2006

Michael P. O'Connor, Plaintiff/Appellant, vs. Gary W. Burningham, Jeanna Burningham, Sandy Phillips, Ruby Ray, Drew Downs, Curt Parke, Mike Powell, Barbara Powelle, Steve Davis, Jan Davis, Todd Kirkpatrick, Sue Chandler, Dallie Haderlie, Wendy Haderlie, Sheldon Worthington, John C. Rogers, Kenny Norris, Robyn Norris, Will Sunderland, Darleve Durrant, Blair Swenson, Paula Swenson, Robert T. Price, Kim M. Price, Kent Beckstead, Suzanne Beckstead, Lisa Gray, John Jex, Jessica Johnson, Jeff Burningham, and John Does 1-50 : Brief of Appellee

Joseph C. Rust; Matthew G. Bagley; Kesler & Rust; Attorneys for Appellant.
Harold L. Petersen; Peterson & Associates; Attorney for Appellees Gary and Jeanna Burningham; Michael W. Homer; Jesse C. Trentadue; John D. Luthy; Suitter Axland, PLLC; Attorneys for Appellees.

IN THE UTAH SUPREME COURT

MICHAEL P. O'CONNOR, Plaintiff/Appellant, vs. GARY W. BURNINGHAM, JEANNA BURNINGHAM, SANDY PHILLIPS, RUBY RAY, DREW DOWNS, CURT PARKE, JULIE PARKE, MIKE POWELL, BARBARA POWELL, STEVE DAVIS, JAN DAVIS, TODD KIRKPATRICK, SUE CHANDLER, DALLIE HADERLIE, WENDY HADERLIE, SHELDON WORTHINGTON, JOHN C. ROGERS, KENNY NORRIS, ROBYN NORRIS, WILL SUNDERLAND, DARLENE DURRANT, BLAIR SWENSON, PAULA SWENSON, ROBERT T. PRICE, KIM M. PRICE, KENT BECKSTEAD, SUZANNE BECKSTEAD, LISA GRAY, JOHN JEX, JESSICA JOHNSON, JEFF BURNINGHAM, and JOHN DOES 1-50, Defendants/Appellees.	:	**Case No. 20060090**

ADDENDUM TO BRIEF OF APPELLEES
(This Addendum Contains All of the Evidence Before the Trial Court)

APPEAL FROM A GRANT OF SUMMARY JUDGMENT IN FAVOR OF DEFENDANTS IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH, JUDGE JAMES R. TAYLOR PRESIDING

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IN THE UTAH SUPREME COURT

MICHAEL P. O'CONNOR, Plaintiff/Appellant, vs. GARY W. BURNINGHAM, JEANNA BURNINGHAM, SANDY PHILLIPS, RUBY RAY, DREW DOWNS, CURT PARKE, JULIE PARKE, MIKE POWELL, BARBARA POWELL, STEVE DAVIS, JAN DAVIS, TODD KIRKPATRICK, SUE CHANDLER, DALLIE HADERLIE, WENDY HADERLIE, SHELDON WORTHINGTON, JOHN C. ROGERS, KENNY NORRIS, ROBYN NORRIS, WILL SUNDERLAND, DARLENE DURRANT, BLAIR SWENSON, PAULA SWENSON, ROBERT T. PRICE, KIM M. PRICE, KENT BECKSTEAD, SUZANNE BECKSTEAD, LISA GRAY, JOHN JEX, JESSICA JOHNSON, JEFF BURNINGHAM, and JOHN DOES 1-50, Defendants/Appellees.	:	**Case No. 20060090**

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Tab 1

LEHI HIGH SCHOOL

180 North 500 East • Lehi, UT 84043-1999
Phone: (801) 768-7000 • Fax: (801) 768-7007

Sheldon Worthington, *Principal*
Mari Braithwaite, *Assistant Principal* • Fred C. Openshaw, *Assistant Principal*

3. The role of a parent is to encourage and support their daughter and to be positive about the program, the coach, and their daughter's role in the program even though inside they might disagree. Players often reflect the attitude of their parents. My dad always told me: "Be wise and kind and somewhat blind, and look for the good behind " It has also been said, "If you don't have anything good to say, don't say anything at all " As a parent of an athlete who I felt got the "shaft," I know how hard this can be (especially since I was the coaches's boss). If your daughter comes home complaining because of this or that, put your arm around her and tell her you're sorry she feels bad and that you love her, but don't get caught up in a pity party Coach Gladwell, our very successful (and long time boys' varsity basketball coach), wisely stated, "The moment a parent participates in bad mouthing a coach in front of their student athlete is the moment the athlete quits trying It gives them an excuse for everything that doesn't go their way "

4 Parents are invited to express any concerns they might have to LHS administration We will carefully consider each concern brought to our attention and pass it along

5. We are asking parents' support in helping to transport girls to practices (when appropriate), helping with team dinners and parties, and in any other positive way that builds team unity

6. We ask that you communicate to the coaches individual concerns of schedule conflicts, injuries, illness, etc , and items related to #5. All other communication should go through administration.

7. We ask our coaches to coach **Do not contact any coach for anything other than the afore mentioned items. Violation of this rule will jeopardize your daughter's position on the team.**

8 The girls will travel and be with the team at all times Exceptions must be cleared by administration

I am looking forward to a positive and successful new year Let us all work together to help our girls be the very best they can be (sounds like an Army commercial) I appreciate your support of LHS and thank you for your involvement Please feel free to contact me anytime

Sincerely,

Sheldon Worthington

Sheldon Worthington, Principal LHS

LEHI HIGH SCHOOL

180 North 500 East • Lehi, UT 84043-1999
Phone: (801) 768-7000 • Fax: (801) 768-7007

Sheldon Worthington, *Principal*
Mari Braithwaite, *Assistant Principal* • Fred C. Openshaw, *Assistant Principal*

April 15, 2004

DEFENDANT'S EXHIBIT
3

Dear Girls' Basketball Parents,

I recently had the opportunity to speak with several of you about ways to improve the Lehi High Schools girls basketball program. I was impressed with the thought and genuine concern each one expressed on making our program even stronger. I have taken time to consider each one's perception with whom I visited. The conclusions that I have drawn are these

1 Everyone is deeply concerned for their own daughter's happiness and welfare.

2. Everyone believes our team has not come close to reaching its potential.

3. Everyone says they want our team to be successful.

4. Everyone wants to see every girl succeed in her team role

EXHIBIT A

5. Everyone wants the same set of standards for every player.

It was interesting to me that <u>everyone</u> no matter whose daughter was on the team wanted the same thing It was also interesting that even though individual perceptions were at times directly in opposition with each other, everybody spoke with a conviction and passion that was compelling Where in lies the truth? The truth lies in each one's perception. Individual perception becomes the truth no matter what did or didn't happen The question really becomes, "What is each person, parent, player, and coach willing to do?" If one is not willing to try to change their perception, there is no point in trying because whatever is done will never be good enough. If this is your reality, perhaps the best thing for you to do is to move to another community and program that is best suited to your daughter's situation As principal, I will do everything in my power to preserve your daughter's eligibility with the UHSAA. The final decision, of course, is up to the State

Upon review of the whole situation we have set forward the following guidelines and recommendations

1 We have spoken to Coach O'Conner and given him recommendations shared with us by <u>all</u> parents He has committed to examine and improve the program wherever he can He has our full support

2 Coach Lynn Allen has been asked and consented to be an assistant varsity girls basketball coach Coach Allan has been an assistant varsity basketball coach for many years at LHS He understands the game and works well with Coach O'Conner He has also been a very

Tab 2

LAW OFFICES OF
KESLER & RUST
A PROFESSIONAL CORPORATION
36 SOUTH STATE STREET, SUITE 2000
SALT LAKE CITY, UTAH 84111
TELEPHONE: (801) 532-8000
TELEFAX: (801) 531-7965

Joseph C. Rust
Attorney at Law

March 10, 2005

Paul C. Farr
SUITTER AXLAND
P.O. Box 45101
Salt Lake City, Utah 84145

Re: *O'Connor vs Burningham et al.*

Dear Paul

In response to your March 7th letter, I believe that our responses have been accurate and complete under the circumstances. This case is more than just about a single letter or a single statement. The whole whisper and writing campaign designed to defame and undermine Coach O'Connor covers at least a one year period of time, commencing with the 2003-2004 school year and continuing uninterrupted through the summer of 2004 and on to the beginning of the 2004-2005 school year when he was terminated. However, so that there is no question, we consider the written material identified on the attached sheets to be defamatory. You have copies of all those documents. We are waiting for your responses to our discovery requests in order to understand and identify all of the defamatory material.

Sincerely,

KESLER & RUST

Joseph

Joseph C. Rust

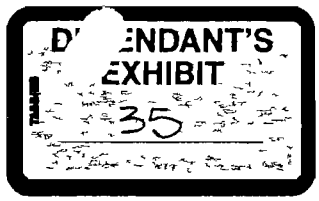
Attachment
JCR/fd
F:\DATA\RUST\O'Connor\ltrFarr4.wpd

EXHIBIT G

AUTHOR/DOCUMENT	DATE
Gary Burningham	March 15, 2004
Will Sunderland	Unknown
Bate-stamped documents PD-0076- PD-0082	Unknown
Gary Burningham	September 7, 2004
Dallie and Wendy Haderlie	Unknown
Gary and Jeanna Burningham	March 25, 2004
Chad and Kade Hillsated	July 19, 2004
Jessica Johnsen	July 12, 2004
John C Rogers	July 14, 2004
Kevin and Robyn Norris	July 7, 2004
Sue Chandler	July 4, 2004
Will Sunderland	July 14, 2004
Todd Kirkpatrick	July 4, 2004
Sandy Philips	Unknown
Ruby Ray	Unknown
Ken Norris	July 13, 2004
Curt and Julie Parke	July 10, 2004
Mike Powell	July 7, 2004
Barbara Powell	July 7, 2004
Michael Hyde	March 1, 2004
Michael Hyde	March 11, 2004
Amanda Hyde	March 1, 2004
Michael Hyde	March 6, 2004
John Rogers	March 10, 2004
Darlene Durrant	Unknown
Will Sunderland	Unknown

Robert and Kim Price	July 4, 2004
Kent and Suzanne Beckstead	Unknown
Lisa Gray	Unknown
Jeff Burningham	July 17, 2004
Haderlie's	Unknown
Mr and Mrs Jex	Unknown
Gary and Jeanna Burningham	July 13, 2004
Parent Basketball Meeting Minutes	March 9, 2004
Steve Davis	July 6, 2004
Drew Downs	July 7, 2004
Kayla Burningham	July 18, 2004
Sue Chandler	March 12, 2004
Breezy Chandler	Unknown

Tab 3



To Whom It May Concern: I write this letter to address my concern of the program at Lehi High School, Girls Basketball. I have watched my granddaughter go from a very confident Young Lady, that loves basketball, to a timid not sure of her self player. She loves the game and wants to continue playing as long as time allows. However I know that as long as things stay the same at Lehi, and every play needs to run through one player, I don't see her wanting to play.

In following the girls basketball program all season, I noticed that one player stood out in all the stats the paper would give. I don't for a minute discount her as a great player, however at the games I was able to attend, I could see that she was left in even when Lehi was up by a very safe distance. I could not see why the others on the bench were left to sit and watch instead of building the team for the future. I know that it is important to develop your best players, however I think it is also just as important to develop your whole team. I am concerned, I think things need to be changed in the program.

One last thing I would like you to consider, I think the pressure put on this one girl by the coach is not healthy. At the state tournament this past year she fell apart. I think she blamed herself, and I think the pressure she felt was just too much for a high school sophomore.

Sincerely Ruby Ray

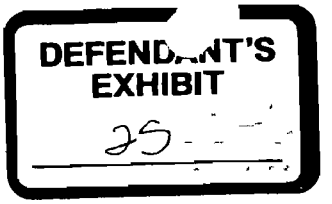
Ruby Ray

I really don't know what to say except **I just want to play ball.** I've always loved playing team sports and was excited to play in high school. Soccer is awesome. I look forward to it every year. Coach Bergholm is great. I wish I could say that about basketball but after the last two years and all the crap that still goes on, I pretty much now dread the thought of playing for O'Connor anymore and if Berg quits basketball I think it will be unbearable. Playing for Coach O'Connor has been the most draining and frustrating experience I have ever had in sports. WE have a great team. I love my teammates and for the most part we all get along. No one that I know is "jealous" of or hates Michelle. She is a very good player and makes our team better. The problem is that Coach O'Connor doesn't care about anyone but Michelle. He talks so much about "team bonding but he is the one that drives a wedge in it. He constantly tells us how wonderful Michelle is and how we should be honored to play with her. If he would just be fair, most of the problems wouldn't exist. The rules need to apply to everyone. He only listens to one parent and that is Michelle's mom. She is always at school and practices talking with him. Pretty much, she calls the shots. Even Michelle says she wishes her mother would back off and not put so much pressure on her. A coach should inspire his team to do well not drive them away from the program. Coach O'Connor is so worried about Michelle getting her stats so she can look good and make him look good that he forgets about the rest of us. I feel like I am a good player but I think even I've lost confidence in my game. I know other players have said they're afraid to do anything. I never know what to expect from Coach O'Connor. He tells me to take shots in the games but then pulls me out when I do. If we would play more as a team, I think everyone would do better, including Michelle. It's hard to play for someone that always beats you down and is so negative.

I don't know if I will play this year or not. Coach O'Connor is mad because I hurt my shoulder playing soccer. He thinks I should just pick one sport and it should be basketball. The trouble is, when I don't play, I really miss it. I also love my teammates. I would give anything to have a coach that was positive and fair and could take the players we have and build a team. We could be awesome!!!!!!!!!!!

Brenny Chandler

DEFENDANT'S EXHIBIT
33



To Whom It May Concern:

July 7, 2004

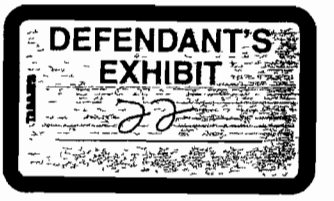
My name is Kenny Norris, and along with my wife Robyn, we are writing this letter to let you know our feelings towards the girls basketball coach at Lehi High School. Our daughter Kaci played basketball her sophomore year at Lehi, before this she had played basketball since the age of 8. Their was a group of girls this age that played together for 5 years . They played for several championships and traveled to many tournaments playing together as a team, several people would make the comment of how these girls would be unstoppable when they played together in high school. Well their dream was cut short when they entered their sophomore year and Lehi highered a new basketball coach, this being Mr. O'Connor. The first thing he did was split the girls up. Then practices started and that's when he began his degrading process. Kaci loved the game of basketball and was a great 3 point shooter but the more she practiced with O'Connor the more she grew to hate it. Robyn and I both noticed a change in Kaci her sophomore year her confidence and self esteem seem to be heading in the wrong direction, and she wasn't playing the same aggressive game we had known her to play. We asked her what was going on and she replied to us that on several occasions Coach O'Connor had yelled at her at practice telling her how stupid and dumb she was. He also had her so scared of touching the ball, afraid she might be yelled at or called a name. We as parents work very hard in building our childrens confidents and self esteem to have someone of this caliber bring them down. Kaci also rodeos and had to miss two practices in early November, when she returned she was benched for 3 weeks and was told by Coach O'Connor she better get her priorities straight. Kaci had a successful rodeo season and went on to win a state championship. When it came time to try out for basketball the next year Kaci had a hard decision to make but her decision was the right one, not to try out for the team, though this meant she would not be playing with the girls she had played with for several years Kaci's decision turned out to be a smart one. I watched several girls with awesome ability and talent be degraded and be denied college opportunities that they deserved. I am only glad that Kaci made the decision she made and is now attending SLCC on a full ride scholarship in rodeo. I honestly feel if she had playing for O'Connor her dreams of college would have been lost. We feel that the girls program at Lehi deserves better than this. Maybe we should look at Morgan High School who has won several state championships but those girls have played **together** as a team for several years, not played with girls recruited from other schools. LEHI DESERVES BETTER THAN COACH O'CONNOR!!!!

THANKS FOR YOUR TIME

KENNY AND ROBYN NORRIS

Kenny Norris

Robyn Norris



July 10, 2004

To Whom It May Concern

This last year our family had the chance to attend some of the Lehi girls basketball games, including the State Championship down in Ceder City

We enjoyed the games and participation with the team We were however disturbed by the acts of favoritism shown toward one player Michelle Harrison given by Coach Mike O'Coner

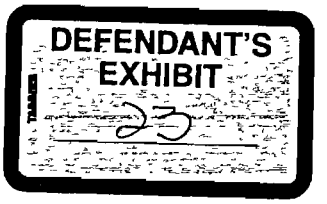
It was evident that most of the plays were designed for and around one player (Michelle) If there was a player open for the perimeter shot and they took the shot Coach O'Coner would harshly yell at the player or pull them out of the game to sit on the bench

We feel, there is a great deal of talent and athleticism demonstrated by many of the girls on the team Several of the girls have the ability to excel and receive basketball scholarships to colleges and universities Coach Mike O'Coner is restricting others from reaching their full potential by his coaching techniques and favoritism

High School Girls basketball is a team sport and should be coached as a team sport not how it was coached this last year We would appreciate action be taken for the Lehi girls basketball season 2004-2005 by removing Coach O'Coner from Head Coach position Give all players an equal opportunity to excel and reach their full potential!

Thank you,

Curt and Julie Parke
Highland, Utah



July 7, 2004

Board of Education
Alpine School District
575 North 200 East
American Fork, Utah 84003

Dear Board Members

I am writing this letter as a parent of two girls who are members of the Lehi High School Basketball team I have a daughter who will be a senior and another who will be a sophomore this coming year Their continued involvement with the program causes me some concern

Having been associated with the program the past three seasons, I have become increasingly concerned with the direction the program is taking I am particularly concerned with two things First, the abusive behavior Mr O'Connor (the coach) directs towards the girls Second, the double standard that exists on the team regarding the treatment of Michelle Harrison

Regarding the double standard I have routinely observed how one girl gets special treatment In fact, one might wonder if she is the coach at times One has but to watch a game to see how she is treated as compared to the other girls O'Connor and this girls parents are very close and this is evident In my opinion, coach sacrifices all of the other girls, their goals and aspirations in order to allow Michelle Harrison to have special privileges and treatment The parents have expressed their concerns to coach and the administration regarding the lack of a clearly defined set of rules Coach responded to the players, the parents, and the administration that he believes that such a standard would be counterproductive In other words, coach O'Connor is a proponent of anarchy Coach O'Connor is too close to the Filamohala family and this must change in the best interest of the program and the girls involved

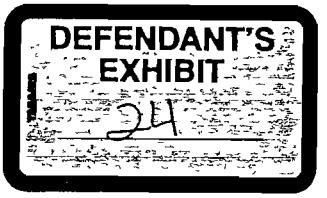
Coach O'Connor is very abusive in his treatment of the girls I have watched coach get scream and rave at girls (never Michelle) to such an extent that I have been embarrassed for him and upset with myself that I have allowed this behavior happen This behavior is the norm rather than the exception This behavior must be allowed no longer

I support a coaching change at Lehi High School for the girls basketball program This needs to be done in support of the girls They deserve the opportunity to work hard and achieve their goals This is true for all the girls rather than just one!

Sincerely,

Drew Downs
801-768-8151

Ken Norris
90 West 100 North
Cedar Fort, Utah 84013



July 13, 2004

To Whom It May Concern,

I am writing this letter per a request from Mrs. Donna Barnes.

I was a little league football coach in Lehi for 25 years coaching 7th, 8th and 9th Grade football teams and I have also been the National Director for the Utah High School Rodeo Association for the past 15 years. In this position I am responsible for the team that Utah sends to the National High School Rodeo Finals. This team has won the National Championship 4 times. Thus, I feel my experience with youth has covered many years and been successful.

I have watched Coach O'Conner's interaction with the Lehi girl's basketball team for the past three years. I am disappointed in the effect that he has had on the girls who recently graduated from Lehi High School.

I have a granddaughter, Kaci Norris, who was a member of the girl's basketball team until 2003 I have watched this particular grade of girls since they were 7th graders These girls had a very successful career in basketball. They won 2nd place as 8th and 9th graders, losing only to Mountain View who have a very successful basketball program.

As these girls entered high school they were very confident and loved playing the game When Coach O'Connor became their coach, I saw a very different team. The girls lost their confidence, and were afraid to play the game the way they usually played. My granddaughter finally quit playing basketball because of his constant comments, which ruined her self confidence

However, I did continue to follow these girls because they were her friends. This year at the State Tournament it was obvious to me that he was trying to promote one of the girls on the team as a "star" and not playing "team" basketball. If one of the girls happened to make a mistake, he would pull them from the game taking them out of the flow of the game. But if Michelle Harrison made a mistake she would continue in the game Basically, she was the only one allowed to take most of the shots The whole offense revolved around her. I feel the team could have done better, if the other girls would have been allowed to be part of the game as well.

I think it is sad that a High School Coach has been allowed to crush so many girls' self confidence. High School athletics are suppose to help kids gain self confidence and make them better people. Having a coach like that at Lehi High School does not benefit the girls or the community

Ken Norris

July 17, 2004

To Whom it May Concern:

I would like to take an opportunity to express some of the thoughts I have had while I observed my niece play basketball for the Lehi High School girls team the last several years. What I have observed from Coach O'Connor has been very self-serving and totally out of line with the purpose of High School sports programs. For two years now I have watched girls go through his program and leave frustrated and insulted. These girls have been committed, hard working, teachable girls who have left the program frustrated because their opportunities to experience the satisfaction of reaching their goals was never a possibility. It is evident Coach O'Connor's philosophy about coaching is different than that of the Utah High School Activity association. Since when has the Utah High School Activity Association promoted and supported double standards? When has the Utah High School Activity Association promoted and supported one athlete at the expense of the other athletes? Let me tell you the final event that caused me to withdraw all support for Coach O'Connor. Last year I attended the state championship tournament in Cedar City, Utah. Lehi entered the tournament as region champs and therefore, drew an 8th place seed from another region. Lehi lost a close game by doing exactly what coach O'Connor had programed the kids to do all year...get the ball to a certain player (Michele Harrison) on offense. All the other team had to do was make sure Michele did not get an open shot so her shooting percentage would be low. The girls got the ball to Michele on offense, and Michele scored the majority of Lehi's points. After the game coach O'Connor blasted the rest of the team in the newspaper for not helping Michele on offense and praised Michele for "carrying"the team. This statement upset me because the rest of the team did what they had been coached to do all season ..get the ball to Michele This being the case, why would coach O'Connor blast the rest of the team for doing exactly what he coached them to do? What motive did coach O'Connor have for expressing himself in such a manner? Michele is a wonderful basketball player, but why does coach O'Connor promote her at the expense of the rest of the team. These girls are leaving the basketball program frustrated for a good reason Every athlete on the team should have an equal opportunity to reach their goals. Their goals may not be as lofty as others, and they may not even be able to reach the goals they have set, however, they deserve an equal opportunity to attain such goals.

Sincerely,
Jeff Burningham

July 19, 2004

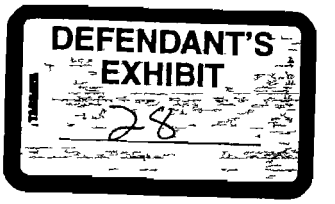
Regarding Mr Mike O'Conner

To whom it may concern

I am writing this letter out of concern for the sports department at Lehi High In the spring of 2003 at track practice there was an incident that I would like to make you aware of Michelle Harrison had sprained her ankle I witnessed Coach O'Conner ice her leg for the whole duration of 2 practices What upset me was that there were two and three year letterman trying to practice to prepare for the state track meet and his only concern were towards Michelle I would also like to bring to your attention that Michelle was only in ninth grade which is still in the junior high that has there own track team When Mike O'Conner brought Michelle up to high school level it seemed as if all the other participants didn't matter If you would like other participants input from the 2003 track team let it be known because I know how they all feel My little sister wants to play Lehi varsity basketball but I will not let her play for him because everything revolves around Michelle I think that there needs to be something done about this I understand that Michelle is a great basketball player but it still takes 5 to play the game, lets involve 4 more

Sincerely,

Chad Hillstead
Kade Hillstead



July 12, 2004

In reply to Girls basketball coach O'Connor

Lehi High School Athletic Board

Dear Lehi High School Athletic Board,

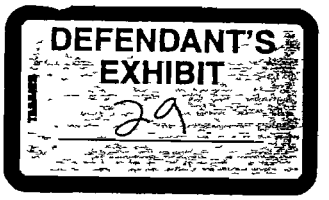
On hearing that there is an investigation of the Lehi girls basketball coach O'Connor I could not pass up the chance on letting my sediments be known I've played several different sports in high school, I had different coaches that implemented their ideas One thing I have learned through my years of high school ball and assisting in college is the importance of an excellent coach makes for the players, school and the citizens of the community A coach is trust worthy to the players, faculty and the parents or the fans A coach is also a mentor, is uplifting not degrading players, a coach knows the game he is coaching A coach is professional and fare

Coach O'Connor is none of the aspects a coach is to be and I'm not afraid to say it He does not know the game I have been going to Lehi girl's basketball games for the last couple of years to support the young women in our community For those couple of years I've left every game more confused then the one before because of the coach can't seem to make up his mind on how to play the game All I ask is go to one game and you could see what a disgrace he is to the players, school and fans The girls are afraid to play, because he's out on the court yelling at the girls to shoot the open shot but if they do, they will get screamed at even if they make it because it was suppose to be Michelle shooting the ball Its A lose, lose situation for the girls, they are afraid to play the game that they've worked hard at to play The coach sets double standards for the team to follow One standard is for Michelle the other standard is for the rest of the team I've watched as one player has been allowed to go home with her mom after the games, when the rest of the team are told they have to ride the bus and stay together as a team I guess to sum this all up in a nutshell the head coach of Lehi girls basketball coach O'Connor is ill qualified for this program and is a disgrace to the players, faculty, fans and the community

Thank you,

Jessica Johnsen

Jessica Johnsen



July 4, 2004

Board of Education
Alpine School District
575 North 200 East
American Fork, Utah 84003

Dear Board Members·

This past season I have had the opportunity of watching many of the Lehi High School girls basketball games Several of the girls and their families are close personal friends of myself and my family so I am aware of many of the problems the program is having I have been shocked at some of the shenanigans O'Connor arranges and allows

I have witnessed the abusive behavior this coach directs towards the girls on this team I commend parents associated with this man on their self control I don't know that I could be as patient. I will not however, that O'Connor never directs the same treatment to Michelle Harrison that he does the other girls There are clearly two sets of standards on the team one for Michelle and one for everyone else I consider this deplorable and inexcusable I cannot comprehend that a human being with any sense of decency and moral fiber can think this behavior is alright These girls are subjected to and emotional and mental abuse that is unconscionable This must end

I am aware of a growing sentiment regarding the removal of coach O'Connor I support this persuasion and I am willing to sacrifice my time, talents, and monies if necessary to see a change take place even to the point of seeking a legal remedy for this abuse

I call upon you to do the right thing make a coaching change and end the abuse!

I would be more than happy to come before the board to express my views further

Sincerely,

Todd K

Todd Kirkpatrick
766-1920

DEFENDANT'S EXHIBIT
30

July 7, 2004

ATTENTION: Alpine School District

TO WHOM IT MAY CONCERN:

I have gone to every girls basketball game they had last year. It was fun to do, but most frustrating. To watch a coach favor only one girl (Michelle Harrison) was unbelievable. She is a good player, but he had such potential in many of the players. He was verbally abusive with the other girls, but never to Michelle. Every girl on the team would tell the same story. I'm very concerned that we are going to have a repeat of the same thing this coming year.

If this sort of thing is allowed to carry on, there will be many girls who will not reach their potential, because they will be held back to make one girl look great. Most plays are stemmed only around her. If the other girls shoot, even if they make the point, he pulls them out and yells that they ruined the play. The play being to pass in to Michelle, who had two or three players guarding her, and it was impossible.

Many citizens at the tournament, just shook their heads, and said to me "How long will Lehi let this man coach?" It's a shame. Everyone can tell what is happening, and they don't even know the players. They are just there to support Lehi because they are great fans. They all and I feel that it is time for a change.

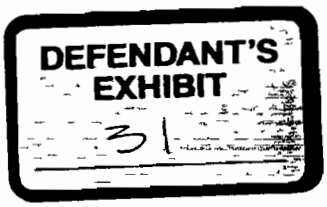
Any consideration you can give this matter would be appreciated.

Sincerely,

Barbara P. Powell

Barbara Powell
605 E. 300 No.
Lehi, Utah 84043
768-3338

Lehi Girls Basketball needs a coaching staff that will try to help every girl reach their potential, not just one girl. They have the girls to make a great team, if they are allowed to play and be a team.



July 7, 2004

To Whom It May Concern:

I have been an active follower of the Lehi High School's sports programs through out my life. I have also had the privilege of playing sports in the High School level and looking back on my school days most of my fondest memories come from the games that I had played and the coaching staff's that I have come in contact with.

It saddens me to watch these girls perform to sub standard levels on the basketball floor. These girls play scared when they are out there on the floor, and it is not that they are scared of the game or the team that they are facing, but are scared of their coach.

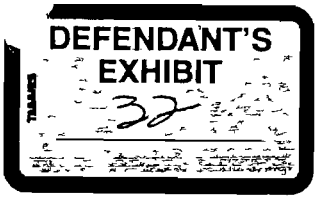
A coach is just that, he is a mentor, a developer of skill and to help guide the team to victory off and on the floor. A coach is not one who should show favoritism to one or the other. Coach Mike O'connor lacks these skills and it shows.

You would have to go to just one game to know what I mean. To see him yell and act like a child on the sidelines because of a missed open shot attempted by someone on his team. Then to have him give thumbs up to another person who shoots the ball and misses, and is also heavily guarded is sad and an embarrassment to the program.

These girls have all the talent in the world and deserve to have the opportunity to play and show off the talent that they have developed through the years of participating in the programs here in Lehi.

Looking back I know that I to would play in fear for Coach O'connor. I am so thankful for the athletic boards that I have played for and once again it saddens me to think that these young girls are not going to be able to play to their full potential. The ones that can fix this problem, I ask that you will. So that these young girls when its all said and done can look back on their High School days and have nothing but great memories of the sport and the coach's that have helped them off and on the court.

Sincerely Mike Powell



Dear Alpine School District Board members,
We are writing this letter to express our concern of the Girls Basketball program at Lehi High School. During the past basketball season, we have experienced so many negative things and want to express some of our concerns to you.

The first thing we want to express is the fact that special treatment was given to one player on the team. Coach Mike O'Connor always put one player above everyone else. He would lay out the rules and time and time again the rules would not apply to her. At the end of the season last year, after the girl (Michelle) threatened to play basketball elsewhere, he told the girls that if she left he would leave. For my daughter that was a slap in the face. He was basically saying; "I am only here for one person". Coach O'Connor took team-building opportunities and pitted the girls against each other all season. We know that this is not Michelle's fault. We saw how that poor young woman fell apart after the first loss at state. Too much pressure was put on to her, and that not only made the others feel less valuable, it was too much pressure for a high school sophomore.

Second, we want to express our concern with the way the state tournament in Cedar City was handled. The team was told to stay in the hotel and stay together. If they did not, they would not be allowed to play in the game the next day. Michelle left even though the coach told her to stay, no reprimand was given to her. The next day the coach at the college left my daughter (with some other team members). If it had not been for a parent that stayed behind they would have had to walk to their hotel. This was not only a safety concern, but also made girls fell like this was just another way Coach O'Connor could care less for them. The last night some of the girls left their room and went to the lobby and were talking to some boy's. They were then asked to leave the lobby and so they went back the their rooms with the boys. All of those girls were punished, however Michelle was in a pool with her boyfriend and nothing was done about that. I want you to know this was not an isolated incident we could give you numerous examples of unfair treatment such as this.

In working with Coach O'Connor we feel he knows the game of basketball, my concern however is with his ethics. We watched him take my daughter, a very confident aggressive basketball player, and run her so far into the ground that she could not even dribble the ball to mid-court without looking for someone to pass it to. She is scared to death of him, but I encouraged her all season to respect and follow his instructions. After experiencing this year I can no longer support him and the way he treats the girls. I think you have to be respectable and consistent in your treatment to everyone to gain respect.

Lastly, we met with the principal and his staff last April to discuss our concerns (after the coach told us that nothing would change). We were told that it was just our

perception, and we should just be positive and work together. From that point till now, we have not said anything negative and tried to make the best of things. During this summer the team has been split into two teams, our daughter and all of the girls that expressed their concerns were put onto one team, and the girls that went along with the coach were put onto another. Instead of taking the summer to try to mold them together, he is dividing them further. We have tried to support the coach for the sake of the girls. We offered our cabin as a retreat to take the girls fishing for a bonding experience, and have tried to support the team. Nothing has come out of it. I am afraid no one wins with Coach O'Connor as head coach at Lehi High. We don't want to see him lose his job, we just know he is the wrong man for the job of Head Girls Basketball Coach. We feel that the Head Basketball Coach should be a fair person who inspires respect and encourages teamwork. We hope that you will consider making some changes to improve the situation.

Thank you for taking the time to listen to us express our concerns,

Sincerely Kent Beckstead Suzanne Beckstead

DEFENDANT'S EXHIBIT
34

I am very concerned about where the girls basketball program at Lehi High School is going I have always tried to teach my daughter to respect her leaders But it has been really hard on my daughter to see a man disrespect her in the way that Coach O'Connor has He is very single minded towards one girl on the team (Michelle Harrison) I just feel that he needs to treat all the girls with the same respect that he expects out of them I know that my daughter would come home after every game and cry Why should she be crying when we were winning all of our games? He always had a rude comment or something else to say to her and the other girls We don't need a couch that tears down their self-esteem We already have a world around us that does that all ready We need a couch that will build them up We want a couch that will give them helpful criticism not hurtful

The very first day he came to Lehi he told the girls that he didn't want to couch at Lehi he wanted to couch at Mountain View were he had couched before He has been kissing up to the Mountain Views couch to try and get his foot in the door This was evident when the Mountain View coach asked him to take one of his girls and put her on Lehi's team He had twin sisters that were scholarship material and he felt this girl wouldn't get the playing time she deserved Well what about our girls that actually live here in Lehi She took one of our true blood pioneer players spots away from them We also had scholarship material girls that year that lost their playing time so he could do the Mountain View coach a favor Why didn't Couch O'Connor care for our girls like Mountain Views couch cared about his?

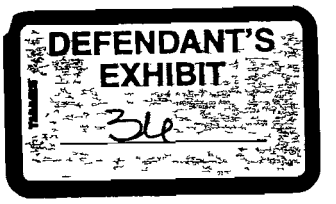
I also did not agree with him making Michelle Harrison, who is a sophomore, the Varsity team captain I guess I came from the old school where you have to earn that position by proving yourself to be a leader It should be one of the older girls who the girls respect and like The girls never got to vote on who they would have liked to be their team captain they were told it would be her and if they had a problem with that they didn't have to be part of the team What kind of attitude is that? Obviously that didn't go over to well and she was no leader she just tore the girls down

I could go on for hours with the things that he has done But I'm sure you will get an ear full all ready Maybe you should ask him what he does with all the money he makes off fundraisers I would like to know that someone else besides him accounts for all of that money

I just want a Couch that will help the girls in the future A couch that will truly grow to love these girls not just tolerate them until he goes somewhere else!

Dallie & Wendy Haderlie

Haderlie's



Dear Alpine School District Board members, I write this letter to address my concern of the program at Lehi High School, Girls Basketball. I have watched my niece go from a very confident Young Lady, that loves basketball, to a timid not sure of her self player. She loves the game and wants to continue playing as long as time allows. However I know that as long as things stay the same at Lehi, I don't see her wanting to play, (as well as many other very competent young women).

In following the girls basketball program all season, I noticed that one player stood out in all the stats the paper would give. I don't discount her as a great player, however when your left in the intire game just to build your stats then I question the stats. I could not see why the others on the bench were left to sit and watch instead of building the team for the future. I know that it is important to develop your best players, however I think it is also just as important to develop your whole team. I know these concerns have been addressed with the head coach, and he promptly dismissed them. I think that if things in the program do not change, Sarah will not be willing to play, and that would be a shame.

Sincerely Sandy Philips

Sandy Philips

July 13, 2004

Board of Education
Alpine School District
575 North 200 East
American Fork, Utah 84003

Dear Board Members:

My daughter, Kayla Burningham, will be junior at Lehi High School this coming school year. As a ninth grader, Kayla joined the girls basketball team and played junior varsity and varsity As a sophomore, Kayla started every game for the varsity team Kayla is an extremely dedicated athlete and student. From a very early age basketball has been her passion. She and I have enjoyed many hours together training and working out. I have spent this time with her partly because I am willing to help her develop her game and partly because we enjoy the time together. However, the main reason we spend this time as we do is because we both love the game. Kayla has been as eager to learn as I have been to share my limited knowledge of basketball with her.

Kayla understands that basketball is but a small part of her life and future However, at her age reaching her goals with respect to basketball is very important to her. My wife and I will support any worthwhile goals that Kayla or any of our children aspire to We feel it is important that our children set goals and work diligently toward attaining them, thereby experiencing success and failure. This is why we are so disturbed about the goings on with the Lehi girls basketball team. The problems could include the following

1. Abuse
2. Discrimination
3. Finances
4. Recruiting

Over the past two years I have observed the abusive treatment meted out to the girls associated with the girls basketball team. On many occasions, I have watched in stunned disbelief while Coach O'Connor tears into one of the girls When seeing this behavior, my first reaction was embarrassment. I was actually embarrassed for coach and the girls involved that this behavior was going on in a public forum. However, this riposte soon turned to anger as I realized this treatment was the norm rather than the exception. I have never seen a coach **attack** kids like this. Of course, we were able to see these tantrums at the games What we didn't know at the time

was that what we were seeing in public was just a tip of the iceberg, so to speak. In our home, we began to notice that Kayla was increasingly aggravated when she came home from practice. Being concerned, we began to ask questions. At first, Kayla said there was nothing wrong and that she was just tired or that she had homework that she was concerned about. We could see pressure building but didn't know the cause. Finally, one evening she broke down and told us that coach constantly tears the girls down and that she couldn't remember the last time he said something positive to her. Without saying anything negative about coach or expressing what we were experiencing in our home, I asked the parents of several girls on the team if their children were having a good experience. I was shocked at the responses I received. I had no idea the sentiment about this abuse ran as deeply as it does. These girls should be rewarded to a fault for good works. Coach O'Connor never praises nor rewards the girls nor does he attempt to communicate with them in any personal manner. His treatment includes belittling, berating, chiding, and attacking every mistake made. This treatment is then followed up with days and weeks of no communication unless a child makes another mistake at which time the process starts over. The pattern is unbelievable. This is the daily norm that each of the girls (except one) experience. These girls need to be taught, nurtured, and shown positive reinforcement. This does not mean that discipline and punishment are not important parts of learning however, this pattern of psychological abuse is degrading and has no place in high school activities.

In the past two years, nearly a dozen girls have gone through this program with a very negative experience. I am not aware of one of these girls nor their parents with anything positive to say about coach O'Connor nor the program. The comments are contained in letters enclosed letters. The abusive behavior is consistent. However, coach has developed a relationship with Michelle Harrison and her family that is unconscionable. None of coach's normal tirades are ever aimed at Michelle. There are rules for Michelle and rules for the rest of the girls. Michelle can go home from games with her mother the other girls must ride the bus. Michelle can stay in a hotel with her mother on road trips while the other girls must stay together. Michelle can talk back to coach as she likes the others are berated without mercy. This coach has gone so far as to tell the girls (on numerous occasions) "they are interchangeable and replaceable. I am here to coach Michelle". I have witnessed Michelle talking on her cell phone during time-outs. Routinely, she out of the huddle being coached by her sister or brother who have come down from the stands while the other girls are in the huddle being coached by coach O'Connor. Dave and Judy Filamohala (Michelle's parents) have frequent contact with coach. The relationship is so close knit as to be unhealthy to the program. Recently, Judy arranged for Michelle's sister Kera to come in and take over head coaching duties from coach O'Connor for two weeks. I know, because I was asked to pay her salary for two weeks while she was the "Head Coach". I would like to know how the parents of one player being so close to the coach can be healthy to the program. The fact that Judy would even consider asking coach to consider letting Kera come in to be the "Head Coach" for two weeks, demonstrates how close this relationship has become. No other parent would even consider such a thing. I have no animosity against Michelle nor her family. However, equal treatment is fair treatment and appropriate in a public school atmosphere. Many parents have spoken with Mr. Worthington about this double standard. When asked, Coach O'Connor responds that he doesn't believe in a single standard. Rather, he believes in looking at each girl individually and treating each case separately... whatever that means. The absence of standards and a well-defined set of rules is ANARCHY!! In other words, Lehi High

School Girls Basketball anarchy at work. Each of the past two seasons, this has torn the team apart. Rules and standards give the opportunity to assess growth, and provide accountability. Maybe accountability is what is needed here.

My experience with the team and the way coach O'Connor oversees finances, provokes some concern in my mind.

First, the way coach receives, handles, and accounts for cash is inappropriate. Funds coming from parents, funds coming from Open Court, and funds coming from fund raisers and other donations are pocketed and left to coaches discretion. Chiefly, the girls had worked at Open Court during the summer to raise money for the program. These funds were appropriated to the program to help offset the expense of the Nike Tournament in Arizona. Since the Lehi girls had also been to camp at Open Court, concerns were expressed that if monies were paid to Coach O'Connor that they be appropriately deposited with the school. Coach O'Connor wanted to go to Seattle with Dave Houle to the Nike store to do some shopping. Lehi was scheduled to go to the Nike Tournament in Arizona in December, therefor parents were concerned that the cost of a trip to Seattle may necessitate parents "donating" more money to the program so the girls could go to the Nike Tournament as planned. People had some concerns about how monies were being raised and spent within the program. Coach O'Connor called a "mandatory" financial meeting. This meeting began by coach O'Connor saying something along the lines of "I am the coach. I will spend the money the way I want to. If anyone has a problem with that or wants to ask questions, I will cut your girl from the team". In my opinion, there are some issues that need to be addressed.

Second, I have been asked to pay large sums so that the team can play in off-season tournaments. I have absolutely no problem doing this because I know some parents don't have the means and I feel it is important that the girls play together as much as possible to help each other, grow as a team, enjoy playing, and enjoy one another as teammates. This I have routinely done and as mentioned above, when Michelle's sister Kera was coming in to take over as "Head Coach" I was asked to pay her salary. However, after the way Coach O'Connor responded at the financial meeting, I vowed to pay only what was required until financial issues are addressed. As soon as I told Judy Filamohala this, Kayla was treated even worse by Coach O'Connor. Since I won't put forth the funds, Kayla, who has started every game at point guard since her freshman year, is replaced by a ninth grader (Judy's niece) and demoted to junior varsity. If this girl is better than Kayla, she ought to take the position but Coach O'Connor ought not come in and remove her without a word as to why. Kayla isn't even given the opportunity to compete for her position. This is extortion and I will deal with it as extortion if necessary. These people are not untouchable nor are they beyond the reach of the law.

Coach O'Connor brought a girl over from Mountain View to play. I feel that if people are going to "transfer" they ought to follow the rules in so doing. I don't believe this was done in this case. What happened to a coach being a beacon of ethics, honor, and moral fortitude?

I appreciate the opportunity of expressing the concerns I have regarding Coach O'Connor. Mr. Worthington has been very good to meet with the parents and discuss these issues. However, I

am concerned that another season will go by and another group of girls will be abused, fail to reach their potential, and miss out on what basketball and sports in general ought to be about.

After meeting with the parents this spring, Mr. Worthington did two things. First, he wrote a letter outlining the rules each parent and coach is to follow. This has gone largely unheeded by coach as the umbilical cord to the Filamohala home is alive and well. Second, Mr. Lynn Allen, the Athletic Director at Lehi High School has been made an assistant coach to the girls basketball program. Mr. Allen is a great man. I have known him for many years and he has always been willing to give of his time to help the youth of the community. I think having him as an assistant will certainly help the situation. However, the problem goes much deeper than what some oversight will cure. At the first tournament this summer, right after Mr. Worthington set the guidelines, Coach O'Connor and the Filamohala's sat together and were as tight as ever unless Mr. Allen was around. When Mr. Allen was around they acted as though they didn't even know each other. This would be comical if the circumstances weren't so serious to so many girls. Coach O'Connor is aware of what Mr. Worthington has proposed and one would have thought that with the issuance of these guidelines by Mr. Worthington, Coach O'Connor had the perfect opportunity to distance himself from the Filamohala family and claim independence. As the various camps, workouts, meetings, and activities have concluded since the issuance of these guidelines one thing has become very clear. His treatment of the girls is as abusive as ever. To sum up his behavior this summer one could put it this way; if Michelle is there coach is there and interested. If Michelle not there coach is not there nor interested. Coach O'Connor has determined that he will not change.

I think it is time for a new coach. I say this for two reasons. First, for anything to change for the better Coach O'Connor would have to both recognize that a change is needed and want to change. He acknowledges neither. Second, as each year goes by another group of girls is robbed of their goals, their dreams, their learning experiences, and yes their childhoods. Nearly a dozen girls have graduated with bitter feelings towards this coach and many others refused to play for this coach. This is not right. This is not moral. This is not ethical. In some cases, this may not be legal. This is not what high school athletics is supposed to be.

Coach O'Connor has lost his objectivity and his independence and worst of all he has sacrificed the trust and loyalty of the players, the parents, and the community. The community, the school, the girls and the families involved all deserve more. They demand more. Now is the time for a change.

Sincerely,

Gary Burningham
Jeanna Burningham
768-4466

cp/GLB
cc:Donna Barnes- Alpine School District Board, Michael Cooper-Attorney At Law

July 18, 2004

Board of Education
Alpine School District
575 North 200 East
American Fork, Utah 84003

Dear Board Members

I am writing this letter to express my feelings about Coach Michael O'Connor I have been playing basketball for him for two years now and even started varsity for him last year as a sophomore. When I first arrived into his program and saw the frustration and tears amongst the varsity team when I was a freshman I thought that it was their own problems and that they needed to have better attitudes towards basketball and their coach. I soon realized (after I heard some of the seniors crying in the locker room to one another) that the problem was not them. The problem was that Coach O'Connor was not treating them respectively He belittled them at practice and **every** play was run to Michele, not giving any other players a chance to succeed or do well In a playoff game against Judge Memorial Susy Jex made a three-pointer that tied the game and Michele yelled at her for not giving her the ball followed by Coach O'Connor yelling at her in a time-out What did Susy do wrong? She tied the game for us in a critical point of the game and instead of praise was given scorn In a region game this year I shot a wide open three-pointer after the ball was reversed to me against a zone defense Michele yelled at me and told me that wasn't a good shot and then Coach O'Connor yelled at me The next play, Michele dribbled the ball down the court and shot an airball three-pointer and was encouraged by O'Connor saying "Keep it up Mitch, you'll make that next time "

There is a double standard on this current basketball team and that is not Michele's fault It is Coach O'Connor's fault Michele calls Coach O'Connor by the name Mike, she never calls him Coach Another one of us has never called him that Michele got to design the team sweats with Coach without any other player's say on it They did it in secrecy Michele got to design the new jerseys that we are to receive next year without any of our opinions on them, too When I went to talk to Coach O'Connor about some of the team's feelings to all this and that other girls wanted a chance to play he told me that we need to understand that all the scouts are here to see Michele and she will be the one to shine "Who are the scouts here to see?", was one of his questions to me

At state this year in our first game, Michele made 28 of our 34 points and **every** play was ran to

her. After the tournament, Coach said that we meant to lose state on purpose so that Michele couldn't have her ring. This is ridiculous! What kind of players would even think of such a thing? All year all we could talk about is how much we wanted a ring and how cool it would be to cut down the net as a team. After we lost the first game and we were in the locker room, I went up to Michele and told her that I knew how she felt with which she replied, "No, you don't know how I feel. All the pressure was on me." First of all, it is not healthy for a coach to put all the pressure on one player. Second of all, I played the whole game and season with her and wanted to win just as bad as she did. Coach O'Connor wouldn't even tell us one positive thing that night. All he could do was make remarks to us such as, "Stop crying. You guys are don't listen. Only one person had the desire in her heart. Etc." NOT ONE POSITIVE THING!! How can he say that we don't care about winning. I shared a hotel room with two seniors and we cried the whole night over our loss, but yet we didn't care?

Coach O'Connor always talks about how he wants team unity. The team had unity all except for one person, Michele Harrison. We went on a river rafting trip as a team last summer and everyone was there except for Michele. Michele showed up to about two or three team dinners the whole season. She wouldn't go to practice when Coach O'Connor wasn't there and every time she said that she was sick. What a coincidence that she was always sick when Coach wasn't there. When the team would get together over Christmas break to shoot, she never came. Michele called a meeting after a practice one day that was supported by Coach and she ripped on everyone for not giving her the ball enough, how she had a bad co-captain, and that we were rude to her. She also said that she is the scorer on the team and the team would run a lot more smoothly if we would learn our places on the team. If we didn't give her the ball then how does she have 25 points per game and about 20 shot attempts? After this meeting, Coach simply stated that if Michele leaves Lehi then he will leave Lehi. Team unity?!? He is united to only one person, Michele Harrison. After work-outs this summer our team is supposed to shoot for awhile. He goes on one end of the court with Michele and helps her work on dunking the ball while the rest of us are on the other side of the court shooting together. Is this not a double standard? It is Michele and Coach versus the rest of the team. I can personally say that there was not one unkind word said about Michele on or off the court last year. After the season was over, Michele and Coach spread a rumor throughout the school that we hated her, were trying to get her to leave, and get Coach fired. I went home from school crying because kids kept coming up to me in the halls that didn't know one thing about basketball and were accusing me of ridiculous and untrue things. I know that Coach was saying things because different boys on different occasions had told me that he had said similar things that Michele was saying to his students in his P.E. classes.

Now I would like to tell you of the way that Coach has treated me and how things have changed after Principal Worthington talked to him. Coach O'Connor has never went out of his way to try and praise me or tell me good job. Of course there were a couple of times he would but he hated doing so On the few times that he did praise me he says it quickly and tries not to look me in the eye. He sure went out of his way to find things that I was doing wrong. He would yell at me in practice for things that I didn't even do! I never could please him. After a while basketball wasn't basketball anymore. It was more of a game to try and get Coach to notice me or get him to say something positive to me. I would see him in the halls sometimes at school and he would walk right past me with his head down and when he said he wouldn't look at me but just stick his hand

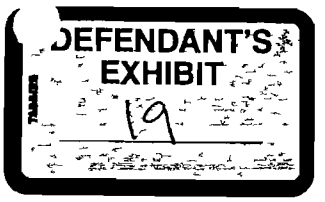
up and give me a curt wave with his eyes fixed straight ahead. I have always had a feeling inside of me that he doesn't like me. I have done everything in the world for that man. I was in the gym every day after school when the season was over working on my game and challenging boys to one on one. The wrestlers who were lifting after school and saw me in there gave me the nickname "Lehi's Gymrat." I know that Coach saw me in there because he walked through the gym at least once every day and wouldn't say hi to me. He walked as quickly as he could through one door and out the other. It's like congratulating me or saying hi to me kills him. When myself and some other girls got in trouble for hanging out with some boys after all the games were done at state (in which we were just talking to the boys, nothing morally wrong happened), Principal Worthington asked me to apologize to Coach. I went out to him one day at the track and apologized. He gave me a quick nod of the head and quickly walked the other way. How am I supposed to get along with a man that refuses to be friendly with any of his players, except for one of course. When I would make a mistake on the court and he would ask me why I made the decision that I did, I would begin to explain then he would literally scream at me to get out of the gym or to sit on the bench. At practice he would ask me why I would do something wrong and when I began to explain he would yell at me to get off his court and on the sideline. Sometimes he would make the team run because of things I didn't even do. He was just choosing a scapegoat to get rid of his anger on. Sometimes I was the scapegoat and sometimes it was another player but it was always one of the players that worked the hardest for him.

I am in the gym every single day. I do thirty minutes of ballhandling a day and try to do an hour of shooting a day too. Whenever someone is playing a game at the gym I ask if I can play. I want to get better, I strive to get better. Basketball is an everyday part of my life. I never would have thought that the sport couldn't be fun until this year. Coach O'Connor made it miserable for me and a lot of other players on our team. I don't understand his way of thinking. Why doesn't he want to like us or make the game fun like it should be? Coach O'Connor is not a kind man. He is absolutely rude. He belittles players and tries to make them unsuccessful. I don't understand it. What is wrong with more than one girl succeeding? In his mind, the only person that can succeed or that he will let succeed is Michele. She should be successful and she will be successful because she is a great player. But this success shouldn't come from taking away our hopes, dreams, and chances of success. My last two examples of his uncaring attitude toward us are these: He didn't go support two of his graduating seniors at their state All-Star game at the end of the year and he only went to one of our three tournament this summer. He only went to the tournament at CEU and that was the only tournament Michele has been to this summer too. What another coincidence. He disappeared from our team for two weeks this summer and has been helping Michele's Utah Sky club team instead of going to his own team's tournaments.

What kind of a coach does these things to his team. He ridicules us, degrades us, and mentally and emotionally abuses us. This is not the US Navy Seals training camp. It is a girls high school basketball team. Something needs to be done with Coach O'Connor. When Principal Worthington talked to him he just got more mad at me and has been making me play JV basketball all summer. Is this how he repays me for all my hard work that I have given him? It's not right and action needs to be taken. I will not take this from him anymore and neither will the rest of the players. I've done everything I can and it is not enough. This team needs your help. I love basketball too much to let a crude coach ruin it for me. Please do something about the unfair treatment that has

been going on. Principal Worthington couldn't help, in fact he only made matters worse. I know you can help so please do so. The ball is in your court. Do with it what you will.

Sincerely,
Kayla Burningham
768-4466



July 4, 2004

To whom it may concern,

I welcome this opportunity to express my concerns about coach O'Connor and the direction of the basketball program at Lehi High School I love basketball, as does my daughter Breezy We were both looking forward to her playing high school ball at Lehi High Breezy will be a junior this next year and has been a member of the Varsity Basketball team for the last two years Before she tried out as a freshman, Breezy heard rumblings from some of the older girls and their parents about the "new coach" and she was somewhat apprehensive I discussed with her HER attitude and told her not to make any prejudgments I truly believe that every coach has their idiosyncrasies I have been around sports all my life (as a player, coach and parent) and know that I may not always agree with the coach but they are the coach and it is their call That said, the last two years have been emotionally draining and Breezy is at the point of deciding if she even wants to play another year The following are only a few of the issues affecting the girls and the Lehi girls basketball program

Psychological and emotional abuse: I have a degree in social work and have worked in the social services field for the last 28 years I have seen and dealt with many forms of abuse I have to say that what Coach O'Connor has done to the majority of the girls in his basketball program over the last two years, borders on psychological /emotional abuse This type of abuse isn't as apparent as other forms of abuse but its results are often more damaging and lasting The following are some of the consequences of this emotional/psychological abuse my daughter (as well as many others) has been subjected to through coach O'Connor over the last two years

1 Destroyed self esteem/confidence I've watched Breezy over the course of the last two years, go from a very confident basketball player to one who is always doubting herself and her ability She's "afraid" afraid to talk with coach, afraid to ask questions, afraid of being criticized, afraid to shoot, afraid to mess up, afraid of being ignored The atmosphere for the most part has been very negative and stressful The girls are never "good enough" It is always "their" fault There have been many, many nights that Breezy has come home from practice and just broken down and cried There are many other examples I could give and many other players that are experiencing the same things

2 Confusion Rules aren't the same for everyone Breezy says that she never knows what to expect during the games If they shoot they get benched or yelled at Because of this apprehension, they don't play up to their ability Coach, however, feels they should be able to "step up" and blames them when they don't They are told to play and "bond" as team but their efforts are sabotaged by O'Connor himself insisting on special treatment of one player Throughout the years, Coach O'Connor has "ragged on Breezy about playing soccer because she needs to concentrate on just one sport He then turns around and criticizes her for not going out for track (He is also one of the track coaches) They are told their

parents are not to talk with coach O'Connor and if that occurs, the girl will be cut from the team. All the while watching Coach and Judy F. spend countless hours together reviewing film, discussing stats, strategizing, etc. Breezy and some of the other girls have been asked, "Whose side are you on?" Her response has been " I didn't realize there **were** sides!"

3. Destroyed love of the game: By the summer after her Freshman year, Breezy had decide she wasn't going to play basketball anymore. "It's just not fun", " It's just not worth it", I'm dreading it", were some of her comments. I was disappointed but supportive because I could relate to the draining nature the year had been. The next winter before basketball tryouts, coach O'Connor met with Breezy and talked her into at least giving it a shot. When it came right down to it, she really did want to play, so she did. By the end of this season she was even more adamant about not playing again and has not decided right now if she will or won't. It will be a loss for both Breezy personally and the team if she doesn't play.

Inconsistent rules and double standards: Over the course of the last 2 years, Coach O'Connor has had 2 sets of rules: one for Michelle and one for the rest of the team. The following are just a few of the examples.

Shoes... other girls wanted or had black shoes but went out and purchased a new pair of white shoes because Coach told them that was what they had to have. Michelle bought black shoes. Coach said it was OK because she has a difficult time finding shoes her size. A few weeks later Michelle came wearing white shoes but decided to still wear her black ones for "away " games.

Practice uniforms. If you don't wear your practice uniform you have to run sprints. This happened to Breezy once, as she couldn't find her shorts. She ran sprints that practice. Michelle wears whatever shorts and sometimes jerseys she wants. Very seldom does she wear the "official" practice ones. She does not have to run sprints.

Michelle was allowed to fly home early from the Arizona tournament this year.

Michelle was allowed to stay with her mom in Cedar City during the State Tournament and ride home with her Mom. Chelsie Haderlie was sick and wanted to ride home with her family Saturday night after the game and was told " NO" She had to stay over and ride home with the team on Sunday.

Coach calls play and Michelle changes it. Anyone else would be benched.

Coach told Breezy to go in for Michelle. Michelle said "no" so he then put Breezy in for Andrea.

Annie's mom confronted Coach. He told girls if their parents did that they would be off the team. The only parents with access to coach are Michelle's.

Judy Filmoehala has now and always has had direct line to coach. There's hardly a day goes by she doesn't talk with him. They spend time together reviewing game films. She watches the films and sends the "official" stats for Michelle back to O'Connor. On the other hand the other girls are told if they want to be on "coaches side" they need to tell **their** parents to "shut up"

Michelle calls coach MIKE

Some of these examples seem petty but they have a cumulative effect. This inconsistency creates a very chaotic and unfair program and undermines the whole "TEAM" concept.

Promoting One Player VS Building a Team: One of the biggest problems I see with Coach O'Connor is his inability to build a team. It's not that the girls aren't talented enough to have a "great" team, because they are. It's not that the girls don't want to work hard or achieve, because they do. It's because he is more interested in promoting one player and as a result promoting himself. It's total selfishness on his part as well as Michelle's and her family's. Michelle has to be the best in everything. She has to not only lead the team, but the division as well, in every individual statistic. This is all done at the expense of the other players on the team. None of the other girls are given the attention, help, opportunities, etc. to develop to their potential. In fact the exact opposite has occurred as I stated earlier in regards to destruction of self-esteem and confidence. The following are a few examples of this inequitable treatment.

Coach "chose" the Captains this year instead of letting the girls choose He of course chose Michelle (Sophomore) over some very qualified and dedicated seniors who would have been chosen by their teammates.

Games where Lehi is 20 to 30 points ahead, he leaves Michelle in to "PAD" her stats. This doesn't give the other girls an opportunity to play and get experience.

Coach O'Connor leaves Michelle in but takes Andrea and other seniors out when they start getting "too many" points, thus making it more difficult for them to be noticed and considered for college scholarships.

Coach O'Connor tells the girls that Michelle is the offense and insists the ball goes to or through her every play but then blames the other girls when things go

wrong. He has even gone as far as to say that her teammates intentionally lost at State to make Michelle look bad!

Newspaper after newspaper article about Michelle but no "press" for the others; especially the seniors.

Coach feels the need to even "promote" Michelle to her teammates.

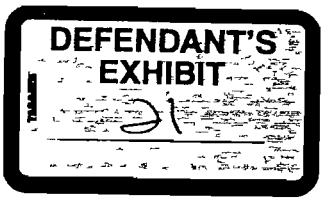
> In a "one on one" talk with Breezy coach asked her, "Do you really think we would be where we are without Michelle?" Breezy answered 'NO" and them asked him, "Do you really think we would be where we are without Andrea, Tristen, Tara?" He changed the subject.
>
> Coach told the team one day that when Michelle makes an assist, the crowd 'roars" and applauds. He then added, "I don't hear that when anyone else makes a good pass."
>
> At the senior farewell meeting in Cedar City, Coach told the girls "Michelle is the best player in the state and you should be honored to play with her. I'm not going to let you drive her away. If she goes, I go." He didn't even mention the seniors or any of their accomplishments.
>
> Coach tells the girls to quit being "mean" to Michelle but has no examples of what they have done to be "mean." He tells the girls they are just jealous of Michelle and her ability and should be honored to play with her.

As parents and individuals we tried to address our concerns with the high school administration this last spring. As a result, we were all given some "guidelines" to follow. Throughout the spring and summer leagues and camps I haven't noticed any changes in coach O'Connor's attitude or behavior. In fact there has been some backlash and even more divisive behavior from him. He began by telling the girls at their recognition night that he was **not** going to have set rules and he would make them depending on the girl and the situation. He told them **they** all had to sacrifice for the **team** this summer but then made excuses for Michelle missing most of the "required" activities because she had personal pursuits. He also brought religion into the conversation by saying he, as bishop, was missing girls camp and youth conference to be at basketball camps and insinuated they needed to do the same. He has continued throughout the summer to "ignore" Breezy. In fact when she went to talk with him about dislocating her shoulder during a Summer Games soccer game, he looked at her, grunted and turned away. This was 3 weeks ago and he has yet to even ask how she's doing. All the parents were asked to direct any concerns or discussions about the team to the administration and not the coaches. Michelle's mother continues to meet and talk with coach O'Connor on a regular basis and in my opinion has no intention of relinquishing her control.

I feel the girls basketball program at Lehi High is on the verge of being totally destroyed. There are 10 to 15 girls who have quit the program already and others who are contemplating quitting Those that are playing are doing so in a very negative, divisive, and emotionally draining atmosphere This includes Michelle who I feel is also a victim of her mother's and coach O'Connor's aspirations. It shouldn't be this way. High school sports are a time to grow and develop and have fun Everyone should have the chance to improve their skills, increase their self-esteem and come away from the program with a positive experience The Lehi girls basketball program has deteriorated during coach O'Connor's tenure and I feel will continue to do so unless a change is made now.

Sue Chandler
368-3210

Please call with any questions.



July 6, 2004

To whom it may concern,

We are writing to express some concerns about the girl's basketball program at Lehi High School. We are not parents of a player or directly involved with the program, but we have followed girl's basketball at Lehi for the past five years We have a niece (Breezy) who has played for the past two years, our daughter (Brittney) was a cheerleader for three years, and a close family friend (Tiffany Gray) played for three years and graduated in 2003

Tiffany was an awesome player She played varsity as a sophomore, started many games on varsity as a junior and was a starting guard her senior year She and Susie Jex were the two seniors who should have been the starting guards Susie was one of the leading three point shooters in the state at the time and was an excellent defensive player as well That was the year Coach O'Connor decided to bring Megan Hereford over from Mountain View High School He told the girls that she was fourth string there but better than any of them That was when we started to see a very different player in Tiffany. She seemed to have lost her self confidence. She was not the take charge kind of player we knew her to be Her dad would sit in the stands with us and yell at her to take the "easy" open shot Her would be frustrated when she would drive down with the ball only to pass it to Megan or Michelle She would always tell her dad that coach O'Connor told her not to shoot. At first he really wasn't sure he believed that, and was concerned about the changes in her playing and desire and love of the game If she did take a shot and it went in coach would yell at her that it was good, but that it wasn't her shot If she happened to shoot and miss, she was pulled out of the game Meanwhile, Megan, who incidentally still lived in the Mt View boundary, would put up three point shots almost every time she had the ball Some went in, some didn't, but that was no problem All this time, Susie , who lived in Lehi's boundary sat on the bench It was obvious to the spectators that the plays were all meant to get the ball to Megan or Michelle They were the two who could take any shot, good or bad, and be praised for their effort The rest of the team seemed to be there only to make the right amount of players on the court so Megan and Michelle could shine

Coach O'Connor always told the girls how much he understood them He had a favorite story about how he helped individual girls who were seemingly indebted to him for life now They heard it often However, when our daughter Brittney asked him for a player list to make the traditional caricatures for the gym wall, he literally yelled at her and told her the girls didn't need those and really didn't care about them or any of the other "stupid things" the cheerleaders did for the team It was an insignificant thing, I realize, but it showed us how insensitive he really is to the girls—how little he does understand girls and their feelings

Breezy was excited to play basketball at Lehi High and was happy to make the varsity team as a Freshman By the end of the year she was totally disenchanted and wasn't planning to continue playing Coach O'Connor convinced her that it would be different

than the previous year and because of her love for the game she made the commitment to play again. We are not convinced that that wasn't one of the biggest mistakes she has made. Things went from bad to worse. It seemed from early in the season that Judy Filimoehala was the coach and O'Connor was just the puppet whose strings she pulled. There were very different rules for Michelle than the rest of the team. Michelle could be late for or even miss practices with no consequences. The others were expected to be there and be on time (as one would expect). Coach decided to pick the captains instead of letting the girls vote as they had always done. There were three very capable seniors who had "earned" that honor and two of them were completely ignored. The third girl, who was co-captain with Michelle spent the year having Michelle yell at her for not giving her the respect she deserved, when in fact, she did nothing to promote comradery or team spirit. She was a captain to make her look good on paper. Now instead of the plays being constructed to give the ball to one of two girls, they were all made to get the ball to Michelle. It was MORE THAN OBVIOUS to anyone who ever attended a game. Andrea Durrant was a senior who was a very capable player. If she was having an especially good game and it looked like she may outscore Michelle she was taken out of the game. This happened time and again even when the outcome of the game was at stake. It was obvious that Michelle was to be the high point scorer in every game. One time in particular when Andrea had actually tied Michelle for high point person, we watched Judy go straight to coach after the game and yell at him for not taking Andrea out sooner. Coach O'Connor apologized for his "oversight". When Lehi played Deuchesne we were way ahead the entire game. When Lehi had a 30 point lead some of the parents were yelling to put in the bench. I was one of those fans who thought the other girls should have a chance to play. I wasn't referring to Breezy, because she had actually been playing quite a bit and was playing when we started yelling for subs. Apparently Michelle's boyfriend took it as a slam to Michelle and reported it to her mom who immediately reported it to the coach. The girls got in trouble in practice for their parents trash talking Michelle. No one was trashing Michelle. If there was any trashing going on it was toward a coach who left her in the entire game. Michelle isn't in charge of putting herself in or taking herself out and we totally realized that. Aside from that fact, what coach listens to fans and takes it out on the team for what is being said? The interesting sidelight to that story is that we later found out that Judy had told the coach before the game that Michelle had to make 30 points to keep up her stats as the leading scorer in the state. She put up a shot that gave her the 30 points just at the ending buzzer.

We attended the state tournament in Cedar City in February. Just when we thought it couldn't get any worse, it did. We were almost embarrassed to be from Lehi after the first game. Literally every play was to get the ball to Michelle. It took the other team about three minutes to realize that and double or triple team her. Still every play was to her, and she kept putting up shots with three people guarding her. We would have girls wide open and they would pass the ball in to Michelle. Obviously no girl can play well under those circumstances. And Michelle was no exception, she didn't make all of her shots. With only a couple of seconds to go, Lehi was down by two points to a team we should have been way ahead of. Now suddenly the ball was given to Tristen to shoot a three pointer. She hadn't been "allowed" to shoot the entire game and was now expected to win the game. That happened quite regularly in clutch situations because

Michelle didn't want to be "responsible" for losing. Tristen shot and missed (what a surprise). The girls were devastated. Michelle laid down on the floor in the middle of the court and pounded her fists and cried. What a total embarrassment to everyone from Lehi. We were sitting close to an elderly gentleman from Cedar City. He turned to us and said, "I have never seen anything like it. Your coach was totally responsible for losing that game It was obvious from watching warm ups that the other girls could shoot, but he was spotlighting one player the entire game." He went on to tell us that he had several children who had played ball and he had done a fair amount of coaching in his life and he just enjoyed watching basketball. He said he went to all the games in the area and always went to both the boys and girls state tournaments. He couldn't believe what he had just seen. In the restroom I over heard some moms saying they couldn't believe they beat Lehi. One said, "I guess coach knew what he was talking about when he said all they had to do was shut down #23, because their coach wouldn't use any of the rest of his team."

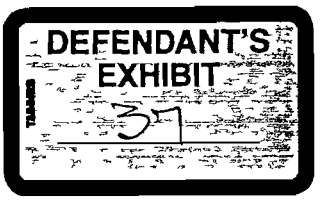
Obviously we feel very strongly about what is happening at Lehi High. We have enjoyed supporting the teams, but cannot stand the thought of another season like the past two or three. Something needs to change. We appreciate your taking the time to read this and trying to understand our frustrations. PLEASE FEEL FREE TO CALL AND TALK TO EITHER OF US PERSONALLY IF YOU HAVE ANY QUESTIONS ABOUT THE THINGS WE HAVE WRITTEN.

Thanks again for your time,

Jan Davis

Steve Davis
(801) 318-8043
(801) 768-8157

Jan Davis
(801) 310-2773



September 7, 2004

Mr Sheldon Worthington

Dear Mr Worthington

I am writing this letter to express my appreciation for the time you and Mr Robbins took to meet with me I realize that the week before school starts is a hectic time, so making time to talk with me was very generous

I know this is a very difficult situation for everyone involved and I truly appreciate and respect your commitment to the girls and the program I believe you have the girls best interest at heart As I have also mentioned, my opinion is that Coach O'Connor has every intention of cutting some of the girls as a vendetta against parents voicing their concerns I appreciate your commitment regarding this possibility

Since our conversation, I have reflected upon the situation many times I want to reiterate my commitment to the program and each and every girl. Like I have said each time we have talked, I will fully and completely support Coach O'Connor As you are aware myself and many other parents, and townspeople feel some adjustments to the program are warranted and necessary, and I fully respect your desire to fix the problems as you deem necessary I also recognize that you need time and space to work on this situation Whatever steps you take, I know you will do the best you can and I support you in these endeavors

I really do hope that you can work things out with Coach O'Connor I would like to see him adjust and have a very positive experience at Lehi so that many girls over the years can enjoy that successes and trials associated with a solid program Again, I commit to support him in building such a program I know the parents of this program and the people of this community will embrace him if he will meet them halfway

Sincerely,

Gary Bi

4 July 2004

Dear Alpine School Board,

We are writing this letter to express some deep concerns we have regarding the Lehi High School women's basketball coach, Michael O'Conner. Our daughter Claire played on the LHS sophomore and JV team's last year. We attended almost every game that the Lehi Women's teams played last year both at home, and on the road including all of the state tournament games in Cedar City.

We know that many parents expressed concerns about coach O'Conner earlier this year to the principle of Lehi High. We did not. We felt it was not our place because our daughter was not on the varsity team, and because we hoped that coach O'Conner would be open to parents and their concerns We did talk to the coach in a positive manner with the hope that he would improve the way he treated the young women on his team. At a parent and team meeting held at the end of the school year it became apparent that talking to the coach would not be an option, and that he was not open to change. In a letter signed by the principle it was stated that concerns were to be brought to the principle and not the coach If parents talked to the coach it would be grounds for their daughter not to play on the team. This is ridiculous. It seems that the principle is part of the problem That is why we are writing this letter. The coach and principle have gone from intimidating just the players on the team to intimidating the parents as well This kind of attitude might be acceptable in professional sports, but it is not acceptable in the social, welfare, public

education system we have today.

Our experience with coach O'Conner has been a difficult one. As parents we have taught and shown by example that teachers and coaches are to be respected. We want our daughter to respect her coaches, but we can not ask her to respect a coach whose behavior is not respectable. We have seen the coach treat the young women on his team with what we would call disrespect. We have seen team members humiliated by coach O'Conner. Our daughter is intimidated by coach O'Conner. Our daughter is fearful of coach O'Conner. We want our daughter to have the experience of playing high school basketball if she is good enough, and if she wants to play. We also feel we have an obligation because of her age to defend her against wrongful behavior.

It seems our society has become more and more tolerant of bad behavior by both coaches and players. We would hope that it would not be condoned at Lehi High School.

Coach O'Conner has stated that winning is the most important thing. We have taught our daughter in our home that there are a lot of things more important than winning. One thing that is more important than winning is how you treat people.

How long would a teacher be allowed to teach if his teaching methods included favoritism, berating his students, angrily yelling at his students, and using his position of authority to intimidate his students? What if this teacher and his principle told the parents that if they talked to the teacher about concerns they had the students grades would be lowered or they would be asked to leave the class?

We are not writing this letter because we feel that the LHS women's basketball team would have a better chance of winning if coach O'Conner was no longer the coach. We are writing this letter because we want our daughter to be able to respect her coach. We do not want our daughter to be

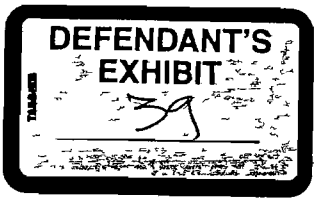
verbally or emotionally abused by a coach. We believe we have witnessed coach O'Conner cross the line between "coaching" and being abusive. We will no longer tolerate this sort of behavior and will seek legal avenues if necessary to remedy the problem.

We believe that coach O'Conner has the technical understanding of basketball to be a good coach, but he needs to improve the way he treats his team members. Because coach O'Conner seems unwilling to change perhaps we need a new women's basketball coach at Lehi High School.

Sincerely,

Robert T. Price Kim M. Price

551 N. 500 W.
Lehi, Utah 84043
801-768-8595



To Whom It May Concern:

Re: Coach Michael O'Connor/ girl's basketball program

This letter is written to express my concern regarding the girl's basketball program at Lehi High School. I have had a daughter involved in the program the 2001-2002, 2002-2003 and one that doesn't particularly want to play this year, who is very talented at basketball and loves to play, because of the problems she has seen with her own sister and just watching as a fan the past few years. This makes me very sad to think that because of all the problems she is thinking of not playing.

Through the years I have definitely seen a difference in coaching at the high school. Tiffany's junior year (Coach O'Connor first year) was a fun year and she really liked the program and was excited for a new coach and for the change. She had a good season and had an enjoyable time. The second season, her senior year, was another story. I don't know why the change but during the summer he recruited a player to play for our team and supposedly she lived in a condo Eagle Mountain. She was a good player and was brought in to replace one of the girls that had been playing for years. He also got wind a Michelle Harrison's arrival and the talent she had and for some reason he decided to have every play shifted to her. Tiffany wanted to be positive and wanted to play so she tried to adjust to this coaching philosophy of one person making the team. As her mother I could see how after games, and practices she would be so down. I would ask her why didn't you take that open jump shot and her response was, "I'm not allowed to shoot the ball." I could see how this was very ego crushing to her because she loved to play the game. She stuck to playing the whole year because any time she would go in and try to talk to Coach O'Connor he would basically let her know that is how it was going to be and it would not change.

As a fan of the game and the girls I watched last year with my daughter Marci (who is a freshman this coming year). As we watched last year we could tell that nothing had changed and that he was still promoting one player. It was a little obvious when Lehi was playing a team last year and was killing them by thirty points. All the subs came in to relieve all the players except no one came in to relieve Michelle (she hadn't got enough points that game to keep her average per game up to what her/her parents wanted it to be). This was very embarrassing to Lehi and the other team. In

fact if I were the other teams coach I would never schedule a game at Lehi again.

My daughter Marci has been going to summer camps with the team. She went out to CEU this year. She was playing with the varsity team and told me of an experience where she passed the ball off to Becky and Becky put it in for a lay up. The only thing Coach O'Connor said is "Marci, who is supposed to get the ball." Of course the answer was Michelle as it is with every play. These girls are all good players and the fact that Marci saw the open person and passed it to her and she scored should have been fine but it wasn't. Marci also went with her sister to CEU when she was going into seventh grade by invitation of Coach O'Connor who saw her playing ability. She played with the J.V. team and did quite well. In fact she played with the Mountain View Sophomore team that year also at CEU. She has expressed her concerns with a letter to the editor in the Lehi Free Press (March 25, 2004) Obviously this is a concern to her as this was an assignment for English class and that is what was foremost on her mind to write her letter about. She had no promptings from home to write any letter (see attachment).

I am certainly hoping that something will be done at the district level as nothing was done as we tried to meet with the principal. Going through the principal we just got his support of Coach O'Connor and a list of rules that we have to abide by if we want our daughter to play. (see the enclosed letter). I hope things will change at Lehi, as I don't want to go through with Marci what I did with Tiffany. I don't want to see her not love the game as she has in the past.

Thank you for your attention in this matter.

Susa Gray
768-0566

concerned when I see a generation of young people who resent being asked to do anything that they think. I wonder what it says about our values when entertainment is considered "important."

I worry about the long-term implications for a culture in which entertainment so totally dominates. (Words "Roman empire" and "bread and circus" ring a bell?)

I know. I know. I shouldn't worry about such things. Believe me, I don't do it because it's entertaining. I only do it because it's important.

— [illegible]

Editor:

Hi, I am an 8th grade student here at Lehi Jr. High. I think there are too many construction sites going on around Lehi, like the new Jr. High School going in and they are building houses on our farmland.

I think it should stop and by doing so, plant hay or grow crops like a garden or even put our farm animals like horses, cows, and other farm animal on it, not houses. We have plenty of houses around here. Some houses are for sale or for rent. God can't make more land so let's stop building houses. If we are not to have fields and just houses where would we keep our animals? If we build houses all around we could not ride, have farms or mink farms, we couldn't grow corn or veggies. So can we stop building houses? Please?

Thank you for reading this, hope that it works.

— Rylee Jacobson

Editor:

I am a student at Lehi Junior High. I am working hard with my grades and I thinking that there are too many classes in one day. I think it will help all other students if we have an A-day and B-day. It will help us to have less homework and

there [illegible] many students going to the junior high and high school. In my word, all said, Lehi is growing to fast.

— CJ Robinson

Editor:

I am an 8th grader here at Lehi Junior High School. I wanted to discuss the issue about how not all of the Lehi girl's basketball team players are treated the same. I know that the basketball season is over but thought that it would be good to talk about it now.

One of the things which have been bothering me is that one person off the basketball teams is being favored just because of her talent. Some of the papers say that the Lehi team is a "1 dimensional" offense. All the team's plays are diagrammed so that she gets the ball and the two points. If someone else beside her shoots or makes a mistake, they get yelled at and they get taken out. She doesn't. I once saw this saying that said: "You can have all the talent in the world, but it is useless without your teammates." I believe it and I think the basketball team should abide by this saying.

One of the solutions that could be taken into action is that Coach O'Connor should treat all the players fairly. I love Coach O'Connor, I think he is a nice guy, but I believe that he should treat her the same way he treats everybody on the teams.

— Marci Gray

Editor:

I go to Lehi Junior High School. I am in the 8th grade. I think that the school day starts too early and it lasts too

like the element ry schools.

That way we won't be so tired all the time and we might even be in a better mood during the day. If we got out earlier, then we might have more time after school to do our extracurricular activities.

— Jenae Brown

Editor:

Hi I'm a 8th grader at Lehi Jr. High and I hate tardies! Students always have tardies and they will always be tardy. That's why I'm proposing that we ban all tardy rules and regulations. Cause it is their own fault if they are tardy. If they don't get to class they're missing important details that could help them with an assignment. And when they're gone they're not going to know what the assignment is. If they're tardy they're going to hurt themselves. Another reason is because of accidents. All students that are late because of a accident should not be punished for something that is not their fault. If they are tardy just let them. Sooner or later their grades are going to drop and bad things will happen to them. They're going to want to show up sooner or later to get their grades up and then their grades will go up. If we start doing this I think that we will stop our tardy problem.

— Brandon Bayles

Editor:

My name is Jadon Wagstaff, I am an 8th grader at Lehi Jr. High and would like to discuss the problems with a highway going through Saratoga Springs.

In 10 years Lehi is

ple down there?

— Jadon Wagstaff

Editor:

I'm an 8th grader at Lehi Jr. And I am concerned about the timing on the school day at Snow Springs Elementary and Lehi Jr. The jr. high starts at 7:45 and gets out at 2:21 and the elementary starts at 8 a.m. and gets out at 2 p.m. As you can see there is a big difference of time, and sleeping time. And as you know all the kids at the school have at least a 20-minute bus ride or more, and the elementary students have about a 10 to 15 minute ride. So I've come up with a few suggestions, next year we can get out at the same time, that's the main one. Or we can start school a little earlier or later.

— Derek Fuhr

Editor:

I'm an eighth grader who will be attending the new Jr. high. Right now I have seven assignments from each class every day. I also have only 45 minutes a day to complete them. Then it becomes homework.

I have a lot of after-school activities, and I also need some time to relax, which is hard with all this homework and such little time to complete it. Say I need to go to a dentist appointment and it takes a couple of hours of time to do that. Then I have to eat dinner and etc., etc., etc., and by the time I do that I have a little time to do homework. Then if I don't have time to do the homework, or forget about it then it's late and some teachers won't accept it.

