

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

ELIEZER WILLIAMS, et al.,)
 Plaintiffs,)
 vs.) No. 312 236
 STATE OF CALIFORNIA, DELAINE) VOLUME I
 EASTIN, State Superintendent of)
 Public Instruction, STATE)
 DEPARTMENT OF EDUCATION, STATE)
 BOARD OF EDUCATION,)
 Defendants.)
 -----)
 AND RELATED CROSS-ACTION.)

Deposition of LINDA SHINN, at
 400 South Hope Street, Los Angeles,
 California, commencing at 9:40 A.M.,
 Thursday, August 23, 2001, before
 Cathryn L. Baker, CSR No. 7695.

1 APPEARANCES OF COUNSEL:

2
3 FOR THE PLAINTIFFS:

4
5 MORRISON & FOERSTER LLP
6 BY: BENJAMIN J. FOX, ESQ.
7 555 West Fifth Street
8 Los Angeles, California 90013-1024
9 (213) 892-5307

10
11 FOR THE DEFENDANTS:

12
13 O'MELVENY & MYERS LLP
14 BY: SHAUN M. SIMMONS, ESQ.
15 400 South Hope Street
16 Los Angeles, California 90071-2899
17 (213) 430-6000
18
19
20
21
22
23
24
25

1 LINDA SHINN,

2 the witness, having been administered an oath in
3 accordance with CCP Section 2094, testified as
4 follows:

5
6 EXAMINATION 09:40:43

7 BY MR. SIMMONS: 09:40:43

8 Q. Good morning, Ms. Shinn. My name is Shaun 09:41:00
9 Simmons. I'm an attorney representing the State of 09:41:02
10 California in this litigation. Would you please 09:41:05
11 state and spell your full name for the record. 09:41:05

12 A. Linda, L-i-n-d-a, Shinn, S-h-i-n-n. 09:41:08

13 MR. FOX: Shaun, before we get started. I 09:41:16
14 should have mentioned this before. Ms. Shinn has 09:41:18
15 not yet received her witness fee, so I hope we can 09:41:23
16 take care of that today. 09:41:23

17 MR. SIMMONS: Can we go off the record. 09:41:25
18 (Off the record.) 09:41:25

19 MR. FOX: Could we state on the record, we 09:41:53
20 had a discussion, and counsel for the State told us 09:41:55
21 that he would get back to us before the end of the 09:41:58
22 day about the witness fee payable to Ms. Shinn. 09:41:58

23 MR. SIMMONS: That's fine. 09:42:02

24 Q. Have you ever had your deposition taken 09:42:06
25 before? 09:42:06

1 A. No. 09:42:06
2 Q. Do you have an understanding of what a 09:42:11
3 deposition is? 09:42:11
4 A. Uh-huh. 09:42:11
5 Q. Could you tell me what your understanding 09:42:14
6 is. 09:42:14
7 A. My understanding is that it is a statement 09:42:20
8 pertaining to litigation that is under oath that 09:42:23
9 can be used as part of trial procedures. 09:42:23
10 Q. Okay. Sitting next to us we have Cathie 09:42:31
11 here. She's the court reporter. And she will be 09:42:34
12 recording my questions and your answers, which will 09:42:38
13 be recorded in a written transcript later after 09:42:41
14 today. 09:42:41
15 A. Will I receive a copy of that? 09:42:41
16 Q. Yes, you will receive a copy of that. And 09:42:46
17 you'll be allowed to go through that and make 09:42:48
18 changes, although you should know that if you do 09:42:54
19 make changes, lawyers in the case will be able to 09:42:57
20 comment on the changes you make in the transcript. 09:42:57
21 A. I understand. 09:42:59
22 Q. You understand that you're under oath, and 09:43:02
23 the testimony you give will have the same force and 09:43:05
24 effect as if you were testifying in a court of law? 09:43:05
25 A. Yes. 09:43:08

1 Q. So even though we're in an informal 09:43:12
2 setting here today, you're testifying as though 09:43:16
3 this was a formal courtroom setting; do you 09:43:18
4 understand that? 09:43:18
5 A. Yes, I do. 09:43:18
6 Q. Therefore, you're subject to all the 09:43:22
7 penalties for perjury for giving false testimony. 09:43:27
8 So it's important that you answer all the questions 09:43:30
9 completely and truthfully. 09:43:30
10 A. I understand. 09:43:31
11 Q. When you answer my questions, it's 09:43:34
12 important to give verbal answers, shakes or nods of 09:43:36
13 the head can't be recorded. 09:43:36
14 A. Okay. 09:43:39
15 Q. Also, it's hard for the reporter to get a 09:43:44
16 clear record of all the testimony if both of us are 09:43:46
17 talking at the same time. So if you'll allow me to 09:43:50
18 finish my question, I'll in turn allow you to 09:43:53
19 finish your answer before speaking. 09:43:53
20 A. All right. 09:43:55
21 Q. It's important that you listen carefully 09:43:58
22 to the question. If you don't understand a 09:43:59
23 question, just let me know and I'll do my best to 09:44:02
24 rephrase it in a way that will help you to answer 09:44:02
25 it. But if you don't, if you go ahead and answer a 09:44:09

Page 6

1 question and don't tell me that you did not 09:44:12
 2 understand, we'll presume that you understood it, 09:44:14
 3 for the record. 09:44:14
 4 A. I understand. 09:44:15
 5 Q. You're required to answer my questions to 09:44:19
 6 the best of your ability. If you don't know the 09:44:23
 7 answer, it's fine, we don't want you to guess. But 09:44:26
 8 if you can give us your best estimate, we would 09:44:29
 9 appreciate that as well; do you understand that? 09:44:29
 10 A. Yes, I do. 09:44:30
 11 Q. If you need a break for any reason during 09:44:40
 12 the course of the day, just let me know and we'll 09:44:42
 13 take a break. The only thing that I would ask is 09:44:47
 14 that if there's a question pending, that you will 09:44:49
 15 answer the question first and then we'll take a 09:44:52
 16 break; do you understand that? 09:44:52
 17 A. Yes, I do. 09:44:52
 18 Q. If at any time throughout the course of 09:44:56
 19 the deposition your memory is triggered with 09:44:58
 20 respect to an earlier question and you'd like to 09:45:02
 21 supplement your answer, just make sure to let me 09:45:04
 22 know and we'll go back to the question. 09:45:04
 23 A. I understand. 09:45:07
 24 Q. Do you understand the ground rules so far? 09:45:07
 25 A. Uh-huh, yes, I do. 09:45:10

Page 7

1 Q. Is there any reason why you may be unable 09:45:15
 2 to give your best testimony today? 09:45:15
 3 A. I don't believe so, no. 09:45:17
 4 Q. Have you recently consumed any medication, 09:45:24
 5 alcohol or any substance that would impair your 09:45:27
 6 ability to testify? 09:45:27
 7 A. No. 09:45:27
 8 Q. Are you currently taking any medications 09:45:30
 9 that would affect your ability to testify? 09:45:30
 10 A. None. 09:45:32
 11 Q. Do you suffer from any disability of any 09:45:36
 12 kind that might impair your ability to testify 09:45:39
 13 today? 09:45:39
 14 A. I do not. 09:45:39
 15 Q. Are you represented by counsel at this 09:45:44
 16 deposition? 09:45:44
 17 A. Yes, I am. 09:45:44
 18 Q. I take it that Mr. Fox is your counsel? 09:45:45
 19 A. That is correct. 09:45:49
 20 Q. Do you know about when Mr. Fox became your 09:45:53
 21 lawyer? 09:45:53
 22 MR. FOX: Objection. Calls for a legal 09:45:56
 23 conclusion. 09:45:56
 24 BY MR. SIMMONS: 09:45:56
 25 Q. Do you have an understanding as to when 09:45:59

Page 8

1 you first sought legal advice from Mr. Fox? 09:45:59
 2 A. When I first sought legal advice? I don't 09:46:14
 3 think I understand the question. 09:46:14
 4 MR. FOX: Objection. Vague and ambiguous. 09:46:15
 5 BY MR. SIMMONS: 09:46:17
 6 Q. You can answer the question. 09:46:17
 7 A. I first talked to him yesterday, is that 09:46:25
 8 what you want to know? 09:46:25
 9 Q. Okay. 09:46:27
 10 Was that the first point that you 09:46:32
 11 considered Mr. Fox to be your lawyer? 09:46:32
 12 A. Yes. 09:46:34
 13 Q. What did you do to prepare for this 09:46:39
 14 deposition? 09:46:39
 15 A. I met -- I went over notes that I had 09:46:45
 16 taken. I reread a copy of my declaration to make 09:46:52
 17 sure I remembered everything that I had written 09:46:55
 18 down, or had been written down. And I met with 09:46:59
 19 Peter Eliasberg for about two hours yesterday 09:47:05
 20 afternoon. 09:47:05
 21 Q. And you say that you went over some notes, 09:47:14
 22 can you describe what those notes were. 09:47:14
 23 A. They were just notes that jog my memory on 09:47:20
 24 the things that I had said in my declaration, just 09:47:23
 25 so that I remember more easily when I write things 09:47:29

Page 9

1 down. 09:47:29
 2 Q. Did you prepare those notes? 09:47:29
 3 A. Did I prepare them? I wrote them a day or 09:47:35
 4 so ago. 09:47:35
 5 Q. Do you have those notes with you? 09:47:36
 6 A. No, I don't. 09:47:38
 7 Q. Did you keep the notes? 09:47:39
 8 A. Yes, but I don't have them with me. 09:47:41
 9 Q. But you would be able to get them? 09:47:42
 10 A. They're at my home. 09:47:44
 11 Q. Did you have any conversations with any 09:47:54
 12 other lawyers other than Peter Eliasberg regarding 09:47:58
 13 your deposition? 09:47:58
 14 A. No. 09:47:59
 15 Q. Did you speak with anyone else about your 09:48:10
 16 deposition today? 09:48:10
 17 A. No, just the fact that I was going to do 09:48:15
 18 it, and that's all. 09:48:15
 19 Q. Who did you have those conversations with? 09:48:17
 20 A. My son and one friend, because I had to 09:48:31
 21 break a lunch date. 09:48:31
 22 MR. SIMMONS: Could we mark this as 09:48:44
 23 Exhibit 1. 09:48:44
 24 (Deposition Exhibit 1 09:48:44
 25 was marked for identification 09:48:44

Page 10

1 and is annexed hereto.) 09:48:44

2 BY MR. SIMMONS: 09:48:44

3 Q. I'll hand you what's been marked as 09:49:04

4 Exhibit 1. Take a few moments to look through the 09:49:09

5 document, if you will. 09:49:09

6 Have you had a moment to review it? 09:50:07

7 A. Uh-huh. 09:50:09

8 Q. Have you ever seen this document before? 09:50:10

9 A. No. 09:50:12

10 Q. Do you know whether you were supposed to 09:50:15

11 bring any documents to this deposition today? 09:50:15

12 A. I was not told to. 09:50:17

13 Q. If you could just turn to page 13 of the 09:50:31

14 document, please. For the record, Exhibit 1 is 09:50:44

15 "Defendant State of California's Notice of 09:50:45

16 Depositions of Plaintiffs, Plaintiffs' Guardians Ad 09:50:51

17 Litem, and Non-Party Declarants; Request For 09:50:54

18 Production of Documents." 09:50:54

19 Was Kelsey Gin ever a student of yours? 09:50:56

20 A. Yes, she was. 09:51:01

21 Q. And was Alexander Nobori ever a student of 09:51:05

22 yours? 09:51:05

23 A. Yes, he was. 09:51:05

24 Q. Do you have any documents which would 09:51:08

25 relate to the education of Kelsey Gin? 09:51:08

Page 11

1 MR. FOX: Objection. Vague and ambiguous 09:51:11

2 THE WITNESS: Shall I answer? No. I 09:51:24

3 taught her several years ago. 09:51:24

4 BY MR. SIMMONS: 09:51:26

5 Q. Just for the future purposes of the depo, 09:51:33

6 counsel will object to my questions, I'm sure -- 09:51:33

7 A. I can go ahead and answer. 09:51:36

8 Q. -- throughout today. And unless he 09:51:40

9 instructs you not to answer, then you can go ahead 09:51:42

10 and answer. 09:51:42

11 Do you have any documents that relate to 09:51:46

12 the education of Alexander Nobori at Brightwood 09:51:51

13 Elementary? 09:51:51

14 MR. FOX: Objection. Vague and ambiguous. 09:51:52

15 THE WITNESS: No, I do not. 09:51:53

16 BY MR. SIMMONS: 09:51:55

17 Q. Do you have any correspondence between you 09:51:59

18 and any person relating to the conditions at 09:52:03

19 Brightwood Elementary? 09:52:03

20 MR. FOX: Same objection. 09:52:04

21 THE WITNESS: I don't think I understand 09:52:09

22 the question. Correspondence? 09:52:09

23 BY MR. SIMMONS: 09:52:10

24 Q. Any letters that might relate to the 09:52:14

25 conditions at Brightwood or this litigation? 09:52:14

Page 12

1 A. No, I don't. 09:52:17

2 Q. Do you understand that you've been called 09:52:25

3 to testify here today in connection with a lawsuit 09:52:28

4 filed by a number of students that attend or have 09:52:32

5 attended public schools in the State of California? 09:52:32

6 A. Yes, I do. 09:52:35

7 Q. Do you have an understanding as to the 09:52:38

8 substance of this litigation? 09:52:38

9 A. Yes, I do. 09:52:40

10 Q. Could you tell me what your understanding 09:52:43

11 is. 09:52:43

12 A. My understanding is that it is litigation 09:52:47

13 that has been brought forth by the ACLU against the 09:52:53

14 State of California concerning physical conditions 09:52:59

15 at various public schools throughout the State of 09:53:03

16 California, and has brought forth, is my 09:53:09

17 understanding, as a class action suit. And 09:53:12

18 plaintiffs are students and parents of those 09:53:14

19 schools. 09:53:14

20 Q. Do you know what relief the plaintiff 09:53:20

21 students seek in this case? 09:53:20

22 MR. FOX: Objection. Vague and ambiguous. 09:53:23

23 Calls for a legal conclusion. 09:53:23

24 THE WITNESS: My understanding is that 09:53:32

25 their main goal is to see physical conditions 09:53:35

Page 13

1 improve at the various elementary and high schools 09:53:39

2 and middle schools. 09:53:39

3 BY MR. SIMMONS: 09:53:42

4 Q. And you testified earlier that the ACLU 09:53:51

5 brought this suit against the state. Do you know 09:53:54

6 whether anyone else represents the plaintiffs in 09:53:56

7 this lawsuit? 09:53:56

8 A. No, I don't. 09:53:57

9 Could I ask you a question? 09:54:05

10 MR. FOX: Sure. Do you want to go off the 09:54:09

11 record? 09:54:09

12 THE WITNESS: Yeah. 09:54:09

13 MR. SIMMONS: Let's go off the record. 09:54:11

14 (Off the record.) 09:54:14

15 THE WITNESS: Could you repeat the 09:54:44

16 question, please. 09:54:44

17 MR. SIMMONS: Certainly. 09:54:45

18 Would you read the question back. 09:54:45

19 (The record was read by the 09:54:47

20 reporter as follows: 09:54:47

21 "Question: And you testified 09:54:47

22 earlier that the ACLU brought 09:54:47

23 this suit against the state. 09:54:47

24 Do you know whether anyone else 09:54:47

25 represents the plaintiffs in 09:54:47

Page 14

1 this lawsuit?") 09:54:47
 2 THE WITNESS: It is my understanding that 09:55:00
 3 there are private law firms doing pro bono work in 09:55:05
 4 connection with this. 09:55:05
 5 BY MR. SIMMONS: 09:55:06
 6 Q. Do you know the names of any of the 09:55:08
 7 private law firms? 09:55:08
 8 A. I don't know the name of the firm, but Mr. 09:55:13
 9 Foerster -- 09:55:13
 10 MR. FOX: Morrison & Foerster. 09:55:13
 11 THE WITNESS: Morrison & Foerster, yes. 09:55:17
 12 BY MR. SIMMONS: 09:55:19
 13 Q. When did you first learn about this 09:55:22
 14 lawsuit? 09:55:22
 15 A. In the winter of 1999. I can't give you 09:55:28
 16 an exact date. 09:55:28
 17 Q. How did you learn about this lawsuit? 09:55:29
 18 A. I was approached by the executive director 09:55:40
 19 of our local unit of the CTA. 09:55:40
 20 Q. Could you tell me what CTA stands for? 09:55:53
 21 A. California Teachers' Association. 09:55:59
 22 Q. What was the name of the executive 09:56:04
 23 director who approached you? 09:56:04
 24 A. Alice Clement, C-l-e-m-e-n-t. 09:56:06
 25 Q. What did Miss Clement say to you in the 09:56:15

Page 15

1 winter of '99 with respect to this litigation? 09:56:15
 2 A. She told me that the ACLU was bringing 09:56:23
 3 forth a lawsuit to help improve conditions at 09:56:31
 4 public schools. And she asked me if I would 09:56:34
 5 consider being a contact person for our elementary 09:56:39
 6 school. 09:56:39
 7 Q. Do you remember anything else that Ms. 09:56:46
 8 Clement told you during this winter of '99 meeting? 09:56:46
 9 MR. FOX: Objection. Assumes facts. 09:56:50
 10 THE WITNESS: I don't recall. It was a 09:56:57
 11 very short conversation. 09:56:57
 12 BY MR. SIMMONS: 09:56:58
 13 Q. How did Miss Clement contact you? 09:56:58
 14 A. It was at a meeting. I'm very active in 09:57:06
 15 the local unit, and there was a teachers' meeting 09:57:10
 16 that was occurring at the offices of the Alhambra 09:57:15
 17 Teachers' Association. And she walked over to me 09:57:18
 18 and talked very briefly to me about it. 09:57:18
 19 Q. When you say "very briefly," could you put 09:57:24
 20 that in terms of minutes? 09:57:24
 21 A. Maybe five. 09:57:25
 22 Q. Do you recall saying anything to Miss 09:57:30
 23 Clement at that meeting? 09:57:30
 24 A. I recall telling her that I thought I 09:57:35
 25 would be interested, but I would like to think 09:57:37

Page 16

1 about it, because I was very concerned about 09:57:40
 2 conditions at our school. So I told her I was 09:57:43
 3 definitely interested. 09:57:43
 4 Q. Do you recall what it is that you wanted 09:57:47
 5 to think about at that time? 09:57:47
 6 A. I just wanted to think about whether or 09:57:52
 7 not I wanted to give the time that this involvement 09:57:56
 8 would entail. 09:57:56
 9 Q. Anything else? 09:57:56
 10 A. No. 09:57:58
 11 Q. Do you know how Miss Clement became aware 09:58:08
 12 of this litigation? 09:58:08
 13 A. No, I do not. 09:58:09
 14 Q. Other than the meeting with Miss Clement 09:58:17
 15 in the winter of 1999, have you had any other 09:58:22
 16 communications relating to this lawsuit? 09:58:22
 17 A. Yes. 09:58:26
 18 Q. Do you know about how many? 09:58:26
 19 A. I had another meeting with Mrs. Clement 09:58:37
 20 when I told her that I would be interested. And 09:58:47
 21 then I received a telephone call in approximately 09:58:53
 22 December of 1999 from Catherine Lhamon from the 09:59:00
 23 ACLU. 09:59:00
 24 Q. Are those the only other communications 09:59:10
 25 you can recall with respect to this litigation? 09:59:10

Page 17

1 A. No. I have had approximately four to five 09:59:19
 2 telephone conversations with both Catherine Lhamon 09:59:23
 3 and Peter Eliasberg since that time. And I had one 09:59:38
 4 meeting with Catherine and Peter at a restaurant in 09:59:44
 5 San Gabriel in the spring of 2000. And I had a 09:59:58
 6 meeting yesterday with Peter Eliasberg at a local 10:00:03
 7 restaurant. 10:00:03
 8 Q. Is Mr. Eliasberg your lawyer? 10:00:03
 9 A. Yes. 10:00:17
 10 Q. And the second meeting that you had with 10:00:24
 11 Miss Clement, when did that occur? 10:00:24
 12 A. I can't tell you specifically. It was 10:00:30
 13 within days of the first meeting. Could I clarify 10:00:37
 14 something? It really wasn't a formal meeting. It 10:00:40
 15 was just at a time that I happened to be at her 10:00:42
 16 office and we talked about it. It was not set up 10:00:46
 17 as a meeting. 10:00:46
 18 Q. Where is Miss Clement's office? 10:00:46
 19 A. At 100 Valley Boulevard, Alhambra, 10:00:59
 20 California. 10:00:59
 21 Q. Were you at Miss Clement's office for any 10:01:16
 22 other reason than to discuss this litigation? 10:01:16
 23 A. Yes. It is not just her office, it's the 10:01:24
 24 local union's office. So there are many things 10:01:28
 25 going on there. 10:01:28

Page 18

1 Q. Do you remember what you said to Ms. Clement with respect to this litigation? 10:01:34

2 A. I told her I would be interested in being a contact person for the purpose of giving information about our school. 10:01:38

3 10:01:41

4 10:01:41

5 Q. Do you recall telling Miss Clement anything else? 10:01:49

6 A. No, I don't. 10:01:51

7 Q. Do you recall anything that Miss Clement said to you with respect to this litigation? 10:01:58

8 A. Not specifically. 10:02:06

9 Q. Do you have a general idea of the substance of what Miss Clement said to you? 10:02:10

10 A. The only thing that I recall is that the board of directors of our local unit, she told me this, had decided to go ahead and support the ACLU lawsuit as a political entity. And the board of directors had approved this. And that's when contact people were contacted. 10:02:28

11 10:02:34

12 10:02:37

13 10:02:41

14 Q. Did she tell you why the board of directors had decided to support the ACLU? 10:02:50

15 A. Yes, because of the very dire conditions at both of those schools. We were hoping it would bring help. 10:02:59

16 10:03:02

17 Q. Any other reasons? 10:03:02

18 10:03:02

Page 19

1 A. No, that's the main reason. 10:03:04

2 Q. Do you know about how long your informal meeting with Miss Clement lasted? 10:03:12

3 10:03:12

4 A. No. Less than five minutes. 10:03:17

5 Q. Did you take any notes -- 10:03:20

6 A. No. 10:03:22

7 Q. -- during the meeting? 10:03:23

8 Do you know whether she took any notes during the meeting? 10:03:27

9 10:03:27

10 A. I do not believe she did, but I can't specifically say that. 10:03:31

11 10:03:31

12 Q. And this meeting occurred within a few days of the first time you spoke with Miss Clement? 10:03:36

13 10:03:36

14 A. Yes. 10:03:41

15 Q. Did you testify that you received a phone call from Catherine Lhamon in December of '99 with respect to this litigation? 10:03:48

16 10:03:52

17 10:03:52

18 A. Yes. 10:03:53

19 Q. What did Miss Lhamon say to you? 10:03:54

20 MR. FOX: Objection. Calls for attorney-client communications. I'm instructing the witness not to answer. 10:04:01

21 10:04:03

22 BY MR. SIMMONS: 10:04:04

23 Q. Did you ask Ms. Lhamon to contact you? 10:04:04

24 A. No. 10:04:10

25 10:04:10

Page 20

1 Q. When Ms. Lhamon contacted you, were you in need of any legal advice? 10:04:27

2 10:04:27

3 MR. FOX: Objection. Vague and ambiguous. 10:04:30

4 THE WITNESS: No. 10:04:31

5 BY MR. SIMMONS: 10:04:33

6 Q. During the conversation did you seek any legal advice from Ms. Lhamon? 10:04:38

7 10:04:38

8 MR. FOX: Same objection. And calls for attorney-client communication. I'm instructing the witness not to answer. 10:04:44

9 10:04:48

10 10:04:48

11 MR. SIMMONS: I think she can answer that yes or no, can't she? 10:04:49

12 10:04:49

13 MR. FOX: Go ahead. 10:04:50

14 THE WITNESS: Would you repeat the question, please. 10:04:54

15 10:04:54

16 MR. SIMMONS: Would you read the question, please. 10:04:56

17 10:04:56

18 (The record was read by the reporter as follows: 10:04:56

19 10:04:56

20 "Question: During the conversation did you seek any legal advice from Ms. Lhamon?") 10:04:56

21 10:04:56

22 10:04:56

23 MR. FOX: Same objection. Same objection, relevance. 10:05:07

24 10:05:07

25 THE WITNESS: The answer is no. 10:05:08

Page 21

1 BY MR. SIMMONS: 10:05:09

2 Q. Are you still instructing the witness not to answer? 10:05:15

3 10:05:15

4 MR. FOX: Yes. 10:05:15

5 BY MR. SIMMONS: 10:05:16

6 Q. Do you know about how long the telephone call lasted? 10:05:25

7 10:05:25

8 A. Approximately 10 to 15 minutes. 10:05:28

9 Q. Was there anyone else present during the phone call? 10:05:51

10 10:05:51

11 A. No. 10:05:52

12 Q. Did you discuss your phone call with Ms. Lhamon with anyone else? 10:05:59

13 10:05:59

14 A. Yes. 10:06:04

15 Q. Who did you discuss your phone call with? 10:06:05

16 10:06:10

17 A. Mrs. Clement. 10:06:10

18 Q. Do you recall when that -- was that a telephone conversation? 10:06:23

19 10:06:23

20 A. I don't remember. 10:06:25

21 Q. Do you recall when you discussed your conversation with Ms. Lhamon with Ms. Clement? 10:06:30

22 10:06:39

23 A. No. It was soon thereafter, but I couldn't tell you when. 10:06:39

24 Q. What did you tell Ms. Clement about your phone call with Ms. Lhamon? 10:06:44

25 10:06:44

Page 22

1 A. I just told her that it occurred. 10:06:46
 2 Q. Did you tell her anything that you told 10:06:52
 3 Ms. Lhamon? 10:06:52
 4 A. I don't believe so. 10:06:55
 5 Q. Did you tell her anything that Ms. Lhamon 10:07:00
 6 told you? 10:07:00
 7 A. I honestly don't remember. I can't answer 10:07:07
 8 that question. 10:07:07
 9 Q. Is Ms. Lhamon your lawyer? 10:07:08
 10 MR. FOX: Objection. Vague and ambiguous. 10:07:24
 11 Calls for a legal conclusion. 10:07:24
 12 Whether you have an understanding as to 10:07:31
 13 whether or not you're represented by the ACLU or 10:07:35
 14 Peter specifically isn't particularly relevant. 10:07:38
 15 But if you understand, you can answer. 10:07:38
 16 THE WITNESS: I'm going to assume, yes. 10:07:39
 17 BY MR. SIMMONS: 10:07:41
 18 Q. Why do you assume that Ms. Lhamon is your 10:07:46
 19 lawyer? 10:07:46
 20 A. Because she's one of the lead lawyers in 10:07:50
 21 this case for the ACLU. I have talked to her a 10:07:53
 22 number of times. 10:07:53
 23 Q. Are you a plaintiff in this action? 10:07:54
 24 A. No. 10:07:58
 25 Q. You testified earlier that you did not 10:08:05

Page 23

1 consider or you don't consider Peter Eliasberg to 10:08:09
 2 be your lawyer; is that correct? 10:08:09
 3 MR. FOX: Objection. Mischaracterizes the 10:08:13
 4 witness' testimony. 10:08:13
 5 THE WITNESS: I didn't say that. 10:08:14
 6 BY MR. SIMMONS: 10:08:15
 7 Q. Do you consider Mr. Eliasberg to be your 10:08:20
 8 lawyer? 10:08:20
 9 A. Yes. 10:08:21
 10 Can I say that? 10:08:22
 11 MR. SIMMONS: Can we go off the record for 10:08:26
 12 just a little bit. 10:08:26
 13 (Off the record.) 10:08:30
 14 BY MR. SIMMONS: 10:09:22
 15 Q. You also testified that you had four or 10:09:36
 16 five telephone conversations with Catherine Lhamon 10:09:38
 17 and Peter Eliasberg; is that correct? 10:09:38
 18 A. Yes. 10:09:40
 19 Q. Were both Ms. Lhamon and Mr. Eliasberg 10:09:47
 20 parties to each of the telephone conversations? 10:09:47
 21 A. No. 10:09:49
 22 Q. How many conversations do you recall 10:09:54
 23 having with Ms. Lhamon? 10:09:54
 24 A. I can't give you a specific number. I 10:10:00
 25 would have to say three to four. 10:10:00

Page 24

1 Q. Do you believe it was approximately one to 10:10:11
 2 two conversations with Mr. Eliasberg? 10:10:11
 3 A. Yes. 10:10:15
 4 Q. Did you ever have a conversation with both 10:10:24
 5 Ms. Lhamon and Mr. Eliasberg? 10:10:24
 6 A. Are you talking about telephone 10:10:31
 7 conversations? 10:10:31
 8 Q. Yes. 10:10:31
 9 A. No. It was one or either of them. 10:10:31
 10 Q. Do you recall seeking any legal advice in 10:10:49
 11 the four to five telephone conversations that you 10:10:51
 12 had with either Ms. Lhamon or Mr. Eliasberg? 10:10:51
 13 MR. FOX: Objection. Vague and ambiguous. 10:10:57
 14 Relevance. Seeks attorney-client communications. 10:10:59
 15 I'm instructing the witness not to answer. 10:10:59
 16 MR. SIMMONS: On a yes-or-no question? 10:11:01
 17 MR. FOX: It seeks an attorney-client 10:11:07
 18 communication. 10:11:07
 19 MR. SIMMONS: It doesn't seek any 10:11:09
 20 communication. It seeks whether the communication 10:11:12
 21 occurred. I'm entitled to that foundational 10:11:14
 22 information. 10:11:14
 23 MR. FOX: Why don't you reask the question 10:11:20
 24 and I'll relisten to it. 10:11:20
 25 MR. SIMMONS: Would you repeat the 10:11:22

Page 25

1 question. 10:11:22
 2 (The record was read by the 10:11:22
 3 reporter as follows: 10:11:22
 4 "Question: Do you recall 10:11:22
 5 seeking any legal advice in the 10:11:22
 6 four to five telephone conversations 10:11:22
 7 that you had with either Ms. Lhamon 10:11:22
 8 or Mr. Eliasberg?") 10:11:22
 9 MR. FOX: Objection. Vague and ambiguous. 10:11:34
 10 Calls for a legal conclusion. 10:11:34
 11 You can give a yes-or-no answer. Further 10:11:41
 12 objection, relevance. 10:11:41
 13 THE WITNESS: Can I ask you a question, 10:11:53
 14 or should I not? 10:11:53
 15 MR. FOX: Sure. 10:11:54
 16 THE WITNESS: What you mean when you say 10:11:57
 17 "seek legal advice"? Would that be the same as if 10:12:02
 18 it is offered and accepted? 10:12:02
 19 MR. SIMMONS: Can we go off the record. 10:12:08
 20 (Off the record.) 10:12:11
 21 BY MR. SIMMONS: 10:12:18
 22 Q. So is it your testimony that in these four 10:12:24
 23 to five telephone conversations either Ms. Lhamon 10:12:29
 24 or Mr. Eliasberg offered you legal advice? 10:12:29
 25 A. Yes. 10:12:33

1 Q. Was that legal advice in connection with 10:12:41
 2 you bringing a lawsuit? 10:12:41
 3 MR. FOX: Objection. Relevance. Calls 10:12:48
 4 for attorney-client communications. 10:12:48
 5 Go ahead. 10:12:58
 6 BY MR. SIMMONS: 10:12:58
 7 Q. You can answer the question yes or no. 10:12:58
 8 A. With me bringing a lawsuit? 10:13:03
 9 Q. Yes. 10:13:05
 10 A. No. 10:13:06
 11 Q. But it's your testimony today that Ms. 10:13:14
 12 Lhamon and Mr. Eliasberg in these four to five 10:13:18
 13 telephone conversations offered you legal advice? 10:13:18
 14 MR. FOX: Objection. Vague and ambiguous. 10:13:21
 15 THE WITNESS: Yes. 10:13:22
 16 BY MR. SIMMONS: 10:13:27
 17 Q. And they did so in each of the four to 10:13:30
 18 five conversations? 10:13:30
 19 MR. FOX: Same objection. 10:13:31
 20 THE WITNESS: No. 10:13:32
 21 BY MR. SIMMONS: 10:13:33
 22 Q. In which of the four to five telephone 10:13:44
 23 conversations with either Ms. Lhamon or Mr. 10:13:47
 24 Eliasberg did neither Ms. Lhamon or Mr. Eliasberg 10:13:55
 25 offer you legal advice? 10:13:55

1 MR. FOX: If you recall. 10:13:58
 2 THE WITNESS: I don't remember 10:14:04
 3 specifically. 10:14:04
 4 BY MR. SIMMONS: 10:14:04
 5 Q. Each time that Ms. Lhamon and Mr. 10:14:16
 6 Eliasberg offered you legal advice, you chose to 10:14:24
 7 accept that advice? 10:14:24
 8 A. Yes. 10:14:24
 9 MR. FOX: Let me interpose an objection. 10:14:32
 10 Again, relevance. I don't see where we're going, 10:14:39
 11 other than you're trying to get at attorney-client 10:14:41
 12 communications that I'll tell you are privileged. 10:14:41
 13 MR. SIMMONS: I appreciate your 10:14:48
 14 representation, but I'm not sure that I entirely 10:14:51
 15 agree with your assertion of the privilege. 10:14:54
 16 Therefore, I'm trying to lay a foundation of basic 10:14:56
 17 facts as to whether a privilege exists or not. 10:14:56
 18 And as far as the relevance objection 10:15:02
 19 goes, I think that plaintiffs have just noticed a 10:15:06
 20 -- or sought to reopen a number of depositions of 10:15:10
 21 principals with respect to the communications that 10:15:13
 22 they had with attorneys at O'Melveny & Myers. 10:15:13
 23 MR. FOX: It's a different issue. We need 10:15:19
 24 not discuss that here, obviously. 10:15:19
 25 BY MR. SIMMONS: 10:15:22

1 Q. Do you recall how long your telephone 10:15:30
 2 conversations with either Ms. Lhamon or Mr. 10:15:32
 3 Eliasberg lasted? 10:15:32
 4 A. They varied. 10:15:36
 5 Q. Do you recall specifically how long any of 10:15:44
 6 the telephone conversations lasted? 10:15:44
 7 A. I can only remember that they varied from 10:15:52
 8 about five minutes to about 15 to 20 minutes. 10:15:52
 9 Q. And you had one meeting with Catherine and 10:16:04
 10 Peter in the spring of 2000? 10:16:04
 11 A. That's correct. 10:16:05
 12 Q. Where did that meeting take place? 10:16:06
 13 A. At a restaurant in San Gabriel right off 10:16:13
 14 the 60 Freeway. 10:16:13
 15 Q. What's the name of the restaurant, if you 10:16:16
 16 recall? 10:16:16
 17 A. I don't recall. 10:16:20
 18 Q. Do you remember how long that meeting 10:16:26
 19 lasted? 10:16:26
 20 A. Approximately two hours. 10:16:27
 21 Q. Were you asked to attend that meeting? 10:16:29
 22 A. I was not asked to attend, I was 10:16:44
 23 requested, and I said yes. 10:16:44
 24 Q. Who requested you to attend the meeting? 10:16:46
 25 A. I believe the request was made to a second 10:17:11

1 teacher at our school, and he and I decided on a 10:17:17
 2 convenient day. And then he called, either 10:17:24
 3 Catherine or Peter, I don't know which one, and the 10:17:27
 4 final arrangements were made that way. 10:17:27
 5 Q. Do you know this second teacher's name? 10:17:29
 6 A. Yes, I do. 10:17:32
 7 Q. Can you tell me that? 10:17:33
 8 A. Kevin Soule. 10:17:34
 9 Q. Could you spell that for the record, 10:17:41
 10 please? 10:17:41
 11 A. S-o-u-l-e, with a little ernt over the E. 10:17:48
 12 I don't know if she can write "ernt." 10:17:48
 13 Q. She probably can. 10:17:53
 14 MR. FOX: What was the month? 10:17:56
 15 THE WITNESS: It was in the spring of 10:18:09
 16 2000. I believe it was April, but I'm not 10:18:16
 17 positive. It was in the spring. 10:18:16
 18 BY MR. SIMMONS: 10:18:18
 19 Q. I apologize, but the request to attend the 10:18:24
 20 meeting, was that made to Mr. Soule? 10:18:24
 21 A. Yes, it was. 10:18:27
 22 Q. And then Mr. Soule contacted you; is that 10:18:31
 23 correct? 10:18:31
 24 A. Yes. 10:18:31
 25 Q. What did Mr. Soule say to you when he 10:18:36

Page 30

1 contacted you? 10:18:36
 2 A. He came to my classroom and said that 10:18:46
 3 there was a possibility of having a meeting with 10:18:48
 4 Peter Eliasberg and Catherine Lhamon, would I be 10:18:54
 5 interested in talking about the conditions of the 10:18:56
 6 school. I said yes. And we decided on a day that 10:19:01
 7 was convenient. And he contacted the ACLU office, 10:19:06
 8 and the meeting was set up in that way. 10:19:06
 9 MR. FOX: Let's go off the record for a 10:19:10
 10 second. 10:19:10
 11 (Off the record.) 10:19:10
 12 BY MR. SIMMONS: 10:21:07
 13 Q. Do you recall what you said to Mr. Soule 10:21:17
 14 in the meeting you had with him in the spring of 10:21:19
 15 2000? 10:21:19
 16 A. The meeting that I had with him? 10:21:21
 17 Q. I'm sorry. 10:21:22
 18 Mr. Soule came by your classroom; is that 10:21:30
 19 correct? 10:21:30
 20 A. Right. 10:21:30
 21 Q. And he asked you if you wanted to attend a 10:21:36
 22 meeting with Catherine Lhamon and Peter Eliasberg 10:21:40
 23 to discuss the conditions of the school; is that 10:21:42
 24 correct? 10:21:42
 25 A. Uh-huh. 10:21:42

