

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

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1 ELIEZER WILLIAMS, et al.,)
2)
3)
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5)
6 Plaintiffs,)
7 vs.) No. 312 236
8)
9 STATE OF CALIFORNIA, DELAINE)
10 EASTIN, State Superintendent)
11 Of Public Instruction, STATE)
12 DEPARTMENT OF EDUCATION,)
13 STATE BOARD OF EDUCATION,)
14)
15 Defendants.)
16)
17)
18)
19)
20)
21)
22 AND RELATED CROSS-ACTION.)
23)
24)
25)

DEPOSITION OF

OLIVIA SAUNDERS

VOLUME I (Pages 1 - 150)

November 3, 2001

REPORTED BY: SANDRA MacNEIL, CSR 9013 JOB# 05-113305

I N D E X

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APPEARANCES OF COUNSEL

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

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BE IT REMEMBERED that, pursuant to Notice, and on Saturday, November 3, 2001, commencing at 9:45 a.m. thereof, at 275 Battery Street, 26th Floor, San Francisco, California, before me, SANDRA M. MacNEIL, a Certified Shorthand Reporter, personally appeared
 OLIVIA SAUNDERS

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

--oOo--

EXAMINATION BY MR. SIMMONS

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

Would you please state and spell your full name for the record and also state the city you live in.

A Spell it?

Q Yeah.

A My whole name?

Q Please.

A O-l-i-v-i-a, L-a-m-e-c-k-a, S-a-u-n-d-e-r-s, San Francisco.

Q And would you state your full name for the record as well.

MS. LHAMON: He means to say it for us.

THE WITNESS: Oh. Olivia Lamecka Saunders.

MR. SIMMONS: Q Thank you. And would you prefer that I call you Miss Saunders or Olivia throughout the day?

A Don't matter.

MS. LHAMON: It will help Shaun a little bit, because the table's a little far, if you can speak up so he can hear you.

THE WITNESS: It doesn't matter.

MR. SIMMONS: Q Okay. Have you ever had your

1 deposition taken before?
 2 MS. LHAMON: Do you know what a deposition is?
 3 THE WITNESS: (Witness shakes head.)
 4 MR. SIMMONS: Q Have you ever -- a deposition
 5 is what we're doing here today --
 6 A Oh.
 7 Q -- where --
 8 A No.
 9 Q Okay. Well, I'll try and briefly explain what
 10 it is for you. I'm just going to ask you a series of
 11 questions today to find out the facts about this lawsuit
 12 that you know about. Our court reporter here will be
 13 recording my questions and your answers to those
 14 questions and transcribing them into a booklet that will
 15 be available for your review. You'll receive the
 16 booklet, and you're allowed to make changes if you want
 17 to supplement an answer or change an answer, but you
 18 should know that if you do change an answer, the lawyers
 19 in this case will be able to comment on the changes that
 20 you make.
 21 Do you understand that?
 22 A Mm-hmm.
 23 Q It's important that you respond to the
 24 questions as fully and fairly as you possibly can.
 25 Does that make sense?

1 A Yes.
 2 Q And when you answer the questions, it's
 3 important that you give verbal answers. The court
 4 reporter can't take down shakes of the head or nods.
 5 Do you understand that?
 6 A Yes.
 7 MS. LHAMON: Or "mm-hmm's" or "uh-uh."
 8 MR. SIMMONS: Right.
 9 MS. LHAMON: That's the --
 10 MR. SIMMONS: Q "Yes" and "no" answers would
 11 be great, and we'll try and remind you as well.
 12 It's helpful if one of us speaks at a time,
 13 so -- it just makes it easier on the court reporter to
 14 transcribe what we're both saying. So if you'll wait
 15 for me to finish my questions, I'll wait for you to
 16 finish your answers.
 17 It's important that you listen to the questions
 18 carefully, and if you have any questions, if you don't
 19 understand the question that I ask, just let me know,
 20 and I'll do my best to rephrase, because if you just
 21 answer the question without telling me that you don't
 22 understand it, then I'll presume that you did.
 23 Does that make sense?
 24 A Yes.
 25 MS. LHAMON: You're doing great so far.

1 THE WITNESS: Okay.
 2 MR. SIMMONS: Q And today you're required to
 3 answer questions to the best of your ability, but we
 4 don't want you to guess. So if you have -- if you feel
 5 like you can make an estimate, then we would appreciate
 6 that, but we don't want you to guess.
 7 Do you have an idea as to the difference
 8 between a guess and an estimate?
 9 A Yes.
 10 Q Okay. And now you've -- your testimony here
 11 will be given under oath today, and it will have the
 12 same force and effect as if you were testifying in a
 13 court of law. So you're therefore subject to all the
 14 penalties of perjury if you give false testimony. Just
 15 want you to understand that even though we're in a
 16 informal setting here today and not in a courtroom,
 17 you'll be testifying as though you were in a courtroom.
 18 Do you understand that?
 19 A Yes.
 20 MS. LHAMON: So that means you need to tell the
 21 truth and that, you know, he's entitled to everything
 22 that you do know, and it's just like you were in court.
 23 THE WITNESS: Okay.
 24 MR. SIMMONS: Exactly.
 25 Q And if you need a break at any time during the

1 day, just let us know. We'll be happy to take a break
 2 whenever you want one.
 3 If at any point during today's deposition a
 4 question I ask or anything triggers your memory about a
 5 previous question, you'd like to supplement your answer
 6 or change it, just let me know at any time so we can go
 7 back and work with that question and answer, because
 8 we'll assume at the end that you've given your full
 9 response to the questions that I asked. So it's
 10 important that we make sure that we have the full
 11 record.
 12 Do you understand that?
 13 A Yes.
 14 Q Okay. Do you have any questions about the
 15 ground rules?
 16 A No.
 17 Q Is there any reason why you would be unable to
 18 testify and give your best testimony here today?
 19 A No.
 20 Q Have you recently had any medication or any
 21 substance that would cloud your mind or your ability to
 22 understand the questions here today?
 23 A No.
 24 Q Are you taking any medications or anything that
 25 might affect your ability to testify?

1 A No.
 2 Q And do you suffer from any kind of disability
 3 that would affect your ability to testify here today?
 4 A No.
 5 Q Did you do anything to prepare for your
 6 deposition today?
 7 A Yes.
 8 Q Can you tell me what you did.
 9 A I read over the -- my statement and I had,
 10 like -- see, I went over -- went over to see if I made
 11 mistakes, or like the -- remind myself of the things
 12 that happened and to just brainstorm to see what I can
 13 really, like, say to make you understand what I'm
 14 saying.
 15 Q So you reviewed your declaration today; is that
 16 right? For today; is that right?
 17 A Yes.
 18 MR. SIMMONS: Could we have this document
 19 marked as Exhibit 1.
 20 (Whereupon, Deposition Exhibit 1 was
 21 marked for identification.)
 22 MR. SIMMONS: We've handed Olivia the document
 23 marked Exhibit 1.
 24 Q Can you tell me what that document is?
 25 A It's a statement saying that I'm one of the

1 plaintiffs in this action and that I could testify, and
 2 I was just basically just saying what I felt about the
 3 conditions of school and what happened.
 4 MS. LHAMON: I'll stipulate that it's a
 5 declaration.
 6 MR. SIMMONS: Thank you.
 7 MS. LHAMON: Sure.
 8 MR. SIMMONS: Q Now, correct me if I'm wrong,
 9 but I think you testified earlier that you reviewed the
 10 declaration to see -- that's Exhibit 1 here -- to see if
 11 there were any inaccuracies in it.
 12 A Yeah.
 13 Q Did you find any inaccuracies?
 14 A No.
 15 Q Okay. Did you meet with your lawyers at all in
 16 preparation for the deposition today?
 17 A Today?
 18 Q Not today, but in preparation for the
 19 deposition.
 20 A Yes.
 21 Q When did you meet with them?
 22 A About a week ago? Last week, Sunday.
 23 Q And did you meet with Ms. Lhamon?
 24 A Yes.
 25 Q Did you meet with anyone else?

1 A No.
 2 Q And do you know about how long the meeting
 3 lasted?
 4 A About hour, two hours.
 5 Q Was that your only conversation with Ms. Lhamon
 6 about the deposition?
 7 A No.
 8 Q Did you have other conversations about the
 9 deposition after that?
 10 A Yes.
 11 Q Can you tell me how many?
 12 A About two or three.
 13 Q And did those conversations take place in
 14 person or over the phone?
 15 A Both.
 16 Q And do you know about how long any of the
 17 conversations lasted?
 18 A About 20 to 30 minutes, I'd say.
 19 Q And you said that there were two to three; is
 20 that correct?
 21 A Yes.
 22 Q Okay. And did they all -- did those two to
 23 three all last about 20 to 30 minutes?
 24 A Yeah.
 25 Q Other than contact with your lawyer, did you

1 discuss your deposition with anybody else?
 2 A Yes.
 3 Q Who would that be?
 4 A My mom.
 5 Q And when did you discuss your deposition with
 6 your mother?
 7 A Saturday.
 8 Q Saturday being a week ago from today?
 9 A Yes.
 10 Q And what did you discuss?
 11 A She was just like -- she was asking me
 12 questions, and she was asking me what do I know about
 13 it, and like to just like explain stuff and don't be --
 14 don't talk slang and stuff, and to just -- like she just
 15 took me over and see like did I make any mistakes or is
 16 there -- is there anything else that I need to say.
 17 Q And did you say anything to your mother?
 18 A About what?
 19 Q About the deposition.
 20 A Like what?
 21 Q Did you mention -- she obviously discussed it
 22 with you and went over some things that she wanted you
 23 to do during the course of the deposition. Did you say
 24 anything in return?
 25 A No.

1 Q Did you review any documents other than your
2 declaration in preparation for the deposition today?

3 MS. LHAMON: I'm going to instruct her not to
4 answer on the basis of attorney-client privilege, but
5 you can ask her outside the context of the
6 attorney-client privilege.

7 MR. SIMMONS: Okay. Did you --

8 MS. LHAMON: If you just limit the question to
9 specific documents that I gave her, I'm happy --

10 MR. SIMMONS: But I think we're entitled to
11 documents that you showed her in preparation, to know
12 what those documents are.

13 MS. LHAMON: If you ask her about specific
14 documents, I won't object, but in the context of
15 depositions that your office has conducted, you all have
16 asserted the privilege. We're following your lead.

17 MR. SIMMONS: Q Did you review the First
18 Amended Complaint in preparation for your deposition
19 today?

20 A Is that this or the big one?

21 MS. LHAMON: The big one. When you refer to
22 "this," you just need to indicate what it is for the
23 court reporter, because she's writing it, so nobody,
24 when we read it, will know what "this" is. So "this" is
25 your declaration, right?

1 A When -- one day when I was in seventh grade in
2 Mr. Nawa's class, we would often talk about it, because
3 it was like, it was really bothering him the most that
4 kids will have to come to school in these conditions,
5 and he decided that we should do something about it.

6 Q So did Mr. Nawa suggest that the students
7 should bring a lawsuit?

8 A No. We all did.

9 Q And do you know about -- did you make the
10 decision in class to bring a lawsuit?

11 A No, because he -- it's like, it wasn't -- it
12 was a lot -- it was, I'd say, about 10 to 15 people in
13 that period, but everyone didn't agree with the lawsuit.
14 So it was just four of us, four particular ones. No.
15 Five. Five particular ones and hisself, that makes six.
16 So it's like, after school -- he asked us to stay after
17 school, because we all had his class sixth period, and
18 talked to us about it and told us to talk it over with
19 our parents that night and to come back and tell him if
20 it's all right with them. And it was all right with
21 them, so we really started getting into it, started
22 talking about it, staying after school, brainstorming,
23 and that's when we met ACLU.

24 Q And do you know, can you recall the month
25 when you had the meeting after school with your

1 MR. SIMMONS: Counsel, will you stipulate that
2 this is the First Amended Complaint?

3 MS. LHAMON: Yes.

4 So Shaun's asking if you saw this.

5 THE WITNESS: Yeah. Yes.

6 MR. SIMMONS: Q Did you see any documents
7 other than the two documents that are before you right
8 now?

9 A No.

10 Q Those documents being the First Amended
11 Complaint and your declaration?

12 A No.

13 Q And did you talk about this deposition with
14 anyone other than your lawyer or your mother?

15 A No.

16 Q How old are you?

17 A 14.

18 Q When's your birthday?

19 A July 14, 1987.

20 Q What grade are you in right now?

21 A 9th.

22 Q Where do you go to school?

23 A Balboa High School.

24 Q And can you tell me when you first learned
25 about this case?

1 teacher?

2 A No.

3 Q Do you think it was in the fall semester of
4 your seventh grade year or the spring semester?

5 A Difference? What's the difference?

6 Q Was your school at Luther Burbank, was it
7 divided into semesters?

8 A Yes.

9 Q Okay. Did you discuss the case with Mr. Nawa
10 in the first semester of your seventh grade year?

11 A I believe second, like second semester.

12 Q And did you -- how many times did you discuss
13 the lawsuit, or potential lawsuit involved here, in your
14 class with Mr. Nawa?

15 A About every day.

16 Q And were all students involved in those class
17 discussions?

18 A Yes.

19 Q And can you tell me when those discussions
20 first occurred?

21 A I'd say when we found a dead rat in our
22 classroom, and the next day after that when a rat ran
23 across the chalkboard.

24 Q And do you know about approximately when that
25 was in terms of a month and a year?

1 A About around the second semester, about in --
2 about February, March.

3 Q And is that February or March of 2000?

4 A No. 1997.

5 MS. LHAMON: Olivia, we're asking about your
6 seventh grade year.

7 THE WITNESS: Yeah.

8 MS. LHAMON: Your seventh grade would be the
9 '99 to 2000 school year. Remember that? Because you're
10 in ninth grade, and last year would have been 2000/2001
11 for eighth grade. So if we think about two years ago,
12 two school years ago -- because we're in the 2001/2002
13 school year. Two years ago would have been the '99 to
14 2000 school year, and so if you're thinking that you --
15 unless you -- unless you had these conversations with
16 Mr. Nawa before your seventh grade year, it would have
17 been about February or March of 2000.

18 THE WITNESS: Okay. Okay. I'd say about -- it
19 was in the real beginning of school, so -- like school
20 started September something, so say about October or
21 November.

22 MS. LHAMON: You want to think about that?
23 Because -- you want to just give as complete an answer
24 as you can for Shaun.

25 THE WITNESS: Because it was like a month after

1 school started.

2 MR. SIMMONS: Q And that would be a month
3 after the first semester started?

4 A Yes.

5 Q Okay. Is that -- I just want to make sure.

6 Earlier you had said that it might have been February
7 or March, because you thought that the first time you
8 discussed it was during the second semester. Do you
9 recall now that it occurred during the first
10 semester?

11 A Yeah, because I -- it was like, the first day
12 we met him and stuff, we really didn't know him, so then
13 we started talking to him and really start liking him
14 and all, and then like the next month, that's when we
15 got involved with this.

16 Q And that would have been sometime between
17 October and November of 2000, or 1999?

18 MS. LHAMON: It was October or November of your
19 seventh grade year?

20 THE WITNESS: Yes.

21 MS. LHAMON: Is that when it was? I have a
22 hard time with dates, so I think we'll all understand.
23 It's not so easy for you, too.

24 MR. SIMMONS: Q And did you have daily
25 conversations about the lawsuit in your classroom with

1 Mr. Nawa for your entire seventh grade year?

2 A Yes. And it occurred other classes, too.

3 Q What subject did Mr. Nawa teach?

4 A Social studies.

5 Q And do you know about how long a typical
6 conversation about the lawsuit would last in your
7 classroom with Mr. Nawa?

8 A About the whole period.

9 Q And so was it your testimony that from October
10 or November of your seventh grade school year, that you
11 spent the whole period each day in social studies
12 discussing the lawsuit?

13 A We did some work, but it's like we -- after we
14 had did our work or after we had like big projects,
15 whenever we had time, we sat around and talked about it.

16 Q Did you discuss the lawsuit about the same
17 amount of time each day in class, or did it vary?

18 A As we -- as we moved on the big projects, it
19 like -- it still mattered, but it would vary.

20 Q And when you say "big projects," can you tell
21 me what you mean by that?

22 A Like this project called the Aztecs -- Aztecs
23 and the Mayans. We learned like about those two
24 different cultures, who -- like who was here first and
25 what did they do, and it was like he showed us

1 videotapes and stuff, and it was like -- it was like one
2 group like one side of the room had to do a big project
3 about the Aztecs, and the other side of the room had to
4 do a project about the Mayans, and it's like we would
5 like -- like after that, like sometimes at school we
6 would stay to talk about it. But it's like we really
7 was really into the project, because it was fun and we
8 got to learn like about important stuff, like who made
9 this and who made that and how a lot of things came
10 about.

11 Q When you had your discussions about the lawsuit
12 in the class, was it held in the form of a classroom
13 discussion?

