

Larkins v. Werlin
GIC 781970

Deposition of Richard Denmon
November 30, 2004

<p style="text-align: right;">Page 54</p> <p>1 BY MS. LARKINS:</p> <p>2 Q. Could it have been later?</p> <p>3 A. Yes.</p> <p>4 Q. Could it have been the following year?</p> <p>5 A. Yes, it could have been.</p> <p>6 Q. Okay.</p> <p>7 MS. ANGELL: So are you testifying that you</p> <p>8 don't recall the dates of these meetings with the</p> <p>9 attorneys?</p> <p>10 THE WITNESS: I don't recall the dates of the</p> <p>11 meetings with the attorneys, no.</p> <p>12 BY MS. LARKINS:</p> <p>13 Q. Okay. I think I would really like to just focus</p> <p>14 on this one meeting when Werlin said you wouldn't be</p> <p>15 coming back. I mean he said I wouldn't be coming back.</p> <p>16 Did Mr. Werlin tell you why I wouldn't be coming</p> <p>17 back?</p> <p>18 MS. ANGELL: At that meeting you mean?</p> <p>19 MS. LARKINS: Yeah, at that meeting.</p> <p>20 THE WITNESS: I don't remember if it was a</p> <p>21 specific meeting or different meetings in which we were</p> <p>22 told you wouldn't be coming back. I do remember</p> <p>23 Mr. Werlin said it was a personnel matter. And that's</p> <p>24 all I remember being told; that it was a personnel</p> <p>25 matter.</p>	<p style="text-align: right;">Page 56</p> <p>1 that you need to talk to counsel for a minute; ask for a</p> <p>2 break and we will go off. If you don't have questions</p> <p>3 for counsel, then we can proceed.</p> <p>4 MS. LARKINS: I hope you won't tell him what you</p> <p>5 think the word is.</p> <p>6 THE WITNESS: Let's just proceed.</p> <p>7 MS. ANGELL: Okay.</p> <p>8 BY MS. LARKINS:</p> <p>9 Q. Have you had a chance to look this over at all?</p> <p>10 A. Yes, I read it.</p> <p>11 Q. Okay. Does this refresh your memory about what</p> <p>12 happened on April 29th, 2001?</p> <p>13 MS. ANGELL: Objection. Lacks foundation.</p> <p>14 There is no evidence in this record that this witness has</p> <p>15 ever seen this before, that he created it, that he knows</p> <p>16 what it is. As far as he knows, you could have written</p> <p>17 this last night.</p> <p>18 MS. LARKINS: Exactly.</p> <p>19 Q. As far as you know, I could have written this</p> <p>20 last night, but still I'm wondering does this refresh</p> <p>21 your memory at all about what happened on April 20th,</p> <p>22 2001?</p> <p>23 A. The events are familiar, yes.</p> <p>24 MR. HERSH: I'm objecting and moving to strike</p> <p>25 on the basis that by giving the witness a document in</p>
<p style="text-align: right;">Page 55</p> <p>1 MS. LARKINS: I would like to enter -- I would</p> <p>2 like to ask that this document be labeled as Exhibit 1.</p> <p>3 I'm afraid I just have three.</p> <p>4 (Exhibit 1 marked for identification; discussion</p> <p>5 off the record.)</p> <p>6 MS. ANGELL: Now that the court reporter is</p> <p>7 back, are you still wanting a break to confer with</p> <p>8 counsel?</p> <p>9 THE WITNESS: I needed to ask what a word was.</p> <p>10 I can't figure it out.</p> <p>11 THE WITNESS: You don't say what you want to ask</p> <p>12 counsel. You just say you want to take a break.</p> <p>13 MS. LARKINS: Yeah. I don't think counsel can</p> <p>14 tell you what the word is either. She can't be a</p> <p>15 witness.</p> <p>16 MS. ANGELL: If you have questions for counsel,</p> <p>17 it's none of Mrs. Larkins' business what your questions</p> <p>18 for counsel are.</p> <p>19 THE WITNESS: No. It's simple. It's just</p> <p>20 penmanship. I wasn't able to --</p> <p>21 MS. LARKINS: She can't help you.</p> <p>22 THE WITNESS: Okay.</p> <p>23 Is that true?</p> <p>24 MS. ANGELL: Don't -- disregard everything said</p> <p>25 by Mrs. Larkins. If you have questions for counsel, say</p>	<p style="text-align: right;">Page 57</p> <p>1 this manner -- it's essentially a leading question.</p> <p>2 MS. ANGELL: Joined.</p> <p>3 MS. LARKINS: And -- okay. So the Court can</p> <p>4 throw it out, then, if it wants to, if it thinks this is</p> <p>5 wrong.</p> <p>6 MS. ANGELL: Mrs. Larkins, in deposition</p> <p>7 proceedings it's impermissible for you to lead the</p> <p>8 witness like this. Our purpose here is to state</p> <p>9 questions like do you know, what do you know, what --</p> <p>10 open questions like that, instead of trying to testify</p> <p>11 for the witness. That's basically what he's saying.</p> <p>12 MS. LARKINS: Okay.</p> <p>13 Q. Mr. Denmon, do you know that this document was</p> <p>14 produced by the school district for my dismissal hearing?</p> <p>15 A. No, I don't know that.</p> <p>16 Q. Do you know that this document was presented by</p> <p>17 the school district -- was represented by the school</p> <p>18 district as being the notes of Gretchen Donndelinger?</p> <p>19 A. No, I didn't know that.</p> <p>20 Q. Do you know that Gretchen Donndelinger swore</p> <p>21 under oath that these were her notes?</p> <p>22 A. No, I don't know that.</p> <p>23 MS. ANGELL: I'll remind the witness that you're</p> <p>24 here to testify about what you know, as you're doing, and</p> <p>25 disregard representations -- I think plaintiff's attempt</p>

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<p>1 to testify for you. Okay. So just keep on with what</p> <p>2 you're doing.</p> <p>3 BY MS. LARKINS:</p> <p>4 Q. Okay. On or about April 20th, 2001, did you go</p> <p>5 into the office -- the principal's office at Castle Park</p> <p>6 Elementary with Linda Watson?</p> <p>7 A. Yes, I believe so.</p> <p>8 Q. Did Linda say that I had attacked her again?</p> <p>9 A. I don't remember exactly what Linda had said.</p> <p>10 I'm reading it here on this paper, but I don't remember</p> <p>11 exactly what she had said.</p> <p>12 Q. Do you recall that Linda said something about me</p> <p>13 that was negative?</p> <p>14 MS. ANGELL: Objection. Leading. Stating a</p> <p>15 question by do you remember that Linda said</p> <p>16 blah-blah-blah is different from do you remember whether</p> <p>17 Linda said anything about me or do you remember what</p> <p>18 Linda said.</p> <p>19 MS. LARKINS: Okay.</p> <p>20 Q. Do you remember what Linda said?</p> <p>21 A. Yes, I have a recollection.</p> <p>22 Q. Can you tell us what Linda said?</p> <p>23 A. She had shared an incident in which she was in</p> <p>24 the locker room and you had approached her, and she told</p> <p>25 you that she didn't want to speak to you then, and that</p>	<p>1 stopped, but apparently not soon enough to please her?</p> <p>2 MS. ANGELL: Objection. Argumentative,</p> <p>3 misstates the testimony.</p> <p>4 MS. LARKINS: Well, the testimony was that I --</p> <p>5 Linda said I didn't stop. So obviously if there was not</p> <p>6 a crash of bodies, I must have stopped.</p> <p>7 THE WITNESS: So what's the question to me?</p> <p>8 BY MS. LARKINS:</p> <p>9 Q. So Linda apparently said -- okay. The testimony</p> <p>10 is that I -- Linda said that I was coming toward her and</p> <p>11 wouldn't stop. Then what happened? I'm coming toward</p> <p>12 her and not stopping, and then what happened?</p> <p>13 A. I don't know what happened. I wasn't there to</p> <p>14 witness it.</p> <p>15 Q. No. But what did she say?</p> <p>16 A. I don't remember what she said.</p> <p>17 Q. So it wasn't anything memorable apparently?</p> <p>18 MS. ANGELL: Objection. Argumentative,</p> <p>19 misstates the testimony.</p> <p>20 BY MS. LARKINS:</p> <p>21 Q. Okay. So Linda's complaint was that I just came</p> <p>22 toward her, and that was what she didn't like, the coming</p> <p>23 toward? That's all you can remember, as far as her</p> <p>24 complaint?</p> <p>25 MS. ANGELL: Objection. Mischaracterizes the</p>
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<p>1 you kept moving towards her and kept talking and she</p> <p>2 repeated that she didn't want to speak to you then.</p> <p>3 Q. Uh-huh. Okay. Anything else you can remember</p> <p>4 about what she said?</p> <p>5 MS. ANGELL: At that meeting, that meeting in</p> <p>6 Gretchen Donndelinger's office?</p> <p>7 MS. LARKINS: Yeah, at this same meeting that</p> <p>8 you're talking about.</p> <p>9 THE WITNESS: To the best of my remembering, is</p> <p>10 that she felt very uncomfortable with you walking towards</p> <p>11 her, kept walking towards her, and she told you no, I</p> <p>12 don't want to talk to you; stop, and you didn't do it.</p> <p>13 Q. Uh-huh. Uh-huh.</p> <p>14 A. And it made her feel very uncomfortable. She</p> <p>15 didn't feel safe. Those are my words.</p> <p>16 Q. Was there like a crash of bodies? Did I keep</p> <p>17 coming toward her and not stop and was there a crash of</p> <p>18 bodies?</p> <p>19 MS. ANGELL: Objection. Lacks foundation.</p> <p>20 You're not asking him what Linda said. If you want to</p> <p>21 ask him --</p> <p>22 MS. LARKINS: That's what I meant.</p> <p>23 Q. Did Linda say that I crashed into her?</p> <p>24 A. I don't recall that being said.</p> <p>25 Q. Okay. So apparently I -- she said that I</p>	<p>1 testimony. I don't think the witness said anything about</p> <p>2 a complaint. I think he said that he was in a meeting.</p> <p>3 BY MS. LARKINS:</p> <p>4 Q. Okay. Was Linda angry about this event?</p> <p>5 MS. ANGELL: You mean when you came after her in</p> <p>6 the -- wherever this incident was that you've just been</p> <p>7 discussing, this coming toward her? Is that what you</p> <p>8 mean by this event? You mean the meeting or what do you</p> <p>9 mean? Vague and ambiguous.</p> <p>10 MS. LARKINS: Ms. Angell, I didn't come after</p> <p>11 her. Your client has said under oath statements that I</p> <p>12 have contradicted under oath. Somebody is lying, or</p> <p>13 maybe they are just not in contact with reality. That is</p> <p>14 the other option.</p> <p>15 MS. ANGELL: Move to strike. No question</p> <p>16 pending.</p> <p>17 Do we need to have some sort of testimony read</p> <p>18 back or something to see where we are at?</p> <p>19 MS. LARKINS: Okay.</p> <p>20 Q. So you don't remember anything more dramatic</p> <p>21 than just my coming toward her as being the problem that</p> <p>22 day, according to Linda's testimony?</p> <p>23 MS. ANGELL: Objection. He's not here to</p> <p>24 testify about Linda's testimony. This witness is</p> <p>25 testifying about what he saw or heard or was told in a</p>

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1 meeting in approximately April 2001.
2 MS. LARKINS: Yeah. I want to know what Linda
3 said on approximately April 20th, 2001.
4 Q. And so far you have testified that she said that
5 I came toward her too close.
6 A. I testified that you kept coming toward her
7 after she told you to stop.
8 Q. Uh-huh.
9 A. And that she wanted to talk about it later.
10 Q. Uh-huh.
11 A. That's what I testified to.
12 Q. Okay. Can you think of anything else that she
13 was unhappy that I did?
14 MS. ANGELL: That she said during that April
15 2001 meeting concerning you?
16 MS. LARKINS: Exactly.
17 THE WITNESS: You mean at the pool or at this
18 meeting in the office obviously? I'm confused. Were are
19 we?
20 MS. ANGELL: Objection. Vague and ambiguous.
21 The witness obviously cannot understand the question.
22 MS. LARKINS: Okay.
23 MS. ANGELL: Can we have the testimony read
24 back, his first response to what was said at the meeting.
25 And if I need to come over there and read it myself, I

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1 can do that.
2 I think these questions have been asked and
3 answered.
4 (The record starting at Page 58, Line 20 to Page
5 59, Line 15 was read.)
6 MS. ANGELL: Thank you.
7 BY MS. LARKINS:
8 Q. And do you believe that this was the day that --
9 that this was one of the days when Rick Werlin came to
10 the school?
11 MS. ANGELL: Vague and ambiguous. That same day
12 that --
13 BY MS. LARKINS:
14 Q. On this April 20, 2001, this day that you and
15 Linda went in to the principal's office to report this
16 event at the pool, do you believe that that was the day
17 when Rick Werlin came to the school?
18 MS. ANGELL: To the extent that it calls for
19 speculation, I'm objecting. To the extent that you're
20 asking him what he recalls, if he recalls, he can answer.
21 MS. LARKINS: I'm sorry.
22 Q. Do you recall that Rick Werlin came to the
23 school for a meeting on this day, April 20th, 2001, when
24 you and Linda went to Gretchen to report an incident at
25 the pool?

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1 A. I don't recall if he came to the school on that
2 day, no.
3 Q. Okay. Did Linda say that my behavior was
4 bizarre to her?
5 MS. ANGELL: During the April 2001 meeting
6 between Linda and Donndelinger and Mr. Denmon?
7 MS. LARKINS: Yes.
8 THE WITNESS: I don't know if she used the word
9 "bizarre." I interpreted it as her saying in my opinion
10 it was unusual because she told you to do something, to
11 stop, and you hadn't. I don't remember which word she
12 said.
13 BY MS. LARKINS:
14 Q. Did you agree with her, however she
15 characterized my behavior?
16 MS. ANGELL: Objection. Vague and ambiguous.
17 MS. LARKINS: At this meeting that we are
18 talking about.
19 MS. ANGELL: Agree with her about what?
20 MS. LARKINS: About my behavior being as you
21 have described her to have said my behavior was.
22 THE WITNESS: I don't recall, Maura, what I
23 said --
24 MS. LARKINS: Okay.
25 THE WITNESS: -- at this meeting.

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1 BY MS. LARKINS:
2 Q. Okay. Do you see in the middle of this page
3 there is a line with just two words on it. It looks --
4 can you read that?
5 A. Looks like "baboon," but I'm assuming it's
6 "Behavior is bizarre to Linda; Rick agreed."
7 Q. Uh-huh. Do you think it's possible that Linda
8 did characterize my behavior as bizarre and that you
9 agreed with that?
10 MS. ANGELL: Objection. Calls for speculation.
11 BY MS. LARKINS:
12 Q. I mean does that sound -- is that wrong, or do
13 you just not remember?
14 MS. ANGELL: Objection. Vague and ambiguous
15 question. Could you ask the whole question in one shot.
16 BY MS. LARKINS:
17 Q. Is this written statement false?
18 MS. ANGELL: What written statement?
19 MS. LARKINS: "Behavior is bizarre to Linda;
20 Rick agreed."
21 THE WITNESS: I can't determine if it's false or
22 not, because I don't know the words that were used or who
23 wrote what in the notes.
24 BY MS. LARKINS:
25 Q. Okay. How about if we skip a line and then the

17 (Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 next little paragraph there. Do you believe that that 2 statement is true or false or you don't know? 3 A. I remember a meeting -- being asked to meet with 4 Rick Werlin. I don't think that this Rick is me, Rick 5 Denmon, but I believe there was a meeting asked to meet 6 with Rick Werlin. But I don't know if that meeting took 7 place at 2:30 as it says or not. I don't remember when 8 there was a meeting held. 9 Q. Okay. Okay. 10 MS. ANGELL: I'm going to remind the witness 11 that when plaintiff puts documents in front of you, that 12 doesn't mean that you adopt what's in the document. She 13 can put the document in front of and ask you whether you 14 created it, if you have seen it before, what you know 15 about it. Perhaps if it refreshes your recollection, 16 that is one thing. But just because plaintiff says 17 something in a question to you or puts a piece of paper 18 in front of you that says the sky is purple doesn't mean 19 the sky is purple. Do you understand? 20 THE WITNESS: Yeah, I understand. 21 MS. ANGELL: Okay. 22 MS. LARKINS: Of course if Kelly Angell tells 23 you the sky is purple, then it's true. 24 Q. Okay. Could you look at the second page of this 25 exhibit. Did you have a chance yet to read this?</p>	<p style="text-align: right;">Page 68</p> <p>1 I'm to believe that, then these people may have been 2 there, yes. 3 MS. ANGELL: You're not to believe, as I said, 4 documents that are put in front of you by Mrs. Larkins. 5 You're here to testify to what you know, what you 6 remember, what you did. 7 MS. LARKINS: Never mind. This is not getting 8 anywhere. No more questions on this document. It will 9 be better when we have everybody together in court. We 10 can establish things more easily. 11 Is Rick Werlin planning on testifying during the 12 trial? 13 MS. ANGELL: Do you have questions for this 14 witness? Please pose it. Seeing as how that was 15 directed to me. Was that directed to the witness? 16 MS. LARKINS: So you won't be directing any 17 questions to me in this deposition? 18 MS. ANGELL: Do you have a question for the 19 witness? If so, please ask it. 20 MS. LARKINS: Okay. Just make sure you take a 21 slice of your own advice and don't direct questions at 22 me. 23 Q. Okay. How did you find out that teachers had 24 been sued? 25 MS. ANGELL: Objection. Seeks to invade</p>
<p style="text-align: right;">Page 67</p> <p>1 A. Yes, I did read it. 2 Q. Okay. Assuming -- obviously if I have falsely 3 created this document, I'm going to lose the case, but 4 assuming that this is a true document and that the -- 5 it's down at the Office of Administrative Hearings in the 6 exhibits of my file, does -- do you believe that Gretchen 7 wrote correctly when she wrote this middle paragraph? 8 MS. ANGELL: Objection. Hold up here. This 9 assumes facts not in evidence. This document has not 10 been authenticated; there is no evidence in the record 11 that these are notes -- 12 MS. LARKINS: Withdrawn. 13 Q. Do you recall Gretchen telling you later that 14 day or -- wait a minute. Do you recall somebody telling 15 you that day that there would be a meeting, and you going 16 to that meeting along with Linda, Alan, Maria, Karen, Joe 17 Ellen and Kathy B? 18 MS. ANGELL: That day being the same day as the 19 meeting between Linda Watson and Gretchen Donndelinger 20 and Mr. Denmon? 21 MS. LARKINS: Yes. 22 MS. ANGELL: The question is do you recall. 23 THE WITNESS: I recall having a meeting, but I 24 don't recall on which day or who was present. If these 25 -- were notes of a meeting that I was at, then these -- if</p>	<p style="text-align: right;">Page 69</p> <p>1 attorney-client privilege, vague and ambiguous. 2 MS. LARKINS: You may answer the question 3 unless -- 4 MS. ANGELL: If you understand it. Teachers 5 have been sued by who, when, what, where, concerning 6 what? I don't understand the question. 7 MS. LARKINS: Well, I'm sure you knew that I 8 meant me, but Kelly has a good point. Let me say it 9 again. 10 Q. How did you find out that I had sued teachers? 11 But don't tell me if it was an attorney who told you. 12 A. I don't recall who told me. 13 Q. Okay. Do you think you found out pretty soon 14 after they were served? 15 MS. ANGELL: Objection. Calls for speculation. 16 BY MS. LARKINS: 17 Q. Are you kind of a -- at Castle park did you tend 18 to be kind of a loner? 19 A. What do you mean? 20 Q. At Castle park did you often spend your 21 lunchtimes talking to other teachers? 22 A. Yes. I ate in the lounge and talked to people 23 in the lounge. 24 Q. Okay. Were there some teachers who were loners? 25 MS. ANGELL: Objection. Vague and ambiguous as</p>

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<p style="text-align: right;">Page 70</p> <p>1 to time, vague and ambiguous as to who you're talking 2 about and what you think loners are. 3 MS. LARKINS: Well, I don't mean l-o-a-n-e-r-s. 4 I mean l-o-n-e-r-s. I guess the substitutes are loaners. 5 Q. Were there -- did all of the teachers congregate 6 in the lounge at most recesses? 7 MS. ANGELL: Objection. Vague and ambiguous as 8 to time. 9 MS. LARKINS: Let's just talk about at Castle 10 Park during the 2000-2001 school year. 11 THE WITNESS: To the best of my recollection, I 12 don't believe everybody went into the lounge on their 13 break time. 14 BY MS. LARKINS: 15 Q. Okay. So to the best of your recollection, 16 there were some teachers who stayed in their rooms or 17 worked in the -- were making copies or going to other 18 places during breaks? 19 MS. ANGELL: Objection. Leading. If you could 20 ask this witness what he knows instead of trying to 21 testify for him. You just testified a compound statement 22 for him. His testimony was that he thinks that not 23 everybody went in the lounge. 24 MS. LARKINS: Thank you. I will try. 25 Q. If teachers weren't in the lounge, where were</p>	<p style="text-align: right;">Page 72</p> <p>1 MS. LARKINS: You may answer. 2 THE WITNESS: What do you mean by a lot? 3 MS. LARKINS: Question withdrawn. 4 Q. Who were the teachers that you were closest to 5 personally at Castle Park? 6 MS. ANGELL: Objection. Vague and ambiguous as 7 to time. 8 MS. LARKINS: You may answer. 9 MS. ANGELL: If you know what time frame she's 10 talking about. 11 THE WITNESS: Which time frame are you referring 12 to? 13 MS. LARKINS: Well, let's do the 2000-2001 14 school year. 15 Q. Who were the teachers you were closest to 16 personally during that year? 17 A. Mrs. Watson, Mrs. Comen, Mr. Marshall, 18 Mrs. Hamilton, Mrs. Bingham, Mrs. Salenz and Ms. Perez. 19 Q. Boy, that practically reads like a list of 20 defendants in this case. 21 MS. ANGELL: Move to strike. No question 22 pending. 23 MR. HERSH: Joined. 24 BY MS. LARKINS: 25 Q. How close were you to Robin Donlan?</p>
<p style="text-align: right;">Page 71</p> <p>1 they? 2 MS. ANGELL: Objection. Vague and ambiguous as 3 to time, as to what teachers. 4 MS. LARKINS: Can you answer the question? 5 THE WITNESS: I don't know where the other 6 teachers were. 7 BY MS. LARKINS: 8 Q. Okay. Were you probably one of the better 9 informed teachers on the staff as far as gossip went? 10 MS. ANGELL: Objection. Calls for speculation. 11 Vague and ambiguous as to time. Vague and ambiguous 12 generally. 13 MS. LARKINS: Answer if you can. 14 THE WITNESS: Well, define gossip. 15 BY MS. LARKINS: 16 Q. I have to define gossip? 17 A. As you're using it in this question. 18 MS. ANGELL: It's vague. He doesn't understand 19 the question. If you could rephrase it so he can 20 understand, then he could answer it maybe. 21 MS. LARKINS: Talking about other people's 22 business will be the definition of gossip. 23 Q. Did you do a lot of that at Castle Park during 24 the 2000-2001 school year? 25 MS. ANGELL: Objection. Vague and ambiguous.</p>	<p style="text-align: right;">Page 73</p> <p>1 MS. ANGELL: Objection. Vague and ambiguous as 2 to time. 3 BY MS. LARKINS: 4 Q. Was there ever a time during your -- when you 5 worked at Castle Park when you were close personally with 6 Robin Donlan? 7 A. I was physically close to her because her room 8 was right next to mine, so I saw her probably more 9 frequently than other people. And we shared as time-out 10 rooms for each other, so we talked to each other often 11 about sending students for time-out. 12 Q. Do you recall a staff meeting or rather an 13 in-service before which you were sitting with Robin 14 Donlan at a table in the auditorium and I came up to the 15 table, and as I was coming up to the table you suggested 16 to her that she tell me to go to another table? 17 A. No. 18 Q. Okay. Do you recall a meeting with Gretchen 19 Donndelinger at which Robin Donlan said, "Rick always 20 gets me in trouble"? 21 A. No. 22 Q. Okay. Do you believe it's wrong to remove a 23 teacher from his or her position without telling that 24 teacher the reason? 25 MS. ANGELL: Objection. Vague and ambiguous as</p>

19 (Pages 70 to 73)

<p>Page 74</p> <p>1 to "remove teacher from their position." 2 MS. LARKINS: Answer it if you can. 3 THE WITNESS: Ask the question again, please. 4 BY MS. LARKINS: 5 Q. Do you believe it is wrong to remove a teacher 6 from his or her position without telling that teacher the 7 reason? 8 MS. ANGELL: Same objection. Vague and 9 ambiguous as to "remove teacher from position." And 10 insofar as it's calling for a legal conclusion, the 11 witness is not qualified as a legal expert. 12 MS. LARKINS: Are you instructing the witness 13 not to answer the question? 14 MS. ANGELL: I'm asking you to clarify the 15 question. It's vague and ambiguous. I don't understand 16 what you mean by "remove from the classroom," because I 17 think that you have a very different meaning in that it 18 could mean a million things. It could mean being placed 19 on administrative leave; it could mean dismissed; it 20 could mean suspended; it could mean a teacher goes on 21 sick leave. It could mean a million things. 22 MS. LARKINS: Of course. And I think Rick and I 23 both understand that. 24 MS. ANGELL: So ask your specific question. 25 Which one of those -- you have just admitted that your</p>	<p>Page 76</p> <p>1 MS. ANGELL: It's calling for speculation I 2 think. 3 MS. LARKINS: Are you instructing the witness 4 not to answer? 5 MS. ANGELL: It would be better if you would ask 6 him a more specific question so I don't object to it. 7 BY MS. LARKINS: 8 Q. Mr. Denmon, is it your opinion that I should 9 have been allowed to hear the allegations about me which 10 Linda Watson made on April 20th, 2001 when you went with 11 her to the principal's office? 12 A. At that time, no. Linda was very upset and I 13 think she needed to have a safe environment in which to 14 express her concerns. 15 Q. Okay. Is it your opinion that I should have 16 been told within a week? 17 MS. ANGELL: I'm going to renew my objection. 18 We have a standing stipulation for objections on the 19 basis of relevance. We have been here for two and a half 20 hours and we haven't had a single question concerning the 21 allegations contained in the complaint, particularly 22 there is no -- and the line of questioning we are at here 23 is not a question concerning Mrs. Larkins' allegations 24 concerning -- related to records of arrest. 25 MR. HERSH: Association defendants join in</p>
<p>Page 75</p> <p>1 question is vague and ambiguous. 2 MS. LARKINS: It's not vague or ambiguous. I 3 think the meaning is clear. Let me try again, though. 4 Q. Do you believe it is wrong for the 5 administration to tell a teacher not to return to his or 6 her classroom without telling that teacher the reason? 7 A. Are you asking my opinion? 8 Q. Yes. 9 MS. ANGELL: Incomplete hypothetical, vague and 10 ambiguous, calls for a legal conclusion. 11 MS. LARKINS: You may answer. 12 THE WITNESS: I believe that the teacher should 13 have their due process rights, and they should be 14 followed if there was a cause for a teacher being told 15 not to return to their room, yes. 16 BY MS. LARKINS: 17 Q. Do you believe that I should have been allowed 18 to hear Linda Watson's allegations against me? 19 MS. ANGELL: Objection. Vague and ambiguous as 20 to time, assumes facts not in evidence. 21 MS. LARKINS: Referring to these allegations of 22 April 20th, 2001. 23 MS. ANGELL: Same objection. Vague and 24 ambiguous as to time, assumes facts not in evidence. 25 MS. LARKINS: You may answer the question.</p>	<p>Page 77</p> <p>1 Ms. Angell's objection. 2 MS. LARKINS: Right. We have a stipulation on 3 that. 4 MS. ANGELL: Right. And you're -- we have been 5 allowing this -- a great deal of latitude for you to ask 6 all kinds of questions that have nothing to do with the 7 litigation for two and a half hours now, and you're 8 continuing to press this witness about his opinion three 9 years ago, assuming he remembers it, about stuff that has 10 nothing to do with this litigation. I'm well aware that 11 you intend to use this video deposition for purposes of 12 doing a documentary, and I believe that you're abusing 13 the discovery process by asking these irrelevant, 14 unrelated questions of this witness and requiring him to 15 be here under guise of a deposition notice in the case 16 entitled Larkins v. Werlin. 17 MR. HERSH: Joined. 18 MS. ANGELL: I believe your questioning is 19 improper; it's harassing; it's an abuse of the discovery 20 process, and I would respectfully request you to move 21 on -- 22 MR. HERSH: Joined. 23 MS. ANGELL: -- and to get to something that is 24 alleged in the complaint. 25 MS. LARKINS: Obviously you are afraid of</p>

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<p style="text-align: right;">Page 78</p> <p>1 testimony that agrees that the district violated my 2 rights. 3 MS. ANGELL: Mrs. Larkins, there is no cause of 4 action in this complaint for due process. You have been 5 dismissed -- you have been afforded due process; you 6 tried to sue the district on those issues, and you 7 cannot; you're precluded; it's been finally adjudicated. 8 And your attempt to harass this witness and keep him here 9 to answer these unrelated questions for whatever your 10 ulterior motives are are totally improper, and, again, I 11 will ask you to please address issues that are alleged in 12 the sixth amended complaint which causes of action have 13 not been dismissed. 14 MS. LARKINS: It's interesting that you want to 15 say that due process in this case is of no importance any 16 more. It might not be of importance to you, Ms. Angell, 17 and it might not even be litigatable, but there is the 18 problem of the public interest. And even if your 19 sanctions -- terminating sanctions are granted at the end 20 of this week, I don't think I'm going to appeal to the 21 Court of Appeals. I think I'm going to appeal to the 22 court of public opinion. And I think that the public has 23 an interest in knowing that my due process rights were 24 violated, particularly -- 25 MR. HERSH: Speaking on behalf of the public, we</p>	<p style="text-align: right;">Page 80</p> <p>1 you it's improper. I'm asking you to move along. I have 2 no comment concerning the videographer changing his tape; 3 however, I would like to state that I don't know how much 4 longer you plan to depose this witness, but we are going 5 to need a lunch break if we're going to be going into the 6 afternoon. 7 MS. LARKINS: Hallelujah. Ms. Angell agreeing 8 to lunch break. You have no idea how lucky you are. The 9 other witnesses didn't get them. In fact, I even got in 10 trouble yesterday for letting the court reporter sneak 11 back for 15 minutes to eat her lunch. 12 MS. ANGELL: Move to strike. Nonresponsive. 13 I'll direct the witness to disregard comments made by 14 Mrs. Larkins. 15 MS. LARKINS: Okay. Let's take a break. 16 MS. ANGELL: How long will the lunch break be? 17 MS. LARKINS: Let's talk about that after we get 18 back. Let's just take this break now. Shall we let the 19 videographer change the tape? 20 MS. ANGELL: Oh, you mean just for purposes of 21 changing the tape? 22 MS. LARKINS: Yeah. 23 MS. ANGELL: That's fine with me. 24 MS. LARKINS: Agreed, Michael? 25 MR. HERSH: Agreed.</p>
<p style="text-align: right;">Page 79</p> <p>1 actually don't. 2 MS. LARKINS: I -- sometimes your humor just 3 misses the mark, Michael. But, boy, I'm going to enjoy 4 quoting you on that. 5 MS. ANGELL: Are you finished? 6 MS. LARKINS: We have got five minutes left on 7 this tape. We need to take a break to change tape. 8 MS. ANGELL: Well, Mrs. Larkins, I'd like to 9 thank you for admitting on the record your improper 10 purpose of deposing this and other witnesses in this 11 case. And I will let you know that if you do not move 12 your questioning along to something having to do with the 13 allegations contained in the complaint, that we are going 14 to be finished. 15 So if you have some questions for this witness 16 pertaining to any of the allegations contained in the 17 complaint, please pose them. And he's here and prepared 18 and willing and able to give testimony related to the 19 complaint. 20 MS. LARKINS: So are you saying you don't want 21 to allow the videographer to change the tape? 22 MS. ANGELL: No. I'm saying that you have 23 admitted your improper purpose; that you're trying to 24 address your due process administrative hearing through 25 the discovery in the Larkins v. Werlin case. I'm telling</p>	<p style="text-align: right;">Page 81</p> <p>1 VIDEOGRAPHER: This is the end of Tape 1, Disk 2 1. We're going off the record. The time is 12:34 p.m. 3 (Recess taken.) 4 VIDEOGRAPHER: Today is Tuesday, November 30, 5 2004. The time is now 12:42 p.m. We're beginning Tape 6 2, Disk 2 of the deposition of Richard Denmon. We're 7 going on the record. 8 MS. ANGELL: Before we proceed with determining 9 how long our lunch break will be, I would like to reflect 10 something that happened after we went off the record. I 11 observed and heard Mrs. Larkins ask -- I don't know if it 12 was to me or to Mr. Denmon -- the following words which I 13 wrote down: "Did you hear that? The CTA lawyer just 14 said that he didn't care about my due process rights." 15 And then I observed Mrs. Larkins made a face and reach 16 over to the speaker phone and disconnect union counsel 17 off the speaker phone. That's it. 18 MS. LARKINS: I would like to state for the 19 record that everything that Ms. Angell has said except 20 for the making the face is true. 21 Ms. Angell, could you describe the face that you 22 were talking about? What kind of face was it? 23 MS. ANGELL: Kind of just scrunched up mouth and 24 eyes, kind of showing an angry face. 25 MS. LARKINS: Kind of like you're doing right</p>

21 (Pages 78 to 81)

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<p>1 now?</p> <p>2 MS. ANGELL: I'm not making a face right now.</p> <p>3 MS. LARKINS: You just made a face. I bet you</p> <p>4 were trying to show what I was doing perhaps?</p> <p>5 MS. ANGELL: Possibly, but I don't think so.</p> <p>6 At any rate, how long do we want to go for the</p> <p>7 lunch break?</p> <p>8 MS. LARKINS: Actually, I would like to get this</p> <p>9 finished up within -- by -- it's a quarter to 1:00; is</p> <p>10 that what time it is?</p> <p>11 MS. ANGELL: Uh-huh.</p> <p>12 MS. LARKINS: I'd like to get it finished by</p> <p>13 1:00 o'clock and not have a lunch break.</p> <p>14 MS. ANGELL: Okay. If you can finish by 1:00,</p> <p>15 that is fine. But if you're not finished by 1:00, we're</p> <p>16 going to need to take a lunch break at that time.</p> <p>17 MS. LARKINS: God bless Peggy Myers. She must</p> <p>18 have really said something about how bad it was for her</p> <p>19 yesterday. Okay.</p> <p>20 Mr. -- I would like to ask a question similar to</p> <p>21 the one I answered just before the break. I mean the one</p> <p>22 I asked just before the break. And I would be willing to</p> <p>23 stipulate that all of your objections -- they can be</p> <p>24 standing and applied to this question, too. It's the</p> <p>25 question about -- I'm trying to find out if it's</p>	<p>1 MS. ANGELL: You haven't elicited anything from</p> <p>2 this witness about what he knows about what you were</p> <p>3 told, so you're assuming facts not in evidence.</p> <p>4 MS. LARKINS: No. I could have been told. For</p> <p>5 all you know, maybe I was told that very night. But what</p> <p>6 I want --</p> <p>7 Q. The question I'm asking you is, in your opinion,</p> <p>8 should I have been told of the allegations that Linda</p> <p>9 Watson made to Gretchen Donndelinger in your presence on</p> <p>10 April 20th, 2001 within a week?</p> <p>11 MS. ANGELL: Incomplete hypothetical.</p> <p>12 Do you mean under the facts known to this</p> <p>13 witness on April 20th, 2001? Did he believe --</p> <p>14 MS. LARKINS: No. I mean as he sits here today.</p> <p>15 Q. Do you believe that; that I should have been</p> <p>16 told within a week?</p> <p>17 MS. ANGELL: Based on the facts that he knows,</p> <p>18 knowing that he does not know the entire situation</p> <p>19 related to your employment? Because, as he testified, he</p> <p>20 didn't even know why you were not teaching other than it</p> <p>21 was a personnel matter.</p> <p>22 MS. LARKINS: Right. This is -- yeah. This</p> <p>23 is -- not based on any other knowledge, but just the</p> <p>24 question I'm asking.</p> <p>25 THE WITNESS: I'm sorry.</p>
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<p>1 Mr. Denmon's opinion that I should have been told about</p> <p>2 Ms. Watson's allegations about me within a week. Okay.</p> <p>3 Q. Mr. Denmon, do you believe that I should have</p> <p>4 been told about the allegations made by Linda Watson in</p> <p>5 your presence to Gretchen Donndelinger on April 20th,</p> <p>6 2001 within a week?</p> <p>7 MS. ANGELL: Objection. Not relevant, not</p> <p>8 reasonably calculated to lead to the discovery of</p> <p>9 admissible evidence, incomplete hypothetical, calls for</p> <p>10 speculation. Insofar as it calls for a legal conclusion,</p> <p>11 this witness is not qualified as a legal expert.</p> <p>12 MS. LARKINS: Okay. It doesn't call for a legal</p> <p>13 conclusion, so you may answer.</p> <p>14 THE WITNESS: Do I think you should have been</p> <p>15 notified within a week of these allegations that are on</p> <p>16 that paper?</p> <p>17 MS. LARKINS: Yes.</p> <p>18 MS. ANGELL: Excuse me. It also assumes facts</p> <p>19 not in evidence.</p> <p>20 MS. LARKINS: I'm so curious. What are the</p> <p>21 facts that aren't in evidence?</p> <p>22 MS. ANGELL: The facts that aren't in evidence</p> <p>23 is that you weren't told and you haven't elicited from</p> <p>24 this witness whether he's aware of whether you were told.</p> <p>25 MS. LARKINS: No.</p>	<p>1 In my opinion I think it's reasonable to expect</p> <p>2 to be notified if there were concerns about you at work,</p> <p>3 yes.</p> <p>4 BY MS. LARKINS:</p> <p>5 Q. Within a week?</p> <p>6 A. In a timely manner.</p> <p>7 Q. How about within a month?</p> <p>8 A. I think the sooner the better would probably be</p> <p>9 the best option.</p> <p>10 Q. How long could it go on and still be okay? Like</p> <p>11 if you're told a year later, is that acceptable to you?</p> <p>12 Is that appropriate treatment of an employee?</p> <p>13 MS. ANGELL: Objection. Vague and ambiguous.</p> <p>14 This witness is not qualified as an expert witness in any</p> <p>15 matter, and the question is vague.</p> <p>16 BY MS. LARKINS:</p> <p>17 Q. Mr. Denmon, have you spoken to the press</p> <p>18 recently about teachers being told not to go back to</p> <p>19 their classrooms without being told the reason?</p> <p>20 MS. ANGELL: Objection. Vague and ambiguous.</p> <p>21 Do you mean has this witness given any interviews or</p> <p>22 talked with the press concerning the August 2004</p> <p>23 transfers of a number of teachers from Castle Park</p> <p>24 Elementary? Is that what you're referring to?</p> <p>25 MS. LARKINS: No. I really -- the question I</p>

22 (Pages 82 to 85)

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1 asked was the one I wanted answered.
2 THE WITNESS: Could you please ask it again.
3 MS. LARKINS: Yes.
4 MS. ANGELL: The problems is your
5 characterization of "removing from the classroom." As I
6 previously stated, that is vague and ambiguous. I think
7 that you mean one thing. It could -- you have agreed
8 that it could mean any number of things, like five or six
9 different things. Your question is vague.
10 MS. LARKINS: Ms. Angell, I believe I said told
11 not to go back to their classrooms. I said it so you
12 wouldn't have to interrupt. Okay.
13 MS. ANGELL: Let the record reflect that we have
14 had several faces from Mrs. Larkins at me and at the
15 witness at times, include baring her teeth, raising her
16 eyebrows.
17 BY MS. LARKINS:
18 Q. Mr. Denmon, did I just smile at you? Did we
19 just smile at each other?
20 A. I assume. I was looking at you and I was
21 looking at Ms. Angell. I really didn't register --
22 Q. No, but we were looking right at each other.
23 Did we just smile at each other?
24 A. I assume it was a smile, yes. I don't --
25 MS. LARKINS: Okay. That preceded this false

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1 representation by Ms. Angell.
2 Baring teeth? My goodness gracious, Ms. Angell.
3 You're going to have to explain that one for the record.
4 What do you mean by baring teeth?
5 MS. ANGELL: I mean that you made a grimace; you
6 bared your teeth; you raised your eyebrows.
7 MS. LARKINS: When did I do that?
8 MS. ANGELL: It's unusual. You usually don't do
9 that. Sometimes you smile. It just looks different.
10 MS. LARKINS: Just then when I just smiled at
11 him, you're calling that baring teeth?
12 MS. ANGELL: I'm reflecting what I am observing
13 for the record, because there is no video camera on you,
14 and you're continuing to harass the witness.
15 MS. LARKINS: Ms. Angell, your behavior is
16 outrageous. I interpreted it as a smile; Mr. Denmon
17 interpreted it as smile, and you interpreted it as baring
18 teeth. I believe that you are trying to create a false
19 record.
20 MS. ANGELL: You're entitled to your belief. Do
21 you have a question for the witness?
22 BY MS. LARKINS:
23 Q. Have you recently, since the beginning of August
24 2004, spoken to a member of the press regarding the
25 problem of teachers being told not to go back to their

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1 classrooms without being given a reason?
2 A. I spoke to the press -- a reporter about my
3 concerns.
4 Q. And what were your concerns that you talked to
5 the reporter about?
6 A. My concerns about the administrator at the site
7 of Castle Park.
8 Q. What were those concerns?
9 A. They were varied. They were different reasons.
10 Q. Did it include teachers being told not to go
11 back to their classroom without being given a reason?
12 MS. ANGELL: Objection. Vague and ambiguous
13 concerning the characterization of teachers being told
14 not to return to their classroom.
15 If you could just tell her whatever you told the
16 reporter.
17 THE WITNESS: To the best of my recollection --
18 MS. LARKINS: We know what you mean.
19 THE WITNESS: -- I told him that I was -- that I
20 had requested a transfer, and that I was assured one
21 thing and that did not happen. That's what I remember my
22 conversation with the reporter was about.
23 BY MS. LARKINS:
24 Q. Why did you request a transfer?
25 A. Personal reasons.

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1 Q. Did you read the article that resulted?
2 A. It was read to me over the phone.
3 Q. Did it say that you requested a transfer because
4 you were angry about teachers being told not to go back
5 to their classrooms without being given a reason?
6 A. I believe it said that I was concerned that it
7 was not a safe environment at this time at Castle Park.
8 Q. What did you mean by safe environment?
9 A. Was not an environment that I felt was conducive
10 to educating my students.
11 Q. Why? What made it not a safe environment?
12 MS. ANGELL: We are talking about August of
13 2004; is that your question, Mrs. Larkins?
14 MS. LARKINS: Well, we are talking about --
15 Q. When did you request your transfer?
16 A. August of 2004.
17 Q. Then, yes, we are talking about August 2004.
18 Why was Castle Park not a safe place for --
19 A. I had personal concerns and personnel concerns
20 with the administrator at the site.
21 MS. ANGELL: Insofar as this line of questioning
22 is absolutely irrelevant to the litigation at issue, I'm
23 going to ask the plaintiff to please direct her comments
24 and inquiry to something relating to the allegations in
25 the complaint. This witness's personnel issues regarding

23 (Pages 86 to 89)

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1 any request for transfer that he might have made in
2 August of 2004, unless you can link it somehow to your
3 allegations that somebody had your arrest records and
4 spread around that information, it's not relevant, and
5 you're seeking to invade his privacy by persisting with
6 this line of questioning. It's improper.
7 MS. LARKINS: I have no more questions, unless
8 you have questions, and then I might have some follow-up
9 questions.
10
11 EXAMINATION BY MS. ANGELL:
12 Q. Mr. Denmon, did anyone ever tell you -- outside
13 of discussions with counsel in defense of this matter,
14 did anyone ever tell you that Mrs. Larkins was a
15 dangerous person who needed to be arrested because she
16 had at least one handgun?
17 A. No.
18 Q. Has anyone -- other than your discussions with
19 counsel in defense of this matter -- made statements to
20 you to that effect? Maybe not in those same words, but
21 that Larkins is dangerous, needs to be arrested because
22 she has a gun?
23 A. No.
24 Q. Anyone ever told you that Mrs. Larkins does in
25 fact own a gun?

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1 A. No.
2 Q. Has anyone ever said to you that Mrs. Larkins
3 has been arrested?
4 A. No.
5 Q. Has anyone ever told -- shown you -- excuse me.
6 Has anyone ever shown you a police report concerning Mrs.
7 Larkins?
8 A. No.
9 Q. Other than conversations with counsel and in
10 defending this matter, have you ever been told that
11 Mrs. Larkins has ever been arrested?
12 A. No.
13 MS. ANGELL: That's it.
14 Mr. Hersh?
15 MS. LARKINS: Any questions, Mr. Hersh?
16 He's playing Mine Sweeper again.
17 MS. ANGELL: Maybe he dropped off.
18 MR. HERSH: I'm sorry. The mute button was on.
19 I was speaking, but I just assumed that everybody was
20 ignoring me.
21 Yeah. I have no questions for the witness.
22 Thank you, Mr. Denmon.
23 THE WITNESS: You're welcome.
24 MS. LARKINS: Okay. Shall we see if we can
25 enter into some stipulations here?

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1 Do you want Mr. Denmon to have the same time
2 that you wanted me to have for a turn-around on this
3 deposition or a different amount of time? Perhaps you'd
4 like him to have more time.
5 MS. ANGELL: Why don't you propose a
6 stipulation.
7 MS. LARKINS: Okay. You have done this before,
8 so you know that what you're going to do is you're going
9 to get a copy of the deposition in two or three weeks.
10 And let's stipulate that the court reporter will
11 send it to Ms. Angell and Ms. Angell will send it to you.
12 And you're going to read it over, and if you see
13 something that you think is incorrect, you want to change
14 your testimony, there is a sheet in the front where you
15 write down any changes.
16 I remember the other time when you -- when Ms.
17 Schulman deposed you, you corrected a spelling in it. I
18 think it was "bazaar." I think they had it b-a-z-a-a-r.
19 Then you have a certain amount of time to read it over,
20 make the corrections and sign it and return it to
21 Ms. Angell.
22 Now, Ms. Angell insists that I should have one
23 week turn-around, one week to read my deposition and sign
24 it and return it.
25 Does that sound about right to you?