Page 31

1 Q. Do you recall what you said to Mr. Soule 10:21:58
 2 in this conversation? 10:21:58
 3 A. I told him I would be interested. 10:21:59
 4 Q. Do you recall anything else that you said 10:22:04
 5 to Mr. Soule? 10:22:04
 6 A. No. 10:22:07
 7 Q. About how long after your conversation 10:22:20
 8 with Mr. Soule did you meet with Ms. Lhamon and Mr. 10:22:27
 9 Eliasberg? 10:22:27
 10 A. Four to five days. 10:22:28
 11 Q. Was Mr. Soule present at that meeting? 10:22:30
 12 A. Yes. 10:22:37
 13 Q. Do you know whether Ms. Lhamon or Mr. 10:22:55
 14 Eliasberg are Mr. Soule's lawyer? 10:22:55
 15 A. I do not know. 10:22:59
 16 MR. SIMMONS: Counsel, do you know? 10:23:00
 17 MR. FOX: I'm not being deposed. 10:23:05
 18 BY MR. SIMMONS: 10:23:07
 19 Q. What was said in your meeting with 10:23:17
 20 Catherine Lhamon and Peter Eliasberg in the spring 10:23:21
 21 of 2000? 10:23:21
 22 A. In general terms, we discussed physical 10:23:27
 23 conditions at the school at which Mr. Soule and I 10:23:32
 24 teach. 10:23:32
 25 Q. And if it's possible, without revealing 10:23:50

Page 32

1 the substance of the communications that you had 10:23:52
 2 with Ms. Lhamon and Mr. Eliasberg in your previous 10:23:58
 3 conversations with them, can you tell me how your 10:24:04
 4 meeting differed -- excuse me, can you tell me how 10:24:09
 5 your meeting with Mr. Eliasberg, Mr. Soule and Ms. 10:24:16
 6 Lhamon differed from your other conversations with 10:24:20
 7 Ms. Lhamon and Mr. Eliasberg? 10:24:20
 8 A. It was more substantive. There was much 10:24:25
 9 more detail, specific physical conditions were 10:24:29
 10 discussed in detail, and notes were taken. 10:24:29
 11 Q. Did you take notes? 10:24:35
 12 A. No, I did not. 10:24:39
 13 Q. Did Mr. Soule take notes? 10:24:40
 14 A. No. 10:24:44
 15 Q. Did Ms. Lhamon take notes? 10:24:44
 16 A. Yes. 10:24:47
 17 Q. Did Mr. Eliasberg take notes? 10:24:48
 18 A. Yes. 10:24:50
 19 Q. Can you recall any specific physical 10:24:57
 20 conditions that you discussed at this meeting in 10:24:59
 21 the spring of 2000? 10:24:59
 22 A. Yes. 10:25:01
 23 Q. What conditions are those? 10:25:01
 24 A. Do you want me to go through the litany, 10:25:10
 25 the long list? 10:25:10

Page 33

1 Q. Please. 10:25:11
 2 A. Concerning, in general terms, the 10:25:16
 3 infrastructure problems at the school. The lack of 10:25:21
 4 air conditioning in most of the classrooms. 10:25:33
 5 Termite ridden classrooms. Malfunctioning heaters, 10:25:48
 6 malfunctioning plumbing. Lack of storage space. 10:26:13
 7 Location of some classrooms in the middle of the 10:26:16
 8 playground causing tremendous classroom noise. 10:26:28
 9 Minimal office space. Lack of handicap access. 10:26:50
 10 Falling ceiling tiles, falling tiles and light 10:27:00
 11 fixtures during the Whittier Narrows earthquake. 10:27:17
 12 Lack of space. 10:27:17
 13 Q. Anything else that you can recall right 10:27:35
 14 now? 10:27:35
 15 A. No, but I may think of other things. 10:27:35
 16 Q. Okay. 10:27:38
 17 A. Because there are quite a few. 10:27:39
 18 Q. Do you know about how long the meeting 10:28:10
 19 with Mr. Eliasberg, Ms. Lhamon and Mr. Soule lasted 10:28:16
 20 in the spring of 2000? 10:28:16
 21 A. Approximately two hours. 10:28:18
 22 Q. Do you remember discussing anything other 10:28:34
 23 than the physical conditions at Brightwood 10:28:37
 24 elementary during the meeting? 10:28:37
 25 A. Yes. 10:28:38

Page 34

1 Q. What else do you remember discussing? 10:28:39
 2 A. We also discussed difficulties with 10:28:47
 3 shortage of textbooks. 10:28:47
 4 Q. During the meeting were Mr. Eliasberg or 10:29:05
 5 Ms. Lhamon asking you questions regarding 10:29:07
 6 conditions of the school to which you would 10:29:10
 7 respond? 10:29:10
 8 A. Yes. 10:29:11
 9 Q. Do you recall what they asked you about 10:29:15
 10 the shortage of textbooks? 10:29:15
 11 A. That question was asked in general terms. 10:29:18
 12 Q. Do you recall the answer that you gave to 10:29:41
 13 the question posed, in general terms? 10:29:41
 14 A. Yes. 10:29:44
 15 Q. What was that answer? 10:29:44
 16 A. The answer was that there were sometimes 10:29:50
 17 shortages, sometimes delays in getting textbooks. 10:30:03
 18 And there was a lack of textbooks and curriculum 10:30:10
 19 materials for our ELD students. 10:30:10
 20 Q. When you say that there were sometimes 10:30:30
 21 shortages of textbooks, is that the way that you 10:30:33
 22 phrased your answer to -- 10:30:33
 23 A. I can't specifically tell you exactly how 10:30:38
 24 I phrased the answer. 10:30:38
 25 Q. Do you know whether either Ms. Lhamon or 10:30:43

Page 35

1 Mr. Eliasberg asked you to place the shortages in 10:30:52
 2 textbooks, in terms of a number of textbooks 10:30:56
 3 missing? 10:30:56
 4 A. No. 10:30:58
 5 Q. Do you remember whether Mr. Eliasberg or 10:31:09
 6 Ms. Lhamon asked you to place the delays in 10:31:21
 7 receiving textbooks, in terms of any number of 10:31:23
 8 days? 10:31:23
 9 A. Possibly, but that is -- that cannot be 10:31:33
 10 given as a specific answer. 10:31:33
 11 Q. You've identified so far physical 10:31:46
 12 conditions of the school, shortages or delays in 10:31:51
 13 textbooks. Were there any other aspects of 10:31:54
 14 Brightwood that you discussed with Ms. Lhamon, Mr. 10:32:00
 15 Eliasberg and Mr. Soule at this meeting in the 10:32:04
 16 spring of 2000? 10:32:04
 17 A. I don't believe so. 10:32:06
 18 Q. You testified that yesterday you had a 10:32:14
 19 meeting with Mr. Eliasberg in connection with your 10:32:18
 20 deposition today? 10:32:18
 21 A. Yes. 10:32:18
 22 MR. SIMMONS: Counsel, are you asserting 10:32:23
 23 the privilege with respect to those discussions? 10:32:23
 24 MR. FOX: Yes. To the extent that we're 10:32:28
 25 representing her in connection with this 10:32:30

Page 36

1 deposition, there's a privilege. And you're not 10:32:33
 2 entitled to inquire into our meeting to prepare 10:32:36
 3 her. If you want to have -- if you want to do your 10:32:41
 4 factual investigation by asking what Ms. Shinn and 10:32:44
 5 people who were speaking to her about the condition 10:32:44
 6 at her school said, rather than directly asking her 10:32:53
 7 what's going on at the school, that's fine. I 10:32:54
 8 think it's kind of a circuitous way to do it, but 10:32:59
 9 you're entitled to do that. 10:32:59
 10 MR. SIMMONS: Are you still asserting the 10:33:05
 11 privilege with respect to the telephone 10:33:06
 12 conversations between Ms. Shinn and either Ms. 10:33:10
 13 Lhamon or Mr. Eliasberg? 10:33:10
 14 MR. FOX: I'm not sure which telephone 10:33:14
 15 conversations you're talking about. To the extent 10:33:16
 16 that we're talking about conversations where she's 10:33:20
 17 represented by lawyers from the ACLU and my firm, 10:33:24
 18 yes. 10:33:24
 19 MR. SIMMONS: Are you representing that 10:33:26
 20 she was represented by lawyers of the ACLU and 10:33:30
 21 Morrison & Foerster during the telephone calls in 10:33:34
 22 December of 1999, as well as the four or five 10:33:36
 23 additional telephone conversations? 10:33:36
 24 MR. FOX: I don't know. I think we went 10:33:41
 25 over it already with her. 10:33:41

Page 37

1 BY MR. SIMMONS: 10:33:42
 2 Q. Other than the communications we've 10:33:50
 3 already discussed this far, can you recall any 10:33:53
 4 other communications with anyone regarding this 10:33:55
 5 litigation? 10:33:55
 6 A. Yes. 10:33:59
 7 Q. Can you tell me about those 10:34:04
 8 communications? 10:34:04
 9 A. E-mail between myself and Mr. Eliasberg. 10:34:04
 10 Q. Do you have a sense as to the number of 10:34:24
 11 e-mails that have been exchanged between you and 10:34:28
 12 Mr. Eliasberg? 10:34:28
 13 A. One from Mr. Eliasberg to me, two from me 10:34:35
 14 to Mr. Eliasberg. 10:34:35
 15 Q. Do you recall when you received the e-mail 10:34:45
 16 from Mr. Eliasberg? 10:34:45
 17 A. No, I can't. Several months ago is the 10:35:03
 18 best I can say. 10:35:03
 19 Q. Do you recall when you sent either of the 10:35:06
 20 e-mails to Mr. Eliasberg? 10:35:06
 21 A. Yes. One of them was in response to the 10:35:12
 22 one he sent to me, and the other one was three days 10:35:20
 23 ago. 10:35:20
 24 Q. Were you seeking legal advice in any of 10:35:30
 25 the e-mails that you sent to Mr. Eliasberg? 10:35:30

1 A. No. 10:35:33
 2 Q. Can you recall what the first e-mail you 10:35:48
 3 sent to Mr. Eliasberg said? 10:35:48
 4 A. Not word for word. 10:35:56
 5 Q. Can you recall the substance? 10:35:58
 6 A. Yes, it was in relation to my declaration. 10:36:00
 7 Q. How about the second e-mail, do you recall 10:36:12
 8 the substance, generally, about the e-mail? 10:36:12
 9 A. It was directions to the restaurant where 10:36:20
 10 we were going to meet. 10:36:20
 11 Q. Anything else? 10:36:21
 12 A. No. 10:36:22
 13 Q. What is your home address? 10:36:28
 14 A. [REDACTED] 10:36:32
 15 Q. Could you describe your educational 10:36:43
 16 background for me, starting with the college you 10:36:47
 17 attended after high school. 10:36:47
 18 A. I graduated from Balboa High School in 10:36:56
 19 1955. And went to the University -- State 10:37:05
 20 University in Sacramento, four-year education. 10:37:10
 21 Graduated in 1959 and began teaching in the Arden 10:37:17
 22 Carmichael District just northeast of Sacramento. 10:37:17
 23 Q. Do you hold any other degrees from any 10:37:36
 24 other colleges? 10:37:36
 25 A. Yes. I hold a master of fine arts degree. 10:37:37

1 Q. From which college did you receive that 10:37:47
 2 degree? 10:37:47
 3 A. California State University Dominguez 10:37:54
 4 Hills. 10:37:54
 5 Q. When did you receive that degree? 10:37:54
 6 A. A year and a half ago. Better late than 10:38:02
 7 never. 10:38:02
 8 Q. Can you tell me the emphasis of your study 10:38:07
 9 at Cal State University Sacramento from which you 10:38:11
 10 graduated in 1959? 10:38:11
 11 A. My major was elementary education. And my 10:38:18
 12 major was English literature. I mean, my minor. 10:38:25
 13 Sorry. 10:38:25
 14 Q. Did you obtain a teaching credential of 10:38:32
 15 any kind -- 10:38:32
 16 A. Yes, I did. 10:38:33
 17 Q. -- from Cal -- 10:38:34
 18 Did you receive a teaching credential of 10:38:42
 19 any kind from Cal State University Sacramento? 10:38:42
 20 A. Yes, I did. 10:38:46
 21 Q. What credential did you receive? 10:38:47
 22 A. Could I correct you, please. The 10:38:53
 23 credential came from the State of California, not 10:38:55
 24 from the university. 10:38:55
 25 Q. Thank you. 10:38:57

1 What credential did you receive from the 10:38:59
 2 State of California? 10:38:59
 3 A. General education it was called in those 10:39:02
 4 days. 10:39:02
 5 Q. Is that a lifetime credential? 10:39:02
 6 A. I have since received a life credential, 10:39:10
 7 but not at that time. 10:39:10
 8 Q. When did you receive the life credential? 10:39:10
 9 A. 20 to 25 years ago. 10:39:14
 10 Q. Do you hold any other teaching credentials 10:39:36
 11 other than the ones you've already identified? 10:39:36
 12 A. No. 10:39:39
 13 Q. Is there a separate credential for 10:39:48
 14 teaching English Learning Development students? 10:39:48
 15 A. There is now. 10:39:54
 16 Q. Do you hold that credential? 10:39:55
 17 A. No. 10:39:58
 18 Could I ask you a question? What do you 10:40:08
 19 mean by English Learning Development? 10:40:08
 20 Q. I could be -- my jargon might be 10:40:14
 21 incorrect. 10:40:14
 22 A. ELD is what you're -- 10:40:15
 23 Q. Yes. 10:40:17
 24 A. That's English Language Development. 10:40:18
 25 Q. Thank you. 10:40:20

1 Will your answer still be the same with 10:40:24
 2 respect to English Language Development? 10:40:24
 3 A. That is correct. But I have received 10:40:30
 4 extensive training in working with ELD students. 10:40:30
 5 Q. Can you describe that training for me, 10:40:40
 6 generally? 10:40:40
 7 A. Yes, it was training provided by the 10:40:44
 8 school district -- because we have a very large 10:40:49
 9 number of limited English speaking students -- and 10:40:55
 10 they have done extensive training. And I went to a 10:40:57
 11 series of classes once a week for a full school 10:41:01
 12 year. Some of the classes were Saturday classes so 10:41:07
 13 they were all-day classes. 10:41:07
 14 Q. Do you have an idea as to the number of 10:41:14
 15 hours the training encompassed? If you don't 10:41:26
 16 recall, that's fine. 10:41:26
 17 A. I don't recall. 10:41:27
 18 Q. Could you take me through the teaching 10:41:35
 19 positions that you have held since you graduated 10:41:38
 20 from CSU Sacramento? 10:41:38
 21 A. Certainly. I taught in Arden Carmichael, 10:41:47
 22 Garfield Elementary School, and I taught fourth and 10:41:52
 23 fifth grades for four years. I moved to San 10:41:57
 24 Francisco and taught for one year in Marin County, 10:42:06
 25 second grade. 10:42:06

Page 42		
1	Q. Do you recall the name of the school?	10:42:07
2	A. Park School.	10:42:11
3	I then taught for three years for the	10:42:21
4	Department of Defense at military establishments in	10:42:25
5	Europe. I taught first and second grades.	10:42:25
6	I came to the Alhambra School District in	10:42:43
7	1967, have taught at three schools in that	10:42:47
8	community. Do you want the names of the schools?	10:42:47
9	Q. If you can, please.	10:42:51
10	A. Granada School, Ynez Elementary School,	10:43:02
11	Y-n-e-z, and Brightwood Elementary School.	10:43:02
12	Q. Do you remember the years that you taught	10:43:09
13	at Granada?	10:43:09
14	A. From '67 to '74.	10:43:11
15	Q. Do you recall what your position was at	10:43:19
16	Granada?	10:43:19
17	A. Classroom teacher. I was teaching fourth	10:43:27
18	and fifth grades.	10:43:27
19	Q. When you say fourth and fifth grades, were	10:43:36
20	those combination classes?	10:43:36
21	A. One year was a combination class, the	10:43:40
22	other years it was separate grades during those	10:43:43
23	years.	10:43:43
24	Q. How long were you at Ynez Elementary	10:43:49
25	School?	10:43:49

Page 43		
1	A. From 1974 until 1987.	10:43:49
2	Q. And your position there, if you recall?	10:43:52
3	A. I taught fifth and sixth grade classes,	10:44:05
4	and for two years I was the instructional	10:44:09
5	specialist at that school, in charge of running an	10:44:15
6	educational program through Title I money.	10:44:15
7	Q. And the last part of the answer that you	10:44:23
8	gave me, is that the best way to describe, an	10:44:28
9	instructional specialist, or is there --	10:44:28
10	A. It's a title that our school district	10:44:35
11	gives. And when a school receives Title I money,	10:44:39
12	they hire someone to run the program. The title is	10:44:45
13	instructional specialist, I believe other districts	10:44:48
14	have different terminology.	10:44:48
15	Q. What year did you join Brightwood?	10:44:50
16	A. 1987.	10:44:52
17	Q. And you're currently a teacher at	10:44:59
18	Brightwood; is that correct?	10:44:59
19	A. That's right.	10:44:59
20	Q. What grades have you taught at Brightwood?	10:45:01
21	A. Four-five, combination. Fourth grade	10:45:07
22	straight. Sixth grade straight. And one year of	10:45:13
23	five-six combination. And I'm currently teaching	10:45:18
24	sixth grade.	10:45:18
25	MR. SIMMONS: Would you mark this as	10:45:39

Page 44		
1	Exhibit 2, please.	10:45:39
2	(Deposition Exhibit 2	10:45:40
3	was marked for identification	10:45:40
4	and is annexed hereto.)	10:45:40
5	BY MR. SIMMONS:	10:45:40
6	Q. Feel free to take a moment to glance	10:46:04
7	through this if you would like to.	10:46:04
8	Do you recognize this document, Ms. Shinn?	10:46:54
9	A. Yes, I do.	10:46:56
10	Q. Can you tell me what this document is?	10:46:56
11	A. It is a copy of the declaration that I	10:47:01
12	signed.	10:47:01
13	Q. If you'll notice, the declaration seems to	10:47:10
14	go from page 3 to 5, do you see that?	10:47:10
15	A. No.	10:47:20
16	Q. The bottom number of page 3, is there a 3	10:47:33
17	at the bottom of that page?	10:47:33
18	A. Not the front page, but -- here's the top	10:47:42
19	page and then here's 2, here's 3. Is that where	10:47:47
20	you want me to go?	10:47:47
21	Q. Correct.	10:47:48
22	A. Okay.	10:47:49
23	Q. And then if you'll turn to the next page.	10:47:54
24	Do you see that the next page is 5 there?	10:47:54
25	A. Oh, I understand. Yes, I do.	10:47:56

Page 45		
1	Q. Is this your entire declaration?	10:48:00
2	A. No. There is a page missing.	10:48:03
3	MR. SIMMONS: Can we go off the record.	10:48:18
4	(Off the record.)	10:48:21
5	MR. SIMMONS: For the record, we have	10:56:02
6	received now a copy of page 4 of the declaration of	10:56:05
7	Linda Shinn. I just want to make it clear for you	10:56:11
8	guys, and the record, that I had a relatively long	10:56:14
9	depo going with the first three pages, so I just	10:56:20
10	want you to be aware that I might have difficulty	10:56:24
11	completing this in a day, given the last page.	10:56:29
12	I'll do my best to go as quickly as I can, but that	10:56:29
13	fourth page was not something that I had planned	10:56:34
14	on. Again, I'll do my best, but I just wanted to	10:56:37
15	make you aware of that. This may lead to a little	10:56:40
16	extra time.	10:56:40
17	MR. FOX: I don't know how it happened	10:56:42
18	that the fourth page wasn't included. I understand	10:56:48
19	that you want to ask your questions, but please	10:56:48
20	also understand that Ms. Shinn is a third-party	10:56:48
21	witness. We didn't anticipate being here for more	10:56:51
22	than one day, so if we have to go a little bit	10:56:54
23	late, that's fine with me if it's okay with her.	10:56:54
24	THE WITNESS: I would prefer to do that.	10:56:57
25	MR. FOX: We don't intend on coming back.	10:57:03

Page 46

1 I would suggest that we use our time as best we 10:57:06
2 can. Deal with it at the end of the day. 10:57:06
3 MR. SIMMONS: That sounds fine. And I'm 10:57:07
4 not suggesting that there was anything insidious 10:57:11
5 about not receiving page 4. 10:57:11
6 THE WITNESS: Do you want to add page 4 to 10:57:16
7 this one? It's marked as one of the exhibits. 10:57:16
8 MR. SIMMONS: We'll mark this as a 10:57:21
9 separate exhibit once we get through the first 10:57:25
10 three pages. 10:57:25
11 We'll do that now. Could you mark 10:57:32
12 this as Exhibit 3. 10:57:32
13 (Deposition Exhibit 3 10:57:49
14 was marked for identification 10:57:49
15 and is annexed hereto.) 10:57:49
16 BY MR. SIMMONS: 10:57:49
17 Q. I'll hand you what's been marked as 10:57:54
18 Exhibit 3. Can you identify that document for the 10:57:57
19 record? 10:57:57
20 A. Yes. 10:57:57
21 Q. Would you please do so. 10:57:59
22 A. It is the fourth page of a copy of my 10:58:07
23 declaration. 10:58:07
24 Q. Thank you. 10:58:08
25 Did someone ask you to provide this 10:58:16

Page 47

1 declaration? 10:58:16
2 A. No. You mean for the purpose of this 10:58:23
3 deposition? When you say provide -- 10:58:23
4 Q. I'll withdraw and rephrase. 10:58:26
5 Did someone ask you to provide this 10:58:30
6 declaration in connection with the litigation with 10:58:33
7 respect to which you're testifying here today? 10:58:33
8 A. No. 10:58:36
9 Q. Did you offer to provide this declaration? 10:58:36
10 A. No. 10:58:38
11 Q. How did this declaration come into being? 10:58:39
12 MR. FOX: Vague and ambiguous. 10:58:45
13 THE WITNESS: I received a telephone call 10:58:54
14 from Peter Eliasberg, and we discussed the items 10:59:04
15 that are printed or -- which were later printed on 10:59:10
16 this declaration, over the telephone. He or a 10:59:18
17 staff member typed it up in legal form after our 10:59:24
18 telephone conversation. He sent me a copy. I read 10:59:35
19 it, signed it, and sent it back. 10:59:35
20 (Off-the-record discussion between 10:59:40
21 the witness and counsel.) 10:59:40
22 BY MR. SIMMONS: 10:59:40
23 Q. Is it correct to say that you did not 11:00:06
24 draft this declaration? 11:00:06
25 A. That is correct. 11:00:08

Page 48

1 Q. Someone drafted it on your behalf? 11:00:08
2 A. That is correct. 11:00:11
3 Q. You only received one draft of this 11:00:22
4 declaration; is that correct? 11:00:22
5 A. I received two, one to sign and send back, 11:00:34
6 and one that I could keep for my records. 11:00:34
7 Q. But to your knowledge there were no other 11:00:42
8 versions of this -- 11:00:42
9 A. Correct. 11:00:43
10 Q. -- declaration? 11:00:45
11 If you could turn to page 2 for just a 11:00:53
12 moment, of Exhibit 2. Do you see the handwritten 11:01:00
13 change in paragraph 8? 11:01:00
14 A. Yes, I made that change. 11:01:02
15 Q. That says "from 1989 through 1997"? 11:01:03
16 A. That is correct. 11:01:09
17 Q. So you remember this one conversation with 11:01:24
18 Mr. Eliasberg with respect to your declaration; is 11:01:28
19 that correct? 11:01:28
20 A. Yes. 11:01:28
21 Q. And you also remember receiving an e-mail 11:01:35
22 from Mr. Eliasberg with respect to your 11:01:37
23 declaration; is that correct? 11:01:37
24 A. Correct. 11:01:38
25 Q. And then you sent him an e-mail with 11:01:43

Page 49

1 respect to your declaration; is that correct? 11:01:43
2 A. That is right. 11:01:44
3 Q. Do you recall any other communications 11:01:51
4 with respect to your declaration? 11:01:51
5 A. I am not sure, I may have received a phone 11:02:07
6 call. 11:02:07
7 Q. Who do you think you may have received a 11:02:14
8 phone call from? 11:02:14
9 A. Mr. Eliasberg. 11:02:14
10 Q. Do you have any recollection as to the 11:02:29
11 date that might have been? 11:02:29
12 A. No. 11:02:30
13 Q. Other than the e-mails that you've 11:02:44
14 identified, do you have any written correspondence 11:02:47
15 relating to your declaration? 11:02:47
16 A. No. 11:02:49
17 Q. Did you retain copies of any of the 11:02:59
18 e-mails that you sent to Mr. Eliasberg, or the one 11:03:03
19 that he sent to you? 11:03:03
20 A. No. 11:03:04
21 Q. Do you recall what was discussed in the 11:03:29
22 conversation that you had with Mr. Eliasberg prior 11:03:34
23 to the drafting of your declaration? 11:03:34
24 A. Yes. 11:03:37
25 Q. What do you recall of that discussion? 11:03:39

Page 50		
1	A. I recall that we discussed each of the	11:03:50
2	items that are listed here to make sure that the	11:03:56
3	information was factual and correct.	11:03:56
4	Q. Did he read through any paragraphs with	11:04:06
5	you as though the declaration had been drafted to	11:04:09
6	some extent, and then you explained whether you	11:04:14
7	thought the declaration paragraph was correct or	11:04:18
8	not?	11:04:18
9	A. No.	11:04:19
10	Q. Do you have an understanding as to whether	11:04:27
11	a draft of your declaration had been produced at	11:04:30
12	the time of that conversation?	11:04:30
13	A. No.	11:04:33
14	Q. But as best as you can recall, you think	11:04:43
15	you went through each of the elements, or each of	11:04:48
16	the conditions identified in your declaration and	11:04:51
17	discussed the substance of that condition; is that	11:04:56
18	correct?	11:04:56
19	A. That is correct.	11:04:56
20	Q. If you would turn to paragraph 4 of your	11:05:12
21	declaration.	11:05:12
22	A. Uh-huh.	11:05:12
23	Q. I think you'll see there that it states in	11:05:17
24	part, "Brightwood resembles a trailer park"; is	11:05:21
25	that correct?	11:05:21

Page 51		
1	A. Yes.	11:05:21
2	Q. Could you tell me in what way that	11:05:25
3	Brightwood resembles a trailer park?	11:05:25
4	A. Because of the portable classrooms that	11:05:31
5	are present on campus and the temporary buildings	11:05:37
6	that are on campus. They are two different kinds	11:05:41
7	of structures.	11:05:41
8	Q. Are there any other aspects of Brightwood	11:05:48
9	that resemble a trailer park?	11:05:48
10	A. No.	11:05:53
11	Can I make a correction on number four?	11:05:58
12	Q. Sure.	11:06:01
13	A. There are not seven portable classrooms,	11:06:06
14	there are eight. That was my mistake.	11:06:06
15	Q. And there were eight at the time --	11:06:10
16	A. And I didn't see it when I was	11:06:15
17	proofreading. Yes, there were eight at the time.	11:06:15
18	Q. Did you ever use that specific language,	11:06:26
19	"resembles a trailer park," in your discussions?	11:06:26
20	A. I don't recall.	11:06:30
21	Q. Do you recall ever instructing Mr.	11:06:34
22	Eliasberg or Ms. Lhamon to include a sentence in	11:06:39
23	your declaration stating to the effect, "Brightwood	11:06:42
24	resembles a trailer park"?	11:06:42
25	A. I don't recall. It is possible.	11:06:46

Page 52		
1	MR. SIMMONS: Do you want a brief break?	11:06:50
2	MR. FOX: Yes. One second.	11:06:52
3	(Off the record.)	11:06:54
4	BY MR. SIMMONS:	11:08:04
5	Q. The next sentence of paragraph 4 says,	11:08:22
6	"There are seven portable classrooms at the	11:08:26
7	school."	11:08:26
8	We've already established that at the time	11:08:28
9	you signed your declaration that should have said	11:08:31
10	eight; is that correct?	11:08:31
11	A. That's correct.	11:08:31
12	MR. SIMMONS: Would you mark this document	11:08:42
13	as Exhibit 4, please.	11:08:42
14	(Deposition Exhibit 4	11:08:43
15	was marked for identification	11:08:43
16	and is annexed hereto.)	11:08:43
17	BY MR. SIMMONS:	11:08:43
18	Q. Go ahead and take a moment to review it	11:09:10
19	and let me know when you've had that opportunity.	11:09:10
20	A. That's my school.	11:09:16
21	Q. That will be the next question.	11:09:17
22	Does this document appear to be a map of	11:09:25
23	the Brightwood Elementary campus?	11:09:25
24	A. Yes, but not to scale.	11:09:28
25	Q. Okay.	11:09:30

Page 53		
1	A. I just changed it.	11:09:30
2	Q. That's all right. Let the record reflect	11:09:50
3	Ms. Shinn has edited her declaration. The teacher	11:09:55
4	has come out in her. That's fine. The record	11:09:58
5	reflects that she has just changed seven to eight,	11:10:06
6	which she has testified were at Brightwood at the	11:10:10
7	time she signed her declaration.	11:10:10
8	I'll give the pen back to you because I	11:10:16
9	would like you to mark on that one.	11:10:16
10	First of all, is it possible to mark on	11:10:20
11	Exhibit 3 the eight portable classrooms which	11:10:25
12	existed at the time you signed your declaration?	11:10:25
13	A. Yes.	11:10:30
14	MR. FOX: Exhibit 4?	11:10:31
15	BY MR. SIMMONS:	11:10:31
16	Q. Exhibit 4.	11:10:31
17	A. Would you like me to give you the room	11:10:37
18	numbers?	11:10:37
19	Q. That would be great. Could you do that	11:10:40
20	with a P so we know they're portable?	11:10:40
21	A. P1, P2, and P3 will be portables. They	11:10:49
22	are next to the parking lot by the street. Room 30	11:10:55
23	up on the playground is a portable. 31, 32, 33 and	11:10:59
24	34 are portables. I'm in room 32.	11:10:59
25	Q. Paragraph four also says, "In addition,	11:11:27

Page 54

1 there are a number of so-called temporary buildings 11:11:30
 2 on the campus." 11:11:30
 3 A. Correct. 11:11:31
 4 Q. Would it be possible to identify the 11:11:36
 5 temporary buildings on Exhibit 4? 11:11:36
 6 A. Yes. 11:11:37
 7 Q. Do you think that we could do that with a 11:11:43
 8 T and a room number? 11:11:43
 9 A. Sure. 11:11:46
 10 Q. Thank you. 11:11:47
 11 A. Rooms 1 and 2, which I don't see numbered 11:11:53
 12 here, are over by the Kindergarten. Do you see 11:11:57
 13 them? They have slanted numbers going through 11:12:01
 14 them. 11:12:01
 15 MR. SIMMONS: Counsel, is it okay if I go 11:12:09
 16 over by the witness? 11:12:09
 17 MR. FOX: Sure. 11:12:10
 18 THE WITNESS: I'm putting a T right beside 11:12:11
 19 them. These two are temporary. 11:12:11
 20 BY MR. SIMMONS: 11:12:13
 21 Q. Is that T1? 11:12:13
 22 A. Well -- they're rooms 1 and 2. 11:12:15
 23 Q. Could we mark that with -- the classroom 1 11:12:26
 24 with a T1, would that be all right? 11:12:26
 25 A. I'm not sure which one is 1 and which one 11:12:32

Page 55

1 is 2, to be very honest. 11:12:32
 2 Q. That's fine. Then we'll just keep a T 11:12:37
 3 there. 11:12:37
 4 A. And this is room 20 and 21, that I know. 11:12:42
 5 And those are both Ts. 11:12:42
 6 This is two rooms right here. That's not 11:12:57
 7 the library. Here's 14, is a temporary. 15 is a 11:13:09
 8 temporary. 16, that's a temporary. 17 is a 11:13:20
 9 temporary. 18, that's a temporary. And 19, that's 11:13:28
 10 a temporary. 18 is the school library. Do you 11:13:31
 11 want me to put an L there? 11:13:31
 12 Q. That would be great. 11:13:34
 13 A. Just to show it's the library. 11:13:38
 14 Q. This is on Exhibit 4, this is identified 11:13:44
 15 as building F? 11:13:44
 16 A. Right. 11:13:46
 17 Q. Does that go by building F at the school 11:13:51
 18 as well? 11:13:51
 19 A. No. I have no idea where that came from. 11:13:51
 20 Q. Just for our purposes for identifying for 11:13:56
 21 the record, this is the classrooms 14 -- 11:13:56
 22 A. 14, 15, 16, 17, 18, 19, and then 20 and 21 11:14:06
 23 are right across. 11:14:06
 24 Q. The 14, 15, 16, 17, 18 and 19 are in the 11:14:12
 25 building which has an F on it? 11:14:12

Page 56

1 A. Correct. 11:14:15
 2 Q. At least as far as Exhibit 4 is concerned? 11:14:15
 3 A. Uh-huh. And then there's two other 11:14:23
 4 temporary buildings, number 28 and 29 up on the 11:14:27
 5 playground. 11:14:27
 6 Q. Does that look to you like an M on Exhibit 11:14:34
 7 4 in the building there? 11:14:34
 8 A. Where? 11:14:35
 9 Q. By the asterisk. 11:14:36
 10 A. Yes, it does. 11:14:38
 11 Q. Are those all the temporary buildings? 11:14:39
 12 MR. FOX: Objection. The document speaks 11:14:51
 13 for itself. There's an indication for portable in 11:14:55
 14 the legend. It shows which buildings are portable. 11:14:59
 15 To be honest, these questions are a waste of time. 11:14:59
 16 THE WITNESS: Yeah. I'm not sure that the 11:15:06
 17 -- the legend is absolutely correct, though, to 11:15:09
 18 tell you the truth. I'm looking at the legend 11:15:12
 19 here, and it doesn't -- the key. 11:15:12
 20 BY MR. SIMMONS: 11:15:14
 21 Q. This building here that's identified as B 11:15:19
 22 on Exhibit 4, is that a temporary building? 11:15:19
 23 A. Yes, actually. 11:15:23
 24 Q. Do you know what that building is? Are 11:15:34
 25 there classrooms in there? 11:15:34

Page 57

1 A. No. 11:15:35
 2 Q. What kind of activities are held in 11:15:38
 3 building B on Exhibit 4? 11:15:38
 4 A. The west end, which is right here, is the 11:15:44
 5 teacher's lounge, which we jokingly call the 11:15:50
 6 teacher's lounge. In the middle is a small work 11:15:54
 7 room and storage area. And then on the east end is 11:15:58
 8 the school office and the nurse's office. 11:15:58
 9 Q. As far as what we have for buildings here 11:16:09
 10 on Exhibit 4, do you think that we have now marked 11:16:14
 11 all the temporary buildings? 11:16:14
 12 A. I think you need -- yes. And this 11:16:17
 13 building right here is a two-story building. 11:16:17
 14 Q. And that is building G that you're 11:16:22
 15 referring to -- 11:16:22
 16 A. Right. 11:16:23
 17 Q. -- as two stories; is that correct? 11:16:24
 18 A. Uh-huh. 11:16:27
 19 Q. The buildings that have not been marked 11:16:39
 20 with either a P or a T on Exhibit 4, are those 11:16:47
 21 permanent buildings? 11:16:47
 22 A. Yes. 11:16:48
 23 Q. In paragraph 4 of your declaration it 11:17:05
 24 says, "These buildings have been here for years and 11:17:08
 25 they are in terrible condition." 11:17:08

Page 58

1 A. These are the temporary buildings. 11:17:09
 2 Q. Are all of the temporary buildings, in 11:17:18
 3 your opinion, in terrible condition? 11:17:18
 4 A. Yes. Take it back. Numbers 28 and 29 are 11:17:26
 5 more recent. They're not quite as bad as the other 11:17:32
 6 ones. They're up on the playground also. But all 11:17:42
 7 the others are in horrible condition. I taught in 11:17:46
 8 two of those rooms at different times. 11:17:46
 9 Q. The buildings that you marked with a T on 11:18:11
 10 Exhibit 4 -- 11:18:11
 11 A. Yes. 11:18:12
 12 Q. -- are those buildings in essentially the 11:18:16
 13 same condition today as they were the day you 11:18:19
 14 signed your declaration? 11:18:19
 15 A. Yes. Possibly worse. 11:18:20
 16 Q. If we could start with the building -- 11:18:47
 17 which classroom number is this building here again, 11:18:51
 18 if you know? 11:18:51
 19 A. That is -- that doesn't belong to the 11:18:58
 20 school or the school district, it's Options. It's 11:18:59
 21 an after-school private organization that does 11:19:05
 22 child-care and -- does child-care for young 11:19:08
 23 children during the school day and then for 11:19:12
 24 students after school. They bring in their own 11:19:15
 25 structure. It's a type of portable also and they 11:19:18

Page 59

1 lease the land. So it's a child-care facility. It 11:19:24
 2 doesn't belong to the district. 11:19:24
 3 Q. So on Exhibit -- 11:19:25
 4 A. You can see it says "CC." 11:19:28
 5 Q. On Exhibit 4, in the top left-hand portion 11:19:32
 6 of Exhibit 4 where it says "CC," that is the 11:19:40
 7 building to which you've been referring to? 11:19:40
 8 A. Yes. 11:19:42
 9 Q. Then with respect to T28 on Exhibit 4? 11:19:43
 10 A. Yes. 11:19:58
 11 Q. Could you explain for me the specific 11:20:02
 12 aspects of T28 which forms the basis of your 11:20:11
 13 opinion that it is in terrible condition? 11:20:11
 14 A. I think you didn't understand me. I said 11:20:20
 15 that all of the temporaries were in terrible 11:20:25
 16 condition except numbers 28 and 29, they were in 11:20:28
 17 better condition because they're newer. 11:20:28
 18 Q. Do you have any problems with the 11:20:35
 19 conditions of those buildings, although they might 11:20:40
 20 not be as bad as the other temporary conditions? 11:20:40
 21 MR. FOX: Vague and ambiguous. 11:20:42
 22 BY MR. SIMMONS: 11:20:44
 23 Q. Excuse me, the other temporary buildings. 11:20:44
 24 A. Outside of location, being far removed 11:20:55
 25 from the rest of the school campus, and isolation, 11:20:59