14 A Sometimes.

15 Q Did your teacher, Mr. Nawa, pose questions, and
16 then students would raise their hands to answer?

17 A Yes.

18 Q Can you give me some examples of the types of
19 questions that he would pose to the class?

20 A I'll say he would say, "How do you guys feel
21 about the conditions of the school? What do you think
22 we should do about it? How we going to fix it?" And
23 like we asked the principal sometimes, like, "Can you do
24 this? Can you do that? Can you at least put a roll of
25 toilet tissue in the bathroom?" It's like he heard us,

1 but he often ignored us.
 2 Q Who was the principal at that time?
 3 A [REDACTED]
 4 Q And you said that after a meeting with a few
 5 students and Mr. Nawa after school was out one day was
 6 when he asked you to go home and find out from your
 7 parents if it would be okay for you to participate in a
 8 lawsuit; is that correct?
 9 A Yes.
 10 Q Do you know about when that occurred?
 11 A It was before we had met them. So it was about
 12 two weeks before we had met them. And he had asked --
 13 he had called each of our parents to like make sure that
 14 we wasn't telling a lie. So he actually sat down on the
 15 phone, talked to our parents and let them know what was
 16 going to happen and who -- who we were going to be
 17 talking to and how they feel about it.
 18 Q Okay. And you said two weeks before we met
 19 with them.
 20 A With the ACLU.
 21 Q And do you know an approximate date when you
 22 met with the ACLU?
 23 A No.
 24 Q Do you know what month it might have been?
 25 A I don't remember.

1 one.
 2 What was her name?
 3 MS. LHAMON: Shaun just wants to know what you
 4 remember. So if I tell you what I remember, that's not
 5 what he's asking, so --
 6 THE WITNESS: It's a lady with glasses. That's
 7 all I remember.
 8 MR. SIMMONS: Q Okay. So there were four
 9 lawyers there; is that right?
 10 A Yes.
 11 Q And did you meet with other students --
 12 A Yes.
 13 Q -- at the same time?
 14 A It was -- well, we was all there. It's like I
 15 was right here, and the other four was there, and then
 16 like one of the -- one -- three of the kids' parents was
 17 there, but me and another kid, our parents couldn't make
 18 it.
 19 Q And when you say the other four, are you
 20 referring to four other students?
 21 A Yes.
 22 Q And who would those students be?
 23 A Eli Williams, Silas Moultrie, Monique Mabutas,
 24 and Elly Rodrigues.
 25 Q And in the meeting that you had with Mr. Nawa

1 Q You have to --
 2 A It had to be around, I'd say about -- I don't
 3 remember.
 4 MS. LHAMON: It's okay.
 5 THE WITNESS: I don't remember.
 6 MR. SIMMONS: Q Yeah, if you don't remember,
 7 it's fine to just say that.
 8 Can you remember, though, whether it would have
 9 been during your first or second semester of your
 10 seventh grade year?
 11 A I don't understand what you're saying.
 12 Q When you first met with the ACLU, although you
 13 can't really specify a date, are you able to recall
 14 whether it occurred in the first or second semester of
 15 your seventh grade year?
 16 A It was still in the first semester. It was
 17 like transforming into the second semester, beginning
 18 second semester, but we was still in first semester.
 19 Q And you say that you met with the ACLU. I take
 20 it that you met with particular lawyers from the ACLU;
 21 is that right?
 22 A Yes.
 23 Q And which lawyers did you meet with?
 24 A Catherine Lhamon, Peter. I don't know his last
 25 name. Lois. I don't know her last name. And other

1 after school that we've talked about already --
 2 A Oh, he was there, too.
 3 Q Mr. Nawa was at the meeting with the ACLU, the
 4 first meeting?
 5 A Yes.
 6 Q Now, were there any students present during
 7 your meeting with Mr. Nawa after school that you've
 8 spoken about already that weren't present at the meeting
 9 with the ACLU?
 10 A No.
 11 Q Do you know about how long the first meeting
 12 with the ACLU lasted?
 13 A About two hours.
 14 Q At the time you attended the meeting, did you
 15 intend on seeking advice on filing a lawsuit about the
 16 conditions at your school?
 17 A I don't understand what you're saying.
 18 Q Try and ask it another way. In your mind, when
 19 you were going to attend the meeting with the ACLU, do
 20 you know the purpose behind why you were going to that
 21 meeting?
 22 A Yes.
 23 Q And can you tell me what that was.
 24 A To make our school a better place for not just
 25 us; for sixth graders, for eighth graders and the other

1 kids that will be soon following us to Luther Burbank.
 2 Q And you testified that Mr. Nawa was present at
 3 this meeting; is that correct?
 4 A Yes.
 5 Q Other than Mr. Nawa, the students that you've
 6 identified, and some of their parents, and the lawyers
 7 from the ACLU, were there any other individuals present
 8 at the meeting?
 9 A No.
 10 Q And can you tell me what you discussed at the
 11 meeting?
 12 A They were basically telling us about the
 13 lawsuit and what they think -- I mean, what they can do
 14 about it, and what -- we was just basically telling them
 15 how we feel and what -- how -- what can we do to make it
 16 better, and we was just like -- just like, just talking.
 17 Q And when you say they were saying the types of
 18 things that they could do, were you referring to the
 19 ACLU lawyers at that time?
 20 A Yes.
 21 Q And can you tell me the kinds of things that
 22 they said they would be able to do?
 23 A Well, first of all, they was just telling us
 24 about their organization, I guess. Is it called -- oh,
 25 their organization, and what they do and where they go

1 and like the problems that happen somewhere else and
 2 what they had did about it, and we was just like saying
 3 what happened at our school, and they was just saying
 4 that they would do the best they can to try to help us,
 5 like they help everyone else, because they not just
 6 representing our schools, representing the other schools
 7 around the country.
 8 Q And was there any discussion as to what you,
 9 the students, would need to do?
 10 A To keep learning and never stop learning and to
 11 just -- right now to just stay in your books, even
 12 though you might have to share, and just really like
 13 focus on your work, because the lawsuit will be taken
 14 care of.
 15 Q And was there any discussion as to specific
 16 efforts you might have to take in connection with the
 17 lawsuit?
 18 A Like they contact a lot, and like -- like we --
 19 like we really have to remember what's happening, and we
 20 can't lie about it, and we really have to like be in
 21 this. Like if you in this, you really have to be
 22 committed to really wanting our school better and not
 23 just like being there and then flaking out. So it's
 24 just like we really had -- it's a commitment, and we
 25 just have to just be there and just like really try to

1 help as -- like really try to help the lawsuit as much
 2 as they can.
 3 Q And at the end of the meeting, did you -- at
 4 that point did you decide to start a lawsuit --
 5 A Yes.
 6 Q -- involving your school?
 7 A Yes.
 8 Q And do you know who you were suing in this
 9 lawsuit?
 10 A State.
 11 Q And do you have any understanding as to what
 12 you would like the State to do at the end of this
 13 lawsuit?
 14 A To at least fix the broken window. They still
 15 ain't done it. I was up at Burbank like a month ago,
 16 and ain't nothing changed about it.
 17 Q Where is this broken window?
 18 A Everywhere.
 19 MS. LHAMON: Are you saying everywhere at your
 20 school or everywhere in --
 21 THE WITNESS: Everywhere around the building.
 22 MS. LHAMON: At which school, though?
 23 THE WITNESS: At our school.
 24 MS. LHAMON: The one you're at now or the
 25 one --

1 THE WITNESS: No. At Burbank.
 2 MR. SIMMONS: Q Do you know the number of
 3 windows that are broken at Burbank?
 4 A Every one. In at least every class, one in
 5 every class. But the most windows that's broken is the
 6 one in -- in the gym.
 7 Q So is it your testimony that all the windows at
 8 school are broken?
 9 A At least one in every classroom. They have a
 10 board on them.
 11 MS. LHAMON: Shaun, can I ask a point of
 12 clarification?
 13 Olivia, have you been in every classroom
 14 recently to see at least every one is broken, or are you
 15 saying, what you saw, at least every one is broken?
 16 THE WITNESS: I been in the classroom.
 17 MS. LHAMON: Okay.
 18 THE WITNESS: Because in eighth grade we did
 19 this little mentor reading thing where we went to every
 20 classroom and read to them, and they asked us questions
 21 how eighth grade is hard and stuff. So we been in every
 22 classroom and answered questions.
 23 MS. LHAMON: Thank you.
 24 MR. SIMMONS: Q You say that at least one
 25 window in every classroom is broken, and does that mean

1 that each of those windows has a board on it?
 2 A Yes.
 3 Q Are there any other types of broken windows at
 4 school?
 5 A There's a window missing that was old glass
 6 that's broken and shattered that has paint on it.
 7 Q Any other specific problems with the windows
 8 that you can recall?
 9 A Yeah. Some of them don't open.
 10 Q After the first meeting that you had with the
 11 ACLU, did you continue to have meetings with lawyers
 12 from the ACLU?
 13 A No, but we would be in contact, at least --
 14 talk to each other like at least once or twice or three
 15 times every month.
 16 Q So after that initial meeting, you would speak
 17 with the lawyer from the ACLU one to three times a
 18 month?
 19 A Yes.
 20 Q And about how long would those conversations
 21 last?
 22 A It depends on what we talking about.
 23 Q Do you know how long the longest conversation
 24 that you had lasted?
 25 MS. LHAMON: You mean separate from the

1 meeting?
 2 MR. SIMMONS: Yeah, separate from the meeting.
 3 THE WITNESS: About 45 minutes.
 4 MS. LHAMON: She says with delight.
 5 THE WITNESS: Yeah.
 6 MR. SIMMONS: Q And have you spoken with any
 7 lawyers other than -- strike that.
 8 You identified earlier, I think, that you'd
 9 spoken with Ms. Lhamon, an individual named Peter from
 10 the ACLU, Lois Parrin, and then one other woman, who you
 11 couldn't recall her name, but you said she wears
 12 glasses.
 13 A (Witness nods head.)
 14 Q Have you --
 15 MS. LHAMON: Sorry. Just remember to say "yes"
 16 or "no." Will you say "yes"?
 17 THE WITNESS: Yes.
 18 MR. SIMMONS: Thank you.
 19 Q Do you recall meeting with any other lawyers
 20 than those four about this case?
 21 A At the meeting or --
 22 Q Since the meeting.
 23 A Few times I talked to them.
 24 Q But your conversations since the meeting, have
 25 those been with those -- that same group of lawyers?

1 A Yes.
 2 Q And have you had any conversations about this
 3 lawsuit with any lawyers other than those that you've
 4 identified already?
 5 A No.
 6 Q Did Mr. Nawa ever give you any assignments in
 7 class that were related to this lawsuit?
 8 A In specific?
 9 Q For example, did Mr. Nawa ever ask you to write
 10 essays about the conditions at your school?
 11 A Yes.
 12 Q Did he -- how many assignments did you receive
 13 to write about the conditions of your school from
 14 Mr. Nawa?
 15 A A lot.
 16 Q Can you be more specific than that?
 17 A I'd say about -- it's like he -- sometimes he
 18 didn't assign it. Sometimes he asked to write it down
 19 and assign it, and one time we get -- we give it to the
 20 principal to see, but we didn't get a response. Say
 21 here's what we say.
 22 Q So you can recall one time where you each
 23 drafted statements about your -- the conditions at your
 24 school and directed those to your principals; is that
 25 correct?

1 A Yes.
 2 Q Can you remember any other specific instances
 3 where you wrote about the conditions at your school?
 4 A Sometimes it will be a class topic.
 5 Q And what do you mean when you say a class
 6 topic?
 7 A Like sometimes we walk into class, and the
 8 class start, it will be on the board. When we finish
 9 with our work or -- or if we don't understand the work
 10 some more, if we don't feel like doing it, he make us do
 11 it, but he's not going up there and punish you, all
 12 that. It's like he -- he didn't make you do it. He
 13 didn't make us. Like we really didn't have like enough
 14 social studies books to really like be in -- like be
 15 really doing work. So when we wasn't doing work, we be
 16 writing about the conditions of the school.
 17 Q And would you write about the conditions at
 18 your school as frequently as once a week?
 19 A Say about three times a month.
 20 Q And would you turn these papers in to your
 21 teacher at the end of the day?
 22 A Yes.
 23 Q Did he grade them and return them to you?
 24 A He didn't grade them. It wasn't really a
 25 assignment.

1 Q Did you ever get the papers returned to you?
 2 A Yes.
 3 Q And was that generally the case? Would you
 4 always get the papers back after you turned them in to
 5 him?
 6 A All of them?
 7 Q Yes.
 8 A Or just those?
 9 Q The papers that related to the conditions at
 10 your school.
 11 A Sometimes we would get them back, but he like
 12 take them home and go over them to see, like, the things
 13 that we see from -- like the difference from him and us.
 14 Q So would he write comments on your papers about
 15 how he viewed the conditions as opposed to the ways that
 16 you viewed the conditions?
 17 A No. He just say very good. He just say --
 18 write his little comments about what he thinks about
 19 what we had wrote.
 20 Q And would he edit the papers that you prepared
 21 for him?
 22 A What do you mean?
 23 Q Would he correct spelling or grammatical
 24 problems on the papers?
 25 A No.

1 Q Did you keep any of the papers that you
 2 prepared?
 3 A Right now?
 4 Q That's a bad question. Strike that.
 5 You testified that approximately three times a
 6 month you would produce a paper about the conditions in
 7 your school; is that correct?
 8 A Yes.
 9 Q Did you keep any of those papers for your own
 10 personal files?
 11 A Yes. I threw them away in eighth grade.
 12 Q I'm sorry. I didn't catch the last part. Did
 13 you say you threw --
 14 A Threw them away in eighth grade.
 15 Q Did you throw them away at the beginning of the
 16 eighth grade year?
 17 A When I graduated.
 18 Q And where had you been keeping those papers up
 19 to that time?
 20 A In my own space.
 21 Q Did you keep them in your locker?
 22 A No.
 23 Q Did you keep them at home?
 24 A Yes.
 25 Q Do you have a desk or an area where you can

1 keep them at home?
 2 A I have a folder I can keep them at.
 3 Q And can you tell me why you threw them away at
 4 the end of the eighth grade?
 5 A Because it was like we had accomplished so much
 6 that I didn't need them no more.
 7 Q And when you say you had accomplished so much,
 8 can you tell me a little bit more about what you mean by
 9 that?
 10 A As far as like -- like I was really into it
 11 now. So it's like, when she would tell me about like
 12 going -- she was going to court and stuff --
 13 MS. LHAMON: Are you -- when you say "she," who
 14 are you referring to?
 15 THE WITNESS: When Catherine --
 16 MS. LHAMON: You know, I'm going to ask you not
 17 to talk about things that I said to you. Remember that?
 18 Because we have an attorney-client relationship, so
 19 that's something Shaun can't ask you about. So you can
 20 talk about other things. But I appreciate you
 21 mentioning that I go to court.
 22 MR. SIMMONS: Q Could you still describe for
 23 me -- without disclosing any communications you had with
 24 Miss Lhamon, can you still describe for me what you
 25 meant by "we had accomplished so much"?

1 A Basically that -- that -- it was like, since we
 2 was really getting out to the public and we was in the
 3 newspaper, and a lot of people was hearing about it, and
 4 they was really worried about the conditions at our
 5 school. It was like, since we out and everybody know
 6 what we doing, then I don't need those papers no more.
 7 Had my own little section in the newspaper or whatever.
 8 Q Did you feel like the actions that you had
 9 taken had improved the conditions at your school
 10 already?
 11 A No.
 12 MS. LHAMON: Shaun, there's no particular rush,
 13 but can we take a break when you are -- if you're not at
 14 a stopping point, it doesn't have to be this second.
 15 MR. SIMMONS: No. Now's fine.
 16 (Recess taken.)
 17 MR. SIMMONS: Q Olivia, the papers that you
 18 had mentioned that you threw out at the end of the
 19 eighth grade year, did you ever provide copies of those
 20 to your lawyers?
 21 A No.
 22 MR. SIMMONS: Can we mark this as Exhibit 2.
 23 MS. LHAMON: I'm sorry. Shaun, this actually
 24 has the address on the outside. So we need to redact
 25 that.

