IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TAMMY KITZMILLER, et al., Plaintiffs	Civil Action No. 04-CV-2688
vs.	(HON. JUDGE JONES)
DOVER AREA SCHOOL DISTRICT, and DOVER AREA SCHOOL DISTRICT BOARD OF DIRECTORS, Defendants	

Deposition of: ARALENE CALLAHAN

Taken by : Defendants

Date : September 22, 2005, 10:11 a.m.

Place : Pepper Hamilton LLP
200 One Keystone Plaza
Harrisburg, Pennsylvania

Before : Bethann M. Mulay, Notary Public
Registered Professional Reporter

APPEARANCES:

PEPPER HAMILTON LLP
By: THOMAS B. SCHMIDT, III, ESQ.

For - Plaintiffs

THOMAS MORE LAW CENTER
By: RICHARD THOMPSON, ESQ.

For - Defendants

I N D E X

WITNESS

	Examination
ARALENE CALLAHAN	
By Mr. Thompson	3
By Mr. Schmidt	53

EXHIBITS

Callahan Deposition Exhibit Numbers	Page Marked
1. Documents Bates Stamped PO1665 and PO1666 Entitled Dover Area School District Board/Administrative Retreat North Salem Faculty Room March 26, 2003 6:30 - 9:30 p.m.; Dover Area School District Board Issues	6

STIPULATION

It is hereby stipulated by and between counsel for the respective parties that reading, signing, sealing, certification and filing are hereby waived; and all objections except as to the form of the question are reserved to the time of trial.

ARALENE CALLAHAN, called as a witness, having been duly sworn, testified as follows:

MR. THOMPSON: Mr. Schmidt, can we stipulate that you presented Mrs. Callahan voluntarily outside the normal time for discovery to look at the supplemental production of documents so that we can examine her regarding that?

MR. SCHMIDT: Yes.

MR. THOMPSON: Can we waive the reading, sealing, certification, and filing?

MR. SCHMIDT: Yes. One thing that this is still a discovery deposition, so we would agree to be bound by the rules which reserve objections to questions except to form.

MR. THOMPSON: Yes. Thank you.

EXAMINATION

BY MR. THOMPSON:

Q. Mrs. Callahan, my name is Richard Thompson. I'm with the Thomas More Law Center. We represent the defendants in this case. I understand that you were previously deposed by one of the partners in the law center, Patrick Gillen. Do you remember that?

A. Yes.

Q. And that was back in March, I believe, of 2005, this year. During the first part of that deposition, Mr. Gillen went through some ground rules regarding depositions, and I just want to refresh your recollection about those ground rules. Number one, as you understand, the court reporter is going to take all of the questions I ask you and all of your answers. Do you understand that?

A. Yes.

Q. And, therefore, your answers should be audible and verbal rather than merely gestures. Do you understand that?

A. Yes.

Q. So she doesn't have to interpret a particular nod of the head as a yes or no. Do you also understand that if you -- if I ask a question

that you don't understand or don't hear, please ask me to repeat it, rephrase it if you don't understand the question? Do you understand that?

A. Yes.

Q. I don't want you to try to speculate or guess what my question was. Do you understand that?

A. Yes.

Q. So that when you respond to a question that I ask you, I'm going to assume that you heard the question, you understood it, and you're giving a response to that question. Do you understand that?

A. Yes.

Q. Is there anything today that you know of that would prevent you from recalling past events or describing past events to me?

A. No.

Q. As we indicated at the beginning, the purpose of this deposition is to examine the circumstances surrounding additional information that you provided to your counsel or -- yes, to your counsel and your counsel provided to us.

A. Right.

MR. THOMPSON: And I would like to at this

time mark these notes.

(Callahan Deposition Exhibit #1 marked for identification)

BY MR. THOMPSON:

Q. You have been handed Callahan Deposition Exhibit Number 1. Do you recognize that exhibit?

A. Yes. It's a copy of the original, but I recognize it.

Q. Now, as I understand it, the exhibit was actually a one-page document that had printing on both sides. Is that correct?

A. Yes.

Q. And that just for the purposes of copying the two pages really represent one sheet of paper with printing on both sides?

A. Yes.

Q. And for the purposes of the examination so that we can make sure that the record reflects what we're talking about, at the bottom of the first page there is a number PO1665, okay, and on the bottom of the second page there is a number PO1666. Do you see those numbers?

A. Yes.

Q. Now, early on in the lawsuit you were asked to turn over any notes or documents you had

pertaining to evolution and intelligent design. Is that right?

A. Yes.

Q. And at that time did you produce those documents to your attorney?

A. No.

Q. And when did you find those documents?

A. Sometime within the last couple weeks I guess it was. I don't remember the exact date. I could probably try to figure it out if you need me to, but.

Q. That's good enough. In the last couple of weeks of this year. Is that correct?

A. Yes.

Q. Can you explain the circumstances on which -- upon which you found those documents?

A. Yes. I spend the summer at the beach, and sometime shortly before I came home from the beach, maybe a week or five days which would have been the time frame before my daughter starts high school, Eric Rothschild had called me, and he described documents that had been turned over to him I guess from an administrator or somebody. He didn't say who had turned them over. And he was asking me if I remembered

anything about what he was saying.

