

<div>1</div> <div>THE STATE OF NEW HAMPSHIRE</div> <div>STRAFFORD, SS. SUPERIOR COURT</div> <div>***** *</div> <div>DAVID K. TAYLOR, *</div> <div>Plaintiff, *</div> <div>vs. * No. 219-2011-CV-00349</div> <div>THE OYSTER RIVER *</div> <div>COOPERATIVE SCHOOL BOARD, *</div> <div>ET AL., *</div> <div>Defendants. *</div> <div>*****</div> <div>DEPOSITION OF HENRY BRACKETT</div> <div>Deposition taken by agreement of</div> <div>counsel at The Oyster River School</div> <div>District, 36 Coe Drive, Durham,</div> <div>New Hampshire, on Monday, August 22,</div> <div>2011, commencing at 9:20 a.m.</div> <div>Court Reporter: Sonia E. Bishop, CCR</div> <div>-----</div> <div>DAVID R. JORDAN &amp; ASSOCIATES</div> <div>Certified Court Reporters</div> <div>P.O. Box 303 603-778-7710</div> <div>Exeter, NH 03833 NH 1-800-562-3945</div> <div>DAVID R. JORDAN &amp; ASSOCIATES</div>	<div>3</div> <div>STIPULATIONS</div> <div>It is agreed that the deposition shall</div> <div>be taken in the first instance in stenotype, and</div> <div>when transcribed may be used for all purposes</div> <div>for which depositions are competent under New</div> <div>Hampshire practice.</div> <div>Notice, filing, caption and all other</div> <div>formalities are waived. All objections except</div> <div>as to form are reserved and may be taken in</div> <div>court at the time of trial.</div> <div>It is further agreed that if the</div> <div>deposition is not signed within 30 (30) days</div> <div>after submission to counsel, the signature of</div> <div>the deponent is waived.</div> <div>DAVID R. JORDAN &amp; ASSOCIATES</div>
<div>2</div> <div>APPEARANCES</div> <div>FOR THE PLAINTIFF:</div> <div>David Taylor, Pro Se</div> <div>16 Surrey Lane</div> <div>Durham, NH 03824</div> <div>FOR THE DEFENDANT:</div> <div>SOULE, LESLIE, KIDDER,</div> <div>SAYWARD &amp; LOUGHMAN, P.L.L.C.</div> <div>BY: Diane M. Gorrow, Esq.</div> <div>220 Main Street</div> <div>Salem, NH 03079</div> <div>DAVID R. JORDAN &amp; ASSOCIATES</div>	<div>4</div> <div>INDEX</div> <div>WITNESS:</div> <div>HENRY BRACKETT</div> <div>EXAMINATION: Page</div> <div>By Mr. Taylor 6</div> <div>EXHIBITS FOR IDENTIFICATION:</div> <div>Bracket Description Page</div> <div>1 Notice to Take Oral Deposition of 6</div> <div>Henry Brackett</div> <div>2 Article From New Hampshire Union Leader 6</div> <div>3 Article From Fosters, 6</div> <div>dated Aug. 6, 2011</div> <div>4 Article From Fosters, 6</div> <div>dated Aug. 14, 2011</div> <div>5 Petition For Injunctive Relief Pursuant 6</div> <div>To RSA 91-A:7</div> <div>6 Letter to David Taylor from Wendy 6</div> <div>DiFruscio, dated July 25, 2011</div> <div>7 Letter to Alix Handelsman from David L. 6</div> <div>Kurz, Chief of Police, dated June 22, 2011</div> <div>8 Letter with attachments to David Taylor 6</div> <div>from Attorney Gorrow, dated Aug. 19, 2011</div> <div>9 Letter with attachments to David Taylor 6</div> <div>from Attorney Gorrow, dated Aug. 12, 2011</div> <div>DAVID R. JORDAN &amp; ASSOCIATES</div>

<p>1 FOR IDENTIFICATION: 5</p> <p>2 <u>Bracket</u> <u>Description</u> <u>Page</u></p> <p>3 10 Letter to David Taylor from Wendy 6</p> <p>4 DiFruscio, dated July 11, 2011</p> <p>5 11 Letter to David Taylor from Attorney 6</p> <p>6 Gorrow, dated Aug. 17, 2011</p> <p>7 12 Calendar 75</p> <p>8 13 Emails 278</p> <p>9 14 Emails 285</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>DAVID R. JORDAN &amp; ASSOCIATES</p>	<p>7</p> <p>1 has an opportunity to read it, he has 30 days in</p> <p>2 which to sign it, if he doesn't sign it, then</p> <p>3 his signature is deemed to be waived.</p> <p>4 So that's what I'm agreeing to.</p> <p>5 MR. TAYLOR: What does that waived mean?</p> <p>6 MS. GORROW: That means the deposition could</p> <p>7 be used without -- he had an opportunity to read</p> <p>8 it, and sign it, and didn't do that, so you can</p> <p>9 use the deposition and treat it as if he had.</p> <p>10 MR. TAYLOR: Equivalent to him having signed</p> <p>11 it?</p> <p>12 MS. GORROW: Correct. So I'll agree to the</p> <p>13 usual stipulations.</p> <p>14 BY MR. TAYLOR:</p> <p>15 Q. Would you please state your name.</p> <p>16 A. <b>Henry Brackett.</b></p> <p>17 Q. Where do you live?</p> <p>18 A. <b>2 Wheelwright Drive, Lee, New Hampshire. 03861.</b></p> <p>19 Q. Phone number?</p> <p>20 A. <b>Phone number is 603-659-0212.</b></p> <p>21 Q. How long have you been in the district?</p> <p>22 A. <b>Seven years, maybe a little bit longer.</b></p> <p>23 Q. Always at the same address?</p> <p>DAVID R. JORDAN &amp; ASSOCIATES</p>
<p>6</p> <p>1 (Whereupon, Exhibits 1 - 11, are marked</p> <p>2 for identification.)</p> <p>3 <b><u>HENRY BRACKETT</u></b></p> <p>4 having been duly sworn by</p> <p>5 the court reporter, was deposed</p> <p>6 and testified as follows:</p> <p>7 <b><u>EXAMINATION</u></b></p> <p>8 MR. TAYLOR: Usual stipulations?</p> <p>9 MS. GORROW: Sure.</p> <p>10 MR. TAYLOR: I would like to add to that</p> <p>11 that Henry read, and verify, and sign the</p> <p>12 transcript.</p> <p>13 MS. GORROW: Generally, he has a period of</p> <p>14 30 days to review the transcript and to sign it.</p> <p>15 If he doesn't sign within that 30-day time</p> <p>16 period, then his signature is waived.</p> <p>17 MR. TAYLOR: I would like him to be required</p> <p>18 to sign it to indicate that he's read it.</p> <p>19 MS. GORROW: I'm only going to agree to the</p> <p>20 usual stipulations.</p> <p>21 MR. TAYLOR: So his signature is equivalent</p> <p>22 at the end of that?</p> <p>23 MS. GORROW: The usual stipulations are: He</p> <p>DAVID R. JORDAN &amp; ASSOCIATES</p>	<p>8</p> <p>1 A. <b>Yes. Can you talk a little louder?</b></p> <p>2 Q. I'll try.</p> <p>3 A. <b>Okay.</b></p> <p>4 Q. Can you tell me something about your career?</p> <p>5 A. <b>I'm a retired individual. I moved to New</b></p> <p>6 <b>Hampshire, like I say, about seven years ago,</b></p> <p>7 <b>and got involved with town government,</b></p> <p>8 <b>volunteered for some committees, was told that</b></p> <p>9 <b>the bigger government entity here is the school</b></p> <p>10 <b>board, and I started going to school board</b></p> <p>11 <b>meetings and went to quite a few of them as a</b></p> <p>12 <b>private citizen and then decided eventually to</b></p> <p>13 <b>run.</b></p> <p>14 Q. When did you start going to school board</p> <p>15 meetings?</p> <p>16 A. <b>Excuse me?</b></p> <p>17 Q. When did you start going to school board</p> <p>18 meetings?</p> <p>19 A. <b>About a year after I got here, so probably about</b></p> <p>20 <b>six years ago. I went to quite a few.</b></p> <p>21 Q. What is your relationship with the school</p> <p>22 district now?</p> <p>23 A. <b>Excuse me?</b></p> <p>DAVID R. JORDAN &amp; ASSOCIATES</p>

	9
1 Q. What is your relationship with the school	
2 district now?	
3 A. <b>I'm elected to the board, and I've been elected</b>	
4 <b>to the position of chair since June 2010.</b>	
5 Q. So how many years have you been chair?	
6 A. <b>One year and a couple of months. Two different</b>	
7 <b>boards.</b>	
8 Q. How many times have you been elected to chair?	
9 A. <b>Twice.</b>	
10 Q. Okay. When did you enroll as chair?	
11 A. <b>I chair the meetings, I guess I officiate the</b>	
12 <b>meeting, and basically that's it.</b>	
13 Q. Does the chair have any other duties or	
14 responsibilities or rights beyond a regular	
15 member?	
16 A. <b>Not really. They ask the board chair for</b>	
17 <b>different things, but it's just like asking a</b>	
18 <b>board member.</b>	
19 Q. What's the chair's role in forming committees?	
20 A. <b>The chair gets to nominate who he believes would</b>	
21 <b>fill the roles of different committees, on</b>	
22 <b>different committees, and that nomination is</b>	
23 <b>approved or disapproved by the full board.</b>	
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	10
1 Q. Is that a right that every board member has, to	
2 nominate?	
3 A. <b>I don't really know. I think that the board</b>	
4 <b>could entertain what other board members come</b>	
5 <b>forward with, and I have.</b>	
6 Q. So where does the right to nominate come from?	
7 A. <b>Excuse me?</b>	
8 Q. Where does the right to nominate its committees	
9 come from?	
10 A. <b>It's policy.</b>	
11 Q. Does that policy say any member or the chair?	
12 A. <b>I'm not sure. I'd have to reread it.</b>	
13 Q. Does the chair get involved in board member	
14 discipline?	
15 A. <b>Actually not. I don't think there's any laws on</b>	
16 <b>the books of New Hampshire that describe the</b>	
17 <b>board chair doing anything for reprimanding</b>	
18 <b>board members.</b>	
19 Q. But in practical terms, does the board chair get	
20 involved in discipline?	
21 MS. GORROW: Objection, asked and answered.	
22 BY MR. TAYLOR:	
23 Q. Do you understand my question?	
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	11
1 MS. GORROW: You can answer the question,	
2 Henry.	
3 THE WITNESS: Say it again.	
4 BY MR. TAYLOR:	
5 Q. In practical terms does the board chair get	
6 involved in discipline of board members?	
7 A. <b>No.</b>	
8 Q. You've never been involved in disciplining any	
9 board members?	
10 A. <b>I don't think I have.</b>	
11 Q. Have you been made aware of issues with board	
12 members participation on the board?	
13 A. <b>Say that again.</b>	
14 Q. Have you ever been aware of discipline matters	
15 with board members?	
16 A. <b>By who?</b>	
17 Q. Anyone.	
18 A. <b>Discipline matters, no.</b>	
19 Q. So no one's ever presented to you a complaint	
20 about a board member?	
21 A. <b>Yes, me personally, back in June of 2010. Which</b>	
22 <b>turned out to be false accusations.</b>	
23 Q. So nothing similar about any other board members	
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	12
1 has ever been presented to you?	
2 A. <b>That I acted on?</b>	
3 Q. No. Just whether you've been presented.	
4 A. <b>Not from other board members, no. I don't</b>	
5 <b>believe.</b>	
6 Q. By anyone in the community?	
7 A. <b>Yes.</b>	
8 Q. Can you describe those?	
9 A. <b>Well, the more recent one was another board</b>	
10 <b>member was asked to resign, and the board was</b>	
11 <b>asked to chime in their thoughts on his</b>	
12 <b>resignation.</b>	
13 Q. Which board member was that?	
14 A. <b>Jim Kach, K-a-c-h.</b>	
15 Q. That's the only such report you've gotten since	
16 you've been on the board?	
17 A. <b>I can't recall any more. There might have been</b>	
18 <b>others, but I don't recall.</b>	
19 Q. Did I report an incident with Jim Kach in the	
20 parking lot after a board meeting?	
21 A. <b>Yes. You accused Jim Kach of talking about</b>	
22 <b>private information.</b>	
23 Q. Has anyone else made a similar complaint about	
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1 any other board members?

2 **A. No, I can't recall.**

3 **Q.** I'd like to look at Exhibit 4.

4 MS. GORROW: Do you have any copies of those  
5 for me?

6 MR. TAYLOR: I don't at this point, but I  
7 can provide them.

8 BY MR. TAYLOR:

9 **Q.** So if you look at the -- can you describe what  
10 this is?

11 **A. What would you like?**

12 **Q.** Can you describe what Exhibit 4 is?

13 **A. "Oyster River School Board can still make it  
14 right."**

15 **It's an article published August 14, 2011,  
16 and it was -- I guess it was reported by the  
17 Foster Daily Democrat.**

18 **Q.** Okay. Look at the sixth paragraph. Would you  
19 read that?

20 **A. Okay. (Witness complies.)**

21 **Q.** Can you describe what that says?

22 MS. GORROW: You want him just to read it?

23 BY MR. TAYLOR:

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1 **Q.** Sure. If you'd like to read it, that would be  
2 fine.

3 **A. What is that?**

4 **Q.** Would you read that paragraph aloud.

5 **A. "There is, however, plenty of speculation that  
6 may indicate school board members have talked  
7 privately to some district residents. One of  
8 the several callers to Fosters who did so listed  
9 reasons in detail why Campbell was not hired and  
10 why Colter was, for all practical purposes,  
11 fired. When challenged how she knew so, much of  
12 the conversation quickly changed direction."**

13 **Q.** Do you know anything about this incident?

14 **A. No.**

15 **Q.** So you never had anyone complain about anyone  
16 disclosing information about Justin Campbell?

17 **A. No.**

18 **Q.** Or about Howard Colter's decision?

19 **A. No. In fact, he says here for practical  
20 purposes was fired. It was a mutual agreement  
21 with him.**

22 **Q.** I'm asking about the disclosure of information.

23 **A. No.**

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1 **Q.** You don't know anything about it?

2 **A. I didn't talk to anybody, I didn't talk to  
3 anybody at Fosters or -- in fact, I voted for  
4 Campbell.**

5 **Q.** Do you know of any other board member that might  
6 have talked to someone?

7 **A. No.**

8 **Q.** No board member has talked to you about talking  
9 with disclosing information?

10 MS. GORROW: Objection. You can answer.

11 THE WITNESS: No.

12 BY MR. TAYLOR:

13 **Q.** Okay. Thank you.

14 Do you, as board chair, have authority to  
15 form committees or to delegate board business to  
16 other board members?

17 **A. We have standing committees. And there's some  
18 confusion about the word standing. But we have  
19 committees that are kind of preset, and I have  
20 appointed board members to those committees,  
21 usually with some reference to the individual,  
22 I've asked them which committees they'd like to  
23 serve on, and I've nominated such, and the**

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1 **members have voted yes on the nominations.**

2 **Q.** Do you, as the chair, have the authority to  
3 delegate board business to other board members?

4 **A. I don't know if I have the authority to  
5 delegate. I sometimes coordinate because of  
6 issues that are coming up to the board or the  
7 committee.**

8 **Q.** Can you describe what you mean by sometimes  
9 coordinate?

10 **A. I belong to a couple of committees, and I  
11 sometimes suggest agenda items, or to look into  
12 money operations committee, and I have, as a  
13 member, I've suggested things be looked into.**

14 **Q.** Have you ever delegated to someone who's not on  
15 the committee that you're on?

16 **A. Delegated a task?**

17 **Q.** Right.

18 **A. Yes, I have.**

19 **Q.** Can you describe those?

20 **A. I've asked board members to help me in  
21 investigations of certain issues.**

22 **Q.** Can you describe those in more detail?

23 **A. Example would be coordinating maybe letters that**

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- 1 **we send out to the public, which we've done.**  
 2 **Some other board members have helped with that.**  
 3 **JoAnn Portalupi and -- not this board, but in a**  
 4 **past board -- has been asked to wordsmith some**  
 5 **letters, which she has done.**  
 6 **Q.** Can you -- any that you've done with the recent  
 7 board?  
 8 **A. Recent board, yes, I have. I've asked two**  
 9 **members of the board to help me figure out the**  
 10 **process for hiring an interim superintendent.**  
 11 **Q.** Can you give me details on that?  
 12 **A. Like what?**  
 13 **Q.** When did you do that?  
 14 **A. Around May 20th of this year. I was assigned by**  
 15 **the full board to look into the process we had**  
 16 **to go through to bring forth an interim**  
 17 **superintendent.**  
 18 **Q.** When did that assignment take place?  
 19 **A. I think around May 20th, maybe on May 20th. I'm**  
 20 **not exactly sure, but right around there.**  
 21 **Q.** You're saying on May 20th you were assigned by  
 22 the full board to --  
 23 **A. I believe so.**

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- 1 **Q.** What meeting did that occur at?  
 2 **A. That was a non-meeting with an attorney.**  
 3 **Q.** Am I correct that you say the board made the  
 4 decision to assign authority to you to look into  
 5 the interim process of a non-meeting with an  
 6 attorney?  
 7 **A. They asked me, yes.**  
 8 **Q.** They took that decision at that meeting?  
 9 **A. Yes.**  
 10 **Q.** Was that decision by vote?  
 11 **A. No. I think it was just consensus.**  
 12 **Q.** How many members were at that meeting?  
 13 **A. I think all board members.**  
 14 **Q.** Where did that meeting take place?  
 15 **A. The law offices of -- what's the firm's name?**  
 16 MS. GORROW: Hoefle?  
 17 THE WITNESS: Yeah. May 20th. There's the  
 18 law firm's name. Hoefle, Phoenix, Gormley &  
 19 Roberts, P.A.  
 20 BY MR. TAYLOR:  
 21 **Q.** What time did that meeting occur?  
 22 **A. I can't remember. It could have been the**  
 23 **morning, could have been afternoon, could have**

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- 1 **been evening.**  
 2 **Q.** You have no recollection of the time?  
 3 **A. I do so many meetings, as you know.**  
 4 **Q.** Do you remember about how long it lasted?  
 5 **A. No, I don't. Again, I go to so many meetings.**  
 6 **Some last a short time, and some last a lot**  
 7 **longer.**  
 8 **Q.** The authority that the board gave to you was to  
 9 look into the process?  
 10 **A. Look into the process, yeah.**  
 11 **Q.** Did that include delegating that authority to  
 12 someone else?  
 13 **A. No, I didn't ask and I didn't tell.**  
 14 **Q.** And under what authority did you delegate to the  
 15 other board members?  
 16 **A. Just asked for help. Similar to other board**  
 17 **members asking for help on different things,**  
 18 **too.**  
 19 **Q.** Can you give me an example of that?  
 20 **A. I think, I think some people have looked into**  
 21 **different projects throughout the years and**  
 22 **asked other board members to help them. I'm**  
 23 **trying to recall a certain instance.**

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- 1 **JoAnn was delegated the task to draft some**  
 2 **letters that went back and forth to Howard**  
 3 **during his review process. This would be the**  
 4 **last board, not the present. And she asked for**  
 5 **input from other board members.**  
 6 **Well, excuse me, not other board members,**  
 7 **but two other board members, me and Ann Wright.**  
 8 **Q.** Were those other members identified by the board  
 9 or by JoAnn?  
 10 **A. We were all on the same subcommittee.**  
 11 **Q.** So it was an official subcommittee?  
 12 **A. Yes.**  
 13 **Q.** Do you have any instances where there wasn't an  
 14 official subcommittee where multiple board  
 15 members worked together?  
 16 **A. Repeat the question.**  
 17 **Q.** Do you have any examples where there wasn't an  
 18 official subcommittee where multiple board  
 19 members worked together?  
 20 **A. There was a factfinding where the board had**  
 21 **asked me to find out procedures and possible**  
 22 **candidates that would come forward to fill the**  
 23 **position of interim superintendent. And I asked**

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- 1 **two board members to enjoin me in the search.**
- 2 **Q.** So is that the same activity that you described,
- 3 you got the authority on May 20th?
- 4 **A. Yes.**
- 5 **Q.** Is that the only example of that?
- 6 **A. That I can think of right now.**
- 7 **Q.** So which two board members did you choose?
- 8 **A. Megan Turnbull and Jim Kach.**
- 9 **Q.** Did any other board members ask to join you?
- 10 **A. There might have been, but I don't recall**
- 11 **specifically.**
- 12 **Q.** Did you inform all the rest of the board that
- 13 you had delegated this authority to two others?
- 14 **A. Not at first, but later it was told to the**
- 15 **board.**
- 16 **Q.** Why did you not do that at first?
- 17 **A. I didn't think I had to.**
- 18 **Q.** Why not?
- 19 **A. Well, there was just gathering information to**
- 20 **advise the board on how to go forward in this**
- 21 **search. That included procedure and also**
- 22 **candidates.**
- 23 **Q.** Why did you choose two members?

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- 1 **A. I'm not sure exactly why I did it. There were a**
- 2 **lot of things happening at that point. We were**
- 3 **negotiating with Howard, and kind of coming up**
- 4 **with a time crunch because we wanted to have a**
- 5 **transparent or a smooth transition from Howard**
- 6 **Colter's superintendent position to an interim**
- 7 **superintendent position.**
- 8 **Q.** Can you explain why only having two members
- 9 would make that smoother?
- 10 **A. I just felt that I needed ears and eyes to come**
- 11 **back with information to the board on the task**
- 12 **that I had to do.**
- 13 **Q.** But why two?
- 14 **A. I don't know. Why? I don't know.**
- 15 **Q.** Would you have accepted someone else if they
- 16 wanted to serve?
- 17 **A. I don't know. I think that, now that I process**
- 18 **what your questions were, I think Ann Wright**
- 19 **might have asked to come on to that search, but**
- 20 **I can't remember for sure.**
- 21 **Q.** Did you tell her she could join you?
- 22 **A. No. I think we had already started the process,**
- 23 **and I think I left it just that we're continuing**

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- 1 **and that's it.**
- 2 **Q.** So you're saying you didn't allow her to join
- 3 just because the process was in progress?
- 4 **A. I don't recall exactly, but I think that we had**
- 5 **already started gathering information.**
- 6 **Q.** Would you have allowed her to join had she asked
- 7 earlier?
- 8 **A. I don't know. I can't recall, you know, my**
- 9 **thoughts at that time.**
- 10 **Q.** I'd like to draw your attention to Exhibit 1.
- 11 Can you tell me what that exhibit is, can you
- 12 describe it?
- 13 **A. Exhibit 1 is a document that includes a Schedule**
- 14 **A, and it is a Notice to Take Oral Deposition of**
- 15 **Henry Brackett.**
- 16 **Q.** Do you recognize that document?
- 17 **A. Yes, I do. I think I have it with me.**
- 18 **Q.** So is that an accurate copy of that document?
- 19 **A. I believe so.**
- 20 **Q.** And you recognize the request for documents in
- 21 Appendix A?
- 22 **A. Say that again.**
- 23 **Q.** You recognize the request for documents in

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- 1 Appendix A?
- 2 **A. Yes.**
- 3 **Q.** And have you fulfilled that request?
- 4 **A. Yes.**
- 5 **Q.** In total?
- 6 **A. In total and more.**
- 7 **Q.** Thank you. Next I'd like you to look at
- 8 Exhibit 2.
- 9 **A. Okay.**
- 10 **Q.** Can you describe that exhibit?
- 11 **A. This is a -- I guess it refers to a news article**
- 12 **from a Union Leader correspondent on August 5,**
- 13 **2011. The publication was the New Hampshire**
- 14 **Union Leader.**
- 15 **Q.** Can you describe what's in the article?
- 16 **A. The article was, let's see -- he's**
- 17 **characterizing that there was a little chaotic**
- 18 **few months that saw the departure of several top**
- 19 **administrators amidst the outcry from students**
- 20 **and parents, the flash point came in April when**
- 21 **the school board rejected the leading candidate**
- 22 **to replace the outgoing school principal.**
- 23 **Hundreds of high school students later walked**

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1 out of class en masse to protest.

2 The leading criticism has been a lack of

3 public information regarding decisions about top

4 administrators, including why principal

5 candidates -- why the principal candidate was

6 not chosen and how the board and former

7 superintendent Howard Colter came to an

8 agreement to have him leave at the end of last

9 month.

10 David Taylor, who has a daughter at the high

11 school and previously served on the school

12 board, filed a right-to-know request on June

13 20th seeking all records of communication

14 between board members and regarding

15 non-meetings, which are exempt from open meeting

16 provisions of the right-to-know law. He

17 contended that the board members have made

18 personal decisions during non-meetings --

19 personnel decisions during non-meetings --

20 excuse me -- which can include consultants with

21 legal counsel -- consultations with legal

22 counsel. Excuse me. Okay.

23 Q. Down a little further it reads, I represent:

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1 "Everything we did is proper. We had

2 non-meetings, which is with an attorney. He

3 said we followed the right-to-know law

4 100 percent."

5 A. Right.

6 Q. That's a quote from you, right?

7 A. That's right.

8 Q. That's an accurate quote?

9 A. Yes.

10 Q. Do you still stand by that statement?

11 A. I believe so.

12 Q. It reads next: "Brackett also admitted that he

13 has not produced any emails for Taylor. He said

14 he simply has not had time to go through all of

15 his accounts."

16 Is that an accurate statement?

17 A. Yes. Subsequent to that I have gone through all

18 my accounts.

19 Q. As of that date you had not?

20 A. No. I had been accumulating what I had to turn

21 over, but I had not finished it.

22 Q. So you had not produced any documents to anyone?

23 A. No. I had not turned them over to our attorney

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1 at that time.

2 Q. And when were you first asked for these

3 documents?

4 A. I'm guessing around the 20th of June.

5 Q. And you hadn't produced any of them by the time

6 this article was written on August 5th?

7 A. No. I finished them up a week or so after this

8 and turned them over.

9 Q. Do you know whether any other board members had

10 responded in that timeframe?

11 A. I believe all of them had, or most of them had,

12 but I don't know specifically.

13 Q. Why was it that you were unable to respond in

14 that timeframe?

15 A. Very, very busy, and I had quite a few emails to

16 go through.

17 Q. Significantly more than other board members?

18 A. Probably.

19 Q. Do you have a responsibility to do it within a

20 particular timeframe?

21 A. Yes. And I admitted that I did.

22 Q. Turn your attention to Exhibit 3. On the second

23 page it says: "Brackett said on Friday he

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1 admits he has not yet responded to Taylor's

2 request and said he is still sifting through

3 more than 3,500 emails."

4 Is that accurate?

5 A. Yes. It was even more than that when I

6 finished.

7 Q. Next quotes you as saying: "If I knew a request

8 like this would be coming, I would have put them

9 in files, he said."

10 Is that an accurate quote?

11 A. Yeah.

12 Q. So can you explain what you meant by that?

13 A. In the email program I use, there's a

14 possibility of dragging email from the in box

15 into different files, and I didn't do that.

16 Other than my send file was separate, but I

17 turned those over also.

18 Q. What did you mean by: "If I knew a request like

19 this would have been coming"?

20 A. Well, I could have filed them in different

21 files. Everything was by date. They came in,

22 and I just had the chronological order of the

23 emails.

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1 **Q.** I don't think you answered my question. My  
2 question was: "If I knew a request like this  
3 would have been coming." What did you mean by  
4 that part of that sentence?  
5 **A. I would assume that if I knew that I had to turn**  
6 **over emails that were directed to a quorum of**  
7 **the board, I would have put them in a separate**  
8 **file rather than kept them in my general**  
9 **chronological order.**  
10 **Q.** What kind of request would that be?  
11 **A. Your request.**  
12 **Q.** So you're saying that if you knew that a  
13 right-to-know request might come, you might have  
14 organized them better?  
15 **A. I would have done it from the beginning of my**  
16 **file all the way through. I didn't. I kept**  
17 **them in chronological order.**  
18 **Q.** I don't think you answered my question.  
19 MS. GORROW: I think he has. I'm not going  
20 to give testimony for that, but I think he's  
21 indicated he didn't have them organized by  
22 subject or who they went to. They were just by  
23 date. So, therefore, it took him a while to go  
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1 through each email and figure out what it was in  
2 order to respond to the right-to-know law  
3 request.  
4 BY MR. TAYLOR:  
5 **Q.** My question refers to whether you thought there  
6 might be right-to-know requests, the first  
7 phrase of that sentence. Do you understand the  
8 question?  
9 **A. I do. I would say I didn't until you asked for**  
10 **this particular right-to-know.**  
11 **Q.** Mine was the first right-to-know request you  
12 had?  
13 **A. No, it was the voluminous one that you asked**  
14 **for. Prior to that, any right-to-knows that I**  
15 **responded to, I easily found the email or**  
16 **something that related to the request.**  
17 **Q.** So my right-to-know request was the first one  
18 that asked for that kind of information?  
19 **A. I don't know if it was the first one, but it was**  
20 **the most extensive one that took a lot of my**  
21 **time to produce them.**  
22 **Q.** Do you remember getting right-to-know requests  
23 from Jennifer Reese?

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1 **A. Yes.**  
2 **Q.** Did that come before mine?  
3 **A. I have no idea.**  
4 **Q.** Do you remember getting them from JoAnn  
5 Portalupi?  
6 **A. Yes. And I have no idea when that came in.**  
7 **Q.** Have you ever filed a right-to-know request?  
8 **A. I have.**  
9 **Q.** Can you describe the right-to-know request that  
10 you filed?  
11 **A. I've asked for district information. Some were**  
12 **produced and some not produced.**  
13 **Q.** Have you ever asked for emails from board  
14 members?  
15 **A. I don't recall. I ask a lot of questions for**  
16 **information. There might have been some from**  
17 **board members, but I don't recall specifically.**  
18 **Q.** Were you aware that that was a possibility?  
19 **A. Excuse me?**  
20 **Q.** Were you aware that board members could be asked  
21 for public emails?  
22 **A. Yes.**  
23 **Q.** Yet in spite of that awareness, you didn't  
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1 organize them so they would be easy to get to  
2 them?  
3 **A. No.**  
4 **Q.** Can you explain why?  
5 **A. Probably because I never received a voluminous**  
6 **request before, and I had no inkling that such a**  
7 **request would come forward.**  
8 **Q.** How long did it take for to you go through these  
9 emails?  
10 **A. Well, besides almost forever, but it took hours**  
11 **and hours and hours, plus I was doing other**  
12 **things. It wasn't just 100 percent, you know,**  
13 **day-after-day getting it. It was an hour here,**  
14 **an hour there, and stuff like that trying to**  
15 **fulfill the request.**  
16 **Q.** When did you start?  
17 **A. I don't recall, but a couple of days after you**  
18 **asked for the emails.**  
19 **Q.** Why did you hold onto them?  
20 **A. I wasn't given any instructions about feeding**  
21 **the emails over to the attorney.**  
22 **Q.** Were you reminded to provide the information?  
23 **A. Yes, I was.**

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- 1 **Q.** How did you respond to those reminders?
- 2 **A. Kept on going through the emails to provide the**
- 3 **emails.**
- 4 **Q.** Did you indicate to anyone that you were working
- 5 on them?
- 6 **A. Yes, I think during the time I did.**
- 7 **Q.** How did that take form?
- 8 **A. What do you mean?**
- 9 **Q.** How did you respond to those reminders?
- 10 **A. "I'm working on it," basically.**
- 11 **Q.** Did you send an email to someone indicating
- 12 that, did you call someone on the phone?
- 13 **A. I think I responded to Wendy.**
- 14 **Q.** During this time period you also took a
- 15 vacation; is that correct?
- 16 **A. Yes, sir.**
- 17 **Q.** Even though you hadn't fulfilled your legal
- 18 requirement to provide these emails yet?
- 19 **A. That wasn't the reason I took the vacation. I**
- 20 **went to a wedding.**
- 21 **Q.** But you had not fulfilled your requirement yet?
- 22 **A. No.**
- 23 **Q.** How long were you gone?

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- 1 **A. A little over a week.**
- 2 **Q.** Where was this?
- 3 **A. Newport Beach, California.**
- 4 **Q.** Returning to Exhibit 4, in quotes it's saying --
- 5 **A. This is Exhibit 3.**
- 6 **Q.** I'm sorry, Exhibit 3. So a little bit further
- 7 down it says: "I realize it's my
- 8 responsibility," he said. "I will admit it."
- 9 Is that a correct and accurate quote?
- 10 **A. Where's that?**
- 11 **Q.** (Indicating.)
- 12 **A. Yes, I probably said that.**
- 13 **Q.** So you recognize that it is your responsibility
- 14 to provide the documents?
- 15 **A. Yes, and I was working on it.**
- 16 **Q.** And you recognize it's your responsibility to
- 17 provide it in a timely?
- 18 **A. Timely, yes. I believe that.**
- 19 **Q.** And you still admit that you did not do it
- 20 within the timeframe that was required?
- 21 **A. The five days, yes.**
- 22 **Q.** And you admit that all other board members did
- 23 satisfy that?