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1 THE WITNESS: That's fair.
2 MS. LARKINS: Okay. Then -- and shall we
3 stipulate that a fax signature will be --
4 MS. ANGELL: Mr. Denmon, please be informed that
5 this is not a conversation between you and Mrs. Larkins,
6 and it's improper for her to be questioning you at this
7 point. This is a stipulation among counsel, so you don't
8 need to make any further responses.
9 MS. LARKINS: Okay. Would you like to discuss
10 the time for his deposition turn-around with him and then
11 you tell me?
12 MS. ANGELL: No. But you propose your
13 stipulation to me and not to the witness.
14 MS. LARKINS: Would you like me to do that?
15 MS. ANGELL: Please, continue.
16 MS. LARKINS: Would you like me to propose the
17 stipulation?
18 MS. ANGELL: I'm not sure. Are you doing that
19 now or --
20 MS. LARKINS: Well, I -- it's sort of a repeat,
21 but do you want me to repeat the whole process?
22 MS. ANGELL: Why don't you just continue.
23 MS. LARKINS: I think that would be a much
24 better idea than stopping and having conversations about
25 it. Okay.

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1 A fax signature will be deemed as acceptable as
2 an original, and if there is no signature after 30 --
3 after one week, it will be considered signed. And the
4 original will be kept by Ms. Angell's law firm. And if
5 the original is lost or unavailable, a certified copy
6 will be acceptable in place of the original.
7 Does anybody want to stipulate to that?
8 MS. ANGELL: The proposed stipulation is that
9 there will be a signature within one week of Mr. Denmon's
10 receipt of the transcript from my office. I will notify
11 counsel of any written changes that he makes to the
12 deposition transcript within a reasonable amount of time
13 after receiving those changes.
14 MS. LARKINS: So stipulated.
15 MS. ANGELL: I do not stipulate and move to
16 strike plaintiff's commentary that was not a stipulation,
17 her statement to the witness about her time frame for her
18 turnover of the deposition transcript, that kind of
19 thing, but insofar as the stipulation of time for
20 reviewing, signature, retention of the transcript and
21 those regular stipulated matters, I do stipulate to
22 those.
23 MS. LARKINS: Okay. Now, things have changed
24 and some parts of what I said have been requested to be
25 stricken from the record, so --

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1 MS. ANGELL: What's changed in the stipulation
2 that you have proposed? I was just getting out anything
3 that wasn't part of the stipulation.
4 MS. LARKINS: Well, let's just do it right.
5 Okay.
6 I withdraw my stipulation to what I had
7 previously said because Ms. Angell has asked for part of
8 it to be stricken.
9 MS. ANGELL: So you want to wipe all that --
10 MS. LARKINS: Yes. Everything is clean.
11 MS. ANGELL: And start over again?
12 MS. LARKINS: Yes. Let's do it right this time.
13 I stipulate that the transcript will be sent to
14 Ms. Angell when it's ready. She will provide it to
15 Mr. Denmon. If there is no signature provided by
16 Mr. Denmon within seven days of his receiving it, it will
17 be deemed signed and dated. A fax signature is as good
18 as an original. The original will be kept by Ms. Angell.
19 And if the original is lost or unavailable, a certified
20 copy will be acceptable in place of the original.
21 MS. ANGELL: Who do you propose gives notice of
22 any changes and signature to the deposition transcript?
23 MS. LARKINS: Thank you. I should write that
24 here.
25 I propose that Ms. Angell will give notice of

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1 any changes to the deposition transcript.
2 MS. ANGELL: Within a reasonable amount of time.
3 MS. LARKINS: Okay. Thank you.
4 MS. ANGELL: Stipulate to that, Michael?
5 MR. HERSH: I stipulate.
6 MS. ANGELL: So stipulated. Thanks.
7 MR. HERSH: Good afternoon, folks.
8 MS. LARKINS: The public signs off.
9 MR. HERSH: When is the next deposition?
10 VIDEOGRAPHER: This concludes today's
11 deposition. We're going off the record at 1:03 p.m.
12 * * * * *
13 I, RICHARD DENMON, swear under penalty of
14 perjury that I have read the foregoing, and that it is
15 true and correct, to the best of my knowledge and belief.
16 Signed on this day of , 2004, at
17 (City) (State)
18
19
20
21 RICHARD DENMON
22
23
24
25

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1
2
3 STATE OF CALIFORNIA)
4) ss.
5 COUNTY OF SAN DIEGO)
6
7 I, T. A. Martin, a Certified Shorthand Reporter,
8 Certificate No. 3613, do hereby certify that the witness
9 in the foregoing deposition was by me first duly sworn to
10 testify to the truth, the whole truth, and nothing but
11 the truth in the foregoing cause; that the deposition was
12 then taken before me at the time and place herein named;
13 that said deposition was reported by me in shorthand, and
14 then transcribed through computer-aided transcription
15 under my direction, and that the foregoing transcript
16 contains a true record of the testimony of said witness.
17 I do further certify that I am a disinterested
18 person and am in no way interested in the outcome of this
19 action, or connected with or related to any of the
20 parties in this action or to their respective counsel.
21 IN WITNESS WHEREOF, I have hereunto set my hand
22 on this 6th day of December, 2004.
23
24 T. A. MARTIN
25 Certificate No. 3613

25 (Pages 94 to 97)



BEFORE THE GOVERNING BOARD OF THE
CHULA VISTA ELEMENTARY SCHOOL DISTRICT

IN THE MATTER OF THE ACCUSATION)
AGAINST)

MAURA LARKINS,)

Case No. L-2002050728

)
Respondent.)

DEPOSITION OF JOELLEN HAMILTON

Taken on Tuesday, September 10, 2002

At 1:00 A.M.

At 84 East J Street

Chula Vista, California 91910

CONDENSED TRANSCRIPT

APPEARANCES

For the Plaintiff:

MARK R. BRESEE
 BY: MARK R. BRESEE, ESQ.
 23195 La Cadena Dr., Suite 103
 Laguna Hills, California 92653
 (949) 587-0585

For the Respondent:

SCHULMAN & SCHULMAN A.P.C.
 BY: ELIZABETH SCHULMAN, ESQ.
 1551 Fourth Ave., Suite 502
 San Diego, California 92101
 (619) 238-0303

Also present:

Maura Larkins
 Gina Boyd

A No.

MS. SCHULMAN: And I note that we have another person who is present in the deposition. Ma'am, are you Gina Boyd?

MS. BOYD: Yes, I am.

MS. SCHULMAN: And you're president of the Teachers' Union for this district; is that correct?

MS. BOYD: Yes.

MS. SCHULMAN: And what is your purpose in being here today?

MS. BOYD: As an observer with one of my union members.

MS. SCHULMAN: I would note and I have noted this with Mr. Bresee, that I object to your presence here since there is a teacher dismissal that is involved in this proceeding, which I am defending on behalf of -- not one of your current members, then, one of your former members. And it seems to me, you are here in the capacity representing one member against the other, which as I understand it is not something that is permissible.

So, as far as I'm concerned, I really don't think it's appropriate for you to be here and request that you leave.

MS. BOYD: I'm sorry. I will stay as an observer with my union member.

MS. SCHULMAN: You understand you are not allowed to participate, in any matter, with this procedure or interfere

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Page 4

JOELLEN HAMILTON,
 called as a witness by the defendant, who, being by me first
 duly sworn, was thereupon examined as a witness in said cause.

EXAMINATION

BY MS. SCHULMAN:

Q Could you please state your full name for the record?

A JoEllen Hamilton.

Q Have you ever had your deposition taken before today?

A No.

Q And how do you spell your name?

A J-o-E-l-l-e-n H-a-m-i-l-t-o-n.

Q Before we went on the record, I gave you a document entitled "Deposition Preamble," which I asked you to read. We marked this as Exhibit 1 to the previous deposition. Have you taken the time to read it?

A Yes.

Q Do you understand the information contained therein?

A Yes.

Q And do you have any questions about the information contained in that document?

A Not so far.

Q All right. Do you know of any reason why you couldn't give your best testimony here today?

with it?

MS. BOYD: Absolutely.

MR. BRESEE: I would like to put on the record that I think it's somewhat unusual to suggest that -- two things, one, that an individual shouldn't be present when there's no basis that the individual is going to interrupt the deposition in any way, shape, or form.

And secondly, when you talked about one union member against the other. The respondent in this case, Maura Larkins, has made accusations against other members and in this filing a, lawsuit, naming the deponent as a defendant. So, to suggest that this is being transformed into one union member over another because of Ms. Boyd's presence when Ms. Larkins, long ago, made this into a union member against others dispute, I think, is misstating the history of this case. I just want that on the record also.

And I think that she has every right to be here. The deponent has every right to have a representative here.

MS. SCHULMAN: This case involves an action of dismissal that was brought by the school district against Ms. Larkins.

As I understand it, any civil action that might have been brought against Ms. Hamilton has already been resolved by the court. So, there is nothing current as to that.

It is my understanding that this union has in the

Page 3

Page 5

2 (Pages 2 to 5)

1 past represented Ms. Larkins, if not in this matter, then in
 2 related matters. And I will say that in 26 years of practicing
 3 law, I have never once had anybody other than a witness, the
 4 parties' attorneys, and an attorney representing a deponent
 5 from time to time, I have never had an observer. I have never
 6 requested an observer be present in any deposition that I have
 7 participated in, and I find this highly inappropriate.
 8 But my choice is to either proceed or delay the
 9 proceedings before the appropriate body that we have here. And
 10 as far as the presence of Ms. Boyd, I don't know and I have no
 11 personal quarrel with her. We voiced our objections. We elect
 12 to go forward, but we may take some action, further action,
 13 that will not delay these proceedings regarding this matter.
 14 And I must say from a personal point of view, since I
 15 was requested to change the depositions for this week at your
 16 request, Mr. Bresee, to this location, which I agreed to do and
 17 which I promised I am abiding by at this point in time, I feel
 18 somewhat like I have been corralled here. And all of a sudden,
 19 over my protest, there is a union representative present, who I
 20 believe would not be here if it were conducted in my office.
 21 And at this juncture, I am seriously considering moving
 22 tomorrow's depositions to my office.
 23 MR. BRESEE: Well, that's fine. She will be there at
 24 your office tomorrow if you choose to do that. Her presence
 25 here has nothing to do with the fact that we asked, and you

Page 6

1 agreed, to move the depositions here. Just so that the
 2 individuals being deposed would have less time away from the
 3 work place than they otherwise might. But if you want to move
 4 it back to your office, that's fine.
 5 MS. SCHULMAN: I will mull that one over. I also
 6 will note for the record that this witness's deposition was
 7 noted for 2:00 o'clock at her request made through your office.
 8 I agreed to do my best to move it up to 1:00 o'clock, which we
 9 have done. It is now 1:15. So, I intend to get started with
 10 this deposition.
 11 BY MS. SCHULMAN:
 12 Q Ms. Hamilton, do you have any kind of college
 13 degrees?
 14 A Yes.
 15 Q And where did you graduate from college?
 16 A San Diego State University.
 17 Q And when?
 18 A 1988.
 19 Q And with what degree?
 20 A Degree in liberal studies, and then, also, I got my
 21 teaching credential.
 22 Q And did your teaching credential involve teaching
 23 students at a particular grade level?
 24 A Yes, student teaching.
 25 Q What grade level?

Page 7

1 A I do my student teaching in kindergarten and in a
 2 fourth grade classroom.
 3 Q And did part of your educational studies at San Diego
 4 State University involve studies in early childhood education?
 5 A Yes.
 6 Q And approximately, how many credits did you earn in
 7 education areas, undergraduate?
 8 A Well, the credential is 30 units, and I cannot recall
 9 before that how many units I took in early childhood education.
 10 I'd have to look at my transcripts.
 11 Q And did you graduate with any particular honors?
 12 A No.
 13 Q Do you have any degrees, beyond your bachelor's from
 14 San Diego State?
 15 A No.
 16 Q Have you pursued any additional courses of study,
 17 beyond your bachelor's degree?
 18 A Yes, I have.
 19 Q And what courses of studies have you pursued?
 20 A Classes that I took, probably six years ago to -- in
 21 order to work on my CLAD certificate.
 22 Q And what is your CLAD certificate?
 23 A It's a Cross-Cultural Language Development
 24 Certificate that the district encourages us to pursue.
 25 Q And did you complete that certificate?

Page 8

1 A Not quite yet. I have to take another Spanish class.
 2 Q If I understand you correctly, did you take
 3 everything that you needed six years ago except for that one
 4 Spanish class, or have you been doing this over the course of
 5 six years?
 6 A No. I just took four classes. I believe they were
 7 back to back. It was so long ago. Four classes through
 8 National. They have a special program there for the CLAD
 9 certificate for the teachers. So, I took these four classes,
 10 and then I took a Spanish class last year. But I believe I
 11 still have to obtain one or two more units in Spanish before
 12 I'm completely ready to apply for the certificate.
 13 Q And once you get that certificate, what will that
 14 certificate make you eligible to do, if anything?
 15 A The only thing different, I believe, is to be able to
 16 transfer to another school.
 17 Q Any particular type of school?
 18 A No.
 19 Q Why is that? You are --
 20 A It's also so that I can have the second language
 21 students in my classroom, but as far as transferring to another
 22 school, I have no desire at this time. But you never know when
 23 I'll be ready for a change.
 24 Q So, at this time are you not able to transfer to
 25 another school?

Page 9

3 (Pages 6 to 9)

1 A I haven't attempted to.
2 Q What is it about the certificate which will enable
3 you to transfer to another school, simply that you're more
4 versatile?
5 A The district just requires it for transfer because
6 they want teachers to have it, as far as my understanding --
7 MR. BRESEE: It's called an incentive.
8 THE WITNESS: Incentive.
9 BY MS. SCHULMAN:
10 Q Following college, did you become gainfully employed?
11 A I was a substitute teacher in the Santee School
12 District for one year and then after that, the next year, in
13 the fall of '89, I started working in this district.
14 Q Chula Vista Elementary School District?
15 A Yes.
16 Q So, if we refer to the Chula Vista Elementary School
17 District as "the district," you'll understand that that's what
18 we're talking about? Okay?
19 A Yes.
20 Q And are you currently tenured?
21 A Yes.
22 Q And when did you obtain your tenure?
23 A I believe it's the first day of your third year.
24 Q Which would have been when for you?
25 A '91, fall of, or '92, '92, I guess. I don't have the

Page 10

1 dates down.
2 Q So, you started working for the school district in
3 1989?
4 A '89. I believe that that is the date.
5 Q And you have worked that entire time at Castle Park
6 Elementary School?
7 A Yes, I have.
8 Q And what grades have you taught at Castle Park?
9 A My first year I taught a one-two combination. Then I
10 taught third grade for one year. I taught sixth grade for four
11 years, and this is my 8th year teaching first grade. And if
12 those total up to 14, then I did it correctly.
13 Q Well, all this time, have you had English speaking
14 students?
15 A Yes. I have also had bilingual students in my
16 classroom also.
17 Q Who were integrated into your classroom for various
18 purposes?
19 A They were just signed up in my class. Their parents
20 chose for them to be in an English only classroom. I don't
21 know why.
22 Q This year do you have students whose parents chose
23 for them to be in an English only classroom who are bilingual?
24 A I'm not aware. You'd have to ask the secretary about
25 that, I guess. I'm not sure. I don't understand your

Page 11

1 question.
2 Q I'm just asking, to your knowledge, do you have --
3 and I'm just interested, basically, in percentages here. Do
4 you have some percentage of your current first grade class
5 where you believe that students are bilingual?
6 A Yes. I don't know the percentage, but I do have
7 students that speak both English and Spanish.
8 Q Do you have an estimate of what the percentage is?
9 A I do not, yet. The school just started.
10 Q Just started? When did you start school?
11 A Last Tuesday.
12 Q Day after Labor Day?
13 A September 3rd, we started.
14 Q Did you speak to anybody about having your deposition
15 taken here today?
16 A Yes, I did.
17 Q And who did you speak to?
18 A My husband. I believe I spoke with Gina. I spoke
19 with some colleagues at work.
20 Q Anyone else?
21 A I spoke with Mr. Bresee and Mr. Werlin this morning.
22 Q Was Mr. Bresee present when you spoke to Mr. Werlin?
23 A Yes, he was.
24 Q At all times?
25 A Yes, he was.

Page 12

1 Q And is Mr. Bresee representing you here today?
2 A Yes.
3 Q And at what time this morning, did you speak to
4 Mr. Werlin and Mr. Bresee?
5 A Maybe at 7:40.
6 Q And how long did you speak to them?
7 A For about 15 minutes, 10 minutes, 15 minutes.
8 MR. BRESEE: I might clarify things for future
9 depositions. I met with all of the individuals that you
10 deposed as a group, just to tell them what a deposition is,
11 answer any questions that they have, just a basic intro
12 meeting.
13 MS. SCHULMAN: Okay.
14 Q And did you, in fact, discuss your taking your
15 deposition here today with Gina Boyd?
16 A I believe I did, yes.
17 Q And did you discuss the substance of what your
18 expected testimony would be?
19 A Not with Gina.
20 Q You mentioned that you discussed your deposition with
21 colleagues at work. Do you recall that?
22 A Uh-huh.
23 Q Yes? You'll have to answer audibly or else our court
24 reporter has a heck of a time.
25 A Yes.

Page 13

4 (Pages 10 to 13)

1 Q And which colleagues did you discuss your deposition
2 with?
3 A I know the other teachers that were in the meeting
4 this morning.
5 Q Okay. And who were those?
6 A Rick Denman and Linda Watson.
7 Q Anyone else?
8 A I don't recall, I probably mentioned to my first
9 grade team that I would be leaving this afternoon for the
10 deposition.
11 Q Did you discuss the substance of your deposition with
12 them?
13 A I actually didn't know the substance of the
14 deposition.
15 Q So the answer is no?
16 A No.
17 Q And who is your first grade team?
18 A Kathy Bingham, Nicky Perez, and Rick Ramirez.
19 Q I'm sorry. Kathy Bingham, and who is the next one?
20 A Nicky Perez.
21 Q And?
22 A Rick Ramirez.
23 Q Are these all other first grade teachers?
24 A Yes.
25 Q And what was your purpose in discussing the

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1 deposition with the other first grades teachers?
2 A To tell them why I would be absent.
3 Q And have you been away the whole day?
4 A No, just this afternoon.
5 Q And what time does your teaching day start?
6 A We have to be at school at 7:30 a.m.
7 Q And what time does it end?
8 A 2:30 p.m.
9 Q Did you discuss the substance of your deposition
10 testimony with Rick Denman?
11 A I didn't know the substance of the deposition.
12 Q Did you discuss anything that you may believe, you
13 know, or actually know, about Maura Larkins?
14 MR. BRESEE: Hold on a second. Are you asking about
15 outside of the meeting?
16 MS. SCHULMAN: With Rick Denman.
17 MR. BRESEE: But not in the meeting this morning?
18 MS. SCHULMAN: Not in the meeting with your attorney
19 present.
20 MR. BRESEE: Not in my presence. She's asking about
21 conversations you had with him outside of my presence.
22 THE WITNESS: Yes, we had a conversation about it. I
23 don't recall exactly what was said.
24 BY MS. SCHULMAN:
25 Q Do you recall the substance of what was being said?

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1 A We were very surprised that we were called for a
2 deposition, and we didn't know why.
3 Q Was there any topic discussed besides your surprise?
4 A I guess the topic of frustration that it's gone on
5 this long.
6 Q What has gone on this long?
7 A That this lawsuit has gone on for such a long time.
8 Q What do you believe the proceeding that you've been
9 called to testify, here in deposition, about this afternoon is
10 concerning?
11 MR. BRESEE: Are you asking her what she knows now,
12 or what she knew at the time she had the conversation with Rick
13 Denman?
14 MS. SCHULMAN: Let's start with at the time you had
15 the conversation with Mr. Denman.
16 A Can you repeat the question, please?
17 Q Yes. What was your understanding at the time you had
18 the conversation with Rick Denman about what the underlying
19 claim here, procedure, or proceeding was about, which you were
20 being asked to testify?
21 A We didn't know what it had to do with. We assumed it
22 had to do with a lawsuit, but we didn't know why we were being
23 called. Because to the best of my knowledge, the case against
24 me had been dismissed.
25 Q Did anybody ever show you any kind of document that

Page 16

1 was entitled "Notice Of Deposition" to have your deposition
2 taken?
3 A Yes. I received that this morning.
4 Q Okay. So, you didn't see that at the time that you
5 had this conversation with Rick Denman?
6 A We just received the notice this morning.
7 Q Okay. But some time before you received the notice
8 this morning, somebody had told you that your deposition was
9 going to be taken at a particular time and place?
10 A Yes.
11 Q But you didn't know what it was related to?
12 A Well, I assumed it was related to the lawsuit, but I
13 don't know why I, personally, am being called here.
14 Q Having been given your notice of deposition and
15 whatever other knowledge you might have gained, do you now have
16 any understanding as to what this procedure is for, which you
17 have been called for a deposition?
18 A I can only guess, but I'd rather just wait for your
19 questions.
20 Q Perhaps I didn't ask the question in a meaningful
21 way.
22 A I'm not quite sure what you're asking me.
23 Q Do you know, in this matter, whether or not the
24 school district or Ms. Larkins was the instigator of the
25 proceeding?

Page 17

5 (Pages 14 to 17)

1 A That, I do not know.
 2 Q Do you know what kind of proceeding it is?
 3 A Deposition.
 4 Q Do you know what the kind of administrative claim or
 5 lawsuit or what form of litigation there is that was filed that
 6 has caused you to be here today for your deposition?
 7 A I guess I understood that the district was moving to
 8 terminate Mrs. Larkins, and I don't know why I am here.
 9 Q Okay. So, you now have an understanding that the
 10 matter that underlies this deposition here today was instituted
 11 by the district; is that correct?
 12 A Now that you've told me.
 13 Q You didn't have that understanding before I told you?
 14 A No.
 15 Q Okay. We can move on from there, certainly. When
 16 you had this conversation with Mr. Denman, was Ms. Watson there
 17 at the same time, or is that a separate conversation?
 18 A I believe Mr. Denman and I were in my classroom.
 19 Q And so, the conversation with Ms. Watson was a
 20 separate conversation?
 21 A I don't think I talked about it with Linda outside
 22 the -- outside of the meeting this morning. We had this
 23 meeting this morning, and then we went in and started teaching.
 24 Q When you spoke to your colleagues, the only separate
 25 conversation you had apart from your meeting this morning was a

Page 18

1 conversation with Rick Denman?
 2 A And then I spoke with, as I told you, my colleagues
 3 on my team.
 4 Q Right. To let them know that you weren't going to be
 5 there this afternoon, correct?
 6 A Yes.
 7 Q Did there come some time when you became acquainted
 8 with Maura Larkins?
 9 A Yes, through work.
 10 Q And when was that?
 11 A You know, I do not remember. I do not remember if
 12 she was at our school for three years or for four years. I can
 13 not give you a date.
 14 Q Do you recall ever having been acquainted with her,
 15 prior to the time that she came to your school as a teacher?
 16 A No.
 17 Q So, if I told you that she came to your school in
 18 1997, would that help refresh your recollection?
 19 A That would sound like, you know, four years.
 20 Q Before you met her, had you heard anything about her?
 21 A No.
 22 Q You had heard no rumors?
 23 A No.
 24 Q You had formed no opinion about her?
 25 A No.

Page 19

1 Q And when she first started teaching at the school,
 2 did you have some knowledge as to what she was teaching, what
 3 grade, what subject matter?
 4 A She was teaching the third grade bilingual class.
 5 Q You're acquainted with Dr. Donndelinger, are you not?
 6 A Yes I am.
 7 Q And you knew her because she became principal of
 8 Castle Park in 1997, correct?
 9 A Yes. If that's the year you say, then I believe you.
 10 Q Okay. And who was the principal of Castle Park prior
 11 to that time?
 12 A Tony Gonzalez -- no, I'm sorry, Oscar Perez. It was
 13 Tony and then Oscar.
 14 Q And how long was Oscar Perez principal?
 15 A I don't know if it was two years.
 16 Q And how long was Tony Gonzalez principal?
 17 A I believe he was at Castle Park for either six or
 18 seven years.
 19 Q Were there any other principals who were principal at
 20 Castle Park other than these three people, and not including
 21 who is principal right now?
 22 A No. Those are the only three principals that I have
 23 worked with, other than Mr. Allen.
 24 Q Who is the current principal?
 25 A Yes.

Page 20

1 Q Did there ever come some time while you were teaching
 2 at Castle Park that you experienced any kind of problems,
 3 whatsoever, with Ms. Larkins?
 4 A Yes.
 5 Q And when was that first time?
 6 A I do not recall the first time.
 7 Q Do you recall, approximately, what year it was?
 8 A No.
 9 Q Do you recall what the subject matter of the issue
 10 was?
 11 A I would -- to the best of my knowledge I would say
 12 the issue over Kingdoms, which was a program that we had at our
 13 school. But I do not remember the day or month or year.
 14 Q Would something like the school year of 2000, 2001
 15 sound approximately correct to you?
 16 A That would be two years ago. Two or three years ago.
 17 I do not recall the date.
 18 Q Was that the first problem that you remember with
 19 Ms. Larkins?
 20 A To the best of my recollection, that is.
 21 Q And what happened with Kingdoms?
 22 A Can you be more specific? A lot of things happened,
 23 it seems.
 24 Q What was the issue that arose with Kingdoms and
 25 Ms. Larkins?

Page 21

6 (Pages 18 to 21)

1 A The only issue that I can remember was -- and it
2 stands out in my mind -- was a time that she didn't think --
3 Kingdoms was a weekly activity with the entire school and,
4 then, later it became biweekly. So, I don't remember if this
5 was a weekly time or biweekly time. But she thought that we
6 were not going to have Kingdoms that week, and we were. And
7 she got very upset and raised her voice at me. It was over
8 scheduling.

9 Q Where were the two of you when the incident occurred?

10 A I believe we were in the lounge because there were
11 the dates posted for Kingdoms. I believe it was on, like, a
12 master schedule on the lounge wall.

13 Q And that would have been the teacher's lounge?

14 A Yes.

15 Q And was that a place that you typically had a habit
16 of stopping in on your way into work every morning?

17 A Yes, yeah. I don't sit in the lounge a lot, but I
18 stop in there to see if there are notes written on the board,
19 if there's anything written up on the wall that I need to see.

20 Q And had you been responsible for the scheduling of
21 Kingdoms?

22 A Not me personally, but I was on the piece design team
23 that coordinated the activities.

24 Q That coordinated the Kingdoms activities?

25 A Yes.

Page 22

1 Q And just briefly, if you could, describe for us what
2 this Kingdoms program was about, please?

3 A Well, the Kingdoms program was developed at Castle
4 Park, and it was based on a program at another school. And the
5 basis for the program is to bring students and teachers of all
6 grade levels together and have a whole school activity. And
7 so, the students were -- we have kindergarten through sixth
8 grade. And so, the students were divided into different
9 kingdoms. And for instance, in my kingdom I had students,
10 kindergarten through grade six. Like, I might have three
11 kindergarteners and three first graders and three second
12 graders, like that.

13 So, the kids were dispersed with a different teacher
14 for that time, just like -- I think it was about an hour that
15 we did the activities. So, I believe when we started it out,
16 it was Friday afternoon. So, every Friday afternoon the entire
17 school would come out on the black top, and we would do a
18 little assembly and talk about school rules. We would talk
19 about self-esteem issues. We would talk about different
20 character behavior. And then the students would be excused to
21 go to their kingdom.

22 And that's what we called it because we're Castle
23 Park, and another school, they call it Families. And so, the
24 grades that were assigned to me, kindergarten through sixth
25 grade came with me into my classroom, and we had lesson plans

Page 23

1 that we followed that had to do with character education. And
2 the next year, it had to do with school safety, bullying,
3 character education again. And so, it was really a wonderful
4 program that I can say just about every student enjoyed at our
5 school and looked forward to.

6 Q And so, here you were on this one particular day
7 sitting in the --

8 A I don't think I was sitting there. I think I, kind
9 of, passed by, and I got nailed as I went by.

10 Q Okay. And so, the bulletin board indicated what,
11 that there had been a Kingdoms session that had been deleted,
12 or changed, rescheduled, what?

13 A I believe on the weekly bulletin -- at the beginning
14 of the year, we were given a schedule with every date and the
15 lesson that was to be taught on that date. So we could put it
16 up on our board. I put mine right by my desk. I believe there
17 was an enlarged one in the lounge so we could see it. I
18 believe on this particular occasion it was not in the weekly
19 bulletin that our principal put out.

20 Q So, that weekly bulletin differed from the chart that
21 was --

22 A The original chart, yes.

23 Q And what happened?

24 A Can you be more specific?

25 Q Well, Ms. Larkins came in, and did she note this by

Page 24

1 reading a weekly bulletin that you observed in what happened?

2 A When I came in the lounge, I heard her speaking in a
3 very angry voice to another teacher, and I could be mistaken,
4 but Mrs. Larkins at one time was on the piece design team
5 committee. But when I came into the lounge, she was speaking
6 in a very angry voice at another teacher. I don't remember
7 what was said. And then that teacher said something like, "I'm
8 not even on that design team."

9 And so then, I was walking through and she turned to
10 me and said something in an a very angry voice about, you know,
11 "Kingdoms is not on the schedule."

12 And I said, "It is on the original schedule."

13 And she was very upset, visibly shaking, and walked
14 very quickly out of the room. But the deletion of Kingdoms on
15 the weekly schedule was not my fault, and it was not the other
16 teacher's fault.

17 Q Who is the other teacher that you observed
18 Mrs. Larkins speaking to?

19 A It was Robin Colls.

20 Q Approximately, what period of time expired between
21 you first observing Maura Larkins speaking, in which you have
22 said a very angry voice, to the other teacher Robin Colls and
23 the time that you observed Maura Larkins walk out of the
24 lounge?

25 A When she spoke to Robin, and then she spoke to me and

Page 25

1 then, I believe, she just left the lounge.
2 Q And how long did that all take?
3 A Couple minutes, few minutes.
4 Q One minute, two minutes, three minutes, about how
5 long?
6 A I don't remember it being a long argument. I
7 remember looking at the schedules, and I would say just a few
8 minutes.
9 Q And in this few minutes, were there any other words
10 that were spoken?
11 A Not that I remember.
12 Q Was there any other topic that was discussed?
13 A Not that I remember. Again, this is three years ago,
14 four years ago.
15 Q So, when you walked in, your observation was that
16 Ms. Larkins was speaking in a very angry voice to Robin Colls?
17 A Yes.
18 Q And what you recall Maura Larkins saying to you is,
19 "Kingdoms is not on the schedule;" is that correct?
20 A Right.
21 Q And she said that in what, a loud voice, an angry
22 voice?
23 A Very angry voice, very upset.
24 Q And you said to her, "It was on the original
25 schedule"?

Page 26

1 A Yes.
2 Q And in what tone of voice did you respond in that
3 statement?
4 A Probably, "It was on the original schedule".
5 Q And then Ms. Larkins simply walked out of the room
6 after you said that?
7 A I do not remember her saying anything else.
8 Q Your best memory is she simply, after you said that,
9 walked out of the room?
10 A Yes.
11 Q Now, what, if anything, did you do about this scene
12 that you had first observed and, then, become a bit of a
13 participant in?
14 A I don't remember doing anything.
15 Q Did you report it to anybody?
16 A Not that I recall.
17 Q At some later time, did you report this occurrence to
18 anyone?
19 A Not that I recall. I might have asked Gretchen
20 Donndelinger why it hadn't been put on the schedule, or the
21 weekly bulletin. That would seem like a natural thing, but I
22 do not recall reporting this.
23 Q You have no specific recollection?
24 A No.
25 Q Were you in fear of your personal safety during the

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1 time that Ms. Larkins was in the teacher's lounge, at that
2 point in time, discussing this matter about the Kingdoms?
3 A No.
4 Q Did Robin Colls express to you that she was fearful
5 for her personal safety?
6 A Not that I recall.
7 Q And after Ms. Larkins walked out, in your mind, was
8 it sort of a done deal?
9 A This was a long time ago you're asking me about. I
10 don't recall.
11 Q Did there come some time when there was some other
12 incident involving Ms. Larkins, which gave you some concern?
13 A Can you be more specific?
14 Q No. I'm just asking you if there is anything else?
15 A Yes.
16 Q And what was it?
17 A I was very concerned when I went in to Ms.
18 Donndelinger's office one morning and she showed me a letter,
19 and I read the letter and it stated that there was a staff
20 member who had constantly been harassing her for a year.
21 Q And who was the letter from?
22 A It was signed by Mrs. Larkins, and I don't have the
23 date. I didn't bring my notes with me. And I asked Gretchen,
24 I said, "Why are you showing me this? Who is this about?"
25 And she said, "It's about you."

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1 And I said, "What do you mean?"
2 And she said, "Maura said this letter is about you."
3 Q And why were you so surprised at that?
4 A I was completely shocked because I had very little
5 contact with Maura Larkins let alone harass her about anything.
6 I take constant harassment, to mean daily, or on a consistent
7 basis. To the best of my knowledge, there had been no
8 harassment.
9 Q And did the letter mention you by name?
10 A No. My name was verbally attached to it.
11 Q And what do you mean by "verbally attached to it"?
12 A She told, Mrs. Larkins told Dr. Donndelinger that the
13 letter was about me.
14 Q And did you ask Dr. Donndelinger if there had been
15 some specific incidents related to Dr. Donndelinger that
16 weren't recited in the letter?
17 A Can you say that again, please?
18 Q Did you -- I'll put it in a different way. Perhaps
19 it would be easier. Did Dr. Donndelinger impart any
20 information to you about any specific events, which Ms. Larkins
21 had related to Dr. Donndelinger wherein she claimed that you
22 harassed her?
23 A No. In fact I asked her, I said, "Well, what is this
24 about?"
25 And she said, "I don't know."

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8 (Pages 26 to 29)

1 Q We have attached certain exhibits to depositions.
 2 Perhaps we can find the letter that is being referenced here.
 3 MR. BRESEE: 19?
 4 MS. SCHULMAN: Yeah, that's the one we're at. Could
 5 you show the witness Exhibit 19, please?
 6 Q Is that the letter?
 7 A It looks like the letter. It looks like, maybe, it's
 8 typed differently, but that looks like the letter.
 9 Q All right. And that's the letter addressed to
 10 Dr. Donndelinger, dated January 23, 2001, which says:
 11 "One year ago I first tried to report to you a
 12 problem with inappropriate behavior towards me on the part of a
 13 staff member. You dismissed the matter as insignificant. I
 14 have endured in silence. During the past few weeks, the
 15 problem has escalated into constant harassment. Please set up
 16 a meeting and time to discuss this problem."
 17 That's it, right?
 18 A Yes.
 19 Q Had there been any kind of problems for the few weeks
 20 preceding January 23, 2001, with Ms. Larkins that you were
 21 aware of, that implicated you in some way?
 22 A Not that I recall. I don't know when the Kingdoms
 23 incident occurred. I don't know if it was at that time, but I
 24 do not recall any particular incident.
 25 Q But up until that point, you had not reported the

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1 Kingdoms incident to any person, correct?
 2 A Not that I recall.
 3 Q And do you have any knowledge as to whether or not
 4 anybody else, including Robin, had reported this Kingdoms
 5 incident to anybody?
 6 A I don't know.
 7 Q So, you were perplexed; is that correct?
 8 A Uh-huh.
 9 Q You'll have to answer audibly.
 10 A Yes. I was very surprised.
 11 Q What, if anything, did you do at that point in time
 12 to try to clear up the situation.
 13 A Well, Gretchen said, "Let's just -- let's just wait
 14 and see what happens."
 15 And I said that I would like to have a meeting set up
 16 with Mrs. Larkins to discuss this issue, but I would like to
 17 have a mediator present, such as a Comer representative. And to
 18 the best of my knowledge, several meetings were set up that
 19 were cancelled by Mrs. Larkins. I believe the initial meeting
 20 she may have said, "Oh, I can meet on this day."
 21 And I said, "I cannot meet on that day because I have
 22 to pick up my daughter from school."
 23 But I never cancelled a meeting, and to the best of
 24 my knowledge, Mrs. Larkins cancelled several.
 25 Q Why did you suggest a Comer representative as a

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1 mediator?
 2 A Because we were using the Comer model at the time,
 3 Comer reform model, and I wanted to have someone else there
 4 present at this meeting, because I took this letter very
 5 seriously.
 6 Q And why did you take Exhibit 19 very seriously?
 7 A Because it was written about me. I didn't know where
 8 this letter was going to be sent. I didn't know if it was
 9 going to be sent to the district office, if it was going to be
 10 put in a file of any kind. And so, I wanted this taken care
 11 of.
 12 Q You wanted the matter clarified and resolved?
 13 A Yes.
 14 Q And that never happened?
 15 A It never happened.
 16 Q Did Dr. Donndelinger or anybody else tell you that
 17 the representative of the Comer reform model, who was attached
 18 to the school, had declined to mediate the issue?
 19 A I do not recall that.
 20 Q Did you suggest any other mediator besides somebody
 21 who was a Comer mediator?
 22 A I do not recall who else I suggested. This was
 23 several years ago, or two years ago. I do not recall.
 24 Q Did there ever come some time when you felt that
 25 Ms. Larkins had, for want of a better term, invaded your body

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1 space?
 2 A Yes.
 3 Q When was that?
 4 A I don't remember the date. I have it written in my
 5 notes at school, but the meetings had, meetings one after
 6 another had been cancelled, and I had not talked to
 7 Mrs. Larkins about this issue yet. And one day, it was -- I
 8 don't know if it was morning recess or lunch recess, but we
 9 were passing in the doorway, and we were in, like, the doorway
 10 to the work room, and I said, you know, "Hello." And then I
 11 said, "I understand that you wrote a letter of complaint about
 12 me to Gretchen."
 13 And she said, "Gretchen lied."
 14 And I said, "She lied? I saw the letter."
 15 And she said -- I know this because I just reviewed
 16 this before I came over.
 17 And she said, "You saw the letter?"
 18 And then I said, "Yes, I saw the letter."
 19 And she said, and she looked at me with a very angry
 20 face. She was starting to shake, and she pointed at me and she
 21 said, "You are part of the problem."
 22 And I said, "Maura, what problem?"
 23 And she said, "You are part of the problem. You have
 24 done many inappropriate things at this school."
 25 And I said, "Well, Maura, that's your perspective."

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9 (Pages 30 to 33)

1 And she just pointed at me again and said, "You are
2 part of the problem."
3 And she was very close to me, very angry, visibly
4 shaken, and she turned and walked very quickly to her
5 classroom.
6 Q Were any people within earshot of this conversation
7 of whom you are aware of?
8 A Not that I know of.
9 Q And approximately, how long did this conversation
10 take?
11 A What does that take, one or two minutes?
12 Q Is that your best estimate?
13 A Yes.
14 Q Was there anything else said during that conversation
15 that you can recall?
16 A No.
17 Q Were there any other topics discussed?
18 A No.
19 Q And -- from mentioning this letter, alluding to what
20 we've marked as Exhibit 19?
21 A Yes.
22 Q And you were the one who broached the subject,
23 correct?
24 A Yes.
25 Q And about how long after you had seen the letter, to

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1 your best estimate, did this hallway or doorway interlude take
2 place?
3 A I would say a week and a half because we were waiting
4 for meetings to be set up, and meeting after meeting was
5 cancelled. So, I would -- my estimate would be a week and a
6 half. I have the dates written down at school.
7 Q You alluded to notes. What kind of notes did you
8 keep on this?
9 A I went to my classroom right away and wrote down
10 everything that I remembered.
11 Q Is that kept in some sort of calendar or diary that
12 you keep at your desk?
13 A No. Just a notepad.
14 Q And how many notes do you have on that notepad, or
15 those notepads, that refer to Ms. Larkins?
16 A Just two pages.
17 Q And what size note papers are these?
18 A This size.
19 Q So, if we took an 8 1/2 by 11 and just longitudinally
20 put it in half?
21 A And then there's a little school picture going around
22 there. So, the lines are even smaller. There's some sort of
23 school logo, little, cute, teacher stuff. And it was a
24 situation that was very upsetting to me. And so, I went back
25 to my classroom and wrote exactly what was said.

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1 Q Where have you maintained those notes that you have
2 every since?
3 A In the drawer of my desk.
4 Q Are they still there now?
5 A No.
6 Q Have you provided them to any attorney in this
7 matter?
8 A When we were questioned or interviewed by --
9 MR. BRESEE: Dan Shinoff.
10 THE WITNESS: Dan Shinoff. Thank you. I did read
11 those notes.
12 BY MS. SCHULMAN:
13 Q You read those notes to him?
14 A Yes.
15 Q And did you leave those note with him?
16 A No.
17 Q You took them back?
18 A Yes.
19 Q And where do you keep them now?
20 A They're in a notebook.
21 Q At home?
22 A No. They're at school.
23 Q Does that notebook have a title?
24 A No. Actually, they've just been sitting in my desk
25 drawer, and just today I put them in a notebook because I was

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1 going to bring them today to refer to the dates.
2 Q And why didn't you?
3 A I forgot it. I had two stacks of things. And I put
4 one stack in my mailbox, and one stack I took with me, which
5 was work to do at home this evening. And when I parked in the
6 parking lot and got my stuff to come in here, I realized that I
7 did not have my folder. It is in my mailbox at school.
8 Q I'm sure everybody in this room has done something
9 like that on more than one occasion. Was there ever a time
10 when you raised your voice towards Maura Larkins?
11 A No, absolutely not.
12 Q Did you ever report to anyone that Maura Larkins was
13 going to teach creationism on science day?
14 A I did not report that.
15 Q Did you ever say that?
16 A I read what she wrote on the board.
17 Q And where was that board?
18 A It was posted in the lounge for science week.
19 Q The teacher's lounge?
20 A Yes, it was.
21 Q And when was science week?
22 A At that particular year, we had it, probably, the
23 second week in January.
24 Q Was that a project you were in charge of?
25 A Yes.

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10 (Pages 34 to 37)

1 Q Would that be 2001?
2 A Must be.
3 Q Why must it be?
4 A I'm just going back in time. I don't have the dates.
5 I did not keep notes on this -- except for that one incident.
6 I don't have dates written down but that's probably the month.
7 Q And you just read aloud that it said that Ms. Larkins
8 was going to teach creationism?
9 A Well, as part of the science committee, it was my job
10 and, actually, there were two or three of us that put up the
11 posters to have teachers sign up for life science, earth
12 science, or physical science so that we can get an assortment
13 of science activities for the students. They go to three
14 different science activities on science day. Mrs. Larkins had
15 not signed up for a day, and I don't believe it was me, but
16 I -- to the best of my recollection, I believe that someone
17 mentioned to her and maybe another teacher, you know, you need
18 to figure out your activities so you can write it on the
19 science board.
20 And we do that so that we make sure we have an
21 assortment of activities so that two teachers aren't doing the
22 same activities. Because if I did the same activity as
23 Ms. Bingham, then two students would do the same activity
24 twice. So, we ask the teachers to sign up.
25 And so, I don't remember asking her myself. So, I

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1 believe it was someone else on the science committee that asked
2 her and maybe two or three others that had not signed up.
3 Please figure out what activity you're doing. Sign up on the
4 board. I don't remember how long after that we had went in,
5 she had written "creationism and something else less
6 controversial." Personally, I thought it was very strange.
7 Q Did you think it was a joke?
8 A No. I felt like she was undermining what we were
9 trying to do. I did not see it as a joke.
10 Q And how did you know it was she who had written that?
11 A Because she had her name by it. Each teacher, we put
12 our name and then we put our science activity.
13 Q Did you recognize her handwriting?
14 A I don't recall. I believe, to the best of my memory;
15 that her name was with it.
16 Q Are you familiar with her handwriting?
17 A No.
18 Q So, would you know if somebody else had put it up
19 there as a joke?
20 A No.
21 Q So, you didn't know if it was Maura Larkins's
22 handwriting or somebody else's handwriting?
23 A Well, since her name was there, I assumed it was
24 hers. And I haven't seen her handwriting in a few years. But
25 at the time I probably recognized that it was her handwriting.

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1 Q You indicated earlier that you really didn't have
2 much interaction with Ms. Larkins, correct?
3 A Right.
4 Q And what interaction did you have in the regular
5 ordinary course of business, going back to '97 through the end
6 of the teaching year 2001, with Ms. Larkins, which would have
7 enabled you to become familiar with her handwriting?
8 A We signed up for various committees. We sign up for
9 lounge duty. We sign up for different committees that we're
10 going to be on, you know. You see, people sign up for things
11 and you kind of get to know, approximately, who wrote what.
12 Q And that statement "creationism or something less
13 controversial." Was that printed or was it in script?
14 A I would -- to the best of my memory, script.
15 Q And did you ever discuss with Ms. Larkins whether or
16 not she had written that statement on that sign up sheet?
17 A No.
18 Q Did you ever discuss the contents of the same with
19 Ms. Larkins?
20 A No.
21 Q Did you ever discuss the statement with anybody?
22 A I do not remember who was there, but there were,
23 whoever was on the science committee at that time. We were
24 confused.
25 Q Did Ms. Larkins ever tell you she had jury duty on

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1 science day that year?
2 A No, not that I remember.
3 Q And what was it that you were confused about?
4 A It seems like a strange topic to teach first, second,
5 and third graders.
6 Q So, you didn't take it as some sort of sarcastic
7 statement that it was creation or something less controversial?
8 A I did take it as a sarcastic statement.
9 Q Did you take it seriously that whoever intended to
10 be --
11 A Sarcastic.
12 Q But you didn't take it that they intended to teach
13 creationism, did you?
14 A No. I interpreted it as being sarcastic.
15 Q Unnecessarily sarcastic, perhaps?
16 A Yes.
17 Q Because you had worked hard putting this together,
18 and somebody was making light of it?
19 A No.
20 Q And do you remember who on the science committee you
21 discussed the statement with?
22 A No, I do not. This was, again, two years ago, three
23 years ago.
24 Q How many teachers were on the science committee,
25 typically?

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1 A Three to four.
 2 Q It would have been the same that year?
 3 A Probably, and I think other people saw it in the
 4 lounge also. I mean, it was up there for, you know, a day,
 5 two, probably a day.
 6 Q Did Ms. Larkins, to your recollection, ever write on
 7 that chart what it was she intended to teach for science day.
 8 A Not that I remember.
 9 Q Do you know if she ever did teach for science day
 10 that particular year?
 11 A That particular year, she did have a substitute that
 12 came in on science day and that actually ended up teaching an
 13 identical activity that another teacher had already signed up
 14 to do, to the best of my recollection.
 15 Q Do you remember what that activity was?
 16 A It was water tension on pennies, I believe.
 17 Q Which is different than water tension on dimes,
 18 perhaps?
 19 A It's a typical elementary science activity. You test
 20 to see how many drops of water you can put on a penny, and it
 21 stood out in my mind because Mrs. Right had done that activity
 22 each year. And then I was surprised when some of my students
 23 came back and said they did the same activity twice.
 24 Q Did you ever find out why there was a substitute for
 25 Ms. Larkins that day?

