

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 COUNTY OF SAN FRANCISCO

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3 ELIEZER WILLIAMS, a minor, by SWEETIE WILLIAMS,  
4 his guardian ad litem, et al., each individually  
5 and on behalf of al others similarly situated,

Plaintiffs,

6  
-vs-

7  
8 STATE OF CALIFORNIA, DELAINE EASTIN, State  
9 Superintendent of Public Instruction; STATE  
10 DEPARTMENT OF EDUCATION; STATE BOARD OF  
EDUCATION,

Defendants.

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11 Volume II  
12 March 6, 2003  
13 10:20 A.M.

14 Continued deposition of MICHELLE FINE,  
15 Ph.D., taken by Defendants, pursuant to Notice,  
16 at the offices of O'Melveny & Meyers, 153 East  
17 53rd Street, New York, New York, before Linda J.  
18 Greenberg, a Certified Shorthand Reporter and  
19 Notary Public of the State of New York.  
20  
21  
22  
23  
24

## 1 A P P E A R A N C E S:

2  
3 ACLU FOUNDATION OF SOUTHERN CALIFORNIA  
Attorneys for Plaintiffs

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Los Angeles, California 90026-5752

5 BY: CATHERINE E. LHAMON, ESQ.

6  
7 STATE OF CALIFORNIA DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL

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9 Sacramento, California 94244-2550

10 BY: ANTHONY V. SEFERIAN, ESQ.

1 Leonard Saxe for the U.S. Congress.

2 The U.S. Congress was concerned at  
3 the time about what treatment procedures  
4 the Federal Fund and Medicare and Medicaid should  
5 be funding with respect to treatment of  
6 alcoholism, so we did a comprehensive literature  
7 review for the Office of Technology Assessment,  
8 which is the research arm of the U.S. Congress.

9 Q. Did any publications result from  
10 your work with the Office of Technology?

11 A. A technical report for the OTA,  
12 Office of Technology.

13 Q. Is that technical report listed in  
14 your CV?

15 A. It might be under the monograph  
16 section. Yes. On page 20, Saxe, Dougherty, Esty  
17 and Fine, "The Effectiveness and Costs of  
18 Alcoholism Treatment," U.S. Congress, Office of  
19 Technology Assessment, Washington, D.C. 1983.

20 Q. Will you describe what work you  
21 performed at the University of Pennsylvania  
22 faculty fellowship as indicated on page 4 of your  
23 CV?

24 (Discussion held off the record.)

1 MICHELLE FINE, Ph.D.,  
2 having been previously duly sworn, was examined  
3 and testified as follows:

4 CONTINUED EXAMINATION

5 BY MR. SEFERIAN:

6 Q. Dr. Fine, have you spoken with  
7 Ms. Lhamon or anyone else about the deposition  
8 since we adjourned last evening?

9 A. Yes. We talked about timing and --  
10 timing today and whether or not we would go over  
11 the weekend.

12 Q. Do you remember what you discussed  
13 in that regard?

14 A. I said that I had a dinner  
15 appointment at 6 and I said that I would prefer  
16 to be done late on Sunday than carry over onto  
17 next week. Monday I teach and Tuesday I have  
18 other responsibilities.

19 Q. Will you briefly describe what work  
20 you performed with the Office of Technology  
21 Assessment as indicated on page 4 of your CV?

22 A. Sure. In 1982, I was just out of  
23 graduate school and I was recruited to do a piece  
24 of research with my advisor then, Professor

1 Q. Dr. Fine, in the question I asked  
2 you a few questions ago, where you were  
3 describing the Office of Technology Assessment  
4 work on page 5 of your CV --

5 A. Yes.

6 Q. -- what work did you perform with  
7 the Office of Technology Assessment on page 4 of  
8 your CV?

9 A. In 1989-90, I was requested to  
10 consult with the Office of Technology on a  
11 manuscript that they were producing on middle and  
12 secondary schools and adolescent health outcome,  
13 so I helped them review literature, reviewed the  
14 manuscript that they created, provided them  
15 with other citations they weren't aware of.

16 Q. Did you author any separate  
17 publications in connection with that work for the  
18 Office of Technology Assessment?

19 A. No.

20 Q. What work did you do with the  
21 University of Pennsylvania faculty fellowship as  
22 indicated on page 4 of your CV?

23 A. On the bottom of the page there or  
24 in the middle there? Sorry, there are two.

1 Q. In the middle of the page, the  
2 1985-1986 work.

3 A. In 1986, I was awarded a faculty  
4 fellowship at the University of Pennsylvania,  
5 where I had been teaching, to begin research on  
6 high school dropouts; and that was at the same  
7 time I had support from the WT Grant Foundation,  
8 if you look further down, to conduct an  
9 ethnographic study of urban adolescents at a  
10 large, comprehensive high school, to look at the  
11 structural and pedagogical relationships that  
12 encourage or produce or create or allow high drop  
13 out rates among low income minority students.

14 Q. What publications resulted from that  
15 work?

16 A. Many. Do you want all of them?

17 Q. Well, are all the publications that  
18 resulted from that work listed in your CV?

19 A. Yes. The primary one is a book  
20 called "Framing Dropouts," which received the  
21 Distinguished Book Award for Social Policy in  
22 1992 from the Society for Research on  
23 Adolescents, and that was published by SUNY  
24 Albany Press.

1 Q. Referring to page 32 of your CV,  
2 what work did you perform with The Open Society  
3 Institute?

4 A. The Open Society Institute is a well  
5 funded foundation created by George Soros.  
6 I'm on their advisory board on education, so I'm  
7 one of four or five trustees on the education  
8 board who help them decide how to distribute  
9 money for educational research, policy and  
10 practice.

11 Q. Have you prepared any publications  
12 in connection with your being on the advisory  
13 board for The Open Society?

14 A. No. All of those meetings are  
15 confidential because it has to do with who's  
16 getting money and who's not.

17 Q. Are you presently on the board of  
18 The Society Institute?

19 A. I don't know. We haven't had a  
20 meeting in a long time, so -- they've gone  
21 through a set of changes with respect to funding  
22 in New York City because the Bill Gates  
23 Foundation has come in, so I believe to the  
24 extent that there is a committee, I'm on it.

1 But because we haven't met, I haven't listed it.

2 Q. What work did you perform with  
3 respect to the Oral History Project in 1999?

4 A. During my sabbatical year from The  
5 Graduate Center at City University, I taught  
6 seventh grade; and I taught a seventh grade oral  
7 history class with a colleague, Bernadette Anand,  
8 and that was at The Renaissance School in  
9 Montclair, New Jersey, and we had the students  
10 involved in collecting oral history narratives on  
11 the history of desegregation in their community.

12 And together, with the seventh  
13 graders, we produced a book that's listed on page  
14 8, "The Power of the Struggle," Teachers College  
15 Press, 2002.

16 Q. The Cross City Campaign for Urban  
17 Education, what duties did you perform?

18 A. I was one of the founding members  
19 and was a member of the executive board for a  
20 number of years and I'm still a very active  
21 member.

22 The Cross City Campaign is a  
23 collection of urban education scholars,  
24 practitioners, advocates, union leaders and

1 educators who come together on issues of policy  
2 and practice in urban schools.

3 Q. Have you authored any publications  
4 in connection with your work with the Cross City  
5 Campaign?

6 A. I have. I edited a volume called,  
7 "Small Schools, Big Imaginations"; and I believe  
8 there's another monograph called "Reinventing  
9 Central Districts" -- yes, "Reinventing Central  
10 Office, A Primer for Successful Schools,"  
11 Chicago, May '95, page 19.

12 Q. Are you presently on the board,  
13 executive board of Cross City Campaign?

14 A. No.

15 Q. Is the Cross City Campaign still in  
16 operation?

17 A. Yes. We just had a meeting a few  
18 weeks ago. Yes. They're still in operation in  
19 Chicago.

20 Q. What work did you perform with the  
21 Pew Forum on Education Reform?

22 A. The Pew Forum was a collection of  
23 largely scholars and a few practitioners of  
24 educational reform policy and it was a very well

1 funded body of -- I don't know, 30 or 40 of us  
2 who would get together once every six months or  
3 once a year to discuss issues of educational  
4 reform.

5 It was led by Robert Schwartz, who  
6 was at the Pew Foundation, and it included people  
7 like Linda Darling-Hammond and Tony Alaberado and  
8 Marshal Smith, who was then undersecretary of  
9 education. 40 other folks -- Dave Tatel -- who  
10 were kind of major school and educational  
11 scholars from around the country.

12 Q. Do any of your publications pertain  
13 to work to be performed in connection with the  
14 Pew Forum?

15 A. No. It was more like a think-tank  
16 than a publication.

17 Q. What work did you perform with the  
18 Pennsylvania State Department of Education  
19 Advisory Group, Successful Students Partnership  
20 Program?

21 A. My work in dropout is very  
22 well-known, so they were doing a dropout  
23 prevention initiative and they asked me to  
24 consult to them about how to think through the

1 conditions in schools that produce dropouts  
2 because they were making the shift from thinking  
3 about the characteristics of students that cause  
4 them to drop out to looking at what are the  
5 characteristics of schools that encourage  
6 dropping out.

7 Q. Did the advisory group or the  
8 Department of Education, to your knowledge,  
9 publish any materials related to that advisory  
10 group or that issue?

11 A. No. I think we just influenced  
12 practice and program, but not publications.

13 Q. What work did you perform in  
14 connection with the International Policy Research  
15 Institute in 1985 to 1988?

16 A. Where is it?

17 Q. As indicated on page 36 of your CV.

18 A. It was an organization in New York  
19 and they were doing education work around  
20 dropouts; and so, again, I was consulting to them  
21 about both research methods and programmatic  
22 issues.

23 Q. Do any of your publications pertain  
24 to work that you did for the International Policy

1 Research Institute?

2 A. No.

3 Q. What work did you perform for the  
4 Industrial Social Welfare Center from 1979 to  
5 1981?

6 A. I was the research director.

7 Q. Did that position involve you  
8 personally conducting research?

9 A. Yes.

10 Q. And can you briefly state what  
11 topics you researched in that position?

12 A. Sure.

13 Labor relations, mental health and  
14 physical health of workers.

15 Q. Did you receive any academic honors  
16 or awards at Brandeis University?

17 A. I don't believe so. I think I  
18 graduated Magna cum laude, but no, I don't  
19 believe I received any awards.

20 Q. Did you receive any academic honors  
21 or awards at Teachers College, Columbia  
22 University?

23 A. I was awarded an NIMH, National  
24 Institute of Mental Health doctoral fellowship,

1 and it paid for my tuition and at that point gave  
2 me a \$3,500 stipend which allowed me to live well  
3 in New York City. That's how old I am.

4 Q. What were the criteria that allowed  
5 you to obtain the doctoral fellowship at Columbia  
6 University?

7 A. Quality work and recommendations by  
8 faculty member, Morton Deutsch, who was my  
9 professor.

10 Q. What was the focus of your doctoral  
11 studies at Columbia?

12 A. My area was social psychology; and  
13 in particular, I do work on -- for 25 years  
14 almost I've been doing work on how people see and  
15 explain conditions of social justice and  
16 injustice.

17 Q. Do you have any degrees in  
18 statistics?

19 A. My degree is in experimental social  
20 psychology, so there's substantial statistical  
21 training and research method; and I've published  
22 within the area of sampling theory and  
23 statistical procedures.

24 Q. Do you have any publications in mind

1 when you say that?

2 A. Yes. The work that I did on the  
3 Vietnam research project, which was a large scale  
4 study of the impact of the Vietnam War of men of  
5 that generation. I was the director of the  
6 sampling.

7 On page 18 there's a citation to an  
8 article by George Roth Bart, Michelle Fine and  
9 Seymour Sudman. Seymour Sudman is probably the  
10 preeminent theorist of sampling and interviewing,  
11 who just recently passed away, called "On Finding  
12 and Interviewing the Needle in the Haystack: The  
13 Use of Multiplicity Sampling and its Kin," and  
14 the journal is Public Opinion Quarterly, 1982.

15 And then, of course, the first book  
16 that I published was called "Social Experiments,"  
17 which is on page 9 with Leonard Saxe; "Methods  
18 for Designing Evaluation," which really lays out  
19 the details of what most people would consider  
20 traditional methodology.

21 And then on page 14 there's another  
22 chapter by Leonard Saxe and myself, two actually.  
23 One called "Reorienting Social Psychology Toward  
24 Application: A Methodological Analysis"; and then

1 a second one by Leonard Saxe and myself called  
2 "Expanding Our View of Control Groups in  
3 Evaluations."

4 And then thirdly, there's a chapter  
5 cited on page 13 by Michelle Fine and Sheila  
6 A-K-A-B-A-S, "Combining Experimental Design With  
7 Archival Survey and Interview Methods: Creative  
8 Evaluations in Trade Unions," and all three of  
9 those were published in methodological volumes.

10 Q. What do you mean by traditional  
11 methodology?

12 A. Methodologies that were in  
13 ascendancy in 1980, so experimental -- quasi  
14 experimental designs.

15 Q. What courses did you teach at City  
16 University of New York?

17 A. I teach methods -- I only teach  
18 doctoral level courses, so I teach methods.  
19 I teach a course on social justice and social  
20 development. I teach -- across the years, I  
21 teach a course on a consultation seminar to help  
22 students with methodological difficulties they  
23 encounter when they're doing applied research.

24 I've taught feminist methods.

1 I teach a course on theoretical conceptions of  
2 justice and injustice.

3 Q. Which courses are you teaching  
4 presently?

5 A. Right at this moment I'm teaching a  
6 seminar on masculinities, which I didn't mention,  
7 a course on researching the achievement gap, and  
8 a course on social justice and social  
9 development: "Issues of Design and Method."

10 Q. What did you mean by applied  
11 research?

12 A. There's a distinction between  
13 laboratory-based research and applied research.

14 Applied research is research that  
15 happens outside of the lab in real settings:  
16 communities, schools, prisons, law offices, on  
17 the George Washington Bridge.

18 Q. What are the topics that you cover  
19 in your course on researching the achievement  
20 gap?

21 A. We study law cases as well as social  
22 psychological, as well as educational studies on  
23 finance equity cases, affirmative action, access  
24 to higher education for low income students,

1 youth's perceptions of their schools, tracking,  
2 culturally responsive curriculum.

3 A student of mine, Valkaria Duran,  
4 has just published a piece on the relationship of  
5 schools' physical facilities and academic  
6 achievements, so we've been looking at that so  
7 it's a broad range of political, structural,  
8 social, psychological and educational issues  
9 within and around schools.

10 Q. How do you spell the name of your  
11 student?

12 A. V-A-L-K-A-R-I-A D-U-R-A-N.

13 Q. What was the name of that  
14 publication?

15 A. It's actually in the bibliography.  
16 "School Facility Decay and Student Achievement."

17 Q. Where has that been published,  
18 "School Facility Decay and Student Achievement"?

19 A. She just completed it, so it's  
20 getting written up for publication now, but it's  
21 been presented at a professional conference at  
22 The Graduate Center.

23 Q. Is it available to the public at  
24 this point?

1 A. I believe you have it.  
 2 Q. What courses did you teach at the  
 3 University of Pennsylvania?  
 4 A. I taught educational psychology, I  
 5 taught experimental design, I taught qualitative  
 6 methods, social psychology, psychology of women,  
 7 and a course on social justice and injustice.  
 8 Q. In which departments at the  
 9 University of Pennsylvania were the courses that  
 10 you taught?  
 11 A. Human development within the School  
 12 of Education. I was also affiliated with the law  
 13 school and the nursing school and the school of  
 14 social work.  
 15 Q. How were you affiliated with the law  
 16 school?  
 17 A. I was consulting with a number of  
 18 projects that they were working on and  
 19 collaborating with three faculty: Regina Austin,  
 20 Ralph Smith and Lani Guinier.  
 21 Ralph Smith and I co-taught a course  
 22 between education and law that was co-listed that  
 23 was half law students and half educational  
 24 students.

1 Q. What are your areas of expertise?  
 2 A. Research methods, gender and race  
 3 issues and psychology, participatory actions of  
 4 research and the social psychology of justice and  
 5 injustice, as well as urban education, dropouts,  
 6 and now integration and the achievement gap.  
 7 Q. Does Exhibit 2, your report in this  
 8 case, contain all of the opinions that you have  
 9 formed in this case?  
 10 A. It does.  
 11 Q. When I say "this case," will you  
 12 understand that to mean Williams versus  
 13 California?  
 14 A. I do.  
 15 Q. Does appendix A to your report  
 16 entitled "Detailed Methodology" contain a  
 17 description of the methodology you used to  
 18 conduct the research and work for the case of  
 19 Williams versus California?  
 20 A. It does.  
 21 Q. What was the purpose of having a  
 22 section of your report or an appendix in which  
 23 you discuss the detailed methodology?  
 24 A. Whenever I do research I try to be

1 as transparent as possible about what I've done  
 2 and why I've done it.  
 3 As a methodologist, I think it's  
 4 important for people to detail as much as  
 5 possible what they did, how they did it, under  
 6 what conditions they did it.  
 7 In this case, because you all had  
 8 access to the transcripts, that was one part of  
 9 the transparency, but I included a detailed  
 10 methodology so that people would understand how  
 11 the research was conducted.  
 12 Q. What documents were generated in  
 13 connection with the creation of the methodology  
 14 in this case?  
 15 MS. LHAMON: Do you mean the  
 16 creation of the appendix, the details of  
 17 methodology, or the creation of choices made in  
 18 conducting the survey on focus groups?  
 19 Q. When the methodology you did you  
 20 ultimately used in this case was being conducted,  
 21 what documents were generated that pertained to  
 22 how the methodology was going to be used and what  
 23 the methodology ultimately ended up to be?  
 24 A. Documents that I relied on or

1 documents that we created?  
 2 Q. Documents that you and your students  
 3 created.  
 4 A. We relied on a series of already  
 5 established survey instrumentation by Flanagan,  
 6 by Bryk at University of Chicago.  
 7 And then we put together a rough  
 8 draft of a survey, having reviewed a number of  
 9 the depositions from youth and educators.  
 10 We also put together a protocol for  
 11 the focus group, and there were a number of  
 12 drafts of those. We had a protocol for the  
 13 graduate interviews. We had photographs.  
 14 We had quotes that we used as probes, quotes that  
 15 we had drawn from the deposition that we had used  
 16 as probes, and then we had a number of sessions  
 17 where we developed those in the training. Those  
 18 are the documents we created.  
 19 Q. When you say "we," who are you  
 20 referring to?  
 21 A. Michelle Fine, Maria Torre, Yasser  
 22 Payne and April Burns. Those were three doctoral  
 23 students.  
 24 Q. Before you worked in this case, had

1 you relied on the same survey instrumentation  
2 that you used in this case?

