

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

TAMMY KITZMILLER, et al.,

Plaintiffs

vs.

DOVER AREA SCHOOL DISTRICT,
et al.,

Defendants

CIVIL ACTION NO. 04-CV-2688

(JUDGE JONES)

Deposition of : JULIE SMITH
Taken by : Defendants
Date : April 7, 2005, 1:30 p.m.
Before : Vicki L. Fox, RMR,
Reporter-Notary
Place : 200 One Keystone Plaza
North Front and Market Streets
Harrisburg, Pennsylvania

APPEARANCES:

PEPPER HAMILTON, LLP
BY: CHRISTOPHER LOWE, ESQUIRE

For - Plaintiffs

THOMAS MORE LAW CENTER
BY: PATRICK T. GILLEN, ESQUIRE

For - Defendants

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I N D E X

WITNESS

JULIE SMITH

Examination

By Mr. Gillen

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EXHIBITS

(None marked.)

* * * *

STIPULATION

1
2 It is hereby stipulated by and between the
3 respective parties that signing, sealing, certification
4 and filing are waived; and that all objections except as
5 to the form of the question are reserved until the time
6 of trial.

7
8 JULIE SMITH, called as a witness, being duly
9 sworn, was examined and testified, as follows:

10
11 BY MR. GILLEN:

12 Q. Good morning, Julie. My name is Pat Gillen. We met
13 briefly off the record. Let me introduce myself for the
14 record. As you know today is the day that has been set
15 for your deposition?

16 A. Yes.

17 Q. Which I conceive as just my opportunity to get to meet
18 with you, ask you questions as allowed by law. But
19 basically, get to learn your side of the story.

20 A. Yes.

21 Q. I have looked through your interrogatory answers, and I
22 don't think we will be too long. But people always
23 think I take a long time.

24 A. That's good. Not long is good.

25 Q. We will see how it goes. A deposition is essentially

1 questions and answers. And there's a few things I need
2 to tell you as we start the process.

3 The first is that your answers have to be verbal.
4 Vicki, our court reporter, takes it transcript or makes
5 a transcript of our exchanges. In order for her to do
6 so, your answers have to be verbal as opposed to
7 gestures and so on.

8 A. Yes.

9 Q. You may well be surprised at how frequently we
10 communicate with gestures. Second, if at any time you
11 want to take a break to consult with your counsel, I see
12 you are represented, please let me know.

13 A. Okay.

14 Q. And we will take a break so you can do so. That is your
15 right.

16 Another feature of the process that frequently
17 comes to light is that human communication is imprecise.
18 Sometimes you may not understand my questions. They may
19 not be good ones, or we may just be looking at something
20 in a different way.

21 If you don't understand my questions, let me know.
22 I will try to do a better job of getting at what I am
23 trying to learn about.

24 A. Okay.

25 Q. Likewise, bear with me if I don't understand some of

1 your answers, and I am trying to work through just the
2 basis for your answer and so on.

3 Other conventions of the process arise from
4 civility. It is not an endurance contest. If you want
5 to take a break, please let me know.

6 A. Okay.

7 Q. For water or anything, if you want to use the restroom,
8 that's fine.

9 A. Okay.

10 Q. If I ask you anything that makes you uncomfortable,
11 please let me know, and I will tell you right upfront
12 that I will do anything I can to address that concern
13 consistent with my duty to my clients.

14 A. Okay.

15 Q. I think that is it.

16 A. Okay.

17 Q. That said, would you please state your full name for the
18 record?

19 A. My name is Julie Ann Smith.

20 Q. How would you like me to address you?

21 A. Julie is fine.

22 Q. You may call me Pat. Julie, give me your current
23 address, please?

24 A. 3007 Honey Run Drive, York, PA 17404.

25 Q. I take it that is in the Dover Area School District?

1 A. That is in the Dover Area School District.

2 Q. Are you employed outside of the home?

3 A. Yes, I am at York Hospital.

4 Q. What do you do there?

5 A. I am a medical technologist. I currently work in the
6 blood bank where I have worked for twenty years.

7 Q. What is your job there? Just give me a sense.

8 A. We take care of cross matching blood for patients that
9 need transfusions. We decide if we have to screen them
10 for problems to make sure they have a safe transfusions.
11 We have to manage the blood supply, blood, platelets,
12 FFP. We are responsible for taking blood over to open
13 heart surgeries and to the Emergency Department with
14 traumas. We also do prenatal testing. Basically, I
15 think that is it.

16 Q. Okay. Are you married?

17 A. Divorced.

18 Q. And you have children?

19 A. Two children.

20 Q. Would you please give me their names?

21 A. My son Michael Smith is 19. He graduated last June. My
22 daughter Katherine Smith is in tenth grade at Dover High
23 School.

24 Q. Tenth grade, so has she already had biology?

25 A. Yes, she did. She had it last year.

1 Q. You have indicated you are divorced. I take it judgment
2 of divorce was entered? Did you go through a divorce
3 proceeding?

4 A. Yes.

5 Q. Just trying to get an idea for the legal and custody
6 rights to your children. Does your exhusband have
7 rights?

8 A. We do not have a formal custody agreement. We have only
9 been divorced a year. My children are older. And we
10 don't have a problem.

11 He sees my daughter usually on Saturdays or
12 Sundays, whenever my daughter arranges it. We don't
13 have any problems with that. We do not a formal custody
14 arrangement.