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1 A No.
 2 MS. SCHULMAN: Show the witness Exhibit 18, please.
 3 Q I'd like you to look through this pack of materials.
 4 I'm simply going to ask you if you recognize any of these notes
 5 as yours?
 6 A No. I never wrote a note regarding Mrs. Larkins. I
 7 have never seen those.
 8 Q And you've never seen these notes before?
 9 A No.
 10 Q Did you ever have any kind of discussion with
 11 Ms. Larkins concerning the integration of her bilingual
 12 students into the third grade classes?
 13 A Not that I recall. I teach first grade.
 14 Q Did you ever witness any discussions between
 15 Ms. Larkins and any other teacher, or teachers, at Castle Park
 16 Elementary School concerning the integration of her students
 17 into English classes, English only classes?
 18 A Not that I recall. Again we're talking two, three
 19 years ago.
 20 Q Did you ever team your first grade class, English
 21 only classes, with any of the bilingual classes?
 22 A Yes, we did. We teamed for PE to mainstream the
 23 students at that time.
 24 Q Any other classes besides PE?
 25 A I believe the first few years, the first couple of

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1 years we just mainstreamed for PE. We mixed the four classes
 2 up into four different groups so that we could mainstream the
 3 students through physical education.
 4 Q Did there ever come a time during the 2002, 2001
 5 school year that Maura Larkins engaged in any kind of conduct
 6 which frightened you, or made you feel uncomfortable?
 7 A She made me feel uncomfortable on a number of
 8 occasions.
 9 Q And have you told us about all of those occasions
 10 yet?
 11 A You know, we're talking a long time ago, and I can't
 12 remember and cite every occasion, but there were a number of
 13 other occasions that I witnessed her verbally attacking other
 14 teachers in the lounge. I would see her visibly upset. I do
 15 not remember the specific instances, but I did feel
 16 uncomfortable enough to where I just did not attempt to engage
 17 in conversation with her.
 18 Q Did you ever tell anyone during the 2000, 2001 school
 19 year that Ms. Larkins frightened you?
 20 A I don't remember using the word frightened. I know
 21 that -- what's a good word? Her behavior -- in my opinion, her
 22 behavior was irrational at times.
 23 Q Did you ever relay that observation to anyone else?
 24 A Yes, but I do not recall who.
 25 Q Did you ever tell Rick Werlin?

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1 A Yes.
 2 Q And when was the first time you relayed that
 3 information to Rick Werlin?
 4 A I do not recall.
 5 Q Was it during the 2000, 2001 school year?
 6 A It must have been. I didn't have any reason to
 7 verbalize that, before then.
 8 Q Was there anyone else besides Rick Werlin that you
 9 expressed that concern to about the irrational behavior?
 10 A Yes. But I do not recall who.
 11 Q Did you express it to Dr. Donndelinger?
 12 A I'm sure I did. It came up when I was requesting a
 13 meeting.
 14 Q Did you ever contact Rick Werlin at home about any
 15 conduct of Ms. Larkins?
 16 A Yes, I did.
 17 Q And how did that come about?
 18 A Mrs. Larkins had written this letter which I
 19 thought -- I was very shocked and surprised at it. We tried to
 20 have several meetings and she cancelled. We had our
 21 interaction in the doorway, in which she was visibly and
 22 verbally upset, pointing at me, very angry and I had spoken
 23 with Mr. Werlin at some time. I don't remember when, around
 24 this time about this situation, and he had told me that he had
 25 a meeting with her planned. And if I had any concerns or

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12 (Pages 42 to 45)

1 questions, to call him. And it happened to be a Saturday
2 evening, and I called him to see if the meeting had gone
3 through. And I don't remember what else.
4 Q So, you called him at home?
5 A Yes, I did. He had told me if I had any questions or
6 concerns, that I could call him.
7 Q At any time?
8 A Uh-huh.
9 Q That was a yes?
10 A Yes. I believe that's what he said. I don't
11 remember the specific words.
12 Q Okay. And did he give you his home telephone number?
13 A No, he did not.
14 Q Was that a number that was available to you, as an
15 employee of the district?
16 A Yes, it is.
17 Q And when he said, "You call me at any time," did you
18 take that to mean that it was okay to call him on a Saturday
19 evening and not on school time?
20 A Yes, I did.
21 Q Was there something that had happened over that
22 weekend that caused you to call him on a Saturday evening, as
23 opposed to waiting until regular school hours?
24 A He was supposed to have a meeting with her on Friday
25 afternoon.

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1 Q That was your understanding?
2 A That was my understanding.
3 Q He had told you that?
4 A Yes. To the best of my recollection, he had told me
5 that he was going to have a meeting with her to talk about this
6 issue on Friday.
7 Q The issue being, the letter?
8 A The letter, the confrontation in the staff room.
9 Q And you wanted to find out if the meeting had
10 occurred and what the results were?
11 A If the meeting had occurred, what the results were,
12 did we have something set up for the following week.
13 Q And what did he tell you the results of the meeting
14 were, if in fact, the meeting had occurred?
15 A You know, I do not recall what he said.
16 Q Did he tell you the meeting had occurred?
17 A I do not even remember.
18 Q So, you called at his invitation to contact him,
19 correct?
20 A He said if I had any questions or concerns, to
21 contact him. And I thought well, if his number's in the
22 directory, then it would be okay to contact him.
23 Q Did you ever tell him, Rick Werlin, in that telephone
24 conversation or at any other time that there was something that
25 Ms. Larkins had done, which made you fear for your life?

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1 A No.
2 Q Did you have any kind of communication either
3 directly or with Rick Werlin or with anybody else, wherein you
4 made a statement to the fact that you were fearful of your life
5 because of Ms. Larkins's contact?
6 A No.
7 Q Did Ms. Larkins ever threaten your life?
8 A No.
9 Q Other than this one conversation at home with the --
10 with Mr. Werlin, did you have any other conversations with
11 Mr. Werlin outside of regular school hours concerning
12 Ms. Larkins?
13 A In and out, outside of regular school hours?
14 Q Did you participate in any kind of meeting during the
15 school week concerning Ms. Larkins?
16 A Yes, I believe we had a meeting. I don't remember
17 when or exactly what was discussed.
18 Q And was it concerning Ms. Larkins?
19 A Yes.
20 Q And was it in 2001?
21 A I believe so.
22 Q And who was present at that meeting?
23 A You know, I do not recall.
24 Q Was Ms. Larkins present?
25 A No. She was -- I do not believe she was at school,

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1 at that time.
2 Q Was she on some sort of leave?
3 A I do not know.
4 Q Do you remember, generally, the gist of what was
5 discussed about Ms. Larkins?
6 A I guess -- let me see. We were concerned about her
7 behavior at school, and I can only speak for myself. I was
8 concerned about her behavior at school.
9 Q Was anything else discussed?
10 A Not that I recall.
11 Q How many people were at the meeting?
12 A A hand full. I don't remember who was there.
13 Q Was Mr. Werlin there?
14 A Yes.
15 Q Was Dr. Donndelinger there?
16 A I believe she was, but I do not recall who else was
17 there.
18 Q And where was the meeting held?
19 A It would have been in Dr. Donndelinger's office.
20 Q And was this during a time when Ms. Larkins was on
21 campus teaching or when she was on a leave of absence?
22 A I don't believe she was on campus. I do not know why
23 she was not on campus.
24 Q What, if anything, were the results of this meeting?
25 A I'm trying to remember. Mr. Werlin, I believe, was

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1 just informing us that he was going to be meeting with her to
2 discuss concerns.

3 Q Did he indicate to you that he was going to meet with
4 her, and she would be returning to Castle Park to teach?

5 A I believe at some time, at some point. I don't
6 remember when, but he did say that she would be returning to
7 Castle Park.

8 Q Was it during this meeting?

9 A I do not recall.

10 Q And what, if anything, did you respond upon being
11 told that she would be returning to Castle Park at some time?

12 A I don't remember what I said exactly. Personally, I
13 was not thrilled about it.

14 Q And why was that?

15 A Because of the interaction that I had had with her.
16 I thought that the letter she wrote about me was unprovoked,
17 and I think that the interaction that we had in the doorway was
18 very irrational and unprofessional and a little frightening.

19 Q Did you ever make a suggestion to anyone employed at
20 the school district that Ms. Larkins might be advised to seek
21 some sort of professional help?

22 A I don't recall saying that.

23 Q Did you ever hear anybody else say that?

24 A To a district employee?

25 Q Yes.

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1 A Can you be more specific?

2 Q No.

3 A I'm trying to think. I believe I have had heard
4 someone say that. I do not remember who or when.

5 Q Did there come some time when you were told that
6 Ms. Larkins would not be returning to Castle Park for the rest
7 of the school year?

8 A I believe so. I don't remember exactly the meeting,
9 time, or place or who was there, but I believe someone told me.
10 I don't know if it was Mr. Werlin or Dr. Donndelinger that said
11 that she would not be returning. Because she did return, and I
12 don't know what happened with that situation. And then she
13 left.

14 Q She was gone for a while. She returned for what? A
15 short period of time?

16 A I would guess.

17 Q And then she was gone for the rest of the year and
18 hasn't returned since?

19 A I believe so.

20 Q Do you recall meeting on or about April 20th with
21 Rick Werlin and Dr. Donndelinger concerning Ms. Larkins?

22 A I don't recall that. It's possible. I just don't
23 recall.

24 Q Do you recall having any meeting with Mr. Werlin and
25 Dr. Donndelinger about Ms. Larkins that you haven't already

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1 testified to today?

2 A I don't recall a specific meeting. There was
3 probably a meeting to discuss something, but I did not keep
4 notes and dates on everything. I have a lot going on, and I
5 don't remember the exact dates and meetings.

6 Q When you contacted Mr. Werlin at home on that
7 Saturday evening, did you believe that you were emotionally
8 distraught during that telephone conversation?

9 A No.

10 Q Did you tell him during that telephone conversation
11 that you were the mother of a young child and were frightened
12 by Ms. Larkins?

13 A That's probable. I don't recall exactly what I said.

14 Q Did you ever discuss Ms. Larkins's behavior with
15 Linda Watson?

16 A Yes.

17 Q On how many separate occasions?

18 A I don't know, a few.

19 Q A few. Did you ever discuss with Rick Denman the
20 behavior of Ms. Larkins?

21 A Yes. They were both friends of mine.

22 Q Outside of school?

23 A I have socialized with Linda outside of school but
24 not Rick unless you consider going out to lunch off campus
25 socializing outside of school.

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1 Q Did you ever discuss the contact of Ms. Larkins with
2 the librarian, Michelle Scharmack?

3 A Yes. She related the incident that occurred in the
4 library to me.

5 Q When did she relay that event to you?

6 A I do not recall.

7 Q What did she tell you?

8 A This was such a long time ago. I can't recall
9 specifics. I can just give you a short summary.

10 Q The best that you can do.

11 A Because she told me this, what, a year and a half,
12 two years. She said that Mrs. Larkins came in during another
13 teacher's library time and was visibly upset with her and, I
14 guess, accused her of not giving Mrs. Larkins the library time
15 and they wanted, or Mrs. Scharmack wanted, her to just wait.
16 Michelle is very friendly, very helpful, bends over backwards
17 to, you know, get what you need. And so, she said that, you
18 know, she asked Mrs. Larkins to come back at recess or after
19 school or whenever and check the library schedule and that
20 Mrs. Larkins was very upset about that.

21 Q And did Linda Watson relate some events to you that
22 she had experienced with Ms. Larkins?

23 A Yes.

24 Q And what events was that?

25 A Again, this was quite a long time ago. So, I can

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14 (Pages 50 to 53)

1 only give a brief summary. She said that there was some
2 instance when they took the students swimming and where
3 Mrs. Larkins frightened her with her behavior.
4 Q Sitting here today, do you recall what that conduct
5 or behavior was?
6 A Raising her arm at her and raising her voice and
7 coming in close contact with her.
8 Q And did she tell you whether or not there were any
9 witnesses to this event?
10 A She said that students were around.
11 Q And did she tell you what, if anything, triggered
12 that event to occur?
13 A I do not recall that.
14 Q And did Mr. Denman relay to you any issues that he
15 had concerning Ms. Larkins?
16 A Yes. I don't recall -- well, I don't recall
17 specifically. But I know that he had related a couple of
18 instances over the last few years.
19 Q Going back to the period of time, from the time that
20 Ms. Larkins first started working at Castle Park Elementary
21 School until the spring of 2001, in an average week, how many
22 times would you have contact with her, of any kind?
23 A Passing in the hallway, that sort of contact?
24 Q Yes?
25 A Once or twice a day.

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1 Q And was the contacts any more structured than simply
2 passing in the hallway?
3 A Maybe a hello once in a while.
4 Q And was there any other contacts, besides that kind
5 of contacts that you typically have --
6 A With another teacher? No.
7 Q So that basically was it, correct?
8 A Yes.
9 Q You didn't team with her class --
10 A No.
11 Q Because it was different a grade level, right?
12 A Right.
13 Q And so, your concern with her conduct, with respect
14 to your personal experiences, had to do with those two
15 experiences, which you've already testified to; is that
16 correct?
17 A The Kingdoms issue, science day, events that wasn't
18 personal contact but she was aware that I was one of the people
19 in charge of it, and the letter of complaint and, then, the
20 incident in the doorway. There were other occasions that we
21 spoke, but, I mean, I can't recall every one.
22 Q The letter and the incident in the doorway were the
23 two main concerns that you had, correct?
24 A Yes. I had seen other behavior, but to the best of
25 my recollection, that's it with me.

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1 Q Okay. And the other behavior that you had seen, is
2 there any other behavior that you have seen that you have not
3 already described here?
4 A I saw her get visibly upset. I heard her -- I would
5 say, verbally attack another teacher by making loud, angry
6 comments to them.
7 Q Did you see her, on a number of occasions, visibly
8 upset trying to get her students in line?
9 A Yes.
10 Q Anything else?
11 A Not that I recall, at the moment.
12 Q Did you ever see her, in your estimation, abuse a
13 student?
14 A No.
15 Q Do teachers sometimes raise their voices trying to
16 get their students to lineup?
17 A Yes.
18 Q Have you done that on occasion?
19 A Yes.
20 Q And what kind of angry comments do you recall
21 witnessing her make?
22 A I don't recall -- I can't remember the exact
23 statement that she made.
24 Q On how many separate occasions, over the years, did
25 you witness such angry comments?

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1 A Maybe three or four.
2 Q That would have been over the course of about four
3 school years?
4 A Yeah.
5 Q I probably don't have any other questions for this
6 witness. I'd just like five minutes to review my notes, and we
7 can figure that out.
8 THE WITNESS: I do need to go soon.
9 MS. SCHULMAN: Okay. Why don't I take two minutes,
10 okay? I want to discuss the subpoena issue.
11 MS. SCHULMAN: Back on the record. I did have one
12 more question. Attorney's biggest lie, one more question.
13 MR. BRESEE: Well, you did say one more. So, I'll
14 hold you to the one part.
15 BY MS. SCHULMAN:
16 Q Did Robin Colls ever discuss with you some sort of
17 police matter concerning something about Ms. Larkins's personal
18 life?
19 A Yes, she did.
20 Q And what did she tell you?
21 A Oh, this was a long time ago, said something about
22 Mrs. Larkins was accusing Mrs. Colls's brother of harassing her
23 in some way, and Mrs. Colls expressed her surprise because her
24 brother doesn't even live in this area.
25 Q Do you know what Mrs. Colls's brother does for a

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15 (Pages 54 to 57)

1 living?
2 A I believe he is a, some sort of law enforcement. I
3 don't know what exactly.
4 Q Did she tell you in what manner Ms. Larkins claimed
5 that Ms. Colls's brother was harassing Ms. Larkins in some way?
6 A No, she did not.
7 Q Do you know where her brother lives?
8 A I think maybe Taft. I don't even know where that is.
9 I've heard her mention it.
10 Q Okay. I've put a subpoena for the hearing in front
11 of you in this matter, and the hearing is due to start a week
12 from Monday at 9:00 o'clock in downtown San Diego in the
13 luxurious state of California building. And I'm sure that you,
14 like everybody else, would not like to show up there at 9:00
15 o'clock in the morning and then figure out which of the three
16 or four days is going to be your slot.
17 So, if it's agreeable with you and Mr. Bresee, we'll
18 just make some arrangements for you to get down there, through
19 Mr. Bresee's auspices, when we need you.
20 A So, I don't need to come at this time?
21 Q You just need to make yourself available and let Mr.
22 Brasee know how we can reach you.
23 A The earlier the better, I've got carpool.
24 MR. BRESEE: Earlier in the day?
25 THE WITNESS: That's why I had to make this earlier.

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1 It's my carpool day.
2 BY MS. SCHULMAN:
3 Q We'll do the best that we can. We'll keep the
4 stipulations the same as the previous deposition. Is getting
5 the transcript to the deponent on Tuesday agreeable as well?
6 COURT REPORTER: Yes.
7 MS. SCHULMAN: Okay. And, then, if you can read it.
8 If you have any corrections, additions, deletions, get those to
9 Mr. Bresee a week from Friday, which will be the Friday before
10 the 23rd. He can just fax that to my office by 3:00 p.m. It
11 won't be very long.
12 THE WITNESS: Do I need to keep this? I'll need to
13 know ahead of time so I can plan for my substitute.
14 MS. SCHULMAN: Thank you very much.
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25

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1 I certify (or declare) under penalty of perjury under the laws
2 of the State of California that the foregoing is true and
3 correct.
4 _____ Date
5
6 _____ Signature
7 JOELLEN HAMILTON
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15
16
17
18
19
20
21
22
23
24
25

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1 State of California)
2 :
3 County of San Diego)
4
5 I, Nyree-Dawn Lloyd, a Certified Shorthand Reporter,
6 Certificate No. 12587, do hereby certify that the witness in
7 the foregoing deposition was by me first duly sworn to testify
8 to the truth, the whole truth, and nothing but the truth in the
9 foregoing cause; that the deposition was then taken before me
10 at the time and place herein named; that said deposition was
11 reported by me in shorthand and then transcribed through
12 computer-aided transcription, and the foregoing transcript
13 contains a true record of the deposition of said witness.
14 I do further certify that I am a disinterested person
15 and am in no way interested in the outcome of this action or
16 connected with or related to any of the parties in this action
17 or to their respective counsel.
18 In witness whereof, I have hereunto set my hand on
19 this 17th day of September, 2002, at San Diego County,
20 California.
21
22
23 -----
24 Nyree-Dawn Lloyd, CSR No. 12587
25

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16 (Pages 58 to 61)

Larkins v. Schulman
GIC 823858

Deposition of Elizabeth Schulman
July 16, 2004

Page 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

MAURA LARKINS,

Plaintiff,

vs.

ELIZABETH SCHULMAN, and DOES 1
through 10, inclusive,

Defendants.

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* Case No. GIC 823858
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DEPOSITION OF ELIZABETH SCHULMAN, ESQ.

Taken at San Diego, California
Friday, July 16th, 2004

Diane M. Holnback, C.S.R.
Certificate No. 11686

COMPLIMENTARY

Larkins v. Schulman
GIC 823858

Deposition of Elizabeth Schulman
July 16, 2004

Page 2	Page 4
<p>1 I-N-D-E-X 2 DEPOSITION OF ELIZABETH SCHULMAN, ESQ. PAGE 3 July 16th, 2004 4 Examination by Ms. Larkins 6 5 EXHIBITS: 6 1 One-page February 11, 2003 cover 7 7 letter with 28-page "Decision of 8 the Commission on Professional 9 Competence" with one-page 10 "Certification of Mail" 11 2 Two-page excerpt from Exhibit 3 24 12 herein, Pages 7 and 8 13 3 107-page "Agreement Between Chula, 25 14 Vista Elementary School District 15 and Chula Vista Educators' Association 16 July 1, 1997 - June 30, 2001" 17 4 One-page March 27, 2003 letter from 39 18 Ms. Schulman to Ms. Larkins 19 5 One-page June 17, 2003 memo from 44 20 Ms. Larkins to Ms. Schulman 21 6 One-page March 27, 2003 memo to 45 22 Ms. Schulman from Ms. Larkins 23 7 Two-page May 1, 2003 memo from 49 24 Ms. Larkins to Ms. Schulman 25 8 One-page March 4, 2003 letter from 50 Ms. Larkins to Ms. Schulman 9 Two-page June 7, 2001 letter from 56 Ms. Havird to Mr. Werlin 10 One-page July 6, 2001 letter from 60 Ms. Havird to Mr. Werlin 11 One-page July 17, 2001 letter from 60 Ms. Havird to Mr. Werlin 12 Two-page August 15, 2001 letter from 60 Ms. Havird to Mr. Werlin</p>	<p>1 DEPOSITION OF ELIZABETH SCHULMAN, ESQ. 2 3 Pursuant to Notice to take Deposition and on 4 the 16th day of July, 2004, commencing at the hour of 5 10:24 o'clock p.m. at 319 Elm Street, Suite 100, in 6 the City and County of San Diego, State of California 7 before me, Diane M. Holnback, Certified Shorthand 8 Reporter in and for the State of California, personally 9 appeared: 10 ELIZABETH SCHULMAN, ESQ., 11 Defendant herein, who, called as a witness by the 12 Plaintiff, being by me first duly administered the oath 13 was thereafter examined as a witness in said cause. 14 15 APPEARANCES 16 17 For the Plaintiff: MAURA LARKINS (In Propria Persona) 1935 Autocross Court El Cajon, California 92019 619.444.0065. 18 19 For the Defendants: KLINEDINST, P.C. By: MATTHEW C. SMITH, ESQ. 20 501 West Broadway, Suite 600 San Diego, California 92101-3584 619.239.8131. 21 22 23 24 25</p>
Page 3	Page 5
<p>1 I-N-D-E-X (Continued) 2 EXHIBITS: 3 13 One-page August 23, 2001 letter from 60 4 Ms. Havird to Mr. Werlin 5 14 Two-page September 10, 2001 letter 60 6 from Ms. Havird to Mr. Werlin 7 15 Two-page September 19, 2001 letter 60 8 from Ms. Havird to Mr. Werlin 9 16 Two-page "Index to Respondent's 76 10 Hearing Exhibits" 11 17 One-page questionnaire entitled 81 12 "Is Kingdoms a Good Program?" 13 18 237-page "Reporter's Transcript" of 93 14 Volume I of the hearing before the 15 Commission of Professional Competence 16 19 48 pages of handwritten notes 118 17 18 INSTRUCTION NOT TO ANSWER: LINE/PAGE 19 6 8 20 22 70 21 22 23 24 25</p>	<p>1 VIDEOGRAPHER: This is the video deposition of 2 Elizabeth Schulman being taken on behalf of the Plaintiff 3 in the matter of Maura Larkins versus Richard T. Werlin, 4 et al. 5 MS. LARKINS: No. It's a different case. I 6 gave the -- 7 VIDEOGRAPHER: Oh, okay. New case. The case is 8 -- this deposition is being taken on behalf of the 9 plaintiff in the matter of Maura Larkins versus Elizabeth 10 Schulman, San Diego Superior Court, Case No. GIC 823858. 11 This deposition is being held in the offices of 12 San Diego Court Reporting located at 319 Elm Street, 13 San Diego, California. Today is Friday, July 16th, 2004. 14 The time is now 10:27 a.m. 15 My name is Greg Eisman. I am the legal video 16 specialist with Videographics located at 1903 30th 17 Street, San Diego, California. The Certified Shorthand 18 Reporter is Diane Holnback of San Diego Court Reporting. 19 For the video record, would counsel please state 20 their appearances? 21 MR. SMITH: Matthew Smith of Klinedinst, P.C., 22 on behalf of Defendant Elizabeth Schulman. 23 MS. LARKINS: Maura Larkins, Plaintiff in pro 24 per. 25 VIDEOGRAPHER: Would the reporter please swear</p>

2 (Pages 2 to 5)

SAN DIEGO COURT REPORTING SERVICE
319 ELM STREET, SUITE 100, SAN DIEGO, CA 92101

619-232-1164
FAX 619-232-2616

Larkins v. Schulman
GIC 823858

Deposition of Elizabeth Schulman
July 16, 2004

<p style="text-align: right;">Page 6</p> <p>1 in the witness.</p> <p>2 THE REPORTER: Would you raise your right hand,</p> <p>3 please? Do you solemnly swear the testimony you're about</p> <p>4 to give in this matter shall be the truth, the whole</p> <p>5 truth, and nothing but the truth, so help you God?</p> <p>6 THE WITNESS: Yes.</p> <p>7 EXAMINATION</p> <p>8 BY MS. LARKINS:</p> <p>9 Q. Good morning, Mrs. Schulman. How are you doing</p> <p>10 today?</p> <p>11 A. Just fine, thank you.</p> <p>12 Q. Okay. I think I'd like to start by asking some</p> <p>13 general questions just to get a feeling for how you feel</p> <p>14 or how you felt, actually, about this, the case that you</p> <p>15 handled for me in the Office of Administrative Hearings.</p> <p>16 Could you tell me why you took that case?</p> <p>17 MR. SMITH: Vague, ambiguous.</p> <p>18 THE WITNESS: You requested that I take the</p> <p>19 case.</p> <p>20 BY MS. LARKINS:</p> <p>21 Q. Okay. Do you always take every case that</p> <p>22 someone requests you take?</p> <p>23 MR. SMITH: Argumentative.</p> <p>24 THE WITNESS: Not always.</p> <p>25 ///</p>	<p style="text-align: right;">Page 8</p> <p>1 By MS. LARKINS:</p> <p>2 Q. Had you read it when you propounded it to me?</p> <p>3 MR. SMITH: Now, wait. You're asking her about</p> <p>4 actions that were taken in this litigation?</p> <p>5 MS. LARKINS: Yes.</p> <p>6 MR. SMITH: Okay. We are going -- I am going to</p> <p>7 object and instruct not to answer. That's not the focus</p> <p>8 of your lawsuit. The lawsuit is about stuff that</p> <p>9 happened prior to this litigation.</p> <p>10 Asking her about things that were taken in the</p> <p>11 context of the litigation, I will represent for the</p> <p>12 record that I, as her attorney, propounded discovery.</p> <p>13 That's why people hire lawyers to do that sort of thing.</p> <p>14 So, asking her questions -- if you want to ask</p> <p>15 questions about discovery, you and I can talk about</p> <p>16 discovery off the record, but you don't need to ask</p> <p>17 Ms. Schulman about discovery.</p> <p>18 MS. LARKINS: Okay. Well, let's find out if</p> <p>19 Mrs. Schulman thinks that you propounded something</p> <p>20 genuine.</p> <p>21 Q. Does that look to you like the genuine decision</p> <p>22 that you received on about February 12th, 2003?</p> <p>23 MR. SMITH: Objection, argumentative.</p> <p>24 THE WITNESS: I would have to look at what is in</p> <p>25 my file to see if it matches what you have just given me.</p>
<p style="text-align: right;">Page 7</p> <p>1 BY MS. LARKINS:</p> <p>2 Q. What are the criteria you use to decide whether</p> <p>3 or not you will take a case?</p> <p>4 A. They would vary from case to case.</p> <p>5 Q. What were the criteria you used in my case when</p> <p>6 you decided to take it?</p> <p>7 A. I don't recall.</p> <p>8 Q. You don't recall. Okay. I'd like to put -- I'd</p> <p>9 like to ask that this exhibit be marked Exhibit I. This</p> <p>10 is the decision from the Office of Administrative</p> <p>11 Hearings signed by James Ahler, A-h-l-e-r, Administrative</p> <p>12 Law Judge. It was mailed February 11th, 2003 in the</p> <p>13 matter of the accusation against Maura Larkins, Chula</p> <p>14 Vista Elementary School District, OAH No. L2002050728.</p> <p>15 (Exhibit I was marked for identification.)</p> <p>16 BY MS. LARKINS:</p> <p>17 Q. Mrs. Schulman, do you recognize this exhibit?</p> <p>18 A. This is 28 pages. Did you want me to read</p> <p>19 through all of it?</p> <p>20 Q. Well, actually, you yourself submitted it as an</p> <p>21 exhibit in your written discovery that you propounded to</p> <p>22 me. So I believe it was Exhibit B and you asked me to</p> <p>23 acknowledge that that was a correct copy of the decision.</p> <p>24 So, I assume you had read it.</p> <p>25 MR. SMITH: Is that a question?</p>	<p style="text-align: right;">Page 9</p> <p>1 BY MS. LARKINS:</p> <p>2 Q. Okay. I would like to suggest that after this</p> <p>3 deposition is over, or at least for the day, that you</p> <p>4 could go to your office with your copy of this exhibit</p> <p>5 and, if it turns out to be different, then certainly you</p> <p>6 would have a very legitimate right to demand that all the</p> <p>7 questions I ask about this be thrown out. I'd like to</p> <p>8 propose that we tentatively -- that you tentatively</p> <p>9 answer questions based on the assumption that they will</p> <p>10 only be useful as evidence if it turns out that this is,</p> <p>11 indeed, the genuine document.</p> <p>12 MR. SMITH: We have got a document in front of</p> <p>13 the witness. Just ask her questions about the document.</p> <p>14 That's probably the best way to do it. We can worry</p> <p>15 about objections and everything afterwards.</p> <p>16 MS. LARKINS: Okay. Fine.</p> <p>17 Q. Before we go on, I wanted to ask about when you</p> <p>18 took me on as your client. You weren't able to remember</p> <p>19 just why you did. So I would like to know Do you</p> <p>20 sometimes take cases when you believe that the client is</p> <p>21 lying about -- about major, important aspects of the</p> <p>22 case?</p> <p>23 MR. SMITH: Vague, ambiguous, argumentative.</p> <p>24 The preamble misstated testimony. Go ahead.</p> <p>25 THE WITNESS: I can't answer that question.</p>

3 (Pages 6 to 9)

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Deposition of Elizabeth Schulman
July 16, 2004

<p style="text-align: right;">Page 10</p> <p>1 It's a hypothetical question. 2 BY MS. LARKINS: 3 Q. Okay. Do you remember thinking that Maura 4 Larkins was lying when she spoke to you about her case? 5 MR. SMITH: During what time period? 6 MS. LARKINS: When she first came in June of 7 2002 to meet you for the first time and spoke about her 8 case. 9 MR. SMITH: Vague, ambiguous, go ahead. 10 THE WITNESS: I have no way of making that 11 assessment. I simply have a person in front of me who is 12 telling me a story. 13 BY MS. LARKINS: 14 Q. Okay. So, are you saying that it might be 15 possible that you thought that Maura Larkins was lying; 16 you just don't remember? 17 A. That was not my answer. 18 Q. Okay. Do you think it's possible that Maura 19 Larkins was lying to you? 20 A. I think that's highly speculative. Are you 21 asking me what I thought at the time? 22 Q. Well, I believe you said you didn't remember 23 what you thought at the time. 24 MR. SMITH: Then why do you continue asking 25 questions about it?</p>	<p style="text-align: right;">Page 12</p> <p>1 speculation. 2 THE WITNESS: Can't pay for what? 3 BY MS. LARKINS: 4 Q. Your services. 5 A. It depends on the type of case. 6 Q. Do you sometimes -- oh, what's the word -- take 7 cases with the expectation that you will receive your fee 8 out of a judgment or settlement, if it occurs, but not 9 before then? 10 A. If what the word you are seeking is contingency, 11 the answer is yes. 12 Q. Thank you. That is exactly the word I was 13 seeking and it just completely escaped my mind. Okay. 14 Thank you. Okay. 15 So, we are going to go ahead and look at this 16 decision. The first page is just sort of a preamble sort 17 of setting up this situation here for this case. Could 18 you please turn to Page 2 of the decision? 19 MR. SMITH: The second page of the exhibit or 20 what's numbered Page 2? The second page of Exhibit I is 21 labeled Page 1. 22 MS. LARKINS: Oh, okay. Yes, I see. 23 MR. SMITH: The first page of Exhibit I is a 24 letter, essentially a transmittal letter, that goes along 25 with the decision, apparently.</p>
<p style="text-align: right;">Page 11</p> <p>1 MS. LARKINS: Well, I'm trying to find out if 2 she has a habit and custom of taking cases for clients 3 when she believes they are lying. 4 MR. SMITH: Is that your question? 5 MS. LARKINS: That's my answer to you, because 6 you wanted to know why I was asking her these questions. 7 Q. My question is: Do you have a habit and custom 8 of taking on clients when you believe they are lying to 9 you? 10 A. At what point? 11 Q. When you sign the agreement to represent them. 12 A. You're asking me to make a generality. You're 13 asking for information which potentially would require me 14 in some sort of analysis to reveal attorney-client 15 privileged information, which I cannot do. You came in. 16 You told me a story. Essentially, your case was a 17 defense case and you were seeking a defense. 18 MR. SMITH: The question was do you have a 19 custom and habit of taking cases where you think your 20 clients are lying. Yes or no? 21 THE WITNESS: The answer is no. 22 BY MS. LARKINS: 23 Q. Okay. Thank you. Do you have a custom and 24 habit of taking clients who can't pay? 25 MR. SMITH: Argumentative, calls for</p>	<p style="text-align: right;">Page 13</p> <p>1 THE WITNESS: Actually, my copy is different 2 than what my counsel's copy is. 3 MS. LARKINS: Let's see. 4 Q. Let me give you a copy of the letter that -- 5 A. I have the letter. I don't have Page 1. 6 Q. Oh, okay. Let me give you a copy of that, then. 7 MR. SMITH: Okay. Just a second here. Let me 8 take a look at this and make sure we have got a complete 9 exhibit. It's missing Page 5. 10 MS. LARKINS: Oh, dear. 11 MR. SMITH: And, for whatever reason, there's 12 been -- proof of service or the certification of mail is 13 in between Pages 27 and 28. So I am going to move that 14 to the end -- 15 MS. LARKINS: Okay. Thank you. 16 MR. SMITH: -- after Page 28. 17 MS. LARKINS: I think that's all. Okay. 18 MR. SMITH: We are now inserting a copy of Page 19 5, putting these back together making no representations 20 about whether, in fact, any of these pages are authentic. 21 MS. LARKINS: Great. Okay. The page I would 22 like to refer to is Page 2 of the decision itself. So it 23 would be Page 3 of the exhibit. 24 Q. Okay. Are these the factual findings of the 25 commission on professional competence in this</p>

4 (Pages 10 to 13)

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<p style="text-align: right;">Page 14</p> <p>1 administrative hearing -- 2 MR. SMITH: Objection. 3 BY MS. LARKINS: 4 Q. -- according to this document? 5 MR. SMITH: Objection. Document speaks for 6 itself, calls for speculation, hearsay. 7 THE WITNESS: The document speaks for itself. 8 BY MS. LARKINS: 9 Q. Okay. Do you recall reading this decision? 10 A. I read the decision, yes. 11 Q. Okay. Did you read it approximately on or about 12 February 12th, 2002? 13 MR. SMITH: Vague, ambiguous. 14 THE WITNESS: I read it on or about the time it 15 arrived in my office. 16 BY MS. LARKINS: 17 Q. Did you read the entire decision? 18 A. As far as I recall I read the entire decision as 19 it arrived in my office. 20 Q. Okay. I wanted to point out something 21 interesting. There is a tremendous amount of interesting 22 material in this decision. And I thought it was 23 particularly -- I thought it was humorous, actually, that 24 even this first paragraph was so interesting or this 25 first finding.</p>	<p style="text-align: right;">Page 16</p> <p>1 objections. Let's -- we are all busy people. Let's try 2 and move this process along and not spend a whole lot of 3 time reading from documents into the record. 4 MS. LARKINS: Okay. Well, since you appear to 5 wish to discuss this matter in depth, I just want to tell 6 you where I am coming from. 7 MR. SMITH: I don't need to know where you're 8 coming from. All I want you to do is just ask a question 9 and the witness will answer. 10 MS. LARKINS: Kelly Angell, with whom you were 11 conferring here just a short while ago, attended one of 12 my two previous depositions and she had quite the 13 opposite attitude from you. And it's interesting that 14 you two work together closely, but you have very 15 different attitudes about depositions. 16 She wanted -- every single question had to have 17 the entire date, month, day and year. We really spent a 18 lot of time wasting time. And I am very happy to know 19 that we don't have to do that with you. 20 Q. Now, I'd like to go on to this. Actually, what 21 I want to focus on here are the middle two paragraphs. 22 MR. SMITH: I am sorry. Which paragraphs are 23 you referring to? 24 MS. LARKINS: In Factual Finding No. 1, there 25 are a total of four paragraphs in that factual finding.</p>
<p style="text-align: right;">Page 15</p> <p>1 Could you please read the first finding, the 2 first factual finding? 3 A. You want me to read it to myself or aloud? 4 Q. Could you read it out loud, please? 5 MR. SMITH: You're referring to Paragraph 1 on 6 Page 2? 7 MS. LARKINS: Yeah. I'd like you to read all 8 three paragraphs of that first factual finding. 9 MR. SMITH: Do you want her to read them out 10 loud? 11 MS. LARKINS: Actually. Yes, please. 12 THE WITNESS: Well, you know -- 13 MR. SMITH: I am not sure we are going -- are we 14 going to spend all day here reading paragraphs out loud? 15 If you have a question about the paragraphs -- 16 MS. LARKINS: Well, if you don't. Okay. I am 17 just -- this is my third deposition I have ever given in 18 my life. So I am just kind of learning how to do this. 19 And some people are very demanding about having lots of 20 information. And others -- I personally prefer your 21 attitude of let's just get to work. 22 MR. SMITH: Well, the purpose of the deposition 23 is for you to ask questions that the witness answers. If 24 you ask relevant questions, the witness will provide 25 answers to the best of her ability, subject to my</p>	<p style="text-align: right;">Page 17</p> <p>1 I am very interested in the second paragraph. 2 Q. Mrs. Schulman, did you find anything surprising 3 in that second paragraph? 4 MR. SMITH: Vague, ambiguous, not reasonably 5 calculated to lead to the discovery of admissible 6 evidence. 7 THE WITNESS: Not that I was focusing on at the 8 time that I read it. 9 BY MS. LARKINS: 10 Q. Do you find anything surprising now? 11 MR. SMITH: Same objections. 12 THE WITNESS: Well, what I find surprising is 13 the statement that the sixth member, the superintendent 14 of schools, is hired by the other board members. 15 BY MS. LARKINS: 16 Q. It's an amazing statement, isn't it? 17 A. I don't find it amazing. 18 Q. But do you find it interesting? 19 MR. SMITH: Relevance. 20 MS. LARKINS: What I am going for here is the 21 outrageousness of this decision. It's a laughable 22 decision. It's a -- it's a disturbing and troubling 23 decision. And it starts unbelievably in the very first 24 factual finding when you would think any normal 25 administrative law judge or, if the panelists were</p>

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<p style="text-align: right;">Page 18</p> <p>1 consulted in the writing of this decision, any normal 2 teachers or principals would have corrected this, but it 3 gets more interesting when we go to the third paragraph. 4 Q. Do you see anything interesting in the third 5 paragraph? 6 MR. SMITH: Objection. Ambiguous, vague, calls 7 for speculation. 8 THE WITNESS: Not particularly. 9 BY MS. LARKINS: 10 Q. You know, I don't either. Actually, I think my 11 question was a waste of time. There is nothing strange 12 about that -- that one. Okay. 13 I'd like to go to Factual Finding No. 2 now. 14 I'm not so much interested in the factual finding as in 15 the footnote. Do you see on Factual Finding No. 2 there 16 is a little "I" at the end that directs us down to the 17 bottom of the page? 18 A. Yes. 19 Q. Do you find anything strange about that 20 footnote? 21 A. No. 22 MR. SMITH: Vague, ambiguous, not reasonably 23 calculated to lead to discovery of admissible evidence. 24 BY MS. LARKINS: 25 Q. Okay. Is it your understanding that a district</p>	<p style="text-align: right;">Page 20</p> <p>1 Constitution of the United States and the rights and 2 authority they have to direct the work of their 3 employees? 4 MR. SMITH: Same objections. 5 THE WITNESS: Calls for a legal conclusion. I 6 am not here in a position to provide a lecture or a 7 seminar on what public employees' and employers' 8 relationships are. That's not the subject matter of this 9 deposition. 10 BY MS. LARKINS: 11 Q. So, when Maura Larkins went to you and made an 12 agreement with you to represent her, you did not feel 13 that you were responsible for making sure that all her 14 rights under the constitution were obeyed by the School 15 District? 16 MR. SMITH: Objection, argumentative. Ask 17 another question. For the purposes of the deposition, 18 this isn't for you to have a debate with Ms. Schulman. 19 You can ask her questions about the facts and 20 circumstances surrounding her representation. Your time 21 for argument is going to be at trial. You can argue to 22 the jury. Don't argue to the witness right now. Okay? 23 MS. LARKINS: Okay. Are you instructing your 24 client not to answer the question? 25 MR. SMITH: No, I am not instructing the client</p>
<p style="text-align: right;">Page 19</p> <p>1 could possibly retain all rights and authority to direct 2 the work of its employees? 3 MR. SMITH: Vague, ambiguous, calls for a legal 4 conclusion, calls for speculation, not reasonably 5 calculated to lead to the discovery of admissible 6 evidence. 7 BY MS. LARKINS: 8 Q. You can answer. 9 A. What was your question? 10 Q. Do you believe that a district can possibly 11 legally retain all rights and authority to direct the 12 work of its employee? 13 MR. SMITH: Same objections. 14 THE WITNESS: I would have to look at Article 15 5.1 to see what it says. 16 BY MS. LARKINS: 17 Q. Well, here is Article 5.1. But, before I give 18 that to you, is it not your understanding as a lawyer who 19 has practiced employment law for many, many years, that 20 there are rights and authorities -- there are rights that 21 are reserved to employees beyond any agreement between -- 22 well, this doesn't even allow for the agreement. It just 23 says all rights and authority to direct the work of its 24 employees. Let me ask the question a different way. 25 Are school districts limited by the</p>	<p style="text-align: right;">Page 21</p> <p>1 not to answer the question. I am asking you to ask a 2 better question so we don't have to go to the judge and 3 discuss the subject matter of your questions. And I 4 would like to get this deposition over and done with. 5 And I am asking you to please ask factual questions of 6 the witnesses, not make legal arguments, not engage in 7 debate, ask factual questions that are the proper subject 8 of a deposition. 9 MS. LARKINS: Okay. Mr. Smith, I believe that 10 my question is a fair one. I believe that a judge would 11 say, yes, she should answer that question. And I am not 12 going to withdraw my question. If you wish, you can 13 instruct your client not to answer it. 14 MR. SMITH: I am not going to instruct my client 15 not to answer it. If you insist on asking argumentative 16 questions and you continue in this tack to ask 17 argumentative questions, what we will do is suspend the 18 deposition and we will seek a protective order to prevent 19 you from asking any argumentative questions. I would 20 hope that that wouldn't be necessary, but I have given 21 you an opportunity to withdraw the question. You're 22 insisting on asking argumentative questions. 23 Ms. Schulman can answer to the best of her ability. 24 MS. LARKINS: Well, Mr. Smith, if you were to 25 decide to suspend the deposition, I wouldn't be terribly</p>

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<p style="text-align: right;">Page 22</p> <p>1 surprised. One of the previous two deponents that I 2 deposited stopped answering questions after an hour and a 3 half. And, obviously, I believe that the facts in this 4 case are glaringly clear. And I think perhaps if I were 5 Ms. Schulman's lawyer I too might suspend the deposition. 6 MR. SMITH: If you have had an experience in 7 previous depositions where they are been suspended and 8 people are seeking protective orders, one might take the 9 inference that your questions could use some improvement. 10 That being said, if the case and the facts are very 11 clear, there is really no need for us to have a 12 deposition. However, you have noticed the deposition. 13 We are here ready to answer factual questions. Ask your 14 questions. We will provide answers. 15 MS. LARKINS: One of the things I need in order 16 to win a court case or a motion for summary judgment is 17 testimony under oath by the witness. 18 MR. SMITH: And we are here to provide that 19 testimony. I don't want to engage in an extensive 20 debate. We are all busy people. We have all got things 21 to do. You have got a limited amount of time here. 22 Please ask your questions. The witness will answer. 23 MS. LARKINS: I am very interested in your last 24 statement. Could you please let me know how limited my 25 time is?</p>	<p style="text-align: right;">Page 24</p> <p>1 be needing. I am going to go ahead and give this -- I 2 would like to ask that this be marked as Exhibit 2. 3 (Exhibit 2 was marked for identification.) 4 MR. SMITH: Just a second. For the record, 5 Exhibit 2 is a two-page document; Pages 7 and 8 of some 6 document dated December 12th, 2000. And Ms. Larkins has 7 placed a sticky note on the second page of Exhibit 2 with 8 an arrow pointing to the first paragraph on the second 9 page of this exhibit, which is labeled Page 8. 10 Are you going to ask a question about this 11 document? 12 MS. LARKINS: Give me a second, sir. I 13 haven't -- I need to say something. 14 MR. SMITH: I am wondering, before you ask a 15 question about the document, I would ask that 16 Ms. Schulman be given an opportunity to read the document 17 which you're asking a question about. 18 MS. LARKINS: Oh, please do. You know, it's 5.1 19 is what I'd like you to read. 20 Q. Okay. Now that you have read it, do you find a 21 problem with the Commission on Professional Competence's 22 footnote here on Page 2 of its decision? 23 A. No. 24 Q. Okay. Do you understand Article 5, which 25 provides that the district retains all rights and</p>
<p style="text-align: right;">Page 23</p> <p>1 MR. SMITH: Will you please just ask questions? 2 You know, regardless of how limited your time is, we are 3 going to be here for a reasonable period of time. If 4 this tack of questioning continues, we will seek a 5 protective order. My patience is starting to wear thin 6 on this. So, ask your questions. We are here ready to 7 answer. Again, please, just ask a question. 8 MS. LARKINS: Okay. I would like to do that. 9 Q. When you represent a client who is in a wrongful 10 termination case, do you normally try to make sure that 11 the client's constitutional rights are honored by the 12 employer? 13 MR. SMITH: Objection, vague, ambiguous, 14 argumentative, potentially invades the attorney-client 15 privilege. You can answer, if you're able. 16 THE WITNESS: It's an incomplete hypothetical. 17 I can't answer that question. 18 BY MS. LARKINS: 19 Q. So, you would never advertise that you actually 20 protect your clients' constitutional rights? 21 MR. SMITH: Objection. Argumentative, vague, 22 ambiguous. 23 THE WITNESS: I don't understand your question. 24 MS. LARKINS: Okay. Let's go on. I brought so 25 many boxes, because I didn't know which exhibits I would</p>	<p style="text-align: right;">Page 25</p> <p>1 authority to direct the work of its employees to be 2 limited in any way whatsoever? 3 MR. SMITH: Argumentative, calls for a legal 4 conclusion, calls for an expert opinion. 5 THE WITNESS: The footnote says what the 6 footnote says. 7 BY MS. LARKINS: 8 Q. Does the footnote, which purports to explain 9 Article 5.1 of the District CVEA agreement -- I think I 10 should -- I should put the whole document into evidence. 11 Let me put this entire document into evidence. Okay. So 12 Exhibit 3 will be the contract, the agreement between -- 13 (Exhibit 3 was marked for identification.) 14 MS. LARKINS: Oh, sorry. Here I am talking on. 15 Q. Does Article 5.1 according -- you know, assuming 16 that this document that I have given you is correct, talk 17 about the District retaining rights? 18 MR. SMITH: I am sorry. Are you asking if the 19 document talks about the District retaining rights? 20 MS. LARKINS: Yes. Article 5.1, the one I gave 21 you as Exhibit 2, does that talk about -- does that talk 22 about District rights? 23 MR. SMITH: Best evidence. 24 THE WITNESS: The document says what the 25 document says. The footnote says what the footnote says.</p>