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- 1 **A. I'm believing they did.**
- 2 **Q.** And that you didn't provide your emails until,
- 3 you said, about a week after my lawsuit was
- 4 filed?
- 5 **A. Yes, it probably was about a week. At that**
- 6 **point I was getting very close to the end of my**
- 7 **search.**
- 8 **Q.** Thank you. Look at Exhibit 5. Petition For
- 9 Injunctive Relief Pursuant to RSA 91-A:7.
- 10 Do you recognize this document?
- 11 **A. I recognize it.**
- 12 **Q.** Have you read it?
- 13 **A. Yes.**
- 14 **Q.** Do you understand it?
- 15 **A. I think so.**
- 16 **Q.** I'm turning to Page 16 of the Petition.
- 17 **A. I don't have a Page 16.**
- 18 **Q.** Exhibit 1 was in that.
- 19 **A. Exhibit 1. Okay.**
- 20 **Q.** Can you describe that?
- 21 **A. It is an email I sent out to the whole board**
- 22 **giving them directions for the non-meeting at**
- 23 **the law office. And I gave directions that I**

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- 1 **pulled off the westbound. I think I had gone to**
- 2 **MapQuest.**
- 3 **Q.** Can you tell me about that meeting?
- 4 **A. That was a non-meeting, and the date was**
- 5 **Thursday. This is Tuesday, so this is on the**
- 6 **21st of April. And --**
- 7 **What can I tell about this?**
- 8 MS. GORROW: I've instructed him not to go
- 9 into attorney/client communications. So it's
- 10 going to be to the extent that you can answer in
- 11 general terms without going into what the board
- 12 discussed with the attorney.
- 13 THE WITNESS: Okay. This is the first
- 14 meeting between the board's attorney and the
- 15 board itself, and we discussed fees. Daniel
- 16 Hoefle talked about the fee schedule that he
- 17 would charge us.
- 18 BY MR. TAYLOR:
- 19 **Q.** Who attended that meeting?
- 20 **A. I believe all board members with the exception**
- 21 **of Krista. I think she called in, but I'm not**
- 22 **sure. She was in New York with her family.**
- 23 **Or is that the meeting we decided we'd use**

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- 1 **that law firm?**  
 2 **Q.** How was that decision taken?  
 3 **A. I think it was consensus.**  
 4 **Q.** Do I understand you correctly to say that you  
 5 retained a lawyer by consensus?  
 6 **A. Yes. In fact, I chose the lawyer. And we had**  
 7 **used her in the past, and I have the right under**  
 8 **policy to choose the law firm.**  
 9 **Q.** Which policy is that?  
 10 **A. I don't know. I'd have to look it up.**  
 11 **Q.** So I'm confused. You said that at this meeting  
 12 the board decided to use this law firm. Yet you  
 13 said you had already retained the lawyer or  
 14 chosen the lawyer.  
 15 Can you explain that in more detail?  
 16 **A. This is a law firm that we've used in the**  
 17 **past -- the board has used in the past. The**  
 18 **choice of the law firm was up to me by policy.**  
 19 **And we went to this meeting, and they discussed**  
 20 **fees, and there was a consensus that we would be**  
 21 **able to use this law firm on the matter of**  
 22 **discussing with Howard about the mutual**  
 23 **agreement to end his contract.**

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- 1 **Q.** How did you approach this law firm on that  
 2 matter?  
 3 **A. Called them.**  
 4 **Q.** When did that call occur?  
 5 **A. I don't know. But it was before -- it was**  
 6 **before the April 21st, so maybe a day or so**  
 7 **before.**  
 8 **Q.** Did you just call them once?  
 9 **A. I think I called them twice saying that we**  
 10 **could -- might have been a couple of telephone**  
 11 **calls because we were setting the meeting up, so**  
 12 **I had to communicate a common time that we could**  
 13 **meet.**  
 14 **Q.** Were there any other decisions made at that  
 15 meeting?  
 16 **A. I don't believe so.**  
 17 **Q.** Was the fee schedule agreed to?  
 18 **A. Yes.**  
 19 **Q.** What was the fee?  
 20 **A. I don't recall, but it's on their bills.**  
 21 **Q.** Was the fee schedule filed at the district  
 22 office?  
 23 **A. In what sense?**

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- 1 **Q.** Is there a copy of the fee schedule?  
 2 **A. I don't know if it was a fee schedule the way**  
 3 **you're characterizing it. I do know that they**  
 4 **gave prices for the two attorneys that we might**  
 5 **be dealing with.**  
 6 **Q.** The fee schedule was just discussed verbally?  
 7 **A. Yes.**  
 8 **Q.** So you approved a fee schedule without a written  
 9 document?  
 10 **A. Yes.**  
 11 **Q.** Did you sign a contract?  
 12 **A. No.**  
 13 **Q.** Why did you not sign a contract?  
 14 **A. None was presented.**  
 15 **Q.** So you obtained a lawyer without a contract?  
 16 **A. Yes.**  
 17 **Q.** Did any board members raise concerns about not  
 18 having a contract?  
 19 **A. At that time, no. I don't recall any.**  
 20 **Q.** How did you arrange for billing for that  
 21 process?  
 22 **A. I would send the bills. I think we had a**  
 23 **program where they did it monthly.**

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- 1 **Q.** And where were the bills to be sent?  
 2 **A. At first to me, and then I would turn them over**  
 3 **to the school district.**  
 4 **Q.** Why did you have them sent to you?  
 5 **A. Just for my review, but also there was an issue**  
 6 **where we were talking about Howard's contract,**  
 7 **and there was an issue of sending the bills**  
 8 **directly to the school district. It might**  
 9 **expose the fact that we were talking to Howard**  
 10 **about something that we -- the board and also**  
 11 **Howard and his attorney -- wanted to keep quiet**  
 12 **because they were -- I think both sides decided**  
 13 **that we didn't want the information out there**  
 14 **too early because there was negotiating, and**  
 15 **Howard's attorney did not want that information**  
 16 **out there until the right time.**  
 17 **We eventually signed a letter of mutual**  
 18 **agreement, and went forth with the new**  
 19 **arrangement.**  
 20 **Q.** So you're saying at the April 21st meeting you  
 21 arranged this billing?  
 22 **A. I don't know if I arranged it then, but probably**  
 23 **by the end of the month.**

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- 1 **Q.** At what point did you make contact with Howard's  
2 attorney?
- 3 **A.** **You know, I don't know the specific date. I**  
4 **think it was the attorney that made the original**  
5 **contact. I remember having asked Howard for his**  
6 **attorney's information, but I don't know the**  
7 **exact date.**
- 8 **Q.** Had you contacted his attorney by the time you  
9 met on the 21st of April?
- 10 **A.** **You know, that I don't know. Because I don't**  
11 **think -- I didn't contact him. I think it was**  
12 **the attorney that contacted based on Howard's**  
13 **information.**
- 14 **Q.** Was Howard aware of the meeting with Hoefle?
- 15 **A.** **Yes.**
- 16 **Q.** On the April 21st, he was aware of that meeting?
- 17 **A.** **Yes.**
- 18 **Q.** He had already retained a lawyer at that point?
- 19 **A.** **He had retained a lawyer the year before.**
- 20 **Q.** So at the April 21st meeting you were aware of  
21 who his attorney was?
- 22 **A.** **Either that or the day after or so I was.**
- 23 **Q.** So the bills that were sent to your home, when

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- 1 did you present them for payment?
- 2 **A.** **I can't remember exactly, but it was around the**  
3 **time that we had already agreed on a mutual**  
4 **letter that was going to go public. Howard's**  
5 **attorney requested that we don't pre-talk about**  
6 **any of the dealings with Howard.**
- 7 **Q.** Had there been any discussions with the board on  
8 keeping this quiet?
- 9 **A.** **I think that the -- our attorney and Howard's**  
10 **attorney said that we should do whatever we can**  
11 **to keep it quiet.**
- 12 **Q.** Who was the first one to raise that issue?
- 13 **A.** **You know, I don't recall. Everything that we**  
14 **did, Howard agreed to. I mean Howard wanted it**  
15 **done also.**
- 16 **Q.** So you're saying that the bills were not  
17 presented until after the press release was  
18 agreed to?
- 19 **A.** **Or coming up on the press release. That was in**  
20 **June.**
- 21 **Q.** All the bills?
- 22 **A.** **Pardon?**
- 23 **Q.** All the bills were kept until that date?

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- 1 **A.** **Yes.**
- 2 **Q.** Were they all filed at the same time?
- 3 **A.** **Well, I filed whatever I had at the same time.**  
4 **I think a couple of bills came later, too.**
- 5 **Q.** When were those bills filed?
- 6 **A.** **You know, I don't recall.**
- 7 **Q.** Do you recall what the subject of the bills  
8 were?
- 9 **A.** **They were the bills that indicated our meetings**  
10 **and the attorney fees that were accumulated.**
- 11 **Q.** I'm referring to the second batch of bills. Do  
12 you remember what those were for?
- 13 **A.** **Discussions going forward on Howard, and also**  
14 **discussions on hiring a new interim**  
15 **superintendent.**
- 16 **Q.** Look at Exhibit 8-B.
- 17 MS. GORROW: Did you see that?
- 18 THE WITNESS: Yes, I did.
- 19 BY MR. TAYLOR:
- 20 **Q.** Do you recognize that?
- 21 **A.** **Yes, I do.**
- 22 **Q.** Can you describe what it is?
- 23 **A.** **That is a bill for consultant to help us draft**

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- 1 **the letter that went public. That was the**  
2 **mutually agreed letter that Howard and the board**  
3 **put together.**
- 4 **Q.** Is that the letter that was Exhibit C in the  
5 separation agreement?
- 6 **A.** **The one going out to the public? Is that the**  
7 **one you're referring to?**
- 8 **Q.** In the separation agreement there's an Exhibit  
9 C. Is that Exhibit C?
- 10 **A.** **Yes.**
- 11 **Q.** Do you know when that bill was provided to the  
12 district office?
- 13 **A.** **This bill was provided to the district on**  
14 **June 30th.**
- 15 **Q.** So the district office had this bill on  
16 June 30th?
- 17 **A.** **You know, I'm not sure, maybe afterwards. It's**  
18 **dated June 30th.**
- 19 MS. GORROW: If you like, I can make a  
20 representation that that bill came to me from  
21 the attorney's office last Friday. That's when  
22 that came, this past Friday.
- 23 BY MR. TAYLOR:

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1 **Q.** So I'm confused. Was this bill sent to your  
2 home?  
3 **A.** It might have been. I see a -- I see my name on  
4 it and the address of my home.  
5 **Q.** But you don't remember it?  
6 **A.** I can't remember. I get a lot of mail at home.  
7 It was turned over to the district office.  
8 **Q.** When was it turned over to the district office?  
9 **A.** I'm guessing, but I would think within a couple  
10 of days of receiving it.  
11 **Q.** Look at the next date, C.  
12 **A.** Okay.  
13 **Q.** Does that look familiar?  
14 **A.** No.  
15 **Q.** Can you describe what it is?  
16 **A.** This is a bill that was sent to the law office  
17 that we were using from the PR firm that -- the  
18 Harbor Group in Rhode Island. And they are  
19 sending this bill because they helped us draft  
20 the letter to go to the public and some  
21 discussion on -- there was some changes on that  
22 letter that came from Howard's side. And so we  
23 were working with them to put a mutually agreed

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1 upon letter that would be public.  
2 **Q.** So are you saying that this firm was not  
3 retained until after you were working on these  
4 changes on Howard's side?  
5 **A.** No. This firm was retained when we were doing  
6 the research to present to the board how we  
7 should go through the process of finding an  
8 interim superintendent.  
9 **Q.** I thought earlier you said that this firm helped  
10 with Exhibit C of the separation agreement.  
11 **A.** Yes.  
12 **Q.** But you just said it was retained during  
13 research of finding the interim superintendent.  
14 **A.** No, that's when the name came up. When we first  
15 met with Skip Hansen, he told us to give this  
16 gentleman a call because he does good PR work,  
17 and since we were indicating that we were going  
18 to send out a news release about Howard's  
19 separation. We needed help on sending out news  
20 releases, and we only sent one out, and this  
21 gentleman helped us with it.  
22 **Q.** So this is the only one you contacted about the  
23 press release?

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1 **A.** No. We contacted one more. Somebody -- I can't  
2 remember who, but one board member brought forth  
3 another name, and we had the gentleman come in,  
4 and three us along with the attorney talked to  
5 him, and we decided not to go forward with him.  
6 We've turned that information over to you.  
7 **Q.** When did that meeting happen?  
8 **A.** I think it was one of the May meetings, May 20th  
9 or 23rd.  
10 **Q.** And you said -- who met with this PR firm?  
11 **A.** Who met with him? It was myself, Jocelyn, and  
12 Jim, along with the attorney.  
13 And he described what services and how he  
14 could render help to different letters that we  
15 were going to send to the public. It was during  
16 the formulation of what we were going to  
17 mutually agree on sending out to the public.  
18 **Q.** Why did you meet with just those people?  
19 **A.** Excuse me?  
20 **Q.** Why did you meet with just you, Jocelyn, and  
21 Jim?  
22 **A.** I'm thinking that Jocelyn brought the name  
23 forward, and I think the attorney said that you

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1 should only meet with two other board members.  
2 **Q.** Why did she say that?  
3 **A.** I don't know. Probably because of a quorum  
4 quorum issue that she thought about. That  
5 meeting happened, and then we went into a  
6 board -- excuse me -- into a nonpublic and met  
7 with the full board and described why we  
8 shouldn't go with this gentleman.  
9 **Q.** Did you mean to say nonpublic?  
10 **A.** I meant to say non-meeting.  
11 **Q.** Are you saying at that non-meeting you described  
12 this other meeting that you just had?  
13 **A.** We described that we were not confident that he  
14 was the right individual.  
15 **Q.** And who was at that second meeting?  
16 **A.** I believe the whole board.  
17 **Q.** How long did the first meeting last?  
18 **A.** Not very long, maybe a half hour. Not very  
19 long.  
20 **Q.** What time was that meeting scheduled to be?  
21 **A.** I think it was in the morning. I don't recall  
22 specifically.  
23 **Q.** Were both meetings in the morning?

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- 1 **A. Yes, they were back to back.**  
 2 **Q.** Was the rest of the board there at the time the  
 3 first meeting happened?  
 4 **A. No, they weren't in the same room. They were at**  
 5 **the other end of the law firm.**  
 6 **Q.** But they were in the same building?  
 7 **A. Yes.**  
 8 **Q.** Did you see them when you went into the  
 9 second -- the first meeting?  
 10 **A. No. I got there earlier, so I didn't see all**  
 11 **the board members come in.**  
 12 **Q.** But to the best of your knowledge they were  
 13 there?  
 14 **A. They were in the other room, yes.**  
 15 **Q.** So the full board was aware that you were  
 16 meeting?  
 17 **A. Yes, I think they were.**  
 18 **Q.** Did any of them raise any objection to you  
 19 meeting as a smaller group?  
 20 **A. I think -- I don't know the exact time, if it**  
 21 **was this meeting or other meeting, but Ann**  
 22 **Wright said it was -- her opinion was that we**  
 23 **did not need a PR person to help us draft a**

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- 1 **mutually agreed upon letter.**  
 2 **But I think -- I'm guessing -- but I think**  
 3 **the dealings with Howard's attorney kind of**  
 4 **indicated that we did, because he wanted to make**  
 5 **sure.**  
 6 MS. GORROW: I don't want you to go into too  
 7 much detail, because you have that  
 8 confidentiality requirement.  
 9 BY MR. TAYLOR:  
 10 **Q.** So my question is about the number of people  
 11 that went into the first meeting. The rest of  
 12 the board was aware and didn't raise objections  
 13 about a subcommittee going in to meet?  
 14 MS. GORROW: Objection to the form.  
 15 BY MR. TAYLOR:  
 16 **Q.** Please answer the question.  
 17 MS. GORROW: You can answer the question.  
 18 THE WITNESS: I believe the members that  
 19 were at that non-meeting, that we were going to  
 20 meet with the whole board, people that were  
 21 there probably were aware that we were going  
 22 into this other non-meeting with three board  
 23 members and the attorney.

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- 1 BY MR. TAYLOR:  
 2 **Q.** And none of them raised concerns about the  
 3 number of board members at that first meeting?  
 4 **A. No, there was no objection to that. There was a**  
 5 **general objection from Ann Wright that we even**  
 6 **needed to meet with a PR firm.**  
 7 **Q.** How did the members of that group get selected?  
 8 **A. Let's see, I think Jocelyn brought the name of**  
 9 **that firm forward, and so she and I, and I think**  
 10 **I asked Jim to come into that meeting, and that**  
 11 **would be the three.**  
 12 **Q.** Why did you ask Jim?  
 13 **A. I'm not sure exactly at this point, but I did**  
 14 **ask him.**  
 15 **Q.** Did you ask anyone else?  
 16 **A. No. I got up the three, and that was it.**  
 17 **Q.** Why did you stop at three?  
 18 **A. Probably because we didn't want the whole board**  
 19 **involved in interviewing this individual to help**  
 20 **us with wordsmithing the document.**  
 21 **Q.** What would be objectionable to the whole board  
 22 being involved?  
 23 **A. Excuse me?**

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- 1 **Q.** Why would there be a reason not to have the  
 2 whole board involved?  
 3 **A. Not exactly sure, but I know the attorney**  
 4 **recommended that. So maybe there was a -- stay**  
 5 **within the right-to-know law.**  
 6 **Q.** Can you explain that in more detail?  
 7 **A. I'm not sure I can.**  
 8 **Q.** Why would having only three members stay within  
 9 the right-to-know law?  
 10 MS. GORROW: I'll object. Calls for a legal  
 11 conclusion. If you can, answer the question.  
 12 THE WITNESS: The attorneys decided it.  
 13 BY MR. TAYLOR:  
 14 **Q.** What's the size of a quorum for the school  
 15 board?  
 16 **A. Four.**  
 17 **Q.** So are three people less than a quorum?  
 18 **A. Yes.**  
 19 **Q.** So having less than a quorum, it doesn't need to  
 20 fulfill the requirements of the right-to-know  
 21 law?  
 22 MS. GORROW: Objection. Calls for legal  
 23 conclusion.

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1 MR. TAYLOR: Please answer.

2 MS. GORROW: To the extent that you can and  
3 know the answer.

4 THE WITNESS: That's it.

5 BY MR. TAYLOR:

6 **Q.** You didn't answer. Could you please answer the  
7 question?

8 **A. Would you repeat the question?**

9 MR. TAYLOR: Would the stenographer please  
10 read the question.

11 (Whereupon, the record was read as  
12 requested.)

13 MS. GORROW: Same objection.

14 MR. TAYLOR: Would you please answer the  
15 question.

16 THE WITNESS: I think we were fulfilling the  
17 requirements of the right-to-know law, and that  
18 was that we were having three people to  
19 interview, and then we reported back to the  
20 board how the interview went with that PR  
21 person.

22 BY MR. TAYLOR:

23 **Q.** Earlier you said that the attorney had suggested  
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1 keeping it three because of the right-to-know  
2 law. Can you explain that rationale?

3 **A. Maybe I misspoke when I said she suggested it.**  
4 **I know that I went into the room, and there were**  
5 **two other board members. And she is the one**  
6 **that put it together. Although, I remember**  
7 **asking Jim if he would be a third board member.**

8 **Q.** When you walked in there were two board members  
9 already?

10 **A. Well, eventually sat down and had coffee or**  
11 **something.**

12 **Q.** You were the third board member in the room?

13 **A. I don't know if I was the third one in. I might**  
14 **have been the first one in.**

15 **Q.** How long did this meeting last?

16 **A. Not very long, half an hour, 40 minutes.**

17 **Q.** And then you met with the whole board?

18 **A. Yes.**

19 **Q.** And you discussed what?

20 MS. GORROW: I'm going to instruct you just  
21 to not get into communications that deal with  
22 negotiation with Mr. Colter because of the  
23 confidentiality and the attorney-client

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1 privilege. To the extent there are things that  
2 don't come within that scope, you can answer the  
3 question.

4 THE WITNESS: I think that we discussed that  
5 we still needed a PR person to help us, a  
6 wordsmith, and I think it was presented that we  
7 felt that this firm didn't fulfill that need.

8 BY MR. TAYLOR:

9 **Q.** How long did that deliberation take?

10 **A. You know, I don't really know. I don't know. I**  
11 **have so many meetings.**

12 **Q.** But it did take place, and you did make a  
13 decision to not go with that firm, correct?

14 **A. Yeah, it was presented that we were not going to**  
15 **go with that firm.**

16 **Q.** What do you mean by presented?

17 **A. Well, we came into the room and started**  
18 **discussing would that firm be able to help us**  
19 **with drafting, crafting a letter that Howard's**  
20 **attorney would agree to.**

21 **And we -- maybe I made the statement. I**  
22 **didn't think that that firm was right, and the**  
23 **other two board members confirmed that.**

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1 **Q.** What did you do about the PR firm, any other  
2 decisions made at that meeting about the PR  
3 firm?

4 **A. I don't think so. Other than the fact that we**  
5 **did discuss that we would need somebody to help**  
6 **us.**

7 **Q.** Was any discussion made about how to acquire  
8 that person?

9 **A. No. There were so many things happening then.**  
10 **I think that at that point we might have known**  
11 **about this other PR firm.**

12 **Q.** You said you knew about this other PR firm  
13 because of Skip Hansen?

14 **A. Yeah.**

15 **Q.** Who is Skip Hansen?

16 **A. Skip Hansen is a gentleman that -- he does**  
17 **several different things, but he's a retired**  
18 **superintendent. He also is a gentleman that**  
19 **works with several firms that help school**  
20 **boards. And one that he works with, one of them**  
21 **he works with is in Maine, and I don't recall**  
22 **the name right offhand, but he's the one that**  
23 **introduced us to the PR firm that we did use.**

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1 **Q.** Can you describe your relationship with Skip  
2 Hansen?  
3 **A.** I had never met him before until we started  
4 searching for an interim.  
5 **Q.** When did you start searching for an interim?  
6 **A.** Excuse me? Say the question again.  
7 **Q.** When did you start searching for an interim?  
8 **A.** Well, the first thing we did was look at the  
9 process. We tried to figure out the process  
10 that we had to use. And so we -- with myself  
11 and two other board members to help me make a  
12 recommendation back to the full board -- we  
13 interviewed some past superintendents.  
14 We also interviewed a Dr. Tracy who -- he  
15 gave us the form that we needed to put together  
16 and some suggestions on how to do this in the  
17 best light to the public.  
18 **Q.** Can you explain what you mean by in the best  
19 light to the public?  
20 **A.** He suggested that we form an official search  
21 committee, and he suggested that we incorporate  
22 staff members. He said if you really have more  
23 time, you probably might even involve some

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1 public members.  
2 **Q.** Did he raise any concerns about the process you  
3 had taken up to that point?  
4 **A.** He had already come over and talked to Howard.  
5 He was quite surprised that we were calling him,  
6 and Howard explained to him that he was in  
7 negotiation with the board to dissolve the  
8 existing contract.  
9 **Q.** What were the objections that he raised?  
10 **A.** I don't know if they were objections. He  
11 thought we should be as transparent as we could  
12 possibly be. In the light of the fact that we  
13 were negotiating with Howard, and he knew there  
14 were constraints on the board. Constraints on  
15 Howard, too.  
16 **Q.** So he thought your process was not sufficiently  
17 transparent?  
18 **A.** No, he talked about future process. And he was  
19 wondering. And he right upfront, he said, "Why  
20 am I being talked to at this point?"  
21 And we told him we were trying to figure out  
22 the process and trying to gauge what, you know,  
23 what questions we should ask a superintendent

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1 and trying to get an idea of how we should go  
2 forward.  
3 **Q.** Okay. Did you talk to anyone else about  
4 possible candidates?  
5 **A.** Yes. Myself and Krista called different  
6 agencies. I think we called the school board  
7 association. That was Krista. Some  
8 Massachusetts association. The superintendent's  
9 association here in New Hampshire. In Maine, I  
10 think they have a similar superintendent's  
11 association. I think we called them. And  
12 Howard had given us some suggestions on  
13 individual people that we should talk to, and we  
14 did.  
15 **Q.** How did this group, you and Krista, have the  
16 authority to do this?  
17 **A.** It was based on the board asking me to do the  
18 research, and I asked Krista. Krista has a  
19 relationship with the New Hampshire School Board  
20 as a board member. She's on their -- the full  
21 board has assigned her the liaison job between  
22 the board and the New Hampshire School Board  
23 Association. And so that was the connection.

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1 And it expanded from there, because she also  
2 called the Maine -- I believe it was the Maine  
3 counterpart, and, um, you know.  
4 **Q.** When was this authority given to you?  
5 **A.** I think it was on the 20th of May.  
6 **Q.** Was this the same authority you talked about  
7 earlier?  
8 **A.** Yes, to investigate what procedures we should do  
9 and maybe come forth with some names of  
10 candidates that we could figure out if they  
11 wanted to interview.  
12 And that's when I called Megan and Jim to  
13 help me filter through this. And eventually  
14 Krista got involved in that because of her  
15 association with the New Hampshire School Board  
16 Association. And it expanded from there. We  
17 were in a tight deadline.  
18 **Q.** Did I understand you correctly to say that you  
19 worked with Megan, Jim, Krista, and yourself to  
20 do this?  
21 **A.** It was a -- I had asked Jim and Megan first.  
22 And then the board was informed of what we were  
23 doing. And then Krista said because of her

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1 **relationship with the School Board Association,**  
 2 **she would contact them and find out some names**  
 3 **from them. And that got expanded. Everything**  
 4 **was fluid, you know. There was a timeline --**  
 5 **not a timeline. A time deadline because we were**  
 6 **negotiating at the same time Howard's contract.**  
 7 **So there was a lot of pressure on the board to**  
 8 **come up with how the process should work and**  
 9 **candidates. And, in fact, even Ann Wright**  
 10 **thought the process -- at that point thought the**  
 11 **process was going too slow, and she criticized**  
 12 **me for not pushing it more.**

13 **Q.** I don't feel you answered my question.

14 **A.** Which is?

15 **Q.** My question was: So at that point Jim, Megan,  
 16 and Krista, and you were all working on this  
 17 together?

18 **A.** No, like individual. Not together. But Krista  
 19 made the suggestion, and we said go ahead and  
 20 call the school board. I don't know if it was  
 21 a -- you know, it was just something she  
 22 offered, and we accepted.

23 **Q.** Still, I don't feel you answered my question.

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1 Were you all working at this at the same  
 2 time?

3 **A.** The whole board was working on it.

4 MS. GORROW: He's answered the question.

5 MR. TAYLOR: I didn't hear the answer I was  
 6 looking for.

7 MS. GORROW: He answered the question, so  
 8 that's his answer.

9 THE WITNESS: Why don't you tell us what  
 10 your answer would be?

11 BY MR. TAYLOR: I'm sorry, I'm asking the  
 12 questions. I didn't hear you answer the  
 13 question. Would you please answer the question?

14 MS. GORROW: He's answered it twice.

15 MR. TAYLOR: I didn't hear his answer. He  
 16 has said something, but he did not answer the  
 17 question.

18 MS. GORROW: I think he's answered the  
 19 question. If you want to repeat the question  
 20 again.

21 MR. TAYLOR: Okay. Would you please repeat  
 22 the question again.

23 (Whereupon, the record was read as follows:

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1 "Q. Were you all working at this at the  
 2 same time?

3 A. The whole board was working on it.")

4 THE WITNESS: I guess that's the answer to  
 5 that question.

6 BY MR. TAYLOR:

7 **Q.** So was Ann Wright also searching for candidates  
 8 at that time?

9 **A.** I'm not sure if she made suggestions. Chances  
 10 are she did. All board members at that point  
 11 were trying to come up with some way to push  
 12 this along. So we had candidates that could be  
 13 in the pipeline, and I think we were taking  
 14 suggestions from anybody and everybody.

15 **Q.** Do you recall any specific suggestions from Ann  
 16 Wright?

17 **A.** Not offhand, but I know she was involved in the  
 18 process.

19 **Q.** Do you recall any specific suggestions from  
 20 Jocelyn O'Quinn?

21 **A.** There were so many names being thrown around at  
 22 that point, agencies that could help us, names  
 23 that came from Howard and came from -- just

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1 **about every board member had some suggestion on**  
 2 **how we could gather more names.**

3 **Q.** Do you know of any specific board members  
 4 besides Jim, Megan, and Krista, and you that  
 5 made contacts to organizations?

6 **A.** Not offhand, but I know everybody was involved  
 7 in trying to come up with names because of the  
 8 timeline we were on.

9 **Q.** Let's go on to Exhibit 2 in the Petition.

10 **A.** Okay.

11 **Q.** Can you describe what this exhibit is?

12 **A.** This is a bill that came from Hoefle, Phoenix  
 13 and et cetera. The date on the bill is May 13,  
 14 2011.

15 **Q.** And where was this bill sent?

16 **A.** I guess May 13th.

17 **Q.** Where was it sent?

18 **A.** Oh, it was sent to my house.

19 **Q.** When did you submit this bill for payment?

20 **A.** I don't know, but it was probably close to the  
 21 end of June.

22 **Q.** Did you negotiate the terms of payment with the  
 23 attorney?

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1 **A. No.**

2 **Q.** Did you understand any particular terms of the  
3 payment?

4 **A. Excuse me?**

5 **Q.** Did you understand any particular terms of  
6 payment?

7 **A. No. I just turned it over to the district. I**  
8 **expected it to be paid.**

9 **Q.** I'm talking about the expectations of the  
10 attorney.

11 **A. I guess --**

12 MS. GORROW: I think we've already gone over  
13 the fees. Do you know what the fees were?

14 THE WITNESS: Well, I think, you know, I  
15 don't recollect specifically. But I know that  
16 the major partner, Dan Hoefle, he was higher  
17 than Kim. And Kim's fee was -- I guess the  
18 board thought it was reasonable based on  
19 attorney's fees. But I don't specifically  
20 remember.

21 BY MR. TAYLOR:

22 **Q.** My question was to the terms of payment. You  
23 said you had a previous career in business. I

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1 assume you understand what the terms of payment  
2 are. Do you know what the terms of payment  
3 were?

4 **A. That's probably true. Pardon me?**

5 **Q.** Do you know what the terms of payment were for  
6 the attorney?

7 **A. No.**

8 **Q.** They never mentioned anything about terms of  
9 payment?

10 **A. No.**

11 **Q.** They never mentioned anything about when they  
12 expected the bills to be paid?

13 **A. No.**

14 **Q.** They never told you to hold the bills until the  
15 end of June?

16 **A. No. I just asked for them to be mailed to me.**

17 **Q.** Were they aware that you were going to hold them  
18 until June?

19 **A. They might be. I'm not sure.**

20 **Q.** Do you have any recollection of discussing it  
21 with anyone?

22 **A. I don't specifically, but I think they might**  
23 **have understood that the -- if they had been**

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1 **paid -- if they had been turned in, then that**  
2 **would become available for the public, and there**  
3 **was a big concern on Howard's attorney's part**  
4 **not to let this out to the public. So we were**  
5 **trying to -- at least I was trying to reconcile**  
6 **this with the normal process of things being**  
7 **paid and things being public.**

8 **Q.** Was there anyone besides Howard's attorney that  
9 wanted to keep this from becoming public?

10 **A. I think that we were all under the thought that**  
11 **we had -- we didn't have the right to talk about**  
12 **the negotiations with Howard till it was final.**

13 **Q.** Did you ever discuss that?

14 **A. I'm sure we did, because Howard's attorney was**  
15 **involved in asking for this to be private up**  
16 **until the time the agreement was settled.**

17 **Q.** Was he the first one to bring that issue up?

18 **A. I'm not sure.**

19 **Q.** You don't remember discussing it without the  
20 attorney?

21 **A. No. I don't think I discussed anything with the**  
22 **board as far as the bills were concerned. The**  
23 **board was quite aware that we had no -- we had**

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1 **to -- we had a confidentiality agreement with**  
2 **Howard's attorney, and I guess that's kind of**  
3 **normal under renegotiating contracts, and not**  
4 **talking -- talk about the negotiations until**  
5 **they're final or close to final.**

6 **Q.** Do I understand you correctly to say that you  
7 had a confidentiality agreement with Howard's  
8 attorney during the negotiation process?

9 **A. I don't know if it was a confidentiality**  
10 **agreement, but we were informed by Howard's**  
11 **attorney that we should respect that we're**  
12 **negotiating.**

13 **Q.** So there was no signed agreement?

14 **A. I don't think so. I think there might be an**  
15 **attorney to attorney privilege.**

16 **Q.** Did you ever discuss that with your attorney,  
17 whether there would be such a discussion?

18 **A. No, I think that she had mentioned -- I don't**  
19 **know if I discussed it, but I do know there was**  
20 **mention about keeping things confidential.**

21 **Q.** To the point of whether there was any agreement,  
22 you don't have any recollection?

23 **A. No. That was a no to the recollection.**

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1 Q. What's this invoice refer to?  
 2 A. Which one?  
 3 Q. What does this invoice, Exhibit 2?  
 4 A. 2, okay. This refers to matters that dealt with  
 5 the attorney, and it mentions about a conference  
 6 call with me, it mentions about another  
 7 telephone conference with me regarding the need  
 8 for outside counsel on this issue, and it  
 9 mentions about the no-charge conference that we  
 10 had with the -- I guess it's with the full board  
 11 when prices were told to us, and we did engage  
 12 the firm.  
 13 Q. What's the general purpose of this invoice?  
 14 A. To show the times the attorney was involved with  
 15 the termination of Howard's contract.  
 16 Q. So all of the items listed there related to the  
 17 termination of Howard Colter?  
 18 A. Yes.  
 19 Q. On May 24th, it says there was a telephone  
 20 conference with Mr. Brackett regarding review of  
 21 contract.  
 22 A. It's not on this bill.  
 23 MS. GORROW: You mean March 24th?  
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1 MR. TAYLOR: March 24th, I'm sorry.  
 2 THE WITNESS: Oh, March 24th. You said May.  
 3 MS. GORROW: You said May.  
 4 BY MR. TAYLOR:  
 5 Q. March 24th.  
 6 A. There was a general conversation about should we  
 7 retain an attorney, and if so, we needed the  
 8 board to hear your credentials on handling a  
 9 contract matter. So we set meetings up, or at  
 10 least talked about set meetings up.  
 11 Q. Was this the first time you had talked with this  
 12 attorney about the termination of Howard Colter?  
 13 A. It probably was, yeah.  
 14 Q. What authority did you have to talk with this  
 15 attorney on that subject?  
 16 A. Policy. The policy is that the superintendent  
 17 and the chair have the right to talk to  
 18 attorneys. And I don't know what that policy  
 19 is, but it could be looked up.  
 20 Q. Had you been given authority to approach this  
 21 particular subject?  
 22 A. With the attorney?  
 23 Q. From the board.

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1 A. I think I was tasked with probably a nonpublic  
 2 meeting. I'm trying to figure out what the  
 3 board needed to do. We'd have to talk to  
 4 Howard. So I guess I was given the authority.  
 5 But calling an attorney, I had the right  
 6 under the policy that exists to talk to an  
 7 attorney.  
 8 Q. Do I understand correctly to say that at a  
 9 nonpublic meeting --  
 10 A. I'm guessing. I don't know if it was a  
 11 nonpublic or public meeting. But it was  
 12 probably nonpublic because we were talking about  
 13 personnel issues.  
 14 Q. So at this meeting you were tasked by the board  
 15 to approach an attorney on the termination of  
 16 Howard Colter?  
 17 A. I think I might have been tasked with the issue  
 18 of finding out what our alternatives were.  
 19 Q. Alternatives for what?  
 20 A. Excuse me?  
 21 Q. Alternatives for what?  
 22 A. I think to discuss what alternatives we had with  
 23 the contract that we had. We had a letter  
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1 already between the board, the last board, and  
 2 Howard regarding a mutual respect issue.  
 3 MS. GORROW: I'm going to instruct you to be  
 4 careful. You can't go into personnel matters  
 5 and anything that would violate the  
 6 confidentiality requirement.  
 7 THE WITNESS: Okay.  
 8 BY MR. TAYLOR:  
 9 Q. So I don't think you answered my question.  
 10 Alternatives for what?  
 11 A. I don't know how to answer it based on what my  
 12 attorney just said. Because there are some  
 13 issues when we signed off on his change of  
 14 contract that precludes me from saying anything  
 15 that might disparage Howard.  
 16 Q. So you were trying to solve a problem?  
 17 MS. GORROW: I'm going to object to the form  
 18 of the question.  
 19 MR. TAYLOR: Please answer.  
 20 MS. GORROW: I think his -- I'm just going  
 21 to instruct him not to answer that question.  
 22 I think his answer was that they were  
 23 finding out alternatives and dealing with the

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1 contract. And that's about as much as he's  
 2 going to be able to say.  
 3 BY MR. TAYLOR:  
 4 **Q. Was the contract being renegotiated?**  
 5 **A. At that point, no.**  
 6 **Q. Had other board members raised issues about the**  
 7 **contract?**  
 8 **A. I don't know if it was the contract that you're**  
 9 **talking about. You're making an assumption**  
 10 **that's not 100 percent true, if true at all.**  
 11 **And that is, we were just -- I was authorized to**  
 12 **talk to an attorney about alternatives that we**  
 13 **had with Howard.**  
 14 **Q. When did this meeting happen?**  
 15 **A. Well, I assume -- what meeting are you referring**  
 16 **to?**  
 17 **Q. The meeting, probably nonpublic, where you were**  
 18 **tasked to find out what the alternatives were.**  
 19 **A. I guess it was before the March 24th date that's**  
 20 **represented in the attorney's bill.**  
 21 **Q. Do you know how much before that date?**  
 22 **A. You know, I don't. I really don't. I'd tell**  
 23 **you if I did.**

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1 **Q. Do you know if it was days or weeks?**  
 2 **A. I don't remember.**  
 3 **Q. Was this a new board?**  
 4 **A. March 8th was the creation of the new board.**  
 5 **Q. When did you first meet?**  
 6 **A. Excuse me?**  
 7 **Q. When did you first meet as a new board?**  
 8 **A. I'd have to look it up, but right around**  
 9 **March 8th. The election was March 8th, I think.**  
 10 **So the next board meeting would have been, I**  
 11 **think, a week later. The election's on Tuesday,**  
 12 **so probably about a week later. I'm guessing.**  
 13 **It's probably in my calendar under SB.**  
 14 **Q. So would that be about March 16th?**  
 15 **A. Could have been March 16th.**  
 16 **Q. Was it that meeting where you were tasked to do**  
 17 **the alternatives?**  
 18 **A. What alternatives?**  
 19 **Q. The alternatives dealing with Howard?**  
 20 **A. Well, out of that nonpublic meeting, I must have**  
 21 **been told or asked about should we contact an**  
 22 **attorney, and that's what I did on March 24th.**

MS. GORROW: Are you all set, Henry, or do

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1 you need to take a break?  
 2 THE WITNESS: I'm okay.  
 3 MR. TAYLOR: Would you mark this as an  
 4 exhibit.  
 5 (Whereupon, Exhibit 12, Calendar, is  
 6 marked for identification.)  
 7 BY MR. TAYLOR:  
 8 **Q. I want you to look at Exhibit 12, the calendar**  
 9 **entry for March 16th. Can you describe what**  
 10 **annotations you see there?**  
 11 **A. At the SAU they had a brown bag lunch. That was**  
 12 **with Howard. And I think my note here, I was**  
 13 **planning to attend. I don't think I did. And**  
 14 **the other notation is school board that night**  
 15 **after 6:00.**  
 16 **Q. Do you see any of the markings on that page for**  
 17 **March 14th through March 20th of any school**  
 18 **board meetings?**  
 19 **A. On Sue -- under Sue, the operations committee**  
 20 **met at the SAU to talk about the copier deal**  
 21 **they were putting to the. It was not a bid, it**  
 22 **was a deal.**  
 23 **Q. On what date is that?**

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1 **A. That's on the 14th. I also went to a town and**  
 2 **campus fire department meeting that was held in**  
 3 **downtown Durham.**  
 4 **And then there's probably a personal entry**  
 5 **crossed out for the afternoon.**  
 6 **And for the 15th, there's a personal note**  
 7 **that I had lunch.**  
 8 **Q. Would you turn to the next page.**  
 9 **A. The next page would be the 21st through the**  
 10 **27th, calendar. Which date?**  
 11 **Q. Are there any annotations of full school board**  
 12 **meetings on the 21st, 22nd, or 23rd?**  
 13 **A. On the 21st there was a concert at Moharimet**  
 14 **that I went to. That was in the evening.**  
 15 **Then on Tuesday, the 22nd, there was a**  
 16 **Committee No. 7. So that was the Warren Article**  
 17 **Committee, the sustainability committee. It was**  
 18 **held here in this room at the SAU.**  
 19 **And then there was also a concert that night**  
 20 **for the second graders at Mast Way that I went**  
 21 **to.**  
 22 **And then on Wednesday I had a rotary meeting**  
 23 **in the morning. And at night, at 7 o'clock I**

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- 1 **had an ABC meeting.**  
 2 **Q.** What day was that?  
 3 **A.** That was on the 23rd.  
 4 **Q.** Those were all the meetings between the 21st and  
 5 the 23rd?  
 6 **A.** I have a note here that I called Wendy. I'm not  
 7 sure why. I think it was on training. A little  
 8 note off to the side, "call Wendy/slash  
 9 training."  
 10 So that was probably a scheduling issue.  
 11 Do you want me to continue?  
 12 **Q.** No. So you don't see any other full school  
 13 board meetings scheduled in that time?  
 14 **A.** There was a -- I can't read. It's very light.  
 15 But I think I went to -- for an hour, I went to  
 16 the girl's basketball dinner. And then I left  
 17 that meeting and went to the concert over at  
 18 Mast Way.  
 19 **Q.** So there are no other nonpublic meetings?  
 20 **A.** Not that I wrote down on the calendar. There  
 21 might have been. But I write most of the stuff  
 22 down, but not everything.  
 23 **Q.** So your calendar only reflects one meeting

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- 1 between the election and the 23rd, which is on  
 2 the 16th?  
 3 **A.** One meeting between what?  
 4 **Q.** For the full school board.  
 5 **A.** Between what dates? I'm sorry.  
 6 **Q.** The election and the 23rd.  
 7 **A.** Let's confirm when the election was. The  
 8 election was on -- okay. The election was on  
 9 the 8th. And the school board meeting was on --  
 10 excuse me, March 16th, Wednesday.  
 11 **Q.** And that was the first school board meeting for  
 12 the newly elected school board?  
 13 **A.** Yes.  
 14 **Q.** At that first school board meeting you discussed  
 15 alternatives dealing with Howard?  
 16 **A.** Must have, yes.  
 17 **Q.** Who brought up that subject?  
 18 **A.** Excuse me?  
 19 **Q.** Who initiated that discussion?  
 20 **A.** You know, I don't recall.  
 21 **Q.** Was everyone at that meeting?  
 22 **A.** On the 16th?  
 23 **Q.** Yes.

