

Case No. 83557

In the Supreme Court of Nevada

CLARK COUNTY SCHOOL DISTRICT,
Appellant,

vs.

ETHAN BRYAN; and NOLAN HAIRR,
Respondents.

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Elizabeth A. Brown
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APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable NANCY ALLF, District Judge
District Court Case No. A-14-700018-C

**APPELLANT'S APPENDIX
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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June, 2022, I submitted the foregoing “Appellant’s Appendix” for filing *via* the Court’s eFlex electronic filing system. Electronic notification will be sent to the following:

ALLEN LICHTENSTEIN
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Attorneys for Respondent

/s/ Cynthia Kelley
An Employee of Lewis Roca Rothgerber Christie LLP

1 Q After February 7?

2 A Before. Beginning. The beginning of February.

3 Q Right. Do you know what date that was?

4 A I recall probably the 1st.

5 Q Okay. So by the time there is the email from
6 February 7, the boys had already left?

7 A Yes.

8 Q And in fact, the email even says that; do you know
9 that?

10 A Yes.

11 Q Okay. So February 8 though, something else happens
12 as well?

13 A Yes.

14 Q And I think you and plaintiff's counsel just skirted
15 over that. Let me get back to that. That was -- who was on
16 campus that day?

17 A It was Ms. Bryan was on campus.

18 Q So Mary Bryan was on campus?

19 A Yes.

20 Q And but this is February 8.

21 A Mm-hmm.

22 Q So hadn't Ethan already left the school?

23 A Yes.

24 Q So why was she on campus?

25 A She does have an older child going to school there.

1 Q She has an older child who -- Ethan was in the sixth
2 grade and there's an older brother in the eighth grade?

3 A I believe so.

4 Q So she's allowed to be on campus?

5 A When she wanted to visit with her child, yes.

6 Q Okay. And does the school, Greenspun Junior High,
7 allow parents to come in and visit with their students?

8 A Depending on the situation occasionally we do, yes.

9 Q Well, tell me what --

10 A Let's say for instance it's Sally's birthday. The
11 parent may want to bring in pizza, instead of them buying the
12 cafeteria food, and sit outside and eat with a group of
13 friends and enjoy the weather.

14 Q Okay.

15 A That happens on numerous occasions.

16 Q Or parents could just come and have lunch with their
17 students?

18 A If they choose to do so, yes.

19 THE COURT: I'm going to ask --

20 MR. POLSENBERG: Okay. Do you know why Mary Bryan
21 was --

22 THE COURT: I'm going to ask counsel to approach.

23 MR. POLSENBERG: Thank you, Your Honor.

24 (Bench conference transcribed as follows.)

25 THE COURT: I chastised Mr. Scott for laughing when

1 you brought up an issue, but you have laughed at his answers a
2 couple of times. It's inappropriate.

3 MR. POLSENBERG: Thank you, Your Honor. One time I
4 laughed because I had made a mistake in my notes. This time I
5 laughed because this was just a --

6 THE COURT: I have to treat you both the same.

7 MR. POLSENBERG: Okay.

8 THE COURT: I know you love all your kids the same.
9 Please don't act out. I don't want to embarrass you. I've
10 already embarrassed him. I reacted when you did that. So I
11 won't allow anyone to act out.

12 MR. POLSENBERG: Okay. And it was just because that
13 was such an unusual hypothetical I wasn't expecting.

14 THE COURT: Just please, all of you, please. And
15 you're about due for a break, so get to -- when you're to your
16 next subject let me know.

17 MR. POLSENBERG: Very good. Thank you, Your Honor.

18 THE COURT: Thank you.

19 (End bench conference.)

20 BY MR. POLSENBERG:

21 Q Okay. So do you know why Ms. Bryan was on campus
22 that day?

23 A From my understanding she had spoken to Ms. Winn and
24 she was volunteering.

25 Q Okay. And what happened that day?

1 A During lunch duties I was out in the courtyard. I
2 believe Ms. Winn was doing her duties. Ms. Bryan had brought
3 up two children that she witnessed bullying, physically on her
4 hands [indicating] according to Ms. Winn, and brought them to
5 her and said, These two kids were bullying.

6 Q And what's wrong with that?

7 A One, she has no business putting her hands on any
8 other child but her own, and two, one of those kids happened
9 to be a special needs kid that's autistic that in a second
10 could go off, and who knows what could happen at that time.

11 Q And was this -- what were the propensities of this
12 particular student?

13 A Oh, very highly to go off and say something or do
14 something physical. He had a history of that.

15 Q Of violence?

16 A Occasionally, yes.

17 Q But any student, it would be inappropriate to put
18 hands on other children?

19 A That is correct.

20 Q Can teachers do that?

21 A They're not supposed to, hopefully they don't.

22 Q Okay. And so what happened as a result of this?

23 A I was told by Ms. Winn and at that time I asked her
24 to leave campus.

25 Q Okay. And you asked her to leave the campus?

1 A That is correct.

2 MR. POLSENBERG: All right. That's it on that
3 topic, Your Honor, if you want to take a break.

4 THE COURT: So our last break was at 2:26. It's
5 3:38. Let's take a break until 3:50.

6 MR. POLSENBERG: Thank you, Your Honor.

7 THE COURT: And Mr. DePiazza, you may step down
8 during the break.

9 THE WITNESS: Thank you.

10 THE COURT: The court will be in recess until 3:50.

11 (Court recessed at 3:38 p.m. until 3:51 p.m.)

12 THE COURT: Mr. Polsenberg, are you ready to
13 continue with your cross-examination?

14 MR. POLSENBERG: Yes. Thank you, Your Honor.

15 THE COURT: Go ahead, please.

16 CROSS-EXAMINATION (continued)

17 BY MR. POLSENBERG:

18 Q Lenny, you know Mr. Beasley?

19 A Yes, I do.

20 Q Can you describe Mr. Beasley for me, his talent, his
21 character, his abilities?

22 A One of the top band directors in the town. Well
23 known throughout the district. He also plays on the side for
24 the philharmonic. He's a musician, very well known and very
25 respected in this town.

1 Q How about as a teacher?

2 A Top notch. Couldn't get any better band teacher
3 than Mr. Beasley.

4 Q And how about controlling a large room, as he has to
5 do in beginner band?

6 A We never had any issues with discipline in Mr.
7 Beasley's class.

8 Q Before February 7, when you saw the three emails,
9 did you have any actual knowledge of any of the sexual
10 harassment issues that you saw raised in the February 7 email?

11 A No.

12 Q Any actual knowledge at all before February 7 of any
13 homophobic slurs?

14 A No.

15 Q How about any sexual content?

16 A Fat ass and duck bill Dave.

17 Q Okay. How about did you know before February 7,
18 before you saw the February 7 email, the other two emails
19 which you first saw on February 7, did you know anything about
20 the stabbing in Nolan's genital area?

21 A Yeah, I was aware of that.

22 Q You were aware of that?

23 A Hm-mm. It was brought to my attention by the dean,
24 I believe.

25 Q Okay. And was that -- were you aware of that being

1 in a sexual context?

2 A Not to my -- no.

3 Q Or a homophobic context?

4 A No.

5 Q Or gender stereotyping?

6 A No.

7 Q Or perceived sexual orientation?

8 A No.

9 Q Okay. Was anybody at the Clark County School
10 District aware, to your knowledge, of those homophobic slurs?

11 A No.

12 MR. SCOTT: Objection to the extent it calls for
13 speculation.

14 THE COURT: The objection's sustained.

15 MR. POLSENBERG: Well, let me re-word it.

16 THE COURT: The objection's sustained. Re-word.

17 BY MR. POLSENBERG:

18 Q Do you know whether anybody at the Clark County
19 School District was aware of the homophobic slurs, just were
20 you aware?

21 A No.

22 Q Okay. Were you -- did you deliberately disregard
23 the rights of Ethan or Nolan?

24 A No.

25 Q Did anybody at the Clark County School District

1 deliberately disregard their rights?

2 A No.

3 MR. SCOTT: Objection. Calls for speculation.

4 MR. POLSENBERG: Let me re-word that.

5 THE COURT: The objection's sustained.

6 MR. POLSENBERG: It's a very --

7 THE COURT: Re-word.

8 MR. POLSENBERG: Yes.

9 BY MR. POLSENBERG:

10 Q To your -- do you know -- this is what we call a
11 foundational question. Do you know whether anybody at the
12 school district deliberately disregarded the rights of Ethan
13 and Nolan?

14 A No.

15 Q When you do progressive discipline, what are the
16 factors that you have to consider when you're looking at
17 disciplining a student?

18 A The situation and the statements from the students.

19 Q Excuse me?

20 A The situation that caused the problem, and
21 interviewing and talking with the kids, statements.

22 Q And what rights -- whose rights do you have to
23 consider in that context?

24 A Both rights, both individuals'. They're both
25 entitled.

1 Q Great. Thank you, Mr. D. I appreciate it.

2 THE COURT: And redirect, please.

3 MR. SCOTT: Thank you.

4 REDIRECT EXAMINATION

5 BY MR. SCOTT:

6 Q Mr. DePiazza, in relation to progressive discipline,
7 if a student is determined to have bullied another student a
8 second time, would progressive discipline have any impact?

9 A Yes.

10 Q What impact would it have?

11 A It's a second infraction.

12 Q So under progressive discipline, if the student was
13 determined to twice have bullied another student, what are we
14 looking at?

15 A The next level of discipline within progressive
16 discipline.

17 Q Okay. And so if we -- the first time you got a pass
18 and got no discipline except a parent meeting, what would be
19 the discipline for the second offense?

20 MR. POLSENBERG: Your Honor, calling for an expert
21 opinion.

22 THE COURT: Overruled.

23 MR. POLSENBERG: Thank you, Your Honor.

24 THE COURT: You can answer.

25 THE WITNESS: I would assume they'd get a

1 suspension, since it's the next progressive level.

2 BY MR. SCOTT:

3 Q Now, you were testifying about the policies, and if
4 you would look in the white binder, please, to Exhibit No. 3,
5 which appears to be a Clark County School District policy
6 regarding bullying. Do you see that?

7 A No. I'm going to get to the white binder.

8 Q The white binder, Tab 3.

9 A Tab 3. Okay.

10 Q And do you recognize this document?

11 A Yes.

12 Q And this policy was in effect during the school year
13 of 2011?

14 A I'm going to assume so. Usually if there's been a
15 revision to a reg or any of that, it's in the very bottom
16 corner with dates and they each have numbers from the
17 [inaudible].

18 Q And the last page of this exhibit, it would seem to
19 indicate the last revision was in June of 2001, correct?

20 A I'm on page 4. It says, Review responsibilities at
21 the bottom adopted and revised.

22 Q Oh, I'm sorry. You're right.

23 A Revised on 7/12/12.

24 Q And then the next document after that, the
25 harassment policy, that was last revised in June of 2001?

1 A Yes.

2 Q Okay. It says here on the first document on
3 bullying, the fourth page, it says, Revised 3/11/10 and
4 7/12/12. Do you see that?

5 A What document are you looking at?

6 Q The bullying, page 4. Page 4, bullying.

7 A Okay. It would be P5137, is that the correct
8 document, sir?

9 Q Yes.

10 A Page 4.

11 Q Yes.

12 A Can you repeat the question?

13 Q It appears it was revised in March of 2010 and
14 July 2012, correct?

15 A Yes.

16 Q And do you recall what revisions were made in July
17 of 2012?

18 A It's my understanding that would have been the
19 bullying laws that you'd have to report it after 24 hours.

20 Q I'm sorry?

21 A That would be the -- that's where you have to do the
22 reporting of any bullying to the parents within a specific
23 time length.

24 Q Do you recall what the change was?

25 A That if there was a bullying situation you were

1 required within 24 hours to let the parents know.

2 Q And in September 2011, do you know what it was?

3 A Probably not the same, but it should be.

4 Q Well, if you look at --

5 MR. SCOTT: Oh, Your Honor, I'd move Exhibit 3 into
6 evidence.

7 THE COURT: Any objection, Exhibit 3?

8 MR. POLSENBERG: No objection, Your Honor.

9 THE COURT: Exhibit 3 will be admitted.

10 (Plaintiff's Exhibit 3 admitted.)

11 BY MR. SCOTT:

12 Q Now, if you would turn to Exhibit No. 2, please.

13 And these are -- it's a four-page document which includes some
14 of the Nevada Revised Statutes as of 2011. As part of the
15 training you received through the school district in August of
16 2011, when the -- when you were having your training at the
17 beginning of the school year, were these new laws brought to
18 your attention that related to bullying in the school system?

19 MR. POLSENBERG: Beyond the scope, Your Honor.

20 THE COURT: This is a Nevada Revised Statute, so I'm
21 going to allow the question. The objection's overruled.

22 MR. POLSENBERG: No. I meant I didn't go into his
23 training at all.

24 THE COURT: I understand.

25 MR. POLSENBERG: Okay. Thank you, Your Honor.

1 BY MR. SCOTT:

2 Q Was this brought to your attention, this --

3 A Yes. If there was any new laws or regulations, it
4 was told to us at those meetings at the beginning of the
5 school year.

6 Q All right. And was it brought to your attention
7 that certain school employees, teachers, administrators were
8 mandated reporters?

9 A That is correct.

10 Q And were you a mandated reporter before 2011?

11 A I believe as an administrator I've always been a
12 mandated reporter, sir.

13 Q Okay. And before 2011, were the teachers mandated
14 reporters?

15 A I would hope they would be, yes.

16 Q And counselors?

17 A Yes.

18 Q And do you know if before 2011 --

19 MR. POLSENBERG: Your Honor, that's asking the lay
20 witness to interpret what the law is, when we have the
21 statute. And this is the second time he's testified as to
22 what he thinks it should be.

23 THE COURT: And each time the call of the question
24 was do you know, so it went to his personal knowledge. So as
25 long as you ask personal knowledge, I'll overrule your

1 objection. But he can't testify as a witness -- as an expert
2 on the issue.

3 MR. SCOTT: I understand. Just what he knew.

4 BY MR. SCOTT:

5 Q And did you know in 2011, that the principal or his
6 designee was required to complete an investigation within ten
7 days?

8 A Yes.

9 Q And were you aware in 2011 that following that
10 investigation the principal or his designee, in case the dean,
11 was to make a finding that a violation occurred and include
12 recommendations concerning imposition of disciplinary action?

13 MR. POLSENBERG: Your Honor, on direct they went all
14 through what the process is, and I didn't go back on it at all
15 on cross.

16 THE COURT: You'll have the chance on recross.

17 MR. POLSENBERG: Thank you, Your Honor.

18 THE COURT: The objection's overruled.

19 BY MR. SCOTT:

20 Q Did you understand that --

21 A Could you repeat it again, please. I'm sorry,
22 folks.

23 Q Yeah. Did you understand the law --

24 THE COURT: That's all right.

25

1 BY MR. SCOTT:

2 Q Did you understand the law required the principal or
3 his designee, following an investigation, to make a
4 determination if a violation occurred, and if so, to make a
5 recommendation for discipline?

6 A Yes.

7 Q And did you understand that was supposed to be in
8 writing?

9 A Yes.

10 Q And why was the determination of whether a violation
11 occurred and a recommendation for discipline supposed to be in
12 writing?

13 A For documentation purposes.

14 Q And for documentation purposes, would the
15 investigation upon which the violation was found be in
16 writing?

17 A I'm assuming that. I don't know.

18 Q So you don't know if the law required as part of the
19 written finding of a violation and a recommendation for
20 discipline, which would be in writing, if that also included
21 the investigation to be in writing?

22 A Thank you for your clarification. That's a yes.

23 Q And have you seen deans who have done
24 investigations, found a violation and recommended discipline
25 where there was a document that included -- written, a written

1 document, the investigation, the finding of a violation and
2 the recommended discipline?

3 A I would see documentation they did an investigation.
4 From an investigation they determine there is a consequence,
5 and the consequences were dealt out depending on the severity
6 of the situation and according to progressive discipline.

7 Q And would that documentation be a summary by the
8 dean of what the investigation found?

9 A No. It'd be the statements.

10 Q So the investigation would be -- the package would
11 be the written statements of witnesses, including students, a
12 finding of a violation, and a recommendation for discipline?

13 A There would be the statement. The dean would look
14 at the progressive discipline at that time, determine what
15 consequences were deemed necessary for the infraction.

16 Q And was there a form that was used at Greenspun in
17 the fall of 2011 for the dean to complete and say I find a
18 violation and what the violation is, and then in writing say
19 what the recommended discipline was?

20 A In the suspension form you put in what the problem
21 was. If it's a fight, you put fighting. It goes right into
22 the form itself.

23 Q So and if it's a suspension form, there would be a
24 form?

25 A Yes.

1 Q And would it include the summary of the
2 investigation?

3 A No. It would dictate what the suspension was for, a
4 fighting, drugs, what have you.

5 Q Thank you. Now, did you understand in
6 September 2011, that Mr. Beasley was a mandated reporter?

7 A He was a teacher in a classroom.

8 Q Okay. And at some point, if you look at Exhibit
9 No. 4, the September 15 email, at some point you became aware
10 that this complaint of a student being stabbed in the genitals
11 was sent -- it's the same white binder.

12 A Okay.

13 Q And it's Tab 4. It's -- now, you had testified just
14 a few minutes ago that you believe this is the incorrect email
15 address for Mr. McKay, correct?

16 A On September 15 at the top, yes.

17 Q All right. But you understood that on September 15,
18 Mr. Beasley received this email, correct?

19 A His name is up to the To list, yes.

20 Q And as a mandated reporter, he was legally obligated
21 to bring this to Dean Winn's attention or the principal or
22 both, correct?

23 A More than likely he brought it to Dean Winn, since
24 it was a disciplinary issue.

25 Q Different question. Did you understand he was

1 legally obligated as a mandated reporter to bring this email
2 to the attention of Dean Winn?

3 A Yes.

4 Q And did you understand that Mr. Beasley, as a
5 mandated reporter, brought this September 15 email to the
6 attention of Dean Winn?

7 A I believe the situation in the classroom that took
8 place with the boys was brought to Mrs. Winn's attention by
9 Mr. Beasley.

10 Q Do you understand that as a mandated reporter he
11 forwarded this email to Dean Winn?

12 A Dean Winn's name's not on the To list to this --

13 Q Right.

14 A -- email, sir.

15 Q So you understood that as a mandated reporter he was
16 required by law to bring this email to Dean Winn's attention?

17 A He was required to let Ms. Winn to know the
18 situation in the classroom.

19 Q So he wasn't required to let Dean Winn know the
20 contents of this email?

21 A Yes, he is. She has -- yes. I'm assuming that she
22 did show all the documentation Mr. Beasley had to Ms. Winn.

23 Q And did you understand as a mandated reporter he had
24 the discretion to interpret what was in this email and just
25 provide Dean Winn with his interpretation of the email?

1 A I would assume he gave a copy of the email to
2 Ms. Winn.

3 Q Oh. Either give her a printed copy or forward it to
4 her, correct?

5 A Yes. It wasn't forwarded to her. Her name's not on
6 it, so I'm assuming --

7 Q Well, we don't know if he forwarded it or not,
8 correct?

9 A It doesn't say. Yes, that is correct.

10 Q And therefore it was your understanding that in
11 September of 2011, Dean Winn was aware of this email and the
12 contents of it, correct?

13 A Yes.

14 Q Let's talk about Mr. Halpin. This email also went
15 to Counselor John Halpin, correct?

16 A Yes.

17 Q And he was also a mandated reporter, correct?

18 A Yes.

19 Q And that meant he was legally obligated to within 24
20 hours bring this email to the attention of Dean Winn; is that
21 right?

22 A Yes.

23 Q And to your knowledge, did Mr. Winn [sic] bring this
24 email to Dean Winn's attention within 24 hours of receiving
25 it?

1 A That I'm not aware of. I have no idea.

2 Q You don't know?

3 A I don't know when Mr. Halpin gave it to Ms. Winn.

4 Q I'm sorry?

5 A I don't know when this was given to Ms. Winn by
6 Mr. Halpin.

7 Q Do you know if Mr. Halpin ever gave this email to
8 Dean Winn?

9 A I'm going to assume he did.

10 Q But do you know other than assuming?

11 A No.

12 Q All right. And you would assume he did because he
13 was legally obligated to do so, correct?

14 A And there was a disciplinary issue within the
15 classroom, yes.

16 Q Okay. And this -- what the contents of this email,
17 if determined to be true, would be a disciplinary issue,
18 correct?

19 A Yes.

20 Q And if Dean Winn became aware of this email on or
21 about September 15 or 16, 2011, would you have expected her to
22 bring it to your attention?

23 A Either to mine or to Dr. McKay's.

24 Q And why would you expect her to do that?

25 A Because the situation and what's in the email.

1 Q So this was a serious enough allegation of
2 misconduct that you would expect Dean Winn, upon receiving it,
3 would bring it to either your attention or the principal's
4 attention?

5 A Yes.

6 Q Do you know if she did that?

7 A She didn't bring it to my attention.

8 Q Do you know if you brought it --

9 A That I don't know, if she got it to Dr. McKay.

10 Q Okay. Now, the Tab No. 8, which is two pages, and
11 beginning at the middle of the first page, the October 19
12 email.

13 A Yes.

14 Q Did you receive a copy of the October 19 email?

15 A Yes, in February.

16 Q Did you receive it in October?

17 A No.

18 Q I'm sorry?

19 A No.

20 Q And you see that Mr. Halpin received this email on
21 October 19?

22 A Yeah. It has his name on there. I believe that's
23 John Halpin, yes.

24 Q And he was a mandated reporter?

25 A Yes. As a counselor, yes.

1 Q And within 24 hours of receiving this email,
2 Mr. Halpin should have forwarded it to Dean Winn, correct?

3 A Yes.

4 Q Do you know if he did?

5 A That I don't know.

6 Q Now, do you have a clear memory of meeting with
7 Mrs. Hairr and Dean Winn in, I think you said October of 2011?

8 A No, I don't have a clear memory. I do remember
9 meeting with them, yes.

10 Q Okay. And do you have a clear memory of what
11 Mrs. Hairr said to you?

12 A I know she wasn't happy with the situation in the
13 bandroom.

14 Q And can you tell me whether she informed you that
15 her son was being called names like faggot and gay?

16 A I don't remember that at all.

17 Q Is it your testimony she didn't say that?

18 A I don't recall her saying those things, no.

19 Q Okay. And therefore since you don't recall, it
20 didn't happen; is that your testimony?

21 A I don't --

22 MR. POLSENBERG: Objection, Your Honor.
23 Argumentative.

24 THE COURT: The objection's sustained.
25

1 BY MR. SCOTT:

2 Q Is your testimony she didn't say it?

3 A I don't recall her saying that.

4 Q Fair enough.

5 A That was a long time ago.

6 Q Now, you testified that you did have a recollection
7 of a conversation with Dean Winn, I think you said in
8 December, where she told you that she had spoken with Mr.
9 Beasley about Connor, and that she told you names that were
10 used were fat ass and duck bill Dave?

11 A Yes.

12 Q You have a clear memory of that?

13 A Yes, I do.

14 Q Do you have a memory if she mentioned any other
15 names to you?

16 A No.

17 Q She could have used the word faggot?

18 A No, she did not.

19 Q Is your testimony that she didn't?

20 A That is correct.

21 Q All right. And do you know what Mr. Beasley told
22 her was where he got his information about what names Connor
23 supposedly called other students?

24 A Not aware. Mr. Beasley told Ms. Winn, and I'm not
25 privy to what was told to Ms. Winn by Mr. Beasley.

1 Q Well, I understood that Dean Winn told you she had
2 spoken to Mr. Beasley and the information she had was from
3 Mr. Beasley. Did I misunderstand you?

4 A No. She spoke to Mr. Beasley and made a change
5 within the classroom asking to move the boys around, that's
6 what my understanding of what happened.

7 Q Oh. And you believe that was in December you had
8 that conversation?

9 A I could be wrong, but I believe so, yes.

10 Q Do you recall receiving a phone call from Aimee
11 Hairr on September 22, 2011?

12 A No, I don't recall.

13 Q And when you had that meeting with Aimee Hairr and
14 you said and Dean Winn in October, at that time was the
15 contents of the September 15 email discussed and the
16 allegation that her son had been stabbed in the genitals with
17 a pencil?

18 A I believe there was situation in the bandroom where
19 the boys were being picked on, and I believe stabbing might
20 have come up [inaudible], and that's why she was concerned
21 about him staying in the classroom.

22 Q And so at that point it was clear to you that Dean
23 Winn was aware of the contents of the September 15 email,
24 correct?

25 A I was aware that Ms. Winn was aware of the situation

1 within the bandroom. I don't know whether she got the email
2 or not. Her name is not on that.

3 Q But you assumed that she got it, correct?

4 A I'm assuming she was aware of what happened in the
5 classroom. I don't know about the email, sir.

6 Q Well, did you assume that the mandated reporters,
7 Mr. Beasley and Mr. Halpin, did not bring it to her attention;
8 is that what you were assuming?

9 MR. POLSENBERG: Your Honor, could I get a time
10 frame on when this assumption's being made?

11 THE COURT: Clarify.

12 BY MR. SCOTT:

13 Q When you met with Aimee Hairr in October, and Dean
14 Winn, was it your assumption at that time that Dean Winn did
15 not know about the contents of the September 15 email?

16 MR. POLSENBERG: That question assumes certain
17 foundational things like whether the witness knew about the
18 email.

19 THE COURT: If it's within his knowledge he can
20 testify. Objection overruled.

21 THE WITNESS: I was -- Ms. Winn was aware of the
22 situation with the boys, of the situation within the bandroom,
23 but I don't know if she was aware of the email.

24 BY MR. SCOTT:

25 Q Wouldn't you assume that she was aware of the email?

1 A I don't know if she was or wasn't, sir.

2 Q Did you assume that Mr. Beasley, as a mandated
3 reporter, brought it to her attention within 24 hours?

4 A I believe Mr. Beasley informed Ms. Winn of the
5 situation in the classroom. I don't know the time frame.

6 Q Did you assume that Mr. Beasley, as a mandated
7 reporter, forwarded the September 15 email to Dean Winn
8 within 24 hours?

9 A I don't know when he forwarded it to Ms. Winn. It's
10 not on the To list, so I wouldn't know when it was given to
11 her.

12 Q Did you assume that he followed the law as a
13 mandated reporter?

14 A Yes.

15 Q Did you assume that Mr. Halpin followed the law as a
16 mandated reporter?

17 A Yes.

18 Q Then you assumed, when you met with Dean Winn in
19 October, that she was aware --

20 MR. POLSENBERG: Judge, this is argument.

21 BY MR. SCOTT:

22 Q -- of the October 15 email, correct?

23 THE COURT: Hang on. There's an objection. State
24 your objection, please.

25 MR. POLSENBERG: This is argument.

1 THE COURT: It is argumentative. The objection's
2 sustained.

3 THE WITNESS: Should I answer the question?

4 THE COURT: No. I sustained the objection.

5 THE WITNESS: Okay.

6 BY MR. SCOTT:

7 Q When you discussed options with Dean Winn in terms
8 of remedying the situation in the bandroom, did you discuss as
9 an option moving Connor, the bully, away from the students or
10 out of the class? Was that an option?

11 A That was an option that Ms. Winn took upon herself.
12 As the dean, she can look at the situation and if she feels
13 that it's necessary to move kids from one class to another,
14 she has that discretion to take care of the situation to
15 alleviate any problems in the classrooms.

16 Q And so an option that Dean Winn had was to move
17 Connor out of that class, correct?

18 A She has that discretion to do so, yes.

19 MR. SCOTT: Thank you. That's all I have.

20 THE COURT: Recross.

21 MR. POLSENBERG: Thank you, Your Honor.

22 RECROSS-EXAMINATION

23 BY MR. POLSENBERG:

24 Q Okay. Mr. D, at the very beginning of counsel's
25 questions to you, he said if there are two occurrences of

1 bullying and the first one gets a pass, which he -- how he
2 characterized an RPC, so the second one should get a -- a
3 second occurrence should get a suspension?

4 A A higher level of discipline, yes.

5 Q Right.

6 A That's the next progressive level.

7 Q Based on what?

8 A Based on you have an RPC, which is the first --

9 Q No, no, no. Is that based on Clark County School
10 District policy?

11 A Yes. The regs say that it's progressive
12 discipline --

13 Q Right. That's the policy made by the school
14 district itself?

15 A Yes.

16 Q Thank you. Counsel kept asking you questions about
17 whether certain emails legally had to be sent to Dean Winn.
18 Does the law say that the emails have to be forwarded to Dean
19 Winn? Let me break that down into two things.

20 Does the law say the actual emails have to be
21 forwarded as opposed to the contents, the information in the
22 emails?

23 A I would believe it would be the information, because
24 that's what's important is what's inside the email.

25 Q And how about to Dean Winn, does it say it has to be

1 sent to Dean Winn?

2 A No, but that's usually who would get it would be the
3 disciplinarian.

4 Q But the -- doesn't the statute say the principal, or
5 doesn't the law say the principal or his designee?

6 A Yes.

7 Q And if a party assumed that the email was already
8 going to Principal McKay, wouldn't that be an assumption that
9 it doesn't have to be forwarded to the principal or his
10 designee?

11 MR. SCOTT: Objection. Calls for speculation.

12 MR. POLSENBERG: He was asked like 16 times what his
13 assumptions are.

14 THE COURT: All right. Hang on.

15 MR. POLSENBERG: Thank you, Your Honor.

16 THE COURT: The objection's sustained.

17 THE WITNESS: Do I answer?

18 THE COURT: No.

19 MR. POLSENBERG: No. I know. It took me about 15
20 years to understand that. When sustained means the question's
21 no good, you don't answer it.

22 BY MR. POLSENBERG:

23 Q In the first email, the September 15 email, when
24 Mr. Beasley received that, didn't he also receive an email
25 that looks like it's being sent to Principal Dr. McKay?

1 A Yes.

2 Q Do you know whether Mr. Beasley assumed that
3 Dr. McKay received this email?

4 A He probably did, because it has Warren McKay at the
5 top.

6 Q And how about Mr. Halpin, the counselor, did he
7 assume that Warren McKay received this email as well?

8 MR. SCOTT: Objection. Calls for speculation.

9 THE COURT: Yeah. You know, both of you have done
10 this, where you ask -- because everybody's going to testify
11 I'm going to go ahead and overrule it.

12 MR. POLSENBERG: I know. And I apologize. I'll
13 withdraw it, Your Honor.

14 THE COURT: I'm not sure --

15 MR. POLSENBERG: I suppose I was only doing it in
16 retaliation because --

17 THE COURT: I'm not sure what value it has as to
18 what he thought about Mr. Beasley or --

19 MR. POLSENBERG: Mr. Beasley's here --

20 THE COURT: -- because everyone's --

21 MR. POLSENBERG: -- and Mr. Halpin will testify.

22 BY MR. POLSENBERG:

23 Q When you met with Aimee Hairr in your office -- and
24 there's some words I don't like to say, so I'm just going to
25 use the F word. And I don't mean --

1 A Yes.

2 Q Yeah. So when you met with her, did she say that
3 her son had been called the F word?

4 A No.

5 Q And you said earlier, just now when plaintiff's
6 counsel asked you, you said you don't remember that.

7 A No, I don't remember any homophobic or any things of
8 that nature. I know duck bill Dave and fat ass.

9 Q If homophobic slurs had been used, would you have
10 remembered them?

11 A Oh, yes.

12 Q So the fact that you don't remember them means what?

13 A I don't remember them. I don't remember her even
14 saying it or if it was said I don't recall.

15 Q But if they had been said you'd have remembered?

16 A Yes.

17 Q So what's duck bill Dave?

18 A I have no idea.

19 Q Okay. And you were just now definitive --

20 MR. POLSENBERG: Well, I don't have anything else.

21 Thank you, Your Honor.

22 THE COURT: Redirect.

23 MR. SCOTT: Nothing, Your Honor.

24 THE COURT: May we excuse the witness?

25 MR. SCOTT: Yes.

1 THE COURT: Mr. DePiazza, you may step down and
2 you're excused.

3 MR. WAITE: Your Honor, before we go on, a
4 housekeeping matter.

5 THE COURT: Sure.

6 MR. WAITE: At the end of Ethan's testimony I forgot
7 to ask for the admission of, I believe it's Proposed 630, was
8 that the handwritten chart?

