

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

ELIEZER WILLIAMS,)
)
 Plaintiff(s),)
)
 vs.) No. 312236
)
)
)
 STATE OF CALIFORNIA , et al.,)
)
 Defendant(s).)
 _____)

DEPOSITION OF DELAINE EASTIN
Sacramento, California
Tuesday, September 23, 2003

Reported by:
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1 DELAINE EASTIN, BE IT REMEMBERED, that on
 2 Tuesday, the 23rd day of September, 2003, commencing at
 3 the hour of 10:07 a.m. thereof, at the offices of
 4 Morrison & Foerster, 400 Capitol Mall, Suite 2700,
 5 Sacramento, California, before me, COLLEEN N. KAZNOWSKI,
 6 a Certified Shorthand Reporter in the State of
 7 California, duly authorized to administer oaths and
 8 affirmations, there personally appeared
 9 DELAINE EASTIN,
 10 the Witness, having been first duly cautioned and sworn
 11 to tell the truth, the whole truth, and nothing but the
 12 truth, testified as follows:
 13 EXAMINATION BY MR. JACOBS
 14 Q Good morning, Ms. Eastin. I'm Michael
 15 Jacobs of Morrison & Foerster. We represent the
 16 plaintiffs in Williams v. State of California. We
 17 also refer to it as "the schools' case," so we'll
 18 probably refer to that during the course of this
 19 deposition.
 20 You formally left your position on what
 21 date?
 22 A I left my position on something like January
 23 5, was my last day, I think.
 24 Q And the first day in office as
 25 Superintendent of Public Instruction?

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1 A Well, it's technically January 1st. I think
 2 they told us to get sworn in in a private ceremony
 3 the 1st or 2nd.
 4 Q And that was 1990 --
 5 A That was in 1995.
 6 Q Have you given any speeches since you left
 7 the SPI position about your tenure as SPI?
 8 MR. VIRJEE: Objection. Vague and as to,
 9 "speeches" and "tenure as SPI."
 10 THE WITNESS: I've given speeches. They
 11 weren't specifically about my tenure as SPI. I may
 12 have mentioned something that happened in my time in
 13 office.
 14 BY MR. JACOBS:
 15 Q Is there any other context in which you've
 16 reflected -- other than your own reflection to
 17 yourself -- reflected to others since you left the
 18 SPI position and analyzed the course of your tenure
 19 and what changes occurred during your tenure to the
 20 state's education system?
 21 MR. VIRJEE: Objection. Vague and ambiguous
 22 as to "reflected" and "analyzed."
 23 THE WITNESS: Yeah, I don't recall
 24 specifically places where I have reflected. I'm
 25 sure I have reflected.

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1 BY MR. JACOBS:
 2 Q As you reflect today, there were many
 3 changes in the state's system of education during
 4 that period?
 5 A Yes.
 6 Q And you're proud of many of them?
 7 A Yes.
 8 Q You're proud of the content standards that
 9 were developed?
 10 A Yes, very proud.
 11 Q You're proud of the gradual alignment of the
 12 state's education system during your tenure with
 13 those content standards?
 14 MR. VIRJEE: Objection. Vague and ambiguous
 15 as to "gradual."
 16 THE WITNESS: Yes, we worked hard to align
 17 the system of the standards with the frame works,
 18 with the assessments.
 19 BY MR. JACOBS:
 20 Q You're proud of the fact that as an advocate
 21 for education you were part of the growth in per
 22 pupil spending on education?
 23 A Yes, I was proud of that.
 24 Q You remain concerned about the issue of
 25 educational equity in the State of California?

1 MR. VIRJEE: Objection. Vague and ambiguous
2 as to "educational equity."

3 Delaine, maybe let him finish his questions,
4 let us object, and then you can answer.

5 THE WITNESS: Okay.

6 MR. VIRJEE: Thanks.

7 BY MR. JACOBS:

8 Q You remain concerned about the educational
9 equity in the State of California? Same Question.

10 MR. VIRJEE: Objection. Vague and ambiguous
11 as to "educational equity."

12 THE WITNESS: I think it's fair to say I
13 have concerns about equities that exist in our
14 nation insofar as education is concerned.

15 BY MR. JACOBS:

16 Q And thereby including the State of
17 California?

18 A Yes.

19 Q And that was an issue that you were
20 concerned about as SPI as well?

21 A Yes. We worked hard to give more support to
22 children who had, what we felt, was not an equitable
23 educational opportunity.

24 Q What are the programs that you would point
25 to as providing more support to children who did not

1 preschool, and to give more children a chance to
2 learn after schools with Saturday schools and
3 intercessions and certainly in summer schools.

4 Our efforts were geared for making sure that
5 every child had a teacher that followed the
6 standards and gave children a chance to learn those
7 standards, that there was a system of assessment
8 that was aligned to those standards, which didn't
9 happen at first but did eventually. It's in process
10 now.

11 I supported the High School Exit Exam;
12 although, I didn't want to see it have consequences
13 as quickly as the initial bill had consequences. I
14 do believe, though, that kids ought to have -- you
15 know, when they leave school, they ought to have
16 knowledge that they have certain basic information
17 mastered, make sure the right stuff gets mastered
18 really is part of the great goal that we've had.

19 And all of the efforts that we made on
20 behalf of children including English language
21 learners were intended to get all kids to high
22 standards.

23 We also did a lot in the facilities area.
24 When I was in the Legislature, I had carried what
25 was then the biggest bond in the history of the

1 have an equitable educational opportunity?

2 MR. VIRJEE: Objection. Vague and ambiguous
3 as to "equitable educational opportunity."

4 THE WITNESS: Well, first we tried to raise
5 the achievement of all children in the State of
6 California. But there were specific programs aimed
7 at helping children who were at greater risk, so we
8 worked hard to reduce the class size for all
9 children, kindergarten through third grade.

10 We worked hard to ensure that every child
11 had a fully-credentialed teacher, and that we
12 attracted more people into the profession, and that
13 they were well -- not only well compensated, we
14 raised beginning teacher salary, but also that they
15 were given lots more professional development
16 opportunity so they could help all children to learn
17 to read.

18 We worked hard to ensure that there was a
19 large increase in support for instructional
20 materials including probably the largest increase in
21 school library materials in history as well as the
22 largest increase in instructional textbooks as well
23 as a large increase in technology.

24 We worked very hard to ensure that there
25 were additional opportunity for children in

1 state. Subsequent to that, we have passed a much
2 bigger bond that will allow a lot more resources
3 from the state-level, but I supported a fifty
4 percent vote for school facilities repair. It
5 didn't pass at 50 percent, but it did pass at
6 55 percent. And we gave an incentive in the bond to
7 local districts to pass local bonds. In some cases
8 they've gotten 65 percent but not 66 and two-thirds,
9 but there was some worry that some hadn't even
10 gotten 55.

11 And what we did in the bond was to say if
12 you pass a local measure, you get to stand in line
13 sooner for the state's resources. And there's been
14 I think an extraordinary increase in construction
15 around the state as well as in modernization. Some
16 of the older schools are, you know, rapidly coming
17 into the 21st century, which we're very happy about.

18 BY MR. JACOBS:

19 Q The issue of -- let's take facilities first.
20 An improved facility doesn't guarantee a student
21 educational equity or an educational opportunity,
22 correct?

23 MR. VIRJEE: Objection. Incomplete
24 hypothetical. Calls for speculation. Lacks
25 foundation. Vague and ambiguous as to "educational

1 equity" and "guarantee."

2 THE WITNESS: I don't remember who said give
3 me Socrates and Iroc and I will have a great
4 teacher, and I will get a great education, something
5 like that.

6 So I believe that the most important single
7 component is having an effective teacher; however, I
8 have said, and you probably read me saying that I
9 think buildings make a statement about the
10 seriousness of our adults about a child's education.
11 And the schools should be clean, well-lighted, up to
12 date.

13 And that's why I was such a proponent of not
14 only the big state bond, but I've been involved in a
15 lot of local campaigns as a practical matter. In a
16 state with such strong local control, you really do
17 want to urge that the local board get in the game
18 and get the voters behind the children. It's good
19 for the kids, but it's also good for the community.
20 Property values go up, frankly, when the schools are
21 better, and everybody wins when the school is
22 improved.

23 BY MR. JACOBS:

24 Q So the fact that econometric data might not
25 validate the rule of facilities as the "but for"

1 correlated as opposed to an effective teacher. And
2 yet, you were a strong advocate for improved
3 facilities. So I guess I should back up a little
4 bit.

5 Have you been aware of the econometric
6 analysis on this point by people like Dr. Hanushek?

7 MR. VIRJEE: I'm going to object to the
8 extent that is supposed to be a characterization of
9 any expert opinions provided by either side in this
10 case.

11 You don't have to assume that that's what
12 any expert has testified to or reported.

13 And I'm going to also object on the ground
14 that calls for speculation, lacks foundation and
15 calls for an expert opinion.

16 THE WITNESS: Well, I guess we could have
17 the shoot out Hoover Institute and Iran Corporation.
18 I mean, there's a lot of stuff that's been written
19 about whether money makes a difference in the
20 education of children. If you made me choose
21 between a beautiful school and a great teacher, I
22 would definitely choose the great teacher.

23 I think, though, that an evident should be
24 made by a society to have decent facilities for
25 children. I just think that that makes the

1 cause of improved educational achievements, how does
2 that relate to your view that buildings make a
3 statement and are important?

4 MR. VIRJEE: Objection. Calls for
5 speculation. Lacks foundation. Calls for an expert
6 opinion.

7 MR. SEFERIAN: Assumes facts not in
8 evidence.

9 THE WITNESS: What was the question?

10 MR. JACOBS: Could you read it back.

11 (Whereupon, the record was read
12 by the court reporter)

13 THE WITNESS: Do you want to restate that?

14 BY MR. JACOBS:

15 Q Sure.

16 Since you left office, the state and the
17 state agency defendants have offered expert
18 testimony by econometricians who have taken
19 achievement data and tried to correlate achievement
20 with various, what they call "educational inputs,"
21 and their experts have argued among other things
22 that buildings don't guarantee improved educational
23 performance, and that somewhat more sophisticatedly,
24 if you try and pars out the components of improved
25 educational performance, buildings are weakly

1 likelihood you keep the teacher as well as the fact
2 that it helps kids I think to focus on instruction.
3 But I don't -- I do believe the teaching is the most
4 important single thing that you can do, good
5 teachers.

6 BY MR. JACOBS:

7 Q In the course of your superintendentship,
8 you visit a lot of schools in the state?

9 A Yes.

10 Q You actually had a -- from reading the
11 materials, it sounds like you made a particular
12 effort to keep to almost a schedule of going out and
13 seeing what was happening at the local level?

14 A That's fair to say. I went to -- I averaged
15 more than a school a week.

16 Q Did you have any method of keeping notes of
17 what you saw?

18 A No, it was more anecdotal. I suppose I
19 should have been more, you know, of a diary taker,
20 but I wasn't.

21 Q Did you have a staff person who came along
22 with you on these trips who was taking notes of what
23 was seen?

24 MR. VIRJEE: Objection. Calls for
25 speculation. Lacks foundation as to what someone

1 might do. Also vague and ambiguous as to taken that
2 particular staff person.

3 THE WITNESS: I usually traveled with a
4 member of my staff and a highway patrolman, and we
5 didn't take notes the way I think you're suggesting.

6 We wrote letters to principals thanking
7 them. If we saw any especially good teacher, we
8 wrote a letter to the teacher. Occasionally we'd
9 write a letter to someone else, librarian or head of
10 custodians if the school was particularly well kept.
11 But it was more in the nature of thank you and
12 accolades for all the hard work we saw.

13 BY MR. JACOBS:

14 Q And in the opposite case where say you saw a
15 facility that was not well kept, did you have a
16 practice of any follow-up?

17 MR. SEFERIAN: Objection. Vague and
18 ambiguous.

19 MR. VIRJEE: Vague and ambiguous as to
20 "follow-up" and "practice."

21 THE WITNESS: It's like seeing someone
22 else's children, you mention the good things. You
23 don't necessarily say, you know, you ought to be
24 taking care of your kid better.

25 So in reality because it's a matter of local

1 we do respond to. But, you know, it's more we don't
2 usually hear from parents about the physical plan;
3 although, I did get a complaint one time about red
4 ants on the playground that I should have gone down
5 and taken care of myself.

6 But the truth is the reality is for the most
7 part, the buildings are a function of the local
8 district. And if you envision a time when the state
9 should be looking into the cleanliness and/or the
10 safety of the facilities, you'd have to envision a
11 much larger State Department of Education because
12 compliance staff at the Department is under a
13 hundred, I believe, and that's for 8,914 schools
14 serving 6.2 million children.

15 MR. JACOBS: So we'll give a marked version
16 in a second, but you can start looking at that.

17 (Exhibit 330 marked for identification)

18 BY MR. JACOBS:

19 Q We've marked as Exhibit 330 an article
20 published January 7, 2002 from the Contra Costa
21 Times downloaded from the web version.

22 "State Education Chief's term wanes.

23 Delaine Eastin's tenure has been contentious, but
24 that may be built into the position."

25 And I'm going to take a look at the article,

1 control, I might sometimes verbally suggest to --
2 normally the principal was there, but often a board
3 member would come or a superintendent would be with
4 me or an assistant superintendent would come from
5 the district, and if I saw something that I thought
6 was, you know, physically disappointing or
7 inappropriate, I would mention it to that person,
8 but I wouldn't necessarily put it in writing.

9 We did not have -- we are a state with very
10 strong local control. The State Department of
11 Education is actually quite small. We administer
12 41 percent of the state budget, but I think the
13 Department is down to 1,300 people or something.
14 Even at our high point, we had perhaps 1,600 people,
15 over 60 percent are federally funded.

16 BY MR. JACOBS:

17 Q What was the percent?

18 A Over sixty percent.

19 So you can't take people that are funded by
20 the federal government to do nutrition, and they
21 tell them to go out and start looking in schools
22 for, you know, cleanliness or for other things. So
23 we were not charged with oversight of the facilities
24 per se unless there was apparent complaint.

25 There is a uniform complaint process which

1 but I want to refer you to the paragraph. It's the
2 third full paragraph up from the bottom of the
3 second page.

4 A Is it marked on here?

5 Q No, but I can show you.

6 A Okay.

7 Q What I mean, it starts out, "if you have
8 high-performing well-heeled schools..."

9 MR. VIRJEE: Delaine, why don't you look at
10 the one that's been marked -- she put a mark on the
11 document. I want to make sure that we have in the
12 record the one she's looking at.

13 THE WITNESS: Well, it is not marked.

14 MR. VIRJEE: Right. So why don't you go
15 ahead and switch. Take this one and give it back
16 and look at this one since it's marked with the
17 exhibit number, and then if you want to mark on it
18 as long as, Michael, it's fine with you?

19 MR. JACOBS: That's fine.

20 MR. VIRJEE: If you want to mark on that,
21 that's fine, but that way we have a good record of
22 what you looked at.

23 THE WITNESS: "If you have high-performing
24 well-heeled schools that are modern and
25 low-performing, down-in-the-heels schools that are

1 old, this superintendent can't do anything about it,
2 Eastin said. I can't go in and order you to fix the
3 bathrooms, paint the walls."

4 MR. JACOBS: That's the paragraph.

5 BY MR. JACOBS:

6 Q Did you convey the substance of that
7 paragraph for a reporter for the Contra Costa Times
8 in interview around January 7, 2002?

9 A Yes.

10 Q And what else did you say to her in that
11 interview about the powers of the superintendent to
12 order schools or school districts to do things?

13 MR. SEFERIAN: Objection. Assumes facts not
14 in evidence.

15 MR. VIRJEE: Calls for speculation. Lacks
16 foundation.

17 THE WITNESS: Well, I'd have to read the
18 whole thing to see. You know, I might leave
19 something out.

20 Okay. Now, what was your question?

21 BY MR. JACOBS:

22 Q Did you say anything else to the reporter?
23 It was obviously some time ago, but did you say
24 anything to the reporter in addition to what's
25 quoted here about your power to go in and order

1 that.

2 Q I'll tell you what my reaction was. You can
3 tell me whether I accurately inferred what you were
4 trying to conveying. When I read it, I inferred
5 that you had seen cases in which you had wished you
6 could pick up the phone and say, "clean those
7 disgusting bathrooms;" is that accurate?

8 MR. VIRJEE: Objection. Vague and ambiguous
9 and calls for speculation. Vague and ambiguous as
10 to "is that accurate;" is that what you inferred.
11 Also vague as to time as to when that might have
12 occurred.

13 THE WITNESS: I think that's a level of
14 detail that one person with a small department is
15 not going to be able to do. I mean, it really calls
16 for a rethinking about how the Department of
17 Education is run and staffed, and it calls for big
18 changes in state law.

19 I think the reality is that the first line
20 of defense is the local school district, and that
21 the superintendent and their boards should be
22 walking around the schools and seeing these things
23 and taking steps.

24 And the first line of defense for parents
25 should be to go to the principal, and after that,

1 schools to do things?

2 A I don't recall. I mean, it's what's here in
3 the article.

4 Q In the previous paragraph it says:
5 "Although Eastin acknowledges the huge disparity in
6 resources, facilities and academic achievement in
7 the states, sometimes within the same district..."
8 Stop there. Do you see that fragment?

9 A Where are we?

10 Q It's right up here.

11 A I see it.

12 Q Did you acknowledge a huge disparity in
13 resources sometimes within the same district to that
14 reporter?

15 MR. VIRJEE: Objection. Vague and ambiguous
16 as to "huge disparity" and "resources, facilities
17 and academic achievement" unless you're asking
18 whether she used those specific words.

19 THE WITNESS: It's not in quotes, so I don't
20 know if that's exactly what I said.

21 BY MR. JACOBS:

22 Q In substance?

23 A Substantively I said there is definitely
24 disparity within the state, sometimes within the
25 same district. State superintendent can't change

1 the superintendent and the board to do those things.

2 I think the superintendent is hopefully
3 focussed on student achievement, academic outcomes,
4 and the results really. How do you manage for
5 results in student achievement? That should be the
6 primary focus of the State Superintendent,
7 especially in a state as vast as California.

8 But even in a smaller state, I think the
9 proportional comparison to other states, you'd find
10 our Department of Education are actually quite
11 small.

12 And the country has a tradition of local
13 control such that even with the No Child Left
14 Behind, the federal government, you know,
15 essentially President and the leaders of the two
16 parties that supported the legislature, all talked
17 about the importance of local flexibility in their
18 speeches. It's an envision that you will have a
19 micro management from either the national or from
20 the state-level in most -- in most conventional
21 conversations.

22 BY MR. JACOBS:

23 Q And you believe -- I take it that's a
24 description of the reality as you see it. And let
25 me ask you now a prescriptive question about what

1 you would desire or would have desired when you were
2 SPI.

3 You visited a school district where, you
4 know, there's mismanagement or even corruption, and
5 that has led to a low-performing down-in-the-heel
6 school, is it your view that you wish to leave the
7 remedy for that down-in-the-heel school to the
8 success or failure of local control?

9 MR. VIRJEE: Objection. Calls for
10 speculation. Lacks foundation. Incomplete
11 hypothetical. Vague and ambiguous. And assumes
12 facts not in evidence.

13 MR. SEFERIAN: Compound question.

14 THE WITNESS: Can you break the question
15 into pieces for me, please.

16 MR. JACOBS: I think so, but maybe I can
17 come at it from another direction.

18 BY MR. JACOBS:

19 Q This tradition of local control in which
20 parents, school boards, local school officials are
21 responsible for the maintenance and upkeep of
22 schools, that's been the system for many, many years
23 now, correct?

24 A Yes, correct.

25 Q And in many cases it works quite well?

1 accountability side and the financial accountability
2 side is sufficient to keep any one person very, very
3 busy in California, and I don't think that the
4 current system you will find the superintendent
5 wanting to become deeply involved in monitoring for
6 cleanliness.

7 Now, I wrote AB 1200 as a legislator. So I
8 do believe the state has a responsibility to make
9 sure that the money gets well spent, and I do
10 believe that there is -- there are a few districts
11 that are actually, as you said, corrupt, but very
12 few.

13 Now, we have a mechanism for getting at
14 those very few districts that are corrupt. We also
15 have academic accountability, which is something we
16 fought long and hard for. But you can't really have
17 had academic accountability before you had standards
18 and aligned to standards.

19 So I think we're trying very hard in the
20 state to focus on the right stuff, and the right
21 stuff is making sure all kids get to high standards,
22 making sure all kids have an opportunity to have an
23 opportunity to learn.

24 BY MR. JACOBS:

25 Q Let's talk about AB 1200 for a minute. You

1 A Yes.

2 Q In fact, in the majority of the schools that
3 you visited around the state, did you find them in
4 the sense in which we're talking about it now, not
5 down-in-the-heels?

6 MR. VIRJEE: Objection. Vague and ambiguous
7 as to "down-in-the-heels." Vague as to time.

8 THE WITNESS: I saw a tremendous improvement
9 in the eight years that I was state superintendent.
10 I think the level of investment increased and the
11 attention of the local districts on issues like
12 modernization helped us.

13 We did, for example, Net Day. And on Net
14 Day we had 30,000 volunteers turn out to help us
15 wire schools. If anything, I think it was an eye
16 opener to a lot of people. They got into the
17 schools, and they said, huh, there's some need here.
18 And I think what we saw were more people willing to
19 help out.

20 When we first changed the bond vote to 55
21 percent, 29 out of the first 29 bond votes passed.
22 So I think there was a lot of enthusiasm for us
23 working on improving the schools.

24 I think that the job of the state
25 superintendent, though, on the academic

1 were Superintendent of Public Instruction when the
2 state took over Compton, correct?

3 A No, I was not.

4 Q It happened before?

5 A Yes.

6 Q You were SPI during much of the state's
7 direct administration of the Compton School
8 District?

9 A Correct.

10 Q What was your involvement in reviewing the
11 actual administration of the Compton District during
12 that period?

13 MR. VIRJEE: Objection. Vague and ambiguous
14 as to "involvement."

15 THE WITNESS: Well, my biggest
16 responsibility was to finally find a state
17 administrator that would focus on the right stuff
18 and would, in fact, do the right things by those
19 children. And Randy Ward proved to be not only a
20 good financial manager who paid the loans back to
21 the state, but an excellent academic leader who
22 focussed on the instruction of those children, and
23 we saw a tremendous improvement in the children's
24 education.

25 Most of the review on the financial side,

1 for example, was done through the people that worked
2 for me, the financial side. I would get sometimes
3 notes or information in a biweekly report on how
4 things were going from the financial people and/or
5 from the academic people.

6 And we did try to give Randy some support
7 from the Department. We sent some people down
8 physically from the Department to -- and we helped
9 him find in one case a retired annuitant that could
10 help him set up a personnel system.

11 Compton is the exception that proves the
12 rule. And other people helped too. CSPA did some
13 training of their board members, and we had other --
14 FCMAT certainly played a big role. But there's
15 enough going on in the Superintendent of Public
16 Instruction's life that you don't spend a lot of
17 time on any one of the more than thousand districts,
18 even the state control.

19 We did spend some time, and I met with Randy
20 when he was in Sacramento, and occasionally we'd
21 talk on the phone. But he would also talk to others
22 like Richard Whitmore, who, you know --

23 BY MR. JACOBS:

24 Q Let me ask you a little more about Compton
25 just to talk about the exception a little bit more.

1 BY MR. JACOBS:

2 Q I want to ask you whether you conveyed to
3 the reporter that, "Compton's fiscal problems were
4 linked to decades of nepotism, cronyism and
5 corruption"?

6 A I probably said that. We had an audit. Los
7 Angeles County did an audit and specifically used
8 the words "nepotism and corruption."

9 Q In what way do existing state mechanisms
10 prevent school districts from falling as far as
11 Compton fell in terms of its -- in terms of these
12 issues of "nepotism, cronyism and corruption"?

13 MR. VIRJEE: Objection. Vague and ambiguous
14 as to "state." Calls for speculation. Lacks
15 foundation. Incomplete hypothetical.

16 MR. SEFERIAN: Calls for an inadmissible
17 opinion.

18 THE WITNESS: Would you repeat the question.

19 MR. JACOBS: Could you repeat it, please.
20 (Whereupon, the record was read by
21 the court reporter)

22 THE WITNESS: Well, AB 1200 set up the
23 Financial Crisis Management Assistance Team
24 officially known "FCMAT." It also, though, gave
25 county offices a much greater role.

1 Let me give you this to look at while I mark it.

2 MR. VIRJEE: 331; is that right?

3 MR. JACOBS: 331.

4 (Exhibit No. 331 marked for identification)

5 BY MR. JACOBS:

6 Q Here's the marked version for you. 331 is
7 an article from The Chronicle, May 11, 2003.

8 "Oakland gauges results in Compton as state
9 takeover of district looms."

10 There's a paragraph in here -- actually, a
11 section called "Corruption in Compton" which
12 purports to be based in part on an interview of you.