And as he was speaking -- I didn't remember exactly right away -- I said they may have been at a board retreat because we did have board retreats on a yearly basis. Or Dr. Nilsen may have gathered information about board issues because he encouraged at least once a year, it may have been more than that, for him to meet with a board member for lunch one on one so there could be some conversation about issues that were important to board members or maybe he would have something that he would like to get an opinion from a board member.

So at that time when Eric asked me, I wasn't sure exactly what this document, you know, could have been, and it wasn't in front of me. It was over the phone. And I said one thing I can do when I get -- return to Pennsylvania is look in -- I keep my daily planners, my daily calendars -- to look for the dates and to see if that was the date of a luncheon or a board retreat.

And when I got home, I did do that. And I found that, yes, March 26, 2003 in that date planner was board retreat. So I thought, well,

there was a board retreat. I think you can tell by my notes I'm not a particularly organized person.

So there's one section in my sunroom of a pile of information that had to do with my tenure as a school board member. So I went through it. You know, I thought, well, there's a possibility. I didn't know exactly, but there was a possibility. And as I was going through it, I had various manila folders that aren't labeled. It's just pretty disorganized. And I found this document.

And, you know, I mean, the thought occurred to me, why didn't I see that before, and I don't remember why I didn't see it before. One thing I was looking for is school board agendas. But I didn't see it for whatever reason, and that's--

Q. You had gone through this -- these documents or the place where you kept your files before--

A. Yes.

Q. --when you were looking for the notes for the initial--

A. Every single-- Yes, yes. Because I looked through what I thought at the time certainly

every place that I may have had something. Now, maybe I didn't see that folder. Maybe-- I mean, all I know is I did not see this document at that time when I looked originally.

Q. Now, as I understand it, you were a member of the Dover Area School District Board from April 1993 to -- through November 2003. Is that about right?

A. That sounds good. I'm impressed with your memory. Good.

Q. Now, how many-- During that period of time, how many board retreats had you gone to?

A. I don't know. And they might not have been-- George Severns, the superintendent who was there when I first got on the board, might not even have been board retreats. I don't remember having documents like this around the board retreat. The format certainly was different. There were times that we got together. I don't know if they were called board retreats. But the format was different. I don't remember this format with anybody other than Dr. Nilsen.

Q. Do you specifically recall-- Let's talk about the format that was developed by Dr. Nilsen. How many board retreats did you go to when

Dr. Nilsen was the superintendent of the Dover Area School District?

A. I only recall two.

Q. One of them obviously was the March 26th, 2003 retreat?

A. Yes, yes.

Q. And the second one was when?

A. That would have been the year prior.

Q. So that would have been sometime in 2002?

A. Well, and I looked on my calendar. I mean, I believe it was January 9th, 2002.

Q. Were there minutes kept of these board retreats?

A. I don't recall ever seeing minutes.

Q. Was the public invited to attend these board retreats?

A. No.

Q. Were these board retreats posted on some public notification board?

A. I don't think so.

Q. During these retreats, and I'm talking both about the 2003 retreat and the 2002 retreat, were there any deliberations made towards any policies that were going to be adopted by the Dover Area School Board?

A. No.

Q. Were there any votes taken--
A. No.
Q. --regarding policies that were going to be adopted by--
A. No.
Q. --Dover Area School Board? Your answer is no?
A. Yes, sorry.
Q. So that these board meetings, these retreats, would not be considered official board meetings. Is that correct?
A. Right.
Q. And, therefore, they would not be covered by the -- I don't know what you call it here -- the sunshine laws or the Open Meetings Act?
A. Yes, right.
Q. So they would not be covered by the sunshine laws?
A. I'm not sure what you mean by that, but there was never any official business taken at these meetings. It was informational exchange between board members and administrators.
Q. The first page, PO1665, has a title Dover Area School District Board/Administrative Retreat North Salem Faculty Room, March 26, 2003 6:30-9:30 p.m. Now, that is the-- What is that

document?

A. That would have been the agenda.

Q. Now, was there a similar document prepared for the 2002 board retreat?

A. I don't remember. I would think so.

Q. Do you have a copy of that?

A. Not that I know of.

Q. Once you found this document relating to the March 26, 2003, did you go back and see let's see if I can find the other document?

A. I looked through everything I knew to look through.

Q. Now, one of the things that confused me a little bit was, as we indicated before, this was one sheet with printing on both sides. The second sheet, PO1666, has a date of January 9, 2002, and the headline is Dover Area School District Board Issues. Do you have any explanation why this would be on the back of the agenda for the March 26, 2003 meeting?

A. If I remember correctly, these would have been the issues from the previous year so the board members had it.

Q. So that in-- In the January 9, 2002 is that the date of the previous board retreat?

A. Yes. I had that marked on my calendar that that was the date of a board retreat.

Q. So is it your recollection today that in the January 9, 2002 board retreat that the Page PO1666 contains the issues that various board members had some interest in?

A. Yes, or had, or their concerns.

Q. Do you have any understanding of why they would have been attached to the back of the March 26th, 2003 agenda?

A. As a form of comparison.

Q. Between?

A. Board issues from 2002 to board issues of 2003.

Q. Now, in the March 26th, 2003 agenda there is a Roman Numeral IV that says 2001-2002 board issues. Is that referring to the second sheet?

A. I would think so. It's making more sense every second.

Q. Then in Roman Numeral VI they have board feedback and items of interest. They don't have any specific items of interest related to a particular board member. Is there a reason for that?

