

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

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

DEPOSITION OF NATHAN SCOTT HILL  
Sacramento, California  
Friday, January 18, 2002  
Volume II

Reported by:  
TRACY LEE MOORELAND  
CSR No. 10397  
SOB No. 30595

## APPEARANCES

1  
2  
3 For the Plaintiffs Eliezer Williams, et al.:

4 ACLU FOUNDATION OF SOUTHERN CALIFORNIA  
5 BY: MARK ROSENBAUM, ESQ.  
6 1616 Beverly Boulevard  
7 Los Angeles, California 90026

8  
9 For the Plaintiffs Eliezer Williams, et al.:

10 THE LAW OFFICES OF PUBLIC ADVOCATES, INC.  
11 BY: JOHN T. AFFELDT, ESQ.  
12 1535 Mission Street  
13 San Francisco, California 94103

14  
15 For the Defendant Delaine Eastin, State Superintendent  
16 of Public Instruction, State Department of Education,  
17 State Board of Education:

18 DEPARTMENT OF JUSTICE  
19 OFFICE OF THE ATTORNEY GENERAL  
20 BY: ANTHONY V. SEFERIAN, ESQ.  
21 KARA READ-SPANGLER, ESQ.  
22 1300 I Street, Suite 1101  
23 Sacramento, California 95814  
24  
25

## INDEX

1  
2  
3 Examination by Page  
4 Mr. Rosenbaum 144  
5  
6  
7 EXHIBITS  
8 Deposition of NATHAN SCOTT HILL  
9 Friday, January 18, 2002

10 Number	Page
11 SAD-228 Resume of Scott Hill	144
12 SAD-229 Declaration of Scott Hill in Support 13 of Defendant State of California's 14 Motion for Summary Adjudication of 15 No Duty to Police or Monitor 16 District Fees	196
17 SAD-230 Curriculum Development and 18 Supplemental Materials Commission 19 minutes of meeting, May 18-19, 2000	333
20 SAD-231 Four-page document dated 21 November 16, 2001	342
22 SAD-232 Two-page printout, copyright 1998, 23 McClatchy Newspapers, Inc., 24 Sacramento Bee, dated April 14, 1998	351

25

## APPEARANCES, cont.

1  
2  
3 The Intervener:

4 CALIFORNIA SCHOOL BOARD ASSOCIATION  
5 BY: ABE HAJELA, ESQ.  
6 (present to page 305)  
7 3100 Beacon Boulevard  
8 West Sacramento, California 95691

9  
10  
11 For the Defendant State of California:

12 O'MELVENEY & MYERS LLP  
13 BY: FRAMROZE VIRJEE, ESQ.  
14 400 South Hope Street  
15 Los Angeles, California 90071

16  
17 Also present: Sandy Alexander, Paralegal from the  
18 Attorney General's office, present to page 133  
19  
20  
21  
22  
23  
24  
25

1 BE IT REMEMBERED, that on Friday, January 18,  
2 2002, commencing at the hour of 10:07 a.m., thereof, at  
3 the offices of Morrison & Forester, 400 Capitol Mall,  
4 26th Floor, Sacramento, California, before me,  
5 TRACY LEE MOORELAND, a Certified Shorthand Reporter in  
6 the State of California, there personally appeared  
7 NATHAN SCOTT HILL,  
8 called as a witness herein, who, having been duly sworn  
9 to tell the truth, the whole truth, and nothing but the  
10 truth, was thereupon examined and interrogated as  
11 hereinafter set forth.

12 --o0o--  
13 (Mr. Affeldt not present.)  
14 (Exhibit SAD-228 was marked.)

15 EXAMINATION BY MR. ROSENBAUM

16 Q. How you doing, Mr. Hill?  
17 A. I'm fine. Thank you.  
18 Q. You're aware you're still under oath?  
19 A. Yes.  
20 Q. Mr. Hill, did you personally have any  
21 involvement in the development of the high school exit  
22 exam?  
23 MR. VIRJEE: Objection. Vague and ambiguous as  
24 to "personally" and "involvement"  
25 THE WITNESS: Mr. Rosenbaum, if you could maybe

1 be a little more specific about the question.  
 2 Q. BY MR. ROSENBAUM: Okay. Were you involved in  
 3 any -- did you have any involvement in the selection of  
 4 the contractor for the high school exit exam?  
 5 MR. VIRJEE: Objection. Vague and ambiguous as  
 6 to "involvement."  
 7 THE WITNESS: The answer is no.  
 8 Q. BY MR. ROSENBAUM: Okay. How about selection  
 9 of subject matters to be covered on the high school exit  
 10 exam, did you participate at any -- in any of the  
 11 decision-making regarding that?  
 12 MR. VIRJEE: Objection. Vague and ambiguous as  
 13 to "participate."  
 14 THE WITNESS: The process by which the content  
 15 of the high school exit exam was established was through  
 16 the high school exit exam advisory committee, which was  
 17 required by statute. That committee ultimately made  
 18 recommendations to the state superintendent who sought a  
 19 number of opinions and placed the recommendations from  
 20 the committee in front of the State Board which  
 21 ultimately decided. I was -- I participated in some of  
 22 those conversations. I don't recall any specific  
 23 instance where I made a specific recommendation about a  
 24 specific content.  
 25 Q. BY MR. ROSENBAUM: Okay. Are you familiar with

1 the phrase "opportunity to learn"?  
 2 A. Yes.  
 3 Q. And have you attended meetings where the phrase  
 4 "opportunity to learn" was discussed?  
 5 MR. VIRJEE: Objection. Vague and ambiguous as  
 6 to "meetings." Also object to the extent it would call  
 7 for attorney/client privileged information and invades  
 8 the official information privilege.  
 9 THE WITNESS: Mr. Rosenbaum, there have been --  
 10 discussions on opportunity to learn have been so varied  
 11 and so many in terms of the public record around the  
 12 high school exit exam that I don't think I could begin  
 13 to give you an accurate answer to that.  
 14 Q. BY MR. ROSENBAUM: Well, did you attend public  
 15 meetings where opportunity to learn was discussed?  
 16 A. I have.  
 17 Q. And did you attend private meetings, Department  
 18 of Education personnel, where opportunity to learn was  
 19 discussed?  
 20 MR. SEFERIAN: Objection. Vague and ambiguous  
 21 as to "private."  
 22 MR. VIRJEE: Also object on the grounds of the  
 23 attorney/client privilege and official information  
 24 privilege.  
 25 THE WITNESS: There have been a number of

1 conversations at the department level about opportunity  
 2 to learn.  
 3 Q. BY MR. ROSENBAUM: Okay. Over what period of  
 4 time?  
 5 MR. VIRJEE: Objection. Calls for speculation.  
 6 Lacks foundation.  
 7 THE WITNESS: The only reference point I could  
 8 give you would be from the establishment of the high  
 9 school exit exam in legislation forward.  
 10 Q. BY MR. ROSENBAUM: Have you personally reviewed  
 11 any literature discussing opportunity to learn?  
 12 MR. VIRJEE: Objection. Vague and ambiguous as  
 13 to "opportunity to learn."  
 14 THE WITNESS: I think I would need some  
 15 clarification, Mr. Rosenbaum, about this. There are  
 16 many discussions about what opportunity to learn means,  
 17 so I'm not sure what you're seeking.  
 18 Q. BY MR. ROSENBAUM: Okay. What I'm seeking,  
 19 first of all, is have you read literature, education --  
 20 in the education field about opportunity to learn?  
 21 A. No.  
 22 Q. Okay. Have you read any -- have you authored  
 23 any memorandum with respect to what opportunity to learn  
 24 means?  
 25 A. I can't recall doing so.

1 (Mr. Affeldt entered the room.)  
 2 Q. BY MR. ROSENBAUM: Okay. Have you reviewed any  
 3 memorandum prepared by Department of Education personnel  
 4 with respect to the meaning or possible meanings of  
 5 opportunity to learn?  
 6 A. I can't recall doing so.  
 7 Q. Okay. Are there persons whom you consider to  
 8 be experts on the subject matter of the opportunity --  
 9 of what opportunity to learn means?  
 10 MR. VIRJEE: Objection. Vague and ambiguous as  
 11 to "opportunity to learn." Calls for speculation.  
 12 Lacks foundation. And calls for a legal conclusion to  
 13 the extent you're asking expertise and in a legal  
 14 setting.  
 15 THE WITNESS: The Department of Education has  
 16 engaged the services of some officials who have had  
 17 discussions with us about opportunity to learn.  
 18 Q. BY MR. ROSENBAUM: Can you tell me the names of  
 19 those officials, please?  
 20 A. Mary Lynn Borque, Susan Phillips, Tom Fisher.  
 21 I believe I may be incorrect about the last name, and Ed  
 22 Haertel, H-a-e-r-t-e-l.  
 23 Q. Spell that again, please?  
 24 A. H-a-e-r-t-e-l.  
 25 Q. Anyone else?

1 MR. VIRJEE: Objection. Calls for speculation.  
 2 Lacks foundation.  
 3 THE WITNESS: I don't know of anyone else.  
 4 Q. BY MR. ROSENBAUM: Were you personally  
 5 involved, Mr. Hill, in the selection of any of these  
 6 individuals as consultants?  
 7 MR. VIRJEE: Objection. Assumes facts not in  
 8 evidence. He hasn't testified they're consultants.  
 9 Also vague and ambiguous as to "involved."  
 10 THE WITNESS: No, I was not.  
 11 Q. BY MR. ROSENBAUM: Do you know who was?  
 12 MR. VIRJEE: Objection. Vague and ambiguous as  
 13 to "who was," who selected them, who was involved,  
 14 whatever that means.  
 15 THE WITNESS: Yes.  
 16 Q. BY MR. ROSENBAUM: Who?  
 17 A. I can only give you a sense that the assessment  
 18 division and State Board staff had conversations about  
 19 those -- about selecting those experts.  
 20 Q. Can you give me the names of any of the persons  
 21 in the assessment division who were involved in those  
 22 discussions?  
 23 MR. VIRJEE: Objection. Calls for speculation.  
 24 Lacks foundation.  
 25 THE WITNESS: I would only refer you to Phil

1 Spears.  
 2 Q. BY MR. ROSENBAUM: Do you know if Mr. Spears  
 3 was involved in that process?  
 4 A. I don't recall whether he was or not.  
 5 Q. Okay. Did you ever attend any meeting at which  
 6 any of the individuals whom you mentioned, Ms. Borque,  
 7 Ms. Phillips, Mr. Fisher and Mr. Haertel, spoke?  
 8 A. Yes.  
 9 Q. Okay. And let's start with Ms. Borque. Strike  
 10 that.  
 11 Were there any meetings at which all four of  
 12 them were present that you attended?  
 13 A. Yes.  
 14 Q. How many such meetings?  
 15 A. I can't recall whether it was one or two.  
 16 Q. Can you give me the approximate date of that  
 17 meeting or meetings, please?  
 18 A. Sometime in the year 2000.  
 19 Q. And were there any materials distributed at  
 20 that meeting that you recall?  
 21 A. I don't recall.  
 22 Q. Do you know if Ms. Borque, Ms. Phillips,  
 23 Mr. Fisher or Mr. Haertel either collectively or  
 24 separately prepared any papers or memoranda regarding  
 25 opportunity to learn?

1 MR. VIRJEE: Objection. Vague and ambiguous as  
 2 to "opportunity to learn."  
 3 THE WITNESS: I don't recall the preparation of  
 4 any such materials.  
 5 Q. BY MR. ROSENBAUM: Okay. Do you know who  
 6 Ms. Borque is?  
 7 MR. VIRJEE: Objection. Vague and ambiguous.  
 8 You mean could he recognize her walking down  
 9 the street?  
 10 THE WITNESS: I do.  
 11 Q. BY MR. ROSENBAUM: Who is she?  
 12 A. She is -- she was affiliated with the National  
 13 Assessment Governing Board which administers NAEP.  
 14 Q. N-A-E-P?  
 15 A. Yes, correct.  
 16 Q. Do you know what she's doing now?  
 17 A. I don't know.  
 18 MR. VIRJEE: 10:15.  
 19 Q. BY MR. ROSENBAUM: Do you know who Ms. Phillips  
 20 is?  
 21 A. I do.  
 22 Q. Who is Ms. Phillips?  
 23 A. She is a lawyer and psychometrician.  
 24 Q. Do you know where she's based?  
 25 A. I don't.

1 Q. Do you know if she's based in California?  
 2 A. I believe she is not based in California.  
 3 Q. Okay. And do you know who -- I know you  
 4 weren't sure that his last name was Fisher, but we'll  
 5 call him that. Do you know who Mr. Fisher is?  
 6 A. I do.  
 7 Q. Who is that?  
 8 A. He is the state testing director for Florida.  
 9 Q. And Mr. Haertel, do you know who he is?  
 10 A. I do.  
 11 Q. Who is that?  
 12 A. He's a professor at Stanford University.  
 13 Q. Mr. Hill, do you have a definition of  
 14 opportunity to learn in your own mind as to what that  
 15 means?  
 16 MR. SEFERIAN: Objection. Vague as to content.  
 17 Overly broad.  
 18 THE WITNESS: I would need a context,  
 19 Mr. Rosenbaum, to answer your question.  
 20 Q. BY MR. ROSENBAUM: Well, let's begin, say, with  
 21 the high school exit exam. With respect to the high  
 22 school exit exam, do you have a definition of what  
 23 opportunity to learn means?  
 24 MR. SEFERIAN: Objection. Assumes facts not in  
 25 evidence. Vague as to context and overly broad.

1 THE WITNESS: Mr. Rosenbaum, I'm hesitating  
2 because offering my personal opinion about what  
3 opportunity to learn is in relation to what might be a  
4 legal standard for opportunity to learn for the high  
5 school exit exam, there easily could be a disparity  
6 between those two. So maybe some clarification from you  
7 as to what you're seeking would be helpful.

8 Q. BY MR. ROSENBAUM: I'm interested in your  
9 viewpoint -- I appreciate your qualifications -- based  
10 on your training and experience?

11 MR. VIRJEE: What training and experience?

12 MR. ROSENBAUM: All the training and experience  
13 that you've amassed to date.

14 MR. SEFERIAN: Objection. Lacks foundation.  
15 Calls for an inadmissible opinion. Overly broad. Vague  
16 as to content.

17 MR. VIRJEE: Also vague as to "opportunity to  
18 learn" as to whether, as he just said, you're asking for  
19 his personal opinion about what the legal requirement is  
20 or what may be pedagogically or educationally correct,  
21 or what he just thinks would be best practices. Vague  
22 and ambiguous.

23 Q. BY MR. ROSENBAUM: I'm not interested in your  
24 view as to what the legal standard is, I'm interested in  
25 terms of what opportunity to learn means with respect --

1 THE WITNESS: There is no -- there is right  
2 here right now no high stakes attached to the high  
3 school exit exam.

4 Q. BY MR. ROSENBAUM: Okay. Can you give me an  
5 example of high school -- high-stakes examinations as  
6 you used that phrase?

7 MR. SEFERIAN: Objection. Lacks foundation.  
8 Calls for an inadmissible opinion.

9 MR. VIRJEE: Vague as to time.

10 THE WITNESS: I'm sorry, I really don't  
11 understand.

12 Q. BY MR. ROSENBAUM: To your knowledge, are there  
13 students in California in public schools today who are  
14 taking the high school exit exams, I don't mean on  
15 Friday, but on --

16 A. The state has an annual administration of the  
17 high school exit exam.

18 Q. And my question to you is -- maybe my question  
19 wasn't clear -- can you give me any examples of  
20 high-stakes examinations as you just used that phrase?

21 MR. VIRJEE: Objection. Vague and ambiguous as  
22 to "high-stakes." Also vague as to time.

23 MR. SEFERIAN: Lacks foundation. Calls for an  
24 inadmissible opinion.

25 THE WITNESS: Yes, there are such examinations.

1 in this context of the high school exit exam, what  
2 you -- in your position and based on your training and  
3 experience what you consider it to mean.

4 MR. VIRJEE: Objection. Vague and ambiguous as  
5 to what it means. In statute in the law? In  
6 regulations in a memorandum? In conversation? It's  
7 vague and ambiguous.

8 MR. SEFERIAN: Lacks foundation. Calls for an  
9 inadmissible opinion.

10 THE WITNESS: Mr. Rosenbaum, opportunity to  
11 learn is the expectation that a student will have every  
12 opportunity provided to him or her to learn the material  
13 expected of him or her if that material is attached to a  
14 high-stakes examination.

15 Q. BY MR. ROSENBAUM: Okay. As you just used the  
16 phrase "high-stakes examination," Mr. Hill, would that  
17 include the high school exit exam?

18 MR. SEFERIAN: Objection. Vague and ambiguous.  
19 Lacks foundation. Calls for an inadmissible opinion.

20 THE WITNESS: I think I would need some  
21 clarification from you as to a point in time.

22 MR. ROSENBAUM: Right now.

23 THE WITNESS: No.

24 Q. BY MR. ROSENBAUM: Why is that?

25 MR. SEFERIAN: Same objections.

1 Q. BY MR. ROSENBAUM: Can you tell me what they  
2 are?

3 MR. SEFERIAN: Same objections.

4 THE WITNESS: I would suggest that the advanced  
5 placement course examinations are such examinations, but  
6 those are not administrations by the State of California  
7 so I would refer you to someone else for information on  
8 it.

9 Q. BY MR. ROSENBAUM: Are there any high-stakes  
10 examinations as you used that phrase that are  
11 administered by the State of California that you're  
12 aware of?

13 MR. VIRJEE: Objection. Vague and ambiguous.

14 MR. SEFERIAN: Vague as to "high-stakes  
15 examination." Calls for an inadmissible opinion.

16 THE WITNESS: I think I would need to have a  
17 clearer sense of what -- of where you're thinking in  
18 terms of high stakes.

19 Q. BY MR. ROSENBAUM: My thinking is irrelevant.  
20 You used the phrase. You told me that the definition of  
21 opportunity to learn is an expectation that a student  
22 will have every opportunity to learn materials expected  
23 of him or her if the material is attached to a  
24 high-stakes examination.

25 Did I understand you correctly?

1 A. You did.  
 2 Q. When you used that phrase "high-stakes  
 3 examination," that's what I'm interested in, your usage.  
 4 Can you give me any examples of high-stakes examinations  
 5 that are administered in the state of California.  
 6 MR. VIRJEE: As he used it in his definition of  
 7 opportunity to learn?  
 8 MR. ROSENBAUM: Yes.  
 9 MR. SEFERIAN: Objection. Lacks foundation.  
 10 Calls for an inadmissible opinion.  
 11 THE WITNESS: You're seeking that for  
 12 examinations currently administered by the State of  
 13 California?  
 14 MR. ROSENBAUM: Yes.  
 15 MR. SEFERIAN: Same objections.  
 16 THE WITNESS: The answer is no.  
 17 Q. BY MR. ROSENBAUM: Do you have a view as to  
 18 when -- will California be administering high-stakes  
 19 examinations so far as you know?  
 20 MR. VIRJEE: Objection. Calls for speculation.  
 21 Lacks foundation. Also vague and ambiguous as to  
 22 "high-stakes examinations."  
 23 MR. SEFERIAN: Incomplete hypothetical  
 24 question.  
 25 MR. VIRJEE: Unless you're using it in this

1 same definition.  
 2 THE WITNESS: California state law requires  
 3 that the -- that the high school exit exam be used as a  
 4 high-stakes examination at some point in the future.  
 5 Q. BY MR. ROSENBAUM: Do you know when that point  
 6 is?  
 7 MR. SEFERIAN: Objection. Calls for an  
 8 inadmissible legal opinion.  
 9 MR. VIRJEE: Objection. Calls for speculation.  
 10 THE WITNESS: I would refer you to AB 1609  
 11 which establishes a process by which that determination  
 12 will be made.  
 13 Q. BY MR. ROSENBAUM: Now, when you gave me your  
 14 definition -- and that's still what I'm talking about,  
 15 Mr. Hill.  
 16 MR. VIRJEE: "Your definition" of what?  
 17 MR. ROSENBAUM: Opportunity to learn.  
 18 MR. VIRJEE: Thank you.  
 19 Q. BY MR. ROSENBAUM: When you used the word  
 20 "opportunity" in your definition, what did you mean by  
 21 "opportunity"?  
 22 MR. VIRJEE: He didn't give you a -- he didn't  
 23 use the word opportunity in his definition.  
 24 MR. ROSENBAUM: Yes, he did.  
 25 MR. VIRJEE: I take that back. I withdraw

1 that. I apologize.  
 2 THE WITNESS: Mr. Rosenbaum, my reference to  
 3 opportunity would be instructional -- an instructional  
 4 program that includes the materials identified and  
 5 expected for students to learn.  
 6 Q. BY MR. ROSENBAUM: Anything else?  
 7 A. Opportunity to learn revolves around those  
 8 learning expectations.  
 9 Q. When you say "materials identified," you mean  
 10 instructional materials?  
 11 A. It could be solely instructional materials, it  
 12 could be something more than that.  
 13 Q. What else? Such as?  
 14 MR. VIRJEE: Objection. Calls for speculation.  
 15 Lacks foundation.  
 16 MR. SEFERIAN: Incomplete hypothetical  
 17 question.  
 18 THE WITNESS: I would not know what a teacher  
 19 would provide or what a school or district would  
 20 provide. It would certainly be dependent upon the  
 21 circumstances of every student.  
 22 Q. BY MR. ROSENBAUM: Okay. And your definition  
 23 of instructional program as you've just been discussing  
 24 it with me, would it have any relationship -- strike  
 25 that -- would it include the qualifications or

1 competence of the teacher?  
 2 MR. SEFERIAN: Object. Overly broad. Vague as  
 3 to context. Lacks foundation.  
 4 MR. VIRJEE: Calls for speculation.  
 5 MR. SEFERIAN: Lacks foundation. Calls for an  
 6 inadmissible opinion.  
 7 THE WITNESS: Mr. Rosenbaum, my belief, my  
 8 personal opinion is that it all begins with an  
 9 identification of what every student knows and can do at  
 10 a given point in time, and whatever discrepancy exists  
 11 between that knowledge and where a student needs to go,  
 12 it is -- that becomes the focus of an appropriate  
 13 instructional program. Whether that includes a  
 14 teacher's competency or qualifications is speculative.  
 15 Q. BY MR. ROSENBAUM: What's the basis of that  
 16 answer?  
 17 MR. VIRJEE: You asked for his personal  
 18 opinion.  
 19 THE WITNESS: That was my opinion.  
 20 Q. BY MR. ROSENBAUM: And to your knowledge,  
 21 Mr. Hill, the State of California, Department of  
 22 Education, does it have a definition of opportunity to  
 23 learn in the context of the high school exit exam?  
 24 MR. SEFERIAN: Objection. Lacks foundation.  
 25 Overly broad. Vague as to context. Vague and ambiguous

1 as to "definition." Lacks foundation.  
 2 THE WITNESS: I can't recall. I don't know.  
 3 Q. BY MR. ROSENBAUM: Okay. Have you been in any  
 4 discussions at which the subject matter of the  
 5 Department of Education developing a definition of  
 6 opportunity to learn with respect to the high school  
 7 exit exam was discussed?  
 8 MR. SEFERIAN: Objection. Assumes facts not in  
 9 evidence. Object to the extent it calls for disclosure  
 10 of privileged communications.  
 11 THE WITNESS: I can't recall such discussion.  
 12 Q. BY MR. ROSENBAUM: Okay. And if I changed it  
 13 to not the Department of Education but the State Board  
 14 of Education, would your answer be any different?  
 15 MR. SEFERIAN: Same objections.  
 16 THE WITNESS: It would be the same answer.  
 17 Q. BY MR. ROSENBAUM: And if I talked about the  
 18 secretary of education or his or her staff members,  
 19 would your answer be any different?  
 20 MR. VIRJEE: Objection. Vague and ambiguous as  
 21 to "secretary of education." Also vague as to time.  
 22 THE WITNESS: I have no knowledge of the  
 23 secretary of education's proceedings, deliberations or  
 24 discussions.  
 25 Q. BY MR. ROSENBAUM: To your knowledge, has there

1 ever been any discussion of an opportunity to learn  
 2 index?  
 3 MR. VIRJEE: Objection. Vague and ambiguous as  
 4 to "opportunity to learn index."  
 5 MR. SEFERIAN: Vague as to context.  
 6 THE WITNESS: I can't recall such a  
 7 conversation.  
 8 Q. BY MR. ROSENBAUM: Now, I think you told me  
 9 that you attended either one or two meetings with  
 10 Ms. Borque, Ms. Phillips, Mr. Fisher and Mr. Haertel; is  
 11 that correct?  
 12 A. Yes.  
 13 Q. Okay. And where did that meeting or meetings  
 14 take place?  
 15 A. At the California Department of Education  
 16 building.  
 17 Q. Okay. And were there members of your staff  
 18 present?  
 19 A. Yes.  
 20 Q. Who was present?  
 21 A. Mr. Warren, Mr. Spears, and beyond that I can't  
 22 recall anyone specifically.  
 23 Q. Was Superintendent Eastin present?  
 24 A. No.  
 25 Q. Was anyone from the State Board of Education or

1 the State Board staff present so far as you know?  
 2 A. I don't recall.  
 3 Q. Okay. Was anyone from the legislature or  
 4 legislative staff members present so far as you know?  
 5 A. I don't recall any representation from the  
 6 legislature.  
 7 Q. Was Mr. Mockler present?  
 8 A. Mr. Mockler may have been, but I really don't  
 9 recall.  
 10 Q. Do you know if Ms. Mazzoni or Ms. Burke or  
 11 Mr. Hart were present?  
 12 A. I'm sorry, Ms. --  
 13 Q. Hart, Mazzoni, Burke, any of them present?  
 14 A. I do not recall any of them being present.  
 15 Q. Who else do you recall being present besides  
 16 the four individuals you mentioned and the people from  
 17 your staff whom you mentioned?  
 18 MR. VIRJEE: Objection. Asked and answered.  
 19 He said he didn't recall anybody else.  
 20 THE WITNESS: I think I've answered I don't  
 21 recall anyone else.  
 22 Q. BY MR. ROSENBAUM: And the meeting,  
 23 approximately how long did it take?  
 24 A. I don't recall whether it was one or two days,  
 25 but it was either a one or two-day meeting.

1 Q. And did Ms. Borque -- were presentations made  
 2 by Borque, Phillips, Fisher and Haertel?  
 3 MR. VIRJEE: Objection. Vague and ambiguous as  
 4 to "presentations."  
 5 THE WITNESS: I don't recall. I don't recall.  
 6 Q. BY MR. ROSENBAUM: Okay. Has there been any  
 7 assessment that you're aware of by the Department of  
 8 Education as to whether public school students in  
 9 California receive an opportunity to learn?  
 10 MR. VIRJEE: Objection. Vague and ambiguous as  
 11 to "opportunity to learn" and "receive." Also vague as  
 12 to time.  
 13 MR. SEFERIAN: Assumes facts not in evidence.  
 14 Lacks foundation. Calls for speculation.  
 15 THE WITNESS: Mr. Rosenbaum, I'll give you an  
 16 answer that -- well, the State of California has, since  
 17 the development of its standards, adopted an ambitious  
 18 and aggressive program to ensure that all students are  
 19 learning our state expectations, our standards.  
 20 We are -- the state is providing an aligned  
 21 system to students. That does not happen overnight.  
 22 Textbooks, teachers, assessments are all working in  
 23 alignment to provide students an instructional program  
 24 that is aligned to our learning expectations.  
 25 Q. BY MR. ROSENBAUM: I appreciate that. My

1 question is, has the State of California conducted any  
 2 assessment or inquiry to determine whether or not all  
 3 students are receiving an opportunity to learn?  
 4 MR. VIRJEE: Objection. Vague and ambiguous as  
 5 to "opportunity to learn," in what context, and also  
 6 vague and ambiguous as to "assessment."  
 7 MR. SEFERIAN: Lacks foundation.  
 8 THE WITNESS: Mr. Rosenbaum, is your question  
 9 directed towards the high school exit exam?  
 10 MR. ROSENBAUM: Let's start there, yeah.  
 11 MR. SEFERIAN: Same objections.  
 12 THE WITNESS: The State has not conducted an  
 13 assessment. The State has contracted with an evaluator  
 14 do such evaluations.  
 15 Q. BY MR. ROSENBAUM: Okay. And who is that  
 16 evaluator?  
 17 A. It's the human resources research corporation  
 18 known as HumRRO.  
 19 Q. I've seen some reports by HumRRO. The  
 20 evaluation that you're talking about, to your knowledge,  
 21 has that taken place yet?  
 22 A. I'm referring, Mr. Rosenbaum, to the -- I can't  
 23 recall a specific number, but report or reports that  
 24 HumRRO has already conducted with regard to the  
 25 implementation of the high school exit exam.

1 Q. And do you personally consider those reports an  
 2 assessment as to whether or not students, public school  
 3 students received an opportunity to learn?  
 4 MR. VIRJEE: Objection. Vague and ambiguous as  
 5 to "opportunity to learn," "received." Also calls for  
 6 speculation. Lacks foundation.  
 7 MR. SEFERIAN: Vague and ambiguous as to  
 8 "assessment."  
 9 THE WITNESS: Mr. Rosenbaum, I can tell you  
 10 that the evaluation from HumRRO was designed to focus on  
 11 both the qualities of the development of the examination  
 12 and the administration of the examination, and also to  
 13 gain some sense of the extent to which students are  
 14 being provided the instruction and the learning  
 15 objectives associated with the exam.  
 16 Q. BY MR. ROSENBAUM: When you say "some sense,"  
 17 what do you mean by that?  
 18 A. I don't know specifically what HumRRO was  
 19 evaluating, which is why I used the term "some sense."  
 20 I think you would have to ask those officials for more  
 21 information.  
 22 Q. Okay. Do you know whether HumRRO is -- there's  
 23 another report due from HumRRO?  
 24 MR. VIRJEE: Objection. Vague and ambiguous as  
 25 to "another report due." Calls for speculation. Due to

1 whom about what?  
 2 THE WITNESS: Mr. Rosenbaum, I don't have any  
 3 specific information about such a report. I know that  
 4 there are regular reports, but I don't know  
 5 specifically.  
 6 Q. BY MR. ROSENBAUM: Okay. Have you read the  
 7 reports that have been compiled to date?  
 8 A. Yes.  
 9 Q. Okay. And did you ever attend any meetings at  
 10 which the -- those reports were discussed?  
 11 A. Yes.  
 12 Q. And how many meetings?  
 13 MR. VIRJEE: Objection. Vague and ambiguous as  
 14 to "meetings."  
 15 THE WITNESS: I can't recall a specific number,  
 16 but I would suggest that the most important -- I cannot  
 17 recall any private meetings where those reports were  
 18 presented. Those reports have all been represented in  
 19 public to the State Board.  
 20 Q. BY MR. ROSENBAUM: So as far as you recall,  
 21 Mr. Hill, there were no Department staff meetings in  
 22 which the results were discussed; is that right?  
 23 MR. SEFERIAN: Objection. The misstates the  
 24 witness' testimony.  
 25 THE WITNESS: I do not recall such meetings.

1 Q. BY MR. ROSENBAUM: Okay. Did the Department --  
 2 upon receipt and review of the reports, did the  
 3 Department take any actions that you're aware of?  
 4 MR. SEFERIAN: Objection. Assumes facts not in  
 5 evidence. Vague and ambiguous as to "take any actions."  
 6 Overly broad. Vague as to time.  
 7 THE WITNESS: Mr. Rosenbaum, I think it would  
 8 help me to get a sense of exactly what you're seeking  
 9 from your question.  
 10 Q. BY MR. ROSENBAUM: What I'm interested in is  
 11 having received the report and considered the reports,  
 12 to your knowledge, did the Department respond in any way  
 13 to those reports?  
 14 MR. VIRJEE: Objection. Vague and ambiguous as  
 15 to "respond."  
 16 MR. SEFERIAN: Assumes facts not in evidence.  
 17 THE WITNESS: The answer is no, the Department  
 18 would respond in relationship to those that would be  
 19 under the direct control and responsibilities of the  
 20 Department. The reports have praised consistently the  
 21 overall development and implementation of the exam,  
 22 which are the responsibilities of the Department of  
 23 Education.  
 24 Q. BY MR. ROSENBAUM: To your knowledge, did the  
 25 State Board have any response to the HumRRO reports?