13 And then on the next page, it's the
14 printout, page 7, there's a quote from you on the
15 top: "'Oakland is no where near as broken as
16 Compton,' Eastin said. 'Compton would still not be
17 considered a good school district, but it's
18 improved.'"

19 And then in the middle of the page: "Randy
20 found that as soon as he got teachers credentialed
21 'they'd split to different districts,' Eastin said."

22 So when you're ready to answer --

23 MR. VIRJEE: Delaine, feel read to read the
24 whole article if you feel that's necessary to answer
25 the questions.

1 The superintendent of Contra Costa County
2 testified before the Legislature that he had looked
3 at the books at what was then Richmond Unified
4 School District and seen them spiraling down
5 financially, and he couldn't do anything about it,
6 he said.

7 And I was an accounting manager in one of my
8 past lives, and I was horrified. I mean, what was
9 the point of having books if nobody reviews them?
10 And neither did the State Department review them
11 because they weren't staffed to do that, and they
12 weren't charged with doing that.

13 So AB 1200 set up, you know, and it was --
14 by the way, it wasn't the easiest bill I ever wrote.
15 There were opposition from some of our friends on AB
16 1200.

17 The mechanism, though, the first line of
18 defense was the County Office, and the County Office
19 was to, you know, look at the books and make sure
20 that everybody was in the black. And then after
21 that, if there was thought to be a problem, we could
22 invite FCMAT in.

23 The problem in Compton was that they were
24 cooking the books. You know, it's what dishonest
25 people do. They said they were in the black; they

1 weren't broke. And it was only after the audit that
2 it came clear that they were quite definitely in the
3 red, and far into the red.

4 And that was the reason that they had so
5 many nonteaching personnel on staff. They had a lot
6 of -- at one point almost twice as many nonteaching
7 as teaching personnel, so they were larded up with
8 assistance. They had 132 district police, if you
9 can imagine, making it one the largest police
10 departments in the county.

11 So we decided -- and we went through the
12 process. We decided we needed legislation. We went
13 through the process of writing a bill. We arm
14 wrestled with the education stakeholder groups and
15 with the Superintendent of Public Instruction at the
16 time, Bill Honick, and Bill didn't want the
17 responsibility in the Department because he felt
18 that the Governor would never give him the staff to
19 do that kind of oversight.

20 And because Prop 98 -- this is an arcane
21 point, but important one -- Prop 98 funds cannot be
22 used to run the Department, but they can be used to
23 fund county offices. So we dreamt up this kind of
24 juryrigged process where we created an opportunity
25 for county offices to bid on doing the Fiscal Crisis

1 yet, you know, on the books it looked like it was in
2 the red -- I mean, in the black.

3 And we sent staff down there to take a good
4 look. And subsequent to that, my staff went down.
5 We invited the Alameda County office to join us
6 because we were concerned about an article we had
7 read in The Chronicle, and they essentially said pay
8 no attention to that article in the Chronicle; we're
9 fine.

10 And we got in there and looked at their
11 stuff and agreed that we needed to send FCMAT in to
12 do a complete audit. And when we went in, they
13 found many of the same type of problems that existed
14 in Compton.

15 Again, this is quite exceptional. Only a
16 half dozen school districts have gone belly up. A
17 few others have had the County Office step in and
18 give them direction and purpose and scope and helped
19 them to stay out of bankruptcy.

20 Q All districts now have their budgets
21 reviewed by their country superintendent?

22 A Yes, except San Francisco which is reviewed
23 by the Department because there is no County Office
24 in San Francisco.

25 Q And the review of the office is designed to

1 Management Team. So Kern County actually runs
2 FCMAT, and is funded with Prop 98 monies to do its
3 work. And, in fact, at one point, about half the
4 revenues of the State General Fund money that the
5 Department has to do its full responsibilities. So
6 the tail sort of wags the dog now. And FCMAT isn't
7 even in Kern County. It's located in Sonoma County.

8 BY MR. JACOBS:

9 Q And administered still out of Kern?

10 A Still administered out of Kern.

11 So, you know, the long and short of it is
12 that we have a process which involves the
13 Legislature and the Governor, and if you want to
14 change the way things are done in terms of
15 oversight, superintendent can't just go in and say
16 we're going to knock heads and do things. We have
17 to follow the law.

18 And the law we wound up writing was a
19 combination of a variety of different realities and
20 did create an odd but turns out fairly effective
21 system. We haven't had many bankruptcies in the
22 state considering we have so many districts. And
23 usually it is because there's corruption.

24 I mean, Emery went bankrupt using the same
25 superintendent that had bankrupted Compton. And

1 test for solvency?

2 MR. SEFERIAN: Objection. Vague and
3 ambiguous.

4 MR. VIRJEE: Also calls for speculation.

5 THE WITNESS: The review of the budget is
6 designed to make sure they're following state law in
7 terms of their assets and their liabilities.

8 BY MR. JACOBS:

9 Q As long as the budget is balanced with the
10 necessary reserve component, it's not designed to
11 test for management efficiency?

12 A No.

13 MR. VIRJEE: Objection. Calls for a legal
14 conclusion.

15 BY MR. JACOBS:

16 Q No, that's correct?

17 A We are not trying to determine management
18 efficiencies. There's no way that a department with
19 that size staff could do that. 8,914 schools and
20 over a thousand school districts, and some are
21 bigger than whole states. You know, San Diego is
22 bigger than a lot of states, let alone Los Angeles,
23 which is as big as the ten smallest states put
24 together or something.

25 Q My question, though, was about the review by

1 county superintendent not about the State Department
2 of Education.

3 A Well, the county I would argue is in a
4 similar situation. They review for financial
5 soundness. They don't make judgments about how well
6 managed they are anymore than a bank examiner makes
7 decisions about how well managed a bank is.

8 Q The Emeryville experience was designed to
9 catch Emeryville before it fell as far Compton had
10 fallen?

11 MR. SEFERIAN: Objection. Vague and
12 ambiguous.

13 MR. VIRJEE: Vague as to "Emeryville
14 experience." Calls for speculation.

15 THE WITNESS: We asked FCMAT to go into
16 Emery Unified. It's actually called "Emery
17 Unified." We asked FCMAT to go into Emery Unified
18 to determine whether their accounting was accurate.
19 And they determined that their accounting was not
20 accurate. That they were in deep financial
21 difficulties; that they'd overstated their A.D.A,
22 average daily attendance, and that they were in a
23 tough spot.

24 They weren't as broken as Compton because we
25 now had a way of getting in there sooner. There

1 wasn't a FCMAT when Richmond went bankrupt. And
2 even when Compton went bankrupt, I think we were
3 just starting the process with FCMAT. It was a baby
4 organization then.

5 BY MR. JACOBS:

6 Q By the time you left as SPI, was there in
7 your judgment some learning that had gone on about
8 these exceptional school districts that rendered the
9 staff of the Department more sensitive to the
10 possibility that a district might be headed in this
11 direction, and therefore, able to intervene earlier
12 than occurred with, for example, Compton?

13 MR. VIRJEE: Objection. Vague and
14 ambiguous. Calls for speculation.

15 THE WITNESS: We still rely on counties as
16 the first line of defense. We really are not in a
17 position usually to go in and do those sort of
18 things. We did notice Emery partly because
19 Mr. Handy, who had been in Compton, was in Emery.
20 And we saw the article in The Chronicle; it made our
21 alarm bells go off.

22 But in West Fresno the county superintendent
23 contacted us to say West Fresno is in deep, deep
24 trouble. And we worked with the county
25 superintendent, Pete Haus, to try to intercede in

1 West Fresno.

2 We sponsored a bill together to allow us to
3 go into West Fresno which Governor Davis vetoed at
4 the time saying we should be working with the County
5 Office which I think he was a little embarrassed
6 about afterward, and finally we got West Fresno
7 taken over. But generally, that's the process that
8 will be followed.

9 And even in the case of Alameda County we
10 called the county superintendent and invited her to
11 send her staff with us because we were going to go
12 in, and she had declined to really go in at that
13 point because she was looking at the books, and they
14 looked balanced. You could almost say that's more
15 of a personal history with Mr. Handy. It's kind of
16 instinctive. But the general process is laid down
17 in the law.

18 BY MR. JACOBS:

19 Q Couple more questions about Compton. On the
20 third page --

21 MR. VIRJEE: Third page of 331?

22 MR. JACOBS: Of 331.

23 MR. VIRJEE: Thank you.

24 BY MR. JACOBS:

25 Q -- there's a discussion in which the quote

1 that I -- one of the quotes I pointed you to earlier
2 is found about the effort to keep teachers in the
3 district. And it says that, "Ward lifted teacher
4 salaries, for example."

5 Do you see that in the middle of page?

6 A Is that on the previous page, on page 7?

7 Q It says page 7, yes.

8 A Okay. Yeah.

9 MR. VIRJEE: And which quote are you
10 referring to?

11 BY MR. JACOBS:

12 Q Quote, "Randy found as soon as he got
13 teachers credentialed, 'they'd split to other
14 districts' Eastin said," close quote.

15 Do you see that?

16 A Uh-huh.

17 Q Was that your understanding at the time,
18 that he was having trouble keeping credentialed
19 teachers?

20 A Yes.

21 Q That was of concern to you?

22 A Yes.

23 Q What was your diagnosis, if you had one, as
24 to why he was having trouble keeping credentialed
25 teachers in Compton?

1 MR. VIRJEE: Objection. Vague and
2 ambiguous. Calls for speculation and lacks
3 foundation.

4 THE WITNESS: We have a problem in a number
5 of districts with retaining teachers. It's a salary
6 issue in many cases. Sometimes, though, it's that
7 they want to live closer to home. Sometimes it's
8 that they don't like the working conditions. And
9 for a variety of reasons, though, even within a
10 district, you'll have the more veteran teachers
11 moving to the higher performing schools often.

12 And there's no easy state fix for that, but
13 what we have done following the process I outlined
14 earlier, we went to the Legislature and asked them
15 to raise starting teacher salaries. We asked them
16 to raise per pupil spending as well across the
17 state, and we sought to give teachers more support
18 by giving them, you know, the resources to not only
19 be trained but to be able to help lower-performing
20 kids.

21 And each one of those things had to be
22 fought through the legislative and budgetary
23 process. But we were successful in raising per
24 pupil spending quite a bit in California in the last
25 eight years.

1 the court reporter)

2 MR. VIRJEE: I'm also going to object to the
3 extent it's supposed to be a paraphrase of her
4 testimony. She didn't talk about average teacher
5 salaries across schools.

6 THE WITNESS: We raised starting teacher
7 salaries, which was important. We raised per capita
8 expenditure for children, which helped us to raise
9 all salaries. And we improved the working
10 conditions in some of the lower-performing schools,
11 which also helped us to retain some teachers.

12 The bottom line, though, is you either have
13 to change state law, or you have to through
14 collective bargaining find another remedy.

15 Right now the superintendent could not do
16 anything to help Randy in that particular position,
17 nor could the State Board of Education do anything.

18 The Legislature and the governor might do
19 something like they've tried in New York City in one
20 of the burrows, one of the precincts in New York
21 City, where they raised teacher salaries by \$20,000
22 at the lowest-performing schools, and they had the
23 teachers working an additional month of the year so
24 the kids get an extra month of education, but that
25 was collectively bargained at the local level.

1 This current budget isn't so as well, but
2 even there you don't see schools being cut as
3 quickly as in '92 when we had a budget deficit
4 situation, the then governor proposed suspending
5 Prop 98. Nobody has proposed that this time.

6 I think there's an agreement on the part of
7 most people in California that we need to keep our
8 shoulders to the wheel when it comes to school
9 improvement. But in order to fix this problem, you
10 know, I think you would have to really increase
11 the -- dramatically the involvement that we're
12 making in children. And I think you have to do that
13 across the state.

14 BY MR. JACOBS:

15 Q Actually, your last sentence gets to what I
16 wanted to ask you about which is that to the extent
17 that you raise average teacher salaries across the
18 board, you don't necessarily address the problem of
19 teacher migration from less attractive schools to
20 more attractive schools, correct?

21 MR. VIRJEE: Objection. Calls for
22 speculation. Lacks foundation. Calls for an expert
23 opinion and incomplete hypothetical.

24 THE WITNESS: Could you repeat that.
25 (Whereupon, the record was read by

1 And you know, the only other thing, the only
2 other way the state could fix it would be if we had
3 a statewide salary schedule and the state paid
4 additional resources for the lowest-performing kids.
5 But all that would have to go through the
6 Legislature and the governor. There's nothing that
7 the superintendent or State Board could do to make
8 those things happen.

9 BY MR. JACOBS:

10 Q Did you keep track over the course of your
11 tenure the degree to which the programs you've
12 pointed to addressed disparity in the distribution
13 of fully-credentialed teachers across the state as
14 between suburban relatively middle class, well off
15 schools and urban schools teaching students of color
16 with low ACS status?

17 MR. VIRJEE: Objection. Compound. Calls
18 for speculation. Lacks foundation. Also vague and
19 ambiguous.

20 THE WITNESS: Could you repeat the question.

21 MR. JACOBS: Let me break it down.

22 BY MR. JACOBS:

23 Q You observed during the course of your
24 tenure that the less-experienced teachers tended to
25 be concentrated in low-performing schools, correct?

1 MR. VIRJEE: Objection. Vague and ambiguous
2 as to "less-experienced low-performing schools."
3 And to the extent that's supposed to be a
4 characterization of testimony, it mischaracterizes
5 her testimony.

6 THE WITNESS: There have been some studies
7 that show that children in the lowest-performing
8 schools are more likely to have newer teachers.
9 It's not always bad, by the way. Sometimes the new
10 teachers are full of energy and enthusiasm.

11 But what you hope is you have a good enough
12 balance of veteran teachers so that you're able to
13 mentor the newer teachers, which is one of the
14 reasons that we fought hard to do a couple of other
15 things that I haven't mentioned.

16 One was BTSA, the Beginning Teacher Support
17 Assessment Program, which was where a new teacher
18 was paired with a veteran teacher for mentoring
19 purposes. And we found out in some areas some
20 schools where we had a lot of new teachers, we
21 didn't have very many veteran teachers, we actually
22 had teachers out of retirement, specifically for
23 L.A. Unified as well as other districts, that sought
24 to give more support to their lowest -- their newest
25 teachers.

1 THE WITNESS: I couldn't tell you which
2 districts didn't. I know that there were beginning
3 teachers that were not part of BTSA.

4 BY MR. JACOBS:

5 Q And that was concerning to you?

6 A Oh, yes. And it was a concern I think that
7 the Legislature did respond to. I mean, the
8 Legislature did substantially increase the
9 investment for BTSA, made it a lot more available
10 than it had been. And the Governor also I think
11 recognized that there was research that showed, you
12 know, that it was making a difference in the lives
13 of teachers. So our retention of new teachers
14 improved because of BTSA.

15 Q There were school districts with schools
16 serving substantially low-performing SES children of
17 color with teachers who were not taking -- with
18 substantial numbers of inexperienced teachers during
19 the period you were SPI, correct?

20 MR. VIRJEE: Vague and ambiguous as to
21 "low-performing."

22 MR. JACOBS: Let me withdraw the question
23 and start over.

24 BY MR. JACOBS:

25 Q During the period you were SPI, you were

1 I think we also in the process of doing
2 class size reduction we really tried to help all
3 teachers to focus much more clearly on the beginning
4 student's needs, on children's needs who were at the
5 greatest risk.

6 We also sought, didn't achieve, we sought
7 mandatory kindergarten for all kids. It's not
8 mandatory in California. I think it should be. We
9 haven't been able to succeed, but we have increased
10 the amount of preschool pretty dramatically. And
11 with a lot of help from our friends, we're still
12 continuing to try to do more to get the state into a
13 position where we have universal preschool as you
14 would find in high-performing countries like in
15 Europe and some countries of Asia.

16 BY MR. JACOBS:

17 Q There were some school districts that didn't
18 take advantage of BTSA, correct?

19 A Right.

20 Q And there were some school districts that
21 had substantial numbers of beginning teachers who --
22 and in those school districts, the school districts
23 didn't take advantage of BTSA?

24 MR. SEFERIAN: Objection. Vague and
25 ambiguous.

1 concerned about the fact that there were schools
2 serving a large proportion of low SES children,
3 often children of color, with large numbers of
4 inexperienced teachers? I'll just set that up. And
5 then I'll ask you a couple questions about what you
6 did about it.

7 MR. VIRJEE: Vague as to time. Calls for
8 speculation. Incomplete hypothetical.

9 THE WITNESS: Yes, I was concerned that we
10 had so many teachers that were not
11 fully-credentialed period. One out of seven
12 teachers in the State of California was not
13 credentialed, and we were -- we took some steps, for
14 example, there's a whole series of bills that were
15 passed to Cal Teach, to In Right (phonetic), to get
16 people into teaching. Then BTSA to keep them. They
17 were raising beginning teacher salaries, as well as
18 organizing districts -- you know, passing
19 legislation that made it impossible for districts to
20 keep inexperienced teachers for years and years and
21 years when they weren't working on their credential.
22 We set an absolute time limit where they could have
23 an emergency credential, and then they had to be
24 enrolled in a program and had to get their
25 credential within a specified period of time.

1 BY MR. JACOBS:

2 Q And one of the particular manifestations of
3 the phenomenon that you just described was that
4 there were teachers of the character that you just
5 described concentrated in schools serving low SES
6 children, typically children of color, correct?

7 MR. VIRJEE: Objection. Calls for
8 speculation. Lacks foundation and vague as to time.

9 MR. SEFERIAN: Vague and ambiguous.

10 MR. VIRJEE: Also compound as to "children
11 of color" and "low SES."

12 THE WITNESS: We had a lot of uncredentialed
13 teachers, and there did seem to be a higher
14 concentration of uncredentialed/emergency credential
15 teachers serving the low SES children. On the other
16 hand, we had a lot of charter schools as well that
17 had a lot of uncredentialed people. And they were
18 trying to move the ball for those kids, and
19 sometimes were succeeding.

20 So we also had some other things we tried to
21 do to get more credentialed teachers into the
22 system. They wouldn't let me go out and make them
23 indentured servants or anything. So we did, though,
24 try to make it easier for people that came from
25 other states. We sponsored legislation that called

1 Q And that was your view at that time?

2 A Yes.

3 Q And did you monitor the degree to which that
4 situation changed as you continued in your tender as
5 SPI?

6 MR. SEFERIAN: Objection. Assumes facts not
7 in evidence. Vague and ambiguous.

8 MR. VIRJEE: Also vague and ambiguous as to
9 "you" and as to "monitor."

10 THE WITNESS: Would you repeat the question.
11 (Whereupon, the record was read
12 by the court reporter)

13 THE WITNESS: We monitored student
14 achievement very closely. And when we had
15 low-performing schools that were consistently
16 low-performing either under the federal rules or
17 under the state rules -- and we actually were
18 running it when I left office, we still I think are
19 running four different accountability systems.

20 And so we would go through one of the
21 various mechanisms that was provided under state and
22 federal law, we would go into a school district, and
23 either we would go in with the School Assistance
24 Intervention Team as part of that, or they would
25 have an evaluator come in to list various entities

1 for reciprocity with other states. We found even
2 some teachers that were from high-performing states
3 who had great resumes and great recommendations were
4 having to jump through a lot of hoops to become
5 teachers in California. So we did a lot to try to
6 urge the California Teacher Credential Commission to
7 increase reciprocity with other states. And with
8 these many other bills, we were endeavoring to
9 create a much larger group of new teachers, which we
10 did.

11 MR. JACOBS: Let me mark as Exhibit 332 an
12 article entitled "Panel Agrees Teachers Need More
13 Training" from the L.A. Times Internet Edition,
14 October 23rd, 2001.

15 (Exhibit 332 marked for identification)

16 BY MR. JACOBS:

17 Q You are quoted in the middle of the article
18 on the first page in particular as saying that the
19 heart of quote, "the educational crisis," unquote,
20 in California is that, quote, "too many children
21 have uncredentialed, not fully-qualified teachers.
22 This is particularly true in many inner-city, urban
23 and some rural schools," close quote.

24 Do you see that?

25 A Yes.

1 that might be brought in because the small staff of
2 the Department or the County Office would go in.

3 But we would try to help districts to figure
4 out what they could do to improve achievement at
5 their lowest-performing schools. In some cases like
6 Compton, you know, there was a problem all across
7 the district. In some districts there were specific
8 schools that had problems.

9 But here again, teachers with seniority
10 under state law are entitled to have some choice in
11 where they move. And they continued to gravitate
12 toward the higher-performing schools. And the new
13 teachers continued to be put into the
14 lowest-performing schools.

15 So there continues to be a problem in
16 California; although, it's better than it was
17 because we have so many more training programs, and
18 it seems more efforts to get teachers into a
19 credentialing program and to get them professional
20 development when they're new teachers starting out.

21 BY MR. JACOBS:

22 Q What is your assessment as to the
23 effectiveness of the intervention programs you
24 described in addressing the particular problem
25 referred to on Exhibit 332, the portion I read a few

1 minutes ago?

2 MR. VIRJEE: Objection. Calls for
3 speculation. Lacks foundation. Vague and ambiguous
4 as to "effectiveness." Incomplete hypothetical.

5 THE WITNESS: We have more credentialed
6 teachers than we used to have. We had a huge
7 problem that was created by the speed with which
8 class size reduction was implemented.

9 When I initially proposed the bill, we
10 proposed phasing it in over four years. Pete Wilson
11 made fun of me over that bill, and then later in
12 June when his tax cut was defeated, he looked around
13 and thought, my God, there's going to be all this
14 money out there available. Because we owe money
15 under Prop 98 because we illegally took money away
16 from schools, the courts were in the process of
17 ruling.

18 So he agreed to finally at the 11th hour do
19 class size reduction, gave us two weeks to implement
20 it. Literally the Department had two weeks, no
21 resources to implement a billion dollar program.
22 And because of the hard work of a lot of
23 superintendents and principals and boards and people
24 of good will in the state, we were able to reduce
25 class size pretty quickly.

1 But what that did was exacerbate the teacher
2 shortage because we needed 30,000 more teachers, and
3 we didn't have 30,000 extra teachers lying around;
4 although, you can make the case that we have
5 actually tens of thousands of teachers out there in
6 the ether who could come back to schools and teach
7 for one reason or another. They're not -- they're
8 either working in some nice law office or working in
9 Silicon Valley or home raising their kids or doing
10 something that pays more.

11 So overall, I have consistently said that I
12 think the State of California and the United States
13 of America should do a lot more to support its
14 teachers and to treat them like they have the most
15 important job in America including paying them more.
16 And we did make some progress, but we still haven't
17 made all the progress that we need. As a result, we
18 still have some inequities.

19 BY MR. JACOBS:

20 Q Class size reduction aggravated the problem,
21 referred to on Exhibit 332, in substantial part
22 because of the speed of the implementation?

23 A Yes.

24 Q And it aggravated it to the detriment of the
25 students in the inner-city, urban or rural schools

1 that you were referring to in Exhibit 332?

2 MR. VIRJEE: Objection. Calls for
3 speculation. Lacks foundation. Calls for an expert
4 opinion.

5 MR. SEFERIAN: Vague and ambiguous.

6 THE WITNESS: Well, lessened the problem in
7 some of the rural schools. They stepped to have
8 small classes anyway. They just have a supply
9 problem.

10 In the inner-city school where they were
11 able to reduce class size, there was a problem. But
12 in some of the schools in L.A., they didn't have
13 enough classrooms. So they didn't have any space to
14 put them, so they were in a facilities bind.

15 L.A. has since passed a very large local
16 bond, and they're working very hard to fully
17 implement class size reduction. And they got a few
18 exceptions to be able to try to get more of the
19 reduced class size impact on the lowest-performing
20 schools. They really worked at it.

21 But it was a big problem for the State of
22 California because of the speed. A program of that
23 magnitude, I mean, even in the private sector, if
24 you tell somebody you've implemented a billion
25 dollar program in two weeks, they go, "Wow. With no

1 additional staff? Wow."

2 You know, and so it was -- it had an impact,
3 and it's still having some impact in the State of
4 California.

5 BY MR. JACOBS:

6 Q And in particular the impact that you
7 describe on 332 in inner-city urban schools?

8 A Yes, it's a problem there. They would still
9 rather have the problem, you understand. They would
10 rather have smaller class sizes and have teachers
11 that are in the process of being credentialed than
12 to have the large class sizes with
13 fully-credentialed teachers because they could
14 choose to do that now.

15 Q Well, if it's the inner-city urban school,
16 it's competing with the suburban school to fill the
17 teacher slots that open up with the CSR, correct?