Many kids each day don't have assignments

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PD-0106

March 11, 2004

This year's varsity basketball season was one of the worst experiences of my daughters' life She came home more than a dozen times extremely upset and crying after a practice or a game This was the most negative and least rewarding of all the activities she has been involved with. We would not recommend girls varsity b-ball at Lehi for anyone.

We have 2 specific and serious issues.

1. Amanda and 5 other girls being left at SUU
2. Combining basketball practice with LDS religious references

My previous letters express our concerns with the lack of supervision/control as regards to leaving the girls to get back to their motel by themselves

When Amanda came home sobbing from practice on Feb 11, 2004 we sat her down to try to understand what was going on better. We learned the coach said the following during practice

1.If you live by the Book of Mormon you will be blessed on the court.

2 If you are LDS you have personal prayer and you will live a better life

3.Those of you who are LDS know we're bonded and are more advantaged in life.

On Feb 20, 2004 he said

We have to turn negatives into positives and the Book of Mormon will help us do that

Coach took time to praise 5 of the girls individually for their efforts because he knows they spend a lot of time with Young Women's and church activities Amanda was not one these 5 because he has no idea what she does (or does not do) Of course this made her feel less than good

This kind of coaching is not acceptable. Coaches are not allowed to make my daughter feel less of a person because she is not LDS and he did. This really is uncalled for and out of line. I believe this to be more of a random sample than a documented list

Some things that were not serious but affected us were as follows

Calling a mandatory parents meeting, being late and then telling us to sit together and get out of our little cliques

Amanda being specifically targeted and yelled at (more than anyone else?). We maintain a peaceful and calm household and never yell. This was hard to adjust to as Amanda has always tried extremely hard to please and exceed expectations In conversations with assistant coaches they remarked that they didn't really understand why but it seemed that coach O'Connor had her in the doghouse and she just couldn't get out

Not letting Amanda start on Senior Night

Halfway through the season calling her "you get in there" instead of her name because he obviously didn't remember it right then

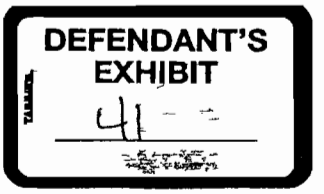
Andrea was announced as academic all state prior to the end of the season to the rest of the team, Amanda was not

Nothing he hates more than a senior on the bench (Amanda was the only one)

Telling Breezy during the day she would start the game but then not with not another word to her?

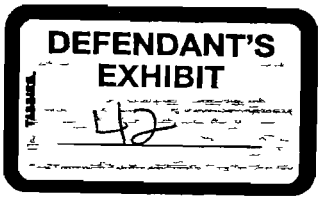
Lack of clearly understood team rules and equal enforcement.

Michael Hyde



Hannah Dixon, Emily Sandmire, Sara Beckstead, Alexis Staddel, Breezy Chandler and I were looking for the bus when we received the call from Andrea Durrant's cell phone to my cell phone. She told me that the bus left us. I did not believe her until she gave the phone to Tara Asay and she told me they really had left. I asked how we were going to get to the hotel and she said I guess we'd need to find a ride. She told me they were pulling into the hotel parking lot. We found Officer Bugden with the cheerleaders and Pionettes. We told her what happened and she said to all stay together and somehow they would fit us on that bus and we'd make a pit stop by our hotel. We then saw Lexi's mom and asked her to take us home. Bugden said that would be fine. We went with her out to the parking lot and saw Breezy's mom. Breezy and I went with her and the rest went with Lexi's parents. We arrived back at the hotel.

AMANDA Hydes STATEMENT 3/1/04



March 6, 2004

Sirs,

Mr O'Connor telephoned me about my letter of 3/2/04 he stated that he had gone looking for Amanda and that Andrea (Durant) called Amanda as the bus was leaving He also said that Amanda told Andrea she had a ride I appreciate Mr O'Connor's prompt response and explanation however it still leaves me with some issues

Who made the decision for the bus to leave my daughter (and others) at SUU

In my 6 years of experience with Lehi activities I have never heard of this happening before In fact I always understood that the coach had to have a parents approval in person to even ride with them after an event that they went to on a team bus I was surprised to learn that when Amanda and I left Cedar City early that coach did not confirm that my daughter was indeed riding with me and not doing something else entirely

I want to see a copy of school policy as it relates to this matter

In discussing this incident with Andrea she indicated that she did not see coach go looking for the girls while she was on the bus I would be interested to know who is aware of coach going to look for the girls

Many of the girls on the team knew how to get hold of Amanda on her cell phone Why was she not called before the bus left?

I believe that Amanda was intentionally left in an unfamiliar city late at night to get back to the motel any way she could I certainly did not give my approval for her to ride with anyone else and I am outraged that coach could and did apparently make this decision for me This shows a complete lack of concern for the safety and welfare of the young people in his care

I have asked Amanda to write up a statement from her point of view and have attached a copy to this letter

I would like to pick up the policy concerning this matter early next week at the school office

Sincerely

Michael L Hyde

cc, Mike O'Connor, Sheldon Worthington

DEFENDANT'S EXHIBIT
43

March 1, 2004

Dear Sirs,

On Feb 27th my daughter Amanda Hyde was left behind by the team bus at S U U This was after 10 PM in an unfamiliar city on a college campus I can think of no excuse for this to occur I need an explanation I am extremely upset that this could even happen Your prompt response is requested I can be reached at home 768-8668 or mobile # 367-1329

I want to be assured this could not happen in the future to another child with disastrous results for all concerned I will contact whoever is necessary to resolve this issue

Sincerely,
Michael Hyde

Cc Mike Oconner, Sheldon Worthington

14 July 2004

Dear School Board and Administration,

My daughter Rebecca played for the Lehi Girls Basketball team last year She started for the Sophmore and JV teams and was a reserve for the Varsity team Her growth and improvement during last season was tremendous I was gratified to see her progress and mature

After last years basketball season I sent a letter to Coach O'Connor, the Varsity Coach Though my daughter had had limited involvement with the Varsity team I was concerned with what I saw I wrote the letter expressing my concern about the divisiveness that existed on the Varsity team and what I perceived to be the causes and potential remedies I put a lot of thought into what I said and kept the letter on a positive note ultimately expressing appreciation, optimism and great expectations for next years season

Since my daughter had a PE class taught by Coach O'Connor, I told her about the letter and let her read it I did this so she wouldn't be caught unaware when the subject came up A few days latter I asked my daughter if the letter had come up in conversation with Coach She told me he had thrown it in the garbage I was later told that Coach O'Connor had told Becky that she needed to decide whom she would support and tell her parents to shut up That is not advice a responsible Coach would give to a 15 year old I never did receive a response to my letter from Coach O Connor

I don't claim to know anything about coaching but I am a parent of 6 children (four teenagers) who actively participate in organized sports I know the positive influence a Coach and team can have on a child and conversely I have heard and seen examples of how damaging a Coach can be I don t need a Coach intentionally trying to diminish my influence or relationship with my children I don t know whether Coach O'Connor knows or understand the potential life changing influence (good or bad) that he has I can't imagine anyone who had coached for even just a few years wouldn't know

I was optimistic when the Lehi High School administration stepped in to address the concerns of parents and policies were put in place To date no noticeable improvements are evident It actually appears that things have deteriorated I appreciate your willingness to become involved in an effort to provide a positive experience for these girls

Regards

John C Rogers
Supporter of Lehi High School

To Whom It May Concern;

As a parent of a Lehi High School Basketball player I was disappointed that we could never really build a team. The coach that separated the team and deflated player's confidence made remarks that created no team unity. Most coaches, learn that to build a team you need to encourage and show confidence in every player. As a parent it was a constant job to encourage and build confidence that was always being threatened.

I realize that as a parent you don't understand coaches completely. I have a daughter that loves basketball and worked harder than any high school player I know. She gave her all for Lehi High girls Basketball. She started Varsity in a few games as a freshman and every game the rest of her high school years. She is very tough and has had a fantastic attitude. She stayed positive and supported the coach, every player and the program the entire season. I will say that she quietly cried several times this year, and several times in the previous years, because of yelling and promises the coach made to her and then didn't keep.

The coach had called her and two other seniors in and told them that he was looking at them to be his team captains in the fall. She was very excited and worked very hard doing everything she could for him and the team. Always trying to please him she spent countless hours on the phone-calling players arranging for fundraisers and planning the trip to Jackson Hole last summer. If she got a call at the last minute she dropped what she was doing and called the team or went to help. He pulled her aside in October with other seniors at an open gym and told them that those girls not attending would not be the team Captains. Telling Andrea he was pleased at her dedication.

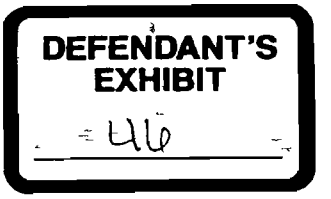
Then the Coach picked his favorite (Michael Jordan he called her) of the team a sophomore as Varsity team captain. She didn't make all the phone calls she didn't attend Jackson Hole with the team and often missed a practice if the head coach was not going to be there. She even missed open gyms. I remember when Andrea came home and told me that he had named Michelle as captain. She cried for a while and then she said, "I guess he feels I am not keeping up to my end of the bargain. I have done everything he has asked me to do and more. Apparently he sees something in me that disappoints him. I know I have fulfilled my responsibilities and encouraged our team." I became upset and felt sad for Andrea, but she would not let me be mad or angry about it. That is when Andrea said" Michelle will be a great captain, We need to come together as a team and I will support her and the coaches. She said "I want team unity this year and we will support and encourage and help our team to be the best. She said, "I don't need to be called captain to be a team leader" She was right, as I stated above she played the entire year with a very positive attitude and supported every coach, player and the team. I am very pleased with her attitude, but I wonder who is the adult in the situation. It is hard to be a 17-year-old girl who absolutely loves basketball and always wonder if the coach even cares about you. Later Michelle told Andrea that the coach let her pick who the 2nd captain would be (Tara).

Please realize that I have nothing personal to gain from this letter. Andrea did have a better experience with the Coach this year. She will tell you that not all the players were treated as good as she was. It was very difficult some weeks. Our Coach knows the game of basketball but we need more to build young women. We should be building confidence and teaching teamwork. Coaches should care about and encourage

each player. I have felt that if you express concerns to our coach it might hurt your daughter.

You can't have one player win a state Championship it takes a team. If you coach a team and they have the ability we had this year they should be state champs or at least in the top spots. If the players feel like it is a one-man show it tears a team apart. By the time we played in state this year most of the girls had given up. I have to wonder when the coach tells the team at the Hotel after loosing state. If Michelle goes to another school next year then I won't continue to coach for Lehi. Well that pretty well sums it up. She is his team. What about the other 10 girls sitting in the room he sure made them feel important. I honestly feel that this has been a emotional roller coaster. The girls should not have to feel that only one or two players matter. Every team member is important after all it takes at least 5 girls to play the game.

I am concerned about Lehi Girls Basketball Program.
Darlene Durrant



COACH ALLAN

I HAVE LISTED SOME OF MY CONCERNS AND QUESTIONS FROM OUR MEETING TUESDAY. THE FIRST TWO ITEMS ON THE LIST ARE CONCERNS I HAVE HAD SINCE LAST YEAR. I HOPE THAT WE HAVE NOT TAKEN THE WRONG APPROACH ABOUT THIS BY NOT VISITING WITH COACH O'CONNER FIRST. BUT THERE IS A LOT OF "HE SAID SHE SAID" BALONEY FLYING AROUND. AND I FOR ONE WOULD LIKE THE RECORD SET STRAIGHT ON SOME ISSUES. THIS LIST OF CONCERNS I HAVE HAD ARE OPEN TO ANYONE WHO WOULD LIKE TO VIEW THEM, THAT WOULD BENEFIT FROM IT. I WILL LEAVE THAT UP TO YOUR DISCRETION. AND OF MOST IMPORTANCE THIS IS NOT MEANT TO BE DEMEANING TO THE COACH.
WE APPRECIATE ALL THE TIME AND EFFORT HE HAS PUT INTO HIS JOB. AND I KNOW THAT BEING IN THE PUBLIC EYE IS A VERY DIFFICULT JOB AT TIMES. THE COACH HAS DONE MANY GOOD THINGS AND WE HOPE HE CAN CONTINUE DOING SO. WE WILL LEAVE IT UP TO YOU ON HOW TO BEST MEDIATE THESE CONCERNS. I CAN BE REACHED AT 360-8553 CELL# OR HOME 768-3918.

RESPECTFULLY

WILL SUNDERLAND

LAST MINUTE RECRUITING.

DIVISION IN THE TEAM CREATED BECAUSE OF RECRUITING.

WHAT CONDITIONS HAVE TO EXIST, TO HAVE THE GREEN LIGHT TO GO TO THE HOOP?

PLAYING WITHOUT APPREHENSION.

WHY ARE GIRLS SINGLED OUT AND TOLD THEY ARE SELFISH PLAYERS? WHAT DEFINES THEM AS SELFISH?

IMPORTANCE OF COACHING WITH EQUALITY AND RESPECT TO THE TEAM.

HOW DO WE GET THE GIRLS TO PERFORM WITHOUT INTIMIDATING THEM OR THREATENING THEM?

WHAT CAN WE DO TO BUILD SELF ESTEEM AND CONFIDENCE AS A TEAM WHOLE?

CREATING AN ATMOSPHERE OF GOOD FUN COMPETITION.

DEVELOPING THE BENCH AND BEING ABLE TO USE THEM TO ENHANCE THE TEAM PLAY.

IMPORTANCE OF DEVELOPING FUNDAMENTAL SKILLS AND ABILITIES OF ALL GIRLS, (KNOWING THERE ARE GIRLS AT VARYING SKILL LEVELS.)

WHY ARE SOME GIRLS EXPECTED TO ABIDE BY A SECOND SET OF TEAM RULES?

COACH THE TEAM AS A TEAM.

HOW CAN THE ISSUE OF BACK POCKET PARENTS BE DEALT WITH AND ALLOW THE COACH TO COACH?

Basketball is a game of opportunity
A Chance to create an opportunity or take
an opportunity. At any given moment in
a game there are players positioning
to take those opportunities and make the
most of them whether they are on or
off the court. There are;

Opportunities to drive
to pass
to shoot
to Rebound
to hustle

Opportunities to be Ready when your number is called
to high five a fellow player
to pass on some atta girls

Opportunities to watch and cheer a team on
to coach a team to play
to accept the wins with the Losses

Opportunities to resolve to do better.
and to just smile and have fun.

_ If I didn't care about the future of
Lady Pioneer Basketball I would not
be here right now. My daughter being a
Senior this year is done with her playing
days as a Lady Pioneer. It would be
easy to just walk on to other things in
life and not be concerned about the

I think we are all here to just talk about some concerns we have in the interest of the team.

Coach O'Conner has done well at gettin. 2 back to back region titles and hopes were high as we returned to the state tournement for another run at the championship. I think that speaks highly for his efforts. I for one hope he and all the girls he has been coaching can return next year and take us on another try for the championship. There is a great pool of talent that could return next year and I hope that they all do. It would be a great travisty if they do not return and try to achieve again what they already came so close to achieving this year. Now putting aside talk of Trophies and Honors I think sometimes we all lose sight of what is most important about sports. Trophies and Honors soon collect dust and are forgotten. But the experiances the girls have together practicing, playing and associating with one another and their coaches e memories and lessons in life that are going to last a life time. I hope that the girls can all have quality experiances

PD-0119

DEFENDANT'S EXHIBIT
9

September 7, 2004

Mr. Sheldon Worthington

Dear Mr. Worthington:

I am writing this letter to express my appreciation for the time you and Mr. Robbins took to meet with me. I realize that the week before school starts is a hectic time, so making time to talk with me was very generous.

I know this is a very difficult situation for everyone involved and I truly appreciate and respect your commitment to the girls and the program. I believe you have the girls best interest at heart. As I have also mentioned, my opinion is that Coach O'Connor has every intention of cutting some of the girls as a vendetta against parents voicing their concerns. I appreciate your commitment regarding this possibility.

Since our conversation, I have reflected upon the situation many times. I want to reiterate my commitment to the program and each and every girl. Like I have said each time we have talked, I will fully and completely support Coach O'Connor. As you are aware myself and many other parents, and townspeople feel some adjustments to the program are warranted and necessary, and I fully respect your desire to fix the problems as you deem necessary. I also recognize that you need time and space to work on this situation. Whatever steps you take, I know you will do the best you can and I support you in these endeavors.

I really do hope that you can work things out with Coach O'Connor. I would like to see him adjust and have a very positive experience at Lehi so that many girls over the years can enjoy that successes and trials associated with a solid program. Again, I commit to support him in building such a program. I know the parents of this program and the people of this community will embrace him if he will meet them halfway.

Sincerely,

Gary Bil

DEFENDANT'S EXHIBIT

26

I am very concerned about where the girls basketball program at Lehi High School is going. I have always tried to teach my daughter to respect her leaders. But it has been really hard on my daughter to see a man disrespect her in the way that Coach O'Connor has. He is very single minded towards one girl on the team. (Michelle Harrison) I just feel that he needs to treat all the girls with the same respect that he expects out of them. I know that my daughter would come home after every game and cry. Why should she be crying when we were winning all of our games? He always had a rude comment or something else to say to her and the other girls. We don't need a couch that tears down their self-esteem. We already have a world around us that does that all ready. We need a couch that will build them up. We want a couch that will give them helpful criticism not hurtful.

The very first day he came to Lehi he told the girls that he didn't want to couch at Lehi he wanted to couch at Mountain View were he had couched before He has been kissing up to the Mountain Views couch to try and get his foot in the door. This was evident when the Mountain View coach asked him to take one of his girls and put her on Lehi's team. He had twin sisters that were scholarship material and he felt this girl wouldn't get the playing time she deserved. Well what about our girls that actually live here in Lehi She took one of our true blood pioneer players spots away from them. We also had scholarship material girls that year that lost their playing time so he could do the Mountain View coach a favor. Why didn't Couch O'Connor care for our girls like Mountain Views couch cared about his?

I also did not agree with him making Michelle Harrison, who is a sophomore, the Varsity team captain I guess I came from the old school where you have to earn that position by proving yourself to be a leader. It should be one of the older girls who the girls respect and like The girls never got to vote on who they would have liked to be their team captain they were told it would be her and if they had a problem with that they didn't have to be part of the team What kind of attitude is that? Obviously that didn't go over to well and she was no leader she just tore the girls down

I could go on for hours with the things that he has done But I'm sure you will get an ear full all ready. Maybe you should ask him what he does with all the money he makes off fundraisers. I would like to know that someone else besides him accounts for all of that money.

I just want a Couch that will help the girls in the future A couch that will truly grow to love these girls not just tolerate them until he goes somewhere else!

Dallie & Wendy Haderlie

Haderlie's

March 15, 2004

Mr. Sheldon Worthington
Principal
Lehi High School
200 North 500 East
Lehi, Utah 84043

Dear Mr. Worthington:

I appreciate very much the job that you do at Lehi High School. I can only imagine how many different interests require your attention on a given day. I am concerned that my children and all the children in this community receive a good education and if their behavior, work habits, morals, and talent so warrant, the opportunity to excel. I believe this is true whether learning is being carried out in a classroom, on a football field, a basketball court or a baseball diamond. As a rule, we call the teachers who work in athletics, coaches. Throughout my personal athletic experience, I have been fortunate to be associated with a number of great coaches. One of these coaches whom I really love and admire is Lou Andrus. Coach Andrus once told me this regarding the football program he coached at the time: "Gary, if every boy coming through this program is not a better person for having been a part of this program, I have failed as a coach." I applaud this philosophy.

The Utah High School Activities Association states this same idea a little differently.

"The purpose of the UHSAA shall be to administer and supervise interscholastic activities among its member schools according to the Associations Constitution and By-Laws. Knowing that student activities are a significant educational force in the development of skills needed to become a contributing member of society, the UHSAA reaffirms that students are the focus and reason for the Association. As such, the Association will provide opportunities that:

> *Promote sportsmanship and safe competition through standardized eligibility rules.*
>
> *Provide interscholastic sports, music, drama, and speech.*
>
> *Create learning laboratories where practical life situations, teamwork, sportsmanship, winning and losing, hard work, leadership, and cooperation are taught.*
>
> *Nurture self-realization and build self-confidence.*

Promote, through participation, higher academic achievement, better attendance, lower drop-out rates, and positive citizenship."

I firmly believe the Lehi High School Girls Basketball program is at odds with the purpose of high school athletics as envisioned by the UHSAA.

The program, as now administered, is in harmony with the UHSAA mission statement. It is not a harmonious organization at all. This is due to a double standard which is regularly practiced and touted by some to be normal and productive. I contend that any organization which allows double standards to exist is doomed to fail. Consider what would happen if you, in your capacity as principal at Lehi High School, didn't require definite, clearly defined rules to be in place in your leadership of all teachers at the school. The answer, of course, is that in the absence of a clearly defined standard which offers equal opportunity for rewards and requires accountability, the school would operate in anarchy. This is true, and you are leading a team of professionals. How much more important it is to give this same structure and standard to a group of teenagers?

The foundation of any organization should be built upon mutual trust, honesty, effort, respect, reward and punishment. Every instance where a double standard is allowed or practiced will erode and eventually demolish this foundation. Sadly, this is where the program is at this point. Real leadership will be required to restore the trust of the girls and regain the support of the parents, the administration, and the community.

I have considered this problem continually throughout the season. Due to serious concerns about reprisals against my daughter, and being reluctant to disrupt the team during the season, I determined to wait until the completion of the season to seek a remedy. These kids are among the best our community has to offer and deserve to be treated as such. I feel very strongly that something be done to reverse the present course and allow the kids to learn and have a positive experience. In short, I want to know why discrimination is being condoned by Lehi High School. I am eager to meet with you to give concrete examples of how this double standard is practiced on a daily basis in the girls basketball program.

Sincerely,

Gary

LAST MINUTE RECRUITING.

DIVISION IN THE TEAM CREATED BECAUSE OF RECRUITING.

WHAT CONDITIONS HAVE TO EXIST, TO HAVE THE GREEN LIGHT TO GO TO THE HOOP?

PLAYING WITHOUT APPREHENSION.

WHY ARE GIRLS SINGLED OUT AND TOLD THEY ARE SELFISH PLAYERS? WHAT DEFINES THEM AS SELFISH?

IMPORTANCE OF COACHING WITH EQUALITY AND RESPECT TO THE TEAM.

HOW DO WE GET THE GIRLS TO PERFORM WITHOUT INTIMIDATING THEM OR THREATENING THEM?

WHAT CAN WE DO TO BUILD SELF ESTEEM AND CONFIDENCE AS A TEAM WHOLE?

CREATING AN ATMOSPHERE OF GOOD FUN COMPETITION.

DEVELOPING THE BENCH AND BEING ABLE TO USE THEM TO ENHANCE THE TEAM PLAY.

IMPORTANCE OF DEVELOPING FUNDAMENTAL SKILLS AND ABILITIES OF ALL GIRLS, (KNOWING THERE ARE GIRLS AT VARYING SKILL LEVELS.)

WHY ARE SOME GIRLS EXPECTED TO ABIDE BY A SECOND SET OF TEAM RULES?

COACH THE TEAM AS A TEAM.

HOW CAN THE ISSUE OF BACK POCKET PARENTS BE DEALT WITH AND ALLOW THE COACH TO COACH?

July 14, 2004

To Whom It May Concern:

As recorded from earlier letters and meetings which I have enclosed. My concerns are still the same for the Girls Basketball Program at Lehi High School. Some concerns were presented to the school administration at the close of this years basketball season, hoping that some mediation of those concerns to the coach would benefit the experience that future girls would soon be having. It was decided that the Administration would meet with Coach O'Conner and voice those concerns which were presented to them. I can only hope that after many Parents of girls who have been involved with the basketball program the past 3 years have stepped forward and given voice to concerns that they have had. That those concerns will be looked at objectively, and that because they came forward and expressed those concerns openly that it will not hinder opportunities for present or future Girls Basketball Contributors whether they be players or supporters.
Just as one of the parents of a player this year expressed in a letter I too support the mission statement and purpose of the UHSAA of which I have made a copy of and included with this letter.

Respectfully;
Will Sunderland

Enclosures Included;
Purpose of the UHSAA
Letter of concerns to administration
Basketball Opportunity [read at parent meeting]
Parent Meeting minutes March 9,2004

"The purpose of the UHSAA shall be to administer and supervise interscholastic activities among its member schools according to the Associations Constitution and By-Laws.
Knowing that student activities are a significant educational force in the development of skills needed to become a contributing member of society, the UHSAA reaffirms that students are the focus and reason for the Association. As such, the Association will provide opportunities that:

Promote sportsmanship and safe competition through standardized eligibility rules.

Provide interscholastic sports, music, drama, and speech.

Create learning laboratories where practical life situations, teamwork, sportsmanship, winning and losing, hard work, leadership, and cooperation are taught.

Nurture self-realization and build self-confidence.

Promote, through participation, higher academic achievement, better attendance, lower drop-out rates, and positive citizenship."

I used the word recruitin
whether it was or wasn't only those
involved would know that for sure.
That girls could move from one school
to another before residence was even
established
was not right
and hopefully
the loop hole
has been closed
by the UHSAA

LAST MINUTE RECRUITING.

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WHY ARE SOME GIRLS EXPECTED TO ABIDE BY A SECOND SET OF TEAM RULES?

COACH THE TEAM AS A TEAM.

HOW CAN THE ISSUE OF BACK POCKET PARENTS BE DEALT WITH AND ALLOW THE COACH TO COACH?

Basketball is a game of opportunity A Chance to create an opportunity or take an opportunity. At any given moment in a game there are players positioning to take those opportunities and make the most of them whether they are on or off the court. There are;

Opportunities to drive
to pass
to shoot
to Rebound
to hustle

Opportunities to be Ready when your number is called
to high five a fellow player
to pass on some atta girls

Opportunities to watch and cheer a team on
to coach a team to play
to accept the wins with the Losses

Opportunities to resolve to do better.
and to just smile and have fun.

If I didn't care about the future of Lady Pioneer Basketball I would not be here Right now. My daughter being a Senior this year is done with her playing days as a Lady Pioneer. It would be easy to just walk on to other things in life and not be concerned about the girls of the future teams.

I think we are all here to just talk about some concerns we have in the interest of the team.

Coach O'Conner has done well at getting 2 back to back region titles and hopes were high as we returned to the state tournement for another run at the championship. I think that speaks highly for his efforts. I for one hope he and all the girls he has been coaching can return next year and take us on another try for the championship. There is a great pool of talent that could return next year and I hope that they all do. It would be a great travisty if they do not return and try to achieve again what they already came so close to achieving this year. Now putting aside talk of Trophies and Honors I think sometimes we all lose sight of what is most important about sports. Trophies and Honors soon collect dust and are forgotten. But the experiances the girl's have together practicing, playing and associating with one another and their coach are memories and lessons in life that are going to last a life time. I hope that the girls can all have quality experiances whether they win or lose.

I hope that as we discuss some of these matters we can put emotion aside talk with civility and respect and be objective about those things that are brought up, as well as have open minds.

education system we have today.

Our experience with coach O'Conner has been a difficult one. As parents we have taught and shown by example that teachers and coaches are to be respected. We want our daughter to respect her coaches, but we can not ask her to respect a coach whose behavior is not respectable. We have seen the coach treat the young women on his team with what we would call disrespect. We have seen team members humiliated by coach O'Conner. Our daughter is intimidated by coach O'Conner. Our daughter is fearful of coach O'Conner. We want our daughter to have the experience of playing high school basketball if she is good enough, and if she wants to play. We also feel we have an obligation because of her age to defend her against wrongful behavior.

It seems our society has become more and more tolerant of bad behavior by both coaches and players. We would hope that it would not be condoned at Lehi High School.

Coach O'Conner has stated that winning is the most important thing. We have taught our daughter in our home that there are a lot of things more important than winning. One thing that is more important than winning is how you treat people.

How long would a teacher be allowed to teach if his teaching methods included favoritism, berating his students, angrily yelling at his students, and using his position of authority to intimidate his students? What if this teacher and his principle told the parents that if they talked to the teacher about concerns they had the students grades would be lowered or they would be asked to leave the class?

We are not writing this letter because we feel that the LHS women's basketball team would have a better chance of winning if coach O'Conner was no longer the coach. We are writing this letter because we want our daughter to be able to respect her coach. We do not want our daughter to be

verbally or emotionally abused by a coach. We believe we have witnessed coach O'Conner cross the line between "coaching" and being abusive. We will no longer tolerate this sort of behavior and will seek legal avenues if necessary to remedy the problem.

We believe that coach O'Conner has the technical understanding of basketball to be a good coach, but he needs to improve the way he treats his team members. Because coach O'Conner seems unwilling to change perhaps we need a new women's basketball coach at Lehi High School.

Sincerely,

Robert T. Price Kim M. Price

551 N. 500 W.
Lehi, Utah 84043
801-768-8595

PARENT BASKETBALL MEETING - - MARCH 9, 2004

THOSE PRESENT: Sue Chandler, Mr. & Mrs. Robert Gray, Willie Sunderland, Mr. & Mrs. Mike Hyde, John Rogers, Gary Burningham, Kent & Suzanne Beckstead, Barbara Powell

Meeting began at 8:00 p.m.

Gary Burningham stated that this was a meeting to get the parents thoughts and feelings on the girls basketball program. Each one present had a turn to speak. The following is a summary of the individuals comments and what was discussed.

Sue Chandler: She felt that if Michelle and the coach stayed there would be no change. Everything would be like it was this last year. In one newspaper it stated that it was a one girl show, and there was no help from the rest of the team. She stated they all have the ability to be good, and if they were allowed to do so it would open things up for Michelle. She stated that after the Wasatch game they had a team meeting. The girls complimented all the Seniors Then the coach stood up and said "You have the best player in the State, if she goes, I go." He didn't say one complimentary thing about the Seniors. She feels sorry for Michelle because the pressure is on her. She stated she also has a concern about the financial things. Everything should be accounted for. The girls paid $150.00 for camp at Open Court. Some didn't play. She didn't feel it was right. They were all there to learn, and not just sit on the bench.

Robert Gray: He stated he had a daughter who graduated last year. He stated by the end of the year it started to sour. Rules were not the same for some individuals. This works badly on feelings between members. The rules seem to fluctuate. It is not fair to the other girls. Their daughter, Marcy, doesn't even want to play high school ball because of the conflict. It is bad that we have 5 defense players, and use one for offense. His daughter came down for the tournament, and was upset that nothing had changed. If the point guard shoots and doesn't pass to Michelle, they get yelled at. The coach has the ability, but is so caught up in Michelle that it's been his down fall, and causes riffs. His daughter loves basketball, but she hated the experience. He stated that the Carbon coach told him that if his players acted like Michelle, they would be on the bench. He can't believe that the coach coddles her so much. If a point guard shoots, they're

taken out of the game. I feel that the coach is allowing one mother to dictate how the game should be played and run.

Will Sunderland: He passed out a paper of the issues that he had. He read his thoughts to them on it. He stated he was concerned for the girl's team. Trophies and honors collect dust, but associations with girls, parents, coaches should last a life time. There is a lot of anxiety felt among the girls, and something needs to be done soon. It's an open wound and needs to be doctored or sewn up in some way.

Mike Hyde: He stated that Amanda had come home crying thousands of times, because of how she was treated during the year. And it was nothing to do with her playing time. So far this has been the worst experience of her life. I wouldn't recommend girls basketball for anything. He stated he thought the girls would be better off with another coach. He reported he had written a letter because he felt at the tournament games the girls were purposely left at the games, and the bus took others back to the hotel. This is a huge safety issue. He was very upset about it.

Cindy Hyde: She documented that on Feb. 11th, and Feb. 20th, the coach combined religious beliefs with basketball. This is not allowed in schools. One should not be discriminated against because of their religion. She reported they were not L.D.S.. The coach stated that those who are L.D.S. are bonded. The Book of Mormon will help them turn negatives into positives. This is illegal to mix religion with State. We were very upset about it.

Gary Burningham: He reported he had talked to Coach Allen. He stated that he himself doesn't want to see Michelle leave or the coach, but he would like the opportunity to express his thoughts. He has had a good relationship with Michelle's mother, and the coach, but things started to become offensive like no one liked Michelle, and yelling at the girls to back off won't work. I seriously would like to see things worked out, but not white washed. His daughter was upset because the rules changed everyday. If Michelle fumbles the ball, it's the ones fault who passed it to her that gets yelled at. I've tried to work this out. There are a lot of girls who say they aren't going to play next year, and it's a tragedy.

Suzanne Beckstead: She stated that she felt sorry for Michelle. Too much is required

of her. She felt the coach was immature in some things he says. There is too much contention. One thing I felt was strange is the fact that the coach picked the team captain. That usually is not done. They should be picked by the team. Michelle never stayed with the team as the captain. She left to go home early at things. Another thing that is strange is the fact she calls coach by his first name, Mike. This is never done. Everyone else addresses a coach as, coach. I'd rather see the girls lose every game than go down hill like they did this year.

Kent Beckstead: I was concerned that the bench had no experience, because the coach was running up Michelle's points instead. I felt just to make her record look good. Their daughter's confidence has gone down the drain. The team is not improving because they're not allowed to.

John Rogers: I know that all the girls are willing to work. They all need the opportunity to improve. I agree to all that has been said. I'm in the process of sending an e-mail to the coach with these same thoughts mentioned tonight.

Gary Burningham: I thank you all for your comments. I wanted everyone's opinion before we approach him. I've thought about this a lot. Judy will throw back that these meetings and the parents here are the problem. This is why we kept minutes. This is not a lynch mob.

Will Sunderland: There will be a meeting with the school administration, coaches, and parent representatives. We are waiting to hear back from Coach Allen.

Note: Those present nominated Robert Gray, Will Sunderland, and Gary Burningham as parents to attend the meeting.

Meeting closed at 9:40 p.m.

Barbara P. Powell

Minutes taken by Barbara Powell

Ex. 49

JEX

To whom it may concern,

My daughter played on the Lehi basketball team. We have been concerned about some of the inconsistent behavior of the coach We feel some of the treatment of the individual team members was not in their best interest, there was different treatment for some of the players. Not everyone was given the same opportunity to excell, gain confidence and develop skills Some players were not allowed to perform offensively and told not to shoot. Some players could miss a practice or not, stay with the team while others had no leeway. No matter how well a player performed in a game or practice - their status as "starter" or "non-starter" never changed. The players were not able to compete for positions - even though they had been starters all the year before

The assistant coaches didn't have say in the game plan or advising which player should be played. There was a lack of building players instead, their confidence was challenged and often defeated. They were afraid to perform.

Another concern was when my daughter graduated and a college team asked for videos of her games the videos were never sent after ~~that~~ being told they would be. One reason given for not sending them was because another "favorite" player on the team didn't look as good in the games. Every coach should be proud of their players and want to help give them every opportunity to play college ball - not just a few favorites. Also other problems come up the coach

needs to talk to the individual to find out the real reason before making assumptions or judging the player. Most kids are trying to do their best. All I know my children want to go the second mile to please the coach - all should be rewarded for their efforts. Both coaching will always result in success - individually as well as for the team.

P.S. I forgot to mention, when a team is full of good talent, that talent should be used before bringing in other from other schools.

My daughter's college coach said it took a while to convince my child she was still good and to give back her confidence -

Jex's..

Tab 4

MINUTES OF BOARD RETREAT – **July 19, 2004**

The Board of Education of the Alpine School District met in a retreat on Monday, July 19, 2004, at 8:30 a.m. in the Board Room.

Board members present: President JoDee C. Sundberg, Vice President Keith G. Swain, Donna F. Barnes, Jim T. Evans, Andrea L. Forsyth, Guy L. Fugal, and Chrissy M. Hannemann.

Also present: Superintendent Vernon M. Henshaw and members of the Cabinet.

The Board and Cabinet spent the first part of the day on an activity dealing with leadership strategies. The second part of the day was spent reviewing Cabinet goals for the 2004-2005 school year.

ADJOURNMENT

The meeting adjourned at approximately 2:15 p.m.

MINUTES OF STUDY SESSION – **July 20, 2004**

The Board of Education of the Alpine School District met in a study session on Tuesday, July 20, 2004, at 4 p.m., in the Superintendent's Conference Room at the District Office.

Board members present: President JoDee C. Sundberg, Vice President Keith G. Swain, Donna F. Barnes, Jim T. Evans, Andrea L. Forsyth, and Chrissy M. Hannemann.

Excused: Guy L. Fugal.

Also present: Superintendent Henshaw, Business Administrator Robert W. Smith, and Debbie Taylor.

The purpose of the study session was to review a list of Board priorities for the 2004-2005 school year.

The study session concluded at approximately 5.45 p.m.

MINUTES OF BOARD MEETING – **July 20, 2004**

The Board of Education of the Alpine School District met in a regularly scheduled session on Tuesday, July 20, 2004, at 6 p.m., in the Board Room at the District Office.

Board members present: President JoDee C. Sundberg, Vice President Keith G. Swain, Donna F. Barnes, Jim T. Evans, Andrea L. Forsyth, and Chrissy M. Hannemann.

Excused: Guy L. Fugal.

Also present: Superintendent Vernon M. Henshaw, Business Administrator Robert W. Smith, and members of the district administrative staff. There were approximately 36 others in attendance.

President Sundberg conducted the meeting.

PLEDGE OF ALLEGIANCE

Dr. Gary Seastrand, Assistant Superintendent of Educational Services and Schools, led the Pledge of Allegiance.

INVOCATION

Board Member Donna Barnes offered the invocation.

RECOGNITIONS

There were no recognitions presented at this time.

COMMUNITY COMMENTS

Gary Burningham, a patron from the Lehi area, explained that most of those in the audience were in attendance because of some concerns with the Lehi High girls' basketball program. It was noted that several letters had been given to Superintendent Henshaw and Board members outlining their concerns. Mr. Burningham expressed appreciation for those in attendance--the basketball players, family and friends--who had come out of concern for the basketball program. He commented that Principal Worthington had taken the time and done a good job in listening to the concerns; however, the time has come that a change needs to be made in the girls basketball program. He remarked that leaving it for another year would cause a lot of heartache for students and those involved in this program.

Sue Chandler, the mother of one of the basketball players, reported that her daughter would be a junior on the basketball team this next year. Mrs. Chandler explained that as a social worker for the past 28 years she had seen many abusive type situations, and one of the things she had learned was that emotional abuse could be more damaging than physical abuse. She expressed concern that emotional abuse had been occurring with the girls' basketball team the past few years. She commented that her daughter had gone from being a confident young lady to being confused and afraid. She stressed the need for a change in the girls' basketball program.

Barry Beckstead, the father of one of the basketball players, reported that he had watched his daughter lose her confidence through the year. He commented that she had been recruited to be a ball handler for the junior varsity and sophomore teams; however, by the middle of the season she was having difficulty getting the ball across the court and was always looking to get rid of the ball. He explained that this was because she was afraid of getting yelled at and being benched. He stressed the need for a change and commented that the details are covered in the letters that had been given to the Board.

Suzanne Beckstead, a patron from the Lehi area, reported that the GPA cut-off for the girls' basketball team had been 3.8 because so many of the girls had GPA's of 3.8 and above. She remarked that it's heart-wrenching to watch these girls be put through this kind of abuse. She commented that she had been told her daughter could attend school in another community; however, Lehi is their community and she shouldn't have to leave to play for another school. Mrs. Beckstead expressed her hope that the Board and administration would read through the letters and use their best judgment.

Rob Price, a father of one of the basketball players, reported that he had attended all of his daughter's games last year and had spent most of the time sitting behind the bench. He had been concerned about the things he had observed; however, it had been his first time being involved in high school sports so he thought the behavior of the coach might be "normal" although he felt it was abusive. He commented that as time went on he realized it was a serious matter. He remarked that coaches shouldn't be allowed to yell at or intimidate students or parents.

President Sundberg assured the group that the Superintendent and Board had received their letters and someone would be getting back in touch with them regarding their concerns. She commented that the district and Board share their concerns for students. She asked those in attendance, regarding concerns with the Lehi High girls' basketball program, to stand. Approximately 30 people stood.

MINUTES

Chrissy Hannemann made the motion to approve the minutes from the June Board meetings. Andrea Forsyth seconded the motion, and it passed unanimously.

CLAIMS FOR THE MONTH

Claims number 64834 through 1001303 totaling $18,134,806.69, were included, along with a listing of individual school checks written. Superintendent Henshaw recommended approval of the claims.

Jim Evans made the motion to approve the claims. Donna Barnes seconded the motion, and it passed with six in favor.

ROUTINE BUSINESS

1. Monthly Budget Statement

   The monthly budget statement was included for the Board's approval.

2. Personnel

Personnel Actions - Certified

Employee	Assignment	Location	Date

Personnel Actions-Certified

Resignations

Bragg, Kevin	English	Lakeridge Junior High	5/28/04
Brown, Lorelei	Sixth Grade	Highland Elementary	5/28/04
Clark, Lisa	Pre-School	Lehi Elementary	5/28/04
Gardner, Kelly	Kindergarten	Suncrest Elementary	5/28/04
Lambert, Sandra	Special ED	Cherry Hill Elementary	5/28/04
Ovard, Mailani	Special ED	Lone Peak High	5/28/04
Rich, Shilo	Third Grade	Barratt Elementary	5/28/04
Shepherd, Monique	Science Specialist	Windsor Elementary	5/28/04
Smith, Elisabeth	Art & Music Spec.	Central Elementary	5/28/04
Soderberg, Michelle	Choir	Orem Junior High	5/28/04
Spilker, Jennifer	Fifth Grade	Freedom Elementary	5/28/04

Deceased

Allan, Deann	Special Education	Manila Elementary	6/18/04

Extended Military Absence

Campbell, Ronald	PE Specialist	Pony Express	6/7/04

Approved Leave of Absence

Dale, Jannica	Special Education	Vineyard Elementary	5/28/04
Judd, Jonidell	Dance	Mountain View Junior High	5/28/04

Internship Ended

Kearl, Jennifer	Spanish	Orem Junior High	5/28/04
Measom, Brenda	English	Timberline Middle	5/28/04
Olmstead, Abby	Second Grade	Snow Springs Elementary	5/28/04

One-Year Contract Ended

Bradberry, Karla	Kindergarten	Forbes Elementary	5/28/04
Carter, Casey	Computer Spec.	Deerfield Elementary	5/28/04
Hartvigsen, Jessie	Second Grade	Snow Springs Elementary	5/28/04
Larsen, Cynthia	Second Grade	Alpine Elementary	5/28/04
Rollins, Amanda	Math	Lone Peak High	5/28/04

Personnel Actions-Classified

Employment-New

Auelua, Virginia	Food Ser. Acct Tech	Rocky Mountain Elem.	8/19/04
Austin, Deborah	Food Ser. Acct. Tech	Saratoga Shores Elem.	8/19/04

Bowman, Brent	Custodian	Timberline Middle	7/7/04
Fotheringham, Mari	Sec. General Secretary	Lehi High School	7/26/04
Preston, William	Lead Custodian	Mt. Ridge Junior High	7/1/04
Roberts, Patricia	Food Ser. Acct. Tech.	Cherry Hill Elementary	8/19/04
Williams, James	Lead Custodian	Timberline Middle	7/1/04
Williams, Mark	Head Custodian	Grovecrest Elementary	7/1/04

Employment-Change of Status

Carter, Sue Ann	Food Ser. Acct. Tech.	Timberline Middle	8/19/04
Clemensha, Cynthia	Food Ser. Acct. Tech.	Lehi Jr. High	8/19/04
Duke, David	Lead Custodian	Oak Canyon Jr. High	7/1/04
Durrant, Tim	Head Custodian	Eagle Valley Elementary	7/1/04
Hansen, Cindy	Food Ser. Acct. Tech.	Highland Elementary	8/19/04
Jorgensen, G. ED	Head Custodian	Sharon Elementary	7/1/04
Mcewen, Linda	Food Ser. Acct. Tech.	Willow Creek Middle	8/19/04

Employment-Resignation

Hansen, Bryce	Head Custodian	Sharon Elementary	6/23/04
Savage, Travis	Head Custodian	Grovecrest Elementary	7/30/04
Jacobs, James	Head Custodian	Northridge Elementary	7/8/04

3. Alpine Foundation Donation Summary

The Alpine Foundation donation summary for June was included for the Board's information.

4. Student Releases – MD, II, MP, JS, AS, DS

The Board received background information relative to the release of these students.

5. Student Reinstatements – MJ, TP

The Board received background information relative to the reinstatement of these students.

Superintendent Henshaw presented the routine business items and recommended acceptance of them. **Keith Swain made the motion to approve the routine business items. Jim Evans seconded the motion, and it passed unanimously.**

ACTION ITEMS

1. Change in Date of Board Meeting from August 10 to August 17

It was proposed that the date of the August Board meeting be changed from August 10 to August 17 because of scheduling conflicts for a few of the Board members and to reduce the length of time between the August and September Board meetings.

Andrea Forsyth made the motion to change the date of the August Board meeting, from August 10 to August 17. Donna Barnes seconded the motion, and it passed unanimously.

BOARD MEMBERS' AND SUPERINTENDENT'S INFORMATION ITEMS

It was noted that dates had been set for the various committee meetings for the 2004-2005 school year, so there would be periodic reports coming from Board members throughout the year as the committees have a chance to meet.

Mr. Evans commented that he is impressed with the internal auditors and the fine job they do. He remarked that when issues arise they are brought up and addressed in the next Audit Committee meeting.

Board members were reminded about some upcoming events.

- USBA Delegate Assembly, August 6 and 7.
- Region PTA training, Monday, August 2, at 9:30 a.m. at Lehi High School.
- Administrators' workshop, August 3 and 4.

ADJOURNMENT OF PUBLIC MEETING

Jim Evans made the motion to go into closed session for the purpose of discussing personnel, property, and matters of litigation. Donna Barnes seconded the motion, and it passed unanimously at approximately 6:34 p.m.

MINUTES OF CLOSED SESSION – **July 20, 2004**

The Board of Education of the Alpine School District met in a closed session on Tuesday, July 20, 2004, at p.m., in the Superintendent's Office.

Board members present: President JoDee C. Sundberg, Vice President Keith G. Swain, Donna F. Barnes, Jim T. Evans, Andrea L. Forsyth, and Chrissy M. Hannemann.

Excused: Guy L. Fugal.

Also present: Superintendent Vernon M. Henshaw and Assistant Superintendent Robert W. Smith.

The purpose of the closed session was to discuss personnel, property, and matters of litigation.

ADJOURNMENT OF CLOSED SESSION

Upon motion by Donna Barnes, seconded by Jim Evans, the meeting adjourned at 8:12 p.m.

Tab 5

IN THE FOURTH JUDICIAL DISTRICT COURT

PROVO DEPARTMENT, STATE OF UTAH

MICHAEL P. O'CONNOR,	:	Civil No. 040402938
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
GARY W BURNINGHAM, JEANNA BURNINGHAM, et al.,	:	
	:	
Defendants.	:	Judge Taylor

DEPOSITION UPON ORAL EXAMINATION OF

LYNN ALLAN

Date: Friday, January 14, 2005
Time: 9:00 a.m.
Place: 36 South State Street
Salt Lake City, Utah

CONDENSED TRANSCRIPT & KEYWORD INDEX

Carolyn Erickson, CSR

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EXHIBIT B

SHEET 2 PAGE 5

1 A First time I met Mike was when he came to Lehi as
2 part of the staff
3 Q Did you have any involvement or sit in on any
4 discussions relative to his hiring?
5 A No
6 Q At the time he was hired, were you an assistant
7 AD?
8 A I do not believe so
9 Q So you believe you were the AD?
10 A No, I do not believe I was involved in that
11 That was the athletic director at that time
12 Q Okay So that preceded your being the assistant
13 AD, is that correct?
14 A That I'm not sure
15 MS YOUNG You don't have to guess if you don't
16 know
17 THE WITNESS I don't really know Sorry
18 Q (BY MR RUST) You say that the first time you
19 recall meeting him is when he came on staff?
20 A That is correct
21 Q And what involvement, if any, did you have with
22 him in the first year that he coached?
23 A I would say probably just to introduce myself
24 I'm sure he introduced himself to me and we become
25 acquainted In faculty meetings he was introduced I don't

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1 recall but he's an avid golfer and I enjoy golfing myself
2 I chase it around a little bit so there may have been an
3 opportunity when we went and played
4 (Whereupon a defendant entered the deposition room)
5 Q (BY MR RUST) We were talking about your first
6 meetings with Coach O'Connor I believe we were talking
7 about the first year that he was there, correct?
8 A Yes
9 Q Did you become more involved in what Coach
10 O'Connor was doing over subsequent years?
11 A Well, being involved in athletics as I was, you
12 know, some of the times it was my responsibility to set up
13 prior to his home games Again, just as a member of the
14 staff I would come and watch, observe probably some of the
15 players, maybe I had them in class or knew of them, and
16 again, just to see how the team was doing
17 Q Okay And did that subsequently change where you
18 were even more involved with the girls basketball team?
19 A As I became the athletic director it was my
20 responsibility on all home games to make sure that I had
21 the facilities ready prior and so I would be there
22 Q Other than the facilities, did the time come when
23 you were even more involved than simply being handling
24 and being responsible for the facilities?
25 A I'm not sure what you're asking, I'm sorry

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1 Q Let me ask it this way, did a time come when you
2 were asked to be an assistant coach?
3 A That is correct, yes
4 Q And when did that occur?
5 A I would say probably the spring of last year, not
6 spring, near the end of school year
7 MS YOUNG You're referring to 2004?
8 THE WITNESS Yes
9 Q (BY MR RUST) Was this after the basketball
10 season was over?
11 A That is correct
12 Q Okay And prior to the end of the basketball
13 season that ended in 2004, did you have any involvement
14 with the girls basketball team in any way other than the
15 physical facilities?
16 A I did not at that time, no
17 Q What was the reason to your knowledge why you
18 were asked at the end of the school year to have any
19 involvement with the girl's basketball team?
20 A As a conversation - and I can't remember who was
21 all in the meeting - but it was discussed that would Mike
22 allow me to step on board as an assistant coach I'm not
23 sure if that's exactly but basically that's the premise
24 that I would come and help him as an assistant and I told
25 them

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1 Q Now, them being who?
2 A This would be the administration
3 Q Would this be the principal?
4 A Yes
5 Q The best you recall, what date was that?
6 A This was before school was out so I'm guessing
7 late April, early May
8 Q To your knowledge, what was to be the time frame
9 that you were to be assuming this responsibility, for what
10 period?
11 A Well, now that I think about the time frame on
12 when, it had to be a little bit earlier than that because
13 Mike had started his AAU, I guess that's what it's called,
14 where they play kind of prior to school dismissing, go and
15 play games against county schools because on one evening I
16 went to those games I figured, I've got to start to learn
17 these kids and get to know their names, their faces So I
18 went to watch them play at Orem High School
19 Q And this was after state tournament time?
20 A Yes, that is correct
21 Q Okay How many games did you go to as assistant
22 coach?
23 A This was on one evening but it was kind of a
24 tournament play, so I was able to witness - well, both
25 teams were playing on the same floor, in the same facility,

1 so you were able to watch both games on that evening and
2 then they played later that night in another gym and so I
3 went and watched another game played.
4 Q You were watching the team play. Was that only
5 on one evening?
6 A That is correct.
7 Q And what did you do during that time serving as
8 assistant coach?
9 A As a responsibility as an assistant coach, I know
10 even Mike was not affiliated with the coaching at that
11 point in time. He had one of his other assistants coaching
12 one team, I don't recall who the other guy was, from Open
13 Court maybe, junior high, someone not from Lehi High School
14 but he was coaching one of the other teams and so I
15 actually went over and sat with Mike during one of those
16 games. He was not coaching either.
17 Q Okay. Let me go back a little bit. How many
18 assistant coaches did Coach O'Connor have during the 2002-
19 2003 basketball season?
20 A I can recall, excluding Mike I can recall two for
21 2002-3.
22 Q 2003-2004?
23 A 2003-2004 there was three excluding Mike.
24 Q Do you know their names?
25 A Yes.

1 Q Give those to us.
2 A Brent Burkholm. One is a counselor at the junior
3 high, Rossen is his last name, I'm not sure of his first
4 name; and if I recall, that was his first year and then a
5 lady in our history department.
6 Q If that comes to you, let me know
7 A It'll come to me
8 Q Did they serve as assistants for that whole year?
9 A Yes.
10 Q And how were they selected?
11 A I would assume Mike's choosing.
12 Q And Brent Burkholm, you say he teaches at the
13 high school?
14 A Yes.
15 Q What subject?
16 A He's a science teacher.
17 Q Had he served as a coach or assistant coach in
18 any other area?
19 A He is the head soccer coach, girls soccer and
20 prior to Mike, he was an assistant basketball coach for the
21 previous coach that had been there.
22 Q Who was the previous basketball coach?
23 A Again, quite asking me names. He's now the head
24 boys coach up at Wasatch High School, Lonnie Magneson.
25 Q How long had Mr. Magneson been at Lehi before he

1 left?
2 A He'd been there I know at least 10 years.
3 Q Do you know why he left?
4 A My recollection, he had applied for head jobs in
5 the boys area in previous occasions and received the head
6 basketball job at Wasatch High School.
7 Q Okay. During the 2003-2004 season, did you have
8 occasion not only to set up for the games but actually
9 attend the girls basketball games?
10 A Yes, I did.
11 Q And about what percentage of the girls basketball
12 home games would you say you attended?
13 A I would say, you know, assuming an average year,
14 probably about 10 home games, I would say all but one or
15 two. The majority of the home games I attended.
16 Q Okay. What about the year before, the 2002-2003
17 season?
18 A May have done it on occasion. When I was as an
19 assistant AD I was at that point in time assistant varsity
20 boys basketball, actually, sophomore boys basketball so a
21 lot of times we played the same night so I got an
22 opportunity then but a lot of times I had other
23 responsibilities.
24 Q During the 2003-2004 basketball season that you
25 attended these home games, what did you do?

1 A Well, once the game gets set up, it's basically
2 take care of the officials. At half time you take the cash
3 register down, count monies out, deposit that money, you
4 know, after, put it in a bag. Mostly to monitor the
5 officials, get the opposing team in and out of their locker
6 room, wherever they need to be, try to attend to any
7 problems on the floor whether it be students, anything like
8 that.
9 Q Did you have occasion to watch the game itself
10 while the girls played?
11 A Yes
12 Q Did you have occasion to watch the coach
13 coaching?
14 A Yes.
15 Q And in your observation of Coach O'Connor did you
16 have other occasions other than basketball games to watch
17 him coach or to work with the team?
18 A I would guess there may have been a few times
19 where walking through the gym maybe to talk to Mike or to
20 go through the locker room, to observe for a brief period
21 of time, practice, but I did not make it a habit to go in
22 and observe.
23 Q Okay. During the 2003-2004 basketball season did
24 you ever receive any complaints from any of the parents
25 about Coach O'Connor in any respect?

1 A During the 2003-2004 year did I receive any
2 complaints about Coach?
3 Q Yes.
4 A Yes.
5 Q You did?
6 A Yes.
7 Q When was the first such complaint?
8 A I would say after the state tournament.
9 Q Okay. Prior to the state tournament had you
10 heard any criticism of Coach O'Connor from the parents,
11 from any parents?
12 A I would say yes.
13 Q And when would that have been?
14 A I could not give you a specific date but I would
15 just say during the season.
16 Q And what was the nature of the complaint? First
17 of all, do you recall who made the complaint?
18 A Well, being a coach as many times as I have, I've
19 developed a philosophy that parents, as well they should
20 be, think their kids are the best and so many occasions I
21 feel like it may be an opportunity to just vent
22 frustration, that they feel like their child could do
23 better or should be doing better and, of course, we as
24 coaches are sometimes targets for that vent. So during the
25 regular league play, I would say maybe once or twice just -

1 and I cannot really recall whom, but just a couple of
2 vents.
3 Q Did you consider that the, what you called vents
4 were unusual in their number or the nature of the
5 complaint, the kind of thing you would expect a coach to be
6 getting?
7 A No, not prior to the state tournament, no.
8 Q Was there something that happened at the state
9 tournament that you believe changed things?
10 A Yes.
11 Q What was that?
12 A Following their first game in the state
13 tournament, as I left the facilities I was confronted by a
14 couple of parents who were very angry.
15 Q Do you recall who the parents were?
16 A Yes, I do.
17 Q Okay.
18 A I thought you were going to ask me for a name
19 and...
20 Q Yes.
21 A It is a girl who has since graduated was the main
22 mother and she has since graduated. She was the center or
23 post player for the basketball team.
24 Q Okay.
25 A I'm sorry, I know, I think I couldn't come up

1 with that name.
2 Q Was there anyone else besides this girl's mother
3 that came to you after that first game?
4 A There was another mother with her there at that
5 time. I don't recall who that was. She was kind of just
6 shaking her head in agreement to the comments but I don't
7 believe at that point that she voiced any opinion.
8 Q And what did this mother say?
9 A This one didn't say anything.
10 Q No, the mother of the center.
11 A She was putting a lot of the blame on the coach
12 for why they lost. Again, close game. Again, nothing
13 really out of the, I guess would say, I was surprised but
14 probably the biggest confrontation that I had at that point
15 in time.
16 Q Was there anything said at that time about the
17 coach being abusive?
18 A Nothing at that time, no.
19 Q And the language that was used at that time,
20 strong I take it?
21 A She was very - very loud, very vocal.
22 Q And did you have any further meetings or
23 discussions with any parents subsequent to that first game?
24 A Not until we returned from the state tournament
25 that I can recall.

1 Q And when you returned from the state tournament
2 what was the first discussion meeting that you had with any
3 parents about the coach?
4 A It was probably mid-week of the week following
5 the tournament and I can't recall if it was an appointment
6 or if they just came to me, two gentlemen come and talked
7 to me about concerns that they had
8 Q Could you tell who those two gentlemen were?
9 A Yes.
10 Q Who were they?
11 A Mr. Burningham
12 Q Would that be Gary Burningham?
13 A That is correct.
14 Q And who else?
15 A And Mr. Sunderland.
16 Q Okay. And where was this held?
17 A It was in my athletic director's room.
18 Q And what did they say that they had a complaint
19 about?
20 A Probably the first things that they mentioned to
21 me, if I recall, Gary basically spoke first and he tried to
22 make it very clear to me that we are not after Coach
23 O'Connor's job, that we just have some concerns that we
24 would like you to address.
25 Q Okay. What were the concerns he wanted to

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1 address?
2 A Some of the things that they talked about was
3 there wasn't equality amongst the players, that some were
4 being treated differently than others.
5 Q Did they say in what way?
6 A Acknowledged some of those, yes.
7 Q Such as?
8 A Some of the things that were mentioned to me were
9 prior to basketball season, certain players - all the
10 players were suppose to wear one kind of shoe and said that
11 most of the players had received that kind of shoe except
12 for one and then after the fact, come back and said, well,
13 it's okay, you can wear either color if you would like.
14 Q The one player that wore the different color
15 shoe, was that Michelle Harrison?
16 A That is correct.
17 Q Do you know why Michelle Harrison had a different
18 kind of color of shoe?
19 A Later, as we investigated, we found out that the
20 parent had called Coach O'Connor. For a girl, she wears a
21 large sized shoe and the claim was made that they could not
22 get that shoe in at that time in that color and so the -
23 again, this is not coming from her, this is coming back
24 through Mike - that they could not get it in at that time
25 and so they were requesting or asking Mike if this color

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1 would be okay.
2 Q And was there a reason why this color of shoe
3 bothered these parents? Did they say?
4 A Well, again, I guess I could say I can assume.
5 Q No, I don't want you to assume. I'm just asking
6 you what they told you, why that bothered them.
7 A They felt like there was being presented some
8 double standards.
9 Q Okay. Did they identify any other double
10 standards?
11 A One was brought up at the state tournament that
12 after their loss of the first game, they played a late game
13 that first night and their next game, because of the loss
14 into the loser's bracket, that they would have to play an
15 early game the next day. So again - you don't want me to
16 assume. I don't know what Mike was thinking but he tells
17 the girls we have got to get on the bus, we have got to get
18 you back, get you something to eat, get you to sleep. I'm
19 assuming that's what he was - his plan.
20 Q Just so we're clear, is this what the parents,
21 what Mr. Sunderland and Mr. Burningham are telling you in
22 the office?
23 A Yes.
24 Q Just tell me what they told you. Okay, go ahead.
25 A That the girls were told that we are to get on

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1 the bus, everyone is to get on the bus. We're either going
2 to go eat or we're going to go back to the hotel. The
3 parents are welcome to come see the kids at the hotel but
4 we've got to get you back to the hotel So everybody gets
5 on the bus except for Michelle.
6 Q Did they say why Michelle did not get on the bus?
7 A I know I stayed for the next game and I witnessed
8 - I went in and sat and watched the game following and
9 Michelle and her mother were watching the next ball game.
10 Q Okay. Did they say anything else about double
11 standard?
12 A There was an incident brought up where they went
13 to I believe it was called the Nike Tournament and they
14 were playing in a very prestigious tournament. They'd won
15 a couple of games but I'm assuming on their losing out of
16 the tournament, there was a statement made that Mrs.
17 Harrison had contacted Mr. Burningham to see if he could
18 get Michelle to the airport or whatever because the mother
19 was flying her home. I believe they went by bus. I don't
20 know that for a fact but I believe they did travel by bus
21 except for Michelle.
22 Q Okay. Were these all of the things they talked
23 about as far as double standards?
24 A As far as I can recollect at this time.
25 Q Did they talk about anything else other than

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1 double standards?
2 A At that time, their only discussion was to try to
3 make sure that it was equal for all, that was their
4 concern.
5 Q Was there anything mentioned about money at that
6 meeting?
7 A At that time, no.
8 Q Was there anything mentioned about that the girls
9 were being harassed or being treated ill by the coach?
10 A At that time, no. If I remember, their first
11 visit was maybe 20, 30 minutes
12 Q Did they say what they wanted you to do?
13 A I asked them at that point in time that I needed
14 some more specifics. Most of the conversation was in
15 general. I don't recall if I said this when you first
16 asked me about this situation but both was mentioned on
17 both parts that we want to make it clear, this was their
18 words to me, "I want to make it clear we're not after
19 Mike's job, we just have some concerns we wish you would
20 address." And one of the parents there was a parent of a
21 girl that had no affiliation after that point. I mean, her
22 daughter - the state tournament was over, her daughter had
23 graduated. So this was not going to effect, benefit one
24 way or the other, her daughter.
25 Q Had they given you anything in writing at that

A To me recruiting would be to go out and solicit, "if you will come play for me " To me that is recruiting
Q And is that recruiting, that meaning within those who are attending the school or outside?
A This would be in my understanding, this would be to outside the boundaries of Lehi High School.
Q And is that permitted by the rules to your knowledge, to do that?
A Alpine School District has open enrollment.
Q Do you know whether under UHSAA rules, let me get that correct, UHSAA rules that that's permitted?
A The policy states that a student cannot transfer for athletic reasons only.
Q Okay Do you know who Mr. Sunderland was referring to by name as to recruiting?
A Again, as you're finding out, well aware, I don't recall her name but she was the point guard that played on that team prior to the '03-'04 season.
Q And do you believe that was a case of recruiting?
A With the way I stated it, do I believe Mike went out and asked her to come play at Lehi? The answer is no.
Q Okay. Going down to the fourth line, "Playing without apprehension" what did you understand Mr. Sunderland to mean by that?
MR. HOMER: Objection, foundation.

MR RUST: Go ahead and answer.
THE WITNESS: Well, I would say playing without apprehension would mean he may have said something that a player would interpret as, "if you don't follow what I tell you, this will be your recourse."
Q (BY MR. RUST) Okay. Looking down at the line that starts, "How do we get the girls to perform without intimidating them or threatening them?" Do you see that?
A Uh-huh (affirmative).
Q What did you understand was the concern there?
MR. HOMER: Objection, foundation. You can go ahead and answer.
THE WITNESS: Well, I would say those two again would go together whether something was said or their interpretation of maybe something that he said.
Q (BY MR. RUST) Okay. As of the time that you received this letter, had you observed any threatening or intimidating conduct by Coach O'Connor that you thought was different than most coaches would employ?
A During the basketball game on the floor, no.
Q Did you see anything off the floor that you would consider to be out of the norm of basketball coaches?
A Many of the accusations were made as someone that would have had to have been in the huddle or someone that would have sat in during their halftime and I did not do

any of those.
Q Did Mr Sunderland say he sat in on those huddles or halftime meetings?
A No.
Q With regard to these matters, did you consider them to indicate that there were problems beyond that of the normal coach that were raised here?
A I would say in Mr. Sunderland's case, yes.
Q Did you investigate those matters?
A As far as investigate, at that point it was impossible for me to sit in on timeouts or halftimes because the season was over
Q So did you determine something to do to get to bottom of these complaints?
A My opinion was that here was a parent that had nothing to gain by, if these things were true and it was met, it would not have benefitted his daughter that had already graduated.
Q So does that give more credibility to these complaints?
A I felt like it was of concern and he made the comment, "I just want to try to make sure that the same thing does not happen to someone else's daughter."
Q Okay. And so with that concern, did you have any discussions with Coach O'Connor about these things?

A At that point still, I would say probably not. We wanted to continue - I'm the type of person that goes to McDonald's and the menu has been the same for 30 years and I still take time to look at it to decide. I don't like to jump to conclusions, so I felt like this was one of my times, opportunities to be the buffer between Mike and the parents to still observe, see, you know, how this was going to be.
Q And was there any resolution of these matters that were raised in here at any time?
A At any time had any of these things been tried to resolve? Is that what you're asking me.
Q Was there an attempt to try to resolve any of these matters by you or anyone in the administration?
A Yes.
Q When was that?
A I'm quite sure prior to school letting out that there was a written document by our head administrator, Mr. Worthington to Mike. They met. They discussed some of these issues and there was a formal letter written to try to address some of these concerns.
Q Prior to this letter that you've referenced coming from the principal, did this letter go to the parents?
A I am not sure that that exact letter went to the

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1 parents but there was a letter sent out to the parents
2 stating some of their concerns, that they had been
3 addressed
4 Q Do you believe there was a letter before that
5 time that went to Mike O'Connor?
6 A I know there was a discussion with our principal
7 and Mike prior to a letter going out to the parents, yes
8 Q Prior to that letter going out to the parents
9 from the principal, did you have any further discussions
10 with any of the parents, between the time that you received
11 Exhibit 1 and the time the letter went out from the
12 principal?
13 A The time frame I am not sure, but there were
14 other parents that stepped forward and came and talked with
15 Coach Lott and I, Wade Lott and I, who was the acting
16 athletic administrator
17 Q Do you recall who those parents were?
18 A Yes
19 Q Who were they?
20 A Mrs Chandler, I believe Mr and Mrs Rogers
21 Q Okay
22 A Mr and Mrs Hyde, Mr and Mrs Beckstead
23 Q Anyone else that you recall?
24 A I'm sure there were a couple more but I can't
25 recall at that time

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1 Q Did they all come together?
2 A No, we set up interviews individually with each
3 one that wanted to and somewhere in that time frame, Mr
4 Worthington made it clear that anyone that wanted to come
5 in and talk to us we would make an appointment with them
6 and allow them to express their concerns
7 Q Did you talk to them individually then?
8 A Yes
9 Q And you were there?
10 A Yes
11 Q Anyone else present?
12 A Yes
13 Q Who else?
14 A Wade Lott
15 Q Okay
16 A He and I on almost all
17 Q Do you recall the time frame?
18 A This was probably over a 2-week period I would
19 assume
20 Q Okay And did they submit any writings to you?
21 A I do not believe at that time that there was any
22 documentation
23 Q In those meetings, was there any discussion about
24 any of the items that are identified in Mr Sunderland's
25 letter?

30

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1 A Yes
2 Q Was there anything that was discussed that are
3 not in Mr Sunderland's letter?
4 A Not that I - no
5 Q Okay And was there any discussion about misuse
6 of money or possible misuse of money?
7 A At that point, no
8 Q Did that come up later?
9 A Yes
10 Q In your discussions with these people that you've
11 identified, did they indicate that they had talked with
12 each other?
13 A No
14 Q Did you ask them?
15 A No
16 Q How is that these particular people came? Was
17 there an open invitation to all parents or how did that go?
18 A At some point I know our administrator, Mr
19 Worthington, also received some of these visits and I don't
20 know if it s through me or through him that the word was
21 said, you know, if you have any other concerns, please
22 Q Do you know if you made a specific invitation to
23 Mrs Chandler, the Rogers, the Hydes or the Becksteads to
24 come?
25 A I did not make a personal invitation, no

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1 Q Did they call you and arrange for an appointment?
2 A Yes
3 Q Now, you indicated that they raised some of the
4 same issues that were raised in Mr Sunderland's letter
5 which is Exhibit 1 Did any of them indicate that Coach
6 had been threatening the girls on the team?
7 A Threat Again, I'm sure that their concerns or
8 their perception was that threats were made along the same
9 lines as the playing without apprehension "How do we
10 perform without intimidating or threatening?"
11 Q Did the things that they said at these meetings
12 with you indicate in your mind conduct by Coach O'Connor
13 that was beyond that which would be proper for a high
14 school coach?
15 A At that point I had no sense that that - in my
16 mind, it was still their perception
17 Q I understand But based on what their perception
18 was, were they talking about things that, if true, were
19 beyond which a high school coach would normally be doing?
20 A To me, if the child is conveying this to the
21 parent - now, I guess that's my assumption - that this
22 child is conveying this concern to the parent, then to that
23 child it is real
24 Q But my question is, is it beyond what you would
25 expect a reasonable coach to be doing if these things are

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1 A Yes, I recall it being discussed further after, I
2 mean, you know, the investigation may have gone through
3 into June. I don't know that.
4 Q And just so it's clear, the person who was, at
5 least thought to have been guilty of this improper use of
6 money was Coach O'Connor?
7 A Yes.
8 Q Back on that shoe issue, after Michelle started
9 wearing a different color shoe, did any of the other girls
10 adopt a different color shoe?
11 A I don't know.
12 Q You're been the coach this year, correct?
13 A Correct.
14 Q Do all the girls wear the same color shoe?
15 A No.
16 Q Is there quite a variety of shoes?
17 A No.
18 Q Why don't you explain that?
19 A I stipulated at the very first after I had my
20 team made, that I would allow shoes of two colors and I
21 said, I don't mind if it's trimmed with a little bit of red
22 but mostly the majority black or the majority white.
23 There's perception among coaches that a certain color of
24 shoe can give them an advantage if an official - for some
25 reason it causes them to think they travel more and I don't

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1 really know which one it is but - so that's there
2 interpretation.
3 Q And so is there kind of a general mix on your
4 team now? Is it about half and half?
5 A I would say probably so.
6 Q You've indicated that this issue of money came up
7 again. Were you involved in any of those discussions?
8 A No, I was not involved.
9 Q Okay. Did you receive letters or see letters
10 from any of the parents relative to Coach O'Connor after
11 you had these meetings with the parents that you've just
12 now described?
13 A I seen a stack of letters after the meeting with
14 the parents, letters that they had presented to our school
15 board.
16 Q And when did you them?
17 A I would say July It was after the school year
18 was over.
19 Q Sometime in July?
20 A July, to my best recollection.
21 Q And what were the circumstance under which you
22 were shown those letters?
23 A The new on-board vice principal that had replaced
24 Fred Openshaw had received them.
25 Q And his name is?

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1 A Rick Robbins.
2 Q And do you know from whom he received them?
3 A Our principal, Mr. Worthington.
4 Q And do you know from whom the principal had
5 received them?
6 A A member of the school board I assume.
7 Q That's an assumption.
8 A Yes. They had been given to the school board.
9 Q And what were the circumstances by which you were
10 provided those letters or shown those letters?
11 A Mr. Robbins, the new vice principal, had been
12 given instructions to show them to Coach O'Connor.
13 Q And what was your involvement?
14 A As the athletic director, he just - in fact,
15 there was me and our other, I believe our other assistant
16 principal, Mari Braithwaite was also there.
17 Q Okay. And did you look at them, read them?
18 A No.
19 Q You started telling me about Mr. Braithwaite.
20 What was his role?
21 A Ms.
22 Q Mrs?
23 A Ms. Braithwaite.
24 Q And what was her role?
25 A She was the vice principal.

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1 Q And so she reviewed them, do you know?
2 A No, not that I know of.
3 Q So who to your knowledge actually saw them once
4 they were received by the principal?
5 A Read them you mean?
6 Q Or had access to look at them, yes.
7 A The principal, Mr Robbins, Mike, me, and Ms.
8 Braithwaite. They were there on the table and that's about
9 all I know of them
10 Q Okay. And do you know whether they had at that
11 time already been presented to the district?
12 A Yes.
13 Q Okay. Do you know whether there had been a
14 district meeting at which time they had been discussed?
15 A Yes.
16 Q Okay And so all of these people were there,
17 you, Mr. Robbins, Ms. Braithwaite and Coach O'Connor when
18 these were on the table; is that correct?
19 A Yes.
20 Q And who led the discussion?
21 A Mr. Robbins.
22 Q And what was said?
23 A He was to give them to Mike.
24 Q Was anything said about their content?
25 A I don't recall any specifics being mentioned but

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that - I don't recall any specifics We did talk about them and talked to Mike
Q Okay And was there an extra copies that were given to Mike O'Connor?
A I don't - no, not that I know of
Q Do you know whether the school retained a copy?
A I don't know
Q I take it you weren't given a copy
A No
Q All right Now, was Coach O'Connor's response to the letters at that meeting?
A His response was that there was no problems and Rick Robbins mentioned that the perception was, that there was a perception that there is and as the coach we need to take ownership in those perceptions
Q What was Coach O'Connor's response to that?
A If I recall his response still was that there is no problem so I have nothing I need to work on
Q Okay And how was the meeting left?
A I felt that Mike was upset
Q Okay But what I mean by how the meeting was left, was there any action planned, agreed upon at that meeting?
A No
Q Did Vice Principal Robbins say what he was going

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to do?
A No
Q And you said Coach O'Connor said he was not going to do anything
A Correct
Q Did you say you were going to do anything?
A At that time, nothing, no
Q What did you expect to happen then after that meeting?
A I didn't know
Q You said that these came after there had been a meeting at the district concerning them
A Correct
MS YOUNG Counsel, just so we can clarify something, by the district, do you mean the school board?
MR RUST School board, I'm sorry
Q (BY MR RUST) The school board meeting which you said had occurred earlier, had anything been mentioned at that meeting that you've now discussed about Mr Robbins and others being there showing this letters to Coach O'Connor, about what the school board had done or said?
MS YOUNG Objection, foundation
MR RUST I'm talking about what was said in the meeting with Mr Robbins
MS YOUNG Do you understand the question?

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THE WITNESS I don't - what was the question again?
Q (BY MR RUST) All right In the meeting you had with Mr Robbins, Ms Braithwaite, yourself, and Coach O'Connor and the letters are on the table and you said that the school board meeting had occurred before that time Was there anything said while you were there about what, if anything, had happened at the school board meeting?
A Mr Robbins mentions - his words to Mike were in the effect that as a coach, as an ex-coach, we take ownership in our program and it's our duty to try to handle that
Q But was anything mentioned about the meeting at the school board?
A Other than there was a meeting, no
Q Do you know if Mr Robbins had attended that meeting?
A No
Q Did he say he had not attended?
A He had not
Q Do you know if anybody from the high school had attended it who was in the administration of the high school?
A I don't know of anyone, no
Q When was the first time that you knew that there

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was such a meeting to be held?
A When Rick Robbins called me that morning to ask me to come down during the summer
Q And the meeting had already occurred?
A Yes
Q You've indicated that you were named the assistant coach to Coach O'Connor, was that before or after this meeting you've now described that occurred with Mr Robbins and Ms Braithwaite?
A Before
Q And about how long before?
A Probably two months
Q Was there anything that you observed in the two months before this meeting with Mr Robbins and Ms Braithwaite and Coach O'Connor that in anyway gave your view credence to the complaints the parent were having?
A Yes, I had some concerns
Q And what gave rise to those concerns?
A As I came on board with Mike and attended those spring games, again as - I found it surprising that someone that had been his starting point guard as a sophomore, was now on a total team separate from her and another girl that was probably a sixth man, that means the first person that usually comes off the bench, were now on a team separate from Michelle and were not playing together

SHEET 12 PAGE 45

1 Q Okay. What else?
2 A At another time in the first of June I was asked
3 to go to a camp that they go to down at Price and I'd just
4 come off Lasik surgery so I wasn't suppose to be out and
5 about but I thought I needed to try to be there. So I went
6 down one day and sat on the bench with Mike during the
7 varsity game and then was asked to coach one of the lower
8 level teams. Some of the kids that had never, you know,
9 that had played nothing but sophomore or were upcoming
10 sophomores and again, this same starting point guard was on
11 that team rather than with the varsity group.
12 Q Who was the starting guard?
13 A Tatum Burningham.
14 Q That bothered you?
15 A I found it interesting. I found it - and Mike
16 had mentioned to be after our meeting in Orem, our games in
17 Orem, he said, well, you know, I've got a lot of varsity
18 girls and so I just split them up on two different teams.
19 But he also commented that the two people, Breezy Chandler
20 and Kayla Burningham don't play very well as a team when
21 Michelle is in there, but I found it interesting that he
22 would make that comment but yet they're on different teams,
23 so I'm not sure how you prove your point that you can't
24 play together when you're on separate teams. I found that
25 different than maybe what I would have done as a coach, but

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1 that doesn't mean - I just found that interesting from my
2 prospective.
3 Q Anything else in that two months that in your
4 mind validated in any way the complaints the parents were
5 having?
6 A The complaints the parents had had prior to and
7 from my understanding of the form letter was that Coach
8 O'Connor would try to make some attempts to defuse these
9 perceptions by giving them certain things that he would
10 like to see them do and my understanding, their perception
11 is that there was no changes being made and things were the
12 same as usual.
13 Q What about what you saw? Did you see these
14 perceptions of the parents being validated?
15 A Yes.
16 Q In what way?
17 A As I mentioned in that kids were being punished,
18 if you will, for something that maybe a parent or someone
19 had said or done.
20 Q And the punishment was to play on a different
21 team?
22 A Lower level team, different team, yes.
23 Q Okay. Anything else that you believe validated
24 the perceptions of the parents?
25 A No.

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1 Q With regard to
2 MS. YOUNG: Can I...
3 (Ms. Young confers with deponent)
4 Q (BY MR. RUST) I think I was asking you if you
5 saw anything else other than this splitting up and playing
6 on different teams that validated the parent's perceptions?
7 A There was a time mentioned to me that a 9th
8 grader now, that's now a sophomore, she was coming in, she
9 was now the point guard on this separated team with
10 Michelle Harrison and she happened to be a relative of
11 Michelle Harrison.
12 Q Who pointed that out to you?
13 A One of the girls.
14 Q Do you recall which one?
15 A Yes.
16 Q Who?
17 A Becky Rogers.
18 Q Okay
19 A She seemed concerned.
20 Q All right. And anything else that validated in
21 your mind the concerns of the parents?
22 A No.
23 Q Did you see abusive treatment of the girls by
24 Coach O'Connor?
25 A No.

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1 Q Did you see unethical behavior by Coach O'Connor?
2 A No.
3 Q Did you see conduct by Coach O'Connor that was
4 intended to demean the girls?
5 A No.
6 Can I ask you one question? I know we started
7 talking about the state tournament and you asked me, I
8 think you said to me if you can recall anything else that
9 was a separation between Michelle and the girls to bring it
10 up. Did you ask me, I mean if you did I thought of one
11 Q Go ahead.
12 A In our interviews with all these people, Mrs
13 Harrison also came in and some of these same things had
14 been brought up about the shoes and so on with her and her
15 husband and that the incident had been brought up about the
16 state tournament, that Coach had mentioned, all right, all
17 you kids get on the bus, we'll go back to the hotel but yet
18 Michelle was allowed to stay there at the tournament with
19 her mother and she became very defensive and told us,
20 "Well, I can do whatever I damn well please."
21 Q That's what Mrs. Harrison said?
22 A That is correct. "No one would have stopped me."
23 Q Okay. The issue of money you said came up later
24 Were you involved, were you in that issue at all?
25 A No

1 Q And for what breach of what rule?
2 A Missing practice
3 Q And why did she miss practice?
4 A She had various reasons
5 Q Was she out-of-town?
6 A Yes
7 Q Was she in Hawaii?
8 A No
9 Q Do you know where she was?
10 A This is Halee Burmingham I have a Burmingham
11 and a Burmingham
12 Q I'm sorry, alright Anyone else?
13 A Kayla Burmingham
14 Q And for what reason?
15 A Missing practice, going to Hawaii
16 Q Okay Did you discuss this with - did Kayla seek
17 permission before she left?
18 A Yes
19 Q And did you give it to her?
20 A Yes, with the understanding that there would be
21 consequences upon her return
22 Q Okay With regard to your style of basketball
23 coaching, as far as coaching, do you believe that it's
24 different in any major respect than Coach O'Connor's?
25 A No

1 Q Were you ever given to understand the other
2 direction the school was going when they released Coach
3 O'Connor?
4 A No
5 Q That was never discussed with you?
6 A No
7 Q To this date, have you reviewed any of the
8 letters from the parents other than Exhibit 1?
9 A No
10 Q Have you discussed the contents of the letters of
11 the parents other than Exhibit 1 with anyone?
12 A I never read the letters so I wouldn't know what
13 to discuss You mean me talking to someone else about it?
14 Q Yeah, someone who said are you aware of this or
15 that or the other in the letters?
16 A No
17 Q I note that Kayla Burmingham appears to be the
18 girl on your team now that gets the most points, is that
19 correct?
20 A She scores a lot of our points
21 Q In your view as a coach, is she the best player
22 on your team?
23 A She is one of the best players on the team, the
24 top two
25 Q Whose the other one?

