

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

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

vs.) No. 312236

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

DEPOSITION OF
JUNE TOLBERT

(Pages 1 through 257)
October 11, 2001

REPORTED BY: JOHNNA FORD CSR 11268

JOB 5-112536

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Defendants.)

--o0o--

BE IT REMEMBERED that, pursuant to notice and on Thursday, October 11, 2001, commencing at 9:38 a.m. at O'Melveny & Myers LLP, 275 Battery, Conference Room 25 East, San Francisco, California, before me, JOHNNA FORD, a Certified Shorthand Reporter, personally appeared

JUNE TOLBERT

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

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MORRISON & FOERSTER LLP, 425 Market Street, San Francisco, California 94105-2482, represented by AMY M. KOTT, Attorney at Law, appeared as counsel on behalf of the Plaintiffs.

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

ALSO PRESENT: Michael Rosenthal, O'Melveny & Myers LLP.

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EXAMINATION BY MS. KOURY

MS. KOURY: Q. Good morning, Ms. Tolbert. My name is Vanessa Koury. I'm an attorney representing the state of California in this litigation.

Would you please state and spell your full name for the record?

A. My name is June Tolbert, J-u-n-e, T-o-l-b-e-r-t.

Q. Have you ever had your deposition taken before?

A. Maybe a long time ago. I'm not sure. Getting pretty old here.

Q. So it wasn't with respect to this litigation?

A. No. No.

Q. I'm going to just tell you a few of the ground rules and what is going to happen today and explain a little bit about the deposition procedure since it has been a while since you have had your deposition taken.

Do you recall what the litigation matter was that you had your deposition taken in in the past?

A. Long time ago, no.

Q. Sitting next to me is the court reporter who will be reporting my questions and your answers which will then be put into a written transcript.

Do you understand that you are under oath and the testimony that you will give has the same force and effect as if you were testifying in a court of law?

A. I understand that.

Q. So even though we're in an informal setting here today, you are testifying as if you were in a formal courtroom setting with a judge. Do you understand that?

A. Yes, I do.

Q. And you are subject to all the penalties for perjury for giving false testimony, therefore it is

1 important to answer all the questions as completely and
2 truthfully as you can. Do you understand that?

3 A. Yes, I do.

4 Q. When you answer my questions, it is
5 important that you give me a verbal answer as you've
6 been doing so because nods and shakes of the head can't
7 be reported by the court reporter. Is that clear?

8 A. Yes.

9 Q. Also, it is hard for the court reporter to
10 get a clear record if there is more than one person
11 speaking, so if you could wait until I finish my
12 questions before you begin answering, I also will wait
13 until you finish answering before I ask another
14 question. Is that okay?

15 A. That is fine.

16 Q. It is important that you listen to my
17 questions carefully and if you don't understand one of
18 my questions, let me know and if appropriate, I'll make
19 an effort to rephrase it. If you answer the question,
20 I'll presume that you understood it. Is that okay?

21 A. It is okay.

22 Q. You are required to answer my questions to
23 the best of your ability and if you don't know the
24 answer, I don't want you to guess. However, I am
25 entitled to your best estimate. Do you understand

1 A. I agree.

2 Q. Do you understand these ground rules that
3 I've just kind of gone through?

4 A. Yes, I do.

5 Q. Do you have any questions?

6 A. Not at the present time.

7 Q. Is there any reason why you may be unable to
8 testify and give your best testimony today?

9 A. No.

10 Q. Have you recently consumed any medication,
11 alcohol, or any other substance that may interfere with
12 your ability to answer these questions?

13 A. I have not.

14 Q. Do you suffer from any disabilities of any
15 kind that would affect your ability to answer these
16 questions?

17 A. None whatsoever.

18 Q. Great. Are you represented by an attorney
19 today?

20 A. Yes, I am.

21 Q. Who is your attorney?

22 A. Amy Kott.

23 Q. About when did you or about when did Amy
24 Kott become your attorney?

25 A. August of this year.

1 that?

2 A. Yes, I do.

3 Q. When you receive the booklet, you can make
4 changes if you feel that they are necessary. However,
5 you should be aware that the various lawyers in this
6 case will be free to comment on any changes you make at
7 trial or at any other hearing or proceeding in this
8 case. Do you understand that?

9 A. Yes, I do.

10 Q. So, again, it is important for you to
11 respond to these questions as fully and fairly as you
12 possibly can. Do you understand that?

13 A. Yes, I do.

14 Q. If you need a break for any reason during
15 this deposition, please just let me know and I'll just
16 ask that you finish the question that is pending, if
17 possible, and then we'll tell the court reporter and
18 take a break. Is that okay?

19 A. That is fine.

20 Q. Also, if at any point during today's
21 deposition a question I ask or an answer you are giving
22 triggers your memory as to another question I asked
23 previously and you would like to supplement the record,
24 please just let me know and we'll get that information
25 on the record. Do you agree with that?

1 Q. Why did you consider her your attorney at
2 that time?

3 A. She is a staff attorney with this case and I
4 signed on with this case a while back. I made my
5 initial statement.

6 Q. Did you ask her to be your attorney on this?

7 MS. KOTT: Objection. Attorney/client
8 privilege. Don't answer.

9 MS. KOURY: Q. Is there any other reason
10 why you consider her your attorney other than what
11 you've told me?

12 MS. KOTT: I object to the extent that it is
13 seeking information violative of the attorney/client
14 privilege.

15 MS. KOURY: You can answer that question.

16 THE WITNESS: Would you repeat it again?

17 MS. KOURY: Q. Sure. Is there any other
18 reason why you consider Amy Kott your attorney other
19 than what you've already told me?

20 A. No.

21 Q. Were you seeking legal advice from Amy Kott?

22 MS. KOTT: Objection. Attorney/client
23 privilege.

24 MS. KOURY: You can answer that --

25 THE WITNESS: No.

1 MS. KOURY: -- unless you are instructing
2 her not to answer, Ms. Kott. Are you instructing her
3 not to answer?

4 MS. KOTT: Well, she already did, but --

5 MS. KOURY: I actually didn't hear.

6 Q. What did you do to prepare for this
7 deposition today, if anything?

8 MS. KOTT: I object to the extent that seeks
9 information protected by the attorney/client privilege.
10 Do not discuss any conversations that we've had or
11 anything that I have directed you to do.

12 MS. KOURY: Let me rephrase that question
13 and make it simpler.

14 Q. Other than talking to Amy Kott, did you do
15 anything to prepare for this deposition?

16 MS. KOTT: Once again, I object to the
17 extent it seeks information protected by the
18 attorney/client privilege. Do not discuss anything
19 that you did at my direction. If there is anything
20 else that you did, then that -- I did not direct you to
21 do, you can answer.

22 THE WITNESS: I just read my declaration
23 that I made earlier.

24 MS. KOURY: Q. Other than reading your
25 declaration, did you do anything else?

1 Q. The first conversation was in person?

2 A. Yes.

3 Q. Was there anyone else present at that first
4 conversation?

5 A. No.

6 Q. How long did that conversation last?

7 A. 15 minutes, 20 minutes, maybe.

8 Q. And the second conversation, that was by
9 telephone? Is that yes?

10 A. Yes. Sorry, that's right. It was by
11 telephone.

12 Q. And how long did that conversation last?

13 A. Five minutes.

14 Q. Other than contact with Amy Kott, have you
15 spoken to anyone else about your deposition today?

16 A. I have not.

17 MS. KOURY: Ms. Tolbert, I'm going to hand
18 you what is titled, "Defendant's state of California
19 notice of deposition of Plaintiffs," and mark it as
20 Exhibit 1 for purposes of this deposition.

21
22 (Whereupon, Defendant's Exhibit 1 was marked
23 for identification.)

24 MS. KOURY: Q. Could you please review that
25 and let me know after you've finished reviewing it.

1 A. No, I did not.

2 Q. Okay. Did you have conversations with your
3 lawyer?

4 MS. KOTT: You can answer that. You can
5 answer yes or no whether or not we spoke, but you --

6 THE WITNESS: Yes.

7 MS. KOURY: Q. How many times did you speak
8 with your attorney?

9 A. Twice.

10 Q. Were both of these conversations with Amy
11 Kott?

12 A. Yes.

13 Q. When was the first conversation?

14 A. August.

15 Q. Do you remember the day?

16 A. I don't.

17 Q. When was the second conversation?

18 A. When I called her up and told her I wasn't
19 coming to the first deposition.

20 Q. Okay. Was that in September?

21 A. End of August or early September.

22 Q. Okay.

23 A. I think end of August.

24 Q. Were both conversations by telephone?

25 A. One was in person and one was by telephone.

1 May I ask you to look at page 11 of the
2 document, when you get a moment. As you'll see, page
3 11 is titled, "Attachment A." Does attachment A look
4 familiar to you?

5 A. Not there yet.

6 Q. I'm sorry.

7 A. Would you ask me that question again,
8 please?

9 Q. Sure. Does attachment A look familiar to
10 you? In other words, have you ever reviewed it before
11 today?

12 A. No.

13 Q. So did you bring any documents today in
14 response to this attachment?

15 A. No, ma'am.

16 MS. KOTT: This is where it actually starts
17 describing the documents.

18 MS. KOURY: Right.

19 MS. KOTT: Page 13.

20 THE WITNESS: I don't have any of that.

21 MS. KOURY: Q. So you have no documents
22 that are responsive to request No. 1?

23 A. No.

24 Q. Was Moeis Canal ever a student of yours?

25 A. No.

1 Q. How about Magaly De Loza? And I'm going to
2 spell that, M-a-g-a-l-y, separate word, D-e, separate
3 word, L-o-z-a.

4 A. No.

5 Q. How about Yeini Alba? I'm going to spell
6 that as well, Y-e-i-n-i, separate word, A-l-b-A.

7 A. No.

8 Q. Arturo Escutia, was he ever a student of
9 yours?

10 A. No.

11 Q. I'm going to spell that, A-r-t-u-r-o,
12 separate word, E-s-c-u-t-i-a. Was that no?

13 A. That student has never been a student of
14 mine.

15 Q. How about Edgardo Solano? E-d-g-a-r-d-o,
16 S-o-l-a-n-o.

17 A. That student has not been a student of mine.

18 Q. Okay. Do you have any correspondence
19 between you and any person relating to the conditions
20 of your school or any of the other issues raised in
21 this litigation?

22 A. No correspondence.

23 Q. Do you understand that you've been called
24 here today to testify in connection with a lawsuit
25 titled, "Williams versus the State of California" that

1 that education throughout the state of California is
2 totally equitable for all, a-l-l, underlined many
3 times, students.

4 Q. Is there anything else?

5 A. No.

6 Q. Do you know what the -- I'm sorry. Do you
7 know who represents the Plaintiffs in this lawsuit? Do
8 you know --

9 A. Yes.

10 Q. Who?

11 A. ACLU.

12 Q. Anyone else?

13 A. Whatever attorneys that have signed on with
14 the case or have agreed to help them out.

15 Q. When did you first learn about this lawsuit?

16 A. I think early in 2000.

17 Q. Do you remember what month?

18 A. Not exactly, but I could take a guess,
19 February, maybe.

20 Q. Is that an estimate or a guess?

21 MS. KOTT: You are not supposed to guess,
22 remember?

23 THE WITNESS: You are not supposed to guess.
24 Let's make it an estimate.

25 MS. KOTT: Your best estimate.

1 was filed by a number of students who attend or have
2 attended public schools in California?

3 A. I understand that.

4 Q. Do you have an understanding of the
5 substance of the lawsuit?

6 A. Yes, I do.

7 Q. What is your understanding of the lawsuit?

8 A. That there is -- my understanding of the
9 lawsuit is that there is inequities under the law which
10 says that education in the state of California should
11 be equal for all students and that my sense of the
12 lawsuit is that they are claiming that there are
13 inequities under the education code or guidelines that
14 say there should be equity for all students and this
15 case is stating that there are inequities of which I
16 concur.

17 Q. Do you know what type of relief the
18 Plaintiff students are asking for in this case?

19 A. What kinds of relief?

20 Q. Yes. Do you understand that question or
21 would you like me to rephrase it?

22 A. You can rephrase it.

23 Q. Do you know what kind of remedy or -- that
24 the Plaintiff students want out of this case?

25 A. That the inequities be changed so that -- so

1 THE WITNESS: My best estimate is about
2 February. It is February. No guess.

3 MS. KOURY: Q. From whom did you learn
4 about this lawsuit?

5 A. I learned about this lawsuit from Peter
6 Eliasberg.

7 Q. Can you spell his last name?

8 A. E-l-l-i-a-s-b-u or b-e-r-g.

9 MS. KOTT: Would you like me to correct
10 that?

11 MS. KOURY: Sure.

12 MS. KOTT: There is just one "L" and it is
13 b-e-r-g.

14 THE WITNESS: One "L." Okay. Thanks.

15 MS. KOTT: No problem.

16 MS. KOURY: Q. Who is he?

17 A. He is an attorney with ACLU.

18 Q. How did you become acquainted with Mr.
19 Eliasberg?

20 A. He rang me up. He telephoned me.

21 Q. Do you know how he got your phone number?

22 A. He probably got it from the United Teachers
23 of Richmond.

24 Q. Why do you think that?

25 A. Because I think he probably had some contact

1 with them ahead of time and they knew which schools in
 2 our school district were pretty decrepit and where they
 3 knew for sure there was inequities in education.
 4 Q. And why do you think that -- why do you
 5 think he called the Teachers United Way --
 6 A. United Teachers of Richmond.
 7 Q. -- United Teachers of Richmond?
 8 A. Because someplace along the way, ACLU got or
 9 they knew or found out, I'm not sure of that process,
 10 about all these inequities in public education and so
 11 they probably started to do some research and found out
 12 that there were lots of inequities in Richmond, so they
 13 contacted the United Teachers of Richmond, the teachers
 14 Union. They or he and UTR knew which schools were the
 15 worst of all. They are all bad, but Helms Middle
 16 School where I teach is not good, so he called me up
 17 and said, "Are there concerns at your school about the
 18 conditions of education for students?"
 19 Q. I'm sorry. I'm going to interrupt you.
 20 A. "Are there concerns?"
 21 And I said, "Yes."
 22 Q. Was this Peter Eliasberg that asked you this
 23 question?
 24 A. Yes.
 25 Q. Were you surprised that he randomly called

1 Q. What else did he say?
 2 A. He said he wanted to come and see.
 3 Q. I'm sorry? He said?
 4 A. He wanted to come and see it.
 5 Q. What did you say to that?
 6 A. "Come on."
 7 Q. Was that the first time you learned about
 8 the Williams lawsuit?
 9 A. Yeah.
 10 Q. What happened after that conversation or --
 11 I'm sorry. What happened after he asked to come see
 12 the school and you said to come on?
 13 A. I said, "Just let me know when you are
 14 coming," and -- you know, and he wanted to know if
 15 there would be any other teachers who would be
 16 interested in being part of the lawsuit.
 17 Q. What did you say to that?
 18 A. I said probably. Because I'm site rep to
 19 the Union, a lot of teachers have come to complain to
 20 me and they filed grievances concerning the condition
 21 of the school which never helps because it doesn't get
 22 fixed or doesn't get dried up or the mold doesn't get
 23 washed off and the windows don't get fixed and they
 24 stay boarded up and taped up.
 25 Q. When he asked you about any other teachers

1 you?
 2 A. No.
 3 Q. Why not?
 4 A. I was happy to know somebody out there was
 5 concerned about us.
 6 Q. What else did he tell you besides asking
 7 that question?
 8 A. He just said that ACLU was preparing a
 9 lawsuit against the State and asked me if I would be
 10 interested in being a part of that, if I thought
 11 anybody else at Helms might be interested and I said
 12 yes, I thought that would be true.
 13 Q. Did he ask you about the conditions at the
 14 school?
 15 A. He did.
 16 Q. What did he ask you?
 17 A. What is it like there.
 18 Q. What did you tell him?
 19 A. Not enough text books, decaying, unsafe
 20 building, unhealthy building, not enough faculty, too
 21 many students for the size of the facility, not enough
 22 building space, 1,400 students crowded into a facility
 23 designed for eight or 900.
 24 Q. What did he say?
 25 A. He said, "Sounds awful."

1 and you said probably, did you give him any names of
 2 any other teachers?
 3 A. Yes, I did.
 4 Q. What were those names?
 5 A. Randy Rau.
 6 Q. Can you spell that?
 7 A. R-a-n-d-y. I think it is R-a-u.
 8 Q. Any other teachers besides Randy Rau?
 9 A. Rita Rosenberg.
 10 Q. Anyone else?
 11 A. I think those are the main ones.
 12 Q. Why did you think of Randy Rau?
 13 A. He is a PE teacher and conditions in the gym
 14 were pretty horrible. There was wet water on the
 15 floor. It was slippery when the kids were trying to do
 16 indoor sports in the wintertime and there is lots of
 17 unsanitary conditions in the locker rooms, broken --
 18 toilets don't work, faucets that don't work.
 19 Q. These are toilets and faucets in the gym?
 20 Is that yes?
 21 A. Yes; that's right. Sorry.
 22 Q. No problem. Had you ever heard Randy Rau
 23 complain about the conditions in the gym?
 24 A. Yes, I have.
 25 Q. Did he complain to you?

1 A. Yes.
 2 Q. Why did he complain to you?
 3 A. I'm the site rep to the Union to the UTR.
 4 Q. Did you ever hear him complain to anyone
 5 else besides yourself?
 6 A. I didn't hear him complain to anybody else,
 7 make general statements in the teacher's room.
 8 Q. Do you know whether he complained to anyone
 9 else besides yourself?
 10 A. Not specifically.
 11 Q. Is there an unspecific -- do you have some
 12 sort of indirect knowledge?
 13 A. He only makes general statements when he
 14 comes storming into the teacher's room in the morning,
 15 but I don't know what he does, if he deliberately -- he
 16 filed grievances, so --
 17 Q. Filed grievances with you through the UTR?
 18 Is that yes?
 19 A. Yes, he has to submit the grievance first --
 20 well, I tell him to first -- the first line of defense
 21 is to always go and talk to the principal and then if
 22 there is no change in conditions, then they file a
 23 grievance.
 24 Q. Let's start at the beginning with the site
 25 rep to the Union is what you said your position with

1 the Union is?
 2 A. Yes.
 3 Q. What is the site rep to the Union?
 4 A. Site rep to the United Teachers of Richmond
 5 is a person from any school facility that goes to the
 6 UTR meetings and takes the concerns of the site to UTR.
 7 It is a two-way thing and UTR feeds back to us current
 8 grievances, information about negotiations, information
 9 about whatever affects teachers.
 10 Q. Tell me if I'm understanding you correctly,
 11 as a site rep to the Union, you are sort of an
 12 intermediary between the teachers at your school and
 13 the Union?
 14 A. That's right.
 15 Q. And does the Union represent you to the
 16 school as well? In other words, what is the -- in your
 17 understanding, what is the Union's position?
 18 A. The Union is a bargaining unit for teachers
 19 and they bargain with the school district.
 20 Q. How long have you been a site rep?
 21 A. Seven or eight years.
 22 Q. And you stated that Randy complained to you
 23 about the conditions at the school. Did he file a
 24 formal grievance? And when I say that, did he file a
 25 formal grievance with the Union?

1 A. I'm thinking back, yes.
 2 Q. Could you tell me the procedure for filing a
 3 complaint? You began to tell me, but I cut you off.
 4 Could you tell me what generally happens when someone
 5 comes to you with a grievance about the conditions at
 6 Helms?
 7 A. I listen and I ask them if they have talked
 8 to the principal about it because that is your first
 9 line of remedy and if they have and nothing has
 10 happened, then they fill out a grievance form.
 11 Q. What happens after they fill out the
 12 grievance form?
 13 A. The grievance form -- you fill out a
 14 grievance form. You have to cite on the grievance form
 15 what part of the school contract has been violated or
 16 you feel is being violated and that grievance form is
 17 once again submitted to the principal. The principal
 18 reviews it, attaches any work orders they've prepared
 19 and send it on to maintenance or the building -- or the
 20 whole building maintenance portion of the school
 21 district.
 22 Q. What happens after that?
 23 A. Well, if nothing has been done, the
 24 grievance is sent up to United Teachers of Richmond and
 25 they take the grievance and go to the district and cite

1 the sections of the contract that have been violated
 2 and they seek remedy.
 3 Q. Do you know how they do that? Is it at a
 4 meeting?
 5 A. To the best of my knowledge -- is that what
 6 I want to say? It is at a meeting.
 7 Q. Have you ever been present at some of these
 8 meetings?
 9 A. I have never been present at any of those
 10 meetings.
 11 Q. Do you hear about the results of those
 12 meetings?
 13 A. Yes.
 14 Q. How do you hear about the results?
 15 A. Nothing gets done.
 16 Q. I'm sorry. My question was how you hear
 17 about it. In other words, does someone communicate to
 18 you the results of the meeting or do you read the
 19 minutes from the meetings? How is it that you learn
 20 about the results?
 21 A. If I call to the Union and they will say --
 22 well, they can tell me -- they will say the grievance
 23 has been submitted to building maintenance. That is
 24 what they always say and one time building maintenance
 25 gave a presentation at our school and one of the

1 higher-ups says, "We're doing the best we can. We're"
2 -- "we don't have enough money to fix that."

3 They even said, "Don't send us any more
4 grievances. We have too many."

5 Q. What type of meeting was this that you were
6 at?

7 A. Well, a lot of parents at our school were
8 seeking answers, so we have a community outreach
9 program, Helms Community Project. The project invited
10 some of the top maintenance people to come and talk at
11 our school and answer questions that parents might have
12 about the condition of the school.

13 Q. Other than learning about the results of the
14 meetings at this outreach project, do you ever have any
15 communication with persons at the UTR or the United
16 Teachers of Richmond?

17 A. They don't give us any feedback.

18 Q. Is that -- do you think that is a problem?

19 A. In what respect?

20 Q. It seems to me that you act as an
21 intermediary between the teachers and UTR by listening
22 to a complaint, helping the teacher file a grievance
23 which is then presented to the UTR and the UTR, your
24 understanding is, goes back to the district and
25 discusses it with the district in order to achieve some

1 year, May of last year.

2 Q. Okay. Before this meeting, though, how
3 would you learn about what was going on with the
4 grievances that were filed?

5 A. Following up on grievances, I don't.

6 Q. I'm sorry. I didn't understand that.

7 A. I don't -- I don't get any. I don't

8 personally follow up because I'm the only site rep from
9 my site and I'm really busy teaching, very, very, very
10 busy teaching. If it involves a person, I would say,
11 "If you would be nice enough to call the Union and find
12 out," because I can't do that for 70 teachers or even
13 15 teachers if they have grievances. I can't. My
14 number one responsibility is to my students, so I don't
15 make an attempt to follow up on all these.

16 Q. So you don't know if the grievances --
17 before this one meeting and other than this one meeting
18 where you learned some information from the maintenance
19 officers, you don't know what happens to the
20 grievances? In other words, you are not sure if they
21 are resolved or not?

22 A. That's right, but from what I can see around
23 the facility, they are not.

24 Q. And what do you mean by that?

25 A. The roof still leaks. The floor still has

1 results, but then you are left out of the loop after
2 that. In other words, you don't learn from the UTR
3 what, if anything, comes about from the grievance.

4 A. For our district, most of the grievances --
5 excuse me, from my site, most of the grievances have to
6 do with health and safety issues. Health and safety
7 issues, of course, pertain to the facility. All right.
8 Since none of these -- I think that is why I'm here
9 today. None of this stuff gets done and they always
10 cite "We don't have enough money."

11 Q. Who is "We cites"?

12 A. The school district always comes back to us,
13 "We don't have enough money. We'll accept your
14 grievance. The grievance has been filed. If there is
15 not enough money, we can't fix what is wrong."

16 Q. Correct me if I'm wrong, I thought you
17 stated -- how do you learn about that? How is it they
18 tell you they don't have enough money? Do they,
19 meaning the district, tell the UTR and the UTR tells
20 you?

21 A. At this big meeting that everyone came to,
22 that is when we got the big bit of information that
23 there is just not enough money.

24 Q. When was this meeting?

25 A. Right at the end of the 2000/2001 school

1 water on it. The glass bricks are still cracked and
2 leaking. The windows are still boarded up and taped
3 up. The moldy wall above the cook stove in the home ec
4 room still drops flicks of paint and who knows what
5 down on the tables and the cooking stove right below
6 it. The drinking fountains, the kids have to run extra
7 far if they want water and line up outside the water
8 fountains because they stay clogged. I see that with
9 my own two eyes. I see falling tiles from the ceiling,
10 old dirty decrepit asbestos tiles; asbestos tiles
11 kicked up on the floor because so much water has been
12 dripped in them.

13 Q. So these conditions that you just listed, do
14 you know if -- the specific conditions for which
15 different teachers file grievances, you don't follow up
16 to determine whether they are resolved or not, but you
17 see the conditions that you just listed so that leads
18 you to believe that all of the grievances that you hear
19 about are not resolved; is that somewhat true?

20 A. That is true.

21 Q. You also mentioned to Peter Eliasberg when
22 he called you that Rita Rosenberg would be a teacher
23 that he would want to contact. Why did you give him
24 Rita Rosenberg's name?

25 A. Because she is the teacher in the home ec

1 room where the paint is flicking off above the stove
 2 and she has been upset about that for a long time.
 3 Q. And is that the same paint above the stove
 4 you just discussed with me earlier?
 5 A. Yes.
 6 Q. Where is the home ec room? What building is
 7 that in?
 8 A. In the main building.
 9 Q. Which floor? The first floor or --
 10 A. Second floor.
 11 Q. Had you ever heard Rita Rosenberg complain
 12 about that?
 13 A. Yes.
 14 Q. Do you know if she ever filed any sort of
 15 complaint with the school, the school district?
 16 A. I'm not sure.
 17 Q. How about filing a complaint through you to
 18 the UTR?
 19 A. A grievance? I can't say if there is a
 20 grievance on file for that or not.
 21 Q. Do you know if Peter Eliasberg contacted
 22 Randy Rau?
 23 A. I think he did.
 24 Q. Why do you think he did?
 25 A. Because I think Randy is one of the people

1 that -- whose name appears on this -- in this case.
 2 Q. Where does it appear in this case?
 3 A. I just read his name here.
 4 Q. When you say "Here," are you pointing to the
 5 notice of deposition which we've marked as Exhibit 1?
 6 A. Yes, that is right.
 7 Q. Other than seeing his name on this document,
 8 is there any other reason why you believe that Peter
 9 Eliasberg has contacted him?
 10 A. No, other than that I gave Peter Eliasberg
 11 Randy's name.
 12 Q. Have you ever spoken to Randy Rau about this
 13 lawsuit?
 14 A. No, I haven't.
 15 Q. Do you know whether Peter Eliasberg has
 16 contacted Rita Rosenberg?
 17 A. I think he has.
 18 Q. I apologize. I think I am mispronouncing
 19 Mr. Peter Eliasberg's last name.
 20 MS. KOTT: Eliasberg.
 21 MS. KOURY: Q. Do you know whether Peter
 22 Eliasberg has contacted Rita Rosenberg?
 23 A. I believe he has.
 24 Q. Why do you believe that?
 25 A. Because I mentioned her name to him and I am

1 pretty sure I introduced her to him when he came to
 2 Helms Middle School.
 3 Q. Other than that, what you've just -- what
 4 you've just stated, is there any other reason why you
 5 believe that Peter has contacted Rita Rosenberg?
 6 A. That is the only reason.
 7 Q. Have you ever talked to Rita Rosenberg about
 8 this case?
 9 A. I've asked her if the situation has ever
 10 been resolved. She says no.
 11 Q. What situation?
 12 A. The flecking paint.
 13 Q. What do you mean by "Flecking"?
 14 A. Well, water has dripped because it is on the
 15 second floor. It is right below the leaking roof.
 16 Okay. So water drips through there and it loosens the
 17 plaster and the paint and whatever else is up there.
 18 It is also moldy up there, right.
 19 Q. Is "Up there" -- do you mean on the roof or
 20 do you mean on the walls?
 21 A. It is right where the ceiling connects with
 22 the wall and it is just -- it looks like a giant drip
 23 mark.
 24 Q. Down the wall? Is that yes?
 25 A. Yes, it is down the wall.

1 Q. How much of the wall does it take up? In
 2 other words, is it --
 3 A. Maybe about from the top to the bottom,
 4 about one-fourth of the wall.
 5 Q. And how wide is it?
 6 A. 18 inches wide, maybe.
 7 Q. Thank you. After this conversation that you
 8 had with Mr. Eliasberg, this telephone conversation,
 9 what was the next contact or conversation that you had
 10 with anyone regarding this lawsuit?
 11 A. Well, he came to Helms Middle School.
 12 Q. Was that the next conversation or contact
 13 you had with anyone regarding this case?
 14 A. Yes.
 15 Q. When did he come to Helms?
 16 A. Maybe about three weeks, two weeks after our
 17 phone conversation.
 18 Q. So that would have been sometime in either
 19 late February or early March of 2000?
 20 A. Yes.
 21 Q. Did Mr. Eliasberg just show up at Helms or
 22 did he call you in advance to tell you?
 23 A. I knew he was coming.
 24 Q. How did you know he was coming?
 25 A. He told me. He called me up and said,

1 "Would such and such a date be all right?"
 2 And I says, "I would think so."
 3 Q. Did you discuss anything else when he called
 4 you to set up a time to come to Helms?
 5 A. No.
 6 Q. So the time that he called to set up a
 7 meeting at Helms was the second phone conversation you
 8 had with him?
 9 A. Yes.
 10 Q. Was there any other conversations in
 11 between?
 12 A. No.
 13 Q. Did you tell anyone that Mr. Eliasberg was
 14 coming to Helms?
 15 A. Yes, I did.
 16 Q. Who did you tell?
 17 A. I told the Helms Community Project director.
 18 Q. Who is that?
 19 A. Tania Gura-Avila, T-a-n-i-a, G-u-r-a, dash,
 20 A-v-i-l-a.
 21 Q. Is Tania Gura-Avila, is she on the Helms
 22 campus during the day?
 23 A. Yes, she is.
 24 Q. I'm going to ask you -- I'm sorry -- just to
 25 let me finish my questions. Sometimes I talk slow.