18 MR. SEFERIAN: Objection. Vague and
19 ambiguous. Incomplete hypothetical. Lacks
20 foundation.

21 THE WITNESS: We think that class size
22 reduction -- I think that class size reduction is a
23 good thing. And I think that inner-city boards tend
24 to think class size reduction is a good thing. And
25 they do try to have reduced class size. It does, in

1 fact, probably make the challenge of having
2 fully-credentialed teachers more severe, but if the
3 alternative is we have fully-credentialed teachers
4 in classrooms of 45, that's not a good instructional
5 option.

6 BY MR. JACOBS:

7 Q There were warning signs as the CSR program
8 was being adopted, warning signs that if it's
9 adopted so quickly, we are going to create a problem
10 of teacher shortages.

11 MR. VIRJEE: Objection. Vague and ambiguous
12 as to "warning signs." And also calls for
13 speculation or lacks foundation as to who might have
14 been warned by what.

15 THE WITNESS: Well, there were some problems
16 already with uncredentialed teachers being in
17 classrooms. Clearly the class size reduction being
18 implemented in a two-week period made that situation
19 much more dramatic. But subsequently, there were
20 lots of legislative efforts made to fix the problem,
21 including putting a limit on how long they can be
22 emergency credentialed, making them enroll actively
23 in some kind of an internship program, and
24 encouraging them to get the additional training
25 provided as well as having a much, much expanded

1 studies in the article that question the
2 relationship between class size reduction and
3 improved student achievement?

4 MR. VIRJEE: Can you tell us where you're
5 pointing to, Michael, unless you want her to read
6 the whole article first. I mean, I don't think
7 she's done that.

8 BY MR. JACOBS:

9 Q I think the only study report is the
10 paragraph, "however painful it might be to
11 accept..."

12 Do you see that?

13 A Yes, I see that.

14 Q And you have followed the studies as they've
15 come out about the impact of CSR and student
16 achievement?

17 A Yes, I have.

18 Q And you've noted that some of the studies
19 have pointed to loss of student achievement among
20 the most at risk students because of their higher
21 probability of being taught by inexperienced
22 teachers?

23 MR. VIRJEE: Objection. Calls for
24 speculation. Lacks foundation. To the extent
25 you're referring to a particular study, that

1 BTSA. It started out as a pilot program, and it
2 became available for virtually every school in the
3 state where the districts took advantage of it.

4 MR. JACOBS: Let me mark this as 333. Take
5 a look at that one.

6 (Exhibit No. 333 marked for identification)

7 BY MR. JACOBS:

8 Q 333 is an article from the San Francisco
9 Chronical downloaded from Nexus headline on Better
10 California Schools; Is Smaller Always Better?

11 A Yes.

12 Q And you see in the opening paragraph it
13 describes -- it has a characterization from you of
14 the challenge of implementing CSR in so rapid a time
15 table. Do you see that?

16 A Uh-huh.

17 Q And the quote he said, quote, "Gee,
18 Delaine, I'm really sorry we didn't give you much
19 money or time to do this, but I hope you can do it'
20 Eastin recalls." Do you see that?

21 A Uh-huh.

22 Q Did you convey that in substance to a
23 reporter from the San Francisco Chronicle?

24 A Yes, I believe so.

25 Q And do you see there's some reports of some

1 document speaks for itself.

2 MR. SEFERIAN: Vague and ambiguous.

3 THE WITNESS: Well, and you ought to look at
4 the other RAN study. They said it was inclusive in
5 that study because there were so many reforms that
6 had begun at the same time, they couldn't say which
7 ones were related to class size reduction, which
8 ones were related to other things. I do not know a
9 teacher or pretty much very many board members
10 around this state that didn't think class size
11 reduction was overall a good idea.

12 There was another RAN study called Improving
13 Student Achievement in which they cite five
14 characteristics of the highest performing states,
15 one of which is smaller class sizes in elementary
16 grades. So this is inconclusive, The Chronicle is
17 saying.

18 But if you really read the report, they say
19 it's inconclusive because we did a lot at the same
20 time, a lot of student reforms.

21 I would argue that even at the
22 lowest-performing schools of this state, you're
23 seeing pretty impressive gains. It's relative. You
24 can't be like the legislator who stated I want
25 essentially all schools to be in the top five API,

1 top five decils of the API. There's always going to
2 be schools in the bottom decile.
3 But overall and on balance, the vast
4 majority of schools in this state are moving up.
5 There are some that are chronically behind and don't
6 move up. When that happens now under either the OB
7 Porter Elementary and Secondary Acts Program,
8 Improvement Program or through the governor's IIUSP
9 Program, Immediate Intervention Under Performing
10 Schools Program, or the Legislature's High Priority
11 Schools Program, or now under No Child Left Behind,
12 there are a number of opportunities for the schools
13 that are low-performing to get help. And if they
14 don't get help on their own nickel, then we will, in
15 fact, intervene in those schools.

16 BY MR. JACOBS:

17 Q The bottom line for you on whether CSR is a
18 good idea, is it the fact that so many school boards
19 and so many teachers and so many administrators and
20 so many parents have concluded that it's in
21 children's best interest to be taught in smaller
22 classrooms, is that at the end of the day that's why
23 you support the program?

24 MR. VIRJEE: Objection. Vague and ambiguous
25 as to "good idea" and "support the program."

1 Incomplete hypothetical.

2 THE WITNESS: I went to a school in Santa
3 Maria, Bonita. This little boy, Sherman, sweet
4 face, big glasses, looked me right in the eye when I
5 asked him whether class size reduction was a good
6 idea. He nodded very sincerely. And I said, "Why?"

7 And he said, "You know, we're learning
8 more." And pointed to his teacher and said, "She
9 has more time for me. And you know what else? It's
10 quieter in here."

11 I don't know -- you know, there are some
12 times you just have to remember what Mark Twain said
13 when he said, "The problem with common sense is it's
14 not very common."

15 Common sense tells us that smaller class
16 sizes are good. That's what people that send their
17 kids to these very expensive private schools cite as
18 one of the reasons -- the fact is that the class
19 sizes are smaller.

20 The year we implemented class size
21 reduction, the estimate was that we would have
22 something like 80,000 kids in California public
23 schools. We actually had 142,000 kids. I was never
24 given any money to research this, so it's pure
25 speculation on my part, but I believe it's because

1 we got kids back from private schools.

2 BY MR. JACOBS:

3 Q The 80,000 or 140 was the incremental growth
4 in school population?

5 A Yeah. Now, it's settled back down. We add
6 about the state of Wyoming every year in California.
7 Wyoming has 90,000 kids, and we add a little over
8 100,000 most years. So the growth of the state
9 naturally does put great strain on the state's
10 budget, and it puts great strain on recruiting and
11 retaining our teaching force because we are growing
12 as a state.

13 And that's why I really believe that, you
14 know, ultimately we're going to have to have a
15 conversation about paying teachers a higher salary,
16 or they're not going to teach in the San Francisco
17 Bay Area and Santa Barbara and San Luis Obispo and
18 L.A. and San Diego because they won't be able to
19 afford to live there, and it's an interesting
20 problem, but in upscale communities and in
21 inner-city communities recruitment is a problem.

22 Q But a worse problem in inner-city community?

23 A Yes.

24 MR. SEFERIAN: Objection. Incomplete
25 hypothetical.

1 MR. VIRJEE: Lacks foundation.

2 THE WITNESS: Other than that, it was a
3 great question.

4 MR. JACOBS: Shall we take a couple minutes?

5 MR. VIRJEE: Sure.

6 MR. JACOBS: Why don't we resume at 25 of;
7 is that okay?

8 THE WITNESS: Cool.

9 (Recess)

10 BY MR. JACOBS:

11 Q We were talking before the break about your
12 visits to schools, and on occasion you would
13 encounter parents who had complaints about school
14 conditions, correct?

15 A Yes.

16 Q Did you encourage them to use the Unified
17 Complaint Procedure?

18 MR. SEFERIAN: Objection. Vague and
19 ambiguous.

20 THE WITNESS: Typically I would urge that
21 they first go to their school district and to the
22 school superintendent and the school board if they
23 had already gone to the principal because, in fact,
24 that is the further line of defense. And, you know,
25 the way we operate in given the size and scale of

1 California, it just makes a lot more sense for
2 people to start at the local level.

3 BY MR. JACOBS:

4 Q Did you urge help to use the Unified
5 Complaint Procedure if that was unsuccessful?

6 MR. VIRJEE: Objection. Vague and ambiguous
7 as to "Unified Complaint Procedure."

8 THE WITNESS: On occasion we would invite
9 people to write to us to -- if they really felt like
10 they had been given the runaround. And we would ask
11 if they had inquired with the Department, and if
12 not, we would tell them that would be the next step
13 then, and be as specific as possible, and we'd try
14 to help them.

15 BY MR. JACOBS:

16 Q And we were talking before the break about
17 your powers to direct school districts to take
18 actions. As you implemented the UCP, if someone
19 wrote to the Department and invoked the UCP, did
20 that change your powers?

21 MR. SEFERIAN: Objection. Incomplete
22 hypothetical.

23 MR. VIRJEE: Incomplete hypothetical. Calls
24 for speculation. Also calls for a legal conclusion.

25 THE WITNESS: As a typical matter, I didn't

1 Department would get -- if the Department did get
2 UCP complaints, its authority was the same as the
3 authority limitations that you described before the
4 break; in other words, a parent invoking the UCP
5 didn't all of a sudden empower the Department to
6 actually direct the district to take action to
7 remedy the parent's complaint, correct?

8 MR. VIRJEE: Objection. Calls for
9 speculation. Lacks foundation. Incomplete
10 hypothetical.

11 THE WITNESS: I really -- that is pretty
12 vague as far as I'm concerned. I mean, there are
13 specific cases where let's say a child who was in
14 special education would be entitled to some
15 intervention, and we would make it.

16 But for the most part, I didn't get very
17 involved in, you know, what we did. And my
18 experience, though, is most of the time we used
19 the -- we jaw boned or used the bully pulpit to try
20 to get the district to do the right thing. And
21 normally they do the right thing.

22 BY MR. JACOBS:

23 Q So if we take a look at Exhibit 330 again,
24 and we discussed earlier the portion of the article
25 where you are quoted as saying, "I can't go in and

1 see the UCPs unless it was something extraordinary.
2 And typically when we got a complaint, they hadn't
3 gone to the local district first, and that is where
4 we would send them. That is where they're supposed
5 to go first.

6 The exception is, you know, we had a special
7 case situation with special ed kids we would really
8 be pretty active on their behalf. But, again, 6.2
9 million children right now. 6.1 when I left office.
10 You know, the Department gets a lot of different
11 kind of detailed complaints that the superintendent
12 doesn't see.

13 BY MR. JACOBS:

14 Q But as you understood, through the UCP the
15 result in directive action from the Department to
16 the district, in those cases is where the Department
17 felt that the district had been nonresponsive?

18 MR. VIRJEE: Objection. Calls for
19 speculation. Lacks foundation. Incomplete
20 hypothetical. Calls for a legal conclusion.

21 THE WITNESS: I can't give you any specific
22 examples of places we did that.

23 BY MR. JACOBS:

24 Q And in general your understanding is that,
25 in fact, the way the UCP worked, was that the

1 order you to fix the bathrooms and paint the walls."
2 Do you recall that?

3 A Yes.

4 Q That remains true even if a complaint comes
5 in through the UCP, correct?

6 MR. VIRJEE: Objection. Foundation. Calls
7 for hypothetical opinion.

8 MR. SEFERIAN: Incomplete hypothetical.

9 THE WITNESS: I don't know. We would
10 obviously -- there might be an exception, but the
11 legal staff would make that determination. For the
12 most part, I don't believe we ever did that.

13 BY MR. JACOBS:

14 Q In a few paragraphs up -- we're looking at
15 the second page of the article.

16 A By the way, the exception to that would be
17 Compton because we were running Compton. So we were
18 responsible for making sure the bathrooms were
19 cleaned up, and we did that.

20 Q All right. So if you go up on the second
21 page, and there's the fourth full paragraph, so
22 there's a carry over paragraph, and then one, two,
23 three, four down, there's a paragraph that says:
24 "In addition, the inequities of education in
25 California are, 'coming to a head,' Eastin said."

1 Do you see that?

2 A Uh-huh.

3 Q Did you discuss the topic of inequities in
4 education with the reporter for the Contra Costa
5 Times in connection with this article?

6 MR. VIRJEE: Objection. Vague and ambiguous
7 as to "inequities."

8 THE WITNESS: I believe I was referring to
9 the several accountability bills that I have
10 mentioned where we for the first time had the
11 authority to go into schools and do more than just
12 say, tisk, tisk, I guess is the way you put that,
13 with the program improvement schools under the OB
14 Porter legislation as well as with the IIUSP and
15 high-priority schools, and now with No Child Left
16 Behind, there is a lot more -- there's a lot bigger
17 role for the state in terms of making sure that
18 children are not allowed to languish in
19 low-performing schools for long periods of time.

20 There still, however, isn't -- there hasn't
21 been much attention yet paid by the Governor and the
22 Legislature to whose really going to do the heavy
23 lifting when a school fails to improve. There's
24 some vague language about the superintendent having
25 either a university take over the schools or some

1 A Right. We've gone into several schools in
2 the State of California, and up to now we've been
3 fairly gratified that for the most part we've got
4 the local district superintendent's attention. In
5 some cases, the local board's attention. And they
6 have really put the shoulder to the wheel. Maybe
7 they removed the principal. Maybe they've, you
8 know, gone in and done some things to make sure that
9 the kids have more focus on achievement.

10 But at some point something bigger is going
11 to have to happen, and right now I don't know who is
12 going to do that work because there really isn't the
13 expertise or the staff or the -- even the
14 empowerment under legislation to do some of the
15 things. I mean, my friend Abe and others will sue
16 us if we start cavalierly going into schools and try
17 to take them over, and we're not equipped to do it.

18 As the Kuwaitee Prince said as he was
19 discoing during the war in Kuwait, he said, "I'm not
20 qualified."

21 We don't have people that are qualified to
22 do some of this work.

23 Q Let me ask you about an interview you gave.

24 MR. JACOBS: Actually, we'll mark this as
25 Exhibit 334.

1 other nonprofit or some other entity. I mean, if
2 you know any universities that are prepared to take
3 over low-performing schools, you really ought to
4 tell me because I don't know who they are.

5 I think it's a little like that Gary Larson
6 cartoon where the two scientists are in white lab
7 coats talking to one another. One guy has written a
8 family on the board. In the middle, "Here a miracle
9 occurs." One guy says to the other guy, "This needs
10 a little work, Fred."

11 I don't think there's even today the
12 mechanism in the State Department or the mechanism
13 in the State of California to do some of the work
14 that needs to be done in the not too distant future,
15 but that's for the Governor and Legislature to
16 decide. There isn't a staff at the Department.
17 There isn't authority at the Department to do that
18 which is envisioned in many of these accountability
19 systems, and that's why the State Legislature and
20 the Governor have got to get more engaged in what
21 we're going to do when the rubber meets the road on
22 No Child Left Behind.

23 Q And in particular you're referring to the
24 rubber meeting the road as to schools that don't
25 show academic achievement gains?

1 (Exhibit 334 marked for identification)

2 MR. JACOBS: 334 is a web printout of
3 Teaching to Change L.A. No. 7-Acting on our Rights.
4 Interview with the Superintendent of Schools for the
5 State of California Delaine Eastin. Summer Research
6 Seminar 2002.

7 BY MR. JACOBS:

8 Q Would you take a moment to review that, and
9 the first question I'm going to ask you is have you
10 read this interview account before?

11 A No, I don't know that I have.

12 Q And the place I want to start you on is on
13 the third page.

14 MR. VIRJEE: Did you want her to look at the
15 document?

16 MR. JACOBS: I'll finish my question.

17 BY MR. JACOBS:

18 Q The place I want to start you on is the
19 third page there's a question: "How evenly are
20 educational resources proposed among California
21 schools?" And then there's an answer from you, but
22 feel free to look at the rest of the article so you
23 can see the context.

24 MR. VIRJEE: Feel free to read the entire
25 document.

1 THE WITNESS: Okay.
 2 BY MR. JACOBS:
 3 Q Okay?
 4 A Okay.
 5 Q So back to that question and answer I asked
 6 you about.
 7 A Which one was this one?
 8 Q Page 3: "How evenly are educational
 9 resources appropriated among California schools?"
 10 You start out by saying: "The good news is
 11 they are more equal than they once were." Do you
 12 see that?
 13 A Uh-huh.
 14 Q Was that your comment to the interviewer in
 15 this interview?
 16 A Yes, I believe so.
 17 Q At the end of that paragraph you state:
 18 "Again, I think that our goal should be not just
 19 absolute equality dollar per dollar, but in fact,
 20 additional support for the children that have
 21 learning challenges." Do you see that?
 22 A Yes.
 23 Q Does that accurately capture the substance
 24 of something you said to the interviewer?
 25 A Yes.

1 Q So looking at that sentence and reflecting
 2 on it, you have given a lot of thought in the course
 3 of your career to what it means to have equality of
 4 educational opportunity, correct?
 5 MR. SEFERIAN: Objection. Vague and
 6 ambiguous.
 7 MR. VIRJEE: Vague and ambiguous as to
 8 "educational equity."
 9 THE WITNESS: Well, I fought to raise
 10 achievement for all children and to make sure that
 11 every child gets a world class education.
 12 BY MR. JACOBS:
 13 Q And is that what you mean by the goal that
 14 you would like to see us reach in terms of equality
 15 of educational opportunity?
 16 A Yeah, I don't think you can give absolute
 17 equality to every person. That is not what the
 18 Founders meant either. They meant equality of
 19 opportunity. And I think if we do our jobs well,
 20 then that child with cerebral palsy, Steven Hawking,
 21 Tom Cruise, whose dyslexic, will both get a great
 22 education and make great contributors. I think that
 23 there are issues that some kids have either because
 24 of poverty or because of special needs that the
 25 society because it's America needs to address.

1 But I do -- I also want to say that I've
 2 been in little schools in rural remote parts of the
 3 state that aren't magnificent, but they're excellent
 4 schools.
 5 And I think one of the surprising things
 6 about going to Japan was to see they actually have
 7 very, very large class sizes in Japan. And the
 8 school year starts in April, and the schools are
 9 very big class sizes and no airconditioning; they're
 10 hot. In fact, we were all about to pass out, those
 11 of us who had lined suits on, because it was so warm
 12 in the room.
 13 So I think you can -- I don't think it's a
 14 question of absolute dollar for dollar equity, nor
 15 is it a set of absolute conditions. But I do
 16 believe that every child should be given a quality
 17 teacher and a good classroom and adequate materials,
 18 and I think that we've worked hard as a state -- I
 19 worked hard as an individual, and we've worked hard
 20 as a state to do a better job by kids than we were
 21 doing a decade ago. We still got a ways to go.
 22 Q Just to take the Japan case for a minute,
 23 what's the significance of that experience for your
 24 view of what we need to accomplish in California?
 25 A Well, when I came home, I thought to myself,

1 you know, what is -- they weren't as Tony as I
 2 thought they would be. The schools weren't as nice
 3 as I expected them to be. And they were more
 4 crowded than I thought they would be. But what was
 5 interesting was that the teachers are really treated
 6 with great respect in Japan, and they're paid at
 7 approximately -- this is anecdotal. I don't have
 8 personal research that I did on this. But I've read
 9 in a couple of different places that the Japanese
 10 teachers make what Japanese engineers make.
 11 So I do think that in a society where you
 12 really want to have high student achievement, that
 13 you have to give teachers support. That was one of
 14 the other things that the RAN study found in the
 15 highest-performing states. I mention that in here.
 16 One of the things is higher pupil spending, smaller
 17 classes sizing in elementary education, public
 18 pre-kindergarten, high percentages of kids attending
 19 public pre-kindergarten. The teachers who say they
 20 are given adequate support and teachers who have low
 21 turnover, those are all the characteristics of the
 22 highest performing states which probably Connecticut
 23 is the example.
 24 But I don't want to put too fine a point on
 25 having -- on "equity" meaning that everything looks

1 the same because it doesn't necessarily have to look
 2 the same. What it has to do is make sure there are
 3 certain key components.
 4 Q In Japan the schools that you saw, you had
 5 the impression were typical?
 6 MR. VIRJEE: Objection. Calls for
 7 speculation. Lacks foundation. Vague and ambiguous
 8 as to "typical."
 9 THE WITNESS: I don't know. I mean, I
 10 assume we were guests of the Japanese Ministry of
 11 Education, so I assume that they took us to good
 12 schools. But I have reason to believe they were
 13 typical. We sent teachers every year and a member
 14 of the Department every year to Japan. I went once.
 15 And the experiences of other people that went that I
 16 spoke to were very similar to mine, and they went to
 17 different schools.
 18 BY MR. JACOBS:
 19 Q And one of the points you make in this
 20 paragraph is that: "In order to give some students
 21 the fullest opportunity to learn, they may need
 22 additional support compared with students who come
 23 from environments that are supportive of learning."
 24 Do you see that?
 25 A Yes.

1 Q And that's something you believed in while
 2 you were SPI as a goal?
 3 MR. SEFERIAN: Objection. Vague and
 4 ambiguous.
 5 THE WITNESS: Repeat the question.
 6 BY MR. JACOBS:
 7 Q That was something you believed in when you
 8 were SPI as a goal to provide additional support?
 9 A Yes, something I believed in and worked for.
 10 We had, as I said, smaller class sizes, more
 11 instructional materials purchased, more textbooks,
 12 library books, computers, more money for teacher
 13 training, more money for professional development
 14 once they were teachers, professional development
 15 for principal as well when we supported better
 16 facilities.
 17 I mean, we really did work hard to lift up
 18 the lowest-performing schools and to support the
 19 children in the lowest-performing schools.
 20 Q Were any of those programs that you just
 21 mentioned targeted at the kind of children you're
 22 referring to in this paragraph that as "needing
 23 additional support"?
 24 MR. VIRJEE: Objection. Vague and ambiguous
 25 as to "additional support." Overbroad. Calls for

1 speculation. Vague and ambiguous as to "target."
 2 THE WITNESS: There are low-performing
 3 children in high-performing schools. So we try to
 4 help them as well as the low-performing children in
 5 low-performing schools. We had a lot of programs,
 6 though, that were intended help children at risk.
 7 Everything from academic programs, which were
 8 after-school programs, instructional materials
 9 programs, all those things, as well as trying to
 10 make them safer, trying to make sure that the school
 11 environment was safe, making sure that the school
 12 environment was better for kids. We worked very
 13 hard on all those things.
 14 We cannot, you know, go to their home and
 15 change their family life. And I'm sad to say that
 16 there are kids in California schools that are in
 17 foster homes or group homes or who have loving
 18 parents, but they have a single parent at home
 19 working two jobs. Those children we can't help them
 20 when they're home necessarily. We can't help them
 21 on their way to school, which may be risky for them.
 22 But we did try to do things to get them to attend
 23 school and to get them to stay after school and to
 24 get them to get extra help from a variety of
 25 different, you know, means.

1 BY MR. JACOBS:
 2 Q The distinction you drew in that sentence
 3 was between schools. One school has lots of
 4 children who didn't have books and opportunity to
 5 learn at home, and I guess by inference, a school
 6 that has lots of kids who do have books and
 7 opportunity to learn at home. Do you see that?
 8 A Yeah.
 9 Q Were any of the programs that you've
 10 described targeted at schools that have lots of
 11 children who didn't have books and opportunity to
 12 learn at home?
 13 MR. VIRJEE: I'm going to object as
 14 mischaracterizing the statement. The statement is
 15 vague. It could refer to children or schools.
 16 THE WITNESS: Would you rephrase the
 17 question.
 18 MR. JACOBS: Sure.
 19 BY MR. JACOBS:
 20 Q If you read the whole block there, it says:
 21 "Even if you gave an identical amount of money to
 22 two schools, if one school had lots of children who
 23 didn't have books and opportunity to learn at home,
 24 those children might need additional support."
 25 Do you see that?

1 A Yes, I see that.

2 Q And my question is if you view the unit of
3 targeting schools, were any of the programs that you
4 described targeted at schools with lots of children
5 who didn't have books and opportunity to learn at
6 home?

7 MR. VIRJEE: Objection. Vague and ambiguous
8 as to "targeted." Also asked and answered.

9 THE WITNESS: There are programs that are
10 designed to help children in the lowest-performing
11 schools, and that's the IIUSP Program, the
12 Governor's Performing School Program, various titles
13 under the performing law. And sometimes the schools
14 whose children are most challenged have a higher
15 percentage of special ed children; they do receive
16 additional resources.

17 BY MR. JACOBS:

18 Q Two sentences up you said: "Some districts
19 are inefficient and a very few are corrupt."

20 A Uh-huh.

21 Q Does that also capture the substance of
22 something you said to the reporter?

23 A Yes.

24 Q We've talked about the corruption issue
25 before. I want to talk about the fragment that some

1 correct?

2 A That's correct.

3 Q And it included a use of a software package
4 that enables the district to computerize its
5 inventorying of textbooks?