Page 60

1 and windows that you can't see through because 11:21:02
 2 they're made out of some kind of strange plastic 11:21:05
 3 material which is odd, they are not in horrible 11:21:09
 4 condition. They are semi-air conditioned, work 11:21:14
 5 sporadically. They do have running water. They 11:21:19
 6 have actual plumbing, unlike the rest of the 11:21:22
 7 portables. 11:21:22
 8 Q. Correct me if I'm wrong, but I think two 11:21:31
 9 conditions that you identified were windows that 11:21:34
 10 are difficult to see through? 11:21:34
 11 A. No, windows that don't open. Are you 11:21:41
 12 talking about just these two? 11:21:41
 13 Q. Yes. 11:21:42
 14 A. Yes. 11:21:43
 15 Q. With respect to those two buildings, one 11:21:47
 16 of the problems that you've identified with respect 11:21:50
 17 to those buildings are windows that you can't see 11:21:52
 18 through? 11:21:52
 19 A. Uh-huh. 11:21:53
 20 Q. And their isolated from the rest of the 11:21:59
 21 campus? 11:21:59
 22 A. Yes. 11:21:59
 23 Q. Are there any other aspects of those 11:22:03
 24 buildings which you would like to see changed? 11:22:03
 25 A. No. 11:22:11

Page 61

1 Q. Could you describe the windows for me a 11:22:22
 2 little more. 11:22:22
 3 A. They're kind of a Plexiglas, and they're 11:22:34
 4 an odd kind of dark shade, you can't see through 11:22:38
 5 them at all. They're kind of wavy. 11:22:38
 6 Q. Does light pass through those windows -- 11:22:45
 7 A. Yes. 11:22:48
 8 Q. -- to your knowledge? 11:22:48
 9 But it's blurry if you were to try and 11:22:54
 10 look out them; is that correct? 11:22:54
 11 A. Correct. 11:22:55
 12 Q. When you say that the buildings marked T28 11:23:07
 13 and T29 on Exhibit 4 are isolated from the rest of 11:23:12
 14 the campus, can you tell me a little bit more about 11:23:16
 15 what you mean by that? 11:23:16
 16 A. Yes. They're on the top of the hill. 11:23:20
 17 We're on the side of a hill, a very steep hill. So 11:23:24
 18 even though it looks close, there are a number of 11:23:28
 19 steps that you have to take to get up to all of 11:23:31
 20 those classrooms that you see on the north side of 11:23:35
 21 the map. 11:23:35
 22 Q. Is there a part of the campus at 11:23:41
 23 Brightwood that you would consider the center of 11:23:43
 24 the campus? 11:23:43
 25 A. No. I can't say that because it's in bits 11:23:54

Page 62

1 and pieces. There is no central part of the 11:23:57
2 campus. There's almost a desegregation that goes 11:24:05
3 on. 11:24:05
4 Q. Do you know about how many acres the 11:24:17
5 school site at Brightwood is? 11:24:17
6 A. I'm sorry, I don't. 11:24:18
7 Q. Could you estimate about how far it would 11:24:25
8 be, in terms of yards, from T28 and T29 to what's 11:24:39
9 identified as E on Exhibit 4? 11:24:39
10 A. E? 11:24:42
11 Q. The E building. I'm sorry. 11:24:42
12 A. The E building. 50 to 100 yards, perhaps. 11:24:56
13 But it's also vertical. 11:24:56
14 Q. And I take it that there are stairs that 11:25:05
15 must be walked down to get from T28, T29, to what's 11:25:11
16 marked as building E on Exhibit 4? 11:25:11
17 A. Correct. 11:25:13
18 Q. Do you know by any chance about how many 11:25:19
19 steps there are on these stairs? 11:25:19
20 MR. FOX: Objection. Relevance. Best 11:25:26
21 evidence is the campus itself. 11:25:26
22 THE WITNESS: 35 maybe. I run up and down 11:25:36
23 them a dozen times a day. 11:25:36
24 BY MR. SIMMONS: 11:25:37
25 Q. You say that buildings T -- or classrooms 11:25:42

Page 63

1 T28 and T29 are semi-air conditioned; is that 11:25:46
2 correct? 11:25:46
3 A. They are air conditioned, but the air 11:25:50
4 conditioning is notoriously inefficient. 11:25:50
5 Q. Can you tell me in what way the air 11:26:00
6 conditioning in T28 and T29 is notoriously 11:26:07
7 inefficient? 11:26:07
8 A. It works sporadically. 11:26:08
9 Q. By "sporadically," can you estimate the 11:26:14
10 number of times in a month that there may be 11:26:16
11 problems with the air conditioning? 11:26:16
12 A. No, because I don't teach in the room. 11:26:21
13 You would have to talk to the people who teach in 11:26:25
14 there. I do know room 28 is worse than room 29. 11:26:30
15 The teacher who teaches in room T28 complains more. 11:26:30
16 Q. Do you know the teacher who is in room 11:26:38
17 T28? 11:26:38
18 A. Yes, I do. 11:26:39
19 Q. Could you tell me who that is? 11:26:39
20 A. Laura -- she's a brand new teacher. I'll 11:26:51
21 come back to it. Senior moment. 11:26:51
22 Q. We'll come back to that. If you remember, 11:26:59
23 that's fine. 11:26:59
24 A. I'm sorry. 11:27:00
25 Q. Why don't we move to the temporary 11:27:08

Page 64

1 building that's marked as F on the map. It's at 11:27:12
2 the bottom of the Exhibit 4? 11:27:12
3 A. Uh-huh. 11:27:15
4 Q. And those are rooms 14T, 15T, 16T, 17T, 11:27:26
5 18T and 19T? 11:27:26
6 A. That's correct. 11:27:29
7 Q. And what is marked as 18T is the library; 11:27:33
8 is that correct? 11:27:33
9 A. That is correct. 11:27:33
10 Q. Now building F, in your opinion, is in 11:27:37
11 terrible condition? 11:27:37
12 A. Yes. 11:27:37
13 Q. Can you describe for me the specific 11:27:41
14 aspects of building F that form the basis of your 11:27:44
15 opinion that it is in terrible condition? 11:27:44
16 A. I taught in both rooms 16 and 19 at 11:27:51
17 different times. They have never been painted. 11:28:01
18 The storage in some rooms is very poor, other rooms 11:28:05
19 better, it's inconsistent. They have swamp 11:28:10
20 coolers, but no air conditioning. Swamp coolers 11:28:14
21 are rarely turned on because when you turn them on, 11:28:18
22 black stuff comes pouring out all over the room and 11:28:23
23 it lands on the students' desk. So it has to be 11:28:27
24 105 degrees outside before I turn them on, or 11:28:31
25 before anyone turns them on. 11:28:31

Page 65

1 There's termites. When I went into room 11:28:38
2 19 every morning when I come into work there would 11:28:41
3 be a little pile of sawdust right by the door. So 11:28:47
4 I assume that was the work of little insects 11:28:50
5 overnight. 11:28:50
6 Room 16 and 17 are right up next to a 11:28:54
7 hill, the hill that goes up to the upper level of 11:28:57
8 the school. And during heavy rain storms we get 11:29:02
9 mud slides that bring the mud down onto the porches 11:29:06
10 of those classrooms. When I was in room 16 we had 11:29:11
11 a landslide and they had to evacuate rooms 16 and 11:29:16
12 17 out through one door opened only this much, the 11:29:21
13 mud was up against the other doors. We had to take 11:29:25
14 all 60 plus children out of those two rooms through 11:29:29
15 one open door and over the balcony, over the porch, 11:29:34
16 and take them to the auditorium for the day. 11:29:34
17 The heaters worked sporadically, some very 11:29:45
18 cold mornings there would be no heat at all. 11:29:48
19 Sometimes the custodian could fix it and sometimes 11:29:54
20 they couldn't. So the people from the maintenance 11:29:57
21 department would come, sometimes not for several 11:30:01
22 hours. Heaters were very noisy. The windows in 11:30:09
23 some of those rooms did not open. Some of the 11:30:18
24 rooms had transoms which opened and some the 11:30:21
25 transoms would not open. 11:30:21

Page 66

1	Q. Do you recall any other specifics	11:30:50
2	presently?	11:30:50
3	A. They were just grungy and dingy and dirty	11:30:54
4	and depressing. Is that enough alliteration for	11:30:58
5	you?	11:30:58
6	Q. English majors. I say that only because I	11:31:12
7	was one too.	11:31:12
8	Could we move across to building H,	11:31:18
9	what's identified as building H on Exhibit 4.	11:31:18
10	A. Yes.	11:31:22
11	Q. Those are classrooms 20 and 21?	11:31:22
12	A. Yes.	11:31:30
13	Q. In your opinion, building H is in terrible	11:31:41
14	condition as well?	11:31:41
15	A. Correct.	11:31:42
16	Q. Can you identify the specific aspects of	11:31:47
17	building H that form the basis of your opinion that	11:31:50
18	it is in terrible condition.	11:31:50
19	A. I could repeat the same things that I said	11:31:57
20	about rooms 14 through 19, except for the	11:32:01
21	landslide.	11:32:01
22	Q. If we could move up to building C.	11:32:02
23	A. Correct.	11:32:24
24	Q. Those are also temporary buildings?	11:32:26
25	A. Yes. And they are the worst in the	11:32:36

Page 67

1	school.	11:32:36
2	Q. What classrooms are in building C?	11:32:36
3	A. Rooms 1 and 2.	11:32:39
4	Q. Could you identify the specific aspects of	11:32:54
5	the temporary building that's identified as C on	11:32:58
6	Exhibit 4 that form the basis of your opinion that	11:33:01
7	it is in terrible condition.	11:33:01
8	A. They leak when it rains. They have the	11:33:08
9	same problems with the swamp coolers, and the	11:33:16
10	heating. I will say also, for rooms 14 through 19	11:33:26
11	and 20 and 21 and 1 and 2, the C group, all of them	11:33:30
12	have steps going up into the rooms. There is no	11:33:32
13	ramp and no way to go up, except through several	11:33:37
14	steps. On one of them, it's the one at the east	11:33:40
15	end, I believe it is room 2, the steps and the	11:33:46
16	little railing around the steps breaks on a regular	11:33:49
17	basis and someone has to come and repair it.	11:33:49
18	And from room 1, which is the one on the	11:33:54
19	west end, there is something wrong with the heating	11:33:59
20	unit and/or the swamp cooler unit, so that water is	11:34:04
21	always coming from somewhere on top of them and	11:34:09
22	dripping down the eaves onto the ground. So in	11:34:14
23	front of this room right here, the one on the far	11:34:19
24	end next to the office area, there is -- unless	11:34:23
25	it's a very hot day, there's always a huge puddle	11:34:27

Page 68

1	of water there dripping 24 hours a day from this	11:34:31
2	room. Some kind of a leak. No one has ever been	11:34:35
3	able to fix it. And it's rather putrid. I'm	11:34:40
4	assuming it comes from the swamp cooler, I don't	11:34:43
5	really know. It's just an assumption. And on hot	11:34:46
6	days it does evaporate quickly, otherwise there's	11:34:51
7	always water right there. Both of these classrooms	11:34:55
8	hold special education students, call them FDC	11:35:01
9	classes.	11:35:01
10	Q. With respect to the leak that causes the	11:35:11
11	puddle, that's with respect to classroom 1; is that	11:35:15
12	right?	11:35:15
13	A. Correct.	11:35:15
14	Q. And classroom 1, you said, is on the west	11:35:18
15	end?	11:35:18
16	A. Correct.	11:35:20
17	Q. Is that the bottom classroom?	11:35:20
18	A. That's the bottom classroom. That's the	11:35:23
19	western part of our campus.	11:35:23
20	Q. Do students enter the classroom where the	11:35:35
21	puddle is?	11:35:35
22	A. Just beyond.	11:35:35
23	Q. Would the puddle be in about the center of	11:35:43
24	the building as it's shown?	11:35:43
25	A. A little further west and center. Closer	11:35:50

Page 69

1	to the corner of the building.	11:35:50
2	Q. About where would students enter on	11:35:55
3	Exhibit 4?	11:35:55
4	A. Further east. About halfway along.	11:35:55
5	Q. Could you mark the entrance on Exhibit 4	11:36:01
6	to classroom 1?	11:36:01
7	A. Do you want me to just --	11:36:02
8	Q. Just a line, would be fine.	11:36:04
9	A. Right about there.	11:36:06
10	Q. Could you mark where the puddle is on	11:36:10
11	Exhibit 4 with just a small filled in circle would	11:36:17
12	be fine.	11:36:17
13	Did you testify that both of these	11:36:29
14	buildings leak when it rains?	11:36:29
15	A. I don't know if both of them do or not. I	11:36:33
16	know there are scattered buildings throughout the	11:36:35
17	campus of all of the structures that have leakage.	11:36:40
18	I do know that there are some leaking in one or	11:36:42
19	both of those. I can tell you specifically some	11:36:45
20	buildings that do leak or have leaked. I'm not	11:36:48
21	sure about those two.	11:36:48
22	Q. If you'll turn to paragraph 5 of your	11:37:15
23	declaration, which I believe is Exhibit 2; is that	11:37:19
24	correct?	11:37:19
25	A. Yes.	11:37:19

Page 70

1 Q. The first sentence says, "My classroom is 11:37:26
2 one of the portables." 11:37:26
3 A. That is correct. 11:37:27
4 Q. Could you mark your classroom on Exhibit 11:37:31
5 4? 11:37:31
6 A. It's room 32. How do you want me to mark 11:37:35
7 it? 11:37:35
8 Q. Just an "X" through would be fine. 11:37:35
9 A. I was going to be a star. 11:37:38
10 Q. A star is fine too. 11:37:40
11 Did you choose the star or the "X"? 11:37:43
12 A. The star. 11:37:46
13 Q. You taught in the classroom that you just 11:38:00
14 marked on Exhibit 4 for the 2000, 2001 school year; 11:38:07
15 is that correct? 11:38:07
16 A. Correct. 11:38:07
17 Q. Did you teach in that classroom for any 11:38:10
18 other school years? 11:38:10
19 A. Yes. I'm backing up. I just finished my 11:38:18
20 third year in that classroom. It would be 1998 to 11:38:31
21 1999 school year. 1999 to 2000, and 2000 to 2001, 11:38:38
22 so for three years I've been in that room. 11:38:38
23 Q. Does that room have air conditioning? 11:38:40
24 A. Yes. 11:38:43
25 Q. Does that room have heat? 11:38:43

Page 71

1 A. Yes. 11:38:45
2 Q. Do you know how teachers are assigned to 11:38:50
3 particular buildings at school? 11:38:50
4 A. Yes. 11:38:52
5 Q. Do you know why you were assigned to teach 11:38:56
6 in that classroom? 11:38:56
7 A. Yes. 11:38:58
8 Q. Can you tell me the reason? 11:38:58
9 A. I can. All of the upper level rooms are 11:39:05
10 sixth, seventh and eighth grade classrooms. We 11:39:09
11 have a K-8 school. So the middle school classes 11:39:13
12 are in a section by themselves, because we do a 11:39:17
13 departmentalized program and the children move from 11:39:21
14 class to class so they need to be next to each 11:39:23
15 other. So the classes 31, 32, 33, 34 are all six 11:39:29
16 grade classes. 11:39:29
17 The other little cluster you see, 28, 29, 11:39:35
18 30 are seventh grade classes. Then the upper level 11:39:38
19 of the two-story buildings are eight grade classes. 11:39:43
20 The rest of the school is similarly set so that 11:39:50
21 students of a first grade class are not right next 11:39:54
22 to a fifth grade class. They are clustered as well 11:39:58
23 as it can be arranged with students of the same age 11:40:02
24 group. 11:40:02
25 Q. Paragraph 5 of your declaration states 11:40:07

Page 72

1 that "there are a lot of problems with trying to 11:40:09
2 teach in this classroom"; is that correct? 11:40:09
3 A. Correct. 11:40:10
4 Q. And I assume "this classroom," again, 11:40:15
5 refers to the portable? 11:40:15
6 A. That's right. 11:40:15
7 Q. And one of the problems that you identify 11:40:19
8 in your declaration is that there is no running 11:40:21
9 water in the portable? 11:40:21
10 A. That is correct. 11:40:22
11 Q. Do you know whether the other portable 11:40:30
12 classrooms at Brightwood have running water? 11:40:30
13 A. None of them do. 11:40:32
14 Q. With respect to the lack of running water, 11:40:40
15 you say in your declaration that the lack of 11:40:43
16 running water really hampers what you would like to 11:40:46
17 do; is that correct? 11:40:46
18 A. Correct. 11:40:46
19 Q. And your declaration also states that you 11:40:51
20 find that "painting and building models with clay 11:40:54
21 and papier-mache is a very effective way to make 11:40:58
22 history come alive for students"? 11:40:58
23 A. I also teach art. 11:41:00
24 Q. You teach art. Do you teach art to sixth 11:41:09
25 graders? 11:41:09

Page 73

1 A. Uh-huh. Art and music, history, language 11:41:13
2 arts. 11:41:13
3 Q. Is it a fair characterization to say that 11:41:21
4 you're a humanities teacher or -- 11:41:21
5 A. No. I don't think so. I teach -- we 11:41:28
6 divide the subjects that we teach. In the past, 11:41:33
7 each of the teachers has taught his or her own 11:41:37
8 students -- this is at the sixth grade level, I can 11:41:41
9 only speak to that -- their own language art class. 11:41:45
10 And we do that in a large block of about two hours. 11:41:45
11 And the rest of the day is divided between history, 11:41:48
12 science and math. And the students move to other 11:41:52
13 classrooms for those classes. And I'm the history 11:41:55
14 teacher. And then two days a week we have what we 11:41:58
15 call an exploratory class, it would be like an 11:42:02
16 elective. And I do sometimes art and sometimes 11:42:06
17 music for an elective. 11:42:06
18 Q. And does that occur in the same classroom 11:42:10
19 that you teach history in? 11:42:10
20 A. Yes. Yes. 11:42:11
21 Q. Since you've been teaching in the portable 11:42:20
22 classroom, have you ever done any projects in class 11:42:24
23 that have entailed painting? 11:42:24
24 A. Yes. 11:42:28
25 Q. Do you know about how many projects that 11:42:30

Page 74

1	entailed painting?	11:42:30
2	A. Probably six or eight a year.	11:42:39
3	Q. Can you give me an example of one of those	11:42:49
4	six or eight projects that you think brings history	11:42:53
5	alive for students?	11:42:53
6	A. I have the children -- we study ancient	11:42:58
7	Egypt. I have the children design sarcophagus	11:43:04
8	where the pharaohs were buried. The children lie	11:43:07
9	down on a butcher paper, they make an outline of	11:43:10
10	their body, then they design and color the front	11:43:14
11	and back of it with paint.	11:43:14
12	Q. While teaching in the portable classroom,	11:43:20
13	have you ever done any projects in class that	11:43:21
14	entailed the use of clay?	11:43:21
15	A. Yes. Say that again.	11:43:23
16	Q. While teaching in the portable classroom,	11:43:30
17	have you ever done any projects in class that	11:43:33
18	entailed the use of clay?	11:43:33
19	A. No, not in the portables. I have in other	11:43:38
20	classrooms.	11:43:38
21	Q. In the last three years have you ever done	11:43:48
22	any projects in class that entailed the use of	11:43:51
23	clay?	11:43:51
24	A. No.	11:43:51
25	Q. While teaching in the portable classroom	11:43:56

Page 75

1	have you ever done any projects in class that	11:43:57
2	entailed the use of papier-mache?	11:43:57
3	A. Yes.	11:44:01
4	Q. Do you know about how many projects that	11:44:07
5	made use of papier-mache you've done in the past	11:44:13
6	two years?	11:44:13
7	A. Probably two or three.	11:44:14
8	Q. Is that two or three total, or two or	11:44:15
9	three --	11:44:17
10	A. Two or three total.	11:44:18
11	Q. Can you describe one of those projects for	11:44:22
12	me.	11:44:22
13	A. Yes. We build -- the early part of the	11:44:26
14	year when we study prehistoric humans, I build a	11:44:32
15	cave in the classroom. And the students do cave	11:44:35
16	painting and make papier-mache artifacts to go in.	11:44:35
17	Q. Have you ever taught in a classroom at	11:44:48
18	Brightwood that did have running water?	11:44:48
19	A. Yes.	11:44:50
20	Q. Which classroom or classrooms was that?	11:44:50
21	A. I've taught in three other classrooms.	11:44:58
22	The two that I described earlier, rooms 16 and 19,	11:45:02
23	they both have running water. When I first came to	11:45:04
24	Brightwood I was in room 11, which is building E on	11:45:09
25	this map.	11:45:09

Page 76

1	Q. And did classroom 11 have running water?	11:45:09
2	A. Yes.	11:45:16
3	Q. Did you do any projects in those	11:45:24
4	classrooms that entailed painting?	11:45:24
5	A. Uh-huh, yes.	11:45:25
6	Q. Can you generalize as to the number of	11:45:30
7	painting projects you would have done in a year?	11:45:30
8	A. More in those classrooms than I do in the	11:45:35
9	temporaries because of the ease. Several a year.	11:45:35
10	Q. Can you get any more specific than	11:45:44
11	"several" a year?	11:45:44
12	A. No, because no two years are the same.	11:45:50
13	And I do different things with different groups of	11:45:52
14	students. I can't generalize.	11:45:52
15	Q. How about with respect to clay. In	11:46:01
16	classrooms 11, 16 and 19, did you ever do any	11:46:06
17	projects in those classrooms that made use of clay?	11:46:06
18	A. Yes.	11:46:10
19	Q. Did you do a project in each of those	11:46:15
20	classrooms that made use of clay?	11:46:15
21	A. Room 11 and room 16.	11:46:18
22	Q. Do you have a general idea as to how many	11:46:29
23	projects using clay you would have done in either	11:46:33
24	classroom 11 or 16?	11:46:33
25	A. Probably just one each year.	11:46:34

Page 77

1	Q. Did you ever do any projects in either	11:46:47
2	classroom 11, 16 or 19 that made use of	11:46:50
3	papier-mache?	11:46:50
4	A. Yes.	11:46:52
5	Q. Again --	11:46:52
6	A. The same projects that I -- the cave, my	11:46:59
7	ever-present cave.	11:46:59
8	Q. I take it that one goes over well?	11:47:00
9	A. That's a big one.	11:47:03
10	Q. Your declaration also states that when you	11:47:12
11	were teaching ancient history you wanted to have	11:47:16
12	students do murals comparing the life of	11:47:21
13	neanderthal and Cro-Magnon men?	11:47:21
14	A. Yes.	11:47:24
15	Q. As well as do historical timelines?	11:47:25
16	A. Yes.	11:47:27
17	Q. But you can't do painting like that	11:47:30
18	without an easy supply of water; is that correct?	11:47:30
19	A. That's correct.	11:47:32
20	Q. Could you explain to me how an easy supply	11:47:40
21	of water allows you to do a type of project that	11:47:45
22	you've identified in your declaration?	11:47:45
23	A. If you're going to use paints or clay, you	11:47:49
24	have to have water present. The paint that we use	11:47:52
25	in the classrooms are either water colors or what	11:47:56

Page 78

1	they call tempera. As the children are painting,	11:48:00
2	we mix the paints in jars, and there's an	11:48:04
3	ever-present supply of water for them to rinse the	11:48:09
4	brushes out and continue painting. Water has to be	11:48:12
5	mixed with the paints because it comes in a very	11:48:14
6	thick form. So we make numerous trips back and	11:48:18
7	forth to the rest rooms with buckets.	11:48:18
8	Q. And that's how you're able to do the	11:48:23
9	painting --	11:48:23
10	A. That's how we're able to do it. And it's	11:48:27
11	quite a long distance to the restrooms.	11:48:27
12	Q. Can you estimate, in terms of feet or	11:48:31
13	yards, how long it is to the restrooms from your	11:48:35
14	classroom?	11:48:35
15	A. It's across the playground -- I don't	11:48:45
16	teach math.	11:48:45
17	Q. It's fine. If you're not comfortable with	11:48:49
18	estimating, that's fine.	11:48:49
19	A. It's a long ways.	11:48:52
20	Q. Could you estimate about how long it would	11:48:57
21	take to walk between your classroom and the	11:49:02
22	restrooms?	11:49:02
23	A. Two or three minutes.	11:49:04
24	Q. With respect to the murals that compared	11:49:23
25	the life of neanderthal and Cro-Magnon men --	11:49:23

Page 79

1	A. Yes.	11:49:29
2	Q. -- as well as the historical timelines?	11:49:29
3	A. Right.	11:49:31
4	Q. Did you do an alternate project with your	11:49:35
5	students in lieu of that project?	11:49:35
6	A. I did the same project, but without paint,	11:49:39
7	using markers or crayons or chalk or other media.	11:49:39
8	Q. Can you identify any other specific	11:49:55
9	projects that you wanted to do with your students	11:49:57
10	in your portable classroom but felt that you could	11:50:01
11	not do because your portable classroom lacked	11:50:04
12	running water, or an easy supply of running water?	11:50:04
13	A. Just general art projects that I just did	11:50:18
14	in a different way.	11:50:18
15	Can I say something else about the running	11:50:28
16	water problem?	11:50:28
17	Q. Sure.	11:50:29
18	A. I keep a supply, which I purchased myself,	11:50:34
19	of baby wipes, because there's no way to wash	11:50:39
20	hands. I always have -- sometimes the families	11:50:42
21	will donate them. They're very good about that.	11:50:46
22	And sometimes I purchase it myself. Sometimes as a	11:50:49
23	joke the children will wrap one up in paper and a	11:50:52
24	fancy bow and give it to me as a gift. So we use	11:50:57
25	baby wipes to clean ourselves because there's no	11:51:01

Page 80

1	water.	11:51:01
2	Q. Was there ever a time where you're out of	11:51:05
3	baby wipes?	11:51:05
4	A. Of course.	11:51:06
5	Q. How did you respond to the lack of baby	11:51:10
6	wipes?	11:51:10
7	A. I let the students dash across the	11:51:13
8	playground in small numbers to wash and come back.	11:51:13
9	Q. Other than the lack of an easy supply of	11:51:23
10	running water, do you experience any other problems	11:51:27
11	with trying to teach in your portable classroom?	11:51:27
12	A. The biggest problem is playground noise.	11:51:31
13	Q. The noise, is that a factor of the	11:51:45
14	location of your classroom or a factor that your	11:51:49
15	classroom is a portable?	11:51:49
16	A. Location -- both.	11:51:51
17	Q. How does the fact that your classroom is a	11:52:15
18	portable classroom, as opposed to a permanent	11:52:19
19	classroom, affect the noise level?	11:52:19
20	A. Because it's built more flimsy. And the	11:52:27
21	sound comes in -- it's not a regular building.	11:52:32
22	It's a trailer-like building, so it doesn't have	11:52:34
23	the strength and stability to withstand the noise.	11:52:34
24	Q. Would you say that the location of your	11:52:43
25	building is a bigger problem with respect to noise,	11:52:47

Page 81

1	than is the fact that your building is a portable?	11:52:47
2	MR. FOX: Calls for speculation.	11:52:56
3	THE WITNESS: I can't answer that	11:52:59
4	question. I don't know.	11:52:59
5	BY MR. SIMMONS:	11:53:00
6	Q. Other than the noise level, can you	11:53:13
7	identify other problems that you experience	11:53:15
8	teaching in the portable classroom?	11:53:15
9	A. Yes. There is zero storage, zero.	11:53:17
10	Q. So I take it that there aren't any	11:53:28
11	cabinets in your classroom?	11:53:28
12	A. Those of us who have been around for a	11:53:32
13	long time have the fine art of begging down to a	11:53:35
14	tee. So we got down on hands and knees and they	11:53:38
15	brought in three metal cabinets. The new teachers	11:53:42
16	who come in usually are lucky to have one or two	11:53:48
17	metal cabinets in their classrooms. But they're	11:53:54
18	brought in from the outside and they're only gotten	11:53:58
19	through dire requests. I need some place to store.	11:54:03
20	I will tell you that most of the things I keep home	11:54:07
21	in my garage and I take them as I need them. It's	11:54:10
22	not very convenient.	11:54:10
23	Q. Are the metal cabinets that are used at	11:54:14
24	school, are they of a uniform size?	11:54:14
25	A. No.	11:54:16

Page 82

1 Q. With respect to the metal cabinets in your 11:54:21
 2 classroom, how many of those are there? 11:54:21
 3 A. I have four now. 11:54:24
 4 Q. Can you describe the size of those metal 11:54:31
 5 cabinets for me. 11:54:31
 6 A. They're -- three of them are about six 11:54:38
 7 feet tall and two to two-and-a-half feet wide. 11:54:53
 8 They're tall and narrow. And the third one is 11:54:56
 9 shorter and a little bit wider. I mean, the fourth 11:55:03
 10 one, excuse me. 11:55:03
 11 Q. Can you say how much shorter the third one 11:55:09
 12 is -- I'm sorry, would that be -- 11:55:09
 13 A. Five to six inches. 11:55:12
 14 Q. Would that be the fourth one? 11:55:13
 15 A. Correct. 11:55:16
 16 Q. About how much wider do you think the 11:55:20
 17 fourth one is? 11:55:20
 18 A. Three or four inches. It's just a little 11:55:24
 19 bit shorter and a little bit wider, that's all. 11:55:24
 20 Q. In your declaration in paragraph 6, it 11:55:51
 21 says, "The school is built on a hill and my 11:56:03
 22 portable is on the upper part of the campus with 11:56:06
 23 three other portables. They all surround the 11:56:11
 24 playground." 11:56:11
 25 Is that what your declaration says there? 11:56:11

Page 83

1 A. Yes. 11:56:13
 2 MR. FOX: Objection. The document speaks 11:56:16
 3 for itself. 11:56:16
 4 BY MR. SIMMONS: 11:56:17
 5 Q. Could you please circle the playground 11:56:23
 6 area on Exhibit 4. Would that be possible? 11:56:23
 7 A. Sure. A great big oval? 11:56:28
 8 Q. Sure. 11:56:31
 9 A. Stops right about -- well, basically it's 11:56:36
 10 where you see this -- 11:56:36
 11 Q. That line? 11:56:37
 12 A. I don't need to circle. This is the 11:56:41
 13 playground. Wait a minute. No, it comes out 11:56:44
 14 further. I'm -- should I draw a line out? 11:56:44
 15 Q. Please. 11:56:49
 16 A. It comes to Hillside Street, comes right 11:56:55
 17 here -- the playground reaches -- there's a gate 11:56:59
 18 here that we keep lock. 11:56:59
 19 Q. Is there a fence that surrounds -- 11:57:00
 20 A. There's a fence that surrounds this part 11:57:06
 21 only. This is a hill continuing on up. So our 11:57:10
 22 four classrooms are here and the child-care trailer 11:57:14
 23 are jammed up against the hill. This is another 11:57:17
 24 hill here, which goes up. And there's a fence, 11:57:22
 25 which goes up to another hill. This section here 11:57:27

Page 84

1 is a park, which is all locked up because there are 11:57:33
 2 unsavory types there so they keep everything locked 11:57:37
 3 up from the playground. 11:57:37
 4 Q. I see that the area you've marked as the 11:57:43
 5 playground has classrooms on it? 11:57:43
 6 A. Yes. This half of it, this east half of 11:57:48
 7 it. 11:57:48
 8 Q. Were those classrooms, I guess, basically 11:57:53
 9 built on top after a period of time, on the 11:57:58
 10 playground? 11:57:58
 11 A. Correct. 11:57:58
 12 Q. Do you know about when the classrooms that 11:58:07
 13 were constructed on the playground went in or were 11:58:11
 14 constructed? 11:58:11
 15 A. 28, 29 were constructed, I'm going to 11:58:23
 16 guess -- 11:58:23
 17 MR. FOX: Don't guess. 11:58:25
 18 THE WITNESS: Okay. I don't know. 11:58:27
 19 BY MR. SIMMONS: 11:58:28
 20 Q. If you don't know, that's fine. 11:58:28
 21 A. Can I estimate? 11:58:31
 22 Q. Yes. 11:58:32
 23 A. Six or seven years ago. 11:58:33
 24 MR. FOX: Those are the buildings that you 11:58:41
 25 testified to previously as being the newer 11:58:43

Page 85

1 buildings on the campus? 11:58:43
 2 THE WITNESS: Yes. The two temporary 11:58:47
 3 buildings. And those two buildings do have running 11:58:50
 4 water. They're the only two on the playground that 11:58:53
 5 do. 11:58:53
 6 BY MR. SIMMONS: 11:58:53
 7 Q. How about the other buildings, can you 11:58:55
 8 identify a timeline when they went in? 11:58:55
 9 A. Room 30 went in at the same time, the 11:59:00
 10 portable went in at the same time. And then rooms 11:59:05
 11 31, 32, 33 and 34 were erected during the summer of 11:59:15
 12 '98. Also, the portables, P1, P2 and P3 in the 11:59:29
 13 front of the school next to the sidewalk and 11:59:32
 14 parking lot were constructed that same summer. 11:59:32
 15 Q. Your declaration states that grades K 11:59:43
 16 through 4 have P.E. from 1:30 to 2:00 P.M.; is that 11:59:49
 17 correct? 11:59:49
 18 A. Daily. Different -- could I add something 11:59:56
 19 to that? Different grade levels and different 11:59:59
 20 classes come out at different times, but that half 12:00:02
 21 hour period it has -- weather permitting, has 12:00:07
 22 students on the playground for that full period of 12:00:10
 23 time, between 1:30 and 3:00. 12:00:10
 24 Q. Between 1:30 and 3:00 -- 12:00:13
 25 A. I mean 2:00. I'm sorry, my mistake. 12:00:16

Page 86

1	Q. During that period of time is that	12:00:19
2	generally kindergarten through fourth grade	12:00:23
3	students only?	12:00:23
4	A. Not kindergarten, first through fourth. I	12:00:26
5	see it says K-4. I apologize, first through	12:00:26
6	fourth.	12:00:26
7	Q. How about fifth, sixth, seventh and eight	12:00:34
8	graders, do you have an understanding as to what	12:00:37
9	time they take P.E.?	12:00:37
10	A. Yes, I do.	12:00:40
11	Q. Could you tell me that?	12:00:40
12	A. They take P.E. all day long on Mondays and	12:00:47
13	Wednesdays. There are P.E. teachers that take the	12:00:53
14	classes at that time. Different grade levels have	12:00:56
15	it different times, and they are 50-minute periods	12:01:00
16	throughout the morning and afternoon.	12:01:00
17	Q. So do fifth through eight graders have	12:01:06
18	P.E. two days a week?	12:01:06
19	A. Correct. The Ed code says that they're	12:01:13
20	required to have 100 minutes a week. So they have	12:01:17
21	two long P.E. periods. Whereas, the primary class	12:01:22
22	have short periods of 20 minutes or so in the	12:01:26
23	afternoon daily.	12:01:26
24	Q. And what was the time frame on Mondays	12:01:33
25	that P.E. is held?	12:01:33

Page 87

1	A. The first class starts at 8:00.	12:01:34
2	Q. And the last class ends?	12:01:36
3	A. I don't know the exact schedule.	12:01:38
4	Q. Can you estimate roughly?	12:01:39
5	A. The end of the school day, which is 2:12.	12:01:51
6	It goes all day because there are -- there's	12:01:59
7	somewhere around 16 to 18 classes, and they can	12:02:06
8	only take -- the playground is not huge, they can	12:02:10
9	only take a few classes at a time. They have their	12:02:15
10	own schedule. I only know the exact time when my	12:02:16
11	students go.	12:02:16
12	Q. Your estimate is during those periods the	12:02:19
13	students take P.E. in groups of about 100?	12:02:19
14	A. Yes, that would be about right.	12:02:23
15	Q. Can you tell me where P.E. activities for	12:02:38
16	kindergarten through fourth grade students are	12:02:41
17	held?	12:02:41
18	A. Do you see where the kindergarten wing is,	12:02:42
19	building A? They have their own small yard there	12:02:47
20	and they do it in there. There are actually four	12:02:49
21	classes in those two rooms and four teachers	12:02:52
22	because there's a morning and afternoon	12:02:54
23	kindergarten. The first through fourth take theirs	12:02:59
24	in the afternoon in 20-minute blocks or so,	12:03:02
25	depending on their schedules. They're on the	12:03:06

Page 88

1	playground in the afternoons. One teacher, one	12:03:09
2	third grade teacher teaches his P.E. class in the	12:03:13
3	mornings. He has chosen to because he can work out	12:03:17
4	his own schedule. But all of the rest of the	12:03:19
5	classes that I have observed do it in the	12:03:21
6	afternoon.	12:03:21
7	Q. Is P.E. for first through fourth graders	12:03:25
8	held anywhere other than on the playground area?	12:03:25
9	A. There is no other place on campus to do	12:03:32
10	it.	12:03:32
11	Q. Can you estimate, roughly, excluding the	12:03:40
12	portion of the playground that is encompassed by	12:03:45
13	classrooms, can you estimate, roughly, the size of	12:03:49
14	the playground area?	12:03:49
15	A. I don't know. A couple of 100 yards	12:04:00
16	maybe. It's not even that big. It's maybe about	12:04:04
17	100 yards.	12:04:04
18	Q. Would you say it's about the size of a	12:04:06
19	football field?	12:04:06
20	A. Probably. Maybe less.	12:04:08
21	Q. I believe your declaration also states	12:04:26
22	that there are recess breaks from 9:30 to 10:45	12:04:33
23	A.M. every day with 200 to 300 kids at a time?	12:04:33
24	A. Correct.	12:04:36
25	Q. Can you outline the daily recess schedule	12:04:41

