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I N D E X

WITNESS

ALAN BONSELL	Examination
By Mr. Rothschild	3

EXHIBITS

Plaintiff Deposition Exhibit Number	Page
1. Complaint in Kitzmiller v. Dover Area School	10
2. Answer in Kitzmiller v. Dover Area School District.	10
3. Dover Area School District, Board Press Release For Biology Curriculum -- 11-19-04; reposted 12-14-04.	17
4. NewsBank InfoWeb Articles from the York Dispatch and Daily Record.	39
5. Dover Area School District Memorandums with Attachments, No. 000001 through 167.	54

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STIPULATION

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

MR. THOMPSON: It is our understanding that this deposition is being taken pursuant to the Court Order authorizing the preliminary discovery for purposes of determining whether the plaintiffs will file a temporary restraining order.

It is further limited to the origins and purpose of the policy in question and what will transpire in classroom on January 13th, 2005.

ALAN BONSELL, called as a witness, being duly sworn, testified as follows:

BY MR. ROTHSCHILD:

Q. Good afternoon, Mr. Bonsell.

A. Good afternoon.

Q. I have introduced myself off the record. Let me do it on the record. My name is Eric Rothschild. I am from the law firm of Pepper Hamilton. I represent the plaintiffs in the lawsuit against the Dover Area School

1 District and its Board of Directors. And your
2 deposition is being taken in that matter.

3 Do you understand that?

4 A. Yes.

5 Q. I am joined here this afternoon by Richard Katskee who
6 is an attorney from Americans United for Separation of
7 Church and State and who is also representing the
8 plaintiffs in this matter.

9 Are you currently a member of the Dover Area
10 School Board?

11 A. Yes, I am.

12 Q. How long have you been a member?

13 A. It is three years.

14 Q. For some of that time, were you the President of the
15 Board?

16 A. Yes.

17 Q. For how long?

18 A. One year.

19 Q. Beginning?

20 A. I would say beginning I guess December of '03. December
21 of '03.

22 Q. Are you represented by counsel today?

23 A. Yes.

24 Q. Who is that?

25 A. Mr. Thompson.

1 Q. How did he become your counsel in this matter?

2 A. How did he become our counsel in this matter? He became
3 our counsel when we voted -- the full Board voted to
4 authorize the use of his group as counsel.

5 Q. Prior to that -- when was that?

6 A. Within -- what is the date? I'm not exactly sure of the
7 exact date. It was within the last -- I guess in the
8 last 30 days, 60 days.

9 Q. Prior to that time, did Mr. Thompson or his law firm
10 represent the School District?

11 A. Prior to that time? No.

12 Q. Did the School District have any attorney/client
13 relationship with Mr. Thompson prior to --

14 MR. THOMPSON: Objection. Calls for legal
15 conclusion.

16 BY MR. ROTHSCHILD:

17 Q. -- prior to that time? Did you understand the School
18 District or the School Board to have an attorney/client
19 relationship with Mr. Thompson or his law firm prior to
20 the vote?

21 MR. THOMPSON: Same objection.

22 BY MR. ROTHSCHILD:

23 Q. You may answer.

24 A. Repeat it again.

25 Q. Did you understand the School District or School Board

1 to have an attorney/client relationship with
2 Mr. Thompson or his law firm prior to the time that the
3 Board voted to have the Thomas More Law Firm represent
4 the District and the Board in this lawsuit?

5 MR. THOMPSON: Same objection.

6 A. Is that something I answer?

7 MR. THOMPSON: Yes. Go ahead and answer it.

8 A. Prior? Prior meaning?

9 BY MR. ROTHSCHILD:

10 Q. Before that vote.

11 A. Not that I'm aware of.

12 Q. Had you communicated with Mr. Thompson or anyone at the
13 Thomas More Law Center prior to the vote?

14 A. Repeat that again.

15 Q. Did you have any communications with Mr. Thompson or his
16 law firm prior to when the Board voted to engage his law
17 firm to represent it?

18 MR. THOMPSON: Prior meaning before.

19 A. Yes.

20 BY MR. ROTHSCHILD:

21 Q. When did you have those communications?

22 A. A short period before that.

23 Q. Within a week?

24 A. Within a week?

25 Q. Prior to the vote.

- 1 A. Prior to the vote, probably.
- 2 Q. Other than that communication, have you had any
3 communications with Mr. Thompson or his law firm?
- 4 A. I'm not sure prior. I mean if you are asking me down to
5 specific minutes or days, I'm not sure.
- 6 Q. I am trying to understand. You had the vote in
7 December; correct? You voted to engage Mr. Thompson's
8 law firm; correct?
- 9 A. Well. That is why I said I believe that is what the
10 date was. It was in December, beginning of December.
11 But I am like off the top of my head, I just -- it
12 doesn't click into my head exactly what the date -- the
13 actual date of it was.
- 14 Q. That is fine. If you don't remember the exact date, you
15 can estimate or tell me the month.
- 16 A. That is why I say within 30 to 60 days.
- 17 Q. You had that vote?
- 18 A. Yes.
- 19 Q. Prior to today?
- 20 A. Yes.
- 21 Q. Prior to that vote, you also had communications with
22 Mr. Thompson?
- 23 A. Yes.
- 24 Q. And when was that in relationship to the vote?
- 25 A. Just a short period before that.

- 1 Q. Was that communication a short period before the vote
2 the only time you had spoken to Mr. Thompson or his law
3 firm?
- 4 A. Basically, yes.
- 5 Q. When you say basically, is there --
- 6 A. I'm not exactly sure. I mean I have only discussed this
7 with him for a short period of time before we voted to
8 have him on.
- 9 Q. Prior to that, you never talked to the man?
- 10 A. No.
- 11 Q. Or anyone else at his law firm?
- 12 A. Not that I recall, no.
- 13 Q. Do you know whether any other members of the Board had
14 communicated to Mr. Thompson or his law firm prior to
15 the vote -- or let me -- prior to November, 2004?
- 16 A. I was told that, yes.
- 17 Q. What were you told?
- 18 A. That Bill Buckingham had communicated with him.
- 19 Q. How did you find that out?
- 20 A. How did I find that out? He mentioned something at a
21 Board meeting.
- 22 Q. Have you ever had your deposition taken before?
- 23 A. No.
- 24 Q. Have you ever testified at a trial?
- 25 A. At a trial? I don't believe. Well, not like this, no.

1 Q. Have you testified in any kind of proceeding where you
2 were asked to testify under oath?

3 A. Yes.

4 Q. What was that?

5 A. At Magistrate hearings.

6 Q. What were the circumstances that you testified at
7 Magistrate hearings?

8 A. Rental, landlord/tenant.

9 Q. During the course of this deposition, I am going to ask
10 you questions as I have already started doing, and you
11 are going to give me answers. And Ms. Fox, the court
12 reporter, will record our questions and answers.

13 In order to make that as easy as possible for her
14 and to have a clear record, one thing I am going to try
15 to do is speak more slowly. I would also ask that you
16 wait until my questions are finished before you answer.
17 And I will try to do the same for you. I will wait
18 until your answers are done before I ask my next
19 question.

20 A. Before we go on to that, can I take a quick second? I
21 wanted to ask my attorney something, just quickly if I
22 could.

23 MR. THOMPSON: Sure.

24 (The witness and his attorney confer outside the
25 conference room.)

1 A. Before we go on, I just wanted to make a correction, but
2 just an addition. You asked about meeting with
3 Mr. Thompson. We did meet with Mr. Thompson before the
4 meeting that we voted on his firm and talked to him in
5 executive session.

6 BY MR. ROTHSCHILD:

7 Q. Okay. Thank you. Just continuing my general deposition
8 instructions, when you answer, I need you to answer
9 audibly and in words. The kind of gestures or
10 utterances we make that are not words that we would
11 understand in normal conversation may not come out in
12 the clear record in the transcript. As you have been,
13 just please continue to use words in response to my
14 questions.

15 A. Okay.

16 Q. As you have just done, you are always entitled to take a
17 break if you need to talk to your attorney or otherwise
18 take a rest from the process. Let me know, and we will
19 do that.

20 Did you do anything to prepare for the deposition?

21 A. Prepare as far as?

22 Q. Did you do anything to get ready?

23 A. I just read over these, the Complaints and responses.

24 (Deposition Exhibits P-1 and P-2 were introduced.)

25

1 BY MR. ROTHSCHILD:

2 Q. I am just going to go ahead and give you Plaintiff
3 Exhibit 1, which is the complaint filed by the
4 Plaintiffs and Plaintiff Exhibit 2, or P-2, which is the
5 Answer that was provided to us by your counsel today.

6 Is that what you are referring to when you are
7 talking about the Complaint and the response?

8 A. I believe so.

9 Q. When was the first time that you read the Answer?

10 A. The first time I read the Answer? Read this particular
11 paper?

12 Q. Yes.

13 A. Yesterday.

14 Q. Had you read earlier drafts of the document before
15 yesterday?

16 A. No.

17 Q. Did you review the entire Answer?

18 A. I have looked -- I pretty much went over the entire
19 document, yes.

20 Q. Were there any statements made in that document that you
21 believe were incorrect?

22 A. No.

23 Q. Other than reading the Complaint and the Answer, what
24 else did you do to prepare for the deposition?

25 A. What else did I prepare? I looked through the Of Pandas

1 and People book again. And that is basically what I
2 did. Looking through, I mean if there were any papers
3 that have been here that accumulated from Board meetings
4 and things like that. Other than that, that is pretty
5 much it.

6 Q. Did you meet with counsel?

7 A. Yes.

8 Q. When did you meet with counsel?

9 A. Last evening.

10 Q. How long did you meet with counsel?

11 A. A few hours.

12 Q. What attorneys were present?

13 A. Mr. Thompson and Mr. Gillen.

14 Q. Was anybody else present?

15 A. Any other --

16 Q. Anybody else, period, present at that session?

17 A. Yes.

18 Q. Who?

19 A. Dr. Nilsen, Sheila Harkins, Bill Buckingham, me of
20 course, and Mike Baksa.

21 Q. You referred to the book Pandas, and you said you had
22 looked at it again?

23 A. Just scanned it.

24 Q. When was the first time that you -- when did you first
25 become aware of the book Of Pandas And People?

- 1 A. A few months ago.
- 2 Q. Can you --
- 3 A. I don't know the exact date.
- 4 Q. Was it in the summer?
- 5 A. I'm not sure.
- 6 Q. Are you aware that 60 copies of this book were donated
- 7 to the School District?
- 8 A. Yes.
- 9 Q. Who donated those books to the School District?
- 10 A. I don't know.
- 11 Q. You don't know?
- 12 A. No, I don't. The question again?
- 13 Q. Who donated those books?
- 14 A. Who donated the books? They wanted to remain anonymous.
- 15 Q. Do you know who donated them?
- 16 A. Do I know the people that donated them?
- 17 Q. Yes.
- 18 A. I don't know -- I don't know all the people that donated
- 19 them, no.
- 20 Q. Do you know any of people who donated them?
- 21 A. One.
- 22 Q. Who was that?
- 23 A. Donald Bonsell.
- 24 Q. Who is that?
- 25 A. He is my father.