1 MR. VIRJEE: Objection. Vague and ambiguous as  
2 to "response."  
3 MR. SEFERIAN: Assumes facts not in evidence.  
4 Vague as to time.  
5 THE WITNESS: Yes.  
6 Q. BY MR. ROSENBAUM: What responses are you aware  
7 of?  
8 A. The reports were received in public meetings,  
9 and the Board had, as I recall -- and I will only state  
10 generally because I don't recall more than that --  
11 positive reactions to the overall development and  
12 implementation of the examination and more sobered  
13 reactions to the status of where our -- where we are  
14 starting from in the multi-year effort to ensure all  
15 students are taught the material they need to learn.  
16 Q. Tell me what that means when you said "more  
17 sobered reactions."  
18 A. Not surprisingly the reports initially  
19 identified some discrepancies between what instruction  
20 and materials students were learning and what the high  
21 school exit exam seeks to ensure that they have learned.  
22 Q. Okay. Any other -- do you know what, if  
23 anything, the State Board did with respect to those  
24 conclusions?  
25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to what they did. Also vague as to time. Also  
2 overbroad.  
3 MR. SEFERIAN: Vague as to "those conclusions."  
4 Assumes facts not in evidence.  
5 THE WITNESS: Mr. Rosenbaum, I don't believe  
6 you're asking the question about potentially the  
7 appropriate agencies.  
8 Q. BY MR. ROSENBAUM: But let's stay with the  
9 State Board. Any response you're aware of?  
10 MR. VIRJEE: Same objections.  
11 THE WITNESS: I'm not aware of any specific  
12 authorities the State Board of Education would have to  
13 have a response that would result in action.  
14 Q. BY MR. ROSENBAUM: When you said "appropriate  
15 agencies," what were you thinking of?  
16 MR. SEFERIAN: Objection. Calls for  
17 inadmissible legal opinion.  
18 THE WITNESS: The high school exit examination  
19 is a success story because the governor and legislature,  
20 this is my personal opinion, have responded well to  
21 ensuring that students have opportunities to learn the  
22 material the high school exit examination seeks to have  
23 them learn, whether it is providing more teachers and  
24 incentives to teachers to teach algebra or it's creating  
25 a thoughtful study as AB 1609 creates, whether it is to

1 provide additional professional opportunities for  
2 teachers, whether it is to provide additional  
3 instructional materials leading up and covering the  
4 material of the high school exit examination. The State  
5 has been very strong in its support of creating the  
6 appropriate conditions for all students.  
7 Q. BY MR. ROSENBAUM: Any other conditions?  
8 MR. VIRJEE: Objection. Vague and ambiguous as  
9 to "any other conditions."  
10 MR. ROSENBAUM: That you think is important.  
11 MR. SEFERIAN: Vague and ambiguous as to  
12 "important." Calls for an inadmissible opinion. Vague  
13 as to context.  
14 THE WITNESS: Unless you have something  
15 specific, I don't have anything to add.  
16 Q. BY MR. ROSENBAUM: Now, in your last answer,  
17 Mr. Hill, when you use "opportunities to learn" --  
18 MR. VIRJEE: He didn't use opportunity to  
19 learn.  
20 THE WITNESS: I don't think I said that  
21 specifically.  
22 MR. ROSENBAUM: Yes, you did. Could you read  
23 Mr. Hill's answer two answers ago.  
24 MR. VIRJEE: He used those words, but he didn't  
25 use reference to a phrase "opportunity to learn."

1 (Record read.)  
2 Q. BY MR. ROSENBAUM: When you say "more teachers"  
3 and used "algebra," what did you mean by that?  
4 A. The academic standards suggest that we try to  
5 provide instruction for students in algebra beginning in  
6 eighth grade. That is a move forward for our students  
7 in terms of learning expectations, and there was -- I'm  
8 trying to state this correctly. It may be the case that  
9 many middle schools do not have algebra programs, or did  
10 not have at the time of the standards being adopted  
11 algebra programs that were ready to accept students.  
12 Q. How about now, do all middle schools in the  
13 state of California have algebra programs as you've just  
14 defined it?  
15 MR. VIRJEE: Objection. Calls for speculation.  
16 Lacks foundation. Vague and ambiguous as to "algebra  
17 programs."  
18 THE WITNESS: I don't know the answer to that  
19 question.  
20 Q. BY MR. ROSENBAUM: Has the State of  
21 California -- to your knowledge, has the Department or  
22 the State Board undertaken any survey, investigation to  
23 determine whether or not all middle schools have algebra  
24 programs?  
25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to "survey." Also vague as to time and "algebra  
 2 programs."  
 3 MR. SEFERIAN: Compound question. Vague as to  
 4 "investigation."  
 5 THE WITNESS: Mr. Rosenbaum, I don't know the  
 6 answer specifically to your question. I would refer you  
 7 to an examination of the Department CBEDS data which may  
 8 be helpful to you.  
 9 Q. BY MR. ROSENBAUM: Okay. Now, when you talked  
 10 about algebra teachers, what did you mean by algebra  
 11 teachers?  
 12 A. Teachers who provide instruction in algebra.  
 13 MR. VIRJEE: And I don't believe he used the  
 14 word algebra teachers. I think he said teachers to  
 15 teach algebra.  
 16 MR. ROSENBAUM: I appreciate that.  
 17 Q. Do you know, sir, whether or not all students  
 18 in public schools who are in algebra classes have  
 19 teachers who are trained and qualified to teach algebra?  
 20 MR. VIRJEE: Objection. Vague and ambiguous as  
 21 to "trained" and "qualified to teach algebra." And  
 22 calls for speculation.  
 23 MR. SEFERIAN: Lacks foundation.  
 24 THE WITNESS: Mr. Rosenbaum, I'm not sure I  
 25 know how to answer your question because I don't know --

1 the concepts of training and qualifications are broad  
 2 and somewhat nebulous and so I'm not sure I  
 3 understand -- I don't think I know how to respond.  
 4 Q. BY MR. ROSENBAUM: As part of the campaign you  
 5 were describing, didn't you mean to include recruiting  
 6 algebra teachers?  
 7 MR. VIRJEE: Are you asking what he said or are  
 8 you asking --  
 9 MR. ROSENBAUM: If that's what you meant.  
 10 MR. VIRJEE: Objection. Vague and ambiguous as  
 11 to "that's what you meant" about any part of his answer.  
 12 MR. SEFERIAN: Vague as to "campaign." Lacks  
 13 foundation. Calls for inadmissible opinion.  
 14 THE WITNESS: The -- I'm sorry, can you have  
 15 the question read back?  
 16 MR. ROSENBAUM: I can restate it.  
 17 Q. When this process started, wasn't one of the  
 18 concerns of the Department that there were not  
 19 sufficient numbers of trained and competent algebra  
 20 teachers in the public school system? Isn't that right?  
 21 MR. VIRJEE: Objection. Vague and ambiguous as  
 22 to "trained" and "competent."  
 23 MR. SEFERIAN: Vague as to "concerns." Vague  
 24 as to time. Vague as to "algebra teachers." Object to  
 25 the extent it calls for disclosure of privileged

1 communications.  
 2 THE WITNESS: I do not recall there ever being  
 3 a specific opinion from the Department of Education  
 4 about that issue.  
 5 Q. BY MR. ROSENBAUM: To your knowledge, has the  
 6 Department ever undertaken any inquiry or investigation  
 7 to determine whether or not teachers who are teaching  
 8 algebra are trained and competent to teach algebra?  
 9 MR. VIRJEE: Objection. Vague and ambiguous as  
 10 to "trained" and "competent." Calls for speculation.  
 11 And lacks foundation. Also asked and answered.  
 12 MR. SEFERIAN: Assumes facts not in evidence.  
 13 Vague as to "inquiry" and "investigation."  
 14 THE WITNESS: Mr. Rosenbaum, I don't know the  
 15 answer to your question.  
 16 Q. BY MR. ROSENBAUM: Let's go back to what was  
 17 referred to as your long answer, and I'm glad to have it  
 18 read back to you if you'd like.  
 19 When you used the phrase "opportunities to  
 20 learn" in that answer, Mr. Hill, do you have an opinion  
 21 as to whether or not all public school students in the  
 22 state of California have equal opportunities to learn?  
 23 MR. VIRJEE: And I'm going to object. It  
 24 misstates his testimony. He didn't use the phrase  
 25 opportunity to learn, he used the phrase students have

1 the opportunity to learn material the exam seeks to have  
 2 them learn.  
 3 MR. ROSENBAUM: Within that context.  
 4 MR. SEFERIAN: Objection. No foundation.  
 5 Overly broad. Incomplete and improper hypothetical  
 6 question. Lacks foundation. Calls for an inadmissible  
 7 opinion.  
 8 THE WITNESS: I'm not sure I understand what  
 9 you mean by "equal."  
 10 Q. BY MR. ROSENBAUM: The phrase "equal  
 11 opportunity to learn," is that new to you?  
 12 MR. VIRJEE: Objection. Vague and ambiguous as  
 13 to "equal opportunity to learn." Also calls for  
 14 speculation. And to the extent you're asking the legal  
 15 standard, calls for a legal conclusion. Also vague as  
 16 to context.  
 17 THE WITNESS: The term as you've described it  
 18 is new to me.  
 19 Q. BY MR. ROSENBAUM: Okay. And if equal means  
 20 the same opportunities, that some students don't have  
 21 greater opportunities than other students, do you have  
 22 an opinion as to whether or not all public school  
 23 students in the state of California have equal  
 24 opportunities to learn the material as you've defined  
 25 that fully in your answer?

1 MR. VIRJEE: Objection. Vague and ambiguous as  
2 to "same." Also calls for speculation.

3 MR. SEFERIAN: No foundation. Calls for an  
4 inadmissible opinion. Vague and ambiguous as to  
5 "greater" and "equal" and "opportunities." Lacks  
6 foundation.

7 THE WITNESS: Mr. Rosenbaum, I don't think I  
8 can answer your question as you've asked it. I would  
9 suggest -- however, that the high school exit  
10 examination, it's hard to answer your question as you've  
11 referred to it in terms of equal because one may infer  
12 from that that at any one given point in time there is  
13 something called equal.

14 The fact is the premise of the high school exit  
15 exam is far different. It is that over a long period of  
16 time with multiple opportunities students will have an  
17 opportunity to demonstrate that they've learned the  
18 material the exam seeks for them to learn.

19 Q. BY MR. ROSENBAUM: What I'm concerned about --  
20 I appreciate your answer. But what I'm concerned about  
21 is in the answer that you gave you talked about a number  
22 of different components, you talked about instructional  
23 programs, you talked about additional professional  
24 developments, you talked about teachers, you talked  
25 about materials.

1 development of teachers. It's nonsensical. You're  
2 taking elements he used for telling you something that  
3 the legislature did and trying to apply them to an  
4 opportunity to learn. He's not done that. It's  
5 nonsensical.

6 MR. SEFERIAN: Lacks foundation. Calls for  
7 speculation. Vague and ambiguous as to "access." Calls  
8 for an inadmissible opinion.

9 THE WITNESS: Mr. Rosenbaum, I'm searching for  
10 a way to answer your question, and I can't find one.

11 Q. BY MR. ROSENBAUM: You were involved in the  
12 development of the science standards, you told us that  
13 yesterday, correct?

14 A. Yes.

15 Q. Do any of the science standards for any of the  
16 grades involve use of science labs?

17 MR. SEFERIAN: Objection. Lacks foundation.  
18 Vague as to time. Vague and ambiguous as to "science  
19 labs." Calls for speculation.

20 THE WITNESS: The science standards, per se,  
21 like all the standards, do not call for a specific  
22 instructional implementation strategy.

23 Q. BY MR. ROSENBAUM: Do they contemplate access of  
24 students to labs?

25 MR. VIRJEE: Objection. Vague and ambiguous as

1 Did I understand you correctly when you talked  
2 about those matters?

3 MR. VIRJEE: That calls for speculation as to  
4 what you might have understood.

5 Q. BY MR. ROSENBAUM: Those are the matters you  
6 mentioned, right?

7 MR. SEFERIAN: Objection. Calls for  
8 speculation. The testimony speaks for itself.

9 MR. VIRJEE: In that context he was talking  
10 about what the state legislature and the governor has  
11 done. He wasn't talking about anything else.

12 MR. ROSENBAUM: Go ahead.

13 MR. VIRJEE: Did he list those things? His  
14 testimony will speak for itself.

15 THE WITNESS: My testimony did refer to those  
16 elements, that's correct.

17 Q. BY MR. ROSENBAUM: And do you have a -- do you  
18 have an opinion as to whether or not with respect to  
19 those elements all public school students in the state  
20 of California have equal opportunities, equal access to  
21 those elements?

22 MR. VIRJEE: Objection. Vague and ambiguous as  
23 to "those elements." Those elements included  
24 professional development to teachers, so I don't know  
25 how students could have access to professional

1 to "contemplate." Assumes standards can contemplate.

2 MR. SEFERIAN: Calls for speculation.

3 THE WITNESS: Standards include investigation  
4 and experimentation learning expectations.

5 Q. BY MR. ROSENBAUM: Okay. With respect to that,  
6 do they include -- do they, in your mind, contemplate  
7 students doing lab work?

8 MR. VIRJEE: Objection. Calls for speculation.  
9 Lacks foundation as to what standards contemplate, if  
10 that's even physically possible.

11 MR. SEFERIAN: Vague and ambiguous as to "lab  
12 work."

13 THE WITNESS: Mr. Rosenbaum, I really don't  
14 know how to answer your question because you're asking  
15 for -- there are any number of ways that the standards  
16 or the learning expectations could be implemented at a  
17 local school level, and certainly science laboratories  
18 may be a predominate or frequent way of doing that. I  
19 do not know if there are other ways for students to  
20 conduct or to learn those materials.

21 Q. BY MR. ROSENBAUM: Okay. Do you have  
22 knowledge, Mr. Hill, as to whether or not all high  
23 schools, public schools in the state of California  
24 afford access to science labs for students?

25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to "science labs" and "access." Also calls for  
2 speculation. Lacks foundation.

3 MR. SEFERIAN: Vague and ambiguous as to  
4 "afford." Vague as to time.

5 THE WITNESS: Mr. Rosenbaum, I heard you say  
6 both high school and all schools.

7 MR. ROSENBAUM: I'm talking about high schools  
8 right now.

9 THE WITNESS: I don't know the answer to that  
10 question.

11 Q. BY MR. ROSENBAUM: Do you know if that's ever  
12 been surveyed or looked into by the Department?

13 MR. SEFERIAN: Objection. Assumes facts not in  
14 evidence. Vague and ambiguous as to "survey" and  
15 "looked into." Vague as to time.

16 THE WITNESS: I don't know the answer to that  
17 question.

18 Q. BY MR. ROSENBAUM: How about in middle schools,  
19 do you know if all public school students in middle  
20 schools have access to science labs?

21 MR. VIRJEE: Objection. Calls for speculation.  
22 Lacks foundation. Vague and ambiguous as to "access"  
23 and the "science labs."

24 THE WITNESS: I don't know.

25 Q. BY MR. ROSENBAUM: Do you know if that's ever

1 Q. BY MR. ROSENBAUM: What's your understanding of  
2 what that means?

3 A. Lab kits are an instructional material that can  
4 be used by teachers and students to conduct experiments  
5 and other science activities.

6 Q. To your knowledge, are there some students,  
7 public school students in the state of California who  
8 receive lab kits in high school?

9 MR. VIRJEE: Objection. Calls for speculation.  
10 Lacks foundation. Vague and ambiguous as to "receive  
11 lab kits."

12 THE WITNESS: I don't know the answer to that  
13 question.

14 Q. BY MR. ROSENBAUM: Or have access to lab kits?

15 MR. VIRJEE: Same objections, and also vague  
16 and ambiguous as to "access to."

17 THE WITNESS: I don't know the answer to that  
18 question.

19 Q. BY MR. ROSENBAUM: Do you know whether some  
20 students have access to lab kits and others do not in  
21 the public high schools in California?

22 MR. VIRJEE: Objection. Vague and ambiguous as  
23 to "access to" and "lab kits." Also compound.

24 MR. SEFERIAN: Vague as to time.

25 THE WITNESS: Mr. Rosenbaum, I don't know the

1 been an investigation by anyone in the Department?

2 MR. SEFERIAN: Objection. Assumes facts not in  
3 evidence.

4 THE WITNESS: I don't know.

5 Q. BY MR. ROSENBAUM: Or anyone in the State  
6 Board?

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

9 THE WITNESS: I'm sorry, the reference to the  
10 State Board is?

11 Q. BY MR. ROSENBAUM: To your knowledge, has there  
12 ever been a discussion at the State Board, we ought to  
13 have an investigation as to whether or not all middle  
14 school students have access to science labs?

15 MR. VIRJEE: Objection. Vague and ambiguous as  
16 to "access" and "science labs."

17 MR. SEFERIAN: Vague as to "investigation."  
18 Assumes facts not in evidence.

19 THE WITNESS: I do not recall such a  
20 conversation.

21 Q. BY MR. ROSENBAUM: Are you familiar with the  
22 phrase "lab kit"?

23 MR. SEFERIAN: Objection. Vague and ambiguous  
24 as to context.

25 THE WITNESS: I am.

1 answer to that question. And I should explain that the  
2 state of California does not have an approved  
3 instructional material list for high school, and so they  
4 would not be -- there would not be a record at the state  
5 level of such use.

6 Q. BY MR. ROSENBAUM: Okay. Has there been any  
7 inquiry or investigation by anyone at the state level,  
8 so far as you know, to find out if some students receive  
9 lab kits in public high schools and others do not?

10 MR. VIRJEE: Objection. Vague and ambiguous as  
11 to "receive lab kits." Also compound. Assumes those  
12 are mutually exclusive.

13 THE WITNESS: I do not know of such an inquiry.

14 Q. BY MR. ROSENBAUM: Same thing regarding the  
15 State Board of Education?

16 MR. SEFERIAN: Same objections. Lacks  
17 foundation. Assumes facts not in evidence.

18 THE WITNESS: The State Board does not have  
19 such responsibilities.

20 Q. BY MR. ROSENBAUM: Do you think the Department  
21 does?

22 MR. SEFERIAN: Objection. Calls for an  
23 inadmissible legal opinion. Calls for speculation.  
24 Lacks foundation.

25 THE WITNESS: No, I don't.

1 Q. BY MR. ROSENBAUM: Okay. And why is that?  
 2 MR. SEFERIAN: Objection. Lacks foundation.  
 3 Calls for speculation. Calls for an inadmissible legal  
 4 opinion. Vague and ambiguous as to "that."  
 5 THE WITNESS: In the area of instructional  
 6 materials, the State Department of Education serves as  
 7 staff to the State Board of Education. State Board of  
 8 Education's oversight responsibility for instructional  
 9 materials is for K-8.  
 10 Q. BY MR. ROSENBAUM: Okay. To your knowledge,  
 11 has there ever been any investigation by the Department  
 12 as to whether or not middle school students have access  
 13 to labs kits?  
 14 MR. SEFERIAN: Objection. Assumes facts not in  
 15 evidence. Vague and ambiguous as to "investigation" and  
 16 "lab kits." Calls for speculation.  
 17 MR. VIRJEE: Also vague and ambiguous as to  
 18 "access to."  
 19 THE WITNESS: Mr. Rosenbaum, I would suggest  
 20 that your inquiry might be better served if you directed  
 21 it towards whether lab kits are approved instructional  
 22 materials for middle schools.  
 23 Q. BY MR. ROSENBAUM: Okay. But that's not my  
 24 question right now.  
 25 A. Then I cannot answer your question.

1 Q. Do you know if there are any middle school  
 2 students in public schools in California who receive lab  
 3 kits?  
 4 MR. VIRJEE: Objection. Vague and ambiguous as  
 5 to "receive." Also compound. Assumes that the receipt  
 6 or nonreceipt is mutually exclusive.  
 7 MR. SEFERIAN: Lacks foundation.  
 8 THE WITNESS: I don't know.  
 9 Q. BY MR. ROSENBAUM: Or whether or not there are  
 10 any science teachers in middle schools in California  
 11 public schools --  
 12 MR. VIRJEE: Science teachers?  
 13 MR. ROSENBAUM: Science teachers.  
 14 Q. -- who assign projects that require lab kits?  
 15 MR. VIRJEE: Objection. Calls for speculation.  
 16 Lacks foundation. Also vague and ambiguous as to  
 17 "require lab kits."  
 18 THE WITNESS: I don't know the answer to that  
 19 question.  
 20 Q. BY MR. ROSENBAUM: Do you know whether or not  
 21 lab kits are part of the approved instructional  
 22 materials for the middle school?  
 23 MR. VIRJEE: Objection. Vague and ambiguous as  
 24 to "approved instructional materials."  
 25 MR. SEFERIAN: Vague and ambiguous as to "lab

1 kits."  
 2 THE WITNESS: Mr. Rosenbaum, I'm not certain of  
 3 the answer to that question. I would refer you to the  
 4 Department's website where there is a list of approved  
 5 instructional materials for science.  
 6 Q. BY MR. ROSENBAUM: With respect to any of those  
 7 materials that are on the website, Mr. Hill, do you know  
 8 if all students in the state of California, all public  
 9 school students have access to those materials?  
 10 MR. VIRJEE: Objection. Calls for speculation.  
 11 Lacks foundation. Also vague and ambiguous as to  
 12 "access."  
 13 THE WITNESS: I don't know the answer to your  
 14 question.  
 15 Q. BY MR. ROSENBAUM: Okay. And if I change -- do  
 16 you know if there's ever been any inquiry or  
 17 investigation by anyone at the Department or State Board  
 18 to try to find out that answer, whether or not all  
 19 students in public schools in the state of California  
 20 have access to those instructional materials?  
 21 MR. SEFERIAN: Objection. Assumes facts not in  
 22 evidence. Vague and ambiguous as to "inquiry" and  
 23 "investigation." Compound question.  
 24 MR. VIRJEE: Also vague and ambiguous as to  
 25 "access."

1 THE WITNESS: Mr. Rosenbaum, I would refer you  
 2 to a couple of activities that we undertake to provide  
 3 some assurances on that. One is that state law requires  
 4 school district boards of education to conduct an annual  
 5 public hearing with regard to the availability and  
 6 extent of use of their standards-aligned instructional  
 7 materials, that's 60191. There are assurances that are  
 8 required that the Department of Education and the State  
 9 Board receive from district superintendents with regard  
 10 to the use of standards-based materials in classrooms.  
 11 I'm pretty certain it is AB 466, not SB 466 but  
 12 AB 466 which went into effect this year which directs  
 13 the purchasing and distribution of standards-based  
 14 materials for students within certain time frames.  
 15 Q. BY MR. ROSENBAUM: Do you have any problem with  
 16 any of those requirements, Mr. Hill?  
 17 MR. SEFERIAN: Objection. Vague and ambiguous  
 18 as to "problem." Overly broad.  
 19 MR. VIRJEE: Compound.  
 20 Q. BY MR. ROSENBAUM: Personally do you have any  
 21 problems with those requirements? Do you support those  
 22 requirements?  
 23 MR. VIRJEE: Objection. Vague and ambiguous  
 24 "support those requirements," and compound.  
 25 MR. SEFERIAN: Overly broad. Vague and

1 ambiguous.

2 THE WITNESS: I'm deliberating on your  
3 question, Mr. Rosenbaum, because those all come -- they  
4 come from different angles. One of them is a local  
5 requirement with an assurance provided to the State of  
6 California, one is part of a waiver process, and then  
7 another one is a requirement from the State that is an  
8 affirmative obligation on districts to provide  
9 information about the extent of the use of  
10 standards-based materials.

11 Q. BY MR. ROSENBAUM: Mr. Hill, let me see if I  
12 can clarify a little bit. The various assurances you  
13 mentioned to me, so far as you know, Mr. Hill, do any of  
14 those assurances include an assurance that all students  
15 in a district have access to instructional materials?

16 MR. VIRJEE: To the extent you're asking what  
17 the statute requires, the statutes speak for themselves.  
18 Also vague and ambiguous as to "assurances" and  
19 "access."

20 MR. SEFERIAN: Vague and ambiguous as to  
21 "instructional materials" and "various assurances."

22 THE WITNESS: Mr. Rosenbaum, I actually would  
23 need some clarification from you about what you mean by  
24 "instructional materials." Do you mean  
25 standards-aligned instructional materials?

1 MR. ROSENBAUM: Yes, I do.

2 MR. SEFERIAN: Same objections.

3 THE WITNESS: Can you repeat the first part of  
4 your question.

5 Q. BY MR. ROSENBAUM: Do those assurances require  
6 the districts to say all kids have access to  
7 standards-aligned instructional materials?

8 MR. VIRJEE: Objection. Compound. Also object  
9 vague and ambiguous as to "requirement." And to the  
10 extent you're asking what the standards specifically  
11 state, they speak for themselves. Also calls for a  
12 legal conclusion.

13 MR. SEFERIAN: Vague and ambiguous as to "those  
14 assurances."

15 THE WITNESS: Mr. Rosenbaum, I can't answer  
16 with any specificity. I would refer you to the  
17 statutory language.

18 Q. BY MR. ROSENBAUM: Have you ever heard of an  
19 instance where a student didn't have access to  
20 standards-aligned instructional materials?

21 MR. VIRJEE: Objection. Vague and ambiguous as  
22 to time.

23 MR. SEFERIAN: Vague and ambiguous as to  
24 "access" and "instructional materials."

25 THE WITNESS: Mr. Rosenbaum, I don't know how

1 to answer your question.

2 Q. BY MR. ROSENBAUM: What's the problem?

3 MR. SEFERIAN: Objection. Calls for  
4 speculation. Argumentative.

5 THE WITNESS: Your question carries some  
6 assumptions behind it that I think I need some  
7 clarification from you about.

8 Q. BY MR. ROSENBAUM: Okay. Tell me what you need  
9 some clarification on.

10 A. I think you're asking me to infer that there is  
11 some -- that there's an importance attached to some  
12 state level of oversight on instructional materials, and  
13 I need to get a little bit more information from you  
14 about what you mean.

15 Q. I'm not interested, Mr. Hill, whether it's  
16 important or it's not important, I just want to know if  
17 it happens.

18 My question is, have you ever heard of a  
19 student not having access to standards-aligned  
20 instructional materials?

21 MR. VIRJEE: Objection. Vague as to time.  
22 Also vague and ambiguous as to "standards-aligned  
23 instructional materials" and "access."

24 MR. SEFERIAN: Asked and answered.

25 THE WITNESS: I can't provide any -- I don't

1 recall any specific report or study.

2 Q. BY MR. ROSENBAUM: Would it concern you in  
3 your --

4 MR. VIRJEE: I thought you weren't interested  
5 in whether he thought it was important or not.

6 Q. BY MR. ROSENBAUM: Would it concern you in your  
7 capacity, Mr. Hill, if you'd learned that there were  
8 students who didn't have access to standards-aligned  
9 instructional material?

10 MR. VIRJEE: Objection. Vague as to time.  
11 Vague as to "concern." Vague as to "access," and vague  
12 as to "standards-aligned instructional materials."

13 MR. SEFERIAN: Irrelevant.

14 THE WITNESS: Mr. Rosenbaum, I can only answer  
15 not necessarily.

16 Q. BY MR. ROSENBAUM: Can you think of any  
17 circumstances where it would concern you?

18 MR. VIRJEE: Objection. Calls for speculation.  
19 Lacks foundation, and the same objections as to the form  
20 of the question.

21 MR. SEFERIAN: Incomplete and improper  
22 hypothetical question. Vague and ambiguous. Overly  
23 broad. Vague as to time.

24 THE WITNESS: The obligation of a school  
25 district for a student is to provide a standards-based

1 instructional program. How the district does that could  
2 be through the use of standards-aligned instructional  
3 materials that are adopted by the state, it could be  
4 through other standards-aligned teaching methods and  
5 strategies and materials. It is not -- therefore I  
6 don't know whether to be alarmed or not based upon what  
7 I think are the assumptions of your question.

8 Q. BY MR. ROSENBAUM: To use your phrase,  
9 Mr. Hill, can you think of any circumstances where you  
10 would be alarmed?

11 MR. SEFERIAN: Objection. Overly broad. Vague  
12 and ambiguous as to "alarmed." Incomplete and improper  
13 hypothetical question. Vague and ambiguous as to  
14 "circumstances." Calls for an inadmissible opinion.

15 THE WITNESS: Mr. Rosenbaum, my concerns would  
16 focus on whether a student is or is not being provided a  
17 standards-based instructional program. That would be  
18 the focus of my concerns.

19 MR. VIRJEE: When you get a chance, Mark, I'd  
20 like to take a break.

21 Q. BY MR. ROSENBAUM: Okay. My question to you  
22 is, can you think of any circumstances where you would  
23 be alarmed if you learned that students did not have  
24 access to standards-based materials aligned -- strike  
25 that -- did not have access to instructional materials

1 Incomplete and improper hypothetical question. Vague  
2 and ambiguous as to "access" and "concern." Lacks  
3 foundation. Calls for inadmissible opinion.

4 THE WITNESS: Yes.

5 Q. BY MR. ROSENBAUM: Why is that?

6 MR. SEFERIAN: Same objections.

7 MR. VIRJEE: Objection. Vague and ambiguous.  
8 Why is what?

9 Q. BY MR. ROSENBAUM: Why would that concern you?

10 MR. SEFERIAN: Same objections.

11 THE WITNESS: The State has made clear that the  
12 learning expectations for every student must be  
13 consistent with students learning grade level standards  
14 in every content area. The State's expectations assume  
15 that students will be provided an instructional program  
16 that is aligned to and consistent with our state  
17 standards. Students not being provided such a program,  
18 that would concern me.

19 Q. BY MR. ROSENBAUM: To your knowledge, are there  
20 public school students in the state of California who do  
21 not have access to standards-based curriculum in  
22 particular subject areas?

23 MR. VIRJEE: He never used the term  
24 "standards-based curriculum." That's your term, not  
25 his. Objection. Calls for speculation. Lacks

1 aligned with state standards?

2 MR. VIRJEE: Objection. Asked and answered.  
3 Incomplete hypothetical. Vague and ambiguous as to  
4 "access."

5 MR. SEFERIAN: Vague as to "instructional  
6 materials." Overly broad. Calls for speculation.

7 THE WITNESS: I don't know how to add more  
8 information to my prior answer.

9 Q. BY MR. ROSENBAUM: Okay. If you found out that  
10 students did not have access to a standards-based  
11 curriculum, would that concern you?

12 MR. VIRJEE: Objection. Vague and ambiguous as  
13 to "access" and "standards-based curriculum." Also  
14 vague as to time.

15 MR. SEFERIAN: Incomplete and improper  
16 hypothetical question. Overly broad. Lacks foundation.  
17 Calls for an inadmissible opinion. Vague and ambiguous  
18 as to "concern." Relevance.

19 THE WITNESS: Can you repeat your question,  
20 please.

21 Q. BY MR. ROSENBAUM: I was using your phrase as I  
22 understood it. If you learned that there were students  
23 who did not have access to a standards-based curriculum  
24 in any subject matter, would that concern you?

25 MR. SEFERIAN: Objection. Overly broad.

1 foundation. Vague and ambiguous as to "access" and  
2 "standards-based curriculum."

3 THE WITNESS: I don't know.

4 Q. BY MR. ROSENBAUM: Do you know if the State has  
5 made any effort to determine whether or not there's such  
6 students?

7 MR. VIRJEE: Objection. Calls for speculation.  
8 Lacks foundation. Vague and ambiguous as to effort.

9 THE WITNESS: I do not know the answer to your  
10 question.

11 MR. ROSENBAUM: Let's take a break.

(Recess taken.)

(Mr. Affeldt not present.)

(Exhibit SAD-229 was marked.)

15 Q. BY MR. ROSENBAUM: You doing okay, Mr. Hill?

16 A. Yes.

17 Q. Do you personally have knowledge, Mr. Hill, as  
18 to whether or not all teachers in public schools in the  
19 state of California have been trained to teach the  
20 content standards in each subject area?

21 MR. VIRJEE: Objection. Vague and ambiguous as  
22 to "trained to teach the content standards."

23 MR. SEFERIAN: Objection. Lacks foundation.  
24 Calls for speculation.

25 THE WITNESS: Mr. Rosenbaum, I'll take your

1 question at its broadest. The answer is that the State  
 2 has provided state frameworks as they've been produced  
 3 to every teacher in the state of California, covering  
 4 English, mathematics, history and science are on the  
 5 way. And beyond that, there are provided professional  
 6 development days for teachers as well as professional  
 7 development institutes which have trained some number of  
 8 tens of thousands of teachers.

9 Q. BY MR. ROSENBAUM: But do you know for a fact  
 10 whether or not all teachers have been trained in the  
 11 content areas -- content standards in every subject  
 12 area?

13 MR. VIRJEE: He's asking you ridiculous  
 14 questions. Do you personally know that?

15 MR. ROSENBAUM: That's not appropriate.

16 MR. VIRJEE: It is completely appropriate. You  
 17 asked do you personally know that. If you want to ask  
 18 ridiculous questions, I'll characterize them as they  
 19 should be characterized.

20 He's asking did you personally talk to every  
 21 teacher, do you know that that's the case?

22 MR. SEFERIAN: Objection. Vague and ambiguous  
 23 as to "trained" and "content standards."

24 MR. ROSENBAUM: That isn't my question. Go  
 25 ahead.

1 THE WITNESS: I think it all hinges upon your  
 2 sense of what trained means, because I would answer that  
 3 the State has provided instructional guidance in the  
 4 content standards to every teacher in the state of  
 5 California.

6 Q. BY MR. ROSENBAUM: Do you know if every teacher  
 7 has received that training?

8 MR. VIRJEE: He's asking for your personal  
 9 knowledge about what every individual teacher in the  
 10 state has received.

11 MR. SEFERIAN: Objection. Lacks foundation.

12 THE WITNESS: I don't know the answer to that  
 13 question.

14 Q. BY MR. ROSENBAUM: Do you know if anyone in the  
 15 Department or the State Board has surveyed to determine  
 16 whether or not teachers have actually been trained with  
 17 respect to these content areas?

18 MR. SEFERIAN: Objection. Assumes facts not in  
 19 evidence. Compound question. Vague and ambiguous as to  
 20 "trained." Overly broad. Lacks foundation.

21 THE WITNESS: Mr. Rosenbaum, I'm hesitating in  
 22 answering your question because there's two ways of  
 23 looking at it, one is whether I have personal knowledge,  
 24 which I do not, the other one is the extent to which you  
 25 are asking a question about something that either is a

1 specific point in time instruction or whether it yields  
 2 a specific result, and those could be very different  
 3 answers.

4 Q. BY MR. ROSENBAUM: Help me understand the  
 5 distinction you're making.

6 (Mr. Affeldt entered the room.)

7 THE WITNESS: The bottom line that we have in  
 8 terms of our accountability system is that we want to  
 9 see students improve their learning in relation to our  
 10 content standards. That is happening.

11 If that is -- if one can infer from the  
 12 improvement in test scores that teachers are teaching  
 13 our standards and students are learning our standards,  
 14 then the answer would be yes. If it is in reference to  
 15 my specific knowledge about every teacher having  
 16 specific training, the answer is no.

17 Q. BY MR. ROSENBAUM: If test scores are not  
 18 improving, would you infer to the contrary?

19 MR. SEFERIAN: Objection. Overly broad.  
 20 Incomplete and improper hypothetical question. Lacks  
 21 foundation. Calls for an inadmissible opinion. Vague  
 22 and ambiguous as to "test scores."