A. If I remember correctly, the superintendent had asked us to think about what our board issues

are, bring our board issues. And we may have even submitted our board issues. I don't recall that. But I know that's, you know, what he told us to do in preparation for this meeting. So that would have been the time that board members would have brought up their issues. And we went around in order, and each one of us was given the opportunity to talk about our concerns or issues, or.

Q. Just take your particular issues. Would you have put those down in writing, or would you have made them orally?

A. It may have been both. I don't recall exactly.

Q. Did you ever see a document or recall a document where -- that was similar to Page 2 here where there was a board member's name and the various issues under that board member's name for the March 23rd retreat?

A. Yes, or at least from another retreat, yes.

Q. Do you have a copy of that anywhere?

A. No. I know I don't have-- I know I don't have my original because this is all I found. But I did see another sheet with board issues.

Q. Similar to the second sheet--

A. Similar to that, yes.

Q. --that we've got in front of us?
A. Yes, yes, yes.
Q. Now, you've looked in the files that you thought they would be in. Would they be in any other files?
A. I don't think so. I think I have truly looked in every single spot.
Q. Now, going to the second sheet, the January 9, 2002 board issues, as you look down the sheet, do you have any specific recollection of any comments made by members of the board regarding the issues that they brought up?
A. In the January 9th time frame or in the March time frame? I remember-- I have--
Q. This, as I understand it, the second sheet relates to the issues brought up in the January 2002 board retreat, correct?
A. Yes.
Q. Now, do you recall any specific comments made by any of the board members relating to the issues that are under their name?
A. Do you want me to go in order?
Q. Well, first just indicate whether you recall or not.
A. Yes, I remember board members commenting on

these issues. Whether the date was January 9th or March 26th I can't swear to, but I remember board members commenting on these issues.

Q. But you don't remember whether it was the 2002 retreat or the 2003 retreat?

A. Not looking at these items listed here right this minute.

Q. Well, let me just get specific to what's really of interest to us in this lawsuit. Under Alan Bonsell you see Number 1, creationism?

A. Yes.

Q. Do you remember whether there was any discussion in the 2002 board retreat regarding creationism?

A. Do I remember the specific words, I don't remember the specific words. I know it gets mentioned-- I know it's been mentioned in a number of times, and I know-- I remember specifically in the March 2003.

Q. We will get to that. But, first of all, I'm focused on 2002. Do you have any recollection of any specific comments that Alan Bonsell makes to the number -- the issue that he has Number 1, creationism?

A. In 2002 in this setting this was-- No.

Q. What about Number 2 where he's got prayer?

A. No.
Q. Number 3, need administration to work as a team?
A. No.
Q. What about Number 4, curriculum?
A. No.
Q. What about Number -- I don't know why they have 6 -- uniforms?
A. I remember him saying things. I don't remember the specific words at this setting. I mean, if that's what you're asking, if you want me to remember this day in time, I really can't remember anything specifically from that meeting by looking at this sheet.
Q. Now, under your name, Barrie Callahan, you have funding issues. Do you remember discussing that at that 2002 board meeting?
A. Any opportunity I had I discussed the funding issues and the equity of funding of public education in Pennsylvania. Do I remember my specific words at that specific meeting, no.
Q. Then there is a-- There is some writing I think next to your -- it looks like what is an arrow from funding issues. Is that your handwriting?
A. Yes.
Q. Can you read what you wrote there?

A. Other sources of income.

Q. Do you know what you meant by that? Do you recall what you meant by that?

A. No. I mean, it might have been-- I know I talked about at different times various grants maybe the school district could apply for. It may have had something to do with that. Apparently there was an article in the newspaper about Governor Rendell and 43 percent. I don't know what that is. Maybe he wanted to-- I don't know what that was.

Q. You don't know what 43 percent refers--

A. I don't know what that-- I would think percentage of funding from the state, but that's mere speculation on my part at this point.

Q. And then the other writing which is-- It looks like a star. I'm not sure-- What is that under Lonnie Langione's concerns, Number 10 there's looks like a star.

A. Yes.

Q. More attention to middle?

A. Yes.

Q. Do you know why that -- you put that star there? Do you recall that?

A. I did put that star. If memory serves me, this

is an issue that was certainly very important to me in that there were students-- I don't know what he was referring to, but that students in the middle part are-- You have the very high achievers, and you have maybe the students who don't do as well in school. Well, there's a middle group that I don't think are challenged enough.

For instance, if you're in an honors class as a student and you get a B in that honors class, I think you're doing really well. I don't think that B in that honors class should preclude you from being able to take honors next year. That was-- Those were the kinds of things I was concerned about.

I also thought that children who saw themselves in the middle weren't encouraged enough to take more challenging classes. You know, there's always that debate in education, are we pressuring our students or our children too much or are we not encouraging them enough.

I think maybe from my personal experience sometimes the students in the very top areas are pressured too much, and then but the ones in the middle it's -- they aren't challenged enough.

So that's been a big issue of mine for a long time. So that's probably why I starred more attention to middle. I don't have any memory of what Lonnie was speaking about at the time, but it's something I've been somewhat passionate about.

Q. Now, just go down to Item I, Angie Yingling. Under her concern, she's got dress code and then discipline and all day kindergarten. Do you remember any specific comments that she made about those concerns?

