

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 JEFFREY MICHAEL SELMAN,
5 Plaintiff,

6 vs. CASE NO. 1:02-CV-2325-CC

7 COBB COUNTY SCHOOL DISTRICT,
8 COBB COUNTY BOARD OF EDUCATION,
9 JOSEPH REDDEN, Superintendent,
10 Defendants.

11 - - -

12 Deposition of TERESA PLENGE,
13 Taken by the Plaintiff,
14 Before Gayla Cagle,
15 Court Certified Reporter,

16 At the Law Offices of
17 Brock, Clay, Calhoun, Wilson & Rogers,
18 Marietta, Georgia,

19 On July 1, 2003, at 3:06 p.m.

20 - - -
21
22
23
24
25

1 APPEARANCES OF COUNSEL

2 For the Plaintiff:

3 MICHAEL E. MANELY

The Manely Firm

4 7 Atlanta Street, Suite C

Marietta, GA 30060

5 770.421.0808

FAX: 770.422.9477

6 mansil@mindspring.com

7 For the Defendants:

8 E. LINWOOD GUNN, IV

Brock, Clay, Calhoun,

9 Wilson & Rogers, P.C.

49 Atlanta Street

10 Marietta, GA 30060

770.422.1776

11 FAX: 770.426.6155

12 ALSO PRESENT:

13 Jeffrey Michael Selman

14

15 INDEX TO PROCEEDINGS

16 TERESA PLENCE

17 Cross-Examination by Mr. Manely 3

Direct Examination by Mr. Gunn 41

18 Recross-Examination by Mr. Manely 43

19
20 (End of Index)

1 July 1, 2003

2 3:06 p.m.

3 (Whereupon the reporter provided a
4 written disclosure to all counsel
5 pursuant to OCGA 9-11-28.)

6 MR. MANELY: This will be the
7 deposition of Dr. Teresa Plenge taken pursuant
8 to the Federal Rules of Civil Procedure and
9 agreement of counsel. If it's acceptable, we
10 will stick to the same stipulations that we had
11 before with regard to objections?

12 MR. GUNN: That's fine.

13 MR. MANELY: Have y'all had a
14 chance to discuss reading and signing?

15 MR. GUNN: Yes. Do you want to --

16 THE WITNESS: I want to read.

17 TERESA PLENGE,

18 being first duly sworn, was examined and
19 testified as follows:

20 CROSS-EXAMINATION

21 BY MR. MANELY:

22 Q Would you please state your full
23 name for the record?

24 A Teresa Plenge.

25 Q Have you ever given a deposition

1 before?

2 A No.

3 Q This is just a few informalities.
4 This is not a particularly formal process, so
5 for any reason, any reason at all, you want to
6 take a break, whether it's to get something to
7 drink, use the restroom, confer with counsel,
8 go outside and get soaking wet in the rain,
9 just let me know, and we will stop.

10 It is an informational process, so
11 to the extent that I ask any question
12 particularly confoundedly or even remotely
13 confoundedly that makes it hard to understand
14 what I'm asking, please let me know, and I will
15 rephrase my question because the way in which
16 the process works is that we communicate. To
17 the extent I ask a bad question, we don't get
18 communication. Okay?

19 A Okay.

20 Q You are a member of the Cobb County
21 School Board; correct?

22 A Yes.

23 Q And when were you elected to the
24 Board?

25 A My term began in January of '97.

1 Q So are you in the midst of your
2 second term now?

3 A Yes.

4 Q And you were re-elected back in
5 November of '02; is that right?

6 A Yes.

7 Q Roughly, what part of the county do
8 you serve?

9 A Southwest.

10 Q Would that include South Cobb High
11 School?

12 A Osborne High School.

13 Q How about Campbell?

14 A No.

15 Q Well, does it include South Cobb?

16 A No. It's the area between South
17 Cobb and Campbell.

18 Q Are there any other high schools in
19 your region?

20 A No.

21 Q Dr. Plenge, what is the doctorate
22 in?

23 A Learning disabilities.

24 Q Did you ever work in the area of
25 learning disabilities?

1 A Yes.

2 Q Tell me about that.

3 A I worked for Cobb County School
4 System. I was a teacher in Cobb before running
5 for election. And I have a bachelor's and
6 master's in speech pathology, and my Ph.D. is
7 in learning disabilities.

8 Q When did you work for the School
9 Board?

10 A Intermittently from 1981 to 1997
11 when I resigned to take my School Board
12 position.

13 Q You couldn't do both at the same
14 time?

15 A No.

16 Q Now, what have you done for a
17 living since then if you can't be a teacher
18 anymore?

19 A I'm a speech pathologist as well,
20 a licensed speech pathologist, and I do
21 contracted speech therapy services.

22 Q Do you do any contracting through
23 the School Board?

24 A No.

25 Q So you don't do any work for the

1 county at all?