1 MR. SIMMONS: Okay.
 2 MS. LHAMON: I didn't see the address, so --
 3 THE WITNESS: What's that?
 4 MS. LHAMON: Your address is private, so it's
 5 not something that can be part of the lawsuit.
 6 So what we'll do is cover it so -- and we can
 7 do that at break, and I'm happy if we can just
 8 substitute it on the next break and just work from this
 9 for now. Is that all right?
 10 MR. SIMMONS: Yeah, okay.
 11 MS. LHAMON: Sorry. I didn't see that.
 12 MR. SIMMONS: No worries. I just made copies
 13 and didn't look myself, so --
 14 MS. LHAMON: It doesn't look to me like this is
 15 a complete copy. It cuts off on the right side.
 16 Unless -- I don't have the original.
 17 MR. SIMMONS: Okay. Let's see.
 18 MS. LHAMON: Can we see this for a second?
 19 Yeah, it cuts off in the middle of her name. So we
 20 would want to make a different copy anyway.
 21 MR. SIMMONS: Let's deal with this after the
 22 next break, then.
 23 MS. LHAMON: Okay.
 24 MR. SIMMONS: Thank you.
 25 Q Olivia, can you tell me what class -- well,

1 math class?
 2 A Basically going over times tables and division.
 3 Q And you had a second math class that was
 4 distinct from that one?
 5 A It was basically -- it was like integrated math
 6 and then -- no. It's like two types of math, but I
 7 didn't really pay attention to the names, but it's
 8 like -- it was kind of different, but we did like the
 9 same thing. We did like basically problem solving and
 10 like working with numbers, with words and stuff, like
 11 that.
 12 Q And did you have -- did you have two periods of
 13 math class?
 14 A Yes.
 15 Q And did you have different teachers for those
 16 classes?
 17 A No.
 18 Q Do you remember who your teacher was for your
 19 English class during the sixth grade?
 20 A [REDACTED]
 21 MS. LHAMON: Do you know how to spell that for
 22 the court reporter?
 23 THE WITNESS: [REDACTED]
 24 MS. LHAMON: Thank you.
 25 MR. SIMMONS: Q I didn't catch the name

1 first of all, did you attend Burbank for the sixth
 2 grade?
 3 A Yes.
 4 Q Can you tell me what classes you had during
 5 that year?
 6 A Usual. I had English, science, math, gym, and
 7 literature. No. That's the same thing as English,
 8 right? And I had -- I think I had two classes of math,
 9 and I had --
 10 Q Did you have a class called unified arts, by
 11 any chance?
 12 A Yes. Yes, yes, yes.
 13 Q So you had English, science, math, gym, and
 14 unified arts?
 15 A Yes.
 16 Q And did you say that you may have had two math
 17 classes?
 18 A I always had two math classes.
 19 Q And do you recall what periods you had those
 20 courses?
 21 A No.
 22 Q Can you tell me what your -- can you describe
 23 your first math class for me?
 24 A Boring.
 25 Q Can you tell me what you studied during that

1 again. Could you --
 2 A [REDACTED]
 3 Q [REDACTED]
 4 MS. LHAMON: [REDACTED]
 5 MR. SIMMONS: [REDACTED] Okay. Thank you.
 6 Q And do you recall whether she was a good
 7 teacher or not?
 8 MS. LHAMON: Vague as to "good."
 9 THE WITNESS: She was in the middle.
 10 MR. SIMMONS: Q Were there certain aspects of
 11 the way she taught your English class that you thought
 12 were beneficial to your learning?
 13 A She fought with kids.
 14 Q But I take it that's probably not one that you
 15 identify as a good aspect of her teaching style.
 16 A She -- she would stand up there, and if you
 17 like talking or asked somebody a question, she say,
 18 "I'll whip you with my wet noodle," or she spank --
 19 something. She just -- I don't know. She just tried to
 20 basically like try to be kids' friends, but they didn't
 21 like her.
 22 MS. LHAMON: Olivia, you want to make sure you
 23 try to answer the question that Shaun asked you. He was
 24 asking if the fact that she fought with kids you thought
 25 was something that was good about her.

1 THE WITNESS: Oh, no.
 2 MR. SIMMONS: Thank you.
 3 Q Did she do anything well in that classroom?
 4 A She taught well, but no one listen.
 5 Q Did you listen?
 6 A I was like a -- a nerd in sixth grade, so yeah.
 7 I was in the front of the class.
 8 Q If you were to rank her on a scale of one to
 9 ten as to the kind of teacher that you thought she was,
 10 with ten being the best, can you give a number that you
 11 would assign to her?
 12 A Between four or five.
 13 Q Did you have any other teachers during the
 14 sixth grade for your English class?
 15 A No.
 16 Q Did you have any books to use in your English
 17 class during the sixth grade?
 18 A We had to share them.
 19 Q Do you remember the name of -- was there more
 20 than one book that you had available, one title?
 21 A Mm-hmm.
 22 MS. LHAMON: Remember you got to a "yes" or
 23 "no."
 24 THE WITNESS: Yes.
 25 MR. SIMMONS: Thank you.

1 Q Can you remember the titles of any of the books
 2 that you used in the sixth grade?
 3 A No.
 4 MS. LHAMON: I'm assuming the question was
 5 limited to English, specifically to English.
 6 MR. SIMMONS: Yeah.
 7 Q The answer is still the same?
 8 A Probably -- English.
 9 Q Were there enough textbooks for each student to
 10 use one textbook in the classroom?
 11 A No. We had to be in groups every day. But if
 12 we did take it home, we had to like -- one day one
 13 person used it, then the next day they had to pass it
 14 on, but then this one particular day we was doing a
 15 certain lesson in English, and she had to get the
 16 English books from years before to like -- for -- so the
 17 whole class can bring the books home, like, because they
 18 was -- they've -- they keep their books in a certain
 19 place. I don't know where. But she had got some more,
 20 and then after that, I never seen them again.
 21 Q So just for use in class, let's just start
 22 there. Did each student in your English class during
 23 the sixth grade have an English textbook to use during
 24 class?
 25 A No.

1 Q So students had to share textbooks; is that
 2 correct?
 3 A Yes.
 4 Q Did you ever have to share?
 5 A Yes.
 6 Q And I think you said earlier that sometimes
 7 students might have divided up into groups --
 8 A Yes.
 9 Q -- and shared a book; is that correct?
 10 A Yes.
 11 Q Do you remember what size, what number of
 12 students were in the groups?
 13 A Several. Four to a group.
 14 Q So do you think there was about one English
 15 textbook for every four students in your sixth grade
 16 English class?
 17 A It's like she'd divide us up into groups. Four
 18 people in the back, four people in the middle, four
 19 people on the other side, and four people on this side.
 20 This side, middle, and the front. It was like -- it was
 21 like -- she had a lot of students in that period I was
 22 in, but it's like nobody -- I mean, I can't say nobody.
 23 Lot of people didn't learn, because they didn't pay
 24 attention, that was back in -- in the back of the
 25 classroom. Be talking and eating, stuff. So nobody

1 really paid attention to her.
 2 Q Okay. Let's just try that one just one more
 3 time. Do you think that there was about one English
 4 textbook for every four students in that classroom?
 5 A Yeah, there was one textbook for four students.
 6 Q For every four students?
 7 A Yes.
 8 Q And now, correct me if I'm wrong, but did you
 9 testify earlier that the English class had more than one
 10 title available to them?
 11 A I don't understand what you're saying.
 12 Q Okay. There could be -- for example, there
 13 could be one textbook entitled English One and another
 14 textbook entitled English Two.
 15 Were there more than one particular textbook
 16 for use in your sixth grade -- available for use in your
 17 sixth grade English class?
 18 A It was one particular book.
 19 Q And did you use that book throughout the entire
 20 year?
 21 A Yes.
 22 Q And did you ever use any books other than that
 23 one during your sixth grade year?
 24 A We --
 25 MS. LHAMON: English?

1 THE WITNESS: We read like different books,
2 like Outsiders and Scorpions and whatever.
3 MR. SIMMONS: Q Outsiders, was that a novel?
4 A Yes.
5 Q And was Scorpions also a novel?
6 A Yes.
7 Q And would it be correct to call the first
8 English textbook that we were speaking about, would it
9 be correct to call that a reader? Was that an English
10 reader?
11 A I remember the name, Reader, somewhere. I
12 think it was on the book.
13 Q Were there enough copies of the Outsiders for
14 each student to have their own in class during your
15 sixth grade year in English?
16 A Sometimes.
17 Q And how about with respect to Scorpions? Did
18 each student have their own copy of Scorpions to use in
19 class?
20 A No. It would be like two -- two people to a
21 book, and she would give us our own little reading time.
22 It was like two people, they -- you know how you put
23 your desk together? Like that, and then put the book in
24 the middle and read. But it was real difficult, because
25 people's own different reading levels and people on

1 when we say English book, that's the first textbook that
2 you shared in groups of four?
3 A Sometimes.
4 Q Sometimes students were allowed to take that
5 book home?
6 A (Witness nods head.)
7 Q Did you ever take the book home?
8 A Yes.
9 Q Do you know how frequently you would take it
10 home?
11 A Not that much.
12 Q Can you be any more specific? Can you give an
13 estimate as to how many times in a month you would take
14 the book home?
15 A About four times a month.
16 Q And was there any particular reason why you
17 only brought the textbook home four times a month?
18 A I didn't ask. I didn't ask.
19 Q Were there enough books for each student in
20 your class to take a textbook home on the same evening?
21 A It's like yes and no, because if you live by
22 each other, she'll ask like can the person come to your
23 house so you can do your homework together. But other
24 than that, you would have to shift it off, shift it off
25 sometimes, like get a book to one person one day,

1 different pages and stuff, so --
2 Q Now, you said that sometimes there were enough
3 books so that -- enough copies of Outsiders so that each
4 student in the class had their own to use; is that
5 correct?
6 A Yes.
7 Q But there were occasions when students had to
8 share the Outsiders as well; is that right?
9 A Yes.
10 Q Do you know how frequently students had to
11 share the Outsiders textbook during your sixth grade
12 English course?
13 A It wasn't that frequent, but it was -- like at
14 least once or twice a week.
15 Q And on those occasions would the whole class
16 have to share, or would there be specific students who
17 would need to share a copy of the text?
18 A Specific students, because they would leave
19 their books at home or leave their books in their
20 locker. So it really wasn't the teacher's fault.
21 Q Now, the first English textbook that we talked
22 about that you used during your sixth grade year, were
23 students allowed to take that textbook home?
24 A What, the English book?
25 Q Yeah. That's the -- I'm sorry, but that's --

1 then -- it's like we was assigned books. Like if --
2 if -- we all had homework, and I would give the book to
3 whoever one day, and the next day I get the book, and
4 it's like the next day I would give it to our teacher.
5 And then the next time we had to do work in it, if she
6 have enough books, then everybody have their own, but
7 other than that, we have to ship -- shift it off
8 sometimes, basically take turns.
9 Q And do you know whether you had to take turns
10 because there weren't enough copies of the textbook for
11 everybody in class?
12 A Nobody was going to take them home, because
13 they was so -- they look -- the front cover was falling
14 off, and we really had a difficult time because some of
15 the pages wasn't in the book.
16 Q Okay. But did you have to take turns bringing
17 the textbook home?
18 A Yes.
19 Q Did you have to do that because there weren't
20 enough textbooks so that each student in the class --
21 A Yes.
22 Q -- could take a textbook home at night?
23 A Mm-hmm, yes.
24 Q Do you know about how many copies of the
25 English book there were during your sixth grade year?

- 1 A For every class?
 2 Q Just for your class.
 3 A Say about 15.
 4 Q And do you know about how many students were in
 5 that class?
 6 A About 25.
 7 Q And how about with respect to Outsiders? Do
 8 you have an estimate as to how many copies of Outsiders
 9 there were for your sixth grade English class?
 10 A About 20.
 11 Q Can you make an estimate with respect to the
 12 Scorpions book as well?
 13 A Same.
 14 Q Were students ever assigned a specific book to
 15 use in your English class during the sixth grade?
 16 A No.
 17 Q Was there ever an occasion where you wanted to
 18 take any of your English textbooks home but were unable
 19 to do so?
 20 A I only took it home when I had to.
 21 Q And when you say "had to," does that mean you
 22 took it home because you were assigned homework in that
 23 particular -- that required the use of that particular
 24 textbook?
 25 A Yes.

- 1 Q And if you recall, how many times per month
 2 were you assigned homework that required use of your
 3 English book?
 4 A Not that much.
 5 Q Can you be any more specific?
 6 A It depends on if we get through the lesson in
 7 class.
 8 Q Can you be any more specific in terms of a
 9 number as to you received homework that required the use
 10 of that textbook --
 11 A We received homework every day, but we would
 12 get worksheets, but if you finished the worksheet, then
 13 she make you take the book home, but everybody --
 14 everybody didn't have to take the book home, because a
 15 lot of people did their worksheets.
 16 Q Can you describe the physical condition of the
 17 English book that you used during the sixth grade?
 18 A The front and the back of the cover was halfway
 19 off. It was -- pages was ripped out of the book.
 20 Graffiti all over the book. It's like, you know when
 21 something's old and it gets little strings around it?
 22 That's the way the front of the cover was. And then
 23 like it would hang in the middle. The front and the
 24 back cover will hang through the middle of the book
 25 where the little thing is like that.

- 1 Q Were all the books in the same condition?
 2 A Yes.
 3 Q Did you use all the books, each copy of the
 4 English book that you used during your sixth grade year?
 5 A Yes.
 6 Q Do you know when the English book that you used
 7 during sixth grade was published?
 8 A I believe about 1989.
 9 Q And can you tell me how you know that it was
 10 published in 1989?
 11 A All the books were.
 12 Q And can you tell me how you knew that all the
 13 books were published in 1989?
 14 A Because sometimes if -- like I would help her
 15 like collect the books and stuff, and she would always
 16 make us like read the front, like where you open the
 17 book and where it says where it was published, and you
 18 got to write your name and stuff. Then you turn the
 19 next page, and it's -- like on the first page we have to
 20 read it, it says "Dear to the reader," or whatever, but
 21 when we first got them, she made us go through the whole
 22 book to see if anything was wrong with it so she can try
 23 to -- like if we had homework on that page, she can
 24 photocopy it, or whatever. But it's like, then in
 25 Mr. Nawa's class, he had -- it's like they -- sometimes

- 1 they stack books in his room, so we would go back there.
 2 We would look at them.
 3 Q How about with respect to the Outsiders? Do
 4 you know when that book was published?
 5 A No.
 6 Q And with respect to the Scorpions textbook, do
 7 you know when that book was published?
 8 MS. LHAMON: Mischaracterizes testimony
 9 slightly. I think she testified it was a novel and not
 10 a textbook.
 11 MR. SIMMONS: Okay. Yeah.
 12 Q Do you know when the novel -- is it correct
 13 that the Scorpions is a novel?
 14 A Yes.
 15 Q And do you know when this Scorpions was
 16 published, the Scorpions novel that you used in class
 17 was published?
 18 A No.
 19 Q Can you tell me about the physical condition of
 20 the Outsiders book?
 21 A Basically, pages was gone.
 22 Q Were pages missing from all of the Outsiders
 23 books?
 24 A Yes.
 25 Q And can you tell me how you know they were

- 1 missing from all the books?
 2 A Because then again she told us the same thing.
 3 Every book that we have, we have to go through and see
 4 if anything was missing, and it was like, when we read,
 5 we went from page 1 to the last page of the book. And
 6 so if we want to start the page and the person didn't
 7 have it, they had to put down their book and go share
 8 with the teacher or go share with somebody else if they
 9 didn't have the page.
 10 Q Were there -- you've said that some pages were
 11 missing from the Outsiders books. Were there any other
 12 problems with the physical condition of those books?
 13 A Other than graffiti, no.
 14 Q And when you say graffiti, can you tell me what
 15 you mean by that?
 16 A Slang and curse words written in the book.
 17 Q And how about the physical condition of the
 18 Scorpions textbooks? Or, excuse me, the Scorpions
 19 novels? Can you describe the physical condition of
 20 those books?
 21 A Those were -- were the best books that we had,
 22 but it was a few pages ripped out of there, but other
 23 than that, they was all right.
 24 Q Were you assigned homework in your sixth grade
 25 English class?

