

APPENDIX I

TAB I

ELMIRA JANE CLEAVER, June 9, 2005

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

CIVIL ACTION NO. 4 CV 04-2688

TAMMY KITZMILLER; BRYAN AND
CHRISTY REHM; DEBORAH
FENIMORE AND JOEL LIEB; STEVEN
STOUGH; BETH EVELAND; CYNTHIA
SNEATH; JULIE SMITH; AND ARALENE
("BARRIE") D. AND FREDERICK B.
CALLAHAN,

Plaintiffs,

vs.

DOVER AREA SCHOOL DISTRICT;
DOVER AREA SCHOOL DISTRICT
BOARD OF DIRECTORS,

Defendants.

/

DEPOSITION OF ELMIRA JANE CLEAVER

June 9, 2005

1:06 p.m. - 2:48 p.m.

255 North Broadway Avenue
Law Library, Room F
Bartow, Florida

REPORTED BY:

EVELYN M. ADREAN, RPR

Notary Public

State of Florida at Large

Esquire Deposition Services - Tampa, Florida

813-221-2535 (800-838-2814)

Job No.: 733289

ESQUIRE DEPOSITION SERVICES

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2

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7

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1 EXHIBITS

2 NO. DESCRIPTION PAGE

3 1 July 12, 2004 School Board Minutes 44

4 2 Complaint 54

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1 The deposition of ELMIRA JANE CLEAVER was taken

2 pursuant to Notice by counsel for the Plaintiff on June 9,

3 2005, commencing at 1:06 p.m. at 255 North Broadway Avenue,

4 Law Library, Room F, Bartow, Florida. Said deposition was

5 reported by Evelyn M. Adrean, RPR, Notary Public, State of

6 Florida at Large.

7 -----

8 WHEREUPON:

9 ELMIRA JANE CLEAVER,

10 a witness, having been duly sworn to tell the truth, the

11 whole truth and nothing but the truth, was examined and

12 testified as follows:

13 THE WITNESS: I do.

14 EXAMINATION

15 BY MR. LOWE:

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1 Q. Good evening -- good afternoon, Ms. Cleaver. I
2 have introduced myself to you off the record, but again today
3 for the record. My name is Chris Lowe, and I work for the
4 law firm of Pepper Hamilton, and we represent the plaintiffs
5 in this case which is captioned Kitzmiller v Dover School
6 District. We're here today to take your deposition in this
7 matter, which means I'm here to just get your side of the
8 story. Do you understand that?
9 A. Right. I do.
10 Q. There's just a few rules that I want to explain to
11 you; these are just rules for depositions, which I want to
12 make sure you understand so this process will go smoothly and
13 quickly. First, have you ever been deposed before?
14 A. No, sir.
15 Q. Okay. As you can see, there's a court reporter
16 here today that's going to be taking down everything that we
17 say. Because of this, it's really important that both of us
18 are verbal in all of our questions and answers. So, if
19 either of us is shaking our head or nodding, the court
20 reporter may very well ask us or smack us and tell us to
21 speak up. In addition to that, you're going to need to try
22 not to anticipate the end of my question by answering; in
23 other words, I'm going to ask you to just try to wait until I
24 finish any question before you answer. And at the same time,
25 I will try to make sure that I wait until you completely

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1 finish any response. It's going to happen frequently, that
2 we'll anticipate what the other is going to say and we will
3 naturally start to cut that person off. Once again, we may
4 get talked to by the court reporter if we do that. Is that
5 fair?
6 A. Yes, sir.
7 Q. Thank you. And this isn't a marathon in any way,
8 so if at any time during this, you feel the need to take a
9 break, please just ask as. If you'd like to speak to your
10 attorney, or if you'd like to just get up and stretch for a
11 second, that's fine. If I'm talking too fast or I ask a
12 question that's in any way unclear, please feel free to ask
13 me to repeat the question.
14 A. I will.
15 Q. If you do respond to a question, we, of course,
16 will just assume that you did understand that question. Of
17 course, if your response doesn't match the question, I may
18 then just rephrase the question. Is that clear?
19 A. Yes, sir.
20 Q. Over the course of the deposition, I may ask
21 questions that you feel you've already answered; you can feel
22 free to let me know that. In some cases I may be asking in a
23 different way, I may be asking for a different reason, or I
24 may just be asking to ensure that I'm clear on the answer.
25 And I think that's it in terms of just a little background.

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1 Now, you do realize that you are here today represented by
2 counsel?
3 A. Yes, I do.
4 Q. And I'm going to ask you a couple questions about
5 that, but please understand I'm not asking you any questions
6 about the content of anything that you spoke to to either
7 counsel here today or anyone from that law firm, so -- and
8 that goes for any question that I ask you during the course
9 of this afternoon's deposition. You don't need to tell me
10 anything that you've discussed with them unless other people
11 were present. But generally speaking, I'm not asking about
12 anything that you discussed with them, okay?
13 A. Right.
14 Q. Okay. So, let me start by asking when it was that
15 you first became represented by counsel?
16 A. Back about -- in May.
17 Q. Okay.
18 A. When I spoke to you the last time. Then I had
19 called Mr. Gillen.
20 Q. Okay. And did you sign any sort of letter of
21 representation or anything stating that they are representing
22 you?
23 A. No, I have not.
24 Q. Okay. And how many times have you talked with
25 either Mr. Gillen or anyone from that law firm with respect

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1 to this action?
2 A. How many times?
3 Q. Yeah, approximately.
4 A. Probably five: Friday evening, Monday evening,
5 Tuesday you just called to tell me where or when we would
6 meet. Probably four times, and today.
7 Q. Okay. I have down here Friday, that would be this
8 past Friday?
9 A. This past Friday.
10 Q. And then Monday which was June --
11 A. Monday evening.
12 Q. Trying to think of the date. That would be June --
13 A. 6th.
14 Q. June 6th. Then Tuesday and then again today?
15 A. Let me --
16 Q. It's not -- you know, it's not -- I'm not looking
17 for a -- it's not really --
18 A. Because today is Thursday, that's it.
19 Q. And I'm going to ask, just approximately how long
20 it was that you spent talking with counsel on those
21 occasions?
22 A. On Friday evening, approximately 50 minutes. And
23 Monday evening, maybe 30 minutes, Tuesday evening was very
24 brief, and today I have spoke with Ed today in the motel
25 room.

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1 Q. Okay. And prior to this past Friday, did you speak
 2 with any counsel about this matter?
 3 A. No, sir.
 4 Q. Other than when you told Mr. Gillen that he could
 5 represent you?
 6 A. Right.
 7 Q. I understand. Okay. Have you spoken to anyone
 8 else about this lawsuit?
 9 A. No, sir.
 10 Q. Have you looked at any documents in preparation for
 11 this lawsuit?
 12 A. No, sir.
 13 Q. Okay. Have you ever seen the Complaint which is
 14 the formal document that we used explaining the nature of
 15 this lawsuit?
 16 A. No, sir.
 17 Q. And have you ever seen the answer which was the
 18 response of the defendants explaining their position in the
 19 lawsuit?
 20 A. No, I have not.
 21 Q. Okay. And have you spoken to any of the school
 22 board members about this lawsuit?
 23 A. When I received my subpoena, I had called Sheila
 24 Harkins and said, what's this about. That is the one and
 25 only.

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1 Q. And could you talk to me about what -- about the
 2 nature of that conversation; what was it that you discussed
 3 with Ms. Harkins?
 4 A. I simply asked Sheila what this is all about, and
 5 she said, probably -- when I told her it was a subpoena, she
 6 said, well, probably it's your deposition. And so, that's
 7 all that was said. She said, you better get in touch with
 8 Mr. Gillen.
 9 Q. Okay.
 10 A. And that was it.
 11 Q. Okay. And did she tell you anything about her
 12 feelings or --
 13 A. No --
 14 Q. Okay.
 15 A. -- we did not.
 16 Q. And did you share anything about your position?
 17 A. No, sir.
 18 Q. Okay. Have you spoke to any of the teachers from
 19 the school district with respect to this lawsuit?
 20 A. No, sir.
 21 Q. Okay. And so other than Ms. Harkins and your
 22 attorneys, there is no one else that you spoke to with
 23 respect to this lawsuit?
 24 A. No one.
 25 Q. Where is it that you are now living?