1 A Becky Rogers is a key player
2 Q Between the two, whose the better player in your
3 opinion?
4 A Kayla
5 Q In your view, does Kayla engage in unselfish
6 play?
7 A No
8 Q Do you want to elaborate on that?
9 A She's done everything I've asked her to do
10 MS YOUNG He didn't understand the question
11 Q (BY MR RUST) I said does she engage unselfish
12 play?
13 A Oh, does she engage in unselfish play? Yes, she
14 does
15 Q On the court?
16 A Yes
17 Q She dishes off to other players?
18 A Yes
19 Q How long do you expect to be the high school
20 coach of the girls basketball team?
21 MR HOMER Objection, foundation
22 Q (BY MR RUST) Your plans?
23 A The end of the season
24 Q Are you retiring at the end of the season?
25 A No

1 Q Is there an active search for a new coach?
2 A Right now, no
3 Q Will there be?
4 A I hope so
5 MR RUST Just give me five minutes Let's take
6 a 5-minute break
7 (Whereupon a recess was taken)
8 Q (BY MR RUST) Apparently during the break, Mr
9 Allan, you've thought of some other things to clarify the
10 record, is that right?
11 A Yes
12 Q Go ahead
13 A Number one, you talked earlier about was there
14 any accusations about him demeaning other players, and this
15 fall we met with our local reporter, a lady that reports
16 for the local papers and she has a habit on ball games, she
17 sits right at the end of the bench on our side and she made
18 it very clear to us, she says, you know, "I've never had a
19 daughter play here I was an athlete myself " She says,
20 "And I sit right there by the bench and I read the paper
21 I've heard all these accusations and I believe that he's
22 been demeaning to players "
23 Q Okay, anything else?
24 A She says "I don't have anything to gain or lose
25 from it " I just found that interesting to the accusations

1 in the paper.
2 Also, back to the parents or the people that had
3 openly come to us when it was kind of in the paper, I mean,
4 small town getting larger by the minute, but small town of
5 Lehi, the word gets out, everybody knows what's going on at
6 the high school, so many people were stepping forward to
7 voice their opinions and their concerns or what they felt
8 was their perception and the thing that kept coming back to
9 me was this was open to anyone that wanted to talk and the
10 only people that came forward to speak on Mike's behalf was
11 four; everything was just fine, there are no problems,
12 absolutely no problems, was Mrs. Harrison, Michelle's
13 brother and I also believe a sister came in. To my
14 recollection, I did not interview any parent that come and
15 said, you guys are totally out there, these are, you know,
16 unfounded. Not a player, a parent, anyone and that seemed
17 very interesting to me.
18 Q Okay. Did you invite people in who did not
19 voluntarily come?
20 A Did not but we didn't with anyone, just
21 available. If anyone wanted to come in they were welcome
22 to.
23 Q This wasn't parent/teacher night?
24 A No.
25 Q Was there ever a parent/teacher night where you

1 interviewed other parents of kids who were on the
2 basketball team that asked the parent a question? Did you
3 ever do that privately, privately meaning seeking out some
4 parents?
5 A No, I did not.
6 Q Okay With regard to the team while Michelle was
7 there, how would you consider her as a player as far as
8 working with the other girls?
9 A I did not see anything that would - I mean, she
10 seemed on the basketball floor to be fine with the other
11 girls. She has a lot of talent.
12 Q Would you consider her a selfish or an unselfish
13 player?
14 A I consider her an unselfish player.
15 Q From all of your observations of Coach O'Connor
16 and his coaching of the girls basketball team, what do you
17 believe are his failings?
18 A I think with a lot of us, communication.
19 Q Okay. Anything else?
20 A Just communication. Many times we say one thing
21 and not make it clear.
22 Q As far as his ability to coach girls basketball,
23 how would you rate Coach O'Connor?
24 A Xs and Os, he's a very good coach.
25 Q Okay As far as coaching - when you say Xs and

1 Os, you're talking about technical skills?
2 A Yes.
3 Q And you talked about the issue of communication.
4 Anything else that either be, in your view would be a
5 negative as far as his coaching style?
6 A No.
7 Q Do you believe that he yells at the girls more
8 than other coaches would normally do?
9 A No.
10 MR. RUST: I believe those are all the questions I
11 have.
12 MR. HOMER: Just a few questions.
13 EXAMINATION
14 BY MR. HOMER:
15 Q What is the name of the reporter that you
16 mentioned? Do you recall?
17 A She's still there and she interviewed me after
18 our last fall game and I do not know her name I could get
19 it but I don't know her name
20 Q It's not Amy Donaldson? Would you know the name
21 A I'm sorry, I would not know it I'm sorry.
22 Q Okay. You have indicated that Exhibit 1 is the
23 only letter that you've been shown before and you're privy
24 to; is that correct?
25 A Yes.

1 Q That's not unreasonable for a parent to approach
2 someone like yourself and express concerns about programs?
3 A No.
4 Q And making a list of discussion points, there's
5 nothing wrong with that either, is there?
6 A I feel that's the best way because a lot of times
7 you'll get in a discussion and it'll lead to who knows
8 where and at least you have specific items that you can
9 address.
10 Q And I take it that later when this item about
11 misuse of funds was raised, there weren't any accusations
12 about that. It was just raised as a potential issue,
13 correct?
14 A That is correct.
15 Q All right. So there's nobody out there yelling
16 and screaming and saying that I know there's been this
17 misappropriation? That's something that needs to be looked
18 into.
19 A That is correct.
20 Q All right. And that was looked into?
21 A That is correct.
22 Q As far as you know?
23 A Yes.
24 Q And all the other items that are set forth on the
25 second page of Exhibit 1, are just items that you would

1 expect parents might be concerned about, that they would
2 raise and want to have discussions about
3 A Yes
4 Q And isn't it true that when you were approached
5 by the parents before or at the time this letter was
6 written, you took it as just being a good faith attempt to
7 clear the air and discuss items that were concerning the
8 parents?
9 A Yes
10 MR HOMER I think that's all I have
11 MR FREESTONE No question
12 MR RUST Thank you
13 (Whereupon the deposition was concluded)
14
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25 -c-

Tab 6

1 A P.E. major, math minor.
2 Q And your master's degree?
3 A Diverse learning.
4 Q When did you receive that master's degree?
5 A I would say '93.
6 Q Was that a degree you earned through, say, in the
7 evenings?
8 A Yes.
9 Q Since your graduation from BYU with your
10 bachelor's degree, where have you been employed?
11 A Moab, Utah for seven years.
12 Q Doing what?
13 A Coaching, teaching math, P.E.
14 Q And then where?
15 A And then I went from there to Lehi.
16 Q And while at Lehi, what positions did you have?
17 A Taught math only. Then I've coached, helped.
18 I've been head baseball, head softball. I've coached, been
19 an assistant in boys basketball, football, golf.
20 Q Okay. Anything else?
21 A I'm sure about anything else. Let's see, that's
22 close enough.
23 Q Did you have any title other than teacher
24 through, say, in the year 2001?
25 A 2001, yes, I became an assistant athletic

1 director under Lou Andrus and then after his retirement I
2 took over as the head athletic director.
3 Q When did you take over as head athletic director?
4 A It's been the last two years.
5 Q And what have been your responsibilities as head
6 athletic director?
7 A Well, I feel like the liaison between coaches to
8 administration, to organize on home games, to make sure I
9 do preparation of fields, officials, all the things
10 basically to do with home games a lot, scheduling.
11 Q When you talk about being a liaison, do your
12 responsibilities include sitting down with the coaches and
13 talking about, working on any problems they may have?
14 A In most instances, I felt like my responsibility
15 was to try to help lessen their burden as far as game
16 preparation. A lot of times the coaches worry about the
17 game, who they're going to play, their players. So I try
18 to make sure the fields are ready, the officials, all the
19 things preparatory to their game, especially at home. You
20 know, prior to their season, try to help with their
21 scheduling.
22 Q So this has to do with both the physical aspects
23 of the game.
24 A A lot of the facilities, you know, because when I
25 coached, I felt like that was something that had to be done

1 issue, he was able to explain the situation to me.
2 Q What about the threatening claim?
3 A I don't believe at that time that we talked about
4 that. I don't recall it.
5 Q What about the recruiting issue?
6 A Yeah, I thought he explained it.
7 Q After you had had that meeting you just now
8 described did you still have lingering doubts or concerns
9 about Coach O'Connor?
10 A At that time, no. He was still our coach and I
11 didn't feel there was anything of severity at that point.
12 Q Does every student who plays athletics have an
13 excellent experience?
14 A I'm sure no.
15 Q Does every parent of every student who plays
16 athletics have an excellent experience?
17 A Unfortunately, no.
18 Q You've indicated that there was some discussion
19 apparently later about a money issue. Do you recall when
20 that first arose?
21 A It as prior to school being dismissed. The
22 accusation was brought to our attention by Mr. Burningham
23 and the first time he presented it it was no particulars.
24 He just said that there very possibly could be, or could
25 have been a mismanagement of funds.

1 Q And the mismanagement of funds was school funds?
2 A Yes, or monies that come to the school. Some of
3 it I would assume a donation, in the form of a donation.
4 Q And do you recall who was present when this
5 discussion took place?
6 A I know that the first instance it was to me
7 personally, I was the only there present at that time.
8 Q Anyone other than Mr. Burningham and yourself?
9 A Right.
10 Q No one else then?
11 A No.
12 Q Do you recall where that took place?
13 A At the high school.
14 Q And what was your response?
15 A I deemed that a serious accusation and mentioned
16 it to my employer, Mr. Worthington, and I know it wasn't
17 immediate, but there was an investigation.
18 Q Do you know who conducted the investigation?
19 A That would have had to have been our accountant
20 for the school.
21 Q Do you recall what the result of that
22 investigation established?
23 A The findings at that time was everything that we
24 were aware of had gone through the books and it had been
25 properly handled.

1 A We had one of our back-to-school meetings and I
2 was told somewhat after a day or two, I assume, I guess,
3 after that time, after he had been released or they had
4 told him they were going another direction.
5 Q And prior to that time you had not been consulted
6 in any way about that other direction?
7 A No.
8 Q And when you were offered the girls basketball
9 coaching position, did you immediately accept?
10 A No.
11 Q What did you do?
12 A Once I was told that we had a vacancy in that
13 job, we pursued people that we thought were qualified to
14 fill that position and in each case was turned down. For
15 some reason or another they would not accept the job or it
16 didn't work out.
17 Q Did you offer it to any of the assistant coaches?
18 A Yes.
19 Q Had you met with any of the assistant coaches
20 relative to the claims that were being made by the parents
21 prior to Coach O'Connor, should we say, being released as
22 basketball coach?
23 A Yes.
24 Q On what occasions?
25 A Talked with Mr. Burkholm who was one of the

Tab 7

IN THE FOURTH JUDICIAL DISTRICT COURT

PROVO DEPARTMENT, STATE OF UTAH

MICHAEL P. O'CONNOR,	Civil No. 040402938
Plaintiff,	
vs.	
GARY W. BURNINGHAM, JEANNA BURNINGHAM, et al.,	
Defendants.	Judge Taylor

DEPOSITION UPON ORAL EXAMINATION OF

SHELDON WORTHINGTON

Date: Friday, January 14, 2005
Time: 1:00 p.m.
Place: 36 South State Street
Salt Lake City, Utah

CONDENSED TRANSCRIPT & KEYWORD INDEX

Carolyn Erickson, CSR

REGIONAL REPORTING SERVICES
1775 East Ellen Way
Sandy, Utah 84092
(801) 523-1186

Exhibit C

SHEET 3 PAGE 9

1 A I think I already stated - I think I already
2 answered that. To the best of my recollection there would
3 have been some key classes in either sociology or
4 psychology.
5 Q Okay. And what other assignments was he given
6 other than teaching classes?
7 A He was assigned as head girls basketball coach.
8 I believe the first year he may have helped with football
9 and I think he helped with track, as an assistant coach on
10 both.
11 Q And is there some kind of a pay differential for
12 taking on those assignments?
13 A Coaches are paid a stipend, an addendum for
14 coaching.
15 Q Does it matter how many different areas that they
16 coach?
17 A No. Each one has its own. In other words, if
18 you coach one sport or four sports, you're paid per sport
19 that you coach, that there is a set scale for each position
20 whether it be assistant or head coach.
21 Q. So if there was a person in your school who was
22 coaching track and coaching football, they would be paid
23 for
24 A There would be two separate, each addendum is
25 signed separately.

PAGE 10

1 Q And how was the win/loss record the first year
2 that Coach O'Connor was at Lehi?
3 A We won more than we lost.
4 Q How did that compare with the year before that?
5 A I don't recall what our win/loss record was
6 before that year.
7 Q Did you attend any of the games of the girls
8 basketball team during the 2001-2002 season?
9 A Yes, I did.
10 Q Of the games that were played, about what
11 percentage did you attend?
12 A I would say about 90 percent.
13 Q And as you observed Coach O'Connor in that first
14 season, how did you feel about his coaching?
15 A I thought he did a good job.
16 Q 2002-2003 season, about what percentage of the
17 games did you attend?
18 A About 90 percent.
19 Q About 90 percent of the girls high school games?
20 A That's correct.
21 Q Is that true for most of the sports, that you
22 attend the bulk of them?
23 A That's true for most sports, yes.
24 Q Okay. And during the 2002-2003 season what did
25 you observe of Coach O'Connor's coaching?

PAGE 11

1 A I thought he did a good job.
2 Q Did you have any complaints from any of the
3 parents during that year?
4 A Which year?
5 Q 2002-2003?
6 A Yes, there were some rumblings
7 Q And when did you first get any rumblings?
8 A I don't recall.
9 Q Do you recall whether it was partway through the
10 year, at the end of the year, at the first of the year?
11 A I think it would be partway through the year.
12 Q And do you recall from whom the rumblings came?
13 A No.
14 Q Do you recall the nature of the rumblings?
15 A No. At this time I don't specifically. I
16 discounted most of it.
17 Q Do you recall the source of the rumblings?
18 A From parents. There were not a lot, there were
19 just, there were a couple.
20 Q And you don't recall even the nature of them?
21 A Not specifically, no.
22 Q Generally do you recall?
23 A No, I mean, it would be - I wouldn't be able to
24 answer specifically to give you a clear direction on that
25 question.

PAGE 12

1 Q Do you even recall whether it had to do with on
2 the court, off the courts, those kinds of things?
3 A It had to do with girls in the program. I don't
4 remember specifically.
5 Q You've indicated the kinds of things that Coach
6 O'Connor did in the 2001-2002 season. What assignments did
7 he have in the 2002-2003 season?
8 A Girls basketball and he helped with track and I'm
9 not sure, I don't recall if he helped with cross country
10 that year or not.
11 Q Did you get any rumblings relative to the other
12 activities that he handled, track, cross country, whatever
13 else he did other than girls basketball?
14 A I did in track.
15 Q And do you recall what they were?
16 A They were specifically about training hurdlers.
17 Q Okay, and what was the issue?
18 A The issue was, I think that he wasn't - as I
19 recall, that it concerned the amount of time, I believe he
20 was spending in training.
21 Q He was spending too much or too little?
22 A Too little, as I recall.
23 Q And when you got these rumblings in 2002-2003 did
24 you talk to Coach O'Connor about these matters?
25 A I believe that I mentioned that there was a

1 parent that had a concern.
2 Q You mentioned this to Coach O'Connor?
3 A As I recall.
4 Q Do you recall his response?
5 A No.
6 Q Okay. What about during the summer of 2003, was
7 there any rumblings or grumblings that you heard?
8 A No.
9 Q Okay. 2003-2004, did you hear any complaints
0 from any of the parents about Coach O'Connor?
11 A Yes.
12 Q When did those first arise?
13 A I think to the best of my recollection, they
14 started around in November.
15 Q Of 2003?
16 A 2003.
17 Q What percentage of the girls high school games
18 did you attend in 2003-2004?
19 A About 90 percent.
20 Q Did you observe anything during 2003-2004 that
21 was any different in your observations of Coach O'Connor
22 than in the previous two years?
23 A No.
24 Q What happened in November of 2003?
25 A Parents started to express concerns.

1 Q Do you recall specifically any parents?
2 A Not at that time, no. I couldn't tell you who by
3 name they were.
4 Q And do you recall what their concern was?
5 A I believe that the nature of their concern had to
6 do with the way Coach O'Connor interacted with the girls.
7 There were also some concerns expressed about Ms. Judy
8 Filimoehala and her access to the coach.
9 Q What was the issues with regard to the
10 interaction with the girls?
11 A As I recall it was, the issues dealt mostly with
12 that he might be being a little heavy handed with the girls
13 or not consistently fair with the girls, I guess would be
14 better said.
15 Q Again, you don't recall who raised those issues?
16 A No.
17 Q Did you talk with Mike O'Connor about those
18 issues?
19 A I don't recall.
20 Q You talked about Judy Filimoehala having too much
21 access to Coach O'Connor?
22 A Correct.
23 Q And what as the complaint there?
24 A That she attended all, many of the practices,
25 that she was around the program, would seem to those

1 observing, excessively.
2 Q Were the practices off limits to the parents?
3 A I'm not aware.
4 Q Do you know if other parents attended any of the
5 practices?
6 A I'm not fully aware.
7 Q And what was the issue about her attending the
8 practices?
9 A It was expressed to me some felt that she had a
10 direct line to Coach O'Connor, that she may be influencing
11 his coaching of the team.
12 Q And what was perceived to be, assuming that was
13 true, what was perceived to be the problem that that was
14 happening?
15 A I'm sorry, I don't understand your question.
16 Q Well, that being raised as an issue, right, the
17 ones who were complaining that were saying that that was a
18 problem, did they say why that was a problem?
19 A Yes, because it was a problem because they felt
20 Coach O'Connor didn't have control of his team, that Ms.
21 Filimoehala may be influencing some of the decisions about
22 the team, how practices were run, etc.
23 Q Were there things happening in the practices that
24 were being changed from previous coaching and practices?
25 A I'm not aware.

1 Q Were the parents telling you that things were
2 changing?
3 A Not that I'm aware of.
4 Q What did you do when you received these
5 complaints in November?
6 A I talked with my assistant principals. We
7 determined that we would monitor what was going on.
8 Q And how did you monitor?
9 A Observation.
10 Q Did you attend any of the practices?
11 A I would drift in and out.
12 Q Did you see Judy Filimoehala at the practices?
13 A Occasionally.
14 Q Did you see her having influence over the
15 practices?
16 A No.
17 Q Did you see any other parents at the practices?
18 A Not that I recall.
19 Q Specifically, do you recall seeing Gary
20 Burningham at any of the practices?
21 A Not that I recall.
22 Q Did you believe that you had the issues that had
23 been raised to you in November of 2003 under control?
24 MR. HOMER: Objection, vague and ambiguous.
25 MR. RUST: Go ahead.

1 THE WITNESS Tell me your objection against,
2 please
3 MR HOMER Vague and ambiguous
4 THE WITNESS Would you like to restate the
5 question?
6 Q (BY MR RUST) You can answer the question
7 A I know I'm asking if you can restate it, I
8 don't remember what the question was
9 MR RUST Do you want to read it back?
10 (Whereupon the record was read)
11 THE WITNESS At that point I had not determined
12 that the situation was out of control
13 Q (BY MR RUST) Did you ever determine that the
14 situation with the girls basketball team and Coach O'Connor
15 was ever out of control?
16 A Did I ever determine if it was out of control?
17 Q Yes
18 A With Coach O'Connor and the girls, Coach O'Connor
19 and Ms Filimoehala, Coach O'Connor - please be more
20 specific in the question
21 Q Coach O'Connor and the girls basketball team
22 A If it was every out of control? Not that I
23 observed
24 Q Did you ever believe that from your observations
25 Judy Filimoehala did, in fact, have too great of an

1 influence over Coach O'Connor?
2 A Yes
3 Q And when did you determine that?
4 A After receiving several visits and phone calls in
5 my office from Judy herself after - basically, that's it
6 Q And when did that occur?
7 A It happened through, towards the end of the
8 season and after the season
9 Q What did she tell you in those visits that made
10 you believe that she had too great of an influence?
11 A It's not as much as what she said as her
12 reaction, her attitude and so on
13 Q Okay Now you've talked about some rumbling from
14 some parents in November of 2003 Did you subsequently
15 have further complaints from parents?
16 A Most of the complaints came after the season
17 Q Did you have some before the season was ended?
18 A Not that I specifically recall
19 Q Do you recall any kind of a discussion around
20 March before the season ended with Coach Allan? Some of
21 the parents raised issues Coach Allan and Coach Allan
22 talked with you about it?
23 A Those were issues that were raised after the
24 season The seaon was over in February
25 Q And when we're speaking of the season, are we

1 talking also the state tournament?
2 A Correct
3 Q The state tournament is over in February?
4 A That's correct
5 Q When was the first time that you had any
6 discussions after November of 2003 with regard to any issue
7 raised by parents?
8 A I had parents who were calling me, raising and
9 expressing concerns
10 Q Do you recall who?
11 A I don't recall all of them I can recall some of
12 them
13 Q Can you give us the ones you recall?
14 A I had Gary Burningham, Ms Chandler, the Hydes
15 among a few There were others but I don't recall the
16 others
17 Q And to the best of your knowledge, when did these
18 three, or Gary Burningham, Mrs Chandler and the Hydes,
19 first raise any issue with you after November of 2003?
20 A I recall some of those issues being - I heard
21 rumblings of those issues during state tournament but most
22 of those came after the state tournament
23 Q And during state tournament, were you approached
24 by anyone? How did you hear the rumblings?
25 A I was - through things that were reported to me

1 by my assistant principals who were also at the state
2 tournament and I don't remember specifically who, I believe
3 I had one parent, at least one parent came and spoke to me
4 at the state tournament
5 Q And who was that?
6 A I don't recall
7 Q After the state tournament do you recall having
8 any discussions with any parents, immediately after?
9 A Immediately after, a few weeks after the
10 tournament
11 Q Do you recall who?
12 A I had Chandlers and Burninghams come to my
13 office I also had Hydes and then as we heard, we ended up
14 inviting, as expressed to us there were others who had
15 concerns, we invited anyone who had any concern to come
16 meet with us That was in March
17 Q How did you extend this invitation to anyone who
18 had concerns?
19 A As I received phone calls I said to people, if
20 you have a concern, we'd like to meet with you and also
21 expressed to Burninghams that if they knew of anyone who
22 had any concerns, that they were welcome to come speak to
23 me
24 Q Did you invite those who had not expressed
25 concerns to come talk to you?

1 A Usually when there is no concerns expressed, I
2 don't invite - I mean my door is always open to anybody who
3 wants to come talk to me whether they want to express a
4 concern or whether they want to express appreciation
5 whatever reason it might be But no, I didn't do any
6 mailings of phone calls or letters in the newspaper or that
7 kind of thing if that's what you mean
8 Q Did you call a meeting of the girls basketball
9 team?
10 A Not at that time I never called a meeting of
11 the girls' basketball team
12 Q Did you speak to any of Coach O'Connor's
13 assistants?
14 A Yes
15 Q With whom?
16 A I spoke with Rick Burkholm and Stacey Howe
17 Q And when was the first time you spoke to them
18 about these matters?
19 A I spoke with them in August, September, that time
20 frame
21 Q Prior to the end of July had you spoken with any
22 of these assistants?
23 A Not that I recall
24 Q Now you've indicated that you talked with a
25 number of parents, anyone who expressed concern was invited

1 to come to you office, correct?
2 A That's correct
3 Q Did any of them give you any writings?
4 A Yes
5 Q Do you recall who?
6 A At that time I had a letter from Gary Burningham
7 Also I had a letter from the Hydes
8 Q Do you recall the issues that they raised?
9 A I recall the letter that was expressed in the
10 letter written to me by Gary Burningham, he expressed
11 concerns that things that were happening, had happened in
12 the girls program were not conducive to the mission
13 statement of the Utah High School Athletics Association
14 Q And had you observed those things happening
15 yourself?
16 A No Do you want me to go on with the other
17 letter I received?
18 Q Sure, go ahead
19 A Hyde's letter specifically had to deal with Coach
20 O'Connor's use of - his mentioning of things related to the
21 Church of Jesus Christ of Latter Day Saints and
22 specifically reference to girls being better players if
23 they would read the Book of Mormon and other religious
24 connotations
25 Q Okay Anything else that was raised in those

1 letters that you recall?
2 A Yes Hydes expressed concern the way that their
3 daughter was spoken to at times Also they expressed
4 disappointment that their daughter was, on senior day or in
5 the game that seniors were honored, that she wasn't allowed
6 to play, start the game
7 Q Okay Anything else?
8 A No, I do recall a letter also from Mrs Chandler
9 Q And when did you get that letter?
10 A About the same time I received the others and it
11 specifically addressed things about, other than the things
12 I've mentioned, about a particular game in Duchesne where
13 Michelle, the team was ahead by 30 or more points and
14 Michelle Harrison was left in the game
15 Q And what was expressed about that?
16 A What was expressed was how people in the stands
17 had related to her, how they thought she was being left in
18 the game so she could pad her statistics so she could be
19 recognized as one of the top scorers in high school
20 basketball The game was decidedly out of reach, but yet
21 our start player was left in the game
22 Q And once you received these letters and these
23 comments from these parents that you've now described to
24 us, what action did you take?
25 A After receiving the complaints, those letters,

1 concerns, we met with them, each parent individually
2 Either I did myself or my assistants at that time and
3 athletic director met with those parents After having
4 received those concerns, we met with Coach O'Connor and
5 related to him the concerns that had been related to us
6 Q At the time that you met with the parents with
7 regard to the concerns there, and based on what you had
8 observed, did you believe that their concerns had validity?
9 A I was concerned about the access that Ms
10 Filimoehala had to Coach O'Connor I thought it was
11 uncommon that a parent, that a single parent had that much
12 contact with the coach That was the only concern I had
13 The other concerns that were expressed to me, I had not
14 observed
15 Q When you met with Coach O'Connor did you go over
16 all of these issues with him?
17 A Yes, sir
18 Q And what was his response?
19 A Coach O'Connor's response was one of unbelief
20 As we related each issue, he had an explanation of what
21 happened The conversation revolved or was around whether
22 their concerns were legitimate or not, it's the perception
23 We talked a lot about perception and changing the
24 perception
25 Q And was anything resolved at your meeting with

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1 Coach O'Connor?
2 A We outlined things that we felt would help Coach
3 O'Connor rebuild parental trust.
4 Q Did he agree to do those things?
5 A He was reluctant to do some things. He felt, as
6 he expressed, that he hadn't done anything that was wrong,
7 that their concerns were invalid, unjust and that he didn't
8 - he seemed to be hesitant or reluctant to do anything
9 because he felt there was nothing he needed to do because
10 of the inaccuracy of their perception.
11 Q Let me show you what has been marked previously
12 to the deposition of Mr. Allan as Exhibit 1, two pages, and
13 ask if you recall having seen that document. My question
14 is whether you've seen it before.
15 A Not that I recall.
16 Q Second page?
17 A I have not actually seen this page here but it
18 does bring to mind some of the concerns that were raised to
19 me before. For example, the recruiting issue was one that
20 was mentioned early on that I had forgot about.
21 Q Before I leave that, you're saying that you have
22 not seen Exhibit 1 before consisting of two pages?
23 A Not that I recall.
24 Q But you're now recalling another issue that was
25 raised, namely recruiting?

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1 A Early on of the 2003-2004 we had a player that
2 came to our school that had previously played at Mountain
3 View High School. Coach O'Connor was accused of recruiting
4 this player
5 Q Did you believe that Coach O'Connor improperly
6 recruited the player?
7 A Under the rules of the Utah High School Athletic
8 Association at that time, no
9 Q Have you changed your opinion?
10 A Well, what under - if she would have come the
11 year after with the rule changes that the Utah High School
12 Athletic Association made, it would be out of compliance
13 now but it wasn't then.
14 Q Did you discuss that with the parents who raised
15 that issue?
16 A We checked - we didn't raise it with them but we
17 checked to make sure that we were in complete compliance
18 with Utah High School Athletic Association including doing
19 - one of the qwualifications is the person had to have a
20 residence within our attendance area and home visits were
21 made to the residence to make sure that they did, in fact,
22 have a residence in the attendance area.
23 Q But this had been raised by the parents to you,
24 this issue of recruiting?
25 A Yes.

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1 Q In what context? In other words, what was their
2 complaint?
3 A Their complaint was that the only reason she was
4 coming to play for Lehi is because she could not make the
5 team from Mountain View, that she wasn't going to have a
6 starting role or a major role or that she would see little
7 or no playing time, where coming to Lehi she would be able
8 to make a contribution to the program. But by thus doing,
9 she would displace other girls who had been in the program.
10 Q And did you believe that there was validity in
11 the complaint of the parents?
12 A That's kind of a hard question to answer. Did I
13 believe that players would be displaced? Yes - no - well,
14 in answer to your question, no.
15 Q Okay. Just to make sure that the question is
16 clear, my question is do you believe that there was
17 validity to a complaint that Coach O'Connor was wrongfully
18 recruiting?
19 A Did I believe he was wrongfully recruiting? No.
20 Q Did you discuss that with the parents, your
21 belief?
22 A I didn't specifically. My assistants did. They
23 said that they would followup to make sure that we were
24 totally compliant with UHSAA rules and that was done.
25 Q Was there anything else that this Exhibit 2

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1 brings to mind as far as -
2 MR. HOMER. Exhibit 1
3 Q (BY MR. RUST) Exhibit 1, I said Exhibit 2, page
4 2.
5 Thank you.
6 Page 2 of Exhibit 1 brings to mind as complaints
7 from the parents that you have not previously discussed
8 with us today?
9 A None other than I've mentioned.
10 Q Now, after you had had these meetings with the
11 parents, did you communicate in writing to Coach O'Connor
12 about any conclusions or things that he needed to do or
13 something like that?
14 A I wrote a letter to all the parents and the coach
15 was given a copy of the letter outlining some of the things
16 that were doing to be done. Beyond that I did not. We
17 discussed recommendations for Coach O'Connor
18 (Deposition Exhibit 2 marked)
19 Q (BY MR. RUST) Okay I show you what has been
20 marked Exhibit No. 2 and ask if you can identify that
21 document.
22 A That's the letter I wrote to the parent of the
23 girls basketball team.
24 Q And was it sent about the date that it shows?
25 A Yes.

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1 Q And did you have an investigation made of that
2 matter?
3 A Yes, I did
4 Q And what did you determine?
5 A We determined there were no misappropriation of
6 funds that were donated or - go ahead Sorry
7 Q Did that determination or investigation results
8 get communicated back to the parents?
9 A Yes, it did
10 Q To your knowledge was that a dead issue at that
11 point?
12 A Yes, it was
13 Q Was it ever raised subsequently?
14 A Not to me
15 Q Do you know if it was raised to somebody else?
16 A Not that I recall, not that I know of Not that
17 I know of I should say
18 Q With regard to this issue of Michelle Harrison
19 saying a couple of girls would be cut from the team did you
20 do any investigation of that complaint?
21 A I did
22 Q What did you determine? First of all, what was
23 your investigation?
24 A Talking with Coach O'Connor about the issue
25 Q And what did you learn?

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1 A Coach O'Connor and I had more than one
2 conversation about how he felt as head coach that he should
3 be able to cut anyone he wanted off of the team, that that
4 was his responsibility as coach
5 Q When did you have those discussions?
6 A Those discussions happened in August, September
7 Q When did you understand that Michelle made this
8 statement about a couple of girls would be cut from the
9 team?
10 A I don't recall the exact date
11 Q Did Coach O'Connor ever say to you that he had in
12 mind to cut certain girls from the team?
13 A He indicated yes
14 Q Did he say who?
15 A We had talked about Michelle and Breezy
16 specifically
17 MS YOUNG Michelle?
18 THE WITNESS Excuse me, not Michelle, Kayla
19 Burmingham
20 Q (BY MR RUST) What did he say about that?
21 A He indicated that he'd cut whoever he wanted off
22 the team and that was his role and there were a couple of
23 times as we brought up the conversation, Coach O'Connor
24 said, if I can't coach the team the way I want it, then I'm
25 going to resign, comments to that effect

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1 Q Did he ever say to you, I believe you say these
2 conversations took place in August, September of 2004?
3 A To the best of my recollection
4 Q Did he ever say to you that he had a mind to cut
5 either Breezy or Kayla or both?
6 A He indicated that he would cut anybody he felt
7 that he wanted to as coach
8 Q I understand But did he ever specifically say
9 that he planned on cutting either Breezy or Kayla?
10 A To my assistant principal he did
11 Q Were you present?
12 A I was not
13 Q Which assistant principal are you talking about?
14 A Rick Robbins
15 Q Do you recall when he said that to Rick Robbins?
16 A It would have been near the end of August, first
17 of September
18 Q And I take Mr Robbins relayed this on to you?
19 A Yes, he did
20 Q What did he say Coach O'Connor said specifically?
21 A Said that Coach O'Connor said that these girls
22 were involved in parental - that they had written letters
23 to the Board of Education, that they were part of the
24 problem, that as long as they were involved in the program,
25 that he couldn't maintain his authority or his coaching,

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1 that he wouldn't be in charge of his team
2 Q And that's the best you recall what was said as
3 relayed on to you
4 A As related to me, yes
5 Q You've talked about a number of complaints that
6 were raised after this Open Court activity Was there a
7 further period of complaining by any of the parents?
8 A No Most of the parents, all through the
9 process, were very supportive They were concerned about
10 the issues that they brought up with me, that almost every
11 single situation their statement was that they supported
12 Coach O'Connor, that they just want the issues resolved
13 Q Did you see the issues being resolved?
14 A No
15 MR HOMER Joseph, can we take a short break?
16 MR RUST Sure
17 (Whereupon a recess was taken)
18 Q (BY MR RUST) We were talking before the break
19 about Breezy and Kayla and any statements being made by
20 Coach O'Connor relative to cutting them Did you ever say
21 to Coach O'Connor, you cannot cut Kayla or you cannot cut
22 Breezy?
23 A I did
24 Q And when did you make that statement?
25 A It would have been reference was made to it

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1 once and then it was directly said just a few days before
2 Coach O'Connor was released from his coaching
3 responsibilities
4 Q Okay And what was the reason for making that
5 determination?
6 MS YOUNG The determination on the cutting or
7 releasing from his coaching position?
8 Q (BY MR RUST) On the cutting What was the
9 reason for you saying you cannot cut these two girls?
10 A I assured parents that there would not be an
11 retaliatory action towards their daughters, members of the
12 basketball team That if they made the team then the
13 amount of playing time that they had on the team would be
14 based on their athletic merits, not because of what
15 happened during the summer
16 Q Based on your letter of April 15th and what
17 happened during the summer, do you believe that Coach
18 O'Connor was given a full opportunity to prove himself as a
19 coach based on your letter?
20 A I feel that he had opportunity to work and change
21 perception of parents
22 Q And do you believe that he did or did not do
23 that?
24 A I did not observe absolute little that was done
25 to change the perception

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1 Q What did Coach O'Connor say to you in response to
2 your telling him that he could not cut these two girls?
3 A Coach O'Connor was upset about that He
4 reiterated the fact that he should be able to cut who he
5 wants to, that that was his decision to make as coach
6 Q What is your position with regard to a coach
7 cutting any player?
8 A Under normal circumstances, under any
9 circumstances, this is the first time I've ever told a
10 coach that he couldn't cut a player from the team
11 Q So in answer to my question, do you believe that
12 a coach is entitled to cut a player?
13 A I believe under most circumstances, yes
14 Q For what reasons?
15 A I believe that's up to a coach's determination,
16 however, I draw the line when a coach is being perhaps
17 retaliatory or perceived being retaliatory or perceived to
18 - I feel that if a coach cuts a player from a team because
19 of what their parent are or who they are or what they may
20 have said or done, I think is wrong
21 Q What about if the player themselves writes things
22 derogatory about the coach, do you believe they're entitled
23 to cut that player?
24 A Are you referring specifically to letters that
25 were sent or are you talking in general?

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1 Q In general
2 A I think it would depend on the situation, what
3 was happening
4 Q Did you have a discussion with anyone in the
5 Alpine School District about cutting these two girls before
6 you made your comments to Coach O'Connor?
7 A I spoke with my immediate supervisor at the
8 district
9 Q Who is that?
10 A Sam Jarmen
11 Q And did you ask Mr Jarmen's advice?
12 A No I recounted to him what had happened
13 Q And what did he tell you?
14 A He said it's a difficult decision and we'll
15 support you in whatever you decide to do
16 Q Were there any members of the school board you
17 talked to about whether these two girls ought to be
18 protected that were on the team?
19 A No
20 Q Did you also explain to Coach O'Connor that these
21 girls not only could not be cut but they were entitled to a
22 certain amount of playing time?
23 A I told Coach O'Connor that they couldn't be cut
24 based on what their parents had done I indicated to him
25 that these girls, one girl was, as a sophomore started

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1 every game on the season, was a major player, the other one
2 received a large amount of playing time I told him that
3 if they were to be cut from the team, it would have to be
4 that those that were coming into the program were clearly
5 superior ball players than they were
6 Q Okay Do you know of any writings by any of the
7 parents to the school district?
8 A I've heard of the writings and I've seen the
9 packet of writings
10 Q Tell me about that
11 A After the school board meeting, Sam Jarmen pulled
12 me into his office and gave me a copy of the letters that
13 were presented to the school board I brought those back
14 to the school, gave them to my assistant principal and
15 asked him to talk to Coach O'Connor about the letters and
16 present the letters to Coach O'Connor
17 Q Do you recall a date?
18 A Not specifically, no
19 Q You say it was after the school board meeting?
20 A Yes, sir
21 Q Do you know the date of the school board meeting?
22 A No, I don't know It was in July They're held
23 on Tuesdays I'm not sure
24 Q Do you recall knowing about that school board
25 meeting ahead of time?

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1 A Well the school board meetings are published in
2 the paper so yes Was I aware that there was going to be a
3 school board meeting yes
4 Q Are you aware that the parents of the Lehi
5 basketball girls were going to be in attendance?
6 A No
7 Q When was the first time you learned that they
8 were in attendance?
9 A As I recall, it was the day after
10 Q And that was when Mr Jarmen contacted you?
11 A As I recall
12 Q You say he gave you a packet of letters?
13 A That's correct
14 Q Did you look at any of the letters?
15 A I have not read any of the letters at any time
16 Q What's the reason for that?
17 A Because I did not want what the parents or what
18 the letters may have contained to influence me in decisions
19 that I made in relationship to Mr O'Connor and the girls
20 basketball program
21 Q Do you know if anybody else in your
22 administration read any of the letters?
23 A Not at that time, not before Coach O'Connor was
24 released from his coaching responsibilities
25 Q Did Mr Jarmen tell you the general content of

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1 the letters?
2 A He said that the concerns the letters boiled
3 down to girls being treated equitably, fairly and as it
4 relates to Michelle Michelle receiving preferential,
5 Michelle Harrison receiving preferential treatment and Ms
6 Filimoehala's access and involvement to the basketball
7 program
8 Q Did he say that they contained anything else?
9 A No he just spoke in generalities
10 Q Did he tell you how he viewed the letters?
11 A He did not
12 Q Based on all the information that you have today
13 about how many practices do you believe that Judy
14 Filimoehala attended?
15 A I do not know
16 Q Do you believe she attended more than one?
17 A Yes
18 Q Do you believe she attended more than ten?
19 A I do not know
20 Q How do you know that she attended one?
21 A I observed her
22 Q What that during the practice?
23 A As I wandered through the building, come down
24 that area I saw her there yes
25 Q And it was during the time the girls were still

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1 practicing?
2 A During the time or shortly, right towards the end
3 of practice
4 Q Were you ever appraised as to whether the letters
5 spoke of any misconduct of the coach relative to finances?
6 A No
7 Q Do you whether
8 A I was asked - I was appraised of that by Mr
9 Jarmen asked me that question
10 Q What did Mr Jarmen ask?
11 A Asked me if we had investigated any
12 misappropriation of finances
13 Q Did he tell you why he was asking that?
14 A He mentioned that that was one of the concerns
15 that he read in one of the letters
16 Q So he did identify that to you as being
17 A He did identify that as being one concern, yes
18 Q What did you tell him?
19 A I told him that after we investigated, to the
20 best of our knowledge, that there was no misappropriation
21 of funds
22 Q Okay Did Mr Jarmen tell you about any issues
23 of abuse of the girls?
24 A No, not specifically
25 Q Did he talk about it in general?

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1 A Just as he summed up, that was it, Coach O'Connor
2 was verbally, emotionally verbally abuse to the girls, that
3 there were concerns with, as I stated before, concerns with
4 having one standard for Michelle Harrison and another
5 standard for the other players and Ms Filimoehala s access
6 to the coach
7 Q And as you mentioned the issue with regard to
8 concern about misappropriation
9 A Yes He asked me that specifically, if he
10 followed up Not as a summation of the letters but said
11 that he had read them and asked if there was, in my
12 investigation did we see anything wrong
13 Q Do you recall any letters coming to you from any
14 parents after your April 15th letter?
15 A I'd have to look at the dates I don t recall
16 specifically
17 (Deposition Exhibit 3 marked)
18 Q (BY MR RUST) I'm showing you an exhibit marked
19 3 and ask if you can identify that document
20 A Yes
21 Q Do you recall when you received it? Well, first
22 of all what is that?
23 A It's a letter addressed to me
24 Q Do you recall receiving it?
25 A Yes

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1 Q Do you recall receiving it about the date that it
2 bears?
3 A Yes
4 Q Is that prior to the time that Coach O'Connor's
5 coaching arrangement was cancelled?
6 A I believe that I received this after Coach
7 O'Connor was released from his coaching responsibility
8 Q Do you recall the relationship in time?
9 A It was within a week after, maybe just a few
10 days I think that the letter was in transition before
11 Coach O'Connor and Ms Filimoehala contacted the papers to
12 let them know that he'd been released from his coaching
13 responsibility
14 Q Do you recall having had a discussion along the
15 lines of what the letter says prior to releasing Coach
16 O'Connor?
17 A I had met with Gary Burningham and I met with
18 Mrs Chandler in my office and told them I did not
19 appreciate them going to the board of education without
20 coming to me first and that - anyway that's what I
21 explained to them, that I didn't appreciate that and this
22 letter came I believe in a response to that meeting
23 Q In that discussion, did you talk about with Mr
24 Burningham or Chandlers about cutting of their daughters
25 from the team?

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1 A I don't believe it was in that meeting, no
2 Q You see that reference to that, in the second
3 paragraph Do you see that?
4 A Yes, I do
5 Q Do you recall that discussion with them?
6 A I do
7 Q And what did you recall telling them?
8 A I told them that if their girls made - that their
9 girls would not be cut as a result of what they as parents
10 did, that if they were cut from the team, it would be based
11 upon their own merits as athletes
12 Q If Coach O'Connor had committed to you that these
13 girls would not be cut from the team, would he have been
14 released?
15 A No
16 Q So that was the straw as it were?
17 A Yes sir
18 Q Do you recall talking to any of Coach O'Connor's
19 assistants about the same time?
20 A I don't know the timing I did talk to two of
21 his assistants, as previously indicated
22 Q And you say that was, what, July, August?
23 A I don't recall exact time, around this time
24 Q Do you recall talking to the two of them about
25 any of the complaints raised by the parents at the board

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1 meeting?
2 A I talked to them in generalities as to the three
3 things that Mr Jarmen indicated to me as he summed up the
4 letters to me including being verbally or emotionally
5 abusive, one set of standards for Micelle and the access to
6 program - of Ms Filimoehala to the program
7 Q Did any of these assistant coaches that you
8 talked to confirm any of those concerns that had been
9 raised?
10 A Yes
11 Q Who was that?
12 A Mr Burkholm
13 Q What did he confirm?
14 A He felt uncomfortable with the relationship that
15 Mr O'Connor had with her He felt that sometimes that
16 O'Connor was negative with the girls He felt that- well,
17 it was related to me in a statement that Coach O'Connor
18 made during girls basketball tournament, I asked him to
19 verify a statement, if it was correct
20 Q What was that statement?
21 A It was to the effect that the girls were being
22 mean to Michelle and if she left, that they were driving
23 her out and if she left the program, he would leave the
24 program
25 Q And were you able to confirm that statement?

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1 A Yes
2 Q And how did you confirm that?
3 A I talked to Mr Burkholm
4 Q Was he present at that time?
5 A I believe so
6 Q Anything else that Mr Burkholm confirmed with
7 regard to the complaints of the parents?
8 A He thought Coach O'Connor did a good job He
9 thought that the parents complaints were generally
10 overstated, unsubstantiated, generally speaking
11 Q What about any of the other assistant coaches?
12 A I talked to Stacey Howell
13 Q Did she confirm anything?
14 A No
15 Q What was her general statement with regard to the
16 parent's complaints?
17 A Ms Howell felt that she did not see Coach
18 O'Connor do anything that was inappropriate or out of line
19 Q At the time that Coach O'Connor was released,
20 that occurred at a formal meeting?
21 A It happened before faculty meeting or a teacher
22 in-service where I asked him to come into my office
23 Q Was anyone else present?
24 A Yes
25 Q Who else?

A Rick Robbins, assistant principal
Q Anyone else?
A I believe that Mr Allan, Coach Allan was there but I don't specifically recall The only one I specifically remember is Mr Robbins
Q At that time did you give Coach O'Connor any options?
A No
Q You just simply informed him that he was released?
A I informed him that he was being released from his coaching responsibilities
MS YOUNG Of girls basketball?
THE WITNESS Of girls basketball
Q (BY MR RUST) He could continue with his other responsibilities in coaching?
A That's correct
Q Also his other teaching responsibilities?
A I informed him at that time that I was making a class change, that I was switching him from teaching a conditioning class to another P E class
Q Since that time have you had any complaint of any parents about Coach O'Connor?
A No
Q Prior to that meeting with Coach O'Connor in

which he was released from coaching the girls basketball team, did you have a meeting with any of the girls on the basketball team themselves?
A I did
Q Was that on an individual basis?
A It was
Q Was that at their request?
A No
Q Was there a request that they meet with you as a group?
A There was, by a couple - some players did
Q And did you agree to that?
A No
Q Why not?
A Because I feel that when kids get together in a group there becomes a group mentality I wanted to be able to hear what the girls thoughts were individually without the influence of their peers around them
Q Do you believe there was a group mentality with regards to the parents who were complaining?
A I don't know
Q Did you meet with them individually?
A I met with some of the parents individually as previously stated at the end of March or around the first of April but beyond that I never met with all the parents

I never met at any time with the parents as a group
Q But you met with more than one set of parent at one time?
A The most I met with were two parents at one time
Q The best that you can state for us today, identify all of the parents with whom you met concerning Coach O'Connor and issues
A I think I've mentioned the three to this point The others by name I couldn't tell you right off the top of my head I'd have to look back at my notes As I recall there were about six to nine parents, set of parents
Q Set of parents?
A Yeah And some of them individually, some as husband and wife
Q Have you talked with anyone at the school board with regard to the letters that were delivered to the school board?
A I've had a school board member ask me how things were going with it was aware of the concern
Q Who was that school board member?
A Donna Barnes
Q And when did you have the conversation with Donna Barnes?
A It would have been after I released Coach O'Connor, to the best of my recollection I may have, may

have talked to her at a meeting once before and she was asking me how it was going as a board member of the Lehi area
Q Do you know whether any parent ever asked that Coach O'Connor be terminated?
A No parent ever asked me that Coach O'Connor be terminated
Q Are you aware that they asked the board that Coach O'Connor be terminated?
A I am
Q And from whom do you have the knowledge?
A From Mr Jarmen Well, when I say Mr Jarmen, I think it was reported in the newspaper that they asked the board That's where that came from
Q Okay And did Mr Jarmen tell you what happened, how the letters were dealt with by the board? That is to say, were they distributed, copies made anything?
A He did not specifically indicate to me the process that the board went through The only thing that he said that I know of is prior to the board meeting, there is a time for public input and that this occurred during that time
Q And the packet that you received do you know whether those were the original letters?
A I do not know

1 Q Did you ever discuss that with Coach O'Connor as
2 to why the division to the teams that were done?
3 A I did
4 Q Did he give you an explanation?
5 A He did
6 Q And did that satisfy you?
7 A I didn't completely understand why in that most
8 teams it was not the practice of what most teams do
9 Q Do you recall the explanation?
10 A Coach O'Connor said that he was trying to divide
11 the teams evenly and that he ranked the players according
12 to their ability and that he tried to put the teams
13 together based on an evenness on the ranking of the teams
14 Q When you talked with Mr Jarmen - let's go back
15 to that, did you believe that his explanation made sense?
16 A I didn't talk to Mr Jarmen specifically about
17 that
18 Q No, I'm actually going back to your conversation
19 with Coach O'Connor, I'm sorry When you were talking with
20 Coach O'Connor he gave this explanation about dividing the
21 girls according to skill and so forth and putting them into
22 two teams to make two teams basically equal, did you
23 believe that he was sincere in that effort?
24 A It's difficult for me to be able to judge his
25 intent

1 Q Did you give him suggestion with regard to that
2 Open Court issue?
3 A No
4 Q When you talked with Mr Jarmen about these
5 letters that he delivered to you, you understood that they
6 had some pretty strong criticisms of Coach O'Connor,
7 correct?
8 A Other than the one that I specifically mentioned
9 about misappropriation of funds and what was given to me in
10 terms of generalities I did not know any specifics
11 Q I understand that but generally did you
12 understand that there were some serious criticisms of Coach
13 O Connor?
14 A The paper reported there were serious criticisms
15 Q I'm asking with regard to when you had your
16 conversation with Mr Jarmen
17 A Mr Jarmen never indicated to me the seriousness
18 of their concerns other than the fact that the concerns
19 were he spoke to me of their concerns in generalities
20 Q The facts that the parents went to the board
21 meeting, you've indicated that that caused you some
22 concern
23 A Yes, it did
24 Q Did you ever discuss with the parents the
25 possibility of having a meeting with them and Coach

1 O'Connor to air all of these concerns that they'd aired
2 with the school board?
3 A Would you please restate it?
4 Q Sure You've talked about how having a meeting
5 with some of the parents afterwards and expressing concerns
6 that they'd gone to the school board, correct?
7 A That's correct
8 Q Did you ever discuss with any of those parents,
9 those same parents or any of the other parents who had gone
10 to the school board the concept of "if you have grievances,
11 you have difficulties we need to have you have a meeting
12 with Coach O'Connor and air all of these things together"?
13 A Not that I recall
14 Q Is there a reason why not?
15 A Not that I recall
16 Q Did you ever discuss that as a possibility with
17 Coach O'Connor?
18 A Not that I recall
19 MR RUST I believe I have no further questions
20 MR HOMER I just have a few
21 EXAMINATION
22 BY MR HOMER
23 Q In general, you would agree with me, would you
24 not, that there's nothing improper or untoward about
25 parents trying to express concerns about a girls basketball

1 program?
2 A I don't think there's anything improper, wrong
3 with any parent expressing concern over any issue whether
4 it be girls' basketball or an issue in a classroom or
5 whatever
6 Q And in this particular situation, that's what
7 these parents were attempting to do with you and with other
8 school officials is just express concerns and ideas about
9 what they thought was going on
10 MR RUST Objection, lack of foundation
11 MR HOMER You can go ahead
12 THE WITNESS Would you restate the question
13 please?
14 MR HOMER Go ahead and read it
15 (Whereupon the record was read)
16 Q (BY MR HOMER) Let me restate it In this
17 particular situation these parents were attempting to
18 identify concerns that they had and get some response back
19 from the administration, correct?
20 A Correct
21 Q Do you know of any efforts on the part of the
22 parents to actually have a meeting with Coach O'Connor?
23 A I believe that I recall that Mr Burmingham
24 indicated that he had tried to talk to Coach O'Connor
25 Q And in fact, it was Coach O'Connor who refused to

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1 meet with the parents, wasn't it?
2 A I couldn't say I don't recall
3 Q All right You have previously summarized on the
4 record a few of the letters that were written to you in the
5 March time frame of 2004 I would ask the reporter to mark
6 these exhibits 4, 5, 6 and 7
7 (Deposition Exhibits 4, 5, 6 and 7 marked)
8 Q (BY MR HOMER) Before you look at those, you
9 would agree, would you not, that the letters themselves
10 would indicate what they said and that any summary that you
11 gave months after having read them would not as likely
12 reflect the letter as looking at the letter itself, is that
13 correct?
14 A Are you saying that these letters had any
15 influence with me?
16 Q Oh, no Let me back up here I'm just saying,
17 you attempted to summarize the
18 A Right, to the best of my recollection, yes
19 Q The best indication of what the letter says would
20 be the letter itself
21 A That's correct
22 Q Exhibit 4 looks to be a letter dated March 1,
23 2004 from Michael Hyde and it says, "Dear Sirs" is this a
24 letter you've previously seen?
25 A Yes, it is

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1 Q And that's the one that you were summarizing on
2 the record before, is that correct?
3 A I do recall it
4 Q Exhibit 5 looks to be a letter dated March 6,
5 2004 also from Michael L Hyde That's another letter that
6 you were summarizing?
7 A Yes, that is correct
8 Q Exhibit 6 is a letter dated March 12, 2004 from
9 Sue Chandler to yourself, is that correct?
10 A That's correct
11 Q And this is a letter that you were summarizing
12 for the record?
13 A Yes
14 Q And Exhibit 7 is a letter dated March 25th from
15 Gary and Jeanna Burningham to yourself That's also a
16 letter that you have summarized for the record
17 A Yes
18 Q So you've seen all those before and those are the
19 letters you were talking about
20 A Yes, sir
21 Q With respect to the school board meeting, I
22 understand you expressed some concerns with parents that
23 they would approach the school board Do you know Donna
24 Barnes?
25 A I do, yes

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1 Q Are you aware of the fact that Donna Barnes
2 actually invited the parents to attend the school board
3 meeting?
4 A I did not know prior to then I knew after the
5 fact, yes
6 Q Right And you know that the letters that they
7 wrote were in response to that invitation to attend the
8 meeting?
9 A I didn't know it previously, before the board
10 meeting
11 Q Now, what is your knowledge of what happened in
12 that school board meeting based on you've already
13 indicated
14 A What was recanted to me I'm sorry You didn't
15 finish your question
16 Q It was going to be compound anyway, so go ahead
17 A What I knew about the school board meeting or
18 what I know of the school board meeting was what was
19 recanted to me by the district superintendent, Sam Jarman,
20 and also by what I read in the newspaper
21 Q All right And you've indicated that your
22 reading of the newspaper article indicated that several of
23 the parents asked for Coach O'Connor to be replaced is
24 that right?
25 A I believe that was what was reported in the

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1 Deseret News
2 Q All right, what about your other source, your
3 assistant principal, what did he tell you happened with
4 respect to that issue?
5 A He was not in attendance at the board meeting
6 The only knowledge he had was the information that I shared
7 with him as of the time, just a summary of what was said to
8 me as I gave him the letters and asked him to talk to Mr
9 O'Connor
10 Q So you actually have no direct knowledge of what
11 happened in the meeting other than secondhand reports
12 either through the newspaper or through individuals, is
13 that right?
14 A That's correct
15 Q It is true, however, is it not, that even after
16 that board meeting that the parents indicated that they
17 would continue to support the coach and try to work through
18 these problems?
19 A That's correct
20 Q And so even if someone had said in some words
21 that they wanted the coach replaced, even subsequent to
22 that the parents indicated that they would work and try to
23 maintain the status quo
24 A That is correct
25 Q And in fact, Gary Burningham approached you in an

1 attempt to explain why they had approached the school
2 board, is that correct?
3 A That's correct
4 Q And in connection with that he wrote this letter
5 to you
6 A That's correct
7 Q - describing what happened You also had a
8 verbal conversation with him, did you not?
9 A I did
10 Q And that's where you expressed, obviously some
11 displeasure
12 A I did
13 Q And that he also explained to you that the reason
14 they did it is because they had been invited to do so and
15 they were attempting to maintain the dialogue
16 A He did He also expressed, apologized and said
17 in retrospect he probably should have come to me first
18 Q Did you believe that Coach O'Connor was making
19 himself available for that dialogue during this period from
20 May to September?
21 MS YOUNG Dialogue with the parents?
22 Q (BY MR HOMER) Dialogue with the parents?
23 A I saw, I did not observe any attempt on Coach
24 O'Connor efforts to contact parents I had indicated when
25 speaking with him that I would be happy to meet with him

1 with parents, to go to their homes if we needed to and
2 visit with them, that myself or Coach Allan or Mr Lott,
3 any of us, would do that with him
4 Q And he turned you down, didn't he?
5 A Not so much he turned us down, he just didn't
6 respond
7 Q Now, working in the public school system is tough
8 duty, isn't it?
9 A Everyday is an adventure
10 Q And you're to be congratulated for bringing up
11 our children, and I mean that sincerely
12 A Thank you
13 Q But it takes a lot of work and a lot of dialogue,
14 doesn't it?
15 A Yes, it does
16 Q And given, as you described, the tensions that
17 were inherent in this program, it certainly would have been
18 a good idea if Coach O'Connor would have made himself
19 available to at least discuss these in person with the
20 parents involved, wouldn't it?
21 A The direction I gave Coach O'Connor is that we
22 needed to work on perceptions, not necessarily what the
23 reality is, but that we need to work on what the
24 perceptions were
25 Q If you're going to work on perceptions you better

1 talk to the people that have those perceptions, is that
2 right?
3 A Yes, sir
4 Q And visa versa, if parents have certain
5 perceptions of Coach O'Connor it would be an asset if they
6 could listen to his side
7 A That's correct
8 Q But that can't happen unless there's a
9 willingness on both parties to talk
10 A That's correct
11 Q Coach O'Connor never indicated a willingness to
12 do that did he?
13 A Not that I recall
14 Q With respect to the concerns that were identified
15 by the parents, those were all concerns that were raised in
16 a very constructive way, weren't they?
17 A Yes, sir
18 Q And there was an attempt to identify the
19 concerns, talk them out and to resolve them
20 A That's correct
21 Q And in fact, as you've indicated, when the
22 concern about potential misappropriation was raised, you
23 reviewed it and you reported to the parents and they
24 accepted that review, didn't they?
25 A Yes, sir

1 Q And there was no attempt to go further with that
2 after the review took place
3 A No, sir
4 Q And with respect to the other matters, for
5 example the cutting of the two players, that was a
6 legitimate concern brought to you that had been expressed
7 by another player that the coach was going to cut two
8 others, right?
9 A That's correct
10 Q And that was something that was appropriate for
11 you to receive and for you to investigate and to try to
12 resolve
13 A Yes, sir
14 Q And when you did look at that and you approached
15 Coach O'Connor, he refused in that situation to say I'm not
16 going to cut two kids, right?
17 A He indicated each time that I talked to him that
18 he felt that it was his right as coach to be able to keep
19 or cut whoever he felt
20 Q Even though you disagreed with him?
21 A That's correct
22 Q And that was not something that you just
23 communicated once, but you communicated that several times,
24 didn't you?
25 A On at least one or two occasions, yes, sir

Tab 8

1 A I don't recall.
2 Q Did you ask any of the other girls whether they
3 thought that Michelle was singled out and criticized?
4 A Not until after Michelle had left. Excuse me,
5 let me back up. As I was talking to the girls
6 individually, that question was brought up whether the
7 girls, whether they thought Michelle was being treated
8 unfairly and some of the girls indicated to me that they
9 felt that because she was the star player on the team that
10 she was treated a little differently, that there was some
11 treatment but it didn't seem to be an over issue. It
12 wasn't like they were vindictive at all. It was that's the
13 way it is because of the player she is.
14 Q Based on what you heard from the parents and what
15 you've heard from the girls on the team, do you believe
16 that the concerns that were being raised by the parents
17 about Michelle getting special treatment were overstated?
18 A Yes.
19 Q Did you tell any of the parents that?
20 A Not that I recall.
21 Q You've indicated that you have wandered in and
22 out of some of the practices of the girls team when Coach
23 O'Connor was coaching?
24 A Yes.
25 Q Did you ever hear or observe anything about what

1 he was doing or his conduct that gave you concern during
2 those practices?
3 A There was none.
4 Q As far as your observation of Coach O'Connor as a
5 girls basketball coach as compared to other girls
6 basketball coaches that you have observed, how would you
7 compare him and his treatment of the girl members of his
8 team?
9 A What I observed, I thought he was fair.
10 Q Do you believe that he overplayed Michelle
11 Harrison on the team, that is to say had her spent to much,
12 gave her too much playing time?
13 A I didn't see the game in Duchesne that was
14 specifically brought up, but the other games that I
15 observed, no.
16 Q How did Coach O'Connor accept Coach Allan being
17 an assistant?
18 A He was open to that.
19 Q I take it you still attend girls basketball
20 games?
21 A Yes.
22 Q In your view, has there been a change on the team
23 as far as unity or lack of unity since Coach Allan has
24 taken over as compared with when Coach O'Connor was there?
25 A Would you say that again, please?

1 and Coach O'Connor?

2 A I never initiated any such meeting.

3 Q Do you believe that it would be constructive for

4 a parent to claim that a teacher such as Coach O'Connor is

5 taking money when that's not the case?

6 A I can see how parents might misconstrue or

7 misunderstand, not having knowledge of how public education

8 funds are used, how they're recorded, the purchasing

9 procedures. So I - this is not the first time that a coach

10 or staff member has been questioned about monies. This is

11 not the first time that I haven't looked into other

12 allegations of misappropriations of funds.

13 Q Do you believe that it's constructive - well, you

14 believe that that issue had been resolved through your

15 investigation, correct?

16 A I believe it was resolved.

17 Q And you believe that was communicated back to the

18 parents?

19 A I don't know to what degree. I think it was

20 mentioned, but I didn't write, I mean I didn't make an

21 attempt to communicate to every parent.

22 Q Do you believe that it was constructive of

23 parents to raise that issue with the board after your

24 investigation had been completed?

25 A It's difficult for me to say, to judge what

1 labeling?

2 A I believe that, I believe and expressed this to

3 Coach O'Connor, that there is reality and there is

4 perception of reality. The reality is actually what

5 happens. It's the truth of the matter, and in most cases it

6 really doesn't matter what the truth is. What becomes

7 important is the perception of the reality and it was my

8 direction to Mr. O'Connor to work on the perception. I

9 expressed my support to him. I told him that I did not

10 feel that the allegations of misappropriations of funds or

11 abuse to players was founded, but I told him that there was

12 a perception and if that was the perception and in order

13 for us to have a successful cohesive season that we needed

14 to address the perceptions of the parents and make sure

15 that the actions, that his actions were appropriate in

16 helping to reformulate or change those perceptions.

17 Q Okay, but that didn't answer my question so I'll

18 restate my question.

19 A Okay, please do.

20 Q My question is is that in a case where a coach

21 has been labeled in writing abusive and misappropriating

22 monies, my question is is it more difficult or less

23 difficult or about the same for the coach to continue to

24 work with those parents?

25 A I receive those kinds of complaints every single

Tab 9

CONDENSED TRANSCRIPT

IN THE FOURTH JUDICIAL DISTRICT COURT
PROVO DEPARTMENT, STATE OF UTAH

MICHAEL P. O'CONNOR, Plaintiff, vs. GARY W BURNINGHAM, JEANNA BURNINGHAM, SANDY PHILLIPS, RUBY RAY, DREW DOWNS, CURT PARKE, JULIE PARKE, MIKE POWELL, BARBARA POWELL, STEVE DAVIS, JAN DAVIS, TODD KIRKPATRICK, SUE CHANDLER, DALLIE HADERLIE, WENDY HADERLIE, SHELDON WORTHINGTON, JOHN C ROGERS, KENNY NORRIS, ROBYN NORRIS, WILL SUNDERLAND, DARLENE DURRANT, BLAIR SWENSON, PAULA SWENSON, ROBERT T. PRICE, KIM M PRICE, KENT BECKSTEAD, SUZANNE BECKSTEAD, LISA GRAY, JOHN JEX, JESSICA JOHNSON, JEFF BURNINGHAM, and JOHN DOES 1-50 Defendants.	Case No. 040402938 Deposition of: **DONNA BARNES**

April 26, 2005
9 05 a m.

Suitter Axland, PLLC
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Sharon Morgan, CSR, RPR, CRR
Notary Public in and for the State of Utah

GARCIA & LOVE
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Exhibit D

IN THE FOURTH JUDICIAL DISTRICT COURT
PROVO DEPARTMENT, STATE OF UTAH

MICHAEL P O'CONNOR,)
)Case No 040402938
Plaintiff,)
)
vs)Deposition of
)DONNA BARNES
GARY W BURNINGHAM JEANNA BURNINGHAM,)
SANDY PHILLIPS, RUBY RAY, DREW DOWNS,)
CURT PARKE, JULIE PARKE, MIKE POWELL,)
BARBARA POWELL, STEVE DAVIS, JAN)
DAVIS, TODD KIRKPATRICK, SUE CHANDLER,)
DALLIE HADERLIE, WENDY HADERLIE,)
SHELDON WORTHINGTON, JOHN C ROGERS,)
KENNY NORRIS, ROBYN NORRIS, WILL)
SUNDERLAND, DARLENE DURRANT, BLAIR)
SWENSON, PAULA SWENSON, ROBERT T)
PRICE, KIM M PRICE KENT BECKSTEAD,)
SUZANNE BECKSTEAD, LISA GRAY, JOHN)
JEX, JESSICA JOHNSON, JEFF BURNINGHAM,)
and JOHN DOES 1-50)
)
Defendants)

April 26, 2005
9 05 a m

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Also Present

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Jeanna Burningham
Drew Downs
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I N D E X

DONNA BARNES PAGE

Examination by Mr Homer 3

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1 P R O C E E D I N G S
2 DONNA BARNES,
3 called as a witness on behalf of the defendants, being
4 duly sworn, was examined and testified as follows:
5 EXAMINATION
6 BY MR. HOMER:
7 Q. Could you state your name, please.
8 **A. Donna Barnes.**
9 Q. Your address?
10 **A. 1265 East 900 North, Lehi.**
11 Q. And, Donna, have you ever been a member of
12 the Alpine School District Board?
13 **A. Yes.**
14 Q. Okay. What years were you a member of the
15 board?
16 **A. Two and a half years has been my length of**
17 **service.**
18 Q. Are you still a member?
19 **A. Yes.**
20 Q. When did you become a school board member?
21 **A. In January of 2002.**
22 Q. Do you generally understand that the reason
23 that we asked for you to come in for a deposition
24 arises out of a meeting at the school board in July of
25 2004?

1 **A. Yes.**
2 Q. And that has to do with the Lehi High School
3 girls' basketball team and Coach O'Connor and parents
4 of the players?
5 **A. I understand that.**
6 Q. Okay. When did you first become aware that
7 there was some conflict between the parents and Coach
8 O'Connor with respect to that team?
9 **A. I can't give you a specific date. Last**
10 **summer.**
11 Q So was it at about the same time that
12 discussions were had concerning going to the school
13 board with this problem?
14 **A. Yes.**
15 Q. Who did you have discussions with about that?
16 **A. Gary Burningham and others. Actually, there**
17 **were incidents at grocery stores, at the hospital, at**
18 **a printing shop, at -- there were quite a number of**
19 **occasions when the topic came up.**
20 Q. You've identified Mr. Burningham by name.
21 Tell me about the discussions you had with him.
22 **A. He called me and said he had some concerns,**
23 **and if there was anything I could do or -- he wanted**
24 **some direction. I basically said, "I can't act alone,**
25 **I'm just one board member of seven," and suggested to**

IN THE FOURTH JUDICIAL DISTRICT COURT
PROVO DEPARTMENT, STATE OF UTAH

MICHAEL P O'CONNOR,)
)Case No 040402938
Plaintiff,)
)
vs.)Deposition of
)DONNA BARNES
GARY W BURNINGHAM, JEANNA BURNINGHAM,)
SANDY PHILLIPS, RUBY RAY, DREW DOWNS,)
CURT PARKE, JULIE PARKE, MIKE POWELL,)
BARBARA POWELL, STEVE DAVIS, JAN)
DAVIS, TODD KIRKPATRICK, SUE CHANDLER,)
DALLIE HADERLIE, WENDY HADERLIE,)
SHELDON WORTHINGTON, JOHN C ROGERS,)
KENNY NORRIS, ROBYN NORRIS, WILL)
SUNDERLAND, DARLENE DURRANT, BLAIR)
SWENSON, PAULA SWENSON, ROBERT T)
PRICE, KIM M PRICE, KENT BECKSTEAD,)
SUZANNE BECKSTEAD, LISA GRAY, JOHN)
JEX, JESSICA JOHNSON, JEFF BURNINGHAM,)
and JOHN DOES 1-50)
)
Defendants)

April 26, 2005
9 05 a m

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P R O C E E D I N G S

DONNA BARNES,

called as a witness on behalf of the defendants, being duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. HOMER:

Q. Could you state your name, please.

A. Donna Barnes.

Q. Your address?

A. 1265 East 900 North, Lehi.

Q. And, Donna, have you ever been a member of the Alpine School District Board?

A. Yes.

Q. Okay. What years were you a member of the board?

A. Two and a half years has been my length of service.

Q. Are you still a member?

A. Yes.

Q. When did you become a school board member?

A. In January of 2002.

Q. Do you generally understand that the reason that we asked for you to come in for a deposition arises out of a meeting at the school board in July of 2004?

A. Yes.

Q. And that has to do with the Lehi High School girls' basketball team and Coach O'Connor and parents of the players?

A. I understand that.

Q. Okay. When did you first become aware that there was some conflict between the parents and Coach O'Connor with respect to that team?

A. I can't give you a specific date. Last summer.

Q. So was it at about the same time that discussions were had concerning going to the school board with this problem?

A. Yes.

Q. Who did you have discussions with about that?

A. Gary Burningham and others. Actually, there were incidents at grocery stores, at the hospital, at a printing shop, at -- there were quite a number of occasions when the topic came up.

Q. You've identified Mr. Burningham by name. Tell me about the discussions you had with him.

A. He called me and said he had some concerns, and if there was anything I could do or -- he wanted some direction. I basically said, "I can't act alone, I'm just one board member of seven," and suggested to

1 him that if he had some concerns, he needed to make
2 those concerns known to the entire board.
3 Q. Where did that conversation take place?
4 A. In my home. Actually, there was a phone
5 conversation before that, and then he came to my home.
6 Q. And the phone conversation, was that just to
7 kind of introduce the topic and then say, "Can I come
8 over and talk about it?"
9 A. Yes.
10 Q. So the real conversation took place at your
11 home, I take it?
12 A. Yes.
13 Q. You previously knew Mr. Burningham?
14 A. He's a neighbor.
15 Q. How long have you known him?
16 A. I don't know how many years, 25, 30 years,
17 they've lived in the area.
18 Q. When he came to your home, tell me what that
19 conversation consisted of.
20 A. Previous to coming to my home, in a phone
21 conversation he mentioned that there were some
22 concerns, and I suggested to him that, you know, he
23 needed to make a case for this. He came to my home
24 with some letters that he had obtained from other
25 parents.

1 the call, then, and when Mr. Burningham came to your
2 home?
3 A. I can't recall exactly how long.
4 Q. But it was more than a few hours?
5 A. Oh, yes.
6 Q. Was it a few days, few weeks, or could you
7 even put it in those kind of terms?
8 A. I would say weeks.
9 Q. So he left the letters with you, you read
10 them, delivered them to the superintendent,
11 Dr. Henshaw, and then what further involvement did you
12 have with respect to the board meeting which occurred
13 on July 20, 2004?
14 A. I was just there as a board member when a
15 group of parents came to speak to the board.
16 Q. Did you have anything to do with scheduling
17 that as an item on the agenda?
18 A. No.
19 Q. When you turned the letters over to the
20 superintendent, was that your last involvement until
21 you went to the board meeting?
22 A. To the best of my recollection, yes.
23 Q. Did you have any discussion with other board
24 members between the time when you received the letters
25 and the board meeting?

1 Q. Did you read the letters?
2 A. I did.
3 Q. Do you remember the date of the letters?
4 A. I don't.
5 Q. What did you tell Mr. Burningham after
6 reading the letters?
7 A. I didn't have a conversation with him after I
8 read the letters. To the best of my recollection, at
9 the time I got the letters, I delivered them to our
10 superintendent. At that point I had no more contact
11 with the letters. They were in the hands of the
12 superintendent.
13 Q. Let me ask you, what is the name of the
14 superintendent?
15 A. Dr. Vernon Henshaw.
16 Q. When you had the phone call with
17 Mr. Burningham and you said "you have to make your
18 case," was that, to the best of your knowledge, when
19 Mr. Burningham got the letters?
20 A. I would assume so.
21 Q. So he didn't call you and then come right
22 over? There was a period of time between the call and
23 when he came to your home; is that right?
24 A. To the best of my knowledge, yes.
25 Q. How long of a period of time was it between

1 A. No.
2 Q. Did you have any conversations with
3 Dr. Henshaw?
4 A. No.
5 Q. Did you have any other conversations with
6 Mr. Burningham or any of the other parents?
7 A. No.
8 Q. You mentioned earlier that there were
9 conversations, I think you said, at a print shop; is
10 that right?
11 A. It was just an interesting set of
12 coincidental occasions. I was in the emergency
13 room -- my daughter-in-law was having some
14 difficulty -- and there was another couple there, and
15 in the course of this conversation the subject of the
16 basketball team came up, and they were concerned and
17 told me about a situation.
18 Then several days later, I was at a print
19 shop, and an employee of the print shop mentioned to
20 me that there had been -- there were concerns from one
21 of their employees about the situation at the high
22 school.
23 Q. Do you remember any of the names of the
24 persons you talked to?
25 A. I do.

1 Q Who did you talk to at the emergency room?
2 **A. Kenny and Linda Norris and Deanna -- oh,**
3 **gosh, I can't remember her last name -- Larson.**
4 Q Did you know who they were at the time?
5 **A. Uh-huh (affirmative).**
6 Q From just living in the community?
7 **A. Uh-huh (affirmative).**
8 MR ANDERSON You need to answer "yes' or
9 'no "
10 **A. Yes.**
11 Q (By Mr Homer) Who are the Norrises?
12 **A. They are the grandparents of a daughter that**
13 **had had some association with the basketball program**
14 **at Lehi.**
15 Q What did they tell you?
16 **A. They were upset and concerned about the**
17 **treatment of their granddaughter and that she had**
18 **elected not to play because of the situation.**
19 Q Okay How about Ms Larson, who was that?
20 **A. You know, I think that her -- I'm not sure of**
21 **the relationship, but she knew of it I think someone**
22 **who worked at the print shop had a daughter who played**
23 **in the basketball program and had not been happy with**
24 **the situation.**
25 Q You don't know that person's name, I take it?

1 Q Okay Did you retain copies of those
2 letters?
3 **A. No.**
4 Q So everything that Mr Burningham brought to
5 you, you delivered over to the superintendent?
6 **A. I did.**
7 Q Did you do that personally or through his
8 secretary?
9 **A. I handed them to his secretary.**
10 Q Did you receive confirmation that she turned
11 those over to the superintendent?
12 **A. I know the superintendent got them.**
13 Q Can you recollect how long it was from the
14 time that you delivered the letters to the
15 superintendent until the July 20, 2004, board meeting?
16 **A. I can't remember the exact time.**
17 Q Weeks, months, days?
18 **A. Weeks.**
19 Q What do you normally receive prior to a board
20 meeting?
21 **A. We receive minutes, copies of the agenda.**
22 Q Do you give handouts sometimes of the
23 material that is going to be discussed?
24 **A. Only those that pertain to -- we do not get**
25 **any kind of documents that pertain to -- we get a lot**

1 **A. I'm not sure.**
2 Q Any other conversations that you had, other
3 than those?
4 **A. Not that I can recollect.**
5 Q I take it that those conversations took place
6 prior to your initial telephone conference with
7 Mr Burningham on this issue?
8 **A. It was all about the same time frame. I**
9 **don't know exactly the sequence before.**
10 Q And after listening to those individuals in
11 the print shop and the emergency room, did you give
12 them any advice as to what they should do?
13 **A. I remember telling the Norrises that they**
14 **needed to contact the principal. I'm not sure the**
15 **exact content of that conversation.**
16 Q How about with Ms Larson?
17 **A. Just comments.**
18 Q Did any of those individuals later have
19 conversations with you about the subject, or was that
20 it?
21 **A. No, no.**
22 Q Did you have any conversations with any of
23 the parents and/or other individuals who wrote letters
24 that you reviewed?
25 **A. No.**

1 **of documents, and they are e-mailed. We are a**
2 **paperless board. So there's minutes of prior**
3 **meetings, there's budgets. There's a lot of**
4 **information that we get. I don't know what**
5 **specifically you're asking for.**
6 Q Well, specifically did you receive copies of
7 any of these letters?
8 **A. No.**
9 Q Were the letters circulated during the
10 meeting?
11 **A. No.**
12 Q What discussion was had with respect to the
13 letters, if any, during the meeting?
14 **A. During the open board meeting?**
15 Q Yes
16 **A. Our policy is that we do not respond to those**
17 **who address the board. So there was no discussion in**
18 **the open meeting.**
19 Q And I take it -- did you have a closed
20 meeting at some time during the board meeting?
21 **A. We generally have a closed meeting following**
22 **all of our board meetings to discuss personnel**
23 **property.**
24 Q I'm going to show you what has been marked as
25 Defendants Exhibit 12 and ask you if you've seen that

1 **parents and the emotion -- well, I can't say that.**
2 **We've had some other emotional meetings, but the**
3 **numbers and the amount of emotion that was shown in**
4 **that particular meeting seemed a little more than**
5 **normal.**
6 Q So when you talk about numbers, you're saying
7 there were more parents addressing this issue than you
8 normally see with respect to other issues?
9 **A. Yes.**
10 Q Was everyone courteous and attempting to --
11 **A. Very courteous, very professional in their**
12 **behavior.**
13 Q Okay And certainly there's nothing unusual
14 about parents writing letters to be reviewed by the
15 board as supplemental information to -
16 **A. We get those routinely also.**
17 Q Okay And did you consider those to be
18 constructive letters in attempting to resolve a
19 problem?
20 **A. I did.**
21 Q Do you know who JoDee Sundberg is?
22 **A. Oh, yes.**
23 Q Who is that?
24 **A. She's president of our board.**
25 Q Okay And did you have any discussions with

1 **A. I recall that I may have. I don't remember**
2 **exactly.**
3 Q Do you know what happened to the parents'
4 letters after the board meeting took place?
5 **A. All I know is that I gave the packet of**
6 **letters to the superintendent. It was my**
7 **understanding that he shared those letters with our**
8 **assistant superintendent over our high school, Sam**
9 **Jarman. That's the process.**
10 Q You didn't see any of the letters during the
11 board meeting, right?
12 **A. No.**
13 Q Have you seen any of the letters since the
14 board meeting?
15 **A. No.**
16 Q Have you heard anything about what happened
17 to the letters after the board meeting took place?
18 **A. No.**
19 Q You didn t have any discussions with the
20 superintendent about what he intended to do with the
21 letters?
22 **A. I don't recall a conversation with the**
23 **superintendent about what he was going to do. There**
24 **was just an assumption that the process will be**
25 **followed. That is not a governance issue, that's**

1 her about how to handle the situation after you had
2 your initial conversations?
3 **A. I did. I called JoDee after I had talked to**
4 **Gary, and I said, you know, "What should I do at this**
5 **point?" And she said, "This is not without precedent.**
6 **You need to tell them that they should build a case."**
7 **I could almost guarantee that was verbatim.**
8 Q And that was an attempt by you to know where
9 to take this?
10 **A. I had never been in this position before. I**
11 **was fairly newly elected to the board so I needed some**
12 **direction.**
13 Q Okay Did you have this conversation with
14 Ms Sundberg at or about the same time that
15 Mr Burningham either initially talked to you or
16 delivered letters to you?
17 **A. Yes.**
18 Q Do you know who Wendy Haderlie is?
19 **A. Yes.**
20 Q Who is it?
21 **A. Wendy is a parent of a girl that -- one of**
22 **the girl basketball players. I'm not sure when her**
23 **daughter played. I just know who she is.**
24 Q Did you tell Ms Haderlie that she could
25 write a letter to the school board about her concerns?