- 1 A Yes.
 2 Q How often did you receive homework in that
 3 class?
 4 A Every day.
 5 Q And can you describe the types of homework
 6 assignments that you would receive in this class.
 7 A Spelling, putting the letters in the right
 8 place of the words, like crossword puzzles. What's that
 9 called when you -- when you have to put the word -- like
 10 when -- like when you have a word and you mix it up and
 11 you have to put it in the right order. I don't know
 12 what that's called.
 13 MS. LHAMON: Unscrambling the letters? Is that
 14 what you're doing?
 15 THE WITNESS: Yeah. And we had to do
 16 punctuation, verbs, nouns, and we watch the video
 17 Conjunction, stuff like that.
 18 MR. SIMMONS: Q Do you know about how long
 19 your homework assignments in your sixth grade English
 20 class typically took to complete?
 21 A Long.
 22 Q Can you be more specific in terms of how many
 23 minutes it took?
 24 A About hour.
 25 Q And so there was approximately an hour of

- 1 English homework every night in your sixth grade class?
 2 A Yes. And it wasn't doing none of the
 3 worksheets, or if we wasn't in the book, we had to read
 4 about a hour every night.
 5 Q And can you tell me what you would have to read
 6 for that hour every night?
 7 A A page.
 8 Q And from what book would you read?
 9 A Whether it was an Outsiders or Scorpions.
 10 Q You've identified, I think, that your teacher
 11 made use of textbooks, novels, and worksheets in the
 12 course of teaching your sixth grade English class; is
 13 that correct?
 14 A Yes.
 15 Q Were there any other instructional materials
 16 used by your teacher during your sixth grade English
 17 course?
 18 A No.
 19 Q Did you ever see a mouse in your sixth grade
 20 English class?
 21 A Which one? Oh, the English class? I think
 22 that was -- that was one of the classes with -- we had a
 23 lesson. She was writing on the chalkboard. A mouse ran
 24 across her feet, and she -- she was gone. She was gone.
 25 Q So during your sixth grade English course, a

- 1 mouse ran across your --
 2 A Teacher's feet.
 3 Q -- teacher's feet.
 4 And did you see it run across her feet?
 5 A Everybody was on the desk and everything. She
 6 ran out the classroom.
 7 Q Did you see any other mice in that classroom?
 8 A Not in that particular classroom.
 9 Q Did you ever see a rat in your sixth grade
 10 English classroom?
 11 A What's the difference between a mouse and a
 12 rat?
 13 Q That's a good question. Do you know?
 14 A Ain't one bigger than the other?
 15 Q Would you be able to distinguish between a --
 16 A I know the difference between a mice and a rat.
 17 Mice is small. A rat is big.
 18 Q And so you saw one mouse in your English class
 19 during the six grade, but you don't believe that you saw
 20 a rat in that class during the sixth grade; is that
 21 correct?
 22 A In another class.
 23 Q Okay. But just during your sixth grade English
 24 course.
 25 A No.

- 1 Q How about, did you ever see a cockroach in your
2 sixth grade English class?
3 A (Witness nods head.)
4 Q You have to say --
5 A More than -- more than one.
6 Q Do you know about how many cockroaches you saw
7 during your sixth grade -- in your sixth grade English
8 class?
9 A Say about 30.
10 Q And when you say about 30, did you see those 30
11 all on the same day, or did that occur on different
12 days?
13 A On the same day. It was, I guess, the mamma
14 roach, or whatever. She had babies and -- in the
15 classroom, and they was all on the counter and it was
16 running on the floor.
17 Q Did someone try and get rid of the roaches?
18 A No. Everybody was on desks, on top of the
19 desk.
20 Q Did your teacher do anything in response to the
21 roaches?
22 A She got on the desk, too.
23 Q Did you call any -- did anyone call anyone from
24 the custodial service to come and deal with the roaches?
25 A They didn't come.

- 1 Q Did someone call?
2 A My teacher did, after like they was in this one
3 spot by her desk.
4 Q And you saw -- you saw them in the spot by her
5 desk?
6 A (Witness nods head.)
7 Q And were they there the next day?
8 A No. She has like a hole by her desk, like look
9 like a pipe.
10 Q How long were the roaches in -- were you able
11 to see the reaches for in the class on that day?
12 A Whole period.
13 Q And did you have any more classes in that same
14 classroom that day?
15 A No.
16 Q Were there any problems with the physical
17 condition of your classroom for your sixth grade English
18 course?
19 A The heat and windows.
20 Q Okay. Can you tell me what was wrong with the
21 heater in that class.
22 A The heater was broke.
23 Q When you say it was broke, what do you mean by
24 that?
25 A It didn't work.

- 1 Q It didn't work at all?
2 A No.
3 Q So your testimony is that the heater didn't
4 work at all during your sixth grade year?
5 A In beginning of the sixth grade year. But then
6 like in the middle, she talked to the principal, and he
7 turned it on, but then it broke again.
8 Q So when you started your sixth grade year, do
9 you know whether the heater in your English
10 class worked?
11 A Always had my coat on.
12 MS. LHAMON: It's a little hard, Olivia,
13 because we are at a big table -- and I'm sitting right
14 next to you, and I'm having a hard time hearing you. So
15 almost feel like you're yelling at Shaun, because he's
16 across the table.
17 MR. SIMMONS: Right.
18 Q So did you wear your coat in your English class
19 every day?
20 A Yes.
21 Q During your entire sixth grade year?
22 A Sometimes.
23 Q How often did you wear your coat during your
24 entire sixth grade year?
25 A When the heater was broke, I wore it, but then

- 1 it's like, on sunny days I didn't wear it.
2 Q And how often was the heater broke?
3 A Half the year.
4 MS. LHAMON: Is that -- is that exact, or is
5 that approximately half the year?
6 THE WITNESS: Exact.
7 MR. SIMMONS: Q And how do you know that?
8 A Because she would talk about it every day, and
9 it's like, I sat right by the heater. The heater was
10 right here, and I sat right here. There was lines going
11 up the thing like that.
12 Q Could the heater be turned on and off from
13 inside the classroom?
14 A No.
15 Q Was it always necessary to use the heater in
16 your classroom?
17 A Yes.
18 Q So every -- is it your testimony that every day
19 during your sixth grade year, the temperature was cool
20 enough that it would have required use of the heater?
21 A Yes.
22 Q Did you ever complain to anyone about the
23 functioning of the heater?
24 A To my teacher.
25 Q And what did your teacher say to you?

- 1 A She said, "I already talked to the principal,
2 but it broke again." So it's nothing she could or I
3 could do about it.
- 4 Q And I think you also said that there was a
5 problem with a window or more than one window in your
6 English classroom during the sixth grade; is that
7 correct?
- 8 A Say about three windows going down in the back.
9 They would never open.
- 10 Q So there were three windows in the back that
11 were never opened?
- 12 A Yes. Yes.
- 13 Q Did you try and open them?
- 14 A Everybody did.
- 15 Q But you guys couldn't open them?
- 16 A It was like, it was jammed in a way.
- 17 Q And how many windows were there in your sixth
18 grade English class?
- 19 A Say about 15.
- 20 Q Were there a sufficient number of desks for all
21 the students in your sixth grade English class?
- 22 A No, because there was some walk-ins, and they
23 had to call a custodian to bring up desks.
- 24 Q Did the custodian always have a desk to bring
25 in?

- 1 A Yes.
- 2 Q And how long did that take for the custodian to
3 bring a desk?
- 4 A About 15 minutes.
- 5 Q And when you say there was some walk-ins --
6 A Yes.
- 7 Q Can you describe what you mean by a walk-in?
- 8 A A person from another school. If they got
9 kicked out of their school, then they got to come to our
10 school, and that was a walk-in. Like they wasn't there
11 all the time. They come in like the middle of the
12 semester.
- 13 Q And do you recall how many walk-ins came to
14 your sixth grade English class?
- 15 A Say about five.
- 16 Q And did a desk need to be brought in for each
17 of those individuals?
- 18 A Yes.
- 19 Q Did it generally take about 15 minutes for each
20 of those individuals to get a desk?
- 21 A Yes.
- 22 Q Were there any other problems with your -- with
23 the physical condition of your sixth grade English
24 class?
- 25 A No.

- 1 Q Do you remember what grade you received in that
2 class?
- 3 A [REDACTED]
- 4 Q Do you get grades per semester?
- 5 A Yes.
- 6 Q So did you get a [REDACTED] in the fall semester?
- 7 A Yes.
- 8 Q And do you know what your grade was during the
9 spring semester?
- 10 A [REDACTED]
- 11 Q Do you think that was a fair grade?
- 12 A Yes.
- 13 Q Do you remember the room number of your English
14 class by any chance?
- 15 MS. LHAMON: In sixth grade?
- 16 MR. SIMMONS: In sixth grade, yeah.
- 17 THE WITNESS: 320 -- it's 320 something.
- 18 MR. SIMMONS: Q Who was the teacher for your
19 science class during the sixth grade?
- 20 A Mr. Osendorf.
- 21 MS. LHAMON: Spell that.
- 22 MR. SIMMONS: Q Can you spell that?
- 23 A O-s-e-n-d-o-r-f.
- 24 Q Did you think that Mr. Osendorf was a good
25 teacher?

- 1 A He was all right.
- 2 Q If you were to rate him on a scale of one to
3 ten, where would you put Mr. Osendorf?
- 4 A About five.
- 5 Q So do you think he was about the same quality
6 teacher as [REDACTED]?
- 7 A No.
- 8 Q Was he better or worse?
- 9 A Better, because he -- he experimented a lot,
10 and he brought in a live heart that freaked everybody
11 out. But it was fun, so -- because in his class we got
12 to dissect a lot of stuff, like hearts and brains and
13 stuff.
- 14 Q Did you say earlier that he brought in a live
15 heart?
- 16 A Yes. But it wasn't working on the -- well, it
17 was dead.
- 18 MS. LHAMON: It was a dead live heart.
- 19 THE WITNESS: Yeah, something like that.
- 20 MR. SIMMONS: I'm not even going to go there.
- 21 Q Did you have any other teachers for your sixth
22 grade science class?
- 23 A Just him.
- 24 Q Did you have a textbook to use in your sixth
25 grade science class?

- 1 A I don't remember.
 2 Q Did you ever get homework in that class?
 3 A Sometimes.
 4 Q Can you tell me the kinds of homework that you
 5 would receive in your sixth grade science class?
 6 A He gave us like a worksheet that has like --
 7 like -- say like a brain or something. Like he have,
 8 you know, where the lines -- where you put the lines and
 9 you supposed to name it? Like that. He would tell us,
 10 "What part is this? What part is this?" Or he will
 11 like put different organs on the piece of paper and copy
 12 it. Not -- not a real organ, but he like copy it out of
 13 a book and tell us to name it or tell us like where to
 14 cut it and what's in it and how does it work and where
 15 does it go in the human body and stuff, and how does the
 16 human body work.
 17 Q So you would receive worksheets for homework
 18 that would require you to do those kinds of activities?
 19 A Yes.
 20 Q Would you receive any other types of homework?
 21 A No.
 22 Q Now, you've identified worksheets, and you
 23 can't remember whether there were textbooks in that
 24 course or not; is that correct?
 25 A Yes.

- 1 Q Do you recall any other types of instructional
 2 materials that your teacher may have used in your sixth
 3 grade science course?
 4 A Like the little knives and stuff to cut the
 5 organs or whatever, and he would let us do it. Like
 6 he -- before -- like for the homework, he give us the
 7 worksheet or whatever, and if you really know what you
 8 doing, he will let you do it, and he will put you in
 9 front of the class. Or if you in a group, he'll put
 10 your group in front of the class, and he would like give
 11 people different presentations, or he have like a --
 12 like a -- a organ per group, and he get it from
 13 somewhere, like a -- I don't know, but now, he would
 14 give each other -- he would give a group different
 15 organs, and he give us the real, actual organ, and we
 16 have to get up there and like present. And he was
 17 teaching us how to, like, speak, like how to present,
 18 basically.
 19 Q So would it be fair to classify those
 20 activities as lab type activities?
 21 A Yes.
 22 Q Did he ever write notes up on the board that
 23 you, as students, would take notes from?
 24 A Yes.
 25 Q And how often would that happen?

- 1 A Every day.
 2 Q And would you be tested on that material?
 3 A Yes.
 4 Q And do you know about how often you received a
 5 test in your sixth grade science class?
 6 A Every Friday.
 7 Q And just quickly back to your English class,
 8 did you have tests in that course as well?
 9 A On the book, and we had to do the book reports.
 10 Q There were book reports required in there. How
 11 often would you have to do a book report in that class?
 12 A Every two weeks, because she know you reading.
 13 Q And how often would you have a test?
 14 A For who?
 15 Q In your English class, I'm sorry, for the sixth
 16 grade.
 17 A About every month. Say once about every month.
 18 Q Did you ever see a mouse in your sixth grade
 19 science course class?
 20 A Yeah. Yes.
 21 Q How many mice did you see in that classroom?
 22 A Total? They basically came out when the organs
 23 came out. So I'd say about ten.
 24 Q And did you ever see a rat in your sixth grade
 25 science class?

- 1 A Still don't know the difference.
 2 Q Okay. That's fine. How about a cockroach?
 3 Did you ever see a cockroach in your sixth grade science
 4 class?
 5 A No.
 6 Q Were there any problems with the physical
 7 condition of your sixth grade science classroom?
 8 A His windows didn't open, either, and his back
 9 door never opened.
 10 Q And how many windows were there in your sixth
 11 grade science classroom?
 12 A 20.
 13 Q Is that an approximation?
 14 A That's a fact.
 15 Q That's about -- is that -- are you saying 20 --
 16 you're pretty sure that it's 20 exactly?
 17 A It is 20.
 18 Q Okay. And how many of those 20 didn't open?
 19 A About two rows, it's like.
 20 Q When you say two rows, does a row include more
 21 than one window?
 22 A Yes.
 23 Q How many windows are in a row?
 24 A Five.
 25 Q So you would say that 10 of the 20 windows in

1 that classroom didn't open?

2 A It's -- it's like the -- where you -- where you
3 push it out at, it's like some reason you keep pushing
4 it, and it don't open. I don't know whatever happened,
5 but his windows, half his windows never opened.

6 Q Did that present any problems in the classroom
7 with that?

8 A Yes.

9 Q That the windows wouldn't open?

10 A Yes.

11 Q Can you tell me what those problems were?

12 A Because his classroom was always, always,
13 always hot. Always.

14 Q Would that classroom be hot even on the days
15 when your sixth grade English classroom was cold?

16 A Yes.

17 Q Do you know why that classroom was hotter than
18 your sixth grade English classroom?

19 A Because it was right by the -- like the sun was
20 right by our classroom.

21 Q And how often would that classroom be hot, in
22 your opinion?

23 A Every day.

24 MS. LHAMON: I think she testified to it being
25 "Always, always, always hot. Always."

1 to use some kind of something to get that -- to get the
2 writing off.

3 Q The chalkboard in that class was a traditional
4 chalkboard, or it was a white board that you use
5 Magic Markers with?

6 A It was no white board. Was no blackboard. It
7 was a blue board.

8 Q Did he use chalk to write on it?

9 A Yes.

10 Q And it was difficult to erase the chalk off the
11 board? Is that what you've testified to?

12 A Yes.

13 Q Did that ever present any problems? Was he
14 ever unable to write on the board?

15 A He have to like take ten minutes to get the
16 little spray and spray it on the board and wipe it off,
17 or however he got it off.

18 Q How often would that happen?

19 A Every day.

20 Q What grade did you receive in your sixth grade
21 science class?

22 A About a [REDACTED]

23 Q When you say "about a [REDACTED] are you certain --

24 A A [REDACTED]

25 Q -- of your recollection or --

1 MR. SIMMONS: Q And so did you ever need to
2 turn the heater on in that classroom?

3 A Everybody just -- he opened -- he opened the
4 door, the front door, and he just let everybody unbutton
5 their uniform shirts. But other than that, couldn't
6 really --

7 Q Okay. But there was no need to turn the heater
8 on in that classroom?

9 A I don't think he had one. No, he didn't have
10 one. Didn't have one.

11 Q And how do you know that?

12 A Because his room is funny. It's like -- say
13 it's like this. His desk is all the way in the back,
14 then his tables and chairs, and that's it. He don't
15 have no -- no -- nope, he didn't have no heater at all,
16 and that's 320. But he don't work there no more.

17 MS. LHAMON: When you say that's 320, that's
18 classroom 320?

19 THE WITNESS: Yes.

20 MR. SIMMONS: Q Were there any other problems
21 with your sixth grade science class?

22 A Something wrong with the chalkboard.

23 Q What was wrong with the chalkboard?

24 A Seemed like when he write, it never like come
25 off. He had to use -- he can't use the eraser. He had

1 A [REDACTED]

2 Q Okay. Was that a [REDACTED] in the first semester?

3 A [REDACTED] in the whole year.

4 Q Okay.

5 MS. LHAMON: Olivia, do you want to take a
6 break when Shaun's finished with the science class, or
7 you want to keep going?

8 THE WITNESS: Keep going.

9 MR. SIMMONS: Q Any other problems that you
10 can identify with respect to your science class in the
11 sixth grade?

12 A No.

13 Q Now, you had two math classes. For the sake of
14 clarity today, can we just call them math one or math
15 two?

16 A Yes.

17 Q Or would you prefer to call them something
18 else?

19 A Math one, math two, that's all right.

20 Q Now, math one will refer to the -- do you
21 remember which one of these courses you had earlier in
22 the day?

23 A Yes.

24 Q Can we refer to that one as math one?

25 A Yes.

1 Q Okay. Who was the teacher for math one?
 2 A Osendorf.
 3 Q Can you spell that for us?
 4 A It's the same person.
 5 MS. LHAMON: Do you have the spell -- oh,
 6 Osendorf.
 7 THE WITNESS: Uh-huh.
 8 MS. LHAMON: Oh.
 9 THE WITNESS: He taught science and math.
 10 MR. SIMMONS: Oh, okay.
 11 MS. LHAMON: Thank you.
 12 MR. SIMMONS: Q And was that in the same
 13 classroom as the science classroom?
 14 A Yes.
 15 Q And was Mr. Osendorf a better math teacher or
 16 better science teacher?
 17 MS. LHAMON: Assumes --
 18 THE WITNESS: He was both.
 19 MS. LHAMON: Assumes facts not in evidence.
 20 THE WITNESS: He was both.
 21 MR. SIMMONS: Q He was about -- he taught
 22 both subjects with an equal aptitude?
 23 A Yes.
 24 MS. LHAMON: Do you know what "aptitude" means?
 25 THE WITNESS: It's like at the same, like,

1 average, or whatever.
 2 MS. LHAMON: Excellent. You're ready for the
 3 SATs now.
 4 MR. SIMMONS: Q And did you have a subject --
 5 or did you have a textbook to use in your math one class
 6 during seventh grade? Or sixth grade. I'm sorry.
 7 A Yes.
 8 Q Do you remember the name of the textbook?
 9 A Math. It have the plus and division sign all
 10 around it.
 11 Q Did you have your own copy to use in class?
 12 A Yes.
 13 Q Did you have a copy of the textbook to take
 14 home?
 15 A Yes.
 16 Q Can you describe the physical condition of the
 17 textbook?
 18 A It was green with big "Math" white letters, and
 19 same thing: the cover was falling off and the pages was
 20 half ripped.
 21 Q Were there any occasions where a page was
 22 missing that you needed to do your schoolwork?
 23 A Yes.
 24 Q Do you know about how many occasions?
 25 A About -- about twice every week.