9 THE CLERK: Yes.

10 MR. WAITE: And then there was, I think the only
11 other exhibit, Your Honor, that was not stipulated was 617,
12 page 4, and it's only that page that I need, so perhaps we
13 could identify that one page as 617A, and I would ask that
14 both of those be admitted.

15 MR. SCOTT: No objection.

16 THE COURT: All right. Exhibit 630 will be
17 admitted.

18 (Defendant's Exhibit 630 admitted.)

19 THE COURT: And page 4 of 617 will be admitted
20 as 617A.

21 (Defendant's Exhibit 617A admitted.)

22 MR. WAITE: Thank you, Your Honor.

23 THE COURT: Thank you. And Plaintiff, please call
24 your next witness.

25 MR. SCOTT: Thank you. Mary Bryan.

1 MARY BRYAN, PLAINTIFF'S WITNESS, SWORN

2 THE CLERK: State and spell your name for the
3 record.

4 THE WITNESS: Mary Bryan, M-a-r-y, B-r-y-a-n.

5 THE COURT: Thank you. Go ahead, please.

6 MR. SCOTT: Thank you.

7 DIRECT EXAMINATION

8 BY MR. SCOTT:

9 Q Mrs. Bryan, good afternoon. What is your
10 relationship to Ethan Bryan?

11 A I'm his mother.

12 Q And how many family members are there? How many
13 brothers and sisters does Ethan have?

14 A I have three children. Ethan has two brothers and
15 himself.

16 Q And what are the ages of his two brothers?

17 A Jake is my oldest, he's 19. Ethan is 17, and his
18 younger brother is 11.

19 Q And just a little brief history about yourself.
20 Where were you born and raised?

21 A I was born in Charleston, South Carolina. I was
22 raised in Oliver [phonetic], California.

23 Q And when did you first move to Nevada?

24 A In 1991, I got a basketball scholarship at UNLV.

25 Q And when did you attend UNLV?

1 A '91 to '95.

2 Q And what did you -- did you graduate?

3 A I did.

4 Q And what did you receive your degree in?

5 A I am a nurse. I'm an RN.

6 Q And can you briefly summarize for us your work
7 history since you graduated from UNLV?

8 A My first job was at Fremont Medical Center downtown.
9 I actually worked there while I was a student, and then stayed
10 on after I passed the boards. And I also worked part time at
11 the operating room at Sunrise Hospital. And then I left to
12 stay home with my kids for a little bit. And then I went back
13 to work at Valley Hospital. I worked in the cardiology
14 department there until I quit working in, I think I was 30, so
15 whatever year that was. And then I've been home with my kids
16 since then. I had health problems and wasn't able to go back.

17 Q And when were you last working?

18 A I was -- I think it was 2001, was the last time I
19 worked, and that was at Valley.

20 Q And since that time have you been an at-home mom?

21 A Yes.

22 Q And your husband, just very briefly, what does he
23 do?

24 A He works for the power company. He's a lineman.

25 Q And I'd like to -- just briefly summarize for us, if

1 you can, your son Ethan's, his history, his history in
2 schools, whether it was preschool all the way up through where
3 he is today.

4 A He started out at Green Valley Christian School in
5 their daycare program, and he stayed through their pre-K
6 program. And then he went to public school at Estes McDoniel
7 Elementary School, and stayed there until he finished fifth
8 grade, and from there he went to Greenspun.

9 Q And back in 2011, was Greenspun Junior High School a
10 school where you were hoping your son would go to school?

11 A Yeah.

12 Q And did he have any siblings going there?

13 A He did. The -- my older son, Jake, was in junior
14 high school there.

15 Q And back in the beginning of the school year 2011,
16 did you have any friends or neighbors who had children and
17 also went to Greenspun?

18 A I did.

19 Q And who were they?

20 A The Hairrs lived about five houses down from us.
21 Nolan was going to school there. We had a small handful of us
22 were coming from the elementary school that we were -- that
23 was near our house and going to grade school.

24 Q And to your knowledge, what kind of a student was
25 Ethan before sixth grade?

1 A He was great. He was involved in the gifted and
2 talented program. That's where Ethan and Nolan met actually,
3 through the GATE program at the elementary school. He always
4 had good grades. He participated in extracurricular
5 activities and scouts and pretty much everything they had
6 involved with at the school he wanted to be a part of, student
7 council. He was thriving at school. He loved it.

8 Q And at that time when he was 11 years old, did he
9 have any other hobbies or activities that he participated in?

10 A He played basketball, a traveling team that we
11 traveled to California and we played here, and we also went to
12 Florida a couple times. He was in scouts that was through the
13 school. They had a scout program there. He was very much
14 involved in that. My husband was the, what's it called, the
15 leader [inaudible]. I can't remember. But yes, he was the
16 head of the pack at that school for all of the grades there,
17 and we were very much involved in scouting as a family.

18 Q And prior to sixth grade, had you been contacted by
19 any teachers or school administrators, when he was in first,
20 second, third, fourth or fifth grade, about any problems,
21 behavior problems or issues that arose regarding Ethan?

22 A Only the contrary, that he was invited to spelling
23 competitions, or they ran a Spanish immersion program, and he
24 qualified for some Spanish inter-school competition. There
25 was never any discipline problems at all.

1 Q And when he went to Greenspun beginning in August of
2 2011, to your knowledge was there any orientation program that
3 he was in or that you as a parent was involved in?

4 A I believe they had a day where the kids go get their
5 locker numbers and become familiar with the school. That's
6 probably just a couple hours of walking around the campus and
7 seeing what things were like.

8 Q And I take it since he had an older brother there
9 you had some history with the school?

10 A We were familiar with things, yes.

11 Q And his older brother that I guess was two years
12 ahead of him, so was in eighth grade when Ethan was in sixth
13 grade?

14 A Yes.

15 Q Had you had any communications or meetings with
16 people at Greenspun about any behavior issues regarding your
17 older son?

18 A No.

19 Q So it would be fair to say that the whatever
20 disciplinary system that was involved at the school, you had
21 no contact with it prior to August of 2011 --

22 A No.

23 Q -- is that correct?

24 A Right.

25 Q Now, at some point in -- early in that school year,

1 did you become aware of an incident that you reported to the
2 school?

3 A I did. I was driving -- it was my turn to take the
4 kids home that day, and I overheard Ethan and Nolan having a
5 conversation about somebody doing something creepy. Ethan
6 used the word "creepy." It wasn't a word that I thought was
7 just some generic -- it was, I don't know, something that made
8 me want to inquire.

9 So by the time we dropped the other kids off that I
10 was driving home, it was just Ethan and Nolan, and Nolan would
11 usually walk home from my house, and that was our last stop.
12 After Nolan went home, I asked Ethan what he was referring to.
13 And he was apprehensive. He didn't want to say. He was kind
14 of like just embarrassed, he seemed, about what was happening.

15 And then he finally said that kids were picking on
16 Nolan. He didn't mention himself too much. He was more
17 concerned about Nolan. And then he mentioned that Nolan had
18 been stabbed and that the boys that were -- had hurt Nolan, it
19 had been an ongoing thing and this wasn't the first time they
20 did this to Nolan, that they did -- that they were picking on
21 him, and that that particular day Nolan got stabbed at school
22 in his genitals with a pencil.

23 Q Do you recall approximately what day that was?

24 A September 15, I believe -- 13th actually.

25 Q And after you got that information from your son,

1 what if anything did you do in reaction to getting that
2 information?

3 A I called the school first of all. I was going to
4 contact somebody at the school and talk to the principal. A
5 student answered the phone, which was a little out of the
6 ordinary for the school to have students helping out. She
7 wanted to take a message. I thought it was too sensitive and
8 too serious of an issue to be telling the little kid what had
9 happened.

10 I asked for to be put through to his voicemail.
11 They don't do that. She could only give a message. And they
12 wouldn't at first give me the email until she went and talked
13 to somebody, and then she came back on the phone and gave me
14 the address that is apparently wrong, but it's on there. She
15 said it was his first and last name at CC whatever.

16 Q So you got an email address?

17 A I did. And then I did some searching to find who
18 else I could send it to, since I couldn't leave a message, and
19 found some other email addresses on the -- they weren't on the
20 website of the school. I had to look elsewhere.

21 Q And who else did you identify in terms of people you
22 wanted to send an email to?

23 A The teacher, because it occurred in his classroom.
24 The dean, after looking online. I didn't know who was
25 responsible for each thing that would happen at the school.

1 And I definitely needed it to go to the teacher because the
2 teacher is a teacher, and I'm a nurse, we're mandated
3 reporters of something like that. We have to take it
4 seriously.

5 Q Even as a nurse?

6 A And I assumed he would take care of it.

7 MR. SCOTT: Okay. And Your Honor, I believe
8 Exhibit 4 is in evidence.

9 THE COURT: That's correct.

10 BY MR. SCOTT:

11 Q So if you would, I'd like to direct your attention
12 to the small white binder, Tab No. 4.

13 A Okay.

14 Q And do you recognize that, the email at the top of
15 the page?

16 A Yes.

17 Q And did you write it?

18 A I did.

19 Q Why did you write it?

20 A Because I thought that was a serious incident and I
21 wanted it to stop. And I needed them to know, if they weren't
22 already aware, of what was happening to the kids in the
23 classroom. And I wasn't able to contact the principal
24 directly, so I wrote an email so that something would be done
25 and they would take it seriously.

1 Q Now, this appears to be addressed to Mr. Beasley,
2 the band teacher, Mr. Halpin and the principal, Dr. McKay. Do
3 you know why you sent this also to Mr. Halpin?

4 A Because he's the counselor for that grade, for sixth
5 grade.

6 Q And did you know Mr. Halpin?

7 A No.

8 Q Okay. And after you sent this email, did you get
9 any response from anyone from the school?

10 A Nothing.

11 Q No one acknowledged receiving it?

12 A No.

13 Q And after you sent this email, were you doing any
14 other efforts to try to monitor or find out what if anything
15 the school was doing?

16 A I would ask Ethan on a pretty regular basis, but
17 like I said, I was having major health problems at the time,
18 which unfortunately I know now to be cancer, so I was in and
19 out of doctor visits. So my normal self would have been up
20 there every day trying to figure it out. I just couldn't --
21 didn't have the physical ability to go up there every day.

22 I asked Ethan what, are things changing, and he just
23 kind of shrugged it off. He was very apprehensive about
24 talking to me. He said, yeah, he thinks that they're going to
25 make changes in their seating.

1 Q And did -- at some point did you try to find out
2 from Nolan or Nolan's parents what they knew about this?

3 A No. Aimee and I, although we're neighbors, we knew
4 each other from the carpool, but we didn't speak every day. I
5 actually didn't even have Aimee's phone number at the time.
6 But I went to a birthday party of one of her children, and I
7 stayed there with the kids. And sometime during the birthday
8 party I said, Aimee, have they contacted you or what are they
9 doing about it.

10 The majority of the -- like the problems, I thought
11 would be addressed to Nolan and his family, so I assumed that
12 they would contact them before they would contact me. And she
13 had no idea what had even happened. She was shocked and
14 [inaudible]. But it was definitely a crazy moment at that
15 birthday party where she found out about the email that I
16 originally sent.

17 Q And do you recall approximately when that was?

18 A It was probably a week or so after this when we were
19 at one of those jumpy places that you rent out for birthday
20 parties.

21 Q And what was your reaction when you found out from
22 talking to Aimee Hairr that she hadn't been contacted?

23 A I was shocked. I was taken aback. I was surprised,
24 angry a little bit that they didn't do anything, they didn't
25 take it seriously when I had mentioned that a little boy's

1 been stabbed in his genitals. And they ignored it apparently,
2 because they didn't contact Aimee, they didn't contact me. I
3 don't know what else could have been done, and the kids are
4 still in the classroom with our kids.

5 Q And when is the next time you had contact with
6 anyone from the school?

7 A At open house. I waited until Mr. Beasley did his
8 presentation. There was -- the format was that parents were
9 coming in and leaving in small groups, and he'd give a little
10 mini presentation. So after the mini presentation with our
11 group, I waited for him in the front of the classroom and
12 said, I want to talk to you about this email, because nobody
13 contacted me, nobody's contacted Aimee.

14 Q Do you recall approximately when that open house
15 occurred?

16 A It was October 5.

17 Q So after you sent this email of September 15, you
18 were not contacted by anyone at the school, correct?

19 A [No audible response.]

20 Q Is that correct?

21 A Mm-hmm. That is correct.

22 Q And the next contact you had with anyone from the
23 school was on October 5, during an open house --

24 A Yes.

25 Q -- when you're at Mr. Beasley's class?

1 A Yes.

2 Q Okay. And did you talk to Mr. Beasley?

3 A I did.

4 Q And what did you say to him?

5 A I asked him if he got the email that I sent, and he
6 acknowledged that he did get it. And I told him that what's
7 happening, I don't understand how nothing's being done. I was
8 pretty adamant that this was a big issue, it was a big deal,
9 and here we are almost three weeks later and still not taking
10 it seriously.

11 And he said that he in fact was taking it seriously
12 and they were doing something about it, and that he had steps
13 he had to take, and he kind of reassured me that it was going
14 to be handled.

15 Q And what did he say?

16 A Just that, that he was -- he acknowledged that he
17 got the email, he had seen it, yes, he was aware what the
18 situation was in the classroom, and that he was going to
19 handle it and make sure that [inaudible] that it didn't happen
20 again and something would be done.

21 Q And between September 15 and October 5, I take it
22 you saw Ethan on a regular basis?

23 A Yes.

24 Q You'd either take him to school or pick him up from
25 school occasionally?

1 A Yes.

2 Q And were you trying to find out from Ethan, get
3 information from him in terms of how things were going in the
4 band class?

5 A I don't -- sometimes he would say things weren't as
6 bad, sometimes there would be just that they flicked Nolan's
7 hair or that they blew on him when they were sitting behind
8 him, and the day wasn't quite as bad, but it was always
9 something. It wasn't always nasty, terrible name calling. It
10 wasn't always, you know, the stabbings. It was just some sort
11 of annoying thing that these kids were doing.

12 He -- I could tell that he was changing though.
13 Like he didn't want to go to school. He -- I was inquiring
14 quite a bit about it and at times he'd be like, No, it's fine,
15 it's fine, I got it, let me handle it. So at first I thought,
16 okay, and [inaudible] go into the classroom with you and I
17 will try to let you be a big boy and handle it, but other
18 times I could tell that he wasn't okay.

19 Q At the time you wrote this September 15 email, were
20 you aware of any policies or rules at the school in relation
21 to how by school policy they were supposed to react or respond
22 to your email?

23 A I didn't know as far as the school policy or chain
24 of command at the school. I only knew from an abuse
25 standpoint what I expected them to do based on the information

1 that I did give them. As far as school policy and who was
2 supposed to handle what and who was supposed to do an
3 investigation, I didn't know.

4 Q And between whenever it was you had your
5 conversation with Mrs. Hairr and told her about your email of
6 September 15, from that time through October 5, the open
7 house, did you have communications with Mrs. Hairr
8 periodically to find out what if anything she knew of what the
9 school was doing?

10 A I don't think we had regular communications. Aimee
11 had told me that they were -- I know that she had told her
12 husband that night. I knew that they were upset. She had
13 told me that they were going to go to the school or contact
14 the school immediately, and I assumed that's what she did. I
15 know I didn't see her on a regular basis or talk to her on a
16 regular basis in between.

17 Q And what is the next time you contact, after
18 October 5, when's the next time you contacted the school?

19 A When Ethan came home with the -- he had bloody
20 scratches on his legs, in October, and he sat down on the
21 couch next to me. I'm assuming that wasn't my day to drive,
22 because I remember him coming home from school and sitting
23 down near me. And I said, What happened to your legs? And he
24 said, Oh, something at school. And I said, What at school,
25 Ethan?

1 So they were pretty -- it looked like a cat attacked
2 him. And I said -- it wasn't just that he ran into something.
3 And I said, What? And he said there's a -- on the trombone
4 there's a stopper, and apparently Connor took the stopper off
5 of it and it -- when you take the rubber stopper -- I think
6 it's rubber, there's a sharp point inside of there, and he was
7 flicking him back and forth [indicating] in the legs with this
8 trombone part telling him to get up out of the chair because
9 he wanted to sit there. And Ethan wouldn't move, so he kept
10 on doing it.

11 Q And after you received that information, what if
12 anything did you do?

13 A I asked Ethan more, like, okay, this didn't just --
14 like I wanted to know more about what was happening and what
15 was happening in the past few weeks. And he said, "Yes, it
16 happens all the time ever since Nolan got stabbed. They now
17 say that Ethan and -- that Nolan and I are gay boyfriends and
18 that I try to defend Nolan because he was my boyfriend and
19 that we were faggots."

20 And that -- apparently Ethan had a book that had
21 some sort of wizard with a staff on the front of it. And he
22 said, Are you reading that book -- Connor had said to Ethan,
23 "Are you reading that book about staffs and how to shove them
24 up people's asses so that you can jerk each other off." And
25 it was just disgusting things that Ethan was telling me about

1 crude sexual things that Connor was saying about him and Nolan
2 because that was his boyfriend.

3 Q Now, were you surprised that Ethan hadn't told you
4 about this before October 18, 19, whatever day it was when he
5 came home with bleeding from his leg?

6 A Oh, yeah, I was. I was not crazy surprised, because
7 Ethan had asked me to let him handle it and he didn't want to
8 be a big baby. He didn't want to have to have his mommy take
9 care of everything. And I said -- this was early on, when I
10 found out about the nature of the harassment and how extensive
11 the insults were and what it was doing to Ethan. Then I said,
12 "No, Ethan, this is not something that I can sit back and let
13 you just handle it. This has gone too far too long, and I
14 have to step in and say something."

15 Q And in your mind at that time, how were you trying
16 to reconcile this recent report from Ethan with the email you
17 sent on September 15 and your conversation with Mr. Beasley?

18 A Pretty livid at this point that it's escalating this
19 far and that Ethan is now thinking it's somewhat acceptable to
20 have to sit at school and get his leg stabbed. Like I am sad
21 that I hadn't done more, that I stepped back and tried to
22 allow Ethan to take care of it by himself, and the limits of
23 what he thought he had to take on by himself to be considered
24 a big boy and be strong.

25 I'm definitely cross, because that isn't something a

1 child that's 11 years old should have to put up with. These
2 are sixth grade little kids, and I'm sickened and sad that
3 that information is even being put into my son's head. I
4 think Ethan testified that he didn't -- he was kind -- he did
5 ask me a few questions about gay. He hadn't heard the term
6 before and it wasn't because -- it's not a bad word. It's not
7 a bad word to us.

8 We have -- one of my husband's very good friends is,
9 and she was his boss. We actually went camping with their
10 family on a regular basis. We just didn't introduce them as
11 these are our gay friends and these are our black friends.
12 They were just our friends. We never used those kind of words
13 to introduce our friends to our kids.

14 So these words are foreign to them and he wanted to
15 look them up. He wanted to know what they were. He had
16 questions about masturbation. He had questions about just
17 things that were about jerking somebody off and shoving a
18 staff up somebody's ass and putting penises in somebody's ass.
19 And I just -- I knew that it was too much.

20 I was disgusted and I -- I started to write all
21 these -- I'm with my husband and I'm trying to -- I'm
22 explaining to him like what Ethan had just told me about all
23 these words, and --

24 Q So let me stop you there.

25 A Yeah, go ahead.

1 Q So you're -- you've explained to us information you
2 got from Ethan and how you're reacting to it.

3 A Yes.

4 Q And at this point were you sharing this information
5 with your husband?

6 A When Ethan first told me, my husband wasn't home.
7 When my husband came home from work that day, yes, I did. I
8 told him everything.

9 Q And at that point were you trying to decide what
10 your next move was going to be, or what your actions were in
11 terms of contacting the school?

12 A Yes, that my husband called Ethan downstairs and he
13 was telling him, teaching him like how to physically defend
14 himself, and kind of teaching him if somebody comes at you
15 like this, this is what you need to do to physically defend
16 yourself, you don't sit there while somebody's stabbing you in
17 your legs with a trombone. My husband was really telling him
18 you have permission to fight back.

19 Ethan, it's not in his nature to be a fighter. His
20 size is a non-indicator of him being more powerful than
21 somebody else. He's -- he was apprehensive that night. And
22 my husband had been trying his best to tell Ethan that it was
23 unacceptable and let's do this. And Ethan was listening to it
24 politely, but I don't think it was sinking in with him. He
25 didn't want to go back to school and hit somebody or have to

1 be in a physical altercation with somebody.

2 So when I wrote the email and I finished it and I
3 didn't send it off until late that night, I just said these
4 kids can't listen to these disgusting, vulgar, vile things.
5 They can't. So we had decided that we would go to school with
6 Ethan the next day and talk to the -- Cheryl Winn about what
7 was happening, and hopefully put an end to it right then.

8 So my husband took the day off of work, because he
9 was as sickened as I was about the things that Ethan had to
10 listen to.

11 Q Okay. Let me slow you down a second.

12 A Mm-hmm.

13 Q So if I understand you correctly, after discussing
14 this with your husband, the decision was to send an email and
15 then go to school the next day with your husband --

16 A Yes.

17 Q -- to try to get some resolution?

18 A Yes.

19 Q And you mentioned Cheryl Winn --

20 THE COURT: I'm going to hold you up, because I
21 believe this is a good stopping point. It's 4:57. I think
22 you're getting to another area.

23 MR. SCOTT: Yes.

24 THE COURT: And I can't hold the staff past 5:00.

25 MR. SCOTT: Very well.

1 THE COURT: So court will be in recess until
2 tomorrow at 1:00 o'clock. Ms. Bryan, you may step down.

3 THE WITNESS: Thank you.

4 THE COURT: Is there anything we need to put on the
5 record before the close of business today, while it's still
6 fresh in everybody's mind? No.

7 Let's talk scheduling. How are you proceeding on
8 scheduling, to make sure that we can finish the trial in the
9 time allotted and both sides get to call all their witnesses?

10 MR. SCOTT: Your Honor, I am hopeful we can finish
11 next week on Tuesday.

12 THE COURT: All right. Because our calendar
13 tomorrow is fairly light. I could start at 12:30 instead of
14 1:00, if that would be better for you.

15 MR. SCOTT: That's fine. Can do.

16 THE COURT: 12:30?

17 MR. POLSENBERG: I would prefer that, because I'm
18 not -- I commend Mr. Scott, but I'm not sure how fast we're
19 moving.

20 THE COURT: 12:30. Good enough. Everybody have a
21 good night. See you tomorrow at 12:30.

22 MR. POLSENBERG: Thank you, Your Honor.

23 MR. SCOTT: Thank you, Your Honor.

24 (Court recessed for the evening at 4:58 p.m.)
25

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

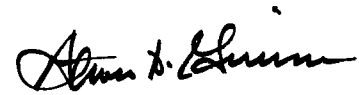
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TRAN



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

MARY BRYAN,)	
)	
Plaintiff,)	CASE NO. A-14-700018
)	DEPT NO. XXVII
vs.)	
)	
CLARK COUNTY SCHOOL DISTRICT,)	
et al,)	
)	
Defendant.)	TRANSCRIPT OF
)	PROCEEDINGS

BEFORE THE HONORABLE NANCY ALLE, DISTRICT COURT JUDGE

BENCH TRIAL - DAY 3

THURSDAY, NOVEMBER 17, 2016

APPEARANCES:

For the Plaintiff:	ALLEN LICHTENSTEIN, ESQ.
	JOHN SCOTT, Pro Hac Vice
For the Defendant:	DAN R. WAITE, ESQ.
	DANIEL F. POLSENBERG, ESQ.

RECORDED BY TRACI RAWLINSON, COURT RECORDER
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1 **LAS VEGAS, NEVADA, THURSDAY, NOVEMBER 17, 2016, 12:33 P.M.**

2 * * * * *

3 THE COURT: Calling the case of Bryan vs. Clark
4 County School District, noting the appearance of counsel. And
5 go ahead and make your appearances.

6 MR. SCOTT: Good afternoon, Your Honor. John Scott
7 and Allen Lichtenstein for the plaintiffs.

8 THE COURT: Thank you.

9 MR. WAITE: Good afternoon, Your Honor. Dan Waite
10 and Dan Polsenberg for the defendant. I'll note that
11 Mr. Beasley, our representative, is not here right now. We
12 expect him to join us later. But he had a concert or
13 performance and is not here.

14 THE COURT: Certainly. That's why I did not
15 recognize the appearance of the parties as well. All right.
16 So am I correct that we're on the continued direct of
17 Mrs. Bryan?

18 MR. SCOTT: Yes, Your Honor.

19 THE COURT: Okay. Mrs. Bryan, please come forward.

20 THE COURT: Mrs. Bryan, you're under the same oath
21 you took yesterday. No reason to re-swear you. Please
22 proceed.

23 MARY BRYAN, PLAINTIFF'S WITNESS, SWORN

24 MR. SCOTT: Thank you.

25 //

1 DIRECT EXAMINATION - (Continued)

2 BY MR. SCOTT:

3 Q Mrs. Bryan, I think we left off yesterday and you
4 testified about sending an email to the school on October 19.
5 Do you recall that?

6 A Yes.

7 Q And just so the record is clear, in the small white
8 binder in front of you hopefully, if you would turn to Tab
9 No. 8.

10 A Yes.

11 Q And do you recognize the email on the bottom half of
12 the first page going on to the second page as the email you
13 sent to the school on October 19?

14 A Yes, it is.

15 MR. SCOTT: Your Honor, if this hasn't already been
16 admitted, I move it into evidence.

17 THE CLERK: It's admitted.

18 MR. SCOTT: Thank you.

19 BY MR. SCOTT:

20 Q Why did you send this email?

21 A I sent the email after my husband -- Ethan came home
22 from school before this email was written with bloody
23 scratches all over his legs and I asked him what happened, and
24 after much --

25 Q You testified to that yesterday.

1 A Yes.

2 Q But what was the motive? Of all the things you
3 could have done once you got that information, why send an
4 email?

5 A I wanted to let the school know that it was ongoing.
6 I was giving her information to let her know. I believe when
7 I started writing the email I wasn't sure if my husband was
8 going to come with me or not, but when he got home from work
9 he was pretty livid about what he saw and heard and we agreed
10 to go together. And I sent the email anyways and asked for an
11 appointment to meet with Mrs. Winn.

12 Q And in this email, did you make reference to the
13 email you had sent on September 15?

14 A Yes, I did.

15 Q Why did you do that?

16 A Because it was part of the same ongoing problem and
17 it was escalating and getting worse, and what started out,
18 what I thought to be something that was happening to Nolan
19 early in September, I had realized that it had escalated and
20 now became horrific in October, when I found out about Ethan's
21 legs and more details of what was going on at school.

22 Q This document, Exhibit 8, also has at the top a copy
23 of the September 15 email, and I wanted to ask you a question
24 about it yesterday. So while it's here, if you note in the
25 September 15 email near the bottom of the email, it says,

1 quote, Nolan is afraid to notify an adult for fear of
2 retaliation, period, unquote. Do you see that?

3 A Yes.

4 Q Why did you include that in the September 15 email?

5 A Because Ethan actually had concerns for me bringing
6 it to the attention of the school for Nolan's sake, because he
7 didn't even want Ethan to say anything about it because he was
8 scared. He believed that this was already an act of
9 retaliation and he didn't want things to get worse.

10 Q Did you go to the school on October 19?

11 A I did.

12 Q And who did you go with?

13 A My husband and I met with Dean Winn.

14 Q Do you recall approximately what time it was, what
15 time of day; morning, afternoon?

16 A It was late morning.

17 Q Did you make an appointment to see Dean Winn?

18 A We did, and we had to make it later in the morning
19 because my husband was taking time off work and needed to make
20 arrangements with his crew to be able to come with me.

21 Q And did you go to the school?

22 A We did.

23 Q Did you meet with Dean Winn?

24 A We did. We met in --

25 Q Let me ask this first. Where did the meeting take

1 place?

2 A In her office.

3 Q Who was present at the meeting?

4 A Myself, my husband and Dean Winn.

5 Q Approximately how long did that meeting last?

6 A Close to an hour, I would imagine.

7 Q And can as best you can recall, can you tell the
8 Court what you told Dean Winn at the meeting?

9 A I started off by referencing to the two emails that
10 I had sent, and the first one prompting the second because
11 Ethan was now involved for having stuck up for what he
12 believed, for having stuck up for Nolan, and it turned into
13 that he was protective of Nolan because Nolan was a girl, and
14 I told her all the information about how it had got to this
15 point.

16 She said that she -- she acknowledged that she had
17 seen the emails. She got them from Mr. Halpin, who also left
18 me a message that morning. We -- I started out by I was
19 fairly uncomfortable with all that was going on and
20 [inaudible] I was -- I couldn't believe that that was my child
21 and...

22 My husband was furious. He -- he hadn't heard bits
23 and pieces before this meeting about Ethan getting his chair
24 kicked and Nolan getting blown on by the boys, and his hair
25 flicked, and the boys blowing their instruments in Ethan and

1 Nolan's ears and some of the words that they were saying, the
2 implication that the two were faggots. I think Ethan was --

3 Q Did Dean Winn ask for more specifics?

4 A She did, and we let her know. My husband was prior
5 to the meeting somewhat like in favor of Ethan saying I want
6 to take care of this myself, I didn't want my mommy to come to
7 my rescue. We'd never dealt -- I'd never dealt with anything
8 like this and I didn't know the proper way to handle it, and
9 at what point during this time of Ethan growing up do we let
10 him take care of this stuff himself.

11 But even my husband, who was saying let Ethan be a
12 big boy as well, knew at that point that enough was enough and
13 he didn't -- he wasn't going to have it anymore. Ethan had
14 sat there and didn't get up while this boy had scratched his
15 legs over and over again and said things about Ethan, does he
16 hold Nolan down and shove things up his ass and jerk off with
17 his face and -- I mean, jerk off on his face, and disgusting
18 things that 11 year olds shouldn't say and shouldn't know.

19 I -- my husband knew that it had got way too far and
20 it shouldn't be in the hands of 11-year-old little boys to get
21 themselves out of this. We were very clear --

22 Q Excuse me. Do you recall what Dean Winn said in
23 response to what you and your husband were telling her?

24 A She indicated that she knew of this boy, and I got
25 the feeling that she knew that this -- both the boys had --

1 she'd had their eye on them, or I can't remember the words
2 that she used, but something to let us know that this wasn't
3 their first disciplinary problem and that she would handle it.

