hawthorne

1 previously.

2 Q. I want to clarify one thing. I think you
3 may have misspoken. By this year, did you mean the
4 2000/2001 school year? I think you said the 2001/2002
5 school year.

6 A. I meant the 2000/2001 school year. I'm not
7 into my new school year yet now that I'm thinking about
8 old school years.

9 Q. I would like to go back and deal with these
10 instances individually. For the first instance, you
11 identified the afternoon kindergarten class that you
12 took over after roughly three weeks into the school
13 year. Do you know who the permanent teacher in that
14 class was supposed to be at the start of the school
15 year?

16 MS. MAJD: Objection. Assumes facts not in
17 evidence.

18 MR. ROSENTHAL: Q. Let me ask this first:
19 Was there supposed to be a permanent teacher in that
20 class?

21 A. I don't have a way of knowing. My
22 recollection was that was the first year of class size
23 reduction at the kindergarten level and because
24 Hawthorne, being a year-round track, did not have an
25 enrollment cap, students were being sent to Hawthorne

1 year, was there a substitute teacher in the class prior
2 to your taking it over?

3 A. Yes.

4 Q. Was the same substitute teacher there for
5 the entire roughly three-week period?

6 A. I don't know.

7 Q. Do you know if the substitute teacher or
8 teachers who instructed that class were instructing
9 the -- that class?

10 MS. MAJD: Calls for speculation.

11 THE WITNESS: I don't know. I mean, let me
12 just tell you, if you don't have any kids, you don't
13 know what a four- and five-year-old is like. It is
14 impossible to determine if they've received instruction
15 when you are still dealing with all through the year
16 very basic developmental issues. I mean, they are
17 five-year-olds. It is not like I could see that, yes,
18 they've learned the causes of the Civil War in their
19 first three weeks with their substitute. When you are
20 teaching kindergarten, you are dealing with things like
21 can you sit down on the rug and fold your legs and some
22 of them could and some couldn't, but it is not possible
23 for me to know if that is the result of instruction or
24 just because they were developmentally further along in
25 their trajectory.

1 -- redirected is the term -- from other area schools
2 and Hawthorne had to continue to accept whatever
3 students came, so classes were just being added and
4 added and added. So my recollection is that all three
5 of those kindergarten classes we spoke of were classes
6 that the administration had not anticipated would exist
7 and once all of the redirects started coming, there
8 were no teachers available to teach those classes.

9 Q. Was it your understanding that those three
10 classrooms came into existence as a result of the class
11 size reduction program?

12 A. I don't have a way of knowing if it is a
13 direct result of that program.

14 Q. Did you ever hear that was the case?

15 A. I can't recall if I was ever told that that
16 was the reason. My recollection is that Hawthorne's
17 population grew over the year I was there and classes
18 were continually being added because there was no cap
19 on the enrollment. That school was told that it had to
20 accept every student who walked in the door and all of
21 the area schools were told to redirect their students
22 to Hawthorne because it was a multitrack year-round and
23 thus could just add roving teachers.

24 Q. The kindergarten class you took over after
25 roughly the first three weeks in the '97/'98 school

1 MR. ROSENTHAL: Q. But based on your prior
2 experience as a substitute teacher, was it your
3 understanding that the substitute teachers who were
4 assigned to that class, that that was their role to
5 instruct that class?

6 A. Yes, that is my understanding. And as I
7 recall, they had -- they did have journals started and
8 they did -- they had started, I think it was a color
9 book or something, some language arts project.

10 Q. And once you took over that class, you
11 remained with that class for the remainder of the
12 school year?

13 A. Yes.

14 Q. You said that there was a morning
15 kindergarten class -- this is now the second
16 instance -- that started the school year a bit later,
17 in October I think you previously stated. Do you know
18 if -- strike that.

19 Did there come a time when there was a
20 permanent teacher who was hired to teach that class as
21 well?

22 A. Yes.

23 Q. And did that teacher remain for the
24 remainder of the '97/'98 school year in that class?

25 A. Yes.

1 Q. Do you recall who that individual was?

2 A. Yes.

3 Q. Can you tell me his or her name?

4 A. Her name was Arcelia, A-r-c-e-l-i-a. I'm
5 not positive on the spelling, but Ramirez.

6 Q. Now, you said that morning kindergarten
7 class shared the same classroom as your afternoon
8 kindergarten class?

9 A. Right.

10 Q. Did you ever have occasion to observe that
11 class when there was a substitute in the class?

12 A. Yes.

13 Q. And how many such occasions did you have?

14 A. Daily.

15 Q. And did the substitute assigned to that
16 morning kindergarten class instruct the kindergarten
17 students?

18 MS. MAJD: Objection. Vague as to
19 "Instruct."

20 THE WITNESS: He worked with the students
21 using my lesson plans, whatever I had planned for my
22 class. He did as best he could with the morning class.

23 MR. ROSENTHAL: Q. Was it your opinion,
24 based on your experience as a substitute teacher and
25 your understanding of your responsibilities as a

1 who then taught the morning kindergarten class. Once
2 he changed to that class -- I actually think that the
3 kids in that third class, I think they went off track
4 on vacation and when they came back in November -- I
5 can't say for sure -- I think they may have had a
6 substitute again for maybe a week or so and then their
7 permanent teacher, but it is hard for me to remember
8 and they were in a building far, far away, so I didn't
9 see it a lot.

10 Q. Do you recall the name of the permanent
11 teacher who eventually took over that class?

12 A. Yes.

13 Q. Can you tell me his name?

14 A. Betsy, B-e-t-s-y, Mueller, M-u-e-l-l-e-r.

15 Q. Maybe I missed something here, but the
16 morning kindergarten class that shared the classroom
17 with you that had a substitute for the first few weeks,
18 was that a male substitute?

19 A. Yes, it was.

20 Q. What was his name?

21 A. Bill Kaufman, K-a-u-f-m-a-n.

22 Q. And he -- did he then subsequently move to
23 this third kindergarten class we were just talking
24 about for a period of time?

25 A. The third kindergarten class is the first

1 substitute teacher, that the substitute teacher who was
2 in the class was fulfilling his responsibilities?

3 MS. MAJD: Objection. Vague.

4 THE WITNESS: Without being in an evaluative
5 position, I believe he did the best job he could in the
6 circumstances.

7 MR. ROSENTHAL: Q. During a time that that
8 morning kindergarten class did not have a permanent
9 teacher, did it have one substitute during that time
10 frame or were there more than one?

11 A. One substitute.

12 Q. Again, during that year, you said there was
13 a third kindergarten class that began the school year
14 without a permanent teacher; is that right?

15 A. Right.

16 Q. Do you recall what month that class began?

17 A. In September.

18 Q. Did it start the same time that your class
19 began?

20 A. Yes.

21 Q. And do you know how long that -- strike
22 that.

23 I think you said there was a substitute in
24 that class for about a month?

25 A. Certainly for a month because it was the man

1 class that he was in in September. Okay. So if you
2 want to go over Bill's chronology, in September, Bill
3 is with that kindergarten class. In October, my
4 recollection is they go on vacation. He gets moved to
5 the class that shares the room with me, so then in
6 November, the third class we were referring to comes
7 back and they may or may not have had a sub for a short
8 period of time and they got their teacher, who was a
9 late hire and didn't have a credential, but who was
10 able to work full time.

11 Q. And that was [REDACTED]

12 A. Uh-huh.

13 Q. Did [REDACTED] stay for the remainder of
14 the school year --

15 A. Yes.

16 Q. -- in that classroom?

17 A. Yes.

18 Q. Is [REDACTED] still employed at Hawthorne?

19 A. Yes.

20 Q. Do you know if she has obtained her full
21 teaching credential?

22 A. I don't know if, at this moment, she has. I
23 know that she continued to work on the credential for
24 some period of time beyond that first year. I can't
25 say if she has now gotten her credential or not.