6 MR. VIRJEE: Objection. Calls for
7 speculation. Lacks foundation.

8 THE WITNESS: I don't know.

9 BY MR. JACOBS:

10 Q So let's talk about this issue of textbook
11 management for a second. When you were SPI, the
12 state appropriated hundreds of millions of
13 additional dollars for textbook expenditures,
14 correct?

15 A That's correct.

16 Q And was any of that expenditure conditioned
17 on the implementation in school districts having
18 modern textbook inventorying techniques?

19 MR. VIRJEE: Calls for legal opinion. And
20 to the extent you're asking what the appropriations
21 say, the appropriations speak for themselves.

22 MR. SEFERIAN: Vague and ambiguous.

23 THE WITNESS: I don't know.

24 BY MR. JACOBS:

25 Q Did you take away from the Compton

1 districts are inefficient. What do you mean by,
2 "some districts are inefficient"?

3 MR. VIRJEE: Objection. Incomplete
4 hypothetical. Calls for speculation.

5 THE WITNESS: It might be something as
6 simple as not having an inventory systems for your
7 textbooks.

8 Compton was corrupt, but it was also
9 inefficient. And we discovered that in Compton they
10 actually were buying the textbooks. They were
11 spending the right amount of money, sufficient
12 amount of money to give every kid a textbook.
13 Because they were given no inventory system, the
14 books never returned.

15 We had one woman drive up in her pickup
16 truck say, "Where do I leave these? My five kids
17 and I are moving out of town. We've been collecting
18 these textbooks over the last few years. We want to
19 give them back to you now."

20 Inefficiency could be not monitoring
21 attendance as closely as you should be. It could be
22 a variety of things that will affect the student.

23 BY MR. JACOBS:

24 Q One of the things that Randy Ward instituted
25 in Compton was a Retention Book Management System,

1 experience any action plan to attempt to discern
2 whether there were other districts that were
3 mismanaging textbook inventory?

4 MR. SEFERIAN: Objection. Vague and
5 ambiguous.

6 THE WITNESS: I may have mentioned it in a
7 speech or something, but I had -- we had a lot of
8 things going on, and I could spend a lot of time
9 trying to figure out how to do textbook inventories.
10 I was a lot more focussed on trying to make sure
11 that children were learning, that the standards were
12 being embraced, that we were aligning the
13 assessments with the standards, that we were
14 building an accountability system. And the level of
15 detail, that is of local control issue, I just
16 didn't get into that.

17 You know, it's hopeful that CSPA and others
18 are giving advice to districts about how to do that.
19 There are administrators, associations. There are
20 coalition of various groups that do try to help
21 districts to manage their work. Some districts use
22 the county offices for their fiscal accounting.
23 It's a very complex system. And we weren't trying
24 to centralize the way text books were monitored in
25 the state.

1 BY MR. JACOBS:

2 Q Nor were you trying to centralize knowledge
3 of how textbooks are in the state?

4 MR. SEFERIAN: Objection. Vague.
5 Ambiguous. Overbroad.

6 MR. VIRJEE: Assumes facts not in evidence.
7 Also vague and ambiguous as to how textbooks are
8 monitored.

9 THE WITNESS: We don't have any staff to do
10 textbook monitoring per se. We have a curriculum
11 staff that does work on the adoptions. We do try
12 to -- we fought hard to get additional resources and
13 then to make sure the resources were aligned to the
14 standards. We worked hard to allow for on-line
15 reviews of materials so people would know what those
16 standards aligned. We worked hard on various
17 aspects of the curriculum piece.

18 But the day-to-day monitoring of textbooks
19 was just not in the purview of the State Department
20 of Education. We wanted them to have hearings on
21 whether they had aligned textbooks, whether they
22 were spending their money right. But to actually go
23 in and monitor their inventory procedures, was not
24 something we were wanting to do.

25 BY MR. JACOBS:

1 something similar that you said -- to what you said
2 this morning about the degree of constraint on the
3 resources of the Department. Do you see that?

4 A Yes.

5 Q And then you say: "I am as fascinated as
6 anybody out there about the inability of the State
7 of California to force higher quality and more
8 ethical and responsive behavior on the part of the
9 kids."

10 What did you mean by that sentence?

11 MR. SEFERIAN: Objection. Assumes facts not
12 in evidence.

13 THE WITNESS: It takes a long time to work
14 through the process to get things done. It took us
15 a long time to get standards. Then we had an
16 assessment system that wasn't aligned to standards.
17 There was a lot of money given out for rewards based
18 on the test that wasn't aligned to standards which
19 was really a loopie idea in my opinion. But then we
20 got tests that aligned to standards. I got
21 frustrated because we should have gotten rid of the
22 other tests then because we now do excessive amounts
23 of multiple choice testing and not enough really
24 evaluating whether kids can think and write and
25 speak, and life is not a multiple choice exam after

1 Q So when you said "some districts are
2 inefficient," did you have anything else in mind by
3 way of that fragment?

4 MR. VIRJEE: Other than what she's already
5 testified to?

6 THE WITNESS: You know, we had other issues.
7 We had some places that didn't monitor their
8 cafeterias properly. And we had examples of people
9 that weren't efficiently managing their bus systems.
10 And there were a variety of things that we
11 discovered in Compton that we had reason to believe
12 were problems in some other areas.

13 But again, it's sort of like the Better
14 Business Bureau may make recommendations to people
15 about what they should be doing; they don't go in
16 and monitor and micromanage what they're doing
17 because they didn't have any authority, and we
18 didn't have any authority either in a lot of areas.
19 Where there was inefficiency where we did have
20 authority in places like nutrition, then we went in
21 and tried to help people to do the right things.

22 BY MR. JACOBS:

23 Q So on the next page.

24 A Page 4?

25 Q Yes. At the top, you discuss there

1 all. So I have my frustrations.

2 We wanted an accountability system.
3 Governor Wilson vetoed our first effort -- we had a
4 Revise and Interventions Task Force that actually
5 recommended things like the API, put it in a bill,
6 had a Republican carry it, and Wilson vetoed it. So
7 then we wound up with a Gray Davis answer which was
8 not everything we wanted, and in some cases in
9 realistic timetables. So it's frustrating. But all
10 the time, you know, we were moving the ball.

11 I think whenever you deal with public
12 processes, if you really care about children, you'll
13 get frustrated because it's slow, but it's the way
14 you have to do it. You know, I can't wave a magic
15 wand. I can't grasp things from the ether. I can't
16 make people do things that I'm not authorized to do
17 under law. So I worked hard to get authorized under
18 law to improve things. Some cases we juryrigged
19 things in order to get stuff done. Some cases we
20 got a half a loaf.

21 But we have constantly moved ahead as the
22 State of California over the last decade I would
23 say. And hopefully we're going to keep moving
24 ahead, but it's frustrating.

25 BY MR. JACOBS:

1 Q You were part of the implementation of the
2 API, correct?

3 MR. VIRJEE: Objection. Vague and ambiguous
4 as to "implementation" and "part of."

5 THE WITNESS: My record in the Sanctions
6 Task Force suggested that we have an Academic
7 Performance Index, that it not just be one factor,
8 that it be more complex. And that we not only look
9 at where an individual school was in achievement,
10 but where it was in comparison to like-schools, so
11 we worked on that. It's now, ironically, been part
12 of No Child Left Behind. Many states are scrambling
13 to do what we were already in the process of doing.

14 BY MR. JACOBS:

15 Q So what part of what you believed was called
16 for was, in fact, implemented in the API system?

17 MR. VIRJEE: Objection. Vague and ambiguous
18 as to what was "called for."

19 THE WITNESS: I have an imperfect memory of
20 all the details of the recommendations of the Task
21 Force. Suffice it to say that we did want some
22 assessment included, but we also wanted some
23 additional information about subgroups within a
24 school to be sure that all kids were moving ahead
25 which is part of the API.

1 THE WITNESS: We needed a student
2 information system in California. When we have
3 that, we will be much stronger in terms of our
4 ability to use data to manage for results. We're
5 still a ways away from that. That's one of my
6 frustrations. I first proposed it in 1991, and so
7 when it finally got passed after I became
8 superintendent, it's taken a long time to get it
9 completed. It's being done by a contractor through
10 FCMAT.

11 Q And by "student information," you're
12 referring to that system which is also sometimes
13 referred to as CSIS?

14 A Yes.

15 Q And the reason you believe such a system is
16 important is what?

17 A I believe it's important for everybody to
18 have such a system. I think it's important for
19 children. I think it's important for teachers. I
20 think it's important for administrators. I think
21 it's important for parents. I think it's important
22 for school boards because when -- you have a cleaner
23 picture of not only individual student performance,
24 but of the dynamics of the state student population.

25 For example, we have kids who move, and they

1 BY MR. JACOBS:

2 Q And you wanted some other factors besides
3 assessments, correct?

4 A Right.

5 MR. VIRJEE: Objection. Asked and answered.
6 BY MR. JACOBS:

7 Q And the legislation, in fact, of the PSA Act
8 calls for an API that has factors other than
9 assessments, correct?

10 MR. VIRJEE: Objection. Calls for a legal
11 conclusion. The statute speaks for itself.

12 THE WITNESS: Yeah, I would just refer you
13 to the statute. I'll be honest with you, I haven't
14 reread it since it passed, so...

15 BY MR. JACOBS:

16 Q But, in fact, the state has not -- and I
17 don't mean this pejoratively yet, but, in fact, the
18 state has not moved to an API that is based on
19 factors other than assessments, correct?

20 MR. SEFERIAN: Objection. Vague and
21 ambiguous.

22 MR. VIRJEE: Calls for speculation. And to
23 the extent you're asking what the statute requires
24 or what the state is doing, the document speaks for
25 itself.

1 move frequently. And today when a child moves, we
2 send the child's records in an envelope to the
3 receiving district. If the child doesn't show up at
4 that district, or as often happens -- you know, San
5 Jose has something like eleven school districts in
6 it; Santa Rosa has fourteen; Fresno has got a few.
7 So if there's a mistake about which school district
8 the child is in, their papers can be months behind
9 them, and the child could have a physical need or
10 could have a special education requirement or could
11 have some other kind of issues related to the
12 parental controls that are contained in there. You
13 know, dad's not supposed to pick up the child or
14 whatever.

15 We feel that it would really improve not
16 only the academic performance side of the equation,
17 but it would actually improve things like
18 attendance, and we'd have a better picture of the
19 dropout rate. We'd have a lot better information on
20 many different levels if we had CSIS, but right now
21 we don't have that.

22 Q As it relates to the academic performance
23 side of the equation, why is CSIS important?

24 MR. SEFERIAN: Objection. Overly broad.

25 THE WITNESS: Well, No Child Left Behind,

1 for example, has some information in it about you're
2 supposed to include the child if the child has been
3 in your school for the whole year.

4 I think it would be more powerful, though,
5 even if the child has been in school for a year, if
6 they've been in six different schools in six
7 different years, it tells you something about the
8 mobility of the child. And we know that kids that
9 move a lot aren't achieving as high a level. It
10 might give us information we could communicate to
11 parents, frankly, to say if at all possible, could
12 you find another residence in this school vicinity,
13 so your child isn't moving as much?

14 I think academic performance is enhanced by
15 a variety of different factors, some of which are
16 not academic.

17 BY MR. JACOBS:

18 Q One of the current uses of the API is to
19 measure whether schools are making certain
20 performance gains, and therefore, determine whether
21 the schools are needing of further support or even
22 dramatic intervention, correct?

23 A Right.

24 Q And how the implementation of a CSIS, in
25 your judgment, alter or improve the effectiveness of

1 that component of the API?

2 MR. VIRJEE: Objection. Calls for
3 speculation. Lacks foundation. Incomplete
4 hypothetical.

5 THE WITNESS: Could you repeat the question.

6 MR. JACOBS: I can shorten it.

7 BY MR. JACOBS:

8 Q How would the implementation of a CSIS
9 effect the usability of the API as a measure of
10 school performance?

11 MR. VIRJEE: Objection. Vague and ambiguous
12 as to "usability in school performance." Calls for
13 speculation. Lacks foundation. Incomplete
14 hypothetical.

15 THE WITNESS: We think we have some kids
16 that are dropping out of school that aren't showing
17 up in the dropout rate as an example of the kind of
18 thing. We'd have to be more equipped to understand
19 and respond to if schools are pushing kids out or if
20 they're letting them dropout because they want to
21 keep their academic performance index up. That's a
22 very bad thing for that child for the state, for the
23 country.

24 BY MR. JACOBS:

25 Q Any other benefits of CSIS to the usability

1 of the API as a measure of school performance?

2 MR. VIRJEE: Same objections.

3 THE WITNESS: It depends on how rich the
4 CSIS system is allowed to become. I think, you
5 know, if it was really allowed to be a
6 fully-developed system, you would be able to tell a
7 lot more about the effectiveness of high schools,
8 for example, or middle schools or elementary schools
9 by how kids do when they leave any level and go to
10 the next level including if they went to college.

11 You know, did a large percentage of children from
12 High School X have to have remedial English.

13 BY MR. JACOBS:

14 Q Referring back to your comments in this
15 article about the goal of an equal opportunity to
16 learn...

17 MR. VIRJEE: Will you point her to where
18 you're talking about.

19 BY MR. JACOBS:

20 Q I'm referring to the discussion on page 3 of
21 4. Your point that: "It's not necessarily a
22 question of equal dollars. It's really providing to
23 each kid what that kid needs in order to achieve."

24 Do you see CSIS as contributing to our
25 ability to assess whether we've achieved a greater

1 state of equality of educational opportunity?

2 MR. VIRJEE: Objection. Vague and ambiguous
3 as to "equality of education opportunity." Calls
4 for speculation. Lacks foundation. Incomplete
5 hypothetical.

6 THE WITNESS: Could you repeat the question.
7 (Whereupon, the record was read
8 by the court reporter)

9 THE WITNESS: It might be. If you could
10 fully develop it, you'd be able to attract a child
11 year-to-year, make sure that they had, you know, the
12 full compliment of educational opportunity.

13 If you found a child that had a series of
14 uncredentialed teachers, for example, you might
15 have, you know, a reason to intercede more
16 effectively to make sure they don't fall behind.

17 BY MR. JACOBS:

18 Q And as compared with the current API system
19 and its ability to assess whether we have achieved a
20 state of greater equality of opportunity, how would
21 you compare and contrast a fully-developed
22 CSIS-based system with our current API system?

23 MR. VIRJEE: Objection. Calls for
24 speculation. Incomplete hypothetical. Calls for an
25 expert opinion. Vague and ambiguous.

1 THE WITNESS: Well, the API gives you big
2 aggregate numbers. It doesn't tell you about
3 individual student circumstances. If you had CSIS,
4 you would know better what was happening for
5 individual students in the context of the broader
6 system, was that child getting opportunity or being
7 deprived of opportunity.

8 BY MR. JACOBS:

9 MR. JACOBS: I'm going to show you an
10 article from the Sacramento Bee that refers to CSIS.
11 This will be 335.

12 (Exhibit 335 marked for identification)

13 BY MR. JACOBS:

14 Q Just to be clear, 335 is a download of an
15 article that was published in the San Diego
16 Union-Tribune, but it's by Daniel Weintraub of the
17 Sacramento Bee. It's dated January 1, 2003. And
18 you'll note that the article is about the tension
19 between the Superintendent of Public Instruction and
20 the Governor's Office. I particularly want to ask
21 you about the paragraph toward the bottom of page 1:

22 "More recently, Governor Gray Davis has
23 clashed with Superintendent Delaine Eastin. One
24 casualty has been a development of a data system to
25 track the records of individual students as they

1 working in the Accounting Department, which I did,
2 and working in corporate strategy, which I did. In
3 accounting, everybody is worried about balancing the
4 book to the penny. They never want to spend any
5 money. That's part of the corporate culture in
6 accounting. That's part of the corporate culture in
7 finance. I think there's some conservative people
8 there that don't want to make the level of
9 investment that is required. It may be because they
10 personally are worried about invasion of student
11 privacy as I've heard some say, but for whatever
12 reasons, I see it as a problem in the Department of
13 Finance.

14 And there's not a lot of push from the
15 various stakeholder groups because, you know, it's
16 not one of those sexy, interesting things that
17 really attract great enthusiasm. So there's no --
18 except for the Superintendent of Public Instruction,
19 there hasn't been a lot of push to do it.

20 I actually think the State Board wouldn't
21 mind have a CSIS system even though they're
22 appointed by this Governor. But I think if you move
23 the SPI under the Governor, you would still have
24 foot dragging by finance, and you would still not
25 have a student information system.

1 move from one school to another, an important piece
2 of the accountability puzzle that's languishing
3 because no one is completely responsible for its
4 development."

5 Do you see that?

6 A Uh-huh.

7 Q Do you agree that one of the reasons that
8 CSIS is not developing more rapidly is attributable
9 to a governance issue as it relates to powers
10 between the Governor and the a SPI?

11 MR. SEFERIAN: Objection. Vague and
12 ambiguous.

13 MR. VIRJEE: Calls for speculation. Lacks
14 foundation.

15 THE WITNESS: I don't think it's necessarily
16 because of that. I think it's because the
17 Department of Finance runs so many of these
18 decisions, and they know the cost of everything and
19 the value of nothing.

20 So there are people in the Department of
21 Finance -- smiles down at the end of table -- people
22 down in the Department of Finance who really are
23 just parsimonious to the point of silliness. And
24 they are dragging their feet on this.

25 And I think it's the difference between

1 BY MR. JACOBS:

2 Q Finance reports to...

3 A The Governor.

4 MR. VIRJEE: Michael, whenever you're ready,
5 it's about 12:30. I don't know if you want to take
6 a break now, or you were looking at a different time
7 frame.

8 MR. JACOBS: This is a good time. You want
9 to resume at 1:25?

10 MR. VIRJEE: Or 1:15.

11 THE WITNESS: 1:15.

12 (Lunch Recess)

13 MR. JACOBS: So let's do some more articles,
14 I'm going to mark as Exhibit 336 an article from the
15 Contra Costa Times on the web, February 11, 2002,
16 Reforms Put Test Standards on the Spot.

17 (Exhibit 336 marked for identification)

18 BY MR. JACOBS:

19 Q And the quotation you begin on page 3 of 5,
20 and I specifically want to ask you about the quote:
21 "'It's our black and brown kids who are falling
22 farther behind, and it's not because they are
23 intrinsically worse students. It is that we have
24 chronically under-performing schools in our state,'
25 she said."

1 Do you see that?

2 A Uh-huh.

3 Q Did you convey the substance of that to the
4 reporter who prepared this article?

5 A I probably did. I don't have an exact
6 recollection. I probably said something like that.

7 Q And what do you mean by "chronically
8 under-performing schools"?

9 A We have schools that weren't really focussed
10 on student achievement. They were almost like they
11 were -- they were keeping students during the day,
12 but they weren't really educating them to a high
13 level. And I think we've worked hard over the last
14 few years to really try to convince the Governor and
15 Legislature, both Governors and the Legislature,
16 that we need to do some things that other states
17 that were turning around their low-performing
18 schools did and other countries like Singapore had
19 done. Namely, that there needed to be standards for
20 what all kids would be able to do, and that we need
21 to have an assessment system. Because when I took
22 office, there was no assessment system at all in the
23 state, so we needed an assessment system, ideally
24 one based on our standards. Then we needed to hold
25 people accountable. But you can't hold people

1 Q Did you convey the substance of that to the
2 reporter?

3 A I think so.

4 Q What did you have in mind when you were
5 referring to that as being the "most formidable
6 task"?

7 A Well, for a variety of reasons poor children
8 and children of color have challenges which are well
9 documented in a lot of literature. Namely, that
10 they are more likely to be living in a home with a
11 single parent, living in a group home, living in a
12 foster home. They're less likely to have access to
13 tutors, books and some of the kind of advantages
14 that middle class and upper middle income and rich
15 kids have.

16 And yet, because of the people who vote
17 continued to be the majority of affluent people or
18 middle class people or at least blue collar people
19 whose children aren't necessarily in these schools,
20 it's sometimes hard for people to worry about other
21 people's children. So they ignore other people's
22 children, or they don't want to put extra resources
23 in to help those kids over there. Not because
24 they're really bad. Just because they're really
25 focussed on their own kids.

1 accountable if you have no standards and no testing,
2 no assessments at all.

3 So we believed even though we really hadn't
4 had a system, it was quite clear by the dropout
5 rates and by the problems that these children were
6 having in adulthood, that the schools were not doing
7 enough.

8 Q And the relationship between that
9 characterization of chronically under-performing
10 schools and the reference there to "black and brown
11 kids," what's the correlation you were drawing
12 there?

13 A Well, that the chronically under-performing
14 schools tend to be in high poverty areas, and they
15 tend to be majority minority schools.

16 Q "Majority minority" meaning that they have a
17 majority of?

18 A Minority students, right. But anyway, more
19 poor kids tend to be children of color for a variety
20 of different historic reasons.

21 Q The paragraph above that: "Outgoing State
22 Superintendent of Instruction, Delaine Eastin, said
23 that bridging the racial and economic gap will be
24 her successor's most formidable task."

25 A Yes.

1 Q And the upshot of that is that the schools
2 serving those kids continue to exist in the state
3 that you described before where they're not focussed
4 on achievement?

5 MR. SEFERIAN: Overly broad. Incomplete
6 hypothetical.

7 MR. VIRJEE: Also calls for speculation.
8 And vague as to time.

9 THE WITNESS: I believe that the problems of
10 poverty are worse in some ways today because there
11 isn't a large pool of jobs for people who lack
12 skills as there were fifty years ago. So fifty
13 years ago if your parents were not well educated and
14 you were not in a very good school and you did not
15 get a very good education or you dropped out of high
16 school, you could still get a job. That is less
17 likely to be so now or in the future. So now the
18 importance of bridging the gap is much more
19 important, is much more significant than it would
20 have been fifty years ago.

21 BY MR. JACOBS:

22 Q And the standards that have been created,
23 are challenging standards?

24 A Yes.

25 MR. SEFERIAN: Objection. Vague and

1 ambiguous.
 2 BY MR. JACOBS:
 3 Q And the graduates of schools that are able
 4 to deliver a curriculum that meets those challenging
 5 standards will be on balance better prepared for the
 6 kind of jobs that are out there, that's the
 7 hypothesis, correct?
 8 MR. VIRJEE: Objection. Calls for
 9 speculation. Lacks foundation. Incomplete
 10 hypothetical.
 11 THE WITNESS: What we know is that in a
 12 country like Singapore which a generation ago had
 13 poor children and a very poor educational system,
 14 and in one generation changed its students
 15 achievement levels dramatically, is that they did it
 16 with high standards for all children. They did it
 17 with, you know, assessments to see if kids were
 18 reaching those standards. And they did it with an
 19 accountability system which is what we're trying to
 20 do here.
 21 BY MR. JACOBS:
 22 Q But the implementation of -- I guess I'm
 23 still -- I don't think you tied it up. You referred
 24 there to chronically under-performing schools. You
 25 referred to the black and brown kids falling further

1 behind. And you referred in your explanation to the
 2 phenomenon of the relatively affluent, not
 3 necessarily out of malevolence but out of just a
 4 focus on their own kids, not necessarily focusing on
 5 the schools that serve the poorer kids. And the
 6 relationship between those three is what?
 7 MR. VIRJEE: Objection. Asked and answered.
 8 And your question is vague and ambiguous, compound,
 9 overbroad.
 10 THE WITNESS: Could you repeat the question.
 11 (Whereupon, the record was
 12 read by the court reporter)
 13 THE WITNESS: That's a mouthful, isn't it?
 14 MR. VIRJEE: Same objections.
 15 THE WITNESS: I think I did answer it. I
 16 mean, I think we have had chronically
 17 under-performing schools because we had no
 18 standards. Nothing ever happened. We had no
 19 accountability. We had no testing as of eight years
 20 ago. Zero testing in California. We had had
 21 testing, and it had gotten ash canned. So, you
 22 know, I think the problem of under-performing
 23 schools has been a chronic one.
 24 And now with standards, assessment and
 25 accountability, we can, in fact, hold people

1 accountable. We can move the ball for those kids.
 2 And No Child Left Behind as well as our own API
 3 which uses -- No Child Left Behind forces us to
 4 desegregate the data based on racial groups and
 5 helps us to target our efforts on those schools that
 6 aren't helping those children.
 7 BY MR. JACOBS:
 8 Q And the "us" there is whom?
 9 A The state and the local districts. The
 10 first line of defense is always the local district.
 11 But ultimately now with these other programs, there
 12 will be a point where the state will have to step
 13 in.
 14 Q We talked about FCMAT a little bit before
 15 the break. I want to ask you a little more about
 16 it.
 17 MR. JACOBS: We'll mark as Exhibit 337 an
 18 article from the Oakland Tribune dated June 30, 2003
 19 downloaded from Nexus.
 20 (Exhibit 337 marked for identification)
 21 BY MR. JACOBS:
 22 Q And I want to ask you specifically about
 23 your reference to the criteria used to judge
 24 troubled school districts as quote "capricious,"
 25 closed quote, in the middle of the first page.