23 MR. VIRJEE: Calls for speculation.

24 THE WITNESS: I don't know the answer to that  
 25 question.

1 Q. BY MR. ROSENBAUM: The meeting or meetings at  
 2 which the four individuals spoke, Mr. Hill, was there  
 3 discussion there about how to defend the high school  
 4 exit exam against a legal challenge based on opportunity  
 5 to learn?

6 MR. SEFERIAN: Objection. That calls for  
 7 information under the official information and  
 8 attorney/client privilege and the deliberative process  
 9 privilege. To the extent those privileges apply, I  
 10 object to the question.

11 THE WITNESS: Mr. Rosenbaum, I would assert a  
 12 privilege on that.

13 Q. BY MR. ROSENBAUM: What privilege are you going  
 14 to assert?

15 MR. SEFERIAN: We've just asserted the  
 16 privilege of attorney/client privilege and deliberative  
 17 process, official information privilege.

18 Q. BY MR. ROSENBAUM: What was said at that  
 19 meeting, Mr. Hill?

20 MR. SEFERIAN: I'll object and instruct the  
 21 witness not to answer. That calls for privileged  
 22 information.

23 THE WITNESS: I won't answer that question.

24 Q. BY MR. ROSENBAUM: Did you ever attend a public  
 25 meeting at which Ms. Borque, Ms. Phillips, Mr. Fisher or



1 Mr. Haertel spoke, or any combination of them?  
 2 A. Yes.  
 3 Q. What did they say at that public meeting?  
 4 MR. VIRJEE: Objection. Compound.  
 5 THE WITNESS: I do not recall the specifics of  
 6 any presentations they may have made, but I would refer  
 7 you to State Board minutes at which public presentations  
 8 may have been made.  
 9 Q. BY MR. ROSENBAUM: Can you remember a single  
 10 thing that Ms. Borque said?  
 11 MR. VIRJEE: At the public meeting?  
 12 MR. ROSENBAUM: Yeah.  
 13 THE WITNESS: I cannot.  
 14 Q. BY MR. ROSENBAUM: Or Ms. Phillips?  
 15 A. I would refer you to the minutes of those State  
 16 Board meetings, because Ms. Phillips did speak to some  
 17 of these issues that you're referring to.  
 18 Q. My question is, what do you recall her saying?  
 19 MR. VIRJEE: If you don't recall, you can just  
 20 tell him that.  
 21 THE WITNESS: I don't recall the specifics of  
 22 her presentation, except to the extent that she spoke  
 23 about litigation from Florida and Texas.  
 24 Q. BY MR. ROSENBAUM: Do you recall anything  
 25 specifically she said?

1 MR. VIRJEE: Other than what he just said?  
 2 MR. ROSENBAUM: Yes.  
 3 THE WITNESS: I believe I answered that. Her  
 4 presentations included some reference points to  
 5 litigation in Texas and Florida, and I think that's all  
 6 I can recall with any specificity.  
 7 Q. BY MR. ROSENBAUM: Can't recall any of the  
 8 substance?  
 9 MR. VIRJEE: Objection. Asked and answered  
 10 twice now. He's told you that's what he recalls.  
 11 THE WITNESS: No.  
 12 Q. BY MR. ROSENBAUM: How about Mr. Fisher, did he  
 13 speak at these meetings?  
 14 A. I do not recall Mr. Fisher or Mr. Haertel being  
 15 present for those public conversations.  
 16 Q. Any other public occasion that you recall any  
 17 or all of those four persons speaking?  
 18 A. I do not recall any other.  
 19 Q. Have you read anything written by any of these  
 20 persons, Borque, Phillips, Fisher or Haertel?  
 21 A. This is in reference to your specific question  
 22 about opportunity to learn?  
 23 Q. I just want to know what they said, if you  
 24 remember anything that they've said.  
 25 MR. VIRJEE: That's a different question. Your

1 question is have you read anything about them, and all  
 2 he's asking is are you limiting it to a particular topic  
 3 or anything they've ever written.  
 4 MR. ROSENBAUM: Anything they've ever written.  
 5 MR. VIRJEE: Have you read anything they've  
 6 ever written?  
 7 THE WITNESS: I know that I have read materials  
 8 from Ms. Phillips. I don't recall the specifics of that  
 9 information. I know that she has published articles and  
 10 I've seen those articles.  
 11 Q. BY MR. ROSENBAUM: Do you remember anything  
 12 from those articles?  
 13 A. I recall that she in one article discussed her  
 14 role in defending the State of Texas in litigation over  
 15 its high-stakes assessment. I don't recall the  
 16 specifics of it other than what she described as her  
 17 role.  
 18 Q. Do you remember anything of substance about  
 19 what she said about how the defense was or what needed  
 20 to be defended, how to prepare an exam to protect it  
 21 from such challenges?  
 22 MR. VIRJEE: Objection to the extent this seeks  
 23 him to recount what the article said. The article  
 24 speaks for itself.  
 25 THE WITNESS: I don't think I could add

1 anything to help you on that.  
 2 Q. BY MR. ROSENBAUM: How about the others?  
 3 A. I don't recall ever reading materials from  
 4 them.  
 5 Q. Okay. In any of the public meetings was any  
 6 assessment presented as to the susceptibility of the  
 7 California high school exit exam to challenge?  
 8 MR. VIRJEE: Objection. Vague and ambiguous as  
 9 to "susceptibility."  
 10 THE WITNESS: Yes.  
 11 Q. BY MR. ROSENBAUM: What was said?  
 12 A. Ms. Phillips, among others -- Ms. Phillips  
 13 presented to the State Board a concern that the  
 14 California high school exit exam had not -- because it  
 15 was a voluntary exam in its first year, did not include  
 16 a universal field test population. I'll leave it at  
 17 that.  
 18 Q. What conclusions did she draw from that?  
 19 MR. SEFERIAN: Objection. Calls for  
 20 speculation.  
 21 MR. VIRJEE: It also assumes facts not in  
 22 evidence. It assumes that she drew conclusions from it.  
 23 THE WITNESS: Her presentation suggested that  
 24 there could be -- that concerns could be raised about  
 25 the establishment of a cut score without a universal

1 field test population.

2 Q. BY MR. ROSENBAUM: Do you know what, if  
3 anything, was done in response to the expression of  
4 those concerns?

5 MR. SEFERIAN: Objection. Overly broad. Vague  
6 and ambiguous as to "response." Vague as to time.  
7 Lacks foundation.

8 THE WITNESS: If you could help me in terms of  
9 a more specific question.

10 Q. BY MR. ROSENBAUM: Hearing those concerns  
11 expressed, to your knowledge, did the State Board or the  
12 Department undertake any actions?

13 MR. SEFERIAN: Objection. Assumes facts not in  
14 evidence. Compound question. Vague and ambiguous as to  
15 "undertake any actions."

16 MR. VIRJEE: Also calls for speculation as to  
17 what actions may have been taken as a result of hearing  
18 that.

19 THE WITNESS: Yes.

20 Q. BY MR. ROSENBAUM: What was done?

21 MR. SEFERIAN: Same objections.

22 THE WITNESS: The State Board of Education and  
23 state superintendent pursued clarifications to the high  
24 school exit exam legislation in SB 84 and then in AB  
25 1609 to provide for -- to provide for a study and

1 discussions of those State Board meetings.

2 Q. BY MR. ROSENBAUM: I'm concerned now about --  
3 let me focus on the private meeting. To your knowledge,  
4 were there any actions taken in response to those  
5 private meetings?

6 MR. VIRJEE: Same objections. Vague and  
7 ambiguous as to "actions taken." Calls for speculation  
8 as to the cause and effect, and also invades the  
9 attorney/client privilege and the official information  
10 privilege to the extent the disclosure of any such  
11 actions would indicate what was discussed at those  
12 meetings.

13 THE WITNESS: Mr. Rosenbaum, we serve as public  
14 agencies. Action is defined by actions adopted by the  
15 State Board of Education, and I would direct you to  
16 their actions.

17 Q. BY MR. ROSENBAUM: That's your full and  
18 complete answer?

19 A. Yes.

20 Q. Mr. Hill, let's -- we've had marked as SAD-228  
21 a document which you kindly provided me this morning.  
22 It's a three-page document, and on the front page it  
23 says Scott Hill. I'm going to place that in front of  
24 you and supply counsel with copies of it.

25 Take a look at it, Mr. Hill, and see if you can

1 evaluation of the examination in 2002 regarding whether  
2 the entire -- whether the -- whether high stakes were  
3 appropriate for the class of 2004 as is directed by the  
4 current legislation.

5 Q. BY MR. ROSENBAUM: Is HumRRO undertaking a  
6 study, that study?

7 MR. VIRJEE: The study he just described?

8 MR. ROSENBAUM: Yeah.

9 THE WITNESS: No, there is no contractor yet  
10 contracted with.

11 Q. BY MR. ROSENBAUM: Okay. After the discussion  
12 in the private session that privileges have been  
13 asserted about, did the Department, to your knowledge,  
14 undertake any actions in response to any of the things  
15 that were said in that meeting?

16 MR. VIRJEE: Objection. Vague and ambiguous as  
17 to "undertake any actions." Also calls for speculation  
18 as to the cause and effect, and also calls for the  
19 invasion of the attorney/client privilege and the  
20 official information privilege to the extent it would  
21 disclose the contents of the communications during those  
22 conversations.

23 THE WITNESS: Mr. Rosenbaum, I would --  
24 although I do not recall the specific dates of the State  
25 Board meetings, I would direct you to the public

1 identify it for me.

2 A. You asked me to provide you with a resume,  
3 which is now sitting in front of me.

4 Q. Is this resume current and complete as far as  
5 you know, anything to be added to it?

6 MR. VIRJEE: Objection. Vague and ambiguous as  
7 to "current" and "complete." Calls for speculation as  
8 to what may need to be added to it for any particular  
9 circumstance.

10 THE WITNESS: This is a recently-completed  
11 document.

12 Q. BY MR. ROSENBAUM: Do you know Gordon Radley  
13 (ph.)?

14 A. I know the name.

15 Q. Let me now place in front of you, Mr. Hill, a  
16 document that's been marked SAD-229. It has a cover  
17 sheet with the names of attorneys from O'Melveny and  
18 Meyers, and it says, declaration of Scott Hill in  
19 support of Defendant State of California's motion for  
20 summary adjudication of no duty to police or monitor  
21 district fees. I'm not interested in the cover sheet,  
22 Mr. Hill, I'm just interested in the declaration and the  
23 attachments.

24 Let me put that in front of you and ask you if  
25 you'd look at the second page which begins declaration

1 and attachments. Also supply your counsel with copies,  
2 and all counsel.

3 Mr. Hill, you can take as much time as you'd  
4 like, but let me just ask you at the outset, looking at  
5 the second and third pages of what's been marked as  
6 Exhibit 229 -- the second page beginning declaration of  
7 Scott Hill, I just want you to look right now at those  
8 two pages.

9 Do you recognize that?

10 A. I do.

11 Q. Looking at the second page where there's a  
12 signature line and it says Scott Hill, it's dated  
13 January 10th, and there's an indecipherable scribble.  
14 Is that your signature?

15 MR. VIRJEE: Is that a critical comment?

16 MR. ROSENBAUM: No, it's a compliment.

17 THE WITNESS: That is my signature.

18 Q. BY MR. ROSENBAUM: Were you taught penmanship  
19 in the California public schools?

20 A. I was not.

21 Q. Looking at these two pages, declaration of  
22 Scott Hill on Exhibit 229, Mr. Hill, did you prepare  
23 this document?

24 MR. SEFERIAN: Objection. Vague and ambiguous  
25 as to "prepare." Calls for information protected by the

1 fees."

2 MR. SEFERIAN: Lacks foundation. Calls for an  
3 inadmissible opinion. Calls for speculation. Vague and  
4 ambiguous as to "charging of fees."

5 THE WITNESS: I don't know how to answer your  
6 question as you've asked it.

7 Q. BY MR. ROSENBAUM: Why is that?

8 A. I don't understand. I don't know how to  
9 respond.

10 Q. Do you understand what the phrase "charging of  
11 fees" means?

12 MR. SEFERIAN: Objection. Vague as to context.  
13 Calls for speculation.

14 It's not up to Mr. Hill to define the terms  
15 that are in the questions.

16 THE WITNESS: Mr. Rosenbaum, in my tenure in  
17 this position I have not had the opportunity to deal  
18 with those responsibilities as you suggested, so it  
19 would be difficult for me to answer that the way you  
20 phrased the question.

21 Q. BY MR. ROSENBAUM: Do you know anyone in the  
22 Department who has responsibility with respect to local  
23 school districts and the charging of fees?

24 MR. VIRJEE: Objection. Vague and ambiguous as  
25 to "responsibility" and "charging of fees."

1 attorney/client privilege. Overly broad.

2 THE WITNESS: I don't understand what you mean  
3 by --

4 Q. BY MR. ROSENBAUM: Did you write it? Did you  
5 author this document?

6 MR. SEFERIAN: Objection. Vague and ambiguous  
7 as to "author" and "write." Calls for information  
8 protected by the attorney/client privilege.

9 THE WITNESS: I did not write this.

10 Q. BY MR. ROSENBAUM: Who wrote it, so far as you  
11 know?

12 MR. SEFERIAN: Objection. Calls for  
13 information protected by the attorney/client privilege.  
14 To that extent I'll object. Vague and ambiguous as to  
15 "wrote."

16 THE WITNESS: I'm sorry, I can't answer that  
17 question.

18 Q. BY MR. ROSENBAUM: Because?

19 A. I don't know the answer.

20 Q. Okay. In your capacity as chief deputy  
21 superintendent of public instruction, do you have any  
22 duties and responsibilities with respect to the charging  
23 of fees by local schools or school districts?

24 MR. VIRJEE: Objection. Vague and ambiguous as  
25 to "duties and responsibilities," and also "charging of

1 MR. SEFERIAN: Lacks foundation. Calls for  
2 speculation. Calls for an inadmissible legal opinion.

3 THE WITNESS: Unless you had a specific  
4 example, I don't think I could direct you to somebody.

5 Q. BY MR. ROSENBAUM: In your experience as chief  
6 deputy superintendent of public instruction, Mr. Hill,  
7 have you ever heard of any instances of local school  
8 districts charging fees to students?

9 MR. VIRJEE: Objection. Vague and ambiguous as  
10 to "charging fees."

11 MR. SEFERIAN: Overly broad. Vague as to  
12 context.

13 THE WITNESS: I am not aware of any -- of a  
14 circumstance where there has been a particular finding  
15 of fees being charged.

16 Q. BY MR. ROSENBAUM: Okay. To your knowledge,  
17 has -- have you ever heard of any allegations of local  
18 districts charging fees to students?

19 MR. VIRJEE: Objection. Vague and ambiguous as  
20 to "charging fees."

21 MR. SEFERIAN: Vague and ambiguous as to  
22 "allegations."

23 THE WITNESS: The only allegation that I can --  
24 the only allegation of which I'm aware is the recent one  
25 involving the Gateway charter schools.

1 Q. BY MR. ROSENBAUM: Did you -- have you ever  
 2 read the complaint in this case, Mr. Hill?  
 3 (Mr. Affeldt left the room.)  
 4 THE WITNESS: I'm sorry, you're speaking  
 5 specifically to the Williams case?  
 6 MR. ROSENBAUM: Yes, sir.  
 7 THE WITNESS: Very early on I was provided a  
 8 copy and I read through it, but very early on.  
 9 Q. BY MR. ROSENBAUM: Do you recall if there were  
 10 any allegations about local schools or local school  
 11 districts charging fees?  
 12 MR. VIRJEE: Objection. The complaint speaks  
 13 for itself. Also vague and ambiguous as to "complaint."  
 14 There's a first amended complaint in this case as well.  
 15 MR. ROSENBAUM: Yes, let's make it either the  
 16 first complaint or the amended complaint.  
 17 MR. VIRJEE: Objection. The documents speaks  
 18 for themselves. Calls for speculation. Lacks  
 19 foundation.  
 20 THE WITNESS: I do not recall.  
 21 Q. BY MR. ROSENBAUM: Do you know if there's been  
 22 any investigation by the Department of -- anybody in the  
 23 Department of Education as to whether or not fees are  
 24 charged by any local school districts or local schools?  
 25 Put aside the Gateway charter school, with the exception

1 of that, do you know if there has been any investigation  
 2 or inquiry as to whether or not local school districts  
 3 or local schools charge fees to students by anyone at  
 4 the Department of Education?  
 5 MR. VIRJEE: Objection. Vague and ambiguous as  
 6 to "inquiry" or "investigation," and also vague and  
 7 ambiguous as to charging fees.  
 8 MR. SEFERIAN: Assumes facts not in evidence.  
 9 THE WITNESS: Mr. Rosenbaum, I do not have  
 10 personal knowledge of what you're asking, however, I do  
 11 not know whether such inquiries have been made in the  
 12 Department of Education or not. It could very well be  
 13 that it is matter of -- that as a matter of routine,  
 14 monitoring such inquiries do take place, but I would not  
 15 know about that.  
 16 Q. BY MR. ROSENBAUM: Do you personally have an  
 17 understanding of whether or not local districts can  
 18 charge fees to students or under what circumstances fees  
 19 can or cannot be charged?  
 20 MR. VIRJEE: Objection. Vague and ambiguous as  
 21 to "charge fees." And to the extent you're asking  
 22 whether or not they can legally do so calls for a legal  
 23 opinion which this witness is not competent to give.  
 24 Calls for a legal conclusion.  
 25 MR. SEFERIAN: Lacks foundation. Calls for

1 speculation.  
 2 THE WITNESS: Mr. Rosenbaum, I would suggest --  
 3 I am not an attorney, so I would not be qualified to  
 4 answer that question.  
 5 Q. BY MR. ROSENBAUM: Let me have you turn,  
 6 Mr. Hill, to what's been marked as Exhibit A to your  
 7 declaration in Exhibit 229. Do you see a document  
 8 that -- a several-page document, and the front page in  
 9 the upper left-hand corner it says Delaine Eastin and  
 10 there's a seal of the state of California and then  
 11 there's an October 30, 1997 date? Do you see that on  
 12 the front page?  
 13 A. I do.  
 14 Q. Before today had you ever seen this document?  
 15 A. No.  
 16 Q. And do you have any idea, Mr. Hill, whether or  
 17 not county superintendent -- county school  
 18 superintendents who are presently in office have  
 19 received this exhibit, Exhibit A to your declaration?  
 20 Do you have any idea?  
 21 MR. VIRJEE: Objection. Calls for speculation.  
 22 Lacks foundation. Vague as to time, and also vague as  
 23 to "received."  
 24 THE WITNESS: I don't know the answer to your  
 25 question, but I think you would have to go and inquire

1 as to those county superintendents who were serving at  
 2 the time that this was prepared.  
 3 (Mr. Affeldt entered the room.)  
 4 Q. BY MR. ROSENBAUM: I'm asking today, the county  
 5 superintendents who are there today, January 18th, 2002,  
 6 do you know whether any of those county superintendents  
 7 have this memorandum?  
 8 MR. VIRJEE: Objection. Calls for speculation.  
 9 Lacks foundation.  
 10 THE WITNESS: I do not know.  
 11 Q. BY MR. ROSENBAUM: You'd have to go and ask  
 12 them, right?  
 13 MR. SEFERIAN: Objection. Argumentative.  
 14 MR. ROSENBAUM: I'll withdraw that question.  
 15 Q. How about district school superintendents, do  
 16 you know today, January 18th, whether or not any  
 17 district school superintendents have received this  
 18 memorandum, referring to Exhibit A to your declaration  
 19 in Exhibit 229?  
 20 A. I do not know.  
 21 Q. Do you know if anybody in the Department of  
 22 Education knows the answer to that question?  
 23 MR. SEFERIAN: Objection. Lacks foundation.  
 24 Calls for speculation.  
 25 THE WITNESS: I do not know.

1 Q. BY MR. ROSENBAUM: Okay. Do you know,  
2 Mr. Hill, whether or not principals know the --  
3 principals in public schools throughout the State of  
4 California know whether or not fees can be charged of  
5 students?  
6 MR. VIRJEE: Objection. Calls for speculation.  
7 Lacks foundation. Also vague and ambiguous as to  
8 "whether or not fees can be charged of students." And  
9 to the extent it calls for whether or not students may  
10 legally be charged any particular fees, calls for a  
11 legal conclusion.  
12 THE WITNESS: I do not know.  
13 Q. BY MR. ROSENBAUM: Same thing if I said  
14 teachers?  
15 MR. VIRJEE: Same objections.  
16 THE WITNESS: And same response.  
17 Q. BY MR. ROSENBAUM: And parents?  
18 MR. VIRJEE: Same objections.  
19 THE WITNESS: And same response.  
20 Q. BY MR. ROSENBAUM: And students?  
21 MR. VIRJEE: Same objections.  
22 THE WITNESS: And same response.  
23 Q. BY MR. ROSENBAUM: Do you know if there's been  
24 any effort to inform principals as to what the legal  
25 requirements are with respect to notification -- with

1 respect to the charging of fees to students?  
2 MR. VIRJEE: Objection. Vague as to time.  
3 Also vague and ambiguous as to "effort" and "inform."  
4 MR. SEFERIAN: Assumes facts not in evidence.  
5 THE WITNESS: Mr. Rosenbaum, I am not aware of  
6 any such efforts. It does not mean that -- I don't  
7 know, again, in relationship to our routine monitoring  
8 and compliance efforts or audit efforts that may take  
9 place at local level whether such scrutiny is provided.  
10 Q. By MR. ROSENBAUM: You just don't have any  
11 idea?  
12 A. I don't.  
13 Q. The monitoring that you're talking about, do  
14 you know if as part of that monitoring there's  
15 investigation or inquiry as to whether or not fees are  
16 charged?  
17 MR. VIRJEE: Objection. Asked and answered.  
18 Calls for speculation. Lacks foundation. He's already  
19 told you he doesn't know that.  
20 THE WITNESS: I do not know.  
21 Q. BY MR. ROSENBAUM: Okay. Mr. Hill, I don't  
22 have any more questions about this exhibit.  
23 Mr. Hill, are you familiar with the uniform  
24 complaint procedure?  
25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to "familiar," and in what context.  
2 THE WITNESS: I think I would have to ask you  
3 for some context, Mr. Rosenbaum. I would ask for some  
4 context.  
5 Q. BY MR. ROSENBAUM: With respect to schools --  
6 strike that. I'll withdraw that question.  
7 Have you ever heard of the uniform complaint  
8 procedure?  
9 A. I have.  
10 Q. Do you have any duties and responsibilities  
11 with respect to the uniform complaint procedure?  
12 MR. VIRJEE: Objection. Vague and ambiguous as  
13 to "duties and responsibilities."  
14 MR. SEFERIAN: Overly broad.  
15 MR. VIRJEE: And "uniform complaint procedure."  
16 THE WITNESS: I do not have specific personal  
17 responsibilities. I oversee the division in which those  
18 responsibilities are vested.  
19 Q. BY MR. ROSENBAUM: Which division is that?  
20 A. It's the school and district accountability  
21 division.  
22 Q. The Gateway charter school, what do you know  
23 about fees in Gateway charter schools?  
24 MR. SEFERIAN: Objection. Overly broad.  
25 MR. VIRJEE: Also vague and ambiguous as to

1 "fees."  
2 THE WITNESS: I am only aware of the allegation  
3 that the Gateway charter school was charging tuition.  
4 Q. BY MR. ROSENBAUM: How did you learn about it?  
5 MR. SEFERIAN: Object to the extent it calls  
6 for disclosure of privileged communications.  
7 THE WITNESS: I read the allegation in a  
8 newspaper article.  
9 Q. BY MR. ROSENBAUM: Where is Gateway charter  
10 school, do you know?  
11 A. The Gateway charter school is actually located  
12 in Fresno County, with several satellites throughout the  
13 state.  
14 Q. Gateway is a private corporation, right?  
15 MR. SEFERIAN: Objection. Lacks foundation.  
16 MR. VIRJEE: Also calls for a legal conclusion.  
17 THE WITNESS: I don't know the answer to that  
18 question.  
19 Q. BY MR. ROSENBAUM: Did you do any -- do you  
20 know when you read about this in the newspaper?  
21 A. In the last two weeks.  
22 Q. Okay. Did you read one or more articles?  
23 A. I don't recall how many articles.  
24 Q. Did you do any follow-up having read the  
25 article?

1 MR. SEFERIAN: Objection. Vague and ambiguous  
2 as to "follow-up." Assumes facts not in evidence.  
3 Lacks foundation.

4 THE WITNESS: The State Board of Education  
5 established an agenda item for its January meeting on  
6 the Gateway charter schools. The Fresno Board of  
7 Education representatives attended that State Board  
8 meeting, and two nights ago the Fresno Board of  
9 Education rescinded the Gateway charter.

10 (Mr. Affeldt left the room.)

11 Q. BY MR. ROSENBAUM: Have you ever -- have you  
12 read any complaints submitted pursuant to the uniform  
13 complaint procedure or summaries of those complaints?

14 MR. VIRJEE: Objection. Vague and ambiguous,  
15 and calls for speculation as to whether they were  
16 submitted pursuant to the uniform complaint -- can we  
17 call it UCP -- pursuant to the UCP.

18 Just for the record, Mr. Rosenbaum nodded yes.

19 MR. ROSENBAUM: Generously nodded yes.

20 MR. SEFERIAN: Object to the extent it calls  
21 for the disclosure of privileged communication.

22 THE WITNESS: Yes.

23 Q. BY MR. ROSENBAUM: Okay. How many would you  
24 say? How many UCPs, would you say?

25 MR. VIRJEE: Objection. Vague as to time.

1 THE WITNESS: I don't know.

2 Q. BY MR. ROSENBAUM: Have you ever read any  
3 complaints or summary reports of complaints about  
4 numbers of emergency teachers?

5 MR. SEFERIAN: Object to the extent it calls  
6 for disclosure of privileged communication. Vague and  
7 ambiguous as to "emergency teachers."

8 THE WITNESS: I do not recall any such  
9 complaints.

10 Q. BY MR. ROSENBAUM: Or availability of textbooks  
11 or other basic instructional materials?

12 MR. VIRJEE: Objection. Vague and ambiguous as  
13 to "availability."

14 THE WITNESS: I do not recall any such  
15 complaints.

16 Q. BY MR. ROSENBAUM: Or state of facilities on a  
17 campus?

18 MR. VIRJEE: Objection. Vague and ambiguous as  
19 to "state of facilities."

20 THE WITNESS: I do not recall any such  
21 complaints.

22 Q. BY MR. ROSENBAUM: Or overcrowding?

23 MR. VIRJEE: Objection. Vague and ambiguous as  
24 to "overcrowding."

25 THE WITNESS: I do not recall any such

1 THE WITNESS: You were speaking specifically of  
2 complaints and not of reports; is that correct?

3 Q. BY MR. ROSENBAUM: Tell me your understanding  
4 of the difference.

5 A. You asked the question whether I had either  
6 seen uniform complaints or whether I had seen reports.

7 Q. Right now I'd like to put them together, either  
8 complaints or summaries or reports of the complaints.

9 MR. VIRJEE: So now what's your question, how  
10 many summaries or complaints has he read?

11 MR. ROSENBAUM: Yeah.

12 THE WITNESS: Less than a handful.

13 Q. BY MR. ROSENBAUM: Over what period of time?

14 A. During my tenure in my position.

15 Q. Okay. And did any of the complaints you've  
16 received involve the imposition of fees to students?

17 MR. VIRJEE: Objection. Vague and ambiguous as  
18 to "fees."

19 THE WITNESS: I do not recall any such  
20 complaints.

21 Q. BY MR. ROSENBAUM: Okay. Do you have an  
22 opinion as to whether or not the UCP could be invoked  
23 properly with respect to concerns about fees?

24 MR. VIRJEE: Objection. Calls for speculation.  
25 Lacks foundation. Calls for a legal opinion.

1 complaints.

2 Q. BY MR. ROSENBAUM: Or anything to do with the  
3 quality or competence of teachers?

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

6 THE WITNESS: I do not recall any such  
7 complaints.

8 Q. BY MR. ROSENBAUM: I'm glad to do this one by  
9 one. I'm going to try to streamline it, but I don't  
10 want to confuse you. If you want me to do it one by  
11 one, I'm glad to do it.

12 We just got through talking about availability  
13 of instructional materials, facilities, overcrowding,  
14 emergency teachers, quality or competence of teachers.  
15 With respect to those subject matters, Mr. Hill, do you  
16 have a view or an opinion as to whether or not the UCP  
17 can be properly invoked with respect to any of those  
18 subject areas?

19 MR. VIRJEE: Objection. Calls for speculation.  
20 Lacks foundation. Calls for an expert opinion. To the  
21 extent you're asking for a legal standard as to whether  
22 they can be invoked, calls for a legal opinion which  
23 this witness is not competent to give.

24 MR. SEFERIAN: Vague and ambiguous as to  
25 "properly invoked."

1 THE WITNESS: I do not have sufficient  
 2 knowledge of what can or cannot be included in UCP to  
 3 answer your question.  
 4 Q. BY MR. ROSENBAUM: Okay. Thanks. In the less  
 5 than a handful of complaints that you've looked at or  
 6 summaries of those complaints, can you tell me what the  
 7 subject matters were?  
 8 MR. VIRJEE: Objection. Compound.  
 9 THE WITNESS: The ones that come to mind  
 10 immediately were focused on English learner issues.  
 11 Q. BY MR. ROSENBAUM: And what were those issues  
 12 that you recall?  
 13 A. Access to core curriculum, parental rights  
 14 under 227. Those are the issues that I recall  
 15 immediately.  
 16 Q. Okay. And when you use the phrase "access to  
 17 core curriculum," what do you mean by that?  
 18 MR. VIRJEE: In the context of these UCP  
 19 complaints?  
 20 MR. ROSENBAUM: Let's start there, sure.  
 21 THE WITNESS: As I recall, the allegations were  
 22 that English learners were not being provided an  
 23 appropriate instructional program.  
 24 Q. BY MR. ROSENBAUM: Okay. Do you know who made  
 25 that complaint?

1 MR. VIRJEE: Objection. Assumes facts not in  
 2 evidence. Assumes there was just one person or there  
 3 was one complaint.  
 4 THE WITNESS: I do not know who made those  
 5 complaints.  
 6 Q. BY MR. ROSENBAUM: Okay. Do you know if there  
 7 was any resolution of those complaints?  
 8 MR. VIRJEE: Objection. Vague and ambiguous as  
 9 to "resolution."  
 10 THE WITNESS: The general process is that after  
 11 a complaint is received and an inquiry is made, a report  
 12 is produced and sent to both the complainants and to the  
 13 district involved.  
 14 Q. BY MR. ROSENBAUM: Okay. Did you have any  
 15 involvement in -- do you review the report that is  
 16 prepared?  
 17 MR. SEFERIAN: Objection. Assumes facts not in  
 18 evidence. Lacks foundation.  
 19 THE WITNESS: I think I need more specificity.  
 20 Q. BY MR. ROSENBAUM: Okay. What school district  
 21 did this complaint or these complaints involve?  
 22 MR. VIRJEE: Objection. Assumes facts not in  
 23 evidence.  
 24 THE WITNESS: The ones that I recall most  
 25 directly were from Pittsburg Unified School District and

1 Oceanside Unified School District.  
 2 Q. BY MR. ROSENBAUM: Do you have a date or dates  
 3 for the Pittsburg one?  
 4 MR. VIRJEE: The date or dates he saw them, of  
 5 the UCP, what?  
 6 MR. ROSENBAUM: I'll be happy to repeat that.  
 7 MR. VIRJEE: Just give him any date you can  
 8 make up.  
 9 THE WITNESS: I believe both were active in the  
 10 year 2000.  
 11 Q. BY MR. ROSENBAUM: Was somebody assigned  
 12 responsibility to respond to those complaints in the  
 13 Department so far as you know?  
 14 MR. SEFERIAN: Objection. Assumes facts not in  
 15 evidence. Vague and ambiguous as to "assigned" and  
 16 "respond."  
 17 THE WITNESS: We have a unit in the school  
 18 district accountability division that is assigned the  
 19 responsibility of responding to uniform complaints.  
 20 Q. BY MR. ROSENBAUM: Do you know how it came to  
 21 your attention, these two complaints?  
 22 MR. SEFERIAN: Objection. Assumes facts not in  
 23 evidence. Misstate's the witness' testimony.  
 24 THE WITNESS: Yes. In the circumstances about  
 25 Pittsburg and Oceanside, they involved English learner

1 issues which tend to be difficult and divisive issues,  
 2 so those reports were brought to my attention.  
 3 Q. BY MR. ROSENBAUM: Okay. And do you know who  
 4 prepared the report on behalf of the Department?  
 5 MR. VIRJEE: Objection. Assumes facts not in  
 6 evidence.  
 7 THE WITNESS: I do not recall.  
 8 Q. BY MR. ROSENBAUM: Do you know what the  
 9 conclusions of the report were for either Pittsburg or  
 10 Oceanside?  
 11 MR. VIRJEE: Objection. Assumes facts not in  
 12 evidence.  
 13 MR. SEFERIAN: Object to the extent that it  
 14 calls for disclosure of privileged communications.  
 15 MR. VIRJEE: Objection that you're asking what  
 16 the report says. The report speaks for itself.  
 17 THE WITNESS: Both reports were complex in  
 18 their findings, and I would refer you to them. I don't  
 19 recall the specifics of them.  
 20 Q. BY MR. ROSENBAUM: How can I get copies of  
 21 those reports?  
 22 MR. VIRJEE: Objection. Calls for speculation.  
 23 THE WITNESS: I believe if you were to call the  
 24 director of the division, you would be provided copies  
 25 of those.