1 That way you won't answer when I'm asking and the court
 2 reporter can get a clear record.
 3 Is this her full-time position as the
 4 community project director?
 5 A. Yes, it is.
 6 Q. Do you know -- does she have an office on
 7 Helms campus?
 8 A. Yes, she does.
 9 Q. Is she an employee of the school?
 10 A. Her position is funded by a grant.
 11 Q. Do you know what type of grant?
 12 A. Some grant that comes under Community
 13 Outreach.
 14 Q. Is this through the school district or just
 15 Helms school or do you know?
 16 A. It is not through the district and it is not
 17 through Helms School.
 18 Q. Is it a public grant, do you know?
 19 A. Would you explain "Public grant?"
 20 Q. Sure. Is it monies that the school or the
 21 district has received from the state or is it monies
 22 from a private organization?
 23 A. Not money from the state.
 24 Q. How do you know that?
 25 A. Because the school district where I -- where

1 my granddaughter goes to school, they had the same kind
 2 of grant. You have to apply to the agency that is
 3 supplying the money.
 4 Q. Do you know the name of the agency?
 5 A. No, not off the top of my head.
 6 Q. But your understanding is it is a Community
 7 Outreach grant?
 8 A. Yes.
 9 Q. Other than telling Ms. Gura-Avila about the
 10 visit from Peter Eliasberg, did you tell anyone else
 11 that he was coming to the Helms School?
 12 A. No.
 13 Q. Why did you want to tell Ms. Gura-Avila that
 14 he was coming to the school?
 15 A. Because she speaks Spanish, plus she has a
 16 parent liaison and I thought that in case there are any
 17 parents who are concerned about the school -- because
 18 the parent liaison have parent groups -- that this
 19 would be a good opportunity for them to stop feeling
 20 frustrated and feel like they could do something.
 21 Q. And why did you think it was important that
 22 she spoke Spanish?
 23 A. Because there are so many Latino students in
 24 our school, Latino-speaking students and parents.
 25 Q. And you thought that was important for Mr.

1 Eliasberg to know that there was -- I don't understand
 2 why you thought that was important in terms of
 3 introducing her to Mr. Eliasberg.
 4 A. Well, because I knew that there was a Latino
 5 parent group at our school.
 6 Q. Did you think that perhaps she would be able
 7 to assist him in talking and communicating with the
 8 parents?
 9 A. The -- she is not the parent liaison. She
 10 has a part-time parent liaison and I thought yes, the
 11 parent liaison person would be able to assist him in
 12 talking to the parents.
 13 Q. Are the parents at Helms pretty involved?
 14 A. Getting more and more so all the time.
 15 Q. What do you mean by that?
 16 A. Well, before we had a Helms Community
 17 Project, we had some parent involvement, but our
 18 population at the school there comes from an
 19 orientation where people send their children to school
 20 and they expect the school to teach their children and
 21 they haven't recognized that they have a say in our
 22 culture here, that parents have a say. They can be
 23 empowered to make changes and because their children
 24 are their responsibilities, they have a responsibility
 25 to give input to the school and they can be empowered

1 to voice their concerns. They just don't have to sit
2 back there and be frustrated with the conditions that
3 they find at the school and so that is one of the
4 Community Outreach Project's focuses is to let parents
5 know that being involved in the school and being
6 involved in their children's education is a healthy
7 thing.

8 Q. How about in terms of being involved with
9 their student's education, not from the perspective of
10 perhaps the conditions at the school, but just in terms
11 of following students' homework, being aware of the
12 type of class work a student is doing, do you think
13 that type of parent involvement is important?

14 A. Very definitely.

15 Q. Why is that?

16 A. Education can't be done just by teachers.
17 It is a two-prong, three-prong thing, teachers and
18 parents working together as a team to help these
19 children learn. Positive attitude about education and
20 some participation on the part of the parents sends a
21 strong message to the child about the fact that, "Yeah,
22 my parents think this is important. I'm going to put
23 some energy into this."

24 Q. Do you find that the parents at Helms are
25 also becoming more involved in that aspect of their

1 academics of students, following their homework, class
2 participation, behavior in class and at school.

3 MS. KOTT: Objection. Vague as to "Grade"
4 and also "Involvement."

5 MS. KOURY: Q. Well, you are a teacher, so
6 I'm going to let you take the --

7 A. State the question again.

8 Q. If you had to give a grade to parents at
9 Helms in terms of their involvement with the students'
10 academic achievement at school, in other words, how
11 students are handling homework, how they deal in
12 classwork, sort of keeping pace with their children's
13 academic performance at school, what grade would you
14 give parents overall at Helms? A? A minus? B?

15 A. How would I determine this grade?

16 Q. Based on your experience teaching at Helms
17 for the last nine years.

18 A. Quantity or quality?

19 Q. The quality of it. Let's start with quality
20 for those that are involved.

21 A. C.

22 Q. How about quantity, about what percentage of
23 parents do you think is involved?

24 A. 25 percent.

25 Q. So of the 25 percent that you feel are

1 children's education? In other words, becoming more
2 involved in the classwork and homework and being
3 more -- being participants in terms of the actual
4 academics of their students?

5 A. Yes, I think they are interested; some are,
6 some still aren't. It just depends, but I would say
7 that the big picture is that we're making headway.

8 Q. And you think that is a result of the

9 Community Project in part?

10 A. In part.

11 Q. What else is contributing to that?

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

14 MS. KOURY: Q. In your opinion.

15 A. After-school programs funded by this grant.

16 Q. Anything else?

17 A. And the parent involvement, of course.

18 Q. I'm sorry. My question is, what do you
19 think is attracting parent involvement to an academic
20 involvement with the students?

21 A. Our parent liaison made the initial
22 contacts.

23 Q. How would you grade parent involvement at
24 Helms? And when I say "Parent involvement," let's
25 split it up into two: One, parent involvement in the

1 involved in their students' academic performance at
2 school, you would grade them with a C; is that correct?

3 A. To the best of my understanding.

4 Q. Why would you give them a C?

5 A. There have been improvements at Helms since
6 I got there.

7 Q. Why do you think that is a connection to
8 parent involvement?

9 A. Because teachers can't do it alone.

10 Q. When you say there have been improvements,
11 do you mean the parents have improved in terms of their
12 involvement?

13 A. I'm saying I'm getting a little more
14 homework coming in. Students are better organized
15 because we carry this message to the parents on
16 back-to-school night, "Help your students get
17 organized. Make sure they have a binder, dividers,
18 paper."

19 We give them an agenda. We've been giving
20 them an agenda -- big expense to the school -- so the
21 kids can write down their homework assignments, so they
22 can write down the word of the day, things like that.

23 You know, we're -- again, we give this message to the
24 parents that Helms Community Project sends out, I guess
25 it is every six weeks, a newsletter or notes to the

1 parents telling them how they can be supportive to the
2 students, tells them about projects that are going on
3 in school and so this somehow makes an overall
4 improvement.

5 The kids see their parents being involved.
6 They see the school trying. They see the teachers -- I
7 mean, I tell my kids, "I'm a nag because I care about
8 you." So I check their agendas to make sure they are
9 writing down their homework assignments. I tell the
10 parents I'm going to do this. I think our
11 communication with the parents has improved a great
12 deal.

13 And why are we giving them a C? Because I'm
14 just seeing improvement. If you ask a child to find
15 their paper now, they go to the ESL section of their
16 binder rather than dig around in their backpack. They
17 give you a fairly clean piece of paper rather than
18 something that has been all dog-eared. There is a
19 sense of pride that is starting to happen at Helms.
20 We're pushing hard there despite all the negatives.
21 The people that are there are trying very, very hard.

22 Q. Earlier we were talking about Mr.
23 Eliasberg's first visit to Helms. Who did he visit
24 with while he was there? I take it he did visit with
25 Tania Gura-Avila. Did he visit with anyone else

1 Q. What do you think he meant by "Laying the
2 ground work"?

3 A. Laying the -- getting information about some
4 support for this, the ACLU case, because he knew -- you
5 know, he knew there were inequities at Helms based on
6 what I told him about the facility and lack of
7 textbooks and things.

8 Q. So after this visit, when is the next
9 contact you had with anybody about this case?

10 A. I think he called and said he would like to
11 come back. I think he was back within two weeks,
12 something like that, so we're probably into March now.

13 Q. Did you see him? Did he call you?

14 A. Uh-huh.

15 Q. Did you see him in two weeks?

16 A. I saw him. He came there.

17 Q. At Helms?

18 A. Yes.

19 Q. Do you know if he met with anyone else
20 besides you the second time he came to Helms?

21 A. He met with parents.

22 Q. Did he come during the school day or after
23 school?

24 A. During the school day.

25 Q. How did he meet with parents during the

1 besides her?

2 A. He may have talked with the parent -- the
3 Latino parents liaison.

4 Q. Did you see him talk to anyone else?

5 A. No, not specifically. I went -- I
6 introduced him to Tania and then I went to class so he
7 was there kind of --

8 Q. With Tania?

9 A. Yes.

10 Q. Did you talk to Tania afterwards and ask her
11 what happened?

12 A. I said, "How did it go?"

13 And she says, "Fine."

14 Q. Did she say anything else?

15 A. I can't -- no, I can't remember.

16 Q. Did you see him after you introduced him to
17 Tania or did you leave him for the day?

18 A. No, he left before I -- before the school
19 day was over.

20 Q. Did you hear anything else about his visit
21 from anyone else?

22 A. He said he was going to come back again
23 because he just felt he had laid some ground work. I
24 don't think he had a chance at that time to actually
25 meet parents.

1 school day?

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

4 MS. KOURY: Q. Were you there when he met
5 with the parents?

6 A. No.

7 Q. How do you know he met with parents?

8 A. I was told that.

9 Q. Who told you?

10 A. The parent liaison.

11 Q. What did she tell you about the meeting?

12 A. That he listened to their concerns and
13 gripes about the school.

14 Q. Who is the parent liaison that told you
15 this?

16 A. Her name escapes me and she is not at the
17 school anymore.

18 Q. Do you know who the parent liaison now is?

19 A. I don't really because we've been -- the
20 Helms Community Project has -- their office used to be
21 right in our main building.

22 Q. Yes.

23 A. But one of their projects was to get a
24 bigger space in an unused -- it was an old woodshop, so
25 they worked really, really hard with the district to

1 get all the, excuse me, "crap" out of that room, rehab
2 the room. That means they got some private funding for
3 lighting and flooring so that it would be -- kind of
4 become a student/parent room.

5 Q. Okay.

6 A. And so all their offices are out there now
7 which is good in some ways and not so good because I
8 don't have the contact that I used to have.

9 Q. Did she tell you, the parent liaison,
10 anything else about the meeting with Mr. Eliasberg? In
11 other words, did she tell you how many people were at
12 the meeting?

13 A. No, she didn't tell me how many people were
14 at the meeting.

15 Q. Did you have sort of a sense there were more
16 than one or two parents there?

17 A. Yes.

18 Q. Did you have a sense about how many people
19 might have been there?

20 A. No.

21 Q. Other than she said that they griped to Mr.
22 Eliasberg?

23 A. Whatever they said, I don't know. I just
24 pulled that term out of the air, but I know -- let me
25 say they stated their concerns. Sounds more dignified.

1 contact with anyone else about this case?

2 A. Actually, he came when I did my declaration.

3 Q. When was that?

4 A. That was May of 2000 -- May of 2000.

5 Q. Did he call you before he came?

6 A. Yes. He didn't just show up.

7 Q. Did he call you at home?

8 A. I think so.

9 Q. What did he tell you?

10 A. Would I be willing to do a declaration and I
11 says, "Yes, I would."

12 He says, "Well, can I come by Helms? Do you
13 want to do it at Helms?"

14 I said, "Sure. I'll be glad to do it some
15 day after class. Tell me when you are going to be in
16 the area."

17 So he did and I said, "That is fine."

18 And so he came over and we did it.

19 Q. Did you talk about the declaration on the
20 phone? In other words, what you were going to say in
21 the declaration, did you discuss that over the phone?

22 A. No.

23 Q. When did you discuss that?

24 A. He knew I had general concerns about
25 textbooks in the facility and staffing problems.

1 Q. Is there anything else that you learned at
2 that meeting?

3 A. That some parents were interested in signing
4 on with the case.

5 Q. What do you mean by "Signing on"?

6 A. Well, become -- you know, become
7 participants in the litigation.

8 Q. Do you know if Mr. Eliasberg asked them to
9 sign anything that day?

10 A. I don't know anything about that at all.

11 Q. Okay. Was that -- did you talk to him
12 again, Mr. Eliasberg, during the second meeting at
13 Helms?

14 A. Well, when he first came in the morning.

15 Q. Other than meeting with these parents, do
16 know if he met with anyone else that day?

17 A. I don't know.

18 Q. What happened after that? Did you have any
19 contact with him?

20 A. No.

21 Q. That was the last time you had contact with
22 him? Is that yes?

23 A. That was the last time I had contact with
24 him.

25 Q. And after that, did you have any other

1 Q. So he came to Helms to do a declaration; is
2 that correct?

3 A. Yes.

4 Q. And what did he -- did he bring with him a
5 draft of the declaration?

6 A. No.

7 Q. What did he do?

8 A. I told him what my concerns were.

9 Q. Did he write them down?

10 A. Yes.

11 Q. And then what happened?

12 A. And then he put my concerns into the form of
13 a declaration.

14 Q. How did he do that?

15 A. I don't know what he does, how he did it.

16 He just takes the information, my concerns about
17 inadequate staffing at the library, my concerns about
18 insufficient textbooks, my concerns about the condition
19 of the facilities and he put it in the form of a
20 declaration.

21 Q. Was he taking handwritten notes while you
22 were telling him the declaration?

23 A. Yes.

24 Q. Did you sign anything that day at the
25 school?

1 A. No.

2 Q. So what happened after he came to the school
3 and you explained to him your concerns and he took
4 notes for the declaration, what happened after that?

5 A. He wrote out the declaration.

6 Q. Did he leave Helms School and contact you
7 afterwards?

8 A. Yes, because the declaration was -- the
9 declaration that I ended up signing was all
10 typewritten.

11 Q. Do you remember how you ended up signing
12 that declaration? In other words, did he mail you a
13 draft of that declaration?

14 A. I can't remember if he mailed it or if he
15 came in person with it.

16 Q. After -- did he bring -- so you saw a
17 typewritten draft of the declaration before you signed
18 it?

19 A. Yes, I did.

20 Q. Do you know if there was only one draft of
21 the typewritten declaration or did you have a couple
22 drafts of it?

23 A. Only one draft.

24 Q. So the first typewritten draft of the
25 declaration that you saw you signed?

1 some kind of basic trust that what I told him would
2 appear in the declaration, which it did.

3 Q. But you didn't actually type the declaration
4 that you signed?

5 A. Me?

6 Q. Yes.

7 A. No.

8 Q. And you didn't know exactly how he would
9 phrase the declaration until you read it and signed it;
10 is that correct?

11 A. That's correct.

12 MS. KOURY: I'm going to show you what we'll
13 mark as Exhibit 2, which is your declaration signed on
14 May 2nd, 2000. Could you please review that and let me
15 know when you are finished reviewing it.

16 (Whereupon, Defendant's Exhibit 2 was marked
17 for identification.)

19 THE WITNESS: I'm done reviewing.

20 MS. KOURY: Q. Is this the declaration to
21 which you were referring to that you signed?

22 A. Yes.

23 Q. Is there -- do you have any written
24 correspondence or did you see any written
25 correspondence relating to this declaration between you

1 A. Yes.

2 Q. And you can't recall whether he mailed it to
3 you or whether you -- or whether he came back to the
4 school with a typewritten draft of the declaration?

5 MS. KOTT: Objection. Asked and answered.
6 You can go ahead and respond.

7 MS. KOURY: Q. Is that correct?

8 A. To the best of my knowledge, I did it with
9 him present, but I'm not -- I can't be completely sure.

10 Q. Do you need a break? Are you okay?

11 A. Is it break time?

12 Q. No. I just realized we've been going -- I
13 am fine. I'm just concerned if you need --

14 A. Let's keep going for a little bit longer.

15 MS. KOTT: At any point, as long as there is
16 not a question pending, if you want to take a break,
17 just say the word.

18 THE WITNESS: Okay.

19 MS. KOURY: Exactly.

20 Q. After you had this discussion while Mr.
21 Eliasberg was taking notes for your declaration, did he
22 tell you what he was going to go back and type up or
23 did you sort of -- did you read his notes? Did you
24 know what he put into the declaration?

25 A. I did not read his notes. I must have had

1 and anyone?

2 A. No written correspondence.

3 Q. Was there any oral correspondence about this
4 declaration other than this one conversation you had
5 with Mr. Eliasberg when he came to Helms and took notes
6 while you told him about the different conditions?

7 A. No, nothing.

8 Q. Did Mr. Eliasberg tell you why he wanted a
9 written declaration?

10 A. Not to my knowledge.

11 Q. Did you retain a copy of the declaration or
12 a draft -- a copy of a draft of the declaration?

13 A. He sent me a copy.

14 Q. Did he send you a signed copy or a copy
15 before that was unsigned?

16 A. A signed copy.

17 Q. When did he send you that?

18 A. Probably the next day, I guess. I got it
19 really soon.

20 Q. Other than -- did you have any other
21 communications with Mr. Eliasberg after this
22 declaration was signed?

23 A. No.

24 Q. And other than the couple conversations that
25 you mentioned earlier with Amy Kott, did you have any

1 other conversations with anyone regarding this case?
 2 A. No.
 3 Q. Could you state your home address for the
 4 record?
 5 MS. KOTT: Objection. That is private
 6 information. Don't answer.
 7 MS. KOURY: Okay. Private information based
 8 on what? Generally we're allowed to have --
 9 MS. KOTT: It is personal, confidential
 10 information. This has been hashed out in several
 11 depositions and we're not going to provide that
 12 information.
 13 MS. KOURY: Before I even bother with that,
 14 do you -- are you going to agree to accept service on
 15 behalf of Ms. Tolbert?
 16 MS. KOTT: Yes. In fact, she is here.
 17 MS. KOURY: In other words, in the future if
 18 we were to serve her with any type of subpoena, you are
 19 willing to accept service on her behalf?
 20 MS. KOTT: Yes.
 21 MS. KOURY: Q. Do you agree, Ms. Tolbert,
 22 that your counsel can accept service on your behalf?
 23 A. I do agree.
 24 Q. Can you describe for me your educational
 25 background starting with the college you attended after

1 high school?
 2 A. I attended Morton Junior College adjacent to
 3 my high school. I attended Miami University, Oxford,
 4 Ohio to get my bachelor degree in business
 5 administration.
 6 Q. Can we start with Morton Junior College,
 7 what year did you -- did you get a degree from Morton
 8 Junior College?
 9 A. '51.
 10 Q. What degree was that?
 11 A. What do they -- it is a two-year, Associates
 12 of Arts and Science.
 13 Q. And then you went to Miami College, did you
 14 say?
 15 A. Miami University, Oxford, Ohio.
 16 Q. What year did you graduate from there?
 17 A. '53.
 18 Q. What was your degree?
 19 A. BS, Business Administration.
 20 Q. Is there any other university or colleges
 21 that you attended? Was that yes?
 22 A. Yes.
 23 Q. What was the next university or college that
 24 you attended?
 25 A. Important to me in terms of degrees, San

1 Francisco State University.
 2 Q. What do you mean by "Important to you in
 3 terms of degrees"?
 4 A. Because someplace during my life, I'm sure
 5 -- I've been taking classes all over the place.
 6 Q. Okay.
 7 A. There for a while, I was going to Sonoma
 8 State. It didn't end in any degrees. I took some
 9 certificate courses from UC Berkeley, so that is it,
 10 what I'm saying significant in terms of degrees, job
 11 prep, and so on.
 12 Q. When did you go to San Francisco State
 13 University?
 14 MS. KOTT: Objection. I believe that
 15 misstates her testimony.
 16 MS. KOURY: Q. Did you attend San Francisco
 17 State University?
 18 A. I attended San Francisco State University.
 19 MS. KOTT: Sorry.
 20 MS. KOURY: Q. When did you attend?
 21 A. '85 to '88.
 22 Q. Did you receive a degree from that
 23 university?
 24 A. MA, teaching credential.
 25 Q. Thank you.

1 A. And English major.
 2 Q. What type of -- is the MA the teaching
 3 credential?
 4 A. No, the MA is separate.
 5 Q. What type of teaching credential?
 6 A. A clear teaching credential. I met all the
 7 qualifications to get a clear credential.
 8 Q. Is that for multiple subjects?
 9 A. No, English and ESL.
 10 Q. What does ESL stand for?
 11 A. English as a second language.
 12 Q. Did you subsequently go to Sonoma State?
 13 A. No, Sonoma State was a long time ago, in the
 14 late '60s, early '70s, someplace in there.
 15 Q. Do you remember how long you went to Sonoma
 16 State for?
 17 A. Maybe a year.
 18 Q. What classes did you take there, if you
 19 recall?
 20 A. It was education courses.
 21 Q. And after San Francisco State University,
 22 did you attend any other universities or colleges?
 23 A. No.
 24 Q. But you did attend UC Berkeley for some
 25 certificate courses; is that right?

- 1 A. Way back in the '60s.
 2 Q. Was that just to update your certificate,
 3 your teaching credential?
 4 A. It was a certificate in the social services.
 5 Q. What do you mean by "Social services"?
 6 A. Working with groups, community
 7 organizations. I was working at the Oakland Recreation
 8 Department at the time. They encourage employees to
 9 take that course or that certificated course. I think
 10 it was about four evening semesters, something like
 11 that.
 12 Q. Perhaps you already answered this, but at
 13 Miami University when you got this BS, what was that
 14 in?
 15 A. Business Administration.
 16 Q. You did. Thank you. Do you hold
 17 any credentials today? You hold a clear credential; is
 18 that correct?
 19 A. Yes, that's correct.
 20 Q. And that is a clear credential in English
 21 and ESL?
 22 A. Yes.
 23 Q. Do you hold any other credentials?
 24 A. No and just the MA also.
 25 Q. What is an MA?

- 1 A. Well --
 2 Q. Is it a master's?
 3 A. Your first degree is bachelor's. Your
 4 second degree is master's, MA.
 5 Q. What is your master's in?
 6 A. English as a second language.
 7 Q. Did you have to participate in any
 8 continuing education after you received your clear
 9 credential in '88?
 10 A. Yes, we do. In order to meet your
 11 credential, every five years -- we have to renew every
 12 five years. In order to renew, you have to take 150
 13 hours of courses related to what you are teaching.
 14 Q. Could you tell me your teaching positions
 15 that you've held starting from the beginning of your
 16 teaching career?
 17 A. From the beginning of my teaching career?
 18 Q. Yes.
 19 A. I actually started teaching as a substitute
 20 in the city of Oakland.
 21 Q. When was that?
 22 A. Middle '60s.
 23 Q. How long were you a substitute for?
 24 A. Couple of years.
 25 Q. Do you remember what grades you taught?

- 1 A. Mostly grade school. It was grade school.
 2 Q. Meaning first through eighth?
 3 A. Yes.
 4 Q. Was it for Oakland School District?
 5 A. Yes.
 6 Q. What did you do after that in terms of
 7 teaching?
 8 A. Then I didn't do any kind of academic
 9 teaching until I went into the Peace Corps.
 10 Q. When were you in the Peace Corps?
 11 A. '83 to '85.
 12 Q. Did you teach in the Peace Corps?
 13 A. Yes.
 14 Q. What did you teach?
 15 A. English.
 16 Q. To whom?
 17 A. Students that were attending the school
 18 across the street from my little house.
 19 Q. Where?
 20 A. San Juan Sacatopequez, Guatemala.
 21 Q. How long were you there?
 22 A. Two years.
 23 Q. Did you have a background in Spanish?
 24 A. No, not when I started.
 25 Q. I bet you did by the time you ended.

- 1 A. They give you 13 weeks of training.
 2 Q. How old were your students while you were in
 3 the Peace Corps?
 4 A. Elementary age children, I think through
 5 sixth grade. I also taught health concerns, nutrition.
 6 Q. Did you receive training in those areas?
 7 A. Yes.
 8 Q. From the Peace Corps?
 9 A. Yes, and my own general knowledge. My
 10 own -- I was a mom. I was always interested in that
 11 kind of stuff when you are feeding your children.
 12 Q. After the Peace Corps, what did you do in
 13 terms of teaching?
 14 A. I went to San Francisco State.
 15 Q. Did you teach at San Francisco State or --
 16 A. No, that is when I was a student.
 17 Q. What was your next teaching position?
 18 A. Then I taught for a year in Turkey.
 19 Q. Do you remember when that was?
 20 A. '88 to '89.
 21 Q. Was that through some sort of program or was
 22 that just independent?
 23 A. It was with the United Church of Christ.
 24 Q. And did you teach English as well?
 25 A. Yes, I did.

- 1 Q. How old were your students?
 2 A. Sixth graders.
 3 Q. Other than teaching English, did you teach
 4 any other subject areas?
 5 A. No.
 6 Q. What was your next teaching position after
 7 teaching in Turkey?
 8 A. Richmond High School.
 9 Q. When was that?
 10 A. '89 to '91.
 11 Q. What did you teach there?
 12 A. English as a second language.
 13 Q. To what grades?
 14 A. Ninth through 12.
 15 Q. And what was your teaching position after
 16 Richmond High School?
 17 A. I taught for a year at Crest Bay Middle
 18 School, '91 to '92.
 19 Q. Where is Crest Bay Middle School?
 20 A. It is in the Richmond Unified School
 21 District.
 22 Q. And Richmond High School, I take it, is also
 23 in the Richmond Unified School District?
 24 A. Yes.
 25 Q. Here in California?

- 1 A. Yes.
 2 Q. Did you teach English as a second language
 3 in Crest View Middle School as well?
 4 A. Crest Bay, I taught seventh grade English.
 5 Q. Was that to native English speakers?
 6 A. Yes.
 7 Q. Any other subjects?
 8 A. That is all.
 9 Q. How about after Crest Bay, what was your
 10 next --
 11 A. I went to Helms Middle School.
 12 Q. And that was the '92/'93 school year?
 13 A. '92 to the present time.
 14 Q. What grades did you teach in '92 or
 15 initially when you got there?
 16 A. I taught English as a second language and
 17 then I think the first or second year, I taught a sixth
 18 grade English class.
 19 Q. Have your teaching positions changed through
 20 the years at Helms?
 21 A. Well, now I'm teaching exclusively ESL. I
 22 don't have any more English classes.
 23 Q. But you had English classes in the past?
 24 A. Yes, I had a sixth grade English class when
 25 I first went to Helms.

- 1 Q. Other than that one sixth grade English
 2 class at Helms, did you teach it any other years?
 3 A. No.
 4 Q. And have you -- from '92 on, have you taught
 5 ESL to mixed classes of sixth, seventh, and eighth
 6 graders?
 7 A. Yes.
 8 Q. And that hasn't changed?
 9 A. No.
 10 Q. Does Helms have an English Learner Program?
 11 A. Could you explain that, please?
 12 Q. Actually, I was going to ask you to explain
 13 it. Is the term English Language Learner Program
 14 something you are familiar with?
 15 A. I think it is used interchangeably with ESL
 16 and ELD and ELL. The student is categorized as an
 17 English Language Learner and the old category is
 18 English as a Second Language and now they are trying to
 19 change the terminology to ELD, English Language
 20 Development.
 21 Q. It is all the same pretty much; is that
 22 right?
 23 A. Yes, it is pretty much all the same.
 24 Q. Is there an English Learner Program that you
 25 are familiar with at Helms or an ELD?

- 1 A. ELD, yes.
 2 Q. Could you describe to me the ELD program?
 3 A. ELD program is in four levels: ELD I, ELD
 4 II, ELD III, ELD IV. And the students have to pass
 5 certain proficiency requirements to move on from one
 6 level to the next. Generally, they learn to speak
 7 pretty quickly. What they work on rather consistently
 8 is writing skills and reading for understanding, but
 9 some of our students have literacy problems. Some of
 10 them have not been to school.
 11 Q. What do you mean by "They have not been to
 12 school"?
 13 A. Well, they come here and they haven't had
 14 educational opportunities in the countries from which
 15 they've come. We are especially aware of that among
 16 our Latino population because we have so many of them.
 17 Right. It is one of the areas of deficiencies in our
 18 school because we don't have a literacy program for the
 19 kids who don't know how to read yet. Although they are
 20 middle school level, they just haven't been to school.
 21 They probably worked in the fields or whatever and
 22 among the same population, there are some youngsters
 23 who have learning handicaps and they've never been
 24 screened out and accommodated either.
 25 Q. Right.