1 A Yes. Yeah. Well, FCMAT --
 2 MR. SEFERIAN: I'm sorry. Please wait until
 3 he asks the question.
 4 THE WITNESS: I'm sorry.
 5 MR. JACOBS: So take a minute to look at the
 6 article.
 7 BY MR. JACOBS:
 8 Q So my specific question is what did you mean
 9 by "capricious"?
 10 MR. SEFERIAN: Objection. Assumes facts not
 11 in evidence.
 12 MR. VIRJEE: Go ahead and take time to
 13 finish looking at the document.
 14 THE WITNESS: Yeah, I read the first page.
 15 MR. JACOBS: I think there's a relevant
 16 discussion on the top of the next page, and then it
 17 goes off on to another topic.
 18 THE WITNESS: Uh-huh. I believe that FCMAT,
 19 as I said before, stands for Fiscal Crisis
 20 Management Assistance Team, does very good fiscal
 21 analysis. But as this article points out, I think
 22 their academic analysis is lacking. That at the
 23 time they rated -- this article doesn't go into the
 24 very first time they rated West Contra Costa versus
 25 Compton. West Contra Costa actually had forty

1 percent of its schools who were API one or two;
2 Compton eighty percent of its schools one or two.
3 Yet they're saying Compton is almost as good as West
4 Contra Costa. That made no sense.

5 They contracted out the work, and different
6 contractors came to different conclusions. And I
7 believe that ultimately FCMAT should stick to fiscal
8 crisis management, and the State Department of
9 Education should do the accountability piece as it
10 relates to student achievement because that's what
11 they're more set up to do.

12 BY MR. JACOBS:

13 Q So when Henry says in the top of the second
14 page referring to the Department of Education and
15 you, he says, "They tend to look at test scores.
16 Our process developed standards that would be more
17 likely to demonstrate in pupil achievement," do you
18 see that?

19 A Yeah, I see that. Ask him to show you his
20 standards. I never saw his standards. We asked for
21 them after this, and that's one of the reasons we
22 encouraged there to be an audit of the Fiscal Crisis
23 Management Assistance Team Program because their
24 dollars are embedded in the budget of Kern County.
25 You can't extricate them; you can't see what that

1 are spending money on. But the standards should be
2 known to all. They should be observable. They
3 should be a product of the Legislature, and the
4 Governor's accountability legislation.

5 Q And in your judgment, they should be
6 focussed on the fiscal and leave the pupil
7 achievement issue to the Department?

8 A Either to the Department or to one of the
9 school intervention teams, the state accountability
10 intervention team, the state teams or the evaluators
11 or the county offices. But people that are more set
12 up to do this kind of work, so we can be sure that
13 we have a more consistent approach.

14 Q And in terms of the discussion of Oakland --
15 and the further down in that page, there's a
16 reference to judging Oakland on 379 agency
17 standards.

18 A Right.

19 Q Were those also not visible to you?

20 A You know, I can't recall. They may have --
21 I may have seen them. I don't remember seeing 379
22 agency standards, but they may have them. I just
23 didn't see them.

24 Q And in calling for this audit, do you have
25 questions about FCMAT's effectiveness on the fiscal

1 side?

2 MR. VIRJEE: Objection. Calls for
3 speculation. Lacks foundation. Overbroad and vague
4 as to time.

5 THE WITNESS: I think that all government
6 agencies should be subject to public scrutiny unless
7 they're dealing with very great national security
8 issues.

9 BY MR. JACOBS:

10 Q But you did have a particular concern with
11 the standards they were applying, and that was an
12 issue you were focused on, the achievement standards
13 they were applying, correct?

14 A Yes. I don't think they're expertise -- I
15 think they have "mission creep." I think their
16 expertise is in fiscal matters.

17 Q Let's talk about Concept 6, multi-tracking.
18 (Exhibit 338 marked for identification)

19 MR. JACOBS: We've marked as Exhibit 338 a
20 printout from the web version of the Lodi News
21 Sentinel, October 26, 2002. State Superintendent
22 Makes Stop at Lodi Middle School.

23 BY MR. JACOBS:

24 Q You are quoted in the middle of the first
25 page as follows: "I would love to get rid of

1 Concept 6. But schools didn't move to it because
2 they were trying out some educational innovation.
3 It was out of desperation."

4 Do you see that?

5 A Right.

6 Q Did you convey the substance of that to --
7 during your visit to Lodi?

8 A No doubt.

9 Q And did it reflect your views of Concept 6?

10 A Yes.

11 Q And why did you have that -- what was the
12 basis for that assessment?

13 A Well, as I said in here, I don't believe
14 schools moved to Concept 6 because they thought it
15 was a good education achievement promotion. They
16 did it because they were desperate for space, and
17 they -- the Legislature allowed them to do it.

18 They passed the specific legislation to
19 allow the district to have a shorter school year and
20 longer school day so that the same number of minutes
21 supposedly would be experienced by each child. In
22 reality, we don't -- most of the information that I
23 have seen, most of the data I have seen as well as
24 anecdotal evidence, is that Concept 6 is not a good
25 move academically for kids.

1 But after it was done at the most desperate
2 time, and we still had two-thirds majority local
3 school bond vote requirements, and the state was
4 growing, and yet, there wasn't enough money to build
5 new schools. So districts, some fast growing
6 suburban as well as urban districts, because Lodi
7 essentially is a fast growing suburban district,
8 went to this as a last resort.

9 But the Legislature did enact it to do a few
10 things. To try to deal with this issue, and that
11 included the bonds. It included allowing Mello Roos
12 fees on new housing to provide new schooling. It
13 included a host of different efforts locally to pass
14 bonds, and that's what you see I think Lodi was
15 trying to do.

16 (Exhibit No. 339 marked for identification)

17 BY MR. JACOBS:

18 Q Exhibit 339 is a letter from you to Jackie
19 Goldberg dated May 10, 2002 regarding AB 2027.

20 A Yes.

21 Q And in it you expressed your opposition to
22 AB 2027, correct?

23 MR. VIRJEE: Why don't you give the witness
24 a chance to take a look at it.

25 THE WITNESS: Uh-huh.

1 for itself.

2 THE WITNESS: The real -- I don't -- as I
3 said here, I support the intent of this bill.

4 My concern is it's very cumbersome to build
5 a school in California especially in a place like
6 Los Angeles. You have to -- look at the Ambassador
7 Hotel site. How many years has that been under
8 construction? You have to acquire the land
9 sometimes using eminent domain which takes a long
10 time. The Century Freeway in L.A., they may call it
11 that because it took a century to build it, but
12 almost over twenty years to build a freeway. So it
13 takes a long time to acquire the land, and then you
14 have to go through a very intensive process at the
15 local level, getting the funds together to match the
16 state funds, getting the building designed, going
17 through the four agencies of state government that
18 you have to go through and then actually breaking
19 ground and building the school.

20 And I was not at all in opposition to what
21 Jackie Goldberg was attempting to do. I don't like
22 Concept 6. I just, as I said in the article that's
23 quoted in the Lodi Sentinel, I don't know that any
24 district that went to Concept 6 for the reasons that
25 it's going to be a great educational improvement.

1 BY MR. JACOBS:

2 Q For the transcript, is that a yes?

3 A Yes.

4 Q And in this letter, you opposed AB 2027 on
5 the basis that you did not think that a elimination
6 of Concept 6 by 2008 was feasible, correct?

7 A Correct.

8 Q And that was based on some analysis that was
9 done in the Department?

10 A Yes. Our facilities people I believe.

11 Q L.A.U.S.D. comprises a large number of the
12 Concept 6 students, correct?

13 MR. VIRJEE: Objection. Calls for
14 speculation. Lacks foundation.

15 MR. POULOS: Vague and ambiguous.

16 THE WITNESS: I believe so. There are only
17 four districts that use it according to this little
18 memo.

19 BY MR. JACOBS:

20 Q And in the fourth paragraph, the issue that
21 was analyzed was what would happen if you took the
22 schools that were on Concept 6 with a three-track
23 calendar and moved them to a four-track calendar,
24 correct?

25 MR. VIRJEE: Objection. The document speaks

1 They did it because they had a desperate need for
2 classrooms. So while I want to see it go away, I
3 don't want to have a bunch of kids sitting out on
4 the street not going to school.

5 BY MR. JACOBS:

6 Q The contrast you were drawing in that fourth
7 paragraph was between three-track and four-track
8 programs, correct?

9 MR. VIRJEE: Objection. The document speaks
10 for itself.

11 MR. SEFERIAN: Assumes facts not in
12 evidence.

13 THE WITNESS: Basically it's the same --
14 basically it's as you said.

15 BY MR. JACOBS:

16 Q And the reason you were analyzing it that
17 way is that in your judgment the four-track
18 programs, the Concept 6 multi-track year-round
19 programs --

20 A -- don't have the same negative impact on
21 educational programs as Concept 6 does, correct.

22 MR. SEFERIAN: Overly broad. Incomplete
23 hypothetical. Lacks foundation.

24 THE WITNESS: 180 days even if they're
25 shorter than the 163 days, appear to be better.

1 BY MR. JACOBS:

2 Q And the 180-day programs are in the
3 four-track schools?

4 A Correct.

5 Q And did you analyze how much capacity could
6 be achieved by moving schools that were on single
7 tracks, more schools that were on single tracks to
8 four-tracks in any of these districts?

9 MR. VIRJEE: Objection. Calls for
10 speculation. Lacks foundation. Assumes facts not
11 in evidence. Assumes there were schools on single
12 track with districts that could be moved. Also
13 calls for an expert opinion.

14 THE WITNESS: The letter says four districts
15 use Concept 6. Los Angeles, Palmdale Elementary,
16 Lodi Unified and Vista Unified. And they have a
17 combined enrollment of those three-track programs of
18 355,634 kids. That is almost four times the size of
19 the State of Wyoming. This is not an insignificant
20 number of children.

21 So our concern was something like sixty
22 thousand kids wouldn't have classrooms. That was
23 based on information that I received from my
24 facilities people, who don't like Concept 6 either.
25 But we allowed this to happen, and now we have to

1 live with the consequences until such time as we
2 have the money and have the capacity to expand these
3 school districts, and we're working as hard and as
4 fast as we can on that.

5 BY MR. JACOBS:

6 Q My question is in opposing AB 2027 did you
7 ever analyze whether seats were to be made available
8 in these school districts by moving schools that
9 were on single tracks to four-tracks sufficient to
10 accommodate the number of students who would be
11 displaced by moving the three-track schools to
12 four-tracks?

13 MR. VIRJEE: Objection. Calls for
14 speculation. Lacks foundation. Calls for an expert
15 opinion and assumes facts not in evidence. Assumes
16 that they had single track schools.

17 THE WITNESS: I do not sit down and do those
18 calculations. I rely on my staff to do those
19 calculations. They presented me with this letter.
20 I remember we had kind of a fight about it because I
21 don't like Concept 6. But they convinced me that
22 rather than having 65,000 kids out on the street, we
23 should give them more time.

24 BY MR. JACOBS:

25 Q Did you explore during your tenure as SPI

1 whether there were changes that could be made in
2 legislation or in administration in Sacramento that
3 would speed up the pace by which schools -- school
4 districts with Concept 6 schools could build out out
5 of the Concept 6 problem other than the school bonds
6 that the state enacted?

7 MR. VIRJEE: Objection. Vague and ambiguous
8 as to "build out." Calls for speculation.

9 THE WITNESS: I worked very hard to speed up
10 school construction. But I do believe there are
11 unique problems in Los Angeles Unified that -- and
12 some other urbans like San Francisco that make it
13 very difficult to move as expeditiously as they
14 would like in building new schools.

15 BY MR. JACOBS:

16 Q And the things that you said you did to
17 expedite school construction, did any of them
18 include legislative changes that would remove
19 obstacles to rapidly building schools in L.A.U.S.D.?

20 MR. VIRJEE: Vague and ambiguous as to
21 obstacles. Calls for speculation. Lacks
22 foundation.

23 THE WITNESS: We tried to mechanize, put a
24 common data system together, between the various
25 state agencies that were doing work. We tried some

1 things, technical things, like that at the
2 state-level. But overall and on balance, there
3 weren't many things we could do without running the
4 risk that we would have L.A. Unified building on
5 unsafe sites. They had already had one bad
6 experience at Belmont High School where the site was
7 found to be of questionable safety. So when you try
8 to shortcut, sometimes the unintended consequence is
9 you built a school on a place that it shouldn't be
10 built.

11 BY MR. JACOBS:

12 Q And that was the conclusion you reached when
13 you looked at the question whether it would be
14 possible to make changes that would allow for
15 expedition in building additional schools in
16 L.A.U.S.D.?

17 MR. VIRJEE: Vague and ambiguous as
18 "expedition." Calls for speculation. Lacks
19 foundation.

20 THE WITNESS: We focussed on getting more
21 money and trying it make it possible to have the
22 resources to build the schools more than on -- you
23 know, I had had some experience trying to streamline
24 straight building construction. I tried to
25 eliminate the office of what was used to be called

1 Office of Local Assistance. I tried to eliminate
2 it. Instead they changed the name to Office of
3 School Construction. I believe that agency should
4 be managed with the Office of the State Architect,
5 but I've never been able to convince the Legislature
6 to do that or the Governor.

7 BY MR. JACOBS:

8 Q You mentioned the unique problems of
9 L.A.U.S.D. Did you form a judgment over the course
10 of your superintendship on the degree to which
11 those problems were self-inflicted?

12 MR. SEFERIAN: Objection. Vague and
13 ambiguous. Lacks foundation.

14 THE WITNESS: I had many years of
15 association with several superintendents in L.A.
16 Unified. And some years ago when I went to
17 Huntington Park High School, I was appalled to see
18 the conditions of the school, and I found that the
19 district had received some resources to modernize
20 the school. Worked hard to get them to put those
21 modernization plans into effect.

22 Subsequent superintendents I think have
23 really made this much more of a priority, and over
24 the years they have speeded up what they've been
25 able to do.

1 became convinced -- and the college there, Cal State
2 Northridge had two buildings that were less than
3 three years old that collapsed which weren't current
4 to field standards, but they were built to the
5 Uniform Building Code -- so based on what happened
6 at Cal State Northridge, that we ought to keep the
7 Field Act.

8 But various times I stepped before the
9 Little Hoover Commission. We looked at ways to try
10 to streamline things. Most of that requires getting
11 agreement of the Legislature and Governor.
12 Sometimes they agree; sometimes they don't.

13 BY MR. JACOBS:

14 Q Do you recall any specific recommendations
15 you made in your testimony to Little Hoover on
16 expediting school construction?

17 A Certainly I think I must have probably told
18 them, but I'm not sure. I don't recall. I think I
19 would have told them.

20 MR. VIRJEE: Don't want you to guess or
21 speculate, Delaine. If you can remember, he's
22 entitled to...

23 THE WITNESS: I think I said they should
24 combine Office of the State Architect, Public School
25 Construction, and I think I said we should create a

1 It is -- you know, it's also true that we
2 explored with L.A. more small schools because these
3 bigger sites are harder for them to get. My
4 department actually spent a certain amount of time
5 down in L.A. Unified. We don't have a huge school
6 facilities group, in fact, it's rather small, but
7 it's -- but we sent everybody but one man down there
8 to try to help when Rick Martinez was the interim
9 superintendent to help him see how he could
10 streamline his School Districts Program. I think
11 Duane Brooks (phonetic) you may have already
12 interviewed, and he has tried to help specifically
13 L.A. but also some other districts.

14 We really have worked to try to make the
15 process faster, but at the same time because we've
16 had some problems with sites that had toxic
17 materials on them, we've actually added some steps
18 even as we were trying to get rid of some other
19 steps, so that was done by the Legislature, and it's
20 done for the safety of kids.

21 So, you know, we -- I looked at one time at
22 getting rid of the Field Act because it's slower.
23 But I became convinced that because of -- I was in
24 L.A. during the Northridge earthquake. I visited
25 the school that had problems after Northridge. I

1 single data system which is electronic and on-line.
2 And we did some -- I changed some things even when I
3 was in the Legislature to say that if you gave money
4 for the approval of a site, that that money
5 essentially had to go into an escrow account because
6 Office of the State Architect was taking your money
7 to build her school, and then they would tell you
8 you'd have to wait until they got some more money.
9 So we did some things to try to help districts.

10 (Exhibit 340 marked for identification)

11 BY MR. JACOBS:

12 Q Let me ask you about a program you were on.
13 Exhibit 340 purports to be a transcript of a show
14 called Capital Week, and the show is No. 538, and
15 the document indicates that it was a transcript from
16 June 1, 2001. And I want to ask you about the
17 question that you were asked about multi-track on
18 page 3 of 9.

19 MR. VIRJEE: Which reference on page 3?

20 BY MR. JACOBS:

21 Q It starts out, "Well, let me point out that
22 the schools that are most in need of it, are the
23 least likely to be able to take advantage of it."

24 Do you see that?

25 A Uh-huh.

1 Q And you say: "The lowest-performing schools
2 in our state are the ones most likely to be on a
3 multi-track year-round schedule. The ones that have
4 the spare classrooms, the vacancies, are the ones
5 that can extend the school year."

6 That's the passage I want to ask you about.
7 And my first question to you is does that transcript
8 accurately record what you said in the program?

9 A I imagine.

10 MR. VIRJEE: For context, why don't we let
11 her look at what this is referring to because it's
12 not referring necessarily to the multi-year or
13 multi-track, and I'm not trying to mischaracterize
14 what you said, Michael, but I think it's actually
15 referring to the proposal to extend the middle
16 school year.

17 MR. JACOBS: Yes, it is. But it's -- well,
18 whatever.

19 THE WITNESS: Okay.

20 BY MR. JACOBS:

21 Q So you're quoted there saying: "On
22 multi-track, year-round, the children already only
23 go 163 days, and they probably go seven hours a day
24 and some have an hour-and-a-half commute each way.
25 This is insanity."

1 school is in use 50 weeks a year. Some of Concept 6
2 schools do Saturday schools. But it has been a
3 facilities problem. And that's why, I mean, there's
4 no state that has passed as big of bonds as we have
5 passed in this state in the last four years.

6 Q On page 6 of 9, you say, "They ought to go
7 to a clean, safe environment according to teachers."
8 Do you see that?

9 A Uh-huh.

10 MR. VIRJEE: Why don't you read the whole
11 response.

12 THE WITNESS: Yeah. Okay.

13 BY MR. JACOBS:

14 Q First of all, you made the comments that are
15 recorded there, correct?

16 A Yes.

17 Q And the comment about, "a clean,
18 well-lighted, safe environment," was part of an
19 overall strategy of upgrading the quality of the
20 teacher work force, correct?

21 A Right.

22 MR. VIRJEE: Objection. Vague and ambiguous
23 as to "overall strategy." Calls for speculation.
24 I'm not sure even what that means.

25 THE WITNESS: I will say I'm quoted in a lot

1 Do you see that?

2 A Yes.

3 Q Did you say that?

4 A I imagine I said it.

5 Q What did you have in mind when you referred
6 to that mechanism as "insanity"?

7 A Well, in Los Angeles particularly, but in
8 some other areas, the children are often -- the
9 facilities with extra -- with space are not located
10 where the children are located, so we have some
11 bussing patterns that have developed. I think a lot
12 of California think we bus for racial integration.
13 We actually bus because the kids are not where the
14 schools are. So that's why we've all worked long
15 and hard to not only have a bigger state bond, but
16 you have a bigger incentive for locals to have their
17 own bonds to match the money.

18 And I've supported both of the bonds in Los
19 Angeles specifically because I really think they
20 need to build schools so that the kids can, in fact,
21 have a 180-day school year, and that some of the
22 kids can actually have a longer school year, that
23 they can do summer schools.

24 One of the problems with Concept 6, they
25 have a hard time doing summer school because the

1 of places saying we should have clean, well-lighted,
2 safe schools. Sometimes I'm talking about the kids;
3 sometimes I'm talking about the teachers.

4 But overall, I believe that that should be a
5 philosophy that we have, and that's why we worked
6 hard to put the differed maintenance money back into
7 the school bonds into the budget, and why we worked
8 hard to pass the bond and put a big amount in for
9 modernization, far more than we used to put in for
10 modernization.

11 BY MR. JACOBS:

12 Q And that in your judgement is taking into
13 account all the competing priorities for the use of
14 school dollars was well advised?

15 MR. SEFERIAN: Objection. Vague and
16 ambiguous. Incomplete hypothetical. Lacks
17 foundation.

18 MR. VIRJEE: Also vague and ambiguous as to
19 "competing" and "dollars." And assumes facts not in
20 evidence. Assumes that bond monies compete with
21 other monies.

22 THE WITNESS: Bond money is separate from
23 operating money. Deferred maintenance is included
24 in our overall budget. In every corner and every
25 vein, I continue to believe that the State of

1 California underfunds all of its schools, and that's
2 my opinion.

3 Now, we were 43rd in per pupil spending, and
4 we were 50th as a percentage of personal income when
5 I took office. We climbed as high as 27th. Still
6 below what we should be. I believe we should be in
7 the top ten or five at least. So I believe that all
8 schools are underfunded in the State of California.

9 BY MR. JACOBS:

10 Q And the distributional impact of that
11 underfunding, does that aggravate the problem of
12 school equity?

13 MR. VIRJEE: Objection as to "distributional
14 impact."

15 THE WITNESS: I think all schools are
16 underfunded. I do believe that some of the needs
17 that poor children have for better education should
18 be addressed by the Legislature and by the Governor.
19 I do not believe the State Board of Education can do
20 anything about it, nor do I believe the State
21 Superintendent of Public Construction can do
22 anything about it or can do anything but advocate.

23 I had a California School Publications
24 Department, but we don't print money. We considered
25 that at one point, but it was just a joke.

1 In all seriousness, I believe that the state
2 needs to make a bigger investment. It's a very high
3 cost state. And so the fact that poor kids are
4 often in older schools, has a disproportionate
5 affect on them.

6 BY MR. JACOBS:

7 Q You're aware of studies that show that
8 within school districts on account of the
9 concentration of less-experienced, and hence,
10 lower-paid teachers in certain schools, those
11 schools effectively subsidize the schools that have
12 more experienced teacher force?

13 MR. SEFERIAN: Objection. Assumes facts not
14 in evidence. Vague and ambiguous. Lacks
15 foundation.

16 MR. VIRJEE: And to the extent you're
17 referring to something in a particular study, that
18 study speaks for itself. Calls for speculation.

19 THE WITNESS: I think you could change the
20 law. But I think the law right now is being upheld
21 that school districts are following the laws of
22 collective bargaining and seniority and doing what
23 they're doing.

24 BY MR. JACOBS:

25 Q But you're aware of that research?

1 MR. SEFERIAN: Same objections.

2 MR. VIRJEE: Also vague and ambiguous as to
3 "that research." Same objections otherwise.

4 THE WITNESS: If you have a specific study
5 you'd like me to look at.

6 I do know --

7 MR. VIRJEE: You've answered the question.

8 BY MR. JACOBS:

9 Q Well, do you know that there is this
10 cross-subsidy effect within school districts?

11 MR. VIRJEE: Objection. Vague and ambiguous
12 as to "cross-subsidy effect."

13 THE WITNESS: I think the Legislature and
14 the Governor could do something to help pay
15 inner-city teachers more. I think we could through
16 collective bargaining do something to pay inner-city
17 teachers more. But it takes two to tango. In no
18 case is it the work of the State Board of Education
19 or of the Superintendent of Public Construction.

20 BY MR. JACOBS:

21 Q Are you aware of the "cross-subsidy effect"?

22 MR. VIRJEE: Objection. Vague and ambiguous
23 as to "cross-subsidy effect." Incomplete
24 hypothetical. Calls for speculation.

25 BY MR. JACOBS:

1 Q I'm not asking you whether who could have
2 done anything about it. I'm just asking if you were
3 aware of the phenomenon.

4 MR. VIRJEE: Objection. Vague and ambiguous
5 as to "phenomenon."

6 THE WITNESS: I have seen there are
7 disproportionately higher numbers of
8 lower-performing schools -- yes.

9 BY MR. JACOBS:

10 Q Have you seen the research that shows that
11 the effect of that is an internal subsidy from the
12 schools with that concentration to the schools
13 without that concentration?

14 MR. VIRJEE: Objection. Vague and ambiguous
15 as to "internal subsidy." Calls for speculation.
16 Lacks foundation. Incomplete hypothetical.

17 THE WITNESS: I have not seen a real
18 research study to that effect.

19 BY MR. JACOBS:

20 Q Are you aware of the phenomenon?

21 MR. VIRJEE: Objection. Vague and ambiguous
22 as to "phenomenon." Calls for speculation.

23 THE WITNESS: I'm aware that in some urban
24 districts, the more veteran teachers are in the
25 higher-performing schools on balance. Although, not

1 every teacher.