1 MR. SEFERIAN: We're not agreeing to produce  
2 those documents.  
3 MR. VIRJEE: Or that you can call the director  
4 of the division.  
5 MR. ROSENBAUM: I'm requesting those documents.  
6 MR. VIRJEE: If you want to request the  
7 documents, submit a document request and we'll handle  
8 it.  
9 Q. BY MR. ROSENBAUM: Okay. Do you know if the  
10 reports sustained any part of the complaint that  
11 students were not being given access to core curriculum?  
12 MR. VIRJEE: Objection. Vague and ambiguous as  
13 to "sustained" and "access to core curriculum." And the  
14 extent you're asking what the reports say, the documents  
15 speak for themselves.  
16 MR. SEFERIAN: Calls for speculation.  
17 THE WITNESS: As I said before, the findings in  
18 the report and the issues were complex, and I would  
19 refer you to the report itself.  
20 Q. BY MR. ROSENBAUM: When you used the phrase,  
21 Mr. Hill, "appropriate instructional program," what did  
22 you mean by that?  
23 MR. VIRJEE: In what context?  
24 MR. ROSENBAUM: Three answers ago.  
25 MR. VIRJEE: I think he used the words core

1 curriculum. I don't remember him using those words.  
2 THE WITNESS: The state and federal law, which  
3 is complex in the area of support for English learners,  
4 requires that English learners be provided appropriate  
5 instruction that is consistent with a variety of goals.  
6 Q. BY MR. ROSENBAUM: To your knowledge, are there  
7 EL students in the public school systems in California  
8 who do not receive appropriate instructional programs as  
9 you just defined that?  
10 MR. VIRJEE: Objection. Vague and ambiguous as  
11 to "appropriate instructional programs." Calls for  
12 speculation. Lacks foundation. Calls for an expert  
13 opinion. And to the extent you're asking for a legal  
14 conclusion, calls for a legal conclusion which this  
15 witness is not competent to give.  
16 THE WITNESS: Mr. Rosenbaum, at any one point  
17 in time I could not answer your question. I don't know  
18 how to answer the question for any specific point in  
19 time.  
20 Q. BY MR. ROSENBAUM: Right now, for example, are  
21 there students out there, as far as you know, who are  
22 not receiving appropriate instructional program?  
23 MR. VIRJEE: Objection. Calls for speculation.  
24 And vague and ambiguous as to "appropriate instructional  
25 program." Also didn't limit it to EL students, so it's

1 overbroad.  
2 MR. SEFERIAN: Calls for an --  
3 MR. ROSENBAUM: I appreciate that part. I'm  
4 referring to EL students.  
5 MR. VIRJEE: Same objections. And also calls  
6 for a legal conclusion.  
7 MR. SEFERIAN: Calls for an inadmissible  
8 opinion. Lacks foundation.  
9 THE WITNESS: I am not aware of any specific  
10 students in the State of California who are not being  
11 provided that instruction. The Department of Education  
12 as a matter of its ongoing compliance and monitoring  
13 activities at any one point in time through both its CCR  
14 and Comite reviews may be investigating or evaluating  
15 districts, so there may be findings that come and go  
16 with regard to that. I'm not aware right here right now  
17 of any such findings.  
18 Q. BY MR. ROSENBAUM: Do you know if there are any  
19 ongoing investigations with respect to whether or not  
20 there are any districts or students, EL students who are  
21 not receiving appropriate instructional program?  
22 MR. VIRJEE: Objection. Vague and ambiguous as  
23 to "ongoing investigations" and "appropriate  
24 instructional program."  
25 MR. SEFERIAN: Assumes facts not in evidence.

1 Vague as to who is conducting the investigation.  
2 THE WITNESS: I don't understand what you mean  
3 by "investigation."  
4 Q. BY MR. ROSENBAUM: That was the word you used.  
5 Is the Department, so far as you know at this time,  
6 investigating, looking into the question of whether or  
7 not there are districts where EL students are not  
8 receiving an appropriate instructional program as you've  
9 defined that?  
10 MR. SEFERIAN: Objection. Assumes facts not in  
11 evidence. Vague and ambiguous as to "investigating."  
12 Lacks foundation. Vague and ambiguous as to  
13 "appropriate instructional program."  
14 THE WITNESS: The Department is carrying out  
15 its required compliance and monitoring activities under  
16 CCR and Comite, which do include that evaluation. That  
17 is an ongoing activity of the Department right now.  
18 Q. BY MR. ROSENBAUM: My question is a little bit  
19 different. Are you aware of any districts specifically  
20 being investigated on the question of whether or not EL  
21 students are receiving an appropriate instructional  
22 program?  
23 MR. VIRJEE: Objection. Vague and ambiguous as  
24 to "investigate" and "appropriate instructional  
25 program."



1 MR. ROSENBAUM: Investigate or monitor.  
 2 MR. SEFERIAN: Assumes facts not in evidence.  
 3 Vague and ambiguous as to "investigate" and "monitor."  
 4 THE WITNESS: There are -- I'll give you just  
 5 the one response I know. Every year approximately 250  
 6 districts are evaluated under the CCR and every year  
 7 approximately 10 districts are selected for a Comite  
 8 follow-up, and those districts would receive that kind  
 9 of evaluation.  
 10 Q. BY MR. ROSENBAUM: In your tenure since 1999,  
 11 Mr. Hill, are you aware of any districts where EL  
 12 students have not received appropriate instructional  
 13 program -- an appropriate instructional program?  
 14 MR. VIRJEE: Objection. Calls for speculation.  
 15 Lacks foundation. Vague and ambiguous as to  
 16 "appropriate instructional program."  
 17 MR. SEFERIAN: Calls for an inadmissible  
 18 opinion.  
 19 MR. VIRJEE: To the extent you're asking for a  
 20 legal standard, calls for a legal conclusion.  
 21 THE WITNESS: I do not have -- I don't know the  
 22 answer to the question.  
 23 MR. ROSENBAUM: Let's go off the record for a  
 24 minute.  
 25 (Lunch recess taken.)

1 (Sandy Alexander no longer present.)  
 2 (Mr. Affeldt and Mr. Seferian not present.)  
 3 Q. BY MR. ROSENBAUM: You doing okay, Mr. Hill?  
 4 A. Yes, I am.  
 5 Q. Mr. Hill, have you ever heard the expression  
 6 "reading at grade level," students reading at grade  
 7 level?  
 8 A. I have.  
 9 Q. Do you have -- what's your understanding of  
 10 what that phrase means?  
 11 MR. VIRJEE: Objection. Vague and ambiguous  
 12 and we don't know the context.  
 13 THE WITNESS: Mr. Rosenbaum, I understand the  
 14 phrase. For me, personal opinion, it has to be  
 15 connected to a context, and the context that I  
 16 understand it to have is reading at grade level is  
 17 defined by what our academic standards call for each  
 18 student to be able to read at grade level.  
 19 (Mr. Seferian entered the room.)  
 20 Q. BY MR. ROSENBAUM: Are there schools, to your  
 21 knowledge, in the public school system, Mr. Hill, where  
 22 50 percent or more of the students are reading below  
 23 grade level?  
 24 MR. VIRJEE: Objection. Calls for speculation.  
 25 Lacks foundation. Vague and ambiguous as to "reading

1 below grade level," unless you're asking about -- him to  
 2 use the definition he just gave you.  
 3 MR. ROSENBAUM: Yeah, using your definition.  
 4 THE WITNESS: I don't have a personal knowledge  
 5 of that question, although the API data that is  
 6 currently available which identifies achievement of  
 7 students on both our California standards and on the  
 8 Stanford-9 may be helpful for evaluating student  
 9 achievement for those purposes.  
 10 Q. BY MR. ROSENBAUM: Okay. You used the phrase  
 11 "may be helpful." Do you know whether or not they would  
 12 tell us whether or not, using your definition, there are  
 13 50 percent or more students at a particular school who  
 14 are reading below grade level?  
 15 MR. VIRJEE: Objection. Calls for speculation.  
 16 Lacks foundation. Calls for an expert opinion which  
 17 this witness is not competent to give.  
 18 MR. SEFERIAN: Vague and ambiguous as to "would  
 19 tell us."  
 20 THE WITNESS: I don't know the answer to this  
 21 because I do not believe the API -- the California  
 22 standards test is reported in terms of performance  
 23 levels, and the performance levels do provide some  
 24 indication, but I don't know the extent to which  
 25 inferences are drawn in terms of below grade level.

1 Q. BY MR. ROSENBAUM: Okay. And when you say  
 2 "performance levels," I want to see if I understand, do  
 3 you mean performance levels of the school?  
 4 MR. VIRJEE: Objection. Vague and ambiguous.  
 5 Are you asking when he was talking about the  
 6 API test?  
 7 MR. ROSENBAUM: Just in response to your last  
 8 answer.  
 9 MR. VIRJEE: What did you mean when you were  
 10 talking about performance levels in conjunction with  
 11 what the API shows?  
 12 THE WITNESS: Individual student performance on  
 13 the California standards test is reported in terms of  
 14 performance levels.  
 15 Q. BY MR. ROSENBAUM: Okay. If I asked you this  
 16 question just a few moments ago, I apologize. I'm just  
 17 trying to get an understanding of it.  
 18 If an individual wanted to go about finding out  
 19 the percentage of students at a particular school who  
 20 are reading below grade level, what would you tell that  
 21 individual? Can an individual find out that  
 22 information?  
 23 MR. VIRJEE: Objection. Calls for speculation.  
 24 Lacks foundation. Calls for an expert opinion. Vague  
 25 and ambiguous as to "below grade level."

1 MR. SEFERIAN: Incomplete, improper  
2 hypothetical question.  
3 THE WITNESS: Mr. Rosenbaum, I think -- well,  
4 the state -- the way the State has established its  
5 reporting system is for -- for achievement on standards  
6 is not consistent with the way you asked the question.  
7 Q. BY MR. ROSENBAUM: Okay. Are you aware of any  
8 other way that an individual could find out at a  
9 particular school the number or the percent of students  
10 who were reading below grade level?  
11 MR. VIRJEE: Objection. Vague and ambiguous as  
12 to "below grade level." Calls for speculation. Calls  
13 for an expert opinion.  
14 MR. SEFERIAN: Lacks foundation.  
15 THE WITNESS: Mr. Rosenbaum, there are a number  
16 of requirements for students in terms of reporting their  
17 achievement. There are some that come from the federal  
18 government, there are some that we obviously derive at  
19 the state level. I do not have personal knowledge of  
20 all of those requirements. I would refer you to Phil  
21 Spears as the appropriate person to provide that  
22 explanation.  
23 Q. BY MR. ROSENBAUM: But I take it what you're  
24 telling me is that you personally are not aware of a way  
25 to detect whether or not 50 percent or more of students

1 at a particular school would be reading below grade  
2 level?  
3 MR. SEFERIAN: Objection. Lacks foundation.  
4 Calls for an inadmissible opinion. Calls for  
5 speculation. Vague and ambiguous as to "reading below  
6 grade level."  
7 MR. VIRJEE: Also vague and ambiguous as to "a  
8 way to detect."  
9 THE WITNESS: Mr. Rosenbaum, the State has  
10 established an objective in our performance levels where  
11 the fourth of the five levels is the stated objective  
12 for students, that is, they are to reach the level that  
13 we identify as proficient in meeting all of our  
14 standards. You can -- it is possible to determine the  
15 number of students at a school who have reached or not  
16 reached that level.  
17 Q. BY MR. ROSENBAUM: Do you know if that sort of  
18 information has actually been compiled with respect to  
19 individual schools, do you personally know?  
20 MR. SEFERIAN: Objection. Vague and ambiguous  
21 as to "compiled." Lacks foundation.  
22 THE WITNESS: I would refer you to Mr. Spears  
23 in terms of what the school reports contain for each  
24 school.  
25 Q. BY MR. ROSENBAUM: Mr. Hill, you told us

1 yesterday among the different positions that you've held  
2 you were executive director of the California academic  
3 standards?  
4 A. That's correct.  
5 Q. And that was between 1997 and 1998?  
6 A. That's correct.  
7 Q. Okay. Who appointed -- were you appointed that  
8 position?  
9 A. I was.  
10 Q. By whom?  
11 A. By the commission.  
12 Q. At or about the time did you make the statement  
13 with respect to California public school students, I'm  
14 quoting here, the students making the transition to the  
15 work force were not well-prepared, they didn't have the  
16 basic skills and the strong ethics and understanding  
17 needed to develop those skills?  
18 Did you say that in sum or substance?  
19 MR. VIRJEE: Objection. Calls for speculation.  
20 Lacks foundation as to when or where he may have said  
21 such a thing, in a written statement, orally.  
22 I think it's ridiculous to ask the witness to  
23 recall whether they said something verbatim in a quote  
24 that many years ago, unless you want to show him a  
25 document that indicates that he can tell you whether he

1 believes that's correct or not.  
2 THE WITNESS: I do not have such a recollection  
3 of making such a statement.  
4 Q. BY MR. ROSENBAUM: Do you have any personal  
5 knowledge, Mr. Hill, as to how different districts deal  
6 with student loss of textbooks?  
7 MR. VIRJEE: Objection. Vague and ambiguous as  
8 to "student loss of textbooks" and "districts deal  
9 with."  
10 MR. SEFERIAN: Vague as to time and context.  
11 THE WITNESS: I don't have such information.  
12 Q. BY MR. ROSENBAUM: Do you know if anybody in  
13 the Department does?  
14 MR. VIRJEE: Objection. Vague and ambiguous as  
15 to "student loss of textbooks" and "deal with." And  
16 calls for speculation and lacks foundation.  
17 MR. SEFERIAN: Assumes facts not in evidence.  
18 THE WITNESS: Mr. Rosenbaum, as I stated this  
19 morning, there are some state mechanisms for assurances  
20 that districts are purchasing standards-aligned  
21 materials, and that is the direction that the state has  
22 gone in.  
23 Q. BY MR. ROSENBAUM: Okay. But my question  
24 specifically was, are you aware if there's anyone in the  
25 Department who is aware how districts deal with the

1 matter of students losing textbooks?

2 MR. VIRJEE: Objection. Vague and ambiguous as  
3 to "deal with" and "students losing textbooks." Calls  
4 for speculation. Lacks foundation.

5 MR. SEFERIAN: Assumes facts not in evidence.

6 THE WITNESS: I don't have such information.

7 Q. BY MR. ROSENBAUM: Okay. Thanks. Are you  
8 familiar with the phrase "emergency-credentialed  
9 teachers"?

10 MR. SEFERIAN: Objection. Vague and ambiguous  
11 as to "emergency-credentialed teachers." Vague as to  
12 context.

13 THE WITNESS: I'm aware of that phrase.

14 Q. BY MR. ROSENBAUM: What's your understanding of  
15 what that means?

16 MR. VIRJEE: Objection. Vague and ambiguous as  
17 to in what context.

18 THE WITNESS: Mr. Rosenbaum, I am hesitant to  
19 offer a definition because there may actually be a legal  
20 definition that I'm not aware of.

21 MR. ROSENBAUM: I'm just interested in your  
22 understanding, Mr. Hill.

23 MR. VIRJEE: Objection. Calls for speculation  
24 as to in what context. Also vague as to time.

25 THE WITNESS: My understanding is that teachers

1 MR. SEFERIAN: Asked and answered. Assumes  
2 facts not in evidence. Assumes the Department has the  
3 authority.

4 THE WITNESS: I don't know how to respond in  
5 that -- if you mean are there officials in the  
6 Department of Education who routinely advocate for such  
7 a position, the answer might be yes. If you are  
8 relating it to something beyond a policy perspective, I  
9 don't believe there is the authority for the Department  
10 to pursue such goals.

11 Q. BY MR. ROSENBAUM: Are there persons, to your  
12 knowledge, within the Department who routinely advocate  
13 for the reduction of the number of  
14 emergency-credentialed teachers in schools?

15 MR. SEFERIAN: Objection. Vague and ambiguous  
16 as to "routinely" and "advocate." Lacks foundation.  
17 Vague and ambiguous as to "emergency-credentialed  
18 teachers."

19 THE WITNESS: Yes.

20 Q. BY MR. ROSENBAUM: Are you one of them?

21 MR. SEFERIAN: Same objections.

22 THE WITNESS: I cannot personally recollect  
23 making such a statement publically.

24 Q. BY MR. ROSENBAUM: Privately, can you recollect  
25 doing that?

1 who have yet to receive a formal certification through a  
2 credentialing process may be instead  
3 emergency-credentialed teachers.

4 Q. BY MR. ROSENBAUM: And using your definition  
5 for all my questions, Mr. Hill, do you have -- are you  
6 aware of any -- strike that.

7 Are you aware as to whether or not the  
8 California Department of Education is undertaking any  
9 efforts to reduce the number of emergency-credentialed  
10 teachers in schools?

11 MR. VIRJEE: Objection. Vague and ambiguous as  
12 to "any efforts," "emergency-credentialed teachers."

13 MR. SEFERIAN: Assumes facts not in evidence.  
14 Lacks foundation. Overly broad.

15 (Mr. Affeldt entered the room.)

16 THE WITNESS: I am not aware of any legal  
17 authority for the California Department of Education to  
18 do so.

19 Q. BY MR. ROSENBAUM: I appreciate that. My  
20 question is a little bit different. Are you aware of  
21 any efforts by the Department to reduce the number of  
22 emergency-credentialed teachers in the schools?

23 MR. VIRJEE: Same objections. Vague and  
24 ambiguous as to "reduce the number" and  
25 "emergency-credentialed teachers." Vague as to time.

1 MR. SEFERIAN: Objection to the extent it calls  
2 for privileged communication. Relevance.

3 THE WITNESS: No.

4 Q. BY MR. ROSENBAUM: Tell me the officials who  
5 you're aware of who, to use your phrase, routinely  
6 advocate for the reduction of the number of  
7 emergency-credentialed teachers?

8 MR. SEFERIAN: Objection. Vague and ambiguous  
9 as to "routinely" and "advocate" and  
10 "emergency-credentialed teachers." Overly broad.

11 THE WITNESS: In her position as a policymaker,  
12 I believe Superintendent Eastin has advocated such  
13 policies.

14 Q. BY MR. ROSENBAUM: Any other officials that you  
15 can think of?

16 A. I'm not aware of any other officials.

17 Q. Have you ever heard the superintendent give  
18 reasons as to why she advocates that position?

19 MR. SEFERIAN: Object to the extent it calls  
20 for disclosure of privileged communications.

21 THE WITNESS: I cannot recollect any such  
22 justification.

23 Q. BY MR. ROSENBAUM: Have you -- to your  
24 knowledge, has there been any analyses of rankings on  
25 the API performance index by schools and numbers or

1 percentages of emergency-credentialed teachers in  
2 schools?

3 MR. VIRJEE: Objection. Vague and ambiguous as  
4 to "analyses." Also vague as to time.

5 MR. SEFERIAN: Assumes facts not in evidence.  
6 Vague and ambiguous as to "rankings." Vague and  
7 ambiguous as to "emergency-credentialed teachers."

8 THE WITNESS: I am not aware of any specific  
9 analyses.

10 Q. BY MR. ROSENBAUM: Okay. Probably just  
11 answered this question. I heard you use the word  
12 "specific." Are you aware of any general analyses on  
13 this subject?

14 MR. VIRJEE: Objection. Vague and ambiguous as  
15 to the term "general analyses."

16 MR. SEFERIAN: Same objections.

17 THE WITNESS: It seems to me that there may  
18 have been studies or analyses done outside of the  
19 Department of Education. I simply do not recollect  
20 anything specific about any of those, whether, in fact,  
21 they exist. As a topic, I recollect the topic, but I  
22 don't recollect anything beyond that.

23 Q. BY MR. ROSENBAUM: Okay. Have you ever heard  
24 anyone in the Department advocate that the Department  
25 ought to investigate whether or not there is any

1 MR. SEFERIAN: Same objection. Assumes facts  
2 not in evidence.

3 THE WITNESS: Only Mr. Spears or Mr. Padia  
4 would know if there is such a study.

5 Q. BY MR. ROSENBAUM: You don't know, you're  
6 telling me go talk to them?

7 A. Correct. Correct.

8 Q. Okay. The STAR program, Mr. Hill, as it's been  
9 administered this past year, it had Stanford-9 questions  
10 and it had California state standards questions; is that  
11 right?

12 MR. VIRJEE: Objection. Asked and answered  
13 twice.

14 THE WITNESS: That's correct.

15 MR. ROSENBAUM: I'm just doing a predicate.

16 Q. You told me also that the state standards  
17 questions, if I understood you correctly, were in the  
18 area of English language arts; is that right?

19 MR. VIRJEE: Objection. His testimony speaks  
20 for itself.

21 MR. ROSENBAUM: I don't remember.

22 THE WITNESS: Mr. Rosenbaum, I was referring to  
23 only language arts as it was -- as that test is included  
24 in the API.

25 Q. BY MR. ROSENBAUM: Okay. I just want to

1 correlation or relationship between the percentage or  
2 number of emergency-credentialed teachers in schools and  
3 performance of schools on the API?

4 MR. VIRJEE: Objection. Vague and ambiguous as  
5 to "investigate," "correlate" and "relationship."

6 MR. SEFERIAN: And "advocate." Assumes facts  
7 not in evidence. Vague as to time.

8 THE WITNESS: I don't recollect such advocacy.

9 Q. BY MR. ROSENBAUM: Okay. Thanks. To your  
10 knowledge, are you aware, Mr. Hill, of -- as to --  
11 strike that.

12 Do you have an opinion as to whether or not  
13 there exists any relationship between students' scores  
14 on the -- in the STAR program and scores on the high  
15 school exit exam?

16 MR. VIRJEE: Objection. Calls for an expert  
17 opinion which this witness is not competent to give.  
18 Calls for speculation. Lacks foundation. Incomplete  
19 hypothetical. Also vague and ambiguous as to  
20 "relationship."

21 THE WITNESS: I don't know the answer to that  
22 question.

23 Q. BY MR. ROSENBAUM: Do you know if anyone in the  
24 Department has looked into that question, whether or not  
25 there's any such relationship?

1 understand how this works. The student takes the exam,  
2 there are Stanford-9 questions and there are also some  
3 California state standard language arts questions on  
4 that same exam; am I right?

5 MR. VIRJEE: Objection. Vague as to time.

6 MR. ROSENBAUM: This past year.

7 THE WITNESS: Mr. Rosenbaum, is your question  
8 specifically about the format of the administration of  
9 the exam?

10 MR. ROSENBAUM: Let's start there, yeah.

11 THE WITNESS: I cannot recollect the specific  
12 format of the exam, and language arts is different than  
13 other subject areas. Well, excuse me, let me correct  
14 that. In the future language arts will be different  
15 than other subject areas.

16 Q. BY MR. ROSENBAUM: Why is that?

17 MR. SEFERIAN: Objection. Calls for  
18 speculation.

19 THE WITNESS: SB 233 requires the State to  
20 continue with an augmented format for the English  
21 language arts examinations and for the other content  
22 areas to be administered as stand-alone tests.

23 Q. BY MR. ROSENBAUM: Okay. Here's my question:  
24 Did students take the California standards exam in the  
25 area of math this past year?

1 MR. SEFERIAN: Overly broad.  
 2 THE WITNESS: Yes.  
 3 Q. BY MR. ROSENBAUM: But not history and not  
 4 science?  
 5 MR. SEFERIAN: Objection. Vague and ambiguous.  
 6 MR. VIRJEE: Also vague and ambiguous as to  
 7 standard-aligned tests.  
 8 THE WITNESS: You'll have to forgive my memory,  
 9 Mr. Rosenbaum, I'm not certain about the history and  
 10 science examinations. I'm not certain.  
 11 Q. BY MR. ROSENBAUM: To your knowledge, Mr. Hill,  
 12 has there been any inquiry or investigation to see  
 13 whether or not there's a relationship between how a  
 14 student does on the California standards part of English  
 15 language arts and how he or she does on the Stanford-9  
 16 part with respect to English language arts?  
 17 MR. SEFERIAN: Objection. Assume facts not in  
 18 evidence.  
 19 Q. BY MR. ROSENBAUM: Do you understand my  
 20 question?  
 21 A. I understand your question.  
 22 MR. VIRJEE: Objection. Vague and ambiguous as  
 23 to analysis.  
 24 MR. SEFERIAN: Objection. Assumes facts not in  
 25 evidence. Vague and ambiguous as to "inquiry" and

1 "investigation."  
 2 THE WITNESS: I am not aware of any present  
 3 analysis of what you identified.  
 4 Q. BY MR. ROSENBAUM: Same question about math,  
 5 how the students did on the math part of the California  
 6 standards and how the students did on the Stanford-9  
 7 math part, was there any analysis seeing if any  
 8 relationship exists?  
 9 MR. VIRJEE: Same objections.  
 10 MR. SEFERIAN: Objection. Assumes facts not in  
 11 evidence. Vague and ambiguous as to "math part."  
 12 THE WITNESS: I don't have such information. I  
 13 don't know.  
 14 Q. BY MR. ROSENBAUM: Okay. If you answered this  
 15 before, bear with me. Are there plans in the future to  
 16 try to see if such relationships exist?  
 17 MR. VIRJEE: Objection. Calls for speculation.  
 18 Lacks foundation.  
 19 MR. SEFERIAN: Object to the extent it calls  
 20 for disclosure of privileged communications.  
 21 MR. VIRJEE: Also vague and ambiguous as to  
 22 "relationships."  
 23 MR. SEFERIAN: Assumes facts not in evidence.  
 24 THE WITNESS: Mr. Rosenbaum, there are a number  
 25 of evaluations of the assessment system that are

1 planned. I do not know whether that is one that is  
 2 contemplated. I would refer you to a long-term testing  
 3 plan adopted by the State Board in July of 2001, and the  
 4 Board is contemplating revisions to that plan in the  
 5 coming months.  
 6 Q. BY MR. ROSENBAUM: Do you know what a matrix  
 7 exam is?  
 8 MR. SEFERIAN: Objection. Lacks foundation.  
 9 Vague as to context.  
 10 THE WITNESS: I am aware of a matrix exam.  
 11 Q. BY MR. ROSENBAUM: And what's your  
 12 understanding what the matrix exam is?  
 13 MR. SEFERIAN: Objection. Vague as to context.  
 14 Vague and ambiguous.  
 15 THE WITNESS: Matrix sampling design is a test  
 16 format by which students take subsets of an exam in a  
 17 content area, and by having students take subsets of a  
 18 content area, a broad range of questions and coverage of  
 19 that content area can be achieved.  
 20 Q. BY MR. ROSENBAUM: Now we talked many times  
 21 about the PSAA. Do you have an understanding as to what  
 22 the purpose of the PSAA is?  
 23 MR. VIRJEE: Objection. Vague and ambiguous as  
 24 to "purpose."  
 25 MR. SEFERIAN: Calls for speculation. Calls

1 for a legal conclusion to the extent you're asking the  
 2 witness for a legislative intent. Lacks foundation.  
 3 THE WITNESS: Mr. Rosenbaum, I think the Public  
 4 School Accountability Act and its intent speaks for  
 5 itself. I think the statute is clear in terms of its  
 6 intent.  
 7 MR. ROSENBAUM: I'm just interested in your  
 8 understanding of that intent.  
 9 MR. SEFERIAN: Same objections. Calls for an  
 10 inadmissible legal opinion.  
 11 MR. VIRJEE: You're asking him to identify what  
 12 the statute says. The statute speaks for itself.  
 13 THE WITNESS: I don't know what I could do to  
 14 add to what the statute directs the State to do in the  
 15 development of an accountability system.  
 16 Q. BY MR. ROSENBAUM: Okay. Let me try it one  
 17 more time. Do you personally have an understanding of  
 18 what the purpose of the statute is?  
 19 MR. VIRJEE: Objection. Asked and answered.  
 20 He's already said the statute speaks for itself.  
 21 MR. SEFERIAN: Calls for an inadmissible legal  
 22 opinion.  
 23 THE WITNESS: I have a -- I have a sense as to  
 24 the obligations that the Public School Accountability  
 25 Act places on the Department of Education, if that

1 answers your question.

2 Q. BY MR. ROSENBAUM: Well, is that as full an  
3 answer as you can give me to the question?

4 A. Yes.

5 Q. Do you have an opinion -- and if you don't feel  
6 competent to give me an opinion just tell me that. Do  
7 you have an opinion as to whether the purpose of the  
8 PSAA would be better served by the use of a matrix exam  
9 than the STAR program?

10 MR. VIRJEE: Objection. Calls for speculation.  
11 Lacks foundation. Incomplete hypothetical. Vague and  
12 ambiguous as to a "matrix exam," and calls for expert  
13 testimony which this witness is not competent to give.

14 MR. SEFERIAN: Assumes facts not in evidence.  
15 Vague and ambiguous as to "better served."

16 THE WITNESS: Given the experiences that we  
17 have and the progress we've made in our accountability  
18 system, I do not have an opinion.

19 Q. BY MR. ROSENBAUM: If I change it to STAR  
20 program plus augmentation by standards, would your  
21 answer be the same?

22 MR. VIRJEE: Assumes facts not in evidence.  
23 Assumes those are different things. And same objections  
24 as to the original question.

25 THE WITNESS: I would have the same response.

1 support a matrix exam.

2 Q. BY MR. ROSENBAUM: Did you have a personal  
3 opinion on that subject?

4 MR. VIRJEE: Objection. Vague and ambiguous as  
5 to time and "that subject."

6 MR. SEFERIAN: Calls for an inadmissible  
7 opinion. Lacks foundation.

8 THE WITNESS: I did.

9 Q. BY MR. ROSENBAUM: What was that?

10 MR. SEFERIAN: Calls for speculation. Lacks  
11 foundation. Calls for an inadmissible opinion.

12 THE WITNESS: I supported the legal  
13 requirement. I supported what the statute asked the  
14 Department to develop, which at the time was a matrix  
15 exam.

16 Q. BY MR. ROSENBAUM: And what was the reason that  
17 you supported that?

18 MR. SEFERIAN: Same objections.

19 THE WITNESS: I believed that broad content  
20 coverage of the standards in each content area could be  
21 achieved by a matrix exam.

22 Q. BY MR. ROSENBAUM: Okay. Do you know anyone  
23 else in the Department who shared that belief?

24 MR. SEFERIAN: Objection. Vague and ambiguous  
25 as to "that belief." Calls for speculation. Vague as

1 Q. BY MR. ROSENBAUM: Okay. Thanks. To your  
2 knowledge, has the matrix exam ever been administered as  
3 part of the API program?

4 MR. SEFERIAN: Objection. Vague and ambiguous  
5 as to "matrix exam." Lacks foundation.

6 THE WITNESS: No.

7 Q. BY MR. ROSENBAUM: Do you know why not?

8 MR. SEFERIAN: Objection. Calls for  
9 speculation. Vague and ambiguous.

10 THE WITNESS: As part of AB 265 a matrix exam  
11 was contemplated. During the course of development and  
12 policy decisions a determination was made by the State  
13 Board and then ultimately by the legislature to not  
14 develop a matrix exam.

15 Q. BY MR. ROSENBAUM: Do you know -- have any  
16 understanding as to the rationale as to why that was?

17 MR. SEFERIAN: Objection. Overly broad. Calls  
18 for speculation as to the intent of the legislature.  
19 Calls for an inadmissible legal opinion.

20 MR. VIRJEE: Also compound to the extent you're  
21 asking for the rationale of the State Board and the  
22 legislature.

23 THE WITNESS: Mr. Rosenbaum, I would refer you  
24 to some very extensive discussions that the State Board  
25 had publically about its ultimate decision to not

1 to time.

2 THE WITNESS: There were a number of Department  
3 staff who supported that, but I could not tell you  
4 whether it was from the belief system perspective or  
5 whether it was from trying to carry out what the law  
6 required them to carry out.

7 Q. BY MR. ROSENBAUM: Do you know what the  
8 superintendent's views were?

9 MR. VIRJEE: Objection. Vague and ambiguous as  
10 to "views."

11 MR. SEFERIAN: Calls for speculation.

12 MR. VIRJEE: Also vague as to time.

13 THE WITNESS: I am aware that the  
14 superintendent was interested in carrying out her legal  
15 responsibilities, which were, at the time, to develop a  
16 matrix exam.

17 Q. BY MR. ROSENBAUM: Did you ever hear her  
18 express a viewpoint that she felt that that was beyond  
19 just the legal requirement, that she personally  
20 supported the use of a matrix test?

21 MR. VIRJEE: Objection. Vague and ambiguous as  
22 to "personally supported the use of a matrix test,"  
23 especially when compared to what.

24 MR. SEFERIAN: Object to the extent it calls  
25 for disclosure of confidential communications,

1 privileged communications.

2 THE WITNESS: Superintendent Eastin was  
3 publically supportive of the development of a matrix  
4 exam. I cannot recollect and divide in my mind the  
5 extent to which that support was based upon personal  
6 belief or was based upon carrying out her obligations to  
7 the law.

8 Q. BY MR. ROSENBAUM: Okay. Mr. Hill, you are  
9 familiar, I take it, with the rewards that are  
10 administered as part of the API?

11 MR. SEFERIAN: Objection. Vague and ambiguous  
12 as to "reward."

13 THE WITNESS: I am aware that there are a  
14 number of awards programs associated with the Public  
15 School Accountability Act.

16 Q. BY MR. ROSENBAUM: And one of the reward  
17 programs involves the awarding of money to students; is  
18 that right?

19 MR. SEFERIAN: Objection. Vague and ambiguous  
20 as to "rewards."

21 MR. VIRJEE: Awarding of money to students, is  
22 that what you said? Objection. Vague and ambiguous as  
23 to awarding money to students.

24 MR. SEFERIAN: Statute speaks for itself.  
25 Calls for an inadmissible legal opinion.

1 or not that reward system for certificated teachers has  
2 had any impact on improving student academic  
3 performance?

4 MR. SEFERIAN: Objection. Assumes facts not in  
5 evidence. Vague and ambiguous as to "reward system" and  
6 "impact" and student performance.

7 THE WITNESS: By definition the answer is yes.  
8 To qualify for an award, your students must have  
9 improved in their performance.

10 Q. BY MR. ROSENBAUM: Okay. Beyond that, by  
11 definition, has there been any other specific  
12 investigation that you're aware of to see what the --  
13 whether or not the rewards system as a rewards system  
14 played any part in improving student academic  
15 performance?