2 A No.

3 Q Where did you get your Ph.D. from?

4 A Georgia State.

5 Q And how about your bachelor's?

6 A University of Tennessee.

7 Q When did you get your Ph.D.?

8 A In '91.

9 Q Have you had any school
10 administration experience?

11 A No.

12 Q What prompted you to run for the
13 School Board?

14 A Concerns about the schools that I
15 had worked in.

16 Q What kind of concerns?

17 A Concerns about the fairness of
18 treatment of schools in the areas that I worked
19 in.

20 Q I'm not sure I follow you.
21 Fairness is a relative term. Fair compared to
22 other schools?

23 A Yes, sir.

24 Q Did you feel like the schools that
25 you were serving were not being treated as

1 fairly as other schools in the system?

2 A That would be safe to say, at the
3 time.

4 Q You don't have those concerns
5 anymore?

6 A No.

7 Q The whole Kell-Sprayberry issue
8 notwithstanding. Are you familiar with that?

9 A I don't know what you mean by the
10 Kell-Sprayberry issue.

11 MR. MANELY: We can go off the
12 record just a second.

13 (Whereupon off-the-record discussions
14 ensued.)

15 Q You are familiar with the lawsuit
16 that we are here talking about today; right?

17 A Yes.

18 Q I understand that there was a
19 period of time that y'all were considering
20 adopting science textbooks recently, relatively
21 recently?

22 A Yes.

23 Q Approximately when do you remember
24 the adoption process taking place?

25 A The adoption process was taking

1 place during 2002. It was a long-term process.

2 Q When do you recall, roughly
3 speaking, voting on adopting the textbooks one
4 way or the other?

5 A I don't recall the exact date.

6 Q Do you have a sense of when that
7 was? Was it the latter part of 2002?

8 A I think it was September. It might
9 have been September, but I don't recall if it
10 was August or September.

11 Q And that would be of 2002?

12 A Yes.

13 Q And do you recall also discussion
14 and vote about the disclaimer of those placed
15 in the textbooks?

16 A We didn't do anything that was
17 called a disclaimer.

18 Q Is there a sticker that is placed
19 in the textbooks that y'all adopted?

20 A Yes.

21 Q But you wouldn't call it a
22 disclaimer?

23 A No.

24 Q How would you define a disclaimer?

25 A A disclaimer would be something

1 that would be removing responsibility.

2 Q So you remember the language of the
3 sticker that's in the books?

4 A I don't have it memorized.

5 Q Does this sound familiar. This
6 textbook contains material on evolution.
7 Evolution is a theory, not a fact, regarding
8 the origin of living things. Does that sound
9 familiar so far --

10 A Yes.

11 Q -- as being what's on that sticker?

12 A Yes.

13 Q It goes on to say: This material
14 should be approached with an open mind, studied
15 carefully, and critically considered. Does
16 that sound like the sticker?

17 A Yes.

18 Q But is it your interpretation of
19 the sticker that the statement "evolution is a
20 theory, not a fact," not disclaiming evolution
21 as a fact?

22 A Say that again.

23 Q The statement "evolution is a
24 theory, not a fact," is it your interpretation
25 that that statement does not disclaim evolution

1 as a fact?

2 A "Does not disclaim." I believe it
3 does not, it is not a disclaimer.

4 Q How is that statement not
5 disclaiming evolution as a fact?

6 A It says to consider it critically.

7 Q Toward the end I see where you are
8 saying it should be "studied carefully and
9 critically considered," but this assertion
10 "evolution is a theory, not a fact," seems to
11 be an either/or statement, isn't it?

12 MR. GUNN: I think you're inserting
13 the word fact in there where you asked her
14 originally is it a disclaimer. In other words,
15 I think it's a different question as to whether
16 it's a fact or as to whether it's a disclaimer.
17 Maybe there is a disconnect there.

18 Q Maybe I'm asking my question
19 poorly, then. This statement "evolution is a
20 theory, not a fact," you do not regard that
21 statement to be a disclaimer about evolution?

22 A It doesn't invalidate evolution.

23 Q Does it not invalidate evolution as
24 a fact?

25 A Yes.

1 Q So isn't it fair to say that
2 evolution as a fact is disclaimed by the Cobb
3 County School Board's statement that's been
4 placed in the textbooks?

5 A Not taken in total, no. If you
6 wanted to chop it up into little phrases, you
7 could make that case, but not taken in total,
8 no.

9 Q Does the Cobb School Board go to
10 this length having a sticker in any other
11 textbook about any other subject that you know
12 of?

13 A Not that I'm aware.

14 Q Does it go to this extent to tell
15 students that they should approach with an open
16 mind, study carefully, and critically consider
17 any other subject?

18 A Not that I'm aware of.

19 Q So it singles out only evolution
20 for that treatment?

21 A That's the only one I'm aware of.

22 Q What do you recall about the
23 discussion of, since you are uncomfortable with
24 the word disclaimer, this sticker? Was there a
25 discussion about it before it was voted on?

1 A Yes.

2 Q What do you recall about that
3 discussion?

4 A I don't recall specifics about the
5 discussion. I recall some general ideas that
6 were being discussed, and the general ideas are
7 pretty much what the sticker says, that there
8 are other beliefs.

9 Q What were those other beliefs that
10 were being talked about?

11 A Intelligent design was mentioned as
12 an example of other beliefs, but it was also
13 offered that there are beliefs in addition to
14 it.