Page 89

1	for me with respect to the times that various	12:04:44
2	grades take recess.	12:04:44
3	MR. FOX: Objection. Relevance. Waste of	12:04:55
4	time.	12:04:55
5	THE WITNESS: The younger kids go earlier,	12:05:00
6	the middle kids go in the middle of that time	12:05:02
7	frame, and the older kids go at the end of that	12:05:07
8	time frame.	12:05:07
9	BY MR. SIMMONS:	12:05:08
10	Q. But it's also 9:30 to 10:45 each day?	12:05:08
11	A. Yeah.	12:05:14
12	Q. Your declaration says that "It is terribly	12:05:18
13	noisy a good portion of the day because students	12:05:21
14	are using the playground right outside of my window	12:05:28
15	for recess and physical education"; is that	12:05:29
16	correct?	12:05:29
17	MR. FOX: Let's just get a clarification.	12:05:31
18	Is that correct what the declaration states, or is	12:05:33
19	that a fact?	12:05:33
20	MR. SIMMONS: I'm just asking what the	12:05:35
21	declaration states at this point.	12:05:35
22	MR. FOX: Objection. Document speaks for	12:05:38
23	itself.	12:05:38
24	THE WITNESS: Yes.	12:05:38
25	BY MR. SIMMONS:	12:05:43

Page 90

1 Q. Are there any restrictions or rules 12:05:50
 2 relating to how close students may come to your 12:05:52
 3 classroom during P.E. or recess? 12:05:52
 4 A. Yes. 12:05:55
 5 Q. Are they referred to as restrictions or 12:06:02
 6 rules? 12:06:02
 7 A. They're referred to as rules. 12:06:02
 8 Q. Can you tell me what the rules are? 12:06:03
 9 A. The rules are that they are to stay away 12:06:10
 10 from the classrooms. But, as you know, all rules, 12:06:18
 11 of course with children, are there to be broken. 12:06:18
 12 Q. When you say the rule is that they must 12:06:26
 13 stay away from the classroom, is there a particular 12:06:30
 14 distance that they are expected to stay away? 12:06:30
 15 A. It is specific in some cases and not in 12:06:39
 16 others. Room 30, do you see that classroom here? 12:06:44
 17 That one is really in bad shape, she's really truly 12:06:48
 18 right in the middle of the playground, as you can 12:06:50
 19 tell by the map. And there's some lines painted 12:06:54
 20 around her room, and they're not to go beyond those 12:06:58
 21 lines. 12:06:58
 22 But the four classrooms that you see that 12:07:02
 23 are along the north hill do not have any lines 12:07:04
 24 around them. In fact, right outside of my room is 12:07:08
 25 a basketball court, and the students quite often 12:07:12

Page 91

1 will stand on the porch of my room to shoot 12:07:16
 2 baskets, which means I have to interrupt my 12:07:19
 3 teaching and step outside and ask them to leave, 12:07:24
 4 which happens daily. 12:07:24
 5 Q. So it's your testimony that, basically, 12:07:32
 6 every day you have to tell a child, or more than 12:07:36
 7 one child to move away from your classroom? 12:07:36
 8 A. Correct. 12:07:39
 9 Q. And that's because they're involved in a 12:07:44
 10 game during recess or P.E.? 12:07:44
 11 A. Playing basketball. 12:07:46
 12 Q. Is it always basketball? 12:07:48
 13 A. Yes. 12:07:51
 14 Q. Do students always have the option of 12:08:06
 15 playing basketball during physical education? 12:08:06
 16 A. You would have to ask the P.E. teachers. 12:08:09
 17 Q. But at lunch time they would have the 12:08:20
 18 option to play basketball; is that correct? 12:08:20
 19 A. That is correct. 12:08:21
 20 Q. Have you ever spoken with an administrator 12:08:28
 21 at Brightwood regarding students playing basketball 12:08:32
 22 on the court that is near your classroom? 12:08:32
 23 A. Yes. 12:08:34
 24 Q. Can you tell me which administrator you've 12:08:40
 25 had a discussion like that with? 12:08:40

Page 92

1 A. Mrs. Grace Love, and Mr. Carl Nagata. 12:08:43
 2 Q. Mr. Nagata is the current principal; is 12:08:57
 3 that correct? 12:08:57
 4 A. Correct. 12:08:57
 5 Q. And I presume Ms. Love preceded him as 12:09:00
 6 principal? 12:09:00
 7 A. Yes, she did. 12:09:00
 8 Q. Can you tell me the substance of your 12:09:05
 9 conversation with Ms. Love? 12:09:05
 10 A. I just asked her if there was anything 12:09:10
 11 that we could do about the fact that the children 12:09:19
 12 are playing basketball and playing right around our 12:09:22
 13 portables all of the time. So she set forth some 12:09:25
 14 rules. She held a rules assembly and brought the 12:09:28
 15 students in and talked to them about it. And we 12:09:31
 16 have tried. And the ladies who are the yard duty 12:09:38
 17 aides have tried valiantly to keep the children 12:09:42
 18 away. The difficulty is it's silly to have a 12:09:45
 19 basketball court that's not able to be used. And 12:09:48
 20 they need to have it. Children need to play. 12:09:48
 21 Q. Are there any other basketball courts at 12:09:55
 22 Brightwood other than the one that is close to your 12:09:58
 23 classroom? 12:09:58
 24 A. Yes. 12:09:58
 25 Q. Do you know about how many other 12:10:02

Page 93

1 basketball courts there are? 12:10:02
 2 A. Another half court and then a full court. 12:10:06
 3 Q. Have you ever had any discussions with the 12:10:32
 4 P.E. teacher to try and get that teacher to insure 12:10:35
 5 that students stay away from your classroom? 12:10:35
 6 A. I haven't needed to. The teachers have 12:10:42
 7 been careful about that. 12:10:42
 8 Q. Would that be for fifth through eighth 12:10:54
 9 grade students' P.E., that those physical education 12:10:58
 10 teachers have been careful about ensuring that the 12:11:01
 11 students stay away from your classroom? 12:11:01
 12 A. Correct. 12:11:03
 13 Q. The problem that you experience is -- 12:11:07
 14 results from the first through fourth graders? 12:11:07
 15 A. No. The problem is mainly from recess 12:11:14
 16 time and lunch break time. Younger children don't 12:11:21
 17 play -- first graders don't play basketball. 12:11:21
 18 Q. Do all students at Brightwood take lunch 12:11:34
 19 at the same time? 12:11:34
 20 A. No. 12:11:35
 21 Q. Could you tell me the lunch schedule, if 12:11:39
 22 you know? 12:11:39
 23 A. Lunch begins at 11:30 for the primary 12:11:46
 24 classes, I can't give you specifics. And the last 12:11:50
 25 lunch is over at ten minutes after 1:00. 12:11:50

Page 94

1 Q. Do you know when sixth graders take lunch? 12:11:56
 2 A. Yes, I do. 12:12:00
 3 Q. When would that be? 12:12:00
 4 A. 12:30 to 1:00. 12:12:02
 5 Q. Do sixth graders have a recess time within 12:12:11
 6 the 9:30 to 10:45 time period? 12:12:11
 7 A. Yes. 12:12:19
 8 Q. Could you tell me what that time is for 12:12:21
 9 sixth graders? 12:12:21
 10 A. It is 10:00 to 10:20. 12:12:22
 11 MR. FOX: Counsel, while you're looking 12:12:44
 12 for your notes. I have 12:15. I'm not doing the 12:12:50
 13 work so I could sit here a little bit longer. 12:12:50
 14 I don't know if you're getting tired, want 12:12:55
 15 to take lunch? 12:12:55
 16 THE WITNESS: Anything to speed it up. I 12:13:00
 17 don't really care. 12:13:00
 18 MR. SIMMONS: We can take -- the lunch 12:13:06
 19 break and breaks are generally when you want to 12:13:09
 20 take them is fine, please say. Although this one 12:13:14
 21 time I might request a break for the rest room. 12:13:14
 22 MR. FOX: Let's go off the record. 12:13:17
 23 (Off the record.) 12:13:18
 24 MR. FOX: One other thing. We're going to 12:13:50
 25 take a lunch break and I'd like to again ask Shaun 12:13:55

Page 95

1 to check with the folks here about the witness fee 12:13:57
 2 so we can get that paid before we break for the 12:14:01
 3 day. 12:14:01
 4 MR. SIMMONS: I will do that. I will ask 12:14:03
 5 about the witness fee. 12:14:03
 6 MR. FOX: Thanks. 12:14:05
 7 (The lunch recess was taken 12:14:06
 8 at 12:14 P.M.) 12:14:07
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 96

1 APPEARANCES OF COUNSEL: 13:04:18
 2 (P.M.) SESSION: 13:05:19
 3 13:05:19
 4 SHAUN M. SIMMONS, ESQ. 13:05:19
 5 13:05:19
 6 BENJAMIN J. FOX, ESQ. 13:05:19
 7 13:05:19
 8 13:05:19
 9 13:05:19
 10 13:05:19
 11 REPORTED BY: 13:05:19
 12 13:05:19
 13 CATHRYN L. BAKER, CSR NO. 7695 13:05:19
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 97

1 (The deposition of LINDA SHINN 13:05:19
 2 was reconvened at 1:04 P.M.) 13:05:19
 3
 4 LINDA SHINN, 13:05:19
 5 the witness, having been previously administered an
 6 oath in accordance with CCP Section 2094, testified
 7 further as follows:
 8 13:05:19
 9 EXAMINATION (RESUMED) 13:05:19
 10 MR. SIMMONS: We're back from lunch. I 13:05:26
 11 have left a message with our paralegals to 13:05:31
 12 ascertain the status of a witness fee for Ms. 13:05:37
 13 Shinn, and hopefully we'll hear back when we take a 13:05:41
 14 break in the afternoon. 13:05:41
 15
 16 EXAMINATION (CONTINUING)
 17 MR. FOX: Thank you very much. 13:05:44
 18 BY MR. SIMMONS: 13:05:45
 19 Q. Ms. Shinn, since you've been teaching in 13:05:54
 20 your portable classroom, have any students ever 13:05:58
 21 explained to you that they have difficulty hearing 13:06:01
 22 you because of the noise during recess or P.E.? 13:06:01
 23 A. Yes. But they learn to get up and close 13:06:09
 24 the door, close the window. And they don't say 13:06:19
 25 anything anymore because there's nothing that can 13:06:22

Page 98

1	be done about it.	13:06:22
2	Q. Does closing a door or a window limit the	13:06:28
3	sound that comes through?	13:06:28
4	A. Yes.	13:06:29
5	Q. Do you have an understanding as to how	13:06:35
6	much closing a window or a door can limit the sound	13:06:39
7	from students playing during recess or P.E.?	13:06:39
8	MR. FOX: Vague and ambiguous.	13:06:43
9	THE WITNESS: Are you asking on a	13:06:46
10	percentage basis or --	13:06:46
11	BY MR. SIMMONS:	13:06:47
12	Q. I'm just asking if there's any way that	13:06:52
13	you can articulate the limitation on the sound that	13:06:57
14	results in a student closing a window or a door	13:07:02
15	during physical education or recess?	13:07:02
16	A. A door, there's only one.	13:07:04
17	MR. FOX: Vague and ambiguous. Incomplete	13:07:09
18	hypothetical. Calls for speculation.	13:07:09
19	THE WITNESS: It enables me to do a	13:07:14
20	directed lesson with the students in front of the	13:07:17
21	classroom, otherwise I would not.	13:07:17
22	BY MR. SIMMONS:	13:07:19
23	Q. Can you explain to me what a directed	13:07:25
24	lesson is.	13:07:25
25	A. When I'm in front of the classroom	13:07:28

Page 99

1	teaching a lesson to the students.	13:07:28
2	Q. Do you know about how many times in the	13:07:36
3	last year students complained to you that they were	13:07:40
4	having difficulty hearing you because of noise	13:07:44
5	during recess or P.E.?	13:07:44
6	A. Well, there's 183 teaching days in the	13:07:52
7	year, so multiply that times five or so. That	13:07:55
8	would give you an idea.	13:07:55
9	Q. So it's your testimony that you generally	13:08:03
10	receive about five complaints a day with respect to	13:08:07
11	the noise resulting from students playing during	13:08:10
12	recess or P.E.?	13:08:10
13	A. Correct.	13:08:11
14	Q. Do you remember the last time a student	13:08:19
15	complained to you that they couldn't hear you	13:08:22
16	teaching because of the noise level during recess	13:08:24
17	or P.E.?	13:08:24
18	A. Probably on the last day of school in	13:08:28
19	June.	13:08:28
20	Q. Do you have any specific recollection?	13:08:28
21	A. No.	13:08:30
22	Q. During the time that you've been teaching	13:08:42
23	in the portable classroom, have any students ever	13:08:47
24	complained to you that they could not concentrate	13:08:50
25	because of the noise during recess or P.E.?	13:08:50

Page 100

1	A. Yes.	13:08:52
2	Q. Do you have an idea as to the number of	13:08:59
3	complaints you've received in the last year?	13:08:59
4	A. It would be about the same, several a day.	13:09:01
5	Q. And those are complaints related to the	13:09:15
6	student's ability to concentrate as a result of the	13:09:21
7	noise, not the ability of the students to hear you?	13:09:21
8	A. Correct.	13:09:23
9	Q. When was the last time you remember a	13:09:33
10	student complaining to you that the student could	13:09:36
11	not concentrate because of the noise level during	13:09:41
12	recess or P.E.?	13:09:41
13	A. Probably the last day of school.	13:09:43
14	Q. Do you have a specific recollection?	13:09:47
15	A. No.	13:09:48
16	Q. Other than the noise made by students	13:10:04
17	during recess and P.E., are there any other causes	13:10:09
18	of noise that you hear in your portable classroom?	13:10:09
19	A. No, just airplanes flying over, but	13:10:15
20	that's --	13:10:22
21	Q. In your declaration at paragraph 7 you	13:10:32
22	indicate that you do not have a bathroom in the	13:10:36
23	portable classroom in which you teach; is that	13:10:38
24	correct?	13:10:38
25	A. Correct.	13:10:38

Page 101

1	MR. FOX: Again, clarification, is that	13:10:43
2	factually correct, or is that what it says in the	13:10:46
3	declaration?	13:10:46
4	BY MR. SIMMONS:	13:10:47
5	Q. Was that factually correct?	13:10:47
6	MR. FOX: Your answer is the same?	13:10:50
7	THE WITNESS: Yes, it is.	13:10:52
8	BY MR. SIMMONS:	13:10:54
9	Q. Do the classrooms in the permanent	13:11:05
10	buildings have their own bathrooms inside the	13:11:07
11	classroom at Brightwood?	13:11:07
12	A. No.	13:11:09
13	Q. Have you ever taught in a classroom at any	13:11:18
14	school that had a bathroom inside the classroom?	13:11:18
15	A. Yes.	13:11:21
16	Q. Can you tell me when that was?	13:11:21
17	A. It was when I taught in Germany for the	13:11:34
18	Department of Defense. And the school was an old	13:11:40
19	jail.	13:11:40
20	Q. Your declaration indicates that there is a	13:12:01
21	bathroom on the upper campus; is that correct?	13:12:01
22	A. Correct.	13:12:06
23	Q. Is there only one bathroom on the upper	13:12:14
24	campus?	13:12:14
25	A. Correct. Well, actually three, one	13:12:18

Page 102

1 faculty, one boys and one girls. 13:12:18

2 Q. Could you mark on Exhibit 4 where the 13:12:36

3 boys' bathroom is? 13:12:36

4 A. Sure. If you will notice on the north 13:12:42

5 side of the upstairs building where it says TLT for 13:12:48

6 toilet, that's the boys' bathroom. And on the 13:12:53

7 other side, which is around the corner and onto 13:12:56

8 that wing, that upstairs wing, is the girls' 13:13:00

9 bathroom. And do you see a little tiny rectangle, 13:13:04

10 that's the teachers' rest room. It's smaller than 13:13:09

11 this table. 13:13:09

12 Q. Do you know how many toilets there are in 13:13:21

13 the boys' upper-campus bathroom? 13:13:21

14 A. It's either three or four. 13:13:27

15 Q. Do you know how many urinals there are in 13:13:34

16 the boys' upper-campus bathroom? 13:13:34

17 A. No. 13:13:38

18 Q. Do you know how many toilets there are in 13:13:42

19 the girls' upper-campus bathroom? 13:13:42

20 A. Three or four. 13:13:45

21 Q. In your declaration you indicate that the 13:14:16

22 toilets in the upper-campus bathroom back up about 13:14:20

23 one day a month; is that correct? 13:14:20

24 A. Yes. But that has been somewhat improved. 13:14:25

25 It still backs up, but it's not as frequent. There 13:14:29

Page 103

1 has been some maintenance work done and it's been a 13:14:33

2 little bit better, but it still does back up from 13:14:36

3 time to time. 13:14:36

4 Q. Which bathroom were you referring to in 13:14:40

5 paragraph 7 of your declaration? 13:14:40

6 A. Well, I would say both the boys and girls 13:14:45

7 upstairs. But I have to say that throughout the 13:14:48

8 campus it is a problem. If you'll look at building 13:14:56

9 D, if you want this information, do you see where 13:15:00

10 it says where the rest rooms are, where it says 13:15:06

11 toilets, that's the only improvement that's ever 13:15:09

12 been made at our school. And they have put in new 13:15:12

13 bathrooms there. It took them about six months, so 13:15:15

14 they brought in porta-potties during that time. 13:15:19

15 But those have been rebuilt. Those are the only 13:15:23

16 ones in the whole campus. Those are the only 13:15:26

17 improvements that have been made. 13:15:26

18 Q. And those are the bathrooms that are in 13:15:30

19 the building that's marked as D in Exhibit 4? 13:15:30

20 A. Correct. Down on the lower level, 13:15:38

21 uh-huh. 13:15:38

22 Q. When you say that the toilets back up 13:15:45

23 about one day a month, are you referring -- 13:15:45

24 A. I think I just said that it doesn't happen 13:15:50

25 that often anymore, didn't I? 13:15:50

Page 104

1 Q. Yes. At the time you signed your 13:15:54

2 declaration, when you said that the toilets back up 13:15:56

3 about one day a month, were you referring to all 13:16:02

4 the toilets -- 13:16:02

5 A. Yeah, on the campus. 13:16:03

6 Q. Do you mean that one day a month all of 13:16:10

7 the toilets on the same day would back up? 13:16:10

8 A. No. No. 13:16:12

9 Q. Just at the time you signed your 13:16:18

10 declaration, and with respect to the boys' bathroom 13:16:25

11 on the upper campus, do you know about how often a 13:16:28

12 toilet in that rest room would back up? 13:16:28

13 A. At the time I signed this? Several times 13:16:35

14 a year. 13:16:35

15 Q. Can you put that in terms of a number when 13:16:46

16 you say "several"? 13:16:46

17 A. It would have to be an estimate. I'd say 13:16:50

18 four or five times a year. 13:16:50

19 Q. How about with respect to the girls' 13:16:59

20 bathroom on the upper campus? 13:16:59

21 A. It would be about the same, but not quite 13:17:04

22 as often. If I was going to make an estimation, it 13:17:08

23 would not be quite as often. 13:17:08

24 Q. And that was also at the time you signed 13:17:12

25 your declaration, or is that -- 13:17:12

Page 105

1 A. Yes. 13:17:14

2 Q. If you know, when a toilet in a bathroom 13:17:24

3 clogs up, does the school shut the entire bathroom 13:17:27

4 down? 13:17:27

5 A. Correct. 13:17:27

6 Q. So even if there were functioning toilets 13:17:38

7 outside of the one toilet that wasn't working, the 13:17:41

8 school would still shut the entire bathroom down? 13:17:41

9 A. Yes. Because the backup would usually 13:17:50

10 mean that water and substances were coming up into 13:17:55

11 the bathroom floor, so they would have to for 13:17:59

12 safety and cleanliness issues. 13:17:59

13 Q. Are you aware of a specific occasion 13:18:34

14 during the last school year where a toilet in the 13:18:38

15 boys' upper-campus bathroom backed up? 13:18:38

16 A. Yes, but I cannot give you a date. 13:18:42

17 Q. Can you recall which semester it occurred 13:18:49

18 in? 13:18:49

19 A. We don't have semesters. We have 13:18:52

20 trimesters. 13:18:52

21 Q. Can you recall which trimester it occurred 13:18:58

22 in? 13:18:58

23 A. No. 13:18:58

24 Q. Do you know about how long it took for the 13:19:01

25 toilet to be fixed on that occasion? 13:19:01

Page 106

1	A. Probably within a day.	13:19:05
2	Q. Can you recall a specific occasion during	13:19:16
3	the last year when a toilet in the girls'	13:19:22
4	upper-campus bathroom backed up?	13:19:22
5	A. I don't recall the girls. I do recall at	13:19:28
6	least one instance of the boys' backing up.	13:19:28
7	Q. At the time you signed your declaration,	13:19:44
8	it was your opinion that at least one toilet on the	13:19:53
9	entire campus at Brightwood was backed up once a	13:19:57
10	month; is that correct?	13:19:57
11	A. Yes. Meaning the closure of that rest	13:20:01
12	room.	13:20:01
13	Q. And you say that situation has somewhat	13:20:07
14	improved?	13:20:07
15	A. That is correct.	13:20:08
16	Q. Would you feel comfortable making a new	13:20:13
17	estimate as to how often a toilet clogs up at	13:20:17
18	Brightwood?	13:20:17
19	A. I would estimate three or four times a	13:20:26
20	year.	13:20:26
21	Q. When the toilets back up in one of the	13:20:52
22	upper-campus bathrooms, students on those occasions	13:20:57
23	will need to go down the stairs to a bathroom on	13:21:00
24	the lower campus?	13:21:00
25	A. Correct.	13:21:01

Page 107

1	Q. Is there a particular bathroom that	13:21:11
2	students coming from your classroom would use more	13:21:13
3	often than not?	13:21:13
4	A. Yes. Do you want me to describe where	13:21:17
5	they would go?	13:21:17
6	Q. Yes. If you could mark -- well, actually,	13:21:21
7	if you could draw a line from your classroom to the	13:21:25
8	bathroom that they would use, and do that on	13:21:29
9	Exhibit 4?	13:21:29
10	A. From room 32, across the playground --	13:21:43
11	oops. You know what? These are not the right	13:21:47
12	place. From 32 across the playground -- you know	13:21:53
13	what my problem is, this actually is supposed to be	13:21:57
14	on top of this. So actually it would be down these	13:22:00
15	steps, because this is a second floor. It's on top	13:22:03
16	of this building. So they would go -- they would	13:22:09
17	go across the playground, down these steps, which	13:22:15
18	wind around --	13:22:15
19	Q. Can I stop you for just one second.	13:22:16
20	Are those steps part of building G there?	13:22:19
21	A. No, they're outdoor steps.	13:22:23
22	Go down these 30 or 40 steps. Then where	13:22:33
23	it's -- between these two buildings, between	13:22:37
24	building D and E, and they would go into the rest	13:22:41
25	rooms that are marked there at the southwest corner	13:22:44

Page 108

1	of building D. You take this route. It's a	13:22:53
2	problem because there's no supervision.	13:22:53
3	Q. Again, I'd like to ask you to estimate the	13:23:03
4	distance of the path that you have just marked out	13:23:07
5	on Exhibit 4.	13:23:07
6	A. I can't really do that.	13:23:08
7	MR. FOX: Asked and answered.	13:23:09
8	BY MR. SIMMONS:	13:23:10
9	Q. Can you estimate the time that it would	13:23:19
10	take to walk between classroom 32 and the bathrooms	13:23:23
11	that you have marked on Exhibit 4?	13:23:23
12	A. For just the walk one way, and not the	13:23:35
13	stay in the bathroom and the walk back?	13:23:35
14	Q. Just the walk would be great, one way.	13:23:37
15	A. Two or three minutes. Couple of minutes,	13:23:43
16	unless there's distractions along the way.	13:23:43
17	Q. If a student uses a rest room from your	13:23:58
18	classroom, how do you know which rest room that	13:24:04
19	student will use?	13:24:04
20	MR. FOX: Incomplete hypothetical.	13:24:09
21	Assumes facts. Calls for speculation.	13:24:09
22	MR. SIMMONS: I'll withdraw that question.	13:24:10
23	Q. If the upper-campus bathroom is out of	13:24:17
24	order, is there a way that you can tell which	13:24:21
25	bathroom a student from your class will use after	13:24:24

Page 109

1	leaving your classroom?	13:24:24
2	A. No.	13:24:25
3	Q. Are students at Brightwood required to	13:24:34
4	have a bathroom pass when they leave class to use	13:24:39
5	the rest room?	13:24:39
6	A. Yes, they are.	13:24:40
7	Q. And is there a procedure in place at	13:24:45
8	Brightwood that if a student is gone for "X" number	13:24:50
9	of minutes, then either you or someone else will go	13:24:57
10	looking for that student?	13:24:57
11	A. Yes, indeed.	13:24:58
12	Q. Can you tell me a little bit about that?	13:24:59
13	A. It's an individual thing. Having known	13:25:08
14	the students, if particular students are gone too	13:25:12
15	long, I will ask a teacher next door to keep an eye	13:25:16
16	on my class, because there has to be supervision,	13:25:19
17	which is difficult to do because there's no	13:25:23
18	connection so you have to run back and forth	13:25:26
19	between the doors. And then I will go and	13:25:29
20	unceremoniously escort the child back.	13:25:29
21	Q. Does your time limit vary for different	13:25:38
22	children?	13:25:38
23	A. Yes.	13:25:38
24	Q. Without telling me which student, but	13:25:43
25	what's the shortest time period that you would give	13:25:46

		Page 110
1	a student?	13:25:46
2	MR. FOX: Objection. Relevance.	13:25:47
3	THE WITNESS: Five minutes.	13:25:49
4	BY MR. SIMMONS:	13:25:53
5	Q. Now, you taught in a temporary building	13:26:15
6	from 1989 through 1997; is that correct?	13:26:15
7	A. Correct.	13:26:17
8	Q. In that time frame you taught in classroom	13:26:22
9	11 --	13:26:22
10	A. No. Classroom 16 and 19 only. 11 is not	13:26:29
11	in a temporary building.	13:26:29
12	Q. If you haven't already done so, could you,	13:26:50
13	with a star, mark the classrooms that you taught	13:26:52
14	in?	13:26:52
15	A. The first one was 16, and the second one	13:27:00
16	was 19.	13:27:00
17	Q. What years did you teach in room 16 for?	13:27:00
18	A. '89 through -- this is an estimation,	13:27:23
19	either '92 or '93.	13:27:23
20	Q. How about with respect to room 19?	13:27:25
21	A. That was from '92 or '93 until '97 when I	13:27:38
22	moved out to the portable.	13:27:38
23	Q. You state in your declaration that the	13:27:53
24	conditions in the temporary buildings were	13:27:58
25	horrible; is that correct?	13:27:58

		Page 111
1	A. Correct. They're considered to be the	13:28:03
2	worst rooms in the school.	13:28:03
3	Q. One of the conditions you identify as a	13:28:08
4	horrible condition is the size of the classroom in	13:28:12
5	the temporary building --	13:28:12
6	A. Yes.	13:28:13
7	Q. -- in relation to the number of students	13:28:16
8	you had to teach; is that correct?	13:28:16
9	A. That's correct.	13:28:16
10	Q. What grade levels did you teach while you	13:28:24
11	were in room 16?	13:28:24
12	A. Sixth.	13:28:27
13	Q. How about room 19?	13:28:28
14	A. Sixth.	13:28:31
15	Q. Did you generally have between 31 and 35	13:28:38
16	students enrolled in the classes you taught in room	13:28:41
17	16 and 19 for the period of 1989 through 1997?	13:28:41
18	A. Yes.	13:28:45
19	Q. Do you know the square footage of room 19	13:28:52
20	by any chance?	13:28:52
21	A. No, I do not, but I believe it was	13:28:58
22	somewhat larger than 16. 16 and 17 both, to those	13:29:02
23	of us who taught in the room, seemed somewhat	13:29:05
24	smaller, but we never did measure them.	13:29:05
25	Q. With respect to 16, although you believe	13:29:10

		Page 112
1	that that room was a little smaller than 19, you	13:29:15
2	can't identify square footage for that room?	13:29:15
3	A. I cannot.	13:29:18
4	Q. Is there a collective bargaining agreement	13:29:31
5	in that Alhambra School District?	13:29:31
6	A. Yes, there is.	13:29:33
7	Q. Does that collective bargaining agreement	13:29:37
8	establish any limits on class size in relation to	13:29:41
9	students and teachers?	13:29:41
10	A. It does, but the contract offers, rather	13:29:50
11	than relieving class size, offers other options.	13:29:54
12	If your class goes 33 or over, then the contract,	13:30:01
13	as it was negotiated, calls for the teacher or	13:30:04
14	teachers involved to talk to the site administrator	13:30:10
15	and work out some options that would be helpful to	13:30:13
16	the teacher in working with the large classes.	13:30:13
17	Q. So would a classroom of 32 students, would	13:30:20
18	that be within the normal standard for the	13:30:25
19	collective bargaining agreement with respect to the	13:30:28
20	class size?	13:30:28
21	A. Yes.	13:30:29
22	Q. If you go to 33 or over, the site	13:30:46
23	administrator is encouraged or expected to work	13:30:50
24	with the teacher to deal with the additional	13:30:52
25	students; is that correct?	13:30:52

		Page 113
1	A. That is correct, but it's usually the	13:30:56
2	teacher who goes to the site administrator.	13:30:56
3	Q. In what ways would a teacher deal with the	13:31:02
4	class size of 33 or more students?	13:31:02
5	A. Well, with --	13:31:06
6	MR. FOX: Vague and ambiguous.	13:31:08
7	THE WITNESS: With -- yeah. It's a little	13:31:13
8	awkward, but what would happen, if you have 33 or	13:31:17
9	more you talk to an administrator. I'm assuming	13:31:20
10	you're asking what could be done to alleviate the	13:31:27
11	situation?	13:31:27
12	BY MR. SIMMONS:	13:31:27
13	Q. Right.	13:31:27
14	A. There have been children who have been	13:31:31
15	shifted around from class to class to even out	13:31:34
16	numbers. The teachers have oftentimes been given	13:31:38
17	aide time so that you have another adult in the	13:31:42
18	classroom so you can work with small groups and do	13:31:48
19	tasks with the teachers. One year we worked out a	13:31:51
20	time where I had a certain number of days per	13:31:54
21	trimester to work on the increased paperwork. So	13:31:59
22	there would be a substitute that would come in and	13:32:02
23	it would give me more time to -- like during report	13:32:07
24	card period and parent-teacher conference. Those	13:32:12
25	things are worked out between the teachers and site	13:32:14

		Page 114
1	administrators.	13:32:14
2	Q. Can you describe for me in what way or	13:32:24
3	ways the classrooms in the temporary buildings in	13:32:27
4	which you taught were too small to teach between 31	13:32:31
5	and 35 students?	13:32:31
6	MR. FOX: Vague and ambiguous.	13:32:35
7	THE WITNESS: Because in any one classroom	13:32:42
8	of students, you have children of many different	13:32:44
9	languages, many different skills levels, many	13:32:49
10	different interests, and you have to do small group	13:32:52
11	work with the children. It's a necessity in every	13:32:54
12	classroom. It's difficult to find a place to sit	13:32:58
13	down and work with one small group of students who	13:33:01
14	have a special need during certain parts of the	13:33:05
15	day. You find yourself cramped in a corner. And	13:33:08
16	oftentimes we work outdoors with the students. We	13:33:08
17	sit outside, at a table outside. Also, discipline	13:33:23
18	problems occur more readily when the students are	13:33:27
19	too close to each other.	13:33:27
20	BY MR. SIMMONS:	13:33:28
21	Q. One of the ways that you identified being	13:33:41
22	able to work with small groups was to go outside?	13:33:41
23	A. If there was an aide available. I	13:33:47
24	couldn't walk out of the classroom. If there was	13:33:51
25	an aide available, that aide could sit outside, and	13:33:55

		Page 115
1	it would leave more room in the classroom for me to	13:33:57
2	continue doing my lessons with the rest of the	13:34:00
3	students.	13:34:00
4	Q. Did you make other efforts to try and work	13:34:04
5	around the size of your classroom?	13:34:04
6	A. Yes. I don't know what it would be. If	13:34:08
7	you have any ideas, I would be glad to hear them.	13:34:12
8	We just scrunched up into corners. The children	13:34:16
9	were usually very cooperative, we just did the best	13:34:19
10	we could.	13:34:19
11	Q. How was the storage space, in your	13:34:24
12	opinion, in room 16?	13:34:24
13	A. It was better in room 16 than it was in	13:34:32
14	room 19. Not all of the rooms are the same.	13:34:32
15	Q. Can you describe for me the storage space	13:34:39
16	that you had available in room 16?	13:34:39
17	A. The whole west wall in room 16 was	13:34:49
18	built-in storage cabinets, so there were several of	13:34:52
19	them. It added up to about five or six just	13:34:56
20	built-in storage cabinets. So I could keep my	13:35:00
21	supplies within the cabinets and on top of them.	13:35:00
22	Q. Was there any other storage space in room	13:35:06
23	16?	13:35:06
24	A. No.	13:35:06
25	Q. How about with respect to room 19, could	13:35:11

		Page 116
1	you describe the storage space available in room	13:35:14
2	19?	13:35:14
3	A. In room 19, I had one portion of the north	13:35:19
4	wall, and then one small storage area on the east	13:35:22
5	wall. So there were three cabinets. That was the	13:35:27
6	year I started taking things home to store them in	13:35:30
7	my garage. When you've been teaching for 42 years,	13:35:34
8	you have a lot of stuff.	13:35:34
9	Q. What kind of things did you store at home	13:35:38
10	in your garage?	13:35:38
11	MR. FOX: Objection. Relevance.	13:35:40
12	THE WITNESS: Chart paper, materials,	13:35:50
13	boxes of supplies, paints, one whole part of my	13:35:56
14	garage at home is full of school supplies, all	13:35:59
15	kinds of supplies. Many different kinds. And I	13:36:02
16	take them as I need them, which is difficult	13:36:05
17	because I have a long ways to carry them from the	13:36:08
18	parking lot to my portable where I am now.	13:36:08
19	BY MR. SIMMONS:	13:36:11
20	Q. You identified that it was difficult to do	13:36:22
21	group work in the classrooms in the temporary	13:36:25
22	buildings?	13:36:25
23	A. Uh-huh.	13:36:25
24	Q. And you said that there were some	13:36:27
25	discipline problems --	13:36:27

		Page 117
1	A. Because of overcrowding.	13:36:29
2	Q. -- that arise because when you have	13:36:34
3	students in a smaller space more discipline	13:36:37
4	problems arise; is that correct?	13:36:37
5	A. Uh-huh.	13:36:38
6	Q. And then we talked about storage capacity.	13:36:41
7	Are there any other aspects of the classrooms in	13:36:46
8	the temporary buildings, other than those that we	13:36:49
9	have already discussed?	13:36:49
10	A. No. For numbers 9, 10, and 11 on my	13:36:58
11	declaration, there are more statements here about	13:37:02
12	the problems with those particular rooms.	13:37:02
13	Q. But with respect to size of the	13:37:08
14	classrooms, have you identified the problems that	13:37:10
15	you're aware of?	13:37:10
16	A. Uh-huh.	13:37:11
17	Q. I think the next unsatisfactory condition	13:37:25
18	that you identify in your declaration with respect	13:37:27
19	to teaching in the temporary buildings is the lack	13:37:30
20	of air conditioning; is that correct?	13:37:30
21	A. Correct.	13:37:31
22	Q. Were there any ceiling fans in your	13:37:40
23	classrooms in the temporary buildings?	13:37:40
24	A. There was the last year I was there, but	13:37:53
25	not before that.	13:37:53

		Page 118
1	Q. So in 1997 were ceiling fans put into the classrooms?	13:37:59
2		13:37:59
3	A. It was '96 or '97. I believe it was '97.	13:37:59
4	Q. Do you know how many classrooms at Brightwood received ceiling fans in '97?	13:38:06
5		13:38:06
6	A. All of them did. It was done through a block grant.	13:38:14
7		13:38:14
8	Q. For the record, could you describe a block grant?	13:38:20
9		13:38:20
10	A. It's money that is sometimes made available to individual school sites and the faculties, the teaching staff, parent committees and the site administrators will decide how that money is to be spent.	13:38:22
11		13:38:25
12		13:38:29
13		13:38:33
14		13:38:33
15	Q. Do you know who makes that grant available?	13:38:37
16		13:38:37
17	A. No, I don't.	13:38:37
18	Q. Do you know what the average high temperature in Alhambra is for the month of June?	13:38:49
19		13:38:49
20	A. No.	13:38:53
21	Q. How about for September?	13:38:54
22	A. I don't know. I can't give you an average. I can only tell you that many days are in the 90s in September.	13:39:00
23		13:39:04
24		13:39:04
25	Q. How about for October, would you know an	13:39:11

		Page 119
1	average high temperature for October?	13:39:11
2	A. I cannot give you an average high temperature, but we usually have warm weather until about Halloween.	13:39:17
3		13:39:22
4		13:39:22
5	By the way, this school is not in Alhambra, it's in Monterey Park. It's part of the Alhambra School District.	13:39:27
6		13:39:31
7		13:39:31
8	Q. So in paragraph 9 when you refer to it being very hot in Alhambra, you were referring to Monterey Park?	13:39:34
9		13:39:38
10		13:39:38
11	A. Right.	13:39:39
12	Q. Although I assume that the temperature in Monterey Park --	13:39:43
13		13:39:43
14	A. They're right next to each other, so they're the same.	13:39:47
15		13:39:47
16	Q. Your declaration states that without air conditioning your classroom temperatures regularly got into the 90s in those months?	13:39:52
17		13:39:55
18		13:39:55
19	A. Absolutely.	13:39:58
20	Q. I assume those months refers to June, September and October?	13:40:01
21		13:40:01
22	A. Uh-huh, particularly September and October.	13:40:04
23		13:40:04
24	Q. Can you give me an idea as to what you meant by "regularly"?	13:40:12
25		13:40:12