- 1 A. But so the program -- to continue describing
2 the program, statistics have shown that students
3 usually take six or seven years to become fairly
4 proficient so they become labeled ELP.
5 Q. What does that stand for?
6 A. Hold on just a second. FEP, Fluent English
7 Proficient. Okay. That is when they get mainstreamed
8 into regular class. So what happens with our students,
9 they usually sail through ELD pretty well, but
10 sometimes they level off at II. They might have to
11 take two years of II or two years of III or two years
12 of IV, just depends on individual students, so it might
13 take them five, six, up to seven years --
14 Q. Do you --
15 A. -- to become fluent.
16 Q. I'm sorry. Do you teach a specific level?
17 ELD Level I, II, III, or IV?
18 A. Usually IVs, but this year I have a II also.
19 Q. Are the EL students in an EL course as well
20 as other mainstream courses in school or are they only
21 in EL courses or does it depend on which level they are
22 in?
23 A. The goal is to mainstream them as quickly as
24 possible, so at my level, the ELD IV -- I call it my
25 level because I've -- I'm pretty much -- there might be

- 1 one other teacher that is teaching IV, but my level,
2 most of the students are mainstreamed in their other
3 classes.
4 Q. So the ELD course they take with you is just
5 one course among four or five other classes?
6 A. Among science, different levels of Algebra,
7 depending on their ability level, history. Those are
8 the core subjects that we try to get all students into:
9 English, math, science and history.
10 Q. How about the ELD Level II class that you
11 teach, are you teaching them only English or are there
12 other subjects you also teach them?
13 A. Oh, no. I only teach them English.
14 Q. Do you know if your ELD students in this
15 Level II course are taking other classes as well?
16 A. They are.
17 Q. And are they taking them in mainstream
18 classes?
19 A. I'm not sure.
20 Q. Have you seen the EL program at Helms change
21 in the last nine years that you've been there?
22 A. They are trying now to start getting some of
23 those students two periods of English, so that means
24 those students have to sacrifice their elective.
25 Q. What do you mean by that?

- 1 A. We have elective courses for students.
2 There is band. There is French. There is some
3 computer classes. There is yearbook. There are some
4 art classes that are elective, so that these youngsters
5 who we're trying to get them to get through their
6 English and learn their English, they sacrifice their
7 elective in order to have a second class of English.
8 Q. So do they take ELD with you perhaps as well
9 as another English course with a mainstream English
10 teacher?
11 A. No, not with a mainstream English teacher,
12 with another ELD teacher. Some of the ELD teachers
13 have the same students back to back two periods. In my
14 ELD II class, they come to me for one portion of their
15 English development or ELD and they go to another
16 teacher for their second period.
17 Q. Is ELD also a teaching strategy that you
18 were taught yourself as a teacher? In other words, you
19 refer to ELD as the terminology for identifying a
20 certain student, but is it also known as a teaching
21 strategy, English Language Design?
22 A. English Language Design?
23 Q. Correct.
24 A. Never heard of that.
25 Q. Is there an ELD teaching strategy that you

- 1 have been taught?
2 A. There is a lot of strategies and you get
3 them through in-service training, lots of different
4 strategies.
5 Q. Are you familiar with the SADAI?
6 A. SADAI, yes. Some students at the beginning
7 level, like ELD II Level, they probably get their
8 history through a SADAI method.
9 Q. How about the -- in the fourth level you
10 teach, do you use SADAI?
11 A. No. They are expected to know enough
12 English, so they are -- I don't use the SADAI,
13 particularly. You do in the beginning levels.
14 Repetition, routine, those are all strategies, lots of
15 -- as much pictures and realia as you can give them.
16 Q. What type of strategies do you use at the
17 fourth level that you teach?
18 A. Reading to the students as well as having
19 them read, group work, pair work, constantly monitoring
20 each other's work as well as their own. Those are
21 important strategies. I try to teach as much as I can
22 across the curriculum. We use a Junior Scholastic
23 magazine that has -- that is really a well-balanced
24 magazine. It has got history. It has got -- it
25 focuses in on particular areas of the globe. Each time

1 there is map work. There is vocabulary development.
 2 There is crossword puzzles. My main strategy is to try
 3 to give my students as broad of a knowledge of English
 4 as possible and say, "Oh, we're not social studies," I
 5 say, "But you need to have this language experience."

6 Q. The crossword puzzles, the maps, vocabulary,
 7 there is all included in the scholastic magazine you
 8 were describing?

9 A. Yes. And I'm also reading to them right now
 10 so they develop vocabulary, note-taking skills,
 11 summarizing, which they all have to do through writing,
 12 listening and, of course, enjoying the story. I think
 13 one of the things I wanted to alert my students to is
 14 the fact that reading should be fun. Reading is -- you
 15 know, not only is reading -- not only do you learn, but
 16 reading -- there is a recreational quality to reading.

17 Q. How many students do you have in your Level
 18 IV ELD classes?

19 A. 25 in a class.

20 Q. How many do you have in your Level II?

21 A. 25, 26, I think, in that class.

22 Q. Do you know, is there some sort of limit on
 23 the number of students?

24 A. Yeah.

25 Q. What is that limit?

1 A. Usually I do map work. In the Student
 2 Scholastic, there is always maps and so I let them work
 3 on -- because they have to not only find things on the
 4 map, read the map, find the things on the map, read the
 5 questions about the map and formulate full-sentence
 6 answers and I think that they can work collaboratively
 7 on that. I think in general, collaboration is
 8 important for students to learn.

9 Q. Why is that?

10 A. Why?

11 Q. Yes.

12 A. For the most part, we live in a cooperative
 13 society and I think we need to learn that it is just a
 14 life skill, among other things, and then when you
 15 learn, it is important -- that is a real strategy that
 16 when you teach children something, part of teaching is
 17 for them to discover what they know, to learn to get
 18 help from others and when you talk about it with other
 19 students, you run it around through your brain one more
 20 time. You think about what you are going to say. You
 21 listen for what the other person is saying. That is
 22 real learning, not what the teacher throws at you.

23 Q. Is that the same strategy you use with pair
 24 teaching when the students get into pairs you mentioned
 25 earlier?

1 A. 25.

2 Q. Do you know why there is a limit or do you
 3 know by what authority there is a limit?

4 A. I think it is a state. I'm not sure, but I
 5 think it is a state and there is that limit because
 6 we're teaching a special population that need extra
 7 attention with lots of papers to grade. If you want to
 8 make them right, you have to look at those papers and
 9 clue them in as to how they are doing.

10 Q. You said in that regard -- in terms of
 11 writing, they summarize. Do they summarize what you
 12 read to them?

13 A. Yes.

14 Q. Is that homework assignments?

15 A. Note taking is in class and summarizing is
 16 homework.

17 Q. So you make them take notes about the
 18 stories they read in class?

19 A. That I'm reading to them.

20 Q. Do they take those notes home?

21 A. Yes.

22 Q. And from that, they summarize?

23 A. Yes.

24 Q. When you described group projects, what do
 25 you mean by that? What type of group projects?

1 A. Yes.

2 Q. Anything else? Is there any other reason
 3 why you allow students to study in pairs or you teach
 4 them in pairs or they have pair groups?

5 A. Proofreading each other's work, feedback.

6 Q. Do you use any textbooks for your ELD
 7 textbooks?

8 A. Do I use textbooks?

9 Q. Textbooks.

10 A. Textbooks?

11 Q. Yes.

12 A. We will be using textbooks next. I don't
 13 have -- when I read to them, they have to listen
 14 because it is the only book I have.

15 Q. When you said that you have textbooks next,
 16 what do you mean by that? Next what?

17 A. The next unit I'm going to be teaching
 18 involves textbooks.

19 Q. "Next" meaning -- what do you mean by "Next
 20 unit"?

21 A. Well, I teach a variety of things during the
 22 school year. Okay. This one, I start out with
 23 listening, note taking, and so on, as I described,
 24 vocabulary building, summarizing. The next we're going
 25 to do is reading a variety of genres, as they like to

1 call it, poetry, essays, narrations, opinion pieces, so
2 the textbook that is adopted by our district has a lot
3 of that in it.

4 Q. With the first unit that you are now -- that
5 you were describing where you read a book and they
6 listen, are there -- do you have the book then?

7 A. I have the book.

8 Q. Is it a textbook or do you just take
9 different novels and read from novels?

10 A. No, it is a story. It is a little novel
11 about kids their age.

12 Q. So you use various novels throughout this
13 particular unit?

14 A. No, just one. We're plowing our way through
15 the book.

16 Q. Do you think it would be helpful for the
17 students to have the book as you -- when you read it to
18 them or do you purposely not give them a book?

19 A. I don't have a book to give them. Since I
20 don't have a book to give them, I incorporated
21 listening. I just said, "Sometimes you guys really
22 have to listen."

23 And I put on the board things they should be
24 listening for -- you know, because note taking -- when
25 you are first learning how to take notes, you don't

1 and my technique around the fact that I only had one
2 book.

3 Q. When did you develop that scheme or plan?

4 A. A couple years ago -- more than a couple,
5 maybe four years ago when I started teaching from this
6 book.

7 Q. Did you ever ask anyone why it was you only
8 had one copy of the book or did you ever ask someone
9 why it was there wasn't sufficient copies for each kid?

10 A. No.

11 Q. Why not?

12 A. Because later on when I do the Blue Dolphin,
13 we had -- at that time, we had -- then every student --
14 we had a class set. A class set is enough books for a
15 class to pass them out and collect them and to pass
16 them out and collect them, so that was on the Island of
17 the Blue Dolphin. I knew we were going to go into the
18 unit. I do that at the end of the school year, so I
19 figured I would adopt a different strategy with that.

20 Q. So --

21 A. Give the students reading experience when
22 they are doing that.

23 Q. So basically you didn't think it was a
24 problem?

25 A. Not how -- when I started out, no, because I

1 know what to take notes on, right? These are little
2 middle school kids, so I put the important points on
3 the board.

4 Q. Right.

5 A. But I phrase it in a question so they have
6 to listen for -- you know, who is coming to visit
7 Harvey.

8 Q. Well, in an ideal world, would you prefer
9 they had the textbook or the novel from which you are
10 reading or would you still prefer them not to have the
11 book so you can teach this listening skill and
12 note-taking skill?

13 A. That is why I've adopted it because -- I've
14 adopted it because since we don't have a book for all
15 students, I just decided, well, let's throw in this
16 listening skill. It is an important thing that
17 students are able to do, so -- you know, I just
18 thought, well, start practicing getting the information
19 orally instead of visually.

20 Q. Well, did you ever complain to anyone that
21 you wanted more copies of this book from which you were
22 reading?

23 A. No. No.

24 Q. Why not?

25 A. Because I developed my plan and my scheme

1 wanted them to build up their listening skills.

2 Q. Do you think it is a problem now, the lack
3 of this particular textbook from which you read?

4 A. Not this one book, but it was a problem with
5 the Island of the Blue Dolphin. I complained enough
6 about that and I think now they just got enough copies.

7 Q. The Island of the Blue Dolphin, is that a
8 book you use towards the end of the school year?

9 A. Yes.

10 Q. So it is more advanced? You sort of save
11 that book for the end of the year?

12 A. Yeah, the story is a little more
13 sophisticated.

14 Q. And initially you said you complained there
15 wasn't sufficient number of copies. Was that a couple
16 years back?

17 A. Yes, there wasn't sufficient number of
18 copies for all students, but there was a class set of
19 25 books. Hand them out; get them back. Hand them out
20 and get them back.

21 Q. There was always a sufficient number for
22 them to use in class, but there wasn't a sufficient
23 number of copies to take home for purposes of reviewing
24 it at home?

25 A. Exactly.

1 Q. But there are sufficient copies of textbooks
2 for that particular book now for both in class and to
3 take home?
4 A. The book room teacher said they came in,
5 yes -- the book room clerk.
6 Q. That was for this school year?
7 A. Yes.
8 MS. KOTT: Maybe we should take a break
9 soon.
10 MS. KOURY: Why don't we take a break. Off
11 the record.
12 (Recess taken.)
13 MS. KOURY: Q. Did you have a nice break?
14 A. Yes.
15 Q. Okay. Did anything happen during the break
16 to refresh your memory as to any of the questions we
17 were discussing before that you would like to add?
18 A. I think I made some reference to Richmond
19 Unified School District and that name has changed now
20 to West Contra Costa Unified School District.
21 Q. Anything else?
22 A. No.
23 Q. We were discussing textbooks and
24 specifically the Blue Dolphin?
25 A. Island of the Blue Dolphin.

1 Q. Island of the Blue Dolphin textbook, are
2 there any other textbooks that you use in class other
3 than the ones we were discussing before the break?
4 A. Voices in Literature.
5 Q. Any other textbooks?
6 A. That is it.
7 Q. What type of book is Voices in Literature?
8 A. That is the one I alluded to a little bit
9 earlier with a variety of writing articles, different
10 kinds of articles and classroom kinds of projects that
11 students can work on that highlight the reading
12 assignment.
13 Q. Okay. And you'll be using Voices in
14 Literature during your next unit?
15 A. Yes.
16 Q. Are there sufficient textbooks for each
17 student to use in class?
18 A. Yes.
19 Q. Are there sufficient textbooks for students
20 to take home for purposes of doing homework?
21 A. I think now, yes, there are.
22 Q. Why do you think that there are now a
23 sufficient number?
24 A. Because I talked to the lady in the book
25 room, the book room clerk.

1 Q. When did you talk to her?
2 A. A week ago.
3 Q. Were there sufficient -- did you use Voices
4 in Literature last year when you taught this class?
5 A. I don't think I used Voices in Literature
6 last year.
7 Q. Okay. Did she tell you, the woman in the
8 book room, that they had recently purchased Voices in
9 Literature?
10 A. Yes.
11 Q. What did she say?
12 A. She says we're getting the copies in now.
13 Q. So you don't know if there were sufficient
14 number of --
15 A. She just showed them to me where they are in
16 the book case and I says, "Lucy, I think I'll need
17 about 125.
18 She said, "We should be all right."
19 Q. And 125 will make you all right for the kids
20 to take them for purposes of doing homework if you
21 assign homework?
22 A. Yes.
23 Q. Do you have any shortages of textbooks this
24 school year that you are aware of in your classes?
25 A. No.

1 Q. How about last year, were there any
2 shortages of textbooks? What I mean by "Shortages" --
3 what I mean is, in other words, was ever there a time
4 you wanted the student to have a book either in class
5 or home and you were not able to get that textbook last
6 school year?
7 A. On the Island of the Blue Dolphin.
8 Q. What happened?
9 A. Well, at the end of the school year, the
10 ones that I was using were so decrepit, I was taking
11 them back to the book room because you hand them out,
12 in and out, in and out, every day and then we have a
13 lady who is especially assigned. She is kind of
14 English Department, ELD, coordinator, she went around
15 asking us if we needed anything and I said, "Yes. I
16 could use more Island of the Blue Dolphins."
17 Q. And the reason you needed more was because
18 the books you were using were in poor condition?
19 A. Very poor condition, plus there was only one
20 class set. That makes 25 copies. I thought it would
21 be better for each student to have their own copy so
22 they could take them home and I could assign reading
23 assignments.
24 Q. What happened when you told the woman in the
25 book room you thought you needed more copies?

- 1 A. Well, she -- the person I told was the
2 coordinator --
3 Q. I'm sorry.
4 A. -- of the English Department. That is all
5 right.
6 Q. And what happened when you told the
7 coordinator?
8 A. She went into the book room and counted up
9 what was there and looked at the books -- this was
10 right at the end of the school year -- that I was
11 handing in and she ordered more books.
12 Q. So this was at the end of last school year
13 and you were telling her you wanted more books for the
14 following school year?
15 A. For this year, yes.
16 Q. And she did order more books and now you
17 have --
18 A. They are there. I saw them.
19 Q. Did you see the condition of the books that
20 are in?
21 A. They are brand-new books that were ordered.
22 Q. Did you use Island of the Blue Dolphin the
23 school year of 1998/1999 which would have been two
24 school years ago?
25 A. Yes.

- 1 Q. Did you only have classroom sets then as
2 well?
3 A. Yes.
4 Q. Did you ever complain to anyone that you
5 wanted more books of this particular textbook?
6 A. I guess I talked to the lady in the book
7 room.
8 Q. What do you mean, you guess?
9 A. Well, no guess. I can remember correctly I
10 talked to the lady in the book room and mentioned it to
11 her.
12 Q. Do you remember what you said?
13 A. No, just it would be nice if we could have
14 books for all the students.
15 Q. Did you ask the coordinator for more books?
16 A. We didn't have a coordinator then.
17 Q. Did you ever talk to -- who else could you
18 have talked to about getting more textbooks?
19 A. Probably the district, but we weren't so
20 coordinated then. I don't know. It was just --
21 Q. Do you feel as if you are more coordinated
22 now?
23 A. Yes.
24 Q. Why is that?
25 A. Well, because we have a couple of people who

- 1 help.
2 Q. Do you mean like, for example, the
3 coordinator for English, does he or she handle --
4 A. Book orders. Sorry.
5 Q. When did this start, these coordinators for
6 book orders?
7 A. Last year.
8 Q. Do you know who started this sort of
9 infrastructure?
10 A. The principal.
11 Q. What principal is that?
12 A. He is gone now.
13 Q. Was his name Steve Muzinich?
14 A. Yes.
15 Q. Did you ever complain to the principal at
16 the time during, for example, the 1998 or 1999 school
17 year or the '99/2000 school year that you wanted more
18 textbooks of this particular book, the Island of the
19 Blue Dolphin?
20 A. I did not complain to him --
21 Q. Who did you --
22 A. -- to the best of my knowledge.
23 Q. Okay. Do you think it would have helped if
24 you would have asked him for more textbooks during
25 either of those school years?

- 1 A. We were working through our department
2 chairperson.
3 Q. When you say you were working through your
4 department chairperson, do you mean the person who was
5 handling the textbooks would have been the chair of
6 that department?
7 A. As one of the chairs to handle textbook
8 orders.
9 Q. Is that still one of the chair's duties or
10 is that now handled by the coordinator?
11 A. Now handled by the coordinator.
12 Q. Do you remember if you ever talked to the
13 chair of your department about getting more textbooks?
14 A. Oh, yes.
15 Q. More than once? Is that yes?
16 A. Yes.
17 Q. During what school year, the 1998/1999
18 school year? Let's start with the '98/'99 school year.
19 A. Yes.
20 Q. Do you remember which textbooks you asked
21 for?
22 A. Island of the Blue Dolphin.
23 Q. Any others?
24 A. No.
25 Q. Is this chair of your department the chair

1 of the English Language --

2 A. Development.

3 Q. Thank you. ELD, is the ELD chair just for
4 your particular school or is he or she for the entire
5 district?

6 A. For our school.

7 Q. Do you remember what happened when you
8 complained that you needed more Island of the Blue
9 Dolphin books?

10 A. We were always told there wasn't enough
11 money.

12 Q. Okay. Do you know, did they give you any
13 type of explanation in terms of why there wasn't enough
14 money?

15 A. They would always say, "Fill out your book
16 order," which we did and we would never get the books.
17 That is usually how most of those things were handled.
18 "Fill out your book order."

19 Well, we did. The books never came.

20 Q. Why is it now the coordinator or do you know
21 why the coordinator was able to buy the Island of the
22 Blue Dolphin books?

23 A. I'm not sure.

24 Q. Do you have any estimates as to why or do
25 you have any reason to believe why this coordinator was

1 the Blue Dolphin?

2 A. Yes.

3 Q. You did. Who did you speak to at the
4 district level?

5 A. I had spoken to -- there is a whole ELD
6 Department at the district level and various people
7 will chair department meetings. It means they chair a
8 meeting for department chairs and textbooks have always
9 been a bugaboo. Even when I was department chair, we
10 mentioned, "We need textbooks. We need textbooks."

11 Q. When were you a department chair?

12 A. '94 to '95, '95 to '96.

13 Q. While you were the department chair, did you
14 collect the book orders from the teachers? Is that
15 yes?

16 A. Yes.

17 Q. And what did you do with the book orders
18 once you received them?

19 A. You submit them to the person in the book
20 room.

21 Q. Is that the book room for the school or the
22 book room for the district?

23 A. The book room for the school.

24 Q. Do you know what the person from the book
25 room from the school would do with the book orders?

1 able to buy books when the chair was not able to in the
2 previous years?

3 A. Under the Star Nine testing, which the state
4 has started, because of our low scores at our school,
5 we were designated as an IIUSP school. That means we
6 needed special help and because we were designated an
7 IIUSP school, priorities for certain funds were
8 prioritized for these kinds of things, books.

9 Q. So you think through the IIUSP program, your
10 school received more money for textbooks?

11 A. Yes.

12 Q. Why do you think that?

13 A. Because funds were available. Once you are
14 designated as an IIUSP, lots of programs were put into
15 place.

16 Q. Did the coordinator tell you that she was --
17 where she was getting the money to buy these textbooks
18 from?

19 A. No.

20 Q. Do you know, is a coordinator just for your
21 school or is she or he also through the district?

22 A. She is just for our school.

23 Q. Previous to the school year, did you ever
24 talk to anyone at the district about the need for more
25 textbooks or the need for this textbook, the Island of

1 A. I don't know the process after that.

2 Q. Okay. But you said that while you were the
3 chair, you would discuss the lack of textbooks or the
4 issue about textbooks with people at the district
5 level?

6 A. Yes.

7 Q. Is there a particular assistant
8 superintendent that you would speak to?

9 A. No.

10 Q. Just various people at the district level?

11 A. Whoever chaired our department chair
12 meetings.

13 Q. And what would they say about textbooks?

14 A. "Put in your book orders."

15 Q. And did you ever ask why it was your book
16 orders weren't being completed -- were they being
17 completed, your book orders?

18 A. No.

19 Q. Did you ever ask why that was? Did you ever
20 ask anyone at the district why it was that the book
21 orders weren't being completed? In other words, why it
22 was that you would fill out book orders and yet the
23 books weren't being purchased?

24 A. We always did. I mean, I don't remember a
25 specific conversation.

1 Q. Okay.

2 A. But we were -- I mean, we were constantly
3 hammering away about books and not having enough.

4 Q. So you generally remember discussing the
5 issue with people at the district?

6 A. Yes, it was always there wasn't enough money
7 for books.

8 Q. Did they ever break down the budget or
9 explain to you where the money was supposed to come
10 from or why it was it wasn't coming from that --

11 A. Never.

12 Q. Did you ever complain to anyone other than
13 people at the district level about the lack of
14 textbooks? Did you ever go to the Department of
15 Education and complain?

16 A. No.

17 Q. Do you know in -- do you have a sense of
18 whether the district level people ever stated they were
19 going to complain to the Department of Education about
20 the lack of funding for textbooks?

21 A. I don't know.

22 Q. So basically you just had general
23 conversations about the lack of textbooks and they
24 would just basically tell you there wasn't enough
25 money?

1 charge of your Title One Funds about purchasing more
2 supplemental books such as Island of the Blue Dolphin?

3 A. Under Title One guidelines, you are only
4 allowed to purchase 12 copies.

5 Q. So that wouldn't have helped you?

6 A. (Witness nods head.)

7 Q. Is that no?

8 A. That is no.

9 Q. Thank you. You were stating before that
10 during the past school year, you wanted more Island of
11 the Blue Dolphin books. Were there any other books you
12 thought you needed more of or the condition of the
13 textbooks weren't adequate last school year?

14 A. No.

15 Q. How about the school year before '98/'99,
16 you stated you wanted -- you needed more Island of the
17 Blue Dolphin textbooks. Were there any other textbooks
18 you lacked?

19 MS. KOTT: I believe the year before,
20 however, was '99/2000.

21 MS. KOURY: Okay.

22 MS. KOTT: Because we're in 2001/2002 right
23 now. I know it is hard to keep track of the school
24 years. I just wanted to clarify.

25 MS. KOURY: You are right.

1 A. Yes.

2 Q. Do you have any recollection of anything
3 more detailed than that?

4 A. No.

5 Q. You mentioned the IIUSP monies that your
6 school has received. Have you ever heard of a term
7 called, "Shift Bustamante Funds"?

8 A. No.

9 Q. Do you know if there is any other types of
10 funds the district receives that are specifically
11 earmarked or set aside for textbooks?

12 A. There is something called Title One Monies.
13 I know that.

14 Q. How do you know that? Why do you know that?

15 A. Because we have somebody in the school who
16 handles Title One Money.

17 Q. What type of books can you purchase with
18 Title One Money?

19 A. Supplementary books.

20 Q. So not your core textbooks you use in class?

21 A. Generally that is correct.

22 Q. What would Island of the Blue Dolphin be, a
23 core textbook or a supplemental book?

24 A. Supplemental.

25 Q. Did you ever try to talk to the person in

1 Q. '99/2000 you just needed Island of the Blue
2 Dolphin, correct?

3 A. And perhaps we were probably short some
4 copies of that Voices in Literature.

5 Q. What school year was that?

6 A. '99 to 2000, 2000 to 2001.

7 Q. Okay. Do you remember what you did with
8 Voices -- when you needed more Voices in Literature
9 textbooks?

10 A. I think that is why last year I didn't use
11 them.

12 Q. Okay. Last school year meaning 2000/2001 --

13 A. Yes.

14 Q. Let me finish my question.

15 A. Sorry.

16 Q. -- you didn't use Voices in Literature?

17 A. No.

18 Q. And you think the reason you didn't use them
19 was that you didn't have a sufficient number of
20 textbooks?

21 A. (Witness nods head.)

22 Q. Is that yes?

23 A. Yes.

24 Q. What did you -- do you remember asking
25 someone for those textbooks?

1 A. I discussed it with the book room person,
2 the book room clerk.
3 Q. When was that?
4 A. Last year and I also discussed it with the
5 department. We still have kind of a department chair
6 and the principal who came to one of our department
7 meetings, our new principal.
8 Q. When did Steve Muzinich leave?
9 A. The end of last school year.
10 Q. So you spoke to the new principal. What is
11 the new principal's name?
12 A. Ms. MacLean.
13 Q. MacLee?
14 A. I'll spell it for you. Cap M-a-c, cap
15 L-e-a-n.
16 Q. MacLean. So you spoke to Ms. MacLean about
17 it, the book room person, and your department chair.
18 What did they say?
19 A. We'll try to get them for you, which they
20 have now.
21 Q. Did you ever discuss the need for Voices in
22 Literature during the previous school year, '99/2000?
23 A. What happens is they start you out with
24 enough, but they don't all get turned back. Kids lose
25 them, all right, or some get mutilated, so over a

1 couple years of using those books, probably got down to
2 25 or 30 books, so that is -- now they just ordered
3 them and I talked to the lady in the book room and she
4 says they've come in.
5 Q. Did you have a sufficient amount of these
6 books, the Voices in Literature, during the '99/2000
7 school year?
8 A. Last time I used them was '98 to '99.
9 Q. So the last time you used them was '98/'99.
10 Did you have a sufficient number at that time?
11 A. Yes.
12 Q. During the '99/2000 school year, why didn't
13 you use Voices in Literature?
14 A. Because there weren't enough textbooks.
15 Q. When did you realize there weren't enough
16 textbooks, do you remember?
17 A. No, I don't remember.
18 Q. Do you know -- what did you do when you
19 realized there weren't enough textbooks? Did you
20 complain to someone?
21 A. I talked to the lady in the book room, the
22 department chair.
23 Q. And what did she say?
24 A. "We'll order them."
25 Q. Did you -- I mean, I take it they weren't

1 ordered since you didn't use them for '99/2000 or
2 2000/2001 school years?
3 A. I don't know if they were ordered or not.
4 Q. During the '99/2000 school year when you
5 didn't use Voices in Literature, what did you use
6 instead of Voices in Literature?
7 A. Well, as you know, the Star Nine test is
8 putting a lot of pressure on us, so we got a lot of
9 test prep material, so I was doing a lot of test prep
10 material with the students. I think I did a lot more
11 with drill and kill, not my perfect idea of a strategy
12 for teaching, but I did a lot more of that, having kids
13 write a lot more sentences. In other words, it wasn't
14 such holistic learning.
15 Q. Going back to Voices in Literature, though,
16 in the '99/2000 school year, you determined there
17 weren't enough books. You asked for them to order it.
18 Did you ever follow up to see whether they ordered them
19 or not?
20 A. No.
21 Q. So during the 2000/2001 school year, did you
22 ever at one point kind of want to use the Voices in
23 Literature book and look to see if there was a
24 sufficient number or not?
25 A. I checked in the book clerk.

1 Q. How would you check it?
2 A. I just go, "Hi Lucy. How are the books?"
3 "I don't know, Ms. Tolbert. We don't seem
4 to have your 125," so that was it.
5 Q. Beyond talking to the book clerk, did you
6 talk to anyone else about the Voices in Literature book
7 during the 2000/2001 school year?
8 A. I don't remember.
9 Q. So because you were teaching for the Star
10 Nine test and you were using other methods such as the
11 drill and kill and writing sentences, as you testified
12 a little earlier, did you sort of decide you didn't
13 need to use the Voices in Literature book?
14 A. I would have preferred to use them.
15 Q. But other than talking to the book room
16 clerk, you didn't make any efforts to obtain those
17 books?
18 A. It is mandated by the school district you
19 have these books and you teach from these books.
20 Q. Which books?
21 A. Voices in Literature because it is a
22 district-adopted text.
23 Q. So you felt as if you needed Voices in
24 Literature?
25 A. Absolutely.