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1 A. I'm living in Frostproof. It's not really in
 2 Frostproof -- yeah, Frostproof. It's between Lake Wales and
 3 Frostproof. It's in Rainbow Resort.
 4 Q. Okay. Could you give your address for the record,
 5 please?
 6 A. 700 County Road 630-A. Lot 8, Frostproof, Florida
 7 33843.
 8 Q. And how long have you lived in Florida?
 9 A. I lived in Florida -- I bought my home July 21st,
 10 so -- and then I had gone home and came back down in August
 11 when the hurricane hit. It was the 13th, I came down the
 12 15th. That's it.
 13 Q. Well, good timing. You came after. And when you
 14 referred to going back home, I assume that you're talking
 15 about Dover?
 16 A. Dover, Pennsylvania.
 17 Q. And how long did you live in Dover, Pennsylvania?
 18 A. Fifty-six years.
 19 Q. So, you grew up in Dover?
 20 A. No. I grew up in Weiglestown, right next to Dover.
 21 Q. While living in Dover, what newspapers did you read
 22 regularly?
 23 MR. WHITE: Can you give her a time frame?
 24 MR. LOWE: Yes. That's a fair question.
 25 BY MR. LOWE:

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1 Q. Let's go back to -- let's say since 2002, 2003, did
 2 you read newspapers regularly?
 3 A. I did read. I'd -- I think it was York Dispatch
 4 delivered to my home.
 5 Q. And did you generally make a habit of reading that
 6 daily?
 7 A. Not after I got on the school board.
 8 Q. So after getting on the school board, did you stop
 9 reading the newspaper?
 10 A. I discontinued it.
 11 Q. After discontinuing the York Dispatch, how was it
 12 that you were made aware of local news?
 13 A. I -- I got around to all the neighbors and -- in
 14 our community because I was at the Dover-boro meetings, some
 15 of the Dover Township meetings. It wasn't hard to find out
 16 what was going on.
 17 Q. Okay. With respect to newspaper articles about the
 18 subject matter that we're here for today, meaning the
 19 curriculum change, did you read any of those newspaper
 20 articles?
 21 A. At first, yes. And after maybe the third meeting,
 22 anything I did not read in the paper about our school
 23 concerns.
 24 Q. Okay. While in Dover, let's say from the period
 25 that you were on the school board, did you have a job at that

1 time?
 2 A. While I was on the school board, yes, I did.
 3 Q. What was your employment?
 4 A. I was employed at the Bon-Ton department store.
 5 Q. And for approximately how long were you employed
 6 there?
 7 A. Well, about two-and-a-half years.
 8 Q. Was that the last job that you had while in Dover?
 9 A. Yes.
 10 Q. Previous to working at Bon-Ton, where were you
 11 employed?
 12 A. I had my own business. I had a Dover -- I owned a
 13 Dover department store for thirty-three-and-a-half years. I
 14 had three stores.
 15 Q. Were you ever employed by -- other than in your
 16 position as school board member, were you ever employed by
 17 the school district?
 18 A. No.
 19 Q. Were you related to anyone that was working as a
 20 teacher in the school district that you're aware of?
 21 A. No.
 22 Q. Were you or are you related to anyone that was ever
 23 in the administration of the school district that you're
 24 aware of?
 25 A. No, sir.

1 Q. And have you spoken to anyone from the
 2 administration since this lawsuit was filed?
 3 A. No, sir.
 4 Q. I'm going to ask you a few questions about the
 5 background of your tenure on the board, just how you got
 6 there and how long you were there. When was it that you
 7 first became a member of the school board?
 8 A. I think I was a member of the school board in
 9 some -- it was some time in two-oh-three, I think.
 10 Q. And when did you resign from the school board?
 11 A. I resigned October the 4th, two-oh-four.
 12 Q. Were you elected to the school board?
 13 A. Yes, I was.
 14 Q. Did you run with a slate of candidates when you ran
 15 for the school board?
 16 A. Yes.
 17 Q. Who was on that slate of candidates?
 18 A. Jack Brown was one of them. Truthfully, I can't
 19 remember. I really don't know anymore.
 20 Q. Okay. Which brings me to related point. I
 21 understand during the course of the deposition there's going
 22 to be many things that you don't remember or that you don't
 23 remember completely or exactly. We understand that.
 24 A. Well, truthfully, I'm going to be honest with you,
 25 too. There are just some things I don't remember. So,

1 don't -- I'm not trying to act dumb. I just don't remember.
 2 Q. And that certainly is fine. And that's one reason
 3 why I may ask questions that sometimes that sound repetitive.
 4 What I'll probably be -- what I will be trying to do is to
 5 just help to refresh your memory or ask in a different way
 6 that may spark something. So, do understand that we really
 7 do realize that. And I don't expect you to remember
 8 everything. At the same time, we don't expect dates or days
 9 to be exact by any stretch. We aren't looking to find things
 10 of that nature. So, I don't want you to be concerned about
 11 that. Also during the course of the deposition, if we're
 12 talking -- if we've ended a line of questioning and during
 13 another line of questioning you remember something from a
 14 previous question, feel free to stop and just go back. And
 15 that means whether you remember something new or whether you
 16 think that you said something incorrectly and you want to
 17 change it. That's all fine, okay?
 18 A. Thank you.
 19 Q. All right. So, other than Jeff Brown, you don't
 20 recall who else was on the slate with you when you ran?
 21 A. I knew that it was a pink paper, and there was,
 22 like, five names on, and the only one -- oh, Bill Buckingham.
 23 I'm sorry. Just came to me.
 24 Q. That's okay.
 25 A. I hate myself when I do this here, I can't

1 remember. It was Bill Buckingham and myself and Jeff Brown.
 2 That's it. I can't remember the other two.
 3 Q. Okay. Did you do anything with any of these
 4 candidates to plan your campaign, like any strategy?
 5 A. None whatsoever.
 6 Q. Did you discuss views on school politics or school
 7 policies that you had in common?
 8 A. No, I did not.
 9 Q. Did you discuss with them your intentions upon
 10 becoming elected to the board in terms of policy or things
 11 that would affect the school?
 12 A. No.
 13 Q. When running for the school board, do you recall
 14 whether anyone expressed an interest in bringing more
 15 religion into the schools?
 16 A. No.
 17 MR. WHITE: And on that question, when you say,
 18 "anyone," do you mean anyone on the slate or anyone in the
 19 population?
 20 MR. LOWE: Let's start with anyone on the slate
 21 that you were running with.
 22 THE WITNESS: No, sir.
 23 BY MR. LOWE:
 24 Q. Do you recall any other candidates running for
 25 school board that perhaps weren't on your slate that had any

1 discussions about bringing more religion into the schools?
 2 A. No, sir.
 3 Q. Do you recall anyone from the community discussing
 4 this with you, bringing more religion into the schools?
 5 A. No, sir.
 6 Q. Do you recall hearing from any of the other
 7 candidates for school board whether on your slate or not, did
 8 any of them ever discuss with you that they had heard members
 9 the community wishing to bring more religion into the
 10 schools?
 11 A. Not that I recall.
 12 Q. Okay. And prior to becoming a member of the school
 13 board, do you recall hearing any discussion with respect to
 14 creationism and bringing creationism into the school
 15 district?
 16 A. No, sir.
 17 Q. Okay. Prior to your decision to run for school
 18 board, did you ever discuss with anyone an intention of
 19 bringing religion back into the schools?
 20 A. No, I did not.
 21 Q. Prior to this deposition, we took a deposition of
 22 Charlotte Buckingham. Do you know Ms. Buckingham?
 23 A. Yes, I do.
 24 Q. She testified in her deposition that she attended a
 25 board meeting that she thinks was in the spring of 2002,

1 although she was not certain about the date. But she said
 2 she was there because you had visited her church and had met
 3 her at that time. Do you remember meeting Ms. Buckingham
 4 after visiting her church?
 5 A. I do.
 6 Q. And Ms. Buckingham stated that you came to her
 7 church to speak to her pastor?
 8 A. Correct.
 9 Q. And that you then met Ms. Buckingham?
 10 A. Right.
 11 Q. And you had some discussions with Ms. Buckingham?
 12 A. But may I something?
 13 Q. Certainly?
 14 A. That was not getting religion into school or
 15 anything. This was my first meeting with Ms. Buckingham.
 16 She was the secretary of that church. I had never seen her,
 17 never met her before. But this had nothing to with anything
 18 at the schools.
 19 Q. Okay. She said that she attended a school board
 20 meeting -- and again, her memory was fuzzy, but she's recalls
 21 it being in the spring of 2002 in support of you in that she
 22 said that you were going to the school board to speak in
 23 favor of introducing prayer into the school; is that
 24 accurate?
 25 A. No. I'll tell you what is accurate.

1 Q. Okay.
 2 A. A moment of silence, not prayer. And the Pledge of
 3 Allegiance.
 4 Q. Do you know why Ms. Buckingham may have held the
 5 position or at least stated on the record that you were
 6 trying to get prayer back into the school?
 7 MR. WHITE: Objection: No personal knowledge,
 8 calls for speculation. She can't get into Ms. Buckingham's
 9 head.
 10 BY MR. LOWE:
 11 Q. Is there anything that you may have said during
 12 your conversations that may lead someone to think that you
 13 were trying to bring prayer back into the school?
 14 A. I did not -- I had gone around to the churches to
 15 talk to the pastors -- that's when I talked to the pastor --
 16 about getting a moment of silence. That was my purpose, and
 17 that's when I met Ms. Buckingham.
 18 Q. Okay. So, it's your position here today that you
 19 were simply looking to get a moment of silence into the
 20 schools?
 21 A. And the Pledge of Allegiance. That was my purpose.
 22 Q. Okay. Let's talk just for a second about the
 23 Pledge of Allegiance.
 24 A. Right.
 25 Q. At the time -- let's first get a time frame. Do

