

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

TAMMY KITZMILLER, et al :  
 : CASE NO.  
v. : 4:04-CR-002688  
 :  
DOVER AREA SCHOOL DISTRICT, :  
et al :

TRANSCRIPT OF PROCEEDINGS  
BENCH TRIAL

**AFTERNOON SESSION**

BEFORE: HON. JOHN E. JONES, III  
DATE : October 31, 2005  
1:30 p.m.  
PLACE : Courtroom No. 2, 9th Floor  
Federal Building  
Harrisburg, Pennsylvania  
BY : Wendy C. Yinger, RPR  
U.S. Official Court Reporter

APPEARANCES:

ERIC J. ROTHSCHILD, ESQUIRE  
WITOLD J. WALCZAK, ESQUIRE  
STEPHEN G. HARVEY, ESQUIRE  
RICHARD B. KATSKEE, ESQUIRE  
THOMAS SCHMIDT, ESQUIRE  
For the Plaintiffs

PATRICK T. GILLEN, ESQUIRE  
RICHARD THOMPSON, ESQUIRE  
ROBERT J. MUISE, ESQUIRE  
For the Defendants

I N D E X T O W I T N E S S E S

FOR THE DEFENDANTS	DIRECT	CROSS	REDIRECT	RECROSS
Alan Bonsell				
By Mr. Gillen	3			
By Mr. Harvey		28		

THE COURT: All right.

**DIRECT EXAMINATION (CONTINUED)**

BY MR. GILLEN:

Q. All right. Alan, before we left off for lunch, we were approaching the October 18th board meeting. I want to ask you some questions about that meeting and your recollection of events, as soon as I get my outline in order. Do you remember attending that board meeting?

A. October 18th meeting?

Q. Yep.

A. Yes.

Q. All right. Well, let's -- tell us what you recall beginning with the public comment portion of that meeting. Do you recall any comments being made?

A. I believe Bert Spahr spoke at that meeting. And Jen Miller spoke at that meeting. I believe there was a few other people that spoke.

Q. Do you remember anything that you heard at that meeting from Bert Spahr?

A. I believe it was still, we were on the same subject of what they had talked about before of, they were afraid they were going to be sued, and I believe she still mentioned the fact of creationism being -- intelligent design being the same as creationism, that type of thing.

Q. Do you remember any other teachers speaking?

A. Jen Miller spoke. And basically, what I can recall is that, she still was on the point that she didn't want to teach intelligent design.

Q. What about other board members? Was there any response from board members to the public during the public comment section that you can recall?

A. Basically that, you know, ID is not creationism, absolutely is not creationism, and that we weren't requiring them to teach it.

Q. Do you remember telling members of the public that during this meeting?

A. I think that's, when they were saying that, at some point, that was said.

Q. What about the activities of board members when the agenda item came up for consideration by the Board? Do you remember what happened at that time?

A. Yes.

Q. Tell us what you remember.

A. Basically, there was a whole bunch of amendments that were proposed, I believe, by Noel Weinrich.

Q. Well, with that in mind, let me ask you to look at Defendants' Exhibit 64?

A. 64?

Q. Yeah. And direct your attention to the page with

1 the bait stamp number 158 in the lower right-hand  
2 corner?

3 A. 158.

4 Q. What do you see there, Alan?

5 A. I see basically a bunch of motions and calls for  
6 votes on amendments and calls for questions, call of  
7 vote, questions, different things along that line.

8 Q. Are these the votes on motions made by Mr.  
9 Weinrich that you recall?

10 A. Yes.

11 Q. Okay. What was your reaction to Mr. Weinrich's  
12 parliamentary maneuvers?

13 A. I thought it was silly. I mean, he was just --  
14 it was almost like playing a game. And we weren't  
15 talking about the real issue, the three things that we  
16 had had that were that we were going to discuss. And this  
17 didn't serve any purpose, I didn't think.

18 Q. Did you want to discuss any of the amended  
19 versions that Mr. Weinrich was proposing that evening?

20 A. Well, I basically -- I mean -- can you say that  
21 again?

22 Q. Yeah. I'm not asking you to look at the voting  
23 record or anything. I'm asking you to give us your  
24 recollection concerning when Mr. Weinrich made these  
25 motions, did you want to vote on what he was proposing

1 or on the versions that --

2 A. No. I mean, we had already done all this work on  
3 these other proposals. I wanted to get back, and I  
4 think, you know, I remember saying, I want to discuss  
5 the issue. I mean, this was just parliamentary  
6 procedures here going on. I mean, it didn't have to do  
7 with the subject at hand. I mean, I didn't think it  
8 was. Maybe he did. I don't know.

9 Q. Okay. I'd ask you to go to Exhibit 187.

10 A. 187?

11 Q. Correct. Do you recognize that document?

12 A. Yes, I do.

13 Q. What is it?

14 A. That is my own personal memoranda, which I have  
15 written on, concerning the biology curriculum and also a  
16 draft of the curriculum with my personal -- that I had.

17 Q. Okay. Let's look at it. Do you remember  
18 articulating a position at this October 18th, 2004,  
19 board meeting about the various versions and what your  
20 goal was for this meeting?

21 A. Well, I mean, it's written on here, you know, not  
22 limited to any one theory, I have written on here. And  
23 my goal was to try to bring something that everybody  
24 would come together on, everybody could agree on it, if  
25 it was possible. I mean, that was my objective to do

1 that.

2 Q. I'd ask you to turn to the page of Defendants'  
3 Exhibit 187 that has the number 3771 in the lower  
4 left-hand corner.

5 A. Okay.

6 Q. There are notations on that page. Are they your  
7 notes?

8 A. Yes.

9 Q. And would you read the notes for the record?

10 A. The whole -- just my notes that I had,  
11 handwritten notes?

12 Q. Yes.

13 A. I had a big A with a circle around it, and then I  
14 had in parentheses underneath the context concepts o,  
15 note: The origins of life is not taught.

16 Q. Did you make that notation on the evening of  
17 October 18th?

18 A. Yes.

19 Q. And why did you do that?

20 A. Because what -- what I had tried to do is to get  
21 everybody, the teachers, administration, the board  
22 members all together, and I thought, by changing the  
23 one, taking the one note from the one, and putting it  
24 with this, that would take care of it.

25 Q. Did you make a motion to amend the Board

1 curriculum committee's version to add this note?

2 A. Yes, I did make a motion to add this to this  
3 particular -- this -- this concept here.

4 Q. Okay. Well, your response points to a need for a  
5 question. What were you adding the note to? Whose  
6 version? The Board curriculum committee's? The staff  
7 administration?

8 A. It was basically the board curriculum  
9 committee's.

10 Q. And why were you adding your note to that  
11 version?

12 A. Well, I already knew that the board curriculum  
13 committee came through with this, and the teachers had  
14 problems with teaching, you know, ID. And so this note,  
15 I thought, would take care of all those, would take care  
16 of that.

17 Q. And how did you think it would take care of that?

18 A. Origins of life is not taught, so that should  
19 take care of their problem of the origins being taught.  
20 It's not taught.

21 Q. Do you remember how your motion was received by  
22 the board on that evening?

23 A. Yes. I believe it was straight nine, zero vote  
24 to include it.

25 Q. And was the board curriculum committee's version

1 of the curriculum change, as amended, by your motion,  
2 approved by the board on the evening of October 18th,  
3 2004?

4 A. Yes.

5 Q. And do you remember the final vote on that  
6 version?

7 A. I believe the final, final version was a six to  
8 three vote.

9 Q. So you worked out the actual final version at the  
10 meeting on that evening?

11 A. Yes, with adding that on.

12 Q. And again, in doing so, what was your goal in  
13 proposing this approach to the matter?

14 A. The whole goal was to try to bring the people  
15 together. I mean, that's -- that was the whole goal.  
16 That's what -- you know, I was president. That's what  
17 I'm trying to do. I'm trying to lead, you know,  
18 everybody together and try to get consensus, if it's  
19 possible to do.

20 Q. Do you remember the Browns resigning on the  
21 evening of this meeting?

22 A. Yes.

23 Q. And what was your personal reaction to their  
24 resignation?

25 A. Well, I thought it was ridiculous, and I thought

1 it was inconsiderate, especially saying, you know, they  
2 resigned without even mentioning the fact that they were  
3 going to do this ahead of time.

4 Q. Well, you know, I'm going to ask you a couple of  
5 questions, but one of the most difficult for me to ask  
6 certainly personally is this. Did you tell Casey Brown  
7 that she was going to hell as a result of her actions on  
8 the board or her resignation?

9 A. No, absolutely not.

10 Q. Would you ever say something like that to  
11 someone?

12 A. No, I would not.

13 Q. Is that a very serious, in fact, hateful thing  
14 for someone to say, in your judgment?

15 A. Absolutely, it is.

16 Q. What happened after the October 18th, 2004,  
17 meeting next? Do you recall the next step seen from  
18 your perspective as the chairman of the board?

19 A. Well, I guess we were trying to get together  
20 exactly how we were going to do this, implement it.

21 Q. Well, let me ask you to look at Defendants'  
22 Exhibit 65?

23 A. 65.

24 Q. Do you recognize that document, Alan?

25 A. Yes, this is a draft of what the teachers were to

1 read in biology class.

2 Q. Do you recall receiving this document?

3 A. Yes.

4 Q. Was there some discussion of making students  
5 aware of intelligent design by reading a statement when  
6 the board held its meeting on October 18th?

7 A. Ask that again.

8 Q. Well, this statement, where did it come from?  
9 Had there been some discussion by the board and  
10 administration about it?

11 A. There would have to be something. Once we have  
12 this, now it's not being taught, so we have to find a  
13 way of how we're going to implement it in the  
14 curriculum.

15 Q. Did you play any role in drafting the specific  
16 language of this statement?

17 A. I don't remember specific language, no.

18 Q. Do you recall at least seeing --

19 A. Oh, I saw it, yes. Could I have made  
20 suggestions? It's possible. But I just don't remember.

21 Q. Okay. Let me ask you again. Now we have a  
22 contentious meeting here on the 18th with members  
23 resigning. Did you read the papers and their coverage  
24 of this meeting?

25 A. I'm sure I did.

1 Q. Well, did you have an impression at this time now  
2 concerning the accuracy of the coverage of the events at  
3 this meeting?

4 A. I think at this point, I think they're still  
5 reporting, you know, we're going to teach creationism.  
6 Like I said, it went on. And also, we were going to  
7 teach, I remember teaching, that was in the news media,  
8 through the papers, through the news -- TV. That was  
9 on, I think, months after this proposal was passed. I  
10 believe it was still being reported that we were  
11 teaching it.

12 Q. Did you speak to any reporters about the  
13 reporting on the board's activities relating to this  
14 curriculum change adopted on October 18th, 2004?

15 A. Like I said, I have said things at meetings, in  
16 meetings. I've said things to reporters outside of  
17 meetings. I mean, it was sort of a constant, a constant  
18 that you -- that I would do, because they kept doing  
19 things like this. I mean, they kept saying teaching  
20 instead of making aware. They would say creationism  
21 instead of intelligent design.

22 I mean, it's -- it's -- but, yes, I did. I  
23 remember talking, having a conversation with Joe  
24 Maldonado. And it was my understanding through the  
25 conversation that he thought the two things were

1 interchangeable, that creationism and intelligent design  
2 were.

3 MR. HARVEY: Objection, Your Honor, hearsay.

4 MR. GILLEN: All I can say is, he's trying  
5 to remedy the situation. He's talking to the reporter.  
6 He has an understanding of the reporter's view of the  
7 matter, whether they're separate or the same. That's  
8 all.

9 THE COURT: I think it transcended just his  
10 impression. I think it got into hearsay. I'll sustain  
11 the objection, and I'll strike what appears to be a  
12 direct response from the reporter in this case.

13 MR. GILLEN: Okay. Thank you, Your Honor.

14 BY MR. GILLEN:

15 Q. Alan, let me ask you, you indicated that you  
16 spoke with Joe Maldonado about his reporting  
17 specifically as it relates to the use of the term  
18 creationism to describe intelligent design?

19 A. Yes.

20 Q. As a result of that conversation, did you come  
21 away with an impression or understanding of how he  
22 viewed them, whether the same or different?

23 A. My impression is --

24 MR. HARVEY: Objection, Your Honor.

25 THE COURT: Wait, sir. Hang on.

1 MR. HARVEY: This again is hearsay, and if  
2 he's testifying just as to his understanding, I don't  
3 see any relevance as to what his understanding of Mr.  
4 Maldonado's impression is, at least as of this date.

5 MR. GILLEN: It is highly relevant because,  
6 from the standpoint of the board, they believed that  
7 their position has been mischaracterized. They've been  
8 asked -- all the witnesses have been asked numerous  
9 times, did you ever complain, did you ever ask for  
10 corrections, and so on.

11 Mr. Bonsell has testified that he has, and  
12 now what he's, understanding from this request is, it  
13 won't be observed because of the reporter's view of the  
14 matter.

15 THE COURT: Well, very frankly, he answered  
16 the question. He answered the question previously, and  
17 I said that it would be stricken --

18 MR. GILLEN: Right.

19 THE COURT: -- that it was his understanding  
20 that Mr. Maldonado viewed the two terms as  
21 interchangeable. I said that answer was hearsay and  
22 sustained the objection and struck it. You've asked  
23 almost the same question again, and I'm going to sustain  
24 the objection again because all we're coming back to is,  
25 I think, what amounts to, and I understand that you have

1 to try, but I think it's either side door or back door  
2 hearsay, and I'll sustain the objection on that basis.  
3 It's a bench trial. I heard the testimony. There's no  
4 point to double back at this point. Let's move on.

5 MR. GILLEN: Okay. Thank you, Your Honor.

6 BY MR. GILLEN:

7 Q. Did you take it upon yourself personally to do  
8 anything else to address the press coverage as you saw?

9 A. Well, like I said all along, I've talked to  
10 numerous, numerous editors of the papers. I have talked  
11 to the reporters. I know it got so bad that our  
12 superintendent wouldn't even return calls anymore.

13 Q. Let me ask you this. Did you direct Dr. Nilsen  
14 to do anything as a result of this problem you  
15 perceived?

16 A. Yes. One of the things I said is that, I think  
17 it's necessary to get some sort of press release out to  
18 tell the people what we're actually doing, so they know  
19 what we're really doing.

20 Q. Let me ask you to look at Defendants' Exhibit 83.

21 A. 83.

22 Q. Do you recognize that document, Alan?

23 A. Yes.

24 Q. What is it?

25 A. It's a document that I sent to Dr. Nilsen

1 concerning something that maybe we could, you know, put  
2 on, if it's possible, to put on the website, the Dover  
3 website, so -- just to let -- give the people of Dover a  
4 little bit of an update of what's going on.

5 Q. This document is dated November 12th, 2004. Let  
6 me ask you, on the evening that the curriculum change  
7 was adopted by the board, was there ever any discussion  
8 of doing a press release?

9 A. No, none.

10 Q. Did you have any intention of doing a press  
11 release when you voted for the curriculum change?

12 A. Not at that time, no.

13 Q. So why are you providing this document to Dr.  
14 Nilsen on November 12th, 2004?

15 A. There again, because the inaccuracies that was  
16 put out to the public in our local media.

17 Q. Did you draft the press release or did you direct  
18 Rich Nilsen to do so?

19 A. Well, this one I had sent to him, but they were  
20 coming up with another press release. This was just  
21 sort of a stop gap thing until we got an actual press  
22 release.

23 Q. Let me ask you to look at Defendants' Exhibit  
24 103. Do you recognize that document, Alan?

25 A. Yes.

1 Q. What is it?  
 2 A. That's the biology curriculum press release from  
 3 the board of directors.  
 4 Q. Was that prepared by Dr. Nilsen at your request?  
 5 A. Yes.  
 6 Q. Okay. Do you recall the press release eliciting  
 7 a response from the faculty?  
 8 A. Yes, it did.  
 9 Q. With that in mind, I would ask you to look at  
 10 Defendants' Exhibit 106. Do you recognize that  
 11 document?  
 12 A. Yes.  
 13 Q. Do you remember seeing that?  
 14 A. Yes.  
 15 Q. What did you understand its thrust to be?  
 16 A. I guess, basically they're writing a letter to  
 17 Dr. Nilsen objecting on some of the things that are  
 18 being put out there about the most recent press release.  
 19 Q. And what was your reaction to this document?  
 20 A. Well, I couldn't believe it, because they've been  
 21 involved all along in the process.  
 22 Q. Did you speak to Rich Nilsen about this document?  
 23 A. I believe so. And -- because I wanted to know, I  
 24 wanted to see, okay, sort of get a glimpse of how many  
 25 times or what -- to show that the teachers had been

1 involved, that -- because, I believe, at the time I was  
 2 saying, you know, the teachers have been involved in it.  
 3 Q. Okay. Let me ask you to look at Defendants'  
 4 Exhibit 184.  
 5 A. 184?  
 6 Q. Yeah. Do you recognize that document?  
 7 A. Yes.  
 8 Q. Okay. What is this?  
 9 A. This is a history of biology statement, teacher  
 10 edits, and some other information that I personally  
 11 wrote down on the bottom that were additions to this.  
 12 Q. Okay. Those handwritten notations are yours?  
 13 A. At the bottom of the paper, yes.  
 14 Q. But just to be clear, were these put on the  
 15 document November 19th or later?  
 16 A. This would have been later.  
 17 Q. Let me ask you, do you recall the teachers or its  
 18 union putting out a press release?  
 19 A. I believe they did put out a press release, yes.  
 20 Q. If you would, look at Defendants' Exhibit 105.  
 21 Do you recognize that document, Alan?  
 22 A. Yes.  
 23 Q. What is it?  
 24 A. It's a press release from basically the teachers  
 25 union or the BAEAEA.