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<p style="text-align: right;">Page 26</p> <p>1 The footnote is sort of a short little brief summary that 2 I don't think was intended, although I don't know, to 3 cover everything and anything. 4 MS. LARKINS: Well, when you go through the rest 5 of this decision, it certainly looks like Mr. Ahler meant 6 just what he said there in the footnote. 7 MR. SMITH: Do you have a question? 8 BY MS. LARKINS: 9 Q. To the best of your knowledge, does Article 5.1 10 of this agreement talk about District rights? 11 MR. SMITH: Asked and answered. The document 12 speaks for itself and I don't see how this is reasonably 13 calculated to the lead to the discovery of admissible 14 evidence. You can answer to the best of your ability. 15 MS. LARKINS: Okay. 16 THE WITNESS: Article 5 says the subject matter 17 is district rights and 5.1 is the first paragraph. There 18 are a few other paragraphs following 5.1. 19 BY MS. LARKINS: 20 Q. Okay. 5.1 starts on Page 7, I believe, and then 21 it continues to Page 8. And on the third line of Page 8 22 is some text that limits the power of the District. Can 23 you tell me by looking at that third line on Page 8 in 24 what way the power of the District to direct the work 25 that its employees is limited?</p>	<p style="text-align: right;">Page 28</p> <p>1 retains all rights and authority to direct work of its 2 employees and specify exactly what the rights are in 3 detail so much so that it takes several lines on Page 7 4 and then it continues onto Page 8 and then finally on 5 Line 3 of Page 8 it mentions the limitations on the 6 District. And I believe it says it is limited by this 7 agreement and the law. 8 Is that difficult for you to admit? 9 MR. SMITH: Is there a question in there? 10 BY MS. LARKINS: 11 Q. Does it say that? 12 MR. SMITH: Does the document say what you just 13 said it says; is that your question? 14 MS. LARKINS: Yes. Yes. 15 MR. SMITH: The document speaks for itself. I 16 hope we are not going to sit here all day to discuss 17 admissions about what documents say or don't say. The 18 documents are written down. We can all read what the 19 documents say. The judge, the jury will be able to read 20 what the document says. There is no reason to have 21 Ms. Schulman here telling you what a document does or 22 does not say. 23 MS. LARKINS: I would prefer that you make this 24 argument that you're making to me right now to a judge. 25 And I would like Mrs. Schulman to answer the question.</p>
<p style="text-align: right;">Page 27</p> <p>1 MR. SMITH: Objection. Calls for an expert 2 opinion, calls for a legal conclusion. The document 3 speaks for itself, vague, ambiguous. You can answer, if 4 you can. 5 THE WITNESS: It says whatever it says. 6 BY MS. LARKINS: 7 Q. Well, whatever does it say? 8 MR. SMITH: Wait. Wait. Wait. We are -- 9 THE WITNESS: It says what it says. 10 MR. SMITH: Are we going to spend time here 11 having her read documents and telling you what they say? 12 BY MS. LARKINS: 13 Q. Would you agree that this footnote on Page 2 has 14 neglected to mention any limitation on the power of the 15 District? 16 MR. SMITH: The document speaks for itself. 17 BY MS. LARKINS: 18 Q. This does not say -- 19 A. Well, all that footnote says is subject matter 20 of retained all rights and authorities to direct the work 21 of its employees. I emphasize the word "work." 22 BY MS. LARKINS: 23 Q. Is there also a period after "work of its 24 employees" in the contract itself or does the contract 25 itself continue on after discussing this, the District</p>	<p style="text-align: right;">Page 29</p> <p>1 MR. SMITH: I have a feeling we are going to be 2 making this argument that I am just making right now to a 3 judge. 4 MS. LARKINS: I hope so. 5 MR. SMITH: So your question is did you 6 accurately characterize what the document says? 7 MS. LARKINS: Yes. 8 THE WITNESS: The document says whatever it 9 says. I -- you know, I don't have a transcript of 10 exactly how you worded your question. Whatever it says, 11 it says. 12 BY MS. LARKINS: 13 Q. Okay. That's not my question. I know the 14 document says what it says. What I want to know is if 15 you believe that the document limits the power and 16 authority of the District over its employees. 17 MR. SMITH: Vague, ambiguous. Which document 18 are you talking about? 19 MS. LARKINS: The contract, Article 5, Section 20 5.1. 21 MR. SMITH: Is it an exhibit? 22 MS. LARKINS: It's Exhibit 2. 23 MR. SMITH: Vague, ambiguous, calls for a legal 24 conclusion, calls for an expert opinion, best evidence. 25 THE WITNESS: It simply says, "except as</p>

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1 otherwise provided in this agreement or by law." That's
2 what it says.
3 MS. LARKINS: Thank you.
4 Q. Do you consider yourself an expert in employment
5 law?
6 MR. SMITH: Vague, ambiguous.
7 THE WITNESS: It's the major emphasis of my
8 practice.
9 BY MS. LARKINS:
10 Q. So you do consider yourself an expert in
11 employment law?
12 A. It's the major emphasis in my practice.
13 Q. Okay. I will count that as a yes. And, if you
14 disagree with me, please say so.
15 MR. SMITH: Well, no. That's an argumentative
16 question. The answer is what the answer is. You can
17 count it however you want to count it. Just ask your
18 next question.
19 MS. LARKINS: Okay. I will do that.
20 Q. Would you please look on Page 3 of Exhibit I,
21 Factual Finding 6? Do you see anything interesting or
22 problematical in the first sentence?
23 MR. SMITH: Objection. Vague, ambiguous,
24 argumentative, calls for speculation.
25 THE WITNESS: At this point in time I don't have

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1 the time line in my head to be able to say one way or the
2 other.
3 BY MS. LARKINS:
4 Q. So, in this decision it hasn't -- it hasn't
5 really given the facts. It's kind of hard to know how to
6 respond to this decision, this line of this decision,
7 because it doesn't give any specifics, does it?
8 MR. SMITH: What's your question?
9 BY MS. LARKINS:
10 Q. On Factual Finding No. 6, the first sentence, it
11 doesn't give any specifics, does it, about who was
12 involved in this?
13 A. No.
14 MR. SMITH: Well, the document speaks for
15 itself.
16 BY MS. LARKINS:
17 Q. Does this document -- okay. It says: "In the
18 1999/2000 school year Mrs. Larkins' feelings were hurt by
19 a fellow teacher."
20 Does that sentence reveal the name of the fellow
21 teacher?
22 A. No.
23 Q. Thank you. I am just a third grade teacher,
24 third grade elementary school teacher. So, Mr. Smith,
25 try to be patient with me.

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1 MR. SMITH: Well, a third grade elementary
2 school teacher can read a sentence and determine whether
3 it reveals the name of the teacher. We don't need to
4 have Ms. Schulman here to answer obvious questions that a
5 third grade elementary school teacher or a third grade
6 elementary school student could determine from reading a
7 sentence. The sentence says what the sentence says.
8 MS. LARKINS: Well, perhaps I'm not quite as
9 smart as the average third-grade elementary school
10 teacher or, as you point out, the average third grade
11 student, but even people of diminished mental capacity
12 have a right to justice in our legal system. And I would
13 appreciate it if you would have some patience with me and
14 allow me to do my best to ask questions in this
15 deposition.
16 MR. SMITH: I am not interfering with your right
17 to ask questions. I am encouraging you to ask questions.
18 We are here to answer questions. I would just hope that
19 we would spend this time productively.
20 MS. LARKINS: I am sure we have different ideas
21 about what productively means here. Perhaps in your case
22 productively would mean avoiding giving information.
23 Q. Okay. Mrs. Schulman, have you read many
24 decisions that have been issued by the Office of
25 Administrative Hearings in California?

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1 MR. SMITH: Vague, ambiguous, not reasonably
2 calculated to lead to the discovery of admissible
3 evidence.
4 THE WITNESS: I don't know what you mean by "many
5 decisions."
6 BY MS. LARKINS:
7 Q. Have you read more than 10 decisions that were
8 issued by the Office of Administrative Hearings in
9 California?
10 A. I have no way of answering that question.
11 MR. SMITH: Same objections.
12 THE WITNESS: I really don't know.
13 BY MS. LARKINS:
14 Q. Have you read more than one decision that issued
15 from the Office of Administrative Hearings?
16 A. Well, I have certainly read this one.
17 Q. So, you don't really know if you ever read
18 another decision from the Office of Administrative
19 Hearings in California?
20 MR. SMITH: Argumentative.
21 THE WITNESS: You're asking me for what I might
22 have done over 27 years and I really can't answer that
23 question.
24 MS. LARKINS: During my administrative hearing I
25 recall that you once said to me, "Usually the judges in

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<p style="text-align: right;">Page 34</p> <p>1 these cases don't wear robes." From that I understood 2 that you had been involved in one or more administrative 3 hearings previously. 4 MR. SMITH: Is there a question? 5 BY MS. LARKINS: 6 Q. Had you been involved in one or more 7 administrative hearings before you took my -- before you 8 argued my case? 9 A. Yes. 10 Q. Can you estimate how many? 11 MR. SMITH: Vague, ambiguous. 12 THE WITNESS: No. 13 BY MS. LARKINS: 14 Q. So, you're sure it's more than one. You're sure 15 it's one other one besides me, but you're not sure if it 16 was as many as 10 or more than 10? 17 A. Well, now you have asked me about administrative 18 hearings. 19 Q. Okay. Apparently I have hit on a magic word. 20 Okay. How many administrative hearings have you been 21 involved in? 22 A. Many. 23 Q. Many. Okay. How many decisions issued by 24 those -- issued as a result of those administrative 25 hearings have you read?</p>	<p style="text-align: right;">Page 36</p> <p>1 BY MS. LARKINS: 2 Q. Have you ever seen an administrative decision 3 that gave specific dates and names and descriptions of 4 events? 5 MR. SMITH: Vague, ambiguous, calls for 6 speculation. 7 THE WITNESS: I have not read an administrative 8 decision with that question in mind. 9 BY MS. LARKINS: 10 Q. So, are you saying that you don't remember? 11 A. I am simply saying I have not read an 12 administrative decision with that question in mind. 13 Q. So, if you had read an administrative decision 14 that had specific dates, names and descriptions of 15 events, you wouldn't have remembered it, because you 16 weren't focusing on that issue? 17 MR. SMITH: Is this a hypothetical question? 18 BY MS. LARKINS: 19 Q. I am asking you if you're saying that you can't 20 remember whether or not decisions have specific names, 21 dates and descriptions of events. Are you able to 22 remember whether or not, after you read a decision, are 23 you able to remember whether or not it had specific 24 dates, names and descriptions of events? 25 MR. SMITH: Ask that question again, please.</p>
<p style="text-align: right;">Page 35</p> <p>1 A. Many. 2 Q. Okay. I am sure you have read -- well, I'm not. 3 Well, I am. I am sure that you have read more than I 4 have. But when I was preparing my petition regarding 5 this decision I read a few. I'd say. Well, actually, 6 what I read were appeals to the California Court of 7 Appeal from administrative decisions. And one of the 8 things I noticed is that the factual findings in those 9 decisions had been very specific about what happened on 10 what date and the names of the people involved. And I 11 noticed that there was a stark contrast between the 12 decisions I was reading about that had been issued in 13 other cases and my own decision. 14 Did the fact that this decision didn't give 15 dates or names or specifics about incidents strike you as 16 being out of the norm for administrative decisions? 17 MR. SMITH: Could you try asking that question 18 one more time? 19 BY MS. LARKINS: 20 Q. Do most administrative decisions give specific 21 dates and names and descriptions of events? 22 MR. SMITH: Vague, ambiguous, calls for 23 speculation. 24 THE WITNESS: I can't answer that question. I 25 don't know what most decisions do.</p>	<p style="text-align: right;">Page 37</p> <p>1 BY MS. LARKINS: 2 Q. After you -- in your experience, after you have 3 read an administrative decision, are you able to remember 4 whether or not the decision cited specific dates, names 5 and descriptions of events? 6 MR. SMITH: You're asking if Ms. Schulman is 7 able to retain in her memory for any period of time 8 whether the decision contained specific names and dates? 9 MS. LARKINS: Yes. 10 MR. SMITH: Vague, ambiguous, not reasonably 11 calculated to lead to the discovery of admissible 12 evidence and argumentative, calls for speculation. 13 THE WITNESS: I am not really sure I can answer 14 that question. I really don't understand it. 15 MS. LARKINS: Okay. 16 Q. Do you consider yourself to have a reasonably 17 good memory? 18 MR. SMITH: Vague, ambiguous, argumentative, not 19 reasonably calculated to lead to the discovery of 20 admissible evidence. 21 THE WITNESS: Yes, I have a reasonably good 22 memory for what I am working on at the time I am working 23 on it. 24 BY MS. LARKINS: 25 Q. Okay. But after you've finished working on</p>

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<p style="text-align: right;">Page 38</p> <p>1 something you generally forget, forget about it?</p> <p>2 A. I do my best to do that.</p> <p>3 MR. SMITH: Argumentative.</p> <p>4 BY MS. LARKINS:</p> <p>5 Q. You do your best to forget about it?</p> <p>6 A. Yes.</p> <p>7 MS. LARKINS: Okay.</p> <p>8 MR. SMITH: Could we take a break when you come</p> <p>9 to a reasonable stopping point?</p> <p>10 MS. LARKINS: We could take a break right now.</p> <p>11 MR. SMITH: Okay.</p> <p>12 VIDEOGRAPHER: We are going off the record. The</p> <p>13 time is 11:16 a.m.</p> <p>14 (A recess was taken.)</p> <p>15 VIDEOGRAPHER: We are going on the record. The</p> <p>16 time is 11:29 a.m.</p> <p>17 MS. LARKINS: Okay.</p> <p>18 MR. SMITH: Just for the record, we just came</p> <p>19 back from a break and we've spent some time off the</p> <p>20 record while Ms. Larkins was preparing her exhibits. I</p> <p>21 just don't want there to be any question about the length</p> <p>22 of the break or responsibility for the length of the</p> <p>23 break.</p> <p>24 MS. LARKINS: Good point.</p> <p>25 Q. I would like to ask that this letter from</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. SMITH: The document speaks for itself.</p> <p>2 Argumentative.</p> <p>3 THE WITNESS: The letter says what it says.</p> <p>4 BY MS. LARKINS:</p> <p>5 Q. Was it your purpose when you wrote this letter</p> <p>6 to let me know that I had -- to let me know how much time</p> <p>7 I had in which to file my petition?</p> <p>8 A. No. I had already done that.</p> <p>9 Q. Why did you mention that the Code of Civil</p> <p>10 Procedure Section 1094.6(b) allows 90 days before filing</p> <p>11 a petition?</p> <p>12 MR. SMITH: Objection. Vague, ambiguous</p> <p>13 argumentative, calls for speculation.</p> <p>14 THE WITNESS: I mentioned a lot of avenues for</p> <p>15 you to look at. The first avenue I suggested you look at</p> <p>16 were the CEB books at the library that were available on</p> <p>17 mandamus and administrative mandamus which set forth the</p> <p>18 proper forms, procedures and time lines. I also said you</p> <p>19 may also wish to refer to CCP Section 1085, et cetera,</p> <p>20 and that you may wish to study other code sections, which</p> <p>21 included 1094.6(b).</p> <p>22 I was doing nothing more than if I had had a</p> <p>23 colleague call me on the phone and say, "Hey, I have got</p> <p>24 this issue. What should I do about it?"</p> <p>25 I would say, "Go take a look at these things."</p>
<p style="text-align: right;">Page 39</p> <p>1 Elizabeth Schulman to me written on March 27, 2003 be</p> <p>2 marked as Exhibit 4.</p> <p>3 (Exhibit 4 was marked for identification.)</p> <p>4 BY MS. LARKINS:</p> <p>5 Q. Okay. What was your purpose -- oh,</p> <p>6 Mrs. Schulman, do you recognize this letter as a letter</p> <p>7 that you wrote to me?</p> <p>8 A. Yes, I do.</p> <p>9 Q. Okay. What was your purpose in writing this</p> <p>10 letter?</p> <p>11 A. My purpose in writing this letter was to respond</p> <p>12 to your fax of 3/26/03.</p> <p>13 Q. Okay. In this letter did you inform me that I</p> <p>14 had 90 days in which to file my petition for writ of</p> <p>15 mandate?</p> <p>16 A. No.</p> <p>17 MR. SMITH: Objection, best evidence.</p> <p>18 BY MS. LARKINS:</p> <p>19 Q. In this letter did you tell me that California</p> <p>20 Code of Civil Procedure Section 1094.6(b) requires a</p> <p>21 petition to be filed no later than the 90th day following</p> <p>22 the date on which the decision became final?</p> <p>23 MR. SMITH: Are you asking if that's what the</p> <p>24 letter says?</p> <p>25 MS. LARKINS: Yes.</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. In hindsight, do you regret that you wrote this</p> <p>2 sentence, "CCP Section 1094.6(b) requires a petition to</p> <p>3 be filed no later than the 90th day following the date on</p> <p>4 which the decision becomes final," et cetera?</p> <p>5 MR. SMITH: Vague, ambiguous, argumentative.</p> <p>6 THE WITNESS: No.</p> <p>7 BY MS. LARKINS:</p> <p>8 Q. Do you think you were doing a good thing when</p> <p>9 you wrote this sentence?</p> <p>10 MR. SMITH: Argumentative.</p> <p>11 THE WITNESS: I was just giving you some</p> <p>12 information. Go ahead and take a look at this stuff. I</p> <p>13 wasn't telling you what to do. I had already told you</p> <p>14 what to do in a letter that I had sent you in February.</p> <p>15 BY MS. LARKINS:</p> <p>16 Q. Okay. I want to really specifically refer to</p> <p>17 this one sentence that's in the second paragraph of your</p> <p>18 letter. I believe it is the fourth sentence in the</p> <p>19 second paragraph. And it comes after the sentence, "More</p> <p>20 specifically, you may wish to study CCP Section 1094.5</p> <p>21 and 1094.6."</p> <p>22 MR. SMITH: Are you referring to the sentence,</p> <p>23 "CCP Section 1094.6(b) requires a petition be filed no</p> <p>24 later than the 90th day following the date on which the</p> <p>25 decision becomes final with respect to any commission</p>

11 (Pages 38 to 41)

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1 decision?"

2 MS. LARKINS: Yes.

3 Q. Okay. Does that sentence, the one which

4 Mr. Smith just read, tell me to study?

5 MR. SMITH: Argumentative. The document speaks

6 for itself.

7 THE WITNESS: I had previously said in the

8 previous sentence, "You may wish to study."

9 BY MS. LARKINS:

10 Q. Okay. Why did you write this sentence?

11 MR. SMITH: This sentence in isolation from any

12 other sentence in the letter or the letter itself?

13 BY MS. LARKINS:

14 Q. This sentence, this fourth sentence in the

15 second paragraph, why did you write that sentence?

16 MR. SMITH: Vague, ambiguous. You're taking one

17 sentence out of context.

18 THE WITNESS: I simply wrote the whole letter to

19 say, you know, "You're going to do this on your own. Go

20 take a look at these resources." That was it.

21 BY MS. LARKINS:

22 Q. Let's look at the next sentence, Sentence 5 in

23 that Paragraph 2 of Exhibit 4. It says, "In an abundance

24 of caution, I may have previously told you 60 days." By

25 writing that were you intending for me to understand that

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1 that 60-day period was not correct?

2 MR. SMITH: Vague, ambiguous, argumentative,

3 calls for speculation.

4 THE WITNESS: No.

5 BY MS. LARKINS:

6 Q. If 60 days were the actual final time limit, why

7 would you refer to it as "an abundance of caution"?

8 A. Because, if you take a look at the CEB books and

9 go to the proper section, you would have found that under

10 certain circumstances that the type of petition that you

11 were filing could have been filed at 90 or even 120 days

12 out. And I had absolutely no idea what you were doing at

13 this point in time. You were on your own. And I was

14 directing you to take a look at some of this other stuff,

15 if that, in fact, is what you wanted to do. But, in my

16 mind, I had clearly already told you 60 days. And it

17 turns out that, apparently, that's what you needed to

18 have done.

19 Q. Were you representing me on March 27th, 2003?

20 A. No.

21 Q. Did we -- did Elizabeth Schulman and Maura

22 Larkins have an attorney-client relationship on March

23 27th, 2003?

24 A. No.

25 MR. SMITH: Vague and ambiguous.

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1 BY MS. LARKINS:

2 Q. Why did you write this letter?

3 A. I wrote the letter --

4 MR. SMITH: Asked and answered.

5 THE WITNESS: -- in response to your fax of

6 3/26/03. In fact, I think there were two faxes that you

7 sent on that day and another fax on March 27th wherein

8 you wanted to meet with me. You wanted my help in

9 helping you do your writ, even though you understood that

10 I was not representing you. You just wanted some period

11 of my time. And I was simply trying to be helpful here.

12 BY MS. LARKINS:

13 Q. Were you trying to delay my filing of my

14 petition?

15 A. No.

16 Q. Okay. I would like to put into evidence Exhibit

17 5. I mean I'd like this marked. I do want it to be put

18 into evidence, but for now please just mark it as Exhibit

19 5.

20 (Exhibit 5 was marked for identification.)

21 MS. LARKINS: You know, I am not going to talk

22 about this, but we will just leave it here for now.

23 Okay? That's Exhibit 5. There was a different letter I

24 wanted, actually. This is the one I meant to offer.

25 Okay. I'd like to have this marked as Exhibit

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1 6.

2 (Exhibit 6 was marked for identification.)

3 BY MS. LARKINS:

4 Q. Is this one of the faxes that you were referring

5 to that I --

6 MR. SMITH: For the record, what Ms. Larkins has

7 marked as Exhibit 6 is a one-page facsimile which bears

8 the date March 27, 2003, but which also looks like it has

9 a fax date stamp of March 28th, 2003 up at the very top.

10 The fax is to Elizabeth Schulman from Maura Larkins.

11 BY MS. LARKINS:

12 Q. Okay. So it appears that I faxed you this fax

13 after you wrote the letter that is Exhibit 4 but

14 apparently, since it was very early in the morning on the

15 28th, the day after you wrote this letter, I hadn't

16 received the letter yet.

17 Okay. Now, when you received this fax, Exhibit

18 6, you had written me a letter saying that a petition was

19 required to be filed no later than the 90th day. And you

20 had referred to your previous advice of a 60-day period

21 as having been given in an abundance of caution. And now

22 you receive a letter from me that says, "I believe I have

23 until April 11th to petition Superior Court."

24 Did you think about the effect that your letter

25 would have on my plans?

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<p style="text-align: right;">Page 46</p> <p>1 MR. SMITH: I am sorry. There was a long speech 2 there followed by what appeared to be a question. Could 3 you try and isolate your question? 4 MS. LARKINS: Sure. 5 Q. When you received Exhibit 6, did you think about 6 the effect that your letter in Exhibit 4 would have on 7 the date on which I filed my petition? 8 MR. SMITH: Objection, vague, ambiguous, calls 9 for speculation. 10 THE WITNESS: No. 11 BY MS. LARKINS: 12 Q. Okay. This is four. This is six. This is 13 five. Mrs. Schulman, do you consider yourself to be 14 familiar with the ethical standards required of lawyers 15 in California? 16 MR. SMITH: Objection. Vague, ambiguous 17 argumentative. 18 THE WITNESS: I was required to pass an exam, 19 which I passed, on the subject matter. 20 BY MS. LARKINS: 21 Q. I am not referring to academic standards. I am 22 talking about ethical standards. Are you familiar with 23 the ethical standards required of lawyers in California? 24 MR. SMITH: Vague, ambiguous, argumentative, not 25 reasonably calculated to lead to the discovery of</p>	<p style="text-align: right;">Page 48</p> <p>1 them writings prepared by a lawyer for a hearing which 2 work has been paid for by the client. 3 MR. SMITH: What is your question? 4 BY MS. LARKINS: 5 Q. Are you not obliged to turn those over to the 6 client? 7 A. Do you have some specific example that could be 8 helpful? 9 Q. For example, let's say that you had your 10 secretary type up in large print some notes that you had 11 taken talking to various witnesses and you note these 12 notes that you had included in a binder that you brought 13 to the hearing. 14 MR. SMITH: What's the question? 15 BY MS. LARKINS: 16 Q. Are you obliged to turn those over to the 17 client? 18 MR. SMITH: Okay. Is this a hypothetical 19 question? 20 MS. LARKINS: Well, actually, this did happen, 21 but I am -- 22 MR. SMITH: Well, if it did happen, why don't 23 you just ask a specific question, rather than dancing 24 around with a hypothetical. The way this question is 25 phrased is making it very difficult for me to understand</p>
<p style="text-align: right;">Page 47</p> <p>1 admissible evidence. 2 THE WITNESS: I was required to pass an exam on 3 that subject matter, which I passed. 4 BY MS. LARKINS: 5 Q. Okay. Is it your understanding that a lawyer, 6 after he or she finishes representing a client, is 7 ethically obliged to provide documents which will help 8 that client in a different case or in the same case with 9 a different lawyer? 10 MR. SMITH: Objection. Vague, ambiguous, 11 argumentative, calls for a legal conclusion, calls for an 12 expert opinion. 13 THE WITNESS: That depends on what the documents 14 might be. 15 BY MS. LARKINS: 16 Q. If the documents are needed. Okay. Let's say 17 documents -- okay. So there are some documents that you 18 might not be ethically obliged to provide to a client, 19 even though they are needed by that client? 20 MR. SMITH: Vague, ambiguous, argumentative. 21 THE WITNESS: Well, I'm not sure what you mean 22 by "documents." 23 BY MS. LARKINS: 24 Q. By documents -- I will be specific. Let's not 25 call them documents. Let's call them -- well, let's call</p>	<p style="text-align: right;">Page 49</p> <p>1 what the question is and, you know, I can't imagine 2 Ms. Schulman can answer it any better than I could. 3 So, if your question is is there an ethical 4 obligation for attorneys to turn over client files in 5 response to a client request -- 6 MS. LARKINS: I like the way you worded that. 7 Q. Is there an ethical obligation for attorneys to 8 turn over client files in response to a client request? 9 A. Yes. 10 Q. Is it your habit and custom of turning over 11 files, client files, to clients in response to the 12 client's request? 13 A. Yes. 14 MS. LARKINS: Okay. 15 MR. SMITH: How long do you have meter-wise and 16 everything? 17 THE WITNESS: A few more minutes. 18 MS. LARKINS: Okay. I'd like to place this 19 exhibit -- I'd like to ask you to number this exhibit as 20 No. 7. 21 (Exhibit 7 was marked for identification.) 22 MR. SMITH: For the record, what plaintiff has 23 marked as Exhibit 7 is a one-page document which appears 24 to be half of a complete document. At the top it's 25 handwritten notation says Page 2 of 2 and the fax date</p>

13 (Pages 46 to 49)

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<p style="text-align: right;">Page 50</p> <p>1 stamp appears to read -- although it's cut off -- looks 2 like May 1, 2003 and it bears Page 2. Exhibit 7 does not 3 have Page 1 of this document attached. 4 BY MS. LARKINS: 5 Q. Do you recognize this fax? 6 A. I can't say one way or the other. There were a 7 number of faxes. 8 MS. LARKINS: Okay. I'd like to put this next 9 letter into evidence. I'd like to have this next letter 10 marked as Exhibit 8. 11 (Exhibit 8 was marked for identification.) 12 MR. SMITH: For the record, what Plaintiff has 13 marked as Exhibit 8 is a one-page facsimile bearing the 14 date March 4th, 2003 from Maura Larkins to Elizabeth 15 Schulman. 16 BY MS. LARKINS: 17 Q. Okay. Would you agree that Exhibit 8 is a 18 client request for client files? 19 MR. SMITH: Objection. Vague, ambiguous, the 20 document speaks for itself. Are you asking if this is a 21 request for a complete client file? 22 MS. LARKINS: No. I am asking if this is a 23 request for a partial client file. 24 THE WITNESS: I think it was a request probably 25 for something that was work product of mine.</p>	<p style="text-align: right;">Page 52</p> <p>1 MS. LARKINS: Yes. 2 MR. SMITH: Vague, ambiguous, calls for a legal 3 opinion, calls for expert opinion. 4 THE WITNESS: Depends on what the documents may 5 have been. 6 MS. LARKINS: Okay. Fine. All right. Just 7 going back for a few seconds to Exhibit No. 7 -- 8 MR. SMITH: Not to interrupt, but we are coming 9 up on five minutes till 12:00. At some point we are 10 going to want to take a lunch break. 11 MS. LARKINS: Okay. 12 MR. SMITH: When is a good time for you? 13 MS. LARKINS: How about I just ask one more 14 question? 15 MR. SMITH: Okay. 16 BY MS. LARKINS: 17 Q. Okay. My question is, Exhibit 7, is this a 18 client request for client files? 19 MR. SMITH: Objection. Vague, ambiguous. The 20 witness already testified that she is not sure she 21 recognized this document. This document is clearly a 22 partial document. There is at least a page missing. So, 23 I am not sure that anybody can answer that question. 24 But, to the extent you think you can answer it, go ahead. 25 MS. LARKINS: Oh, yeah.</p>
<p style="text-align: right;">Page 51</p> <p>1 BY MS. LARKINS: 2 Q. Okay. Do you consider notes that have been 3 typed up and brought to a hearing to be work product? 4 MR. SMITH: Objection. Vague, ambiguous, calls 5 for a legal conclusion, calls for an expert opinion. Are 6 you referring to a specific request in this letter, 7 because it looks to me like there are a few things that 8 are being discussed in this letter. So, do you have a -- 9 are you referring to a specific item that's been 10 requested in here? 11 MS. LARKINS: Yes. I am referring to, and I 12 quote, notes which you took and which Bruce typed up for 13 the hearing of the phone conversations you had with 14 Lorena Vieyra and Maria Beers. 15 MR. SMITH: Okay. And so your question is? 16 BY MS. LARKINS: 17 Q. Do you consider that to be attorney work 18 product? 19 A. I do believe it was attorney work product in the 20 format that I used it, yes. 21 Q. If you have shown documents to a client, do you 22 not then have an ethical obligation to give the client 23 copies? 24 MR. SMITH: Based on the fact that the documents 25 were shown to a client, is that your question?</p>	<p style="text-align: right;">Page 53</p> <p>1 MR. SMITH: Are you looking for the other page 2 of this document? 3 MS. LARKINS: Yes, I am. 4 MR. SMITH: Just for the record, Ms. Larkins 5 appears to be looking for the other page of Exhibit 7. 6 MS. LARKINS: I believe I have found it. Okay. 7 I don't know if I have multiples. Okay. Let me just 8 give you this copy. I think maybe the copy machine lost 9 this page, but -- 10 MR. SMITH: The court reporter may have a copy 11 machine that we could borrow. 12 MS. LARKINS: Okay. So, I don't know the 13 procedure. Can we add this to the exhibit or do we have 14 to make a new exhibit? 15 THE REPORTER: You can add it. 16 MS. LARKINS: Okay. We want to add this to 17 Exhibit 7. 18 MR. SMITH: I am just going to write a little 19 "7" on the corner of it. Just a second here, Betty. I 20 will grab this. 21 MS. LARKINS: Okay. Well, since this document 22 has become more complicated, I think I can hold my 23 questions until after lunch. 24 MR. SMITH: Okay. So we are going to break for 25 lunch and during the break we are going to get some more</p>

14 (Pages 50 to 53)

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<p>1 copies made of what's going to now be the first page of 2 Exhibit 7 is my understanding. 3 MS. LARKINS: Yes. 4 MR. SMITH: Okay. 5 VIDEOGRAPHER: We are going off the record. The 6 time is 11:59 a.m. 7 (The noon recess was taken.) 8 VIDEOGRAPHER: We are going on the record. The 9 time is 01:13 p.m. 10 BY MS. LARKINS: 11 Q. Good afternoon. 12 A. Hello. 13 Q. As I was looking over this exhibit we were 14 talking about just before we went to lunch -- 15 MR. SMITH: Which exhibit are you referring to? 16 MS. LARKINS: This is Exhibit 7. 17 MR. SMITH: Thank you. 18 BY MS. LARKINS: 19 Q. I don't really have much to ask about this, 20 except that if you look at Page 2 of Exhibit 7 do you 21 interpret this final paragraph on this page -- thank 22 you -- as a request for documents in a client file? 23 MR. SMITH: Objection. Vague, ambiguous, the 24 document speaks for itself, not reasonably calculated to 25 lead to the discovery of admissible evidence.</p>	<p>1 THE WITNESS: It says what it says. 2 MS. LARKINS: Okay. Fine. What I'd like to 3 do -- well, I just got these copies, so let's use these 4 copies here. I would like -- I think I will do these. I 5 would like to enter -- I would like to ask that these 6 documents be marked as exhibit -- are we on 8? 7 THE REPORTER: 9. 8 MR. SMITH: 9. 9 MS. LARKINS: 9. Okay. Exhibit 9. 10 (Exhibit 9 was marked for identification.) 11 MR. SMITH: Do you have an extra copy of these? 12 MS. LARKINS: Yes, I believe I do. Let's see. 13 Here is my original and here is a copy I can use. And 14 then here is an extra copy. 15 MR. SMITH: For the record, what plaintiff has 16 marked as Exhibit 9 looks like several letters. In 17 total, it's 11 pages altogether. There's a letter dated 18 June 1, 2001, a letter dated July 6th, 2001, a letter 19 dated July 17th, 2001, a letter dated August 15, 2001, a 20 letter dated September 19, 2001, a letter dated August 21 23, 2001, a letter dated September 10th, 2001. 22 Do you have a paper clip? 23 MS. LARKINS: I have these things. Okay. Thank 24 you for specifying what those documents are. Okay. 25 These are exhibits from my administrative hearing.</p>
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<p>1 THE WITNESS: I haven't interpreted it in any 2 fashion. It just says what it says. 3 BY MS. LARKINS: 4 Q. What does it say? 5 MR. SMITH: You're asking her to read into the 6 record what the document says? 7 MS. LARKINS: She could either read it in or she 8 could say it in her own words. 9 MR. SMITH: And you're referring simply to Page 10 2 to Exhibit 7, not the rest of Exhibit 7? 11 MS. LARKINS: Actually, I am just referring to 12 the middle sentence there on Page 7. 13 MR. SMITH: The one that says, "But please send 14 me a copy" -- 15 MS. LARKINS: Yes. 16 MR. SMITH: -- "of that motion in limini" -- 17 spelled l-i-m-i-n-i -- "and the other things I asked 18 for." Period. 19 MS. LARKINS: Yes. 20 MR. SMITH: You want her to read what that 21 sentence says? 22 MS. LARKINS: She could either read it or tell 23 me if she believes that that is a request for documents 24 in a client file. 25 MR. SMITH: Vague, ambiguous.</p>	<p>1 This first letter, June 7th, 2001, is Exhibit 2 R29. The second letter, July 6th, 2001, is Exhibit R30. 3 The third letter -- 4 MR. SMITH: Just, you know, it might -- two 5 issues. First of all, I am looking at the copy that you 6 gave me and I think there are some extra pages in the 7 copy that you provided for me that are different from the 8 copy that we have marked. 9 MS. LARKINS: Oh, yeah. I can fix it. 10 MR. SMITH: In addition, this entire package has 11 been marked as Exhibit 9. If that's the way you want to 12 do it, that's fine. I am just asking. You're referring 13 to them also by Exhibit Nos. R29, et cetera. It may be 14 confusing when we are talking about renaming documents 15 two separate exhibit numbers. So I am going to ask if 16 we can clarify that, perhaps. 17 MS. LARKINS: Okay. Shall we go ahead and give 18 them their original -- mark them with the original 19 numbers and can I withdraw Exhibit 9? 20 MR. SMITH: If I can offer a suggestion, this is 21 your deposition. 22 MS. LARKINS: Yes. Yes. 23 MR. SMITH: You can mark them any way you want. 24 If you want to talk about these documents separately, 25 let's just mark them as separate exhibits in order 9, 10,</p>

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1 11 and so on and so forth.
2 MS. LARKINS: Okay. Fine.
3 MR. SMITH: But let's just not refer to them by
4 different names.
5 MS. LARKINS: Okay. Let's -- okay. Then how
6 about we just refer to the June 7th letter as Exhibit 9.
7 MR. SMITH: So, for the record, you're referring
8 to the June 7th, 2001 letter to Mr. Richard T. Werlin
9 from Pamela Havird?
10 MS. LARKINS: Yes.
11 MR. SMITH: All right. That's Exhibit 9?
12 MS. LARKINS: Uh-huh.
13 MR. SMITH: Okay.
14 MS. LARKINS: Okay. Exhibit 10 will be the July
15 6th, 2001 letter from Pamela Havird to Richard Werlin.
16 THE WITNESS: You need to let the court reporter
17 have time to mark these.
18 THE REPORTER: Counsel, if you just want to put
19 them on there, I don't know how many more we need.
20 THE WITNESS: That's the problem. They are not
21 quite in chronological order.
22 MR. SMITH: Okay. Well, let's go through this
23 carefully and make sure we have got it right. Okay. So
24 the July 6th, 2001 letter from Pamela Havird --
25 MS. LARKINS: Havird.

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1 MR. SMITH: -- to Richard Werlin is -- we are
2 going to mark as Exhibit 10?
3 MS. LARKINS: Yes.
4 MR. SMITH: That's one page?
5 MS. LARKINS: Yes.
6 MR. SMITH: Okay.
7 MS. LARKINS: Then July 17th, 2001 from Pamela
8 Havird to Richard Werlin.
9 MR. SMITH: Just a second. This is -- I think
10 I've got your copies here. This one is --
11 THE WITNESS: Well, wait a moment. This is July
12 6th, 2001.
13 MR. SMITH: Yeah. That's the one we just marked
14 as Exhibit 10.
15 THE WITNESS: Okay.
16 MR. SMITH: So this is my copy of 10. This
17 is -- okay. So July 17th we are going to mark as 11.
18 And that's one page?
19 MS. LARKINS: Yes.
20 MR. SMITH: One-page letter dated July 17th,
21 2001 from Pamela Havird to Richard Werlin.
22 Did we mark that as 11?
23 MS. LARKINS: Yes. Okay. Then Exhibit No. 12
24 will be the August 15th, 2001 letter from Pamela Havird
25 to Richard Werlin.

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1 (Exhibits 10 through 12 were marked.)
2 MR. SMITH: That's a two-page letter?
3 MS. LARKINS: Yes.
4 THE WITNESS: This is out of order. It should
5 be 33, then 34.
6 MS. LARKINS: Are we ready for 13?
7 MR. SMITH: Yeah.
8 MS. LARKINS: Okay. 13 is the September 19th,
9 2001 --
10 MR. SMITH: Do you want to do that or the August
11 letter?
12 MS. LARKINS: Good idea. Let's do. Let's
13 change that. Let's make No. 13 be the August 23rd, 2001
14 letter.
15 MR. SMITH: Okay.
16 MR. SMITH: That's a one-page letter from Pamela
17 Havird to Richard Werlin.
18 MS. LARKINS: Okay. Let's go ahead and make
19 this September 10th, 2001 letter from Pamela Havird to
20 Richard Werlin Exhibit 14 and that is two pages. And
21 then this September 19th, 2001 letter from Pamela Havird
22 to Richard Werlin will be Exhibit 15.
23 MR. SMITH: That also is two pages?
24 MS. LARKINS: Yes.
25 (Exhibits 13 through 15 were marked.)

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1 MR. SMITH: Ms. Larkins, I am going to hand back
2 to you three pages that were in the copy that you gave me
3 that we haven't marked. So --
4 MS. LARKINS: Thank you. Okay. What I would
5 like to do is point out that these letters, which were
6 exhibits in the administrative hearing, completely
7 contradict several findings of the Commission on
8 Professional Competence. And the first of those findings
9 I'd like to point out is finding -- Factual Finding 50 in
10 the decision, which is Exhibit 1.
11 Q. Mrs. Schulman, do you find this factual finding
12 to contradict, to be contradicted by exhibit -- our
13 Exhibit 14? Do you have your Exhibit 1?
14 MR. SMITH: Just a second. Are you planning to
15 ask Ms. Schulman to compare statements that are made in
16 these various letters and argue with her whether they
17 contradict or don't contradict specific factual findings
18 contained within the decision set forth by the Commission
19 on Professional Competence.
20 MS. LARKINS: No. As a matter of fact, what I
21 am asking her to do is to notice that the findings say
22 that the letters do not exist, were not sent, that there
23 were no responses made by Mrs. Larkins or her attorney,
24 and just the existence of the letters in themselves shows
25 that these are obviously false findings.