1 Q. Did you -- other than talking to the book
2 room clerk at the beginning of the school year, nothing
3 else was done to try and get the textbooks?
4 A. Not that I know of.
5 Q. Did you talk to the principal Steve Muzinich
6 during the 2000/2001 school year?
7 A. About the textbooks?
8 Q. Right.
9 A. That was the department chair. She did
10 that.
11 Q. So the department chair was aware that you
12 didn't have sufficient number of Voices in Literature
13 textbooks?
14 A. Yes.
15 Q. How did she become aware of that?
16 A. Because I told her.
17 Q. So you didn't just tell the book room clerk.
18 You also told the chair as well; is that right?
19 A. I didn't have a private conversation with
20 her. We just -- she would take a poll in our
21 department meetings. "Do you have enough textbooks?"
22 "No."
23 "Do you have enough textbooks?"
24 "No."
25 "Do you have enough textbooks?"

1 "No."
2 Q. Why was she taking a poll?
3 A. To find out where the deficiencies were so
4 she could make book orders.
5 Q. And then again at the end of this past
6 school year, you spoke to various people, including the
7 principal, the book room clerk, and the department
8 chair and they've since then purchased this book?
9 A. The books have been purchased.
10 Q. Do you know where the monies for the Voices
11 in Literature came from?
12 A. No.
13 Q. Have you ever asked?
14 A. No.
15 Q. Do you find it surprising that they
16 purchased these books this school year?
17 A. Yes.
18 Q. Why?
19 A. Sort of a break with tradition.
20 Q. Okay. I'm sorry. I'm still not
21 understanding. I understand that you think it is
22 important that you have these particular books to teach
23 and it is part of the curriculum.
24 A. Yes.
25 Q. And yet other than speaking to the book room

1 clerk once each school year and perhaps the principal
2 -- I mean, perhaps the chair, that was the only
3 communication you had about the textbooks?
4 A. That is right.
5 Q. Okay. Other than these two textbooks, the
6 Voices in Literature and the Island of the Blue
7 Dolphin, have you ever come across the situation in the
8 last three years where there hasn't been a textbook or
9 a sufficient number of textbooks that you needed more
10 of?
11 A. Myself?
12 Q. Yes. Did you understand that question?
13 A. You could rephrase it.
14 Q. Yes. In the last three years, has there
15 been any other time when you needed a textbook or more
16 textbooks and you weren't able to get them for your
17 students?
18 A. There has never been a time when I needed
19 more textbooks.
20 Q. Have you ever felt in the last three years
21 that the conditions of the textbooks were really poor
22 and you wanted new textbooks for your students other
23 than what we've already discussed?
24 A. Not other than what we've already discussed.
25 Q. Okay. Have you ever had a student that

1 complained to you that they wanted to take home a
2 textbook and they weren't able to in the last five
3 years?
4 A. A student?
5 Q. In other words, there has only been one
6 student that has complained to you; is that what you
7 are saying?
8 A. No. Would you clarify the question, please?
9 Q. I'm asking have you ever -- I'll ask the
10 first question. Have you ever had a student complain
11 to you that they wanted to take a textbook home and
12 they couldn't?
13 A. Students haven't complained, but they asked
14 if they could take textbooks home.
15 Q. Okay.
16 A. And I say no, because we don't have enough.
17 I have to use them again the next day.
18 Q. Has that happened this past school year,
19 meaning the 2000/2001 school year?
20 A. Yes.
21 Q. Do you remember what book they wanted to
22 take home?
23 A. Island of the Blue Dolphins.
24 Q. Do you think it would have been helpful if
25 that student could have taken the book home?

1 A. Yes.

2 Q. Why?

3 A. Because I think there are some students who
4 are really motivated and -- you know, they have a
5 desire to learn. They want to find out. They are
6 enthusiastic. They are enthusiastic learners and those
7 children should not have to be told no when they want
8 to deal with a textbook.

9 Q. Why is it that the student couldn't take the
10 textbook home?

11 A. Because if somebody in first period wants to
12 take a textbook home and I only have 25, I have to
13 teach periods two, three, five, six, and seven. Who is
14 going to be without their book in those periods?

15 Q. So the reason for that is there is just
16 classroom sets of that book at this time?

17 A. That's correct.

18 Q. Do you know if this student could check this
19 textbook out? Are there any textbooks that are
20 reserved to be checked out by students?

21 A. The only way the student could get the book
22 is either go to the public library and find it or the
23 school library. There may be copies at the school
24 library if the library happens to be open.

25 Q. How about the book room?

1 MS. KOURY: Q. Earlier you said that you
2 believe that some of the textbooks were missing because
3 students don't return textbooks; is that true?

4 A. Yes, that is true.

5 Q. Do you generally believe that the district
6 and the school has limited resources?

7 A. I truly believe this.

8 Q. Do you think that the state has limited
9 resources?

10 A. I don't know.

11 Q. Do you think that it is a problem when
12 students -- when the district or the school purchases
13 textbooks, allows students to take them home and books
14 are not returned, the books are lost or kept?

15 A. It makes a problem.

16 Q. Do you have any personal knowledge or have
17 you heard anything while at the school about the
18 school's inability to have books returned or have
19 parents compensate for books that are lost?

20 A. The students are billed for those books.

21 Q. Do you know if the school has been able to
22 collect on the books that are lost or if they have a
23 problem actually getting the money?

24 A. They collect on some. I don't know the
25 percentage.

1 A. No, students don't have access to the books
2 in the book room.

3 Q. What did you do when these students asked
4 for textbooks to take home?

5 A. I said, "No. I'm sorry, not at the present
6 time. We don't have enough books."

7 Q. Is there any other way you've supplemented
8 or tried to compensate for the fact they can't take the
9 book home?

10 A. Encourage them to use the public library.

11 Q. How do you do that?

12 A. Actually, one of the first things I do at
13 the beginning of the school year, I have all students
14 go to the public library and get the library card and
15 promote the public library, what a great resource it is
16 for them and their families. Books are free; easy to
17 get a book. It is close by.

18 Q. How close is it to the school?

19 A. Not more than two blocks.

20 Q. Do you think your students use the public
21 library?

22 A. Some do.

23 Q. Why do you think some do and others don't?

24 A. Motivation.

25 MS. KOTT: Objection.

1 Q. What, if anything, do you think the school
2 can do about ensuring the textbooks that are taken home
3 are returned?

4 A. Individual teachers can talk to students
5 about it. We can talk to parents, tell them, "Your
6 student is getting a book. Would you check and monitor
7 that he has the book, that the book is covered and make
8 sure that the student returns the book?"

9 Q. Do you think it is the school's
10 responsibility each year, regardless of the fact that
11 the previous years' books are lost or mishandled or in
12 a poor condition, to provide students with brand-new
13 books and sufficient number for everyone regardless of
14 the fact that the year before books were lost or
15 mishandled?

16 A. It is somebody's responsibility.

17 Q. But you don't have an opinion as to whose?

18 A. Ultimately the state.

19 Q. So you think the state should replace and
20 replenish books every single school year regardless of
21 the fact students the year before have mishandled or
22 lost textbooks?

23 MS. KOTT: Objection. Asked and answered.

24 THE WITNESS: State should provide funds for
25 books.

1 MS. KOURY: Q. That didn't really answer my
2 question. Do you want me to repeat my question? Do
3 you think that -- do you think it is a responsibility,
4 though, to replenish textbooks at the beginning of each
5 school year regardless of the fact textbooks aren't
6 returned the year before or mishandled the year before
7 or do you think there is some other way of dealing with
8 it besides just spending the funds again on new
9 textbooks each school year?

10 MS. KOTT: Objection. Asked and answered.

11 THE WITNESS: Yes, it is.

12 MS. KOURY: Q. Did you, in the last two
13 years, ever have textbooks that you were able to
14 provide the -- that the kids were able to take home? I
15 know you now have sufficient Voices in Literature
16 textbooks and you now have enough Island of the Blue
17 Dolphin for that coming or this present school year,
18 but in the past, have you had any textbooks where the
19 kids could take them home?

20 A. When we first got Voices in Literature, I
21 had enough.

22 Q. When was that?

23 A. '97/'98.

24 Q. Do you think that it is reasonable for Helms
25 School to have classroom sets for kids to take home and

1 or should they be able -- assuming that the textbooks
2 are not -- you have sufficient number of textbooks
3 which are kept at school in the book room, for example,
4 and the teacher has discretion to pass it out during
5 class and collect it at the end of the night, but there
6 are sufficient numbers to take home as well, do you
7 think it is something a student should be able to do
8 regardless of whether the teacher assigns homework or
9 not?

10 A. Because -- I don't think you understand
11 because I haven't made myself clear about the process
12 of this whole thing. The question is ambiguous.

13 Q. Is that because you never have that
14 situation? In other words, either you have a classroom
15 set that stays at school or you have textbooks that are
16 issued to students?

17 A. Textbooks are issued to us. We assign them
18 out to the students. We write the student's name down,
19 the number of the textbook we hand to the student. It
20 is the student's responsibility until we collect the
21 books usually at the end of the school year or if we
22 finish that unit, we won't need the textbook anymore,
23 then we collect them back as a class.

24 Q. Okay.

25 A. Once the book -- the students do not have

1 allow students to take home textbooks only with the
2 teacher's permission or the teacher thinks it is
3 necessary for the students to take the book home?

4 A. It is a multi-pronged question. Can you
5 divide it up a little bit? Class sets are not designed
6 to be taken home.

7 Q. Do you think teachers should have discretion
8 as to whether a textbook should be taken home or not?

9 A. Yes.

10 Q. So, in other words, you don't think it
11 should be the student's choice whether to take the
12 textbook home or not? It should be -- the teacher
13 should have that discretion to decide whether textbooks
14 should be taken home or not?

15 A. Once a student is issued a textbook, they
16 are expected to bring it to class every day. There is
17 no place in the school for them to leave it, so they
18 have to take it home and if -- in my opinion, if a
19 student has a textbook and you are using it in class,
20 then there is homework assignments that are based on
21 using that text at night, so should the student take
22 the textbook home every night? Yes, because they have
23 homework from the textbook every night.

24 Q. What if they don't have homework from the
25 textbook, should they be able to take the textbook home

1 access to the book room.

2 Q. So, for example, this school year, your
3 Island of the Blue Dolphin book and your Voices in
4 Literature, you will be issuing a textbook to each
5 student and that student has to take those books home?

6 A. Yes.

7 Q. Did you want to break for lunch now? I'm --
8 this is a good breaking point for me, but it is up to
9 you, unless you want to keep going.

10 A. How much longer do you think we'll be going
11 on?

12 MS. KOURY: We'll need to break for lunch.
13 It is going to take at least a day. Off the record.

14 (Recess taken.)

15 MS. KOURY: Q. Hi, Ms. Tolbert. Did you
16 have a nice break?

17 A. I did, thank you.

18 Q. Good. Is there anything that happened
19 during the break that refreshed your memory as to any
20 of the questions we've been discussing before lunch?

21 A. No.

22 Q. Did you consume any alcohol or medication at
23 lunch that might cloud your memory or otherwise make
24 you unable to testify today?

25 A. No.

1 Q. Okay. I'm going to ask you to look at what
2 we've marked as Exhibit 2, your declaration, paragraph
3 four, which reads, quote, "The most glaring deficiency
4 at Helms is that the school library is only open two
5 days a week."

6 Is that true as of this school year?

7 A. As of this school year, we have a half-time
8 librarian. One semester, the library is open three
9 days; the other semester, the library is open two days.

10 Q. So what is it this semester?

11 A. This semester, it is three days.

12 Q. Okay.

13 A. Next semester, it will be two days.

14 Q. And the following sentence reads, quote,
15 "The library is closed Mondays, Thursdays, and
16 Wednesdays this semester because Helms shares a
17 librarian with another middle school in the district,"
18 end quote.

19 Is that true as of this semester?

20 A. You read it -- it is Mondays, Tuesdays. I
21 thought I heard you say Thursdays. It is Monday,
22 Tuesday, and Wednesday.

23 Q. You are right.

24 A. This semester, the library is closed Mondays
25 and Tuesdays and it is open Wednesdays, Thursdays, and

1 A. If the aide is there. If the library aide
2 is there, then there is coverage. If there is not an
3 aide, then the library is closed.

4 Q. Do you know what hours this librarian aide
5 keeps?

6 A. Same hours as the librarian.

7 Q. So there is a librarian and a librarian
8 aide?

9 A. (Witness nods head.)

10 Q. Is that yes?

11 A. Yes.

12 Q. And your declaration indicates that on the
13 days that it is open, Wednesday, Thursday, and Friday,
14 the library is open 15 minutes before school and about
15 15 minutes after school?

16 A. Yes.

17 Q. And it just varies as to whether it is open
18 at lunchtime?

19 A. If there is no aide, the librarian goes to
20 lunch, so the library is closed.

21 Q. Do you know how often the aide is around?

22 A. No.

23 Q. Is there a schedule for the librarian and
24 the librarian aide, a written schedule?

25 A. I don't know.

1 Friday this semester.

2 Q. Do you know if Helms shares a librarian with
3 another middle school?

4 A. Yes, it does.

5 Q. Do you know what middle school it shares the
6 librarian with?

7 A. No.

8 Q. The last sentence of paragraph four reads,
9 "The library is also only open for about 10, dash, 15
10 minutes before the start of school and after classes
11 are over."

12 Is that correct for this semester as well?

13 A. Yes.

14 Q. And has this been true -- in other words,
15 these library hours, have these been the library hours
16 for the past couple years you've been at Helms?

17 A. Yes.

18 Q. For the last five years?

19 A. Yes.

20 Q. Do you know if the library is open during
21 lunchtime?

22 A. Sometimes it is and sometimes it isn't.

23 Q. On the days it is open this semester,
24 Wednesday, Thursday, and Friday, is it open at
25 lunchtime on those days?

1 Q. Are you able to take the classes to the
2 library even if there is no librarian on staff?

3 A. No.

4 Q. Why not?

5 A. It is closed. It is locked.

6 Q. So the only time you can take your class is
7 when there is a librarian in the library?

8 A. Yes.

9 Q. Have you ever asked anyone why that is that
10 you can't take the class into the library?

11 A. No.

12 Q. Have you ever wanted to go to the library
13 when there isn't a librarian there and take your
14 students into the library?

15 A. I wait until the librarian is there.

16 Q. Have you ever heard of any of the other
17 teachers at Helms going into the library when the
18 librarian is not there, taking their students into the
19 library?

20 A. No.

21 Q. Have you ever heard any of the other
22 teachers complain that they perhaps would like to go
23 into the library when the librarian is not there so
24 they can teach their students to use the library?

25 A. Yes.

1 Q. What have you heard?
 2 A. They wish the library was open five days a
 3 week.
 4 Q. Have they ever asked to use the key just to
 5 go into the library with their students, do you know?
 6 A. I don't know.
 7 Q. Have you ever thought of obtaining a key to
 8 the library and taking your students in to teach them
 9 how to use the library?
 10 A. No.
 11 Q. Do you think that if you had asked or if one
 12 of the teachers had asked for a key to the library to
 13 use the library with their students when there is no
 14 librarian around, that they would have been prohibited
 15 from doing so?
 16 A. I don't know.
 17 Q. Can you think of any reason why the
 18 principal would not want teachers taking their students
 19 into a library?
 20 MS. KOTT: Objection. Calls for
 21 speculation.
 22 THE WITNESS: Teachers don't know all there
 23 is to know about a library. Can't check out books with
 24 students, can't always direct students to the books,
 25 can't supervise the students and the checking out of

1 the books and the whole thing all at once.
 2 MS. KOURY: Q. Have you taken your students
 3 into the library when there is a librarian there?
 4 A. Yes.
 5 Q. How often?
 6 A. Every three to four weeks.
 7 Q. What do you do when you go to the library?
 8 A. Check out books.
 9 Q. Do you go with the students into the library
 10 or do you just -- what is the word I'm looking for --
 11 do you just take them to the library and drop them off
 12 at the library and return to your classroom or do you
 13 stay with them at the library?
 14 A. I go with them and stay with them.
 15 Q. And you said -- how do they learn how to
 16 check out books?
 17 A. The librarian explains it to them.
 18 Q. Is that something that she explains at the
 19 beginning of the school year or does she explain it
 20 each time you take them to the library throughout the
 21 school year?
 22 A. She explains it at the beginning of the
 23 school year.
 24 Q. So the first visit that you take your new
 25 group of students to the library, the librarian will

1 teach them how to check out books; is that correct?
 2 A. That's correct.
 3 Q. How about the next visit, what happens then?
 4 A. Students come in, drop off their books,
 5 select their new ones, check them out. We go back to
 6 the room.
 7 Q. What do you do while they are selecting
 8 books and checking them out?
 9 A. Pardon me?
 10 Q. What do you do while they are selecting
 11 books and checking them out?
 12 A. I help them screen their books to see if it
 13 is -- if I think that it is something they could
 14 handle, something they can read, something that is
 15 interesting. I teach them how to look over the
 16 information on the back of the book or along the book
 17 flap to see if it sounds interesting to them. I ask
 18 them to read bits and pieces of the book right in front
 19 of me to see if there is a lot of words there they can
 20 deal with or not deal with.
 21 Q. And how about checking out the books, who
 22 does that?
 23 A. The librarian and the library aide.
 24 Q. Does the librarian interact with the
 25 students in any other way besides checking out the

1 books?
 2 A. Sometimes she helps them find a book.
 3 Sometimes she gives them instructions on how to use the
 4 card catalog.
 5 Q. Directing your attention again to your
 6 declaration, paragraph five reads, "The limited access
 7 to the library makes it very difficult to give students
 8 projects that require them to do research."
 9 Do you think -- is that correct?
 10 A. Yes.
 11 Q. Why do you think that the limited hours of
 12 the library makes it difficult for you to assign
 13 research projects?
 14 A. Well, there is limited time that students
 15 can use the library and sometimes if you have a
 16 student, the librarian will accept students one or two
 17 or three at a time. If they have to do some research
 18 or -- you know, you give them an author to look up or a
 19 particular poem or a particular piece of writing, so if
 20 they can't -- they only have two or three days,
 21 depending on -- a week depending on the semester, to go
 22 and do that research. If there is nobody in there,
 23 they can't go in there.
 24 Q. How do they do the research? How is most of
 25 their research projects? What type of research are

1 they doing?

2 A. They might research authors. They might
3 research a particular time era; might research a
4 particular style of writing.

5 Q. How do they learn how to research? Do you
6 teach them initially how to research and what they
7 should be doing?

8 A. Subject and author in the card catalog, what
9 they are looking for, specific bits of the information
10 that they are looking for.

11 Q. You teach them how to use the card catalog
12 or direct them to a card catalog in the beginning of
13 the school year; is that correct?

14 A. The librarian explains it initially, but
15 they frequently need follow-up.

16 Q. And who provides the follow-up?

17 A. Usually I do, sometimes the librarian. We
18 interface with each other when the class goes to the
19 library.

20 Q. Have you ever had a student complain that he
21 or she was not able to complete the research or didn't
22 have enough time in the library to do the research?

23 A. That they couldn't get in the library.

24 Q. Those are the types of complaints you've
25 gotten?

1 A. I tell them it is a nice opportunity for the
2 whole family to go. People need to know about our
3 public libraries.

4 Q. Are the students able to check out books
5 from the school library and use the books at home when
6 they are doing research?

7 A. Yes. Well, reading books, yes. The
8 research books have to stay in the library. Resource
9 materials usually stay in the library.

10 Q. Generally about how often do they need to
11 use the resource books for research projects?

12 A. For my class, maybe three or four times a
13 year.

14 Q. Getting back to the complaints that you've
15 received from students that the library is closed, do
16 you generally -- when is it that the students are
17 trying to get into the library that it is closed? In
18 other words, is it before school? After school? Are
19 they going at lunchtime when you've received these
20 complaints?

21 A. On the days when it is closed, they say,
22 "I'll go and do it in the library."

23 And I say, "You can't go today. It is
24 closed."

25 Q. What they really want is for the class to go

1 A. (Witness nods head.)

2 Q. Is that yes?

3 A. Yes.

4 Q. What did you do?

5 A. Tell them to wait until the library is open.

6 Q. Did you ever tell them or encourage them to
7 use the public library two blocks away if they can't
8 get access to the library on campus?

9 A. I encourage the use of the public library,
10 but a lot of our students have to catch a bus on the
11 way home or it is not the direction they are going in
12 or they -- if they're instructed to walk home with a
13 friend, it means they may have to leave their friend
14 and come home alone, things that our parents in our
15 community are reluctant to have their children do.

16 Q. What would happen -- how would that be
17 resolved if the library at school was open after
18 school? Wouldn't they still have to miss their bus or
19 walk home alone if they still had to stay after school
20 to use the library?

21 A. Possibly. If their parents are picking them
22 up, their parents would wait, maybe.

23 Q. Have you ever encouraged your students to
24 talk to their parents about also using the public
25 school library?

1 to the library during class time with you and you are
2 unable to because it is closed?

3 A. Yeah, if they want -- if a student has a
4 research project, you give them a blue slip, permission
5 to go to the library, if the library is open, to do
6 their research, whatever looking up they have to do.

7 Q. Okay. So if the library is open and your --
8 during class time, a student asks you to go use the
9 library. He or she can go to the library on his own so
10 long as they have a blue slip and there is a librarian
11 in the library?

12 A. When the library is open.

13 Q. Correct, so most of your complaints are
14 coming from students during class time as opposed to
15 students trying to get into the library after school or
16 before school?

17 A. Yes.

18 Q. How often or what kind of hours would you
19 want the library to have?

20 A. I would want the library to be open every
21 day of the week.

22 Q. During school time only?

23 A. With how it is right now because some
24 students are dropped off early. Parents drop them off
25 very early. They could go in the library, if it is

1 open, 20 minutes, 30 minutes ahead of time and do some
2 of their work there.

3 Q. So you don't think it is a problem that the
4 hours are what they are. You think the problem is that
5 there are not enough days during which the library is
6 open --

7 A. Yes.

8 Q. -- is that correct? Okay. And this
9 semester means you would like it to be open five days a
10 week as opposed to three?

11 A. That's right; yes.

12 Q. Do you think that students are able to do
13 research online through the internet?

14 A. Some can do that.

15 Q. Do they have internet access at school?

16 A. Yes.

17 Q. Through what?

18 A. We have an internet studio.

19 Q. And is this studio open during the school
20 week?

21 A. Yes.

22 Q. You did say it was a computer studio, is
23 that what you called it?

24 A. The internet studio.

25 Q. Sorry. How does the internet studio work?

1 there.

2 Q. Are you allowed to reserve time in the
3 studio for your class?

4 A. Not in the internet studio.

5 Q. The last sentence in paragraph five reads,
6 "And even if I use class time to take them down to the
7 library to start a project, it is nearly impossible for
8 students to finish the project because they have only a
9 few minutes to use the library after classes."

10 A moment ago, you testified that you don't
11 think that the hours of the library are a problem. It
12 is just that you would want the library to be opened
13 more days out of the week. Does that mean that you
14 don't really agree with this last sentence anymore?

15 A. Bottom line is one way or the other,
16 students don't have enough time to use the library. If
17 it was open more during the day, probably wouldn't have
18 to -- I mean, wouldn't have to use after-school time.

19 Q. You think that if the library were open five
20 days a week, the hours would be sufficient, but because
21 they are only open three times a week, the school
22 should leave the library open longer throughout those
23 three days in order to compensate?

24 A. Bottom line is for the students to have
25 adequate access to books, the library needs to be open

1 A. I don't know.

2 Q. Have you ever taken your students to the
3 internet studio?

4 A. I have not taken my students there.

5 Q. Have you ever assigned research projects
6 from which the students complete by using the studio
7 internet?

8 A. No.

9 Q. I take it you don't encourage them then to
10 use the studio to complete any of your research
11 projects?

12 A. If they have it at home, I encourage them to
13 use it, but the internet studio is not there for
14 drop-in.

15 Q. What do you mean by that?

16 A. It is not available for drop-in.

17 Q. In other words, students can't leave your
18 class the way they can for the library and go into the
19 studio and check out the internet; is that correct?

20 A. History classes, mostly English -- some
21 English classes, regular English classes all use the
22 internet studio on a class-by-class basis, so the
23 internet studio -- the internet studio is not always
24 open for use, so students are not -- and I don't know
25 that schedule, but when it is open, whole classes go in

1 five days a week.

2 Q. I understand that is the bottom line, but
3 unfortunately, I need to get a little more specific in
4 order to understand the complaint. It is part of what
5 I have to do.

6 A. That is my complaint.

7 Q. Right. I generally understand that, but I
8 don't specifically understand which you would prefer,
9 if it is -- it is not that you think the students don't
10 get independent access to the library. In other words,
11 you are not so much concerned that it is not open
12 before school or after school because, as you testified
13 earlier, students probably wouldn't be able to use it
14 at those times because of transportation issues. Your
15 concern is that it is not open long enough during the
16 school day?

17 A. That's right.

18 Q. And what you mean by "Long enough," in other
19 words, not sufficient number of days?

20 A. That's right.

21 Q. So getting back to this last sentence in
22 paragraph five, aren't students, after they've checked
23 out textbooks, able to continue the research projects
24 that you've given them?

25 A. Are they able to continue it?

- 1 Q. In other words, what do you mean by "It is
2 impossible for them to finish the research projects?"
3 A. It is nearly impossible for them to finish
4 the project because they have only a few minutes to use
5 the library after classes. It is the nature of the
6 assignment. It might take more time. They have to
7 come early the next morning. They may have to get the
8 information some other way, just the fact the library
9 is not open five days a week so that those youngsters
10 can go in on their lunch break or whenever to use the
11 library. It hampers their ability to get the
12 information that they need.
13 Q. Chances are the student wouldn't be able to
14 finish the library task that you have given them, the
15 research projects, in one class period, correct?
16 A. Depends how well and how quickly and how
17 efficiently they use the library, how much information
18 they feel as though they need to get.
19 Q. From what you've stated in this paragraph,
20 though, in paragraph five, you are indicating that they
21 can't finish their research projects in the class time
22 that they are permitted to do it; is that correct?
23 A. That is --
24 Q. Or do you disagree with paragraph five?
25 A. I agree with paragraph five.

- 1 Q. So regardless of whether the library was
2 open later that evening, they are still going to have
3 to come back to the library the next day the library is
4 open; is that correct?
5 A. It is an individual thing for each student,
6 depending on -- there is possibilities that some
7 students could stay until 4:00 if the library was open.
8 I don't know each and every student's schedule, but I'm
9 saying that our students, by and large, judging by
10 their schedules, judging by the nature of our community
11 and the requirements of their parents and their family,
12 our students -- some can stay, quite a few can't. It
13 just depends, but those who could stay could probably
14 complete more work, more library work.
15 Q. But are they able -- when you give them a
16 research project and they don't finish it during the
17 class time and let's say most of the students don't use
18 the public library, are they able to use the library
19 the following class period that the library is open?
20 How do they finish the research project I guess is what
21 my question is.
22 A. Maybe the next morning; maybe they cut it
23 short.
24 MS. KOTT: Don't guess.
25 THE WITNESS: Don't guess. I don't know.

- 1 MS. KOURY: Q. I guess my question is,
2 you've stated that it is nearly impossible for them to
3 finish their projects. What happens? Do you have your
4 research projects completed for your students or are
5 most of the research projects just begun and not ended?
6 A. I don't know. Whatever the students hand
7 me, that is what I take.
8 Q. So you are not sure if they have sufficient
9 time in the library or not?
10 A. I don't think they have enough time in the
11 library.
12 Q. Do you know how many of your students
13 actually do use the public library?
14 A. No.
15 Q. I'm not sure if I already asked you this,
16 but when your students complain to you that the library
17 is not open when they've tried to use it, have you ever
18 suggested to them to go to the public library?
19 A. Yes.
20 Q. Have you gotten any response from them about
21 that?
22 A. No.
23 Q. Have you ever received a complaint from a
24 parent about the library hours not being sufficient?
25 A. I have not received a complaint.