A. No, not at that time.

Q. Regarding the January 9, 2002 retreat, is it a fair statement to say that you don't recall any specific comments made by any of the board members regarding the concerns that they had listed under their name? Is that a fair statement?

A. Yeah, that's fair. I can't-- I mean, I remember board members what they said at different times about these issues, but I can't remember if it was specifically at the January 9th meeting.

Q. Right. And that's what I'm asking you.

A. Then that's right.

Q. That's a fair statement?
A. That's a fair statement.
Q. Now, I'm going to go to the top page, and the top page is PO1665 entitled, Dover Area School District. And then that's the agenda that we just discussed earlier. Now, just to give the setting of this particular meeting, again, this was a retreat, correct?
A. Yes.
Q. And it was not an official board meeting, correct?
A. Yes.
Q. There were no deliberations taken towards developing an official policy. Is that correct?
A. Yes.
Q. And do you remember where this was? It says, North Salem Faculty Room. Is that where it occurred?
A. Yes.
Q. Could you give me a description of that room and the meeting actually how it took place? In other words, were you all sitting around a table? Were you sitting in chairs?
A. There were tables. There were chairs. And there would have been-- How do I do this

without my hands. When you walk in the door, towards the-- If you walk in the door, towards the right there would have been a buffet that was-- I think there were-- I don't know if it was cabinets or a table, some kind of a buffet with sandwiches and probably a soup. That would have been on the right as you walk in the door.

Then in the center of the room there would have been tables and chairs. The formation of the tables and chairs I don't recall at this point because we would regularly meet in that room for executive sessions which might just be board members. So it wasn't a unique meeting place that I can recall the setup of the chairs and tables.

Q. Was there-- This was not a situation where there was one long table where the president stood -- sat in the middle and the board members were arrayed on each side of him or her?

A. It probably would have been set up more as a square or a rectangle.

Q. Do you remember that?

A. We've had meetings that way. I would think that's how it was.

Q. Who ran the meeting?

A. I think Dr. Nilsen did, but it could have been Mike Baksa, also. I'm not perfectly clear on that.

Q. Do you recall at this particular retreat whether all the board members were present?

A. I don't recall.

Q. Richard Nilsen has as Roman Numeral II at 7:00 welcome introductions - Richard Nilsen. Do you remember him making those welcome introductions?

A. When I look at my notes, I remember something he said.

Q. Okay.

A. He said that the-- No, it might have been under district accomplishments. I remember at some point he would say that each administrator under each of the subtitles under five would spend three minutes -- have three minutes to discuss it. And I said some of these are issues that are very important to these administrators. I said, if they don't stay in these three minutes, you owe me lunch because there's not -- you just won't be able to do this.

So there was that little bit of bantering between me and Dr. Nilsen. So I remember specifically teasing him about the idea that it

would be pretty much impossible for these administrators to stick to three minutes on some of these subjects.

Q. Well, did you win the lunch?

A. Yes. But he never gave it to me.

Q. I'll mention that to him. Do you recall anything else that the superintendent said during the welcome introductions?

A. No. No.

Q. Then the Roman Numeral III 7:05, team concept and relationships, and then there's in parens ATBP. What is that?

A. I don't know.

Q. They've got bullet point Richard Nilsen. Do you recall what he said regarding that?

A. No.

Q. What about Noel Wenrich?

A. No.

Q. Now, was he a board member at that time?

A. Yes.

Q. So he actually had a board member speaking at this point on team concept. Is that right?

A. Well, he was probably board president at the time.

Q. And then under Roman Numeral IV, you've got

2001-2002 board issues. Do you remember what was discussed under Roman Numeral IV?

A. Those would have been the board issues, and that would have been the time when, for instance, Alan said how he didn't believe in evolution and that if there's going to be evolution there has to be creationism taught 50-50.

Q. Now, this would have been-- And that's where you say there would have been another sheet similar to the one on January 9, 2002 which lists the various board members with their concerns?

A. I'm not sure if it was-- I don't remember that. It may have been that this-- The board issue sheets was after the meeting that the board issues occurred. So some of them may have been a carryover. You know, some people-- Some board members may have issues 2002, 2003, 2020 that all stay the same. I don't know that. But it was-- If my memory's correct about this, it was board issues in this case from the previous years and then a compilation of board issues that occurred at that meeting.

Q. Now, if I understand, so you're not sure whether it was actually a sheet of paper that had the

various individual board members with the issues under them?

A. A second one--

Q. Yes.

A. --that we would have had at that meeting?

Q. Yes.

A. I don't know. I don't remember, because Dr. Nilsen is very organized. He may have asked us what our board issues were before and had them typed up. I just don't remember that.

Q. What I want to do now is focus on your handwriting on the first page there, the agenda of March 26, 2003, and start at the left -- top left and go all the way around, okay. I think I've deciphered this correctly. When is graduation, do you remember writing that out?

A. Then, no.

Q. But this is all your handwriting, correct--

A. Yes.

Q. --that's on this sheet?

A. Yes.

Q. And was it made at the time of the meeting?

A. Yes.

Q. So you don't know what that -- why you wrote that out?

A. I wanted to know when graduation was.

Q. Why don't you then go down underneath that and see what you can decipher for us?

MR. SCHMIDT: Down the left?

MR. THOMPSON: Down the left, right, going counterclockwise.