1 you agree that it was probably in the spring of 2002?
 2 A. It was in February -- I'll tell you exactly.
 3 February the 11th is when it was passed. Of all the times it
 4 comes, this is one thing I recall now. I'm sorry. This
 5 is --
 6 Q. That's okay. February 11th, 2002?
 7 A. 2002.
 8 Q. Okay. And you say, "it passed." What was it that
 9 passed on February 11th?
 10 A. A moment of silence, a moment of silence. And the
 11 Pledge of Allegiance.
 12 Q. You're saying the Pledge of Allegiance --
 13 A. To the Flag.
 14 Q. Yeah, I understand that part. What I didn't know
 15 is, what you were referring to. Prior to this time were they
 16 not saying the Pledge --
 17 A. No, no.
 18 Q. You know, for the record, let me finish my
 19 question, then you can give me your answer.
 20 A. I'm sorry, sir.
 21 Q. Prior to February 11th, 2002, was it your
 22 understanding that they were not saying the Pledge of
 23 Allegiance in the schools?
 24 A. To my knowledge, they were not saying the Pledge of
 25 Allegiance in the schools. The only time they said it was,

1 like, on Memorial Day that the children could go out on the
 2 grass on the lawn around the flag pole and July the 4th --
 3 well, July 4th, school was over. It was May 30th, Memorial
 4 Day. And then they would say the Pledge of Allegiance.
 5 Q. Okay. So, when you went to the school board
 6 meeting as a member of the community at this time; correct?
 7 A. Right.
 8 Q. And it was February the 11th, 2002? And again, I'm
 9 not going to hold you that date, that's just --
 10 A. It definitely was. It was my anniversary, my
 11 husband and I, our anniversary.
 12 Q. And your goal at that time was exclusively to
 13 support a moment of silence in the school and to support the
 14 bringing of the Pledge of Allegiance into the school?
 15 A. Correct.
 16 Q. Okay. When you first became a member of the school
 17 board, it's my understanding that Ms. Brown acted as your
 18 mentor; is that correct?
 19 MR. WHITE: When you say who, Ms. Brown --
 20 MR. LOWE: Casey Brown.
 21 THE WITNESS: Well, may I speak to what and tell
 22 Chris what I told you?
 23 MR. WHITE: Answer the question.
 24 BY MR. LOWE:
 25 Q. Was Ms. Casey Brown a mentor when you first became

1 possibility of you running for school board?
 2 A. Correct.
 3 Q. Okay. Then again prior to your becoming a member,
 4 deciding to run for school board, Mr. Bonsell, also a member
 5 of the school board, had a conversation with you?
 6 A. Yes, sir.
 7 Q. Okay. You may continue. Didn't mean to stop you.
 8 A. Okay. Then I told Casey Brown that I could not
 9 give her an answer; I was not prepared. It went maybe
 10 two-and-a-half, three weeks, and Alan had called me. And we
 11 talked from one thing to the other, and it wasn't all school
 12 because I've known Alan since he was a little boy. But then
 13 we got on the subject of getting -- coming on board the
 14 school board. And as I spoke to him -- I wasn't prepared
 15 when I first started talking to him but I was, like a light
 16 bulb went off and I said, Alan, I'm on, I'm coming in and
 17 running for school board. And he said, Jane, you'll never
 18 know how happy this makes me. And that was our conversation.
 19 Q. Do you recall what it was that -- did Miss Brown
 20 or -- did Casey or Jeff Brown express to you why it was that
 21 they wanted you to run for the school board?
 22 A. Casey Brown said to me, I am going to be your
 23 mentor. And my response to Casey Brown is, or was, Casey, I
 24 want you to know one thing: I am not a rubber stamp. So,
 25 when I came on board, when I was selected and came on

1 a member of the board?
 2 A. I'm going to tell you this, Chris. Casey Brown
 3 would come to my home at night, in the evening, and sometimes
 4 she would stay until 10:30, 11:00. Jeff did the same thing.
 5 But he didn't come as often as what Casey did.
 6 MR. WHITE: Jeff who?
 7 THE WITNESS: Jeff is her husband.
 8 MR. WHITE: Brown?
 9 THE WITNESS: Jeff Brown.
 10 MR. WHITE: Okay.
 11 THE WITNESS: Sorry.
 12 BY MR. LOWE:
 13 Q. Also a member of the school board; correct?
 14 A. Right, uh-huh. They wanted me on school board so
 15 bad and I could not give them an answer because I was not
 16 prepared; I wanted to know more. And so I gave them no
 17 answers. And later on, Alan Bonsell --
 18 Q. When you say, "later on" -- I hate to interrupt,
 19 but, "later on," let's take -- let's stop right there for one
 20 second so I can get the time frame here. Prior to your
 21 decision to run for school board, you're saying that Jeff and
 22 Casey Brown who were both members of the school board at the
 23 time; correct?
 24 A. Correct.
 25 Q. Were coming to your house to discuss the

1 board -- may I go ahead?
 2 Q. Certainly.
 3 A. Casey wanted to be moved at the board to sit aside
 4 of me so she could tell me how to vote and what to vote on.
 5 And I said, Casey, I'm an individual, and I'm not your rubber
 6 stamp, and you're not my mentor, period.
 7 Q. Did you and Casey Brown ever have discussions about
 8 bringing religion into the schools?
 9 A. No.
 10 Q. Did you ever question Casey Brown about her
 11 religious background?
 12 A. I have never, and I don't know what religious
 13 background, if any, Casey has, no.
 14 Q. Now, Mr. Brown, Jeff Brown, also testified that you
 15 along with Buckingham, Geesey, and Bonsell, had an interest
 16 in bringing -- let me rephrase that -- felt that taking
 17 prayer out of school was a mistake. Do you recall ever
 18 saying anything of that nature?
 19 A. I may have. But I didn't say anything about
 20 putting it in school.
 21 Q. So, you may have said that taking prayer out of
 22 school --
 23 A. When I was a kid and went to school, we said
 24 prayer, we had prayer in school. And that was my remark,
 25 when I was a kid and went to school, we said prayer. And

1 that was it.
 2 Q. Do you believe that was a mistake, to take prayer
 3 out of schools?
 4 MR. WHITE: Objection: Asked and answered.
 5 MR. LOWE: You can answer.
 6 THE WITNESS: I feel that out whole world has slid
 7 backwards taking prayer out of the school. I think that was
 8 a mistake on my part; that's only my opinion, though.
 9 BY MR. LOWE:
 10 Q. And did you ever push to bring prayer back into
 11 school?
 12 A. No.
 13 MR. WHITE: Objection: Asked and answered.
 14 BY MR. LOWE:
 15 Q. Okay. I'm sure that you recall or at least at this
 16 time remember that there was some controversy surrounding the
 17 adoption of a biology textbook.
 18 MR. WHITE: Objection: Just your phrasing,
 19 assuming there's controversy, etcetera.
 20 BY MR. LOWE:
 21 Q. My first question is: Do you remember there being
 22 a controversy surrounding adopting of the biology textbook?
 23 A. Yes, sir.
 24 Q. Do you remember when this issue was first discussed
 25 between school board members?

1 A. Chris, this was a discussion before I ever got on
 2 board.
 3 Q. Do you know what the nature of those discussions
 4 were before you became a board member?
 5 A. When I -- I'm going to tell you what I heard. As
 6 these discussions were, the biology book that the teachers
 7 and Bert Spahr had wanted and the board -- I wasn't on the
 8 board, had left them -- bought for them after they got the
 9 book, they didn't use the book, they didn't teach from the
 10 book. So then they wanted another new biology book. Alan
 11 Bonsell said that he's going to check into it first and see
 12 what would be different, there certainly can't be that much
 13 difference. So, he had called wherever these books are made,
 14 and there was five or six pages that varied, you know, and he
 15 tried to get those pages so that we could put them in our
 16 biology book. But the teachers weren't satisfied with that.
 17 So, after many, many -- after I got on board and many, many
 18 discussions after that, we agreed to let them have the book
 19 that they wanted. But then as that book was ordered -- I
 20 don't recall if that book had been shipped or if it was in
 21 its shipping process -- Alan found out that there is an
 22 updated version after talking to a -- someone where he got
 23 these books from, so they canceled that and then ordered the
 24 two-oh-four book, the newer one.
 25 Q. You referred to a period prior to you becoming a

1 member of the board, and at this time we haven't established
 2 exactly when it was that you did become a member of the
 3 board. So, when was it that you became a member of the
 4 school board?
 5 A. It had to be some time in two-oh-three. I don't
 6 know -- I don't think it was the end of two-oh-two and yet I
 7 was on for -- could have been the end of two-oh-two when I
 8 was selected. And then I ran for office that following
 9 November. That's when I was voted in, in two-oh-three. So,
 10 that would have been -- I was put on the board in the fall.
 11 late fall of two-oh-two. And then next year I ran for
 12 election, that was two-oh-three.
 13 Q. When you say you were, "put on the board in 2002,"
 14 what do you mean by that?
 15 A. I was selected. Out of so many -- there was
 16 four -- I think four people that applied to be on the board
 17 of directors. And all of us had to go through a test in
 18 front of the school board, in front of the public. And out
 19 of the four, I was one. And at the same time, Mr. Buckingham
 20 was selected. The two of us were selected out of the four.
 21 Q. So, is it my understanding that when you first
 22 became a member of the school board, you were appointed to
 23 fill a void in the school board?
 24 A. Right.
 25 Q. Okay. And it was to fill this void that the Browns