15 Q Creationism, I believe, is one of
16 them; is that right?

17 A It was mentioned.

18 Q Do you recall who was bringing up
19 these points in discussion?

20 A Mr. Tippins.

21 Q Do you recall whether anyone else
22 brought up these points in discussion?

23 A We all discussed them. It's
24 difficult to tell who initiated.

25 Q Right. I can appreciate that

1 somebody would say, hey, let's talk about this
2 subject, and all of y'all talked about that
3 subject. What I'm trying to get to is who
4 brought up that subject such that y'all wanted
5 to talk about it?

6 MR. GUNN: Just to clarify, you are
7 talking about right before they voted on the
8 sticker?

9 MR. MANELY: In the context of
10 voting on the sticker, whether it was in a work
11 session or later on in a regular board meeting.

12 MR. GUNN: In other words, who
13 initiated the idea?

14 MR. MANELY: Right.

15 A Who initiated the idea of the
16 sticker?

17 Q Of discussing the other beliefs,
18 intelligent design and creationism. You had
19 identified Mr. Tippins. I was wondering if
20 there was anybody else who had brought up the
21 idea of discussing those theories, those
22 beliefs?

23 A Well, the superintendent brought
24 forward a policy to replace a policy that was
25 unconstitutional. And so the superintendent, I

1 guess you could say, really initiated the
2 discussion by bringing forth the policy.

3 Q Do you recall that the policy was
4 being discussed at the same time that you were
5 discussing adopting the textbooks and placing
6 the sticker in textbooks?

7 A Yes. They were all taking place
8 within the same time frames.

9 Q With regard to adopting the
10 textbooks and placing the sticker in the
11 textbooks, do you recall those votes happening
12 on the same night?

13 A I don't recall.

14 Q And I say night. Your work
15 sessions, are those at night or during the day?

16 A During the day.

17 Q I don't mean to limit it to just
18 night. Whenever y'all adopted the textbooks,
19 do you remember also voting on placing the
20 sticker in the textbooks?

21 A I don't recall.

22 Q Do you recall any discussion about
23 the textbooks themselves?

24 A Among board members?

25 Q Yes.

1 A I don't recall any.

2 Q So nobody said words to the effect
3 of I have a concern about this textbook
4 because?

5 A I don't recall that.

6 Q When y'all voted on placing the
7 stickers in the textbooks, do you remember what
8 that vote was, how many for, how many against?

9 A I think it was 7-0.

10 Q So it was a unanimous decision to
11 place the stickers in the textbooks?

12 A I believe so.

13 Q And if I understand correctly, this
14 sticker is placed only in those textbooks which
15 are used in Cobb County classrooms in which
16 discuss evolution; is that right?

17 A I'm not sure.

18 Q I guess what I'm getting at is we
19 wouldn't find them in a history textbook, for
20 example?

21 A They are only in science books.

22 Q What do you understand to be the
23 principles behind intelligent design?

24 A I'm not a scientist. I can't speak
25 about the principles behind intelligent design.

1 Q Why did you choose to vote for a
2 sticker which says evolution is a theory, not a
3 fact?

4 A Because we have a policy of
5 presenting a broad-based curriculum to students
6 and a policy that allows for discussion of
7 alternate views of many topics.

8 Q What other topics than evolution
9 are we talking about that are identified by the
10 policy?

11 A I don't recall that there are any
12 others specifically identified by the policy.

13 Q So why was it necessary to have a
14 sticker placed in the science textbooks that
15 says evolution is a theory, not a fact, in your
16 opinion?

17 A Because our teachers wanted
18 clarification on where their boundaries were,
19 and our previous policy was not constitutional,
20 so we had to make a change to something that
21 was constitutional and communicate to our
22 teachers the boundaries that they had within
23 that discussion.

24 Q And that only pertained to
25 evolution?

1 A That's the only subject that I had
2 heard request about as a Board member.

3 Q Do you recall any citizens coming
4 forward to complain about the material in the
5 textbooks?

6 MR. GUNN: Are you talking prior to
7 the vote on the sticker?

8 MR. MANELY: Yes.

9 A I'm not sure what you said would be
10 accurate.

11 Q So you don't recall any citizens
12 coming forward to complain about the material
13 in the textbooks prior to the vote on the
14 sticker?

15 A I wouldn't agree that they were
16 complaining about the material in the
17 textbooks.

18 Q What was your understanding of what
19 they were complaining about, if they were
20 complaining?

21 A They were wanting to ensure that
22 there was free academic discussion in
23 compliance with the Constitution's requirements
24 that we allow for open debate of subjects.

25 Q In this context, about what?

1 A About evolution.

2 Q And what kind of a debate were they
3 looking for? Were they wanting to discuss
4 other ideas? Were they wanting a discussion of
5 other theories of the origin of the species?

6 A Yes.

7 MR. GUNN: Are you asking her her
8 understanding based on what they said to her?
9 She obviously can't speak to their intent.

10 MR. MANELY: What their complaints
11 were that they voiced.

12 Q Was that a yes?

13 A Yes.

14 Q So they wanted to discuss
15 principles like intelligent design and
16 creationism, was that your understanding?

17 A Some people specified that, some
18 people did not. Some people just requested a
19 broad-based approach to the subject.