15 Q. That's good. So I take it there's no legal document
16 that defines the rights of your exhusband and you?

17 A. That's correct.

18 Q. Have you spoken with your exhusband about your role as a
19 plaintiff in this litigation?

20 A. Yes. He is fine with it.

21 Q. That answers that question.

22 A. He's fine with it.

23 Q. All right. You indicated that your daughter Katherine I
24 believe was already through biology?

25 A. That's correct.

- 1 Q. Let me just make sure I am certain, she went through the
2 biology classes before the curriculum change was
3 implemented?
- 4 A. That's correct.
- 5 Q. A few formal questions just for the process. As we sit
6 here today, are you on any medication that would impair
7 your ability to perceive and respond?
- 8 A. No.
- 9 Q. Do you have any handicap that would impair your ability
10 to proceed?
- 11 A. No.
- 12 Q. Just looking back over the last year, well, since
13 January of 2003, at any time during that period were you
14 on medication that impaired your ability to perceive and
15 respond?
- 16 A. I had surgery in January of -- actually that was '04.
- 17 Q. How long was your period of recovery for that?
- 18 A. I was off work for a month, but I was not on medication
19 for a month. Just like a day.
- 20 Q. You didn't go to any Board meetings in 2004 anyway; did
21 you?
- 22 A. No, I did not.
- 23 Q. I am fairly comfortable that you didn't have any
24 handicaps during that period January 2003, forward?
- 25 A. No. I have never been handicapped, and I hope never to

1 be.

2 Q. You and I both. Education, give me a sense of your
3 educational background.

4 A. I graduated high school in 1979 in Mt. Anthony Union in
5 Bennington, Vermont. I did my first year of college in
6 Texas where my grandparents lived in Weatherford, Texas.

7 Then I went to York College for two years, and I
8 graduated after completing my hospital internship at St.
9 Joe's in Lancaster. So I have a Bachelor of Science
10 degree in medical technology.

11 Q. To get the BS in medical technology, is that a four year
12 course of study?

13 A. Yes, it is.

14 Q. Plainly scientific subject matter --

15 A. That's correct.

16 Q. -- is at issue in this litigation. Julie, give me a
17 sense for your education as it relates to this subject
18 matter of biology and Evolutionary Theory.

19 A. Well, when you work in the laboratory, you can see the
20 evolution at work today. When bacteria becomes
21 resistant to current antibiotics, it is mostly because
22 of evolutionary processes.

23 Q. That is an interesting answer, and it shows again
24 exactly what I referenced about the question for being
25 imprecise.

1 First let's start with your course work or
2 education in biology.

3 A. I had basic biology courses in college. They touched on
4 evolution, but it was not my field of study per se.

5 Q. And when did you take those courses in biology?

6 A. I graduated college in 1983 -- no, in '84. Between 1980
7 and '83.

8 Q. That's fine. Did the biology courses you take focus on
9 Evolutionary Theory?

10 A. No, I took basic biology, and then I took biochemistry,
11 immunology, that type of thing.

12 Q. Apart from this course work, which you have referenced,
13 which I will tell you is more than I have had, have you
14 taken any other post graduation work or instruction in
15 biology or evolutionary theory?

16 A. Not in Evolutionary Theory. We always in the laboratory
17 do continuing education, but not particularly in
18 evolution, per se.

19 Q. I see that you are represented by counsel today. I just
20 want to get a sense for how you came to be retained by
21 counsel in connection with this litigation.

22 Before I ask you those questions, I want to make
23 it very clear that anything you say with your attorneys
24 about the subject matter of this litigation is
25 privileged. So I am not entitled to know that.

1 Likewise any conversations you have had with other
2 plaintiffs to the extent those conversations address
3 legal advice from your counsel, likewise, I am not
4 entitled to know that.

5 A. Okay.

6 Q. So any questions I ask you today when I ask you did you
7 talk to anyone and so on, that is always off the table?

8 A. Okay.

9 Q. Now that said, how did you come to be represented by
10 counsel in connection with this matter?

11 A. Two of the other -- my other coworkers live in the Dover
12 School District. We were discussing the newspaper
13 articles that were written and what was going on in the
14 School District. We all have children in the School
15 District.

16 And one of my friends Andrea Heilman, who works
17 with me, asked me if she could give my name to the ACLU
18 because she contacted them. I believe it was her that
19 contacted them. And then Paula called me.

20 Q. And that is Paula Knudsen?

21 A. Yes.

22 Q. You mentioned that there are two coworkers?

23 A. They are not plaintiffs, but yes. Sharon Wetzel and
24 Andrea Heilman.

25 Q. The first name for Heilman?

1 A. Andrea.

2 Q. You believe that one of those had contacted --

3 A. I think it was Andrea because she asked me about it.

4 Q. So for Andrea, do you think Andrea had called the ACLU?

5 A. I believe she did, but I am not a hundred percent sure.

6 Q. Give me a sense for what conversations you had as they
7 relate to the dispute in Dover over the biology text,
8 biology curriculum, you and Andrea.

9 A. Andrea and I were upset because we felt that they were
10 trying to bring fundamentalist religion into the public
11 school. And she and I think it doesn't have a place in
12 the public school.

13 We also feel that its' discrediting the teacher's
14 teaching of biology, and that it had no place in the
15 science classroom.

16 Q. When you had these conversations, how about with Sharon,
17 what was the substance of your exchanges with Sharon?

18 A. The same thing. Sharon feels the same way.

19 Q. Do you know if Sharon Wetzel had attended any Board
20 meetings?

21 A. I believe she may have, but I'm really not a hundred
22 percent sure. Usually, we always get the morning paper,
23 and we would read it at work. And then we would all be
24 annoyed and disgusted.

25 Q. I understand. And how about Andrea Heilman, do you know

1 if she attended Board meetings let's say prior to
2 October, 2004?

3 A. I don't know that she did. I really don't know. Sharon
4 is more likely to have.

5 Q. As you sit here today and we just look back in general
6 on these exchanges, generally speaking, do you think
7 that you are mostly deriving your information from what
8 was being reported in the paper?

9 A. Yes. I did have a sense of the people on the Board
10 before this whole incident, we had had a very -- a
11 building project issue, and I did attend the Board
12 meetings then. I am not sure if that was like -- it was
13 when Angie Yingling and those people were first elected.
14 I did go to the Board meetings then.