4 I was offering suggestions, and once I did that,
5 saying let's have a sit-down, or I made some mention that I
6 was actually concerned about the boy too, like no 11-year-old
7 little boy, and even though my son was on the receiving end of
8 this, he shouldn't know that stuff either, and that he could
9 benefit from intervention as well.

10 She became defensive. She didn't want me to tell
11 her how to do her job. I wasn't trying to. I was just
12 offering suggestions, that I had no problem sitting down with
13 the kids, let's talk this out because it needs to stop. And
14 they were kids. I'm shocked by this sickness that was coming
15 out of this little boy's mouth at that age. I'm not shocked
16 by the cruelty of children. I'm not.

17 Q Were you -- during that meeting, were you or your
18 husband more specific about the things that were coming out of
19 Connor's mouth?

20 A Absolutely. And I --

21 Q What did you tell --

22 A We made it clear to her that this was not -- Ethan's
23 a big boy. He is very tall. He's had a weight problem -- as
24 he made him stand up in front of the court yesterday and show
25 everybody, he has a weight problem. This is not the first

1 time he's been teased.

2 He has been somebody that stands out in crowds for
3 his whole life. He has not -- that's not the first time he's
4 been called fat. This is the first time that it was to this
5 degree and of this nature. That's why my husband and I went
6 down there and made a big deal of it. This wasn't playground,
7 ooh, you're fat, you're a giant. He had heard that. His
8 whole life he's been overweight.

9 Q Okay. But were you more specific in terms of what
10 was different about this in terms of the name calling?

11 A Absolutely. We let her know that this was
12 incredibly unacceptable, this implying that the two boys were
13 the class gay wads or whatever, faggots or gay boyfriends. My
14 husband was very clear, so was I, that it was unacceptable and
15 we didn't want to have to have the kids tolerate it not even a
16 day longer.

17 Q How did the meeting end?

18 A We -- she kind of, in her defensiveness, was
19 getting, I don't know, offering excuses why things were the
20 way they were, but I just said, Look, I still, you know, if we
21 can't have a sit-down with all the parties involved or
22 something, like I'll -- what do you need, I'll help out.

23 I was very ill at the time, but I said, Whatever,
24 the best I can do, I will be here. I said I actually wanted
25 to go sit in on the band class and she said adamantly no, that

1 that would be inappropriate, but that if I did want to help
2 out, the lunchtime hours would be -- I would be welcome to
3 help out then and that's probably when it was most needed.

4 Q And did she indicate to you what you could do to
5 help out?

6 A Just be an extra set of eyes and ears for her.

7 Q And did you offer to do it?

8 A I did.

9 Q And did you do it?

10 A I did. I started --

11 Q During that meeting, did the issue of an
12 investigation come up? Did Dean Winn or you or your husband
13 talk about whether this -- the complaint you were making on
14 October 19 would be investigated?

15 A Say it one more time. I'm sorry.

16 Q I'm trying to find out if the issue of this
17 complaint you were making on October 19 on behalf of your
18 son --

19 A Yes.

20 Q -- during the conversation did Dean Winn mention
21 that she would investigate it?

22 A Oh, yes. She said that they had steps that they did
23 and that -- I made a comment about Nolan and the first email
24 nobody responded to and the investigation on that, Nolan being
25 stabbed. She said that they were handling things, they were

1 aware, they had steps they had to take and they had to
2 document everything, and they were definitely documenting
3 things and they couldn't just, I don't know, act on one
4 incident alone, there had to be a progressive disciplinary --

5 I'd never heard of that until then, but she said
6 there was a progressive discipline actions or whatever they
7 had to take and everything had to be documented, and she was
8 telling us that she had done that.

9 Q Did she tell you what she was going to do in
10 relation to the October 19 complaint?

11 A No. She just said that she was going to take care
12 of it and that they had means of doing things that were --
13 about Ethan being scratched, she said she would talk to the
14 boys, she would bring Ethan in and that they had methods that
15 they did to handle this type of problem at school. I asked
16 about Nolan and that incident. She said she couldn't speak to
17 me about an issue that had to do with somebody that wasn't my
18 son, and she couldn't talk to me about the discipline that she
19 was going to enforce on the other boys, and that was -- all
20 she could do was take information from me and that I wasn't
21 privy to the information or to what she was going to do to
22 those boys.

23 Q After that -- well, before I leave the meeting, is
24 there anything else that you thought was significant or
25 important that you discussed during that meeting that I

1 haven't asked you about up to now?

2 A There may be, but -- just that we wanted it to stop
3 and we wanted something done. And my husband and I made it
4 very clear that this type of harassment, this homophobic,
5 sick, vile and disgusting talk we were no longer going to
6 tolerate for our son.

7 Q After that meeting did Ethan continue to go to
8 Greenspun and attend band class as far as you know?

9 A He did.

10 Q And after that meeting, did you do any volunteer
11 work at the school?

12 A I did occasionally. Like I said, I had my own
13 health problems. I had had a couple different eye surgeries.
14 I did take Ethan to -- Ethan was getting worse. He was
15 still --

16 Q Well, we'll get to that in a minute.

17 A -- trying to get out of school.

18 Q Slow down.

19 A Okay.

20 Q Right now I'm only asking you about if you did
21 volunteer work at the school?

22 A Yes, I did.

23 Q All right. And about how often after October 19
24 through early February, approximately how often did you do
25 volunteer -- your volunteer work at the school?

1 A Maybe once a week, maybe.

2 Q All right.

3 A If even that. Maybe a little bit stretched out.

4 Q And you also, I think you said yesterday you had an
5 older son who was in eighth grade?

6 A Yes.

7 Q And when you did the volunteer work, did you have
8 any contact with Dean Winn or other school people?

9 A If the volunteer work was for the lunchtime thing.
10 Sometimes I would go for other reasons. I would sell cookies
11 or work in the science fair or something. But if the
12 volunteer work were related to the lunchtime activities, I
13 would meet with her. She was my contact person and I would
14 find her.

15 Q Dean Winn?

16 A Yes.

17 Q And after October 19, did you have any contact with
18 Dean Winn where you got to discuss the situation you raised on
19 October 19?

20 A Yeah, because there was things occurring again, and
21 I approached her in the lunchroom.

22 Q Do you recall approximately when?

23 A Probably in early November. Just in conversation,
24 just saying I don't even -- what's being done. And she was
25 just telling me that it's -- she's getting defensive still,

1 and they were handling it.

2 And I said, "It's still happening. I don't know how
3 these kids are still allowed to go to school here. They talk
4 like the way they -- they talk the way they talk. They make
5 the kids feel this way. They've assaulted two children. I
6 don't get it." I didn't understand how that was happening.

7 Q And after that October 19 meeting, I take it you
8 still -- your son was still living with you, you saw him on a
9 daily basis, correct?

10 A Yes.

11 Q And did you observe any change in Ethan's behavior
12 after October 19?

13 A Yes. Ethan would have night terrors. He would wake
14 up in the middle of the night and he would be screaming and
15 shouting. He would still be asleep though, but he would be
16 either sitting up in his bed or standing in the room. In
17 hindsight it's very clear what --

18 Q Anything else?

19 A Yeah. He just didn't care to do anything anymore.
20 He was very active socially. He would find things at school
21 to be part of, like he would compete with himself like with
22 that accelerated readers program, robotics, things like that
23 he was becoming less interested in.

24 He at one point was one of the top readers in this
25 accelerated readers program and I had asked him about it and

1 he just didn't want to do it anymore. Lots of things he just
2 didn't care about, especially if they had to do with
3 extracurricular activities at school.

4 Q And did you observe anything change in terms of his
5 enthusiasm about going to school?

6 A Pretty much on a regular basis it was a struggle to
7 get him to get ready and go to school. He would take showers
8 in the morning and there were several occasions where he would
9 eat paper, like construction paper or something to make
10 himself throw up so that he could say, Mom, I'm sick and I
11 can't go to school.

12 Q How did you become aware of that?

13 A The first maybe two times that he actually threw up
14 I didn't realize he was eating paper. I just -- I could smell
15 the bathroom and I could see that he made himself -- I mean, I
16 didn't know that he was making himself sick.

17 There was one occasion that I took him to the doctor
18 for the -- because the construction paper that he ate was red,
19 and when he threw up, he threw up in the shower, and when I
20 walked in the room there was vomit in red all over the tub. I
21 got nervous and I took him to the pediatrician, and then he
22 told the pediatrician that it was because he ate red paper.

23 Q And did he tell you why he was doing this?

24 A To get out of going to school.

25 Q Do you recall approximately when you started

1 observing this behavior?

2 A Definitely after October. November was really bad.
3 When we would have a break in school, he would kind of be
4 himself again. It's just frustrating now because it's clear
5 to me that what cries for help they were, but he just did not
6 want to go to school. He was uninterested in pretty much
7 anything.

8 Q Were you -- after October 19, were you asking him on
9 a periodically how school was or how the band class was or,
10 you know, what -- if he was still experiencing the bullying
11 and harassment?

12 A I did, and quite often he would tell me of things
13 that he witnessed those boys do to other kids, not necessarily
14 himself. He told me about a time when his friend, Allen, was
15 holding the door open and Connor took -- put his hand up to
16 high five him and instead of giving him a high five he grabbed
17 him in the crotch.

18 MR. WAITE: Your Honor, objection. This is
19 irrelevant, going into conduct with non-parties.

20 THE COURT: Do you have a response? I intend to
21 sustain the objection.

22 MR. SCOTT: That's fine. I wasn't fishing for this,
23 Your Honor.

24 THE COURT: I understand. Go ahead and ask the next
25 question, please.

1 MR. SCOTT: Thank you.

2 BY MR. SCOTT:

3 Q Yeah. Let's not talk about other children, okay?

4 A That's fine. Okay.

5 Q And did Ethan indicate to you whether he was still
6 being subjected to the same type of bullying and harassment?

7 A He did. He would say that some days were better,
8 some days were not so bad. And I'd say, Did they call the
9 kids out of the classroom, and he said, I think they did. I
10 think that maybe, I don't know if it was a day that one of the
11 two boys wasn't at school.

12 And I know the boys had been prepping for some
13 Christmas program, and he said that there was quite often that
14 they would have to stop. Mr. Beasley would have to stop
15 instruction and tell the boys quit antagonizing people or
16 making noise. And there was one incident where Mr. Beasley
17 shouted, Stop bullying, I can't teach the class if you're
18 going to keep making all that noise.

19 The -- Ethan had said that he was getting frustrated
20 because they had a Christmas program that they didn't get to
21 learn all the pages in the program because of the actions of
22 Connor and Dante being disruptive to the classroom. He would
23 tell me things like that. And some days he would talk about
24 the boys bothering him with things that they would say, but
25 not always. But he definitely was just becoming different.

1 He was -- he hated being there, missed a lot of school.

2 Q And at this point when you're observing Ethan's
3 behavior deteriorating, and on occasion you were able to have
4 him tell you things that were still going on, at that point
5 did you consider contacting the school again to try to get
6 some kind of resolution?

7 A I did. I -- a lot of times during the lunch period
8 I would go talk to her and she was dismissive about having
9 those conversations, and I didn't know if it was because we
10 were out on the schoolyard, you know, there was other kids
11 present or --

12 I would just say this. I am so baffled. I am so --
13 I cannot believe this is the way things go. I didn't know
14 about how discipline works like this for kids. I didn't
15 understand that you could assault kids at school. Nothing was
16 done. They didn't contact Aimee. They ignored pretty much
17 everything that I'm trying to tell her was going on.

18 They didn't do much of anything as far as I knew,
19 and I -- there was an incident with a Santa hat that when I
20 picked the kids up from school they had told us that, you
21 know, this is unrelated to ours, but so after this incident
22 occurred I won't bring it up because that Santa hat didn't
23 have to do with Ethan.

24 But I brought that up to her and I said, This is not
25 just happening with my kids. Like these boys that are saying

1 Ethan and Nolan are faggots and all these disgusting pervasive
2 things on a regular basis assault other kids. I don't
3 understand how this is not grounds for -- this child, how is
4 he still going to school here. I didn't get it.

5 Again she'd just say, Mrs. Bryan, this is how we do
6 things and we're definitely aware, and in her dismissive
7 sarcastic way was just saying I got it, this is my job and I
8 don't need your help.

9 Q Let's go to January 2012. Was there an unusual
10 event that Ethan -- you talked to Ethan about?

11 A We --

12 Q That's a yes or a no.

13 A Yes. I'm sorry. Yes.

14 Q Okay. What was it?

15 A After we came back from the Christmas break Ethan
16 went to school for maybe two or three days and seemed to be
17 okay on day one about going back. By day three I could tell
18 that he was subjected to whatever it was that was making him
19 hate school.

20 He -- my youngest son had a basketball game, and
21 Ethan said, Can I stay behind? I don't want to go to the
22 game. I have schoolwork, or something. I don't remember what
23 he said that he wanted to do. He wanted to be home alone,
24 which was unusual for Ethan to ask. And when I left, my
25 oldest son said, Mom, Ethan's not okay. And I said, Why? And

1 he goes, Because I'm just scared. I'm just worried about him.
2 And I said okay. And then he said, Maybe we should make him
3 come with us.

4 So when I went back to the house, Ethan was upset
5 that I came back and he didn't want me to be there. He wanted
6 me to have left him alone. And he had been searching on the
7 Internet things that he could drink, household chemicals to
8 make himself die. And I made him come with me and he was very
9 angry, and he still wouldn't talk to me. He sat in the car
10 angry.

11 And I had my oldest son take his little brother to
12 the basketball game. It was at one of the local high schools.
13 And I told Ethan to come walk the track with me so that we
14 could talk. And it was after a lot of just prompting and
15 saying, Ethan, why would you be looking for those things, why
16 did you -- and he just said that he hates life, he hates
17 school and there's nothing that was going to make it better.

18 And then we left the basketball game and went home
19 and I just -- I didn't know what to do. I didn't want to take
20 Ethan to one of those -- although I'm a nurse, I didn't want
21 to take him to like one of those psychiatric places, because
22 he was just a baby. So I just stayed with him, and I had
23 asked him again does he want to do it and he said yes. And I
24 didn't leave him alone and I stayed up all night with him. He
25 fell asleep.

1 And then I called the -- like a help -- a suicide
2 hotline or whatever the next morning for him. It was
3 something through my husband's -- the power company. They had
4 some sort of behavioral health hotline, and I just used them.
5 And the nurse was advising me what to do, and I told her what
6 my fears were about taking him in and that they would keep him
7 there and they would lock him up, and I didn't want to do that
8 because he was 11 years old.

9 Q Let me ask you this next.

10 THE COURT: Do you need a break?

11 THE WITNESS: I'm okay.

12 THE COURT: Are you sure? If you change your mind,
13 let me know.

14 If anyone here needs a break, let me know.

15 BY MR. SCOTT:

16 Q Did you get help for Ethan?

17 A I did.

18 Q Professional help?

19 A I did.

20 Q And at this point did you contact the school?

21 A No. I just --

22 Q Why not?

23 A That was the last people I wanted to talk to at that
24 point. I wanted to take care of my baby. I wanted to make
25 sure he was okay. I just stayed home with him for the next

1 couple days and then I think the first person that I spoke to
2 was probably Aimee, because I had to tell them I wasn't
3 driving.

4 Q Do you mean Aimee Hairr?

5 A Yes. For the carpool, and that I wasn't taking
6 Ethan back to school anymore.

7 Q And so after that, that event, did Ethan go back to
8 Greenspun?

9 A He did not.

10 Q And at that point did you start thinking ahead of
11 what Ethan was going to do for education?

12 A The nurse that -- the therapist that was
13 communicating with me, once we got to the point that Ethan, I
14 had asked him -- when I felt like he was safe and if I -- you
15 know, did he have those thoughts every minute and like all the
16 time, and he said no, like once he realized that he wasn't
17 going back to school and he felt safe.

18 The therapy lady through the help line said it's not
19 good for him to stay home all day, he has to get back to
20 normal as much as he possibly can. And I had been in contact
21 with some of the people at the school. By then I had --

22 Q What school?

23 A At Greenspun. I had gone to the school not about
24 Ethan. I had been in there about Jake and I kind of just --

25 Q Your older son?

1 A Yeah. I had just -- I don't know what I was
2 thinking about Ethan. I just wanted him to be safe and I knew
3 that that wasn't a safe place for him to go. By, I don't
4 know, the end of January, I think, Ethan had been -- he had
5 missed so much school the first semester, he had missed so
6 much school the second, and I needed to get him back to a
7 school.

8 So we started visiting other schools. And I was
9 going to pull both my kids, but my older son has an IEP. He
10 has a hard time in school, and it makes it very difficult
11 because most private schools don't have -- they don't
12 accommodate IEPs. So we agreed to keep Jake there. We felt
13 as though he was in a small little group with his IEP and he
14 was fairly safe, and he wanted to go back. He didn't want to
15 leave.

16 So we started -- I don't know, I guess started to
17 put our minds together, like what do we do. I didn't -- Ethan
18 didn't want to go to any school. He wanted -- there were some
19 things that he thought he wanted, and if I mentioned a
20 different school he would say, do they have band, do they have
21 this, do they have that. And a lot of them didn't.

22 Q Did you eventually locate another school that Ethan
23 could go to?

24 A We did. When I realized that nobody at the school
25 was going to help us make a plan or do anything about getting

1 him back into the school safely, we did. We went to Explore
2 Knowledge Academy.

3 Q I'm sorry?

4 A A school called Explore Knowledge Academy.

5 Q And is that part of the same school district?

6 A It's a Clark County School District school, but it's
7 a charter school. I wanted to be non-affiliated with the same
8 administration, because I didn't feel safe for him.

9 Q And then he transferred -- approximately when did he
10 start at the charter school?

11 A He didn't start until probably the second week of
12 February he started attending classes.

13 Q And did -- how did he do for the rest of sixth grade
14 at that charter school?

15 A He did all right. He -- Ethan's a very smart boy.

16 Q And did you -- were you looking to at some point
17 place him back in the public school system?

18 A Yes, at some point. He wanted to go back to
19 Greenspun, but only if those kids weren't there. He wanted
20 all the -- he wanted to be back in robotics. He wanted just
21 to be with the neighborhood kids minus the obvious.

22 Q After sixth grade, did you -- into seventh, eighth
23 grade, high school, did you consider sending Ethan back to the
24 public school system?

25 A No. It was still -- we never have to this day have

1 heard anything from anybody to say, hey, we'll make this safe
2 for your child to come back. Never.

3 Q What about your other children?

4 A Jake we eventually moved to a private school that
5 had a little program within it to accommodate his IEP, so he
6 went to a private school. He went to Bishop Gorman. They
7 have a little thing called the Learning Center. It's got
8 about 25 kids with --

9 Q What about Ethan?

10 A What's that?

11 Q What about Ethan?

12 A Ethan, he stayed at EKA and then our younger son, we
13 pulled him out and put him at EKA too. And then the next year
14 they all moved to Lake Mead Christian Academy.

15 Q And back when Ethan was in sixth grade, was it your
16 plan to send him to the Christian academy?

17 A No.

18 Q I'm sorry?

19 A No. Not at all. We would have loved for him to go
20 to school with his friends within the neighborhood and the
21 families that we had become close with. We were very social
22 people and active within the school, and would have loved to
23 stay there.

24 Q And is the Christian academy a private school?

25 A It is.

1 Q And how much is the tuition there for Ethan?

2 A I don't remember what it cost, but --

3 Q Approximately?

4 A Maybe 10 to 12,000, including everything, books and
5 traveling and all that. The schools, they go on mission
6 trips. There can be a little price.

7 Q Is he happy at that high school?

8 A He is.

9 Q I would like to -- if you'd look in the large black
10 binder up there, if the black binders are there.

11 A Are these the same.

12 Q Those big black binders?

13 A Yeah.

14 Q Can you find them?

15 A There's two of them.

16 Q Do they look something like this?

17 A Yes. There's two.

18 Q Okay. The bigger one, I want you to turn to Tab
19 525, Defendant's Exhibit 525.

20 A [Complies.]

21 Q And this appears to be an approximately four-page
22 email from you to John Halpin, Robert Beasley and others.
23 It's dated February 7, 2012. Do you see that?

24 A I do.

25 Q And did you write this?

1 A I did.

2 Q It's addressed to Mr. Halpin, Mrs. Winn,
3 Mr. DePiazza, Dr. McKay and others. Do you see that?

4 A Yes.

5 MR. SCOTT: Your Honor, I'd move Exhibit 525 to be
6 admitted.

7 THE CLERK: It's already admitted.

8 MR. POLSENBERG: Mm-hmm.

9 MR. SCOTT: Thank you.

10 BY MR. SCOTT:

11 Q Why did you send it? Well, let me ask this first.
12 When you sent this letter, had you already decided that Ethan
13 would not be going back?

14 A No. I was still -- we had -- we met with somebody
15 who was going to arrange for a meeting for us to talk to Andre
16 Long about remedying the situation, and Ethan still wanted to
17 take part in -- he didn't want to return to that situation.
18 He wanted to return to what was familiar and comfortable for
19 him.

20 Q So at this point were you still looking for a
21 possibility that things could change so Ethan could go back to
22 Greenspun?

23 A Yes. By February 7 though, it was becoming more
24 evident that nobody was reaching out to us or offering
25 anything. On this day I had not yet made the ultimate

1 decision. I was pretty angry and looking for somebody to -- I
2 couldn't believe that I was in this situation that nobody's
3 contacting us, nobody's saying I'll help you find a solution
4 to this problem.

5 Q In other words, Ethan had missed weeks of class as
6 of this time?

7 A He had missed enough school that we knew that he was
8 going to be -- he already missed so much school from the first
9 semester and he quit going to school mid January. He was
10 going to have missed -- I knew that there was a number in the
11 20s that he was approaching on that if he got there that they
12 could say that he couldn't pass that grade regardless of his
13 A's, B's, whatever. I had had to have a petition once before
14 for this.

15 Q And you mentioned Mr. Long. Who's he?

16 A He's, I think, Dr. McKay's boss. I don't know what
17 his title is though.

18 Q And how did you become aware of him?

19 A Through another parent that had gone to -- I think
20 she had went to church with somebody who was on the school
21 board, and so she made a phone call for us saying, Mary, they
22 will do something, you just have to talk to them and go above
23 his head.

24 And I had sent this email also to reportability
25 website, a district-wide website, and Linda Young, I believe

1 is her secretary or associate, contacted me and said that they
2 were going to put together a meeting, so there was a remedy to
3 the situation.

4 Q Was that before February 7, or after, or on that
5 day?

6 A Right around that day.

7 Q And before you wrote this email on February 7, did
8 you meet with Mr. Long?

9 A I don't believe so. I think I met with him
10 afterwards.

11 Q And after you sent this email on February 7, were
12 you at the school on February 8?

13 A Yes. This was written on February 7 at --
14 unfortunately I didn't sleep very much on these days because I
15 was sick and sad, at like 3:00 o'clock in the morning. So on
16 the 7th is the day that we met with Andre Long. The 8th is
17 the day I went to the school. So like this was written in the
18 middle of the night after the 6th, and on the 7th I met with
19 Andre Long. The 8th I went to the school.

20 Q And why did you got to the school on February 8?

21 A I already had penciled in that I would volunteer
22 that day, and I had another student that was attending the
23 school. And I was actually becoming more concerned for him,
24 that the staff would retaliate or say something sarcastic or
25 unkind to him, because I know they did with another student.

1 Q And did anything unusual happen to you when you were
2 at Greenspun on February 8?

3 A Yes. I was --

4 Q What happened?

5 A I arrived at the school, and by then I was assuming
6 that the administrative staff had seen the email that I had
7 sent to Linda Young. They said, you know, Mrs. Bryan, what
8 are you doing here, the girl that when I checked in to get a
9 volunteer sticker, and I said, "I'm here to volunteer. I had
10 already scheduled this." And she said, "Do they know you're
11 here?" And I said, "Does who know I'm here?" And she said,
12 "Hold on a second."

13 And then she just came back and that was it. I got
14 a volunteer sticker. She said nothing else. I went out to
15 the lunchroom, volunteered for the first lunch, and then
16 there's usually like a 10 minute break between the first lunch
17 and the second lunch. I was standing in a corridor when Mrs.
18 Winn and Mr. Piazza came up to me and said that my -- I was no
19 longer welcome on campus and I needed to leave.

20 Q Did they tell you why?

21 A They said that -- Mr. DePiazza said that he was
22 instructed by Dr. McKay to escort me off the property. And I
23 said, "Actually, I spoke to Mr. Long yesterday and I told him
24 that I was coming here today and would that be a problem,
25 because I have another student here, and he said, Absolutely

1 not, it won't be a problem."

2 So when McKay and -- I mean, I'm sorry. When
3 Mr. DePiazza and Ms. Winn came to me to escort me off the
4 property, I said, I actually spoke with Mr. Long, he said it's
5 not an issue since I have another student here, that this --
6 there's no problem in me being here. And Mr. DePiazza said,
7 "I don't answer to Mr. Long. Dr. McKay called and informed me
8 to escort you off the property, and I'm doing just that."
9 Dr. McKay wasn't even on the school property that day.

10 MR. SCOTT: That's all the questions I have. Thank
11 you.

12 THE COURT: Let's take a brief recess. It's 1:18.
13 Come back at 1:30 for cross-examination. And you may step
14 down during the recess.

15 (Court recessed at 1:18 p.m. until 1:31 p.m.)

16 THE COURT: Cross-examination, please.

17 MR. WAITE: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. WAITE:

20 Q Good afternoon, Ms. Bryan.

21 A Hi.

22 Q Let's back up a little bit and talk about some of
23 the things again. I want to go to your conversation with
24 Ethan and Nolan that day that you found out for the first time
25 that Nolan had been poked with the pencil.

1 A Okay.

2 Q All right. That day was September 15, correct?

3 A I believe so, yes.

4 Q And if I understand correctly, Ethan and Nolan were
5 both at your house. School had just ended, you heard --

6 A Yes.

7 Q -- heard them talking, and you heard them talking in
8 a manner that seemed unusual to you from how boys that age
9 would describe their day at school?

10 A Yes.

11 Q And then when Nolan left, you talked to Ethan more
12 about it, right?

13 A Yes.

14 Q So am I correct in understanding you did not talk to
15 Nolan about the pencil poking, correct?

16 A I did not.

17 Q So everything that you know about the pencil poking
18 you learned from Ethan, right?

19 A Yes.

20 Q Then at 10:32 that night you sent an email to
21 Mr. Beasley, Mr. Halpin and the principal, Dr. McKay, right?

22 A Yes.

23 Q Except you've since learned that the email address
24 to Dr. McKay was the wrong address, right?

25 A Right.

1 Q And you've indicated that the email that you typed
2 was provided to you by a student assistant at the school?

3 A Yes.

4 Q Did that student assistant, I assume, gave you that
5 email address verbally over the phone?

6 A Yes.

7 Q And did you just write it down wrong?

8 A I must have. I think she said, First, last name, so
9 I'd obviously wrote the wrong thing down.

10 Q And if you, in the white book, we'll use Plaintiff's
11 Exhibit No. 4, is that September 15 email that you sent; is
12 that right?

13 A Yes.

14 Q And your purpose -- your purpose in sending this
15 email is that you wanted to report what you believed was a
16 criminal act?

17 A Yes.

18 Q A criminal act, what you believed was a criminal act
19 that happened to Nolan, correct?

20 A I believe it happened to Nolan, yes.

21 Q Now, I just want to address something here, while
22 we're here, that Mr. Scott was asking you about, and I want to
23 make sure that the record is clear. He was asking you,
24 directing your attention to the next to the last sentence,
25 where it said -- it says, Nolan is afraid to notify an adult

1 for fear of retaliation. I just want to be crystal clear.
2 Your writing that comment was based on something Ethan told
3 you, which was based on something Nolan told him; that's your
4 understanding?

5 A That's my understanding.

6 Q Because you never talked to Nolan about whether he
7 was afraid to notify an adult out of fear of retaliation,
8 right?

9 A At that point, no, I had not.

10 Q When you wrote this email, you wanted the school to
11 have as much information as possible to deal with the issue
12 that was addressed in your email?

13 A I wanted to notify them of an event, not necessarily
14 do an investigation myself. I wanted them to have enough
15 information to know what had happened at the school that day.

16 Q Okay. What had happened to Nolan?

17 A Yes.

18 Q But as I understand it, before you wrote this email,
19 Ethan had told you that Connor had stabbed Nolan in his
20 genitals to see if he was a boy or a girl. You had that
21 information, correct, that the reason that Connor did this
22 allegedly was because he wanted to see if Ethan -- or excuse
23 me, if Nolan was a boy or a girl?

24 A He told me that they were flicking his hair and
25 calling him names like a girl, and yes, that's what he told

1 me.

2 Q But I am -- I want to be very specific. When you
3 wrote this email, you had information that the reason that
4 Connor allegedly jabbed Nolan in the genitals was to see if he
5 was a boy or a girl?

6 A Ethan -- I'm sure he mentioned that to me, yes.

7 Q But you did not include that detail in the email,
8 correct?

9 A No, I did not.

10 Q And Ethan had told you that Connor and Dante were
11 calling Nolan a girl as well, correct?

12 A Yes.

13 Q But you didn't advise the school of that detail in
14 your email either?

15 A No. I assumed they would do their own
16 investigation.

17 Q Ethan had told you before writing this email, in
18 fact he told you on a regular basis that Nolan was being
19 called a faggot, an F-ing faggot, other homosexual words,
20 correct?

21 A Yes.

22 Q You had that specific information before you wrote
23 this email?

24 A I don't know if it was that much detailed, but I had
25 some inclination that that was what was happening, the nature.

1 Q You don't remember if that's the level of
2 information that you had?

3 A That he was being targeted as a girl, and that that
4 whole intention of the stabbing was to see if he's a boy or a
5 girl.

6 Q But you don't recall if you had information that he
7 was also being called, as my colleague said, the F word and
8 then an F-ing F word?

9 A I don't believe I did a thorough investigation. I
10 notified them very shortly after Ethan told me this, and I
11 figured they would do their own investigation.

12 Q And I'm not asking what investigation you did. I'm
13 asking what information you had, what had been told to you.

14 A I had more information than what's in this email,
15 yes, if that's what you're saying.

16 MR. WAITE: Your Honor, may I have her deposition
17 published.

18 THE COURT: Any objection?

19 MR. SCOTT: No objection.

20 THE COURT: All right. The deposition of Mary Bryan
21 will be published.

22 MR. WAITE: May I approach, Your Honor?

23 THE COURT: You may.

24 (Deposition of Mary Bryan published in open court.)
25

1 BY MR. WAITE:

2 Q Ms. Bryan, would you turn to page 253, of your
3 deposition.

4 MR. SCOTT: I'm sorry. What page?

5 MR. WAITE: 253.

6 MR. SCOTT: Thank you.

7 BY MR. WAITE:

8 Q Are you there?

9 A Yes.

10 Q And before I ask you this, do you recall appearing
11 at my law firm's office, on February 5, 2016, for your
12 deposition?

13 A I recall that, yes.

14 Q And you were there with your son's attorney?

15 A Yes.

16 Q You were sworn to tell the truth just as you
17 received an oath to tell the truth today?

18 A Yes.

19 Q Starting at line 5.

20 "Q Okay. So let's go back to clarify
21 then. So when you had your first conversation
22 with Ethan on September 15, he told you that
23 Nolan was being called faggot, F-ing faggot,"
24 except for it says something more than that,
25 "all of these different words?