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- 1 **A.** I don't recall. I would assume that...  
 2 **Q.** Do you remember anything about that discussion?  
 3 **A.** Not really. I must have been given some sort of  
 4 discussion about what I talked to the attorney  
 5 about on the 24th of March. But I don't recall  
 6 the specifics.  
 7 **Q.** But you do remember you were charged to talk to  
 8 the attorney about alternatives?  
 9 **A.** I'm assuming I was based on this telephone  
 10 conference I had with the attorney. I'm not  
 11 trying to avoid the question. I just go to a  
 12 lot of meetings, as you know.  
 13 **Q.** I understand.  
 14 (11:10 a.m., recess.)  
 15 (11:17 a.m., deposition resumes.)  
 16 BY MR. TAYLOR:  
 17 **Q.** Looking at the April 15th date.  
 18 **A.** Looking at what?  
 19 **Q.** April 15th date in the invoice.  
 20 **A.** Okay.  
 21 **Q.** Says, "Telephone conference with Mr. Brackett  
 22 regarding" -- and it's redacted -- "need for  
 23 outside counsel, research regarding issues

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- 1 relating to superintendent and principal search,  
 2 interoffice conference with Attorney Hoefle  
 3 regarding same. No charge."  
 4 Is that an accurate representation of what  
 5 it says?  
 6 **A.** Yes.  
 7 **Q.** Can you talk about the first item, "Telephone  
 8 conference with Mr. Brackett regarding" --  
 9 redacted -- "need for outside counsel"?  
 10 MS. GORROW: I'm going to instruct the  
 11 witness of the attorney-client privilege, and  
 12 you have the other protections of the  
 13 confidentiality agreement.  
 14 So to the extent that there's something that  
 15 doesn't come within the scope of those, you can  
 16 answer the question.  
 17 THE WITNESS: I don't remember any of the  
 18 details.  
 19 BY MR. TAYLOR:  
 20 **Q.** Do you know why this is a few weeks after the  
 21 March 24th phone call?  
 22 **A.** No, I don't. Other than possibly setting a  
 23 meeting up. But I don't know.

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1 **Q.** Had you retained the attorney at this point for  
2 this termination of Howard Colter?  
3 **A. I don't think so.**  
4 **Q.** The second item reads: "Research regarding  
5 issues relating to superintendent and principal  
6 search."  
7 Can you describe that?  
8 **A. Must have asked her to -- must have asked her**  
9 **about dealing with the superintendent. And I**  
10 **probably described -- I'm guessing now, but I**  
11 **probably described what happened with the**  
12 **principal search. And then I guess she did**  
13 **research on those issues.**  
14 **Q.** Did you ask her to research anything?  
15 **A. I don't know if I did. I don't think I did.**  
16 **But she's the attorney. I was just the, you**  
17 **know, explaining what we needed help on.**  
18 **Q.** So you asked for help on the principal search?  
19 **A. I don't think I asked help for the principal**  
20 **search. I think that was tied in with issues**  
21 **with the superintendent.**  
22 **I might have told her what had happened or**  
23 **something, to bring her up to speed.**

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1 **Q.** Why would that be tied in with issues with the  
2 superintendent?  
3 **A. Let's see, maybe you could help me out on this.**  
4 **What was the date of the vote for the**  
5 **nomination that Howard came forward with?**  
6 **Q.** I believe it was April 11th.  
7 **A. April 11th. So at this point we probably had**  
8 **voted down the nomination, so I probably**  
9 **mentioned that, just mentioning something to tie**  
10 **it together. Very fluid things were happening**  
11 **then, so I must have made mention about the**  
12 **principal search and what had happened.**  
13 **Q.** I still don't feel like you answered my  
14 question. My question was: How was the  
15 principal search tied into the superintendent?  
16 **A. Well, the superintendent nominated, and we voted**  
17 **down the nomination, so I probably made mention**  
18 **of that.**  
19 **Q.** Did you discuss that you wanted a new  
20 superintendent to select the high school  
21 principal?  
22 **A. You know, I don't recall. I wish he had, but**  
23 **that's my feeling at the time.**

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1 **Q.** Wished he had what?  
2 **A. Wished he had nominated. He had that**  
3 **opportunity, but he didn't.**  
4 **Q.** I don't think you answered my question. My  
5 question was: Did you discuss whether you  
6 should wait until the new superintendent came in  
7 to hire the high school principal?  
8 **A. My recollection at the time -- I don't know if I**  
9 **said anything at this moment. My recollection**  
10 **at the time was that there was only one board**  
11 **member that wanted to wait. That was Jim. And**  
12 **he was vocal about that, even to the public.**  
13 **Q.** You don't remember discussing that with the  
14 attorney?  
15 **A. No, I don't. I'm not trying to avoid anything.**  
16 **I just don't recall.**  
17 **Q.** Turn to April 19th on the invoice.  
18 **A. Okay.**  
19 **Q.** First item reads: "Conference with H. Brackett  
20 and Attorney K. Memmesheimer," and it's  
21 redacted.  
22 Can you describe that conference?  
23 MS. GORROW: I'm going to object and

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1 instruct the witness not to answer anything that  
2 has to do with attorney-client communications or  
3 anything that may be subject to a  
4 confidentiality requirement.  
5 BY MR. TAYLOR:  
6 **Q.** Please answer the question.  
7 **A. I think I'll take the attorney's advise.**  
8 **Q.** The attorney just objected to it.  
9 MS. GORROW: I'm instructing him not to  
10 answer the question.  
11 BY MR. TAYLOR:  
12 **Q.** Did that conference take place?  
13 **A. I assume it did by the bill.**  
14 **Q.** You don't remember the conference?  
15 **A. I don't personally remember the conference.**  
16 **Q.** You don't remember going to his office on  
17 April 19th?  
18 **A. No, I don't. I'm sure it was in the issue of**  
19 **setting up the conference with the board and the**  
20 **attorneys to make a choice on what firm we would**  
21 **use.**  
22 **Q.** Setting up the meeting on April 21st?  
23 **A. I'm guessing, but, yes, I think so.**

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1 **Q.** Also April 19th it says: "Office conference  
 2 with Mr. Brackett regarding representation of  
 3 school board to" -- redacted -- "with  
 4 Mr. Colter; review of 91-A issues."  
 5 **A. Say that again, please. I'm sorry.**  
 6 **Q.** April 19th, second entry says: "Office  
 7 conference with Mr. Brackett regarding  
 8 representation of school board to" --  
 9 redacted -- "with Mr. Colter; review of 91-A  
 10 issues."  
 11 Is that accurate?  
 12 **A. I guess I did make the meeting, but I don't**  
 13 **recall specifics of it.**  
 14 **Q.** So my reading of this invoice is that there are  
 15 two separate conferences. Do you read that as  
 16 well?  
 17 **A. Well, I might have got there early for the**  
 18 **second conference, so that's probably where the**  
 19 **discussion went with the attorney.**  
 20 **Q.** Do I understand you to be saying that if you got  
 21 there early, you had the first conference and  
 22 then a second conference that was scheduled?  
 23 MS. GORROW: May I just for clarification,  
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1 if you look, it's two different lawyers. It's  
 2 the same conference, two different lawyers.  
 3 We lawyers, if there's two of us at the same  
 4 meeting, you'll see the initials. It's the same  
 5 thing, same time, hopefully.  
 6 THE WITNESS: Yeah. There was -- Daniel was  
 7 there and Kim.  
 8 BY MR. TAYLOR:  
 9 **Q.** Why would there be 91-A issues?  
 10 **A. I'm not sure if there was an issue. I think**  
 11 **that we wanted to make sure that we were not**  
 12 **outside the scope of 91-A.**  
 13 **Q.** What would make you outside the scope?  
 14 **A. Nothing.**  
 15 **Q.** Why would it be an issue?  
 16 **A. Just to make sure we weren't.**  
 17 **Q.** What was your concern?  
 18 **A. That we followed 91-A. I don't know if it was a**  
 19 **concern, but at least it might have been talked**  
 20 **about at this meeting. I assume it was from the**  
 21 **way she puts it down.**  
 22 **Q.** You don't remember talking about it with her?  
 23 **A. David, there's lots of talk, and I don't**  
 DAVID R. JORDAN & ASSOCIATES

1 **remember specifically for all of these dates.**  
 2 **If I remembered, I would tell.**  
 3 **Q.** Turn to April 21st invoice.  
 4 **A. April 21st. Okay.**  
 5 **Q.** So the first entry says: "Conference with new  
 6 client."  
 7 Is that accurate?  
 8 **A. Yes.**  
 9 **Q.** Can you describe that meeting?  
 10 **A. The full board and Daniel Hoefle, he talked to**  
 11 **the full board along with Kim about possible**  
 12 **representation, their firm would represent us,**  
 13 **and we were asking for information about their**  
 14 **firm, and we weren't charged for that meeting.**  
 15 **Neither were we charged for the April 19th. The**  
 16 **board had not accepted them to represent us at**  
 17 **that point.**  
 18 **Q.** Who was at that meeting?  
 19 **A. Maybe the full -- I think the full board. I**  
 20 **don't know if this was the meeting that Ann**  
 21 **Wright missed. Either this one or the second**  
 22 **one she missed. She was out of town or**  
 23 **something like that.**  
 DAVID R. JORDAN & ASSOCIATES

1 **Q.** And this is the meeting where you deliberated  
 2 and decided to hire this firm?  
 3 **A. I think I was told that, Henry, you could use**  
 4 **this firm under the policy that I had, I guess,**  
 5 **the right to identify a firm and bring them**  
 6 **forward for the board to use.**  
 7 **Q.** So you're saying that the -- can you further  
 8 describe what you say the board did at this  
 9 meeting, what action they took?  
 10 **A. Thumbs up that I could hire this firm. It**  
 11 **wasn't a vote, per se. It was just that**  
 12 **everybody agreed that this firm could do what we**  
 13 **wanted them to do.**  
 14 **Q.** Was this also the meeting where the fee schedule  
 15 was discussed?  
 16 **A. They did tell us, yes, at this meeting.**  
 17 **Q.** Did the board agree to that fee schedule?  
 18 **A. I don't know if they agreed to it in a formal**  
 19 **vote, but they authorized thumbs up that I**  
 20 **could, you know, hire this firm.**  
 21 **Q.** I don't believe you answered my question. My  
 22 question was whether they gave authority for the  
 23 fee schedule at this meeting?  
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1 MS. GORROW: I'm going to object because  
2 we've been over this previously, the whole fee  
3 schedule. You can answer the question.  
4 THE WITNESS: The fees for these attorneys  
5 was discussed, and we went forward and hired the  
6 firm.

7 BY MR. TAYLOR:  
8 Q. So you still didn't answer my question. Did the  
9 board agree at this meeting to the fee schedule?

10 MS. GORROW: I'm going to object again.  
11 Asked and answered. Attorneys don't usually  
12 negotiate fees. It's this is what the fees are  
13 and it's kind of take it or leave it. You agree  
14 to the representation, you agree to the fees.

15 So if you have anything else to add, Henry --

16 THE WITNESS: No.

17 MS. GORROW: -- you can answer.

18 BY MR. TAYLOR:

19 Q. So that was your understanding?

20 A. That was what?

21 Q. That was your understanding at the time?

22 A. Yes. They authorized me to go ahead, that this  
23 firm would represent us, they were satisfied.

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1 Q. Did the board make any other decisions at that  
2 meeting?  
3 A. No. The whole crux of that meeting was to learn  
4 more about the firm and the partners and to  
5 decide if they could represent us, and they  
6 satisfied any questions we had at the time. It  
7 wasn't just my questions, but everybody's  
8 questions were answered.

9 Q. How long did that meeting last?

10 A. Whatever is represented here. Two hours and  
11 50 minutes.

12 MS. GORROW: That's two and a half, 2.5.

13 They bill in tenths.

14 THE WITNESS: It is, excuse me.

15 BY MR. TAYLOR:

16 Q. Do you remember what time of day that was?

17 A. You know, I don't, David.

18 Q. Did anyone besides the board, Daniel Hoefle, and  
19 Kim Memmesheimer attend that meeting?

20 A. They were the only two attorneys. I don't think  
21 any secretaries came in or anything.

22 Q. No other third parties?

23 A. What's that?

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1 Q. No one else besides those?

2 A. No. I think we went and got our own coffee, in  
3 fact.

4 Q. Okay. Turn to April 28th.

5 A. Yes.

6 Q. It reads: "Telephone conference with  
7 Mr. Brackett regarding scheduling meeting."

8 Is that accurate?

9 A. It probably is, yes.

10 Q. Do you remember that conference?

11 A. No, I don't.

12 Q. Do you remember scheduling meetings around that  
13 time?

14 A. We probably scheduled the meeting the next day.

15 Q. What prompted you to want to schedule a meeting?

16 A. Excuse me?

17 Q. What prompted you to want to schedule a meeting?

18 A. I'm not exactly sure. But there must have been  
19 some discussion that we needed to have a meeting  
20 and go forward with the issue with Howard.

21 Q. Had you talked to the board members prior to  
22 scheduling this meeting?

23 A. Well, I talked to them all the time, so I guess

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1 I could answer the question yes.

2 Q. Did you talk to them about scheduling this  
3 meeting?

4 A. I eventually did. I probably did it by  
5 telephone.

6 Q. Do I understand you said you had not talked to  
7 the board members before this about scheduling  
8 this meeting?

9 A. I assume there's some talk during the April 21st  
10 meeting that we would, you know, eventually  
11 schedule a meeting. I guess that's why I called  
12 and tried to push this along.

13 Q. Were you able to schedule a meeting at that  
14 time?

15 A. Yes.

16 Q. What did you do after you scheduled the meeting  
17 with the attorney?

18 A. I called the board members and told them we had  
19 a meeting the next day.

20 Q. So you called each board member individually?

21 A. Yes. And Ann Wright is representing in  
22 Exhibit 3 that I did call her, and there must  
23 have been a misunderstanding because that was

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1 **the meeting she didn't attend, according to her**  
2 **email on April 30th.**

- 3 **Q.** Why did you call the board members for this  
4 meeting instead of sending out an email like you  
5 did for the other meeting?  
6 **A. I didn't have to give directions, number one.**  
7 **It was convenient. I called sometimes.**  
8 **Sometimes I sent emails. Sometimes I'm near a**  
9 **computer and sometimes I'm not.**  
10 **Q.** Had you had any discussion about keeping the  
11 meeting scheduling off the record?  
12 **A. No. Non-meetings are usually not, as you know,**  
13 **no minutes and no schedule is given. It's with**  
14 **an attorney.**  
15 **Q.** But the arrangements with the meetings, you had  
16 no discussion about how to arrange the meetings?  
17 **A. I don't think so. I think we played it by ear.**  
18 **There's no master plan at all.**  
19 **Q.** And you contacted all board members for that  
20 meeting?  
21 **A. Yes. Even Ann Wright, who for some reason, she**  
22 **misunderstood the timing and the date was for**  
23 **the meeting, and she represents that in**

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- 1 **Exhibit 3.**  
2 **Q.** So was she not aware of the actual meeting?  
3 **A. No, I called her. She didn't show up, so I**  
4 **called her.**  
5 **Q.** You called her afterwards?  
6 **A. Yeah. I might have even tried during the**  
7 **meeting to call her, but I'm not sure.**  
8 **Q.** Was she made aware of what happened at the  
9 meeting?  
10 **A. Yes, I told her.**  
11 **Q.** How was she made aware of that?  
12 **A. Excuse me?**  
13 **Q.** How was she made aware of that?  
14 **A. I talked to her after the meeting.**  
15 **Q.** So by phone?  
16 **A. Phone.**  
17 **Q.** Look at the entry for April 29th. Go back to  
18 Exhibit 2.  
19 **A. It's not listed on Exhibit 2. It's at the top**  
20 **of the page. Okay. Yes.**  
21 **Q.** "Meet with school board to discuss engagement."  
22 Is that accurate?  
23 **A. Yes.**

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- 1 **Q.** So this was the meeting that Ann missed?  
2 **A. Yes, I believe it is, based on her email.**  
3 **Q.** So April 21st, you decided to retain the firm  
4 for the termination of Howard Colter?  
5 **A. Yes. No, not termination. That's mis-phrasing**  
6 **it. It was to negotiate an equitable**  
7 **arrangement and a change in his contract.**  
8 **Q.** I call your attention to the top of the page  
9 where it says: "Re: Termination of Howard  
10 Colter."  
11 Is that accurate?  
12 **A. No. I think the way she's characterizing here,**  
13 **it wasn't termination, it was mutually agreed**  
14 **upon change of his contract.**  
15 **Q.** Does the document read: "Termination of Howard  
16 Colter"?  
17 **A. Yes, it does.**  
18 **Q.** Did you tell her that that was inaccurate?  
19 **A. No, I didn't. Until you pointed it out right**  
20 **now I wasn't even thinking about that as the**  
21 **subject matter.**  
22 **Q.** How many bills did you receive in this process?  
23 **A. Not many. Let's see, April, May, June, maybe**

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- 1 **three bills. One a month.**  
2 **Q.** Did you read the bills to make sure they're  
3 accurate?  
4 **A. I did.**  
5 **Q.** But you weren't bothered at the time by that  
6 termination of Howard Colter?  
7 **A. No, I didn't say anything to her.**  
8 **Q.** What does it mean to discuss engagement?  
9 **A. I'm not sure. I believe it might be that the**  
10 **board asked Ann and Ann Wright and myself to**  
11 **talk to Howard directly. Which we did.**  
12 **And he, at that meeting, said that he would**  
13 **be amiable to talk about his contract and**  
14 **changes in his contract.**  
15 **And I think at that meeting is when we**  
16 **finalized who his attorney was, too, but I'm not**  
17 **100 percent sure.**  
18 **Q.** Were any decisions or deliberations of the  
19 school board taken at that meeting?  
20 **A. Not that I recall. Other than them asking us to**  
21 **talk to Howard.**  
22 **Q.** So at the April 29th meeting you were charged to  
23 talk to Howard?

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1 **A. I think it was that date, yeah, right around**  
2 **there.**  
3 **Q.** So was Howard aware of this process up to that  
4 point?  
5 **A. I think he was aware that we were talking to a**  
6 **lawyer.**  
7 **Q.** About his termination?  
8 **A. About changes in his contract. When we**  
9 **approached him, he indicated he was amiable to**  
10 **discuss it.**  
11 **Q.** At the April 29th meeting you think all board  
12 members were there except for Ann Wright; is  
13 that correct?  
14 **A. I think so, yes.**  
15 **Q.** Who else was there?  
16 **A. Well, according to this entry, Kim was there,**  
17 **the attorney was there.**  
18 **Q.** Do you remember anyone else?  
19 **A. No, I don't remember anybody else. I think we**  
20 **said hi to -- one of these meetings, it might**  
21 **have been this one -- we said hi to Dan, only**  
22 **because he was passing. He popped his head in**  
23 **and said "Hi, everybody."**

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1 **He didn't attend the meeting.**  
2 **Q.** Where did the meeting take place?  
3 **A. In the law office.**  
4 **Q.** Turn to the next exhibit.  
5 **A. Excuse me?**  
6 **Q.** Turn to Exhibit 3 in the Petition.  
7 **A. Okay.**  
8 **Q.** Do you recognize this?  
9 **A. Yes.**  
10 **Q.** Is this an accurate copy of that?  
11 **A. I believe so.**  
12 **Q.** Can you describe what this is?  
13 **A. This is a letter from Ann sent to less than a**  
14 **quorum of the board, and she represents that I**  
15 **called her Thursday afternoon to say that he was**  
16 **going to try to set up a Friday afternoon lawyer**  
17 **appointment and asked if I was free.**  
18 **Q.** Which meeting is this referring to?  
19 **A. This would be the 29th.**  
20 **Q.** This reference to -- I'll quote: "However, I  
21 hope you realize that now that you, in effect,  
22 "voted" to move forward. We own this vote,  
23 too."

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1 Is that an accurate quote?  
2 **A. Well, it's a quote from Ann. I don't think that**  
3 **what she's referring to -- the vote was a vote.**  
4 **There was no vote. It was a discussion that we**  
5 **would move forward.**  
6 **She's making representations. I don't know**  
7 **if they're true or not. But that was her -- at**  
8 **this time that must have been her thoughts.**  
9 **Q.** So at the April 29th meeting did you decide to  
10 move forward with this alternative to Howard?  
11 MS. GORROW: I'm going to object to the  
12 form. And also this has been asked and answer.  
13 BY MR. TAYLOR:  
14 **Q.** Please answer the question.  
15 MS. GORROW: To the extent you have anything  
16 new to add, you can answer.  
17 THE WITNESS: I don't have anything new to  
18 add.  
19 BY MR. TAYLOR:  
20 **Q.** I don't feel you answered my question before.  
21 The question is: At this meeting did you  
22 vote to move forward with that alternative?  
23 **A. I don't know if it was a vote as being**

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1 **characterized here. It was probably a thumbs up**  
2 **that we would move forward by talking to Howard.**  
3 **Q.** And the thumbs up was strictly limited to  
4 talking with Howard, not proceeding further with  
5 the process?  
6 **A. You know, I'm not sure. Like I said, Ann and I**  
7 **met with Howard right around this period,**  
8 **probably after this meeting, and discussed with**  
9 **Howard his contract and what he wanted to do.**  
10 **And we came away with, after meeting with him,**  
11 **and we expressed to the board at probably**  
12 **another meeting, non-meeting, that he was**  
13 **amiable to discussing revision of his contract.**  
14 **Q.** So you're saying you were trying to revise his  
15 contract?  
16 **A. Well, that's what it is. We eventually revised**  
17 **his contract. There's terms in his contract**  
18 **that he and the board agreed on, and we went**  
19 **forward with that.**  
20 **Q.** Turn to the next exhibit. Exhibit 4 in the  
21 Petition. Can you describe what that is?  
22 **A. This is an email written on June 24th, from**  
23 **Krista Butts, and attached to it is an email**

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1 from Ann that was sent to Jocelyn O'Quinn and  
2 Krista Butts. And the subject was confidential.  
3 And she addresses these two women. And this is  
4 the email where she is sending the email in two  
5 batches, "so I don't send it to a quorum of the  
6 board." And that was Ann's first sentence.

7 She repeats that I had called her on  
8 Thursday afternoon to say I was going to try to  
9 set up a Friday meeting with the lawyer. And  
10 she describes that she thought I was going to  
11 call her back when I thought I made it clear  
12 that we were going to meet.

13 She was in a hurry at that time to meet the  
14 school bus, she says here in the email. And she  
15 states that "My expectation was that he would  
16 call back," and like I said, my expectation or  
17 my recollection was that I thought I had  
18 described the meeting was going to go ahead and  
19 there was no need for me to call back.

20 She was the one that was in a hurry, to I  
21 think given the fact that she was busy, rushed  
22 to meet the bus for her child, it might have --  
23 the assumptions she's making are not the

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1 assumptions that I had.

2 Q. Why did she not want to send it to a quorum of  
3 the board?

4 A. I have no idea. I really don't. This is a know  
5 nothing email, and she made that choice. I have  
6 no idea. In fact, even the expression, "I am  
7 sending this email in two batches so I don't  
8 send it to a quorum of the board" is something  
9 that mystifies me.

10 Q. You have no idea what she was thinking?

11 A. I have no idea.

12 Q. What is the next exhibit?

13 A. Pardon?

14 Q. The next exhibit, Exhibit 5 in the Petition.  
15 Can you describe what this is?

16 A. This is a bill from the law firm, our law firm,  
17 and it goes from May 2nd to May 31st.

18 Q. Okay. Look at the entry for May 2nd.

19 A. Okay.

20 Q. It reads: "Telephone conference with  
21 Ms. Turnbull regarding email; review email with  
22 Mr. Brackett regarding counsel for Mr. Colter;  
23 review of email from Ms. Turnbull enclosing

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1 policies; review of email from Ms. Turnbull" --  
2 redacted -- "telephone conference with  
3 Mr. Brackett regarding communications with  
4 Mr. Colter's counsel."

5 Is that accurate?

6 MS. GORROW: Can we -- I mean, we will  
7 stipulate that what is on the bills from the  
8 attorney's office are accurate statements as to  
9 what occurred. So if you want to not have to  
10 ask those questions. Clearly these are entries  
11 by a third party who is not here. But we will  
12 stipulate that the entries on the bills are  
13 accurate.

14 MR. TAYLOR: Okay.

15 BY MR. TAYLOR:

16 Q. Can you tell me about the telephone conference  
17 with Ms. Turnbull regarding emails?

18 A. I wasn't involved with that.

19 Q. Had you given Ms. Turnbull authority to talk to  
20 the attorney?

21 A. Maybe in an earlier meeting, the whole board had  
22 said that they might want to call the attorney,  
23 and I said I don't have any objections. So it

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1 wasn't a specific.

2 Q. Am I correct that you gave the whole board  
3 authority to call the attorney whenever they  
4 wanted to?

5 A. I think so.

6 Q. Do you remember when that was given?

7 A. You know, I don't, Dave, but I think it would be  
8 in one of the earlier meetings.

9 Q. You don't have any idea what she was calling  
10 about?

11 A. It relates to a telephone conference, but I  
12 don't recall the actual reason she was calling.

13 Q. Do you remember an email exchange at that time  
14 that might have been at issue?

15 A. You know, I don't. There might have been  
16 emails, but I don't remember any.

17 Q. Was this related to the subject of the  
18 engagement?

19 A. I have no idea. I can't remember.

20 Q. The next entry says: "Review email from  
21 Mr. Brackett regarding counsel for Mr. Colter."

22 A. Right. I think Howard had given me the attorney  
23 and telephone numbers and the firm he worked

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1 **for, and I passed that on. I talked to her. I**  
 2 **think I asked the question, who's this attorney,**  
 3 **stuff like that.**

4 **Reading this entry on May 3rd, she must have**  
 5 **written to that attorney and made a connection**  
 6 **with him.**

7 **Q.** So was this the first time that you knew who the  
 8 attorney would be?

9 **A. On this particular matter, yes, this was the**  
 10 **first time. I had not known -- Howard had not**  
 11 **told me specifically that this was the attorney**  
 12 **that he would go to.**

13 **Q.** Had you contacted this attorney prior to this  
 14 point?

15 **A. I didn't, no, and I don't think the attorney did**  
 16 **either.**

17 **Q.** So any decisions about handling this process up  
 18 to this point did not involve that attorney?

19 **A. I don't think so.**

20 **Q.** Do you remember when you talked to her?

21 **A. Talked to who?**

22 **Q.** This telephone conference with Mr. Brackett  
 23 regarding communications with Mr. Colter's

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1 counsel.

2 **A. I don't recall.**

3 **Q.** Look at May 3rd.

4 **A. Right.**

5 **Q.** "Telephone conference with Attorney Volinsky;  
 6 draft email to Attorney Volinsky regarding  
 7 representation."

8 **A. I wasn't involved in that.**

9 **Q.** You have no recollection of that?

10 **A. No, I wasn't involved in that.**

11 **Q.** Had there been any discussion about who would  
 12 represent Howard with the board?

13 **A. Well, eventually it was discussed, but I don't**  
 14 **recall.**

15 **Q.** You don't recall at that point?

16 **A. I don't recall the time or if I even told it.**

17 **It might have come from the attorney.**

18 **Q.** So in on the May 2nd telephone conference with  
 19 Mr. Brackett regarding communications with  
 20 Mr. Colter's counsel, at that point were you  
 21 aware of who his counsel would be?

22 **A. I might have been at that point.**

23 **Q.** Look at May 5th.

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1 **A. Mm-hmm.**

2 **Q.** Says: "Review and respond to email from  
 3 Attorney Volinsky regarding telephone  
 4 conference; forward same to Mr. Brackett;  
 5 telephone conference with Mr. Brackett regarding  
 6 same."

7 **A. Yeah, she informed me that she had talked to**  
 8 **him.**

9 **Q.** And she forwarded that email to you as well?

10 **A. If she says she did, I guess.**

11 **Q.** Do you remember receiving that email?

12 **A. No. At one point I remember that I received an**  
 13 **email, but I don't know if it was on this date.**

14 **Q.** Do you have any knowledge of the May 6th email  
 15 exchange or conference or redacted information?

16 **A. No. I remember receiving such, but I don't**  
 17 **remember the details at all. At this point a**  
 18 **lot of things are moving pretty fast.**

19 **It looks like on May 10th, according to the**  
 20 **note here, that Howard's attorney must have been**  
 21 **putting forth settlement proposals, according to**  
 22 **the note on the attorney bill.**

23 **Q.** On May 10th it says you had a telephone

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1 conference with Mr. Brackett regarding plan of  
 2 action and settlement proposal from Attorney  
 3 Volinsky.

4 Do you have any recollection of that  
 5 telephone conference?

6 **A. Just vaguely. I remember there was some**  
 7 **discussion.**

8 **Q.** And that plan of action was what was proposed by  
 9 Attorney Volinsky?

10 **A. I assume that this attorney's note is correct.**

11 **Q.** Did you have any input to that action plan?

12 **A. I don't recall that I -- I might have.**

13 **Q.** Did you follow-up with that, with the rest of  
 14 the board?

15 **A. I probably did. I kept the board informed. I**  
 16 **didn't try to hide anything. So I probably did.**  
 17 **I probably -- in fact, it says May 16th,**  
 18 **regarding scheduling non-meetings with the**  
 19 **board. So I'm not sure if we talked about it**  
 20 **prior, and then I was just forwarding the**  
 21 **suggestions the board was making from an earlier**  
 22 **meeting.**

23 **Also, there was, some things in his contract**

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1 **that we referred to. He had different clauses**  
 2 **on if there was ever going to be a change in his**  
 3 **contract that -- we were talking about those**  
 4 **alternatives.**  
 5 **Q.** Are these the alternatives you were referring to  
 6 before?  
 7 **A. Excuse me?**  
 8 **Q.** Are these the alternatives you were referring to  
 9 before?  
 10 **A. I believe so, yeah. It's in the body of his**  
 11 **contract.**  
 12 **Q.** So when you were talking about alternatives  
 13 before, it was really just the clauses and how  
 14 to work around those clauses?  
 15 **A. Say that again.**  
 16 **Q.** I'm rephrasing what you said.  
 17 **A. Right.**  
 18 **Q.** When you're talking about the alternatives,  
 19 you're talking about the clauses in his contract  
 20 and how to deal with those clauses?  
 21 **A. I believe so.**  
 22 **Q.** But there weren't alternatives beyond just  
 23 dealing with his contract clauses?