- 1 Q. Do you know the names of anybody else who donated these
2 books?
- 3 A. No.
- 4 Q. How did you become aware that these individuals,
5 including your father, intended to donate the books?
- 6 A. Repeat that again.
- 7 Q. How did you become aware that your father, as well as
8 other individuals, intended to donate the Pandas books
9 to the District?
- 10 A. I believe the offer was made after there was complaints
11 of using School District money.
- 12 Q. Using School District money for what?
- 13 A. To buy the books. I believe --
- 14 Q. Who was the offer made to?
- 15 A. I'm not sure.
- 16 Q. When was the first time you became aware of the offer to
17 donate the books?
- 18 A. After the complaint. The complaint from I believe it
19 was from Barrie Callahan.
- 20 Q. How did you become aware of the offer?
- 21 A. I'm not sure of the exact way I became aware of it.
- 22 Q. Did your father say anything to you?
- 23 MR. THOMPSON: About what? Objection, vague.
- 24 BY MR. ROTHSCHILD:
- 25 Q. Did your father say anything to you about his intention

- 1 to donate books or his offer to donate books to the
2 School District?
- 3 A. I am sure there was something said.
- 4 Q. This morning I took the deposition of School
5 Superintendent Nilsen. He testified that you
6 communicated to him the fact of this offer to donate the
7 Pandas book. Is that accurate?
- 8 A. That I was going to donate the books?
- 9 Q. That you communicated to Mr. Nilsen that the offer was
10 being made.
- 11 A. That is what I am saying. I don't remember exactly how
12 it came about. That's what I am saying.
- 13 Q. Did you communicate to Mr. Nilsen that an offer was
14 being made to donate Pandas to the District?
- 15 A. I'm not sure.
- 16 Q. Do you know where the Pandas books were purchased from?
- 17 A. No. I mean no.
- 18 Q. Did you contribute any money to the purchase of the
19 Pandas books that were donated to the School District?
- 20 A. No.
- 21 Q. Did you suggest to your father that he donate the books?
- 22 A. No.
- 23 Q. Did you request that he donate the books?
- 24 A. No.
- 25 Q. Was the first time you heard anything about a donation

- 1 when your father told you he intended to do it?
- 2 A. Repeat that again.
- 3 Q. Was the first time you became aware of any possible
- 4 donation when you father told you he intended to do it?
- 5 A. Well, he wasn't -- I mean as far as I know, he wasn't
- 6 the only person.
- 7 Q. You don't know who the other people are?
- 8 A. I don't know who the other people are.
- 9 Q. You have never spoken to anybody else who was involved
- 10 with the donation?
- 11 A. I don't know the other people.
- 12 Q. The only person you could have spoken to about the books
- 13 was your father; correct?
- 14 A. Yes. As far as donating the books, I guess they offered
- 15 to pay for the books. And they got the books and gave
- 16 them to the School District.
- 17 Q. They offered to whom? How was the offer communicated?
- 18 A. That is what I am saying. I am trying to think about
- 19 exactly how it was done. I don't remember exactly how
- 20 it was said or done.
- 21 Q. Prior to the offer to donate the books, had you heard of
- 22 the book Of Pandas And People?
- 23 A. Prior to the offer to donate the books, at the Board
- 24 meeting, I heard of the book.
- 25 Q. Prior to the time that the offer was made?

1 A. Yes.

2 (Deposition Exhibit P-3 was introduced.)

3 BY MR. ROTHSCHILD:

4 Q. Mr. Bonsell, I am going to show you a document that we
5 have marked as P-3.

6 MR. ROTHSCHILD: You should have a copy there,
7 Dick.

8 BY MR. ROTHSCHILD:

9 Q. Do you recognize that document?

10 A. Yes.

11 Q. What is that?

12 A. That is the Biology Curriculum Press Release from the
13 School District.

14 Q. Going down about two-thirds of the way down the page,
15 the first portion of italicized text which starts
16 students will be made aware of gaps and problems, do you
17 see that?

18 A. Yes.

19 Q. Do you recognize that to be the language that was added
20 to the biology curriculum as a result of the Board's
21 October 18th resolution?

22 A. Yes.

23 Q. Who prepared the text of this resolution?

24 A. Who prepared the text of the resolution?

25 Q. Who wrote it?

- 1 A. Put together by -- what would we call it -- the
2 curriculum subcommittee along with Mr. Baksa.
- 3 Q. Can we use the term Board of Curriculum Committee to
4 refer to --
- 5 A. It is a subcommittee.
- 6 Q. It is a subcommittee. We will call it the Board
7 subcommittee. This is a subcommittee dedicated to the
8 subject of curriculum?
- 9 A. Is a subcommittee of the whole.
- 10 Q. Subcommittee of the whole Board?
- 11 A. Yes. It is a subcommittee. It is not the whole Board.
12 It is a sub, a small -- a few Board members formed the
13 subcommittee.
- 14 Q. That subcommittee's responsibility is curriculum?
- 15 A. That is what they -- what do you mean responsibility?
16 I am not sure what you mean by that.
- 17 Q. The group that you just referred to, what do you call
18 it? What is the name you give them?
- 19 A. The curriculum subcommittee.
- 20 Q. What are the responsibilities of the curriculum
21 subcommittee?
- 22 A. They look over curriculum, books, that type of thing.
- 23 Q. Were you a member of the curriculum subcommittee at the
24 time this resolution was drafted?
- 25 A. I wasn't a member. I was President of the Board.

- 1 Q. In your role as President of the Board, did you have any
2 role or function with the subcommittee?
- 3 A. Well, the President de facto is sort of a member of all
4 of the subcommittees.
- 5 Q. Was it your practice as President of the Board to attend
6 the curriculum subcommittee meetings?
- 7 A. Sometimes.
- 8 Q. Did you have any -- did you participate in drafting this
9 resolution?
- 10 A. Yes.
- 11 Q. What other members -- individual members of the Board
12 participated in drafting this resolution?
- 13 A. There was Bill Buckingham, Sheila Harkins, Mike Baksa,
14 myself. And let me think if there was anybody else.
15 When you say drafting or input, are allowed input into
16 it? I am trying to get your full meaning of the
17 question.
- 18 Q. Who came up with the words that are in this resolution?
- 19 A. That probably would be it.
- 20 Q. Did anybody else who -- did any other people who are
21 perhaps not members of the Board or employees of the
22 School District have any role in preparing this
23 resolution?
- 24 A. We go through a whole -- did anybody else have a role in
25 this?

- 1 Q. Participate in any way.
- 2 A. Other Board members can participate. Teachers,
3 administrators participate.
- 4 Q. Anybody from outside of the District participate,
5 outside organizations?
- 6 A. Yes. On this one, there was -- I am not sure of the
7 exact terminology of it. I think it is somewhere in
8 here I read it. It was like an outside group that also
9 was given this statement to look at.
- 10 Q. What is the name of that outside group?
- 11 A. It is like the -- I am trying to think. I am not sure
12 of the exact name of it. It is a group that looks at
13 all these -- it is a group --
- 14 Q. Was it the Discovery Institute?
- 15 A. No, no, no. Here in the area. Here like the community,
16 you know.
- 17 Q. Is it like the citizen's curriculum committee?
- 18 A. Something like that, yes.
- 19 Q. Just to make sure we are on the same page, was there any
20 participation by any outside lawyers or outside group
21 like the Discovery Institute or anything fitting that
22 description?
- 23 A. No, no. Not for that. I mean we had our attorneys look
24 at all of that.
- 25 Q. At that time, your attorneys were Stock and Leader?

- 1 A. Yes.
- 2 Q. But nobody from outside the District was involved in
3 creating the language that's in this resolution?
- 4 A. No.
- 5 Q. Mr. Bonsell, in this resolution, the term Intelligent
6 Design is used. What do you understand Intelligent
7 Design to mean as used in this resolution?
- 8 A. Intelligent Design is a scientific theory.
- 9 Q. Do you know anything -- do you understand Intelligent
10 Design to mean anything more than it is a scientific
11 theory as used in this resolution?
- 12 A. I have done some reading on it. And I have seen that it
13 is a scientific theory that differs from Darwin's
14 Theory.
- 15 Q. How does it differ from Darwin's Theory?
- 16 A. How does it differ? From what I have read and from the
17 scientists that I have read about, basically Darwin -- I
18 mean this is very generalized. But Darwin is everything
19 basically happened by chance. Where Intelligent Design
20 says that it didn't happen that way. It was the
21 opposite theory.
- 22 Q. How did it happen if it didn't happen by chance?
- 23 A. I can't answer that.
- 24 Q. The reading you did, when did you do this reading?
- 25 A. I read different things over a number of years.

1 Q. About Intelligent Design?

2 A. About Intelligent Design, about Darwinism. I like to
3 read on all different subjects.

4 Q. What materials did you read to educate yourself about
5 Intelligent Design prior to the time this resolution was
6 passed?

7 A. Just various books on the subject. I don't know the
8 names off the top of my head. But what stuck with me,
9 I am not worried so much about the book titles is what
10 information that I get from them.

11 With the scientists, a lot of world renowned
12 scientists believe in this theory.

13 Q. Are you aware that the Pandas book states that life
14 itself owes its origin to a master intellect?

15 A. I didn't read that.

16 Q. Were you aware that that is part of what Intelligent
17 Design asserts?

18 A. Who said that Intelligent Design says that?

19 Q. It is in the book you have accepted.

20 MR. THOMPSON: Would you show him the page?

21 MR. ROTHSCHILD: Sure.

22 BY MR. ROTHSCHILD:

23 Q. On page 58, it is yellow tabbed.

24 A. Right here?

25 Q. Yes.

- 1 A. All right.
- 2 Q. Prior to reading that text, was it your understanding
3 that part of Intelligent Design was the assertion that
4 there was a master intellect?
- 5 A. Not necessarily.
- 6 Q. Do you understand Intelligent Design to involve the
7 actions of an intelligent designer?
- 8 A. Not necessarily.
- 9 Q. How does Intelligent Design occur without the actions of
10 an intelligent designer?
- 11 A. You are asking me to speculate on science. This says
12 the parallel strongly suggests. It doesn't say that it
13 does.
- 14 Q. What do you understand the term intelligent means in the
15 statement Intelligent Design?
- 16 A. Intelligent versus chance. I mean it is life is much
17 too complex to have happened strictly by chance.
- 18 Q. So what is the alternative? What is your understanding
19 of what the alternative is?
- 20 A. That it is complex and somehow was designed.
- 21 Q. By who?
- 22 A. I can't answer who or what or by that. I don't know.
- 23 Q. Do you understand the reference to an intelligent
24 designer to be a reference to God?
- 25 MR. THOMPSON: Objection. That calls for a

1 conclusion. And I am not sure where -- are you getting
2 it from that book?

3 MR. ROTHSCHILD: Getting what from that book?

4 MR. THOMPSON: That question.

5 MR. ROTHSCHILD: No. I am asking him is it his
6 understanding.

7 MR. THOMPSON: He has already answered the
8 question.

9 MR. ROTHSCHILD: No, he hasn't.

10 MR. THOMPSON: Asked and answered.

11 BY MR. ROTHSCHILD:

12 Q. You can answer the question.

13 A. Repeat the question.

14 Q. Do you understand the intelligent designer to be God?

15 A. Not necessarily.

16 Q. What are the alternatives? If the intelligent designer
17 was not God, what are the alternatives?

18 A. Something that science hasn't found yet. That is why it
19 is a theory.

20 Q. What was the Board's purpose in passing the resolution
21 amending the biology curriculum?

22 A. To make a level playing field when it comes to
23 scientific discussion.

24 Q. What do you mean by a level playing field?

25 A. Well, it is because these are only theories. We want

1 our children to critically think. Science is, you know,
2 the search for truth. So why wouldn't you want to --
3 and the thing is too that we are not requiring the
4 teaching of any of this anyway.

5 Q. Why do you say you are not requiring the teaching?

6 A. That is exactly what it says in our release. We are not
7 teaching it.

8 Q. What do you understand the school teachers will be doing
9 in class as a result of the change in the biology
10 curriculum?

11 A. They will be doing exactly what it says in here. They
12 will be reading a statement to them.

13 Q. And in your view, is reading that statement teaching or
14 not teaching?

15 A. No. It is not teaching.

16 Q. When the students hear that statement, will they be
17 learning?

18 A. They will be being made aware of.

19 Q. Will they be learning, Mr. Bonsell?

20 MR. THOMPSON: He has answered the question.

21 Asked and answered.

22 BY MR. ROTHSCHILD:

23 Q. You may answer the question.

24 A. They will be made aware of.

25 Q. Will they be learning or not learning, Mr. Bonsell?

1 MR. THOMPSON: Objection, asked and answered. You
2 are getting argumentative. You have asked the same
3 question over and over again.