1 "A Yeah. He was mostly concerned about
2 what was happening to Nolan, and that was
3 happening on a regular basis to Nolan."

4 Does that refresh your recollection that when you
5 had that conversation as of September 15, 2011, you had the
6 specific details of some of those homosexual names that were
7 being uttered to their direction?

8 A Yes.

9 Q But you didn't provide that information to the
10 school in your September 15 email either, correct?

11 A I didn't.

12 Q Ethan had told you previously, as I think you said,
13 that Connor and Dante flipped Nolan's hair up like out of his
14 face or something like that, correct?

15 A Yes.

16 Q And yet if you look at your September 15 email, that
17 got translated into your email as, quote, They pull his hair
18 every day, end quote, correct?

19 A I believe probably Ethan gave me that information as
20 well as other information, yes. My intent was to quickly
21 notify the school of what was happening.

22 Q So is it your testimony today that Ethan told you
23 before you wrote this September 15 email that Connor and Dante
24 were not only flipping Nolan's hair, but also pulling his
25 hair?

1 A Yes.

2 Q Would you turn to page 106, of your deposition?

3 A [Complies.]

4 Q Are you there?

5 A [No audible response.]

6 Q Actually, let's go back and come into this on the
7 bottom of page 105. Are you there?

8 A Yes.

9 Q At the bottom there's a question at line 23. "Okay.
10 And what did he say specifically as best you can remember?"
11 And in context, this is the he there is Ethan.

12 "A That these kids were blowing on his
13 hair, and he just started describing the things
14 that the kids were doing to him.

15 "Q And when you say blowing on his hair,
16 are you, just for clarity and the record,
17 saying Ethan was telling you the kids were
18 blowing on Nolan's hair?

19 "A At the time he was just describing
20 what they were doing to Nolan.

21 "Q Anything else?

22 "A Yeah. That they were saying rude
23 things to him, saying that he was a girl,
24 flipping his hair up like he said -- like, I
25 don't know, flicking his hair out of his face

1 or something.

2 "Q Anything else?

3 "A And then he told me that they stabbed
4 him in his genitals to see if he was a boy or a
5 girl.

6 "Q Anything else?

7 "A Not that I recall."

8 Does that refresh your recollection whether Ethan
9 did not tell you prior to the September 15 email that they
10 were pulling Nolan's hair?

11 A No. I believe he was telling me.

12 Q Is there a reason you didn't say that during your
13 deposition?

14 A I believe that I did mention that they were messing
15 with his hair.

16 Q All right. Regardless, you would agree that even
17 though you wanted the school to have as much information as
18 possible to deal with this situation, there was important
19 information that you left out of your email, correct?

20 A I wanted the school to have vital information to
21 start an investigation.

22 Q And most specifically you wanted the school to have
23 the vital information as it related to the poking of Nolan,
24 correct?

25 A The stabbing of Nolan in his genitals and I assumed

1 they would do their own investigation.

2 Q You would agree however, that this email does not
3 discuss any specific bullying as it relates to Ethan, that was
4 directed at Ethan?

5 A This email, no. It's more specifically about Nolan.

6 Q Now, you've indicated you received no written
7 response from the school to this email, right?

8 A I did not.

9 Q Were you expecting a written response for reporting
10 a matter that involved an alleged victim that was not your son
11 and an alleged bully that was not your son? Were you
12 expecting a written response from them regarding that?

13 A Truthfully, I assumed as if I was reporting
14 [inaudible] or something, that they would come get a statement
15 from me to what I heard and what information that I had when I
16 sent this, during their investigation.

17 Q But you hadn't --

18 A I wouldn't do details and I wouldn't examine Nolan
19 or do an investigation like that. I would give it to the
20 authorities, as I would with any other abuse of a child or
21 incident like this.

22 Q I want to be clear though.

23 A Okay.

24 Q You've said that you would have expected that they
25 would have come to you and get information from you --

1 A Maybe to get my --

2 Q -- but you didn't see or hear anything, correct?

3 A What's that?

4 Q You didn't hear or see any of that which you
5 reported, correct --

6 A I reported --

7 Q -- as it relates to Nolan?

8 A -- what Ethan said. That's what I reported.

9 Q Well, wouldn't it have been better to go talk to
10 Ethan than to you?

11 A These were little kids. I'm not the one doing the
12 investigation, so.

13 Q Eventually however, I think you had indicated you
14 did learn from the school that confidentiality rules preclude
15 them from disclosing to you discipline of other students,
16 correct?

17 A She did say that to me, yes.

18 Q Let's talk a little bit about the October 5 open
19 house.

20 A Okay.

21 Q Let's just get a little context to begin with.
22 Those open houses are approximately two hours; is that
23 correct?

24 A Yeah, probably, from start to finish.

25 Q Usually start about 6:00 o'clock?

1 A I don't -- that was the first junior high school
2 open house I had been to that year, so probably. I don't
3 know.

4 Q You've been to them since?

5 A I don't know about the details.

6 Q To the extent that you can recall this specific one,
7 let's deal with this specific October 5 --

8 A Okay. It probably lasted --

9 Q -- open house. Do you recall that at the beginning
10 of the open house there was approximately 30 minutes where
11 everyone was gathered together and there were performances by
12 the various school bands, choir, talking by the principal,
13 talking and introductions by other people?

14 A Yeah, probably.

15 Q About 30 minutes' worth of introductions and so
16 forth. And then at that point the parents would depart and
17 they'd have their child's schedule, and they would then go to
18 their children's classes first through sixth period in order?

19 A Yes.

20 Q And so if approximately two hours, 30 minutes was
21 consumed by the introduction, you had about -- and as you
22 would go to the classes, the teachers would have a
23 presentation that they would talk to the parents about, things
24 that were happening in their class, what they were learning,
25 what the kids were doing and those types of things?

1 A Hmm.

2 Q Is that a yes?

3 A Yes.

4 Q And those presentations by the teachers lasted
5 approximately eight to ten minutes?

6 A I would say so, yes.

7 Q And then there was a bell that would ring and you'd
8 have about three minutes to pass to the next period before
9 you'd start the process all over again?

10 A Yes.

11 Q So when we're focusing on the conversation that you
12 had with Mr. Beasley at the October 5 open house, we're
13 talking about in total a period of about three minutes that
14 you talked to Mr. Beasley, correct?

15 A [Inaudible], but yes.

16 Q Okay. And in reality, you didn't consume all of his
17 time that he had in between this period of time. There were
18 other parents that wanted to talk to him and were talking to
19 him, and other parents that were coming in the room. There
20 was a flow of -- an outflow and an inflow and others were
21 talking to Mr. Beasley as well, correct?

22 A I remember intentionally waiting for the other
23 parents to speak first because of the sensitivity of what I
24 was going to talk to him about. And I let them all speak
25 first, and then I spoke to Mr. Beasley. When other parents

1 came in, I left.

2 Q So in --

3 A I wanted to not speak about faggot and whatnot,
4 these type of things about bullying in front of other people.

5 Q Understood. And you waited for there to be kind of
6 a clear --

7 A Yes.

8 Q -- period where you talk sensitive --

9 A Yes.

10 Q -- matters with him?

11 A Yes.

12 Q And so in reality, would you estimate that the time
13 that you spoke with Mr. Beasley was in reality more like 30 to
14 60 seconds?

15 A A few minutes.

16 Q And during that brief conversation with Mr. Beasley,
17 he told you that he had moved the boys, correct?

18 A He did. He said he would -- that he had plans to
19 move the boys and change seating, because I said, I don't want
20 them sitting near each other, I don't want them within arms --
21 I don't want those boys near my kid, these kids at all, and I
22 was speaking on behalf of myself and Aimee.

23 Q Did he tell you he had plans to move the boys, or
24 that he had past tense moved the boys?

25 A I believe he said he had plans.

1 Q Would you please turn to page 129 of your
2 deposition?

3 A [Complies.]

4 Q And I could have us read into this in context.
5 We'll start at the bottom of 128, where you're giving an
6 answer. Line 25. "And I said, This is not okay with me.
7 These kids don't have to put up with that, and I was surprised
8 that nobody had contacted me. And I said, I don't know how
9 the process works here, but what's happening next? And he
10 said," and the he here is Mr. Beasley, correct?

11 A [No audible response.]

12 Q You have to answer out loud.

13 A Yes. I'm sorry. Yes.

14 Q And Mr. Beasley said, Well, I moved the kids, end
15 quote. Does that refresh your recollection that Mr. Beasley
16 told you at the open house was that he had in fact already
17 moved the boys?

18 A Actually looking at this, maybe he had moved them,
19 but I remember talking to Ethan. I remember intentionally
20 wanting to go meet him because I wanted to tell him what has
21 happened, it's still happening to these kids and something has
22 to happen. I'm going to be honest with you. Still today I
23 don't know about the seating chart and how -- how it moved, it
24 never occurred to me how that was a solution.

25 Q And I understand that. And you weren't in the

1 classroom, so I'm not going to ask you about that. All I'm
2 asking is what you understood what Mr. Beasley told you. He
3 essentially told you that he had already taken action in
4 response to your September 15 email by moving the boys; that
5 had already been accomplished, correct?

6 A I believe that I'm very sure that I met with him
7 that day because it was still an issue. And Ethan, I had
8 asked him if it's still a problem, and I on purpose went to
9 the open house to talk to him, specifically stayed after to
10 talk to him and tell him that there's still a problem in your
11 classroom. And maybe he said, I don't know, he had done
12 something, he planned to move them again, I'm not sure. But I
13 definitely let him know there was still a problem.

14 Q Okay. I probably shouldn't beat this horse, but I'm
15 going to -- since I'm on this page. Would you look at
16 page 129, at line 17?

17 "Q So to recap, you talked to Mr.
18 Beasley. He said in response to your September
19 15 email he moved the kids, right?

20 "A Yeah."

21 So Mr. Beasley told you that he had already moved
22 the kids, right?

23 A But like I said, he may have said I did it, but I'm
24 telling -- I went that night to tell him there's still a
25 problem in your classroom.

1 Q He also told you that there was more that he was
2 doing than just moving the kids, right?

3 A He did say there was other -- I believe somebody
4 else was involved and there was things that they were doing
5 and he was in that short time trying to reassure me that he
6 understood that this was still a problem.

7 Q I think as you previously indicated, he explained to
8 you that there were other components to what he was doing,
9 correct?

10 A [No audible response.]

11 Q And during that brief open house visit, you thanked
12 Mr. Beasley for separating the boys and for looking into the
13 situation?

14 A Yeah. I thanked him for his time and that he seemed
15 sincere and that he was hearing me out. And he definitely at
16 the time seemed sincere and realized that I had -- was coming
17 to him because I believed there was still an issue. And I
18 said, "All right. Just so we're on the same page. Thank
19 you."

20 Q That wasn't quite my question. I got the impression
21 from your answer that you were thanking him for taking a few
22 moments on the evening of October 5 to meet with you. That
23 wasn't my question. My question was, you thanked Mr. Beasley
24 for separating the boys, past tense, and for his looking into
25 the situation, right?

1 A I probably thanked him for what I just said, that he
2 was hearing me out and taking this -- what I had seen to be
3 this matter seriously.

4 Q In the big, big, big book, if you would -- it may
5 still be opened. If it is, it's probably still open to 525,
6 Exhibit 525, which is your February 7 email. And I apologize.
7 I have this marked somewhere, but it's not in this copy, so
8 I'm going to have to locate it here.

9 On the first page of that exhibit, if you look at
10 the third full paragraph, the one that says, Ethan told me
11 that redacted and redacted were told to sit elsewhere, do you
12 see that?

13 A Mm-hmm.

14 Q The second sentence says, "I saw Mr. Beasley at open
15 house. He acknowledged that he got the email and I thanked
16 him for separating the boys and for looking into the
17 situation." Did I read that correctly?

18 A You did.

19 Q Does that refresh your recollection that at the
20 October 5 open house you actually thanked Mr. Beasley for
21 separating the boys and for looking into the situation?

22 A Yes.

23 Q So in reality, you knew, at least as of October 5,
24 you knew that the school had been doing something in response
25 to your September 15 email, you just felt that it was

1 inadequate, correct?

2 A I wasn't aware of anything until I met with
3 Mr. Beasley, so not prior to that day. That day he had told
4 me that he was making changes to the seating chart. I didn't
5 understand that was going to happen, but I was -- I felt
6 evident to me that he had heard me out and that he received
7 the email, yes.

8 Q And just to be clear, in that period of time from
9 September 15 through October 5, Ethan never came home and
10 reported to you I moved seats today or anything like that?

11 A He may have mentioned -- I didn't understand the
12 whole when he was trying to explain the room. I didn't. I
13 didn't understand how the band process works and how where
14 people sit and how they had to sit by each other. He may have
15 mentioned that there might have been an attempt made maybe
16 with Nolan to move. I'm not sure. But whatever it was wasn't
17 enough, and I had met with him October 5 to tell him that
18 there's still a problem in your classroom.

19 Q So let's -- I want to focus on the period from
20 September 15, your first email, the period in between that and
21 your second email. All right. Other than the conversation
22 you had with Mr. Beasley at the open house on October 5, you
23 had no contact with anyone at Greenspun regarding these
24 matters, correct?

25 A That's correct.

1 Q And you had no contact with the school regarding
2 what was happening to Ethan and Nolan despite your
3 understanding that Ethan and Nolan continued to be picked on
4 by Connor and Dante during that period of time, correct?

5 A Tell me the period. What time?

6 Q Between your two emails.

7 A That I had no contact with anybody at the school,
8 other than meeting with Mr. Beasley?

9 Q Yeah. That's what I'm saying.

10 A Yes, yes.

11 Q But what I'm saying is you had no contact with them
12 even though you knew during that same period of time that
13 Connor and Dante continued to pick on Ethan and Nolan during
14 that period of time? Do you understand my question?

15 A Oh, I didn't contact anybody at the school until the
16 second email.

17 Q Even though between your first and second emails you
18 knew that the boys, Ethan and Nolan, were continuing to be
19 picked on?

20 A Yes.

21 Q And the understanding that you had that Ethan and
22 Nolan continued to be picked on at school during that period
23 of time was obtained by conversations you had with Ethan
24 during that period of time, correct?

25 A Conversations and watching his demeanor and

1 unwillingness to go to school gave me an indication that there
2 was something still going on at school.

3 Q Well, okay. I'm not sure -- how would his
4 demeanor -- strike that.

5 I want a direct answer to my question, which is, you
6 found out from Ethan during this interim period of time
7 between your emails, Ethan was telling you that the, pick the
8 word you want, harassment, bullying, the picking on was
9 continuing at school; that's how you knew about it is because
10 he told you, right?

11 A Yes.

12 Q So your next contact with the school about this
13 issue was your October 19 email; is that right?

14 A Yes.

15 Q And that email was triggered when Ethan came home
16 with the scratches on his leg, right?

17 A Yes.

18 Q And if you would turn to Exhibit 8, in the white
19 book. At, I think as you had indicated, 4:32 in the morning,
20 in the morning of October 19, you sent this email that is
21 Exhibit 8, correct?

22 A Yes.

23 Q And the trombone scratching incident occurred the
24 day before on October 18, 2011, correct?

25 A Yes.

1 Q And again, just to be clear, you never witnessed any
2 of the things you describe in this email, correct?

3 A I was only witness to the scratches, yes.

4 Q I'm sorry?

5 A I only witnessed the scratches.

6 Q Okay. The scratches. But what caused them and --

7 A Yes.

8 Q -- you didn't witness any of those things?

9 A No.

10 Q So Ethan provided you all of the information in this
11 email other than what you visually observed regarding the
12 scratches?

13 A Yes. Yes.

14 Q And you sent this email to the same email address
15 for Dr. McKay that you sent the September 15 email, correct?

16 A I did.

17 Q I want to be very specific, except for -- I don't
18 want to be that specific, so I'm going to let your complaint
19 do some talking for me. I was asking you previously about
20 what you knew before the September 15 email, and I want to
21 show you from your first amended complaint and direct your
22 attention to paragraph 2.

23 The record will reflect what is in there. That will
24 be a pleading that's in the record. I would prefer not to say
25 all those names, but I'd like for you to look at those words

1 that are in paragraph 2. And my question to you is, by the
2 time you wrote this email on October 19, Ethan had already
3 told you that Connor and Dante were calling him -- calling
4 them all of those names, right?

5 A Yes.

6 Q And I don't know any other way to do it that it's
7 not in the complaint, so I will apologize in advance. But
8 when you wrote your October 19 email, you even knew about the
9 slur that Ethan and Nolan liked masturbating to each other,
10 correct?

11 A Yes.

12 Q But you didn't include any of those details, any of
13 those names in your October 19 email; is that correct?

14 A I just lumped them up as vile and disgusting
15 comments.

16 Q Because you felt uncomfortable to write them out?

17 A Absolutely.

18 Q Now, later that -- after sending that October 19
19 email early in the morning, you went to the school and you met
20 with Dean Winn; is that right?

21 A Yes.

22 Q And one of the things that Ms. Winn told you is that
23 she would talk to Mr. Beasley as a result of -- as a result of
24 your meeting, she would go and talk to Mr. Beasley, correct,
25 she told you that?

1 A I don't know if she said she'd talk to Mr. Beasley.
2 She said she'd handle it. She didn't -- I actually asked her
3 what her plan was, and she said that I wasn't privy to that,
4 but know that she was going to take care of it. I don't
5 remember if she -- what she said, if anything. She may have
6 given me some indication of what she was going to do, but I
7 don't recall her plan of action.

8 Q Would you please turn to page 161, of your
9 deposition.

10 A [Complies.]

11 Q Are you there?

12 A Yes.

13 Q And starting at line 1 is an answer.

14 "A The documentation that she talked
15 about all the time, and I was kind of confused,
16 like okay, if they have to get away from our
17 kids, they can't be near our kids. And she
18 said she would talk to Mr. Beasley and that she
19 was handling it and that she was well aware of
20 what was -- like that something needed to be
21 done."

22 Does that refresh your recollection that during that
23 conversation, that meeting with Ms. Winn that she told you
24 that she would talk to Mr. Beasley?

25 A Yes.

1 Q Do you know whether Dean Winn in fact had a
2 conversation with Mr. Beasley?

3 A I don't recall her sharing this with me.

4 Q Okay. Well, she hadn't had it at that point. Do
5 you know as a follow-up whether that conversation ever
6 occurred?

7 A I don't recall.

8 Q You just don't know one way or the other, right?

9 A Right.

10 Q Ms. Winn also told you that your complaints were not
11 going unnoticed, but this is where she told you that she
12 couldn't discuss what disciplinary actions the school would
13 take against other students, correct?

14 A Yeah. She told me that pretty much every time I
15 spoke with her, yes.

16 Q And that makes sense to you, doesn't it, that as
17 part of an investigation, hypothetically if the roles were
18 reversed and a complaint had been made against Ethan, if Ethan
19 had bullied somebody, you would hope that the school would
20 come and talk to Ethan before meting out some discipline, and
21 get his side of the story, right?

22 A I would assume they would do some sort of
23 investigation. How they did it, I don't know.

24 Q Certainly you wouldn't just want the administrators
25 to take the word of the victim in my hypothetical without

1 talking to Ethan, correct?

2 A I would assume they would speak to all parties.

3 Q And has it been your life experiences that when you
4 have differing views of things that occur, that frequently the
5 truth lies somewhere in the middle?

6 A Sometimes. Sometimes it's --

7 Q And you would expect --

8 A -- totally different from one side to the other.

9 Q You would expect the school to take appropriate
10 action based on what they determined the truth to be, right?

11 A Yeah. They would [inaudible] an investigation and
12 come up with a conclusion that would be appropriate.

13 Q October 20, the next day, a call with Counselor
14 Halpin. He reached out to you, right; he called you, left you
15 a message and then you called him back, if I'm remembering
16 correctly?

17 A Yes.

18 Q And you had a brief conversation with Mr. Halpin on
19 October 20, right?

20 A Yes.

21 Q His voice message to you said that he had your
22 emails and he wanted to talk to you about them, correct?

23 A He -- his voice message was saying something about
24 the emails and that he wanted to, yeah, probably saying he
25 wanted to talk about them or tell me what he was doing, yes.

1 Q And he asked you to call him back?

2 A Yes.

3 Q And you did?

4 A I did.

5 Q So when you called him back however, you told him
6 that you had just had a meeting with Dean Winn, and that she's
7 taking care of it, right?

8 A I either was just going into the meeting or just
9 came from it. I don't remember.

10 Q Would you turn to page 167, of your deposition.

11 A [Complies.]

12 Q Are you there at 167?

13 A I am.

14 Q Line 20. "Question. Okay. And when you called him
15 back, what did he say?

16 "A That he had forwarded the emails to
17 Ms. Winn, and I said, Actually, I just -- I had
18 a meeting with her and she said she's taking
19 care of it."

20 Does that refresh your recollection of what you told
21 Mr. Halpin that morning?

22 A Okay.

23 Q Does it?

24 A Yes.

25 Q And essentially you were telling Mr. Halpin in so

1 many words, don't worry about it, Ms. Winn is handling it?

2 A Giving him acknowledgment that, yes, what he was
3 telling me was happening. Like that it -- yes, gets pushed on
4 to Mrs. Winn.

5 Q You had talked about your volunteering at the
6 school. And there came a point where you understood that you
7 needed to sign in when you would go to volunteer, correct?

8 A Yes.

9 Q And you would actually punch in and you were
10 supposed to punch out, but you didn't always punch out, but
11 you at least punched in, correct?

12 A Yes.

13 Q And at what point in time did you come to that
14 understanding that you needed to punch in every time that you
15 came to volunteer?

16 A I don't know how many times I'd been there prior to
17 that without getting a volunteer sticker, but somewhere in
18 October, I believe, I saw somebody with a volunteer sticker
19 and I realized that that's how I did it, and the girl at the
20 front desk showed me how to print out a volunteer sticker.

21 Q All right. Would you in the big book turn to
22 Defendant's Proposed 546. While you're turning there, did you
23 follow that procedure thereafter, after you became aware that
24 that was the procedure, that you needed to punch in?

25 A Yes, for her, when I was volunteering at the

1 lunchtime duties, yes.

2 Q Do you have Exhibit 546 in front of you?

3 A Mm-hmm.

4 Q Do you recognize this as a --

5 MR. WAITE: And by the way, Your Honor, I believe
6 this is a stipulated exhibit.

7 MR. SCOTT: Yes.

8 THE COURT: 546 will be admitted.

9 BY MR. WAITE:

10 Q Do you recognize this as the printout of your
11 volunteering at Greenspun Junior High School?

12 A Yes.

13 Q And if you look, you can see that there are
14 different indications for you either appearing on campus as a
15 visitor or a volunteer, and when you're listed as a visitor
16 that might be because you're helping out in a class or
17 something along those lines; is that right?

18 A Yes, something other than that lunchtime --

19 Q And the volunteer is associated with your lunchtime
20 volunteering activities, correct?

21 A Yes, with the exception of the one on 10/19, I
22 believe that was a meeting, and I don't know that --

23 Q Okay. Well, the way I read this is if you look at
24 the top, where it says Visitor the first time, that's
25 associated with 10/14, and the next time it says Visitor is

1 associated with 10/19.

2 A Okay. Yes.

3 Q Okay?

4 A That's right then. Yes.

5 Q And so if you look at this and you punched in each
6 time you came, your prior testimony about volunteering
7 approximately once a week would not be accurate, correct?

8 A No, it would be accurate. This was [inaudible]
9 indication of when I, in December, realized that I needed to
10 do the stickers. There was other times that I had volunteered
11 that were not lunchtime duties, like selling, I don't know,
12 Santa Grams or something. When I first started volunteering
13 for Mrs. Winn, I would just go straight to the lunchroom to
14 meet her, so that would have been in November. By December I
15 realized that I needed a volunteer sticker.

16 Q Okay. I misunderstood something along the way
17 there. I thought you just told me that you understood that
18 you needed to check in, in the October time frame, and that
19 you did --

20 A Check in with her.

21 Q Not punch in, clock into the time?

22 A No. I realized that -- this first time that I
23 punched in was the first time I wore a volunteer sticker.

24 Q So your statement --

25 A The other times I had met with her, I just walked

1 straight to the lunchroom because she was already out there.

2 MR. WAITE: Your Honor, I have lost track of time,
3 just so that I know --

4 THE COURT: It's 2:14. We started back at 1:31.

5 MR. WAITE: Okay. Thank you. So I'll keep track of
6 that.

7 BY MR. WAITE:

8 Q Those times that you volunteered in the lunchroom, I
9 don't know, I guess I could just ask you, you heard Mr.
10 DePiazza, his testimony of what it's like in the lunchroom
11 during those periods of time. He testified that it was very
12 noisy. Would you agree with that?

13 A Yes.

14 Q And that to communicate with the kids they'd have to
15 use microphones, or he even said he had a whistle that he
16 would use from time to time. I mean, it was that noisy?

17 A Not always. Sometimes probably.

18 Q Lunchtime was a time when the kids -- in the
19 classroom the kids were supposed to be quiet, the teacher is
20 talking and you guys be quiet because I'm talking. That's the
21 atmosphere in the classroom. But in the lunchroom, that's
22 actually a time when the kids are encouraged to learn their
23 social skills and to interact with one another and to talk,
24 those types of things, right, you understand that?

25 A I would imagine. I don't know. But yes, I would

1 imagine that to be true.

2 Q Ethan told you one morning that he had been
3 video-taped in the lunchroom the Friday before, correct?

4 A Yes.

5 Q And if I'm understanding correctly, Ethan told you
6 that on either December 12, December 13, somewhere in that
7 time frame?

8 A I don't recall the dates, but yes.

9 Q In any event, you learned about that alleged
10 video-taping days after it actually occurred, correct?

11 A I believe it was -- it happened on a Friday. And
12 then that Monday, if I remember correctly, or the next time
13 Ethan was going to school after it happened -- I don't know
14 the days, to be honest with you, whether it was Monday or
15 Tuesday or whatnot.

16 But the next time he was going to school he had
17 asked me if I was volunteering that day, and I said I hadn't
18 planned to, but I could after I go to the doctor. And he
19 said, "Then will I be in trouble if I grab somebody's phone
20 and smash it?" And then he went into the details about it.

21 Q All that I'm really trying to point out is that you
22 didn't learn about it the same day -- you didn't learn about
23 it as it was happening, correct?

24 A It was after.

25 Q And it wasn't even the same day that this occurred

1 that you learned about it, it was days after this event
2 allegedly occurred that you found out about it, right?

3 A It was days after both times it happened, yes.

4 Q I'm sorry. Both times what?

5 A I believe it happened twice, and he told me that
6 afterwards, not the day of.

7 Q That's totally new information to me. I'm going to
8 have to -- you stumped me in my deposition preparation. I'm
9 going to have to look through that, because that's a new fact.

10 The kids at the lunch assignment -- excuse me, and
11 during lunch, they don't have seating assignments; they can
12 sit wherever they want, right?

13 A I don't know.

14 Q Well, you were in there numerous times. Did it
15 appear that the kids sat in the same spot every single time?

16 A I wasn't part of them -- guiding them to where they
17 sit. I didn't know who would sit where and what the rules
18 were. I didn't know.

19 Q In any event, these days after you learned about the
20 video and that it occurred, you called the dean's office
21 because you wanted someone to check on Ethan to make sure he
22 wasn't being video-taped again, right?

23 A Yes.

24 Q And to be clear, that's what you wanted; you wanted
25 someone to check on Ethan to make sure he was not being

1 video-taped again?

2 A Yes.

3 Q When you called the dean's office and you weren't
4 able to speak with the dean, I think you had indicated you
5 spoke with the dean's secretary, Harriet, right?

6 A Yes.

7 Q When you called the dean's office, you did not know
8 the identity of the kid who video-taped Ethan the prior
9 Friday, correct?

10 A Correct.

11 Q So you didn't know the identity to -- you couldn't
12 identify the person to the secretary by name or even
13 description or anything regarding the boy that had video-taped
14 Ethan; am I understanding correctly?

15 A I didn't know who it was, yes.

16 Q And you had become aware that an administrator did
17 check on Ethan in the lunchroom the day that you called,
18 correct?

19 A Yes.

20 Q And in fact, Ethan told you that more than one
21 administrator checked on him in the lunchroom and asked how he
22 was doing, right?

23 A Yes.

24 Q But when you told the school that you wanted someone
25 to check on Ethan to make sure he wasn't being video-taped,

1 what you really wanted was someone to escort him out of the
2 lunchroom and interview him; is that right?

3 A I would think it would be more appropriate to
4 interview him when he's by himself for a sensitive matter like
5 that, yes.

6 Q But that's not what you asked the school to do?

7 A No, I didn't.

8 Q And in fact, you expected the school to confiscate
9 whoever this offending person's phone was, correct?

10 A I didn't expect that. I asked if that was -- could
11 be a possibility, could they take -- because Ethan was
12 concerned about them posting that on the Internet.

13 Q Even though this event had occurred days before and
14 no one could identify, at least you didn't identify anybody,
15 you expected them to confiscate the phone just simply why?

16 A I just said why. But I didn't expect them to do it.
17 I asked is that a possibility.

18 Q And you understand that Ethan told the
19 administrators that contacted him in the lunchroom that
20 everything was fine, you understand that he told you -- let me
21 stop there. You understand that that's what Ethan told the
22 administrators, correct?

23 A Yes.

24 Q And you understand that the reason that Ethan
25 misrepresented, I think from your perspective he

1 misrepresented that everything was fine, was because the
2 offending kids were sitting nearby and he didn't want those
3 kids to retaliate against him, right?

4 A I don't know who was sitting near him. I know that
5 he felt as though he didn't want to talk about it.

6 Q You don't know if the offending kids were sitting
7 next to --

8 A I don't know who was sitting to the right or the
9 left or whatever. I don't have the seating chart. But I know
10 that he was uncomfortable talking with other kids being there.
11 Whether it was the perpetrators or his friends or whatnot, he
12 was not comfortable.

13 Q Would you turn to page 184, of your deposition.

14 A [Complies.]

15 Q Are you there?

16 A [No audible response.]

17 Q At the top of the page 184, my colleague who is
18 taking this deposition on that day, he was trying to narrow
19 down with you who it was that contacted him, whether it was
20 Vice Principal DePiazza, whether it was Counselor Halpin.
21 Then he says at line 7, "You're not sure as you sit here?

22 "A One of the -- or actually two
23 administrators came to him and asked him if he
24 was okay.

25 "Q And you said they asked Ethan if he

1 was all right, he said he was fine, and then --

2 "A But he said he was fine because the
3 kids were sitting near him and he didn't want
4 to say what happened in front of them. He was
5 embarrassed and he didn't want them to
6 retaliate against him."

7 Now, he wouldn't be fearful that his friends would
8 retaliate against him, right?

9 A You would need to ask Ethan who he was afraid of,
10 but I'm assuming when he's talking about the -- and what I was
11 talking about, that he doesn't want the perpetrator, Connor
12 and his friends or the little gang of friends that he had with
13 him to retaliate against him.

14 Q And is that what Ethan told you? Is that the reason
15 Ethan told you as to why he didn't -- he wasn't more
16 forthright, why he wasn't more honest with the administrators
17 in telling them everything was not fine; in other words, did
18 Ethan tell you that the reason he did not tell the truth that
19 day is because he was afraid that the offenders were sitting
20 nearby and he did not want them to retaliate against him?