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1 **A. I don't think so. I think we were trying to --**  
 2 **I think the agreement with talking to Howard, he**  
 3 **wanted amiable, the board wanted amiable. We**  
 4 **wanted less disruption for the district to deal**  
 5 **with as far as working out the details of the**  
 6 **new agreement. It was not our intention ever to**  
 7 **have anything but an amiable separation with**  
 8 **Howard.**  
 9 **Q.** Any alternatives other than separation  
 10 considered?  
 11 **A. I don't think we considered them, but there were**  
 12 **other clauses in the contract. There was an**  
 13 **issue of firing, which we didn't choose. There**  
 14 **was an issue of -- there were four things in**  
 15 **there, but I don't recall what all four were.**  
 16 **But Howard wanted to go with the most amiable,**  
 17 **and we said the same thing.**  
 18 **We did not want to do anything that,**  
 19 **anything that besmirched his reputation,**  
 20 **anything that the district would perceive as**  
 21 **being negative to Howard.**  
 22 **Like I say, Ann and I met with Howard, and**  
 23 **at that point presented to the board that we**

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1 **would try to do it as amiable as possible.**  
 2 **Q.** Did you ever consider an alternative of trying  
 3 to maintain his employment?  
 4 **A. That was one of the alternatives.**  
 5 **Q.** What was the reason that was rejected?  
 6 **A. I have no idea.**  
 7 **Q.** Did the board discuss it?  
 8 **A. I think we did discuss it.**  
 9 **Q.** When did that discussion happen?  
 10 **A. I don't know, but probably before these**  
 11 **conversations with the attorney happened,**  
 12 **because our attorney had a good feel at that**  
 13 **point of us trying to do an amiable separation.**  
 14 **Q.** So earlier we decided that basically the  
 15 discussion with the board to start this process  
 16 happened at the March 16th. Was it likely that  
 17 meeting?  
 18 **A. I have no idea. I can't recall. But I know**  
 19 **that our whole purpose was to negotiate with**  
 20 **Howard on a very fair and equitable and**  
 21 **respectable agreement.**  
 22 **Q.** But a separation agreement?  
 23 **A. Renegotiating his contract.**

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1 **Q.** To separate?  
 2 MS. GORROW: I'm going to object. Can we go  
 3 off the record for one minute?  
 4 MR. TAYLOR: Sure.  
 5 (Off-the-record discussion.)  
 6 BY MR. TAYLOR:  
 7 **Q.** We were on May 12th. I believe that's next.  
 8 **A. Okay.**  
 9 **Q.** That says you drafted an email to Mr. Brackett  
 10 regarding same?  
 11 **A. May 12th?**  
 12 **Q.** May 12th. It extends to the next page.  
 13 **A. Okay.**  
 14 **Q.** Can you describe that?  
 15 **A. It's the attorney talking to -- first to**  
 16 **Howard's attorney. And then that was in regards**  
 17 **to salary and sick time values; review and**  
 18 **response to email from Howard's attorney. And**  
 19 **he drafted an email to me regarding the same.**  
 20 **That whole conversation on May 12th revolved**  
 21 **around some of the things that were subjective,**  
 22 **and that was sick time values.**  
 23 **At this point I don't think we knew how many**

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1 sick days he had, how much vacation he had. I  
 2 think the attorney was gathering some  
 3 information. And some of it was information  
 4 that had to be given by the district office  
 5 because his sick days -- I had no idea how many  
 6 sick days he had. And the attorney did not  
 7 know. So we were trying to figure that out.  
 8 Q. So you contacted people in the district office  
 9 to get information?  
 10 A. I didn't.  
 11 Q. The district office was contacted?  
 12 A. The attorney did.  
 13 Q. The attorney contacted the district office?  
 14 A. I believe. It doesn't say in the note, but I  
 15 know that she eventually talked to them and kind  
 16 of figured out what we owed him for sick time  
 17 unused and vacation time unused and stuff like  
 18 that. All the calculations were done by the  
 19 district office.  
 20 Q. So the district office was aware of the  
 21 termination of the contract renegotiation at  
 22 that point?  
 23 A. There was some discussion. I don't know if it

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1 was right here or pretty close to here where we  
 2 got Howard's attorney to say that we could  
 3 contact over here, because to end up with a  
 4 final agreement we needed information that was  
 5 calculable information that revolved around the  
 6 settlement.  
 7 So he agreed that we could talk to  
 8 individuals over here. And I think there were  
 9 two individuals that were involved in that. One  
 10 was Sue the business manager, and then the other  
 11 was Theresa the human resource manager.  
 12 If there were other people talked to on the  
 13 calculation, that was done by Theresa and Sue.  
 14 And I believe whatever conversation they  
 15 had, they were instructed this was asked for by  
 16 both sides, and it was confidential, and I think  
 17 that they agreed and kept it that way.  
 18 Q. Mm-hmm. So going to the bills again. Given  
 19 that the district office was aware of this,  
 20 particularly the business administrative would  
 21 handle the bills, why were the bills not  
 22 delivered to the district office at this point?  
 23 A. I don't think Wendy was involved in that. And

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1 Wendy, she was the one I was going to pass the  
 2 bills on to.  
 3 We had conflicting issues that we were  
 4 dealing with. One that we had agreed with  
 5 Howard and Howard's attorney that we would be as  
 6 confidential as we could be, if not totally.  
 7 And then the second one was that we needed  
 8 information so we had to ask these individuals  
 9 in the district office to be cognizant of that  
 10 confidentiality agreement that we had.  
 11 Q. So this bill is dated June 3rd.  
 12 A. Mm-hmm.  
 13 Q. Now, you had -- this is the second bill that you  
 14 received on this, correct?  
 15 A. Probably, yeah.  
 16 Q. It was on May 6th -- May 2nd, I guess, you  
 17 learned about who the attorney would be; is that  
 18 correct?  
 19 A. Say that again. May 2nd?  
 20 Q. May 2nd as noted on this bill who the attorney  
 21 would be, correct?  
 22 A. Yes. There's an entry for May 2nd.  
 23 Q. You had already received a bill for the previous

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1 month at this point?  
 2 A. On June 3rd is what you're referring to?  
 3 Q. Previous invoice we went through. May 13th  
 4 invoice?  
 5 A. Okay.  
 6 Q. That's correct?  
 7 A. Correct.  
 8 Q. And you had that May 13th invoice sent to your  
 9 home?  
 10 A. Yes.  
 11 Q. Before Andrew Volinsky was involved in the case?  
 12 A. I guess so, if that's referred here. But the  
 13 June 3rd bill is when we talked to Howard's  
 14 attorney.  
 15 Q. Going back then to the reason that the bills  
 16 were sent to your home, what was that reason?  
 17 A. The reason was me to review them, number one,  
 18 but also for me to hold on to them and pass them  
 19 in after we had finished our negotiations with  
 20 Howard.  
 21 Q. And at this point when the bill went to your  
 22 home, and that decision was made, Andrew  
 23 Volinsky was not involved in the case?

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1 **A. Yeah, but we had talked to Howard.**  
 2 **Q.** But you didn't know who the attorney was?  
 3 **A. No, I didn't.**  
 4 **Q.** And that attorney hadn't made that  
 5 recommendation?  
 6 **A. His attorney had not made that recommendation.**  
 7 **Q.** So who suggested that the bills be sent to your  
 8 home?  
 9 **A. I probably was involved in that suggestion.**  
 10 **Q.** Was anybody else involved?  
 11 **A. Probably the attorney. But it was all under**  
 12 **the -- we were trying to, you know, not**  
 13 **necessarily keep information from the public,**  
 14 **but because we were negotiating with Howard on**  
 15 **an issue that he didn't want in front of the**  
 16 **public, and we didn't either, because of the**  
 17 **timing and the sensitivity of talking about his**  
 18 **contract and the changes, that's why the bills**  
 19 **came to my house.**  
 20 **Q.** So they were sent to your house as an individual  
 21 citizen?  
 22 MS. GORROW: I'm just going to object. He's  
 23 there as a representative of the school board.

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1 Meetings with an attorney, with the whole school  
 2 board, bills sent to his house as the chairman  
 3 of the school board, with his home address.  
 4 I don't know how much -- why that should  
 5 even be the subject of dispute here.  
 6 He's explained the rationale for not sending  
 7 them to the SAU office. So perhaps we could  
 8 just move on.  
 9 BY MR. TAYLOR:  
 10 **Q.** Would you please answer my question?  
 11 **A. Which is?**  
 12 **Q.** You had these bills sent to your home as an  
 13 individual citizen?  
 14 **A. No, I did nothing as an individual citizen. I**  
 15 **was working with the attorney for board**  
 16 **business.**  
 17 **Q.** So you were holding these bills in your role as  
 18 chair of the school board?  
 19 **A. Yes.**  
 20 **Q.** So the fact that you had these as an official  
 21 member of the school board would not protect  
 22 them from a right-to-know request, or would it?  
 23 **A. I don't understand the question.**

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1 **Q.** You were holding these bills as an official  
 2 school board chair?  
 3 **A. Yes.**  
 4 **Q.** You said previously that part of the reason of  
 5 holding them was so that they wouldn't become  
 6 public?  
 7 **A. To honor the arrangement we had made with**  
 8 **Howard.**  
 9 **Q.** The confidentiality?  
 10 **A. Confidentiality.**  
 11 **Q.** So the fact that you had them in that role?  
 12 **A. Yes.**  
 13 **Q.** If someone asked for them, would you --  
 14 **A. I would have probably asked the attorney what I**  
 15 **could do or could not do.**  
 16 **Q.** Did you believe that that protected you from  
 17 right-to-know requests?  
 18 **A. No, I think it protected Howard from disclosing**  
 19 **something that he didn't want disclosed because**  
 20 **we were involved in negotiating changes in his**  
 21 **contract.**  
 22 **Q.** I don't believe you answered my question.  
 23 MS. GORROW: I think he answered the

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1 question. The problem is he hasn't given you  
 2 the answer you would like him to give you. I  
 3 think he's explained the rationale.  
 4 If he has anything else to add, I would  
 5 instruct him to add to the answer.  
 6 THE WITNESS: We were not trying to not  
 7 disclose it to the public. It was the timing, I  
 8 guess, is what it referred to.  
 9 BY MR. TAYLOR:  
 10 **Q.** Is timing germane to right-to-know requests?  
 11 MS. GORROW: I'm just going to object. It's  
 12 asking for a legal conclusion. As you know, the  
 13 right-to-know law doesn't require all  
 14 governmental records to be produced. There are  
 15 exceptions from this.  
 16 I would submit to you that these would have  
 17 been confidential documents that would not have  
 18 been disclosed if a request came in prior to the  
 19 time that it had been mutually agreed that this  
 20 information was going to be released.  
 21 BY MR. TAYLOR:  
 22 **Q.** Would you please answer the question?  
 23 **A. They were attorney privileged documents at that**

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1 **point.**  
2 **Q.** I believe the question was: Is timing germane  
3 to right-to-know requests?  
4 **A. I have no idea. That's an opinion you're asking**  
5 **me, and I'm not a legal expert.**  
6 **Q.** Does the right-to-know law, based on your  
7 training and understanding of it, have timing  
8 constraints for the production of documents?  
9 **A. Yes, it does. But attorney-client privilege**  
10 **documents are not necessarily turned over in a**  
11 **disclosure.**  
12 **Q.** Are bills from an attorney covered by  
13 attorney-client privilege?  
14 **A. Eventually when they were passed into the**  
15 **district office, I would say yes.**  
16 **Q.** So at the point that it gets passed to the  
17 office, it becomes different in nature than when  
18 you're holding it as an official?  
19 **A. Yes, I think it becomes public at that point?**  
20 **Q.** So it's not public when you're holding it?  
21 **A. The attorney gave them to me to give them to the**  
22 **district at the appropriate time.**  
23 **Q.** So the public nature of these documents changes

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1 whether you're holding it or it's released to  
2 the office?  
3 MS. GORROW: I'm going to object. It calls  
4 for a legal conclusion.  
5 You can answer to the extent that you know.  
6 THE WITNESS: I've answered it.  
7 BY MR. TAYLOR:  
8 **Q.** I believe we're up to May 16th.  
9 **A. Okay.**  
10 **Q.** On the second invoice. Reads: "Telephone  
11 conference with Mr. Brackett regarding  
12 scheduling non-meeting with board." And it's  
13 redacted.  
14 Do you know what that's about?  
15 **A. I guess that was scheduling a non-meeting.**  
16 **Q.** Which non-meeting were you scheduling?  
17 **A. May 16th, it might have been the May 20th.**  
18 **Q.** Where did the need for that meeting come from?  
19 **A. Where did we meet?**  
20 **Q.** Where did the need for that meeting come from?  
21 **A. I think we were getting information from**  
22 **Howard's attorney, and we were working on the**  
23 **confidential settlement agreement, so there was**

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1 **probably some reason to meet because we had to**  
2 **discuss the settlement proposal and press**  
3 **release. And it looks to me by the note of the**  
4 **attorney, that we revised proposed settlement**  
5 **agreement. So we did that.**  
6 **Q.** You're referring to the 17th?  
7 **A. May 20th. Okay. You want me to refer to**  
8 **May 17th?**  
9 **Q.** No. I was trying to understand what you were  
10 referring to.  
11 **A. Okay.**  
12 **Q.** So the meeting you were scheduling was the  
13 May 20th meeting?  
14 **A. Right.**  
15 **Q.** In which case you looked at the proposed  
16 settlement agreement?  
17 **A. Yes. What had been done up to that point.**  
18 **Q.** And that was also the meeting where you were  
19 charged to do work; is that correct?  
20 **A. I believe so, yes.**  
21 **Q.** How did that task get assigned to that meeting?  
22 **A. How did what?**  
23 **Q.** How did that discussion get placed on the agenda

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1 for this meeting?  
2 **A. There was no agenda, number one. And I guess it**  
3 **just got put in discussing the settlement and**  
4 **what was the next step that we the board would**  
5 **have to take. And that's where they asked me to**  
6 **research it and come up with some suggestions on**  
7 **moving forward.**  
8 **Q.** Who brought up the idea?  
9 **A. I have no idea.**  
10 **Q.** Do you have any knowledge of the May 17th entry?  
11 **A. No. But I assume that the attorney did all of**  
12 **that.**  
13 **Q.** May 18th reads: "Voice mail from Mr. Brackett  
14 regarding non-meeting with board." Redacted.  
15 "Telephone conference regarding same."  
16 Can you describe that?  
17 **A. I believe I was talking about the May 20th**  
18 **meeting.**  
19 **Q.** Was anyone else involved in that telephone  
20 conference besides you and the attorney?  
21 **A. I don't think anybody else was on that call.**  
22 **Q.** May 20th says: "Meet with board to discuss  
23 settlement proposal and press release; revised

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1 proposed settlement agreement."  
 2 **A. What date are we talking about?**  
 3 **Q.** May 20th.  
 4 **A. Okay.**  
 5 **Q.** So at this meeting you discussed the press  
 6 release?  
 7 **A. Discussed the what?**  
 8 **Q.** Press release?  
 9 **A. Custody?**  
 10 **Q.** Press release.  
 11 **A. Oh, press release. Must have. It's listed down**  
 12 **here, but I don't recall exactly when we did it.**  
 13 **Q.** This is the same press release that was  
 14 discussed at the May 23rd with the third party?  
 15 **A. Yes.**  
 16 **Q.** At the May 20th then were you discussing what  
 17 you would be doing at the May 23rd?  
 18 **A. You know, I'm not sure. There is probably is**  
 19 **some connection, but I don't recall exactly.**  
 20 **Q.** Who was at the May 20th meeting?  
 21 **A. I believe everybody, but I'm not sure. At**  
 22 **different times not all the board members were**  
 23 **there. There was one time when Krista had to**  
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1 **call in, but I don't recall any specific meeting**  
 2 **who was there.**  
 3 **Q.** After you had talked with the attorney on the  
 4 18th, how did you contact the board to let them  
 5 know about that meeting?  
 6 **A. Probably by phone.**  
 7 **Q.** There were no documents exchanged about that  
 8 meeting?  
 9 **A. If there are, I don't recall.**  
 10 **Q.** At the May 20th meeting it says you revised the  
 11 proposed settlement agreement. Had the board  
 12 seen that settlement agreement prior to that  
 13 point?  
 14 **A. I think we saw it for the first time, but I'm**  
 15 **not sure. Because that was communication**  
 16 **between the two attorneys. And I don't know if**  
 17 **he objected, but he had suggestions on what he**  
 18 **wanted in the letter and also the agreement.**  
 19 **He didn't ask for -- I don't know if he -- I**  
 20 **don't know if both sides knew exactly what the**  
 21 **agreement was going to end up being, because**  
 22 **there were questions on information that the**  
 23 **district had to give us on vacation time, sick**  
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1 **time, annuities, all the money points that were**  
 2 **in his contract that had to be verified.**  
 3 **Q.** So at this point had you decided to buy out his  
 4 full contract?  
 5 **A. I think we did. I think that was**  
 6 **attorney-to-attorney discussion. I guess we did**  
 7 **at this point.**  
 8 **Q.** Had that been discussed prior to that?  
 9 **A. You know, I don't recollect exactly. But**  
 10 **according to these notes from the attorney, I**  
 11 **guess we were at that point where we had**  
 12 **discussed it.**  
 13 **Q.** So you don't recall any previous discussion?  
 14 **A. No, I don't. We had lots of discussion about**  
 15 **different matters and at different times. Plus**  
 16 **along with all the stuff we're dealing with with**  
 17 **the attorney, life was going on. We were having**  
 18 **regular board meetings, we were having**  
 19 **subcommittee meetings, I had my own life with**  
 20 **different appointments and different things**  
 21 **going on. So I can't nail it down exactly. I**  
 22 **wish I could, but I can't.**  
 23 **Q.** But you do remember deliberating on the question  
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1 of whether to buy out his entire contract?  
 2 **A. Only because of the note that's here. I don't**  
 3 **really recall specifically right off the top of**  
 4 **my head. I know we were doing due diligence**  
 5 **with Howard's attorney to come up with the right**  
 6 **settlement, fair and equitable agreement that he**  
 7 **and the board agreed on.**  
 8 **Q.** But you don't remember specifically when you  
 9 decided that you would go with the full buy-out  
 10 for a year?  
 11 **A. Sometime in this period. I don't remember the**  
 12 **specific. I know there were mistakes -- there**  
 13 **were some assumptions on Howard's attorney that**  
 14 **he had like approved -- maybe it was on the sick**  
 15 **time. And then I know later on that was revised**  
 16 **because his understanding was not the correct**  
 17 **one. And that was on his side. It might have**  
 18 **had something to do with vacations, too, that he**  
 19 **had made a mistake on.**  
 20 **And even further down the line when we got**  
 21 **close to finalizing it, there were other little**  
 22 **mistakes in calculations.**  
 23 **I think we're still dealing with his**  
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1 **retirement even today.**  
2 **Q.** That seems like a big decision to me in terms of  
3 the cost of the contract, and you don't remember  
4 when that decision was made specifically, when  
5 you first started considering that to be the  
6 premier alternative.  
7 **A. If that's your view of it, that's fine. But**  
8 **that's not necessarily what happened. There's a**  
9 **lot of things going on in this contract. And**  
10 **I'm not putting this lightly. As I said, the**  
11 **board was very cognizant that we did not want to**  
12 **hurt Howard's reputation. We wanted to make**  
13 **sure it was amiable. We wanted to make sure**  
14 **that Howard had a total voice in the settlement.**  
15 **We did not go out of our way to diminish the**  
16 **importance of this.**  
17 **Because I can't remember specifically a time**  
18 **and date and down to the minute, I don't think**  
19 **puts a framework on this that we were not**  
20 **coaching this as a very important decision.**  
21 **Q.** Was there any discussion that \$185,000 was a lot  
22 of money?  
23 **A. Is that relevant to anything?**

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1 MS. GORROW: No, it isn't. A lot of this  
2 line of questioning isn't relevant to the  
3 right-to-know law request.  
4 I think let's focus on the questions. I  
5 don't want to have to have the court involved in  
6 whether or not these questions are appropriate  
7 or not. We've been trying to be cooperative.  
8 But if you could just focus on the right-to-know  
9 law petition and the issues that you've raised  
10 in there.  
11 And Mr. Brackett will answer your questions  
12 to the extent that they're not confidential and  
13 they're not privileged information.  
14 BY MR. TAYLOR:  
15 **Q.** Can you answer the question?  
16 **A. What's the question?**  
17 MR. TAYLOR: Will you please read the  
18 question back.  
19 (Whereupon, the record was read as  
20 requested.)  
21 THE WITNESS: That probably came up.  
22 BY MR. TAYLOR:  
23 **Q.** Do you remember when?

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1 **A. I don't, no, I don't. I'd tell you if I did.**  
2 **Q.** Was it around this time?  
3 **A. Probably earlier than this. We took this matter**  
4 **very seriously.**  
5 **Q.** Did the full board support going with a full  
6 buy-out?  
7 MS. GORROW: I'm going to object again on  
8 the relevancy.  
9 To the extent that you can, answer the  
10 question.  
11 THE WITNESS: The full board was involved in  
12 the settlement.  
13 BY MR. TAYLOR:  
14 **Q.** That wasn't the question.  
15 The question is: Did the full board agree  
16 with the full buy-out?  
17 MS. GORROW: Same objection.  
18 THE WITNESS: I'd be guessing.  
19 MS. GORROW: Don't guess. Unless you know.  
20 THE WITNESS: I don't know the answer to  
21 that.  
22 BY MR. TAYLOR:  
23 **Q.** Did the full board agree to support the

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1 separation agreement?  
2 **A. Again, I don't know that answer.**  
3 **Q.** This is the decision that was made on June 15th.  
4 You don't remember what happened on June 15th?  
5 **A. Well, up to June 15th, we were negotiating with**  
6 **Howard back and forth, coming up with a final**  
7 **agreement. I don't know if there was a target**  
8 **date of June 15th for final decision. It just**  
9 **worked out that way.**  
10 **Q.** My question is: June 15th was the date that you  
11 voted on the contract.  
12 **A. Okay.**  
13 **Q.** And you don't remember whether it was a  
14 unanimous vote to support that contract?  
15 **A. That who wrote?**  
16 **Q.** You don't remember whether it was a unanimous  
17 vote in favor of the separation agreement?  
18 **A. No, I don't. I know the quorum of the board**  
19 **said let's go with that. But there was no -- at**  
20 **that point we weren't discussing -- there were**  
21 **just negotiations between the attorneys, because**  
22 **we had already agreed that we would opt to have**  
23 **an amiable buy-out, and there's a clause in the**

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1 **contract that talks about that. And the amiable**  
 2 **buy-out revolved around paying out the contract.**  
 3 **Q.** I'm referring to the decision at the end, the  
 4 board vote to support the separation agreement  
 5 after all the negotiations were done. Do you  
 6 remember the vote for that?  
 7 **A. I don't remember the specific vote. I don't**  
 8 **even know if it was a vote. When the final**  
 9 **agreement was -- verbiage was settled on, and**  
 10 **when the verbiage was settled on, the whole**  
 11 **board thought that it was an amiable settlement,**  
 12 **and Howard and I signed that agreement. I**  
 13 **representing the board and Howard representing**  
 14 **himself.**  
 15 **Q.** Had you been given specific authority to sign  
 16 that agreement?  
 17 **A. I believe I was, but I don't remember the**  
 18 **specific date. It might have been on that date**  
 19 **that I signed it.**  
 20 **Q.** But you do think you were given specific  
 21 authority to sign it?  
 22 **A. Yes.**  
 23 **Q.** Did the motion actually mention giving you that  
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1 authority?  
 2 **A. I don't recall.**  
 3 **Q.** Should it, should it mention?  
 4 **A. I have no idea.**  
 5 MS. GORROW: Can I just -- are we going to  
 6 be here for a while? It's 12:30. I don't know  
 7 if people want to take a break or break for  
 8 lunch.  
 9 (Off-the-record discussion.)  
 10 (12:35 p.m., recess.)  
 11 (12:41 p.m., deposition resumes.)  
 12 BY MR. TAYLOR:  
 13 **Q.** You had said that you had no idea whether you  
 14 need specific authority to sign the contract,  
 15 the separation agreement?  
 16 **A. I would assume I did have authority, but I don't**  
 17 **know when we decided that, because nobody**  
 18 **objected to me signing the contract, the revised**  
 19 **contract, the settlement.**  
 20 **Q.** My question was: You said you had no idea  
 21 whether you needed specific authority to sign  
 22 the separation agreement; is that correct?  
 23 **A. Phrase that again.**  
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1 **Q.** You said you had no idea whether you needed  
 2 specific authority to sign the separation  
 3 agreement.  
 4 **A. I thought I had authority to sign agreements**  
 5 **that the board was responsible to sign.**  
 6 **Q.** General authority?  
 7 **A. Yeah. I believe that's been past practice.**  
 8 **Q.** Have you never voted on a motion to provide  
 9 specific authority for the superintendent to  
 10 sign a contract or someone else to sign a  
 11 contract?  
 12 MS. GORROW: I'm going to object as to the  
 13 relevancy. We're kind of going far afield here  
 14 from the right-to-know law request.  
 15 To the extent you can, answer the question,  
 16 Henry.  
 17 THE WITNESS: I think I've answered it.  
 18 BY MR. TAYLOR:  
 19 **Q.** No. The question was: Have you ever voted to  
 20 give the superintendent specific authority to  
 21 sign some document or someone else specific  
 22 authority to sign a document?  
 23 **A. Have I ever voted for the superintendent to**  
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1 **sign --**  
 2 **Q.** A document?  
 3 **A. -- a document? The superintendent reports to**  
 4 **the board. At this point I don't recall us ever**  
 5 **giving him authority. I think there are some**  
 6 **State statutes that give him authority to run**  
 7 **the business of the school. But I don't think I**  
 8 **can recall anything that I voted for giving him**  
 9 **authority.**  
 10 **I did vote for some things that were -- he**  
 11 **was asking the board some questions on coming**  
 12 **forward -- things that we was doing for the**  
 13 **district. But I don't know if there's any**  
 14 **specific vote saying go ahead and sign that**  
 15 **contract.**  
 16 **Q.** Turning to the invoice -- we're almost done with  
 17 it -- on May 26th.  
 18 **A. Okay.**  
 19 **Q.** "Telephone conference with Attorney Volinsky  
 20 regarding review of press release and settlement  
 21 agreement; telephone conference with  
 22 Mr. Brackett regarding vacation issue" --  
 23 redacted -- "review of Attorney Volinsky's  
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1 redline; forward same to Mr. Brackett."

2 Can you describe that?

3 **A. I must have looked at the agreement, and I had**  
4 **questions about the vacation issue as it's**  
5 **stated here. But it wasn't any specific -- I**  
6 **mean, it was a general calculation of his**  
7 **vacation.**

8 **At this point we were talking about specific**  
9 **things that his attorney wasn't even sure on,**  
10 **but there were discussions about how much**  
11 **vacation time he did have. And earlier we**  
12 **discussed sick time and stuff like that. So**  
13 **there was like finalizing and redlining of the**  
14 **agreement as it states here.**

15 **Q.** When was the agreement finalized?

16 **A. Pardon?**

17 **Q.** When was the agreement finalized?

18 **A. On the date I signed it.**

19 **Q.** That was when you agreed to it. When was the  
20 wording finalized?

21 **A. It seemed to me like we're going back and forth**  
22 **all the way up to the end. In fact, as I**  
23 **represented earlier, we are still dealing with**

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1 **his retirement issues.**

2 **Q.** Can you describe what the press release  
3 discussion was on May 26th?

4 **A. No, I can't. I just know that we talked about**  
5 **what the press release would be. And it's**  
6 **indicated here that Howard's attorney redlined**  
7 **some of the things.**

8 **I remember one phrase that he objected to,**  
9 **which was minor, in my opinion.**

10 **Q.** So at this point, going back to May 25th, it  
11 says: "Review of finalized press release;  
12 exchange of emails regarding same; forward  
13 proposed press release to Attorney Volinsky."

14 Is that accurate?

15 **A. Yes.**

16 **Q.** At that point the press release, Exhibit C, had  
17 been written?

18 **A. It had been written, but not finalized, because**  
19 **as you can see, May 26th, Howard's attorney**  
20 **redlined some more. I think he struck out a**  
21 **sentence. That's what I recall. It was a**  
22 **know-nothing sentence on my side, on the board's**  
23 **side.**

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1 **Q.** So the fact that you had a press release means  
2 that you had selected a PR firm; is that  
3 correct?

4 **A. I believe so, yes.**

5 **Q.** When did that PR firm get selected?

6 **A. I don't recall. I'm even more confused here**  
7 **because of some of the things that we've said.**  
8 **I don't remember the exact date. It was**  
9 **probably somewhere around the 20th of May.**

10 **Q.** I thought you said earlier that the May 23rd  
11 meeting you had interviewed one candidate and  
12 rejected them?

13 **A. Then it was on the 23rd that we decided to go**  
14 **with the other firm.**

15 **Q.** So on May 23rd you decided to go with New Harbor  
16 Group?

17 **A. With who?**

18 **Q.** New Harbor Group?

19 **A. New Harbor, yeah.**

20 **Q.** Had you interviewed anyone from New Harbor Group  
21 prior to that decision?

22 **A. We had talked to -- Skip Hansen brought them**  
23 **forward. There was some discussion through him**

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1 **or maybe we had a telephone call with New Harbor**  
2 **Group. They were down in Rhode Island, so it**  
3 **was hard to have a face-to-face.**

4 **Q.** Who made that telephone call?

5 **A. I think Jocelyn did originally, and then I was**  
6 **in on some conference call to discuss things**  
7 **with them.**

8 **Q.** When did that conference call take place?

9 **A. I don't recall. I can look at my calendar.**

10 MS. GORROW: There's two different batches  
11 of the calendar. One we did this morning and  
12 one you did before.

13 THE WITNESS: I have through May and June.

14 BY MR. TAYLOR:

15 **Q.** Do you have that?

16 **A. I have up through July.**

17 **Q.** Do you have the week of May 23rd through 29th?

18 **A. Yeah, I do.**

19 **Q.** Look at Exhibit 8. That's the week of May 16th  
20 and May 22nd?

21 **A. Right.**

22 **Q.** The May 22nd date at the bottom, there's an  
23 8 o'clock conference. Is that likely to be it?

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- 1 **A. That might be it, yeah.**  
 2 **Q.** And who was involved in that conference?  
 3 **A. It would have been Jocelyn, myself, and I'm**  
 4 **trying to think if Megan was involved in it.**  
 5 **She might have been, but I don't recall exactly.**  
 6 **Q.** Where did the conference take place?  
 7 **A. Over the phone. If I remember right, we had**  
 8 **called into a number, and there was a website**  
 9 **that provides a service where you call and give**  
 10 **a confirmation, and then you can have a**  
 11 **conference call.**  
 12 **Q.** So you, Jocelyn, and Megan were not together in  
 13 the room?  
 14 **A. No.**  
 15 **Q.** You were each at separate locations?  
 16 **A. Yes.**  
 17 **Q.** And you were only joined by the phone call?  
 18 **A. Yes.**  
 19 **Q.** Who was on the other end of that phone call?  
 20 **A. I don't recall his last name, but Rhoades is his**  
 21 **first name. He's the one that represented New**  
 22 **Haven or the name of the firm.**  
 23 **Q.** New Harbor Group?

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- 1 **A. New Harbor, yeah.**  
 2 **Q.** Did he do the work for New Harbor Group?  
 3 **A. Excuse me?**  
 4 **Q.** Did he do the work for New Harbor Group, or was  
 5 he the business person?  
 6 **A. Yeah, he did the work. I don't know how big New**  
 7 **Harbor is, but he was the one that was our**  
 8 **contact.**  
 9 **Q.** Did you negotiate terms on this conference?  
 10 **A. Negotiate what?**  
 11 **Q.** Terms.  
 12 **A. I don't believe so. I think it was Skip Hansen**  
 13 **that came back with it. I'm not sure**  
 14 **100 percent. But there was some talk earlier on**  
 15 **what would a PR person cost us, and Skip Hansen**  
 16 **was introducing him to us.**  
 17 **Q.** So Skip Hansen told you what the terms would be  
 18 with New Harbor Group?  
 19 **A. Yeah, the cost per hour.**  
 20 **Q.** Was that an estimate or specific terms?  
 21 **A. It was 125, I think, per hour. He said if we**  
 22 **were going to go long-term with it, he would**  
 23 **present a proposal.**

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- 1 **I think it was Rhoades said if we were going**  
 2 **to go long-term, then it would be at a different**  
 3 **rate.**  
 4 **Q.** So was Skip Hansen on this call?  
 5 **A. No.**  
 6 **Q.** Did you sign an agreement with him?  
 7 **A. No.**  
 8 **Q.** Did the members of the board who were on this  
 9 phone call discuss, deliberate after Rhoades got  
 10 off the phone?  
 11 **A. No. I think that they were aware that we were**  
 12 **going to use Rhoades, because we had already**  
 13 **interviewed that other firm and decided not to**  
 14 **go with the other firm.**  
 15 **Q.** This conference was on the 22nd of May,  
 16 according to your calendar?  
 17 **A. According to my calendar, yes.**  
 18 **Q.** And you decided on the 23rd of May not to go  
 19 with that other firm?  
 20 **A. No, I think it was earlier than that. It was**  
 21 **earlier that we just talked about not going with**  
 22 **the other firm.**

MS. GORROW: I think that entry was

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- 1 May 23rd.  
 2 THE WITNESS: I don't know if that 23rd  
 3 meeting was to discuss the other firm or not.  
 4 BY MR. TAYLOR:  
 5 **Q.** Were there any other firms that you interviewed  
 6 or discussed?  
 7 **A. No.**  
 8 **Q.** So you only considered those two firms?  
 9 **A. Yeah. We were under a time constraint.**  
 10 **Q.** Would you consider this conference call to be a  
 11 non-meeting?  
 12 **A. I didn't have to worry about that. It wasn't a**  
 13 **quorum of the board.**  
 14 **Q.** So non-meetings can only occur if there's a  
 15 quorum of the board?  
 16 MS. GORROW: Object to the legal conclusion.  
 17 You can answer.  
 18 THE WITNESS: I'm not sure about the legal  
 19 definition, but I do know that non-meetings in  
 20 this sense with attorneys, an attorney has to be  
 21 present.  
 22 By MR. TAYLOR:  
 23 **Q.** An attorney is the only exclusion from the

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1 right-to-know law?  
 2 MS. GORROW: Again, objection, asks for  
 3 legal conclusion.  
 4 To the extent that you know, you can answer.  
 5 THE WITNESS: I don't know.  
 6 BY MR. TAYLOR:  
 7 **Q.** But you set up this meeting, correct?  
 8 **A. Conference call.**  
 9 **Q.** This conference call. You had training in the  
 10 right-to-know law?  
 11 **A. Yes.**  
 12 **Q.** And you don't know whether the right-to-know law  
 13 applied to this conference call as a meeting?  
 14 **A. I would suggest to you that this conference call**  
 15 **was covered by the right-to-know, and we were**  
 16 **doing what the right-to-know asked, and there**  
 17 **wasn't a quorum of the board present.**  
 18 **Q.** So you're saying because there wasn't a quorum  
 19 of the board, you didn't need to post the  
 20 meeting, you didn't need to have minutes?  
 21 **A. Right. I understand that's the way it's done**  
 22 **under the right-to-know.**  
 23 **Q.** Okay. Have you ever been in a meeting over the  
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1 phone?  
 2 **A. Have I been in a meeting?**  
 3 **Q.** Have you attended or participated in a meeting  
 4 over the phone?  
 5 **A. Yes, I have. I'm a member of the audit**  
 6 **committee for the New Hampshire Legal Assistance**  
 7 **organization, and we meet over the phone every**  
 8 **other meeting.**  
 9 **Q.** What about on the school board?  
 10 **A. I don't think so. I've called in to meetings.**  
 11 **I did that just recently when I was away and**  
 12 **couldn't make the board meeting, I called in.**  
 13 **And other board members have participated that**  
 14 **way also.**  
 15 **Q.** So you did participate over the phone in a  
 16 meeting by calling in?  
 17 **A. Yes.**  
 18 **Q.** Were there any special stipulations done,  
 19 special requirements because you were calling  
 20 in?  
 21 **A. Yes. In fact, I think you personally pointed**  
 22 **out to the board that they had to make verbal**  
 23 **recognition of their vote. We couldn't just**  
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1 **say -- or just raise their hands, because I was**  
 2 **on the telephone, so you made a point, which you**  
 3 **were correct on, that we had to make a verbal**  
 4 **rollcall vote on each issue, because I was on**  
 5 **the phone, and I couldn't see the hands going**  
 6 **up.**  
 7 MR. TAYLOR: Why don't we take a break.  
 8 (12:59 p.m., recess.)  
 9 (1:22 p.m., deposition resumes.)  
 10 BY MR. TAYLOR:  
 11 **Q.** So going back to the conference call on the  
 12 22nd of May. This was not a meeting; is that  
 13 correct?  
 14 **A. I would assume so. There wasn't a quorum of any**  
 15 **board or any committee or anything.**  
 16 **Q.** So it was a non-meeting?  
 17 MS. GORROW: It wasn't a meeting.  
 18 THE WITNESS: It was a meeting.  
 19 MS. GORROW: I'm just going to object. It  
 20 asks for a legal conclusion. It wasn't a  
 21 meeting under the right-to-know law.  
 22 The right-to-know law has specific  
 23 definitions, and they're for non-meetings.  
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1 He's not a lawyer, so he's not going to be  
 2 table to answer those questions.  
 3 It's wasn't a meeting subject to the  
 4 right-to-know law.  
 5 BY MR. TAYLOR:  
 6 **Q.** Did you provide any documentation about this  
 7 meeting?  
 8 **A. I'm not sure.**  
 9 **Q.** So you don't know if you provided any  
 10 documentation about this?  
 11 **A. I went through almost 4,000 emails, and a lot of**  
 12 **them had attachments that were very, very**  
 13 **time-consuming to even figure out if it was**  
 14 **meeting your demands.**  
 15 **Q.** Okay. Were there any emails about this meeting?  
 16 **A. You're talking about the meeting of --**  
 17 **Q.** On May 22nd.  
 18 **A. The meeting or conference call?**  
 19 **Q.** The conference call on May 22nd involving the  
 20 New Harbor Group.  
 21 **A. I don't recall any emails specifically.**  
 22 **Q.** So there were no materials provided to the  
 23 participants in this conference call?  
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1 **A. I think there was. I think he got emailed**  
 2 **probably from the attorney. It wasn't from me.**  
 3 **But the attorney probably provided him with the**  
 4 **contents of the agreement we were trying to**  
 5 **agree upon with Howard's attorney.**  
 6 **Q.** I'm not sure you understood my question. I was  
 7 asking about the conference call on the 22nd  
 8 with New Harbor Group to see whether you wanted  
 9 them to be the PR firm.  
 10 Were there any documents exchanged about  
 11 that meeting, such as --  
 12 MS. GORROW: Documents exchanged by whom?  
 13 MR. TAYLOR: By the participants in this  
 14 conference call: Jocelyn, Henry, and Megan.  
 15 **A. I'm just thinking typically when you interview a**  
 16 **firm, you get documents describing what that**  
 17 **firm's services are, fee schedules. There's**  
 18 **usually some documentation that you read before**  
 19 **you actually talk to the person.**  
 20 MS. GORROW: You're asking for documentation  
 21 from the firm versus --  
 22 MR. TAYLOR: Any documents exchanged related  
 23 to this conference call.