- 1 Q. Do you know of any complaints from parents?
2 A. I do not know of any complaints of parents.
3 Q. Have you ever complained about the library
4 not being open?
5 A. All the time.
6 Q. To who?
7 A. I've talked to the principal about it.
8 Q. Which principal?
9 A. Mr. Muzinich. "Can't do anything about it.
10 There is no funds."
11 Q. For what? Does he say funds for the
12 librarian?
13 A. Yes.
14 Q. Do you know what, if anything, he has done?
15 A. I don't know what he has done.
16 Q. Have you talked to anyone else besides Mr.
17 Muzinich about the library?
18 A. UTR, United Teachers of Richmond.
19 Q. What have you said to them?
20 A. I've asked them that that be put into
21 contract negotiations.
22 Q. Do you know if they've done anything with
23 that complaint?
24 A. I don't know.
25 Q. Do you know what kind of hours other schools

1 in the district keep for their libraries?
 2 A. I don't know.
 3 Q. How about other schools in other districts?
 4 A. I don't have any clue.
 5 Q. Do you think that the hours that the library
 6 is opened at Helms is less adequate than the hours at
 7 other schools in other districts?
 8 A. Less adequate if they have a full-time
 9 librarian and we don't.
 10 Q. Do you know if there are full-time
 11 librarians in other schools in other districts?
 12 MS. KOTT: Objection. Asked and answered.
 13 MS. KOURY: Q. Do you?
 14 A. I don't know.
 15 Q. Okay. In paragraph six of your declaration,
 16 it states in the first sentence, "Having students do
 17 independent projects is a tremendously valuable
 18 learning experience because it teaches them essential
 19 skills such as how to do research and enables them to
 20 think independently and pursue their own particular
 21 interests."
 22 Do you agree with that statement?
 23 A. Yes.
 24 Q. What do you base that opinion on?
 25 A. I base that opinion on the fact that

1 students also need to learn how to think independently,
 2 make choices, do some comparisons, comparing maybe what
 3 they would like to do some research on among several
 4 possibilities.
 5 Q. Have you ever read any studies or heard of
 6 any other studies supporting that opinion or is this
 7 just your opinion based upon your experience?
 8 A. My opinion based on my experience.
 9 Q. Do you assign independent projects then to
 10 your students quite often?
 11 A. Three or four times a year.
 12 Q. And other than allowing them to do research
 13 in the library, is there any other way that you sort of
 14 expose them to this type of or allow them to complete
 15 their projects? In other words, do you -- we've
 16 already discussed that you encourage them to use the
 17 public library and the internet that they have. Is
 18 there any other way that you expose them to the ability
 19 to research in order to complete these projects?
 20 A. A lot of old National Geographic magazines
 21 in my classroom and every once in a while, they'll ask,
 22 "Has anybody seen anything on Afghanistan in these
 23 magazines? Has anybody ever seen anything on Mexico?"
 24 Whatever.
 25 We usually get topics also out of the Junior

1 Scholastic and they'll say, "What is this? What is
 2 that?"
 3 "Well, here is a topic. See what you can
 4 find on it. I'll give you extra credit. You can write
 5 it out or make an oral report to the class."
 6 Q. Junior Scholastic, is that something the
 7 school subscribes to and the students read during
 8 class?
 9 A. I ask the school to get me a class set every
 10 year.
 11 Q. So you have a class set of it every year?
 12 A. I have had for about the last four or five
 13 years.
 14 Q. In paragraph six, it reads, "I find that
 15 when a student can choose a particular book or subject
 16 to do a report on, this student tends to pick something
 17 that engages him or her in learning more than if the
 18 student simply does a project for the same class" --
 19 "from the same class text as everyone else."
 20 Do you agree with that statement?
 21 A. I do.
 22 Q. Did you write that statement?
 23 A. I wrote that statement -- I didn't write
 24 that statement. Let me say, I expressed my ideas to
 25 Mr. Eliasberg and he wrote it.

1 Q. Is that true for the entire declaration? In
 2 other words, you didn't write anything in this
 3 declaration, but you expressed your thoughts to Mr.
 4 Eliasberg?
 5 A. That is right, as I explained earlier.
 6 Q. Thank you. Getting back to this last
 7 sentence, do you think that -- that this sentence
 8 implies to students generally as opposed to just in
 9 terms of research projects? In other words, do you try
 10 to expose them and engage them generally throughout
 11 your class as opposed to just when assigning them
 12 research projects?
 13 A. Can you make that question more precise,
 14 please?
 15 Q. Do you try to engage your students?
 16 MS. KOTT: Objection. Vague as to "engage."
 17 MS. KOURY: Q. Do you understand the
 18 question?
 19 A. Well, I would like you to rephrase it.
 20 Q. You wrote here that "Students tend to pick
 21 something that engages him or her." Using that word
 22 "engages," which you've used in your declaration, so
 23 whatever you meant by that. I'll let you decide.
 24 A. Interests, interests him or her.
 25 Q. When you try to interest your students, do

1 you try to do that generally throughout your class?
 2 A. Very definitely.
 3 Q. When you assign them to choose a particular
 4 book or a subject to do a report, do they go beyond the
 5 school library when they are trying to choose a
 6 particular subject area?
 7 MS. KOTT: Objection. Calls for
 8 speculation.
 9 THE WITNESS: I don't know.
 10 MS. KOURY: Q. When you -- in this
 11 sentence, are you referring to only the research
 12 projects that you assign them?
 13 A. Which sentence are we talking about?
 14 Q. The same one, the last -- in paragraph six,
 15 "I find that when a student can choose a particular
 16 book or subject to do a report on" --
 17 A. I think that is true for learning and there
 18 is some choice there.
 19 Q. So it is just sort of a general proposition?
 20 A. Yes.
 21 Q. Other than assigning research projects, how
 22 else do you try to get your students interested in
 23 learning?
 24 A. I would do comparison and contrast between
 25 something they might be reading about in their own

1 Q. Have you ever found that a student or
 2 several students becoming interested in a subject area
 3 or particular author and you were not able to provide
 4 them with the books that you thought they should have?
 5 A. They either find it or they don't. It is
 6 either there or it is not there.
 7 Q. I guess my question is, have you ever had
 8 occasion that you see a student that has a particular
 9 interest in either a subject area or an author and you,
 10 in guiding them or directing them to cultivate that
 11 interest, you were unable to find the books or you
 12 couldn't find a book for them that would continue that
 13 interest?
 14 A. Sometimes they want to choose a particular
 15 book because they've heard about it and it is already
 16 checked out. They say, "Who is this here?"
 17 And I'll say, "Let's go look it up."
 18 And they get the number and they go there
 19 and it is already checked out, that kind of thing.
 20 Q. What happens then?
 21 A. I say, "Go and look and see in a couple
 22 weeks if the book might have come back and you can
 23 check it out then."
 24 Q. Other than that situation which you
 25 described, is there any other type of situation that

1 lives. It is kind of an eye opener for them,
 2 especially when you are doing Island of the Blue
 3 Dolphin, life styles.
 4 Q. What about when a student chooses a book or
 5 has an interest in a particular subject, do you ever
 6 encourage them to continue with another book or suggest
 7 another book they should read from that book?
 8 A. If you find an author that has good
 9 information, definitely choose from that author again.
 10 Q. How do you do that? In other words, where
 11 do you get the books from that same author?
 12 A. In the library. Some kids are interested in
 13 early airplanes; some are interested in armor; some are
 14 interested in space exploration. You go to the
 15 non-fiction. Some are interested in magic. You go to
 16 the non-fiction --
 17 Q. So --
 18 A. -- section of the library and check out to
 19 your heart's content, if it is there.
 20 Q. Do you think it is important to sort of
 21 direct the students and give them some guidance in
 22 figuring out their particular interests and helping
 23 them to cultivate their particular interests as opposed
 24 to -- well, I'll leave it at that.
 25 A. Sure.

1 you recall when a student has wanted to explore a
 2 particular subject or author and was unable to do so?
 3 A. No.
 4 Q. Also in paragraph six, it states that,
 5 quote, "Because the library access is so restricted at
 6 Helms, students lose out on these valuable
 7 opportunities," end quote.
 8 What are you referring to when you say,
 9 "These valuable opportunities"?
 10 A. Well, if the student would like to go and
 11 look up something on Monday, the library isn't open
 12 until Thursday, middle school kids are kind of
 13 interesting. Lots of things jump in on their lives.
 14 They have a burning desire on Monday, but by Thursday,
 15 maybe something has taken its place, so they don't --
 16 you know, you have to strike when the iron is hot with
 17 middle school kids.
 18 Q. Again, these valuable opportunities that
 19 they are missing out on refers back to the fact the
 20 library is not open five days a week?
 21 A. That's right.
 22 Q. Paragraph seven states that "Students at
 23 Helms are from primarily lower socioeconomic
 24 backgrounds and many of their parents do not speak
 25 English. They tend not to have access to a variety of

1 books that are written in English at their homes.
 2 These students are the ones who would benefit the most
 3 from being able to use the library at Helms. Yet at
 4 Helms, they have little opportunity to do so."
 5 Do you think that -- do you agree with this
 6 statement?
 7 A. I do.
 8 Q. Do you think that your students are able to
 9 check out books from the library and take them home and
 10 read them?
 11 A. Yes.
 12 Q. Do you think that that exposes them to this
 13 type of variety of books as you are indicating in your
 14 declaration?
 15 A. They -- yes, they can get these books in the
 16 library.
 17 Q. Do you encourage them to take these books
 18 home that they get from the library and read them as
 19 pleasure reading?
 20 A. Absolutely.
 21 Q. Do you think they actually do that?
 22 A. I don't know.
 23 Q. Do you have any feedback from the parents as
 24 to whether this is helpful, them taking these books
 25 home and reading them at home?

1 A. No.
 2 Q. Have you ever heard of students complaining
 3 from not being able to take certain library books home
 4 to read them at home?
 5 A. Once they check a book out, they are able to
 6 take a book home. You are supposed to take the book
 7 home.
 8 Q. Do you teach them how to get library cards
 9 from the school?
 10 A. We don't have library cards at our school.
 11 Q. Do you ever discuss library cards at the
 12 public library?
 13 A. That is an opening assignment that I give my
 14 students. I give them about a week to do it.
 15 Q. How does that work?
 16 A. I ask them, "Do you have a library card?"
 17 Almost nobody does. I say, "By such and such a date,
 18 you have to have a library card." I check them off in
 19 my grade book.
 20 I say, "Ask your parents in a nice way to
 21 take you there and invite them in with you so you get a
 22 chance to see what a nice place the public library is."
 23 I want them to know it is a friendly place.
 24 Q. That assignment obviously gets them into the
 25 public school library. That is the only way to

1 complete --
 2 A. It not the public school library, the public
 3 library.
 4 Q. I'm sorry. I misspoke.
 5 A. Yes, I get about 90 percent library cards
 6 that way.
 7 Q. Do you have any assignments that they have
 8 to check out books from the public library?
 9 A. No, I tell them to use the library if there
 10 is something they are looking for and our library
 11 doesn't have it or they can't get into the library,
 12 then I tell them to use the public library.
 13 Q. This obviously exposes them to books in
 14 English as well in the public library; is that correct?
 15 A. If they get their parents to take them. The
 16 library card assignment -- because I give them a whole
 17 week to get it because frequently, they do need their
 18 parents to take them there, so I give them some time to
 19 do that.
 20 Also, one of the things I have students do
 21 is a book report, a pretty extensive book report, so if
 22 they are absent on the day the class goes to the
 23 library, about every three weeks as I had stated, they
 24 don't get a book. It might be Friday and then they
 25 can't get a book Monday, Tuesday, or Wednesday of the

1 next week. They are almost a week behind in reading a
 2 book for their book report.
 3 Q. Has that ever happened?
 4 A. Yes.
 5 Q. What do you do? Does the student end up
 6 being a week behind?
 7 A. Well, the student maybe doesn't get in a
 8 book report or it is haphazard or less quality.
 9 Q. Are you ever able to check out a book for
 10 the student and assign him or her a book?
 11 A. No.
 12 Q. Is that -- why is that?
 13 A. Because if you check out -- if teachers
 14 check out books and hand them over to the students,
 15 they are liable for that book. I mean, you would like
 16 to think students are can bring the book back. My
 17 students come from broken homes. Different people
 18 bring them to school. Sometimes they come under
 19 stress. They leave the books in other people's cars.
 20 They run to school. They drop the book.
 21 Q. All these things are out of your control,
 22 right?
 23 A. Right.
 24 Q. When you state here, "These students are the
 25 ones who would benefit most from being able to use the

1 library. Yet at Helms, they have little opportunity to
 2 do so," this doesn't take into consideration the
 3 student's ability to use the public library or to have
 4 access to books through other avenues outside? You are
 5 referring only to the library at the school; is that
 6 correct?
 7 A. I'm referring to the library at the school.
 8 Q. You described a little earlier to me the
 9 setup of the main building and you said the main
 10 building has two stories; is that correct?
 11 A. That's correct.
 12 Q. What is on the first floor?
 13 A. Classrooms and administrative office, book
 14 room, and library.
 15 Q. What about the second floor?
 16 A. Classrooms and did I mention classrooms on
 17 the first floor also?
 18 Q. Is there also a building named the 400
 19 building?
 20 A. Yes.
 21 Q. What is in that building?
 22 A. Art rooms and then this new student/parent
 23 center that I described to you. That is the Helms
 24 Community Project.
 25 Q. Is there anything else in that building?

1 A. No, there is just four large rooms.
 2 Q. There is also a cafeteria; is that correct?
 3 A. That's correct.
 4 Q. And a gym?
 5 A. Yes.
 6 Q. Are there any other buildings?
 7 A. The band room.
 8 Q. Where is the band room?
 9 A. Behind the 400 rooms.
 10 Q. Any other building I've missed?
 11 A. Portables.
 12 Q. How many portables are there?
 13 A. A minimum of six.
 14 Q. Are these portables classrooms?
 15 A. Yes.
 16 Q. Do they have bathrooms in them?
 17 A. No.
 18 Q. Paragraph eight of your declaration states,
 19 "The physical condition of the school is a disaster
 20 which makes it unsightly and unsafe for everyone at the
 21 school."
 22 Do you agree with that statement?
 23 A. I do.
 24 Q. Are you referring to the leaks and water
 25 stains and the floor tiles that are described in the

1 declaration?
 2 A. Yes.
 3 Q. Are you referring to anything else?
 4 A. Slippery floors.
 5 Q. Anything else?
 6 A. Mold.
 7 Q. Anything else?
 8 A. Asbestos.
 9 Q. Anything else?
 10 A. The danger of broken glass blocks. I mean,
 11 they've been known to pop out pieces of glass. I
 12 wonder about the weightbearing. I don't know if they
 13 are going to hold up. They are all cracked.
 14 Q. Anything else?
 15 A. That is it for now.
 16 Q. Let me know if anything else --
 17 A. I will.
 18 Q. -- pops up. Okay.
 19 The next sentence states, "There are
 20 terrible problems with leaks in the main building as
 21 well as in other buildings of the campus;" is that
 22 correct?
 23 A. Yes.
 24 Q. Are there still leaks in the main building
 25 today or this school year?

1 A. Let's wait until it rains. I'll get back to
 2 you on that one.
 3 Q. To your knowledge --
 4 A. Yes.
 5 Q. I haven't finished the question.
 6 A. Sorry.
 7 Q. That is okay. To your knowledge, have any
 8 of the roofs in the main building been fixed in the
 9 last year?
 10 A. No.
 11 Q. Are you familiar with any plans of the
 12 school to fix the roof in the main building?
 13 A. It was mentioned last spring that the roof
 14 would be fixed over the summer.
 15 Q. Do you know if it was fixed over the summer?
 16 A. It wasn't.
 17 Q. Do you know why it wasn't?
 18 A. I think the issue -- well, money, but I --
 19 okay. Money.
 20 Q. What do you base that opinion -- did someone
 21 tell you that there wasn't enough money to fix the
 22 roof?
 23 A. Well, I alluded to a big meeting that the
 24 maintenance supervisors came to Helms and talked about
 25 and at that time, they mentioned that they were on the

1 books to get a new roof, but there was some -- but
 2 there was some speculation as to whether the money
 3 would be there.
 4 Q. When was that meeting again? May of last
 5 year?
 6 A. Yes.
 7 Q. So based on the speculation at the meeting,
 8 you believe that the reason why these repairs didn't
 9 occur over the summer was because of the lack of money?
 10 A. Yes.
 11 Q. Are you familiar with any critical hardship
 12 grants that Helms may have?
 13 A. No.
 14 Q. Have you ever heard of Helms applying for
 15 critical hardship grants?
 16 A. I'm not familiar with titles. I know the
 17 principal has mentioned a plan for this grant or that
 18 grant, but I don't recall the titles.
 19 Q. Other than this meeting in May with the
 20 maintenance officers this past school -- or this school
 21 year meeting 2001/2002, have you talked to anyone about
 22 whether or why the repairs didn't happen over the
 23 summer?
 24 A. No.
 25 Q. Have you heard anyone else talking about it?

1 A. Just teachers among themselves saying, "Oh,
 2 well, that is par for the course. No new roof."
 3 Q. Has anyone complained to the district about
 4 it, the fact these repairs didn't occur?
 5 A. I don't know. The district must know.
 6 Q. When you state at the end of that sentence
 7 in paragraph eight, "In the main building, as well as
 8 in other buildings on the campus," what do you mean by
 9 "Other buildings"?
 10 A. The gym because I've heard Mr. Rau talk
 11 about the leaks in the gym.
 12 Q. Any other building?
 13 A. 400 building has mold on the wall.
 14 Q. Any other?
 15 A. Those are the only ones that I know about.
 16 Q. Do you know if the gym received a new roof
 17 recently?
 18 A. Something happened to the gym so that I
 19 think the leaks have been abated.
 20 Q. Why do you think that?
 21 A. Because we got a new floor in there.
 22 Q. Why do you think the leaks have been abated
 23 because -- I don't see the connection between the new
 24 floor and the fact the roof has been abated.
 25 A. Well, I'm not supposed to speculate, but it

1 would seem kind of stupid to put in a new floor if you
 2 are going to have lots of water coming down on it, but
 3 our district has been known to do such not bright
 4 things.
 5 Q. Have you been in the gym since December of
 6 2000?
 7 A. Yes.
 8 Q. Have you noticed a new roof in the gym?
 9 A. No.
 10 Q. Would it surprise you to know that a new
 11 roof was put on the gym?
 12 A. Would it surprise me?
 13 Q. Yes.
 14 A. To know?
 15 Q. Yes.
 16 A. I would feel relief that something was
 17 getting done.
 18 Q. Have you heard of any leaks in the roof this
 19 past school year meaning since December 2000?
 20 MS. KOTT: In the gym?
 21 MS. KOURY: In the gym.
 22 THE WITNESS: No.
 23 MS. KOURY: Q. When was the last time that
 24 you had heard about leaks in the gym?
 25 A. When was the last time?

1 Q. Yes.
 2 A. I'm not sure.
 3 Q. Do you think it was in the '99/2000 school
 4 year that there were leaks in the roof?
 5 A. Yeah.
 6 Q. You signed the declaration -- this
 7 declaration in May 2000, correct?
 8 A. Correct.
 9 Q. Do you think that there were leaks in the
 10 gym prior to May 2000?
 11 A. Yes.
 12 Q. And you think that based on some knowledge
 13 that you have, correct, some knowledge of leaks
 14 occurring in the gym?
 15 A. I don't go to the gym real often, but I know
 16 it was a pretty consistent complaint of Mr. Rau's.
 17 Q. Did you ever hear Mr. Rau complain that
 18 anyone was injured in the gym because of leaks?
 19 A. No.
 20 Q. Did you ever hear him complain that he had
 21 to cancel class in the gym?
 22 A. Yes, I can't be real specific, but --
 23 Q. Other than what you've already testified to
 24 before lunch about Mr. Rau's complaints about the gym,
 25 is there anything else that you recall that he

1 complained about or any other types of complaints he
 2 made regarding the leaking roof in the gym?
 3 A. No.
 4 Q. And the 400 building, you recall leaks
 5 occurring in that building?
 6 A. I've subbed in that room. I haven't been
 7 there on a rainy day, but I know there is mold on that
 8 in 401 because I've seen it.
 9 Q. When was the last time you saw that?
 10 A. Probably two years ago. Two years ago.
 11 Q. So you don't know if it has been fixed or
 12 removed since then?
 13 A. No.
 14 Q. No, you don't know?
 15 A. I don't know.
 16 Q. Do you know if the 400 building received a
 17 new roof recently?
 18 A. Overhearing conversation, I think yes.
 19 Q. But you are not sure?
 20 A. No.
 21 Q. In the main building last year during the
 22 rainy season, were there leaks?
 23 A. Yes.
 24 Q. What would happen when it would leak?
 25 A. Well, the water would accumulate on the

1 A. The hallway, they've asked the students --
 2 students are directed to use other entrance hallways
 3 now.
 4 Q. Is this the first floor or second floor?
 5 A. First floor.
 6 Q. How about the second floor of the main
 7 building, is there also leaks on the second floor?
 8 A. There are leak marks on the wall. I don't
 9 teach up there, so I don't know how much accumulates on
 10 the floor.
 11 Q. Have you ever heard anyone complain about
 12 the leaks on the second floor?
 13 A. General statements. I don't --
 14 Q. Just that it is leaking?
 15 A. Yes.
 16 Q. But not --
 17 A. You can see on the walls where it is
 18 leaking.
 19 Q. Do you actually see it wet on the walls or
 20 do you just see stains on the walls?
 21 A. I see stains because I don't run up there in
 22 a storm to check and see if the walls are wet or not.
 23 Q. But you've generally seen stains when you
 24 are up there?
 25 A. Oh, yeah. There are stains up there.

1 floor. They would put waste baskets there to collect
 2 or down the main corridor where my classroom was, as I
 3 stated here, water came down the walls and it just
 4 pooled in the hallway.
 5 Q. Is it accurate to say in your declaration,
 6 it states, "It was flooded about one-fourth inch of
 7 water;" is that accurate?
 8 A. Yeah, that is accurate.
 9 Q. And also in your declaration, it states that
 10 you saw students run and slide through the water?
 11 A. Very definitely.
 12 Q. What would you do when you would see the
 13 students do that?
 14 A. "Please don't do that." I told them,
 15 "Please don't do that. It is dangerous."
 16 Q. Did you ever see a student get hurt?
 17 A. Did anybody get hurt?
 18 Q. Yes.
 19 A. No.
 20 Q. Other than putting out the waste baskets,
 21 was anything else done to --
 22 A. They don't have the students coming in at
 23 that doorway anymore.
 24 Q. The doorway that had water coming through
 25 it?

1 Q. Have you ever heard anyone complain about
 2 the water on the floor being quite -- for example,
 3 one-fourth of an inch of water on the floor as well?
 4 A. Up there?
 5 Q. Correct.
 6 A. No. I don't know if there is one-fourth
 7 inch of water up there or not.
 8 Q. Have you seen this past school year, meaning
 9 2000/2001, was there ever a time when the custodians
 10 would have to vacuum the water from the main building?
 11 A. Yes.
 12 Q. Is that something that tends to happen each
 13 school year?
 14 A. A lot depends on the wind and how it pounds
 15 in and from what direction, I guess the quantity of
 16 rain. He always has to vacuum every year.
 17 Q. How often does he do it during the school
 18 year?
 19 A. Three, four times a year.
 20 Q. How long does it take him to vacuum?
 21 A. I don't know. Busy teaching my class. I'm
 22 a little off that beaten track now, so I used to be
 23 right in that main hallway where the water accumulated.
 24 Q. This past school year, 2000/2001, where were
 25 you?

1 A. I'm -- I was in the room I'm in now.
 2 Q. Which is what?
 3 A. 16.
 4 Q. Where is that? In the main building?
 5 A. Yes.
 6 Q. First floor?
 7 A. Yes.
 8 Q. Where did he vacuum, the custodian?
 9 A. In the 121, 122, 123, kind of right around
 10 the corner from where I'm at.
 11 Q. So is the leaking throughout the main
 12 hallway on the first floor where you are at or is it
 13 only in one specific area where he vacuums?
 14 A. Mostly in the 121, 122, 123, 124. There is
 15 also leaks on the stairway. There's leaks on the
 16 entryway. That is where they put the baskets to
 17 collect it and the asbestos tiles are getting cracked
 18 and getting kicked up, plus falling from the ceiling.
 19 Q. Have you ever heard anyone complain about
 20 the vacuum?
 21 A. Me, I did.
 22 Q. Was that when you were in the 121, 122 area?
 23 A. Yes.
 24 Q. What school year was that?
 25 A. '96, '97, '98.

1 Q. How long did he vacuum for, do you remember?
 2 A. A couple periods, depending on the quantity
 3 of water that is there.
 4 Q. That is a few times a year? A couple times
 5 a year, did you say?
 6 A. Probably not more than five.
 7 Q. In paragraph ten, it reads, quote, "The
 8 walls and ceilings throughout the school are stained
 9 with watermarks giving the whole school a decrepit
 10 feeling."
 11 Do you think that is true?
 12 A. Yes.
 13 Q. Is that still true today?
 14 A. Yes.
 15 Q. Have you ever received any complaints from
 16 your students about it?
 17 A. No.
 18 Q. How about parents?
 19 A. How do parents feel about that?
 20 Q. Have they ever told you anything about that?
 21 A. No.
 22 Q. How about other teachers?
 23 A. They are concerned.
 24 Q. What do you mean by "Concerned"?
 25 A. Well, teachers remark that the school

1 doesn't look good. "Well, Helms, it is the dump of the
 2 district," that kind of thing. "Just have to put up
 3 with it."
 4 Q. Do you think other teachers feel as if other
 5 schools in the district are in better condition than
 6 Helms?
 7 A. Yes, I think they feel that.
 8 Q. Do you feel that way?
 9 A. I feel that way.
 10 Q. How would you feel about being transferred
 11 from the school you are at now at Helms to another
 12 school in the district against your choice?
 13 A. Against my choice?
 14 Q. Uh-huh.
 15 A. I wouldn't like it.
 16 Q. Do you think other teachers in the district
 17 should have to be transferred to Helms to teach at
 18 Helms?
 19 A. Should they have to be against their choice?
 20 Q. Yes.
 21 A. No.
 22 Q. Do you think that would cause some teachers
 23 to quit if they had to transfer from one school to
 24 another within the district?
 25 MS. KOTT: Objection. Calls for

1 speculation.
 2 MS. KOURY: Based on your experience as a
 3 teacher for the last 12 years.
 4 THE WITNESS: Then I would ask to be
 5 transferred out again if it was a health matter, which
 6 one of my colleagues just did this year.
 7 MS. KOURY: Q. Okay. Why was a colleague
 8 -- you said a colleague was asked or asked to transfer
 9 because of a health condition --
 10 A. Mold counts.
 11 Q. Let me finish my question.
 12 A. I thought you finished. Sorry.
 13 Q. I wasn't. Where was the mold?
 14 A. In her classroom.
 15 Q. Which classroom?
 16 A. In the 230s, I think.
 17 Q. Do you know when she first complained about
 18 the mold in the 230s?
 19 A. Last spring.
 20 Q. Do you know who she complained to?
 21 A. Mr. Muzinich.
 22 Q. Was anything done after she complained?
 23 A. No.
 24 Q. Is the 230s, is that in the main building?
 25 A. Yes.

- 1 Q. When did she ask to get transferred?
 2 A. As soon as the listing for vacancies got
 3 posted.
 4 Q. When was that?
 5 A. The first one is posted sometime, I think,
 6 in April or May.
 7 Q. Of last school year?
 8 A. (Witness nods head.)
 9 Q. Is that yes?
 10 A. Yes.
 11 Q. Do you know if anything was done regarding
 12 this mold problem in the 230s?
 13 A. No --
 14 Q. Have you ever --
 15 A. -- I don't know if anything has been done.
 16 Q. Have you ever asked anyone?
 17 A. I haven't asked anyone.
 18 Q. Have you heard anything about --
 19 A. No.
 20 Q. Have you heard anything about it since your
 21 colleague asked to be transferred last spring?
 22 A. No.
 23 Q. Have you been in this classroom, the 230s,
 24 this school year?
 25 A. Not this school year.

- 1 Q. When is the last time you were in it?
 2 A. About two years ago.
 3 Q. Other than -- what is your colleague's name?
 4 A. Ms. Frifeld.
 5 Q. Other than the complaint from Ms. Frifeld,
 6 do you know of any other complaints of mold in the
 7 classrooms or in the building?
 8 A. No.
 9 Q. Have you ever experienced any mold in the
 10 buildings at Helms?
 11 A. Yes.
 12 Q. Which building?
 13 A. The room I moved into had moldy drapes,
 14 which the custodian even commented on, and out of the
 15 goodness of his heart, he took them down and after the
 16 drapes were taken down, there were great mold streaks
 17 on the walls.
 18 Q. Which classroom is this in?
 19 A. Room 16.
 20 Q. When did you first notice the mold? What
 21 school year?
 22 A. When the drapes came down. About three
 23 years ago when I first went into that room, about six
 24 months after I went in there, the drapes came down, so
 25 then there was that mold on the wall and the following

- 1 April, we had our annual clean-up day and the parents
 2 were nice enough to come in there and paint the room
 3 for me.
 4 Q. So did -- going back to what you stated,
 5 there was mold on the drapes which the maintenance or
 6 the custodian took the drapes down, correct?
 7 A. Correct.
 8 Q. And you noticed mold on the walls, correct?
 9 A. Yes.
 10 Q. And later that spring, the parents painted
 11 the walls?
 12 A. Yes.
 13 Q. Do you know if the mold was taken off?
 14 A. I don't know.
 15 Q. So you -- are you still in the building?
 16 A. Yes, room 16.
 17 Q. Do you have any reason to believe there is
 18 still mold in that classroom?
 19 A. I don't know. I don't have any reason to
 20 believe it. The mold, maybe they put -- speculation --
 21 anti-mold paint over it. I don't know.
 22 Q. Has anyone else complained about mold in
 23 that classroom since you've been in there?
 24 A. No.
 25 Q. Other than the situation in classroom 16,

- 1 which you just described, and the complaint about the
 2 mold in the 230 classroom, are there any other
 3 classrooms at Helms or any other buildings at Helms
 4 that you know of that have had complaints about mold?
 5 A. That room 401 had mold.
 6 Q. How do you know that?
 7 A. Because that is the room I had substitute
 8 taught in and Ms. Schrapf, the teacher in there, had
 9 problems with that.
 10 Q. When was that again?
 11 A. '96, '97, '98.
 12 Q. Do you know if anything was done about those
 13 complaints about mold in the 401 classroom?
 14 A. I don't know.
 15 Q. Did Ms. Schrapf ever tell you that she
 16 complained to anyone?
 17 A. Yes, she complained to the principal. She
 18 told me that she filed a grievance.
 19 Q. Do you know if anything came of the
 20 complaints she made?
 21 A. I don't know.
 22 Q. Do you know if there is still mold in that
 23 classroom today?
 24 A. I haven't been in there.
 25 Q. Have you heard of anyone talk about there

1 being mold in that classroom as of this school year?
 2 A. Not this school year.
 3 Q. How about last school year?
 4 A. They talked about it last year.
 5 Q. What did you hear last year?
 6 A. There was mold on the wall.
 7 Q. From who?
 8 A. Ms. Schrampf and the -- I heard the kids
 9 talk about it, too.
 10 Q. Do you know if the 400 building got new
 11 floors, the classrooms in the 400 building got new
 12 floors?
 13 A. I only know about 404.
 14 Q. Excuse me?
 15 A. I only know about 404. The Helms Community
 16 Project building, that one has new floor tiling.
 17 Q. Is 401 the art room?
 18 A. Yes.
 19 Q. Do you know if the art room got new floors?
 20 A. I don't know. I haven't been in there.
 21 Q. Do you know -- I think I may have already
 22 asked this -- whether 401 got a new roof? Have you
 23 heard anything about that?
 24 A. I've heard that whole building got a new
 25 roof.