		Page 120
1	MR. FOX: Objection. Vague and ambiguous.	13:40:13
2	THE WITNESS: I can't answer that question because every year is different in weather conditions.	13:40:19
3		13:40:23
4		13:40:23
5	BY MR. SIMMONS:	13:40:24
6	Q. Did you have an understanding at the time you signed your declaration as to what was meant by "regularly" as it is used in the second sentence of your declaration?	13:40:29
7		13:40:32
8		13:40:36
9		13:40:36
10	A. Yes.	13:40:36
11	Q. Could you tell me that?	13:40:37
12	A. Probably around half or more of the time, particularly in the month of September.	13:40:43
13		13:40:43
14	Q. How did you know what the temperature was in your classroom?	13:40:57
15		13:40:57
16	A. Thermometer.	13:40:59
17	Q. Did you have a thermometer in room 16?	13:41:01
18	A. I don't remember.	13:41:09
19	Q. Did you have a thermometer in room 19?	13:41:12
20	A. Yes, I did.	13:41:17
21	Q. Do you recall what years you had a thermometer in room 19?	13:41:22
22		13:41:22
23	A. No, I don't remember the years.	13:41:24
24	Q. Can you estimate perhaps the number of years that you had a thermometer in room 19?	13:41:30
25		13:41:30

		Page 121
1	A. Most of the years.	13:41:34
2	Q. Would you think it was at least two years that you had a thermometer?	13:41:49
3		13:41:49
4	A. Yes.	13:41:51
5	Q. Do you remember when it was that you first brought the thermometer into your classroom at 19?	13:42:01
6		13:42:01
7	A. No.	13:42:06
8	Q. Was there anything that prompted you to bring the thermometer into your classroom?	13:42:09
9		13:42:09
10	A. I wanted to see how hot it was.	13:42:11
11	Q. Did you bring more than one thermometer to your class?	13:42:21
12		13:42:21
13	A. I don't believe so.	13:42:22
14	Q. Did you ever do anything to test whether the temperature readings on the thermometer that you brought into class were accurate?	13:42:33
15		13:42:36
16		13:42:36
17	MR. FOX: Objection. Argumentative.	13:42:39
18	THE WITNESS: No. I'm not quite sure what you mean.	13:42:47
19		13:42:47
20	BY MR. SIMMONS:	13:42:47
21	Q. I just want to know if you took any steps to insure that the temperature that was reading on your thermometer was an accurate temperature for the day. Did you run any tests of that thermometer to determine whether it was accurate?	13:42:52
22		13:42:55
23		13:42:59
24		13:43:03
25		13:43:03

		Page 122
1	A. No.	13:43:05
2	Q. You indicate in your declaration that you	13:43:14
3	recorded temperatures of 100 degrees on occasion?	13:43:14
4	A. Yes.	13:43:17
5	Q. Do you have an estimate as to how many	13:43:22
6	occasions you recorded a temperature of 100	13:43:25
7	degrees?	13:43:25
8	A. Probably three to four times during those	13:43:34
9	hot months, September and October, each of the	13:43:37
10	years I was there. Each of the years I had a	13:43:39
11	thermometer.	13:43:39
12	Q. Did you keep any records of the	13:43:42
13	temperatures that you would notice on the	13:43:45
14	thermometers?	13:43:45
15	A. No.	13:43:46
16	Q. Did the windows in classroom 19 open?	13:43:47
17	A. No.	13:44:00
18	Q. How about for 16?	13:44:01
19	A. No.	13:44:07
20	Q. Notwithstanding that the windows in 19 did	13:44:13
21	not open, do you recall the number of windows that	13:44:17
22	are in classroom 19?	13:44:17
23	A. Four.	13:44:23
24	Q. How about with respect to classroom 16?	13:44:24
25	A. Three.	13:44:27

		Page 123
1	Q. I take it that all four windows in	13:44:35
2	classroom 19 did not open?	13:44:35
3	A. Correct.	13:44:36
4	Q. Is that true today?	13:44:37
5	A. I don't know -- I'm sure it's true. I'm	13:44:42
6	sure it's true.	13:44:42
7	Q. How about with respect to classroom 16,	13:44:50
8	did all three windows not open when you were	13:44:53
9	teaching there?	13:44:53
10	A. That is correct.	13:44:54
11	Q. Do you know whether that's true today?	13:44:54
12	A. It's true today.	13:44:57
13	Q. Do you know why the windows did not open	13:45:03
14	in classroom 19?	13:45:03
15	A. They were not constructed as openable	13:45:06
16	windows.	13:45:06
17	Q. How about with respect to classroom 16?	13:45:07
18	A. Same answer.	13:45:13
19	Q. Did you ever complain to anyone about the	13:45:21
20	fact that the windows in either room 16 or 19 did	13:45:27
21	not open?	13:45:27
22	A. Yes.	13:45:28
23	Q. Do you recall who you complained to?	13:45:28
24	A. That's a complicated question because --	13:45:44
25	because of the overall conditions in that	13:45:46

		Page 124
1	classroom, I, approximately once a year, would	13:45:50
2	write a letter to the superintendent, but that	13:45:56
3	would only be one of the things that I would list	13:45:58
4	in the letter of the things that those of us who	13:46:02
5	taught in those rooms were concerned about. And	13:46:04
6	then all the teachers would sign it. So that was	13:46:09
7	one of the issues that would be discussed.	13:46:09
8	Q. Do you have copies of any of those letters	13:46:17
9	that you wrote to the superintendent?	13:46:17
10	A. I don't know, I may. If I do, it would be	13:46:26
11	in my files at school, but I can't guarantee that.	13:46:26
12	Q. Did you ever receive any response from the	13:46:34
13	superintendent with respect to complaints about the	13:46:37
14	windows not opening?	13:46:37
15	A. I received an answer once.	13:46:38
16	Q. Can you describe the answer for me.	13:46:43
17	A. He said that the money was not available,	13:46:56
18	and that the district would work very hard to pass	13:47:01
19	a bond issue, and if the bond issue passed, then	13:47:05
20	those repairs could be made.	13:47:05
21	Q. Do you recall a year by any chance when	13:47:13
22	this exchange took place?	13:47:13
23	A. I'm going to estimate it was -- this	13:47:19
24	particular letter from the superintendent?	13:47:19
25	Q. Right.	13:47:20

		Page 125
1	A. It was around '96. But that's an	13:47:27
2	estimation, within a year or two of that.	13:47:27
3	Q. Your declaration indicates that your	13:47:37
4	classroom in the temporary building had a swamp	13:47:41
5	cooler. Did your classroom have a swamp cooler?	13:47:41
6	A. Yes.	13:47:46
7	Q. Could you describe for me what a swamp	13:47:49
8	cooler is?	13:47:49
9	A. It's an old fashion, what we called a	13:47:53
10	water cooler. Those of us who are of a different	13:47:57
11	generation had them in our homes.	13:47:57
12	Q. Is that at times referred to as an	13:48:02
13	evaporative cooler?	13:48:02
14	A. I'm not sure. We had an evaporative	13:48:09
15	cooler in my home, and we put water in it and just	13:48:13
16	plugged it in. This wasn't what this was. I think	13:48:17
17	the technical term is a swamp cooler.	13:48:17
18	Q. For the entire time that you taught in	13:48:23
19	classroom 16, was there a swamp cooler in that?	13:48:23
20	A. Yes.	13:48:26
21	Q. Is that the same with respect to classroom	13:48:30
22	19?	13:48:30
23	A. Yes.	13:48:30
24	Q. Your declaration indicates that when the	13:48:37
25	swamp cooler was turned on it would spew black	13:48:43

		Page 126
1	filth throughout the room?	13:48:43
2	A. Indeed.	13:48:44
3	Q. Did that happen every time you turned the	13:48:48
4	swamp cooler on?	13:48:48
5	A. Yes.	13:48:49
6	Q. Would it spew black filth continuously	13:48:59
7	from the moment it was turned on to the moment it	13:49:03
8	turned on?	13:49:03
9	A. Yes, but it was worse when it would first	13:49:06
10	be turned on.	13:49:06
11	Q. Do you know whether classroom 16 still has	13:49:25
12	a swamp cooler?	13:49:25
13	A. Yes, it does.	13:49:26
14	Q. Do you know how that swamp cooler	13:49:31
15	functions presently?	13:49:31
16	A. Exactly the same as it did when I was in	13:49:34
17	that room.	13:49:34
18	Q. How about with respect to classroom 19?	13:49:35
19	A. Same answer.	13:49:37
20	Q. There's a swamp cooler in classroom 19; is	13:49:43
21	that correct?	13:49:43
22	A. That is correct.	13:49:43
23	Q. And it functions in the same way as you	13:49:47
24	experienced it functioning when you taught in that	13:49:50
25	classroom?	13:49:50

		Page 127
1	A. Right.	13:49:50
2	Q. Could you describe how you know how the	13:49:58
3	swamp cooler in room 16 functions presently?	13:49:58
4	A. Because I have friends who teach in those	13:50:06
5	classrooms and I go to their classrooms often.	13:50:06
6	Q. And would the answer be the same for	13:50:12
7	classroom 19?	13:50:12
8	A. Correct. In fact, I have a very close	13:50:15
9	friend in room 19.	13:50:15
10	Q. Who presently teaches in classroom 16?	13:50:16
11	A. Mrs. Carol Pellitteri.	13:50:21
12	Q. Could you spell that for the record?	13:50:26
13	A. P-e-l-l-i-t-t-e-r-i.	13:50:28
14	Q. And how about classroom 19?	13:50:34
15	A. Mrs. Debbie, D-e-b-b-i-e, Chin, C-h-i-n.	13:50:37
16	Q. Did you have to have two different sinus	13:51:10
17	surgeries since you've been teaching at Brightwood?	13:51:10
18	A. Yes.	13:51:14
19	Q. Do you know the years in which those	13:51:23
20	surgeries occurred?	13:51:23
21	A. Yes. I'll never forget them. The first	13:51:27
22	one was in January of 1996. The second one was in	13:51:35
23	January of 2000.	13:51:35
24	Q. Having indicated that you had a surgery in	13:51:48
25	January of '96 and a surgery in January of 2000, do	13:51:53

		Page 128
1	you still agree with that last sentence of	13:51:56
2	paragraph ten?	13:51:56
3	A. No, that should not be there.	13:51:58
4	Q. So it's correct to say that --	13:52:07
5	A. The second sinus surgery that I had in	13:52:18
6	2000 was to correct scar tissue in my sinuses.	13:52:18
7	Q. And if you know, was that scar tissue a	13:52:28
8	result of the first surgery or a result of	13:52:32
9	something else?	13:52:32
10	A. It's a result of massive infections.	13:52:33
11	Q. So you had difficulties with your sinuses	13:52:54
12	while teaching during the same time that you were	13:52:58
13	teaching in the classrooms in the temporary	13:53:02
14	buildings?	13:53:02
15	A. Correct.	13:53:02
16	Q. You've also had difficulties with your	13:53:06
17	sinuses after you moved out of the classrooms in	13:53:09
18	the temporary buildings?	13:53:09
19	A. Yes, for about a year. Until the second	13:53:14
20	surgery was done.	13:53:14
21	Q. Now, at present time you don't have any	13:53:25
22	problems with your sinuses?	13:53:25
23	A. No.	13:53:26
24	Q. The first surgery in January of 1996, was	13:53:44
25	the reason for that surgery the same as the reason	13:53:47

		Page 129
1	for the surgery in January of 2000?	13:53:47
2	A. You'd have to talk to the doctor about	13:53:56
3	that, but it was during the years when I was	13:53:59
4	suffering massive sinus infections and sinus	13:54:04
5	headaches.	13:54:04
6	Q. Do you recall whether there was a name for	13:54:10
7	the surgical procedure in January of 1996?	13:54:10
8	A. Turbinate resection.	13:54:15
9	Q. Would you spell that?	13:54:18
10	A. T-u-r-b-i-n-a-t-e.	13:54:19
11	Q. And how about the surgical procedure in	13:54:27
12	January of 2000?	13:54:27
13	A. I don't know what the name is, but it was	13:54:31
14	to remove scar tissue.	13:54:31
15	Q. When you had your surgery in January of	13:54:40
16	1996, do you recall your physician ever suggesting	13:54:46
17	that the swamp cooler in your classroom may have	13:54:50
18	been responsible for your sinus problems?	13:54:50
19	A. I didn't hear him say that, but I did talk	13:54:57
20	to him about it and he agreed that there had to be	13:55:03
21	some kind of -- they were bacterial infections, and	13:55:06
22	when I talked to him about the conditions in my	13:55:09
23	classroom, he felt that was a very logical reason	13:55:12
24	for the infections.	13:55:12
25	Q. Have you ever filed a Worker's	13:55:19

		Page 130
1	Compensation claim as a result of an injury	13:55:23
2	suffered at school?	13:55:23
3	A. Yes.	13:55:24
4	Q. Can you tell me about that Worker's	13:55:28
5	Compensation claim?	13:55:28
6	A. I fell down the steps and injured my	13:55:38
7	ankle, my right ankle, and tore some tendons in my	13:55:43
8	right ankle.	13:55:43
9	Q. Did you file a Worker's Compensation claim	13:55:50
10	in connection with your having to have either of	13:55:53
11	the sinus surgeries you've identified in your	13:55:56
12	declaration?	13:55:56
13	A. I did not.	13:55:56
14	Q. As you sit here today, do you know why you	13:56:07
15	didn't file a Worker's Compensation claim in	13:56:10
16	connection with your having to have either of the	13:56:14
17	sinus surgeries you identified in your declaration?	13:56:14
18	A. I guess I didn't think about it. I just	13:56:20
19	-- I just had a problem and I went and had it taken	13:56:23
20	care of. I'm not real fond of working with	13:56:31
21	Worker's Compensation. And I have very good	13:56:34
22	medical coverage.	13:56:34
23	Q. Is the medical coverage provided through	13:56:38
24	your employment?	13:56:38
25	A. Correct.	13:56:38

		Page 131
1	Q. At paragraph 11, you'll see that your	13:56:50
2	declaration says, "It was basically impossible to	13:56:53
3	teach in those conditions."	13:56:53
4	Does that sentence refer to the conditions	13:57:00
5	with respect to the temporary buildings that you	13:57:03
6	have identified in the paragraphs preceding --	13:57:03
7	A. Yes.	13:57:07
8	Q. -- No. 11?	13:57:08
9	MR. FOX: The document speaks for itself.	13:57:09
10	THE WITNESS: Yes.	13:57:12
11	BY MR. SIMMONS:	13:57:21
12	Q. From 1989 through 1997 was it always	13:57:26
13	basically impossible to teach the students who were	13:57:30
14	in your classrooms in the temporary building?	13:57:30
15	A. During the very hot weather, and	13:57:35
16	particularly late in the day, it was very, very	13:57:38
17	difficult.	13:57:38
18	Q. Do you feel that you were able to provide	13:57:53
19	an adequate education to the students you taught	13:57:55
20	from 1989 through 1997?	13:57:55
21	MR. FOX: Objection. Vague and ambiguous.	13:58:00
22	Calls for a legal conclusion. May call for expert	13:58:05
23	testimony.	13:58:05
24	THE WITNESS: Do you mean overall, or just	13:58:07
25	at specific times?	13:58:07

		Page 132
1	BY MR. SIMMONS:	13:58:08
2	Q. Just overall.	13:58:08
3	A. Over --	13:58:10
4	MR. FOX: Objection. Relevance.	13:58:12
5	THE WITNESS: Overall, I would say yes,	13:58:17
6	but there were times when it suffered.	13:58:17
7	BY MR. SIMMONS:	13:58:19
8	Q. From 1989 through 1997, can you estimate	13:58:32
9	how often students in your classroom would sweat	13:58:35
10	profusely?	13:58:35
11	MR. FOX: Calls for speculation.	13:58:38
12	THE WITNESS: It depends on a lot of	13:58:43
13	variables, weather, humidity, the number of	13:58:47
14	students in a classroom at any one time. Whether	13:58:50
15	or not it was a P.E. day, time of day. Hormones	13:58:56
16	flowing.	13:58:56
17	BY MR. SIMMONS:	13:59:01
18	Q. Assuming that all of those variables are	13:59:03
19	part of this estimation, can you estimate, provide	13:59:08
20	any sort of estimation from 1989 through 1997 how	13:59:12
21	often you would see students in your classroom	13:59:16
22	sweat profusely?	13:59:16
23	A. The whole -- all of the students or just	13:59:20
24	some?	13:59:20
25	Q. Just some.	13:59:20

		Page 133
1	A. I can't estimate that. Many days. I	13:59:31
2	can't give you a number.	13:59:31
3	Q. From 1989 through 1997, how often would	13:59:42
4	you observe students in your classroom getting	13:59:46
5	restless as a result of high classroom	13:59:50
6	temperatures?	13:59:50
7	MR. FOX: Again, calls for speculation.	13:59:53
8	We're talking about a period of many years and many	13:59:57
9	classes.	13:59:57
10	THE WITNESS: Again, I can't give you --	13:59:59
11	if I was going to make an estimation, I would say	14:00:03
12	maybe 20 days a year, at different times of the	14:00:07
13	day. I can't really give you a definite answer.	14:00:07
14	BY MR. SIMMONS:	14:00:11
15	Q. Would it be easier if we took, perhaps,	14:00:16
16	the last year that you taught in the temporary	14:00:19
17	building, or would it still be a little bit too far	14:00:22
18	away to be able to concisely remember it?	14:00:22
19	A. I don't think it would be the year that	14:00:28
20	would count. It's just that every year was	14:00:32
21	different and every circumstance was different.	14:00:32
22	Q. Is there any particular year between 1989	14:00:41
23	and 1997 that you feel your memory might be clearer	14:00:46
24	with respect to these conditions?	14:00:46
25	A. No. It was just difficult all the times	14:00:51

		Page 134
1	that I was in those rooms, no question. I have to	14:00:57
2	add, even though I think good education was	14:01:00
3	occurring, I think it was extremely unfair to the	14:01:03
4	children to have to go to school in those	14:01:05
5	conditions.	14:01:05
6	Q. From 1989 through 1997, would you be able	14:01:20
7	to estimate the number of times you observed a	14:01:24
8	student complain of a headache as a result of the	14:01:28
9	heat in the classroom?	14:01:28
10	MR. FOX: Same objection.	14:01:33
11	THE WITNESS: I really can't estimate	14:01:36
12	anything like that. It's not that I don't want to	14:01:38
13	but --	14:01:38
14	MR. FOX: Same objections as stated	14:01:40
15	earlier.	14:01:40
16	BY MR. SIMMONS:	14:01:41
17	Q. Your declaration also indicates that you	14:01:50
18	would oftentimes turn off the lights and put	14:01:55
19	classical music on a record player or read to your	14:01:59
20	students?	14:01:59
21	A. Correct.	14:01:59
22	Q. And that was not the particular activity	14:02:03
23	that you wanted to be doing at that time?	14:02:03
24	A. That's right.	14:02:06
25	Q. Are there instances where reading to the	14:02:12

		Page 135
1	students would be a proper activity?	14:02:12
2	A. Oh, absolutely, yes.	14:02:13
3	Q. Would that also be true of playing	14:02:19
4	classical music?	14:02:19
5	A. Absolutely, yes.	14:02:20
6	Q. But the times you referred to in your	14:02:24
7	declaration were not those instances?	14:02:24
8	A. Correct.	14:02:26
9	Q. Again, this is going to ask for an	14:02:33
10	estimate. If you can, please do, if you can't,	14:02:35
11	it's understandable. But from 1989 through 1997,	14:02:40
12	can you estimate how often you would put classical	14:02:44
13	music on a record player or read to students as a	14:02:47
14	result of the heat, even though that was something	14:02:51
15	that you didn't want to be doing at that time?	14:02:51
16	MR. FOX: Objection. Hopelessly	14:02:59
17	overbroad. Calls for speculation.	14:02:59
18	THE WITNESS: My answer would be the	14:03:06
19	same. It's just -- I understand why you want to	14:03:09
20	know. And I know you need to get as much factual	14:03:12
21	information as you can, but I just can't.	14:03:12
22	BY MR. SIMMONS:	14:03:15
23	Q. Then I'll just ask as well, if there was	14:03:19
24	any particular year within that time frame where	14:03:22
25	you might be able to make such an estimate?	14:03:22

		Page 136
1	A. No.	14:03:24
2	Q. Have you ever described the heat in	14:03:30
3	Alhambra or Monterey Park as ferocious?	14:03:30
4	A. Yes.	14:03:35
5	Q. Is that a word that you frequently use to	14:03:41
6	describe the heat in Alhambra or Monterey Park?	14:03:41
7	A. I have many descriptors, that would be one	14:03:48
8	of them.	14:03:48
9	Q. In paragraph 12 I think you'll see that it	14:03:55
10	says that "In fact, most students at Brightwood are	14:03:58
11	in classes without air conditioning, despite the	14:04:01
12	ferocious heat we have out here."	14:04:01
13	Did you direct the person who drafted this	14:04:06
14	declaration to use the term "ferocious heat"?	14:04:06
15	MR. FOX: Objection.	14:04:09
16	THE WITNESS: I may have used it myself	14:04:12
17	when we were making notes and talking together.	14:04:12
18	MR. FOX: Vague and ambiguous as to	14:04:14
19	"direct."	14:04:15
20	BY MR. SIMMONS:	14:04:17
21	Q. Did you ask anyone to describe the heat as	14:04:25
22	"ferocious" in your declaration?	14:04:25
23	MR. FOX: Asked and answered.	14:04:26
24	THE WITNESS: I don't remember if I did or	14:04:30
25	not. I may have.	14:04:30

		Page 137
1	BY MR. SIMMONS:	14:04:30
2	Q. If we could turn to paragraph 13. And you	14:04:58
3	state that "The heat in the temporaries worked	14:05:01
4	sporadically."	14:05:01
5	Can you give me an indication as to what	14:05:08
6	you meant by "sporadically" in that line?	14:05:08
7	A. From time to time during the winter months	14:05:12
8	when I would come in in the morning, turn the	14:05:16
9	thermostat so the heat in the furnace would go on.	14:05:20
10	It was a wall furnace, it took up one section of a	14:05:24
11	wall in the room. It wouldn't go on. Some cases	14:05:26
12	it was the pilot light that was out, and the	14:05:30
13	custodian could come and light it for me. But in	14:05:33
14	other cases it was the mechanism itself that wasn't	14:05:35
15	working. I would say this happened five to ten	14:05:39
16	times during each winter, maybe more.	14:05:39
17	Q. When you say each winter, could you put	14:05:50
18	that in terms of the months that you consider to be	14:05:53
19	winter?	14:05:53
20	A. November through February or March.	14:05:53
21	Q. Would you also call the main office to	14:06:11
22	request that they fix the heat approximately five	14:06:13
23	to ten times during a winter?	14:06:13
24	A. Yes.	14:06:15
25	Q. Do you have any recollection as to, within	14:06:32

		Page 138
1	those five to ten times, how many times maintenance	14:06:39
2	officials on campus could fix the problem with the	14:06:43
3	heat?	14:06:43
4	A. There were no maintenance officials on	14:06:47
5	campus. But the custodian could sometimes fix it	14:06:50
6	by relighting the pilot light, or by unsticking the	14:06:55
7	blower, which would sometimes get frozen. Other	14:06:58
8	times maintenance crews had to come from the	14:07:01
9	district office.	14:07:01
10	Q. Would you feel comfortable with putting	14:07:03
11	any number on the amount of times that the	14:07:07
12	custodian was capable of taking care of the	14:07:11
13	problem?	14:07:11
14	A. I would say probably about half of the	14:07:13
15	time, or more. So if it was ten times, he might	14:07:17
16	have done it six or seven times during the winter.	14:07:20
17	The other times we had to wait for a crew to come	14:07:23
18	and fix it.	14:07:23
19	Q. In the declaration you indicate that "When	14:07:40
20	it was cold out and the heat was not working, the	14:07:44
21	classroom temperatures ranged from high 40s to low	14:07:48
22	60s."	14:07:48
23	How were you aware of the temperature in	14:07:52
24	the classroom?	14:07:52
25	A. Thermometer.	14:07:53

		Page 139
1	Q. And this was the thermometer that you had	14:07:59
2	in classroom 19; is that correct?	14:07:59
3	A. Yes. But there also was a thermostat for	14:08:03
4	the furnace. So there were two ways to check the	14:08:09
5	temperature.	14:08:09
6	Q. If you can, how often do you think the	14:08:28
7	classroom temperatures were in the high 40s while	14:08:33
8	you taught in the temporary building?	14:08:33
9	A. Well, that would be in the mornings,	14:08:37
10	mostly. And I would say -- during those times that	14:08:41
11	the furnace didn't work, I would say most of the	14:08:44
12	time, because that would be my reason for turning	14:08:48
13	the furnace on.	14:08:48
14	Q. Was the furnace turned off at night after	14:08:58
15	you left for the evening?	14:08:58
16	A. Well, I turned the thermostat down to very	14:09:04
17	low.	14:09:04
18	Q. And you would come in and find the	14:09:09
19	temperature cool in the mornings when you first	14:09:12
20	entered the classroom?	14:09:12
21	A. Correct.	14:09:12
22	Q. And at that time, then, you would turn the	14:09:16
23	thermostat up?	14:09:16
24	A. I would turn the thermostat up, and then	14:09:20
25	there was one of those toggle switch kind of things	14:09:25

		Page 140
1	on the side of the furnace, and I would turn it to	14:09:29
2	the "on" position. And when nothing happened, I	14:09:32
3	knew it was another day without heat.	14:09:32
4	Q. And that was approximately the five to ten	14:09:36
5	times during the winter?	14:09:36
6	A. Exactly. Some Winters it was worse. And	14:09:40
7	you may want to know this, too. It was worse in	14:09:44
8	room 19 than it was in room 16. I had more	14:09:48
9	problems in room 19 with that particular furnace.	14:09:48
10	Q. Your declaration says that "Sometimes it	14:10:02
11	would be fixed in a few hours."	14:10:02
12	Does that refer to the occasions where the	14:10:07
13	custodian on site was able to fix the problem?	14:10:07
14	A. Yes.	14:10:09
15	Q. And then you also say, "Sometimes it would	14:10:15
16	take days."	14:10:15
17	Does that refer to occasions where someone	14:10:20
18	off site would be called in to fix the heat?	14:10:20
19	A. Correct. Correct. Sometimes they would	14:10:24
20	come on the same day, sometimes they would come the	14:10:27
21	next day. But not always could they fix it right	14:10:30
22	away. So that's why sometimes it would take two or	14:10:33
23	three days.	14:10:33
24	Q. Is there anyway to estimate out of that	14:10:42
25	total time per winter, how many times it took more	14:10:46

		Page 141
1	than a day to fix the heat?	14:10:46
2	A. Probably a couple of times. I'd say two.	14:10:52
3	And that's an estimation. Some winters may have	14:10:55
4	been worse, some not so bad.	14:10:55
5	Q. Paragraph 14 indicates that "When the	14:11:20
6	heaters did work, they were noisy and distracted	14:11:24
7	the students."	14:11:24
8	Does that refer to the heaters in the	14:11:27
9	temporary building?	14:11:27
10	A. That's correct.	14:11:28
11	Q. Can you articulate the magnitude of the	14:11:47
12	distraction caused by the heaters when they were	14:11:50
13	working?	14:11:50
14	MR. FOX: Objection. Vague and ambiguous.	14:11:50
15	THE WITNESS: The word I would use to	14:11:56
16	describe would be annoying.	14:11:56
17	BY MR. SIMMONS:	14:11:57
18	Q. Did students ever complain to you that the	14:12:12
19	noise from the heaters was distracting them?	14:12:12
20	A. I don't remember. They may have.	14:12:18
21	MR. SIMMONS: Can we go off the record.	14:12:22
22	(A recess was taken.)	14:12:34
23	BY MR. SIMMONS:	14:20:58
24	Q. Ms. Shinn, you state in your declaration	14:21:18
25	that the temporary buildings were never painted	14:21:20

Page 142

1 except for a few classrooms that parents painted. 14:21:25
 2 Does that mean that three classrooms were painted 14:21:29
 3 by parents, is that what a few means? 14:21:29
 4 A. Oh, I can't give you an exact number, but 14:21:38
 5 it was not very many. I'm going to say somewhere 14:21:41
 6 between three and six classrooms during the years 14:21:44
 7 were painted. I need to add that there were times 14:21:48
 8 when teachers brought their husbands in or their 14:21:51
 9 wives or their families and painted their 14:21:54
 10 classrooms over the summer. But there were very 14:21:58
 11 few. 14:21:58
 12 Q. When you speak about painting classrooms, 14:22:01
 13 you're talking about painting the classrooms, not 14:22:04
 14 the temporary buildings themselves? 14:22:04
 15 A. Right, the inside of the rooms. 14:22:08
 16 Particularly the temporaries, which were just like 14:22:11
 17 bare roots, early depression-type wood. 14:22:11
 18 Q. During the time that you've been at 14:22:22
 19 Brightwood, have any of the temporary buildings 14:22:25
 20 been painted? 14:22:25
 21 A. Like by the district or by -- 14:22:26
 22 Q. By anyone. 14:22:29
 23 A. By anyone? 14:22:29
 24 Q. Yes. 14:22:31
 25 A. Room 19, actually, where I used to teach 14:22:38

Page 143

1 was painted by the woman who is teaching there now. 14:22:43
 2 She and her husband painted it. 14:22:43
 3 Q. I'm trying to determine whether the 14:22:46
 4 exterior of the temporary buildings has ever been 14:22:50
 5 painted since you've been there? 14:22:50
 6 A. No. 14:22:52
 7 Q. Is there only one way to go from the upper 14:23:10
 8 to the lower campus by stairway? 14:23:10
 9 A. Yes. 14:23:12
 10 Q. Are those the stairways that you 14:23:18
 11 previously noted when describing how a student 14:23:22
 12 would get from your classroom to a bathroom? 14:23:22
 13 A. Yes. There are two sets of stairways. 14:23:26
 14 One of them is the one where I made the line, and 14:23:30
 15 the other one is right here. There's a set of 14:23:35
 16 stairways that goes up here and onto the playground 14:23:38
 17 that way. 14:23:38
 18 Q. Could you mark with an "ST," the stairways 14:23:48
 19 that you just identified on Exhibit 4? 14:23:48
 20 A. ST, stairways coming down from north to 14:23:56
 21 south. And then -- 14:23:56
 22 Q. How about ST1? 14:23:57
 23 A. That's ST1 and ST2 right here. The second 14:24:04
 24 set of stairs. This one is a somewhat smaller set 14:24:07
 25 of stairs. The stairs go up only partway and the 14:24:12

Page 144

1 rest of it is ramp. So it's half ramp, half 14:24:19
 2 stairs. The other one is all stairs. 14:24:19
 3 MR. FOX: ST2 is half ramp, half stairs? 14:24:22
 4 THE WITNESS: Right. 14:24:27
 5 MR. SIMMONS: Thank you. 14:24:28
 6 Q. During the last school year do you know 14:24:37
 7 how many students at Brightwood had leg injuries? 14:24:37
 8 A. I have no idea. 14:24:41
 9 Q. When you signed your declaration did you 14:24:48
 10 have a specific number in mind at all for the 14:24:51
 11 sentence where it says "We have students with leg 14:24:55
 12 injuries in portables in the upper campus and they 14:24:59
 13 cannot use the lunchroom or the auditorium on the 14:25:03
 14 lower campus"? 14:25:03
 15 A. Yes. I actually had a couple -- you're 14:25:08
 16 down to No. 18. I had actually two or three 14:25:11
 17 instances that stick in my mind. One of them was a 14:25:14
 18 boy who fell and hurt his knee so that he could not 14:25:18
 19 walk on it. Another instance happened when I had a 14:25:25
 20 girl in my classroom pass out and we had to get her 14:25:29
 21 down to the nurse's offices. Someone from the 14:25:32
 22 nurse's office, which is on the east end of the 14:25:36
 23 administration building, will carry a folded up 14:25:40
 24 wheelchair up to the upper level, lug it up. And 14:25:44
 25 one of our secretaries is under five foot so she's 14:25:48

Page 145

1 the one who is usually dragging it up. We put the 14:25:53
 2 child in the wheelchair. I think about probably 14:25:57
 3 three or four instances in the last year where this 14:25:59
 4 happened. Wheel the child across the playground 14:26:04
 5 due west, out the gate, down the hill on the 14:26:09
 6 sidewalk. And it's a very, very steep hill so you 14:26:12
 7 have to hang on very tight to the wheelchair so it 14:26:16
 8 doesn't get away from it. 14:26:16
 9 Q. And that's the sidewalk of the Hillside 14:26:19
 10 Street? 14:26:19
 11 A. Yes. Down the hill we go. And then 14:26:24
 12 across the parking lot, still with the wheelchair. 14:26:31
 13 And then up the curb onto this area right here 14:26:35
 14 where the administration building is. And then 14:26:38
 15 we'll take them -- there's a walkway right here. 14:26:41
 16 Do you see where that -- 14:26:41
 17 Q. Right. 14:26:42
 18 A. -- strip is? 14:26:43
 19 We take them here. We have to stop, 14:26:49
 20 there's only steps going into the administration 14:26:52
 21 building. We have to take the child out of the 14:26:55
 22 wheelchair and carry the boy or girl up the steps 14:26:58
 23 and into the office. That's how we help injured 14:27:01
 24 children at our school. 14:27:01
 25 Q. I should have been more on top of this. 14:27:06

Page 146

1 Could you retrace that route? 14:27:06
 2 A. Sure. Injury on the playground -- 14:27:08
 3 MR. FOX: Objection. It's been asked and 14:27:10
 4 answered. 14:27:12
 5 THE WITNESS: Injury on the playground -- 14:27:12
 6 BY MR. SIMMONS: 14:27:16
 7 Q. You don't need to do it verbally, but if 14:27:20
 8 you could trace it out with -- 14:27:20
 9 A. I'll make a dotted line. 14:27:23
 10 Q. That would be great. 14:27:26
 11 A. I could make little red crosses but I 14:27:30
 12 won't. I'm doing this. Are you following? 14:27:30
 13 Q. Yes. 14:27:33
 14 Let the record reflect that the witness 14:27:47
 15 has drawn a dotted line from the upper campus down 14:27:52
 16 across the playground to Hillside Street, and down 14:27:58
 17 the sidewalk of Hillside Street to the front of the 14:28:01
 18 campus. And from the front of the campus toward a 14:28:09
 19 final destination of building B? 14:28:09
 20 A. This is the parking lot. 14:28:11
 21 Q. You thought that you recalled three or 14:28:19
 22 four instances; is that correct? 14:28:19
 23 A. Just within the last year or so. 14:28:21
 24 Q. Do you remember the students' names by any 14:28:27
 25 chance? 14:28:27

Page 147

1 A. Eric Moreno. Alexandra -- what was her 14:28:38
 2 last name? I can't remember her last name. 14:28:38
 3 Q. That's fine. 14:28:43
 4 A. There's two or three others. If I went 14:28:48
 5 back and looked at my grade books I might be able 14:28:51
 6 to -- 14:28:51
 7 Q. Do you recall any of those students being 14:28:59
 8 unable to use the lunchroom at Brightwood? 14:28:59
 9 A. Not those particular students, but there 14:29:08
 10 is one student that we had at our school who had a 14:29:13
 11 very, very critical disease, it was a heart 14:29:16
 12 condition. And she was in a wheelchair. And she 14:29:19
 13 had been home taught -- do you want me to tell you? 14:29:19
 14 MR. FOX: Yes. 14:29:22
 15 THE WITNESS: She had been home taught. 14:29:25
 16 And her parents were both doctors, and they wanted 14:29:29
 17 their child to have an experience at a regular 14:29:32
 18 school. They brought her to Brightwood. She was 14:29:35
 19 an 8th grade student. Her classrooms were in this 14:29:40
 20 upper level of this two-story building. When she 14:29:43
 21 came to school in the morning, she could only come 14:29:45
 22 to school through this gate. And she would stay at 14:29:50
 23 school for half day, and because of her physical 14:29:54
 24 illness would leave at lunchtime. And her family 14:29:56
 25 would come and pick her up. So she stayed only on 14:29:58

Page 148

1 the upper level. She never went down to the lower 14:30:01
 2 level. So if we had an assembly or had some kind 14:30:05
 3 of a school function, she would either have to be 14:30:07
 4 carried down or not go. 14:30:07
 5 BY MR. SIMMONS: 14:30:09
 6 Q. Do you recall any specific school 14:30:14
 7 functions that this individual missed -- 14:30:14
 8 A. I can't, this was several years ago. I 14:30:20
 9 can't even tell you what year it was. I just 14:30:23
 10 remember it very vividly. 14:30:23
 11 Q. And the three or four other instances 14:30:28
 12 you've identified as happening within the last year 14:30:30
 13 or so? 14:30:30
 14 A. Yes. 14:30:31
 15 Q. Is it correct that you couldn't recall 14:30:34
 16 that those individuals had been unable to use the 14:30:37
 17 lunchroom on the lower campus; is that correct? 14:30:37
 18 A. Well, when the injury occurred, we would 14:30:48
 19 take them down to the health office in the route 14:30:51
 20 that I described. And then their parents would 14:30:55
 21 come and pick them up, or they would be taken to 14:30:58
 22 the doctor or to the emergency room, whatever we 14:31:01
 23 felt was necessary. And then at that point, it 14:31:04
 24 would be decided whether or not they should come 14:31:07
 25 back to school or whether they would need to stay 14:31:09