A. Casey, that would have said Casey. I think there should have been a C in front of the-- She was concerned about changing block scheduling I think primarily at the middle school area because we have block scheduling at the high school that's very effective. But at the middle school, if I remember correctly, if this was what she was concerned about in block scheduling at that time was the--

Block scheduling was every other day. So say Monday you might have math and science. Then on Tuesday you would have English and a language. And at some point I know she expressed a concern about students being able at that age to have that kind of organization.

BY MR. THOMPSON:

Q. What's that one word under--

A. Scheduling, change block scheduling.

Q. Is that change there, change block scheduling?

A. Of course it is.

Q. Why don't we move further down now.

A. She also had a concern about block scheduling in the high school that it may not have fit in with intensified scheduling. So she had a number of concerns looking at this. I don't know if that was that specific meeting that she talked about block scheduling interfering with the distance learning center. That may have come up also at that time, but anyhow.

Increase in student hearings, I would think that might be referring to a time that I saw the number of student hearings increasing. Then I put the question marks.

Q. Do you remember if you raised that as an issue or this is a note to yourself?

A. It may have been a note to myself and something that I wanted to follow up on, were there really an increase in student hearings and why would that be.

Q. We go down further.

A. Sixty, I don't have any idea.

Q. Then the next, I'm not sure what-- Is that versus?

A. Yes, that's versus Elm. I don't remember

specifically why-- It may have been wanting to compare the Voyager versus the Elm program.

Q. What's the Elm program?

A. I don't remember.

Q. Go down further.

A. Sheila, I guess Sheila Harkins made a shot at the old board, something she perceived we may have done or not done.

Q. Then what is that dash and then--

A. Well, it's board now-- Do you want to try to figure out what that says?

MR. SCHMIDT: I can.

A. Can you discern it?

MR. SCHMIDT: Um-hum.

A. Can you tell me?

BY MR. THOMPSON:

Q. Does it say Sheila shot at the old board? Then is that now?

A. It might be. Now is nice--

Q. Now go nice?

A. We are all in the same-- We're not all on the same page. Now-- Oh, it may have been something-- I don't know. It's such a guess.

Q. I don't want you to try to speculate if you're not--

A. That's really a guess. I don't have a clear--
Q. Let's go-- Is there any of the writing down below that -- it says, middle and upper and then some writing -- that you can decipher?
A. Oh, this was the area of concern about students in the middle area that I referred to previously in the deposition they're not encouraged enough or there's not enough-- There are not enough areas in the curriculum that challenge maybe like the high middle or low upper.

And, again, if you get a B in an honors class, why do you need -- why was the criteria that you had to have a 93 in that honors class this year or 93 period to get in honors class. Isn't a B good enough to get you in that honors class.

So that's what-- Those notes referred to what I was concerned about at that time with-- And I don't remember how it came up exactly what we said, but. And maybe I even said it.
Q. Can you read the rest of it down below that?
A. Oh, I know if-- What the parents need to know I was probably referring to if a student isn't in honors the parents need to be engaged in that decision or at least told about it. I don't

think it should be done, just done without parental involvement.

Q. So this is where-- Then you have I think that's an ex., example--

A. I can't see that.

Q. --if under 93 can't have honors?

A. Oh, yes. I guess if you get a B in honors, I don't think that means that you can't do the work is maybe what I would have said. I had written that.

Q. Let me just ask you regarding this bottom part. Do you know if these were merely notes to yourself, or were these notes that you used to articulate your position to this meeting?

A. It could have been either because I do both those things.

Q. But you're not sure?

A. I'm not sure at this point.

Q. Then going up the other side, the right side of the page continuing counterclockwise, you've got, inquiry based science program. Is that referring to any particular item in the Roman Numeral V district accomplishment section?

A. I would think it was referring to O, science curriculum update, since it says--

Q. Presented by Mrs.--
A. Hoppe.
Q. --Hoppe and Mr. Hufnagel?
A. Yes.
Q. Who are they?
A. Mrs. Hoppe is an elementary school principal, and Mr. Hufnagel, I'm not sure what his position was at the time. He may have been the assistant principal at the intermediate school.
Q. And do you know what that handwriting is referring to?
A. No.
Q. You don't know what you--
A. I don't remember.
Q. --wrote for that?
A. I don't remember.
Q. And then going up again it says, call Kaedman?
A. Kauffmans.
Q. What does the rest of that writing say?
A. Nontraditional, not necessarily college. Bill O'Donnell spoke about Dollars for Scholars. And apparently I wanted to call the Kauffmans to-- They may have been giving a presentation. They were presidents -- they were co-presidents of Dollars for Scholars I guess at the time since I

wrote call Kauffmans. And I've been very much involved with Dollars for Scholars. And there's been historically a negative reaction to Dollars for Scholars by the school board.

And one of the reasons that they have said, you know, that it's just for college kids or it's just something or not -- whatever. There have been a number of criticisms.

Anyhow, when I see nontraditional, what it triggers in my memory is that it's important that the community understand that Dollars for Scholars is not just for giving money to the typical college bound student. It's also for, you know, technical education. It can be designated for other schools, not just college.

You know, it's really I think a fabulous organization that helps encourage students to think past high school with what they plan to do and that they shouldn't necessarily have the lack of funds as a reason to not pursue their interests.

Q. Were these notes that you made to yourself, or were these comments that you made to the board at this retreat?

A. These were probably notes to myself.

Q. Then going above that, I guess we can start with there's Alan - American history Founding Fathers and then 50-50 evolution versus creationism. And then you've got that arrow, doesn't believe in evolution.