21 A No. He had said the kids were sitting near him.
22 Like I said here [indicating], the kids were sitting near him.
23 He didn't want to talk when the kids were near him and he
24 didn't want to be retaliated against.

25 Q But again, can you think of any reason why he'd be

1 afraid that his friends would retaliate against him?

2 MR. SCOTT: Objection, Your Honor.

3 THE WITNESS: I don't think he said --

4 MR. SCOTT: Excuse me.

5 THE COURT: Hang on. There's an objection.

6 MR. SCOTT: Objection. Misstates the evidence. She
7 didn't say friends. She said kids.

8 THE COURT: Hang on. Don't trigger the witness with
9 your objection. The legal grounds for your objection, please.

10 MR. SCOTT: Misstates the evidence.

11 THE COURT: Well, you know, you can redirect on
12 that. I found it argumentative, so I'm going to sustain the
13 objection.

14 MR. WAITE: Okay. Thank you, Your Honor. I'll
15 move on.

16 BY MR. WAITE:

17 Q In any event, did Ethan tell you that he
18 misrepresented the truth to the administrator because his
19 friends from elementary school were sitting with him, and he
20 didn't want to talk about this in front of his friends; did he
21 tell you that?

22 A If I remember correctly, Ethan just said they
23 approached him while he was still at lunch and there was
24 people all around. He didn't want to talk to him then about
25 something so sensitive. The kids were sitting all around him.

1 He didn't specifically tell me which kids.

2 Q All right. Let's go to the difficult topic of
3 Ethan's suicidal thoughts. Okay. Do you want to take a break
4 first, or --

5 A Yeah, that would be great actually.

6 THE COURT: It's 2:25. Take a recess until 2:35,
7 unless anyone needs more time. And if that -- if anyone needs
8 more time, let me know. The court's in recess until 2:35.
9 And Ms. Bryan, you may step down.

10 THE WITNESS: Thank you.

11 (Court recessed at 2:25 p.m. until 2:40 p.m.)

12 THE COURT: Recalling the case. Mrs. Bryan, are you
13 ready to proceed?

14 THE COURT: If at any time you need a break, let me
15 know.

16 THE WITNESS: Okay. Thank you.

17 THE COURT: Mr. Waite.

18 MR. WAITE: Thank you, Your Honor.

19 CROSS-EXAMINATION (continued)

20 BY MR. WAITE:

21 Q And actually, I don't intend to dwell long on this,
22 on this sensitive topic. But you did speak with your son
23 about his suicidal feelings one evening, correct?

24 A Yes.

25 Q And the two of you decided that very night that he

1 was not going to go back to Greenspun Junior High School,
2 correct?

3 A We decided that he would -- that situation and those
4 kids he would not have to deal with anymore. I was going to
5 be sure of that.

6 Q And by the next morning you had indicated that you
7 spent the night with him, watching him through the night,
8 correct?

9 A Yes.

10 Q And by the next morning your perception was is that
11 he was not suicidal anymore; is that correct?

12 A Sometimes in the next day, between the counselor and
13 myself asking him a lot of questions.

14 Q Was it sometime the next day or was it the next
15 morning?

16 A [Inaudible.] I was very emotional and I had stayed
17 up all night, so sometime in that [inaudible], yes.

18 Q Could you please turn to page 78, of your
19 deposition.

20 A [Complies.]

21 Q Page 78, you're talking about scheduling an
22 appointment for Ethan, and my colleague is asking you about
23 the next available appointment a week later. And then you
24 say, starting at line 8:

25 "A But he was not -- the next morning he

1 was not suicidal."

2 And you indicate at the last sentence that I've
3 highlighted on the screen, "I think the relief of not having
4 to go back to that situation unburdened a lot of his anxiety."
5 Does that refresh your recollection that Ethan did not feel
6 suicidal the next day as a result of his knowledge that he
7 would not have to go back to Greenspun Junior High School?

8 A Yeah, that he didn't have to return to that
9 situation, that he felt unburdened by that [inaudible].

10 Q Actually, that's all I want to say about that topic.

11 Now, Ms. Bryan, in most of your conversations with
12 Ethan about what was happening to him at the school, he would
13 specifically tell you that he didn't want you to say anything
14 to the school, correct?

15 A Yes. Quite often.

16 Q And the reason for that is he wanted to handle
17 everything by himself and not to be rescued by his mom?

18 A Sometimes he would say that, yes.

19 Q Is that why in your September 15 email you didn't
20 reference misconduct directed at Ethan?

21 A Ethan was in his explanation more focused on his
22 concerns for Nolan, and Nolan being stabbed was probably the
23 bigger problem that I wanted to hurry up and send to the
24 school to let them know what happened.

25 Q Okay. My question really is you're already

1 testified that you knew prior to sending the September 15
2 email that some things were happening to Ethan, but Ethan was
3 also encouraging you not to tell the school about him and he
4 wanted to handle things himself. And my question to you is,
5 is that why honoring Ethan's request, so to say, is that why
6 you did not comment about Ethan in your September 15 email?

7 A I believe that I focused mainly on Nolan because
8 Ethan's concerns were more about Nolan as well.

9 Q In any event, this -- let me backtrack for a moment.
10 When Ethan was telling you this, that he didn't want
11 you to intervene on his behalf because he felt like things
12 might get worse if you did; is that fair?

13 A Yes.

14 Q And you were honoring that wish to the best of your
15 ability to a certain point?

16 A Yes.

17 Q And that certain point that -- the breaking point,
18 so to say, came when Ethan, on October 18, came home with the
19 scratches on his legs; is that right?

20 A That was one of them, yeah. That was when we knew
21 we had to absolutely take things into our own hands and it was
22 no longer a child problem to let him deal with on his own.

23 Q And that's what I'm trying to figure out, is it was
24 the trombone scratching incident on October 18 that prompted
25 you to essentially say or conclude with your husband that you

1 know what, we now have to intervene, and you sent your
2 October 19 email that now focused on Ethan, correct?

3 A On both of them, yes.

4 Q Yes. Yes. Would you, in the big binder, turn to
5 exhibit -- Proposed Exhibit 563.

6 MR. WAITE: Which is a stipulated exhibit, Your
7 Honor.

8 THE COURT: Mr. Scott, any objection?

9 MR. SCOTT: No objection.

10 THE COURT: Exhibit 563 will be admitted.

11 BY MR. WAITE:

12 Q Are you there?

13 A Yes.

14 Q Just to set the stage, the boy pictured in this
15 exhibit is Ethan; is that correct?

16 A Yes, it is.

17 Q And I want to direct your attention to the -- I
18 don't know how else to say it other than the line that's right
19 by Ethan's shoulder, where it says, "Enter date, 8/29/11." Do
20 you see that?

21 A I see it, yes.

22 Q And then if you just go to the right a little bit,
23 there's a leave date of 2/1/12, or in other words, February 1,
24 '12. Do you see that?

25 A I see it.

1 Q Does that refresh your recollection that Ethan
2 formally withdrew from Greenspun Junior High School on
3 February 1, 2012?

4 A No. I don't believe he formally withdrew on that
5 day.

6 Q The white binder, if you would turn to Exhibit 4.

7 A [Complies.]

8 Q I'm sorry. That's the wrong exhibit. I'm going to
9 have you turn in the big binder, Exhibit 617, what has become
10 617A. Is that still in the --

11 THE CLERK: It would be at the end of the book.

12 MR. WAITE: It'll be at the end of the book? Okay.

13 BY MR. WAITE:

14 Q And what I'm looking for, Mrs. Bryan, is the one
15 that's this "Statement Report."

16 A I'm sorry. What number did you say it was?

17 Q It's 617A.

18 THE COURT: All right. And if you're going to
19 publish it, I don't have but one page.

20 MR. WAITE: It's already been admitted.

21 THE COURT: Right. I just need to refer -- my
22 binder hasn't been changed since we changed that.

23 MR. WAITE: It is 617. Page 4 of 617.

24 THE COURT: Thank you.

25 THE WITNESS: Page 4. I can look at the screen.

1 THE COURT: It's going to be hard to read on the
2 screen. It may be easier --

3 THE CLERK: It's going to be in the back of the book
4 marked as 617A, with a blue sticker on it.

5 MR. WAITE: I can make it easy to read on the
6 screen.

7 THE WITNESS: Oh, I see it.

8 THE COURT: Hang on.

9 THE WITNESS: No, I see it now.

10 THE COURT: Here we go. I wanted to make sure she's
11 comfortable.

12 MR. WAITE: Okay. Great.

13 BY MR. WAITE:

14 Q Now, you've seen this document before; is that
15 correct?

16 A I -- that's Ethan's writing, and I probably saw it
17 at the deposition, but I have to look at it for a second to
18 see where it --

19 Q But you saw it before the deposition, right?

20 A This is a police report that Ethan filled out, then
21 yes.

22 Q I'm sorry? I'm having a hard time hearing you.

23 A I'm sorry. If this is a police report that Ethan
24 filled out, I believe I have seen it before.

25 Q And to be clear, you saw it before your deposition

1 earlier this year, right?

2 A I don't recall specifically, but I was there when he
3 filled this out. I don't know if they gave us a copy that
4 night or not.

5 Q And you do recognize Ethan's signature at the
6 bottom? I think he testified this is his --

7 A I do.

8 Q -- his document.

9 A Yes.

10 Q Do you see that it's dated February 6, 2012?

11 A [No audible response.]

12 Q If you look where I'm pointing on the screen, the
13 date is down towards the bottom.

14 A Oh, yes. Okay.

15 Q Okay. And would you please read out loud the last
16 sentence that starts on line -- that Ethan wrote that starts
17 on line 15, that starts with, The trouble never.

18 A "Would follow me and Nolan around calling us gay,
19 and we would --"

20 Q I'm sorry. Wrong --

21 A "And he would call me fat."

22 Q Wrong spot. Line -- if you see here there's numbers
23 along the left-hand line. Sorry, my misread. Line 15, but
24 over at the right-hand side.

25 A Oh, okay.

1 Q The sentence that starts with, Trouble.

2 A Okay. "The trouble never stopped, so my parents
3 eventually moved me to a different school."

4 Q Okay. And you would agree that since Ethan wrote
5 this on February 6, 2012, that Ethan formally withdrew from
6 Greenspun before February 6, 2012, right?

7 A No. I can remember being at EKA and trying to let
8 Ethan sign up and they said he can't be enrolled at two
9 schools at the same time. They sent me to go get a paper from
10 Greenspun, and it was after this date.

11 Q Would you please turn to page 102, of your
12 deposition.

13 A Okay.

14 Q Are you there?

15 A I am.

16 Q Starting at line 2, there's formation of a question
17 that says, "And considering in that sentence he says moved in
18 past tense, does that help refresh your recollection to when
19 you formally withdrew Ethan from school?

20 "A Sure. I mean, it's making sense, but
21 okay."

22 A And I feel the same way I did when you first
23 asked me.

24 Q Hold on for a moment.

25 A Okay.

1 Q "Question. Before February 6 certainly, according
2 to this record?

3 "A According to this record, yeah.

4 "Q And you would agree with that?

5 "A Sure."

6 Did that refresh your recollection that Ethan
7 withdrew from Greenspun, formally withdrew from Greenspun
8 before February 6, 2012?

9 A No. I do recall this conversation you and I had on
10 this date as well. I believe Ethan was formally withdrawn --
11 because he didn't do it himself. I had to do it, and I did it
12 after he already had attended a meeting at EKA, and they sent
13 me back to Greenspun to get a formal withdrawal, and I believe
14 it was after this date.

15 Q I'm not -- let's back up for a moment. First of
16 all, it wasn't you and me in the deposition, correct? I
17 wasn't even there.

18 A Okay.

19 Q All right. Do you remember that?

20 A I remember it being a deposition and this
21 conversation.

22 Q And you remember giving -- being asked these
23 questions and giving those answers?

24 A Yeah. I remember talking about this --

25 Q It's a yes or no.

1 A Oh. Do I remember being asked about this? Yes.

2 Q Do you remember being asked these questions and
3 giving those answers?

4 A Yes.

5 Q And at the time you were under oath to tell the
6 truth, correct?

7 A Absolutely, yes.

8 Q And did you tell the truth?

9 A Absolutely, yes.

10 Q Thank you. Would you turn in the big book to Trial
11 Exhibit 525.

12 A [Complies.]

13 Q This is your February 7 email. This has previously
14 been admitted. Was my characterization correct; this is your
15 February 7 email?

16 A Yes, it is.

17 Q And everything that you wrote in this you believed
18 to be true and accurate at the time you wrote it?

19 A Did I believe it -- yes.

20 Q Would you please turn to the last page.

21 A [Complies.]

22 Q Which down at the bottom is Bates-stamped CCSDDEF
23 No. 37. And would you read -- there's a partial paragraph at
24 the beginning, at the top rather, and then there's a first
25 full paragraph and a second full paragraph. Would you --

1 well, I'll read it. The beginning of that sentence says,
2 "Ethan and Nolan are great kids and have been removed from
3 Greenspun."

4 Do you have that in front of you?

5 A I'm sorry. Tell me what page number.

6 Q It's -- do you have Exhibit 525? It's your
7 February 7 email.

8 A Oh, yes. I see it now. Yeah.

9 Q And you're on the last page, page 4 of that email?

10 A Yes.

11 Q Second full sentence -- excuse me, the second full
12 paragraph that says at the beginning of that paragraph, Ethan
13 and Nolan are great kids and have been removed from Greenspun.

14 A Yes.

15 Q And that was a truthful statement when you wrote it
16 at that time?

17 A Yes. He quit going to school in January.

18 Q I'm sorry?

19 A He was removed from that school in January. He quit
20 going to school.

21 Q Let's talk a little bit about the transfer from EKA
22 to LMCA; EKA being Explore Knowledge Academy, LMCA, Lake Mead
23 Christian Academy.

24 A Okay.

25 Q Again, just to set the stage, your son, Jake, is two

1 years older than Ethan; is that correct?

2 A Yes.

3 Q And Jake went to Greenspun for his sixth to eighth
4 grade years?

5 A He didn't go sixth grade. Seventh and eighth.

6 Q Seventh and eighth grade.

7 A Yes.

8 Q Thank you. Then starting ninth grade you put Jake
9 into Gorman High School, correct?

10 A I did.

11 Q That was a private Christian school?

12 A Yes.

13 Q So Jake went to public school from kindergarten
14 through eighth grade; am I understanding correctly?

15 A Yes.

16 Q And then in Jake's tenth grade, you transferred him
17 from Gorman High School to Lake Mead Christian Academy,
18 correct?

19 A Yes.

20 Q And Jake graduated from Lake Mead Christian Academy?

21 A He did, yes.

22 Q Lake Mead Christian Academy is a private school,
23 correct?

24 A Yes, it is.

25 Q One for which you have to pay tuition like Gorman

1 High School?

2 A Yes.

3 Q And the reason you transferred Jake from Gorman is
4 because you wanted to follow one of Jake's teachers that was
5 at Gorman that you really liked, who said she was transferring
6 from Gorman to Lake Mead Christian Academy, correct?

7 A She was the lady that was running the Learning
8 Center there that I -- it's not an IEP program, but something
9 similar for kids that have trouble learning, yes.

10 Q The point being is that the reason that you selected
11 Lake Mead Christian Academy is because --

12 A By her recommendation, yes.

13 Q -- because you wanted to follow a teacher that was a
14 good teacher that you liked and you wanted to follow her to
15 Lake Mead Christian Academy, correct?

16 A Yeah. I don't believe she's a teacher.

17 Q I'm sorry?

18 A I don't believe she's actually a teacher, but yes.

19 Q Okay.

20 A On her recommend and because she was going over
21 there, we looked at that school.

22 Q And so with Jake going to Lake Mead Christian
23 Academy, you moved Ethan from EKA to Lake Mead Christian
24 Academy as well?

25 A Yes, I did.

1 Q Now, for Ethan, do you consider the educational
2 opportunities that he receives at Lake Mead Christian Academy
3 to be better, worse or about the same as he would get at a
4 Clark County School District school?

5 A Better, because he doesn't have to deal with all --

6 Q Okay. I'll get to that in a moment.

7 A Better, yes. Okay.

8 Q When you say better, do you think that is it your
9 opinion or feeling that his educational opportunities at Lake
10 Mead Christian Academy are significantly superior, vastly
11 superior, only slightly superior? How would you characterize
12 it as it relates to what he is receiving and has available to
13 him at Lake Mead Christian Academy as opposed to a Clark
14 County School District school?

15 A In our situation, vastly superior, because he likes
16 to go to school.

17 Q Anything else that -- anything that's inherent about
18 that you would base your opinion that he is getting a much
19 better educational experience, opportunities and benefits at
20 Lake Mead Christian Academy?

21 A I can't think of anything offhand to compare the two
22 schools.

23 Q In other words, is the pupil to student -- excuse
24 me, the teacher to student ratio smaller at Lake Mead
25 Christian Academy?

1 A Definitely smaller. I don't know -- I would have
2 chose public school. If I didn't have to deal with this, my
3 kids would still be in public school.

4 Q Is getting a Christian education important for you
5 for your children?

6 A No, but it was kind of -- things we'll teach at home
7 ourselves I don't need the school to teach my children. It's
8 a -- it's fine. I'm good with it and I'm happy with Lake Mead
9 Christian Academy and how they're teaching our children.

10 Q Okay. But that's something that you're getting --

11 A It wasn't a necessity.

12 Q I understand. But that's something that your
13 children are receiving, that Ethan is receiving at Lake Mead
14 Christian Academy that he wouldn't get at a Clark County
15 School District school, correct?

16 A The Christian part of it?

17 Q Yes.

18 A He is.

19 Q Yeah. And in fact, I remember your indicating, I
20 believe, early on in your direct examination, I forget now
21 who, was it Ethan or Jake or both that attended a Christian
22 preschool, had a Christian preschool experience?

23 A They went to daycare near our house. It's a
24 Christian type --

25 Q Okay.

1 A -- Green Valley Christian.

2 Q Anything else that you would base your opinion on
3 that Ethan is getting a vastly superior educational
4 opportunity at Lake Mead Christian Academy?

5 A The number one thing is that he has a desire to be
6 there.

7 Q Now, I can't help but notice, and this is something
8 that wouldn't be reflected in an audio, but when your counsel
9 asked you what the tuition was for the Lake Mead Christian
10 Academy, you seemed to pause quite awhile and have a -- had a
11 hard time thinking about that; am I being fair?

12 A You did, because they bill us in one lump sum for
13 all three kids, and I would have to think about breaking it
14 down. And they don't give us a number that includes
15 everything. They give us a number for tuition and then we pay
16 for all these other things on top of it, so I'd have to add
17 all that stuff up.

18 Q So how do you know as you're sitting here, how do
19 you know how much it cost for Ethan to attend the school?

20 A I'd have to divide it by -- elementary school cost a
21 little less, the high school cost more. I'd have to calculate
22 that. I'm sure it's written down somewhere. I don't have it
23 on the top of my head.

24 Q I understand.

25 A They take money out of our account every month.

1 Q And that's what I'm trying to figure out. As you --

2 A A portion of it was for Ethan and the other portion
3 is for his brother.

4 Q I'm sorry. If I interrupt you --

5 A No, that's okay.

6 Q -- it's only because I think you're done. I do
7 apologize for that.

8 All that I'm trying to figure out is as you sit here
9 today, you really don't recall what Ethan's educational --
10 what his education cost at Lake Mead Christian Academy; is
11 that correct?

12 A I could figure out and calculate it.

13 Q No, that's not what I'm -- I'm asking --

14 A Do I keep it in the top of my head; no.

15 Q Do you know it right now that you can testify under
16 penalties of perjury what it cost for you to have --

17 A No. I could give you a guess.

18 Q Hold on. Hold on. I have to finish my question.

19 A Okay.

20 Q Can you state with certainty, providing evidence if
21 you will, of what it cost to -- for your family to have Ethan
22 attend Lake Mead Christian Academy?

23 A Could I come up with that; absolutely. I can look
24 on our bank accounts and I can look online at the cost of
25 tuition and I could break it down. Right now I pay for two

1 kids in one lump sum.

2 Q Can you tell me right now what that number is?

3 A I could give you a guesstimate.

4 Q It's a guess?

5 A Yeah, a guess.

6 Q I don't want a guess.

7 A Okay.

8 Q Then let's go to February 8, I believe. That's the
9 day that you were asked to leave the campus?

10 A Mm-hmm.

11 Q And on that particular day, I think there was some
12 additional things that occurred. Let's talk about those
13 additional things. During that lunch period, the first -- you
14 were asked to leave the campus in between the first and the
15 second lunch period?

16 A In between, yes.

17 Q And are the lunches arranged by classes; in other
18 words, like sixth graders attend the first lunch, seventh
19 graders --

20 A I believe it was done by grade level, yes.

21 Q And which grade attended the first lunch?

22 A I believe it was the older kids.

23 Q Not certain about that though?

24 A I'm not certain.

25 Q And during that lunch period, that first lunch

1 period that day, you saw one boy trip another, right?

2 A I did.

3 Q Were you related to either of these boys?

4 A No.

5 Q Did you know either of the boys?

6 A No.

7 Q Did you know the dynamic between them?

8 A Not at all.

9 Q So for example, you didn't know that one of the boys
10 was a very autistic student?

11 A Just from my experience as a nurse and as a human
12 being, he had some -- by appearances he had something that
13 would make me think he was probably a special needs, yes.

14 Q And you realized that at the time, or you've come to
15 find that out and realize that since?

16 A No. I realized it at the time.

17 Q Okay. But you didn't know whether these two boys
18 that were involved in this incident, whether they were
19 friends, good friends --

20 A No, I didn't know that.

21 Q I'm sorry?

22 A I didn't know that.

23 Q You do recall however that one boy, that the one boy
24 who tripped the other said to you that he didn't do it on
25 purpose, right?

1 A Yes.

2 Q And you told that sixth grader, quote, Well, you can
3 tell the dean your story, not me, end quote, correct?

4 A Yes.

5 Q So you marched the two boys to the dean's office?

6 A I didn't march them. I asked the boy that did the
7 tripping -- the one that fell on the ground was crying and his
8 books went everywhere. So the boy that did the tripping, I
9 said, "Instead of laughing, can you pick up his books and
10 carry them over -- help me to the dean." He did. He picked
11 them --

12 Q You can quibble with my word. I'll use a different
13 word. If you want to use escorted or whatever, you saw to it
14 that the two boys were taken up to the dean's office, correct?

15 A They walked with me to the dean, yes. Not her
16 office. She was probably -- she wasn't that far away.

17 Q Okay.

18 A She was out in the courtyard as well.

19 Q So you didn't go to the office, you just went to
20 where Dean Winn was?

21 A Yes.

22 Q And she was on lunch duty at the time?

23 A She was on the other side of the courtroom -- the
24 little courtyard.

25 Q Now, Ms. Bryan, at any time during this incident

1 with these two boys, did you lay your hands on either of the
2 two boys?

3 A No.

4 Q You never touched either one of them?

5 A No.

6 Q You're sure about that?

7 A Yes.

8 Q Did you tell Dean Winn that the one boy had bullied
9 the other?

10 A No, I did not.

11 Q And in between the two lunches, Mr. DePiazza came to
12 you and asked you to leave the campus, correct?

13 A He did.

14 Q And notwithstanding that instruction from the
15 assistant principal, you did not leave, correct?

16 A Not straight away. I told him that I had just spoke
17 with Dr. Andre Long and that he said there would be no problem
18 with me coming to school that day. I had told him that I had
19 already scheduled that day to come. He then came back with
20 Cheryl Winn and they both came to me and said that they were
21 instructed by Dr. McKay to escort me off the school property.

22 Q So twice, twice you were asked to leave the property
23 and twice you refused to do so, at least for some period of
24 time?

25 A Yes. I went to the office to call Andre Long.

1 Q You were there long enough to try to contact Andre
2 Long?

3 A Yes.

4 Q And you tried to email him?

5 A Yes.

6 Q And he didn't respond to you?

7 A Right.

8 Q At least within the period of time that you were
9 hoping that he would respond to you.

10 A Right.

11 Q You called your husband and had him come down there,
12 correct?

13 A Yeah. He picked me up.

14 Q Okay. And so at some point you got frustrated and
15 you then did finally leave the school, correct?

16 A I did.

17 Q But I want to be absolutely clear on your testimony
18 as we've now talked about this. Your recollection is you did
19 not touch either of those boys that were involved in that
20 tripping incident?

21 A I did not.

22 Q Do you remember in this lawsuit filling out some
23 interrogatory responses? Those are written questions. Do you
24 know what an interrogatory is, written questions?

25 A No. If you show me, I'll probably --

1 Q Let me just ask you straight out, and if I need to
2 I'll be happy to show it to you. Is it true that the first
3 time you've consulted an attorney about the facts of this case
4 was in mid February 2012?

5 A That could be right. When I realized that we were
6 not allowed to talk to Andre Long anymore.

7 Q That comports with your recollection that that was
8 the first time you talked to an attorney about what has become
9 this lawsuit?

10 A Probably.

11 Q Home stretch. I want to ask some kind of
12 generalized questions about your thoughts and feelings about
13 what the folks at Clark County School District did, didn't do,
14 so forth. You feel that Mr. Beasley, you feel that he was a
15 passive bystander and allowed the bullying to happen to Ethan
16 and Nolan, correct?

17 A Yes.

18 Q You feel that he did nothing and allowed the
19 bullying to continue, correct?

20 A I don't know what he did, but I know that it
21 continued to happen in his classroom. I know that he has,
22 from his deposition, apologized, saying that he put Ethan in
23 the line of fire because he thought Ethan can handle it. I
24 don't find that to be appropriate.

25 Q In your deposition, do you recall saying that he did

1 nothing and that's not acceptable?

2 A If that's what I said.

3 Q I'm sorry?

4 A If that's what I put on that paper.

5 Q Do you want to see your deposition testimony?

6 A No. I'm telling you I felt as though he did nothing
7 to help the -- to resolve the situation.

8 Q You similarly felt that Mr. Halpin did nothing and
9 allowed the bullying to continue, correct?

10 A He did nothing to fix it, or to remedy the
11 situation.

12 Q In fact, rather than going down the list, isn't it
13 fair to say that you feel that all the folks at Greenspun
14 Junior High School ignored the bullying, were passive, and
15 thus allowed the bullying of Ethan and Nolan to continue?

16 A I think their responses were inadequate and tepid,
17 yes.

18 Q Well, do you think that they were passive and
19 ignored what was occurring?

20 A In some instances, probably.

21 Q And you would include Clark County School District
22 in that opinion, that conclusion as well, correct?

23 A If that's the entity that [inaudible].

24 Q I'm really having a hard time hearing you.

25 A Okay. If -- I don't have any -- I don't know what

1 Clark County School District, that's not a human being. I
2 know that there's -- if those are the people, yes, as a
3 collective that didn't help our kids and didn't assist us in
4 finding an answer and a solution, and ignored us and in fact
5 kicked me off campus -- he's since apologized for kicking me
6 off campus. The story about the autistic boy is new to me
7 since the depositions. But --

8 Q Well, Clark County School District --

9 A -- inadequate, yes.

10 Q Clark County School District is at this point the
11 only party in this lawsuit --

12 A Okay. Then yes.

13 Q -- that you have sued.

14 A Then what they did was inadequate in protecting our
15 kids.

16 Q I get it that you feel that Clark County School
17 District and its people failed to do lots of things, they did
18 nothing to protect Ethan and Nolan. My question now is kind
19 of the flip of that. Is there anything that you're aware of
20 that Clark County School District affirmatively did,
21 affirmatively did that exposed Ethan or Nolan to a danger that
22 didn't already exist for those two boys?

23 A In their dismissiveness of what I was letting them
24 know was becoming a hostile and dangerous situation
25 emotionally and physically for the kids, yes.

1 Q So you feel that their -- they were dismissive. And
2 when you say dismissive, what does that -- what do you mean by
3 that?

4 A I don't know if I'm using the proper words, but I
5 think that they were aware of what was happening to our kids
6 and didn't take it seriously despite me and my husband and the
7 kids -- I mean, the situation there was getting out of hand
8 and they didn't take it seriously and here we are today.

9 Q So I'm trying to distinguish here, and maybe it's a
10 fine distinction, but I'm asking you to tell me if you can,
11 again, I understand that you feel that there is many things
12 that the school district and its people did not do. What I am
13 asking you, is there anything that they actually did do that
14 you feel created a harm or a danger, a risk of harm or a
15 danger for Ethan and Nolan that didn't otherwise exist without
16 that affirmative conduct on their part? Does anything come to
17 your mind?

18 A No. I don't know what they did or didn't do because
19 we weren't part of any kind of solution of what they did or
20 didn't do.

21 Q And notwithstanding everything that you believe went
22 wrong at Greenspun Junior High School, you also believe that
23 Ethan and Nolan had some really great academic experiences at
24 that school as well, correct?

25 A At times. They're both good students. They loved

1 school prior to this.

2 MR. WAITE: Are there any exhibits that I need to
3 have admitted, or are they all in?

4 THE CLERK: They were all admitted.

5 MR. WAITE: All have been admitted. Thank you, Your
6 Honor. I have no further questions.

7 THE COURT: Are you ready to go forward?

8 THE WITNESS: Yeah, I'm fine. Thank you.

9 THE COURT: Okay. Then redirect, please.

10 MR. SCOTT: Nothing further, Your Honor.

11 THE COURT: All right. So may we excuse the
12 witness?

13 MR. SCOTT: Yes.

14 THE COURT: Ms. Bryan, you may step down. You're
15 excused. Plaintiff, please call your next witness.

16 Did you -- Mr. Polsenberg, did you have something to
17 put on the record? You were --

18 MR. POLSENBERG: No, Your Honor. I was just
19 standing while the witness left the seat.

20 THE COURT: Very nice.

21 MR. SCOTT: Next witness, John Halpin.

22 JOHN HALPIN, PLAINTIFF'S WITNESS, SWORN

23 THE CLERK: State and spell your name for the
24 record.

25 THE WITNESS: John Halpin, J-o-h-n, H-a-l-p-i-n.

1 THE COURT: Thank you. Go ahead, please.

2 DIRECT EXAMINATION

3 BY MR. SCOTT:

4 Q Good afternoon, Mr. Halpin. My name is John Scott.
5 I represent the plaintiffs here. I think we met once before;
6 is that right?

7 A Yes.

8 Q Thank you for being here. Can you tell the Court
9 and just summarize for the Court your educational background
10 starting with college?

11 A I got my -- I started school through Clark County
12 community college, and I got my -- I got a two-year degree
13 there. Then I finished up my bachelor's at UNLV, got my
14 degree in special education. Then I went back and got a
15 master's degree -- or I'm sorry. I got my undergrad in
16 psychology and my master's in special education. And then I
17 got endorsed in school counseling.

18 Q And is it true you started working at Greenspun
19 Junior High School in 2007, as a counselor?

20 A I believe so, yes.

21 Q And what was your history and background in
22 education, either teaching or as a counselor prior to that
23 time?

24 A I taught special education for four years at the
25 elementary level. And then prior to going to Greenspun I was

1 an elementary school counselor for five years.

2 Q And was that all in the Clark County school
3 district?

4 A Yes.

5 Q And then you went from being a counselor in an
6 elementary school to being a counselor at a junior high
7 school; is that correct?

8 A Correct.

9 Q And are you still at Greenspun Junior High School?

10 A Yes, I am.

11 Q And can you summarize for the Court your primary
12 duties and responsibilities as a counselor at Greenspun
13 in 2011?