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1 MS. GORROW: We have provided you under the  
 2 right-to-know law request with emails that  
 3 discuss this telephone conference, and there are  
 4 documents and packets that you've been given  
 5 representing to relating to this conference  
 6 call.  
 7 MR. TAYLOR: Okay. Those are the ones you  
 8 gave me this morning. I haven't had a chance to  
 9 look at them yet.  
 10 MS. GORROW: I believe so.  
 11 MR. TAYLOR: Those were given to me this  
 12 morning?  
 13 MS. GORROW: Correct.  
 14 THE WITNESS: There might have been websites  
 15 that we referred to that talked about his firm.  
 16 BY MR. TAYLOR:  
 17 **Q.** How would those references be given?  
 18 **A. Well, I think that Skip Hansen gave us some. He**  
 19 **was the one that introduced us to that firm, and**  
 20 **I think it was probably an email that somewhere**  
 21 **along the lines had told that there was a**  
 22 **website.**  
 23 **Q.** So Skip Hansen sent you an email with a website

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1 reference?  
 2 **A. No. I'm suggesting that there might have been**  
 3 **an email or telephone call -- it could have been**  
 4 **either -- suggesting that we look at a website,**  
 5 **but I'm not exactly sure.**  
 6 **Q.** Who was this information distributed to?  
 7 **A. I think it was either Jocelyn or Megan. At this**  
 8 **point there was a feeling that this firm would**  
 9 **be the right type of firm to deal with this.**  
 10 **They had done a lot of school district issues**  
 11 **and government committee issues.**  
 12 **Q.** Okay. Prior to my lawsuit, had you given me any  
 13 documentation about this conference call?  
 14 **A. Not that I recall. I just don't know.**  
 15 **Q.** Had you given me any documentation prior to my  
 16 lawsuit?  
 17 **A. Pardon me?**  
 18 **Q.** Have you given me any documentation about  
 19 anything prior to my lawsuit?  
 20 **A. Have you made requests in the past? I probably**  
 21 **gave something. I don't know about the specific**  
 22 **area of discussion.**  
 23 **Q.** Have you given me any documents in response to

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1 my June 20th right-to-know request?  
 2 **A. You have everything.**  
 3 **Q.** Prior to my lawsuit?  
 4 **A. No, it came after your lawsuit.**  
 5 **Q.** Okay. May 27th invoice: "Draft email to  
 6 Mr. Brackett outlining costs of settlement to  
 7 district; telephone conference with Mr. Brackett  
 8 regarding status of settlement; draft email to  
 9 Attorney Volinsky regarding same; review and  
 10 respond to emails regarding press release and  
 11 next meeting."  
 12 Can you tell me about that?  
 13 **A. What's said here, I guess happened. I don't**  
 14 **recall the specifics of this. I know that we**  
 15 **did talk about the status of the settlement.**  
 16 **Q.** What does status of the settlement mean?  
 17 **A. Say that again.**  
 18 **Q.** What does status of the settlement mean?  
 19 **A. I guess if there was any -- I'm not exactly**  
 20 **sure. But by reading this, I'm thinking there**  
 21 **was some sort of talk about the verbiage on the**  
 22 **settlement.**  
 23 **Q.** May 31st: "Telephone conference with

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1 Mr. Brackett regarding meeting" -- redacted --  
 2 "draft email to Mr. Brackett enclosing latest  
 3 version of release from Mr. Colter; draft email  
 4 to Attorney Volinsky enclosing revised agreement  
 5 and press release; voicemail to Mr. Brackett  
 6 regarding cancellation of meeting; telephone  
 7 conference with Mr. Brackett regarding status;  
 8 telephone conference with Ms. Turnbull regarding  
 9 timeline for settlement."

10 The first one, the telephone conference with  
 11 Mr. Brackett regarding the meeting. Can you  
 12 tell me about that?  
 13 **A. I can only refer to that I must have the**  
 14 **conference and talked about the draft of an**  
 15 **email to Mr. Brackett. No, I guess that meeting**  
 16 **happened. I don't recall the specifics of it.**  
 17 **Q.** Do you remember receiving a voicemail?  
 18 **A. I don't know.**  
 19 **Q.** About cancellation of the meeting?  
 20 **A. It's listed here that she sent me an email,**  
 21 **enclosed the latest version of the release of**  
 22 **Mr. Colter. So I guess I received an email with**  
 23 **that.**

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1 **Q.** It refers specifically to a voicemail.  
 2 **A. I guess there was a voicemail. I don't recall.**  
 3 **Q.** Do you receive voicemails regularly?  
 4 **A. My voicemail box is full all the time. I try**  
 5 **not to use it at all.**  
 6 **Q.** Is that a personal device?  
 7 **A. Personal device.**  
 8 **Q.** When you're answering right-to-know requests, do  
 9 you scan your voicemails for relevant documents?  
 10 **A. If I keep them. Most of the voicemails are**  
 11 **haphazard type things. They don't describe**  
 12 **anything in particular.**  
 13 **Q.** So you have reviewed them?  
 14 **A. I don't save them. My voicemail only takes nine**  
 15 **voicemails. I have other boxes that I do save.**  
 16 **My brother sent a few voicemails before he**  
 17 **passed away, and I saved those. And I have a**  
 18 **couple from other members of my family that are**  
 19 **personal, and I save those.**  
 20 **So my voicemail is down to nine boxes. And**  
 21 **when it's full, I go in and listen to them, and**  
 22 **then throw them away.**  
 23 **It's like most voicemails. It's not a**

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1 **device that you save.**  
 2 **Q.** The next exhibit.  
 3 **A. Exhibit 6?**  
 4 **Q.** Yes. Exhibit 6. Do you recognize this?  
 5 **A. Yes, I do.**  
 6 **Q.** What is it?  
 7 **A. It's the community meeting room over at the**  
 8 **police department.**  
 9 **Q.** Which police department?  
 10 **A. It would be the Durham Police Department.**  
 11 **Q.** Did you ever meet in the Durham Police  
 12 Department?  
 13 **A. Yes.**  
 14 **Q.** When did you meet there?  
 15 **A. Well, according to this document, we met on**  
 16 **June 6th, and met three other times: June 10th**  
 17 **and June 13th and 14th.**  
 18 **Q.** Did you ever meet there prior to June?  
 19 **A. I don't know. I don't think so.**  
 20 **Q.** Did you ever meet in any other facilities in  
 21 Durham, Durham town facilities?  
 22 **A. In other matters I have, because they have a**  
 23 **community room that you can meet in.**

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1 **Q.** Any related to the board business?  
 2 **A. Some not.**  
 3 **Q.** I don't understand your response.  
 4 **A. Well, I've been over there two meetings, but**  
 5 **they didn't have anything to do with the board.**  
 6 **I'm trying to recall if I ever met over there**  
 7 **for any other particular reasons.**  
 8 **Yes, I did meet over there for some board**  
 9 **business.**  
 10 **Q.** Would you describe that?  
 11 **A. Excuse me?**  
 12 **Q.** Would you describe that meeting?  
 13 MS. GORROW: I'm going to object. You're  
 14 going beyond the scope of what this case is  
 15 about. You have a case requesting information  
 16 about the buy-out and hiring of an interim  
 17 superintendent.  
 18 We've given you the documents that we have  
 19 that exits relating to those issues. And now  
 20 you're just kind of jumping into other issues  
 21 which really are beyond the scope.  
 22 BY MR. TAYLOR:  
 23 **Q.** Would you answer the question?

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1 **A. I had no meetings over there related to this**  
2 **issue.**  
3 **Q.** Did you have any meetings at other facilities  
4 doing board business?  
5 **A. Not that I recall. Beyond anything in Durham,**  
6 **no.**  
7 **Q.** Can you clarify that last qualification?  
8 **A. Well, I've had meetings at Lee on workshops that**  
9 **were done by this board, at the Safety Center in**  
10 **Lee. There might have been two meetings there.**  
11 **One revolved around the budget which had nothing**  
12 **to do with this. It was last year's board. But**  
13 **we had a meeting over there for a workshop to**  
14 **describe issues in the budget and presentations**  
15 **about the budget.**  
16 **Q.** No other meetings doing any board business other  
17 than these four meetings at the community room?  
18 **A. That relate to this subject?**  
19 **Q.** No, any meetings.  
20 **A. Well, I just told you that I had Lee Safety --**  
21 **Q.** I can't hear --  
22 **A. I said that I did have a meeting that was over**  
23 **at the town hall. I had several meetings, but**

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1 **some of them were not related to the board at**  
2 **all. It was just my personal life. And there**  
3 **was one meeting where there was three of us that**  
4 **met there to discuss an issue.**  
5 **Q.** Was that issue during this time period?  
6 **A. This half of the year, yeah.**  
7 **Q.** It was not related to the buy-out?  
8 **A. No, nothing to do with the buy-out at all.**  
9 **Q.** Was this a committee that you formed?  
10 **A. No, it wasn't a committee; it was a discussion.**  
11 **Q.** Who attended that meeting?  
12 MS. GORROW: Once again, object. I mean,  
13 let's focus, or we're going to be here for the  
14 rest of the day dealing with the issues that are  
15 part of this lawsuit.  
16 I'm going to start instructing him not to  
17 answer questions that are irrelevant, because  
18 it's just beyond the scope of what this case is  
19 about. So if you have questions related to the  
20 buy-out and the hiring of the interim  
21 superintendent, we are prepared to answer those  
22 questions, as well as any questions related to  
23 the right-to-know law request.

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1 THE WITNESS: I do want to answer a little  
2 bit. The meeting that I had that we're talking  
3 about right now had nothing to do with this at  
4 all. It was far afield to this. And it was --  
5 had nothing to do with it.  
6 BY MR. TAYLOR:  
7 **Q.** There was a meeting of board members?  
8 **A. Three board members, myself and two others.**  
9 **Q.** Who were those board members?  
10 MS. GORROW: Again, I'm going to object to  
11 the question. I'm going to instruct him not to  
12 answer at this point.  
13 MR. TAYLOR: Can you give me your basis?  
14 MS. GORROW: It's beyond the scope of this  
15 case, it's not relevant. You have a  
16 right-to-know law request pending. Discovery,  
17 as far as I'm aware, I've never been involved in  
18 a right-to-know law petition where there's even  
19 been discovery because the issues are: Were  
20 there documents that were produced or not, were  
21 there exemptions that applied or not, were there  
22 actions taken in violation of the right-to-know  
23 law, and if so, what is the remedy for that.

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1 This is well beyond the scope of the  
2 right-to-know law petition.  
3 BY MR. TAYLOR:  
4 **Q.** Okay. Going back to the calendar. The first  
5 one is June 6th?  
6 **A. Yes.**  
7 **Q.** Can you -- it says 10 o'clock to 12 o'clock,  
8 Henry Brackett?  
9 **A. Yes.**  
10 **Q.** Can you tell me what that meeting was about?  
11 **A. That meeting was -- I was charged with trying to**  
12 **come up with a process to go forward to find an**  
13 **interim superintendent. And that was the first**  
14 **meeting.**  
15 **Q.** And who attended that meeting?  
16 **A. Myself, and then I invited Megan and Jim. And**  
17 **the first person that we talked about over there**  
18 **was Skip Hansen. He was coming forward to help**  
19 **us with understanding the process and some names**  
20 **of people that we could contact that he knew**  
21 **were out there to be interviewed as an interim**  
22 **superintendent.**  
23 **Q.** Did you interview him to be superintendent at

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1 the meeting?

2 **A. We didn't start out that way. We were trying to**

3 **find out processes and everything, but he had**

4 **brought his resumé, and we did talk to him, like**

5 **a preinterview.**

6 **Q.** You said he brought his resumé to that meeting?

7 **A. Yes, he did.**

8 **Q.** You didn't have that resumé beforehand?

9 **A. I don't believe I did. I can't remember who set**

10 **that up. I guess I'm the one that set the**

11 **meeting up.**

12 **He actually changed the whole dimension of**

13 **the research we were going through to figure out**

14 **what we had to do and what type of individual we**

15 **wanted, stuff like that.**

16 **Q.** What did he change it from and to?

17 **A. Say that again.**

18 **Q.** What did he change it from and to?

19 **A. Well, we talked about the process, and then he**

20 **also, I guess, he convinced us that we should**

21 **preinterview potential candidates for the real**

22 **search that was coming forward later.**

23 **And it helped quite a bit, because we**

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1 **learned about experiences and things that we**

2 **should look for in an interim superintendent.**

3 **Q.** You're saying he suggested that you start

4 interviewing?

5 **A. Say that again.**

6 **Q.** You're saying that he suggested at this meeting

7 that you start interviewing?

8 **A. I think so. There was dialogue about that.**

9 **Q.** And you said he brought his resumé so that he

10 could be interviewed?

11 **A. Well, he brought his resumé to show us. I don't**

12 **know the exact words that we're talking about.**

13 **But we ended up with his information. He left**

14 **the meeting. And he did send us some**

15 **information about a possible contract for**

16 **interim superintendent. He discussed some of**

17 **the limitations of hiring an interim that was**

18 **retired from the New Hampshire school system.**

19 **He talked about the different traits that we**

20 **should look for in somebody that would be an**

21 **interim as opposed to a full-time**

22 **superintendent.**

23 **He was very, very forthcoming with things**

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1 **that I thought we needed to hear. They were**

2 **things that we used later on.**

3 **Q.** Did you actually interview him?

4 **A. I guess you could call it an interview.**

5 **Q.** Was there any deliberations about that

6 interview?

7 **A. To who?**

8 **Q.** Among the members of this meeting?

9 **A. The three of us?**

10 **Q.** Yes.

11 **A. Yeah, there was some talk.**

12 **Q.** Did you make any decision?

13 **A. No. We were just moving ahead to gather facts**

14 **about how we would do the process, and we**

15 **thought adding, you know, some information about**

16 **different superintendents would help us.**

17 **Because we really did not know -- before this or**

18 **right around the same time, we had asked Howard**

19 **what he would suggest the process to be, and he**

20 **gave us a name or two of people that we should**

21 **call in and talk to.**

22 **Q.** You said Skip Hansen gave you the name?

23 MS. GORROW: He said Howard Colter.

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1 THE WITNESS: Howard Colter I said.

2 BY MR. TAYLOR:

3 **Q.** So Howard Colter gave you Skip Hansen's name?

4 **A. No.**

5 **Q.** He gave you other names?

6 **A. Yeah.**

7 **Q.** So coming out of this meeting, did you decide

8 that you would consider Skip Hansen for the

9 position?

10 **A. Yeah. I think was asking when we did the formal**

11 **search that he be considered.**

12 **Q.** Did this group decide to keep his name in the

13 running?

14 **A. Yeah.**

15 MS. GORROW: I'm just going to object

16 because it's assuming facts that he hasn't

17 testified to.

18 MR. TAYLOR: We're not at trial yet.

19 MS. GORROW: I understand, but you're

20 assuming facts in your question.

21 You can answer the question.

22 THE WITNESS: Yeah. He was put on the list

23 for the interim superintendent search, and he

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1 eventually wrote us a letter after we said we  
 2 would interview him that said that his personal  
 3 life was getting so busy that he would not want  
 4 to be interviewed or not want to be considered.  
 5 BY MR. TAYLOR:  
 6 **Q.** Did anything else happen at that June 6th  
 7 meeting?  
 8 **A. No. That was the only person we talked to so**  
 9 **that was it.**  
 10 **Q.** How was that meeting arranged?  
 11 **A. How what?**  
 12 **Q.** How was that meeting arranged?  
 13 **A. I called him.**  
 14 **Q.** How about the other two board members, how were  
 15 they arranged to be there?  
 16 **A. I called.**  
 17 **Q.** When did you call them?  
 18 **A. I don't know.**  
 19 **Q.** Same day, earlier?  
 20 **A. Well, it wasn't too far prior to this, because**  
 21 **everything was kind of moving ahead. If I had**  
 22 **sent an email, you must have it, but I don't**  
 23 **think I did.**

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1 **Q.** I got more emails today. I haven't seen them.  
 2 Okay. Going back to the calendar for  
 3 Friday, the 10th.  
 4 **A. Okay.**  
 5 **Q.** It reads "school board in back." Is that  
 6 correct?  
 7 **A. Yeah. We went to -- we used the back office**  
 8 **that they have available for community meetings.**  
 9 **Q.** And can you describe that meeting?  
 10 **A. We talked to an individual and asked about the**  
 11 **process and about the qualifications that we**  
 12 **need to look for. And there was a -- there was**  
 13 **a resumé, I believe, and talked about his**  
 14 **qualifications to go forward with the search**  
 15 **committee. Not this search committee, not this**  
 16 **process, but the official search committee.**  
 17 **Q.** So did you interview him?  
 18 **A. I believe we did, yeah, in a broad sense.**  
 19 **Q.** Did you decide to continue his name in  
 20 consideration?  
 21 **A. I think we did, but I think he also dropped out.**  
 22 **He requested that his name be withdrawn. And I**  
 23 **believe he also, at the second meeting, he gave**

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1 **us more names to probably call, which I followed**  
 2 **up on.**  
 3 **Q.** And who was at this meeting?  
 4 **A. Well, it was Megan, Jim, and I.**  
 5 **Q.** How did you set that meeting up?  
 6 **A. Probably phone call. This particular meeting, I**  
 7 **had probably talked to Todd, and he arranged for**  
 8 **me to call over to the secretary over there, and**  
 9 **I told her I needed the room for this time, and**  
 10 **she put me on the calendar.**  
 11 **Q.** That's Todd Selig, the Town Administrator of  
 12 Durham?  
 13 **A. Yes.**  
 14 **Q.** Why did you go through Todd?  
 15 **A. I didn't know any other way to go through**  
 16 **meetings -- to reserve meeting rooms. I had**  
 17 **been over there, but I didn't ask anybody at**  
 18 **that time.**  
 19 **In fact, the way I got the first meeting was**  
 20 **to go through Todd.**  
 21 **Q.** So the meeting on the 6th was through Todd as  
 22 well?  
 23 **A. It was probably Todd's secretary that made the**

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1 **connection to make it happen.**  
 2 **Q.** What made you think to use the Durham conference  
 3 room?  
 4 **A. Pardon?**  
 5 **Q.** What made you think to use that conference room?  
 6 **A. Well, in general, I knew it was available.**  
 7 **That's it.**  
 8 **Q.** Why didn't you use one of the rooms in the  
 9 district?  
 10 **A. We were trying to keep it low key because of**  
 11 **some of the discussions we had with Howard and**  
 12 **his attorney. And we didn't want to violate**  
 13 **that confidentiality to that.**  
 14 **Q.** So you think it was more confidential at the  
 15 Durham Police Department than it would be in a  
 16 school building or the SAU?  
 17 **A. Yeah, I thought so.**  
 18 **Q.** Was anybody there who saw you go in and out?  
 19 **A. Not at that meeting.**  
 20 **Q.** On June 6th?  
 21 **A. On the 6th or the 10th, except for the chief.**  
 22 **No, actually, it was his assistant. And then**  
 23 **later on at one of our meetings the chief had**

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1 **seen us, and he might have even walked some**  
 2 **individuals into the room.**  
 3 **Q.** I'm sorry, which meeting was that?  
 4 **A.** **Second or third. And then on the fourth meeting**  
 5 **we also saw him, the chief.**  
 6 **Q.** Did you see Meredith Nadeau on the 10th?  
 7 **A.** **The last meeting we did. She was in there, from**  
 8 **what I understand, getting fingerprints for her**  
 9 **new job up in Maine.**  
 10 **Q.** That's the meeting on the 14th?  
 11 **A.** **Yes.**  
 12 **Q.** You said the chief saw you on the second, third,  
 13 and fourth meetings; Meredith saw you on the  
 14 fourth meeting. Did anyone else see you over  
 15 there?  
 16 **A.** **Probably the receptionist. And probably some**  
 17 **other policemen roaming around that I didn't**  
 18 **know.**  
 19 **Q.** You thought these rooms were more confidential  
 20 than the rooms in the school?  
 21 **A.** **Well, me running into Meredith over there was an**  
 22 **odd circumstance. But, yeah, I think so. Plus**  
 23 **it was convenient. It was close by.**

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1 **Q.** You're saying it was more convenient even though  
 2 you did not know how to arrange the rooms than  
 3 Wendy could arrange a room?  
 4 **A.** **No, I knew how.**  
 5 **Q.** You said you called Todd Selig because you  
 6 didn't know how to arrange a room.  
 7 **A.** **No. I called Todd Selig because it was**  
 8 **convenient for me to meet outside. The school**  
 9 **district has students, they have conference**  
 10 **rooms that are used by other people, and I**  
 11 **thought that it would be more convenient to use**  
 12 **people outside -- to use the meeting room**  
 13 **outside.**  
 14 MR. TAYLOR: Can I ask the stenographer to  
 15 read back Henry's testimony about calling Todd  
 16 Selig.  
 17 (Whereupon, the record was read as  
 18 requested.)  
 19 BY MR. TAYLOR:  
 20 **Q.** So was that an accurate statement you made  
 21 before?  
 22 **A.** **Well, I thought I could use a room over at the**  
 23 **city hall when I called Todd. He said no, let**

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1 **me do some checking. And he checked and found**  
 2 **the police conference room open, and he booked**  
 3 **it for the 6th. Or his secretary booked it, I**  
 4 **think. I don't think he particularly booked it.**  
 5 **But that's how we arranged the meeting on the**  
 6 **6th.**  
 7 **Q.** But you said you didn't know how to book the  
 8 police room?  
 9 **A.** **No, I didn't. Todd did.**  
 10 **Q.** So that was more convenient than booking the  
 11 room in the SAU?  
 12 **A.** **Yes.**  
 13 **Q.** I see.  
 14 **A.** **Is that relevant to anything?**  
 15 **Q.** Yeah. Had you provided any documents to me  
 16 prior to my lawsuit being filed about the  
 17 meeting of the 6th?  
 18 **A.** **I don't believe I did, because I accumulated all**  
 19 **of them and gave them to you all at one time.**  
 20 **Q.** Did you provide any documents to me on the  
 21 meeting on the 10th?  
 22 **A.** **If I did, they're in the group of documents I**  
 23 **provided.**

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1 **Q.** Prior to my lawsuit being filed?  
 2 **A.** **I gave you everything after your lawsuit, so**  
 3 **that question has been answered.**  
 4 **Q.** On June 13th, it reads: Henry Brackett, school  
 5 board 10 to 12." That's crossed out, and it  
 6 says: "11 to 1:30 p.m."  
 7 Is that accurate?  
 8 **A.** **Yes.**  
 9 **Q.** Can you describe that meeting?  
 10 **A.** **Okay. We met with the person that we called to**  
 11 **help us figure out the things that I talked**  
 12 **about before, and that's the process, the**  
 13 **questions we should look for, the type of**  
 14 **background we should look for, because we were**  
 15 **negotiating Howard's contract. And we asked for**  
 16 **also references that other people that might --**  
 17 **we might call and join in the advisory search**  
 18 **that we were conducting on who -- what type of**  
 19 **criteria we should hire and background we should**  
 20 **look for. That was an interview also. All**  
 21 **those elements were involved in the discussion**  
 22 **about that individual.**  
 23 **Q.** I see. Who was at that meeting?

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- 1 **A. At that meeting, Jim, Megan, and myself.**  
 2 **Q.** And there was just one other person?  
 3 **A. I think that was one. It might have been two.**  
 4 **I'm not sure. I can't remember.**  
 5 **We changed the meeting, and there must have**  
 6 **been a reason for that. 10 to 12. We might**  
 7 **have called somebody that cancelled. I'm not**  
 8 **sure why we changed the meeting date -- or time.**  
 9 **Also it could have been one of the board members**  
 10 **couldn't make the time earlier.**  
 11 **Q.** Okay. And you arranged this meeting?  
 12 **A. Yeah, by phone.**  
 13 **Q.** By phone?  
 14 **A. By phone.**  
 15 **Q.** Were any materials provided to board members?  
 16 **A. No.**  
 17 **Q.** Before that meeting?  
 18 **A. No.**  
 19 **Q.** No resumés?  
 20 **A. No. I think it showed up with the individual.**  
 21 **Q.** Is that also true for the meeting on the 10th?  
 22 Any documents provided before that meeting?  
 23 **A. I don't think so. In fact, one of the**

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- 1 **individuals didn't come up with any paperwork,**  
 2 **he just talked about his background. We didn't**  
 3 **have anybody fill out applications or any formal**  
 4 **stuff that we do with some interviews.**  
 5 **Q.** You say that one, maybe two, people on the 13th?  
 6 **A. I think so, yeah.**  
 7 **Q.** And were those people deliberated on by the  
 8 group?  
 9 **A. They were what?**  
 10 **Q.** Did the group deliberate about them?  
 11 **A. I think we talked a little bit about them after**  
 12 **the person left.**  
 13 **Q.** Did you make any decision about whether to keep  
 14 them in the process?  
 15 **A. No. On these two? We might have offered it to**  
 16 **them, but I don't know if they picked up on it.**  
 17 **A lot of these individuals that we talked to,**  
 18 **the four individuals we talked to, I think they**  
 19 **all eventually declined.**  
 20 **Q.** So to make sure I understand, you didn't reject  
 21 that candidate on the 13th, you deliberated  
 22 about the candidate?  
 23 **A. I don't know if we had anybody to, you know,**

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- 1 **reject. We didn't have anybody to reject. We**  
 2 **were just making it known that there would be a**  
 3 **formal process later on.**  
 4 **Q.** So you interviewed a candidate?  
 5 **A. Mm-hmm.**  
 6 **Q.** You got information about them?  
 7 **A. Right.**  
 8 **Q.** You deliberated about them?  
 9 **A. No, no. We talked about process, too. So we're**  
 10 **incorporating their information into what we had**  
 11 **already learned about process and maybe some of**  
 12 **the things we should watch out for. But it was**  
 13 **not a formal interview other than the fact that**  
 14 **we learned facts about them. But all of these**  
 15 **candidates knew that we were going to have a**  
 16 **formal search committee coming up.**  
 17 **Q.** So they brought resumés, you read the resumé?  
 18 **A. Some of them did, yeah.**  
 19 **Q.** You asked them questions?  
 20 **A. Yeah, following the resumé, but also, you know,**  
 21 **how they've done searches before. Not just**  
 22 **superintendent searches, but principal searches**  
 23 **and stuff like that.**

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- 1 **Q.** But you did ask them questions based on the  
 2 resumé about their qualification to be interim  
 3 superintendent?  
 4 **A. General stuff probably. I don't recall**  
 5 **specifically, but general.**  
 6 **Q.** And then there's a meeting on the 14th.  
 7 Says: "School board 9 a.m. to 11 a.m."  
 8 **A. Yeah, that was just Megan and myself. And that**  
 9 **was with Dr. Tracy. He explained the general**  
 10 **process, and he was very helpful with names,**  
 11 **coming forth with names and telephone numbers**  
 12 **out of that meeting.**  
 13 **And he was -- he wasn't being interviewed**  
 14 **for the job. He's a doctor that heads up some**  
 15 **organizations that deal with Washington on**  
 16 **school board issues.**  
 17 **He had talked to Howard the day before, said**  
 18 **that he was coming in and wanted to chat with**  
 19 **Howard. And I don't know what that conversation**  
 20 **was about, but he mentioned that he did chat**  
 21 **with Howard. He just wanted to make it clear in**  
 22 **his mind that Howard was leaving.**  
 23 **Q.** So prior to my lawsuit, had you provided any

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1 documents related to the meeting on the 13th?

2 **A. What's the question?**

3 **Q.** Prior to my lawsuit?

4 **A. I think that's been asked and said. I told you.**

5 **Q.** I'm asking specifically about the 13th. Had you

6 provided any documents prior to my lawsuit about

7 the meeting on the 13th?

8 **A. I don't want to go back in the record, but I**

9 **think I've asked that in total and general and**

10 **specifically that I gave you all my documents**

11 **after the lawsuit was filed. I had accumulated**

12 **a lot of them, but I didn't pass them over to**

13 **our attorney until a week or so after the**

14 **lawsuit. I had several more months to go**

15 **through.**

16 **Q.** So you still haven't answered my question.

17 MS. GORROW: He's answered the question.

18 Why don't you move on?

19 THE WITNESS: I've answered it, David.

20 BY MR. TAYLOR:

21 **Q.** What about the 14th?

22 MS. GORROW: That's the same question you

23 just asked.

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1 THE WITNESS: Same question. I didn't pass

2 anything, anything into -- to my attorney until

3 after the lawsuit, and it was probably about a

4 week or so later.

5 BY MR. TAYLOR:

6 **Q.** Okay. Were these four meetings at the Durham

7 police station non-meetings?

8 MS. GORROW: I'm going to object. It asks

9 for legal conclusion.

10 THE WITNESS: There were three board

11 members, so I guess that would -- I would have

12 to be told by a lawyer or judge about if that

13 would qualify as a meeting or not.

14 BY MR. TAYLOR:

15 **Q.** Did you post them?

16 **A. No, they were not meetings, under the**

17 **right-to-know law, as far as I was concerned.**

18 **Q.** Stepping forward to Exhibit 8 in the Petition.

19 Do you recognize this document?

20 **A. No. But I guess I received it, because it was**

21 **sent to me, as well as other board members, from**

22 **Ann Wright, on Wednesday, June 22nd.**

23 **Q.** Would you look at the header for the enclosed

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1 email?

2 **A. Look at the what?**

3 **Q.** Information for the enclosed email.

4 **A. "The interim situation."**

5 **Q.** Isn't it Ann Wright on June 12th?

6 **A. No, it says June 22nd. Oh, excuse me. There's**

7 **another email attached. Okay. It says**

8 **June 12th.**

9 **Q.** This meeting -- this email talks about

10 interviews of superintendent -- I'll read it.

11 "At agenda setting on Tuesday, 6/7, Henry

12 said that he was going to hold preliminary

13 interviews with three interim superintendent

14 candidates on Friday, June 10th."

15 Is that accurate?

16 **A. No. She's characterized stuff here that is her**

17 **characterization. It didn't happen this way.**

18 **Q.** Did you have agenda setting on Tuesday, 7th of

19 June?

20 **A. 7th of June. Can I see my calendar?**

21 **Q.** Certainly. I don't think it's in this one.

22 It's Exhibit 8.

23 **A. Agenda at the SAU, we did discuss it with**

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1 **Howard. And that day after that meeting I went**

2 **over -- no, I came here, and I signed diplomas.**

3 **Q.** You said you did discuss it with Howard. What

4 was "it" that you discussed with Howard.

5 **A. We were setting the agenda, so we were**

6 **discussing what was going to be on the agenda**

7 **for the next board meeting.**

8 **Q.** Did you discuss that you were holding

9 preliminary interviews at that agenda setting

10 meeting?

11 **A. I do not know. I probably did not. Dr. Tracy**

12 **had called and told Howard that he was invited**

13 **to such meeting. And the three interviewees**

14 **caused me concern. That's Ann Wright's**

15 **characterization. But that did not happen.**

16 **Q.** Did you hold preliminary interviews?

17 **A. I think we did. I think that when we heard from**

18 **Skip Hansen, I think that we thought that would**

19 **be a good idea to carry forward to that, not**

20 **just discuss the procedural things, but we were**

21 **trying to discover, and having information about**

22 **different candidates would help us formulate**

23 **what type of candidate we'd be looking for.**

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- 1 **Q.** Had the board charged you to do preliminary  
2 interviews?
- 3 **A.** **They told me to research, and I took that as**  
4 **part of the research.**
- 5 **Q.** Research what?
- 6 **A.** **To find out how the process should go forward**  
7 **and the questions that we should ask and the**  
8 **type of candidate we might be looking for.**
- 9 **Q.** And you consider interviewing candidates to be  
10 within that process, research?
- 11 **A.** **Yeah, later on, I think when Skip Hansen came**  
12 **in, I think that we all thought that was a good**  
13 **idea.**
- 14 **Q.** And you felt that was covered by the charge you  
15 got from the board?
- 16 **A.** **Yeah, it was to investigate and what type of**  
17 **candidate we were looking for, and the process,**  
18 **how we would go forward, and what type of --**  
19 **actually, maybe even questions that would be**  
20 **asked.**
- 21 **Q.** The next sentence says: "After I called him and  
22 left him several emails asking if I could join  
23 him for those interviews, he called me back and

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- 1 told me that I could not, that Megan Turnbull  
2 and Jim Kach were already accompanying him to  
3 those interviews taking place at the Durham  
4 Police Department."
- 5 Is that an accurate statement?
- 6 **A.** **Probably is. I don't know about the intensity**  
7 **of what she's saying here, but it probably is**  
8 **accurate.**
- 9 **Q.** Why did you not want her to be involved in that?
- 10 **A.** **I don't know if I gave it a thought. I thought**  
11 **that two people already with me was enough.**
- 12 **Q.** Was she aware that you were going to be doing  
13 preliminary interviews?
- 14 **A.** **I don't know if anybody was aware. That came up**  
15 **in the first talk with Skip. So we just**  
16 **incorporated that idea.**
- 17 **Q.** Whether that came up, did you tell the other  
18 board members that you were conducting  
19 preliminary interviews?
- 20 **A.** **No, probably not. Because I didn't report to**  
21 **them until after the four interviews that we did**  
22 **at the police department.**
- 23 **Q.** Do you think that was a significant change in

DAVID R. JORDAN &amp; ASSOCIATES

- 1 the character of your operation?
- 2 **A.** **Obviously not.**
- 3 **Q.** Now, when you met with these people in this  
4 series of meetings, you were accepting  
5 information from them, they were providing you  
6 with information about the process?
- 7 **A.** **Mm-hmm.**
- 8 **Q.** Yet these weren't public meetings?
- 9 **A.** **No.**
- 10 **Q.** And as far as you're concerned, they weren't  
11 meetings under the right-to-know law?
- 12 **A.** **No.**
- 13 **Q.** But you were accepting information, you were  
14 talking with people?
- 15 **A.** **Absolutely.**
- 16 **Q.** Okay. Moving on to Exhibit 9.
- 17 **A.** **This is the bill for the month of June, and it's**  
18 **dated June 28, 211, and it has dates with hours**  
19 **that we talked or met.**
- 20 **Q.** Okay. On June 1st, it refers to you having a  
21 telephone conference with Mr. Brackett regarding  
22 nonpublic meeting. Is that the scheduling of  
23 the nonpublic meeting --

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- 1 **A.** **I don't know.**
- 2 **Q.** -- leading to the decision? Do you remember  
3 anything about that?
- 4 **A.** **No. I had communications with our attorney a**  
5 **lot, and I don't remember this specific one.**
- 6 **Q.** Do you remember anything about the telephone  
7 conference on June 2nd?
- 8 **A.** **No, not specifically.**
- 9 **Q.** The second conference was dealing with the  
10 interim superintendent issues?
- 11 **A.** **What date?**
- 12 **Q.** June 2nd, it references two telephone  
13 conferences with you. Toward the end it says:  
14 "Telephone conference with Mr. Brackett  
15 regarding interim superintendent issues."
- 16 **A.** **I guess that happened. It's listed down here.**
- 17 **Q.** You don't recall what that was about?
- 18 **A.** **I don't recall. I have many, many meetings,**  
19 **many, many telephone calls, and I just don't**  
20 **recall.**
- 21 **Q.** Did you discuss the process for the interim  
22 superintendent search?
- 23 **A.** **I have no idea.**

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1 **Q.** Can you describe the email that's mentioned on  
2 June 8th: "Review and respond to email from Mr.  
3 Brackett."

4 **A. No, I don't.**

5 **Q.** On June 9th, there's a "Voicemail from  
6 Mr. Brackett regarding non-meeting; voicemail to  
7 Mr. Brackett regarding non-meeting; draft email  
8 with Mr. Brackett regarding communications."

9 Can you describe those?

10 **A. I don't have a recollection.**

11 **Q.** June 14th, it says: "Telephone conference with  
12 Ms. Turnbull regarding nonpublic minutes."

13 Is that relevant to the \$185,000 being left  
14 out of the minutes?

15 **A. Can you phrase the question again differently?**

16 **Q.** Sure. June 14th, it says: "Telephone  
17 conference with Ms. Turnbull regarding nonpublic  
18 minutes."