A. Yes.

Q. Do you remember writing those words down at the time of the meeting?

A. Yes.

Q. Now, would those-- Would that note have come during the time that there was under Roman Numeral VI, board feedback and items of interest, or would these notes have come someplace else on the agenda?

A. I don't recall. They may have come under Roman Numeral IV.

Q. Board issues of 2001-2002?

A. They may have come then. I don't recall where they -- when they-- I don't recall the--

Q. Looking at your notes now, do you remember anything specific that Alan said about the Founding Fathers? And I assume you mean Alan Bonsell. We should get that clear.

A. Yes.

Q. He was a board member at that time, correct?

A. Yes.
Q. Looking at your notes, does that jar your memory in any way as to any specific things that Alan said about American history Founding Fathers?
A. I remember specific things that Alan Bonsell said about American history and Founding Fathers. I don't know if it was at that particular meeting or if it was another meeting that it was just Dr. Nilsen, Alan Bonsell, and myself.
Q. Did you have those kinds of meetings?
A. I know I had one that was curriculum based that was Dr. Nilsen, Alan Bonsell, and me. There may have been other people there, but my memory has it was just the three of us. And it was around a curriculum issue. And it was around American history and the Founding Fathers. But it seems to me that would have been shortly after Alan became a board member.
Q. So it would have been prior to the March 26, 2003 meeting?
A. Yes. And he may have brought it up again there. I just don't specifically remember because he would talk about the Founding Fathers regularly. I mean, it wasn't unusual for him to talk about

that certainly. But the specific--
Specifically at this meeting, I don't recall. I have a more specific memory from another meeting.

Q. Do you remember the date of that other meeting?

A. No.

Q. Would it have been in 2003?

A. I think it was shortly after he got on the board. And I don't-- I think he was on the board-- I don't remember when he got on the board. I don't remember--

Q. To set the stage, were every one of the board members given an opportunity to articulate their concerns at this March 26, 2003 meeting?

A. If I remember correctly, yes.

Q. Did you articulate your concerns?

A. I may have, but I know if I did it was brief because I was more interested in what the administrators were saying than the other board members were saying. And people pretty much knew the concerns that I had.

Q. Why were you more interested in the -- what the administrators were saying than the board members were saying?

A. Oh, I didn't say more interested in what the

administrators said over the board members. I was just interested in what the administrators were saying. And actually I was-- Probably I was more interested in what the board members were saying over the administrators because I had worked with the administrators for a number of years. And the board members, it's the board who votes, and the board can change things. And so I thought it was important to have an understanding of what board members were thinking about certain areas they may want to change.

Q. Do you remember in this March 26, 2003 meeting, do you remember any specific comments that Mrs. Brown made?

A. No. The only part I remember from-- That's based on my handwriting. And I wrote it down because it was a concern of mine, you know, of changing block scheduling, you know, that if she was going to start trying to change block scheduling, I am very concerned about that. So typically my notes would be something that I cared about.

Q. Right. And I'm asking you, do you specifically remember any of the comments she made at the

March 26, 2003 meeting?

A. Like verbatim or anything, no. It would have just been general.

Q. About what Noel Wenrich?

A. No.

Q. What about yourself?

A. It probably was at that meeting that I talked about these middle school kids -- the middle kids that I said before.

Q. At this March 26, 2003 meeting?

A. Yes. I-- Yes.

Q. What about Lonnie Langione, do you remember any specific comments which that board member would have made at this March 26, 2003 meeting?

A. No. I mean, I remember what people said about a lot of these issues, but I don't remember if it was at that specific meeting. So if you're asking me specifically then, I mean, specifically then I clearly remember Alan talking about, you know, the creationism piece and the other issues.

Now, if there's another sheet that has board issues from March 26th, that might help trigger my memory. But just sitting here with you asking me, no.

Q. What about Larry Snook, same question.
A. No.
Q. What about Sheila Harkins, do you remember her making any comments at the March 26, 2003 meeting?
A. No.
Q. Do you remember Jeff Brown making any comments?
A. No.
Q. I'm talking about the March 26, 2003 meeting.
A. Right, no.
Q. What about Angie Yingling, do you remember her making any comments at the 2003 March 26 board meeting?
A. No.
Q. But you do remember something about what Alan Bonsell said. Is that correct?
A. Yes.
Q. Would you tell me what he said at this March 26, 2003 board meeting?
A. Word for word I certainly don't remember. I just remember generally, you know, that-- I mean, he said he didn't believe in evolution and that it was important to if you're teaching evolution you must teach creationism.
Q. Do you remember how long he spoke about the

issue?

A. No.

Q. Was it more than two minutes?

A. Oh, I don't know. I would think not, but I don't know. It was not-- I mean, it was a limited amount of time, so no one was encouraged to pontificate certainly.

Q. Did he-- Let's stop here for a moment and relate to your notes that you made here. You've got 50-50 evolution versus creationism, doesn't believe in evolution. Those are the notes that you wrote. Do you remember specific comments he made regarding this 50-50 evolution versus creationism?