4 MR. ROTHSCHILD: I have not. I am asking for an
5 answer to my question.

6 MR. THOMPSON: He just said he would be aware of
7 is what he means it is, and it is not teaching.

8 BY MR. ROTHSCHILD:

9 Q. In your view, Mr. Bonsell, as a member of the School
10 Board, when the students hear the statement that you are
11 requiring teachers to read, will be learning or not
12 learning?

13 A. In what context do you mean?

14 Q. Mr. Bonsell, did you go to school?

15 A. Did I go to school?

16 Q. Yes.

17 A. Yes.

18 Q. Is that a yes?

19 A. Yes.

20 Q. Did you learn in school?

21 A. Yes.

22 Q. Do you understand what the word learn means?

23 A. To be taught, to teach. That is why I am saying. I
24 need to know what your definition of that is because I
25 am not going to get caught in these --

1 Q. I am going to ask you the same question. If you are not
2 able to answer, please tell me.

3 When the students hear the statement that you are
4 requiring school teachers to read, will they be
5 learning?

6 MR. THOMPSON: Asked and answered. Objection.
7 Asked and answered several times now.

8 A. So what do we do?

9 MR. ROTHSCHILD: He has objected.

10 MR. THOMPSON: I have objected. He has answered
11 the question. He said it is not learning. It is making
12 aware of.

13 You don't like his answer, but you can't keep on
14 asking the same question.

15 MR. ROTHSCHILD: He didn't say it was not
16 learning.

17 MR. THOMPSON: It is not learning.

18 BY MR. ROTHSCHILD:

19 Q. Is that your answer?

20 A. If learning is teaching, no.

21 Q. I want a yes or no. Are they learning or not learning?

22 A. Like what I just said, if your definition of learning is
23 teaching, then no.

24 Q. Nobody's definition of learning is teaching. I am
25 asking what the students are doing. Are they learning

1 when they hear that statement?

2 MR. THOMPSON: Objection, asked and answered. You
3 are now being argumentative.

4 BY MR. ROTHSCHILD:

5 Q. Unless your attorney instructs you not to answer, you
6 are required to answer my question.

7 MR. THOMPSON: I instruct him not to answer it.
8 You have asked him several times. You are being
9 argumentative. The record reflects the number of times
10 you have asked him the same question.

11 MR. ROTHSCHILD: You are instructing him not to
12 answer?

13 MR. THOMPSON: I am instructing him not to answer.

14 MR. ROTHSCHILD: On what basis?

15 MR. THOMPSON: On the basis you are now merely
16 annoying, harassing and being argumentative with the
17 client. He has answered your question several times.
18 You don't like the answer so you keep on asking him the
19 same question.

20 MR. ROTHSCHILD: We will take it up with the
21 Court. I think that is an improper instruction not to
22 answer. There is no privilege.

23 MR. THOMPSON: Your questions are improper. You
24 are engaged in argumentative questions with the witness.
25 I think I have a responsibility not to allow this to

1 turn into that kind of a proceeding.

2 MR. ROTHSCHILD: Very well.

3 BY MR. ROTHSCHILD:

4 Q. You stated that the Board's purpose was to make a level
5 playing field. Did it have any other purpose besides
6 making a level playing field?

7 A. Which I said about having critical thinking in our
8 schools, and to take up this -- this is obviously why we
9 are here, because it is -- what is the word I am looking
10 for?

11 It's something -- well, another reason, too, is --
12 let me collect my thoughts here. We're responsible to
13 work with the community to teach our children. My
14 daughter is going to be in ninth grade next year, and I
15 want to be able to work with the teachers, with the
16 community, with the Board, with everyone to have our
17 kids be able to take up these issues and also to be able
18 to, like I said again, to critically think about them,
19 to search for the truth.

20 Q. Prior to the Board passing the resolution, in your view,
21 was there not a level playing field and were students
22 not allowed to critically think about scientific issues?

23 A. When there's theories and they are only teaching one
24 theory or showing one theory -- but, again, we are not
25 teaching these other theories, anyway. But at least by

1 reading this, the children know that there are other
2 theories out there, scientific theories.

3 Q. When you use the term scientific theory, what do you
4 mean?

5 A. As a theory or -- which?

6 Q. You used the term scientific theory. I want to
7 understand what you mean by that.

8 A. Well, Darwin's scientific theory, they have what they
9 believe is true, and they have evidence for that or what
10 they feel is evidence that points towards a theory.

11 It's the same way with any theory. It is
12 somebody's basically opinion and what scientific
13 evidence that they have that points towards their
14 theory, the theory being correct or not. There again,
15 but that is a theory.

16 Q. What do you base your opinion on that Intelligent Design
17 is also a scientific theory -- or that Intelligent
18 Design is a scientific theory?

19 A. What do I base it on? Well, like I said, the people I
20 read, some of the scientists such as Albert Einstein
21 believed in Intelligent Design. You have statistical
22 science, probability science that points to Intelligent
23 Design being the case and not by chance. You can look
24 at all different -- goodness. I don't know how much you
25 want.

- 1 Q. I guess I want to be more precise in my question. What
2 makes you conclude that it is a scientific theory as
3 opposed to something that scientists talk about?
- 4 A. Scientists talk about -- you are talking about
5 Intelligent Design now?
- 6 Q. Yes.
- 7 A. Scientists talk about Intelligent Design all the time.
8 I don't know as a scientific theory.
- 9 Q. Are you aware of any specific scientist who has said
10 Intelligent Design is a scientific theory?
- 11 A. Well, Albert Einstein. I believe I just read an article
12 -- I don't have the scientist's name, but I just read an
13 article from Rick Santorum, United States Senator, that
14 there was a paper that we should look into all these
15 different things. There were three hundred scientists
16 on this paper.
- 17 Q. Do you know whether those three hundred scientists have
18 said that Intelligent Design is a scientific theory?
- 19 A. No.
- 20 Q. If you were to find out that there were no scientists
21 that consider Intelligent Design a scientific theory,
22 would that cause you to reconsider whether Intelligent
23 Design should be presented alongside evolution a theory?
- 24 A. If there are no scientists? That isn't the case.
- 25 Q. If that were the case, would it cause you to reconsider

1 whether --

2 A. I would look at all of the information.

3 Q. And if after reviewing all of the information you came
4 to the realization that in fact nobody is presenting
5 Intelligent Design as a scientific theory, would that
6 cause you to reconsider presenting it as such to the
7 students at Dover?

8 MR. THOMPSON: Objection. Assuming facts not in
9 evidence. There is no indication that that is the case.

10 A. Again, we are not teaching it.

11 BY MR. ROTHSCHILD:

12 Q. I think I used the word presenting it. Would it cause
13 you to reconsider presenting Intelligent Design as a
14 scientific theory?

15 A. I would look at all of the information as I do with
16 everything.

17 Q. Is there any information that you could learn about
18 Intelligent Design that would cause you to reconsider
19 whether it should be presented alongside evolution as a
20 scientific theory?

21 A. Again, the question?

22 Q. Is there any information that you could learn that would
23 cause you to reconsider presenting Intelligent Design as
24 a scientific theory?

25 A. There's information everyday being brought forward. I

1 would look at all of the information.

2 Q. Is it your opinion that prior to passing this resolution
3 there was not a level playing field in the Dover School
4 District?

5 A. Not when you are teaching one theory as fact.

6 Q. What leads you to conclude that one theory was being
7 taught as fact?

8 A. If there is only one theory presented. But even --

9 Q. Is it your testimony if only one theory is being
10 presented, then it is being presented as fact? You
11 didn't finish issue your sentence.

12 A. I just wanted to say again, going back to this again
13 because your questioning is -- we aren't teaching
14 Intelligent Design.

15 Q. Let's put that subject aside. You said that the purpose
16 of the resolution -- one of the purposes was to create a
17 level playing field.

18 I am asking the question: Before this resolution
19 was passed, was there not a level playing field in the
20 Dover School District?

21 A. I don't believe so.

22 Q. Why is that?

23 A. Because, again, I want the kids to critically be able to
24 think about these things and learn. That is what
25 science is, a search for truth.

1 Q. Prior to this resolution being passed, was there any
2 prohibition against children critically thinking in
3 science class?

4 A. Was there any prohibition?

5 Q. Was there anything interfering with them critically
6 thinking?

7 A. I don't know.

8 Q. So why was this resolution necessary if there was no
9 impediment to children critically thinking before it was
10 passed?

11 A. I don't know. To the prohibition, I don't know. I'm
12 trying to understand your questions.

13 Q. You said that one of the purposes in passing this
14 resolution was to make a level playing field. And when
15 I asked you whether there was a level playing field, you
16 then turned to the issue of whether children were
17 allowed to critically think.

18 I am asking you was there any anything stopping
19 them from critically thinking before that resolution was
20 passed?

21 A. When I say critically think is to -- there's other
22 theories except one theory out there. I'm not sure I
23 understand your question to answer it properly I guess.

24 Q. Okay.

25 A. I am trying to.

- 1 Q. Where do you live, Mr. Bonsell?
- 2 A. My address?
- 3 Q. Do you live in Dover Township?
- 4 A. Yes.
- 5 Q. How long have you lived in Dover?
- 6 A. Oh, my goodness! I have lived in Dover 25 years.
- 7 Q. What do you do for a living?
- 8 A. I am self-employed.
- 9 Q. What do you do?
- 10 A. I have an auto repair shop.
- 11 Q. Have you had any other careers besides owning the auto
- 12 repair shop during your adulthood?
- 13 A. Careers?
- 14 Q. Job.
- 15 A. I was a real estate agent right out of college.
- 16 Q. Anything else?
- 17 A. Not really, no.
- 18 Q. Did you graduate from college?
- 19 A. Yes.
- 20 Q. What school?
- 21 A. I graduated from York College.
- 22 Q. What was your major?
- 23 A. Business.
- 24 Q. Did you take any science classes at York College?
- 25 A. I'm sure.

- 1 Q. Do you remember what they were?
- 2 A. Not off the top of my head, no.
- 3 Q. What year did you graduate?
- 4 A. '82.
- 5 Q. Do you read -- regularly read any newspapers?
- 6 A. Yes.
- 7 Q. What newspapers do you read?
- 8 A. The Dispatch.
- 9 Q. Anything else?
- 10 A. Occasionally, The Daily Record.
- 11 Q. Mr. Bonsell, you are aware there has been quite a bit of
- 12 reporting about the issue of the biology curriculum in
- 13 both The York Dispatch and York Daily Record?
- 14 A. Yes.
- 15 Q. Have you made a point of reading the articles about the
- 16 subject?
- 17 A. I have read quite a few of them.
- 18 Q. Have you ever contacted any of the newspapers to advise
- 19 them that they had misquoted you or misrepresented
- 20 statements you had made?
- 21 A. Oh, yeah.
- 22 Q. When have you done that?
- 23 A. Numerous times I have talked to reporters and told them
- 24 that what they have written is not writing it correctly.
- 25 What was said wasn't said, you know. Things reported

- 1 weren't even discussed. So yeah.
- 2 Q. Have you asked any newspaper to issue a correction or
3 retraction?
- 4 A. I have said things to the reporters, but they have never
5 done a retraction, no.
- 6 Q. Have you specifically asked them to do a retraction?
- 7 A. I know I talked about the one telling the -- hold on a
8 second. I talked to the one reporter from The Dispatch
9 about a report that she had written -- or I should say
10 the newspaper wrote that was not factual. And she said
11 yes, she tried to get a retraction, but they wouldn't
12 retract it.
- 13 Q. Do you remember what the subject matter of that article
14 was?
- 15 A. It had to do with our high school building.
- 16 Q. Not the biology curriculum?
- 17 A. Not in this particular case, no.
- 18 Q. Let's limit the subject matter to the biology
19 curriculum.
- 20 A. Okay, the biology curriculum.
- 21 Q. Have you ever asked any newspaper to issue a correction
22 or retraction for anything they reported about the
23 biology curriculum?
- 24 A. I have asked them to report it correctly. I have asked
25 them to quit reporting the wrong things all the time and

1 given them examples. So if that is what you mean, I
2 have done that numerous times.