16 MR. SEFERIAN: Objection. Assumes facts not in  
17 evidence. Vague and ambiguous.

18 MR. VIRJEE: Calls for speculation. Calls for  
19 an expert opinion.

20 MR. SEFERIAN: Incomplete hypothetical.

21 THE WITNESS: I'm not aware of any such  
22 evaluation.

23 Q. BY MR. ROSENBAUM: And has there been any  
24 follow-up by the Department of which you're aware as to  
25 what happened in classrooms taught by teachers who had

1 THE WITNESS: Mr. Rosenbaum, I am not aware  
2 that the Public School Accountability Act has a specific  
3 awards program for students.

4 Q. BY MR. ROSENBAUM: Okay. How about for  
5 teachers?

6 MR. SEFERIAN: Objection. The statute speaks  
7 for itself.

8 THE WITNESS: The statute contains provisions  
9 called the certificated performance staff awards for  
10 teachers.

11 Q. BY MR. ROSENBAUM: To your knowledge, has there  
12 been any investigation or inquiry by the Department to  
13 determine whether or not that reward system for  
14 certificated teachers has had any impact on improving  
15 student academic performance?

16 MR. SEFERIAN: Objection. Assumes facts not in  
17 evidence. Vague and ambiguous as to "reward system" and  
18 "impact." Lacks foundation. Vague and ambiguous as to  
19 "inquiry" and "investigation." Calls for speculation.  
20 Calls for an inadmissible opinion.

21 THE WITNESS: Mr. Rosenbaum, can you repeat the  
22 very last part of your question?

23 Q. BY MR. ROSENBAUM: Yeah. I was talking about  
24 student academic performance. What I wanted to know,  
25 has the Department looked into the question of whether

1 received those awards after they got the award in  
2 subsequent years?

3 MR. VIRJEE: Objection. Vague and ambiguous as  
4 to "what happened."

5 MR. SEFERIAN: Overly broad. Assumes facts not  
6 in evidence. Vague and ambiguous as to "follow-up."

7 Q. BY MR. ROSENBAUM: Do you understand what I  
8 mean, Mr. Hill?

9 A. I do.

10 MR. SEFERIAN: Same objections.

11 THE WITNESS: I'm not aware of any such  
12 evaluation.

13 Q. BY MR. ROSENBAUM: Have you ever heard a  
14 concern expressed that rather than the State spending  
15 money to reward teachers, that that money could be  
16 better spent in other ways to effect student academic  
17 performance?

18 MR. SEFERIAN: Objection. Incomplete and  
19 improper hypothetical. Overly broad. Calls for an  
20 inadmissible opinion. Lacks foundation. Calls for  
21 speculation.

22 THE WITNESS: Mr. Rosenbaum, I'm not sure I  
23 know how to respond to your question.

24 Q. BY MR. ROSENBAUM: Let me try it one more time.  
25 Have you ever heard any concerns or criticisms where the

1 State is giving rewards, money to teachers as part of  
2 the API program, but in terms of state money and the  
3 goal of improving student academic performance, that  
4 money could be better spent in other ways than giving  
5 teacher rewards?

6 MR. SEFERIAN: Objection. Incomplete and  
7 improper hypothetical. Lacks foundation. Calls for an  
8 inadmissible opinion. Vague and ambiguous. Overly  
9 broad.

10 THE WITNESS: I am aware generally that the  
11 teacher bonus money has been met with mixed reviews,  
12 like so many aspects of an accountability system that is  
13 seeking to change the way we do business.

14 Q. BY MR. ROSENBAUM: Okay. In terms of the mixed  
15 reviews, what criticisms have you heard of that teacher  
16 bonus system?

17 MR. SEFERIAN: Objection. Assumes facts not in  
18 evidence. Vague and ambiguous as "criticisms."

19 THE WITNESS: I'm not sure I can identify a  
20 specific one, other than the general -- my sense that  
21 among issues raised about the accountability system has  
22 been a concern about the teacher reward money.

23 Q. BY MR. ROSENBAUM: Do you know who has raised  
24 those concerns?

25 MR. VIRJEE: Objection. Calls for speculation.

1 or education?

2 MR. ROSENBAUM: Accountability systems in  
3 education.

4 MR. VIRJEE: Objection. Asked and answered  
5 yesterday. Also vague and ambiguous as to "expert."  
6 And to the extent you're asking for him to indicate  
7 whether he believes he would be legally qualified as an  
8 expert calls for a legal opinion.

9 MR. ROSENBAUM: I'll withdraw that question in  
10 respect to your objection, Mr. Virjee.

11 Q. Are there persons whom you consider to be  
12 experts in the area of accountability systems for  
13 education?

14 MR. VIRJEE: Objection. Vague and ambiguous as  
15 to "accountability systems" and "experts." Calls for  
16 speculation. Lacks foundation. And calls for a legal  
17 conclusion to the extent you're asking whether those  
18 individuals would be qualified legally as an expert.

19 MR. SEFERIAN: Incomplete and improper  
20 hypothetical question.

21 THE WITNESS: Mr. Rosenbaum, your question  
22 covers a broad range of potential issues. I don't know  
23 how to answer it at a general level. I could not  
24 identify an expert or experts in terms of accountability  
25 for education.

1 Lacks foundation. Vague and ambiguous as to "concerns."

2 THE WITNESS: I don't have -- I can't point you  
3 to any specific person who has raised those concerns. I  
4 can't point you to any specific person.

5 Q. BY MR. ROSENBAUM: Or organization?

6 MR. VIRJEE: Same objections.

7 THE WITNESS: It is a general recollection that  
8 teacher organizations have not been highly enthusiastic  
9 about the awards system.

10 Q. BY MR. ROSENBAUM: When you say "teacher  
11 organizations," what do you mean?

12 A. I don't think I can get more specific than that  
13 because I don't know -- I don't have a recollection  
14 specific enough to any organization to say beyond that.

15 Q. Do you know if the Department has issued a  
16 response to those concerns?

17 MR. SEFERIAN: Objection. Assumes facts not in  
18 evidence. Vague and ambiguous as to "response" and  
19 "issued" and "concerns."

20 THE WITNESS: I do not know of any such  
21 response.

22 Q. BY MR. ROSENBAUM: Do you consider yourself an  
23 expert in the area of accountability systems in the area  
24 of education?

25 MR. VIRJEE: Which one, accountability system

1 Q. BY MR. ROSENBAUM: Okay. If I said  
2 accountability in education with respect to testing  
3 systems, would you give me the same answer?

4 MR. VIRJEE: Objection. Vague and ambiguous as  
5 to "accountability," "with respect to testing systems,"  
6 and all the same objections I made to the last question.

7 THE WITNESS: I would not be qualified to offer  
8 that response. Mr. Spears perhaps would be.

9 Q. BY MR. ROSENBAUM: Okay. Thanks. You have  
10 talked to us on a few occasions -- strike that.

11 Are you aware, Mr. Hill, as to whether or not  
12 there is a non-PSAA scholarship program that gives money  
13 to students based on STAR scores?

14 MR. VIRJEE: Objection. Vague and ambiguous as  
15 to "non-PSAA scholarship program" and "STAR scores."

16 MR. SEFERIAN: Lacks foundation. Calls for  
17 speculation.

18 THE WITNESS: Yes.

19 Q. BY MR. ROSENBAUM: What's your awareness of  
20 that system?

21 A. There is a program administered by the  
22 scholarship board under the treasurer's office.

23 Q. Okay. And, to your knowledge, has there been  
24 any inquiry or investigation to determine whether or not  
25 that awarding of scholarships has had any impact on



1 improving student academic performance?  
 2 MR. SEFERIAN: Objection. Assumes facts not in  
 3 evidence. Lacks foundation. Calls for speculation.  
 4 Vague and ambiguous as to "impact" and "student academic  
 5 performance." Overly broad.  
 6 THE WITNESS: Since that program is only one  
 7 year old, I am not aware of any evaluation.  
 8 Q. BY MR. ROSENBAUM: Do you know -- maybe you  
 9 just answered this. Has there been any analysis, as far  
 10 as you know, as to the race or ethnicity of students  
 11 receiving those scholarships?  
 12 MR. VIRJEE: Objection. Calls for speculation.  
 13 Lacks foundation.  
 14 MR. SEFERIAN: Assumes facts not in evidence.  
 15 THE WITNESS: I am not aware of any such  
 16 evaluation or breakdown. I would direct you, though, to  
 17 the statute which provides for the specific eligibility  
 18 for those students.  
 19 Q. BY MR. ROSENBAUM: Okay. Any analysis that  
 20 you're aware of in terms of a breakdown as to whether or  
 21 not those -- the percent of emergency-credentialed  
 22 teachers in schools where those students attended?  
 23 MR. VIRJEE: Objection. That's vague and  
 24 ambiguous.  
 25 MR. ROSENBAUM: It was pretty garbled too.

1 Q. Do you know if there's been any breakdowns to  
 2 take a look at those students receiving those  
 3 scholarships to say what was the number or the percent  
 4 of emergency-credentialed teachers in the schools where  
 5 they attended?  
 6 MR. SEFERIAN: Objection. Assumes facts not in  
 7 evidence. Lacks foundation.  
 8 THE WITNESS: Mr. Rosenbaum, I'm inferring that  
 9 you're highlighting a potential concern about the  
 10 correlation between emergency credentials and students  
 11 eligible for those awards.  
 12 I don't think I can accept that assumption  
 13 because the STAR component of eligibility for that  
 14 program requires that the top percentage scoring  
 15 students at every school be given those scholarships, so  
 16 regardless a certain percentage at a school site will  
 17 get those awards.  
 18 Q. BY MR. ROSENBAUM: Has anyone looked into the  
 19 question as to whether or not -- the students getting  
 20 the awards, what sort of teachers they had, emergency  
 21 credentialed or fully credentialed?  
 22 MR. SEFERIAN: Objection. Assumes facts not in  
 23 evidence. Compound question.  
 24 MR. VIRJEE: Also overbroad to the extent  
 25 you're asking whether anybody's ever looked to see

1 whether any teachers at that school have credentials.  
 2 That covers a broad range of area.  
 3 MR. ROSENBAUM: That wasn't my question. Make  
 4 it clear.  
 5 Q. Has anyone taken a look at those students, not  
 6 by the school, let's say, let's take a look at the  
 7 teachers that those students had and let's look, for  
 8 example, to see whether or not there's a correlation  
 9 with the variable as to the number or percent of  
 10 emergency-credentialed teachers that those students had  
 11 in their classrooms?  
 12 MR. SEFERIAN: Objection. Assumes facts not in  
 13 evidence.  
 14 MR. VIRJEE: And assumes they had more than one  
 15 teacher in a class at a time to look at correlation.  
 16 THE WITNESS: I'm not aware of any such study.  
 17 Q. BY MR. ROSENBAUM: Okay. You've talked to us  
 18 on several occasions, Mr. Hill, about increased student  
 19 performance -- increased school performance on the API.  
 20 Has the Department, to your knowledge,  
 21 undertaken any inquiry, investigation to determine what  
 22 are the causes, the specific causes of increased school  
 23 performance on the API?  
 24 MR. VIRJEE: Objection. Vague and ambiguous as  
 25 to "increased school performance on the API." I don't

1 believe he's used that term at all, and his testimony  
 2 will speak for itself.  
 3 MR. SEFERIAN: Vague and ambiguous as to  
 4 "inquiry" and "investigation." Assumes facts not in  
 5 evidence.  
 6 THE WITNESS: I'm sorry, can you restate your  
 7 question?  
 8 Q. BY MR. ROSENBAUM: Let me tell you the context,  
 9 and then I'll ask you the question. Some schools do  
 10 better from year to year on the API; isn't that right?  
 11 MR. SEFERIAN: Objection. Overly broad. Lacks  
 12 foundation.  
 13 THE WITNESS: Maybe you can clarify that. Are  
 14 you speaking to the fact that there are some schools  
 15 that are -- that have consistently high achievement as  
 16 measured by the API?  
 17 MR. ROSENBAUM: Their scores go up from year to  
 18 year.  
 19 THE WITNESS: So the context here is looking at  
 20 schools that have improved in terms of their API  
 21 ranking?  
 22 MR. ROSENBAUM: That's correct.  
 23 MR. VIRJEE: Their API rankings, not their API  
 24 scores.  
 25 Q. BY MR. ROSENBAUM: Has anyone in the

1 Department, to your knowledge, said, let's try to figure  
2 out what the causes are of increased ranking performance  
3 on the API?

4 MR. SEFERIAN: Objection. Assumes facts not in  
5 evidence. Vague and ambiguous as to "increased ranking  
6 performance."

7 THE WITNESS: I am not aware of any Department  
8 work done in that area.

9 Q. BY MR. ROSENBAUM: Okay. Are you aware of any  
10 work done outside the Department in that area?

11 A. I would refer you to a presentation made by the  
12 Elk Grove School District to the State Board of  
13 Education in the last two months where there was a very  
14 specific discussion by teachers and administrators about  
15 what they did to improve their school performance.

16 Q. Besides that presentation, any others that you  
17 can think of?

18 A. The State Board has also heard from -- a  
19 presentation by at least one external evaluator  
20 organization with regard to the same objectives.

21 Q. Besides that?

22 A. I am not aware of other such presentations.

23 Q. Okay. And who was the external evaluator that  
24 you're talking about?

25 A. I may not have it exactly correct, Action

1 MR. VIRJEE: Do you know anything about her  
2 educational background?

3 THE WITNESS: I do not.

4 Q. BY MR. ROSENBAUM: Do you know anything about  
5 her background?

6 A. I recall that she was called Dr. Marshall. I  
7 don't know anything beyond that.

8 Q. Okay. And did Action Learning Systems prepare  
9 a report, so far as you know, with respect to the  
10 subject matter of reasons for increased school  
11 performance on the API?

12 MR. VIRJEE: Objection. Vague and ambiguous as  
13 to "report."

14 THE WITNESS: I don't know that.

15 Q. BY MR. ROSENBAUM: Okay. Did you make -- were  
16 you present when Dr. Marshall spoke?

17 A. I was in and out of the Board meeting during  
18 that presentation.

19 Q. Did you hear any of her conclusions?

20 A. I don't recall hearing any of the conclusions.

21 Q. Again, if you don't feel competent to answer  
22 this, just tell me. Do you have an opinion as to what  
23 extent -- to what extent improvement as to API rankings  
24 by schools reflects increased academic performance?

25 MR. VIRJEE: I'm sorry, could you repeat that,

1 Learning Systems.

2 Q. Action Learning Systems. That's a good name,  
3 isn't it?

4 And do you know who or what Action Learning  
5 Systems is?

6 MR. VIRJEE: Other than the fact that he's  
7 already said they were an external evaluator  
8 organization?

9 MR. ROSENBAUM: Right.

10 THE WITNESS: I don't have any other  
11 information.

12 Q. BY MR. ROSENBAUM: Do you know where they're  
13 based?

14 A. I know that it is a California-based  
15 organization.

16 Q. Do you know any persons associated with ALS?

17 A. The person who made the presentation to the  
18 State Board was a woman named Kit Marshall.

19 Q. Do you know anything about the qualifications  
20 of Ms. Marshall?

21 MR. VIRJEE: Objection. Vague and ambiguous as  
22 to "qualifications." With respect to what?

23 MR. ROSENBAUM: Credentials qualifications.

24 MR. VIRJEE: With respect to what?

25 MR. ROSENBAUM: Education.

1 please?

2 Q. BY MR. ROSENBAUM: Sure. What I'm interested  
3 in, Mr. Hill, is whether or not you have an opinion as  
4 to the extent to which improvement in school rankings is  
5 a result of increased academic performance as opposed to  
6 other reasons?

7 MR. VIRJEE: Objection. Calls for speculation.  
8 Lacks foundation. Calls for an expert opinion which  
9 this witness is not competent to give.

10 MR. SEFERIAN: Incomplete and improper  
11 hypothetical question.

12 MR. ROSENBAUM: If you agree with Mr. Virjee,  
13 that's fine.

14 THE WITNESS: I would agree with counsel in  
15 terms of my qualifications.

16 Q. BY MR. ROSENBAUM: Have you ever heard the  
17 concern expressed that one of the reasons that school  
18 performance goes up on the API is because the test uses  
19 the same items year after year?

20 MR. VIRJEE: Objection. Vague and ambiguous as  
21 to "items."

22 MR. ROSENBAUM: Same test items, same  
23 questions.

24 MR. SEFERIAN: Objection. Overly broad.

25 MR. VIRJEE: Objection. Also assumes facts not

1 in evidence.  
 2 THE WITNESS: Mr. Rosenbaum, I think I need to  
 3 have a different question from you with regard to a  
 4 specific test or tests.  
 5 Q. BY MR. ROSENBAUM: Okay. I think I know what  
 6 you mean. You're aware that -- the Stanford-9, that's  
 7 an off-the-shelf test, right?  
 8 MR. SEFERIAN: Objection. Vague and ambiguous  
 9 as to "off-the-shelf." Lacks foundation.  
 10 THE WITNESS: The Stanford-9 is a  
 11 commercially-available exam.  
 12 Q. BY MR. ROSENBAUM: And isn't it true, Mr. Hill,  
 13 that the Stanford-9 as administered as part of the API  
 14 program, the same questions are utilized from year to  
 15 year?  
 16 MR. SEFERIAN: Objection. Lacks foundation.  
 17 Calls for speculation. Vague as to context.  
 18 THE WITNESS: That is my understanding.  
 19 Q. BY MR. ROSENBAUM: In fact, wasn't there an  
 20 issue that concerned you at one point about a textbook  
 21 that was being used that closely mirrored the questions  
 22 on the Stanford-9?  
 23 MR. VIRJEE: Concerned Mr. Hill?  
 24 MR. ROSENBAUM: Mr. Hill.  
 25 MR. SEFERIAN: Objection. Overly broad. Vague

1 and ambiguous as to context and "concerned." Lacks  
 2 foundation.  
 3 THE WITNESS: Yes.  
 4 Q. BY MR. ROSENBAUM: Okay. And do you remember  
 5 what district that involved?  
 6 A. I don't.  
 7 Q. Okay. Do you know what happened to the use of  
 8 that textbook?  
 9 MR. SEFERIAN: Objection. Vague and ambiguous.  
 10 MR. VIRJEE: Vague and ambiguous as to "what  
 11 happened."  
 12 MR. SEFERIAN: Lacks foundation. Calls for  
 13 speculation.  
 14 MR. VIRJEE: And also vague as to time. Was  
 15 the textbook ever used, was it ever published, was it  
 16 taken off the shelf? "What happened" is vague and  
 17 ambiguous.  
 18 THE WITNESS: The item in question was not a  
 19 textbook, it was a supplement to an approved  
 20 instructional program and it used items from a parallel  
 21 form of the Stanford-9, and that usage was discovered by  
 22 Sherry Griffith in our frameworks division and she took  
 23 steps to remedy the usage of that parallel form in that  
 24 supplement.  
 25 Q. BY MR. ROSENBAUM: Okay. Thanks. Do you know

1 what district that involved?  
 2 MR. VIRJEE: Objection. Asked and answered.  
 3 THE WITNESS: I don't recall.  
 4 Q. BY MR. ROSENBAUM: Okay. Now, have you ever  
 5 heard the concern expressed, Mr. Hill, that one of the  
 6 reasons that scores go up on the API for schools is  
 7 because as part of the Stanford-9 the same items are  
 8 used every year?  
 9 MR. VIRJEE: Objection. Vague as to time.  
 10 Calls for speculation.  
 11 MR. SEFERIAN: Asked and answered. Lacks  
 12 foundation. Assumes facts not in evidence.  
 13 THE WITNESS: Yes.  
 14 Q. BY MR. ROSENBAUM: And to your knowledge, has  
 15 the Department undertaken any inquiry or investigation  
 16 to determine whether or not, in fact, some measure of  
 17 increase of school performance on the API is a result of  
 18 utilizing the same items each year on the Stanford-9?  
 19 MR. VIRJEE: Objection. Vague and ambiguous as  
 20 to "inquiry."  
 21 MR. SEFERIAN: And "investigation." Assumes  
 22 facts not in evidence. Lacks foundation.  
 23 THE WITNESS: Mr. Rosenbaum, your question  
 24 involves some highly-technical issues around the basis  
 25 for improved student achievement, and I'm not qualified

1 to comment on what those might be.  
 2 Q. BY MR. ROSENBAUM: I appreciate you telling me  
 3 that. I just want to know -- I'm not asking you to  
 4 disentangle all this.  
 5 Do you know if the Department has ever  
 6 undertaken any inquiry or investigation to determine  
 7 whether or not that claim is true or not?  
 8 MR. VIRJEE: First of all, "that claim" is  
 9 vague and ambiguous.  
 10 MR. ROSENBAUM: I'll clarify. The claim is  
 11 that some measure of increased student performance on  
 12 the API is a function of the Stanford-9 using the same  
 13 test items each year.  
 14 MR. VIRJEE: Objection. Vague and ambiguous as  
 15 to "inquiry or investigation."  
 16 MR. SEFERIAN: Objection. Assumes facts not in  
 17 evidence.  
 18 THE WITNESS: Mr. Rosenbaum, I think you stated  
 19 the problem well. I don't know how to disentangle the  
 20 one piece that you've parsed out with other potential  
 21 causes for increased student achievement, and so I don't  
 22 feel qualified to respond.  
 23 Q. BY MR. ROSENBAUM: What other potential causes  
 24 are you aware of for increases in school academic  
 25 performance on the API?

1 MR. SEFERIAN: Objection. Incomplete improper  
 2 hypothetical question. Lacks foundation. Calls for an  
 3 inadmissible opinion. Calls for speculation. Overly  
 4 broad and vague and ambiguous.  
 5 THE WITNESS: That the achievement reflects  
 6 actual student learning and student knowledge.  
 7 Q. BY MR. ROSENBAUM: Any others?  
 8 MR. SEFERIAN: Same objections. Lacks  
 9 foundation. Overly broad. Incomplete and improper  
 10 hypothetical question.  
 11 MR. VIRJEE: Kids guess better.  
 12 THE WITNESS: There are a number of potential  
 13 technical explanations, of which I am not an expert, as  
 14 to why on any given day students might receive one score  
 15 or another.  
 16 Q. BY MR. ROSENBAUM: Have you ever heard the  
 17 explanation that students guess better because their  
 18 teachers prepare them how to take tests?  
 19 MR. SEFERIAN: Objection. Overly broad. Vague  
 20 and ambiguous. Lacks foundation. Vague and ambiguous  
 21 as to teach "how to take tests."  
 22 THE WITNESS: Yes.  
 23 Q. BY MR. ROSENBAUM: Have you ever heard the  
 24 concern that improvement that -- on the API is a  
 25 function of a changing student population?

1 MR. VIRJEE: Objection. Vague and ambiguous as  
 2 to "changing student population."  
 3 THE WITNESS: I don't understand your question.  
 4 MR. VIRJEE: Also assumes facts not in  
 5 evidence.  
 6 Q. BY MR. ROSENBAUM: You have an elementary  
 7 school, say K to 5, and there's a changing student  
 8 population, because one cohort leaves a new cohort comes  
 9 in there are changes within the other cohort, have you  
 10 ever heard that concern expressed?  
 11 MR. VIRJEE: Objection. Vague and ambiguous to  
 12 changes within cohorts.  
 13 MR. SEFERIAN: Overly broad.  
 14 THE WITNESS: I have not heard that concern  
 15 expressed. And the development of the API includes a  
 16 control for that effect.  
 17 Q. BY MR. ROSENBAUM: Okay. What's the control?  
 18 MR. SEFERIAN: Objection. Lacks foundation.  
 19 Calls for speculation.  
 20 THE WITNESS: It is a quantitative formula that  
 21 Mr. Padia would know more than me, but it's a limiting  
 22 factor on the amount of change permissible.  
 23 Q. BY MR. ROSENBAUM: Have you ever heard the  
 24 concern expressed that increased student academic  
 25 performance is a function of teachers teaching to the

1 test?  
 2 MR. SEFERIAN: Objection. Asked and answered.  
 3 MR. VIRJEE: Objection. Vague and ambiguous as  
 4 to "teaching to the test."  
 5 THE WITNESS: Yes.  
 6 Q. BY MR. ROSENBAUM: How about cheating?  
 7 MR. SEFERIAN: Objection. Vague and ambiguous.  
 8 Q. BY MR. ROSENBAUM: That increased student  
 9 academic -- increased academic performance on the API is  
 10 a function of cheating?  
 11 MR. SEFERIAN: Objection. No foundation.  
 12 Overly broad.  
 13 MR. VIRJEE: Vague and ambiguous as to  
 14 "cheating."  
 15 THE WITNESS: I would ask you to not -- I can't  
 16 answer the question as you've asked it because you've  
 17 identified increased academic achievement.  
 18 MR. ROSENBAUM: Increased student performance.  
 19 Strike that. Increased school performance on the API.  
 20 MR. VIRJEE: Objection. Vague and ambiguous as  
 21 to "increased school performance," and also vague and  
 22 ambiguous as to "cheating."  
 23 MR. SEFERIAN: Assumes facts not in evidence.  
 24 THE WITNESS: Yes.  
 25 Q. BY MR. ROSENBAUM: Okay. How about that

1 increased academic performance by schools on the API is  
 2 a function of dropouts?  
 3 MR. SEFERIAN: Objection. Vague and ambiguous  
 4 as to "dropouts."  
 5 THE WITNESS: I have not heard that concern.  
 6 In -- the API contains controls for the percentage of  
 7 test takers requisite for receiving an API.  
 8 Q. BY MR. ROSENBAUM: Have you heard of any other  
 9 factors besides the ones that we've been discussing the  
 10 past several minutes as influencing school performance  
 11 on the API?  
 12 MR. VIRJEE: Has not stated that they influence  
 13 school performance. You've asked has he ever heard  
 14 concerns about that.  
 15 MR. ROSENBAUM: I appreciate that. Concerns  
 16 about potential influences.  
 17 MR. VIRJEE: So has he ever heard any other  
 18 concerns voiced?  
 19 MR. ROSENBAUM: Yeah, that's good. Thanks.  
 20 THE WITNESS: I can't recall others at the  
 21 moment.  
 22 Q. BY MR. ROSENBAUM: How about percent of  
 23 students fluent in English, have you heard that?  
 24 MR. SEFERIAN: Objection. Vague and ambiguous.  
 25 THE WITNESS: It's a difficult question to

1 answer because the API, again, has controls that  
 2 recognize growth from baseline performance to future  
 3 year performance. To the extent that a student has any  
 4 factor which may initially limit their achievement, it  
 5 is recognized in future years in the API by growth.  
 6 Q. BY MR. ROSENBAUM: It follows the individual  
 7 student?  
 8 MR. SEFERIAN: Objection. Vague and ambiguous  
 9 as to "follows."  
 10 THE WITNESS: The API is not student specific,  
 11 the API is for a school.  
 12 Q. BY MR. ROSENBAUM: So my question is, does the  
 13 API, to your knowledge, have the capacity to follow a  
 14 particular student in terms of increase in English  
 15 fluency from year to year and chart the performance on  
 16 the STAR test? Do you understand what I mean?  
 17 MR. SEFERIAN: Objection. Compound question.  
 18 Lacks foundation. Calls for speculation.  
 19 THE WITNESS: I'm not sure I understand exactly  
 20 what you mean.  
 21 MR. VIRJEE: I'll also object as vague and  
 22 ambiguous as to the API doing that. Since the API is a  
 23 composite school score, that makes no sense. It's  
 24 nonsensical.  
 25 Q. BY MR. ROSENBAUM: What I want to know is as

1 part of analyzing these results, do you know if the  
 2 system has the capacity to see -- look at individual  
 3 students and see how their English fluency increases or  
 4 stays the same or changes, and whether or not there's  
 5 any correlation between their scores from year to year?  
 6 MR. VIRJEE: Objection. Vague and ambiguous as  
 7 to "the system."  
 8 MR. SEFERIAN: Compound question. Lacks  
 9 foundation. Calls for speculation.  
 10 THE WITNESS: Mr. Rosenbaum, you asked in the  
 11 initial part of the question that -- it would be more  
 12 helpful to get a restatement of, and I -- it seemed like  
 13 you were talking about broader accountability indices  
 14 and English learners. If that is indeed where -- it  
 15 would be helpful to have a specific question on that.  
 16 MR. ROSENBAUM: Let me pull that out for a  
 17 minute, please.  
 18 Q. The various concerns that you acknowledged as  
 19 having been voiced -- let me restate the earlier  
 20 question and see if that helps -- has there been any  
 21 analysis by the Department as to which of those concerns  
 22 are valid and which of those concerns are not valid, or  
 23 the extent to which some of those concerns may be valid?  
 24 MR. VIRJEE: Objection. Vague and ambiguous as  
 25 to "analysis." Vague as to time.

1 MR. SEFERIAN: Assumes facts not in evidence.  
 2 Vague and ambiguous as to "valid".  
 3 THE WITNESS: I'm sorry, I need to get a  
 4 clarification from you. Your question refers to as  
 5 those factors relate to student achievement?  
 6 MR. ROSENBAUM: As they relate to, yeah, I  
 7 think we're on the same page here. As they relate to  
 8 student achievement reflected in the scores.  
 9 MR. VIRJEE: Objection. Vague and ambiguous as  
 10 to "scores."  
 11 MR. ROSENBAUM: Let me finish. The scores and  
 12 the STAR program that's reflected in the API.  
 13 MR. VIRJEE: Objection. Vague and ambiguous as  
 14 to "scores" and "reflected in the API."  
 15 MR. SEFERIAN: Assumes facts not in evidence.  
 16 Incomplete hypothetical question.  
 17 THE WITNESS: Yes.  
 18 Q. BY MR. ROSENBAUM: Okay. And who has conducted  
 19 that investigation?  
 20 MR. SEFERIAN: Objection. Misstates the  
 21 witness' testimony.  
 22 THE WITNESS: It is not, as I think you are  
 23 implying, some sort of investigation. As a routine  
 24 matter of administering the STAR program, the Department  
 25 of Education and the contractor for the STAR program

1 undertake erasure analyses that identify potential  
 2 unusual episodes of score changes on score sheets.  
 3 Q. BY MR. ROSENBAUM: So that one, that analysis  
 4 of erasures, that deals with cheating, is that right,  
 5 possible cheating; is that right?  
 6 MR. VIRJEE: Objection. Vague and ambiguous as  
 7 to "cheating."  
 8 MR. SEFERIAN: Misstates the witness'  
 9 testimony. Lacks foundation. Calls for speculation.  
 10 THE WITNESS: That inquiry focuses on  
 11 irregularities in student score reports.  
 12 Q. BY MR. ROSENBAUM: With respect to other  
 13 concerns that we talked about, actual improvement in  
 14 increases in terms of student proficiency, teachers  
 15 teaching to the test, utilizing the same items every  
 16 year, teaching test taking skills, to your knowledge,  
 17 has the Department undertaken any investigation, inquiry  
 18 as to the extent to which any of those concerns are  
 19 valid?  
 20 MR. VIRJEE: Objection. Asked and answered.  
 21 Vague and ambiguous as to "inquiry" and "valid."  
 22 MR. SEFERIAN: Assumes facts not in evidence.  
 23 Vague and ambiguous as to "investigation."  
 24 THE WITNESS: Yes.  
 25 Q. BY MR. ROSENBAUM: Okay. And tell me the basis

1 for that answer, please.  
 2 MR. SEFERIAN: Same objections.  
 3 THE WITNESS: The State Board of Education  
 4 adopted a memorandum that discussed appropriate test  
 5 preparation strategies. It was distributed sometime in  
 6 2001.  
 7 Q. BY MR. ROSENBAUM: Are you thinking of any --  
 8 when you say yes, are you thinking of anything else  
 9 besides that memorandum?  
 10 A. No.  
 11 Q. Okay. Now, that memorandum, to whom was that  
 12 distributed so far as you know?  
 13 A. I don't know to whom it was distributed.  
 14 Q. Do you know if there's been any monitoring or  
 15 examination to see the extent to which that memorandum  
 16 was adhered to by teachers or schools or districts?  
 17 MR. VIRJEE: Objection. Vague and ambiguous as  
 18 to "monitoring."  
 19 MR. SEFERIAN: And "examination." Assumes  
 20 facts not in evidence.  
 21 THE WITNESS: I would refer you to Mr. Warren  
 22 and Mr. Padia for that information.  
 23 Q. BY MR. ROSENBAUM: You're not aware of it?  
 24 A. I'm not aware.  
 25 Q. In some states -- isn't it true, Mr. Hill, that

1 in some states students receive test preparation  
 2 materials with respect to assessment tests?  
 3 MR. VIRJEE: Objection. Vague and ambiguous as  
 4 "test preparation materials." Also calls for  
 5 speculation. Lacks foundation.  
 6 THE WITNESS: I don't have sufficient knowledge  
 7 of assessment activities in other states to comment.  
 8 Q. BY MR. ROSENBAUM: To your knowledge, has there  
 9 been any investigation or inquiry or monitoring as to  
 10 the way different schools or teachers in different  
 11 schools prepare their students for the STAR test?  
 12 MR. VIRJEE: Objection. Vague and ambiguous as  
 13 to "investigation" and "monitoring."  
 14 MR. SEFERIAN: Assumes facts not in evidence.  
 15 MR. VIRJEE: Also asked and answered. He's  
 16 already testified to some investigating and monitoring  
 17 in that area.  
 18 THE WITNESS: I'm not aware of anything beyond  
 19 what I've already answered.  
 20 MR. ROSENBAUM: Want to take a break?  
 21 (Recess taken.)  
 22 (Mr. Affeldt and Mr. Seferian not present.)  
 23 Q. BY MR. ROSENBAUM: Doing okay, Mr. Hill?  
 24 A. Yes.  
 25 Q. The similar school rankings, do you know what

1 that is with respect to API?  
 2 A. Yes.  
 3 Q. What's your understanding?  
 4 A. The similar school rankings is a required  
 5 component of the academic performance index. It  
 6 provides information about a school's performance in  
 7 relation to schools that have similar characteristics.  
 8 Q. Okay. And am I correct, sir, that the similar  
 9 school rankings -- strike that.  
 10 It's compiled from year to year; is that right?  
 11 A. Correct.  
 12 Q. And the similar school rankings is not used for  
 13 either rewards or sanctions; is that right?  
 14 A. That's correct.  
 15 Q. To your knowledge, has there ever been any  
 16 discussion that that would be an appropriate measure --  
 17 strike that -- that that would be an appropriate ranking  
 18 system to use for rewards and sanctions?  
 19 MR. VIRJEE: Objection. Vague and ambiguous as  
 20 to "appropriate." And incomplete hypothetical. And  
 21 assumes facts not in evidence.  
 22 THE WITNESS: I'm not aware of any such  
 23 discussion.  
 24 Q. BY MR. ROSENBAUM: Okay. Or that in terms of  
 25 school improvement, that similar school rankings would

1 be a better measure of school improvement regarding  
 2 student academic performance than the API rankings that  
 3 are utilized?  
 4 (Mr. Seferian entered the room.)  
 5 MR. VIRJEE: Objection. Vague and ambiguous as  
 6 to "better" and "school improvement." And vague and  
 7 ambiguous and also, frankly, nonsensical.  
 8 THE WITNESS: I am not aware of any such  
 9 discussions.  
 10 Q. BY MR. ROSENBAUM: Were you ever consulted  
 11 regarding the criteria that are utilized to group  
 12 schools?  
 13 MR. VIRJEE: Under the similar schools ranking?  
 14 MR. ROSENBAUM: Yeah. Thanks.  
 15 MR. VIRJEE: The statute speaks for itself.  
 16 You've already asked all these questions to Bill Padia  
 17 and Paul Warren. This is a waste of time.  
 18 MR. ROSENBAUM: I'm asking the question of  
 19 whether or not Mr. Hill was involved in selecting those  
 20 criteria.  
 21 MR. VIRJEE: Objection. Vague and ambiguous as  
 22 to "involved in selecting". The criteria are in the  
 23 statute and the statute speaks for itself.  
 24 THE WITNESS: I do not recollect any such  
 25 consultation.