1 Q. How about Ms. Ramirez, when she was hired,
2 did she have her full teaching credential or did she
3 also have a --

4 A. I do not know.

5 Q. Is Ms. Ramirez still teaching at Hawthorne
6 today?

7 A. No.

8 Q. Do you know is she teaching anywhere?

9 A. I have no idea.

10 Q. Do you recall how long she remained at
11 Hawthorne?

12 A. Only for that year.

13 Q. Do you have an understanding as to how the
14 permanent teachers that were hired to fill in these
15 kindergarten classes were obtained?

16 MS. MAJD: Objection. Vague as to
17 "Obtained" and calls for speculation.

18 THE WITNESS: I don't have knowledge of the
19 hiring process in that situation.

20 MR. ROSENTHAL: Q. Moving on to the fourth
21 instance you identified, it was during the 1999/2000
22 school year. You said there was a classroom which was
23 physically located near you that was an overflow class
24 that was created?

25 A. Yes.

1 Hawthorne, there weren't holes, otherwise they wouldn't
2 have been in that one classroom with too many kids in
3 the first place. So the practice was that another
4 class was created because the kids are coming from
5 different grade levels. Most of the time, it was a
6 combination class, two grade levels.

7 Can you repeat the question so I know if
8 I've answered what you asked?

9 Q. I think you did answer.

10 A. Okay.

11 Q. But I have one more follow-up on that
12 anyway. So it was your understanding that this class
13 was created -- first let me ask this: You said it was
14 a 3rd and 4th grade combination class?

15 A. Yes.

16 Q. Was it your understanding that this class
17 was created to get the classes -- the 3rd and 4th grade
18 classes at Hawthorne at or below the 31 student level?

19 A. For the 3rd grade classes, the goal would
20 have been to get them to 20-to-1 in order to benefit
21 from the State Class Size Reduction Program. For the
22 4th grade classes, it would have been to meet the
23 collective bargaining agreement requirement of a
24 student/teacher ratio of 31-to-1.

25 Q. Just so I'm clear, to the extent there were

1 Q. When you say it was an overflow class, can
2 you describe for me what you mean by that?

3 A. At the beginning of the school year, classes
4 can have more students in them than our collective
5 bargaining agreement allows for for a certain time
6 period. I don't know specifically what that time
7 period is. Based on my observation, I believe it is,
8 say, 14 to 21 days, roughly. Once that time period has
9 passed and theoretically, the student population has
10 somewhat solidified, those classrooms have to be
11 brought to contract size, which in the Oakland Unified
12 School District is 31. And for primary classrooms,
13 although contract size is 31, they try to get them to
14 20 in order to benefit from the State's Class Size
15 Reduction Program, so the students are then -- so you
16 have a class that has -- you know, supposed to be 31,
17 say, or 20 has four or five extra kids in it, those
18 kids -- and it is never -- it is not like -- you know,
19 from the beginning, those are the ones, but from your
20 class of, say, 36 kids or 25 kids, depending on your
21 grade level, you have to identify five people to be
22 taken out of the class after 14 to 21 to maybe even 28
23 days have passed. They will then be put in another
24 class. They may be plugged into classrooms at their
25 grade level that have a hole in it. Generally at

1 classes above either of those levels and there were no
2 other classes -- no other then existing classes to put
3 those students into, a new class had to be created?

4 A. Yes, if a new class could be filled -- you
5 know, if there were enough -- if there were three
6 students, then a new class wasn't created for three
7 students.

8 Q. Do you recall how long into the 1999/2000
9 school year that this particular class you are
10 remembering was created?

11 A. Well, school starts the day after Labor Day.
12 To the best of my recollection, that class was created
13 at the end of September. I think that there is a
14 window period. It is probably a matter of public
15 record, either as part of our contracts or the contract
16 between our union and the District or as part of
17 District policy, that would tell the number of days.

18 Q. Is it your belief that at the expiration of
19 the number of days that is reflected in the collective
20 bargaining agreement that this class was created?

21 A. Yes.

22 Q. When this class was created, was there a
23 teacher assigned to teach that class?

24 A. The class had, as I recall, a series of
25 substitutes.

1 Q. Did that class eventually obtain a permanent
2 teacher?
3 A. They got a permanent teacher who then didn't
4 come back after a vacation, so then they had
5 substitutes and teacher on special assignments from
6 Hawthorne or whatever they were called, non-classroom
7 teachers, teaching until another permanent though
8 uncredentialed teacher was hired to teach that class.
9 Q. And this second permanent teacher, do you
10 recall that individual's name?
11 A. [REDACTED]
12 Q. And when you say [REDACTED] was
13 uncredentialed, did she have an emergency or intern
14 credential?
15 MS. MAJD: Calls for speculation.
16 THE WITNESS: I don't know specifically
17 which one of those she would have had.
18 MR. ROSENTHAL: Q. Do you know she would
19 have had one of those two?
20 A. She would have had to have in order to walk
21 in the door of the classroom.
22 Q. Is [REDACTED] still teaching at Hawthorne?
23 A. Yes.
24 Q. Do you know if [REDACTED] has her full
25 teaching credential today?

1 THE WITNESS: Can you repeat the question,
2 please?
3 MR. ROSENTHAL: Can you read it back,
4 please?
5 (Record read by the reporter.)
6 THE WITNESS: I can say that it was a topic
7 that was probably discussed at the lunch table about
8 the fact we had a class that had had so many
9 substitutes and had had an uncredentialed teacher who
10 was not able to handle the situation and ended up not
11 returning and the kids were going to struggle and that
12 the teacher who received them the next year would or
13 teachers who received them the next year would probably
14 have a difficult time with those students because of
15 what they had been through the prior year.
16 MR. ROSENTHAL: Q. When you say there was a
17 discussion at the lunch table, are you referring to a
18 discussion among teachers at Hawthorne?
19 A. Yes.
20 Q. Did you ever hear of it being a concern
21 raised by any parents of students in that class?
22 MS. MAJD: Objection. Vague as to "It."
23 THE WITNESS: I have no way of knowing if
24 parents made -- expressed concerns to the
25 administration or not.

1 MS. MAJD: Objection. Calls for
2 speculation.
3 THE WITNESS: I do not know.
4 MR. ROSENTHAL: Q. Do you recall when [REDACTED]
5 [REDACTED] was hired to take over that class?
6 A. The best I can say is in the late winter or
7 early spring of 2000.
8 Q. Prior to [REDACTED] arrival at
9 Hawthorne, do you know whether that class was being
10 instructed by the substitute teachers who were assigned
11 to that class?
12 MS. MAJD: Objection. Vague. Calls for
13 speculation and compound.
14 THE WITNESS: I have no way of knowing. I
15 was not in the classroom.
16 MR. ROSENTHAL: Q. Did you ever hear any
17 complaints that students in that class were not being
18 instructed properly?
19 A. The concern was they had not had a
20 consistent teacher to provide consistent instruction.
21 Q. Did you ever hear any concerns regarding the
22 quality of the instruction that was provided by the
23 substitute teachers?
24 MS. MAJD: Objection. Vague as to
25 "Concerns" and to "Quality."

1 MR. ROSENTHAL: Q. You identified another
2 instance during the '99/2000 school year. You said
3 there was a teacher from Mexico who was hired to teach
4 a particular class; is that right?
5 A. Yes.
6 Q. Do you remember what grade that was for?
7 A. Second.
8 Q. You testified earlier that this individual
9 also did not have any credential. Do you know whether
10 this teacher had an emergency or internship credential?
11 A. He would have had to have emergency or
12 intern credential in order to assume the full-time
13 teaching responsibilities in that classroom for more
14 than 30 days.
15 Q. Do you remember this teacher's name?
16 A. [REDACTED] I think [REDACTED].
17 Q. Did [REDACTED] begin the school year as
18 that 2nd grade class's teacher?
19 A. Yes.
20 Q. And you said earlier sometime in the middle
21 of the school year, he was terminated; is that right?
22 A. I said terminated. I didn't mean that in a
23 legal or human resources sense. I know that he had not
24 fulfilled the requirements, so he was not able to
25 continue to teach in that classroom.