3 A. No. We had used Tony Bryk's items  
4 in the Chicago Bank Street small school study,  
5 but we hadn't, again, context matters. We  
6 certainly hadn't created this survey and used it  
7 in any prior research.

8 It has been used since in a number  
9 of settings and, in fact, school districts are  
10 asking us to use it now; but at the time, no.  
11 Segments of it have been used elsewhere, but not  
12 prior to this lawsuit, to our involvement in this  
13 lawsuit.

14 Q. The survey instrumentation that you  
15 relied on in this case, did you rely on any  
16 portions of it in collecting any prior work you  
17 did?

18 MS. LHAMON: Asked and answered.

19 A. Sections in the survey had been used  
20 before by Tony Bryk and by our work with the  
21 University of Chicago in the small school study,  
22 but the survey in its totality, no, had not been  
23 used anywhere before.

24 Q. Were Ms. Torre and Mr. Payne and Ms.

1 over them and discard and change some things.

2 Q. So there were about two or three  
3 drafts of the focus group protocol which you no  
4 longer have?

5 A. Sure.

6 MS. LHAMON: I just want to  
7 interject. You may want to take a look at the  
8 documents that Tony has to be sure that you know  
9 what it is that Tony does and doesn't have.

10 THE WITNESS: That's fine.

11 A. I'm happy to look at what you have.

12 MS. LHAMON: Having not been offered  
13 those documents, I think you should be careful to  
14 be sure when you say that there were more  
15 iterations that Tony doesn't have, that you're  
16 sure that that's accurate.

17 Q. In what other contexts has the  
18 survey that was prepared for this case been used  
19 since it was used in this case?

20 A. A number of the questions that were  
21 generated off of this survey have now been  
22 incorporated into a much larger Rockefeller  
23 funded project: race, class, opportunity gap.

24 Q. Is that a project you're involved

1 Burns your assistants for this project?

2 A. And for many other projects.

3 Q. Were there any documents that you  
4 and your assistants created in forming the  
5 methodology for this case, including survey  
6 drafts, protocols, photographs, that have not  
7 been maintained and turned over to the  
8 plaintiffs' attorneys?

9 A. You have everything that I have.  
10 There were drafts of things that I know you have,  
11 a draft of the focus group protocol, but there  
12 might have been intervening drafts, but nothing  
13 that remains. Everything that remains, you have.

14 Q. Were there drafts of the focus group  
15 protocol that you no longer have?

16 A. Sure. We met a lot about making  
17 sure that we had a process that would be fair,  
18 would generate positive information, would create  
19 a positive context, so there were lots of drafts  
20 of that.

21 What you have and I have is the  
22 first draft and the last draft, but there were  
23 probably two or three iterations within that that  
24 Maria, Yasser, April created and then we would go

1 with?

2 A. I'm the principal investigator.

3 Q. And that's listed on your CV,  
4 correct?

5 A. That's on my CV.

6 Q. Have there been any other contexts  
7 in which the survey created for this case has  
8 been used since then?

9 A. Let me be clear.

10 I keep saying sections of it have  
11 been used. Again, yesterday we talked about the  
12 importance of creating methods that fit with  
13 context, so sections of it have been transferred  
14 to other contexts.

15 I've been getting a lot of calls  
16 from school districts around the country eager to  
17 have us work with youth to collect data from  
18 youth about how they feel about their schools, so  
19 just today three of my students, Maria, April and  
20 a third woman, Monique, are in Delaware because  
21 the superintendent had heard about our work and  
22 was so excited about the possibility of doing a  
23 survey with young people to lift up voices so  
24 that the school could hear how young people

1 experience their school.

2 So parts of the survey have been  
3 used in other context, both from our research and  
4 because school districts are requesting it.

5 Q. How was the methodology used in this  
6 case arrived at?

7 MS. LHAMON: Vague and ambiguous.

8 A. Can you be more specific?

9 Q. Can you describe the process by  
10 which you and your assistants established the  
11 protocols, the survey, and the methods that you  
12 ultimately used to do your research in this case?

13 MS. LHAMON: You mean separate from  
14 what's already written in the report?

15 MR. SEFERIAN: Just in her own  
16 words, a description of how the methodology was  
17 created.

18 A. We read the available social  
19 psychological and educational literatures on the  
20 relevant topics of facilities, unqualified,  
21 undercredentialed teachers, teacher stability,  
22 inadequate instructional materials.

23 We then determined that it would be  
24 important to focus primarily on high school

1 students who had had a history of experience  
2 through some of the plaintiff schools, but that  
3 we also wanted a sampling of middle and  
4 elementary school students, and we also wanted a  
5 sample of graduates who are now in college.

6 We decided to use multiple methods,  
7 so we used four, which is extensive literature  
8 review and my own history with research,  
9 individual surveys, the focus group, and then the  
10 individual interviews with graduates.

11 Q. Was anyone else involved in the  
12 creation of the methodology in this case other  
13 than you and your assistants?

14 A. Just the four of us.

15 Q. Over what period of time did you  
16 create the methodology for this case?

17 A. I don't remember. Maybe two months.

18 Q. Can you describe how the methodology  
19 was created in terms of, did you have regular  
20 meetings among the four of you or was it --

21 A. We had regular meetings among the  
22 four of us, yes.

23 Q. Can you describe how many meetings  
24 there were?

1 MS. LHAMON: The witness has already  
2 testified that she doesn't remember.

3 A. There were many. I meet with my  
4 students all the time. I only teach doctoral  
5 students. We spend a lot of time -- Maria was  
6 the director of the prison project that I  
7 referred to before. April and Yasser are both  
8 Leslie Glass Fellows, which is a fellowship  
9 program. They're reactive in the achievement gap  
10 research, so we meet all the time, so it's very  
11 hard for me to parcel out how many meetings.

12 But we met substantially to review  
13 the existent literature, to look at the  
14 depositions that already existed, to think about  
15 a variety of probes that would work in a focus  
16 group of relative strangers to create comfort,  
17 trust and to ask questions that would solicit,  
18 for the first set of questions, positive views of  
19 their schools.

20 Q. Did either you or your assistants  
21 take any notes during the creation of the  
22 methodology?

23 A. Usually we would talk, and then  
24 someone would draft, like, a proposed protocol

1 for the focus group and then we would talk about  
2 how we were going to do this and what kind of  
3 photos might we use and what kind of quotes make  
4 sense; and, "Yasser, you get the quotes," and  
5 "April, you look for photos," and "Maria, you  
6 think about how to put together the survey."

7 And then we would come back and then  
8 they would have each done their job. So most of  
9 the meeting time was spent discussing and  
10 planning and allocating responsibilities.

11 Q. In the creation of the methodology,  
12 were any notes prepared by either you or your  
13 assistants, separate from the drafts of the  
14 protocols?

15 A. You have everything I have, so if I  
16 can see what you have I'm glad to comment on it,  
17 but you have everything I have from those  
18 meetings.

19 Q. In the creation of the methodology,  
20 were any of your assistants given discrete tasks  
21 to perform for certain parts of the methodology?  
22 How did that work?

23 A. We would generate a list of things  
24 that had to be done, and then each person would



1 take a piece of it and then we would come back  
2 together and -- we do a lot of kind of -- all of  
3 our work is collaborative. So we do a lot of  
4 kind of, "You do that piece, you do that piece,  
5 then we'll bring it back together," and then  
6 we'll talk about which photos work or which  
7 quotes we think would work.

8 How do we arrange the focus group  
9 questions so that we can get the survey going and  
10 get different views of different schools, create  
11 trust, get dissenting opinions?

12 So people had kind of assignments,  
13 and then we'd come back and shape them out.  
14 They're all skilled and trained in focus group  
15 and survey methodology.

16 In our program, they have to take a  
17 year's worth of statistics, a year's worth of  
18 research methods, qualitative methods course and  
19 they've all worked with me before.

20 So in some work sense, they're my  
21 assistants. But in other ways, they're very  
22 skilled researchers in their own right.

23 Q. Did anyone create any minutes of  
24 what the different assignments were for the

1 them in the other focus groups because we wanted  
2 most of the focus groups to be just regular kids  
3 relatively unaware of the nature of the lawsuit,  
4 so we created a separate focus group for those  
5 young people.

6 At one point we thought maybe we  
7 would have a separate ESL group; but again, we  
8 decided not to and to create integrated settings  
9 to get diversity of opinion across youth.

10 Q. Any others?

11 A. Yes. At one point I thought it  
12 would be interesting to interview California  
13 students who go to well resourced schools; and  
14 then in rethinking the design, thought that  
15 actually a better control group would be  
16 demographically similar kids who go to quality,  
17 rigorous schools, and that we had that data from  
18 New York, so that that became a better comparison  
19 rather than wealthy kids going to wealthy  
20 schools, because they would be distinct in two  
21 ways.

22 Q. What data were you referring to in  
23 that answer?

24 A. What do I have from New York?

1 assistants in creating the methodology?

2 A. I'm sure not. We don't have, like,  
3 secretaries or staff. This is City University of  
4 New York. You've got me, we bring in our own  
5 Xerox paper. It's a fabulous place to work, but  
6 we don't have a staff, so people take their  
7 assignments. They do them. They come back.

8 Q. During the creation of the  
9 methodology for this case, were there any  
10 proposals or suggestions for the methodology that  
11 were different from the methodology that was  
12 ultimately used in this case?

13 A. Sure.

14 Q. Can you think of any of those?

15 A. At one point we thought we would do  
16 a focus group with dropouts because that's one of  
17 my areas of expertise, and then we decided not to  
18 do that because we didn't -- we know the  
19 dropouts, I know from my work that dropouts tend  
20 to have a very critical view of their schools, so  
21 we didn't want to skew the data.

22 We also wanted to interview a group  
23 of young people who were very involved with the  
24 lawsuit, but we made a decision not to integrate

1 Q. Yes.

2 A. Remember yesterday we talked about  
3 the New Vision study and this achievement gap  
4 project that we're doing, and -- there's a  
5 section in my report where I reference the work  
6 from Philadelphia and New York, talking about  
7 demographically similar youth, mostly poor and  
8 working class kids of color, going to schools  
9 that have stable faculty, rigorous curriculum,  
10 quality facilities and actually are achieving at  
11 much higher rates than their peers who go to  
12 schools with unstable faculty and inadequate  
13 instructional materials.

14 Q. Why did you decide not to have a  
15 separate ESL focus group?

16 A. For three reasons.

17 One was, we didn't really want to go  
18 with kind of special interest where we know that  
19 there's already a kind of political debate about  
20 bilingualism and the like. We didn't want to be  
21 pulling for critique. We wanted to create  
22 maximal conditions for young people to say good  
23 engaging things about their school, so for the  
24 same reason we didn't do a special group of

1 dropouts, we didn't do ESL.  
 2 Secondly, we didn't want to do any  
 3 kind of special group that looked at a particular  
 4 set of policy issues.

5 And thirdly, we wanted to go kind of  
 6 for diversity in the groups rather than  
 7 separating kids out.

8 Q. Why did you want to go for diversity  
 9 within the focus groups instead of separating  
 10 kids out?

11 A. Because when you create segregated  
 12 groups, they tend to focus on the characteristics  
 13 of their difference or their marginality, and  
 14 what we wanted to do was kind of create  
 15 discussion groups that felt and looked more like  
 16 their schools. Diverse, mixed. Everybody is in  
 17 the hallway.

18 Q. Why did you decide not to use a  
 19 control group of California students?

20 A. Wealthy California students who go  
 21 to a wealthy school? Is that what you mean?  
 22 That's what I said.

23 It wouldn't be a control group.  
 24 It would be a comparison group.

1 The point of a comparison group is  
 2 to vary one feature of an experience in order to  
 3 make a conclusion about the impact of an  
 4 intervention on that group, so it made no sense  
 5 to actually compare mostly poor and working class  
 6 kids of color going to under resourced schools  
 7 with wealthy California kids going to wealthy  
 8 schools because if they sounded different, you  
 9 wouldn't know if it was their class or their  
 10 school.

11 So a more sophisticated comparison  
 12 would be demographically similar, poor and  
 13 working class kids of color who were going to  
 14 relatively resourced, at least intellectually  
 15 resourced schools with stable faculty and  
 16 sufficient instructional materials.

17 Then if there was a difference, you  
 18 can create schools that educate those kids well.

19 Q. If there was a comparison group of  
 20 wealthy kids going to wealthy schools and they  
 21 provided similar information that you obtained  
 22 from the focus groups in this case, would that  
 23 have been useful to you?

24 MS. LHAMON: The question is vague

1 and overbroad.

2 A. You want me to answer that?

3 Q. Yes, please.

4 A. If they had provided what kind of  
 5 similar information?

6 Q. If you had done a comparison group  
 7 of wealthy children going to wealthy schools and  
 8 they had provided some of the same types of  
 9 responses to the survey and the focus groups as  
 10 the students that were researched in this case,  
 11 would that have been relevant to any of your  
 12 conclusions?

13 MS. LHAMON: Same objections.

14 A. I already knew the literature on  
 15 wealthy kids going to wealthy schools. Peter  
 16 Cookson has written on this and Michael Reichart.

17 The narratives that those students  
 18 deliver about their schools are very, very  
 19 different than the kinds of -- than the kinds of  
 20 responses we were getting from these kids, so I  
 21 don't -- it doesn't seem likely that the  
 22 responses would have been similar.

23 Q. Although it may not have been likely  
 24 that the responses would have been similar, if

1 you had done a comparison group with wealthy  
 2 children going to wealthy schools and the  
 3 responses were similar to the focus groups used  
 4 in this case, would that have been relevant to  
 5 any of your opinions in this case?

6 MS. LHAMON: Same objections.

7 A. It wouldn't have altered the  
 8 theoretical sense that I made of how these young  
 9 people are experiencing their schools with the  
 10 absence of teacher stability, the presence of  
 11 structural decay, the absence of books and  
 12 materials.

13 (A recess was taken.)

14 Q. What's the difference between a  
 15 comparison group and a control group?

16 A. A control group is a technical  
 17 language for -- that's typically used to describe  
 18 the random assignment of people to condition.

19 So that if we wanted a true control  
 20 group in this case, we would randomly assign  
 21 children to under resourced and over resourced  
 22 schools. We would just take a group of wealthy,  
 23 middle-class, poor and working class kids and we  
 24 randomly assign them to condition, and then we

1 would have a true control group. We would say  
2 the only thing that differs here is quality of  
3 schooling; and then we would be able to assess  
4 the extent to which quality of schooling affects  
5 student performance.

6 Comparison group is the group that  
7 you rely upon to make comparisons about a  
8 condition, but it's not a control group because  
9 people aren't, in fact, randomly assigned to the  
10 schools that they attend.

11 Q. Are there any respects in which the  
12 focus groups that you used in this case are  
13 different from those you have used in other  
14 research?

15 MS. LHAMON: Vague and ambiguous.  
16 Overbroad and compound.

17 A. The specific methodologies were  
18 specific to the questions we were asking, so with  
19 respect to particular details of this, of course  
20 everything was different.

21 With respect to kind of broad  
22 principles of focus groups, to seek a diverse  
23 group, to create trust, to support dissenting  
24 opinions, to gather up individual data and then

1 collective data, those broad principles are  
2 consistent with other work we've done, to use  
3 multiple stimuli to get young people speaking.

4 Q. Are there primary or particular  
5 reasons in any given research case that you  
6 ultimately decide to use focus groups in your  
7 research?

8 MS. LHAMON: Vague as to "primary"  
9 and "particular."

10 A. We use focus groups when we want to  
11 understand both how individuals and groups think  
12 about the institutions in which they are located.

13 Q. How do you determine how many focus  
14 groups to use for a research project?

15 MS. LHAMON: The question is  
16 overbroad.

17 A. In this case, we used more focus  
18 groups than we typically do.

19 In the achievement gap studies,  
20 we've only been using three groups per school.  
21 But in this case, we decided to go with a broader  
22 net because we wanted geographic diversity, age  
23 diversity, racial and ethnic diversity, gender  
24 diversity, so this would be considered a lot of

1 focus groups.

2 Q. Is there any set of written criteria  
3 you follow in determining how many focus groups  
4 to use for a particular research project?

5 A. There aren't.

6 Q. In this case, did you use marketing  
7 research and jury research firms?

8 A. We did.

9 Q. Other than this case, with which  
10 focus groups have you used jury research firms?

11 A. I've never used jury research firms  
12 myself, but I've worked with forensic  
13 psychologists who use jury research, marketing  
14 and jury based research firms together with mock  
15 juries, and I've consulted on a number of those  
16 projects, like the National Jury Center.

17 Q. Other than in this case, have you  
18 used a marketing research firm in connection with  
19 research that you personally performed?

20 A. No, but again, I've consulted to  
21 projects that have used these marketing research  
22 or jury research firms.

23 Q. How do you go about in a research  
24 project with selecting the focus group

1 participants?

2 MS. LHAMON: Broad and vague and  
3 ambiguous. It assumes facts not in evidence that  
4 there's some single protocol.

5 A. Typically, when I'm involved in  
6 school-based research, there are three different  
7 ways you can do it.

8 One is, you can ask educators to  
9 identify kids for a focus group. That's the most  
10 typical way. I find that problematic.

11 The second is for me or graduate  
12 students to go in and identify young people.  
13 And the third is to get a list of the full  
14 population, the available population, and then  
15 randomly select them. That gives you the truest  
16 representation of the broader school dynamics,  
17 and that's what we requested in this case.

18 Can I alter an answer that I gave  
19 before? I just remembered working with a  
20 marketing research firm. When we did the study  
21 of Vietnam era research, when we did the study of  
22 Vietnam era men, veterans, nonveterans,  
23 resisters, deserters, men who were in Vietnam and  
24 not in Vietnam, we actually did use a marketing

1 research firm.

2 I was the sampling director, and so  
3 I worked with them, but I had forgotten that --  
4 Tom Parsons headed up the research firm here in  
5 New York and we did at that point household  
6 dialing to find men of a particular age group;  
7 and then we asked them whether or not they were  
8 veterans and we asked them whether or not they  
9 were in Vietnam.

10 It's a very labor intensive process.

11 Q. Are you referring to the Vietnam era  
12 research project?

13 A. Yes.

14 Q. When you're performing school-based  
15 research, is the most common method that you use  
16 to select focus group participants obtaining a  
17 list of the population and randomly selecting  
18 participants?

19 MS. LHAMON: Assumes facts not in  
20 evidence that there is a most common method.

21 A. Typically, when I'm doing  
22 school-based research, I either have myself or my  
23 graduate students selecting a group of young  
24 people to participate.