20 Q Do you remember them bringing a
21 petition to you before the vote on the
22 disclaimer?

23 A No.

24 Q What did the School Board do with
25 those parents, those citizens' concerns and

1 interest in having other theories of origin
2 taught?

3 A What did we do?

4 Q Did y'all discuss it?

5 A We discussed the policy and the
6 need to change our policy.

7 Q Did y'all discuss the textbooks and
8 the possibility of putting a sticker in the
9 textbooks in part because of the concerns
10 raised by the citizens that we were talking
11 about?

12 A I would say in part.

13 Q Is it your understanding that
14 evolution is not a fact?

15 A My own personal belief?

16 Q Yes.

17 A How is that relevant? I mean, my
18 personal belief really isn't relevant to this
19 discussion.

20 Q What's your background in science?

21 A Minimal. Speech science 101,
22 acoustics, spectrograms.

23 Q Did you do anything to research the
24 issue of evolution prior to voting on the
25 placement of the sticker in the textbooks?

1 A To research evolution?

2 Q Yes.

3 A Nothing beyond high school and
4 college experiences that were very old.

5 Q What did you base your vote in
6 favor of placing the stickers in the textbooks
7 on if not an understanding of evolution except
8 for that which you gained which you have
9 disclosed to us to this point?

10 A Say that again.

11 MR. MANELY: Can you read that
12 back for me. I don't think I could say it
13 again.

14 (Whereupon the court reporter read back
15 the referred-to portion as follows:)

16 Q What did you base your vote in
17 favor of placing the stickers in the textbooks
18 on if not an understanding of evolution except
19 for that which you gained which you have
20 disclosed to us to this point?

21 (Whereupon the reading back was
22 concluded.)

23 A Again, it was clarification of
24 boundaries for teachers and for students to
25 understand that they had rights, too, and open

1 academic discussion and a clarification of the
2 word theory, that theory and fact are not the
3 same.

4 Q In your opinion, how does this
5 sticker use the word theory? What does it mean
6 in the sticker?

7 A Well, theories contain information
8 and hypotheses rather than absolutes. Facts
9 are related to absolutes.

10 Q What's your understanding of how
11 science uses the term theory?

12 A Pretty much like I just described.

13 Q And these stickers are placed in
14 the science textbooks; right?

15 A Yes.

16 Q So we are talking about what's
17 being taught in the science class; right?

18 A Yes.

19 Q What academic discussion are you
20 referring to as pertains to this sticker,
21 evolution? Where is the academic discussion?

22 A I don't know what you mean.

23 Q You were talking about students
24 having rights to an academic discussion, I
25 believe. Perhaps I misheard you.

1 A An academic discussion in the
2 classroom.

3 Q About what as it relates to the
4 sticker?

5 A About theories of origin.

6 Q Now, "theories," you were using the
7 term plurally at that point; right?

8 A Right.

9 Q So you are envisioning a discussion
10 in the science classroom about the plural
11 theories of origin?

12 A Right.

13 Q And it's your understanding within
14 the science classroom that students have a
15 right to discuss multiple theories of origin?

16 A Yes.

17 Q And would a couple of those
18 theories include intelligent design which we've
19 talked about and creationism which we've talked
20 about?

21 A If a student chose to bring up that
22 alternative view.

23 Q What is your understanding of the
24 scientific basis of intelligent design?

25 A How is that relevant?

1 Q Do you have any understanding of a
2 scientific basis for intelligent design?

3 A Minimal.

4 Q How can you posit, then, that
5 intelligent design should be something which is
6 addressed in the science classroom?

7 A I didn't say it should be
8 addressed.

9 Q How does one discuss without
10 addressing?

11 A Addressing to me seems to be
12 synonymous with teaching, and ideas can be
13 discussed among students without being taught
14 by the teacher.

15 Q So is it your position that if the
16 students choose to discuss this matter without
17 the teacher's involvement in the science
18 classroom, that would be acceptable?

19 A Yes.

20 Q If the students took a vote and by
21 majority decided to have prayer in the science
22 classroom, would that be acceptable?

23 MR. GUNN: I object to the form as
24 a hypothetical and calling for a legal
25 conclusion.

1 Q I'm asking your opinion. Would
2 that be acceptable to you?

3 A It's not legal.

4 Q Where is the difference between
5 students getting to decide what religious
6 message is discussed and what religious message
7 is not?

8 MR. GUNN: I object to the form.

9 Q If they can choose to discuss
10 intelligent design but they can't choose to
11 have a prayer, where is the line drawn? Why
12 one not the other, in your opinion?

13 A Prayer is participating in a
14 religious activity. Discussion of an alternate
15 theory of origin is not, in my mind,
16 participating in a religious activity.

17 Q What are the underpinnings of
18 intelligent design? What are some of those
19 premises?

20 A That there is a creator.

21 Q And do you not understand or is it
22 not your opinion that positing the existence of
23 a creator is a religious activity?

24 A I don't agree.

25 Q So you think it's possible to posit

1 the existence of a creator without venturing
2 into the realm of religion?

3 A Yes.

4 Q Are you aware that there are faiths
5 which do not posit the existence of a creator?

6 A Yes.

7 Q And are you aware that there are
8 people who consider themselves not religious
9 that do not posit the existence of a creator?