1 **their responsibility.**
2 Q Okay You don't know of anyone on the school
3 board or in the school district that gave letters to
4 newspaper or media?
5 **A. No.**
6 Q Do you know who Ray Rawson is?
7 **A. I do.**
8 Q Okay Who is Ray Rawson?
9 **A. He is a counselor at Willowcreek Middle**
10 **School.**
11 Q Have you had any discussions with Mr Rawson
12 about this situation?
13 **A. He called me on the phone and asked if I**
14 **could meet with him in his office, and I agreed. I**
15 **met with him.**
16 Q In his office at the middle school?
17 **A. At Willowcreek Middle School.**
18 Q Is that in Lehi?
19 **A. It is.**
20 Q Did you know Mr Rawson before he made this
21 request?
22 **A. No.**
23 Q What did he want to talk to you about?
24 MR RUST Do we have a time frame?
25 Q (By Mr Homer) Well, yeah, when did the

1 Q. Well, the school board -- let's say, for
2 example, that a team wanted to establish a special
3 fund for a trip or clothes or something like that.
4 Can they establish an account that's not reviewed by
5 the school board, or is everything subject to the
6 review of the school board?
7 **A. They can -- that has been a practice. We**
8 **have no control over what patrons are willing to**
9 **donate. We do review everything that goes through**
10 **Alpine Foundation, which is an either in kind or cash**
11 **donation. But there is a practice that patrons can**
12 **contribute funds for special programs, band uniforms,**
13 **those kinds of things.**
14 Q And there's no school board policy that would
15 say that the school board has ultimate control over
16 those types of accounts?
17 **A. None that I'm aware of.**
18 Q. Okay
19 MR. HOMER: Why don't we take a few minutes,
20 and I may be done.
21 (Recess)
22 MR. HOMER No further questions.
23 MR RUST. I have a few
24 //
25 //

1 Q. Meaning he started 2003, 2004 or when?
2 **A. This is his second -- gosh, this is his**
3 **second year at the high school. No, this is his first**
4 **year at the high school. My gosh, I can't remember**
5 **for sure.**
6 Q So he would have started in the fall of 2004?
7 **A. Yes.**
8 Q Do you know where he was before that?
9 **A. He was a counselor at PG Junior High in**
10 **Pleasant Grove.**
11 Q. And --
12 **A. I have a husband who is a 30-year educator**
13 **who taught at Lehi Elementary and is retired.**
14 Q. Anyone else?
15 **A. I have two sons in teacher training programs**
16 **at the University of Utah. The apple doesn't fall far**
17 **from the tree in this family.**
18 Q. Very good. Do I understand that your
19 daughter, Rebecca, lives next door to Doug Yates?
20 **A. She does.**
21 Q. Do you know Mr. Yates?
22 **A. I do.**
23 Q. Have you known him for some time?
24 **A. I have known Doug for quite some time.**
25 Q. Do you have any of your family members who

1 EXAMINATION
2 BY MR. RUST:
3 Q. We didn't address your education and
4 training. Do you have a degree beyond high school?
5 **A. I have a master's degree in educational**
6 **psychology and counseling.**
7 Q. And have you had occasion to use that degree?
8 **A. I was a junior high and high school counselor**
9 **for 14 years, and before that I taught English for 17**
10 **years.**
11 Q Have you retired?
12 **A. I have.**
13 Q. When was that?
14 **A. I retired in 2001.**
15 Q. I understand that you have some children who
16 are in the educational field as well?
17 **A. I do.**
18 Q Can you identify those and where they are?
19 **A. I have a daughter, Rebecca, who is a teacher**
20 **at Lehi High School.**
21 Q. Okay. How long has she been at Lehi?
22 **A. Seventeen years.**
23 Q Okay And then --
24 **A. I have a son, Robert, who is a counselor at**
25 **Lehi High School, and this is his second year.**

1 you would consider to be good friends with Gary
2 Burningham?
3 **A. Living in the small town of Lehi, I think --**
4 **I don't know whether good is the right description,**
5 **but friends.**
6 Q. Who would that be?
7 **A. Well, I would say Robert, Bob, is a friend,**
8 **and also my daughter, Becky, is a friend.**
9 Q. Have you had any social dealings with Gary
10 Burningham over the years?
11 **A. No.**
12 Q. Do you know Drew Downs, who is sitting here?
13 **A. Not well.**
14 Q. You indicated that you had some meetings or
15 some discussions with some parents, one at the
16 emergency room, one at a print shop, and you don't
17 know whether those occurred either before or after
18 your conversation with Gary?
19 **A. I'm quite sure before.**
20 Q. Okay. Do you remember discussing those
21 conversations with Gary Burningham when he called you?
22 **A. I can't remember.**
23 Q. Okay. These parents -- let's go back to the
24 Norrises Do you know who their granddaughter is?
25 **A. I don't remember her name.**

1 **A. I did form an opinion about those things.**
2 Q And what was your opinion?
3 **A. My feeling was there was a reason for this**
4 **number of parents being upset about the situation with**
5 **their students.**
6 Q Okay Do you know if all of the writers of
7 those letters had students at the school?
8 **A. I don't recall.**
9 Q. Did you understand that all of the writers
10 had students at the school?
11 **A. I didn't -- that was not an understanding I**
12 **had.**
13 Q Did you have an understanding one way or
14 another?
15 **A. It seems to me that most of those letters**
16 **were from parents who had girls who had played**
17 **basketball --**
18 Q Okay
19 **A. -- or had an association with girls who had**
20 **played basketball.**
21 Q Once you had delivered the letters to
22 Dr Henshaw, and you've indicated you had no
23 conversation with him about it, did you believe your
24 responsibility was finished?
25 **A. I did.**

1 Q Did you ask anyone, either at that time or
2 later, to do any kind of an investigation?
3 **A. No.**
4 Q. Why not?
5 **A. That's not within my realm of responsibility.**
6 Q Was it within the realm of the responsibility
7 of the board acting as a board?
8 **A. We act as a board. I do not act**
9 **unilaterally.**
10 Q But I'm saying as a board, would it have been
11 within the responsibility of the board to have acted
12 on these letters?
13 **A. There is a discussion about this.**
14 Q Do you recall whether there was any
15 recommendation to do any kind of investigation, in
16 other words, as a board decision?
17 **A. I don't recall that.**
18 Q Do you recall if the board reached any kind
19 of a decision as to what to do with the letters?
20 **A. There was a discussion in a closed meeting.**
21 Q Do you know, as a result of the discussion in
22 the closed meeting, what was done?
23 **A. There was a recommendation given.**
24 Q And do you recall what that recommendation
25 was?

1 **A. As a board, the recommendation was to do what**
2 **is in the best interest of all the girls.**
3 Q Okay What did you understand that would be?
4 **A. There was no -- that was the instruction**
5 **given to the superintendent.**
6 Q All right So this is a recommendation back
7 to the superintendent?
8 **A. Yes.**
9 Q Then it's up to the superintendent at that
10 point to handle the matter?
11 **A. It is.**
12 Q Do you recall telling any parent that there
13 was to be a board meeting on such and such a night?
14 **A. I do -- well, I don't recall that. It's**
15 **public information when the board meetings are.**
16 Q My question is if you recall telling anybody
17 when a board meeting was to be held, any of these
18 parents or people that had expressed concern
19 **A. I had no contact with any of the other**
20 **parents, except Mr. Burningham.**
21 Q Do you recall telling him when there was a
22 board meeting?
23 **A. I could have told him that.**
24 Q Do you remember that specifically?
25 **A. That's asking my brain to remember something**

1 **that I can't remember specifically. In the course of**
2 **the conversation, that could have been mentioned as a**
3 **recourse to redress their grievances.**
4 Q But as you sit here today with your best
5 memory, do you recall one way or another?
6 **A. Probably, yes.**
7 Q If it's a probably yes, do you recall what
8 you probably told him?
9 **A. It would have been my guess that I would have**
10 **suggested that he needed to make an appearance before**
11 **the entire board or make a statement to the entire**
12 **board, because I cannot act as one person.**
13 Q But you had his letters already, correct, by
14 this time?
15 **A. I did.**
16 Q And as of the time that you had his letters
17 which you turned over to Dr Henshaw, did you tell him
18 that he needed to do anything further, that you
19 recall?
20 **A. Not that I recall.**
21 Q Did you believe that he had done everything
22 he actually needed to do by submitting the letters?
23 **A. I think so.**
24 Q And if Superintendent Henshaw or JoDee
25 Sundberg had received additional letters from any of

Tab 10

1 regarding their concerns, as it states in the memo?
2 A. I don't know who got the letters. I was
3 under the impression that those letters were not
4 shared with all of the board members.
5 Q. Okay.
6 A. I know the superintendent had them.
7 Q. All right. So it may be inaccurate if she
8 stated that the board had received letters; is that
9 right?
10 A. That may be.
11 Q. Okay. It also states, "She commented that
12 the district board shared their concern for students."
13 Did she state that?
14 A. To the best of my recollection, there was
15 something like that that she said.
16 Q. Okay. Do you personally believe that the
17 parents were exercising their rights as parents living
18 in the school district to voice concerns at a school
19 board meeting about what they perceived to be
20 problems?
21 A. That's the policy of the board, that if there
22 are concerns, they may address the board in an open
23 board meeting. It happens routinely.
24 Q. Nothing unusual about that?
25 A. The only unusual thing was the number of

A. I don't remember how many for sure. I remember it was probably a half to three-quarters of an inch thick in the file folder.

Q. Did you read all the letters?

A. I did.

Q. And after you read all the letters, did you have any kind of an opinion as to the situation at the Lehi?

A. I did.

Q. And what was that?

A. I was concerned.

Q. What was your concern?

A. My concern was that girls were being treated inappropriately.

Q. Meaning what?

A. That there was, according to the letters, evidence of intimidation, verbal abuse, those kinds of things.

Q. Do you remember any reference to psychological abuse or emotional abuse?

A. I do remember emotional abuse.

Q. That's a concern in education, is it not?

A. Absolutely.

Q. That's not something you would take lightly, is it?

1 A. No.
2 Q. So when you read that, did you express your
3 concern about what you had read to anyone?
4 A. Not that I recall.
5 Q. You just -- so all of these letters that were
6 about a half inch thick that were talking about
7 abuse --
8 A. I don't make it a practice to -- it's really
9 not ethical nor professional for me to share those
10 kinds of things with others.
11 Q. Even the superintendent?
12 A. The superintendent, those people, yes, but I
13 did not have a conversation with the superintendent
14 about the content of those letters. He had access to
15 those himself.
16 Q. Did you form an opinion as to any other
17 problems with the coach?
18 A. No.
19 Q. Did you read anything about possible misuse
20 of money?
21 A. Read?
22 Q. In those letters.
23 A. No, not that I recall.
24 Q. And did you form an opinion as to whether you
25 thought these things were true?

1 "We're working on it," or something like that. That's
2 all that was ever said.
3 Q. You've indicated that you believe that
4 Mr. Jarman at the district office also reviewed these
5 letters?
6 A. That's my understanding.
7 Q. Did you ever have any conversations with
8 Mr. Jarman?
9 A. No.
10 Q. Did you understand that Coach O'Connor was,
11 in fact, relieved of his responsibilities of teaching
12 basketball -- or coaching basketball?
13 A. Repeat first part.
14 Q. Did you ever become aware of the fact that
15 Coach O'Connor was relieved of his responsibilities as
16 the girls' basketball coach at Lehi High School?
17 A. I became aware of that.
18 Q. Okay. And by what means?
19 A. I don't remember. I honestly do not
20 remember. I just remember that he was relieved of
21 those responsibilities.
22 Q. Are you aware that he is still teaching the
23 girls' track team?
24 A. I'm not aware of that.
25 Q. Would that concern you, based on what you

1 read in the letters about abuse?
2 A. It would.
3 Q. Have you discussed that with anybody, the
4 issue of his continuing in any position over the
5 girls?
6 A. That's never been a topic of discussion.
7 That's the first time I've heard of that.
8 Q. But my question is more addressed to would
9 you have a concern, based on what you read, of Coach
10 O'Connor having any responsibility that brought him
11 into contact with girls?
12 A. I would.
13 Q. At the meeting, the minutes indicate that
14 there were about 30 people who stood in response to
15 the question whether they were there about the Lehi
16 girls' basketball program. That's on the second page.
17 Do you see that?
18 A. Uh-huh (affirmative).
19 Q. And this is that exhibit?
20 MR. HOMER: You have to say "yes" or "no."
21 THE WITNESS: Yes.
22 Q. (By Mr. Rust) Is that about how many you
23 recall being there?
24 A. That seems about right.
25 Q. Do the things that those who spoke, did that

Tab 11

CONDENSED TRANSCRIPT

IN THE FOURTH JUDICIAL DISTRICT COURT
PROVO DEPARTMENT, STATE OF UTAH

MICHAEL P. O'CONNOR, Plaintiffs, vs. GARY W. BURNINGHAM, JEANNA BURNINGHAM, SANDY PHILLIPS, RUBY RAY, DREW DOWNS, CURT PARKE, JULIE PARKE, MIKE POWELL, BARBARA POWELL, STEVE DAVIS, JAN DAVIS, TODD KIRKPATRICK, SUE CHANDLER, DALLIE HADERLIE, WENDY HADERLIE, SHELDON WORTHINGTON, JOHN C. ROGERS, KENNY NORRIS, ROBYN NORRIS, WILL SUNDERLAND, DARLENE DURRANT, BLAIR SWENSON, PAULA SWENSON, ROBERT T. PRICE, KIM M. PRICE, KENT BECKSTEAD, SUZANNE BECKSTEAD, LISA GRAY, JOHN JEX, JESSICA JOHNSON, JEFF BURNINGHAM and JOHN DOES 1-50 Defendants.	Case No. 040402938 Deposition of: MICHAEL O'CONNOR VOLUME I

April 13, 2005
9:04 a.m.

Suitter Axland, PLLC
8 East Broadway, Suite 200
Salt Lake City, UT 84111

Sharon Morgan, CSR, RPR, CRR
Notary Public in and for the State of Utah

Exhibit E

IN THE FOURTH JUDICIAL DISTRICT COURT
PROVO DEPARTMENT STATE OF UTAH

MICHAEL P O CONNOR)
) Case No 040402938
Plaintiffs)
)
vs) Deposition of
) MICHAEL O CONNOR
GARY W BURNINGHAM JEANNA BURNINGHAM) VOLUME I
SANDY PHILLIPS RUBY RAY DREW DOWNS)
CURT PARKE JULIE PARKE MIKE POWELL)
BARBARA POWELL STEVE DAVIS JAN)
DAVIS TODD KIRKPATRICK SUE CHANDLER)
DALLIE HADERLIE WENDY HADERLIE)
SHELDON WORTHINGTON JOHN C ROGERS)
KENNY NORRIS ROBYN NORRIS WILL)
SUNDERLAND DARLENE DURRANT BLAIR)
SWENSON PAULA SWENSON ROBERT T)
PRICE KIM M PRICE KENT BECKSTEAD)
SUZANNE BECKSTEAD LISA GRAY JOHN)
JEX, JESSICA JOHNSON JEFF BURNINGHAM)
and JOHN DOES 1-50)
)
Defendants)

April 13 2005
9 04 a m

Suitter Axland PLLC
8 East Broadway Suite 200
Salt Lake City, UT 84111

Sharon Morgan, CSR, RPR, CRR
Notary Public in and for the State of Utah

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A P P E A R A N C E S

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Also Present

Gary W Burningham
Jeanna Burningham
Drew Downs
Mike Powell
Sue Chandler
Will Sunderland
Wendy Haderlie
Lisa Gray
Jessica Johnson

I N D E X

MICHAEL P O CONNOR PAGE
Examination by Mr Homer 4

P R O C E E D I N G S

MICHAEL P O'CONNOR,
called as a witness on behalf of the defendants, being duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. HOMER:

Q Could you please state your name

A. Michael O'Connor.

Q. And you're the plaintiff in this case, correct?

A. That's correct.

Q. What's your date of birth?

A. January 13th, 1962.

Q And your middle initial is P What is your middle name?

A. Patrick.

Q. Okay.

(Exhibit No. 1 marked.)

Q. (By Mr. Homer) I would like you to look at Exhibit 1. As we go through these exhibits, Mr. O'Connor, I would like you to take whatever time you need to familiarize yourself with it, and then why don't you just indicate when you're ready to take questions.

A. I'm ready.

Q. Have you seen this complaint before?
A. I have.
Q. Did you retain Mr. Rust, to your right there, to draft it?
A. I did.
Q. Did you supply him with the information that's set forth in the complaint?
A. Yes.
Q. Have you reviewed the complaint?
A. Yes.
Q. Did you review it before it was filed?
A. I believe I did.
Q. All right. And as you sit here today, do you believe that all of the information set forth in the complaint is true?
A. Yes.
Q. All right. Let me call your attention to a few of the paragraphs in the complaint. First I would like to call your attention to paragraph 3, "John Does 1 through 50 are individuals who actively participated in the conduct complained of herein, but whose names are currently unknown to plaintiff." Have you seen that?
A. I have.
Q. Who are John Does 1 through 50?

A. We don't know at this time.
Q. Do you have any names at all other than the names that you've named as defendants in this lawsuit?
A. I don't believe we do at this time.
Q All right. Would you have given those names to Mr Rust if you were aware of those names?
A. I would.
Q All right. Paragraph 4, "In June 2001 plaintiff was actively employed as a high school basketball coach in Bellflower, California " Do you see that?
A. Yes.
Q Okay. What was the name of the high school that you were employed by?
A. Bellflower High School.
Q And what years did you coach high school basketball at that high school?
A. 1991 to 2001.
Q. As head coach for that full period?
A. I was three years with the boys' program. That would be the first three.
Q. '91 through --
A. '94, and then the last seven years as the head girls' coach.
Q. Were you the head coach of the boys' program?

A. No.
Q. What was your position?
A. I was head sophomore coach for two years and then J.V. coach for one.
Q What was your salary at Bell Flower High School?
MR RUST Starting or ending?
Q (By Mr Homer) Well, if there's different numbers, let's go through year by year
A. At the time I left?
Q Let's start, yes, in 2001 What was your salary?
A. I would say approximately $65,000.
Q. What records do you have in your possession that would indicate that you were making $65,000? And I don't mean here today, obviously, but --
A. I would have to go get their -- it would be in their pay scale that was set at that time, which I'm assuming could be retrieved from that school district.
Q Do they split it up between teaching responsibilities and coaching?
A. That's correct.
Q. How much of the $65,000 was for teaching?
A. Approximately 60, high 50s.

Q. And the rest would be for coaching?
A. Correct.
Q Did you retain an accountant to do your taxes for the year 2001?
A. I did.
Q And what was his or her name?
A. Leo Wasan.
Q W-a-s --
A. -s-a-n.
Q W-a-s-a-n?
A. W-a-s-a-n, I believe.
Q Where is he located?
A. Torrance, California.
Q I assume he maintains records of your tax returns?
A. Correct.
Q And those records would show W-2 income from the Bell Flower High School?
A. Yes, it would.
Q Did he do your taxes from '91 through 2001?
A. Not all of those years.
Q Did you have someone else prepare taxes the prior years?
A. Yes.
Q And who was that?

1 **A. I believe we've gone to H&R Block, and I**
2 **don't recall how many -- I don't remember the exact**
3 **amount of years that it was through them.**
4 Q Do you recall how many years Mr Wasan
5 prepared your taxes?
6 **A. Three or four.**
7 Q. Do you know if he's still an accountant in
8 Torrance, California?
9 **A. Yes.**
10 Q Have you maintained a relationship with him
11 since you've left California?
12 **A. Yes.**
13 Q Have you employed him?
14 **A. Yes.**
15 Q Has he prepared your taxes post 2001?
16 **A. Yes.**
17 Q Would he have your tax records up to and
18 including this year?
19 **A. Yes.**
20 Q Excuse me, last year
21 **A. Yes.**
22 Q And you have contact information for
23 Mr Wasan?
24 **A. We do.**
25 Q. You can give that to your attorney?

1 Q What was the application for, to the best of
2 your knowledge?
3 **A. Just an application at the district.**
4 Q For what?
5 **A. A teaching job.**
6 Q What prompted you to apply with the Lehi
7 School District for a job?
8 **A. I just had an application at Alpine School**
9 **District. There was an opening at another school that**
10 **I had applied for. Then I saw that the Lehi school**
11 **needed a girls' basketball job, so that was it.**
12 Q All right Let's go back, if we can, to
13 prior to the submission of the applications and see if
14 we can understand why you sent in the application
15 How did you first become aware that positions were
16 open in the Alpine School District?
17 **A. It was posted on their Web site.**
18 Q Is that where you saw it?
19 **A. Yes.**
20 Q Did someone call your attention to that or
21 did you just surf it?
22 **A. I believe my wife saw that posting for the**
23 **girls' basketball job.**
24 Q All right And what is your wife's name?
25 **A. Laura.**

1 **A. I can.**
2 Q. I take it that you have not obtained any of
3 these tax records in connection with this litigation,
4 is that correct?
5 **A. No.**
6 Q Going back to paragraph 4 of the complaint,
7 it states, "He," being you, "was asked by Defendant
8 Sheldon Worthington, the principal of Lehi High
9 School, to become the girls' basketball coach at Lehi
10 High School in Utah County", is that correct?
11 **A. That's correct.**
12 Q. When did he contact you to retain you for
13 that position?
14 **A. Approximately June of 2001.**
15 Q Did he contact you by telephone?
16 **A. That's correct.**
17 Q Tell me about the first conversation you had
18 with Mr Worthington
19 **A. I had an application in at the district. I**
20 **believe he had seen that application and then called**
21 **me.**
22 Q. So you had actually applied before he
23 contacted you, is that correct?
24 **A. Not particularly for that particular job, but**
25 **I just had an application present at the district.**

1 Q L-a --
2 **A. L-a-u-r-a.**
3 Q. What is her maiden name?
4 **A. Wright.**
5 Q Do either you or your wife have Utah roots?
6 **A. I don't. She has family in Lindon. There's**
7 **a historic grandfather or great grandfather in Lindon.**
8 **That's the extent of that.**
9 Q Where were you born?
10 **A. Syracuse, New York.**
11 Q What year?
12 **A. 1962.**
13 Q Where did you go to elementary school?
14 **A. I believe I went to -- that was a long**
15 **time ago -- St. Lucy's, and then we moved to**
16 **California in 1969. I attended -- I believe it was**
17 **Lowell, L-o-w-e-l-l, for a year.**
18 Q Lowell Elementary?
19 **A. Uh-huh (affirmative).**
20 Q Where was that located, what city?
21 **A. Long Beach, California.**
22 Q Okay
23 **A. Then I also attended Robert E. Lee Elementary**
24 **and then Tincher Elementary, T-i-n-c-h-e-r.**
25 Q Where was --

1 **A. All of those were in Long Beach.**
2 Q. And did you go to junior high in Long Beach?
3 **A. Yes. I went to Hill Junior High.**
4 Q Where did you go to high school?
5 **A. Long Beach Wilson High School.**
6 Q College?
7 **A. I went to Long Beach City College.**
8 Q What year did you graduate?
9 **A. 1985.**
10 Q What degree did you take?
11 **A. An AA.**
12 Q. Is that a two-year degree?
13 **A. Yeah.**
14 Q. And did you move on to a four-year college?
15 **A. I went to Brigham Young.**
16 Q What years did you attend Brigham young?
17 **A. From '85 to '89. Actually, to '91.**
18 Q. Did you obtain a degree?
19 **A. I did.**
20 Q. What degree did you take?
21 **A. B.S. with a teaching credential. That was in**
22 **'89.**
23 Q. What was your B.S. in?
24 **A. Physical education.**
25 Q. Then you remained at the university from '89

1 to '91; is that right?
2 **A. Correct. I obtained an M.A.**
3 Q. Okay In?
4 **A. P.E., with an emphasis in sports management.**
5 Q And then did you return to California?
6 **A. I did.**
7 Q And that's when you went to work for Bell
8 Flower High School?
9 **A. That's correct.**
10 Q So you lived in Utah for approximately six
11 years, is that right?
12 **A. Yes.**
13 Q. Did you meet your wife in Utah?
14 **A. No, I didn't.**
15 Q. Okay. Were you married when you went to
16 Brigham Young University?
17 **A. From '89 to '91 I was.**
18 Q. Okay Where did you meet?
19 **A. In California.**
20 Q. Is that where she was living at the time?
21 **A. Correct.**
22 Q Had she ever lived in Utah, to the best of
23 your knowledge?
24 **A. Previous to that?**
25 Q Yes.

1 **A. No.**
2 Q And you worked for Bell Flower from '91 to
3 2001, is that correct?
4 **A. That is correct.**
5 Q Who was the principal of Bell Flower during
6 that period?
7 **A. There were like four of them, so which one**
8 **would you like, all four?**
9 Q Just go through chronologically.
10 **A. The first one was Don Ashton, Rick**
11 **Kemppainen.**
12 Q How do you spell that?
13 **A. K-e-m-p-p-a-i-n.**
14 Q K-e-m-p-a-i-n?
15 **A. I think it's K-e-m-p-p-a-i-n-e-n. I believe**
16 **that's what it is.**
17 Q Okay.
18 **A. He's currently the superintendent there. The**
19 **next one, I believe, is Rick -- Collier was his last**
20 **name, C-o-l-l-i-e-r.**
21 Q Okay.
22 **A. And then Nancy Billinger.**
23 Q. Did she remain the --
24 **A. No.**
25 Q. Do you know who the new principal is?

1 **A. Yes, I do. The current principal is -- I**
2 **can't remember. I know the assistant principal is**
3 **Merlin Driggs. There was another assistant principal**
4 **or teacher on special assignment, Doug Bluth, I**
5 **believe. But if I remember the principal, I'll -- her**
6 **first name is Tracy.**
7 Q Okay All right At the time that you
8 pulled down this Web site of the school district which
9 posted, I guess, the position available -- is that
10 what it was posting?
11 **A. I believe the policy for Alpine is to have an**
12 **application on file before you apply for a job, so**
13 **that was what was done first.**
14 Q Were you at the time looking for an
15 opportunity to return to Utah?
16 **A. Not necessarily to Utah. We were just**
17 **looking to move our family.**
18 Q So you did want to leave California?
19 **A. We were keeping our options open, yes.**
20 Q Okay Did you apply anywhere else besides
21 the Alpine School District at that time?
22 **A. I believe I had an application in a district**
23 **in San Diego. The year before I had interviewed in**
24 **Riverside County, and I know I was looking in areas**
25 **north of Los Angeles as well.**

Q As you sit here today, do you recall submitting applications to any of those places?
A. I don't recall any specific district or school.
Q All right So as you sit here today, the only application that you recall actually submitting was the one to Alpine School District?
A. I know I did one in the Temescal, but that might have been the year before. Are you speaking of just that year or leading up to that year?
Q Well, let's talk leading up When did you start looking around to change?
A. Maybe two, three years, just looking at our different options.
Q So '99, 2000, 2001, would that be fair?
A. I believe that would be close.
Q Okay Prior to that time, had you sent any applications out to anyone?
A. Yes. I had applied at other -- interviewed for other basketball jobs at other schools.
Q Prior to '99?
A. Uh-huh (affirmative).
Q Was this in connection with obtaining the job in '91 or was it after you got --
A. After.

Q Where did you apply during that time frame?
A. Long Beach Poly. I interviewed for their job, girls' basketball job.
Q What year?
A. Maybe '98, '99, somewhere right in there. I also interviewed --
Q Let's go through them all, and then I'll ask you some questions Did you receive an offer for employment there?
A. No.
Q Next place you applied to?
A. Brea-Olinda.
Q What years?
A. Around the same time.
Q '98, '99?
A. Yes.
Q. Were you given an offer there?
A. No.
Q. Next place?
A. Temescal Canyon.
Q. How do you spell that?
A. T-e-m-e-s-c-a-l.
Q. Where is that located?
A. Lake Elsinore.
Q Is that in L A County?

A. Riverside County.
Q Did you apply there?
A. I did.
Q Were you interviewed?
A. I was. I believe it was a phone interview.
Q. Were you given an offer?
A. Yes.
Q What year was that?
A. About '99 or 2000.
Q Tell me about that offer.
A. It was to, I believe, teach P.E. health and assist in football, girls' basketball and track.
Q Did you accept the offer?
A. I did not.
Q. Why didn't you?
A. I'd just started assisting football at Cerritos College and I was still currently the head girls' basketball coach at Bell Flower and the timing wasn't right.
Q Do you remember what salary they offered you?
A. I don't.
Q. Tell me about your assisting at Cerritos College.
A. I was the tight end coach.
Q. For the boys' program?

A. For the mens' football program.
Q. Were you paid for that?
A. I was not. I taught a couple of classes. That's it.
Q. Were you paid for teaching?
A. For teaching the classes, I was.
Q How much did you get for that?
A. Approximately $2,500.
Q Per class or --
A. I'm not sure.
Q Is that 2500 included in the $6,000 -- excuse me, $60,000 that you said you earned while teaching at Bell Flower?
A. No.
Q All right After applying to Temescal, where is the next place you applied?
A. I don't remember. I think we were just actively looking to see what was open, where, just keeping our eyes open.
Q All right. So as you --
A. I don't know if there was anything specific.
Q As you sit here today, you don't recall applying anywhere before you applied to Alpine School District after Temescal, is that correct?
A. I did apply at Santana High School or Mount

1 **Carmel in San Diego, but I'm not exactly sure of the**
2 **exact time frame of where that was at.**
3 Q. Are those two different places?
4 **A. And it was Mount Carmel, not Santana.**
5 Q. Where is Mount Carmel located?
6 **A. Mount Carmel, California, in the San Diego**
7 **area.**
8 Q. And you do recall sending in an application?
9 **A. I do.**
10 Q. Were you interviewed?
11 **A. No.**
12 Q And you don't remember when that was?
13 **A. I don't.**
14 Q Besides that, do you recall any other
15 applications that you sent out prior to Alpine School
16 District?
17 **A. Not right now.**
18 Q When you sent in your application to Alpine
19 School District, did you have any conversations with
20 anyone in the district prior to completing that and
21 sending it in?
22 **A. I did.**
23 Q Tell me about who you talked to.
24 **A. I was notified by a teacher at Mountain View**
25 **that they may have an opening coming up, so that is**

1 **A. I believe at the time he taught physical**
2 **education. I know he has an endorsement in special ed**
3 **as well, but I don't know if he was teaching those at**
4 **that time.**
5 Q What did he coach at the time?
6 **A. Head cross-country coach, boys and girls,**
7 **head girls' basketball, head boys' and girls' track.**
8 Q. How did he inform you that this position
9 could be open?
10 **A. By telephone.**
11 Q What position did he say might be open?
12 **A. A health P.E. opening.**
13 Q What about coaching, did he say --
14 **A. There would have been some coaching as well.**
15 **I believe the main coaching would have been assisting**
16 **in football. That was their number one priority at**
17 **the time.**
18 Q Did Mr Houle have an administrative position
19 at the school at the time?
20 **A. No.**
21 Q Did you talk to anyone else at Mountain View
22 High School about these positions?
23 **A. I did. I came up to Utah --**
24 Q. Is this after you made your application?
25 **A. After he spoke with me.**

1 **why I turned my application in to the district.**
2 Q. What was his or her name?
3 **A. Dave Houle.**
4 Q How did you know Mr. Houle?
5 **A. I student taught under him and assisted coach**
6 **for about three years.**
7 Q While you were attending Brigham Young?
8 **A. That's correct.**
9 Q What years?
10 **A. '88 to '91.**
11 Q I take it -- did you know him before you
12 student taught for him?
13 **A. I did not.**
14 Q. But I take it that you maintained some
15 contact with him after you left Utah, is that correct?
16 **A. Yes.**
17 Q. What did Mr Houle do at the time that you
18 had these discussions with him?
19 **A. He just let me know that there could be an**
20 **opening at their school.**
21 Q. What was his job at the time?
22 **A. Teacher and coach.**
23 Q. At?
24 **A. At Mountain View High School.**
25 Q. What did he teach?

1 Q. Okay.
2 **A. -- and I met with Bill Delaney.**
3 Q. Let's go back. Had you made your application
4 before you came to Utah to have that discussion?
5 **A. I believe I brought it with me and submitted**
6 **it at the time.**
7 Q. When was that, approximately what day?
8 **A. It would have been April or May of 2001.**
9 Q So it was prior to your conversation with
10 Mr Worthington, is that correct?
11 **A. Correct.**
12 Q. So after speaking with Mr Houle, you
13 obtained an application, filled it out, drove out, and
14 then met with Mr Delaney; is that correct?
15 **A. I did.**
16 Q. Tell me who Mr Delaney is
17 **A. He was the principal at the time.**
18 Q. Tell me about that conversation.
19 **A. In that meeting was myself, Coach Houle,**
20 **Mr. Delaney and the current principal, Mr. Clark.**
21 Q What was Mr Clark's position at the time?
22 **A. He was the new principal coming in.**
23 Q So Delaney is on his way out, Clark is on his
24 way in?
25 **A. Correct.**

Q. And Houle is a coach, correct?
A. Uh-huh (affirmative).
Q. And a friend?
A. Uh-huh (affirmative), yes.
Q. Tell me about that conversation. What occurred? What was discussed?
A. It was just a discussion of the position that was going to be available.
Q. When did they tell you it was going to be available?
A. At that time it had been posted by them and Mr. Delaney told me they were going to do interviews, and they interviewed me that afternoon or the next morning.
Q. So you had an official interview --
A. I ended up having an interview, yes.
Q. With who?
A. I believe the teachers or administrators in that meeting were Joel Gardner, Kayla Walker. Mr. Delaney was not.
Q. Was he already out by that time? Well, I guess not.
A. He was still there.
Q. But he was not in the interview?
A. No. There was an assistant principal, but I

interested, and that was the extent of it.
Q. So you're saying on the Web site -- was this on the Alpine School District Web site?
A. Yes.
Q. There was another position available?
A. Correct.
Q. And as a result of seeing that, you made a phone call to who?
A. I believe it was to the school and we left a message that my application was on file at the district.
Q. So it's your understanding that it was not necessary to file a new application?
A. We didn't have to.
Q. Okay. Do you recall the name of the person that you talked to when you left that message?
A. I believe it was a machine.
MR. RUST: Mr. Machine.
A. A recorded message that we left the message on.
Q. (By Mr. Homer) And was that message returned?
A. It was.
Q. Who returned it?
A. Mr. Worthington.

can't remember his name right now.
Q. Anyone else that you recall?
A. No.
Q. And did they tell you that the position was open during the interview?
A. Yes.
Q. And were you given an offer for the position?
A. No.
Q. Did they offer it to someone else?
A. They did.
Q. Who did they offer it to, if you know?
A. Meeks is his last name. He's their -- I can't remember his first name.
Q. Is he still at the school?
A. He is. He's their head football coach.
Q. So after the interview, did you -- then what happened? Did you return to California?
A. I did.
Q. Is that the context of this telephone conference with Mr. Worthington?
A. When I got home about three days later I got a phone call that I didn't get the job, so we looked on the school district Web site, my wife did, and told me that Lehi needed a girls' basketball coach. So I made a phone call and left a message that we were

Q. So in paragraph 4 where it talks about Mr. Worthington, that's the context in which Mr. Worthington contacted you; is that correct?
A. Correct.
Q. You had applied for a position, had had one interview for the position at Mountain View, and then you were interested in a second position at Lehi, correct?
A. Because I didn't get the one, we thought I would put my name in for an opportunity.
Q. Tell me about the conversation you had with Mr. Worthington. Is this in approximately June of 2001?
A. Correct.
Q. What did he tell you or what did you tell him?
A. He just asked me a little about myself. He said that he wanted to interview me and they wanted to talk to me. He asked me if I would come up to Utah. I said I was just there a few weeks before. I wasn't going to come up again. We just discussed what teaching was available, because I believe it was posted with a history request and I am not endorsed in history. So I was up front and told him that. That was pretty much the end of the conversation. He said

1 he may call me back.
2 I'm not sure how much -- how many days after
3 that he called me back and wanted to have a conference
4 call interview with me, him and his assistant
5 principals. So a time was set at that time for that
6 conference call. Then maybe a day or so later we had
7 the conference call. He called me again and wanted to
8 meet with me.
9 Q Tell me more about the conference call
10 interview You say that he had some other people on
11 the phone with him?
12 A. I believe Mr. Jacobson and Mr. Wilson were in
13 on that phone call.
14 Q Tell me who they are
15 A. Assistant principals at that time.
16 Q. Just the three of them and you?
17 A. I think so.
18 Q What position did they tell you you were
19 being interviewed for?
20 A. For girls' basketball.
21 Q Was it a teaching position as well?
22 A. There was teaching, and it was history.
23 Q It was still a history position?
24 A. It was still history. They said that's all
25 they had available. I told them I wasn't endorsed in

1 it. Then after the conference call -- the conference
2 call was your typical coaching/teaching interview.
3 They asked questions as it related to coaching and to
4 teaching.
5 Q I'm not familiar with what a typical
6 interview is, so why don't you tell me
7 A. Knowledge of the game, basketball, previous
8 history, what I've taught, my background. It varied
9 depending on administration.
10 Q. And they were working off, as far as you
11 know, the application that you submitted earlier that
12 spring, is that correct?
13 A. That is correct.
14 Q Do you still have a copy of that application?
15 A. I don't.
16 Q. Can you look for it?
17 A. I don't know what the district does with them
18 after you submit them.
19 Q. You didn't retain a copy yourself?
20 A. I would have to look.
21 Q Could you do that, and if you find it, inform
22 your counsel --
23 A. Okay.
24 Q. if you have it?
25 Did you have a separate CV or curriculum

1 vitae that you attached to applications, as is common?
2 A. Do you mean like a portfolio of sorts as it
3 relates to teaching and coaching?
4 Q. Yes
5 A. I believe a resume and accomplishments or
6 things that you've done may have been attached to
7 that.
8 Q Was that something you had on your computer
9 at the time?
10 A. It might have been on my school computer
11 or -- we didn't have a computer at home at the time.
12 I'm not sure what computer I did that on.
13 Q. Have you continued to maintain that, update?
14 A. Update my resume? Yes, I have.
15 Q. So you have a current resume?
16 A. Yes, I do.
17 Q. And you have that available?
18 A. Yes.
19 Q Could you give that to your counsel?
20 A. Yes.
21 Q. Have you given it to your counsel to date?
22 A. I thought that already took place.
23 MR. RUST: You have that, by the way.
24 MR. HOMER: Yeah, but you understand my point
25 is I want to know which version I have.

1 MR. RUST: Okay.
2 MR. HOMER: So if we have different versions,
3 I would like to see what's available.
4 A. Versions meaning --
5 Q (By Mr Homer) Time frame. If there's one
6 from the 2001 time frame, obviously that would be more
7 relevant to what we are discussing in this case than,
8 say, a 2005 time frame, or at least the relevancy
9 would be different
10 So if you have different versions, I'm just
11 asking you to look it up on the computer and obviously
12 talk it over with your attorney
13 A. Okay.
14 Q In any event, when you had this telephonic
15 interview, the principal and the two assistants had
16 something in front of them that they were referring to
17 or -- I know you can't say if they had it in front of
18 them, but had something available to them if they
19 wished to look at it?
20 A. I didn't see that, but they could have.
21 Q Whatever you submitted would have been
22 something that you put out there for them to review in
23 connection with --
24 A. Whatever they received from the district,
25 yes.

Q. All right. What was their reaction, by the way, when you said, I don't teach history? What did they say to you?
A. They continued and said it's possible they may -- that the district could hire on an emergency credential or speculation that you'll get endorsed in the area in which you teach.
Q. What was your reaction to that?
A. I said, I'll listen, so we continued to talk about it. I expressed that I would rather teach in the area that I was endorsed, and they understood that.
Q. What were your endorsements at the time?
A. My endorsements were in physical education, health and driver's ed.
Q. Did you have an interest in becoming endorsed in history if that was the only position open?
A. I thought if I was going to have to stay in that and that's what was going to maybe help me get the job, I thought about that.
Q. Anything else happen during the interview that you recall right now?
A. I believe that's everything from that conference call.
Q. All right. When was your next communication

with Mr. Worthington or someone from Lehi High School?
A. Within a day or so Mr. Worthington again wanted to see if there was a way I could come up. I said I couldn't. Then he proposed that we meet in St. George.
Q. Was this still in the June time frame?
A. Yes.
Q. Did you meet in St. George?
A. We did.
Q. Do you remember -- can you help me out on the date at all, or is it just -- is June as good as you can get?
A. I believe around the first week of June. We were still in school in California.
Q. Was it on a weekend?
A. Yes.
Q. Where did you stay in St. George?
A. We actually stayed in Hurricane. That's where we met, in Hurricane.
Q. Do you remember -- did you stay at a hotel?
A. Yes. I don't remember the hotel.
Q. Okay. Mr. Worthington stayed there as well?
A. Yes.
Q. Was it at his request that you stay there or was it at your request?

A. His request.
Q. How long did you meet with him?
A. I believe we arrived the Friday night. We met Saturday morning at breakfast. It was him and Mr. Jacobson. Then they took me golfing at Coral -- the new golf course there.
Q. In Hurricane?
A. Yes.
Q. So that may have been the reason you were staying in Hurricane, then?
A. It could have been.
Q. Otherwise, it's curious.
MR. RUST: It's a lovely place.
MR. HOMER: It sure is.
A. There was a Denny's there. We ate, went to the golf course.
Q. (By Mr. Homer) Tell me about the conversation on Saturday morning.
A. Just discussed the job some more. They asked me more questions. Then we went golfing. I sat with both of them during the time and they both continued to carry on a conversation, talk with me, and then following golfing we sat down. My wife was with me at the time, and they offered me the job.
Q. Did you discuss salary prior to them offering

you the job?
A. We discussed the difference in salary, yes.
Q. What salary did they offer?
A. They offered what the district -- whatever the district was allowed or they were allowed to offer as a teacher of 10 years. They said the district didn't offer all 10 years.
Q. How much did they offer you? What was the amount?
A. They would give me six years. That was a significant cut in pay.
Q. What was the amount?
A. Approximately $30,000 from what I made.
Q. They offered you $30,000 as opposed to --
A. Oh, that was about the cut. I believe it started around $34,000, $35,000.
Q. How did that break that out between teaching and coaching?
A. What do you mean by that?
Q. Is that an amount they pay you for teaching or is it an amount they pay you for coaching?
A. That would have been the teacher's salary. So at the time they said I would receive an extra period assignment, which would help my salary. Mr. Worthington also said he would discuss with

1 **Mr. Delaney, who was now in the district, about the**
2 **possibility of me getting all my years. And I'm not**
3 **sure of the difference between starting at 10 or 11 or**
4 **six or seven. It was four years ago. I would have to**
5 **look at that.**
6 Q. Did you know then?
7 **A. Did I know what the difference between six**
8 **and 11 was? Yes.**
9 Q. Obviously you know the difference between six
10 and 11.
11 **A. Absolutely.**
12 Q. I'm asking did you know the difference in the
13 teacher salary at six years versus 11 years?
14 **A. Yes.**
15 Q. You just don't remember today?
16 **A. It was five or $6,000 difference.**
17 Q. Five or $6,000 a year?
18 **A. Yes.**
19 Q. Why did they tell you they could only offer
20 you six years' experience?
21 **A. Because that's what the district told them.**
22 Q. Who is the district?
23 **A. I'm assuming personnel.**
24 Q. Did they give you name of an individual?
25 **A. No.**

1 Q. Did they say it was district policy or did
2 they say it was a person in the district? What did
3 they tell you?
4 **A. It's a general rule, I believe, that they**
5 **follow or a general guideline, but they do, on**
6 **occasion, give teachers all their years.**
7 Q. I take it that that guideline is only
8 applicable to people coming from outside the district?
9 **A. Correct.**
10 Q. In other words, if you had taught there for
11 11 years, you would be --
12 **A. I would have gotten all 11 years, that's**
13 **right.**
14 Q. Okay. Were you being offered anything extra
15 for coaching?
16 **A. Yes. Then they also asked, along with being**
17 **head girls' basketball coach, to help Coach**
18 **Clements in football and help Coach Curtis in track,**
19 **if I would be interested in doing those.**
20 Q. How much were you offered?
21 **A. Oh, whatever the district's stipends are for**
22 **that. There's a set amount for each particular sport.**
23 **Would you like to know what each sport --**
24 Q. Yes.
25 **A. The estimated stipend?**

1 Q Yes.
2 **A. I believe the head girls' basketball stipend**
3 **is about $2100, $2200, somewhere in there, I believe**
4 **the assistant football was 1100, and track was 500.**
5 Q. What teaching position were you offered?
6 **A. To teach sociology and American problems,**
7 **like civics.**
8 Q. Were you endorsed in those two subjects?
9 **A. No.**
10 Q. So when they made you the offer, did you tell
11 them that you weren't endorsed in those subjects?
12 **A. I did.**
13 Q. What was their response?
14 **A. After the offer, Mr. Worthington had to have**
15 **it approved by the district. So there was a waiting**
16 **period. I mean, I was not officially hired. I did**
17 **not say yes at the time of the offer. I told them I**
18 **would get back to them if I could have a couple of**
19 **days, and they said sure.**
20 Q. When you say you had to get it approved by
21 the district, is that how the endorsement takes place?
22 **A. I believe that's how it works.**
23 Q. Did the district approve it?
24 **A. After I told them I would accept it, he told**
25 **me he had to get it approved by the district. But**

1 **that took quite a while. I think he had a struggle to**
2 **get that approved. I know he was told no on more than**
3 **one occasion.**
4 Q. How do you know that?
5 **A. He told me that.**
6 Q. You were having conversations with
7 Mr Worthington during this process?
8 **A. Yes. He was updating me as to what was**
9 **happening, because school was ending for me and I**
10 **needed to make a decision what I was going to do**
11 **before school let out. So he was on a time line as**
12 **well.**
13 Q Tell me about your contract at Bell Flower at
14 this time Were you on a year-to-year or were you on
15 a long-term contract?
16 **A. I was -- I think all teachers are year to**
17 **year for the most part. If you are -- I mean, that's**
18 **where I taught. I'm trying to remember the term.**
19 Q What I'm really driving at is did you, on a
20 yearly basis, have to go back to your high school and
21 say, I want to teach again next year, or was it just
22 assumed that you would unless and until you told them
23 you did not want to teach?
24 **A. I was there unless I told them that I wasn't**
25 **coming back.**

Q. Was there a notice requirement that you had to give to them if you did not want to teach the next year?
A. I don't believe there was. If you were leaving and knew ahead of time, I think they wanted to know by a certain date.
Q. When does the school year run in California?
A. Oh, approximately Labor Day to the second or third week of June. That year, I believe, we got out around the 20th of June.
Q. Had you accepted the offer prior to June 20th?
A. On the last day of school he called me and said the district approved it.
Q. Now, as I understand, you accepted before the district approved, correct?
A. I told him I would as long as it was approved, yes.
Q. Do you remember approximately when that was?
A. It would have been about a week to a week and a half or so before that June 20th.
Q. Okay. And on June 20 Mr. Worthington informed you that the school district had approved, correct?
A. That's correct.

Q. Is that when you informed Bell Flower that you would no longer teach there?
A. Yes.
(Exhibit No. 2 marked.)
Q. (By Mr. Homer) I'm showing you what has been marked as Exhibit 2. As I explained before, take whatever time you need and review that and let me know when you're prepared to take questions.
A. Okay.
Q. Have you seen this before?
A. I have.
Q. What is it?
A. It's the first contract that I -- or the contract I signed with Alpine School District and Lehi.
Q. Look at the second page of that contract. It doesn't have signatures, at least the copy we were given. Is that something that --
A. This is the addenda that they issue at the be[illegible]g of each year as it relates to extra assignments that you're taking on for that year.
Q. So had you signed a number of these while you were employed?
A. Yes, I had.
Q. Okay. Looking at the first page of Exhibit 2

it says, "Date contract offered, July 27th, 2001." Is that approximately the right date?
A. Say that again, please.
Q. It indicates "Date contract offered, July 27th, 2001." Is that correct?
A. I did not see this until August 30th. That's when I signed it. So it might have been the time that the district typed this up, but I did not see this until August 30th.
Q. When did you receive it?
A. In a new teacher meeting where all the new teachers gathered, and they went through a packet and we signed.
Q. So you were in Lehi when you signed this, is that correct, at the high school?
A. Yes.
Q. It says, "Position: Teacher." That's the position you took, correct?
A. Yes.
Q. "Salary: $35,440," correct?
A. Correct.
Q. "Contract days: 182"; is that right?
A. In a year, yes.
Q. What does FTE stand for?
A. I don't know. I think a full-time teacher is

considered one FTE.
Q. So you think that means you're a full-time teacher?
A. Correct.
Q. "Salary lane," what do you know about that?
A. They gave me six years, so I started on level seven. My salary lane is based on your education, what you've -- they have a variety of lanes based on number of credits accumulated, degree and so forth.
Q. So you understand that the -- when it says Step Level, that means seven years of teaching experience; is that correct?
A. Yes, that you're starting on -- I started on step seven.
Q. And the effective date is August 23rd, 2001, correct?
A. Yes.
Q. And if you look down below under Special Contract Provisions -- do you see that?
A. Correct.
Q. -- it says, "Term of contract: Provisional"?
A. Correct.
Q. What was your understanding of that?
A. That within three years or by the summer of 2003, as long as I was still teaching outside my

1 **endorsed area, that I needed to accomplish getting**
2 **those credits to be endorsed by that time frame to be**
3 **able to still teach in the endorsed area of history.**
4 Q So when you began teaching at Lehi High
5 School, were you teaching in those areas you told me
6 about --
7 **A. Sociology and American problems, that's**
8 **correct.**
9 Q And you were not endorsed in those areas yet,
10 correct?
11 **A. I was not.**
12 Q. And even though the school board approved
13 making an offer to you, that did not constitute an
14 endorsement in those areas? You still had a
15 provisional contract. You had to obtain endorsement,
16 correct?
17 **A. Right. If I wanted to teach in the area that**
18 **they were asking me to teach, I had to do what they**
19 **were asking right there.**
20 Q Okay Did you sign any other contracts with
21 the -- you're still employed by the Alpine School
22 District; is that right?
23 **A. I am.**
24 Q. Have you signed any other contracts since
25 starting employment with them?

1 **A. They only do -- I believe that's the only**
2 **one.**
3 Q. All right. So you're not aware of any other
4 piece of paper that we could look at that would list
5 contract provisions for your employment?
6 **A. I am not.**
7 Q. With respect to the second page, have you
8 ever signed an extracurricular addenda agreement?
9 **A. I have.**
10 Q. Do you have a copy of the signed copy of
11 that?
12 **A. We are not given any copies, so the school or**
13 **the district would have those.**
14 Q. Okay
15 Joseph, I guess you don't have those?
16 MR. RUST I, unfortunately, don't.
17 Q. (By Mr Homer) How many extracurricular
18 addenda agreements have you signed since becoming
19 employed by the Alpine School District?
20 **A. Would that be each year or total?**
21 Q. Total.
22 **A. In the four years I've been employed there?**
23 Q. Right. You've been employed there since
24 2001?
25 **A. Yes. This is my fourth year.**

1 Q Right
2 **A. 15.**
3 Q So is the idea that you sign one for each
4 sport --
5 **A. Yes.**
6 Q -- that you're helping to coach?
7 **A. Right, or any extra assignment that you may**
8 **take on, you would sign a form.**
9 Q. In your case, is that coaching
10 responsibilities or were there other --
11 **A. My extra period assignment would also have an**
12 **addenda as well.**
13 Q Now, you say that the school district keeps
14 those Do they not let you make copies of that?
15 **A. I believe they have them.**
16 Q If you asked to have a copy of them, would
17 they say, no, no, we don't want you to have a copy?
18 **A. I would have to ask.**
19 Q. You've never asked?
20 **A. I have not. I know I asked the school and**
21 **they did not have them.**
22 Q Okay
23 **A. They said it was at the district.**
24 Q Tell me how those come to be signed Do you
25 do that at the beginning --

1 **A. We have the first --**
2 Q. -- of the year?
3 MR. RUST You're going to need to wait for
4 him to finish his question.
5 Q (By Mr Homer) Yeah, normally we have that
6 little talk, but sometimes we -- I assume I know when
7 you've finished and you assume I've finished asking
8 the question And, of course, we all want to be
9 courteous, so I'll try not to cut you off But go
10 ahead
11 **A. I'm sorry. We have teacher meetings before**
12 **school starts, and usually they sit us all down and**
13 **all those who have these sign them before school**
14 **starts.**
15 Q. So I'm assuming if we send a subpoena to the
16 school district, we could probably get those?
17 **A. I would think so.**
18 MR. HOMER: Or maybe you could get them
19 voluntarily, Joseph.
20 MR. RUST I don't have any better luck than
21 you do.
22 Q (By Mr Homer) Look at paragraph 5 now of
23 Exhibit 1. "At the time plaintiff was solicited by
24 Worthington, he was informed by Worthington that it
25 was because of Plaintiff's excellent skills as a

basketball coach that he was being requested to come to Lehi High School as a coach and teacher."

Again, you had applied for the position at the school district before Mr. Worthington called you, right?

A. There was an application on file at the district.

Q. Right. And you had called the high school and told them you were interested in a posted position, correct?

A. In the girls' basketball job, that's correct.

Q. Okay. Paragraph 6, what do you mean when you say "actively recruited"? "At the time plaintiff was being actively recruited by Worthington"?

MR. RUST: You mean other than what he's testified to?

Q. (By Mr. Homer) Yes. If it's other than what you said, I'm happy with you just saying that. I just want to give you a chance to give any other information.

A. I believe I shared it all.

Q. When it states, "Plaintiff reminded Worthington that plaintiff would be foregoing significant financial benefits," you're talking about the difference in salary between 60 and 35, right?

Q. What are you teaching in now?

A. I'm teaching lifetime sports, fitness and P.E. skills.

Q. And you're endorsed in those areas?

A. That's correct. Those are all in physical education.

Q. When did you move on to those subjects as opposed to sociology and American problems?

A. The first year I had one P.E. class, the second year, I believe, I had one or two, and then last year I had all P.E. So for the school year 2003/2004, I was in my entire endorsed area.

Q. Okay. So 2001 you taught sociology, American problems and one P.E. class, correct?

A. Correct.

Q. And that was also true for 2002?

A. That's correct. I might have had one more P.E. class --

Q. Okay.

A. -- and one less sociology or one less --

Q. In 2003, you had an additional P.E. course?

A. All P.E.

Q. All P.E.?

A. Yes.

Q. So at the beginning of 2003, you were totally

A. That's correct.

Q. When you say "accumulated years of service," you're talking about the difference between 11 and seven?

A. Yes.

Q. In the latter part of that paragraph where it says "Worthington assured plaintiff that Lehi High School would make it financially worthwhile for plaintiff to come to Lehi High School," you're talking about the offer of salary that he made to you and the extracurricular addenda, correct?

A. That's correct. And when I showed up in July, he assured my wife and myself that when I was teaching in my area that he was told that I would be given my years back.

Q. Your area being the physical education?

A. Correct.

Q. So he assured you that you would regain that -- what is it, four years?

A. Yes.

Q. Did that happen?

A. No. It was denied.

Q. Are you still teaching in American problems and sociology?

A. I'm not.

in your endorsed area?

A. Yes.

Q. All right. And between 2001 and 2003, then, you went from teaching unendorsed to totally endorsed subject matters, correct?

A. Yes. He told me that that's what their plan was was to get me there as fast as they could.

Q. So at the beginning of 2003 while you were still coach of the girls' basketball -- correct?

A. Yes.

Q. -- you were teaching in endorsed areas?

A. Yes.

Q. At that time did you apply to have your salary increased to reflect all your years of teaching experience?

A. Yes, I did.

Q. When did you do that?

A. Sometime in the fall of 2003. I couldn't give you an exact date.

Q. Who did you file that application with?

A. I gave a letter to Mr. Oppenshaw, the assistant principal. Then he passed it on.

Q. Who did he pass it on to?

A. I believe to Mr. Worthington.

Q. Did you receive a response?

A. I did.
Q. What was the response?
A. That neither of them recalled the conversation of promising me those years when they put me in my endorsed area.
Q. So is it your testimony that, as we sit here today, you're still teaching -- your step level is four years lower than your actual years of teaching experience?
A. That's correct.
Q. What is the difference in salary between what you're making now and if you stepped up four years?
A. Five to $6,000, I believe, per year.
Q. All right. Besides that, did Mr. Worthington say anything else to you about how Lehi High School would make it financially worthwhile for you to come to Lehi High?
A. No.
Q. So we're really talking about that four years' difference?
A. Yes, and the extra period assignment.
Q. And you got that, right?
A. I did.
Q. Look at paragraph 10. I would like to get some clarification as to what that means. I think

there's a typo there, which is no big deal, but it says, "During the 2002/2003 basketball season, plaintiff began to utilize use" -- I assume that's the same thing -- "several girls from the ninth grade class on the girls' team, including Michelle Harrison." What is meant by that paragraph?
A. That we had more than one freshman that was brought up.
Q. You have four-year high schools here in Utah; is that right?
A. Three. Ours is three.
Q. So ninth grade is --
A. Junior high school.
Q. That's junior high? So you can bring onto the high school team people from ninth grade, even though they are in a junior high?
A. Yes.
Q. Is that what you're saying?
So when you say "began to utilize," they were put on the team? Is that what you're saying?
A. They made the team, that's correct.
Q. Varsity, junior varsity, what?
A. Junior varsity, varsity. There's a district policy about having ninth graders brought up to the high school team, because there's a junior high

league, and that would be that those ninth graders are capable of playing on the J.V. or varsity squads, which all three were.
Q. Tell me how it works. Is there some fluidity between J.V. and varsity? In other words, can the people -- I guess in this case the girls that play on the junior varsity team, can they also suit up for the varsity squad?
A. Yes.
Q. So they could actually play on both squads, theoretically?
A. Yes.
Q. So when you say "began to utilize," was Michelle Harrison playing on both J.V. and varsity during that school year?
A. The first year, yes.
Q. Now, you say "several girls from the ninth grade." Who else besides Michelle Harrison?
A. Kayla Burningham and Breezy Chandler.
Q. Okay. Paragraph 11 you state "Because of Harrison's impressive playing ability, the other girls on the team began to resent Harrison's presence and indeed her dominance as a skilled player, particularly with the resultant publicity she received in the newspapers and other media."

Tell me what you had in mind by that paragraph. What girls resented Michelle Harrison?
A. What girls specifically?
Q. Yes.
A. I believe it was a general feeling. I couldn't give you particular girls' names, but it did occur based on conversations some of the girls had with assistant coaches.
Q. When you say other girls on the team, are you talking about the varsity team, the junior varsity team? Who are we talking about there?
A. That would be accurate, the J.V./varsity group. It probably would include the whole program in general, all the girls from --
Q. So as you sit here today, you can't specify the name of a particular girl, you just say it was a general feeling?
A. Based on team meetings, discussions that kids had with assistant coaches, that was -- that's an accurate statement.
Q. Who were the discussions with with the assistant coach? Who were the assistant coaches the discussions were had with?
A. Ray Rawson.
Q. How do you spell his last name?

A. R-a-w-s-o-n.
Q. Anyone else?
A. Stacy Howell.
Q. H-o-w-e-l-l.
A. That's correct. Brett Bergholm and Kim Anderson.
Q. How did you become aware of these conversations?
A. The assistants would inform me of some of the conversations.
Q. Tell me about what they told you about these conversations that specifically were, I believe, talking about the 2002/2003 season in this paragraph.
A. As the head coach, you know, the girls -- you know when there's -- do I know every conversation that was made? I don't. But based on what assistants were telling me and some of the feelings of the girls, this was definitely an issue with our team.
Q. Yeah, and I'm not asking you to tell me the conversations between the girls and the assistants, because you weren't there, obviously, but I do want you to tell me about the conversations you had with the assistant coaches that provide the factual basis for this allegation.
A. Well, the assistant would come to me and tell

me some of the problems or issues some of the kids would have, and then we would try to address those in a variety of ways.
Q. Do you remember with any specificity any of those conversations?
A. With --
Q. With the assistants.
A. No, not at this time.
Q. Paragraph 12 -- before we go to 12, let's take a quick break.
(Recess from 10:29 a.m. to 10:39 a.m.)
Q. (By Mr. Homer) Mr. O'Connor, we were up to paragraph 12 in the complaint, I believe. "Because of the jealousies by some of the other players of Harrison during the 2002/2003 basketball season." Are you able to specify the names of any of the players with respect to that paragraph?
A. I'm not.
Q. Is the basis for that allegation again your conversations with your assistant coaches?
A. Yes.
Q. Then it goes on to say, "At the beginning of 2003/2004 season, plaintiff met with all of the basketball players and their parents and had them sign an agreement that they would bring all grievances to

plaintiff and that they would work together as a team." Is that right?
A. Yes.
Q. Did you draft the agreement in question?
A. I did put that together based on another coach's agreement that he had in California. We had a discussion in the summer, and that's how I came up with that.
Q. Now, you obviously knew at that point in time you had a problem, right?
A. I did.
Q. And this was your attempt to try to resolve that problem?
A. This was one of the things that I did to try to help the situation.
Q. All right. Now, in connection with the problem, in your mind was it totally based on a jealousy of Michelle Harrison or were there legitimate issues of communication and questions that these parents had about the basketball program?
MR. RUST: For clarification, are you talking about the parents or are you talking about the girls, because the sentence before only talks about the girls?
MR. HOMER: The sentence we are focusing on

mentions both, the players and their parents.
MR. RUST: Yeah, about meeting together.
MR. HOMER: Right. Well, let's break it out.
Q. (By Mr. Homer) You've talked about jealousies of players of Michelle Harrison. Was there also a problem with parents?
A. Yes.
Q. Okay. And what was your understanding of what that problem was all about?
A. Some of the things that had occurred in the stands between parents, some of the things that were being said about players by parents.
Q. Tell me, if you can, what specifically you're referring to.
A. Just in general, complaining that was taking place as it related to particular girls shooting more than others. This came about because a parent cornered me right after a game and told me that this was happening.
Q. Certainly you don't think that that's totally unique, do you? I mean, that happens in high school programs all the time that parents have concerns about players and coaches and programs, right?
A. **And one of the purposes of the contract was so that they would come talk to me instead of just**

1 **talking all over -- in the stands. Come talk to me if**
2 **you have concerns. That was one of the main purposes**
3 **of the contract.**
4 Q. As opposed to the assistant coaches?
5 **A. The parents to come talk to me.**
6 Q. Okay. So you wanted the parents to talk to
7 you and the assistant coaches to -- excuse me, the
8 girls could still talk to the assistant coaches about
9 their concerns?
10 **A. And they could speak with me.**
11 Q. Okay.
12 **A. And they all knew that. That was stated more**
13 **than one time.**
14 Q. So you would agree, would you not, that all
15 of these problems that you obviously thought about
16 during that summer were not centered necessarily on
17 Michelle Harrison. There were other issues about the
18 team and the program and the coaching, et cetera?
19 **A. I believe that she was a central figure in**
20 **what was going on, yes.**
21 Q. Okay. But there were other issues, correct?
22 **A. There might have been.**
23 Q. All right. And there's certainly nothing
24 wrong with parents of players expressing their
25 concerns about how a program is being run in a public

1 high school, is there?
2 **A. I believe if they have concerns with the**
3 **program, they should speak and share it with the**
4 **coach.**
5 Q. All right. But it is a public high school,
6 correct?
7 **A. It is a public high school.**
8 Q. And one of the theories of public high
9 schools is that parents have input into how the high
10 schools are run and operated, right?
11 **A. I don't know that.**
12 Q. Is that your experience, that parents can
13 appear at school board meetings, they can attend
14 functions of the high school and give input to
15 teachers, administrators, school board officials?
16 Isn't that the way it works?
17 **A. I believe they have the opportunity to share**
18 **that, but not to tell a coach how to coach their**
19 **program.**
20 Q. But you did want to get input?
21 **A. I was more than happy, and many came and saw**
22 **me.**
23 Q. Okay. And certainly you would have never
24 tried to tell either parents or your players that they
25 had to keep their mouths quiet and not say anything.

1 You knew that if they had concerns, that they had to
2 express those?
3 **A. Everyone had an opportunity to voice their**
4 **concerns to me. They had plenty of opportunities.**
5 Q. This copy I have has the top cut off, but
6 let's see if you can identify that.
7 (Exhibit No. 3 marked.)
8 Q. (By Mr. Homer) You have before you Exhibit
9 3. Is this the contract you're referring to in
10 paragraph 12?
11 **A. Yes, it is.**
12 Q. We have part of it cut off, and I apologize
13 for that. Do you know what that first line says up
14 there?
15 **A. I believe that says, "Lehi girls'**
16 **basketball."**
17 Q. Okay. But other than that, does this look
18 like an accurate copy of the agreement that you
19 drafted?
20 **A. Yes.**
21 Q. All right. You indicated earlier that you
22 had some help from another teacher in California
23 drafting this. Who was that?
24 **A. James Anderson from Narbonne High School.**
25 Q. How do you spell Narbonne?

1 **A. N-a-r-b-o-n-n-e.**
2 Q. Where is that located?
3 **A. Harbor City, California.**
4 Q. How did you know Mr. Anderson?
5 **A. I've coached against him and we were doing a**
6 **camp in Minnesota together in the summer.**
7 Q. You coached against him when you were
8 coaching in California?
9 **A. That's correct, and we have been friends.**
10 Q. Did you meet during the summer prior to the
11 academic year of 2003/2004 in Minnesota?
12 **A. Yes.**
13 Q. Where is that?
14 **A. In Sebeka, Minnesota.**
15 Q. How do you spell that?
16 **A. S-e-b-e-k-a.**
17 Q. You had paragraph 15 in all caps, correct?
18 **A. Correct.**
19 Q. Is this the paragraph you were referring to
20 in paragraph 12 of the complaint where you say you had
21 them sign an agreement that they would bring all
22 grievances to the plaintiff and that they would work
23 together as a team?
24 **A. Well, I believe the whole contract was meant**
25 **to accomplish all of that.**

Q. Well, tell me in particular -- I understand that, and I appreciate that. Tell me what paragraph talks specifically, in your mind, about bringing grievances -- all grievances to you.
A. It does state that in 15.
Q. Okay. Are there any other paragraphs that state that?
A. I believe all of them encourage -- there's quite a few that encourage communication with the coach, the one as it relates to being late, being responsible. Each athlete knew that if they needed to miss -- No. 8 says make sure you clear it with me. No. 8 talks about the players' communication with me as the head coach pretty much as it relates to anything that occurs that may cause them to miss, and No. 15.
Q. Can you point to any language in Exhibit 3 where either parents or students agree that they would only take grievances to you and to no one else?
A. I believe No. 15.
Q. Can you point me to some language?
A. "If you have any issue with the way I run the team or coach, please come talk to me. Feel free to talk to me. Please don't talk behind my back, start rumors, badmouth the program to your child or to other

people."
Q. At the time you drafted this, did you believe that rumors were being started?
A. I tried to cover everything in making this paragraph.
Q. I understand that. I'm trying to find out if this was a retrospective drafting or a prospective drafting. What I mean by that is were there problems already --
A. I believe there -- I'm sorry.
Q. Go ahead.
A. Were you done?
Q. Yeah, I can finish.
A. Like I said, I was trying to cover everything when I wrote this.
Q. Okay. Do you believe that rumors or badmouthing the program had already occurred?
A. I do.
Q. Tell me what they were.
A. I believe the rumors and badmouthing were centered, again, around Michelle and around myself.
Q. What were they?
A. What were they specifically?
Q. Yes.
A. I believe talk of favoritism toward one

particular player, I believe being accused of recruiting. Those are some examples at this time.
Q. Okay. Anything else that you recall? Remember, we are talking about prior to the drafting of this agreement that you had some concerns about.
A. Not right now that I can think of.
Q. All right. In specific terms, what were the rumors that you had heard about you favoring one player over others?
A. Just in general that I favored her over everyone else, any other player, that I didn't care about any other player but her.
Q. This is Michelle we are talking about?
A. That's correct. Are we talking just about favoritism right now?
Q. Yes.
A. That's about it in general.
Q. Okay. And do you know in your mind who started these rumors, who was repeating these rumors? Can you give me any names of people that were involved in these rumors?
A. I couldn't give you names, just parents in general.
Q. Was it only parents or did you believe that there were also players that were involved in this?

A. I couldn't say one way or the other at this time.
Q. How about recruiting?
A. I was accused of recruiting Megan Heriford.
Q. Megan Heatherford?
A. Heriford, H-e-r-i-f-o-r-d.
Q. Tell me about that. Did she start -- when did she start playing?
A. The year previous to this contract.
Q. 2002 to 2003?
A. That's correct.
Q. Tell me what those rumors were.
A. Just that I went out and got her to come to Lehi.
Q. Where was she playing before?
A. Mountain View.
Q. Did you know her?
A. Did I know her? Yes.
Q. Did you know her before she came to Lehi?
A. Yes.
Q. What is your understanding of what really happened, why she came to Lehi?
A. They called me and said they wanted to transfer, and the first thing I did was tell them they needed to speak with an administrator about the proper

1 way that that should occur. I referred them to
2 Mr. Oppenshaw.
3 Q. When you say they called you, who called you?
4 A. The Herifords.
5 Q. The parents?
6 A. Correct.
7 Q What's their names?
8 A. Bill and -- I can't remember.
9 Q Bill and his wife?
10 A. Yes.
11 Q And when did they call you?
12 A. Sometime in the fall of 2002.
13 Q Did you know them prior to their call?
14 A. Did I know Bill? I had met him before, yes.
15 Q Who introduced you to him?
16 A. I probably met him while assisting at
17 basketball camps that took place at Mountain View High
18 School.
19 Q What other -- did you say anything else to
20 them when they said they wanted to transfer?
21 A. Again, I reminded them that they needed to
22 speak with the administrator.
23 Q. Of which school?
24 A. Of our school.
25 Q. Of Lehi?

1 A. Yes.
2 Q. Did they tell you why they wanted to
3 transfer?
4 A. Just wanted an opportunity to play.
5 Q. Was she playing for Mountain View at the
6 time?
7 A. She was.
8 Q. And who was her coach there?
9 A. Dave Houle.
10 Q. That's the same fellow that you had already
11 known from your college days, right?
12 A. Yes.
13 Q. What year of school was she when they called
14 you?
15 A. She was going to be a senior.
16 Q. So this is between her junior and senior
17 year?
18 A. It was -- her senior year had started.
19 School had already began.
20 Q. I assume the basketball season had not yet
21 started?
22 A. Not yet.
23 Q. What administrator did you tell them they
24 needed to talk to?
25 A. Fred Oppenshaw.

1 Q Fred was the assistant?
2 A. He was --
3 Q Principal?
4 A. Yes, assistant principal in charge of
5 athletics. So he was the one who would deal with
6 those issues.
7 Q This is the same fellow that played golf with
8 you down in Hurricane, right?
9 A. No.
10 Q Oh, he wasn't down there?
11 A. No.
12 Q. He was one of the fellows that was on the
13 phone with you when you did this interview?
14 A. No.
15 Q. I've heard his name before. Did you have a
16 discussion with Mr. Oppenshaw after your discussion
17 with the Herifords?
18 A. I did.
19 Q What did you tell him?
20 A. I told him I was called by the Herifords,
21 that they were thinking of transferring, that they may
22 be calling him, so he was aware of it.
23 Q. Then did you call the Herifords back and tell
24 them that you had had that discussion?
25 A. I did not.

1 Q. Did you have any other discussion with the
2 Herifords?
3 A. I did not.
4 Q. Did the Herifords, in fact, transfer their
5 daughter?
6 A. They did.
7 Q. And then she obviously went on the team,
8 right?
9 MR. RUST: You say obviously, meaning --
10 Q (By Mr Horner) Well, I mean, there wouldn't
11 have been an issue, I wouldn't think, if she didn't
12 then go on the team.
13 A. She was given the same opportunities as every
14 other girl to try out.
15 Q But she made the team?
16 A. And then she did make the team.
17 Q. I say obviously, because, at least in my
18 mind, there wouldn't have been an issue of recruitment
19 unless she eventually made the team, right?
20 A. Uh-huh (affirmative). Yes.
21 Q. What are the rules, as far as you know, for
22 student transfers on the high school level? In
23 college there's what we call red shirts, right, where
24 you can't necessarily go from one college to another
25 and enjoy the team the next year Is there anything

like that in high school?
MR. RUST: Are you talking about now or then?
MR. HOMER: Let's talk about then.
A. There's a process that they have to follow. All I did was tell them that Mr. Oppenshaw would help them with that process.
Q. (By Mr. Homer) What is your understanding of what that process is?
A. At that time there were several ways you could transfer. The two principals could have just signed it off and she would have been granted eligibility without moving or you could move and your transfer would be granted based on moving.
Q. Which did they choose?
A. I believe they moved.
Q. Both schools are in the same school district, right?
A. Yes.
Q. So they have -- are there boundaries within which a high school student must live to attend a high school in Utah?
A. There is that, and there's also an open enrollment policy, which I don't know all the particulars to.
Q. With respect to this rumor about recruitment,

can you give me the names of any individuals, parents, students or anyone who you believe was engaging in that rumor?
A. I was hearing it from an assistant, just general talk.
Q. Who was the assistant?
A. It could have been any of them.
Q. You don't recall which assistant?
A. Not at this time.
Q. Do you recall what that assistant told you?
A. Just in general that people think you went and recruited Megan.
Q. Approximately when were these agreements?
A. What agreements?
Q. Exhibit 3, I'm sorry. When were those signed?
A. I believe in September, approximately, in our opening player meeting before tryouts and all that began.
Q. How many of the parents signed it? Do you know?
A. It was given to every parent and player, and I believe each one of them signed it.
Q. So to the best of your knowledge, every parent and every player signed it?

A. That's correct.
Q. Did you ever refuse to talk to any of the parents that approached you with complaints subsequent to the signing of the agreement?
A. Are you saying before this took place?
Q. No, let's talk about it after.
A. After did I refuse to speak to any individual parent?
Q. Yes.
A. I did not.
Q. Did you refuse to schedule any meetings with parents who had concerns about the program?
A. After the season I was asked to be in a meeting with a large group. I did not want to do it in a large group, but I said I would be more than happy to speak to individuals if they had concerns.
Q. So in your mind, you were willing to talk to individual parents but not to groups of parents; is that right?
A. That's correct.
Q. All right.
A. I spoke with Mr. Worthington before I made that decision.
Q. So if some of the parents were to say that they requested your presence at meetings where more

than one parent was present, you wouldn't deny that you refused that opportunity?
A. I would not deny an opportunity for someone to speak to me under a calm circumstance. The circumstances surrounding the meeting that I was asked did not seem like a meeting where anything would be accomplished. That's why I did not think that would be a good situation.
Q. Well, just so I'm clear, you did refuse to attend group meetings, but --
A. That one big one, I did tell them.
Q. But your testimony is if an individual parent came to you, that you would chat with them about concerns; is that right?
A. Yes. Some of them called me.
Q. As you sit here today, tell me names of the parents who actually did talk to you after this agreement was signed.
A. Bob Gray called me.
Q. Okay. Anybody else?
A. I believe Will Sunderland called me. Those were the two that I spoke to on the phone.
Q. And that would have been during the year 2003/2004?
A. It would have been after that season

1 **concluded. Is that the time frame that you're talking**
2 **about?**
3 Q. Actually, I was looking for anything after
4 this was signed.
5 **A. So during the season?**
6 Q. Right. And this was signed, you testified,
7 in September of 2003, right?
8 **A. Right. So during the season I did not deny**
9 **any meeting with anyone.**
10 Q. Okay. Tell me -- let's start with
11 individuals. What individuals asked to speak with you
12 during the season?
13 **A. I spoke with the Staddels, I spoke with the**
14 **Becksteads, I spoke with Breezy Chandler's mom, I**
15 **spoke with Gary Burningham, Kay Howell's parents, the**
16 **Asays, anyone who approached me after games. There**
17 **was probably a time I spoke with every parent if they**
18 **approached me after a game, on the phone, in person.**
19 Q. Did you feel like these were good and
20 constructive meetings that you had with the parents?
21 **A. There were a wide variety. They dealt with**
22 **injuries, concerns, thoughts, general conversations**
23 **after the game, pleasantries. That's pretty much what**
24 **occurred all through the season.**
25 Q. You felt like they were meetings that were

1 constructive and the parents and you were able to
2 discuss problems and come to some resolution of the
3 problems?
4 **A. Yes. I think there was only -- during the**
5 **season I felt only one of them was of -- only one of**
6 **the conversations was one that voiced a deep concern**
7 **about anything.**
8 Q. And who was that with?
9 **A. Sue Chandler.**
10 Q. Tell me why you would differentiate the
11 conversation you had with Sue from the other parents.
12 **A. Because she came to me, I believe, because**
13 **she thought I was hearing that she complained about**
14 **the Duchesne game and did not want me to take anything**
15 **out on Breezy. I think she wanted to voice that and**
16 **she came, voiced her concern and talked, and that was**
17 **that.**
18 Q. So she wanted to clear the air?
19 **A. Correct.**
20 Q. And was that a constructive conversation you
21 had with Sue?
22 **A. I believe that it was.**
23 Q. So I take it that during the season all of
24 your discussions with the parents were constructive
25 conversations that you don't have any problems with

1 what occurred?
2 **A. Correct.**
3 Q. Did you meet with all the parents who
4 requested an opportunity to meet with you during the
5 season?
6 **A. If someone wanted to speak with me and meet**
7 **with me, I believe I did.**
8 Q. Okay. Were any requests made to you during
9 the season to meet with the parents as a group, that
10 you recall?
11 **A. I had the pre-parent/player meeting. Then I**
12 **do a preseason letter. Then we had another meeting**
13 **sometime in November that was voiced because of a**
14 **concern that dealt with money.**
15 Q. Now, the preseason meeting with parents, is
16 that the one where Exhibit 3 was signed?
17 **A. Yes.**
18 Q. So that was in September?
19 **A. Yes.**
20 Q. Then you said there was a letter?
21 **A. That I sent right about the time -- about the**
22 **first of November, approximately.**
23 Q. What was that letter all about?
24 **A. Just kind of a kickoff letter, practice is**
25 **starting, outlined the budget of what was going to be**

1 **taking place so that they were aware of it, just to**
2 **get everyone excited about the upcoming season.**
3 Q. Did it have a schedule or --
4 **A. What's that again?**
5 Q. Did it have the schedule? What was the
6 purpose of the letter?
7 **A. Just to kick off the season. It was**
8 **something I've done every year as a head coach, send a**
9 **letter at the start of the season home with the kids.**
10 Q. Did you receive any negative feedback on
11 that?
12 **A. From that letter?**
13 Q. Yes.
14 **A. I did not.**
15 Q. Then you say you had a meeting in November?
16 **A. It was probably several weeks after that**
17 **letter. I received a phone call stating there was a**
18 **concern about the money issues, so I called a meeting.**
19 Q. Tell me about that.
20 **A. The financial meeting?**
21 Q. Yes.
22 **A. It addressed that and any other concerns or**
23 **issues the parents may have had.**
24 Q. What were the issues?
25 **A. I had an outline for that. Some of it was**

the Arizona trip, the trip to Portland to the Nike
2 employee store. I believe we discussed food for the
3 kids on road trips. So there was a variety of items
4 that were discussed.
5 Q. Let's mark Exhibit 4
6 (Exhibit No. 4 marked.)
7 Q. (By Mr. Homer) Is this the letter you
8 referred to earlier?
9 A. This is a letter that went home, that's
10 correct.
11 MR. RUST: You're talking about the first
12 page?
13 MR. HOMER: Yes.
14 Q. (By Mr. Homer) And then the second page
15 would be the parent meeting?
16 A. That's correct.
17 Q. Then the third page, is that some of the
18 concerns?
19 A. The day -- I had already called the meeting,
20 and Mr. Allan then came to me and showed me this
21 letter. That's the third one.
22 Q. Right.
23 A. That was after I had already called the
24 meeting.
25 Q. Did you have that meeting -- excuse me,

1 strike that. Did you have that letter when you held
2 the meeting?
3 A. Did I have this letter?
4 Q. Yes.
5 A. I don't believe I had [illegible] but I had
6 seen it.
7 Q. You had seen it. Okay.
8 So in terms of the meeting with -- the letter
9 to the parents, the first page on Exhibit 4 is
10 something that you sent to the parents and there was
11 no meeting held in connection with that, is that
12 correct?
13 A. That's correct.
14 Q. All right. And then is it fair to say that
15 the subsequent meeting in November was as a result of
16 questions that came up as a result of the letter that
17 you sent out that's been marked as Exhibit 4?
18 A. I believe that's correct. There were some
19 concerns about the money, fund-raising. So that's why
20 I called that meeting immediately.
21 Q. All right. You saw the third page of Exhibit
22 4 prior to attending that meeting as well, correct?
23 A. Yes, that day I did.
24 Q. All right. What other information were you
25 given about parent concerns about money besides what's

in this letter dated November 11th?
A. So what did I hear about money before I came
into the meeting?
Q. Yes. Other than what is in this letter, was
there any other information given to you?
A. I think the main thing that I understood was
what was coming in, the fund-raisers, and what was
being spent on the girls, that it was somewhat
unclear. I thought I spelled it out in this letter,
but there were some questions so I called the meeting.
Q. There was certainly nothing wrong with
parents at least wanting more information about
budgets, was there?
A. If they wanted information where the money -
how it's being spent on their kids, I think that's a
valid concern.
Q. And that was the reason you called the
meeting, to discuss that, to discuss those concerns
right?
A. To discuss the con[illegible] [illegible]
as it related to the program, yes.
Q. And did you follow this agenda, the second
page of Exhibit 4, during that meeting?
A. Yes, I did.
Q. Where was that meeting held?