1 Q. What was your reaction to that document?  
 2 A. Well, it sort of went back to the other letter.  
 3 I mean, they're saying, has developed, exaggerated it,  
 4 which really, they did help to develop it.  
 5 Q. Did you agree with the teachers' position, as  
 6 articulated in that press release?  
 7 A. No, no.  
 8 Q. Did you ask anyone to take any action as a result  
 9 of that press release?  
 10 A. To take any action?  
 11 Q. Yeah. Look again at 184. Was there anything  
 12 that the board or you or the administration did in  
 13 response to that difference of opinion reflected in  
 14 these two press releases?  
 15 A. Well, that's why we put this together, to show,  
 16 you know, what we were saying was true, that they were  
 17 involved in this process.  
 18 Q. Okay. Let me ask you to look at Defendants'  
 19 Exhibit 119. Do you have that?  
 20 A. Yes.  
 21 Q. Do you recognize this?  
 22 A. Yes.  
 23 Q. What is it?  
 24 A. It is a press release from the Discovery  
 25 Institute.

1 Q. And what was your reaction to that document?  
 2 A. Well, again, they must have been reading our  
 3 local media because it says in here about teaching  
 4 intelligent design, and we're not teaching it.  
 5 Q. There's a few steps remaining in this story as  
 6 it's been outlined so far, and I want to ask you about  
 7 them. Do you understand that Rich Nilsen placed the Of  
 8 Pandas book in the library?  
 9 A. Yes.  
 10 Q. Do you believe that his decision to do so was  
 11 consistent with the board's curriculum change adopted on  
 12 October 18th?  
 13 A. Sure. They're reference books.  
 14 Q. Has any member of the school board called for a  
 15 movement of those texts from the library?  
 16 A. No.  
 17 Q. Did there come a time when you understood that  
 18 the teachers had not read the statement that had been  
 19 drafted as a result of the curriculum change?  
 20 A. Can you say that again?  
 21 Q. Did there come a time when you came to understand  
 22 that the teachers had not read the statement we looked  
 23 at already?  
 24 A. Yes, basically that they wouldn't read the  
 25 statement.

1 Q. And what was your reaction to that?

2 A. Well, personally, I thought it was clear  
3 insubordination.

4 Q. Did you call for any action?

5 A. No, I didn't, because I figured, at this point,  
6 it's, you know, it will be settled here.

7 Q. Did you later come to know who read the statement  
8 to the students?

9 A. The administration did.

10 Q. When you voted for the curriculum change on  
11 October 18th, 2004, was there any discussion by board  
12 members of having the administrators read the statement?

13 A. Was there any discussion that we wanted them to  
14 read that?

15 Q. Yes.

16 A. No.

17 Q. Did any board member direct -- let me ask you,  
18 did you direct the administration to read the statement?

19 A. No.

20 Q. To your knowledge, did any board member direct  
21 the administrators to read the statement?

22 A. No.

23 Q. Did there come a point at which you directed Dr.  
24 Nilsen to at least prepare or help prepare a newsletter  
25 for the district on this issue?

1 A. Yes, after we did -- we thought it would be a  
2 good idea to, because the press release basically went  
3 out to the press and onto the website, and we wanted to  
4 get out something to all of the people in Dover, so  
5 they're the ones, it's their school, they need to know.  
6 I thought that because of, you know, the problems of  
7 communications with the media, that they needed to have  
8 this press release so they could see exactly what we  
9 were doing.

10 Q. Whose idea was the newsletter?

11 A. I believe I came up with the idea of the  
12 newsletter, and I believe the board concurred, and the  
13 newsletter was put out.

14 Q. When the board voted to approve the curriculum  
15 change on October 18th, 2004, was there any discussion  
16 of preparing a newsletter about the curriculum change?

17 A. No, none at all.

18 Q. When you voted for the curriculum change on  
19 October 18th, did you intend to issue a newsletter about  
20 the curriculum change?

21 A. No.

22 Q. So what was your purpose in doing that now?

23 A. Again, like I said, to get the actual truth out  
24 to the people of Dover.

25 Q. Now at some point, did you become aware of a

1 donation of books to Dover that was also linked in some  
2 way to the biology curriculum?

3 A. Yes.

4 Q. And about when was that?

5 A. I believe that was the spring of this year.

6 Q. How did the books --

7 A. Somewhere in that area.

8 Q. How did the books come to your attention?

9 A. They were -- I guess they were sent to the school  
10 district, and probably the administration let us know.

11 Q. Did you ask who donated the books?

12 A. Not really. I mean, they told me it came from a  
13 group, but I didn't ask who.

14 Q. Did you review the books?

15 A. I looked at the books.

16 Q. Why did you do that?

17 A. Just to make sure they weren't, I mean,  
18 pornographic or something that wouldn't be something  
19 that should be put in the library or used.

20 Q. Well, I mean, you've referenced some concerns  
21 about the books. Did it strike you as a little odd at  
22 the time the way they were donated, the way they  
23 arrived?

24 A. Yeah, they just sort of came on our door step.

25 Q. Did the board approve adding the books to the

1 library collection?

2 A. Yes, yes.

3 Q. As you sit here today, do you know where those  
4 books have been placed in the library collection?

5 A. That would be the librarian's job.

6 Q. Did there come a time after the donation of the  
7 books where you became aware that Rich Nilsen had  
8 changed the statement read to students in light of that  
9 donation?

10 A. Yes.

11 Q. When you learned of that, did you think his  
12 change to the statement was consistent with the purpose  
13 of the board's curriculum change adopted on October  
14 18th?

15 A. Yes.

16 Q. And why is that?

17 A. I have no -- I mean -- wait a minute. Ask the  
18 question again, please.

19 Q. Well, why? If you thought it was acceptable for  
20 him to do that, why?

21 A. Acceptable for him to change?

22 Q. Change the statement. Why? What was your point?  
23 Why did you see that as consistent?

24 A. Because we had more books and more things on the  
25 subject, more literature, more books on the subject.

1 And he changed it. And I didn't see a problem with  
 2 that. More references. More material.

3 Q. All right. As we're wrapping up here, I know  
 4 you're engaged in this litigation, but do you feel that  
 5 your service on the board has been a service in which  
 6 you've tried to promote and have enjoyed some success in  
 7 promoting the interest of the Dover community?

8 A. Yes. Yes, I do believe that.

9 Q. And can you just explain briefly why you have  
 10 enjoyed some success?

11 MR. HARVEY: Your Honor, objection,  
 12 relevance.

13 MR. GILLEN: I'm trying to demonstrate that  
 14 he has, throughout his tenure, acted as a board member  
 15 to serve the best interest of the community he serves by  
 16 his --

17 THE COURT: I'll allow some latitude. It  
 18 goes to weight. It's a bench trial. I'm going to hear  
 19 the answer because we got to keep moving here. So I'll  
 20 overrule the objection.

21 BY MR. GILLEN:

22 Q. Just briefly, Alan, as the judge said?

23 A. Just quickly. Some of the things that we've done  
 24 over the last four years. I mean, we tried to work  
 25 together as a team, and we have been successful in doing

1 a lot of things. Some of the things, our test scores  
 2 are up. You know, we've instituted full-day  
 3 kindergarten, the only school district in York County  
 4 that has that.

5 We went back to do remediation so that we try to  
 6 get all the kids at the same place, I believe, by like  
 7 third place, because we don't want any of our children  
 8 to be left behind. As far as taxes, we're the only  
 9 school district this year that doesn't have a tax  
 10 increase.

11 So we looked at everything. Our 8th grade, our  
 12 8th grade test scores. Five years ago in the year 2000,  
 13 we were 13th out of 15 schools. And this year, we're  
 14 number 1 in the county with our test scores. So we -- I  
 15 think, I believe, not for a pat on the back or anything  
 16 like that, but I believe that's what we came here for,  
 17 to make Dover the best it can be.

18 And this isn't -- I mean, there's a lot of other  
 19 things that Dover can be proud of.

20 Q. Did you see your participation in the board's  
 21 distributions on this curriculum change as part of that  
 22 same goal?

23 A. Yes.

24 Q. As a board member, ever since you sat on the  
 25 board, have you ever taken any step that you thought

1 would lead to the teaching of creationism in the high  
 2 school at Dover?

3 A. None whatsoever.

4 Q. Have you ever tried to take any step to prevent  
 5 the teaching of evolutionary theory?

6 A. None.

7 Q. In this 2004 period, when the science text, more  
 8 specifically the biology text, proposed by the teachers  
 9 were up for purchase, did you ever try and obstruct the  
 10 purchase of the text they recommended?

11 A. No.

12 Q. You mentioned your daughter earlier. Is she a  
 13 student at Dover High School now?

14 A. Yes, she's in 9th grade.

15 Q. Is she taking biology?

16 A. Yes.

17 Q. And do you have an understanding concerning  
 18 whether she'll be taught evolutionary theory in biology?

19 A. Yes.

20 Q. What's your understanding?

21 A. My understanding is, she'll be taught  
 22 evolutionary theory, the micro evolution theory, in  
 23 class.

24 Q. Are you going to tell your daughter to opt out of  
 25 this section dealing with evolution?

1 A. Absolutely not.

2 Q. Do you have any objection to her learning about  
 3 evolutionary theory in biology?

4 A. No, none whatsoever.

5 MR. GILLEN: I have no further questions.

6 THE COURT: All right, Mr. Gillen. Thank  
 7 you. Cross-examine, Mr. Harvey.

8 MR. HARVEY: Just one minute, Your Honor,  
 9 while I get some materials.

10 THE COURT: Take the time you need.

11 MR. HARVEY: Your Honor, may I approach the  
 12 witness and hand him some documents?

13 THE COURT: You may. What book are you in,  
 14 Mr. Harvey?

15 MR. HARVEY: Your Honor, I'm not in a book.  
 16 That's a special notebook we made up.

17 THE COURT: Are you going to put them up on  
 18 the --

19 MR. HARVEY: Yes, sir.

20 THE COURT: That's fine.

21 **CROSS EXAMINATION**

22 BY MR. HARVEY:

23 Q. Mr. Bonsell, I've just handed you a notebook of  
 24 various exhibits we may refer to your testimony today,  
 25 and I've given you a copy of your deposition transcript

1 that was taken on January the 3rd, 2005, and a copy of  
2 your deposition transcript that was taken on April the  
3 13th, 2005. Do you have those in front of you?

4 A. Yes, I do.

5 Q. You recall being deposed on those dates, January  
6 the 3rd of 2005 and April the 13th of 2005?

7 A. Yes.

8 Q. You were here for Mr. Buckingham's testimony last  
9 week, weren't you?

10 A. Not all of it, no.

11 Q. I thought I saw you in the room. And I think you  
12 were in the room when he testified about the donation,  
13 donations that were given to him at his church in the  
14 amount of \$850.00. Were you here during that part?

15 A. Yes, I did hear that.

16 Q. And he testified about a check. And I'd like to  
17 show you the check. It's number P-80 in your notebook.  
18 And Matt will bring it up on the screen.

19 A. P-80?

20 Q. Yes, sir.

21 A. Okay.

22 Q. And today, you told us in your direct examination  
23 that Mr. Buckingham had given you a check, right?

24 A. Yes.

25 Q. And as a matter of fact, that is the check right

1 there for \$850.00 that's been marked P-80, correct?

2 A. That, I couldn't tell you. I don't know.

3 Q. Okay. But he definitely gave you a check, right?

4 A. Oh, yes, uh-huh.

5 Q. And he told you that these were donations that he  
6 had received? That's what you told us in your direct  
7 exam, right?

8 A. Yes.

9 Q. Did he tell you that these donations came from  
10 people at his church?

11 A. No.

12 Q. He didn't tell you that, is that correct?

13 A. Yes.

14 Q. Now, do you remember former board member Larry  
15 Snook asking about the source of the donation of Pandas  
16 at a board meeting in November 2004?

17 A. I believe I do remember that.

18 Q. And Mr. Snook specifically asked the board to say  
19 who gave the Pandas to the school district, correct?

20 A. I believe that's what he said.

21 Q. And nobody from the board provided him with any  
22 information, either that time or any other time, isn't  
23 that right?

24 A. Not that I recall.

25 Q. You didn't provide him with any information, did

1 you? You certainly know that?

2 A. No.

3 Q. And you recall, and we just discussed, your  
4 deposition was taken on January the 3rd. Did you know  
5 that it was taken that day so that the Plaintiffs -- it  
6 was taken pursuant to court order -- so that the  
7 Plaintiffs could decide whether or not to move for a  
8 temporary restraining order. Did you know that at the  
9 time?

10 A. I knew they were taking depositions for a  
11 particular reason.

12 Q. Did you know it was for that particular reason?

13 A. I'm sorry. Could you repeat that?

14 Q. So the Plaintiffs could decide whether to seek a  
15 temporary restraining order to prevent the board from  
16 implementing its policy in January of 2005?

17 A. I believe so.

18 Q. And when Mr. Rothschild at that deposition asked  
19 you about the donation of the books to the school  
20 district, you didn't tell him that you had received any  
21 check from Mr. Buckingham, did you?

22 A. I don't believe so.

23 Q. And you didn't tell him that you had a  
24 conversation with Mr. Buckingham on that subject, did  
25 you?

1 A. That I had a conversation with him?

2 Q. Yes, that you spoke -- that you spoke to Mr.  
3 Buckingham about the donation of this check?

4 A. I don't -- I don't believe so.

5 Q. Well, let's just take a moment to look at your  
6 deposition.

7 A. Okay.

8 Q. Let's go to your January 3rd deposition.

9 A. January 3rd, all right.

10 Q. Yes, sir. Page 13, beginning on line 6. And it  
11 covers a few pages, and so we're going to go through it.  
12 I apologize if it's lengthy, but I think it's important.

13 A. All right.

14 Q. Mr. Rothschild asked you the following questions  
15 and you gave the following answers: Question, Are you  
16 aware that 60 copies of this book were donated to the  
17 school district? Answer, Yes. Question, Who donated  
18 those books to the school district? Answer, I don't  
19 know. Question, You don't know? Answer, No, I don't.  
20 The question again?

21 Question, Who donated those books? Answer, Who  
22 donated the books? They wanted to remain anonymous.

23 Question, Do you know who donated them? Answer, Do I  
24 know the people that donated them? Question, Yes.

25 Answer, I don't know -- I don't know all the people that



1 donated them, no.

2 Question, Do you know any of the people who  
3 donated them? Answer, One. Question, Who was that?  
4 Answer, Donald Bonsell. Question, Who is that? Answer,  
5 He is my father. Question, Do you know the names of  
6 anybody else who donated these books? Answer, No.  
7 Question, How did you become aware that these  
8 individuals, including your father, intended to donate  
9 the books? Answer, Repeat that again.

10 Question, How did you become aware that your  
11 father, as well as other individuals, intended to donate  
12 the Pandas book to the district? Answer, I believe the  
13 offer was made after there was complaints of using  
14 school district money. Question, Using school district  
15 money for what? Answer, To buy the books, I believe.  
16 Question, Who was the offer made to? Answer, I'm not  
17 sure.

18 Question, When was the first time you became  
19 aware of the offer to donate the books? Answer, After  
20 the complaint, the complaint from -- I believe it was  
21 from Barrie Callahan. Question, How did you become  
22 aware of the offer? Answer, I'm not sure of the exact  
23 way I became aware of it. Question, Did your father say  
24 anything to you? Then there's an objection, and the  
25 question was restated.

1 Question, Did your father say anything to you  
2 about his intention to donate books or his offer to  
3 donate books to the school district? Answer, I'm sure  
4 there was something said.

5 Question, This morning I took the deposition of  
6 School Superintendent Nilsen. He testified that you  
7 communicated him to the fact -- to him the fact of this  
8 offer to donate the Pandas books. Is that accurate?  
9 Answer, That I was going to donate the books? Question,  
10 That you communicated to Mr. Nilsen that the offer was  
11 being made. Answer, That is what I am saying. I don't  
12 remember exactly how it came about. That's what I am  
13 saying.

14 Question, Did you communicate to Mr. Nilsen that  
15 an offer was being made to donate Pandas to the  
16 district? Answer, I'm not sure. Question, Do you know  
17 where the Pandas book were purchased from? Answer, No.  
18 I mean, no. Question, Did you contribute any money to  
19 the purchase of the Pandas books that were donated to  
20 the school district? Answer, No.

21 Question, Did you suggest to your father that he  
22 donate the books? Answer, No. Question, did you  
23 request that he donate the books? Answer, No.  
24 Question, Was the first time you heard anything about a  
25 donation when your father told you he intended to do it?

1 Answer, Repeat that again.

2 Question, Was the first time you became aware of  
3 any possible donation when you father told you he  
4 intended to do it? Answer, Well, he wasn't -- I mean,  
5 as far as I know, he wasn't the only person. Question,  
6 You don't know who the other people are? Answer, I  
7 don't know who the other people are.

8 Question, You have never spoken to anybody else  
9 who was involved with the donation? Answer, I don't  
10 know the other people. Question, The only person you  
11 could have spoken to about the books was your father,  
12 correct? Answer, Yes, as far as donating the books. I  
13 guess they offered to pay for the books, and they got  
14 the books, and gave them to the school district.

15 Question, They offered to whom? How was the  
16 offer communicated? Answer, That is what I am saying.  
17 I am trying to think about exactly how it was done. I  
18 don't remember exactly how it was said or done.