1 Q. And when you say he hadn't fulfilled the
2 requirements, what are you referring to?
3 A. I was not told what specific things he had
4 not done, only that he had not done the things he was
5 supposed to do regarding the status of his emergency
6 credential, whatever type of emergency credential that
7 he had.
8 Q. Was a permanent replacement eventually hired
9 to replace [REDACTED]
10 A. Yes.
11 Q. Do you recall that individual's name?
12 A. Deveny Dawson, D-e-v-e-n-y, D-a-w-s-o-n.
13 Q. Is that the same Ms. Dawson mentioned
14 earlier today?
15 A. Yes, it is.
16 Q. She is currently teaching at ICS; is that
17 right?
18 A. Yes, she is.
19 Q. Did Ms. Dawson have her full teaching
20 credential?
21 A. Yes, she did.
22 Q. Did she have it at the time she was hired to
23 replace Mr. Espinoza?
24 MS. MAJD: Calls for speculation.
25 MR. ROSENTHAL: To the extent you know.

1 THE WITNESS: To the extent of my knowledge,
2 yes, she did.
3 MR. ROSENTHAL: Q. Do you recall how long a
4 period of time there was in between the time [REDACTED]
5 [REDACTED] left his class and Ms. Dawson took over the
6 class?
7 A. I think that the change transpired during an
8 off-track vacation, so my recollection, which may not
9 be totally accurate, was that the kids left on vacation
10 with [REDACTED] as their teacher and came back with
11 Ms. Dawson as their teacher.
12 Q. Moving on to the last instance that you
13 identified which was during this past school year, the
14 2000/2001 school year, you said that there was a
15 pre-intern teacher who was hired to take over a 3rd and
16 4th grade combination overflow class; is that right?
17 A. Yes.
18 Q. Do you know the name of that teacher?
19 A. Yes.
20 Q. Can you tell me her name?
21 A. Candice Camp, C-a-n-d-i-c-e, Camp, C-a-m-p.
22 Q. Is Ms. Camp still employed at Hawthorne?
23 MS. MAJD: Calls for speculation.
24 MR. ROSENTHAL: To the extent you know.
25 THE WITNESS: I believe so. I'm not

1 positive.
2 MR. ROSENTHAL: Q. Do you know Ms. Camp's
3 current credential status?
4 A. No, I do not.
5 Q. Do you recall when Ms. Camp was hired to
6 teach the 3rd/4th combination class?
7 MS. MAJD: Calls for speculation.
8 THE WITNESS: To the best of my
9 recollection, late September of 2000.
10 MR. ROSENTHAL: Q. Was Ms. Camp the teacher
11 for that class on the first day that class was created?
12 A. I don't know.
13 Q. Do you know roughly when this overflow class
14 was created?
15 A. Sometime in the month of September of 2000.
16 Q. Other than the instances you've just
17 identified, are you aware of any other instances in
18 which classes at Hawthorne were without a permanent
19 teacher for a significant period of time?
20 MS. MAJD: Objection. Vague as to
21 "Significant."
22 THE WITNESS: Without defining
23 "Significant," I'm not recalling specific instances at
24 this time, but I would like to reserve the ability to
25 have them pop into my head.

1 MR. ROSENTHAL: As I said earlier, if you
2 remember anything else --
3 THE WITNESS: Thank you.
4 MR. ROSENTHAL: -- feel free to just let me
5 know. We can go back and get those additional
6 instances.
7 THE WITNESS: Okay.
8 MS. LHAMON: Michael, if you are at a
9 stopping point, I would love to run to the restroom.
10 (Recess taken.)
11 MR. ROSENTHAL: Q. Ms. Salyer, are you
12 aware of any instances at Hawthorne where a class went
13 unsupervised by any teacher?
14 MS. MAJD: Objection. Vague as to
15 "Unsupervised."
16 MR. ROSENTHAL: Q. Do you understand the
17 question?
18 A. What would unsupervised be?
19 Q. Was there ever a class at Hawthorne that did
20 not have a teacher for a day, any teacher, whether it
21 being a permanent teacher or a substitute teacher?
22 There was no teacher in the classroom at all?
23 MS. MAJD: Calls for speculation.
24 THE WITNESS: I wouldn't necessarily have a
25 way of knowing that.

1 MR. ROSENTHAL: Q. Have you ever heard of
2 that happening at Hawthorne at any time?

3 A. So to clarify the question, were you saying
4 the children were alone in the room?

5 Q. Right.

6 A. No.

7 Q. No, that has never happened, to the best of
8 your knowledge?

9 A. No, I've never heard of that being discussed
10 as having happened.

11 Q. Earlier we were discussing your classes --
12 strike that. Let me ask something different.

13 During your four years at Hawthorne, were
14 you absent from class on occasion?

15 A. Yes.

16 Q. Did you know whether substitute teachers
17 were placed in your class on the days you were absent?

18 MS. MAJD: Calls for speculation.

19 THE WITNESS: To the best of my knowledge,
20 any time I was absent, I entered it into the substitute
21 teacher computer system to request a substitute. To
22 the best of my knowledge, either a substitute was
23 provided by the District or if a substitute was not
24 available or did not show up or was not there, there
25 wasn't somebody to be sent, then the class would have

1 specifically happening?

2 A. Not that I can recall specifically.

3 Q. Any other individuals who might have covered
4 your class on days that you were absent?

5 A. I can recall one instance where an IA
6 covered my class for a period of two to three hours
7 when I had a doctor's appointment and I had -- it was
8 an emergency doctor's appointment, so I had not taken
9 the whole day off.

10 Q. Did you request a substitute on that
11 occasion?

12 A. From the substitute computer system?

13 Q. We can start with that.

14 A. No.

15 Q. Did you request a substitute from anybody
16 else?

17 A. I asked the principal if there would be
18 someone who would be able to cover my class so that I
19 could make an emergency trip to my doctor's office.

20 Q. And do you recall how the principal
21 responded?

22 A. She said the class would be covered and for
23 me to go to my appointment.

24 Q. Earlier you -- we were discussing your
25 classes. You told me that there were periods of time

1 to have been covered by the prep teacher. A prep
2 teacher would have had to have been pulled from their
3 regular prep schedule to cover the class which would
4 mean that nobody got prep that day.

5 MR. ROSENTHAL: Q. Do you recall there
6 being occasions in which prep teachers had to cover
7 your class?

8 A. Yes.

9 Q. And do you recall any occasions in which no
10 substitute teacher or no prep teacher covered your
11 class?

12 MS. MAJD: Objection. Asked and answered.

13 THE WITNESS: So the question is, was my
14 class or my children ever in the class alone without --

15 MR. ROSENTHAL: That wasn't exactly my
16 question.

17 THE WITNESS: I'm not clear.

18 MR. ROSENTHAL: Q. Are there any instances
19 when you were absent and the class was covered by
20 somebody else besides a substitute teacher or a prep
21 teacher?

22 A. It is possible that an administrator might
23 have covered the class.

24 Q. And are you aware of that happening on
25 particular occasions or do you not recall that

1 when you did not have an instructional assistant in
2 your class who was there to assist you in instructing
3 your bilingual class. Have you ever heard of any other
4 similar instances in other classes at Hawthorne?

5 A. Yes.

6 Q. Can you tell me what instances you heard of?

7 A. I couldn't list them specifically. I can
8 say it was a topic that was discussed at lunch or at a
9 circuit meeting, the fact that we did not have enough
10 instructional assistants to cover the number of hours
11 that need to be covered.