1 Q. Do you know whether it got a new roof?
 2 A. No.
 3 Q. Other than the complaints about the mold in
 4 the 401 classroom last school year, did you hear
 5 anything else about the -- this mold situation in the
 6 401 classroom?
 7 A. No.
 8 Q. And you haven't heard anything about it this
 9 school year?
 10 MS. KOTT: Objection. Asked and answered.
 11 MS. KOURY: Q. Is that no?
 12 A. I haven't heard any complaints about it this
 13 year.
 14 Q. Other than the 401 classroom we just
 15 discussed, room 16, and room 230, are there any other
 16 classrooms or buildings at Helms that have had a mold
 17 situation that you've heard of?
 18 MS. KOTT: Misstates prior testimony. She
 19 didn't say it was necessarily room 230. She thought it
 20 was somewhere in the 230s.
 21 MS. KOURY: You can go ahead and answer.
 22 THE WITNESS: In the cooking room that I
 23 mentioned previously.
 24 MS. KOURY: Q. When you say, "Mentioned
 25 previously," do you mean the cooking room we discussed

1 before lunch?
 2 A. Yes.
 3 Q. Do you know if -- what room number is the
 4 cooking room?
 5 A. 242.
 6 Q. Is that in the main building then?
 7 A. Yes.
 8 Q. Second floor?
 9 A. Yes.
 10 Q. When is the last time you heard about mold
 11 in the cooking room?
 12 A. Last year.
 13 Q. How did you hear about the complaints?
 14 A. I bring it up every once in a while with Ms.
 15 Rosenberg.
 16 Q. Do you know if anything has been done
 17 regarding the mold in that classroom?
 18 A. She told me this fall nothing had been done,
 19 so they decided, with the help of the custodian, to get
 20 a ladder and climb up there and put tape over it to
 21 help it -- to keep it from crackling off and getting in
 22 their cooking pans and on the stove.
 23 Q. Help what from falling off?
 24 A. The paint that peels and crackles off.
 25 Q. What about mold?

1 A. That too.
 2 Q. Where is it that there is mold in that
 3 classroom?
 4 A. In the same area where the paint is
 5 crackling off, there is mold. There is discoloration.
 6 There is everything up there.
 7 Q. Do you know if she has asked anyone to come
 8 and check out the mold?
 9 A. She has filed grievances.
 10 Q. Other than this room 242, room 16, room 401,
 11 and what you believe is -- you are not sure -- room
 12 230, are there any other classrooms or other buildings
 13 with mold situations at Helms?
 14 A. Not that I know of.
 15 Q. Have you ever heard or do you know whether
 16 Helms has had any air quality testing done to its
 17 school?
 18 A. There was an air quality testing.
 19 Q. Do you know when?
 20 A. Early last spring.
 21 Q. Do you know why that was done?
 22 A. Because Ms. Frifeld mentioned it to the
 23 principal.
 24 Q. What do you mean, she mentioned it to the
 25 principal?

1 A. She told him there was mold in the room and
 2 it was affecting her health.
 3 Q. Do you know who caused the air testing to
 4 occur?
 5 A. No.
 6 Q. Do you know what the results were?
 7 A. No.
 8 Q. Did you ever ask anyone?
 9 A. No.
 10 Q. In paragraph 11 of your declaration, it
 11 states, "The floor tiles at the front of the main
 12 building are cracked and open;" is that correct?
 13 A. Yes.
 14 Q. Is that true today?
 15 A. Yes.
 16 MS. KOTT: Excuse me. Did you say "open"
 17 or --
 18 MS. KOURY: I'm sorry, "Cracked or broken."
 19 I must have dyslexia, "broken."
 20 Q. Where is that? Is that on the first floor
 21 or the second floor?
 22 A. First floor.
 23 Q. And how far -- how far and how wide is that
 24 that there are broken floor tiles?
 25 A. Probably 12 feet wide and 24 to 30 feet

1 long.
 2 Q. Are there any of the floor tiles sticking up
 3 or out or are they simply cracked?
 4 A. Some were. A lot of them were cracked, a
 5 few were starting to stick up and break off and those
 6 few have been replaced.
 7 Q. So there is some cracked tiles, but any of
 8 the ones that were broken have been fixed?
 9 A. They put in -- yeah.
 10 Q. Is that correct?
 11 A. The ones that are broken off were in pieces,
 12 they replaced those five or six of them.
 13 Q. So you can't see any broken tiles on the
 14 floor anymore?
 15 A. Not totally broken, lots of cracked ones,
 16 but not totally broken.
 17 Q. When were they replaced, the ones that were
 18 broken?
 19 A. Last spring.
 20 Q. Do you know why they were replaced?
 21 A. It was a danger.
 22 Q. Did anyone ever fall?
 23 A. Not that I know of.
 24 Q. Was anyone ever injured by them?
 25 A. No, but I don't think people have to be

1 injured before dangerous situations get fixed.
 2 Q. What do you mean by "Dangerous situations"
 3 then?
 4 A. Things people could trip over.
 5 Q. So it created a risk?
 6 A. It created a risk just like the water in the
 7 hallway.
 8 Q. Do you think the cracks right now are a
 9 risk?
 10 A. If they are exuding asbestos, they are.
 11 Q. Your next sentence states, "I'm pretty
 12 certain the tiles contain asbestos, but nothing has
 13 been done to repair or remove them;" is that correct?
 14 Do you agree with that statement?
 15 A. Yes.
 16 Q. Why do you think there is asbestos? What do
 17 you base that opinion on?
 18 A. I base that opinion on the fact that they
 19 are old tiles and articles I've read talk about old
 20 tiles have asbestos in them and because that school is
 21 about 50 years old.
 22 Q. Do you know if anyone else has that same
 23 concern as you?
 24 A. Lots of people have that concern.
 25 Q. How do you know that?

1 A. The custodian has voiced his concern about
 2 that.
 3 Q. Where has he voiced that concern?
 4 A. To me.
 5 Q. To anyone else?
 6 A. General comments among the teachers, "Oh,
 7 well, here, no, the floor hasn't been fixed yet. Still
 8 at risk here." That kind of stuff.
 9 Q. Do you know if anyone has tested the tiles
 10 to see if there is asbestos?
 11 A. I don't know.
 12 Q. Do you know if anyone has complained to the
 13 district?
 14 A. Mr. Giovannini, the counselor, has filed
 15 grievances.
 16 Q. How do you know that?
 17 A. He showed them to me.
 18 Q. Filed grievances with the district?
 19 A. Yes.
 20 Q. Do you know if the district has followed up
 21 with those grievances?
 22 A. They haven't.
 23 Q. How do you know that?
 24 A. The tiles haven't been replaced on the floor
 25 and the old dirty ones that are fallen loose because

1 they are so water damaged are still hanging from the
 2 ceiling.
 3 Q. Let's talk about the floor tiles for a
 4 minute. Do you remember the first time you noticed
 5 that they were broken?
 6 A. When I first came to that school in '92.
 7 Q. Have they been -- other than -- you said
 8 some of them were replaced this past spring?
 9 A. Yes.
 10 Q. Other than this past spring, was there any
 11 other time they've been replaced?
 12 A. No.
 13 Q. And to your knowledge, no one has tested for
 14 asbestos at this school?
 15 A. That is right.
 16 Q. To your knowledge, has anyone complained of
 17 any medical problems related to asbestos --
 18 A. No.
 19 Q. -- since the time you've gotten to the
 20 school?
 21 A. No.
 22 Q. You were indicating that there are roof
 23 tiles hanging from the main building?
 24 A. Ceiling tiles.
 25 Q. Sorry, ceiling tiles and where is that

1 Q. So there is no classrooms directly around
 2 the area where the ceiling tiles are falling?
 3 A. No.
 4 Q. I'm sorry?
 5 A. No.
 6 Q. Have you ever heard -- have you complained
 7 to anyone about the ceiling tiles?
 8 A. I signed the grievance with Mr. Giovannini.
 9 Q. Who is Mr. Giovannini?
 10 A. He is a counselor.
 11 Q. You signed -- oh, was he filing the
 12 grievance with the district and you signed it as well?
 13 A. Yes.
 14 Q. Do you know -- do you remember when that
 15 was?
 16 A. Last spring.
 17 Q. Do you know what happened to it, the
 18 grievance?
 19 A. No.
 20 Q. Did you ever ask him what happened to the
 21 grievance?
 22 A. No, he doesn't know either because he just
 23 keeps saying, "JT" --
 24 Q. Who is JT?
 25 A. (Witness points).

1 located?
 2 A. In the main hallway above these broken floor
 3 tiles on the second floor at the top of the big
 4 stairway.
 5 Q. Is that still true today?
 6 A. Yes.
 7 Q. Do you know if there is any plans by the
 8 school to fix the ceiling tiles?
 9 A. I don't know.
 10 Q. Have you ever heard of anyone discussing
 11 plans to fix the ceiling tiles?
 12 A. No, I have not.
 13 Q. Have you ever heard or do you have any
 14 knowledge of anyone being injured from the ceiling
 15 tiles falling?
 16 A. No.
 17 Q. Do you know if the ceiling tiles do fall?
 18 A. They are hanging by a thread. Some are not
 19 there, so they must have fallen. The teacher's room
 20 also is missing ceiling tiles.
 21 Q. Is this -- other than the ceiling tiles in
 22 the teacher's room, the ceiling tiles in the hallway,
 23 is this the hallway where classrooms are located or
 24 where the main office is or office rooms are?
 25 A. The hallway is where the main office is.

1 "When are we going to get this thing fixed?"
 2 Sort of a joke.
 3 "You tell me."
 4 Q. Paragraph 12 states, "Part of the wall of
 5 the hallway outside of my present classroom is made of
 6 glass bricks;" is that correct?
 7 A. Yes.
 8 Q. Is that still correct today?
 9 A. They are cracked.
 10 Q. Is that still correct today? In other
 11 words, is that still correct that your classroom is
 12 near these glass bricks?
 13 A. Tell me again.
 14 Q. Your classroom today that you are teaching,
 15 is it also the same classroom? In other words, you are
 16 near the glass bricks?
 17 A. The glass bricks are across the hall from
 18 the entrance to my classroom.
 19 Q. The next sentence reads, "Unfortunately,
 20 some of those bricks have been broken for eight or nine
 21 years, leaving jagged exposed edges that the students
 22 could cut themselves on."
 23 Is that the situation still today?
 24 A. No.
 25 Q. How is that?

1 A. The lower ones where students usually walk
 2 along and drag their hands, the school has found opaque
 3 plastic plates. Maybe they are made by the glass brick
 4 company, I don't know. And they've glued them over the
 5 broken glass bricks at the student level.
 6 Q. What about above the student level?
 7 A. Nothing.
 8 Q. How does it look there above the student
 9 level?
 10 A. Bad and dangerous.
 11 Q. What do you mean by that?
 12 A. Because some of the glass bricks are --
 13 parts have popped out of them.
 14 Q. Are they jagged edges?
 15 A. Yes, but they are not within the reach of
 16 students.
 17 Q. Do you know if there is any plans to fix --
 18 to further fix the glass bricks?
 19 A. I don't know of any.
 20 Q. Have you ever heard of any grants being
 21 proposed to fix them?
 22 A. No.
 23 Q. Have you ever heard any complaints about
 24 these glass bricks?
 25 A. No.

1 Q. Have you ever complained about them?
 2 A. Yes.
 3 Q. To who?
 4 A. Principal.
 5 Q. Principal?
 6 A. Principal before Mr. Muzinich.
 7 Q. What happened when you complained to that
 8 principal?
 9 A. She just said, "I know."
 10 Q. Who was that principal?
 11 A. Linda Linear.
 12 Q. She just said, "I know"?
 13 A. (Witness nods head.)
 14 Q. Did she do anything else, do you know?
 15 A. No.
 16 Q. Do you know if she ever asked the district
 17 to fix it?
 18 A. I don't know.
 19 Q. Did you ever ask or talk to anyone at the
 20 district about it?
 21 A. No.
 22 Q. And you stated that the glass bricks at the
 23 student level have been --
 24 A. Mitigated, the cracks.
 25 Q. Thank you. When was that? When did that

1 happen?
 2 A. Right after this suit was filed.
 3 Q. So in May of 2000?
 4 A. Yeah, when did they file -- when was this
 5 filed?
 6 Q. I believe it was May of 2000.
 7 A. I think within weeks after before school got
 8 out.
 9 Q. Do you know why it was fixed?
 10 A. I don't know why, combination of my
 11 complaints and concerns about the case, but that is --
 12 okay, speculation. I really don't know why.
 13 Q. Did you hear anyone talk about the lawsuit?
 14 A. No.
 15 Q. Have you ever -- do you have any knowledge
 16 of any students being hurt from these glass bricks?
 17 A. No.
 18 Q. Have you ever heard parents complain about
 19 the glass bricks?
 20 A. No.
 21 Q. The next sentence in paragraph 13 states,
 22 quote, "It is very common that repairs take a long time
 23 to get done, if they are done at all."
 24 Do you think that that is correct?
 25 A. Yes.

1 Q. Do you still think that is the case today?
 2 A. Yes.
 3 Q. The next sentence, you state, "For example,
 4 the water fountains do not drain well and sometimes are
 5 completely clogged," end quote.
 6 A. That is true.
 7 Q. How often does that happen?
 8 A. There is some fountain that is always
 9 clogged because the students say, "I have to go far to
 10 get the water."
 11 Q. So --
 12 A. "I can't get it."
 13 I said, "Go around the corner here."
 14 "No. No. I have to run down because that
 15 one is clogged."
 16 I see them clogged when I walk by.
 17 Q. Which fountains are you referring to?
 18 A. The indoor water fountains.
 19 Q. What are they clogged with, you do you know?
 20 A. Paper, bits of paper, maybe. I don't think
 21 they get cleaned every night.
 22 Q. Do you know what the custodial cleaning
 23 schedule is?
 24 A. No.
 25 Q. Have you ever asked?

1 A. No.

2 Q. Why do you think they don't get cleaned
3 every night?

4 A. Because when I was down in room 120 and 121,
5 I would walk past the fountain. I would see it dirty
6 and I would toss a note in the custodian's box.

7 Q. What time of day was that generally?

8 A. End of the day. And his response, "Well,
9 I'll talk to the night person about that. That should
10 have been done."

11 Q. Do you think perhaps the night person did
12 clean it at night and throughout the day, it got dirty?

13 A. I have no idea.

14 Q. So you don't know if the night person
15 cleaned the fountains or not?

16 A. I don't know.

17 Q. Have you ever seen them clogged with
18 anything besides paper, the water fountains?

19 A. Once in a while a piece of gum.

20 Q. What kind of paper do you see?

21 A. Candy wrappers.

22 Q. What do you think the school should do about
23 that?

24 A. A variety -- a multipronged kind of thing:
25 Educate the students, develop some school spirit, try

1 the water pressure?

2 A. Yeah. They say, "That one is not working.
3 No water is coming out," so they have to go to -- what
4 happens if they -- if the bowl gets clogged? I think
5 the custodian comes by and turns the water off, so they
6 don't have water spills in the hallway from flooding.
7 That might be a problem. I don't know. Speculation.

8 We have problems with the drinking fountains.

9 Q. You stated that you don't think the problem
10 with the water fountains -- you think it is a
11 multifaceted issue?

12 A. It is a multifaceted -- to fix it, it is a
13 multi -- it is a multipronged thing we have to do, but
14 I certainly think more of an attempt needs to be made
15 to keep them clean and operable by maintenance.

16 Q. Other than complaining to the maintenance
17 officer, have you complained to him on multiple
18 occasions or just one? More than one?

19 A. Probably three or four times all together;
20 three or four times all together.

21 Q. Have you ever complained to anyone else
22 besides him?

23 A. No.

24 Q. Do you know -- what do you tell the students
25 when they complain?

1 to keep them clean so the kids have some motivation to
2 keep them clean themselves. It is not one pat answer
3 for problems like that.

4 Q. So you think --

5 A. Parent patrol, a little bit more parent
6 patrol, which we're trying to get going here, help kids
7 take responsibility for their actions. Sometimes the
8 water doesn't come up in those fountains either.

9 Q. Why do you think that is?

10 A. I have no idea.

11 Q. How do you know the water doesn't come up
12 from those fountains?

13 A. Because they don't. You turn the handle and
14 no water comes up. I've tried to get water out of some
15 them and they don't -- you have to get your face down
16 in the bowl way too far to make it feel particularly
17 sanitary.

18 Q. Have you ever complained about it?

19 A. I talked to the custodian about it.

20 Q. What did he say?

21 A. "I'll have to talk to the night custodian
22 about it who is supposed to clean those."

23 Q. Did you ever find out what happened?

24 A. No.

25 Q. Did you ever hear students complain about

1 A. I just tell -- if they want to run to
2 another fountain and they are going to be late, I say,
3 "No, you can't go. You can hold up until the class is
4 over and go down there."

5 I just apologize and say, "I'm sorry. It is
6 broken." I tell them, "You guys have some
7 responsibilities to help keep that clean yourselves.
8 We can't do it all. We're trying."

9 Q. How about the outdoor faucets?

10 A. They get clogged, too. It is broken because
11 there is lots of times I say, "Get your water outside."
12 "Those don't work either."

13 Q. Have you ever heard the principal complain
14 about the water faucets?

15 A. No.

16 Q. Other than the water fountains, are there
17 any other types of repairs that you can think of that
18 take a long time to get done?

19 A. Broken windows.

20 Q. Any other types of repairs?

21 A. The ones I already mentioned.

22 Q. Anything else besides what we've already
23 mentioned?

24 A. General cleanliness.

25 Q. Anything else?

1 A. I think the bathrooms, as I mentioned in
2 paragraph 14, are an ongoing problem.
3 Q. And they --
4 A. They get cleaned and then they get messed up
5 and I think -- I'm not sure. We may be doing slightly
6 better this year. Lots of promoting among the students
7 the responsibilities to help with that. We'll know
8 better in a couple more months.
9 Q. Anything else besides the broken windows,
10 general cleanliness of the bathrooms?
11 A. The aforementioned mold, and tiles, and that
12 kind of stuff, yeah.
13 Q. That is it? Other than what we've already
14 discussed and these three items, is there anything
15 else?
16 A. Let me turn on the computer in my brain and
17 I'll check it out. That is pretty much it, dirtiness
18 of the cafeteria, which I haven't mentioned in here.
19 Q. Which you have or have not?
20 A. I didn't mention it in the declaration.
21 Q. Right. Is that it?
22 A. Yes.
23 Q. Okay. Have you had windows broken in your
24 classrooms?
25 A. Yes, I have.

1 Q. Have you had any this school year?
2 A. Well, there is one that is broken now.
3 Q. Is that in classroom 16?
4 A. Yes.
5 Q. Do you know how it was broken?
6 A. Yes.
7 Q. How?
8 A. I think -- well, pebbles thrown against the
9 windows. Kids were outside with small rocks and
10 whatever.
11 Q. How do you know that?
12 A. I was in the room when it happened.
13 Q. Were the kids purposely hitting the windows
14 with pebble stones?
15 A. I don't know if it was purposefully because
16 I didn't see the children. There were other kids in my
17 room. They said, "They just threw things at your
18 window, Ms. Tolbert."
19 Q. Is the window broken or is it cracked?
20 A. It is -- well, some pieces are out, small
21 pieces are out and then there is cracks, so they just
22 taped it all up.
23 Q. When was it that it was broken?
24 A. Last April.
25 Q. So it was last school year?

1 A. Yes.
2 Q. What did you do immediately after it was
3 broken?
4 A. I said, "Who are those kids?"
5 They didn't know and I gave a note to the
6 person who runs the after-school program and the vice
7 principal. I said, "The window just got broken in room
8 16."
9 Q. Why did you give a note to the person who
10 runs the after-school program?
11 A. Because after-school program activity was
12 being held in my room.
13 Q. Did you give a note to the maintenance
14 office?
15 A. No.
16 Q. Why not?
17 A. Because I -- the maintenance -- I gave it to
18 the principal because in our school, the principal
19 pretty much tells maintenance what to do.
20 Q. Okay.
21 A. I mean, I've dropped notes in there because
22 he told me. He says, "If you see a dirty fountain,
23 just put a note in my box and I'll check with the night
24 crew."
25 Q. So did anyone -- was there any broken glass

1 in the classroom that you know of?
2 A. Not in my classroom, but there is still a
3 broken chip of glass on the outside window ledge that
4 I've been meaning to go out there and take it off, but
5 I haven't gotten there yet.
6 Q. Did anything happen after you wrote a note
7 for the principal?
8 A. The window got taped up.
9 Q. What do you mean by "Taped up"?
10 A. Overall the part that is broken and cracked,
11 there is that silver duct tape on there.
12 Q. When did they put the duct tape on?
13 A. I don't know exactly, a couple days after.
14 Q. Do you know whether they have plans to
15 replace the window, the glass?
16 A. I don't know if they have plans.
17 Q. Have you talked to anyone about the window
18 being replaced?
19 A. No.
20 Q. Did you complain about the duct tape?
21 A. No. I've had boarded-up windows that have
22 taken a long time to get fixed because definitely
23 maintenance doesn't touch those until all the old
24 asbestos putty is cleaned out by a special group of
25 people, so I've had the boarded-up windows. They

1 finally got unboarded last about May when the putty
 2 people came and the asbestos people.
 3 Q. I'm going to back up a little. The
 4 boarded-up windows --
 5 A. Were prior -- you finish.
 6 Q. Okay. Boarded-up windows, is this window
 7 we're talking about the one now with the tape? Do you
 8 think there is a concern about asbestos with respect to
 9 that window?
 10 A. That is why they don't rush to replace the
 11 glass or if they take out the broken glass, then they
 12 put a board there until the asbestos abatement people
 13 can come and take out the old putty, which supposedly
 14 has asbestos in it. That is why it takes so long to
 15 get a glass replaced.
 16 Q. How do you know that? Did someone else tell
 17 you that?
 18 A. Yes.
 19 Q. Who?
 20 A. Custodian.
 21 Q. When?
 22 A. When I talked -- when I said, "Mr. Roman,
 23 why does it take so long to get --
 24 He says, "Well, we have to wait until the
 25 special people come out and take out the putty because

1 the maintenance crew won't touch the putty."
 2 Q. Do you know who the special crew is?
 3 A. No.
 4 Q. Do you know if they are hired by the
 5 district or if they are private?
 6 A. I don't know that.
 7 Q. So the maintenance person indicated that the
 8 reason why there is so much delay is because they have
 9 to wait for these people to come and test for asbestos?
 10 A. No, take out the old putty.
 11 Q. Sorry.
 12 A. Which is known to have asbestos in it.
 13 Q. You started to mention there was a
 14 boarded-up window?
 15 A. There were two in my room.
 16 Q. Which room is this? Room 16?
 17 A. 16.
 18 Q. When were these windows boarded up?
 19 A. Well, the high up one, I don't know when it
 20 was boarded up. It was boarded up. I don't know when.
 21 Q. Last school year?
 22 A. It was boarded up. I don't know when they
 23 put up the boarding because I don't know when that
 24 window broke.
 25 Q. Was it before last school year, do you know?

1 A. (Witness nods head.)
 2 Q. Yes?
 3 A. Yes.
 4 Q. When was the board removed?
 5 A. There were two boards, the higher up one, I
 6 don't know when that window got broken, long time ago,
 7 and the lower down window got broken about 18 months
 8 before and they both got replaced last about April.
 9 Q. So they were boarded up -- the lower one was
 10 boarded up for about 18 months?
 11 A. (Witness nods head.)
 12 Q. Yes? Is that yes?
 13 A. Yes.
 14 Q. And the higher one, you don't know how long
 15 that was boarded up?
 16 A. I'm not sure.
 17 Q. And they were replaced last April?
 18 A. Yes.
 19 Q. With new glass?
 20 A. Yes.
 21 Q. Did the putty specialists come out to
 22 replace the putty?
 23 A. Yes.
 24 Q. And your understanding as to why those two
 25 were delayed was because the maintenance office was

1 waiting for the specialist to come and remove the old
 2 putty?
 3 A. Yes.
 4 Q. Any other broken windows other than the ones
 5 we've described?
 6 MS. KOTT: In her classroom?
 7 MS. KOURY: Yes.
 8 THE WITNESS: Not in my classroom.
 9 MS. KOURY: Q. Have you heard other
 10 teachers complaining about broken windows?
 11 A. No, not in their classrooms.
 12 Q. How did the windows get broken in room 16,
 13 the ones you were describing before, the lower and the
 14 higher ones, the ones that were replaced?
 15 A. I don't know how those windows get broken.
 16 Our playground gets a lot of use during the late
 17 afternoon and evening times.
 18 Q. Okay. You indicated that the general
 19 cleanliness, that also takes too long?
 20 A. Pardon me?
 21 Q. When I asked you what you meant with respect
 22 to paragraph 13 where you state, quote, "Repairs take a
 23 long time," you mentioned general cleanliness. What do
 24 you mean by that?
 25 A. Paragraph which?

1 Q. Paragraph 13 where you state that "It is
2 very common that repairs take a long time to get
3 done" --
4 A. Yeah.
5 Q. -- "if they get done at all."
6 One of the items that you indicated was
7 general cleanliness.
8 A. Yes.
9 Q. What do you mean by that? In other words,
10 what about general cleanliness takes a long time to get
11 repaired?
12 A. Well, the women's bathrooms are pretty much
13 a disaster. Okay.
14 Q. What do you mean by that? Disaster how?
15 A. Well, they are given a quick wipe out each
16 evening, but the sinks are not clean. They've got soap
17 scum on them. The towel dispensers are all splashed
18 and dirty.
19 Getting into the classrooms, classrooms are
20 swept in the evening about 95 percent of the time, but
21 they are only mopped, really, really washed and washed
22 thoroughly and rewaxed over the summer. If there is a
23 real horrible spill, the custodian might drag a mop
24 over it, but that is generally not what they do.
25 Q. Stopping you with respect to the women's

1 bathrooms.
2 A. Yes.
3 Q. Do you know how often the custodians clean
4 the women's bathrooms? Do you know their schedule?
5 A. They clean them every evening, but it is how
6 thoroughly.
7 Q. Do you know whether they spot check them
8 during the day?
9 A. They don't spot check them during the day.
10 Q. How do you know that?
11 A. I've never seen it done.
12 Q. Have you ever asked the principal or the
13 maintenance office?
14 A. No.
15 Q. Have you ever complained about the bathrooms
16 being unclean?
17 A. Yes.
18 Q. Who have you complained to?
19 A. The vice principal.
20 Q. Who is that?
21 A. Ms. Allan.
22 Q. And what does she say?
23 A. "Let's all pitch in and see if we can't help
24 out."
25 That was the last statement from the vice

1 principal. "Well, folks, let's all see if we can't
2 help out our custodians. They are overworked" or "We
3 don't have enough of them, so let's see if we can help
4 out".
5 Q. What do you think would help the situation?
6 A. Well, the custodians need to learn how to
7 clean the bathroom and they need to be willing to do
8 that.
9 Q. Do you think you don't have enough
10 custodians?
11 A. Yeah, we don't. If somebody is sick, there
12 is frequently no replacements.
13 Q. How do you know that?
14 A. Because our rooms don't get swept and things
15 don't get clean.
16 Q. Does that happen often?
17 A. Maybe three, four times a year. It happened
18 bad last spring because our custodian had surgery and
19 there was no replacement.
20 Q. Other than when the custodians are sick, do
21 you think you need more custodians?
22 A. Well, we do more around such -- their
23 schedule of maintenance is so quick. They have to just
24 do kind of a quick spit and polish and off they go --
25 you know, there is nothing thorough. They don't have

1 enough time to be thorough.
2 Q. Do you know why that is that they don't have
3 enough time?
4 A. Money.
5 Q. Where do you get that from or how do you
6 know that?
7 A. Well, we've been told that there is just not
8 enough money to hire enough custodians. We've had
9 delayed maintenance at that school district for ten or
10 15 years now.
11 Q. When you say women's bathrooms, do you mean
12 the girls' bathrooms in general for the students?
13 A. Faculty bathrooms.
14 Q. Have you ever asked for your classrooms to
15 be mopped on a nightly basis? Is that no?
16 A. I've asked. We've all asked, but you stop
17 asking after a while -- you know, what is the point?
18 There is too many other important things to have to get
19 on with teaching. You sort of expect the maintenance
20 crew to know what they are supposed to do and to
21 advocate if they feel as they are overworked.
22 Q. So your understanding is that it is not a
23 possibility for them to mop them?
24 A. Nightly mopping?
25 Q. Correct.

1 A. It is not a possibility. That is my
2 understanding.

3 MS. KOURY: Want to take a ten-minute break?

4 MS. KOTT: That would be great.

5 (Recess taken.)