1 Q. BY MR. ROSENBAUM: Do you consider yourself the  
2 person most knowledgeable about the similar schools  
3 rankings within the Department?

4 MR. SEFERIAN: Objection. Lacks foundation.  
5 Calls for speculation.

6 THE WITNESS: No.

7 MR. VIRJEE: And also vague and ambiguous to  
8 the extent of "person most knowledgeable." And to the  
9 extent that that is asking from a legal perspective,  
10 calls for a legal conclusion.

11 THE WITNESS: My response would be no.

12 Q. BY MR. ROSENBAUM: Who would that be in your  
13 opinion?

14 MR. VIRJEE: Lacks foundation. Calls for  
15 speculation. Calls for a legal conclusion.

16 THE WITNESS: Mr. Rosenbaum, I would need you  
17 to qualify what you mean in terms of "most  
18 knowledgeable."

19 MR. ROSENBAUM: Person who understands the  
20 system best and is most capable of explaining or  
21 discussing.

22 MR. VIRJEE: Objection. Calls for speculation  
23 as to who may be the most capable of explaining, and  
24 also calls for speculation as to who may have the most  
25 knowledge. Also vague and ambiguous as to "system."

1 MR. SEFERIAN: Incomplete hypothetical  
2 question.

3 THE WITNESS: I would refer you to Mr. Padia  
4 for that question.

5 Q. BY MR. ROSENBAUM: What about Mr. Spears?

6 MR. VIRJEE: What about Mr. Spears? Are you  
7 asking whether you should be referred to him, whether  
8 he's the expert, whether he would know who the expert  
9 is? Vague and ambiguous.

10 THE WITNESS: I would refer you to Mr. Padia.

11 Q. BY MR. ROSENBAUM: Okay. Do you know what a  
12 Concept 6 school is?

13 MR. SEFERIAN: Objection. Vague as to context.  
14 Vague and ambiguous as to context.

15 THE WITNESS: I do not.

16 Q. BY MR. ROSENBAUM: Okay. Do you know what  
17 FCMAT is?

18 (Mr. Affeldt entered the room.)

19 MR. SEFERIAN: Objection. Overly broad.

20 THE WITNESS: I know what the acronym FCMAT  
21 stands for.

22 Q. BY MR. ROSENBAUM: Besides the knowledge of the  
23 acronym, do you have any additional knowledge?

24 MR. VIRJEE: Objection. Vague and ambiguous as  
25 to "additional knowledge." Overbroad.

1 MR. SEFERIAN: Vague as to context.

2 THE WITNESS: I'm familiar with the  
3 organization.

4 Q. BY MR. ROSENBAUM: Do you know if the  
5 organization prepares reports?

6 MR. VIRJEE: Objection. Vague and ambiguous as  
7 to "reports." And also calls for speculation.

8 THE WITNESS: Yes.

9 Q. BY MR. ROSENBAUM: And what does the acronym  
10 stand for?

11 A. Fiscal Crisis and Management Assistant Team.

12 Q. Have you ever read any reports prepared by  
13 FCMAT?

14 MR. VIRJEE: Objection. Vague and ambiguous as  
15 to "reports."

16 THE WITNESS: Yes.

17 Q. BY MR. ROSENBAUM: Which reports have you read?

18 MR. VIRJEE: Same objection.

19 THE WITNESS: As a matter of course I receive  
20 periodically reports that FCMAT produces. I am most  
21 familiar with the reports FCMAT has prepared on Compton.  
22 (Mr. Affeldt left the room.)

23 Q. BY MR. ROSENBAUM: Are you familiar with any  
24 other reports prepared by FCMAT?

25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to "familiar" and "reports."

2 THE WITNESS: I am aware of other reports. I  
3 don't think I would characterize myself as familiar with  
4 them.

5 Q. BY MR. ROSENBAUM: Okay. Is there a reason why  
6 you're most familiar with the Compton reports?

7 MR. VIRJEE: Objection. Calls for speculation.

8 MR. SEFERIAN: Assumes facts not in evidence.

9 THE WITNESS: Yes.

10 Q. BY MR. ROSENBAUM: What's that?

11 A. Because until December 11th of 2001 Compton was  
12 a state-administered school district.

13 Q. Are there any other state-administered school  
14 districts, to your knowledge?

15 MR. VIRJEE: Objection. Vague and ambiguous as  
16 to time.

17 MR. SEFERIAN: Vague and ambiguous as to  
18 "state-administered."

19 MR. ROSENBAUM: The first objection is okay.

20 Q. During your tenure have there been any other  
21 state-administered school districts?

22 A. Yes.

23 Q. What are they?

24 MR. SEFERIAN: Objection as to  
25 "school-administered."

1 THE WITNESS: West Contra Costa remains under a  
2 state trusteeship.

3 Q. BY MR. ROSENBAUM: Any others?

4 A. And Emery Unified is under a state  
5 administratorship.

6 Q. Any others?

7 A. No.

8 Q. To your knowledge, are there any school  
9 districts now being contemplated for state  
10 administration?

11 MR. SEFERIAN: Objection. Vague and ambiguous  
12 as to "state administration." Object to the extent it  
13 calls for privileged, confidential communications.  
14 Overly broad.

15 THE WITNESS: I could not speculate on that.  
16 Decisions around state takeovers ultimately rest with  
17 the governor and the legislature.

18 Q. BY MR. ROSENBAUM: Have you heard any  
19 discussion about other districts for which state  
20 takeover is being discussed?

21 MR. SEFERIAN: Objection to the extent it calls  
22 for privileged communications.

23 MR. VIRJEE: Also vague and ambiguous as to  
24 "state takeover."

25 THE WITNESS: I am not aware of any specific

1 takeover.

2 Q. BY MR. ROSENBAUM: Okay. Are you familiar  
3 with -- did you have any specific involvement in terms  
4 of the administration of the Compton school district?

5 MR. VIRJEE: Objection. Vague and ambiguous as  
6 to "involvement" in "the administration."

7 THE WITNESS: I did not have any direct  
8 day-to-day responsibilities for the Compton Unified  
9 School District.

10 Q. BY MR. ROSENBAUM: Are you familiar with the  
11 methodology that FCMAT used in Compton?

12 MR. VIRJEE: Objection. Vague and ambiguous as  
13 to "methodology." And overbroad. Methodology for what?

14 MR. SEFERIAN: Vague as to context.

15 THE WITNESS: Mr. Rosenbaum, are you referring  
16 to the periodic evaluations that FCMAT would do of the  
17 Compton school district pursuant to the legislation for  
18 its recovery?

19 MR. ROSENBAUM: Yes.

20 THE WITNESS: I am familiar with that.

21 Q. BY MR. ROSENBAUM: Have you read all the  
22 reports, so far as you know?

23 MR. SEFERIAN: Objection. Calls for  
24 speculation.

25 THE WITNESS: I have read many of the reports.

1 conversations, however, it is -- AB 1200 as a statute  
2 defines the process and criteria by which districts  
3 would be considered for state takeover, and that is what  
4 drives ultimately decisions around them.

5 Q. BY MR. ROSENBAUM: Have you heard any talk  
6 about state takeover of any other districts?

7 MR. VIRJEE: Objection. Vague and ambiguous as  
8 to "state takeover." Vague as to time.

9 MR. SEFERIAN: Object to the extent it calls  
10 for disclosure of privileged communications.

11 THE WITNESS: Mr. Rosenbaum, at any point in  
12 time there may be nothing but speculation about  
13 districts that will not be able to meet their financial  
14 obligations.

15 Q. BY MR. ROSENBAUM: How about right now, have  
16 you heard discussion about possible districts that might  
17 be subject to state takeover?

18 MR. VIRJEE: Objection. Vague and ambiguous as  
19 to "right now." Also vague and ambiguous as to "state  
20 takeover."

21 MR. SEFERIAN: Object to the extent it calls  
22 for privileged communications.

23 THE WITNESS: Based on the criteria that is  
24 needed for state takeovers, I am not aware right now of  
25 any districts that are being contemplated for state

1 I don't know if I have read all of them.

2 Q. BY MR. ROSENBAUM: Are you aware as to whether  
3 or not there's a consent decree in Compton?

4 A. I am.

5 Q. Have you looked at that consent decree or a  
6 summary of it?

7 A. I don't recollect whether I have looked at a  
8 consent decree.

9 Q. Do you have an opinion as to whether FCMAT's  
10 involvement in Compton contributed to increased student  
11 academic performance in that district?

12 MR. VIRJEE: Objection. Calls for speculation.  
13 Lacks foundation. Calls for an expert opinion which  
14 this witness is not competent to give. Incomplete  
15 hypothetical.

16 MR. SEFERIAN: Overly broad. Assumes facts not  
17 in evidence.

18 THE WITNESS: I could not make that conclusion.

19 Q. BY MR. ROSENBAUM: One way or the other?

20 MR. SEFERIAN: Same objections.

21 Q. BY MR. ROSENBAUM: Is that what you're saying?

22 A. Correct.

23 Q. Do you know who Tom Henry is?

24 A. I do.

25 Q. Have you had any discussions with Mr. Henry



1 about Compton?  
 2 MR. VIRJEE: Objection. Vague as to time.  
 3 THE WITNESS: Yes.  
 4 Q. BY MR. ROSENBAUM: On more than one occasion?  
 5 A. Yes.  
 6 Q. And was there any discussion about the role of  
 7 FCMAT in Compton?  
 8 MR. VIRJEE: Objection. Vague as to time.  
 9 Vague and ambiguous as to "role."  
 10 MR. SEFERIAN: Object to the extent it calls  
 11 for privileged communications.  
 12 THE WITNESS: Can you restate the question?  
 13 Q. BY MR. ROSENBAUM: Yeah. Sure. Do you have a  
 14 view as to -- do you have an opinion -- this is a new  
 15 question -- as to whether or not the state  
 16 administration of the Compton school district had any  
 17 impact on student achievement there?  
 18 MR. VIRJEE: Objection. Calls for speculation.  
 19 Lacks foundation. Calls for an expert opinion which  
 20 this witness is not competent to give. Also vague and  
 21 ambiguous as to "student achievement."  
 22 THE WITNESS: To respond to the question,  
 23 Mr. Rosenbaum, I would let the data speak for itself.  
 24 It is factual that student achievement in Compton has  
 25 increased over the past few years.

1 Q. BY MR. ROSENBAUM: My question is a little  
 2 different. Do you attribute -- do you have an opinion  
 3 as to whether or not that improvement is a function of  
 4 state administration of the district in some part?  
 5 MR. VIRJEE: Objection. Vague and ambiguous as  
 6 to "state administration." And also calls for  
 7 speculation and lacks foundation. Calls for an expert  
 8 opinion.  
 9 THE WITNESS: Yes.  
 10 Q. BY MR. ROSENBAUM: What's your opinion?  
 11 MR. SEFERIAN: Same objections.  
 12 THE WITNESS: It is not possible for me to  
 13 apportion credit or blame for where Compton has come in  
 14 the past few years. The increase in student  
 15 achievement, in my opinion, is the result of the  
 16 district doing or making efforts to do what I described  
 17 to you yesterday as what low-performing schools need to  
 18 focus on.  
 19 The district has become familiar with using  
 20 data to identify strengths and weaknesses, to develop  
 21 core-focused instructional programs that address those  
 22 strengths and weaknesses, and to target resources  
 23 towards increased student learning.  
 24 Q. BY MR. ROSENBAUM: Do you know -- do you think  
 25 that -- do you have an opinion as to whether or not the

1 oversight afforded by FCMAT as reflected in the reports  
 2 that you and I have been discussing had any role to play  
 3 in increased student performance?  
 4 MR. VIRJEE: Objection. Vague and ambiguous as  
 5 to "oversight." Also it calls for speculation. Also  
 6 calls for an expert opinion. Also assumes facts not in  
 7 evidence. You haven't been discussing any oversight  
 8 information in any reports, and assumes that there was  
 9 oversight information in those reports.  
 10 MR. SEFERIAN: Vague and ambiguous as to  
 11 "role." Calls for an inadmissible opinion.  
 12 THE WITNESS: In my opinion, Mr. Rosenbaum,  
 13 FCMAT's reports were useful tools for policymakers. I  
 14 cannot ascribe changes in student learning in Compton to  
 15 the evaluations that FCMAT did.  
 16 Q. BY MR. ROSENBAUM: Does that mean you don't  
 17 have knowledge one way or the other?  
 18 MR. SEFERIAN: Objection. Compound question.  
 19 Same objections.  
 20 THE WITNESS: I do not have knowledge one way  
 21 or the other.  
 22 Q. BY MR. ROSENBAUM: To your knowledge, has there  
 23 been any investigation or inquiry to determine the  
 24 extent to which the involvement of FCMAT and the  
 25 oversight that FCMAT afforded had any impact on

1 increased student performance?  
 2 MR. SEFERIAN: Objection. Assumes facts not in  
 3 evidence. Vague and ambiguous as to "inquiry" and  
 4 "investigation." Lacks foundation.  
 5 THE WITNESS: I'm not aware of any such  
 6 investigation.  
 7 Q. BY MR. ROSENBAUM: Has there ever been any  
 8 discussion that that would be a good thing to do?  
 9 A. I'm not aware of any such discussions.  
 10 MR. SEFERIAN: Same objections.  
 11 Q. BY MR. ROSENBAUM: Are you aware, Mr. Hill, as  
 12 to whether or not at the time that FCMAT became involved  
 13 with the Compton school district, whether or not  
 14 textbooks were available to all students?  
 15 MR. VIRJEE: Objection. Vague and ambiguous as  
 16 to "textbooks." Vague and ambiguous as to "involved."  
 17 Calls for speculation. Lacks foundation.  
 18 MR. SEFERIAN: Vague and ambiguous as to  
 19 "available." Vague as to time.  
 20 THE WITNESS: Mr. Rosenbaum, I think I would  
 21 need help with your question. I'm having difficulty  
 22 seeing a connection between the presence of FCMAT and  
 23 the availability of textbooks.  
 24 Q. BY MR. ROSENBAUM: Let me restate the question  
 25 for you. Do you know if over the period of time that

1 FCMAT became involved with Compton, whether or not  
2 textbooks have become more available to students, access  
3 to textbooks, whether that's increased?

4 MR. VIRJEE: Objection. Vague and ambiguous as  
5 to "access" and "textbooks." Calls for speculation.  
6 Lacks foundation.

7 MR. SEFERIAN: Vague and ambiguous as to "more  
8 available."

9 THE WITNESS: I can't answer your question with  
10 regard to the characteristics you have described. I can  
11 state that Dr. Ward, the state administrator, publically  
12 told the State Board of Education this month that he had  
13 instigated a textbook tracking system for Compton.

14 Q. BY MR. ROSENBAUM: Do you know whether or  
15 not -- do you know what period of time Dr. Ward has been  
16 the state administrator?

17 A. Since 1996 to the end of 2001.

18 Q. Do you know if over that period of time there  
19 was greater availability of textbooks for students?

20 MR. VIRJEE: Objection. Vague and ambiguous as  
21 to "textbooks." Vague and ambiguous as to  
22 "availability." Calls for speculation. Lacks  
23 foundation.

24 THE WITNESS: I could not draw such a  
25 conclusion. I don't know.

1 Compound. Calls for speculation. Lacks foundation.

2 THE WITNESS: Maybe you could have -- be more  
3 specific about "facilities" and "Compton."

4 Q. BY MR. ROSENBAUM: Do you know if the state of  
5 facilities, the physical facilities improved over the  
6 period of time that he was state administrator?

7 A. Yes.

8 Q. You do know that?

9 MR. SEFERIAN: Objection -- sorry.

10 THE WITNESS: Yes.

11 Q. BY MR. ROSENBAUM: And what do you know?

12 A. Dr. Ward embarked on a program to repair and  
13 modernize facilities as resources allowed him to do that  
14 in Compton.

15 Q. Okay. If you don't feel you have the  
16 expertise, just tell me. Do you have an opinion as to  
17 whether or not that program contributed to increased  
18 student performance, academic performance?

19 MR. VIRJEE: Objection. Calls for speculation.  
20 Lacks foundation. Calls for an expert opinion. Vague  
21 and ambiguous as to improvement in student learning.  
22 Also vague and ambiguous as to "contributed."

23 MR. SEFERIAN: Vague and ambiguous as to "that  
24 program."

25 THE WITNESS: I can't draw -- I just can't draw

1 Q. BY MR. ROSENBAUM: You don't have any  
2 information one way or the other?

3 A. I do not.

4 Q. And have you ever attempted to identify the  
5 factors that were causes of improved student academic  
6 performance at Compton over the period of time that  
7 Dr. Ward was state administrator?

8 MR. VIRJEE: Objection. Vague and ambiguous as  
9 to "factors." And also asked and answered. He's  
10 already testified to the elements that he ascribes --  
11 that he personally views and ascribes to the approved  
12 student achievement.

13 MR. SEFERIAN: Assumes facts not in evidence

14 THE WITNESS: I would stand by my prior answer,  
15 and add that Dr. Ward, in his public presentation to the  
16 State Board, also reflected on the use of data and a  
17 focused instructional program as reasons for  
18 improvement.

19 Q. BY MR. ROSENBAUM: Okay. Do you know what's  
20 happened to the facilities at Compton during the period  
21 of time Dr. Ward was state administrator? Do you know  
22 if there were modernization or construction of new  
23 facilities?

24 MR. VIRJEE: Objection. Vague and ambiguous as  
25 to "modernization" and what happened to facilities.

1 such a conclusion.

2 Q. BY MR. ROSENBAUM: Just don't have enough  
3 information?

4 A. Correct.

5 Q. Do you have any duties or responsibilities,  
6 Mr. Hill, with respect to school facilities?

7 MR. VIRJEE: Objection. Vague and ambiguous as  
8 to "school facilities" and "duties" and  
9 "responsibilities."

10 MR. SEFERIAN: Overly broad.

11 THE WITNESS: As I've stated with other content  
12 areas of the Department, Dwayne Brooks, the division  
13 director of facilities, reports to Susie Lange who  
14 reports to me. I do not have direct day-to-day  
15 responsibilities over facilities.

16 Q. BY MR. ROSENBAUM: Okay. You told me a little  
17 bit earlier, Mr. Hill, about the criteria regarding  
18 similar school rankings.

19 What's your understanding of what that criteria  
20 are as laid out in the statute?

21 MR. VIRJEE: Objection. The statute speaks for  
22 itself. That also misstates his testimony. He didn't  
23 tell you about the criteria.

24 THE WITNESS: At the moment I cannot recall the  
25 criteria that comprises the similar school rankings.

1 Q. BY MR. ROSENBAUM: Okay. Do you have an  
2 opinion as to -- can you name any of the criteria?  
3 MR. VIRJEE: Is this a memory test? Again, you  
4 deposed Paul Warren about these things, Bill Padia about  
5 these things. The statute speaks for itself. You just  
6 want to see if Mr. Hill has a good memory? Come on,  
7 Mark, you're wasting everybody's time. The statute  
8 speaks for itself.  
9 THE WITNESS: The similar school rankings are  
10 designed to have schools with similar characteristics,  
11 and I would simply suggest that the statute then defines  
12 what those characteristics are.  
13 Q. BY MR. ROSENBAUM: Is there anyone in the  
14 Department --  
15 MR. VIRJEE: Let the record reflect that one of  
16 the lawyers is escaping.  
17 (Mr. Hajela left the room.)  
18 Q. BY MR. ROSENBAUM: Is there anyone in the  
19 Department, Mr. Hill, who has been assigned  
20 responsibility regarding those provisions of the PSAA  
21 relating to state takeover of schools?  
22 MR. VIRJEE: Objection. Vague and ambiguous.  
23 Compound. Unintelligible.  
24 MR. SEFERIAN: Vague and ambiguous as to  
25 "responsibility" and "state takeover."

1 THE WITNESS: Yes.  
2 Q. BY MR. ROSENBAUM: Who is that?  
3 A. Richard Whitmore was asked by Superintendent  
4 Eastin to coordinate the Department's considerations of  
5 those issues. Working directly with schools in question  
6 resides with Joanne Mendoza's branch.  
7 Q. When you say coordinate considerations of those  
8 issues, what did you mean by that?  
9 A. This is work that has not been done before in  
10 California, and during this next year, before any of  
11 those interventions take place, Superintendent Eastin  
12 asked Mr. Whitmore to do some thinking and consideration  
13 of how and if and when those sanctions might be put into  
14 effect. He works with the PSAA committee and with  
15 Ms. Mendoza's branch staff in considering those issues.  
16 Q. Have there been any memoranda prepared by  
17 Mr. Whitmore, to your knowledge, on this subject?  
18 A. I don't know the answer to that. He may be at  
19 some point producing an action plan. I do not know yet  
20 whether there is any such document.  
21 Q. Have you had any discussions at which  
22 Mr. Whitmore was present or in which action plans were  
23 discussed?  
24 MR. VIRJEE: Objection. Vague and ambiguous as  
25 to "action plans discussed."

1 MR. ROSENBAUM: I'm talking about in the  
2 context of takeovers.  
3 MR. VIRJEE: Objection. Overbroad. Vague and  
4 ambiguous as to "action plans" in conjunction with a  
5 takeover.  
6 THE WITNESS: I would respond, no, action plan  
7 is too generous a term.  
8 Q. BY MR. ROSENBAUM: Has there been any  
9 discussion of which you're aware about the capacity of  
10 the State to take over schools?  
11 MR. SEFERIAN: Objection. Vague and ambiguous  
12 as to "capacity" and "take over."  
13 MR. VIRJEE: Also object to the extent it calls  
14 for attorney/client privilege or the deliberative  
15 process privilege.  
16 THE WITNESS: Yes.  
17 Q. BY MR. ROSENBAUM: And on more than one  
18 occasion?  
19 A. I'm sorry, I need to get clarification. Are  
20 you speaking specifically about Department of Education  
21 meetings or communications?  
22 MR. ROSENBAUM: Let's start there, yeah.  
23 THE WITNESS: I can't recall -- I can't recall  
24 any specific meetings or number of meetings for those  
25 purposes.

1 Q. BY MR. ROSENBAUM: I'm sorry, you said there  
2 have been a number of meetings?  
3 A. No, I'm saying I can't recall -- I don't  
4 recollect -- I don't recollect multitudes of meetings.  
5 I have not participated in multitudes of meetings.  
6 Q. Have you participated in any meetings?  
7 A. Yes.  
8 Q. Okay. And who was present at those meetings?  
9 Was Superintendent Eastin present?  
10 A. She was present at at least one.  
11 Q. Mr. Whitmore?  
12 A. Yes.  
13 Q. Who else? Anyone from the governor's office?  
14 A. No.  
15 Q. Anyone from the secretary's office?  
16 A. No.  
17 Q. Anyone from the State Board or the staff of  
18 State Board?  
19 A. No.  
20 Q. Who else from the Department?  
21 A. Ms. Faucette and Ms. Mendoza.  
22 Q. Okay. And how many meetings are we talking  
23 about, roughly?  
24 A. I only have a recollection of one meeting where  
25 I was present for such discussions.

1 Q. Can you give me your best estimate as to when  
2 that occurred?  
3 A. In November or December of 2001.  
4 Q. And in whose office did that occur?  
5 MR. VIRJEE: Objection. Assumes facts not in  
6 evidence.  
7 Q. BY MR. ROSENBAUM: Where did it occur?  
8 A. Superintendent Eastin's office.  
9 Q. Okay. Was it your understanding that the  
10 purpose of the meeting was to discuss the capacity of  
11 the State with respect to the takeovers?  
12 MR. SEFERIAN: Objection. Vague and ambiguous  
13 as to "capacity" and "takeovers."  
14 THE WITNESS: Mr. Rosenbaum, we probably need  
15 to make sure we're understanding the term "capacity" in  
16 the same way. I meant with all sincerity what I stated  
17 earlier. As this is a very new ballgame for the State  
18 of California, our discussions focused on what the  
19 statutes require the State to do in terms of a variety  
20 of sanction options, how those might be implemented and  
21 supported, and how those are coincided or not with  
22 federal sanction efforts.  
23 Q. BY MR. ROSENBAUM: Title 1 sanctions?  
24 A. Correct.  
25 Q. And was there any concern expressed at this

1 meeting as to whether or not the State was going to be  
2 able to take over schools, whether it was capable of  
3 running schools?  
4 MR. VIRJEE: Vague and ambiguous as to  
5 "takeover" and "running." Compound. Calls for  
6 speculation.  
7 MR. SEFERIAN: Objection. I think that calls  
8 for information protected by the official information  
9 and the deliberative process privileges. I don't think  
10 the witness should answer that question.  
11 THE WITNESS: I'll defer to counsel on that.  
12 MR. ROSENBAUM: If I ask any questions about  
13 that meeting, am I going to get the same objection?  
14 MR. SEFERIAN: Regarding the content of the  
15 meeting, yes.  
16 Q. BY MR. ROSENBAUM: Have you ever seen any -- to  
17 your knowledge, do any memorandum or memoranda exist  
18 discussing -- from the Department of Education  
19 discussing strategies for the recruitment of  
20 fully-credentialed teachers to schools within the public  
21 school system?  
22 MR. VIRJEE: Objection. Vague and ambiguous as  
23 to "strategies" and "recruiting" and  
24 "fully-credentialed." Vague as to time.  
25 MS. READ-SPANGLER: Can you read back the

1 question.  
2 (Record read.)  
3 THE WITNESS: No.  
4 Q. BY MR. ROSENBAUM: Or to eliminate  
5 overcrowding?  
6 MR. VIRJEE: Objection. Vague and ambiguous as  
7 to "overcrowding." Otherwise same objections.  
8 THE WITNESS: No.  
9 Q. BY MR. ROSENBAUM: Or to provide textbooks and  
10 other basic instructional materials to students?  
11 MR. VIRJEE: Objection. Vague and ambiguous as  
12 to "provide." Otherwise same objections.  
13 MR. SEFERIAN: Also assumes facts not in  
14 evidence.  
15 MR. VIRJEE: Also overbroad as to providing  
16 "textbooks" and "instructional materials."  
17 THE WITNESS: I'm having trouble understanding  
18 your question as it relates to textbooks.  
19 Q. BY MR. ROSENBAUM: Okay. To assure that -- let  
20 me restate a different question. Have you seen any  
21 memorandum or memoranda discussing strategies for  
22 assuring students access to core curriculum materials?  
23 MR. VIRJEE: Objection. Asked and answered.  
24 You already asked him that exact question twice.  
25 MR. SEFERIAN: Objection. Assumes facts not in

1 evidence.  
2 MR. ROSENBAUM: You're right.  
3 Q. Have you ever directed anyone on your staff to  
4 prepare a memorandum regarding strategies for the  
5 recruitment of fully-credentialed teachers?  
6 MR. VIRJEE: Objection. Vague and ambiguous as  
7 to "strategies" and "fully-credentialed."  
8 MR. SEFERIAN: Assumes facts not in evidence.  
9 (Mr. Affeldt entered the room.)  
10 THE WITNESS: No.  
11 Q. BY MR. ROSENBAUM: Or to eliminate  
12 overcrowding?  
13 MR. VIRJEE: Objection. Vague and ambiguous as  
14 to "overcrowding."  
15 MR. SEFERIAN: Assumes facts not in evidence.  
16 THE WITNESS: No.  
17 Q. BY MR. ROSENBAUM: Or to afford access to core  
18 curriculum materials?  
19 MR. VIRJEE: Objection. Asked and answered,  
20 and also "access" is vague and ambiguous.  
21 MR. SEFERIAN: Assumes facts not in evidence.  
22 THE WITNESS: No.  
23 Q. BY MR. ROSENBAUM: Okay. Now if I change the  
24 question slightly and say not prepare a memorandum, but  
25 to come back and make a report as to possible

1 strategies, would any of your answers that you just gave  
 2 me be any different?  
 3 MR. VIRJEE: Objection. Vague and ambiguous as  
 4 to "report." Compound. Calls for speculation.  
 5 MR. SEFERIAN: Assumes facts not in evidence.  
 6 THE WITNESS: No.  
 7 Q. BY MR. ROSENBAUM: Are you aware of any data or  
 8 inquiries as to the access to computers by students  
 9 within the California public school system?  
 10 MR. VIRJEE: Objection. Vague and ambiguous as  
 11 to "access."  
 12 MR. SEFERIAN: Vague and ambiguous as to "data"  
 13 and "inquiries." Compound question.  
 14 THE WITNESS: Yes.  
 15 Q. BY MR. ROSENBAUM: And what's the basis of that  
 16 answer, Mr. Hill?  
 17 A. I'm aware that the Department's annual fact  
 18 book contains information about the number of computers  
 19 in California classrooms. I do not have specific  
 20 information about those numbers.  
 21 Q. Okay. If you've just answered, just tell me.  
 22 Do you know if all students have equal access to  
 23 computers?  
 24 MR. VIRJEE: Objection. Vague and ambiguous as  
 25 to "access" and also "equal."

1 THE WITNESS: I do not.  
 2 Q. BY MR. ROSENBAUM: Okay. Do you know if  
 3 there's been any discussion about strategies or steps  
 4 that can be taken to equalize access for all students to  
 5 computers?  
 6 MR. VIRJEE: Objection. Vague and ambiguous as  
 7 to "equalize" and "access."  
 8 MR. SEFERIAN: Overly broad. Assumes facts not  
 9 in evidence.  
 10 THE WITNESS: I do not.  
 11 Q. BY MR. ROSENBAUM: Okay. Have you seen any  
 12 information regarding student council ratios in high  
 13 schools in the California public school system?  
 14 A. Yes.  
 15 Q. Okay. And where did you see that data?  
 16 A. I would refer you again to our state fact book  
 17 which contains such information. I do not know the  
 18 specifics of that information.  
 19 Q. Okay. And if you've just answered, just tell  
 20 me. To your knowledge, do all students in high schools  
 21 in the California public schools have the same access to  
 22 counselors?  
 23 MR. VIRJEE: Objection. Vague and ambiguous as  
 24 "equal," "same" and "access."  
 25 MR. SEFERIAN: Lacks foundation. Calls for

1 speculation.  
 2 MR. VIRJEE: Also vague and ambiguous as to  
 3 "counselors."  
 4 THE WITNESS: I do not know the answer to that.  
 5 Q. BY MR. ROSENBAUM: Do you -- do you know if  
 6 there are any attempts to develop strategies or programs  
 7 to assure equal access to counselors for students in the  
 8 California public high schools?  
 9 MR. VIRJEE: Objection. Vague and ambiguous as  
 10 to "access," "strategies" and "counselors."  
 11 MR. SEFERIAN: Assumes facts not in evidence.  
 12 MR. VIRJEE: And "equal," by the way. Missed  
 13 that.  
 14 THE WITNESS: Mr. Rosenbaum, I would refer you  
 15 to some recent legislation which increased counselors  
 16 for California schools. I do not know, beyond the fact  
 17 that legislation was passed, the extent to which it  
 18 satisfies your question.  
 19 Q. BY MR. ROSENBAUM: Do you know whether or not  
 20 there are more or less access to counselors in  
 21 California public high schools in schools eligible for  
 22 II/USP as opposed to schools that are not eligible?  
 23 MR. VIRJEE: Objection. Objection. Vague and  
 24 ambiguous as to "access," "equal" and "counselors."  
 25 THE WITNESS: I do not.