12 Q. Did you ever discuss that topic with any
13 administrator at Hawthorne?

14 A. In a general sense, yes.

15 Q. When you say you discussed it in a general
16 sense, can you tell me what you mean by that?

17 A. At a faculty meeting or something, the topic
18 would come up, "Why don't we have IAs?"

19 And the response would be, "There aren't
20 enough IAs to cover the hours."

21 Q. Did you have any concerns during your four
22 years at Hawthorne that the teachers at the school were
23 not qualified to teach students whose primary language
24 was not English?

25 MS. MAJD: Objection. Vague as to

1 "Qualified." Vague as to "Concerns" and calls for
2 speculation.

3 THE WITNESS: Can you define what you mean
4 by "Qualified"?

5 MR. ROSENTHAL: In this instance when I'm --
6 when I use the term "Qualified," I'm referring to
7 teachers' training and experience.

8 MS. MAJD: I think it is vague still.

9 THE WITNESS: In a general sense, the
10 concern would be related back to the previous testimony
11 regarding teachers who did not have credentials or who
12 had not -- who had not started or had just started
13 teacher training programs. Those teachers thus would,
14 by connection, not have specific training for dealing
15 with students whose first language was not English.

16 I guess I could add as the English language
17 learner population at Hawthorne continued to grow
18 ultimately last year and possibly even the year before,
19 there were no longer any classes that were designated
20 as English only. They were all designated either as
21 bilingual or sheltered which means there are students
22 in the class whose first language is not English and
23 who are designated as English language learners. There
24 were teachers who had previously taught only
25 English-only classes and who thus had to take

1 territory around "Helpful," I would say that --

2 MR. ROSENTHAL: I'm happy to use a different
3 word if there is something you are more comfortable
4 with.

5 Q. Do you not understand what I mean by
6 "Helpful"?

7 MS. LHAMON: She's already testified to
8 that.

9 MR. ROSENTHAL: We've gone back and forth to
10 this.

11 MS. MAJD: It is not clear what you mean
12 when you ask it.

13 MR. ROSENTHAL: Q. Can you tell me what you
14 mean when you use the word "Helpful"?

15 A. I will state my opinion regarding this
16 question which is that I have found that the course
17 work that I took related to obtaining CLAD
18 certification gave me insight into the process of
19 language learning for students whose first language was
20 not English. That course work also provided me with
21 information regarding strategies to use to support the
22 learning of those students most effectively.

23 You asked if that -- you asked that question
24 related -- in relation to a bilingual classroom. To
25 some degree, that information and those strategies was

1 professional development or take course work to receive
2 the CLAD certification added to their credential.

3 MR. ROSENTHAL: Q. Is it your opinion that
4 having the additional CLAD certification was something
5 that made somebody more qualified to teach a class,
6 either a bilingual or sheltered English class?

7 MS. MAJD: Objection. Vague as to "More
8 qualified." Inadmissible opinion. Calls for
9 speculation.

10 THE WITNESS: Let's treat that as two
11 separate issues. You said either a sheltered English
12 classroom or bilingual classroom. Those are two
13 completely different environments.

14 MR. ROSENTHAL: Q. Have you ever taught in
15 a sheltered class?

16 A. I currently teach in an English sheltered
17 classroom.

18 Q. And you also have a CLAD certification?

19 A. I have CLAD certification.

20 Q. Have you found that CLAD certification to be
21 helpful in preparing you to teach bilingual classes?
22 Let's deal with that kind of class first.

23 MS. MAJD: Objection. Vague as to
24 "Helpful."

25 THE WITNESS: Without recovering the

1 supportive because many of those strategies cover what
2 one might consider to be effective teaching as a whole.

3 With regard to a sheltered English
4 classroom, the answer is essentially the same.

5 Q. Okay. Was it your understanding that as the
6 classes at Hawthorne became either bilingual or
7 sheltered English, that all teachers at the school had
8 to obtain their CLAD certification?

9 MS. MAJD: Objection. Calls for
10 speculation. Calls for a legal conclusion.

11 THE WITNESS: My understanding of the
12 requirements -- and I don't know if these are based on
13 commission on teacher credentialing requirements or on
14 ed code or what -- but in order to teach in a classroom
15 designated as sheltered English or SDAIE, S-A-D-A-I-E
16 -- no, S-D-A-I-E, which is Specially Designed Academic
17 Instruction in English. Hopefully that matches the
18 acronym -- that the requirements by whatever body of
19 law or whatever governing body were that a teacher
20 needed to either hold a CLAD credential, hold a
21 language development specialist credential, which was
22 the predecessor to the CLAD credential, or be in the
23 process of obtaining a CLAD credential and therefore be
24 termed as a CLAD teacher in training and sign an
25 agreement saying that they would do X, Y, and Z to

1 obtain that CLAD credential.
 2 MR. ROSENTHAL: Q. Where did you get that
 3 understanding?
 4 A. I believe through my teacher credentialing
 5 program and also through orientation meetings held by
 6 the District because I was a bilingual teacher in
 7 training and those meetings also were -- I mean, it was
 8 the bilingual teachers in training and the CLAD
 9 teachers in training at the same time.
 10 Q. Are you aware of any steps that were taken
 11 by the administration at Hawthorne to enforce the
 12 requirements you've just described?
 13 MS. MAJD: Objection. Calls for speculation
 14 and vague as to "Enforce."
 15 THE WITNESS: I don't have knowledge of
 16 specific steps. That type of making sure that you have
 17 what you are supposed to have to teach in the
 18 classrooms that you are teaching in falls to the
 19 Compliance Division of the District and so you would
 20 receive a letter saying, "This is your status. This is
 21 the class you are teaching. This is what you need to
 22 do to maintain your status. Take this class," or "Take
 23 this test," or whatever. And that was delivered to us
 24 via school mail and copies were sent to the school
 25 administration, so I believe that the principal would

1 A. Yes.
 2 Q. And those letters notified you when you
 3 needed to obtain additional certification to teach the
 4 classes you were teaching?
 5 A. In the fall, you got a letter saying you are
 6 in this class. You have this credential. You need to
 7 come to this meeting to sign your teacher in training
 8 -- bilingual teacher in training agreement. So you go
 9 to the meeting. You sign it. You theoretically do
 10 what it says. They review it in the spring and say yea
 11 or nay, you did what you are supposed to or you didn't
 12 do what you were supposed to.
 13 Q. Did you get a letter like that from the
 14 Compliance Division each fall?
 15 A. Yes.
 16 Q. We've been discussing a variety of issues
 17 regarding teachers at Hawthorne. Are there any other
 18 issues regarding teachers that you viewed as being
 19 problematic at Hawthorne that we haven't already
 20 discussed?
 21 MS. MAJD: Objection. Vague as to "Issues."
 22 THE WITNESS: "Issues" and "problematic"
 23 might require further definition.
 24 MR. ROSENTHAL: Q. Well, you identified
 25 your concern that you didn't have the instructional

1 ask people -- I mean, I think I remember her asking me,
 2 "Have you taken any CLAD tests this year or are you
 3 going to? Did you pass? Oh, yeah. You passed."
 4 MR. ROSENTHAL: Q. Do you remember any of
 5 the administration at Hawthorne telling faculty at
 6 meetings or anywhere else that all teachers needed to
 7 obtain their CLAD certification?
 8 A. I can't say that I recall a specific
 9 statement made to the entire faculty at any given time.
 10 Q. You mentioned the Compliance Division of the
 11 Oakland Unified School District. Was it your
 12 understanding that that division was responsible for
 13 ensuring that teachers who were teaching in classrooms
 14 at the Oakland Unified School District had the
 15 credentials they were required to have to teach their
 16 particular classes?
 17 MS. MAJD: Objection. Calls for a legal
 18 conclusion. Calls for speculation.
 19 THE WITNESS: I don't know what their
 20 specific charge is. I just know that the letters I got
 21 saying I'm in a bilingual classroom; I don't have a
 22 bilingual credential; I need to do this came from this
 23 division signed by whatever person.
 24 MR. ROSENTHAL: Q. So you personally
 25 received some letters from that division?