1 and that Mr. Bonsell came to your house to discuss with you
 2 the potential of you filling the void?
 3 A. Right.
 4 Q. Okay. And then after you spent several months --
 5 or 2002, from the fall of 2002 forward on the school board,
 6 with the next election in 2003, you chose to run?
 7 A. Right.
 8 Q. And did either the Browns or Bonsell -- let me
 9 rephrase that question. When you spoke of the discussions
 10 you had with the Browns and Bonsell, that was -- to make sure
 11 I'm clear, that was prior to your appointment, not prior to
 12 your elections?
 13 A. That was prior to my appointment.
 14 Q. Okay. I understand. And so in 2003, how was it
 15 that you decided to run for school board?
 16 A. Well, I had a great interest in the schools, and I
 17 felt comfortable and I felt I was needed, so that's what's I
 18 done.
 19 Q. Okay.
 20 A. I was interested in the education that our students
 21 were getting, the type of education to put it simply. I just
 22 don't know any other way to explain it to you.
 23 Q. That's fine. Now, let's go back to the issue
 24 surrounding the adoption of the biology textbook. You stated
 25 that prior to your appointment to the school board in the

1 fall of 2002, you were aware of a controversy surrounding the
 2 textbook; correct?
 3 A. (Witness nodded head.)
 4 Q. And this -- yes or no?
 5 A. Yes.
 6 Q. And this controversy at this point your
 7 understanding was solely dealing with whether the teachers
 8 needed a new textbook or not?
 9 A. Yes, sir.
 10 Q. Were you aware at that point -- this is prior to
 11 your appointment to the school board -- were you aware of any
 12 controversy or issue surrounding the way the textbook handled
 13 evolution?
 14 A. No.
 15 Q. Were you ever aware of the fact that there was a
 16 controversy -- of any controversy surrounding the way the
 17 textbook, biology textbook used by the teachers handled the
 18 subject of evolution?
 19 A. No, sir.
 20 Q. Do you recall ever having any discussions about the
 21 way the science textbook, biology, used by the science
 22 teachers handled evolution?
 23 A. I -- at one of the meetings when I heard this, it
 24 was brought up -- I don't know which one had said this -- but
 25 they said the biology books that they have, they're not even

1 using. So, that's -- that's as far as I can go on that.
 2 Q. Do you recall what meeting that would have been?
 3 A. In the spring of two-oh-four.
 4 Q. But you don't recall there ever being any
 5 discussions with respect to evolution and the way the
 6 textbook handled evolution?
 7 A. No, sir.
 8 Q. Do you recall attending the two school board
 9 meetings in June of 2004?
 10 A. Yes. I know that I was there in June.
 11 Q. Do you recall any discussions prior to the first --
 12 let's take -- there were two separate school board meetings
 13 in June. The first, I believe, occurred on June 7th. We're
 14 going to take a few seconds to talk about the June 7th school
 15 board meeting. Do you recall any discussions prior to that
 16 school board meeting with any of the members of the school
 17 board or the administration with respect to the biology
 18 textbook?
 19 A. Not that I can recall. At that meeting, not that I
 20 can recall, no.
 21 Q. Do you recall any discussions during the meeting by
 22 either the school board or the public in general with respect
 23 to the biology textbook?
 24 A. I'm trying to recall. In June --
 25 MR. WHITE: We're still talking about the first

1 meeting?
 2 MR. LOWE: The first meeting in June, correct.
 3 THE WITNESS: Yes, uh-huh. At one of those
 4 meetings in June -- and I don't recall if it's the first or
 5 the second meeting in June -- I think is when Bert Spahr, she
 6 was the biology teacher, had spoke and was -- she was upset
 7 because she wanted the new book, the new biology book.
 8 BY MR. LOWE:
 9 Q. Do you remember how -- did you respond to anything
 10 that Ms. Spahr said at that meeting?
 11 A. No, sir.
 12 Q. Do you recall if anyone on the school board
 13 responded to Ms. Spahr's concerns at that time?
 14 A. I think Alan Bonsell and Sheila Harkins. If I'm
 15 not mistaken on that.
 16 Q. Do you recall what it was that they said, either
 17 Bonsell or Harkins in response to Ms. Spahr's concerns?
 18 A. I do know that that -- one of those meetings in
 19 June was when Alan said that he had found the updated book,
 20 the two-oh-four book; instead of getting the 2002, he was
 21 going to check further and get the 2004 book. And then after
 22 that, I don't -- I don't recall what was said.
 23 Q. Do you recall -- let's move on to the second
 24 meeting in June.
 25 A. Uh-huh.

1 Q. Do you recall any discussions about the biology
 2 text either prior to the meeting or during the meeting in the
 3 second meeting of June?
 4 A. No, sir. I do not.
 5 Q. In those same June meetings, were you aware at any
 6 time that there was a controversy surrounding the biology
 7 curriculum?
 8 A. Yes, sir. I knew there was controversy on that.
 9 Q. When were you first made aware of the controversy
 10 about the biology curriculum?
 11 A. That was when -- again, that was the meeting that
 12 Bert Spahr was very unhappy.
 13 Q. So that I can get the time frame, your recollection
 14 was that that was either the first or the second meeting in
 15 June?
 16 A. Second.
 17 Q. Prior to the meeting at which Ms. Spahr spoke about
 18 her feelings with respect to the biology book, were you aware
 19 of any controversy surrounding the biology curriculum?
 20 A. As I sit here, I am trying to recall. There was
 21 one meeting that we had with the teachers, with Bert Spahr --
 22 and this was back in a closed meeting or whatever you would
 23 call it, you know, the attorney wasn't there -- and discussed
 24 because she was terribly upset because she thought she wasn't
 25 getting the new book. She thought we wouldn't be buying the

1 new book, and she was terribly upset.
 2 Q. And when you're saying, "she," you're referring to
 3 Ms. Spahr?
 4 A. Ms. Spahr.
 5 Q. Let's take a couple seconds -- we're going to move
 6 away from the board meetings and let's talk for a few seconds
 7 about this meeting that you had with the teachers. Do you
 8 recall approximately when that meeting occurred?
 9 A. That had to be in the spring -- that had to be
 10 before June. I couldn't tell you the exact month or
 11 anything, but I know it had to be before June.
 12 Q. Okay. Just to try and help to narrow it down just
 13 a little. Does Dover have a Spring Break around Easter time?
 14 A. I think they have, like, on a Thursday, Friday,
 15 Saturday, and go back Monday, yeah.
 16 Q. Just to try and keep time frame, do you recall if
 17 it was before or after that time period?
 18 A. I cannot tell you that. I don't know.
 19 Q. Okay. All right. At some time prior to June, is
 20 it safe to say it was in the spring?
 21 A. In the spring.
 22 Q. Do you recall who was at that meeting? Let's start
 23 with school board members.
 24 A. Alan Bonsell.
 25 Q. Alan Bonsell.

1 A. Bill Buckingham, Sheila Harkins, I think Casey was
 2 sick that meeting, Nolen Wenrich, I think that's it.
 3 Q. And you were also present at that meeting?
 4 A. Yes, sir.
 5 Q. Were there any administrators present at that
 6 meeting?
 7 A. Yes, sir.
 8 Q. Who were the administrators?
 9 A. Dr. Nilsen, I think Mike Baska, and then the
 10 teachers. And the only teacher I can remember is Bert Spahr
 11 because she did the talking for most all of them.
 12 Q. Do you recall approximately how many teachers were
 13 there?
 14 A. Three or four.
 15 Q. But you don't recall any other than Ms. Spahr?
 16 A. (Witness shook head.)
 17 Q. And you had previously stated that Ms. Spahr spoke
 18 of her concern at this meeting with respect to whether they
 19 were going to get the new textbook?
 20 A. That's right.
 21 Q. Do you recall any other concerns being shared at
 22 that meeting?
 23 A. No, I don't.
 24 Q. When you went to this meeting which included, it
 25 looks like, a couple administrators, five members of the

1 school board, and three or four teachers, what was your
 2 understanding that the meeting was solely to discuss with Ms.
 3 Spahr her concern with whether or not they would receive the
 4 biology text?
 5 A. Yes. I think that's what it was. I don't recall
 6 of anything else being discussed at that meeting other than
 7 that.
 8 Q. Do you recall anyone responding at that meeting to
 9 Ms. Spahr's concerns?
 10 A. Well, Alan did because Alan was present at the
 11 time, and he spoke -- he wasn't sure that we needed that new
 12 textbook, that new biology book. So, he spoke, and I know
 13 Noel spoke.
 14 Q. Do you recall what either of the two said? Let's
 15 start with Mr. Buckingham, you said?
 16 A. No, Mr. Bonsell.
 17 Q. Bonsell.
 18 A. And Noel Wenrich.
 19 Q. Let's start with Mr. Bonsell. Do you remember what
 20 he said?
 21 A. No, sir. I do not recall.
 22 Q. Do you recall what Noel Wenrich said?
 23 A. No. It was all about getting the new book, that
 24 they didn't use the book that they had, so what difference
 25 would it, would it, you know -- wanted to try and reason with

1 them not to spend all the money for these new books. But in
 2 the end, they did it anyhow.
 3 Q. Do you recall whether at that time there were any
 4 discussions with respect to whether or not the teachers
 5 taught origins of life?
 6 A. I don't understand your question, sir.
 7 Q. Are you familiar with -- when I say the term,
 8 "origins of life," are you familiar with -- do you have an
 9 understanding -- your own understanding of what that might
 10 be?
 11 A. Right.
 12 Q. Do you recall whether there was any discussion at
 13 this time -- we're talking the spring meeting with the
 14 teachers -- if there was ever any discussion between the
 15 teachers and the school board and the administration with
 16 respect to whether or not that topic, origins of life, was
 17 covered in the biology classroom?
 18 A. No.
 19 Q. No conversations about that?
 20 A. I have no knowledge of that.
 21 Q. Do you have any knowledge of whether or not there
 22 were discussions of whether the teachers taught origins of
 23 life prior to this meeting? At any time prior to this
 24 meeting, do you recall there ever being any discussions with
 25 whether or not origins of life was taught in the biology