15 I stopped going. So I had a sense of kind of who
16 these people were. And most of my information, yes, it
17 did come from the newspaper.

18 Q. Let me just make sure I get you there and go on. You
19 attended Board meetings. Give me a sense for which ones
20 you attended.

21 A. They were not the Board meetings, and we were not
22 discussing Intelligent Design. When I went to some
23 Board meetings, it was several years ago. We were
24 discussing the building project. It had nothing to do
25 the Intelligent Design.

1 Q. That is all I am trying to get a sense for. I am not
2 familiar with the dates for the building project. Was
3 that 2003, 2002?

4 A. I would say more like 2000.

5 Q. Okay. Now you say you had a sense for the Board at that
6 time which underlay in part the concerns which prompted
7 you to action in this case.

8 What sense are you referring to? What sense of
9 the Board are you referring to?

10 A. I am referring to the fact that Angie Yingling and
11 Sharon Hartzell -- not Sharon -- Sheila Harkins, I
12 didn't particularly care for the way they behaved
13 towards the building project. Particularly Angie
14 Yingling.

15 Whenever a vote would come up, she would never
16 vote in turn. She would always say you must come back
17 to me, I'm not sure yet. And then she would vote with
18 the majority.

19 Q. Apart from that, anything else? You mentioned Sheila
20 Harkins. Anything about --

21 A. I have met Sheila Harkins. She doesn't know me, but I
22 have run into her at school functions before. I think
23 she is somewhat bold and arrogant. I don't particularly
24 care for her.

25 Q. All right.

1 A. They were not sensitive to the community's issues as far
2 as I was concerned.

3 Q. I thank you for that elaboration. That gives me a
4 better sense of where you are coming from.

5 Back to the decision to retain counsel, one of
6 your friends at work, you think it was --

7 A. Andrea.

8 Q. -- Andrea pointed you towards the ACLU. And the next
9 thing you knew, you got a call from Paula?

10 A. Correct.

11 Q. And what was the substance of that call? Did you
12 express interest in legal representation?

13 A. Yes.

14 Q. Was that pretty much the substance of your conversation,
15 or were there other matters?

16 A. That was the subject.

17 Q. Is it fair to say, Julie, from the outset of that
18 communication, retention of counsel and the purposes for
19 which you would retain counsel were the subject matters
20 of your discussion?

21 A. That's correct.

22 Q. Did you sign a retainer agreement?

23 A. I believe so.

24 Q. Was that a document that you processed with Paula?

25 A. No. It was Eric I think from Pepper Hamilton.

1 Q. Is the agreement with the ACLU?

2 A. I don't know.

3 Q. Have you spoken with anyone in preparation for today's
4 deposition other than your attorneys?

5 A. No.

6 Q. How about documents, have you reviewed any documents?

7 A. Documents that Chris provided for us previously, yes.

8 Q. Did you review the Complaint?

9 A. Yes.

10 Q. How about the Answer?

11 A. Yes. Not that I remember everything I read.

12 Q. I wouldn't ask you to. I drafted one of them, and I
13 don't remember everything I said.

14 How about your answers to interrogatories?

15 A. Okay.

16 Q. The written answers to written questions?

17 A. I had read them over not just today, but before I was
18 asked to read over them, yes.

19 Q. Sure. Anything other than those things that you --
20 well, I take it what you are telling me is you didn't
21 review the interrogatory answers in preparation for
22 today's deposition?

23 A. No. Not right now, no.

24 Q. That's fine. Any other documents you looked over?

25 A. I don't believe so.

1 Q. I've got a few questions for you just about your
2 relations, if any, with the principal actors in this
3 story. If we look at the Dover Area School District
4 School Board and we look at that from January of 2003
5 forward, do you have any relations by blood or marriage
6 to any person who has been on the School Board?

7 A. No.

8 Q. Any business dealings with anybody who has been on the
9 School Board in that period?

10 A. No.

11 Q. How about any acquaintances with any of the Board
12 members? By which I mean something outside of an
13 exchange you had at a Board meeting.

14 A. Angie Yingling had a -- she had a business in Dover. It
15 was a car repair business. I did have an experience
16 with her. Actually, I was a client of her deceased
17 husband. She took over the business. So it might have
18 been in 2003 that I had a business dealing with her as
19 far as I took my car there.

20 Q. Were there any problems that arose because of that?

21 A. Yeah. She was not -- her deceased husband was a very
22 honorable man. I knew him since 1982. I took my car to
23 him.

24 She was not at all like him. I needed -- she told
25 me I needed brakes on my car. I discussed with her

1 about my car was old, and I didn't want to put the most
2 expensive brakes on in the world. She said to me, well,
3 I can't guarantee them if you don't put on the expensive
4 brakes.

5 I said does that mean the brakes aren't going to
6 work? That's really dumb she said. So I decided at
7 that point not to have any more business dealings with
8 her because I didn't appreciate the way she was.

9 Plus, I was not -- her husband had died, and he
10 was the mechanic. So I decided to find somebody else.

11 Q. Apart from that exchange, were there any other dealings
12 you had with Angie?

13 A. No.

14 Q. If we look at the people who have been on the Dover Area
15 School Administration -- that is the wrong preposition.
16 It should be in or members of -- such as the
17 Superintendent and Assistant Superintendent, Principals
18 or Vice-Principals, are you related to any of these
19 individuals by blood or marriage?

20 A. No.

21 Q. Any business dealings?

22 A. No.

23 Q. Any acquaintances outside of just --

24 A. No.

25 Q. Just one level more general. The employes of Dover Area

1 School District insofar as you know them, do you have
2 any relations by blood or marriage to employes of the
3 School District?

4 A. No.

5 Q. Any business dealings with persons who are employed by
6 the School District?

7 A. No.

8 Q. I am going to ask you a few questions about any dealings
9 you might have had with the other plaintiffs in this
10 suit, again excluding conversations you might have had
11 with them about legal advice in the presence of your
12 attorneys or when you were together but discussing legal
13 advice.