1 assistant hours that you believed were necessary. You
 2 identified some concerns about the fact that teachers
 3 with emergency or internship credentials were teaching
 4 at Hawthorne. I'm looking for any other concerns that
 5 we haven't talked about that you viewed existed at
 6 Hawthorne.
 7 MS. MAJD: I believe that mischaracterizes
 8 her testimony because she referred to the numbers of
 9 emergency intern credential teachers teaching at
 10 Hawthorne and she also talked about teacher turnover.
 11 THE WITNESS: In addition to instructional
 12 assistant hours, the percentage of teachers on
 13 emergency credentials, the concerns expressed by new
 14 teachers, many of them who did not have credentials, in
 15 the venue of new teacher support group and circuit
 16 meetings and the issue of teacher turnover, I also had
 17 concerns about the working conditions of teachers at
 18 the school, including the issue that many teachers had
 19 to rove every three to four weeks. I had concerns
 20 about teachers who were teaching in classrooms that had
 21 mold growing in them. I had concerns about teachers
 22 teaching in classrooms that had rodent elimination
 23 material in them. I had concerns about teachers who
 24 had to move between classrooms because of some
 25 facilities disaster. I had concerns about teachers who

1 had to teach in portables on the yard that did not have
2 any kind of cooling system and had metal roofs and
3 therefore the environment was unsafe for the teacher
4 and the students. I had concerns about teachers who
5 had to teach in buildings that had hot tar roofs put on
6 them while the teachers and the students were in the
7 buildings. I had concerns about teachers who had to
8 teach in classrooms that lacked sanitation facilities
9 such as a handwashing sink.

10 MR. ROSENTHAL: In the interest of time, I'm
11 just going -- my question was asking you about concerns
12 along the lines I discussed about the qualifications of
13 the teachers. These are all facilities issues which we
14 will definitely get to at some point, but I wanted you
15 to focus your attention on the types of concerns we've
16 been discussing about teachers so far.

17 THE WITNESS: Can I ask to have his question
18 prior to my response re-read, please?

19 MS. MAJD: Of course. And I believe she was
20 responsive the way you phrased the question.

21 MR. ROSENTHAL: Off the record for a second.
22 (Recess taken.)

23
24 (Record read by the reporter.)

25 THE WITNESS: The question therefore did not

1 well.

2 MS. LHAMON: You should be respectful of
3 this witness and you are not being respectful of this
4 witness when you cut her off.

5 MR. ROSENTHAL: I'm not cutting off the
6 witness. I'm trying to clarify the question.

7 MS. LHAMON: If you would like to continue.

8 THE WITNESS: My understanding of the
9 question, as it was posed, you reviewed the issues that
10 we previously talked about and then as the court
11 reporter read the question back, asked if I had any
12 other concerns. When the question was asked, it was
13 not stated that it was related to the previous issues
14 about teachers. My response covered both my concerns
15 in general and the teachers who experienced the issues
16 and conditions that I described in my response, so the
17 response, in fact, covers both concerns in general
18 about facilities, as you interpreted my response, and
19 also covers teachers working in those conditions and so
20 I would like to clarify that, that, in fact, I was
21 responding to concerns about teachers because, in fact,
22 teachers are not able to teach effectively in those
23 conditions, so we can treat that as a separate issue.
24 If you want to talk about facilities separately, that
25 is fine, but in my view, it is also related to the

1 specifically --

2 MR. ROSENTHAL: Well, the record will speak
3 for itself. I think if you go before and put it into
4 context, but my point was --

5 MS. LHAMON: Michael, you promised you would
6 not interrupt her at the beginning of the day. She was
7 in the middle of a sentence.

8 MR. ROSENTHAL: I understand that. I'm just
9 trying to speed this along. We're going to cover all
10 those issues, so I'm just trying to get responses.

11 MS. LHAMON: You should live up to your
12 promise. You said you would let her finish her
13 answers.

14 MR. ROSENTHAL: I'm happy to let you finish
15 your answer. I'm trying to speed this along. We're
16 going to cover all those issues anyway and I'll ask you
17 questions specific to those concerns, but --

18 THE WITNESS: The response I gave you -- you
19 asked if I had other concerns --

20 MR. ROSENTHAL: -- along the lines that we
21 were discussing.

22 MS. LHAMON: Michael, again, let her finish
23 her sentence. She is not done.

24 MR. ROSENTHAL: I'm allowed to ask the
25 question and I'm allowed to withdraw the question as

1 ability of the teachers. You've asked several times
2 for me to be able to describe what I thought about how
3 the teachers were able to do their job and therefore
4 the response indicated that I thought that these
5 conditions affected the teachers' work space and their
6 ability to do their best work.

7 MR. ROSENTHAL: Q. Have you finished?

8 A. Yes.

9 Q. I think to use our time most effectively, we
10 can put those facilities issues aside and we'll come to
11 those on -- you'll have your opportunity to tell me
12 about the concerns you had and the effect it had on
13 teachers, but what I was trying to get at was whether
14 you had any additional concerns about the -- I'm trying
15 to deal with this by topic area -- any other concerns
16 you had about the qualifications of teachers who taught
17 at Hawthorne that you haven't already told me about.

18 A. At this time, which is the end of a long
19 day, there is not anything that specifically comes to
20 mind. I would like to reserve the ability to bring the
21 issue up again if there is something I feel I would
22 like to add.

23 Q. As always, if you recall anything else --

24 A. Okay.

25 Q. -- feel free to let me know and we can go

1 back to that.

2 Any other concerns about the use of
3 substitute teachers at Hawthorne?

4 MS. MAJD: Objection. Vague as to
5 "Concerns" again, but you can answer, if you
6 understand.

7 THE WITNESS: My concerns centered around
8 classes having a substitute or a series of substitutes
9 for a -- you know, some period of time instead of
10 having a teacher assigned to the class. That would be
11 my primary concern about substitutes.

12 MR. ROSENTHAL: Q. Are those the situations
13 we discussed earlier?

14 A. Yes.

15 Q. And putting those aside, are there any other
16 concerns regarding substitutes that you have regarding
17 Hawthorne --

18 MS. MAJD: Same objections.

19 MR. ROSENTHAL: Q. -- that we haven't
20 already discussed?

21 A. In general, I don't know what kind of
22 qualifications the average substitute teacher has when
23 they are hired by the District. It is a concern to me
24 that the only requirements that I'm aware of is that
25 you must have a bachelor's and have passed the C BEST

1 MR. ROSENTHAL: Q. You said that on some
2 occasions, you substituted in classes for more than one
3 day and I think you said you never believed it was for
4 any longer than one week. On the instances when you
5 were in a class for more than one day, were you able to
6 obtain some additional classroom management skills in
7 those instances as a result of your working in a class
8 for more than one day?

9 MS. MAJD: Objection. Vague as to
10 "Classroom management skills."

11 THE WITNESS: I think that in general, the
12 subsequent days would be easier because you know the
13 students better. You would know simple things like
14 where materials are kept and what the routines are,
15 therefore the day would be able to go a lot more
16 smoothly. It doesn't mean necessarily that more
17 learning took place or that the overall management
18 situation was better. It just meant that certain parts
19 of certain elements were easier to deal with.

20 MR. ROSENTHAL: Q. And when you used the
21 words "Classroom management" before and you've used it
22 earlier today as well, can you tell me what you mean by
23 that?

24 A. Classroom management in the educational
25 sense means the ability of the teacher to maintain an

1 and I would like to have substitutes in my classroom
2 who have received at least some kind of -- some amount
3 of training in classroom management and student
4 interaction.