Page 149

1 at home or have knee surgery or whatever. So there 14:31:12
 2 were a variety of things that happened. I can't 14:31:16
 3 really tell you in all cases about whether or not 14:31:19
 4 they could go down to the lunchroom. 14:31:19
 5 Q. Would that be the same case with whether 14:31:24
 6 or not those students were able to go down to the 14:31:27
 7 auditorium? 14:31:27
 8 A. Yes. Lunchroom and auditorium is the same 14:31:34
 9 room. 14:31:34
 10 Q. So that would be referred to as the 14:31:36
 11 cafeteria? 14:31:36
 12 A. Exactly. 14:31:38
 13 Q. I'm sorry, I have to take you back up to 14:31:56
 14 paragraph 15. I missed one, which was, "we had 14:32:01
 15 termites" is what the declaration says. 14:32:01
 16 Did you have termites in the temporary 14:32:09
 17 building in which you taught? 14:32:09
 18 A. Yes. 14:32:09
 19 Q. Did you ever see any termites during the 14:32:14
 20 time you taught in that temporary building? 14:32:14
 21 A. Termites don't run around for public view. 14:32:16
 22 Q. How did you know that there were termites 14:32:24
 23 at this school? 14:32:24
 24 MR. FOX: Asked and answered. 14:32:25
 25 THE WITNESS: Every single morning when I 14:32:28

		Page 150
1	came in there were little piles of sawdust that	14:32:31
2	were near the doors and near the window areas	14:32:36
3	right outside the doors or right inside.	14:32:36
4	BY MR. SIMMONS:	14:32:38
5	Q. When you say "little piles," can you	14:32:41
6	describe the area that the pile would cover?	14:32:41
7	A. Maybe about the size of a nickel or a	14:32:47
8	quarter. And then just kind of piled up into a	14:32:49
9	little pile. And I had a broom and a little hand	14:32:56
10	vacuum cleaner in my classroom, I would just either	14:32:59
11	sweep it away or vacuum it up.	14:32:59
12	Q. Just to go back and clarify.	14:33:06
13	Notwithstanding that termites don't necessarily	14:33:10
14	lend themselves to public view, did you ever see a	14:33:13
15	termite while you were teaching in the temporary	14:33:16
16	building?	14:33:16
17	MR. FOX: Asked and answered.	14:33:17
18	THE WITNESS: No.	14:33:18
19	BY MR. SIMMONS:	14:33:18
20	Q. Did you tell anyone in administration that	14:33:28
21	you believed there were termites in the temporary	14:33:30
22	building?	14:33:30
23	A. Yes.	14:33:30
24	Q. Did you believe that there were termites	14:33:36
25	in temporary buildings other than the one in which	14:33:38

		Page 151
1	you taught?	14:33:38
2	A. I can't answer that question because I did	14:33:42
3	not discuss it with any of the teachers in the	14:33:45
4	other sections. All I knew about was this one	14:33:50
5	building here where I taught.	14:33:50
6	Q. And that's the building --	14:33:51
7	A. I cannot answer about the others.	14:33:52
8	Q. And that building that you know about is	14:33:57
9	the one that's identified as building F; is that	14:34:00
10	correct?	14:34:00
11	A. Yes.	14:34:00
12	Q. Who in the administration did you inform	14:34:05
13	that you believe there were termites in the	14:34:07
14	temporary building in which you taught?	14:34:07
15	A. The principal.	14:34:09
16	Q. Who was the principal at the time?	14:34:13
17	A. Mrs. Grace Love.	14:34:14
18	Q. Do you recall what you said to Ms. Love?	14:34:17
19	A. Not word for word.	14:34:20
20	Q. Do you recall the substance?	14:34:22
21	A. That there were termites.	14:34:24
22	Q. Do you recall her response to you?	14:34:25
23	A. She realized it and she agreed, and --	14:34:40
24	that was it.	14:34:40
25	Q. Can you estimate by any chance how often	14:34:53

		Page 152
1	you would see a pile of sawdust near the door of	14:34:56
2	your classroom?	14:34:56
3	A. 183 days a year.	14:34:58
4	Q. So it was a daily occurrence?	14:34:59
5	A. Yes.	14:35:07
6	Q. Were the piles of sawdust generally	14:35:21
7	cleaned up daily?	14:35:21
8	A. Yes.	14:35:22
9	MR. FOX: Asked and answered.	14:35:23
10	BY MR. SIMMONS:	14:35:24
11	Q. You also indicate that the temporary	14:35:33
12	buildings smelled filthy. Can you describe for me	14:35:38
13	in what way they smelled filthy?	14:35:38
14	A. Just the way a room would smell if there	14:35:53
15	had been a water leak like under carpet and there	14:35:56
16	was mold or something like that, that kind of	14:36:01
17	sulfury smell.	14:36:01
18	Q. Did the room smell the same on every day,	14:36:09
19	or were there days that were worse than others?	14:36:09
20	A. There were days that were worse than	14:36:15
21	others.	14:36:15
22	Q. Did the days that were worse than others	14:36:21
23	occur any particular time of the year?	14:36:21
24	A. Rainy weather and very hot and humid	14:36:26
25	weather.	14:36:26

		Page 153
1	Q. Did you ever explain to anyone about the	14:36:43
2	smell in the temporary building in which you	14:36:46
3	taught?	14:36:46
4	A. I didn't need to, everyone was aware of	14:36:48
5	it.	14:36:48
6	Q. Did you ever ask anyone if there was	14:36:52
7	something that could be done about the smell in the	14:36:54
8	temporary building?	14:36:54
9	A. Yes. And once a year they would come in	14:36:57
10	and do massive cleaning, usually during the summer	14:37:02
11	months when no students were present on campus.	14:37:05
12	And they would clean the carpets and clean	14:37:08
13	everything down, and it would be better for a	14:37:09
14	while.	14:37:09
15	Q. Are you familiar with the term "custodial	14:37:20
16	schedule"?	14:37:20
17	A. Uh-huh.	14:37:20
18	Q. Do you know whether, during 1989 through	14:37:27
19	1997, there was a custodial schedule in place at	14:37:33
20	Brightwood?	14:37:33
21	A. Yes.	14:37:34
22	Q. Do you have an understanding as to what	14:37:38
23	that custodial schedule consisted of?	14:37:38
24	A. I do.	14:37:41
25	Q. Could you explain the custodial schedule	14:37:46

Page 154

1	to me?	14:37:46
2	A. If I understand, we have one custodian who	14:37:50
3	comes in approximately 6:00 o'clock in the morning,	14:37:55
4	and he -- he's the main custodian. He cleans the	14:38:01
5	office area, the teachers' lounge, all of the rooms	14:38:06
6	besides the classrooms. And then he does all of	14:38:11
7	that, those several rooms before school starts.	14:38:15
8	And then during school -- during the school hours	14:38:19
9	he is on duty to do things around campus as they	14:38:23
10	are needed, which is quite a bit. Anything from	14:38:26
11	cleaning up when a student gets sick to his	14:38:29
12	stomach, or making a minor repair, to keeping the	14:38:34
13	cafeteria clean during the lunch breaks. Doing	14:38:38
14	some minor gardening kinds of things, landscaping	14:38:44
15	kinds of things in a very limited way. And then he	14:38:47
16	leaves. His schedule is over about 2:00 or 2:30 in	14:38:51
17	the afternoon, which is about the end of the school	14:38:54
18	day.	14:38:54
19	And two custodians come on duty between	14:38:58
20	1:00 and 2:00 o'clock in the afternoon, and they	14:39:02
21	work until about 10:00 o'clock at night. And they	14:39:06
22	are the ones that clean the classrooms. They	14:39:10
23	divide up the school in half and they clean up the	14:39:15
24	classrooms when the students and teachers have left	14:39:18
25	for the evening. Is that what you wanted to know?	14:39:18

Page 155

1	Q. That's impressive.	14:39:22
2	The custodial schedule that you just	14:39:28
3	described, is that the custodial schedule that's in	14:39:31
4	place presently at Brightwood?	14:39:31
5	A. It is.	14:39:33
6	Q. If you know, was that the schedule that	14:39:36
7	was in place during the previous years that you've	14:39:40
8	taught at Brightwood?	14:39:40
9	A. It is.	14:39:41
10	Q. Does the custodial schedule require the	14:39:49
11	custodians who come in at about 2:30 --	14:39:49
12	A. About 2:00.	14:39:53
13	Q. Does that custodial schedule require the	14:39:57
14	custodians who come in at that time to clean each	14:40:00
15	classroom on a daily basis?	14:40:00
16	A. Yes.	14:40:02
17	Q. That's been true since you've been at	14:40:12
18	Brightwood?	14:40:12
19	A. Yes.	14:40:13
20	Q. Paragraph 16 indicates that the buildings	14:40:31
21	are also unsafe. Does that refer to the temporary	14:40:35
22	buildings as well?	14:40:35
23	A. Most definitely.	14:40:37
24	Q. In 1994 there was an earthquake; is that	14:40:51
25	correct?	14:40:51

Page 156

1	A. That is right, the Whittier Narrows	14:40:56
2	earthquake, which was close to the school.	14:40:56
3	Q. As a result of that earthquake, did	14:41:01
4	ceiling fixtures fall at Brightwood Elementary?	14:41:01
5	A. Yes.	14:41:04
6	Q. Do you know about how many ceiling	14:41:08
7	fixtures fell?	14:41:08
8	A. Are you talking about light fixtures or	14:41:14
9	like the tiles in the ceiling, ceiling fixtures and	14:41:18
10	ceiling tiles? I would say the light fixtures,	14:41:22
11	probably four or five. The earthquake occurred	14:41:28
12	before school in the morning when the children were	14:41:31
13	coming to school. So the children were not in	14:41:34
14	their classrooms.	14:41:34
15	Q. Do you have any recollection as to what	14:41:40
16	areas of the school those four or five ceiling	14:41:43
17	fixtures fell down in?	14:41:43
18	A. Yes. Room 19. There were two or three	14:41:54
19	that fell in building E, but I cannot give you	14:41:57
20	specific room numbers. And there were one or two	14:42:00
21	others, I think, that fell in this section of	14:42:04
22	building F, but I cannot give you numbers, other	14:42:07
23	than room 19. When I say they fell, they were	14:42:12
24	hanging. They fell and they were hanging by their	14:42:16
25	CORDS over the desks.	14:42:16

Page 157

1	Q. About how high over the desks would you	14:42:21
2	say they were hanging?	14:42:21
3	A. Two or three feet.	14:42:24
4	Q. Did ceiling tiles fall at Brightwood as a	14:42:38
5	result of the earthquake as well?	14:42:38
6	A. Yes.	14:42:41
7	MR. FOX: Asked and answered.	14:42:41
8	BY MR. SIMMONS:	14:42:42
9	Q. Do you know about how many ceiling tiles	14:42:47
10	fell as a result of the earthquake in 1994?	14:42:47
11	A. I can't answer that question specifically.	14:42:55
12	I can give you an estimate of a couple of dozens,	14:42:58
13	but I -- and also including some in the cafetorium	14:43:03
14	fell, but I can't give you an exact number.	14:43:03
15	Q. So an estimate of a dozen or so throughout	14:43:09
16	the various classrooms of the school?	14:43:09
17	A. Probably.	14:43:11
18	Q. And then a number -- another number of	14:43:17
19	ceiling tiles fell in the cafetorium?	14:43:17
20	A. That is correct.	14:43:20
21	Q. But it's difficult to place an exact	14:43:24
22	number?	14:43:24
23	A. Yes, it is.	14:43:24
24	Q. Do you think it would be more than ten?	14:43:24
25	A. Yes.	14:43:29

Page 158

1 Q. Any recollection as to how many more than 14:43:35
 2 ten? 14:43:35
 3 A. No, I can't answer that question. 14:43:36
 4 Q. And you heard an architect say that "these 14:43:49
 5 are the most dangerous school rooms I have ever 14:43:52
 6 seen"; is that correct? 14:43:52
 7 A. That is correct. 14:43:52
 8 Q. Can you tell me how you knew that the 14:43:56
 9 individual who you heard say this was an architect? 14:43:56
 10 A. He came from a firm, he worked for an 14:44:02
 11 architectural firm, and the school district was 14:44:06
 12 considering putting up a bond issue to make school 14:44:10
 13 repairs. And so they were sending architects to 14:44:13
 14 each of the individual high schools and elementary 14:44:17
 15 schools in the district. And they came to see what 14:44:25
 16 kind of needs the schools had in the district. As 14:44:28
 17 he was walking through this section of rooms right 14:44:33
 18 here in building F, this particular little bundle 14:44:37
 19 of buildings, he was -- I can even remember, he was 14:44:42
 20 standing in room 15, and we have doors between 14:44:45
 21 those rooms. And I heard -- the door was open 14:44:51
 22 between my room here into room 14, and then it was 14:44:54
 23 also open right here from 14 to 15. I heard 14:44:58
 24 voices. And I walked through, and he was talking 14:45:02
 25 to the teacher at that time who was in there and 14:45:04

Page 159

1 shaking his head and said, "I've never seen any 14:45:07
 2 buildings like this in my observations." And he 14:45:10
 3 used the word "dangerous" to describe the rooms. I 14:45:15
 4 cannot give you his name. 14:45:15
 5 Q. Do you by any chance remember the 14:45:21
 6 architectural firm? 14:45:21
 7 A. I do not. 14:45:23
 8 Q. He was speaking with another teacher when 14:45:30
 9 you overheard him say this? 14:45:30
 10 A. He was talking to another teacher. I 14:45:35
 11 heard him talking to her. 14:45:35
 12 Q. Do you recall what teacher that was? 14:45:36
 13 A. Yes, I do. Mrs. Ellen Peck, P-e-c-k. 14:45:37
 14 Q. Do you recall about what year this 14:45:47
 15 occurred? 14:45:47
 16 A. I would say probably in the winter/spring 14:46:05
 17 of '96, '97. The last year I was in that room. 14:46:05
 18 Q. Are there any other aspects of the 14:46:17
 19 temporary buildings that form the basis of your 14:46:20
 20 opinion that they are unsafe? 14:46:20
 21 A. The steps going up into the room are -- 14:46:28
 22 have holes in them, and some of the banisters along 14:46:33
 23 the sides of the steps are loose. And there's 14:46:38
 24 splinters everywhere up these wooden steps. There 14:46:42
 25 are no ramps into any of those rooms. 14:46:42

Page 160

1 Q. Are there any other aspects of the 14:46:56
 2 buildings that you believe render them unsafe? 14:46:56
 3 A. I think I've pretty well covered it. I 14:47:07
 4 can't think of any right now. 14:47:07
 5 Q. Do you know which temporary buildings have 14:47:16
 6 loose banisters? 14:47:16
 7 A. The only one I know of is room 2. There 14:47:27
 8 have been in the past loose banisters, and I cannot 14:47:30
 9 tell you right now whether they have been fixed or 14:47:32
 10 tightened or not, so I can't give you an honest 14:47:36
 11 answer on that one. It would just be a guess. But 14:47:40
 12 I do know as of this past spring when school was 14:47:42
 13 out in June, that room 2 did have a loose banister. 14:47:42
 14 Q. You also identified splinters as a 14:47:56
 15 problem? 14:47:56
 16 A. Uh-huh. 14:47:56
 17 Q. Are those splinters on the banisters or -- 14:47:57
 18 A. And the steps, and the little porch area. 14:48:05
 19 It's old wood so it's falling away. 14:48:05
 20 Q. Can you identify the temporary buildings 14:48:19
 21 that suffer from the problem with splinters? 14:48:19
 22 A. All of them. 14:48:22
 23 Q. Have any of the steps ever fell in? 14:48:22
 24 MR. FOX: Calls for speculation. 14:48:35
 25 THE WITNESS: I don't remember that 14:48:38

Page 161

1 happening. 14:48:38
 2 BY MR. SIMMONS: 14:48:38
 3 Q. In paragraph 19 you indicate that "last 14:49:26
 4 year," am I correct to assume that that's 1999, 14:49:31
 5 2000 school year? 14:49:31
 6 A. Yes. 14:49:38
 7 Q. You say that you didn't have materials in 14:49:55
 8 certain students' primary language; is that 14:49:58
 9 correct? 14:49:58
 10 A. Correct. 14:49:58
 11 Q. Is it correct to say that the only 14:50:13
 12 materials for which you had an English version and 14:50:19
 13 a primary language version were for Spanish? 14:50:19
 14 A. Yes. 14:50:23
 15 Q. Do you know how many students from the 14:50:37
 16 1999 to 2000 school year had a primary language of 14:50:45
 17 Mandarin? 14:50:45
 18 A. I can't give you an exact count. I can't 14:50:51
 19 give you an exact count. I would estimate ten. 14:50:51
 20 Q. I'm sorry, was that ten in your classroom 14:51:02
 21 or ten -- 14:51:02
 22 A. Ten all in sixth grade. But I saw all of 14:51:08
 23 the sixth graders because they came through my room 14:51:12
 24 during the day. 14:51:12
 25 Q. How about with respect to students whose 14:51:16

Page 162	
1	primary language was Cantonese? 14:51:16
2	A. Probably about the same. 14:51:19
3	Q. And with respect to students whose primary 14:51:28
4	language was Japanese? 14:51:28
5	A. That particular year there were only two. 14:51:34
6	And you can also add three students who spoke 14:51:39
7	Vietnamese. 14:51:39
8	Q. And there was one student whose primary 14:52:02
9	language was Romania; is that correct? 14:52:02
10	A. That's correct. 14:52:04
11	Q. When you say that their primary language 14:52:12
12	is either Spanish or Mandarin or Cantonese, could 14:52:17
13	you explain to me what it means for that to be 14:52:21
14	their primary language? 14:52:21
15	A. That was the language that they learned 14:52:24
16	first. That was the language that they thought in. 14:52:24
17	Q. In the number of students that you 14:52:34
18	identified as having a primary language different 14:52:36
19	from English, were any of those students proficient 14:52:40
20	in English? 14:52:40
21	A. Different levels. We have numbers that we 14:52:44
22	give them describing their proficiency in English. 14:52:44
23	Q. Would there be documents kept at the 14:52:53
24	school that would identify that information? 14:52:53
25	A. Absolutely. 14:52:54

Page 163	
1	Q. Do you know who at school, who would be 14:53:04
2	responsible with keeping track of those documents? 14:53:04
3	A. It's very complicated. We're working with 14:53:11
4	a bureaucracy here. They would be in the students' 14:53:20
5	private files. Also, there is one resource person 14:53:22
6	who comes from the district office to work two or 14:53:25
7	three days a week to work with limited English 14:53:29
8	speaking students, and she does a lot of the 14:53:31
9	recordkeeping also. She works in the teachers' 14:53:35
10	lounge because she has no room to work. So that's 14:53:39
11	her work space. So she would have records too. 14:53:42
12	And the school district certainly would have 14:53:44
13	records, and the State of California has these 14:53:47
14	records too. 14:53:47
15	Q. Do you speak any other languages than 14:54:00
16	English fluently? 14:54:00
17	A. I speak another language but not very 14:54:05
18	fluently. 14:54:05
19	Q. Would you characterize yourself as 14:54:08
20	proficient in that other language? 14:54:08
21	A. No. I was at one time, but not -- 14:54:10
22	Q. What language is that? 14:54:12
23	A. French. Very practical in Monterey Park. 14:54:14
24	Q. Could you explain to me how you're able to 14:54:31
25	teach students whose primary language you're not 14:54:36

Page 164	
1	fluent in? 14:54:36
2	A. Yes. If I'm teaching one of the skills 14:54:48
3	levels classes, such as reading or language, it's 14:54:51
4	much easier, because I can give them different 14:54:57
5	kinds of activities to work on and I can do small 14:55:00
6	group work with them, or I can have them -- while 14:55:04
7	I'm doing a directed lesson with my class on a 14:55:08
8	language arts assignment or reading assignment, 14:55:12
9	small group of children, I can have them -- have 14:55:16
10	like a listening center set up in the classroom 14:55:19
11	where it has ear phones and stories to read along 14:55:24
12	with. I do activities like that. And then when 14:55:27
13	the rest of the class is working on an assignment, 14:55:30
14	then I can go sit down with them and we can talk 14:55:33
15	about what they read together. That's easy. I 14:55:36
16	mean, it's not easy, but it's doable. 14:55:36
17	The difficult part comes when I'm teaching 14:55:41
18	content area classes such as history. When I'm 14:55:45
19	trying to -- the sixth grade curriculum calls for 14:55:49
20	ancient history, such as study of ancient Egypt, 14:55:55
21	Mesopotamian, all that, ancient China. It is very, 14:55:58
22	very difficult to come up with strategies to have 14:56:02
23	the children learn that content area. What I have 14:56:10
24	done is written like little books myself in my own 14:56:13
25	time that has a reading level that the children can 14:56:18

Page 165	
1	follow. And then I will set aside a corner of the 14:56:22
2	classroom, as the classes are coming through, there 14:56:26
3	could be anywhere from two to eight children in one 14:56:29
4	class because the classes move through my room, and 14:56:32
5	they have their assignment written on like a 14:56:35
6	portable chalkboard or dry erase board. They will 14:56:39
7	sit down. As I'm doing a directed lesson with the 14:56:42
8	rest of the class, they will be working on that 14:56:45
9	assignment. And then I go over and sit with them. 14:56:48
10	That's how I do it. 14:56:48
11	I will say that the textbooks we had for 14:56:55
12	teaching history were written on the 11th grade 14:56:58
13	level, so it was very, very difficult for many 14:57:02
14	children. So most of the lessons had to be done in 14:57:06
15	what we called shared reading. We read like a 14:57:09
16	paragraph at a time and talked about what it meant 14:57:11
17	and what it has to say. We have just adopted a new 14:57:15
18	series that is written on a sixth-grade level, so 14:57:20
19	it should be much easier to work with the children. 14:57:20
20	Q. Will that be available for the 2000, 2001 14:57:30
21	school year? 14:57:30
22	A. Yes. Hopefully it will be waiting for me 14:57:30
23	in my classroom when I go back. 14:57:30
24	Q. With respect to the history textbook that 14:57:35
25	you were using for the last year, how come that 14:57:39

		Page 166
1	textbook was not directed to a sixth grade reading	14:57:43
2	level, if you know?	14:57:43
3	A. You'll have to ask the publishers that.	14:57:47
4	It's been the same textbook that we've used for	14:57:51
5	probably eight or nine years. And it was adopted	14:57:55
6	by the district when the State of California wrote	14:57:57
7	the curriculum and set the standards for those	14:58:01
8	subject areas. That was the only one that was	14:58:03
9	available because that was the first year that	14:58:06
10	ancient history was taught in the sixth grade. It	14:58:09
11	was a new curriculum. So there was only one	14:58:13
12	publisher publishing a book that was available.	14:58:17
13	Now there are others to choose from.	14:58:17
14	Q. Do you know when that textbook was first	14:58:21
15	adopted?	14:58:21
16	A. I'm going to say maybe '92, '93. It was	14:58:34
17	quite a long time ago. Early '90s is the closest I	14:58:37
18	can come.	14:58:37
19	Q. Are you aware of a seven-year cycle for	14:58:46
20	updating textbooks? Have you ever heard of that	14:58:48
21	term used?	14:58:48
22	A. Yes, I have, but it doesn't always happen.	14:58:49
23	Q. Can you recall any specific instances at	14:58:59
24	Brightwood where textbooks were not updated	14:59:02
25	consistent with the seven-year cycle?	14:59:02

		Page 167
1	A. I just told you about one, social studies	14:59:08
2	history book. Another one would be the science	14:59:10
3	books. We are also getting new science books this	14:59:14
4	year. So we're getting two new series of books	14:59:20
5	this year for the first time in many years.	14:59:20
6	Q. Can you explain to me how, if you don't	14:59:40
7	speak the student's primary language, how having	14:59:44
8	materials in that language in addition to the	14:59:47
9	English materials would help you teach the student	14:59:51
10	properly?	14:59:51
11	A. Because you have to teach a child on what	14:59:54
12	his or her knowledge is when you're working in the	14:59:56
13	content area. So the best way for them to gain the	15:00:00
14	knowledge would be through the language in which	15:00:03
15	they are best suited. And, again, it depends on	15:00:06
16	the degree of English fluency for these children.	15:00:10
17	So if they're at a very low English fluency, it's	15:00:14
18	almost a requirement for them to have materials	15:00:16
19	that are in their primary language. And then you	15:00:20
20	gradually -- the goal is to move them out of that	15:00:24
21	and into English acquisition.	15:00:24
22	Q. Are there district-mandated materials that	15:00:33
23	are required to be used in connection with teaching	15:00:38
24	ELD students?	15:00:38
25	MR. FOX: Vague and ambiguous.	15:00:41

		Page 168
1	THE WITNESS: There are materials. And I	15:00:50
2	haven't quite figured out how to get all of the	15:00:55
3	materials in all my long years. I have been able	15:01:00
4	to sometimes get materials and sometimes not.	15:01:03
5	There are materials available, but not a lot. The	15:01:06
6	district bilingual department frowns, as part of	15:01:16
7	their philosophy, and perhaps they're right, on	15:01:23
8	giving too many materials to teachers because each	15:01:26
9	individual case is very different. They want the	15:01:28
10	teachers to develop their own materials. But there	15:01:31
11	are some that are available, and I do have some	15:01:34
12	that I was able to get just at the end of this	15:01:36
13	school year. So I'll have them in place when	15:01:40
14	school starts in September.	15:01:40
15	BY MR. SIMMONS:	15:01:41
16	Q. Again, would there be certain materials	15:01:50
17	for ELD teaching that are considered district	15:01:55
18	mandated?	15:01:55
19	MR. FOX: Objection. Asked and answered.	15:01:56
20	THE WITNESS: District mandated?	15:01:57
21	BY MR. SIMMONS:	15:02:01
22	Q. Maybe if I lay a better foundation here I	15:02:04
23	can help.	15:02:04
24	A. I would say the teaching strategies are	15:02:09
25	mandated, but materials, not so much. You're	15:02:18

		Page 169
1	asking a difficult question because it changes from	15:02:20
2	year to year.	15:02:20
3	Q. I'm just thinking, for this year, for	15:02:25
4	example, for history, for the sixth grade, is there	15:02:28
5	a district-mandated curriculum for that grade?	15:02:28
6	A. It's the same curriculum for all sixth	15:02:36
7	grade students. The strategies on how you teach	15:02:39
8	that curriculum is what differs. The curriculum is	15:02:43
9	not a textbook, the curriculum is the goals that	15:02:46
10	you have set to teach.	15:02:46
11	Q. Are there any materials that the district	15:02:57
12	requires teachers to use when instructing students	15:03:01
13	in the district-mandated curriculum?	15:03:01
14	A. You're talking about bilingual students?	15:03:03
15	Q. For the purpose of this question, just	15:03:10
16	for -- assuming history.	15:03:10
17	A. Yes.	15:03:11
18	Q. Can you identify what those materials	15:03:16
19	would be?	15:03:16
20	A. Well, they're changing this year because	15:03:19
21	of the change of textbook. It comes from the	15:03:24
22	McGraw Hill Publishing Company. There is	15:03:28
23	curriculum written from time to time. In fact, I	15:03:31
24	have written curriculum. And it changes from year	15:03:33
25	to year and it follows the changes in the state	15:03:36

Page 170

1	requirements.	15:03:36
2	Q. You mentioned that teaching strategies	15:03:42
3	with respect to ELD students are mandated by the	15:03:45
4	district?	15:03:45
5	A. Yes. And remember earlier in our	15:03:48
6	conversations this morning I talked to you about	15:03:50
7	the training that I went through, and that's what	15:03:53
8	that is.	15:03:53
9	Q. Are you familiar with a term "sheltered	15:04:03
10	English strategies"?	15:04:03
11	A. Yes, I indeed am.	15:04:05
12	Q. Are those the strategies that we were	15:04:09
13	discussing earlier?	15:04:09
14	A. That is correct. It's also called SDAIE,	15:04:15
15	S-D-A-i-E. It's an acronym, but I can't remember	15:04:21
16	what it stands for. But it's sheltered English.	15:04:21
17	Q. And is sheltered English the	15:04:31
18	district-mandated strategy?	15:04:31
19	A. Yes, I would say that that's the focus.	15:04:34
20	Q. As far as materials, are you aware of any	15:04:39
21	specific materials that the district requires be	15:04:42
22	used in instructing ELD students?	15:04:42
23	A. No.	15:04:44
24	Q. You have some materials that you use in	15:04:54
25	instructing ELD students; is that correct?	15:04:54

Page 171

1	A. I do.	15:04:56
2	Q. How do you go about obtaining those	15:05:00
3	materials?	15:05:00
4	A. I purchase them. I write them up myself.	15:05:01
5	MR. FOX: You purchase them with your own	15:05:09
6	money?	15:05:09
7	THE WITNESS: Yes, I do. Because my	15:05:11
8	budget is very limited. Every teacher does. I	15:05:23
9	develop them as I go along.	15:05:23
10	BY MR. SIMMONS:	15:05:25
11	Q. Does the school have any ELD materials	15:05:34
12	available for your use?	15:05:34
13	A. No. The materials that I get come from	15:05:39
14	the district. We have no storage room to keep	15:05:42
15	materials at our school, so whenever we need things	15:05:45
16	-- we have several sources where we can get	15:05:49
17	materials that we need. They're not difficult to	15:05:51
18	get if we go get them ourselves.	15:05:51
19	Q. Could you give me an idea as to the types	15:06:00
20	of materials that are available at the district for	15:06:02
21	teachers with respect to ELD?	15:06:02
22	A. There are some Spanish primary language	15:06:10
23	materials in some of the content areas. There are	15:06:17
24	packets of materials which have been developed by	15:06:21
25	teachers in both primary language and in English	15:06:25

Page 172

1	development that you can get that help children to	15:06:29
2	become more proficient in English.	15:06:29
3	Q. Anything else that you can think of?	15:06:31
4	A. No.	15:06:36
5	Q. Your declaration indicates that you did	15:06:50
6	not receive a number of the basic instructional	15:06:53
7	materials you needed until two to three weeks into	15:06:56
8	the semester?	15:06:56
9	A. Correct.	15:06:58
10	Q. Is that referring to the 2000, 2001 school	15:07:03
11	year?	15:07:03
12	A. That is right.	15:07:03
13	Q. That should have read trimester; is that	15:07:10
14	correct?	15:07:10
15	A. Yes.	15:07:10
16	Q. Which trimester would that refer to?	15:07:11
17	A. The first. The first trimester.	15:07:14
18	Q. When does the trimester begin at	15:07:20
19	Brightwood?	15:07:20
20	A. In September, the first day of school.	15:07:21
21	Q. What basic instructional materials are you	15:07:34
22	referring to in that sentence?	15:07:34
23	A. In this particular one, it is materials,	15:07:40
24	meaning textbooks, for my fifth graders, because I	15:07:46
25	was assigned a five-six combination class last year	15:07:50

Page 173

1	and I had only sixth grade materials in my	15:07:53
2	classroom. The curriculum is very, very different	15:07:56
3	for fifth grade. U.S. history, particularly in	15:08:00
4	social studies science, and so -- so I had many	15:08:05
5	materials to get, as far as spelling books, reading	15:08:10
6	books, literature books, language books, science	15:08:15
7	books, math books, history books. I had to get	15:08:18
8	them for my fifth grade. And I had 16 fifth	15:08:23
9	graders in my class. Those were the books that	15:08:25
10	were delayed getting to me because I didn't have	15:08:28
11	fifth grade materials.	15:08:28
12	Q. When you taught the fifth-sixth grade	15:08:34
13	combination class, do sixth graders continue to	15:08:40
14	rotate out of the classroom, or do you teach all	15:08:42
15	subjects for the sixth graders?	15:08:42
16	A. It was, basically, except for one period a	15:08:46
17	day, it was a self-contained classroom. I kept my	15:08:53
18	children for the whole day, and I taught them	15:08:56
19	everything except math. One hour a day they went	15:09:01
20	to the math teacher, and she taught fifth and sixth	15:09:06
21	grade math to that particular class, and took	15:09:09
22	another one of the sixth grade teachers into my	15:09:13
23	room and did history with them. So one hour a day	15:09:17
24	they went to another class. It was not a full	15:09:19
25	departmentalized program, otherwise I taught my	15:09:23

Page 174

1	class as a self-contained class.	15:09:23
2	Q. At what point did you become aware that	15:09:30
3	you would be teaching the fifth-sixth combination	15:09:33
4	grade for the 2000, 2001 school year?	15:09:33
5	A. At the end of June of the previous year.	15:09:40
6	June of 2000. The last week of school.	15:09:40
7	Q. Do you typically arrive a little early	15:09:47
8	before the school year to set up your classroom?	15:09:47
9	A. Yes. If I wasn't here today, that's where	15:09:52
10	I would be.	15:09:52
11	Q. When you arrived prior to the 2000, 2001	15:10:00
12	school year, at that point were you missing	15:10:02
13	curriculum for your -- materials for your fifth	15:10:07
14	grade students?	15:10:07
15	A. That is correct.	15:10:08
16	Q. Were you missing materials for your sixth	15:10:11
17	grade students?	15:10:11
18	A. No.	15:10:12
19	Q. Could we specify the materials for the	15:10:18
20	fifth graders that you were missing?	15:10:18
21	MR. FOX: I think we already have	15:10:24
22	testimony on that.	15:10:24
23	THE WITNESS: It was the textbooks in the	15:10:27
24	various subject areas, including history, social	15:10:31
25	science, literature, spelling. The math teacher	15:10:35

Page 175

1	actually ordered the math materials, and she was	15:10:38
2	missing some fifth grade math materials too because	15:10:42
3	she took my students for math.	15:10:42
4	BY MR. SIMMONS:	15:10:45
5	Q. Did you have any textbooks or materials	15:10:48
6	for fifth graders at the start of the 2000, 2001	15:10:51
7	school year?	15:10:51
8	A. At the start of the year, what I did is I	15:10:56
9	taught the same literature to both the fifth and	15:10:58
10	sixth graders so I could start teaching right away	15:11:01
11	on that. What I did not have that would have been	15:11:03
12	helpful was like the spelling books, which came	15:11:06
13	later. And the history books, which I did not have	15:11:15
14	at all. I had nothing in the way of history	15:11:18
15	materials, and U.S. history. Because I had not	15:11:21
16	taught fifth grade for many, many years.	15:11:21
17	Q. So at the beginning of the school year you	15:11:28
18	lacked spelling books, did you have any spelling	15:11:31
19	books for fifth graders?	15:11:31
20	A. No. But they came within a couple of	15:11:35
21	weeks. You can see here where I said some did not	15:11:39
22	come until two or three weeks. They came	15:11:42
23	relatively soon. The social studies materials came	15:11:45
24	later, several weeks later.	15:11:45
25	Q. And those were the history textbooks?	15:11:48

Page 176

1	A. Right. And they did come, but it was a	15:11:52
2	bit of a wait.	15:11:52
3	Q. Prior to those history textbooks arriving	15:11:59
4	in six to eight weeks, you had no history textbooks	15:12:04
5	for the fifth graders?	15:12:04
6	A. I had none, so I did a whole class unit on	15:12:09
7	map study class and geography. And the whole class	15:12:15
8	together worked on that for the first several weeks	15:12:18
9	that I was without textbooks for the fifth graders.	15:12:18
10	Q. I think we moved away from this, so I got	15:12:37
11	to ask this question one more time, which is, did	15:12:41
12	you have any textbooks for fifth graders at the	15:12:43
13	time you started the 2000, 2001 school year?	15:12:43
14	A. I don't remember. I know I didn't have	15:12:54
15	spelling to start with. I don't think I did. But	15:12:59
16	that's not a problem if you don't have to wait very	15:13:02
17	long. It is a problem if you have to wait several	15:13:05
18	weeks.	15:13:05
19	Q. Would two to three weeks be not very long?	15:13:05
20	A. Yeah. That's fine. I can do lots of	15:13:15
21	literature activities and writing activities. And	15:13:18
22	I can make up my own spelling.	15:13:18
23	Q. Six to eight weeks is, in your opinion,	15:13:23
24	when it becomes too long?	15:13:23
25	A. Uh-huh.	15:13:24

Page 177

1	Q. And the materials that -- were there any	15:13:36
2	materials, other than the history books, that did	15:13:39
3	not arrive until six to eight weeks into the 2000,	15:13:44
4	2001 school year?	15:13:44
5	A. I didn't have science books but I borrowed	15:13:48
6	some from another fifth grade teacher and we	15:13:54
7	shared.	15:13:54
8	Q. Did you have enough science textbooks for	15:14:05
9	each student, each fifth grade student to use in	15:14:09
10	class?	15:14:09
11	A. Yes. But they were shared between two	15:14:13
12	rooms.	15:14:13
13	Q. So you would do science at one period of	15:14:20
14	the day with the textbooks --	15:14:20
15	A. Or I would do a science unit while she	15:14:25
16	worked on history, and then she would do a science	15:14:28
17	unit while I worked on history so that we would --	15:14:31
18	we would share the books in that way.	15:14:31
19	Q. Could students take science books home for	15:14:39
20	homework?	15:14:39
21	A. Yes.	15:14:39
22	Q. Other than science and history, were there	15:14:52
23	any other materials that you didn't receive until	15:14:55
24	six to eight weeks into the 2000, 2001 school year?	15:14:55
25	A. No, those were the ones.	15:14:58

		Page 178
1	Q. In the last three years have you ever	15:15:18
2	lacked instructional materials for the first six to	15:15:22
3	eight weeks?	15:15:22
4	A. No.	15:15:23
5	Q. Of a trimester?	15:15:23
6	A. No.	15:15:26
7	MR. FOX: Other than what you testified	15:15:29
8	to?	15:15:29
9	THE WITNESS: That's exactly right.	15:15:29
10	BY MR. SIMMONS:	15:15:31
11	Q. How about for the last three school years,	15:15:41
12	have you ever lacked any instructional materials	15:15:46
13	for two to three weeks into a school year?	15:15:46
14	A. Yes.	15:15:48
15	Q. Can you identify those materials?	15:15:49
16	A. It would be textbooks of different	15:16:01
17	subjects. I might have a bigger class one year	15:16:05
18	than I had before so I would need like four more	15:16:09
19	textbooks or something in that order. Because the	15:16:13
20	beginning of the year is so busy it takes a while	15:16:16
21	for everything to get distributed to everybody.	15:16:16
22	Q. Can you recall any specific instructional	15:16:22
23	materials that you were missing for two or three	15:16:24
24	weeks?	15:16:24
25	A. Yes. Different times the two textbooks	15:16:28