A. In the commons area of Lehi High School.
Q. Who attended the meeting?
A. To my best knowledge, every parent that was
in the program came to that meeting, at least a
representative of that family or player.
Q. Did you have a good discussion with them?
A. I believe I answered all their questions and
concerns.
Q. Was it a constructive meeting that you held
with them?
A. I believe it accomplished what I was trying
to -- what the meeting's purpose was.
Q. And did the parents ask constructive
questions and seek information from you about money
being spent in the program?
A. There were some questions. Again, I referred
to the letter that I handed out. I also referred to
what was currently happening and updated some of the
numbers that were on that letter.
Q. Did you discuss with the -- did you give the
parents an opportunity to discuss all the issues with
you about finances?
A. Yes.
Q. What was the issue on the hotel getaway
cards?

A. These were all possible items of discussion. I discussed the status of each of those fund-raisers, how much had been collected at that time, what some of the goals were of what was going to come in. I tried to help clarify some of the numbers from the letters, because those were all just guesstimates at the time of the letter.

Q. Do you remember what the specific issue was with respect to the hotel getaway cards?

A. I think someone raised the question about shoes and what was promised and the opportunity that the kids might get, so we discussed that.

Q. What was the shoes issue?

A. If I -- I believe they wondered why I would get the kids shoes if they performed the fund-raiser, what they were going to -- the success of the fund-raiser. And so we discussed the shoes, you know, the opportunity of the shoes -- the opportunity of getting the kids shoes at a good price, better than we could have gotten around here. We had a discussion and most of the parents felt spend the money on them a different way, that they could get their kids their own shoes.

Q. So is that what you decided?

A. That's correct.

Q. So as a result of this meeting, did you make changes in some of the fund-raising?

A. Just how it was spent on the kids, that's correct.

Q. And that was a legitimate source of concern by the parents, and you obviously listened to them and there were changes made as a result of those conversations, right?

A. We addressed the issue in a way that I think everyone was happy.

Q. Okay. How about Pioneer Challenge, what was that all about?

A. That's a fund-raiser where the athletes fill out a letter and send them out to family, friends, relatives where money can come in in that manner.

Q. Program Advertisements, what is that?

A. We do a media guide program. The kids go out and get advertisements for that program.

Q. Now, is the fund-raising run through the high school account or how does that work?

A. Yes, they all go through the high school.

Q. So Lehi High School has accounts and all the money is put into those accounts, and then the program -- you in conjunction with the parents, obviously, decide how that's going to be spent?

A. The coach has the opportunity to spend the money on the kids how -- it goes into the basketball budget and the coach gets to use that however -- whatever means possible on those kids, yes.

Q. And you felt like you wanted to get input from the parents on how to spend that money?

A. They brought up the shoes. That was the only input that I received as it related to that issue.

Q. But certainly they could have given you input on other items and you would have listened and taken that into account?

A. If they had questions, I would have answered them.

Q. All right. What about the Nike tournament in Phoenix, what was that all about?

A. We just discussed the tournament, the cost of the flights, hotel, food and the entry fee.

Q. Where does the money come from for that?

A. The basketball account and the fund-raising.

Q. How does that tournament work?

A. There's an entry fee. We just -- it's like any other tournament. It just happens to be held in Phoenix, Arizona. It's an invitational. You have to be invited to be there.

Q. And your team was invited?

A. We were.

Q. What year -- when did they go?

A. We went my first year, 2001 -- we went all three years.

Q. What would be the total cost of shipping everybody down and shipping them back?

A. It varied based on transportation costs. The first two years we bussed. The third year we flew.

Q. The first year was where?

A. They were all in Phoenix.

Q. It's in Phoenix every year?

A. That's correct.

Q. Can you give me a ballpark figure of what that normally costs?

A. In the letter I tried to outline that, the estimated cost of flight, food, entry fee, transportation, hotel.

Q. And that's under Arizona Tournament, correct?

A. Correct.

Q. What was the concern on the Nike store, Portland, Oregon?

A. I think the concern was that I was using the kids' money to go there.

Q. Was that concern expressed to you?

A. I believe -- I don't know if it was expressed

in that meeting, but it was expressed through someone to me. I don't know who. But I think I addressed that, because I knew of it ahead of time.

Q. It could have been a parent that expressed that to you --

A. Yes.

Q. -- in one of your meetings with the parents?

A. Yes.

Q. What was your response to that concern?

A. There's a part of our budget that goes for coaches to purchase clothing, whatever for the coaches. And the coaches -- we felt it would be better spent if we used that money that was for us to go there and purchase things for the athletes.

Q. So that came out of the high school budget?

A. Yeah, that's designated for my use for me and my coaches. Typically we use that to go to clinics. There's a lot of ways that could be used, clothing for the coaches, a variety of ways.

Q. Is that amount set forth on Exhibit 4?

A. Exhibit 4?

Q. On the front page there.

A. No, because it didn't come from what the kids earned, anything that they had done. That was from a school designated budget that was set.

Q. How much did that cost, normally?

A. How much was the amount in that account?

Q. Yes.

A. Oh, approximately seven, $800.

Q. And that was to purchase clothing and transportation costs, everything --

A. Anything the coach wanted -- it could be used to go to clinics. There's a variety of ways it could have been used.

Q. This was a discretionary account, then, in the sense that you could use it for what you felt was appropriate?

A. And it was approved by the administration for me to do this.

Q. So did you spend seven to $800 a year at Nike buying clothes for the kids?

A. Not necessarily -- I had never been to the store before. That was the first time I had been there.

Q. There being what, 2003? What year did you go up there?

A. I went the season of 2003/2004.

Q. Did you go with anyone else?

A. Coach Rawson went with me.

Q. He's one of your assistants?

A. That's correct.

Q. Anyone else?

A. No.

Q. What was the concern on basketball budget?

A. I don't know if there was one. Like I said, these were all possible items of discussion. I just tried to address all of them in hopes that I answered all their questions and concerns. I wasn't necessarily told every concern. I just tried to list every possible thing that might be questioned. So that's why I wrote possible items of discussion, but I went through each item anyway.

Q. Schedule, anything that you recall that came up on that?

A. Not that I recall.

Q. How about item F there, the Player Parent Contract, did you have any additional discussion about that?

A. I reminded them about the contract and what its purpose was and that I was disappointed that this letter was sent to someone and that no one came and talked to me. I just reminded them about the letter in hopes to help create a positive atmosphere with the parents and coaches.

Q. And what discussion, if any, was held after

you talked about that?

A. I don't think there was much discussion. I had a family come and apologize to me.

Q. Who was that?

A. The people who wrote that letter.

Q. Who was that?

A. The Asays.

Q. Asay?

A. A-s-a-y. It would actually be the Swensons.

Q. The Swensons?

A. Yes.

Q. So it wasn't the Asays?

A. Well, that's the daughter's name, I'm sorry.

Q. Both the husband and the wife?

A. That's correct. They left and then came back and apologized to me.

Q. For sending the letter?

A. And not coming to me, yes, that's correct.

Q. What did they say to you?

A. They said that they were told that everybody was writing a letter and turning it in. They were asked to write that letter.

Q. By who?

A. Gary Burningham.

Q. And how do you know that?

1 **A. They told me.**
2 Q Did you discuss that with Gary Burningham?
3 **A. I did not.**
4 Q Was Mr Burningham at the meeting?
5 **A. He was.**
6 Q After you became aware of the Swensons
7 saying -- was it Swenson -- Swensons saying they were
8 asked by Mr. Burningham to write it, did you call
9 Mr Burningham and ask him about that?
10 **A. I did not.**
11 Q Did you ever have a discussion with
12 Mr Burningham about it from then until now?
13 **A. About --**
14 Q About that specifically
15 **A. About him asking parents to write letters?**
16 Q Yes.
17 **A. I don't believe I did.**
18 Q In paragraph 13 of the complaint it states,
19 "Despite" -- in part, because we'll go through it, if
20 not line by line, a few lines at a time "Despite
21 signing the agreement, all the other defendants who
22 are friends, relatives and/or parents of girls on the
23 team, acting in concert with each other and generally
24 under the leadership of Defendant Gary Burningham, as
25 the principal instigator, began to complain about

1 plaintiff to Worthington."
2 Tell me all the facts that you have that
3 support that allegation
4 **A. At what time are you talking about here?**
5 Q Well, that's part of the issue here When do
6 you believe that -- this is obviously subsequent to
7 the signing of the agreement in September When do
8 you believe that the parents began to formulate a plan
9 to terminate you as coach?
10 **A. I believe that meeting was a start, asking**
11 **the family to write a letter and telling them everyone**
12 **was writing a letter, and that was the only letter**
13 **that was turned in.**
14 Q So you believe in November of 2003 all of the
15 defendants began to act in concert in an attempt to
16 terminate you as coach?
17 **A. I believe that could have been a start.**
18 Q What other instances or facts do you have
19 that you rely on in that regard?
20 **A. A meeting they had in March.**
21 Q Tell me about that meeting. 2004, right?
22 **A. They have the minutes of that meeting --**
23 Q. Okay
24 **A. -- with a list of concerns that they went to**
25 **the administration with at that time. It was part of**

1 **that.**
2 Q Okay Anything else?
3 **A. Conversation he had with Coach Rawson.**
4 Q Are you talking about Gary Burningham?
5 **A. That's correct.**
6 Q When did that take place?
7 **A. I believe during that springtime.**
8 Q What else?
9 **A. Then the letters in the meeting with the**
10 **district.**
11 Q We'll go over those letter by letter so you
12 can talk about that Anything else? I'm just trying
13 to construct a list now so we can talk about them
14 individually
15 **A. I believe that might be it right now.**
16 Q Okay. Now, we've talked about this meeting
17 in November Other than the Swensons saying that Gary
18 Burningham asked them to write a letter and they sent
19 it, do you have any other information about Gary
20 Burningham with respect to anything that occurred in
21 the November time frame?
22 **A. In November?**
23 Q. Yes.
24 **A. I don't think so.**
25 Q. You mentioned this meeting in March between

1 the parents. Do you know of anything that occurred
2 between November and March that would fit within this
3 line of the parents getting together and planning your
4 termination?
5 **A. There was no meeting or discussion with any**
6 **parents that would have led to that perception.**
7 Q Okay Earlier we talked about you having
8 meetings with individual parents during the same
9 school year we are talking about
10 **A. Correct.**
11 Q Were you having meetings with the parents
12 even after November and December, January, February,
13 in that time frame?
14 **A. We did not have another parent meeting that I**
15 **recall. I don't believe we had another meeting after**
16 **November 1 as a coach sitting with all the parents.**
17 Q As a group?
18 **A. As a group.**
19 Q Did you continue to meet with individual
20 parents during that period?
21 **A. I believe I said that before, that a whole**
22 **list of parents saw me at various times.**
23 Q Did you meet with Gary Burningham during that
24 period?
25 **A. I did.**

Q. Tell me about those discussions.
A. I believe we met twice, once in my office and once in the fitness center. The first one just seemed to be -- you know, I think he wanted to share and reiterate that his daughter had a lot to contribute to the program, which I listened to him, and we just had a conversation about basketball in general as well. And then the second one was -- I believe it was the day of the state tournament. He wanted to show me a press breaker.
Q. When was the first meeting?
A. Oh, maybe -- I would have to say maybe January, mid season.
Q. 2004, is that right?
A. Yes.
Q. When is the state tournament?
A. Late February is the day we were leaving for Cedar City.
Q. You say Gary approached you at that time?
A. That's correct.
Q. What did he want to show you?
A. A press breaker.
Q. What is that?
A. A strategy.
Q. Oh, press in that sense. I'm sorry.

A. That was a conversation that I had. I didn't think about an agreement at that time, because that was in February.
Q. February of 2003, right?
A. Correct. And then when I was doing that camp and sitting with Coach Anderson or just discussing basketball and our programs, he said, hey, I have a contract. This is what I do. I thought it was a great idea and thought it would help, so that's where I constructed that.
Q. Other than your discussion with your assistant coaches and with Gary Burningham, were there any other discussions that you had about rumblings or rumors or problems about the program?
A. At what time?
Q. Well, we're talking now about -- we're going back, because we hadn't talked about your conversation with Gary when we talked about things that led up to the drafting of the agreement.
A. Right. You asked me if I had other conversations with him.
Q. Right. Hey, any time you want to supplement your recollections, I'm happy. We might as well just get it all on the record.
What I need to know, though, is if you had

A. Yeah, a press breaker as it relates to basketball.
Q. I thought we were talking about the freedom of the press or something.
So you were just talking X's and O's, really?
A. Yes. He wanted to share that with me.
Q. Okay. During either of those meetings, did you discuss with him any concern that either you had or he had about the team or, you know, talking through problems?
A. We had a discussion at the state tournament the year before about the rumblings of parents. I sat with him at UVSC. And his first response was, oh, I don't think I've heard anything like that. Then he came to me later and said, yeah, there are some, but I'll take care of them for you.
Q. This is before the signing of the agreement, though, right?
A. That's correct.
Q. So is that one of -- remember, we talked earlier about everything that you had heard that provided a catalyst for drafting that agreement. Was Gary's conversation with you part of what you evaluated and later determined you needed to draft that agreement?

any other conversations with other parents about -- because before I thought we established that it was mostly through the assistant coaches that you became aware of problems.
A. We were talking about the season at that time.
Q. Right. So if there's other parents besides Gary that you have a specific recollection of talking to, then I'm inviting you now to tell me about those conversations.
A. At this time I don't -- I mean, because we were talking about Gary, I recalled that conversation at UVSC.
Q. Sure. Tell me more about that conversation. You say he said he didn't know anything about the problems?
A. Yeah. He kind of stated that he didn't really hear anything, and then later he approached me at that tournament and we sat down again and he said, yeah, he realized there was, and he said, but I'll help you take care of that.
Q. Okay. So if that's the case, then you obviously knew at that point that Gary may be having conversations with other parents about these types of issues, right?

1 **A. That's correct.**
2 Q. But after this meeting in November of 2003
3 and the Swensons made the comment about Gary asked
4 them to write the letter, you didn't raise that with
5 him at any time, as far as I understand?
6 **A. I know I said -- to clarify, I don't believe**
7 **we had a direct conversation necessarily as it**
8 **related to that. He may have discussed it with me in**
9 **another -- maybe that night he may have come up to me,**
10 **but I don't remember -- I don't recall -- I don't**
11 **believe we actually sat down to discuss him asking the**
12 **Swensons to do that.**
13 Q. Okay. In any event, after the meeting in
14 November you believed that the issues concerning
15 finances had been resolved through discussions with
16 the parents?
17 **A. I believe that in that meeting I answered**
18 **every question and concern as it related to money.**
19 Q. All right. And Gary didn't raise those
20 issues again with you when he met with you in January
21 and February of the next year, did he?
22 **A. He did not.**
23 Q. Tell me how you became aware of the meeting
24 of the parents in March of 2004.
25 **A. One was the phone call by Bob Gray, who**

1 **apologized for being there, because he didn't know**
2 **that's what that meeting was going to be about.**
3 Q. When did he call you, the next day?
4 **A. Somewhere in that time frame. And then there**
5 **was a list of concerns that they had turned in to the**
6 **administration from that meeting.**
7 Q. And did you get those list of concerns?
8 **A. I was never given a list.**
9 Q. When did you become aware of the list of
10 concerns?
11 **A. I believe it was sometime after their**
12 **meeting. I don't know the day.**
13 Q. Other than your conversation with Mr. Gray,
14 did you receive any additional information or facts
15 about the meeting in March between the parents?
16 **A. By facts, what do you mean?**
17 Q. I mean at the time -- we are talking
18 relatively -- I mean, I realize when you're in
19 litigation you learn all sorts of things through
20 things that are produced, so everybody knows
21 everything now, theoretically.
22 But at the time in March you say that
23 Mr. Gray called you up and apologized. Did you have
24 any other information given to you about the meeting?
25 **A. As it related to their meeting about March**

1 **15th or so?**
2 Q. Yes.
3 **A. Just what Mr. Worthington -- the list of**
4 **concerns that he was given from whoever brought them.**
5 Q. And those were shared with you?
6 **A. I believe that was the case. Some of them**
7 **were.**
8 Q. When were you given those? Were you given a
9 copy of the list?
10 **A. I was just shown them.**
11 Q. In a meeting with Mr. Worthington?
12 **A. I believe so. That's correct.**
13 Q. And did you have a discussion with him at the
14 time?
15 **A. We did.**
16 Q. Tell me about the discussion.
17 **A. I believe we just discussed some of the**
18 **things that were listed and how to go about maybe**
19 **answering those concerns and so forth.**
20 Q. When did you have your meeting with
21 Mr. Worthington on that?
22 **A. I believe it was actually in April, because I**
23 **was gone on a trip.**
24 Q. Did Mr. Worthington tell you that he was
25 going to send a letter out in response to those

1 concerns?
2 **A. I believe what he said is he was going to**
3 **meet with anyone who wanted to meet with him, and then**
4 **he would meet with me and we would go over everything.**
5 **I think in the end he decided to -- I'm not sure of**
6 **the exact -- how the letter part was formulated.**
7 Q. Did you know that he was going to meet with
8 parents?
9 **A. He told me he was going to do that.**
10 Q. Did you say, yeah, that's a good idea?
11 **A. I supported the principal.**
12 Q. Did you think it was a good idea?
13 **A. I believe some good can come from meeting**
14 **individually. I think that's why he did that instead**
15 **of in one big group and me in a room. That's what was**
16 **first proposed, and I didn't feel anything would be**
17 **accomplished in that kind of setting.**
18 Q. Was this the group meeting you said you
19 refused to participate in? Is this the time frame?
20 **A. Somewhere in that area, yes.**
21 Q. Somewhere in the March --
22 **A. April, somewhere in there.**
23 Q. March/April time frame?
24 Who made the proposal that you meet with a
25 group of parents?

A. I believe the administration said that that was what was asked. I know Mr. Sunderland called me, but if a big meeting was asked at that time, I might have told him I didn't feel that that was the best opportunity or best scenario for all of us to meet in.
Q. Did Mr. Worthington ever tell you that he had requested the parents to outline for him in writing what their concerns were?
A. He may -- I believe he might have shared that with me after they had visited.
Q. Right. So you knew there were going to be written communications as well?
A. Written communications --
Q. Between the parents and Mr. Worthington.
A. All I knew is that they gave him a list. Any other writings, I didn't know if those would occur or not.
Q. Okay. Did you have any other conversations with Mr. Gray about this meeting in March with the parents?
A. I believe it was just that one phone call that he made to me and talked with me.
Q. Did he tell you that the parents were going to put together a list of issues?
A. I believe he shared with me that they were --

that they met to discuss the issues.
Q. Did he agree to share with you the minutes from that meeting?
A. I don't believe I asked for the minutes for that meeting.
Q. Okay. So you didn't see any minutes until --
A. Until later.
Q. -- until later? When did you see those?
A. I believe I didn't see those until the -- it might have been with the list of concerns. Those minutes may have been attached and shown to me at that time. So in April or so I may have seen those minutes.
Q. Who gave them to you?
A. They were not given to me. They were just shown to me.
Q. These are the ones from Mr. Worthington?
A. Yes.
Q. Did any of the parents give you copies of any of these letters or information?
A. Which ones?
Q. To Mr. Worthington, or list of concerns?
A. Did any parents give me the minutes to that meeting or -- I don't believe so.
MR. HOMER: Well, let's take 45 minutes for

lunch, or an hour, whatever your pleasure is.
MR. RUST: Sure, 45.
(Recess from 12:00 p.m. to 12:52 p.m.)
(Exhibit No. 5 marked.)
Q. (By Mr. Homer) We are back on the record. Let me show you, Mr. O'Connor, what has been marked as Exhibit 5. Again, I'll just look to you to tell me when you're ready to answer questions.
Joseph, I'll wait for you too, if you want.
MR. RUST: I'm through.
Q. (By Mr. Homer) Have you seen Exhibit 5 before, Mr. O'Connor?
A. I have.
Q. Is this the agenda we were talking about earlier before we broke for lunch?
A. This is the minutes to the parent meeting on the 9th of March. I believe this is the one that was brought up.
Q. Do you recall when you first saw copies of these minutes?
A. I believe I stated sometime -- it would have been late March, early April.
Q. Now, during that time period, did you have any discussions with Sue Chandler about this or anything else concerning the girls' basketball

program?
A. Prior to this time?
Q. Yes, during this time frame. Let's say during the month of March.
A. No.
Q. Did you have any discussions with either Mr. or Mrs. Robert Gray?
A. Mr. Gray called me after this meeting.
Q. Okay. Did you have any discussions with Will Sunderland?
A. He had called me, but I'm not sure if it was before this meeting or after.
Q. Did you have any discussions with Mr. or Mrs. Mike Hyatt?
A. As it relates to this document?
Q. This or the basketball program.
A. Yeah, I talked with them on the phone.
Q. Did you have any discussions with John Rogers?
A. He sent me the e-mail that it states there, but I don't believe I spoke with him.
Q. Did you have any discussions with Gary Burningham?
A. No.
Q. How about Kent Beckstead?

1 A. No.
2 Q How about Suzanne Beckstead?
3 A. No.
4 Q And Barbara Powell?
5 A. No.
6 Q Now, after this meeting you've indicated that
7 Mr Gray called you and said that he had attended this
8 meeting?
9 A. That's correct.
10 Q What else did he say to you, if anything?
11 A. He called me as a friend, wanted to talk to
12 me about this, apologize for -- didn't realize what
13 this was all about.
14 Q What else?
15 A. I believe we discussed perception, because
16 that was a term that was brought up. So we discussed
17 what perception was.
18 Q Tell me what you mean by that.
19 A. Well, he stated that -- basically we had been
20 talking about perception. I asked him -- I said,
21 perception is there's a group of parents wanting to
22 get rid of me, and he apologized. He talked to me
23 personally. And so then I asked him -- I said,
24 perception is that your wife is involved, and he
25 confirmed to me that that was not true, that his wife

1 wasn't involved in this.
2 Q Now, when you say perception, you mean your
3 perception of what was going on here?
4 A. Yeah, perception -- just what the purpose of
5 this -- what was the real purpose of what was
6 happening.
7 Q And you believed at this time when you became
8 aware of this that there were parents who were trying
9 to get you terminated as head coach; is that right?
10 A. Yeah, I believe that.
11 Q Now, did you make any efforts after
12 discussing this with Mr Gray to talk again to the
13 parents and to try to address their concerns?
14 A. In meeting with Mr. Worthington after they
15 had an opportunity to voice their concerns, we went
16 over them and then he drafted that letter.
17 Q. Okay. We'll go through those Really, my
18 question at this juncture is did you make any effort
19 to go back to the parents and say, okay, let's meet
20 again and have a discussion about this?
21 A. We had a meeting -- it was a pre-spring,
22 summer meeting that the parents came and had an
23 opportunity to voice concerns and ask questions there.
24 We presented the spring and summer schedule, the fall
25 schedule. In fact, we had two meetings. One was the

1 parent/player one and then the next meeting was when
2 Mr. Lott came and presented the parents with the
3 letter from Mr. Worthington.
4 Q When did the first meeting take place?
5 A. It was in April sometime before the
6 spring/summer schedule tournaments began.
7 Q Okay And the second meeting?
8 A. It was the next day or around the same time.
9 Q So also in April?
10 A. Yes.
11 Q During the first meeting, did you have any
12 discussions about this March 9, 2004 meeting?
13 A. No. We just left it open for them to ask
14 questions, concerns, give them a chance to speak out
15 and ask any questions.
16 Q And did you raise -- did they raise any of
17 these issues with you at that time?
18 A. They did not.
19 Q And who was in attendance at the meeting?
20 A. I believe any parent or parents whose
21 daughter was planning on participating in the spring
22 and then summer.
23 Q And do you recall who those parents were?
24 A. I don't think I could name each one of them,
25 but it was a large group.

1 Q. Look at those who were present at this March
2 9th meeting and tell me if any of those parents were
3 present at the April meeting
4 A. I believe Sue Chandler was there, the Grays
5 were there. I know Gary did not come. His wife was
6 there. The Becksteads. I believe it was just
7 Suzanne. I also think the Rogers -- Mrs. Rogers was
8 there.
9 Q Did you ask any of those individuals about
10 any of their concerns about the program and about you
11 as coach?
12 A. No. We opened up questions. They had a
13 chance to do that, but we did not.
14 Q Is there a reason that you didn't seek them
15 out and try to get a dialogue going with them?
16 A. They had an opportunity to talk to the
17 principal. The letter that he drafted addressed all
18 their issues and felt that that was taken care of.
19 Q. Was that letter sent out before or after this
20 spring meeting you're talking about?
21 A. It was given to them at that meeting.
22 Q. At the second meeting?
23 A. I believe it was the second one, yes.
24 Q. So you knew that that was in the works at the
25 time, and is that the reason you didn't raise the

issue with them?
A. I knew they were going to get the letter. And the meeting was about what was going to happen in the spring and summer, you know, and give everyone a chance to ask questions as it related to that.
Q. Okay. Have you read these minutes in detail?
A. I've read them.
Q. I mean prior to coming to your deposition, right?
A. Prior to today?
Q. Yes. You've had a chance to read them?
A. I've read them before.
Q. You understand that these are parent concerns about the way the program was running at the time?
A. I believe some of these are beyond just typical concerns.
Q. What would you consider to be beyond concerns?
A. That I never said one complimentary thing about seniors. That's not true.
Q. And that's under Sue Chandler?
A. That's correct.
Q. So you don't believe that's true. Is there anything else that you think --
A. I know that's not true.

Q. Okay. Do you believe that there's other things in here that are beyond concerns about the way the school program is being run?
A. Do I believe --
Q. Others.
A. Yes.
Q. Why don't you identify those for me as well.
A. In Sue Chandler's, "The girls paid $150 for camp at Open Court. Some didn't play." Every girl who paid played.
Q. Okay. What else?
A. "Rules were not the same for some individuals," by Mr. Gray. That's incorrect.
Q. Okay. Anything else?
A. "Rules fluctuate," that's incorrect. It says, "Marcy doesn't even want to play high school ball because of the conflict." She had stated to me she wanted to play basketball. "If the point guard sh[illegible]d doesn't pass to Michelle, they get yelled [illegible] not true. "The Carbon coach told him that if his players acted like Michelle they would be on the bench," that's not true. I spoke to the Carbon coach.
Q. What was his name?
A. Bruce Dean.

Q. He denied it to you?
A. That's correct.
Q. So assuming that he's telling you everything --
A. He stated that he had never even spoken to one of the parents as it relates to that. "Coach allowing one mother to dictate how the game be played and run," that is untrue.
Q. Who is the mother being referred to there?
A. I believe they are speaking of Judi Filimoehala.
It's stated in Gary Burningham's that the rules changed every day. That's not true. "There are a lot of girls who say they aren't going to play next year," I don't believe that was the case. It's stated that "It's not usual that coaches pick the captains." That's not true. "Michelle calls me Mike," that's not true. "Running up stats and points," that's not true.
In general, that's --
Q. *That's your list?*
Do you see anywhere in these minutes, Mr. O'Connor, where it says they want you terminated, any of the parents?
A. I don't believe I see that it's written there.

Q. Look on the last page of the exhibit. This is the agenda. Have you seen that agenda before? Was that attached to the copy of the minutes you saw before?
A. I may have seen this.
Q. All right. Do you see that first II(A), "We are not here after coach's job"?
A. I see that.
Q. Now, obviously there's some concerns about your treatment of Michelle Harrison. When did you first become aware that some of the parents had concerns about how you treated her?
A. I think there was, through conversation with the coaches, players, that that was a feeling that was out there.
Q. So from the get-go, as we talked about earlier this morning, when you got feedback from the assistant coaches, that was one of the items that was discussed?
A. Or players, yeah.
Q. Right. Look at the next sentence there. "We will support coach 100 percent, but when he won't meet with any parents we feel we need to have an audience with the administration."
Did you understand at this time that the

1 parents felt like you were refusing to meet with them?
2 **A. I only stated that I would not meet in a big**
3 **setting.**
4 Q Prior to this time frame, March?
5 **A. Correct.**
6 Q. How many times did you refuse to meet with
7 the parents?
8 **A. In a big group setting, I believe maybe once**
9 **or twice.**
10 Q. Who asked you to meet?
11 **A. Like I said earlier, I think it was Sheldon**
12 **Worthington.**
13 Q Did any of the parents?
14 **A. I stated that Bob Gray did. I relayed**
15 **information to him that I did not want to meet in that**
16 **kind of setting, and with Will Sunderland, the same.**
17 Q. So if the parents wanted to meet as a group
18 with you -- which, quite candidly, they had done
19 before, right?
20 **A. In a team meeting setting, they had**
21 **opportunities.**
22 Q. If you refused to meet with them like that,
23 then what option would they have had to discuss some
24 of the concerns they had about your program?
25 **A. Well, I felt with the feelings that were**

1 **coming out in these letters and the action that was**
2 **taken, that meeting in a big group was not going to be**
3 **pleasant for anybody and that anything would be**
4 **accomplished. So that's why I did not want to do**
5 **that. I didn't believe anything would have been**
6 **accomplished with that kind of contention that was**
7 **being stirred up.**
8 Q. Had you had contentious meetings up to this
9 point?
10 **A. None.**
11 Q Why did you feel it would have been
12 contentious to meet with the parents, then?
13 **A. Because of the untrue things stated in here**
14 **and what I was hearing from assistant coaches, kids.**
15 Q. But they had asked to meet with you, right?
16 **A. No one asked -- they -- no one asked me to**
17 **meet individually.**
18 Q. No, as a group, though, they asked to meet
19 with you?
20 **A. Correct.**
21 Q. And the only reason you refused is because
22 you thought it was going to be contentious?
23 **A. And I spoke with the principal on this. This**
24 **was a decision made with the principal.**
25 Q. When was that decision made?

1 **A. Somewhere around this same time. We**
2 **discussed what was being requested and he felt the**
3 **same way. Otherwise we wouldn't have proceeded the**
4 **way it was proceeded, that he met with each parent.**
5 **They all got a chance to voice their concerns.**
6 Q So they asked to meet with you as a group
7 prior to this March 9 meeting?
8 **A. I don't believe so.**
9 Q Why would it say -- if you don't know, just
10 tell me -- "We will support coach 100 percent, but
11 when he won't meet with any parents, we feel we need
12 to have an audience with the administration"?
13 MR RUST The question is do you know why
14 they put that in their agenda?
15 Q (By Mr Homer) Obviously somebody felt like
16 you were refusing to meet with them or it wouldn't
17 have been in there, right?
18 MR. RUST I object as speculation
19 Q (By Mr Homer) You can go ahead and answer
20 **A. This meeting could have been the result of me**
21 **saying no to a big group meeting, and I may have met**
22 **with Mr. Worthington before that point and stated I**
23 **didn't want to meet in that kind of setting and they**
24 **had this meeting.**
25 Q That would make sense that that would have

1 been the genesis of this.
2 (Exhibit No 6 marked)
3 Q (By Mr Homer) You mentioned earlier, I
4 believe, an e-mail from John Rogers during this time
5 frame Let me show you what has been marked as
6 Exhibit 6
7 **A. I've read this.**
8 Q. Did you receive this on or about May 10th --
9 excuse me, March 10th, 2004?
10 **A. Yes.**
11 Q Did you receive this before or after you saw
12 these minutes of the March 9, 2004 meeting?
13 **A. I believe I probably received this e-mail**
14 **before I knew about this meeting.**
15 Q Now, Mr Rogers says in this e-mail,
16 "However, you knew that was coming There are some
17 fundamental problems with the team that I hope can be
18 resolved early in the off-season " Do you see that?
19 **A. Yes.**
20 Q. Did you have a discussion about that with
21 Mr Rogers after receiving this e-mail?
22 **A. I don't believe so.**
23 Q. After receiving this e-mail on the 10th, did
24 you have either a face-to-face or a telephonic or some
25 kind of conversation with Mr Rogers about these

1 issues?
2 **A. I don't think so.**
3 Q Do you see the last line of the e-mail says,
4 "Please give me a call if you wish to discuss this
5 note or any other matter"? Did you just basically
6 decide you didn't want to discuss it with him?
7 **A. I just felt that I wanted them to all speak**
8 **with the principal before I -- it was just -- because**
9 **of the feelings, I felt I should wait on that matter.**
10 Q So by this time, at least, I take it that you
11 also decided you didn't want to meet with any of the
12 parents one-on-one?
13 **A. Not necessarily. I met with some parents**
14 **that came and talked to me.**
15 Q But you didn't want to meet with Mr Rogers
16 or talk to him on the telephone about these issues?
17 **A. At that time I chose not to call him back.**
18 Q All right Were you talking to any other
19 parents one-on-one during this time frame, 9, 10, 11
20 of March?
21 **A. I had spoken to those who had approached me.**
22 **If they called me, I was more than happy to speak with**
23 **them. Again, I just did not want to meet in a big**
24 **setting.**
25 Q. I assume you did not believe that this e-mail

1 from Mr. Rogers was in any way a violation of the
2 agreement that you had signed with the parents?
3 **A. This letter here?**
4 Q Yes
5 **A. No, I felt that was -- he had the opportunity**
6 **to e-mail me. I didn't have a problem with that.**
7 Q He was trying to communicate with you some of
8 the same concerns that are reflected in some of the
9 other letters, right?
10 **A. I believe some of these are different, but --**
11 Q. Do you believe that at this time the Lehi
12 team was a divided team, as he says in here?
13 **A. I believe there was some division in the**
14 **team.**
15 Q And that wasn't good, was it?
16 **A. No.**
17 Q. Were you making any efforts to try to reunify
18 it?
19 **A. I made efforts before the season, during the**
20 **season and after the season.**
21 Q. What about during this time frame here, March
22 of 2004?
23 **A. We were preparing for spring basketball. I**
24 **believe at that time it was moratorium for a short**
25 **time where you don't meet with your team.**

1 Q School rules?
2 **A. You don't have -- you can't have practice**
3 **and --**
4 Q Right. Are there rules against meeting with
5 the team when it's off-season?
6 **A. There's a dead period, moratorium. There's**
7 **different time frames that you have to meet and**
8 **follow. You could have a meeting, but you couldn't**
9 **play basketball or teach them during certain times. I**
10 **knew we were going to have our spring meeting, so --**
11 Q. But that was only five days after this,
12 right?
13 **A. Our spring meeting?**
14 Q Excuse me, the spring meeting was April 14th,
15 right?
16 **A. I don't know -- I knew we had a meeting in**
17 **April.**
18 Q. I think you said it was the day before the
19 letter from Mr Worthington, which was the 15th, is
20 that right?
21 **A. I think that was -- it could have been right**
22 **after. He may have already dated that. It was in**
23 **that time frame.**
24 Q. All right. Somewhere in that time frame.
25 So is it fair to say that when these

1 communications were being made to you that you just
2 kind of put it all off until the spring meeting and
3 thought it would be better discussed in that context
4 or with Mr Worthington directly with the parents?
5 **A. I knew the parents were meeting with**
6 **Mr. Worthington individually and I didn't want to**
7 **necessarily interfere with that process. And like I**
8 **said, I knew I would have my spring meeting. It would**
9 **be a chance to move on. You know, with the letter**
10 **that Mr. Worthington drafted, it included some of the**
11 **things to try to follow to help meet the concerns of**
12 **the parents that they met with him.**
13 Q So at least by this time frame, March, April,
14 there was nothing inappropriate in the parents
15 communicating directly with Mr Worthington and airing
16 out these concerns? You knew it was happening and
17 that was the context you wanted these problems to be
18 discussed at that time?
19 **A. Yes. Voicing concerns is okay. It's how far**
20 **you take them --**
21 Q. Right.
22 **A. -- is the question.**
23 Q So even though the agreement the prior fall
24 had been drafted and your interpretation of that is
25 bring your concerns here to me, you didn't have a

1 problem the following spring and have your parents
2 talk to Mr Worthington about these issues?
3 **A. One of the issues is we have an entire**
4 **season, November to February. All the concerns that**
5 **all of a sudden are coming up, how come they never**
6 **came up during the season from them to me?**
7 Q. Sure, I understand that.
8 **A. Now all of a sudden there are issues and**
9 **problems. So as a coach, you know, the season was**
10 **over. In reading some of what was said and some of**
11 **the concerns also listed, I believe there's a list**
12 **that's not with this that references some of the**
13 **issues at hand --**
14 Q Yeah, I think we'll get to that
15 **A. -- such as recruiting, and they are not true.**
16 **To me a meeting with a large group would have been**
17 **contentious as it relates to -- as to recruits, my**
18 **answer is I did not recruit. Favoritism doesn't**
19 **exist. The rules are the same for everyone.**
20 Q. So despite -- let's be candid For the most
21 part all the parents agreed, or using your word, I
22 guess, it was their perception that you were treating
23 Michelle Harrison in a different way than the other
24 daughters, and you just categorically deny that
25 there's any facts to support that, is that right?

1 **A. As it relates to rules and as it relates to**
2 **how everyone was treated fairly, everyone was treated**
3 **the same as it relates to rules, and I believe that**
4 **statement saying that it was otherwise is incorrect.**
5 Q. Okay. Well, let's go off the rules Was
6 Michelle given any different treatment on any level
7 than the other girls?
8 **A. No.**
9 Q So when you say as relates to the rules, you
10 didn't mean to distinguish treatments under the rules
11 with anything else?
12 **A. Everyone was treated the same, injuries,**
13 **rules, making up tests. It was the same for every**
14 **athlete.**
15 Q I accept that that's your perception I just
16 wonder if that's the case, then why were all of the
17 parents, without exception, concerned about your
18 treatment of Michelle as opposed to the other girls on
19 the team? Do you have --
20 **A. It's not all the parents. Not every parent**
21 **was invited to come see Mr. Worthington. Not every**
22 **parent was contacted, only those who had -- who were**
23 **gathered up to come in and see him.**
24 Q Well, there's a lot --
25 **A. Not all the parents were invited to this**

1 **meeting on March 9th.**
2 Q Well, you saw what that said Going back to
3 that, apparently, if you see there on the second
4 page -- the third page of the exhibit, "Those present
5 nominated Roger Gray, Will Sunderland, Gary Burningham
6 as parents to attend the meeting " So apparently
7 there was a discussion among the parents who should be
8 there?
9 **A. Among this group here. What about every**
10 **other parent, some that refused to go to that meeting**
11 **and some that weren't invited to go to that meeting?**
12 Q So your answer is that not all the parents
13 had to say these things, that --
14 **A. These feelings aren't from every parent and**
15 **every kid on the basketball team.**
16 Q But certainly there were a lot of parents
17 that did have that concern? I mean, there are a lot
18 of defendants in this lawsuit
19 **A. Which I don't know half of them.**
20 Q Well, you sued them
21 **A. Right, because they wrote untrue things and**
22 **made it public.**
23 Q I mean, you know Gary Burningham, correct?
24 **A. Correct.**
25 Q You know Jeanna Burningham?

1 **A. Correct.**
2 Q. Do you know Sandy Phillips?
3 **A. No.**
4 Q Do you know Ruby Ray?
5 **A. No.**
6 Q Do you know Drew Downs?
7 **A. I do.**
8 Q Curt Parke?
9 **A. No.**
10 Q Julie Parke?
11 **A. No.**
12 Q Mike Powell?
13 **A. No.**
14 Q Barbara Powell?
15 **A. No.**
16 Q Steve Davis?
17 **A. No.**
18 Q Jan Davis?
19 **A. No.**
20 Q Todd Kirkpatrick?
21 **A. No.**
22 Q Sue Chandler?
23 **A. Yes.**
24 Q Dallie Haderlie?
25 **A. Yes.**

1 Q Wendy Haderlie?
2 **A. Yes.**
3 Q Sheldon Worthington?
4 **A. Yes.**
5 Q John Rogers?
6 **A. Yes.**
7 Q Kenny Norris?
8 **A. Yes. I know of him.**
9 Q. Robyn Norris?
10 **A. Yes.**
11 Q. Will Sunderland?
12 **A. Yes.**
13 Q Darlene Durrant?
14 **A. Yes.**
15 Q. Blair Swenson?
16 **A. Yes.**
17 Q. Paula Swenson?
18 **A. Yes.**
19 Q Robert Price?
20 **A. Yes.**
21 Q. Kim Price?
22 **A. Yes.**
23 Q. Kent Beckstead?
24 **A. Never met him personally.**
25 Q. Suzanne Beckstead?

1 **A. Yes.**
2 Q. Lisa Gray?
3 **A. Yes.**
4 Q. John Jex?
5 **A. Yes.**
6 Q. Jessica Johnsen?
7 **A. No.**
8 Q Jeff Burningham?
9 **A. Only because of the proceedings and his**
10 **deposition.**
11 Q Now, of the people you don't know, what
12 you're telling me is you don't even know if they are
13 parents or who they are?
14 **A. I don't know all their relations, how they**
15 **are related to this.**
16 Q. Did you make any attempt to figure that out
17 before you filed the complaint?
18 **A. I inquired to who they might be.**
19 Q. What did you find out?
20 **A. Relatives, friends of the Burninghams, for**
21 **the most part.**
22 Q. Did you attempt to have any discussions with
23 them before you filed the litigation?
24 **A. No.**
25 Q Even though you don't know who some of these

1 people are?
2 **A. They went to the board meeting without me**
3 **knowing or anyone else knowing. They went there**
4 **first.**
5 Q Well, we'll get to the board meeting later
6 The point is there's a lot of people that had these
7 concerns because they are the ones that wrote the
8 letters, right?
9 **A. I don't know if it was their concerns or they**
10 **were asked to write them.**
11 Q Do you have any evidence that anybody wrote a
12 letter based on what someone else wanted them to do as
13 opposed to their own opinions?
14 **A. Well, the incident of Gary asking the**
15 **Swensons to write the letter about finances is an**
16 **observation that he could have asked them to all write**
17 **letters.**
18 Q We'll ask this later, but with respect to the
19 letters that were written during the spring and summer
20 of 2004, do you have any information that any of those
21 letters were written by people other than those who
22 signed and had concerns?
23 **A. I don't know.**
24 Q You don't have any information?
25 **A. No.**

1 Q. Now, you know there were letters written to
2 Mr. Worthington in connection with the discussions
3 that he was going to have with the parents, right, in
4 March?
5 **A. Are you saying that there were other letters**
6 **sent to him?**
7 Q Yes
8 **A. I was not given those or shown those. I was**
9 **only -- I believe I was shown this one and --**
10 MR RUST This one being Exhibit -
11 Q (By Mr Homer) Yeah, I haven't shown them to
12 you yet You can tell me if you've seen them What
13 I'm trying to do, just so you know, is separate out
14 the letters that were sent in March as opposed to the
15 ones in July
16 Have you seen that before?
17 **A. I only saw this after July. This was with a**
18 **group of letters I saw in July.**
19 Q Right, but you knew at that time that these
20 letters were sent out in March of 2004 in connection
21 with the meeting with Mr Worthington, right?
22 **A. Yeah, I didn't know that until July.**
23 Q Sure, I understand that, but you know that
24 now?
25 **A. Yes.**

Q. And these are the communications that, in any event, you knew were going on at about that period because you decided you weren't going to talk to the parents but you were going to let them talk with Mr. Worthington, right?
A. They got an opportunity to speak, voice their concerns, yes.
Q. And Mr. Worthington invited them to voice their concerns both verbally and in writing, didn't he?
A. Yes. They were given both chances.
Q. So you've reviewed these letters, and I'll let you look at the others. Did you ever make an attempt to respond to these letters to the individuals who wrote them?
MR. RUST: After July after he saw it?
MR. HOMER: Yes.
A. Did I approach them after July?
Q. (By Mr. Homer) Right.
A. No, I didn't.
Q. Okay.
(Exhibit No. 13 marked.)
Q. (By Mr. Homer) Obviously one of the issues in this lawsuit is defamation. You're aware of that, right?

A. Correct.
Q. And we've asked that you identify all of the correspondence that you consider to be defamatory. Let me show you what has been marked as Exhibit 13.
A. Okay.
Q. Have you seen this before?
A. Yes.
Q. If you look at the second and third pages of the exhibit, that lists all of the correspondence which -- the quotation is "We consider the written material identified in the attached sheets to be defamatory." Do you see that?
A. Yes.
Q. Did you review these with your attorney in making that decision?
MR. RUST: Are you talking about at the time the letter was written, Exhibit 13?
MR. HOMER: Yes.
MR. RUST: I'm going to object as to any kind of attorney/client privilege.
Q. (By Mr. Homer) Yeah, I don't want to get into your attorney/client privilege. I just want to know if you consider -- we can go through, and we will go through these various letters, but did you help set this list up and say I consider these letters to be

defamatory?
A. I believe this is a list of all the written documents that were presented.
Q. And you consider all the written documents presented to be defamatory?
MR. RUST: Objection, calls for a legal conclusion, legal analysis.
Q. (By Mr. Homer) You can go ahead. He's just setting up an objection in the event we have to go before the court some day and say whether or not your answer can be utilized.
A. I believe there's remarks in these articles or letters.
(Exhibit No. 7 marked.)
Q. (By Mr. Homer) All right. This letter that's been marked as Exhibit 7, that's one of the letters, if you look on page 3, the next to the last entry there, "March 12, 2004 correspondence from Sue Chandler," do you see that?
A. Okay.
Q. I want you to tell me everything in that letter that you consider to be defamatory.
MR. RUST: Objection, calls for a legal conclusion. He can tell you what he believes to be not true.

MR. HOMER: Well, as we both know, defamation is broader than not true, but whatever you want to do.
Q. (By Mr. Homer) I want to get your views on these letters, and we are not -- Joseph and I have been around too long to get hung up on legal niceties, but I understand the objection and I want to know what your problem with the letter is.
Why don't you read through that a few minutes. I think one of my clients has to talk to me.
(Recess from 1:37 p.m. to 1:43 p.m.)
MR. HOMER: Back on the record.
Q. (By Mr. Homer) Again, one of the issues in this lawsuit is defamation, and we've asked for the identity of all defamatory material. This is one of the letters, and so I need to know what your -- you know, I agree with counsel that nobody is going to ask you for a definition of defamation, but on the other hand you initiated the lawsuit against the parents, and this is -- you've identified this letter as one of the reasons you initiated the action, so I want to know why.
A. One of the problems I see with this is the double standard of rules.
Q. Tell me where you're referring to. Oh, up in No. 1?

A. **Yes.**
Q. What in particular there?
A. **That there was a double standard. The fact that I ignored Breezy is incorrect. I have a problem with that. That would be on the third page, third paragraph. The Duchesne game, Michelle playing every minute of the game, I have a problem with that. I have a problem that I was a vehicle to promote just one individual player.**
Those are some of the problems I see at this moment.
Q. Okay. Look at the first paragraph, if you would, Mr. O'Connor, where it says, "As per your request from our meeting on Monday, March 1, 2004, I am putting in writing my thoughts and concerns regarding the incidents that occurred in Cedar City during the girls state basketball tournament, along with some other issues I have seen over the last two years." Do you see that?
A. **Yes.**
Q. You're aware that Mr. Worthington asked the parents to write their thoughts about the program to him?
A. **I didn't know -- I did not know that that had happened.**

Q. You see that now, don't you?
A. **Yes.**
Q. Do you think that Mr. Worthington was part of a process -- that he participated in this process that you characterize as attempting to seek out your termination?
A. **You're asking if I think he is a process of what occurred?**
Q. Yes.
A. **Yeah, he was in the process, because they had to go to him.**
Q. Go back to the complaint, if you would, paragraph 16. It's on page 5. We're going to get to this letter. "On or about April 15, 2004, which was after the completion of the basketball season, and as a result of ongoing complaints made to him by many, if not all, of the parent defendants."
Now, it's true, is it not, that Mr. Worthington asked for those letters to be written to him setting forth their perceptions of the problems with the program?
MR. RUST: Objection, lack of foundation.
Q. (By Mr. Homer) You can answer.
A. **From this letter, it sounds like he had told Sue Chandler to write that down.**

Q. All right. So that's the context of the meetings with Mr. Worthington that you knew were occurring at or about that time, right?
A. **About which time?**
Q. March, April of 2004.
A. **That they were meeting with him, yes.**
(Exhibit No. 8 marked.)
Q. (By Mr. Homer) Okay. Let me show you another letter. This is Exhibit 8. Have you seen that one before?
A. **In the group of letters, yes.**
Q. Okay. And this was written by Gary Burningham, right?
A. **That's correct.**
Q. I want you to go through the same process on this one and tell me the problems you have with this letter.
I'll note Exhibit 13, this letter is the first letter listed. I only want to ask you questions about the letters that you included on this list, in other words.
A. **I have a problem in this letter -- the double standard again is noted.**
Q. And your problem with that is you don't believe there was one, right?

A. **I don't believe there was a double standard. Concern about the reprisals of his daughter, that never happened. Discrimination.**
Q. Where are you at on that one?
A. **At the end.**
Q. "In short, I want to know why discrimination is being condoned by Lehi High School"; is that what you're saying?
A. **I have a problem with that.**
Q. Anything else?
A. **Not at this time.**
Q. Do you agree with the statement in the letter that "The Utah High School Activities Association purposes are as set forth in the letter"?
A. **This was also stated in the e-mail of John Rogers.**
Q. Right. Do you agree with that? Do you agree that that's what the purpose is?
A. **That's the purpose of the high school activities association, yes.**
Q. All right. And you believe that the Lehi School girls' program should be consistent with those purposes?
A. **I believe all the programs, all the high schools follow that.**

1 Q Okay Including the Lehi School girls'
2 basketball program?
3 **A. Yes.**
4 Q Okay And you also know that some of the
5 parents did not believe that it was being conducted
6 pursuant to those standards, right?
7 **A. Based on these letters, that's correct.**
8 Q Right. And based on discussions you've had
9 with them, right?
10 **A. No discussion about this purpose was ever --**
11 **no one approached me or came to me with that purpose**
12 **and a problem with anything in the program that**
13 **relates to this purpose.**
14 **(Exhibit No. 9 marked.)**
15 Q (By Mr Homer) Let me show you the next
16 letter, Exhibit 9 What we are looking at, that
17 letter is identified in Exhibit 13 as the sixth letter
18 from the top. Can you tell me what the problems are
19 with that letter?
20 **A. I believe it's just part of the big picture**
21 **in the whole puzzle.**
22 Q. Tell me what you mean by that.
23 **A. That it's just part of the whole thing.**
24 Q. Is there anything in here that's a problem?
25 **A. I think when you look at all of them in a**

1 **series, you could see that there may be a problem.**
2 Q. Without looking at the series -- let's just
3 look at this letter -- do you have any problems with
4 the letter?
5 **A. Do I have a problem with the letter just by**
6 **itself?**
7 Q Yes
8 **A. If I only saw this letter?**
9 Q Yes
10 **A. I would say I don't have an answer for that**
11 **right now.**
12 Q Okay And if you look at it as a series, is
13 it just the fact that Gary and Jeanna Burningham
14 authored the letter? Would that be the problem?
15 **A. No, the fact that supposedly the process was**
16 **not about getting rid of the coach. I just think in**
17 **the whole grand picture of it, this is just part of**
18 **that.**
19 Q. Well, so far we haven't seen anything that
20 says that the process is about getting the coach,
21 right?
22 **A. Well, that's right, but looking at the whole**
23 **picture, "we want what's best for the program, coach**
24 **and all the girls," when you look at the whole thing,**
25 **you know, that's my interpretation of the whole thing.**

1 Q Sure All we're asking is what you believe
2 and what your perceptions are.
3 **A. By itself it could just be a thank you**
4 **letter.**
5 Q Your perception is that Gary and Jeanna
6 Burningham did not want what was best for the program,
7 coach and the girls; is that right?
8 **A. In the end, for their daughter is what they**
9 **wanted.**
10 Q. Even if it wasn't good for the coach, the
11 team and the program?
12 **A. That's correct.**
13 **(Exhibit No. 10 marked.)**
14 Q (By Mr. Homer) All right Let me show you
15 what has been marked as Exhibit 10. You've read it?
16 **A. Yes.**
17 Q You've seen it before?
18 **A. Yes.**
19 Q This letter has previously been identified by
20 Sheldon Worthington. That is a letter he wrote on
21 April 15th, 2004. Were you copied on this letter at
22 the time?
23 **A. Was I --**
24 Q. Were you given a copy?
25 **A. I was.**

1 Q. Do you see the first sentence where it says,
2 "I recently had the opportunity to speak with several
3 of you about ways to improve the Lehi School's girls'
4 basketball program " So that would seem to confirm
5 whether or not he met with some of the parents about
6 some of the issues they had?
7 **A. Yes.**
8 Q Okay And then do you see the second
9 sentence there, "I was impressed with the thought and
10 genuine concern each one expressed on making our
11 program even stronger"?
12 **A. I see that.**
13 Q. So it appears that judge Worthington -- I
14 have been in court too much -- Sheldon Worthington
15 believed that the parents were genuinely concerned for
16 the program at the school?
17 **A. That's what he wrote.**
18 Q. Do you disagree with him on that issue?
19 **A. That there was genuine concern?**
20 Q. Yes.
21 **A. I think there was some genuine concern.**
22 Q About the program and about fairness and
23 about --
24 **A. I think there was some.**
25 Q Okay Now, when you say "some," are you

1 saying some parents were genuine and other parents
2 were not?
3 **A. I think some of the concerns that were**
4 **brought forth were genuine whether they came from one,**
5 **all. All it was was one big list, so I don't know**
6 **what came from which parent.**
7 Q. Okay. Well, let's see if we can separate
8 genuine from ungenuine, then. What do you consider
9 the genuine concerns to have been expressed were?
10 **A. I don't have a copy or list of all the**
11 **concerns they had written down.**
12 Q. I understand, but you're familiar with what
13 they were. We've looked through some letters, some
14 items. I mean, you have a pretty good idea of what
15 you believe is genuine and not genuine, don't you?
16 **A. I think so.**
17 Q. Okay. What were the genuine concerns, in
18 your mind?
19 **A. I think concerns about improving any program**
20 **are genuine. Concern of seeing their girls succeed**
21 **would be genuine. I think anything that -- concerns**
22 **that are geared toward the team being successful,**
23 **those would be examples, some of the ones he's listed**
24 **here.**
25 Q. Okay. How about concerns that were not

1 genuine? What do you believe were the -- what fits
2 into that category?
3 **A. Well, I think some of the genuine could move**
4 **into the ungenuine when you continue to pursue**
5 **something that doesn't exist.**
6 Q. Give me some examples.
7 **A. The double standard, you know, rules.**
8 Q. Rules being applied uniformly?
9 **A. Yes. The money issues that came up over and**
10 **over again after an answer was given each time. So**
11 **things that are genuine can get moved to ungenuine at**
12 **some point.**
13 Q. Okay. Any other issues that were not genuine
14 in your view, things that should be on that list?
15 **A. Without the list --**
16 Q. Well, on your list.
17 **A. -- there could be an awful lot of things to**
18 **recall.**
19 Q. We can revisit this as we go through the
20 various lists.
21 Do you agree with Mr. Worthington on the five
22 points here that everyone believes and is deeply
23 concerned about and wants? Do you have any problems
24 with any of those statements?
25 **A. I didn't meet with him, but I didn't have a**

1 **problem with him stating those because he's the one**
2 **that met with each one.**
3 Q. Is that consistent with your perceptions of
4 the parents?
5 **A. Individually some of them may feel more about**
6 **some than the other, but I -- for each parent to say**
7 **they agree with all five of those and they're all**
8 **five, I don't -- but I think the actions and things**
9 **that took place, I could see that they might not agree**
10 **with some of those.**
11 Q. Who do you single out in particular, the
12 parents who wouldn't agree with those?
13 **A. I'm not singling anyone out at this time. I**
14 **don't have anyone to single out, because I don't know**
15 **what they said to him.**
16 Q. So you don't have anybody in mind on any of
17 these five points that they would not be deeply
18 concerned for their own daughter's happiness, they
19 would not believe the team has come close to reaching
20 its potential? And then just going down the list, you
21 wouldn't have any parent in mind that you might say,
22 well, they certainly don't believe that?
23 **A. Well, I believe some of the letters state**
24 **that everyone wants to see every girl succeed, and I**
25 **don't think that's the case based on some of the**

1 **letters that were written as it relates to Michelle.**
2 Q. So you think some of the parents did not want
3 Michelle to succeed?
4 **A. They may have wanted her to succeed, but not**
5 **at Bellflower -- not at Lehi.**
6 Q. So you believe the parents were not only
7 trying to seek your termination, but also drive
8 Michelle out of the school?
9 **A. Yes, I do.**
10 Q. Give me all the facts that support that
11 conclusion.
12 **A. Well, the letters they wrote and the state's**
13 **action granting her transfer was evidence enough.**
14 Q. So the letters, which --
15 **A. All the letters, and the action the state**
16 **took granting her transfer was based on some of the**
17 **letters they wrote and their feelings about Michelle.**
18 Q. All right. So the letters, again, are the
19 ones cataloged on Exhibit 13, right?
20 **A. A good portion of them. Not every letter**
21 **mentioned her, but there were quite a few.**
22 Q. Okay. And then how -- I understand where
23 you're coming from on that. What about your statement
24 about the state's action to grant the transfer, how
25 does that support your statement that the parents

1 wanted to drive her out?
2 **A. Well, based on those letters, they approved**
3 **her transfer because they didn't feel the environment**
4 **in which she was in and the feelings that were there**
5 **was conducive for a student. That's right in the**
6 **newspaper.**
7 Q. Did any of the letters suggest that she
8 should transfer, to the best of your recollection?
9 **A. They didn't say they wanted her directly to**
10 **leave, but enough of the things are being said, my**
11 **interpretation of those.**
12 Q So the statements that some of the parents
13 believe that you were singling her out for better
14 treatment, those are the statements you're referring
15 to, right?
16 **A. We would have to look at them, but there were**
17 **some statements that were negative toward her.**
18 Q Well, wouldn't that be the general category,
19 though, that they believed that you were treating her
20 differently than the other players on the team?
21 **A. Not just those, but the other statements.**
22 **And like I said, we would have to look at them.**
23 Q. And we'll look at them I mean, they are
24 part of the record, but do you have anything in mind
25 besides the fact that she was treated differently in

1 the letters?
2 **A. Not right in my mind at this time.**
3 Q. Okay Looking at the guidelines and
4 recommendations of Mr Worthington, the first one
5 states, "We have spoken to Coach O'Connor and given
6 him recommendations shared with us by all parents "
7 Do you see that?
8 **A. I do.**
9 Q Prior to April 15th, 2004, had
10 Mr Worthington met with you?
11 **A. Yes, we looked at those concerns and talked**
12 **about them.**
13 Q Did you read the letters at that time?
14 **A. I just saw the concerns. I didn't see the**
15 **other letters.**
16 Q. Okay You didn't see Exhibits 9, 8, 7?
17 We'll go over some others, but --
18 **A. I did not see those at that time. Those I**
19 **saw in July when they were with all the other letters.**
20 Q. All right You have no doubt that
21 Mr Worthington had those in his possession at the
22 time?
23 **A. My understanding is he would have had those.**
24 Q. What concerns did he put in front of you?
25 **A. The ones -- some of the ones that were listed**

1 **on the list that's in handwriting. That's the list I**
2 **remember most, I believe -- or it's typed. It's like**
3 **in a column.**
4 Q Is it this one?
5 **A. I believe that's it.**
6 Q We'll get to that I just want to make sure
7 that we are on the same page here
8 **A. Is that the one you were --**
9 Q Yes That will be the next exhibit
10 So he did sit down with you, talked to you
11 and shared with you what the parents had expressed as
12 concerns?
13 **A. Yes.**
14 Q And then he states, "He," Mr Worthington,
15 "has committed to examine and improve the program
16 wherever he can " Is that true?
17 **A. Yes.**
18 Q What areas did you believe at that time that
19 should be examined to see if you could improve the
20 program?
21 **A. I believe one of them was trying to address**
22 **some of those issues and show that that wasn't the**
23 **case, how that may have been. I mean, it was only**
24 **April. We still had the whole season to demonstrate**
25 **and show all of that. So, I mean --**

1 Q Obviously one of the issues was the more
2 favorable treatment of Michelle Harrison, right? That
3 came up in your discussions with Mr Worthington?
4 **A. Correct.**
5 Q Did you agree to go back and look at that and
6 see if you could improve that situation?
7 **A. I evaluated that and believed I was doing**
8 **that which was right as a head coach in dealing with**
9 **that issue.**
10 Q So even at that time, after Mr Worthington
11 expressed that that was a common concern of the
12 parents, you didn t believe that there was any
13 validity to that concern, is that right?
14 **A. With that concern?**
15 Q Yes, just that concern
16 **A. I did not believe that concern was true.**
17 Q Okay No 2, "Coach Lynn Allan has been
18 asked and consented to be an assistant varsity girls'
19 basketball coach " Do you see that?
20 **A. Yes.**
21 Q And you agreed with that?
22 **A. Yes, I did.**
23 Q Give me the thought that went into that
24 request of Coach Allan
25 **A. I believe the administration asked him if he**

1 **wanted to help. I think the basis was trying to get**
2 **another basketball mind in there. I have great**
3 **assistant coaches, good people, you know, but**
4 **sometimes as a head coach one of your jobs is teaching**
5 **them and helping them. And I think both of the -- all**
6 **the assistants were of that nature, learning the game**
7 **still, progressing, and one of the ideas was bringing**
8 **in another mind, have another set of eyes, another**
9 **opportunity to coach the girls and another body.**
10 **That's what we discussed. I believe also that it was**
11 **something -- someone who, because he had met with some**
12 **of the parents, that that was -- that took place to**
13 **try to, I believe, appease some of their concerns.**
14 Q Well, wasn't part of the thinking here that
15 in addition to the X's and O's, winning, you know, the
16 strategy of the game, that sort of thing, that
17 Mr Worthington was also attempting to get someone in
18 there who would be able to talk to the parents and
19 work through problems with them?
20 **A. I believe one of the purposes, like I said,**
21 **was he was there to help appease some of their**
22 **concerns and there was another person that they could**
23 **go to who they -- who the parents felt comfortable**
24 **with. I think there were some positives for the**
25 **purpose of having him as an assistant.**

1 Q Tell me what you mean by the word appease,
2 because I don't want there -- it sounds like a
3 negative connotation When you hear appease, you hear
4 the Brits were trying to appease the Germans prior to
5 World War II or something like that
6 **A. Oh, no.**
7 Q. Did you consider it to be, well, you know,
8 the parents, they'll do anything so we better just get
9 this guy in there to appease them?
10 **A. No, I'm sorry, I didn't --**
11 Q. All right
12 **A. I felt he was asked and then they asked me,**
13 **for a positive reason, to help with the whole -- one,**
14 **not only with the coaching, but also to be there to**
15 **help meet concerns. My understanding, like I said, is**
16 **that was one aspect that Mr. Worthington and the**
17 **athletic director and I agreed to take place to help**
18 **in that manner.**
19 Q. Look at item 4 "Parents are invited to
20 express" -- in fact, let's look at 4 and 7 together
21 Actually, 4, 6 and 7
22 **A. Okay.**
23 Q. Because they are all communication
24 paragraphs. 4, "Parents are invited to express any
25 concerns they might have to LHS administration We

1 will carefully consider each concern brought to our
2 attention and pass it along "
3 6, "We ask that you communicate to the
4 coaches individual concerns of the schedule,
5 conflicts, injuries, et cetera, and items related to
6 No 5, which is transportation, team dinners, parties,
7 et cetera. All communication should go through
8 administration "
9 And, 7, "We ask our coaches to coach Do not
10 contact any coach for anything other than the
11 aforementioned items Violation of this rule will
12 jeopardize your daughter's position on the team "
13 Did you discuss those items with
14 Mr Worthington?
15 **A. We did.**
16 Q So this really changed what had been set
17 forth in that agreement the prior fall that the
18 parents were to go directly to the administration and
19 not go to you with their problems, right?
20 **A. I did not take that as being that. That's**
21 **not what -- in our discussion what was supposed to be.**
22 **They still had every opportunity to come and talk to**
23 **me.**
24 Q Well, it says on 7, "Do not contact any coach
25 for anything other than the aforementioned items "

1 **A. Yeah, and the items there are all things that**
2 **happened generally with the coach and its team.**
3 Q Well, let's take the examples of obviously
4 her in the past, and I want you to give me your
5 opinion what the parent should do. Let's say they
6 thought there was a continuing problem of giving more
7 favorable treatment to Michelle Harrison Would they
8 go to you or would they go to the administration on
9 that?
10 **A. Based on my understanding with**
11 **Mr. Worthington is that would have been -- if it was**
12 **still the same concerns, that they would see him.**
13 Q All right So they would go directly to him
14 on that?
15 **A. Yeah, but anything related to basketball or**
16 **the kids -- or the athletes or -- they could still**
17 **come see me.**
18 Q Sure, on day-to-day stuff?
19 **A. If there was an issue as it related to**
20 **basketball, yes, they could come see me.**
21 Q What if -- I'm going back to Sue Chandler's
22 letter of March 12th What if she had had continuing
23 concerns about what she calls double standards, who
24 would she go to on that following this letter from
25 Mr Worthington?

1 A. Well, this was only April, so I don't know
2 how a double standard could have taken place from
3 March to April.
4 Q. Well, let's talk about the beginning of the
5 season.
6 A. As the head coach, I would have still -- with
7 the contract and everything that I've done, they still
8 would have been invited to come talk to me in regards
9 to basketball. Double standards, I think the comfort
10 level of each of those parents would have been based
11 if they would have come to me or to the
12 administration.
13 Q. So there may be a gray line, but certainly
14 you would have thought that after this letter the
15 parents could go to the administration and talk about
16 these issues as well, correct?
17 A. If it was ongoing, that's what it looks like.
18 Q. That would include issues that had been
19 raised in these letters of March 2004 and discussions
20 with Mr. Worthington, parents could go to the
21 administration on those?
22 A. They could. From March to July, plenty of
23 parents came and talked to me individually.
24 Q. Right.
25 A. Or called me after this letter. This letter

1 did not tell them you can't come speak to me.
2 Q. All right. Who called -- let's look at that.
3 Who called you from, let's say, between April 15th
4 and -- when did you say, July?
5 A. At the time their letters went to the board.
6 Q. Okay. Let's say mid July. Who called you?
7 A. I visited with various people, Harrisons, the
8 Filimoehalas, Staddels, most of the young -- the new
9 kids in the spring, as we got close to camp, I
10 discussed camp with them. So there were plenty of
11 opportunities that parents came to me about camp, or
12 in general.
13 Q. When you say Harrisons, you mean Judi
14 Filimoehala?
15 A. Filimoehala.
16 Q. Tell me about the discussions you had with
17 her.
18 A. Well, during this time I was her track coach,
19 so it was ongoing, because I was her high jump coach.
20 Q. You were Michelle's coach?
21 A. Yes, track coach, so there was obvious
22 talking as it related to track and basketball, because
23 spring league was starting as well. Nothing out of
24 the ordinary. General conversations as it related to
25 the sports.

1 Q. Yeah, I'm trying to focus more in on
2 basketball things, because that's really where we are
3 at in this lawsuit. We are not -- I don't really care
4 what you and Judi discussed about track. I mean, it's
5 probably interesting, but we are trying to take less
6 time as opposed to more time taking your deposition,
7 so I want to focus on that.
8 Did you have any discussions with her about
9 the basketball program during that time frame?
10 A. Sure, I did.
11 Q. Tell me about those discussions.
12 A. I worked out the calendar for her travel team
13 and what we were doing, made sure we didn't have
14 conflicts. So we had to work that out.
15 Q. Her travel team, are you talking about --
16 A. Michelle's travel team's schedule. I mean,
17 we wanted to have all our players in as many things as
18 possible. There's obvious things that get in the way
19 and, you know, you have to pick and choose what you do
20 with or without her, but it's nice to -- we went over
21 her schedule.
22 Q. Travel during the summer?
23 A. Yes, with her AU team.
24 Q. And who else on the Lehi High School girls
25 varsity was part of that?

1 A. Just her that year.
2 Q. All right. Did you discuss anything else
3 with Judi besides that?
4 A. I don't believe so.
5 Q. Did you ever have any discussion with her
6 about some of these issues involving the perception of
7 some parents that her daughter was being treated more
8 favorably than others?
9 A. We may have had some discussions about that.
10 Q. Tell me about those discussions.
11 A. Just discussions how Michelle felt. I mean,
12 they knew what was going on. They were supportive.
13 Q. They being Judi and Michelle?
14 A. Their family and other families, yes. Very
15 general as it relates to that. I mean, it was --
16 people knew what was going on. It wasn't a secret.
17 Q. Now, did you have any discussions with Judi
18 about some of these other issues besides how her
19 daughter was treated? For instance, finances, did you
20 ever have any discussions about her money issues?
21 A. As it related to --
22 Q. The team.
23 A. I received a phone call from her, because she
24 was called by Gary. That was in November. Then I had
25 the meeting.

1 Q So the meeting was called because she
2 indicated that Gary had some problems with that issue?
3 **A. Yes.**
4 Q Did she ever tell you that she had problems
5 with that issue?
6 **A. She did not.**
7 Q. Has she ever told you she had problems with
8 that issue?
9 **A. She did not.**
10 Q How about the issue of double standards, has
11 she ever talked to you about that?
12 **A. I believe we did.**
13 Q Tell me what you discussed
14 **A. I just told her it wasn't happening.**
15 Q What did she say?
16 **A. She believed me. She believed it wasn't**
17 **happening.**
18 Q Now, did she -- what's your normal practice
19 of parents -- I assume parents can attend games,
20 right?
21 **A. Yes.**
22 Q And do What about practices, team
23 practices?
24 **A. Practices are open.**
25 Q. Okay And is it normal for parents to attend

1 **all the kids, give them an opportunity to be seen.**
2 **You know, as the season and as a career progresses for**
3 **any athlete, letters show up, phone calls, you know,**
4 **and when I got those I made it a point to make sure I**
5 **got it to those kids right away. So that would have**
6 **been just conversation as it related to when something**
7 **came or so forth.**
8 Q How would you be able to help Michelle in
9 being able to play in college? What does a coach do
10 for a player like that? Obviously a talented player
11 and somebody that you feel very good about, how would
12 you be able to help her get recruited into college?
13 **A. As a coach, you hope you don't mess it up.**
14 Q What did you say?
15 **A. As a coach, you hope you don't mess it up.**
16 Q Right
17 **A. But, you know, like all of your athletes, you**
18 **encourage them to work on their game. If there's**
19 **weaknesses, try to point those out, points of**
20 **emphasis, how to get better at this or that. You**
21 **know, like any of the athletes, I would share that**
22 **with all of them.**
23 Q Do you see No 8 there on Exhibit 10? "The
24 girls will travel and be with the team at all times
25 Exceptions must be cleared by administration " What

1 the practices?
2 **A. Occasionally one may come.**
3 Q Over the last, let's say, three years
4 involved in your coaching of the girls' program, what
5 parents showed up to the practices?
6 **A. I think Gary has stepped in for a little**
7 **while. I think Bob Gray may have been in. Not very**
8 **many.**
9 Q Did some parents show up more than others?
10 **A. No.**
11 Q Did Judi ever show up to practices?
12 **A. Did she sit in on practices? No.**
13 Q She never attended practices?
14 **A. No.**
15 Q Did she ever talk to you about coaching her
16 daughter, coaching technique?
17 **A. No.**
18 Q Did you ever have any discussions with her
19 about possible opportunities in the college ranks for
20 her daughter?
21 **A. Absolutely.**
22 Q Tell me about those discussions
23 **A. Well, as a freshman she received a letter**
24 **from Stanford from the Nike tournament. One of the**
25 **reasons we went to the Nike tournament was to expose**

1 was the concern on that?
2 **A. I believe that was because she stayed with**
3 **her mom after the first playoff game.**
4 Q Now, when you say "she," again, Michelle?
5 **A. Michelle.**
6 Q Stayed with Judi?
7 **A. Yes, and because she went home in the Nike**
8 **tournament. That's what my guess is.**
9 Q You're saying there's two separate events?
10 **A. I believe that's it.**
11 Q Did you believe that was appropriate she did
12 those at the time?
13 **A. For what happened, I thought it was okay.**
14 Q Wasn't that one example cited by the parents
15 of how Michelle was treated differently than the other
16 girls?
17 **A. No. If someone else had had that same**
18 **opportunity or that would have occurred, they would**
19 **have gotten the same treatment.**
20 Q Tell me what the opportunity was
21 **A. Well, I believe the -- I mean, for the**
22 **evening of the state tournament, that was a decision**
23 **that mother made.**
24 Q Tell me about it Where was the tournament
25 at?

A. **Cedar City.**
Q Okay. This is after the tournament was over?
A. **This was after the first game.**
Q Did you lose down there?
A. **We did.**
Q So the team was coming home. You had a bus down there?
A. **We had a bus to the hotel, yes.**
Q And she got in the car with her mother?
A. **Her mother told me she was taking her. A mother has -- a family has a right to -- but that was something she decided to do.**
Q You don't believe you could have said, a team is a team, they travel with the team, and that's just what the rules are?
A. **At that time I did not have a say, really.**
Q. Why, because --
A. **That was something that she was going to do as a mother based on events that had taken place after the game.**
Q All right. Tell me what those events are.
A. **I don't know every one of those events. Parents talking, complaining, she being told it was Michelle's fault that we lost by one of the parents.**
Q. She being Judi?

A. **Yes.**
Q. And being told by who?
A. **I'm not sure of the exact parent, but told her that it was Michelle's fault that we lost. So with those feelings that were being generated, she wasn't going to have her daughter stay where the rest of them were.**
Q What did the rest of the team do?
A. **We went back to the hotel. And we had a 9:00 game. Michelle was there for the bus that morning. That was really the end of it. No player said anything. No player complained.**
Q And you don't know anything more about the incident than what you've just described for me?
A. **Pretty much there was parents, like I said, complaining and one of them stated to her that it was Michelle's fault we lost.**
Q. Well, I just want to make sure that as you sit here today, you don't know who that parent was?
A. **I believe it was Darlene Durrant.**
Q. And what is that based on, what Judi told you?
A. **Correct.**
Q. Do you know anything else other than what you've related about that incident?

A. **Just from what I was told by one of my assistants and her, that's it, that parents were all rumbling.**
Q. And then when was the second incident?
A. **The second incident?**
Q I think you said that --
A. **The Nike tournament, she went home because of her ankle.**
Q That was in Phoenix?
A. **Correct. It was after the last game.**
Q. Is there any part of Sheldon Worthington's letter, Exhibit 10, that you disagreed with, either then or now?
A. **Not that I can see.**
Q Let's see what this is
(Exhibit No 11 marked)
MR HOMER This is Exhibit 11 Looks like it's got a lot of things attached to it The only one I'm not sure of chronologically is that typed page, and it's more because of what Mr O'Connor told me in his answer, so I just need to kind of figure that out.
Q. (By Mr. Homer) Have you had a chance to look at that?
A. **Yes.**
Q. Now, you mentioned a sheet that I think you

were shown by Mr. Worthington. Is it that front sheet or is it anything in this exhibit that you were shown by Mr. Worthington?
A. **It is that front one.**
Q. Okay And that's the meeting that you had prior to April 15th, 2004, right?
A. **I believe so.**
Q So obviously there's some other things in this exhibit that are dated after that, but that's what I kind of wanted to figure out
Did you go through all of these items one by one with Mr. Worthington when you had your meeting with him?
A. **I believe we discussed them. I think -- I believe we discussed the items. I don't know if we did each one, but I know we discussed them.**
Q All right. Let's go through them one by one and see if you have any recollection of what you may have discussed. "Last minute recruiting," what does that refer to?
A. **To my understanding, I believe that's relating to Megan Heriford, which we discussed earlier.**
Q. And she had played on the team that year, right?

A. **The year before.**
Q. The year before, rather?
A. **Yes.**
Q The year 2002 to 2003, is that right?
A. **Uh-huh (affirmative).**
Q. To the best of your recollection, is that what you discussed with Mr. Worthington under that item?
A. **I believe we discussed it.**
Q. Did there continue to be questions about her at that time?
A. **This is the first time I -- first time I had seen recruiting on a piece of paper. I heard rumblings when she first came, but that was -- now it was on paper.**
Q. She played on the team the third year you coached; is that right?
A. **No, the second. She was a senior.**
Q. She went out to what college after that?
A. **She played at Yavapai in Arizona.**
Q. In Prescott?
A. **Uh-huh (affirmative).**
Q. What about the second item, "Division in the team created because of recruiting"?
A. **It's based on No. 1.**

Q. There are no other concerns about recruiting other than that one incident that you're aware of?
A. **Not that I'm aware of.**
Q. "What conditions have to exist to have the green light to go to the hoop?" Is that an X, O question?
A. **Yes, it is.**
Q. Coaching discretion?
A. **Yes.**
Q. Did you discuss that with Mr Worthington?
A. **I don't know if we went -- we discussed it. No great detail was put into it, I don't believe.**
Q. "Playing without apprehension," what did you -- do you remember what the concern was there?
A. **I don't.**
Q. "Why are girls singled out and told they are selfish players," what does that refer to?
A. **Probably a discussion our team, in a team meeting, may have had on being selfish, what that meant.**
Q. Did you tell them they were selfish?
A. **Did I ever tell the team that I thought they were selfish?**
Q. Yes.
A. **Yes.**

Q. Do you see the next sentence there, "What defines them as selfish," so I'll just ask you the same question. Why would you call them selfish?
A. **I think there's a lot things in basketball that could define that, not following -- not being coachable, not following a certain offense. There could be a variety of issues that would classify someone in that manner.**
Q. Do you recall all the circumstances under which you called the team selfish?
A. **I think myself and my assistants all agreed on just those things, on some of those.**
Q. Okay. Did you refer to the team as a whole or did you single out particular players?
A. **I referred to the team as a whole.**
Q. Okay. Did you ever call a particular player selfish?
A. **Individually?**
Q. Yes.
A. **No.**
Q. Next item, "Importance of coaching with equality and respect to the team," what was that all about?
A. **That looks like it relates to the double standard, that there wasn't equality, that it was**

different.
Q. Did that relate mostly to Michelle Harrison?
A. **I believe a majority of that was probably related to her.**
Q. Did you ever hear anyone use those phrases "equality" or "double standard" with respect to the treatment of any other player besides Michelle Harrison?
A. **I've heard it as it relates to the starters and nonstarters. I've heard it -- I think those who come off the bench often feel it's maybe that way.**
Q. Have you heard that from the players themselves?
A. **I didn't have any players come to me saying things weren't equal amongst everyone or fair or the same.**
Q. How about parents, did any of the parents in your discussions with them --
A. **Not until the letters.**
Q. So no parent when they sat down and talked to you --
A. **No parent came in and visited with me and said that the rules are unequal or everything is not the same for everybody.**
Q. Next item, "How do we get the girls to

1 perform without intimidating them or threatening
2 them," what was that all about?
3 **A. I don't know. It didn't happen.**
4 Q Did anyone ever tell you that you were trying
5 to intimidate the players?
6 **A. No.**
7 Q. Did anyone ever tell you you were threatening
8 the players?
9 **A. No.**
10 Q "What can we do to build self-esteem and
11 confidence as a team whole," what did that have to do
12 with?
13 **A. You know, as the head coach and the staff,**
14 **we -- I believe we created opportunities and**
15 **activities that helped do that for an individual and**
16 **as a team, went to the ropes course together as a team**
17 **to help build this, went and saw Miracle together as a**
18 **team. There were plenty of opportunities and**
19 **activities that each individual and our team**
20 **participated in to have that.**
21 Q Now, regardless of your attempts to do that,
22 you do recognize that there were problems with team
23 unity and confidence?
24 **A. There were problems. We did, as a staff and**
25 **a coach, everything we could possibly do.**

1 Q Looking back on it now with 20/20 hindsight,
2 do you believe that you could have done anything
3 differently as the head coach to try to foster better
4 team unity?
5 **A. As a head coach, you know, we can evaluate**
6 **and -- we evaluate each game, seeing what we could do**
7 **better. There's always things we could do better at**
8 **and find ways. Are there more things I could have**
9 **done? Maybe there is, but I believe that we did**
10 **everything we could, not only me but my assistant**
11 **coaches, to address these issues.**
12 Q What do you think you could have done better
13 to try to address some of these concerns of the
14 parents and bring more unity to the team?
15 **A. I don't know. I think I did everything at**
16 **that time I possibly could do. Is there more? There**
17 **may be. I don't know what every one of those are. We**
18 **went to team camp, we went to movies, we had**
19 **barbecues, we had dinners. We as a staff did things**
20 **to try to help that.**
21 Q So you can't -- I mean, obviously we all
22 think we can always do more, but you can't think of
23 anything specifically that you may have done to try to
24 better foster unity?
25 **A. I'm sure -- at this time I don't.**

1 Q "Creating an atmosphere of good, fun
2 competition," what did that refer to?
3 **A. I don't know. I think it relates somewhat to**
4 **the one previous and we addressed that.**
5 Q To the previous sentence?
6 **A. I think it relates to the one above it.**
7 Q Okay
8 **A. I think fun is part of self-esteem and good**
9 **fun competition. What is fun? There's a lot of**
10 **answers for that.**
11 Q What is your answer?
12 **A. Well, I believe the ultimate fun is the game**
13 **itself, when you get to the game, all the preparation,**
14 **all the work. The fun thing is the result and what**
15 **happens in the game because of what you've done and**
16 **what you've worked for. That's one of the funs of the**
17 **game.**
18 Q In going back to the complaint again, there's
19 a reference in here to your overall record, 52 to 17
20 **A. Correct.**
21 Q Do you believe that winning is paramount at
22 the high school level, that that's what it's all
23 about, or is there more to it than that?
24 **A. It's not what it's all about, but I believe**
25 **you're held responsible for that. There's plenty of**

1 **high school coaches let go and released because of**
2 **that.**
3 Q Because they don't win, right?
4 **A. Correct.**
5 Q But you recognize that even if you have a
6 winning record, if there's problems with the team and
7 other things going on, that the winning record won't
8 necessarily save your job, right?
9 **A. I believe as a coach if you're doing those**
10 **things which are right and doing the best you can, I**
11 **think with winning that can help secure your job.**
12 Q. Winning is important, but if you have
13 divisiveness and disunity and problems, you'll admit
14 that those are things that sometimes can overwhelm a
15 winning record?
16 **A. I believe that could happen.**
17 Q. What about the next item, "Developing the
18 bench and being able to use them to enhance the team
19 play"?
20 **A. I believe that's a coaching thing.**
21 Q. Do you believe you were developing the bench
22 when you were a coach?
23 **A. I believe we did that.**
24 Q. Were there concerns about developing the
25 bench when you were head coach?