2 MR. VIRJEE: You've answered the question.

3 BY MR. JACOBS:

4 Q Are you aware that that has a cross-subsidy
5 effect?

6 MR. VIRJEE: Objection. Asked and answered
7 three times. She's answered that question three
8 times. Calls for speculation. Lacks foundation.
9 Asked and answered, that exact question.

10 THE WITNESS: If we did an accounting, we
11 would find that there was some subsidy in terms of
12 salaries, but there are sometimes other programs
13 that are sent to the poorest schools such as Title 1
14 monies and other monies. There are efforts made to
15 try to help the lowest-performing kids. So there
16 may be some effect in terms of the actual cost per
17 child in these large districts because of the
18 current law of the land.

19 I think you've sued the wrong people. I
20 think you should have sued the Governor and
21 Legislature. But the law is being followed in
22 California, and it has that effect.

23 (Exhibit 341 marked for identification)

24 BY MR. JACOBS:

25 Q Let me ask you about some other construction

1 Q And that is part of achieving high-quality?

2 MR. VIRJEE: Objection. Vague and ambiguous
3 as to "high-quality." Calls for speculation.
4 Incomplete hypothetical.

5 THE WITNESS: I think a great school looks
6 like the adults are serious.

7 BY MR. JACOBS:

8 Q And that's an indicator of whether the
9 adults are serious, is the --

10 A It's necessary, but not sufficient.

11 Q Necessary.

12 What part is "necessary"?

13 A I think schools should be modern and up to
14 date and clean, but I don't think that's sufficient.

15 Q And the reference to a third of our
16 students, was there -- how solid was your basis for
17 that?

18 MR. SEFERIAN: Objection. Vague and
19 ambiguous.

20 THE WITNESS: It may as well have been
21 provided by the facilities people. I think may just
22 have been an estimate, guesstimate more likely.

23 BY MR. JACOBS:

24 Q Based on your visits?

25 A Yeah.

1 discussion. Exhibit 341 is a printout from the web
2 reprinting a Sacramento Bee piece dated August 29,
3 2001. School groups, Eastin Pitch Near the \$30
4 Billion in School Bonds.

5 You are quoted as saying toward the bottom:
6 "We can't have high-quality schools if we have
7 crummy, rundown facilities housing a third of our
8 students as we have today."

9 Do you see that?

10 A Uh-huh.

11 Q Did you say that?

12 A I imagine I did.

13 Q And part of what you were saying there, the
14 first half of it, is that there is a relationship
15 between upgrading facilities and achieving
16 high-quality in education, correct?

17 MR. VIRJEE: Objection. The document speaks
18 for itself. The statement speaks for itself.
19 Doesn't say anything about "achievement."

20 MR. SEFERIAN: Vague and ambiguous.

21 THE WITNESS: I think I've already testified
22 that I believe we should increase the investment in
23 schools, and I think we should invest in buildings
24 as well as in staffing the schools.

25 BY MR. JACOBS:

1 Q Do you have a sense of the change in that
2 situation two years later?

3 A Well, they did agree to put the 9.2 billion,
4 and then they made a commitment to another bond.
5 And I thought we were getting close to 25 billion in
6 terms of what the Legislature was talking about. So
7 they didn't get all the way where I wanted them to
8 go, but it was still the biggest in history. You
9 know, better to set your sights too high and miss
10 them than set them too low and miss them, so I was
11 trying to set my heights high.

12 BY MR. JACOBS:

13 Q Your sights were aimed at what?

14 A I asked for 30 billion, and I think they
15 made a commitment to two bonds that total something
16 like 25 billion dollars for higher ed as well as for
17 K-12 put together. I may misremember that, though.
18 I'm not sure.

19 Q Computers, what's the role of computers in
20 your view in providing access to a rigorous
21 curriculum?

22 MR. VIRJEE: Objection. Vague and ambiguous
23 as to "role of computers." Calls for speculation.
24 Lacks foundation. Incomplete hypothetical.

25 THE WITNESS: I knew this was coming.

1 MR. JACOBS: Let me help you out. I didn't
2 mean to hide this from you. Let me show you
3 something that may refresh your recollection as to
4 things you've said about it.

5 MR. VIRJEE: There's been no indication that
6 her recollection needs refreshing, but we like the
7 document.

8 (Exhibit No. 342 marked for identification)

9 BY MR. JACOBS:

10 Q Exhibit 342 is a news release from the
11 California Department of Education. Student to
12 Computer Ratio Improving in California Schools But
13 Not for All.

14 A The digital divide.

15 Q Dated September 20th, 2001.

16 So first of all, this is a CDE News Release,
17 correct?

18 A Correct.

19 Q Maybe we'll move this along by asking you a
20 few questions about what you said. The
21 "disheartened" part on the second paragraph of the
22 release: "I am disheartened that it is our poorest
23 students who have the least access to these tools
24 that could contribute to their academic success."
25 Do you see that?

1 A Uh-huh.

2 Q And that was based on some data that showed
3 there was significant disparity in the availability
4 of computing power as compared -- comparing schools
5 serving relatively well off kids and relatively poor
6 kids?

7 MR. SEFERIAN: Objection. Assumes facts not
8 in evidence. Vague and ambiguous.

9 MR. VIRJEE: Vague as to "computing power"
10 and "relatively well off" and "relatively poor."

11 THE WITNESS: Would you repeat the question.
12 (Whereupon, the record was read
13 by the court reporter)

14 THE WITNESS: There is a digital divide
15 that's been documented. It's a national problem.
16 And we did get some assistance from -- for high
17 schools under Governor Wilson. And then we went
18 after and won the highest -- by far the highest
19 amount of money under President Clinton, and we did
20 do what we could within the Department to target as
21 much as we could to the lowest achieving schools and
22 to the poorest kids.

23 Admittedly, the higher-achieving schools
24 have some natural advantages. They have parents who
25 work at Cisco Systems and Hewlett Packard and places

1 like that.

2 But we were heartened by the support we got
3 from not only the public through the Legislature and
4 the Governor's budgetary work, but even through the
5 privates through the gifts and donations. We had
6 several Net Days. We had a lot of private help that
7 we really did try to focus as much as we could in
8 the poorest neighborhoods.

9 BY MR. JACOBS:

10 Q As you left office, what was the state of
11 the digital divide in schools in California?

12 A I couldn't tell you.

13 MR. SEFERIAN: Objection.

14 THE WITNESS: The exact numbers, I imagine
15 it's on our web site. Nancy Sullivan who worked for
16 me would be a good source, though.

17 MR. VIRJEE: You've answered the question.

18 THE WITNESS: But what she did --

19 MR. JACOBS: Let me ask you about another
20 interview.

21 MR. VIRJEE: If you need to take a break at
22 any time, let us know.

23 THE WITNESS: Okay.

24 (Exhibit No. 343 marked for identification)

25 BY MR. JACOBS:

1 Q 343 is a Palo Alto Weekly On-Line Edition
2 Publication, August 13, 1997, Education State
3 Schools Chief Lays Out 1997-98 Priorities.

4 On page 4 of 5 in the first block interview,
5 there's a discussion of library collections. And
6 then you go on to say: "47 percent of our kids do
7 not have access to textbooks everyday. A bunch of
8 kids can't take their books home at night. That's
9 wrong. It's bad. It's not acceptable. We need to
10 make sure we get the instructional materials into
11 the hands of kids."

12 Do you see that?

13 A Yes.

14 Q And one of your priorities was, in fact, to
15 increase the amount of funding specifically
16 available for standardized textbooks, correct?

17 A Yes.

18 Q And the "47 percent" figure, where did that
19 come from?

20 MR. SEFERIAN: Objection. Assumes facts not
21 in evidence.

22 THE WITNESS: I'm quite sure it came from
23 someone on my staff.

24 BY MR. JACOBS:

25 Q Do you have any information about the method

1 by which that figure was developed?

2 MR. VIRJEE: Calls for speculation. Lacks
3 foundation. This is from a 1997-98.

4 THE WITNESS: Right. You should talk to
5 Shelly Griffith; she'll tell you.

6 BY MR. JACOBS:

7 Q Was that a figure you monitored over time to
8 see whether it went up or down as you instituted
9 additional policies with respect to textbooks?

10 MR. SEFERIAN: Objection. Assumes facts not
11 in evidence. Vague. Ambiguous.

12 THE WITNESS: There is an audit function
13 with textbooks, and we really did work hard to first
14 adopt the standards, then adopt frame works to align
15 the standards, and then make the textbook publishers
16 follow the standards in their textbooks. And we did
17 convince the Legislature to invest well over a
18 billion dollars in a categorical called
19 Instructional Materials Fund, so there was a huge
20 increase in the actual dollars spent.

21 I can't recall at this minute what our
22 audits showed in terms of how many kids had access.
23 But I will tell you that it goes way beyond
24 textbooks. I mean, the work we did with technology,
25 we really believe that it was important that kids

1 "monitoring" and "mechanism."

2 THE WITNESS: I think there was a reporting
3 procedure where they reported to us, but I wouldn't
4 think it's fair to say -- we don't have textbook
5 police. We don't monitor per se.

6 BY MR. JACOBS:

7 Q Well, you didn't monitor the aggregate
8 effect of the additional funding in terms of whether
9 it actually resulted in more kids having access to
10 textbooks, correct?

11 MR. VIRJEE: Objection. Vague and ambiguous
12 as to "monitoring" and what that would mean. Vague
13 and ambiguous as to "access." Also vague as to
14 time.

15 THE WITNESS: I just can't answer that
16 question.

17 BY MR. JACOBS:

18 Q And, "a bunch of kids can't take their books
19 home at night," what was the point you were making
20 with that statement?

21 A At that time in '97, there were children
22 that were unable to take their textbooks home to
23 study at night because there was a shortage, and
24 they had to make sure all the books came back the
25 next day in a lot of places. I think many more

1 have technology and have access to computers. And
2 there was a lot more hardware and software
3 purchased. We know that there was a lot more just
4 instructional material that maybe the teacher
5 produced based on, you know, either something the
6 teacher made up, him or herself, but are more likely
7 something that they were using in a way of a
8 workbook or some other instructional materials.

9 I think it was extraordinary, though, how
10 much more we got into the hands of children in a
11 short period of time after we had the standards
12 aligned materials.

13 BY MR. JACOBS:

14 Q And my question is what was the last time
15 you reported to anyone what percent of kids do not
16 have access to textbooks everyday?

17 A I don't recall.

18 MR. SEFERIAN: Objection. Vague and
19 ambiguous.

20 BY MR. JACOBS:

21 Q You think there was a mechanism in place to
22 actually monitor that question, though?

23 MR. SEFERIAN: Objection. Vague and
24 ambiguous.

25 MR. VIRJEE: Vague and ambiguous as to

1 children take their textbooks home. And you've seen
2 all the cartoons about kids and their backpacks. I
3 think there's a lot more materials going home.

4 Some of the material doesn't need to go
5 home. Some of the textbooks that we purchased,
6 teachers don't use because they don't like them.
7 They use sometimes their own materials or older
8 materials. Sometimes volunteer to use older
9 materials because they don't like the new materials.

10 That is, you know, the prerogative of each
11 individual school. Because what we should be
12 focussed on are the outcomes, not the inputs. We
13 should be looking at whether or not the children
14 learn. Like I said, I don't care if they sit on the
15 floor in circles or on benches. What I want to know
16 is did they learn anything. And it's the same with
17 counting titles. The question is are they learning,
18 and that's where our emphasis was on student
19 achievement.

20 BY MR. JACOBS:

21 Q So has your view changed since you said, "A
22 bunch of kids can't take their books home at night.
23 That's wrong. It's bad. It's not acceptable"?

24 MR. SEFERIAN: Objection. Vague and
25 ambiguous.

1 MR. VIRJEE: Also incomplete hypothetical.

2 THE WITNESS: I think the answer speaks for
3 itself. Clearly there are children that should be
4 able to take their textbooks home, and many more can
5 now.

6 BY MR. JACOBS:

7 Q But if as an imperial matter the data
8 showed that that was not true, you would continue to
9 think that's wrong, it's bad, it's not acceptable,
10 correct?

11 MR. SEFERIAN: Objection. Incomplete
12 hypothetical. Vague and ambiguous. Overly broad.

13 MR. VIRJEE: Also vague and ambiguous as to
14 "that's not true," whether you're referring to her
15 answer on student achievement or being textbooks.

16 THE WITNESS: For a variety of reasons, it's
17 just you can't say you -- you can't answer that.
18 The child might be in an after-school program and
19 spends three hours after school doing their
20 homework. They may not need to take their textbooks
21 home.

22 But the reality is we -- the situation in
23 '97 was too many kids didn't have textbooks, period.
24 And there was such a shortage of textbooks, that
25 often times when they had work to do, they couldn't

1 to do it.

2 BY MR. JACOBS:

3 Q So are you saying this was
4 oversimplification what you said in '97-'98?

5 A Well, I mean by their very definition when
6 you do these kind of interviews, you continued to
7 oversimplify. The kids in Beverly Hills and a lot
8 of other places could take their textbooks home. In
9 fact, a lot of middle class communities and working
10 class blue collar and poor communities there were
11 places where the kids had textbooks they could take
12 home. Now, there are many more places where
13 virtually every child can take the textbook home.

14 Again, the magic isn't in taking the
15 textbook home. I mean, if they just put them under
16 the pillow, it's not going to help them. The magic
17 are kids, parents, teachers, administrators, all
18 focused on student achievement.

19 (Exhibit No. 344 marked for identification)

20 BY MR. JACOBS:

21 Q 344 is an article from The Chronicle, San
22 Francisco Chronicle, printed out from, Nexus dated
23 January 3rd, 2003, School Chief Departs. Eastin
24 Mixed Passion and Commitment.

25 Not a bad headline, huh?

1 take them home.

2 I think we ought to determine what the child
3 needs to achieve. That ought to be our goal. And
4 if they need to take their textbook home to achieve,
5 then we ought to find a way to make that happen, and
6 I think it has vastly improved in California.

7 BY MR. JACOBS:

8 Q And that's primarily because of the
9 additional funding that you're pointing to, not any
10 other step that was taken by the state?

11 A I think there was additional emphasis on
12 student achievement, and that's caused kids to take
13 their books home more.

14 Q But just to be clear, if you were
15 interviewed today, if it were true that a bunch of
16 kids can't take their books home at night, you would
17 continue to assert that's wrong, it's bad, it's not
18 acceptable?

19 MR. VIRJEE: Objection. Asked and answered.
20 She said she can't answer that question the way you
21 posed it. Incomplete hypothetical. And calls for
22 speculation.

23 THE WITNESS: It really would vary. I mean,
24 if the child had homework to do, we'd want them to
25 be able to take the book home or stay after school

1 A No, it's not.

2 Q I want to ask you about the fragment that's
3 right in the middle of under Passionate Voice and
4 above Personal Mile Stone that starts out:
5 "Favoring education cuts over higher taxes is
6 sinful."

7 And in particular, you're reported there as
8 having said: Requiring schools to replace
9 two-year-old texts is quote an "outrageous," close
10 quote, waste.

11 Do you see that?

12 A Yeah.

13 Q Did you say that in substance?

14 A Yes.

15 Q What did you mean by that?

16 A Well, after the Schiff-Bustamonte money went
17 out the door, the Board made another adoption and
18 said those materials are no longer aligned. We have
19 these new materials that are aligned. And the fact
20 of the matter is, I believe the old materials are
21 aligned as well as the new materials. And, you
22 know, my own belief was that the actions to force
23 people to buy more new books on top of the new books
24 they had bought, was taking away local control when
25 the district might have rather spent their money on

1 longer school year, on more technology, on tutors,
2 on a whole host of other things than to replace
3 two-year-old text with brand new text when you've
4 got so many pieces of unfinished business. It was
5 not fiscally rational in my view.

6 Q And that had effect of negating some of the
7 benefit of the additional instructional materials
8 funding that had been made available in earlier
9 years, correct?

10 MR. VIRJEE: Objection. Calls for
11 speculation. Lacks foundation. Overbroad.
12 Incomplete hypothetical.

13 THE WITNESS: What was the question?
14 (Whereupon, the record was read
15 by the court reporter)

16 THE WITNESS: I wouldn't use the word
17 "negate" probably. I just thought it was, you know,
18 putting too tight a reign on what local districts
19 could do to get to high achievement.

20 I think whenever we focus -- you know, there
21 are so many categorical that are really just
22 straightjackets for how districts could spend money.
23 And once you have a results-driven system, and
24 you're managing for results, that's where all your
25 focus ought to be. What did the children learn; how

1 before there were standards, before there were
2 assessments that were aligned to standards, before
3 there was class size reduction, before there was an
4 emphasis on making sure every child mastered the
5 material before they moved on to another grade. So
6 I felt that the date was capriciously chosen, and
7 that it should have been done based on, you know, a
8 much more thoughtful analysis of how do we get the
9 kids to the highest standards.

10 Incidentally, I'm for giving the exam. I
11 think it sends a powerful message to kids that is
12 what we expect you to do. But I'm not for having it
13 be a high stakes exam until we ensure all kids are
14 in a school where they were taught to standards.

15 Q So earlier on we discussed a passage where
16 you referred to chronically under-performing
17 schools?

18 A Right.

19 Q Then we talked about building the capacity
20 to turn around chronically under-performing schools
21 especially given the limitations on personnel at the
22 state-level. And now we're talking about
23 implementing -- when it becomes reasonable to make
24 the High School Exit Exam high stakes.

25 Given the existence of chronically

1 much do they know; how effective are they in problem
2 solving and in analytical thinking and in working in
3 groups and in writing and in speaking. You know,
4 are they -- can they use mathematics; do they
5 understand science. Not just measuring how many
6 books they had and how old they are.

7 You know, you could have an older book that
8 is really quite good. I mean, obviously we all read
9 Mark Twain, and those are older books. So there has
10 to be some room here for judgment on the part of the
11 local district especially if you don't have enough
12 resources.

13 BY MR. JACOBS:

14 Q Your report says in substance: "Denying
15 diplomas to students who could not pass a High
16 School Exit Exam by 2004 is 'unreasonable,'"
17 unquote.

18 Do you see that?

19 A Yes.

20 Q Did you convey the substance of that to the
21 reporter?

22 A Yes.

23 Q What underlies the conclusion of
24 unreasonability?

25 A The senior class of 2004 entered school

1 under-performing schools and a question about how
2 to -- how we're going to have the capacity to turn
3 around those schools, when does it no longer become
4 capricious or unreasonable to institute the high
5 stakes component of the HSEE?

6 MR. VIRJEE: Objection. Calls for
7 speculation. Lacks foundation. To the extent
8 you're trying to characterize her testimony, she
9 didn't use the word "capricious." And also asked
10 and answered; she just answered that question.

11 THE WITNESS: I proposed a High School Exit
12 Exam back in '95-'96. And I thought we could get
13 the kids ready by 2007. I thought it would take
14 twelve years. I thought it was reasonable to ask a
15 first grader who had standards and a reduced class
16 size to get there in twelve years, but that wasn't
17 based on research. It was just sort of us, the
18 Department, leadership, kind of trying to challenge
19 each other as well as be reasonable.

20 And I originally testified to the Governor
21 that I thought 2004 was too early, and he wanted to
22 put the pressure on. And I can certainly respect
23 those who want to put the pressure on because the
24 kids are in a high stakes world. At the same time
25 I'm glad they moved it off, and they did.

1 BY MR. JACOBS:
 2 Q And what econometric would you propose to
 3 use to determine when it is reasonable to make the
 4 High School Exit Exam high stakes?
 5 MR. VIRJEE: Objection. Vague and ambiguous
 6 as to "econometric." Asked and answered.
 7 Incomplete hypothetical.
 8 THE WITNESS: You know, it might be a moving
 9 target. I think people who are at the helm should
 10 look very carefully at a whole set of indicators. I
 11 would like to have a Student Information System in
 12 place. I'd like to be sure that the children were
 13 given every opportunity to reach these high
 14 standards.
 15 BY MR. JACOBS:
 16 Q Could you take a look at 334 again, please.
 17 MR. VIRJEE: 334?
 18 MR. JACOBS: Yes.
 19 BY MR. JACOBS:
 20 Q This was the interview you did with Teaching
 21 to Change L.A. And I just want to ask you if you
 22 said in substance a few of the passages here.
 23 A Which page?
 24 Q First of all on page 2, the second from the
 25 bottom. "DE: The state constitution says that

1 you're entitled to free and appropriate education."
 2 A Uh-huh.
 3 Q And then it goes on to the end of that
 4 paragraph: "We have a ways to go in California
 5 before we give every child a free and appropriate
 6 education in my view."
 7 And I wonder if you could just tell us as to
 8 that whole paragraph, did you in that interview
 9 convey that in substance?
 10 A Yes.
 11 Q And then --
 12 A Whale Gulch burned down, by the way. Poor
 13 little school. You have to go in a four-wheel-drive
 14 vehicle. No electricity generated. They were going
 15 to use technology because they were going wireless,
 16 but the school burned down. Twelve kids.
 17 Q On page 3 of 4, again the second one up, the
 18 paragraph that starts: "I would raise teacher's
 19 salaries even higher among some of the poorest
 20 schools."
 21 And then to the end of that paragraph: "I
 22 would make sure that they would have great support
 23 programs but also sure that they have great art
 24 programs."
 25 The substance of that paragraph, did you

1 convey that in the interview?
 2 A Yes.
 3 Q On the --
 4 A By the way, to do that, you'd have to change
 5 the law.
 6 MR. VIRJEE: You've answered the question.
 7 BY MR. JACOBS:
 8 Q And you're referring to the law on --
 9 A The way teachers salary -- giving higher
 10 salaries to the kids (sic) in the poorest areas, or
 11 you'd have to do collective bargaining.
 12 Q If you look on page 4 of 4, you'll recall we
 13 talked about the place where you said, "I'm as
 14 fascinated as anybody out there."
 15 There's a paragraph under it that starts
 16 out: "I will tell you that we build Cadillac
 17 prisons and jalopy schools, and it is a disgrace to
 18 California."
 19 Then it ends: "We need to have a
 20 Legislature that passes laws to begin working on the
 21 problems."
 22 Did you convey the substance of that
 23 paragraph?
 24 A Yes.
 25 THE REPORTER: Can we break?

1 (Recess)
 2 MR. JACOBS: Let's mark as 345 End Emergency
 3 Credential, Report Recommends. From the Sacramento
 4 Bee Internet Edition. Published October 24, 2001.
 5 (Exhibit No. 345 marked for identification)
 6 BY MR. JACOBS:
 7 Q Second paragraph of the article says: "The
 8 recommendations are made by the 40-member
 9 Professional Development Task Force."
 10 Do you see that?
 11 A Yes.
 12 Q And you did, in fact, do so?
 13 A Yes.
 14 Q The report asserted that: "A
 15 disproportional number of uncredentialed teachers
 16 are put into the poorest schools to teach the
 17 neediest children."
 18 Fourth paragraph of the article.
 19 Is that, in fact, a summary of one of the
 20 conclusions of the report?
 21 MR. VIRJEE: Objection. The report speaks
 22 for itself.
 23 MR. SEFERIAN: Lacks foundation.
 24 THE WITNESS: Yeah, I think if you look at
 25 the report, it says that.

1 BY MR. JACOBS:

2 Q And two paragraphs down you're quoted as
3 saying: "The shortage of trained teachers in this
4 state is nothing less than a crisis. We should take
5 bold steps to increase the number of fully-qualified
6 educators."

7 Do you see that?

8 A Yes.

9 Q And did you, in fact, convey that in sum or
10 substance?

11 A Yes.

12 Q And then down at the bottom you're quoted to
13 say: "We cannot afford to scrimp on providing our
14 teachers and administrators, who are the linchpins
15 of our public schools, with the resources they
16 need."

17 Did you say that?

18 A Yes.

19 Q And did you convey that in whole or
20 substance?

21 A Yes.

22 Q When you said "bold steps" as reported in
23 this article, did you have some specific steps in
24 mind?

25 A I think I do mention in here a big salary

1 hypothetical. Ambiguous.

2 THE WITNESS: I think there continues to be
3 a shortage. I don't think the -- I think some other
4 things are contributing right now to some of our
5 teacher shortages, but I don't think the crisis is
6 as bad. I think we've mitigated some of the worst
7 effect of it. Not entirely, but somewhat.

8 BY MR. JACOBS:

9 Q And the other factors you were pointing to
10 are factors beyond the scope of the Task Force you
11 convened?

12 A Yes. Although, the schools were not -- I
13 mean, in 2001 we were funding schools above the Prop
14 98 guarantee. And there were some more
15 opportunities which we don't have right now because
16 the state is broke.