19 Was that your testimony on January the 3rd, 2005,  
20 Mr. Bonsell?

21 A. Yes, it was.

22 Q. And you didn't mention anything to Mr. Rothschild  
23 about getting a donation, a check from Mr. Buckingham  
24 for \$850.00, did you?

25 A. No, I didn't.

1 Q. And you understood that he was seeking that  
2 specific information, not that specific information, but  
3 that he asked you questions that should have called for  
4 that information, isn't that correct?

5 A. No, I don't agree with that.

6 Q. Mr. Bonsell, he asked you, Question, The only  
7 person you could have spoken to about the books was your  
8 father, correct? Answer, Yes, as far as donating the  
9 books. I guess they offered to pay for the books and  
10 they got the books and gave them to the school district.  
11 Question, They offered to whom? How was the offer  
12 communicated? Answer, That is what I'm saying. I'm  
13 trying to think of exactly how it was done. I don't  
14 remember exactly how it was said or done.

15 And you didn't provide -- that was the question  
16 and answer. And you did not provide Mr. Rothschild with  
17 any information or tell him in any way that you had  
18 received a check from Mr. Buckingham, correct?

19 A. I didn't receive -- that I didn't receive a check  
20 from Mr. Buckingham? No, I already said, I haven't -- I  
21 did not tell him about me receiving a check from Mr.  
22 Buckingham. But I still, you know, don't believe I  
23 misspoke.

24 Q. Well, Mr. Bonsell --

25 A. I mean, in my opinion.

1 Q. Today, you told us that you recall Mrs.  
2 Buckingham speaking at a board meeting in June of 2004,  
3 correct? Do you remember that?  
4 A. In June 2004?  
5 Q. Yes.  
6 A. Yes.  
7 Q. And you said that she went on for a great length,  
8 and you felt uncomfortable gaveling her down because she  
9 was the wife of a board member, correct?  
10 A. Oh, Mrs. Buckingham, okay.  
11 Q. Yes, Mrs. Buckingham.  
12 A. Yes, yes.  
13 Q. And you said that she probably mentioned  
14 creationism, isn't that right?  
15 A. It's very possible.  
16 Q. And you testified today that her comments were  
17 very religious in nature, isn't that correct?  
18 A. What I can remember now, yes.  
19 Q. Now Mr. Rothschild asked you about this at your  
20 deposition on January 3rd, 2005, and you didn't mention  
21 this either, did you?  
22 A. I don't know.  
23 Q. Do you remember Mr. Rothschild asking you about  
24 that?  
25 A. I don't remember it, no, but --

1 Q. Go to your January 3rd deposition at page 50,  
2 please.  
3 A. Page 50. Okay.  
4 Q. And line 20. And he's referring to a news  
5 article, which we're going to look at in a minute.  
6 Question, After that, there are remarks attributed to  
7 Mr. Buckingham's wife, Charlotte, on the subject of  
8 creationism. Do you remember her saying what is  
9 attributed to her in the article? Answer, I remember  
10 Mrs. Buckingham coming up and talking at public comment,  
11 but I don't remember what she said. Wasn't that your  
12 testimony on January the 3rd?  
13 A. On January the 3rd, it was.  
14 Q. And your testimony is something different today,  
15 isn't it?  
16 A. Only to the extent that I remember more of what  
17 she said then versus now. I mean, I did say that she  
18 did -- I remember her coming up and talking.  
19 Q. Well, let's take a look at what has been marked  
20 as P-54.  
21 A. P-54.  
22 Q. That is a June 15th article, June 15th, 2004,  
23 article from the York Dispatch written by Heidi  
24 Bernhard-Bubb, isn't that correct?  
25 A. Yes.

1 Q. Now you actually were provided that article and  
2 asked to look at the second page, the seventh full  
3 paragraph, the one that says -- Matt, could you  
4 highlight it, the one that begins, his remarks. The one  
5 that says, His remarks were echoed by his wife,  
6 Charlotte Buckingham, who said that teaching evolution  
7 was in direct opposition to God's teaching, and that the  
8 people of Dover could not in good conscience allow the  
9 district to teach anything about creationism, close  
10 quote. Do you see that?  
11 A. Yes, I do.  
12 Q. That's the specific statement that you were asked  
13 to look at your deposition by Mr. Rothschild before you  
14 gave the testimony we just discussed, isn't that  
15 correct?  
16 A. That, I don't know.  
17 Q. Well, take a look again at the deposition. And,  
18 if you begin, and I'm not going to -- if you begin on  
19 page 45?  
20 A. Page 45?  
21 Q. Yes.  
22 A. Okay.  
23 Q. You see on line 8, he's asking you to turn to the  
24 June 15th article in the York Dispatch by Heidi  
25 Bernhard-Bubb, isn't that correct?

1 A. Yes.  
2 Q. And P-54 is a June 15th article in the York  
3 Dispatch by Heidi Bernhard-Bubb. In fact, it's that  
4 same article, isn't that correct?  
5 A. It looks like it is.  
6 Q. And then if you look on page 50, that's what he  
7 was referring to when he says, on line 20, after that,  
8 there are remarks attributed to Mr. Buckingham's wife,  
9 Charlotte, on the subject of creationism. Do you see  
10 that?  
11 A. Okay. Which line is that again?  
12 Q. That is on page 50, line 20.  
13 A. Page 50?  
14 Q. Yes, page 50, line 20.  
15 A. Page 50, line 20. Okay.  
16 Q. That's the exact same article, P-54, that you  
17 were asked to look at your deposition when you gave that  
18 testimony that you didn't recall Mrs. Buckingham saying  
19 anything to that effect or you didn't remember what she  
20 said, correct?  
21 A. Yes. In January, that's what I said, yes.  
22 Q. But the question is, you looked at P-54, that  
23 exact same article, and you read the language that I  
24 read to you from P-54 about what Mrs. Buckingham said at  
25 the June meeting, and that's what you were looking at,

1 and you read just before you gave that testimony at your  
2 deposition, isn't that correct?

3 A. So you're saying, page 50, you asked me to look  
4 at this page?

5 Q. Yes, sir.

6 A. And where does that -- I don't see that on page  
7 50. I see the question, what we already went over a  
8 minute or two ago, but you're saying I was looking at  
9 this page when --

10 Q. Yes, yes, if you look again. Let's go through  
11 this. If you go to page 45 --

12 A. Oh, back to 45. Okay. Continues on through  
13 there?

14 Q. That's right.

15 A. Oh, okay.

16 Q. He's asking you a whole series of questions about  
17 this article.

18 A. Okay.

19 Q. Then if you go to page 50, he says, now this is  
20 on line 15, after that, there is a statement attributed  
21 to Mr. Buckingham that the liberal agenda was chipping  
22 away at the rights of Christians in this country. Do  
23 you know if he made that statement? Answer, I'm not  
24 sure if he said that or not. That was your testimony,  
25 right? Correct, that was your testimony on that date?

1 A. I'm not sure if he said them or not. Okay.

2 That's on 19?

3 Q. Right. That was your testimony, right, on page  
4 50.

5 A. All right.

6 Q. Then the very next thing he says is that, after  
7 that, there were remarks attributed to Mr. Buckingham's  
8 wife on the subject of creationism. Do you see that?

9 A. Yes, I do.

10 Q. Now if you go back to P-54, and you look at the  
11 seventh full paragraph, where it's talking about the  
12 statements by Charlotte Buckingham, all right, do you  
13 see that?

14 A. Okay.

15 Q. If you see the statement, just before that in the  
16 article is about a liberal agenda chipping away at the  
17 rights of Christians in this country?

18 A. Okay. I see that.

19 Q. Okay. Now what I'm asking you is, P-54 and  
20 specifically that statement, seventh full paragraph on  
21 the second page, that's the statement that you looked at  
22 your deposition just before you told Mr. Rothschild that  
23 you couldn't remember anything that Mrs. Buckingham said  
24 at the meeting, isn't that right, Mr. Bonsell?

25 A. That's what I said in January, yes.

1 Q. And that was P-54, you were looking at that time  
2 in that specific statement?

3 A. That's what it appears to be, from what you're  
4 saying. I guess there is no other articles on that  
5 date, so I would imagine that's it.

6 Q. Mr. Bonsell, you testified this morning about  
7 when you ran for the school board in 2001. Do you  
8 recall that?

9 A. Yes.

10 Q. And is it your testimony that you didn't bring up  
11 creationism or school prayer at any time during the  
12 course of running for that office?

13 A. That was nothing that we -- that was nothing that  
14 we ran on, no.

15 Q. And my question is, you didn't bring it up at any  
16 time during the course of running for office, is that  
17 correct?

18 A. In the course of running for office? I don't  
19 believe. No. Say that question again.

20 Q. I'd like to know whether at any time when you ran  
21 for school board in 2001, you brought up the subject of  
22 creationism or school prayer?

23 A. In my running for school board, I don't believe I  
24 did. Not that I recall.

25 Q. We looked at this morning a document. Matt,

1 would you bring it up, P-21, and highlight the first and  
2 second items under Mr. Bonsell's name there.

3 A. I'm sorry. Which number is this?

4 Q. P-21.

5 A. Oh, okay. So just look on the screen here. All  
6 right.

7 Q. If you would like, you can look on the screen or  
8 you can look at the exhibit.

9 A. All right.

10 Q. You talked about this morning, this same document  
11 with a different number on it from your counsel. And is  
12 it your testimony that you did not say or bring up the  
13 subject of creationism at that school board retreat on  
14 January the 9th of 2002?

15 A. Did I say I didn't bring it up?

16 Q. I'm asking you now. Did you mention creationism  
17 at that school board retreat?

18 A. As my testimony earlier, I must have. I must  
19 have brought it up at the board retreat.

20 Q. Do you remember bringing it up?

21 A. I don't remember. There again, I don't remember  
22 what I wish I did, but I don't remember what I said  
23 about it, no.

24 Q. I'm just asking not whether you remember what you  
25 said about it. Do you remember bringing it up at all at

1 that school board retreat?

2 A. I don't remember bringing it up. Like I said,  
3 Dr. Nilsen wrote it down, so I must have said it.

4 Q. If you could take a moment to look at what has  
5 been marked as P-25. Matt, would you please bring that  
6 up? Focus on the third item under Mr. Bonsell's name.

7 Now, Mr. Bonsell, do you see that, the third item  
8 under your name, under what's been marked as P-25, is  
9 creationism again?

10 A. Yes, sir.

11 Q. Do you remember bringing that up at the school  
12 board retreat in March of 2003?

13 A. Again, I don't really remember any of this or,  
14 from my previous testimony, I believe I said, I don't  
15 remember this or any of the other subjects from this or  
16 other board retreats.

17 Q. Do you remember that you had an interest in  
18 creationism when you were a member of the school board  
19 in 2002 and 2003?

20 A. Did I have an interest in it? It might have been  
21 a question about it. But I don't know -- maybe you need  
22 to be more specific.

23 Q. Sure. Matt, would you please bring up Mr.  
24 Gillen's opening statement at page 19? The -- no, the  
25 last full paragraph on page 18 and the first full

1 paragraph on 19, please. I'm sorry. 18 and 19. That's  
2 it. You were here for the opening statement in this  
3 case, weren't you?

4 A. I believe so, yes. Yes.

5 Q. And Mr. Gillen said the following words: Alan  
6 Bonsell is a perfect example. He came to the board  
7 without any background in education of the law, just a  
8 sincere desire to serve his fellow citizens.

9 By virtue of his personal reading, he was aware  
10 of intelligent design theory, and that 300 or so  
11 scientists had signed a statement indicating that  
12 biologists were exaggerating claims for the theory. He  
13 had read about the famous Piltown man hoax. He had an  
14 interest in creationism. He wondered whether it could  
15 be discussed in the classroom. Do you see those words?

16 A. Yes, I do.

17 Q. Now is it true that you had an interest in  
18 creationism, as your counsel said in his opening  
19 statement?

20 A. Well, I have said it twice at two board retreats,  
21 so it must be. That's why I said, it could be as a  
22 question in that, as just like I have testified about  
23 prayer.

24 Q. Well, let's just put aside what was said at the  
25 board retreats and focus on what you remember about your

1 own self during that time period. Do you remember that  
2 you had an interest in creationism with respect to the  
3 Dover public schools in 2002 and 2003?

4 A. Did I have an interest in creationism in the  
5 public schools? I mean, what do you mean by that?

6 Q. I mean, did you think to yourself, gosh, I'd like  
7 to have creationism in the schools or I wonder if I  
8 could have creationism in the school or what would it be  
9 like if we had creationism in the schools or any  
10 thoughts whatsoever, Mr. Bonsell?

11 A. I don't think in that respect. I think more in  
12 the respect of, you know, is it taught? Is it not? Is  
13 it even mentioned? In what -- it's sort of like, you  
14 know, in what way does Dover look at this, if they do?  
15 I mean, I could see something like that.

16 Q. I'm not asking you if you could see something  
17 like that. I'm asking you if you have a memory of  
18 wanting to know how the Dover schools dealt with  
19 creationism?

20 A. That could be.

21 Q. That could be or that is? Either you remember or  
22 you don't, Mr. Bonsell.

23 A. Did I ever have an -- could you ask that one more  
24 time? I'm trying to get an understanding of where  
25 you're coming from with the question. Did I ever have

1 an interest at all in creationism?

2 Q. Yes, sir. And the question is more specific.  
3 Actually, it's in 2002 and 2003, whether you had any  
4 interest in creationism that related to the Dover  
5 schools?

6 A. Probably.

7 Q. That you can recall?

8 A. Probably.

9 Q. Whether it was said or not, whether it was just  
10 in your head and never said?

11 A. Probably.

12 Q. Now I'd like you to take a look at what has been  
13 marked as P-26. And we'll bring that up on the board.  
14 This document is a memo from Trudy Peterman to Mr.

15 Baksa, Mr. Reading, and Mrs. Spahr, isn't that correct?  
16 A. Do you have a number I can look at? It's awful  
17 small.

18 Q. It's P-26 in your notebook. That might be easier  
19 for you to look at. Do you have that in front of you?

20 A. Yes, I do.

21 Q. That's dated April the 1st, 2003?

22 A. April 1st, 2003, yes.

23 Q. Now if you'd look at the last sentence of the  
24 first paragraph. Matt, would you highlight that,  
25 please? That says, Mr. Baksa further stated to Mrs.

1 Spahr on March 31, 2003, that this board member wanted  
2 50 percent of the topic of evolution to involve the  
3 teaching of creationism. Do you see that?

4 A. I see that.

5 Q. And the memo doesn't identify who the board  
6 member is, who wanted it, correct?

7 A. Not in that sentence, no.

8 Q. It doesn't actually anywhere in that whole  
9 paragraph or the letter, isn't that correct?

10 A. I didn't -- do you want me to read it?

11 Q. Well, look at the first paragraph.

12 A. Okay.

13 Q. All right. That doesn't identify who the board  
14 member was who wanted this?

15 A. No. No, it doesn't.

16 Q. Right. Now Mr. Rothschild asked you about this  
17 at your deposition on April 13, and he showed you P-26,  
18 which we just looked at, which is one of the documents  
19 that says creationism next to your name. Excuse me. He  
20 didn't -- not -- it's P-26 in this document. I'm sorry.  
21 He showed you this document at your deposition, and he  
22 asked if you recalled advocating the teaching of  
23 something 50/50 with evolution in or around this time,  
24 April 1, 2003. Do you recall that?

25 A. Can you show it to me, please?

1 Q. Sure. Go to the second -- your second deposition  
2 on April the 13th.

3 A. April 13th one.

4 Q. Beginning on page 45.

5 A. I'm sorry?

6 Q. Beginning on page 45, line 20.

7 A. Line 20.

8 Q. He asked you, and I'll -- did he not -- and my  
9 question to you is, Did you ever, did you personally  
10 ever express that to Mr. Baksa, that you wanted 50  
11 percent of the topic of evolution to involve the  
12 teaching of creationism? Answer, No.

13 Question, Did you ever express to Mr. Baksa or in  
14 Mr. Baksa's presence that you wanted 50 percent of  
15 something else to be taught along with the topic of  
16 evolution? Answer, No, I don't believe so.

17 Do you see that?

18 A. Yes, I do.

19 Q. That was your testimony on that date, right?

20 A. Yes.

21 Q. Mr. Bonsell, that was your testimony on that  
22 date?

23 A. Yes, yes.

24 Q. Now that was before the Defendants produced  
25 either P-21 or P-25, the documents that we just looked

1 at that have creationism next to your name. They  
2 came -- they were produced later in the course of the  
3 litigation, you know that, right?

4 A. P-21?

5 Q. And P-25?

6 A. Oh, the ones you just -- oh, okay, the retreat,  
7 yes.

8 Q. Yes, they were produced after your deposition on  
9 April the 13th, so we couldn't show them to you on that  
10 date, right?

11 A. Yes.

12 Q. And your deposition also occurred -- your  
13 deposition was on, excuse me, the board retreat in March  
14 of 2003 was actually on March the 26th, right? We can  
15 see that by looking at P-25?

16 A. March 26th?

17 Q. Right.

18 A. Yes.

19 Q. And that was less than a week before the date of  
20 the Trudy Peterman memo, which was April 1, right?

21 A. Okay.

22 Q. Isn't that correct?

23 A. April 1st, that would be correct.

24 Q. And your deposition was taken before Mrs.  
25 Callahan located what has been marked as P-641. Can you

1 bring that up, Matt?

2 A. P-641?

3 Q. Right.

4 A. Okay.

5 Q. All right. Now you actually looked at a copy of  
6 that document earlier in your direct examination without  
7 the handwriting on it, isn't that right?