5 Q. When you were a substitute teacher in the
6 Oakland Unified School District, did you gain
7 experience in classroom management and interaction with
8 students as you were substituting in classes?

9 A. Well, of course you gain experience because
10 every time you do it, you have an experience, so -- I
11 mean, are you talking about -- what kind of experience
12 do you mean?

13 Q. That's exactly the kind of experience I'm
14 referring to. As you gained that experience, did that
15 make you a better substitute in your mind?

16 MS. MAJD: Objection. Vague as to "Better."

17 THE WITNESS: It is hard to know. I mean,
18 if I encountered a situation that I had encountered
19 previously, at least I had some idea of whether or not
20 my previous response was successful or mitigated, if it
21 was a problem or whatever. I don't necessarily think
22 that I gained substantive classroom management
23 experience working in multiple classrooms on different
24 days and I did not have anyone with whom to discuss my
25 experiences in order to gain further insight.

1 orderly classroom, a respectful classroom. Some of
2 this is my personal opinion of what classroom
3 management is, a degree of order, a degree of respect
4 by the teacher for the students, by the students for
5 the teacher, and by the students for other students.
6 As a full-time classroom teacher, management also
7 includes the ability of the teacher and the students to
8 develop a routine together that facilitates more time
9 spent on tasks and in instruction versus on either
10 administrative tasks or non-instructional type
11 activities.

12 Q. Other than this additional concern about
13 substitute teachers that we just discussed and the
14 concerns you previously identified, are there any other
15 concerns regarding substitute teachers that you have
16 regarding Hawthorne that we haven't already discussed?

17 A. I believe I had concerns at times that the
18 substitutes that were hired by the District, I did not
19 always like the types of interactions I saw between
20 them and students, but that is based only on how I
21 interact with students and what my personal philosophy
22 is.

23 Q. Can you give me an example of an interaction
24 that you didn't like?

25 A. I try not to use a voice that a child might

1 interpret as being overly loud and some substitutes
2 might do that, for example.

3 Q. Is that an interaction that is limited to
4 substitute teachers or are there permanent teachers at
5 Hawthorne who similarly use a loud voice when speaking
6 to students?

7 MS. MAJD: Objection. Calls for
8 speculation.

9 MR. ROSENTHAL: To the extent you know.

10 THE WITNESS: I wouldn't have knowledge. I
11 have not been in a position to be in other teachers'
12 classrooms.

13 MR. ROSENTHAL: Q. Have you ever heard that
14 any teachers at Hawthorne use loud voices when speaking
15 to students, putting aside substitute teachers?

16 A. I can't say.

17 Q. Were you in the classroom when the
18 substitute teacher spoke loudly to students?

19 A. There have been times, yes.

20 Q. Have you ever been in a classroom where a
21 permanent teacher spoke loudly to students?

22 A. I couldn't recall.

23 Q. Are there any other concerns regarding
24 substitute teachers that we haven't already discussed?

25 A. Not at this time.

1 Q. When you spoke about teachers earlier, you
2 identified a few instances when a permanent teacher was
3 not immediately available to teach a class. Are there
4 any other instances that you are aware of in which
5 Hawthorne did not have a sufficient number of teachers?

6 MS. MAJD: Objection. Vague as to
7 "Sufficient."

8 THE WITNESS: I don't see how that is
9 different from what we've already covered. I'm sorry.
10 Maybe you could explain.

11 MR. ROSENTHAL: Let me try to rephrase the
12 question.

13 THE WITNESS: Okay.

14 MR. ROSENTHAL: Q. Do you have any other --
15 we talked about those instances that I just identified.
16 Did you have any other concerns about the number of
17 teachers that were employed at Hawthorne?

18 MS. MAJD: Objection. Vague. I believe it
19 was also asked and answered.

20 THE WITNESS: Well, I could answer that in
21 two ways. I could say we've already discussed the fact
22 that there were classes that didn't have permanent
23 teachers, but when you say about the number of teachers
24 at Hawthorne, yeah, I had concerns about the fact it
25 was an elementary school with 65 teachers,

1 approximately, but that is a different topic. My
2 understanding of your question was that it related to
3 the subject of classrooms without permanent teachers
4 which I think that was already covered, so I don't know
5 if you are looking for additional information.

6 MR. ROSENTHAL: I was looking to see if
7 there was anything additional that we haven't already
8 talked about.

9 THE WITNESS: Not that I can think of at
10 this time.

11 MR. ROSENTHAL: Q. I'm going to change
12 gears and move to a different topic area and that area
13 is -- we'll talk about textbooks and instructional
14 materials. I think I'm going to try to do this one
15 going backwards in time beginning with your most recent
16 class at Hawthorne, your 2000/2001 2nd grade class.
17 Can you tell me what subjects you instructed your 2nd
18 grade class in for that school year?

19 A. Spanish, reading, math, science, social
20 studies, English language development, PE, when they
21 didn't have PE prep in order to fulfill the number of
22 minutes required by the State. Those are the core
23 subject areas.

24 Q. Did you instruct them in English?

25 A. Yes, that would be English language

1 development.

2 Q. Can you tell me what textbooks or
3 instructional materials you used to instruct your class
4 in Spanish reading?

5 A. The District had adopted the Cuentamundos
6 Reading Program.

7 Q. I'm going to ask you to spell that.

8 A. C-u-e-n-t-a-m-u-n-d-o-s.

9 Q. And was there a textbook that was used in
10 connection with that program?

11 A. Yes.

12 Q. Were there any other materials besides that
13 textbook?

14 A. Yes, there were supplementary materials.

15 Q. Can you tell me what kind of supplementary
16 materials you are referring to?

17 A. Overhead transparencies, some assessment
18 materials, workbook -- student workbook. I think that
19 is the bulk of it, teacher manuals.

20 Q. When you say there were assessment
21 materials, can you just tell me what you mean by that?

22 A. The assessment materials for that program
23 would have been matched to the skills and strategies
24 taught in a given unit, so it was material that could
25 be photocopied and used with the student to assess

1 their mastery of the skills and strategies that had
2 been covered.

3 Q. Do you recall if the textbook had a name?
4 A. Cuentamundos -- oh, did it have a name?
5 Q. I'm sorry?
6 A. The student anthology may have had a name.
7 I think the first volume was called Naranja Dulce,
8 N-a-r-a-n-j-a, D-u-l-c-e. I don't recall the title of
9 the second anthology.

10 Q. So were there two textbooks used in
11 connection with the Cuentamundos Reading Program?
12 A. There were two student reading anthologies.
13 Q. And do you recall when the Cuentamundos
14 Program was adopted by the District?
15 MS. MAJD: Calls for speculation.
16 THE WITNESS: All I can say is for the four
17 years I was at Hawthorne, that was the Spanish reading
18 program that was in use.
19 MR. ROSENTHAL: That is what I was trying to
20 get at. Thank you.
21 THE WITNESS: Okay.
22 MR. ROSENTHAL: Q. Were you given enough
23 copies of each of the two reading anthologies for each
24 student in your class to receive a copy?
25 A. I think I had 18 copies of the first

1 classes than previously. I don't know which of those
2 two things were the case, but --

3 Q. Did you undertake any efforts during the
4 2000/2001 school year to secure additional copies of
5 that first anthology?
6 A. Yes.
7 Q. Can you tell me what efforts you undertook?
8 A. I looked in the areas of the school where
9 textbooks are typically stored to see if there were
10 copies from the previous year or the two years prior --
11 because I had the same books from the year before that
12 I taught -- that another class wasn't using and were
13 still in wherever they were being stored. I let either
14 the literacy coach or the principal, whoever was
15 conducting the surveys of what do you have, what are
16 you missing, what do you need, know what I had, what I
17 was missing, what I needed.
18 Q. Any other efforts?
19 A. No.
20 Q. You said you looked in the area where books
21 are stored at the school. Is there a book room at the
22 school or can you describe for me where the books were
23 stored?
24 A. There are several areas. There are two book
25 rooms. That material typically was not stored in those

1 anthology and I had 20 students in my class and I had
2 -- I believe I had 20 copies of the second anthology.