1 Q So it's your testimony that twice a week your
 2 textbook was missing a page that you needed to do a
 3 class assignment?
 4 A Yes.
 5 Q How often would you take your textbook home in
 6 that class?
 7 A Every night.
 8 Q Did your teacher assign homework that required
 9 use of the text every night?
 10 A No. He sometimes -- if we -- if we have
 11 homework, then we would do it, but other than that, he
 12 just -- he like -- he made us bring it to class, but
 13 sometimes he didn't really make us bring it to class, so
 14 stay in our locker or at home.
 15 Q And on the days when you didn't -- on the days
 16 when you didn't bring your textbook, how would he teach
 17 the class?
 18 A Same way, but he wouldn't do nothing about it,
 19 but -- because sometimes it's like, when we in his
 20 class, we do division and multiplication. Then
 21 sometimes he want to teach us like a step further so we
 22 can -- while we getting this, he want to prepare us for
 23 seventh grade. So when he -- after we do multiplication
 24 and division, then he would take us up one step higher.
 25 Q What kind of homework assignments did you

1 receive in your sixth grade math class, math one?
 2 A Worksheets. One side of division and the other
 3 side multiplication. And sometimes we'd get a worksheet
 4 with mixed, like division and multiplication.
 5 Q And how often would you receive worksheets like
 6 that for homework?
 7 A Every other day.
 8 Q Did you ever have any other kind of homework in
 9 that class, your math one class?
 10 A No.
 11 Q Do you know what the physical condition of
 12 other children's math textbooks were in that class?
 13 A (Witness shakes head.)
 14 MS. LHAMON: Remember, you got to say
 15 something.
 16 THE WITNESS: No.
 17 MR. SIMMONS: Thank you.
 18 Q And you've identified your textbooks and some
 19 worksheets. Were there any other types of instructional
 20 materials used by your teacher in your math one class to
 21 instruct the classroom in mathematics?
 22 A Ruler.
 23 Q Anything else?
 24 A What's that called, with a "P," with the -- the
 25 little thing that go around?

- 1 Q Would --
 2 MS. LHAMON: Protractor?
 3 MR. SIMMONS: Q Would that be a protractor?
 4 A Yeah, protractor.
 5 Q Did you ever see a mouse in your math one class
 6 in the sixth grade?
 7 A That's the one I was talking about.
 8 Q That's the one you were talking about with
 9 respect to your science class?
 10 A Yes.
 11 Q Okay. Did you ever see any mice in that --
 12 A Math?
 13 Q Any mice in that classroom while you were --
 14 while it was serving as your math class?
 15 A About once. But they really came out in
 16 science class.
 17 Q So you think you may have saw --
 18 A A mouse once.
 19 Q Are you sure about that or --
 20 A Very sure. It was in the trap, because he had
 21 traps all around the room.
 22 Q Okay. Did you ever see a rat in the math one
 23 class during the sixth grade?
 24 A No.
 25 Q How about a cockroach in that classroom?

- 1 A No.
 2 Q Were there any problems with the physical
 3 condition of that classroom that you didn't already
 4 identify when we were speaking of it as your science
 5 classroom?
 6 A The tables were easy to break.
 7 Q The tables were easy to break? Is that what
 8 you said?
 9 A Yes.
 10 Q Can you explain what that means to me little
 11 bit more.
 12 A Say if me and two other people would sit on the
 13 table, it will break.
 14 Q Did that ever happen?
 15 A Yes.
 16 Q How often did that happen?
 17 A About at least twice a month somebody would
 18 break the table, on purpose.
 19 MS. LHAMON: Interposing a late objection. It
 20 was just vague as to that. Were you asking how often it
 21 happened that Olivia Saunders sat on the table and it
 22 broke, or just any other students?
 23 MR. SIMMONS: Just any students.
 24 Q And you said that happened about twice a month?
 25 A Yes.

- 1 Q And you said that that was done intentionally?
 2 A Yes.
 3 Q Any other problems that you haven't identified
 4 already?
 5 A He always had to call somebody and ask for
 6 chalk. He never had chalk.
 7 Q How often would he have to call for chalk?
 8 A Every day.
 9 Q And how long would it take for him to get
 10 chalk? Or would he get chalk when he called for it?
 11 A It depend how long it would take. Sometimes
 12 wasn't even come.
 13 Q How many times would that happen?
 14 A Few times. Several. Three or four.
 15 Q During the entire year?
 16 A Yes.
 17 Q What did he do on those three occasions?
 18 A He just would sit in his chair in the front and
 19 go over multiplication, division, and he would make us
 20 do it in our head, without our fingers and nothing. He
 21 just was, "What's five divided by two?" or whatever, and
 22 would say it. If you didn't, then he get you next time.
 23 Q So he would call out problems to the class?
 24 A Yes.
 25 Q And what grade did you receive in that math

- 1 class?
 2 A [REDACTED]
 3 Q Was that the same -- did you receive the same
 4 grade both semesters?
 5 A Yes.
 6 Q And do you think that grade was a fair grade?
 7 A Yes, [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 into it.
 18 Q And how about your teacher? Is there anything
 19 your teacher could have done to help you improve your
 20 performance in that class?
 21 MS. LHAMON: Calls for speculation.
 22 That was just an objection. You can go ahead
 23 and answer.
 24 THE WITNESS: What's that mean?
 25 MS. LHAMON: When I say it calls for

1 speculation, that means I think the question Shaun asked
 2 asked you to guess something you might not know. I
 3 might be wrong, but I'm just making an objection, and
 4 you can go ahead and answer.
 5 THE WITNESS: What's the question?
 6 MS. LHAMON: Sorry.
 7 MR. SIMMONS: Would you read the question back
 8 for us?
 9 (Record read as follows:
 10 "QUESTION: And how about your teacher?
 11 Is there anything your teacher could have done
 12 to help you improve your performance in that
 13 class?")
 14 THE WITNESS: No.
 15 MR. SIMMONS: Q Now, you had a second math
 16 class; right?
 17 A Yes.
 18 Q Was that also in the same classroom?
 19 A No.
 20 Q We'll refer to this one as math two. Is that
 21 okay?
 22 A Yes.
 23 Q Who was your teacher for math two?
 24 A I don't remember.
 25 Q Did you have more than one teacher for that

1 wonder if you feel comfortable saying how good he or she
 2 may have been as far as a teacher. Do you have any
 3 opinion on that?
 4 A I really don't remember.
 5 Q Okay. Did you have a textbook to use in that
 6 math course? This is math two we're referring to.
 7 A I don't remember.
 8 Q Do you remember the type of math problems that
 9 you studied in your math two course?
 10 A Basically the same thing, like -- but in that
 11 class we'll go over the basics: adding, subtracting.
 12 Then we went to division and multiplication. Then we
 13 did -- in that class we did a lot of problem solving.
 14 Like she will put -- the person who -- whatever, the man
 15 or woman, they will put like to do it in miles or
 16 kilometers or stuff like that, and it be like they put
 17 it to where, like, we could understand. Like if Mike
 18 was riding on his bike, I mean, 2.5 miles, how long
 19 would it take, or whatever. So it was like we -- we
 20 really got into problem solving, but -- I don't know.
 21 That -- that teacher, I don't know. I just don't
 22 remember if it was a man or a woman.
 23 Q Okay. Do you remember the kinds of homework
 24 that you would have received in that course?
 25 A I don't think we -- I don't even think she even

1 math class?
 2 A For that particular math class?
 3 Q Yes.
 4 A No. Only had one teacher. I mean -- what are
 5 you saying?
 6 Q You had -- well, let's take -- go back to math
 7 one just quickly. Was Mr. Osendorf -- is that right?
 8 Is that how you say it?
 9 A Yes.
 10 Q Was Mr. Osendorf your only teacher for your
 11 math one class?
 12 A Yes.
 13 Q And did you have more than one teacher for your
 14 math two class?
 15 A No.
 16 Q Do you remember whether your teacher was a man
 17 or a woman for math two?
 18 A No.
 19 MS. LHAMON: Can we go off the record for a
 20 sec?
 21 MR. SIMMONS: Sure.
 22 (Recess taken.)
 23 MR. SIMMONS: Q You ready?
 24 A Mm-hmm. Yes.
 25 Q Given that you don't remember your teacher, I

1 gave us homework, because I didn't have -- I only had,
 2 basically, homework for English, science, and math one.
 3 Q And do you remember what classroom your math
 4 two was in?
 5 MS. LHAMON: Asked and answered.
 6 THE WITNESS: Basically, all my classes were on
 7 third floor. So I'd say third floor.
 8 MR. SIMMONS: Q But it was in a different
 9 classroom than your math one class?
 10 A Yes.
 11 Q Do you recall ever seeing a mouse in your math
 12 two class?
 13 A No.
 14 Q How about a rat?
 15 A No.
 16 Q How about a cockroach?
 17 A No.
 18 Q Were there any problems with the physical
 19 condition of your math two classroom during the sixth
 20 grade?
 21 A Weather problems.
 22 Q Did you say weather problems?
 23 A Yes.
 24 Q Can you describe what you mean by weather
 25 problems?

1 A Same thing. One day it be too hot, next day it
2 be cold. And it's like some -- like some -- some of the
3 kids get together, get in a big old coat and stuff. And
4 it's like, when we was hot, we opened all the windows,
5 but then the teacher would be like, just -- I don't
6 know. I don't remember who -- who the teacher was, but
7 I remember us being cold one day and hot the next day
8 and cold one day and hot the next day. And the heater,
9 like people sit on the heater to think it will come on
10 and work, but it didn't.

11 Q Do you recall -- are you able to recall how
12 many days the temperature was too cold, in your opinion,
13 in your math two class?

14 A Say three times a week, because our teacher
15 always had the door open.

16 Q So three times a week you felt that the math
17 two classroom was too cool?

18 A Yes.

19 Q And did you attribute that to your teacher
20 leaving the door open?

21 A I believe so.

22 Q And would that have been three times a week for
23 the entire school year, or was it cooler during certain
24 periods of the school year?

25 A It was cooler as -- like the fall, winter,

1 Q But I'm not sure whether -- okay. Was there
2 any way that you could -- was there any tool in your
3 classroom that would allow you to determine what the
4 temperature was in the classroom on a particular time?

5 A No.

6 Q Okay. Other than -- do you remember the
7 temperature in your classroom being too hot in any other
8 months other than June?

9 A No.

10 Q And going back to the temperature being too
11 cool in that classroom sometimes, can you identify
12 specific months where that would occur?

13 A Between the winter and the fall.

14 Q And when you give that answer, what months make
15 up the winter and the fall to you?

16 A November, December, January.

17 Q Would you not include February in those or --

18 A No.

19 Q Okay. And was the temperature ever too cool in
20 your math two classroom outside the months of November,
21 December, and January?

22 A No. It was always in the middle going to
23 February, March, but April and spring it was like -- it
24 was -- it was going up, so it was getting hot, in
25 spring. And then when it went to June -- it was April,

1 spring and summer, whatever. As the seasons change,
2 then it start to --

3 Q Were there particular months where the
4 temperature -- that you recall the temperature being
5 cool as opposed to other months?

6 A Winter.

7 Q And how often do you think that the temperature
8 in the classroom would get too hot?

9 A Going into -- no. In June, going to the last
10 day of school.

11 Q Do you remember how often in June the classroom
12 would get too hot?

13 A Every day.

14 Q Did your teacher by any chance have a
15 thermometer in that classroom?

16 A The little thing with the -- when you move it
17 back and forth? The -- don't know what you mean.

18 Q No. A thermometer is a way of -- a thermometer
19 is a way of basically gauging the temperature in your
20 classroom so that you could tell what the temperature
21 was. Was there --

22 A A white thing on the wall?

23 Q Was there --

24 A Little thing on the wall? They got the zero
25 and 50 and stuff?

1 then May, then June, yeah, it was hot.

2 Q So by June you felt that the temperatures had
3 become uncomfortably hot?

4 A Yes.

5 Q And the other months preceding June, between
6 January and June, did you feel that the temperature,
7 although warming up, was not uncomfortably hot during
8 those months?

9 A I don't understand.

10 Q I think that you testified that you recall June
11 being a month where the temperature in your math two
12 classroom would get uncomfortably warm.

13 A Yes.

14 Q Would it get uncomfortably warm in May, or
15 would it just be warmer than it was in November,
16 December, and January?

17 A From April -- from April to May, it would go
18 up, like from, from -- in the mid to a little bit above
19 the mids to high. That's -- it just started -- it went
20 from here, here, and to there.

21 Q I guess what I'm trying to find out is if the
22 temperature during those months was, in your opinion,
23 uncomfortably warm or whether it was just warmer than it
24 was in November, December, January, and February.

25 A Uncomfortably warm.

- 1 Q So in April and May, the temperature in your
2 classroom was uncomfortably warm as well?
3 A Yes.
4 Q And was that every day or --
5 A It depends. It really depends on -- on if the
6 windows were open or if the door was open or if it was
7 all closed. If it was all closed, it was hot, and if
8 sometimes the window's open, it was hot, but no matter
9 what, the teacher kept the door open all the time.
10 Q How often would you say that you felt your math
11 two classroom was uncomfortably warm during the month of
12 May?
13 A Say in the middle. In the middle of May.
14 Q But how many times do you think that during the
15 month of May your math two classroom became
16 uncomfortably warm?
17 A In the last two weeks.
18 Q So each day during the last two weeks?
19 A Yes.
20 Q Okay.
21 MS. LHAMON: Olivia, Shaun just wants you to
22 give him your best memory, and we all know it was three
23 years ago, so what you want to do is just tell him as
24 much as you can remember about what was happening.
25 MR. SIMMONS: Q Were there any other problems

- 1 A About the world.
2 Q Was the subject world history? Is that how to
3 characterize it?
4 A Basically.
5 Q Did you have your own copy of the social
6 studies textbooks to use in sixth grade?
7 A No.
8 Q Did students have to share copies of the book?
9 A Yes.
10 Q Do you know about how many social studies
11 textbooks there were available for your class?
12 A Not that many. I'd say approximately about 15.
13 Q And do you know how many students,
14 approximately, there were in your sixth grade social
15 studies class?
16 A 25.
17 Q And so students had to share a textbook in that
18 class; is that correct?
19 A Yes.
20 Q And how would you go about determining who
21 would share a textbook in that class?
22 A It depends on if the people get along or not.
23 Q And did everyone have to share a textbook in
24 your sixth grade social studies class, or did some
25 people have a textbook to use on their own?

- 1 with your math two classroom that you can think of
2 today?
3 A No.
4 Q Did you have a social studies class during the
5 sixth grade?
6 A I don't know. Yes. Yes. But I don't remember
7 who that was, either.
8 Q You can't remember your social studies teacher
9 from the sixth grade?
10 A The only two teachers I remember was
11 [REDACTED] -- I mean [REDACTED] and Mr. Osendorf.
12 That's the only two I can remember.
13 Q Do you remember whether you had a textbook to
14 use in your sixth grade social studies class?
15 A Yeah, I remember those big books. They were
16 huge.
17 Q Do you remember, did the textbook have a
18 particular name?
19 A It's just -- world literature -- it says social
20 studies, and then under it and like in the parenthesis
21 says world literature.
22 Q Do you know when that book was published?
23 A Around 1989.
24 Q And do you remember the kinds of things that
25 you studied in your sixth grade social studies class?