3 Q. Have you ever asked any paper to actually issue a
4 retraction or a correction?

5 A. The paper itself? I have asked them to do it. I have
6 asked the newspaper reporters.

7 Q. I am including reporters as part of the paper. Have you
8 actually said can you please correct what you said or
9 retract what you said?

10 A. I said please correct what you are saying and put in
11 what is really being said and done at the school.

12 Q. Have you ever told any of the reporters over at the
13 newspaper itself that you personally were being
14 misquoted or that statements you made were being
15 misrepresented?

16 A. Statements that I -- I would have to say yes.

17 Q. Can you remember any specific statements?

18 A. It is just like I said, when all these newsletters and
19 things that you are saying about, things they reported
20 about or we have said or whatever and inserted words
21 that weren't -- I mean have different meanings. Things
22 are taken out of context, only reporting part.

23 You know if you say two sentences, and they only
24 report one, you can make what was said totally
25 different. Different things along those lines.

1 Q. But have you ever asked the reporter please correct
2 something you reported I said because I didn't say that,
3 or I didn't say it that way?

4 A. I have asked reporters -- I mean I have asked reporters
5 to change what they are reporting because what we voted
6 on, what we did, what we are talking about is not what
7 they are reporting. So I am sure I would be in that of
8 what is being said.

9 Q. Did you ever write to any reporter or the newspaper and
10 ask and state in writing that they had reported
11 something incorrectly?

12 A. I went right straight to the reporter that has his name
13 on the article.

14 Q. That is fine. But I am asking did you do it in writing?

15 A. Did I do it in writing?

16 Q. Yes.

17 A. In this particular subject?

18 Q. On the subject of the biology curriculum.

19 A. I don't recall doing it in writing.

20 (Deposition Exhibit P-4 was introduced.)

21 BY MR. ROTHSCHILD:

22 Q. Mr. Bonsell, I am going to give you a collection of
23 documents we have marked as P-4. They are a collection
24 of articles I believe all from The York Dispatch and The
25 York Daily Record. I am not representing that they are

1 every single item that was written on the subject, but
2 we have tried to be comprehensive.

3 MR. ROTHSCHILD: Dick, you should have a copy.

4 MR. THOMPSON: I think I have seen those. I will
5 just look over his shoulder.

6 BY MR. ROTHSCHILD:

7 Q. I am going to ask you to look at some of the articles in
8 this collection.

9 A. Okay.

10 Q. If you could turn a few pages to the June 9th, 2004 York
11 Daily Record Article.

12 A. (Witness complies.)

13 Q. Written by Maldonado.

14 A. Is it June 9th?

15 Q. Is Mr. Maldonado one of the reporters you have spoken to
16 about reporting things incorrectly?

17 A. Yes.

18 Q. This article refers to a Monday night Board meeting -- a
19 Monday night Board meeting before June 9th, 2004. Do
20 you see that in the first paragraph?

21 A. High school Monday night Board meeting, yes, okay.

22 Q. At the bottom of the page, there is a statement
23 attributed to you. It says Board President Alan Bonsell
24 disagreed. And it is disagreeing with something that a
25 student said saying there were only two theories

- 1 Creationism and evolution that could possibly be taught.
- 2 He said as long as both were taught as theories, there
- 3 would be no problems for the District.
- 4 A. I didn't say that. What is your question? I am sorry.
- 5 Q. Were you aware that this statement was reported in the
- 6 newspaper?
- 7 A. I'm not sure in this particular case.
- 8 Q. Did you say at that meeting that there were only two
- 9 theories that could possibly be taught, Creationism and
- 10 evolution?
- 11 A. I didn't say Creationism. I never have.
- 12 Q. It says that your -- is it your testimony that you have
- 13 never talked about Creationism in a School Board
- 14 meeting?
- 15 A. Not in this context. I did not say that, no.
- 16 Q. Have you ever raised --
- 17 A. Not that I recall.
- 18 Q. Let me finish my question.
- 19 A. I am sorry. I thought you were repeating the question
- 20 you just said.
- 21 Q. Have you ever discussed the issue of Creationism at a
- 22 public Board meeting?
- 23 A. No.
- 24 Q. Have any Board members discussed the issue of
- 25 Creationism at School Board meetings, public School

1 Board meetings?

2 A. Clarify that a little bit more. What do you mean has
3 anybody?

4 Q. Has anybody brought up the subject?

5 A. Mentioned the word?

6 Q. Has anybody brought up the subject of teaching
7 Creationism in the Dover schools?

8 A. I don't recall.

9 Q. At the bottom of the page, there is a quote attributed
10 to Mr. Buckingham -- this country wasn't founded on
11 Muslim beliefs or evolution. This country was founded
12 on Christianity, and our students should be taught as
13 such.

14 Are you aware of whether Mr. Buckingham made that
15 statement?

16 A. I'm not. No, I am not aware. It was after the meeting.

17 Q. Turn to the next article.

18 A. (Witness complies.)

19 Q. Again, this is a reference to the Monday night Board
20 meeting?

21 A. The same one?

22 Q. The article is the next day so I think it is a fair
23 inference. It says Board members Alan Bonsell, Noel
24 Wenrich and Buckingham spoke aggressively in favor of
25 having a biology book that includes theories of creation

1 as part of the text.

2 Were you aware that that was reported?

3 A. I'm not sure if it was reported or not reported. You
4 have it looks like many more articles than I have read.

5 Q. Did you speak aggressively -- did you speak in favor of
6 having a biology book that includes theories of
7 creation?

8 A. No.

9 Q. Did Mr. Wenrich?

10 A. I don't believe he did either.

11 Q. Did Mr. Buckingham?

12 A. From what I am reading in this context, I don't -- they
13 are saying the three of us spoke aggressively. I don't
14 recall. I'm not sure.

15 Q. During this time period June 10th, 2004, was the School
16 District in the process of selecting and purchasing a
17 new biology textbook?

18 A. At what time?

19 Q. During that time period June, 2004.

20 A. Yes. Over the summer, they were looking into the
21 possibility of purchasing another textbook.

22 Q. Had the science faculty recommended a textbook?

23 A. The science faculty did recommend a textbook.

24 Q. Was the textbook they recommended the one that was
25 ultimately purchased, the Miller and Levin textbook?

- 1 A. Yes.
- 2 Q. During the process of selecting the book, did the Board
3 or any committee of the Board ever undertake to find a
4 different biology textbook for the school than the one
5 that the faculty had recommended?
- 6 A. I wasn't in those meetings. I don't know if they did or
7 they didn't.
- 8 Q. Was there any effort to find any book that included
9 Creationism as part of the text?
- 10 A. There again, I wasn't in those meetings that would have
11 done something like that. You are asking me to
12 speculate. So I mean if you are asking that question,
13 if I am speculating, I would say no.
- 14 Q. If you don't know --
- 15 A. I don't know.
- 16 Q. Just to be clear, Mr. Bonsell, if you don't know at all,
17 that is what you should answer. If you know because
18 somebody told you it was discussed at a meeting, then
19 you should -- then --
- 20 A. Okay.
- 21 Q. I want to know if you know that.
- 22 A. Okay.
- 23 Q. Do you know not from participating in a meeting, but
24 from other sources that there was an effort to look for
25 a textbook that included Creationism?

1 A. Not that I recall. Could I just take a quick second
2 break? I just want to ask my attorney one other
3 question?

4 MR. THOMPSON: Sure.

5 (The witness and his attorney exit the conference
6 room to confer.)

7 BY MR. ROTHSCHILD:

8 Q. Mr. Bonsell, if you could turn to page -- to the June
9 15th article in the York Dispatch by Heidi
10 Bernhard-Bubb.

11 A. (Witness complies.)

12 Q. Okay?

13 A. Okay.

14 Q. Is Ms. Bernhard-Bubb another one of these reporters who
15 gets stuff wrong about the biology curriculum issue?

16 A. Yes.

17 Q. At the very beginning of her article, it says nearly a
18 hundred Dover residents and teachers attended last
19 night's School Board meeting to continue debating
20 whether Creationism should taught alongside evolution in
21 the high school's biology curriculum.

22 Does this article accurately report that
23 Creationism was being debated at School Board meetings?

24 A. Absolutely not.

25 Q. There was no discussion about Creationism?

- 1 A. No.
- 2 Q. So as we look through these articles -- this
3 uninterrupted series of articles about June meetings
4 that talk about Creationism being debated at the School
5 Board meetings and statements made by School Board
6 members, including yourself, about Creationism, all of
7 those are just fabricated?
- 8 A. Fabricated?
- 9 Q. Yes, fabricated.
- 10 A. Fabricated? You mean she just made them all up, is that
11 what you mean?
- 12 Q. There's a lot of statements in here about people talking
13 about Creationism. I think you are suggesting to me it
14 never happened.
- 15 A. All this debate about Creationism, yes, that never did
16 happen. It was not a debate about Creationism.
- 17 Q. Was there debate about the biology book in these
18 meetings?
- 19 A. I believe there was a debate about biology books at
20 different meetings.
- 21 Q. Were there debate about the biology books in the June
22 meetings?
- 23 A. I believe so.
- 24 Q. What was the nature of the debate? What was being
25 debated?

1 A. Of whether to buy this textbook or not.

2 Q. What were the competing positions in favor of and
3 against buying the textbook?

4 A. The thing is with all of the books, we look at to see if
5 they need to be bought or not. The prior science book
6 that was bought, biology book, was picked by the
7 teachers. This was before I was here. It was picked by
8 the teachers, and then they never used it.

9 And so before we go buying a lot of books, we want
10 to make sure that this book they are going to use. And
11 anybody else -- any questions, the whole Board gets --
12 if anybody has questions about anything, they can ask
13 questions about it.

14 Q. Was the debate about this biology book just about
15 whether it was necessary to have a new book or was there
16 more to the debate?

17 A. I think there was more to the debate.

18 Q. Was the more to the debate include what the recommended
19 biology textbook had to say about the subject of
20 evolution?

21 A. About what it had to say? I believe one Board member
22 brought it up.

23 Q. What Board member was that?

24 A. Mr. Buckingham.

25 Q. What did Mr. Buckingham have to say about this portrayal

- 1 of evolution in the biology textbook being recommended
2 by the teachers?
- 3 A. I believe if I -- I don't know his precise words. They
4 wanted to continue looking for another book. Continue
5 looking I guess.
- 6 Q. What was it about the text on the subject of evolution
7 that caused Mr. Buckingham to want to look for a
8 different book?
- 9 A. I'm not sure exactly what he said.
- 10 Q. Can you remember any issues he identified about the
11 evolution section of the textbook?
- 12 A. Just that that was one of the things he was concerned
13 about.
- 14 Q. What were the nature of his concerns?
- 15 A. I'm trying -- what I remember is just about the
16 evolutionary part of it.
- 17 Q. It was scientifically wrong?
- 18 A. I don't know. I'm not sure all what he said about it.
- 19 Q. So you can't remember anything he said about it, but you
20 are sure all this discussion about Creationism is just
21 made up?
- 22 A. I am sure about that. I mean you have to ask
23 Mr. Buckingham what he said.
- 24 Q. If you could go to the next page of that article, four
25 full paragraphs down, a statement is attributed to Mr.

1 Buckingham -- nearly two thousand years ago, someone
2 died on a cross for us. Shouldn't we have the courage
3 to stand up for him?