1 Or we're now doing a transcript  
2 analysis in a number of these racially integrated  
3 schools looking at students' transcripts, and  
4 then we're going to do focus groups with them;  
5 and there we're going right to the -- all the  
6 seniors, and we're coding their transcripts; and  
7 then we're randomly selecting off the list of  
8 eligible participants to do focus groups with  
9 them by race and ethnicity.

10 Q. In school-based research, why do you  
11 find it problematic to ask educators to identify  
12 children to participate in the groups?

13 A. Because I want to use my own  
14 criteria for selection; and typically, if school  
15 people are identifying kids, they're identifying  
16 students who are high achieving, articulate, well  
17 connected, engaged, et cetera, and that's a slice  
18 of a school; but no matter what the school,  
19 that's only a slice of the school.

20 Q. Is it true that you ultimately used  
21 eleven focus groups in this case?

22 A. Eleven.

23 Q. How did you make a determination to  
24 use eleven focus groups in this case?

1 A. There were nine focus groups that  
2 the jury and the marketing research teams were  
3 able to identify from households in the specified  
4 Zip code; and then we did want to do a focus  
5 group with youths who were connected with the  
6 lawsuit who had already provided some -- had some  
7 relationship to the lawsuit, but we wanted to  
8 keep that separated; and then I had an  
9 opportunity to meet with some youth and visit the  
10 schools in Watsonville, so we included a focus  
11 group there.

12 Q. Was there any particular reason that  
13 you used eleven focus groups in this case as  
14 opposed to, let's say, nine or ten or fifteen  
15 focus groups?

16 A. Eleven was a lot. As I said  
17 earlier, I would have been happy with five or  
18 six. The marketing and jury research group  
19 produced a lot of young people and we were  
20 delighted to have more so that we had an  
21 elementary, then we had the middle level, and we  
22 had the high school.

23 Q. When you completed the creation of  
24 the methodology for this case, did you have a

1 specific number of focus groups that you were  
2 intending to use?

3 A. I don't believe so. I don't believe  
4 so. I think we probably said a minimum of five  
5 or six, but once it became apparent that we had  
6 kids who were already involved in the lawsuit and  
7 elementary and then two middle, I wanted a  
8 critical mass of high school kids, so we went to  
9 kind of five or six at the high school level.

10 Q. In your opinion, would it have been  
11 satisfactory for your research purposes to have  
12 used five or six focus groups to perform the  
13 research needed in this case?

14 A. We got five or six of the high  
15 school kids, so that was satisfactory.

16 Q. Would it have been acceptable to you  
17 to use five or six focus groups in total for the  
18 research you did in this case?

19 MS. LHAMON: Incomplete  
20 hypothetical.

21 A. It's actually too hypothetical for  
22 me to answer. It depends who was there, whether  
23 or not it represented the diversity that we had  
24 hoped to, whether or not there was the geographic

1 diversity.

2 So given the number of parameters we  
3 wanted to satisfy, eleven satisfied those  
4 parameters. The geographic, the racial and  
5 ethnic, the age and the gender diversity.

6 Q. If you assume that five or six focus  
7 groups could have satisfied the geographic  
8 diversity, the racial and ethnic diversity, the  
9 age diversity and the gender diversity you were  
10 looking for, would that have been acceptable for  
11 you to perform the research in this case?

12 MS. LHAMON: Objection.

13 A. All I can tell you is I'm very  
14 satisfied with what we have. I can't abstractly  
15 answer that.

16 Q. Why couldn't you answer that?

17 A. Because that's not as formulated as  
18 your question is. If it was six focus groups  
19 with kids all from neighborhood schools and it  
20 was largely ninth graders, I would say no.

21 So the mix that we got enabled us to  
22 understand a lot about different kinds of  
23 schools, neighborhood, different kinds of kids,  
24 high achieving kids, low achieving kids, magnet

1 creation of the methodology for this case, did  
2 you have a specific number of students that you  
3 intended to participate in each focus group?

4 A. No. I think we said 9 to 15. I  
5 think that's what we said. I believe that's kind  
6 of what we got.

7 Q. Why did you decide to have one focus  
8 group in this case consist of students connected  
9 to this suit?

10 A. Because we wanted to hear from young  
11 people who were well versed in the legal and  
12 educational issues who were heavily involved in  
13 working on questions of educational equity.  
14 We wanted to hear from them, what their  
15 perspectives were, but we didn't want to  
16 integrate them into the other focus groups.  
17 We wanted to keep them separate.

18 Q. Why did you have one focus group in  
19 this case from Watsonville?

20 A. Because I happen to have -- I was  
21 invited to speak in Santa Cruz and I happened to  
22 have the opportunity to meet with a group of  
23 young people from Watsonville, so I asked  
24 Catherine Lhamon if it would be all right for me

1 schools, rural-ish schools, migrant worker kids.

2 So the breadth of the sample really  
3 kind of filled in the diversity of youth and  
4 schools in the California system.

5 Q. At the time you completed the  
6 creation of the methodology in this case, did you  
7 have a specific number of students that you  
8 wanted to participate in the focus groups?

9 A. We were hoping to get at least, I  
10 think, 80 or so.

11 Q. Why was it that you wanted to have  
12 at least 80 students participate in the focus  
13 groups for this case?

14 A. Because, again, we wanted the three  
15 levels, the different -- the elementary, middle,  
16 high school, with heavier emphasis on the high  
17 school. We wanted different geographic; and then  
18 within those groups, we wanted racial and ethnic  
19 diversity.

20 Given that we knew that there was a  
21 group of kids who were already familiar with the  
22 lawsuit, we needed a large enough group to give  
23 us that much range.

24 Q. At the time you completed the

1 to include the focus group there.

2 We didn't do surveys with them.  
3 We just did a focus group.

4 Q. How did you happen to meet the  
5 students?

6 A. There was a reception for me and a  
7 bunch of people brought their kids to hear me  
8 speak.

9 Q. Was the focus group in Watsonville  
10 conducted immediately after the reception?

11 A. Actually, kind of before. Like,  
12 in the early part, when I realized a bunch of  
13 kids were there -- because I knew that  
14 Watsonville was part of the lawsuit -- I thought  
15 it would be a good time to chat with them using  
16 some of the same questions, but not the survey or  
17 the photos or the quotes, but some of the same  
18 questions that we had used in the other groups.

19 Q. You were giving a speech in Santa  
20 Cruz before you conducted the --

21 A. I gave a speech at the university,  
22 and then there was a reception for me at the home  
23 of Professors Craig Haney and Aida Hurtado, and  
24 it was to that that people had brought their

1 children who were high school kids.  
 2 And when they came in, I had  
 3 mentioned to Catherine that this was a  
 4 possibility, so we found a room in the house and  
 5 did a focus group there.

6 Q. Was the focus group conducted in the  
 7 City of Santa Cruz?

8 A. Yes, it was.

9 Q. And the focus group of the  
 10 Watsonville students was conducted during the  
 11 reception at the professor's house?

12 A. Yes. There were, like, all these  
 13 people in the living room and then I went off  
 14 with a group of kids. I often go off with groups  
 15 of kids so it didn't seem totally unusual.

16 Q. That was a reception specifically in  
 17 your honor?

18 A. Uh-huh.

19 Q. Yes?

20 A. Yes. I had also brought many of my  
 21 graduate students out there and they had spoken  
 22 at the university, so it was also in their honor.

23 Q. Were you receiving an award?

24 A. No. Just a talk.

1 Q. What discussion did you have with  
 2 Ms. Lhamon before the Watsonville focus group  
 3 about the possibility of holding such a group?

4 A. You know, I really don't remember,  
 5 but I think I said something like, "There might  
 6 be some kids there, and I might want to hold a  
 7 focus group. Do you think that's a good idea?"

8 Q. Do you recall what response  
 9 Ms. Lhamon gave

10 A. She must have said she thought it  
 11 would be a good idea, because I did it.

12 Q. Where in the professor's home was  
 13 this focus group held?

14 A. They have one of those great Santa  
 15 Cruz homes that was, like, a million rooms.  
 16 I can't imagine what this room was called.  
 17 It was just a room off the living room.

18 Q. What was the reason that you did not  
 19 administer surveys to the focus group students in  
 20 Watsonville?

21 MS. LHAMON: The report speaks for  
 22 itself.

23 A. I'm trying to see where I refer to  
 24 this in here.

1 Because I didn't have parental  
 2 consent, I didn't want to collect survey  
 3 information, nor did I want to quote from these  
 4 kids.

5 I just wanted to see to what extent  
 6 the issues in an area like Watsonville would  
 7 differ or confirm the issues that emerged in Los  
 8 Angeles, Alameda, and San Francisco, and the  
 9 issues that were confirmed were teacher  
 10 instability and inadequate preparation in  
 11 mathematics.

12 Q. Why didn't you want to quote from  
 13 the Watsonville focus group students?

14 A. Because I didn't have parental  
 15 consent.

16 Q. Did you take notes of your  
 17 Watsonville focus group session?

18 A. I didn't.

19 Q. Do you typically take notes during a  
 20 focus group?

21 A. I do when I have parental consent,  
 22 when everything is kosher. I believe you have my  
 23 notes from the one focus group that I conducted  
 24 here.

1 But because I didn't have parental  
 2 consent, although I had the adults they were with  
 3 who knew I was talking to them, I tend to be very  
 4 conservative around ethical issues and  
 5 transparency. People should know why we're doing  
 6 what we're doing; and if they're minors and I'm  
 7 going to collect data and I'm then going to quote  
 8 that, their parents, as responsible guardians,  
 9 should give consent, because I

10 didn't -- I didn't want to take notes, quote from  
 11 them or give them a survey

12 Q. Did you obtain any data regarding  
 13 the students who participated in the Watsonville  
 14 focus group, such as their ages, grades, what  
 15 schools they went to?

16 A. They had all gone to Watsonville  
 17 High, I believe; and I think they were largely  
 18 juniors and seniors. There might have been a  
 19 sophomore.

20 Q. Are there any documents showing the  
 21 schools that the Watsonville focus group students  
 22 attended and what their names, grades and ages  
 23 were?

24 A. No.

1 Q. How long did the Watsonville focus  
2 group last?

3 A. About a half hour.

4 Q. Who, if anyone, was present in the  
5 room during the Watsonville focus group in  
6 addition to yourself and the focus group  
7 students?

8 A. Nobody else.

9 Q. How many students participated in  
10 the Watsonville focus group?

11 MS. LHAMON: Speaks for itself.

12 A. I think it's six.

13 Q. Are there any documents showing the  
14 racial and ethnic makeup and the gender of the  
15 Watsonville focus group participants?

16 MS. LHAMON: Asked and answered.

17 A. There are no documents.

18 Q. What was the racial and ethnic  
19 composition and the gender composition of the  
20 Watsonville focus group students?

21 A. They were all Chicano and -- I think  
22 it was three girls and three boys. It might have  
23 been four girls and two boys.

24 Q. Was a transcript prepared of the

1 that are randomly selected from eligible  
2 households.

3 Q. On page 53 of your report in the  
4 first paragraph, what do you mean "differential  
5 patterns of response to the same question"?

6 A. So you undoubtedly read in the  
7 transcript some kids would say -- some kids would  
8 offer negative responses, some would offer  
9 positive, some would offer ambivalent.

10 You set up a focus group so that you  
11 can ask a single question but get an array of  
12 different responses. What a survey does is it  
13 predetermines the available responses, so you  
14 choose one of the answers that the researcher  
15 thinks is relevant.

16 In a focus group, you can really  
17 generate a variety of diverse responses to the  
18 same question, as long as you're well trained in  
19 working against a kind of early consensus.

20 Q. What did you mean on page 53 of your  
21 report when you said "how groups interact in  
22 response to a set of organizational questions"?

23 A. When you set up a focus group, you  
24 get both a set of individuals and you get the

1 Watsonville focus group?

2 A. No.

3 Q. Was the Watsonville focus group  
4 tape-recorded?

5 A. No.

6 Q. Why did you decide to use marketing  
7 research and jury research firms in this case?

8 A. Because I wasn't on the West Coast,  
9 I wanted to assure that the sampling was done in  
10 the most scientific manner possible; and as much  
11 as I like Catherine, I didn't want her selecting  
12 the kids.

13 I wanted an organization that has an  
14 infrastructure to select young people from  
15 households in specified neighborhoods with  
16 specified characteristics where there was no  
17 sense that the young people were selected because  
18 they knew about the lawsuit, had a particular  
19 relation to the lawsuit.

20 So the most scientific way I could  
21 imagine doing this short of doing it myself was  
22 to hire marketing research and jury research  
23 firms, which I know are very skilled at  
24 identifying neighborhood-based stratified samples

1 group dynamics, who speaks, who doesn't, who gets  
2 quiet when you ask particular kinds of questions,  
3 who challenges whom, so a lot of focus group  
4 research is really on group dynamics, in addition  
5 to kind of individual perspectives and collective  
6 perspectives.

7 That was less interesting to me in  
8 this work, but it's a feature of why people do  
9 focus groups.

10 Q. What are organizational questions?

11 A. Questions about the life of an  
12 organization, in this case, the school.

13 Q. In your opinion, are there types of  
14 social science research for which focus groups  
15 are not appropriate?

16 A. Can you restate that? Sorry.

17 Q. Are there particular types of social  
18 science research for which focus groups are not  
19 appropriate?

20 A. There are questions -- social  
21 science questions that are well answered by focus  
22 groups, and there are social science questions  
23 that are well answered -- better answered by  
24 other methods, so if I wanted to know how many

1 kids from Crenshaw High School dropout of school,  
2 how many questions tend to be better answered by  
3 quantitative archival analyses of recidivism or  
4 drop out rates.

5 "How" or "why" questions tend to be  
6 answered better by individual and focus group  
7 methods.

8 Q. In this case for your research, did  
9 you document differential patterns of response to  
10 the same question?

11 A. Sure. When we asked young people,  
12 "Tell us about your school," we documented  
13 positive responses and negative responses.

14 We documented responses of yearning  
15 and responses of shame, and we documented the  
16 relations between those. We documented anger and  
17 we documented despair.

18 Q. What do you mean when you say  
19 "documented"?

20 A. Well, we gathered the transcripts  
21 and then we coded those, using both existing  
22 literature and the material we got in the  
23 transcripts, we generated those codes which we  
24 used to produce the report that you have.

1 The work of social science involves  
2 kind of data collection and then theorizing the  
3 material you've gathered.

4 Q. What do you mean when you say that  
5 you "coded" the transcripts?

6 A. That we read through the transcripts  
7 systematically, listened to them, and then  
8 generated a set of meaningful codes, ways of  
9 capturing the data, and then listened again for  
10 the ways in which those codes interacted with  
11 each other.

12 So as you'll recall from the report,  
13 we looked at, for instance, questions of  
14 distributive justice, we talked about yesterday,  
15 how kids feel about the resources they do and  
16 don't get; and that became a big area of focus  
17 for the report.

18 But then somewhat to my surprise  
19 another area that emerged was their concerns  
20 about procedural justice, the fact that they  
21 complain to adults about not having teachers, but  
22 having multiple teachers; and that it didn't seem  
23 like the adults were listening.

24 Q. Did you say "generated a set of

1 codes"?

2 A. That's what I said.

3 Q. What do you mean by that?

4 A. Read through and listened to all the  
5 transcripts, indicated which issues were  
6 beginning to emerge across the transcripts, those  
7 then become codes.

8 So conceptual ideas or notions that  
9 are in the reports are considered codes:  
10 yearning, anger, betrayal, pride, desire for  
11 quality education.

12 Q. When you generated a set of codes  
13 for this case, were those codes contained in any  
14 documents apart from your expert report?

15 A. I don't understand the question.

16 Q. In your report, you discuss the  
17 codes that you generated from your research,  
18 correct?

19 A. Right.

20 Q. Were there any documents that  
21 contained the codes that you generated apart from  
22 your expert report?

23 A. There are two ways to generate  
24 codes. One is theoretical codes, that is notions

1 that you begin with, because again, I've been  
2 talking to urban kids for 20 years, so there are  
3 a whole set of codes that I began with.

4 And then empirical codes, codes that  
5 emerge originally from the data, so those  
6 theoretical codes that existed in writings that  
7 I've done prior to this, that we've already  
8 reviewed. The empirical codes emerge from these  
9 transcripts. What I would do is kind of write on  
10 the transcripts or write notes to myself on the  
11 transcripts, again, all of which have been copied  
12 and sent to you, about the ways in which features  
13 of a transcript would represent particular codes.

14 And I was the only one doing that.  
15 My graduate students didn't do any of the  
16 analysis or the write-up.

17 Q. Did you take any notes regarding the  
18 focus group transcripts anywhere other than on  
19 the transcripts themselves?

20 A. You have my notes from the focus  
21 groups. Those are the only other notes.

22 Q. When you say your notes from the  
23 focus groups, does that include all the  
24 transcripts that you reviewed?



1 A. You have notes that I took while I  
2 conducted a focus group, and then you have any  
3 notes that I wrote -- that I still retained that  
4 I wrote to myself or about the relationship of  
5 the existing literature to the transcripts or on  
6 the transcripts.

7 Q. Are the theoretical codes what you  
8 begin with before you begin a research project?

9 A. There are notions that you're  
10 interested in testing, so you don't assume  
11 they're going to be there, but certainly having  
12 done this work for 20 years, you don't walk in  
13 with an empty brain.

14 But the point is, you bring in  
15 notions that are being tested rather than  
16 searching for their presence.

17 Q. What theoretical codes did you begin  
18 with in this case?

19 A. Well, I certainly knew that young  
20 people of color have an ambivalent relationship  
21 to their school if they go to under resourced  
22 schools, and I was interested in what shape that  
23 takes in California.

24 I also know that young people, even

1 A. Sure. The questions about  
2 organization concern facilities, teacher quality,  
3 access to instructional materials, but also  
4 issues that the young people themselves brought  
5 up about their school organization. Access  
6 to libraries, substitutes, lack of hygiene,  
7 bathrooms which, according to the New York Times,  
8 California schools across the board seem to be  
9 suffering, so those are the kinds of  
10 organizational questions.

11 Q. Are focus groups used to determine  
12 perspectives of a statistically representative  
13 sample of the people being studied?

14 A. I don't understand the question.  
15 Are focus groups -- can you say it  
16 again?

17 Q. Are focus groups used to determine  
18 the perspectives of a statistically  
19 representative sample --

20 MS. LHAMON: The question is vague  
21 and ambiguous.

22 Q. -- of the people being studied?

23 MS. LHAMON: The question is vague  
24 and ambiguous. It's unclear if you mean in

1 in under resourced schools, will find one teacher  
2 they adore and attach to him or her like a  
3 barnacle, just like kids from abusive homes.  
4 They'll find somebody to love.