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<p style="text-align: right;">Page 62</p> <p>1 MR. SMITH: Okay. Well, you know, I think 2 that's an argument that you can definitely make at trial. 3 I am not sure what the question is for Ms. Schulman. 4 MS. LARKINS: Okay. 5 Q. When you read this decision, Mrs. Schulman, were 6 you shocked and appalled by Factual Finding No. 50? 7 MR. SMITH: Wait just a second. You're 8 referring to Exhibit 1? 9 MS. LARKINS: Yes. 10 MR. SMITH: And your question is was she shocked 11 and appalled when she read Paragraph 50 of Exhibit 1? 12 MS. LARKINS: Yes. 13 MR. SMITH: Let me for the record voice my 14 objection. Vague, ambiguous, not reasonably calculated 15 to lead to the discovery of admissible evidence and 16 argumentative. That being said, we can turn to Paragraph 17 50 of Exhibit 1 and you can tell Ms. Larkins whether you 18 were shocked and appalled. 19 Paragraph 50 is on Page 10 of the decision; is 20 that correct? 21 MS. LARKINS: Yes. 22 THE WITNESS: That's what you want me to read, 23 Paragraph 50? 24 MR. SMITH: And the question is were you shocked 25 and appalled when you read that.</p>	<p style="text-align: right;">Page 64</p> <p>1 preceding the question that went a lot of different 2 directions. It's compound, vague and ambiguous, 3 contained a characterization of a document that I am not 4 sure is entirely accurate and hearsay. So I am just 5 going to ask you to see if you can reframe your question 6 so it's a little bit more clear. 7 MS. LARKINS: Okay. You know what I am going 8 to do? I am just going to read this into the record. 9 Okay. Exhibit 14 is a letter from Pamela Havird to 10 Richard Werlin dated September 10th, 2001. And it 11 states: "I am writing as a follow-up to you to your 12 letter of September 3rd, 2001 and our telephone 13 conversation last week regarding your directive for 14 Mrs. Larkins to report to your office for her assignment 15 on September 5th, 2001." 16 "As we discussed on the telephone, the District 17 has created a hostile work environment for Mrs. Larkins 18 by wrongfully placing her on administrative leave as set 19 forth in the April 4th, 2001 letter and by failing to 20 complete the investigation of the underlying allegations 21 leading up to the administrative leave for more than five 22 months." 23 "While this office agreed to stay the grievance 24 process to give you the opportunity to organize the 25 necessary hearing or hearings for the teachers making</p>
<p style="text-align: right;">Page 63</p> <p>1 THE WITNESS: No. 2 MS. LARKINS: Okay. Since you don't like to 3 read, I guess I will read it myself. Okay. Factual 4 Finding 50 of the decision states: "Mrs. Larkins 5 received this letter through her home fax machine. 6 Neither Mrs. Larkins nor her attorney responded to it." 7 And when the decision says "this letter," it is referring 8 to the preceding factual finding, No. 49, which says, "A 9 letter dated September 7th, 2001 was faxed to 10 Mrs. Larkins' home." 11 And the second paragraph states: "You are once 12 again directed to report to my office on Wednesday, 13 September 12th, 2001 at 8:00 a.m. to receive your 14 teaching assignment for the 2001/2002 school year." I 15 think that's enough to get the idea that the letter is 16 directing me to report to work at this date. 17 Now, three days later, Pamela Havird wrote a 18 letter back to Mr. Werlin, this Exhibit 14. Do you -- 19 okay. You weren't appalled by this. 20 Do you find factual finding to be inaccurate in 21 light of the fact that this Exhibit 14 proves that 22 Mrs. Larkins' attorney did respond to that fax? 23 Go ahead. 24 MR. SMITH: Oh, okay. I am going to ask you to 25 rephrase the question, because there was a long speech</p>	<p style="text-align: right;">Page 65</p> <p>1 charges against Mrs. Larkins, to inform her of those 2 charges, Mrs. Larkins has not been given the opportunity 3 to respond to the alleged charges against her. To date, 4 Mrs. Larkins still has not been informed of any of the 5 specific instances of alleged misconduct other than those 6 stated by Allen Smith at the meeting on August 13th, 7 2001." 8 "Since the initial allegations of irrational and 9 inappropriate conduct have created a series of horrible 10 rumors in the School District indicating that 11 Mrs. Larkins is not safe to teach at the Castle Park 12 School or that she has allegedly threatened the safety of 13 one or more of the teachers, until these mistaken rumors 14 are cleared up with a formal apology by the District, 15 Mrs. Larkins' reputation and credibility have been 16 damaged throughout the entire District, making it 17 impossible for her to effectively teach at any location 18 in the District." 19 "Even though Mrs. Larkins is fit to teach, as 20 set forth in the letter from Dr. Otis, it would not be 21 reasonable for any person in Mrs. Larkins' shoes to 22 return to teaching at any location in the District until 23 this entire situation can be cleared up." 24 "To date, the charges by Mr. Smith wherein 25 Mrs. Larkins said that he was a rubber stamp and that</p>

17 (Pages 62 to 65)

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<p style="text-align: right;">Page 66</p> <p>1 Mrs. Larkins should have allowed her students to walk on 2 the road to swim, in spite of Mrs. Larkins' safety 3 concerns for the children, are ridiculous grounds for 4 being placed on the administrative leave." 5 "Furthermore, your personal allegations of 6 Mrs. Larkins' inappropriate conduct because of the way 7 she has looked at you or her abrupt behavior around you 8 following the April 4th, 2001 letter" -- 9 MR. SMITH: You missed a word in there. 10 MS. LARKINS: Can you tell me what the word was? 11 MR. SMITH: "Alleged." 12 MS. LARKINS: Oh, "... or her alleged abrupt 13 behavior around you following the April 4th, 2001 letter 14 is suspect, since you have personally been responsible 15 for taking Mrs. Larkins out of the classroom and have not 16 informed her of the alleged instances of misconduct 17 leading up to her administrative leave." 18 "While you have admitted that Mrs. Larkins has 19 good teaching skills, your personal handling of the 20 investigation surrounding Mrs. Larkins' situation has 21 delayed any resolution to the allegations against 22 Mrs. Larkins." 23 "I am sympathetic with the enormous 24 responsibilities you have in the District and the other 25 lawsuits the District is fighting at this time. However,</p>	<p style="text-align: right;">Page 68</p> <p>1 MR. SMITH: -- on Page 10 of Exhibit 1? 2 MS. LARKINS: Uh-huh. 3 MR. SMITH: And your question is does 4 Mrs. Schulman believe that the factual finding contained 5 in Paragraph 50 on Page 10 of the Exhibit 1 is correct? 6 MS. LARKINS: Uh-huh. 7 MR. SMITH: Vague, ambiguous, calls for improper 8 opinion, irrelevant, speculation. 9 THE WITNESS: You have lost me. 10 BY MS. LARKINS: 11 Q. Did Pamela Havird respond to Rick Werlin's 12 September 7th fax? 13 MR. SMITH: Vague, ambiguous, calls for 14 speculation. 15 THE WITNESS: I wasn't there at the time. I 16 don't know. 17 BY MS. LARKINS: 18 Q. If three days after a person receives a letter 19 they send a response to the sender discussing the issues 20 in the original letter, do you consider that a response? 21 MR. SMITH: You're asking a hypothetical 22 question? 23 MS. LARKINS: Uh-huh. 24 MR. SMITH: Incomplete hypothetical, vague, 25 ambiguous, not reasonably calculated to lead to the</p>
<p style="text-align: right;">Page 67</p> <p>1 Mrs. Larkins' case has been placed on the back burner for 2 the last few months." 3 "In the event that the charges against 4 Mrs. Larkins can be disclosed to her, this office is 5 prepared to make a response to you within 10 days so that 6 we can either resolve the matter or go to the next level 7 for Mrs. Larkins' grievance process. Until the grievance 8 process is completed or the District agrees to withdraw 9 the original claims against her and give her back pay 10 since being placed on administrative leave, it is my 11 position that Mrs. Larkins should remain on 12 administrative leave with the District until a final 13 resolution of this matter." 14 "Please contact me to discuss completing the 15 grievance process. Thank you for your prompt attention 16 to this matter." 17 Q. Do you believe that the Factual Finding 50 is 18 correct in saying that neither Mrs. Larkins nor her 19 attorney responded to this letter, presumably meaning 49? 20 MR. SMITH: I am sorry. Could you repeat that 21 question, please? You're referring to Factual Finding 22 50 -- 23 MS. LARKINS: Uh-huh. 24 MR. SMITH: -- of Exhibit 1 -- 25 MS. LARKINS: Uh-huh.</p>	<p style="text-align: right;">Page 69</p> <p>1 discovery of admissible evidence, improper opinion. 2 BY MS. LARKINS: 3 Q. How -- in your understanding, how does one 4 respond to a letter? 5 MR. SMITH: Vague, ambiguous, calls for 6 speculation, improper opinion, not reasonably calculated 7 to lead to the discovery of admissible evidence. 8 BY MS. LARKINS: 9 Q. Do you understand Factual Finding 50? 10 MR. SMITH: Vague, ambiguous, not reasonably 11 calculated to lead to the discovery of admissible 12 evidence. 13 THE WITNESS: It says what it says. 14 MS. LARKINS: But I am asking if you understand 15 it. 16 MR. SMITH: How is somebody supposed to answer 17 that? 18 THE WITNESS: It says what it says. 19 BY MS. LARKINS: 20 Q. Do you know what it says? 21 MR. SMITH: You're asking if she is able to read 22 the words that are printed on that paragraph? 23 MS. LARKINS: No. 24 Q. I asked: Do you know what it says? 25 A. I can see and read what it says.</p>

18 (Pages 66 to 69)

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<p style="text-align: right;">Page 70</p> <p>1 Q. Okay. So you know what it says?</p> <p>2 MR. SMITH: Well, "know what it says," it says</p> <p>3 what it says. If you're asking does she know what the</p> <p>4 Commission meant when they wrote that, it's a written</p> <p>5 document. It's subject to interpretation. It's written</p> <p>6 in English. We can read it. What it says is, I am sure,</p> <p>7 subject to debate.</p> <p>8 BY MS. LARKINS:</p> <p>9 Q. Do you believe that administrative decisions are</p> <p>10 sometimes wrong?</p> <p>11 MR. SMITH: Vague, ambiguous, calls for</p> <p>12 speculation, calls for an improper opinion, not</p> <p>13 reasonably calculated to lead to the discovery of</p> <p>14 admissible evidence.</p> <p>15 THE WITNESS: I don't have any belief about</p> <p>16 administrative decisions.</p> <p>17 BY MS. LARKINS:</p> <p>18 Q. Have you ever appealed an administrative</p> <p>19 decision?</p> <p>20 A. Yes.</p> <p>21 Q. Why did you appeal it?</p> <p>22 MR. SMITH: Calls for attorney-client privilege,</p> <p>23 attorney work product. I am going to instruct you not to</p> <p>24 answer.</p> <p>25 MS. LARKINS: Okay. Let me just get through</p>	<p style="text-align: right;">Page 72</p> <p>1 BY MS. LARKINS:</p> <p>2 Q. Okay. Would you say that appears to be a</p> <p>3 response to this letter that is described in Factual</p> <p>4 Finding 52 of Exhibit 1?</p> <p>5 MR. SMITH: Vague, ambiguous, calls for</p> <p>6 speculation, best evidence, hearsay.</p> <p>7 THE WITNESS: I have no idea.</p> <p>8 BY MS. LARKINS:</p> <p>9 Q. If Mr. Werlin wrote a letter to Mrs. Larkins'</p> <p>10 home and to Pamela Havird on September 17th, 2001, and</p> <p>11 Pamela Havird wrote a letter to Werlin on September 19th,</p> <p>12 2001, would you be willing to admit that Pamela Havird</p> <p>13 responded to Mr. Werlin's September 17th letter?</p> <p>14 A. I have no idea.</p> <p>15 MR. SMITH: Vague, ambiguous, calls for</p> <p>16 speculation, assumes facts not in evidence, improper</p> <p>17 hypothetical.</p> <p>18 THE WITNESS: I have no idea.</p> <p>19 BY MS. LARKINS:</p> <p>20 Q. Okay. If these two letters are discussing the</p> <p>21 same subjects, would you admit that the one is the</p> <p>22 response to the other?</p> <p>23 MR. SMITH: You know, you keep asking her to</p> <p>24 admit one is a response to the other to documents that</p> <p>25 Ms. Schulman neither wrote nor received. If you want</p>
<p style="text-align: right;">Page 71</p> <p>1 this quickly. Number -- Factual Finding No. 53 says:</p> <p>2 "Mrs. Larkins received this letter through her home fax</p> <p>3 machine and by certified mail. Neither Mrs. Larkins nor</p> <p>4 her attorney responded to it." And that presumably</p> <p>5 refers to the letter and the preceding factual finding</p> <p>6 which was mailed on September 17th.</p> <p>7 Q. Do you believe that this factual finding is a</p> <p>8 dreadful mistake?</p> <p>9 MR. SMITH: Wait a second. Which factual</p> <p>10 finding are you referring to?</p> <p>11 MS. LARKINS: 53. And I would ask you to look</p> <p>12 at Exhibit 15, which is a letter dated September 19th,</p> <p>13 2001 from Pamela Havird to Richard Werlin.</p> <p>14 MR. SMITH: Okay. So you're asking her to look</p> <p>15 at Exhibit 15.</p> <p>16 MS. LARKINS: Uh-huh.</p> <p>17 MR. SMITH: Go ahead and look at Exhibit 15.</p> <p>18 THE WITNESS: Did you want me to read Exhibit</p> <p>19 15?</p> <p>20 MS. LARKINS: No, just to note the date and that</p> <p>21 it is a letter from Pamela Havird to Richard Werlin.</p> <p>22 THE WITNESS: Well, it's dated 19 September,</p> <p>23 2001. It's addressed to Mr. Werlin and it appears to</p> <p>24 have been signed by Ms. Havird.</p> <p>25 ///</p>	<p style="text-align: right;">Page 73</p> <p>1 admission with respect to those documents, you're</p> <p>2 probably better off asking the people who wrote or</p> <p>3 received the documents.</p> <p>4 BY MS. LARKINS:</p> <p>5 Q. Okay. Well, let's go on. I said I would do</p> <p>6 this more quickly. Let's try to do it more quickly.</p> <p>7 Okay. I would like now to talk about -- let's see, we</p> <p>8 did 53 -- Factual Finding 56. It says neither -- okay.</p> <p>9 We are talking about a September 20th -- okay. Well,</p> <p>10 this is --</p> <p>11 MR. SMITH: Excuse me.</p> <p>12 BY MS. LARKINS:</p> <p>13 Q. Just tell me what to do. Do I need to do it</p> <p>14 now?</p> <p>15 VIDEOGRAPHER: We can do it now or you can ask a</p> <p>16 few more questions.</p> <p>17 MS. LARKINS: Okay. This is the end of Tape 1,</p> <p>18 Disk 1. We are going off the record at 1:46 p.m.</p> <p>19 (A recess was taken.)</p> <p>20 VIDEOGRAPHER: Today is Friday, July 16th, 2004.</p> <p>21 The time is now 1:55 p.m. We are beginning Tape 2, Disk</p> <p>22 2 of the deposition of Elizabeth Schulman. We are going</p> <p>23 on the record.</p> <p>24 BY MS. LARKINS:</p> <p>25 Q. Yes. Regarding Factual Findings 56 and 59 in</p>

19 (Pages 70 to 73)

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<p style="text-align: right;">Page 74</p> <p>1 Exhibit 1, these state that neither Mrs. Larkins nor her 2 attorney responded to letters dated September 20th, 2001 3 and September 26th, 2001. Do you see among these 4 Exhibits 9 through 15 that we recently labeled any 5 letters dated after September 20th, 2001? 6 MR. SMITH: I am sorry. Could you repeat your 7 question, please? 8 MS. LARKINS: Are any of these exhibits dated 9 after -- are any of the letters from Pamela Havird to 10 Rick Werlin dated after September 20th, 2001? 11 MR. SMITH: Ms. Larkins, to move things along, 12 we will stipulate that the dates on the letters are 13 whatever the dates on the letters are. So you can tell 14 us whether they came before or after a certain date. 15 MS. LARKINS: Okay. Will you stipulate that 16 there are no letters among these letters that were placed 17 into -- will you stipulate there were no letters placed 18 into evidence in my administrative hearing from Pamela 19 Havird to Rick Werlin dated after September 20th, 2001? 20 MR. SMITH: I will stipulate that Exhibits 9, 21 10, 11, 12, 13, 14 and 15 all bear dates that are on or 22 before September 19th, 2001. 23 MS. LARKINS: Okay. 24 THE WITNESS: I would also note that I think I 25 heard Mrs. Larkins misread 56 and 59, because she quoted</p>	<p style="text-align: right;">Page 76</p> <p>1 MR. SMITH: Vague, ambiguous, calls for 2 speculation, not reasonably calculated to lead to the 3 discovery of admissible evidence. You can answer, if you 4 can. 5 THE WITNESS: I don't recall one way or the 6 other. 7 MS. LARKINS: I have only got one copy of this, 8 but I'd like to place it into evidence. I'd like this to 9 be labeled Exhibit 16. 10 THE REPORTER: Do you want Rosie to make a quick 11 copy of it so you have something to work with? 12 MS. LARKINS: That's all right. I figured we 13 can make the copies afterwards. I will make a note to 14 myself to make copies of Exhibit 16. 15 MR. SMITH: So, for the record, Exhibit 16 is a 16 two-page document entitled "Index to Respondent's Hearing 17 Exhibits." There are some handwritten notations on the 18 document. 19 (Exhibit 16 was marked for identification.) 20 BY MS. LARKINS: 21 Q. Does this appear to be the index that you 22 prepared for my administrative hearing? 23 MR. SMITH: Vague, ambiguous. 24 THE WITNESS: It looks like the index that my 25 office prepared, yes.</p>
<p style="text-align: right;">Page 75</p> <p>1 dates and I don't remember seeing any dates. 2 MR. SMITH: Don't worry about it. 3 THE WITNESS: Okay. 4 BY MS. LARKINS: 5 Q. Okay. Do you recall who prepared these letters 6 to be exhibits in the administrative hearing? 7 MR. SMITH: Which letters are you referring to? 8 MS. LARKINS: Exhibits 9 through 15. 9 MR. SMITH: And your question is who prepared 10 those letters? 11 BY MS. LARKINS: 12 Q. Who made the copies and brought them to the 13 administrative hearing? 14 A. No. 15 Q. Okay. Do you recall Maura Larkins asking you 16 during her administrative hearing to place Pamela 17 Havird's letters into evidence? 18 MR. SMITH: Are you referring to specific 19 letters or any letters at all from Pamela Havird? 20 MS. LARKINS: I am referring to these specific 21 letters. 22 MR. SMITH: So is your question does 23 Ms. Schulman recall you asking her to put Exhibits 9 24 through 15 into evidence at the administrative hearing? 25 MS. LARKINS: Yes.</p>	<p style="text-align: right;">Page 77</p> <p>1 BY MS. LARKINS: 2 Q. Okay. Are any of these letters that are 3 Exhibits 9 through 15 listed there? 4 A. Not that I see. 5 Q. So, apparently, these exhibits were added. One 6 of them, actually, is a Chula Vista School District 7 exhibit, that No. 62. But the others were exhibits -- 8 will you stipulate that the others are exhibits that you 9 added after the administrative hearing began? 10 MR. SMITH: Wait a second. Are you asking 11 Ms. Schulman for a stipulation? 12 MS. LARKINS: Yeah. 13 MR. SMITH: That's improper. If you want to 14 stipulate with something, you and I can discuss 15 stipulations. 16 MS. LARKINS: Oh, okay. Well -- 17 MR. SMITH: Ms. Schulman is here to answer your 18 questions about the facts. Ask her questions. She will 19 answer the questions. You and I can discuss 20 stipulations. 21 MS. LARKINS: Okay. Good. I am happy to hear 22 she is going to answer my questions. 23 MR. SMITH: Well, we have been here all day 24 ready and willing to answer questions. We haven't had 25 very many questions that are approaching the universe of</p>

20. (Pages 74 to 77)

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1 relevancy. Notwithstanding that, we are still here. So,
2 please, please ask a question.
3 BY MS. LARKINS:
4 Q. Were Exhibits 9 through 15 added after the
5 hearing began?
6 MR. SMITH: Vague, ambiguous. Added to what?
7 BY MS. LARKINS:
8 Q. Go ahead.
9 A. I don't understand the question by "added."
10 Q. Did you ask the judge in the -- in my
11 administrative hearing to place these letters into
12 evidence during my administrative hearing?
13 MR. SMITH: Vague, ambiguous, calls for hearsay.
14 THE WITNESS: Well, there's a record that's five
15 volumes long. And, if the record shows that I asked for
16 these letters to be admitted into evidence, then that's
17 what the record shows.
18 BY MS. LARKINS:
19 Q. Okay. Why do you think they weren't included on
20 the index prepared by your office before the
21 administrative hearing?
22 MR. SMITH: Vague, ambiguous, argumentative,
23 calls for speculation.
24 THE WITNESS: I would have to look at the
25 District's exhibit list to see if they were included on

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1 that list. I don't recall that they were or were not.
2 However, in the course of hearings, as the evidence
3 unfolds, it sometimes becomes necessary to make certain
4 strategy decisions and judgment calls as to what you
5 might want to put in that you didn't want to put in
6 before.
7 BY MS. LARKINS:
8 Q. Did Maura Larkins beg you to place into evidence
9 these letters?
10 MR. SMITH: Vague, ambiguous, argumentative,
11 calls for speculation. I am sorry.
12 THE WITNESS: Not -- not that I recall.
13 BY MS. LARKINS:
14 Q. Did Maura Larkins bring other letters written by
15 Pamela Havird that are not -- that were not -- that are
16 not here and ask you to please place those into evidence,
17 also?
18 MR. SMITH: Vague, ambiguous, calls for
19 speculation, argumentative.
20 THE WITNESS: I don't recall.
21 BY MS. LARKINS:
22 Q. Okay. Did Maura Larkins bring multiple copies
23 of Richard Werlin's responses to grievances and ask you
24 to place them in evidence?
25 MR. SMITH: Vague, ambiguous, calls for

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1 speculation.
2 THE WITNESS: I don't recall.
3 BY MS. LARKINS:
4 Q. Okay. I'd like to look at Exhibit 1, the
5 Factual Finding 6. We have already discussed the first
6 paragraph. I'd like to look at the second paragraph. It
7 says, "In the 2000-2001 school year, Mrs. Larkins had
8 several disagreements with fellow teachers that led
9 Mrs. Larkins to believe that her colleagues were
10 intentionally ignoring and slighting her. Mrs. Larkins
11 believed Principal Donndelinger practiced favoritism and
12 failed to use consensus in the decision-making process at
13 Castle Park Elementary School."
14 This isn't -- that's kind of a mild one. That
15 doesn't really express what was being said at the
16 administrative hearing. Let's -- let's look at something
17 that gives us more of an idea of the atmosphere at that
18 hearing.
19 MR. SMITH: So we are now turning away from Fact
20 No. 5, which you just -- half of which you just read into
21 the record?
22 MS. LARKINS: Fact --
23 MR. SMITH: Or Fact 6. I apologize.
24 MS. LARKINS: Yeah. What I am trying to do is
25 to establish the portrayal of Maura Larkins that was

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1 created by the two witnesses for the District, Richard
2 Werlin and Gretchen Donndelinger. And, as I recall, the
3 portrayal was of a person who was always causing trouble.
4 And I think -- well, maybe at trial we can find more of
5 that.
6 Q. Did Maura Larkins ask you to place into evidence
7 one or more documents that showed that the only issues,
8 the issues -- that the issues that caused this hostile
9 feeling towards Maura Larkins had to do with policies and
10 procedures at the school?
11 MR. SMITH: Okay.
12 MS. LARKINS: I can -- I will do it over.
13 Q. Let me ask to put this in evidence. I mean to
14 mark it. Would that be 17 now?
15 THE REPORTER: Yes.
16 (Exhibit 17 was marked for identification.)
17 MR. SMITH: For the record, Plaintiff has marked
18 as Exhibit 17 a one-page document entitled "Is Kingdoms a
19 Good Program?"
20 BY MS. LARKINS:
21 Q. Did Maura Larkins ask you to put this document
22 into evidence in her administrative hearing?
23 A. I don't recall.
24 MS. LARKINS: I would like to take a break.
25 MR. SMITH: Okay.

21 (Pages 78 to 81)

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<p style="text-align: right;">Page 82</p> <p>1 MS. LARKINS: Just a --</p> <p>2 VIDEOGRAPHER: We are going off the record. The</p> <p>3 time is 2:09 p.m.</p> <p>4 (A recess was taken.)</p> <p>5 VIDEOGRAPHER: We are going on the record. The</p> <p>6 time is 2:17 p.m.</p> <p>7 BY MS. LARKINS:</p> <p>8 Q. Okay. As I told you, I am trying to point out</p> <p>9 some indications of how I was being made out to be some</p> <p>10 kind of a trouble causer at the school. And I found</p> <p>11 something that might be helpful on Page 4 of Exhibit 1.</p> <p>12 It's Factual Finding 12. The February 12th --</p> <p>13 MR. SMITH: Just a second. Give us a chance to</p> <p>14 turn to it, please. Which factual finding are you</p> <p>15 referring to?</p> <p>16 MS. LARKINS: 12. Ready?</p> <p>17 MR. SMITH: Give us a moment to read it.</p> <p>18 MS. LARKINS: Oh, okay.</p> <p>19 Q. Okay. In Factual Finding 12 the second sentence</p> <p>20 says: "Mrs. Larkins was at the center of several</p> <p>21 interpersonal conflicts over the past few months."</p> <p>22 If Exhibit -- is it 17? Yeah. If Exhibit 17</p> <p>23 had been shown to the panel at the hearing, would it not</p> <p>24 have given an indication that the conflicts were not</p> <p>25 personal but had to do with procedures and policies in</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Sticking with Factual Finding 12 on Page 4, the</p> <p>2 second paragraph says, "Assistant Superintendent Werlin</p> <p>3 clearly told Mrs. Larkins he was not passing judgment and</p> <p>4 assured Mrs. Larkins that his primary interest was campus</p> <p>5 safety and to return Mrs. Larkins to work as quickly as</p> <p>6 possible."</p> <p>7 "It was reasonable" -- continuing on to</p> <p>8 Paragraph 3, "It was reasonable for Assistant</p> <p>9 Superintendent Werlin to ask Mrs. Larkins to take time</p> <p>10 off work and to obtain clearance from a physician or</p> <p>11 mental health care provider before she returned to</p> <p>12 campus."</p> <p>13 As an employment -- as an attorney with an</p> <p>14 emphasis on employment law, have you had occasion in the</p> <p>15 past to deal with situations where an employee was asked</p> <p>16 to take time off work to get a mental health clearance?</p> <p>17 MR. SMITH: Objection. Vague, ambiguous, over-</p> <p>18 broad.</p> <p>19 THE WITNESS: That would call for the disclosure</p> <p>20 of an attorney-client confidence. I can't answer that</p> <p>21 question.</p> <p>22 BY MS. LARKINS:</p> <p>23 Q. Okay. I believe court cases and administrative</p> <p>24 hearings are public records, as long as you don't -- as</p> <p>25 long as you don't reveal a name. I don't --</p>
<p style="text-align: right;">Page 83</p> <p>1 the school?</p> <p>2 MR. SMITH: Calls for speculation, vague,</p> <p>3 ambiguous. You're asking, if this document had been</p> <p>4 shown to the panel, what effect it would have had on the</p> <p>5 panel?</p> <p>6 MS. LARKINS: Let me rephrase. Let me rephrase.</p> <p>7 Q. Did you make any effort to prove to the panel</p> <p>8 that Maura Larkins -- that the problems that the other</p> <p>9 teachers were having with Maura Larkins were based on</p> <p>10 policies, her efforts to discuss policies and procedures?</p> <p>11 MR. SMITH: Vague, ambiguous, overbroad. The</p> <p>12 evidentiary record is contained within the reporter's</p> <p>13 transcript and the exhibits presented at the</p> <p>14 administrative hearing. And that record speaks for</p> <p>15 itself with respect to what arguments were made.</p> <p>16 THE WITNESS: There were five volumes there. I</p> <p>17 think, if you read through those volumes, the answer to</p> <p>18 your question will be there.</p> <p>19 MS. LARKINS: I think so, too.</p> <p>20 MR. SMITH: Good. We are agreed. Next</p> <p>21 question.</p> <p>22 MS. LARKINS: I think the answer is you didn't</p> <p>23 make any effort.</p> <p>24 MR. SMITH: What is your next question?</p> <p>25 MS. LARKINS: Okay. We can set that aside.</p>	<p style="text-align: right;">Page 85</p> <p>1 MR. SMITH: Could you repeat the question,</p> <p>2 please?</p> <p>3 BY MS. LARKINS:</p> <p>4 Q. Have you had experience in a case where an</p> <p>5 employee was asked for a mental health clearance?</p> <p>6 MR. SMITH: Are you asking if, in general, she's</p> <p>7 ever had a case with that?</p> <p>8 MS. LARKINS: Yes.</p> <p>9 MR. SMITH: Vague, ambiguous, not reasonably</p> <p>10 calculated to lead to the discovery of admissible</p> <p>11 evidence.</p> <p>12 THE WITNESS: And I don't want to answer that</p> <p>13 question, because I want to be real careful not to open</p> <p>14 up the door for attorney-client confidentiality to be</p> <p>15 revealed.</p> <p>16 MS. LARKINS: Okay. I will withdraw the</p> <p>17 question.</p> <p>18 Q. When Mrs. Larkins -- when you found out that</p> <p>19 Mrs. Larkins had been removed from her classroom on</p> <p>20 February 12th, 2001 and told to go and get a mental</p> <p>21 health clearance from a doctor or a fitness-for-duty</p> <p>22 clearance from a doctor, what was your reaction as a</p> <p>23 lawyer to how you would handle such a situation?</p> <p>24 MR. SMITH: Vague, ambiguous, overbroad. I</p> <p>25 don't understand the question.</p>

22 (Pages 82 to 85)

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1 THE WITNESS: I wasn't representing you then.
2 Mrs. Havird represented you before I did. I am not too
3 sure when her representation started. I think it
4 probably was sometime in June.
5 MS. LARKINS: I said when I told you about it.
6 When I told you about having been taken out of my
7 classroom on February 12th, 2001 -- nobody was
8 representing me then -- and asked to go get a fitness-
9 for-duty evaluation, what would a good employment lawyer
10 respond when learning of that situation?
11 MR. SMITH: Vague, ambiguous, argumentative,
12 calls for speculation.
13 THE WITNESS: This was long after the fact that
14 you and I first ever met. There was nothing for me to
15 respond to.
16 BY MS. LARKINS:
17 Q. Okay. Did you make it clear at the
18 administrative hearing that it was illegal for the School
19 District to have insisted that I get a fitness-for-duty
20 evaluation?
21 MR. SMITH: Vague, ambiguous, argumentative;
22 assumes facts not in evidence.
23 THE WITNESS: There's five volumes there and
24 whatever was said is in those five volumes. And, as best
25 I recall, I think when you came back you just had a

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1 letter from a doctor, not a fitness for duty.
2 BY MS. LARKINS:
3 Q. To the best of your knowledge as an employment
4 lawyer, is it legal for a school district to place a
5 teacher on administrative leave and tell them that they
6 can't come back until they get a fitness-for-duty
7 evaluation?
8 MR. SMITH: Objection. Vague, ambiguous, calls
9 for a legal conclusion, calls for an improper opinion,
10 calls for speculation, incomplete hypothetical.
11 You can answer, if you can.
12 THE WITNESS: No. It's also overbroad and I
13 can't answer the question the way you have phrased it.
14 BY MS. LARKINS:
15 Q. Okay. Did you do any research regarding the
16 legality of the District's action in placing me on
17 administrative leave and telling me to -- I couldn't come
18 back to work until I had a physician's clearance?
19 MR. SMITH: Objection. Vague, ambiguous
20 overbroad.
21 THE WITNESS: I don't recall.
22 BY MS. LARKINS:
23 Q. Would it be your habit and custom to do
24 research?
25 MR. SMITH: Same objections.

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1 THE WITNESS: If it were relevant to the issues
2 at hand, it would be my habit and custom.
3 BY MS. LARKINS:
4 Q. Okay. Is it possible that my being taken out of
5 my classroom and placed on administrative leave and asked
6 to get a fitness-for-duty evaluation would be irrelevant
7 to my administrative hearing?
8 MR. SMITH: Objection. Vague, ambiguous,
9 argumentative, calls for speculation.
10 THE WITNESS: It is possible it could have been
11 irrelevant or only minorly important to the issues that
12 were being heard.
13 BY MS. LARKINS:
14 Q. So a good lawyer might pretty much ignore it?
15 MR. SMITH: Argumentative. Is this where we are
16 going? You're going to argue with Ms. Schulman?
17 MS. LARKINS: Let's see. Am I arguing? What
18 did I ask? I asked -- let me try again.
19 Q. When a lawyer is representing an employee who is
20 being dismissed, would he be using an adequate standard
21 of care if he or she failed to adequately address the
22 employee's being placed on administrative leave and being
23 asked to get a mental health clearance before coming back
24 to work?
25 MR. SMITH: Vague, ambiguous. That question was

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1 riddled with pronouns. I am not sure which "he" or "she"
2 refers to whom.
3 MS. LARKINS: Okay.
4 MR. SMITH: And you're ask also asking opinion
5 questions. If you're going to call Ms. Schulman and ask
6 her expert opinions, you know, pay her an expert witness
7 fee. We are here to answer factual questions. Ask
8 factual questions. We will answer them. We have been
9 here all day. We have been very patient with a long
10 series of speeches and irrelevant questions.
11 We are not going to sit through days of this.
12 This is not the way this deposition is going to go. If
13 necessary, we will seek a protective order, but we are
14 not going to waste days and days designed to argue with
15 Ms. Schulman or harass her and oppress her or embarrass
16 her.
17 So, I am encouraging you, once again, to please
18 ask factual questions. We will answer them.
19 MS. LARKINS: Mr. Smith, I believe Mrs. Schulman
20 had even more obligation to me than if I had hired her to
21 be an expert witness. I hired her to represent me. And,
22 in agreeing to represent me, she became obliged to use a
23 standard of care in her representation of me. And, if
24 she would ignore something this important, then I think
25 it's pretty clear that she wasn't using an adequate

23 (Pages 86 to 89)

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<p style="text-align: right;">Page 90</p> <p>1 standard of care.</p> <p>2 MR. SMITH: You may think that's clear. That's</p> <p>3 fine. I will agree with you that there was a standard of</p> <p>4 care owed. My argument is that the standard of care was</p> <p>5 met. I think Ms. Schulman did a fabulous job for you in</p> <p>6 a case that wasn't a very good case. But we are not here</p> <p>7 to argue the merits. That's going to take place at a</p> <p>8 later time on a motion hearing or before the judge and</p> <p>9 before the jury. A deposition is not the place to make</p> <p>10 that argument and Ms. Schulman is not the person to</p> <p>11 direct that argument to.</p> <p>12 MS. LARKINS: Okay. I am just going to point</p> <p>13 out one thing. It's against the Education Code to do</p> <p>14 this. In order for a school district to ask a teacher</p> <p>15 for a fitness-for-duty clearance, they have to, in</p> <p>16 writing, within 10 days give the reasons for doing so.</p> <p>17 It was a violation of California law.</p> <p>18 MR. SMITH: Okay. And you're paying for the</p> <p>19 court reporter. If you want to spend the time to point</p> <p>20 out things like this, that's fine. But it is not the way</p> <p>21 a deposition is used. You're abusing the deposition</p> <p>22 process. This isn't your opportunity to lecture and</p> <p>23 debate Ms. Schulman. It's your opportunity to discover</p> <p>24 evidence and to ask questions that are reasonably</p> <p>25 calculated to lead to discoverable evidence.</p>	<p style="text-align: right;">Page 92</p> <p>1 case.</p> <p>2 MR. SMITH: We have been here since 10:00</p> <p>3 o'clock this morning ready and willing to answer</p> <p>4 questions. So, if you want to ask factual questions,</p> <p>5 we have answered every factual question that you have</p> <p>6 asked. I haven't instructed the witness not to answer.</p> <p>7 She hasn't refused to answer your questions.</p> <p>8 So, this isn't -- you may think that the people</p> <p>9 are trying to hide things from you and you may think</p> <p>10 there is a big conspiracy. There simply isn't. But we</p> <p>11 are not going to put up with a use of the deposition</p> <p>12 process to harass and embarrass and oppress my client.</p> <p>13 It's that simple.</p> <p>14 MS. LARKINS: I hope this doesn't embarrass you,</p> <p>15 but as I recall you did one time instruct your client not</p> <p>16 to answer the question.</p> <p>17 MR. SMITH: Yes, I did. When you asked for</p> <p>18 attorney-client privileged information I did.</p> <p>19 BY MS. LARKINS:</p> <p>20 Q. Okay. What I am going to do now is I would like</p> <p>21 to mark as Exhibit -- what are we on, Exhibit 18 -- as</p> <p>22 Exhibit 18 the first day's -- the transcript of the first</p> <p>23 day of the administrative hearing, which was January 6th,</p> <p>24 2003. Now, what is this going to be? I am sorry. Is</p> <p>25 this 19?</p>
<p style="text-align: right;">Page 91</p> <p>1 We have been sitting here all day listening to</p> <p>2 speeches and statements and reading letters into the</p> <p>3 record. Frankly, it's a waste of everyone's time.</p> <p>4 Please ask a factual question.</p> <p>5 BY MS. LARKINS:</p> <p>6 Q. Well, that's interesting. I was trying to</p> <p>7 discuss Ms. Schulman's performance as a lawyer and now</p> <p>8 we have shifted to discussing my performance as a lawyer.</p> <p>9 If you'd like to discuss that, I'd rather do it after the</p> <p>10 deposition is over and you could tell me your opinions</p> <p>11 about my lawyering skills then.</p> <p>12 MR. SMITH: I am not here to express opinions</p> <p>13 about your lawyering skills. I am here to make sure that</p> <p>14 the discovery process, the deposition process, isn't</p> <p>15 being used and abused to debate, oppress and harass my</p> <p>16 client and to argue with her.</p> <p>17 We are here to participate in the discovery</p> <p>18 process in good faith. It appears that you're abusing</p> <p>19 the discovery process and taking this as an opportunity</p> <p>20 to make speeches and argue with my client. And if that's</p> <p>21 the way you want to use the deposition time, you're going</p> <p>22 to find that the deposition time is cut short.</p> <p>23 MS. LARKINS: I don't doubt that it will be cut</p> <p>24 short, but I don't think that will be the reason. I</p> <p>25 think it's because you want to hide the truth in this</p>	<p style="text-align: right;">Page 93</p> <p>1 MR. SMITH: 18.</p> <p>2 (Exhibit 18 was marked for identification.)</p> <p>3 MS. LARKINS: 18.</p> <p>4 Q. Would you please turn to page -- well, 65.</p> <p>5 MR. SMITH: For the record, Exhibit 18 purports</p> <p>6 to be 237 pages. I've flipped through it really quickly.</p> <p>7 I am making no representations whether all the pages are</p> <p>8 there. You asked us to turn to Page 65?</p> <p>9 MS. LARKINS: Yes, please.</p> <p>10 Q. Okay. Let's see. I would like to bring your</p> <p>11 attention to Line 15. And it appears that this is</p> <p>12 questioning by Mr. Bresee, B-r-e-s-e-e, the lawyer for</p> <p>13 Chula Vista Elementary School District, of Mr. Richard</p> <p>14 Werlin.</p> <p>15 And Mr. Bresee says, on Line 15: "And what</p> <p>16 happened? You testified earlier that you walked 50 to</p> <p>17 100 feet away from the office. What happened when you</p> <p>18 reached that point?"</p> <p>19 And Mr. Werlin answered: "I shared with</p> <p>20 Mrs. Larkins that she was not to be on campus, that we</p> <p>21 had clearly told her that she was expected to remain away</p> <p>22 from the site until a meeting was scheduled with her</p> <p>23 union representative, her principal and myself."</p> <p>24 "She immediately exploded, got very loud and</p> <p>25 said, 'You don't want me on that campus? You don't want</p>

24 (Pages 90 to 93)

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<p style="text-align: right;">Page 94</p> <p>1 me on that campus?" And she started to flail her arms 2 with jerky movements. Her eyes got very glazed over. 3 She ran away from me. And I said, 'Maura,' very quietly, 4 'please come back so we can have a conversation.' She 5 runs back. Then she, with jerky movement -- she had 6 pencils in her hand, and all that I can recall is her 7 movements were so abrupt that the pencils flew out of her 8 hand. And when they flew, they landed at my feet." 9 MR. SMITH: Are you reading the transcript or 10 are you interpreting the transcript? 11 MS. LARKINS: Are you complaining about the 12 inflections in my voice? 13 MR. SMITH: Well, you have the inflections in 14 your voice that are going to show up on the video. So, 15 be that as it may, but the transcript says, "And when 16 they flew they landed my feet." 17 MS. LARKINS: Oh, okay. 18 MR. SMITH: Now, are you -- are you having 19 recollection that he said "landed at my feet" or are you 20 maintaining that the transcript is transcribed 21 incorrectly? 22 MS. LARKINS: Let me just read it like it says 23 and I will accept that as the correct version. 24 "And when they flew, they landed my feet. And 25 she kept running, jerking behavior back and forth toward</p>	<p style="text-align: right;">Page 96</p> <p>1 somebody with serious emotional problems? 2 MS. LARKINS: Let me rephrase. 3 Q. I know you have children. And I guess they are 4 grown up now, but when they were in elementary school you 5 would have been worried if a teacher that would respond 6 like this was their teacher, wouldn't you? 7 MR. SMITH: Objection, relevance. Let's keep 8 this professional and not start asking about peoples 9 family or children. Okay? If you have a question, ask a 10 question. 11 Ms. Schulman is not here to give a diagnosis for 12 what emotional problems you may or may not have had at 13 the time or that are described by Mr. Werlin. 14 BY MS. LARKINS: 15 Q. If you had a client that behaved like this in 16 front of the person who was second in command of her 17 employment institution, would you want to argue that she 18 was wrongly dismissed? 19 MR. SMITH: Objection. Argumentative, vague, 20 ambiguous, improper hypothetical, calls for speculation. 21 THE WITNESS: I can't answer the question as you 22 phrased it. 23 BY MS. LARKINS: 24 Q. Okay. Let me try again. When Mr. Werlin said 25 this in front of you during the administrative hearing,</p>
<p style="text-align: right;">Page 95</p> <p>1 me and away from me, not wanting to listen, and then she 2 would come back when I would quietly ask her to please 3 come back so that we can have this conversation. Then I 4 told her she would need to leave the campus." 5 Would you agree, Mrs. Schulman, that, if true, 6 the teacher being described here is seriously emotionally 7 unstable? 8 MR. SMITH: Could you repeat that question? 9 BY MS. LARKINS: 10 Q. Is the teacher being described here by 11 Mr. Werlin someone with real emotional problems? 12 MR. SMITH: Aren't you the teacher being 13 described by Mr. Werlin in this passage? 14 MS. LARKINS: Yes, I am. 15 MR. SMITH: So is your question are you someone 16 with serious emotional problems? 17 MS. LARKINS: Well, this isn't true. But I am 18 saying that, if it were true, wouldn't -- if this were 19 true, wouldn't it be describing a teacher with serious 20 emotional problems. 21 MR. SMITH: Are you asking Ms. Schulman, an 22 attorney, to make a diagnosis based on a paragraph pulled 23 out of a transcript numbering hundreds of pages, pulling 24 two paragraphs out and asking her to make a diagnosis 25 about whether a person described by Mr. Werlin is</p>	<p style="text-align: right;">Page 97</p> <p>1 did you believe it to be true? 2 MR. SMITH: Objection. Vague, ambiguous, not 3 reasonably calculated to lead to the discovery of 4 admissible evidence. Did you believe that -- is your 5 question was he -- did she believe that he was 6 accurately -- 7 MS. LARKINS: Telling the truth. 8 MR. SMITH: -- accurately reporting his 9 interpretation of events? 10 MS. LARKINS: Yes. Well, no. Accurately 11 reporting events. Obviously, this is his interpretation 12 or at least it's the interpretation he wants to put on 13 record under oath. 14 MR. SMITH: Well, you know, different people 15 viewing the same circumstances have different 16 interpretations of a given set of facts. So I want to 17 make sure I am clear on what the question is. 18 Are you asking Ms. Schulman if she believed that 19 at the time Mr. Werlin gave the testimony that you read 20 into the record several minutes ago that Ms. Schulman 21 believed at that point in time that Mr. Werlin was lying 22 in a premeditated fashion? 23 MS. LARKINS: Yes. 24 THE WITNESS: Based upon my experience, both 25 life experience and attorney experience, different people</p>

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1 who take part in the same events have different
2 interpretations of those events. It's very common.
3 BY MS. LARKINS:
4 Q. That doesn't respond to the question. He really
5 stated it very nicely.
6 A. Well, I am not answering his questions. I am
7 answering what I thought was your question.
8 Q. My question -- well, I'm going to repeat it the
9 way Mr. Smith said it, because I thought it was elegant.
10 Basically, did you believe Werlin was lying?
11 MR. SMITH: Relevance, calls for speculation.
12 MS. LARKINS: Okay.
13 THE WITNESS: I think that he had his
14 interpretation of what happened that day and you had your
15 interpretation of what happened that day.
16 BY MS. LARKINS:
17 Q. Do you think he genuinely believed this is what
18 happened?
19 MR. SMITH: Asked and answered.
20 MS. LARKINS: I don't think it has been asked
21 for.
22 THE WITNESS: You're asking me to speculate.
23 You're asking me to speculate as to what's in somebody
24 else's mind. I can't possibly do that.
25 ///

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1 BY MS. LARKINS:
2 Q. If someone is lying about your client, is it
3 your duty to prove it?
4 MR. SMITH: I am sorry. What?
5 BY MS. LARKINS:
6 Q. If someone is lying about your client,
7 Mrs. Schulman, in an administrative hearing, is it your
8 duty as a representative of your client to prove that
9 it's a lie?
10 MR. SMITH: Vague, ambiguous, argumentative,
11 calls for speculation, asks for expert opinion.
12 THE WITNESS: My obligation is to represent the
13 client as best I can based on my judgment and my
14 strategies of what is happening during the hearing.
15 BY MS. LARKINS:
16 Q. Did you feel reluctant to accuse an assistant
17 superintendent of lying?
18 MR. SMITH: Objection. Vague, ambiguous, not
19 reasonably calculated to lead to the discovery of
20 admissible evidence, assumes facts not in evidence.
21 THE WITNESS: It is not my practice to have a
22 witness up on the stand and say, "You're a liar."
23 BY MS. LARKINS:
24 Q. What is your practice when you know that someone
25 is up on the stand lying about your client?

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1 MR. SMITH: Overbroad.
2 BY MS. LARKINS:
3 Q. What is your obligation when someone is up on
4 the stand lying continually about your client?
5 MR. SMITH: Ms. Schulman's obligation is a
6 matter of law which is set forth. So, you don't need her
7 to testify about what her obligation is.
8 BY MS. LARKINS:
9 Q. Did you do all you could to prove that
10 Mr. Werlin was lying?
11 MR. SMITH: Objection. Vague, ambiguous,
12 overbroad, calls for speculation.
13 THE WITNESS: Argumentative.
14 MR. SMITH: Thank you.
15 THE WITNESS: I did all that I could reasonably
16 do to represent you.
17 BY MS. LARKINS:
18 Q. Did you try to prove Mr. Werlin was lying?
19 MR. SMITH: Same objections.
20 THE WITNESS: I think I have answered your
21 question.
22 BY MS. LARKINS:
23 Q. You know, you never answered my question. Did
24 you think Mr. Werlin was lying?
25 MR. SMITH: Relevance.

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1 THE WITNESS: I did answer that question.
2 MS. LARKINS: No, you didn't.
3 Q. Did you think Mr. Werlin was lying?
4 A. I think that two people taking part in the same
5 event or viewing the same event are going to see it
6 differently.
7 Q. It's a yes-or-no question.
8 MR. SMITH: Well, no, it's not necessarily a
9 yes-or-no question. Your question is vague and
10 ambiguous. And, you know, you get into any lawsuit,
11 you're going to hear people testify about things and they
12 are going to say things that are different. Does that
13 mean one of them is lying and one of them is not? Not
14 always the case.
15 So, whether Mr. Werlin was or was not lying,
16 we will never know. Whether Mr. Werlin -- whether
17 Ms. Schulman believed Mr. Werlin was lying is irrelevant.
18 It doesn't matter. An attorney puts on evidence, puts on
19 a case and the decision-maker comes down with a decision.
20 So, this line of questioning about whether
21 somebody believed or thought somebody was lying or not
22 makes no difference at all and is purely argumentative
23 and, again, seems part of a pattern to engage in debate
24 with my client rather than use the deposition process
25 properly to discover admissible evidence.