8 A. Yes.

9 Q. Now the handwriting, if you look on the  
10 right-hand side, are two-thirds of the way up or maybe  
11 just a little more than two-thirds of the way up, it has  
12 handwritten, Alan. Am history. Founding fathers.  
13 50/50 evolution versus creationism. And then there's an  
14 arrow that says, does not believe in evolution. Would  
15 you agree that's what that handwriting says?

16 A. Yes, it does.

17 Q. So I've asked you to look at these various  
18 documents, because we didn't have them when we took your  
19 deposition on April the 13th. Now looking at these  
20 documents, can you tell us, were you the board member  
21 who wanted to teach evolution, 50/50 evolution,  
22 creationism, in or around March of 2003?

23 A. No, I don't believe I am.

24 Q. In fact, to the best of your recollection, you've  
25 never talked about creationism at any school board

1 meeting, isn't that correct?

2 A. Any school board meeting? I don't recall it  
3 being discussed. You're talking -- and you're saying,  
4 never said the word in a board meeting or --

5 Q. Yes.

6 A. I just don't recall it in a board meeting.

7 Q. When we asked you about this at your deposition,  
8 you said you never talked about creationism at any  
9 school board meeting. Do you remember that?

10 A. Okay.

11 Q. Is that correct?

12 A. That sounds correct.

13 Q. That's what you told us when we asked you this at  
14 your deposition. You never said creationism at any  
15 school board meeting?

16 A. Okay.

17 Q. Now if these two documents that we've looked at,  
18 the board retreat documents showing the word creationism  
19 next to your name in 2002 and 2003, if they hadn't  
20 turned up, we would never have learned from you that you  
21 had brought up creationism, isn't that correct?

22 A. That is -- I guess that would be true. The thing  
23 is about that, you're asking me about my recollection.  
24 I believe, number 1, is, we brought these papers  
25 forward. And that basically, you know, you're asking me

1 about my recollection. Mrs. Callahan didn't have a  
2 recollection of it. Mrs. Brown, Mr. Brown, the  
3 administrators. The same thing. So --

4 Q. Well, you didn't bring those documents forward  
5 personally, did you? You didn't find those?

6 A. No.

7 Q. Dr. Nilsen found those, correct?

8 A. Correct.

9 Q. He gave them to your counsel, who turned them  
10 over to us?

11 A. That's correct.

12 Q. Now let's talk for just a few minutes about  
13 creationism. Creationism is your personal belief,  
14 right?

15 A. Yes -- well, you want to give me a definition  
16 before I say yes?

17 Q. Well, we asked you this at your deposition, and  
18 you said that your creationism was your personal belief,  
19 isn't that correct? We'll talk about what it means in a  
20 minute.

21 A. Well, that's what I said. I mean, again, I  
22 believe I've also said that everybody's definition of  
23 creationism could be different.

24 Q. Well, we're interested in your definition of  
25 creationism. You believe in creationism, don't you?

1 A. My faith?

2 Q. Yes.

3 A. Yes.

4 Q. And that actually is based on the Bible, on Holy  
5 Scripture, isn't that correct?

6 A. Yes.

7 Q. And one aspect of creationism is that species  
8 exist -- excuse me -- is that species were formed as  
9 they now exist, isn't that right?

10 A. I believe so.

11 Q. And that species, including man, do not share  
12 common ancestors? That's one aspect of creationism, as  
13 you understand it?

14 A. As I understand it. It is my belief.

15 Q. And that means that birds were formed with their  
16 feathers, beaks, and wings, correct?

17 A. Well, that's not in the first parts of Genesis,  
18 but, okay.

19 Q. Well, I recognize that's not in the first parts  
20 of Genesis, but that is part of what you understand to  
21 be creationism, correct?

22 A. That the animals were formed, yes.

23 Q. Well, including specifically birds with their  
24 feathers, beaks, and wings, that they were formed that  
25 way, correct?

1 A. Yes.

2 Q. And that's your personal religious belief?

3 A. Yes.

4 Q. And that fish were formed with their fins and  
5 scales?

6 A. That would probably be true.

7 Q. Again, that is your personal religious belief?

8 A. Yes.

9 Q. And that humans -- and it's also your personal  
10 religious belief that humans -- I would say man, but  
11 that's not politically correct anymore -- that humans  
12 were formed, were created in their present form, right?  
13 That's part of your definition of creationism?

14 A. Yes.

15 Q. Again, that's, with all respect, your personal  
16 religious belief?

17 A. Uh-huh.

18 Q. I'm sorry. You need to say yes or no.

19 A. Yes. I'm sorry.

20 Q. And as part of that, it's part of your personal  
21 religious belief that humans did not evolve from any  
22 other species, correct?

23 A. My religious belief, yes.

24 Q. Now -- and all of those things that we just  
25 discussed are aspects of creationism, correct?

1 A. Okay, yes.

2 Q. Now some people who believe in creationism think  
3 that the Earth is not billions of years old, but only  
4 thousands of years old. Are you familiar with that?

5 A. There are some people that believe that, yes.

6 Q. And then other people who believe in creationism  
7 believe that the Earth is possibly billions of years  
8 old, right?

9 A. I guess there's all sorts of beliefs, yes.

10 Q. Well, specifically, we're talking about beliefs  
11 in creationism. I'd like to know, what's your personal  
12 religious belief on that subject?

13 A. I don't believe that the Earth is billions of  
14 years old. As far as exact time, I can't really say.

15 Q. Do you believe that it's only thousands of years  
16 old?

17 A. I would say, thousands and not billions.

18 Q. Just to be clear, that's your personal religious  
19 belief?

20 A. Yes, yes.

21 Q. Now the theory of evolution teaches, among other  
22 things, that humans evolved from another species, a  
23 lower form of life, and that humans and other species  
24 share a common ancestor. You understand that, that is  
25 one of the things that the theory of evolution teaches?

1 A. I believe, in macro evolution, yes.

2 Q. And that specific aspect of the theory of  
3 evolution is offensive to your personal religious  
4 beliefs, isn't it, Mr. Bonsell?

5 A. Offensive? I don't believe it -- I have my  
6 beliefs.

7 Q. Well, it's inconsistent with your personal  
8 religious beliefs?

9 A. It's inconsistent.

10 Q. Now, Mr. Bonsell, do you believe that evolution  
11 is atheistic?

12 A. Not necessarily.

13 Q. Well, take a moment to look at what has been  
14 marked as P-127. Matt, would you please bring that up,  
15 second page?

16 A. 127?

17 Q. Correct.

18 A. I don't think that's in my book.

19 Q. You know, gosh, it didn't make it into the book.  
20 I can get you a copy of it or you can look on the  
21 screen.

22 A. I'm trying to look. He blew it up a little bit  
23 here. I should be able to read it.

24 Q. Yes. Actually, I want to look at the -- P-127,  
25 this document that we're looking at, this is the

1 February newsletter that the school board sent out?

2 A. Okay.

3 Q. You put together some frequently asked questions?

4 A. Okay.

5 Q. Isn't that right? Do you remember that?

6 A. Yes, uh-huh.

7 Q. You had assistance from the people from the  
8 Thomas More Law Center in putting this together?

9 A. Yes.

10 Q. Now if you go to what we're just looking at, that  
11 one particular frequently asked question, quotes, Are  
12 there religious implications to the theory of ID, end  
13 quotes. Do you see that?

14 A. Yes.

15 Q. And ID is intelligent design?

16 A. Yes, it is.

17 Q. And it says, and I'd like to read it to you, Not  
18 any more so than the religious implications of  
19 Darwinism. Some have said that, before Darwin, we  
20 thought a benevolent God has created us. Biology took  
21 away our status as made in the image of God or man is  
22 the result of a purposeless process that did not have  
23 him in mind. He was not planned. Or Darwinism made it  
24 possible to be an intellectually fulfilled aesthet. Do  
25 you see that?

1 A. Yes, I do.

2 Q. Now are you trying to convey, that P-127, that  
3 passage I just read, trying to convey that evolution has  
4 anti-religious implications?

5 A. Not necessarily. We were basically responding to  
6 what we were hearing out in the public and trying to  
7 respond to different things along that line. We were  
8 saying it was religious implications of ID. That was  
9 one of the main thrusts of the whole thing.

10 Q. I guess what I'd like to know is this. This  
11 is -- not I guess what I'd like to know, I know this is  
12 what I'd like to know. Do you agree with me that the  
13 theory of evolution is religiously neutral, it doesn't  
14 have any implications for the existence of God or any  
15 other deity? It doesn't suggest the non-existence of  
16 God or any other deity. It is religiously neutral. Do  
17 you agree?

18 A. No.

19 Q. You don't agree that evolution is religiously  
20 neutral? You think it has religious implications?

21 A. You could have religious implications with  
22 Darwin.

23 Q. Sure. Well, somebody could draw implications  
24 from anything, but I'm asking you, is standing alone, is  
25 it your understanding that the theory of evolution has

1 no religious or anti-religious implications one way or  
2 another? Do you agree with me on that?

3 A. No, it doesn't have anymore religious  
4 implications than ID.

5 Q. We're not talking about ID right now. We can  
6 talk about that later perhaps. We're talking about  
7 evolution. I just want to know if you agree that  
8 evolution has no religious implications?

9 A. No, I don't agree with that.

10 Q. So you think evolution does have religion  
11 implications?

12 A. It could have religious implications. I mean,  
13 scientists that I've heard here are saying that there's  
14 religious implications in every theory. So, no, I don't  
15 agree that it's neutral.

16 Q. Now, before you said that at some level you had  
17 an interest in creationism in the Dover public schools,  
18 isn't -- do you remember that testimony?

19 A. I'm sorry. Repeat that.

20 Q. Before, we were asking about, talking about your,  
21 the statement, your counsel's opening statement about  
22 your interests in creationism, and you, I believe,  
23 agreed with me that, at some level, in your mind,  
24 perhaps not expressed, you had an interest in  
25 creationism in the Dover public schools. Do you

1 remember that?

2 A. In my mind? I guess I could say yes to that.

3 Q. Did you want to do something to present or teach  
4 or somehow address or involve creationism in the Dover  
5 public schools?

6 A. I have never brought anything forward to put  
7 creationism into the school district in any way, shape,  
8 or form.

9 Q. I'm asking you, not what you did, but I'm asking  
10 you what you thought because --

11 A. What I thought?

12 Q. Yes. Did you ever think that?

13 A. I don't know. Did I ever think about it? Did I  
14 ever think about it? I think about a lot of things.  
15 Did I ever think about it?

16 Q. Let me ask you the question again, Mr. Bonsell.  
17 We've seen two documents that have your name and the  
18 word creationism next to them, and you agree that you  
19 are sure you said them?

20 A. In that with respect, I guess I would say, yes.

21 Q. But you don't remember saying it, and so you --  
22 obviously, it was there, you obviously said it, but you  
23 can't remember anything, but what you said about it, and  
24 I'm asking you now if you remember that you wanted to,  
25 you have no recollection of expressing it, but that you

1 wanted to somehow bring creationism or address  
2 creationism in the Dover public schools?

3 A. No, not in that respect, no. I mean, obviously,  
4 I said it at two board -- said the word at two board  
5 retreats so, obviously, I must have had the word in my  
6 head when I said it, as far as that goes. But I never  
7 brought anything forward about it at all.

8 Q. And again, I'm just, you don't even have any  
9 recollection of a thought process about doing something  
10 within the Dover schools, correct?

11 A. Not that I recall.

12 Q. You testified before in your direct that, in your  
13 view, intelligent design is not creationism?

14 A. Absolutely.

15 Q. And Pandas, the book Of Pandas and People is the  
16 reference source for information about intelligent  
17 design for students in the Dover High School, at least  
18 according to the board's resolution?

19 A. It's a reference book.

20 Q. It's the reference book on intelligent design,  
21 right?

22 A. Yes.

23 Q. And it's for the students in the Dover High  
24 School?

25 A. If they want to look at it.

1 Q. Right. And I'd like to show you -- Matt, if you  
2 could please bring up P-11. And Mr. -- I want to ask  
3 you a couple questions about Pandas. Let me get you a  
4 copy of it. Mr. Bonsell, I've just given you a copy of  
5 the book Of Pandas and People, and it's been marked as  
6 P-11.

7 And I'd like you to go to pages 99 and 100 of  
8 this textbook, which you've been in court for much of  
9 the trial, haven't you?

10 A. A lot of it, yes.

11 Q. Matt, could you bring up -- and actually, we've  
12 highlighted the language that I want you to look at on  
13 page 99 and 100. And it's highlighted on your screen.  
14 It says that, quote, Intelligent design means that  
15 various forms of life began abruptly through an  
16 intelligent agency, with their distinctive features  
17 already intact, fish with fins and scales, birds with  
18 feathers, beaks, and wings, etc. Do you see that?

19 A. I see that, yes.

20 Q. Now would you agree with me that, that's the same  
21 or at least very similar to what you said was one aspect  
22 of creationism?

23 A. It's very similar, but I also have an  
24 understanding from Dr. Behe that he didn't think that  
25 was -- that should have been in there.



1 Q. Now I'd like you to look at the same document, P  
2 -- page 156. Matt, could you please bring that up?  
3 It's on the left column in the middle. It's the  
4 paragraph that begins, This is precisely why a book that  
5 questions -- Mr. Bonsell, I'd like you -- do you have  
6 that page in front of you?

7 A. I have it on the screen there, yes.

8 Q. I'd like to read this paragraph to you. It says,  
9 quote, This is precisely why a book that questions the  
10 Darwinian notion of common descent is so necessary. By  
11 presenting a reasonable alternative to evolution in the  
12 second sense; i.e., common ancestry, Pandas helps  
13 students learn to work with multiple perspectives to  
14 distinguish those perspectives from facts and to guard  
15 themselves against the illusion of knowledge. Do you  
16 see that?

17 A. Yes, I do.

18 Q. And that's consistent with your personal  
19 religious belief that doesn't believe in common ancestry  
20 as taught in the theory of evolution, isn't that  
21 correct?

22 A. It really didn't go into what the alternative is  
23 here in this sentence though. They're saying, by  
24 presenting a reasonable alternative to evolution in the  
25 second sense; i.e., common ancestry. Is that what

1 you're talking about? Or can you give me exactly what,  
2 you know, what it is that I'm supposed to be agreeing to  
3 here?

4 Q. Sure. I'm asking you, Pandas questions the  
5 notion of common descent, isn't that correct? That's  
6 one of the things that Pandas does?

7 A. Well, again, my understanding from listening to  
8 Dr. Behe, that there's, you know, he doesn't have a  
9 problem with common descent, from what I understood. So  
10 I think this could be -- maybe there's some that do and  
11 some that don't.

12 Q. I understand that. But I'm asking you if it's  
13 your understanding that the book, Pandas and People, the  
14 reference source on intelligent design that's provided  
15 to students in the Dover High School, questions the  
16 notion of common descent?

17 A. Well, that, I'm not sure of, because I don't  
18 really see that in that sentence saying that -- it says  
19 there's a reasonable alternative, but it doesn't say  
20 what that is, so I don't know if it's something that  
21 could be part of that or not part of it or what. So I  
22 can't really answer yes or no to that.

23 Q. Well, actually, I'm looking at the first  
24 sentence, the words that say, A book that questions the  
25 Darwinian notion of common descent. Do you see that?

1 A. Questions the notion, okay.

2 Q. Right. That's clearly referring to the book in  
3 question, to Pandas, correct?

4 A. Yes.

5 Q. My question is simply, you agree that the book  
6 Pandas, not Dr. Behe, but the book Pandas questions the  
7 notion of common descent?

8 A. That's what it says there.

9 Q. Again, that's consistent with your religious  
10 personal beliefs?

11 A. Questions the notion of common descent? Yes.

12 Q. Now I'd like to ask you to look at page 92 of  
13 Pandas, the last paragraph in the right column?

14 A. 92.

15 Q. Tell me when you've got that. It's also on the  
16 screen.

17 A. That's even bigger, so it's good.

18 Q. It says, An additional issue concerns the matter  
19 of the Earth's age. While design proponents are in  
20 agreement on the significant observations about the  
21 fossil record, they are divided on the issue of the  
22 Earth's age. Some take the view that the Earth's  
23 history can be compressed into a framework of thousands  
24 of years, while others adhere to the standard old-earth  
25 chronology. In this chapter, we will examine the three

1 features outlined above. Do you see that?

2 A. I see that, yes.

3 Q. I didn't need to read the last sentence. But I  
4 guess what I'm asking you is that, Pandas, to your  
5 knowledge, takes no position on the age of the Earth,  
6 correct?

7 A. I didn't read it cover to cover, but if that's  
8 what you're telling me, yeah, I'll agree with you.

9 Q. I'm asking you if that's your understanding, that  
10 the book Of Pandas and People doesn't take any issue  
11 with the age of the Earth? It doesn't address it one  
12 way or the other?

13 A. I'm not sure.

14 Q. Okay. But in any event, the -- this paragraph  
15 that we're looking at right here says that proponents of  
16 intelligent design have different views on the age of  
17 the Earth, as I just read, correct?

18 A. Yes.

19 Q. And that's consistent with your personal  
20 religious beliefs as well?

21 A. Well, I believe that what it says is that, some  
22 might agree with what I'm saying or what I believe and  
23 some don't that are in that design proponent. So I  
24 don't think that's -- I would then have to say, no, that  
25 isn't correct.

1 Q. Well, you would agree that it's not inconsistent  
2 with your personal religious beliefs?

3 A. Well, yes, it would be, because there is --  
4 they're divided on the issue. So, yes, I would say that  
5 is an inconsistency.

6 Q. So to the extent that Of Pandas and People  
7 teaches that the Earth is really billions of years old  
8 and not thousands of years old, that's inconsistent with  
9 your personal religious beliefs?