- 1 A Everybody has to share one.
2 Q And do you know about how many people were put
3 in groups to share a textbook in your sixth grade social
4 studies class?
5 A A group of three or four.
6 Q Can you describe the physical condition of the
7 social studies textbook that you used in the sixth
8 grade?
9 A It had writing on the front of the cover,
10 writing inside the first page where it tell you where --
11 what day -- I mean the year it was published, and we
12 have to write your name in, and then basically half the
13 book, the pages was ripped out.
14 Q So is it your testimony that half of the pages
15 in these books were ripped out?
16 A Yes.
17 Q And do you know that to be a fact with respect
18 to all of the books in the class?
19 A Yes.
20 Q And can you tell me how you know that?
21 A Because when we first got the books, we had
22 opened up -- because we had a assignment, and it was --
23 it's like what holds the book together is the white net,
24 or whatever, and when you opened it, all you seen was
25 the net and half the other pages.

1 Q Did you ever take the textbooks home in your
2 social studies class -- strike that.
3 Did you ever take one of your social studies
4 books home?
5 A No.
6 Q Did you ever ask if you could take a textbook
7 home?
8 A No.
9 Q Do you know whether you would be able to take a
10 textbook home if you asked?
11 A I didn't want to ask, because why would I --
12 why would I want to take it home if half of the page is
13 ripped out?
14 Q What kind of instructional materials did your
15 teacher use in class other than textbooks?
16 A The world atlas and the map.
17 Q Anything else?
18 A A ruler or yardstick.
19 Q Did you receive homework in your sixth grade
20 social studies class?
21 A Not from the book. We always did stuff on the
22 map. So he -- like basically he had copied -- he would
23 get a copy out of some book, a map, and he had a little
24 box, would say world atlas, whatever, and we had to name
25 every country and just things and stuff, and we had to

1 color in it, and basically we was just doing work
2 with -- with the globe, world. World.
3 Q Did you receive homework on worksheets at all
4 in that class?
5 A Yes.
6 Q And what kind of homework would that be?
7 A About the world.
8 Q That's the homework that you've been describing
9 up to this point?
10 A Yes.
11 Q Okay. Do you know about how often you received
12 homework in that class?
13 A Three times every week.
14 Q Do you remember the room number of that class
15 by any chance?
16 A No.
17 Q Did you ever see a mouse in your social studies
18 class during the sixth grade?
19 A No, but we found a dead rat.
20 Q You found a dead rat in your social studies
21 class?
22 A Yes.
23 Q Can you tell me about that?
24 A It was in the back of the room, and it was
25 there overnight, but -- but we didn't see it the day

1 before, but then the next day that we came in, it was
2 there.
3 Q How did you know that it was there overnight?
4 A Because we was talking to the janitor, because
5 the teacher told the janitor to come in and remove it,
6 and the janitor was like, "Well, the thing wasn't here
7 yesterday, so it had to be over here overnight." So it
8 had to be there overnight, because if the janitor's --
9 every day they go to every room in the school and clean
10 up. So if the janitor didn't see it, it had to be there
11 overnight. And they really got a high rate of pest --
12 of pests.
13 Q And who first found the rat?
14 A My teacher.
15 Q And did that occur -- did your teacher find the
16 rat while you were in class?
17 A Yes.
18 Q And what did your teacher do?
19 A Ran to the front of the room.
20 Q Did she do anything else?
21 A I don't know, because --
22 Q Did anyone --
23 A At first the teacher didn't know what it was,
24 and when everybody like gathered around and seen what
25 it was, it was a big old rat, so nobody wanted to touch

1 it.
2 Q Do you know whether your teacher called anyone
3 to come remove the rat?
4 A The janitor.
5 Q And how long did it take the janitor to remove
6 it, if you know?
7 A I don't know, but all I know, next 30 minutes
8 it was gone, because I -- I believe they removed it.
9 Q In about a half hour?
10 A (Witness nods head.)
11 Q Did you ever see a cockroach in your social
12 studies class?
13 A Around it. It was around the rat and eat --
14 Q You saw cockroaches around the rat that you've
15 just been talking about?
16 A Yeah.
17 Q Did you see any other cockroaches than on that
18 one occasion? And this is limited to your social
19 studies class in the sixth grade.
20 A When food would come out, if we -- if we was
21 having a pizza party or something, then roaches would
22 come out. Other than that, I didn't see any.
23 Q How often would you have a pizza party?
24 A About like twice every month.
25 Q And on each of those occasions would roaches

1 come out?
 2 A Yes.
 3 Q And how often would that -- strike that.
 4 Were there any other problems with the physical
 5 condition of your social studies classroom during the
 6 sixth grade?
 7 A No.
 8 Q Were any windows broken in that classroom?
 9 A Yes.
 10 Q How many windows were broken?
 11 A Four.
 12 Q And when you say broken, what do you mean by
 13 that?
 14 A Broken to where they had to put board over it.
 15 Q So had the window been --
 16 A Broken.
 17 Q -- smashed out or --
 18 A Like the whole window was out. It was out.
 19 Q So there was an opening in the wall of the
 20 building where a window had previously been?
 21 A No. It's -- two windows up here and two
 22 windows down here was broke. It was like big old holes
 23 in them. So I don't know what happened.
 24 Q So the windows had essentially been replaced
 25 with boards? Is that a fair characterization?

1 A Yes.
 2 Q Were there a sufficient number of desks for the
 3 students in that classroom?
 4 A A lot of people stand on the counter.
 5 Q Did they have desks?
 6 A No. They sat on the counter, and when they did
 7 their work, they like laid across the counter to do
 8 their work. And lot of people can't do it, like write
 9 on their knees and stuff, so they laid down and did it
 10 like this.
 11 MS. LHAMON: When you said "did it like this,"
 12 you're indicating your left arm, and chin on your hand;
 13 is that correct?
 14 THE WITNESS: Laying down flat with the book
 15 and the -- I mean with the book and the thing in front,
 16 and like lean to the side and write to where like the
 17 board is, so --
 18 MS. LHAMON: Thank you.
 19 THE WITNESS: Okay.
 20 MR. SIMMONS: Q Then you said that those
 21 students didn't have desks; is that correct?
 22 A Yes.
 23 Q Did you have a desk in that class?
 24 A Yes.
 25 Q How many students were without a desk in that

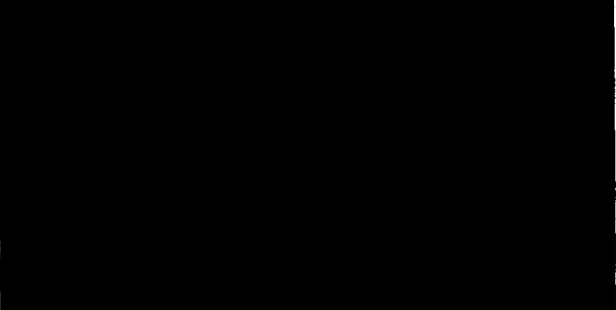
1 class?
 2 A About five.
 3 Q And were they without a desk for the whole
 4 year?
 5 A No.
 6 Q How long were they without a desk for?
 7 A For a month.
 8 Q And where did they -- were they able to sit
 9 anywhere in the classroom during that time?
 10 A After a while, like a week later, they got
 11 chairs.
 12 Q So they had individual chairs for about a
 13 month, but no desk?
 14 A Yes.
 15 Q And it was during that time that they would
 16 do their -- their work in class while laying on a
 17 counter?
 18 A Yes.
 19 Q Was it a counter or a table?
 20 A Counter.
 21 Q Do you remember any of those students' names?
 22 A No.
 23 Q Was there anything wrong with the physical
 24 condition of that classroom?
 25 A No.

1 Q Do you remember what grade you received in that
 2 social studies class?
 3 A A [REDACTED]
 4 Q And was that the same grade for the first and
 5 second semesters?
 6 A Yes.
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 Q And how about your teacher? Was there anything
 11 that your teacher could have done to improve your grade
 12 in there?
 13 MS. LHAMON: Calls for speculation, especially
 14 since she can't remember who the teacher was.
 15 THE WITNESS: I still got to answer?
 16 MS. LHAMON: If you know. If you can think of
 17 anything.
 18 THE WITNESS: I don't remember.
 19 MR. SIMMONS: That's fine.
 20 It's ten after 12:00. I mean, I'm fine to keep
 21 going, but if you guys are hungry and want to take a
 22 break, you should let me know.
 23 MS. LHAMON: Do you want to go through another
 24 class, or you want to stop now? What's your preference?
 25 THE WITNESS: I don't know.

1 MR. SIMMONS: We have -- I think we have -- all
 2 we have left is unified arts from the sixth grade. So
 3 we could do one more class and then stop if you'd like.
 4 THE WITNESS: Okay.
 5 MR. SIMMONS: Is that okay?
 6 THE WITNESS: Mm-hmm.
 7 MR. SIMMONS: Are you having fun yet?
 8 THE WITNESS: No.
 9 MR. SIMMONS: Q Okay. Do you remember who
 10 your teacher was for your sixth grade unified arts
 11 class?
 12 A Yes.
 13 Q Who was that?
 14 A Andre Jordan.
 15 Q Did you have any other teachers than
 16 Mr. Jordan?
 17 A No.
 18 Q And did you think that Mr. Jordan was a good
 19 teacher?
 20 A Yes.
 21 Q On a scale of one to ten, what rating would you
 22 give Mr. Jordan?
 23 A Ten.
 24 Q What did you like about the -- about Mr. Jordan
 25 as a teacher?

1 A Well, whatever he had to say, he'll say.
 2 Q So he was honest with the students?
 3 A Yeah.
 4 Q Can you describe the subject matter of what you
 5 learned in your unified arts class?
 6 A A lot of -- like put a lot of effort into your
 7 work and to -- like when you draw or something, don't
 8 doubt yourself, just like believe that you can do it,
 9 and try your best to do it.
 10 Q What kind of classroom assignments would you
 11 have in your unified arts class?
 12 A Basically, we didn't have homework. We just
 13 did our classwork. But just like, if we weren't doing
 14 classwork, we was planning a field trip. Like he took
 15 us to see Evita, the play. He took us to go see a lot
 16 of plays, a lot of Broadway shows and stuff. Like he
 17 was really into us speaking out more, and he also taught
 18 us some speaking skills and eye contact and our
 19 listening to what the other person had to say after you
 20 get a turn to speak. It's just like he really, really
 21 like broke his neck for us.
 22 Q Did you have a textbook that you used specific
 23 to your unified arts class?
 24 A Some kind of book. I don't know what it was
 25 called, but it was a art book. Because everything was

1 assigned -- it was like a tablet, but like you take
 2 notes on art and you take notes on, like, if you drawing
 3 a certain thing, like when you supposed to use like
 4 pastels or crayons or markers. But he was just
 5 basically teaching just put feeling into your work.
 6 Q Do you know what an elective course is? Does
 7 that term make sense to you?
 8 A I don't have electives. I don't have
 9 electives.
 10 Q So unified arts wasn't an elective course?
 11 A No.
 12 Q Do you know what a core subject is?
 13 A No.
 14 Q Other than the book that you identified --
 15 well, first of all, with respect to that book, did each
 16 student in your unified arts class have that textbook to
 17 use in class?
 18 A Yes. They were new.
 19 Q Were you able to take those textbooks home?
 20 A It was -- it wasn't a homework book. It was
 21 just a book for the class.
 22 Q Okay. And can you describe the physical
 23 condition of those textbooks?
 24 A They were new.
 25 Q Were there any pages missing?

1 A (Witness shakes head.)
 2 Q And the covers were in satisfactory condition?
 3 A Yes.
 4 Q Were there writing in those books?
 5 A No.
 6 Q Other than that textbook that you've
 7 identified -- is it correct to call it a textbook, or
 8 would it be more appropriate to refer to it as a
 9 workbook?
 10 A A workbook.
 11 
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21 Q And did you receive homework in your unified
 22 arts class?
 23 A No.
 24 Q Do you remember what room number your unified
 25 arts class was in?

- 1 A It's like -- it's in 2 something. Wait. About
 2 214, 215.
 3 Q Did you ever see a mouse in your unified arts
 4 class during the sixth grade?
 5 A No.
 6 Q And how about a rat?
 7 A No.
 8 Q What about a cockroach?
 9 A No.
 10 Q Were there any problems with the physical
 11 condition of your classroom for unified arts during the
 12 sixth grade?
 13 A Windows were broken.
 14 Q How many windows were there in that class?
 15 A A lot. I don't know how many.
 16 Q Do you know how many were broken?
 17 A Say about four. Because all this right here
 18 was windows, all was windows.
 19 Q So was --
 20 A And it's right by -- right by -- not the yard,
 21 but something like that, because like they had it broken
 22 with people playing baseball and stuff like that.
 23 Q So was a single wall of the entire classroom
 24 windows?
 25 A Yes.

- 1 Q And you say that there were four windows that
 2 were broken. Can you describe what you mean by broken?
 3 A They had the -- the boards up.
 4 Q So this class had four places where boards were
 5 on the wall instead of where windows should have been?
 6 A Yes.
 7 Q Did each student have a desk to use in that
 8 class?
 9 A We didn't have desks. It was like -- like a
 10 table like this. Like this whole table was one side,
 11 then in the middle it was like this half, and the other
 12 side was like this. It's like separate desks, but it's
 13 all -- it's one piece, one big old piece, just like
 14 that's some somebody's desk, this is somebody's desk,
 15 that's somebody's desk. But it's like hard to describe.
 16 It's like a big old desk.
 17 Q Were there a group of students that sat
 18 around -- so there was a table that would house a
 19 particular number of desks? Is that a fair way to
 20 characterize it?
 21 A Yes.
 22 Q And how many students could sit at one table?
 23 A About 15.
 24 Q 15. And how many of those tables were there in
 25 the classroom?

- 1 A Two.
 2 Q And did each student have a place to --
 3 A Have their own space.
 4 Q -- sit there?
 5 A Yes.
 6 Q Was that classroom maintained in a clean
 7 fashion, generally?
 8 A Yes.
 9 Q And did you receive a grade for that class?
 10 A Yes.
 11 Q What was your grade?
 12 A [REDACTED]
 13 Q Was that the same for both the first and second
 14 semester?
 15 A Yes.

16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

- 1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 MR. SIMMONS: Q So do you think you were just
 10 more -- you personally just enjoyed the subject matter
 11 of that class?
 12 A That's my favorite class.
 13 Q We're done with the unified arts, but I just
 14 wanted to ask just a couple questions about the other
 15 classrooms that we've spoken about today.
 16 Were any of those classrooms -- and this being
 17 your math one, your math two, your English, your science
 18 and your social studies. Were any of those classrooms
 19 not maintained in a clean fashion, generally?
 20 A It was kids' fault.
 21 Q And so just on some occasions a kid -- kids
 22 would make the classroom -- some of those classrooms
 23 dirty?
 24 A Yes.
 25 Q Are you referring to specific classrooms, or

1 were they --
 2 A No.
 3 Q -- all about the same?
 4 A All of them.
 5 Q So would a classroom -- to your knowledge,
 6 would a classroom be cleaned up by the janitors
 7 overnight, and the next day the kids would make it
 8 dirty?
 9 A Yes.
 10 Q Now, would the janitor come in and clean the
 11 classroom, and then the same process would start over
 12 again the next day?
 13 A Yes.
 14 MR. SIMMONS: Okay. Do you guys want to break
 15 now or --
 16 MS. LHAMON: You ready? I think we should.
 17 MR. SIMMONS: Okay. Thanks.
 18 (Whereupon, at 12:25 p.m., a lunch recess
 19 was taken.)
 20 ///
 21 ///
 22 ///
 23 ///
 24 ///
 25 ///

1 SAN FRANCISCO, CALIFORNIA; SATURDAY, NOVEMBER 3, 2001
 2 1:43 P.M.
 3 --oOo--
 4
 5 MR. SIMMONS: We had previously copied the
 6 report card that Oliva brought today, and I'd failed to
 7 remove the address from the envelope, so we've just
 8 essentially copied the report card and the envelope
 9 while removing the address and substituted that as
 10 Exhibit 2 for what was previously Exhibit 2.
 11 MS. LHAMON: That's correct. Thank you.
 12 (Whereupon, Deposition Exhibit 2 was
 13 marked for identification.)
 14
 15 EXAMINATION BY MR. SIMMONS
 16 MR. SIMMONS: Q Okay, Oliva. Do you remember
 17 what classes you took during the seventh grade?
 18 A I know I had science, Miss Candia. Math, two
 19 times, Mr. Concidine.
 20 MS. LHAMON: I'm sorry. Mr. who?
 21 THE WITNESS: Concidine.
 22 MR. SIMMONS: Q Can you spell that for us?
 23 A C-o-n-c-i-d-i-n-e. And I had another math,
 24 Mr. Perez. That's three, right?
 25 Q Yeah.