5 I also knew that kids can have both  
6 a structural analysis and a personal one, that is  
7 that they can have perspectives on the nature of  
8 their school as well as, "How have I contributed  
9 to my success or failure?"

10 And again, I knew enough to know  
11 that dropouts hold the sharpest critique of their  
12 schools, which is why we chose not to interview  
13 them.

14 I also knew that marginal kids or  
15 kids who are marginal to schools require deep and  
16 sustainable relations with adults over the course  
17 of their academic lives.

18 In some schools in Germany, kids get  
19 the same teacher in first grade, and the teachers  
20 move up with them because they know that  
21 stability is so important. Those are the areas  
22 that I knew before we went in.

23 Q. Was there a set of organizational  
24 questions that you used in this case?

1 general are focus groups used for that purpose,  
2 are they ever used for that purpose, were they  
3 used for that purpose in this case.

4 A. Is that a quote from someplace? I  
5 would need the context around it or else I'm not  
6 getting --

7 The purpose of the focus group is to  
8 gather up a representative group of participants  
9 so that you can begin to understand how they  
10 experience the institution in which they're  
11 located, so sampling has everything to do with  
12 whether or not you can generalize from the focus  
13 group. That's why people do it in marketing  
14 research. That's why pollsters do it in  
15 political elections.

16 Q. In this case, were the focus group  
17 participants a statistically representative  
18 sample of any subgroup of students in California  
19 public schools?

20 A. The focus group participants were  
21 selected to represent the diversity of students  
22 who are involved in Williams v. California; and  
23 undoubtedly over represent urban issues and under  
24 represent rural issues.

1 Q. In this case, were the focus group  
2 participants a statistically representative  
3 sample of the students involved in Williams  
4 versus California?

5 MS. LHAMON: Asked and answered.

6 A. I think I answered that.

7 Q. My understanding is that you said  
8 that the focus group participants in this case  
9 were selected to represent the diversity of  
10 students involved in Williams versus California;  
11 and my question is whether the participants  
12 selected for the focus groups in this case were a  
13 statistically representative sample of the  
14 students involved in Williams versus California?

15 MS. LHAMON: Asked and answered.

16 A. The focus group participants were  
17 selected to represent the characteristics of the  
18 students in the -- is it plaintiff class? Is  
19 that the right language? And given that the  
20 question I was investigating was, to what extent  
21 do conditions of structural decay, teacher  
22 instability, lack of certified teachers and  
23 inadequate materials have academic and social  
24 effects on youth, I felt satisfied that the

1 sample that we've gathered in the focus group  
2 speaks back to the larger class of youth involved  
3 in Williams v. California.

4 Q. Was the sample of students that were  
5 gathered for the focus groups in this case a  
6 statistically representative sample of the  
7 students in Williams versus California?

8 MS. LHAMON: Asked and answered now  
9 four times.

10 A. I can't answer any differently than  
11 I have.

12 Q. In conducting your research in this  
13 case, were you interested in understanding  
14 complex social and organizational dynamics?

15 A. Yes.

16 Q. How did the structure of the focus  
17 groups in this case enable you to understand  
18 complex social and organizational dynamics?

19 A. I considered the conditions that  
20 we're investigating, structural decay and  
21 uncredentialed teachers, lack of teacher  
22 stability, lack of instructional materials to be  
23 complex organizational dynamics that had serious  
24 consequences that are both social, psychological

1 and academic to the youth who attend those  
2 schools, particularly over time.

3 Q. Are there any research concerns  
4 regarding using focus groups for research on  
5 youth as opposed to adults?

6 A. I guess I want to answer that in two  
7 different ways. One is that we use four  
8 different methods with these kids; and the second  
9 is, you have to have special design issues all  
10 the time. It depends entirely who the  
11 participants are.

12 So age might be one issue. How do  
13 you put kids at ease? Adults have other  
14 particular issues, how do you get them to talk  
15 honestly? Kids are better at speaking honestly  
16 than adults are, so there are trade-offs that you  
17 have to design into your focus group depending on  
18 who you're speaking with.

19 Q. In general, how would a focus group  
20 facilitator solicit dissenting or unreasonable  
21 perspectives?

22 A. If you read through the transcript  
23 you'll hear a lot of, "Does anybody disagree with  
24 what Jessica said?" So that's one opinion, or,

1 "Does somebody have a different opinion?" Or, "I  
2 haven't heard much from you," to make sure that  
3 different people get to voice their positions  
4 rather than presuming what in psychology is  
5 called a false consensus.

6 In addition, the reason we included  
7 the survey was to get a range of views from each  
8 individual that wouldn't then be publically  
9 shared.

10 Q. What is a false consensus?

11 A. A false consensus is when everybody  
12 in a group -- like when kids say, "Everybody in  
13 here knows more than I do," and, "Everybody  
14 thinks that."

15 People assume everybody agrees or  
16 everybody is more qualified than they are.

17 If you don't get to speak your  
18 dissenting opinion and everybody else doesn't  
19 speak theirs, and the only people who speak  
20 agree, you can assume you're the only one who  
21 disagrees. That's a false consensus.

22 Q. In general, how would a focus group  
23 facilitator value diversity rather than  
24 conformity?

1 A. That's just what I was talking  
2 about. Really making sure you're asking sharp  
3 questions to get at places where young people  
4 depart, asking opposite questions so that there's  
5 no impression that there's a kind of right  
6 answer. Using multiple probes that can elicit  
7 different kinds of information. Visual  
8 probes, word probes, drawing from your own  
9 experience, asking what would you tell other  
10 kids; so using different ways of getting in  
11 rather than going for a kind of single line of  
12 analysis.

13 Q. In general, how would a focus group  
14 facilitator support outliers, individuals who  
15 hold distinct or unusual positions within a  
16 group?

17 A. Same deal. It would really be about  
18 making sure that everybody had a chance to speak;  
19 and if somebody had a disagreeing position,  
20 creating ground rules to make sure that everybody  
21 gets a chance to speak, there's no interruptions,  
22 there's no judgments.

23 If somebody says something that you  
24 think there's not going to be support for, you

1 create the space that protects that comment so  
2 that nobody can jump in and tell them they're  
3 wrong and shut it up.

4 Q. What focus group training did  
5 Ms. Torre, Mr. Payne and Ms. Burns have before  
6 they began work in this case

7 A. They had all taken qualitative  
8 methods, they had all -- which is a course.  
9 They had all taken a module that I  
10 offer on evaluation research and qualitative  
11 methods, where we focus on using focus groups.

12 Yasser Payne and Maria Torre had  
13 already participated in and facilitated in a  
14 number of focus groups in schools and prisons;  
15 and then we all met together over the course of  
16 our time for this project, training on focus  
17 groups, role playing a real quiet kid, role  
18 playing a kid who just wants to kind of talk  
19 about whatever he or she wants to talk about but  
20 it's off topic. Role playing a kid who has  
21 something to say but is scared to say it. Role  
22 playing a kid who's offensive around sexuality or  
23 race. Role playing a kid who only wants to ask  
24 the researcher a set of questions.

1 We read a lot of the literature on  
2 focus groups, much of which they have read in  
3 their qualitative methods course anyway. Maria  
4 did all the focus groups at the prison. Those  
5 were co-facilitated by a prisoner researcher and  
6 Maria, so they had extensive experience.

7 Q. Do you know when Ms. Torre,  
8 Mr. Payne and Ms. Burns will receive their  
9 doctorate

10 A. I would guess Mr. Payne will receive  
11 it within 18 months, Ms. Torre, within 18 months,  
12 and Ms. Burns is younger in the program, so  
13 probably another two and a half years.

14 Q. Before this case, had Ms. Burns  
15 conducted any focus groups?

16 A. I don't believe so.

17 Q. Did you observe any of the focus  
18 groups other than the ones you conducted?

19 A. No. I listened to all the tapes,  
20 but I didn't observe any.

21 Q. Did you consider any authorities in  
22 forming your opinions in this case that are not  
23 cited in your report?

24 A. Authorities like other scholars,

1 other scholarship, is that what you mean?

2 Q. Yes. Did you consider any  
3 publications in forming your opinions in this  
4 case that are not cited in your report?

5 A. I cited the publications that were  
6 most relevant. Obviously my -- I have 25 years  
7 in the field of urban education and social  
8 justice, so there are a lot of people in my brain  
9 who helped shape how I think, but all of the  
10 citations that are most relevant to this work are  
11 included in the bibliography.

12 Q. Are the authorities that you cited  
13 in your report publications that helped you form  
14 your opinions in this case?

15 A. Sure. Much of it was material I had  
16 read before, but I re-read a lot of -- a lot of  
17 the literature before the case.

18 Q. Which marketing research and jury  
19 research firms did you use in this case?

20 A. I don't have the names of them.  
21 I'm sure you do.

22 (A luncheon recess was taken from  
23 12:40 p.m. to 1:36 p.m.)

24 Q. Dr. Fine, were the marketing and

1 jury research firms that were used in this case  
2 Margaret Yarbrough & Associates Field Services,  
3 Meczka Marketing Research Consulting, Inc. and  
4 Jury Scope?

5 A. I'm actually not sure. There was a  
6 letter that I don't have with me, and I'm  
7 wondering if either of you have it, that  
8 details --

9 Q. At this point, I'm just asking for  
10 your recollection. There's a few documents I  
11 want to ask you about also, but I'm just trying  
12 to get your recollection at this point.

13 A. I know those firms. I've done work  
14 with Jury Scope before, but I can't answer  
15 whether or not those are the firms.

16 MS. LHAMON: If you like, I'm happy  
17 to make a representation of which firms they  
18 were. Do you want me to, or do you want her  
19 recollection?

20 MR. SEFERIAN: Sure.

21 MS. LHAMON: So it's those three  
22 firms; and also Fleischman Hillard,  
23 F-L-E-I-S-C-H-M-A-N and then Hillard is either  
24 H-I-L-L-I-A-R-D or A-R-D.

1 Q. Had you worked with Jury Scope  
2 before this case?

3 A. There are a lot of social  
4 psychologists who do jury-related behavior, so  
5 former students of mine, Ellen Brickman,  
6 colleague Julie Blackman, has been doing  
7 jury-related research with Jury Scope.

8 So I've worked with Julie on just a  
9 couple of cases that she's been involved with,  
10 battered women's cases.

11 Q. Do you recall what type of work Jury  
12 Scope did in those cases?

13 A. Mock jury work, where they select  
14 mock juries and then test -- either survey them  
15 or they run focus groups or they test out  
16 explanations about violence against.

17 Q. Before this case, had you ever  
18 worked with a company called Margaret Yarbrough &  
19 Associates Field Services?

20 A. I hadn't.

21 Q. Before this case, had you ever  
22 worked with a company called Meczka Marketing  
23 Research Consulting, Inc.?

24 A. I hadn't.

1 Q. Before this case, had you ever  
2 worked with a company called Fleischman Hillard?

3 A. No.

4 Q. Did you ever see any documentation  
5 regarding this case from Fleischman Hillard?

6 A. After? During? Since?

7 Q. Really, at any time.

8 A. What I received are the -- on a lot  
9 of this, I worked through the ACLU because they  
10 were local and I wasn't.

11 What I asked for was a jury and  
12 marketing research firm that would satisfy the  
13 sampling criteria that we asked for, and what I  
14 had gotten as documents are the lists that I  
15 assume you have as well, which is the sampling of  
16 phone calls and how they yielded the  
17 participants.

18 Q. When you say "firms to satisfy the  
19 sampling criteria that you asked for," what  
20 criteria were you referring to?

21 A. I wanted a firm that had the  
22 capacity to contact households within the  
23 specified Zip codes, to identify children who  
24 were attending plaintiff schools, to assess the

1 extent to which their English was good enough to  
2 participate in a focus group, and to assure  
3 parental consent, and to assure diversity in the  
4 groups; and places that had a place that we could  
5 actually run the groups, that would tape the  
6 groups, and they would provide food and drink for  
7 the kids.

8 Q. Did you ever provide a set of  
9 written sampling criteria to any of the marketing  
10 research or jury research firms in this case?

11 A. I worked through the lawyers, so I  
12 provided it to them and then they contacted the  
13 firms.

14 Q. When you say "the lawyers," who are  
15 you referring to?

16 A. Catherine.

17 Q. Did you ever provide Catherine  
18 Lhamon with a set of written sampling criteria  
19 regarding the sampling that you wanted to be  
20 conducted through the jury research and marketing  
21 research firms?

22 A. No. I believe it was on the phone,  
23 or perhaps an e-mail.

24 Q. Why were the nine focus groups

1 organized by the marketing research and jury  
2 research firms conducted in the Los Angeles,  
3 Alameda and San Francisco areas?

4 A. We didn't want to just be in one  
5 area of California because the lawsuit covers the  
6 state, so we went to three areas that would give  
7 us a different sense of the kind of geographic,  
8 political, racial, ethnic composition that  
9 defines the State of California.

10 Q. While working on this case, have you  
11 ever spoken with any of plaintiffs' attorneys  
12 other than Ms. Lhamon?

13 A. Yes.

14 Q. Which other attorneys for the  
15 plaintiffs have you spoken with?

16 A. There was a lawyer at Morrison &  
17 Foerster in California; and then more recently,  
18 Mark Rosenbaum.

19 Q. Who was the lawyer at Morrison &  
20 Foerster in California that you spoke with?

21 A. I don't recall his name.

22 Q. How many times did you speak with  
23 the lawyer from Morrison & Foerster?

24 A. Once.

1 Q. When was that conversation?

2 A. When I was out and these groups were  
3 happening, so it had to have been in February of  
4 2002.

5 Q. What did you speak with that lawyer  
6 about?

7 A. Talked about the breadth of my  
8 expertise and expert report. How much of the  
9 social psychological literature to include. How  
10 much of the academic literature to include. How  
11 much of the stress, medical, physical, health  
12 literature to include.

13 Q. Anything else?

14 A. At that point, I think I learned who  
15 and what the other experts were and the  
16 relationship of the experts to the expert team.  
17 I think that was it.

18 Q. How many times have you spoken with  
19 Mr. Rosenbaum?

20 A. I think we just met once.

21 Q. When did you meet him?

22 A. A month and a half ago, two months  
23 ago. That was in New York.

24 Q. What was discussed in your meeting

1 with Mr. Rosenbaum?

2 A. It was preparation for deposition.

3 Q. Can you think of anything more  
4 specific than that?

5 A. We went over my report. We went  
6 over methods. We went over findings. We talked  
7 about the kinds of issues you've been asking  
8 about. What literature I relied upon. The  
9 relationship between the psychological and the  
10 academic effects on young people.

11 Q. Did you ever discuss with Ms. Lhamon  
12 where in California the focus groups should  
13 occur?

14 A. Yes. We did discuss that we didn't  
15 want to do it in one place and I took seriously  
16 her recommendation that we try to include at  
17 least LA, San Francisco, and then we included  
18 Alameda and then Watsonville.

19 Q. Can you describe the process, how  
20 the Zip codes were selected at the marketing and  
21 jury research firms used to make telephone calls?

22 MS. LHAMON: Lacks foundation.

23 Q. In your report on page 53, it says,  
24 "Via random digit dialing, six groups of high

1 school students were drawn within specified Zip  
2 codes, as were two groups of middle students and  
3 one group of elementary school students."

4 Do you have any knowledge about how  
5 the Zip codes were selected for that process?

6 A. My understanding is, again, that the  
7 lawyers specified a set of Zip codes that had  
8 heavy concentration of students who attended the  
9 plaintiff schools, so that to the extent they  
10 were neighborhood schools or even magnet schools  
11 where kids traveled, so they were looking for  
12 heavy concentration.

13 My understanding from reading a  
14 document received later on is that it wasn't  
15 fully random digit dialing because the pool of  
16 phone numbers were selected from an already  
17 existent pool of households with youth in them.

18 Q. So you were not involved with the  
19 selection of the Zip codes that were used?

20 A. I was not.

21 Q. What document were you referring to  
22 when you were discussing that it was not true  
23 random digit dialing because there was an  
24 existing pool of households with youth in them?

1 A. I believe there was a letter from  
2 one of the market research firms.

3 Q. Can you describe how the decision  
4 was made to use Jury Scope in this case?

5 MS. LHAMON: Lacks foundation.

6 A. Again, the ACLU contacted these  
7 firms. We did discuss what we were looking for.  
8 What I was looking for was a firm with a track  
9 record of working on selecting households from  
10 communities, not just from lists, not just from  
11 schools, and could set it up in a way that they  
12 didn't just hang up once, but did a call back  
13 where they could get racially diverse kids and  
14 where they knew how to have a setup with food and  
15 drink where kids would be comfortable.

16 So my specifications was for a firm  
17 that had a track record contacting households in  
18 communities searching for particular  
19 characteristics of kids, so the particulars of  
20 the firm were left up to the ACLU or Morrison &  
21 Foerster, the lawyers.

22 Q. Did you ever have any discussions  
23 with anyone from Jury Scope?

24 A. No.

1 Q. Did you ever send any written  
2 correspondence or e-mails to anyone at Jury  
3 Scope?

4 A. I didn't.

5 Q. Were you ever told what instructions  
6 were given to Jury Scope about organizing the  
7 focus groups?

8 A. They didn't organize the focus  
9 groups. They just recruited.

10 Q. What do you mean by that?

11 A. They didn't run the focus group at  
12 all. They recruited the students, they got the  
13 parental consent. They got them in the room, but  
14 they weren't involved in the methodology of the  
15 focus group at all.

16 Q. Were you ever told about what  
17 instructions were given to Jury Scope about  
18 recruiting the students for the focus groups?

19 A. I understood that the instructions  
20 given to them were the instructions that I gave  
21 the lawyers, which was to identify from the  
22 community a random group of kids who don't know  
23 each other who go to the plaintiff schools who  
24 speak good enough English and have parental

1 consent and represent the racial and ethnic  
2 diversity of the community.

3 Q. Do you have any understanding about  
4 what role Jury Scope played in the recruiting of  
5 the focus group students and what role the other  
6 firms, the marketing research firms played,  
7 Fleischman Hillard and Yarbrough and Maczka, what  
8 specifically each of those firms did in the  
9 recruiting process?

10 A. My understanding is that they  
11 generated the list, but then produced distinct  
12 groups in different communities.

13 Q. Do you know whether Jury Scope  
14 performed any of the telephone calls?

15 A. I don't know.

16 Q. Do you know if the marketing  
17 research firms had a written protocol they  
18 followed to recruit the students for the focus  
19 groups and call the students?

20 A. I believe they did.

21 Q. What is that belief based on?

22 A. My conversations with Catherine, I  
23 think that we told them to tell -- to find out if  
24 a kid was still in school, and that there was a

1 focus group about their schools. We didn't  
2 mention the lawsuit.