10 A. Yes.

11 THE COURT: Mr. Harvey, wherever you see a  
12 logical break point, we can take a break.

13 MR. HARVEY: I just concluded a section,  
14 Your Honor, so this will be perfect right now.

15 THE COURT: That's what I thought. We'll  
16 take a 20 minute recess, and then we'll return with your  
17 cross examination at that point after the recess.

18 (Whereupon, a recess was taken at 2:53 p.m.  
19 and proceedings reconvened at 3:15 p.m.)

20 THE COURT: All right. Mr. Harvey, you may  
21 resume your cross examination.

22 **CROSS EXAMINATION (CONTINUED)**

23 BY MR. HARVEY:

24 Q. Mr. Bonsell, at your deposition, you told us that  
25 you had either read a book or parts of a book or books

1 by William Dembski. Do you remember that?

2 A. Yes.

3 Q. Did you read Intelligent Design, The Bridge  
4 Between Science and Theology by William Dembski with a  
5 forward by Michael Behe?

6 A. Can I see that?

7 Q. Sure.

8 MR. HARVEY: May I approach, Your Honor?

9 THE COURT: You may.

10 THE WITNESS: This doesn't look familiar.

11 BY MR. HARVEY:

12 Q. You don't think you read that book?

13 A. The cover doesn't look familiar, no. They said  
14 Dembski. I believe -- I don't know if I read the whole  
15 book. Just bits -- I mean, parts of the book of a  
16 Dembski book.

17 Q. Did you ever read a book in which Mr. Dembski  
18 said that, quotes, Any view of the sciences that leaves  
19 Christ out of the picture must be seen as fundamentally  
20 deficient?

21 A. No. I remember the bit -- what I can remember, I  
22 believe, of his book, he was talking about how the  
23 scientists were treated that had any other view outside  
24 of Darwin's view, how the scientific community treated  
25 them, their own friends treated them, how they were

1 basically ex-communicated. People that were friends of  
2 his, they wouldn't even look at him anymore.

3 Q. Well, there's another volume called, It's Mere  
4 Creation, Science, Faith, and Intelligent Design. It's  
5 a correction of essays edited by Mr. Dembski with  
6 contributions by Michael Behe and Phillip Johnson, among  
7 others. Is that the book that you are referring to that  
8 you read?

9 A. No, that doesn't look familiar either or sound  
10 familiar.

11 Q. Now putting aside books and talking about  
12 newspapers, you testified that you read the York  
13 Dispatch. You have that actually delivered to your  
14 home, correct?

15 A. Yes.

16 Q. And you, many days, read the York Daily Record as  
17 well, correct?

18 A. Yes.

19 Q. And that was true in June of 2004?

20 A. It probably was, yes.

21 Q. And at your deposition, you told us that you had  
22 read many of the news reports in this case?

23 A. Many of them. I mean, there's been a lot.

24 Q. Do you recall that in June of 2004, the York  
25 papers reported that Mr. Buckingham, who was at that

1 time the head of the curriculum committee, had advocated  
2 at a public meeting in June of 2004 or had said at a  
3 public meeting in June of 2004 that he was concerned  
4 that the Miller Levine textbook recommended by the  
5 teachers and administration was laced with Darwinism?

6 A. Which meeting was that?

7 Q. Any meeting. That it was reported in the June --  
8 in the York papers in June of 2004, that Mr. Buckingham  
9 had said that?

10 A. It sounds -- I testified that I remembered  
11 hearing him say that, yes.

12 Q. Well, putting aside whether you remembered  
13 hearing him. I know you testified that you heard him  
14 say that, but I just want to know, that was reported in  
15 the papers, correct?

16 A. Could you show me what you're talking about?

17 Q. Sure. Take a look at has been marked as P-44.  
18 Do you have that in front of you? Then if you go to the  
19 second page, fourth paragraph?

20 A. Second page?

21 Q. Yes, the second page of P-44. Matt, would you  
22 please bring up the fourth paragraph? It says that,  
23 quotes, Buckingham said, although the book has been  
24 available for review since May 20003, he had just  
25 recently reviewed the book himself and was disturbed the

1 book was laced with Darwinism.

2 A. Okay. I read that. Okay.

3 Q. I just want to know, you knew that was reported

4 in the York papers in June of 2004?

5 A. Okay.

6 Q. Right?

7 A. That's what it says, yes.

8 Q. Okay. And you knew that in June of 2004, the

9 York papers reported that Mr. Buckingham had said that

10 the committee, that's the curriculum committee, would

11 look for a book that presented both creationism and

12 evolution?

13 A. I don't recall that.

14 Q. Okay. And I'm not asking you whether you recall

15 it being said. I'm asking you if you knew that that was

16 reported in the papers at the time?

17 A. Right here at this moment? Can you show it to

18 me?

19 Q. Sure. Why don't you -- Matt, will you please

20 bring up P-45? You can either look on the screen or

21 look in your book at P-45. P-45 is a June 9th article

22 from the York Dispatch written by Heidi Bernhard-Bubb.

23 Do you see that?

24 A. Yes, I do.

25 Q. And if you go to the second page -- I'm sorry,

1 first page, fifth paragraph, second line -- second

2 sentence. I'm sorry. Can you highlight that, Matt?

3 Beginning, Buckingham said. Do you see that?

4 Buckingham said the committee would look for a book that

5 presented both creationism and evolution?

6 A. I see it.

7 Q. You knew that was reported in the papers, in the

8 York papers in June of 2004?

9 A. I mean, I see it here, yes.

10 Q. Well, you got the York Dispatch, didn't you?

11 A. Sure.

12 Q. I mean, there's other York papers that reported.

13 Do we need to look at those or do you remember that you

14 read that?

15 A. I'm just saying, I don't remember off the top of

16 my head reading every report that was made by a

17 newspaper report for, you know. So that's why I'd have

18 to see it. I mean, yes -- I mean, that's what it says,

19 yes.

20 Q. You believe you saw that in June of 2004?

21 A. Probably.

22 Q. Well, just to make sure, let's take a look at

23 P-46. Right. That's also an article dated June the

24 9th, 2004, except this is from the York Daily Record,

25 and it's written by Mr. Maldonado. Fifth paragraph.

1 Matt, could you highlight that, please? It says that,

2 Buckingham and other board members are looking for a

3 book that teaches creationism and evolution. Do you see

4 that?

5 A. I see it.

6 Q. Okay.

7 A. Yes.

8 Q. And you knew that was -- I guess I'm just asking

9 you to remember that you knew that was reported in the

10 York papers in June of 2004?

11 A. Okay. All right.

12 Q. Do you remember that, that it was reported in the

13 York papers?

14 A. Well, again, I can't say I recall every article

15 that was written in both papers and the Sunday paper and

16 everything that I see. I don't remember exactly word

17 for word what was said, but I see that there was one on

18 June 9th, and I agree with that, that was reported.

19 Q. We can look at other articles.

20 A. No.

21 Q. There's no question that you knew in June --

22 THE COURT: Hang on, please. You may

23 proceed.

24 BY MR. HARVEY:

25 Q. Mr. Bonsell, just more generally, you knew, in

1 June of 2004, that the York papers were reporting that

2 the board or some board members wanted creationism?

3 A. That's what they're reporting, yes.

4 Q. You knew that in June of 2004?

5 A. Okay.

6 Q. Is that right?

7 A. Obviously, yes.

8 Q. Okay. And now did you know in June of 2004, that

9 the York papers had reported that Mr. Buckingham had

10 said at a public board meeting, 2000 years ago, a man

11 died on a cross, can't someone take a stand for him, or

12 words to that effect?

13 A. I believe something along those lines, yes.

14 Q. That was reported in the York paper?

15 A. That was reported, yes.

16 Q. And did you know that, do you remember that in

17 June of 2004, it was reported in the York papers that

18 Mr. Buckingham had also said, this country wasn't

19 founded on Muslim beliefs or evolution, it was founded

20 on Christianity, and our children should be taught as

21 such, or words to that effect?

22 A. Probably, yes. Was that at a board meeting?

23 Q. I don't know whether -- I mean, I don't know

24 whether it was at a board meeting or not, but it was

25 reported that Mr. Buckingham had said that publicly?

1 A. Okay.

2 Q. Did you know that?

3 A. Probably.

4 Q. Do you want to take a look at an article?

5 A. Well, that's fine.

6 Q. Go to P-47?

7 A. If you are saying they reported it, I believe  
8 you.

9 Q. Okay. That's all I'm -- I'm just getting to  
10 confirm that you knew that was reported in June of 2004,  
11 right?

12 A. Sure.

13 Q. All right. Now did you know that in June of  
14 2004, the York papers reported that a group called the  
15 Americans -- called Americans United for Separation of  
16 Church and State was considering legal action against  
17 the board if it chose a textbook that included  
18 creationism?

19 A. The question is whether they reported that or  
20 whether it happened?

21 Q. Well, did you know in June of 2004 that the  
22 Americans United for Separation of Church and State --

23 A. I don't recall. That, I don't recall if they did  
24 in June. I know that name came up somewhere along the  
25 line in 2004.

1 Q. Well, take a look at what's been marked again,  
2 back to P-45. Are you at P-45?

3 A. Okay.

4 Q. It's the seventh paragraph, begins with the  
5 words, Robert Boston?

6 A. Yes, I see that, yes.

7 Q. It says, Robert Boston, spokesman for Americans  
8 United for Separation of Church and State, said the  
9 district will be inviting a lawsuit if it chooses a  
10 textbook that teaches creationism. Do you remember that  
11 was reported in June of 2004?

12 A. Okay.

13 Q. Was that a yes?

14 A. I mean, it definitely was reported, yes.

15 Q. If you look at P-54 -- well, yeah, if you look at  
16 P-54, second page, tenth paragraph, again, beginning  
17 with Robert Boston. Are you at that -- tell me when  
18 you're there. It says, Robert Boston, spokesman for  
19 Americans United for Separation of Church and State, has  
20 said that the district will be inviting a lawsuit if it  
21 chooses a textbook that teaches creationism.

22 And then it goes on to say that, Buckingham said  
23 he did not believe the members of the Americans United  
24 know what it means to be American. Do you see that?

25 A. Yes, I do.

1 Q. I'm just trying to get you to remember that in  
2 June of 2004, you knew that Americans United for  
3 Separation of Church and State were talking about  
4 bringing a lawsuit against the board if it talked -- if  
5 it was going to teach or select a textbook that included  
6 creationism. Do you remember that?

7 A. I see it, that was printed. I didn't remember.  
8 You know, I don't remember exact dates, but this is from  
9 that time period, so I say, yes, I see it here.

10 Q. Now you never put anything in writing to any of  
11 the newspapers in June of 2004 or afterwards to say that  
12 anything they reported was incorrect, isn't that true?

13 A. I'm not sure if I ever put anything in writing to  
14 newspapers saying they were inaccurate.

15 Q. Fair enough. And, in fact, you didn't ask the  
16 reporters of the newspapers themselves to correct any  
17 statements that were reported about the board meetings  
18 in June of 2004, did you?

19 A. I'm not sure if I don't recall in the second  
20 meeting saying about inaccuracies in the press at the  
21 board meeting.

22 Q. So you may have said something about inaccuracies  
23 in the press at a board meeting?

24 A. I don't remember exact words, but it's -- that's  
25 what I am thinking, yes.

1 Q. But you never, with respect to any specific  
2 statement, asked the press -- told the press, the York  
3 papers or the reporters, that something was inaccurate?

4 A. Well, if I was reporting about inaccuracies in  
5 the press at the second board meeting in June, it would  
6 have had to do with the first board meeting in June,  
7 which is what this is talking about.

8 Q. You never said anything specific to any members  
9 of the press, the York papers or the reporters?

10 A. I didn't write anything, if that's what you're  
11 asking.

12 Q. You never said anything either, that specifically  
13 you said that --

14 A. Well, I might -- I can't sit here and say, yes,  
15 that is specifically what I said. But I'm saying  
16 inaccuracies at a board meeting, that's probably a  
17 pretty good indication.

18 Q. Mr. Bonsell, you need to let me finish my  
19 question --

20 A. I'm sorry, I'm sorry.

21 Q. -- before you start answering. You did it again.  
22 Just be careful about that. I guess -- I'm just trying  
23 to establish that you never went to the papers and said  
24 that anything specific was inaccurate in any way? You  
25 never said that, isn't that correct?

1 A. I don't -- I never went to anybody or said  
2 anything to anybody? Is that what you're asking?

3 Q. You never went to the papers or the reporters  
4 about the coverage in June of 2004 -- again, you need to  
5 let me finish -- about the coverage in June of 2004 and  
6 said, this statement is incorrect or that statement is  
7 incorrect or there's something specific in there that's  
8 incorrect, did you?

9 A. Again, I believe I had talked about inaccuracies,  
10 but I don't have specific exactly, because I just don't  
11 remember from June of 2004 exactly what I said. But  
12 obviously, when we started talking about intelligent  
13 design and the words started to be interchanged, this  
14 would be a clear example of that.

15 But I can't sit here honestly and say, yes,  
16 absolutely, that's what I talked about. But this would  
17 clearly indicate that that's probably what I was talking  
18 about.

19 Q. But you don't have any memory of saying to the  
20 members of the press that any specific statement or  
21 anything specifically that was reported was inaccurate?  
22 That's all I'm asking you to agree with me on. That's  
23 true, isn't it?

24 A. Again, can you say that one more time, please?

25 Q. You never said to anybody with the York papers

1 that any specific statement was inaccurate, isn't that  
2 true?

3 A. I can't remember that, so I can't say, no, I  
4 didn't.

5 Q. Well, you certainly have no memory of doing that.  
6 That would be a fair statement, wouldn't it?

7 A. The thing is that, it sort of all goes together  
8 because I was saying things to reporters, especially Joe  
9 Maldonado, all the time, at board meetings, after board  
10 meetings. I talked to him on the phone. I talked to,  
11 like I said, numerous editors. But I've never written  
12 them a letter.

13 So, I mean, the thing is, if I was going to write  
14 every time that the media had put in something that  
15 wasn't correct, I wouldn't get anything else done.

16 Q. I understand your testimony on that point, Mr.  
17 Bonsell. I'm just asking you to confirm for me that you  
18 have no memory of ever going to the York papers or their  
19 news reporters with respect to anything that was  
20 reported in June of 2004 and saying, that statement is  
21 wrong, or anything specific in there is incorrect, isn't  
22 that true?

23 A. I guess not -- if you're asking me specifically,  
24 absolutely, that I said that, then I would have to say,  
25 no, I don't.

1 Q. You didn't -- you never did that, correct?

2 A. I'm not saying that. I'm saying, you're asking  
3 me if I have a recollection of that specific thing. No,  
4 I don't have a recollection of that specific thing. But  
5 like I said before, because of what I said at other  
6 meetings, it would lead me to believe that this possibly  
7 could be one of the reasons. But going back to your  
8 question, absolutely, no.

9 Q. Well, can you point to anywhere where you made or  
10 any board member or the administration made a public  
11 statement that, what was reported in the York papers in  
12 June of 2004 was incorrect?

13 A. I -- do you want a specific date? I can't give  
14 you a specific dates. But I can tell you that it was  
15 done at board meetings. I, sitting in that chair, have  
16 specifically said that there are things that were not  
17 reported correctly. I mean, so -- I know I've done it.

18 But if you're asking me specifically, that, I  
19 can't -- I didn't write it down, which dates I said  
20 that, because it was an ongoing thing. Sometimes I said  
21 it to them after the meeting. Sometimes I said it to  
22 them when I was sitting behind the table. So, I mean, I  
23 can't tell you specifically.

24 Q. Well, did you -- going back to where we were just  
25 a minute ago. Did you do that with respect to anything

1 specific that was reported about what happened in the  
2 June meeting? Did you say that, this statement,  
3 creationism was discussed, is wrong? Did you ever say  
4 that to anybody in any public forum that the newspapers  
5 had got that wrong?

6 A. I'm sure at some point I had said about using the  
7 word creationism for intelligent design. But like  
8 again, I can't sit here and tell you what specific date  
9 that I would have said that or if I said it, because  
10 more than likely, I said it more than once. But I'm  
11 sorry, I can't answer your question as a specific date.  
12 I just can't give that to you.

13 Q. Well, it's not -- it's more than a specific date.  
14 You can't even remember what you said specifically,  
15 correct?

16 A. I'm sure I would have said something along the  
17 lines of, the teaching, we're not teaching, because I  
18 said that over and over again. We're making kids aware.  
19 I'm sure that when they say creationism, it's not  
20 creationism, because if I said that once, that  
21 intelligent design is not creationism, I said it a  
22 hundred thousand times, that it's not creationism.

23 So, I mean, I said that in board meetings, out of  
24 board meetings. So, but again, I mean, I said it all  
25 the time.

1 Q. What about Mr. Buckingham's comment that was  
2 reported, 2000 years ago, a man died on a cross, can't  
3 someone take a stand for him? Did you or any other  
4 board member ever say in any public forum that that was  
5 not said?

6 A. I think, in my deposition, I remember him saying  
7 that. But I think it was at a different time period.  
8 So I wouldn't say he didn't say it, because I remember,  
9 but I think it was a different time period.

10 Q. Well, you told us -- that's your testimony, that  
11 it was said at a different time period, it was said in  
12 November 2003, it wasn't said in June 2004. That's your  
13 testimony on that?

14 A. I believe that's what I had said before, yes.

15 Q. All right. But my question -- and you told us  
16 that, as you say, at your deposition?

17 A. I believe that was.

18 Q. But did you ever say it to any -- did you or any  
19 board member of the administration say it before then,  
20 that that was something that was inaccurate, that wasn't  
21 right in the press?