19 The dollar amount was left out of the  
20 nonpublic minutes initially, the \$185,000.

21 Was that being discussed at that time?

22 **A. I'm not sure.**

23 **Q.** Do you remember any discussions around that time

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1 about whether the dollar amount of the  
2 settlement should be in the minutes?

3 **A. Just in general, that I know we discussed it. I**  
4 **don't know if that was on this particular day.**  
5 **And that settlement figure was a general dollar**  
6 **amount. It was not specific to the contract,**  
7 **which included attorney's fees and other fees**  
8 **that related to this issue.**

9 **Q.** My question refers to whether that dollar amount  
10 was in the nonpublic minutes?

11 **A. I have no idea.**

12 **Q.** You have no recollection of discussion about  
13 whether that should be in the nonpublic minutes?

14 **A. No.**

15 **Q.** Look at Exhibit 8-M.

16 **A. What would you like me to look at?**

17 **Q.** Hold on a second. (Indicating.)

18 **A. Series of emails. The description of this**  
19 **document. Description is series of emails from**  
20 **Krista Butts, Ann Wright, and Ann Wright again.**  
21 **And talks about the confidentiality agreement,**  
22 **no monetary or contractual term can be released**  
23 **prior to the effective date.**

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1 **Q.** So on the email sent June 17th at 5:22 a.m., are  
2 you listed as a recipient?

3 **A. No, I'm not. Excuse me. On the 17th, no I'm**  
4 **not.**

5 **Q.** June 16th at 10:19 p.m.?

6 **A. June 16th at 10:19, yes, I am listed.**

7 **Q.** What about the email on June 16th at 1:45 p.m.?

8 **A. Yes, I am a recipient.**

9 **Q.** And what were the issues that were holding up  
10 the release of the minutes?

11 **A. Personally, I don't know. But by reading these**  
12 **emails, I would gather that there was some issue**  
13 **about the confidentiality agreement and what can**  
14 **be shared. But I wasn't in that -- on the 17th**  
15 **I wasn't on that email.**

16 **Q.** Did it refer to the dollar amount?

17 **A. It says: "According to the confidentiality**  
18 **agreement, no monetary or contract terms**  
19 **information from can be released prior to the**  
20 **effective date. I am certainly not opposed to**  
21 **releasing the minutes or -- and am not trying to**  
22 **hide anything. I am just trying to abide by the**  
23 **terms so that we do not get sued."**

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1 **And then it goes on: "I should have an**  
2 **answer back from them this afternoon and then it**  
3 **will be posted immediately."**

4 **So they're talking about the nonpublic**  
5 **minutes and what, because of our confidentiality**  
6 **agreement, we can't disclose.**

7 **Q.** Okay.

8 **A. I wasn't involved in that email.**

9 **Q.** That's fine.

10 **A. That's it.**

11 **Q.** On June 15th?

12 **A. Yes.**

13 **Q.** On the invoice?

14 **A. Right.**

15 **Q.** Says: "Review and respond to emails regarding  
16 meeting location and preparation; prepare final  
17 documents for signature."

18 Were you setting up these meetings with the  
19 attorney?

20 **A. I don't know. Just what she says here is I**  
21 **guess what happened.**

22 **Q.** You don't remember whether you were the  
23 person --

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- 1 **A. No.**
- 2 **Q.** -- setting it up?
- 3 **A. No.**
- 4 **Q.** You don't remember being involved in arranging
- 5 that meeting?
- 6 **A. I might have been, but I don't recall. No.**
- 7 **Q.** After June 15th, did you have any groups of
- 8 board members who got together to deal with any
- 9 follow-on issues?
- 10 **A. Not that I recall. You mean a quorum of the**
- 11 **board or anything like that?**
- 12 **Q.** No. I mean the times when you would pick 1 or 2
- 13 other board members and do board business.
- 14 **A. I don't recall.**
- 15 **Q.** So you don't remember any of them?
- 16 **A. No. I'd tell you if I did.**
- 17 **Q.** When was this invoice delivered?
- 18 **A. Well, there's a June 28th date, it was mailed to**
- 19 **my house.**
- 20 **Q.** And when did you give it to the district?
- 21 **A. Probably about the same time. June 30th was the**
- 22 **is date that we had agreed upon talking about**
- 23 **this settlement.**

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- 1 **Q.** So you gave everything related to the settlement
- 2 to the district office on the 30th?
- 3 **A. I am relating to -- if June 30th is the date for**
- 4 **the release of information, then I'm relating to**
- 5 **that date, yes.**
- 6 **Q.** Were there any documents that were not released
- 7 as part of this settlement to the district
- 8 office?
- 9 **A. No. I do believe that we released all the**
- 10 **general information and specific information**
- 11 **that we had to at the date that we agreed upon.**
- 12 **Q.** Did you give the invoices from Hoefle pertaining
- 13 to the PR firm to the district office?
- 14 **A. I don't know if that came later or not. But we**
- 15 **have that invoice that was sent to the law firm,**
- 16 **so that could be looked upon as the date. I**
- 17 **don't know the exact date, but I know it was in**
- 18 **June.**
- 19 **Q.** So the invoice that was dated June 30th, you
- 20 delivered to the district office in June?
- 21 **A. I delivered all my invoices towards the end of**
- 22 **June that I described before.**
- 23 **Q.** Who do you give the invoices to when you deliver

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- 1 them?
- 2 **A. Wendy.**
- 3 **Q.** You didn't forget to deliver anything?
- 4 **A. I wouldn't what?**
- 5 **Q.** You didn't forget any invoices to deliver to
- 6 her?
- 7 **A. No. I think there was one that I had to go back**
- 8 **and pull out the file. But I wasn't trying to**
- 9 **withhold anything at that point.**
- 10 **I think she -- I think that Wendy asked me**
- 11 **to have an original copy of the invoice that was**
- 12 **sent to our law firm on Rhode's Safe Har -- the**
- 13 **Harbor one, and I had to ask Rhoades for that.**
- 14 **I don't know if I asked Kim for it or if I**
- 15 **talked to Rhoades. I don't think I talked to**
- 16 **Rhoades. But through Kim I got the original**
- 17 **invoice and then gave it to Wendy.**
- 18 **Q.** So you're saying you got the invoice from Kim,
- 19 and then you asked Kim to get the full, the
- 20 original invoice from Rhoades?
- 21 **A. Yes, or pull it from her file. I don't know**
- 22 **what she did. Either way. But I know we**
- 23 **transmitted an invoice that specifically came**

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- 1 **from Rhoades' firm and gave that to -- to back**
- 2 **up the, I guess, the invoice that went to the**
- 3 **law firm.**
- 4 **Q.** And when was that done, about?
- 5 **A. The end of June, I guess.**
- 6 **Q.** Skipping forward to Exhibit 11.
- 7 **A. Which one, now?**
- 8 **Q.** Exhibit 11.
- 9 **A. Okay.**
- 10 **Q.** Do you recognize this?
- 11 **A. No. But it states that it's from you on Monday,**
- 12 **June 20th.**
- 13 **Q.** What is it?
- 14 **A. It's -- this says: "Please send me under the**
- 15 **New Hampshire Right-to-Know Law all records of**
- 16 **communication, emails, et cetera, from January**
- 17 **1, 2011, involving school board members, other**
- 18 **government officials, such as selectmen or state**
- 19 **officials, or administrators of the school**
- 20 **district or towns of Durham, Lee and Madbury**
- 21 **concerning any arrangement for non-meetings as**
- 22 **defined in the right-to-know law."**
- 23 **Q.** And this is the first time you've seen this?

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- 1 **A. No. I don't recall it, but I did receive it.**  
 2 **Q.** So you are familiar with this?  
 3 **A. What's that?**  
 4 **Q.** You were familiar with this right-to-know  
 5 request?  
 6 **A. Yes.**  
 7 **Q.** Around the time of June 20th?  
 8 **A. Yes. It was forwarded to me through Wendy,**  
 9 **because this is not addressed to me. It**  
 10 **addresses your wife and -- Eleanor and Wendy.**  
 11 **That was the two.**  
 12 **Q.** Did you understand this request to apply to your  
 13 emails?  
 14 **A. I'll stipulate that I did understand, and I**  
 15 **tried to work with all the emails I had to**  
 16 **provide what you were requesting here.**  
 17 **Q.** So you fully understood your responsibility to  
 18 satisfy this request at this time?  
 19 **A. I think I answered that question just a moment**  
 20 **ago.**  
 21 **Q.** And you did?  
 22 **A. (Nodding head.)**  
 23 **Q.** Okay. Going to the next exhibit, Exhibit 12.

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- 1 I'm sorry, going back to Exhibit 11, is there  
 2 any limitation to the subject of the  
 3 non-meetings that's requested here?  
 4 **A. Say it again, I'm sorry.**  
 5 **Q.** Is there any restriction or limitation of the  
 6 subject, or is it just all non-meetings that  
 7 occurred during the time period?  
 8 **A. I turned over every email I had.**  
 9 **Q.** I'm asking specifically what the request is for.  
 10 What is your understanding of that request?  
 11 **A. Exactly what you state here.**  
 12 **Q.** So is there any limitation on the subject? Do  
 13 you see any limitation on the subject?  
 14 MS. GORROW: I'm going to object. The  
 15 document speaks for itself. You asked for  
 16 documents concerning arrangements for  
 17 non-meetings as defined in the right-to-know  
 18 law. And the right-to-know law has, I believe,  
 19 3 or 4 definitions of non-meetings. So that  
 20 would be the scope of the request.  
 21 BY MR. TAYLOR:  
 22 **Q.** So you don't understand any limitation? I'm  
 23 trying to get to your understanding of this

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- 1 request. Any non-meeting that you knew of --  
 2 **A. You have it written here. I understand what**  
 3 **you're asking for.**  
 4 **Q.** And that is all non-meetings regardless of  
 5 subject?  
 6 **A. Whatever you're asking for in this email, I**  
 7 **understand.**  
 8 **Q.** What I'm trying to get to is your understanding.  
 9 MS. GORROW: Object. The document speaks  
 10 for itself. It's non-meetings as defined in the  
 11 New Hampshire right-to-know law. The  
 12 right-to-know law has definitions of  
 13 non-meetings. So that is the scope of the  
 14 request.  
 15 BY MR. TAYLOR:  
 16 **Q.** In terms of the subject and the agenda of those  
 17 non-meetings, is there any limitation on the  
 18 subject or agenda of those non-meetings?  
 19 **A. I have no idea. You're asking a legal question.**  
 20 **Q.** I'm asking you your understanding. Are there  
 21 any non-meetings that occurred from this time  
 22 period that would have been excluded from this  
 23 request?

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- 1 **A. I think you're interpreting the law here,**  
 2 **because you're saying this includes but is not**  
 3 **limited to communications concerning when and**  
 4 **where meetings might take place, who ...**  
 5 **communications involving the search for or**  
 6 **selection of an attorney involved in such a**  
 7 **non-meeting.**  
 8 **So I don't know what you're looking for.**  
 9 **Q.** Is this specifically limited to the hiring of  
 10 the interim superintendent?  
 11 MS. GORROW: I'm going to object. You asked  
 12 for correspondence or communications involving  
 13 school board members, for any arrangements for  
 14 non-meetings as defined by the New Hampshire  
 15 right-to-know law.  
 16 You've also asked for records regarding  
 17 communications for the search for or selection  
 18 of an attorney involved in any such meeting.  
 19 The right-to-know law defines non-meetings as  
 20 consultation with legal counsel, negotiations on  
 21 collectively bargaining. There may be one other  
 22 in there that escapes my -- ah, chance social  
 23 meetings.

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1 So the scope of your request is limited by  
 2 the definition of non-meetings under the  
 3 right-to-know law.  
 4 And he has provided you at this time and  
 5 other board members have provided you with the  
 6 documents in response to that request.  
 7 BY MR. TAYLOR:  
 8 **Q.** You still haven't answered my question.  
 9 Let me try a different approach.  
 10 You told me about a meeting that occurred  
 11 during this time --  
 12 **A. Say that first part again.**  
 13 **Q.** You told me about a meeting that occurred with  
 14 three board members at the Durham Town Council.  
 15 **A. That was on a different subject. The Police**  
 16 **Department.**  
 17 **Q.** No, Durham Town Council. You said there was a  
 18 meeting at the Durham Town Council that involved  
 19 three members.  
 20 **A. It had nothing to do with this.**  
 21 **Q.** It had nothing -- it was a meeting?  
 22 **A. No.**  
 23 **Q.** So it was not a meeting?

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1 **A. No.**  
 2 **Q.** And it was in this time period?  
 3 **A. Yes.**  
 4 **Q.** And did you provide any documents about that?  
 5 **A. No.**  
 6 **Q.** So you didn't understand that meeting to be  
 7 included in this request?  
 8 **A. It wasn't to me.**  
 9 MS. GORROW: I would object, because I would  
 10 say it's not. Unless it's a meeting with an  
 11 attorney, it's not within the request. Or a  
 12 meeting on collective bargaining agreements,  
 13 it's not within this request.  
 14 BY MR. TAYLOR:  
 15 **Q.** You also just said a casual social gathering,  
 16 which I believe these are.  
 17 THE WITNESS: I never said that.  
 18 MS. GORROW: That's not his testimony.  
 19 BY MR. TAYLOR:  
 20 **Q.** Is it a meeting? Yes or no. The one you had at  
 21 the Durham Town Council.  
 22 **A. As it refers to the right-to-know?**  
 23 **Q.** As it refers to the right-to-know law.

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1 **A. No.**  
 2 **Q.** So it's excluded from the right-to-know law?  
 3 **A. Yeah.**  
 4 **Q.** So, therefore, it fits in the stipulations that  
 5 she's talking about would be a non-meeting?  
 6 **A. No.**  
 7 MS. GORROW: I think we're just going to  
 8 have to move on. I've already instructed him  
 9 not to answer questions about that other  
 10 meeting.  
 11 He's testified that it had nothing to do  
 12 would the hiring and the buyout of the  
 13 superintendent. You have asked for him to bring  
 14 records on Schedule A that we provided to you in  
 15 advance of this deposition relating to the  
 16 buyout and the hiring of the interim  
 17 superintendent. He's presented you with that.  
 18 So I think we just need to move on.  
 19 MR. TAYLOR: I would be happy to move on if  
 20 I get the answer to my question.  
 21 MS. GORROW: He's answered the question.  
 22 MR. TAYLOR: He has not.  
 23 THE WITNESS: Well, define a meeting under

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1 the right-to-know, so I can interpret your  
 2 question properly.  
 3 BY MR. TAYLOR:  
 4 **Q.** I'm asking the questions.  
 5 **A. I know you are. That's what I'm saying, because**  
 6 **I don't understand your question. Because I**  
 7 **answered it already.**  
 8 **Q.** Is this a meeting under the right-to-know law?  
 9 **A. My interpretation? No.**  
 10 **Q.** So it's a non-meeting?  
 11 **A. No, I didn't say that.**  
 12 **Q.** What is it?  
 13 **A. Three boards members got together.**  
 14 **Q.** You convened three boards members?  
 15 **A. Yeah.**  
 16 **Q.** A subordinate body of the board?  
 17 **A. Three board members presently employed by the**  
 18 **board.**  
 19 **Q.** Were they doing board business?  
 20 **A. Business in what sense?**  
 21 **Q.** Were they discussing a board issue, were they  
 22 investigating a board issue, trying to decide on  
 23 process?

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1 **A. We were discussing an issue that had nothing to**  
2 **do with the change of Howard's contract or any**  
3 **issue that revolved around hiring an interim**  
4 **superintendent. It was a completely separate**  
5 **and distinct issue.**  
6 **Q.** That's my point about the subject. This subject  
7 that you're limiting it to about hiring the  
8 superintendent and the buyout is not discussed  
9 in this right-to-know request which is the  
10 essential part of this lawsuit.  
11 So I'm asking you again, this request that  
12 you said you're responding to, it says: "All  
13 non-meetings during that time period regardless  
14 of subject. "  
15 **A. This wasn't a non-meeting. It was just three**  
16 **board members talking together.**  
17 MS. GORROW: I think the problem that we're  
18 having is you are using the term "non-meeting"  
19 differently than what the right-to-know law  
20 defines non-meeting. And your request is for  
21 arrangements for non-meetings as defined in the  
22 New Hampshire right-to-know law, which has a  
23 specific definition of non-meetings.

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1 So you are, I gather, have this broad scope  
2 that any time board members, less than a quorum  
3 meet, then it is defined as a non-meeting under  
4 the right-to-know law, which is not the case.  
5 The right-to-know law has very specific  
6 definitions of what a non-meeting is.  
7 I think he's answered the question as best  
8 he can, and that is going to be his answer.  
9 So I think if you want to move on and ask  
10 your next question, that's fine. We can go --  
11 certainly we can keep going around in circles  
12 about what you think your request means, what we  
13 believe it means, what the law defines it as,  
14 and we're probably not going to agree on that.  
15 So I think he's answered the question, and I  
16 would suggest that you just ask your next  
17 question.  
18 MR. TAYLOR: Would you explain your basis  
19 for determining this it is not a non-meeting?  
20 MS. GORROW: I'm not here to answer  
21 questions.  
22 MR. TAYLOR: You're instructing him to not  
23 answer questions.

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1 MS. GORROW: He's answered the question  
2 several times.  
3 MR. TAYLOR: He has not told me any details  
4 of this.  
5 MS. GORROW: Because I've instructed him not  
6 to do that.  
7 MR. TAYLOR: So you have instructed him.  
8 Could you give me the basis for the instruction?  
9 MS. GORROW: It's beyond the scope of your  
10 right-to-know law request. It's not a meeting  
11 with counsel, he hasn't indicated that there's  
12 counsel there, it's not a negotiation of a  
13 collective bargaining agreement, it's not a  
14 chance social gathering. So it's not defined as  
15 a non-meeting under the right-to-know law. It  
16 doesn't involve the buyout of the  
17 superintendent, it doesn't involve the hiring of  
18 the interim superintendent, so it's beyond the  
19 scope of this right-to-know law case and is not  
20 relevant.  
21 You may be interested in knowing what the  
22 meeting was about, but that's just not what this  
23 case is about.

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1 MR. TAYLOR: This case is about my  
2 right-to-know request, correct?  
3 MS. GORROW: Correct.  
4 MR. TAYLOR: And my right-to-know request is  
5 not limited to the buyout of the superintendent  
6 or the hiring of the interim superintendent.  
7 MS. GORROW: But your deposition notice is.  
8 MR. TAYLOR: But the deposition notice is  
9 also related to this lawsuit.  
10 MS. GORROW: No. I've instructed him. If  
11 he wants to provide further information, he can,  
12 but I'm instructing him it's just not relevant  
13 and not to answer the question.  
14 MR. TAYLOR: Okay.  
15 BY MR. TAYLOR:  
16 **Q.** Move to the next exhibit, Exhibit 12.  
17 **A. This was sent from Wendy to you.**  
18 **Q.** So this is an email on June 21st from Wendy  
19 acknowledging receipt of the right-to-know?  
20 **A. Yes.**  
21 **Q.** Basically the next day after; is that correct,  
22 is that accurate?  
23 **A. I believe it is.**

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1 Q. The next exhibit.  
 2 A. **The next exhibit?**  
 3 Q. Exhibit 13.  
 4 A. **13. This is from Wendy to you. "Good**  
 5 **afternoon. I want you to know that the**  
 6 **information requested is being compiled for**  
 7 **review."**

8 **And she's the thanking you for your**  
 9 **patience.**

10 Q. This is on June 30th?

11 A. **This is June 30th.**

12 Q. The date that all the information was released  
 13 about the buyout, correct?

14 A. **Yes.**

15 Q. Yet, the information for the right-to-know  
 16 request still wasn't available?

17 A. **Well, you had received, I think at this point**  
 18 **you had received a lot of things from other**  
 19 **board members.**

20 Q. No.

21 A. **Then I don't know.**

22 Q. Were you aware of the discussions among board  
 23 members about satisfying right-to-know requests

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1 at this point?

2 A. **Only discussions with me. I don't know if**  
 3 **there's any inter-discussions with other board**  
 4 **members.**

5 Q. What discussions have you had?

6 A. **Basically that they were still compiling -- at**  
 7 **least 1 or 2 board members said they were**  
 8 **compiling, and they had the same problem that I**  
 9 **had, which was how to get it over to either**  
 10 **Wendy or to our attorney for them to redact**  
 11 **anything that they felt needed to be redacted.**

12 Q. Was there any discussion about how many people  
 13 need to be involved in the email for it to be  
 14 released?

15 A. **There might have been, but I don't remember**  
 16 **anything specific. I think under the**  
 17 **right-to-know you're privileged to have any**  
 18 **quorum of the board or any serializing of emails**  
 19 **that encompasses a quorum of the board. I think**  
 20 **that was discussed or had been told to us from**  
 21 **Wendy.**

22 Q. And this email says that the information to be  
 23 available at the end of the next week or the

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1 beginning of the following week; is that  
 2 correct?

3 A. **I didn't make that statement. Wendy made that**  
 4 **statement.**

5 Q. Had she communicated with you at all about  
 6 whether that was a reasonable deadline?

7 A. **I don't know whether this was the actual date,**  
 8 **but, yeah, I talked to Wendy, and she said hurry**  
 9 **up, hurry up, hurry up.**

10 Q. Had you told her that that was a reasonable  
 11 timeframe?

12 A. **No. I didn't say anything about a timeframe. I**  
 13 **said I was working on it still, trying to**  
 14 **produce.**

15 Q. But she had reminded you that you needed to  
 16 hurry up?

17 A. **Yep. Yep.**

18 Q. Did Wendy at any point tell you that you were  
 19 the only person holding up the response?

20 A. **I don't know if she phrased it the way you did,**  
 21 **I was holding up the response. I think she**  
 22 **reminded me several times that I owed a**  
 23 **response.**

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1 Q. Did she at any time tell you that you were the  
 2 only one who hadn't responded?

3 A. **I don't believe so. I don't recall, actually.**

4 Q. Was my right-to-know request the only one that  
 5 you hadn't responded to in this time period?

6 A. **No. All my emails were going to be turned over**  
 7 **to our attorney for redacting or anything else**  
 8 **she wanted to do with it to respond to all the**  
 9 **requests. There was a request from JoAnn, and**  
 10 **there was a request from Jennifer.**

11 Q. And you were holding them all until you were  
 12 done with them all?

13 A. **I was turning over everything.**

14 Q. At once?

15 A. **At once. I did not think out the process about**  
 16 **turning over what I had already completed.**

17 Q. Had you discussed with Wendy that that was the  
 18 procedure you were going through, that you were  
 19 waiting until you had them all together?

20 A. **I don't know if I talked about the procedure I**  
 21 **was going through. I just made it matter of**  
 22 **fact that I was still accumulating all the**  
 23 **emails that I had to turn over.**

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1 Q. Going down to the next Exhibit 14?  
 2 A. Okay.  
 3 Q. This email on July 7th?  
 4 A. Right.  
 5 Q. Says that the email is now available July 15th.  
 6 Is that --  
 7 A. That's what it says.  
 8 Q. Had you had any conversation with either the  
 9 school district's attorney or with Wendy about  
 10 the July 15th date?  
 11 A. No. I think prior to that date I had told her I  
 12 was still working on it.  
 13 Q. So were you reminded during this time period by  
 14 either of those people that you needed to hurry  
 15 up again?  
 16 A. I don't know about the hurrying up, but I was  
 17 aware that I was -- I had to fulfill this  
 18 request, and I was working at it.  
 19 Q. Going to Exhibit 15. This is an email from me  
 20 on July 7th, correct?  
 21 A. Correct.  
 22 Q. And in that email I ask for any documents that  
 23 are available and what the reason is for them

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1 being delayed.  
 2 A. Mm-hmm.  
 3 Q. Is that accurate?  
 4 A. I guess you did. I see it here in the email.  
 5 Q. Okay. Had you seen my request, this email,  
 6 before?  
 7 A. I might have. I don't recall this particular  
 8 email or this particular letter.  
 9 Q. Were you receiving all information about  
 10 right-to-know requests at this point?  
 11 A. Probably was.  
 12 Q. But you don't remember this particular one?  
 13 A. Well, I don't remember if there were any  
 14 requests that I didn't see, because I know Wendy  
 15 was handling things that were district related,  
 16 and I think she was only informing me about  
 17 things that I was responsible for.  
 18 Can we stipulate that I was late on the  
 19 emails and that I realize that?  
 20 MS. GORROW: I think the testimony has made  
 21 that clear.  
 22 THE WITNESS: It just took me a long time to  
 23 go through 3900 emails. And they had a ton of

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1 attachments. The way Wendy sends out emails is  
 2 she attaches stuff. And at one point I had to  
 3 go buy a program -- or no, I had to upgrade a  
 4 program so I could open some of those emails.  
 5 And this was just very difficult for me.  
 6 BY MR. TAYLOR:  
 7 Q. So am I correct in understanding that you  
 8 basically admit to all my allegations about the  
 9 delays and failure to respond?  
 10 A. I don't know what all your -- what you're  
 11 calling all your requests for, you know, or  
 12 reasons for the delay. But I'll stipulate that  
 13 I was delayed. But I have subsequently turned  
 14 over every email and then some that you -- that  
 15 you deserve.  
 16 Q. Will you stipulate that you were told many times  
 17 to respond and failed to?  
 18 A. I was told a few times. I wouldn't stipulate  
 19 many times, but I would say a few times I was.  
 20 Q. So perhaps we need to continue to go through  
 21 this to find out how many times you were told?  
 22 MS. GORROW: I think you've asked him the  
 23 question. Why don't you just continue with your

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1 questions. I think that's the best way to deal  
 2 with it.  
 3 Clearly, the emails, his emails -- and you  
 4 already had many of these same emails from other  
 5 board members.  
 6 MR. TAYLOR: Not at this point.  
 7 MS. GORROW: Before you filed the  
 8 right-to-know law request, you had emails from  
 9 other board members on these same issues. You  
 10 just didn't have Mr. Brackett's emails at that  
 11 particular point.  
 12 At this time he has provided the emails. It  
 13 wasn't done until after the suit was brought.  
 14 He's explained to you the process he was going  
 15 through.  
 16 THE WITNESS: I would suggest that you had  
 17 almost all the emails that I was producing via  
 18 the production that was given to you by other  
 19 board members.  
 20 MR. TAYLOR: It's not your place to ask  
 21 questions.  
 22 THE WITNESS: I'm answering.  
 23 BY MR. TAYLOR:

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1 Q. Will you stipulate that the reason you provided  
2 the emails was because I filed a lawsuit?  
3 A. No. I was working on the emails long before the  
4 suit. I had a ton of emails to go through. And  
5 as you can see from the schedule, I was quite  
6 busy.

7 Q. So in going back to the exhibits, Exhibit 16.  
8 A. Okay. This is an email from Wendy to you.  
9 Says: "Please see attached letter, bill and  
10 requested information. Thank you."

11 Q. And Exhibit 17?  
12 A. 17. Is that the attachment to this email?

13 Q. That's part of the attachment, yes.

14 A. Okay.

15 Q. And Exhibit 17, second paragraph, it reads:  
16 "Some of the governmental records that respond  
17 to your request are available for your review  
18 and copying at the SAU office. We are still  
19 waiting for the school board chairman's emails.  
20 Those emails will then be reviewed by school  
21 district counsel. The expected date for  
22 completion of that review is the middle of next  
23 week. At that time, additional government

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1 records that respond to your request and that  
2 are not exempt will be available for you to  
3 review and copy at the SAU office."

4 Is that accurate?

5 A. If that's what Wendy said. From Wendy's point  
6 of view, I guess it is accurate. She wrote it.

7 Q. Had she communicated with you at this point  
8 about --

9 A. I don't know. All the way along the process  
10 here I was reminded, you know, not daily, but  
11 every so often.

12 I would like to make a note on this email.  
13 It mentions about me not having provided my  
14 emails, but I believe on July 7th, you had had  
15 probably a lot of the emails that I was going  
16 forward with and producing via the emails that  
17 were discovered and produced to you by the other  
18 board members.

19 Q. Have you gone through the responses from the  
20 other board members?

21 A. Not all of them. I've seen some of them.

22 Q. Have you compared specifically what --

23 A. Some of them are full -- some of them are

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1 quorums of the board that were produced to you  
2 by the other board members, and they match up  
3 against some of the things that I produced.  
4 Quite a few of the things that I produced.

5 Q. For most of these non-meetings, are you the one  
6 who arranged them?

7 A. The non-meetings? I arranged most of them,  
8 yeah, if not all of them.

9 Q. The meetings with 2 or 3 board members, did you  
10 arrange most of those?

11 A. I probably did.

12 Q. So your emails may be distinct in that sense  
13 from the others?

14 A. Not if it was produced to the quorum of the  
15 board. You received them.

16 Q. What about a quorum of the subcommittee?

17 A. What subcommittee?

18 Q. What about a quorum of the groups that met?

19 MS. GORROW: I think, as I explained  
20 earlier, we have given over to you documents  
21 that are two less than a quorum of the board and  
22 in some cases emails between 1 or 2 board  
23 members, which are not subject to disclosure

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1 under the right-to-know law. We have given you  
2 those to the extent that they don't have  
3 information that's confidential or exempt from  
4 disclosure. It goes well beyond what you would  
5 get under a right-to-know law request.

6 We have not at this particular point  
7 characterized what they are, but have given them  
8 to you because just so that you have all of the  
9 information, even information that exceeds what  
10 you're entitled to under the law.

11 BY MR. TAYLOR:

12 Q. Thank you. I'm looking at Exhibit 19. Did you  
13 receive a copy of this email?

14 A. You're citing a law that didn't have any  
15 application to this case.

16 Q. Is that your legal opinion?

17 A. It's my opinion. I don't know if it's legal or  
18 not, but it's my opinion.

19 Q. Thank you. What did this have to do with?

20 A. Elected officials.

21 Q. What aspect of the right-to-know request did it  
22 have to do with?

23 A. Not sure. We got the attorney's opinion, I

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- 1 **think we sent to you, that this case has nothing**  
 2 **to do with your case.**  
 3 **Q.** So you also received the attorney's opinion on  
 4 that?  
 5 **A. Excuse me?**  
 6 **Q.** So you also received an attorney's opinion on  
 7 that?  
 8 **A. I believe I did.**  
 9 **Q.** Turning to Exhibit 20. This is two emails. One  
 10 from me to Wendy asking for information we just  
 11 talked about. And the other is acknowledgement  
 12 of the receipt of that.  
 13 **A. Yes.**  
 14 **Q.** So she acknowledged it four days later?  
 15 **A. Excuse me?**  
 16 **Q.** She acknowledged it four days later after the  
 17 weekend?  
 18 **A. I acknowledge that I've seen this, and**  
 19 **Exhibit 19 also. You're stating that case that**  
 20 **doesn't apply again.**  
 21 **Q.** And then Exhibit 21, which has two pages, is the  
 22 response that you said you were copied on; is  
 23 that correct?

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- 1 **A. I've read this email, yeah.**  
 2 **Q.** And the letter?  
 3 **A. Yeah, both. I take it that was an attachment.**  
 4 **Q.** Yes.  
 5 **A. Okay.**  
 6 **Q.** And then Exhibit 22?  
 7 **A. Statement on the July 11th letter that are you**  
 8 **were previously referring to. It states that**  
 9 **this case revolved around the appointment of a**  
 10 **sheriff to fill a vacancy in an elected office,**  
 11 **and the superintendent is an appointed employee,**  
 12 **and she said the redacted information is not**  
 13 **being provided to you. So there must have been**  
 14 **an of redaction that was provided to you.**  
 15 **Q.** Going on to Exhibit 22.  
 16 **A. Okay.**  
 17 **Q.** Email from me to Wendy on July 13th?  
 18 **A. Right.**  
 19 **Q.** Did you get a copy of this?  
 20 **A. Yes.**  
 21 **Q.** And what was your response to that?  
 22 **A. I don't think I responded to it, at least not in**  
 23 **writing.**

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- 1 **Q.** Did it change your behavior?  
 2 **A. What's that?**  
 3 **Q.** Did it change your behavior about your review of  
 4 your emails?  
 5 **A. My behavior was that I was still trying to**  
 6 **produce the documents as needed.**  
 7 **"If the government records can be produced**  
 8 **within five days, they must be produced within**  
 9 **five days" is what's stated here. And it was**  
 10 **obvious that I couldn't produce them in five**  
 11 **days.**  
 12 **Q.** Did you accelerate your review?  
 13 **A. I think I was doing as well as I could do up to**  
 14 **that point.**  
 15 **Q.** So you continued to review them at the same  
 16 rate?  
 17 **A. Yeah. Or continued to review them. Like I say,**  
 18 **there was over -- there was close to 3900 emails**  
 19 **with a lot of attachments. And I don't have**  
 20 **necessarily the fastest computer in the world.**  
 21 **Q.** So you didn't change your review process in  
 22 response to this email?  
 23 **A. No. I was still trying to produce what you were**

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- 1 **asking for, and I still went ahead.**  
 2 **Q.** Please skip ahead to Exhibit 24. Again, email  
 3 from me to Wendy and Leon, asking about the  
 4 remaining parts of the response, asking whether  
 5 you were still the person that they were waiting  
 6 for.  
 7 Have you seen this?  
 8 **A. I'm not sure, but I might have. I'm not sure.**  
 9 **Q.** It also states at this time you were out of town  
 10 on vacation. Is that accurate?  
 11 **A. 21st, yeah, I was in California.**  
 12 **Q.** This is when you were out for a week or so?  
 13 **A. Yeah. I think I was out Tuesday to Tuesday.**  
 14 **Tuesday before the 21st.**  
 15 **Q.** And then on Exhibit 25, we have Wendy saying:  
 16 "Please be advised at this point we have still  
 17 not received any information from the board  
 18 chair. Also, I only know what I was told, and  
 19 that being that Mr. Brackett will be out of town  
 20 on vacation this week."  
 21 Is that an accurate reading?  
 22 **A. What's the question?**  
 23 **Q.** Is that an accurate reading?

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1 **A. I don't know. You tell me. Did Wendy talk to**  
 2 **you at all?**  
 3 **Q.** I'm just asking whether my reading of the  
 4 document into the record was accurate.  
 5 MS. GORROW: I think the document speaks for  
 6 itself.  
 7 THE WITNESS: I think it does, too.  
 8 BY MR. TAYLOR:  
 9 **Q.** Have you been trained in the right-to-know law?  
 10 **A. Excuse me?**  
 11 **Q.** Have you been trained in the right-to-know law?  
 12 **A. I've been to meetings about the right-to-know**  
 13 **law.**  
 14 **Q.** Were you presented with information?  
 15 **A. Yeah.**  
 16 **Q.** That improved your understanding of the  
 17 right-to-know law?  
 18 **A. I think so.**  
 19 **Q.** Did you pay attention at those meetings?  
 20 **A. Absolutely.**  
 21 **Q.** Did you take them seriously?  
 22 **A. I think so, I attended them.**  
 23 **Q.** Do you feel you have a good understanding of the

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1 right-to-know law?  
 2 **A. Probably better than average.**  
 3 **Q.** So you understand your responsibilities under  
 4 that law?  
 5 **A. As far as I know, yes.**  
 6 **Q.** How many times have you been trained?  
 7 **A. About four times. Not trained. I've been to**  
 8 **meetings. I don't necessarily say they were**  
 9 **training meetings, per se. City of Durham held**  
 10 **some, we held some at the board over a couple of**  
 11 **years period, and then I think I attended one in**  
 12 **Lee when the Town had an attorney come in and**  
 13 **give a meeting.**  
 14 **Q.** Were you presented with materials at these  
 15 meetings?  
 16 **A. Yes, we were.**  
 17 **Q.** Did you read those materials?  
 18 **A. Some of them I did. Voluminous materials, which**  
 19 **included the memorandum from the general**  
 20 **attorney -- attorney general.**  
 21 **Q.** Did you feel you understood that?  
 22 **A. As best I could.**  
 23 **Q.** Do you feel that you understood it well enough

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1 to do your job adequately?  
 2 **A. To what?**  
 3 **Q.** To do your job adequately.  
 4 **A. As school board?**  
 5 **Q.** Right.  
 6 **A. I felt I understood the right-to-know.**  
 7 **Q.** How many right-to-know requests have you made?  
 8 **A. I have no idea.**  
 9 **Q.** To the school district, how many to the school  
 10 district?  
 11 **A. I have no idea. I made quite a few before I**  
 12 **became a school board member.**  
 13 **Q.** Did you ever have any problems getting responses  
 14 for them?  
 15 **A. Yes.**  
 16 **Q.** And what did you do?  
 17 **A. I didn't do anything except for keep asking for**  
 18 **it.**  
 19 **Q.** Why did you keep asking?  
 20 **A. Because I hadn't received the request.**  
 21 **Q.** Did you have an expectation that the request  
 22 should come back in a timely fashion?  
 23 **A. In a timely fashion, yeah. I never demanded,**

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1 **you know, to be delivered to me instantly or**  
 2 **anything like that.**  
 3 **Q.** What was your expectation?  
 4 **A. On each request?**  
 5 **Q.** In general.  
 6 **A. That I'd get the information eventually.**  
 7 **Q.** In what time?  
 8 **A. I don't know if I had a time suggestion.**  
 9 **Q.** When you asked about -- kept asking for it, was  
 10 that -- what was the purpose of keeping asking  
 11 for it? What prompted you to ask again?  
 12 **A. I hadn't received the information so I asked**  
 13 **again.**  
 14 **Q.** Have you made any right-to-know law requests in  
 15 other jurisdictions?  
 16 **A. Other jurisdictions other than what? The school**  
 17 **district?**  
 18 **Q.** Other than the school district.  
 19 **A. Yeah, I think I made some requests for town**  
 20 **information.**  
 21 **Q.** Which towns?  
 22 **A. Definitely Lee, maybe Durham. Definitely Lee.**  
 23 **Q.** Have you made a lot of those?