14 How about have you had conversations with Barrie
15 Callahan?

16 A. I know Barrie. I know her better now. Before the suit
17 was started, I didn't really have any particular
18 contact. I knew who she was because she had been
19 previously on the School Board.

20 Q. So it seems like you are saying I knew of her?

21 A. That's correct.

22 Q. How about Fred Callahan?

23 A. I had never met him before. I didn't really know him.

24 Q. Just to be sure with Barrie Callahan, did you have any
25 conversations with her about this dispute? By which I

1 mean the dispute concerning the selection of the biology
2 text, the book *Of Pandas and People*, or the change to
3 the biology curriculum?

4 A. No.

5 Q. I am going to run through the list of the other
6 plaintiffs just to get a sense if there is anything
7 there I should know.

8 Tammy Kitzmiller?

9 A. I didn't know her before.

10 Q. Bryan Rehm?

11 A. My son had Bryan as a science teacher when he was at
12 Dover.

13 Q. Did you have discussions with Bryan Rehm about this
14 dispute?

15 A. No, I did not.

16 Q. How about Christy Rehm?

17 A. No.

18 Q. Deb Fenimore?

19 A. No.

20 Q. Joe Leib?

21 A. No.

22 Q. Steve Stough?

23 A. No.

24 Q. Beth Eveland?

25 A. No.

1 Q. Cynthia Sneath?

2 A. No.

3 Q. And you are Julie?

4 A. That's correct.

5 Q. So that is that. I understand from your answers to
6 interrogatories that you weren't attending the Board
7 meetings for the Dover Area School District School Board
8 up until December of 2004?

9 A. That's correct.

10 Q. Except we have referenced these other earlier meetings?

11 A. That's correct.

12 Q. That related to the school project?

13 A. Yes.

14 Q. Did you speak with anyone about those meetings? In
15 other words, let me ask you this: Did you have
16 conversations with people who had attended and who made
17 statements like I was there and Bill said?

18 A. No.

19 Q. So pretty much, you were relying on the newspaper
20 reports?

21 A. Correct.

22 Q. I will ask you about the Board members specifically just
23 to make sure. Sometimes it triggers your recollection.

24 Did you ever speak with Bill Buckingham about the
25 subject matter of this dispute?

- 1 A. No.
- 2 Q. How about Charlotte Buckingham?
- 3 A. No.
- 4 Q. Alan Bonsell?
- 5 A. No.
- 6 Q. Sheila Harkins?
- 7 A. No.
- 8 Q. Heather Geesey?
- 9 A. No.
- 10 Q. Jeff Brown?
- 11 A. No.
- 12 Q. Casey Brown?
- 13 A. No.
- 14 Q. How about Angie Yingling?
- 15 A. No.
- 16 Q. The incident with the motor vehicle repair you
17 referenced, when did that take place?
- 18 A. I think it was before this whole thing started.
- 19 Q. By that, you mean what, prior to June of 2004?
- 20 A. Yes.
- 21 Q. Did you ever speak with Heather Geesey?
- 22 A. No, I don't know Heather.
- 23 Q. Jane Cleaver?
- 24 A. No.
- 25 Q. Noel Wenrich?

1 A. No.

2 Q. How about the teachers, did you ever have any
3 discussions with --

4 A. No.

5 Q. Let me just run through some names again to confirm and
6 see if I can trigger any recollection on your part.

7 Bert Spahr?

8 A. No.

9 Q. Jen Miller?

10 A. I know Jen Miller only because my daughter had her in
11 ninth grade biology, but that was previous to this
12 thing. I never had any discussions with her about
13 Intelligent Design.

14 Q. Thank you. Bob Eshbach?

15 A. No, I didn't know him until this year. My daughter had
16 him this year.

17 Q. How about the Reverend Warren Eshbach?

18 A. I recently met him. I didn't know him before.

19 Q. Have you spoken about the subject matter of the
20 litigation with the Reverend?

21 A. No. We have discussed -- we are currently in the
22 process of working on getting a different School Board
23 elected, but we did not discuss this litigation, no.

24 Q. Bob Linker?

25 A. No.

1 Q. Leslie Prah?l?

2 A. No.

3 Q. How about Trudy Peterman?

4 A. I know who Trudy is because my son -- she was the
5 Principal, but I never discussed this with her.

6 Q. Sandi Bowser?

7 A. No.

8 Q. Bill Miller?

9 A. No.

10 Q. And Brad Neal?

11 A. No.

12 Q. How about the reporters who were responsible for the
13 stories that figure rather prominently in this dispute,
14 did you ever have an opportunity to speak with reporters
15 prior to the filing of the litigation?

16 A. No.

17 Q. How about since?

18 A. No.

19 Q. Do you have any documents that relate to the subject
20 matter of this dispute?

21 A. No.

22 Q. Did you send e-mails?

23 A. No.

24 Q. Anyone give you anything, Board minutes, notes?

25 A. No.

1 Q. Do you have any plans to move?

2 A. Right now?

3 Q. Yes.

4 A. I am thinking that perhaps when my daughter graduates
5 high school, I might sell my house and move. But at the
6 current time, I have no plans to move.

7 Q. When would your daughter graduate?

8 A. In two years.

9 Q. But no plans right now?

10 A. That's correct, no plans right now.

11 Q. You have indicated that you have got some familiarity
12 with Evolutionary Theory. Have you taken any steps to
13 acquaint yourself with Intelligent Design Theory?

14 A. I have read some things in the newspaper, but I have
15 not -- I am not interested in learning more about it
16 because frankly, I don't think from what I understand
17 and from what I have read in the newspaper and talked to
18 people, it does not -- the scientific method does not
19 apply.