1 curriculum?
 2 A. No, I do not.
 3 Q. Did you have any discussions with the school board
 4 after this meeting with the teachers but prior to the June
 5 school board meeting with respect to either the biology
 6 textbook or the biology curriculum?
 7 A. No. No, sir.
 8 Q. Then moving back to the two meetings in June, my
 9 understanding is that all you recall with respect to
 10 discussions about either the biology curriculum or the
 11 biology text was whether or not the teachers were going to
 12 get the new textbook?
 13 A. Correct.
 14 Q. Now, you also stated that when Ms. Buckingham -- or
 15 rather when Ms. Spahr spoke of her concerns in the June
 16 meeting, that this was the first time -- and correct me if
 17 I'm wrong -- but I believe you said this was the first time
 18 that you were aware there was some controversy surrounding
 19 the biology curriculum?
 20 A. Right.
 21 Q. Okay. Let's focus on that for a few minutes. How
 22 was it that you became aware of the fact that there was some
 23 concern with the biology curriculum?
 24 A. Because of Ms. Spahr when -- Ms. Bert Spahr got up
 25 and she was not happy with the curriculum, that we wanted to

1 Q. Do you recall whether she said a specific concerns
 2 with respect to the change, whether she stated any specific
 3 concerns?
 4 A. No. Not at that time I do not.
 5 Q. Okay. Other than your general understanding that
 6 there was some concern about the biology curriculum and your
 7 understanding that there was also some concern with whether
 8 or not the textbooks would be purchased, do you recall
 9 anything else in those June meetings that relates to either
 10 the textbook controversy or the issue of biology curriculum?
 11 A. There was some discussion, but I don't recall what
 12 was -- I don't recall what was said because there was no
 13 decisions made then.
 14 Q. Do you recall who took part in these discussions at
 15 that time other than Ms. Spahr?
 16 A. Well, I know that Alan had discussed, you know,
 17 what -- tried to answer her questions. And I know there was
 18 a few other board members did, but I never did, so -- because
 19 I was not on curriculum, so I did not answer.
 20 Q. Do you recall at any time in June whether the board
 21 addressed Ms. Spahr's concerns with possible changes to the
 22 biology curriculum?
 23 A. No, sir. I don't. There was nothing.
 24 Q. When did you first become aware of the fact that
 25 the school board did, in fact, intend to make some changes to

1 change the curriculum. She didn't want no changes the
 2 curriculum, so--
 3 Q. When you say, "we wanted to change the
 4 curriculum" --
 5 A. She said we wanted to. She -- we were changing it.
 6 Q. Okay. Do you understand why she felt you were
 7 trying to change the curriculum?
 8 MR. WHITE: Objection: No showing of personal
 9 knowledge, speculation, calling for.
 10 THE WITNESS: No, I don't.
 11 BY MR. LOWE:
 12 Q. Were you at that time trying to change the biology
 13 curriculum?
 14 A. No, I was not.
 15 Q. Were you aware of the fact that the school board
 16 was at that time trying to change the biology curriculum?
 17 A. No, sir.
 18 Q. So, do you have any idea where Ms. Spahr got the
 19 idea that the school board was trying to change the
 20 curriculum?
 21 A. No, I do not. I have no knowledge of where Ms.
 22 Spahr got some of her -- her ideas. I just don't know.
 23 Q. Did Ms. Spahr at that time elaborate at all on how
 24 the curriculum was going to be changed?
 25 A. She may have, but I don't recall what was said.

1 the biology curriculum?
 2 A. I'm just trying to think here. The last two
 3 meetings I was at was in June, and then there was October
 4 when I went home, and that was the last two meetings I was
 5 at. I think that last meeting in June there was some
 6 discussion about changing the curriculum.
 7 Q. Do you recall anything about that discussion with
 8 respect to the change in the curriculum?
 9 A. At that time, again it was on this biology book
 10 with evolution. But no decisions were made at any of those
 11 meetings in June.
 12 Q. Okay. You said that there was some discussion in
 13 the last June meeting with respect to the biology book with
 14 respect to evolution. Could you -- do you recall what was
 15 said about evolution at that time?
 16 A. I do know that one -- it was said that the book
 17 that they do have about teaching evolution, they don't bother
 18 to use it anyhow, so -- I can't recall of anything else that
 19 may have been said.
 20 Q. And do you recall who it was that said that the
 21 book was not used with respect to evolution?
 22 MR. WHITE: Objection: Mischaracterizing what she
 23 said.
 24 THE WITNESS: No, I don't, sir.
 25 MR. WHITE: We've been going about an hour. Do you

1 want to take a break?
 2 MR. LOWE: It's up to you.
 3 MR. WHITE: Do you want to take a break?
 4 THE WITNESS: I don't need to if you don't need to.
 5 MR. WHITE: Okay.
 6 (Brief pause in the proceedings.)
 7 BY MR. LOWE:
 8 Q. After the June meetings, it's my understanding that
 9 there is one meeting in July, or are there two meetings in
 10 July?
 11 A. I think there was only one meeting.
 12 Q. Did you attend any -- did you attend the July
 13 meeting?
 14 A. No, I wasn't there.
 15 Q. Did you hear anything -- did you talk to anyone on
 16 the school board about what occurred in the July meeting?
 17 A. No, sir.
 18 Q. Did you have any discussions after the June
 19 meetings with members of the school board with respect to
 20 what occurred during the June meetings?
 21 A. No, sir. May I say something?
 22 Q. Sure.
 23 A. The only reason that I remember that there was -- I
 24 remember our last meeting in June, I do remember Dr. Nilsen
 25 saying that, we're only having one meeting in July. That I

1 remember very clear.
 2 Q. Moving forward to August. Were there any board
 3 meetings held in August?
 4 A. I don't know. I was not there. I was in Florida.
 5 Q. By your answer, then, is it safe to assume that you
 6 didn't discuss any board meetings if there were even any
 7 board meeting in August with anyone?
 8 A. I have no idea.
 9 Q. This is moving along nicely. Let's move forward to
 10 September. Were there any board meetings in September?
 11 A. I have no knowledge of that, sir.
 12 Q. Were you in Florida during September?
 13 A. I was in Florida.
 14 Q. So between the second meeting in June and the
 15 October meetings, you didn't attend any meetings?
 16 A. Right.
 17 Q. Let's move, then, to the October meetings. Prior
 18 to your return -- prior to your first meeting in October, did
 19 you have any discussions with members of the school board
 20 about what had occurred with respect to the biology text or
 21 the biology curriculum?
 22 A. No, sir.
 23 Q. What I have here are school board minutes. I'm
 24 using these just to help me get the days straight, and at
 25 some point I may ask you to take a look and help you refresh

1 your memory. Just so you know what is it I'm digging through
 2 here, I'm just trying to get an idea. Actually, moving back
 3 to the July 12th meeting. According to the roll call, your
 4 name is on the roll call. Is it possible that you were at
 5 the July meeting and just don't remember it?
 6 A. You mean I'm in July there? Let me see what it
 7 says.
 8 MR. LOWE: What I'm -- what I'm showing Jane is a
 9 document, the school board minutes for the Dover Area School
 10 District for the meeting dated Monday, July 12th. And I
 11 don't think we have a need to mark this as an exhibit yet
 12 unless you like to have it marked. No, why don't we mark
 13 this. Could we mark this as an exhibit for this. Why don't
 14 you take a look at this and here's a copy for you, as well.
 15 MR. WHITE: I also have a general objection to
 16 authenticity, foundation, etcetera.
 17 THE WITNESS: Well, now, you know, this is bringing
 18 back a -- I was a little confused a while ago with this June
 19 meetings, you know. I bought my home July 21st. And I may
 20 have been at the July meeting. It was only one meeting in
 21 July, July the 12th. Because the meeting before that would
 22 have been July the 5th, and right after the day of July 4th.
 23 BY MR. LOWE:
 24 Q. Do you tend to review school board minutes?
 25 A. No, sir.