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1 **A. Excuse me?**  
 2 **Q.** Have you made a lot of those?  
 3 **A. No.**  
 4 **Q.** Describe your relationship with Howard Colter.  
 5 **A. I'd say that professionally, I worked with him,**  
 6 **I think I'm fair with him, I think he's fair**  
 7 **with me.**  
 8 **Q.** Did you have a relationship with him prior to  
 9 you joining the board?  
 10 **A. Never knew him -- before being on the board? I**  
 11 **was a public person attending meetings, so I**  
 12 **knew of him, yes.**  
 13 **Q.** Did you ever meet with him?  
 14 **A. I think I did a few times prior to the board.**  
 15 **Q.** How would you characterize those meetings?  
 16 **A. Cordial.**  
 17 **Q.** Did you ever have any shouting matches with him?  
 18 **A. One time as a private citizen I did suggest to**  
 19 **him that he was responsible for any releases**  
 20 **that came through the DAT program, you know, the**  
 21 **television program. And that was the only time**  
 22 **I think I raised my voice. I think at that same**  
 23 **meeting I apologized because I did not have any**

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1 **intention of raising my voice.**  
 2 **Q.** Other than that, all your meetings were cordial?  
 3 **A. I'd say most of them from my point of view were**  
 4 **cordial.**  
 5 **Q.** You can't think of any other meetings that  
 6 weren't cordial?  
 7 MS. GORROW: I'm going to object as to the  
 8 relevancy of this. This is a right-to-know law  
 9 request. It's not a general civil case or  
 10 anything like that.  
 11 So to the extent you can answer, go ahead  
 12 and answer the question.  
 13 THE WITNESS: My relationship was very  
 14 respectful. I had no animosities for any  
 15 particular reason.  
 16 BY MR. TAYLOR:  
 17 **Q.** When you did agenda planning as the board  
 18 chair --  
 19 **A. Excuse me?**  
 20 **Q.** When you did agenda planning with Howard Colter  
 21 as a board chair?  
 22 **A. Yeah.**  
 23 **Q.** How did you do that?

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1 MS. GORROW: I'm going to object as to the  
 2 relevancy. Can you explain to me how this is  
 3 relevant?  
 4 MR. TAYLOR: I don't believe I need to  
 5 answer any questions.  
 6 BY MR. TAYLOR:  
 7 **Q.** Would you please answer the question?  
 8 **A. Can I understand the question? Within what**  
 9 **context am I answering?**  
 10 **Q.** When you were board chair, can you describe how  
 11 you met with the superintendent to do agenda  
 12 planning?  
 13 **A. We met in his office.**  
 14 **Q.** Always?  
 15 **A. Always. There might have been 1 or 2 emails**  
 16 **that did some agenda, but they were on minor**  
 17 **points, maybe time or specific dates that we**  
 18 **could meet. But most of the meetings were**  
 19 **always in his office. And that included the**  
 20 **last board I was on. And then this board, the**  
 21 **same. We had very cordial meetings.**  
 22 **Q.** Was it just you or also the vice chair?  
 23 **A. On the old chair it was Jocelyn. She was the**

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1 **vice chair. And on this board it was Ann**  
 2 **Wright. She's the vice chair.**  
 3 **Q.** Other than the meeting that you mentioned at the  
 4 Durham Town Council, there are no other meetings  
 5 during this time period where you met with 1 or  
 6 2 other board members?  
 7 **A. No, there were no other meetings. I take that**  
 8 **back. Because at a public session, I and**  
 9 **Jocelyn and Howard did show up at a public board**  
 10 **meeting, and we all talked. And we were talking**  
 11 **about things that were going on with the**  
 12 **district at that time. Now, that happened on**  
 13 **the last board. That's when Jocelyn was the**  
 14 **vice chair.**  
 15 **Q.** I'm not sure I understand your answer. What do  
 16 you mean by public session?  
 17 **A. The council was meeting.**  
 18 **Q.** The town council?  
 19 **A. Town council, yes.**  
 20 **Q.** My question was: These groups of committee,  
 21 these groups of board members, the 2 or 3 that  
 22 you've gathered for these various tasks, are  
 23 there any other meetings of those kinds of

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1 groups, other than those that we've described  
 2 today?  
 3 **A. I don't think there was.**  
 4 **Q.** And other than that one at the Durham Town  
 5 Council, you've released all documents for all  
 6 the other ones?  
 7 **A. As I stipulated, I released every document I had**  
 8 **that included a quorum with the board, and then**  
 9 **even more so.**  
 10 **Q.** Can you enumerate what all of the expenses are  
 11 related to the buyout?  
 12 **A. Do I know?**  
 13 **Q.** Yes.  
 14 **A. Generally, I know, yes.**  
 15 **Q.** Okay. Can you enumerate them?  
 16 **A. The specifics?**  
 17 **Q.** Yeah.  
 18 **A. I think there was four checks turned over to**  
 19 **Howard. One was on salary, and one was on**  
 20 **benefits that related to health benefits. One**  
 21 **was another one that related to vacation and**  
 22 **sick leave. In fact, there might have been two**  
 23 **separate checks for those two categories.**

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1 **I know I presented Howard on the 30th of**  
 2 **June four checks. And I think it covered that.**  
 3 **I know that expenditures were expenditures**  
 4 **for the attorney, for consultant that helped us**  
 5 **draft -- the PR person that helped us draft the**  
 6 **letter of mutual agreement that we sent to the**  
 7 **public. And I think that was all.**  
 8 **We took several votes on it because there**  
 9 **was -- we wanted to make sure that we had**  
 10 **incorporated all the expenses covered under what**  
 11 **we were expending.**  
 12 **It was all taken out of unfunded balances**  
 13 **that were coming forward that year.**  
 14 **Q.** So other than the attorney, the PR firm, and the  
 15 checks to Howard, there were no other expenses  
 16 related to the buyout?  
 17 **A. No. The PR firm. I don't believe there were.**  
 18 **I think it was all encompassed in the one dollar**  
 19 **amount that we suggested that we would be**  
 20 **spending.**  
 21 **Q.** And the attorney's fees and the PR consultant  
 22 are fully covered by the invoices that have been  
 23 released?

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1 **A. Say the question again.**  
 2 **Q.** The attorney's fees and the PR consultant have  
 3 all been covered by the invoices that have been  
 4 released?  
 5 **A. Yes.**  
 6 **Q.** Was there any authorization to spend money other  
 7 than the vote on the 15th?  
 8 **A. No. I think it was authorized -- I think it was**  
 9 **an adjustment, so there might have been two**  
 10 **votes. I don't recollect 100 percent, but I**  
 11 **think there were two different votes that at**  
 12 **least talked about the dollar amount. And then**  
 13 **we put in a little extra dollars to make sure we**  
 14 **were covered.**  
 15 **Q.** When did that first vote take place?  
 16 **A. You know, I don't know. I'm just recollecting**  
 17 **that there was some discussion. I don't know if**  
 18 **there was a vote, but there was a discussion of**  
 19 **how much money we would need to process through**  
 20 **the buyout.**  
 21 **Q.** This did not occur at the June 15th meeting?  
 22 **A. It might have been, but I know there was**  
 23 **accumulations of dollar amounts that we would**

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1 **need and then eventually it was presented to the**  
 2 **full board and voted on in a nonpublic.**  
 3 **Q.** And this information, this accumulation, where  
 4 did that occur?  
 5 **A. I don't really -- this is things about the**  
 6 **discussions with the attorney and this office**  
 7 **here with Sue about what type of monies were**  
 8 **needed to be incurred. Because there was a**  
 9 **retirement figure -- that was one of the fourth**  
 10 **ones -- there was retirement, there was a**  
 11 **calculation on sick days, there was a**  
 12 **calculation on vacation, and then there was some**  
 13 **discussion towards the beginning, I believe,**  
 14 **that was on what salary do we owe.**  
 15 **So that was all given to us. It was not my**  
 16 **discussion with anybody here at the district**  
 17 **office; it was through the attorney.**  
 18 **Q.** For the attorney and the PR consultant, were  
 19 those contracts bid?  
 20 **A. No. It was well under the requirement for bid.**  
 21 MS. GORROW: Are we going to be much longer?  
 22 MR. TAYLOR: Probably.  
 23 MS. GORROW: Because I would like to take a

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1 break.  
 2 (3:15 p.m., recess.)  
 3 (3:27 p.m., deposition resumes.)  
 4 BY MR. TAYLOR:  
 5 **Q.** For the invoices, who authorized to pay?  
 6 **A. I did.**  
 7 **Q.** Under what authority?  
 8 **A. As board chair.**  
 9 **Q.** Have you done that for any other bills?  
 10 **A. Yeah, I have, a few expense bills that were done**  
 11 **by board members, like travel expenses, stuff**  
 12 **like that. And Wendy has had me sign them to**  
 13 **verify that the amount that they were asking for**  
 14 **was correct.**  
 15 **Q.** And do you always review them when you sign  
 16 them?  
 17 **A. Yeah.**  
 18 **Q.** As far as you know, the bills associated with  
 19 this are all fine?  
 20 **A. I think so. I signed them. Yeah, I think Wendy**  
 21 **asked for that, and I gave it to her.**  
 22 **Q.** And as far as you know, they're all accurate  
 23 bills?

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1 **A. Yeah, I think so.**  
 2 **Q.** Did you sign the invoice on June 30th for the PR  
 3 firm?  
 4 **A. I don't know if I did, but I did sign the law**  
 5 **firm's bill that represented that dollar amount.**  
 6 **I did see that bill. I don't remember if I had**  
 7 **signed it or not. Like I say, I had**  
 8 **pre-approved it through the attorney's billing.**  
 9 **Q.** Why did you go through the attorney?  
 10 **A. This attorney helped us in January when we were**  
 11 **having a dispute with Howard about the board**  
 12 **getting the district records of his personnel**  
 13 **file.**  
 14 **Q.** I was asking why did the PR firm bill go through  
 15 the attorney?  
 16 **A. Oh, I think it was convenience more than**  
 17 **anything else. A lot of things go through**  
 18 **attorney billing, in my mind.**  
 19 **Q.** Did you approve which account that particular  
 20 bill would go into?  
 21 **A. Here at the district?**  
 22 **Q.** Right.  
 23 **A. No. They did everything after I passed it in.**

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1 **Q.** The board didn't decide which accounts that goes  
 2 into?  
 3 **A. No. I don't think we were asked. I don't know**  
 4 **what accounts his retirement money goes into**  
 5 **versus his vacation money versus his pay.**  
 6 **That's all taken care of here.**  
 7 **Q.** I'm a little confused reading through these  
 8 additional documents. It talks about Skip  
 9 Hansen in relation to NESSC?  
 10 **A. What's the letters again?**  
 11 **Q.** NESSC. Can you tell me more about Skip Hansen?  
 12 **A. That's probably the organization that he**  
 13 **represents. It's New England Educational**  
 14 **something or other. Let me see the letters**  
 15 **again.**  
 16 **Q.** Right there.  
 17 **A. Yeah, that's New England School something**  
 18 **Consortium or something like that.**  
 19 **He's helped other school districts. And we**  
 20 **eventually learned that his organization -- we**  
 21 **didn't know that then, but we found out later**  
 22 **that Skip's old school district used that**  
 23 **organization to help with some of their issues.**

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1 **Q.** So did you have a contract with his organization  
 2 to help consult?  
 3 **A. State the question again.**  
 4 **Q.** Did you have a contract with that organization  
 5 to consult you on the process?  
 6 **A. No, no.**  
 7 **Q.** How did Skip Hansen get involved in it?  
 8 **A. At the time, I think he came through Jocelyn,**  
 9 **but I'm not exactly sure. And the reason was**  
 10 **that he had -- this organization helps school**  
 11 **districts with issues, and we had an issue.**  
 12 **Q.** Issues in general or particular kinds of issues?  
 13 **A. Well, we were thinking about Howard's contract**  
 14 **and how we would arrange that.**  
 15 **Q.** And he did this with no charge?  
 16 **A. Yeah. We didn't get any bills from him. We**  
 17 **never hired that consultancy firm. I'm phrasing**  
 18 **it as that. It might be something more, but we**  
 19 **never hired them.**  
 20 **Q.** Which consultancy firm are you talking about?  
 21 **A. Excuse me?**  
 22 **Q.** Which consultancy firm?  
 23 **A. The one that Skip was aligned with.**

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- 1 Q. He provided you with help anyway?
- 2 A. Well, he provided us with information.
- 3 Q. Okay. Over what period of time did he help?
- 4 A. I'd say somewhere around March. I'm not exactly
- 5 sure. It was early on.
- 6 Q. And then you said later in June he came in for
- 7 an interview?
- 8 A. He was interviewed by the search committee that
- 9 we had established with three staff members and
- 10 the full board.
- 11 Q. This is on the June 6th meeting?
- 12 A. I'm not exactly sure, but it was in June.
- 13 Q. At the police department?
- 14 A. Yes. But I think he also became a candidate
- 15 later on, was interviewed by the search
- 16 committee that was formed by the full board and
- 17 three staff members.
- 18 The first time I ever met him was at the
- 19 police department.
- 20 Q. You said he recommended The New Harbor Group in
- 21 Providence?
- 22 A. Yes.
- 23 Q. Thank was in May?

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- 1 A. I'm not sure about the date, but it was earlier
- 2 than the June 6th meeting where he came in.
- 3 Q. Was that also through Jocelyn?
- 4 A. Well, it's through Skip. I don't know, Jocelyn
- 5 might have been involved in that, too, or maybe
- 6 Megan.
- 7 The whole board was looking for information,
- 8 so it could have been either one, different
- 9 sources. I think, yeah, that's how I remember
- 10 it.
- 11 Q. Okay.
- 12 A. Can I give this document back to you?
- 13 Q. Thank you. Look at Exhibit 8, your calendar.
- 14 A. It says April 18th through the 24th page.
- 15 There's actually two pages represented on one
- 16 document.
- 17 Q. I'm having trouble reading your handwriting. My
- 18 handwriting is no better.
- 19 A. I'm having trouble reading my own handwriting.
- 20 Q. Could you read what it says under April 18th?
- 21 A. April 18th. It says -- something to do with
- 22 April 6th. And then a note under it. I can't
- 23 read it. I think it says April again, and then

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- 1 there's one more entry that I can't read, and
- 2 then it says "Call Wendy, Jim Kach."
- 3 And then also at that -- I don't know if
- 4 that's O'Quinn or not -- but something about a
- 5 g-mail, at g-mail, but I don't know who that
- 6 might be. Maybe it is Jim Kach. I'm not sure.
- 7 Q. None of this refers to any meetings of board
- 8 members?
- 9 A. I know April 6th is there, and I know we met on
- 10 April 6th, but I don't know what it refers to.
- 11 Q. Okay. The 19th, can you read that?
- 12 A. The 19th. I have some redactions, and I have
- 13 9 o'clock circled, and so there might have been
- 14 something there, but there's no note.
- 15 "What are your thoughts about
- 16 superintendent" I think the word is. And then
- 17 there is a redaction, and then there's a note
- 18 that I can't read at the bottom. And I think
- 19 there's one word that says computer, but I'm not
- 20 sure. It might say contract. Maybe it says
- 21 "find contract." That's what it says. So I
- 22 must have been looking for a document.
- 23 Q. Is it possible that the thing at the top says

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- 1 "What are your thoughts about separation?"
- 2 A. No. I think it says "What are your thoughts
- 3 about superintendent." Well, it doesn't have --
- 4 Q. Doesn't have a "T" at the end.
- 5 A. Yeah. But it might have been abbreviated. I'm
- 6 not sure.
- 7 Like I said, my handwriting, I have
- 8 arthritis real bad so I scribble a little bit.
- 9 And the further I get away from a date, the
- 10 harder it becomes to interpret.
- 11 Q. Yeah. On the 20th?
- 12 A. On the 20th, I have some redactions on the page,
- 13 but it does mention something about RSA. And
- 14 then later in the day at 5 o'clock it says
- 15 police department on the 20th.
- 16 Q. So is that a meeting at the police department on
- 17 the 20th?
- 18 A. I don't know. I don't believe it was. I might
- 19 have been calling the police department or
- 20 maybe -- let's see, after this date.
- 21 The chief received some requests, and this
- 22 might be the day that he called me, and I had to
- 23 call him back.

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1       **There were some citizens, based on**  
2       **Meredith -- Meredith had gotten up at a school**  
3       **board meeting and said that, you know, there was**  
4       **some illegal meeting that was happening at the**  
5       **police department, which is her**  
6       **characterization, not the truth. But I'm not**  
7       **sure.**  
8       **Q.** What is the SB, appears to be crossed out?  
9       **A. That's school board.**  
10      **Q.** Why would that be crossed out?  
11      **A. The 20th, let's see, that might have been the**  
12      **second Wednesday of the month, and for some**  
13      **reason maybe it got changed. I'm not sure.**  
14      **Q.** Looks like the 12th, 30th, Kim M., RSA. That's  
15      probably a phone call. Is that the right  
16      reading of that?  
17      **A. It might have been. That might have been a call**  
18      **to the attorney.**  
19      **Q.** Okay. You think the police department was  
20      calling them or going over and talking about --  
21      **A. I don't think I went over there, but there might**  
22      **have been a call. The last meeting that we had**  
23      **was with Dr. Tracy, and that was done on the**  

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1       **14th.**  
2       **Q.** This is back in April?  
3       **A. Yeah. Oh, June -- June 14th we met at the**  
4       **police department. And this being the 18th, I**  
5       **don't know.**  
6       **Maybe -- in fact, I'm mixing dates up. It**  
7       **probably wasn't a call. It was -- it wasn't a**  
8       **call to the chief. It probably revolved around**  
9       **availability, but I'm not sure. Maybe I had a**  
10      **police problem personally that I was dealing**  
11      **with.**  
12      **Q.** It wasn't a meeting of the board members?  
13      **A. No, it wasn't a meeting. The first meeting we**  
14      **had at the police department was on the sixth of**  
15      **June. And I'm trying to think if I did anything**  
16      **personal over there. I don't recollect.**  
17      **Q.** Okay. 21st, it seems to say: "Sign contracts  
18      SAU." And then 5 o'clock circled, "Non-meeting  
19      402 State Street, Portsmouth."  
20      **A. Right. The signed contract is the board chair**  
21      **signs a lots of contracts. Wendy probably**  
22      **called me and told me to get over here.**  
23      **Q.** And this 21st is probably the first meeting you  

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1       had with Hoefle?  
2       **A. Let's see, April 18th.**  
3       **Q.** April 20th -- 21st, rather.  
4       **A. You mean the 21st, right?**  
5       **Q.** 21st.  
6       **A. Thursday. It's noted down here, non-meeting, so**  
7       **I guess that's one of the first ones.**  
8       **Q.** Okay. And the 22nd says "Call Diane Gorrow,  
9       meeting with Howard." Am I reading that  
10      correctly? Just to make sure I can read it.  
11      **A. Yeah, that's correct.**  
12      **Q.** Okay. On the 25th, the next page. You have to  
13      go back.  
14      **A. Back, excuse me. On the 25th, it says here**  
15      **"Call attorney Diane." Then I met at the SAU**  
16      **for some reason, and I don't -- looks like I had**  
17      **an operations meeting at 9:30, but it was**  
18      **cancelled because I have it crossed out. And**  
19      **then there's a 1 o'clock SAU, so maybe that was**  
20      **a rescheduling of the operations meeting. And**  
21      **then there's a note under it that I can't read.**  
22      **On the 26th -- you want me to go on?**  
23      **Q.** Sure, keep going, that's fine.  

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1       **A. "Attorneys for Jocelyn." I'm not sure why. And**  
2       **there's a PTO meeting that I went to at**  
3       **8 o'clock.**  
4       **Jocelyn might have been asking me a**  
5       **question, and I called the attorney. I think**  
6       **that's the first note.**  
7       **PTO meeting was at the middle school that I**  
8       **probably attended and listened to what they were**  
9       **talking about.**  
10      **Q.** What is this?  
11      **A. On the 27th?**  
12      **Q.** On the 26th, does that look like "not home"? Is  
13      that -- am I reading that correctly?  
14      **A. Not home or not here. I might have had**  
15      **something personally that I had to do, so maybe**  
16      **I made a note. I'm not sure. But I don't think**  
17      **it had anything to do with the school.**  
18      **Q.** On the 27th, "Ask attorney right-to-know  
19      timing."  
20      **A. Yeah, I think we were probably involved in some**  
21      **training class or something, or I was asking --**  
22      **I don't know if I talked to you, but maybe there**  
23      **was some training that was going to be coming**  

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- 1 **up. Like I say, I don't really know. This is**  
 2 **so long ago.**  
 3 **Q.** The 28th, looks like "Call Kim." And then  
 4 "Krista's problem" is scratched out. Is that  
 5 reading correctly?  
 6 **A. Yeah. I don't know what Krista's problem was.**  
 7 **Q.** And Kim here is probably Kim Memmesheimer?  
 8 **A. Yeah.**  
 9 **Q.** And then the 29th?  
 10 **A. 29th, it looks like I had a scheduled meeting at**  
 11 **Kim's office at 1 o'clock, and for some reason I**  
 12 **wrote a note at 12 o'clock, Kim's office.**  
 13 **Probably I had to be over there earlier.**  
 14 **Q.** You didn't have an earlier meeting with before  
 15 the board met?  
 16 **A. O. I try to show up early for meetings because**  
 17 **I'm notoriously late sometimes, so I try to put**  
 18 **it in reference that push me.**  
 19 **Q.** Then it looks, at the bottom of the 29th it says  
 20 "Jim" maybe or maybe that's --  
 21 **A. That's Kim's office.**  
 22 **Q.** No, the border between the 29th and the 1st, it  
 23 looks like it says "Jim"?

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- 1 **A. That probably is for Sunday. That's probably a**  
 2 **personal note.**  
 3 **Q.** Okay. Then the full May calendar.  
 4 **A. Okay.**  
 5 **Q.** Wednesday, the 4th, "Guild, 3/16-SB"?  
 6 **A. There was a meeting at Moharimet, I guess, but**  
 7 **I'm not sure. Might have been two separate**  
 8 **things. "Report 3/16 questions. Help to**  
 9 **understand."**  
 10 **Q.** Is that May 6, "3/16, AP"? Is that what that  
 11 reads?  
 12 **A. I don't know.**  
 13 **Q.** On the 11th, it looks like you have a 3. Can  
 14 you read what you have next to it?  
 15 **A. Well, I redacted.**  
 16 **Q.** Above the redacted there's a line?  
 17 **A. Off to the left?**  
 18 **Q.** Yes.  
 19 **A. I don't know what it says. From somebody or**  
 20 **fund.**  
 21 **Q.** 12th looks like "policy concern"?  
 22 **A. I don't know. Then off to the right it says**  
 23 **"Jennifer bullying policy KLD."**

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- 1 **Q.** Do you know what that refers to?  
 2 **A. No, sometime in this period we were passing the**  
 3 **bullying policy that came down from the State.**  
 4 **So it might have been we were looking at it.**  
 5 **I'm not sure.**  
 6 **Q.** Was this around the time when there were  
 7 concerns about school board members bullying  
 8 other people?  
 9 **A. I don't know. Might have been.**  
 10 **Q.** May 2nd, looks like it says "operations  
 11 meeting"?  
 12 **A. Where are we at now? Sorry.**  
 13 **Q.** May 2nd.  
 14 **A. May 2nd. It says "operations meeting." And**  
 15 **then there was an operations meeting scheduled**  
 16 **at the SAU, probably this office here.**  
 17 **And then there's some redacted stuff.**  
 18 **And then Tuesday, "teachers appreciation**  
 19 **day." We, Krista and myself, we -- Ann was**  
 20 **involved in a little bit, but then she dropped**  
 21 **out.**  
 22 **But we bought some pastries and flowers and**  
 23 **brought them around to all the schools and left**

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- 1 **them a card for appreciation day. Something**  
 2 **we've done every year.**  
 3 **Q.** So then it says "NESDEC"?  
 4 **A. Yeah.**  
 5 **Q.** And "Call Krista and Ann." Do you know what  
 6 that's about?  
 7 **A. Teacher appreciation. I had to get up very**  
 8 **early that day to make the rounds. We had to**  
 9 **meet at a market, buy the pastries, put them in**  
 10 **baskets at Krista's house, and a lot more than**  
 11 **the teachers knew about.**  
 12 **Q.** And then it says "Call for meeting on Friday."  
 13 Is that correct?  
 14 **A. Where is that note?**  
 15 **Q.** On the 3rd.  
 16 **A. On the 3rd?**  
 17 **Q.** At 9 o'clock.  
 18 **A. At the top right? I think -- this one right**  
 19 **here? That says "trays." We had to come up**  
 20 **with some trays.**  
 21 **Q.** No, no.  
 22 **A. Oh, "Call for meeting on" -- it could say**  
 23 **Friday, yeah. I guess it is Friday.**

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1 **What do they have? Okay. Yeah. "Call for**  
2 **a meeting."**  
3 **Q.** And who was that, who did you call for that  
4 meeting?  
5 **A. I think it was probably Todd.**  
6 **Q.** Todd Selig?  
7 **A. Yeah.**  
8 **Q.** On the 5th, looks like you've got 4 circled and  
9 "Core committee, SAU."  
10 **A. Core committee, that was the one that we put**  
11 **together -- after Howard's nomination was voted**  
12 **down, we put together what they called the core**  
13 **committee. I don't know why they came up with**  
14 **that name, but two Anns and myself and Howard**  
15 **were come trying to come up with another**  
16 **nomination for principal.**  
17 **Q.** What does it say underneath it? "No board"?  
18 **A. Where do you see no board? Oh, "to board."**  
19 **Q.** "To board"?  
20 **A. Yeah.**  
21 **Q.** Okay. And then on the 6th?  
22 **A. That was a meeting over here at the SAU, the**  
23 **core committee.**

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1 **Q.** On the 6th you've got 1` circled, "Durham  
2 council room"?  
3 **A. Yeah.**  
4 **Q.** And 1 and 2, and then it says "Jim and Ann  
5 Lane"?  
6 **A. Yeah.**  
7 **Q.** Was this the meeting you were talking about  
8 earlier?  
9 **A. I don't know, but it's a meeting that we had.**  
10 **Q.** How was that meeting arranged?  
11 **A. How what?**  
12 **Q.** How was this meeting arranged?  
13 **A. Telephone.**  
14 **Q.** You called them up?  
15 **A. Yeah.**  
16 **Q.** What was the subject of that meeting?  
17 **A. Had no relevance to this request that you have**  
18 **here.**  
19 **Q.** No relevance to the right-to-know request?  
20 **A. Yeah, to your lawsuit.**  
21 **Q.** So this is a meeting?  
22 **A. No.**  
23 **Q.** It's not a meeting?

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1 **A. There's only three board members.**  
2 **Q.** It wasn't posted, no minutes?  
3 **A. No.**  
4 **Q.** It didn't meet the requirements for the  
5 right-to-know law?  
6 **A. Pardon me?**  
7 MS. GORROW: I'll object.  
8 BY MR. TAYLOR:  
9 **Q.** It didn't meet the requirements to the  
10 right-to-know law?  
11 MS. GORROW: It's a legal conclusion.  
12 BY MR. TAYLOR:  
13 **Q.** I don't think you answered my question. What  
14 was the subject of that meeting?  
15 **A. It had nothing to do with this lawsuit.**  
16 **Q.** But what was the subject?  
17 **A. I think I just answered it.**  
18 **Q.** No. You told me what the subject was not. What  
19 I'm asking is what was the subject?  
20 MS. GORROW: I don't know what the meeting  
21 was about.  
22 BY MR. TAYLOR:  
23 **Q.** If it's not privileged, you should tell me what

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1 the meeting was about.  
2 MS. GORROW: That's the one we objected to  
3 before. I instructed him not the answer.  
4 MR. TAYLOR: What's the basis for that.  
5 MS. GORROW: As I said before, it's not  
6 within the scope of your right-to-know law  
7 request.  
8 You're basically at this point just asking  
9 general questions with whatever comes into your  
10 mind about various issues that the board has.  
11 We're here on a right-to-know law request.  
12 It's not relevant. You've taken his deposition,  
13 asking for information about the buyout of the  
14 superintendent, the interim superintendent.  
15 That meeting has nothing to do with either one  
16 of those.  
17 BY MR. TAYLOR:  
18 **Q.** All right. Thank you.  
19 On May 9th, top of the page, it says: "Ann  
20 Lane;" is that correct?  
21 **A. Where is that note?**  
22 **Q.** Right by the May 15th header.  
23 **A. I must have called Ann Lane, but I'm not sure.**

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- 1 **It might have been just a note to talk to her.**  
 2 **Q.** Under the 9 it looks like it says "RSA 194-?  
 3 **A. 64.**  
 4 **Q.** 64.  
 5 **A. I don't know if that had any relevance to the**  
 6 **case. I just wrote down a note to remind me of**  
 7 **something.**  
 8 **Q.** Next to it there's --  
 9 **A. Illegible. It says 35 something.**  
 10 **Q.** Kim?  
 11 **A. No, it's not Kim. I'm not sure what it says.**  
 12 **Q.** "High school PTO library" at the bottom of that  
 13 page?  
 14 **A. Right, I went to a PTO meeting.**  
 15 **Q.** On the 10th of May it says: "Call Krista,  
 16 board"?  
 17 **A. Mm-hmm.**  
 18 **Q.** What was that about?  
 19 **A. I have no recollection. Could have been the**  
 20 **training that we were having. She was dealing**  
 21 **with the New Hampshire School Board Association,**  
 22 **and we had training that night. That might have**  
 23 **been setting up the riding schedule, who rode**

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- 1 **with what person to get to the Concord area.**  
 2 **Q.** Carpooling?  
 3 **A. Mm-hmm.**  
 4 **Q.** And at the bottom of that it refers, looks like  
 5 something Rotary that's cancelled, and then the  
 6 address.  
 7 **A. Yeah, because Rotary has an executive meeting**  
 8 **that meets on Tuesday, and I had to cancel that**  
 9 **to go to this Concord meeting.**  
 10 **Q.** The 11th says: "Thanks PTO" and "SB" at the  
 11 bottom?  
 12 **A. We had school board that night, and at that**  
 13 **meeting I went out of my way to thank the PTO**  
 14 **for all the services they gave to the district**  
 15 **and the children.**  
 16 **Q.** On the 12th, "News letter, Wendy" and then 7  
 17 o'clock, high school play.  
 18 **A. I'm responsible for the first page of the news**  
 19 **letter, and I probably was writing it at this**  
 20 **time.**  
 21 **And then at the high school they had a play**  
 22 **that I went to at 7 o'clock.**  
 23 **Q.** On the May 16th, May 22nd, at the top of the

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- 1 page, on the left it says: "April 6, '11, it  
 2 looks like; is that correct?  
 3 **A. Yeah. But I don't know what it refers to.**  
 4 **Q.** On the right-hand side above, it looks like it  
 5 has initials. Can you tell me what that is?  
 6 **A. On the right?**  
 7 **Q.** On the right, in the margin at the top, looks  
 8 likes HB, AL, MJ, AW, KB, JK, JO?  
 9 **A. Over what date? The 19th?**  
 10 **Q.** Over the 19th.  
 11 **A. I probably was calling all of these board**  
 12 **members, and I was kind of reminding myself who**  
 13 **I called. That might have been to schedule one**  
 14 **of these non-meetings.**  
 15 **Q.** Okay. On the 16th it looks like "8 o'clock  
 16 Kim"?  
 17 **A. Attorney.**  
 18 **Q.** Right. "11 o'clock, operations meeting"?  
 19 **A. Right. That was about a generator.**  
 20 **Q.** Is that "Jim and generator"?  
 21 **A. No, I think that says "John and generator."**  
 22 **Q.** Okay. "3 O'clock, Ann Lane's house"?  
 23 **A. Right.**

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- 1 **Q.** And 5, "call board"?  
 2 **A. Yes.**  
 3 **Q.** And do you remember what that call board, was  
 4 that to schedule a meeting?  
 5 **A. It might have been. I don't know.**  
 6 **Q.** On the 17th, "call Kim"?  
 7 **A. "Call board members."**  
 8 **Q.** "Call board members." Do you remember what that  
 9 call to the board members was about?  
 10 **A. I assume it was to set up the meetings that were**  
 11 **coming up on the 20th.**  
 12 **Q.** 11 is circled, "SAU agenda search committee"?  
 13 **A. Yeah. That was the agenda over here at the SAU,**  
 14 **and the search committee might have been**  
 15 **formulating the official search committee**  
 16 **talking about that, but I don't recall. It**  
 17 **might have been that I talked to Howard at the**  
 18 **agenda setting meeting about that.**  
 19 **Q.** On the 18th, "call Kim"?  
 20 **A. Attorney.**  
 21 **Q.** 19th, 9 o'clock?  
 22 **A. That was the PTO where they talked about the**  
 23 **volunteer breakfast.**

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- 1 **Q.** At Mast Way, is that it, MW?  
 2 **A. Yeah.**  
 3 **Q.** 20th, 9 o'clock, "Kim, attorney"?  
 4 **A. Right.**  
 5 **Q.** Didn't you meet that day at the attorney's  
 6 office?  
 7 **A. Excuse me?**  
 8 **Q.** Didn't you meet on May 20th at the attorney's?  
 9 **A. It might have been.**  
 10 **Q.** So did you meet at 9 o'clock in the morning?  
 11 **A. Yeah, probably. We met, morning, noon and**  
 12 **afternoon, and also the evening. Just depended**  
 13 **on who was available, when they were available.**  
 14 **Q.** Okay. 21st at 10 o'clock?  
 15 **A. Mast Way fair. I went to the fair and talked to**  
 16 **parents, stuff like that.**  
 17 **Q.** Then on the 20th it says: "8 o'clock" --  
 18 redacted -- "conference"?  
 19 **A. Wait. On the 20th.**  
 20 **Q.** 22nd, sorry.  
 21 **A. Oh, 22nd. Tell me what the note says, but it**  
 22 **might have revolved around my church.**  
 23 **Oh, you know what that is? I was a trustee**

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- 1 **for the church, and I had to remove and put back**  
 2 **furniture so that the gentleman that does the**  
 3 **floors could come in and do the floors.**  
 4 **So what that says is something to do with**  
 5 **moving of the furniture.**  
 6 **Q.** I think earlier you said that on the 22nd you  
 7 had the conference call to talk to New Harbor  
 8 Group?  
 9 **A. Could be that also. Maybe that word is**  
 10 **conference. I have a hard time reading it. But**  
 11 **maybe it says conference.**  
 12 **Q.** Do you recall if that phone call occurred in the  
 13 evening?  
 14 **A. I don't remember. I make a lot of telephone**  
 15 **calls. But since I referred to it before, so it**  
 16 **might be right. But I do move the furniture**  
 17 **also at the church.**  
 18 **Q.** May 23rd reads: "What is school doing for  
 19 Memorial Day?"  
 20 **A. Right, we do a patriotic session for Memorial**  
 21 **Day that week.**  
 22 **Q.** "10:30, Durham library"?  
 23 **A. Right.**

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- 1 **Q.** And then "4 o'clock to 6 o'clock non-meeting"?  
 2 **A. Correct.**  
 3 **Q.** I'm struggling to read what it says. Can you  
 4 read that?  
 5 **A. "Letter of" -- I can't read it.**  
 6 **Q.** Maybe "separation" is the bottom one.  
 7 **A. That says "mutual." "Letter of mutual**  
 8 **separation." So we must have gone into a**  
 9 **non-meeting and talked about that.**  
 10 **Q.** Now, okay. This is the date where the press  
 11 release came in; is that correct? May 23rd is  
 12 where you interviewed the candidate from Dover?  
 13 **A. On the 23rd, I met with the attorney, so there**  
 14 **was no -- there were no candidates at any of**  
 15 **those meetings.**  
 16 **Q.** The press release?  
 17 **A. Letter of mutual separation probably referred to**  
 18 **the press release, yeah.**  
 19 **Q.** Okay. 25th, you have "SB" crossed out at the  
 20 bottom, and "7 o'clock, HS band concert"?  
 21 **A. Yeah, there was a middle school band concert,**  
 22 **and there may have been a school board meeting**  
 23 **that night, too.**

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- 1 **Q.** Okay. On the 27th, it looks like "8:30 call."  
 2 **A. In the morning, yeah, that might be personal.**  
 3 **Q.** "Moharimet, HS-675, MS-625" --  
 4 **A. Yeah, that's enrollment figures. I don't know**  
 5 **why I wrote it down.**  
 6 **Q.** "2039"?  
 7 **A. Yeah.**  
 8 **Q.** On the 28th it just says "Jocelyn party"?  
 9 **A. Right.**  
 10 **Q.** On the calendar for all of June, it just looks  
 11 like there's only one word on the 15th?  
 12 **A. On the 15th?**  
 13 **Q.** On the 15th. "Board meeting"?  
 14 **A. Might have been. I don't know. I might have**  
 15 **been just initials.**  
 16 **Q.** May 30th to June the 5th, at the top above May  
 17 30th, you have "NHSAA, 46 Donovan, #3," a phone  
 18 number and a zip code; is that right?  
 19 **A. I watched the Soldiers' Parade through the**  
 20 **streets of Durham in celebration of Memorial**  
 21 **Day. And then the New Hampshire School**  
 22 **Association, NHSAA, whatever. I don't know why**  
 23 **I wrote that note down, but something to do with**

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- 1 an address.
- 2 Oh, that was meeting that was coming up, I
- 3 think, the training session we were going over
- 4 there, and that's the address on Donovan in
- 5 Concord.
- 6 Q. What was that training about?
- 7 A. I think there of was a training session where we
- 8 all rode over in a car, a couple of cars.
- 9 Q. And what was the subject of the training?
- 10 A. It was a combination of what the School Board
- 11 Association can do for school boards, like a
- 12 training session of what their responsibilities
- 13 or what their programs offer.
- 14 Q. On the other page in the margin at the top it
- 15 says "Mark Joyce"?
- 16 A. Which page are you referring to?
- 17 Q. Just above June 2nd.
- 18 A. June 2nd, okay. It says -- I'm not sure. That
- 19 might be Dr. Joyce.
- 20 Q. Is that NHSAA?
- 21 A. I'm sorry? Say the question again.
- 22 Q. Is he at NHSAA, New Hampshire School
- 23 Administration Association?