10 A Yes.

11 Q So can you harmonize that there
12 would be a discussion about the existence of a
13 creator in the science classroom not violating
14 those people's beliefs?

15 MR. GUNN: I object to the
16 foundation.

17 A I can't speak for what people would
18 object to or not object to.

19 Q Well, how would you deal with the
20 Buddhist student saying I have concerns about
21 discussion in our classroom about a creator
22 when my religion says there isn't one?

23 A He could have his opportunities to
24 speak.

25 Q So you would give equal time to

1 other people's beliefs about the origin of the
2 species?

3 A I'm not sure it would ever play out
4 as equal time, but I believe that the theories,
5 plural, can be discussed.

6 Q And similarly, for an Atheist
7 student who does not have a theory that posits
8 a creator, how would you deal with her
9 objection to there being a discussion in the
10 science classroom that posits the existence of
11 a creator?

12 MR. GUNN: I object to the
13 hypothetical.

14 THE WITNESS: I still have to
15 answer?

16 MR. GUNN: Yes.

17 A Well, I wouldn't deal with it. The
18 teachers would be dealing with it. And our
19 policy says that the student would be free to
20 express that opinion.

21 Q These stickers are required in the
22 science texts that deal with evolution, aren't
23 they?

24 A I'm not sure.

25 Q Do you understand them to be

1 optional, that teachers can place them in there
2 or not depending on how they see fit?

3 A No.

4 Q So is it your understanding that
5 the School Board mandated that these stickers
6 be placed in those textbooks?

7 A Certain textbooks, yes.

8 Q How would a child avoid having to
9 look at the sticker if they wanted to?

10 A I don't know.

11 Q Do you feel like there are any
12 acceptable alternate theories, scientific
13 theories, to evolution?

14 MR. GUNN: What do you mean by
15 "acceptable"? I object to the form.

16 Q Let me take out the word
17 acceptable, then. Do you feel like there are
18 any alternate science theories to evolution?

19 A I don't think my personal beliefs
20 are relevant.

21 MR. GUNN: You need to answer the
22 question to the best of your ability.

23 THE WITNESS: For my personal
24 beliefs?

25 MR. GUNN: Yes.

1 Q And what are the alternate
2 scientific theories to evolution?

3 A Intelligent design.

4 Q What have you studied on
5 intelligent design?

6 A Read some about fossil records and
7 primarily the lack of evidence between
8 evolution between species.

9 Q Do you know who has published this
10 information that you've read?

11 A Various organizations.

12 Q Does the Discovery Institute come
13 to mind?

14 A I think I was introduced to the
15 idea prior to the Discovery Institute being put
16 in place.

17 Q Are you familiar with the materials
18 produced by the Discovery Institute as pertains
19 to this subject?

20 A I know they exist. I haven't read
21 any of them.

22 Q How did you become aware of the
23 arguments that you are talking about against
24 evolution if it was prior to the Discovery
25 Institute coming about?

1 A Through college, open discussion in
2 college.

3 Q And that was your Ph.D. work or
4 your undergraduate work?

5 A Undergraduate, liberal arts work.

6 Q Any particular classes in college
7 where they were discussing these ideas?

8 A Biology.

9 Q In deciding how you were going to
10 vote on the sticker, did you review any
11 documents or consult with anyone outside of the
12 School Board?

13 A No.

14 Q So you didn't seek anybody out and
15 talk to them?

16 A No.

17 Q You didn't crack any books to study
18 the issue further?

19 A No.

20 Q What's your understanding about who
21 paid to put the sticker into the textbooks?

22 A It came from our general fund, as
23 far as I can understand.

24 Q What are the students' rights that
25 you were referring to earlier? What rights do

1 you understand that they have with regard to
2 discussion in the science classroom?

3 A That they have rights to
4 introduction of a broad-based curriculum and
5 that they have rights to present opposing views
6 from those presented by a textbook or a
7 teacher.

8 Q And by "broad-based curriculum,"
9 that would include intelligent design and
10 creationism?

11 A It could.

12 Q What was the pass rate for the Cobb
13 students on their end-of-the-year exams in
14 biology last year?

15 A The pass rate for the entire
16 County?

17 Q Yes.

18 A I don't know.

19 Q How about for '02?

20 A I don't know.

21 Q Does the sticker help or hinder the
22 end-of-the-year exams in biology pass rate, in
23 your opinion?

24 A I don't think it should affect them
25 because it doesn't change the QCCs.

1 Q You don't think that it waters down
2 the County's education about evolution --

3 A No.

4 Q -- to highlight that evolution is a
5 theory, not a fact, and this particular theory
6 should be closely scrutinized? You don't think
7 that waters down the value of the science
8 education about evolution?

9 A No.

10 Q Why doesn't it?

11 A Because we are still required to
12 teach the QCCs and that's what gets taught.

13 Q Are you familiar with the
14 Copernican theory of planet rotation?

15 A No.

16 Q It's a theory that says that
17 contrary to what was popular belief at that
18 time, that, in fact, the earth travels around
19 the sun. You are familiar with that theory?