20 And frankly, I think it is a fundamentalist church
21 theology, and I object to it strongly.

22 Q. Okay. I understand that. You say you talked to some
23 people as a basis for forming your opinion concerning
24 the validity of Intelligent Design.

25 Who have you spoken with?

1 A. Well, before this started, we had discussed it with Bill
2 Jordan, not anyone in the litigation, but my friend and
3 my Bible study at St. Rose Church.

4 We discussed the Old Testament and such. We
5 discussed Evolutionary Theory. And it is okay by the
6 Catholic Church; they are not mutually exclusive.

7 Q. Who is Bill Jordan?

8 A. He is the deacon at St. Rose. He taught a Bible class
9 last year about the Old Testament.

10 Q. You say your friend, and you referenced another friend?

11 A. Harry Emig, he is my neighbor. He went with me.

12 Q. Other than the discussions with Bill Jordan and Henry?

13 A. Harry.

14 Q. Harry, forgive me. Have you spoken with anyone else?

15 A. Before the litigation or since?

16 Q. Since. Just trying to get a sense.

17 A. Since I have discussed it with Cynthia Sneath, Sharon
18 Wetzel and Andrea Heilman and I have discussed it. My
19 daughter and I have discussed it.

20 Q. Well, again, your answer kind of points to the
21 imprecision of my question. I am asking you now about
22 efforts you might have undertaken to sort of acquaint
23 yourself with the subject matter of Intelligent Design
24 Theory, sort of what it holds, what arguments it
25 advances. And I understand that you had a conversation

1 with Bill Jordan.

2 Have you taken any other steps to become familiar
3 with --

4 A. No.

5 Q. -- the theory as such?

6 A. No.

7 Q. Now you indicated that Deacon Bill Jordan said that
8 evolution was okay with the Catholic Church?

9 A. Actually -- and I have also read that in the paper. The
10 Pope actually came out and said that evolution is quite
11 possible. It is not mutually exclusive.

12 We do not believe in a strict interpretation of
13 the Old Testament. It is the whole church theology
14 toward the Old Testament.

15 Q. Just again so I understand your answer, how does that
16 relate to -- you brought that up with reference to your
17 position in this litigation.

18 Make the connection for me so I can understand.

19 A. As far as I understand, Intelligent Design is a
20 fundamentalist idea that, you know, the world was
21 created in seven days, and we have to have an
22 intelligent designer.

23 And evolution, there's holes in it. And we didn't
24 evolve from early man which may have been like the -- we
25 didn't actually evolve from the Neanderthals, but of

1 Cro-Magnon early man.

2 And as far as I understand, Intelligent Design is
3 saying there's holes in the theory and this and that.
4 As far as I am concerned, it is a religion. It is
5 talking about an intelligent designer, and it doesn't
6 belong in science class.

7 Q. Have you looked at the text *Of Pandas*?

8 A. No. I don't believe it is really very available to us
9 in the community.

10 Q. Just --

11 A. I have not looked at it.

12 Q. I got that part of the answer. What do you mean by not
13 very available?

14 A. I would have to ask my daughter to check it out of the
15 library. My daughter, I don't think she wants to. I am
16 not going to ask her to do that.

17 Q. Other than this conversation, Julie, anything else? You
18 referenced Deacon Bill Jordan speaking with Cynthia
19 Sneath, who I have had a chance to talk with, and your
20 friends --

21 A. Sharon.

22 Q. -- and Andrea. Any other discussions which you have
23 undertaken for the purpose of acquainting yourself with
24 the subject matter of Intelligent Design Theory?

25 A. No.

1 Q. Can you recall just what your friends told you about the
2 theory, Sharon Wetzell?

3 A. No. My daughter told me that she, a friend -- her
4 friend Rachel's parents are very active in their church.
5 Rachel's mother is a substitute teacher. She said she
6 read it and thought it was really stupid, which
7 surprised me. I would have thought they thought it was
8 a wonderful thing.

9 I was surprised that Rachel Musser's mom Tammy
10 Musser said she thought it was really bad. She actually
11 read the book. Tammy Musser, she is a substitute
12 teacher.

13 Q. Anything else, any other conversations?

14 A. No. Not that I can think of.

15 Q. You have referenced that you have been somewhat
16 acquainted with Intelligent Design as it has been
17 discussed in the local papers.

18 What papers are you referring to?

19 A. The *Daily Record*, the *York Daily Record* and the
20 *Dispatch*, the *York Dispatch*. I don't read the *Dispatch*
21 all the time, but I do read the *Daily Record*.

22 Q. So is it both in other words?

23 A. Yes.

24 Q. Apart from looking at those papers, anything else that
25 you have read to acquaint yourself with the substance of

1 Intelligent Design Theory?

2 A. I think I read a couple of e-mails that Cindy forwarded
3 to me about it. And the articles, there were some
4 articles in there from other publications, but I don't
5 remember what they were.

6 Q. Okay. Do you have those e-mails?

7 A. No, I do not.

8 Q. Do you recall if any of the e-mails, the underlying
9 materials in there, the articles you have referenced
10 were generated or otherwise associated with the National
11 Council for Science Education?

12 A. I don't remember. I don't know.

13 Q. That's fine. As we sit here today, do you have a sense
14 for what text is being used in the biology class for
15 Dover Area School District?

16 A. The textbook --

17 Q. Yes.

18 A. -- that they use? I know they talk about Evolution in
19 the textbook, Darwin's Theory of Evolution, but I
20 haven't looked at the textbook myself.

21 Q. Do you recall what the text is, its title or author?

22 A. I think it is *Biology*, and I believe the author is
23 Levin.

24 Q. How about the biology curriculum change that has
25 attracted so much attention, have you ever looked at the

1 biology curriculum?

2 A. They had in the -- they sent home a newsletter from --
3 the school did it. And they had in there what they were
4 going to be reading to the children.