1 A English. No, no. Yeah, English. Who's -- oh,
 2 man. Well, scratch out Mr. Perez and give
 3 [REDACTED] Scratch --
 4 Q [REDACTED] was your math teacher?
 5 A Yeah. Scratch out Candia and put Mr. Nawa.
 6 MS. LHAMON: For science?
 7 THE WITNESS: No. For social studies. Who
 8 else did I have? Trying to think who are the -- scratch
 9 out Concidine. I had him for eighth grade. Gym, Mr.
 10 Coleman. I forgot everybody else.
 11 MR. SIMMONS: Q Okay. But just to make sure,
 12 you had a science class, two math classes, an English
 13 class, social studies class, and gym?
 14 A Mm-hmm.
 15 Q Did you also have a unified arts class that
 16 year?
 17 A No.
 18 Q And I have Mr. Candia for your science teacher;
 19 is that correct?
 20 A Scratch him.
 21 Q Do you know who your science teacher was for
 22 that year?
 23 A Miss Fagan.
 24 Q And for one of your math classes we have
 25 [REDACTED]

1 A Mm-hmm.
 2 Q Do you recall who taught your other math class?
 3 A Mr. Alvarez. No. I don't know. I forgot.
 4 Q Okay. Mr. Nawa was your social studies teacher
 5 during the seventh grade; is that right?
 6 A Yes.
 7 Q Mr. Coleman was your gym teacher during the
 8 seventh grade?
 9 A Yes.
 10 Q And do you recall who your teacher was for
 11 English during the seventh grade?
 12 A Uh-uh, no.
 13 Q Who was your gym teacher in the sixth grade?
 14 A Mr. Coleman.
 15 Q And just quickly we'll do that. The gym class
 16 from sixth grade, did you have any textbook that you
 17 made use of in your gym class during the sixth grade?
 18 A There was no textbook.
 19 Q Was there a workbook of any kind?
 20 A No.
 21 Q Did you ever have homework in your gym class in
 22 the sixth grade?
 23 A Yes.
 24 Q Can you tell me what kind of homework you did?
 25 A Projects.

1 Q What did those projects entail?
 2 A Exercise.
 3 Q You mean physical exercise?
 4 A Yes.
 5 Q And so were you required to do certain types of
 6 exercise when you went home?
 7 A No. Thing was, we had to -- he assigned us
 8 different types of exercises to where we had to -- if --
 9 if we don't want to try them out, we could write a
 10 report about it and like -- like you -- like you could
 11 pick any exercise. Say if I will pick sit-ups, then I
 12 had to do -- I had to do research on sit-ups and present
 13 it to the class.
 14 Q Okay. So if there was a physical activity
 15 during gym class that you didn't want to do, you could
 16 avoid that activity by doing a project for homework on
 17 that activity?
 18 A Yeah.
 19 Q Is that correct?
 20 A Yes.
 21 Q And where did -- was there a locker room for
 22 your gym class?
 23 A Yes.
 24 Q And can you describe the physical condition of
 25 the locker room?

1 A It was cold, real cold. It was dark. The
 2 lights was bust out. The girls' bathroom had no tissue.
 3 The mirror was broke. The stalls was dirty, and the
 4 toilet looked like they had something on them. That's
 5 why nobody never sat down. And they didn't have seat
 6 covers, so nobody used the bathroom in there.
 7 Q Were all the lights busted out in the locker
 8 room?
 9 A Yes, but not in the bathroom. It was just
 10 where you get dressed at, in the stall. All the lights
 11 that was hanging, they was bust out.
 12 Q Were there any other lights in the locker room
 13 where you dressed that weren't -- that were functioning?
 14 A In the front, but the whole back, all the
 15 lights was bust out, and it was always dim.
 16 Q Did you ever see a mouse in the locker room?
 17 A Yes.
 18 Q How many times did you see a mouse in the
 19 locker room?
 20 A Basically the whole year.
 21 Q You saw a mouse in the locker room every day?
 22 A Yes. Every day when we got dressed.
 23 Q I take it that these were -- well, this
 24 wasn't -- was this a mouse that had been in a trap, or
 25 was --

1 A Our teacher tried to get it, get the mouse so
 2 many times, but she still didn't get it, so she just let
 3 it go.
 4 Q So you saw a mouse every day that you attended
 5 your gym class in the sixth grade?
 6 A That same one.
 7 Q Did you ever see a rat in your locker room
 8 during sixth grade gym?
 9 A No.
 10 Q How about cockroaches?
 11 A Yes.
 12 Q How often would you see cockroaches in the
 13 gym -- excuse me -- in the locker room during sixth
 14 grade?
 15 A Every other day. On top of the lockers.
 16 Q Every other day, is that an approximation?
 17 A Yes.
 18 Q And where on the Burbank campus were your gym
 19 activities conducted?
 20 A In the gym, and sometimes outside on the track.
 21 Q And what was the condition of the gym like
 22 during your sixth grade year?
 23 A The same way it was for all three years. In
 24 particular?
 25 Q Yes, if you could.

1 A You can't -- you can't pull the -- the
 2 bleachers out, because they stuck, and they been broke
 3 every -- before we was there. And the lights, like two
 4 lights bust out, and basically all the windows are
 5 broke. They all have boards on them. The floors always
 6 dirty: candy, gum, wrappers, everything. That's why
 7 sometimes they don't make us sit on the floor if we get
 8 dressed. And let's see. They don't mop the floors.
 9 They don't sweep the floors. They leave it the way it
 10 was, and they put a table in there so the -- that's
 11 where the -- the -- what's the -- the teacher, he be
 12 there, and he be like marking absences and tardies and
 13 stuff, and he does his assignments right there, but
 14 other than that, he just -- he don't like nobody around
 15 his table. And if we tell him that we're not going to
 16 sit on the floor, then tell us that he try to write a
 17 referral.
 18 Q And it's your testimony that those conditions
 19 that you just identified with respect to the gym were
 20 the same during your sixth, seventh, and eighth grade
 21 year?
 22 A Yes.
 23 Q And how did you know that the bleachers were
 24 broken?
 25 A Because every time we would have any sport, the

1 game, in the gym, like you can't hit the ball up to the
2 ceiling, because the tiles will fall out. And every
3 time like the teachers and the staff, they would try to
4 pull the gym bleachers out, they won't come out. So
5 they just have -- people have to like put -- climb up
6 there and get up there.

7 Q And you just mentioned ceiling tiles in the
8 gym; is that correct?

9 A Yes.

10 Q And you couldn't throw --

11 A The ball up there. Or we -- sometimes they
12 didn't let us have our dances because of that. And
13 there was this particular girl that had thrown a ball up
14 there, and she got hit in the head with a tile.

15 Q Can you approximate how high above the gym
16 floor the ceiling tiles were?

17 A I don't get you.

18 Q Could you say in terms of feet how high above
19 the floor the ceiling tiles were?

20 A Say about --

21 Q And if you don't feel comfortable, that's fine.

22 A About eight, nine feet.

23 Q Is that --

24 A Up. Yeah.

25 Q 89?

1 Q During the seventh grade, also?

2 A Yes.

3 Q And did you see more than one ceiling tile fall
4 down during a dance?

5 A It's like it's a certain little area, if you
6 hit up there or something, or if it's something that's
7 real loud or echo, will fall down. It's like in the
8 middle.

9 Q Did you see more -- correct me if I'm wrong,
10 but you've identified one ceiling tile that fell down
11 during a dance; is that right?

12 A More than one.

13 Q Okay. Do you know how many more than one?

14 A A lot.

15 Q Can you be more specific?

16 A It's about -- the spot is like around, say,
17 from that light to that light to that light to that --
18 to that light. It's like around like that. So it's
19 about 15.

20 Q Are the ceiling tiles in your gym the same size
21 as the ceiling tiles in here?

22 A No. They bigger.

23 MS. LHAMON: It's helpful to us so that --

24 because we can't visualize it, and also, when you're
25 indicating the ceiling tiles in here, when we read the

1 A Eight or nine.

2 Q Eight or nine feet?

3 A (Witness nods head.)

4 Q And do you know whether students ever
5 intentionally threw a ball to knock a ceiling tile down?

6 A No. We play volleyball, and like when you hit
7 the ball, the ball supposed to go up and over the net.
8 But they was playing around, and she hit it over the
9 net, and then it went up and hit the ceiling tile, and
10 it fell down on her head.

11 Q Did you witness any other ceiling tiles fall?

12 A At the dance.

13 Q Now, this ceiling tile that you've already
14 identified, when did that ceiling tile fall?

15 A During gym.

16 Q Which school year?

17 A In '97. Seventh grade.

18 Q The seventh grade?

19 A Yes.

20 Q And you said that a -- you had witnessed a
21 ceiling tile fall down at a school dance; is that
22 correct?

23 A Yes.

24 Q And can you tell me when that was?

25 A Same year.

1 transcript, we won't be able to tell what that is.

2 THE WITNESS: Okay. It's like --

3 MS. LHAMON: So if we could estimate. These
4 ones are about a foot by a foot, would you say? And if
5 you think the ones are bigger at the school, can you
6 give an estimate for how big those would be? Are they
7 double in size to these? Are they smaller than that?

8 THE WITNESS: They double the size.

9 MR. SIMMONS: Q And you said that you think
10 approximately 15 ceiling tiles fell down?

11 A Yes.

12 Q You personally saw one ceiling tile fall
13 down?

14 A Yes.

15 Q Is that right?

16 A Yes.

17 Q Did you see -- did you personally see any
18 others fall?

19 A At the dance.

20 Q And all of the tiles that you're referring to,
21 did they all fall on the same occasion?

22 A Yes.

23 Q And so is it your testimony that on that
24 occasion, approximately 15 ceiling tiles fell at once?

25 A Not at once, but like one behind each other.

1 Q But within a couple seconds of each other?
 2 A Yes.
 3 Q And do you know if any other ceiling tiles have
 4 fallen down?
 5 A About two in the eighth grade.
 6 Q And did you observe those two fall?
 7 A No.
 8 Q How do you know they fell?
 9 A Because this other person -- it's like it's
 10 eighth graders. They -- they -- we all in different
 11 sets. Like first period's eighth grade, second period's
 12 eighth grade, third period's eighth grade, fourth
 13 period's seventh graders, fifth period is sixth graders,
 14 then seventh period is eighth graders. So basically
 15 it's eighth graders, and I know everyone. It was like
 16 right after the bell rung, I got class with someone at
 17 sixth period, so they told me.
 18 Q Okay. So did another student tell you that the
 19 two ceiling tiles fell?
 20 A Yes.
 21 Q And these fell in the gymnasium during your
 22 eighth grade year?
 23 A Yes.
 24 Q Were the ceiling tiles in the gymnasium at
 25 Burbank ever removed?

1 A No.
 2 MS. LHAMON: Shaun, can I just ask you what you
 3 mean? Do you mean was there ever a time when there were
 4 no ceiling tiles in the ceiling at Burbank?
 5 MR. SIMMONS: Right.
 6 Q That will be -- if you -- if that question is
 7 easier for you to answer --
 8 A Those are all -- the three years I been there,
 9 always been same tiles up there.
 10 Q And there's just one gymnasium at Burbank; is
 11 that correct?
 12 A Yes.
 13 Q And you said that the lights were busted --
 14 A Yes.
 15 Q -- in the --
 16 How many lights were busted in the gymnasium?
 17 A Two.
 18 Q Do you know how many lights total there are in
 19 the gymnasium?
 20 A At least six.
 21 Q And were those two lights busted during your
 22 entire sixth grade year?
 23 A No.
 24 Q Were the lights -- were those two lights busted
 25 at the same time?

1 A No.
 2 Q Can you tell me when the first light was
 3 busted?
 4 A When there was a ball threw up there and hit
 5 the light and it busted.
 6 Q Okay. Do you know who the -- whether the
 7 person -- do you know who threw the ball?
 8 A No.
 9 Q Did you see the ball thrown at the light?
 10 A Yes. I was -- it's like it's four sets of
 11 classes, like in a square. So it was like somebody was
 12 in the middle of the four classes. They like separate
 13 like that, and all we heard was the glass come down, and
 14 it was (indicating) and it went out.
 15 Q Do you know whether the person who threw the
 16 ball at the light was intending to bust it or --
 17 A Probably.
 18 Q You think that they were?
 19 A Not for sure.
 20 Q Okay. And was that light eventually fixed?
 21 A I don't know.
 22 Q Was that light busted out for more than a week?
 23 A Yes.
 24 Q Did you know how much longer than a week the
 25 light was busted out for?

1 A At least two weeks.
 2 Q How about with respect to the second light that
 3 you saw busted?
 4 A Which one?
 5 Q You testified that there were --
 6 A Oh, yeah. The ropes -- okay. It's ropes
 7 around the gym where you have to -- it's like a test to
 8 graduate: You got to climb up the rope. And then
 9 this -- wait. Somebody was climbing up the rope, and
 10 then all -- and I looked up. All I saw was the light
 11 shaking, and then it just dropped. And I don't know
 12 whether the person pushed it or socked it or pulled it
 13 down or whatever, but all I know is, it came down.
 14 Q And do you know how long that light remained
 15 busted out?
 16 A I don't know. Janitor just came and swept it
 17 up and left.
 18 Q Was that light ever fixed?
 19 A I don't pay attention.
 20 Q Do you have any estimation as to how long that
 21 light may have remained busted?
 22 A Probably still is busted.
 23 Q Why do you say that?
 24 A Because. It's -- it's like when we was
 25 saying -- when we was trying to get to the staff, it

1 seemed like they didn't want to listen. So they might
2 still not listening, because some of the kids not
3 outspoken as they should be.

4 Q Do you know for certain whether the second
5 light that you saw busted out was ever fixed?

6 A I don't know.

7 Q You also identified that there were -- or
8 testified that there were some broken windows in the
9 gym; is that correct?

10 A Yes.

11 Q Do you know approximately how many windows
12 there are total in the gym?

13 A A lot. Can't count. I don't know.

14 Q If you don't know, that's fine. Do you know
15 how many windows were broken in the gym?

16 A At least ten.

17 Q When you say broken, could you tell me how
18 exactly they were broken.

19 MS. LHAMON: The question's vague. Are you
20 asking how they came to be broken or how they appeared
21 so she knew they were broken?

22 MR. SIMMONS: Yeah. Why did they look broken?

23 THE WITNESS: They were shattered, like -- like
24 when you hit -- say if you hit the window and it don't
25 break, it's going to shatter, but --

1 Q With respect to the two lights that you
2 testified earlier were busted, were those lights first
3 busted during your sixth grade year?

4 A One in sixth and another one in seventh.

5 Q And do you recall any other lights being busted
6 in either your sixth, seventh, or eighth grade year?

7 A No, but I remember the lights being turned off
8 in the hallway.

9 Q And I think you also testified that the floor
10 in the gymnasium was dirty; is that correct?

11 A Yeah.

12 Q And is it your testimony that the floor was --
13 was -- strike that.

14 Was the floor dirty during your sixth, seventh,
15 and eighth grade years?

16 A Yes.

17 Q And did it face essentially the same amount of
18 problems during those years?

19 A I don't understand.

20 Q Okay. Was the floor dirtier in your sixth
21 grade year than it was in your seventh grade year or
22 about the same?

23 A About the same.

24 Q Would that also be true with respect to your
25 eighth grade year?

1 MR. SIMMONS: Q So they -- I'm sorry. Go
2 ahead.

3 A Go ahead.

4 Q The glass was shattered on this window?

5 A Yes. Not all of them, though. Some of them
6 was really out.

7 Q Do you know about how -- you said that at least
8 ten windows were broken; is that correct?

9 A Yes.

10 Q Do you know about how many of those had
11 shattered glass?

12 A Five.

13 Q And then I think you just testified that some
14 of the windows were completely out?

15 A Yes. The other five.

16 Q Were those windows boarded up?

17 A Yes.

18 Q Now, the ten or so windows that you've
19 identified here as being broken, were those the same
20 window -- were those windows also broken during your
21 seventh and eighth grade years?

22 A Yes.

23 Q Were there any other windows that were broken
24 during your seventh and eighth grade years?

25 A No.

1 A Yes.

2 Q And when you say that the floor was dirty, can
3 you describe that a little bit more.

4 A It's like it's dirty with gum that won't come
5 off, candy that won't come off, rat furs, chip bags,
6 bottles, and it's like it's stained, like you can't get
7 it off.

8 Q The wrappers that you saw and the chip bags and
9 bottles, were those ever picked up at any occasion?

10 A Sometimes.

11 Q And when you say "sometimes," do you have a
12 specific recollection of certain times when that
13 happened?

14 A When the janitor cleaned up or we was heading
15 outside and our teacher asked us to pick up some trash.

16 Q But do you know whether the janitor ever
17 cleaned the floor on a daily basis?

18 A They do, but they don't -- they don't -- they
19 don't -- they do it, but they don't do a good job. They
20 don't -- it's still there.