A. Only that he thought when teaching evolution 50 percent of the time must be spent teaching creationism.

Q. Do you remember if he defined what creationism was?

A. No.

Q. Do you remember if he defined what evolution was?

A. No.

Q. But you remember him saying he doesn't believe in evolution?

A. Yes.
Q. That was important enough to you to put that down. Is that correct?
A. Yes.
Q. Was there any significance about Alan - American history Founding Fathers? I mean, did that-- Was there some significance to you on that?
A. Like I said before, I'm not sure if he said it at that meeting. I know he said it before. I mean, I can repeat to you what I heard him say about the Founding Fathers and American history.
Q. Do you remember what he said on this March 26, 2003 meeting?
A. No, not specifically.
Q. I want to know now what he said to you, you know, at some point about the American history and Founding Fathers. What has been your impression of his view of American history and Founding Fathers?
A. That certainly it's important that time be spent making the students aware of the Founding Fathers because I think everybody would agree with that. But he would put-- He has put in the past because it's important that they understand that we were, you know, founded as a

Christian nation and the Founding Fathers were Christian.

And why I remember that specifically is because I wanted to say to him, well, there are at least several Founding Fathers who are Deists or Unitarians. I didn't say it, but that's-- I remember thinking it in terms of, you know, it is important to have the students understand the Founding Fathers and everything that was behind the formation of our country. But I didn't think Alan Bonsell necessarily knew all the details about that since he would refer to it as, you know, the Christian values piece.

Q. Do you know how much time he spent on that particular aspect of his concern--

A. No.

Q. --of American history of Founding Fathers?

A. No.

Q. And you've told me you don't know how much time he spent on creationism versus evolution. Is that correct?

A. No.

Q. But it couldn't have been long. Is that correct?

A. I'm assuming it couldn't have been long because

we were only there three hours, and the administrators did quite a lot of talking.

Q. Do you remember if there was any discussion between the board members regarding what Alan Bonsell said at that time?

A. I don't remember discussion at all. It was more present what you have to say and move on. I don't remember any questioning back and forth or anything like that at these kind of meetings. I mean, there may have been a little, but I don't remember any discussion.

Q. Did you question him on any of the comments that he made?

A. No.

Q. Now, I know that it's obvious that you had some disagreement with him on let's say American history Founding Fathers. But was your relationship with Mr. Bonsell cordial?

A. Yes.

Q. There were no votes taken on any of the issues that the board members discussed during this retreat?

A. No.

Q. Now, going up a little further, what is this other item that you have handwritten?

A. All items should be public meeting.
Q. Doesn't that say all items should be public meeting--
A. Yes.
Q. --you owe me a lunch? What is the rest of it? How-- What does the rest of that say?
A. Not a bad thing.
Q. Not a bad thing. What is that last word?
A. I don't know.
Q. Was this written as a note to yourself, or was it something you said?
A. Oh, the one, the all items should be public meeting, now I may -- I don't know if I said it then, but-- This is certainly a segue, but what was interesting something you said at the beginning of this deposition of what triggers a memory. And when I looked down and saw this, I absolutely remember what I was thinking for all items should be public meeting. I was thinking that all the agenda items listed with the administrators would be an excellent subject for a public meeting.

Typically at any public meeting we will have a board in-service. But as I went through and as the administrators were talking a lot of

times with passion about these issues, these are the things that the school district were looking into or they were doing and they were doing well, and it would be important for the public to talk about it. So that triggered that. That's when I wrote that down, all items should be public meeting.

Q. Did you voice that?

A. At the time I don't remember. I know I mentioned it to Dr. Nilsen at some point. It just came back.

Q. So what you're referring to, all these things under Roman Numeral V should be discussed as a public meeting of the board?

A. Yes, or presented because they were interesting. It was what was happening in education in Dover.

Q. And these things prompted your enthusiasm. Is that correct?

A. For that-- Well, I mean-- Yes.

Q. I mean, this was something that you were proud of as a board member, the things that the administrators were reporting?

A. Some of them proud of. Some of them I disagreed with tremendously. But I thought they were all items that were important enough that the public

should have the opportunity to hear what the administrators had said about them.

Q. Now, did you have any further conversations with Alan Bonsell regarding evolution versus creationism outside -- on that date, March 26, 2003 outside of the board retreat?

A. No.

Q. Did you have any conversations with Alan Bonsell regarding evolution versus creationism in the year 2003?

A. Not that I remember.

Q. Do you know if at any time after this board retreat there were motions made in the public meeting to implement what Alan Bonsell was raising as a concern in 2003?

A. No.

Q. Did you have any other official involvement in 2003 regarding the issue of evolution versus creationism?

MR. SCHMIDT: Object to the form but only to ask what you mean by official.

BY MR. THOMPSON:

Q. As a member of the board, I'm sorry, as a member of the board.

A. I'm not sure what you mean by that.

Q. As a member of the board, did you pursue further for or against the comments that Alan Bonsell had made at this retreat that evolution and creationism should be taught 50-50?

A. In terms of an official action?

Q. Yes, as a board member.

A. There were no official actions taken surrounding that in that time. Where are we, we're in 2003, right?

Q. Right, this is 2003. I know that you got involved in 2004, but I want to refer to the 2003 while you were still a board member.

A. I mean, it can be part of that whole book discussion of why the books weren't approved. You know, did I know at that time specifically that was the reason, no. So, you know, when you're taking official action, I mean, the board was not approving books. And as it turned out, it was because of this issue. So that's why I'm confused by your question.