20 A Uh-huh (affirmative).

21 Q And to the best of your knowledge,
22 the Cobb School Board doesn't require there to
23 be any statement to the contrary or affecting
24 the Copernican theory, is there?

25 A Not specifically that theory, no.

1 Q Why are there no efforts to
2 disclaim that theory, in your opinion?

3 A We don't disclaim any theories.

4 Q Why are there no stickers
5 pertaining to whether or not that theory should
6 be carefully construed?

7 A Teachers haven't asked for
8 clarification on that theory.

9 Q When was it you recall teachers
10 coming forward and asking clarification on the
11 evolution theory?

12 A Through informal communication.

13 Q At some point the Board had to
14 address this formally, didn't they?

15 A We were addressing the policy that
16 was not constitutional and needed to be
17 changed.

18 Q I guess what I'm looking for is
19 I'm sure the Board doesn't act informally;
20 right?

21 A Right.

22 Q Pursuant to open meetings
23 requirements you guys would have to do all your
24 work in public session; right?

25 A Right.

1 Q So presumably there is some public
2 record of the teachers coming forward with
3 their concerns; correct?

4 A There may not be.

5 Q There must be if that was the
6 impetus or part of the impetus for addressing
7 specifically the issue of evolution.

8 MR. GUNN: I object to the
9 foundation. She didn't say it was written.

10 Q I don't presume it to be written.
11 Is there somewhere a teacher orally, in public
12 session, saying we have concerns about how to
13 address evolution in our classrooms, and that's
14 what got y'all started?

15 A No.

16 MR. GUNN: You are assuming no one
17 can come to a Board member informally outside
18 of a meeting?

19 MR. MANELY: No. What I'm trying
20 to find out is how it made the transition from
21 informal to formal. Because for the Board to
22 have taken a formal step, at some point this
23 concern had to become formal?

24 A The step was related to the fact
25 that the policy wasn't constitutional and had

1 to be changed.

2 Q And that was because of the
3 teachers coming forward formally or informally
4 and bringing their concerns to you or to other
5 Board members?

6 A Well, the previous policy was not
7 legal, and it was confusing.

8 Q And you knew that because the
9 teachers came forward?

10 A No. I knew that because
11 administration recommended a change in the
12 policy.

13 Q If I understood you correctly, you
14 were talking about teachers coming forward and
15 saying our teaching of evolution -- and I'm
16 paraphrasing -- our teaching of evolution is
17 problematic for us. Can you give us some
18 guidelines. And somehow or another that helped
19 result in the sticker that we are talking about
20 today. Am I misunderstanding you there?

21 A I don't think teachers came forward
22 as a group in any formal manner.

23 Q Would you consider yourself an
24 adherent to the theory of intelligent design?

25 A My personal belief?

1 Q Yes.

2 A Yes.

3 Q Is it your belief that, take human
4 beings, for example, couldn't be designed any
5 better than we are?

6 A What do you mean?

7 Q Well, if we are positing the
8 existence of a creator, unless we allow that
9 creator to be imperfect, presumably the
10 creation is therefore perfect, is it not?

11 MR. GUNN: I object to the form.

12 A I don't think that it has any
13 relevance to this policy.

14 Q I appreciate that, but do you
15 believe that the creator's creation is perfect?

16 MR. GUNN: Individual components of
17 the creator's creation are all perfect, is that
18 the question?

19 Q Well, just take human beings. Do
20 you think that the design of a human being is
21 perfect?

22 A No.

23 Q So is it the creator that's flawed
24 or his creation? Is he messed up or did he
25 mess up?

1 A Neither one.

2 Q Okay. How does it work, then?

3 A I really don't think that is really
4 relevant to anything regarding the policy.

5 Q I appreciate that, but what's your
6 opinion on it?

7 A That there is intelligent reason
8 for things that happen.

9 Q I'm not sure that that answers my
10 question about whether or not the creator is
11 flawed or the creation is flawed if that which
12 is created is not perfect?

13 A Well, I don't see it as an
14 either/or.

15 Q So both are flawed?

16 A Neither.

17 Q Then the creation is perfect?

18 A No.

19 Q Specifically with regard to human
20 design. Well, then how does it work? If there
21 is an intelligent creator, do we allow that the
22 intelligent creator intentionally made a flawed
23 design?

24 A Yes.

25 Q In the area that you have been

1 elected to represent, do you understand all of
2 those people to be of diverse religious
3 backgrounds?

4 A Very diverse.

5 Q And some of them are non-religious?

6 A Yes.

7 Q And you understand that your duty
8 as an elected representative of those people is
9 to represent all the viewpoints; is that right?

10 A It's to represent what's legal.

11 Q And not discriminate against any of
12 them; is that correct?

13 A Right.

14 Q Not discriminate against the
15 Atheist; correct?

16 A Correct.

17 Q Or the Buddhist?

18 A Correct.

19 Q Or the Raelian who believes an
20 entirely different theory of the origin of the
21 species, that we were put here by
22 extraterrestrials?

23 A That theory could be discussed in a
24 classroom.

25 Q Don Beards is an assistant

1 superintendent to the School Board; is that
2 right?