6 MS. KOURY: Q. Ms. Tolbert, another item
7 you mentioned was the dirtiness in the cafeteria and
8 you indicated that you felt that this takes a long time
9 to get done, if it is done at all. What do you mean by
10 that?

11 A. Well, as I stated, our school was designed
12 for about eight or 900 people, students. We heard
13 about that from a long time ago the then-principal
14 Linda Linear and our cafeteria -- so there is about
15 almost 1,400 students in our school and the children
16 all crowd into the cafeteria. We do have two lunch
17 periods, but that is not sufficient in terms of lunch
18 lines. Some youngsters don't get their food until
19 about ten minutes before the bell rings. They may eat
20 quickly. They are in a hurry to get to class. They
21 leave their stuff on the tables. They don't always bus
22 their tables. Some students, although they qualify for
23 free or part-paid lunch, they don't even want to wait
24 in the line so they'll go and get a soda water or --
25 and chips out of the machine. Some kids, because they

1 A. Yes, they do, and there is a -- somebody at
2 the end of the line who takes their number and punches
3 that in.

4 Q. Have you ever noticed that the lines for
5 lunch are longer towards the beginning of the school
6 year and then they begin to -- they shorten throughout
7 the school year?

8 A. I don't know about that.

9 Q. Have you ever heard sometimes it takes the
10 students a while to memorize their identification
11 number and that tends to delay the line earlier in the
12 school year?

13 A. I don't know that it is mostly the length of
14 the line.

15 Q. Did you remember noticing a long line at the
16 cafeteria at the end of last school year?

17 A. I don't go into the cafeteria all the time.
18 The times I've been in the cafeteria have been when
19 I've gone in there to help when kids are having a sale
20 for something -- you know, they might be selling
21 yearbook tickets or they might be having some club
22 group or something would be having a flower sale and
23 they need an adult to go in there. I volunteer to be
24 with the youngsters as they are making their sales and
25 so on.

1 are not allowed to have that stuff in the hall, they
2 will take some gulps out of it, maybe pour it out
3 before they come into the hallway because the cafeteria
4 is at the far end of the school, so they just might
5 pour out their soda.

6 Q. What do you --

7 A. Just intensive use.

8 Q. What do you think the school can do about
9 the lunch lines being too long?

10 A. Don't know. They haven't come up with a
11 solution yet.

12 Q. Do you know what causes lines to be so long?

13 A. Well, there is only one -- yeah,
14 overcrowding of the school, too many youngsters in a
15 lunch line that is kind of not adequate to accommodate
16 that many number of kids.

17 Q. Do you know how the kids get their lunches?
18 In other words, do you know the procedure they go
19 through when they stand in line for their lunches, for
20 their free lunches?

21 A. There is a -- like any cafeteria, there is a
22 place there where they go pick up their lunches. A lot
23 of it is already packaged.

24 Q. Do they have to give some sort of
25 identification or a number?

1 Q. How often last school year do you think you
2 went into the school cafeteria during lunchtime?

3 A. Twice.

4 Q. Did you hear anyone complain about the lines
5 in the cafeteria last school year?

6 A. The kids always complain about it.

7 Q. Did they complain about it last school year?

8 A. Yes.

9 Q. What did they say to you?

10 A. They say they don't have enough time to eat.

11 Q. Is that generally when they are coming into
12 class late and they tell you?

13 A. Yes.

14 Q. So basically they are stating the reason for
15 being late to class is because the lunch line was too
16 long?

17 A. I also have youngsters who come to my
18 classroom when I'm eating and say, "Oh, Ms. Tolbert,
19 can we hang out with you?"

20 I say, "Go get your lunch."

21 "No, I don't want to. The line is too
22 long."

23 They tell me directly or they tell me
24 because they rush too much because they didn't have
25 enough time to eat their lunch.

1 Q. Do you know if any of the parents have
2 complained about this?
3 A. I don't know.
4 Q. Have you ever talked to the principal about
5 it or someone else at the school?
6 A. They know.
7 Q. How do you know they know?
8 A. Because it has been brought up in faculty
9 meetings when we discuss the whole school situation.
10 Q. What about -- you indicated that the tables
11 sometimes don't get bussied by the students. Do you
12 think that if the lines were shorter that this would be
13 -- alleviate the problem of cleanliness in the
14 cafeteria?
15 A. There is some connection there in that when
16 the youngsters get their meals real late, maybe they
17 only have five or eight minutes they are up there. One
18 time I was in there, I was totally amazed. Kids are
19 standing up there shoveling, standing there shoveling,
20 biting off, and they throw it down and grab their books
21 and they run.
22 Q. Do you think that is perhaps at all -- do
23 you think the kids play on the playground during
24 lunchtime?
25 A. No. I've seen the lines. No, they don't.

1 They wait in line. From the serving table, the line
2 goes way along the long wall of the cafeteria and it
3 circles around to the back.
4 Q. When was it that you saw this line?
5 A. Last year.
6 Q. Do you remember what time of year it was?
7 A. What time of the year, no, probably -- well,
8 speculation, I don't.
9 Q. You can't recall?
10 A. No, not with any great amount of precision.
11 Q. Do you think there is not enough space in
12 the cafeteria for the students during their lunch
13 period, putting the line aside, just space to sit down
14 and eat lunch?
15 A. I don't know. It depends on how fast the
16 kids eat because not all the kids can sit down all at
17 once. You have to have turnover.
18 Q. But is that taking into account the fact
19 there are two lunch periods?
20 A. Yes.
21 Q. Do some of the students play on the
22 playground while other students are eating?
23 A. Some students go out on the playground
24 because they don't bother to eat.
25 Q. Have you ever heard of any students complain

1 that there wasn't enough space for them to sit down and
2 eat?
3 A. Not that there wasn't enough space for them,
4 just that the lines were too long and not enough time
5 to eat.
6 Q. So basically the sole complaint about the
7 cafeteria is that the line to get the lunch is too
8 long?
9 A. Yes.
10 Q. Directing your attention again to your
11 declaration which has been marked Exhibit 2, paragraph
12 14 states, quote, "Many students tell me that the
13 student bathrooms are filthy. They have water and
14 urine on the floor and graffiti on the walls. Some of
15 my students have told me that the bathrooms are so
16 foul, they don't use them."
17 Is that correct?
18 A. Yes.
19 Q. Do you think that is correct as of today?
20 A. I haven't been in the bathrooms this fall.
21 Q. Have you ever received any complaints this
22 fall?
23 A. No.
24 Q. Last school year, did you receive
25 complaints?

1 A. Yes. "Ms. Tolbert, you ought to see the
2 bathrooms."
3 Q. What else do they say?
4 A. They say, "Ew, I don't want to use them."
5 Q. Anything else?
6 A. No.
7 Q. Did you ever receive complaints that there
8 wasn't enough toilet paper in the bathrooms?
9 A. I've heard it mentioned. The students don't
10 complain directly to me.
11 Q. How did you hear it mentioned?
12 A. General comments among the faculty that
13 they've heard their kids say that.
14 Q. But you've never had a student come to you
15 and say, "Ms. Tolbert, I was just in the bathroom and
16 there was not enough toilet paper"?"
17 A. No.
18 Q. There is not a student coming to you saying,
19 "I was just in the bathroom and there was no paper
20 towels"?"
21 A. Yes, I've had kids say that.
22 Q. What do you do when you have a student that
23 complains that there is no paper towels in the
24 bathroom?
25 A. I say, "Shake off your hands. Come on. Be

1 flexible. Let's go."

2 Q. Do you direct them to the maintenance office
3 for more paper towels?

4 A. No.

5 Q. Do you think the maintenance office has a
6 supply of paper towels?

7 A. They might and might not. I don't know what
8 their supply is all about.

9 Q. Do you think it is a problem when there is
10 no paper towels in the bathroom and the kids aren't
11 able to wipe their hands?

12 A. Depending on the fussiness of the child.
13 Some children can cope, shake out their hands and get
14 on with the project of learning and school life and
15 others make a big deal out of it.

16 Q. After students have complained there is no
17 paper towels, have you ever dropped a note to the
18 maintenance office or dropped a note to the principal?

19 A. No.

20 Q. Otherwise communicated it to the maintenance
21 office?

22 A. They know. The principal knows.

23 Q. How do you know the principal knows?

24 A. Because people tell him.

25 Q. What about the lack of soap in the

1 speculation.

2 MS. KOURY: Q. Have you ever talked to any
3 other teachers at other schools about that?

4 A. No.

5 Q. What do you think the school can do about
6 keeping the bathrooms cleaner?

7 A. Well, like the water fountains, I tell my
8 students, "You have a role to play in this."

9 Q. You indicated earlier before the break that
10 you felt as if perhaps the situation with the bathrooms
11 is getting better this school year?

12 A. Well, we always start them out nice and
13 clean and I haven't heard complaints yet this fall,
14 so --

15 Q. Do you think that is in part because there
16 is more student responsibility?

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

19 MS. KOURY: Q. Based on what you had stated
20 earlier?

21 A. I don't know. We would all like to think
22 that. Who can say? I don't know.

23 Q. Do you know how often the maintenance office
24 cleans or the custodians clean the children's
25 bathrooms?

1 bathrooms, have you ever had any students complain to
2 you about that?

3 A. No. I don't know anything about that too
4 much except that, in general, the bathrooms are not in
5 good condition.

6 Q. When you say they are not in good condition,
7 do you just mean they are dirty?

8 A. They are dirty. Sometimes the bowls don't
9 work, the toilet bowls. You can't flush them. I have
10 stepped in a couple times and that is true. I've seen
11 that.

12 Q. Do you know why it is the toilets don't
13 work? Are they flooded or clogged?

14 A. Yes.

15 Q. Do you know --

16 A. Maybe the kids -- speculation. I don't
17 really know.

18 Q. Do you think it is a general problem that
19 most middle schools face because of the age of the
20 children they are dealing with?

21 A. I don't know.

22 Q. Do you think the bathrooms at Helms are any
23 dirtier or cleaner than other schools in the district?

24 A. I have no idea.

25 MS. KOTT: Objection. Calls for

1 A. I don't know. I would like to think once a
2 day at least.

3 Q. Have you ever asked?

4 A. No.

5 Q. Have you ever received any complaints from
6 parents about the bathrooms?

7 A. Not me, no.

8 Q. Have you ever heard of complaints by parents
9 about the bathrooms?

10 A. I've heard about parents complaining. They
11 haven't complained to me.

12 Q. How about graffiti in the bathrooms, do you
13 think that that is a problem at Helms?

14 A. Yes.

15 Q. Why do you think it is a problem?

16 A. Because I've seen it in there.

17 Q. What do you think the school can do about
18 that?

19 A. Try to help educate the students that this
20 is unacceptable, but I also think the school has a
21 responsibility to try to provide back-up cleanliness
22 there.

23 Again -- you know, we all have to help the
24 kids understand that this is their place and they have
25 a role in that. I wouldn't deny that at all. I think

1 that is fair to ask the students to be a part of their
2 clean environment, but I also think the school has to
3 meet the youngsters halfway and do their part. I don't
4 think that has been done.

5 Q. How has the school not done that, for
6 example, in terms of graffiti?

7 A. When there is graffiti on a wall, it should
8 be taken out right away.

9 Q. How quickly should it be taken out?

10 A. Same night.

11 Q. So each night the graffiti is or each day
12 the graffiti is on the walls, the custodial team should
13 remove it that evening?

14 A. I -- yes.

15 Q. You think that would help teach the children
16 not to put graffiti up?

17 A. Well, it takes the power out of the
18 graffiti.

19 Q. How often is the graffiti removed?

20 A. I don't know.

21 Q. Do you think it is a problem that it stays
22 on too long at Helms?

23 A. I don't know. It is more speculation.

24 Q. So you don't really know if the school is
25 failing its duty in meeting the kids at least halfway

1 they don't use the bathroom?

2 A. Yes.

3 Q. What do you do?

4 A. Not this year.

5 Q. Last year?

6 A. I tell them, "I'm sorry." I say, "Well, you
7 guys, you are a part of that" -- you know, "help us.

8 If you see somebody doing that, tell us, or -- you
9 know, be bold enough to tell your friends that is
10 unacceptable. I don't want to live in a school where
11 you have messed up my space."

12 Q. What do you mean by that? Do they tell you
13 other students are --

14 A. They say, "Other kids do it. We don't."

15 Q. Are you talking about graffiti specifically
16 or other things?

17 A. Yeah, or whatever they do in there.

18 Q. Do you know, are there bathroom monitors at
19 Helms?

20 A. No.

21 Q. I'm sorry. That wasn't a clear question.

22 Do you know whether there are bathroom monitors or not
23 or there are not? You do know and there are not?

24 A. I do know. I know there are no bathroom
25 monitors.

1 with respect to graffiti?

2 A. If I hear a lot of complaints that the
3 bathroom is dirty.

4 Q. I'm sorry. I don't understand.

5 A. If I hear a lot of complaints the bathroom
6 is dirty and I step in there and see it is dirty, it is
7 dirty.

8 Q. So your assumption based on that is that the
9 school is failing?

10 A. They are not cleaning it up as they should
11 and as often as they should.

12 Q. Have you found the school has been educating
13 the students more in recent times about the need not to
14 put graffiti up on the walls?

15 A. Over the PA system, that message comes out
16 every once in a while and I follow that up with
17 classroom announcements.

18 Q. Do you think that has been effective?

19 A. I don't know.

20 Q. Have you heard any of the other teachers
21 talking about that being effective?

22 A. No.

23 Q. How about the principal, the past principal?

24 A. No.

25 Q. Have you had students complain to you that

1 Q. Okay. Do you see graffiti on the school
2 campus and other places other than the bathrooms?

3 A. On the outside walls.

4 Q. Have you seen that this school year?

5 A. No.

6 Q. Last school year you saw it?

7 A. Yes.

8 Q. Do you know how long it took the school to
9 remove the graffiti from those walls?

10 A. 24 to 48 hours.

11 Q. Do you think that was quick enough?

12 A. Yes.

13 Q. Have you heard other teachers -- we talked
14 about textbooks earlier. Have you heard other teachers
15 complain about not having textbooks besides -- I know
16 you've had your own personal complaints about the lack
17 of textbooks. Have you heard other teachers complain
18 about it?

19 A. Yes, other ESL or ELD teachers.

20 Q. Have you heard of any other teachers this
21 school year complaining about them?

22 A. No, they seem to be working hard to remedy
23 that, but all the books -- all the new books have not
24 been distributed yet, so I'm not exactly sure where the
25 school is at on that.

1 Q. Did you hear other ESL and ELD teachers
2 complain about textbooks last year?
3 A. (Witness nods head.)
4 Q. Is that yes?
5 A. Yes. Yes.
6 Q. Do you know what those complaints were
7 regarding?
8 A. Well, this Voices in Literature that I
9 mentioned to you --
10 Q. Right.
11 A. -- there is three levels, a bronze, silver,
12 and the gold. I use the gold at the ELD IV level. The
13 silver, we have a -- the silver is used at the Levels
14 II and III, upper Level II and IIIs and that is where
15 we have a preponderance of students, so we don't have
16 enough Voices in Literature silver for all those
17 students and that is -- the principal has promised that
18 she would do her best to help us out with that as
19 quickly as possible.
20 Q. Is that your understanding that that is
21 still not resolved today?
22 A. Yes, it is my understanding that it is still
23 not resolved, but help is on the way.
24 Q. Do you know what the situation was last
25 school year with these school books?

1 A. There weren't enough of them for every
2 student.
3 Q. Do they have to share in class?
4 A. There was probably enough for -- there were
5 enough for class sets. In other words, you hand them
6 out, collect them next period; you hand them out and
7 collect them. So every student had a book in class,
8 but not a book assigned to them specifically to take
9 home, which is our goal for this year.
10 Q. Other than the Voices in Literature, were
11 there any other books that you heard about that there
12 weren't sufficient numbers?
13 A. No, there weren't any that I know of.
14 Q. Did you hear of any other teachers besides
15 the ESL teachers complaining about the lack of
16 textbooks?
17 A. Not this year.
18 Q. How about last year?
19 A. Last year, yeah, there wasn't enough math.
20 Q. Any other books?
21 A. History, we've had tons of books -- there
22 was a lot of complaining and we've had tons of books
23 coming in.
24 Q. This school year?
25 A. Yes.

1 Q. Do you know why this -- there is tons of
2 books this school year?
3 A. I'm not really sure.
4 Q. You mentioned earlier that Mr. Muzinich
5 started appointing coordinators -- textbook
6 coordinators; is that accurate?
7 A. Department coordinators in general.
8 Q. When did he start with these department
9 coordinators?
10 A. A year ago.
11 Q. Do you still have them this year even though
12 he is not here?
13 A. Yes.
14 Q. Do you know what their duties are, the
15 department coordinators?
16 A. Follow up on book orders, be responsible for
17 in-school testing to see how preparations are coming
18 along for the Star Nine. In the ELD Department, it
19 would be to follow up on students who may be misplaced
20 in their ELD level, read their writing samples, ask
21 that they submit writing samples so that can be
22 evaluated once again --
23 Q. Right.
24 A. -- chair the department meetings.
25 Q. I'm sorry. Those are evaluations of who?

1 A. Students that may be not -- that may be
2 placed at an improper level.
3 Q. Do you know if the department coordinators
4 interact at all with the people at the district level?
5 A. I'm sorry. I didn't hear you.
6 Q. Do you know if the department coordinators
7 interact at all with people at the district?
8 A. Yes, they do. Their responsibility is to go
9 to district-wide meetings, in other words, the
10 department coordinators or the department chairs. Some
11 schools have department chairs. They are supposed to
12 go to the district-wide meetings. The only difference
13 between the department chair and the coordinator is the
14 coordinator has -- only teaches two or three classes
15 and has time to do all this coordinating. The
16 department chairs don't have relief time to do their
17 duties.
18 Q. So the department coordinators are in
19 addition to the department chairs?
20 A. No, they've sort of replaced that position.
21 Q. Do you still have department chairs at all?
22 A. No.
23 Q. So what is the difference between the
24 department coordinator and department chair?
25 A. The department coordinator has a slight more

1 duties and like I say, they have relief time. They
2 don't teach a full load.

3 Q. So that is why you indicated earlier you
4 found that the department coordinators are more
5 effective than department chairs especially in terms of
6 getting textbooks?

7 A. They can get a lot more done, yeah. They
8 have time to do the follow-up and they have a lot more
9 time to track those orders down and do things like
10 that. That is their assignment.

11 Q. Right.

12 A. When we were trying to do department chair
13 and teach a full load -- you know, take minutes and run
14 off minutes and report back to the principal, it was
15 pretty hard to try and do all of that.

16 Q. Do you know how many teachers at your school
17 are on emergency permits?

18 A. I don't know how many.

19 Q. Do you know if there are several teachers on
20 emergency permits in your department?

21 A. Yes, I know of one.

22 Q. You know of one?

23 A. (Witness nods head.)

24 Q. That is it, just one?

25 A. (Witness nods head.)

1 A. Well, it is speculation.

2 Q. Why did you use the older textbook?

3 A. I used it when I was teaching regular
4 English.

5 Q. Was it considered an older textbook when you
6 used it?

7 A. Yeah, it has got an old copyright date way
8 back from the '70s.

9 Q. Did you purposely want to use this textbook
10 even though it was an older version?

11 A. When I was using that textbook, I would use
12 it also for ELD because the Voices in Literature hadn't
13 come out yet.

14 Q. So at the time you found that that was the
15 most effective book?

16 A. It worked, yes.

17 Q. Did you ask this teacher while she is still
18 using this older textbook even though now you have this
19 newer edition of Voices in Literature?

20 A. Because I'm using the Voices in Literature
21 book for the ELD students and she is using this
22 textbook. She has been in the district for a long,
23 long time. I think she is familiar with that textbook
24 and I think she knows -- you know, I respect what she
25 does with her students.

1 Q. And there is only one other teacher you know
2 of that is on emergency permit?

3 A. Could I clarify something?

4 Q. Sure.

5 A. There are lots of categories of credentials,
6 right: Internal, emergency, temporary, so among all
7 the faculty, I don't know who has which -- you know,
8 who has an emergency, who has a temporary, who is an
9 intern. I'm pretty busy teaching, so I don't know who
10 has got which. I know we don't have a whole lot of
11 teachers with clear credentials. Everybody is in the
12 process of -- lots of teachers are in the process of
13 becoming.

14 Q. Do you have any pair teaching? In other
15 words, do you ever teach with another teacher or
16 interact with other teachers in teaching your class?

17 A. No, the only kind of interaction I did, as I
18 mentioned, the ELD II class that I have goes from me,
19 the ELD II, to another teacher and I talk with her
20 about which textbook she is going to be using and so
21 she is using an older textbook than I am. It was not
22 specifically designed to be an ELD textbook, but it
23 works pretty well. I've used that book before.

24 Q. Why do you think she is using an older
25 textbook?

1 Q. Do you think teachers should have discretion
2 in what types of or what versions of textbooks they
3 want to use?

4 A. Yes. We don't want to overlap, right, so if
5 I'm using one book which focuses one way and she is
6 using another book which kind of focuses on another
7 kind of -- I think the textbook she is using focuses on
8 getting meaning from reading and the textbook I'm
9 using, Voices in Literature, is a little bit more
10 interactive. The focus -- there is a lot of
11 interactive things kids can do with the piece of
12 literature they are focusing on. There is more variety
13 in the textbook I'm using, but they are both very, very
14 valid and I think together, we make a nice ELD II
15 package for -- package of instruction for the students,
16 for that class of students.

17 Q. Would you be resistant then to a system that
18 took away that flexibility that you are now able to
19 appreciate in terms of choosing which textbooks you
20 want to use with this other teacher?

21 A. Ask me that question again.

22 Q. Do you find that the discretion in which
23 teachers exercise in choosing their textbooks is
24 important?

25 A. Absolutely.

1 Q. And the converse of that, in other words,
2 that flexibility or discretion being taken away, would
3 you find that problematic?

4 A. Yes, but --

5 Q. So the mere fact a teacher is using an older
6 version of a book to you doesn't indicate that the
7 students are lacking in their educational experience?

8 A. It depends on how the teacher augments that,
9 enriches that, points out relevant kinds of things,
10 relationships between that textbook and other kinds of
11 things that are going on in the student's life -- I
12 mean, teachers can do that.

13 Q. In other words, it is a case-by-case
14 determination? There is not a blanket rule in your
15 opinion?

16 A. Yes, I think that is true and I think older
17 teachers are better at it than newer teachers. They
18 can get a lot more out of a textbook than newer
19 teachers, just from their experience.

20 Q. Do you act as a mentor for any of the other
21 teachers at school?

22 A. Not officially.

23 Q. Unofficially?

24 A. Unofficially, yes.

25 Q. Do you have a mentor program at Helms?

1 school. She is not there full time.

2 Q. Does she train the teachers through this
3 program?

4 A. Yes.

5 Q. Do you know what kind of training she
6 provides them?

7 A. No.

8 Q. Have you heard any of the teachers give any
9 positive or negative feedback about it?

10 A. No, it is just something that just started.

11 Q. This past school year?

12 A. There was once one teacher that I suggested
13 maybe sign out with the PAR coach and I talked to the
14 PAR coach about it and she was already full, so she
15 couldn't take on any more people.

16 Q. Do you know if that teacher that you
17 suggested should sign on found some other way of
18 getting support?

19 A. Yes.

20 Q. What did she find?

21 A. It -- we have a -- he is an ex-principal at
22 our school. He helps with Title One matters, but he
23 was willing to spend a little time with this person.

24 Q. What about BTSA, you said BTSA is also
25 involved at Helms?

1 A. We have a new teacher program.

2 Q. Is that BTSA?

3 A. Well, that is happening and we have -- we do
4 have a mentor teacher. The mentor program is now
5 expiring in the state, but I think we have one more
6 teacher who is finishing off her mentorship as a new
7 teacher coach. They have something now called PAR,
8 Peer Assistance and Review. It is mostly designed for
9 new teachers, but not exclusively.

10 Q. You stated that the mentor program is
11 ending. What do you mean by that?

12 A. It was a funding -- it was something funded
13 by the state. I don't know all the details of it, but
14 the funds now for that have been withdrawn.

15 Q. And there is this new program called PAR?

16 A. Yes.

17 Q. Are you involved with PAR?

18 A. No.

19 Q. Have you heard any of the other teachers
20 talk about it?

21 A. In what sense?

22 Q. Do you know if any of the other teachers at
23 Helms are involved in PAR?

24 A. Some may be attending -- there is a teacher
25 who comes to our school who is a PAR coach from another

1 A. I don't know much about BTSA.

2 Q. Earlier you had stated that you thought
3 things at Helms were getting, quote, unquote, "Better"
4 in terms of parent involvement as a result of the
5 outreach project. What did you mean by "Getting
6 better"?

7 A. There is more parents.

8 Q. There is more parent involvement?

9 A. More parents, yes, more parents and little
10 by little, we're trying to get them more than just
11 coming to parent meetings, actually getting them
12 physically involved, like we have a small parent patrol
13 now on the playground to augment what the site
14 supervisors are doing. In other words, just kind of
15 walking among the students, engaging them in
16 conversation, trying to keep the playground atmosphere
17 positive, keeping an eye out for -- you know, when kids
18 kind of gather and there is a lot of them or extra loud
19 voices -- you know, you spot this stuff if you do it a
20 lot. You do it intuitively. Parents, try to help them
21 understand where there might be potential hot spots.
22 That is the whole that Helms Community Project is
23 working on. That kind of stuff.

24 Q. And you indicated that you thought that the
25 local involvement from the Outreach Project is having

1 an impact on the students' performance as well; is that
 2 correct?
 3 A. Yes, in the sense that after school, they
 4 have programs like Homework Help and Buddy Up, which
 5 involves high school kids coming to help our students,
 6 then that whole program is run by UC Berkeley students.
 7 Q. Do you think local involvement at your
 8 school is important?
 9 A. Very definitely.
 10 Q. Why?
 11 A. Essentially, the future of our community is
 12 happening right there at Helms. Some students will
 13 move away, but a lot will stay there. How will they
 14 contribute to the community once they are adults? What
 15 kind of jobs will they find there? What will the
 16 community provide for them? What can they give back to
 17 the community? I mean, it is, you want to improve your
 18 community, you improve your schools.
 19 Q. Do you think it is important to the schools
 20 to see their community involved in their school?
 21 A. I do.
 22 Q. Why is that?
 23 A. Lets them know that they are not -- that the
 24 community believes in the education process, that it is
 25 not just the teachers telling them that school and

1 education is important, but that is a fact. That is a
 2 fact. They need high school kids who are a little bit
 3 more aware of telling them. They need college kids in
 4 the educational guidance program who has young people
 5 from UC Berkeley helping them to understand that. It
 6 is not a teachers alone kind of thing.
 7 MS. KOURY: Can we take a quick break? I'm
 8 sorry.
 9 THE WITNESS: Sure.
 10 (Recess taken.)
 11 MS. KOURY: Q. You were telling me about
 12 the mentoring program. Could you tell me a little more
 13 about it? Do you know, what does it all entail or what
 14 did it entail?
 15 A. It entailed teachers who wanted to be
 16 mentors submitting a proposal as to what they were
 17 going to do and then a mentor-screening committee
 18 screening the applicants and their applications and
 19 finding out more details as to how they would implement
 20 those projects.
 21 Q. And do you know how long Helms was involved
 22 in the mentoring program?
 23 A. It was a district that gets involved, all
 24 right, and then a Helms teacher -- any teacher from any
 25 school decides they want to be a mentor. It is

1 strictly up to them to write up and submit their
 2 proposals.
 3 Q. Do you know how many mentors Helms had?
 4 A. Had?
 5 Q. Yes.
 6 A. Over a period of time?
 7 Q. Yes.
 8 A. I know Ms. DeSalvo pretty much had several
 9 mentorships because her proposal was always around
 10 trying to accommodate new teachers. I was once a
 11 mentor teacher once myself. I wrote curriculum for ELD
 12 IV. That was my project.
 13 Q. What year was that?
 14 A. About '99 to 2000, or '98 to '99, I'm not
 15 sure. One of those two years.
 16 Q. Do you know how many -- are there mentors
 17 right now or has it already ended?
 18 A. The program has already ended. We're just
 19 finishing off now.
 20 Q. So each school year, do you know about how
 21 many mentors there were at your school?
 22 A. How many at my school? Not more than two or
 23 three a year.
 24 Q. And how many mentees were there?
 25 A. I have no idea.

1 Q. How many mentees did you have when you were
 2 a mentor?
 3 A. I didn't have any because my -- because of
 4 the variety of project. My project was strictly
 5 writing curriculum. I worked independently pulling --
 6 I essentially wrote the curriculum based on the things
 7 I had done in my classroom.
 8 Q. And what happened with your curriculum that
 9 you wrote?
 10 A. They get printed up and sent to various --
 11 to all the other schools.
 12 Q. To younger teachers? To newer teachers?
 13 A. They are available -- no, they are just
 14 mailed to the schools and the teacher's attention,
 15 directed these are the mentor projects and this is
 16 where you can get ideas for lesson plans and classroom
 17 projects.
 18 Q. And are you compensated for the extra time
 19 you spent in writing your curriculum?
 20 A. Yeah, that is why there is no more mentor
 21 programs, because the state has withdrawn the funds for
 22 the extra compensation.
 23 Q. Do you know if there is -- during this
 24 mentor program, you said that another teacher that you
 25 know of also submitted proposals?