3 Q. And do you have an understanding as to
4 why -- strike that.

5 In your class during the 2000/2001 school
6 year, did you have -- how many students did you have?
7 A. 20.
8 Q. So you had enough copies of the second
9 anthology for each student in your class to have their
10 own copy?
11 A. As I recall. They didn't keep them in their
12 desk, so I can't think in my head did everybody. We
13 kept them in a stack.
14 Q. Were students permitted to take those books
15 home with them?
16 A. At my discretion.
17 Q. You said that you had -- you recalled having
18 only 18 copies of the first anthology. Do you have an
19 understanding as to why you did not have a complete
20 classroom set?
21 A. My understanding was that the school did not
22 have enough copies. They had not -- whether it was
23 that they had not received enough copies initially when
24 the program was purchased and distributed or whether it
25 was the 2nd grade classes. There were more 2nd grade

1 rooms because they were small and we used them for
2 other materials. There was a section of the stage in
3 the cafeteria where they were stored and there was an
4 area outside of an office, some cabinets of some sort
5 where materials would be stored.

6 Q. And were any of your efforts to secure
7 additional books successful?
8 A. For Cuentamundos?
9 Q. Right.
10 A. No.
11 Q. Were you unable to locate any additional
12 books in the areas where the books were stored?
13 A. For Cuentamundos?
14 Q. Right.
15 A. No.
16 Q. Do you recall how either the literacy coach
17 or the principal responded to your inquiry that you
18 were missing two Cuentamundos books?
19 A. My recollection is that they said they would
20 check with other 2nd grades, which I may have also done
21 -- you know, ask other teachers, "Did you end up with
22 21 or 22 copies?"
23 Part of that process would have been, "This
24 is what I have. This is what I don't have. This is
25 what I need." And they sort of shift stuff around if

1 there was stuff to be shifted.
 2 Q. And did the literacy coach or the principal
 3 ever get back to you and let you know that they were
 4 able or were not able to locate additional Cuentamundos
 5 textbooks?
 6 A. As I recall, by the time they collected all
 7 the have, don't have, need things and figured out where
 8 there might be extras, we were then told we've got
 9 everything moved around. If you don't have it, it is
 10 because we don't have it on the site.
 11 Q. Do you recall when you were told that?
 12 A. No, I don't.
 13 Can we take a quick break?
 14 MR. ROSENTHAL: Fine.
 15 (Recess taken.)
 16 MR. ROSENTHAL: Q. Just before our break,
 17 you told me that at this point, you were notified that
 18 there were no additional copies of the first reading
 19 anthology -- first Cuentamundos reading anthology
 20 available onsite at Hawthorne.
 21 A. Yes.
 22 Q. Did you ever make any inquiries as far as
 23 ordering additional copies of the textbook?
 24 MS. MAJD: Objection. Vague.
 25 THE WITNESS: Teachers do not have the

1 ability, the way the system is set up, to order their
 2 own textbooks. It is done on a site basis.
 3 MR. ROSENTHAL: Q. Do you know who is
 4 responsible for ordering textbooks at Hawthorne?
 5 MS. MAJD: Objection. Calls for a legal
 6 conclusion. Calls for speculation.
 7 THE WITNESS: I can speculate.
 8 MR. ROSENTHAL: Q. Do you know for sure?
 9 A. I don't know for sure. My assumption is
 10 that it is the site administrator.
 11 Q. By site administrator, you are referring to
 12 the principal?
 13 A. Principal.
 14 Q. And did you ever ask Ms. Sperber to order
 15 additional copies of the anthology that you were
 16 missing?
 17 A. I can't recall if I asked her specifically
 18 about that material.
 19 Q. After finding out that there were no
 20 additional copies onsite at Hawthorne, did you take any
 21 other steps in an effort to try to get two additional
 22 copies?
 23 A. No.
 24 Q. When you used the first volume of the
 25 reading anthologies that you only had 18 copies of, how

1 did you deal with that in class if you had more than 18
 2 students?
 3 A. If it was a time when all 20 students needed
 4 to be looking at the anthology, four students would
 5 have to share two books. Most of the time I simply
 6 adjusted my instruction so that 20 people didn't need
 7 to look at the books at the same time.
 8 Q. Were students allowed to take home copies of
 9 the first anthology?
 10 A. As I previously stated, that was at my
 11 discretion, so there were times when I wanted them to
 12 do some assignment at home.
 13 Q. And how did you deal with the situations
 14 where you assigned homework from the first anthology,
 15 yet you only had 18 copies of that textbook?
 16 A. Ten people would do it one night and ten
 17 people would do it the next night.
 18 Q. You identified some additional materials in
 19 connection with the Cuentamundos Program. You said
 20 there were overhead materials. Did you have a full set
 21 of those materials?
 22 A. I did not, in fact, have the overhead -- the
 23 overhead transparencies that went with that material.
 24 Q. Do you know why you did not have those?
 25 A. They were missing from the little box that

1 that stuff came in.
 2 Q. Did you ever take any steps to attempt to
 3 get those overhead transparencies?
 4 A. Same steps as previously described for the
 5 anthologies. When I wanted to use one, I borrowed them
 6 from a teacher who did have a set.
 7 Q. Did you ever ask the principal to order a
 8 new set of those materials or to get a new set made up?
 9 A. I believe that would be one of the things I
 10 would have listed on the have, don't have, need survey.
 11 Q. You referenced that survey a couple of
 12 times. Was that something you did on a regular basis?
 13 A. My --
 14 MS. MAJD: Objection. Vague as to "Regular
 15 basis."
 16 THE WITNESS: My recollection is that that
 17 was generally done each fall once the grade levels --
 18 once the population had settled down in what grade
 19 levels we had.
 20 MR. ROSENTHAL: Q. When you talk about that
 21 survey, is it fair to say you did an inventory of the
 22 materials you had in your class?
 23 MS. MAJD: Objection. Vague as to
 24 "Inventory."
 25 THE WITNESS: The process I would go through

1 is I would look and see what I had, meaning if I needed
2 to count the number of anthologies, I would do so. I
3 would look in that -- for example, the thing about the
4 transparencies, I looked in the teacher box and they
5 weren't there.

6 MR. ROSENTHAL: Q. And you would do that
7 with respect to all the materials you were using in
8 your class?

9 A. Yes.

10 Q. Was that done in a written format?

11 A. The quote, unquote, "Inventory" or the
12 survey? Are you talking did I take notes? Are you
13 saying did I note it on the survey?

14 Q. If you can describe for me what the survey
15 was. Was that a written form that was provided to you
16 by the principal?

17 A. Yes.

18 Q. What sort of information did you have to put
19 on that survey form?

20 A. My recollection is that for each subject
21 area, it listed what we should have at that grade
22 level. If it didn't list each item, it would say,
23 "Cuentamundos. What materials do you have?" And there
24 were places in the teacher manuals where you could look
25 and see what components you should have and there was a

1 MS. MAJD: Calls for speculation.

2 THE WITNESS: My assumption is yes because
3 the survey was put into our mailboxes and we were to
4 turn it in to whoever it said on the bottom of the
5 survey.

6 MR. ROSENTHAL: Q. You said in connection
7 with the Cuentamundos Program, there were also
8 assessment materials. Did you have those materials
9 during the 2000/2001 school year?

10 A. I did have those materials in my collection.
11 I shared them with another teacher who did not have
12 them, so sometimes they were in my classroom and
13 sometimes I had to go fetch them from his classroom.

14 Q. Did you have an understanding as to why you
15 had to share the materials other than that teacher not
16 having them?

17 A. Beyond that, no.

18 Q. You also said there were workbooks used in
19 connection with the Cuentamundos Program. Did you have
20 copies of those workbooks during the 2000/2001 school
21 year?