3 A Deputy.

4 Q Deputy superintendent?

5 A Deputy superintendent, yes.

6 Q You are quoted in the Atlanta
7 Journal Constitution August 15, 2002, by Mary
8 McDonald as saying, quote, there is validity in
9 creation science theory as well. Both should
10 be presented. Did you say that?

11 A I don't remember saying both should
12 be presented.

13 Q So if Ms. McDonald testifies that
14 you did, you wouldn't dispute that, would you?

15 A I believe I said discussed. I
16 don't believe I said presented.

17 Q You are also quoted in the Atlanta
18 Journal Constitution saying, quote, there has
19 been no debate among the School Board. We have
20 been solid, close quote, as regards to the
21 issue of the sticker. Do you recall making
22 that statement?

23 A Yes.

24 Q And is that a fair assessment of
25 the School Board's reaction to placing the

1 sticker in the textbooks?

2 A No. That was taken out of context.

3 Q What was the context in which that
4 was made?

5 A They wanted to know if there was
6 dissension among Board members, and I was
7 referring to the 7-0 vote, that we were solid
8 on the vote.

9 Q Was there dissension at one point
10 during the discussion?

11 MR. GUNN: Of the sticker?

12 Q Of the sticker?

13 A There was a lot of discussion about
14 the sticker, and we had a range of views at
15 various points in time. But the end result was
16 that we had a 7-0 vote.

17 Q Do you recall any discussion among
18 the Board members that perhaps intelligent
19 design should be taught in the classroom?

20 A No.

21 Q Any discussion with the Board
22 members about whether creation or creation
23 science should be taught in the classroom?

24 A No.

25 MR. MANELY: We can take a break.

1 (Deposition in Recess, 3:41 p.m.
2 to 3:55 p.m.)

3 DIRECT EXAMINATION

4 BY MR. GUNN:

5 Q I just wanted to ask you a couple
6 of questions for clarification. You were asked
7 a lot of questions about student rights and
8 your opinions about student rights. Did you
9 rely on your opinions about student rights in
10 voting on these matters or did you rely upon
11 legal counsel and other advice?

12 MR. MANELY: I object to that
13 because it's leading.

14 Q Did you rely on your own opinions
15 when you voted on these matters?

16 A No. I relied on legal counsel, on
17 legal advice.

18 MR. GUNN: I don't have the copies
19 from yesterday, but maybe we can stipulate that
20 these are Exhibits 1 and 2 from yesterday?

21 MR. MANELY: If they are the same
22 exhibits, I don't mind keeping them as even the
23 same numbers.

24 MR. GUNN: Okay. That's what I was
25 suggesting. I mean, we can mark them if you

1 want.

2 MR. MANELY: No. That's fine.

3 Q I'm going to show you what's marked
4 yesterday as Defendant's Exhibit 1 and ask you
5 if you can identify that?

6 A Yes. That's our newly adopted
7 Theories of Origin policy.

8 Q Did you vote for that policy?

9 A Yes.

10 Q Does that policy conflict with what
11 you tried to do when you voted for the sticker?

12 A No.

13 Q And you referred to Cobb County
14 policy regarding curriculum. Is that policy IA
15 that's referenced there? Is that what you were
16 referring to?

17 A Yes.

18 Q I show you what's been marked as
19 Defendant's Exhibit 2 and ask you if you can
20 identify that?

21 A That's the regulations that go with
22 our Theories of Origin policy.

23 Q And you did not vote to adopt that
24 regulation; correct?

25 A No. We don't vote on regulations.

1 Q You did not object to that
2 regulation, did you?

3 A I did not object to it.

4 Q Is there anything in the regulation
5 that disagrees with what you were intending
6 when you voted for the sticker?

7 A No.

8 MR. GUNN: That's it.

9 MR. MANELY: Can I see Exhibit 1.

10 Thanks.

11 RECROSS-EXAMINATION

12 BY MR. MANELY:

13 Q Cobb County has no other policies
14 similar to this Theories of Origin policy, does
15 it?

16 A We have policies referenced there
17 related to philosophies.

18 Q "Referenced there," meaning here in
19 Exhibit 1?

20 A Yes.

21 Q The School District believes the
22 discussion of disputed views of academic
23 subjects is a necessary element; is that right?

24 A Yes.

25 Q Including the study of the origin

1 of the species; is that right?

2 A Yes.

3 Q But the policy here does not
4 identify any other area, doesn't highlight or
5 single out any other area in dispute?

6 A That's correct.

7 Q It goes on to talk about the
8 purpose of the policy is to promote tolerance
9 and acceptance of diversity of opinion; is that
10 right?

11 A Yes.

12 Q Again, in a science context, say a
13 biology classroom, the students are looking at
14 a rabbit. And one student said -- they were
15 talking about the sex of the rabbit -- and one
16 student said, well, the way we would resolve
17 the sex of the rabbit is take a vote on the sex
18 of the rabbit. Would that be a part of
19 promoting tolerance and acceptance of diversity
20 of opinion there?

21 A That's hypothetical, but students
22 don't control curriculum. The state controls
23 curriculum, and the teachers' obligation in the
24 classroom is to adhere to that curriculum.

25 Q So that is not something that would

1 be accepted toward promoting tolerance and
2 acceptance of diversity of opinion in the
3 science classroom to resolve the sex of a
4 rabbit by taking a vote on it?