4 Did Mr. Buckingham make that statement?

5 A. I'm not sure he said that. I'm not sure he said that at
6 this meeting.

7 Q. Do you recall him saying -- making that statement at any
8 School Board meetings? It is a pretty powerful
9 statement to say at a School Board meeting.

10 A. I don't think it has to do with what we are talking
11 about, not.

12 Q. Do you think he made that statement at a meeting?

13 A. I'm not positive. I think he said something along those
14 lines, but I don't believe it was -- it had to do with
15 this.

16 Q. What do you believe it had to do with?

17 A. There was a year ago -- before this, there was another
18 discussion on the pledge, but this was the year before.

19 Q. You think he did make a statement along those lines
20 regarding the pledge?

21 A. To be honest, I'm not sure when he said it or if it --
22 if this is exactly what he said, I'm just not sure.

23 Q. Mr. Bonsell, do you take notes during School Board
24 meetings?

25 A. Do I take notes?

1 Q. Yes.

2 A. I guess occasionally, I would. It's not -- I don't
3 believe -- it is not a habit, no.

4 Q. What do you do with those notes after the meeting?

5 A. Most of the time, I throw them out.

6 Q. Do you ever keep them?

7 A. Do I ever keep any note that I have ever written? It is
8 possible. But it is not something I do normally.

9 Q. After the two thousand years ago statement, there is
10 again another statement suggesting that you and
11 Mr. Wenrich agreed with Mr. Buckingham that Creationism
12 should be taught to balance evolution?

13 A. I did not say Creationism should be taught, no. I don't
14 believe that is what Noel said either I don't believe.

15 Q. After that, there is a statement attributed to Mr.
16 Buckingham that the liberal agenda was chipping away at
17 the rights of Christians in this country.

18 Do you know if he made that statement?

19 A. I'm not sure if he said that or not.

20 Q. After that, there are remarks attributed to
21 Mr. Buckingham's wife Charlotte on the subject of
22 Creationism.

23 Do you remember her saying what is attributed to
24 her in the article?

25 A. I remember Mrs. Buckingham coming up and talking at

1 public comment, but I don't remember what she said.

2 Q. What efforts did the Board make to find a different
3 biology book than the book recommended by the teachers?

4 A. I'm not sure. You have to ask the biology subcommittee.

5 Q. The biology subcommittee?

6 A. I am sorry, the curriculum subcommittee.

7 Q. I didn't think you had that many.

8 A. There's so many words.

9 Q. During your tenure as President, was it your practice to
10 attend curriculum subcommittee meetings?

11 A. Just like I said, just occasionally.

12 Q. Other than the public School Board meetings and
13 curriculum committee meetings, was it your experience
14 that individual members of the Board would get together
15 to discuss issues relating to Board business?

16 Let's take a break after you answer that question.

17 A. Would you repeat it, again?

18 Q. In your experience, other than public Board meetings and
19 committee meetings, was it the practice of individual
20 members of the Board to get together on occasion to
21 discuss Board business?

22 A. You are talking about a group of Board members?

23 Q. Two members, three members. Not in any official
24 capacity, but --

25 A. Board members would discuss things on all sorts of

1 issues.

2 Q. Outside of the meetings and Board meetings and committee
3 meetings?

4 A. I would imagine, yes.

5 Q. You have had those kind of discussions?

6 A. Sure.

7 Q. Okay. Let's take a break.

8 (A recess was taken from 3:10 p.m. to 3:30 p.m.)

9

10

AFTER RECESS

11 BY MR. ROTHSCHILD:

12 Q. Mr. Bonsell, did the Board ask Mr. Baksa to look for
13 biology textbooks that could be used instead of the
14 Miller Levin book?

15 A. I believe -- I believe so.

16 Q. What instructions was Mr. Baksa given?

17 A. Just I believe just to see if there's any other books
18 out there to compare them to this book.

19 Q. These books are really big. What was he supposed to
20 look for that was different than the Miller book?

21 A. They were really big?

22 Q. These were really big books. What characteristics was
23 Mr. Baksa supposed to look for that he would look to
24 distinguish them from the Miller Levin book?

25 MR. THOMPSON: I object as a confusing and vague

1 question. When you say big, are you talking about the
2 size of the book?

3 MR. ROTHSCHILD: I will withdraw that part of my
4 question.

5 BY MR. ROTHSCHILD:

6 Q. What was Mr. Baksa supposed to look for that would
7 distinguish other books --

8 A. I believe it was just to look at other -- see if there
9 is other biology books out there, and see if any of them
10 would correspond that we could use besides this just to
11 have -- so there's more to choose from than just one.

12 Q. Was Mr. Baksa instructed to look at those textbooks in
13 terms of how they portrayed any particular subject
14 matter?

15 A. Well, first off, to make sure that they teach everything
16 that is mandated for us to teach, and also I believe to
17 look at the different books with the evolutionary
18 content of them, to see what other books have in them.

19 Q. And what was the Board looking to see? What difference
20 was it looking to see?

21 A. Just to see what was out there.

22 Q. Did Mr. Baksa report back about his search? Let me
23 withdraw that for a moment. Did the Board instruct Mr.
24 Baksa where he should do his search, how he should do
25 his search?

1 A. How he should do it? I don't recall that.

2 Q. Did Mr. Baksa report back to the Board?

3 A. From what I remember, he basically came back with this
4 particular book, this was the book. Although, we were
5 able to get an actually more up-to-date book. By doing
6 our search, we got a newer more up-to-date book by the
7 same company.

8 (Deposition Exhibit P-5 was introduced.)

9 BY MR. ROTHSCHILD:

10 Q. Mr. Bonsell, I am going to show you a document I have
11 marked as P-5. If you could, turn to page 55 in the
12 collection. This is a collection of the documents that
13 were produced to Plaintiffs by your counsel.

14 A. 000055?

15 Q. 000055, yes. Do you recognize that document?

16 A. I can't really make out what it says.

17 Q. I am sure you can make out some of it. Do you recognize
18 the printed text on the document?

19 A. I believe so.

20 Q. Do you recognize this to be the product of Mr. Baksa's
21 efforts to find other biology books?

22 A. I believe this is just part of his effort.

23 Q. What are we missing here?

24 A. I am not saying we are missing anything. I am just
25 saying you have to ask Mr. Baksa. I didn't -- I wasn't

- 1 there when he did the search.
- 2 Q. But you --
- 3 A. I guess I shouldn't guess. I'm not sure.
- 4 Q. Did you receive -- is this document something that you
5 were provided?
- 6 A. It looks familiar. I mean you have these many documents
7 here.
- 8 Q. I only have what your counsel has provided.
- 9 A. Sure. I understand that. What I am saying is there's a
10 ton of documents here. And this, I mean it looks
11 familiar.
- 12 Q. If you turn to page 44 in this same collection, you will
13 see that there is a different version of this without
14 the handwriting.
- 15 A. Okay.
- 16 Q. I will represent to you that these are the only
17 documents relating survey of biology books that are in
18 this document production.
- 19 A. Okay.
- 20 Q. Do you have any understanding of why the only survey of
21 biology books that is reported -- the only schools whose
22 biology books are being reported on here are private
23 denominational schools?
- 24 A. No.
- 25 Q. Was Mr. Baksa given an instruction to find out what

1 Christian schools are teaching or using?

2 A. Are you saying -- gee, again, I am sorry.

3 Q. Did the Board instruct Mr. Baksa to find out what the
4 private denominational schools are using?

5 A. I don't know if he was instructed to do it or he did
6 this on his own. I'm not sure.

7 Q. Can you think of any reason why Mr. Baksa would do a
8 search only of private denominational schools if he
9 hadn't been instructed to do that?

10 MR. THOMPSON: Objection. Offering facts not in
11 evidence, speculation. Go ahead and answer it.

12 A. Again?

13 BY MR. ROTHSCHILD:

14 Q. Do you have any understanding why Mr. Baksa would be
15 reporting only on the books used by private
16 denominational schools?

17 A. No. Are we done with these newsletters?

18 Q. For the time being. Mr. Bonsell, the first page in this
19 document production 000001 is a memo from Mr. Baksa to
20 yourself, Casey Brown, Bill Buckingham and Sheila
21 Harkins advising of a meeting of the Board curriculum
22 committee to discuss the biology curriculum.

23 Do you see that?

24 A. Yes.

25 Q. Is that a meeting you attended?

- 1 A. I'm not sure.
- 2 Q. If you could turn to page 36, there's a document setting
3 forth various proposed curriculum changes. I want you
4 to let me know when you are there.
- 5 A. October 7th?
- 6 Q. Yes.
- 7 A. Yes.
- 8 Q. Do you recognize this document?
- 9 A. Yes.
- 10 Q. What is this document?
- 11 A. It looks like it is a Board curriculum meeting.
- 12 Q. From the contents of the document, does this look like a
13 meeting that you attended?
- 14 A. It looks that way, yes.
- 15 Q. Does the information on this document reflect what was
16 discussed at that meeting?
- 17 A. Is that the only page? It looks correct.
- 18 Q. Is it fair to say that the subject matter being
19 discussed in this meeting was part of the process that
20 resulted in the October 18th resolution?
- 21 A. I believe so.
- 22 Q. And this indicates that the meeting occurred October 7th
23 which is the date that was scheduled on this first page?
- 24 A. Okay. That could be. I was looking at the date
25 September 28. I didn't look -- I am sorry.

- 1 Q. I am not trying to confuse you.
- 2 A. There is a lot of dates with all sorts of meetings and
3 subcommittees.
- 4 Q. Would you say this is a fair characterization, Mr.
5 Bonsell, that on September 28th Mr. Baksa scheduled a
6 meeting to occur on October 7th; on October 7th, there's
7 discussion of proposed curriculum changes; and
8 ultimately a curriculum change did occur as a result of
9 the resolution on October 18th?
- 10 A. The subcommittee proposes. It is the full Board that
11 would decide what does or doesn't get changed. All they
12 all -- because it is only a couple of people on the
13 curriculum committee that talk about it and bring
14 forward what they think is best. And the Board decides
15 at that point. They don't.
- 16 Q. I am not suggesting they decided. But that was
17 basically the course of events?
- 18 A. And you are saying the meeting was held on what? The
19 regular Board meeting was what?
- 20 Q. October 18th when the resolution was voted in.
- 21 A. Okay. That sounds right.
- 22 Q. What were the circumstances leading to the Board's
23 decision to discuss changing the curriculum? How did
24 you get there?
- 25 A. Discuss the changes of the curriculum?

- 1 Q. Why were you talking about this on October 7th? Whose
2 idea was it?
- 3 A. Well, everybody. It looks like different people had
4 different ideas on the subject -- very similar, but
5 close together the same ideas.
- 6 Q. Who initiated the subject matter? Why was there even a
7 discussion about changing the biology curriculum?
- 8 A. I guess it was to give the students to be aware of other
9 theories of evolution.
- 10 Q. Right. But where did the idea originate? Did you
11 propose it? Did Mr. Buckingham propose it? How did it
12 happen?
- 13 A. To be honest, I'm not sure what the exact -- you want
14 the exact time of who started it and what was said?
15 That, I can't tell you.
- 16 Q. I don't need exact, Mr. Bonsell. But somebody at some
17 point in this process said we need to change the biology
18 curriculum, let's have a meeting?
- 19 A. I think it was obviously the majority of the Board
20 because they voted on it to do it.
- 21 Q. Before this October 7th meeting -- people didn't show up
22 to this meeting with no idea of what was going to
23 happen. There was an intention to discuss the
24 curriculum; correct?
- 25 A. From the meeting -- from these meetings prior to this,

1 the Board meetings.

2 Q. Explain to me the process that led to changing the
3 curriculum. Where did the idea originate?

4 A. Going the whole way back to the books, looking at the
5 books, looking at the books that they had before that
6 they didn't use, this was all brought up through buying
7 the new books. That is when this all started from the
8 discussions back sometime over the summer. I'm not
9 sure.