14 A My primary responsibilities are obviously working
15 with the students in an academic fashion in the basic sense.
16 So basically I was an academic counselor, worked with them on
17 social/emotional skills, and worked with them in a career
18 sense where I'd go do classroom lessons and try to prepare
19 them for the future.

20 Q When you say social and emotional skills, what do
21 you mean by that?

22 A I would go into the classroom and do coping skills
23 with students. Also, I think that encompasses students that
24 are having problems maybe at home or in the classroom, or
25 maybe having suicidal ideations, so they might come see me for

1 that.

2 Q And when you use the term "coping skills," what do
3 you mean by that?

4 A Coping skills, I think, are skills that students or
5 anyone can use to deal with stress. So usually those are the
6 biggest issues at school, either stress of academics or stress
7 of a home life, stress about dealing with issues, whatever,
8 just having good coping skills.

9 Q Can you give me an example of coping skills that you
10 taught at Greenspun?

11 A I mean, there's any number. Anyone can have
12 different coping skills. It might be just a mindfulness or
13 taking deep breaths, counting to ten, those are just the basic
14 [inaudible], or just even reading. Whatever works for an
15 individual. I mean, there's any number of them. I give them
16 a sheet of actually a hundred.

17 Q A hundred?

18 A Mm-hmm.

19 Q That's a yes?

20 A Yes.

21 Q And you hand out that sheet to students?

22 A Yes.

23 Q And these classes that, if I'm understanding
24 correctly, you gave some classes to students in coping skills?

25 A Yes. Correct.

1 Q And in the school year 2011-2012, did you have an
2 immediate supervisor?

3 A Yes, I did have an immediate supervisor. I -- it
4 could have been -- I believe it was Lenny DePiazza, or it
5 could have actually also been Dr. McKay. They're both my
6 immediate supervisors.

7 Q And Mr. DePiazza was the assistant vice principal?

8 A Correct. Yeah.

9 Q And at that time Dr. McKay was the principal?

10 A Yes.

11 Q And did you believe that they both kind of as a team
12 supervised you?

13 A Yeah, I believe so.

14 Q And if you had issues or concerns regarding a
15 particular student, would you sometimes discuss it with them
16 or bring it to their attention?

17 A Yes.

18 Q And why would you do that?

19 A For any number of reasons. Anything that I just
20 didn't know the answer to, I would go to either of them for
21 assistance, for clarification, to tell them anything. They
22 were both there. And if one wasn't there, the other one was.
23 So there was always somebody there.

24 Q And what kind of assistance did you ask them for
25 during the 2011-2012 school year?

1 A For example, I would go to them if a child wanted to
2 change classes. I didn't always have the leeway to make a
3 class change. I would have to get permission from them. Or
4 in working with students I might go to them for a question if
5 maybe it could be behavioral. Or if there's anyone suicidal,
6 we're mandated to let them know that we're dealing with a
7 student that has suicidal ideation.

8 Q Now, when you're talking about behavioral issues,
9 what do you mean by that?

10 A It could be a student acting out. Maybe they're
11 having trouble with a teacher, it could be something like
12 that. They could be coming to me complaining about a teacher,
13 and I may go to an administrator about that.

14 Q And if there were behavioral issues that concerned
15 you, would on occasion you go to either the vice principal or
16 the principal to try to work out a solution?

17 A Yes.

18 Q And what types of solutions did you work out with
19 them?

20 A We might decide on whether to maybe move a student
21 out of a classroom, change a teacher on something like that.
22 If they weren't performing well in that class or they were
23 complaining about a teacher, we would try to figure out what
24 we could do, what are the options as far as maybe changing the
25 classroom.

1 Q And were there situations where you got the
2 permission or the -- maybe permission isn't the right word,
3 but where you brought an issue, a behavioral issue to the
4 principal and the solution was to move a student out of one
5 classroom into another to try to solve a behavioral issue?

6 A I mean, it doesn't happen all the time, but yeah, it
7 could be that. That could have been a solution.

8 Q Not only could it be, but it was in some occasions,
9 correct?

10 A Correct.

11 Q And can you tell us, don't give us names, but just
12 tell the Court types of situations where you identified
13 behavioral issues that were solved by moving a student out of
14 one class and into another.

15 A For example, if a student was acting out with a
16 particular teacher, the student might come and complain to me,
17 maybe we tried to work it out and maybe we have had a
18 parent/teacher conference. That might be a particular
19 instance where we would move a student out of a class.

20 Q Was there ever a time when you went to either the
21 principal or vice principal at Greenspun, made a
22 recommendation to move a kid out of a class to solve a
23 behavior problem where the principal or vice principal did not
24 agree with you?

25 A Sure. They might decide -- make a -- have a

1 different decision and we might go a different direction. It
2 might be that the parent was asking for that and then the
3 administrator may call the parent themselves and talk them
4 through why we can't move that student for whatever reason.

5 Q What would be other options?

6 A Having a parent/teacher conference if we haven't had
7 that, meeting with an administrator, trying to figure out a
8 different plan.

9 Q And so sometimes you'd get a parent involved to try
10 to work out a plan?

11 A Yes.

12 Q And if the behavior issue wasn't between a student
13 and a teacher, but between students, would it be the same
14 types of solutions?

15 A Those may be some solutions as well.

16 Q And if it was a problem between students, would you
17 get parents of both students involved?

18 A Parents of both students probably would get involved
19 if it was problems with each student. They generally don't
20 bring the parents together into a meeting. In fact, I think
21 they don't do that purposely.

22 Q Right. But they would separately or independently
23 meet with parents of the students who were not getting along
24 to try to work out a remedy that can include one student or
25 the other moving out of a class?

1 A Correct. Yes.

2 Q Nothing unusual about that, correct?

3 A I don't think that's unusual.

4 Q And would the dean have to get involved in that?

5 A Yes. Generally the dean would be the point person
6 on any behavioral issues.

7 Q And so in situations you're aware of where the
8 solution was to move a student out of a classroom, the team
9 would typically get involved?

10 A The team? Can you --

11 Q The dean.

12 A The dean. Yeah, the dean would get involved in the
13 behavioral situation.

14 Q And so as far as you know, the dean knew that one
15 option to behavioral issues was to move a student out of a
16 class?

17 A Yes.

18 Q And as far as you know, Dean Winn was aware of that
19 in 2011?

20 A As far as I know, yes.

21 Q Now, before you started working at -- well, let me
22 ask you this first. At Greenspun Junior High School, who was
23 your employer; the school district or something else?

24 A The school district was my employer.

25 Q You got your check from the school district?

1 A Correct.

2 Q That was your employer?

3 A CCSD.

4 Q Oh. And you understood everyone who was either a
5 teacher or an administrator at Greenspun Junior High School
6 worked for the school district?

7 A Yes.

8 Q And prior to 2007, had you received any training
9 through the school district regarding bullying and harassment?

10 MR. POLSENBERG: Sorry, Your Honor. Prior to 2007?

11 MR. SCOTT: Yes. Before --

12 BY MR. SCOTT:

13 Q Before you went to Greenspun.

14 A So that would be when I was an elementary school
15 counselor prior to 2007?

16 Q Yes.

17 A I'm sure I received some, but I can't remember or I
18 can't recall it.

19 Q Fair enough. But would it be fair to say that once
20 you got to Greenspun, at least annually you received training
21 along with other teachers and administrators in bullying and
22 harassment and related activities?

23 A I honestly don't think -- I don't think I received
24 that every year, but I did receive bullying training.

25 Q Okay. Are you familiar with the term "fashion week"

1 at the beginning of the school year?

2 A Yes.

3 Q Did you attend fashion week?

4 A I did not attend fashion week.

5 Q Why is that? Was that just for administrators, or
6 do you know?

7 A No. I'm sorry. I don't know what fashion week is.

8 Q Fair enough. Did you at the beginning of a school
9 year, did you typically receive any type of training?

10 A Yes. We get training. We do get some trainings.
11 We meet with the school counseling department. They're not my
12 supervisor, but there's a person over the counseling
13 department, they come and do trainings once or twice a year,
14 and then we also watch some videos at the beginning of the
15 year, mandatory videos.

16 Q And did the training include training regarding
17 mandatory duties that you and others, teachers and
18 administrators had about bullying including mandatory duties?

19 A I'm not sure if they've always been in those videos,
20 but they are now. I don't know that they were in 2011. I'm
21 not sure.

22 Q Well, do you know if prior to 2011 you received any
23 training through the school district in terms of your duties
24 and responsibilities as a mandated reporter in relation to
25 bullying?

1 A I believe I had. I went to a bullying training for
2 my prior principal. It was like three weekends in a row, and
3 it talked about being a mandated reporter.

4 Q Was your understanding that all of the teachers and
5 administrators in the school district had to receive some
6 training regarding their mandatory duties regarding bullying?

7 A Can you repeat that question, please.

8 Q Yeah. Was your understanding that all teachers and
9 administrators in the school district received training at
10 least annually regarding their mandatory duties under the law
11 when bullying or harassment occurred at school?

12 A I know it is now. I'm not sure if it was then.

13 Q Oh. Did you understand in 2011 you were a mandated
14 reporter if you became aware of bullying or harassment?

15 A Yes, I did.

16 Q And why did you believe that?

17 A We would discuss it at admin meeting, administration
18 meetings, and I'm sure I had to have been trained on it.

19 Q And the training that you received on bullying also
20 included getting information about the consequences of
21 bullying on a child, correct?

22 A That the consequences that they would receive?

23 Q Yes.

24 A Yes.

25 Q In other words, there was a reason that you were

1 attempting to identify and remedy it, because it could have
2 severe consequences on children, correct?

3 A Oh, I see what you mean, what the kids could do. I
4 understand. Yes.

5 Q And you understood that in 2011, correct?

6 A What the possibilities of a student would do?

7 Q What the risks, potential risks were to a student
8 who is a victim of bullying.

9 A Yes.

10 Q And not only you, but the other teachers and
11 administrators received training, training about that,
12 correct?

13 A I believe so, yes.

14 Q And that training mentioned a wide range of
15 potential consequences to a child of bullying, correct?

16 A Yes.

17 Q And what were they? What were the consequences you
18 were taught?

19 A The possible consequences of bullying?

20 Q Yes.

21 A The possible consequences of bullying I would
22 believe would be first of all depression possibly, not
23 performing well in school, a problem with friends, withdrawing
24 from family and friends up to possible suicide.

25 Q Now, when you say withdrawing from family and

1 friends, what did you understand that meant?

2 MR. POLSENBERG: Your Honor, I think this is going
3 beyond state of mind, and they're calling him as an expert to
4 actually for the consequences.

5 THE COURT: And your response?

6 MR. SCOTT: It's part of his training.

7 THE COURT: I'm going to overrule the objection. It
8 seems to be foundational at this point. If I -- like
9 yesterday, if I believe that you go further afield than laying
10 a foundation, then I'll call counsel to the bench and I'll
11 sustain the objection.

12 MR. POLSENBERG: Thank you, Your Honor.

13 MR. SCOTT: Thank you.

14 BY MR. SCOTT:

15 Q And as part of the training, did you have an
16 understanding of what it meant to withdraw from friends or
17 family?

18 A I think I understand what it means to withdraw from
19 family and friends.

20 Q All right. And was part of the training that if a
21 student who was bullied perhaps had depression, was
22 withdrawing from friends and family, then that student would
23 be reluctant to complain about the bullying to friends, family
24 or other teachers, right; that was the training?

25 A I don't recall that that's the training, but I

1 suppose that that's a possibility.

2 Q Well, you were trained it was a possibility. It's
3 not a likelihood, right?

4 A That they wouldn't share? If they were being
5 bullied that they wouldn't share, they would withdraw and not
6 share with anyone?

7 Q Yes. Isn't that what you just said?

8 A I suppose that's possible.

9 Q Well, that was common knowledge, wasn't it, that
10 many times children who were bullied withdrew and didn't
11 complain to friends, family or teachers, correct?

12 A Okay. That's a possibility.

13 Q Well, that's what you were trained and it was common
14 knowledge among staff at Greenspun.

15 MR. POLSENBERG: Judge, I think we're badgering at
16 this point.

17 THE COURT: All right. Don't become argumentative.
18 I'm going to sustain the objection. You can ask your next
19 question.

20 MR. SCOTT: Thank you.

21 BY MR. SCOTT:

22 Q And as a counselor, you had contact with many
23 students who were victims of bullying who were reluctant to
24 complain about it, correct?

25 A Possibly. It's hard to know, because they don't

1 want to talk about it, so.

2 Q Exactly.

3 MR. POLSENBERG: Your Honor, I'm going to move to
4 strike that, because the answer was possibly. This is
5 argumentative. This is not an expert in their case in chief
6 to lay these foundational points.

7 THE COURT: And the response please.

8 MR. SCOTT: I'm just asking him his knowledge,
9 training and experience as a counselor at Greenspun Junior
10 High School in 2011.

11 THE COURT: All right. The motion to strike is
12 denied.

13 MR. POLSENBERG: Thank you, Your Honor.

14 THE COURT: The answer was responsive. Next
15 question.

16 BY MR. SCOTT:

17 Q And did you have any types of methods you tried to
18 use to get kids who you thought were victims of bullying to
19 open up to you?

20 A I think so. I think I just tried to make myself
21 available to them, tried to get to know them. I think to have
22 them get comfortable with you and maybe they felt confident
23 that they could get help.

24 Q And how would you try to make children who you
25 thought or understood were victims of bullying to get

1 comfortable with you?

2 A Just touch base with them as often as you can.

3 Q And how often was that?

4 A It depends on each situation.

5 Q Oh. And based on your training as of 2011, were you
6 trained that once you became aware of bullying, whether you
7 saw it or just got a report of it, that you were supposed to
8 take it to the dean?

9 A Yes.

10 Q And you also understood in 2011 that if you became
11 aware of alleged bullying or harassment, you were a mandatory
12 reporter under the law?

13 A Yes. Actually, it was -- it's not only to the dean,
14 but to any administrator, make sure that they know about it,
15 yes.

16 Q And you understood at Greenspun in 2011 that the
17 primary person that the principal designated to deal with
18 those issues was Dean Winn; is that right?

19 A Correct.

20 Q And in addition you could contact the principal or
21 the vice principal, correct?

22 A Yes.

23 Q And you understood that if you had that information
24 you should contact at least one of them, right?

25 A Yes.

1 Q That was part of your job?

2 A To make sure that at least one was informed.

3 Q When you say make sure, what do you mean by that?

4 A To make sure that they're informed. Make sure that
5 they understand what's going on.

6 Q All right. Now, if you would turn in the little,
7 small white binder --

8 A There's a big black binder.

9 Q And hopefully a small white one.

10 THE COURT: That's correct, Mr. Halpin.

11 THE WITNESS: Thank you.

12 BY MR. SCOTT:

13 Q If you would turn to the Tab 4, Exhibit No. 4.

14 A [Complies.]

15 Q And directing your attention at the top of the page
16 there's an email dated September 15, 2011. Do you see that?

17 A Yes.

18 Q Did you receive that on September 15, 2011?

19 A Yes.

20 Q And how frequently during your career at Greenspun
21 on average do you receive emails from parents complaining
22 about bullying?

23 A Not that uncommon. I mean --

24 Q Once a week, every day?

25 A Probably monthly with the new system that they

1 automatically send emails out to everybody.

2 Q Well, back in 2011, as a counselor, how frequently
3 did you get an email from a parent complaining about bullying?

4 A Probably every couple months maybe. I don't know.

5 Q So it wasn't an everyday occurrence?

6 A No. It was not.

7 Q In fact, it was an unusual exceptional occurrence?

8 A Okay.

9 Q Do you agree with me?

10 A Yes.

11 Q And if a parent went to the trouble to send you an
12 email reporting that a student had been stabbed in his
13 genitals with a pencil in the context of every day having his
14 hair pulled and being elbowed, is that something that would
15 concern you?

16 A Yes.

17 Q Why?

18 A Because I don't want anything to be -- I mean, I
19 don't want any child to be potentially bullied or victimized
20 in any way physically, or intimidated.

21 Q But was this just a run of the mill garden variety
22 complaint of bullying, or was there something different about
23 this?

24 A It was bullying. It was -- I mean, it was
25 concerning.

1 Q And would it be fair to say that it was of such
2 concern that you immediately notified the principal, the vice
3 principal and the dean?

4 A I made sure that the -- I had noticed that the
5 principal was informed. I knew that the teacher was informed.
6 So I made the assumption that he was aware of it, and the
7 administrator was aware of it.

8 Q Why did you assume the principal was aware of it?

9 A Because his name is in the email line.

10 Q And is that why you did not report it to anyone?

11 A I felt like I did report it. I talked to Nolan in
12 my office, and I talked to my co-worker. I asked my co-worker
13 what she thought I needed to do. She said, Well, the -- and
14 she agreed with me that Dr. McKay, and I trust Dr. McKay
15 because he's a really good administrator, that he would follow
16 up on it and make sure that things were done.

17 Q Did you trust Dean Winn?

18 A Yes, I do trust Dean Winn.

19 Q Oh. So you trusted that between Dean Winn and
20 Dr. McKay, they would follow up and take appropriate steps?

21 A I trusted that Dr. McKay would.

22 Q Why didn't you trust that Dean Winn would?

23 A I -- I looked back and just made sure that an
24 administrator was aware. And to my knowledge, I've never seen
25 an email go through with their name still in it and not

1 actually get to that person.

2 Q And you believe the email went through to the
3 principal?

4 A I believed that the email went through to the
5 principal.

6 Q Did anyone ever tell you that it didn't?

7 A Yes.

8 Q Who?

9 A Not until after the fact, well after the fact.

10 Q Well, months or years?

11 A Probably that summer.

12 Q Okay. So years later someone told you that the
13 email didn't go through?

14 A Months later, correct.

15 Q Were you surprised to hear that?

16 A I was surprised.

17 Q And so instead of confirming that the principal and
18 Dean Winn were aware of this complaint and were acting on it,
19 you decided to act independently and talk to Nolan Hairr?

20 A Yes. I spoke to Nolan.

21 Q And you did that without coordinating with the
22 principal or Dean Winn?

23 A Yes.

24 Q And before you talked to Nolan Hairr, did you talk
25 to his mother, Aimee Hairr, on the phone?

1 A No, I did not.

2 Q Are you sure about that?

3 A Yes.

4 MR. SCOTT: Your Honor, I'd like to publish the
5 deposition of John Halpin.

6 THE COURT: Any objection?

7 MR. POLSENBERG: No objection, Your Honor.

8 THE COURT: The deposition of Mr. Halpin will be
9 published.

10 MR. SCOTT: Just one second. We're waiting to find
11 your deposition.

12 THE COURT: It just takes a couple of minutes.

13 THE WITNESS: Okay.

14 BY MR. SCOTT:

15 Q And while we're waiting for that, let me ask you
16 another question. When was the first time you met or saw
17 Nolan Hairr?

18 A I believe it was that time. So I think it was
19 the 16th of September.

20 Q The 16th?

21 A Correct.

22 Q Not the 22nd?

23 A No.

24 Q Okay. And why did you see him on the 16th?

25 A To talk to him about what was said in the email, and

1 talk to him about reporting it to the dean.

2 Q On the 16th?

3 A Correct.

4 Q What did he look like?

5 A He was a smaller -- he was a smaller kid with floppy
6 hair, floppy with a bit longer hair, I believe, at the time.

7 Q When you say small, relative to other sixth graders,
8 was he one of the smaller kids?

9 A I think so. He was a little bit smaller.

10 Q And in the binder, the white binder, if you'd look
11 at Tab No. 1. There are two photographs there. If you'd look
12 at both of them, please.

13 A [Complies.]

14 Q And does that appear to be the same person, the same
15 Nolan Hairr that you saw in September of 2011?

16 A Yes.

17 Q Is that how he looked?

18 A Yes.

19 MR. SCOTT: Oh. Now, if I may approach, Your Honor.

20 THE COURT: You may.

21 (Deposition of John Halpin published in open court.)

22 BY MR. SCOTT:

23 Q Now I'd like to direct your attention to page 35, at
24 line 5 through line 22, and ask you to read it to yourself.

25 A Until what line?

1 Q Twenty-two.

2 A [Complies.]

3 MR. WAITE: Counsel, what page are we on?

4 MR. SCOTT: Thirty-five.

5 BY MR. SCOTT:

6 Q Had a chance to read it?

7 A Yes.

8 Q Okay. And did you read your deposition in
9 preparation for your testimony today?

10 A I did not read it today, but I did read it.

11 Q In the last few days?

12 A Yes.

13 Q Okay. And does this testimony that you gave in your
14 deposition on January 27 of this year refresh your
15 recollection that you did talk to Aimee Hairr on September 22?

16 A I did talk to Aimee Hairr on September 22.

17 Q Oh. So now you recall that conversation?

18 MR. POLSENBERG: Your Honor --

19 THE WITNESS: I never said I didn't.

20 MR. POLSENBERG: I need to object. This is
21 improper --

22 THE WITNESS: I'm talking about different dates.

23 MR. POLSENBERG: -- impeachment.

24 THE COURT: Hang on. All right. I find it
25 argumentative. So --

1 MR. POLSENBERG: Well, the question was --

2 THE WITNESS: I was speaking --

3 THE COURT: Hang on.

4 THE WITNESS: Sorry.

5 MR. POLSENBERG: -- did you see her beside
6 September 22; he said, yes, I saw her on the 16th.

7 THE COURT: Hang on. I thought the questions only
8 dealt with talking to her. So this is probably a good time
9 for a break. I let the time get away from us, because we had
10 a change in witnesses. It's been over an hour. It's 3:49.
11 What I'd like to do is take a ten minute break now, give the
12 witness the chance to -- everybody a chance to decompress
13 after that last exchange.

14 MR. POLSENBERG: Thank you, Your Honor.

15 THE COURT: I sustain the objection. And so 4:00
16 o'clock, and then we'll go through until 4:55. And so if we
17 have anything to put on the record at the end of the day,
18 we'll do that, and we'll schedule tomorrow.

19 MR. SCOTT: Thank you.

20 THE COURT: Thank you both.

21 Sir, you may step down during the recess.

22 (Court recessed at 3:50 p.m. until 4:04 p.m.)

23 THE COURT: Mr. Halpin, if you'll come back.

24 THE COURT: And please proceed with the direct.

25 MR. SCOTT: Thank you, Your Honor.

1 DIRECT EXAMINATION (continued)

2 BY MR. SCOTT:

3 Q Mr. Halpin, let me try to clear up a little
4 confusion and ask the question again. Do you recall talking
5 to Aimee Hairr on September 22, 2011?

6 A Yes.

7 Q And you understood she was Nolan's mother?

8 A Yes.

9 Q And did she contact you?

10 A I believe or I remember that she came in.

11 Q And what do you -- where did you meet her?

12 A In my office.

13 Q And was she accompanied by anyone else?

14 A I don't believe so.

15 Q Did you know her prior to that date?

16 A Yes.

17 Q How did you know her?

18 A She was my dental hygienist.

19 Q And did you -- well, did she ask for the meeting?

20 A Yes, she came in.

21 Q And did she tell you why she was there?

22 A Yes.

23 Q What did she say?

24 A She said that -- and I never made the connection
25 that she was Nolan's mom until at that point, but she had come

1 in regarding that situation.

2 Q And did you tell her you were aware of the
3 September 15 email?

4 A Yes.

5 Q And you knew that Mrs. Hairr didn't send it, but
6 another mother sent it?

7 A Yes.

8 Q And what do you recall about that conversation that
9 you had in the meeting?

10 A I recall that she was concerned that Nolan had been
11 jabbed with a pencil in his crotch and she was upset, and I
12 walked her through that I had already seen Nolan and that --
13 walked him through how to look to the dean's office, but he
14 had not at that point. And so I said that I would help out.

15 I said, you know, I'll talk to Nolan again because I
16 want him to be comfortable around me so that he would come to
17 me if there's any issues. And then so I told her that I would
18 talk with Nolan and bring him into my office and walk him over
19 to the dean's office.

20 Q And why did you think it was necessary for Nolan to
21 go to the dean's office?

22 A Because to report the bullying incident, so he -- he
23 needed to fill out an incident report with the dean's office.

24 Q And why did you believe the email of September 15
25 was not enough to trigger the dean to take action?

1 A I wanted the dean to get involved that first time.
2 I believed that Dr. McKay would contact her and get her going
3 on it. I believed that Nolan from our prior conversation
4 would go to the dean's office. And at that point I wasn't
5 sure if he had or had not.

6 Q Did you believe that Dean Winn had received the
7 email?

8 A I wasn't sure if Ms. Winn had received the email at
9 that point.

10 Q And did you ask Nolan to go to the dean's office
11 because you were concerned that Dean Winn either had not
12 received it, or alternatively, had received it and was
13 ignoring it?

14 A I wasn't sure, so I just wanted to make sure that he
15 had filled out an incident report and gone to the dean's
16 office.

17 Q And if Dean Winn had received the email and was
18 already acting on it, what did you believe would be
19 accomplished by Nolan going to the dean's office?

20 A I just -- I wasn't sure if he had filled one out,
21 because I wanted to make sure he had. Because that's the
22 procedure, is to fill out an incident report when you go to
23 the dean's office for bullying or any incident.

24 Q And you knew that prior to September 22, Nolan had
25 not filled out an incident report?

1 A I wasn't sure, so I wanted to make sure. Maybe
2 Ms. Hairr told me. I didn't know. I wasn't sure. I don't
3 recall if I knew that at that point or not.

4 Q And you believed that he was maybe afraid or was
5 reluctant to go to the dean's office?

6 A He could have been reluctant. I just wasn't sure.
7 I just wanted to make -- I wanted to coach him through it a
8 little bit, make him feel more comfortable, and meet him
9 another time to let him know that I'm available and I want to
10 help him if things are happening.

11 Q And so you asked Nolan to go to the dean's office?

12 A I called Nolan into my office. We talked about it
13 and I let him know, hey, I didn't realize that your mom was my
14 hygienist and that, hey, I'm here for you, I want to be
15 available for you. And then I said, "You know what. Do you
16 feel comfortable going to the dean's office? I'll go with
17 you."

18 So I took him over to the dean's office, got him an
19 incident report. It's on a clipboard. And I said, you know,
20 fill it out with as many details as possible. And
21 unfortunately, Ms. Winn was not in the office at that point,
22 but Ms. Harriet Clark, she was the secretary in that office, I
23 let her know that he was filling out an incident report and
24 that it involved being jabbed in the crotch with a pencil.

25 Q And you thought it was important that Dean Winn knew

1 that he was -- had been stabbed or poked in the crotch with a
2 pencil?

3 A I think it was important. That's why I informed the
4 secretary, to let her know that.

5 Q And sometime in September, within days of the -- of
6 whatever day it was you asked Nolan to go to Dean Winn's
7 office, you checked in with Dean Winn, correct?

8 A Correct.

9 Q And you wanted to know if she was aware of the
10 stabbing and if she was working on it or responding to it,
11 correct?

12 A I asked her what the status of the situation was. I
13 asked her, you know, what was the result, what was the
14 outcome.

15 Q And she knew that you were talking about the alleged
16 stabbing, correct?

17 A I believe so, yes.

18 Q And that's why you were concerned?

19 A Yes.

20 Q And she told you that she had done an investigation?

21 A Yes.

22 Q And what did you understand that to mean? How did
23 you interpret that?

24 A I understood that -- I mean, that she had probably
25 called in Nolan. She should have talked to Nolan. She should

1 have talked to Connor, the other student and got some
2 evidence, maybe talked to witnesses and found out what the
3 outcome was.

4 Q And you understood that she did that?

5 A Yes, that she had done the investigation.

6 Q And then she told you there wasn't enough evidence
7 to take disciplinary action; is that right?

8 A That's what she told me.

9 Q Did she explain to you what that meant?

10 A She did not explain to me what not having enough
11 evidence meant.

12 Q Did she tell you that she had not spoken to Nolan?

13 A No, she did not.

14 Q Did she tell you she had not spoken to Ethan?

15 A No, she did not.

16 Q And would it be fair to say the next thing that
17 occurred that brought these students or this subject matter of
18 these students, whether it was Nolan or Ethan, the next thing
19 you recall is receiving an email October 19 --

20 A Yes.

21 Q -- from Mary Bryan?

22 And if you would look at Tab 8, please.

23 A In the white binder?

24 Q Yes.

25 A Yes.

1 Q And do you recall receiving this email?

2 A Yes.

3 Q And you were both shocked and concerned when you
4 received this, correct?

5 A I was bothered.

6 Q And why were you bothered?

7 A I was concerned that it was -- that it was still
8 going on, that the situation was still going on. I had
9 assumed that it had been taken care of. I believed it had
10 been taken care of.

11 Q And when you received this October 19 email, did you
12 feel that somehow you had failed in trying to remedy this
13 situation?

14 A I don't know that I felt like I had failed, but I
15 was disappointed that it wasn't resolved and it was still
16 going on.

17 Q And did you forward the email to Dean Winn?

18 A Yes, I did.

19 Q And why did you forward this email to Dean Winn?

20 A I just wanted to make sure she got it, because there
21 may have been a breakdown in communication since the first
22 time -- for the first one.

23 Q And was one of the reasons you forwarded it to Dean
24 Winn because of your concern that the administration had not
25 acted properly in response to the September 15 email?

1 MR. POLSENBERG: Your Honor, I'm going to object.
2 That's argumentative and calls for a legal conclusion.

3 THE COURT: Overruled.

4 THE WITNESS: Can you repeat the question, please.
5 BY MR. SCOTT:

6 Q Yes. Is one of the reasons you forwarded the
7 October 19 email to Dean Winn because you were concerned that
8 the administration had not acted appropriately in response to
9 the September 15 email?

10 A I just wanted to make sure everyone was included,
11 and it looked like Mr. -- Dr. McKay had been included, and I
12 wanted to make sure that Ms. Winn was aware for sure.

13 Q And because of your concerns when you received the
14 October 19 email, you went and saw Dr. McKay and Mr. Piazza
15 that day, correct?

16 A Correct.

17 Q And you wanted to make sure they were aware that
18 there was history leading up to the October 19 email, correct?

19 A Correct.

20 Q And when you met with them, both -- well, let's
21 start with Dr. McKay. When you met with Dr. McKay and Mr.
22 Piazza, that was together, the three of you, correct?

23 A It wasn't just the three of us. It was an admin
24 meeting with counselors included as well. It was basically a
25 weekly admin meeting where the counselors are also involved.

1 Q Oh. But at some point during the meeting you
2 brought this October 19 email to the attention of Dr. McKay
3 and Mr. Piazza at the same time and the same place?

4 A Yes. It was the first thing I brought up, and I
5 think it was the first thing we talked about.

6 Q And you wanted to make sure that they were aware of
7 the September 15 email, correct?

8 A Correct. I wanted to know where it was headed or
9 that they were aware.

10 Q And Dr. McKay indicated to you that he knew about
11 it, the September 15 email, correct?

12 A He might have been aware. I don't remember -- I
13 don't recall talking about the prior email, but I believe he
14 was aware of that.

15 Q Well, didn't both Dr. McKay and Mr. Piazza both
16 indicate to you that they were aware of the September 15
17 email?