22 A. I don't recall.

23 Q. Now the only statement in writing in response to  
24 what was reported in the press is Mrs. Geesey's letter  
25 to the editor of June the 27th, which has been marked as

1 P-60. Could you please bring that up, Matt? We've got  
2 it blown up on the screen, if that's helpful, too.

3 A. Oh, okay. Thank you.

4 Q. Have you seen this before?

5 A. I think I saw it the other day when I was here at  
6 the hearing.

7 Q. This is a letter, according to Mrs. Geesey, that  
8 she wrote, and that was published in the York Sunday  
9 News on June the 27th of 2004?

10 A. Okay.

11 Q. Right?

12 A. All right.

13 Q. And in here, she is responding to some of the  
14 things that are being said and reported in the papers,  
15 correct?

16 A. I guess so. I believe that's what she had said,  
17 that she was responding to somebody's letter.

18 Q. And the question is, you're not aware of any  
19 board member or the administration ever responding in  
20 writing to anything that was said in the press other  
21 than this letter, correct?

22 A. I mean, about that particular board meeting?  
23 There again, I'm saying, if you're asking me, absolutely  
24 specifically on something, I'd have to say, no. When  
25 did it happen? It happened all the time. Yes. But it

1 wasn't in writing.

2 Q. Okay. Fair enough. So it's your testimony then  
3 that, other than this letter by -- to the editor by Mrs.  
4 Geesey, no board member of the administration ever put  
5 in writing that they disputed anything that was reported  
6 in the York papers in June of 2004, correct?

7 A. Well, yeah. In writing -- well, I shouldn't  
8 speak for everybody. I don't know. I mean, I'm  
9 speaking for myself. I don't know. There could have  
10 been others. I just don't know.

11 Q. So you don't know of any except Mrs. Geesey's  
12 letter in which she talks about creationism, right?

13 A. I don't think -- she's responding to somebody  
14 writing, or another editorial letter, isn't she?

15 Q. Yes, she is.

16 A. She's responding to an editorial letter not about  
17 a board meeting, about an editorial letter, correct?

18 Q. We can take a look at it, if you want.

19 A. No, I'm just asking. I thought that's what you  
20 said. This is a response to an editorial.

21 Q. It was in response to something that was said in  
22 the papers?

23 A. Yeah, in the papers.

24 Q. Why don't we take a look at that?

25 A. Okay. Because I thought it was -- yeah, I

1 remember it from the other day.

2 Q. Please bring up what's been marked as P-56. And  
3 you can turn to it in your notebook as well.

4 A. P-56?

5 Q. Yes.

6 A. Yes.

7 Q. All right. You've had a chance to review that,  
8 haven't you?

9 A. Yes.

10 Q. Now this is a letter from Beth Eveland, one of  
11 the Plaintiffs in this lawsuit?

12 A. Yes.

13 Q. And it was published in the York Sunday News on  
14 June the 20th of 2004?

15 A. Okay.

16 Q. Right?

17 A. Yes.

18 Q. And in it, she's saying that she was very upset  
19 about something she read in Wednesday's York Daily  
20 Record, and the specific thing she mentions is the York  
21 Daily Record's report that Mr. Buckingham had said, this  
22 country wasn't founded on Muslim beliefs or evolution,  
23 this country was founded on Christianity, and our  
24 students should be taught as such. Correct?

25 A. That's what she says here, yes.

1 Q. And then Mrs. Geesey, if you go back to P-60 for  
2 just a minute, is responding to this. All right. Can  
3 you see in the first paragraph, she refers to Ms. -- to  
4 Beth Eveland?

5 A. Yes.

6 Q. Okay. We're making this more complicated than it  
7 needs to be. All I'm saying is, other than Ms. Geesey's  
8 letter to the editor on June the 27th of 2004, in which  
9 she refers to creationism, you're not aware of any board  
10 member or the administration putting in writing that  
11 they -- reacting or responding in any way to the  
12 reporting of the York papers in June of 2004?

13 A. Am I aware of any writing? I would say, no, I'm  
14 not aware of any writing.

15 Q. Okay. And, in fact, the first time that the  
16 board or the administration put in writing that it  
17 disputed anything that was reported in June of 2004 was  
18 when it submitted its answer to the complaint in this  
19 litigation on January the 3rd, 2005, seven months later,  
20 isn't that right, Mr. Bonsell?

21 A. No. I believe there was something -- we had put  
22 those responses in the -- at the website.

23 Q. You're referring to -- Matt, why don't you please  
24 bring up P-104. This is the document you're referring  
25 to that was put up on the website?

1 A. That and the interim one that was before this.

2 Q. Well, this says, the interim one was on October  
3 19th, correct?

4 A. I'm not sure of the date. It was before this  
5 one.

6 Q. I believe they're exactly the same, correct?

7 A. No, the smaller, little, the little one that was  
8 put on the website, that was put on our website.

9 Q. Matt, if you would highlight the second paragraph  
10 of this. This paragraph was the same both in the first  
11 version of what was put in the press release and the  
12 second version of what was put in the press release in  
13 November, right?

14 A. No. What I'm talking about, there's another  
15 smaller one that was one that we put out right after, I  
16 think, right after, before this one, the one that we had  
17 gone over earlier.

18 MR. HARVEY: Can I approach, Your Honor?

19 THE COURT: You may.

20 BY MR. HARVEY:

21 Q. Are you referring to what has been marked as  
22 Defendants' Exhibit 83?

23 A. Yes.

24 Q. That's a memo from you to Mr. -- to Dr. Nilsen,  
25 dated November the 12th of 2004?

1 A. Yes, that's a memo. But I believe that was  
2 placed on -- I believe -- I'm pretty sure that was  
3 placed on the website, on our website.

4 Q. Please read it for us.

5 A. Read it to you?

6 Q. Yeah, sure the substance of it.

7 A. The Dover Area School District is in the process  
8 of forming a fair and balanced science curriculum. We  
9 are not, underlined, teaching religion. To keep our  
10 residents informed and to clear up any misconception  
11 that they may have concerning this matter, in the next  
12 few weeks we'll be issuing an informational statement on  
13 this subject.

14 Q. That was the first thing that you put in writing  
15 on that subject, right?

16 A. Probably -- after it was -- because this was  
17 before anything was ever passed. This is after it was  
18 passed.

19 Q. Sure. And that's not referring to anything that  
20 was inaccurate in the reporting in the York papers in  
21 June --

22 A. Well, I think there's -- when you say, we are not  
23 teaching religion, that is in direct response to what  
24 has been said in the public up until that time.

25 Q. Okay.

1 A. So there wouldn't be any reason to put that in  
2 there unless there was a misunderstanding.

3 Q. Well, you're not -- that doesn't say anything  
4 about the fact that board members discussed creationism,  
5 as reported in the papers, right?

6 A. But where did Mrs. Eveland get her -- she lived  
7 in York Township at the time. She didn't even live in  
8 Dover.

9 Q. I'm sorry?

10 A. I said, Mrs. Eveland, in this letter here, says  
11 she lives in York Township.

12 Q. What I'm saying to you is, your November the 12th  
13 memo to Dr. Nilsen, which you say was put on the  
14 website, doesn't in any way say, the board didn't  
15 discuss creationism in June of 2004, as reported in the  
16 papers, does it? It doesn't say that or anything like  
17 that?

18 A. Well, it doesn't say that, but it says, we are  
19 not teaching religion. If we would have been discussing  
20 putting creationism in the schools and teaching it, then  
21 you would have been teaching religion. So we are not  
22 teaching religion.

23 Q. That doesn't in any way -- Mr. Bonsell, that  
24 doesn't in any way respond to the very specific reports  
25 that were in the paper in June of 2004 about the board

1 discussing creationism, does it?

2 A. No. In that respect, no.

3 Q. It doesn't respond to the reports in the York  
4 papers in June of 2004 that Mr. Buckingham had said at a  
5 public meeting, 2000 years ago, a man died on a cross,  
6 can't someone take a stand for him? It doesn't respond  
7 to that specifically in any way, does it?

8 A. It doesn't respond to that specifically, but in  
9 general, I believe it does.

10 Q. And it doesn't respond specifically in any way to  
11 the reports in the press that Mr. Buckingham had said in  
12 June of 2004 that, this country wasn't founded on Muslim  
13 beliefs or evolution, this country was founded on  
14 Christianity, and our children should be taught as such,  
15 right? It doesn't respond to that specifically, does  
16 it?

17 A. Specifically? No.

18 Q. And then if we look at your press release that  
19 came out on the 19th of November -- we've blown up the  
20 language there. There is reports -- there is something  
21 in there that says, quotes, Some statements and opinions  
22 from the media, community members, and board members  
23 which are completely inaccurate or false have been  
24 assumed to be official district policy or curriculum  
25 procedure. And then it goes on to say, The following is

1 the actual chronology of the district vows and  
2 curriculum development process and implementation,  
3 right?

4 A. Okay.

5 Q. And in that, you're suggesting that the media  
6 reporting was incorrect, right?

7 A. It says, Some statements and opinions from the  
8 media, community members, and board members --  
9 statements and opinions from the community, media,  
10 community members, board members, which are completely  
11 inaccurate or false have been assumed to be official  
12 board policy. Yes.

13 Q. And that's five months after the reporting in the  
14 June York papers, right? Five months later,  
15 approximately?

16 A. Yes.

17 Q. And again, that doesn't say anything in there  
18 specifically in response to the reports that board  
19 members were discussing creationism or the other things  
20 that I mentioned to you just a minute ago, does it?

21 A. Not specifically, but it does mention statements  
22 from the media.

23 Q. Okay. And then, in fact, the first time that the  
24 board or the school district or the administration in  
25 any way specifically disputed in writing what was

1 published in the York papers in June was at the time of  
2 the answer, right?

3 A. At the time of the answer?

4 Q. Matt, can you bring up a side-by-side of  
5 paragraph 29 of the complaint and paragraph 29 in the  
6 answer?

7 MR. GILLEN: Your Honor, at this time I  
8 would respectfully interpose an objection on the theory  
9 that this examination is cumulative. Mr. Bonsell has  
10 testified that he didn't put anything in writing. He  
11 said that his complaints were verbal. And we're going  
12 over it numerous times now. I don't see the point of  
13 the cumulative examination. I think the point has been  
14 elicited.

15 MR. HARVEY: Your Honor, if either counsel  
16 or the witness will agree with me that no one disputed  
17 those specific reports in the June York papers until the  
18 answer in this case on January 3rd, 2003, I'll move on.

19 MR. GILLEN: Specifically in writing, he's  
20 been asked that question several times, and he said he  
21 didn't put anything in writing.

22 THE COURT: I take that as a yes. Why don't  
23 you move on.

24 MR. HARVEY: Okay.

25 BY MR. HARVEY:

1 Q. Now you were deposed on January 3rd, 2003, right?

2 A. Yes.

3 Q. And did you know, that's the same day that your  
4 counsel submitted the answer in this case?

5 A. I don't recall that.

6 Q. And when you were deposed, you denied that  
7 creationism had been discussed at the June board  
8 meetings, right? Do you remember that?

9 A. Can you show me that?

10 Q. Sure. Please go to your January 3rd deposition,  
11 page 45, line 22. You were shown an article, and then  
12 Mr. Rothschild asked you the following question, and you  
13 gave the following answers: Quote, Does this article  
14 accurately report that creationism was being debated at  
15 school board meetings? Answer, Absolutely not.

16 Question, There was no discussion about  
17 creationism? Answer, No. Question, So as we look  
18 through these articles, this uninterrupted series of  
19 articles about June meetings that talk about creationism  
20 being debated at the school board meetings and  
21 statements made by school board members, including  
22 yourself, about creationism, all of those are just  
23 fabricated? Answer, Fabricated?

24 Question, Yes, fabricated. Answer, Fabricated?  
25 You mean, she just made them up -- all up, is that what



1 you mean? Question, There are a lot of statements in  
2 here about people talking about creationism. I think  
3 you are suggesting to me it never happened. Answer, All  
4 this debate about creationism, yes, that never did  
5 happen. It was not a debate about creationism.

6 A. Okay.

7 Q. Then if you go over to page 48, line 19 to 22.  
8 Do you have that in front of you?

9 A. Page 48, 19, yes.

10 Q. Question, So you can't remember anything he said  
11 about it, but you are sure all this discussion about  
12 creationism is just made up? Answer, I am sure about  
13 that. I mean, you have to ask Mr. Buckingham what he  
14 said.

15 That was your testimony, wasn't it?

16 A. Yes.

17 Q. So on January 1st, you told us that the  
18 discussions, the reports in the paper about discussions  
19 of creationism were just made up, correct?

20 A. That's basically what I said.

21 Q. Okay. And also that day, you also said that you  
22 didn't know when Mr. Buckingham made the statement  
23 about, 2000 years ago, a man died on a cross, or at  
24 least you couldn't remember. Do you remember that  
25 testimony?

1 A. Can you show me that?

2 Q. Do you remember your testimony?

3 A. I would like to see it.

4 Q. Sure. Let's go to page 48 of your deposition.

5 A. Same page, okay.

6 Q. Line 24. Question, If you could go down -- if  
7 you could go to the next page of that article, four full  
8 paragraphs down, a statement is attributed to Mr.  
9 Buckingham, nearly 2000 years ago, someone died on a  
10 cross for us, shouldn't we have the courage to stand up  
11 for him? Did Mr. Buckingham make that statement?  
12 Answer, I'm not sure he said that. I'm not sure he said  
13 that at this meeting.

14 Question, Do you recall him saying, making that  
15 statement at any school board meeting? It is a pretty  
16 powerful statement to say at a school board meeting.  
17 Answer, I don't think it has to do with what we are  
18 talking about, not.

19 Question, Do you think he made that statement at  
20 a meeting? Answer, I'm not positive. I think he said  
21 something along those lines, but I don't believe it was  
22 -- it had to do with this. What do you believe it had  
23 -- Question, What do you believe it had to do with?  
24 Answer, There was a year ago, before this, there was  
25 another discussion on the pledge, but this was the year

1 before.

2 Question, You think he made a statement along  
3 those lines regarding the pledge? Answer, To be honest,  
4 I'm not sure when he said it or if it is -- if this is  
5 exactly what he said. I'm just not sure.

6 Isn't that right?

7 A. Yes.

8 Q. And that day, you also said you weren't aware of  
9 Mr. Buckingham ever saying, this country wasn't founded  
10 on Muslim beliefs or evolution, right?

11 A. Well, going back to this last thing, it says, I  
12 thought it was -- had a discussion to do with the  
13 pledge, which was a year before. So I believe that's  
14 consistent with what I am, you know, thinking, you know,  
15 what I said now.

16 Q. Well, you also said then that you just weren't  
17 sure?

18 A. Well, I'm not sure. The thing is, basically, on  
19 something like this, this was January 3rd, you know, I  
20 come into a deposition like this. I've been reliving  
21 this whole thing. I've been coming to almost all these  
22 meetings. And some things, I mean, recollections do  
23 come back on some issues. I mean, I wish everything  
24 would come back, but it doesn't. But, I mean, this is  
25 pretty much along the lines of what I'm saying now.

1 Q. All right. So just to clarify. At the time you  
2 said, it was -- you thought that it was, it happened in  
3 2003, but you weren't exactly sure, and today you're  
4 saying you're pretty sure it was said in 2003, not in  
5 June of 2004, right?

6 A. Yes, that -- that's basically, yes.

7 Q. Now let's talk about the October 18th board  
8 meeting, Mr. Bonsell. That's the meeting at which the  
9 board adopted the resolution that's at issue in this  
10 case?

11 A. Yes.

12 Q. Do you remember Heather Geesey stating at that  
13 board meeting that somebody might be fired?

14 A. Yes.

15 Q. Tell us what you remember about that.

16 A. What I can recall about that was is, there was  
17 talk about, I guess, a lawsuits, or something along  
18 those lines. And from our understanding was, is that  
19 what we were doing was legal per our attorney. There  
20 was nothing unconstitutional about it.

21 And she basically, I think -- somewhere in the  
22 conversation, she basically said, you know, well, more  
23 or less, they better be giving us right information, and  
24 if not, if we get sued, we should fire our attorney.

25 Q. Right. And then the paper reported the next day

1 that Mrs. Geesey had said something about firing the  
2 teachers, right?

3 A. That wasn't correct.

4 Q. Right, but that's what the paper reported the  
5 next day, right?

6 A. Well, I believe so. If you can show it to me,  
7 that's fine. But I'll take your word for it, if that's  
8 what you're saying.

9 Q. Well, take a look at P-797. And Matt, if you  
10 could please bring that up, the second full paragraph in  
11 the right-hand column. It's on the screen in front of  
12 you as well, Mr. Bonsell. It says, if they -- quotes,  
13 If they requested Stock and Leader, they, the faculty,  
14 should be fired, said board member Heather Geesey. They  
15 agreed to the book and the changes in curriculum. Do  
16 you see that?

17 A. I see it, yes.

18 Q. At least what the paper is saying is that Ms.  
19 Geesey said the faculty should be fired, right? That's  
20 what the paper said, right?

21 A. That's what the paper said, but that's incorrect.

22 Q. Actually, if it were correct, and I'm not asking  
23 you to agree that it's correct, but if it were correct,  
24 that would be a very serious thing for a board member to  
25 threaten to fire teachers at a board meeting, correct?