10 I thought we already covered that with the books.
11 Then bringing that -- was it Prentice Hall? I am not
12 sure of the name of the book, the biology book, the
13 textbook that the kids were going to use.

14 Q. And when who initiated the idea of changing the biology
15 curriculum?

16 A. I guess through the curriculum subcommittee. I am
17 guessing.

18 Q. When you got a notice on September 28th to attend a
19 meeting to discuss the biology curriculum, did you have
20 any idea why a meeting was being held or was this a
21 complete surprise to you?

22 A. If I remember correctly, I knew what the meeting was
23 going to be.

24 Q. How did you know that?

25 A. I guess from discussions at meetings. I'm not -- there

1 again, I'm not sure.

2 Q. Do you know if Mr. Buckingham originated the idea of
3 changing the biology curriculum?

4 A. To be honest, I'm not sure if he was -- proposed the
5 changes.

6 Q. Let me go back to actually not 36, but 35.

7 A. On this?

8 Q. Yes. This document has four different recommendations.
9 One is attributed to the administration and staff. A
10 second is attributed to yourself, which is identical to
11 the staff's except for you add the word problems to
12 gaps. Two recommendations are by Casey Brown, and one
13 by Mr. Buckingham.

14 Does this document accurately reflect the
15 recommendation you made at this meeting?

16 A. I believe so.

17 Q. When did you prepare the language that was your
18 recommendation?

19 A. When did I prepare it?

20 Q. Yes.

21 A. Well, I believe part of this was an exchange during the
22 meeting. I'm not sure if all of this was done prior to
23 the meeting.

24 Q. So this was basically the position you related on at the
25 meeting that you would like to have in the biology

1 curriculum.

2 A. I believe so. That is what -- yes.

3 Q. Your recommended language says students will be made
4 aware of gaps/problems in Darwin's Theory.

5 What are the gaps and problems that you -- what
6 gaps and problems did you understand Darwin's Theory to
7 have when you proposed this curriculum change?

8 A. What problems?

9 Q. Yes.

10 A. Well, complexity problems. You have problems with
11 transitional fossils, being there is none. And all the
12 different steps with Darwinism to have to get from here
13 to there, and Darwin can't explain something coming from
14 nothing.

15 And with the scientists that I read about, with
16 the statistical problems with Darwin to get where he
17 wants, and plus Darwin's own words.

18 Q. What words are you referring to?

19 A. He had problems with the -- I believe it was the eye
20 that he basically -- I don't know verbatim. But
21 basically couldn't really explain how that happened, the
22 eye of any species.

23 Q. And then your proposed language continues students will
24 be made aware of other theories of evolution.

25 What were you referring to by other theories of

- 1 evolution?
- 2 A. Other theories that are out there.
- 3 Q. What theories are those?
- 4 A. You have -- I believe you have theories that I have
5 heard of. I believe the chaos theory. You have
6 Intelligent Design theory. There's people out there
7 that believe that we came -- aliens brought us here.
- 8 Q. Also people who believe in the strict interpretation of
9 the Bible?
- 10 A. There's people that believe that.
- 11 Q. Was it your intention that students be made aware of
12 that theory, the Biblical theory?
- 13 A. No, because that was one of the things I wanted to make
14 sure we didn't teach religion. That was absolutely,
15 positively we weren't teaching religion. And again,
16 what we are doing now, we are not teaching now either.
17 We are not teaching anything but what is required by the
18 state.
- 19 Q. I understand we have a disagreement about what teaching
20 is here.
- 21 A. Yes.
- 22 Q. But accepting your definition, why are you taking the
23 position that teachers can't teach Intelligent Design?
- 24 A. At this point what is mandated from the school -- from
25 the state is, you know, we are standards driven. We are

1 going to make sure that the kids get everything that is
2 supposed to be taught to them, that is required for them
3 from the federal government, from the state government,
4 what is mandated to us. We are going to make sure that
5 happens.

6 Q. Why not also teach Intelligent Design?

7 A. For one, you don't have time. And for one, we wanted to
8 make sure that people realize that we were just saying
9 there's other theories out there. If you want to learn
10 about them, go to the library and get a book. We are
11 not requiring it.

12 Q. What is your understanding of what a teacher is supposed
13 to do if a student goes and reads the book and asks her
14 questions in class?

15 A. Asks her questions in class? Well, the teacher is going
16 to inform them that they are going to have to go to
17 their parents, ask them their opinions on this matter.
18 Maybe go back to the book and read some more and get
19 some other information. She or he -- they are not going
20 to get into teaching that.

21 Q. Why?

22 A. Because that was what our -- what we said we were going
23 to do in our statement.

24 Q. If it is important for students to know about this, why
25 aren't you letting them talk about it?

- 1 A. I believe I just answered that. Because of the time
2 situation, and also we weren't going to get into the
3 possibility of teaching religion.
- 4 Q. So if the teachers answer questions about Intelligent
5 Design, there is the possibility that she would be
6 getting into religion?
- 7 A. No, not in Intelligent Design.
- 8 Q. That is what I was asking you about.
- 9 A. No, no. That is not religion. You asked me a while ago
10 about other things, about other theories.
- 11 Q. I am not asking about that now.
- 12 A. Please then be specific. I don't understand what you
13 said then. Reask the question again.
- 14 Q. I am asking you why if it is useful for the children to
15 hear about Intelligent Design, you don't allow them to
16 ask questions about it?
- 17 A. Why you don't allow them to ask questions about it?
18 Again, time constraints. And also, that was what the
19 Board wanted to do. That is what the majority of the
20 Board wanted. That is what the policy was.
- 21 Q. And I am asking you why that policy?
- 22 MR. THOMPSON: I think that has been asked and
23 answered a couple of times.
- 24 MR. ROTHSCHILD: No, it hasn't.
- 25 MR. THOMPSON: He said time limitations. Then he

1 said we have to teach to standards. I think he has said
2 those two things a couple of times now.

3 BY MR. ROTHSCHILD:

4 Q. Mr. Bonsell, could you turn to the exhibit, the press
5 release? Have I given that to you?

6 A. I think you took that back. It is in the back of one of
7 these. There it is. I still have it.

8 Q. If you turn to the second page -- or let me back up for
9 a minute. This is a press release of the School Board;
10 correct?

11 A. Yes.

12 Q. This is something the Board approved?

13 A. Yes.

14 Q. And you voted for it?

15 A. Yes.

16 Q. On the second page of the document, the Board states
17 School Districts are forums for inquiry and critical
18 discussions. And the District's revised biology
19 curriculum provides an opportunity for open critical
20 discussion -- the real heart of scientific practice.

21 Was that the Board's objective in approving the
22 biology curriculum?

23 A. Yes.

24 Q. How was that objective furthered by presenting
25 Intelligent Design and allowing no discussion of it?

- 1 A. Because it makes the students think. You know, instead
2 of being taught just -- you are being taught by a
3 mandate one theory. All this says is that there's other
4 theories out there, and if you want to learn about them.
5 And so this way if they are interested, it is just being
6 made aware of.
- 7 Q. But they are not allowed to engage in open, critical
8 discussion of them in the classroom?
- 9 A. I believe that is what it says, yes.
- 10 Q. One of the things the teachers are required to tell the
11 students is that Darwin's Theory is a theory and not a
12 fact; correct?
- 13 A. Because Darwin's Theory is a theory, it continues to be
14 tested as new evidence is discovered. A theory is not a
15 fact.
- 16 Q. What was the purpose in having teachers tell their
17 students that?
- 18 A. Because theories, number one, aren't facts. And number
19 two, it is the only theory being presented when there's
20 other theories out there.
- 21 Q. Is evolution the only scientific theory being taught to
22 Dover area students?
- 23 A. I am sorry. Again?
- 24 Q. Is Darwin's Theory the only scientific theory that is
25 taught to Dover students?

- 1 A. The only scientific theory when it comes to evolution?
- 2 Q. Any kind.
- 3 A. I don't know.
- 4 Q. You don't whether students are learning about any other
- 5 theories?
- 6 A. I don't know their whole science curriculum.
- 7 Q. Have you made any effort to find out what other theories
- 8 are being taught -- scientific theories are being taught
- 9 to Dover students?
- 10 A. Did I make any effort to find out what else is being
- 11 taught?
- 12 Q. Yes.
- 13 A. Not outside I mean of this subject now you are talking
- 14 about?
- 15 Q. Yes.
- 16 A. No.
- 17 Q. Do you require teachers to tell students that any other
- 18 scientific theory is a theory, not a fact?
- 19 A. I wouldn't know unless I looked at the curriculum.
- 20 Q. You haven't made any effort to determine whether that is
- 21 occurring or not?
- 22 A. No.
- 23 Q. You have only made sure that students are being told
- 24 that evolution is a theory, not a fact?
- 25 A. In this particular case, yes.

- 1 Q. That is the only -- so far as you know, that is the only
2 scientific theory that is being treated in that fashion?
- 3 A. I don't know that.
- 4 Q. You have made no effort to find that out?
- 5 A. I have not made an effort to find out.
- 6 Q. Do you understand the gravity is a theory?
- 7 A. I am sorry?
- 8 Q. Do you understand gravity is a theory?
- 9 A. It's a law.
- 10 Q. You don't believe gravity is a theory?
- 11 A. I believe gravity -- it is the law of gravity, not the
12 theory of gravity.
- 13 Q. Have you heard of germ theory?
- 14 A. Have I heard of it?
- 15 Q. Yes.
- 16 A. I don't recall.
- 17 Q. Have you ever heard of atomic theory?
- 18 A. Atomic theory? I believe.
- 19 Q. Do you understand the theory of evolution to be any less
20 well accepted in the scientific community than those
21 other theories?
- 22 A. I don't know enough about those other theories to
23 comment.
- 24 Q. Do you know what the Dover science faculty position is
25 about Intelligent Design -- about the presentation of

1 Intelligent Design?

2 A. In what aspect do you mean?

3 Q. Do you know what their position is about the curriculum
4 item that requires them to present Intelligent Design as
5 a different theory than evolution?

6 A. Basically.

7 Q. What is your understanding?

8 A. Well, from what I understand, they helped to edit this.
9 These paragraphs that are going to be read to the
10 student, they helped edit those.

11 And basically the curriculum change that we made
12 and what they suggested and what ended up being approved
13 was almost identical.

14 Q. Do you know what the difference was though, Mr. Bonsell?

15 A. I believe the only difference was the words not limited
16 to Intelligent Design.

17 Q. Do you know why the science faculty opposed using the
18 words Intelligent Design in the change to the
19 curriculum?

20 A. I believe their main concern is they were afraid of
21 being sued.

22 Q. Did they express anything to the Board about -- did any
23 science faculty express to the Board their views on the
24 validity of Intelligent Design as a scientific
25 proposition?

- 1 A. The validity of the scientific -- I don't recall. I am
2 sorry. Please repeat that again.
- 3 Q. Did the science faculty ever make their position known
4 to the Board about what they thought about Intelligent
5 Design, about the validity of Intelligent Design as a
6 scientific proposition?
- 7 A. They had said that they had no problem. Like I said,
8 their piece that they came up with was basically saying
9 the exact same thing as what we approved. So I guess I
10 mean --
- 11 Q. Except for the aspect of Intelligent Design; correct?
- 12 A. No. Theirs had other theories of evolution included.
- 13 Q. Did it have the reference to Intelligent Design?
- 14 A. Theirs did not.
- 15 Q. Theirs did not. Did they ever express their views to
16 the Board about what they thought about the validity of
17 Intelligent Design as a scientific proposition?
- 18 A. I think they were worried about being sued.
- 19 Q. That is not answering my question.
- 20 A. I don't recall them.
- 21 Q. Did the Board ever ask the science faculty what their
22 position was on the validity of Intelligent Design as a
23 scientific proposition?
- 24 A. I mean the features that were spoken to numerous times
25 by Mr. Baksa -- I mean we've met. They have edited

1 these things. I'm not sure. Again, repeat the
2 question.