18 A I'm sure -- I'm sure they were aware of it at that
19 point because we were talking about the new email.

20 Q And would it be fair to say that they indicated that
21 they were aware of the September 15 email?

22 A I believe so. Because I mean, that was the point,
23 that this issue was still going on.

24 Q Correct. And so the October 19 email became a
25 bigger issue within the context of the September 15 email,

1 correct?

2 A Correct.

3 Q And that was your concern, why you brought it up at
4 the very beginning of the meeting?

5 A Yes.

6 Q And both Dr. McKay and Mr. DePiazza indicated to you
7 that they were aware of the October 19 email, and the history
8 including the September 15 email?

9 A Yes. I'm sure we did talk about that.

10 Q And at that meeting, did Dr. McKay tell Mr.
11 DePiazza, the vice principal, quote, Lenny, I need you to
12 handle this, unquote?

13 A Something very close to that. I need you to handle
14 this, I need you to -- yeah, follow up on this, something to
15 that effect.

16 Q And you understood that Dr. McKay, the principal,
17 was directing or ordering Mr. DePiazza, the vice principal, to
18 take appropriate steps to remedy this situation?

19 A Correct. Yes.

20 Q And did you interpret it that he was asking
21 Mr. DePiazza to himself conduct an investigation, or that he
22 should just supervise Dean Winn?

23 MR. POLSENBERG: Lacks foundation, Your Honor.

24 MR. SCOTT: I asked him what he understood.

25 THE COURT: Overruled.

1 THE WITNESS: I'm not sure. I'm not sure if that
2 meant him or Ms. Winn.

3 BY MR. SCOTT:

4 Q But you understood that now this, the issue of the
5 bullying going on in the band class that was first brought to
6 the school's attention on September 15 and was now continuing
7 into October 19, that Dr. McKay saw it as a serious problem
8 and wanted the vice principal to take appropriate steps to
9 remedy it?

10 MR. POLSENBERG: Objection. Compound. If it were
11 just the last part it would be fine.

12 THE COURT: Just break it down, Mr. Scott.

13 MR. SCOTT: Thank you.

14 BY MR. SCOTT:

15 Q Well, you understood that Dr. McKay viewed this as a
16 serious issue with a history going back to September, correct?

17 MR. POLSENBERG: Objection. Compound.

18 THE COURT: Overruled.

19 THE WITNESS: I believe that Dr. McKay found it
20 serious, yes.

21 BY MR. SCOTT:

22 Q And you understood -- well, let me ask you this.
23 Had you been aware of any other situations of alleged bullying
24 where Dr. McKay in your presence directed the vice principal
25 to handle a situation?

1 A No. I'm not aware of any other situation.

2 Q So this was unusual?

3 A Yes.

4 Q And do you know what if any steps were taken by the
5 school administration to investigate the complaint of
6 October 19?

7 A I do not.

8 Q Do you know if the bullying that was being
9 complained about was remedied?

10 A I do not know.

11 Q Do you know if Nolan Hairr was still being
12 victimized by the bullies after October 19?

13 MR. POLSENBERG: Objection. Argumentative.

14 THE COURT: Overruled. You can answer.

15 THE WITNESS: I do not know.

16 BY MR. SCOTT:

17 Q Did you have any contact with Nolan Hairr after
18 October 19?

19 A Other than in the lunchroom just talking, trying to
20 talk to him and trying to find out how he's doing just on a
21 general basis periodically, no. I never talked to him again
22 in my office.

23 Q Did you ever talk to Ethan Bryan?

24 A I believe I talked to Ethan in my office, but I
25 don't recall. I mean, I would talk to him as well in the

1 lunchroom.

2 Q After October 19, did you ever ask Dean Winn what if
3 anything she had done to remedy the situation?

4 A No, I did not.

5 Q In these weekly administrative staff meetings,
6 during any of those meetings after October 19, was it ever
7 discussed by either Dean Winn, Assistant Principal DePiazza or
8 Dr. McKay what steps had been taken to remedy the situation?

9 A They did not discuss that with me.

10 MR. SCOTT: That's all I have. Thank you.

11 THE COURT: Cross-examination, please.

12 MR. POLSENBERG: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. POLSENBERG:

15 Q Mr. Halpin, are you using your coping skills right
16 now?

17 A Yes. Deep breaths.

18 Q Deep breaths, counting to ten?

19 A Yes.

20 Q All right. You and plaintiff's counsel were
21 discussing an issue of moving a kid out of a class. Let me
22 address that. In what situations was it that a student would
23 be moved out of a class, do you know? Is it a situation where
24 the particular student asking to be moved is having a problem
25 with a teacher or a student?

1 A It could be a student or honestly, it could be a
2 parent asking to be moved -- asking for their child to be
3 moved out of a class.

4 Q Fair enough. And with the circumstances where that
5 happens, is it the student having a problem with another
6 student or a teacher being the subject of the request to be
7 moved out, either that student wants to move or the parent of
8 that student wants that student moved?

9 A More often it's for teacher issues.

10 Q Got that. And I'm really bad. I think I warned you
11 I was bad at asking questions. What I'm asking is, would it
12 be the student or his or her parent asking to move that
13 student as opposed to the student or his or her parent asking
14 to move some other student?

15 A I think that it could be either. It could be, in a
16 different situation, it could be the parent or student
17 asking -- or usually a parent asking for another student to be
18 moved. Sometimes they ask for their own child to be moved as
19 well.

20 Q Very good. Thank you, sir. When you're looking --
21 you were talking with plaintiff's counsel about what you do as
22 a counselor, and talking about trying to change behavior of
23 students. If you're trying to use discipline, the school
24 district, to change behavior of a student, would it be
25 required that the school district meet with the parents of the

1 good student?

2 A I guess not always. Right. It could be just -- it
3 could be just meeting with the parents of the student that is
4 being complained about.

5 Q Do you know whether Dean Winn had scheduled or
6 required an RPC for Connor's family?

7 A I do not know.

8 Q Well, I'll ask her. And moving a student out of a
9 class would be an extreme situation, wouldn't it?

10 A That's more uncommon.

11 Q Now, tell me, fashion week. And several people have
12 not heard of that phrase for fashion week. Do you know that
13 week in the beginning of the school year where administrators
14 go through training?

15 A I'm not aware of that honestly.

16 Q All right. Very good. The first time you became
17 involved, and counsel covered this. I think there's just a
18 little bit of confusion, so I'm going to go through it as
19 briefly as I can. The first time you became involved in the
20 incidents involving Ethan and Nolan, when was that?

21 A That would be on the 16th, the day after the day of
22 getting the email.

23 Q Okay. Tell me about the day of getting the email.
24 So the email, the September 15 email from Mary Bryan, which
25 has various exhibit numbers. In the black binder it's Exhibit

1 504. That was sent late at night, we've already established,
2 of September 15, at 10:32. Not to be too personal, Mr.
3 Halpin, what time do you go to bed?

4 A By 8:00, 9:00 at the latest.

5 Q Okay. So you didn't receive this that night?

6 A I did not.

7 Q When did you receive it?

8 A I received it -- so the 16th, I believe that's a
9 Friday morning --

10 Q I think it is.

11 A -- when I looked at it. Mm-hmm.

12 Q And you received it then?

13 A Yes.

14 Q And what, when you got to work?

15 A Yes.

16 Q Okay. Tell me about receiving it.

17 A So I got the email, and obviously it's a concerning
18 email and I wanted to make sure that an administrator is aware
19 of it. So I saw that Dr. McKay spelled specifically as his
20 name was in there. I also wanted to make sure I spoke with
21 Nolan and talked to him about dealing with bullies, dealing
22 with a possible bullying situation, what you would do with
23 that, walk him through the process of going to the dean's
24 office and filling out an incident report.

25 Q Okay. You're going really fast.

1 A Oh, I'm sorry.

2 Q Let me break you down, because some of this you
3 covered.

4 A Sorry.

5 Q And so you received the email?

6 A Yes.

7 Q You read the email?

8 A Yes.

9 Q What was your reaction?

10 A I was concerned definitely.

11 Q And why were you concerned?

12 A Because it looks like it's a potential bullying
13 situation where I'm concerned about a student.

14 Q You're concerned about whom?

15 A About Nolan.

16 Q And so as a result of this, what did you do?

17 A So I wanted to make sure an administrator was aware.

18 Q Right. And so you checked and you looked to see
19 that Warren McKay was on there?

20 A Correct.

21 Q But we glossed over it in the discussion you had
22 with plaintiff's counsel, and you were talking about having a
23 September 16 conversation with Nolan.

24 A Correct.

25 Q Tell me about that conversation. How did you get to

1 talk with Nolan?

2 A I called him in. I sent a pass to him and had him
3 come in to talk --

4 Q Explain to us who are not currently in junior high
5 school what that means.

6 A Right. So I fill out a note and then I sent it with
7 another student, and then they take it, deliver it to that
8 teacher, and then the teacher sends that student down with the
9 note, so he comes to my office.

10 Q Okay. So what time of the day would Nolan have come
11 to your office?

12 A No later than second period. Probably first period.

13 Q All right. And what was your conversation with
14 Nolan on September 16?

15 A I wanted to talk to him about the situation, ask him
16 if he's okay. He said that he was okay. I said, you know,
17 this looks like bullying, you should go fill out an incident
18 report in the dean's office, and at that point I thought he
19 would. He didn't seem like -- he didn't seem scared. But
20 that's as far as that went with him. So --

21 Q Mr. Halpin, you're a counselor.

22 A Right.

23 Q And you talked with Mr. Scott about your training
24 about caring for kids. What did you do in assessing the
25 situation with Nolan?

1 A Well, you know, I tried to read his body language.
2 I wanted to make sure -- I wanted to express to him that, hey,
3 I'm here if you need anything, you can always come to me, I'm
4 available. I just wanted to put him at ease.

5 Q So you wanted to express your concern to him so he
6 felt validated and comfortable with you?

7 A Yes.

8 Q And you assessed him?

9 A Yes.

10 Q What was your assessment of him?

11 A He seemed like a nice kid. He didn't seem -- he
12 didn't seem upset at that time. But I wanted to make sure,
13 yeah, that he knew what was available.

14 Q Okay. I think we'll all stipulate that Nolan was a
15 nice kid.

16 A Yeah.

17 Q How was he reacting to the situation? Did you make
18 an assessment of that?

19 A I don't think he was over-reacting. He was -- he
20 was not very talkative, but he didn't seem scared or nervous.

21 Q Did you ask him if he was okay?

22 A Yes, I did. He said --

23 Q And what did he say?

24 A He said that he was okay --

25 Q Okay.

1 A -- at this point.

2 Q You believed him?

3 A I did believe him.

4 Q Based on your training and experience he was telling
5 the truth that he was okay?

6 A Yeah. I thought he was okay.

7 Q Okay. What else did you do when you got this email?
8 This email is from Mary Bryan. What else did you do?

9 A I also, I called Mrs. Bryan and she was not -- she
10 was -- I had to leave a message, but I wanted to let her know
11 that I am available if she would like to talk to somebody
12 about it, that I was going to talk to Nolan and explain to him
13 the bullying process. So I left a message on her voicemail.

14 Q Are you sure you got the right number?

15 A I -- as far as I know. I mean, it went to her
16 voicemail.

17 Q Was it her voice? Was it somebody saying this is
18 Mary Bryan, I can't come to the phone right now?

19 A I'm not sure. I don't remember. It was definitely
20 a person's voice. No, it wasn't a wrong number.

21 Q All right. Very good. Did you ever call Mary --
22 let me ask it this way. Did you ever call Mary Bryan again?

23 A Yes.

24 Q And did you get through to her that time?

25 A I did not.

1 Q And did you get the same voice message?

2 A Yes.

3 Q All right. You met with Aimee Hairr, I think you
4 discussed with plaintiff's counsel, on September 22?

5 A Correct.

6 Q Tell me about that conversation briefly.

7 A She came to school upset about what had happened to
8 Nolan, and we spoke briefly. I explained to her that I would
9 talk to Nolan myself again and take him to the dean's office
10 and get him started on filling out an incident report.

11 Q When she came to your office, how did you feel?

12 A I was upset. I wanted to help, help them, and make
13 sure that Nolan is getting taken care of.

14 Q And did you express that to Aimee Hairr?

15 A I think I did, absolutely. I mean, I considered
16 Aimee a friend.

17 Q And that was -- she must be a good dental hygienist
18 then.

19 A She was great.

20 Q Okay. The -- so you -- whether -- to whatever
21 degree you expressed it, that was your feeling inside and your
22 motivation and your state of mind?

23 A Yes.

24 Q So did you call Nolan out of class again?

25 A Yes, a second time.

1 Q That day?

2 A Yes.

3 Q September 22?

4 A Immediately after that conversation.

5 Q And what was your conversation with Nolan?

6 A Just talking to him about filling out an incident
7 report and I asked him whether he had, and I don't believe he
8 had at that point. I said, "Would you feel more comfortable
9 if I walked you over there?" He said, Yes. And so we went
10 over and I explained to him about filling out an incident
11 report.

12 Q Okay. You had explained it to him on September 16?

13 A Correct.

14 Q And your impression at that time, what was it in
15 regard to whether Nolan was going to fill out an incident
16 report?

17 A I thought he would.

18 Q Okay. Now you know September 22nd he didn't?

19 A I wasn't positive he didn't, but I didn't believe he
20 had. I wanted to make sure he did.

21 Q So you did what?

22 A So that's when I walked him down to the dean's
23 office.

24 Q Okay. And?

25 A And explained to him about filling out an incident

1 report, and I also spoke to the secretary.

2 Q And you know he filled out an incident report that
3 time, right?

4 A He was filling it out as I left.

5 Q Okay. Have you ever seen the incident report?

6 A I have not.

7 MR. POLSENBERG: Is Exhibit 505 admitted?

8 THE CLERK: Yes.

9 BY MR. POLSENBERG:

10 Q All right. Here -- let me show you Exhibit 505,
11 which is an incident report from Greenspun Junior High,
12 Voluntary Incident Report. Down at the bottom it's got a
13 signature that says Nolan Hairr. It's dated September 22,
14 2011. And here's his incident report.

15 And he says, "He was messing with my hair, kicking
16 the instrument, and also blowing air in my face. He called me
17 Duck Bill Dave and another kid Phil the Fail." The incident
18 report doesn't have anything about the stabbing, jabbing,
19 poking in the groin area with a pencil.

20 A Correct.

21 Q Did you encourage Nolan to put that in there?

22 A To put the jabbing incident?

23 Q Yeah.

24 A Yes.

25 Q When you read the September 15 email, were you aware

1 of any homophobic slurs being called Nolan or Ethan?

2 A No.

3 Q Were you aware at the September 22nd meeting with
4 Nolan or with Aimee Hairr?

5 A No.

6 Q Did the Exhibit 505 have anything about the
7 homophobic slurs?

8 A It does not.

9 Q In your discussion with Aimee Hairr, did she bring
10 up any?

11 A No.

12 Q After the September 22nd meeting, where Nolan Hairr
13 did the incident report, did you have any conversations with
14 the boys, either Ethan or Nolan?

15 A Since the September 22nd?

16 Q Yeah.

17 A Not besides seeing --

18 Q I'm not saying not besides. Did you have any
19 conversations with the boys?

20 A I would see them in the lunchroom.

21 Q And what were your conversations with the boys? How
22 many times --

23 A I would ask --

24 Q Let me lay a foundation so that -- like a lawyer
25 would do. How many -- when were these conversations? How

1 many were there?

2 A It would be hard to put a number on them, but
3 anytime I would see them in the lunchroom, I would ask them
4 how they were doing, if there -- try to look them in the eye
5 and make sure that they know I'm available still. They hadn't
6 come back to me. I wasn't aware of any other situations until
7 the 19th. But I just wanted them to be -- to know that I
8 care.

9 Q And you looked them in the eye why; to establish
10 rapport?

11 A Correct. Let them know -- to make sure that they
12 see me and it's not just a hi thing.

13 Q And so you're not just saying, hey, how are ya, like
14 I would to a guy in the jury box?

15 A Right.

16 Q And you're actually trying to get across the point
17 that you care about how they are?

18 A Yes.

19 Q And they answered?

20 A Yes.

21 Q And what did they say?

22 A Everything is going okay, I'm doing fine, things are
23 good.

24 Q And did you assess them at the time to see whether
25 you were confident in their answers?

1 A Just in a quick just going along with it kind of
2 way. I mean, I didn't notice anything that was amiss.

3 Q Very good. And you had a conversation with Dean
4 Winn, I think you discussed with Mr. Scott?

5 A Correct.

6 Q And that -- was that also in the lunchroom?

7 A Yes.

8 Q You have lunch duties as well as Dean Winn?

9 A Correct. Yes.

10 Q Does everybody in the building get lunch duties?

11 A Everyone in the office.

12 Q Okay. And what's the lunchroom like at the time?

13 A [No audible response.]

14 Q Sorry. You weren't expecting that, were you.

15 What's the noise level in the lunchroom?

16 A It can get loud. Especially sixth graders, they
17 seem a little more, a little louder.

18 Q Really? Why is that?

19 A They're just -- they -- the freedom is new to them
20 in the lunchroom.

21 Q Makes sense. All right. The October 19 email, do
22 you receive that email and what was your reaction to that
23 email?

24 A I was upset, because I thought it had been taken
25 care of and apparently there were still issues.

1 Q And why else were you upset?

2 A Because I'm upset. I'm worried about the boys,
3 making sure that they're okay. I want to support the parents.
4 I want them to feel supported.

5 Q And you did a couple of things afterwards. Did you
6 call Mary Bryan?

7 A Yes. I called Mary Bryan again and left another
8 message saying that I'm available, also that Mr. DePiazza and
9 Ms. Winn would be looking into the situation.

10 Q And I apologize, Mrs. Bryan, if I misconstrue your
11 testimony, but I think she said she actually talked with you.

12 A I don't remember speaking to her that time.

13 Q Okay.

14 A I remember leaving --

15 Q And I apologize if I got that wrong. You also
16 raised, this October 19 email, you said an administrative
17 meeting.

18 A Correct.

19 Q An admin meeting?

20 A Correct.

21 Q Who was at that meeting?

22 A The two -- the other two counselors besides myself,
23 so the three of us, Dr. McKay and Mr. DePiazza.

24 Q Where was Dean Winn?

25 A She was maybe handling a certain situation. I'm not

1 sure.

2 Q Well, irrespective of that, she wasn't at that
3 meeting?

4 A She was not at the meeting.

5 Q All right. Is that why you forwarded this email to
6 Dean Winn?

7 A Correct.

8 Q And Dr. McKay said to Lenny DePiazza, Handle this?

9 A Correct.

10 Q Why didn't Dr. McKay say to Dean Winn at that
11 meeting handle this?

12 A Because she was not there.

13 Q You were asked a couple of questions about you're
14 supposed to take emails to the dean or any other
15 administrator. In the first instance when you got the
16 September 15 email, you didn't make efforts to send the email
17 to any administrator, right?

18 A Correct.

19 Q And why was that?

20 A Because Dr. McKay was indicated on the email that he
21 had gotten it.

22 Q And the second one, did you make efforts to make
23 sure the October 19 email, make sure that effort -- that the
24 email was communicated to administrators?

25 A Yes.

1 Q What did you do?

2 A So I looked at the list and made sure that Ms. Winn
3 was also on the email, so I sent it on to her.

4 Q At the October 19 email -- I mean, October 19 -- I'm
5 sorry. At the October 19th admin meeting, you said to
6 Mr. Scott that Principal McKay and Assistant Principal
7 DePiazza indicated that they were aware of the prior email.
8 I'm a lawyer, so I'm going to ask these questions. When you
9 say indicated, did they say, oh, I am aware of this prior
10 September 15 email?

11 A I don't know that that was exactly said, but I
12 brought it -- I'm sure it was talked about that there was a
13 prior email, that this was a follow-up to the initial email.

14 Q Okay. But I've learned as a lawyer that when people
15 say I'm sure, what they really mean is they're not sure. So
16 what I want you to say is whether you just assessed from
17 circumstances and people's attitudes that they had before that
18 day seen the September 15 email, or whether they actually
19 said, oh, I've seen the September 15 email before.

20 A Yeah. I don't remember that statement being made,
21 that they had seen it.

22 MR. POLSENBERG: All right. Great. Thank you,
23 Mr. Halpin.

24 THE COURT: And redirect.

25 MR. SCOTT: Thank you.

REDIRECT EXAMINATION

BY MR. SCOTT:

Q Just a couple questions, Mr. Halpin. When you met Nolan on September 16, you were aware that he had not reported this stabbing to his parents, correct; that the email came from a third person?

A Yeah. I wasn't -- I didn't know if he had or hadn't.

Q When did you learn that he had not as of September 15 reported this to his parents?

A I probably learned that at the meeting that I had with Ms. Hairr on the 22nd.

Q And when you met with Aimee Hairr on September 22, did you talk to her about why her son would not report an incident like this to her, why he would be afraid or ashamed to report it to her?

A No, I don't believe I had that -- that that was brought up.

Q And were you trying to help Mrs. Hairr and her son, Nolan, somehow open up communication channels so in the future if Nolan was bullied he would tell his parents?

A I think so. I mean, I would imagine that would be part of the conversation, but I don't recall that specifically.

Q And this would be consistent with the phenomenon you

1 talked about earlier, kids who are bullied become depressed
2 and withdrawn, correct?

3 MR. POLSENBERG: Your Honor, I object. It's calling
4 for an expert opinion. And I'm also not sure that that's not
5 what he testified to earlier.

6 THE COURT: It was his testimony. The objection's
7 overruled.

8 MR. POLSENBERG: Thank you, Your Honor.

9 THE WITNESS: Can you repeat the question, please.

10 MR. SCOTT: Yes.

11 BY MR. SCOTT:

12 Q Was the fact that Nolan was afraid to report this
13 incident to his parents consistent with the phenomenon you
14 talked about earlier, that students who are bullied become
15 depressed and withdrawn?

16 A I don't know that he was depressed and withdrawn,
17 but maybe he was embarrassed about it.

18 Q You don't know, do you?

19 A I don't know.

20 Q And you didn't try to find out, did you?

21 A I think I did. I think I spoke with him and tried
22 to -- tried to understand the situation and try and listen to
23 him and just let him know that I am available, because until
24 they give us that information we just don't know.

25 Q And did you feel you had a better rapport with him

1 than his parents?

2 A I could never assume that.

3 Q So you thought by saying hi, how are you, I care
4 about you, come to me if you have a problem, that he would
5 come to you before he'd go to his parents?

6 MR. POLSENBERG: Objection. Argumentative.

7 THE COURT: It is argumentative. The objection's
8 sustained.

9 BY MR. SCOTT:

10 Q By the way, you say Aimee Hairr visited you at the
11 school September 22. The school should have a record of that,
12 correct?

13 A I don't know. I think they -- I do know they have
14 to check in now. I don't know if that is a kept record or
15 not.

16 Q Well, did you know that Mary Bryan had to check in,
17 in the fall of 2011, when she visited?

18 A Well, I don't know. And then sometimes parents just
19 walk down the hallway. It's not always -- it's not best case
20 scenario, but it happens.

21 Q Aren't the parents supposed to check in when they
22 come to the school?

23 A They are supposed to check in.

24 Q Do you know if there's a record of Aimee Hairr being
25 at the school on September 22?

1 A I don't. I don't know if there's a record.

2 Q There should be one, shouldn't there?

3 A I don't know if there is a record. I don't know if
4 there is one kept.

5 Q Thank you.

6 MR. SCOTT: That's all I have.

7 THE COURT: Any recross based upon --

8 MR. POLSENBERG: No. Thank you, Your Honor.

9 THE COURT: Very good. May we excuse the witness?

10 MR. SCOTT: Yes, Your Honor.

11 THE COURT: Mr. Halpin, you may step down and you're
12 excused.

13 THE WITNESS: Thank you.

14 THE COURT: It' 4:45. We'd only have ten minutes.
15 Do you want to call your next witness?

16 MR. SCOTT: Your Honor, it's up to the Court. I'm
17 happy to proceed with Mr. Beasley if you'd like to take
18 advantage of these ten minutes, but --

19 THE COURT: No.

20 MR. SCOTT: -- I also don't have a strong feeling
21 either way.

22 THE COURT: But I think what I'd prefer to do is get
23 a pulse check to see how you're doing on time with your
24 witnesses from both sides. Still on track to finish Tuesday
25 afternoon?

1 MR. SCOTT: I think so, Your Honor, yes. We hope to
2 get through Mr. Beasley, who will be a short witness for us.
3 Dean Winn, who will be a longer witness. I think Mr. Beasley
4 through direct is about a half an hour. I think Dean Winn
5 will be an hour to an hour and a half. And then hopefully we
6 can get to Dr. McKay tomorrow also. And I think we can finish
7 up with our witnesses on Tuesday.

8 THE COURT: Thank you. And for the defense
9 timeline?

10 MR. POLSENBERG: Yeah. We'll have a few witnesses
11 too. I can't imagine -- I am impressed how fast we are
12 moving. But I can't imagine being done everything on Tuesday,
13 plus I have an issue with Dr. Faro, whom we have subpoenaed.
14 He's a treater for Nolan, and he says he's just not coming.
15 And that's not the first time I've experienced that with a
16 treater. I suggest that -- we filed a notice of
17 unavailability. I suggest we just use his deposition. I've
18 done that in the past when we're just talking about a doctor.

19 THE COURT: All right. So why don't the parties
20 talk about that overnight and give me -- give you a chance to
21 see whether or not the witness will be available or that
22 you're willing to use the deposition. Is there a deposition?

23 MR. POLSENBERG: There is a depo. We could just use
24 the depo, and since it's a bench trial we don't even need to
25 read it in the courtroom.

1 THE COURT: Well, it depends. I'm going to give you
2 a chance to confer with your co-counsel and clients about
3 that. We'll --

4 MR. POLSENBERG: I already told -- I told them about
5 it the other day.

6 MR. SCOTT: We discussed it, Your Honor. Our
7 position is because we withdrew our medical expenses claim for
8 medical treatment, and for anything exceptional, anything
9 exceptional injuries, that he's not a relevant witness.

10 THE COURT: I see.

11 MR. SCOTT: And frankly, one of the reasons we did
12 that is because we didn't want this trial to turn into doctors
13 testifying about children's histories. And so that was a
14 decision we made, and our position is that by essentially
15 amending our damage claims that this evidence is not
16 admissible or relevant.

17 MR. POLSENBERG: Well, here's the extent of
18 Dr. Faro's testimony. He saw Nolan within days after Nolan's
19 parents found out about the stabbing, jabbing, poking, and
20 when Nolan came to see Dr. Faro it wasn't mentioned. It
21 wasn't brought up. It was not an issue. So that's basically
22 what we're bringing it in to say, that that physical injury
23 was not even reported to the treater.

24 THE COURT: Couldn't that be cumulative, because
25 that was consistent with Nolan's testimony?

1 MR. POLSENBERG: I'm sorry, Your Honor?

2 THE COURT: That's consistent with Nolan's
3 testimony. Why would it be -- why would it be relevant to
4 hear it from another party?

5 MR. WAITE: Excuse me just a minute, Your Honor.

6 THE COURT: Yes.

7 (Attorneys confer.)

8 THE COURT: You know, why don't you guys talk about
9 it and --

10 MR. POLSENBERG: Sure, Your Honor.

11 THE COURT: -- we'll take it up in the morning.

12 I'd like to start tomorrow at 9:30. And if we need
13 to take a shorter lunch tomorrow, I'm going to ask you to plan
14 around that. Yes; can everybody start tomorrow at 9:30?

15 MR. POLSENBERG: As the court pleases, Your Honor.

16 MR. WAITE: Yes.

17 THE COURT: 9:30, and if you need a shorter lunch to
18 stay on track, I'm going to ask you to plan around that. Yes.
19 All right.

20 MR. POLSENBERG: I didn't ask him last time I agreed
21 to it.

22 THE COURT: Mr. Scott?

23 MR. SCOTT: That's fine, thank you.

24 THE COURT: Very good. So why don't you guys talk
25 about this. I'm inclined to disallow Dr. Faro. From what I

1 heard from the plaintiff, I don't see the relevance. Give you
2 a chance to continue your argument after you've consulted with
3 each other tomorrow morning. Everybody have a good night.
4 See you at 9:30 in the morning.

5 MR. POLSENBERG: Thank you, Your Honor.

6 MR. SCOTT: Thank you, Your Honor.

7 (Court recessed for the evening at 4:50 p.m.)
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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

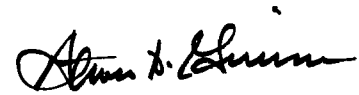
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TRAN



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

MARY BRYAN,)
)
Plaintiff,)
vs.)
)
CLARK COUNTY SCHOOL DISTRICT,)
et al,)
)
Defendant.)
_____)

CASE NO. A-14-700018
DEPT NO. XXVII**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE NANCY ALLE, DISTRICT COURT JUDGE

BENCH TRIAL - DAY 4

FRIDAY, NOVEMBER 18, 2016

APPEARANCES:

For the Plaintiff:

ALLEN LICHTENSTEIN, ESQ.
JOHN SCOTT, Pro Hac Vice

For the Defendant:

DAN R. WAITE, ESQ.
DANIEL F. POLSENBERG, ESQ.RECORDED BY TRACI RAWLINSON, COURT RECORDER
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1 LAS VEGAS, NEVADA, FRIDAY, NOVEMBER 18, 2016, 9:38 A.M.

2 * * * * *

3 THE COURT: Good morning. Calling the case of Bryan
4 vs Clark County School District. Noting the appearances of
5 counsel and their clients this morning. Is there anything we
6 need to take up before we begin?

7 MR. POLSENBERG: I just have housekeeping matters --

8 THE COURT: Yes.

9 MR. POLSENBERG: -- about -- if I may approach.

10 THE COURT: You may. Whatever you have, make sure
11 it goes to your opposing counsel.

12 MR. POLSENBERG: Yeah. They already have this.

13 THE COURT: Thank you.

14 MR. POLSENBERG: Here it is. Do you want to do
15 appearances?

16 MR. WAITE: Do you want appearances first, Your
17 Honor?

18 THE COURT: Yes, thank you. I had noted appearances
19 on the record, but I'm happy to take them as well.

20 MR. WAITE: Oh, I'm sorry. I thought you were
21 asking for them. I would just like to note, Your Honor, as we
22 start the day, that at some point Mr. Beasley will need to go
23 back. Today is the last day of classes before they're being
24 off all day -- or all next week for the holiday.

25 THE COURT: Right.

1 MR. WAITE: So no disrespect for the Court or
2 counsel.

3 THE COURT: No. I take no inference from the fact
4 that you need to continue to work. That's fine.

5 And Mr. Polsenberg, you had a housekeeping matter?

6 MR. POLSENBERG: I do. Thank you, Your Honor. It
7 has to do with using depositions instead of calling witnesses.

8 THE COURT: Thank you.

9 MR. POLSENBERG: One is Dr. Faro, that we discussed
10 yesterday.

11 THE COURT: Right.

12 MR. POLSENBERG: F-a-r-o. And what I'm suggesting
13 is irrespective of your ruling on the evidentiary issue, if
14 you -- and we can argue that when it's our case in chief and I
15 would still have to make an offer of proof with him. So
16 instead of bringing him in for a minute and a half, if you
17 could declare him unavailable and we could use his deposition.
18 I have been in this situation before where doctors refuse to
19 come in, and I've had other district judges say we could use
20 their depos.