5 Q. And did you find that objectionable?

6 A. Yes, I did.

7 Q. On what grounds? What is your concern?

8 A. It is discrediting -- on the one hand, the teachers are
9 teaching science. And on the other hand, now they are
10 discrediting this one particular theory. There's a lot
11 of scientific theories out there, but they have chosen
12 this one to have a problem with.

13 There's the Big Bang Theory. There's all kinds of
14 scientific theories. And they have chosen this one
15 theory as being a problem. I object to that.

16 Q. And just to make sure I understand you, why do you
17 object to that?

18 A. Because you are pointing out one theory and saying that
19 there's a problem with it. If you are going to say
20 there's problems with theories in science, then you need
21 to look at all of the theories.

22 Q. Do you have any understanding as to whether teachers in
23 science class address problems in other theories?

24 A. I don't believe they particularly do, other than to
25 teach the child what a theory is and how they go about

1 becoming theories.

2 Q. Forgive me. Again, my question may have been imprecise.

3 Do you have an understanding concerning whether
4 the science teachers at Dover Area School District do
5 address problems with other theories, such as the Big
6 Bang Theory which you have referenced?

7 A. I don't know. I don't believe so.

8 Q. Apart from this concern that you have described relating
9 to the statement and the way it informs students there
10 are gaps in Evolutionary Theory, is there anything about
11 the statement that you find objectionable?

12 A. I don't think we should be discussing having an
13 intelligent designer in science class. That is not
14 appropriate.

15 Q. Okay. Again, just so I understand your answer, why do
16 you find that inappropriate?

17 A. Because all the years that I had science classes, we
18 never discussed anything like that. Science is a
19 concrete subject matter. You study it. We don't talk
20 about make believe people or whatever you have coming in
21 and -- well, there's holes here.

22 To me, it is just not science. It simply isn't
23 science.

24 Q. That is all I am trying to get a sense for, Julie. What
25 leads you to that position?

1 A. An intelligent designer has nothing to do with science.
2 It doesn't have anything to do with science.

3 Q. So just to make sure I understand you, what you are
4 saying is that an argument that evidence might point to
5 an intelligent designer or agent is in your judgment not
6 scientific?

7 A. Correct.

8 Q. Do you have an understanding concerning the use of the
9 text *Of Pandas and People* by the Dover Area High School?

10 A. I don't mind if it is in the library. I have no
11 problems if children are interested in reading it.
12 That's fine.

13 But I don't think it a science book, and I don't
14 want to see it in the science classroom. I don't want
15 to see it taught. Making it available is not a problem.

16 Q. Do you have any knowledge about other books that have
17 been donated to the Dover Area School District?

18 A. I haven't read them, but I have heard about it.

19 Q. Heard about it meaning, heard about it from whom?

20 A. Well, Cindy Sneath, Reverend Eshbach. It was in the
21 paper.

22 Q. What did Cindy Sneath say about the donation?

23 A. She got an e-mail. I am not sure who all got the
24 e-mail, but she read the e-mail to a group of us and
25 told us the books had been donated to the School

1 District.

2 Q. About when was this?

3 A. Two weeks ago maybe.

4 Q. Can you recall anything about the e-mail?

5 A. That this group had donated the books, and that they
6 were waiting to see if the administration and the School
7 Board were going to allow them to be put in the library.

8 Q. Did Cindy say anything else about the book donation?

9 A. No.

10 Q. Do you know if Cindy had any role in procuring the
11 donation?

12 A. As far as I would guess, she did not have any role in
13 procuring the books.

14 Q. How about yourself, have you had any role in that
15 donation?

16 A. No.

17 Q. Did the Reverend Eshbach say anything when the e-mail
18 was read?

19 A. He doesn't have -- as far as I know, he doesn't have
20 anything to do with donating the books either.

21 Q. Did he say anything when Cindy read the e-mail?

22 A. We were wondering how the School Board was going to act
23 and what they were going to do. That is what we were
24 wondering.

25 Q. Do you recall anything that was said specifically?

1 A. No.

2 Q. Just to make sure I understand you, the way that you
3 have described Intelligent Design Theory, do you
4 understand it to be Creationism?

5 A. I think it is Creationism. I think it is also the way
6 that somebody is trying to get Creationism into the
7 school, in through the back door. It is not Creationism
8 as Creationism was written, but it is related.

9 Q. That is all I want to understand. How do you see that
10 relationship? You say it is not Creationism as
11 Creationism is written.

12 Do I understand you correctly that you are making
13 reference to the Biblical story of creation in Genesis?

14 A. Correct.

15 Q. And then still you go on to make a connection there?

16 A. When you are talking about an intelligent designer, it
17 is quite obvious to most people that you are trying to
18 make a relationship between creation and your theory of
19 Intelligent Design.

20 Q. With your answers to interrogatories and based on what
21 you have said here today, I understand that you weren't
22 attending Board meetings and therefore don't have
23 personal knowledge about statements made at Board
24 meetings up until I think you indicated December of
25 2004?

1 A. That's correct.

2 Q. Were you present at the meeting where the Browns
3 resigned?

4 A. No, I was not.

5 Q. I am unsure of the dates myself. How about where Angie
6 Yingling resigned?

7 A. I wasn't there when she resigned.

8 Q. You had left at that time?

9 A. I didn't attend that meeting. I went to a couple of
10 meetings in January. And I don't go. There is no point
11 in me going. I am really busy. I have a daughter that
12 is involved in things, and I have been working with this
13 Dover Cares Group so I didn't go.

14 Q. You say there's no point in going. I just want to
15 understand the basis for your --

16 A. The School Board has absolutely no interest in
17 discussing Intelligent Design with the community. They
18 have no interest in taking questions from the community
19 about it.

20 There is no point in going there and sitting
21 there. They discuss in the back their meeting. They
22 come out and they basically say blah, blah, blah. And
23 as far as I am concerned, it is not a valuable use of my
24 time to sit there.