Q. I'm asking your involvement, your specific involvement as a board member.

A. Well, from the standpoint of trying to get the board to approve books that had already been approved in the curriculum cycle in the budget,

certainly. But--

Q. Go ahead. I don't want to cut off your answer.

A. I mean, from that standpoint, it was official as a board member. But did I make any kind of a statement saying about creationism or anything like that, no. So I am confused about your--

Q. If I'm confusing you, I apologize. Let me try to approach it from a different way. Did Alan Bonsell in 2003 take any action as a board member to implement his thought that evolution and creationism should be taught 50-50?

A. Well, he certainly brought it up in public.

Q. At a board meeting?

A. At a board meeting. And he talked about a book, needing to find a book that included creationism as well as evolution. So he certainly gave the impression that he was in favor-- I mean, he certainly gave the impression that he wanted a book to include creationism as well as evolution. Now, I don't know if that's what you mean by official capacity.

Q. Did he make a motion like that at a board meeting?

A. No, there were no motions that I heard of.

Q. So how did he express himself regarding the

position you said he took?

A. Well, now, this would have been 2004. Are you still focused on 2003?

Q. I'm on 2003, right.

A. I don't recall anything-- I was not aware of anything personally that I can recall--

Q. That Alan--

A. --in 2003.

Q. That Alan Bonsell did as a board member to implement his thought that evolution and creationism should be taught 50-50?

A. I don't recall of anything he did.

Q. Do you have any objections to the ultimate decision that the board made to purchase Ken Miller -- the Miller and Levine biology textbook for the ninth grade?

MR. SCHMIDT: This seems to have now gone past the subject matter of the deposition which is the document that's been marked as Exhibit 1.

MR. THOMPSON: I want to keep within our understanding.

BY MR. THOMPSON:

Q. Looking at the two exhibits, does any part of those exhibits jar your memory regarding what Alan Bonsell said concerning evolution other

than what you've already told me?
A. This is including 2004?
Q. No, just 2003 and 2002, looking at these two documents.
A. Anything else that I can recall that he said in that time frame?
Q. Right.
A. No.
Q. Looking at these exhibits, this exhibit in front of you, PO1665 and PO1666, do you recall any other board members talking about creationism and evolution?
A. At this time frame?
Q. Yes.
A. No. I mean, there was another time that Alan brought up creationism that was before this because I remember talking to Bob Hamilton, the principal of the high school at the time and Larry Redding, the assistant principal at the time. And it would have been before this time frame, but I don't remember specifically what it was. I just remember it triggered-- I then ended up talking to Bob Hamilton and Larry Redding about the subject of creationism in the high school.

Q. Do you remember whether it was in 2002 or 2003?
A. It would have been before 2003. It would have been-- It would have been shortly after Alan got on the board, I think. So it may have been 2002 if that's when he first got on the board. Was 2002 his first year on the board, do you know?
Q. I don't know. Do you remember what the comments were?
A. I just remember-- I don't remember the specific comments at all. I just remember that the concern he had about creationism and biology.
Q. Did any other board members in that time period, 2002-2003, raise concerns about creationism and evolution in biology class?
A. I don't remember. They may have. I just -- because I spoke to Bob Hamilton and Larry Redding about it. And it was-- The conversation came because of board comments about creationism.
Q. Who are these individuals that you spoke to? What is their position?
A. Bob Hamilton was the high school principal at the time, and Larry Redding was the assistant principal at the time.

Q. I asked you this before, but during our conversations, maybe your memory was jarred, can you think of any other records or documents that you now have that you've failed to turn over to your attorneys regarding this case?

A. No.

Q. I just want to give you an opportunity at this point as you look back at your answers you've given to questions, is there anything you want to add or change?

A. I don't think so.

MR. THOMPSON: That's all the questions I have.

MR. SCHMIDT: I just have one or two just to make sure something is clear in my mind.

EXAMINATION

BY MR. SCHMIDT:

Q. If you would look at Exhibit 1, first page which is Bates 01665. Are the handwritten notations on this page notations that you made on March 26th, 2003 at the time of the meeting?

A. Yes.

Q. And does the handwriting on the -- near the upper right side of this page that starts with Alan and runs down to in evolution, is that a

set of handwritten notes of comments that Alan Bonsell made?

A. Yes.

MR. SCHMIDT: I just wanted to be sure that those were notes made at the time of that meeting.

A. Yes.

MR. SCHMIDT: Thank you. That's all I have.

MR. THOMPSON: That's all I have. Thank you very much.

(The deposition concluded at 11:20 a.m.)

COMMONWEALTH OF PENNSYLVANIA :

COUNTY OF YORK :

I, Bethann M. Mulay, Reporter and Notary Public in and for the Commonwealth of Pennsylvania and County of York, do hereby certify that the foregoing deposition was taken before me at the time and place hereinbefore set forth, and that it is the testimony of:

ARALENE CALLAHAN

I further certify that said witness was by me duly sworn to testify the whole and complete truth in said cause; that the testimony then given was reported by me stenographically, and subsequently transcribed under my direction and supervision; and that the foregoing is a full, true and correct transcript of my original shorthand notes.

I further certify that I am not counsel for or related to any of the parties to the foregoing cause, or employed by them or their attorneys, and am not interested in the subject matter or outcome thereof.

Dated at York, Pennsylvania this 22nd day of September, 2005.

_____

Bethann M. Mulay
Registered Professional Reporter
Notary Public

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.