1 A. To fire teachers at a board meeting? Yeah, I  
2 guess so.

3 Q. Well, if you are talking about firing teachers --

4 A. You don't -- well --

5 Q. That's a pretty serious things?

6 A. You don't make flip remarks like that, no.

7 Q. Excuse me?

8 A. You wouldn't make a remark like that probably,  
9 no.

10 Q. That's right. That would be a very serious thing  
11 if you said it, right?

12 A. That would be a very serious thing? In what way  
13 do you mean?

14 Q. If I was talking about -- if I was a board  
15 member, and I was talking about firing teachers, that  
16 would be a very serious thing, isn't that true?

17 A. I would agree.

18 Q. And, in fact, Mrs. Geesey was very concerned  
19 about this, this report in the paper, and she contacted  
20 Dr. Nilsen the very next day, didn't she?

21 A. I believe that's correct.

22 Q. And were you here for Dr. Nilsen's testimony on  
23 that point?

24 A. I don't know if I -- I wasn't here for all of Dr.  
25 Nilsen's testimony.

1 Q. Matt, can you please pull up Dr. Nilsen's  
2 testimony on October the 20th in the afternoon, page  
3 113. Mr. Bonsell, I actually have a copy of the  
4 testimony, if it would be easier for you to read it?

5 A. I think I can read it. He expanded it a little  
6 bit. I believe I should be able to read it. Thank you.

7 Q. All right. Now if you look on line, it looks  
8 like, 11. Question, Okay. Did Mrs. Geesey ever ask you  
9 to do anything as a result of the controversy  
10 surrounding her comment? Answer, Yes. The next  
11 morning, the paper reported that she had recommended  
12 firing the teachers.

13 And she immediately contacted me and told me that  
14 she was -- that that was -- that that was obviously not  
15 what she had said, and I agreed with her, and she did  
16 two things.

17 One, she sent me an e-mail explaining her  
18 position and asked me to forward that throughout all of  
19 the teachers, stating on her behalf that, or in her  
20 words, that that was not what she had intended and, in  
21 fact, that she liked all the teachers and supported the  
22 teachers.

23 Secondly, to prove that that was not what she had  
24 said, she requested that I develop a verbatim transcript  
25 of the October 18 meeting concerning the issues of -- or

1 the area of curriculum. Did I read that correctly?

2 A. Yes, I believe you have.

3 Q. You were here for that testimony, weren't you?

4 A. No. No, that's why I said, I don't remember  
5 this.

6 Q. Well, you know that's what happened, right, or at  
7 least you know now?

8 A. I know now.

9 Q. Now as it turns out, we can't check to see what  
10 Mrs. Geesey actually said at that meeting because,  
11 according to Dr. Nilsen, that part of the tape -- that  
12 part of the meeting was not taped, right?

13 A. By accident, yes.

14 Q. And Dr. Nilsen testified that the tapes were only  
15 kept until the minutes were approved, do you remember  
16 that, or did you know that?

17 A. I believe we had a letter from Denise Russell,  
18 who was the business manager for 10 years, and basically  
19 said that's what was basically the policy.

20 Q. That was your understanding. The board -- the  
21 tapes of the board meetings were kept until the minutes  
22 were approved, right?

23 A. I believe so, yes.

24 Q. And actually, were you here for Mrs. Callahan's  
25 testimony?

1 A. Some of it, I believe, yes.

2 Q. She testified that the -- she thought the tapes  
3 were kept for like six months. Do you remember that?

4 A. Well, now that you say that, I believe she did  
5 say that, but that's not -- that wasn't correct.

6 Q. Right. It's your testimony, they were only kept  
7 until the minutes were approved, right?

8 A. Up until the point of these lawsuits, yes.

9 Q. And that's always been your understanding. You  
10 don't agree with Mrs. Callahan, right?

11 A. Well, we have a letter stating as such, that she  
12 isn't correct, from Denise Miller, who has,  
13 unfortunately, passed away, but she was the business  
14 manager and board secretary from 1995 up until her time  
15 when she left the school district.

16 Q. Do you know when the minutes of the June 7th and  
17 June 14th board meetings were approved?

18 A. I'm not positive. Usually, it's the next, you  
19 know, the next month. But I'm not, you know -- I don't  
20 know off the top of my head a date.

21 Q. Let me show you the minutes. Matt, can you bring  
22 up P-63, the minutes of the meeting on July the 12th.  
23 And I'll ask you to highlight the section on approval of  
24 minutes. P-63 is the minutes of the July 12th, 2004,  
25 board meeting, right, Mr. Bonsell?

1 A. That's what it says, yes.

2 Q. And under approval of minutes, it says, quote,  
3 Motion by Mrs. Harkins, seconded by Mr. Weinrich, that  
4 the school board approve the minutes of June 7, 2004,  
5 and June 14, 2004, motion adopted by a vote of nine yes,  
6 and zero no. Do you see that?

7 A. Yes, I do.

8 Q. And that means then that the tapes for the board  
9 meetings on June the 7th and June 14th would have been  
10 in existence, at least as of the date of these minutes,  
11 which is July the 12th, 2004?

12 A. It would appear that that would be the case.

13 Q. And if you or any other board member or the  
14 administration had wanted to dispute anything that was  
15 reported in the York papers in June of 2004, as of July  
16 the 12th, you could have gone to the tapes and made a  
17 verbatim transcript to prove that you didn't say it,  
18 just like Mrs. Geesey did when she disagreed with  
19 something in the press, isn't that correct?

20 A. I guess you could have.

21 Q. Now you knew that this issue of what was said at  
22 the board meetings was going to be an issue, at least as  
23 of August 27th, 2004, at the board curriculum meeting  
24 that date, right?

25 A. The board curriculum meeting, yes.

1 Q. Because --

2 A. Well, that's when we met with the science  
3 teachers.

4 Q. Right. Take a look at what's been marked as  
5 P-70. Do you see that? That's an e-mail from Steven  
6 Russell, who is an attorney with Stock and Leader, to  
7 Dr. Nilsen, dated August the 26th, 2004?

8 A. Yes.

9 Q. And you received this e-mail at a curriculum  
10 meeting on the 27th of August, 2004?

11 A. I believe. I'm not positive on that.

12 Q. Were you here when Dr. Nilsen testified that you  
13 did receive it?

14 A. No.

15 Q. Well, look at the bottom, the fourth sentence  
16 from the end and the third sentence from the end. Matt,  
17 if you would highlight those beginning with the words,  
18 my concern for Dover. And that says, quotes, My concern  
19 for Dover is that, in the last several years, there has  
20 been a lot of discussion, news print, etc., for putting  
21 religion back in the schools. In my mind, this would  
22 add weight to a lawsuit seeking to enjoin whatever the  
23 practice might be, close quotes. Do you see that?

24 A. Yes, I do.

25 Q. You saw that on or around August the 27th, 2004?

1 A. I must have.

2 Q. So you knew that these reports that had been in  
3 the papers was going to be a very serious matter for the  
4 board in this lawsuit, didn't you?

5 A. Well, if that's what would happen, that we would  
6 have to address it.

7 Q. Now is it still your testimony that the  
8 discussion of the creationism at the June board meetings  
9 was just made up by the local papers?

10 A. Like I said before in my testimony, I don't  
11 recall it being discussed, no.

12 Q. Well, at your deposition, you said that it was  
13 just made up, right?

14 A. I'm not sure if that's what I said, it was made  
15 up.

16 Q. Should we go back there?

17 A. Yeah, let's go back.

18 Q. Your January 3rd deposition, page 48?

19 A. Page 48, okay.

20 Q. Lines 19 to 22. Tell me when you're there,  
21 please.

22 A. 48, 19. Yes, I'm there.

23 Q. The question was, So you can't remember anything  
24 he said about it, but you are sure all this discussion  
25 about creationism is just made up? Answer, I am sure

1 about that.

2 Do you see that?

3 A. Yes, I do.

4 Q. So is it still your testimony that the discussion  
5 of the reports about creationism in the York papers in  
6 June of 2004 was made up?

7 A. I believe so, because that's when -- I believe  
8 the first meeting is when we started to discussing -- ID  
9 came up.

10 Q. So you believe that two reporters who wrote the  
11 reports, Ms. Bernhard-Bubb and Mr. Maldonado, made it  
12 all up? Is that your testimony?

13 A. Well, made up, maybe that's a -- but interchange  
14 words. I guess that could be the same thing as made up.  
15 But, I mean, Mrs. Bubb and Mr. Maldonado usually sat  
16 together.

17 Q. Were you here the other day when Mr. Baksa  
18 testified, and he said he heard the word creationism at  
19 the June meetings?

20 A. No.

21 Q. If Mr. Baksa testified that he heard creationism  
22 at the June board meetings, is he making it up, too?

23 A. No.

24 Q. Now were you here when Bertha Spahr testified  
25 that she heard the word -- Mr. Buckingham say, 2000

1 years ago, a man died on a cross, can't someone take a  
2 stand for him, in June of 2004?

3 A. I was here for that. I'm not exactly sure --  
4 but, okay.

5 Q. Do you remember that she -- do you remember that  
6 she testified that she had heard that in June of 2004?

7 A. I don't remember her saying that, but if you're  
8 saying that's what she said, okay.

9 Q. Well, do you think --

10 A. Like I said, I was here. I just don't remember  
11 her -- that particular testimony.

12 Q. Why would the press make up that statement and  
13 claim that something that was said in November of 2003  
14 was said in June of 2004? Why would they do that?

15 A. I don't know.

16 Q. Mrs. Spahr wouldn't lie about that, would she?

17 A. I wouldn't say she would.

18 Q. If the news -- if the press is so prone to  
19 exaggerating or not getting it correct, then why do you  
20 keep making statements to them, including statements  
21 during the course of this lawsuit?

22 A. In the course of this lawsuit? Basically in the  
23 hopes that some of the truth will get out to what's  
24 going on, on our side.

25 I mean, in the newspaper, in particular, I've

1 noticed that, in one time in particular, I was just  
2 curious, and I measured -- you know, they did a whole  
3 report on one of the days of the trial. And they always  
4 say, you know, they say, oh, fair and balanced and all  
5 that. And I just -- I had to do that.

6 I measured the lines of print that were on the  
7 subject. And I believe there was 40 inches of print  
8 about the day, the day's witness. And 37 and a half  
9 inches were the Plaintiffs' attorneys and 2 and a half  
10 inches were about our attorneys.

11 Q. You don't deny that you and Mr. Thompson have  
12 been standing on the front of the courthouse steps  
13 making statements about this case, do you, Mr. Bonsell?

14 A. I do that occasionally, yes.

15 Q. Now you're familiar with the Discovery Institute?

16 A. Yes.

17 Q. And the Discovery Institute actually came to the  
18 Dover School Board and made a presentation in executive  
19 session prior to the October 18th board meeting, isn't  
20 that correct?

21 A. Legal, yes.

22 Q. Right, but two gentlemen from the Discovery  
23 Institute in Seattle, Washington, came to the Dover  
24 School Board and made a legal presentation at some time  
25 prior to the October 18th board resolution, correct?

1 A. I believe it had to do with legal matters, yes.

2 Q. Now would you agree with me that, with the  
3 exception of the presentation that was made to the board  
4 by the Discovery Institute, which was, as you say,  
5 legal, no one made any presentation to the board about  
6 intelligent design or the subject of the October 18th  
7 resolution?

8 A. No one made a presentation about intelligent  
9 design, and what was the last section?

10 Q. Or the subject of the October 18th resolution?

11 A. Or the subject --

12 Q. The October 18th resolution. Nobody came in and  
13 said, here's why you should -- made a presentation, and  
14 said, here's why you should pass this October 18th  
15 resolution?

16 A. Not that I recall, no.

17 Q. And you never, yourself, spoke to the board about  
18 why they should support the resolution, did you?

19 A. Spoke to the board about it? I'm sure there was  
20 a -- I'm sure there was discussions about it, but I  
21 don't know specifically, no. Not specifically.

22 Q. And you're not aware that anyone provided any  
23 materials to the board about intelligent design to help  
24 them make their decision about the October 18th  
25 resolution, are you?

1 A. Any materials?

2 Q. Yes.

3 A. I guess the discussions, and the book and the  
4 videos were there.

5 Q. You're not aware that any members, that they were  
6 provided to the members of the board, were you?

7 A. That, I don't know.

8 Q. They were generally available, correct?

9 A. Yes.

10 Q. But you don't know that they were provided to the  
11 board, right?

12 A. I think they were made available, but you'd have  
13 to ask each person if they looked at it. I don't know.

14 Q. You're not aware that either you or any member of  
15 the board or the administration contacted the National  
16 Academy of Sciences or the American Association for the  
17 Advancement of Sciences or the American Biology -- the  
18 Federation of Biology Teachers or any other organization  
19 to find out about intelligent design or evolution in  
20 helping you make your decision on October 18th, isn't  
21 that correct?

22 A. No, but I don't know if we've ever done that with  
23 any other form of curriculum either.

24 Q. Now when you passed that resolution on October  
25 18th, 2004, you had actually been working, according to

1 you, you had been working on that subject for  
2 approximately six months, isn't that correct?

3 A. Well, give or take -- I mean, it was a few months  
4 that we had been working on it, yes. Well, it was four  
5 to six months, something along those lines.

6 Q. Well, it included the June board meetings, right?

7 A. Yeah.

8 Q. Yes?

9 A. Yes.

10 Q. You testified in your direct examination that you  
11 had a meeting with the teachers in the fall of 2003?

12 A. Yes.

13 Q. And at that meeting, you learned that the biology  
14 teachers did not teach common ancestry in the Dover  
15 biology class in high school, correct?

16 A. They didn't teach macro evolution.

17 Q. Right. By that, you mean, they didn't teach  
18 common ancestry?

19 A. I guess that's part of it.

20 Q. And, in fact, you learned that they only taught  
21 evolution within a species or what you call micro  
22 evolution?

23 A. Well, micro evolution, adaptation over time, that  
24 type of thing, yes.

25 Q. Change within a species?

1 A. Yes, you could say it that way.

2 Q. And that was good news for you, because you don't  
3 have any problem with teaching -- as a personal, as a  
4 matter of your personal religious beliefs, you don't  
5 have any problem with change within a species, do you?

6 A. No.

7 Q. And as we discussed earlier, macro evolution is  
8 inconsistent with your personal religious beliefs?

9 A. In which respect are you talking?

10 Q. Well, common ancestry?

11 A. Common ancestry? (Witness nodded head  
12 affirmatively.)

13 Q. The idea that one species, over a very long  
14 period of time, could give rise to another species,  
15 that's inconsistent with your personal religious  
16 beliefs?

17 A. Yes.

18 Q. Dr. Nilsen testified that Mrs. Harkins designated  
19 you as the board member assigned to check out the Thomas  
20 More Law Center at the time that the board agreed to  
21 have the Thomas More Law Center as its counsel in this  
22 litigation. Were you here for that testimony?

23 A. No.

24 Q. Is it true that Mrs. Harkins assigned you to  
25 check out the Thomas More Law Center?

1 A. I talked to numerous attorneys, because we had  
2 offers from many attorneys.

3 Q. And the board engaged Thomas More Law Center to  
4 be its counsel in December of 2004, right?

5 A. I believe that's correct.

6 Q. You checked out the Thomas More Law Center on its  
7 website, among other things, right?

8 A. And talked and spoken with them.

9 Q. You spoke with people from the Thomas More Law  
10 Center, right?

11 A. Yes.

12 Q. You checked out their website?

13 A. I believe so.

14 Q. Well, and you knew -- actually, you knew --  
15 strike that. I'm going to ask, please pull up P-134,  
16 and you can turn to that. Can you bring that up so we  
17 can see it, Matt? This is from the website of the  
18 Thomas More Law Center, and it's printed out on December  
19 the 20th of 2004.

20 Matt, if you can go to the right-hand corner so  
21 we can see that. Down in the lower right-hand corner,  
22 it's a little cut off by the sticker, but you can see  
23 right there. It says 12/20/2004. Do you see that?

24 A. I'm sorry?

25 Q. I'm just pointing out to you that this, which was

1 used at the depositions on January the 3rd of 2005, was  
2 actually printed off the website on December the 20th of  
3 2004. So that would have been around the time that you  
4 were looking at the website, right?

5 A. I guess that was a little after that time.  
6 Somewhere in that, you know, within the month anyway.

7 Q. Matt, could you please go back to the body of it  
8 and highlight the sentence that begins, our purpose.  
9 Let me read this to you. It says, Our purpose is to be  
10 the sword and shield for people of faith, providing  
11 legal representation without charge to defend and  
12 protect Christians and their religious beliefs in the  
13 public square. Do you see those words?

14 A. Yes, I do.

15 Q. And did you know that Thomas More called itself  
16 the sword and shield for people of faith?

17 A. This is probably the first I've seen that per se.

18 Q. And would you agree with me that, in this case,  
19 Thomas More is providing legal representation without  
20 charge to defend and protect Christians and their  
21 religious beliefs in the public square?

22 MR. GILLEN: I'm going to object to the  
23 questions. I mean, it's our mission statement. But it  
24 seems to me, there's some sort of impeachment by  
25 counsel, which is improper. And insofar as I know, it's

1 not proper to attempt to impugn, apparently, a client  
2 based on the work of the lawyer.

3 I mean, certainly I know that I wouldn't do  
4 that with respect to the Plaintiffs based on their  
5 selection of counsel. And I fail to see how it's  
6 relevant or proper here.

7 MR. HARVEY: Relationship with Mr. Gillen  
8 wouldn't impugn anyone, I believe.

9 MR. GILLEN: Thank you for that, Steve.

10 MR. HARVEY: Furthermore, I'm not impeaching  
11 this witness with this. I'm asking him if he knew this.  
12 One of the central issues in this case is whether the  
13 board acted for a religious purpose. They have hired --  
14 or they have not hired, excuse me, apparently they're  
15 being represented for free by an organization that has,  
16 as its express and written mission, defending the views  
17 of the religious freedoms of Christians in the public  
18 square. And I'm just asking him if he knows that and if  
19 he believes that's what this case is about.