3 I wanted to be careful not to pique  
4 a particular interest in the lawsuit. We didn't  
5 want to -- wanted to leave it as wide open as  
6 possible to get young people's perception of  
7 schools.

8 Q. Were you ever told what quality  
9 assurance procedures were in effect at the  
10 marketing research and jury research firms that  
11 recruited the nine focus groups?

12 A. I was told that these firms were  
13 recommended by people who had relied on them in  
14 the past; and again, we asked them to keep  
15 detailed notes of how many calls were made, how  
16 many call backs were made, how many hang-ups, how  
17 many ineligible.

18 Q. Do you know if the marketing  
19 research firms kept detailed notes of the calls  
20 that were made?

21 A. I believe they did. I believe they  
22 did.

23 Q. What is that belief based on?

24 A. I've seen a number of the printouts

1 based on the groups.

2 Q. Can you describe the printouts that  
3 you've seen?

4 A. They tend to be charts of numbers of  
5 calls, numbers of call backs, number of hang-ups,  
6 number of ineligible, number of not enough  
7 English, cognitive difficulties, racial ethnic  
8 specifications, not in school; and then the total  
9 yield given the number of calls.

10 It's standard sampling procedure.

11 It's what we did on the Vietnam study. There we  
12 didn't have a pool of households, but we just did  
13 random digit dialing and then you list how many  
14 people had a man in the house and is he in the  
15 right age group and is he in the right racial and  
16 ethnic group and did he serve in Vietnam, and  
17 then it narrows down to the category you're  
18 looking for.

19 Q. Were you ever told what standards of  
20 the marketing research and jury research firms in  
21 their hiring of telephone interviewers?

22 A. No, but I know enough about the work  
23 in New York to know that there's usually a lot of  
24 supervision. Jury Scope has a national and

1 A. I don't know, but there's a reason  
2 I've never for my own work used these firms.

3 Q. Has there been a compilation of the  
4 cooperation and contact success rates for the  
5 study as a whole and for each of the nine focus  
6 groups organized by the marketing research and  
7 jury research firms?

8 MS. LHAMON: The documents would  
9 speak for themselves on that point, Tony.

10 A. I have not seen all of those, but I  
11 have seen at least some for each of the firms  
12 used.

13 Q. Do you know how many times the  
14 respondents attempted to be reached by the  
15 marketing research and jury research firms were  
16 called?

17 A. I don't. But I do know that they  
18 were called back at least once if nobody answered  
19 or if they were busy.

20 Q. What is the basis for that  
21 knowledge?

22 A. The firms gave me -- gave me a  
23 printout of the number of calls made, number of  
24 no answers, call backs, refusals, previous

1 international reputation. What's typically done  
2 is they take the first X number of days of work  
3 to do kind of quality assurance and feedback.

4 Q. Do you know whether the marketing  
5 research and jury research firms used in this  
6 case monitor their interviewers?

7 A. It's just the telephone callers that  
8 we were using. There were no research  
9 interviewers, it was just the people making the  
10 phone calls and doing recruitment.

11 Q. Do you know if those people who were  
12 making the phone calls were monitored by the  
13 firms in this case?

14 A. I don't know. I just know what's  
15 standard practice.

16 Q. Do you know whether the marketing  
17 research and jury research firms used in this  
18 case verify any of the telephone caller's work?

19 A. Again, I know that to be standard  
20 practice in this field and I don't know these  
21 particular firms well enough, but they certainly  
22 charged enough to assume that they were doing a  
23 lot of supervision.

24 Q. How much did they charge?

1 commitments, wrong numbers, busy, wrong school.

2 We also didn't want any child who  
3 had a family member who worked for the State of  
4 California or were involved in other lawsuits or  
5 were involved in other marketing research  
6 projects.

7 Q. Do you have any opinion about  
8 whether when a company is attempting to reach a  
9 certain number of respondents, there's an optimal  
10 number of attempts to reach those respondents?

11 A. I don't. I asked that they not give  
12 up after one try and that they try again.

13 Doing this kind of work in low  
14 income communities is usually very tricky.  
15 Often, nobody is home. Phone numbers change.  
16 People move.

17 So what I asked is, "Don't give up  
18 on the basis of one call. Have at least a try  
19 back."

20 Q. Were you ever told how many  
21 different interviewers were used by the marketing  
22 research and jury research firms in this case?

23 A. No, I wasn't.

24 MS. LHAMON: By "interviewers," you

1 mean callers, Tony?

2 MR. SEFERIAN: Yes.

3 Q. Were you ever told how many  
4 different people actually made phone calls to  
5 recruit students from the marketing research and  
6 jury research firms?

7 A. No.

8 Q. Did you prepare a script to be used  
9 by the marketing research and jury research firms  
10 when they were calling to recruit students for  
11 the focus groups?

12 A. No. Just give them -- I gave the  
13 lawyer the statement of the question, which is,  
14 "Do you have a child who is attending one of  
15 these schools? We're doing a research project on  
16 your child's perception of the school," something  
17 like that, and then we gave them a criteria for  
18 inclusion or exclusion.

19 Q. Have you ever seen a script that was  
20 used by the marketing research and jury research  
21 firms in this case to recruit students for the  
22 focus groups?

23 A. No.

24 Q. Did you ever have any discussions or

1 databases from doing this kind of work based on  
2 prior survey research.

3 Q. Do you know what types of marketing  
4 research the marketing research firms that were  
5 used in this case performed?

6 A. I think it's a combination of  
7 commercial and not-for-profit work like this, as  
8 well as legal work.

9 Q. What's the basis of your  
10 understanding?

11 A. What I know of marketing and jury  
12 research firms is those are the three categories  
13 of work that they end up doing.

14 Q. With regard to the database used by  
15 the marketing research firms, were you ever told  
16 where the firms obtained the household  
17 information from that went into the database?

18 A. I wasn't.

19 Q. In your work for this case, did you  
20 ever prepare a comprehensive list or  
21 comprehensive chart of all the focus group  
22 participants?

23 MS. LHAMON: Vague as to "list" and  
24 "chart."

1 written correspondence with any of the marketing  
2 research firms in this case?

3 A. None.

4 Q. How were the specific schools from  
5 which the focus group students to be drawn  
6 selected?

7 A. My understanding is that they were  
8 schools that were named in the class that were  
9 located in Los Angeles, Alameda, San Francisco.

10 Q. Did you ever have any discussions  
11 with Ms. Lhamon about which specific schools the  
12 focus group students should be drawn from?

13 MS. LHAMON: Vague as to "which  
14 specific schools." Do you mean school names or  
15 the categories of schools, the kinds of schools?

16 MR. SEFERIAN: The type of schools.

17 A. We wanted elementary, middle and  
18 high school. Mostly high school.

19 Q. Do you know what database or  
20 databases were used by the marketing research and  
21 jury research firms in this case to find  
22 households with children?

23 A. I don't. I assume that marketing  
24 and jury research firms now have extensive

1 A. I had a sketch of all the responses  
2 to the surveys on paper. I think you have all of  
3 that, and then broken down by school and then per  
4 focus group.

5 Q. Is that information contained in  
6 your handwritten notes?

7 A. Yes.

8 Q. Were there any steps taken to verify  
9 that the students in the nine focus groups  
10 recruited by the jury and marketing research  
11 firms attended the schools that were selected?

12 A. They wrote the name of their school  
13 on their survey, so we had independent  
14 confirmation of it on the surveys.

15 Q. Was there any other confirmation?

16 MS. LHAMON: The documents speaks  
17 for themselves. You have the documents that have  
18 the schools names on them.

19 A. What we have is what they told the  
20 telephone interviewers and then what they filled  
21 out on the surveys.

22 Q. Do you know whether the jury  
23 research and marketing research firms were paid a  
24 flat fee or per call or by some other method?



1 A. I don't know. I didn't do any of  
2 that.

3 Q. With regard to the focus groups  
4 recruited by the marketing research and jury  
5 research firms, was there any attempt made to  
6 reach students who did not have home telephones?

7 A. No. Despite poverty, unbelievably  
8 high numbers of households have phones. It's  
9 like 96 or 97 percent of households. It's very  
10 high, except for kids living in shelters or  
11 foster homes or home shelters.

12 So usually marketing research and  
13 jury research and actually social researchers  
14 typically no longer worry that there's a  
15 selection bias based on whether or not there's a  
16 phone present because phones go in and out of  
17 use, but most households, almost all households  
18 have a phone.

19 Q. Did the marketing research and jury  
20 research firms that recruited the nine focus  
21 groups attempt to select a representative sample  
22 of the students in California public schools?

23 MS. LHAMON: Lacks foundation.

24 A. They followed the sampling criteria

1 that I instructed, and they attempted to find a  
2 sample that was representative of the areas and  
3 Zip codes from which they were sampling.

4 Q. Were the children ultimately  
5 selected for the focus groups a statistically  
6 representative sample of the racial and ethnic  
7 groups at the schools that the participants  
8 attended?

9 MS. LHAMON: Lacks foundation.

10 A. The students were selected to  
11 represent a range of schools and a range of  
12 racial and ethnic groups and genders from those  
13 schools.

14 In fact, if you'll notice, some kids  
15 were rejected from the group because they didn't  
16 want to over represent one racial group, so they  
17 were looking for racial balance in the groups, so  
18 the groups were representative of the collection  
19 of schools in these neighborhoods that are  
20 included in the lawsuit.

21 Q. After the focus group students were  
22 selected, did you ever conduct any analysis and  
23 compare the racial and ethnic composition of the  
24 students selected for the focus groups with the

1 composition of the collection of schools involved  
2 in the lawsuit?

3 A. I didn't.

4 Q. Was any information collected from  
5 the focus group students regarding their  
6 socioeconomic status?

7 A. No, except insofar as the Zip codes  
8 can be coded for class.

9 Q. What do you mean by that answer?

10 A. Census track data can tell you the  
11 extent to which Zip codes represent high/low  
12 levels of poverty.

13 Q. Did you review any census track data  
14 in connection with your work in this case?

15 A. You see, my work was dedicated to  
16 studying the relationship of structural decay  
17 with instability of teachers, equality of  
18 teachers and instructional materials on students'  
19 psychological and academic well-being.

20 So no, I didn't look at census track  
21 data.

22 Q. On page 53 of your report, the third  
23 full paragraph, it says, "The tenth group was  
24 arranged by attorneys for the plaintiffs and

1 included youth familiar with the lawsuit."

2 A. Right.

3 Q. What is your understanding about  
4 what the procedure was by which that group was  
5 arranged?

6 A. My understanding was that there was  
7 a group of young people, some of whom had been  
8 deposed, some of whom were connected to a  
9 community-based organization involved with the  
10 lawsuit, and that the lawyers arranged to have a  
11 gathering of those young people for my graduate  
12 students to do a focus group with them.

13 Q. Were you involved at all in the  
14 selection of the students who participated in  
15 that tenth focus group?

16 A. I wasn't.

17 Q. Do you have any information about  
18 what were the ages of the focus group that was  
19 arranged by the attorneys?

20 A. I believe they were high school  
21 kids.

22 Q. Do you know when that focus group  
23 that was arranged by attorneys was conducted?

24 A. I think that was early on. Maybe

1 the first or second day of the focus groups.

2 Q. And the focus group that included  
3 the youth who were familiar with the lawsuit,  
4 where was that conducted?

5 A. I don't know. I don't know if it  
6 was in a community setting or -- I don't know.  
7 I think it was at a community setting.

8 Q. Can you be more specific?

9 A. I can't. I wasn't there.

10 Q. Do you know which part of California  
11 that focus group was held in?

12 A. I think that was in San Francisco.

13 Q. What do you mean when you say  
14 "community setting"?

15 A. Some kind of a neighborhood-based  
16 organization, but I wasn't there so I don't know.  
17 There's a real answer and Catherine knows it, but  
18 I don't.

19 Our desire was to talk to those  
20 young people, because again, they had varied,  
21 already established views about the lawsuit. But  
22 we wanted a range of youth perspectives, so we  
23 chose to do them separately.

24 At one point, the plan was to have

1 them at a neighborhood center. I have another  
2 feeling that it happened at a law firm, but I  
3 wasn't there.

4 Q. Was the focus group that was  
5 arranged by the attorneys a random selection of  
6 students?

7 MS. LHAMON: Lacks foundation.

8 A. No. That was a selected group of  
9 young people who were actively engaged in the  
10 lawsuit or actively engaged in struggles around  
11 education equity.

12 Q. Were you ever told by anyone whether  
13 there were any specific criteria used to select  
14 students for the tenth focus group?

15 A. The only criterion that I knew about  
16 was that they were somehow either aware of or  
17 involved with the lawsuit, or groups connected to  
18 the lawsuit.

19 Q. Were you ever told whether any  
20 members of the tenth focus group were class  
21 representatives in the Williams lawsuit?

22 A. I believe some of them could have  
23 been, but I don't recall.

24 MS. LHAMON: He's not asking for

1 your speculation. He's just asking for what you  
2 know.

3 Q. In the last sentence on page 53 of  
4 your report it says, "A preliminary analysis of  
5 the content of the eleven groups suggested no  
6 significant differences in themes or affect in  
7 any one group."

8 How was that analysis conducted?

9 A. I read through and listened to all  
10 of the tapes; or I was there, in the case of the  
11 Watsonville; and the themes and codes that are in  
12 my notes that you have about academic learned  
13 helplessness, betrayal, pride, shame, were  
14 apparent throughout the focus groups, so then the  
15 data were aggregated, that is put together so  
16 that I didn't do a separate section on the tenth  
17 focus group because the themes that they raised  
18 were similar to the other groups.

19 Q. After you did this preliminary  
20 analysis, did you notice whether there were any  
21 differences in the themes related to any one  
22 group?

23 A. There were themes about -- there  
24 were differences by age cohorts, so the

1 elementary school group raised up a set of issues  
2 that were somewhat distinct from the middle  
3 school, but the high school kids actually  
4 resonated a set of common themes, so by  
5 developmental level, there were differences, and  
6 obviously Latino kids were more likely to raise  
7 up questions of ESL and bilingualism.

8 Q. Why did you conduct a preliminary  
9 analysis of the content of the eleven focus  
10 groups performed?

11 A. Because when you have qualitative  
12 and quantitative data combined, it's always  
13 useful to review the full universe of data first  
14 to see if there are any kind of outlier or groups  
15 or individuals or themes across; and to the  
16 extent you feel like it's a coherent set, you can  
17 combine them.

18 You do that with quantitative data  
19 as well. First you look at the whole group, and  
20 then you might want to break it by race, by  
21 gender, by whatever division you're interested  
22 in. But if they look too different from the  
23 front, you don't want to combine them.

24 Q. What do you mean by "themes" or

1 "affect"?

2 A. Themes are those codes, the content  
3 that I've been describing. Affect is feelings,  
4 emotion: anger, excitement, enthusiasm, tears,  
5 boredom.

6 Q. What was the focus group you  
7 conducted in addition to the Watsonville one?

8 A. It was in San Francisco and it was  
9 the last one on the third day.

10 I don't know if there's another way  
11 to indicate it. It was the very last focus  
12 group.

13 Q. Do you have any way that you used to  
14 refer to the eleven focus groups?

15 A. Date and time. So whatever the last  
16 date was and it was 2 in the afternoon or 4 in  
17 the afternoon.

18 Q. Was that high school students?

19 A. Yes.

20 Q. Can you briefly describe how you  
21 conducted the focus group in San Francisco?

22 MS. LHAMON: Vague and ambiguous.  
23 Do you mean what questions did she ask? Where  
24 did she sit? Who she talked to?

1 looked like that. And then we would explain  
2 that, in fact, the information they were  
3 providing us might end up being used in court and  
4 is there anything they would like to tell the  
5 judge about their school or their experience in  
6 school.

7 In addition to those questions, we  
8 had that survey that all the high school and  
9 middle school kids filled out.

10 Q. Did anyone assist you at the focus  
11 group that you conducted in San Francisco?

12 A. My graduate students came in late.  
13 I think Maria might have come in, but I ran the  
14 group.

15 Q. Where in San Francisco was your  
16 focus group conducted?

17 A. At one of the marketing research  
18 firms. I forget which one.

19 Q. Was a transcript prepared of the  
20 focus group you conducted in San Francisco?

21 A. Yes.

22 Q. And you gave a survey at the focus  
23 group you conducted in San Francisco, correct?

24 A. Yes.

1 MR. SEFERIAN: Not all the  
2 questions.

3 Q. Can you just briefly describe the  
4 main parts of how you conducted the focus group  
5 in San Francisco?

6 A. Sure. We always had a set of parts.

7 First, we go around and we'd ask  
8 each kid to speak individually something positive  
9 about their school. Then we'd ask each kid to  
10 say something that they wish were different about  
11 their school. Then we'd have a conversation  
12 about that.

13 Then we would give them quotes from  
14 depositions with other youth and ask them to read  
15 those aloud and ask them to what extent it  
16 resonated or was different than their own  
17 experience. And there were quotes about  
18 instructional materials, teachers, bathroom,  
19 cleanliness of the building, structural problems,  
20 heating, air-conditioning. Then we would have  
21 conversation about that.

22 Then we would show them photographs  
23 of a California public school that was well  
24 resourced and we asked them if their school

1 Q. In the focus group you conducted in  
2 San Francisco, did you show the students any  
3 photographs of schools that were not well  
4 resourced?

5 A. Yes. We did. We showed them a  
6 variety of photos. That's right -- no, no we  
7 didn't. We showed them just the well resourced  
8 schools, I believe.

9 I don't think we handed out photos  
10 that were sent to me as part of the package. I  
11 can check with the graduate students. I think in  
12 the one that I did, we just did the well  
13 resourced photos; and I'm pretty sure that in all  
14 of them, we just did the well resourced.

15 Q. What was the specific intent behind  
16 showing the focus group participants photographs  
17 of well resourced schools?

18 A. When you're running focus groups,  
19 you want to be able to kind of provoke different  
20 images of the topic at hand, so you use a variety  
21 of techniques.

22 So the quotes were used to elicit  
23 reactions to what other kids have said, and the  
24 photos were used to elicit reactions to what

1 other schools look like and to raise up questions  
2 about facilities.

3 Q. At what point in the San Francisco  
4 focus group did you distribute the written  
5 survey?

6 A. In that focus group, the survey came  
7 at the end because I didn't have copies of the  
8 surveys and my graduate students were caught on  
9 an airplane somewhere else, so that came at the  
10 end of the focus group.

11 Q. Is it your understanding that in the  
12 focus groups conducted by your assistants, they  
13 distributed the written surveys at the beginning  
14 of the focus groups?