5 A A child can still have an opinion
6 one way or the other. A child can have an
7 opinion that that's the way you determine the
8 sex, but that doesn't make it what's being
9 taught in the curriculum.

10 Q Nor does it make it correct?

11 A True.

12 Q But is it your understanding that
13 pursuant to this policy and regulations that
14 follow, if a student should say I want to
15 discuss genesis now, then that is the direction
16 that the science classroom would take at that
17 point?

18 A No.

19 Q Well, how is the student curtailed
20 in what they want to discuss if that doesn't
21 work?

22 A Say that again.

23 Q Well, within the context of
24 discussing the theories of origin.

25 A Well, that's not what you said.

1 You said discussing genesis. That's a
2 religious document.

3 Q It's a creation document; right?

4 A That's not the only thing that's in
5 it.

6 Q Let's try intelligent design.
7 Let's suppose that in the context of discussing
8 evolution the student says I want to discuss
9 the creator. Is that permissible under the
10 policy?

11 MR. GUNN: I object to the
12 foundation.

13 Q In your interpretation of this
14 policy, what you would expect, is that
15 permissible?

16 A No.

17 Q Why not?

18 A Because that would not be
19 discussing the intelligent design theory. That
20 would be going into another topic.

21 Q So if a student said, in the
22 context of discussing evolution, I want to now
23 discuss intelligent design theory, that would
24 be acceptable under this policy?

25 A Yes.

1 Q And if another student said I want
2 to discuss creationism, that would be
3 acceptable under this policy?

4 A Yes.

5 MR. GUNN: I object to the
6 foundation.

7 Q And in your opinion if another
8 student said I want to discuss creation science
9 now, that would be acceptable under this
10 policy?

11 A Yes.

12 MR. GUNN: Same objection.

13 MR. MANELY: Do you still need to
14 talk to me?

15 MR. SELMAN: Yes.

16 MR. MANELY: Give me just a second.

17 (Deposition in Recess, 4:03 p.m.
18 to 4:04.)

19 Q The School Board had a prior
20 policy on teaching disputed subjects; is that
21 right?

22 A Yes.

23 Q And did y'all start that in its
24 entirety?

25 A I don't recall.

1 Q Why in your opinion was it
2 necessary to have this Cobb County policy, this
3 IDBD -- what does IDBD stand for, by the way?

4 A I don't know.

5 Q Why was it necessary, in your
6 opinion, to have this what's referenced as
7 Exhibit No. 1, this policy?

8 A To have a policy that was
9 constitutional.

10 Q So the goal was to have a
11 constitutional policy?

12 A Yes.

13 Q Do you recall voting in favor of
14 striking the prior policy?

15 A I don't recall.

16 MR. MANELY: That's it.

17 (Deposition adjourned, 4:05 p.m.)

18

19

20

21

22

23

24

25

1 I, TERESA PLENGE, Deponent, do hereby certify
2 that I have read the foregoing deposition, and
3 the same is a true and accurate transcript of
4 my testimony, except for the changes listed
5 below, if any.

6 PAGE/LINE/CHANGE

REASON

7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____

18 If additional space is needed, please attach
19 separate sheet(s) and indicate number of
20 additional page(s) here: _____

20

21 _____
22 TERESA PLENGE, Deponent

22

_____(Notary Public)

23 Date Notarized: _____

My Commission Expires: _____

24 Donovan Reporting, P.C. FAX: 770-428-5801

237 Roswell Street, Marietta, GA 30060

25 Date of Deposition: 7-1-2003 CR: GC

1 Pursuant to OCGA 9-11-28, I hereby disclose
2 that I am an employee of Donovan Reporting,
3 P.C., and have been hired by the deposing
4 attorney to provide reporting services for this
5 deposition. There is no special fee
6 arrangement between Donovan Reporting, P.C. and
7 the parties and/or attorneys in this deposition
8 aside from our regular and customary fee
9 schedule; further, I have not entered into any
10 contractual arrangement other than for the
11 taking of this deposition, financial or
12 otherwise, with any person or entity in this
13 matter and am taking this deposition in full
14 compliance with OCGA 15-14-37. Fees are
15 charged for originals and copies of depositions
16 depending upon the circumstances of each
17 deposition, including but not limited to
18 location of deposition, length of deposition,
19 expedited requirements, medical experts, video,
20 exhibits, waiting time, travel, realtime, etc.
21 A complete detailed fee schedule is available
22 upon request. This disclosure was provided to
23 all counsel at the commencement of the
24 deposition and is hereby incorporated into and
25 made a part of the transcript.

C E R T I F I C A T E

GEORGIA

COBB COUNTY

I hereby certify that the above and foregoing pages 1 through 51 are a true, complete, correct and exact transcript of my shorthand notes taken in the above-referenced matter;

That same constitutes a true, complete, correct and exact record of the above-referenced matter;

That same was transcribed through computer assisted transcription;

That I am not of kin or counsel to any of the attorneys or parties, nor am I in the regular employ of any of the attorneys or parties;

This _____ day of _____, 2003.

GAYLA CAGLE, RPR, CCR-B-1324
Certified Court Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25