		Page 179
1	that I remember missing were literature books and	15:16:33
2	history books.	15:16:33
3	Q. Do you remember what year that was by any	15:16:42
4	chance, for the literature books?	15:16:42
5	A. No, I do not.	15:16:43
6	Q. How about for the history books?	15:16:45
7	A. I can't remember the year.	15:16:46
8	MR. FOX: Could we take a short break?	15:16:48
9	MR. SIMMONS: Yes.	15:16:51
10	(A recess was taken.)	15:16:52
11	BY MR. SIMMONS:	15:22:30
12	Q. With respect to the missing literature	15:22:32
13	books --	15:22:32
14	A. Yes.	15:22:33
15	Q. -- do you recall receiving those books	15:22:36
16	within two to three weeks of the start of the	15:22:39
17	school year?	15:22:39
18	A. Yes.	15:22:41
19	Q. Is that the same with the history books?	15:22:41
20	A. Yes.	15:22:45
21	Q. For the materials that you were missing	15:23:08
22	this year for six to eight weeks?	15:23:08
23	A. Yes.	15:23:12
24	Q. That was history books and science books;	15:23:19
25	is that correct?	15:23:19

		Page 180
1	A. That's right.	15:23:19
2	Q. Did you take any steps to try and get the	15:23:27
3	history books that you were missing?	15:23:27
4	A. Yes.	15:23:29
5	Q. Can you tell me what you did?	15:23:30
6	A. I got in my car and I drove over to the	15:23:35
7	central supplementary library, which is a building	15:23:39
8	warehouse where books are kept stored. And I	15:23:44
9	walked in and I asked for them.	15:23:44
10	Q. This is a district building?	15:23:47
11	A. Yes, it is.	15:23:52
12	Q. Do you recall who you asked for the books?	15:23:53
13	A. The lady who was in charge, and I cannot	15:24:01
14	recall her name.	15:24:01
15	Q. Do you recall what she said to you?	15:24:02
16	A. Yes.	15:24:04
17	Q. Can you relate that to me?	15:24:05
18	A. She said, "No, I cannot let you take the	15:24:13
19	books with you. We have a system, and we will send	15:24:17
20	the books to you as soon as we can."	15:24:17
21	Q. So was it your understanding that the	15:24:27
22	textbooks were available?	15:24:27
23	MR. FOX: Objection.	15:24:30
24	THE WITNESS: I didn't --	15:24:31
25	MR. FOX: Available to her?	15:24:35

		Page 181
1	BY MR. SIMMONS:	15:24:36
2	Q. I'll rephrase.	15:24:36
3	Was it your understanding that at the time	15:24:47
4	you asked for textbooks, there were enough	15:24:52
5	textbooks at the site for you to use?	15:24:52
6	MR. FOX: Calls for speculation.	15:24:55
7	THE WITNESS: At the school site or at the	15:24:59
8	warehouse?	15:24:59
9	BY MR. SIMMONS:	15:25:00
10	Q. At the warehouse.	15:25:00
11	A. No, I didn't know.	15:25:02
12	Q. Did you ask the individual you spoke with	15:25:07
13	whether there were textbooks available?	15:25:07
14	A. I did.	15:25:08
15	Q. And what was her response?	15:25:09
16	A. I believe she said, "I think so," or	15:25:19
17	"probably." And I became concerned.	15:25:19
18	Q. Was your concern based partially on the	15:25:33
19	fact that these were books toward the end of their	15:25:38
20	adoption cycle?	15:25:38
21	A. No, I was concerned because I needed the	15:25:42
22	books to teach my fifth graders history and I	15:25:46
23	wanted to make sure I would get them.	15:25:46
24	Q. Do you have any general understanding as	15:25:54
25	to whether textbooks that are near the end of their	15:25:58

		Page 182
1	adoption cycle are more frequently difficult to	15:26:02
2	come by than textbooks at the beginning of their	15:26:06
3	adoption cycle?	15:26:06
4	A. In my years of teaching experience, yes,	15:26:10
5	that is true. It is sometimes difficult to get	15:26:13
6	enough textbooks to go around.	15:26:13
7	Q. Is it more difficult for textbooks that	15:26:19
8	are near the end of their adoption cycle than it is	15:26:22
9	for textbooks at the beginning of their adoption	15:26:24
10	cycle?	15:26:24
11	A. Yes.	15:26:25
12	Q. Did you take the same steps to obtain	15:26:36
13	science books as you did to obtain history books	15:26:40
14	for the 2000, 2001 school year?	15:26:40
15	A. Correct. It was the same trip over to the	15:26:46
16	warehouse.	15:26:46
17	Q. Was the response of the individual at the	15:26:51
18	warehouse the same with respect to science	15:26:53
19	textbooks as opposed to with respect to history	15:26:57
20	textbooks?	15:26:57
21	A. Yes, it was.	15:26:59
22	Q. Other than the history books that you have	15:27:26
23	testified to already, are you aware of any other	15:27:29
24	materials at Brightwood during the last three	15:27:34
25	school years that were not up to date?	15:27:34

		Page 183
1	A. I cannot answer for other teachers, except	15:27:43
2	for hearing complaints from teachers from time to	15:27:49
3	time in a social situation after school or in the	15:27:52
4	teachers' lounge during a break.	15:27:52
5	MR. SIMMONS: Can we go off the record.	15:27:55
6	(Off the record.)	15:27:58
7	BY MR. SIMMONS:	15:29:00
8	Q. Other than the information that you just	15:29:08
9	relayed with respect to discussions that you	15:29:13
10	overheard of teachers, or conversations that you	15:29:16
11	have with teachers, are you aware of any materials	15:29:20
12	at Brightwood, other than the history textbooks	15:29:23
13	that you identified, that are not up to date?	15:29:23
14	MR. FOX: Objection. Vague and ambiguous.	15:29:28
15	THE WITNESS: I hear many complaints about	15:29:35
16	the science textbooks from all grade levels.	15:29:35
17	BY MR. SIMMONS:	15:29:44
18	Q. Are the science books at Brightwood	15:30:13
19	scheduled to be updated at all?	15:30:13
20	A. Yes. New series adoption is coming in	15:30:18
21	September. So we're getting two new state	15:30:21
22	textbooks, or newly published textbooks, both in	15:30:26
23	history and in science.	15:30:26
24	Q. Your declaration states that you spend	15:30:36
25	from 200 to 500 dollars a year of your own money to	15:30:40

		Page 184
1	purchase materials for ELD students?	15:30:40
2	A. Yes, really for all students.	15:30:43
3	Q. Do you keep any records as to the amount	15:30:55
4	of funds that you spend on materials for your	15:30:58
5	students?	15:30:58
6	A. Usually, because I can take it off my	15:31:02
7	taxes.	15:31:02
8	Q. With respect to the combination class that	15:31:32
9	you're teaching this year, do you know whether	15:31:42
10	there were any efforts made to identify particular	15:31:48
11	students who would be more appropriate to learn in	15:31:53
12	a combination class than other fifth and sixth	15:31:58
13	grade students?	15:31:58
14	MR. FOX: Objection. Assumes facts.	15:31:59
15	THE WITNESS: I can't answer that question	15:32:05
16	because I wasn't part of the make-up. The teachers	15:32:08
17	who had those students in the fifth and the fourth	15:32:11
18	grade, as they were moving up to the fifth and	15:32:15
19	sixth, were the ones who put together the class,	15:32:18
20	along with the administrator at that time. So I	15:32:20
21	cannot tell you whether or not -- what efforts and	15:32:26
22	what their criteria were.	15:32:26
23	BY MR. SIMMONS:	15:32:28
24	Q. Could you give me the names of the fourth	15:32:32
25	and fifth grade teachers to which you referred?	15:32:32

		Page 185
1	A. Not all of them are there anymore.	15:32:35
2	Q. If you could identify all of them and	15:32:42
3	indicate which teachers are there, if you can.	15:32:42
4	MR. FOX: Objection. Relevance.	15:32:45
5	THE WITNESS: Fifth grade teacher,	15:32:49
6	Jennifer Hoey, H-o-e-y. Debbie Parkhurst,	15:32:56
7	P-a-r-k-h-u-r-s-t. Nadia Hillman, H-i-l-l-m-a-n.	15:33:12
8	Fourth grade teacher, Elizabeth Ortega, Gwen	15:33:12
9	McClain, M-c, capital L-a-i-n. Nancy Cruz,	15:33:43
10	C-r-u-z.	15:33:43
11	Those were the fourth grade teachers. There	15:33:48
12	are only two of those teachers still there of all	15:33:51
13	the six.	15:33:51
14	BY MR. SIMMONS:	15:33:52
15	Q. Can you identify which teachers left?	15:33:52
16	A. Well, Debbie Parkhurst left at the end of	15:33:59
17	this year. She was there through this year. Nadia	15:34:02
18	Hillman left. Nancy Cruz left, and Elizabeth	15:34:08
19	Ortega left.	15:34:08
20	Q. Can we turn to Exhibit 4, which is page 4	15:34:29
21	of your declaration.	15:34:29
22	A. Exhibit 3?	15:34:30
23	Q. No, I'm sorry, that's Exhibit 3, thank	15:34:36
24	you.	15:34:36
25	At the time you signed your declaration,	15:34:51

		Page 186
1	did you believe that students in your fifth and	15:34:54
2	sixth grade, that their education suffered as a	15:34:59
3	result of their being in a combination class?	15:34:59
4	A. Absolutely.	15:35:01
5	Q. Can you tell me what formed the basis of	15:35:07
6	your opinion?	15:35:07
7	A. Because as a teacher, I had to teach a	15:35:11
8	divided curriculum at the same time. I was	15:35:15
9	required to by the State of California.	15:35:15
10	Q. Are there any other reasons that you felt	15:35:27
11	that your students in your fifth and sixth	15:35:29
12	combination class were receiving an inadequate	15:35:37
13	education?	15:35:37
14	A. I was not able to help the children when I	15:35:40
15	wanted to or when I saw the need, because if I was	15:35:43
16	doing an activity or a lesson with my sixth grade	15:35:46
17	students in literature or in science, or in ancient	15:35:51
18	history, the fifth grade students would be on their	15:35:54
19	own and would have to work on an independent	15:35:56
20	activity. And I could not come and work with them	15:35:59
21	until I had finished working -- I was running from	15:36:02
22	side to side in the class from the time I walked in	15:36:07
23	in the morning until I left at the end of the	15:36:09
24	school day. I also had to spend an inordinate	15:36:14
25	amount of time planning lessons, so that one half	15:36:17

		Page 187
1	of the class would have a meaningful activity to	15:36:20
2	work on, something that would be hopefully a	15:36:24
3	meaningful learning experience when I couldn't help	15:36:28
4	them when I was doing the directed lesson with the	15:36:32
5	other side of the class. And I was required to do	15:36:35
6	that by the state.	15:36:35
7	Q. When you say you were required to do that	15:36:38
8	by the state, can you explain what you mean?	15:36:38
9	A. Because there was a state curriculum.	15:36:43
10	This is what you teach fifth grade, this is what	15:36:47
11	you teach sixth grade. There are standards, as you	15:36:49
12	probably know by reading the newspapers, everything	15:36:53
13	-- here are the standards for the sixth grade, the	15:36:56
14	children should be able to do this, this, this in	15:36:58
15	spelling. This, this, this in mathematics. The	15:37:02
16	fifth grade students have to do these things. And	15:37:05
17	we have a great deal of testing to prepare the	15:37:08
18	children for, as I'm sure you know.	15:37:08
19	Q. Do you think you would have been able to	15:37:14
20	provide a better education in the combination class	15:37:19
21	if you had some leeway from the state curriculum	15:37:22
22	standards?	15:37:22
23	A. No, because I would have had the same	15:37:30
24	kinds of problems because the needs are different.	15:37:32
25	And there cannot be a leeway in curriculum	15:37:35

		Page 188
1	standards because if every fifth grader has to	15:37:40
2	learn this in history and do these science units,	15:37:44
3	then what would happen if I didn't do it with them,	15:37:47
4	they just would never get it.	15:37:47
5	Q. Have the API scores for the 2001 school	15:37:56
6	year come out yet?	15:37:56
7	A. If they have, I have not seen them. I	15:38:00
8	have seen some results in the newspapers of some of	15:38:03
9	the grade level percentile rankings, but not the	15:38:07
10	API scores. They may be out, I have not seen them.	15:38:10
11	I'm assuming if we do, we'll find out when we go	15:38:14
12	back and have our faculty meetings, we'll probably	15:38:20
13	get those.	15:38:20
14	Q. You also indicate that one of the problems	15:38:25
15	with the combination class was teaching sex	15:38:28
16	education; is that correct?	15:38:28
17	A. That is correct.	15:38:30
18	Q. Sex education is part of the sixth grade	15:38:35
19	curriculum; is that correct?	15:38:35
20	A. It is.	15:38:35
21	Q. But it's not part of the fifth grade	15:38:38
22	curriculum?	15:38:38
23	A. That is correct.	15:38:38
24	Q. Can you explain for me what the sex	15:38:47
25	education curriculum for sixth graders consists of?	15:38:47

		Page 189
1	A. Yes. It's a series of lessons, and to do	15:38:56
2	it right, I really should take a month to do it. I	15:39:00
3	couldn't do that this year because I couldn't keep	15:39:03
4	sending my fifth graders out. They talk about the	15:39:06
5	changes in their bodies, both males and females. I	15:39:09
6	do it as a -- with boys and girls together. We	15:39:14
7	talk about sexually transmitted diseases. We talk	15:39:20
8	about reproduction in detail. There is a video	15:39:26
9	called "The Miracle of Life" which is shown to the	15:39:28
10	children, which I do some follow-up activities on	15:39:31
11	which show the development of a baby in the	15:39:34
12	mother's uterus, and the birth of a baby. And we	15:39:43
13	talk about girls' menstruation.	15:39:43
14	We talk about the changes that occur to	15:39:50
15	the body for both boys and girls, and what wet	15:39:54
16	dreams are and all of those kinds of things that	15:39:57
17	are really, really important to the sixth grade.	15:40:00
18	And I encourage my children to be very respectful.	15:40:04
19	And I encourage them to ask all questions, and they	15:40:07
20	do. It's actually my favorite unit to teach.	15:40:07
21	Q. You say that you would have preferred to	15:40:13
22	have been able to do the sex education curriculum	15:40:19
23	for a month; is that correct?	15:40:19
24	A. Yes.	15:40:20
25	Q. How long did you actually do the	15:40:22

Page 190

1	curriculum for?	15:40:22
2	A. About a week and a half.	15:40:23
3	Q. Did you do it each day for a week and a	15:40:46
4	half?	15:40:46
5	A. Probably it was a week and a half	15:40:55
6	altogether, but with some days scattered in. I	15:40:58
7	probably had seven to eight days of actual lessons,	15:41:01
8	but not necessarily consecutively.	15:41:01
9	Q. If you had a month to do the curriculum	15:41:12
10	in, would that mean that you would do the	15:41:15
11	curriculum, the sex education every day for a	15:41:19
12	month?	15:41:19
13	A. Not necessarily, it would depend on the	15:41:21
14	time. But it would probably be a series of 15 to	15:41:25
15	20 lessons.	15:41:25
16	Q. Were there aspects of the curriculum that	15:41:32
17	you had to cut out which you normally would have	15:41:34
18	done?	15:41:34
19	A. Yes.	15:41:35
20	Q. Can you go over what those aspects were.	15:41:35
21	A. We did not talk as much as I wanted about	15:41:42
22	to bodily changes for both boys and girls. We did	15:41:45
23	not have discussions and lessons -- because I use	15:41:50
24	overhead transparencies to show the reproductive	15:41:55
25	organs of males and females, and to explain in	15:41:58

Page 191

1	detail like when a girl ovulates and when she	15:42:02
2	menstruates. I had to cut lessons very short. We	15:42:06
3	talked very little about sexually transmitted	15:42:09
4	diseases. It was very short.	15:42:09
5	Q. How long were the lessons that you used	15:42:21
6	this year for sex education?	15:42:21
7	A. They varied between a half an hour and an	15:42:26
8	hour, average would probably be about 45 minutes.	15:42:26
9	Q. At this point in time what would you do	15:42:36
10	with your fifth grade students?	15:42:36
11	A. Most of the time I sent them outside, out	15:42:41
12	behind -- I couldn't send them out to the	15:42:44
13	playground because there was kids playing out	15:42:46
14	there. So I sent them out behind the portables,	15:42:50
15	because I have a window on that north side of the	15:42:53
16	portable by room 3, it's a wide window so I can	15:42:58
17	supervise them and watch them through the window.	15:43:01
18	I would have them carry their desks out and they	15:43:04
19	would sit out in the dirt and they were given	15:43:07
20	activities to work on.	15:43:07
21	Q. What kind of activities would you give	15:43:09
22	them to work on?	15:43:09
23	A. I would give them science activities.	15:43:13
24	They were making charts of the solar system and	15:43:17
25	doing some activities like that in their science	15:43:20

Page 192

1	unit.	15:43:20
2	Q. Anything else?	15:43:20
3	A. A couple of times I divided them up into	15:43:26
4	small groups and sent them to other classrooms.	15:43:29
5	That put a burden on the other teachers who all of	15:43:33
6	a sudden would have an extra five or six children	15:43:37
7	wandering in. It was bad for the fifth graders and	15:43:41
8	it was bad for the sixth graders.	15:43:41
9	Q. Were there any other aspects of the fifth	15:44:03
10	and sixth grade combination class that you felt	15:44:08
11	were detrimental to the education of your students?	15:44:08
12	A. I think the main part was not being able	15:44:18
13	to reach each of the two groups like I wanted to,	15:44:20
14	and to spend the time in specific content area	15:44:26
15	lessons. Much of the work had to be independent.	15:44:30
16	There was no choice, and it was not fair to the	15:44:33
17	children.	15:44:33
18	At about mid-year I did a special project	15:44:37
19	with my fifth graders called revolutionary war	15:44:47
20	walk-through. It's a group of people that come and	15:44:50
21	do activities with the children on how the colonies	15:44:53
22	broke away from England and about the war. It's an	15:44:57
23	all-day activity. I had to prepare the fifth	15:44:58
24	graders for that. They took the parts of like	15:45:00
25	Thomas Paine and John Adams and Abigail Adams. It	15:45:05

Page 193

1	was an interactive, all-day activity. It took me	15:45:08
2	approximately two weeks of intense work to prepare	15:45:11
3	them for it, because they made costumes and they	15:45:15
4	had to memorize parts, and they had to learn about	15:45:17
5	the battles of the revolutionary war. So I sent	15:45:21
6	the fifth graders out while I was doing that with	15:45:25
7	sixth graders and gave them activities to work on.	15:45:29
8	So the sixth graders lost out on that whole time	15:45:33
9	period while I was doing an activity with the fifth	15:45:36
10	graders.	15:45:36
11	Q. What time period was that?	15:45:37
12	A. Two to three weeks. It should have been	15:45:43
13	longer. I should have had a month to prepare for	15:45:45
14	it. But we did intense work for two to three	15:45:47
15	weeks, and then we had one full day where the	15:45:50
16	people from the company came in.	15:45:50
17	Q. During the two to three weeks, do you have	15:45:53
18	an estimate as to the amount of time per day that	15:45:57
19	you would spend on the activity?	15:45:57
20	A. Two to three hours. I also -- science?	15:45:59
21	Q. Yes.	15:46:12
22	A. The sixth graders go every year to a	15:46:16
23	science camp that is sponsored by the Los Angeles	15:46:19
24	County Office of Education. It's a week-long	15:46:22
25	outdoor science school. We do fundraisers to take	15:46:26

		Page 194
1	the children there, and the parents who can afford	15:46:29
2	it pay their children's way. It's about 200	15:46:32
3	dollars per family. We take our sixth graders up	15:46:37
4	to camp. We usually end up taking about two-thirds	15:46:40
5	of them. So I had to prepare the children for	15:46:42
6	that. I was not able to go up to camp with them	15:46:46
7	this year except for a day and a half. I drove my	15:46:49
8	car up separately and didn't go up on the bus with	15:46:52
9	them. And I had to pay -- out of our fundraisers I	15:46:55
10	had to pay for a substitute to come in so it	15:46:59
11	wouldn't take away from sick leave or personal	15:47:02
12	leave days. We had to pay out of our fundraiser	15:47:05
13	for a substitute to come in and teach the fifth	15:47:08
14	grade students while I spent a day and a half up at	15:47:12
15	the science camp with the sixth graders. So I was	15:47:16
16	only there for part of the week. The other sixth	15:47:19
17	grade teachers did go up and they rode up on the	15:47:22
18	school buses with the students, and I went up for a	15:47:26
19	day and a half.	15:47:26
20	Q. You say that only two-thirds of the sixth	15:47:30
21	graders could go on the trip?	15:47:30
22	A. Yes.	15:47:33
23	Q. Are those two thirds made up of the	15:47:36
24	students whose parents can afford to go?	15:47:36
25	A. That's part of it. We do offer	15:47:42

		Page 195
1	scholarships. Some parents never apply for the	15:47:46
2	scholarships. Some students stay behind because	15:47:50
3	they don't want to go. There's usually 10 to 20	15:47:54
4	students who don't want to leave home. They're	15:47:57
5	afraid to go to the mountains. So there are a	15:47:58
6	number of those. We usually have a few students	15:48:01
7	who have family reasons to stay behind or sports	15:48:05
8	activities they don't want to miss. Or their	15:48:07
9	grandparents are coming from Hong Kong and they	15:48:10
10	want to be there when the grandparents are there.	15:48:13
11	There are always a few students that we leave	15:48:15
12	behind as consequences for behavior problems,	15:48:19
13	because it's a reward trip. So there's usually	15:48:23
14	about two-thirds of the sixth grade that goes.	15:48:23
15	Q. Do you know about how many scholarships	15:48:29
16	are offered?	15:48:29
17	A. We offered, this year, eight to ten. I	15:48:38
18	can't remember the exact number.	15:48:38
19	Q. Are you aware of any students who wanted	15:48:46
20	to go on the trip but could not go on the trip this	15:48:49
21	last school year?	15:48:49
22	A. Probably. I can't say for sure, I would	15:48:53
23	not be answering honestly. There may have been,	15:48:56
24	but I don't know.	15:48:56
25	Q. Is it your understanding that Brightwood	15:49:17

		Page 196
1	was constructed in 1959?	15:49:17
2	A. Yes.	15:49:19
3	Q. To your knowledge, was Brightwood at one	15:49:26
4	point a part of the Los Angeles Unified School	15:49:28
5	District?	15:49:28
6	A. Yes, I'm aware of that. We still have two	15:49:34
7	teachers there that were there -- one of them is	15:49:37
8	even older than I am. When the school came into	15:49:42
9	the Alhambra School District, the teachers that	15:49:45
10	were teaching there were given the choice of	15:49:49
11	staying with the new school district and staying	15:49:52
12	with the school, or staying with L.A. Unified and	15:49:56
13	going to a different school.	15:49:56
14	Q. In paragraph 24 you say that -- I assume	15:50:02
15	that's supposed to be "In so many ways it feels as	15:50:05
16	if Brightwood, which was built in 1959, is falling	15:50:08
17	apart and bursting at the seams."	15:50:08
18	One of the facts you appear to offer in	15:50:17
19	support of that is that the administrative office	15:50:19
20	is too small; is that correct?	15:50:19
21	A. That's very true.	15:50:20
22	Q. Do you know about how many square feet the	15:50:24
23	administrative office is?	15:50:24
24	MR. FOX: Calls for speculation.	15:50:26
25	THE WITNESS: It does. I would say that	15:50:32

		Page 197
1	the outer office where the secretaries and the	15:50:35
2	office clerks work is probably about the size of	15:50:37
3	this room. Do you want to count the principal's	15:50:45
4	office, which is separate? And the nurse has a	15:50:48
5	little small cubbyhole right off of that office,	15:50:52
6	maybe this size, including file cabinets, three	15:50:57
7	desks, computers, chairs.	15:50:57
8	MR. SIMMONS: Let the record reflect we're	15:51:12
9	in conference room 12A, and unless counsel can	15:51:17
10	estimate the square footage of this room, I	15:51:20
11	certainly can't.	15:51:20
12	Q. Did you ever hear anyone complain about	15:51:30
13	the size of the administrative office?	15:51:30
14	A. Daily.	15:51:32
15	Q. Who do you hear complain?	15:51:32
16	A. Teachers, students, office staff,	15:51:42
17	principal, nurse, nurse's aide, custodian, parents,	15:51:56
18	visitors.	15:51:56
19	Q. What kind of complaints does the principal	15:52:03
20	make?	15:52:03
21	A. It's too crowded. Everybody gets in	15:52:14
22	everybody's way. There's four office staff members	15:52:18
23	and three desks. So when all four of them are	15:52:22
24	working at the same time, which is not always true,	15:52:25
25	one of them is working on the corner of another	15:52:28

Page 198		
1	person's desk doing her work.	15:52:28
2	Q. Do you have any understanding as to	15:52:34
3	whether the individuals who work in the	15:52:38
4	administrative office perform their duties	15:52:43
5	satisfactorily, notwithstanding the size of the	15:52:45
6	administrative office?	15:52:45
7	MR. FOX: Objection. Relevance. Calls	15:52:47
8	for speculation.	15:52:47
9	THE WITNESS: I can't answer that question	15:52:50
10	because I don't know how they would do if they had	15:52:52
11	a different office. It's a comparison question	15:52:54
12	that I can't answer. I do know that tempers get	15:53:00
13	very short and frustrations grow very high.	15:53:00
14	BY MR. SIMMONS:	15:53:04
15	Q. How do you know that?	15:53:04
16	A. Because I hear the people talking.	15:53:10
17	Q. What people would those be?	15:53:11
18	A. The office staff ladies.	15:53:16
19	Q. What kind of things do you hear them say?	15:53:18
20	A. They can't get to the files, they can't	15:53:25
21	get around the desks which are all -- two of them	15:53:28
22	are jammed in together in one small space, and a	15:53:32
23	third one is off to the side. Too many people in	15:53:34
24	the office. "Don't bother me" when teachers come	15:53:37
25	in to ask for something. It's, like, "don't bother	15:53:42

Page 199		
1	me now, I'm too busy." They're valiant and	15:53:49
2	wonderful ladies, but they're working under very	15:53:52
3	difficult conditions.	15:53:52
4	Q. Do you think they're doing a good job?	15:53:53
5	MR. FOX: Objection. Relevance.	15:53:56
6	THE WITNESS: They would do a better job	15:53:58
7	if they had the facility to work in.	15:53:58
8	BY MR. SIMMONS:	15:54:01
9	Q. Do you think they do a good job now?	15:54:01
10	A. I don't know because I can't compare how	15:54:07
11	they would do under other circumstances.	15:54:07
12	Q. You can only compare how they do now with	15:54:15
13	respect to them working in another office building?	15:54:15
14	A. I don't understand the question.	15:54:17
15	Q. Can you evaluate the job that they do	15:54:22
16	right now?	15:54:22
17	A. They all do different things.	15:54:23
18	Q. Do any of them do a substandard job, in	15:54:29
19	your opinion?	15:54:29
20	MR. FOX: Objection. Relevance.	15:54:30
21	THE WITNESS: I can't give an opinion on	15:54:35
22	that. I know they work hard. And I know it's very	15:54:39
23	difficult for them. They're wonderful people and	15:54:44
24	they're very kind, but they're very frustrated.	15:54:44
25	BY MR. SIMMONS:	15:54:47

Page 200		
1	Q. Your declaration also indicates that "when	15:54:52
2	it rains, the roof leaks and one of the desks gets	15:54:57
3	drenched"?	15:54:57
4	A. That is correct.	15:54:58
5	Q. That is the administrative office that	15:55:01
6	you're talking about?	15:55:01
7	A. Yes, that is correct.	15:55:02
8	Q. Do you know how often the roof leaks?	15:55:03
9	A. When it rains.	15:55:06
10	Q. So it's your testimony that each time it	15:55:15
11	rains, the roof of the administrative office leaks?	15:55:15
12	A. One section of it does, badly. I don't	15:55:26
13	know if it's been fixed or not. But as of this	15:55:29
14	past winter, it was leaking every rainy day we had.	15:55:29
15	Q. Did it leak in previous winters?	15:55:34
16	A. Yes, but it was worse this winter.	15:55:38
17	Q. Each time it rains does the desk that you	15:55:51
18	reference in your declaration get drenched?	15:55:51
19	A. Yes.	15:55:54
20	Q. Is that true -- is there a certain amount	15:56:03
21	that it has to rain before the desk gets drenched?	15:56:03
22	A. You would have to ask the secretary who	15:56:10
23	works at that desk. I do know that she hangs	15:56:14
24	plastic sheets over the windows and she has plastic	15:56:18
25	sheets draped that she has put up herself over the	15:56:22

Page 201		
1	ceiling over her desk. When rainy weather is	15:56:25
2	coming, she moves her computer from the desk and	15:56:30
3	puts it on the floor over by where the nurse's desk	15:56:34
4	is, so she's not able to use her desk at all. When	15:56:38
5	the rainy weather comes, she takes everything off	15:56:41
6	her desk. She has nowhere else to put per desk.	15:56:46
7	There's no other place for the desk to go. It has	15:56:49
8	to stay there.	15:56:49
9	Q. Do you have an understanding as to how	15:56:53
10	many times the desk was drenched this year?	15:56:53
11	MR. FOX: Asked and answered.	15:56:55
12	THE WITNESS: I don't know how many rainy	15:56:59
13	days we had. Probably eight, maybe.	15:56:59
14	MR. FOX: Don't guess.	15:57:06
15	THE WITNESS: Okay. No guess.	15:57:07
16	BY MR. SIMMONS:	15:57:08
17	Q. But is it your testimony that each day it	15:57:14
18	rained this year the desk that you referred to in	15:57:19
19	your declaration was drenched with water?	15:57:19
20	A. Yes.	15:57:22
21	MR. FOX: Asked and answered. I think the	15:57:24
22	record is clear on that.	15:57:24
23	BY MR. SIMMONS:	15:57:25
24	Q. Have any students ever complained to you	15:57:33
25	that they've been unable to get in to see the	15:57:37

Page 202

1	school nurse?	15:57:37
2	A. No, because the nurse has a separate door.	15:57:48
3	The nurse is only there a day and a half a week.	15:57:52
4	But there's a nurse's aide at all times for	15:57:55
5	students who take insulin, to get inhalers, to get	15:58:00
6	medication, to throw up, whatever it is they're	15:58:02
7	there for.	15:58:02
8	Q. Have any students complained to you that	15:58:06
9	they've been unable to obtain tardy slips?	15:58:06
10	A. No, but they've often had to wait quite a	15:58:13
11	long time because there's a line up at the counter,	15:58:15
12	especially when the weather is bad and there are	15:58:19
13	more people that are late and it's harder for the	15:58:22
14	parents to get their kids to school.	15:58:22
15	Q. You say that "most of the bathrooms at	15:58:35
16	Brightwood are foul."	15:58:35
17	Can you identify the specific bathrooms at	15:58:44
18	Brightwood which you think are foul?	15:58:44
19	A. Well, all of the student bathrooms are	15:58:49
20	except for that one group that I told you that were	15:58:53
21	renovated, which is at the corner of building D.	15:58:57
22	The ones at the corner of building E are bad, and	15:59:08
23	the ones upstairs in the upper level of building G,	15:59:14
24	that two-story building, are bad. Those are the	15:59:16
25	ones that we were talking about earlier. And those	15:59:19

Page 203

1	are the only three sets of bathrooms we have.	15:59:19
2	Q. Do you know whether the bathrooms at	15:59:31
3	Brightwood are cleaned on a daily basis?	15:59:31
4	A. They're supposed to be. I can't tell you	15:59:39
5	if they always are.	15:59:39
6	Q. Can you tell me what aspects of the	15:59:50
7	bathrooms in building E form the basis of your	15:59:54
8	opinion that they're foul?	15:59:54
9	A. They're dirty. The mirrors are dirty.	16:00:01
10	The toilets don't always flush correctly. The	16:00:06
11	walls are dirty. The floor is sometimes dirty.	16:00:14
12	And when the dirt has become engrained since 1959,	16:00:19
13	it's very difficult to really get it sparkling	16:00:23
14	clean.	16:00:23
15	Q. Do you know whether the bathrooms at	16:00:28
16	Brightwood receive a more intensive cleaning at any	16:00:32
17	time during the year?	16:00:32
18	A. I'm sure they do. I do know that they are	16:00:37
19	during the summer months. There's a	16:00:40
20	ceiling-to-floor scrubbing all over the school	16:00:44
21	during the summer months. Very few summer classes	16:00:48
22	are held at Brightwood because there's no air	16:00:52
23	conditioning, or very little air conditioning.	16:00:56
24	There are maybe six classrooms that are used for	16:00:59
25	summer sessions. The children, some of them stay	16:01:03

Page 204

1	in the air-conditioned classroom and the rest of	16:01:06
2	our children are bussed off to other schools that	16:01:09
3	have air conditioning.	16:01:09
4	Q. Do you know whether there are any plans in	16:01:14
5	place to renovate the Brightwood campus at all?	16:01:14
6	A. I do not know. A bond issue was passed.	16:01:25
7	We're made up of two school districts. I'm sure	16:01:28
8	you're aware. The elementary district is one	16:01:31
9	district, the high school district is a separate	16:01:34
10	district, it's not unified. So when the bond issue	16:01:38
11	was put to the voters, they approved the elementary	16:01:44
12	bond but not the high school bond. That was over	16:01:46
13	two years ago and I have not heard of a plan for	16:01:50
14	renovation to take place.	16:01:50
15	Q. In the last year do you recall any	16:01:57
16	students complaining to you about the condition of	16:02:00
17	the bathrooms?	16:02:00
18	A. Oh, yes. It's a very common complaint.	16:02:01
19	Q. Can you estimate the number of complaints?	16:02:06
20	A. My estimation would be 12, but that's only	16:02:14
21	an estimation.	16:02:14
22	Q. And that's for the school year; is that	16:02:18
23	correct?	16:02:18
24	A. Correct. If anything, it's a low	16:02:22
25	estimate.	16:02:22

Page 205

1	Q. Do you ever inspect the boys' or girls'	16:02:38
2	rest room at Brightwood?	16:02:38
3	A. I go in them sometimes, or if a child	16:02:43
4	comes to complain to me, I will go during my break	16:02:46
5	or after school to check the rest rooms.	16:02:46
6	Q. Can you estimate the number of times that	16:02:53
7	you checked the rest room at Brightwood in the last	16:02:56
8	school year?	16:02:56
9	A. Four or five would be an estimate. You	16:03:04
10	have to realize, these bathrooms are over 40 years	16:03:06
11	old so the plumbing is not great.	16:03:06
12	Q. There's a new bathroom which you've	16:03:25
13	already identified; is that correct?	16:03:25
14	A. Correct. For building D.	16:03:26
15	Q. Do you have any problems with the	16:03:30
16	condition of that bathroom?	16:03:30
17	A. No, just that it took so long.	16:03:31
18	Q. By took so long, can you explain what you	16:03:40
19	mean by that?	16:03:40
20	A. They started in May, and when we came back	16:03:50
21	in September they were still working on it. And	16:03:53
22	they had cut through several lines while they were	16:03:56
23	doing it, including phone lines. So we lost	16:04:00
24	service to our school, as far as telephone and	16:04:04
25	electrical, because of lines being cut. And they	16:04:08

Page 206

1 thought it would take about a month. When we came 16:04:11
 2 back in September, it was still not completed. And 16:04:14
 3 they brought in porta-potties for the students to 16:04:18
 4 use. And they were set up on a small grassy area 16:04:22
 5 that we have by P1, 2 and 3. At the front of the 16:04:26
 6 school we had these little green -- 16:04:26
 7 Q. That's P1, P2, and P3 as they're marked on 16:04:34
 8 Exhibit 4; is that correct? 16:04:34
 9 A. Right. 16:04:35
 10 Q. Do you know when the bathrooms in -- the 16:04:44
 11 new bathrooms were completed? 16:04:44
 12 A. Approximately one month after school 16:04:49
 13 started, so it would have been in October. So it 16:04:56
 14 took from May to October. 16:04:56
 15 Q. In your declaration on page 4 at paragraph 16:05:15
 16 26, you say that "things are always breaking"? 16:05:15
 17 A. Uh-huh. 16:05:18
 18 Q. Can you identify for me the things that 16:05:22
 19 you were referring to in that sentence? 16:05:22
 20 MR. FOX: Objection. Overbroad. Covers 16:05:27
 21 topics we've already been through, and covers, I 16:05:31
 22 assume, a long period of time. 16:05:31
 23 THE WITNESS: It does cover a long period 16:05:35
 24 of time. Just very quickly, doors breaking, 16:05:39
 25 windows breaking -- 16:05:39

Page 207

1 BY MR. SIMMONS: 16:05:41
 2 Q. I'll try and rephrase. 16:05:42
 3 I'll just say, in the last year, what 16:05:51
 4 specific things do you recall breaking in your 16:05:53
 5 classroom? 16:05:53
 6 A. Not in my classroom but in other people's 16:05:57
 7 classrooms. 16:05:57
 8 Q. What specific things do you recall 16:06:00
 9 breaking in other people's classrooms? 16:06:00
 10 A. Heaters not working in Mr. Soule's 16:06:11
 11 classroom, who was the other teacher who was one of 16:06:14
 12 the contacts people. I was in his classroom one 16:06:18
 13 day after school and a chunk of his wall fell down 16:06:23
 14 as we were standing there talking, so that you 16:06:24
 15 could see the mesh underneath. Luckily there were 16:06:25
 16 no children in the classroom, it was after school. 16:06:25
 17 Doors have broken -- 16:06:25
 18 Q. Can you identify which doors broke this 16:06:36
 19 year? 16:06:36
 20 A. Not specifically. 16:06:37
 21 Q. Do you know what number doors broke this 16:06:40
 22 year? 16:06:40
 23 A. No, but I hear teachers talking about it, 16:06:43
 24 but I cannot be specific. 16:06:43
 25 Q. Can you give a roundabout estimate or -- 16:06:45