3 Q. Did the Board ever ask the science faculty whether they
4 thought Intelligent Design was scientifically valid?

5 A. I believe it was probably discussed as far as, you know,
6 discussing all of this.

7 Q. What is the basis for your belief? Mr. Bonsell, you
8 know or you don't know.

9 A. I am not sure. I'm trying to remember back through all
10 these conversations and everything else. I am trying to
11 be as -- I want to be as truthful as possible. And it's
12 -- that is why I am saying it takes time to try to
13 remember these things.

14 Q. Can you think of any other instances where science
15 curriculum was added to or changed with content that the
16 Science Department did not agree with?

17 A. I don't know.

18 Q. Can you remember any instance where the Board ever
19 changed the science curriculum recommended by the
20 science faculty?

21 A. There again, I don't know.

22 Q. Can you remember any time where the Board did not accept
23 the recommendation of the science faculty about the
24 purchase of a science textbook?

25 A. We questioned almost every book that is brought up. So

1 not just science, but almost every book that is brought
2 up. Whether it is on a cycle or not on the cycle, we
3 question the validity of buying the book.

4 Q. Can you recall the Board ever questioning the merits of
5 purchasing a book based on the content contained in the
6 book?

7 A. I don't know.

8 Q. Did you ever consult the Science Department about
9 whether the Pandas book was appropriate for high school
10 students?

11 A. What I recall is they didn't have a problem using it as
12 a reference book.

13 Q. Was there ever a time when the Board discussed using
14 Pandas as more than a reference book, but as an actual
15 book to be taught out of -- as you use the term taught?

16 A. Okay. I'm sorry. Please repeat.

17 Q. Was there ever any discussion of actually using the
18 Pandas book as a book that would be taught out of, that
19 would be read out of, or that would be taught out of as
20 you have used the word taught?

21 A. I believe there was discussion.

22 Q. And what was the result of that discussion?

23 A. The majority of the Board decided not to do that.

24 Q. Why was that?

25 MR. THOMPSON: Objection. Calls for speculation

1 as to what other Board members thought.

2 BY MR. ROTHSCHILD:

3 Q. What was your understanding of why the Board decided not
4 to do that?

5 A. Basically because it was going to be used as a reference
6 book.

7 Q. Why was it decided to be used as a reference book, not
8 as a book to be --

9 A. Because we weren't --

10 MR. THOMPSON: Again, same objection if you are
11 talking about why being the why of the Board.

12 BY MR. ROTHSCHILD:

13 Q. What is your understanding of why the Board voted to use
14 Pandas only as a reference, not as a regularly used
15 textbook?

16 A. Because as you go through the press release here, we are
17 not teaching it.

18 Q. When the decision was made -- the press release was
19 issued a long time after the decision was made not to
20 use it as a regular textbook; correct?

21 A. The wording all here was done was after the book -- the
22 book was never voted on -- the book was never voted on
23 to be a textbook.

24 Q. What is your understanding of why 60 books were donated
25 to the school?

1 MR. THOMPSON: Objection, vague. Calls for a
2 conclusion. Speculative. Go ahead and answer if you
3 can.

4 A. If the students wanted to use it, there would be copies
5 there for the students to look at if they wanted to.

6 BY MR. ROTHSCHILD:

7 Q. Where did you gain that understanding?

8 A. >From basically the number of students in the class.

9 Q. Did you have any discussion with your father about how
10 many books he should donate?

11 A. As far as a number? The number would have to have
12 come -- probably as far as a number.

13 Q. You suggested a number or your father?

14 A. No. No. My father didn't suggest a number.

15 Q. You just said probably, and I am trying to understand
16 what you mean by probably.

17 Did you suggest to your father how many books he
18 should donate?

19 A. Probably.

20 Q. Describe the conversation for me.

21 A. That is why I am saying from before, I don't remember
22 the conversation per se.

23 Q. What were the circumstances that caused you to say I
24 think 50, dad, or 60?

25 A. That is what I said about the students -- the number of

1 students in the class.

2 Q. Was that suggestion made in response to a question?

3 A. No. Just that about how many students would be in the
4 biology classes would be 60.

5 Q. I understand that. I am trying to understand how your
6 father learned that it would be a good idea to purchase
7 60.

8 A. Like I said, probably from me.

9 Q. Why did you give him that suggestion?

10 A. Because that is how many students are in the classroom.

11 Q. What were the circumstances in which you gave him that
12 suggestion?

13 A. I am saying I don't know the precise conversation we had
14 about it. Other than 60 books for the number of kids in
15 the class. If, you know, they wanted to look at the
16 books, there would be enough books.

17 Q. You can't remember anything else about your
18 conversations with your father about his donating 60
19 books to the School District of which you are a School
20 Board member?

21 A. I don't remember if --

22 MR. THOMPSON: Objection. I just don't
23 understand. Maybe you can read back. Have we
24 established the fact that his father donated 60 books to
25 the school? I don't know that that has ever been said.

1 I think that was in your question.

2 A. I mean I don't know who donated all of the books. You
3 didn't ask -- because I don't know who donated all of
4 the books.

5 BY MR. ROTHSCHILD:

6 Q. But your father was one of them?

7 A. That is the only person I know.

8 Q. You just don't know how many of the 60?

9 A. I don't know. I have no idea about that goes on about
10 it, of who donated, or how much they donated. I mean
11 that wasn't -- my father is my father. I'm me.

12 Q. But you had an interaction with him in which you told
13 him 60 books would be a good idea?

14 A. Probably.

15 Q. You can't remember how this subject matter came up?

16 A. I believe I said before that it was because the comments
17 of Barrie Callahan objecting to -- what I remember is
18 objecting to the school spending money on them. So I
19 guess here is a group of people that said we will donate
20 them.

21 Q. And one member of that group of people told you?

22 A. That they would donate the books. But I don't know --
23 like I said, I don't know the group of people.

24 Q. In the School District statement, it says that
25 Mr. Nilsen has directed that no teacher will teach

1 Intelligent Design or Creationism or present his or her
2 or the Board's religious beliefs.

3 What do you understand by the use of the term
4 Creationism, what does Creationism mean?

5 A. You mean my opinion on what Creationism is?

6 Q. This is your Board's press release. What does
7 Creationism mean in this press release?

8 A. I guess this would be the religious -- what you would
9 call the Bible version of origins.

10 Q. Is that your personal understanding of what Creationism
11 means?

12 A. That is -- I mean the definition of Creationism, you ask
13 50 people, there will be 50 different definitions. So I
14 mean that's my personal definition of that. I'm not
15 saying that is everybody's definition.

16 Q. Your personal definition is the Bible version of
17 origins; is that right?

18 A. That is very general, but yeah.

19 Q. Anything else that would fall --

20 A. I mean the Bible version of creation of man and animals,
21 that type of thing.

22 Q. Would you agree that one aspect of Creationism is that
23 creatures were originally made as they now exist, humans
24 were humans, birds have feathers, fish have fins?

25 A. You are asking my personal opinion?

- 1 Q. Is that your understanding of what Creationism is?
- 2 A. My personal opinion?
- 3 Q. Yes.
- 4 A. You are saying that -- again, repeat it again.
- 5 Q. Is your understanding of Creationism, does it include
- 6 the tenet that creatures were formed as they now exist,
- 7 birds having feathers?
- 8 A. You mean species?
- 9 Q. Yes.
- 10 A. Yes.
- 11 Q. And is it part of your understanding of Creationism that
- 12 those separate species, birds, fish, humans do not share
- 13 common ancestors?
- 14 A. In respect to Creationism now we are talking about?
- 15 Q. Yes, still Creationism.
- 16 A. Yes.
- 17 Q. Do you know what Intelligent Design -- what position
- 18 Intelligent Design takes on that issue of common
- 19 descent?
- 20 A. Well, Intelligent Design is not Creationism. Let's
- 21 start off by saying that. Intelligent Design is a
- 22 scientific theory. And as far as, you know, you are
- 23 wanting my understanding of Intelligent Design now? Is
- 24 that what you are asking?
- 25 Q. Is that also an tenet of Intelligent Design that humans,

- 1 birds and fish don't share common ancestors?
- 2 A. As far as everything started from one animal, is that
3 what you are saying?
- 4 Q. Just the question of whether they share common
5 ancestors. You answered that question as regards
6 Creationism. I am asking whether you have an
7 understanding of whether Intelligent Design supports the
8 same proposition, that birds and fish and humans do not
9 have common ancestors.
- 10 A. I think Intelligent Design is saying that life couldn't
11 have gotten here by chance. That is basically I believe
12 what they are saying.
- 13 Q. But is one of the things that Intelligent Design is
14 saying that the separate species, birds, fish, men do not
15 share common ancestors? If you don't know, say you
16 don't know.
- 17 A. Well, I'm not sure.
- 18 Q. Do you have a personal view of which concept
19 Creationism, Intelligent Design evolution is more
20 accurate?
- 21 A. You are asking for my personal views now?
- 22 Q. Yes.
- 23 A. As far as Intelligent Design, Creationism or what?
- 24 Q. Or Darwin's Theory.
- 25 A. Do I think one more than another?

- 1 Q. Yes.
- 2 A. Yes.
- 3 Q. What is that?
- 4 A. I believe in the Creationism.
- 5 Q. Do you believe Creationism is a scientific theory?
- 6 A. A scientific theory? Intelligent Design is a scientific
7 theory. I guess Creationism would not be.
- 8 Q. Have you attended any courses or lectures or seminars
9 relating to the subjects of evolution, Intelligent
10 Design or Creationism? I know you said you have done
11 reading.
- 12 A. Seminars?
- 13 Q. Yes.
- 14 A. Attended seminars? I don't believe I have attended
15 seminars.
- 16 Q. Lectures, courses?
- 17 A. I can't recall.
- 18 Q. Do you belong to a church?
- 19 A. Yes.
- 20 Q. What church is that?
- 21 A. Church of the Open Door.
- 22 Q. Has the subject matter of Intelligent Design been
23 discussed at your church?
- 24 A. I don't -- I don't -- I really -- I really can't answer
25 that, if it has ever been discussed. I'm not sure.

1 Q. Have you ever --

2 A. I don't recall it being.

3 Q. The press has reported that Casey Brown stated that she
4 was asked by members of the Board whether she was Born
5 Again.

6 Are you aware of that occurring?

7 A. No.

8 Q. Ms. Yingling has been quoted in the press as stating she
9 was encouraged to vote for the October 18th resolution
10 by assertions that she was an atheist or un Christian.

11 Are you aware of that occurring?

12 A. No. I remember her -- I also remember reading in the
13 paper that she said the reason she voted for it is so
14 that people didn't think she was an atheist.

15 Q. You are not aware of anybody on the Board --

16 A. She didn't say anything about being pressured.

17 Q. You are not aware --

18 A. I am not aware of anything like that. No, absolutely
19 not. I think that is false, totally false.

20 Q. Have you ever spoken to anybody at the Discovery
21 Institute?

22 A. Yes.

23 Q. When was that?

24 A. Just recently.

25 Q. Can you describe the circumstances of your

1 communications with the Discovery Institute?

2 A. Just basically things that they wanted.

3 MR. THOMPSON: We are going to be getting involved
4 in attorney/client privilege here so we have to be
5 careful. Be very careful in answering his question that
6 you don't reveal what you and the Discovery Institute
7 lawyers discussed.

8 MR. ROTHSCHILD: As I said to Mr. Gillen, I am not
9 sure I agree with you that the attorney/client privilege
10 applies here.

11 BY MR. ROTHSCHILD:

12 Q. I want to start without asking for any content of your
13 communication for you to describe to me how it came to
14 be that you had communication with the Discovery
15 Institute, again, taking care not to tell me what was
16 said.