1 A. No. That's the first I saw when that was
2 there, first time that I had seen that complaint.
3 Q How about "Importance of developing
4 fundamental skills and abilities of all girls, knowing
5 there are girls at varying skill levels"?
6 A. I believe we did that. That's the purpose of
7 camp, the purpose of having -- developing all the
8 opportunities of playing in the spring and the summer,
9 the purpose of open gym, is to work on those skills.
10 Q What about "Why are some girls expected to
11 abide by a second set of rules?" Is that the issue we
12 talked about earlier?
13 A. I think so.
14 Q Double standards?
15 A. I believe that's what is intended by that.
16 Q "Coach the team as a team," did you have any
17 discussions with Mr Worthington about that?
18 A. I believe that goes along with the other one
19 as well, that it's all -- that the concern was I'm all
20 about one player and nobody else.
21 Q And, again, that was Michelle, right?
22 A. Yes.
23 Q "How can the issue of back pocket parents be
24 dealt with and allow the coach to coach," do you know
25 what that means?

1 A. I believe they felt that this is referring to
2 Judi Filimoehala.
3 Q Did you believe -- did you have a closer
4 relationship with Judi than with any of the other
5 parents?
6 A. I had a relationship with her and Dave before
7 because he was the head coach at Lehi, the boys. So
8 there was already a relationship, a friendship that's
9 common among coaches and their families. So there was
10 already some common ground already that existed before
11 her daughter began playing.
12 Q That's her husband?
13 A. Yes.
14 Q I assume his name is Phil Filimoehala?
15 A. Yes.
16 Q He's no longer the coach there, I take it?
17 A. He's at Hunter High School.
18 Q. Tell me about when you first became
19 acquainted with Dave and Judi
20 A. My first summer here when I arrived, I wanted
21 to give all the girls an opportunity to meet me.
22 Coach Houle was kind enough to let me help his camp at
23 the end of July or first week of August of that 2001.
24 So I advertised in the Lehi Free Press a variety of
25 things about that basketball camp, encouraging all

1 Lehi girls to attend. We tried to get it out as being
2 a new coach, not knowing anyone. And, in fact, Judi
3 brought her and Kayla to that camp.
4 Q Who is Kayla?
5 A. That would be Burningham.
6 Q Oh, Kayla Burningham Judi brought Kayla
7 with her as well?
8 A. Yes. I think that was --
9 Q So Kayla and Michelle came together?
10 A. Yes.
11 Q Were they friends?
12 A. Yes.
13 Q That's Gary's daughter?
14 A. Yes.
15 Q So did you get to know Judi and Dave before
16 the actual school year started?
17 A. I met them before the school year started
18 because of that camp.
19 Q Right You didn't know them before you came
20 back to Utah --
21 A. No.
22 Q -- through your BYU connection?
23 A. I didn't know anyone.
24 Q And then you just continued to have a
25 friendship with Judi and Dave since that point?

1 A. Yeah, we could talk. I mean, there was
2 nothing -- we didn't go out to dinner or didn't --
3 weren't social friends by any means.
4 Q Have you ever socialized with them at all?
5 A. As the team we did. I went to a 4-A boys'
6 tournament with Dave and them one time, 4-A, 5-A boys'
7 tournament after the girls was over.
8 Q You and your wife haven't gone out with them?
9 A. No, never.
10 Q Out to dinner or a movie or whatever?
11 A. No, we haven't.
12 Q Do they have other children?
13 A. They do.
14 Q Do you know those children?
15 A. Michelle's sister, two sisters, Kara and -- I
16 drew a blank, and their brother.
17 Q You know all three of them?
18 A. Yeah. Yes.
19 Q How do you know them?
20 A. After meeting their family. At some point I
21 was introduced to them.
22 Q Other than Dave and Judi, did you take this
23 last item to refer to any other parents as back pocket
24 parents?
25 A. I believe that's who they are discussing

1 **here.**
2 Q. All right. Let's go to the second page in
3 that exhibit, Exhibit 11.
4 Actually, let's go past that. If you look
5 down at the bottom it says PV, and then it has a
6 number
7 **A. Yes.**
8 Q Go to 79
9 **A. Uh-huh (affirmative).**
10 Q. That looks to be the same page with some
11 handwriting on it, does it not, the same page we've
12 just been looking at?
13 **A. Yes.**
14 Q Have you seen this before?
15 **A. I think I saw this in the group of letters,**
16 **yes.**
17 Q. And then you had mentioned some handwritten
18 material before?
19 **A. That was -- I saw that before.**
20 Q. When did you see this?
21 **A. I believe it was when I got the whole group**
22 **of letters. I didn't see the writing one until later.**
23 **I saw that one in April, but I didn't see this one**
24 **until later.**
25 Q. Going back to the complaint, paragraph 17,

1 "Notwithstanding their agreement and Worthington's
2 letter to the contrary, on or about July 13, 2004,
3 parent defendants met with the school board of Alpine
4 School District without notifying plaintiff or
5 otherwise making any arrangements for plaintiff to be
6 there or have plaintiff's viewpoints submitted to the
7 board "
8 Do you see that?
9 **A. Yes.**
10 Q. What was, in your opinion, inappropriate
11 about the parents seeking to present their views to
12 the school board?
13 **A. One, from April to July, that's not much time**
14 **for things to transpire. It's only spring and summer**
15 **basketball. You know, they went over**
16 **Mr. Worthington's head. He didn't know they were**
17 **doing this. They went over his head, contrary to what**
18 **he wrote in his letter.**
19 Q. Well, he says, "Talk to administration,"
20 doesn't he, in his letter, the one we've looked at?
21 **A. And that meant him.**
22 Q. It doesn't say just him, does it?
23 **A. Well, we can read into it, but it meant Lehi**
24 **High School, not --**
25 Q. It doesn't say you cannot talk to the school

1 board, does it?
2 **A. They can talk to -- but it meant -- that**
3 **letter meant him.**
4 Q Okay I appreciate your views, but, on the
5 other hand, it didn't say you cannot talk to the
6 school board, did it?
7 **A. It does not say that in that letter.**
8 Q. How would the agreement -- I assume from
9 this, based on the prior allegations in here, that the
10 agreement referred to is the one we talked about
11 earlier that was signed by the parents?
12 **A. I believe there was an understanding between**
13 **them, the parents, and Mr. Worthington based on the**
14 **letter that they would come to him.**
15 Q Right I understand that. That's the
16 letter. Isn't the agreement being referred to here
17 Exhibit 3?
18 **A. No, I believe the agreement is to the letter.**
19 Q. Okay. If it's not Exhibit 3, then I stand
20 corrected It's certainly not a defined term.
21 **A. Oh, for this, I'm sorry. Can I --**
22 Q Sure, yeah.
23 (Off-record discussion between the witness
24 and his counsel.)
25 MR. RUST Just answer as best you can.

1 **A. I believe that is to the letter.**
2 Q. (By Mr. Homer) Let me just look here real
3 quick.
4 Do you see paragraph 12? Paragraph 12 says,
5 "Because of the jealousies by some of the other
6 players of Harrison during 2002/2003 basketball
7 season, at the beginning of the 2003/2004 season
8 plaintiff met with all the basketball players and
9 their parents and had them sign an agreement that they
10 would bring all grievances to plaintiff and they would
11 work as a team "
12 Now, that agreement has previously been
13 marked as Exhibit 3
14 **A. Uh-huh (affirmative).**
15 Q. I'm just seeking clarification. That is not
16 the agreement, then, that you're referring to in
17 paragraph 17, is that correct?
18 **A. I stand corrected. I believe that is the**
19 **agreement, because it says "and letter."**
20 Q. Okay.
21 **A. So I stand corrected.**
22 Q. If it is referring to that, then what in that
23 agreement would have made it improper for them to seek
24 audience with the school board? Here, you can use
25 this copy, if you'd like.

1 **A. In signing this, it was -- as the coach I**
2 **felt they should have come and spoken to me personally**
3 **about every one of these issues when they had the**
4 **chance. All these issues came up well after the**
5 **season.**
6 Q If I remember right Worthington s letter
7 stated that on those ongoing issues, they were to talk
8 to administration, right?
9 **A. I think that gave them the opportunity to**
10 **still talk to him with that letter. Like I said**
11 **before, I still felt that they could still come talk**
12 **to me individually after that letter came out.**
13 Q All right Is that the only basis for
14 stating, notwithstanding the agreement and
15 Worthington's letter to the contrary, that they met
16 with the school board? Is that the only thing you re
17 saying to the contrary, that they could have talked to
18 you?
19 A **I believe that's the agreement and the**
20 **letter. I believe that's what that means.**
21 Q Now, the parents certainly had no legal
22 obligation -- well, let me strike that The parents
23 certainly had no obligation to notify you that they
24 were having discussions with the school board, did
25 they?

1 **A. They could have met with me.**
2 Q You would have preferred Mr Worthington to
3 meet with them?
4 **A. Not necessarily.**
5 Q On ongoing issues?
6 **A. On issues related to basketball, I'm more**
7 **than happy to meet with them.**
8 Q But if they are issues -- let's look at
9 paragraph 18 here of the complaint. If there are
10 grievances, talking about you having been abusive of
11 basketball players, you would rather have them talk to
12 the administration about that, right?
13 **A. No, I think -- their letter in July is the**
14 **first time the word abusive came up, and I would have**
15 **appreciated someone coming and talking to me that**
16 **their daughter was being abused. I think that's**
17 **serious.**
18 Q Discrimination on the basis of religion, what
19 about that?
20 **A. I think they could have talked to me on that.**
21 **That's -- some of these, what's listed here, isn't in**
22 **this right here.**
23 Q Exhibit 11?
24 **A. Abuse isn't listed here. Discrimination**
25 **isn't listed here.**

1 **A. No, they didn't.**
2 Q. That's their right as citizens If they need
3 to discuss things with the school board, they can do
4 that, assuming they can get on their agenda?
5 **A. It's their right to go speak to them, but not**
6 **make things up.**
7 Q All right So what you're saying here is you
8 don't have any problem with the fact that they went to
9 the school board, you just wanted to be able to
10 present your side, is that right?
11 **A. At the school board meeting?**
12 Q. Yes
13 **A. Not necessarily.**
14 Q Well, here in paragraph 17 it says "or
15 otherwise making any arrangements for plaintiff to be
16 there or having plaintiff's viewpoint submitted to the
17 board." What did you mean by that?
18 **A. I think what it's saying is notified and had**
19 **that opportunity to be there.**
20 Q They didn't have any obligation to notify
21 you, did they?
22 **A. I don't know.**
23 Q In fact, you didn t want to meet with the
24 parents at that stage anyway You wanted
25 Mr Worthington to meet with them, didn't you?

1 Q Well, isn't that -- wouldn't you take
2 discrimination as being a second set of team rules,
3 that you're treating one person differently than
4 another?
5 **A. It could be.**
6 Q So that's really the same thing, isn't it?
7 **A. Well, the term discrimination never came up.**
8 Q Sure, but the discrimination issue in this
9 case has always been whether Michelle has been treated
10 differently than the other players That's not a
11 secret here And that's something that they talked to
12 Sheldon Worthington about and that's something that
13 they were to go to administration to have future
14 discussions about, right?
15 **A. If they felt they couldn't talk to me and**
16 **needed to go to him, I guess they could have.**
17 Q Well, in fact, Sheldon in his letter -- let's
18 go back to Exhibit 10 -- said, "Do not contact any
19 coach for any" -- and this is in bold, by the way
20 **A. And I have already answered what I thought**
21 **that meant.**
22 Q I think your answer was that if it was
23 ongoing issues like the discrimination issue, that
24 they should go to Sheldon on that, right?
25 **A. I believe if it was with basketball, they**

1 **could have met with me. I'm not trying to separate**
2 **what went to them. You know what, that ended up being**
3 **up to them whether they could come to me or them. I**
4 **felt they could come and talk to me.**
5 Q They could go to Sheldon for anything they
6 wanted, right?
7 **A. Well, he's the principal. Any parent can go**
8 **talk to the principal.**
9 Q And any parent can go to the school board?
10 **A. That's correct, they could, for any**
11 **educational issue.**
12 Q By the way, on the -- in looking at paragraph
13 18 here, did you look at how these were worded,
14 "abusive of the basketball players"? You looked at
15 that and thought that that was something you wanted to
16 allege?
17 **A. To my best knowledge, this is based on what**
18 **they wrote in their letters.**
19 Q "Discriminated on the basis of religion"?
20 **A. That's based on what was written in the**
21 **letters.**
22 Q That you were unethical?
23 **A. Like I said, all of these are based on what**
24 **was written.**
25 Q Again, we are going to -- probably not today,

1 but we are going to go through the letters "'Guilty
2 of using school money for his own purposes," does it
3 say that in one of the letters?
4 **A. These are all based on what's in the letters.**
5 Q "Otherwise made oral and written statements
6 which imputed to plaintiff criminal conduct and
7 conduct incompatible with his profession as a high
8 school coach "
9 Your testimony is that we are going to go
10 into the letters and you're going to see language that
11 says that?
12 **A. With that exact sentence?**
13 Q That imputed to you criminal conduct and
14 conduct incompatible with your profession as a high
15 school coach
16 **A. I believe I was accused of those things, yes.**
17 Q You believe that you were accused of criminal
18 conduct?
19 **A. Yes.**
20 Q When we go through the letters, we'll look at
21 that
22 Let's take a quick break
23 (Recess from 3 12 p m to 3 24 p m)
24 (Exhibit No 12 marked)
25 Q (By Mr Homer) Let me show you what has been

1 marked as Exhibit 12 You've seen this?
2 **A. I have.**
3 Q Let me call your attention to -- these are
4 minutes of the Alpine School District board meeting
5 dated 20 July 2004 Do you see that?
6 **A. Yes.**
7 Q And as part of the minutes they have
8 community comments, which begin on the first page and
9 continue on through the second page Do you see that?
10 **A. Yes, I do.**
11 Q Okay Have you read these before?
12 **A. I have.**
13 Q I want you to go through the same exercise
14 with me and tell me what you believe -- and we are
15 going to go through specific letters as well, but I
16 want you to go through this and tell me if you have
17 any problems with any of the summary statements set
18 forth on what the individuals --
19 MR DOWNS Can I point something out to you?
20 This should be Kent Beckstead, not Barry Beckstead.
21 Just so you're aware, that's Kent Beckstead
22 **A. And you would like me to state what I**
23 **disagree with?**
24 Q (By Mr Homer) Yes In other words,
25 anything you would highlight as being improper

1 pursuant to what you believe either the law to be or
2 your case is
3 **A. As stated earlier, that I'm not -- that they**
4 **weren't after me, but it's plain in the first**
5 **paragraph, "The time has come for a change in the**
6 **girls' basketball program."**
7 Q Okay
8 **A. Second paragraph --**
9 Q Now, why would that be a problem if
10 Mr Burningham really believed it was time for a
11 change?
12 **A. Well, he had been saying all along that it**
13 **wasn't about getting rid of me.**
14 Q Well, this is now July 2004
15 **A. Only two months after the original -- April,**
16 **May, June, two and a half months, approximately,**
17 **three. Not a whole lot could happen in that time.**
18 Q Well, on the other hand -- I appreciate the
19 comments On the other hand, if a parent for whatever
20 reason believed that you weren't good for the team,
21 why would it be improper for him to say to the school
22 board, I don't think that Coach O'Connor should be
23 coach anymore?
24 **A. You've said one thing before saying that it**
25 **isn't about getting rid of him, and now it is.**

Q No, I'm just saying in the context of this meeting, if -- and I believe the quote is, "The time has come that a change needs to be made in the girls' basketball program " What would be improper about Mr Burningham saying that?

A. He was there to get me released from that position.

Q Is that wrong, in your view?

A. Yeah.

Q If he presents reasons that he thinks that should happen, why is that improper? People go to boards all the time and say so and so should be fired. What's wrong with that in your view?

A. Based on the letter of Mr. Worthington and so forth, that there wasn't a need for that, based on the principal.

Q That's the principal speaking What would be wrong with Mr Burningham down here, if that's his view, saying, I don't think Coach O'Connor should be coach next year? What is wrong with that?

A. Well, based on the letter from Mr. Worthington, that was never discussed with him, and then out of the blue two and a half, three months later, now it's time for a new coach when hardly -- what time --

Q So the answer is you hadn't had enough time to improve the program?

A. It wasn't -- I mean, there were very few things that took place as it relates to spring and summer basketball for that to -- I believe things were going good. There was no discussion with me or Mr. Worthington before this.

Q Other than the fact that he obviously didn't notify you, didn't notify Mr Worthington and went to the school board and told them what his opinion was, and you believe you didn't have enough time to really institute changes that could have improved the program, is there anything else that you think was improper?

MR RUST I think he's already testified to other things, but go ahead

A. I have a problem with that. That's it.

Q (By Mr Homer) Part of what we do in a deposition, as I'm sure you know, is you have a chance to tell us, you know, what your reasons are. The reason that's important is if this case goes to trial and you try to give additional reasons, I could point that out to the jury that you didn't tell me everything at the time of your deposition. So that's why I always bend over backwards with witnesses, just

tell me everything you've got, everything you're thinking, because I want to know

A. Like I said, in one instant it's not about getting rid of the coach. We support him, like his letter said, and not three months later the season hadn't even been started, trials hadn't even begun, and now it's get rid of the coach.

Q. What about the statements of Sue Chandler?

A. "Abusive," I have a problem with that.

Q Okay What else?

A. Mr. Beckstead -- their daughter played on the J.V. and that was coached by Mr. Rawson, so I had very few dealings with her. So yelling, that didn't happen because I'm not the one who coached her, for the most part.

MR. HOMER. Did you say it was Kent?

MR. DOWNS Kent Beckstead

Q (By Mr Homer) You don't know who Mr Beckstead is, I take it?

A. I have not met him. I may have seen him before, but -- his daughter primarily played J.V. dress varsity, but Coach Bergholm and Coach Rawson coached her.

Q. Did you ever coach her?

A. As the head coach of the program, yeah, but

there were very few. When we broke up, it was with the other coaches.

Q. Was she ever in a game where she was on the varsity and you --

A. Yes, she dressed varsity.

Q So you have coached her on a team, then?

A. Yes.

Q. Anything else on Kent Beckstead? Just for the record, it's been noted that it should be Kent Beckstead, but the record should also reflect that the exhibit still says Barry Beckstead.

A. "Abuse," again.

Q. This is under Suzanne?

A. Yes. I did not tell her to go to another school, and I don't -- they may be referring to the letter of Mr. Worthington there, but I know I did not tell them that. Mr. Price, "abusive," his daughter primarily played sophomores. I did not coach her in varsity.

Q She never played on varsity?

A. Nope.

Q. Okay

A. No.

Q. Do you know Mr Price?

A. I know him, yes.

Q. Anything else?
A. Not that I can see at this time.
Q. Did you ever -- do you have a bad temper?
A. No.
Q. You've never lost your temper as you've sat coaching a team?
A. I believe I'm passionate, like many other coaches, and I share that passion with the kids and those who I coach.
Q. Would that passion include yelling at players?
A. Yelling may be part of -- a gym is a noisy and loud place. What may be perceived as yelling isn't yelling.
Q. Have you ever thrown things at players?
A. Have I thrown things at players? No.
Q. Have you ever broken clipboards on anyone?
A. No.
Q. On a player or assistant coach or anybody else?
A. No.
Q. What's your definition of abusive? You've indicated several times you don't think you're abusive. How do you perceive that word?
A. How is it being perceived here? That the

girls are being mistreated, and I don't think that is the case at all. I believe they were treated fairly.
Q. Have you ever seen a coach be abusive toward players?
A. Yeah. Yes.
Q. Tell me some of the characteristics that you -- actions you've seen on a coach's part when they abused players.
A. Again, being corrected, I believe if you're cussing, foul language at them, calling them names, those would probably all be bordering on that area.
Q. So swearing?
A. Yes.
Q. When you say cussing, swearing?
A. Swearing.
Q. And calling them names like what?
A. Stupid, dumb, doing things to lower them in that manner.
Q. And you've never done that?
A. I do not do that.
Q. Either on the bench or in the locker room?
A. I do not swear at the kids.
Q. Have you used names -- have you called them names?
A. I do not.

Q. And, again, I'm just trying to make sure I understand. Locker room, bench, practice, you never do it?
A. At the girls?
Q. Yes.
A. Absolutely not.
Q. Do you at the boys?
A. Absolutely not.
Q. So when you distinguish between girls and boys, you don't mean that you do it --
A. No.
Q. You've never sworn in a game at all?
A. Ever in a game? I can't say ever.
Q. You have before?
A. To myself under my breath, but I've never sworn out loud.
Q. Okay. Have you ever called a player a name, ever, in your coaching experience?
A. I don't believe I have.
Q. Have you ever been physical with a player, either at practice --
A. No.
Q. -- during games, on the bench, in the locker room?
A. No.

Q. What other behavior would you consider to be abusive?
A. I don't know. I don't know everything.
Q. Are you a college basketball fan?
A. I am.
Q. Do you think, for example -- you know who Bobby Knight is, right?
A. I do.
Q. Do you think he was abusive?
A. I haven't been in a practice or a game. Probably practice would tell the true story if that's the case. No.
Q. You've never seen any video on him?
A. Just throwing the chair like everyone else. But was that at his players? No, that was at -- a little overanimated there, but I can't judge him.
Q. So you wouldn't have an opinion one way or the other on whether Bobby Knight was abusive?
A. I think some people might think that that's the case.
Q. But you wouldn't have an opinion?
A. I don't have one of him.
Q. Okay. Have you ever seen anyone in your -- you're still teaching at Lehi, right?
A. That's correct.

Q. And you coach there?
A. I do.
Q. What sports do you coach right now?
A. I assist in cross-country and am the girls track coach.
Q. Do you coach anywhere else besides Lehi?
A. Right now?
Q. Yes.
A. I am.
Q. Where are you coaching?
A. I'm assisting with the Utah Swoosh, boys 16 and under, travel team.
Q. Are those high school students?
A. Those are high school, freshman and sophomore boys, primarily.
Q. Tell me about that. Is that connected with high schools or is it --
A. They are all high school students ranging from Layton all the way down to Springville, 10 to 15 boys.
Q. Now, when you say they travel, is this a summer league or what is it?
A. It's a travel team that participates in a variety of tournaments, both spring and the summer.
Q. Okay. Any other coaching right now?

A. Right now, no.
Q. Did you coach -- who did you coach last academic year?
A. At Lehi?
Q. No, any other school or -- you told me who you coach at Lehi, and then Swoosh. Have you coached any other school in the last year?
A. I volunteered as an assistant at Mountain View, just a little help on practices and scouting.
Q. Tell me what you did.
A. That's what I did.
Q. So what do you do when you scout?
A. Watch other teams play, create a scouting report, what they do, so that they can prepare to play that opponent.
Q. Is that the Mountain View girls varsity?
A. That is.
Q. So you worked with Coach Houle, then?
A. I did.
Q. How long have you done that?
A. I just did it for this season.
Q. Okay. Did you go from beginning to end with them?
A. Not until November to February.
Q. Who are the players on the Mountain View team

this year?
A. You want every player named?
Q. Yes.
A. Hoku Holdcraft, Lindsey Moore, Sarah Pinner, Laci Titmus, Nubia Garcia, Maylene Ornelas, Michelle Harrison, Britney -- it's hard to say her last name -- Nikolowski, Sharla May Mongoli, Vanessa Riggs.
Q. How many players are there, 12?
A. 15 or so.
Q. More than the pros.
So you're able to help coach Michelle Harrison again this year?
A. I just volunteered to help coach at Mountain View for Coach Houle.
Q. But you were able to help coach Michelle Harrison?
A. Michelle was on that team, yes.
Q. Did Judi and Dave encourage you to volunteer at Mountain View?
A. Dave who?
Q. Isn't it Dave Filimoehala, or am I wrong?
A. Yes.
Q. Isn't that Judi's husband?
A. No, they didn't.
Q. That's the first name I got right all day.

A. That was all Coach Houle.
Q. He asked you to go volunteer?
A. Yes.
Q. I assume Lehi High School didn't have a problem with that?
A. No one said anything.
Q. Did you tell them you were going to do it?
A. They were aware I was helping.
Q. And I assume you don't scout Lehi?
A. We didn't scout Lehi. We scouted Lone Peak, Timpanogos, Timpview, Provo.
Q. Did you receive any compensation for that?
A. No, I didn't.
Q. How many volunteers are on the program besides yourself?
A. I'm not sure what the others receive or not receive.
Q. Well, yeah, I didn't mean to tie it to compensation. The number of people.
A. How many coaches are there?
Q. How many other volunteers besides yourself are there on the team?
A. I don't know.
Q. Do you have any plans to continue to coach there?

1 **A. I have not made any commitments to do yes or**
2 **no.**
3 Q Was Coach Houle pleased with your efforts for
4 him this year?
5 **A. I would think so.**
6 Q How did the team do?
7 **A. They won their region, advanced to the**
8 **playoffs.**
9 Q Are you able to help Michelle with her
10 college prospects? Do you continue to help her with
11 that?
12 **A. I haven't been doing that.**
13 Q Do you plan on doing that?
14 **A. Some coaches have still called and written**
15 **letters because of previous, and some of them still do**
16 **that.**
17 Q Are you going to do any other sports at Lehi
18 this next year that you know of?
19 **A. I believe cross-country and track will be the**
20 **ones currently.**
21 Q Look at paragraph 22 of the complaint "When
22 Worthington was apprised of the board meeting and its
23 contents, he was also told by the school board that
24 he, as the high school principal, had full control of
25 the situation and that the board was not inclined to

1 terminate plaintiff or otherwise give credence to the
2 allegations made by the parent defendants."
3 Is that a true statement?
4 **A. To my best knowledge, yes.**
5 Q Okay And did Mr Worthington tell you that?
6 **A. That's correct.**
7 Q Any other factual basis for making that
8 allegation that you're aware of?
9 **A. Just what he told me.**
10 Q Okay Paragraph 23, "Even though Worthington
11 knew or had good reason to believe, based on his own
12 personal observations, that the allegations made
13 against plaintiff by the parent defendants were false
14 and defamatory, and in spite of its letter of April
15 15, 2004, Worthington, working in concert with parent
16 defendants, agreed to place conditions and restraints
17 on plaintiff which would make it virtually impossible
18 for plaintiff to perform his work as a coach and to
19 have any modicum of control over the team." Is that a
20 true statement?
21 **A. That's true.**
22 Q What is the basis for your allegation that
23 Worthington knew that the parents' statements were
24 false and defamatory?
25 **A. He told me.**

1 Q He told you they were false?
2 **A. He told me that he supported me and knew I**
3 **had not done those things that were written.**
4 Q When did he tell you that?
5 **A. In our meetings sitting with one another.**
6 Q I'm just trying to get a time frame here
7 **A. Sometime in March he said that. April, when**
8 **he met, he said that --**
9 Q Before his letter, then?
10 **A. It could have been right before. I believe**
11 **the letter was in support of me that I hadn't done**
12 **some of those things that they were saying or stating.**
13 **He told me it was mainly what they were perceiving,**
14 **and that he didn't believe that it was true.**
15 Q Do you see anywhere in -- going back to
16 Exhibit 10, do you see anywhere in that letter where
17 he tells the parents that their statements were not
18 true? That's this right here
19 **A. He said that -- he didn't say they were true.**
20 **He said, I have taken time to consider each one's**
21 **perception, and that's what he stated to me, that it**
22 **was their perception. He stated to me that in support**
23 **of me in that I had not done what they had stated.**
24 Q Did he tell you that the parents' statements
25 were false?

1 **A. He stated that it was their perception.**
2 Q And you've told me that, and I appreciate
3 that Did he tell you that they were false?
4 **A. He just told me that it was their perception.**
5 Q Let me try a third time Did he tell you
6 that they were false?
7 **A. He did not use the word false.**
8 Q Okay Did he tell you that they were
9 defamatory?
10 **A. Which paragraph?**
11 Q 23, third line down
12 **A. He did not use that term with me.**
13 Q Okay Do you believe that after the parents
14 went to the school board that Mr Worthington agreed
15 to work in concert with the parents to have you
16 terminated? Is that what you're saying?
17 **A. In which paragraph again?**
18 Q It's the same paragraph In fact, go ahead
19 and read the whole paragraph, because we are just
20 dealing with that one right now
21 **A. That is stated because in the fall-**
22 **Mr. Worthington told me specifically I could not cut**
23 **by name certain individuals.**
24 Q Tell me who those individuals were.
25 **A. Breezy Chandler and Kayla Burningham. He**

1 said I could not cut them for any reason.
2 Q Is that the condition or restraint that would
3 have made it virtually impossible for you to perform
4 your work as coach?
5 A. That would be one, yes.
6 Q Is that the only one?
7 A. At this time that I can think of, yes.
8 Q And what do you mean by working in concert
9 with parent defendants? Do you think there was a
10 conspiracy between the parents and Mr Worthington?
11 A. He promised those parents that their kids
12 would not get cut. Then he relayed that same message
13 to me.
14 Q So you think that he was in a conspiracy with
15 the parents?
16 A. I don't believe that's what it says, but I
17 think he told them and then told me. Whether he was
18 working with them, I believe that's working with them
19 if he told them that.
20 Q Even if that's true, why would telling you
21 you can't cut those two students make it virtually
22 impossible for you to perform your job as coach?
23 A. Because then as coach I would not be the one
24 actually coaching the team and running the team.
25 Someone else is running it if I'm being told who can

1 be on it, who can't and so forth. Now I don't have
2 the right, like any other coach, to choose my own
3 team.
4 Q Prior to him telling you that, did you tell
5 him or anyone else that you wanted to cut Kayla
6 Burningham or Breezy Chandler?
7 A. I did not.
8 Q Did you believe that they should be cut?
9 A. I did not say that.
10 Q I understand that, but you need to answer
11 that question The next question is did you believe
12 in your own mind that they should be cut?
13 A. Everyone has an opportunity to try out.
14 Everyone has an opportunity for things to work
15 themselves out. That's what would have happened. We
16 wouldn't have -- the decision could not be made until
17 tryouts. And for me to even think that would be
18 wrong, because every athlete, student athlete, has the
19 opportunity to try out and be given that fair chance.
20 Now, there's more to skill level to make the
21 team, you know. There's a lot of aspects to consider,
22 and that decision would have been made then.
23 Q When did he tell you that? Can you give me
24 an approximate time?
25 A. Sometime in August, September, somewhere in

1 there.
2 Q What did you tell him?
3 A. I told him that I didn't believe that was
4 right.
5 Q And how did he respond to that?
6 A. He said that if you cut them -- it's what it
7 would look like. So he said, if November came and you
8 cut them, it's what everyone is going to think, that
9 you're taking it out on them. And if you did cut
10 them, the board would step in. And he told me that
11 Mr. Jarman told him this, that the board would step
12 in, release me as coach and reinstate the girls if I
13 cut them.
14 Q This is all in the August, September time
15 frame?
16 A. Yes.
17 Q And did you agree to those conditions?
18 A. I did not agree.
19 Q What did you tell him?
20 A. I told him I should have the opportunity and
21 right to choose my team.
22 Q How did he respond to that?
23 A. No agreement one way or another was made from
24 either party.
25 Q. Did you yell at each other?

1 A. I don't believe there was a yelling match.
2 Q. Were you upset?
3 A. I was upset.
4 Q. Was he upset?
5 A. I believe he was upset.
6 Q Where did this meeting take place?
7 A. In his office.
8 Q Was anyone else present?
9 A. Not that I -- I don't believe there was.
10 Q In paragraph 24 on the next page you state,
11 "Worthington repeatedly threatened plaintiff with
12 termination of his employment if for any reason
13 plaintiff were not to select some of the girls who
14 were daughters of the parent defendants for the
15 basketball team, whether or not they were otherwise
16 qualified to play."
17 When you say he repeatedly threatened you
18 with termination, what do you mean by that?
19 A. The statement that I told you before, that if
20 they were cut that the likely scenario that would
21 occur is you would be let go and they would be
22 reinstated.
23 Q How many times did he tell you that?
24 A. Two or three times.
25 Q So when you say repeatedly, that you mean two

1 or three times?
2 **A. I think that's repeatedly. That's more than**
3 **once.**
4 Q Yeah, I don't question that I just want to
5 make sure that's the number And when you say some of
6 the girls, are you talking about, again, Breezy and
7 Kayla?
8 **A. Those were the two names specifically pointed**
9 **out, and I believe there was a reference to anyone**
10 **else whose daughters were -- but those two names were**
11 **specifically spelled out.**
12 Q So as you understood, as you called it, the
13 threat, the threat was you better not cut anybody from
14 the team who played on the team last year? Is that
15 the way you understood it?
16 **A. No. The understanding was if you cut the**
17 **daughters of any of these parents who have written the**
18 **letters and complained, then you would be let go.**
19 Q Well, obviously no one was a defendant at
20 this time, right?
21 **A. Correct. It was those who wrote letters.**
22 Q So you're saying that everyone that wrote a
23 letter, their kids were protected?
24 **A. Yes.**
25 Q Let's go back to that list I'm just going

1 to read some names, and you tell me -- you indicated
2 you don't know on maybe some of them. Their kids had
3 already graduated So you tell me which of these
4 parents had kids that were on the protected list.
5 Okay?
6 Gary Burningham
7 **A. Kayla's name was mentioned by name, yes.**
8 Q She was protected?
9 **A. Yes.**
10 Q. You could not cut her?
11 **A. No, I couldn't.**
12 Q Will Sunderland?
13 **A. His daughter had already graduated.**
14 Q So his daughter was not on the list
15 Dallie and Wendy Haderlie?
16 **A. Their daughter graduated. They had, I**
17 **believe, a sophomore coming up.**
18 Q Was she protected?
19 **A. Based on what Mr. Worthington said as it**
20 **relates to anyone who had written a letter, my**
21 **guess -- I believe yes.**
22 Q So you couldn't cut their daughter.
23 Chad Hillstead? Is it Hillstead?
24 **A. I don't know that letter. I don't remember**
25 **reading one.**

1 Q. Did they have a kid?
2 **A. I didn't even know they were mentioned, so I**
3 **would --**
4 Q. Well, if you want to follow these down, it's
5 Exhibit 13
6 **A. Their daughter hadn't played for me, did not**
7 **play basketball. She was a softball player.**
8 Q Jessica Johnsen?
9 **A. No daughter that I know of.**
10 Q. John Rogers?
11 **A. That would be -- her daughter would be**
12 **protected.**
13 Q. So she couldn't be cut
14 Kevin Norris?
15 **A. No daughter in the program.**
16 Q. Sue Chandler?
17 **A. Yes.**
18 Q. We already talked about her. Will, we
19 mentioned.
20 Todd Kirkpatrick?
21 **A. No daughter.**
22 Q. Sandy Phillips?
23 **A. No daughter.**
24 Q. Ruby Ray?
25 **A. No daughter.**

1 Q. Ken Norris?
2 **A. I'm not sure which Norris is which, but they**
3 **didn't have a daughter. Their daughter played as a**
4 **sophomore only. That was two years before.**
5 Q. Curt Parke?
6 **A. No.**
7 Q. Mike Powell?
8 **A. No.**
9 Q. Michael Hyde?
10 **A. No.**
11 Q Amanda Hyde? That's probably his wife
12 **A. No.**
13 Q John Rogers, we already talked about him?
14 **A. Yes.**
15 Q. Darlene Durrant?
16 **A. Graduated.**
17 Q. Will, we talked about.
18 Robert Price, did we mention him?
19 **A. We haven't mentioned him, but the answer**
20 **would be yes.**
21 Q. So he had a daughter protected.
22 Kent Beckstead?
23 **A. Yes.**
24 Q Lisa Gray?
25 **A. No daughter in the program at the time.**

Q. No daughter?
A. She would have been a freshman.
Q Jeff Burningham?
A. No daughter.
Q Haderlies we talked about Mr or Mrs. Jex?
A. No daughter.
Q. Steve Davis?
A. No daughter.
Q. Drew Downs?
A. Based on what he said, yes.
Q. Kayla Burningham, that's a daughter Sue Chandler and Breezy we talked about.
So based on this, there were -- based on your understanding of the threat, there were seven daughters that you could not cut from the team?
A. Specifically he named the two. It was my understanding that it was pretty much anyone involved, but he named the two for sure by name.
Q. Right. You didn't have a discussion, well, does that mean all of the daughters?
A. No, we didn't.
Q. But that was your understanding?
A. Yes.
Q. In paragraph 25, then, you indicate "On or about September 10, 2005 Worthington terminated

plaintiff's position as the girls' basketball coach at Lehi High School without justification or valid basis"; is that right?
A. Yes.
Q. Tell me about that termination.
A. He gave no reason, just said we were going to release you and go in another direction.
Q. Did he write you a letter?
A. No.
Q. Now, you weren't terminated as a teacher, right?
A. No, I was not.
Q. As we talked about earlier, this Exhibit 2, that's the contract that you're working under, right? You're not aware of another contract?
A. You only sign the original one. There is no other contracts, even if your teaching position or assignment changes.
Q. What is your step level now?
A. Nine or 10.
Q. You were seven when you started?
A. So I'm on 10 now.
Q. How much do you make?
A. To my best recollection, around $40,000.
Q. And then you have two sports, right?

A. That's correct.
Q. What do you get for those?
A. Cross-country, 500. I think I stated that. Track might be 1100, right around there.
Q. Okay. Then you have the other basketball position. I can't remember the name of the team.
A. The Utah Swoosh.
Q. Do you get paid for that?
A. We are getting paid.
Q. How much are you going to get for that?
A. Approximately the whole summer, from spring through summer, an estimate of about 1500 to $2,000.
Q. And you're not getting paid for that currently, right?
A. I am not.
Q. Paragraph 26, "The action of Worthington in terminating plaintiff's position as the basketball coach was in furtherance of the defamatory statements made by defendant parents and for the purpose of giving validity to those defamatory statements."
Is that a true statement?
A. I believe, in being let go, that that's correct.
Q. Other than the letters from the parents, what other statements did Worthington make which you

consider to be inappropriate?
A. That Mr. Worthington stated?
Q. Yes.
A. I don't know of any at this time.
Q. So your position is by adopting the statements of the parents and then terminating you, that that was defamatory in and of itself, right?
A. And what's stated in the letters, I believe that that's defamatory.
Q. By the parents, right?
A. Yes.
Q. You don't know of any separate communication or statement from Worthington that you would consider to be defamatory?
A. From him personally?
Q. Yes.
A. That he made toward me?
Q. Yes. Toward you, about you.
A. I don't know.
Q. 27, "Worthington's conduct has been in concert with the parent defendants to further aid and abet the defamatory statements of parent defendants."
Is that a true statement?
A. I believe how he acted, that it was with them, yes.

Q. Did you ever confront him on that when you were having these discussions in August or September?
A. I did. I asked him how could he be so supportive one minute and now he's done a complete 180, 360, whatever, totally different.
Q. Did you tell him that he was aiding and abetting the actions of the parents?
A. I believe I told him that in restricting me from picking my own team, that he was allowing them to run the team.
Q. What did he say in response to that?
A. He said he was sorry.
Q. Did he say, I agree with you but I have to aid and abet the parents and help them do what they have to do?
A. He did not say what you just said.
Q. He didn't say the parents are wrong, did he?
A. He said he was sorry.
Q. That's all he said?
A. Uh-huh (affirmative). Yes.
Q. 28, "The conduct of defendants, jointly and severally, has caused plaintiff special and general damages, including loss of his position as head basketball coach, resulting in a salary loss, loss of reputation, loss of future job opportunities, and

emotional loss, in an amount to be determined at trial but not less than $500,000."
Tell me about your salary loss.
A. Well, opportunities to put on camps, go to camps, the money lost in those situations, loss of the stipend itself.
Q. Let's just focus on salary. What was the amount you were getting from the school for coaching girls' basketball?
A. I believe I told you earlier 2100, 2200, right in there.
Q. In terms of salary, that's all you lost?
A. Written salary, yes.
Q. Loss of reputation, tell me about that.
A. Well, any time the newspaper prints that a coach has been fired, what goes along with that. There's a lot that a lot of people could take from that.
Q. When you filed your complaint, the newspaper reported that too, didn't it?
A. They did.
Q. And you talked to the paper, didn't you?
A. When they called me I did.
Q. And you went into detail on what the allegations were, didn't you?

A. I did not go into detail.
Q. Who did you talk to?
A. Amy Donaldson called me.
Q. Have you ever met her before?
A. I've met her.
Q. On how many occasions?
A. The times she came to our games, two or three games in two years, maybe, if that many, and if I was at another game and she happened to be there. So maybe half a dozen times in two years I might have run into her.
Q. She writes for the Deseret News, doesn't she?
A. She does.
Q. A lot of the articles that have been published in this case have been authored by her, right?
A. She has been the reporter, yes.
Q. And you've spoken to her on various occasions about the litigation, haven't you?
A. I have been contacted by her, the Tribune and the Daily Harald.
Q. Who have you talked to at the Tribune?
A. I don't recall who wrote that. I don't think it was Lya Wodraska, but I know someone had called. I just don't remember the name.

Q. You were obviously asked to volunteer at Mountain View after this termination took place, right?
A. It was well after.
Q. So at least they didn't consider that to be an impediment to you volunteering to coach the girls' basketball team there, did they?
A. Who is that?
Q. Mountain View High School.
A. Coach Houle could not hire me as a coach. Their principal would not let him do that, so all I could do was volunteer.
Q. Do you have to, in order to be hired there, do you have to work for the high school?
A. No, you don't.
Q. You can work for another high school?
A. You could.
Q. What reason was given for him not being able to hire you?
A. He just felt it would be better for him, just the whole situation, what it would look like, because Michelle was going there. He knew the state would catch a lot of grief because of what it might look like. So we agreed, and I coached under the circumstances and under the direction of what he

1 **allowed.**
2 Q. And it is certainly hard to distinguish at
3 this stage, is it not, the impact the litigation may
4 have on decisions like that, because that's what is
5 ongoing at this point, isn't it?
6 **A. There could be an impact, yes.**
7 Q. You can't really separate out the loss of
8 reputation that you claim from the termination versus
9 all the publicity that's come since you filed this
10 lawsuit?
11 **A. Wait, what are you trying to ask me?**
12 Q. Well, there's been a lot of publicity come
13 out of this disagreement because of the lawsuit versus
14 the termination itself, right? You would agree with
15 that?
16 **A. That there's been publicity?**
17 Q. Right.
18 **A. Yes, there has.**
19 Q. In fact, there's been more publicity of this
20 dispute since the lawsuit was filed than when the
21 actual termination took place?
22 **A. I don't know.**
23 Q. Well, we'll go through the newspaper
24 accounts --
25 **A. Okay.**

1 Q. -- another time, but my point was it's hard
2 to distinguish between the fallout that you claim from
3 the termination versus the fallout because of the
4 ongoing litigation, right?
5 **A. I believe the fallout from the whole thing**
6 **didn't allow -- or made that principal hesitant on**
7 **hiring me.**
8 Q The fallout from the litigation too, though,
9 right?
10 **A. I don't know.**
11 Q You don't know anything more specific than
12 what you've told me, right?
13 **A. That's correct.**
14 Q Loss of future job opportunities, other than
15 what you've just told me about at Mountain View, have
16 you lost future job opportunities?
17 **A. Well, those are opportunities. Some people**
18 **may take a chance on you, some may not. You're going**
19 **to lose opportunities because of what is occurring.**
20 Q Have you applied for anything that you've
21 been turned down on?
22 **A. Those job openings for teachers and coaches**
23 **are just starting. Have I looked online and looked to**
24 **pursue things? I have been looking, but there has**
25 **been none at this point.**

1 Q. So you haven't lost any job opportunities
2 because of the termination?
3 **A. I lost out on the opportunities to be hired**
4 **at Mountain View because of everything. He didn't**
5 **hire me because of the whole --**
6 Q. Well, but you've indicated it may be because
7 of the ongoing litigation as much as the termination.
8 **A. He didn't state that to me.**
9 Q He didn't state the other either, did he?
10 **A. I stated earlier that it was because of this**
11 **situation and that, that that's why he didn't hire me.**
12 Q. You don't know if it's because of the
13 litigation or the termination, do you? Because you've
14 told me everything he told you, and he didn't say --
15 **A Well, I think they are related.**
16 Q. You got the job with Swoosh after your
17 termination, did you not?
18 **A. I did. Actually, I was already helping them**
19 **before that.**
20 Q. They didn't say, hold it, we don't want you
21 because you got terminated from --
22 **A. No, because it's my friend who knows who I**
23 **am, Dave Houle, and who I have coached with.**
24 Q. Is it the same guy that coaches Mountain
25 View?

1 **A. Yes. That's my friend and someone who knows**
2 **and has seen me coach and who I have coached with, so**
3 **he knows.**
4 Q So certainly you've lost no reputation with
5 him?
6 **A. Not with him.**
7 Q And you've been given a job opportunity after
8 your termination with him, haven't you?
9 **A. With him I have, yes.**
10 Q How about emotional loss, how do you qualify
11 that for me?
12 **A. One, it not only affected myself, it affected**
13 **my family, something my children were attached to, my**
14 **wife. They have to go to school every day. They were**
15 **just as affected as I was.**
16 Q Tell me about it
17 **A. Tell you about them crying when their dad was**
18 **let go?**
19 Q. Tell me about your emotional loss first, and
20 then we'll --
21 **A. I think their emotions is attached to me as**
22 **well.**
23 Q Tell me about your emotional loss.
24 **A. Is that something I wanted to happen? No.**
25 **Being released, let go from a job, no. I'm standing**

1 **up for what's right. The emotional loss of not**
2 **coaching for the year, and it could be longer, that's**
3 **hard.**
4 Q Anything else you want to tell me?
5 **A. Like I said, the feelings of my family weigh**
6 **on me just as much as my own.**
7 Q I've seen these prayers before, and we're all
8 used to seeing "in an amount to be determined at
9 trial," but I was a little surprised by the "not less
10 than $500,000 "
11 MR RUST You wanted it more?
12 MR HOMER No, I'm just wondering where the
13 number comes from
14 Q (By Mr Homer) Is that something you've
15 talked about, that you feel like you've been damaged
16 at $500,000 or is that just a number you picked out of
17 the air?
18 **A. It's a number that counsel --**
19 MR. RUST Don't say what was discussed with
20 counsel
21 **A. I believe that that's what was used in this**
22 **document.**
23 Q (By Mr Homer) You think you have been
24 damaged in the amount of $500,000?
25 **A. It could be more.**

1 Q Could be less?
2 **A. It could be, but that's what we are using.**
3 Q Have you tried to break it down at all, how
4 you calculate damages in this case?
5 **A. I think some of that is predicted on the**
6 **future, you know. There many be many opportunities**
7 **lost because of this.**
8 Q What type of opportunities do you think may
9 be lost because of this?
10 **A. I could lose head coaching jobs in the**
11 **district. I may not be able to transfer in the**
12 **district. I may not be able to transfer to another**
13 **district in this state. I may have to leave this**
14 **state totally. You know, we came here for the good**
15 **things this state has to offer, and, you know, it may**
16 **be worth more than that.**
17 Q I take it you want to stay in high school
18 coaching, is that right?
19 **A. I've coached both high school and college. I**
20 **did college football. You know, we look at**
21 **opportunities and then try to find one that fits you.**
22 Q Paragraph 29, "The defamatory statements
23 published by defendants individually and working in
24 concert with each other have been made willfully,
25 maliciously and with intent to injure plaintiff and to

1 wrongfully obtain for the daughters of the parent
2 defendants opportunities which may not have otherwise
3 been available " Is that a true statement?
4 **A. It is.**
5 Q What opportunities were wrongfully made
6 available for the daughters of the parents that would
7 not otherwise be available?
8 **A. Well, with the opportunities that our school**
9 **and our team had with having Michelle on our team,**
10 **there's now girls losing out on those chances to be**
11 **seen, opportunity to go forward if they wanted to with**
12 **basketball beyond high school. There's a cousin who**
13 **was denied an opportunity to play with her cousin.**
14 **Other girls who wanted me there and wanted Michelle**
15 **there have lost out on opportunities. Am I answering**
16 **your question properly?**
17 Q Sometimes there s never a proper answer We
18 just try to get how you feel about things
19 How is Michelle going into what, her senior
20 year this year?
21 **A. She will be a senior this upcoming school**
22 **year.**
23 Q So if you choose to volunteer again, you'll
24 be able to help coach her again, right?
25 **A. Coach Houle will have me if I want to be**

1 **there.**
2 Q Right He's already told you that? If you
3 tell him you want to be there, you'll be there?
4 **A. I could be there if Michelle was there or not**
5 **there.**
6 Q Right. And you haven't made the decision
7 about what you want to do yet?
8 **A. I haven't made a decision.**
9 Q So at least with respect to your statement
10 about Michelle, you'll be able to help coach her with
11 other girls, right?
12 **A. If I was there, I'd have an opportunity to**
13 **coach all those girls on that team.**
14 Q Paragraph 30, "By reason of their willful and
15 malicious conduct, defendants should pay plaintiff
16 punitive damages in the amount to be determined at
17 trial, but not less than $1 million "
18 Who came up with that number? If your
19 attorney did, don't tell me, but --
20 **A. That's what is in this document.**
21 Q All right. Do you agree with that number?
22 **A. Yeah. Yes, I do.**
23 Q And you haven't sat down and tried to
24 quantify how you would come up with that number, have
25 you?

1 **A. That's the number that's on --**
2 Q I understand that, but have you put a pen to
3 paper and said this is why I think these parents -
4 you understand what punitive damages are, right? You
5 punish people and you try to calculate why you want to
6 punish these parents in the amount of $1 million
7 **A. I believe that this amount is correct.**
8 Q Just because you think it's correct, or is
9 there any - did you try to calculate, figure it out
10 and grind the numbers?
11 **A. That's what was calculated or put on here.**
12 **(Exhibit No. 14 marked.)**
13 Q (By Mr Homer) This is Exhibit 14 Take
14 whatever time you need to review that
15 **A. Okay.**
16 Q Go to page 11, if you would, please This is
17 what we call a verification page where you swear under
18 oath that you have read the information and you say
19 it's true to the best of your belief and knowledge
20 **A. Yes.**
21 Q Is that your signature?
22 **A. It is.**
23 Q So I assume that prior to signing that, you
24 read through the questions and answers and you believe
25 that they are true?

1 **A. I did.**
2 Q I would like to look at the first
3 interrogatory In paragraph 15 of your complaint you
4 allege that you made many attempts to work with all
5 the girls on the team collectively and individually
6 and made numerous appeals to parent defendants
7 collectively and individually for the team to work
8 together as a team
9 And then it asks, "Identify all attempts and
10 appeals you made, including the date to whom such an
11 appeal was made, the form of the appeal, whether such
12 an appeal was verbal or in writing, and a brief
13 description of the subject of such appeal " Do you
14 see that?
15 **A. I do.**
16 Q Then let's go through the answer First
17 there's a general objection and then it says,
18 "Plaintiff notes that he worked with all of the girls
19 on the team on a daily basis in an effort to build
20 unity and a close working team "
21 That's one reason that you believe you
22 were -- one of the reasons you believe you were
23 attempting to build team unity, right?
24 **A. Yes.**
25 Q "Plaintiff also informed all the players on

1 his team that his door was always open for discussion
2 at any time " Is that correct?
3 **A. That's correct.**
4 Q Did you ever turn down a player from having
5 discussions with you?
6 **A. I did not.**
7 Q So if one of the girls were to testify that
8 you did, they are either not telling the truth or have
9 a different recollection from you, right?
10 **A. No player came to me wanting to speak to me**
11 **and I did not give them a chance to speak. I did not**
12 **turn someone away if they wanted to speak with me.**
13 Q Is that also true for the time frame after
14 Mr Worthington wrote his letter?
15 **A. That's correct.**
16 Q All right So you believe that you kept the
17 door open, at least with the players, even after the
18 administration was going to have most of the
19 discussions with the parents?
20 **A. Yes, I did.**
21 Q Next sentence, "Plaintiff also informed
22 parents of the girls on the team both directly and
23 through material submitted to the girls that he was
24 always willing to talk with any parents about any
25 issues they may have " Is that correct?

1 **A. That's correct.**
2 Q Now, it is true that you did pass on having
3 discussions with groups of parents after November of
4 2003, right?
5 MR. RUST Misstates his testimony He said
6 he passed on being with a group
7 MR HOMER A group Actually, I think,
8 Joseph, one time he said that there may have been a
9 couple but let's not squabble over that.
10 Q (By Mr Homer) Let me just ask You did at
11 least on one occasion turn down an invitation to talk
12 to a group of parents, right?
13 **A. A group in March, April, somewhere in there**
14 **is what I said.**
15 Q And you may have turned down a similar
16 request on another occasion right?
17 **A During the season I did not.**
18 Q After the season was over, right?
19 **A In regards to the principal meeting with**
20 **everyone, I may have because he was meeting with them.**
21 Q Right. So that sentence should at least take
22 into account that you did refuse at least once and
23 maybe multiple times to meet with a group of parents,
24 correct?
25 **A. I don't believe so during -- I mean, as**

1 **instructed by the principal, because he was meeting**
2 **with them. There's a reason that -- that's why I**
3 **didn't meet with them.**
4 Q. The next sentence, "Plaintiff also instructed
5 the assistant coaches to have a close relationship
6 with each of the girls and gave specific assignments
7 to those coaches to work with certain girls on their
8 skills and to encourage them and their self-esteem",
9 is that right?
10 **A. That's correct.**
11 Q Do you remember how those assignments were
12 given out?
13 **A. Coach Ray Rawson was in charge of the post**
14 **players.**
15 Q Tell me who the post players were
16 **A. It would have been whoever was a four or**
17 **five. Specifically names of the players --**
18 Q You seem to be pretty good at remembering
19 things like that, so --
20 **A. On that particular team, it would have been**
21 **Andrea Durrant, Becky Rogers, Michelle Harrison.**
22 **Let's see, other posts. Maybe some of the sophomore**
23 **post players when we were combined.**
24 Q Now, is a post player a center?
25 **A. Not necessarily. It would be a forward.**

1 Q. It would be a forward?
2 **A. Yes. There were some players that might have**
3 **rotated groups because their skill was -- they may**
4 **have to play some four. So they could easily have**
5 **been in that group at times, but also with the guards,**
6 **the ones, twos, and threes, and that would have been**
7 **Brett Bergholm.**
8 Q So Brett Bergholm did the guards?
9 **A. That's correct.**
10 Q Anyone else or are those the two coaches?
11 **A. Stacy Howell assisted with the guards, and**
12 **when Kim Anderson was there she assisted with the post**
13 **players.**
14 Q Do you feel like you had a pretty good
15 relationship with your assistant coaches?
16 **A. I do.**
17 Q Did you ever have any problems with any of
18 them?
19 **A. No.**
20 Q. Did any of them ever approach you and offer
21 to help in working out problems with parents?
22 **A. I think we all worked together. If they**
23 **voiced concerns that some had said, we just talked**
24 **about them as a staff and as coaches in doing the best**
25 **we could to resolve the matters.**

1 Q Of these four assistants you named, are they
2 still assistant coaches?
3 **A. No, they are not.**
4 Q None of them?
5 **A. None of them.**
6 Q Did they leave at the same time you did?
7 **A. They did.**
8 Q Have you talked to any of them about your
9 claims in this case?
10 **A. Briefly.**
11 Q Tell me who you've talked to.
12 **A. As it relates to the assistants?**
13 Q Yes, with the assistants
14 **A. They all know what's going on.**
15 Q. Have you asked any of them to help you pursue
16 your claims in this case?
17 **A. I have talked with them.**
18 Q. Okay. Have you talked to Rawson?
19 **A. I have.**
20 Q. Has he agreed to testify for you?
21 **A. Yes.**
22 Q. What can Rawson add to the mix here?
23 **A. Conversations that he may have had with the**
24 **parents, his dealings and being in practice every day**
25 **and at the games.**

1 Q What conversations has he had with parents
2 that might be relevant?
3 **A. I believe I stated earlier that he had a**
4 **conversation with Gary Burningham.**
5 Q What was that conversation?
6 **A. It was during the spring league. He went and**
7 **visited him at the middle school.**
8 Q What did they talk about?
9 **A. He discussed -- it was generally about why**
10 **there were two teams at the spring league that we were**
11 **having and that he was upset.**
12 Q He being --
13 **A. Gary.**
14 Q Gary?
15 **A. That's correct.**
16 Q And what is Rawson's point on that one? How
17 is that relevant to what we are talking about here?
18 **A. Because he's part of the program and whatever**
19 **else Gary had spoken to him about.**
20 Q I'm wondering what was it in the conversation
21 that you and Rawson may feel helps your case?
22 **A. In regards to that conversation?**
23 Q Yes
24 **A. That Gary told him he had $250,000 to get rid**
25 **of me set aside.**

1 Q When was that conversation?
2 **A. In the spring of that year.**
3 Q Spring of --
4 **A. 2004.**
5 Q Is that a comment that Rawson is willing to
6 make?
7 **A. Yes, he is.**
8 Q Anything else?
9 **A. Just that he was an assistant. He was there**
10 **every day.**
11 Q What about Bergholm, have you talked to him?
12 **A. I've spoken with him.**
13 Q Is he going to testify for you?
14 **A. I don't know at this time.**
15 Q Do you consider him to be a friend?
16 **A. I do.**
17 Q Do you know of any information or knowledge
18 he has that may be useful to any of us in
19 understanding the facts in this case?
20 **A. Just that he was there.**
21 Q Have you talked to Howell?
22 **A. I have.**
23 Q Is he going to testify for you?
24 **A. That's Stacy Howell.**
25 Q. Is that a lady? Sorry.

1 **A. She would.**
2 Q. What information does she have that might be
3 helpful?
4 **A. That she was there every day.**
5 Q On a day-to-day basis?
6 **A. Yes.**
7 Q When you say she was there with these
8 witnesses, I assume they are going to say that you
9 were not discriminatory, that you treated the players
10 with dignity?
11 **A. That there was no abuse, that's correct.**
12 Q How about -- was it Kim Anderson?
13 **A. Correct.**
14 Q What about Kim Anderson?
15 **A. She will as well.**
16 Q What will she say?
17 **A. The same as them, that she's been there and**
18 **has not witnessed those things.**
19 Q The last sentence in that first response, "In
20 addition to materials previously disclosed, attached
21 to these responses are some of the materials plaintiff
22 provided to the girls and their parents "
23 Interrogatory No 2, "Specifically identify,
24 by date and author, all letters, correspondence or
25 documents written, produced or published by parent

1 defendants that you allege contains any defamatory
2 statements or allegations about you " And I
3 believe -- you can read the response, but I believe
4 that this summary set forth in Exhibit 13 was an
5 attempt to state with specificity what those documents
6 were, is that correct?
7 **A. I believe that's a list of what all the**
8 **letters are, yes.**
9 Q Interrogatory No 3, "State the factual basis
10 for your allegation in paragraph 19 of your complaint
11 wherein you allege that parent defendants acted in
12 concert with each other."
13 I want to call your attention to -- or ask
14 questions about several of these responses "The
15 materials heretofore produced by plaintiff, including
16 minutes of meetings between many of the defendants
17 held on May 9, 2004" --
18 MR RUST. That says March
19 Q (By Mr Homer) Excuse me, "March 9, 2004 and
20 the depositions taken thus far of certain defendants
21 establish that the parent defendants were
22 communicating with each other regularly regarding
23 plaintiff " Do you see that?
24 **A. Yes, I do.**
25 Q. Is there anything in your mind that's

1 improper about parents communicating with each other
2 who have daughters or relatives in a program?
3 **A. In regards to passing on false accusations,**
4 **that is wrong.**
5 Q. But just generally parents can talk, can't
6 they, about programs?
7 **A. Parents can talk.**
8 Q And after talking, they can take their
9 concerns to you, to administration, to the school
10 board and say, this is happening and we don't agree
11 with it, right?
12 **A. That's what they did.**
13 Q And likewise you had an opportunity to talk
14 to the principal about the concerns of the parents and
15 why they thought that there were problems in the
16 program, right?
17 **A. I did speak with them.**
18 Q So that's the process. You didn't like the
19 result of the process because you were terminated, but
20 there's nothing wrong with the process itself, is
21 there?
22 **A. It's what was said and done in the process**
23 **that is wrong.**
24 Q. Again, that's their perception -- the
25 parents' perception of what happened, right?

A. **What was said is wrong and false.**
Q. Well, that was their perception as Mr. Worthington told you, didn't they?
A. **What they said is wrong and that's what defamatory.**
Q. Was it their perception?
A. **It could have been.**
Q. You were able to talk to the principal about what their perceptions were, weren't you?
A. **I did talk to him.**
Q. You next state "Some of the letters heretofore reflect that Gary Burningham was soliciting and collecting letters from the parent defendants and then submitting the same to other parties."
Tell me all the facts that you're aware of that support those statements.
A. **He went to individuals to write letters.**
Q. Is there anything wrong with that?
A. **When what you write is false, yes.**
Q. Are you making a claim in this litigation that the parents who wrote the letter did not believe what was in there and it was Gary Burningham who was telling them what to write?
A. **Yeah, I believe some of them have written things they didn't want to write.**

Q. Who in particular?
A. **The Swensons.**
Q. The Swensons did not want to write what they wrote?
A. **They were called numerous times to do that.**
Q. And you believe they didn't want to do that?
A. **I do.**
Q. What is the basis of your belief?
A. **Just in meeting with them.**
Q. You've met with them recently?
A. **We met with them.**
Q. We?
A. **I met with them.**
Q. Who is "we"? I know who you are. Who is "we"?
A. **My wife --**
Q. What did they tell you?
A. **-- and my counsel, but that's all I can say.**
Q. Well, I can tell you there's no attorney/client privilege on that one because you sued them. So anything that was said when they were present is something that I can ask you about. So tell me about the discussions.
A. **They said they were asked to write the letter.**

Q. By Gary Burningham?
A. **Yes.**
Q. Did they say they did not believe anything they wrote?
A. **They said what they wrote was wrong, that they were wrong in writing what they wrote, and that what they wrote was untrue.**
Q. They told you it was false?
A. **They did.**
Q. Did they tell you it was defamatory?
A. **They said that they believed in their experience and everything, that what they said was not true.**
Q. Everything they wrote was untrue?
A. **What they wrote was untrue.**
Q. When did they tell you this?
A. **In meeting with them.**
Q. When did you meet with them?
A. **I don't know the exact date.**
Q. Was it recent?
A. **Not recent. I'm not sure if it was before the holidays or not.**
Q. Christmas holidays?
A. **Yes. I don't know exactly when we met.**
Q. What else did they tell you besides they made

false statements that they didn't believe at the time?
A. **They said they didn't agree with what the group of parents were doing.**
Q. Defending themselves in a lawsuit?
A. **No, getting me fired.**
Q. Okay. Then you obtained a statement from them?
A. **We did.**
(Exhibit No. 15 marked.)
Q. (By Mr. Homer) Let me show you what has been marked as Exhibit 15. You've seen this, right?
A. **I have.**
Q. It's dated January 31st, 2005. Is that at or about the time that it was given?
A. **That's correct.**
Q. Who wrote this?
A. **I believe Blair and Paula Swenson.**
Q. Did they write it while you were there?
A. **They did not.**
Q. Did you read it before they signed it?
A. **I don't remember if I read it before they signed it.**
Q. Do you agree with everything that's in the statement?
A. **I believe it.**

Q Look on the second page where it says, "The negative things we did hear being said about Coach O'Connor by certain parents were in our opinion mostly *unjustified* " *Do you agree with that?*

A. Yes.

Q Did he explain to you -- I guess it was Blair and Paula Did they explain to you what they meant by mostly unjustified?

A. The unjustified would probably relate to those things that they also wrote on the previous page that stated "we do not believe," those things right there.

Q They didn't explain to you what they meant by the word mostly, then, I take it?

A. They did not.

Q The next sentence, "As is often the case with parents observing the way coaches work with their children, we would have changed some of the ways Coach O'Connor worked with the girls on the team." Do you agree with that?

A. Well, like concerned parents, you know, general concerns that we talked about earlier, they may have liked to see some different things. What that means as it relates to strategy, playing time, I mean, it could mean a lot things.

Q You don't know what it is?

A. I believe not. That's just a general statement.

Q Did they explain to you why on earth they would have written a letter and made very specific comments about it if they really didn't believe it?

A. You're asking me why they didn't believe what they wrote?

Q No, I'm asking if they explained it to you I'm not trying to get you into their head, because obviously we can't do that, but --

A. In conversation with them, I believe they stated that some of the things they wrote is not what they meant.

Q And you've read the letter?

A. I have read their letter.

Q There are some very specific comments in there, aren't there?

A. Yes, there was.

Q Did they explain to you how on earth they could make very specific comments about you and then really not believe it anymore?

A. They apologized, that they made a mistake.

Q They didn't deny they wrote the letter, did they?

A. They did not.

Q Nobody forced them to write the letter, did they?

A. They were asked to write a letter.

Q But the information in the letter is what they believed at the time, correct?

A. It is what coincides with what other people wrote as well.

Q. Even the things that are being said about their own daughter?

A. They apologized -- they wrote the letter on emotion of their daughter, they state in that.

Q Well, rather than get into that letter specifically, let's break now

(The deposition adjourned at 5 55 p m)

* * *

Case O Connor vs Burn_ngham
Case No 040402938
Reporter Sharon Morgan
Date Taken 4/13/05

W I T N E S S C E R T I F I C A T E

STATE OF UTAH
ss
COUNTY OF _____

I HEREBY CERTIFY that I have read the foregoing testimony consisting of 248 pages numbered from 4 to 251 inclusive and the same is a true and correct transcription of said testimony with the exception of the following corrections listed below giving my reasons therefor

Page	Line	Change/Correction	Reason

MICHAEL P O CONNOR

Subscribed and sworn to at _____
Utah this _____ day or _____ 2005

My commission expires
_____ NOTARY PUBLIC

SHARON MORGAN CSR RPR CRR
GARCIA & LOVE

C E R T I F I C A T E

STATE OF UTAH)
ss
COUNTY OF SALT LAKE)

THIS IS TO CERTIFY that the deposition of MICHAEL P O'CONNOR, the witness in the foregoing deposition named, was taken before me Sharon Morgan Certified Shorthand Reporter and Notary Public in and for the State of Utah residing in Salt Lake City

That the said witness was by me before examination duly sworn to testify the truth, the whole truth and nothing but the truth in said cause

That the testimony of said witness was by me reported in Stenotype and thereafter caused to be transcribed into typewriting and that a full, true and correct transcription of said testimony so taken and transcribed is set forth in the foregoing pages numbered from 4 to 251 inclusive, and said witness deposed and said as in the foregoing annexed deposition

I further certify that the reading copy of the same was delivered to Mr Rust for reading and signature, signing before a Notary Public and to be returned within 30 days of the date hereon

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof

WITNESS MY HAND and official seal at Salt Lake City, Utah this 20th day of April 2005

Sharon Morgan CSR RPR CRR

My Commission Expires
6-16-2007

SHARON MORGAN, CSR, RPR, CRR
GARCIA & LOVE

253

IN THE FOURTH JUDICIAL DISTRICT COURT
PROVO DEPARTMENT STATE OF UTAH

MICHAEL P O CONNOR)
)
Plaintiff)Civil No 040402938
)Judge Taylor
vs)
)Deposition of
GARY W BURNINGHAM)MICHAEL P O CONNOR
JEANNA BURNINGHAM SANDY)(Volume II)
PHILLIPS RUBY RAY DREW)
DOWNS CURT PARKE JULIE)
PARKE MIKE POWELL)
BARBARA POWELL STEVE)
DAVIS JAN DAVIS TODD)
KIRKPATRICK SUE)
CHANDLER DALLIE)
HADERLIE WENDY HADERLIE)
SHELDON WORTHINGTON JOHN)
C ROGERS KENNY NORRIS)
ROBYN NORRIS WILL)
SUNDERLAND DARLENE)
DURRANT BLAIR SWENSON)
PAULA SWENSON ROBERT T)
PRICE KIM M PRICE)
KENT BECKSTEAD SUZANNE)
BECKSTEAD LISA GRAY)
JOHN JEX JESSICA)
JOHNSON JEFF)
BURNINGHAM and JOHN)
DOES 1-50)
)
Defendants)

April 21 2005
11 23 a m

Location SUITTER AXLAND
Judge Building Suite 200
8 East Broadway
Salt Lake City Utah

RASHELL GARCIA CCR

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Also Present JESSICA JOHNSON POWELL
GARY BURNINGHAM
JEANNA BURNINGHAM
LISA GRAY
JAN DAVIS
WILL SUNDERLAND
WENDY HADERLIE
SUE CHANDLER

I N D E X

Witness Page

MICHAEL P O CONNOR

Examination by Mr Homer 259

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1 March 21, 2005 11:23 a.m.
2 P R O C E E D I N G S
3 MICHAEL O'CONNOR,
4 called as a witness, by and on behalf of the
5 defendants, having been previously first duly
6 sworn, was examined and testified as follows:
7 EXAMINATION
8 BY MR. HOMER:
9 Q. I think the last time we were together,
10 Mr. O'Connor, we started to talk about Laura and
11 Paul Swenson. Do you remember that?
12 **A. Yes.**
13 Q. I showed you Exhibit 15, I believe, at
14 that time. Let me show you -- let's mark this.
15 (Deposition Exhibit No. 16 was marked.)
16 Q. I'm showing you what's been marked as
17 Exhibit 16. Have you seen that before?
18 **A. Yes.**
19 Q. All right. And this is the -- a letter
20 from Blair Swenson and Paula Swenson; correct?
21 **A. It is.**
22 Q. When did you first see that?
23 **A. With a group of letters that was presented**
24 **to me.**
25 Q. Presented when?

1 **A. From the assistant principal at Lehi.**
2 Q. What was his name again?
3 **A. Rick Robins.**
4 Q. When did he show those to you?
5 **A. He had called me at home and asked me to**
6 **come in, and he gave them to me. It was some time**
7 **mid July.**
8 Q. So, it was in the basic time frame of when
9 this letter is dated; right? July of 2004?
10 **A. It would have been after this date.**
11 Q. Sure, but that month?
12 **A. Correct.**
13 Q. And you indicated that you received other
14 letters at that time, and we'll go through some of
15 those today.
16 **A. Yes.**
17 Q. And did he meet with you at that time? Or
18 did he just present you these letters?
19 **A. Mr. Robins met with me.**
20 Q. At where? At the school?
21 **A. At the high school.**
22 Q. Tell me about that meeting
23 **A. It was Mr. Robins, Mr. Allen and Ms.**
24 **Braithwaite.**
25 Q. Robins is an assistant principal; right?

1 **A. Yes.**
2 Q. Mr. Braithwaite?
3 **A. That would be Ms. Braithwaite.**
4 Q. Ms. Braithwaite, what's her title?
5 **A. Assistant principal.**
6 Q. And the third person?
7 **A. Mr. Allen, the athletic director.**
8 Q. And yourself?
9 **A. Yes.**
10 Q. Anyone else in the room?
11 **A. No.**
12 Q. Okay. And this meeting took place around
13 the mid part of July; is that right?
14 **A. Yes.**
15 Q. And how were you invited to the meeting?
16 **A. Mr. Robins called me at home and stated**
17 **that he -- that they were given a stack of letters**
18 **that were given to the board or school district**
19 **and they wanted to discuss it with me.**
20 Q. Now, you say got called at home. Was it
21 on a weekend or during the --
22 **A. No, it was a weekday. I believe it was**
23 **the same day as the board meeting, which was going**
24 **to be that night.**
25 Q So it was before the board meeting that

you received that call?
A. Yes, I believe so.
Q And I take it that -- was it at night or in the afternoon that they called you?
A. Afternoon.
Q You'd already left school, I take it?
A. I was at school for morning workouts for all of the girl athletes. And I had been home maybe an hour at the most.
Q And what did you say back to Mr Allen? Or, excuse me, Mr Robins Was it Mr Robins that called you?
A. Yes, he did.
Q What did you say back to Mr. Robins?
A. Mr. Robins said that they had some letters. I asked him what they were for. And he said a group of people went to the superintendent or the district with those letters and that they had talked to Mr. Worthington and they wanted to speak with me. Mr. Worthington had asked them to speak with me.
Q When you say they talked to Mr. Worthington, you're talking about the parents?
A. The school district.
Q You're not talking about the parents?

A. No, the district -- I'm sorry, the district gave the letters to Mr. Worthington that day.
Q. Now, you knew at this time that -- during this time frame that the parents were having discussions with Mr. Worthington; right?
A. This was the first I had heard of this since April.
Q. Okay. Didn't you know, though, during this time frame that the parents were having discussions with Mr. Worthington?
A. No, I didn't. Not in the summer.
Q. Okay.
A. I asked Mr. Robins who the letters went to and he said the district. And I said, "So they went over Mr. Worthington's head?" And he said "That's correct." Mr. Worthington didn't even know these letters went to the district until that day.
Q. So, the last time we were together, we talked about the fact that you knew Mr. Worthington was having discussions with parents. That would have been in the spring of the same year, right?
A. That would have been in the spring,

correct.
Q. Had you had any discussions with Mr. Worthington about those parent discussions at that time?
A. What we discussed last time, in the spring. This was all a surprise to him, the administration at Lehi, and me in July.
Q. So after your discussions with Mr. Worthington in the spring about his conferences with the various parents, you had no further knowledge about additional letters being written; correct?
A. None.
Q. All right. Did you meet with Mr. Robins, Mr. Braithwaite, Mr Allen at that time? Miss Braithwaite and Mr. Allen that same day?
A. In July, yes.
Q. So the same day they called you to tell you the letters had come, you met with them?
A. Yes.
Q. So you met with them before the board meeting?
A. Yes.
Q. What time did you meet with them, do you remember?

A. One or two o'clock.
Q. Tell me what happened at the meeting.
A. They gave me a copy of the letters. And then they -- Mr. Robins led the discussion and discussed what he felt the three main concerns from the letters were.
Q. What were those three main concerns?
A. Abuse, discrimination and mismanagement of money
Q Did you talk about all three of those with them?
A. We discussed it briefly.
Q. Okay What did you discuss about abuse?
A. He just had stated that it was in a number of letters. And I told him that it was untrue.
Q. Okay And how would you -- tell me about the discussion of that abuse What did you understand those concerns to be about?
A. I asked him what the concerns of abuse were.
Q What did he say?
A. He said that's the word that was used in those letters. We didn't read any of them. I didn't read any of the letters at that time.
Q Did you go into any detail of what was

1 meant by abuse?
2 **A. I'd asked him what he thought the abuse**
3 **was based on what he read.**
4 Q What did he say?
5 **A. He didn't really have an answer.**
6 Q This is not the first time you'd heard of
7 that being a concern of the parents, is that
8 right?
9 **A. That was the first time I had ever heard**
10 **the term abuse.**
11 Q So you had not heard that before from the
12 parents in any of your meetings or in the
13 discussions with Mr Worthington in the spring?
14 **A. I had never heard that term before that**
15 **time.**
16 Q As you sit here today, do you know what
17 the concern with respect to abuse was?
18 **A. After reading the letters, it stated that**
19 **I abused their children.**
20 Q Tell me what you understand the concern to
21 be other than -- we know what the word is, but do
22 you understand what is behind the word and what
23 the concern is?
24 **A. They wrote it in the letters.**
25 Q Yes, and I'm just asking you for your

1 understanding of what the concern is right now.
2 **A. Well, that's a pretty serious term, that**
3 **their children were mistreated in an abusive**
4 **manner.**
5 Q. Do you have any understanding of what the
6 concern was beyond that?
7 **A. Beyond that term?**
8 Q. Yes
9 **A. Well, that was a new term to me at that**
10 **time.**
11 Q. Oh, I understand I'm asking you, as you
12 sit here today, what do you understand that to be,
13 their concern to be, in terms of your behavior
14 toward their children?
15 **A. Well I haven't heard of any instances that**
16 **were abusive.**
17 Q Have you read of any instances in the
18 letters?
19 **A. Well, they haven't stated any exact**
20 **instances that I was abusive to their children.**
21 Q All right So in reading all of the
22 letters generally, as you sit here today, you
23 don't understand what -- any of the actions that
24 they're complaining about of abuse on your part?
25 **A. It's a false accusation, that's correct.**

1 Q I understand that's what you're saying
2 We're going to get through this deposition, and
3 you're going to believe everything was false, and
4 that's fine That's not what we're here today to
5 discuss We're here today to understand your
6 understanding --
7 **A. They're the ones that used the term.**
8 Q So you don't have any understanding at all
9 of what was meant by that term?
10 **A. What I have done that is under the term**
11 **abusive, that is correct.**
12 Q So even after reading all the letters, you
13 don't understand what they're talking about?
14 **A. There is no specific instances that I was**
15 **abusive to kids in these letters.**
16 Q Okay What about discrimination? What
17 was the concern you expressed there?
18 **A. That I was discriminatory towards -- you**
19 **know, they've used the term -- it's been stated**
20 **that one set of rules for one and another --**
21 **discrimination to them, to all the players except**
22 **for Michelle. That's incorrect.**
23 Q Okay You understand that was their
24 concern, that you were discriminating towards
25 Michelle? I understand you believe it was --

1 **A. The term discrimination was never used**
2 **until these letters.**
3 Q Right And that's what we're talking
4 about now We're talking about the letters
5 **A. That's my understanding.**
6 Q Okay Do you have any other understanding
7 of what the concern was with respect to
8 discrimination other than your treatment of
9 Michelle as opposed to the other players?
10 **A. No.**
11 Q What about mismanagement of money? What
12 was your understanding of what that was all about?
13 **A. That I have misused funds that are**
14 **designated for the student athletes.**
15 Q Is that what Mr Robins told you the
16 concern was?
17 **A. Yes. He said mismanagement of funds.**
18 Q Did he ask you for your views on that
19 subject?
20 **A. No, I just remember telling him they were**
21 **all not true.**
22 Q Okay Anything else that you can recall
23 about that discussion concerning these letters
24 written in July by the parents?
25 **A. No. We discussed about the short time**

1 **frame that had taken place from April until that**
2 **time. And we discussed possible things --**
3 **solutions. Mr. Allen was there. He discussed,**
4 **you know, about -- that we could still make this**
5 **work. Discussed just the whole situation in**
6 **general, how tough it would be as a coach,**
7 **possible solutions that could occur to help the**
8 **situation.**
9 Q. Okay. What were the possible solutions
10 discussed?
11 **A. We just discussed tryouts.**
12 Q. Tell me what you mean by that.
13 **A. Well, just basketball in general. There**
14 **was no absolute of anything, really, that was**
15 **made, no decision, no -- I just -- I know that**
16 **Mr. Allen said, I know we can make this work.**
17 Q. Anything in specific that was discussed?
18 **A. No.**
19 Q I'm just trying to get you to tell me
20 about everything in the kind of detail you recall,
21 obviously. So, if generally you remember that you
22 discussed possible solutions but you don't
23 remember any specifics, that's fine. But I just
24 want you to tell me any specifics you remember.
25 **A. No specifics that I can remember.**

1 increase parent confidence in the program?
2 **A. Just, like I said, the participation in**
3 **those events and the morning workouts, the**
4 **opportunities for open gym are all parts of the**
5 **game that were available for all of the kids and**
6 **their parents.**
7 Q. Anything else that you can remember?
8 **A. No.**
9 Q. Anything else that you can recall about
10 this meeting that we've been visiting about the
11 last few minutes?
12 **A. I don't recall anything at this time.**
13 Q. Okay. Was there any discussion about
14 attending the board meeting in question?
15 **A. That never came up, the board meeting.**
16 Q. You knew that this was going to be
17 discussed at the board meeting that evening, I
18 take it?
19 **A. I did not.**
20 Q. Oh, you didn't?
21 **A. No, I did not know that.**
22 Q. But you know as you sit here today that
23 there was a board meeting the same day that you
24 had this discussion?
25 **A. I know today that there was.**

1 Q. Okay. What was discussed -- there was a
2 discussion about the short time frame from the
3 March to the July period. What were --
4 **A. Well, I just -- I'm sorry, I just asked,**
5 **you know, Coach Allen and Mr. Robins, we've only**
6 **had two months to try to continue and build the**
7 **program based on the meetings in April, and how**
8 **could anything have taken place in that short of**
9 **time.**
10 Q What had happened between March and July
11 in terms of trying to build the program and
12 increase parent confidence in the program?
13 **A. We'd only had a few opportunities at all.**
14 **There was a spring league, a team -- our school**
15 **camp, individual camp. There was team camp.**
16 **There was individual workouts for all girl**
17 **athletes at the school. And we had a summer**
18 **tournament coming up, summer barbecue.**
19 **So, there were things in place, you know,**
20 **so I just didn't see how in such a short time all**
21 **of the sudden things that were in March now in**
22 **terms of abusive, discrimination, mismanagement of**
23 **funds.**
24 Q Had anything happened from March to July
25 that in your mind were attempts on your part to

1 Q. Right. You didn't know that there was
2 going to be a board meeting at that time?
3 **A. No, I didn't.**
4 Q. And none of the three individuals that you
5 met with shared that information with you?
6 **A. None of them did.**
7 Q. Did any of the three individuals that you
8 had this discussion with indicate that they had
9 met with any of the parents about these issues?
10 **A. The new letters?**
11 Q. Yes
12 **A. I don't believe any of them did.**
13 Q Had you seen any of the letters that had
14 been written earlier to Mr Worthington by the
15 time you received these letters in July?
16 **A. So, are you saying the letters in March?**
17 Q. Yes.
18 **A. I had seen -- what I had stated previously**
19 **is what I had seen before then.**
20 Q. Okay. You'd seen the March letters prior
21 to this meeting?
22 **A. I'd seen some of them. I did not have any**
23 **copies or --**
24 Q. And you'd seen those in Mr Worthington's
25 office or where?