Page 208

1 A. Two. 16:06:47
 2 Q. Are there any other things that you can 16:06:55
 3 recall breaking this school year? 16:06:55
 4 A. Not specifically. 16:07:03
 5 Q. We've been discussing the conditions at 16:07:26
 6 Brightwood which you believe impair your ability to 16:07:30
 7 teach and students' abilities to learn; is that 16:07:33
 8 correct? 16:07:33
 9 A. Yes. 16:07:33
 10 Q. We've identified a number of those 16:07:37
 11 conditions and discussed them today; is that 16:07:38
 12 correct? 16:07:38
 13 A. Correct. 16:07:38
 14 Q. What I'd like to do now is see if there 16:07:42
 15 are any conditions that we haven't discussed 16:07:44
 16 already today that you believe also impair your 16:07:51
 17 ability to teach and students' ability to learn. 16:07:51
 18 A. Safety issues, would that be considered? 16:07:56
 19 Q. Anything else? 16:08:12
 20 A. Issues of isolation related to safety, 16:08:31
 21 because these rooms back here on the playground 16:08:35
 22 cannot be seen by anyone, they're totally hidden 16:08:39
 23 from anyone's view. Our neighbors keep an eye on 16:08:42
 24 the school as much as they can. The school is very 16:08:45
 25 much part of the community, but nobody can see that 16:08:48

Page 209

1 section here. So if something happened, no one 16:08:51
 2 would ever know. 16:08:51
 3 Communication issue I'm very concerned 16:08:55
 4 about. We need more outside telephone lines up in 16:09:00
 5 the upper level. In case there's an emergency we 16:09:05
 6 have no way of calling out. 16:09:05
 7 Q. I'll see if I can refresh your 16:09:21
 8 recollection too. Was there a problem with some 16:09:24
 9 transoms that would not open; is that correct? 16:09:24
 10 A. Yes. Some of the transoms in the 16:09:28
 11 classroom above the doors. Some open and some do 16:09:32
 12 not. I cannot give you specifically which ones do 16:09:37
 13 and which ones don't. 16:09:37
 14 Q. Can you explain what a transom is? 16:09:37
 15 A. A transom is -- you put a hook in it and 16:09:45
 16 you open it up. It swings out and it let's air 16:09:51
 17 come into the upper part of the room. It's not a 16:09:54
 18 window, it's on hinges. 16:09:54
 19 Q. So can you identify a number of transoms 16:10:00
 20 that do not open at Brightwood? 16:10:00
 21 A. Well, they're in the temporary buildings. 16:10:05
 22 And I can't give you a number. I do know when I 16:10:08
 23 was in room 19 one opened and one did not. And to 16:10:13
 24 be honest with you, I can't recall in room 16 which 16:10:18
 25 transoms opened or not. I don't have a 16:10:20

Page 210

1 recollection of that. 16:10:20

2 Q. With respect to the other temporary 16:10:28

3 buildings would be an exercise in speculation? 16:10:28

4 A. Yes, it would. 16:10:31

5 MR. SIMMONS: Go off the record briefly. 16:10:32

6 (Off the record.) 16:10:35

7 BY MR. SIMMONS: 16:14:12

8 Q. Ms. Shinn, earlier we discussed that there 16:14:17

9 were some mud slides by building 16; is that 16:14:20

10 correct? 16:14:20

11 A. Yes. 16:14:20

12 Q. Did any mud slides occur at Brightwood 16:14:26

13 this last school year? 16:14:26

14 A. No. 16:14:27

15 Q. Have they done anything to try and remedy 16:14:32

16 the situation? 16:14:32

17 A. They terraced the hill. It's still just a 16:14:37

18 dirt hill, it's terraced now. 16:14:37

19 Q. Do you remember when they first terraced 16:14:44

20 the hill? 16:14:44

21 A. It was right after the mud slide. 16:14:44

22 Q. And the mud slide was what year? 16:14:46

23 A. In the spring of -- let me think a minute. 16:14:53

24 '93 or '94. 16:14:53

25 Q. Since '93 or '94, at least since the time 16:15:21

Page 211

1 they terraced the hillside, there haven't been any 16:15:25

2 mud slide; is that correct? 16:15:25

3 A. No, that is not correct. Actually, there 16:15:30

4 was a mud slide, a smaller one in a different 16:15:32

5 location. 16:15:32

6 Q. Where did that occur? 16:15:33

7 A. That occurred right along Hillside from 16:15:41

8 this hill going down from Hillside. Right here, 16:15:48

9 where the street level is quite a bit higher than 16:15:52

10 it is down below. You would look down to this 16:15:57

11 building from the sidewalk. There's a dirt hill, 16:16:00

12 some grass or vegetation. There was a smaller mud 16:16:05

13 slide right along this little section right here. 16:16:05

14 Q. So there was a mud slide coming down the 16:16:10

15 hill on the Hillside Street portion of the school? 16:16:10

16 A. Correct. 16:16:14

17 Q. When did that occur? 16:16:14

18 A. It was when I was still in room 19, so it 16:16:24

19 had to have been in the mid-1990s. I can't give 16:16:27

20 you an exact date. 16:16:27

21 Q. Do you recall any additional mud slides 16:16:34

22 after that one? 16:16:34

23 A. No. 16:16:35

24 Q. Did they do anything to remedy the 16:16:38

25 situation with respect to that hill? 16:16:38

Page 212

1 A. That hill was not as steep and there was 16:16:43

2 some vegetation. From what I could see, they 16:16:46

3 planted more vegetation, more -- the kind of plants 16:16:49

4 that would -- we haven't had any since then. They 16:16:53

5 did not terrace that one, but they did put more 16:16:57

6 vegetation in. 16:16:57

7 Q. The last mud slide that we were speaking 16:17:06

8 of, did the mud come all the way down to the 16:17:09

9 classrooms? 16:17:09

10 A. Yes. 16:17:10

11 Q. Did it enter any of the classrooms? 16:17:12

12 A. Are you talking about the one from 16:17:16

13 Hillside or the other one? 16:17:16

14 Q. I'm sorry. I'm sorry, the one on 16:17:22

15 Hillside. 16:17:22

16 A. It did not go in the classrooms. It came 16:17:26

17 within five or six feet of the classrooms. It did 16:17:29

18 not go in the classrooms. Sorry about that. 16:17:29

19 Q. Now, with respect to safety issues. You 16:17:40

20 identified the isolation of the upper campus from 16:17:44

21 the lower campus? 16:17:44

22 A. Correct. 16:17:45

23 Q. And the need for additional lines of 16:17:48

24 communication? 16:17:48

25 A. Correct. There is one outside line in one 16:17:53

Page 213

1 of the classrooms up there. 16:17:53

2 Q. The additional communication lines would 16:18:03

3 render the upper campus less isolated from the 16:18:06

4 lower campus? 16:18:06

5 A. It would enable us also to call out if 16:18:10

6 there was a health emergency or a safety emergency. 16:18:10

7 Q. Are there any other aspects of Brightwood 16:18:20

8 that you would put under the category of safety 16:18:22

9 issues that we haven't already discussed today? 16:18:22

10 A. No, I think the telephone issue, and the 16:18:41

11 isolation issue are the two biggest ones, 16:18:44

12 especially these rooms back here, along here. 16:18:47

13 Because they're totally -- you can't see them from 16:18:50

14 anywhere. And we have a park, I mentioned earlier 16:18:54

15 in my testimony, a park up here that -- that is 16:19:03

16 surveyed by the police department constantly 16:19:05

17 because there are drugs and things like that going 16:19:07

18 on at the park. So they are constantly surveying 16:19:10

19 that park and driving around it and walking through 16:19:12

20 it. 16:19:12

21 Once a week the D.A.R.E. officers come to 16:19:17

22 our school to do D.A.R.E. lessons, drug resistance 16:19:23

23 lessons with our students in sixth grade, and he 16:19:27

24 always walks over there. He has a number of 16:19:29

25 times -- there are steps that are up to the park. 16:19:33

Page 214

1 There are gates that are kept locked but they can 16:19:36
 2 be climbed over. I have seen people looking 16:19:38
 3 through the fence. One time when the D.A.R.E. 16:19:42
 4 officer was there he saw a man who had come down 16:19:45
 5 from the park and was standing right behind this 16:19:47
 6 fence where the children were playing, and he was 16:19:50
 7 looking at the children through the fence. It was 16:19:52
 8 a chain link fence. So he called for back-up on 16:19:56
 9 his radio. And a couple of police officers came 16:19:59
 10 and took him away. I don't know what they did with 16:20:02
 11 him. It's always been an issue that's concerned me 16:20:06
 12 with the children. 16:20:06
 13 Q. Do you recall when that last incident 16:20:08
 14 occurred? 16:20:08
 15 A. It happened in the spring of 2000. It 16:20:12
 16 wasn't this past year but the year before when that 16:20:15
 17 incident occurred. 16:20:15
 18 Q. And do you recall the name of the officer 16:20:21
 19 who you said called for back-up? 16:20:21
 20 A. Yes, Brent Archibald. 16:20:24
 21 Q. Just for the record, when you were 16:20:31
 22 pointing to the classrooms that you said were out 16:20:33
 23 of sight, that were those classrooms 31, 32, 33 and 16:20:38
 24 34; is that correct? 16:20:38
 25 A. That's correct. 16:20:39

Page 215

1 Q. You testified that there was some leaking 16:20:47
 2 in the administrative office? 16:20:47
 3 A. Right. 16:20:49
 4 Q. Is there any leaking that occurs anywhere 16:20:53
 5 else on the Brightwood campus? 16:20:53
 6 A. It occurs on a regular basis in section G 16:21:03
 7 upper level, on the room that is at the far end, at 16:21:09
 8 the eastern end, right up where the 1963 section 16:21:14
 9 is. That room has been leaking off and on for 16:21:18
 10 years. And they come and repair it, the 16:21:21
 11 maintenance people will come and it will be okay 16:21:23
 12 for a while and it will start leaking again. There 16:21:26
 13 has been leaking off and on through these two wings 16:21:29
 14 right here, which are primary level classes mainly. 16:21:29
 15 Q. And those are buildings D and E? 16:21:32
 16 A. Buildings D and E are first and second 16:21:38
 17 grade classes. And there's leaking from time to 16:21:41
 18 time in those rooms, and I hear teachers talking 16:21:44
 19 about it. I was in one of those rooms when I first 16:21:47
 20 came to that school. I was in room 11, which is in 16:21:50
 21 section E, and that room leaked constantly and they 16:21:54
 22 finally fixed it. The principal actually asked me 16:21:58
 23 to file a grievance, she wanted me to and I did. 16:21:58
 24 Q. Was that Ms. Love? 16:22:03
 25 A. No, actually her name was Mrs. Cissenaros. 16:22:10

Page 216

1 She was the first principal I had. She was only 16:22:13
 2 there for the first year that I was there. That 16:22:16
 3 was the first year that I came to that school. 16:22:16
 4 Q. Any other buildings that you can identify 16:22:21
 5 that have problems with leaking? 16:22:21
 6 A. No. The main buildings are the 16:22:33
 7 administrative office -- oh, yes, temporaries, 16:22:38
 8 rooms 1 and 2 in section C, those two do leak. I 16:22:42
 9 have heard complaints from the teachers. Work 16:22:45
 10 orders have been put in and workmen have come in to 16:22:49
 11 work on those from time to time. Yes, those have 16:22:52
 12 leaked. 16:22:52
 13 Q. With respect to any of the buildings that 16:22:54
 14 you identified as having some leaking issues, can 16:22:58
 15 you estimate for any of those buildings, how many 16:23:01
 16 times during this year they leaked? 16:23:01
 17 MR. FOX: Other than what you've already 16:23:07
 18 testified to. 16:23:07
 19 THE WITNESS: No, I can't give you a 16:23:09
 20 specific number. 16:23:09
 21 BY MR. SIMMONS: 16:23:10
 22 Q. Again, we'll exclude the administrative 16:23:15
 23 office. Can you give a rough estimate with respect 16:23:20
 24 to any of the buildings? 16:23:20
 25 A. No, I can't, but I do know it occurs. 16:23:21

Page 217

1 Q. I'll have to ask you one last time whether 16:23:32
 2 you can think of any conditions at Brightwood that 16:23:37
 3 you believe impair your ability to teach or 16:23:41
 4 students' ability to learn that we haven't already 16:23:44
 5 discussed today? 16:23:44
 6 A. I can't think of any. 16:23:45
 7 Q. Now, Ms. Shinn, you're a good teacher, 16:23:57
 8 aren't you? 16:23:57
 9 A. I work hard. 16:24:01
 10 Q. People think you're a good teacher, don't 16:24:05
 11 they? 16:24:05
 12 A. Probably. 16:24:06
 13 Q. Are you aware how your students do on the 16:24:18
 14 API? 16:24:18
 15 MR. FOX: Objection. Relevance. 16:24:20
 16 THE WITNESS: I'm not this year because I 16:24:24
 17 haven't received the scores. 16:24:24
 18 BY MR. SIMMONS: 16:24:26
 19 Q. But for the 2000 school year do you know 16:24:28
 20 how your students did on the API? 16:24:28
 21 A. Yes, I do. 16:24:30
 22 Q. How did they do? 16:24:31
 23 A. Well. 16:24:32
 24 Q. Did they do better than other students at 16:24:36
 25 Brightwood, generally? 16:24:36

Page 218

1 MR. FOX: Objection. Relevance. 16:24:40

2 THE WITNESS: I can't answer that question 16:24:43

3 because we usually get the test scores for a grade 16:24:47

4 level and not for a specific class, especially in 16:24:49

5 the departmentalized programs because we all work 16:24:53

6 with all of the children. So I can only tell you 16:24:56

7 how they did at a grade level and not in a specific 16:24:59

8 class. 16:24:59

9 BY MR. SIMMONS: 16:25:00

10 Q. How about with respect to how your 16:25:02

11 students did compared to students in the state, 16:25:08

12 generally? 16:25:08

13 MR. FOX: Again, objection. Relevance. 16:25:11

14 Not at issue in this lawsuit. 16:25:11

15 THE WITNESS: I haven't looked recently. 16:25:16

16 They've done well at that school. They could 16:25:21

17 probably do much better if conditions were better. 16:25:24

18 And I will tell you very sincerely, that educating 16:25:28

19 a child isn't all just test scores. There's a lot 16:25:33

20 more to education than test scores. 16:25:33

21 BY MR. SIMMONS: 16:25:34

22 Q. But the fact remains that you're a good 16:25:41

23 teacher; is that correct? 16:25:41

24 MR. FOX: Objection. Asked and answered. 16:25:45

25 Argumentative. Irrelevant. 16:25:45

Page 219

1 THE WITNESS: Yes, I'm a good teacher and 16:25:57

2 I deserve to work under better conditions. 16:25:57

3 BY MR. SIMMONS: 16:25:59

4 Q. And you also insure that your students 16:26:02

5 receive a quality education, don't you? 16:26:02

6 MR. FOX: Same objections. 16:26:04

7 THE WITNESS: That doesn't make it okay 16:26:07

8 for these students to be going to school in these 16:26:10

9 conditions. 16:26:10

10 BY MR. SIMMONS: 16:26:11

11 Q. But you also do insure that your students 16:26:14

12 receive a quality education; is that correct? 16:26:14

13 MR. FOX: Asked and answered. And -- 16:26:15

14 THE WITNESS: They do not get the same 16:26:20

15 quality education that they would have if they were 16:26:23

16 going to school in a school that was better 16:26:27

17 maintained, in which the facilities were there for 16:26:30

18 the students to grow and improve. 16:26:30

19 BY MR. SIMMONS: 16:26:32

20 Q. And that's fine. But I'm just asking you 16:26:36

21 to answer my question, which is: You insure that 16:26:38

22 your students -- 16:26:38

23 MR. FOX: Counsel, it's been answered. 16:26:39

24 BY MR. SIMMONS: 16:26:41

25 Q. -- receive a quality education; is that 16:26:43

Page 220

1 correct? 16:26:43

2 MR. FOX: Again, objection. Relevance. 16:26:46

3 Calls for speculation. May seek expert testimony, 16:26:48

4 and it's been asked and answered already. 16:26:48

5 THE WITNESS: Do I answer? 16:26:50

6 MR. FOX: If you have anything further to 16:26:55

7 add, feel free. 16:26:55

8 BY MR. SIMMONS: 16:26:56

9 Q. It's just a yes-or-no question. 16:26:56

10 A. Ask it again, please. 16:26:59

11 Q. You insure that your students receive a 16:27:05

12 quality education; is that correct? 16:27:05

13 MR. FOX: Same objection. 16:27:06

14 THE WITNESS: Can you define quality 16:27:09

15 education. 16:27:09

16 BY MR. SIMMONS: 16:27:10

17 Q. Can you define quality education? 16:27:10

18 A. I can. And part of it would have to be 16:27:16

19 conditions under which chose children go to school, 16:27:20

20 as well as a good teacher. There are many 16:27:27

21 components to a quality education. Teacher is one 16:27:29

22 of them, but there are others. 16:27:29

23 Q. So is it your testimony that your students 16:27:38

24 don't receive a quality education? 16:27:38

25 A. That's not what I said. 16:27:40

Page 221

1 MR. SIMMONS: Counsel, just quickly, with 16:27:51

2 respect to the conversations that we discussed 16:27:55

3 earlier, which were -- I think there was one 16:28:03

4 conversation between Ms. Lhamon that Miss Shinn 16:28:11

5 recalled, and then four to five conversations 16:28:13

6 between either Ms. Lhamon or Mr. Eliasberg and Ms. 16:28:19

7 Shinn, I believe that earlier you asserted the 16:28:24

8 privilege in connection with those conversations, 16:28:26

9 will you still assert the privilege at this time? 16:28:26

10 MR. FOX: I think you got testimony about 16:28:30

11 those conversations, but as I think we discussed on 16:28:33

12 the record and off, we are interested in preserving 16:28:38

13 the privilege as to communications that we had with 16:28:41

14 our witness in preparing for this deposition. And 16:28:45

15 I think you had fact discovery into what she told 16:28:50

16 people about the conditions at Brightwood, and 16:28:52

17 we've also now had many hours of testimony about 16:28:56

18 the conditions. So I don't particularly want to 16:29:00

19 spend more time going back over them, unless there 16:29:03

20 are other conditions you want to address. But if 16:29:05

21 you feel that you have additional questions that 16:29:10

22 are proper scope of discovery, I'll let you ask 16:29:16

23 them. 16:29:16

24 MR. SIMMONS: Okay. I think I do. 16:29:16

25 Q. Now, I believe that we did go into the 16:29:23

Page 222

1 discussions that occurred at the restaurant where 16:29:27
 2 Mr. Soule was present, so I won't ask any 16:29:30
 3 additional questions about that. 16:29:30
 4 I believe you testified that you received 16:30:18
 5 a phone call from Catherine Lhamon in December of 16:30:21
 6 1999; is that correct? 16:30:21
 7 A. Yes. 16:30:21
 8 Q. Do you recall what Ms. Lhamon said to you 16:30:29
 9 in that conversation? 16:30:29
 10 A. Only in general terms. 16:30:31
 11 Q. Okay. What did she say to you? 16:30:32
 12 A. She told me the intent of the lawsuit, and 16:30:46
 13 asked me if I would be interested in giving her 16:30:51
 14 information about the school and talking to her or 16:30:57
 15 her colleagues about conditions at the school. And 16:31:01
 16 I said yes. 16:31:01
 17 Q. Do you recall Ms. Lhamon saying anything 16:31:08
 18 else to you? 16:31:08
 19 A. I don't recall. We did speak for about, I 16:31:11
 20 think I testified 10 or 15 minutes, but I don't 16:31:14
 21 recall everything that was said. It was very 16:31:17
 22 general, that first one. 16:31:17
 23 Q. Did you express anything other than your 16:31:22
 24 interest in providing information to Ms. Lhamon and 16:31:26
 25 her colleagues? 16:31:26

Page 223

1 A. No. 16:31:30
 2 Q. You indicated that you had four to five 16:31:39
 3 telephone conversations with Catherine Lhamon or 16:31:43
 4 Peter Eliasberg -- 16:31:43
 5 MR. FOX: Before you finish your question. 16:31:47
 6 I'm sorry. 16:31:47
 7 THE WITNESS: I have a question I'd like 16:31:50
 8 to ask him. 16:31:50
 9 MR. FOX: Let's take a break. 16:31:51
 10 MR. SIMMONS: Okay. 16:31:52
 11 (A recess was taken.) 16:31:53
 12 BY MR. SIMMONS: 16:33:57
 13 Q. Just prior to the short break we were 16:34:03
 14 discussing the four to five conversations that you 16:34:06
 15 had with either Catherine Lhamon or Peter 16:34:08
 16 Eliasberg; is that correct? 16:34:08
 17 A. Correct. 16:34:10
 18 Q. Can you recall the substance of any of 16:34:15
 19 those conversations? 16:34:15
 20 A. In one of the early conversations, and I 16:34:19
 21 cannot tell you a date, Ms. Lhamon asked me if I 16:34:24
 22 knew of parents or children who might be contact 16:34:29
 23 people that he could talk to or she could talk to. 16:34:29
 24 Q. Did you respond to Ms. Lhamon? 16:34:33
 25 A. I gave her three names that I can 16:34:45

Page 224

1 remember, but I asked her first if I could contact 16:34:49
 2 those families before I gave them the names. And I 16:34:53
 3 remember giving her three different names. I may 16:34:57
 4 have given her more, but I only remember three 16:35:00
 5 names right now. 16:35:00
 6 Q. Can you list those names? 16:35:00
 7 A. Yes. The Gin family, they have four 16:35:06
 8 daughters. I taught them all. The Wong family. 16:35:14
 9 The Nobori family, they have three sons. 16:35:14
 10 Q. Do you know whether any members of those 16:35:29
 11 families became plaintiffs in this litigation? 16:35:29
 12 A. Yes. Tiffany Gin, I believe, is one of 16:35:37
 13 them. She's one of the Gin girls. One of the 16:35:41
 14 Nobori boys, I can't remember. Or maybe two or 16:35:46
 15 three, that, I don't know. 16:35:46
 16 I think it's important for you to know 16:35:48
 17 that I did not contact all of those families. Mr. 16:35:52
 18 Soule contacted some too, because at this point he 16:35:55
 19 was brought in. So between the two of us we 16:35:58
 20 contacted the families and gave the names to Ms. 16:36:01
 21 Lhamon. 16:36:01
 22 Q. And the Wong family, which students from 16:36:05
 23 the Wong family attend Brightwood? 16:36:05
 24 A. The youngest one just graduated -- no, the 16:36:11
 25 youngest one is going into the eighth grade, his 16:36:14

Page 225

1 name is Michael. The oldest one is now in high 16:36:17
 2 school, her name is -- I can't remember her first 16:36:20
 3 name. It was a girl who's high school age, and 16:36:24
 4 Michael is going into the eighth grade at our 16:36:27
 5 school. 16:36:27
 6 Q. Do you recall anything else from those 16:36:31
 7 four to five telephone conversations that you had 16:36:33
 8 with either Ms. Lhamon -- 16:36:33
 9 A. Yes, extensive discussions on the kinds of 16:36:38
 10 things that we've been talking about today, 16:36:40
 11 conditions at the school. 16:36:40
 12 Q. That's your general recollection of those 16:36:49
 13 conversations? 16:36:49
 14 A. Yes. Mainly contact people and 16:36:52
 15 conditions. 16:36:52
 16 Q. Do you remember any other specifics about 16:36:56
 17 your conversations with either Ms. Lhamon or Mr. 16:37:01
 18 Eliasberg? 16:37:01
 19 A. Most of the early conversations were with 16:37:05
 20 Ms. Lhamon. I don't remember, I'm sure there were 16:37:14
 21 other things discussed, but she -- we talked 16:37:18
 22 several times, those four or five times. And we 16:37:21
 23 discussed mainly school conditions and the names of 16:37:27
 24 contact people. 16:37:27
 25 Q. Can you remember anything else about those 16:37:42

		Page 226
1	discussions?	16:37:42
2	A. No, I really can't. Those were the main	16:37:45
3	issues.	16:37:45
4	Q. And at this time that's the extent of the	16:37:51
5	information you recall about those discussions?	16:37:51
6	A. That's right.	16:37:53
7	MR. SIMMONS: Can we go off the record.	16:37:54
8	(Off the record.)	16:38:00
9	MR. SIMMONS: I have finished my	16:38:23
10	examination for the day, unless there's some brief	16:38:25
11	follow-up that I might do after Mr. Fox's	16:38:29
12	questions. But at this time I yield to Mr. Fox.	16:38:29
13		16:38:31
14	EXAMINATION	16:38:31
15	BY MR. FOX:	16:38:31
16	Q. Ms. Shinn, first I want to thank you for	16:38:37
17	being here. I know it's out of your way and	16:38:41
18	tiresome, and I appreciate your patience and	16:38:44
19	courage in being here.	16:38:44
20	I just have a few brief questions that I	16:38:50
21	hope will clarify a few things you may have said	16:38:50
22	during the course of the day. And I'm going to	16:38:57
23	jump around from topic to topic, so to the extent	16:39:00
24	you need clarification about anything that I'm	16:39:03
25	talking about, ask for it and I'll be happy to give	16:39:07

		Page 227
1	it to you.	16:39:07
2	I believe you testified earlier in the day	16:39:09
3	that in certain instances at the beginning of your	16:39:12
4	either trimester or school year, school books for	16:39:16
5	your students were not provided for two to three	16:39:20
6	weeks, approximately. And you stated that you	16:39:24
7	didn't feel that was a significant problem because	16:39:27
8	you were able to compensate by teaching other types	16:39:31
9	of things to students during that time period. Do	16:39:34
10	you remember that testimony?	16:39:34
11	A. Yes.	16:39:35
12	MR. SIMMONS: Objection. I'm not sure	16:39:37
13	that accurately characterizes the witness'	16:39:40
14	testimony.	16:39:40
15	BY MR. FOX:	16:39:41
16	Q. Notwithstanding that testimony, do you	16:39:45
17	believe that it was appropriate or proper for your	16:39:47
18	books for your students to come two to three weeks	16:39:51
19	after school already had been in session?	16:39:51
20	MR. SIMMONS: Objection. Vague and	16:39:57
21	ambiguous as to "appropriate" or "proper."	16:39:57
22	THE WITNESS: No, I think it was not	16:40:02
23	appropriate, they should have been there for the	16:40:06
24	children first day of school.	16:40:06
25	BY MR. FOX:	16:40:07

		Page 228
1	Q. Why is that?	16:40:07
2	A. Because the children deserve to have	16:40:12
3	everything they need to get a good education. I	16:40:16
4	chose to teach another unit, but it could have been	16:40:20
5	because the curriculum is so packed, it could have	16:40:24
6	been that I would have needed, especially in a	16:40:27
7	combination class, that I would have needed those	16:40:30
8	books. First of all, to study so that I could get	16:40:33
9	the children ready for a curriculum that was new to	16:40:36
10	me as well as to them. To get them ready and to	16:40:39
11	teach them in a proper way.	16:40:39
12	Q. New topic. You previously testified that	16:40:46
13	you were missing science books for one of your	16:40:50
14	classes at the beginning of the year, and that you	16:40:52
15	borrowed a class set of books from another teacher,	16:40:57
16	do you recall that testimony?	16:40:57
17	A. Yes, I do.	16:40:58
18	Q. I think you said that your students were	16:41:02
19	able to bring those books home, notwithstanding the	16:41:05
20	fact that they were shared with another class. How	16:41:07
21	is that so?	16:41:07
22	A. They brought their books home only because	16:41:11
23	I used them for a period of about two weeks, and	16:41:14
24	she did not use them at all. So she wasn't able to	16:41:18
25	use them with her kids at all because I was using	16:41:21

		Page 229
1	them. So my fifth grade students could take them	16:41:25
2	home, her fifth grade students could not. So she	16:41:29
3	was giving something to me to help me out.	16:41:29
4	Q. So while your students had books for those	16:41:38
5	two weeks, another teacher was forced to go	16:41:42
6	without; is that correct?	16:41:42
7	A. Yes.	16:41:43
8	MR. SIMMONS: Objection, form as to	16:41:45
9	"forced."	16:41:45
10	BY MR. FOX:	16:41:45
11	Q. With respect to the physical layout of the	16:41:50
12	campus, we spoke about a student who had a heart	16:41:57
13	condition and had difficulty getting around campus.	16:41:59
14	Do you recall that testimony?	16:41:59
15	A. Yes.	16:42:00
16	Q. How is it that a permanently disabled	16:42:07
17	student who was in a wheelchair would be able to	16:42:09
18	attend Brightwood and travel from classroom to	16:42:12
19	classroom?	16:42:12
20	MR. SIMMONS: Objection. Calls for expert	16:42:15
21	testimony. Calls for speculation.	16:42:16
22	THE WITNESS: It was difficult and it was	16:42:23
23	heart breaking because she missed out on a great	16:42:26
24	deal. She did not have the same education that the	16:42:29
25	students did. She missed out on a lot. She had to	16:42:34

		Page 230
1	stay in one section of the school only. She could	16:42:36
2	never go to another section. Most of the time she	16:42:40
3	left at midday, but when there was lunch or when	16:42:43
4	there was something going on, unless someone	16:42:46
5	carried her down, she could not attend.	16:42:46
6	BY MR. FOX:	16:42:48
7	Q. You also previously testified that there	16:42:54
8	is custodial staff or janitorial staff of one	16:42:59
9	janitor in the morning, and that that janitor	16:43:02
10	leaves and two others come for the afternoon,	16:43:04
11	evening shift; do you recall that?	16:43:04
12	A. Correct.	16:43:05
13	Q. In your opinion, is that staff of two to	16:43:09
14	three janitors or custodians sufficient to clean	16:43:14
15	the entire Brightwood campus?	16:43:14
16	MR. SIMMONS: Objection. Calls for	16:43:18
17	speculation.	16:43:18
18	THE WITNESS: No.	16:43:19
19	BY MR. FOX:	16:43:20
20	Q. Why is that?	16:43:20
21	MR. SIMMONS: Objection. Calls for	16:43:26
22	speculation.	16:43:26
23	THE WITNESS: Because a school is a very	16:43:28
24	busy place, there are many dozens of rooms. And on	16:43:33
25	days when I do my house cleaning, it takes me a	16:43:37

		Page 231
1	whole day to clean my little five-room house. To	16:43:41
2	clean 40-something rooms, or 30-something rooms, it	16:43:45
3	cannot be done in that one work period at the end	16:43:48
4	of a school day.	16:43:48
5	BY MR. FOX:	16:43:49
6	Q. Do you know approximately how many	16:43:51
7	students attend Brightwood?	16:43:51
8	A. Right now it's somewhere between 960 and	16:43:59
9	1,000. I'm going to say right around 970, 980.	16:43:59
10	Q. You also gave some testimony about the	16:44:15
11	physical location of the basketball court nearest	16:44:18
12	to your classroom in which you presently teach?	16:44:18
13	A. Yes.	16:44:21
14	Q. And the door to your classroom; do you	16:44:23
15	recall that?	16:44:23
16	A. Yes.	16:44:23
17	Q. Can you estimate how far the basketball	16:44:30
18	net and backboard is from the front door of your	16:44:36
19	classroom, such that students were able to shoot	16:44:40
20	shots from right outside of your door?	16:44:40
21	A. Probably from where I'm sitting to that	16:44:45
22	wall.	16:44:45
23	Q. Can you estimate in feet, how many feet	16:44:48
24	we're talking about?	16:44:48
25	A. Eight feet.	16:44:50

		Page 232
1	Q. With respect to the lack of bathrooms in	16:45:00
2	portable classrooms, as I understand your testimony	16:45:06
3	your complaint was not only that there was not a	16:45:09
4	bathroom in the actual room in which you taught,	16:45:11
5	but there was no bathroom within the building or	16:45:15
6	immediate area --	16:45:15
7	A. Exactly.	16:45:16
8	Q. -- that you taught?	16:45:17
9	A. Exactly.	16:45:18
10	Q. You also testified that steps up to the	16:45:29
11	portable classrooms or temporary classrooms	16:45:32
12	frequently break. And I didn't understand that	16:45:36
13	until late in your testimony. Just to be clear, I	16:45:39
14	assume that is because these steps are temporary	16:45:43
15	and made out of wood as opposed to concrete; is	16:45:45
16	that correct?	16:45:45
17	A. That is correct.	16:45:45
18	Q. Again, thank you for being here today.	16:45:51
19	No further questions.	16:45:51
20		16:45:51
21	FURTHER EXAMINATION	16:45:51
22	BY MR. SIMMONS:	16:45:51
23	Q. I'm sorry, Ms. Shinn, but to follow up.	16:46:01
24	You testified that the steps leading up to the	16:46:04
25	temporary buildings frequently break?	16:46:04

		Page 233
1	A. We were talking about -- my testimony when	16:46:13
2	we were talking about the misnamed temporary	16:46:17
3	buildings, they have wooden steps going into their	16:46:21
4	rooms. We discussed this previously, the wooden	16:46:24
5	steps. I think that's what you were referring to,	16:46:27
6	wasn't it?	16:46:27
7	MR. FOX: Yes, ma'am.	16:46:28
8	THE WITNESS: It wasn't the steps moving	16:46:30
9	up to the upper levels, it was the steps going into	16:46:33
10	the classrooms that have the splinters and are	16:46:36
11	wobbly.	16:46:36
12	BY MR. SIMMONS:	16:46:37
13	Q. Was it your testimony before that those	16:46:40
14	frequently broke?	16:46:40
15	A. Just the banisters.	16:46:42
16	Q. The banisters. But it was that the	16:46:47
17	banisters were loose, not that they broke; is that	16:46:50
18	correct?	16:46:50
19	A. Once in a while one of the slats would	16:46:53
20	come out of the banisters, I call that breaking.	16:46:57
21	It would be loose. The whole banister would not	16:47:00
22	fall off.	16:47:00
23	Q. And then briefly, with respect to science.	16:47:04
24	Did -- who was the other science teacher that you	16:47:10
25	shared books with?	16:47:10

Page 234

1 A. Mrs. Parkhurst. 16:47:10
 2 Q. Was Ms. Parkhurst able to make up the 16:47:20
 3 lessons -- 16:47:20
 4 MR. FOX: Objection. Calls for 16:47:24
 5 speculation. 16:47:24
 6 THE WITNESS: I can't answer that 16:47:25
 7 question. 16:47:25
 8 BY MR. SIMMONS: 16:47:26
 9 Q. If I could finish the question. 16:47:26
 10 While you had Ms. Parkhurst's books, do 16:47:35
 11 you know whether her students missed any lessons 16:47:39
 12 that she intended on providing her students with? 16:47:39
 13 A. I can't answer that question. 16:47:43
 14 Q. Thank you very much for your time. I know 16:47:49
 15 this was a long day, but we appreciate you taking 16:47:51
 16 your time here today. 16:47:51
 17 And do you want to go off record and take 16:47:56
 18 a look at this stipulation real quick before I read 16:47:59
 19 through? 16:47:59
 20 (Off the record.) 16:48:01
 21 MR. SIMMONS: Counsel, may we stipulate 16:48:35
 22 that copies of documents attached to this 16:48:38
 23 deposition may be used as originals. 16:48:38
 24 MR. FOX: Sounds fine. 16:48:41
 25 MR. SIMMONS: And may we stipulate that 16:48:43

Page 235

1 the original of this deposition be signed under 16:48:45
 2 penalty of perjury. That the original be delivered 16:48:49
 3 to the offices of Morrison & Foerster in Los 16:48:53
 4 Angeles. That the reporter is relieved of the 16:48:56
 5 liability for the original of the deposition. That 16:48:58
 6 the witness will have 30 days from the date of the 16:49:01
 7 court reporter's transmittal letter to counsel or 16:49:05
 8 Ms. Shinn to sign and correct the deposition. 16:49:05
 9 And that you, Mr. Fox, or someone from 16:49:12
 10 your offices, shall notify all parties in writing 16:49:14
 11 of any changes in the deposition. And if there are 16:49:17
 12 no such changes communicated or signature within 16:49:20
 13 that time, that any unsigned and uncorrected copy 16:49:23
 14 may be used for all purposes as if signed and 16:49:26
 15 corrected. May we so stipulate? 16:49:26
 16 MR. FOX: That's fine. 16:49:27
 17 MR. SIMMONS: Correct. 16:49:28
 18 (TIME NOTED: 4:49 P.M.) 16:49:35
 19
 20
 21
 22
 23
 24
 25

Page 236

1 I declare under penalty of perjury
 2 under the laws of the State of California
 3 that the foregoing is true and correct.
 4 Executed on _____, 20____,
 5 at _____.

 SIGNATURE OF THE WITNESS

Page 237

1 STATE OF CALIFORNIA) ss:
 2 COUNTY OF LOS ANGELES)
 3
 4 I, CATHRYN L. BAKER, CSR No. 7695, do hereby
 5 certify:
 6
 7 That the foregoing deposition testimony of
 8 LINDA SHINN was taken before me at the time
 9 and place therein set forth, at which time the witness,
 10 in accordance with CCP Section 2094, was placed under
 11 oath and was sworn by me to tell the truth, the whole
 12 truth, and nothing but the truth;
 13 That the testimony of the witness and all
 14 objections made by counsel at the time of the
 15 examination were recorded stenographically by me,
 16 and were thereafter transcribed under my direction
 17 and supervision, and that the foregoing pages
 18 contain a full, true and accurate record of all
 19 proceedings and testimony to the best of my skill
 20 and ability.
 21 I further certify that I am neither counsel for
 22 any party to said action, nor am I related to any
 23 party to said action, nor am I in any way interested
 24 in the outcome thereof.
 25

1 IN WITNESS WHEREOF