17 A. They had called and left a message for me to call them.

18 Q. What did they say on their message?

19 A. Basically that they just wanted to discuss things that
20 they were, if I remember correctly, reading it in the
21 newspapers and things like that. You know, it was on
22 the AP wire so it was everywhere.

23 Q. What did you do in response to that call?

24 A. I did talk to them, but it was only I believe -- only
25 like once or twice that I ever like talked to them. It

1 wasn't like I had many conversations with them or
2 anything like that.

3 Q. Was your first actual conversation returning the call
4 that they had left on your voice message?

5 A. I believe so.

6 Q. What did you say when you first made contact with
7 somebody at the Discovery Institute?

8 A. Just I was returning your call and was inquiring what
9 the message was for.

10 Q. Who did you talk to?

11 A. I believe it was Seth Cooper, an attorney.

12 Q. How did he respond to your statement returning your
13 call? What did he say to you?

14 A. He just said they wanted to discuss what we were doing
15 at the School District.

16 Q. Did he offer to represent you at that point?

17 A. I don't recall.

18 Q. In your conversations, did Mr. Cooper or any other
19 attorney at the Discovery Institute ever offer to
20 represent you or the School District?

21 A. I would like to just take another break to ask my
22 attorney a question.

23 Q. That is fine.

24 (The witness and his attorney exit the conference
25 room to confer.)

1 MR. ROTHSCHILD: Would you please read the last
2 question?

3 (The question: In your conversations, did
4 Mr. Cooper or any other attorney at the Discovery
5 Institute ever offer to represent you or the School
6 District, was read by the reporter.)

7 A. I believe it would be yes.

8 BY MR. ROTHSCHILD:

9 Q. When did that happen?

10 A. That would have been in executive session.

11 Q. When you are referring to this executive session, is
12 that a circumstance where the Discovery Institute
13 actually came out and met with the Board?

14 A. Yes.

15 Q. Prior to that session, was there any discussion between
16 you and the Discovery Institute lawyers about them
17 representing you in this litigation?

18 A. Well, they had met to talk about what we were doing, and
19 they brought a lawyer in to talk to us about it. So I
20 guess that I am not sure what that constitutes legally.

21 MR. THOMPSON: I understand your issues here, and
22 we have some issues as well. We have to research I
23 guess more thoroughly as to whether the attorney/client
24 privilege actually takes place.

25 But for the purposes of not waiving it, I think I

1 am going to exercise that objection and direct my client
2 at this time not to answer any questions regarding their
3 conversations with the Discovery Institute lawyers.

4 MR. ROTHSCHILD: I will accept that proposal.
5 Obviously, we don't waive the right to take that
6 discovery if it is later determined that privilege did
7 not apply.

8 I think we can talk more about this later. It may
9 make sense for you to gather the facts and make a
10 representation about what occurred, and maybe we will
11 stand down on this. I think we can both agree to put
12 this off to another day.

13 MR. THOMPSON: Fine. Fine.

14 BY MR. ROTHSCHILD:

15 Q. Other than the communications with lawyers that you just
16 referred to, did you personally have any other
17 interactions with the Discovery Institute?

18 A. I think they were all attorneys that I spoke to.

19 Q. What I am really referring to is had you talked to
20 anybody at the Discovery Institute at any earlier time?

21 A. No, no. I don't believe so, no.

22 Q. Do you know whether any other member of the Board talked
23 to the Discovery Institute?

24 A. That, I don't know. I'm not sure.

25 Q. Have you ever talked to anybody at the Institute for

1 Creation Research?

2 A. No.

3 Q. Do you know whether anybody else on the Board talked to
4 anybody from that organization?

5 A. That, I don't know.

6 MR. THOMPSON: Do you want to take a break or are
7 you --

8 MR. ROTHSCHILD: I think I am pretty near the end.
9 Let me go through a few short questions, and we can take
10 a break.

11 MR. THOMPSON: Okay.

12 BY MR. ROTHSCHILD:

13 Q. Mr. Bonsell, do you know when the subject matter in the
14 curriculum regarding Intelligent Design and gaps and
15 problems in Darwin's Theory will be presented to the
16 ninth grade students?

17 A. I believe the first one is in January.

18 Q. Do you know what date?

19 A. Well, let's go back. Ask me that question again. I am
20 sorry.

21 Q. Your understanding is that as a result of the October
22 18th resolution, at a minimum, teachers are going to be
23 required to read a statement to the students?

24 A. Yes.

25 Q. Do you know when that will happen?

1 A. I believe it is January 13th, but I'm not positive on
2 that. I'm not positive. Dr. Nilsen would know better.
3 There again, maybe I shouldn't answer that because I'm
4 not positive on the exact date.

5 MR. ROTHSCHILD: Why don't we take a ten minute
6 break? I am almost done.

7 (A recess was taken from 4:40 p.m. to 5:00 p.m.)

8

9

AFTER RECESS

10

11 BY MR. ROTHSCHILD:

12 Q. Mr. Bonsell, just to summarize earlier testimony, am I
13 correct that your understanding about the scientific
14 merit of Intelligent Design is based on things that you
15 have read?

16 A. Repeat that again.

17 Q. Am I correct that your understanding about the
18 scientific merit of Intelligent Design is based on
19 things that you have read?

20 A. Well, read, seen, heard I mean.

21 Q. What do you mean by seen and heard?

22 A. Well, I mean museums, that type of thing. I mean I see
23 things, read things, hear things. I mean TV, shows. I
24 mean it is not limited to just one.

25 Q. Is it fair to say that your understanding about the

1 scientific merit of Intelligent Design is not based on
2 anything that anybody has told you, anybody you have
3 spoken to?

4 A. I can't be sure of that, no.

5 Q. Can you think of anybody with a scientific background or
6 scientific expertise with whom you have discussed the
7 merits of -- the scientific merits of Intelligent
8 Design?

9 A. You are saying have I talked to Professors?

10 Q. Anybody who has a scientific background. Cast a broad
11 net.

12 A. I would think at some time I would have.

13 Q. Can you name anyone?

14 A. No. I can't recall names, no.

15 Q. Why do you think you would have talked to somebody with
16 a scientific background about this subject?

17 A. Why?

18 Q. Yes.

19 A. Because of the years of reading about it. Like I said
20 before, going to museums, going here, going there. I
21 would think that somewhere along the line, I would have
22 talked -- I mean you are asking me did I ever talk to
23 anybody ever? You know, that casts a pretty broad net.

24 Q. Sitting here today, you can't think of a single
25 individual?

- 1 A. I can't recall a name off the top of my head.
- 2 Q. And have you had any conversations of that type in the
3 last year with somebody with a scientific background
4 about Intelligent Design?
- 5 A. I can't recall.
- 6 Q. In the last two years?
- 7 A. I'm not sure.
- 8 Q. In the last five years?
- 9 A. I already answered that.
- 10 Q. What was your answer?
- 11 A. You asked me a broad question in the beginning. I said
12 I couldn't name anybody I could think of off the top of
13 my head.
- 14 Q. Okay. When do you feel you first heard of Intelligent
15 Design?
- 16 A. I'm not sure when that first time was.
- 17 Q. More than a year ago?
- 18 A. I'm not sure.
- 19 Q. Are you aware that the concept of Intelligent Design
20 includes the idea that life is the result of intelligent
21 shaping of matter?
- 22 A. Again, please?
- 23 Q. Are you aware that Intelligent Design includes the idea
24 that life is the result of intelligent shaping of
25 matter?

- 1 A. Intelligent shaping of matter, you are saying is that a
2 possibility?
- 3 Q. Are you aware that that is one proposition stated?
- 4 A. That is one possibility. Okay. If you are saying that,
5 you are reading that from somewhere?
- 6 Q. I am asking you: Are you aware that Intelligent Design
7 includes that concept?
- 8 A. I am sorry. Sorry to keep making you repeat it. What
9 -- aware of which concept again?
- 10 Q. That life is the result of intelligent shaping of
11 matter.
- 12 A. Intelligent shaping of matter? I suppose.
- 13 Q. Do you think that that proposition is something that
14 should be taught to school children?
- 15 A. We are not teaching it.
- 16 Q. Do you think that subject is something that should be
17 presented to school children?
- 18 A. That would be a different subject to be discussed, but
19 that is not what we are doing here.
- 20 Q. If that was what was being presented to school children,
21 would you think that was okay?
- 22 A. That is something I would have to look at. I can't
23 answer a question like that right off.
- 24 Q. Are you aware that Intelligent Design locates the origin
25 of new organisms in an immaterial cause, in a blueprint,

1 a plan, a pattern devised by an intelligent agent?

2 A. Say that again.

3 Q. Do you understand that Intelligent Design provides that
4 the origin of new organisms is from an immaterial cause
5 and a blueprint, a plan, a pattern devised by an
6 intelligent agent?

7 A. I don't really understand what you just said as far as
8 precisely or what that means. I would need more
9 specific --

10 Q. Do you think that is something that is appropriately
11 presented to school children?

12 MR. THOMPSON: Objection. He says he doesn't
13 understand it. That would be a confusing question.

14 BY MR. ROTHSCHILD:

15 Q. You can answer.

16 A. Would that be --

17 Q. That statement, is that something that would be
18 appropriately presented to school children?

19 A. Again, we are not teaching Intelligent Design so you're
20 asking me hypotheticals.

21 Q. You are making students aware of Intelligent Design?

22 A. And we are giving them this statement.

23 Q. Making them aware of Intelligent Design?

24 A. If they want to go, there is a book they can learn, but
25 it's not required. It's not going to be taught.

- 1 You're asking me hypothetical questions. I don't
2 understand the question being it is a hypothetical thing
3 because that's not what we are doing here.
- 4 Q. Are you aware that Intelligent Design provides that
5 similarities between organisms are explained as being
6 due to a common designer?
- 7 A. Organisms -- say it again.
- 8 Q. That the similarities between organisms are explained by
9 the fact that they were created by a common designer?
- 10 A. I guess that could be a theory of Intelligent Design.
- 11 Q. Do you know whether it is or it isn't?
- 12 A. Do I know whether it is or isn't?
- 13 Q. Do you know whether that is part of what Intelligent
14 Design argues?
- 15 A. That precise sentence, no, I don't know if that does or
16 not.
- 17 Q. Do you think that is something that is appropriately
18 presented to school children?
- 19 A. There again, we are not presenting it to school
20 children. We are not teaching. We are not doing that.
21 Again, you are asking me hypotheticals.
- 22 Q. You are neither teaching, nor presenting Intelligent
23 Design to students?
- 24 A. We are not teaching Intelligent Design to students. We
25 are saying these one, two, three, four paragraphs to the

1 students. We are making them aware of just exactly what
2 the press release says. So again, that is --

3 Q. So -- go ahead. Finish, Mr. Bonsell.

4 A. No, that is fine.

5 Q. Is it fair to say then is it your interpretation of what
6 the Board is doing that it is making students aware that
7 there is something called Intelligent Design, but not
8 telling them what it is?

9 A. That there's other theories out there because it says
10 gaps in the theories exist. The theory -- let's see.
11 Basically, just what it says here, that is what we are
12 going to tell them.

13 Q. Is it fair to say what you are telling them is that
14 Intelligent Design exists, but not telling them what it
15 is?

16 A. That there's other theories out there, yes. We are not
17 teaching it. There's a reference book. If they want to
18 go look at it, they are more than welcome to look at it.
19 We are not requiring them to look at it. We are not
20 going to teach it. We are not going to test it. We are
21 not going to do any of that.

22 MR. ROTHSCCHILD: I have no further questions.

23 Thank you.

24 MR. THOMPSON: No questions. Thank you.

25 (The deposition concluded at 5:15 p.m.)

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:

ALAN BONSELL

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 4th day of January, 2005.

Vicki L. Fox
 Reporter - Notary Public

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