1 **A. Yes, Mr. Worthington had showed me.**
2 Q In the spring time?
3 **A. March, April somewhere in there.**
4 Q March, April So you'd seen the letters
5 but you had not made copies, right?
6 **A. That's correct.**
7 MR RUST. For clarification, you said
8 seen some I think his testimony before explains
9 which ones he had seen
10 Q Yes, and if you didn't make copies, I
11 realize it can be based only on your recollection
12 of what you saw at the time, right?
13 **A. Whatever Mr. Worthington had shown me at**
14 **the time.**
15 Q Did Mr Worthington say at that time that
16 he had read the letters?
17 MR RUST At which time?
18 Q In March, March, April
19 **A. He had them. He had read those, those**
20 **concerns and whatever concerns that were shared**
21 **with him at that time.**
22 Q Okay He was not part of this meeting in
23 July, right?
24 **A. He was at the district.**
25 Q I understand I'm talking about the

1 meeting you held with the three individuals.
2 **A. He was not there.**
3 Q. Right.
4 **A. But he had instructed them to do that.**
5 Q. Right, I understand. Do you know as you
6 sit here today whether he read any more of these
7 July letters?
8 **A. Well, I believe, according to his**
9 **deposition, he said he didn't. But according to**
10 **the paper, he said he did. So I don't know what**
11 **the real answer is.**
12 Q. Okay You were sitting there during his
13 deposition; right?
14 **A. Correct.**
15 Q. And he said that he had not read the
16 letters, correct?
17 **A. And according to the paper, it said that**
18 **he had read the letters.**
19 Q. Well let's take one at a time. Because he
20 indicated in his deposition that he had not read
21 the letters; is that right?
22 **A. That is my recollection of that, yes.**
23 Q. The newspaper, tell me what you're
24 thinking about there.
25 **A. He was quoted in the Deseret News saying**

1 **that he had been to 90 percent of the games and**
2 **what he had read was he had never -- he had never**
3 **witnessed.**
4 Q Well, again, we're focused on having read
5 the letters
6 **A. Correct.**
7 Q The July letters Tell me what he said in
8 the Deseret News to the best of your recollection
9 about him --
10 **A. That's what I -- that was what I had just**
11 **said, that he had stated that he had seen the**
12 **games, and I'm just paraphrasing.**
13 Q Well, we're not talking about the games,
14 we're talking about the letters And you
15 indicated that he said --
16 **A. He had been to 90 percent of the games**
17 **that I'd coached and what he had read in the**
18 **letters, he had not witnessed.**
19 Q And when was this quoted in the Deseret
20 News?
21 **A. I'm not exactly sure which article. It**
22 **could have been the very first one in August.**
23 Q Okay So it was after July, is that
24 right?
25 **A. Correct.**

1 Q Now this is an article in the Deseret News
2 written by who?
3 **A. I believe that was Amy Donaldson who**
4 **interviewed Mr. Worthington.**
5 Q Did she also interview you?
6 **A. She did.**
7 Q What did you tell her?
8 **A. She called me and asked me questions and I**
9 **answered them.**
10 Q What did you tell her?
11 **A. Well, she had already known there was a**
12 **board meeting and I believe I just answered her**
13 **questions.**
14 Q Did you call her?
15 **A. I did not.**
16 Q Who contacted her about this controversy?
17 **A. I do not know.**
18 Q All right Calling your attention again
19 to Exhibit 16, tell me what is in this letter
20 And again, let's go back to -- do you remember in
21 the last deposition we looked at Exhibit 13 that
22 had a list of these letters that you considered to
23 be defamatory?
24 **A. Yes.**
25 Q I don't see this particular letter,

1 Exhibit 16, listed there Do you consider
2 anything in this letter to be defamatory?
3 **A. Yes, there are.**
4 Q Okay Tell me what's in there that you
5 consider to be defamatory
6 **A. I believe in their statement, they**
7 **refute -- they stated that it was untrue.**
8 Q Well, again, let's focus on the questions
9 that I'm going to ask you We're not talking
10 about Exhibit 15 right now, we're talking about
11 Exhibit 16 And you'll have an opportunity to
12 give your full views of the case at some point in
13 time in the future, but in order to get the
14 deposition rolling, I want you to just focus on
15 what I ask you
16 So looking at Exhibit 16, what do you
17 consider to be defamatory in that letter?
18 **A. Unethical decisions.**
19 Q Just point me to the paragraph we're
20 talking about
21 **A. That would be the last paragraph on the**
22 **first page.**
23 Q Okay.
24 **A. Not treated -- all girls not treated**
25 **equal.**

1 Q Same paragraph?
2 **A. Correct. That it's evident that I to**
3 **promote Michelle's career and no one else's.**
4 **That's incorrect. Same paragraph.**
5 **The sentence that says the girls were**
6 **instructed to always pass to Michelle, that's**
7 **incorrect. There was no opportunity to look at**
8 **their own shots or they'd be pulled from the game,**
9 **that's incorrect. And the problem with if any**
10 **players started to get more points than Michelle,**
11 **they were pulled, that's incorrect.**
12 **The third paragraph, Crushing self-esteem**
13 **and dreams of girls needs to be stopped. And**
14 **that's what I can see at this time.**
15 Q Now, when you --
16 **A. Excuse me.**
17 Q Go ahead
18 **A. Emotionally abused by this man, the very**
19 **last paragraph.**
20 Q. Okay. Did you discuss -- when you met
21 with Mr and Mrs Swenson, was their attorney
22 present?
23 **A. Yes.**
24 Q And who was that, do you remember?
25 **A. Mr. Freeman. I think that's the name.**

1 Q I know we probably asked this question
2 before so bear with me Exhibit 15, the
3 statement, do you remember who drafted that?
4 MR RUST That was asked and answered.
5 Go ahead
6 **A. I believe it was them. They did it, the**
7 **Swensons.**
8 Q The Swensons with their lawyer present?
9 **A. To my best knowledge, yes.**
10 Q Was it done during the meeting or did you
11 have a discussion and then they drafted it and
12 sent it back?
13 **A. It was not done at that meeting.**
14 **(Deposition Exhibit No. 17 was marked.)**
15 Q Let me show you what's been marked as
16 Exhibit 17
17 **A. I've seen this.**
18 Q All right Is this a letter that --
19 MR RUST My document has one page and
20 then the second page is -- it looks like it's
21 Swensons' letter
22 Q Oh, I'm sorry Same, Exhibit 17, have you
23 seen that before?
24 **A. I've seen that but my copy had writing all**
25 **on it and things underlined.**

1 Q. By?
2 **A. I don't know.**
3 Q. And there may be another copy in here. If
4 there is, we'll pull that out. In Exhibit 13, and
5 this is my copy, I apologize for that, but I just
6 want to confirm that this is one of the letters
7 that is listed as being defamatory, correct?
8 **A. The dates are the same, yeah.**
9 Q. All right
10 **A. Yes.**
11 Q Is this one of the letters that you saw in
12 July?
13 **A. Yes.**
14 Q Tell me what you consider to be defamatory
15 about this letter
16 **A. The problems, those four.**
17 Q In the second paragraph?
18 **A. Correct.**
19 Q Abuse, discrimination, finances,
20 recruiting?
21 **A. Correct.**
22 Q Anything else?
23 **A. The next sentence, abusive treatment.**
24 **Attack the kids, in bold. There was a problem in**
25 **the -- as the paragraph continues on the second**

1 page.
2 Q Okay.
3 A. Never praises nor rewards girls, never
4 communicates with them in a personal manner.
5 Belittling, berating, chiding, attacking every
6 mistake made. Weeks of no communication. Pattern
7 of psychological abuse, degrading. Rules for
8 Michelle and rules for the rest of the girls.
9 Normal tirades. Michelle going home on the bus
10 and no one else. Michelle talking back to coach.
11 That I told the girls they're
12 interchangeable or replaceable. Michelle talking
13 on a cell phone during a timeout. Never
14 happened.
15 Routinely out of the huddle. Talking with
16 her sister or brother out of the stands. Never
17 happened. Judy arranging Kera to come in as the
18 head coach. Never happened -- or, that's not what
19 happened.
20 Q What do you mean by that? You said
21 "never" first and then you said "That's not what
22 happened "
23 A. Well, that's not what happened.
24 Q. What happened? Do you know anything about
25 that statement that would explain

1 anything untrue about that statement?
2 A. I don't know the whole conversation
3 between the two of them, how that came up, what
4 was discussed between the two of them as it
5 relates to that.
6 Q. So you don't know if it's true or --
7 A. I don't know. Well as a head coach,
8 that's not true.
9 Q. Right. That's the reason I didn't repeat
10 that portion in my question We're just talking
11 about the salary portion. You don't know --
12 you're not saying it's not true?
13 A. Well, to me, that makes the statement
14 untrue.
15 Q You're not saying it isn't true that Gary
16 was asked to pay her salary for two weeks, are
17 you?
18 A. I don't know what they discussed as it
19 related to the salary, how that came about, who
20 was asked.
21 Q. Did you make that suggestion to her that
22 she could ask Gary?
23 A. I didn't make that suggestion.
24 Q. Who made that suggestion?
25 A. I don't know.

1 A. Judy called me, and I had already asked
2 Kera if she wanted to help me before the season.
3 It just wasn't going to work. She called me at
4 this time. I know she had a conversation with
5 Gary about this. I said that at any time we could
6 use help. If she wants to come in and help, I'll
7 be glad to have her come in and help assist and
8 help us get ready for the tournament. But to be
9 the head coach and take over, that's false.
10 Q. What about the salary?
11 A. That's a conversation that occurred
12 between the two of them.
13 Q. You don't know anything about that?
14 A. All I know is what Judy told me as it
15 relates to that.
16 Q. What did she tell you?
17 A. That Gary was willing to help out in that
18 manner.
19 Q. That manner being?
20 A. Help pay her something.
21 Q. For helping?
22 A. Yes.
23 Q. Yes? So, at least insofar as the
24 statement was made, "I was asked to pay her salary
25 for two weeks," you don't think that there's

1 Q. How did you find out about it?
2 A. When Judy called me and told me.
3 Q. After the request had been made?
4 A. The request of?
5 Q. For salary.
6 A. I don't know.
7 Q. All right. What else in this letter do
8 you find defamatory?
9 A. Double standard, anarchy. We did have
10 standard and set rules, and that's in the player
11 parent contract or agreement. They are pretty
12 spelled out.
13 Q. That's the agreement we talked about
14 during the last day of depositions; right?
15 A. Yes.
16 Q. Okay. What else?
17 A. Handles and accounts for money
18 inappropriate. The funds as it relates to the
19 kids working at open court and so forth were all
20 explained in that parent meeting and in the
21 letter. How I started the meeting, I think I
22 explained that last time.
23 Q. What do you mean by that?
24 A. This is not how that financial meeting
25 started. I answered that last time.

1 Q Was it a -- do you have a problem with
2 the reference to being a mandatory financial
3 meeting?
4 **A. No, we called that because of the concerns**
5 **people were having.**
6 Q. I'm focused on the word mandatory Do you
7 have a problem with it being characterized as a
8 mandatory financial meeting?
9 **A. Then I called -- that I called it a**
10 **mandatory?**
11 Q. Yes
12 **A. We called the meeting, wanted all parents**
13 **there. To me that -- mandatory could --**
14 **requesting that all the parents be there.**
15 Q. You expected all the parents to be there?
16 **A. Yes.**
17 Q. So you don't have a problem with it being
18 characterized that way?
19 **A. No.**
20 Q. And then when you said that you had a
21 problem with how the meeting started, you're
22 talking about the quotation, "I am the coach. I
23 will spend the money the way I want to. If anyone
24 has a problem with that or wants to ask questions,
25 I will cut your girl off the team." Is that what

1 you're referring to?
2 **A. Correct.**
3 Q. Did you ever make that statement?
4 **A. I did not.**
5 Q What did you tell them?
6 MR RUST: Asked and answered. He gave
7 you great detail previously what he said at that
8 meeting.
9 Q. Okay
10 MR. RUST: Are you asking him to repeat
11 it?
12 Q. No I'm not. I'm asking him in connection
13 with this statement, did you say anything like
14 that? Did you say you had full discretion to
15 spend the funds the way you wanted to?
16 **A. No. We had the meeting -- I did not say**
17 **that statement.**
18 Q. You've already said that. Did you say you
19 had full discretion to spend the moneys the way
20 you wanted to?
21 **A. As the coach, I have -- I believe it was**
22 **stated that as the coach, I had the discretion to**
23 **be able to spend the funds as the head coach on**
24 **their student athletes and for the purpose of**
25 **them, yes.**

1 Q So, you as coach had discretion?
2 **A. All coaches with their budget have the**
3 **discretion to spend their funds, yes.**
4 Q. And I'm not -- again, I'm not trying to
5 get you to say anything other than what you said,
6 so you don't have to -- I don't care what the
7 general rule was We're more concerned about what
8 you said And I assume that if you said it, you
9 felt like you were justified in saying it. I'm
10 just trying to get down to what you said
11 **A. The purpose of the meeting was -- and**
12 **there was a letter that preceded that that showed**
13 **how the money was being spent for the kids.**
14 Q We looked at that last time
15 **A. Yes.**
16 Q Did you tell the parents if they didn't
17 like the fact that you had discretion, that they
18 could take their kids off the team?
19 **A. I didn't say that.**
20 Q Is that your -- is that your attitude,
21 though, if they don't like the way you coach, then
22 the kids don't have to play for you?
23 **A. Is that -- would you repeat that?**
24 Q Is that your view of how things work on an
25 athletic team, if they don't like the coach then

1 they don't need to play for him?
2 **A. That's not a general -- we don't try to**
3 **encourage kids like that to be gone, but sometimes**
4 **that may be the end result.**
5 Q. But that is your view, that you're the
6 coach, you have the discretion to coach the way
7 you want and if the parents of the kids don't like
8 it, then they can get off the team?
9 MR RUST Asked and answered, and also
10 argumentative But go ahead, if you can
11 **A. We all coach the way -- we all have our**
12 **philosophy and way we coach. And we're not going**
13 **to make everyone happen. And sometimes that may**
14 **be what has to happen.**
15 Q And that is your philosophy, though, isn't
16 it?
17 **A. Overall philosophy?**
18 Q. Yes
19 **A. I think I try to work things out before**
20 **that would ever be -- that would be a last resort.**
21 Q But if you can't work it out, then the
22 kids don't have to play for you?
23 **A. Well, in high school, that's -- that could**
24 **be one of the decisions or choices they make.**
25 Q Okay. What else about the letter do you

consider to be defamatory?
A. Well, it states here that after how I responded to the financial meeting, which took place in November, it says, I vowed to pay only what was required until financial issues are addressed. As soon as I told Judy this, Kayla was treated worse.
So, from November to the whole season. And then the next sentence says, "Since I won't put forth the funds, Kayla, who has started every game at point guard since her freshman year, is replaced by a ninth grader and demoted to junior varsity." That did not happen.
In fact, that niece did not play for us that season. She was at the junior high. So I don't know how that could have taken place.
Q Did Kayla play on junior varsity that year?
A. As a sophomore, she played some JV but started every game as a varsity.
Q So your testimony is that she started at every game?
A. As a sophomore?
Q Yes.
A. Yes, I believe she did.

Q. All right. What else do you have a problem with on the letter?
A. Extortion. Untouchable or beyond the reach of the law. That's a threat. I brought a girl over from Mountain View to play. That's incorrect. Beacon of ethics, honor and moral fortitude. I'm being questioned there. That's incorrect.
The top of the last page, abused, girls being abused.
Q. Now, that paragraph seems to address the issue of the time frame from March-April to July as to at least why Gary Burningham felt that there needed to be further discussion of what was going on; correct?
MR. RUST I'm going to just raise a general objection as to his trying to interpret what Mr. Burningham has to say in his letter And he-- lack of foundation and speculation and all of those other good things
MR. HOMER: You can have ongoing objections, Joe, no problem What I'm really trying to get to is, one of the issues that the witness raised upon reading these letters was that there hadn't been a lot of time elapse from March-

April to July And my question really is that this seems to indicate why at least Mr Burningham felt that the issue was still on the table
MR RUST That would be for Mr. Burningham to testify to, I guess
Q But I'm also asking -- he read the letter We're really not trying to get into Mr. Burningham's mind here, what we're trying to do is ask the witness how he read the letters
A. Well, that sentence, it says, "Concern that another season" -- that's the last season. It doesn't say anything about what has taken place from April to July.
Q But isn't -- I read it and of course how I read it means nothing, I can tell you that for sure
MR RUST Unless you want to go on the witness stand
Q Yes, exactly But the way I read that, I'm talking about, that seems to me to refer to that he doesn't want another season to go by in the future without addressing these issues again Is that not the way you read it?
A. Well, like I said previously, what were some general -- what were some concerns in March

turned to abuse now in July, that term.
Q Okay But at least this paragraph seems to indicate that Mr. Burningham and Mrs Burningham want those issues looked at before another season goes by
A. It had already been looked at.
Q Well, I understand that But they're saying in July that they don't want another season to go by without looking at these issues, right?
A. That's what was written there.
Q All right Let's move on, and tell me what else in this letter you find to be defamatory
A. The whole statement about that I sat with the Filamohalas at this tournament. I sat with Gary, in fact, on the front row at one of the games. I sat with Mr. Wardwell. I visited with many parents there. We sat in the front row for a game, for part of a game, and was waiting for a game to start. We were in the front row in the small gym at Orem High School.
I sat with Dave Filamohala and just talked basketball in the corner for one game. But I did not sit with their family for games and I did not move when supposedly Lynn Allen came in.

Q Okay What else?
A. His treatment of the girls is as abusive as ever. If Michelle is there, I was there. If she wasn't, I wasn't. That's not true. Girls robbed of goals and dreams and so forth. What I've done is not right, moral, ethical, legal. The fact that the community, the school, the girls and families deserve more. There's a lot that were very happy with what was going on.
Q Anything else?
A. Not at this time.
Q Did you think that the girls, the other girls on the team were jealous of Michelle?
A. Do I think there was jealousy?
Q Yes
A. Yes.
Q Why do you think the girls were jealous of Michelle?
A. I believe last time, we discussed this. Through -- what my assistant coaches, our discussions, discussions with players.
Q Do you also believe that the girls thought that you favored Michelle?
MR. RUST You speak of girls Are you speaking collectively or just one or two?

Q. No, collectively.
A. I don't think they all thought that.
Q. Well let's limit it to the girls who were jealous of Michelle then. Would those girls have thought that you favored Michelle if they were jealous of her?
A. I believe those who thought that might have thought that.
Q. Okay. And it's not unreasonable for parents of girls to, if their girl is telling them that the coach is favoring Michelle, that the parents are going to believe them; right?
A. Well, parents believe what their kids are telling them? Is that what you're --
Q You're asking me to repeat it generally I'm asking --
A. I'm sorry.
Q. -- specific to the issue before us. And again I'm just trying to move things through.
A. I'm sorry.
Q. And you know what? I invite you to, you know, try to define the questions. But if every time we ask a specific question, if we go out generally and have to go back in, it just takes more time. So I just want to focus on the

specific questions and then if you want to make a more general observation, I can't stop you
A. So, I'm sorry, what were you wanting specifically?
Q If a daughter comes to a parent and says, Coach O'Connor is favoring Michelle, that's something that a parent is going to rely on and, you know, maybe they're going to do their own investigation but they're going to believe the kids, aren't they?
MR RUST Objection, speculative and lack of foundation
A. They might.
Q Now, you appointed Michelle as captain of the team when she was a sophomore, didn't you?
A. She was made a captain, yes.
Q Did you understand at the time that that may also increase anxiety of some girls that you're favoring Michelle over the others?
A. In discussing this with the -- all the coaches, we all agreed on this as coaches. We made a senior and her captain, our best player, which every -- which all our girls knew that, with the opportunity that the other seniors could rotate as captain every game. That was what was

arranged.
Q No, and I know that's -- I understand that and I appreciate the fact that you've given me why the decision was made. My question is more specific. Did you understand that that decision also could have increased the anxiety in some of the girls that you were favoring Michelle?
A. That was not my thinking.
Q That was not your thinking at the time I'm asking you as you sit here today if you understand that that type of decision could have increased the anxiety of the girls who you've indicated are jealous of Michelle, that this was another example of favoring Michelle?
A. For those jealous, they may have thought that.
Q Did you sense that at the time?
A. Not at the time.
Q Now, did you obtain copies of these letters we've been going through during that July time frame?
A. Yes, I was given copies.
Q At the meeting that we're talking about with the three individuals?
A. Yes. Yes, I did.

Q Did you give copies of the letters to Judy at that time?
A. Yes, I did.
Q Why did you do that?
A. Because it involved Michelle.
Q Did you give them to her that same day?
A. I don't believe it was the same day.
Q. Within a week?
A. That's accurate.
Q And you gave her all of the letters?
A. I gave her a copy of all of them.
Q Did you give the letter -- copies of the letters to anyone else?
A. I did not.
Q Do you know as you sit here today if any other individuals received copies of the letters?
MR RUST· Are you talking about from him?
MR HOMER. No
MR RUST You said "received copies "
Q He told me that he didn't give them to anybody else besides Judy.
A. Okay.
Q. I'm asking whether he knows now if other people received copies of the letters.
A. I didn't give any.

Q Did you tell Judy not to make copies of the letters and send them to other people?
A. I believe I gave them to her for her because it affected her daughter. So what she did with them is her --
Q So the answer to the question is no, right?
A. I believe that I didn't say.
Q Did you believe that the letters were defamatory at the time that you gave them to Judy?
A. Towards me?
Q Yes
A. That's correct.
Q But you still made copies and gave them to her?
A. Because it affected her daughter, I did.
Q I understand that, but the issue is you considered them defamatory and you copied them and gave them to a third person, right?
A. I gave them to her.
Q We've talked about copying and giving copies Did you read the letters to anyone and not give them copies?
A. I have not read the letters to other people.

Q Did you read them to your wife?
A. My wife has read them.
Q She's had access to the letters?
A. Yes.
Q. Any of your children?
A. My children have not read the letters.
Q. Anybody in your neighborhood?
A. My neighborhood has not read the letters.
Q Did you give them to Coach Houle?
A. I did not.
Q Did you read them to Coach Houle?
A. I did not.
Q Now, I take it that Coach Houle has since seen the letters, right?
A. He has not. He knows some things that are said in there, that's it.
Q You've read press accounts where Coach Houle says that the letters are full of lies, haven't you?
A. Based on -- that's correct.
Q Based on what? Based on what you told him?
A. Based on conversation, what we talked about.
Q. With you?

A. That's correct.
Q So you have told him what's in the letters and then he has gone to the press and said the letters are full of lies?
A. The press approached him and he answered the questions based on his knowledge of me and --
Q Even though he's never read the letters?
A. I could have him read them.
Q Well, we're talking about the here and now We're talking about here, sitting here today, Coach Houle has not read the letters?
A. He has not read the letters.
Q Any other coaches read the letters?
A. No.
Q None of your assistant coaches?
A. No.
Q Do you know who Amy Donaldson is?
A. I do.
Q Has she read any of the letters?
A. I know she heard some of the letters at the transfer meeting.
Q Did you give her copies of the letters?
A. I did not give her copies.
Q How long have you known Amy Donaldson?
A. Just the last two years.

Q Have you asked her how she is able to quote from the letters and characterize the letters as being untrue?
A. I know she interviewed many people. She interviewed me.
Q Do you believe that she's characterized the letters as being untrue because you told them they are? Excuse me, because you told her they are
A. I shared with her some of the readings of the letters when she asked me.
Q All right So you have sat down with her and read portions of the letter to her, haven't you?
A. We shared parts of the letters with her when she met with me.
Q Well let's not mince words here When you sat down with her, you actually read the letters? I mean share is a very vague term
A. I believe I did.
MR. RUST. And just for clarification, are you saying from the beginning to the end and all of the letters or just portions? What is your question?
MR. HOMER: Well, we're getting into that.

MR. RUST Okay.
MR. HOMER: You got to go at it a little at a time.
MR. RUST All right. You want to be sneaky about it Okay, go ahead
MR. HOMER Well, if he wants to tell me at the get- go, I gave her the letters, she had access and she quoted from them, that's great.
MR. RUST He's already testified that didn't happen,
Q. But you read portions of the letters to her?
A. I did.
Q. And in fact you were willing to read any of the letters to her that she wanted to hear, weren't you?
A. I believe I tried to answer her questions the best I could based on what I had -- what she asked me and what I read in the letter that answered that question.
Q. Even though you considered them to be defamatory?
A. I did.
Q. And knowing that she was going to publish, or could have published the portions of the letter

that you made her aware of?
A. I didn't -- that's whatever she decided to put in the article.
Q You didn't put any -- didn't tell her she couldn't publish anything you told her about, did you?
A. I don't believe I did.
Q And you knew that when you did that, that there were more people that were going to become aware of the contents of the letter than before you talked to her, didn't you?
A. I know she was interviewing individuals on both parties, both sides.
Q How do you know that?
A. She had stated that.
Q Who else was she going to talk to?
A. I believe from that article, she talked with Gary and Mr. Price and Sheldon. I think she had already spoken to Sheldon before she spoke to me.
(Deposition Exhibit No. 18 was marked.)
Q Look at Exhibit 18
A. Yes.
Q I refer you back to Exhibit 13 This letter appears to be one of the letters you

listed, right?
A. Uh-huh.
Q. Remember, you have to say yes or no so the reporter can pick it up.
I'd like to take you through this letter like we have on the others First, you consider this letter to be defamatory, right?
A. It's all part of the whole thing, yes.
Q. Tell me what you consider to be defamatory in this letter
A. Double standard.
Q. Second paragraph?
A. Yes. Her calling me Mike.
Q What did Michelle call you?
A. Coach.
Q You never heard her call you anything else?
A. She's called me coach.
Q Okay Remember, the question is Did you ever hear -- I understand the answer is she calls you coach Did you ever hear her call you anything else?
A. She called me Mike in a joking manner since this letter, yes. Yeah, she has.
Q Has she called you anything beside coach

1 before this letter?
2 **A. For basketball, for school, it was coach.**
3 Q. I didn't limit the question to that. I'm
4 talking about, did she ever call you anything
5 besides coach before this letter was written?
6 **A. Called me coach, that's -- I believe she**
7 **called me coach.**
8 Q. Okay, it's a yes or no question. Did she
9 call you anything besides coach before this
10 letter?
11 **A. I don't believe so.**
12 Q. You don't remember?
13 **A. I don't believe she called me anything**
14 **other than coach.**
15 Q Outside the gym, outside the school, did
16 she call you anything besides coach?
17 **A. I don't believe so.**
18 Q. What else do you find defamatory?
19 **A. The whole secrecy thing with Michelle.**
20 **Every play run through her, that I stated all --**
21 **that I stated these things as it related to losing**
22 **that game.**
23 Q. We're on the second page now; right?
24 **A. Correct. I mean, just -- I mean there's**
25 **multiple sentences that would refer to there's one**

1 **set of rules for her than another on this whole**
2 **second paragraph.**
3 Q. That's the discrimination issue?
4 **A. We did have a team meeting and Michelle**
5 **did not rip the team for giving her the ball. It**
6 **was a team meeting to discuss how all the girls**
7 **felt.**
8 Q. How did the girls feel at that time?
9 **A. In fact, many of the girls apologized for**
10 **saying mean things about Michelle in that meeting,**
11 **including Kayla, Breezy, Trista. In fact, Andrea**
12 **Durrant begged the girls to stop doing what they**
13 **were doing.**
14 Q. Now, was that an attempt to try to get
15 along and reestablish unity?
16 **A. That was one of the meetings, one of many**
17 **that we, or several that we tried to.**
18 MR. BURNINGHAM: Can we take a break for a
19 second?
20 Q. Let's get through this letter first.
21 Anything else?
22 **A. After workouts, that I was at one end of**
23 **the floor just for her and ignored the rest of**
24 **them. That's not true. That Michelle and I**
25 **spread a rumor around school. That's not true.**

1 **That I never praised them or her.**
2 Q Did you ever walk past her in the hall and
3 not acknowledge her?
4 **A. I did acknowledge her. I did wave, did**
5 **say hi. We talked multiple times.**
6 Q. Can you recall any occasion where you did
7 walk past her and ignore her?
8 **A. I did not ignore her.**
9 Q. You can't remember a time when you did
10 that?
11 **A. No. She came out to track one day. I did**
12 **not ignore her at track. She only came out one**
13 **day and then didn't come out.**
14 Q. Did you call her Lehi's gym rat?
15 **A. I didn't do that. I believe this states**
16 **the wrestlers did, but I don't know that. We only**
17 **went to the tournament at CEU, and then I**
18 **disappeared to coach the Utah Sky, that's false.**
19 Q. Okay What else?
20 **A. Ridicules, degrades, mentally and**
21 **emotional degrades them, that she was forced to**
22 **play JV all summer. That's not true. Crude**
23 **coach, unfair treatment.**
24 Q. Anything else?
25 **A. Not that I can see right now.**

1 Q. All right. Let's take a break.
2 (Recess taken from 12:48 p.m.-12:58 p.m.)
3 Q. Page 2 of the exhibit, Mr. O'Connor,
4 reference to -- in the seven lines down from the
5 second paragraph there where it says "Michelle
6 called a meeting," do you see that?
7 **A. I do.**
8 Q. "Michelle called a meeting after a
9 practice one day that was supported by coach and
10 she ripped on everyone for not giving her the ball
11 enough, how she had a bad co-captain, and that we
12 were rude to her." Do you see that?
13 **A. I do.**
14 Q. Did you attend that meeting?
15 **A. If we're speaking of the same meeting,**
16 **that's the one I attended in the weight room in**
17 **the high school.**
18 Q. So you attended that meeting?
19 **A. Correct.**
20 Q. And I think you had highlighted this as
21 part of what you thought was defamatory; is that
22 right?
23 **A. What Michelle had stated, that's not what**
24 **happened. I think that's part of the whole**
25 **picture of the whole thing, yes.**

Q. If it was another meeting that you were not in attendance at, you could not comment on the veracity of that statement; correct?
A. If there was a separate meeting, I could not.
Q. Okay. Another question -- and I'll be happy to go back to the exhibit if we need to -- but remember the discussion we had about Kera coming on to help coach the team --
A. Yes.
Q. -- for a couple of weeks? How long did she actually help the team?
A. She came one day, observed practice, and that was the only day she attended.
Q. Do you know why she only came one day?
A. Yeah, she felt I didn't need any help.
Q. Okay. Wasn't the plan that she was going to come for several weeks?
A. That was what could have happened, yes.
Q. And your testimony is the reason that didn't happen is because she didn't think she could really help because you were already doing a good job?
A. Absolutely.
Q. All right. Let's go to the next exhibit.

(Deposition Exhibit No. 19 was marked.)
Q. This is Exhibit 19. Again, calling your attention to Exhibit 13, this looks to be one of the letters that you identified as being defamatory; correct?
A. Yes.
Q. Could you please go through the letter and point out those items that you consider to be defamatory.
A. Psychological and emotional abuse.
Q. Starting with the second paragraph there?
A. Correct. Described self-esteem and confidence. Confusion. Rules not the same for everyone. Concentrating on one sport. Criticizing her for not being at track. Countless hours reviewing film stats and strategizing. Never happened.
Q. Have you ever spent any hours with Judy Filamohala discussing stats and strategizing?
A. We did not sit down and do this.
Q. You've never sat down with her and reviewed film?
A. And reviewed film just me and her? No.
Q. Have you ever reviewed film where she's been present?

A. When there was a team dinner, breakfast at their home, there was film on.
Q. Breakfast at the --
A. At their house, a team one that the girls attended. They had game film on. But I did not discuss, strategize or watch film with them.
Q. Ever?
A. When I came to pick a film up, it might have been on, but we didn't strategize or discuss. I came to pick up my copy of the film.
Q. Now, are these films that she was making?
A. She was the one who did the filming for us, yes. She volunteered at a team meeting as a freshman to do that for the team.
Q. And I think we -- if we didn't, we saw that on coaching responsibilities, that she was listed as making films for the team; right?
A. No. Coaching response.
(Deposition Exhibit No. 20 was marked.)
Q. You see down there under Ray Rawson where it says "Film on game day, Harrison"?
A. That was to let him know that's where the film -- that's who would be filming. This meeting took place before tryouts for the coaches. We sat down, went through all of our responsibilities.

And one of his was to make sure that that took place.
Q. Was this the official film.
A. This would be the film I used.
Q. So she did have that responsibility on this list, didn't she?
A. She filmed our games for me.
Q. Okay. Well, what's the difference between that and she had responsibility to do it? If I only have to ask the question once, then the depo is going to go a lot faster.
A. She volunteered and we had a team -- we typically have a meeting at the beginning of the year and parents volunteer to do things. She did that as a freshman, when Michelle was a freshman, and so that's who -- the responsibility to pick the film up was Ray Rawson and to make sure she had it, yes.
Q. And after she volunteered, that was her responsibility to do it, wasn't it?
A. Not a responsibility, it was something she wanted to do. She volunteered to do.
Q. Okay. You can put that one down now. We're back -- we hadn't finished with 20 because we got sidetracked on that issue. What else do

you consider to be defamatory?
MR RUST And now we're talking about Exhibit 19?
Q That's correct
A. Consistent rules. Double standards. The whole incident of the shoes, practice uniform.
Q You're saying that none of that is true?
A. That I allowed her to wear another uniform? No. Everyone wore practice gear in practice. She does not have to run sprints. That's not true. Do you want me to say -- flying home incident, why she was allowed to fly home?
Q Do you have anything to add to that from what you testified about earlier?
A. No.
Q On the next one, it says that Michelle was allowed to stay with her mom in Cedar City during the state tournament and ride home with her mom We talked about riding home with her mom What about -- did she stay with her mom in Cedar City as well?
A. She did.
Q And that was with your permission?
A. She didn't ask me to do that. I believe her sister told me that that's what was happening.

Again, after what was -- occurred after the game.
Q Her sister being?
A. Krista, I believe.
Q Krista?
A. Yes.
Q And that - at least at that point, you knew that she was staying with her mom?
A. Correct.
Q What about the statement about Chelsie Haderlie?
A. She did not ask me to go home with her parents.
Q So you deny that that happened?
A. I did not tell her no.
Q So you deny that happened?
A. Yes. In fact, Amanda Hyde went home with her folks because she asked and we said yes.
Q Okay What else do you consider to be defamatory?
A. Michelle changes the plays.
Q She never did that?
A. No. Official stats were never sent to me from her, from Ms. Filamohala.
Q You don't have any separate stats for Michelle?

A. No, I did that -- I did stats as a team. And that's in the yearbooks that I presented the kids at the end of each year, their team stats.
Q So you never remember any stats on Michelle?
MR. RUST. You mean specifically separate?
Q Right, that are kept separate
A. No, I don't have anything separate.
Q All right What did Judy provide you with beside the film that we've already talked about?
A. Nothing but the film.
Q You've never received anything else from her? Letters, stats?
A. No.
Q Plays, suggestions?
A. Plays? None.
Q Okay All right We'll move through We've already talked about Michelle's never called you Mike; right?
A. Well, the reference that I'm taking from this is that in practice as coach, did she ever call me Mike. And that didn't happen.
Q Well that's not what this says
A. Well, it's under the realm of basketball coach and her. I think that's what they are

saying, that in practice, she could call me Mike and everyone else couldn't.
Q. My question is a lot more simple than that, and it's a yes or no question. And that is, Michelle never called you Mike, right?
A. She does not call me Mike.
Q Well, again, what's the difference between that and saying, she has never called me Mike?
A. Well, I think there's a big -- I told you she said -- she has called me Mike since the reference of this in the letter, jokingly, yes.
Q. Let's limit it to before the letter
A. She didn't.
Q She never called you Mike?
A. She didn't call me Mike.
Q. She never called you Mike?
A. She didn't call me Mike.
Q. She never called you Mike? The question is never. It's a yes or no.
A. She never called me Mike.
Q Okay, good. See, that was easy Right? Just answer it Okay, what else you got in this letter?
A. Promoting one player versus building a team. We discussed some of this before. The

1 **captains padding stats.**
2 Q Let's look at the captain issue You're
3 down here on these separate smaller paragraphs on
4 the bottom of the page, right?
5 **A. Yes.**
6 Q What was your practice before the first
7 year you were with the team? Did the players
8 choose the captain or did you?
9 **A. As a head coach, I've never had the**
10 **players pick the captains.**
11 Q And that includes all of your experience
12 at Lehi and in California?
13 **A. And Bell Flower, that's correct.**
14 Q What else?
15 **A. Padding stats, incorrect. Taking people**
16 **out because they had more points than Michelle.**
17 Q Did that ever happen?
18 **A. No.**
19 Q Did anybody ever outscore Michelle?
20 **A. I'd have to look at the stats --**
21 Q You don't remember?
22 **A. -- in the game.**
23 Q Do you ever remember that happening?
24 **A. I don't look at that. That I stated that**
25 **they intentionally lost the game to make Michelle**

1 **look bad. Never said it. There was press for --**
2 **as many players as possible were given publicity**
3 **to the press on my part.**
4 Q. Did you put out press releases or just
5 talk to the press?
6 **A. I did not put them out. That was -- I**
7 **gave them as many names each time I called them.**
8 **I did numerous things that could have taken place**
9 **to try to get as many of our girls recognized as**
10 **possible.**
11 Q Is there anything else in this letter that
12 you consider to be defamatory?
13 **A. Right there, throughout the spring and**
14 **summer, haven't noticed any change in attitude or**
15 **behavior. Like I said, there weren't a whole lot**
16 **of things. They attended a spring league as**
17 **parents. What else were they at? Nothing. What**
18 **could they have gone to where they saw me to**
19 **observe that? So they're taking this from a two-**
20 **day event.**
21 Q Well, and if that's where she took it
22 from --
23 **A. Well it's an inaccurate statement.**
24 Q. Well she's justified in having an opinion
25 that she didn't see a change in your attitude.

1 **A. This whole thing about Breezy's shoulder,**
2 **I did discuss with her about her shoulder. I did**
3 **not ignore her. Miss Filamohala has not had**
4 **control over my program. I have not had 10 to 15**
5 **girls quit the program. I believe the basketball**
6 **program was already deteriorated when I took over.**
7 **I think I helped the program.**
8 Q How had it deteriorated before you took
9 over?
10 **A. Four and 16 two years in a row. Unhappy**
11 **parents. Unhappy players.**
12 Q Well, record-wise, we know that you
13 improved the record So as we've talked about
14 last time, that's not a hundred percent of how you
15 judge the success of a program; right?
16 **A. It's one of the main factors.**
17 Q Would you consider it as the primary
18 factor is win/loss record?
19 MR RUST For whom?
20 MR HOMER We're talking to Mr O'Connor
21 here
22 MR RUST I understand, but you're saying
23 it's most important. Is it for him or for other
24 people?
25 MR HOMER: Well, I'm not going to ask him

1 to speak for other people I mean, he has his
2 opinions. And there's obviously more than one
3 person in this lawsuit
4 But what do you consider -- do you
5 consider that to be the primary factor is win/
6 loss
7 **A. I think it's a major factor.**
8 Q What are the other factors?
9 **A. I think the -- it moving in a direction**
10 **that it -- a positive direction. And I think --**
11 **and according to the principal, that was taking**
12 **place. They were very happy with the direction it**
13 **was going.**
14 Q How about the parents and their view of
15 the program, is that a factor that you think is
16 important?
17 **A. I do. And I believe there were just as**
18 **many parents happy. I think there were plenty of**
19 **them that were happy.**
20 Q. Give me a list of the names of the parents
21 that you believe thought the program was going
22 well and they were happy
23 **A. I think I named some names last time.**
24 Q Well, tell me who you think these people
25 are I think this is in a different context

A. **Well, anyone not invited to their meeting or who refused to attend the meeting.**
Q. All I want are names rather than characterizations All I'm after is facts
A. **Those who were happy?**
Q Yes
A. **I think you could put Kay Hao, the Haos, H-A-O. I think Mrs. Jex would say something different.**
Q Now, you're saying she was happy?
A. **I think so.**
Q I couldn't tell from the answer I just -- I want to make sure that the people you're listing are the ones that are happy with the program So you have the Hao family Do you remember their names?
A. **I don't.**
Q It's H-A-O though?
A. **Yes.**
Q Mrs Jex?
A. **Uh-huh.**
Q Who else?
A. **I believe the Stoddles were happy. I believe Bob Gray was happy. The Filamohalas, the Herefords, the Hunt family, the Worthen family.**

Let's see -- and that's a start.
Q. If you come up with any other names that we haven't talked about before, I'm happy to have you supplement those. Did you finish commenting on this letter?
A. **I believe that's --**
Q. That's Exhibit 19?
A. **Yes.**
Q. Now, you know that Breezy was Sue Chandler's daughter, right?
A. **Yes.**
Q. And we've talked about Kayla Burningham who is the Burninghams' daughter, right?
A. **Yes.**
Q At some point in time, did you decide to cut Breezy and Kayla?
A. **No, I did not.**
Q. You never did?
A. **No.**
Q. Did you ever tell anyone that you were going to cut them?
A. **I did not.**
Q. So up until the time that you became aware that you were no longer going to be the coach of the girls' basketball team, you had no plans to

cut them and had never told them that you were going to?
A. **I never told them I was going to cut any of them.**
Q Okay Let's go to the next exhibit
(Deposition Exhibit No 21 was marked)
Q This is Exhibit 21 If you look at Exhibit 13, again on the second page, this appears to be one of the letters that you believe is problematic, right?
A. **Yes.**
Q Can you look through the letter and tell me what you consider to be defamatory in this letter, please?
A. **Brang Megan Hereford over from Mountain View. I told a girl not to shoot. That didn't happen.**
That she was pulled out because she shot, no. This is not even a parent of one of my players, it's just someone who's contributing to the whole picture. She's not in every practice, doesn't have a girl in my practice. This letter is just an addition to her friends.
Q. They're making a reference to their niece; correct?

A. **Yes.**
Q And a family friend?
A. **She is.**
Q No, they're making reference to their niece and a family friend they said played for you, right?
A. **Yes.**
Q That's the connection, not a daughter like some of the others, right?
A. **Correct.**
Q And again I want you to focus on what you believe is defamatory in the letter
A. **Different rules than the rest -- for Michelle than the rest of the team. She could not -- she wasn't on time and everyone else had to be. That I decided to vote and pick instead of the girls vote. Make her captain to look good in the paper.**
That I took Andrea out because she was going to outscore Michelle. That Judy came down and told me -- after the game and yelled at me for taking -- not taking her out. That never happened. That Judy told me that Michelle needed 30 points to take the scoring lead -- to lead the state in scoring. Never happened.

Q. Did she ever lead the state in scoring?
A. I don't know.
Q What about the reference to Coach O'Connor apologized for his oversight Did you ever do that?
A. Say that again.
Q It's in the middle of the paragraph. It says "Coach O'Connor apologized for his oversight "
A. That conversation never took place.
Q Did you ever apologize to anybody for anything that you did while you were a coach?
A. I'm sure I did for -- I couldn't recall what for.
Q Did you ever apologize to the parents for misunderstandings about the program and their lack of --
A. I couldn't -- I don't know if I did.
Q Did you ever apologize to any of the players for anything you did?
A. Yeah, I apologized to the team for when we lost the Carbon game, because that was my fault. And I apologized to the team in the locker room.
Q. Was that the only apology that you remember?

A. That I can remember at this time, yeah. Yes.
Q Okay What else in this letter do you consider to be defamatory?
A. Every play was for Michelle in the state tournament. Obviously Michelle, being double and triple teamed. That didn't happen. That someone wasn't allowed to shoot. That didn't happen. That Michelle didn't want to be responsible for losing the game. That was not true. She would have been more than happy to take that shot.
Q Now which game is it that this is referring to here in Cedar City? Is that the Carbon game you were talking about?
A. The first game there.
Q That's the game that you say was your fault that the team lost?
A. No, the Carbon game was our last regular season game.
Q Oh, that was a different game then?
A. Yes.
Q. Did you believe that this game was your fault in Cedar City that it's referencing here?
A. Where does it say that?
Q. The statement from someone in Cedar City,

"I have never seen anything like it. Your coach was totally responsible for losing that game." Do you see that?
A. Ultimately in the end, the coach is responsible any time they lose.
Q Sure, I understand that. But, on the other hand, you highlighted the fact that you felt like you were responsible for the Carbon game.
A. Yes, because I messed that one up strategy-wise. What took place in the last minute, I messed that up. And I told the kids.
Q. Did you believe that you were responsible for the loss of this game in Cedar?
A. As head coach, yes. But, you know, I think we were prepared to play that game. They didn't do anything that we didn't prepare for in that game. We just didn't get it done.
Q. Okay All right Let's move on to the next exhibit.
(Deposition Exhibit No 22 was marked)
Q First look at Exhibit 13, if you would, Mr O'Connor The first -- the second page of the exhibit, this looks like it's one of the letters that you identified as being defamatory, is that correct?

A. Yes.
Q. Please identify portions of the letter you consider to be defamatory.
A. Actions of favoritism. Plays designed just for one player. Harshly yelling and pulling someone out for shooting.
Q Anything else?
A. Wanting me removed. I think any of those who say that, I feel that's part of the whole thing. I had a problem with that.
Q You're talking about the sentence that says, "We would appreciate action be taken toward the Lehi Girl's Basketball season 2004-2005 by removing coach O'Connor from the head coach position"?
A. Yes.
Q You don't think that parents couldn't take that position that you should be removed without defending you?
MR RUST: Foundation. These do not appear to be parents.
Q. The authors of the letter
A. They weren't there every day in practice every game. And to me, it's all part of the big picture, all of these together.

Q. Do you think that if someone said, we think that Coach O'Connor ought to be replaced, that they were defaming you?
A. When it's done with all of these letters, that's what this is doing.
Q So any time a parent went to administration or the school board and said, as parents, we think that the coach ought to be replaced, that's defamation in and of itself?
A. I didn't say that. I said with all of this together, that's -- it's participating all together in this.
Q Well, answer my question then. Is that defamation in and of itself, just saying that you ought to be replaced?
A. If they just went in one -- I don't know.
Q. Okay Let's go to the next one.
(Deposition Exhibit No 23 was marked)
Q. If you look on Exhibit 13, this looks to be one of the letters that you consider to be defamatory; correct?
A. Yes.
Q. Tell me what you consider to be defamatory.
A. Abusive behavior coach directs towards the

girls. Double standard existing. Special treatment. Special privileges. Clearly defined set of rules was in the player-parent contract. Anarchy. Abusive mistreatment. Very abusive. Scream and rave at the girls. Never Michelle.
Q Did you ever scream and rave at the girls?
A. I yelled as, like I said earlier last time, like any other coach.
Q. So what's your objection to that, that they exempt Michelle out?
A. Well, they -- each girl was given constructive criticism, direction all the same, everyone. Our general practice as a staff was every time we corrected someone, there was praise with it. And that's what we -- our whole staff did that.
Q My question is: Do you have a problem with the word scream or do you have a problem with the fact that Michelle is exempted out, or both?
A. I think it's trying to -- the problem is that it's a double standard that she never was disciplined or never spoken to or corrected, that's where my problem is.
Q. So you don't have a problem with the word scream then?

A. Well, in the context of scream and rave, I have a problem with that. Because to me, that seems to be overboard.
Q. What's your definition of scream?
A. Right in their face.
Q You've never done that?
A. From the top of their lungs. No.
Q. What's your definition of rave?
A. I guess to me, out of control.
Q And you've never been out of control with the team?
A. No.
Q And you don't believe that anyone watching you could have got that opinion from your behavior, is that right?
A. I don't. I didn't have anyone approach me or come talk to me.
Q. Anything else in this letter that you consider to be defamatory?
A. No.
Q Let's go to the next one.
(Deposition Exhibit No. 24 was marked.)
Q. Exhibit 24 Look at Exhibit 13, Mr. O'Connor. This appears to be one of the letters that you've identified as defamatory; correct?

A. Yes.
Q. All right Looking then at Exhibit 24, identify the main portion of the letter you consider to be defamatory
A. Promoting one player. Pulling individuals from games. Him stating that comments were made to his granddaughter that ruined her self-confidence. She only played as a sophomore.
Q. Anything else?
A. No.
Q Do you see in the first sentence there it makes reference to, "I am writing this letter per request from Mrs Donna Barnes"?
A. Yes, I see that.
Q Do you know who Donna Barnes is?
A. I do.
Q Who is she?
A. A board member.
Q Do you have any information that Donna Barnes did not request these letters from the parents?
A. I don't know if she spoke to Donna Barnes. I don't know what the basis of that line means, if he spoke to her personally or if someone asked him to write the letter because Donna Barnes said,

1 **hey, let's -- you can write letters to voice your**
2 **concerns and he was asked to write a letter. I**
3 **don't know where -- why he was asked to write a**
4 **letter. His daughter wasn't on the team, didn't**
5 **play that year.**
6 Q. She had played on the team though; right?
7 **A. Two years previous.**
8 Q. And his observations are in part about
9 what he observed when his daughter was on the
10 team; right?
11 **A. No, I don't see anything here that's**
12 **observing when his granddaughter played. He said**
13 **"I watched when she played from 7th and 8th**
14 **grade." He said they lost their confidence. I**
15 **don't think that's the case, but --**
16 Q. Do you see the fifth paragraph where it
17 says, "As these girls entered high school they
18 were very confident and loved playing the game.
19 When Coach O'Connor became their coach, I saw a
20 very different team"?
21 **A. Those girls played very well as sophomores**
22 **on the sophomore team.**
23 Q. I understand that. But which is again
24 your opinion. I'm asking you about whether he
25 had -- he was in part making comments about his

1 granddaughter's experience when you were coach.
2 **A. That's what he's saying.**
3 Q. Okay. Going back to the question, you
4 don't have any information that Mrs. Donna Barnes
5 did not ask for these letters, do you?
6 **A. I don't know that, except that it's on**
7 **some of the letters.**
8 Q. But certainly you can't tell me today that
9 there's anything improper about a school board
10 member asking parents to submit information to the
11 board, can you?
12 **A. She didn't tell them what to write.**
13 Q. That's my point. So is the answer to the
14 question no?
15 **A. As a board member, I think that's the**
16 **direction they take if someone has concerns, you**
17 **have an opportunity to write them down.**
18 Q. Right. And that's an attempt for board
19 members to have open communication with parents of
20 the school district; right?
21 **A. I believe that's the process.**
22 Q. Let's go to the next one.
23 (Deposition Exhibit No. 25 was marked.)
24 Q. The next one is Exhibit 25. If you look
25 quickly at Exhibit 13, this appears to be one of

1 the letters that you are alleging is defamatory;
2 correct?
3 **A. Yes.**
4 Q. All right. If you'll go through Exhibit
5 25 then and tell me what portions of that letter
6 are defamatory.
7 **A. It's stating that I told her daughter how**
8 **stupid and dumb she was. That didn't take place.**
9 **That she was benched because of rodeo. That**
10 **didn't take place.**
11 **Talent being degraded and denied college**
12 **opportunities. That was never done. Recruiting**
13 **from other schools.**
14 Q. Anything else?
15 **A. Not that I can see.**
16 Q. Let's take a ten minute break.
17 (Recess taken from 1:55 p.m. to 2:08 p.m.)
18 MR. RUST: Back before I forget, I would
19 like Mr O'Connor to have the opportunity to read
20 and sign. I have to do that on the record, you
21 know.
22 MR. HOMER: Should we go to the next one?
23 (Deposition Exhibit No. 26 was marked.)
24 Q. Exhibit 26, if you look on Exhibit 13,
25 Mr. O'Connor, on the last page, that looks to be

1 one of the letters that you claim is defamatory;
2 right?
3 **A. Yes.**
4 Q. Looking at Exhibit 26, identify the
5 portions of the letter that you consider to be
6 defamatory
7 **A. Self-serving, totally out of line. Girls**
8 **insulted. Double standard. Supported one athlete**
9 **at the expense of others. Getting involved with**
10 **one player. Blasting the team in the newspaper.**
11 Q. Are you saying you never did that?
12 **A. No. I didn't speak to any reporters after**
13 **that game. None came to me.**
14 Q. That's it? Have you ever blasted the team
15 in any newspaper article?
16 **A. Blasted our team?**
17 Q. Yes.
18 **A. I don't believe so.**
19 Q. Not that you recall?
20 **A. Nope.**
21 Q. All right. Let's go to the next one.
22 (Deposition Exhibit No. 27 was marked.)
23 Q. Exhibit 27, I don't see this one listed.
24 **A. I never received this one.**
25 Q. You've never seen this?

A. **Never.**
Q It's been produced, so what you're saying is as of right now, today, you've never seen this letter?
A. **This is the first time I've seen this one.**
Q. Okay Well, actually it is on your list, I'm sorry. First page, Chad and Kade Hillstead dated July 19th, 2004. Do you see that there?
A. **Yes.**
Q Can you identify anything you consider to be defamatory on the letter if you haven't seen it? It's a short letter Maybe you can read it
A. **Icing a girl's leg for two hours at practice. And others girls, it didn't matter. Everything revolves around one person.**
Q Anything else?
A. **No.**
(Deposition Exhibit No. 28 was marked.)
Q Exhibit 28?
A. **I've seen this.**
Q If you look on Exhibit 13, that looks to be one of the letters that you identified, correct? On the first page there?
A. **Yes.**
Q. Looking at Exhibit 28, identify portions

of the letter you consider to be defamatory.
A. **What disgrace he is to players, school and fans. Out of control. Yelling out on the court. Yelling at the girls. Double standard. Ill-qualified to be a coach. Disgrace.**
Q. Anything else?
A. **(Witness shakes head.)**
Q Now this letter makes references to you screaming as well, doesn't it?
A. **I believe it said --**
Q Or yelling, yelling and screaming, midway through the second paragraph there
A. **Screamed at and even -- girls are afraid to play because he's out of control or he's out on the court yelling at the girls to shoot, but if they do, they get screamed at. If they make it, because it was supposed to be Michelle shooting the ball -- that's not true.**
Q All right Didn't certain parents approach you about your lack of sensitivity on the court and screaming at girls?
A. **I don't believe that's what was discussed.**
Q Well, what was discussed? There was some --
A. **I sat with Gary and we discussed Kayla.**

Q. Well there's been concern expressed by various parents about your screaming at their daughters, hasn't there?
MR. RUST You mean in the letters or otherwise?
Q No, no, during the season
A. **This particular season?**
Q Okay Let's just do general, the three seasons that you coached
A. **Uh-huh.**
Q Okay? You were approached by the parents who had some concern on how you were treating their daughters, screaming at them, yelling at them; right?
A. **I've had some come to me, yes.**
Q So it's not true that you were not aware of the concern that you were screaming and yelling at the players?
A. **It wasn't -- I mean it depends how we're defining screaming and yelling here.**
Q Well, right now we're defining it the way the parents did when they approached you and asked you not to do it
A. **I've had some come to me about their daughter being yelled at, yes.**

Q. Okay. So, these letters where they talk about you screaming and yelling at the players is not totally out of context, you understand that was a concern of some of the parents that you coached, right?
A. **For some.**
Q Including the parents that we've mentioned in correspondence?
A. **This isn't a parent.**
Q. I understand But other people have observed your conduct on the court, right?
A. **Not from observation. No one has approached me about my observation of -- an observation they've made.**
Q Oh, no parent has ever approached you after seeing you scream and yell at their kids during a game --
A. **No.**
Q. -- during practice?
A. **Maybe what their daughter told them, yes.**
Q So, you're telling us that it's -- we have to distinguish between what their daughter told them and what they personally observed on the court?
A. **Correct.**

1 Q. Okay. So you deny that any parent ever
2 went to you after seeing you scream and yell at
3 their daughters during a game and expressed
4 concern that you would treat them that way?
5 **A. That's correct.**
6 Q Okay
7 (Deposition Exhibit No 29 was marked)
8 Q. Exhibit 29. If you'll look back at
9 Exhibit 13, this looks to be one of the letters
10 that you identified as defamatory.
11 **A. Yes.**
12 Q. Looking then at Exhibit 29, identify those
13 portions of the letter that you consider to be
14 defamatory.
15 **A. Shenanigans. Abusive behavior. Same**
16 **treatment to Michelle than others. Two sets of**
17 **standards. That I don't have any decency or moral**
18 **fiber. Emotional and mental abuse.**
19 Q Anything else?
20 **A. And the abuse.**
21 Q. Okay.
22 (Deposition Exhibit No. 30 was marked.)
23 Q. Exhibit 30, if you look at Exhibit 13,
24 this looks to be one of the letters -- wait a
25 second. That is not. Yes, this looks to be one

1 of the letters that you identified on Exhibit 13
2 as defamatory; correct?
3 **A. Yes.**
4 Q Look at Exhibit 30 then and tell me what
5 portions of the letter you consider to be
6 defamatory
7 **A. Favor one player, abuse -- verbally**
8 **abusive. Those things stemmed around one person.**
9 **Pulls and yells at girls when -- pulls them out.**
10 Q Anything else?
11 **A. Not that I can see at this time. But,**
12 **again, like I've said before, all of the letters**
13 **as one big group.**
14 Q. Well, these are certainly the same types
15 of comments that you had been receiving from
16 parents throughout your coaching career; right?
17 **A. Throughout my coaching career?**
18 Q. Yes, throughout your coaching career at
19 Lehi.
20 **A. No, not throughout.**
21 Q. At least during the last year,
22 year-and-a-half; right?
23 **A. Yes.**
24 Q. So these are the same types of verbal
25 comments that parents would approach you with and

1 say, we need to work this out and either make a
2 change or change in your attitude and the way you
3 conduct yourself or something else, right?
4 **A. Well, I believe only two parents ever**
5 **talked to me about their daughters in regard to**
6 **maybe yelling at them, two.**
7 Q And who were they?
8 **A. Mrs. Durrant and Gary, as we discussed**
9 **previously. The last four or five letters aren't**
10 **even people who had athletes in my program. And**
11 **they're making statements like this based on what?**
12 Q. Well, they didn't have children.
13 **A. Based on what? What was told to them.**
14 Q. Well, it's not just parents that can
15 attend basketball games; right?
16 **A. Anyone can attend the game.**
17 Q. And people have their own observations
18 about what happens on a basketball court after
19 being in a game You and I may have different
20 views of Jerry Sloan and yet we see the same game.
21 And I'm not picking on Jerry because he had a bad
22 season this year, but any coach, we may have
23 different views of a coach, right?
24 **A. We could.**
25 Q. And so these letters were written by

1 people who admittedly may have based some of what
2 they're saying on what their daughters or friends
3 or grandchildren have told them, but they also
4 have had an opportunity to view you on the court
5 dealing with their daughters and others; right?
6 **A. Maybe.**
7 Q. And at least you knew as early as the
8 previous fall in 2003 that there was some real
9 concerns by these parents about how you were
10 conducting the program?
11 MR. RUST: You say real concerns, you mean
12 legitimate?
13 MR. HOMER: What did I say?
14 MR. RUST: You said there were some real
15 concerns. And I'm asking whether real means
16 legitimate or just simply they expressed concerns.
17 Q. Well, obviously you don't believe it and
18 you've already told me that, but let's just say
19 that you knew there were concerns.
20 **A. Before the season of this season started?**
21 Q Yes.
22 **A. That there were concerns about what?**
23 Q. About you as a coach and how you conducted
24 yourself on the court, favoritism and, you know,
25 all of the things we've talked about.

A. **Some favoritism in recruiting but not how I treated girls.**
Q. Well, you had -- you indicated there's at least two that talked to you about screaming at their children.
A. **One during that season, one during her sophomore season two years prior.**
Q. So you knew that there were those concerns as well? At least on the part of those parents?
A. **That particular parent. And we worked that out with that daughter.**
Q And you didn't scream at her anymore?
A. **We worked around that.**
Q Had you screamed at her?
A. **Have I yelled at her? As a coach yells at players, yeah.**
Q. And is it possible that someone might view that as abusive on your part?
MR. RUST Objection, speculative and lack of foundation.
A. **I don't think a coach yelling at a player is abusive.**
Q. Can it be abusive?
A. **If they cross the line. And I didn't cross the line.**

Q. And that line may be different depending on who the person is being yelled at, right?
A. **I have three assistant coaches that have been in the gym, and I didn't cross the line.**
Q. In your opinion, you didn't cross the line, but you recognize that yelling and screaming can be abusive under certain circumstances, can't it?
A. **The term abusive didn't come until these letters. I never was accused of being abusive.**
Q. That's not the question The question is: Can screaming and yelling become abusive?
A. **I guess it could.**
Q. And that's a very subjective view, isn't it?
A. **I don't know.**
Q. Let's move to the next one.
(Deposition Exhibit No. 31 was marked)
Q. If you look at Exhibit 13, Mr O'Connor, Exhibit 31 looks to be one of the letters that you've identified as defamatory; correct?
A. **Yes.**
Q. All right. Please review Exhibit 31 and tell me the portions of that letter that you consider to be defamatory

A. **Favoritism. Yell and act like a child on the side line. Giving thumbs up to just one player when they're heavily guarded.**
Q Do you see anything else?
A. **Not at this time.**
Q Do you know Mike Powell?
A. **I don't.**
Q. So you can't tell me whether he's ever been to a game or not?
A. **I do not know.**
Q. See where it says "You would have to go to just one game to know what I mean, to see him yell and act like a child on the sidelines because of a missed open shot attempted by somebody on his team." Do you see that?
A. **I do. I see that.**
Q. And that appears to be based on his observation, does it not?
A. **I don't know.**
Q Have you ever given a thumbs up at a game before?
A. **I have no idea. I may have to any player.**
Q What does it mean when you give the thumbs up?
A. **Sometimes a thumbs up is a play.**

Q. That's one of your signs?
A. **I've used that before.**
Q. What play have you used it for?
A. **I don't believe I've used it here.**
Q Never used it in Utah?
A. **I don't know if I have. I don't believe I have.**
Q What would it mean otherwise?
A. **It would be a compliment to a girl, telling them, good job, keep it up.**
Q Let's go to the next one.
(Deposition Exhibit No 32 was marked)
Q That's Exhibit 32 which looks to be an undated letter from Kent Beckstead and Suzanne Beckstead to the Alpine School District.
A. **Yes.**
Q And on your list you have a letter from Kevin and Suzanne Beckstead and on the date it has "unknown " Is this the letter that you had reference to?
A. **I believe so.**
Q So you believe that this letter is defamatory, is that correct?
A. **Yes.**
Q Could you please identify the portions of

1 the letter that are defamatory?
2 **A. Special treatment. Rules didn't apply to**
3 **one person. Concern with ethics. The way I treat**
4 **the girls. And all the girls expressed concerns**
5 **were on one team and the rest on another.**
6 Q Anything else?
7 **A. Not at this time.**
8 Q All right If you look at the beginning
9 of the last paragraph on the first page it makes
10 reference to the meeting between Mr Worthington
11 and the parents, does it not?
12 **A. Uh-huh. Yes.**
13 Q And in the parenthetical it says "after
14 the coach told us that nothing would change "
15 **A. That did not happen.**
16 Q Did you discuss changes that you could
17 institute in specified form?
18 **A. We had a parent meeting in April and it**
19 **had a variety of issues and things we were trying**
20 **to accomplish and do that was on that agenda. But**
21 **I never said that.**
22 Q All right. So, you believe that there --
23 things could change; is that right?
24 **A. I didn't say. I didn't say that.**
25 Q. All right. So you didn't say, change or

1 no change at all; is that right?
2 **A. As a coach we're always trying to change**
3 **things and do things better. And I met with**
4 **Mr. Worthington and we agreed to try to work on**
5 **those issues, work on those things.**
6 Q Well, what I'm driving at, you've had some
7 time to think about this The last time we met,
8 you couldn't think of anything in concrete form
9 that you wanted to change. You couldn't really
10 identify anything other than just saying, we're
11 always working for change Do you have anything
12 specific that you meant?
13 **A. Well, you asked me in retrospect, what**
14 **did I think I could have done differently. And**
15 **I told you that I felt that myself and my coaches**
16 **did everything we could in that situation. You**
17 **know, and now after some of them met with Mr.**
18 **Worthington, one of those changes was having Coach**
19 **Allen help. You know, that was a change, adding a**
20 **new coach, new eyes to the program. So --**
21 Q But if you didn't think that there was a
22 problem with any of these categories that have
23 been identified, then obviously you didn't think
24 that anything needed to be changed; right?
25 **A. A problem with which?**

1 Q. Well, treating one of your players
2 different than the others, for example.
3 **A. I didn't think that took place. Neither**
4 **does my assistants.**
5 Q. So, no change needed to occur there;
6 right?
7 **A. I think as a coach and coaching staff, we**
8 **would have tried to do -- we will try to do more**
9 **things as it relates to a variety to try to show**
10 **that that isn't the case.**
11 Q. You didn't think there was a problem?
12 **A. Me or my assistants didn't think that that**
13 **occurred.**
14 Q Screaming and yelling, you didn't think
15 that there was a problem with that?
16 **A. I didn't.**
17 Q. So no change needed to occur there? In
18 fact, in all of these categories in these letters
19 we've looked at, your testimony has been, I didn't
20 do it, I didn't do it, I didn't do it, it didn't
21 happen, it didn't happen, it didn't happen. So
22 what changes could have possibly taken place that
23 would have improved the program?
24 **A. I don't know.**
25 Q. And isn't that --

1 **A. We were all trying to work together in**
2 **doing that.**
3 Q. And yet you knew in April and then of
4 course later in July that the parents had a
5 different perception of you, didn't you?
6 **A. That the words changed?**
7 Q No, they had a different perception.
8 **A. That their perception changed?**
9 Q. They had the same perception in April,
10 didn't they, as they did in July?
11 MR. RUST: Objection, it calls for total
12 speculation and trying to look into the minds of
13 these parents.
14 **A. All I know is the words changed.**
15 Q. The words changed?
16 **A. A lot changed.**
17 Q. Well, that's because --
18 **A. That I abused their kid. That did not**
19 **happen.**
20 Q. Isn't that because you didn't see anything
21 you needed to change and the parents said, okay,
22 well then we have a problem here?
23 **A. No, I don't think so.**
24 Q. Because even to this day, you say there
25 was no problem regardless of what's in these

1 letters?
2 MR. RUST: I'm going to object. You're
3 really arguing with the witness here. You've got
4 your answer on all of this, and you're being the
5 one that's being a little bit abusive at this
6 point in your questioning.
7 MR. HOMER: If the witness wants to answer
8 the questions as asked, then I don't have a
9 problem, but he never does that.
10 MR. RUST: I object to that
11 mischaracterization of what the witness -- you
12 want the witness to say it in the form that -- so
13 you can go to the judge and say, ah-ha, I've got
14 this specific answer.
15 And he's answering it truthfully and he's
16 answering honestly but he's not giving the answer
17 you want, so therefore you keep badgering him to
18 try to come up with a different answer.
19 MR. HOMER: Believe me, Joseph -- and you
20 know this is true -- this is not badgering the
21 witness. This is asking questions that I want an
22 answer to.
23 MR. RUST: I think at this point, you
24 really are at the point of badgering him. I think
25 he's answered.

1 MR. HOMER: At some point in time, if you
2 want to take that to the judge and we'll look at
3 the language, but we're so far beyond that point
4 that we're not even there. I just want clear
5 answers and not general answers that go in from
6 what I asked.
7 MR. RUST: And I think he specifically
8 answered all your questions. But go ahead with
9 your question.
10 Q. Let's read it.
11 (The pending question was read as follows:
12 "Because even to this day, you say there
13 was no problem regardless of what's in these
14 letters?")
15 Q. That's the pending question.
16 **A. The problems that they stated, that's what**
17 **is being discussed.**
18 Q. Well, were there other problems that they
19 did not -- that are not stated in these letters?
20 **A. I don't believe all of the things they're**
21 **saying is the truth.**
22 Q. I understand that. But the question is:
23 Did you consider there to be any problems then or
24 now? And I can ask --
25 **A. The problems existed. I believe there**

1 **were -- the problems existed because of what they**
2 **were saying.**
3 Q. And what were those problems in your mind?
4 **A. I don't agree with all of the problems.**
5 Q. Okay. So when you say there are problems,
6 you would agree that these are perceptions that
7 parents had about the way that you ran the
8 program?
9 **A. Yes.**
10 Q. Okay. What about the sentence that reads,
11 "During this summer the team has been split into
12 two teams, our daughter and all of the girls that
13 expressed their concerns were put onto one team,
14 and the girls that went along with the coach were
15 put onto another."
16 **A. That didn't happen. There are daughters**
17 **right in this room that were on both teams, two**
18 **different teams. Daughters in this room.**
19 Q. Now, in the summer league, what were you
20 doing to attempt to try to bring the parents --
21 trying to improve the relationship between you and
22 the parents?
23 **A. We had summer schedule. We had the spring**
24 **league, the team camp -- or the individual camp,**
25 **the team camp. We had a barbecue at the end of**

1 **the summer. We had summer workouts in open gym.**
2 **I didn't have any specific meeting planned during**
3 **the summer.**
4 **I was working with Dennis Myring to do a**
5 **mental imagery program with the parents and the**
6 **athletes. He's our swim coach at the school. We**
7 **were working on doing that as an activity for all**
8 **of them to be a part of.**
9 Q. Okay. Those are events that were planned
10 during the summer. What specifically -- how were
11 you attempting to bring the parents back in and
12 show them that you were trying to make the program
13 more positive for them and their children?
14 **A. Just giving every athlete an opportunity**
15 **to be successful and play.**
16 Q. Did you have any discussions with the
17 parents?
18 **A. We had a meeting in April that showed the**
19 **whole calendar, an opportunity for everyone to**
20 **talk and discuss whatever was on their mind.**
21 Q. Anything in between then and July?
22 **A. No, we didn't have many things to have**
23 **that opportunity, except the trip to Lake Tahoe**
24 **that the team was taking where parents were**
25 **invited to come.**

Q Did you have any discussions with parents, any parent in June or July, before the board meeting?
A. I wasn't around a whole lot. I was in Minnesota for ten days and I was in California. Right after the team camp, I was gone. But I was at the school every morning for workouts, there for open gym.
Q. And during those times, did you have any discussions with parents?
A. There were some parents who spoke with me.
Q Who?
A. Stoddles spoke with me, Kay Hao's dad spoke with me. At that one parent meeting, I spoke with Cheryl Anderson's parents. There were a variety of parents who came up to me. I don't remember all of them.
Q Have you told me every one you do remember?
A. At this time, the names that I can think of, that's who I --
Q Okay Let's go to the next one
(Deposition Exhibit No 33 was marked)
Q Exhibit 33 looks to be one of the letters that you've identified as defamatory; correct?

A. Yes.
Q All right. Have you decided whether or not you're going to volunteer again next year at Mountain View?
A. I haven't made a choice yet.
(Deposition Exhibit No. 35 was marked.)
Q Exhibit 35, this is a letter you've identified as defamatory; correct?
A. Yes.
Q Tell me what you consider defamatory on Exhibit 35.
A. Everything running through one player. Not healthy.
Q Anything else?
A. No.
(Deposition Exhibit No. 36 was marked.)
Q Exhibit 36, this is another letter you've identified as defamatory; correct?
A. Yes.
Q. Tell me what you consider defamatory about that letter
A. Just that the second paragraphs are almost identical from the previous letter.
Q Why is that defamatory?
A. Maybe she didn't write it.

A. Yes.
Q Looking at Exhibit 33, tell me what is in that letter that you consider to be defamatory.
A. Coach O'Connor doesn't care about anyone but Michelle. Rules don't apply to everyone. That Michelle's mom calls the shots. That I told her to take shots and I pull her when she does. Someone who beats you down and is so negative.
Q. Anything else?
A. Not at this time.
(Deposition Exhibit No. 34 was marked.)
Q This looks to be one of the exhibits that you've identified in Exhibit 13
A. Yes.
Q Please identify the portions of the letter that you consider to be defamatory
A. That I ever disrespected Chelsie. Treat all the girls the same. Rude comments to girls. Tears them down. Kissing up to the Mountain View coach. Mountain View coach ever asking me to take a girl. Money with the fundraisers.
Q Anything else?
A. (Witness shakes head.)
Q Now, the Mountain View coach they're talking about, is that Coach Houle?

Q Are you telling us that you don't believe that both these women could have had the same opinion?
A. They could have written -- sat down together and wrote it, yeah, maybe, but it's all part of the whole picture.
Q Okay.
A. A contribution like the others -- it's stating that one player is pointed out more than another.
Q Anything else in that letter?
A. No.
Q Okay Let's see here, Exhibit 8, that's another one that you've identified as defamatory, correct?
A. I believe we went over this last time.
Q. Right. I just want to make sure that you can get all of the exhibits out so you can comment on them all.
(Deposition Exhibit No. 37 was marked)
Q. Exhibit 37, this is another letter that you identified as defamatory, correct?
A. Yes.
Q. Identify the portions of that letter you consider to be defamatory

A. **Stating that I had every intention of cutting the girls as a vendetta.**
Q. Okay. Anything else?
A. **Just that -- a contribution to the whole thing.**
Q. So you consider that to be defamatory?
A. **When you put them all together in this, it's all together.**
Q. Okay. We've marked this, and I don't think I've asked you specifically to identify the portions that you believe were defamatory.
A. ***We did do this.***
Q. Did you already -- I know we marked it. Did you already identify the portions that you believe were defamatory?
A. **I believe I already answered that in the last one.**
Q. What do you consider to be defamatory about this letter?
A. **Well, you put everything together, it's all part of it.**
Q. So no specific sentence then?
A. **No.**
Q. Okay.
(Deposition Exhibit No. 38 was marked.)

Q. Exhibit 38, this -- I think it's the top of the third page there; is that right?
A. **Yes.**
Q. You've identified it as being defamatory; right? Please identify portions of the letter that you consider to be defamatory.
A. **Intimidating players and parents. Humiliated. Wrongful behavior. Winning the most important thing. Favoritism. The rating. Verbally, emotionally abused by the coach. Cross the line between coaching and abusive. Legal avenues, if necessary.**
Q. Anything else?
A. **Not at this time.**
Q. Do you know who Robert Price and Kim Price are?
A. **I do.**
Q. Who are they?
A. **Parents to Clair.**
Q. And when did Clair play for you?
A. **She was on the sophomore team and dressed some JV games.**
Q. How long did she play for you?
A. **It was just that one year. I believe she was a sophomore at that time.**

Q During this last year, did you ever state that if Michelle Harrison doesn't play next year, that you weren't going to coach?
A. **I said, if they ran her out, I would not coach them. I did say that.**
Q. When did you say that?
A. **At the state tournament after it was over.**
Q And what prompted you to say that?
A. **Because of what had gone on and how she was treated and what had happened at the state tournament with parents blaming her for us losing.**
Q. Who did you say that to?
A. **Who did I say it to?**
Q Yes.
A. **The entire team. And then every one of my coaches supported that and did the exact same thing.**
Q. Did you ever say that to any of the parents?
A. **I don't know.**
Q Did you call any of the players stupid at that time?
A. **No. No.**
Q. Did you tell your players that they had lost the game so Michelle wouldn't get her state

championship ring?
A. **I already said no, I didn't.**
Q. Did you ever tell your team that they sucked?
A. **Did I tell my team they sucked? No.**
Q. Never told them that?
A. **That we suck? I don't believe I did that.**
Q You don't remember if you did or didn't?
A. **(Witness shakes head.) I don't think I would do that.**
(Deposition Exhibit No. 39 was marked.)
Q. Exhibit 39 is another letter you've identified; is that correct? On the third page there? Third one down?
A. **Yes.**
Q. Could you identify the matters that you consider to be defamatory in that letter?
A. **I recruited a player. Every play shifted to her. I never told her that this is how it was going to be and it would not change. Promotion of one player.**
Q. *Go ahead I'm sorry.*
A. **Just that it's part of everything else.**
Q Anything else specifically that you find defamatory?

1 **A. Not that I see at this time.**
2 **(Deposition Exhibit No. 40 was marked.)**
3 Q. Exhibit 40, this is another letter that
4 you've identified in Exhibit 13 as defamatory;
5 correct?
6 **A. It's on the list, yes.**
7 Q. Identify what is defamatory in that
8 letter.
9 **A. Clearly understood team rules. The letter**
10 **is just -- and how it's being used by the group.**
11 Q. Well, the letter was written by Michael
12 Hyde; right?
13 **A. Correct.**
14 Q. So I want you to tell me what's defamatory
15 in the letter. And if you can't identify
16 anything, that's fine too.
17 **A. Well, like I said, understood team rules.**
18 Q. Help me out on that one.
19 **A. It's the last sentence, equal enforcement.**
20 Q. "Lack of clearly understand team rules and
21 equal enforcement"?
22 **A. Yes.**
23 Q. Anything else you can identify in that
24 letter?
25 **A. That her daughter was targeted, that their**

1 **daughter was targeted. I mean --**
2 Q. Anything else?
3 **A. No, not at this time.**
4 Q. Okay.
5 (Deposition Exhibit No. 41 was marked.)
6 Q. Exhibit 41, this is another letter you've
7 identified; correct?
8 **A. That's correct.**
9 Q. Looking at Exhibit 41, what do you
10 consider to be defamatory?
11 **A. I don't see anything. It's just being**
12 **used as part of the whole group.**
13 Q. Well, being used, or was it submitted to
14 the principal in March of '04?
15 **A. That's how it's being used against me.**
16 Q. Well, it was submitted to the principal in
17 March of '04; right?
18 **A. Yeah. Yes.**
19 Q. And then you've identified it as being
20 defamatory?
21 **A. Because it's with everything else, yes.**
22 Q. Is there anything in the letter
23 specifically that you consider to be defamatory?
24 **A. Not specifically.**
25 Q. All right. Thank you.

1 (Deposition Exhibit No. 42 was marked.)
2 Q. Exhibit 42 is another letter you've
3 identified in Exhibit 13; correct?
4 **A. It is.**
5 Q. Identify everything you consider to be
6 defamatory on Exhibit 42.
7 **A. Well, that we intentionally left them.**
8 **And just that it's being used in the group of**
9 **letters.**
10 Q. Well, I'm not sure what you mean by that.
11 **A. Well, there's -- these were all the**
12 **letters that were given to me at the time of July.**
13 Q. Okay.
14 **A. So with them all collectively built**
15 **together, it's part of the entire picture.**
16 Q. Okay. Michael Hyde authored the letter;
17 right?
18 **A. Michael Hyde wrote the letter?**
19 Q. Right.
20 **A. He wrote the letter.**
21 Q. So I don't understand how they're being
22 used because you're the one that's identified it
23 as being defamatory.
24 **A. Mike didn't go to the district and didn't**
25 **propose this letter to the district.**

1 Q. Oh, I understand you didn't.
2 **A. Michael Hyde didn't. He didn't go.**
3 Q. Okay. Tell me, do you have some
4 information that you want to share with us that
5 Michael Hyde is disavowing this letter?
6 **A. I didn't say he's disavowing this but he**
7 **did not go to the board with this letter. This**
8 **was an incident that occurred at the state**
9 **tournament and it was taken care of.**
10 Q. Well, this letter is not one of the
11 letters sent to the board; right?
12 **A. This was in the group of letters that I**
13 **got from the assistant principal.**
14 Q. And some of those letters were letters
15 that were originally written to Mr. Worthington?
16 **A. Not from my understanding.**
17 Q. Well, this is dated in March; right?
18 **A. Right, but it went with the group of**
19 **letters in July from my understanding from the**
20 **assistant principal.**
21 Q. Who told you that?
22 **A. Rick Robins gave me a whole stack, and**
23 **this letter was part of that stack. And he stated**
24 **that they went -- this stack of letters went to**
25 **the district.**

Q All right. So it's your understanding that this was not part of the correspondence sent to Mr Worthington in March-April, is that right?
A. This was given to him in March-April, but when the group submitted their letters to the district, they included all of the letters of March and July together as a group.
Q. All right And is it your understanding that Mr Hyde objected to that?
A. I don't know if he knew. But he did not go. My understanding is he said no.
Q. Okay Tell me about how --
A. That's all I know.
Q Tell me what that understanding is based on
A. Just that he didn't go.
Q Okay Well, that's what you said I'm trying to find out how you know that
A. I -- it was just -- I don't remember who told me but someone told me that he wasn't going.
Q. Mr Hyde didn't tell you that?
A. He did not.
Q And I assume that he told -- that you were told then after the school board made --
A. It was after.