25 Q. I understand. Let me ask you just a little about Dover

1 Cares and the people who are involved in that.

2 What is your understanding as to who is involved
3 in Dover Cares?

4 A. Well, I know I don't know everybody, but I know some of
5 the people. You know what the group is about?

6 Q. I am not quite sure. Is this the rival slate?

7 A. Yes.

8 Q. Do you know who are going to be candidates for this
9 group?

10 A. Yes.

11 Q. Have they filed or circulated petitions?

12 A. Yes.

13 Q. Have there been discussions of this dispute at the Dover
14 Cares?

15 A. In the beginning, we discussed some of it. It is not
16 the only issue. It is not the biggest complaint
17 actually with the Dover School Board.

18 Q. If we just focus on this issue, who were the persons
19 involved in those discussions?

20 A. Are you asking me who was involved in discussing
21 Intelligent Design being a problem?

22 Q. Yes.

23 A. Reverend Eshbach, Cindy Sneath, Rob Eshbach, Bryan Rehm,
24 Jim Noll. Mr. Stough, he is a plaintiff, but I can't
25 think of his first name.

1 Q. Steve I think?

2 A. You are right, Steve. There was other people at the
3 meetings, but I don't know everybody.

4 Q. That is fine. I only can ask you for what you know.
5 And, again, I am trying to get a sense for what has
6 brought people into the story and what they know and
7 what they have told you because, you know, you can tell
8 we all rely on each other and the information we get
9 from each other when we decide to take a course of
10 action.

11 If we look at those discussions you have just
12 referenced relating to this dispute focused on the
13 biology text, the biology curriculum, the text *Of*
14 *Pandas*, and the statement that is read in the biology
15 class, do you remember anything specific that Reverend
16 Eshbach said?

17 A. He also said that evolution and faith are not mutually
18 exclusive.

19 Q. Apart from that, do you remember anything he said?

20 A. Not particularly, no.

21 Q. Just focusing on him, has he in any of his discussions
22 with you attributed statements to Board members about
23 the purpose for selecting the text, the purpose for the
24 curriculum change?

25 A. People have been discussing it generally. I can't

1 really remember anything specifically. People, you
2 know, at the meetings had originally discussed it. It
3 was part of our discussion.

4 Q. Certainly.

5 A. I can't remember anything specifically.

6 Q. So if we run down this list -- and, again, I am looking
7 at kind of what statements they might attribute to Board
8 members.

9 A. Like Bill Buckingham's statement?

10 Q. Yes.

11 A. In fact, when he said two thousand years ago, somebody
12 died on a cross for you, and who is going to take a
13 stand for him, that is extremely obnoxious.

14 Charlotte Buckingham, of course, at the meeting
15 was quoting -- taking the Bible out of text and quoting
16 it and basically saying people were going to burn in
17 hell. I mean I don't know specifically what she said.
18 That was the gist of what I got out of it.

19 Q. Now we were talking about statements that have been
20 attributed to Bill Buckingham, a Board member. And we
21 are focused on these discussions you have had with
22 people in connection with Dover Cares.

23 I am just trying to get a sense for did a specific
24 person at these meetings attribute that statement to
25 Bill Buckingham?

- 1 A. I don't know who was at the meeting. I can't remember.
2 I think Barrie Callahan may have been at the meeting,
3 but I really don't know.
- 4 Q. I don't want to tax you.
- 5 A. I don't know. I could -- I don't know. It would be
6 better if I said that because I might be saying the
7 wrong thing if I say something else.
- 8 Q. That's true. If you don't know or you are not certain,
9 it is better to say I am not sure. And generally I will
10 ask you what do you think. This isn't a game.
- 11 A. I don't know.
- 12 Q. Apart from these statements by Bill Buckingham, is there
13 any other Board members that were discussing at these
14 meetings?
- 15 A. In relation to Intelligent Design?
- 16 Q. Yes.
- 17 A. People mentioned Sheila Harkins, but I don't really
18 remember what was said about her particularly.
- 19 Q. Any other Board members where they're being discussed in
20 connection --
- 21 A. Angie Yingling, of course, when she says yes, I think it
22 is a great idea, and then no, I don't.
- 23 Q. Who brought up Angie Yingling?
- 24 A. It could have been anyone at the meeting. I really
25 don't know.

1 Q. Do you remember any comment on Ms. Yingling's voting
2 pattern?

3 A. Not from anyone else. I remember her voting pattern
4 from when I had gone there years ago during the building
5 project. And I saw her on two separate occasions do
6 that.

7 Q. Yes. Any discussion about the position she took on the
8 curriculum change and then her position subsequent to
9 that?

10 A. She said it was a good idea. She voted for it. And
11 then she said she wanted to revisit it. I was there at
12 the meeting where she said she wanted to revisit it.
13 And they refused. Sheila Harkins refused to revisit the
14 issue.

15 Q. Do you recall anything Angie Yingling said about why she
16 thought the issue should be --

17 A. Only what I read in the paper.

18 Q. How about Mr. Bonsell, did he come up during these
19 meetings? Was he discussed in connection with the
20 controversy?

21 A. His name was mentioned, but I don't remember.

22 Mr. Buckingham made enough statements for everyone.

23 Q. All right. Julie, let me ask you plainly, you are a
24 plaintiff here in this litigation. You have got some
25 concerns, and you are a parent; however, your kids are

1 past the class. Obviously, you still have a concern. I
2 am trying to get a handle on that.

3 How do you believe you are harmed here?

4 A. My daughter came home from school this fall, and I was
5 telling her about the School Board, how they were
6 behaving. And she said to me well, Mom, you know that
7 Evolution is a lie. They should never -- that is not
8 true. What kind of a Christian are you?

9 And I was taken aback. I didn't realize that --
10 the kids have been talking about this at school. So she
11 was under the impression that if she was a Christian,
12 that she could not believe in Evolution.