20 THE COURT: I would say to Mr. Gillen,  
21 despite the evident and appropriate cordial relationship  
22 and professional relationship that exists among counsel  
23 and with the Court, I don't view this as a personal  
24 question. I view it as an appropriate question.

25 If he presses on this point, I might find

1 that objectionable. I think that question in the  
2 context of this case is not objectionable, and I may not  
3 view it as you view it. I can understand why you would  
4 view it that way as counsel and as a member of the  
5 Thomas More Law Center.

6 So perhaps you don't have the objectivity  
7 that I have. I'll overrule the objection. I'll allow  
8 him to answer the question. Do you remember the  
9 question, sir?

10 THE WITNESS: No, sir.

11 THE COURT: Wendy, would you read the  
12 question back?

13 MR. GILLEN: I thank Your Honor and ask only  
14 that you be solicitous of my concern that our clients  
15 should in some way be penalized because of anything  
16 that --

17 THE COURT: I'm cognizant of that, and I'll  
18 consider that a continuing objection, and I'll -- if I  
19 believe that the inquiry gets into that area, I'll  
20 certainly stop the examination. Wendy, if you could,  
21 please.

22 (Whereupon, the court reporter read back the  
23 last question.)

24 THE WITNESS: I'm sorry. Can you say that  
25 one more time?

1 (Whereupon, the court reporter read back the  
2 last question again.)

3 THE WITNESS: Well, two answers to that.

4 One is, I didn't pick Thomas More or -- I mean, all the  
5 attorneys that offered their services offered it for  
6 free, that I talked to. And, you know, I sort of take  
7 offense to it, that you would think that I would pick an  
8 attorney to represent the school district because they  
9 put some words in a website.

10 I picked Thomas More because I thought they  
11 were the most qualified to defend Dover School District.  
12 And I talked to other people, not saying that the other  
13 attorneys weren't good, I just, from my talking with  
14 them and seeing issues, this is a constitutional issue,  
15 obviously, we don't want an attorney out of the yellow  
16 pages.

17 We want someone that works with these types  
18 of cases. And to say I would pick someone because of  
19 words in that is absolutely ludicrous. And, you know, I  
20 really, I take offense to that, that you think I would  
21 pick someone because that's what it says in a website.

22 BY MR. HARVEY:

23 Q. Actually, that wasn't my question. My question  
24 was simply whether it's your understanding that the  
25 Thomas More Law Center is providing legal representation

1 without charge in this case to defend and protect  
 2 Christians and their religious beliefs in the public  
 3 square. Yes or no?  
 4 A. No, that has nothing to do with what we're doing  
 5 here.  
 6 Q. Let's go on with the Thomas More website. I  
 7 actually went on it yesterday. Matt, can you bring up  
 8 P-822? This is the Thomas More Law Center website as of  
 9 yesterday, at least the home page. Do you recognize Mr.  
 10 Thompson's picture?  
 11 A. Yes, I do.  
 12 Q. Hard to miss that. And there's an article there  
 13 that's reprinted. It's reprinted on the website at the  
 14 Thomas More Law Center website from salon.com. Do you  
 15 see that?  
 16 A. Okay.  
 17 Q. It's written by somebody named Gordy Slack?  
 18 A. Yes.  
 19 Q. And actually, we've pulled the article. It's  
 20 P-824. It should be in your book.  
 21 A. P-824?  
 22 Q. Yeah.  
 23 MR. GILLEN: Judge, I object again. I mean,  
 24 I fail to see the purpose of this examination, except --  
 25 THE COURT: Let's see where he goes. I'm

1 going to overrule the objection because it's a  
 2 speculative objection and I don't know what the question  
 3 is going to be. So I'll overrule the objection. I'll  
 4 allow you to revisit it as he gets into his questions.  
 5 BY MR. HARVEY:  
 6 Q. Do you have that article in front of you, Mr.  
 7 Bonsell?  
 8 A. I believe. From Gordy Slack?  
 9 Q. Yes.  
 10 A. Okay.  
 11 Q. The sixth paragraph -- by the way, did you read  
 12 this before now?  
 13 A. No.  
 14 Q. Okay. Go to the sixth paragraph on the first  
 15 page. I'll read it. And maybe Matt can bring it up on  
 16 the screen, too. The one that begins, schools that want  
 17 to include. Quotes, Schools that want to include the ID  
 18 debate in their curriculum deserve the right to do so,  
 19 Thompson says. Denying them that right is a form of  
 20 both scientific and religious discrimination.  
 21 And now he's apparently quoting Mr. Thompson  
 22 directly. Quotes, ID is seeking a place in the  
 23 classroom because of its merits, close quotes, he says.  
 24 Quotes, But it's being kept out because it is harmonious  
 25 with the Christian faith, period, close quotes. Do you

1 see that?  
 2 A. Yes, I do.  
 3 Q. And I just want to know if it was your  
 4 understanding at the time that you passed the October  
 5 18th resolution, that intelligent design was harmonious  
 6 with the Christian faith?  
 7 A. No.  
 8 Q. You didn't have that understanding on October  
 9 18th?  
 10 A. No.  
 11 Q. Now if you go to the end of this article, the  
 12 last two pages?  
 13 A. The last --  
 14 Q. Yeah, it's actually the fifth and sixth. The  
 15 sixth is the last page. I want you to focus on the last  
 16 five paragraphs of the article. And I'll read them to  
 17 you once you have them in front of you and once Matt has  
 18 brought them up on the screen.  
 19 A. I am on page 5 and 6, I'm there.  
 20 Q. The paragraph that begins, as we talk. Do you  
 21 see that?  
 22 A. As we talk, the third paragraph from the bottom?  
 23 Q. Yes. Quotes, As we talk, Thompson bristles at  
 24 the notion that ID is and always will be excluded from  
 25 science. Quotes, What is science, and what is not

1 science, is merely a convention, close quotes, he says.  
 2 Quotes, It can be challenged and changed at will by  
 3 scientists themselves. And scientists are the products  
 4 of their culture, too, close quotes.  
 5 Doesn't he find it a little odd that a champion  
 6 of unchanging and absolute moral values should take such  
 7 a relativist stance on science? He shrugs off the  
 8 question.  
 9 Quotes, Look, scientists don't sit there and ask,  
 10 am I doing science or not? No scientist is going to  
 11 say, this is empirical truth about the wrong subject so  
 12 I'm not going to study it. No, they look at whatever  
 13 the empirical data is, and draw conclusions from it,  
 14 close quote.  
 15 Quotes, So you want to change the definition of  
 16 science to include the supernatural, close quotes.  
 17 Quotes, Yes, close quotes, he says. Quotes, We need a  
 18 total paradigm shift in science, close quote.  
 19 Do you see that language?  
 20 A. I see it.  
 21 Q. Now according -- at least according to what it  
 22 says there, as reported, Mr. Thompson seems to think  
 23 that, for intelligent design to qualify as science, the  
 24 definition of science needs to be changed to include the  
 25 supernatural. And I want to know if that's your

1 understanding as well, Mr. Bonsell?

2 A. I guess I need more specifically what you mean by

3 supernatural. What do you mean by that?

4 Q. You can't answer the question just as it is?

5 A. I want a specific definition.

6 Q. Something outside of nature.

7 A. Something outside of nature?

8 Q. Yes.

9 A. And what do you consider nature?

10 Q. The natural world.

11 A. The natural world? So that encompasses the whole

12 universe is what you're saying?

13 Q. Yeah, the natural world.

14 A. I'm still not sure I understand the question. I

15 think this was asked of me in one of my depositions.

16 Supernatural?

17 Q. Can you answer the question, Mr. Bonsell?

18 A. Ask it again, please.

19 MR. HARVEY: Can you read that back, please?

20 I'm afraid I won't be able to get it right.

21 (Whereupon, the court reporter read back the

22 referred-to question.)

23 THE WITNESS: I think I've said this. I'm

24 not sure if this was in my deposition or not. I mean,

25 the thing is, I've read other scientists, and you say,

1 you know, the search for truth is -- the search for

2 truth, no matter where it leads. You know, if the truth

3 leads there, then, okay.

4 If it doesn't, then, no. You know, it's

5 wherever it goes. Wherever science -- wherever it takes

6 us. I don't want science to be put in a little box and

7 say, you can't ever look outside that little box. Is

8 that --

9 MR. HARVEY: May I confer with my co-counsel

10 for just a minute, Your Honor?

11 THE COURT: You may.

12 MR. HARVEY: No further questions, Your

13 Honor.

14 THE COURT: All right. Assuming Mr. Gillen

15 has some redirect, I'm going to exercise my prerogative

16 before we break today, because you may have some lengthy

17 redirect, is that a fair statement?

18 MR. GILLEN: I think that I have accumulated

19 a considerable list of questions.

20 THE COURT: I want to exercise my

21 prerogative, and I have some questions before we break

22 today. I would like, Mr. Harvey, if you would hand up

23 to me the witness's deposition testimony, specifically

24 as it related to the question of the \$850.00 check. I

25 believe it's the deposition as taken by Mr. Rothschild

1 in January of 2005.

2 MR. HARVEY: Yes, Your Honor. My copy is

3 marked up. Do we have an unmarked copy? Or if you

4 want, I could just have it delivered to your chambers in

5 a few minutes.

6 THE COURT: I want it now, if you have it.

7 Hand it up. And can you direct me to the pages, and

8 specifically the pages, Mr. Harvey, that you referred to

9 in your questions?

10 MR. HARVEY: Yes, Your Honor. I read from

11 page 13, line 6, through page 16, line 20.

12 THE COURT: All right. Give me a moment,

13 please. That's fine. I see where you were. All right.

14 Let me ask you.

15 BY THE COURT:

16 Q. When did you first become aware of the fact that

17 your father was in possession of the \$850.00 that was

18 being donated to buy Of Pandas and People?

19 A. Well, Mr. Buckingham gave the check to me to pass

20 to my father. He said this was money that he collected

21 for donations to the book. So I gave it to him.

22 Q. So you were the conduit --

23 A. Yeah.

24 Q. -- by which your father received the \$850.00?

25 A. Yes.

1 Q. Tell me why, in January of 2005, you didn't tell

2 Mr. Rothschild on his repeated questioning that your --

3 that Mr. Buckingham was involved in that exchange?

4 A. Basically because I understood the question to

5 be, who donated the books? Do you know anybody that

6 donated? I only knew my father was the one that donated

7 the books. I am still to this day convinced, you know,

8 that Mr. Buckingham didn't give any money towards the

9 books.

10 He said to me, this is money that he collected

11 towards the books. And I didn't ask him. You know, he

12 didn't say -- if he would have said, some of this money

13 is mine, or I put 50 bucks in the pot, or I did this, I

14 would have told Mr. Rothschild at that time.

15 Q. The specific question was asked to you, sir: You

16 have never spoken to anyone -- anybody else who was

17 involved with the donation? And your answer was, I

18 don't know the other people. That didn't say, who

19 donated? That said, who was involved with the donation?

20 A. Okay. I'm sorry. What --

21 Q. Why did you -- I'm on page 16.

22 A. Okay.

23 Q. Line 9. That didn't say, who donated? That

24 said, who was involved in the donation? Now you tell me

25 why you didn't say Mr. Buckingham's name.



1 A. Then I misspoke. Because I was still under --  
2 from behind -- wait a second. I -- well, I'm going back  
3 here -- and so, yeah, that's my fault, Your Honor,  
4 because that's not -- in that case, I would have -- I  
5 should have said, Mr. Buckingham.

6 Q. Tell me again why you gave the money to your  
7 father. Why did you utilize your father as the ultimate  
8 recipient -- not the ultimate recipient, but as a  
9 conduit for this money?

10 A. Why he was the conduit?

11 Q. You took the money from Mr. Buckingham, if I  
12 understand it. You turn it over to your father. Is  
13 that correct?

14 A. Yes. Yes, sir.

15 Q. Because the check was made specifically to your  
16 father. Why was your father involved?

17 A. He agreed to -- he said that he would take it, I  
18 guess, off the table or whatever, because of seeing what  
19 was going on, and with Mrs. Callahan complaining at the  
20 board meetings not using funds or whatever.

21 Q. Why couldn't you use Mr. Buckingham's check?  
22 What was the difference?

23 A. My father was the one that agreed to do the  
24 books.

25 Q. I understand that.

1 A. And that basically anybody, you know, if somebody  
2 wanted to give money, they could give money to him. He  
3 just passed, you know --

4 Q. Now the way I understand it from Mr. Buckingham's  
5 testimony, Mr. Buckingham stood up in front of his  
6 church. Mr. Buckingham, despite testimony which was  
7 somewhat confusing, obviously, apparently made a plea  
8 for funds for this book. Mr. Buckingham received in  
9 addition to, apparently, his own contribution funds,  
10 which totaled \$850.00. Why couldn't Mr. Buckingham's  
11 check be used? Why did your father have to be involved?

12 A. I guess it could have been used, but put the  
13 thing is, the money was going to him, and he was  
14 purchasing the books. And I think it was basically, if  
15 somebody gave money, fine. If not, he was going to buy  
16 the books. He was going to do it himself.

17 Q. You don't know why Mr. -- in other words, you  
18 don't know why Mr. Buckingham couldn't just purchase the  
19 books directly? Is that what you're telling me?  
20 Because I still haven't heard an answer as to why your  
21 father -- why the funds had to be paid first to Mr.  
22 Buckingham, why Mr. Buckingham couldn't write a check.  
23 Why did he have to give the funds to your father? I  
24 still haven't heard an answer.

25 A. I guess he wouldn't have had to give the funds to

1 my father. It's just that he was -- he had made -- he  
2 had made the --

3 Q. Who's he?

4 A. My father. He had made the -- oh, I don't know  
5 what word I'm looking for. He said that he would get --  
6 donate the books, you know. So basically, I guess, he  
7 asked -- I guess you're saying, Mr. Buckingham went  
8 before his church. He collected money --

9 Q. You were here. You heard Mr. Buckingham.

10 A. He collected the money. And just -- because --  
11 he had the check, gave me the money, I gave it to my  
12 father.

13 Q. I still haven't heard an answer from you as to  
14 why your father was the recipient of this money. Tell  
15 me why.

16 A. Because he's the one that said he would donate  
17 the books.

18 Q. It wasn't -- the money did not belong to your  
19 father. It came from Mr. Buckingham. He didn't donate  
20 the books. He received money from Mr. Buckingham that  
21 Mr. Buckingham received through donations from his  
22 church. Your father, unless I'm missing something, did  
23 not donate the books. He was the recipient of donated  
24 money and purchased the books.

25 A. No, but my father donated money towards the

1 books. It's just that people had given money, and if --  
2 basically, if no one had given a penny, my father would  
3 have bought all the books. So he must have went out and  
4 said, you know, if you want to give money, Mr. Bonsell  
5 is -- and so that's why the check is in his name,  
6 because the money was going to him. He was buying the  
7 books. So he did put money towards the books, and he  
8 would have bought all the books.

9 Q. Now you were under oath. You know you were under  
10 oath on January the 3rd of 2005, is that correct?

11 A. Yes.

12 Q. And your reason that you didn't mention Mr.  
13 Buckingham's name on January 3rd of 2005 is because you  
14 said you misspoke?

15 A. I was under the impression, Your Honor -- I was  
16 under the impression -- they were asking me who -- do  
17 you know anybody else? I mean, because I'm the one that  
18 brought my father forward in the testimony. I said, it  
19 was my father. He was the only one that I knew that put  
20 money towards the books. Because, to be honest -- I  
21 mean, truthfully, I did not know that Mr. Buckingham  
22 gave any money towards those books. I would have said  
23 that. I would have said that. Now like I said --

24 Q. You knew on January 3rd that Mr. Buckingham had  
25 possession of funds that he received from his church,

1 didn't you?

2 A. Not from his church, no.

3 Q. You knew that Mr. Buckingham had received funds,  
4 which he turned over to your father, from someplace?

5 A. Oh, yes.

6 Q. Do you have any explanation for why Mr.  
7 Buckingham in this same series of depositions in January  
8 of 2005 also failed to admit that he was involved in  
9 soliciting money for the purchasing of this book? Do  
10 you have any explanation for that?

11 A. Why he said he wouldn't solicit money? I don't  
12 know.

13 Q. Were you here for Mr. Buckingham's testimony?

14 A. I heard part of it.

15 Q. Well, let me represent to you that Mr. Buckingham  
16 testified in June of 2005 in his deposition that he  
17 didn't know where the money came from. Do you have any  
18 explanation for why that is?

19 A. I don't have any explanation for that.

20 THE COURT: All right. Those are the  
21 questions I have. We'll reconvene tomorrow --  
22 Wednesday, pardon me. We'll continue with the  
23 examination of this witness on redirect by Mr. Gillen.  
24 And our trial days will be Wednesday, Thursday, and  
25 Friday.

1 And hopefully, we're on track to finish the  
2 testimony on Friday. We'll be in recess until Wednesday  
3 at 9:00 a.m.

4 (Whereupon, the proceeding adjourned at  
5 4:40 p.m.)  
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3 CERTIFICATION  
4  
5

6 I hereby certify that the proceedings and  
7 evidence are contained fully and accurately in the notes  
8 taken by me on the within proceedings, and that this  
9 copy is a correct transcript of the same.  
10

11 /s/ Wendy C. Yinger

12 \_\_\_\_\_  
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