15 A. Yes.

16 Q. Was it part of the methodology plan  
17 to distribute the surveys at the beginning of the  
18 focus groups?

19 A. It was.

20 Q. Why is that?

21 A. Because, as I said earlier, we  
22 wanted individual level evidence before we had a  
23 group level conversation.

24 Q. Do you know whether the focus groups

1 Q. When your assistants were conducting  
2 the focus groups, were you in California?

3 A. No.

4 Q. You were in New York?

5 A. Yes.

6 Q. Did you speak on the telephone with  
7 your assistants each night they contacted focus  
8 groups?

9 A. For sure.

10 I think we talked almost after every  
11 group. They're very well trained. We had a set  
12 protocol. Then they went out and then they would  
13 call me either after every group, certainly every  
14 night and I would talk to each of them about  
15 their individual experience, collective  
16 experience, and their plans for the next day.

17 Q. Can you tell me what the purpose was  
18 for you to speak with your assistants after they  
19 conducted these focus groups?

20 A. The purpose -- so many.

21 Here they were in California doing  
22 the piece of work that I was very invested in, so  
23 I was eager to hear everything that was  
24 happening. I was eager to make sure that their

1 conducted by your assistants, that they read the  
2 surveys, the results of the surveys before they  
3 proceeded with the next part of the focus group?

4 A. If they read the results? No.  
5 They read the survey out loud so the kids could  
6 fill it out, but they couldn't have read the --  
7 they did the survey, they read it out loud, they  
8 conducted the surveys, they might have taken a  
9 break for a soda and continued.

10 They didn't do anything with the  
11 data. Then they just gave it to me and I did it  
12 on the airplane going back home and constantly  
13 thereafter. They didn't calculate anything.

14 Q. But did your assistants during the  
15 focus group take a few minutes to read the  
16 results of the surveys after they were collected  
17 before continuing with the focus groups?

18 A. No. Not at all.

19 Q. I may have asked you this, but did  
20 you see any portion of the nine focus groups  
21 conducted by your assistants?

22 A. No. You did ask me. No, but they  
23 would call me every night, and fill me in with  
24 great detail.

1 travel plans went well. I was sorry to hear that  
2 Maria's wallet was stolen and they needed me to  
3 send them some things.

4 I was eager to know that indeed all  
5 the kids had parental consent forms. I was very,  
6 very anxious that everybody had parental consent  
7 forms and that all of those ethical requirements  
8 be established.

9 I was eager to know did the  
10 elementary school kids talk. Like that.

11 Q. Were your assistants in this case  
12 your students?

13 A. Yes.

14 Q. And when you would speak with your  
15 assistants after they conducted these focus  
16 groups, did you have any discussion with them  
17 about any changes with how the focus groups were  
18 being suggested or any suggestions for doing  
19 something different than had been discussed in  
20 creating the methodology before the focus groups?

21 A. No. Again, I'm just like a boring  
22 conservative on this stuff. If you have a  
23 procedure you have to do it, so we weren't going  
24 to revise anything.

1 If they had told me that something  
2 didn't work, we would have had to drop it, but  
3 no. Nothing like that happened.

4 Q. When you conducted a preliminary  
5 analysis of the content of the eleven groups, did  
6 you perform a statistical test to determine  
7 whether there were significant differences in  
8 themes or affect in any one group?

9 A. No. You wouldn't perform a  
10 statistical test on the focus group narratives;  
11 and on the evaluation, what I wanted to make sure  
12 was that the distribution of responses was  
13 equivalent across the groups so that one group  
14 had, like, a skewing.

15 Q. Why wouldn't you perform a  
16 statistical test on the focus group narratives?

17 A. Because you need numbers for  
18 statistical tests and focus groups are words.  
19 The analysis that you use with focus groups is  
20 really a thematic analysis or discourse analysis,  
21 but not statistical analysis.

22 If you're looking at how they're  
23 connecting structural conditions and social,  
24 psychological and academic outcomes, so it's more

1 a theoretical or theme or discourse analysis. It  
2 wouldn't be a statistical analysis.

3 A statistical analysis would be on  
4 the surveys, and there I just wanted to make sure  
5 that there was sufficient variability within the  
6 groups so as to aggregate them.

7 (A recess was taken.)

8 Q. Why were the eleven groups  
9 aggregated for the purposes of your analysis?

10 MS. LHAMON: The document speaks for  
11 itself.

12 A. Because I was interested to the  
13 extent which patterns of psychological, social  
14 and academic reaction echoed across the various  
15 groups, so it would have been much less useful to  
16 do an analysis group by group insofar as themes  
17 recurred across the groups. It makes it a more  
18 robust analysis.

19 Q. How many times did you listen to the  
20 tapes of the focus groups that were conducted by  
21 your assistants?

22 MS. LHAMON: How many times did she  
23 listen to each tape?

24 MR. SEFERIAN: Yes.

1 A. I probably listened to all of them  
2 three times and then -- or read them. Either  
3 listened or read three times; and then some I  
4 would go back to or segments I would go back to  
5 hear the context in which some things were said.

6 MR. SEFERIAN: I'll propose a  
7 stipulation that we agree that with regard to  
8 exhibits to Dr. Fine's deposition that are part  
9 of the expert witness production in this case,  
10 that we'll refer to those documents by Bates  
11 stamp number and they will be deemed attached to  
12 the original deposition transcript, although we  
13 will not actually attach hard copies of the  
14 documents to the transcript.

15 Is that agreeable?

16 MS. LHAMON: Sure. That's fine.

17 MR. SEFERIAN: Thank you.

18 I'll propose a revised stipulation  
19 that instead of referring to the documents that  
20 are part of Dr. Fine's expert production by  
21 exhibit number, we'll refer to those documents by  
22 their Bates stamp number in the expert  
23 production, and the documents will have the same  
24 effect as if they were given exhibit numbers and

1 attached as exhibits to the deposition  
2 transcript.

3 Is that acceptable?

4 MS. LHAMON: So stipulated.

5 Thanks, Tony.

6 MR. SEFERIAN: Thank you.

7 Q. Dr. Fine, I'd like to ask you to  
8 look at a document marked PLTF-XP-MF 1995?  
9 Have you seen that document before?

10 A. I have.

11 Q. What is that document, number 1995?

12 A. It's a tally sheet from Jury Scope  
13 indicating number of phone calls made and the  
14 treatment of those phone calls: "Left message,"  
15 et cetera, "no answer," "busy."

16 MS. LHAMON: I just want to point  
17 out -- I think you have not laid a foundation as  
18 to who generated this document.

19 Q. Where have you seen document 1995  
20 before?

21 A. I received it in a packet of  
22 materials from the -- through Catherine Lhamon  
23 from the marketing or jury -- in this case, Jury  
24 Scope, the jury research firm.

1 Q. Did you have any discussion with  
2 Ms. Lhamon about what this document, number 1995,  
3 pertained to?

4 A. I think when I received it we  
5 discussed it, although it's relatively  
6 self-evident.

7 Q. Did you use this document 1995 in  
8 preparing your report in this case?

9 A. I referred to it on page 54 as an  
10 example of the breakdown that the research firms  
11 used when making the phone calls to generate the  
12 focus group participants.

13 Q. Does this document 1995 pertain to  
14 telephone calls that were made to students who  
15 ultimately participated in the San Francisco  
16 focus groups?

17 A. To some of those students, yes.

18 Q. Were there four focus groups in  
19 total that were conducted in Los Angeles?

20 MS. LHAMON: The documents speak for  
21 themselves.

22 A. It's in the documents. I don't  
23 recall the breakdown right now.

24 Q. Do you know which focus group dates

1 calls that are reflected on this document, 1995?

2 A. Jury Scope.

3 MS. LHAMON: Are you saying that  
4 based on independent recollection or are you  
5 saying that because it says "Jury Scope" at the  
6 top?

7 THE WITNESS: I'm saying that  
8 because it says "Jury Scope" at the top.

9 MS. LHAMON: When Tony asks you do  
10 you know something, he's asking actually if you  
11 know it.

12 A. Independently? No, I don't know.

13 Q. Do you know on document 1995 what  
14 the term "call back" refers to?

15 A. That when they made a call, they  
16 were told to call back.

17 MS. LHAMON: Is that your  
18 assumption, Michelle, based on reading the  
19 document or is that something you know based on  
20 doing research?

21 THE WITNESS: That's my assumption  
22 from doing that kind of research, because these  
23 are the outcomes of the call, right, so that it  
24 was busy, it was a wrong number, it was

1 or locations this document 1995 pertains to?

2 A. I don't, except that it was in  
3 San Francisco, I believe

4 Q. What are you basing that on?

5 A. I'm basing it on a conversation I  
6 had with Catherine about which Jury Scope group  
7 we used.

8 Q. Can you tell me what was said in  
9 that conversation?

10 A. In the report it says, "In San  
11 Francisco in January the focus group of 12, 323  
12 calls that were no answer," et cetera, so I'm  
13 assuming that this is the San Francisco focus  
14 group.

15 MS. LHAMON: You say that because  
16 there's number "323" on PLTF-XP-MF 1995.

17 A. Yes. "323 no answers. 63 call  
18 backs." The numbers correspond.

19 MS. LHAMON: To page 54 of your  
20 report?

21 THE WITNESS: To page 54 of my  
22 report.

23 Q. Do you know which jury research or  
24 marketing research firm made the total phone

1 disconnected. Call back.

2 Q. From your understanding, does  
3 document 1995, where it says "call back," does  
4 that mean that the firm telephoned the residence  
5 and were told there was no one at the residence  
6 who could respond to the call and the firm should  
7 call back?

8 A. It's my understanding that they were  
9 told to call back rather than it was initiated as  
10 a call back, but I don't know that. It is my  
11 understanding given the nature of the other codes  
12 here.

13 Q. Do you know whether the marketing  
14 research and the jury research firms that  
15 conducted the telephone recruiting for the focus  
16 groups obtained information from adults, children  
17 or both?

18 A. I don't.

19 Q. You used document number 1995 to  
20 obtain information that was contained in the  
21 first full paragraph on page 54 of your report,  
22 is that correct?

23 A. That's correct.

24 Q. Do you recall if there was any other

1 source of the information for the first full  
2 paragraph on page 54 of your report other than  
3 document number 1995?

4 A. This is the source of the  
5 information.

6 Q. Looking at this document 1995, are  
7 you able to determine what procedure the firm  
8 followed when there was no answer to a call?

9 A. I'm not.

10 Q. Do you have any information about  
11 what time of day the telephone calls were made --

12 A. I don't.

13 Q. -- for the selection process  
14 reflected in number 1995?

15 A. I don't know what time of day.

16 Q. Could the time of day that the  
17 telephone calls were made by the marketing  
18 research firms result in a lesser portion of  
19 students with certain characteristics being  
20 chosen?

21 MS. LHAMON: Incomplete  
22 hypothetical. Vague and ambiguous. Calls for  
23 speculation.

24 A. I have no idea because I don't know

1 Q. Will you explain?

2 A. I think we had spoken to them about  
3 grade, about gender. If they had participated in  
4 a focus group or a marketing research in the  
5 past, we didn't want them included because we  
6 didn't want kids who were, like, professional  
7 participators in focus groups. The school, the  
8 121 indicated they were in the wrong school, so  
9 that must have been schools out of the class.

10 Ethnicity was left open. I don't  
11 know what they mean by "security." "Litigation"  
12 was, we didn't want anybody who was involved with  
13 litigation. We wanted people with adequate  
14 enough English or speaking skills. And I think  
15 "disability" referred to intellectual disability.

16 Q. I'd like to ask you to look at other  
17 documents marked 2037, 2038, and 2039.

18 A. Sure.

19 Q. Do you recognize this document 2037  
20 through 2039?

21 A. I've seen it.

22 Q. Do you have any understanding of  
23 what this document is, 2037 to 2039?

24 A. I believe this is the set of

1 if the child had to be there to agree or the  
2 parents agreed. I know that parents had to  
3 consent, so even if they called during the day  
4 and a parent answered, that wouldn't predict  
5 anything about who the kid was and whether or not  
6 they were a school attender, so I don't know.

7 Q. At the top of page 1995, where it  
8 says "FFR number," do you know what that refers  
9 to?

10 A. I don't.

11 Q. Document 1995, what does the term  
12 "S-P-E-C-S" refer to?

13 MS. LHAMON: Lacks foundation.

14 A. Where are you?

15 Q. In the left column, there's a column  
16 with the heading "Q number," and next to that is  
17 a column, "Specs," and then it has handwriting in  
18 that column.

19 Do you know what "Specs" refers to?

20 A. Oh, specifics.

21 Q. Do you know what the handwritten  
22 information on document 1995 refers to under the  
23 "Specifics" column or "Specs" column?

24 A. Most of it.

1 questions that went with the phone call  
2 recruiting companies used to make the phone calls  
3 to solicit participants in the focus group.

4 Q. Did you participate in the drafting  
5 of this document, 2037 to 2039?

6 A. I did not.

7 Q. Has anyone ever told you or do you  
8 have any understanding of who prepared this  
9 document, 2037, 2039?

10 A. I don't know.

11 Q. Were you ever provided with all of  
12 the questionnaires for all persons who were  
13 called by the marketing research and jury  
14 research firms?

15 A. I was not.

16 Q. Was this document, 2037 to 2039,  
17 provided to you by Ms. Lhamon?

18 A. Yes.

19 Q. At the top of page 2037, it says,  
20 "Recruiter, standard introduction re group."  
21 Were you ever told what that refers  
22 to?

23 A. No.

24 Q. In the upper right-hand corner on

1 page 2037 there's some handwriting.  
 2 Do you know what that refers to?  
 3 A. I thought it was your initials.  
 4 No. No, I don't.  
 5 Q. On page 2038 under question 3,  
 6 there's writing that says, "Per group, this is  
 7 flexible."  
 8 Do you have any understanding what  
 9 that means?  
 10 A. No, except it conforms to our desire  
 11 to have diverse groups rather than just selecting  
 12 for one racial or ethnic group.  
 13 Q. Was it your understanding that this  
 14 document, 2037, was used to recruit students from  
 15 San Francisco?  
 16 A. I don't know which firm used it.  
 17 Q. Under question 3 on page 2038, it  
 18 says, "Black, Asian, Hispanic, White," and there  
 19 are numbers "4233." Do you see that?  
 20 A. I do.  
 21 Q. Do you know what those numbers refer  
 22 to?  
 23 A. I don't.  
 24 More revealing is the handwritten --

1 there's just a handwriting about somebody who has  
 2 got a lot of different racial ethnic groups  
 3 challenging the categories, but I don't know what  
 4 those numbers refer to.  
 5 Q. I'd like to show you two documents  
 6 marked 1976 and 1994 and ask you if you would  
 7 look at those documents and say whether or not  
 8 you've seen them before.  
 9 A. Certainly.  
 10 I believe I have.  
 11 Q. Were these documents, 1976 to 1994,  
 12 sent to you by Ms. Lhamon?  
 13 A. Or given to me, yes.  
 14 Q. Did you have any discussion at the  
 15 time these documents were given to you about  
 16 whether or not Margaret Yarbrough & Associates  
 17 Field Services was one of the marketing research  
 18 firms that was used in this case?  
 19 A. I don't think we had any discussion  
 20 about that.  
 21 Q. Are these documents, 1976 and 1994,  
 22 the documents from which you obtained the  
 23 information from the second full paragraph on  
 24 page 54 of your report?

1 A. Yes.  
 2 Q. Was there any other source for that  
 3 information other than documents 1976 to 1994?  
 4 A. Just those.  
 5 Q. On document 1994, do you know whose  
 6 handwriting is on the document?  
 7 A. That's mine.  
 8 Q. Is your handwriting in the upper  
 9 left corner of 1994 where it says, "Almeda tally  
 10 sheet"?  
 11 A. No.  
 12 Q. What does your handwriting say on  
 13 1994?  
 14 A. "423 other schools. Six families  
 15 work for the State of California. Three are  
 16 involved in three other lawsuits. Three, no  
 17 speaking skills."  
 18 Q. Where did you obtain the information  
 19 from regarding "three other lawsuits and three no  
 20 speaking skills" on 1994?  
 21 A. I had asked Catherine Lhamon to  
 22 contact the firm to interpret what question 6 and  
 23 question 7 was.  
 24 Q. When you spoke with Ms. Lhamon, in

1 that discussion, did she tell you whether or not  
 2 she knew what question 6 and question 7 were?  
 3 A. I don't believe so. I believe she  
 4 got in touch with these folks, with Margaret  
 5 Yarbrough, and they got back to me.  
 6 MS. LHAMON: Tony, you have a stack  
 7 of documents related to focus groups.  
 8 It might be easier for Dr. Fine if  
 9 she had the full documents for the San Francisco  
 10 groups, for the San Francisco questions, from the  
 11 Almeda groups with the Almeda questions, and from  
 12 the  
 13 Los Angeles groups with the Los Angeles  
 14 questions.  
 15 Conduct your deposition however you  
 16 like, but I think you would get more information  
 17 from her if she were to see the breadth of the  
 18 documents  
 19 MR. SEFERIAN: Okay, thank you.  
 20 Q. Dr. Fine, is it your understanding  
 21 that the telephone calls that were made to  
 22 include focus group participants were conducted  
 23 in Los Angeles, Almeda and San Francisco areas?  
 24 A. I'm not sure. Are you saying did



1 the phone calls actually originate in those  
2 cities or to those cities or --

3 Q. Is it your understanding that the  
4 students who were called to be recruited into the  
5 focus groups for this case were called in the Los  
6 Angeles, San Francisco and Alameda areas?

7 MS. LHAMON: The same ambiguity.

8 Do you mean that the students lived  
9 in those areas or that the caller who was calling  
10 was presently located in those areas?

11 Q. Is it your understanding that the  
12 students who were called to participate in the  
13 focus groups in this case resided in the Los  
14 Angeles, San Francisco and Alameda areas?

15 MS. LHAMON: Vague as to those  
16 areas.

17 A. It's my understanding that we  
18 conducted research with youth who attended  
19 schools in the San Francisco, Alameda, Watsonville  
20 and Los Angeles areas.

21 Q. Is it your understanding that these  
22 documents, 1976 to 1996, pertain to the phone  
23 calls that were made to the students who reside  
24 in the Alameda area?

1 A. That is my understanding, or attend  
2 school.

3 Q. With regard to Alameda, do you have  
4 any information about how many telephone calls in  
5 total were made?

6 A. I don't.

7 Q. With regard to the telephone calls  
8 that were made in the Alameda area, do you have  
9 any information or documentation regarding how  
10 many telephone calls were no answer or call  
11 backs?