1 Q. BY MR. ROSENBAUM: Okay. Ever make any inquiry  
 2 to find out?  
 3 MR. SEFERIAN: Objection. Assumes facts not in  
 4 evidence. Vague and ambiguous as to "inquiry."  
 5 THE WITNESS: I have not.  
 6 Q. BY MR. ROSENBAUM: How about teacher/student  
 7 ratio, Mr. Hill, do you know if the student/teacher  
 8 ratio in elementary schools that are eligible for II/USP  
 9 is the same, more or less than the teacher/student ratio  
 10 in schools that are not eligible for II/USP?  
 11 MR. VIRJEE: Objection. Vague and ambiguous as  
 12 to "eligible for II/USP."  
 13 MR. SEFERIAN: Compound question. Lacks  
 14 foundation.  
 15 THE WITNESS: I do not.  
 16 Q. BY MR. ROSENBAUM: Has there been any inquiry  
 17 to find out that of which you're aware?  
 18 MR. SEFERIAN: Objection. Assumes facts not in  
 19 evidence. Vague and ambiguous as to "inquiry".  
 20 THE WITNESS: I'm not aware of any such  
 21 inquiry.  
 22 Q. BY MR. ROSENBAUM: How about middle schools or  
 23 high schools, are you aware of whether or not schools  
 24 eligible for II/USP -- where the teacher/student ratio  
 25 is greater, less than or equal in schools that are

1 eligible for II/USP as opposed to schools that are not  
2 eligible?

3 MR. SEFERIAN: Objection. Vague and ambiguous  
4 as to time. Vague and ambiguous as to "schools eligible  
5 for II/USP." Lacks foundation.

6 THE WITNESS: I'm not aware of any such  
7 information.

8 Q. BY MR. ROSENBAUM: Any inquiry to find out of  
9 which you're aware?

10 MR. SEFERIAN: Objection. Assumes facts not in  
11 evidence. Vague and ambiguous as to attempt to find  
12 out.

13 THE WITNESS: I'm not aware of any such  
14 inquiry.

15 Q. BY MR. ROSENBAUM: Okay. Are you personally  
16 aware, sir, of whether or not external evaluators for  
17 the II/USP program have discussed strategies as to how  
18 to deal with a shortage of fully-credentialed teachers  
19 in schools?

20 MR. SEFERIAN: Objection. Overly broad. Calls  
21 for speculation.

22 THE WITNESS: I am not aware personally of any  
23 such discussions or strategies.

24 Q. BY MR. ROSENBAUM: Okay. How about  
25 overcrowding?

1 MR. SEFERIAN: Objection. Vague and ambiguous  
2 as to "how about."

3 THE WITNESS: I'm not aware of any such  
4 discussions or strategies.

5 Q. BY MR. ROSENBAUM: Or access to computers?  
6 MR. SEFERIAN: Same objections.

7 THE WITNESS: I'm not aware of any such  
8 discussions or strategies.

9 Q. BY MR. ROSENBAUM: Or insufficient textbooks  
10 and other basic instructional materials aligned with  
11 state standards?

12 MR. VIRJEE: Objection. Vague and ambiguous as  
13 to "insufficient" and "aligned."

14 THE WITNESS: Mr. Rosenbaum, on that question I  
15 would remind you of how I questioned the assumption  
16 behind that question when you asked it yesterday, that  
17 sufficiency of textbooks is not necessarily a condition  
18 of either a strong structural program or success in  
19 learning.

20 Q. BY MR. ROSENBAUM: But my question is, are you  
21 aware of any discussion by external evaluators of  
22 strategies to deal with insufficient textbooks and other  
23 basic instructional materials aligned with state  
24 standards?

25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to "insufficient" and "textbooks." Calls for  
2 speculation. Lacks foundation. Assumes facts not in  
3 evidence.

4 THE WITNESS: I am not aware of any specific  
5 strategies or discussions on that.

6 Q. BY MR. ROSENBAUM: Or the construction of new  
7 facilities?

8 MR. SEFERIAN: Same objections.

9 THE WITNESS: I'm not aware of any discussions  
10 or strategies for that.

11 Q. BY MR. ROSENBAUM: Or the modernization of  
12 facilities?

13 MR. VIRJEE: Objection. Vague and ambiguous as  
14 to "modernization." Otherwise same objections.

15 THE WITNESS: I am not aware of any such  
16 discussions or strategies.

17 Q. BY MR. ROSENBAUM: Or how to obtain additional  
18 financial resources?

19 A. I am not aware of any such discussions or  
20 strategies.

21 If you're done with that category, I have a  
22 recommendation for you, which is to refer to the State  
23 Board's approval of action plans for schools involved in  
24 II/USP.

25 Q. If an external evaluator concluded with respect

1 to a particular school that severe overcrowding was a  
2 cause of deficient student academic performance, in your  
3 understanding of the system, could the external  
4 evaluator have the authority to say you need to build a  
5 new school here?

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

8 MS. READ-SPANGLER: Also can I just ask for  
9 clarification. I've been assuming, and I think Scott  
10 has too, when you're talking about external evaluators,  
11 you're talking about that with respect to II/USP, right?

12 Q. BY MR. ROSENBAUM: That's your understanding,  
13 right?

14 A. That is my understanding.

15 MR. SEFERIAN: Vague and ambiguous as to  
16 "severe overcrowding" and "deficient academic  
17 performance." Incomplete and improper hypothetical  
18 question.

19 MR. VIRJEE: Also assumes facts not in  
20 evidence. Assumes that the external evaluator would be  
21 competent to make that decision.

22 MR. SEFERIAN: Calls for an inadmissible  
23 opinion.

24 MR. ROSENBAUM: That's a good point by  
25 Mr. Virjee.

1 Q. Do you have an opinion as to whether or not  
2 external evaluators selected are competent to make that  
3 judgment?  
4 MR. VIRJEE: Objection. Calls for speculation.  
5 Lacks foundation. Compound. Incomplete hypothetical.  
6 It would assume in a particular case and circumstances.  
7 THE WITNESS: I don't know the answer to that  
8 question. I would refer you to the list of approved  
9 evaluators by the State Board for such information.  
10 Q. BY MR. ROSENBAUM: Okay. Are you aware of any  
11 criticisms of the II/USP programs by persons outside the  
12 Department?  
13 MR. VIRJEE: Objection. Vague and ambiguous as  
14 to "criticisms."  
15 THE WITNESS: I'm sorry, I would need a little  
16 help on this one. I don't know at a general level the  
17 criticisms.  
18 Q. BY MR. ROSENBAUM: Have you heard any criticism  
19 of the II/USP program by anybody?  
20 MR. VIRJEE: Objection. Vague and ambiguous as  
21 to "criticisms."  
22 MR. SEFERIAN: Object to the extent it calls  
23 for privileged communications.  
24 THE WITNESS: Yes.  
25 Q. BY MR. ROSENBAUM: Okay. What concerns or

1 MR. ROSENBAUM: If you don't feel competent to  
2 do that, just tell me.  
3 MR. SEFERIAN: Overly broad.  
4 THE WITNESS: No.  
5 Q. BY MR. ROSENBAUM: No, you don't feel  
6 competent, or, no, you don't have any concerns or  
7 criticisms?  
8 A. No, I do not have concerns or criticisms of the  
9 program.  
10 Q. Okay. There is a writing test that is  
11 administered as part of the STAR program; am I correct?  
12 MR. VIRJEE: Objection. Vague and ambiguous as  
13 to "writing test." Also calls for speculation. Lacks  
14 foundation.  
15 THE WITNESS: Mr. Rosenbaum, are you referring  
16 to the grades 4 and 7 writing examination that is  
17 administered as part of the California standards test?  
18 MR. ROSENBAUM: Yes.  
19 Q. How long has that been administered, so far as  
20 you know?  
21 A. This will be the second administration of that  
22 exam.  
23 Q. Have you looked at the results of the first  
24 administration?  
25 MR. VIRJEE: Objection. Vague and ambiguous as

1 criticisms have you heard?  
2 A. The only criticism for which I have  
3 recollection is that during the first two years of the  
4 program there were some external evaluators who were  
5 handling significant numbers of schools, and concerns  
6 were raised about the extent to which the action plans  
7 that were being developed for those schools were cookie  
8 cutter in fashion or directed specifically for the needs  
9 of those schools.  
10 (Mr. Affeldt left the room.)  
11 Q. BY MR. ROSENBAUM: Which external evaluators?  
12 A. I don't have that specific information.  
13 Q. Do you know which districts?  
14 A. I do not.  
15 Q. Have you heard any other concerns or  
16 criticisms?  
17 A. I don't have any recollection right now of any  
18 other specific concerns.  
19 Q. Do you personally have any concerns or  
20 criticisms of the II/USP program?  
21 MR. VIRJEE: Objection. Vague and ambiguous as  
22 to "criticisms" and "concerns." Calls for speculation.  
23 Lacks foundation.  
24 MR. SEFERIAN: Calls for an inadmissible  
25 opinion. Overly broad.

1 to "results." Also vague and ambiguous as to "looked  
2 at" either as separated out or a composite of an API  
3 score, or any other way.  
4 THE WITNESS: I recollect receiving a briefing  
5 on the scores. I don't remember anything specific about  
6 the briefing or the scores themselves.  
7 Q. BY MR. ROSENBAUM: Okay. Do you know if the  
8 Department has conducted any inquiry or analysis to see  
9 whether or not there's any relationship between students  
10 scores on the fourth and seventh grade writing prompts  
11 and the scores on other parts of the STAR program?  
12 MR. SEFERIAN: Objection. Assumes facts not in  
13 evidence. Vague and ambiguous as to "inquiry" and  
14 "analysis."  
15 MR. VIRJEE: And "correlation."  
16 THE WITNESS: I'm not aware of any such  
17 evaluations, although I refer you to Mr. Spears for  
18 whether that has been done.  
19 Q. BY MR. ROSENBAUM: Do you know if there's any  
20 plans to see if there's any relationship between results  
21 of the writing prompt and other parts of the test?  
22 MR. VIRJEE: Vague and ambiguous as to  
23 "relationship."  
24 MR. SEFERIAN: Objection to disclosure of  
25 privileged communications.

1 THE WITNESS: I would refer you to Mr. Spears.  
 2 Q. BY MR. ROSENBAUM: You're not aware of any?  
 3 A. I'm not aware of any such plans.  
 4 Q. Are you aware, Mr. Hill, of a complaint lodged  
 5 against the San Diego Unified School District?  
 6 MR. SEFERIAN: Objection. Vague and ambiguous.  
 7 Vague as to time. Overly broad. Vague as to  
 8 "complaint."  
 9 THE WITNESS: Mr. Rosenbaum, are you speaking  
 10 of a uniform complaint?  
 11 MR. ROSENBAUM: Yeah.  
 12 THE WITNESS: Yes.  
 13 Q. BY MR. ROSENBAUM: Okay. And do you have any  
 14 involvement -- strike that.  
 15 Have you read the complaint or a summary of the  
 16 complaint?  
 17 MR. VIRJEE: Which complaint?  
 18 MR. ROSENBAUM: The complaint against the San  
 19 Diego Unified School District.  
 20 MR. VIRJEE: He said he's aware of a complaint.  
 21 He didn't say any particular complaint.  
 22 MR. ROSENBAUM: That's the complaint I'm  
 23 referring to.  
 24 MR. VIRJEE: How do you know? You think  
 25 there's been only one complaint in the history of all

1 time against San Diego. He may be familiar with  
 2 something completely different than what you're talking  
 3 about. Calls for speculation. Lacks foundation. Vague  
 4 and ambiguous as to "the complaint."  
 5 MR. ROSENBAUM: Go ahead, Mr. Hill.  
 6 THE WITNESS: Actually, Mr. Rosenbaum, now that  
 7 counsel has stated his objections, I do need  
 8 clarification from you.  
 9 Q. BY MR. ROSENBAUM: How many complaints are you  
 10 aware of under the UCP with respect to the San Diego  
 11 Unified School District?  
 12 A. I am aware of a complaint regarding some  
 13 curriculum issues and Title 1 issues, and also one  
 14 involving special education.  
 15 Q. Okay. Am I right, Mr. Hill, that the -- is  
 16 there a complaint that deals with both curriculum issues  
 17 and Title 1 issues with respect to San Diego?  
 18 A. Yes.  
 19 Q. Okay. And is there a separate complaint that  
 20 deals with special education?  
 21 A. That's my recollection.  
 22 Q. Okay. I'm not interested in the special ed one  
 23 right now.  
 24 Have you read over the complaint that deals  
 25 with curriculum and Title 1 issues regarding San Diego?

1 A. I don't believe I have.  
 2 Q. Do you know anything about the complaint?  
 3 MR. SEFERIAN: Object to the extent it calls  
 4 for privileged communications.  
 5 THE WITNESS: Complainant from the San Diego  
 6 Unified School District has appeared before the State  
 7 Board of Education in public sessions for several  
 8 months, and it is on that basis that I have some  
 9 understanding of the complaint.  
 10 Q. BY MR. ROSENBAUM: You have no independent  
 11 knowledge outside of what you've learned at the Board of  
 12 Education; is that right?  
 13 A. Regarding the complaint, that's correct.  
 14 Q. Have you tasked anyone in the Department under  
 15 you to see whether or not the allegations are true with  
 16 respect to San Diego?  
 17 MR. SEFERIAN: Objection. Assumes facts not in  
 18 evidence. Vague and ambiguous as to "tasked" and  
 19 "true." Lacks foundation.  
 20 THE WITNESS: The complaint process resides in  
 21 Marsha Bedwell's school and district accountability  
 22 division. I am aware that her division is working on  
 23 the complaint.  
 24 Q. BY MR. ROSENBAUM: Do you know the status of  
 25 where they're at?

1 A. I don't.  
 2 Q. Have you asked them to make specific reports to  
 3 you about the progress of examining that complaint?  
 4 MR. SEFERIAN: Objection. Vague and ambiguous  
 5 as to "specific reports."  
 6 THE WITNESS: No.  
 7 Q. BY MR. ROSENBAUM: What's your understanding as  
 8 to what the nature of the complaint is with respect to  
 9 curriculum entitlement?  
 10 MR. SEFERIAN: Objection. Lacks foundation.  
 11 Calls for speculation. Overly broad.  
 12 (Mr. Affeldt entered the room.)  
 13 THE WITNESS: The complaint alleges that the  
 14 school district embarked on reform efforts and did not  
 15 seek or gain the approval of parents as required by the  
 16 district's policy for parent involvement.  
 17 The complaint also alleges that Title 1 funds  
 18 were coalesced and distributed to the detriment of  
 19 Title 1 students. That's my best recollection of the  
 20 allegations.  
 21 Q. BY MR. ROSENBAUM: And with respect to the  
 22 latter, do you have an opinion as to whether or not  
 23 that's true or not?  
 24 MR. VIRJEE: Objection. Calls for speculation.  
 25 Lacks foundation. Calls for an expert opinion.



1 THE WITNESS: I don't.

2 Q. BY MR. ROSENBAUM: Okay. Do you know what the  
3 phrase "grade promotion" means?

4 MR. SEFERIAN: Objection. Vague and ambiguous  
5 as to context.

6 THE WITNESS: No, I don't.

7 Q. BY MR. ROSENBAUM: Okay. Do you know -- maybe  
8 you just answered this question. Do you know if there  
9 have been performance standards adopted or considered  
10 for use on the STAR exam with respect to the grade  
11 promotion?

12 MR. VIRJEE: He's already told you he doesn't  
13 know what the term grade promotion means. How is he  
14 going to answer the question?

15 THE WITNESS: The answer is the same.

16 Q. BY MR. ROSENBAUM: Are there any other  
17 quantitative factors that you think would be appropriate  
18 to include with the API beyond those that are presently  
19 included?

20 MR. VIRJEE: Objection. Calls for speculation.  
21 Lacks foundation. Vague and ambiguous as to  
22 "quantitative factors." Also calls for expert opinion.  
23 Also vague as to time.

24 MR. ROSENBAUM: One part of that objection is  
25 okay.

1 not now included in the API that would be beneficial to,  
2 in fact, include?

3 MR. VIRJEE: Objection. Vague and ambiguous as  
4 to "beneficial." Vague and ambiguous as to  
5 "quantitative factors." Also vague and ambiguous as to  
6 currently included in the API. To the extent you're  
7 asking what's included under the statute, the statute  
8 speaks for itself and it calls for a legal conclusion.  
9 Also calls for an expert opinion.

10 THE WITNESS: Yes.

11 Q. BY MR. ROSENBAUM: And tell me what your are  
12 thoughts on that.

13 MR. SEFERIAN: Objection. Calls for  
14 inadmissible opinion. Lacks foundation. Calls for  
15 speculation.

16 THE WITNESS: The statute directs the  
17 contemplation of so-called noncognitive factors into the  
18 API as they can be, one, made available, and, two,  
19 transformed into a quantitative calculation, a modeling.

20 Beyond that there have been -- there has been a  
21 range of public discussions about whether -- of which  
22 I'm aware of, regarding whether other nine cognitive  
23 factors might appropriately be included in the API.

24 Q. BY MR. ROSENBAUM: What factors?

25 A. I don't know that I could point to any one

1 MR. VIRJEE: Actually, all parts are okay.

2 Q. BY MR. ROSENBAUM: Have you given any thought  
3 as to whether or not there should be any additional  
4 quantitative factors added to the API for purposes of  
5 the PSAA?

6 MR. VIRJEE: Objection. Vague and ambiguous as  
7 to "quantitative factors." Also vague as to time.

8 MR. SEFERIAN: Assumes facts not in evidence.  
9 Calls for an inadmissible opinion. Lacks foundation.

10 THE WITNESS: Why don't you state the question  
11 one more time, please.

12 Q. BY MR. ROSENBAUM: I'm just interested in you,  
13 Mr. Hill. What I'm trying to figure out is you've told  
14 us that there are quantitative factors that are part of  
15 the API, right?

16 MR. VIRJEE: Objection. Vague and ambiguous as  
17 to "quantitative factors." I don't think he's ever used  
18 that term.

19 MR. ROSENBAUM: Yes, he has.

20 THE WITNESS: Let me make sure we're clear on  
21 that, Mr. Rosenbaum. What I described were factors that  
22 can be transformed into a quantitative formula.

23 Q. BY MR. ROSENBAUM: Are there any factors that  
24 are not presently in the API -- have you ever given any  
25 thoughts as to whether or not there are factors that are

1 specifically as one that could meet a test of being  
2 transformed into a quantitative modeling for the  
3 purposes of the API.

4 Q. Okay. Has there been talk in the Department of  
5 which you're aware as to whether or not additional  
6 factors would be beneficial?

7 MR. VIRJEE: Objection. Vague and ambiguous as  
8 to "additional factors." Beyond what? And also vague  
9 and ambiguous as to "beneficial." Also vague as to  
10 time.

11 MR. SEFERIAN: Object to the extent it calls  
12 for privileged information.

13 THE WITNESS: There have been no discussions of  
14 which I'm aware. I would refer you to the Public School  
15 Accountability Act advisory committee which may have had  
16 some discussion.

17 Q. BY MR. ROSENBAUM: You're not aware one way or  
18 the other, correct?

19 A. Correct.

20 MR. VIRJEE: Objection. Asked and answered.

21 MR. SEFERIAN: Would this be a good time for a  
22 break?

23 MR. ROSENBAUM: Sure.

24 (Recess taken.)

25 Q. BY MR. ROSENBAUM: I'll mark as Exhibit 230 a

1 28-page document. I'm not going to ask you to read all  
2 the pages. I'll try to point you in a direction. It's  
3 a 28-page document. It's titled curriculum development  
4 and supplemental materials commission, minutes of  
5 meeting May 18-19, 2000, parents, approved by full  
6 commission July 20, 2000.

7 Let me have that marked and supply it to you,  
8 Mr. Hill, and in the meantime give all counsel copies.  
9 (Exhibit SAD-230 was marked.)

10 Q. BY MR. ROSENBAUM: Do you know -- do you have  
11 Exhibit 230 in front of you?

12 A. I do.

13 Q. Do you know what the curriculum development and  
14 supplemental materials commission is?

15 A. I do.

16 Q. What is it as far as you know?

17 A. It's an advisory body to the State Board of  
18 Education that assists in the development and evaluation  
19 of instructional materials and in the development of  
20 state curriculum frameworks.

21 Q. And have you attended meetings of the  
22 commission?

23 A. I have.

24 Q. And do you recall, sir, whether or not you  
25 attended the May 18, May 19, 2000 meeting?

1 any of the issues that are identified following that  
2 colon, 1, additional \$1.8 billion in a May revise of the  
3 governor's budget; 2, incentive awards for educators to  
4 raise student scores; 3, concern for science testing; 4,  
5 large gaps in adequate funding for standards-aligned  
6 instructional materials in the core areas; 5, tension  
7 caused by the perception of, quote, tons of new money  
8 for new books, close quote, and the reality that the  
9 funding had been so low for so long; 6, limitations of  
10 annual allocation of instructional funds compared to  
11 need to shift to standards-aligned materials in multiple  
12 subject areas and the high costs of instructional  
13 materials; 7, information gaps among school board  
14 members and school administrators about  
15 standards-aligned materials and funding?

16 MR. VIRJEE: I'm going to object to your  
17 question to the extent you asked did he make a  
18 presentation, because the document says specifically  
19 right before those colons, Mr. Hill and the  
20 commissioners discussed the following. Doesn't say  
21 anything about a presentation. Doesn't say Mr. Hill  
22 presented about anything.

23 MR. ROSENBAUM: I appreciate that. That's  
24 fine.

25 Q. I'll amend my question to reflect Mr. Virjee's

1 MR. VIRJEE: Objection. Calls for speculation.  
2 Lacks foundation.

3 THE WITNESS: I don't have a specific  
4 recollection.

5 Q. BY MR. ROSENBAUM: Okay. Let me ask you, sir,  
6 to turn to page 4. The second full paragraph there, do  
7 you see where it says, Ms. Griffith then invited  
8 Mr. Scott Hill, chief deputy superintendent for  
9 accountability and administration to provide an update.  
10 Mr. Hill and the commissioners discussed the following,  
11 and there's a colon and then there's some content after  
12 that.

13 Do you see that?

14 A. I do.

15 Q. Does that help refresh your recollection as to  
16 whether you were at that meeting?

17 MR. VIRJEE: He's asking does that help you  
18 recall whether you were actually at a meeting on May 18  
19 or 19.

20 THE WITNESS: I could certainly check my  
21 calendar. I do not have a specific recollection of  
22 this.

23 Q. BY MR. ROSENBAUM: Did you at any point in your  
24 tenure as chief deputy superintendent for accountability  
25 and administration make a presentation with respect to

1 concerns and say, do you recall having a discussion with  
2 the commissioners on any or all of those subject  
3 matters?

4 A. Yes.

5 Q. And with respect to large gaps in adequate  
6 funding for standards-aligned instructional materials in  
7 the core areas, do you see that?

8 A. That's No. 4.

9 Q. Yeah, on Exhibit 230. Do you see that?

10 A. I do.

11 Q. What do you recall -- what, if anything, do you  
12 recall about the discussion on that subject matter?

13 A. I do not recall anything about that discussion.  
14 I can state unequivocally that if there was a  
15 discussion, it was not one that I prompted. I do not  
16 recall that discussion.

17 Q. Okay. So when you say you didn't prompt it,  
18 your conclusion would be that one or more of the  
19 commissioners prompted it?

20 MR. VIRJEE: If there was such a discussion is  
21 what he said.

22 THE WITNESS: If there was such a discussion  
23 with the basis of that discussion being a concern or  
24 perception that there were large gaps in adequate  
25 funding for standards-aligned instructional materials,

1 that discussion was not prompted by me.  
 2 Q. BY MR. ROSENBAUM: Okay. Are these meetings  
 3 taped, to your knowledge?  
 4 A. They may be. I don't know for certain, but  
 5 they may be.  
 6 Q. Do you know if they're transcribed as with a  
 7 reporter?  
 8 MR. VIRJEE: You mean is a reporter present?  
 9 MR. ROSENBAUM: Yeah.  
 10 THE WITNESS: I don't believe so.  
 11 Q. BY MR. ROSENBAUM: Okay. Do you recall  
 12 anything about a discussion with respect to item 5  
 13 there, tension caused by the perception of tons of new  
 14 money for books and the reality that the funding had  
 15 been so low for so long?  
 16 A. The discussion that I recall had a tenor to it  
 17 that's not quite consistent with the wording that's  
 18 there.  
 19 Q. Okay. Tell me the basis of your answer.  
 20 MR. VIRJEE: You want him to tell you what he  
 21 recalls, is that what you're asking?  
 22 MR. ROSENBAUM: Sure.  
 23 (Mr. Affeldt left the room.)  
 24 THE WITNESS: My recollection is that the  
 25 commission raised concerns that were being raised very

1 publically by a number of organizations and individuals  
 2 during the time of that budget development where there  
 3 was still lots of money and where there was -- where  
 4 concern was raised that districts were -- that school  
 5 districts were accumulating large sums of instructional  
 6 materials money and that they were simply hoarding it,  
 7 and the concern that was being raised in reaction to  
 8 those issues was that we had been, we, the state, had  
 9 compacted the schedule for standards-aligned materials  
 10 adoptions to the point where districts needed to make  
 11 some strategic decisions.  
 12 We had, during my tenure with the curriculum  
 13 commission, had embarked on the AB 2519 adoptions  
 14 process, which was designed to provide a significant  
 15 influx of fiscal resources and significant -- first step  
 16 in the introduction of standards-aligned materials in  
 17 math and language arts to classrooms, followed closely  
 18 by full-scale adoptions more consistent with the regular  
 19 adoption schedule of standards-aligned materials. We  
 20 just completed that process with the language arts  
 21 adoption earlier this month by the State Board.  
 22 So the lament that was being expressed at that  
 23 time by the commissioners and by others was that  
 24 districts had to be strategic in whether they  
 25 immediately went out and purchased AB 2519-approved

1 materials or went through a process of being more  
 2 deliberate to wait for the full adoptions that occurred  
 3 in 2001 for math, 2002 for language arts.  
 4 Q. BY MR. ROSENBAUM: What do you mean by "more  
 5 strategic"?  
 6 A. The adoptions of instructional materials by  
 7 districts is a significant, time-consuming process that  
 8 includes lots of committee work by teachers, and to do  
 9 that and dedicate yourself to instructional materials  
 10 that you're going to end up using for often six years is  
 11 a pretty intensive investment of time and ultimately of  
 12 your fiscal resources.  
 13 Because the state was so anxious to get  
 14 standards-aligned materials into classrooms as soon as  
 15 possible, we held this interim adoption, the AB 2519  
 16 adoption, and that was in 1999. Districts could use  
 17 their instructional materials resources to purchase  
 18 materials from that list and then determine whether they  
 19 were going to use those materials for the time  
 20 established in the statute for the use of those  
 21 materials and/or purchase materials from the regular  
 22 adoptions cycles, which were 2001, 2002.  
 23 Q. You said districts were anxious to get the  
 24 materials in the classrooms, did I understand you  
 25 correctly?

1 A. No, I'm sorry, I did not say that. The state  
 2 was in the process, as I've described over two days,  
 3 trying align all of our systems behind standards. The  
 4 state policymakers, the legislature and governor were  
 5 anxious to ensure that standards-aligned material was in  
 6 California classrooms as soon as possible, which is why  
 7 the 2519 adoption process was undertaken.  
 8 Q. Did you ever hear any reasons expressed as to  
 9 why they were anxious?  
 10 MR. SEFERIAN: Objection. Vague and ambiguous  
 11 as to "they."  
 12 (Mr. Affeldt entered the room.)  
 13 THE WITNESS: My personal opinion is that  
 14 policymakers were doing their level best to demonstrate  
 15 in action and in resources the commitment to a  
 16 standards-based system that was fully aligned.  
 17 Q. BY MR. ROSENBAUM: And that would be part of  
 18 establishing that commitment; is that right?  
 19 MR. SEFERIAN: Objection. Vague and ambiguous.  
 20 MR. VIRJEE: What would be part?  
 21 Q. BY MR. ROSENBAUM: Have you ever heard the  
 22 concern expressed that districts lack resources to  
 23 purchase standards-aligned instructional materials for  
 24 their schools and classrooms?  
 25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to time and "resources."

2 MR. ROSENBAUM: At any point in your tenure.

3 MR. SEFERIAN: Objection. Vague and ambiguous  
4 as to "standards-aligned materials."

5 THE WITNESS: There are always concerns about  
6 adequate resources for schools. I cannot recollect a  
7 specific comment about the lack of resources for  
8 instructional materials that are standards-aligned.

9 Q. BY MR. ROSENBAUM: When you say "there are  
10 always concerns about adequate resources," what do you  
11 mean by that, "for schools"?

12 A. This is my opinion. Schools are like many  
13 public agencies dependent on -- dependent upon the  
14 development of resources through a public process that  
15 is dependent upon state revenues, and there was always a  
16 need and a way to spend more money.

17 Q. And when you say there's always a need to spend  
18 more money, what's the basis of that answer?

19 MR. SEFERIAN: Objection. Vague and ambiguous  
20 as to context. Lacks foundation.

21 THE WITNESS: Mr. Rosenbaum, we could all  
22 idealize a state of public education for students, and  
23 if you -- however, individualistic those states may be,  
24 if you backtrack from there, you often get to a point of  
25 reality. That's what I'm speaking to.

1 Q. And you just made some rectangles around  
2 portions of 231?

3 A. Yes.

4 Q. I just want to reflect that that's -- there  
5 weren't any marks on that document when you received it;  
6 is that right?

7 A. That's correct.

8 (Mr. Affeldt entered the room.)

9 Q. BY MR. ROSENBAUM: Okay. And do you from time  
10 to time respond to calls from the media?

11 A. As infrequently as I can.

12 Q. Okay. And directing your attention to page --  
13 page 3 of what's been marked as Exhibit 231, do you see  
14 the paragraph that says, beginning with the next school  
15 year, California schools that do not improve performance  
16 could face state takeover. More than any single group,  
17 the business community in California was the force  
18 behind high-stakes, standards-based testing, Hill, said.

19 Now, with respect to the phrase more than any  
20 single group, the business community in California was  
21 the force behind high-stakes, standards-based testing,  
22 have you ever stated in sum or substance that  
23 sentiment?

24 MR. SEFERIAN: Objection. It's overly broad.  
25 Vague and ambiguous. Lacks foundation. Vague and

1 MR. ROSENBAUM: Let's mark as Exhibit 231 a  
2 four-page document dated November 16, 2001. It has a  
3 logo at the beginning Office Depot, how can you crush  
4 the competition, from the Business Courier.

5 (Exhibit SAD 231 was marked.)

6 (Mr. Affeldt left the room.)

7 Q. BY MR. ROSENBAUM: I'm going to put this in  
8 front of you. I'm just going to ask you about a piece  
9 of this. Feel free to look at as much as you'd like.  
10 I'll give counsel copies of Exhibit 231.

11 Okay. Mr. Hill, you can take as much time as  
12 you want, but do you have what's been marked as Exhibit  
13 231 in front of you?

14 A. I do.

15 Q. Do you from time to time answer --

16 MR. VIRJEE: Did you want him to read it and  
17 take as much time as he wants, like you said? Because  
18 if you did, let him finish looking at it.

19 MR. ROSENBAUM: I'm sorry. Go ahead, Mr. Hill.

20 MR. VIRJEE: Go ahead and take your time and  
21 read it because he's going to ask you about it.

22 THE WITNESS: Okay, Mr. Rosenbaum.

23 Q. BY MR. ROSENBAUM: Just for the record,  
24 Mr. Hill, you've got Exhibit 231 in front of you?

25 A. Yes.

1 ambiguous as to context.

2 THE WITNESS: The reference, the context and  
3 reference in which I made this statement was the  
4 strength of the business community in pushing for a  
5 system of standards, assessments and accountability.

6 Q. BY MR. ROSENBAUM: You did make that statement  
7 though; is that right?

8 MR. VIRJEE: Which statement? There's no quote  
9 here. You said in sum and substance.

10 THE WITNESS: This statement can be  
11 understood -- the narrative provided by the writer can  
12 be understood in that context.

13 Q. BY MR. ROSENBAUM: Maybe you just answered  
14 this. That's why I'm asking the question, because it's  
15 not in quotation marks. Did you in sum or substance  
16 say, more than any single group, the business community  
17 in California was the force behind high-stakes,  
18 standards-based testing? Did you say it then or have  
19 you ever made that statement?

20 MR. VIRJEE: Objection. Vague and ambiguous as  
21 to "sum and substance."

22 MR. SEFERIAN: Overly broad.

23 THE WITNESS: This reporter -- the answer is I  
24 don't recall making that specific statement. What I do  
25 recall very specifically is this reporter was asking

1 information about Harcourt from the perspective of state  
2 clients, and the conversation included queries from the  
3 reporter about how we -- about how states are making the  
4 transition or are trying to deal with both a need and  
5 desire for comparative information which is provided by  
6 norm-reference test and also the desire to reflect their  
7 own state standards.

8 And this reporter asked me about -- since I had  
9 been executive director of the standards commission,  
10 asked me about the history of the development of  
11 standards, and the response I provided to the reporter  
12 focused on the fact and the reality that throughout the  
13 nation the call for standards was driven by a business  
14 community that did not perceive that workers who were  
15 entering the work force were prepared with the kinds of  
16 skills and knowledge and know-how that they believed  
17 their new workers needed, and it was a -- it became a  
18 rallying cry of business communities throughout the  
19 nation to establish standards for what students should  
20 know and do, aligned assessments and then an  
21 accountability system to have teeth behind it.

22 Q. BY MR. ROSENBAUM: Thanks. The next paragraph  
23 of what's been marked as Exhibit 231 says, quote, the  
24 students making the transition to the work force were  
25 not well-prepared, close quote, he said, period. Open

1 development of standards and assessments and  
2 accountability.

3 Q. BY MR. ROSENBAUM: Did you ever hear any person  
4 or persons within the business community make these  
5 statements or express these sentiments?

6 MR. VIRJEE: These exact statements?

7 THE WITNESS: Yes.

8 Q. BY MR. ROSENBAUM: In California?

9 A. Yes.

10 Q. On more than one occasion?

11 A. Yes.

12 Q. Do you recall who some of the individuals were  
13 who expressed that?

14 A. I cannot give you specific people, times,  
15 places, but we had many members of the business  
16 community who were members of the academic standards  
17 commission who were appointed because they came from a  
18 business background who often expressed those very  
19 sentiments.