13 Q. So just to make sure, it was your sense from this
14 exchange with your daughter that she was serious?

15 A. She was dead serious, and I was upset about it.

16 Q. Did she say where she derived this conviction from?

17 A. From the kids talking at school. She is involved in the
18 Bible Club at school actually. I don't know what they
19 discuss there.

20 Some of her friends do go to fundamentalist
21 Christian churches. This was all the buzz around
22 school.

23 Q. Apart from that, do you have any sense for how she could
24 arrive at that notion that Evolution was a lie?

25 A. I don't know why she specifically became -- no, I don't.

1 No.

2 Q. What is a name of the Bible Club?

3 A. It is Bible Club. I didn't even know she was in the
4 Bible Club.

5 Q. When your daughter made that comment, did you have
6 discussions with her about it?

7 A. Yes, I did.

8 Q. I think I understand the thrust of her conversation, but
9 just tell me what did you tell her?

10 A. I talked to her about the Pope's stance on Evolution.
11 We are Catholic. I talked to her about my Bible study
12 and what Bill Jordan said. He is the Deacon at St.
13 Rose.

14 I explained to her why I personally did not have a
15 problem with believing that Evolution might be the way
16 the Lord created and the way things work. And she -- my
17 daughter does not always agree with me. She doesn't
18 take what I say necessarily. But she thought about it
19 and over time has decided that she sees that that is the
20 correct way to think.

21 Q. Did your daughter ever make statements to you to the
22 effect that some teacher at Dover had told her that?

23 A. No. But she has said, and I have heard -- she has said
24 that teachers are very -- will not discuss it. This was
25 last year. They won't discuss Evolution. They teach

- 1 what it says in the book, and there is no discussion.
- 2 Q. You say this is last year?
- 3 A. My daughter took biology in '04.
- 4 Q. '03-'04?
- 5 A. Yes.
- 6 Q. And your daughter told you that when she took class, the
7 teachers wouldn't answer questions about Evolution?
- 8 A. That's correct.
- 9 Q. Did you have any discussion with your daughter about
10 what was actually taught in the class when she took it?
- 11 A. I did see the biology book that she had. She had Jen
12 Miller. I briefly looked at it, but I didn't study it.
- 13 Q. That's fine. I am not asking you to do that.
- 14 A. I didn't know it was going to become such a hot topic.
- 15 Q. Do you recall the author of the text that your daughter
16 had?
- 17 A. No, I don't.
- 18 Q. She had a book home with her?
- 19 A. Yes.
- 20 Q. You have mentioned this comment that your daughter made
21 as a source for your concern. Is there anything else
22 that has led you to be a plaintiff in this action?
- 23 A. Well, being the fact that I have a scientific background
24 and I am very concerned about children being prepared
25 for college and having the correct information for the

1 PSSA test and the PSAT and the SAT tests. I think it is
2 very important that our children get a proper education.

3 And I know when you go to college, they are not
4 going to be discussing Intelligent Design. At least not
5 where I went to school.

6 Q. You have mentioned teaching of standards and so on.
7 Apart from your discussion with your daughter which you
8 have referenced, do you have any other understanding
9 concerning what is actually taught in Dover Area Schools
10 as we sit here today?

11 A. Other problems or just --

12 Q. As it relates to biology and Evolution.

13 A. I am concerned that the children are not going to be --
14 I am concerned that they won't have proper respect for
15 other people's religions that are different, or the fact
16 if they don't go to church, particularly if they are an
17 atheist.

18 I think they all need to respect each other. We
19 need to respect each other's differences. My niece goes
20 to a school in New York which is extremely mixed with
21 Jewish and Hindus. I am concerned about the children in
22 Dover becoming really narrow minded.

23 Q. You have referenced narrow mindedness and the
24 desirability of having sensitivity for the religious
25 conviction of others.

1 I just want to make sure I understand. How do you
2 see that tied to the biology curriculum change?

3 A. If you think that Intelligent Design is correct, that
4 that is the way you are going to teach and you are going
5 to talk about an intelligent designer, if you have a
6 student who does not believe in an intelligent designer,
7 they are not going to want to talk about it or say
8 anything because they might be ridiculed.

9 Particularly -- the other thing that goes along
10 with that is when parents write notes for their children
11 to get up and leave during the teaching of Intelligent
12 Design, when you have to have children -- all the kids
13 look and see who is leaving in this room. Oh, well, she
14 is obviously not Christian. It is just not a good idea
15 for the children to have to get up and leave the
16 classroom.

17 Q. So, Julie, just to make sure I understand you I think
18 what you are getting at is you see the biology
19 curriculum as religious?

20 A. Yeah. When you teach Intelligent Design, I think you
21 are bringing religion into the biology class. Yes, I
22 do.

23 Q. And to understand the basis for your answer there, is it
24 based on the notion you articulated earlier that you
25 understand the intelligent designer to be God?

1 A. That is the way I read -- when I read it, that is what I
2 understand, yes.

3 Q. Anything else?

4 A. No.

5 MR. GILLEN: I have no further questions.

6 A. That is great.

7 MR. LOWE: No questions.

8 MR. GILLEN: You did a good job. Thank you.

9 (The deposition was concluded at 2:35 p.m.)

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COMMONWEALTH OF PENNSYLVANIA :
: COUNTY OF CUMBERLAND :

I, Vicki L. Fox, Reporter and Notary Public in and for the Commonwealth of Pennsylvania and County of Cumberland, do hereby certify that the foregoing testimony was taken before me at the time and place hereinbefore set forth, and that it is the testimony of:

JULIE SMITH

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 nor related to any of the parties to the foregoing cause, nor employed by them or their attorneys, and am not interested in the subject matter or outcome thereof.

Dated at Camp Hill, Pennsylvania, this 22nd day of April, 2005.

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