1 Q. Have you ever looked at school board minutes
 2 before?
 3 A. No, sir.
 4 Q. Okay. Having taken a second to look at the school
 5 board minutes, do you recall now whether at that meeting
 6 there was any discussion concerning either the --
 7 A. That may have been the meeting -- it was either the
 8 last meeting in June or else this meeting in July that Bert
 9 Spahr was so upset. I don't really recall. Now that I
 10 know -- I see this that I was there the 12th.
 11 Q. Okay. That's fine. So, correct me if I'm -- if I
 12 say anything incorrectly, just let me know. Let me just try
 13 and put this back together. It sounds to me like your
 14 recollection is that the last school board meeting you
 15 attended prior to the October meeting was when Ms. Spahr
 16 spoke her concerns?
 17 A. That's when she was so upset.
 18 Q. And other than that, you don't recall anything else
 19 at any of these meetings prior to October?
 20 A. No. That one was a little bit -- going a little
 21 bit rough.
 22 Q. What do you mean by, "going a little rough"?
 23 A. Well, they got upset with each other, you know,
 24 some of the -- Ms. Spahr's said her -- what she thought and
 25 then some of the -- I know Alan Bonsell was upset with her

1 because of the way that she spoke. But it was just a little
 2 bit of commotion there. They just didn't get along too well.
 3 Q. Do you remember how Mr. Bonsell responded?
 4 A. No, I don't. I can't say the words that Mr.
 5 Bonsell said. But I do know that anything that Mr. Bonsell
 6 said, he thought everything through before he ever spoke.
 7 Q. Do you recall what it was specifically about what
 8 Ms. Spahr said that upset Mr. Bonsell?
 9 A. She was terribly upset because she thought they
 10 were not getting the new biology book, and Mr. Bonsell,
 11 that's when he said he would have to look into it further
 12 before he would give consent or we voted on this, would take
 13 a vote on it, that he wanted to make sure we got the right
 14 book.
 15 Q. And by, "right book," were you aware of whether
 16 there was discussions of using any other textbooks at that
 17 time?
 18 A. Not that I recall, not at that -- yes, there was.
 19 On that July meeting, that is I think when that -- I think is
 20 when the book of Pandas and People or whatever, getting
 21 another book. And Ms. Spahr thought that she was going to
 22 have to teach another theory or something like that. But Dr.
 23 Nilsen and Alan both reassured her that they would not be
 24 teaching the students any other theory.
 25 Q. Had you at this time in the July meeting or

1 whenever it was -- I understand that you're a little bit
 2 unclear with which date, which is fine. At that time, were
 3 you aware of a book entitled, Pandas and People?
 4 A. Yes, sir.
 5 Q. And how were you made aware of this book?
 6 A. Because the -- I don't know how Mr. Buckingham got
 7 this book, but that's how -- I had asked Mr. Buckingham if he
 8 had the book, I would like to see it. And so he gave me the
 9 book. And I did not read it page for page. But the book,
 10 Pandas and People I felt was -- should not be taught or it
 11 shouldn't be taught at all. But if a student wanted to
 12 pursue another theory, that maybe it could be available, that
 13 that student could look at that book but not be taught.
 14 Q. How was it that you became aware that Mr.
 15 Buckingham had this book, Pandas?
 16 A. Because of -- it was through Mr. Buckingham that he
 17 had mentioned this book. And I don't know where he got this
 18 book. I have no idea at all.
 19 Q. Do you recall when it was that he mentioned to you
 20 the book, Pandas?
 21 A. It was probably some time in -- that had to be in
 22 July.
 23 Q. Prior to the school board meeting?
 24 A. Yeah, that had to be.
 25 Q. And then you stated that you got a copy of the book

1 from Mr. Buckingham?
 2 A. I didn't get a copy, he gave me the book. And I
 3 read the book, and gave it right back to him.
 4 Q. You stated that you didn't feel that the book
 5 should be taught in school.
 6 A. No. It should not be taught in school.
 7 Q. What was it about the book that you felt should not
 8 be taught in school?
 9 A. In the first place, the book I felt should not --
 10 from the 9th grade to 12th grade student might understand
 11 some of it, but not anyone -- not students younger than that.
 12 And again, it's just another theory. So -- but I felt that
 13 our students deserve the opportunity if they wanted to pursue
 14 anything, there is so many different theories out there, that
 15 they should have another book if they wanted to look at it.
 16 Q. Okay. You're referring to other theories. What do
 17 you mean when you're saying, "other theories?"
 18 A. Well, there are -- the word, "creationism" was
 19 brought up. Well, creationism, I don't believe should ever
 20 be taught in school. And they had no intentions of teaching
 21 creationism.
 22 Q. When you say the word, "creationism" was brought
 23 up, who do you mean brought it up?
 24 A. That was when Bert Spahr was up and said that we
 25 were going to teach creationism.

1 Q. And in your recollection this was in the same July
 2 meeting?
 3 A. (Witness nodded head.)
 4 Q. Do you recall how anyone responded to Ms. Spahr's
 5 statement that she felt they were going to be asked -- "they"
 6 being the teachers, were going to be asked to teach
 7 creationism?
 8 A. She -- in Ms. Spahr's mind, I think what happened,
 9 she was so sure that this is what they were going to be asked
 10 to do, but she was reassured by Alan Bonsell and Mr. Nilsen
 11 that they would not be asked to teach any of this, they are
 12 not going to be teaching any other theory. But if the book
 13 is available for the students, that's the only thing that --
 14 that is the only thing that I was concerned about, giving our
 15 students another opportunity if there was a different theory
 16 out there that they want to look at, that they have that
 17 opportunity.
 18 Q. When you say, "other theory," am I correct in
 19 saying that you mean as opposed to evolution?
 20 A. Yes.
 21 Q. Okay. Did you ever consider -- you said there's
 22 several other theories out there. What other theories do you
 23 understand are out there other than evolution?
 24 A. Well, I'm not a scientist, by far. And I don't
 25 know. But I feel there is something else out there. There's

1 other -- I feel, Chris, that if our students only have one
2 theory being taught to them, that theory soon becomes a
3 fact because that's the only theory that student knows. Why
4 not give that student the opportunity -- there's other
5 theories out there, and I surely can't name them; as I said,
6 I'm not a scientist. But I think there's some -- should be
7 some research done on that to give our students the
8 opportunity to learn if they want to.

9 Q. Were there any other science theories other than
10 evolution for which you felt the students should be exposed
11 to alternatives?

12 A. No. I couldn't name one. Because as I said, I
13 know there's others out there because we certainly have the
14 greatest scientists in world, so there's other theories
15 there.

16 Q. Okay. But let's say, okay -- and I'm not a
17 scientist, either. I can't speak for these two here,
18 probably there's no scientists; we're probably all on about
19 equal ground here. There's several different theories taught
20 in science classes, nuclear theory, evolutionary theory.
21 Evolutionary theory is one theory that's taught, then there's
22 other theories that have nothing to do with evolution that
23 are also taught. Did you have issue with any other theories
24 taught in science classes?

25 A. No.

1 about the book as far as that. I knew nothing. And the
2 book -- that's why I said a student from the 9th to the 12th
3 grade would probably be able to understand it better than
4 what I would, truthfully.

5 Q. Other than your concern with the fact that the
6 textbook may be hard for some students to understand, did you
7 have any other concerns with respect to the textbook?

8 A. No.

9 Q. And by, "textbook," I'm referring to the, Pandas
10 textbook?

11 A. No. No, sir, I should say.

12 Q. So we're in July and you understand that this is --
13 you had not too much previous to this July meeting become
14 aware of this textbook, Pandas, you reviewed the textbook and
15 Ms. Spahr had a few things to say at the school board
16 meeting, and this was the last school board you attended
17 prior to the October meeting?

18 A. Correct.

19 Q. Let's move ahead, then, to October. I have a date
20 in front of me as October 4th for that school board meeting.
21 Does that sound right to you?

22 A. Yes, sir.

23 Q. Do you recall anything occurring in that October
24 4th school board meeting with respect to the biology
25 textbook?

1 Q. Is there any reason why evolution presented a
2 problem to you?

3 A. Yes, it is. Because I just have the feeling that
4 there's something else out there. I certainly don't believe
5 there's never been a proven fact with evolution in evolution.
6 There has to be something out there, there has to be other
7 theories there that our students can be made aware of. And
8 if they're not taught, it's fine; but if the books are
9 available, that's what should happen.

10 Q. Okay. So at this time during the July meeting,
11 what was your understanding of what the school board wanted
12 from the science teachers with respect to the teaching of
13 other theories?

14 A. The school board asked nothing of the teachers as
15 far as teaching the students any other theory. The only
16 thing the school board asked was that the teachers would be
17 willing to have a book there that the student if they wanted
18 to could pursue another theory, could look at it.

19 Q. Now, when you had spoke earlier about your review
20 of the textbook, Pandas, do you recall what theory, if any,
21 was presented by Pandas?

22 A. No, I don't. And I'm going to say this to you.
23 For me, it was a little hard, I would have had to take time
24 and sit down with that book and really read it in order to
25 get anything out of it. Because I know nothing about --

1 A. There was a lot of discussion.

2 Q. Okay. By, "a lot of discussion," do you recall who
3 was involved in these discussions?

4 A. Again, Bert Spahr. And she had other teachers
5 there, but I don't know the teachers' names. She had other
6 people there to speak on her behalf. But I don't recall who
7 they were anymore.

8 Q. Do you recall what it was that they discussed at
9 that time? By, "they," I mean Ms. Spahr and other teachers.

10 A. There was a statement -- and I don't really know
11 how this statement -- the -- and I don't know if this came
12 from Alan or from Dr. Nilsen about referring to the book and
13 letting the students know that there was a book there. But
14 it was -- I don't know how the statement read. You'll
15 probably come across that, too. And the teachers didn't feel
16 that they wanted to read this statement, so -- and I didn't
17 know how that was settled because it was not settled when I
18 left.

19 Q. So, you're referring to a statement. By,
20 "statement," are you referring to a statement that the
21 teachers were going to be asked to read to their classes?