20 In addition, leading groups in California  
21 education today, such as the California Business for  
22 Education Excellence, Ed Voice and others have, at least  
23 in my recollection, stood by these kinds of sentiments  
24 as a way to continue to support and reinforce the need  
25 for standards, assessments and accountability.

1 quote, they didn't have the basic skills and the strong  
2 ethics and understanding needed to develop those skills,  
3 period, close quote.

4 Did you make those statements in sum or  
5 substance?

6 A. I don't recall specifically making that  
7 statement. That statement is consistent with what I  
8 just described to you as the conversation that I had  
9 with this reporter.

10 Q. Okay. Was that your view?

11 MR. VIRJEE: What was his view, what is here or  
12 what he said was consistent or what he said earlier?

13 MR. ROSENBAUM: What is on 231, the students  
14 making the transition to the work force were not  
15 well-prepared, they didn't have the basic skills and the  
16 strong ethics and understanding needed to develop those  
17 skills.

18 MR. SEFERIAN: Objection. Asked and answered.

19 MR. VIRJEE: Also incomplete.

20 THE WITNESS: You're asking me if this is my  
21 specific personal opinion as stated here?

22 MR. ROSENBAUM: Yeah.

23 THE WITNESS: The answer is no, I was  
24 reflecting the comments that the business community was  
25 using to justify and pursue an active role in the

1 Q. Did you personally have an opinion as to  
2 whether or not those sentiments were true or not?

3 MR. SEFERIAN: Objection. Vague as to time.

4 MR. VIRJEE: Also calls for speculation. Lacks  
5 foundation.

6 MR. ROSENBAUM: It does lack foundation.

7 Q. Did you have a basis in your mind to determine  
8 whether or not those sentiments were true or not?

9 MR. VIRJEE: Objection. Vague and ambiguous as  
10 to time. Calls for speculation. Lacks foundation.

11 MR. SEFERIAN: Overly broad.

12 MR. VIRJEE: Also speculative as to "basis."

13 THE WITNESS: No, I did not.

14 Q. BY MR. ROSENBAUM: Were you ever present when  
15 those -- strike that.

16 When those sentiments were expressed, was there  
17 any time that you can recall when Superintendent Eastin  
18 was present?

19 A. I don't have a specific recollection. She was  
20 a member of the academic standards commission, but I do  
21 not have a specific recollection of her presence.

22 Q. Did you ever hear her respond with respect to  
23 those sentiments?

24 MR. VIRJEE: Objection. Vague and ambiguous as  
25 to "respond." It calls for speculation as to whether

1 they were with respect to those sentiments.  
 2 THE WITNESS: Mr. Rosenbaum, I can't recall a  
 3 specific example of her sentiments on this.  
 4 Q. BY MR. ROSENBAUM: How about Governor Davis?  
 5 MR. VIRJEE: How about Governor Davis?  
 6 MR. ROSENBAUM: That's a topic, isn't it?  
 7 MR. VIRJEE: You choose. Shall we make the  
 8 list?  
 9 Q. BY MR. ROSENBAUM: Have you ever heard Governor  
 10 Davis respond to those sentiments?  
 11 A. No, I have not.  
 12 Q. Or Secretary Mazzoni?  
 13 A. No, I have not.  
 14 Q. Or Mr. Mockler?  
 15 A. I don't recall Mr. Mockler expressing those  
 16 sentiments.  
 17 Q. Or anyone on the State Board?  
 18 A. I don't recall any present member of the State  
 19 Board expressing those sentiments.  
 20 Q. Any past member?  
 21 A. I don't recall any specific member, but I'm  
 22 less certain, and the reason why, again, is a contextual  
 23 one. The issues that are described and expressed in  
 24 this article are consistent with the period of time in  
 25 which the standards movement was being developed in

1 California.  
 2 Today's current board members, although many of  
 3 them are influential and important business people, have  
 4 the benefit of already seeing a standards assessment and  
 5 accountability system being put in place.  
 6 Q. Mr. Hill, I notice you are a frequent and often  
 7 requested speaker on California education policy,  
 8 including standards assessment, accountability. And  
 9 that's on your resume?  
 10 A. Yes.  
 11 Q. Do you keep copies of your speeches?  
 12 A. No, I don't.  
 13 Q. Do you have any copies of any of the speeches  
 14 that you've delivered?  
 15 A. No.  
 16 MR. VIRJEE: Objection. Assumes facts not in  
 17 evidence.  
 18 Q. BY MR. ROSENBAUM: Let's mark as Exhibit 232 a  
 19 two-page document. It's a printout, Mr. Hill, and it  
 20 says at the top, copyright 1998, McClatchy Newspapers,  
 21 Inc., Sacramento Bee, dated April 14, 1998, and the  
 22 headline is developing new school standards, and the  
 23 byline is Deborah Anderluh, A-n-d-e-r-l-u-h. I'm going  
 24 to have this marked as Exhibit 232 and supply all  
 25 counsel with copies.

1 (Exhibit SAD-232 was marked.)  
 2 Q. BY MR. ROSENBAUM: Take a look at that,  
 3 Mr. Hill. Exhibit 232 is in front of you?  
 4 A. Yes.  
 5 Q. Take a look at it, please. Have you had a  
 6 chance to review what's been marked as Exhibit 232?  
 7 A. I have, Mr. Rosenbaum.  
 8 Q. Okay. Do you have a recollection of being  
 9 interviewed by a Sacramento Bee reporter regarding new  
 10 school standards at about this time?  
 11 A. I do.  
 12 Q. Okay. Do you see where it says, Hill, colon,  
 13 we are going to see the standards implemented in stages,  
 14 period? First, we will see them being used to develop a  
 15 matrix exam and alignment with the, parens, Stanford  
 16 Achievement Test 9, close paren, period. Then there  
 17 will be some very specific state activities, colon, open  
 18 paren, realignment of, close parens, curriculum  
 19 frameworks, textbooks and teacher training, period. Do  
 20 you see that?  
 21 A. I do.  
 22 Q. Was that matrix exam ever developed?  
 23 A. No.  
 24 Q. Do you know why not?  
 25 MR. SEFERIAN: Objection. Lacks foundation.

1 Calls for speculation.  
 2 MR. VIRJEE: Also asked and answered. You  
 3 asked him about the matrix exam about an hour and a half  
 4 ago, and he told you exactly the answer to that.  
 5 MR. ROSENBAUM: I don't think he told me why it  
 6 wasn't developed.  
 7 Q. Do you know why it wasn't developed?  
 8 MR. SEFERIAN: Lacks foundation. Objection.  
 9 THE WITNESS: Yes.  
 10 Q. BY MR. ROSENBAUM: Why is that?  
 11 A. The matrix exams do not provide for an  
 12 individual student score report as to their performance.  
 13 The State Board of Education in trying to focus on  
 14 student learning expressed concerns about investing in  
 15 an exam that did not yield an individual student's  
 16 score.  
 17 Q. Now, let me ask you, sir, to turn to the second  
 18 page of what's been marked as Exhibit 232. It says,  
 19 question, what do you see as the major barrier to  
 20 implementing standards in California? And then it says,  
 21 Hill, colon, the major barriers I would characterize  
 22 as -- I'm sorry, start over. The major barriers I would  
 23 characterize as, comma, first, teacher preparation,  
 24 readiness and acceptance, period. Second, the long-term  
 25 support of policymakers, period. Third, comma, the

1 whole host of variables people talk about, colon,  
2 aligning textbooks, aligning teacher training, adequate  
3 resources, period. Fourth, public support and  
4 understanding, period.

5 Do you see that on Exhibit 232?

6 A. Yes, I do.

7 Q. Did you make that statement in sum or  
8 substance?

9 MR. SEFERIAN: Objection. There's several  
10 statements there.

11 MR. VIRJEE: If you have a specific  
12 recollection, you can recall what you said, then you  
13 need to answer his question. If you don't recall, just  
14 say you don't recall. It's 1998.

15 THE WITNESS: I do recall making that  
16 statement.

17 Q. BY MR. ROSENBAUM: Okay. When you said  
18 "aligning teacher training," what did you mean by that?

19 A. I meant that up to the point of -- up to the  
20 point of having our state-adopted standards, teacher  
21 professional development may have focused on any number  
22 of things. From the point of having standards on, if  
23 the State has identified what it wants all students to  
24 know and do, that must be the focus of professional  
25 development activities for teachers to support learning

1 Q. BY MR. ROSENBAUM: Why is that?

2 MR. SEFERIAN: Same objections.

3 MR. VIRJEE: Objection. Asked and answered.

4 THE WITNESS: I would stand by my prior answer  
5 that if state policymakers identify what you want all  
6 students to know and do, teachers are the delivery  
7 system for that, and you must ensure that they have  
8 adequate knowledge, training, preparation and resources  
9 to do that.

10 Q. BY MR. ROSENBAUM: And do you know, sir, the  
11 extent to which teachers do have that adequate  
12 knowledge?

13 MR. VIRJEE: Objection. Asked and answered.

14 MR. SEFERIAN: Overly broad. Lacks foundation.  
15 Calls for speculation. Vague and ambiguous.

16 THE WITNESS: Right here at this point in time  
17 I cannot answer your question.

18 Q. BY MR. ROSENBAUM: You don't know?

19 MR. VIRJEE: Objection. Asked and answered.

20 THE WITNESS: I don't know.

21 Q. BY MR. ROSENBAUM: To your knowledge, has the  
22 Department undertaken any investigation or inquiry to  
23 determine the extent to which teachers have adequate  
24 knowledge as you've defined it?

25 MR. VIRJEE: Objection. Asked and answered.

1 in the classroom.

2 Q. And do you know the extent to which teacher  
3 professional development has been aligned with state  
4 standards?

5 MR. VIRJEE: Objection. Calls for speculation.  
6 Lacks foundation. Calls for an expert opinion as to  
7 "alignment" and teacher development, and also asked and  
8 answered.

9 THE WITNESS: Mr. Rosenbaum, I cannot provide  
10 you with a specific answer to the question. I would  
11 refer you, though, to significant activities and  
12 commitments and resources developed by the legislature  
13 and governor in support of the very issue at hand,  
14 professional development in support of the standards.

15 Q. BY MR. ROSENBAUM: Okay. Because that's  
16 awfully important, isn't it?

17 MR. SEFERIAN: Objection. Overly broad. Vague  
18 and ambiguous as to "important." Lacks foundation.  
19 Calls for an inadmissible opinion. Calls for  
20 speculation.

21 MR. VIRJEE: Also vague and ambiguous as to  
22 what is "awfully important."

23 THE WITNESS: Mr. Rosenbaum, your question  
24 concerns, is professional development and support of  
25 teachers in relation to our standards important? Yes.

1 MR. SEFERIAN: Assumes facts not in evidence.  
2 Overly broad.

3 MR. VIRJEE: Also vague and ambiguous as to  
4 "investigation or inquiry."

5 MR. SEFERIAN: Vague and ambiguous as to  
6 "adequate knowledge." No foundation. Calls for  
7 speculation.

8 THE WITNESS: Mr. Rosenbaum, I cannot point to  
9 a specific evaluation. I would point you, however, to  
10 what is a significant trend in increased student  
11 achievement as one bit of evidence to support the idea  
12 that that investment is paying off.

13 Q. BY MR. ROSENBAUM: Do you know if there are  
14 some schools where teachers do have that adequate  
15 knowledge in larger numbers or percentages than in other  
16 schools?

17 MR. VIRJEE: Objection. Vague and ambiguous as  
18 to that "adequate knowledge." Calls for speculation.  
19 Lacks foundation.

20 THE WITNESS: I do not.

21 Q. BY MR. ROSENBAUM: Do you know if anyone in the  
22 Department knows that?

23 MR. SEFERIAN: Objection. Calls for  
24 speculation. Assumes facts not in evidence.

25 THE WITNESS: I do not know.

1 Q. BY MR. ROSENBAUM: Has there been any attempt  
2 by the Department of which you're aware to find out?  
3 MR. SEFERIAN: Objection. Assumes facts not in  
4 evidence. Vague and ambiguous. Overly broad.  
5 MR. ROSENBAUM: Whether some -- whether schools  
6 differ in terms of the number of percent of teachers  
7 with adequate knowledge.  
8 MR. VIRJEE: Objection. Vague and ambiguous as  
9 to "adequate knowledge."  
10 MR. SEFERIAN: Assumes facts not in evidence.  
11 THE WITNESS: I do not know.  
12 Q. BY MR. ROSENBAUM: Now, where you used the  
13 phrase adequate resources what does that mean as you  
14 used it?  
15 MR. SEFERIAN: Referring to Exhibit 232?  
16 MR. ROSENBAUM: Yeah. Thank you.  
17 THE WITNESS: That term was purposely used. In  
18 making a transition to a very different way of doing  
19 business in California schools, beginning with standards  
20 and doing all the alignment work and developing  
21 assessment and accountability systems, this is 1998,  
22 there was no way to understand or predict what adequacy  
23 in resources would mean to support that system. And so  
24 my comment was intended to suggest that in light of the  
25 commitment we had to ensuring that students would meet

1 our learning objections (sic), that we would need to  
2 understand the resource issue.  
3 Q. BY MR. ROSENBAUM: Sitting here today, do you  
4 know what the amount of resources would be to support  
5 that system adequately?  
6 MR. VIRJEE: Objection. Vague and ambiguous as  
7 to "adequacy." Also vague and ambiguous as to "amount  
8 of resources." Calls for speculation. Lacks  
9 foundation. Overbroad. Calls for an expert opinion.  
10 Compound depending on what kind of resources you're  
11 talking about for what part of the program.  
12 THE WITNESS: I do not know that. I would  
13 point you, however, to the reality that since 1998 the  
14 state of California has invested in real dollars \$12  
15 billion in additional resources for California public  
16 schools.  
17 Q. BY MR. ROSENBAUM: And how would you -- do you  
18 know how you would go about figuring whether or not the  
19 resources allocated are adequate to support that system?  
20 MR. VIRJEE: Objection. Vague as to time.  
21 Calls for speculation. Lacks foundation. Vague as to  
22 adequacy. Calls for an expert opinion. Compound as to  
23 which part of which resources for which part of the  
24 program.  
25 THE WITNESS: I do not know. I am not an

1 expert on adequacy in terms of funding for schools.  
2 Q. BY MR. ROSENBAUM: Do you know if anyone in the  
3 Department has looked into the question as to what  
4 amount of resources would be adequate to support that  
5 system?  
6 MR. VIRJEE: Same objections.  
7 MR. SEFERIAN: Objection. Assumes facts not in  
8 evidence.  
9 THE WITNESS: I know of no such inquiry.  
10 Q. BY MR. ROSENBAUM: It's terribly important that  
11 there be adequate resources to support that system?  
12 MR. VIRJEE: Objection. Vague and ambiguous as  
13 to "terribly important." Calls for speculation. Lacks  
14 foundation. Vague and ambiguous as to adequacy of  
15 resources.  
16 MR. SEFERIAN: Calls for an inadmissible  
17 opinion.  
18 MR. VIRJEE: Also vague as to time.  
19 THE WITNESS: It is apparent that you need  
20 adequate resources, but in my mind I really don't know  
21 what the beginning or ending point of that conversation  
22 would be.  
23 Q. BY MR. ROSENBAUM: Why is that apparent?  
24 A. I'm sorry?  
25 Q. You say it is apparent. I'm asking why is that

1 apparent?  
2 MR. SEFERIAN: Same objections.  
3 THE WITNESS: It is apparent because resources  
4 are needed to run our public schools, period.  
5 Q. BY MR. ROSENBAUM: Are there schools today, to  
6 your knowledge, Mr. Hill, that don't have adequate  
7 resources to support that system?  
8 MR. VIRJEE: Objection. Vague and ambiguous as  
9 to adequacy. Calls for speculation. Lacks foundation.  
10 Calls for an expert opinion. Compound with respect to  
11 which particular resources may or may not be adequate  
12 for which particular parts of the program.  
13 MR. SEFERIAN: Vague and ambiguous as to that  
14 "system."  
15 THE WITNESS: I don't have any specific  
16 knowledge, Mr. Rosenbaum. But I would also point out  
17 that -- just like I had some concerns about some of the  
18 assumptions that you brought to the issue of textbooks,  
19 I would bring the same concerns to any assumptions that  
20 are made about adequacy in terms of whether what is  
21 currently available is adequate or not is a function of  
22 many things in terms of distribution, prioritizing,  
23 flexibility, those kinds of things. It's a very complex  
24 issue.  
25 Q. BY MR. ROSENBAUM: Do you know if there are



1 districts today that don't have adequate resources?  
 2 MR. VIRJEE: Objection. Asked and answered.  
 3 That's the question that you just asked and he  
 4 just answered it.  
 5 MR. ROSENBAUM: No, the question I asked before  
 6 was about schools.  
 7 MR. SEFERIAN: Objection. Vague and ambiguous  
 8 as to "adequate resources." Overly broad. Calls for  
 9 inadmissible opinion. Lacks foundation. Calls for  
 10 speculation.  
 11 THE WITNESS: I do not have that information.  
 12 Q. BY MR. ROSENBAUM: Do you know if anyone in the  
 13 Department has investigated that question?  
 14 MR. SEFERIAN: Same objections. In addition  
 15 assumes facts not in evidence.  
 16 THE WITNESS: I do not know of any such  
 17 inquiry.  
 18 Q. BY MR. ROSENBAUM: Or anywhere in the State  
 19 Board of Education?  
 20 MR. SEFERIAN: Same objections.  
 21 THE WITNESS: I do not know of any such  
 22 inquiry.  
 23 MR. ROSENBAUM: Can you please have Mr. Hill's  
 24 answer read back when he talked about distribution and  
 25 flexibility, please.

1 (Record read.)  
 2 Q. BY MR. ROSENBAUM: When you say "distribution,"  
 3 what do you mean?  
 4 A. We apportion monies to schools in various  
 5 categorical programs and in some block grants. It is  
 6 possible that changing the way one way or the other,  
 7 consolidating one way or the other may make a difference  
 8 in the way that schools are able to use and target their  
 9 resources.  
 10 Q. And, to your knowledge, has anyone in the  
 11 Department looked into that question about whether or  
 12 not there should be changes in the distribution system?  
 13 MR. SEFERIAN: Objection. Assumes facts not in  
 14 evidence.  
 15 MR. VIRJEE: Also mischaracterizes his  
 16 testimony.  
 17 MR. SEFERIAN: Vague and ambiguous as to  
 18 "distribution system."  
 19 THE WITNESS: I'm not aware of any such  
 20 investigation. But I would also point out that the  
 21 parties responsible and capable of making such changes  
 22 are the legislature and governor.  
 23 Q. BY MR. ROSENBAUM: And, to your knowledge, has  
 24 anyone in the Department ever been asked for his or her  
 25 opinion as to whether or not there should be changes in

1 the distribution system?  
 2 MR. VIRJEE: Objection. Vague and ambiguous as  
 3 to "the distribution system." Misstates his testimony.  
 4 THE WITNESS: I do not know of any such  
 5 inquiry.  
 6 Q. BY MR. ROSENBAUM: Okay. What do you mean by  
 7 "prioritizing"?  
 8 A. Mr. Rosenbaum, when I spoke of low-performing  
 9 schools, I will give you just one example of what I  
 10 mean. It is often the case that low-performing schools  
 11 are not among the least funded schools in our state.  
 12 There are often more categorical programs to support  
 13 students at those schools than often in higher-achieving  
 14 schools, but the problem is that the attention and focus  
 15 of the resources is divided amongst many categorical  
 16 programs, divided amongst many staff, and there is --  
 17 and often it is the lack of a coherent focus that is  
 18 supported by data that is a barrier for improvement.  
 19 Q. And that's an important thing to understand,  
 20 right, in order to achieve performance and conserve  
 21 resources; isn't that right?  
 22 MR. VIRJEE: Objection. Vague and ambiguous as  
 23 to "that's an important thing."  
 24 MR. SEFERIAN: Lacks foundation. Calls for an  
 25 inadmissible opinion. Vague and ambiguous as to

1 "conserve resources."  
 2 MR. VIRJEE: Also incomplete hypothetical.  
 3 THE WITNESS: I think I would reiterate my  
 4 earlier testimony, that in my opinion, focusing on the  
 5 prioritizing of resources is a key to improvement,  
 6 especially for low-performing school.  
 7 Q. BY MR. ROSENBAUM: And some districts can use  
 8 help in terms of prioritizing resources; isn't that  
 9 right? Isn't that your experience?  
 10 MR. SEFERIAN: Objection. Lacks foundation.  
 11 Compound question. Calls for an inadmissible opinion.  
 12 MR. VIRJEE: Also assumes facts not in  
 13 evidence. Assumes he has any specific experience with  
 14 respect to specific districts on that issue.  
 15 THE WITNESS: Mr. Rosenbaum, I would point you  
 16 to the action plans submitted to the State Board by  
 17 external evaluators which may or may not address some of  
 18 those concerns. I'll leave it at that.  
 19 Q. BY MR. ROSENBAUM: Do you know, Mr. Hill, how  
 20 many II/USP eligible schools that are not part of the  
 21 II/USP program would benefit in terms of student  
 22 achievement from prioritizing as you've defined it?  
 23 MR. VIRJEE: Objection. Assumes facts not in  
 24 evidence, and vague and ambiguous as to "II/USP eligible  
 25 schools."

1 MR. SEFERIAN: Lacks foundation. Calls for  
2 speculation.  
3 MR. VIRJEE: Also calls for an expert opinion.  
4 THE WITNESS: I do not know the answer to that.  
5 As I've explained prior, such decisions around the  
6 distribution and targeting of resources should be built  
7 upon every school's performance data.  
8 Q. BY MR. ROSENBAUM: Okay. And do you know if  
9 anyone in the Department or the State Board has  
10 investigated as to whether or not there are II/USP  
11 eligible schools that aren't part of that program who  
12 would benefit from examination in terms of the way they  
13 prioritize funds?  
14 MR. VIRJEE: Objection. Asked and answered.  
15 That's exactly the question you asked about two hours  
16 ago. Calls for speculation. Lacks foundation.  
17 MR. SEFERIAN: Assumes facts not in evidence.  
18 Compound question. Vague and ambiguous as to  
19 "investigation."  
20 MR. VIRJEE: Also vague and ambiguous as to  
21 II/USP schools that are eligible -- or "II/USP eligible  
22 schools." Excuse me.  
23 THE WITNESS: While I do not know of any  
24 specific inquiry, Mr. Rosenbaum, I would also point you  
25 to AB 961, which will, starting in July of 2002, attempt

1 to assist some of those schools along the lines you've  
2 addressed.  
3 Q. BY MR. ROSENBAUM: Do you know how many of  
4 those schools?  
5 MR. SEFERIAN: Objection. The legislation  
6 speaks for itself.  
7 THE WITNESS: Sitting right here right now, I  
8 do not know.  
9 Q. BY MR. ROSENBAUM: What percentage of those  
10 schools, do you have a ballpark?  
11 MR. VIRJEE: Percentage of which school?  
12 MR. ROSENBAUM: The II/ USP schools that aren't  
13 part of the program.  
14 MR. VIRJEE: Vague and ambiguous as to "part of  
15 the program."  
16 THE WITNESS: The statute says quite clearly  
17 that the intent is to capture all eligible decile 1  
18 schools, and to the extent money remains, decile 2  
19 schools are to be assisted.  
20 MS. READ-SPANGLER: Can you read back his  
21 answer.  
22 (Record read.)  
23 THE WITNESS: I'm sorry, all eligible schools  
24 that are not already in the program.  
25 Q. BY MR. ROSENBAUM: Are you aware, Mr. Hill,

1 that the federal government is undertaking intervention  
2 in certain schools pursuant to Title 1 provisions?  
3 MR. VIRJEE: Objection. Vague and ambiguous as  
4 to "intervention." Vague as to time. Also vague as to  
5 geography.  
6 MR. SEFERIAN: Lacks foundation.  
7 THE WITNESS: I need some help from you,  
8 Mr. Rosenbaum, in clarifying your question. The federal  
9 government, as I understand it, would not be taking  
10 direct intervention with any school.  
11 Q. BY MR. ROSENBAUM: They're looking into certain  
12 schools?  
13 MR. VIRJEE: Objection. Vague and ambiguous as  
14 to "looking into." Also vague as to time.  
15 MS. READ-SPANGLER: Are you talking about CSRSD?  
16 THE WITNESS: I still need some help from you,  
17 Mr. Rosenbaum, in terms of your question.  
18 Q. BY MR. ROSENBAUM: Are you aware of about a  
19 dozen schools statewide that the federal government is  
20 concerned about, the Title 1 schools?  
21 MR. SEFERIAN: Objection. Vague and ambiguous  
22 as to "concerned about." Lacks foundation.  
23 THE WITNESS: Mr. Rosenbaum, are you referring  
24 to program improvement schools that -- schools under the  
25 former ESEA?

1 MR. ROSENBAUM: Yeah.  
2 THE WITNESS: I'm aware of those schools.  
3 Q. BY MR. ROSENBAUM: Have you had any discussions  
4 with anybody in the federal government about those  
5 schools?  
6 A. No.  
7 Q. Has anyone in the Department, so far as you  
8 know?  
9 A. I do not know of any such conversations.  
10 Q. Do you know what schools are being examined?  
11 A. I do not know specifically which schools are  
12 being examined.  
13 Q. Do you know if anyone in the Department has  
14 been tasked with the responsibility of identifying those  
15 schools?  
16 MR. SEFERIAN: Objection. Vague and ambiguous  
17 as to "identifying."  
18 THE WITNESS: Yes, Mr. Rosenbaum, are you  
19 referring specifically to the identify of such schools?  
20 MR. ROSENBAUM: Let's start there.  
21 THE WITNESS: The identification of such  
22 schools would come out of the performance data  
23 associated with Mr. Padia's division.  
24 Q. BY MR. ROSENBAUM: Okay. And do you know why  
25 the federal government is interested in those schools?

1 MR. VIRJEE: Objection. Calls for speculation.  
 2 Lacks foundation. Vague and ambiguous as to  
 3 "interested."  
 4 MR. SEFERIAN: Overly broad.  
 5 THE WITNESS: As you've asked it, I don't know  
 6 why.  
 7 Q. BY MR. ROSENBAUM: Have there been any  
 8 discussions in the Department about these schools or  
 9 this process that you're aware of?  
 10 A. Yes.  
 11 Q. Okay. And who has been involved in those  
 12 discussions?  
 13 MR. VIRJEE: Objection. Calls for speculation.  
 14 Lacks foundation.  
 15 THE WITNESS: Superintendent Eastin, myself,  
 16 Ms. Faucette, Ms. Mendoza and Wendy Harris.  
 17 Q. BY MR. ROSENBAUM: Okay. And have there been a  
 18 meeting or meetings at which this subject has been  
 19 discussed?  
 20 A. Yes.  
 21 Q. How many?  
 22 A. I couldn't give you a total. I don't know.  
 23 Q. I mean, can you give me a ballpark, a dozen,  
 24 half dozen, one or two?  
 25 A. Under Ms. Mendoza's branch, the work and

1 support of those schools is a regular part of their  
 2 work. I do not know how often they discuss that work.  
 3 Q. She's the person most knowledgeable about this  
 4 so far as you know?  
 5 MR. SEFERIAN: Objection. Vague and ambiguous  
 6 as to "person most knowledgeable." Also calls for a  
 7 legal opinion.  
 8 MR. VIRJEE: Also vague and ambiguous as to  
 9 "this."  
 10 MR. ROSENBAUM: Trying to save you time,  
 11 Mr. Hill.  
 12 THE WITNESS: Ms. Mendoza has the  
 13 responsibility in her branch for the support of those  
 14 schools.  
 15 Q. BY MR. ROSENBAUM: Do you have any duties or  
 16 responsibilities specifically with respect to those  
 17 schools?  
 18 MR. VIRJEE: Objection. Calls for speculation.  
 19 Lacks foundation. Also vague and ambiguous as to "those  
 20 schools."  
 21 THE WITNESS: No.  
 22 Q. BY MR. ROSENBAUM: Do you know what CLAS is,  
 23 C-L-A-S?  
 24 A. I do.  
 25 Q. What is it?

1 A. CLAS is the California Learning Assessment  
 2 System, which was the state testing system in existence  
 3 between 1994 and 1990 -- 1990 or so and around 1995.  
 4 Q. Did you ever say in sum or substance, CLAS was  
 5 assessment driven, a back door into what was taught?  
 6 MR. VIRJEE: Objection. Calls for speculation.  
 7 Lacks foundation. If you can remember using those  
 8 specific words at one specific point, you can say that.  
 9 If you want to show him a documents, that fine. But you  
 10 have to remember what you have said in your whole life  
 11 about something.  
 12 MR. SEFERIAN: Vague and ambiguous as to  
 13 context.  
 14 THE WITNESS: I do not remember making such a  
 15 statement.  
 16 MR. ROSENBAUM: Just take a minute, please.  
 17 (Recess taken.)  
 18 Q. BY MR. ROSENBAUM: Do you have direct  
 19 responsibilities with respect to ELs?  
 20 MR. VIRJEE: Vague and ambiguous as to "direct  
 21 responsibilities" and "ELs."  
 22 THE WITNESS: I do not have direct  
 23 responsibility for English learners.  
 24 MR. VIRJEE: I'll also object as asked and  
 25 answered.

1 Q. BY MR. ROSENBAUM: Who in the Department are  
 2 the key people with respect to ELs?  
 3 MR. VIRJEE: Objection. Vague and ambiguous as  
 4 to "key people."  
 5 THE WITNESS: English learners are supported in  
 6 the Department by a unit within Ms. Mendoza's branch and  
 7 within Ms. Bedwell's division. In addition -- well,  
 8 I'll leave it at that.  
 9 Q. BY MR. ROSENBAUM: Do you know who in  
 10 Ms. Mendoza's branch has principal responsibility or  
 11 responsibilities?  
 12 MR. VIRJEE: Objection. Vague and ambiguous as  
 13 to "principal responsibility."  
 14 MR. SEFERIAN: Assumes facts not in evidence.  
 15 THE WITNESS: Jan Mayer is the unit manager for  
 16 the unit that works on English learner issues.  
 17 MR. SEFERIAN: How do you spell that?  
 18 THE WITNESS: M-a-y-e-r.  
 19 Q. BY MR. ROSENBAUM: And how about in  
 20 Ms. Bedwell's shop?  
 21 A. Lorie Burnham-Massey is the unit manager for  
 22 the Comite follow-up unit. The English learner  
 23 monitoring unit currently is vacant in terms of a  
 24 manager.  
 25 Q. Do you know if the Department is required by

1 the legislature to issue a report regarding  
 2 implementation of Proposition 227?  
 3 MR. SEFERIAN: Objection. Calls for an  
 4 inadmissible legal opinion. Vague and ambiguous as to  
 5 "required." Lacks foundation.  
 6 THE WITNESS: I am not immediately aware of any  
 7 such requirement.  
 8 Q. BY MR. ROSENBAUM: Do you know about any report  
 9 in preparation with respect to implementation of 227 by  
 10 somebody within the Department of Education?  
 11 A. I do not.  
 12 Q. Okay. Do you have responsibilities with  
 13 respect to classroom size reduction?  
 14 MR. VIRJEE: Objection. Vague and ambiguous as  
 15 to "responsibilities."  
 16 MR. SEFERIAN: Vague and ambiguous as to  
 17 "classroom size reduction."  
 18 THE WITNESS: I do not have direct  
 19 responsibility.  
 20 Q. BY MR. ROSENBAUM: Does anyone in the  
 21 Department, so far as you know?  
 22 MR. SEFERIAN: Objection. Vague and ambiguous  
 23 as to "classroom size reduction" and "responsibility."  
 24 THE WITNESS: Mr. Rosenbaum, to the extent that  
 25 the Department is involved with class size reduction,

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  
 5 delete. Specify with "Add" or "Delete" and sign this  
 6 form.  
 7 DEPOSITION OF: NATHAN SCOTT HILL, VOLUME II  
 8 CASE: WILLIAMS VS STATE  
 9 DATE OF DEPOSITION: FRIDAY, JANUARY 18, 2002  
 10 I, \_\_\_\_\_, have the following  
 11 corrections to make to my deposition:  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25 NATHAN SCOTT HILL DATE

1 those responsibilities are invested with Dewayne Brook's  
 2 division.  
 3 MR. ROSENBAUM: Mr. Hill, thanks for your  
 4 patience. I really appreciate you hanging in there.  
 5 Thanks very much. You have a nice weekend.  
 6 (The deposition concluded at 4:37 p.m.)  
 7 ---oOo---  
 8 Please be advised that I have read the foregoing  
 9 deposition. I hereby state there are:  
 10  
 11 (check one) \_\_\_\_\_ NO CORRECTIONS  
 12 \_\_\_\_\_ CORRECTIONS ATTACHED  
 13  
 14 \_\_\_\_\_  
 15 Date Signed  
 16  
 17 \_\_\_\_\_  
 18 NATHAN SCOTT HILL  
 19  
 20 Case Title: Williams vs State, Volume II  
 21 Date of Deposition: Friday, January 18, 2002  
 22 //  
 23 //  
 24  
 25

1 REPORTER'S CERTIFICATE  
 2  
 3 I certify that the witness in the foregoing  
 4 deposition,  
 5 NATHAN SCOTT HILL,  
 6 was by me duly sworn to testify the truth, the whole  
 7 truth, in the within-entitled cause; that said  
 8 deposition was taken at the time and place therein  
 9 named; that the testimony of said witness was reported  
 10 by me, a duly certified shorthand reporter and a  
 11 disinterested person, and was thereafter transcribed  
 12 into typewriting.  
 13 I further certify that I am not of counsel or  
 14 attorney for either or any of the parties to said cause,  
 15 nor in any way interested in the outcome of the cause  
 16 named in said deposition.  
 17 IN WITNESS WHEREOF, I have hereunto set my hand  
 18 this 30th day of January, 2002.  
 19  
 20  
 21  
 22 \_\_\_\_\_  
 23 TRACY LEE MOORELAND, CSR 10397  
 24 State of California  
 25