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<p style="text-align: right;">Page 102</p> <p>1 MS. LARKINS: I believe that was a yes-or-no 2 question, but let's go on. 3 Q. This event took place on March 27th? 4 MR. SMITH: What "event" are you referring to? 5 MS. LARKINS: The event described here by 6 Mr. Werlin, it took place on March 27th. It allegedly 7 took place on March 27th. 8 MR. SMITH: Where are you getting that from? 9 MS. LARKINS: On Page 64, Line 3. 10 MR. SMITH: So you're representing that the 11 question at Page 64, Line 3, relates to the answer 12 provided at Page 65, Lines 18 through Page 66, Line 12? 13 MS. LARKINS: Yes. 14 MR. SMITH: Okay. That's your representation. 15 MS. LARKINS: Yes. 16 Q. Okay. Did Maura Larkins ever return to work 17 after this event? 18 MR. SMITH: Vague, ambiguous, overbroad, calls 19 for speculation. 20 THE WITNESS: If I remember correctly, you 21 returned to work sometime in April for a short period of 22 time. 23 MS. LARKINS: Exactly. 24 Q. On April 4th I was asked to return to work 25 without any mental health evaluation, without any</p>	<p style="text-align: right;">Page 104</p> <p>1 this event supposedly takes place. 2 So, I have been on leave since February 12th, 3 because the District fears that I might kill teachers. 4 And then this happens. And then I am asked to come back 5 to work about a week later. 6 Does that not seem strange? 7 MR. SMITH: Okay. That's -- you're just 8 arguing. This is -- this is your closing argument. 9 That's fine. Save it for the jury. Save it for the 10 judge. It's not the subject of a deposition. 11 BY MS. LARKINS: 12 Q. Why didn't you make this argument at the 13 administrative hearing? 14 MR. SMITH: Which argument? 15 MS. LARKINS: The argument I just made. 16 THE WITNESS: I would have to look at the 17 administrative hearing to see which arguments I made and 18 which arguments I did not make and what arguments were 19 relevant to the issues. 20 BY MS. LARKINS: 21 Q. Okay. Have you ever been morally outraged by an 22 administrative decision? 23 A. No. 24 MR. SMITH: Irrelevant. 25 ///</p>
<p style="text-align: right;">Page 103</p> <p>1 fitness-for-duty evaluation. Do you find that strange? 2 MR. SMITH: Wait. Wait. Wait. Wait. Is your 3 question, following your speech, did she find it strange 4 that you were allowed to return to work? 5 MS. LARKINS: Yes. 6 MR. SMITH: Irrelevant. This is not reasonably 7 calculated to lead to the discovery of admissible 8 evidence. Again, you're engaging in argument. 9 BY MS. LARKINS: 10 Q. Did you find it strange? 11 A. No. 12 Q. So, you figure it's perfectly normal to ask a 13 teacher who behaves like this to come back to work with 14 small children? 15 MR. SMITH: Objection. Argumentative, not 16 reasonably calculated to lead to the discovery of 17 admissible evidence. 18 BY MS. LARKINS: 19 Q. Do you feel that it's appropriate to ask a 20 teacher that behaves like this to show -- now, the 21 interesting thing is here I was on administrative leave 22 at this time. They had asked me on March 24th and 25th 23 to come back to work and then I came back. And I said 24 that the allegations that I was going to kill people 25 needed to be discussed. And, immediately thereafter,</p>	<p style="text-align: right;">Page 105</p> <p>1 BY MS. LARKINS: 2 Q. Did you feel that Maura Larkins had a hostile 3 environment at Castle Park Elementary School? 4 MR. SMITH: Objection. Irrelevant, vague and 5 ambiguous, not reasonably calculated to lead to the 6 discovery of admissible evidence. 7 THE WITNESS: What my personal views of any 8 client's case might be are not relevant to the issues of 9 the case. 10 BY MS. LARKINS: 11 Q. They could supply a motive for not adequately 12 representing the client. 13 MR. SMITH: Is that a question or is that an 14 argument? 15 BY MS. LARKINS: 16 Q. I'd like to know what your personal views were. 17 MR. SMITH: I beg your pardon? 18 MS. LARKINS: I would like to know what her 19 personal views were. 20 MR. SMITH: About? 21 MS. LARKINS: About whether or not I had a 22 hostile environment at my school. 23 MR. SMITH: You know, this is irrelevant. Are 24 you now arguing that she intentionally lost the 25 administrative hearing because of some animus towards</p>

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<p style="text-align: right;">Page 106</p> <p>1 you?</p> <p>2 MS. LARKINS: I am asking what her personal</p> <p>3 views were about whether or not the arguments she was</p> <p>4 making were true.</p> <p>5 MR. SMITH: Not reasonably calculated to lead to</p> <p>6 the discovery of admissible evidence, vague,</p> <p>7 argumentative.</p> <p>8 THE WITNESS: My personal views are not relevant</p> <p>9 to what I am doing.</p> <p>10 BY MS. LARKINS:</p> <p>11 Q. Okay. You haven't answered the question and I</p> <p>12 will file a motion to compel you to answer the question.</p> <p>13 A. As you wish.</p> <p>14 MR. SMITH: Okay. Go ahead.</p> <p>15 BY MS. LARKINS:</p> <p>16 Q. Did you feel that Maura Larkins was victimized</p> <p>17 by the situation at Castle Park?</p> <p>18 MR. SMITH: Irrelevant, not reasonably</p> <p>19 calculated to lead to the discovery of admissible</p> <p>20 evidence, vague and ambiguous, calls for speculation,</p> <p>21 argumentative.</p> <p>22 THE WITNESS: If the question is my personal</p> <p>23 view --</p> <p>24 MS. LARKINS: Yes.</p> <p>25 THE WITNESS: -- not relevant to my</p>	<p style="text-align: right;">Page 108</p> <p>1 BY MS. LARKINS:</p> <p>2 Q. Bates stamped Pages 39 and 55.</p> <p>3 A. I don't remember, sitting here today, what those</p> <p>4 pages are.</p> <p>5 Q. Why didn't you demand a single one of them be</p> <p>6 produced?</p> <p>7 MR. SMITH: A single one of what?</p> <p>8 MS. LARKINS: The missing pages.</p> <p>9 MR. SMITH: Because there is missing -- because</p> <p>10 there were skips in Bates stamp numbers, you're operating</p> <p>11 on the assumption that there are pages missing and being</p> <p>12 withheld that should have been produced; is that what</p> <p>13 you're saying?</p> <p>14 MS. LARKINS: Yes.</p> <p>15 MR. SMITH: And you're wondering why -- well,</p> <p>16 never mind. I am not going to ask any questions for you.</p> <p>17 What is your question?</p> <p>18 MS. LARKINS: I'd like to put something into</p> <p>19 evidence. Let's see. Do I have more of these? Okay.</p> <p>20 I'd like to place into evidence two pages. Actually, I</p> <p>21 should probably put in the entire Exhibit 14 from my</p> <p>22 administrative hearing. I guess I don't have other</p> <p>23 copies.</p> <p>24 THE REPORTER: If we take a quick break, I'll</p> <p>25 make a copy.</p>
<p style="text-align: right;">Page 107</p> <p>1 representation.</p> <p>2 BY MS. LARKINS:</p> <p>3 Q. Okay. There were some glaring omissions in the</p> <p>4 documents that were produced by the District in this</p> <p>5 case. The documents were Bates stamped. And just</p> <p>6 sometimes when it would get just really interesting there</p> <p>7 would be a page missing or two or three pages missing.</p> <p>8 Why didn't you compel the District to produce</p> <p>9 those documents?</p> <p>10 MR. SMITH: Which documents are you referring</p> <p>11 to?</p> <p>12 MS. LARKINS: Well, these were documents that</p> <p>13 were represented by Mr. Bresee to have been Bates stamped</p> <p>14 by Dan Shinoff's office. The two that I was most</p> <p>15 interested were Bates stamped Page 39 and Bates stamped</p> <p>16 Page 55, but there were a number of others, a few of them</p> <p>17 were 24, 27, 28, 39, 44. I don't think the exact numbers</p> <p>18 are all that significant.</p> <p>19 Q. Why didn't you compel them to produce those</p> <p>20 documents?</p> <p>21 MR. SMITH: Well, which documents is important.</p> <p>22 If you're asking why didn't she try to compel certain</p> <p>23 documents, you have got to tell us what documents you're</p> <p>24 talking about so she can answer the question</p> <p>25 intelligently.</p>	<p style="text-align: right;">Page 109</p> <p>1 MS. LARKINS: Okay. Great.</p> <p>2 VIDEOGRAPHER: We are going off the record. The</p> <p>3 time is 2:59 p.m.</p> <p>4 MS. LARKINS: Okay. Great.</p> <p>5 VIDEOGRAPHER: We are going on the record. The</p> <p>6 time is 3:08 p.m.</p> <p>7 BY MS. LARKINS:</p> <p>8 Q. Okay. I'd like to direct your attention to</p> <p>9 Exhibit I, Page 23, Legal Conclusion 8.</p> <p>10 MR. SMITH: The one entitled, "Mrs. Larkins</p> <p>11 demonstrated evident unfitness for service"?</p> <p>12 MS. LARKINS: Exactly. "Mrs. Larkins</p> <p>13 demonstrated evident unfitness for service."</p> <p>14 Q. Okay. And do you want to take a minute to read</p> <p>15 it? Let's see, 19. I don't know. Did we each get one?</p> <p>16 MR. SMITH: Which one has the original sticker</p> <p>17 on it?</p> <p>18 THE REPORTER: You can feel it.</p> <p>19 MS. LARKINS: This one.</p> <p>20 Q. Okay. I am going to go ahead and read it. "A</p> <p>21 preponderance of the evidence established cause to</p> <p>22 terminate Maura Larkins from her employment with the</p> <p>23 Chula Vista Elementary School District under Education</p> <p>24 Code Section 44932-A5 based on her evident unfitness for</p> <p>25 service. It was established by a preponderance of the</p>

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<p>1 evidence that Mrs. Larkins was insubordinate and did not 2 report for duty as a result of her blind quest for 3 personal justice, conduct that was based upon her 4 stubborn, unforgiving nature, a trait of character, was 5 not remediable." 6 MR. SMITH: Are going to read the next 7 paragraph? 8 MS. LARKINS: Oh. And then it says, "This 9 conclusion is based on legal conclusions." It just gives 10 all the legal conclusions and factual findings which it 11 is based on, which many of which happen to be absolutely 12 false and obviously so. But, apparently, that didn't 13 shock or appall Mrs. Schulman. 14 Q. Okay. Are you familiar with the Morrison 15 criteria? 16 A. Yes. 17 Q. Did the judge in the administrative hearing 18 discuss the Morrison criteria? 19 A. Yes. 20 Q. Okay. For the Morrison criteria, the Morrison 21 criteria -- tell me if you think I am stating this 22 correctly. The Morrison criteria say that in order for a 23 teacher to be declared unfit for service they have 24 to have -- the actions that they did have to show a trait 25 of character that's not remediable.</p>	<p>1 MR. SMITH: I don't know. I wasn't sure whether 2 you were done with your speech or not. Are you done or 3 are we now -- 4 MS. LARKINS: Yes. I'd like you to look at 83, 5 if you can find it. 6 MR. SMITH: Are we getting ready to lead into a 7 question? 8 MS. LARKINS: Do I have to answer your 9 questions, if they are rhetorical? Tell you what. You 10 let me ask the questions. Okay? And I'll try not to 11 ask too many rhetorical questions, though I know neither 12 one of us can resist throwing in a few of them. 13 MR. SMITH: Okay. So, you're preparing to ask a 14 question about Fact No. 83? 15 MS. LARKINS: Yes. Okay. Fact 83 says: "On 16 March 11th, 2002, Mrs. Larkins filed a lawsuit against 17 the District." So, Mrs. Larkins is found unfit for 18 service based on the fact that she filed a lawsuit. 19 Q. Did you protest during the administrative 20 hearing that filing a lawsuit is not grounds for -- that 21 filing a lawsuit is a constitutionally-protected right 22 and does not make a person unfit for service? 23 MR. SMITH: Could you repeat the question? 24 BY MS. LARKINS: 25 Q. Did you argue in the administrative hearing that</p>
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<p>1 Am I stating that correctly? 2 MR. SMITH: Objection. Calls for a legal 3 conclusion, best evidence, vague, ambiguous, overbroad. 4 THE WITNESS: The administrative law judge 5 actually provided us with what he was talking about for 6 the Morrison criteria. There were six, seven different 7 criteria. I would have to take a look at it to see if, 8 in fact, the way you're stating it is the way it was 9 stated in the Morrison criteria. There certainly is a 10 criteria about the likelihood of recurrence. 11 BY MS. LARKINS: 12 Q. Okay. I'd like to look at some of these factual 13 findings that this is based on. One of them is 50. I 14 believe we discussed that before. That was the one that 15 said that neither Maura Larkins nor her attorney made any 16 response to a letter. And we discovered that was false. 17 It was also based on 56, which was -- and 53, 18 which said the same thing and were also false. Let's 19 look at -- let's see -- 83. It's based on 83. I'd like 20 to look at 83, which is on Page 17. 21 MR. SMITH: Tell us when you get to the end of 22 the speech and we are starting the beginning of a 23 question. 24 MS. LARKINS: You're not going to look? Are you 25 going to look at it?</p>	<p>1 filing a lawsuit is a constitutionally-protected right 2 and does not make an employee unfit for service? 3 MR. SMITH: Vague, ambiguous. The 4 administrative record speaks for itself and it contains 5 all the arguments that were made. So, if you want to 6 know whether an argument was or was not made, just refer 7 to the five-volume reporter's transcript and the exhibits 8 placed into evidence at the administrative hearing. 9 BY MS. LARKINS: 10 Q. Did you have an obligation to protect my 11 constitutional rights during this hearing? 12 MR. SMITH: Objection. Vague, ambiguous, 13 argumentative, calls for a legal conclusion, calls for an 14 expert opinion. 15 THE WITNESS: I don't understand your question. 16 BY MS. LARKINS: 17 Q. Did you have an obligation to protect my 18 constitutional rights during my administrative hearing? 19 MR. SMITH: Same objections. 20 THE WITNESS: I don't understand your question. 21 MR. SMITH: What constitutional right are you 22 referring to? 23 MS. LARKINS: The right to petition for redress 24 of grievances. 25 MR. SMITH: Aren't you in the process of</p>

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1 petitioning for redress of grievances with the District
2 right now?
3 MS. LARKINS: This is exactly the lawsuit we are
4 referring to right here.
5 MR. SMITH: Right. So you are currently
6 exercising your constitutional right to petition for
7 redress of grievances at this very moment; isn't that
8 correct?
9 MS. LARKINS: I was dismissed for doing so.
10 Anyway, am I not supposed to be asking the questions?
11 MR. SMITH: You know, I wish -- I wish you
12 would. I wish you would.
13 MS. LARKINS: Okay. I will ask it again and I
14 will try to ask it in a different way.
15 Q. Is Legal Conclusion No. 8 illegal?
16 A. Legal conclusion number what?
17 Q. Eight, this one we have been talking about.
18 A. Eight?
19 MR. SMITH: Okay. We have got --
20 MS. LARKINS: It's on Page 23.
21 MR. SMITH: Right now you had asked us to turn
22 to Factual Conclusion No. 83.
23 MS. LARKINS: Yeah. Okay.
24 MR. SMITH: So now you're asking us to turn back
25 to Legal Conclusion No. 8?

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1 MS. LARKINS: Yeah. We looked at 83, because
2 you can see right here that 83 is referred to. And here
3 in Legal Conclusion 8 it says, "This conclusion is based
4 on, among other things, Factual Finding 83."
5 MR. SMITH: Right. So now you want us to review
6 Legal Conclusion No. 8 and you want Ms. Schulman to
7 express an opinion with respect to whether that legal
8 conclusion is correct or not?
9 MS. LARKINS: Yeah. Is a person -- can a person
10 be found unfit for service because they file a lawsuit?
11 MR. SMITH: Objection. Vague, ambiguous.
12 You're pulling -- there is a list of one, two, three,
13 four, five, six, seven, eight, nine, ten, eleven,
14 twelve -- well, you know, 20 or more factual findings and
15 legal conclusions upon which Legal Conclusion No. 8 is
16 based. And you're pulling one out and asking for an
17 opinion with respect to whether the legal conclusion is
18 correct.
19 Ms. Schulman is not here to express legal
20 opinions or give expert opinions. She is here to answer
21 factual questions. This isn't a forum for argument. You
22 can make all those arguments later. This is not the time
23 to do it.
24 MS. LARKINS: As a matter of fact, I didn't just
25 pick out one of them. I have already discussed 50, 53,

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1 56 and 59. And a lot of these are just things that have
2 nothing to do with anything, really, like -- let's see --
3 No. 4 says this: "In September, 1974, Mrs. Larkins began
4 employment with the Chula Vista Elementary School
5 District. Mrs. Larkins provided services at Montgomery
6 Elementary School, Rice Elementary School and Harborside
7 Elementary School from 1974 through 1995."
8 "In September 1997, following a two-year leave
9 of absence, Mrs. Larkins was assigned to teach bilingual
10 classes at Castle Park Elementary School."
11 Well, I think we can all agree that I wasn't
12 found unfit for service because of that.
13 MR. SMITH: You know, we are not going to all
14 agree about much, if anything, here today, I don't think.
15 But, regardless, this document was not drafted by
16 Ms. Schulman. It was drafted by the Commission on
17 Professional Competence.
18 What the Commission intended when drafting this
19 document and these legal conclusions and how they
20 balanced and weighed these legal conclusions and factual
21 findings and what weight, if any, they gave to any of
22 them is for the Commission to know, not for us. They
23 wrote it down. You can interpret it. I can interpret
24 it. We all can read it and come to our own conclusions
25 about it. But it is the Commission who wrote this

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1 document. If you have got questions about the document,
2 talk to the Commission.
3 MS. LARKINS: You don't sound like someone who
4 wants to answer questions. You want to talk, don't you?
5 Q. Okay. Let me ask the question again. Is Legal
6 Conclusion No. 8 legal, given the fact that it finds
7 Mrs. Larkins unfit for service because she filed a
8 lawsuit?
9 MR. SMITH: Vague, ambiguous, overbroad, calls
10 for speculation, incomplete hypothetical, calls for an
11 expert opinion, calls for a legal conclusion. If you can
12 answer, go ahead.
13 THE WITNESS: It likely is a very good basis for
14 the finding.
15 MS. LARKINS: Thank you. Okay.
16 Q. Okay. I imagine your clients must have fared
17 all quite well, if you think filing a lawsuit is a good
18 reason for finding someone unfit for service. Okay. I
19 will try to do this real fast.
20 In Exhibit 19, I would like to bring your
21 attention to Page 54. And I think that's going to be --
22 they seem to be numbered. Well, tell you what. How
23 about I -- I will give you these Pages 54 and 55, so you
24 don't have to search for them and I'll try to search for
25 them.

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<p style="text-align: right;">Page 118</p> <p>1 (Exhibit 19 was marked for identification.)</p> <p>2 MR. SMITH: Are you pulling pages out of Exhibit</p> <p>3 19?</p> <p>4 MS. LARKINS: Yeah, but I am just --</p> <p>5 MR. SMITH: Are you going to mark them</p> <p>6 separately or --</p> <p>7 MS. LARKINS: No. No. I am just trying to help</p> <p>8 out. I found these two.</p> <p>9 MR. SMITH: Well, just hang onto what you got.</p> <p>10 We have got an Exhibit 19 here.</p> <p>11 MS. LARKINS: Okay.</p> <p>12 MR. SMITH: Let's look through Exhibit 19. If</p> <p>13 you want to direct her attention to a specific portion of</p> <p>14 Exhibit 19, we can do that. But let's not confuse</p> <p>15 matters by pulling apart exhibits, unless you want to</p> <p>16 mark a separate exhibit of some type.</p> <p>17 Exhibit 19, for the record, is photocopies of</p> <p>18 several pages of handwritten notes. The copies bear a</p> <p>19 page number up in the upper right-hand corner numbered</p> <p>20 consecutively from 1 to 48. The pages also bear Bates</p> <p>21 stamps on the bottom portions of the pages. These have</p> <p>22 been all marked as an exhibit as a group, although we</p> <p>23 make no representation whether the documents actually</p> <p>24 belong together.</p> <p>25 MS. LARKINS: I will go ahead and represent that</p>	<p style="text-align: right;">Page 120</p> <p>1 THE WITNESS: -- 26.</p> <p>2 MR. SMITH: Let me see this.</p> <p>3 MS. LARKINS: I -- I'm sorry.</p> <p>4 MR. SMITH: You're right. We are missing 22.</p> <p>5 Okay. We will put 22 in there.</p> <p>6 MS. LARKINS: 22.</p> <p>7 MR. SMITH: Let me look through this again and</p> <p>8 make sure we have got all the pages.</p> <p>9 MS. LARKINS: I am just going to ask a couple</p> <p>10 more questions.</p> <p>11 MR. SMITH: Okay.</p> <p>12 MS. LARKINS: Okay. You know what? We are only</p> <p>13 going to look at Page 54, which is also Page 23.</p> <p>14 MR. SMITH: Okay.</p> <p>15 MS. LARKINS: Okay. I'd like you to look down</p> <p>16 at the bottom there. It says: "The reason she was asked</p> <p>17 to leave was that we thought she would kill two teachers.</p> <p>18 Needed three people. I said I thought she was</p> <p>19 capable...."</p> <p>20 Q. Didn't you want to know what the next page said?</p> <p>21 MR. SMITH: Well, first of all, I am going to</p> <p>22 object for the record to your reading of this document.</p> <p>23 The last line on, at least my copy, is cut off. I am not</p> <p>24 sure what it says. And some of this handwriting is hard</p> <p>25 to read anyway.</p>
<p style="text-align: right;">Page 119</p> <p>1 these documents were Exhibit 14 of the District's</p> <p>2 exhibits in my administrative hearing.</p> <p>3 Q. Did you find Page 54?</p> <p>4 MR. SMITH: Is that -- I am sorry. You're</p> <p>5 asking us to turn to Page --</p> <p>6 MS. LARKINS: 54.</p> <p>7 MR. SMITH: You're referring to the Bates stamp</p> <p>8 or the page number up in the upper right?</p> <p>9 MS. LARKINS: The Bates stamp.</p> <p>10 MR. SMITH: Is there a page number up in the</p> <p>11 upper right-hand corner?</p> <p>12 MS. LARKINS: Yeah. Oh, it's -- yeah, 22 and</p> <p>13 23.</p> <p>14 MR. SMITH: That's probably the easier way to</p> <p>15 look at these.</p> <p>16 MS. LARKINS: Oh, you're so right. So let's</p> <p>17 look at 20 -- you know what? Actually, these are going</p> <p>18 in -- yeah, let's look at 22, first, because that's dated</p> <p>19 March 26th and 23 is dated March 27th.</p> <p>20 THE WITNESS: Are you talking about the numbers</p> <p>21 in the upper right-hand corner?</p> <p>22 MR. SMITH: Yeah.</p> <p>23 THE WITNESS: Well, let's see. Mine goes 21,</p> <p>24 23, 24, 25 --</p> <p>25 MS. LARKINS: I can give you 22.</p>	<p style="text-align: right;">Page 121</p> <p>1 MS. LARKINS: My point exactly.</p> <p>2 MR. SMITH: So, to the extent you know -- well,</p> <p>3 never mind. Go ahead. Ask your question.</p> <p>4 MS. LARKINS: I totally agree with you,</p> <p>5 Mr. Smith. It's troubling that the bottom of this is</p> <p>6 cut off.</p> <p>7 Q. "I said I thought she was capable" and then it's</p> <p>8 cut off. And then the next page isn't produced. Why</p> <p>9 didn't you ask for that next page to be produced?</p> <p>10 A. What next page?</p> <p>11 Q. It would be Bates Stamp 55. Don't you think</p> <p>12 this is really interesting stuff?</p> <p>13 MR. SMITH: Argumentative, vague, ambiguous, not</p> <p>14 reasonably calculated to lead to discovery of admissible</p> <p>15 evidence.</p> <p>16 MS. LARKINS: Okay. I am finished for today. I</p> <p>17 mean I am not -- I know that the court reporter needs to</p> <p>18 go to another deposition.</p> <p>19 MR. SMITH: Okay. Well --</p> <p>20 MS. LARKINS: Let's discuss what's going to</p> <p>21 happen next. Will you come on Monday?</p> <p>22 MR. SMITH: No.</p> <p>23 MS. LARKINS: Will you make an appointment for</p> <p>24 another, to continue this deposition?</p> <p>25 MR. SMITH: No.</p>

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1 MS. LARKINS: Are you suspending the deposition?

2 MR. SMITH: You know, we have spent all day in
3 this deposition. And, rather than using it as an
4 opportunity to ask questions, you have used it as a forum
5 for making speeches, making arguments and trying to
6 harass and oppress my client. We are ending the
7 deposition right now because the court reporter has to
8 leave.

9 We have made ourselves available all day to
10 answer questions. You have asked few, if any, proper
11 questions or questions reasonably calculated to lead to
12 the discovery of admissible evidence. If you want us to
13 appear at another session of a deposition, you're going
14 to need an order to compel.

15 MS. LARKINS: Very good. Okay. I understand
16 that you are refusing to answer any more questions in
17 this deposition and I will need a motion to compel you to
18 answer any more questions.

19 MR. SMITH: That's right. And, as I understand
20 it, you already plan on filing a motion to compel anyway.
21 So we can just do it in one fell swoop.

22 With respect to the transcript of this
23 deposition that we have here, I would stipulate that we
24 agree to relieve the court reporter of her duties under
25 the code and have the original transcript prepared and

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1 STATE OF CALIFORNIA)

ss

2 COUNTY OF SAN DIEGO)

3
4 I, Diane M. Holnback, a Certified Shorthand
5 Reporter, Certificate No. 11686, in and for the County of
6 San Diego, State of California, do hereby certify that
7 the witness in the foregoing deposition was by me first
8 duly sworn to testify to the truth, the whole truth, and
9 nothing but the truth in the foregoing cause; that the
10 deposition was then taken before me at the time and place
11 herein named; that said deposition was reported by me in
12 shorthand, and then transcribed through computer-aided
13 transcription under my direction, and that the foregoing
14 transcript contains a true record of the testimony of
15 said witness.

16 I do further certify that I am a disinterested
17 person and am in no way interested in the outcome of this
18 action, or connected with or related to any of the
19 parties in this action or to their respective counsel.

20 IN WITNESS WHEREOF, I have hereunto set my hand
21 on this 3rd day of August, 2004.

22
23 _____
24 Diane M. Holnback, C.S.R.
25 Certificate No. 11686

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1 sent to me. And I will present it to Ms. Schulman for
2 her review and any changes that she thinks are necessary
3 and provide changes, notice of changes, to you within 30
4 days of my receipt.

5 Is such a stipulation acceptable to you?

6 MS. LARKINS: That's fine.

7 MR. SMITH: If for whatever reason the original
8 is lost, a certified copy may be used in lieu thereof.

9 Is that acceptable, Ms. Larkins?

10 MS. LARKINS: Yes, that's acceptable.

11 VIDEOGRAPHER: This concludes today's
12 deposition. We are going off the record at 3:30 p.m.

13 (The deposition was concluded at 3:30 p.m.)

14 *****

15 I, Elizabeth Schulman, Esq., swear, under
16 penalty of perjury, that I have read the foregoing
17 deposition, and that it is true and correct, to the best
18 of my knowledge and belief.

19 Signed on this ____ day of _____, 2004

20 at _____
21 (City) (State)

22 _____
23 ELIZABETH SCHULMAN, ESQ.
24
25

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 COUNTY OF SAN DIEGO
3

4 _____)
5 MAURA LARKINS,)
6)
7 Plaintiff,)
8)
9 vs.) Case No. GIC 781970
10)
11 CHULA VISTA ELEMENTARY SCHOOL)
12)
13 DISTRICT, a California public entity,)
14 et al.,)
15)
16 Defendants.)
17 _____)
18)
19)
20)
21)
22)
23)
24)
25)

DEPOSITION OF MAURA LARKINS

SAN DIEGO, CALIFORNIA

OCTOBER 25, 2004

REPORTED BY JUDY M. REIERSEN, CSR NO. 7505

C E R T I F I C A T E

I, the undersigned, do hereby certify that I have read the foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following changes listed below):

PAGE No.	LINE No.
-------------	-------------

23	6	should say "2130 and 2136 Broadway"
33	20	after "PERB." should say "The letters might have been ⁱⁿ were also produced to Elizabeth Schulman."
		and "I received copies when they were sent to PERB."
37	6	"teacher" should be plural: "teachers"
66	20	should have quotation marks at <u>beginning</u>
66	23	should have quotation marks at <u>beginning</u>
67	5	"demur" should be "demurrer"
67	6	should have quotation marks at <u>beginning</u>
67	7	should have quotation marks at the <u>end</u>
70	2	should say "Oh, I'm so glad to learn that."
75	10	2004 instead of 2003
76	16	instead of period (.), there should be two dashes after
78	17	instead of period (.), there should be two dashes after "other" Angel

Maura Larkins

PLEASE TURN TO BACK OF TRANSCRIPT AND SIGN
THE PENALTY OF PERJURY PAGE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

MAURA LARKINS,)
Plaintiff,)
vs.) Case No. GIC 781970
CHULA VISTA ELEMENTARY SCHOOL)
DISTRICT, a California public entity,)
et al.,)
Defendants.)

DEPOSITION OF MAURA LARKINS,
taken by the Defendants Robin Donlan and Linda Watson,
commencing at 10:05 a.m. on Monday, October 25, 2004, at
401 West A Street, 15th Floor, San Diego, California, before
Judy M. Reiersen, Certified Shorthand Reporter, in and for
the State of California.

PETERSON & ASSOCIATES COURT REPORTING & VIDEO SERVICES

APPEARANCES:

For the Plaintiff:

MAURA LARKINS, IN PRO PER
1935 Autocross Court
El Cajon, CA 92019
(619) 444-0065

For the Defendants Robin Donlan and Linda Watson:

STUTZ, ARTIANO, SHINOFF & HOLTZ
BY: KELLY R. ANGELL, ESQ.
401 West A Street, 15th Floor
San Diego, CA 92101
(619) 232-3122

For the Defendant Michael Carlson:

MCCORMICK & MITCHELL
BY: DEBORAH K. GARVIN, ESQ.
625 Broadway, Suite 1400
San Diego, CA 92101
(619) 235-8444

For the Defendants Chula Vista Elementary Education

Association, Virginia Boyd and Tim O'Neill:
ROTHNER, SEGALL & GREENSTONE
BY: BERNHARD ROHRBACHER, ESQ.
510 South Marengo Avenue
Pasadena, CA 91101-3115
(626) 796-7555

Videotape Operator:

Videographics
Alan Peak, Videographer
1903 30th Street
San Diego, CA 92102
(619) 239-2066

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WITNESS: Maura Larkins

EXAMINATION PAGE

By Ms. Angell 6

EXHIBITS

EXHIBIT MARKED
1 10/14/04 fax to Ms. Larkins from 76
Ms. Angell, two pages

2 10/15/04 fax to Ms. Angell from 78
Ms. Larkins, one page

* * *

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THE VIDEOGRAPHER: This is the deposition of

Maura Larkins being taken on behalf of Defendants in the
matter Maura Larkins versus Chula Vista Elementary School
District, et al., San Diego Superior Court Case
No. GIC 781970.

This deposition is being held in the offices of
Stutz, Ariano at 401 West A Street, Suite 1500, in
San Diego, California, on October 25, 2004 at 10:05 a.m.

My name is Alan Peak. I'm the legal video
specialist with Videographics, located at 1903 30th Street,
in San Diego, California.

The certified shorthand reporter is Judy Reiersen
with Peterson & Associates.

Will counsel please state their appearances for the
record?

MS. ANGELL: Kelly Angell for Defendants Donlan and
Watson.

MS. GARVIN: Deborah Garvin for Defendant
Michael Carlson.

THE WITNESS: Maura Larkins, Plaintiff in pro per.

THE VIDEOGRAPHER: And the witness may now be
sworn.

///

///

///

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6

1 MAURA LARKINS,
2 having been first duly sworn, testified as follows:
3
4 MS. ANGELL: My microphone keeps flipping over like
5 this. Does it have an effect? Can you hear me all right?
6 THE VIDEOGRAPHER: If you put it on the other side
7 like that.
8 MS. ANGELL: Just kind of shove it here?
9 THE VIDEOGRAPHER: No, just there.
10 Thanks.
11 MS. ANGELL: There we go. I stuck it through a
12 button hole.
13 Well, there isn't a higher button hole.
14 THE VIDEOGRAPHER: That's fine. Thank you.
15 MS. ANGELL: Okay.
16
17 EXAMINATION
18 BY MS. ANGELL:
19 Q Mrs. Larkins, have you had your deposition taken
20 before at any time?
21 A No, I -- I haven't.
22 Q Have you ever been involved in any litigation other
23 than the current lawsuit entitled Larkins v. Werlin, et al.?
24 A Well, I've been involved in litigation related to
25 this case.

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7

1 Q Okay.
2 A That arose out of it or --
3 Q All right. So starting with the most recent case
4 other than Larkins v. Werlin, counting backwards, can you
5 tell me the name of the most recent case?
6 A Larkins versus Schulman.
7 Q And was your deposition taken in that matter?
8 A It's going to be taken this Thursday.
9 Q Have you taken any other depositions in that
10 matter?
11 A I took the deposition of Elizabeth Schulman.
12 Q Any depositions in that case other than
13 Ms. Schulman's?
14 A No.
15 Q And did you take Ms. Schulman's deposition
16 yourself?
17 A Yes, I did, although I should mention that it was
18 not completed.
19 Q Okay.
20 THE VIDEOGRAPHER: Excuse me, Counsel. Could I
21 pause for a moment, please?
22 MS. ANGELL: Of course.
23 THE VIDEOGRAPHER: Off the record.
24 (Pause.)
25 THE VIDEOGRAPHER: Back on the record.

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1 MS. ANGELL: Thank you.
2 BY MS. ANGELL:
3 Q And what is the nature of the case entitled Larkins
4 v. Schulman?
5 A Elizabeth Schulman was the lawyer in my
6 administrative hearing regarding my dismissal from
7 Chula Vista Elementary School District.
8 Q So is that an attorney malpractice case?
9 A Yes.
10 Q Are there any other causes of action other than
11 those related specifically to attorney malpractice, meaning
12 negligence?
13 A I -- intentional infliction of emotional distress.
14 Q So are there two causes of action there,
15 intentional infliction of emotional distress and negligence?
16 A I believe so.
17 Q Any other causes of action in that matter?
18 A I haven't looked at it in a long time. I don't
19 think so. I think it's just those two.
20 Q Do you have an attorney in that matter?
21 A No.
22 Q So you're representing yourself there?
23 A Yes.
24 Q And did you write the complaint in that matter?
25 A Yes, I did.

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1 Q And was it verified?
2 A Oh, yes.
3 Q So you would be familiar with the content of the
4 complaint in that matter then?
5 A Yes.
6 Q Okay. And before the Larkins v. Schulman case,
7 what is the next most recent litigation that you've been
8 involved in?
9 A Larkins versus Elton.
10 Q And in what forum was that filed? Was that, say,
11 Superior Court or some other --
12 A Yes.
13 Q San Diego Superior Court?
14 A Yes.
15 Q And were any depositions taken in that matter?
16 A No.
17 Q You mentioned an administrative hearing concerning
18 a dismissal from employment; is that correct?
19 A Yes.
20 Q Was your deposition taken in that matter?
21 A No.
22 Q Were other people's depositions taken in that
23 matter?
24 A Yes.
25 Q Did you attend those depositions?

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1 A Yes.
2 Q Are you familiar then with the process of how
3 depositions work?
4 A Yes.
5 And, by the way, speaking of depositions taken in
6 my administrative hearing, I have some documents that I want
7 to produce to you.
8 I've already produced in this case the deposition
9 of Linda Watson, which was taken for that administrative
10 hearing, and I also have the deposition of JoEllen Hamilton,
11 Gretchen Donndelinger, Rick Denman, and Richard Werlin,
12 which I would like to produce to you.
13 Q And are those items responsive to any particular
14 request for production that's contained in your notice of
15 deposition?
16 A This case is -- has circumstantial evidence. I did
17 not see anyone obtain my arrest records. I was called into
18 the office of my school district and told that I was being
19 taken out of my classroom because two teachers were afraid I
20 was going to kill them, and this being a very bizarre event,
21 I wondered how this idea got started that I would kill
22 anybody.
23 Q If we can hold on for just a minute. We don't have
24 the admonitions on yet, and it sounds like you want to start
25 testifying. So let's just get the admonitions on and then

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11

1 you can go ahead and continue with whatever you wanted to
2 say.
3 A Okay. Let's do that.
4 MS. GARVIN: I would just move to strike as
5 nonresponsive.
6 MS. ANGELL: Join.
7 BY MS. ANGELL:
8 Q Just to briefly go over the ground rules, for lack
9 of a better term --
10 A Uh-huh.
11 Q -- for the way depositions work, as you know -- as
12 I believe that you know and as you can see, there's a court
13 reporter here who is taking down every word that's said by
14 you, by me, by anyone in the room.
15 Do you understand that?
16 A Yes, I -- I see the court reporter here.
17 Q Okay. So in order so that the court reporter can
18 get everything that is said down, we need to make audible
19 responses, which means "yes" or "no" instead of "uh-huh" or
20 nodding head, that kind of thing.
21 Do you understand?
22 A I will try to remember that, but I'm afraid that
23 you're going to have to remind me sometimes.
24 Q Okay. And I may as well, and we'll address that as
25 it comes, but for the most part, we'll try our best there.

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1 Okay?
2 A (Witness nods head.)
3 Q Okay? Yes?
4 A I -- I told you you'd have to remind me. Yes.
5 Q Okay. Another thing that we need to do so that the
6 court reporter can get everything down is that we need to
7 each speak one at a time.
8 So for me, my job will be to make my best effort to
9 not interrupt you or ever talk over you or anybody else who
10 is talking during the deposition, and I would ask that you
11 do me the same courtesy.
12 Do you understand?
13 A Yes, I do.
14 Q Okay. During a deposition, what we don't want is
15 for you to guess. If you don't know something, the answer
16 would be that you don't know as opposed to guessing at what
17 occurred or how long something is; however, during a
18 deposition, we are entitled to your best estimate.
19 So for example of that, if I asked you to tell me
20 how long the table is in this room, you would be able to
21 give me an estimate because you've seen the table; however,
22 if I asked you how long the desk is in my office, you
23 wouldn't be able to give me an estimate of that because to
24 my knowledge you've never been in my office.
25 Do you understand the difference between a guess

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1 and an estimate?
2 A I think I do. I'm only a third grade teacher, but
3 I think I do.
4 Q Okay. So based on my explanation, do you
5 understand the difference of what I mean as the difference
6 between a guess and an estimate?
7 A Yeah. I think your definition is pretty standard.
8 Q Okay. At the end of this deposition process, a
9 copy of what the court reporter is typing down is going to
10 be forwarded to you so that you can review it for purposes
11 of determining -- making sure that it's accurate, making any
12 corrections to it, if necessary, and that could be typos or,
13 if you need to, to correct portions of testimony.
14 However, I would like to point out that any changes
15 that are made to the substance of testimony after today can
16 be commented on by anybody at trial.
17 Do you understand?
18 A (Witness nods head.)
19 Q Is that a yes?
20 A Yes. Yes.
21 Q Okay. Thank you.
22 Why don't we go ahead and get it on the record now
23 instead of at the end as to length of time and how the
24 process of completing the review of the deposition
25 transcript is going to go.

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1 A That would be fine. Haven't we usually chosen a
2 month?
3 Q The original of the deposition transcript will be
4 forwarded directly to you at an address that you will
5 provide to the court reporter during this deposition. Okay?
6 A (Witness nods head.)
7 Q Is that a yes?
8 A I've already provided her with an address.
9 Q Okay. Great.
10 And with that transcript, there will be -- at the
11 back of it there's a page where you would note any changes
12 that you need to make.
13 So what you would need to do is review the
14 transcript, if necessary, make any changes or corrections,
15 and sign and date the document, and then send a copy of all
16 changes to my attention.
17 We have a hearing on summary judgment scheduled I
18 think for December 17th, and it usually takes a week or
19 two weeks for these kinds of transcripts to get done, and in
20 order so that we can have the transcript available,
21 probably -- I don't know if you're going to want to use it
22 in an opposition or anything, but I'm thinking that a
23 shorter time frame than 30 days would probably be a good
24 idea.
25 A I think that would be a good idea.

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1 Q Do you need to consult a calendar to check your
2 availability or do we want to say that -- I don't -- are you
3 employed in -- are you employed right now?
4 A I do some work for myself, but I can determine my
5 own schedule.
6 Q Okay. So do you think that a week from the date
7 that you're provided with the document would be enough time
8 for you to review it and make any changes or updates
9 necessary?
10 A Certainly.
11 Q Okay. So, then, we'll agree and stipulate that
12 from the time that you receive the transcript, you'll make
13 any changes or updates and notify counsel within seven
14 calendar days, and that if the -- and that includes signing
15 and dating the transcript, and that if it's not signed and
16 dated within that seven-day period, it will be deemed signed
17 and dated.
18 Do we all so stipulate?
19 A So stipulated.
20 MS. GARVIN: So stipulate.
21 BY MS. ANGELL:
22 Q And also, that a fax copy of the signature on that
23 deposition transcript will be acceptable as evidence of your
24 signature and date on that transcript as well as that if the
25 original is lost or unavailable for any reason, that a

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1 certified copy of the transcript will be sufficient for all
2 purposes.
3 So stipulated?
4 A So stipulated.
5 MS. GARVIN: So stipulated.
6 MS. ANGELL: I see that counsel has arrived.
7 MR. ROHRBACHER: I apologize for my delay. First
8 of all, I was under the impression it was at 10:00, and I
9 hit traffic. My apologies.
10 THE WITNESS: Mr. Hersh told us that he gave you
11 the wrong information.
12 MR. ROHRBACHER: He did?
13 THE WITNESS: Yes.
14 MR. ROHRBACHER: That's very nice of him.
15 I would like to sit on this side, if possible.
16 MS. ANGELL: Can we go off for a second?
17 THE VIDEOGRAPHER: Off the record at 10:18.
18 (Discussion off the record.)
19 THE VIDEOGRAPHER: Back on the record at 10:19.
20 MS. ANGELL: Thank you.
21 BY MS. ANGELL:
22 Q Mrs. Larkins -- oh, I'm sorry. Is there any reason
23 why you're unable to give your best testimony today?
24 A No, although I would like to say on the causes of
25 action in the Schulman, I believe it's two causes of action,

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1 but I wouldn't be horribly surprised if it turned out to be
2 three.
3 Q Okay.
4 A I forget exactly how many causes of action I wrote.
5 Q Okay. Before we had the admonitions, we were
6 discussing what other litigation that you've been involved
7 in with the most recent counting backwards.
8 The last case you told me about was one called
9 Larkins v. Elton. Do you know the Superior Court case
10 number in that matter?
11 A No, I don't.
12 Q And when was it filed?
13 A Let's see. It was after -- it was after this case.
14 You know, I think it was January 2003.
15 Q And is that case still viable, still alive?
16 A No, that case was settled.
17 Q When was it settled?
18 A Oh, boy. It seems to me it was the summer of 2003.
19 Q So within about six months of the time that you
20 filed it, it was settled, correct?
21 A Yes.
22 Q And who were all of the defendants listed, named in
23 that case?
24 A Just Kathleen Elton.
25 Q And what was the nature of the allegations of that

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1 case?
2 A That she had filed a false police report.
3 Q And what was the cause of action?
4 A It was a -- it was a statute. I think it was -- it
5 was a statute that makes it illegal to file a false police
6 report.
7 Q And was Ms. Elton -- did she make an appearance in
8 that case?
9 A No, she didn't.
10 Q So she didn't respond to the case at all?
11 A If you mean an appearance as filing something with
12 the court, she didn't.
13 Q How did it come about that the case was settled?
14 A It was settled as part of my -- the probate of my
15 father.
16 Q What were the terms of the settlement of Larkins v.
17 Elton?
18 A I promised not to file any lawsuit against
19 Joseph Hogan for conspiring with Kathleen Elton to file a
20 false police report, and in return, I received \$75,000,
21 although that isn't exactly an even trade because I also
22 gave my brother Joseph Hogan in that case some property in
23 Guatemala.
24 Q I didn't hear anything about Ms. Elton in the terms
25 of that settlement. So you --

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1 A Oh. I agreed -- I agreed not to sue her.
2 Q Oh.
3 A I think I did. It was -- she was -- she conspired
4 with Joseph Hogan to call the police and make a false police
5 report, which has resulted in this litigation in which you
6 are involved and the other defendants, and I think
7 Joseph Hogan was mostly worried about himself.
8 I -- I can -- I can get you a copy of that
9 settlement if you'd like to see it.
10 Q Okay. Thank you.
11 A Okay.
12 Q And to clarify the record, is Joseph Hogan related
13 to you?
14 A He's my brother.
15 Q And is Kathleen Elton related to you?
16 A She's his ex-wife.
17 Q Did Ms. Elton ever live on any property owned by
18 you?
19 A She lived on property which was owned by my father
20 and then was part of my father's estate.
21 Q So your father passed away?
22 A Yes.
23 Q Approximately when?
24 A August of 1998.
25 Q And so did Mrs. Elton live on that property

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1 subsequent to August of 1998?
2 A Yeah. She also lived there prior to that time.
3 Q Okay. Do you know the last approximate date at
4 which Ms. Elton lived at that property?
5 A It was early in 2003.
6 Q Do you currently own that property?
7 A No, it was sold by the estate.
8 Q Approximately when was it sold by the estate?
9 A May of 2003 I'm going to guess.
10 Q Before it was sold, did you have any ownership
11 interest in it as far as you know?
12 A Only as an heir to the estate.
13 Q During that time period when you had an ownership
14 interest as an heir to the estate, was any money owed on the
15 property for purposes of a mortgage?
16 A No.
17 Q Was any money owed on the property with regard to
18 keeping the property running, say, for insurance or
19 electricity or that kind of item?
20 A Do you mean were electricity bills late or do you
21 mean were there electricity bills?
22 Q Yes, both. I'm getting to the first question that
23 you mentioned.
24 Did you make any payments to any insurance company,
25 electric company, that kind of thing during the time period

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1 that you had an ownership interest in that property?
2 A Yes.
3 Q And the payments were for operation -- related to
4 the operation of that property?
5 A Yes.
6 Q Did there ever come a time when you were handling
7 such payments when you were unable to make the payment that
8 was due? And by "unable," I mean financially unable.
9 A No. There was -- there were some problems, though,
10 that my brother stopped -- at first my brother was in
11 complete charge of all of the bills. He was in charge of
12 all the money. He took in all the rent. He -- he kept
13 charge of all the cash in the estate, and he was supposed to
14 pay all the bills, and then at some point, he decided to
15 stop paying the bills, and Kathleen Elton called me up one
16 day and she said, "The water's been turned off," and it
17 was -- I remember it was before -- I think it was a
18 three-day weekend, and she was really worried.
19 Q Excuse me one moment.
20 Was this before August of 2000?
21 A Yes.
22 Q But after your father had passed?
23 A Yes.
24 Q Okay. Sorry. Continue.
25 A And so I ran -- I rushed down to the water company

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1 and got there just before 5:00 to pay the bill. So I guess
2 that bill was late, but it -- it got turned -- the water got
3 turned back on pretty fast.
4 Q So was that approximately when Ms. Elton called you
5 concerning the water bill? Was that when you started making
6 any of the payments that you made in relation to that
7 property?
8 A Let's see. I had been paying -- I would have to
9 look up my records. I believe I was paying the phone bill
10 and the gas and electric bill. My brother was supposed to
11 be paying taxes. I know I paid insurance.
12 Q Do you mean like homeowners insurance?
13 A Actually, liability insurance. I had -- I got that
14 myself.
15 Q And what was the time period that you paid the
16 phone bill, gas and electric and insurance, your best
17 estimate, on this property that we've been discussing?
18 A Oh, yeah, and I also paid the fire insurance, too.
19 I remember the first bill I paid was about -- I
20 think it was about a month after my father died, and I went
21 to his place and I searched around for any bills that might
22 need paying, and I found that the fire insurance hadn't been
23 paid, and I was able to call up the agent and get that
24 retroactively reestablished.
25 Q And did you continue making whatever payments you

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23

1 had taken over up until the time that the property was sold
2 by the estate in about May of 2003?
3 A Yes.
4 Q What's the address of this property that we've been
5 discussing?
6 A 1930 and 1936 Broadway.
7 Q In what city, state and zip code, please?
8 A San Diego, 92102.
9 Q What part of town is that?
10 A Golden Hill.
11 Q Returning to the terms of the settlement of the
12 Larkins v. Elton case, I understand your testimony to be
13 that the terms of the settlement were that you agreed to
14 dismiss with prejudice against Ms. Elton and that you agreed
15 not to sue Joseph Hogan concerning a police report filed by
16 Ms. Elton. Is that an accurate statement of what you've
17 said?
18 A Yes.
19 Q Thank you.
20 Were there any other terms of that settlement?
21 A Well, there was the distribution of the money in
22 the estate.
23 Q Right. But I'm asking you about the Larkins v.
24 Elton settlement, not your probate matter with your brother.
25 A No, other than what I already mentioned.