22 A. Right.

23 Q. Or that someone was going to be asked to read to
24 classes?

25 A. Uh-huh.

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1 Q. Prior to this October meeting, were you aware of
2 any such statement?
3 A. No, sir. No, sir. I don't recall that.
4 Q. Was your first exposure to this statement during
5 the school board meeting?
6 A. October -- yes. That was in October.
7 Q. And was it through Ms. Spahr's comments that you
8 first became aware of this statement?
9 A. I became aware of that statement when it was
10 discussed at the school board meeting and Ms. Spahr was up at
11 the -- and there was also another teacher, I remember, got up
12 and spoke that she didn't feel that they should be made to --
13 in fact, I -- I thought I remember -- I can almost picture
14 her face, but can't get a name to it, so --
15 MR. LOWE: That's okay. What I have in front
16 of me -- what I'm going to show you in one second -- is a
17 copy of the Complaint which was filed in this action. Inside
18 this Complaint is what I believe to be the statement that
19 you're referring. I'm going to give you this Complaint -- if
20 we could mark this as an exhibit, please -- and ask you to
21 take a second to read it, and then we'll discuss it.
22 MR. WHITE: Just so I understand, you're talking
23 about which paragraph?
24 MR. LOWE: We are on Page 13 of the Complaint --
25 wait, let me -- actually, we're on Page 14 of the Complaint.

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1 and we are in Paragraph 33.
2 MR. WHITE: What was your question about Paragraph
3 13?
4 MR. LOWE: If you could read that paragraph and
5 then just let me know if this sounds like the statement that
6 you were referring to.
7 THE WITNESS: Yes, I do recall. Yes, I do recall
8 that. That is the statement I'm referring to.
9 MR. LOWE: Okay.
10 BY MR. LOWE:
11 Q. And I'm going to read the statement into the
12 record. The statement reads: Students will be made aware of
13 gaps, problems in Darwin's theory and other theories of
14 evolution including but not limited to intelligent design;
15 note, origins of life is not taught. Did I read that
16 correctly?
17 A. Correct.
18 Q. Okay. So, this is a statement that you recall
19 being discussed at the October 6th board meeting?
20 A. 4th.
21 Q. 4th, the first October board meeting?
22 A. Uh-huh.
23 Q. And when Ms. Spahr brought this up, it was the
24 first time you aware of the statement?
25 A. That's correct.

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1 Q. Do you remember any specific discussions with
2 respect to this statement other than Ms. Spahr's comment that
3 she didn't feel the teachers should be ordered to read it?
4 MR. WHITE: Objection: You're Assuming that this
5 is the statement that's read to students.
6 MR. LOWE: That's fine.
7 MR. WHITE: Okay. She says she's not aware of
8 anything like that.
9 THE WITNESS: No, sir.
10 BY MR. LOWE:
11 Q. Do you recall any other discussions at that board
12 meeting other than the discussion that Ms. Spahr initiated
13 with respect to a statement?
14 A. No, I do not. Huh-uh.
15 MR. LOWE: And I believe she did say this was a
16 statement that she understood was being discussed.
17 MR. WHITE: Right. But you had asked if this was
18 what was read to the students. She said she wasn't around
19 after October --
20 MR. LOWE: Fair enough.
21 MR. WHITE: -- nor does she have knowledge that
22 this was a statement that's read to students, just a
23 statement they were discussing at that meeting.
24 MR. LOWE: Fair enough.
25 MR. WHITE: Is that accurate?

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1 THE WITNESS: That's right. I don't know how the
2 outcome came out of this, with this.
3 MR. LOWE: In fact, I'm glad you caught that,
4 because what we're actually looking at --
5 MR. WHITE: You're looking at the curriculum.
6 MR. LOWE: Exactly. We're looking at the
7 curriculum change there. That was how the curriculum was
8 going to be changed. So, let me ask you a couple questions
9 about that.
10 THE WITNESS: Okay.
11 BY MR. LOWE:
12 Q. That specific statement with respect to the
13 curriculum change, was there any discussion at the school
14 board meeting -- we're talking the first school board meeting
15 in October -- with respect to the curriculum change that's
16 noted in Paragraph 33 in front of you?
17 A. Yes, it was.
18 Q. And what was the discussion surrounding the
19 curriculum change?
20 A. Again, it was -- it was about reading -- that the
21 teachers should read this to the students -- should read this
22 statement to the students.
23 Q. Okay. Let's turn, if you would, to Page 16 of the
24 Complaint and Paragraph 40. If you'd take a minute or two,
25 please, just to read Paragraph 40.

1 MR. WHITE: You want her to go to the next page?
 2 MR. LOWE: Yes. Page 17 concludes that.
 3 BY MR. LOWE:
 4 Q. So, there's two -- and I understand it's been a
 5 long time since you've really thought too much about any of
 6 this. And I'm just trying to make sure that we're clear on
 7 what it is we're discussing. In fact, I was a little unclear
 8 before myself. But there are two different statements that I
 9 just had you read, one which I'm referring to as a statement,
 10 that is actually to change the biology curriculum, and the
 11 second is the statement that the teachers were asked to read
 12 in class or that someone was, you know, presented to read in
 13 class. Okay. Now, you had mentioned that Ms. Spahr had
 14 stated her concerns with reading a statement to class. When
 15 saying that, which statement is it that you're referring to?
 16 MR. WHITE: If you know.
 17 THE WITNESS: What's that?
 18 MR. WHITE: I said, if you know. You can look this
 19 over.
 20 THE WITNESS: You know, I've read both of them and
 21 I don't really know -- I don't really know. Truthfully, I
 22 don't.
 23 MR. LOWE: That's fine. That's fine.
 24 THE WITNESS: I'm going to say, truthfully, I don't
 25 recall.

1 BY MR. LOWE:
 2 Q. Do you recall discussions about a statement that
 3 would be read to the science classes at this early October
 4 board meeting?
 5 A. Yes. I do know that there was a statement that was
 6 supposed to be read.
 7 Q. Do you also recall discussions regarding the change
 8 to the biology curriculum at that board meeting?
 9 A. I don't recall of any changes that was made up
 10 until that point. There may have been after I left, but I
 11 don't recall.
 12 Q. Do you recall voting on the change in the biology
 13 curriculum?
 14 A. Yes, I do.
 15 Q. And do you recall how you voted?
 16 A. I voted that it should be changed.
 17 Q. Moving forward to the second meeting in October.
 18 A. Uh-huh. Yes, sir.
 19 Q. Do you recall anything -- any discussions with
 20 respect to the biology textbook in the second meeting in
 21 October?
 22 A. There was -- there was quite a bit of discussion.
 23 But what was said, I surely can't remember.
 24 Q. Do you remember whether there were any discussions
 25 about the textbook, Pandas at that meeting?

1 A. I think there was some discussion on that.
 2 Q. Do you recall anything at all about the nature of
 3 those discussions?
 4 A. The last meeting that I was at, this is what I
 5 recall, Pandas and People. The discussion was that this book
 6 was to be given to the school by a group of people, but I
 7 don't know the group of people.
 8 Q. Prior to that discussion at your last meeting which
 9 I take it was the last meeting in October?
 10 A. Correct, sir.
 11 Q. Do you recall any prior discussions with respect to
 12 the donations of the Pandas textbook?
 13 A. I had heard about the donations, but again, I don't
 14 know where the donations came from.
 15 Q. Do you recall any discussions between members of
 16 the school board about how they would obtain copies of the
 17 textbook, Pandas?
 18 A. The only discussion I remember is that I heard
 19 about -- there was someone going to donate these books to the
 20 school that didn't cost the school any money to get these
 21 books. That's the only thing. But I don't know who the
 22 group is.
 23 Q. Jeff Brown had previously testified that during a
 24 discussion between members of the school board, both you and
 25 Alan Bonsell had stated that you would be willing to be put

1 down as donors of the textbook. Do you recall that?
 2 A. I was asked if I would be -- if I would be willing
 3 to have those -- if -- not -- I was not going to be a donator
 4 of the book, no, that's wrong.
 5 Q. Okay.
 6 A. I was not giving one penny towards that book. But
 7 if they -- if someone was donating it, I had no objections.
 8 Q. Okay. So, you didn't volunteer to donate books,
 9 but rather you stated that you had no objection if someone
 10 else were to donate these books?
 11 A. Correct.
 12 Q. Okay. Understood. Now, according to Mr. Brown, at
 13 least one of these discussions occurred in August. Do you
 14 recall having any of these discussions in August?
 15 MR. WHITE: August of what year?
 16 MR. LOWE: August of 2004.
 17 THE WITNESS: No, sir. I was not there.
 18 BY MR. LOWE:
 19 Q. This was when you were in --
 20 A. (Witness nodded head.)
 21 Q. Okay. So, between the June meeting when -- after
 22 you had reviewed the textbook, Pandas, and coming back in
 23 October, you don't recall having any discussions with respect
 24 to, Pandas?
 25 A. Not at all.

1 Q. Okay. We're getting there. We are just about
2 done. I'm going to ask a general catch-all statement, but I
3 think this might help to bring a close to your recollection
4 of the meetings. Please correct me if I'm saying anything
5 that you don't believe is completely accurate, and if you
6 want to correct me, too.