12 A. I don't.

13 Q. I'd like to ask you to look at  
14 documents marked 1980, 1981 and 1982.

15 MS. LHAMON: Just so we're clear,  
16 the documents are all proceeded by PLTF-XP-MF  
17 unless you say otherwise, is that right, Tony?

18 MR. SEFERIAN: Yes.

19 Q. Dr. Fine, have you seen these  
20 documents, 1980 through 1982, before?

21 A. I have.

22 Q. And are these documents that were  
23 sent to you by Ms. Lhamon?

24 A. Yes.

1 Q. And she sent you these documents.  
2 When did she send them to you?

3 A. I believe I received these after we  
4 did the focus groups, when I was in California.  
5 I think actually she might have handed them to  
6 me.

7 Q. Do you have any understanding about  
8 what these documents, 1980 through 1982, are?

9 A. It looks like the same recruiter  
10 statement as PLTF-XP-MF 2037. It looks like  
11 instructions that recruiters were given to  
12 solicit a group of students in the Bay area.

13 Q. In the Alameda area?

14 A. It says "Bay area."

15 Q. Are these instructions on documents  
16 1980 to 1982 consistent with the instructions  
17 that you provided regarding recruiting students  
18 for focus groups?

19 A. It looks consistent.

20 Q. On the top of page 1980, it says,  
21 "Recruiter, please recruit a total of four groups  
22 of twelve students for ten to show."

23 Do you know how many students were  
24 recruited for the focus groups using this form,

1 1980 through 1982?

2 A. I don't know, no.

3 Q. Were you ever told which marketing  
4 research or jury research firm used this  
5 document, 1980 through 1982, to recruit focus  
6 group students?

7 A. I don't believe I was ever told  
8 which one did.

9 Q. Do you recognize the handwriting on  
10 document 1981?

11 A. I don't.

12 Q. Were you ever told what that  
13 handwriting referred to?

14 A. No.

15 Q. Did you ever have any discussion  
16 with anyone regarding the recruitment of the  
17 focus group participants regarding having the  
18 racial groups selected be flexible?

19 A. We didn't want them to be all of any  
20 one racial or ethnic group, so that that's  
21 probably what they mean by "flexible." We didn't  
22 want segregated racial groups.

23 A lot of times marketing research  
24 firms will look at what kind of cigarettes do

1 black girls like, so they run these segregated  
2 groups, but we really wanted diverse groups.

3 Q. Do you have any way of looking at a  
4 form, such as numbers 1980 through 1982, and  
5 stating whether a person who is recruited by that  
6 form went to a certain focus group?

7 A. No.

8 Q. I'd like to ask you to look at  
9 document numbers 1993 and 2071.

10 Do you recognize these documents,  
11 1993 and 2071?

12 A. I do.

13 Q. Are these documents that Ms. Lhamon  
14 sent to you?

15 A. Yes.

16 Q. What are these documents, 1993 and  
17 2071?

18 A. What they do is indicate that on  
19 three questions, 12, 59 and 26, respondents were  
20 respectively disqualified; and that refers to 12  
21 who were disqualified for participating in a  
22 marketing research project, 59 because they  
23 attended other schools, and 26 because of racial  
24 and ethnic balance in the groups.

1 Q. Do these documents, 1993 and 2071,  
2 pertain to calls to prospective focus group  
3 participants who resided in the Los Angeles area?

4 A. These are from the focus groups  
5 conducted of Los Angeles students.

6 Q. Did you use these documents, 1993  
7 and 2071, for the information contained in the  
8 third full paragraph on page 54 of your report?

9 A. I did.

10 Q. Do you recall ever receiving any  
11 other documentation regarding the results of the  
12 telephone calls to prospective Los Angeles  
13 participants other than documents 1993 and 2071?

14 A. No.

15 Q. With regard to Los Angeles focus  
16 groups, do you have any information as to how  
17 many calls in total were made to prospective  
18 focus group participants?

19 A. No.

20 Q. With regard to the Los Angeles focus  
21 groups, do you have any information regarding how  
22 many telephone calls were no answer or call  
23 backs?

24 A. I don't.

1 Q. What does it mean in the third full  
2 paragraph on page 54 of your report that "26 were  
3 terminated because of racial/ethnic sampling  
4 distributions"?

5 A. As I indicated, we wanted the groups  
6 to be racially and ethnically diverse, so that we  
7 identified a pool of young people and they  
8 invited in those who would create racial and  
9 ethnic diversity, so --

10 Q. Do the first three full paragraphs  
11 on page 54 of your report account for all of the  
12 telephone calls that you're aware of that were  
13 made in the focus group selection process?

14 MS. LHAMON: Mischaracterizes the  
15 testimony. She's already testified that she  
16 doesn't know how many calls were made.

17 A. I don't know how many calls were  
18 made in total. This is what I received from the  
19 marketing research and jury research firms.

20 Q. In your report, did you attempt to  
21 describe all of the results that you were aware  
22 of of the selection process for each focus group  
23 site?

24 A. I made as available and as

1 transparent as possible all the information that  
2 I received. This level of detail is very rare in  
3 a methodology section, so I gave you everything I  
4 had.

5 Q. To your knowledge, has anyone  
6 calculated a response rate for each site in the  
7 focus group selection process in this case?

8 A. No.

9 Q. I'd like to ask you to look at  
10 document numbers 1977, 1978 and 1979, please.  
11 Have you seen document numbers 1977 through 1979  
12 before?

13 A. I have.

14 Q. And these were documents that were  
15 provided to you by Ms. Lhamon, is that correct?

16 A. Yes.

17 Q. On page 1977 at the top, there's  
18 handwriting saying, "LA screener."  
19 Do you know what that refers to?

20 A. I don't.

21 Q. Do you have an understanding of what  
22 this document, 1977 through 1979, is?

23 A. It looks like the questions the  
24 recruiters used in the Los Angeles area.

1 Q. Were the focus group participants  
2 paid \$75 each to participate?

3 MS. LHAMON: Lacks foundation.

4 A. They were.

5 Q. At the top of page 1977 in the first  
6 line it says, "Recruiter, please recruit a total  
7 of nine groups of twelve students for ten to  
8 show."

9 Do you ever recall any discussions  
10 in this case about recruiting a total of nine  
11 groups in the Los Angeles area?

12 A. No.

13 Q. Do you have any understanding as to  
14 why on this document 1977 it says, "Recruit a  
15 total of nine groups of twelve students for ten  
16 to show"?

17 A. I have no understanding, no.

18 Q. I'd like to ask you to look at  
19 document numbers 2073, 2074 and 2045, please.

20 A. Sure.

21 Q. Do you recognize this document,  
22 2073, 2074, 2075?

23 A. Yes.

24 Q. Is it your understanding that this

1 document was used to recruit students from  
2 Los Angeles, Huntington Park and Lynwood

3 A. That is my understanding.

4 Q. Do you have any knowledge about why  
5 on this form, number 2073, at the top it says,  
6 "Recruiter, please recruit a total of six groups  
7 of twelve students for ten to show"?

8 A. I don't.

9 Q. I'd like to ask you to look at  
10 document numbers 1983 and 1983, please.

11 A. Sure.

12 Q. Do you recognize document 1983,  
13 1984?

14 A. I do.

15 Q. What is that document?

16 A. It's an early draft of our focus  
17 group questions.

18 Q. Who drafted that document?

19 A. This was off of a collective  
20 conversation between Yasser, Maria, April and  
21 myself, so Maria might have typed it up, but this  
22 was our conversation. This was probably the  
23 first draft of what we might ask young people  
24 about their experiences.

1 Q. Is any of the handwriting on numbers  
2 1983, 1984 your handwriting?

3 A. It's mine, yes.

4 Q. Is there something written on page  
5 1983 next to where it says, "We've heard that  
6 students also disappeared"?

7 A. Yes, there's an X through it. I  
8 took those out. I don't know what it says, but  
9 we didn't want to ask the kids anything about  
10 student or teacher turnover. We didn't want to  
11 initiate that question in this way; and then I  
12 wrote "prepared for college" and "judge" at the  
13 end.

14 Q. Is it important to have well trained  
15 and educated moderators for focus groups?

16 A. Yes.

17 Q. Why is that?

18 A. As we've discussed before, you want  
19 to be sure that everybody understands the  
20 questions. You want to be sure that everybody is  
21 at ease. You want to be sure there are ground  
22 rules about interruptions and judgments. You  
23 want to make sure that everybody feels  
24 comfortable participating, and you want to make

1 sure that you can kind of monitor the timing so  
2 that you get to all the questions in a systematic  
3 way.

4 Q. Was there a moderator at any of the  
5 focus groups in this case named Joshua?

6 A. No.

7 Q. Was there a monitor in any of the  
8 focus groups in this case named Melissa?

9 A. No.

10 Q. Was there a monitor at any of the  
11 focus groups in this case named Ebro, E-B-R-O?

12 A. No.

13 MS. LHAMON: If it helps you, I'll  
14 make a representation that the transcribers wrote  
15 Maria's name as "Melissa" in one focus group,  
16 April's name as "Ebro" in one focus group and  
17 Yasser's name as Joshua. He worked in one focus  
18 group.

19 MR. SEFERIAN: Thank you.

20 Q. During any of the focus groups in  
21 this case, to your knowledge, were any parents  
22 and guardians present in the room when focus  
23 groups were conducted?

24 MS. LHAMON: Lacks foundation. She

1 wasn't present.

2 A. I wasn't present.

3 Q. Is it your understanding that the  
4 focus groups conducted by your assistants were  
5 all conducted at the offices of marketing  
6 research or jury research firms?

7 MS. LHAMON: She's already testified  
8 that she didn't know which one of the groups was  
9 conducting --

10 A. There was one group I'm not sure  
11 where it was conducted, the Watsonville group was  
12 conducted elsewhere, and the remainder, I  
13 believe, were in jury research or marketing  
14 research firms.

15 Q. Do you agree that you would have  
16 preferred in conducting this study to have a  
17 separate group of high achieving students from  
18 the schools that the focus group participants  
19 attended?

20 MS. LHAMON: Vague and ambiguous.

21 A. No. A number of the students that  
22 we had in the focus groups were high achieving.

23 Q. What do you base that on?

24 A. They were articulate, they had a lot

1 opportunity to run groups segregated by any  
2 single characteristic of kids, except for their  
3 involvement with the plaintiff schools, with the  
4 exception of the kids who were already involved  
5 with the lawsuit.

6 Q. In your opinion, is the location  
7 where focus groups are held an important part of  
8 the research?

9 MS. LHAMON: The question is vague  
10 and ambiguous and an incomplete hypothetical.

11 Do you mean the city in which it's  
12 held? Whether it's in an office building? It's  
13 also hopelessly incomplete.

14 Q. When you're preparing methodology  
15 for a research project and the project involves  
16 focus groups, is one part of your methodology the  
17 location where the focus group will be held?

18 MS. LHAMON: Same objection.

19 A. It's useful to have a space that's a  
20 neutral space to everybody. What you don't want  
21 is a space that makes some kids comfortable and  
22 other kids uncomfortable, so if you were going to  
23 have a diverse group of kids, you might not want  
24 to hold a focus groups in a synagogue or only

1 of knowledge of current events. Some of them  
2 talked about having had rigorous courses. Some  
3 of them talked about going to a school that had  
4 entrance requirements.

5 We chose not to segregate by any  
6 criterion other than the kids who were already in  
7 the lawsuit, so I would not have preferred to  
8 have a separate group of high achieving kids.

9 Q. Do you agree that you would have  
10 preferred in conducting this study to have a  
11 group of youth involved in the criminal justice  
12 system?

13 MS. LHAMON: Vague and ambiguous.

14 A. No. In the beginning, as I  
15 indicated earlier, we had some ideas about kind  
16 of separate groups that might be important to  
17 target specific issues, but then we made a  
18 decision that it would be better to have an array  
19 of young people in the room, none of whom had a  
20 particular axe to grind with schools, so that  
21 they could talk -- report their data individually  
22 and then talk collectively about their school  
23 experience.

24 So on every turn, we rejected the

1 some kids would feel comfortable.

2 You might not want to hold a focus  
3 group in somebody's house if some of the kids  
4 weren't from the neighborhood and aren't  
5 comfortable with the neighborhood.

6 So there is some thing about a  
7 relatively neutral location, particularly for a  
8 group that's not from a single institution. That  
9 was very helpful.

10 Q. Do you ever hold focus groups in  
11 schools?

12 A. Yes. If we're studying groups of  
13 students from a single school and we want to see  
14 how they feel and interact within that school, so  
15 to the extent it's a study of a single school we  
16 do hold focus groups in school. If not, we tend  
17 to do them at universities or at The Graduate  
18 Center.

19 Q. Do you agree that you would have  
20 preferred to conduct the focus groups in this  
21 case in community centers and in schools?

22 A. No. I'm glad we did it in a neutral  
23 setting.

24 Again, if we were doing an analysis

1 of the social and academic consequences of these  
2 conditions in a particular school, and we were  
3 only going to have focus group students of that  
4 school, I would say it would be useful to do it  
5 in the school.

6 Given that we were pulling from a  
7 variety of schools, I think it was most useful to  
8 have it in a relatively neutral setting where  
9 everybody was a little unfamiliar. The only  
10 thing that was familiar was the candy and the  
11 soda and that cooled them out rapidly.

12 Q. Would you agree that in deciding  
13 which students should be included in the focus  
14 groups, you were attempting to select groups of  
15 students whom you believed would articulate  
16 certain thoughts?

17 A. No.

18 MS. LHAMON: Vague and ambiguous.

19 Q. Do you agree that in preparation for  
20 the focus groups in this case, you were  
21 attempting to obtain a group of students whom you  
22 could get to articulate how the education or  
23 building alienates their sense of academic  
24 possibilities?

1 A. No.

2 Q. Would you agree that before the  
3 focus groups in this case were conducted, you  
4 were attempting to recruit students who would  
5 articulate feelings of alienation during the  
6 focus groups?

7 MS. LHAMON: Vague and ambiguous as  
8 to "before" and "attempting."

9 A. No. We were concerned with creating  
10 context where students would feel free to express  
11 the range of experiences they had in school,  
12 whether that was pride or alienation; or, as it  
13 turns out, both.

14 Q. Do you ever use control groups in  
15 your research?

16 A. Control groups, as I described it  
17 before, randomly assigned to condition, no.

18 In the prison study, we had the  
19 closest to a control group, which was we had a  
20 group of women who were serving time in maximum  
21 security facilities, some of whom went to college  
22 and some of whom didn't, and we statistically  
23 controlled for crime and incoming education.

24 Q. Have you ever used a control group

1 in connection with any research involving a focus  
2 group?

3 MS. LHAMON: Asked and answered.

4 A. The prison study comes closest.

5 There were focus groups involved, but the control  
6 part has to do with the quantitative -- the  
7 quantitative recidivism study, which was part of  
8 a larger study that has focus groups in it.

9 Q. With regard to the focus groups in  
10 this case, was there any attempt to determine the  
11 focus group participants emotional or  
12 psychological history?

13 A. No.

14 Q. Where did you obtain the information  
15 on pages 54 and 55 of your report regarding the  
16 schools represented in the focus groups?

17 A. The schools they came from?

18 Q. Yes.

19 A. I don't remember. The survey based  
20 --I calculated from the surveys.

21 We certainly had the schools  
22 indicated on the surveys, but given that not  
23 everybody either filled out their school or  
24 filled out a survey, I believe we got this

1 information from Catherine Lhamon. It's not just  
2 for the surveys.

3 Q. What do you mean by that?

4 A. This is for the focus groups. I do  
5 remember calculating it from some pieces of  
6 paper, but it wasn't just from the surveys.

7 Q. Are you aware of whether there were  
8 any students who participated in the focus groups  
9 in this case from schools other than those listed  
10 on page 54 and 55 of your report?

11 A. No.

12 Q. If there were students in the focus  
13 groups from schools other than those listed on  
14 pages 54 and 55 of your report, would that be an  
15 error in the study?

16 MS. LHAMON: Incomplete  
17 hypothetical.

18 A. It would have meant that they went  
19 through two filters. One was the jury research  
20 or the marketing research filter and the second  
21 was the survey filter.

22 Q. Was the information revealed on the  
23 written surveys consistent with the information  
24 revealed by the students in the focus groups?

1 MS. LHAMON: Vague and ambiguous and  
2 incomplete hypothetical.

3 A. We asked different kinds of  
4 questions, so they didn't disconfirm each other,  
5 but they tended to focus on different questions.  
6 The surveys gave us a lot more about their sense  
7 of preparation and expectations for the future  
8 and whether or not they feel as though the  
9 teachers know and understand them.

10 The focus groups really focused on  
11 structural conditions, relations with teachers,  
12 books, materials, chairs, school climate.

13 (A recess was taken.)

14 Q. Dr. Fine, in your research for this  
15 case, did you attempt to determine whether any  
16 individual student's written survey responses  
17 were consistent with the information he or she  
18 provided during the focus group?

19 MS. LHAMON: Vague and ambiguous.  
20 I'm just not clear what you mean by "consistent."

21 A. The surveys were anonymous.

22 Q. Using the documents and transcripts  
23 that have been generated for your work in this  
24 case, is it possible for another researcher to

1 A. It's a little like asking is there a  
2 disadvantage of using a lawsuit to get social  
3 change. Your method depends on the question  
4 you're investigating.

5 As I said yesterday, if I were  
6 investigating what percentage of students drop  
7 out because of high stakes testing, I would use a  
8 more quantitative archival analysis.

9 If I wanted to know how do students  
10 feel about standardized testing and its  
11 relationship to dropping out, I would do focus  
12 groups and surveys.

13 So if you're interested in the  
14 psychological and academic relation between a set  
15 of structural conditions and a set of  
16 psychological and academic outcomes, it's very  
17 useful to have focus groups to get young people  
18 to reveal the complexity of those relationships.

19 Q. Were there any disadvantages to  
20 using focus groups as a research methodology in  
21 this case?

22 A. Given the question I was given, the  
23 research question I was asking, and focus groups  
24 with surveys with individual interviews with a

1 attempt to determine whether any individual  
2 student's written survey responses were  
3 consistent with the information he or she  
4 provided during the focus group?

5 MS. LHAMON: Vague and ambiguous and  
6 calls for speculation as to what another  
7 researcher could or could not do.

8 A. They couldn't because the surveys  
9 are anonymous. They couldn't tie an individual  
10 in the focus group to an individual in the survey  
11 because there are no names on the surveys.

12 Q. Would you characterize the  
13 methodology that you and your assistants used in  
14 this case as rigorous scientific analysis?

15 A. I would.

16 Q. Are there any disadvantages to using  
17 focus groups as a research methodology?

18 MS. LHAMON: The question is  
19 overbroad and vague and ambiguous as to -- it's  
20 unclear as to whether you mean in this case or  
21 just in general.