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1 Q You've been mentioning a probate matter. Is there
2 a case name on that?
3 A It would be William O. Hogan.
4 Q Versus?
5 A It's probate.
6 Q Approximately when was that matter opened as far as
7 your involvement in it?
8 A Well, do you mean when probate was opened?
9 Q I mean when did you get involved with that matter.
10 A Okay. When probate was opened, the will mentioning
11 me was filed with the court. That was -- I'm thinking -- it
12 was in 1999.
13 Q Was your deposition taken in that matter?
14 A No.
15 Q Did Ms. Elton ever say to you that she -- words to
16 the effect that she had falsely filed the police report at
17 issue in that Larkins v. Elton litigation?
18 A No.
19 Q Did Joseph Hogan ever tell you words to the effect
20 that he had agreed with Ms. Elton to get her to file a
21 police report against you?
22 A He has been pretty much all over the -- all over
23 the ballpark on his positions in this case.
24 I really think you should probably depose him if
25 you want to find out what his position is.

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25

1 Q My question was not what his position was.
2 My question was, did he ever tell you that he
3 agreed with Ms. Elton for her to file a police report
4 against you?
5 A No.
6 Q And as we're moving backwards in time, you've
7 already named the Larkins v. Schulman and Larkins v. Elton
8 cases. What was the next most recent litigation in which
9 you were involved?
10 A This current litigation.
11 Q Would that be Larkins v. Werlin, et al.?
12 A Yes.
13 Q And prior to Larkins v. Werlin, et al., what was
14 the next most recent litigation in which you were involved?
15 A The only litigation I was involved in was when
16 there was a big thing with all the homeowners in my
17 development against the developer, but I wasn't very much
18 involved in that.
19 Q Was your deposition taken?
20 A No.
21 Q Approximately what year was this?
22 A Oh, heavens. 10 years ago.
23 Q Were you a plaintiff in that case?
24 A I don't know if they used my name.
25 Q Did you receive settlement --

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1 A Yes.
2 Q -- in that case?
3 What's the name of your development?
4 A Well, it's Cottonwood. I think it might have a --
5 it might be Broadmoor.
6 There were several -- I think there was -- I wasn't
7 an original owner so I -- you know, I don't really know
8 exactly what signs they had out when it was first built.
9 Q Was this case that you're telling me about now that
10 was about 10 years ago, was it some sort of a case brought
11 by a homeowners association against a builder or something
12 of that nature?
13 A It had to do with the P -- I think it was PVC pipes
14 or something in the plumbing, and they replaced them with
15 copper.
16 Q So was it a construction defect case?
17 A Yes.
18 Q You're talking about a house that was -- strike
19 that.
20 Do you currently live in a house?
21 A Yes.
22 Q And what is the address of the house that you
23 currently live?
24 A 1935 Autocross Court.
25 Q Is this the same property that was subject of the

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1 construction -- of the CD case that you were just
2 referencing?
3 A Yes.
4 Q And what's the city, state and zip on that
5 property?
6 A El Cajon, California 92019.
7 Q And is there a telephone number at that address
8 currently?
9 A (619) 444-0065.
10 Q And how long has that been the telephone number for
11 that property?
12 A Maybe about five years.
13 Q Are there any other telephone numbers affiliated
14 with that property?
15 A No.
16 Q Are there any other -- I'm not a telephony person
17 so I don't know the right way to say it, but are there any
18 other telephone numbers, like a fax number or other methods
19 of telephonic communication with that property?
20 A There have been in the past. I don't even know
21 what it was.
22 We had a -- our computer was hooked up to a
23 telephone number, but I don't even remember what that
24 telephone number was.
25 Q Were those other telephone numbers prior to the

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1 last five years?
2 A The computer one, I think we just disconnected that
3 about a year ago.
4 Q And what was the telephone number for that?
5 A I have no idea.
6 Q Did you receive faxes and send faxes through that
7 computer line?
8 A If I did, it would have only been a couple. Let's
9 see. You know, I don't think I did. I don't think I ever
10 did.
11 Q Do you have any other telephone number?
12 A I have a cell phone.
13 Q I'm sorry. Let me strike the --
14 A Okay.
15 Q -- question.
16 Within the last five years, have you had any other
17 landline telephone number?
18 A Yeah. That same outlet that has the 0065 now used
19 to be 1459.
20 Q I'm sorry. Is that 444 --
21 A Yes.
22 Q -- 1459?
23 A Yes.
24 Q And when did you get rid of that phone number?
25 A About five years ago.

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1 Q And have you had any other telephone or fax
2 numbers, landline numbers in your name within the last
3 five years?
4 A Yeah -- well, in my husband's name, I believe, or
5 it might have been in my name.
6 Q Is that the 1459 number that was in --
7 A No, it's the 660 -- you've received many faxes from
8 the 444-660 -- what was it? 44 -- 6955.
9 Q 660-6955?
10 A Yeah.
11 Q Is that a 619 area code?
12 A Yeah.
13 Q And where is the physical location of that
14 telephone number?
15 A Well, it was at 11406 Via Rancho San Diego.
16 Q Can we have a city, state and zip, please?
17 A Well, you want -- Number 18.
18 Q Oh, thank you.
19 A And it's El Cajon, 92019.
20 Q That's El Cajon, California?
21 A Yeah.
22 Q And what was located besides the telephone at
23 11406 Via Rancho San Diego, meaning was it a residence or an
24 office, or can you describe the nature of that location?
25 A It's a condo and it's been an office. It's been

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1 rented out.
2 Q Any other uses for that property?
3 A No.
4 Q Do you own that property at 11406 Via Rancho
5 San Diego?
6 A Yes.
7 Q And when did you acquire the property?
8 A About 11 years ago.
9 Q So would that be since approximately 1993?
10 A Something like that.
11 Q Do you still own the property?
12 A Yes.
13 Q Anybody else's name on title besides yours?
14 A My husband's.
15 Q Do you own any other real property?
16 A No.
17 Q Whose name is on title of the 1935 Autocross Court
18 property?
19 A My husband.
20 Q Is your name on that title as well?
21 A And mine in joint tenancy.
22 Q Thanks.
23 For our mutual reference, I'll discuss the 11406
24 property as the condo.
25 A Yeah.

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1 Q And the 1935 Autocross Court property as your
2 house.
3 A Yeah.
4 Q Okay. Is there any amount outstanding on the
5 mortgage at the condo property?
6 A Yes, somewhere around 60,000.
7 Q And from August of 2000 continuing until today, has
8 there ever come a point in time when you were financially
9 unable to make your mortgage payment on that condo property?
10 A No.
11 Q Is there any amount owed on the mortgage for the
12 house?
13 A Yes, quite a bit.
14 Q And --
15 A About 2 -- 245 or something like that.
16 Q And beginning with August 2000 and continuing until
17 today, has there ever been a point in time when you were
18 financially unable to make the payment on that property?
19 A No. We took out a big loan to -- to get by
20 financially.
21 Q When?
22 A Oh, gosh. About -- was it two years ago or --
23 about two years ago, I think it was, or maybe it's
24 three years ago.
25 Q And how much was that loan for?

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1 A Let's see. We had --
2 Q Approximately.
3 A Yeah, I'm trying to figure it out.
4 I think it was 130,000 -- well, see, we took
5 130,000, added to it. See, it had been about 115 that was
6 owed on it and so we added about 130,000 to it.
7 Q Was that some sort of home equity loan or something
8 like that?
9 A Yes. Well, actually, first we did a home equity
10 loan and then we refinanced.
11 Q On the Autocross Court property?
12 A Yeah. Yeah.
13 Q And what did you use -- have you used the \$130,000
14 in total?
15 A Yes.
16 Q And what did you spend it on generally, you know?
17 A Living expenses.
18 Q And has any --
19 A And this lawsuit.
20 Q Has any of that money been paid back or is the
21 entire balance still outstanding?
22 A Well, it's being paid back a little bit each month.
23 Q Have you been able to, generally speaking, make
24 your payments?
25 A Yes.

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1 Q I'm sorry if I already asked this one: Is there
2 any other real property that you own?
3 A No.
4 Q Okay. And prior to the homeowners construction
5 defect litigation, have you been involved in any other type
6 of litigation?
7 A No.
8 Q Have you ever filed for a restraining order against
9 anyone?
10 A No.
11 Q To your knowledge, has anyone ever sought a
12 restraining order against you?
13 A They've never filed one. I know that
14 Michelle Scharmach wanted the district to file one.
15 Q How do you know that?
16 A Because I saw a letter she wrote.
17 Q When did you see the letter she wrote?
18 A When your colleagues, Parham & Rajcic, produced it.
19 Oh, no. They didn't produce it to me. They produced it to
20 PERB.
21 Q How do you know this was a letter written by
22 Michelle Scharmach?
23 A I forget exactly all the details. I think she
24 mentioned something about being in the library, and I know
25 she was the librarian.

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1 Q Do you have a copy of this letter?

2 A You do. I've produced it to you I'm quite sure.

3 Q Do you know the date of this letter?

4 A It was strangely not dated, but I'm quite certain

5 it was around early December 2001.

6 Q And what makes you think that?

7 A Because a group of letters were written by I think

8 it was about five employees at Castle Park School at about

9 that time.

10 I remember Linda Watson dated hers. She dated hers

11 November 30th. And they were -- also in depositions people

12 have discussed this, that -- at about this time. In fact,

13 Rick Werlin was talking about how Michelle -- he talked to

14 Michelle Scharmach about this time. And then PERB came up

15 with the documents in January of 2000 -- no, not -- was it?

16 Parham & Rajcic produced the documents to PERB in I think

17 February.

18 Q Of what year?

19 A Of 2002.

20 Q And to your knowledge, was any application or

21 petition for a restraining order ever sought against you by

22 these people?

23 A Do you mean filed? Oh --

24 Q In any fashion.

25 A No, I don't think they ever actually went to the

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1 court.

2 Michelle Scharmach wanted the district to, and the

3 district has at times claimed that it feared that I would

4 kill people. People at the district have said that they

5 feared that I would come to school and shoot everybody, but

6 for some strange reason, no one ever managed to get down to

7 the police department or the courthouse and ask for a

8 restraining order, which one might expect in such a case.

9 Q Concerning the statement you just made, people said

10 they feared I would come to District and shoot everybody,

11 who is "people"?

12 A You know, I think it would be a good idea to ask

13 Maria Beers that question. She has -- she heard them say

14 it.

15 I -- I -- I really don't think that I should --

16 should name all the names of everybody who expressed that

17 fear. I don't think I can. As you yourself admonished in

18 the beginning, I should be careful not to just make wild

19 guesses.

20 Q Again, the question was, you said that people said

21 they feared I would come to the district and shoot

22 everybody. Who were you referring to as "people"?

23 A Teachers at Castle Park.

24 Q Which teachers at Castle Park?

25 A I'd prefer not to name names.

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1 You know, what's really interesting to me is that

2 the district has never produced any evidence of having asked

3 these teachers about this.

4 I'm really surprised that there isn't some document

5 where the district, which claimed to fear that I was going

6 to kill people, that Richard Werlin, the assistant

7 superintendent for human resources, where he went to

8 Castle Park school and said, "Okay. Now, who's afraid that

9 Maura Larkins is going to shoot them or shoot somebody?

10 What makes them think that?"

11 It's obvious that the district has tried to create

12 an enormous smoke screen in this case by refusing to produce

13 any interviews, any documents showing what they were doing,

14 why they were doing it.

15 For example, I was taken out of my classroom on

16 February 12th, and no document was produced about that

17 personnel action until April 4th in which -- which was the

18 very day that the district asked me to come back to work,

19 and on that day, they gave me a document saying that I was

20 being told to stay away from Chula Vista schools. It's all

21 been pretty much a big farce.

22 MS. GARVIN: Move to strike as nonresponsive.

23 MS. ANGELL: Join.

24 Would you read the question back, please?

25 (Question read.)

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1 BY MS. ANGELL:

2 Q Would you please answer the question?

3 A I cannot answer the question, Ms. Angell, but in

4 the three and a half years since I was taken out of my

5 classroom for fear that I would kill somebody, the district

6 really should have some documents that show which teacher

7 said they thought I was going to come to school and shoot

8 everybody.

9 MS. ANGELL: Move to strike for everything after

10 "Ms. Angell" as being nonresponsive.

11 MR. ROHRBACHER: Join.

12 MS. GARVIN: Join.

13 BY MS. ANGELL:

14 Q Why is it, Mrs. Larkins, that you can't say what

15 teachers at Castle Park said that they feared that you would

16 come to the district and shoot everybody?

17 A You're trying to strike the truth. You can't hide

18 the truth in this case. It's going to come out.

19 The fact is you in particular have tried to make

20 sure that I couldn't have any contact with employees of

21 Chula Vista Elementary School District. You've tried to

22 create a wall so that I wouldn't know what was being said

23 there, that I would not be able to find anyone who would be

24 willing to tell the truth in this case.

25 I was not there. I should have been. I should

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1 have been listening to these people making these
2 accusations.
3 Why is it three and a half years later the second
4 caller on February 12th has still not been identified by the
5 district?
6 Q Are you finished?
7 A Yes, but I'm getting thirsty. I think I'd like to
8 take a break.
9 MS. ANGELL: Before we do that, we'll move to
10 strike the response as nonresponsive.
11 MR. ROHRBACHER: Join.
12 MS. GARVIN: Join.
13 MS. ANGELL: And let's go off so the plaintiff can
14 take a break.
15 THE VIDEOGRAPHER: Off the record at 10:51.
16 (Recess.)
17 THE VIDEOGRAPHER: Back on the record at 11:01.
18 BY MS. ANGELL:
19 Q Which telephone carrier provides service to your
20 (619) 444-0065 telephone number?
21 A I think it's SBC.
22 Q And is the bill in your name?
23 A I think it's in -- oh. I think it's in my
24 husband's name.
25 Q And what is your husband's name?

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1 A Robert W. Larkins.
2 Q And is in fact SBC the carrier for that telephone
3 or are you guessing?
4 A I'm -- I'm about 80 percent sure.
5 Q Okay. And for the 660-6955 number, what telephone
6 carrier provides the service for that number?
7 A Well, that number is no longer in service, but I
8 believe it was Cox.
9 Q Cox Telecommunications?
10 A (Witness nods head.)
11 Q And whose name was that telephone bill in?
12 A I believe that was in my name.
13 Q And for how long has the 660-6955 number been out
14 of service?
15 A A few -- let's see. About six months maybe.
16 Q Has it been replaced by a different telephone or
17 fax line?
18 A No.
19 Q So there's currently no telephone or fax line at
20 the condo property?
21 A No.
22 Q Is my question --
23 A There is no fax or phone line --
24 Q Thank you.
25 A -- at the condo property.

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1 Q. Thank you.
2 And I notice that you have a cell phone sitting on
3 the table.
4 A Uh-huh.
5 Q Is that your cell phone?
6 A Yes. It's Cingular, and the number is
7 (619) 312-5642.
8 Q And in whose name is that telephone bill?
9 A My name.
10 Q And how long have you had that cell phone number?
11 A About a year.
12 Q Did you have a cell phone account before this one?
13 A Before I got this one there was a while I didn't
14 have any, and before that, I -- I did with Sprint. I don't
15 even think I could tell you the number that that was. I
16 didn't use it very much.
17 Q During the 2000-2001 school year, did you send
18 faxes, faxed correspondence from time to time to the school
19 district offices?
20 A Yes.
21 Q And from what telephone number did you send those
22 faxes, if you recall?
23 A It would have been -- some of them I'm quite sure
24 were from the 660 number, and some of them were -- I think
25 were from the -- the 0065 number.

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1 Q Did you send faxes to the district office during
2 the '00-01 school year from any other number besides your
3 home and condo fax machines?
4 A No.
5 Q Does the fax machine -- do you still have the same
6 fax machine at your home number that you had since the
7 '00-01 school year?
8 A No. No.
9 Q It's a different fax machine now?
10 A Uh-huh.
11 Q And when did you change it?
12 A A few months ago.
13 Q So since it's now October 2004, would that be maybe
14 May of 2004 that you changed it?
15 A I'm just guessing. I -- I can't give you a month
16 more accurate than -- you know, it was a few months ago.
17 Q Does "a few" mean three or four?
18 A Yeah.
19 Q Okay. And was there --
20 A Or five. "A few" could mean five, couldn't it?
21 Yeah, three or four or five.
22 Q Okay. And was there any particular purpose or
23 reason that you changed out that fax machine at your home
24 number?
25 A Yes, because I realized that I -- it would be a

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1 good investment to get a machine that would make a copy of
2 the document that was being faxed.
3 Q Okay. And did the fax machine that you used
4 previous to the one that you have now, did it create a date
5 and time stamp on faxes that you sent?
6 A Yes.
7 Q And to the best of your knowledge, was the date and
8 time stamp accurate in reflecting the time that a fax was
9 sent or received?
10 A It could have been an hour off during Daylight
11 Savings Time.
12 Q Okay. Did you ever notice from time to time that
13 it was off by an hour?
14 A Yes, and then I thought it would be best to just
15 leave it because then I could always just say during that
16 entire period of Daylight Savings Time it was off by an hour
17 instead of trying to remember exactly when.
18 Q Did you ever try to adjust the time to correct for
19 the --
20 A Not during, only at -- not during a Daylight
21 Savings period, but like I tried to get it right the next
22 year.
23 Q Okay. And did you succeed in getting it right the
24 next year?
25 A I'm really not sure. We'll have to -- we could

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1 compare faxes.
2 Q What year was it that you noticed that the date and
3 time stamp was off on this fax machine?
4 A Sometime during this litigation, which has gone on
5 for three and a half years. I made notes, and I could go
6 look up my notes.
7 Q Was it before you filed your first complaint in the
8 matter of Larkins v. Werlin, et al.?
9 A It could have been, but I don't remember.
10 Q Do you have any other telephone or fax numbers
11 besides the home fax phone and the cell phone currently?
12 A No.
13 Q And other than the several numbers that you've
14 already given us in this deposition, have you had any other
15 fax or telephone numbers within the last five years?
16 A No.
17 Q Returning to your statement made before we went on
18 break that people said they feared I would come to the
19 district and shoot everybody, who are the persons who said
20 they feared you would come to the district and shoot
21 everybody?
22 A Okay. I think you really want some names, and I'm
23 happy to give you names.
24 Okay. This is what -- let me give you all the
25 information I have, and then if that doesn't satisfy you, I

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1 guess you can ask me the question again afterwards.
2 Okay. Maria Beers gave me some information about
3 what was going on at Castle Park.
4 Q When did she give you this information?
5 A Oh, I talked to her maybe every -- every two,
6 three months maybe since -- more frequently at the beginning
7 when I was first taken out of my classroom.
8 Q And what date are you referring to?
9 A February 12, 2001.
10 Q So in response to my question of who said that they
11 feared that you would come to the district and shoot
12 everybody, can you --
13 A I'm going to have to give you hearsay, what
14 Maria Beers told me.
15 Q Okay. What did Maria Beers tell you?
16 A Okay. She said that Robin Donlan was one of the
17 ones who expressed most concern, although the first person
18 who ever really expressed serious concern to her was
19 Linda Watson.
20 Right -- well, I should say, maybe a few weeks
21 after I was taken out of my classroom, Maria Beers told me
22 that Linda Watson came up to her and said, "Are you afraid
23 of Maura?"
24 And she said, "No."
25 She said, "Well, but she does things so differently

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1 from us. We're afraid of her."
2 And she said, you know, "Well, I'm not."
3 And she says -- Linda Watson said, "She's the kind
4 of person who becomes a mass murderer."
5 Q Were you present for this conversation between
6 Ms. Beers and Ms. Watson?
7 A No. As I told you, this is -- this is hearsay, but
8 you wanted these names so I'm trying to give you some names.
9 Q Did Maria tell you anything else that Linda
10 allegedly said during that conversation?
11 A That's all I remember at the moment.
12 Q Did Maria say anything else about what she said
13 during that conversation?
14 A I think she said something about that it was -- it
15 was terrible, that -- that a good teacher, her career was
16 being destroyed and -- and that it was ridiculous that these
17 accusations were made.
18 Q Did Maria tell you she said that to Linda during
19 that conversation?
20 A I can't be sure -- I'm not absolutely sure. I'd
21 have to check my notes, but I think so. I think so.
22 Q And what document would refresh your memory on this
23 issue of what Linda and Maria said to themselves during the
24 conversation that occurred within a few weeks of
25 February 12, 2001?

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1 A Well, some documents that I produced to you during
2 Linda Watson's deposition. You have them.
3 Q Which documents are those?
4 A They have -- it says "mass murderer" on them.
5 Q And did you take those notes?
6 A Yes.
7 Q And what was the circumstance in which you were
8 taking those notes?
9 A I took notes when I was talking to Maria Beers on
10 the phone.
11 Q And when did Maria Beers -- when did this telephone
12 conversation occur with Maria Beers when she told you about
13 these spring 2001 questions by Linda Watson?
14 A I -- I really -- I -- you know what? I think there
15 might have been a date on that document. So that would
16 be -- if there's a date on that document, that's the day she
17 called me and talked about Linda Watson saying that I was
18 the type of person who became a mass murderer, but all I'm
19 remembering, it was like, I'm going to say, a few weeks
20 after I was taken out of my classroom.
21 Q So sometime during March of 2001, would that be
22 accurate?
23 A You might be narrowing it down too much. It's
24 possible it was the end of February.
25 Q Okay. So February or March 2001?

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1 A Yeah.
2 Q Did Maria tell you about any other conversations
3 that she had with Linda Watson concerning you?
4 A You mean ever? Did she ever tell me about any
5 more?
6 Q Yes.
7 A And you want it to be limited to after I was taken
8 out of my classroom?
9 Q No.
10 A Conversations she had with Linda before?
11 Q At any time concerning you.
12 A I think she might have talked to them about -- to
13 Linda and Richard Denman, would be the main people, about
14 that they should include the bilingual class, which was my
15 class, in teaming.
16 MS. GARVIN: I'm sorry in?
17 THE WITNESS: Teaming.
18 MS. GARVIN: Okay.
19 BY MS. ANGELL:
20 Q Did Maria Beers tell you that she told Watson and
21 Denman that they should include your class in teaming?
22 A You know, she either told me or she might have said
23 that during the administrative hearing.
24 Q And what is the approximate best estimate time
25 frame of this comment to Watson and Denman regarding

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1 inclusion of bilingual class in teaming?
2 A I don't know. I don't think that Maria gave a
3 specific time frame for it.
4 Q When Maria was telling you about the February,
5 March 2001 conversation between herself and Ms. Watson, did
6 she tell you that anything else was said other than the
7 comments you already told me?
8 A I -- nothing else is coming to me right now.
9 Q Is that a yes or a no or an I don't remember?
10 A That's an I don't remember.
11 Q Did Maria tell you about any other conversations
12 that she had with Linda Watson concerning you?
13 A Not much.
14 Maria became frightened of -- of talking about what
15 was going on. She told me that she didn't want the people
16 there to be mad at her.
17 Q Is that a no?
18 A No. There wasn't much. There wasn't much else she
19 told me about -- let's see -- specifically about Linda.
20 If I think of it, though -- if I think of anything,
21 I'll mention it, but right now, I can't remember anything
22 specifically about Linda.
23 Oh, yeah. No, wait a minute. Your question was
24 anything that she talked to Linda about me?
25 Q Yes. My -- let me restate my question so it's

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1 clear and for the record.
2 A Yeah.
3 Q The question was, did Maria tell you about any
4 other conversations that she had with Linda Watson
5 concerning you other than the two you've already recounted?
6 A Yeah, that summer, that summer she said that --
7 Q Which summer? I'm sorry.
8 A 2001, after I had been taken out of my classroom
9 the second time.
10 I was asked to come back to work without any
11 investigation. First they claim that I'm going to kill
12 people and then they don't even bother to investigate and
13 they ask me to come back to work, and then, surprise,
14 surprise, same allegations again, and I was taken out a
15 second time.
16 MS. ANGELL: Move to strike; nonresponsive.
17 Would you read the question back, please?
18 (Record read.)
19 MS. ANGELL: Thank you.
20 BY MS. ANGELL:
21 Q So could you please tell me about any other
22 conversation that Maria told you she had with Linda Watson
23 other than the two you've already recounted?
24 A About me? Conversations about me?
25 Q Yes, conversations that Maria told you she had with

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1 Linda Watson concerning you.

2 A Not with any new information. She might have just
3 said, "Oh, Maria -- Linda is still the same," something like
4 that other times I talked to her.

5 Q So does that mean that she never told you about any
6 other conversations that she had with Linda?

7 A No, it just means that there was no new
8 information, just the -- that she was -- it was clear to her
9 that Linda continued to fear that I would kill her or other
10 people or everybody.

11 Q When you previously told me about this February or
12 March 2001 conversation between Maria Beers and
13 Linda Watson, you didn't say anything about Linda fearing
14 that you would kill her. Did you forget to mention that
15 part?

16 A Linda said that on February 10th when she called up
17 Rick Werlin within I guess about 15 minutes of
18 JoEllen Hamilton calling Rick Werlin.

19 And it's funny, but Mr. Werlin pretended during his
20 deposition and then during the administrative hearing to be
21 totally shocked that a teacher would call up and say that
22 they were afraid, and it turned out that he had invited --
23 JoEllen said that he had invited her to call him at home.

24 MS. ANGELL: Move to strike; nonresponsive.
25 Can we have the question back, please?

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1 (Question read.)

2 BY MS. ANGELL:

3 Q Please answer the question.

4 A No, as I said -- no, she didn't say that in that
5 conversation.

6 Q Okay.

7 A Linda said that on February 10th when she called up
8 Rick Werlin at his home.

9 Q And how do you know that Linda Watson said that she
10 feared that you would come to the district -- I'm sorry.
11 Strike that.

12 What statement is it that you attribute to
13 Linda Watson as having been made on February 10, 2001?

14 A That she was afraid that I would kill her.

15 Q And on what basis do you make that allegation?

16 A Well, Rick Werlin told me. He didn't tell me her
17 name at that time. On February 12th I didn't know her name.
18 All I knew was that -- well, actually, I didn't know that
19 the teachers for sure said these things, but I sure know
20 that Rick Werlin told me they did.

21 Rick Werlin said that two teachers called him up on
22 Saturday, February 10, 2001, and said that they feared for
23 their lives, and they -- that I had behaved in a way that
24 indicated that I was going to kill them, and then later on I
25 discovered that Linda Watson was the second caller.

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1 Q Did Mr. Werlin say that these two teachers said
2 anything other than that they feared for your (sic) lives
3 and that you behaved in a way that indicated you would kill
4 them?

5 A Yes.

6 Q What else did he say?

7 A He said they thought that I was emotionally
8 unstable.

9 Q These two teachers said this during the phone calls
10 that Mr. Werlin was referencing which occurred on
11 February 10, 2001, correct?

12 A Yes, they did, according to Mr. Werlin, but
13 strangely enough, in the three and a half years since then,
14 the district has never seen fit to go and ask these
15 teachers, you know, "Did you say this? Did Werlin make this
16 up? Did this happen?"

17 No investigation by the district, and apparently
18 CVE didn't want any investigation either.

19 MR. ROHRBACHER: Move to strike everything after
20 "but strangely enough."

21 MS. ANGELL: Join.

22 MS. GARVIN: Join.

23 MS. ANGELL: Nonresponsive.

24 MR. ROHRBACHER: That's what I meant.

25 / / /

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1 BY MS. ANGELL:

2 Q When did Mr. Werlin tell you that two teachers
3 called him up on Saturday, February 10, 2001?

4 A On February 12, 2001.

5 Q Was anyone else present when Werlin told you this?

6 A Yes.

7 Q Who was present?

8 A Gina Boyd, who was presenting herself as someone
9 who was representing my interests, and
10 Gretchen Donndelinger, and Cynthia Miller, and
11 Richard Werlin.

12 Q Is that five people total?

13 A Gina Boyd never said anything during that entire
14 meeting. She never objected to anything that Rick Werlin
15 did. She turned to me and told me that he had to take me
16 out of my classroom, that he had no choice.

17 MS. ANGELL: Move to strike; nonresponsive.

18 There's no question pending concerning what
19 Gina Boyd said to you.

20 MR. ROHRBACHER: Join.

21 BY MS. ANGELL:

22 Q And if you could look at me. I know that you want
23 to make a documentary out of this, but I'm the one that's
24 asking you questions so --

25 A Does the law require that I look at you?

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1 Q Well, it's not a show.
2 A Does the law require that I look at you?
3 Q It's not a show. This is just a
4 question-and-answer period.
5 A I believe that I will look wherever feels right to
6 me because you have tried to take away all my rights, but
7 that's one right I'm not going to let you take away.
8 I have the right to look at whomever and whatever I
9 want to look at, Ms. Angell.
10 MS. GARVIN: Move to strike. No question pending.
11 MS. ANGELL: Join.
12 MR. ROHRBACHER: Join.
13 THE WITNESS: And this is a show. This is a
14 circus. This is a three-ring circus that CVE and the
15 district have been carrying on for three and a half years.
16 I think you're quite wrong when you say this is not
17 a show.
18 MS. GARVIN: Move to strike. No question pending.
19 MS. ANGELL: Join.
20 MR. ROHRBACHER: Join.
21 BY MS. ANGELL:
22 Q Subsequent to February 12, 2001, did Mr. Werlin
23 tell you the name of any teacher who called him on
24 February 10, 2001?
25 A He didn't tell me, but Gina Boyd called me up and

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1 told me that -- she changed her story.
2 She called me up in March, I think it was March 22,
3 2001, and she said that the teacher who had called and said
4 she feared I would kill her was JoEllen Hamilton.
5 And I said to Gina, "And who was the other
6 teacher?"
7 And Gina said, "There was only one teacher."
8 And I was worried. I thought -- I really seriously
9 thought Gina Boyd might be developing Alzheimer's, and I was
10 upset because she was my only witness. I was depending on
11 her to tell the truth about what happened at that meeting.
12 And there's no way anybody could forget, you know,
13 if they had a brain that was working. It was really
14 dramatic when he said that there were two teachers.
15 In fact, he also said that Gretchen Donndelinger,
16 the principal, supported their claims and agreed with them,
17 and he said to me, "It's three to one," and he cupped his
18 hands like this. It was impossible to forget.
19 And I don't -- now I realize Gina didn't forget it.
20 She just said she did.
21 And he said, "It's three to one. If it had been
22 two to two, I might have some choice, but it's three to
23 one."
24 Q What are you talking about with this weighing of
25 your hands? What conversation are you talking about?

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1 A Rick Werlin said this on February 12th. He was
2 referring to the number of people who were saying --
3 accusing me of being apparently so emotionally unstable that
4 I was homicidal.
5 Q And who are the three people he was talking about?
6 A The two -- on that day, he didn't give any names.
7 He said two teachers and Gretchen Donndelinger.
8 Q So in response to my question before your long
9 narrative, is the answer that Richard Werlin never told you
10 who the two teachers were or who anybody was who phoned him
11 on February 10, 2001?
12 A He never directly told me. He did say it, though,
13 in his deposition and in the administrative hearing.
14 Q Were you present during the deposition --
15 A Yes.
16 Q -- of Mr. Werlin?
17 A Yes.
18 Q And with regard to that deposition, you mean the
19 deposition that was taken of Mr. Werlin in relation to your
20 dismissal hearing before the Commission on Professional
21 Competence?
22 A Yes. You won't allow any deposition of
23 Richard Werlin in this case.
24 MS. ANGELL: Move to strike, nonresponsive,
25 everything after "Yes."

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1 MR. ROHRBACHER: Join.
2 BY MS. ANGELL:
3 Q And in that deposition, did Mr. Werlin say that one
4 person called him on February 10, 2001?
5 A Yes.
6 Q Did he deny that multiple persons had called him on
7 February 10, 2001 concerning you at that deposition?
8 A My lawyer refused to ask that question. I even
9 asked my lawyer to say specifically "Did Linda Watson call
10 you that night," and my lawyer refused to do it. That's why
11 we have the case Larkins versus Schulman.
12 My answer was that the question was not asked.
13 Q Thank you.
14 Do I understand it to be your testimony that
15 Gina Boyd told you that Werlin had only said that one person
16 had phoned him?
17 A Yes. She told me that Werlin was now saying that
18 it was one person, and I said, "But it was two people."
19 And she said, "Well, that's what he's going to
20 say."
21 Q I'm sorry. That wasn't my question.
22 My question was, when you talked with Gina Boyd, I
23 think you said sometime in March of 2001 --
24 A Uh-huh.
25 Q -- concerning the identity of the Saturday phone

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1 caller, did Gina tell you, "No, during our February 12, 2000
2 (sic) meeting Mr. Werlin had only said that there had been
3 one phone call," or was Gina saying, "Well, he said there
4 were two, but now he's saying one"?

5 A Well, in the first part of that conversation, she
6 was saying that it was -- she was claiming herself there
7 was -- Richard Werlin only mentioned one caller on
8 February -- when he talked to us on February 12th.

9 Q Okay.

10 A But then by the end of the conversation, when I --
11 I was appalled and I was saying, you know, "Don't you
12 remember? It was two people," and then by the end she said,
13 "Well, he's going to say it was one person."

14 So in other words, she was basically admitting it
15 was two, but she wanted me to know that his story was now
16 that it was one.

17 Q Did she ever say, "Yes, there were two callers,
18 Werlin said that there were two callers during our
19 February 12, 2001 meeting"?

20 A Yes.

21 Q When did she say that?

22 A She said that for -- in her -- you were present at
23 her deposition just on October 11th. She said there were --
24 she used the phrase "more than one."

25 She also said that in the first part of her

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1 deposition back a few months ago, whenever it was.

2 She said that to me, and then even after that
3 March, I think it was March 22nd conversation, she said to
4 me, "I looked at my notes from the February 12th meeting,
5 and I said -- it says 'They feared for their lives.' So
6 you're right, it was more than one person."

7 Can I ask you, Mr. Rohrbacher, for some water?

8 MR. ROHRBACHER: Water?

9 THE WITNESS: Thank you.

10 MR. ROHRBACHER: Of course.

11 THE WITNESS: Thank you very much.

12 BY MS. ANGELL:

13 Q At your hearing on your dismissal before the
14 Commission on Professional Competence, was there testimony
15 on the issue of whether -- as far as you can remember, of
16 whether or not there were two phone callers calling
17 Mr. Werlin at home that Saturday in February of '01?

18 A Oh, that's a -- that's a really interesting
19 transcript.

20 I was sitting there right next to my lawyer
21 saying --

22 Q Excuse me. Could you answer the question asked?
23 Was there, as far as you remember, testimony --

24 A Please don't interrupt me when I'm talking.

25 Q -- on that issue?

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1 A We agreed at the beginning that we weren't going to
2 interrupt each other.

3 Okay. Now I'm going to try to recall what my train
4 of thought was.

5 I was sitting next to my lawyer, and I gave her a
6 slip of paper that said, "Ask him if Linda Watson called."

7 And what happened was she asked "Did anyone else
8 call that night? Did you talk to anyone else on the phone?"

9 And he said, "Oh, let's see. I think I might have
10 called Gretchen Donndelinger."

11 And then she said, "Did anyone else call?"

12 And he goes, "Oh, I might have called the school
13 police."

14 And she goes, "Did anyone else call?"

15 And then he committed perjury, and he said, "No, no
16 one else called."

17 He was kind of -- he didn't want to commit perjury
18 at that moment, but he did.

19 Q Are you finished?

20 A Yes, I am.

21 Q What's your basis for the allegation that

22 Richard Werlin committed perjury in his testimony before the
23 CPC?

24 A Because he told me that two people called. I sat
25 right looking him in the eye and he said two people called.

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1 Gina Boyd has testified twice under oath, and you
2 were present, that it was more than one person that called,
3 and then in his testimony he said only one teacher called.

4 Q Has Richard Werlin been brought before any
5 tribunal, court, administrative panel, any type of
6 proceeding with reference to your allegations that he
7 committed perjury in front of the Commission on Professional
8 Competence in your dismissal proceeding?

9 A That's an interesting question. As a matter of
10 fact, I informed the school board, I think it was December
11 of 2001, that Richard Werlin was committing various illegal
12 acts, and there was never any investigation. In fact, he
13 was allowed to investigate himself regarding all my
14 grievances.

15 He was the district's legal contact regarding this
16 case. This very case against him, he was the district's
17 legal contact. So obviously the district has made every
18 effort not to investigate him.

19 And it continues to be a strange situation because
20 apparently Rick Werlin hasn't worked in almost a year, but
21 he's still collecting pay.

22 It almost makes me wonder if he's collecting his
23 huge salary, which I believe is like 150,000, to keep him
24 quiet, and I have a hard time believing that he's so ill
25 because he was looking for another job just before he

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1 suddenly disappeared from the scene.
2 I think the district knows that he committed crimes
3 and that's why they don't want him to be there at the
4 district office, but they're keeping him on the payroll and
5 going along with the story that he's ill just so he won't
6 have to testify in this case.
7 Q Are you finished?
8 A Yes.
9 MS. ANGELL: Move to strike; nonresponsive.
10 Can we have the question back, please?
11 (Question read.)
12 BY MS. ANGELL:
13 Q Would you please respond with a yes or no?
14 A Could you read the answer, just the first word?
15 (Answer read.)
16 THE WITNESS: Oh. Let me answer that. Not that I
17 know of.
18 BY MS. ANGELL:
19 Q Thank you.
20 A But he certainly should have been.
21 MS. ANGELL: Move to strike everything after "Not
22 that I know of." It's nonresponsive.
23 THE WITNESS: I need to say something, sort of
24 as -- as my own legal representative here.
25 I informed you that I was not available today to do

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1 a deposition, and I have personal matters that I need to
2 attend to.
3 It seems to me that your questions here today have
4 been what you yourself have called outside the scope of
5 discovery in this case, although I myself think that they're
6 well within the scope of discovery, but to all my questions
7 that I asked Gina Boyd and to most of my questions that I
8 asked Linda Watson in their depositions, you made
9 responses -- anytime that I asked questions about what
10 happened at Chula Vista Elementary School District, for
11 example, this was a question I asked -- I believe this was
12 Linda Watson. It's on Page 138 of her deposition, "Do you
13 recall who some of those teachers were?"
14 Just the sort of questions -- just the exact
15 question that you asked me over and over again today.
16 No, strike that.
17 MS. ANGELL: Are you attempting to make an
18 objection of some sort or something other than just making a
19 speech?
20 THE WITNESS: I'm attempting to wrap up this
21 deposition. I need to go. I have things to do, and I would
22 like to read back your own objection to my questioning
23 Gina Boyd and Linda Watson about events at Chula Vista
24 Elementary School District.
25 MS. ANGELL: If you're attempting to make an

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1 objection to a question, Mrs. Larkins, if you can interpose
2 that objection as the question is read, and then we'll move
3 on with the deposition.
4 THE WITNESS: Okay.
5 MS. ANGELL: So shall I continue with the
6 questioning or do you want to continue with your speech?
7 THE WITNESS: Oh, no. I want to make an objection.
8 MS. ANGELL: To what question?
9 THE WITNESS: To all your questions about events at
10 Chula Vista Elementary School District, and this is my
11 objection: You yourself have objected to this line of
12 questioning. Now, would you agree to stipulate that these
13 events that we're talking about, meetings at Chula Vista
14 Elementary School District with Rick Werlin, phone
15 conversations with Maria Beers, phone conversations with
16 Gina Boyd, would you stipulate that these are within the
17 scope of discovery in this case?
18 MS. ANGELL: Mrs. Larkins, I'm following up on your
19 allegation specifically that, quote, people said they feared
20 I would come to the district and shoot everybody, and in
21 your response to my question of who is the people who said
22 that, which goes to your allegation of -- contained in the
23 sixth amended complaint concerning information from a record
24 of arrest, I'm guessing that's how you relate it that people
25 would come to the district and shoot everybody, that's what

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1 I'm following up on. I'm following up on your testimony
2 that you've given in this deposition.
3 THE WITNESS: Okay.
4 MS. ANGELL: So I have no stipulation to make. I'm
5 just following up on comments that you're making in this
6 deposition because you've previously let me know that you
7 plan on saying whatever you feel like during this deposition
8 and not necessarily being responsive to the question.
9 THE WITNESS: Okay. So what you're saying is you
10 continue to believe that events at Chula Vista School
11 District are outside the scope of discovery in this case?
12 Is that what you're saying?
13 MS. ANGELL: I'm saying that I'm entitled to follow
14 up on your responses to my questions and that I believe that
15 my questions -- my initial lines of questioning relate to
16 information that is reasonably calculated to lead to the
17 discovery of admissible evidence in this matter and that
18 when I have to follow up on your allegation that so-and-so
19 said something to such-and-such person, you're opening that
20 door.
21 I'm not saying whether or not it's reasonably
22 calculated to lead to the discovery of admissible evidence
23 regarding your allegations, but when you say something in
24 deposition, I have to be able to explore that.
25 THE WITNESS: Okay. Okay. I think you've made

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1 your position very clear. You are going to try to keep all
2 discussion of events at Chula Vista Elementary School
3 District out of this trial, but you're just -- in case the
4 judge allows this in, you want to be prepared with
5 information?

6 MS. ANGELL: I'm -- this is not testimony. This
7 is, for the record, your attempt to act as counsel. This
8 is -- your statement of my state of mind is not relevant, is
9 not accurate, and I am not the deponent here.

10 THE WITNESS: Okay.

11 MS. ANGELL: So if you have a particular objection
12 to make to a particular question, please make it; otherwise,
13 we need to continue with the deposition.

14 THE WITNESS: Okay. I am going to object to this
15 line of questioning.

16 MS. ANGELL: Which line of questioning?

17 THE WITNESS: About events at Chula Vista
18 Elementary School District because you have objected to it,
19 and I am going to use your precise words.

20 I object to this line of questioning, the entire
21 line of questioning, because it relates to a cause of action
22 which has been dismissed with prejudice from this lawsuit.

23 These questions do not relate to any issue, any
24 issue reasonably calculated to lead to the discovery of
25 admissible evidence with regard to the causes of action that

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1 exist in this lawsuit, and I request that you please limit
2 your questions to those which are calculated to lead to the
3 discovery of admissible evidence in this matter that's
4 before the judge, not matters that have been dismissed on
5 demur which was sustained without leave to amend.

6 This is an abuse of the discovery process. It's
7 harassing of this witness. It's a waste of public funds.

8 Now, Mrs. -- Ms. Angell, as I told you before, I
9 was not available to come today, and I need to leave by
10 noon, but I would be happy to reschedule the rest of this
11 deposition for another time, which is certainly more than
12 Defendants were willing to do on October 11th when ending
13 the deposition of Gina Boyd, unilaterally saying that they
14 were just going to go home and not schedule any further
15 meeting for the deposition.

16 MS. ANGELL: Are you finished?

17 THE WITNESS: Just -- you can go ahead and talk.

18 MS. ANGELL: Mrs. Larkins, when did you tell me
19 that you were unavailable for deposition today?

20 THE WITNESS: I wrote you -- I wrote you a fax as
21 soon as -- you served me with the court order telling me to
22 appear on October 28th, and that very night I sent you a fax
23 saying that I was not available, and then the next day you
24 went to the court and got it changed to the date that I had
25 told you I was not available.

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1 MS. ANGELL: Do you have a copy of that fax,
2 Mrs. Larkins?

3 THE WITNESS: Yes, I do.

4 MS. ANGELL: Would you please produce it?

5 THE WITNESS: I'd be happy to. Let me make myself
6 a note.

7 MS. ANGELL: I mean now. Do you have a copy with
8 you?

9 THE WITNESS: Okay. Is it your thought that maybe
10 I have all my faxes to you with me here today?

11 MS. ANGELL: I didn't ask that question. I asked
12 if you had a copy of that particular fax.

13 THE WITNESS: Okay. You thought I might have just
14 brought that particular one today?

15 MS. ANGELL: Yes.

16 THE WITNESS: Why don't you look in your records.
17 I faxed it to you. You have it here in the office. I did
18 not bring it with me.

19 MS. ANGELL: So your answer is no, you did not
20 bring it?

21 THE WITNESS: No.

22 MS. ANGELL: Mrs. Larkins, are you aware that
23 you're under court order to appear for your deposition
24 testimony today?

25 THE WITNESS: Yes, I am.

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1 MS. ANGELL: Mrs. Larkins, did you appear at court
2 on the day that the hearing was scheduled on the motion to
3 compel your testimony?

4 THE WITNESS: No, because you had already notified
5 me of the court's order.

6 I had no idea you were going to go and try to get
7 it changed. I didn't even oppose your motion.

8 MS. ANGELL: Mrs. Larkins, do you have any evidence
9 that --

10 THE WITNESS: Just a second. Let me write this
11 down because you want me to produce this to you. Let me
12 make a note.

13 MS. ANGELL: Do you have any evidence --

14 THE WITNESS: Excuse me. Would you please wait a
15 minute?

16 You asked me to produce something, and I want to
17 follow through because I told you that I would produce it.

18 Now let me write a note to make sure that I do.

19 Okay. You want me to produce the fax I sent
20 you --

21 MS. ANGELL: Let's go off the record for a minute.

22 THE WITNESS: -- saying I -- we haven't agreed to
23 do that, have we? Aren't we supposed to all agree?

24 MS. GARVIN: You don't have to agree. She can say
25 that -- the opposing attorney can say when you go on and off

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1 the record.