17 Q The Task Force was chaired by Linda
18 Darling-Hammond and --

19 A And Skip Mino (phonetic), former
20 Superintendent of the State of Texas.

21 Q And you chose Linda and Skip as the chairs
22 of the Task Force?

23 A Co-chairs, yes, I did that.

24 Q And what commended them to you?

25 A They're actually both known to me. Linda

1 increase. Like, we did get beginning teacher
2 salaries increased. But we should go even further.
3 I believe teachers should be paid for -- I believe
4 they should be paid more for their professional
5 development time, and they should be given more
6 opportunity for professional development. And I
7 supported and we passed legislation to increase the
8 reciprocity with other states. We also urged the
9 school -- the universities of the state to make more
10 opportunity for people to become credentialed
11 teachers. That, in fact, has happened. UC Davis,
12 in fact, has added School of Education which they
13 didn't have before. We also asked for a monitor to
14 be created, and that has happened in a lot of
15 schools, public and private, in the state.

16 So we've had a number of -- we had a number
17 of things that -- we put a limit on how long you
18 could have an emergency credential. And, you know,
19 we weren't able to do everything we wanted, but
20 that's the nature of these task forces. Again, it's
21 better to set your sights too high and miss them
22 than set them too low.

23 Q If you were asked today, would you say that
24 the shortage of trained teachers is a crisis?

25 MR. SEFERIAN: Objection. Incomplete

1 Darling-Hammond had worked to create the National
2 Board for Professional Teaching standards and also
3 had -- I had spoken to her and had seen her speak.
4 And she had seen me speak. And we're compatible
5 about a lot of things, not everything, but a lot of
6 things.

7 And Skip had been the Commissioner in Texas
8 who had started the famous Texas Education Reform
9 which actually preceded George W. Bush and come in
10 under Ann Richards. I felt -- he's now the Dean of
11 the School of Education at San Diego State
12 University. I thought the two of them would be
13 outstanding.

14 Q You're aware of criticism of teacher
15 credentialing systems that they were too weakly
16 correlated with teacher quality to make them -- to
17 give them the significance we give them in the
18 system of education?

19 MR. SEFERIAN: Objection. Vague and
20 ambiguous. Incomplete hypothetical. Calls for an
21 inadmissible opinion.

22 THE WITNESS: Ask the question again.

23 BY MR. JACOBS:

24 Q Are you aware of criticism of teacher
25 credentialing systems in the United States,

1 criticism based on a assessment whether or not you
2 have a credential is not sufficiently correlated
3 with teacher quality to make the enterprise as
4 significant as the system now makes it?

5 MR. VIRJEE: Objection. To the extent that
6 refers to a particular study or group of studies,
7 those documents, those studies, speak for
8 themselves.

9 THE WITNESS: I'm aware there is criticism
10 of the teacher credentialing system from a variety
11 of different vantage points. A lot of people think
12 we should go to a system more like medicine or law
13 where we actually have an exit exam as people come
14 out of college. But that would require a change of
15 law.

16 BY MR. JACOBS:

17 Q In your judgment having spent a lot of time
18 around policy in the field of education, just how
19 important is a credential to being a successful
20 teacher?

21 MR. VIRJEE: Objection. Calls for
22 speculation. Lacks foundation. Vague and ambiguous
23 as to "importance." Also calls for an expert
24 opinion, which this witness is not competent to
25 give.

1 BY MR. JACOBS:

2 Q Does a CSIS figure into the ability to do
3 that research?

4 MR. VIRJEE: Objection. Calls for
5 speculation. Lacks foundation. Calls for an expert
6 opinion, which this witness is not competent to
7 give.

8 THE WITNESS: It might help, but I think a
9 student information system hopefully will tell us
10 more about the student. I think you can tell a lot
11 about teachers by a variety of things including
12 observation. I worry about, you know, as I -- I
13 worried about the reward system being for individual
14 teachers because then we might give all the gate
15 teachers awards, no awards to the special ed teacher
16 when the special ed teacher might be a better
17 teacher than the gate teacher.

18 Glen --

19 MR. VIRJEE: There's not a question pending.

20 BY MR. JACOBS:

21 Q What did Glen Seaborg's physicist son say?

22 A He went to teach. He didn't yet have a
23 credential, but by all accounts he was probably a
24 pretty good physics teacher.

25 Q So do you think it's an important policy

1 THE WITNESS: There are lots of criticisms
2 of teachers all over the country. And they come
3 from a variety of different vantage points. And
4 they're about a variety of different things. And
5 there is also information that in some other
6 countries they do things very differently.

7 So I do believe that some of the programs
8 that we have are more successful than others, but we
9 need a lot more research, really
10 scientifically-based research on the subject of what
11 works best.

12 I've met mid career people who have gone
13 through programs like Troops to Teachers through San
14 Francisco State down in Elk Grove who were very
15 satisfied. I've met corporate people and military
16 people both who have gone into teaching and who do
17 quite well at the high school level. On the other
18 hand, ironically, it might be harder to teach a
19 first grader to read than it is to teach physics to
20 a high school student if you're a physicist.

21 So I think we could do a lot more to
22 evaluate teachers, but right now that would take a
23 major change in state law. And before we did that,
24 we ought to have a lot more research on what works
25 best.

1 objective, as the report recommended, to end
2 emergency credentials?

3 MR. VIRJEE: Objection. Calls for
4 speculation. Lacks foundation. Incomplete
5 hypothetical.

6 THE WITNESS: For the record, I think we
7 were trying to do more than just end emergency
8 credentials, but rather to increase the number of
9 fully-credentialed and well-supported teachers. It
10 wasn't just about getting rid of something. It was
11 about building a system that would improve the
12 education of children.

13 BY MR. JACOBS:

14 Q And that was a recommendation you endorsed?

15 A I've supported the Task Force Report.
16 I will tell you --

17 MR. VIRJEE: You've answered the question.

18 THE WITNESS: I had a major disagreement
19 with Linda on one aspect, but that's all right.

20 BY MR. JACOBS:

21 Q What was that aspect?

22 A Well, Linda doesn't like the internship
23 programs, but I've seen good internship programs. I
24 think given the current situation in California, we
25 need to have them.

1 (Exhibit No. 346 marked for identification)
 2 BY MR. JACOBS:
 3 Q 346 is a KCBS segment. Poison Paint Part
 4 II.
 5 A Oh, yes.
 6 Q This is dated November 6, 2000. It's
 7 downloaded from the web. You're quoted on the
 8 second page of this --
 9 A They misspelled both names.
 10 Q -- as saying: "When you look at those
 11 windows, we could be in Soweto, South Africa; we
 12 could be in a third world country. The condition of
 13 these schools is unacceptable, and I do worry
 14 terribly about the paint because it could cause
 15 permanent damage to these children."
 16 Do you see that?
 17 A Yes.
 18 Q Did you say that in sum or substance?
 19 A Yes.
 20 Q And then you are purported to have said:
 21 "Eastin said, 'the time has come for a new state law
 22 which requires schools to clean up the lead. There
 23 needs to be a hammer and there needs to be financial
 24 support given to poor districts to get this work
 25 done.'"

1 And then you went on and are quoted
 2 additionally. Did you say that in words or
 3 substance?
 4 A Yes.
 5 Q What did you mean when you said, "there
 6 needs to be a hammer and there needs to be financial
 7 support given to poor districts"?
 8 A Well, I mean, I think it speaks for itself.
 9 The hammer, there needs to be some way of
 10 ascertaining whether or not there is lead paint at
 11 schools, and, you know, probably the health
 12 departments or somebody closer to the problem. I
 13 know, we don't have anybody in the State Department
 14 that does that kind of work, so I don't necessarily
 15 think it's something the State Department should do,
 16 but I do think it might be something we ask the
 17 local health departments to do. And then there
 18 ought to be an item either in the budget or in the
 19 bond to specifically deal with this issue so nobody
 20 can hide behind, "we're broke; we're sorry."
 21 Q And "this issue" in the context of your last
 22 answer being what?
 23 A We did support legislation to deal with this
 24 issue. I can't remember the exact substance of the
 25 bill. But I don't believe it -- I think it either

1 got watered down or got out, or it didn't get out.
 2 But bottom line I don't think there should be lead
 3 paint in schools that children are going to touch
 4 and be able to be harmed by.
 5 Q So this issue was the lead issue?
 6 A Right. I thought we should get the lead
 7 out.
 8 MR. JACOBS: 347 is Little Hoover
 9 Commission, March 26, 1998. California Department
 10 of Education Testimony.
 11 (Exhibit 347 marked for identification)
 12 BY MR. JACOBS:
 13 Q It begins: "Thank you for this opportunity
 14 to testify on behalf of Superintendent of Public
 15 Instruction, Delaine Eastin."
 16 Do you see that?
 17 A Uh-huh.
 18 Q Was this testimony you had some involvement
 19 in preparing?
 20 A Some. A lot of work was, as I indicate
 21 here, done by the School Facility Planning Division
 22 during Broom's (phonetic) tenure.
 23 Q At the end of the testimony on page 8, the
 24 report states in quote: "In conclusion, the
 25 Superintendent of Public Instruction would like to

1 thank the Little Hoover Commission for follow-up on
 2 its important report 'No Room for Johnny.' School
 3 facilities poorly maintained and just plain
 4 inadequate can depress the human spirit.
 5 Cleanliness and enough room are not frills; they
 6 enhance productively."
 7 Do you see that?
 8 A Yes.
 9 Q Did you contribute to that text?
 10 A Yes.
 11 Q And you endorsed it?
 12 A Yes.
 13 Q You've spoken a lot this morning about the
 14 achievements in terms of school construction and the
 15 school bonds. What would you point to to show
 16 progress on the issue of facilities maintenance?
 17 MR. SEFERIAN: Objection. Lacks foundation.
 18 Overly broad. Assumes facts not in evidence.
 19 THE WITNESS: I do not have any data. I'm
 20 no longer State Superintendent. I'm sure somebody
 21 at the Department could get you data.
 22 But I visit schools, and I observe that
 23 many, many schools that are older, are now sporting
 24 a face lift. They are modernized; they are cleaned
 25 up. They look better. And that's true in urban

1 California as well as in rural California. I think
2 we still have some work to do, but I think that many
3 districts have addressed the most egregious
4 problems, and they're working on still others.

5 At one point I saw a school out in Sierra
6 County where one wing of the school was closed down
7 because it was not -- there was no money to fix it,
8 and it was not -- it was not habitable. There had
9 been a crack in the ceiling because of the snow
10 weight. Things like that used to make me very mad
11 because we were broke, and we didn't have the money
12 to do it. And then as you recall, and this is '98,
13 I was mad that they didn't have a bond on the ballot
14 for that June. But I think we have made substantial
15 progress.

16 Again, the 55 percent votes has caused us to
17 put a lot of local money on the table.

18 BY MR. JACOBS:

19 Q This morning we spoke about some of your
20 comments regarding school district mismanagement.
21 Based on your visits and observations, was school
22 district mismanagement a contributor to facilities
23 maintenance problems?

24 MR. VIRJEE: Objection. Calls for
25 speculation. Lacks foundation. Overbroad and

1 speculation. Lacks foundation. Incomplete
2 hypothetical. Overbroad.

3 THE WITNESS: I think you have to go sort of
4 case-by-case. I think you might find that in one
5 district they're working on getting the approvals to
6 fix their buildings. In another district you might
7 find they had so much to do that, you know, they
8 started with the most severe problems first. And
9 still other districts, you might find that they're
10 somewhere in the process.

11 Again, this is not a quick process. And
12 although, we've taken steps to try to streamline it,
13 we were never able to do as much as we wanted.

14 And you know, even under Governor Wilson --
15 and usually the Republicans are for smaller
16 government, right? But even under Wilson we
17 couldn't get them to eliminate agencies that were
18 involved in this.

19 So it's a very drawn out process. So even
20 though money has been in the system a couple years
21 now, they may not have fixed all the schools by a
22 long shot.

23 BY MR. JACOBS:

24 Q One of the maintenance issues the
25 Legislature has seized on recently is school

1 incomplete hypothetical.

2 THE WITNESS: I think it is overly broad. I
3 think you -- I mean, I really believe it did in
4 Compton because I saw Compton. I believe that there
5 were problems in certain specific school districts.
6 But in Loyalton where this school that I saw with
7 the broken beam was, it wasn't their fault that they
8 had a record snow load that year. It wasn't their
9 fault they couldn't pass a bond.

10 BY MR. JACOBS:

11 Q So the answer is in some cases, yes; in some
12 cases, no?

13 MR. SEFERIAN: Same objections.

14 THE WITNESS: I would say, yeah. I think
15 it's really broad. I think in more cases than not,
16 it was a lack of resources than a lack of will. Or,
17 you know, there aren't very many incompetents; there
18 aren't very many crooks. There are just a few of
19 them.

20 BY MR. JACOBS:

21 Q So if one encountered facilities maintenance
22 problems in 2003 after all this money has come into
23 the system, what would your hypothesis be as to the
24 leading causal explanation?

25 MR. VIRJEE: Objection. Calls for

1 bathrooms. You're aware of the pending legislation
2 to address that problem?

3 A I am. Although, I have not read the
4 legislation. I've only read news accounts of it.

5 Q During your tenure, did you become aware of
6 a issue of significance concerning maintenance of
7 school bathrooms?

8 MR. VIRJEE: Objection. Vague and ambiguous
9 as to "significance" and "maintenance."

10 THE WITNESS: Yes.

11 BY MR. JACOBS:

12 Q And what was your observation about that
13 problem?

14 MR. VIRJEE: Objection. Overbroad.
15 Incomplete hypothetical.

16 THE WITNESS: In many places I went, I was
17 told plumbing is very expensive. And then all the
18 people that I know that remodel their homes tell me
19 plumbing is very expensive. In fact, there may have
20 been some cases where the bathrooms are just so old,
21 that they should have been completely modernized,
22 but there wasn't money to do that, or there may have
23 been a more pressing need.

24 Bottom line, there are some great schools
25 that don't look as good as we'd like them to look

1 and may not have as good of bathrooms as we'd like
2 them to have.

3 BY MR. JACOBS:

4 Q And some not so great schools that have
5 those characteristics?

6 A Right.

7 Q And in terms of the policy implementation of
8 this bathrooms issue that the Legislature has now
9 seized with, did you ever form a judgment about the
10 best thing that could be done at the state-level to
11 address that problem?

12 MR. VIRJEE: Vague and ambiguous as to
13 "policy implementation" and "seized with."

14 MR. SEFERIAN: Overly broad. Incomplete
15 hypothetical.

16 THE WITNESS: Oh, in a way it's very typical
17 of the legislative process. You know, something
18 hits the press and all of a sudden we have the
19 Bathroom Bill.

20 But at the core, the issue is facilities.
21 And the Legislature should have acted years before
22 to change it to a 55 percent vote to put it before
23 the voters, and the Legislature should have put more
24 money into facilities sooner. I think they came to
25 the party late, but they have come to the party.

1 A Yes.

2 Q And then you said: "I've been to so many
3 schools that have stuffing coming out of chairs and
4 stains on the ceiling. When a school looks good, it
5 makes a statement not only to the kids but also to
6 the teachers."

7 Do you see that?

8 A Okay.

9 Q And you said that?

10 A Yes.

11 Q When you were referring to schools that had,
12 "stuffing coming out of chairs and stains on the
13 ceiling," were you referring to maintenance issues
14 that depended on an influx of additional state
15 facilities money?

16 MR. SEFERIAN: Objection. Vague and
17 ambiguous. Lacks foundation. Calls for
18 speculation. Overly broad.

19 THE WITNESS: It varies. In some school
20 districts, they had money.

21 BY MR. JACOBS:

22 Q And still had these conditions?

23 A And still had these conditions.

24 And other schools, they didn't have the
25 money.

1 But the bathrooms are really just the
2 symptom; they are not the whole story. And you
3 know, for the most part if you find bathrooms,
4 you'll find a lot of other problems at a school.
5 It's just one symptom of a school that's really
6 broken.

7 Compton we found bad bathrooms, but we've
8 also found virtually every roof leaked, and some of
9 the schools were just unbelievably uncared for.

10 Compton, again, is sort of one of the handful of
11 exceptional schools that we have had to takeover,
12 school districts that we've had to takeover. But
13 still it wasn't just the bathrooms in Compton; it
14 was a symptom of a far greater and deeper disease.

15 MR. JACOBS: 348 is an article from the
16 Tri-Valley Herald, printed off of Nexus, October 26,
17 2002. State School Chief Eastin Visits her Alma
18 Mater; Superintendent Offers her Recommendation.
19 (Exhibit 348 marked for identification)

20 BY MR. JACOBS:

21 Q And you were impressed with the appearance
22 of the school you visited according to this article?

23 A Yes.

24 Q You said: "The school now looks important."
25 Do you see that?

1 I had been to a school --

2 MR. VIRJEE: You've answered the question.

3 THE WITNESS: Okay.

4 MR. JACOBS: Could we take a couple minutes?

5 THE WITNESS: Sure.

6 (Recess)

7 (Exhibit No. 349 marked for identification)

8 MR. JACOBS: I need to do some documents
9 with you. I won't ask you questions other than to
10 confirm that these documents are what they purport
11 to you. So 349 is a memo to you from Gwen Stephens
12 regarding the HSEE, dated December 3rd, 1999.

13 BY MR. JACOBS:

14 Q Is this, in fact, a memo covering first
15 interim report to the Superintendent that you
16 received?

17 MR. VIRJEE: Objection. To the extent
18 you're asking for the content of the document, the
19 document speaks for itself. If you're asking if
20 she's seen it before, if you can remember without
21 reading the whole document, he's entitled to your
22 response.

23 THE WITNESS: I probably got this. I was
24 pretty attentive to the High School Exit Exam
25 issues. I can't say that I really remember every

1 detail, though.
 2 (Exhibit No. SAD 150 reintroduced in
 3 the record)
 4 BY MR. JACOBS:
 5 Q And a document that's previously been marked
 6 as SAD 150.
 7 A A sad document. Just a joke. You don't
 8 have to write it down.
 9 Q SAD 150 purports to be a letter under an
 10 Executive Office Routing Slip from you to Governor
 11 Davis dated October 11, 2000.
 12 Is this, in fact, such a letter?
 13 MR. VIRJEE: The document speaks for itself.
 14 MR. SEFERIAN: Could you take as long as you
 15 need to answer the question.
 16 THE WITNESS: Let me read it. I do actually
 17 remember this letter, I think.
 18 MR. JACOBS: I'm not going to actually ask
 19 you any substantive questions about it. I need just
 20 you to, as we say, authenticate it.
 21 THE WITNESS: Yes, I do remember this
 22 letter.
 23 (Exhibit No. 350 marked for identification)
 24 BY MR. JACOBS:
 25 Q 350 is a letter to you. Purports to be a

1 letter to you from Gary Hart when he was Secretary
 2 for Education. Did you receive this letter around
 3 the time it was sent?
 4 MR. VIRJEE: Objection. Calls for
 5 speculation.
 6 THE WITNESS: Were you going to mark this
 7 one separately?
 8 MR. JACOBS: No, it's marked. SAD 150 is in
 9 the record and marked.
 10 THE WITNESS: Yes, I received this letter.
 11 (Exhibit No. 351 marked for identification)
 12 BY MR. JACOBS:
 13 Q 351 is a download of an article from the
 14 Dayton Daily News, dated July 17, 2001. Headline:
 15 Educators Wary of Bush Testing Plan. They Fear
 16 Legislation Will Undermine State Testing Procedures.
 17 And if you go over to the second column,
 18 third paragraph up from the bottom, there's a quote
 19 from you. Quote: "'We're focussed on weighing the
 20 hog, not making sure its fed well,' said Delaine
 21 Eastin, California Superintendent of Public
 22 Instruction. 'Just testing is not the magic. The
 23 magic is in powerful curriculum and in giving the
 24 teachers the time and the training," close quote.
 25 Do you see that?

1 A Yes. Right.
 2 Q Did you say, "we're focussed on weighing the
 3 hog, not making sure its fed well"?
 4 A I often say, "You don't fatten the hog by
 5 feeding it more often."
 6 I'm worried we added more and more testing
 7 time but testing of a multiple choice nature that
 8 isn't as powerful as the writing exams and problem
 9 solving exams and some of the more specific but more
 10 rich testing approaches.
 11 Q Then you went on to say: "Just testing is
 12 not the magic. The magic is a powerful curriculum
 13 and in giving teachers the time and the training,"
 14 correct?
 15 A Right. You know, the assessments are a way
 16 of figuring out did the kids really master the
 17 material? Did the children really get the
 18 information, understand it and are they able to use
 19 it? That's the real magic. So we want to use --
 20 the assessments are important, and I fought to bring
 21 back a state assessment system, but I am
 22 disappointed that it's so heavily-weighted toward
 23 multiple choice and so on.
 24 Q So it looked like you were saying here,
 25 though, that the emphasis of the emerging federal

1 legislation was in your judgment misplaced, and you
 2 said: "Testing is not the magic. The magic is in a
 3 powerful curriculum and in giving teachers the
 4 curriculum, the time and the training."
 5 "The curriculum, the time and training"
 6 aren't a matter of more sophisticated training, are
 7 they?
 8 MR. VIRJEE: Objection. Asked and answered.
 9 She told you what she meant by that.
 10 THE WITNESS: I was critical of the -- in a
 11 way the Bush administration I think kind of
 12 chickened out. You know, George Herbert Washington
 13 Bush was for having national standards, and then we
 14 would have been able to really say, well, how are
 15 all these kids doing as compared to every other kid
 16 in the country. When Bush Junior, little Bush,
 17 comes along, he says, W says, we're going to have --
 18 every state is going to have its own test system,
 19 and every state is going to have its own standard
 20 system, but we're going to decide whether you meet
 21 our standards. And it becomes -- as it's played
 22 out. It's become a little bit compressed in terms
 23 of, you know, you can't say that every kid in every
 24 state is being asked to meet high standards.
 25 I feel confident in California we've

1 actually set high standards, but we still have too
2 much emphasis coming down from the federal
3 government on testing and on doing ancillary things
4 that aren't necessarily as rich as, you know, some
5 of the things we ought to be doing with the
6 curriculum. And they're not funding us at the level
7 that we should be funded at.

8 So I think that they're in a way -- I
9 understand what the Congress did, and I think
10 they're intent was excellent. I do not quarrel at
11 all with the intent of No Child Left Behind. I do
12 quarrel with the failure to focus on sort of
13 powerful learning and on giving people all the tools
14 they need to get kids to powerful learning. And it
15 seems like we spent a lot of time talking about
16 testing rather than talking about achievement.

17 BY MR. JACOBS:

18 Q One of the requirements of NCLB or one set
19 of requirements relates to the highly qualified
20 teacher issue. You're generally familiar with those
21 requirements?

22 MR. SEFERIAN: Objection. Vague and
23 ambiguous.

24 THE WITNESS: I'm generally familiar. I'm
25 not deeply steeped in it.

1 DT-OA 05929 to 05935. Let me say that again. DT-OA
2 05929 to DT-OA 05935. And the second page is a
3 letter from you concerning Survey of Environmental
4 Conditions in California Portable Classrooms.

5 Do you see that?

6 A Uh-huh.

7 Q Do you recall this communication?

8 A Yes.

9 MR. VIRJEE: Take your time to look at it if
10 you need to.

11 BY MR. JACOBS:

12 Q And do you recall that the Department
13 developed a survey methodology to find out the
14 environmental health conditions in California
15 portable classrooms?

16 A I'll just read this here.

17 Okay. Now, what was the --

18 MR. JACOBS: What was the question?

19 (Whereupon, the record was read

20 by the court reporter)

21 MR. SEFERIAN: Objection. Vague and
22 ambiguous?

23 THE WITNESS: We worked with the Department
24 of Health Services. Our job was give them the list
25 of the schools.

1 BY MR. JACOBS:

2 Q You're aware that NCLB has a particular
3 focus on ending the practice of hiring non
4 highly-qualified teachers in schools receiving NCLB
5 funding?

6 MR. SEFERIAN: Objection. Vague and
7 ambiguous.

8 MR. VIRJEE: Vague as to "highly-qualified"
9 teachers.

10 THE WITNESS: I think they're being very
11 capricious. Here again, they're going to decide
12 that this state's standards are high enough, and
13 that state's standards aren't. The second state may
14 have higher standards. They're going to approve the
15 credential system in some states that have only
16 four-year degree requirement. California has a
17 fifth year degree requirement; our standards are
18 arguably higher. It just seems to me there's too
19 much influx. Not enough is really based on
20 scientifically-based research, which is a phrase
21 they used a hundred eleven times in the bill. I
22 didn't count them myself. Somebody told me.

23 (Exhibit 352 marked for identification)

24 BY MR. JACOBS:

25 Q 352 is a packet of documents under stamp

1 BY MR. JACOBS:

2 Q The schools with portables?

3 A Right.

4 Q And absent the survey information, the
5 Department lacked information about the extent of
6 use of portable classrooms?

7 MR. VIRJEE: Objection. Calls for
8 speculation. Lacks foundation as to what the
9 Department upheld services may have had or not had.