22 Q. In general, are there any  
23 disadvantages to using focus groups as a research  
24 methodology?

1 vast literature review was the right combination  
2 of methods.

3 Q. In this case, did you use any  
4 quantitative research techniques?

5 A. The survey is quantitative.

6 Q. In this case, did you use any  
7 quantitative techniques as a follow up to the  
8 focus groups to assess the strength of conviction  
9 and generalizability?

10 MS. LHAMON: Vague and ambiguous.

11 A. The way you assess the content  
12 validity of focus groups is to look for patterns  
13 and the extent to which they're repeated over  
14 group and over subject.

15 And with that operationalization of  
16 content validity, the focus groups are strong and  
17 rigorous. The survey data, we just did simple  
18 statistical percentages and those too have been  
19 provided to you.

20 Q. Have you ever used quantitative  
21 techniques as a follow up to a focus group  
22 research that you conducted to assess the  
23 strength of conviction and generalizability?

24 A. I've used quantitative and

1 qualitative methods together. I tend not to  
2 think of them in the linear way that you just  
3 described it, one after the other, to confirm,  
4 but I often use quantitative and qualitative  
5 methods simultaneously because they reveal  
6 different aspects of a social problem or social  
7 situation.

8 Q. In the work that you performed in  
9 this case, did you make any specific findings  
10 regarding the strength of conviction of  
11 information provided to you by the participants  
12 in the study?

13 MS. LHAMON: Vague and ambiguous as  
14 to "strength of conviction." Whose conviction  
15 are you talking about?

16 A. I don't know what "strength of  
17 conviction" refers to, if that's a reference to  
18 the research or to individual students or to me.

19 Q. To the individual students.

20 MS. LHAMON: Just so I understand,  
21 is the question did Dr. Fine do any follow up to  
22 figure out how strongly particular students who  
23 spoke in focus groups believed what they said?

24 Q. In this case, did you make any

1 suggesting that kids are comfortable when they  
2 see demographically similar facilitators, and  
3 given that we were running a focus group of  
4 diverse kids, I wanted to have someone who was  
5 white, Latino and African-American, and I wanted  
6 at least one person who was bilingual, and Maria  
7 is Latino and bilingual.

8 Q. What did you mean that each of the  
9 facilitators was responsible for a different  
10 section?

11 A. Well, each played the role of  
12 moderator for different sections, so typically  
13 Maria opened it up, Yasser did the quotes, I  
14 think April did the survey or the photos, so they  
15 had -- and then somebody did the questions to the  
16 judge, so they weren't stepping on each other's  
17 toes and they weren't dominating the group.

18 But today, in Delaware, where I told  
19 you there's a school district that has now asked  
20 us to do research like this to get the  
21 conversation up, same deal. I sent down three  
22 students. Because these are racially diverse  
23 schools, I'm sending down somebody who is white,  
24 somebody who is Latino, and somebody who is

1 specific findings regarding the strength of  
2 conviction of the information that was provided  
3 to you by the focus group participants?

4 MS. LHAMON: Vague and ambiguous.

5 A. I can comment on the validity. I  
6 don't know what strength of conviction is, but  
7 there's very high content validity and what's  
8 called construct validity, the extent to which  
9 these data resonate with data collected from  
10 similar kids in similar kinds of schools.

11 And then there's very strong  
12 correspondence between the transcripts from the  
13 kids in high school and then the interviews with  
14 the graduates with respect to preparation.

15 Q. Is it common in your experience to  
16 use three moderators in a focus group?

17 MS. LHAMON: Assumes facts not in  
18 evidence that there is some common method.

19 A. There weren't three moderators in  
20 each group.

21 Each person was responsible for a  
22 different section of the interview, so they were  
23 separate. They weren't simultaneous moderators.

24 Actually, there is substantial data

1 African-American.

2 It's remarkable, but different  
3 students really resonate and feel comfortable  
4 with different kinds of facilitators. So as long  
5 as we can structure it so they're not stepping on  
6 each other's toes or contradicting each other,  
7 and each has the kind of autonomous segment of  
8 the focus group for which they're responsible,  
9 it's probably not -- I don't know if it's  
10 typical.

11 I think it's really wise, especially  
12 when you're dealing with diverse groups of youth.

13 Q. Is it your understanding that during  
14 the focus groups conducted by your assistants,  
15 all three of the assistants were in the room at  
16 all times?

17 MS. LHAMON: Lacks foundation.  
18 Calls for speculation.

19 A. I wasn't there.

20 Q. In the preparation for the focus  
21 groups in this case, did you have any discussion  
22 with your assistants about whether when one of  
23 the assistants was leading a section of the focus  
24 group, the other assistants should remain in the

1 room or not?

2 A. Yes. The expectation was everybody  
3 would start in the room as part of the circle.  
4 If somebody went to the bathroom, somebody went  
5 to the bathroom. If they went shopping and they  
6 were late, they were late, about which I know  
7 nothing.

8 It wasn't like they would come in,  
9 do their segment, leave, and then somebody else  
10 would come in. Everybody was in the  
11 conversation. It was just that each segment had  
12 a leader and then that would rotate, so I would  
13 lead in the beginning; and if Catherine had  
14 something to say or wanted to hear something, or  
15 Yasser, they might ask for elaboration, but then  
16 in the second section, the other student would  
17 take the lead.

18 Q. In this case, are you generalizing  
19 your findings to a larger group of California  
20 public school students?

21 MS. LHAMON: Vague and ambiguous as  
22 to "generalizing."

23 A. I believe we have very strong  
24 evidence about the adverse impact of structural

1 citizens, but for them school is the primary  
2 public institution that's conveying to them their  
3 worth or lack of perceived worth in the State of  
4 California.

5 Q. In this case, was any specific  
6 attempt made to determine the extent to which the  
7 focus group students were experiencing anger,  
8 shame or civic alienation from sources unrelated  
9 to their schooling?

10 MS. LHAMON: Asked and answered.

11 A. The focus of the research was on the  
12 relationship of conditions in schooling to their  
13 psychological, social and academic well-being, so  
14 that's where the focus was; but the students were  
15 articulate in connecting the conditions of  
16 schooling to the psychological conditions that  
17 you just described.

18 Q. Was any part of the focus of the  
19 research that you did in this case to determine  
20 the extent to which the students were  
21 experiencing anger, shame or civic alienation  
22 from other sources besides schooling?

23 MS. LHAMON: Asked and answered.

24 A. I think I've answered that.

1 facilities like these, teacher instability,  
2 unqualified teachers and lack of instructional  
3 material on students who go to schools with those  
4 characteristics.

5 I think we have deep qualitative  
6 information, we have systematic quantitative  
7 information.

8 And then we talked to a small set of  
9 graduates, all of whom thought they were the top  
10 and doing well, in high school, got to college  
11 and felt shockingly underprepared.

12 These data resonate with a long and  
13 extensive literature. I feel very firm about the  
14 conclusions drawn in the study.

15 Q. In this case, was any attempt made  
16 to determine whether the focus group students  
17 were experiencing anger, shame or civic  
18 alienation from sources unrelated to their  
19 schooling?

20 A. The focus groups were dedicated to  
21 asking about schooling, and yet certainly the  
22 young people made it clear that there were many  
23 messages in the larger culture that made them  
24 feel unworthy, not respected, not like full

1 In fact, if I could add something, I  
2 think there's a lot of evidence from the survey  
3 suggesting that the students that are feeling not  
4 at all alienated from their communities from  
5 helping people who are less fortunate than they  
6 from civic obligations in their local community.

7 It looks like public institutions,  
8 government and country are where they're feeling  
9 disengaged, and school seems like the primary  
10 vehicle that's contributing to that sense of  
11 disengagement.

12 Q. Would you agree that the sampling  
13 you used in this case was a nonprobability  
14 sampling?

15 A. What do you mean by that?

16 Q. Have you ever heard the term  
17 "nonprobability sampling"?

18 A. I've heard of probability sampling.

19 Q. Was the sampling that you used in  
20 this case probability sampling?

21 A. The sampling was a sampling of  
22 households in the neighborhood identified as  
23 having children that represented as close to a  
24 random sample of those households as we could



1 acquire.

2 We rejected the idea of getting a  
3 list from schools. We rejected the idea of going  
4 to community centers. We rejected the idea of  
5 just taking people we knew. We rejected the idea  
6 of just going to a particular neighborhood, so we  
7 used the most random strategy we could imagine,  
8 which was to dial up households that had been  
9 identified as having kids in a Zip code and  
10 soliciting those children.

11 That's as close to probability as  
12 you're going to get with this kind of work, I  
13 think.

14 Q. So would you characterize the  
15 sampling that you used in this case as  
16 probability?

17 A. I wouldn't characterize it as  
18 probability or nonprobability.

19 Q. Would you agree that the sampling  
20 you used in this case was purpose of sampling?

21 MS. LHAMON: Lacks foundation as to  
22 "the sampling." Dr. Fine didn't do the samples  
23 herself.

24 Q. Would you agree that the sampling

1 academic effects on children?

2 MS. LHAMON: Same objection.

3 A. I knew that high level of exposure  
4 to undercredentialed teachers produces decrements  
5 in learning. I didn't know about the sense of  
6 shame, lack of preparation, and fear of  
7 standardized tests produced that I heard from  
8 these young people; nor did I know a thing about  
9 what happens when kids dare to complain to adults  
10 about not having a credentialed teacher and they  
11 feel that they're not listened to.

12 Q. Would you agree that before you  
13 began work on this case, you had the opinion that  
14 substantial teacher turnover produces adverse  
15 psychological and academic effects on children?

16 MS. LHAMON: Same objection.

17 A. Absolutely.

18 Q. Would you agree that before you  
19 began work on this case, you had the opinion that  
20 inadequate books and materials produces adverse  
21 psychological and academic effects on children  
22 and adolescents attending schools with those  
23 characteristics?

24 MS. LHAMON: Same objection.

1 that was used in this case was purpose of  
2 sampling?

3 A. No.

4 MS. LHAMON: Again, lacks  
5 foundation.

6 Q. Would you agree that before you  
7 began work in this case, the Williams case, you  
8 had the opinion that structural facility's  
9 problems produce adverse psychological and  
10 academic effects on children and adolescents  
11 attending schools with that characteristic?

12 MS. LHAMON: Incomplete  
13 hypothetical.

14 A. I know a lot about structures, as I  
15 said yesterday from the small schoolwork. I  
16 didn't know much about decaying facilities, so I  
17 don't think I thought much about it before the  
18 Williams case, and then I happened to have this  
19 student who produced this work within New York,  
20 but I don't think I thought about it.

21 Q. Would you agree that before you  
22 began work on this case, you had the opinion that  
23 exposure to high levels of undercredentialed  
24 teachers produces adverse psychological and

1 A. Actually, I didn't know very much  
2 about conditions under which children had  
3 inadequate access to books and materials.

4 As I said yesterday, my exposure was  
5 to the power of quality and rigorous curriculum  
6 on historically lower achieving children, so I  
7 knew the adverse. I knew the positive  
8 consequence of high quality materials on kids.

9 Q. On page 54 of your report, the last  
10 full paragraph, it says, "Reviews of the  
11 transcripts suggest high content validity."

12 Is content validity something that  
13 can be quantified?

14 A. Not with qualitative data. What  
15 you're looking for is reliable reporting of  
16 patterns and themes.

17 Q. By reviewing the focus group  
18 transcripts in this case, is it possible to  
19 determine the extent to which each person in the  
20 focus group contributed?

21 A. No -- I don't believe so. It's very  
22 hard to do that with focus group transcripts.  
23 You don't really know who is speaking.

24 Q. By reviewing the focus group

1 transcripts in this case, is it possible to  
2 determine whether any individual student provided  
3 contradictory information?

4 A. Across two comments, you mean? Not  
5 within a comment, across two comments?

6 Q. Yes.

7 A. I think you would hear the  
8 facilitators questioning that. Oftentimes,  
9 you'll read the facilitator saying, "Could you  
10 develop that a little?" Or "I don't understand  
11 that," or "Give me an example of that," or "Why  
12 do you say that?" And that was really to kind of  
13 clarify any ambiguity that might be present in  
14 the data.

15 Same thing with a student who wasn't  
16 participating. You would read in the transcripts  
17 an intervention by one of the facilitators to get  
18 their opinion and that's why we typically, at  
19 least twice in the focus group went around --  
20 three times -- so that everybody had to talk.  
21 "Give us a positive feature of your school."  
22 "Give us a negative feature of your school."

23 And then at the end, when we said,  
24 "What would you say to the judge?" we went back

1 Q. Where is that information in your  
2 report?

3 A. When I talk about the elementary  
4 schools, I say that they didn't fill out a  
5 survey. When I talk about Watsonville, I say  
6 they weren't administered the survey. Page 55,  
7 right there in the parens.

8 Q. Thank you?

9 Were the results of the different  
10 research methods used triangulated?

11 A. Yes.

12 Q. Was the triangulation you performed  
13 in this case a quantitative analysis?

14 A. It's a quantitative and qualitative.  
15 That is taking the themes that emerge in the  
16 focus group and looking for those themes in the  
17 surveys; and then taking the themes that emerge  
18 in the surveys and looking for them in the focus  
19 groups so, "How prepared did you feel for  
20 college?" for instance.

21 "Do you feel well prepared for  
22 college?" was an issue that emerged strongly on  
23 the surveys; and then that triangulated painfully  
24 and powerfully when we interviewed the graduates

1 around so that everybody got a shot at talking  
2 because sometimes some people talk more than  
3 others.

4 Q. Is it correct that 101 students  
5 participated in this study for this case?

6 A. It is correct that 101 students  
7 participated in the focus groups; and then 87 on  
8 the survey and 11 interviews, so you wouldn't add  
9 all of those up, but you would add 11 to 101 if  
10 you wanted the total number of young people who  
11 participated, which should be 112.

12 Q. Were there 14 students who  
13 participated in a focus group but did not  
14 complete a written survey?

15 A. The elementary school kids didn't  
16 fill out surveys and the Watsonville kids didn't  
17 fill out surveys.

18 Q. Anyone else?

19 A. I think there might have been one or  
20 two others in the focus groups who chose not to.  
21 It looks like there's one kid in the focus group  
22 who didn't. And then the numbers would work  
23 also: 87 surveys, 7 elementary, 6 Watsonville,  
24 and then one who didn't complete a survey.

1 who are now in college. All of them talked about  
2 fears of inadequate preparation.

3 Q. Were any surveys performed on the  
4 students who gave graduate interviews?

5 A. No.

6 Q. On page 56 of your report, under the  
7 heading "Focus Group Procedure," in the second  
8 sentence it says, "Items were read aloud to  
9 reduce any problems with literacy and English."

10 Were there any concerns about  
11 problems with literacy and English with some of  
12 the focus group students?

13 MS. LHAMON: Vague as to "concerns"  
14 and as to time.

15 A. No.

16 You'll remember, we tried to screen  
17 for that in the recruiter's questions; and before  
18 they went out to California, we agreed we would  
19 read things -- we would read all the items aloud.  
20 Show me where you are.

21 Q. On page 56 under the heading, "Focus  
22 Group Procedure," the second sentence, where it  
23 says, "Items were read aloud."

24 A. Yes.

1 By literacy, we meant the obvious  
2 with Spanish speaking students, but also kids  
3 just read at different levels and we didn't want  
4 slow readers to be embarrassed or to take a lot  
5 of time. So we thought if we read it out loud,  
6 we can kind of pace it, contain it. We would  
7 know because we had prepared it that way, how  
8 long we could take.

9 Q. As far as you know, were there any  
10 focus group participants in this case for whom  
11 English was not their primary language?

12 A. There were clearly kids in there who  
13 were bilingual, for whom English was not their  
14 first language.

15 Q. Do you have any estimate as to how  
16 many of the focus group participants that English  
17 was not their primary language?

18 A. I don't.

19 Q. Referring to the third paragraph  
20 under "Focus Group Procedure" on page 56 in the  
21 laminated photos, where do the photos come from  
22 that were shown to the focus group participants?

23 A. They were drawn from the Internet  
24 and we wanted it to be a public school in

1 either.

2 Q. Did you show photographs to the  
3 focus group that you conducted in San Francisco?

4 A. Did I? Yes.

5 The group that I facilitated, the  
6 group of students somehow had gotten caught in an  
7 airplane deal, which is why the survey came at  
8 the end. They also had the photos, so I think  
9 that I instead inserted a question about, "If  
10 students from a well resourced school" -- and  
11 they might have given me the name of one or I  
12 might have offered one -- "came in here, what  
13 would you tell them about your school?"

14 So that was -- I think that was the  
15 alternative in an effort to create kind of a  
16 comparison level question.

17 (Time Noted 5:00 p.m.)  
18  
19  
20  
21  
22  
23  
24

1 California.

2 Q. Who drew the photos from the  
3 Internet?

4 A. April Burns.

5 Q. Was there a specific protocol in the  
6 focus groups for how and in what order the photos  
7 would be shown to the participants?

8 A. No. I think we just put them in the  
9 middle of the table, handed them out and they  
10 passed them around and we said, "So, this is a  
11 school in California. To what extent does this  
12 look like your school? Is it similar? Is it  
13 different?" And we did not show any of the  
14 photos from a poorly resourced school.

15 Q. To your knowledge, were the  
16 photographs shown in all of the focus groups in  
17 this case?

18 A. Photographs were shown in all focus  
19 groups.

20 Q. Did you show photographs to your  
21 focus group in Watsonville?

22 A. No. Sorry. I meant in the jury and  
23 marketing research. And it's possible that they  
24 weren't shown to the elementary school kids

1 STATE OF NEW YORK )

ss:

2 COUNTY OF NEW YORK )

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21 MICHELLE FINE, Ph.D.

22 Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

23 \_\_\_\_\_

24 \_\_\_\_\_

## C E R T I F I C A T E

I, Linda J. Greenberg, Professional  
 Shorthand Reporter and Notary Public in and for  
 the State of New York, do hereby certify that,  
 MICHELLE FINE, Ph.D., the witness whose  
 deposition is hereinbefore set forth, was duly  
 sworn and that such deposition is a true record  
 of the testimony given by the witness to the best  
 of my skill and ability.

I further certify that I am neither related  
 to or employed by any of the parties in or  
 counsel to this action, nor am I financially  
 interested in the outcome of this action.  
 IN WITNESS WHEREOF, I have hereunto set my hand  
 this 21st day of March, 2003

\_\_\_\_\_  
 Linda J. Greenberg

My commission expires: May 17, 2007

## I N D E X

WITNESS	EXAMINED BY	PAGE
MICHELLE FINE, Ph.D.	Mr. Seferian	101

## E X H I B I T S

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(No exhibits marked.)	