21 Q So would the janitors be able to, say, sweep up
22 the wrappers and the papers that were on the floor, but
23 not necessarily --

24 A No. That -- that can be picked up, but it's
25 like the floor is dirty and stuff. Is like if you sit

1 on there and you got white pants on, you going to get a
 2 big old spot on your pants.
 3 Q So is it your testimony that while the janitors
 4 would clean the gym floor on a daily basis, they weren't
 5 necessarily always effective in doing that?
 6 A Yes.
 7 Q And you previously testified that Ms. Fagan was
 8 your science teacher during the seventh grade; is that
 9 correct?
 10 A Yes.
 11 Q And do you have an opinion as to whether
 12 Ms. Fagan was a good teacher or not?
 13 A She was a good teacher, but she -- she
 14 taught -- it's like she -- she was talking to herself,
 15 because she -- it's like nobody listened to her, because
 16 she was real nice. She had a soft voice, and
 17 everybody -- it's like they took control.
 18 Q Could you rate Miss Fagan on a scale of one to
 19 ten as far as her capabilities as a teacher?
 20 A I'd say a four.
 21 Q Did you have any other teachers for your
 22 seventh grade science class?
 23 A No.
 24 Q Did you have a textbook to use in your seventh
 25 grade science class?

1 A No.
 2 Q Did your teacher have any instructional
 3 materials that he used to teach your seventh grade
 4 science class?
 5 MS. LHAMON: She used.
 6 MR. SIMMONS: Oh, excuse me.
 7 Q So it's your testimony that Miss Fagan had no
 8 instructional materials?
 9 A There was no books or nothing. She just -- we
 10 just basically talked and -- that's it. And she gave us
 11 worksheets, and that's it.
 12 Q Would she write notes up on the board for the
 13 class to take down?
 14 A Yes.
 15 Q How often would she do that?
 16 A Every day.
 17 Q And were you tested on that material?
 18 A Not all the time.
 19 Q How often would you be tested on the material?
 20 A Once every two weeks.
 21 Q Did you receive homework in your science class
 22 during the seventh grade?
 23 A Yes.
 24 Q What kind of homework did you receive?
 25 A Homework about animals and about elements, and

1 we used to measure stuff, like how big is Jupiter, or
 2 whatever. She just basically -- she just like -- and we
 3 like mixed chemicals and stuff. So we did basically
 4 another lab.
 5 Q You would do another lab at home or --
 6 A No. We did a lab in the classroom.
 7 Q So would she assign you homework that made use
 8 of worksheets?
 9 A Yes.
 10 Q And can you describe the type of problems that
 11 would be on those worksheets?
 12 A It wasn't so much as problems. It was just
 13 like name this element, name that element, name this
 14 chemical, and science stuff. Don't too much remember.
 15 Q Do you know about how often you received
 16 homework in that class?
 17 A Every day.
 18 Q And did you ever see a mouse in your seventh
 19 grade science class?
 20 A In her cabinet.
 21 Q Was the mouse alive?
 22 A No. Was dead.
 23 Q Was it stuck in a trap?
 24 A No.
 25 Q How did you come across the mouse?

1 A She told me to get like some utensils for --
 2 like measuring tape and stuff, and I had to open the
 3 cabinet, and it was in there, and I ran.
 4 Q Was the mouse eventually removed?
 5 A No. It was a rat.
 6 Q So this was a rat that was in the cabinet and
 7 not a mouse?
 8 A Well, it was big, so it was a rat. Yes,
 9 it -- she removed it.
 10 Q She did?
 11 A Yes.
 12 Q Do you know when she removed it?
 13 A Right then and there.
 14 Q And did she throw it in the trash or take it
 15 somewhere?
 16 A Throw in the trash.
 17 Q And you've testified that you saw the rat in
 18 the cabinet in that classroom. Did you see any other
 19 mice or rats in that classroom?
 20 A No.
 21 Q Did you ever see a cockroach in that classroom?
 22 A Yes.
 23 Q How often would you see a cockroach in that
 24 classroom?
 25 A About twice every week.

1 Q Is there a way that you, as a student, can
2 report if you see a cockroach in class?
3 MS. LHAMON: Calls for speculation.
4 THE WITNESS: Yeah.
5 MR. SIMMONS: Q How would you go about doing
6 that?
7 A You could just tell the teacher, "The mouse's
8 in here. Can you get exterminated or something?"
9 Q Were there any problems with the physical
10 condition of your seventh grade science class?
11 A Yes.
12 Q Can you tell me what those were?
13 A She had no heater, and her windows didn't --
14 her windows didn't open, either.
15 Q Okay. Anything else other than the lack of the
16 heater and the windows that wouldn't open?
17 A No. Oh, yeah. Her classroom was heck-a-dirty.
18 Q Was there a heating unit in the classroom?
19 A Yes.
20 Q But it's your testimony that it just didn't
21 function?
22 A Yes.
23 Q And how do you know that the heater didn't
24 work?
25 A Because I sat on it.

1 Q And by that, you mean that you would sit on it
2 and the heater itself wouldn't be warm?
3 A Because she told me to check and see if the
4 heater worked. So I tested it, and I finished -- sat on
5 it to see if it was only hot, but it didn't.
6 Q And were there controls for the heater inside
7 the classroom?
8 A No.
9 Q So if you wanted the heater turned on, you
10 would theoretically have to --
11 A Call downstairs.
12 Q And who would you call, if you know?
13 A Secretary.
14 Q Are you getting tired? Do you want a little
15 break?
16 A (Witness shakes head.)
17 MS. LHAMON: Is that -- you're saying "no"?
18 You sure?
19 THE WITNESS: (Witness nods head.)
20 MR. SIMMONS: Q And you also said that there
21 were some windows that wouldn't open in that classroom;
22 is that right?
23 A Yes.
24 Q Do you know how many windows there were in this
25 classroom?

1 A No.
2 Q Do you know about how many windows wouldn't
3 open in the classroom?
4 A About two.
5 Q And those windows, would they just not open up,
6 or were they boarded shut?
7 A They wouldn't open up.
8 Q And was there any other problem with the
9 windows in that classroom?
10 A No.
11 Q And I take it that you tried to open those two
12 windows up on occasion?
13 A She did.
14 MS. LHAMON: She's the teacher?
15 THE WITNESS: Yes.
16 MR. SIMMONS: Q And you also testified that
17 your seventh grade science classroom was dirty; is that
18 right?
19 A Yes.
20 Q What about it was dirty?
21 A It was dirty like -- it seemed like nobody ever
22 cleaned that classroom.
23 Q So did it seem like trash that was there on one
24 day wouldn't be cleaned up the next day when you came
25 in?

1 A Yes.
2 Q Did your teacher ever say anything about the
3 condition of the classroom?
4 A No.
5 Q What kind of things were in the classroom that
6 made you think it was dirty?
7 A It was -- the floor never swept. The -- some
8 of the seats was dusty, so if you sit down you going to
9 get dust on your booty, and it was trash on the floor.
10 Nobody's desk was never clean. Her desk was never
11 clean, and the trash was always filled up, and the walls
12 was dirty.
13 Q When you say there was trash on the floor, can
14 you give me an idea of the types of trash that were on
15 the floor?
16 A Paper balls, spitballs, straws, cups, candy
17 wrappers, chips, burrito wrappers. That's it.
18 Q And those items of trash that you identified,
19 would those all be on the floor on any given day?
20 A Yes.
21 Q Do you know whether those items were ever
22 picked up?
23 A I don't think so. Because she had left, so --
24 a group of kids ran her out of the school.
25 Q And you also said that the desks were dirty.

- 1 Can you tell me what you meant by the desks being dirty,
2 what aspects of the desks were dirty?
3 A It was dusty, real dusty.
4 Q Anything else?
5 A Nope.
6 Q And you also testified that the trash was
7 always full in that classroom.
8 A Yes.
9 Q Did you ever see anybody take the trash out in
10 there?
11 A No.
12 Q Do you know what grade you received in your
13 seventh grade science class?
14 A [REDACTED]
15 Q And is that the same grade for both the first
16 and the second semester?
17 A Yes.
18 Q And your first math class -- actually, you had
19 two math classes. Does every student at Burbank have
20 two math classes?
21 A No.
22 Q Do you know why you had two math classes?
23 A Yes.
24 [REDACTED]
25 [REDACTED]

- 1 Q Did you ever need a certain page in the book to
2 do homework or an exercise in class, but the page was
3 ripped out?
4 A Yes.
5 Q About how often did that happen?
6 A Every day.
7 Q So it's your testimony that every day in class
8 there was a page missing from the textbook --
9 A Yes.
10 Q -- that you needed for work to do in that class
11 or at homework -- for homework?
12 A Yes.
13 Q How did you deal with those occasions?
14 A I just tried to find someone who had the page,
15 copied the problems down, so I could go back to my desk
16 and do my work.
17 Q Do you know what the physical condition of
18 other children's textbooks were in your math one class
19 in seventh grade?
20 A Same.
21 Q And how do you know that?
22 A Because we went around -- we went around
23 first -- first time when we got them, we went around
24 checking each other to see who had the best, and then we
25 was trading. Like if you had the worst one, you would

- 1 Q And you remember that one of your teachers was
2 [REDACTED] is that right?
3 A Yes.
4 Q Did you have [REDACTED] math class first
5 or second during the school day?
6 A First.
7 Q Okay. Can we call that class math one during
8 your seventh grade year?
9 A Yes.
10 Q Did you have a textbook to use in that math
11 class?
12 A Yes.
13 Q Did you have your own copy to use?
14 A Yes.
15 Q Could you take the copy of the textbook home?
16 A Yes.
17 Q And do you know about when that textbook was
18 published?
19 A 1991.
20 Q And can you describe the physical condition of
21 the textbook that you used in your seventh grade math
22 one class?
23 A There was barely no pages. The cover was
24 ripped completely off, and there was graffiti in the
25 book.

- 1 trade.
2 Q Do you have an opinion as to [REDACTED]
3 capabilities as a teacher?
4 A He was funny.
5 Q How would you rank [REDACTED] on a scale of
6 one to ten?
7 A A nine.
8 Q Other than your textbooks, did your teacher
9 make use of any other instructional materials to teach
10 your math one class?
11 A A ruler. That's it.
12 Q And did you receive homework in your math one
13 class?
14 A Yes.
15 Q How often would you receive homework?
16 A Every other night.
17 Q And can you tell me what kind of homework you
18 would receive?
19 A First we start -- when we got the books, we
20 start doing basics, add and subtracting. Then we
21 started doing division, multiplication. Then we got on
22 the integers, even though we was too young to do it. He
23 said he want us to do it anyway so we could start
24 learning.
25 Q And did you receive these problems on

- 1 worksheets?
 2 A Sometimes.
 3 Q Other times were the problems from a page in
 4 the book?
 5 A Yes.
 6 Q Did you ever see a mouse in your seventh grade
 7 math one class?
 8 A Yes.
 9 Q Can you tell me about that?
 10 A It was under his desk.
 11 Q And was the mouse alive at the time?
 12 A Yes.
 13 Q Did someone catch the mouse, or did it run off
 14 somewhere?
 15 A It ran off.
 16 Q Did you ever see any other mice in
 17 Mr. Covington's class?
 18 A No.
 19 Q Did you ever see a rat in that classroom?
 20 A No.
 21 Q And how about a cockroach? Did you ever see a
 22 cockroach in that classroom?
 23 A Yes.
 24 Q Can you tell me about that.
 25 A They was around his coffee cup.

- 1 Q Did you say there was a rat in his coffee cup?
 2 A They were around his coffee cup.
 3 Q Oh. And how often would you see a cockroach
 4 around Mr. Covington's coffee cup?
 5 A Every day.
 6 Q Was your math class maintained in a cleanly
 7 fashion during your seventh grade year?
 8 A Yes.
 9 Q And were there a sufficient number of desks for
 10 the students in that class?
 11 A Sufficient? What's that mean?
 12 Q Good question. Did every student in that class
 13 have a desk to use?
 14 A Yes.
 15 Q Were there any aspects of the physical
 16 condition of the math class during your seventh grade
 17 year that you didn't like?
 18 A Physical?
 19 Q Yeah. Were there any problems with that
 20 classroom?
 21 A There was a fight every day.
 22 Q There was a fight every day in your math one
 23 class in seventh grade?
 24 A Yes.
 25 Q Was it the same people who fought, or was it

- 1 different people that fought?
 2 A Sometimes it was the same people, sometimes
 3 different people.
 4 Q What would happen when they would fight in
 5 class?
 6 A We would try to break it up and get it stopped.
 7 Q Would he send them, the people who were
 8 fighting, to the office?
 9 A He get security.
 10 Q And what would security do?
 11 A Take them downstairs and call their parents.
 12 Q And how often would there be a fight in your
 13 classroom, your math classroom during the seventh grade?
 14 A Every day.
 15 Q And do you know what period you had this math
 16 class?
 17 A Third.
 18 Q Were there any other aspects of your math class
 19 that you didn't like?
 20 A We had another -- we had a broken window in
 21 there.
 22 Q Just one in that classroom?
 23 A Yes.
 24 Q Do you know how many windows total there were
 25 in the classroom?

- 1 A About 15.
 2 Q And when you say that window was broken, was
 3 that window shattered?
 4 A Broken out.
 5 Q So was there a piece of wood in place of where
 6 the window used to be?
 7 A Yes.
 8 Q Do you remember what room number that was?
 9 A 213.
 10 Q And do you know what grade you received in that
 11 math class?
 12 A A [REDACTED]
 13 Q Was that the same for the first and second
 14 semester?
 15 A Yes.
 16 Q And how about your second math class?
 17 MS. LHAMON: Shaun, if you wouldn't mind, I'd
 18 like to take a break.
 19 MR. SIMMONS: Yeah, that's fine.
 20 MS. LHAMON: Thanks.
 21 (Recess taken.)
 22 MS. LHAMON: You can go ahead.
 23 MR. SIMMONS: Oliva has a section that -- an
 24 answer that she would like to clarify. So if you would
 25 go ahead and do that, we'd appreciate it.

1 THE WITNESS: About when I said about taking
 2 the books home, we couldn't take the books home. I was
 3 just saying anything so I can go home.
 4 MR. SIMMONS: Q And do you know -- can you
 5 clarify what class that is?
 6 A Mr. Covington, 213.
 7 MR. SIMMONS: Can I ask two quick follow-up
 8 questions on that?
 9 MS. LHAMON: Okay with you?
 10 THE WITNESS: (Witness nods head.)
 11 MR. SIMMONS: Q Do you know why you weren't
 12 able to take the textbooks home in that class?
 13 A Well, personally, I don't know, because it's
 14 like -- I don't -- it's just -- it's just -- it's like
 15 he get -- we can't take them home, because that's the
 16 only one set that he have for all his classes, so he has
 17 to keep them there so he can -- so the other classes
 18 could use them. That's why we use a photocopy machine
 19 so much, and it broke.
 20 Q Okay. So it's your testimony there were only
 21 enough textbooks --
 22 A One set --
 23 Q -- available for use in class?
 24 A One set for six classes.
 25 Q And so for homework you were provided with

1 worksheets in lieu of a textbook; is that correct?
 2 A Say it again.
 3 Q "In lieu of" probably isn't a good word.
 4 Instead of doing homework with your textbook,
 5 you used worksheets; is that correct?
 6 A Yes.
 7 MR. SIMMONS: Okay. We are going to close up
 8 shop for the day. Oliva's been a sport, but she's tired
 9 now, so we are tentatively trying to schedule a second
 10 date on December 2nd.
 11 MS. LHAMON: That's right. And I need to check
 12 with Oliva's mom, but I'll let you know as soon as we
 13 can, but we'll say tentatively December 2nd.
 14 MR. SIMMONS: That's right. And I'll check my
 15 schedule to make sure it's open as well, and we'll talk
 16 sometime this coming week.
 17 MS. LHAMON: That's right.
 18 MR. SIMMONS: The stipulation?
 19 MS. LHAMON: Yeah.
 20 MR. SIMMONS: Do you -- can we go off record?
 21 (Off-record discussion.)
 22 MR. SIMMONS: Counsel, may we stipulate that
 23 copies of documents attached to the deposition may be
 24 used as originals?
 25 MS. LHAMON: Yes.

1 MR. SIMMONS: And may we also stipulate that
 2 the original of this deposition be signed under penalty
 3 of perjury; that the original be delivered to the office
 4 of Miss Lhamon at her offices in Los Angeles; that the
 5 reporter is relieved of liability for the original of
 6 the deposition; that the witness will have 30 days from
 7 the date of the court reporter's transmittal letter to
 8 Ms. Lhamon to sign and correct the deposition, and that
 9 Ms. Lhamon shall notify all parties in writing of all
 10 changes in the deposition, and that if there are no such
 11 changes communicated or signature within that time, that
 12 any unsigned or uncorrected copy may be used for all
 13 purpose as if signed and corrected?
 14 MS. LHAMON: So stipulated.
 15 MR. SIMMONS: Thank you.
 16 MS. LHAMON: Thank you.
 17
 18 (Whereby, proceedings adjourned at 1:44 p.m.)
 19 --oOo--
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1 I declare under penalty of perjury the
 2 foregoing is true and correct. Subscribed at
 3 _____, California, this _____ day of
 4 _____, 20____.
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 OLIVIA SAUNDERS

CERTIFICATE OF REPORTER

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

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

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

DATED: _____, 2001.

SANDRA M. MACNEIL, CSR 9013