10 MR. JACOBS: I'm sorry. By "department," I
11 meant your department.

12 THE WITNESS: What was your question?

13 BY MR. JACOBS:

14 Q Did the Department of Education, absent the
15 survey, the Department of Education lacked data on
16 where portable classrooms were located?

17 MR. SEFERIAN: Objection. Lacks foundation.

18 MR. VIRJEE: Calls for speculation.

19 THE WITNESS: As I understood it, our job
20 was to ask districts to respond to the survey so
21 that DHS and the Resources Board could make some
22 recommendations to the Governor.

23 BY MR. JACOBS:

24 Q And did you participate in discussions about
25 whether a survey on this issue was a useful tool?

1 A I don't think so. I think we were just told
 2 to help DHS with what they were trying to do.
 3 Q You see where it says: "Unfortunately we
 4 lack sufficient information to determine whether
 5 publicized cases are isolated occurrences or
 6 system-wide problems?"
 7 A Right.
 8 Q And why was it important to know whether the
 9 publicized cases were isolated occurrences or
 10 system-wide problems?
 11 MR. VIRJEE: Objection. Calls for
 12 speculation. Lacks foundation.
 13 THE WITNESS: There were some news reports
 14 about problems in portable classrooms. We needed to
 15 know if it was one problem in one particular
 16 manufacturer, or systemic problems from many
 17 manufacturers. Was it a little problem? Was it a
 18 big problem? And we were trying to help Air
 19 Resources Board and Department of Education Services
 20 get their arms around the problem. The Governor
 21 sponsored the bill. If I remember right, I think
 22 somebody else was trying to do something more
 23 dramatic, and they first wanted to get their arms
 24 around how big the problem was.
 25 BY MR. JACOBS:

1 Q So that the policy could be driven by data
 2 about the significance and scope of the problem?
 3 MR. VIRJEE: Objection. Calls for
 4 speculation as to reasoning for what they did.
 5 THE WITNESS: That sounds logical to me. I
 6 think that's probably what happened. But I wasn't
 7 deeply involved in this. This was really being
 8 driven by Department of Health Services. We just
 9 happened to have the CDS codes. Schools have a
 10 code, and we are the only ones that could help them
 11 get -- identify the schools.
 12 BY MR. JACOBS:
 13 Q And then as you understood it, the
 14 Department of Health Services was then going to
 15 follow-up on this data and do more investigation as
 16 to the environmental conditions that might be
 17 prevalent based on this data?
 18 A Right.
 19 MR. VIRJEE: Objection. Calls for
 20 speculation. Lacks foundation.
 21 BY MR. JACOBS:
 22 Q Do you recall any other survey work being
 23 done during your tenure; that is, cases of a
 24 questionnaire going out in order to determine
 25 whether an issue was an isolated occurrence or

1 system-wide problem?
 2 MR. VIRJEE: Objection. Overbroad. Vague
 3 and ambiguous as to "survey data." Vague and
 4 ambiguous as to "survey data" done by whom.
 5 THE WITNESS: I don't recall specifically.
 6 I'm sure there may have been, but I don't recall
 7 specifically.
 8 BY MR. JACOBS:
 9 Q Do you recall participating in discussions
 10 about whether it would make sense to do additional
 11 surveying of school districts in the state to
 12 determine the extent of publicized problems?
 13 MR. VIRJEE: Objection. Vague and ambiguous
 14 as to "publicized problems." Also object to the
 15 extent that would have delayed the deliberative
 16 process privilege. Also vague and ambiguous as to
 17 "additional."
 18 BY MR. JACOBS:
 19 Q Let me tell you what I'm driving at. Really
 20 what I want to know is did you have any opposition,
 21 did you oppose or see any reason to oppose, from
 22 your advantage point as SPI, periodically surveying
 23 school districts to find out the prevalence of
 24 various reported conditions?
 25 MR. VIRJEE: Objection. Vague and ambiguous

1 as to "various reported conditions." Incomplete
 2 hypothetical. And object to the extent it would
 3 invade the deliberative process privilege.
 4 THE WITNESS: We tried to be responsive to
 5 real problems, and we had a million of them. We
 6 were pretty busy. So we didn't really -- we may
 7 have conducted some other surveys. But we didn't
 8 take on a lot of surveys to identify new areas to
 9 work in because we were so busy trying to get kids
 10 to high achievement to deal with the various other
 11 problems we had. I mean, trying to keep them from
 12 smoking, trying to keep them from being bullies,
 13 trying to keep them safe, trying to make sure their
 14 schools are clean. There were a whole lot of things
 15 we were working on, but with a very small staff of
 16 overworked people. Like I said, I wouldn't rule out
 17 having done a survey, but I don't recall.
 18 (Exhibit 353 marked for identification)
 19 BY MR. JACOBS:
 20 Q 353, Minutes of the Advisory Committee.
 21 Public Schools Accountability Act of 1999 from a
 22 meeting held on January 18, 2000.
 23 Please turn to the second to last page where
 24 you are reported to have been asked about your
 25 thoughts on the political future of accountability,

1 what has to take place, and to have suggested that
 2 three things are needed, quote:
 3 "One, we are competing with the private
 4 sector. We have to show that we have a strong
 5 accountability system. We must show that
 6 accountability as a fundamental part of our
 7 thinking. We must demonstrate we mean business to
 8 our shareholder (the public). Two, there is a
 9 higher level of resources required. Kentucky is
 10 spending about three hundred dollars more per
 11 student than California. Three, we have to show
 12 that there are consequences for not improving
 13 student achievement in under-performing schools. We
 14 have a system of fiscal accountability. Taking
 15 other districts under that system, such as Compton,
 16 has been difficult. We have to show that we have
 17 similar resolve with regard to under-performing
 18 schools. We must be fair, have due process and be
 19 even-handed, but we must insist on improvement.
 20 Accountability has to be something that stays
 21 around. We must show that it is not just something
 22 we are doing while we wait for the next thing to
 23 happen."
 24 Did you say that in words or substance at
 25 this meeting?

1 A I'm sure I did.
 2 Q Then Mr. Weis comments on the need to build
 3 district-level support for schools in order to
 4 facilitate improvement. And you're reported to have
 5 agreed, quote, "that a strong system of
 6 district-level support is essential," close quote.
 7 Do you see that?
 8 A Yeah. Mr. Weis -- I'm sorry, you were
 9 saying? Would you repeat that? I'm just tired.
 10 Q I realize that. And it's the bottom
 11 paragraph there, and I really just want to ask you
 12 if you, in fact, agreed, "that a strong system of
 13 district-level support is essential"?
 14 A Yes.
 15 Q And what did you understand "district-level
 16 support" to mean in this context?
 17 MR. VIRJEE: Objection. Calls for
 18 speculation as to what she might have meant in 2000.
 19 If you can remember, that's fine.
 20 THE WITNESS: Well, I think the district is
 21 the first line of defense. It is the place where it
 22 must begin. The district must step in if a school
 23 is chronically under-performing. As I said, the
 24 state is not equipped to intercede in more than a
 25 handful of schools. So the system we have is a

1 system of local control.
 2 And I feel quite certain that, you know,
 3 most of the administrators in the state as well as
 4 most of the school board members believe the
 5 district is the first line of defense.
 6 BY MR. JACOBS:
 7 Q What did you mean by "a strong system of
 8 district-level support"?
 9 A Well, districts have to be able to identify
 10 low-performing schools and systematically intervene
 11 in those low-performing schools in such a way that
 12 they help the principal and the principal's teachers
 13 to help kids with achievement and engage, wherever
 14 is needed, other resources and other means to invite
 15 parents in to help kids to at the time get to higher
 16 levels. The district has to be the first line of
 17 defense.
 18 BY MR. JACOBS:
 19 Q And did you mean to convey that the -- that
 20 action needed to be taken at the state-level in
 21 order to build a stronger system of district-level
 22 support?
 23 MR. VIRJEE: Objection. Vague and
 24 ambiguous. Nonsensical.
 25 THE WITNESS: I'm not sure I understand what

1 you're getting at.
 2 MR. JACOBS: I can help you out. I'm going
 3 to show you some more minutes. And we're going to
 4 be done in about ten minutes, so hang in there with
 5 me.
 6 (Exhibit 354 marked for identification)
 7 BY MR. JACOBS:
 8 Q 354, Final Minutes California State Board of
 9 Education, February 7 and 8, 2001. On page 11 of 14
 10 of the printout under Progress Report of the Awards
 11 Intervention Subcommittee of the Public Schools
 12 Accountability Act Advisory Committee Item 20 --
 13 MR. VIRJEE: What page, I'm sorry, Michael?
 14 THE WITNESS: I have 11 of 13.
 15 MR. JACOBS: Can I see?
 16 THE WITNESS: Just want to make sure I have
 17 the right thing here.
 18 MR. JACOBS: I'll give you this copy.
 19 MR. VIRJEE: What page did you want us to
 20 look at, Michael?
 21 MR. JACOBS: I want you to look at Item 20.
 22 THE WITNESS: They're not always in order.
 23 MR. JACOBS: Page 10 of 13.
 24 THE WITNESS: Okay.
 25 BY MR. JACOBS:

1 Q The quote in the minutes says:
2 "Superintendent Eastin added that current law puts
3 the responsibility to improve on the school, but the
4 principal of the school does not have the authority
5 needed to make the necessary changes. We need to
6 engage and involve the district more. Mrs. Joseph
7 stated that she concurs with the Superintendent that
8 district accountability must be addressed. District
9 accountability is the issue. Mr. Mockler suggested
10 at the next meeting the Board spend some time on
11 this idea of district accountability."

12 Do you see that?

13 A Yes.

14 Q And when you said, "we need to engage and
15 involve the district more," you were referring to
16 the need on the part of state-level administration
17 to engage and involve the district more, correct?

18 MR. VIRJEE: Objection. Calls for
19 speculation. Lacks foundation as to whether she
20 said it or didn't say it.

21 THE WITNESS: I think we need to engage the
22 district more in the achievement, or lack thereof,
23 of individual schools. I think the first line of
24 defense is the district.

25 BY MR. JACOBS:

1 improvement in five years, then that ought to be a
2 matter of great interest to the Board and to the
3 District Superintendent. Eventually the state may
4 be able to say "boo" and the state may be forced to
5 withhold money or do something else.

6 But I think most people think it's
7 counter-intuitive to withhold money from a
8 low-performing school which is right now the remedy
9 that seems to be most available to the State
10 Department. I think you would probably and most
11 people logically would envision a different
12 mechanism, but right now, and I really want to say
13 this strongly, there's a 150-year history of local
14 control that won't die easily. And that, you know,
15 even a slight up tick in state intervention is going
16 to require a lot more resources on the part of this
17 government toward its Department of Education or
18 somebody.

19 But in the meantime, the Department has
20 dropped staff. There was a five percent cut, and a
21 five percent cut and a ten percent cut and now
22 they're in the middle of a twenty percent cut. So
23 the Department is going from -- went from 1,600 when
24 I was there to 1,300. It's going down still
25 further. It's already over sixty percent federally

1 Q What did you have in mind as a mechanism for
2 engaging and involving the district more?

3 A At one point we proposed a district API
4 which was vehemently opposed by several of our
5 friends, and, in fact, was not -- did not pass the
6 State Board of Education.

7 Now, No Child Left Behind essentially
8 requires that the district be held accountable as
9 well as the individual school. And so I think you
10 are going to see something like a district API, and
11 at some point the district is going to have to take
12 a much firmer hand in chronically under-performing
13 schools.

14 Unless you envision a very different State
15 Department of Education and/or a very different
16 system of governance to California, which would
17 require major legislation, the front line of defense
18 is always going to be the local district.

19 Even now we are only equipped to intervene
20 in a very small number of schools across the state,
21 and those are only the most egregious schools, the
22 ones that show no improvement for five years. And I
23 think it's important to make the point that if you
24 have a school that is at the bottom of the
25 achievement scale, and it hasn't made any

1 funded. It's illegal for the Superintendent of
2 Public Instruction to take a federally funded person
3 and have them do some other work to make the state
4 feel better.

5 So at some point -- and this is really why I
6 said you should have sued the Governor and
7 Legislature. At some point some things that you
8 seem to be driving at would require a fundamental
9 change in state law and in the allocation of state
10 resources that neither the State Department of
11 Education nor the State Board of Education nor the
12 Superintendent of Public Instruction has any
13 authority over.

14 Q My question was what mechanism did you
15 envision for engaging and involving the district
16 more?

17 MR. VIRJEE: Objection. Asked and answered.

18 THE WITNESS: As I said, the district API.

19 BY MR. JACOBS:

20 Q But that would be a district-wide measure of
21 performance, correct?

22 A Yes. And, well, we did -- you know, we did
23 ask the Governor for additional positions to enact
24 this PSAA, this Public Schools Accountability Act,
25 and to support the IIUSP and the high-priority

1 Schools Program. And while we did get some
2 additional positions, many of them were never filled
3 because the State Department of Finance has a hiring
4 freeze on.

5 You can see why I thought I was in a Fillini
6 movie. So brand new additional responsibilities,
7 massive new oversight, expectations and a declining
8 resource base and a smaller staff.

9 Q And from the authority standpoint, did you
10 envision instead of being a directive at the school
11 level, which is the way the IUSP Program is
12 primarily configured, did you envision to be able to
13 be directive at the district-level to be able to say
14 to the district you must provide the following
15 improvements at this school or you will be in
16 violation of my edict?

17 MR. VIRJEE: Objection. Asked and answered.
18 Incomplete hypothetical. Calls for speculation.
19 Calls for a legal conclusion.

20 MR. SEFERIAN: Assumes facts not in
21 evidence.

22 THE WITNESS: While I was there, we did have
23 the OB Porter Act, the Elementary and Secondary
24 Education Act, that required us to go into a small
25 number of schools. Essentially these were the

1 a couple, and we did get some attention from the
2 district, and we are seeing some improvement.

3 I actually went down the second year and saw
4 one of the schools in L.A. actually that had a new
5 principal that was making some progress. But I will
6 tell you honestly it is absolutely impossible for
7 there to be a very in depth involvement of this very
8 small State Department of Education.

9 Again, 41 percent of the state budget we
10 administer, but we do it with 1,300 people. So
11 there just hasn't been -- the State Legislature and
12 the Governor hadn't really fully thought out a
13 system. And at some point they said the
14 superintendent is going to -- you know, I said get a
15 university to run a low-performing school? Fat
16 chance. Start a charter school? Have you ever
17 tried to start a charter school? It's actually a
18 huge job. The superintendent is not going to do
19 that. State Superintendent is not going to do that.
20 I mean, it's like this part that they haven't
21 figured out that somebody -- it's like posting 55
22 miles per hour speed limits and not hiring any
23 police. That's what they're doing.

24 But it's not -- and I really want to say
25 this again, the State Board and the Department do

1 schools that had shown no improvement for five
2 years. They were Title 1 schools.

3 First year there were thirteen, and I want
4 to say the second year there was somewhat more,
5 maybe eighteen. And we did, in fact, go into those
6 schools, and in each case I personally called the
7 superintendent of that district and told them we
8 were going there. And in every case both years the
9 superintendent didn't want us to come because they
10 were afraid it would make us look bad. I told them
11 it was the federal law, and as stretched as we were
12 staff-wise, we do try to obey the law.

13 So we did, in fact, go into those schools --
14 and they are a matter of public record, so you can
15 look at them. We did, in fact, go into those
16 schools. In some cases we found a new principal
17 that the district had really gotten in the game with
18 the new principal in working hard to fix the school.
19 In other cases nothing had changed. And so we put
20 pressure on the superintendent.

21 But this is just jawbone. I couldn't make
22 the superintendent do anything. All I could do was
23 urge the superintendent to do things. And my staff
24 urged the superintendent to do things. And we did
25 get a couple of those principals moved or more than

1 not make the laws. They do not appropriate the
2 money, and they are the wrong people to sue for the
3 problems that you identify. That's my opinion, at
4 least, and I'm not a lawyer.

5 (Exhibit No. 355 marked for identification)

6 BY MR. JACOBS:

7 Q 355 is a report from the Little Hoover
8 Commission from 1992. And if you turn to page 22
9 and you look at the text at Note 10 under the Big F,
10 and it refers to a speech by you. If you look at
11 195 and notes says Assemblywoman Delaine Eastin
12 Speech to CASH February 24, 1992 Sacramento. The
13 report on page 22 states, quote: "One Legislator
14 who has extensively toured school facilities
15 throughout the state tells of classrooms with
16 buckets strategically placed to catch rain, windows
17 covered with dark sheets to block out the sweltering
18 sunlight, broken bathroom fixtures and bathrooms
19 reminiscent of Third World slum conditions."

20 A Uh-huh. Of course if I said --

21 MR. SEFERIAN: Please wait. He hasn't asked
22 you a question yet.

23 THE WITNESS: Sorry.

24 BY MR. JACOBS:

25 Q So are you with me in terms of the page

1 references back and forth?
 2 A I see the footnote.
 3 Q And do you see that if you go to the
 4 footnote, it's referring to a speech by you?
 5 A Although let me just said it says in 1992 --
 6 oh, I was still a legislator; you're right. I'm a
 7 few years off. I need more caffeine, I guess.
 8 Q Okay.
 9 MR. VIRJEE: Do you have a question? I
 10 didn't hear the question. I'm sorry.
 11 BY MR. JACOBS:
 12 Q My question is, first of all, did you give a
 13 speech as a legislator in which you reported on
 14 facilities conditions?
 15 MR. VIRJEE: In 1992?
 16 MR. JACOBS: That in substance, alliance
 17 with the description of it on page 22 of this
 18 report.
 19 MR. VIRJEE: Objection. Calls for
 20 speculation as to what she may or may not have said
 21 in 1992. If you can remember that...
 22 THE WITNESS: I remember speaking at the
 23 CASH, and these are things I might have said.
 24 BY MR. JACOBS:
 25 Q And it reflected your observations at the

1 time?
 2 A Yes.
 3 MR. VIRJEE: Calls for speculation. Lacks
 4 foundation.
 5 (Exhibit No. 356 marked for identification)
 6 MR. JACOBS: 356 is an article from the Los
 7 Angeles Times printed off of the web, off of Nexus,
 8 dated October 4th, 1996.
 9 MR. SEFERIAN: Do you have an extra copy of
 10 that, please.
 11 BY MR. JACOBS:
 12 Q School Chief Backs 2.4-Billion L.A. funds
 13 for repairs at the districts' aging facilities. And
 14 this article reports on your support for the local
 15 bond initiative in 1996.
 16 Do you see that?
 17 A Yes.
 18 Q And do you see where it quotes you as
 19 saying, quote: "For too long L.A.U.S.D. students
 20 have sat in classrooms where roof leaks, the paint
 21 is peeling and airconditioning is all but
 22 nonexistent. If we allow these conditions to
 23 continue, we are not going to do right by Los
 24 Angeles' children."
 25 Do you see that?

1 A Yes.
 2 Q And did you, in fact, say that in word or
 3 substance on or about October 4th, 1996?
 4 MR. VIRJEE: Objection. Calls for
 5 speculation.
 6 THE WITNESS: Well, I know that I went down
 7 to L.A. to support this bond, and it's probable that
 8 I said that. I will say that we're trying to get
 9 two-thirds vote at that time to fix the schools of
 10 Los Angeles locally, and we did, in fact, succeed in
 11 getting Measure B passed.
 12 BY MR. JACOBS:
 13 Q You weren't stating that you were
 14 overstating the extent of the problems?
 15 MR. VIRJEE: Objection. Calls for
 16 speculation. Lacks foundation.
 17 THE WITNESS: I said what I said.
 18 BY MR. JACOBS:
 19 Q And you believed it to be true at the time?
 20 A Yes.
 21 Q And if you go down a couple paragraphs:
 22 "Eastin was shown classrooms where the floor tiles
 23 are all detached."
 24 Do you see that?
 25 A Uh-huh.

1 Q And where, "a room with a gaping ceiling
 2 hole caused a ceiling leak, which the school has
 3 stopped repairing because it reopens in every rain
 4 storm."
 5 Let's just take that sentence. Were you, in
 6 fact, shown such classrooms?
 7 A Yes. I toured a great many classrooms which
 8 saw abysmal conditions, and I fought to pass bonds
 9 to correct these conditions.
 10 Q And then, "a school restroom emits a stench
 11 bacteria that has steeped into the walls."
 12 Did you see such a restroom?
 13 A Yes.
 14 Q And as you said, one of the reasons for the
 15 prevalence of facilities problems in the state was
 16 the percentage required to pass bonds, something you
 17 worked to address, correct?
 18 A Correct.
 19 (Exhibit No. 357 marked for identification)
 20 BY MR. JACOBS:
 21 Q And this is an article from the San
 22 Francisco Examiner printed off of West Law,
 23 February 22nd, 2000 regarding Prop 26.
 24 And if you turn to the second page, it
 25 quotes you at the bottom as saying: "We are only

1 one of four states that requires this two-thirds
 2 majority." Do you see that?
 3 A Yes.
 4 Q And then it notes that you visited a school
 5 in every county in California. That was true,
 6 correct?
 7 A That's correct.
 8 Q And then quote: "I was in a school in
 9 Ontario last week. It is so crowded that one group
 10 of kids is going to school from seven a.m. to noon
 11 another from noon to five p.m."
 12 You, in fact, saw such a school in Ontario
 13 around 2000, correct?
 14 A Yes.
 15 Q "I was in a Sacramento school where they've
 16 had to close off rooms because of water leaks and
 17 mold."
 18 You were also in such a Sacramento school
 19 around the year 2000?
 20 A I was.
 21 Q "I visited a high school in Fort Bragg that
 22 almost fell down because of dry rot."
 23 Was that around the year 2000?
 24 A It was earlier.
 25 Q How much?

1 A I'm not sure.
 2 Q Then you said: "This is not a proposition
 3 benefiting urban districts. It applies to urban,
 4 rural and suburban schools."
 5 Do you see that?
 6 A Yes.
 7 Q And that's because you saw facilities
 8 problems of magnitude not just in urban schools, but
 9 in other kind of schools?
 10 A Yes.
 11 MR. SEFERIAN: Objection. Vague and
 12 ambiguous.
 13 MR. VIRJEE: We're pretty close to the time.
 14 MR. JACOBS: Yep, we're pretty close to
 15 being done.
 16 MS. WELCH: Why don't we just take a couple
 17 minutes. I think we're close to being done.
 18 (Recess)
 19 MR. JACOBS: Yep, I think we're done.
 20 Thank you very much for your time,
 21 Ms. Eastin.
 22 THE WITNESS: Thank you very much. Good
 23 luck.
 24 ATTORNEY #5: Can I just put on the record
 25 usual stipulation, the parties have deemed to join

1 objection. I don't think we did at the beginning
 2 just note this deposition was set at five hours.
 3 The plaintiffs used all five hours. I'm going to
 4 reserve my objections, whatever those may be.
 5 Thank you.
 6 (Time noted: 4:08 p.m.)
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1
 2 Please be advised I have read the foregoing
 3 deposition, and I hereby state there are:
 4 (Check one)
 5
 6 _____ NO CORRECTIONS
 7 _____ CORRECTIONS ATTACHED
 8
 9
 10 _____
 11 DELAINE EASTIN
 12
 13 _____
 14 Date Signed
 15 Case Title: Williams v. State of CA
 16 Date of Deposition: September 23, 2003
 17 No. 39974
 18
 19
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 21
 22
 23
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 25

1 DEPONENT'S CHANGES OR CORRECTIONS
2 Note: If you are adding to your testimony, print the
3 exact words you want to add. If you are deleting from
4 your testimony, print the exact words you want to delete.
5 Specify with "add" or "delete" and sign this form.

6 DEPOSITION OF: DELAINE EASTIN
7 CASE: Williams v. State of CA
8 DATE OF DEPO: September 23, 2003

9	PAGE	LINE	CHANGE/ADD/DELETE
10	_____	_____	_____
11	_____	_____	_____
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19	_____	_____	_____
20	_____	_____	_____

21 Deponent's Signature _____

22 Date _____

23
24
25

1 REPORTER'S CERTIFICATE

2 I certify that the witness in the foregoing
3 deposition,

4
5 DELAINE EASTIN,
6 was by me duly sworn to testify in the within-entitled
7 cause; that said deposition was taken at the time and
8 place therein named; that the testimony of said witness
9 was reported by me, a duly Certified Shorthand Reporter
10 of the State of California authorized to administer oaths
11 and affirmations, and said testimony was thereafter
12 transcribed into typewriting.

13 I further certify that I am not of counsel or
14 attorney for either or any of the parties to said
15 deposition, nor in any way interested in the outcome of
16 the cause named in said deposition.

17 IN WITNESS WHEREOF, I have hereunto set my hand
18 this 29th day of September, 2003.

19
20 _____
21 COLLEEN N. KAZNOWSKI
22 Certified Shorthand Reporter
23 Certificate No. 10757
24
25