22 A. I had one copy.

23 Q. Do you know if the program was intended to
24 have copies for each individual student?

25 A. I don't know. In general, a publisher

1 space where you could say, "I'm missing this. I need
2 it."

3 So it covered each subject area and each
4 adopted curriculum for that subject area.

5 Q. And was that something you filled out each
6 fall during the time you were at Hawthorne?

7 MS. MAJD: Objection. Asked and answered.

8 THE WITNESS: As previously stated, my
9 recollection is that we did that each fall.

10 MR. ROSENTHAL: Q. And did that survey form
11 that you filled out then get submitted to the school
12 principal?

13 MS. MAJD: Calls for speculation.

14 MR. ROSENTHAL: Strike that.

15 Q. Can you tell me who you gave the form to
16 after you filled it out?

17 A. Usually I think it was a literacy coach who
18 was -- it was a principal designee of some person. It
19 might have been, this year, vice principal and next
20 year, a literacy coach, whoever that year was handling
21 trying to get the material situation sorted out.

22 Q. Was there -- each year at Hawthorne, was
23 there a designee of the principal who was responsible
24 for dealing with textbooks and instructional material
25 issues?

1 creates a workbook. It is called a consumable. The
2 district buys the program and the consumables and then
3 has to re-purchase the consumables each year. This is
4 how the textbook companies continue to make money, of
5 course. I do not know if the District, when they first
6 bought the program, bought consumables adequate for
7 each child and then by the time I was teaching the 2nd
8 grade with this set of materials, there was the one
9 that was supposed to be the teacher's copy to see what
10 the kids were doing or what the status of that was. I
11 know if the program -- if you followed the program as
12 described in the teacher's manual, kids needed to do a
13 page from the workbook. At certain times in my
14 situation only having one copy, I had to xerox it for
15 20 kids.

16 Q. Do you know whether other teachers who were
17 using the Cuentamundos Program had copies of the
18 workbooks for all of their students?

19 A. Based on my observation of the number of
20 people xeroxing Cuentamundos workbooks, no, they did
21 not have 20 copies.

22 Q. On the survey form that you filled out, did
23 you identify the workbooks as one item that you were
24 missing?

25 A. I can't recall if I went to the trouble to

1 say, "I'm supposed to" -- "I think I should have 20 of
2 these," or if I just figured, well, hopefully I'll luck
3 out and there will be a working xerox machine when I
4 need it.

5 Q. Did you ever undertake any efforts to get
6 additional workbooks so you would have them for your
7 students?

8 A. For that particular item, no.

9 Q. You also said that the teacher's manual was
10 included in the Cuentamundos Program. Did you get a
11 copy of the teacher's manual?

12 A. There were two manuals for that program and,
13 yes, I had them both.

14 Q. With respect to the reading anthologies, can
15 you describe for me the condition of -- the physical
16 condition of the textbooks?

17 MS. MAJD: Objection. Vague as to "Physical
18 condition."

19 THE WITNESS: I can say that the covers were
20 not falling off. They had all their pages, for the
21 most part. A page might be ripped here and there.
22 Overall, they were in usable condition.

23 MR. ROSENTHAL: Q. Would you say that the
24 reading anthologies you used in connection with the
25 Cuentamundos Program were out of date?

1 that she can prepare for class tomorrow, at least in
2 part.

3 MS. MAJD: It is also 5 o'clock, so I just
4 want to reflect that we went a full day, more or less.

5 MR. ROSENTHAL: It is just about 5 o'clock.
6 According to my watch, that is correct.

7 Can we stipulate that the original of this
8 deposition be signed under penalty of perjury; that the
9 reporter is relieved of her responsibilities under the
10 applicable statutes for maintaining the original
11 transcript; that the original be delivered to the
12 offices of Ms. Majd; that the witness will have 30 days
13 from the date of the court reporter's transmittal
14 letter to sign and correct the deposition transcript;
15 and that Ms. Majd will notify all parties in writing of
16 any changes in the deposition; and that if there are no
17 such changes communicated within that time, that any
18 unsigned and uncorrected copy may be used for all
19 purposes in this litigation or any proceeding related
20 thereto as if signed by the deponent.

21 MS. MAJD: So stipulated.

22 MR. ROSENTHAL: Very good. Then we're
23 finished for the day.

24 MS. MAJD: Can I bring up one more issue?

25 MR. ROSENTHAL: Sure.

1 MS. MAJD: Objection. Vague as to "Out of
2 date."

3 THE WITNESS: I wouldn't know. If you could
4 define "Out of date," that would be helpful.

5 MR. ROSENTHAL: Q. Did you have any
6 concerns regarding those books that they did not
7 reflect up-to-date information?

8 MS. MAJD: Vague.

9 THE WITNESS: In a general sense, no, I did
10 not think that. I mean, they had been published within
11 the last probably ten years, so I probably -- I felt
12 that that was adequate. It is also predominantly
13 fiction material, so datedness is less of an issue than
14 it will be with other material that we might cover.

15 MR. ROSENTHAL: Okay. Moving on to math.

16 THE WITNESS: Could we stop here? It is
17 five until 5:00 and I actually have a lot to say about
18 math material.

19 MR. ROSENTHAL: That is fine. We can stop
20 here for the day.

21 THE WITNESS: I would like to have time to
22 discuss any future things at times we might talk.

23 MR. ROSENTHAL: We will put on the record
24 our closing stipulation. We'll suspend the deposition
25 for the day at the witness's request so she can ensure

1 MS. MAJD: We're going to talk about going
2 another day and I just have some concerns about the
3 pace of this deposition. I feel like the questioning,
4 particularly after lunch, was really, really slow-paced
5 and there was a lot of breaks in between your
6 questioning and a lot of questions were repeated and I
7 don't think that is the best use of Ms. Salyer's time
8 and we're going to come back for another day, but I
9 want to state that concern for the record because I do
10 feel like a lot of time today was wasted when we could
11 have been covering more substantive issues or
12 addressing the issues more quickly.

13 MR. ROSENTHAL: I think the record will
14 speak for itself.

15 THE WITNESS: May I please make a statement
16 for the record? I am willing to come back for a second
17 day of deposition, however that is pending my ability
18 to get a substitute teacher to cover my classroom. I'm
19 not willing to enter a day into the substitute system
20 and allow it to be a roulette on whether or not a
21 substitute teacher is provided, so I would need to find
22 my own substitute and make sure that person can confirm
23 for me that they can teach my class that day. It would
24 benefit me greatly in my profession and my children if
25 a second day of testimony could be done on a Saturday.

1 MR. ROSENTHAL: To date we've made every
2 effort to accommodate the schedules of the witnesses
3 whose depositions have been taken, so I'm sure that we
4 can work out a date that is agreeable to everybody.

5 MS. LHAMON: You and I disagree about that
6 characterization, but I do look forward to working out
7 a date that will work for all parties.

8 MR. ROSENTHAL: I think every date I have
9 been at was a date that was offered by you or your
10 colleagues.

11 MS. LHAMON: You know it wasn't. We don't
12 need to fight about it.

13 MR. ROSENTHAL: That is fine. I think we
14 can go off the record.

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17 (Whereupon, the deposition was adjourned
18 at 4:58 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JOHNNA FORD, a Certified Shorthand Reporter,
3 hereby certify that the witness in the foregoing
4 deposition was by me duly sworn to tell the truth, the
5 whole truth and nothing but the truth in the
6 within-entitled cause;

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

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

17
18 DATED: _____, 2001.
19
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21 _____
22 JOHNNA FORD, CSR 11268
23
24
25

1 I declare under penalty of perjury that the
2 foregoing is true and correct. Subscribed at
3 _____, California, this ____ day of
4 _____, 2001.
5
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8 _____
9 AMY SALYER
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