21 THE COURT: Well, I'll need a chance to review your
22 brief and we'll take it up after lunch.

23 MR. POLSENBERG: Very good. And the other issue
24 that's in our brief is --

25 MR. SCOTT: What brief?

1 MR. WAITE: The designation.

2 MR. POLSENBERG: We served you with it.

3 MR. SCOTT: When?

4 MR. WAITE: Last week.

5 MR. SCOTT: Oh, okay.

6 MR. POLSENBERG: It looks like this.

7 MR. SCOTT: All right.

8 MR. POLSENBERG: And the other issue is Connor. We
9 have -- and there is the affidavit of due diligence attached
10 to our notice of designation of depo testimony as Exhibit A,
11 and I think it sets out 11 attempts to serve Connor. We
12 believe that he his out of the state. He's not matriculated
13 in the Clark County School District. I think he's in
14 Washington or Oregon. But we have been unable to serve him,
15 so we'd like to use his deposition as well.

16 THE COURT: And that's addressed --

17 MR. POLSENBERG: That would also come up in our case
18 in chief.

19 THE COURT: And that's also addressed in your brief?

20 MR. POLSENBERG: It is.

21 THE COURT: Very good.

22 MR. POLSENBERG: Thank you, Your Honor.

23 THE COURT: Is there any response to that?

24 MR. SCOTT: Your Honor, if there is due diligence
25 and if he's not available, then I believe the Court could

1 consider at least portions of his deposition.

2 THE COURT: Very good. All right. So the
3 plaintiff, are we now ready to proceed?

4 MR. SCOTT: Yes, Your Honor.

5 THE COURT: Plaintiff, please call your next
6 witness.

7 MR. SCOTT: Robert Beasley.

8 ROBERT BEASLEY, PLAINTIFF'S WITNESS, SWORN

9 THE CLERK: State and spell your name for the
10 record, please.

11 THE WITNESS: Robert Douglas Beasley, R-o-b-e-r-t,
12 D-o-u-g-l-a-s, B-e-a-s-l-e-y.

13 THE COURT: Thank you. Please proceed.

14 DIRECT EXAMINATION

15 BY MR. SCOTT:

16 Q Good morning, Mr. Beasley.

17 A Good morning.

18 Q Can you summarize for the Court your educational
19 background starting with college?

20 A I have a bachelor's degree in arts and music from
21 UNLV, and a master's degree in music education from UNLV also.

22 Q And when did you receive those degrees?

23 A The bachelor's degree in 1982, and the master's
24 degree in 1991.

25 Q And how long have you worked as a teacher in this

1 school district?

2 A I was hired in August of 1984, and I've worked since
3 then.

4 Q Continuously?

5 A Yes. Thirty-three years.

6 Q Thank you for your service.

7 A Thank you.

8 Q Have you always taught classes related to music?

9 A Yes.

10 Q And what types of classes are those?

11 A I teach instrumental music, that's band, wind
12 instruments and percussion.

13 Q Do you teach classes other than band?

14 A No. I've been teaching band the entire time.

15 Q Fair enough. And as a music teacher of band, how
16 large are your classes typically?

17 A It varies. I have classes as small as maybe 15
18 children all the way up to 80. So every year, every class is
19 always a little different.

20 Q And when -- do you currently teach at Greenspun
21 Junior High School?

22 A Yes.

23 Q And how long have you been there?

24 A I've been at Greenspun for 26 years now.

25 Q And in the -- in the school year 2011-2012, how many

1 band classes did you teach?

2 A I taught six. I had a jazz band, a beginning brass
3 class, a beginning reed class, just clarinets and flutes --
4 excuse me, clarinets and saxes, a beginning flute class, and
5 an intermediate band class and an advanced band class.

6 Q And the class that was attended by Nolan Hairr and
7 Ethan Bryan, what class was that?

8 A That's beginning brass.

9 Q And how many -- approximately how many students were
10 in that class?

11 A There were 45 that year.

12 Q And of those 45, how many sections were there?

13 A Five sections. I had 24 trumpets, three French
14 horns, nine trombones, five baritones and four tubas.

15 Q And what was the approximate size of the room that
16 you had that class in?

17 A It's a fairly large class. I don't know if I can
18 give you dimensions. It is the largest classroom in the
19 school.

20 Q Is it as large as this courtroom?

21 A A little bit bigger. We have lockers. It's very --
22 you know, we have a lot of storage in there. So I'd say, you
23 know, it's going to be wider and longer than this courtroom.

24 Q And were there more than 45 seats?

25 A Yes.

1 Q And would it be fair to say that you grouped or
2 segregated the students based on what instrument they play?

3 A Yes, it is.

4 Q As a teacher, did you ever receive any training
5 regarding your duties and responsibilities if there were
6 bullying or harassment in the classroom?

7 A Yes. We've been taught -- we've been told that many
8 times.

9 Q And did you receive any formal training in that
10 regard?

11 A I have not taken any classes or -- the only -- I
12 don't know if you'd call it formal, but staff meetings where
13 it's been discussed what we're supposed to do and what we need
14 to look for.

15 Q And are you familiar with the more formal training
16 the administrators receive on bullying and harassment?

17 A No, I'm not.

18 Q And do you know if the training you received is
19 similar to what the administrators received?

20 A I don't know.

21 Q And prior to 2011, had you received any of this
22 informal training on the subject matter of bullying and of
23 harassment?

24 A I believe so.

25 Q And as of September 2011, did you understand that

1 you were a mandated reporter if you became aware of or
2 observed bullying or harassment?

3 A Yes.

4 Q And that would -- that mandated reporting
5 requirement included bullying harassment that you may have
6 heard of from another student or parent, it didn't have to be
7 what you personally observed?

8 A Yes.

9 Q And did you understand as a teacher that you had --
10 part of your job was to discipline children who did not follow
11 the rules?

12 A Yes.

13 Q And what did you understand your options were in
14 terms of disciplining students?

15 A There's a whole range of things, anywhere from --
16 could I clarify one thing first? Now, are you talking about
17 general behavior in the classroom, or specific bullying?

18 Q Any behavior including but not limited to bullying.

19 A Okay. There's several options, from speaking to the
20 students, calling home, sending them to the dean, or even just
21 standing next to them if they're having a problem that day.

22 Q And you understood that was a form of discipline?

23 A That's a form of trying to modify their behavior so
24 they are listening in class.

25 Q Could you suspend a student?

1 A No.

2 Q Could you make the decision to remove a student from
3 your class?

4 A I can't make that decision by myself. That would
5 involve parents, the counselors and possibly the
6 administration.

7 Q And without giving us any names have you ever had
8 occasion to remove a student from your class or at least
9 participate in that process where you initiated it?

10 A Yes.

11 Q Without giving us names, can you tell me, give me an
12 example of a situation where you initiated having a student
13 removed from your class?

14 A I believe most of the time it's happened is not
15 because of discipline reasons, but because they just aren't
16 able to keep up. They start out, they have a lot of trouble
17 playing, reading the music, and they fall behind.

18 When they fall behind, that often leads to other
19 problems because they're not listening, not paying attention,
20 they can't keep up, they're lost. And at that point I'll try
21 to -- if I don't think they can catch up, at that time I'll
22 talk to the counselor, a parent, see if there's other options.

23 Q And have you ever initiated that process where it
24 was because of misconduct or bad behavior other than not
25 keeping up?

1 A I don't believe so.

2 Q Do you believe you had a duty and responsibility to
3 control what was going on in your class?

4 A Of course.

5 Q And why do you believe that?

6 A The class has to be well behaved if they're going to
7 learn. If it's chaos, nobody's learning anything.

8 Q Okay. When you use the word "chaos," are you
9 referring to multiple students acting out simultaneously?

10 A Using the word chaos is probably a little
11 over-dramatic. I guess what I'm trying to say is when
12 generally there's inattention, because that will happen at
13 times -- and I'm sorry. I've just lost track of your
14 question.

15 Q Well, you used the term chaos, and I was trying to
16 understand if you were referring to multiple students
17 simultaneously acting out and being disruptive, or if one or
18 two students could disrupt a classroom.

19 A One or two could, but I haven't had a situation, I
20 believe, where the whole class is out of control.

21 Q Oh. And if one or two students are disruptive, do
22 you have training on what to do to try to remedy that?

23 A My training would be my experience.

24 Q And so what do you do?

25 A Again, like we talked about earlier, individual

1 conferences with the boys, standing by them to stop them at
2 the time, moving them around the classroom.

3 Q Anything else?

4 A Parent contact.

5 Q All right. Now, on occasion have you had to
6 coordinate with the dean to deal with situations where you had
7 students who were disruptive or bullying other students?

8 A Yes.

9 Q And why do you do that?

10 A Sometimes the behavior is to the point that it's
11 happened enough that I need someone else to help me with it,
12 and that would be the next step is the dean.

13 Q Are there steps after the dean?

14 A I'm not sure --

15 Q When you said the next, is there a step after the
16 dean, or is that the only next step?

17 A The next step that I would use?

18 Q Yes.

19 A I would -- if it happened again after a referral, I
20 would send them again to the dean.

21 Q And what if you sent them to the dean twice and you
22 still had a problem, then what?

23 A Truthfully, I don't think I've ever sent a kid to
24 the dean more than twice. But at that point the dean, I
25 assume, would take some kind of action and -- but again, I

1 have never used the dean that often, so.

2 Q And in situations where you've sent a student to the
3 dean, and the dean -- if the dean took action, would you
4 typically be informed of what the dean did?

5 A I believe most of the time.

6 Q And why is that?

7 A Well, I initiated the sending the child to the dean,
8 and since it was my starting the procedure, I would expect
9 they'd get back to me.

10 Q And you've had experience with Dean Winn where
11 you've sent a student to the dean, she took some steps and she
12 got back to you and let you know what she did?

13 A Yes.

14 Q And at this point you were trying to coordinate with
15 her to solve a problem in your class?

16 A Yes.

17 Q And if after that first contact with the dean there
18 was another incident involving the same student, the same
19 antagonist, would you again contact the dean and coordinate
20 with the dean towards reaching some kind of solution?

21 A Yes.

22 Q And in any of those situations you've been involved
23 in, did that solution include removing a student from a class?

24 A Yes.

25 Q And on any of those occasions did it include or

1 involve a student being suspended?

2 A I don't believe I've ever had a student suspended
3 because of anything they'd done in my room.

4 Q And so if it happened, you would expect to be
5 notified?

6 A Yes.

7 Q And so in your entire career at Greenspun, as far as
8 you know, no student who was involved in misconduct or
9 bullying that you reported to the dean was suspended; is that
10 correct?

11 A In 26 years, I can't say that that's accurate.

12 Q But as you sit here today you can't think of any?

13 A [No audible response.]

14 Q What about the last ten years?

15 A I -- there have been a couple boys who have been
16 suspended, but I believe it was not just because of my class.
17 There were other factors involved.

18 Q Oh. Back in 2011, did you take attendance at your
19 classes?

20 A Yes.

21 Q Why?

22 A We're required to, to see who's there every day and
23 keep attendance records.

24 Q And is it your understanding that these attendance
25 records are then provided to the administration?

1 A Yes.

2 Q And so if a student is perhaps skipping a class, you
3 want to have checks and balances in place so you know if a
4 student is skipping a class?

5 A Yes.

6 Q And if a student is missing a number of classes or
7 isn't showing up for weeks, you want to know that?

8 A If they are skipping a class, I don't think I would
9 know it. The attendance --

10 Q No. The administration would want to know?

11 A Well, sure.

12 Q Okay. And if a student just didn't show up for
13 weeks at a class, is that something you'd be aware of?

14 A If they had extended absences, yes.

15 Q And would that concern you?

16 A Often.

17 Q If that student who was missing class for at least
18 two, three weeks had previously been a victim of bullying,
19 would that concern you?

20 A Yes.

21 Q Why?

22 A Because they're -- anytime they're missing a long
23 stretch of classes they're going to get behind.

24 Q And you would -- would you tell the administration
25 or would you expect the administration to figure that out on

1 their own?

2 A If I had questions about attendance, I would go to
3 the attendance clerk, mention to them or try to find out with
4 them -- from them, excuse me, what the situation was.

5 Q Okay. Have you done that on occasion?

6 A I have.

7 Q And from the attendance clerk did you find out what
8 the situation was?

9 A Yes, sometimes.

10 Q Without giving me names, can you give me examples of
11 what you found out when you made those inquiries?

12 A There was one time where it turns out the student
13 had gone on vacation. Other times the attendance clerk
14 doesn't know, I think.

15 Q Now, do you have some recollection of the band class
16 in 2011, which Nolan Hairr and Ethan Bryan were a part?

17 A Yes.

18 Q And you were also aware of a student in the class by
19 the name of Connor; is that right?

20 A Yes.

21 Q And you had observed Connor being disruptive in
22 class on numerous occasions, correct?

23 A Yes.

24 Q And he was a behavior concern?

25 A Yes.

1 Q He stucked out in your mind as a -- someone who was
2 a problem in the class?

3 A He does now, after our case.

4 Q And you had a lot of issues with him, correct?

5 A Several. I don't know if I'd say a lot.

6 Q And he was not respectful to you, was he?

7 A Simply through his -- the misbehavior, that no, that
8 is not respectful, so yes.

9 Q So he was not respectful to you, correct? You would
10 try to correct him and talk to him and it wasn't -- it wasn't
11 solving the problem, was it?

12 A It would work for awhile, but then he'd slip back
13 into some misbehaving problems.

14 Q All right. And you noticed that not only was he not
15 respectful to you, but he was not respectful to other
16 students, correct?

17 A It's kind of one and the same. When you're
18 disrespectful in class you're disrespecting everyone that's
19 there, because you're interrupting the instruction.

20 Q Including you?

21 A Yes.

22 Q And your authority?

23 A Yes.

24 Q Is that unusual?

25 A It depends. Sometimes there are certain classes

1 that have certain combination of students. Other times I have
2 absolutely no problems at all.

3 Q Now, Nolan Hairr, he was very respectful, wasn't he?

4 A Yes, he was.

5 Q He was very well behaved, correct?

6 A Yes.

7 Q He was not a problem, was he?

8 A No.

9 Q Ethan Hairr [sic], he was also very respectful to
10 you, was he not?

11 A Yes, he was.

12 Q He was not a behavior problem, was he?

13 A No, sir.

14 Q Did you like him?

15 A As far as I knew him, yes.

16 Q What about Nolan Hairr, did you like him?

17 A Yes. I had no reason not to.

18 Q Did you like Connor?

19 A Let's -- well, I didn't really know him. He didn't
20 really allow me to, because he was always -- not always, but
21 when you are disrespectful, it's hard to -- it's hard to get
22 attached to a child like that.

23 Q All right. And you knew another student by the name
24 of Dante?

25 A Yes.

1 Q And you knew he seemed to be a friend or a follower
2 of Connor's?

3 A Yes.

4 Q They were together a lot?

5 A I don't know if they -- where they were outside of
6 my classroom, but --

7 Q In your class.

8 A -- in my class they were. They seemed to be
9 friends.

10 Q Now, I'd like to direct your attention to, in the
11 small white binder up there, Tab No. 4, I believe. It's a
12 September 15 email --

13 A Yes.

14 Q -- to you from Mary Bryan. Do you recall receiving
15 this?

16 A Yes, I do.

17 Q And were you aware that before you received this
18 email that Nolan Hairr had been to Dean Winn's office and made
19 a complaint?

20 A I don't believe I knew that.

21 Q So that wasn't brought to your attention prior to
22 September 15?

23 A Not that I know of. I do not remember that.

24 Q So this email would have been the first time you
25 were aware of a complaint being made on behalf of Nolan Hairr

1 that he was being bullied by other students?

2 A Yes.

3 Q And at least one of the student was identified as
4 Connor in the email you've got?

5 A Yes.

6 Q You weren't surprised to hear that, were you?

7 A I was surprised because Connor's disruption was more
8 of a just talking out of turn, being silly.

9 Q Not disrespectful to you?

10 A Well, I believe that is disrespectful, because he's
11 not letting me talk, not letting me teach.

12 Q All right.

13 A But it wasn't directed at anyone else that I
14 noticed. It was just a general disruption.

15 Q Well, were you surprised to receive a report that
16 Connor was, let's see, pulling Nolan's hair, elbowing him and
17 stabbing him in the genitals with a pencil?

18 A Yes.

19 Q You were shocked to hear this, were you not?

20 A Very surprised.

21 Q Well, beyond surprised, were you concerned?

22 A Yes.

23 Q Why?

24 A Because he's -- he's talking to this -- not
25 necessarily talking to this boy, but when you start touching,

1 laying hands on someone else, that's inappropriate.

2 Q And in reading this email, you realized that this
3 complaint did not come from Nolan's mother, correct?

4 A Correct.

5 Q Did that raise any questions in your mind as to how
6 a mother of another student was making a complaint on behalf
7 of Nolan?

8 A No.

9 Q That's not unusual?

10 A It doesn't happen very often. I guess I've never
11 thought of it as unusual.

12 Q And were you concerned that Nolan, when this
13 happened, that Nolan didn't report it to you?

14 A Yes.

15 Q Why?

16 A Because as the teacher, I would hope my students
17 could come to me with problems like this.

18 Q And you're aware, given your experience as a
19 teacher, that often students who are bullied don't report it
20 to you, correct?

21 A Yes.

22 Q And based on your training and experience, you know
23 there are a number of reasons why oftentimes children who are
24 victims of bullying do not report it to the teacher, correct?

25 A That's my experience.

1 Q And based on your training and experience, you know
2 that some students may be afraid of some kind of retaliation
3 for being identified as a snitch or a tattletale?

4 A Yes.

5 Q And some students just become withdrawn and don't
6 want to complain to anyone?

7 A That's my understanding.

8 Q And that's your experience too?

9 A Yes.

10 Q So the fact that a student who's being bullied
11 doesn't come to you or another adult in the school, that
12 doesn't surprise you; in fact, that's not an unusual
13 phenomenon, correct?

14 A Correct.

15 Q And when you received this email, did you recognize
16 at that time as a mandated reporter you had to forward this
17 information to someone at the school in the administration?

18 A Yes.

19 Q And did you forward this email to someone in the
20 administration?

21 A No, I didn't.

22 Q And why not.

23 A Because it was also addressed to Mr. Halpin, our
24 counselor, and Dr. McKay, our principal.

25 Q Okay. And you observed it was not reported to Dean

1 Winn, correct?

2 A Yes.

3 Q And did you believe that Dean Winn would be the
4 person primarily responsible for responding and reacting to
5 this complaint?

6 A Yes. The dean's the disciplinarian at school.

7 Q And you anticipated that whether it was through
8 Mr. Halpin or through the principal, Dr. McKay, that it would
9 be referred to Dean Winn for appropriate investigation and
10 follow-through?

11 A Yes.

12 Q And after you received this email, did you talk to
13 Nolan?

14 A I don't specifically remember talking to him, but I
15 believe I would.

16 Q And why do you believe you would?

17 A That's just what I do when I have children that are
18 having problems. I'll try to take them aside, try to address
19 the problem.

20 Q Now, at some point -- well, let me be more specific.
21 On September 19, four days after you receive this, did you
22 change seats in your classroom as part of your effort to try
23 to remedy the problem?

24 A Yes.

25 Q And did you do that in coordination with Dean Winn?

1 A No.

2 Q Why not?

3 A I was taking steps -- my classroom, so I was going
4 to take care of it right there.

5 Q Why did you wait until the 19th?

6 A Well, I believe the 16th is when I may have received
7 it, but I don't know if I opened it that day or not, which was
8 a Friday. There's days where I don't get to my email.

9 Q Fair enough. And so on the 19th, in reaction to
10 receiving this email, your solution was to move Connor or
11 Nolan, somehow separate them?

12 A It was one of the -- part of the solution.

13 Q Okay. And what was the other part?

14 A I would talk to the children separately, not
15 together, and try to find out what's going on, and then take
16 action from there.

17 Q And did you talk to Connor?

18 A I believe I did.

19 Q Did you ask him why he did it?

20 A I don't remember exactly what I asked him, but that
21 would be consistent with what I would do.

22 Q Did Connor deny doing it?

23 A I believe probably so.

24 Q Why do you believe probably so?

25 A I've found with -- a lot of times children will try

1 to avoid the blame, say that it wasn't them, they didn't do
2 it.

3 Q So Connor was the type of student that if he did
4 commit misconduct, you would not expect him to admit it,
5 correct?

6 A I would not.

7 Q Unlike Nolan; if Nolan did something wrong, you
8 would expect him to admit it, right?

9 A That I can't say.

10 Q Oh. Do you have any experience with Nolan that he
11 was ever dishonest or untruthful with you?

12 A Not that I know of.

13 Q Now, when you changed the seats, did you let Dean
14 Winn know that you were doing that?

15 A No.

16 Q Did you let anyone else know you were doing that?

17 A No.

18 Q And where did you move Connor or Nolan?

19 A I put Nolan in the front right -- not next to him,
20 but right in front of me on an aisle, and I had Connor also on
21 the aisle in back of him.

22 Q And so you moved Nolan from sitting next to Connor
23 to now sitting in front of Connor?

24 A Yes.

25 Q And you believed that moving Nolan from being next

1 to Connor to sitting in front of Connor was going to be a
2 solution?

3 A I felt separating them, that would work. And I --
4 you know, I have my reasons for doing this as well. First of
5 all, Nolan's right in front of me. And there is room between
6 the rows to have music stands. It's not like a regular
7 classroom where there are just chairs lined up.

8 There's lots of space in between the rows because of
9 the music stands and the cases, so they are separated more
10 than it appears. Plus they're both on the aisle. I walk up
11 and down the aisle a lot, so I'm able to have closer contact
12 with them.

13 Q How many aisles were there?

14 A Just one in the middle -- well, and of course on the
15 sides I could walk.

16 Q And did you on occasion walk on the sides?

17 A Oh, yes.

18 Q And if you were walking on the sides, were you able
19 to observe what was happening between Connor and Nolan?

20 A Fairly well, yes.

21 Q And would it be fair to say after September 15, and
22 after you did this seating change, that you spent most of your
23 time watching Nolan and Connor?

24 A No. I still had to teach the class.

25 Q Okay. There were another 43 other students?

1 A Yes.

2 Q All right. And so you didn't spend the whole class
3 focusing on Nolan and Connor, did you?

4 A No.

5 Q And you don't know what was happening between them
6 when you weren't watching them, correct?

7 A Correct.

8 Q And you remember being a student once upon a time?

9 A Barely, yes.

10 Q All right. And by the way, when you were a student,
11 were you ever bullied?

12 A I don't remember being bullied.

13 Q Did you have friends who were bullied?

14 A Yes.

15 Q And based on your experience as a student, did you
16 observe that students would often misbehave when they thought
17 the teacher wasn't looking at them?

18 A Yes.

19 Q And unless Nolan or someone complained about Connor
20 doing something to them when you weren't watching, you
21 wouldn't know, correct?

22 A Correct.

23 Q Now, at some point after September 19, did you have
24 any communication in September with Dean Winn regarding Nolan?

25 A I don't specifically remember that.

1 Q Okay. And so you weren't aware that Mr. Halpin
2 directed Nolan, on September 22, to go to Dean Winn's office
3 and make a complaint?

4 A I don't know if I was aware of that. I don't
5 remember that.

6 Q And that wasn't brought to your attention by Dean
7 Winn, correct?

8 A Not that I remember.

9 Q And in September, Dean Winn never talked to you to
10 make inquiries about what if anything you were doing to try to
11 solve this situation?

12 A Not that I recall.

13 Q And what about Mr. Halpin, did you ever talk to him
14 in September about this issue that Nolan was complaining about
15 and others? By that I meant this September 15 email.

16 A I understand, yeah. I'm not sure if we talked about
17 the September email or not.

18 Q Do you remember ever talking to anyone at that
19 school in September or October about the September 15 email?

20 A I don't believe I remember talking to anyone until
21 after the second email.

22 Q The October 19th?

23 A Yes.

24 Q Okay. So prior to October 19, you had not spoken to
25 anyone at the school about the September 15 email, correct?

1 A Not that I remember.

2 Q And did that surprise you that if the
3 administration, if the principal and Dean Winn received the
4 September 15 email, didn't you expect that you would be
5 contacted?

6 A I think what I expect is that I would take -- I
7 would take care of it in my class, and -- no --

8 Q You did --

9 A I'm sorry.

10 Q No, go ahead.

11 A Once I had moved them around I thought the situation
12 resolved. I guess I never really thought about hearing from
13 someone else.

14 Q And you never thought about the fact that under
15 state law an allegation such as this required an investigation
16 and could result in a suspension? You never thought about
17 that?

18 A No. Knew about that.

19 Q You anticipated that Dean Winn did an investigation,
20 correct?

21 A Yes.

22 Q And you anticipated that if an investigation
23 determined that in fact the stabbing occurred, that there
24 would be consequences to come, correct?

25 A If that's her determination.

1 Q Right. But based on the allegation, if she
2 determined it in fact happened, you would expect consequences?

3 A I would expect she would do something, yes.

4 Q And would you expect that she would consider
5 removing Connor from the classroom, or at least talking to you
6 about it?

7 A Yes.

8 Q And would you expect that she'd also consider
9 suspending Connor?

10 A That would be her call.

11 Q Right. But you understood she had the discretion to
12 do that?

13 A Yes.

14 Q And so -- well, before we get to October 19, do you
15 recall an open house on October 5, I believe?

16 A Yes.

17 Q And do you recall seeing Mary Bryan, the woman who
18 sent the September 15 email, at the open house on October 5?

19 A Yes. I believe we talked.

20 Q And when you saw her, you understood she was the
21 person who sent you the email?

22 A Yes.

23 Q And why did you -- why did you connect Mary Bryan
24 with the person who sent the email; because she told you I'm
25 the person who sent the email?

1 A Yes.

2 Q Oh. And did she tell you she was still concerned
3 about ongoing issues of harassment by Connor?

4 A Truly I don't recall our conversation, and so I
5 can't remember.

6 Q You don't recall anything about the conversation
7 other than Mary Bryan identified herself to you as the person
8 who sent the September 15 email?

9 A I recall we spoke. I don't recall anything negative
10 coming out of the conversation.

11 Q Is it your testimony she did not express any
12 concerns to you about what was happening after the email?

13 A Not that we didn't talk about it. Like I said, I
14 can't recall her being upset. So I don't -- I don't recall
15 any --

16 Q I used the word "concerned," not upset. Did she
17 seem concerned?

18 A I truly barely even remember meeting her, and so I
19 can't recall the conversation.

20 Q Did you ask her why she sent the email instead of
21 Nolan's parents?

22 A I don't think so.

23 Q Let's talk about the October 19 email. I think that
24 is Tab No. H in your binder. And do you recall receiving this
25 on October 19?

1 A I don't know the exact day I received it, but I
2 recall seeing a copy of it.

3 Q And do you recall if it was sent to you or if
4 someone forwarded it to you?

5 A It was forwarded to me.

6 Q And why do you believe it was forwarded to you?

7 A Because it involved students in my room.

8 Q And in addition to having this email forwarded to
9 you, did you talk to anyone about this email?

10 A Oh, yes.

11 Q And who did you first talk to?

12 A I believe I first talked to Mrs. Winn, the dean, and
13 I believe to talk to Dr. McKay also.

14 Q But you believe it was first with Dean Winn?

15 A I don't know if it's first or second.

16 Q Fair enough. You don't recall the order, but you do
17 recall talking to both Dean Winn and Dr. McKay?

18 A I believe I talked to them, because it's serious
19 allegations. I don't remember specifically sitting down with
20 either one.

21 Q So you're assuming you talked to them, but you don't
22 recall talking to them?

23 A Yes.

24 Q So as you sit here today, you can't testify that you
25 talked with either one; is that right?

1 A I would -- I believe I would talk with them.

2 Q I understand why you're assuming that you would talk
3 to them. My question is, as you sit here today do you recall
4 talking to them?

5 A The problem is there's so many times I've talked to
6 these people that I don't know exactly when the conversation
7 occurred about this email, but we have talked about it.

8 Q And do you recall talking to them in February 2012,
9 about this email?

10 A Of course.

11 Q Oh. So you do recall talking to Dean Winn and
12 Dr. McKay in February 2012 about the October 19 email,
13 correct?

14 A Yes.

15 Q And at that time someone asked you to write a
16 statement about what you recalled about, I guess, both the
17 September 15 and the October 19 incidents?

18 A I believe they asked me to write a statement about
19 what had gone on during the course of the semester.

20 Q Was that the first time anyone talked to you as part
21 of what you understood to be an investigation of these events?

22 A No.

23 Q And when is the first time someone talked to you as
24 part of an investigation of these events?

25 A So it has -- we had talked. I think I

1 misinterpreted your first question about --

2 Q Well, you understand the difference between a
3 conversation and an investigation?

4 A Yes.

5 MR. POLSENBERG: Your Honor, can he finish the
6 answer?

7 MR. SCOTT: I'm sorry.

8 THE COURT: Yes.

9 MR. SCOTT: I apologize.

10 THE WITNESS: When you first asked the question, I
11 thought you meant like immediately right then who I had
12 talked to, and I know I would have talked to someone. I just
13 don't specifically remember sitting down with them, but I know
14 we would discuss this with Ms. Winn and, I believe, Dr. McKay.
15 BY MR. SCOTT:

16 Q But you do recall discussing it with them in
17 February 2012?

18 A Yes.

19 Q And did you receive a copy of Mary Bryan's February
20 7 email?

21 A Yes.

22 Q And you understood that that February 7 email got
23 the attention of Dr. McKay and Dean Winn?

24 A Yes.

25 Q But apparently the September 15 email and the

1 October 19 emails did not get their attention, correct?

2 A That's my understanding, yes.

3 Q All right. And so after the February 7 email, you
4 were contacted by Dr. McKay and Dean Winn, you spoke to them
5 and they asked you to write a statement?

6 A Not sure exactly who asked me to write it, but
7 somebody did, yes.

8 Q And you understood that was part of an
9 investigation?

10 A Yes.

11 Q Prior to February 2012, to your knowledge was there
12 investigation of the September 15 incident?

13 A Yes.

14 Q And because someone had interviewed you as part of
15 an investigation prior to February?

16 A I don't remember being interviewed.

17 Q And why do you believe there was an investigation?

18 A Talked to someone in administration about a police
19 investigation, I believe.

20 Q That was also in February?

21 A I do not know the date.

22 Q Other than the police investigation, did anyone from
23 the school and within the school administration conduct an
24 investigation to your knowledge of the September 15 incident
25 prior to February 2012?

1 A I believe -- I believe Ms. Winn did.

2 Q Why do you believe that?

3 A I've seen documents with complaints about the
4 problem, about bullying, and I can remember one with my name
5 on it because it was in my room. And so I believed something
6 was being taken care of then.

7 Q Can you describe for us this complaint that you --
8 or complaints that you saw?

9 A It was an incident report filled out by Nolan.

10 Q All right. When did you first see that?

11 A I can't be certain, but I believe in February.

12 Q Oh. And other than seeing an incident report by
13 Nolan in February, did you have any other reason to believe an
14 investigation was conducted of the September 15 complaint,
15 Exhibit 4, prior to February 2012?

16 A I believe sometime in the fall Ms. Winn had talked
17 to me.

18 Q Okay. Are you assuming it happened, or do you
19 recall the conversation?

20 A No, it's not an assumption. I recall talking with
21 her.

22 Q Do you recall approximately when it was in relation
23 to the September 15 complaint and the October 19 complaint?

24 A After October.

25 Q After October 19 --