1 A. Ms. DeSalvo.
 2 Q. What kind of proposals did she --
 3 A. Her proposals entered around new teacher
 4 assistance and new teacher support.
 5 Q. Do you know how she provided that, the
 6 support or the assistance?
 7 A. Well, she helped teachers in summer school
 8 pull materials together. She had meetings in her room
 9 with new teachers and reviewed classroom control
 10 techniques of which there are many and helped teachers
 11 with information on how to put together lesson plans,
 12 just the whole process of getting through school -- you
 13 know, how you mark your grading scantrons, whatever it
 14 took, whatever questions.
 15 Q. So did all the mentoring programs that
 16 occurred district wide, all the schools sort of
 17 collaborate depending on the different projects at
 18 various schools?
 19 A. No, they didn't collaborate at all.
 20 Q. But your curriculum you worked on was given
 21 to other teachers in other schools in the district as
 22 well?
 23 A. If a project involved writing up a
 24 curriculum or anything that required writing, you would
 25 write it up and there was somebody who screened my work

1 from the ELD Department and it was all in place. They
 2 had it printed up and sent to the school sites.
 3 Q. And you mentioned the PAR Program.
 4 A. Yeah.
 5 Q. Is that currently ongoing?
 6 A. It just started.
 7 Q. What does PAR again stand for?
 8 A. Peer Assistance and Review.
 9 Q. Was that a state program?
 10 A. I'm not sure.
 11 Q. How did you hear about it?
 12 A. Because when I was on a mentor screening
 13 committee after I did my own mentor project and a
 14 person who headed that up says that the mentor program
 15 was going to be -- not phased out, just terminated and
 16 that it was going to be replaced by Peer Assistance and
 17 Review and the only other thing I know about it was
 18 there was a bulletin put out that teachers who wanted
 19 to become PAR coaches could apply for that.
 20 Q. Did you apply for a PAR coach?
 21 A. No.
 22 Q. Have you heard of any teachers involved in
 23 PAR?
 24 A. Only the teacher that comes to our -- the
 25 PAR coach that comes to Helms, she is not from our

1 school.
 2 Q. Other than PAR and BTSA and the mentoring
 3 program, do you know of any other types of programs
 4 that are at Helms or through the district to support
 5 teachers?
 6 A. The vice principal has had -- in years past
 7 has had new teacher sessions especially around
 8 particular things we had to do, like report card
 9 marking, deadlines for being evaluated, helping
 10 teachers formulate their goals and objectives, which
 11 you have to submit in order to be evaluated. That is
 12 the first step in the evaluation process.
 13 Q. How often are teachers evaluated at Helms?
 14 A. If you are new, until you are tenured, every
 15 year and after you are tenured, every other year.
 16 Q. How long do you have to be there before you
 17 are tenured?
 18 A. Two years, you have to have positive
 19 evaluations for two years in a row.
 20 Q. Have you been involved in evaluating any of
 21 the other teachers?
 22 A. No, that is usually done by -- always done
 23 by the principal and the vice principal.
 24 Q. How do you -- how substantive are the
 25 evaluations by the principal and the vice principal?

1 A. What is your question, please?
 2 Q. How substantive are the evaluations that are
 3 done by the principal and the vice principal?
 4 MS. KOTT: Objection. Vague as to
 5 "substantive."
 6 MS. KOURY: Q. Do you understand that?
 7 A. I don't know.
 8 Q. What constitutes the evaluation? How is it
 9 conducted?
 10 A. Teachers writing their goals and objectives,
 11 discussing with the principal; principal coming in and
 12 observing the class. Usually one visit by the
 13 principal is at the discretion of the teacher, which
 14 period. Principal can usually stay ten, 15, 20 minutes
 15 and then the other one is a drop-in by the principal at
 16 his or her discretion. As a write-up, before it is
 17 signed, it is discussed with the teacher.
 18 Q. Do you think the evaluation was helpful to
 19 you?
 20 A. That is what it is designed to be.
 21 Q. Do you think it is helpful?
 22 A. Yes.
 23 Q. Have you heard other teachers provide any
 24 feedback about the evaluations as to whether it is
 25 effective or ineffective?

1 A. No.
 2 Q. You never heard them say it either way?
 3 A. No.
 4 Q. Have you ever discussed or have you seen the
 5 evaluation process change since you started at Helms?
 6 A. No, it is the same all the time.
 7 Q. Do you know if the evaluation process is the
 8 same throughout the district or is it specific to
 9 Helms?
 10 MS. KOTT: Objection. Calls for
 11 speculation.
 12 THE WITNESS: I don't know.
 13 MS. KOURY: Q. If you were asked to change
 14 the evaluation process, would you? If you were asked
 15 whether you think that it should be changed, would you
 16 state that it should be changed or do you think it is
 17 good the way it is?
 18 A. I wouldn't state it should be changed.
 19 Q. Do you think it is -- why is it that you
 20 wouldn't want to change it?
 21 A. I haven't given it that much thought, but I
 22 also haven't found any big problem with it.
 23 Q. Do you think it would be effective if
 24 someone from the district came and reviewed the
 25 teachers?

1 MS. KOTT: Objection. Vague as to
 2 "effective," and calls for speculation.
 3 THE WITNESS: I don't think it would be any
 4 more effective.
 5 MS. KOURY: Q. Why not?
 6 A. Teachers go into teaching 99 percent of the
 7 time because they want to teach. They sincerely want
 8 to do a good job. They are interested in kids. They
 9 believe in education and that is not idle chat. I know
 10 I have good feelings about the teachers at Helms.
 11 Right? If you are going to be effective in your
 12 classroom, you have got to keep improving. You have to
 13 stay one jump ahead and teachers do that. I do it. I
 14 don't need somebody woofing down my back or the
 15 governor of the district coming and evaluating me and
 16 telling me what I need to do. I know what I need to do
 17 by the response and the feedback I get from my
 18 students. I know where I'm strong. I know where I'm
 19 weak. And if you want to continue to be effective and
 20 you believe in what you are doing, you just strengthen
 21 yourself in order to do a better job.
 22 Q. So you think the state's role in education
 23 is providing the funding and providing the support, but
 24 you would prefer and you think it would be more
 25 effective if the evaluation process and the actual

1 decision-making occurs at the local level; is that
 2 true?
 3 A. Yes. They even talk about peer evaluations
 4 -- you know, all of it with the idea that you are going
 5 to be supportive. You are not going to be torn down or
 6 picked apart, but that you are going to be supported.
 7 You are going to be guided. You are going to be given
 8 suggestions that maybe you never thought about before.
 9 I mean, it is at some level that is beyond being
 10 critical or looking for problems. It is more of a
 11 constructive process. That is how I see it and I think
 12 for the most part, as it is now, it is meant to be that
 13 way. I think it is meant to be that way.
 14 Q. And you think that is a good thing?
 15 A. Yes, I do.
 16 Q. Are you familiar with CCR, Coordinator
 17 Compliance Reviews?
 18 A. No.
 19 Q. Would you be inclined to participate in a
 20 program where the state had officials that sort of
 21 overlooked the -- or had checks on what types of
 22 textbooks you use, how many textbooks you have,
 23 something where you would have to respond in a written
 24 fashion to the state? Do you think that that would be
 25 useful?

1 A. It is pretty speculative. I would have to
 2 see how it was all mapped out and the details of it
 3 before I would be supportive of it one way or the other
 4 because as you stated it, it is pretty vague.
 5 Q. What about this complaint in general, you
 6 indicated earlier that your understanding is that the
 7 Plaintiffs want to resolve the inequities at the
 8 school. How do you think they want to resolve those
 9 inequities?
 10 MS. KOTT: Objection. Calls for
 11 speculation.
 12 MS. KOURY: Q. Or how would you want to
 13 resolve the inequities?
 14 A. I would want to see the students at Helms
 15 get things that students get in more affluent
 16 communities.
 17 Q. When you say that, do you mean just in terms
 18 of more money and allow the local community at Helms or
 19 Helms, in conjunction with the district and its
 20 parental community, decide how to allocate those funds?
 21 A. That is part of -- yeah, it is working now
 22 with something called Title One. The parents have to
 23 be involved in the screening or the dispensation of the
 24 title fund -- Title One Funds. I think definitely the
 25 community should be involved in the dispensation of the

1 funds and state where they sense their priorities are
 2 for their given school -- you know, between the school
 3 and the parents and perhaps community organizations.
 4 I'm not -- you know, I haven't given it a whole lot of
 5 thought to some master plan, but teachers should be
 6 involved and it all should be with the focus of we're
 7 going to make it better for the students. We're going
 8 to improve the education of the students. That is the
 9 bottom line, but the more people that -- it is the
 10 community's money, right, the state's money. Everybody
 11 who feels as though some of their tax dollars have gone
 12 into the school's needs, if possible, to have some
 13 input on how that school is run, how the monies are
 14 dispensed. They know best. They see that school every
 15 day. People, parents -- you know, businessmen who
 16 drive past Helms, they see that. Chevron now is
 17 starting to send a few tutors over to take a look at --
 18 you know, to be in with the students, not many, but it
 19 is a step in the right direction. It is where some of
 20 their future employees come from, the community, right?
 21 They have a stake in it.

22 They sit on the most valuable property
 23 anyway. They don't pay enough taxes, as far as I'm
 24 concerned. Side line here.

25 Q. What about the teachers at Helms, do you

1 on experience only, that you have to -- when I got
 2 mine, I did have to serve a short internship over
 3 there. Mine was in Marin Community Alliance. They had
 4 a community center there and I went there for a
 5 semester and taught English to adults and young adults
 6 in an after-school program.

7 Q. When you say a clear credential is important
 8 and you listed off experience, knowledge, and receiving
 9 support. In terms of actually having a clear
 10 credential, what is important about that, in your
 11 opinion? Is the knowledge aspect of it?

12 A. The knowledge and the experience.

13 Q. The experience that comes along with student
 14 teaching, for example?

15 A. Yes.

16 Q. Is that something that the candidates
 17 receive when they are involved in internship programs?

18 A. That is right because they -- in order to
 19 get a clear credential, you have to do student
 20 teaching. What happened for me is that because I was
 21 teaching in the Peace Corps, the student teaching
 22 requirement was waived. I did my internship as part of
 23 my MA program, right, but the general way of getting a
 24 clear credential is that you have to student teach for
 25 at least a semester.

1 think that Helms has good teachers in general?

2 A. Yes.

3 Q. Do you think it is a problem that many of
 4 them don't have clear credentials?

5 A. Yes.

6 Q. Why?

7 A. Lack of experience, lack of knowledge. They
 8 don't lack heart. You have to understand that, and
 9 they don't lack desire. It is just honing and refining
 10 their skills. Learning a little bit more comes from
 11 going to school. It comes from experience. It comes
 12 from support from their colleagues. It comes from
 13 knowing that people believe in them -- you know, and
 14 are willing to help them along because teaching is a
 15 very challenging thing nowadays. It is not just
 16 subject matter. It is a whole big range of classroom
 17 control, how you move from one topic to another with a
 18 minimum amount of impact and upheaval among the kids
 19 and middle school kids are a difficult age group to
 20 teach.

21 Q. I bet. Do you think the clear credentials
 22 and having a clear credential itself provides
 23 experience? Is that an indication of experience?

24 A. No, they don't graduate -- you don't get a
 25 clear credential from your educational institute based

1 Q. Do you think that Helms has enough support
 2 for its teachers?

3 A. For all their teachers or just our new
 4 teachers?

5 Q. Let's start with all.

6 A. Yes, I think we do.

7 Q. And also for their new teachers, you do?

8 A. Yes.

9 Q. What about recruiting, you indicated that
 10 experienced teachers tend to be more effective; is that
 11 right? Yes? Is that yes?

12 A. Yes, it is my general belief.

13 Q. Right. Do you think that Helms tries
 14 generally to recruit experienced teachers or do you
 15 know?

16 A. I don't know.

17 Q. You don't know?

18 A. I'm not in on the recruiting.

19 Q. Have you noticed a high turnover at Helms of
 20 teachers?

21 A. Yes.

22 Q. Do you know why? Have you talked to any of
 23 the teachers that leave? Do you know why they leave?

24 That is two questions. Let me start with
 25 the first one. Do you talk with teachers and find out

1 why it is they left?
 2 A. Usually it is salary.
 3 Q. That the salary at Helms is too low?
 4 A. In that district, it is too low.
 5 Q. Do they find that -- have they told you that
 6 other districts pay higher than West Contra Costa?
 7 A. Some do.
 8 Q. Do you think higher salaries to teachers in
 9 this district would retain them?
 10 A. Yes, and working conditions.
 11 Q. What do you mean by "working conditions"?
 12 A. Some teachers don't have a home room.
 13 Every -- they have to meet their kids in somebody
 14 else's room every period. We're overcrowded. We had a
 15 teacher, until just recently, they had prepared a place
 16 for him in the little theater who he and his students
 17 walked from room to room. He had sixth grade students.
 18 We had an overcrowded sixth grade, so they had to
 19 finally level that out because they had too many
 20 students, so they hired this teacher and said, "Here
 21 are your students and we'll try to get you your room."
 22 So he took his students, same group of sixth
 23 graders, from room to room.
 24 Q. Is there anything else that you think would
 25 help retain teachers and -- is there anything else

1 besides the overcrowding with respect to working
 2 conditions? In other words, you indicated that working
 3 conditions are --
 4 A. Challenging.
 5 Q. -- challenging. Is there anything besides
 6 the overcrowding?
 7 A. And the salary.
 8 Q. And the salary?
 9 A. And there was some frustration around
 10 textbooks, which is now getting remedied.
 11 Q. Anything else?
 12 A. I think those are the big ones. It will be
 13 hard to tell now because they gave new teachers, for
 14 credentials, financial incentive, but they have to stay
 15 two years to get it all, so we don't -- we'll have --
 16 Q. What is that financial incentive?
 17 A. Money.
 18 Q. Do you know where the money is coming from?
 19 A. No.
 20 Q. Do you know what kind of -- what kind of
 21 program this is? Is that no?
 22 A. That is no. I don't know.
 23 Q. How did you hear about it?
 24 A. It was in the newspaper. Some teachers at
 25 Helms are hired under that. One teacher came from

1 Texas.
 2 Q. How many teachers have been hired under this
 3 program, do you know?
 4 A. I don't know.
 5 Q. Other than this financial incentive, do you
 6 know of any recent programs to retain teachers at
 7 Helms?
 8 A. No.
 9 Q. Why have you stayed at Helms all these
 10 years?
 11 A. When I first went to Helms, the principal
 12 left soon after, but the principal that came in is
 13 Linda Linear that I mentioned. She exhibited
 14 leadership and efficacy for the teachers. I liked her.
 15 I liked the kids. I believed in what I was doing and I
 16 liked my colleagues and I just -- and I was older, of
 17 course, and it didn't seem wise to start jumping around
 18 all over the place. Younger teachers do that more
 19 readily than older teachers and I liked it there. And
 20 I get involved with the kids and I get involved with my
 21 job and that was enough satisfaction for me. Nobody
 22 was getting in my way. I think that Linda Linear
 23 believed in me and believed in what I was doing and I
 24 felt I was being effective, all those kinds of things
 25 that help teachers stay on the job or anybody stay on

1 the job that they are doing.
 2 Q. What do you mean, "No one got in your way"?
 3 A. Nobody questioned me particularly. They --
 4 you know, they believed in what I was doing. I guess
 5 my students were making -- I guess must have been
 6 making adequate progress. Nobody came and -- you know,
 7 messed with what I was doing.
 8 Q. Is that something that you would be
 9 apprehensive to, someone outside coming in and sort of
 10 trying to direct what it was that you were doing with
 11 your program?
 12 A. I wouldn't want them to direct me unless
 13 they provided me with some valid reasons for doing that
 14 -- you know, if I felt that they -- there was some
 15 substance in what they were trying to do, I would
 16 probably buy in. More speculation. You don't know the
 17 what-ifs. Pretty vague.
 18 Q. Earlier we were talking about the cafeteria
 19 and you had mentioned the cleanliness of the cafeteria
 20 and you mentioned the long line and the fact children
 21 don't bus their tables often and you sort of connected
 22 the two. Is there anything else with respect to the
 23 cafeteria that you find problematic or that contributes
 24 to identifying it as not being clean?
 25 A. Just I would -- it seems to me, the whole

1 school, it doesn't get cleaned thoroughly enough every
2 night.

3 Q. And --

4 A. I mean, the floor is a little bit tacky.

5 Then there is a covered eating area where the area --
6 the floor is really tacky because it is only covered
7 over with -- you know, corrugated or -- or corrugated
8 plastic translucent material and that floor -- you
9 know, kids spill all the time. There is spilling all
10 the time. It is just tacky underfoot.

11 Q. What would you want, either from this
12 lawsuit or from the state in general, to be fixed with
13 respect to that problem, what you just indicated? How
14 would you want it to be resolved?

15 A. A whole new school.

16 Q. What do you mean by that?

17 A. Well, our school is old. There are so many
18 problems there. It doesn't seem -- it is a new roof,
19 leaking walls, tiles falling down from the ceiling and
20 being kicked up off the floor. I don't know -- I mean,
21 you don't -- fixing it is millions of dollars.

22 Q. I understand that from what we discussed
23 earlier with the facilities issues --

24 A. Yes.

25 Q. -- but this issue of cleanliness seems to be

1 issues that we've talked about today that you think
2 need to be remedied at your school or fixed at your
3 school?

4 A. The only thing that we briefly touched on
5 that I feel real concern about is adequate placement,
6 adequate screening and staff to help this ELD students
7 with their literacy. We've got to find -- teachers
8 know. Teachers know when their students -- when an ELD
9 student is having literacy problems or special ed
10 problems and they are not being screened for that and
11 they are not being accommodated.

12 Q. Okay. You had indicated earlier that this
13 literacy problem is as a result of many students that
14 immigrate in or come to the schools from other
15 countries and don't have --

16 A. They don't know how to read.

17 Q. -- reading skills.

18 A. Sorry.

19 Q. And so you are not just teaching them how to
20 -- you are not just teaching them how to speak and
21 write in English. You are teaching them how to read
22 and write, period; is that true?

23 A. Yes. Yes, that is true.

24 Q. And you are indicating many of the teachers
25 learn about the students having literacy problems?

1 a separate issue or is it not?

2 A. In a way, it isn't because it is deferred
3 maintenance over such a long period of time that I
4 don't -- I'm not a maintenance person. I don't know
5 how they could remedy that much delayed maintenance.

6 Q. So in addition to fixing some of the
7 facility's issues that you discussed, such as the
8 leaking roofs and the floors and the windows or the
9 broken glass, you also indicated you don't feel as if
10 the school is cleaned on a periodical basis
11 sufficiently?

12 A. I don't think the school is clean enough.

13 Q. You indicated earlier that you felt that is
14 a responsibility held by both the school and the
15 students?

16 A. At least the bathrooms and the drinking
17 fountains, yes.

18 Lunchroom, the kids could bus their food if
19 they had more time. The floors and the general clean
20 tables -- I mean, that is maintenance -- you know,
21 thorough cleaning, mopping, steam cleaning the floors
22 or steam cleaning the cement area in the covered eating
23 area that is semi-outside. It is not heated out there
24 or anything.

25 Q. Is there anything else other than these

1 A. The ELD I teachers are the ones most
2 impacted by that.

3 Q. I'm sorry. I don't quite understand, not
4 your complaint, but your concern is that there is not
5 sufficient -- that the teachers are not identifying
6 these students or that there is -- if you could
7 rephrase that or repeat that.

8 A. The teachers identify them, but there is no
9 literacy class to place them into. Now, identifying a
10 special ed student, not only is there not testing for
11 those, they can't -- a student cannot be placed in a
12 special ed program until there is extensive testing,
13 not only that they have to be screened by a school
14 psychologist, of which I doubt there is a
15 Spanish-speaking one, to determine if they are okay
16 emotionally. In other words, you can't put a kid with
17 emotional or psychological problems in a special ed
18 class, so if these kids are not getting all the
19 prescreening that they need to have in order to say,
20 okay, yes, we're sure they need a special ed class,
21 then they just keep staying in the regular -- in the
22 ELD track and they are not getting what other kids get
23 in terms of special ed and -- you know, we don't have
24 literacy class. We have literacy classes down in first
25 grade, but middle schools -- our middle school does not

1 have a literacy class for kids who come into our school
2 from other countries who have never been to school and
3 don't know how to read.

4 Q. Correct me if I'm wrong, if I'm listening to
5 you correctly, you are identifying two issues?

6 A. That's right.

7 Q. One is that they are not being prescreened
8 sufficiently for special education and, two, that there
9 is -- there is a majority or a percentage of students
10 that have literacy problems for which there is no
11 program to put them in?

12 A. That's right.

13 Q. Let's deal with the first one first, being
14 the prescreening problem for special ed students. How
15 long have you noticed this problem, that there isn't a
16 sufficient prescreening process?

17 A. For a long time.

18 Q. I'm sorry. I didn't finish.

19 A. Sorry, two or three years.

20 Q. And do you think other teachers have noticed
21 this problem as well?

22 A. We've talked about it among ourselves.

23 Q. Have you talked to anyone else about it?

24 A. I talked to a person who is currently doing
25 testing with the students from the ELD Department and

1 special ed?

2 A. I'm not sure.

3 Q. Do you know what the screening process is
4 for special ed students for non-ELD students?

5 A. Not in great detail, but I know they have to
6 have this psychological screening.

7 Q. And you don't know whether ELD students ever
8 have a psychological screening or not?

9 A. I don't know. I do know there is a backlog
10 of regular English speakers. In other words, kids that
11 have been identified as potentially needing special ed,
12 because of this special ed guideline, special ed is a
13 -- there is a lot of restrictions around that whole
14 program and they don't want to put kids in there unless
15 they truly need it.

16 Q. Right.

17 A. So they have to have this psychological
18 testing first. That is another thing, our school
19 district isn't employing enough psychologists to screen
20 these youngsters, three maybe for the whole school
21 district, so kids wait two, three, four years for their
22 screening before they even get designated for that.

23 Q. You think the district should hire more
24 psychologists?

25 A. Yes.

1 he is aware of it because he is involved so much with
2 state testing now called CELDT. I don't know what it
3 stands for, but it is more testing that we have to do
4 and he is very aware of it because he deals with these
5 students one on one and I said, "Mr. Smith, what are we
6 going to do?"

7 And he says, "Nothing yet. There is no
8 funding for this."

9 Q. Is he a district person or school --

10 A. Yes.

11 Q. Do you know if he has contacted anyone else
12 about it or --

13 A. I don't know.

14 Q. Have you suggested to him perhaps that this
15 is an issue that should be raised beyond just the
16 school or the school district?

17 A. I talked to him, grabbed him for a second in
18 the hallway. No, we haven't had in-depth conversations
19 about it.

20 Q. Is there a screening process at all for
21 special ed students?

22 A. Yes, for English-proficient students.

23 Q. There is not one for ELD students?

24 A. That's right.

25 Q. So are any ELD students identified for

1 Q. But you are not sure whether the
2 psychologists they have right now deal with EDD
3 students or not?

4 A. I don't think they do. They don't as far as
5 we can determine among the ELD Department staff.

6 Q. Have you ever asked any of them, the
7 psychologists at the school district?

8 A. No, I never see them.

9 Q. How about the literacy problem, when did you
10 first start noticing a literacy problem among your
11 students?

12 A. Four years ago.

13 Q. Did you ever raise the issue with anyone at
14 the school?

15 A. One of our teachers -- we all agreed to take
16 extra students so she could have a literacy class of
17 about 12 or 13 students because our max was 25 and we
18 -- all the rest of us took 27 or 28, but it was
19 somebody who was dedicated and she did the best she
20 could and we thought she was pretty helpful. I mean,
21 she wasn't specially trained in literacy matters, but
22 because she is needed now to teach -- you know, to
23 teach a class, we don't have any literacy anymore.

24 Q. When did she stop doing that?

25 A. She did a literacy class last year, but she

1 is not doing one this year.
 2 Q. Was it helpful last year?
 3 A. Yes.
 4 Q. And did you suggest to the district perhaps
 5 or do you know if anyone at the school suggested to the
 6 district that this literacy program was helpful?
 7 A. I don't know if anybody suggested it or not.
 8 Q. Have you heard any of the parents complain
 9 about the literacy or --
 10 A. No.
 11 Q. Are there any after-school literacy programs
 12 for parents?
 13 A. After-school literacy programs for --
 14 Q. Adult programs through the district.
 15 A. At Helms, no.
 16 Q. Do you know if West Contra Costa --
 17 A. They have adult classes. They do.
 18 Q. Do you know who teaches those literacy
 19 programs? Are they teachers in the West Contra
 20 Costa --
 21 A. I don't know if there are literacy programs.
 22 There is adult ed. What they teach there, I don't
 23 know.
 24 Q. Other than this issue we've just been
 25 discussing with the literacy program and the special

1 ed, is there anything else you haven't mentioned
 2 earlier that you think is a concern or a problem at
 3 Helms that you would like to see resolved through this
 4 lawsuit?
 5 A. No.
 6 MS. KOURY: Can I take a five-minute break?
 7 (Recess taken.)
 8 MS. KOURY: Q. You had indicated before
 9 that the mentoring program was funded by the state; is
 10 that correct?
 11 A. Yes.
 12 Q. And you did think that the program was
 13 designed to provide training and support for newer
 14 teachers; is that correct?
 15 A. That is not correct.
 16 Q. Okay. Was it designed to provide all
 17 teachers support?
 18 A. I don't know what it was designed for
 19 initially.
 20 Q. Did you find that it did provide teacher
 21 support?
 22 A. Yes.
 23 Q. And you found it was effective; is that
 24 correct?
 25 A. I don't know.

1 Q. Did you think it was ineffective?
 2 A. I didn't do any -- run any evaluations.
 3 Q. Did you hear any feedback about it?
 4 A. No.
 5 Q. So you don't really have an opinion as to
 6 whether it was effective or not?
 7 A. No.
 8 Q. Is your understanding that the PAR Program
 9 sort of is replacing the mentoring program?
 10 A. That is what I was told.
 11 Q. Who were you told by?
 12 A. Mr. Frank Healy of our district.
 13 Q. I know you are not involved in PAR, but is
 14 it your understanding that it was designed to provide
 15 training and support to newer teachers or to teachers
 16 in general?
 17 A. I'm not sure.
 18 Q. Do you -- is it your view that the problem
 19 at Helms with textbooks would be resolved if state
 20 officials were monitoring the lack of textbooks? In
 21 other words, if you had to report to state officials
 22 about your textbooks on an annual basis or a semiannual
 23 basis or even a monthly basis --
 24 A. No.
 25 Q. -- that that would resolve the problem?

1 A. No.
 2 MS. KOTT: Objection. Calls for
 3 speculation.
 4 MS. KOURY: Q. Was your answer no?
 5 A. No. My answer is no.
 6 Q. Do you think it would be an effective use of
 7 your time and other teachers' time if you regularly had
 8 to report to a state official for each class about the
 9 number of seats that you have in your classroom and
 10 whether there was sufficient seating for the students?
 11 A. No.
 12 Q. What about reporting to state officials on a
 13 regular basis as to the heat condition in your
 14 classrooms or the air-conditioning conditions in your
 15 classrooms, do you think that would be an effective use
 16 of your time?
 17 A. No.
 18 Q. What about reporting to state officials as
 19 to the conditions and terms of whether there is vermin
 20 existing in your classrooms?
 21 A. No.
 22 Q. Do you think these are issues that should be
 23 handled at the local level, in other words, things that
 24 you could report to your school and school district
 25 when problems arise?

1 A. That is who they should be reported to, but
2 they should have the resources to fix them.

3 Q. When you state, "Resources," do you mean
4 funding?

5 A. Yes.

6 MS. KOURY: I don't have any further
7 questions.

8 MS. KOTT: Okay. I don't have any
9 questions.

10 MS. KOURY: Okay

11 (Recess taken.)

12 MS. KOURY: Counsel, can we stipulate that
13 copies of documents attached to this deposition can be
14 used as originals?

15 MS. KOTT: Yes.

16 MS. KOURY: May we stipulate the original of
17 this deposition be signed under penalty of perjury;
18 that the original be delivered to the office of
19 Morrison & Foerster; that the reporter is relieved of
20 liability for the original of the deposition; that the
21 witness will have 30 days from the date of the court
22 reporter's transmittal letter to sign and correct the
23 deposition?

24 MS. KOTT: Yes, so stipulated.

25 MS. KOURY: And Amy Kott, will you notify

1 CERTIFICATE OF REPORTER

2 I, JOHNNA FORD, a Certified Shorthand Reporter,
3 hereby certify that the witness in the foregoing
4 deposition was by me duly sworn to tell the truth, the
5 whole truth and nothing but the truth in the
6 within-entitled cause;

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

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

17
18 DATED: _____, 2001.

19
20
21 _____
22 JOHNNA FORD, CSR 11268
23
24
25

1 all parties in writing of any changes in the
2 deposition; and that if there are no such changes
3 communicated or signature within that time, that any
4 unsigned and uncorrected copy may be used for all
5 purposes as if signed and corrected?

6 MS. KOTT: Yes, either I will send out that
7 information about the corrections or someone from my
8 office will.

9 Ms. KOURY: Thank you.

10
11 (Whereupon, the deposition was adjourned
12 at 4:41 p.m.)

13 --o0o--
14

15 I declare under penalty of perjury that the
16 foregoing is true and correct. Subscribed at
17 _____, California, this ____ day of
18 _____, 2001.

19
20
21 _____
22 JUNE TOLBERT
23
24
25