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- 1 A. No.
- 2 Q. Is that the lawyer?
- 3 A. Pardon?
- 4 Q. Was that Kim Memmesheimer?
- 5 A. Might be, I don't know. Team, I don't know what
- 6 that refers to.
- 7 Q. Was there any subgroup of the board that was
- 8 looking at legal issues at that point?
- 9 A. No.
- 10 Q. You have 9:30 in there?
- 11 A. I have 9:30 some meeting. I don't know what it
- 12 is. It's redacted.
- 13 Q. And at 11, "call Jim" and 12 "call
- 14 superintendent"?
- 15 A. Right. So there must have been some discussion,
- 16 but I don't recall what they are.
- 17 Q. 2 o'clock, "sign diplomas"?
- 18 A. Right. It took me a long time. I think I had
- 19 to come back.
- 20 Q. And then the 4th, "HS event."
- 21 A. High school event. And I don't know if that was
- 22 -- I'm not sure.
- 23 Q. Okay. June 6th says "Mast Way, called Todd."

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- 1 A. He might be. He might be one of the speakers or
- 2 something like that.
- 3 Q. On the 31st of June?
- 4 A. Right.
- 5 Q. "Meeting with" maybe?
- 6 A. I didn't put anybody down, so I don't really
- 7 know. Might have been in reference to the
- 8 reference with the attorney.
- 9 Q. 5 o'clock, "Kim."
- 10 On the 1st, you have "SB"?
- 11 A. School board.
- 12 Q. "Essay meeting"?
- 13 A. That was essay night. Out in the hall they had
- 14 things that the kids had written.
- 15 Q. Okay. June 3rd, looks like "legal team"? What
- 16 is legal team?
- 17 A. I'm not sure. "Call Howard."
- 18 Q. It looks like it says "call Roger" scratched
- 19 out, and then "call Howard;" is that right?
- 20 A. I put down a wrong note or something. But it
- 21 says "call Howard."
- 22 Q. You don't know have any recollection what legal
- 23 team means?

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- 1 Is that Todd Selig to set up a meeting?
- 2 A. At this timeframe it might have been Todd Allen.
- 3 The 6th, that's when I met at the police
- 4 department that day, too.
- 5 Q. Right. Did you call on the same day that you
- 6 met there?
- 7 A. No. Like I say, that might be Todd Allen, not
- 8 Todd Selig. Then I came back to sign diplomas
- 9 again because I didn't finish them the first
- 10 time.
- 11 Q. And then it say "9 o'clock meeting with" and
- 12 then something redacted, and then "Megan"?
- 13 A. Yeah. That was the police department, and Megan
- 14 was in attendance.
- 15 Q. Looks like something scratched out there.
- 16 "Jim"?
- 17 A. Well, might have been who we met with.
- 18 Q. It's not redacted.
- 19 A. Where are you reading? Under?
- 20 Q. At the 10 o'clock line.
- 21 A. 10 o'clock line, it says "police station."
- 22 Q. Before that, it's scratched out.
- 23 A. Something says Jim, and there must have been

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1 **some reference to call Jim or meet him there.**  
 2 **Q.** 7 o'clock, "high school jazz."  
 3 **A. Yeah. I went over and watched the jazz band**  
 4 **play.**  
 5 **Q.** And on the 7th?  
 6 **A. On the 7th there was an agenda meeting in this**  
 7 **office here at the SAU, and I was still signing**  
 8 **diplomas that afternoon.**  
 9 **Q.** On the 8th, 7 o'clock, "school board"?  
 10 **A. School board.**  
 11 **Q.** And then above the 9, it says "call Kim Monday  
 12 night" maybe?  
 13 **A. Let's see. It might have been. That might be**  
 14 **night.**  
 15 **Q.** Then on the 9th it has "David Kinchelor Taylor"?  
 16 **A. "Meeting interim superintendent," and I don't**  
 17 **know what that other word is. December or**  
 18 **something.**  
 19 **Q.** "Decision"?  
 20 **A. What is it?**  
 21 **Q.** Decision maybe?  
 22 **A. Might have been. But it might have been a talk**  
 23 **about the -- how we were proceeding with our**

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1 **discovery of how the process should work. There**  
 2 **was no decision made.**  
 3 **Q.** Why do you have David Kinchelor Taylor written  
 4 on that date?  
 5 **A. I just wanted to remember you. But I think it's**  
 6 **your son, isn't it?**  
 7 **Q.** It is my son.  
 8 **A. I think he had sent something in that I enclosed**  
 9 **in any email disclosure. He had sent something.**  
 10 **I wrote up something that was an interesting**  
 11 **document. So I must have read it, and then I**  
 12 **wrote down his name because I wasn't sure which**  
 13 **Taylor it was.**  
 14 **Q.** At the bottom it says "Kim"?  
 15 **A. Kim.**  
 16 **Q.** Kim Memmesheimer?  
 17 **A. Right.**  
 18 **Q.** On the 10th at 9 o'clock "police conference  
 19 room" going to 10:30?  
 20 **A. Right.**  
 21 **Q.** That's the meeting we've already talked about?  
 22 **A. Pardon me?**  
 23 **Q.** That's the meeting we've already talked about at

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1 the 10th?  
 2 **A. Yeah.**  
 3 **Q.** Then "graduation 1 to 4"?  
 4 **A. Yeah.**  
 5 **Q.** June 13th to the 19th. Looks like June 10th at  
 6 the top, maybe. Can you read that?  
 7 "1-2-3-2-4"? Or 12 to --  
 8 **A. 1-2-3-2-4. I don't know. Refers to something.**  
 9 **It does say June 10th.**  
 10 **Q.** And then on the 13th, something from 10 to 12,  
 11 redacted -- "one super." Is that the end of the  
 12 meeting on the 13th that we talked about?  
 13 **A. Could have been. I'm not sure.**  
 14 **Q.** Then there's some numbers. "6.2, 1,800 (sic),  
 15 1.45." I can't read that one.  
 16 **A. They're retirement. That was the percentage of**  
 17 **what we owe for retirement. I don't know what**  
 18 **the 1.25 (sic), but probably something to do**  
 19 **with his vacation or his sick days. The**  
 20 **6.2 percent, \$106,000 (sic), that probably had**  
 21 **something to do with his pay. I just don't**  
 22 **know.**  
 23 **Q.** At the bottom, "ABC" something, maybe

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1 "7 o'clock"?  
 2 **A. Which day?**  
 3 **Q.** Maybe "meeting with Kim"?  
 4 **A. On which day?**  
 5 **Q.** On the 13th.  
 6 **A. Oh, the 13th. "ABC, 7 o'clock." I'm not sure.**  
 7 **Might have been a conflict there or something.**  
 8 **Or maybe I had to respond to Tom Merrick's email**  
 9 **or something like that.**  
 10 **Q.** And that meeting with Kim was Kim Memmesheimer?  
 11 **A. Yeah.**  
 12 **Q.** On the 14th, "9:30, Dr. Lyonel Tracy, police  
 13 department"?  
 14 **A. Right.**  
 15 **Q.** What we've already talked about?  
 16 **A. Right:**  
 17 **Q.** "2:30 conference call." What is that?  
 18 **A. I'm not sure. Must have had a conference call.**  
 19 **Q.** Was that a conference call with the attorney?  
 20 **A. I don't know. I didn't make a note, so I must**  
 21 **have been on the telephone, but I don't remember**  
 22 **who.**  
 23 **Q.** Do you remember who else might have been

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- 1 involved with it?
- 2 **A. No, I don't. I don't have any recollection.**
- 3 **I'd tell you if I did.**
- 4 **Q.** And "operations meeting, 7 o'clock, ABC HS."
- 5 It's scratched out?
- 6 **A. Yeah, that must have been cancelled. The**
- 7 **operation meeting probably did take place at**
- 8 **5 o'clock, and I don't know where, but it was**
- 9 **either here or at the school.**
- 10 **Q.** Okay. On the 15th, "call" -- redacted --
- 11 "interview/discussions;" is that correct?
- 12 **A. "Interim discussion," yeah.**
- 13 **Q.** Looks like "interview," i-n-t-e-r-v-i-e-w.
- 14 **A. I'm not sure. It might have been interim,**
- 15 **intermin -- I can't even say it.**
- 16 **Q.** Okay. At the bottom it says "ABC help to board,
- 17 look at report." Is that a correct reading?
- 18 **A. That's what it looks like, yeah.**
- 19 **Q.** Then "5 o'clock "NESDEC" crossed out, "search
- 20 committee, SB." I can't read the bottom.
- 21 Something "school board." "Special school board
- 22 meeting, 6/22"?
- 23 **A. Yeah. That's what it looks like.**

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- 1 **Q.** Then on the 16th.
- 2 **A. Yeah, there was -- on the 22nd there was a**
- 3 **special school board meeting. Talk about goals.**
- 4 **Q.** Okay. On the 16th it looks like at 11 o'clock
- 5 "agenda" -- I don't know if that's "meeting."
- 6 **A. That might have been meeting. That's the**
- 7 **monthly meeting.**
- 8 **Q.** On the 17th, "contact candidates, email, all
- 9 board, email, Skip with" -- something -- "11
- 10 a.m."?
- 11 **A. That's what it looks like. Says "email" -- oh,**
- 12 **Skip, yeah, that word is "Skip with."**
- 13 **Q.** "Monday 11 a.m."? Maybe it's a time to
- 14 interview Skip Hansen?
- 15 **A. It might be. That was with the search**
- 16 **committee.**
- 17 **Q.** And then the same date, "Wendy cancel,
- 18 interviews nonpublic at SAU"?
- 19 **A. Which date?**
- 20 **Q.** 17th.
- 21 **A. Okay.**
- 22 **Q.** "Wendy cancel, interviews nonpublic at SAU"?
- 23 **A. Yeah, that must have had something to do with**

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- 1 **scheduling. It must have been something to do**
- 2 **with Wendy and scheduling for interviews at the**
- 3 **SAU.**
- 4 **Q.** On the 18th, see that word at the bottom?
- 5 **A. Yeah.**
- 6 **Q.** Do you know what it is?
- 7 **A. Might be forensic audit. I'm not sure.**
- 8 **Q.** What does that refer to?
- 9 **A. Must have been some discussion that week about**
- 10 **looking at the audit that was coming up, and we**
- 11 **probably asked a question about forensic audit.**
- 12 **I'm not sure exactly.**
- 13 **Q.** Why would you be conferring a forensic audit?
- 14 MS. GORROW: I'm going to object.
- 15 THE WITNESS: It had nothing to do with
- 16 anything.
- 17 MS. GORROW: I haven't objected to going
- 18 through every entry because there might be
- 19 things that can't be read and might be
- 20 pertinent. But let's try to focus on the issues
- 21 here are and not go off on irrelevant areas.
- 22 BY MR. TAYLOR:
- 23 **Q.** Would you answer the question?

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- 1 **A. It had nothing to do with the things you're**
- 2 **asking for.**
- 3 **Q.** My question was: Why would you be interested in
- 4 a forensic audit?
- 5 MS. GORROW: He already answered the
- 6 question.
- 7 BY MR. TAYLOR:
- 8 **Q.** On June 20th, that looks like "8 o'clock, call
- 9 more candidates"?
- 10 **A. Right.**
- 11 **Q.** "9 o'clock, SAU"?
- 12 **A. Right.**
- 13 **Q.** "1 o'clock, goals meeting SH"?
- 14 **A. Mm-hmm.**
- 15 **Q.** "ABC" at the bottom. I can't see what the
- 16 scratched out thing is?
- 17 **A. Right. It's a redaction.**
- 18 **Q.** "21, last day school, RTK request." What does
- 19 the RTK request refer to?
- 20 **A. Probably referring to your request or maybe**
- 21 **another one had come in at that point. No, the**
- 22 **20th is when you gave the request, so it**
- 23 **probably had reference to that.**

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- 1 Q. "9 o'clock, schedule meeting with workshop ABC,  
2 7 o'clock" at the bottom?
- 3 A. **Probably, but I'm not sure. It's a Tuesday**  
4 **night. Could have been reference to Rotary.**  
5 **It's redacted.**
- 6 Q. At the top of that, on the 21st, "super Krista"?
- 7 A. **That's -- I think that's what it says,**  
8 **abbreviation of super.**
- 9 Q. All right. "School board, asso - Krista."
- 10 A. **These were agencies that Krista was going to**  
11 **come up with names. We had already -- we were**  
12 **trying to get as many names into the hopper for**  
13 **superintendent, the interim superintendent.**
- 14 Q. Now, had she already talked to these  
15 organizations before, or was this the first time  
16 she contacted these organizations?
- 17 A. **May be the first time. I don't know if there's**  
18 **any pre-talking to them that she did. She took**  
19 **part of it, I took part of it. We just called**  
20 **potential candidates. We now had an official**  
21 **search committee, and we were trying to fill in**  
22 **for the interviews.**
- 23 Q. Right. So during the unofficial search

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- 1 committee, was Krista contacting people at that  
2 time as well?
- 3 A. **No. She came in, and I think she helped out on**  
4 **one thing, but I don't know what it was exactly.**  
5 **But no.**
- 6 Q. Who else besides you, Jim, and Megan were  
7 looking at --
- 8 A. **I think Ann Wright, she came up with a name or**  
9 **two. I think at that time she referenced me**  
10 **back to Howard, and we went over -- I think he**  
11 **had -- I think he had mentioned about two**  
12 **people, but no new names had come up.**
- 13 **And like I said, we were trying to fill the**  
14 **schedule with as many interviews as we could.**
- 15 **I probably called all the people that they**  
16 **came up with on names, and had a lot of people**  
17 **turned down because they had already committed**  
18 **to some other project.**
- 19 Q. Mm-hmm. "Super" something "dist, Henry" and  
20 then "Ann"?
- 21 A. **What date are we talking about?**
- 22 Q. Still on the 21st. Trying to read through the  
23 list here. "Mass super "S" oak" -- something --

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- 1 /Henry." "Krista/Henry" maybe?
- 2 A. **Yeah. But it was redacted so these were general**  
3 **notes, probably didn't have anything to do with**  
4 **what you were requesting.**
- 5 Q. The 22nd, "RTK"?
- 6 A. **Right-to-know.**
- 7 Q. This was another right-to-know request you were  
8 made aware of?
- 9 A. **I don't know if it was a repeat of yours or**  
10 **reminding myself or whatever. I don't recall.**
- 11 Q. Looks like "ABC report, 7 o'clock"?
- 12 A. **"Input." That was probably some sort of input**  
13 **that they were going to give the board on the**  
14 **goals.**
- 15 Q. "7 o'clock special school board meeting, goals"?
- 16 A. **Right.**
- 17 Q. Okay. 23rd, "nonpublic Michelle Langa, Dover"?
- 18 A. **Yeah. That's when she came into play for**  
19 **interview by the search committee. I'm not sure**  
20 **how we came up with her name, but she was local.**
- 21 Q. 24th, "important things to be done committee"?
- 22 A. **They might be separate. I don't know.**
- 23 Q. Was there a committee meeting at 1 o'clock on

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- 1 the 24th?
- 2 A. **Could have been. Could have been the search**  
3 **committee.**
- 4 Q. I see. "9 o'clock attorney email"?
- 5 A. **Email. Must have been some sort of email that I**  
6 **sent out, probably.**
- 7 Q. To the attorney or from the attorney?
- 8 A. **Probably to the attorney, yeah. "Fee for**  
9 **search." At 10 o'clock, that little note I have**  
10 **there, probably was considering probably either**  
11 **New Hampshire School Board Association or**  
12 **NESDEC. And I must have put down a note, but I**  
13 **don't recall 100 percent. I just know that the**  
14 **note kind of reminds me of those two groups.**
- 15 Q. Okay. Look here at July 11th through the 17th  
16 in Exhibit 12. I have two copies since I just  
17 got the document.
- 18 A. **On Wednesday, the 13th of July, SAU for the**  
19 **contract, and then a school board meeting with**  
20 **nonpublic. I have Krista and Ann Wright, but I**  
21 **don't know why I wrote that down.**
- 22 **And then that night thereof was a school**  
23 **board meeting. There's some redaction on that**

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1 **day also.**

2 **What's the question?**

3 **Q.** Did you have a meeting only with those two and  
4 yourself?

5 **A. No. It says nonpublic, so there must have been**  
6 **maybe -- I don't recall, but it says "school**  
7 **board meeting/nonpublic."**

8 **And then I've got Krista and Ann W. It**  
9 **might have been that they -- that I wanted to**  
10 **discuss something with them, but it was a**  
11 **regular nonpublic meeting.**

12 **Q.** Okay.

13 **A. So it might have had something to do with the**  
14 **contract because I did something with it at the**  
15 **SAU prior to that. So it's probably a posted**  
16 **meeting.**

17 **Q.** Okay.

18 MR. TAYLOR: I don't feel like I can review  
19 these documents at this time. I hope I don't  
20 need to, but I'd like to suspend for the moment  
21 in case I need to come back for that.

22 MS. GORROW: I would prefer -- we're running  
23 into a short period of time. You've already

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1 indicated you want to depose Megan, which is  
2 going to take another day.

3 I'm more than happy to take a break, give  
4 you the time that you need to review those  
5 documents, and we can come back.

6 Mr. Brackett has family commitments. He's  
7 taken the time today to make rearrangements for  
8 that. So, you know, we try to accommodate and  
9 give you things beforehand. We would have come  
10 in today with all of those documents, but we try  
11 to give them to you as quickly as we could,  
12 which we did.

13 I would prefer that we just take the time,  
14 let you review those, and we will come back and  
15 have you ask the questions.

16 Because I think it's just going to be very  
17 difficult to suspend and reschedule it.

18 MR. TAYLOR: Okay. Would you mark this as  
19 Exhibit 13.

20 (Whereupon, Exhibit 13, Emails, marked  
21 for identification.)

22 BY MR. TAYLOR:

23 **Q.** On this email of May 27th, at 9:34, it

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1 references "Neither Duke or I available."

2 **A. Duke is the person that heads the organization**  
3 **that Skip's affiliated with.**

4 **Q.** The NESSC or whatever it is?

5 **A. Yeah.**

6 **Q.** Okay.

7 **A. Okay. May 26th, they have an email that's to**  
8 **Rhoades Alderson. And he's talking about a**  
9 **draft of the letter, of the joint letter that**  
10 **we're going to send out, I assume. They mention**  
11 **letter, so I assume that's what it is. And we**  
12 **were billed at the nonprofit rate of 125 per**  
13 **hour for my time and project. And that is**  
14 **Rhoades writing that back to Skip.**

15 **Q.** And Rhoades Alderson was the person at New  
16 Harbor Group?

17 **A. He's at New Harbor Group, and he helped us draft**  
18 **the language that went into the press release.**  
19 **He's actually pretty good, too.**

20 **Q.** Why wasn't the name of the consultant disclosed  
21 prior to this?

22 **A. Pardon?**

23 **Q.** Why wasn't the name of the consultant disclosed

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1 prior to this?

2 **A. Rhoades you're talking about.**

3 **Q.** Yeah, New Harbor Group.

4 **A. When did you want it disclosed?**

5 **Q.** People have asked several times.

6 MS. GORROW: May I -- I'm just going to  
7 object. Those are emails that are not subject  
8 to the right-to-know law that we have disclosed.  
9 More than what the right-to-know law requires.  
10 They don't satisfy a right-to-know law request,  
11 and they have been given to you basically so you  
12 can ask whatever questions you have about this  
13 whole process. You have the invoice. That was  
14 disclosed on Friday. I think that has his name  
15 on it in that billing. So these are documents  
16 that go well beyond the right-to-know law  
17 request.

18 BY MR. TAYLOR:

19 **Q.** Please answer my question. Why wasn't his name  
20 disclosed earlier?

21 **A. I guess because we had no requirement under the**  
22 **right-to-know to release that. Who's the email**  
23 **written from?**

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- 1 **Q.** I don't know. So you're saying that unless  
2 there's a right-to-know requirement, you don't  
3 have any obligation to inform the public?
- 4 **A.** I'm not saying that at all. I'm saying that  
5 under the right-to-know, because of the way that  
6 document was given to us and who gave it and who  
7 forwarded it -- there wasn't any forwarding that  
8 I can see -- but there's no particular  
9 requirement that we release it.
- 10 **We gave you that document just to share with**  
11 **you, you know, every document that kind of came**  
12 **under the umbrella that you were looking for**  
13 **stuff.**
- 14 **Q.** Have you heard members of the public asking for  
15 information about the PR consultant before?
- 16 **A.** I probably have, in general, yeah.
- 17 **Q.** And you didn't feel that your duty to inform the  
18 public?
- 19 **A.** What was the date on that?
- 20 **Q.** August 19th.
- 21 **A.** No, no. The date of the email.
- 22 **Q.** May 26th.
- 23 **A.** That was prior to the release of the information

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- 1 **that we had been talking to Howard, negotiating**  
2 **with Howard on his new contract.**
- 3 **Q.** Why not after June 30th?
- 4 **A.** I don't know. It might have been not asked  
5 after June 30th. I'm not sure.
- 6 **Q.** So you didn't feel a need after June 30th to  
7 answer the questions of the public?
- 8 **A.** Well, after June 30th, his bill that went  
9 through the attorney firm and then eventually  
10 the original bill was sent over here to the  
11 district. And I guess that covers the  
12 disclosure. We weren't trying to hide anything.  
13 We were trying to prevent information coming out  
14 earlier than our agreement with Howard and his  
15 attorney.
- 16 **Q.** Okay. Was Skip Hanson involved in the drafting  
17 of the press release?
- 18 **A.** I don't think he was.
- 19 **Q.** Was he ever given a draft of it?
- 20 **A.** My recollection is that Skip was just involved  
21 in giving us Rhoades' name. I don't believe  
22 that -- at least, I didn't send anything to him  
23 directly.

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- 1 **Q.** Look on email on May 22nd at 8:53 p.m. It shows  
2 Duke's name again, Duke Albanese. And it calls  
3 it the Great School Partners -- Partnership?
- 4 **A.** Yeah, partnership.
- 5 **Q.** Is that the same thing as the NESSC?
- 6 **A.** Yeah. It's the same group that Skip was  
7 affiliated with.
- 8 **Q.** And what relationship do you have with Great  
9 Schools Partnership?
- 10 **A.** What what?
- 11 **Q.** What relationship do you have with the Great  
12 Schools Partnership?
- 13 **A.** Other than casual, we don't have any official  
14 relationship with them. They have a website  
15 down here that we could look at. But there's no  
16 contract with them or anything.
- 17 **They're one of the groups that helps school**  
18 **districts on different projects. I think even**  
19 **up to the point where they help school districts**  
20 **with grants.**
- 21 **Q.** I don't remember, but one of the documents you  
22 sent me included discussion in March of a policy  
23 committee meeting, had policies for board

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- 1 attorney and media relations. Do you know why  
2 the policy committee would be looking at those  
3 policies at that point?
- 4 **A.** No. I wasn't on the policy committee, so I  
5 don't know why.
- 6 **Q.** Had you asked them to look at those policies?
- 7 **A.** I don't believe so.
- 8 **Q.** Have you discussed those policies with any  
9 member of the policy committee?
- 10 **A.** I discussed things with Jim, but not  
11 specifically for the policy committee.
- 12 **Somewhere in this process I might have been**  
13 **asked about my authority under that policy to**  
14 **talk to an attorney. But some members had more**  
15 **knowledge of that policy than others, I'm sure.**
- 16 **Q.** Okay.
- 17 **A.** Because this came up in January when we were  
18 looking at the district's personnel file for  
19 Howard.
- 20 **Q.** You were trying to look at his personnel file at  
21 that point?
- 22 **A.** Not his personnel -- we were looking at the  
23 district's personnel file for the city board,

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1 and he denied our access to it. Because the  
2 personnel file is limited, you can't have board  
3 members look at the existing policy -- existing  
4 district file, but city board members can look  
5 at it.

6 (Whereupon, Exhibit 14, Emails, marked  
7 for identification.)

8 BY MR. TAYLOR:

9 Q. Look at this email from February 8, 11:57.

10 MS. GORROW: What was the date?

11 THE WITNESS: February 8th. Question?

12 BY MR. TAYLOR:

13 Q. Can you describe it?

14 A. This is an email from Jim Kach, the subject  
15 matter that he's put down there is "principal  
16 search."

17 And he says: "Greetings." And he talks  
18 about that we're in a time of change, and with  
19 filling two vacancies in the immediate future.

20 You want me to go on?

21 Q. Go on.

22 A. He says: "I'm of the opinion that filling the  
23 vacancies (sic) at the high school now is truly

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1 counterproductive to the community, and to the  
2 staff, and to the students of the high school.  
3 I would move that the search committee be  
4 formed, not to seek principals (sic), but to  
5 seek a new superintendent first. Thus  
6 presenting the new superintendent the ability to  
7 have a voice in a principal with whom he or she  
8 can create productive and stable relationships  
9 (sic).

10 We have experienced a capability -- capable  
11 administrative personnel within the district who  
12 should be able to move into the position of  
13 interim or provisional principal until such time  
14 that the new principal be hired with the  
15 involvement of the new superintendent rather  
16 than the outgoing."

17 Q. So was that idea of buying out the  
18 superintendent effectively discussed at that  
19 time?

20 A. No, actually, I'm quite familiar with this  
21 issue. Jim was suggesting that we not worry  
22 about the principal. And when we search out  
23 this coming fall, to replace the superintendent,

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1 because he's already come forth and said that he  
2 would not re-sign a contract.

3 And this is in reference to that fact, that  
4 at the end of this year we have to come up with  
5 a superintendent, and that's what this is  
6 referring to. Nothing earlier.

7 Q. Okay. When did the idea of the buyout first  
8 come up?

9 A. I think it came up by, believe it or not, Ann  
10 Wright prior to this board.

11 Q. What timeframe was that?

12 A. I think it came up in sometime after January,  
13 February. Probably in the February period. Ann  
14 Wright, JoAnn Portalupi, and myself were on the  
15 negotiating committee. And because of the  
16 review, we came up with a letter, and which kind  
17 of represented the goals for the superintendent  
18 and the goals for the board.

19 MS. GORROW: I just don't want you to get  
20 into matters that are confidential. So anything  
21 that's public you can talk about. But anything  
22 that's confidential, personnel matters, I just  
23 instruct you not to get into those.

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1 THE WITNESS: Okay. But out of that letter  
2 we generated that we both agreed on that we talk  
3 about respect, out of that discussion, Ann at  
4 one point said that she thought there might be  
5 some other way of Howard working with the  
6 district, working with the board. And she  
7 mentioned about, you know, some change or  
8 something to do with his contract that might not  
9 terminate, but change his contract in such a way  
10 that maybe there was a buyout or maybe there was  
11 some other way of him providing or us providing  
12 a forum for him to work with the district.

13 BY MR. TAYLOR:

14 Q. That's when the notion of a buyout first  
15 appeared?

16 A. I don't know if it was a buyout, but there was a  
17 notion that there could be some separation.

18 Q. Was that well received by the board?

19 A. I don't think it was discussed by the board so  
20 much as it was discussed by the negotiating --  
21 the review of the superintendent.

22 Q. Was that possibility ever discussed with the  
23 superintendent himself?

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- 1 **A. I believe so.**  
 2 **Q.** Was he in favor of that?  
 3 **A. Excuse me?**  
 4 **Q.** Was he in favor of that option?  
 5 **A. No. I think he had already given his**  
 6 **resignation letter ending June 30, 2012.**  
 7 **Q.** Now, at the end of the search for the interim  
 8 superintendent, you hired Leon Lebec?  
 9 **A. We interviewed two finalists, and Leon was**  
 10 **chosen as the actual finalist.**  
 11 **Q.** You interviewed them at a meeting that wasn't  
 12 properly posted; is that correct?  
 13 **A. No, I didn't say that.**  
 14 **Q.** I believe at the meeting you said it wasn't  
 15 posted in two places and it needed to be?  
 16 **A. No. You're referencing our posting, and**  
 17 **Danielle did the posting because Wendy was on**  
 18 **vacation, I guess, or out.**  
 19 **We caught that, and we rescheduled the**  
 20 **meeting with the notice of -- you know, that**  
 21 **legally we had the notice and it was posted**  
 22 **correctly, and then we had the meeting.**  
 23 **Q.** But at the meeting that you actually did the

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- 1 interviews, that was the one that was not  
 2 properly posted; is that correct?  
 3 **A. I think you're right. We did not make any**  
 4 **decisions at that time. We waited 24 hours, we**  
 5 **re-noticed the public correctly, and then we met**  
 6 **the next day and had the vote.**  
 7 **Q.** Did you deliberate in nonpublic after you did  
 8 the interviews?  
 9 **A. In nonpublic? Well, there are two phases to the**  
 10 **meeting. We did an interview in public, and**  
 11 **then prior to that mixed in with other**  
 12 **candidates, we had an interview in nonpublic by**  
 13 **the search committee.**  
 14 **Q.** At that same meeting, it was not posted in two  
 15 places?  
 16 **A. I'm not exactly sure. I know we straightened**  
 17 **out the incorrect posting. That was**  
 18 **unintentional. It was the fact that Danielle**  
 19 **didn't post it in two places. She only posted**  
 20 **it on the website.**  
 21 **Q.** Was that a regular meeting or a special meeting?  
 22 **A. It was a non-meeting.**  
 23 **Q.** Was it a regularly scheduled meeting?

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- 1 **A. We don't have regularly scheduled non-meetings.**  
 2 **Usually they're attached to the regular board**  
 3 **meeting, but they could be at any time. We've**  
 4 **had issues come up at any time on past boards**  
 5 **and on this board. It wasn't like we were**  
 6 **trying to do anything special.**  
 7 **Q.** Does policy require 72-hour notice for a special  
 8 meeting?  
 9 **A. In some cases, but then there's also a 24-hour**  
 10 **notice.**  
 11 **Q.** Is that in policy?  
 12 **A. Yeah.**  
 13 **Q.** For what kind of meetings?  
 14 **A. Any meeting we call. If there's not enough time**  
 15 **to give 72 hours, then we can post as long as**  
 16 **there's 24.**  
 17 **Q.** Are there extra requirements for that?  
 18 **A. I can't recall.**  
 19 **Q.** Do you know if you fulfilled any extra  
 20 requirements?  
 21 **A. Yeah, we were attempting to fill it, and I think**  
 22 **we did.**  
 23 **Q.** You don't know what those specific requirements

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- 1 would be?  
 2 **A. No, I don't.**  
 3 **Q.** Okay. Had you -- you're the one who signed  
 4 Lebec's contract after you --  
 5 **A. Yes, I did that in public.**  
 6 **Q.** Had you had authority to sign at the point that  
 7 you actually signed it?  
 8 **A. Yeah, the board wanted the contract with Lebec.**  
 9 **Q.** So the board had voted prior to your signing the  
 10 contract?  
 11 **A. I believe they did.**  
 12 **Q.** Didn't you have a meeting afterwards to have the  
 13 board accept the terms of the contract after it  
 14 was signed?  
 15 **A. I think that we came into another session where**  
 16 **we did vote it again just to clarify to the**  
 17 **public that we voted for it.**  
 18 **Q.** Why would you need to clarify it?  
 19 **A. I don't know. It might have been because the**  
 20 **vote -- I'm not sure why. Leon suggested that**  
 21 **we do it, so we did it. To eliminate any**  
 22 **questions.**  
 23 **Q.** But you don't know what kinds of questions there

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1 might have been?

2 **A. The public can ask anything. They probably do.**

3 **Q.** Have you fairly and fully answered all questions

4 to the best of your ability?

5 **A. Absolutely.**

6 MR. TAYLOR: I guess I'll consider this

7 complete.

8 MS. GORROW: I have no questions.

9 (Deposition concludes at 4:53 p.m.)

DAVID R. JORDAN &amp; ASSOCIATES

1

2

3 \_\_\_\_\_

4 Henry Brackett

5

6 STATE OF \_\_\_\_\_

7

8 COUNTY OF \_\_\_\_\_, SS.

9

10 Subscribed and sworn to before me this \_\_\_\_

11 day of \_\_\_\_\_, 2011.

12

13 \_\_\_\_\_

14 Notary Public/Justice of the Peace

15

16 My Commission Expires: \_\_\_\_\_

17

18

19

20

21

22

23

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1 C E R T I F I C A T E

2

3 I, Sonia E. Bishop, a Certified Court

4 Reporter and Commissioner of Deeds of the State

5 of New Hampshire, do hereby certify that the

6 foregoing is a true and accurate transcript of

7 my stenographic notes of the deposition of **Henry**

8 **Brackett**, who was duly sworn, taken at the place

9 and on the date hereinbefore set forth.

10 I further certify that I am neither attorney

11 nor counsel for, nor related to or employed by

12 any of the parties to the action in which this

13 deposition was taken, and further that I am not

14 a relative or employee of any attorney or

15 counsel employed in this case, nor am I

16 financially interested in this action.

17

18 \_\_\_\_\_

19 Sonia E. Bishop, CCR

20 New Hampshire License No. 76

21

22

23

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1 ERRATA SHEET

2 RE: Henry Brackett:

3 Page No.\_\_\_\_Line No.\_\_\_\_Reason\_\_\_\_\_

4 Change\_\_\_\_\_to\_\_\_\_\_

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