2 THE WITNESS: Oh, I forgot to learn that.

3 THE COURT REPORTER: Excuse me.

4 MS. ANGELL: It will be about two minutes.

5 THE COURT REPORTER: Let me just make a statement
6 on the record, that as a duty as a court reporter, I cannot
7 go off record until all counsel agree to go off record.

8 MS. ANGELL: Well, she's not counsel. So do you
9 agree to go off the record?

10 MR. ROHRBACHER: Sure.

11 MS. GARVIN: Yes.

12 THE WITNESS: I do not agree. I am representing
13 myself and I think I have the same rights as counsel.

14 I would like to state for the record that
15 Ms. Angell has walked out of the room.

16 THE COURT REPORTER: Is that off the record now?

17 THE WITNESS: Oh, it -- oh, okay. Ever since she
18 said that --

19 THE COURT REPORTER: I'm not off record. Yeah, I
20 can't go off record until you say okay.

21 THE WITNESS: But you did write that, that she left
22 the room? ..

23 THE COURT REPORTER: Yeah, I'm still on record,
24 just for the record, because she's counsel -- representing
25 herself. So --

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1 THE WITNESS: Alan? No, I shouldn't -- you don't
2 have an extra VCR, do you? You just have one?

3 THE VIDEOGRAPHER: We're still on the record.

4 THE WITNESS: Okay.

5 I assume she went to look for the fax that I sent
6 her.

7 THE COURT REPORTER: Did you want to go off the
8 record now?

9 THE WITNESS: You know, this is kind of interesting
10 to me, the arrogance, the contempt, that she wouldn't have
11 waited to see what it was I wanted to say.

12 MS. GARVIN: Objection; no question pending. Move
13 to strike.

14 MR. ROHRBACHER: Join.

15 THE WITNESS: This reminds me of Bush's
16 seven minutes. I wonder how many minutes it will be. Maybe
17 it will be more like Nixon's 18 minutes.

18 MR. ROHRBACHER: Same objection.

19 MS. GARVIN: Join.

20 THE WITNESS: I have no idea if she's coming back
21 at all.

22 I want to tell you that I have another case,
23 Larkins versus Schulman. The trial is going to be
24 December 3rd. Discovery ends I believe 30 days before that.
25 I am late in providing them with documents and

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1 responses, but the court has ordered me to provide them.

2 I have an appointment in East County at 1:00. I
3 cannot continue to stay here as long as Kelly Angell
4 apparently wants me to stay today, and if she doesn't come
5 back soon, I'm going to have to leave.

6 Perhaps one of you could go find out what's going
7 on with her? She didn't tell you where she was going, what
8 she was doing?

9 MS. GARVIN: Move to strike. No question pending.

10 MR. ROHRBACHER: Join.

11 THE WITNESS: I think this is perfectly typical of
12 the district's behavior, Kelly Angell being the lawyer for
13 the district. It's a feeling that they don't have to worry
14 about telling the truth, and the law is of no interest to
15 them except when it can be used to limit the revelation of
16 the truth.

17 MS. GARVIN: Move to strike. There's no question
18 pending.

19 MR. ROHRBACHER: Join.

20 THE WITNESS: I find it really unprofessional that
21 she would just get up and leave in the middle of a
22 deposition and not tell anybody where she's going or what
23 she is doing.

24 Let's see. It's five minutes now.

25 MR. ROHRBACHER: Move to strike. No question

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1 pending.

2 MS. GARVIN: Join.

3 THE WITNESS: I feel I should do something to
4 entertain the camera.

5 Well, unfortunately, the camera can't see the
6 beautiful view of San Diego out these windows. This is a
7 really nice office.

8 MR. ROHRBACHER: Move to strike. No question
9 pending.

10 THE WITNESS: Please don't interrupt me when I'm
11 speaking.

12 MS. GARVIN: Join.

13 THE WITNESS: This is really a beautiful office
14 that the taxpayers are paying for here today.

15 MR. ROHRBACHER: Move to strike. No question
16 pending.

17 MS. GARVIN: Join.

18 THE WITNESS: I'm so glad you came back, Kelly. I
19 was afraid you weren't going to.

20 MR. ROHRBACHER: Move to strike. No question
21 pending.

22 MS. GARVIN: Join.

23 MS. ANGELL: Join.

24 MS. GARVIN: We have not been off the record. The
25 court reporter would not go off the record so we've been on

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1 the record the whole time.
2 MS. ANGELL: I understand.
3 THE WITNESS: Move to strike. No question pending.
4 BY MS. ANGELL:
5 Q Mrs. Larkins, on or about October 12, 2004, were
6 you fax served with a copy of the court's tentative ruling
7 on Ms. Donlan's motion to compel this deposition?
8 A Was that a Thursday?
9 Q I don't know.
10 A Okay. Let's see. If the 5th -- in fact, I have a
11 calendar. I brought a calendar.
12 Wait a minute, Ms. Angell. I told you I have to
13 leave. Why are you asking the questions?
14 MR. ROHRBACHER: Just for the record -- can I make
15 a statement on the record?
16 MS. ANGELL: Please do so.
17 MR. ROHRBACHER: I just want to advise Ms. Larkins
18 so that she's on notice that if she abandons this
19 deposition, my client will seek sanctions against her for
20 disobeying a court order and my client will seek dismissal
21 of complaint against them for failure to participate in
22 discovery.
23 THE WITNESS: I would like to advise
24 Bernhard Rohrbacher that I don't have the transcript of
25 Gina Boyd's deposition which took place on October 11th, but

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1 I have the DVD's right here.
2 Mr. Hersh ended the deposition unilaterally. He
3 refused to schedule any new meetings. So I'm sure that any
4 sanctions that the -- Judge Nevitt would give to me he would
5 certainly give to Mr. Hersh and the association defendants.
6 Would you like to reschedule this? I am willing --
7 unlike Mr. Hersh, I am willing to reschedule. I -- excuse
8 me. Excuse me. I'm not finished.
9 I have another case. I have a trial on December 3,
10 2003 (sic). One of the tactics of CTA's lawyers, CVE's
11 lawyers and the district lawyers is that they have been
12 trying to overwhelm me, a third grade teacher, with
13 discovery. That is not a way to bring about justice.
14 That's a way to prevent justice.
15 Why not let me go and prepare my discovery, which
16 is late, for Elizabeth Schulman? I have a court -- I have a
17 court order I have to obey from Judge Styn -- Styn.
18 I need to go and prepare this discovery, and
19 there's going to be a discovery cut-off early next week in
20 that other case. I need to go do that.
21 Now, you claimed that you were not able to have my
22 deposition on October 28th --
23 MS. ANGELL: Excuse me. Are you finished with your
24 response to his objection? Because this is not an
25 opportunity for you to go on narrative for 25 pages.

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1 I will state my notice to you that if you leave
2 this deposition we will seek the court to -- we will seek
3 sanctions for your failure and refusal to participate in
4 this deposition and we will seek terminating sanctions in
5 this litigation on behalf of Ms. Donlan and Ms. Watson and
6 any school district defendant.
7 Are you aware of that? Do you understand that?
8 THE WITNESS: Ms. Angell, even if this case got
9 thrown out of court this afternoon and if the other case got
10 thrown out of court tomorrow, you cannot hide the truth.
11 MS. ANGELL: Could you please answer the question
12 as to whether you understand that we are going to seek
13 sanctions if you leave?
14 THE WITNESS: Please don't interrupt me. It was
15 you yourself who suggested today that we not interrupt each
16 other.
17 MS. ANGELL: However, during a deposition you need
18 to be responsive to the question that's posed.
19 Do you understand that if you leave today we will
20 seek sanctions for your failure to participate in discovery
21 and for your flagrant refusal to comply with the court
22 order?
23 THE WITNESS: Yes.
24 (Exhibit 1 was marked.)
25 MS. ANGELL: Okay. Mrs. Larkins, I'm going to hand

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1 you what I --
2 THE WITNESS: I was not finished speaking.
3 MS. ANGELL: I'm sorry, but we need to move on.
4 THE WITNESS: Okay.
5 MS. ANGELL: This is what I'm marking as Exhibit 1.
6 THE WITNESS: Then I'm going to unilaterally end
7 this deposition.
8 MS. ANGELL: Are you aware --
9 THE WITNESS: No, I --
10 MS. ANGELL: -- that if you unilaterally end this
11 deposition, we will seek sanctions?
12 THE WITNESS: Well, no. Let's see. See, now,
13 that's what a third grade teacher says.
14 I am not unilaterally ending this deposition. I am
15 willing to continue this deposition. I am happy to continue
16 this deposition. I just can't continue it today.
17 I am -- I -- now, do you refuse to reschedule this
18 deposition?
19 MS. ANGELL: Yes. This is the court ordered date,
20 time and place of the deposition.
21 THE WITNESS: Okay.
22 MR. ROHRBACHER: I drove two and a half hours
23 through rush-hour traffic. I'm not rescheduling this
24 deposition.
25 / / /

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1 BY MS. ANGELL:
2 Q Mrs. Larkins, I show you what's been marked as
3 Exhibit 1. This is correspondence from myself to you dated
4 October 14, 2004, the second page of which is a proof of fax
5 transmission.
6 Have you seen this document before?
7 A You're being unreasonable, Ms. Angell.
8 Q Could you please answer the question? Have you
9 seen the document before?
10 A You have had protective order after protective
11 order in this case.
12 Q Mrs. Larkins, can you please answer the question?
13 Have you seen this document before?
14 A Okay. It looks like I'm going to just have to
15 leave.
16 (Exhibit 2 was marked.)
17 BY MS. ANGELL:
18 Q Next Exhibit, 2, facsimile from you dated
19 October 15 --
20 A I'm willing to reschedule.
21 Q -- in which you state "I am looking forward to my
22 opportunity to tell my story on October 25, 2004. Please
23 remember that Defendants have had many opportunities to tell
24 their stories.
25 "I expect you to allow me to speak without

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1 interruption. I will not tolerate your cutting me off when
2 I am speaking."
3 Did you write this letter? Mrs. Larkins, did you
4 write this letter that's marked as Exhibit 2?
5 THE WITNESS: Are you the official videographer
6 here? I mean, can you leave now? Because I -- I would like
7 to stop paying you now because I'm going.
8 BY MS. ANGELL:
9 Q Mrs. Larkins, did you write that letter and fax it
10 to me, the document that's marked as Exhibit 2 dated October
11 15?
12 THE WITNESS: I tell you what, I will pay you as
13 long as you stay. You stay as long as you want.
14 MS. ANGELL: Mrs. Larkins, I'll advise you that I'm
15 going to contact the court and seek an ex parte hearing
16 immediately, and I will be traveling to the court
17 immediately if the court will hear me on this issue of
18 compelling your deposition.
19 THE WITNESS: Okay.
20 MS. ANGELL: Do you understand that?
21 THE WITNESS: I want to say this on camera.
22 Actually, I think it would be kind of exciting if
23 the court were to find me in contempt of court and throw me
24 in jail.
25 Shinoff has been able to keep this story out of the

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1 news. Even the letter I wrote about Shinoff that was
2 printed in the East County Union Tribune, it got taken off
3 the archives.
4 This story about the five teachers that got
5 transferred out of Castle Park was covered in the Union
6 again and again and again, and I gave them information about
7 what that case was really about. They would never cover it.
8 If you could get Judge Nevitt to find me in
9 contempt of court and throw me in jail, I bet then I'd get
10 in the paper.
11 MS. ANGELL: Well, then, why don't we hold on right
12 now while we try and call Judge Nevitt's court and see if
13 he'll rule on this motion immediately seeing as how you're
14 under court order to be here?
15 Let the record reflect that Plaintiff has exited
16 the deposition room.
17 Danielle, will you let me know if she gets on the
18 elevator, please?
19 THE RECEPTIONIST: Yes, she is, Kelly.
20 MS. ANGELL: Let me know when she's on the
21 elevator, please, and if you all could remain for a few
22 minutes.
23 THE VIDEOGRAPHER: Do you want to go off?
24 THE RECEPTIONIST: She's getting on the elevator.
25 MS. ANGELL: Has she left our floor?

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1 THE RECEPTIONIST: She pushed the button.
2 MS. ANGELL: Let's stay on until she vacates and
3 then we'll call the court.
4 Could I have that telephone, please?
5 Thank you.
6 THE VIDEOGRAPHER: You want to stay on for this?
7 MS. ANGELL: Let's go off for a minute, please.
8 THE VIDEOGRAPHER: Off the record at 12:02.
9 (Recess.)
10 THE VIDEOGRAPHER: Back on the record at 12:14.
11 MS. ANGELL: Thank you.
12 We're on the record for purposes of a declaration
13 of the non-appearance of Mrs. Larkins at her deposition at
14 this point in time.
15 I'd like to reflect for the record that while we
16 were off, I, being Kelly Angell, informed Plaintiff Larkins
17 that I was about to telephone the court and set an ex parte
18 hearing.
19 I requested whether she would like to attend an
20 ex parte hearing concerning whether her deposition can be
21 taken off at this point, and she declined to attend and she
22 declined to wait and speak with the court.
23 And I would also like to reflect that she has
24 departed the building apparently. She left this room about
25 10 minutes ago.

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1 Furthermore, I did not agree on behalf of my
2 clients, Robin Donlan and Linda Watson, for Mrs. Larkins to
3 leave the deposition. I did not agree to continue the
4 deposition to another date, and we'll hear from other
5 counsel who are present as to whether they agreed that the
6 deposition go off at this point in time and be rescheduled.
7 MR. ROHRBACHER: Bernhard Rohrbacher, counsel for
8 the association defendants.
9 I also did not agree to -- I also did not agree to
10 reschedule the deposition on account of the fact that I have
11 traveled considerable time and distance to attend here
12 today, had reserved the entire day, was under the
13 understanding that the deposition would proceed the entire
14 day, and I'm not in a position to expend more funds of my
15 client to reschedule this deposition unnecessarily.
16 MS. GARVIN: Deborah Garvin for defendant
17 Michael Larson (sic). I did not agree that the deposition
18 be suspended and rescheduled.
19 MS. ANGELL: Do you mean on behalf of
20 Michael Carlson?
21 MS. GARVIN: Who did I say?
22 MS. ANGELL: You said Larson.
23 MS. GARVIN: I'm -- Carlson.
24 MS. ANGELL: Okay. And at this point, can we
25 have -- at this point, can the court reporter make some sort

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1 of certificate of non-appearance as of this particular time?
2 THE COURT REPORTER: Can we go back off the record?
3 MS. ANGELL: Let's go off the record.
4 THE VIDEOGRAPHER: Off record.
5 (Discussion off the record.)
6 THE VIDEOGRAPHER: Back on the record at 12:18.
7 MS. ANGELL: And we're -- since Plaintiff has left
8 the deposition without anybody's agreement, claiming that
9 she needs to go prepare for another -- do some discovery in
10 other litigation, that she's busy this afternoon, we're
11 going to take a lunch break.
12 We have a phone call into the court seeking an
13 ex parte appearance, and we will reconvene at approximately
14 1:00?
15 MR. ROHRBACHER: Sounds good to me.
16 MS. ANGELL: At approximately 1:00 by agreement of
17 counsel, and let's go off.
18 THE VIDEOGRAPHER: Off the record at 12:19.
19
20 -- Lunch Recess --
21
22 THE VIDEOGRAPHER: Back on the record at 1:17.
23 MS. ANGELL: You know what? I forgot to call
24 Ms. Garvin so I'm doing that right now.
25 THE VIDEOGRAPHER: Do you want to go off or are you

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1 on?
2 MS. ANGELL: It will take just a sec to get her on.
3 She's expecting the call.
4 No, I'm calling for Deborah. She's expecting my
5 call. We're in depo.
6 MR. ROHRBACHER: That was a day well spent.
7 MS. ANGELL: We're on.
8 Deborah, this is Kelly. I've put you on
9 speakerphone. Can you hear us?
10 MS. GARVIN: Yes, I can.
11 MS. ANGELL: Okay. We're on the record after
12 taking a break to see if Mrs. Larkins would return, and I'm
13 just reflecting for the record that we've not had a return
14 phone call from the court seeking an ex parte hearing this
15 afternoon and also reflecting for the record that all
16 counsel who were present this morning are present now
17 including myself. Ms. Garvin is telephonically present and,
18 one more time, what's your name?
19 MR. ROHRBACHER: Rohrbacher.
20 MS. ANGELL: Mr. Rohrbacher is here as well.
21 So at this time, we'll close this session of the
22 deposition, not because any counsel has agreed to go off,
23 but because Plaintiff has left the deposition site.
24 We already had the stipulation on concerning the
25 date for and turn-around time for reviewing and returning

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1 the transcript so I think that that stipulation stands.
2 Are we good, Counsel?
3 MS. GARVIN: Yes.
4 MR. ROHRBACHER: Yes, we are.
5 THE VIDEOGRAPHER: This concludes today's
6 proceedings in the deposition of --
7 MS. GARVIN: Can you hear me?
8 MS. ANGELL: Yes. Do you have anything else to
9 say?
10 MS. GARVIN: No. That accurately reflects what
11 occurred.
12 MS. ANGELL: So stipulated.
13 MS. GARVIN: So stipulated.
14 THE VIDEOGRAPHER: This concludes today's
15 proceedings in the deposition of Maura Larkins. Off the
16 record at 1:19 p.m.
17 (Whereupon the deposition adjourned at 1:19 p.m.)
18
19
20 * * *

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1 I declare under penalty of perjury under the laws
2 of the State of California that the foregoing is true and
3 correct; that I have read my deposition and have made the
4 necessary corrections, additions, or changes to my answers
5 that I deem necessary.

6 Executed on this _____ day of _____,
7 2004.

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MAURA LARKINS

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1 I, JUDY M. REIERSEN, Certified Shorthand Reporter for the
2 State of California, do hereby certify:

3
4 That the witness in the foregoing deposition was by me first
5 duly sworn to testify to the truth, the whole truth and
6 nothing but the truth in the foregoing cause; that the
7 deposition was taken by me in machine shorthand and later
8 transcribed into typewriting, under my direction, and that
9 the foregoing contains a true record of the testimony of the
10 witness.

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14 Dated: This _____ day of _____, 2004,
15 at San Diego, California.

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JUDY M. REIERSEN
CSR No. 7505

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PETERSON & ASSOCIATES COURT REPORTING & VIDEO SERVICES

1 I declare under penalty of perjury under the laws
2 of the State of California that the foregoing is true and
3 correct; that I have read my deposition and have made the
4 necessary corrections, additions, or changes to my answers
5 that I deem necessary.

6 Executed on this 18th day of November,
7 2004.

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10 Maura Larkins
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12 MAURA LARKINS
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

MAURA LARKINS,

Plaintiff,

vs.

Case No. GIC 781970

RICHARD T. WERLIN, GRETCHEN

DONNDELINGER, JO ELLEN HAMILTON,

ALAN R. SMITH, LINDA M. WATSON,

MICHELLE LEON-SCHARMACH, LYNNE

MARGARET SALLANS, LIBIA S. GIL,

Superintendent, as an Individual,

CHULA VISTA ELEMENTARY SCHOOL

DISTRICT, a California public

entity, and DOES 1 through 50,

inclusive,

Defendants.

DEPOSITION OF MAURA LARKINS
VOLUME II, PAGES 88 THROUGH 112
SAN DIEGO, CALIFORNIA
NOVEMBER 11, 2004

REPORTED BY LAURA J. BOLLSCHWEILER, RPR, CSR NO. 10500

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1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SAN DIEGO
3

4 MAURA LARKINS,)
5)
6 Plaintiff,)
7 vs.) Case No. GIC 781970
8)
9 RICHARD T. WERLIN, GRETCHEN)
10 DONNDELINGER, JO ELLEN HAMILTON,)
11 ALAN R. SMITH, LINDA M. WATSON,)
12 MICHELLE LEON-SCHARMACH, LYNNE)
13 MARGARET SALLANS, LIBIA S. GIL,)
14 Superintendent, as an individual,)
15 CHULA VISTA ELEMENTARY SCHOOL)
16 DISTRICT, a California public)
17 entity, and DOES 1 through 50,)
18 inclusive,)
19 Defendants.)
20)
21)
22)
23)
24)
25)
26)
27)
28)

16 DEPOSITION OF MAURA LARKINS, VOLUME II,
17 Taken by Defendants, commencing at the hour of 9:44 a.m. on
18 Thursday, November 11, 2004, at 401 West A Street, Suite
19 1500, San Diego, California, before Laura J. Bollschweiler,
20 Certified Shorthand Reporter in and for the State of
21 California.
22
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1 APPEARANCES:
2 For the Plaintiff:
3 Maura Larkins
4 In Propria Persona
5 1935 Autocross Court
6 El Cajon, California 92019
7 (619) 444-0065
8 For the Defendants Robin Donlan and Linda M. Watson:
9 STUTZ, ARTIANO, SHINOFF & HOLTZ
10 BY: KELLY R. ANGELL
11 401 West A Street, 15th Floor
12 San Diego, California 92101
13 (619) 232-3122
14 For the Defendant Michael Carlson:
15 MCCORMACK & MITCHELL
16 BY: DEBORAH GARVIN
17 625 Broadway, Suite 1400
18 San Diego, California 92101
19 (619) 235-8444
20 For the Defendants California Teachers Association, Tim
21 O'Neill and Gina Boyd:
22 CALIFORNIA TEACHERS ASSOCIATION LEGAL
23 DEPARTMENT
24 BY: MICHAEL D. HERSH
25 11745 East Telegraph Road
26 P.O. Box 2153
27 Santa Fe Springs, California 90670
28 (562) 942-7979
The Videographer:
VIDEOGRAPHICS
BY: GREGG EISMAN
1903 30th Street
San Diego, California 92101
(619) 239-2066

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12 Documents at Deposition
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1 SAN DIEGO, CALIFORNIA; THURSDAY, NOVEMBER 11, 2004
2 THE VIDEOGRAPHER: This is the videotaped
3 deposition of Maura Larkins being taken in the matter of
4 Maura Larkins vs. Richard T. Werlin, etc., et al., San
5 Diego Superior Court, Case No. GIC 781970.
6 This deposition is being held in the offices
7 of Stutz, Artiano, located 401 West A Street, Suite 1500,
8 San Diego, California. Today is Thursday, November 11,
9 2004, and the time is now 9:48 a.m.
10 My name is Gregg Eisman. I am a legal video
11 specialist with Videographics, 1903 30th Street, San Diego,
12 California. The certified shorthand reporter is Laura
13 Bollschweiler of Peterson & Associates, San Diego,
14 California.
15 For the video record, would counsel please
16 state their appearances.
17 MS. ANGELL: Kelly Angell for Robin Donlan and
18 Linda Watson.
19 MS. GARVIN: Deborah Garvin for Michael
20 Carlson.
21 MR. HERSH: Michael Hersh on behalf of the
22 California Teachers Association, Chula Vista Educators, Tim
23 O'Neill, and Gina Boyd.
24 MS. ANGELL: Do they need another mike? And
25 she hasn't stated her appearance yet.
26 THE WITNESS: And Maura Larkins, plaintiff in
27 pro per.
28 THE VIDEOGRAPHER: Will the reporter please

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1 swear the witness.
 2 MAURA LARKINS,
 3 having been first duly sworn, testified as follows:
 4 EXAMINATION
 5 BY MS. ANGELL:
 6 Q. Mrs. Larkins, have you had your deposition
 7 taken before today?
 8 A. Just the time you -- the first session of this
 9 deposition and in the Schulman case.
 10 Q. Have you taken any depositions prior to today?
 11 A. Yes.
 12 Q. Do you feel that you're familiar with the
 13 deposition process?
 14 A. Yes.
 15 Q. Is there any reason that you're unable to give
 16 your best testimony today?
 17 A. No.
 18 Q. Mrs. Larkins, I'm going to hand you what I'm
 19 marking as --
 20 What's the last exhibit number in this
 21 deposition?
 22 THE REPORTER: I didn't get it.
 23 MS. ANGELL: Do you know, Deborah?
 24 MS. GARVIN: I don't know.
 25 MS. ANGELL: Let's go off for one second.
 26 THE VIDEOGRAPHER: We're going off. The time
 27 is 9:50 a.m.
 28 (Discussion off the record.)

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1 MS. ANGELL: Let's go back on, please.
 2 THE VIDEOGRAPHER: We're going on the record.
 3 The time is 9:51 a.m. . . .
 4 MS. ANGELL: Can I have the last statement
 5 read back, please.
 6 (Record read.)
 7 (Exhibit 3 was marked for identification.)
 8 BY MS. ANGELL:
 9 Q. So I have handed over here what I'm marking as
 10 Exhibit 3 and distributed copies to counsel and the court
 11 reporter. Have you seen a copy of this document before?
 12 A. I probably saw it in passing.
 13 Q. So that's a "yes"?
 14 A. I'll say yes.
 15 Q. Did you bring any documents with you today in
 16 response to this deposition notice and request for
 17 production of documents?
 18 A. No. I faxed you I think it was day before
 19 yesterday a supplemental response to the request for
 20 documents by Robin Donlan, and that's all I have at this
 21 time to produce to you.
 22 Q. So are you stating that the fax that you sent
 23 me within the last two days was in response to the request
 24 for production of documents that's in Exhibit 3 as opposed
 25 to being a supplemental response to Ms. Donlan's first
 26 request for production of documents which you've been court
 27 ordered to provide responses to?
 28 A. Well, I would say that it was a response to

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1 Robin Donlan's request.
 2 Q. There have been request for production of
 3 documents, Set One, by Ms. Donlan, which you've been court
 4 ordered to respond to. There's request for production of
 5 documents, Set Two, by Ms. Donlan, for which your responses
 6 are due approximately November 30, and then there's a
 7 deposition notice which required you to bring documents.
 8 The prior deposition notice required you to bring
 9 documents.
 10 So Set One are the requests that you've been
 11 court ordered to provide responses to. So is the fax that
 12 you're talking to me about that you've sent within the last
 13 two weeks a response to the notice of today's deposition or
 14 is it some sort of tardy response to the request for
 15 production of documents, Set One, from Ms. Donlan?
 16 A. It's a supplemental response to Set One from
 17 Ms. Donlan.
 18 Q. So do you have any documents that you've
 19 brought with you today in response to the request for
 20 production of documents that is part of this deposition
 21 notice?
 22 A. No. All the documents that I have produced in
 23 this case -- I have produced all the documents that I have
 24 prepared in this case, and I've already produced them to
 25 you. So you have them here. It would be very burdensome
 26 for me to carry them all here.
 27 Q. What document is responsive to Request No. 1
 28 on page two of Exhibit 3?

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1 A. The 18-page fax that I faxed you day before
 2 yesterday.
 3 Q. Is the contents of that 18-page fax
 4 essentially a copy of the Chula Vista Police Department --
 5 or San Diego Police Department's records of your August 25,
 6 2000, arrest?
 7 A. Yes.
 8 Q. Is there any other document that's responsive
 9 to Request No. 1?
 10 A. Not that I have.
 11 Q. Concerning Request No. 2 on page three, have
 12 you brought with you any documents responsive to that
 13 request?
 14 A. I'd like to interrupt a moment because I am
 15 concerned about the stipulation that we entered into on
 16 October 25 regarding how long I would have to check over
 17 the transcript once it's prepared. And at that time, you
 18 said to me that you were concerned about the proximity of
 19 the December 17th hearing regarding summary judgment and
 20 you felt that one week would be an appropriate amount of
 21 time. And I agreed to that, believing that you were
 22 sincere when you were mentioning the December 17th date and
 23 wanting to get depositions signed.
 24 Q. Excuse me, Mrs. Larkins. I move to strike
 25 that as nonresponsive to the question. And if you have
 26 procedural matters that you would like to discuss at a
 27 later time off the record, if you want to make a different
 28 stipulation for this deposition, that's fine. But for now,

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1 I'm entitled to ask my questions.

2 Could we please return to the question that I

3 posed concerning your documents that are responsive to

4 Request No. 2 on page three?

5 A. I am speaking now not as a witness, but as a

6 person who is representing herself. I am very concerned

7 that you used dishonest means to get me to agree to the

8 one-week time limit on how long I would have to review my

9 deposition. And then afterwards, you had your witnesses

10 one after another and you claimed that each one of them

11 needed three weeks to look over the transcript.

12 So obviously, you were being disingenuous when

13 you acted like you thought that it was important to have

14 these depositions prepared in a shortened time period, and

15 I'm very concerned about this matter. And if this matter

16 cannot be settled, then I don't see any point in going on

17 with this deposition because it's obviously simply an

18 attempt to abuse the discovery process and to harass me.

19 The idea of one week for me and three weeks for all of your

20 witnesses is wrong.

21 Q. Mrs. Larkins, what you're referring to is a

22 stipulation that you entered into freely. You're acting as

23 your own counsel. If you would like to discuss separately

24 from this deposition any adjustment to that, we can discuss

25 it later. But this is not your forum for making legal

26 arguments. You've brought litigation against my clients,

27 and this is my opportunity to conduct discovery, to ask you

28 what your evidence is. This is not your forum to make

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1 legal arguments.

2 So regardless of whether you like the

3 agreement you already entered into or regardless of your

4 desire to change that agreement, today is the time for you

5 to respond to questions pursuant to court order. And if

6 you would like to walk out of this deposition again, that

7 would be great for me because it will be more evidence in

8 seeking sanctions against you.

9 A. Okay.

10 Q. All right? So let's return to the line of

11 questioning. We're not going to spend all morning arguing.

12 We've got your statement on the record. I have not moved

13 to strike it. So let's just proceed.

14 Concerning Exhibit No. 3 --

15 A. I would like to speak as the person who is

16 representing the witness. The stipulation to which you

17 have just referred --

18 Q. Mrs. Larkins, we're not going to spend 20

19 minutes discussing how long you've agreed to, to review and

20 make changes to your last volume of your deposition. If

21 you want to talk after or off the record today concerning

22 stipulations, procedural matters that are not relevant to

23 this deposition, we can do that. But for now, I'm entitled

24 to get your deposition testimony.

25 Now, are you refusing to answer my question

26 concerning the Request for Production No. 2 in Exhibit 3?

27 A. No, I'm not.

28 Q. All right. Please answer it. The question is

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1 have you brought any documents that are responsive to

2 Request for Production No. 2 contained in Exhibit 3?

3 A. I believe that I will need to seek a

4 protective order if you refuse to discuss and change the

5 stipulation regarding my having only one week to review

6 this deposition transcript.

7 Q. You do whatever you want, Mrs. Larkins.

8 A. Okay.

9 Q. We're here today for you to give testimony

10 concerning the allegations that you have brought. Your

11 time to review a different deposition transcript has

12 absolutely nothing to do with the court order compelling

13 you to give testimony. You walked out on the last volume

14 of your deposition without cause, and that matter will be

15 taken up with the court. That's my opinion, that you

16 walked out without cause and in violation of court order.

17 We'll let that court decide that, and that's not at issue

18 here and I'm not here to argue about that with you.

19 What I am here to do today is conduct your

20 deposition, and I will conduct your deposition today. I

21 will not spend the day arguing with you. All right?

22 So either you're going to refuse to answer the

23 question or you're going to answer it. Do you need to hear

24 the question again?

25 A. No, I don't need to hear the question again.

26 I remember the question.

27 Q. Would you please provide a response to the

28 question posed?

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1 A. Ms. Angell, you walked out of Michelle

2 Scharmach's deposition yesterday. You became very upset

3 and you ordered your client. You're not supposed to order

4 her to leave. You're supposed to, perhaps, counsel her to

5 leave or even instruct her to leave. But the way you

6 ordered her was evidence of what I think is a lack of

7 emotional control.

8 And it's ironic that here you stand here today

9 talking about how I walked out of my deposition when I had

10 told you before that deposition was ever scheduled that I

11 was not available on that day, which was October 25th. And

12 you sneaked over to the courthouse and got the judge to

13 change it to a date on which you knew I was not available.

14 I came on that date and I sat for two and a

15 half hours and then I told you I had to leave. And I

16 assure you that any sanctions you want to get against me, I

17 will ask the same sanctions for your walking out of the

18 deposition yesterday.

19 You also unilaterally ended Linda Watson's

20 deposition. The only reason I didn't follow up on that one

21 was that I had already had enough proof that she was a

22 completely unreliable witness and there was absolutely no

23 use asking her any further questions.

24 Mr. Hersh here --

25 Q. Mrs. Larkins, excuse me. We're not here for

26 you to give a 20-minute diatribe. Move to strike,

27 nonresponsive to the question posed.

28 MS. GARVIN: Joined.

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1 MR. HERSH: Joined.
2 BY MS. ANGELL:
3 Q. Mrs. Larkins --
4 A. Excuse me.
5 Q. No. We're not here for you to give a
6 20-minute soliloquy every five minutes on what your
7 arguments are. We're here for you to give responses to
8 questions. If you have an objection to the question,
9 please so state.
10 A. I was not --
11 Q. I get to ask the question. You respond to it.
12 If you want to make an objection acting as your own
13 counsel, you're free to do so, and I will allow you to make
14 your objections. But we're not here to spend the morning
15 listening to you make arguments about stuff that I'm not
16 asking about. I get to ask the questions today, and these
17 counsel get to ask the questions today.
18 Therefore, the question posed is did you bring
19 any documents with you in response to Request for
20 Production No. 2 contained in Exhibit 3?
21 A. I was not speaking as a witness when I made a
22 statement that you asked to have stricken.
23 Q. Mrs. Larkins, you are the witness. You are
24 the plaintiff. You know, you may want to try to separate
25 it in your mind, but if the court's treating you as both,
26 you're both. It is my opinion that everything that you say
27 in this record, in this proceeding is evidence.
28 A. I really think we need the court to help us

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1 out here, because I think that's preposterous. I can also
2 speak as my own representative.
3 Q. You are one person wearing both hats and I am
4 not here -- the purpose of this proceeding today is not to
5 have a legal argument with you about what you think the law
6 is. It's not relevant to the issue of whether you brought
7 documents with you in response to this request for
8 production.
9 So I'm going to ask you this question for the
10 final time, and if you refuse to answer it, you refuse to
11 answer it and I'll move on to the next question.
12 Mrs. Larkins, have you brought with you any
13 documents that are responsive to Request No. 2 in Exhibit 3
14 which seeks each document that supports your allegation
15 that Robin Donlan and Michael Carlson conspired to defame
16 you?
17 A. Speaking as my own representative, you are
18 harassing the witness. You are -- yesterday, you asked a
19 lot of questions. And now today, you act like the person
20 who is representing the witness should not be allowed to
21 ask questions. Which is it? You keep changing the rules
22 depending on who's being deposed.
23 I really think we need a judge to straighten
24 out several matters in this case, including your
25 preposterous arguments about client-attorney privilege,
26 which you seem to think covers -- prevents your witnesses
27 from making any statements about anything which was ever
28 discussed by a lawyer in this case. And you said if the

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1 lawyer instructed you to talk about this matter, then
2 everything you talked about to everybody is covered by
3 attorney-client privilege. That's preposterous.
4 Q. Excuse me, Mrs. Larkins. We're not here to
5 listen to your arguments and your thoughts about other
6 witness testimony and your thoughts about the discovery-
7 process.
8 So I'm taking your failure to respond to that
9 question when posed for the third time as a refusal to
10 answer the question. And I'll ask the court reporter to
11 mark the transcript and we'll move on to the next question.
12 Mrs. Larkins, have you brought a copy of any
13 document with you today that's responsive to Request No. 3
14 in Exhibit 2? And that requires a yes or no answer.
15 A. I did not refuse to answer the last question.
16 Q. Yes, you did. We've been sitting here for 15
17 minutes while you want to talk about other things instead
18 of answering the question. That's a refusal to answer.
19 Would you like to answer the prior question now?
20 A. I would like to be recognized as both
21 plaintiff -- no, strike that.
22 I would like to be recognized as both witness
23 and the party representing the witness. And I would like
24 you to stop asking that my comments be stricken from the
25 record when I am speaking as the person representing myself
26 in this case. I would like you to address the problem of
27 your -- the one-week limit on my time to review the
28 transcript before it gets much longer. I think before it

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1 gets too much longer, perhaps I need to go to the court and
2 talk about several problems that you have, including an
3 extremely hostile attitude.
4 Q. Are you refusing to respond to my question
5 concerning whether you brought any document with you in
6 response to Request for Production No. 3 contained in
7 Exhibit 3?
8 A. No.
9 Q. Then please respond to the question.
10 A. Please allow me to finish when I'm speaking.
11 Q. My mistake. Would you please respond to the
12 question posed?
13 A. Ms. Angell, your questions are ridiculous. I
14 told you I haven't brought any documents. Now if you're
15 going to go through all the way up through Question No. 46
16 and ask -- 47 and ask a separate question about each one, I
17 don't know. I think you're going to get laryngitis or
18 something. I don't even see it as in your own interest.
19 The answer to all the questions is no.
20 Q. Okay. So the answer is -- let me rephrase the
21 question so that we can just knock it out in one and we
22 won't have to go through each.
23 I'll represent to you that the request for
24 production of documents contained in the notice of your
25 deposition for today contains a request -- contains 47
26 separate requests for production of documents.
27 Mrs. Larkins, have you brought with you today
28 any documents in response to any of those 47 requests for

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1 documents?

2 A. No.

3 I would like to make a statement as the person

4 who is representing the witness.

5 Q. Mrs. Larkins, if you have an objection to the

6 question, please make the objection. But this is not to

7 forum for you to make legal arguments and go on and on

8 because we need to proceed with your deposition.

9 A. Move to strike.

10 Q. Unlike how you conduct depositions, I am

11 asking questions that are relevant to the subject matter

12 and I expect you to respond to them. You're under a court

13 order to proceed with your deposition and to respond. If

14 you do not proceed with the deposition and respond, I will

15 proceed with my request for sanctions against you. And

16 frankly, it's to my benefit if you misbehave again today

17 because it will simply demonstrate for the court your

18 behavior and your contempt for the court's order. The

19 court has ordered you to sit for deposition and participate

20 in it.

21 A. Move to strike everything said by Kelly Angell

22 since I last spoke.

23 Q. On what basis?

24 A. On the basis that you're not asking questions.

25 You're just making a statement. You're just making a

26 diatribe.

27 Q. Mrs. Larkins, you can play the game as much as

28 you want to, but we need to proceed with the deposition.

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1 So the next question is --

2 A. Move to strike. Excuse me. I'm not finished

3 speaking.

4 Move to strike Ms. Angel's last comment.

5 Q. On what basis?

6 A. On the basis that it is not a question.

7 Q. Counsel gets to talk. If you ask a question,

8 I get to respond to your question. If you ask me for an

9 offer of proof, I get to make my offer of proof. If you --

10 you can make your motion to strike. That's not something

11 that you get to decide, and the court will decide it at a

12 later date if and when that's appropriate.

13 So let me get going with the questioning. Who

14 is Amber Bradley?

15 A. Ms. Angell, I believe you just said "Counsel

16 gets to talk." Now, do you exclude me from your definition

17 of counsel?

18 Q. Mrs. Larkins, who is Amber Bradley?

19 A. This deposition is being conducted in an

20 extremely abusive and illegal manner because you are

21 refusing to allow me to act as my own counsel.

22 Q. Mrs. Larkins, if you have objections to make

23 to any question posed, please state your objection and then

24 respond to the question, or if you choose, instruct

25 yourself not to answer. However, you are obstructing the

26 discovery process by more than -- well, about a half an

27 hour now of arguments back and forth in your attempt to

28 preclude me from conducting your deposition.

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1 So I get to ask the question. If you, acting

2 as your own counsel, disapprove of the question in some

3 manner or would like to state your objection, please state

4 your objection. And unless you're going to instruct

5 yourself not to answer, please provide an answer. That's

6 how it goes: Question, objection if necessary, answer.

7 And that's how it goes until we're done.

8 So I've stated my question and I'll restate

9 the question. Who is Amber Bradley?

10 A. I believe I need to suspend this deposition at

11 this time and talk to the court about whether or not I have

12 a right to act as my own counsel during my deposition.

13 Q. Mrs. Larkins, I haven't said that you don't

14 have a right to act as counsel. I'm saying please state

15 your objection on the record and then let's proceed.

16 A. And to ask the court to make some -- to

17 arbitrate or make some decision regarding the one-week

18 stipulation for my time to look over the transcript.

19 MS. ANGELL: Let the record reflect that Mrs.

20 Larkins has stood, has gathered her things, and appears to

21 be walking out and there's no agreement that her deposition

22 go off calendar or be stopped at this time.

23 MR. HERSH: That's correct.

24 BY MS. ANGELL:

25 Q. Mrs. Larkins, please be advised that if you

26 leave again, I will seek sanctions against you for walking

27 out on your deposition and preventing discovery from

28 occurring.

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1 A. You know, I could have said things like that

2 yesterday too when you walked out.

3 Q. We're talking about today, Mrs. Larkins. You

4 are the plaintiff. You are court ordered to be here.

5 Judge Nevitt has issued an order that you be here for your

6 deposition and this is the second time that you're in

7 defiance of his court order by walking out.

8 If you want to instruct yourself not to answer

9 certain questions, be my guest. Instruct yourself not to

10 answer those certain questions.

11 But just because you don't want to answer a

12 question on a particular topic, does not mean that I don't

13 get to ask any questions and conduct discovery and the

14 other two counsel who have come here for this deposition

15 today, including Mr. Hersh who's come here from -- I don't

16 remember how far away.

17 How far did you have to come?

18 MR. HERSH: About 120 miles, I believe.

19 BY MS. ANGELL:

20 Q. So if you don't want to answer a question

21 concerning who is Amber Bradley, fine. Instruct yourself

22 not to answer. Make your objections. Then I get to ask

23 the next question.

24 A. I -- you're much calmer this time than you

25 were on October 25. At that time, I believe that you were

26 making threats of contempt of court. But I didn't want to

27 say either one of those things to Michelle Scharmach

28 yesterday to threaten her with either contempt of court or

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1 sanctions because I knew that she was in a pretty weak
2 position because you simply ordered her to leave her own
3 deposition. And she hesitated to leave. She stayed in her
4 seat a while. And it was clear that she had misgivings
5 about obeying your order. But then she felt she had to
6 obey.

7 I believe that you have given very bad legal
8 advice to Michelle Scharmach as well as the district in
9 this case. And I think that you really don't believe that
10 you need to follow the rules, the laws, and the laws are
11 only for you to use against other people and you think they
12 don't apply to you. And I am leaving.

13 MS. ANGELL: Please be informed that we will
14 seek a court order for contempt and sanctions against you
15 for leaving.

16 (Ms. Larkins leaves the deposition room.)

17 MS. ANGELL: Let the record reflect that
18 Plaintiff has now left the room. By my watch, it is 10:15.
19 And Plaintiff, by the way, arrived about 15 minutes late
20 for her deposition. So there hasn't been, I don't think, a
21 single response to a question posed.

22 MS. GARVIN: Well, she did respond that she
23 did not bring any documents.

24 MS. ANGELL: Oh, yes. That's true. She did
25 respond that she didn't bring any documents.

26 Counsel, do you want to wait around and see if
27 she cools her jets and comes back, or shall we go off the
28 record, Plaintiff having walked out for a second time?

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1 MS. GARVIN: We should go off the record.
2 MR. HERSH: Yes, I agree. Off the record.
3 THE VIDEOGRAPHER: We're going off the record.
4 The time is 10:14 a.m.
5 (Whereupon, the proceedings were adjourned at 10:14 a.m.)
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1 I, MAURA LARKINS, declare under penalty of perjury
2 under the laws of the State of California that the
3 foregoing is true and correct; that I have read my
4 deposition and have made the necessary corrections,
5 additions, or changes to my answers that I deem necessary.
6 Executed on this ____ day of _____, 2004
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MAURA LARKINS

PETERSON & ASSOCIATES COURT REPORTING & VIDEO SERVICES

112

1 I, LAURA J. BOLLSCHWEILER, Certified Shorthand
2 Reporter for the State of California do hereby certify:
3
4 That the witness in the foregoing deposition was by me
5 first duly sworn to testify to the truth, the whole truth
6 and nothing but the truth in the foregoing cause; that the
7 deposition was taken by me in machine shorthand and later
8 transcribed into typewriting, under my direction, and the
9 foregoing contains a true record of the testimony of the
10 witness.
11
12 Dated: This ____ day of _____, 2004,
13 at San Diego, California
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LAURA J. BOLLSCHWEILER, CSR, RPR
CERTIFICATE NO. 10500

PETERSON & ASSOCIATES COURT REPORTING & VIDEO SERVICES

C E R T I F I C A T E

I, the undersigned, do hereby certify that I have read the foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following changes listed below):


PAGE No.	LINE No.	
96	23	two dashes at end of line instead of period
104	8	After "No.", add "Mark--"
106	1	should be replaced with: "A. Move to strike--"
	2	should be replaced with: "Q. So the next question is--"
	3	should be replaced with: "A. Excuse me. I'm not finished speaking."
107	12	two dashes at end of line instead of period

Maura Larkins
November 27, 2004

PLEASE TURN TO BACK OF TRANSCRIPT AND SIGN
THE PENALTY OF PERJURY PAGE

1 I, MAURA LARKINS, declare under penalty of perjury
2 under the laws of the State of California that the
3 foregoing is true and correct; that I have read my
4 deposition and have made the necessary corrections,
5 additions, or changes to my answers that I deem necessary.

6 Executed on this 27th day of November, 2004

7
8
9 
10 MAURA LARKINS

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

STUTZ, ARTIANO SHINOFF & HOLTZ, APC

(b) County of Residence of First Listed Plaintiff San Diego, California
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Stutz, Artiano, Shinoff & Holtz 2488 Historic Decatur Rd. suite 200
San Diego, CA 92106 619 232 3122

DEFENDANTS

MAURA LARKINS and DOES 1-100

County of Residence of First Listed Defendant

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE

Attorneys (If Known)

Maura Larkins 1935 Autocross CT El Cajon,
CA 92019 619 444 0065

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☒ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input checked="" type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
United States Constitution, First Amendment 28 USC 1441 1442 1443 1446

Brief description of cause:

Defendant's right to freedom of speech is at issue in this malicious prosecution by public figure for defamation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/19/2007

SIGNATURE OF ATTORNEY OF RECORD

Maura Larkins (pro se defendant)

FOR OFFICE USE ONLY

RECEIPT # 144056AMOUNT \$ 350

APPLYING IFP

JUDGE

MAG. JUDGE

Seu 11/19/07

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

**# 144656 - SH
* * C O P Y * *
November 19, 2007
14:54:29**

**Civ Fil Non-Pris
07-02202**

Judge.: WILLIAM Q HAYES

Amount.:

\$350.00 CK

Check#: PC 4949

Total-> \$350.00

FROM: STUTZ ET AL V. LARKINS ET AL