7 A. Okay.

8 Q. My understanding, then, at this time is that other
9 than the limited statements made by Ms. Spahr concerning --
10 I'm going to write this as I'm saying it because I want to
11 make sure I get it right -- concerning the fact that she
12 felt, first, that they may not be receiving biology
13 textbooks, also that she was concerned with something the
14 teachers may be required to read in class, and finally, a
15 concerning she may have had with respect to teaching
16 creationism early on. Do you recall anything else being
17 discussed with respect to the biology text or the biology
18 curriculum?

19 A. No, sir.

20 Q. Okay. At this point I have that those are your
21 three basic concerns, and I know that we may have talked
22 about those in different ways. But it sounds to me -- I'm
23 just trying to summarize. Then moving to the final meeting
24 in October, and once again, I understand that you're -- the
25 meetings may blend a little bit to you, but was it in the

1 final meeting in October where you voted to pass the change
2 in the biology curriculum?

3 A. Yes.

4 Q. But at this time you don't recall there being a
5 statement that the teachers were going to be asked to read to
6 the class?

7 A. No, sir.

8 Q. And do you remember any discussions with respect to
9 the change in the curriculum that may have -- had the change
10 be very similar to what you have in front of you which again
11 is Page 14 of the Complaint, Paragraph 33, but with the --
12 with the removal of the term, intelligent" design?

13 MR. WHITE: I'm confused. Can you ask the question
14 again?

15 MR. LOWE: Then it must have been a confusing
16 question.

17 BY MR. LOWE:

18 Q. Was there any discussion to changing the curriculum
19 in a way that intelligent design wouldn't be included in the
20 change?

21 A. My understanding was that intelligent design would
22 not be used in the curriculum at all.

23 Q. Was it your understanding that intelligent design
24 would be in the wording of the curriculum as it is here?

25 A. No.

1 Q. So, your understanding was that there would be no
2 mention of intelligent design?

3 A. No. Intelligent design was not going to be
4 mentioned.

5 Q. Would you have voted for a change in which
6 intelligent design would have been mentioned?

7 MR. WHITE: Can you clarify what you mean by,
8 "mentioned"?

9 BY MR. LOWE:

10 Q. In which intelligent design would have been
11 included in the curriculum?

12 A. Truthfully, I don't know what intelligent design --
13 what theory that would be. To me, it's some kind of a
14 scientific theory, and I don't understand it. So no, I
15 wouldn't not have voted.

16 Q. And that's actually going to bring me into my last
17 line of questioning, so we'll get there in a second. Would
18 you have been opposed to the teachers mentioning intelligent
19 design to their students?

20 A. As I said, Chris, I don't really understand what
21 intelligent design stands for. What theory it even
22 determines because I don't know who came up with those two
23 words. I'm not a scientist, so I cannot give you an answer
24 on that.

25 Q. Okay. Before passing the resolution to change the

1 biology curriculum, did you do any research whatsoever with
2 respect to intelligent design?

3 A. No, sir.

4 Q. Were you aware of any research done by any school
5 board members with respect to intelligent design? And by
6 that I mean, that they would tell you that they had done
7 research with respect to intelligent designs?

8 A. No, sir. No, sir.

9 Q. Did anyone offer to educate you with respect to
10 intelligent design?

11 A. No, sir.

12 Q. You had stated earlier that you had absolutely no
13 idea what intelligent design is. Is that still your
14 testimony now?

15 A. That is my testimony.

16 Q. So --

17 MR. WHITE: And also just for the record, she
18 previously testified she had read through the book, Of Pandas
19 and People, however. Is that what you're including in your
20 questions about research?

21 MR. LOWE: Actually, no. I understand your point.

22 BY MR. LOWE:

23 Q. Intelligent design is discussed in the textbook, Of
24 Pandas and People. When you were reading through the
25 textbook, Of Pandas and People, do you recall coming across

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1 the term, "intelligent design?"
 2 A. No, I don't.
 3 Q. Let's take a minute to talk about evolution. You
 4 had stated that you believe there's other theories out there.
 5 Have you done any research with respect to evolution?
 6 A. No, sir.
 7 Q. What is your background with respect to evolution?
 8 A. I'll say my -- this is my thinking, evolution to me
 9 is something that evolves in the same as living things. I
 10 don't have no other meaning. I just -- evolution is just
 11 something that evolves and it -- that's it.
 12 Q. Do you have a -- what is your science background?
 13 What sort of science classes have you had in the past?
 14 A. Truthfully, I haven't had any. As I told you, I
 15 went to two weeks in 9th grade, so I didn't have -- I don't
 16 have a science background.
 17 Q. Okay. And you did graduate from high school?
 18 A. No. I did not graduate from high school.
 19 Q. What was your last year of formal education?
 20 A. 9th grade, two weeks in the 9th grade. At the time
 21 there was no school buses, and so -- and I had two-and-a-half
 22 miles to walk to school. And my parents could not afford --
 23 if there would have been a bus, they couldn't afford a bus.
 24 Q. So, you went to school for a couple of weeks in the
 25 9th grade, and then you stopped?

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1 A. That's it, uh-huh.
 2 Q. Okay. All right. Outside of what we've already
 3 discussed here today, did you have any other discussions with
 4 members of the school board with respect to evolution?
 5 A. No, sir.
 6 Q. Were any other materials made available to you with
 7 respect to intelligent design?
 8 A. No, sir.
 9 Q. Do you recall there being any discussion of any
 10 other textbook, alternatives to the one that the teachers
 11 wanted other than the Pandas textbook?
 12 A. No, sir.
 13 Q. And I believe you stated that your understanding of
 14 the Pandas book, it came from Mr. Buckingham but you don't
 15 recall where he got it from?
 16 A. I do not know to this very day where he had got
 17 that book.
 18 MR. LOWE: Give me one quick second. I think
 19 I'm -- just want to quickly review my notes.
 20 MR. WHITE: Let's go off the record for a few
 21 minutes, stretch your legs and then come back.
 22 MR. LOWE: Sure.
 23 (Short recess.)
 24 MR. LOWE: Back on the record. I have no further
 25 questions.

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1 MR. WHITE: She wanted to clarify something. You
 2 had said that you didn't want the words, "intelligent design"
 3 mentioned to the students. What did you mean by that?
 4 THE WITNESS: I meant that I didn't want the
 5 students to be taught intelligent design. I said, mention.
 6 I didn't -- I don't want the students to be taught.
 7 MR. LOWE: Okay.
 8 THE WITNESS: Intelligent design.
 9 MR. WHITE: And she is going to want to review the
 10 transcript.
 11 MR. LOWE: Okay. Yes, we need it.
 12 MR. WHITE: Same here. Let me know when it's ready
 13 so I know when she gets it so she can get it done in 30 days.
 14 (The deposition was concluded at 2:48 p.m.)
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1 CERTIFICATE OF OATH
 2
 3 STATE OF FLORIDA)
 4 COUNTY OF POLK)
 5
 6
 7
 8 I, the undersigned authority, certify that
 9 the witness in this matter personally appeared before me and
 10 was duly sworn on the 10th day of June, 2005.
 11
 12 WITNESS my hand and official seal this 10th day of
 13 June, 2005.
 14
 15
 16
 17
 18 Evelyn M. Adrean, RPR
 19 Notary Public
 20 State of Florida at Large
 21 My Commission Number: DD 360489
 22 Expires: October 5th, 2008
 23
 24
 25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF POLK)

I, Evelyn M. Adrean, RPR, certify that I was
authorized to and did stenographically report the deposition;
that a review of the transcript was requested; and that the
foregoing pages are a true and complete record of my
stenographic notes taken during said deposition.

I further certify that I am not a relative,
employee, attorney, or counsel of any of the parties, nor am
I a relative or employee of any of the parties' attorneys or
counsel connected with the action, nor am I financially
interested in the action.

Dated this 10th day of June, 2005.

Evelyn M. Adrean RPR
Notary Public
State of Florida at Large
My Commission Number: DD 360489
Expires: October 5th, 2008

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June 10, 2005

Elmira Jane Cleaver
700 CR 630 A
Lot 8
Frostproof, Florida 33843
RE: Tammy Kitzmiller, et al. vs Dover Area School District,
et al.

Dear Ms. Cleaver:

Please take notice that on June 9, 2005, 2005 you gave your
deposition in the above-referenced matter. At that time, you
did not waive signature.

As a professional courtesy, I am enclosing a condensed copy
of your deposition transcript.
At Page 66, you will find an errata sheet. Any corrections
that you wish to make should be noted on said sheet, citing
page and line number of said correction. Do NOT write on the
transcript, itself.

Once you have completed this, sign the errata sheet and
return it in the self-addressed envelope that has been
provided. You need not return the entire transcript.

If you do not read and sign the transcript within 30 days,
the original may be filed with the Clerk of the Court.
If you now wish to waive signature, please sign your name on
the line below and return this letter to us.

Sincerely,

Evelyn M. Adrean
Registered Professional Reporter

I do hereby waive my signature:

Witness name Date
cc: Via transcript: Edward L. White, III, Esquire

SIGNATURE PAGE/ERRATA SHEET

WITNESS: ELMIRA JANE CLEAVER
DATE: June 9, 2005
CASE REFERENCE: Tammy Kitzmiller, et al. vs Dover Area
School District, et al.
CASE NO.: 4-CV-04-2688

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I have read my transcript and subscribe to its accuracy, to
include the corrections or amendments noted above or hereto
attached.

Signature of Witness Date

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