Q. And you haven't talked to Mr. Hyde about that event, right?
A. No, I haven't.
Q. He hasn't told you he's disavowing the letter?
A. Disavowing, the definition being?
Q. He's not -- he hasn't told you that he didn't write it and is not standing behind the letter?
A. Oh, he wrote the letter.
Q. So, again, all I want to know is if you still consider this letter to be defamatory
A. I think because it was submitted with the group of letters, that's how it's being used, yes.
Q. Well, are you saying that Mr. Hyde was -- did not say anything defamatory in the letter before he submitted it to the school board?
MR. RUST: He's already testified to the things in the letter that he considered defamatory, so it's asked and answered.
MR. HOMER: I don't think so
MR. RUST: Yes, he did He talked about intentionally leaving.
Q. Okay. Do you consider that to be defamatory?

A. I believe it's saying that I did something that I didn't do.
Q Okay. And that's it?
A. Yes.
Q Okay. Let's take a break
(Recess taken from 3:30 p.m. to 4:00 p.m)
(Deposition Exhibit No. 43 was marked.)
Q. Back on the record Exhibit 43 is another letter that you've identified as defamatory; correct?
A. Yes.
Q. Reading it now, can you identify what it is you believe is defamatory in that letter?
A. Like I said, it's just part of everything else.
Q So, nothing in particular?
A. No.
Q. Now, as I understand it, when you filed your complaint, you did not name Michael or Amanda Hyde; is that correct?
A. That's correct.
Q. Can you tell me why you didn't?
A. Just a decision that was made.
Q. Was it based on the fact that you don't believe there's anything specifically defamatory

in the letters?
A. In that they didn't participate in the July -- they didn't have a letter in July.
Q. Was that the main reason?
A. One of the things that came into our decision, I believe.
Q And was there any other reasons that you can think of as you sit here today?
A. Like I said, it's a decision my wife and I made together.
Q Other than your lawyer, did anybody else participate in that decision?
A. Nope.
Q. Did you have any discussions with Judy Filamohala about who you were going to name and not name?
A. She was not a part of any decision. I didn't consult her in any way.
Q. So, you didn't have any discussion with her at all concerning --
A. With who I was going to -- with who I was going to --
Q. About the litigation at all, about the decision to sue anyone or not sue someone.
A. We had some discussion.

1 Q Tell me about those discussions.
2 **A. Just the -- you know, some of the letters**
3 **had some -- one of them was cc'd to a lawyer,**
4 **terms being used, whatever legal matters we may**
5 **take. I asked her if she knew of someone.**
6 Q What did she tell you?
7 **A. She gave me a recommendation.**
8 Q For your attorney?
9 **A. That's correct.**
10 Q All right So, she recommended counsel.
11 And did you discuss with her what you might do as
12 a result of what you believed were your
13 grievances?
14 **A. She had a copy of the letters. I mean,**
15 **she knew.**
16 Q. You gave them to her, right?
17 **A. Yes.**
18 Q. And --
19 **A. She knew I was seeking some -- a lawyer**
20 **for my protection.**
21 Q. Okay. What else?
22 **A. That was it.**
23 Q Okay. So she did not have any part in
24 suing or not suing the Hydes?
25 **A. That was my decision.**

1 looking for that. That should be one of the first
2 exhibits in there.
3 MR. RUST: It's Exhibit No. 1. Oh, you've
4 got it.
5 Q. It was the first one? I was just going to
6 ask you one question while we're on this, if I can
7 find it.
8 Yes. Paragraph 18, where it talks about
9 parents, defendants submitted to the board in
10 writing in oral agreements Do you see that?
11 **A. Yes.**
12 Q. One of the references there is that he
13 discriminated on the basis of religion. Do you
14 see that?
15 **A. That's correct.**
16 Q. Now, the only reference so far that I've
17 seen to that is in that Hyde letter.
18 **A. Correct.**
19 MR. RUST: Objection, lack of foundation.
20 There were some others
21 Q. Okay. Who else complained about religious
22 treatment beside the Hydes, if you know?
23 **A. I don't know off the top of my head who**
24 **else brought that up.**
25 Q Do you have any recollection of that

1 Q. Okay. How about the Hillsteads?
2 **A. That letter was not a part of it. That's**
3 **one reason why we have John Does 1 through 50.**
4 Q. You've looked at the letter from Chad and
5 Kade Hillstead, right?
6 **A. Yes.**
7 Q And yet you didn't name them either, did
8 you?
9 **A. I didn't know of that letter at the time.**
10 Q Oh, I see At the time you filed your
11 complaint?
12 **A. Correct.**
13 Q. You certainly knew that at the time you
14 identified the letters, right?
15 **A. Correct. I never seen that letter till**
16 **today, but it was a part of a group of letters.**
17 Q. All right. So, your testimony today is
18 the reason you didn't name the Hill -- is it
19 Hillstead?
20 **A. Hillstead.**
21 Q. Is because you had never seen the letter
22 before?
23 **A. Correct.**
24 Q Okay. By the way, in your complaint --
25 and that should be in here If you wouldn't mind

1 besides the Hydes at this point? We'll go through
2 all of the letters, so I mean if it's there, it's
3 there. But at this point, you don't know?
4 **A. I don't know a name right off the top of**
5 **my head of someone who had it in there.**
6 Q Let's just talk about -- what's in the
7 letters is in the letters, and we'll -- they're
8 part of the record and we'll look at them.
9 Sitting here today, do you know of any other
10 parents who either verbally or in writing
11 complained of unequal treatment on the basis of
12 religion?
13 **A. Until I go through them, I don't know of**
14 **any.**
15 Q And that's fair. I mean, as I say,
16 it's -- the record -- or the letters are the
17 letters Okay.
18 Okay, Exhibit 6, I don't think I've
19 asked -- we've marked it but I don't think I asked
20 you specifically what you believe was defamatory.
21 If you look on Exhibit 13 again, that e-mail
22 appears to be one of the items that you've
23 identified as defamatory; correct?
24 **A. Yes.**
25 Q Can you tell me now what you consider

1 defamatory in that e-mail?
2 **A. I think we went over this.**
3 Q. Well, I don't think we went over the items
4 that you believe were defamatory And if I'm
5 wrong, I stand corrected, but I think we were
6 looking at it in a different context.
7 **A. Unequal treatment. Inequity. One player**
8 **over another. Berated, degraded. Team rules one**
9 **for -- different for one than everyone else.**
10 Q. Anything else?
11 **A. No.**
12 Q All right.
13 (Deposition Exhibit No. 44 was marked.)
14 Q. This is Exhibit 44.
15 **A. Yes.**
16 Q. That's another letter that was identified
17 in your Exhibit 13; correct?
18 **A. Yes.**
19 Q. Can you identify in this exhibit what you
20 consider to be defamatory?
21 **A. Intentionally trying to diminish influence**
22 **of their children. And that it's part of an**
23 **extension of his first letter, e-mail that he**
24 **wrote.**
25 Q. Okay. So, specifically the only thing in

1 this letter you saw was the reference to -- where
2 is that? In the third paragraph?
3 **A. Fourth paragraph.**
4 Q. So other than that, nothing specifically
5 defamatory?
6 **A. No.**
7 **(Deposition Exhibit No. 45 was marked.)**
8 Q Exhibit 45, this is another letter that
9 you've identified as defamatory in Exhibit 13;
10 correct?
11 **A. (No audible answer.)**
12 Q. Was the answer on that one yes?
13 **A. Oh, I'm sorry. Yes, it's on there.**
14 Q. Okay, good Thanks. And you know what
15 the next question is going to be, which is, I'm
16 sure you're looking at it. Identify what you
17 believe is defamatory.
18 **A. That Michelle picked the second captain.**
19 **That's not correct. That I didn't care and**
20 **encourage each player. Never did -- expressing**
21 **her concerns ever hurt her daughter. Wasn't a one**
22 **player show. I didn't call her a Michael Jordan.**
23 **That would be on the first page.**
24 Q. Okay. Anything else?
25 **A. Not at this time.**

1 **(Deposition Exhibit No. 46 was marked.)**
2 Q. This is Exhibit 46, Mr. O'Connor. There's
3 several letters listed in your Exhibit 13 from
4 Will Sunderland, unknown date, which means they're
5 not dated. At least there's two of them.
6 **A. Yes.**
7 Q And is this one of the two?
8 **A. I believe so.**
9 Q All right Can you identify in this
10 letter what you consider to be defamatory?
11 **A. I believe we went over the second page.**
12 Q. Right. Let's just focus on the first
13 page.
14 **A. Just that it's part of everything.**
15 Q. So nothing specific that you can point to.
16 By the way, did Will Sunderland ever call you and
17 ask for a conference that you turned him down?
18 **A. I stated last time that he did call me and**
19 **wanted to meet with a big group and I didn't want**
20 **to do that.**
21 Q. Did he ever ask to talk to you just one on
22 one and you refused?
23 **A. I don't believe so. I spoke with him on**
24 **the phone. I was speaking to him then.**
25 Q. How about face-to-face? Did you ever turn

1 him down to do that?
2 **A. I believe under during those**
3 **circumstances, he was wanting a big meeting. And**
4 **I said no.**
5 Q How about just one on one, you and him
6 face-to-face?
7 **A. I don't know.**
8 Q Okay. How about Robert Gray, did he ever
9 ask to -- call you and ask to meet with you?
10 **A. He called me.**
11 Q Did you turn him down?
12 **A. He reiterated that they wanted to meet in**
13 **a big group. And I spoke to him on the phone for**
14 **a while. And I stated that last time.**
15 Q. Did you turn him down to meet face-to-face
16 with him?
17 **A. I don't know if he asked for a single**
18 **meeting just me and him.**
19 Q. You don't remember?
20 **A. I don't.**
21 **(Deposition Exhibit No. 47 was marked.)**
22 MR. RUST. That was already marked as a
23 part of an exhibit.
24 Q Let's look at it separately as 47 because
25 I don't think we asked the question about

1 defamation when we looked at it before
2 This is authored by Will Sunderland And
3 is this the other unknown Will Sunderland authored
4 document that you consider defamatory?
5 **A. I don't know if that was part of the one**
6 **we just saw when I had seen it.**
7 Q. Well, it was, but I don't think I asked
8 you the defamation question, whether or not you
9 consider this defamatory.
10 **A. Well, I don't know if this letter was a**
11 **March letter or July letter, I don't know.**
12 Q. Well, and that's two in here that show
13 unknown dates There's the second item and then
14 there's the last item.
15 **A. Then this is probably that other.**
16 Q Okay. That being the case -- what's the
17 exhibit number on that again?
18 **A. 47.**
19 Q 47 Can you identify for me the portions
20 of that letter you consider to be defamatory?
21 **A. I don't see any.**
22 Q. All right. Thank you.
23 (Deposition Exhibit No. 48 was marked)
24 MR. RUST: This is part of Exhibit 11?
25 Q. Right, which I think was the longer page

1 document. Looking -- what's the number on that?
2 I'm sorry.
3 **A. 48.**
4 Q. 48. This is a letter identified, I
5 believe, in Exhibit 13 toward the middle of the
6 second page there, is that correct?
7 **A. Yes.**
8 Q. What do you believe is defamatory about
9 this letter?
10 **A. That it's associated with all the other**
11 **concerns and that it's with the rest of the**
12 **letters.**
13 Q. Anything else?
14 **A. No.**
15 Q. All right. Thank you. I just want to
16 make sure we have all of the letters in. We did
17 the Haderlie letter, didn't we?
18 **A. We did.**
19 Q. Do you remember looking at a letter from
20 Mr. and Mrs. Jex?
21 **A. I don't know if you've given that one to**
22 **me.**
23 MR. HOMER: Joseph, do you remember what
24 documents you had in mind when you said Bate
25 stamped documents PD 76 through 82?

1 MR. RUST Just whatever you -- it's your
2 Bate stamps
3 MR HOMER. No, I mean you identified it.
4 I just wondered if you had in mind what that was.
5 MR. RUST: Not right now.
6 Q. Okay, there's that. We've only got about
7 three more things to show you from this list so
8 let's see if we can get them all now.
9 We've looked at the parents' basketball
10 meeting minutes of March 9 Do you remember
11 that?
12 **A. Yes.**
13 Q Do you want to look at those again? I've
14 probably got it out of order I apologize.
15 **A. I have that.**
16 Q. Can you identify what you consider to be
17 defamatory in those minutes?
18 **A. I think we went over these.**
19 Q. You know, we may have but my recollection
20 is we really didn't start in to identifying
21 defamation until the very end of the deposition
22 last time. If I'm wrong, I'm wrong. But if you
23 can identify that, I'd appreciate it.
24 **A. Well, the first paragraph, that if**
25 **Michelle and coach stayed, there would be no**

1 **change.**
2 Q. Why is that defamatory?
3 **A. It's saying that nothing would be**
4 **different if Michelle and I were still there.**
5 Q Anything else?
6 **A. Well, we did have that meeting after the**
7 **state tournament. All of the kids were**
8 **complimented. Rules are not the same for some as**
9 **others.**
10 Q Anything else?
11 **A. I remember we discussed last time what --**
12 **with the Carbon coach. That never occurred.**
13 Q Okay
14 **A. The discrimination of religion is in that**
15 **one.**
16 Q Okay That's under Cindy Hyde?
17 **A. Uh-huh.**
18 Q. Okay
19 **A. We talked about the naming of -- calling**
20 **by Mike. We already did that.**
21 Q How was that defamatory?
22 **A. It's a false statement.**
23 Q Any other reason?
24 **A. Not at this time. Just that it's part of**
25 **everything else.**

Q. Exhibit 5.
MR. RUST· Did you mark that separately?
A. No, it's 5.
MR. RUST. Okay.
Q. You see back on Exhibit 13 again, it references Bate stamped documents 76 through 82?
A. Yes.
Q. That's been marked as Defendant's Exhibit 11. Do you see that?
A. Yes.
Q. And some of which we have been through. Obviously the second page there, you've just talked about and some of the attachments. I think maybe the first page is the only one I need to ask you about.
A. It's the same as PD 0079. And we went over these last time.
Q. I know we went over them, but I don't think that we -- I asked the specific question about what you consider to be defamatory. So, I just want to ask you that and then we'll move on to the last letter.
A. As they relate with the rest of them, I believe last time I talked about intimidating and threatening them. The recruiting, second set of

team rules.
Q. Anything else?
A. No.
Q. Then I think the last one -- I need to run a copy of this real quick
(Briefly off the record)
Q. Now other than the Hyde letter and the reference to the Hydes in the exhibit of the parent basketball meeting, do you see any other references to the religious discrimination?
A. I don't know at this time.
MR. RUST. There is.
Q. What is there?
MR. RUST· That's Sue Chandler's letter That's about the third page That's Exhibit 19.
Q. Exhibit 19.
MR. RUST. Actually, it's the fourth page, I think.
Q. Page 4.
MR. RUST The last full paragraph.
Q. "He also brought religion into the conversation by saying he, as bishop, was missing girls camp and youth conference to be at basketball camps and insinuated they needed to do the same " Do you want to look at that?

A. Yes.
Q. Did you ever say that?
A. Did we talk about all of the things we all have in life? Yes, I did.
Q Do you consider that to be defamatory?
A. They're saying that that's wrong that I did it. Yeah.
Q Well, the real question is, did you say it?
A. I think the intent of why it's bringing up, yeah, it's defamatory.
Q Okay You did say it though?
A. I did.
Q Okay Here is the next exhibit
(Deposition Exhibit No 49 was marked)
Q Have you seen this before?
A. I have.
Q And it's identified on your list, is it not?
A. Yes.
Q And what do you consider defamatory?
A. Inconsistent behavior. Members, different treatment for one than others. Not everyone was given the same opportunity. Video was never sent to a college. That's not true. It was sent

twice. That I gave a reason that someone else didn't look good in that film, or the favorite player. That's not true. Recruiting.
Q. Anything else?
A. Not right now.
Q. Okay Are there any other -- I think we've gone through all the documents in Exhibit 13. Can you identify any other writings that you consider to be defamatory at this time?
A. Not at this time.
Q. Okay Let's mark this.
(Deposition Exhibit No. 50 was marked.)
Q Have you seen that article before?
A. I have.
Q That's an article that appeared in the Deseret News on August 18, 2004, correct?
A. Yes.
Q This is the one you were telling me about earlier where you were interviewed by Amy Donaldson?
A. I was.
Q And this is -- in connection with this article, did you read to her portions of the letters that you had been given by the three individuals that you previously testified about?

1 **A. I shared with her the letters.**
2 Q. You see on the first page, the last
3 paragraph there, it says, "O'Connor was most
4 recently accused in letters to the Alpine School
5 District of verbally abusing his players,
6 discrimination and favoritism, financial missteps,
7 and recruiting. Dozens of parents and even a
8 former player crowded the district's board meeting
9 to express their frustration and growing
10 discomfort with O'Connor "
11 How did she find out about the letters, if
12 you know?
13 **A. She knew about it. That's why she called**
14 **me. She had heard.**
15 Q But she didn't have the letters when she
16 called you?
17 **A. No.**
18 Q. Did she ask you for copies?
19 **A. I don't think she asked me for copies.**
20 Q. Did she ask you to share with her
21 information from the letters?
22 **A. I shared with her some of the information**
23 **because she asked.**
24 Q. You've already said -- oh, because she did
25 ask. So that's the answer to that question. Did

1 you tell her that the letters accused you of,
2 verbally abusing players, discrimination and
3 favoritism, financial missteps and recruiting?
4 **A. I don't know if I told her in those words,**
5 **but that's how she put it down.**
6 Q Did you essentially cover the turf though?
7 You told her those are the areas that --
8 **A. Yes.**
9 Q. If you look on page 2 of the letter,
10 toward the -- it's about two-thirds of the way
11 down with a paragraph that starts "The coach
12 said," do you see that?
13 **A. Yes.**
14 Q "The coach said he believes the problem
15 isn't his coaching style at all, it's simply
16 jealousy " Did you tell the reporter that?
17 **A. We talked about jealousy.**
18 Q. Did you tell her that your coaching style
19 is not a problem?
20 **A. We discussed a lot of things, and I didn't**
21 **think the coaching style was the issue.**
22 Q. Do you consider that to be an accurate
23 statement of what you told her, that -- of your
24 belief that the coach said he believes the
25 problem --

1 **A. I believe jealousy is -- that that's**
2 **correct.**
3 Q What about the prior, "He believes that
4 the problem isn't his coaching style at all." Is
5 that accurate?
6 **A. I don't think that's the true problem. I**
7 **don't think that was their true concern.**
8 Q. What's the difference between problem and
9 true problem in that context?
10 **A. Because I don't think -- I think that was**
11 **just the -- my belief is that was just a way of**
12 **trying to get rid of both Michelle and me.**
13 Q And why do you believe she would try to
14 get rid of you and Michelle?
15 **A. Because their letter stated it.**
16 Q Well, you've stated that you don't believe
17 any of the things that's in the letters.
18 **A. Their letter stated that they wanted to**
19 **get rid of me. And we just read one that said if**
20 **Michelle and I were still there, things wouldn't**
21 **change.**
22 Q Right. But what I'm wondering is why --
23 in your opinion, why would the parents want to get
24 rid of you and Michelle?
25 **A. Because if they got rid of me, they would**

1 **get rid of Michelle, and they knew that.**
2 Q Why did they want to get rid of Michelle?
3 **A. Ask them.**
4 Q Well, do you have an opinion?
5 **A. Because they wanted their daughters in the**
6 **limelight.**
7 **You can laugh all you want.**
8 Q That's why?
9 **A. Yes, that's why.**
10 Q Are there any other reasons?
11 **A. They knew if they got rid of me, they**
12 **would get rid of Michelle. They knew that.**
13 Q So, they -- in your opinion, they want --
14 the real target was Michelle?
15 **A. I believe she was the target, yes.**
16 Q And the only reason they wanted to get rid
17 of you is because they knew if you left, Michelle
18 would leave, is that right?
19 **A. So they went after me to get rid of her,**
20 **yes.**
21 Q And it's as simple as that?
22 **A. I think so.**
23 Q Okay All I'm asking for is your opinion
24 Were you present when Michelle was
25 interviewed by the reporter?

1 **A. I was not.**
2 Q Did you talk to her about her comments to
3 the reporter?
4 **A. Did I talk to who?**
5 Q Michelle
6 **A. Where is her comments?**
7 Q. Oh, I'm sorry, page 3 of 4. It would be
8 the next page there up on top where it says, "It's
9 hard to believe a lot of the things that have gone
10 on, said Harrison, now a junior." And my question
11 is: Have you discussed with her her interview
12 with the reporter?
13 **A. I'm lost here.**
14 Q Oh, I'm sorry Is that 3? Yeah, up here
15 **A. Okay.**
16 Q. And, really, I'm not focusing on what she
17 said as much as --
18 **A. I didn't have any discussion with her as**
19 **it related to her making that comment. That was**
20 **between her and Amy Donaldson and their interview.**
21 Q You see where it says "Harrison said the
22 team gets yelled at sometimes when they fail to
23 run plays or follow directions, but said she's
24 grown accustomed to that in sports." Is that a
25 true statement?

1 hopes of getting rid of him." Do you see that?
2 That's in the same paragraph. I'm actually just
3 reading from the same paragraph here.
4 **A. Oh.**
5 Q. You can read it here. Right here.
6 **A. Okay.**
7 Q. And it's the last sentence that I was
8 focused on there. Do you see that?
9 **A. Yes.**
10 Q. Does that accurately reflect what you told
11 the reporter?
12 **A. I believe that's what they were trying to**
13 **have accomplished then, yes.**
14 Q And you told the reporter that?
15 **A. Yes.**
16 Q. Okay. All right Let's go to the next
17 one
18 (Deposition Exhibit No. 51 was marked.)
19 Q. Let me show you what's been marked as
20 Exhibit 51.
21 **A. Yes.**
22 Q. Have you seen this?
23 **A. Yes.**
24 Q. Were you interviewed with this article as
25 well?

1 **A. There's yelling, yeah. There's nothing**
2 **wrong with that.**
3 Q Toward the middle of the page, the
4 paragraph that starts with "But O'Connor," do you
5 see that?
6 **A. Yes.**
7 Q. "But O'Connor said he's had team meetings
8 and no one expressed concerns."
9 Does that accurately reflect what you told
10 the reporter?
11 **A. I -- between team meetings, no girls ever**
12 **expressed that they felt that way. That's what**
13 **was said.**
14 Q. And that's accurate?
15 **A. Yes, never in a team meeting did a player**
16 **voice concerns.**
17 Q. Then it says "Very few concerns were
18 voiced to his assistants and he thought those had
19 been addressed." Is that true?
20 **A. I believe so.**
21 Q. And that accurately reflects what you told
22 the reporter?
23 **A. Yeah, we --**
24 Q And then the next sentence, "Instead he
25 felt parents just went en masse to Worthington in

1 **A. She called me, yes.**
2 Q. And you talked to her?
3 **A. I spoke with her. Yes, I talked to her.**
4 Q. I'm just wondering what the difference --
5 that's okay. It's getting late in the day. I
6 don't want to haggle over words.
7 You see the sentence that starts "He
8 said"? It's about in the middle of the first page
9 there. "He said, 'If you cut certain girls,
10 you're going to be released from your job as
11 coach.'"
12 **A. Yes.**
13 Q. Did you report that to Amy Donaldson?
14 **A. That Mr. Worthington told me that?**
15 Q. Yes.
16 **A. I did.**
17 Q. And you see that Worthington denied giving
18 you that ultimatum in the next paragraph?
19 **A. Correct.**
20 Q. Have you had any discussions with him
21 since this all came down about that disagreement
22 between the two of you?
23 **A. Since -- at what time?**
24 Q. Since September Let's say since this
25 article came out.

1 **A. We had a discussion in his office, but I**
2 **believe that's the discussion I was speaking of.**
3 Q Sure, we've talked about that
4 **A. And I don't remember if we -- I don't**
5 **think we have spoken concerning this disagreement.**
6 Q Well, and that's really the gist of my
7 question. I know what your testimony is and I
8 know what his testimony is. I'm just wondering if
9 you've ever had any conversation with him where
10 you said to him, wait a second, you said this and
11 now you're denying it, something like that?
12 **A. No, I haven't.**
13 Q Okay You still both work for the same
14 school district?
15 **A. Yes.**
16 Q How would you describe your relationship
17 at this point?
18 **A. Professional.**
19 Q Have you talked to him at all about his
20 decision not to have you be the girls basketball
21 coach?
22 **A. Did we discuss that?**
23 Q Since the decision was made
24 **A. We have not.**
25 Q So when you say professional, you've never

1 had the discussion about the facts underlying this
2 litigation since that time?
3 **A. We have not discussed this at all.**
4 Q. Now, at the end of the article, there's a
5 reference to Mountain View Coach Dave Houle Do
6 you see that?
7 **A. Yes, I do.**
8 Q Have you had discussions with Mr. Houle
9 about what's going on?
10 **A. We have.**
11 Q. Okay And have you shared with him
12 portions of the letters as well?
13 **A. I believe I said earlier I have shared**
14 **with him what has been said.**
15 Q. Verbal?
16 **A. Yes.**
17 Q. You haven't made copies for him?
18 **A. No, I haven't.**
19 Q. So when he comments on the letters, that
20 would be based to the best of your knowledge on
21 what you told him and not what he's seen in the
22 letters themselves?
23 **A. And what he has seen in the paper and in**
24 **our discussions, yes.**
25 Q. Okay.

1 (Deposition Exhibit No 52 was marked)
2 Q. By the way, has the Salt Lake Tribune ever
3 reported on this that you're aware?
4 **A. I believe there should be some articles**
5 **that were -- I think Leah Widraska had called.**
6 Q. I've never seen them but maybe I just
7 missed them. Have you kept a scrapbook of
8 articles about this?
9 **A. I have a notebook of things in there with**
10 **everything in it.**
11 Q. Okay. So you'd be able to tell us what
12 you know of that's been published about this
13 dispute over the years?
14 **A. If you didn't have something and I**
15 **happened to have it.**
16 Q Okay Well, we always think that we can
17 get it electronically, but it's not always
18 possible.
19 Take a look at Exhibit 52. Have you seen
20 that article?
21 **A. I have.**
22 Q. And that's written by Amy Donaldson as
23 well, isn't it?
24 **A. Correct.**
25 Q. In connection with this article, were you

1 interviewed by Ms. Donaldson?
2 **A. Yes, I was.**
3 Q. Did you give her a copy of your complaint?
4 **A. I did not.**
5 Q Do you know how she got ahold of it?
6 **A. I don't.**
7 Q. Now, this letter is dated September 16th;
8 correct?
9 MR. RUST: Are you talking about the
10 article instead of the letter?
11 Q. I'm sorry, this article is dated September
12 16th; right?
13 **A. It looks that way, yes.**
14 Q And this talks about the initiation of
15 your lawsuit; right?
16 **A. It does.**
17 Q. Did you tell her -- if you look down
18 toward the -- just a little bit past the mid part
19 of the page, "The minute it was printed in the
20 paper, 'O'Connor Fired,' he said 'it blackened
21 whatever I do in my life. We want the truth to be
22 stated. I was fired without any explanation. I
23 still don't know what I've done.'"
24 Did you tell her that?
25 **A. I did.**

1 Q. But you'd actually talked to her even
2 prior to the time that you were fired, hadn't you?
3 **A. In those other articles when she had**
4 **called me, I did.**
5 Q. Right So you had already talked about
6 this episode even before the decision was made?
7 **A. Well, she had an understanding of what had**
8 **happened based on interviews with other**
9 **individuals and the principal.**
10 Q. On the second page, you pose a question, I
11 think three lines from the bottom, "Parents are
12 supposed to be involved, but to what extent?"
13 What's your answer to that question?
14 **A. Well, they should be involved in support**
15 **of but I think they crossed the line. They went**
16 **too far.**
17 Q How far should they be involved?
18 **A. I don't know that. That's why I asked.**
19 Q We call that a rhetorical question Is
20 that -- you don't necessarily have the answer to
21 it?
22 **A. I don't have the answer but they went too**
23 **far.**
24 Q. Okay This letter specifically quotes
25 from --

1 MR RUST This article
2 Q. This article specifically quotes from the
3 letter Do you see that? It says "A letter to
4 school officials written by Price and his wife "
5 **A. Yes.**
6 Q Do you have any information or knowledge
7 concerning how the reporter may have gotten ahold
8 of that letter?
9 **A. I told her some people would rub down that**
10 **they'll take legal avenues.**
11 Q. Well, this one indicates a letter to
12 school officials written by Price and his wife
13 "wrote stated " Now there's obviously a typo in
14 there somewhere, but then has in quotes "We will
15 no longer tolerate this sort of behavior," and
16 then it goes on and ends at the end of the
17 paragraph So my question is Do you know how
18 Amy Donaldson got ahold of that letter?
19 **A. All I know is we shared letters. I don't**
20 **know -- you know, the end of the quote is the**
21 **whole thing. So I don't know if it was based on**
22 **what I'm saying or from the article that I told**
23 **her. I don't know exactly how she did this.**
24 Q Okay Did you have an understanding with
25 Amy Donaldson that she could run a tape recorder

1 when she was interviewing you?
2 **A. I don't know.**
3 Q. Most reporters do it unless -- and don't
4 always tell you they're doing it. But did you
5 meet with her in person or on the telephone?
6 **A. This would have been on the phone.**
7 Q. All right. So, you don't necessarily know
8 whether she had a recorder running or not?
9 **A. I don't.**
10 Q. Would you care one way or the other?
11 **A. She didn't say anything, so I don't know.**
12 Q. So she didn't tell you, "Can I record our
13 conversation"?
14 **A. She did not.**
15 **(Deposition Exhibit No. 53 was marked.)**
16 Q. Exhibit 53, this looks like it's an
17 article that appeared in The Daily Herald; is that
18 right?
19 **A. Yes.**
20 Q. That's what, Provo?
21 **A. Yes.**
22 Q. Provo newspaper. And I notice in the
23 website it's got Hark the Herald. I'd never
24 noticed that before.
25 **A. Yeah, that's their --**

1 Q. Website?
2 **A. Yeah.**
3 Q. Were you interviewed for this article?
4 **A. Oh, I know she called. I don't know if I**
5 **was called or spoken to. I don't know if I talked**
6 **to her personally. I'd have to read this. It**
7 **says I didn't return the call because I wasn't**
8 **home.**
9 Q. Do you know this Elizabeth Nardi?
10 **A. I don't.**
11 Q. Have you ever been interviewed by her to
12 the best of your knowledge?
13 **A. Up to that point, no.**
14 Q. Have you since?
15 **A. Not that I recall.**
16 **(Deposition Exhibit No. 54 was marked.)**
17 Q. Exhibit 54, you've seen this?
18 **A. I just have, yes.**
19 Q. Do you know Andrew Jackson? And I'm not
20 talking about the US president either
21 **A. Is that --**
22 Q The author of the article.
23 **A. I don't know him.**
24 Q. Did he interview you?
25 **A. He asked me some questions, yes.**

Q Did Coach Houle tell you he had been interviewed for this article?
A. Yes, he did.
Q When did he tell you?
A. This was sometime in January, February. He said they were doing an article on Michelle and the team.
Q Did he ever -- has he told you what information he has now about what happened at Lehi High School?
A. Has he ever told me --
Q Yes
A. -- what information he's had?
Q Yeah, in other words, I'm just trying to get a feel for what he bases some of his comments on, if it's conversations with you or if he has copies of a letter from somebody else
A. He has no copies, it would be just discussions we've had.
Q He has quoted -- and I'm trying to see if there's page numbers on here -- 34, let's see, it's probably page 37, but if you look at page 36 --
A. That one.
Q You see down there on the left-hand

column, next to the last paragraph, he said -- and this is quoting Houle, "It was absolutely the most ridiculous, made up lies that I had ever heard of. I can't even begin to explain how bad it is The complaints came because they felt like he (O'connor) was giving special treatment to Michelle "
Do you see that?
A. Yes.
Q. Is that something that you've discussed with Coach Houle?
A. That's his opinion on the whole thing.
Q Yeah, I understand that Is it -- have you discussed that with him?
A. That comment?
Q Yes.
A. I've never -- that's him who said -- I didn't tell him. He knows what has been said based on our conversations and that's why he made that statement.
Q Did you tell him that they were all lies, that these parents had told in the letters?
A. Do I -- I believe I've told him I feel like they're lies.
Q And you saw here, there's a reference,

"Months later, O'Connor is fighting back. A lawsuit against some 31 parents and community members who pushed for his firing, asks for $1.5 million from each defendant." Do you see that?
A. Where is that?
Q. Right here. I'm sorry.
A. Okay, I do see that.
Q. Is that something you told them?
A. I did not.
Q. You were interviewed for this; right?
A. He asked -- yes.
Q Is it -- he quotes you. I just want to make sure.
A. Yes, he interviewed me.
Q. I've been quoted before and I've never been interviewed, so this isn't necessarily an oxymoron. You talked to him and -- did you talk to them face-to-face or --
A. Face-to-face.
Q Okay Did he record your conversation?
A. I don't recall it.
Q. He quotes you word for word, "I coached in California for 10 years" says O'Connor, "and have never had any situations like the one that occurred at Lehi." Do you see that?

A. I do.
Q. Is that something you told him?
A. Yeah. Yes.
Q. On the next page of -- talking about Michelle Harrison's decision to transfer to Mountain View, quoting Houle, "I think I was the only coach in the state who didn't try and contact Michelle" says Houle. "Actually I thought this was the last place she wanted to come. Her coach called me and said 'Michelle is coming to Mountain View,' and my reply was 'Awesome.'" Do you know who the coach is that's referred to there?
A. Who called him?
Q. Yes.
A. I called him.
Q Okay And you told him that Michelle was going to go to Mountain View?
A. Because they called me and told me they were on their way there.
Q. When did that conversation take place?
A. I -- which conversation?
Q The -- "Her coach called me and said Michelle was coming to Mountain View." When did that conversation take place?
A. I don't remember the exact date but when

1 they -- when Michelle called me and told me that
2 that's where they were going and that they were on
3 their way there.
4 Q Was that sometime in August, September of
5 2004?
6 A. It was. It would have -- I'm sorry,
7 sometime in there.
8 Q Did you know that if you did not stay,
9 that Michelle would leave?
10 A. Did I know ahead of time that if I left
11 she -- that was just something I felt.
12 Q You felt that would happen?
13 A. I felt that that would -- if I was let go,
14 that she would not stay.
15 Q All right Now is that based on
16 conversations with Judy?
17 A. No.
18 Q With Michelle? With anyone else?
19 A. No.
20 Q What was it based on?
21 A. Just with the whole -- just the whole
22 thing. Like I stated before, if they got rid of
23 me, they were going to get rid of her, and I think
24 they knew that.
25 Q Where were you interviewed for this

1 article?
2 A. Where?
3 Q Yes
4 A. Mountain View High School.
5 Q And who was with you at the time of the
6 interview?
7 A. It was just the reporter and myself off to
8 the side.
9 Q. Was Coach Houle there with you?
10 A. He was not standing with me when they
11 interviewed me.
12 Q Was he in the same room?
13 A. He was in the gym. This took place in the
14 gym, so he was around in the gym.
15 Q. Okay And did they interview Michelle
16 Harrison at the same time?
17 A. I don't know.
18 Q. You didn't see her getting interviewed?
19 A. No.
20 Q. Did you see Coach Houle getting
21 interviewed?
22 A. No.
23 Q And was this -- did you go to the gym
24 especially for this interview or were you there
25 already for a practice, or how did that come

1 about?
2 A. It just happened to be a day that I was
3 there.
4 Q Off the top of your head, what other
5 articles are you aware of that have been published
6 with respect to this litigation?
7 A. That were strictly about this litigation?
8 Q Or, you know, about the controversy?
9 A. No.
10 Q I'm not saying it's talking about the
11 complaint, but just about the --
12 A. No, the letters that talk about her
13 transfer being approved or the articles that dealt
14 with that.
15 Q In the Des News?
16 A. In the Tribune and in The Herald.
17 Q Any other newspapers beside those three?
18 Does Lehi have a paper? I don't know
19 A. They do but I don't think anything was put
20 in there.
21 Q So nothing was put in there
22 A. Do you want the one from the Washington
23 Post?
24 Q Has it been published in there?
25 A. Yes.

1 Q. Yeah, if you can send it to your counsel,
2 we'd love to see that.
3 A. USA Today?
4 Q. Okay.
5 A. Okay.
6 Q. Send that
7 MR RUST You don't read all those
8 papers?
9 Q. I don't.
10 A. The only reason I knew is someone called
11 me from D.C. that read it.
12 Q. Well I figure that you can track articles
13 if you know they're coming, but I don't have
14 copies I may have actually seen the USA Today
15 article before we were involved in this case But
16 if you can send that, that would be great
17 A. Sure.
18 Q. You can send it through your counsel, of
19 course.
20 You'd want that to be done that way,
21 wouldn't you, Joseph?
22 MR RUST I prefer communication through
23 me
24 Q Right. All right Well why don't we take
25 a short break because I think I'm about done

(Recess taken from 5:09 p.m. to 5:25 p.m.)
Q. I just had a few follow-up questions about the Nike tournament. Did you go down there this year with Mountain View?
A. I did.
Q. As a volunteer for Mountain View?
A. I did.
Q. Did you get paid for your services there?
A. Did I get paid from them?
Q. At all, by anyone.
A. I didn't get paid from -- to go.
Q. Were your travel expenses paid for?
A. They were.
Q. Who paid for those?
A. Mountain View.
Q. Okay. And did you take professional leave from Lehi to do that?
A. I did.
Q What does that consist of?
A. Going in and asking.
Q. And how many days did you ask for for professional leave?
A. Two or three.
Q. Is there a limitation on the number of days you can ask for for professional leave?

A. I don't think so, as long as it's within the realm of our position.
Q. And who did you get that approved by?
A. Mr. Worthington.
Q. Okay. And he approved it?
A. He did.
Q. How much -- do you remember what your travel expenses were?
A. I don't.
Q Who would have that? I guess Viewmont would.
A. Mountain View.
Q. I keep on thinking of Bountiful here
A. The cost of the flight and stuff, they would have that. They would have that.
Q. All right. That's all I have. Do you have anything?
MR. RUST: I've already done the thing with regard to the read, so we're through.
(The deposition was concluded at 5.27 p.m.)

Case Name O'Connor vs Burningham, et al ,
Case No 040402938
Reporter Rashell Garcia
Date Taken April 21, 2005

W I T N E S S C E R T I F I C A T E

STATE OF UTAH
ss
COUNTY OF_____

I, MICHAEL P O'CONNOR, HEREBY CERTIFY that I have read the foregoing testimony consisting of 161 pages, numbered from 254 to 417, inclusive, and the same is a true and correct transcription of said testimony, with the exception of the following corrections listed below, giving my reasons therefor

PAGE	LINE	CHANGE/CORRECTION	REASON

No corrections were made

MICHAEL P O'CONNOR

Subscribed and sworn to at _____, Utah, this _____ day of _____, 2005

NOTARY PUBLIC

C E R T I F I C A T E

STATE OF UTAH)
ss
COUNTY OF SALT LAKE)

THIS IS TO CERTIFY that the deposition of MICHAEL P O CONNOR the witness in the foregoing deposition named was taken before me Rashell Garcia Certified Shorthand Reporter and Notary Public in and for the State of Utah residing in Salt Lake City

That the said witness was by me before examination duly sworn to testify the truth the whole truth and nothing but the truth in said cause

That the testimony of said witness was by me reported in Stenotype and thereafter caused to be transcribed into typewriting and that a full true and correct transcription of said testimony so taken and transcribed is set forth in the foregoing pages numbered from 254 to 417 inclusive and said witness deposed and said as in the foregoing annexed deposition

I further certify that a reading copy of the same was delivered to the witness for reading and signature signing before a Notary Public and to be returned within 30 days of the date hereon

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the event thereof

WITNESS MY HAND and official seal at Salt Lake City Utah this _____ day of_____ 2005

My Commission Expires
12-15-2008

Rashell Garcia C S R
License No 144

Tab 12

CONDENSED TRANSCRIPT

IN THE FOURTH JUDICIAL DISTRICT COURT
PROVO DEPARTMENT, STATE OF UTAH

MICHAEL P. O'CONNOR, Plaintiff, vs. GARY W BURNINGHAM, JEANNA BURNINGHAM, SANDY PHILLIPS, RUBY RAY, DREW DOWNS, CURT PARKE, JULIE PARKE, MIKE POWELL, BARBARA POWELL, STEVE DAVIS, JAN DAVIS, TODD KIRKPATRICK, SUE CHANDLER, DALLIE HADERLIE, WENDY HADERLIE, SHELDON WORTHINGTON, JOHN C ROGERS, KENNY NORRIS, ROBYN NORRIS, WILL SUNDERLAND, DARLENE DURRANT, BLAIR SWENSON, PAULA SWENSON, ROBERT T. PRICE, KIM M PRICE, KENT BECKSTEAD, SUZANNE BECKSTEAD, LISA GRAY, JOHN JEX, JESSICA JOHNSON, JEFF BURNINGHAM, and JOHN DOES 1-50 Defendants	Case No. 040402938 Deposition of JUDI HARRISON

April 14, 2005
1 00 p m.

Sutter Axland, PLLC
8 East Broadway, Suite 200
Salt Lake City, UT 84111

Sharon Morgan, CSR, RPR, CRR
Notary Public in and for the State of Utah

GARCIA & LOVE
COURT REPORTING AND VIDEOGRAPHY

Exhibit F

1 PROCEEDINGS
2 JUDI HARRISON,
3 called as a witness on behalf of the defendants, being
4 duly sworn, was examined and testified as follows
5 EXAMINATION
6 BY MR TRENTADUE
7 Q Ma'am, would you state and spell your name
8 for the record, please
9 **A. Judi, J-u-d-i, Harrison, H-a-r-r-i-s-o-n.**
10 **That is what I go by. I also have the name of**
11 **Filimoehala, F-i-l-i-m-o-e-h-a-l-a.**
12 Q So you prefer to be called Mrs Harrison?
13 **A. That's great.**
14 Q What's your address, ma'am?
15 **A. 235 North 1200 West, Orem, Utah.**
16 Q How long have you lived at that address,
17 ma'am?
18 **A. I think it's about seven months.**
19 Q Previous to that time, where did you live?
20 **A. In Lehi.**
21 Q And your address in Lehi?
22 **A. 1965 North 1475 East, Lehi.**
23 Q Ma am, are you represented by an attorney
24 here today?
25 **A. Yes.**

1 Q Okay Was anyone else present at that
2 meeting?
3 **A. No.**
4 Q Have you ever had a meeting with Mr Rust a
5 Mr O Connor at the same time?
6 MR RUST You mean for any purpose?
7 MR TRENTADUE Yes
8 **A. I can't remember. I don't know if we've**
9 **them together at basketball or not.**
10 Q (By Mr Trentadue) Mr Rust goes to
11 basketball games with you?
12 **A. He's come to some games.**
13 Q Is Mr Rust related to you in any way?
14 **A. No**
15 Q Just your attorney?
16 **A. Yes.**
17 Q And I guess you may have become friends ov
18 the years?
19 **A. Yes.**
20 Q That s fair enough
21 Did you introduce Mr Rust to Mr O Connor?
22 **A. Yes.**
23 Q When did you do that?
24 **A. I would say September or October, some**
25 **in there. I don't know the date.**

1 Q Would that be Mr Rust?
2 MR RUST Yes
3 **A. Yes.**
4 Q (By Mr Trentadue) When did you retain
5 Mr Rust?
6 MR RUST You mean how many years ago?
7 MR TRENTADUE Yes
8 THE WITNESS 10 years ago?
9 MR RUST Something like that
10 Q (By Mr Trentadue) And the first
11 circumstances of hiring Mr Rust?
12 **A. Personal business.**
13 Q Mr Rust is also Mr O'Connor's attorney
14 You know that, don't you?
15 **A. Yes.**
16 Q Have you ever met with Mr Rust and
17 Mr O'Connor to talk about this lawsuit?
18 **A. Together?**
19 Q Yes
20 **A. No.**
21 Q Have you met with Mr Rust to prepare for
22 this deposition here today?
23 **A. Yes.**
24 Q How many times?
25 **A. Today.**

1 Q 2004?
2 **A. 2004.**
3 Q What was the purpose of that introduction
4 **A. Because Mike had been fired from Leh**
5 **School.**
6 Q And you believe it was important for him to
7 have legal counsel?
8 **A. I believe Joseph is a good attorney**
9 Q I won't disagree with that But you took it
10 upon yourself to refer Mr O Connor to Mr Rust?
11 **A. I suggested his name.**
12 Q Okay Did you suggest any others?
13 **A. I don't know any others.**
14 MR TRENTADUE Can we mark this as Exh
15 No 1
16 (Exhibit No 1 marked)
17 Q (By Mr Trentadue) Take a moment and lo
18 that, ma am, and see if you recognize it
19 **A. Yes, I do.**
20 Q This is a letter you wrote?
21 **A. Yes.**
22 Q And it s directed to Sheldon Worthington?
23 **A. Yes.**
24 Q Who is Mr Worthington?
25 **A. Principal at Lehi.**

1 A Yes
2 Q Okay
3 A Sorry
4 Q Other than these letters is there anything?
5 MR RUST Asked and answered and she s
6 testified
7 A Yes Do you want me to answer it again?
8 Q (By Mr Trentadue) Ma am I don't
9 remember --
10 A Do I need to answer that again?
11 MR RUST Other than the things to which
12 she s already testified? Are you asking her for
13 anything else other than the things to which she s
14 already testified?
15 Q (By Mr Trentadue) Anything other than what
16 you have testified to
17 A. The past two -- the freshman and sophomore
18 years at Lehi High School, if you were encompassing
19 all those years, and then what s happened since then
20 like the parents coming to film, you know, and putting
21 the cameras on you at games and stuff like that, yeah,
22 that's pretty abusive
23 Q You said the parents came and filmed you at
24 games?
25 A. Yes They did it once, and I think they were

1 on at some of those times, but I think they did when
2 was over talking to Mike and Coach Houle.
3 He thinks the button was on at that time, but
4 I think they purposely were pointing it at us to cause
5 upset and to cause trauma and not be kind. And I
6 don't understand that, because I don't know of
7 anything unkind that I ve ever done to any of these
8 people in this room.
9 Q On page 15, ma'am, of Exhibit 20, September
10 24th 2004 article, it looks like it s out on the
11 Deseret News Have you seen that article before?
12 A. Yes.
13 Q It s written by Amy Donaldson Ms Donaldson
14 has written a number of articles about Michelle,
15 hasn't she?
16 A. Yes
17 Q Do you know Ms Donaldson?
18 A Yes
19 Q Has she been to your home?
20 A. No
21 Q Do you ever let Ms Donaldson ever read any
22 of these letters that Coach O Connor gave you?
23 A. No Well --
24 Q Excuse me?
25 A. We spoke with Amy at the attorney's office

1 going to do it a second time but didn't.
2 Q Who told you this?
3 A. I was there
4 Q And you re sure they filmed you?
5 A I m sure that they turned the camera on us
6 and my son-in-law went up and sat behind them and
7 listened and watched what they were saying, but you
8 would need to speak to him to get accurately what he
9 heard And I think their intent was to make us feel
10 uncomfortable and to be unkind and cause trouble and
11 conflict. I thought it was a very unkind thing, very
12 unkind
13 Q Which game were you supposedly filmed in?
14 A. No, I was -- it was at the first state game
15 this year
16 Q Who were you with?
17 A. I was with Dave Filimoehala and -- well,
18 there was about 20 family members that were there,
19 friends
20 Q Where were you seated?
21 A. Across the stadium from them.
22 Q Across the stadium and you re sure they were
23 filming you?
24 A. Well, my son-in-law went up and sat directly
25 behind them No, I can t say they turned the button

1 once
2 Q Oh, with Mr Rust?
3 A. Yes
4 Q When did this meeting take place?
5 A I don t know
6 Q No I mean was it recently?
7 A No
8 Q Were the letters present at the office?
9 A Well, I know she didn t see all of the
10 letters, but I think she may have heard about a couple
11 of them from the high school association and then from
12 at his office
13 Q Okay When you say all the letters did she
14 read the parents letters?
15 A She did not read all these letters, no
16 Q Was she given any of them to read?
17 A I don t recall if she was ever given any of
18 them, but we talked about what has happened, what had
19 happened at Lehi
20 Q And she asked you about the letters?
21 A. I believe we had told her that there had been
22 letters written.
23 Q Who is we ?
24 A. Joseph and I
25 Q And who was in the office with you besides

1 Amy, Joseph and you?
2 A. Dave Filimoehala.
3 Q And was Mike O Connor there?
4 A. No.
5 Q Did you talk to Mike about that meeting
6 before you had it?
7 A. No.
8 Q Who arranged for that meeting?
9 A. I don't remember if I did or if Joseph did.
10 Q And did that meeting lead to these stories
11 by --
12 A. It might have led to one of them. I don't
13 think it led to all of them. It might have led to
14 one.
15 Q Led to the one about Coach O'Connor's firing?
16 A. I don't remember which one. I don't
17 remember. It might have been the very first one.
18 Q What was the substance of the discussions at
19 that meeting?
20 A. Of how Michelle was being treated at Lehi.
21 Q Have you had more than one meeting with Amy
22 Donaldson?
23 A. With Joseph?
24 Q No, with Amy Donaldson
25 A. Let's see. She's been to some of the

1 practices where coaches were coming to recruit
2 Michelle, so I spoke to her at those. She came to the
3 high school association hearings, and I spoke to her
4 at those. I think that's the only meetings, if you
5 want to call those meetings.
6 Q Have you had any other meetings with
7 yourself Amy Donaldson and Mr Rust?
8 A No
9 Q On this article, page 14 again, the
10 September 24th Deseret News article, on page 2 it
11 quotes - it purports to quote Mr Rust It says,
12 'Her lawyer Joseph Rust added Michelle has been the
13 target of a very mean spirited campaign to drive her
14 out "
15 Did you hear Mr Rust say that?
16 A. No.
17 Q That wasn t said at the meeting with
18 Ms Donaldson?
19 A. I don t remember him ever saying that.
20 Q What do you remember Mr Rust saying at that
21 meeting?
22 A. I don t specifically remember We just
23 talked about what was going on at Lehi and Michelle s
24 treatment.
25 Q It goes on to again quote Mr Rust 'In

1 fact, he,' Mr Rust, 'asserted that the efforts to get
2 O Connor fired were really efforts to get Harrison to
3 leave Lehi because other players and parents were
4 jealous of her abilities '
5 Did you ever hear Mr Rust say that?
6 A. Well, I believe I've told Mr. Rust that I
7 didn't hear him say that, but I believe I've said
8 that.
9 Q In fact, you've said that in a letter to the
10 principal at Lehi High School, didn't you?
11 A. I think I -- I think that was probably said,
12 but I know I've said that.
13 Q Turn to page 15, ma am, of Exhibit 20 This
14 appears to be an article from the Deseret News,
15 October 26th, 2004, again by Amy Donaldson Have you
16 seen this article before, ma am?
17 A. Yes.
18 Q And it quotes you as saying that "There is a
19 strong personal vendetta against Michelle, from where
20 we don t know, but we are going to find out "
21 Did you make that comment?
22 A. I don't remember ever saying "but we are
23 going to find out."
24 Q According to you, you already knew, didn't
25 you?

1 A. Yeah, I don't remember ever saying that.
2 Q It's the parents of the other players on
3 Michelle s team and her family?
4 A. And some of their family and friends
5 Q And friends?
6 A Uh-huh (affirmative)
7 Q You say Someone just wants to hurt her and
8 keep her from playing basketball '
9 You said that too?
10 A I don t -- that doesn t sound like a quote I
11 would say, but they might be paraphrasing. I don t
12 see quotations around all of that I don t remember
13 saying that exact statement, but I felt like Principal
14 Worthington was trying to keep her from playing due to
15 the things the parents had said.
16 Q Then it goes on to quote -- no, it doesn't
17 quote It says, 'The Harrisons said that Michelle was
18 actually the target of the campaign that led to
19 O Connor s firing and asked that she be allowed to
20 transfer because of the negative feelings about her
21 and the derogatory things said to and about her "
22 That s what you've told me here today isn t
23 it?
24 A Yes
25 Q And the derogatory things said about her are

1 A. Sorry.
2 Q Just clarifying that You were talking about
3 Amy – what's her name?
4 A. Donaldson?
5 Q – Donaldson, Amy Donaldson When was the
6 first time that there was any contact between you and
7 Amy with regard to the issue of Coach O'Connor?
8 A. I think that she and Kera, my daughter Kera,
9 they had been talking. Amy was in Alaska with the
10 AAU teams, and I think that was right when the letters
11 came about.
12 And Kera had told Amy that she should call
13 me, because there were some things going on, because
14 Amy is interested in Michelle's career. And so when
15 she -- I think she called me from Alaska and said she
16 would call me when she got back into town.
17 Q Did she do that?
18 A. Then she called me when she came into town,
19 and I just told her -- I think that's when I told her
20 that I wanted her to come and meet with you, because I
21 didn't want to say or do anything that, you know, was
22 wrong.
23 Q Had she asked to do some kind of a story on
24 that?
25 A. Oh, yeah.

Case O Connor vs Burningham
Case No 040402938
Reporter Sharon Morgan
Date Taken 4/14/05

WITNESS CERTIFICATE

STATE OF UTAH
ss
COUNTY OF_____

I HEREBY CERTIFY that I have read the foregoing testimony consisting of 130 pages numbered from 5 to 134 inclusive, and the same is a true and correct transcription of said testimony, with the exception of the following corrections listed below giving my reasons therefor

Page	Line	Change/Correction	Reason

JUDI HARRISON
Subscribed and sworn to at _____
Utah, this _____ day of _____ 2005

My commission expires
_____ NOTARY PUBLIC

SHARON MORGAN, CSR, RPR CRP
GARCIA & LOVE

1 Q Is that before we ever met?
2 A. Oh, yeah. That's when we talked about it and
3 I said, well, before I do anything, let's just meet
4 with Joseph Rust. That's when she told me that she
5 knew who you were.
6 MR. RUST Okay No further questions.
7 MR. TRENTADUE No questions
8 MR RUST We would like to have her be able
9 to review and sign
10 (The deposition concluded at 4 42 p m.)
11
12 * * *
13
14
15
16
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21
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25

CERTIFICATE

STATE OF UTAH)
ss
COUNTY OF SALT LAKE)

THIS IS TO CERTIFY that the deposition of JUDI HARRISON, the witness in the foregoing deposition named, was taken before me Sharon Morgan, Certified Shorthand Reporter and Notary Public in and for the State of Utah, residing in Salt Lake City

That the said witness was by me before examination duly sworn to testify the truth the whole truth and nothing but the truth in said cause

That the testimony of said witness was by reported in Stenotype and thereafter caused to be transcribed into typewriting, and that a full true, and correct transcription of said testimony so taken and transcribed is set forth in the foregoing pages, numbered from 5 to 134 inclusive and said witness deposed and said as in the foregoing annexed deposition

I further certify that the reading copy of the same was delivered to Mr Rust for reading and signature signing before a Notary Public and to be returned within 30 days of the date hereon

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the event thereof

WITNESS MY HAND and official seal at Salt Lake City Utah this 2nd day of May 2005

Sharon Morgan, CSR, RPR

My Commission Expires
6-16-2007

SHARON MORGAN CSR RPR, CRR
GARCIA & LOVE

Tab 13

1 Q. Can you remember what you said to
2 Mr. Worthington?
3 A. I asked him about the letters.
4 Q. Can you remember what you asked him?
5 A. I said, "I just saw these letters. What do
6 you think about them?"
7 Q. What was his response?
8 A. That he didn't think very highly of them and
9 he understood the upset.
10 Q. Okay. He did not think very highly of them.
11 You mean --
12 A. The letters.
13 Q. And he could understand you being upset?
14 A. Yes.
15 Q. And why exactly were you upset?
16 A. Because there were so many lies and mistruths
17 in the letters.
18 Q. We'll come back to that.
19 You go on to say that Worthington even
20 "doubted what we tell you as the truth."
21 When you say "we," who are you talking about?
22 A. My husband and I.
23 Q. And who is your husband?
24 A. Dave Filimoehala.
25 Q. And what does Mr. Filimoehala do?

1 was considering cutting from the team."
2 Do you believe that to be true?
3 A. I have no way to know that.
4 Q. "These same feelings were quoted in a
5 newspaper article dated August 18th, 2004 in the
6 Deseret News." I think this may have been one of the
7 articles we looked at. Then it goes on to say, "I'm
8 also convinced that there is no ill will from parents
9 aimed directly at Michelle."
10 You certainly disagree with that, don't you?
11 A. Well, he told me different than that himself
12 in that meeting.
13 Q. He told you they were petty and jealous
14 parents?
15 A. I don't think I ever used the word petty.
16 Q. Did he use the word jealous?
17 A. I think he used the word jealous.
18 Q. What other words did he use?
19 A. He used the words that Gary wanted his
20 daughter to play the way that he had never been able
21 to play.
22 Q. And Mr. Worthington told you that?
23 A. Yeah, because I -- they asked me what my
24 opinion was, and I said, I think because Gary was a
25 really good basketball player, I think he wants Kayla

1 to be a really good basketball player.
2 And they said that I was wrong. Where did I
3 get that information? And I said, "From Gary." And
4 they said that he wasn't that good of a basketball
5 player. That's why there's a problem, because he
6 wants her to be what she isn't.
7 Q. They said that to you?
8 A. Yes, they said it to me and Dave Filimoehala.
9 We were both in the room.
10 Q. And that was your husband Dave,
11 Mr. Worthington, Coach Allan?
12 A. Coach Allan and Coach Lott.
13 Q. The next sentence says, and I guess you would
14 agree with this, "Parent frustration has been directed
15 at Coach O'Connor and Mrs. Filimoehala."
16 A. I don't agree with that. I think it's been
17 at Michelle and Coach O'Connor.
18 Q. Not certainly at you?
19 A. Not certainly at me? Some. Some at me, but
20 I think mostly at Michelle and Coach.
21 Q. And Coach O'Connor?
22 Next Exhibit is 21.
23 **(Exhibit No. 21 marked.)**
24 Q. (By Mr. Trentadue) Have you seen this
25 before, ma'am?

1 A. I don't know if that's where they went. I
2 know there was a river trip they went on. I don't
3 know where they went.
4 Q. And Michelle, you said, didn't go?
5 A. Huh-uh (negative), no.
6 Q. Why?
7 A. Because she was on a traveling AAU team that
8 travels across the country.
9 Q. Prior to the start of the 2003/2004 season,
10 did you have any concerns about the team finances? By
11 that I mean the fund-raisers and that type of stuff.
12 A. Oh, I definitely had concerns when I kept
13 hearing that there was large sums of money given to
14 him and there was money supposedly given to him at
15 Open Court and -- yeah, I was concerned.
16 Q. And you talked about those concerns?
17 A. I called Mike and said, "You're going to get
18 fired for the money if you don't answer to what you're
19 doing with the money."
20 Q. And what did he say?
21 A. "Let's have a meeting tonight." So I called
22 Gary back, because Gary had been talking to me about
23 it. That's when Gary told me that Mike was going to
24 lose his job. That was the weekend he was leaving on
25 the trip. Gary said he would round up everybody.

1 Q. What did Coach O'Connor say when he was asked
2 about the fund-raising and the expenditures?
3 A. Well, most parents didn't say anything,
4 except for I raised my hand and drilled him on a
5 couple of things, because everybody else wasn't asking
6 the questions. But he opened it up, told people they
7 could ask what they wanted to ask. They should come
8 to him directly, you know, if they have questions.
9 I think everybody started asking more things
10 like how can we buy more ads and how can we do more
11 things? Then when the meeting was over, Gary told me
12 that he went to Coach O'Connor and told him it was his
13 fault and that he was the one that went to everybody
14 and rounded them up.
15 Q. Mr. Burningham said that to Coach O'Connor?
16 A. He told me he told Coach O'Connor that.
17 Q. Mr. Burningham told you that he told Coach
18 O'Connor that?
19 A. Yes.
20 Q. And in your opinion did Coach O'Connor fully
21 respond to all the questions about the accounting and
22 finances at that meeting?
23 A. Oh, absolutely. He kept asking for questions
24 and people just didn't ask them.
25 Q. He never refused to answer questions?

Tab 14

JOSEPH C. RUST (2835)
MATTHEW G. BAGLEY (6820)
KESLER & RUST
2000 Beneficial Life Tower
36 South State Street
Salt Lake City, Utah 84111
Telephone: (801) 532-8000
Attorney for Plaintiff

IN THE FOURTH JUDICIAL COURT OF UTAH COUNTY

STATE OF UTAH

MICHAEL P. O'CONNOR, an individual, Plaintiff, v. GARY W. BURNINGHAM, JEANNA BURNINGHAM, SANDY PHILLIPS, RUBY RAY, DREW DOWNS, CURT PARKE, JULIE PARKE, MIKE POWELL, BARBARA POWELL, STEVE DAVIS, JAN DAVIS, TODD KIRKPATRICK, SUE CHANDLER, DALLIE HADERLIE, WENDY HADERLIE, SHELDON WORTHINGTON, JOHN C. ROGERS, KENNY NORRIS, ROBYN NORRIS, WILL SUNDERLAND, DARLENE DURRANT, BLAIR SWENSON, PAULA SWENSON, ROBERT T. PRICE, KIM M. PRICE, KENT BECKSTEAD, SUZANNE BECKSTEAD, LISA GRAY, JOHN JEX, JESSICA JOHNSEN, JEFF BURNINGHAM, and JOHN DOES 1-50 Defendants.	**AFFIDAVIT OF MICHAEL O'CONNOR** Civil No. 040402938 Judge James R. Taylor

EXHIBIT J

STATE OF UTAH)
:s
COUNTY OF UTAH)

MICHAEL O'CONNOR, being first duly sworn, deposes and states as follows:

1. Affiant is the Plaintiff in this case and is therefore familiar with the facts.

2. In reviewing the letters written by Defendants, Affiant has noted not only similarity in style and reference between some letters but in some cases paragraphs being word for word the same, although supposedly written by different people.

3. Some of the letters presented to Affiant from an Assistant Principal at Lehi had been marked up before he received them.

4. Affiant was informed by Defendant Jex that the Jex letter was requested by Defendant Sue Chandler and delivered to Defendant Gary Burningham.

5. Affiant was further informed by Defendant Jex that neither he nor his wife ever signed the Jex letter and the addition of "Jex's" came from someone else.

6. Affiant was informed by Defendants Swenson that their letter was solicited a number of times by Defendant Gary Burningham and delivered to Gary Burningham.

7. At the time Affiant was informed he would not be coaching the girls basketball team for the 2004-2005 season, a contract had already been prepared for Affiant to undertake that assignment.

8. At no time did Affiant threaten to cut Kayla Burningham, Breezy Chandler, or any

other girl from the high school team and in fact assigned significant playing time and positions to Kayla and Breezy during the 2003-2004 season.

9. Affiant accepted girls on to the school basketball team or cut them from the team based on their abilities and playing skills and not based on their parents' actions.

10. Affiant assigned significant playing time and positions to the daughters of complaining parents

11. Affiant and his assistant coaches had an excellent working relationship with all of the girls on the basketball team, at least until the end of the 2003-2004 basketball season.

12. With the exception of perhaps one or two parents, none of the Defendants ever attended any of the basketball practices for the girls basketball team, and those who did so attend never stayed for a whole practice.

13. Prior to the end of the regular basketball season in 2004 and with one or two exceptions, none of the Defendants had complained to Affiant about any problems that they saw with the work he was doing with the girls on the basketball team either during games or during practices.

14. At no time has Affiant ever misused any funds which belonged either to a school, a school district, or for which he was handling the funds in any kind of a fiduciary capacity.

15. Some of the Defendants' daughters were never or rarely personally coached by Affiant, but were instead coached by assistant coaches. Specifically, Claire Price, the daughter of Defendants Robert and Kim Price, was coached only by assistant coaches and Sarah Beckstead, the

daughter of Defendants Kent and Suzanne Beckstead, was primarily coached by assistant coaches.

16. Affiant has never contacted or sought out any member of the press relative to the matters contained in the Defendants' letters or any aspect of the dispute which is the subject of this lawsuit.

17. The Deseret News article written by Amy Donaldson appeared in print about one month prior to Affiant's being terminated and prior to Gary Burningham's September 9, 2004 letter to Principal Worthington accusing Affiant of retaliatory conduct.

18. Affiant did not engage legal counsel for any purpose until after his basketball coaching position at Lehi High School had been terminated on or about September 10, 2004.

19. During the 2004-2005 school year, Affiant was named coach of the month by the students at Lehi High School in their school newspaper.

20. In the two years prior to Affiant's arrival in Lehi, the girls basketball team had an average yearly record of 4 wins and 16 losses.

21. In the three years Affiant coached girls basketball at Lehi, the girls team had a record of 52 wins and 17 losses, broken down by successive year as follows: 14-8, 19-4, and 19-5.

22. Affiant led the Lehi High School girls basketball team to win the regional championship two years in a row.

23. During the 2004-2005 season with Mr. Allan as the coach, the girls team had a record of 6 wins and 15 losses.

24. Mr. Allan's son-in-law Mr.Khalil Sikander is the new Lehi High School girls basketball coach for the 2005-2006 season, even though he has never been the head coach of a high school basketball team before.

DATED this 12 day of August, 2005.

MICHAEL O'CONNOR

STATE OF UTAH)
:s
COUNTY OF UTAH)

The foregoing Affidavit was acknowledged before me this 12 day of August, 2005 by Michael O'Connor.

SUBSCRIBED AND SWORN before me this 12 day of August, 2005.

NOTARY PUBLIC
Residing at

JIM D. BYRON
NOTARY PUBLIC · STATE of UTAH
120 NORTH 850 EAST
LEHI, UTAH 84043
COMM. EXPIRES 4-29-2007

My Commission Expires:

Tab 15

JOSEPH C. RUST (2835)
MATTHEW G. BAGLEY (6820)
KESLER & RUST
2000 Beneficial Life Tower
36 South State Street
Salt Lake City, Utah 84111
Telephone: (801) 532-8000
Attorney for Plaintiff

IN THE FOURTH JUDICIAL COURT OF UTAH COUNTY

STATE OF UTAH

MICHAEL P. O'CONNOR, an individual, Plaintiff, v. GARY W. BURNINGHAM, JEANNA BURNINGHAM, SANDY PHILLIPS, RUBY RAY, DREW DOWNS, CURT PARKE, JULIE PARKE, MIKE POWELL, BARBARA POWELL, STEVE DAVIS, JAN DAVIS, TODD KIRKPATRICK, SUE CHANDLER, DALLIE HADERLIE, WENDY HADERLIE, SHELDON WORTHINGTON, JOHN C. ROGERS, KENNY NORRIS, ROBYN NORRIS, WILL SUNDERLAND, DARLENE DURRANT, BLAIR SWENSON, PAULA SWENSON, ROBERT T. PRICE, KIM M. PRICE, KENT BECKSTEAD, SUZANNE BECKSTEAD, LISA GRAY, JOHN JEX, JESSICA JOHNSEN, JEFF BURNINGHAM, and JOHN DOES 1-50 Defendants.	**AFFIDAVIT OF DAVID FILIMOEHALA** Civil No. 040402938 Judge James R. Taylor

STATE OF UTAH)
:s

COUNTY OF UTAH

DAVID FILIMOEHALA, being first duly sworn, deposes and states as follows:

1. Affiant is a high school basketball coach and has been such for 27 years.

2. Affiant has successfully coached state championship teams, as well as having coached problem athletes and super-star athletes.

3. Affiant is the past president of the Utah High School Basketball Coaches Association, and is personally familiar with most, if not all, of the high school basketball coaches in the State of Utah who have coached both girls and boys high school basketball.

4. For 7 years Affiant was a basketball coach at Lehi High School and is familiar with the administration at Lehi High School, and particularly former Principal Sheldon Worthington.

5. Affiant is very familiar with Plaintiff and has watched Plaintiff coach girls basketball for the three seasons Plaintiff coached at Lehi High School.

6. Affiant is familiar with the accusations made against Plaintiff by the Defendants in this case, and particularly that he was abusive of the girls, that he may have been dishonest in his dealings with money, that he recruited girls for the basketball team, and that he discriminated against some of the girls.

7. In Affiant's opinion all the aforesaid allegations reflect negatively on Plaintiff's professional and personal life, and make it extremely difficult for Plaintiff to obtain and maintain good coaching positions.

8. Affiant is of the opinion that the reason Principal Worthington did not renew Plaintiff's coaching position in the fall of 2004 was because of the defamatory

comments of Defendants.

9. In Affiant's opinion, high school basketball coaches are selected, retained, and promoted principally because of their win/loss record.

10. Affiant is of the opinion that when there is a player of exceptional ability on a basketball team, such as Michelle Harrison, such a star player should be utilized to the upmost, and set plays should be designed to run through such a star player.

DATED this 28 day of ~~August~~ Oct, 2005.

DAVID FILIMOEHALA

STATE OF UTAH)
:s
COUNTY OF UTAH)

The foregoing Affidavit was acknowledged before me this 28 day of ~~August~~ Oct, 2005 by David Filimoehala.

SUBSCRIBED AND SWORN before me this 28 day of ~~August~~ Oct, 2005.

Linda J. Farr
NOTARY PUBLIC
Residing at West Jordan, UT

My Commission Expires:
8 Nov 2008

Notary Public
LINDA J FARR
9088 Wind River Drive
West Jordan, UT 84088
My Commission Expires
November 8, 2008
State of Utah

CERTIFICATE OF SERVICE

I hereby certify that I caused to be delivered by the method indicated below a true and correct copy of **AFFIDAVIT OF DAVID FILIMOEHALA** in Civil No. 040402938, postage prepaid, this 28 day of ~~August~~ Oct, 2005 to: Joseph Rust
2000 Beneficial Life Tower
36 So. State

CERTIFICATE OF SERVICE

I hereby certify that I caused to be delivered by the method indicated below a true and correct copy of **AFFIDAVIT OF DAVID FILIMOEHALA** in Civil No. 040402938, postage prepaid, this 31 day of October, 2005 to:

___ FEDERAL EXPRESS
___ U.S. MAIL
X HAND DELIVERY
___ TELEFAX TRANSMISSION

Michael W. Homer
Jesse C. Trentadue
Suitter Axland
Judge Building
8 East Broadway, Suite 200
Salt Lake City, Utah 84111

F:\DATA\JRUST\O'Connor\aff.dave.wpd

Tab 16

JOSEPH C. RUST (2835)
MATTHEW G. BAGLEY (6820)
KESLER & RUST
2000 Beneficial Life Tower
36 South State Street
Salt Lake City, Utah 84111
Telephone: (801) 532-8000
Attorney for Plaintiff

IN THE FOURTH JUDICIAL COURT OF UTAH COUNTY

STATE OF UTAH

MICHAEL P. O'CONNOR, an individual, Plaintiff, v. GARY W. BURNINGHAM, JEANNA BURNINGHAM, SANDY PHILLIPS, RUBY RAY, DREW DOWNS, CURT PARKE, JULIE PARKE, MIKE POWELL, BARBARA POWELL, STEVE DAVIS, JAN DAVIS, TODD KIRKPATRICK, SUE CHANDLER, DALLIE HADERLIE, WENDY HADERLIE, SHELDON WORTHINGTON, JOHN C. ROGERS, KENNY NORRIS, ROBYN NORRIS, WILL SUNDERLAND, DARLENE DURRANT, BLAIR SWENSON, PAULA SWENSON, ROBERT T. PRICE, KIM M. PRICE, KENT BECKSTEAD, SUZANNE BECKSTEAD, LISA GRAY, JOHN JEX, JESSICA JOHNSEN, JEFF BURNINGHAM, and JOHN DOES 1-50 Defendants.	**AFFIDAVIT OF KARA HOWE** Civil No. 040402938 Judge James R. Taylor

STATE OF UTAH)
:s
COUNTY OF UTAH)

KARA HOWE, being first duly sworn, deposes and states as follows:

1. Affiant has been a coach of girls basketball teams for over nine years.

2. Affiant is the older sister of Michelle Harrison.

3. In her capacity as a coach of a summer club team called Utah Sky, Affiant was approached by Defendant Gary Burningham to coach his daughter, Kayla Burningham, and allow her to be on the team.

4. In response to the request of Defendant Gary Burningham and particularly in response to requests by her sister Michelle, Affiant put Defendant Burningham's daughter, Kayla Burningham, on the team and tried to utilize her to the extent of her abilities.

5. It is Affiant's opinion that Kayla Burningham is no more than an average basketball player who over the years has developed some bad basketball playing habits.

6. During the time Affiant coached Kayla Burningham, Defendant Gary Burningham was intensely involved, attending many of the games and seeking to give Affiant tips on coaching basketball.

7. In mid 2003 while Affiant was coaching Utah Sky with Kayla Burningham participating, Defendant Gary Burningham told Affiant that he intended to get Plaintiff O'Connor fired from his coaching position.

8. In February, 2004, Affiant was told by Judi Harrison, her mother, that she was approached by Gary Burningham through Affiant's mother with the request that Affiant assist Plaintiff O'Connor with the Lehi High School girls basketball team as they prepared for State tournament.

9. Affiant was informed that Defendant Gary Burningham thought Plaintiff O'Connor needed the additional assistance.

10. Affiant was reluctant to get involved with the Lehi High School girls basketball team for a number of reasons, including the time commitment away from her employment.

11. Affiant was told by Judi Harrison that she was assured by Defendant Gary Burningham through Affiant's mother that he, Gary Burningham, would pay her lost wages and otherwise make it financially worth Affiant's time to assist in coaching.

12. When Affiant came to a practice with Lehi High School girls being coached by Plaintiff O'Connor, Affiant watched the practice, but did not give any tips or otherwise see a need to get involved in coaching, and left shortly thereafter. At the time Affiant reached the conclusion that Plaintiff O'Connor was doing the right things with regard to coaching the girls and he did not need Affiant's assistance.

13. Thereafter, Affiant never attempted to assist coaching the Lehi High School girls basketball team.

14. Despite his promise, Defendant Gary Burningham never paid Affiant any money for the time she spent with the Lehi High School girls basketball team.

15. In several conversations with Defendant Gary Burningham in the summer 2003, Affiant was told by Defendant Burningham that once he was successful in getting Plaintiff O'Connor fired, he would arrange for Affiant to be made the new coach.

16. When it came time to put together her Utah Sky basketball team for the 2004 season, Affiant decided not to utilize Kayla Burningham in any meaningful way because her level of play was more of a practice player and so informed Defendant Gary Burningham in approximately February, 2004.

17. Affiant is of the opinion that, except for the aggressive efforts of Defendant Gary

Burningham, Kayla Burningham would not be considered a player worthy of being a starter on most high school teams or summer club teams.

18. Affiant is personally familiar with the summer club team in which Kayla Burningham has been playing during the 2005 summer.

19. Affiant is of the opinion that the summer club team on which Kayla has been playing in 2005 is not an exceptional team.

DATED this 12 day of August, 2005.

KARA HOWE

STATE OF UTAH)
:s
COUNTY OF UTAH)

Notary Public
DIANE J. HUSETH
5379 Lucky Clover Lane
Murray, Utah 84123
My Commission Expires
October 8, 2006
State of Utah

The foregoing Affidavit was acknowledged before me this 12 day of August, 2005 by Kara Howe.

SUBSCRIBED AND SWORN before me this 12 day of August, 2005.

NOTARY PUBLIC
Residing at _____

My Commission Expires:

10-8-2006

Notary Public
DIANE J. HUSETH
5379 Lucky Clover Lane
Murray, Utah 84123
My Commission Expires
October 8, 2006
State of Utah

CERTIFICATE OF SERVICE

I hereby certify that I caused to be delivered by the method indicated below a true and correct copy of **AFFIDAVIT OF KARA HOWE** in Civil No. 040402938, postage prepaid, this 15th day of August, 2005 to:

____ FEDERAL EXPRESS
✓ U.S. MAIL
✓ HAND DELIVERY
____ TELEFAX TRANSMISSION

Michael W. Homer
Jesse C. Trentadue
Suitter Axland
Judge Building
8 East Broadway, Suite 200
Salt Lake City, Utah 84111

F:\DATA\RUST\O'Connor\aff.kara.wpd

Jon Jex
1879 North 1475 East
Lehi, Utah 84043

Tab 17

JEX STATEMENT

We, John and Sylvia Jex, hereby give this voluntary statement which we agree may be used by Michael O'Connor as he sees fit.

In July 2004, Sylvia Jex wrote a two page, un-dated and un-signed letter addressed "To whom it may concern" relative to the experiences our daughter, Susie, had playing as a member of the Lehi High School girls basketball team. The letter was written at the request of Sue Chandler and was delivered at Sue Chandler's request to Gary Burningham. Sue Chandler did not tell us what to say, but did ask us to express our concerns about Coach Micheal O'Connor. Sylvia wrote the letter without consulting either Susie or John.

Our daughter, Susie, graduated from Lehi High School in the Spring of 2003. Therefore, she did not play for Lehi High School during the 2003-2004 season and we attended only one or two games during that season. Sylvia did have some discussion with a few of the other parents relative to the 2003-2004 season. Sylvia wrote the July 2004 letter based on her observations of events during the time that Susie played basketball at Lehi High School. Neither of us attended any meetings relative to Coach O'Connor after Susie graduated and specifically did not attend the Alpine School Board meeting held in July of 2004. Sylvia did understand her July 2004 letter would be presented to someone in the Alpine School District administration.

In writing the letter, Sylvia purposefully did not charge Coach O'Connor with abuse or dishonesty, nor did she ask that he be terminated.

We have no reason to believe that Coach O'Connor has ever been dishonest. To the extent the second page of the July 2004 letter suggests recruiting of girls to the Lehi basketball team by Coach O'Connor, we apologize. We know nothing about the facts behind Meagan Herriford or any other girl coming from another high school to play at Lehi High School, and

specifically do not know that Coach O'Connor had an involvement whatsoever in the Herriford transfer.

When Sylvia wrote the July 2004 letter, she intended that it would be used in a positive fashion to assist in a dialog between Coach O'Connor, his players, and their parents. We never intended to impugn his personal and professional reputation. We did not see copies of other letters submitted to the Alpine School Board until several months later.

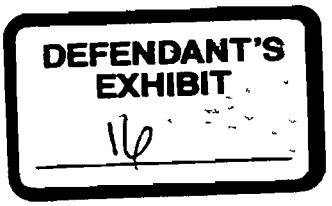
Dated this 2nd day of August, 2005.

John Jex

Sylvia Jex

Tab 18

July 2, 2004



To Whom It May Concern:

I would like to express my feelings concerning Coach Michael O' Conner and his leadership in the Lehi High School girls' basketball program. My daughter Tara Asay played for him the past three years and also served as a captain her senior year. She keeps a 3.95 gpa.and served as class vice president. She is very committed to anything she starts and she always gives 110% to everything.

My husband and I have always tried to be supportive to Coach O' Conner and his style of coaching whether we agreed or disagreed with the politics of the game. Tara also was committed to be supportive of the coach because she was the captain of the team and felt a responsibility to do so. She did not share with us what went on during the basketball season until just this last week, because she knew that we would be upset. She was right!

Tara has expressed to us that she kept her silence all year because she was a captain. She supported Coach O' Conner even when other team members were saying things about him out of respect. She did everything to try and be a good leader. As Tara has shared with us the things that went on the 2003-2004 school year, tears come to my eyes and my heart is angry. Her biggest regret is that all the years of practice, camps, and money invested, dreams, and the passion and love of basketball has ended up to be something that wasn't fun anymore. She wanted so much to reach her own potential but he would not allow it, and there was nothing she could do about it. She had to do what he said. This is not right. The reason I am writing this letter is so that he can not crush the self esteem and dreams of more girls in the future. He needs to be stopped.

I would like to share with you some of the unethical decisions and coaching techniques of Coach O' Conner: All the girls were not treated as equals. There is a girl on the team who was a sophomore. Her name is Michelle Harrison. It is very evident that he was out to promote Michelle's career with no one else's. All the girls were instructed to always pass to Michelle. There was no opportunity to look for their own shots, or they would be pulled from the game. Michelle accused the team of being selfish because they were not passing it to her enough. Coach O' Conner backed her up and said if we don't support Michelle, then something is wrong. Tara could not just play her game, because she had to pass. Tara and Tristen Sunderland were both guards and had been the high scorers and leaders of all their basketball teams through junior high and their sophomore year. But he forced them to not play their game and support Michelle. If any player started to get more points than Michelle in a game, they were pulled out. He made sure that Michelle was left in the whole game and that she had the highest scores each game so that her stats would be good for her future. How can a team have team unity when an obvious favorite is always being watch out for? I know that there is more to this story than I am aware of.

STATEMENT

We, Blair and Paula Swenson, hereby give this voluntary statement which we agree may be used by Michael O'Connor as he sees fit.

On two separate occasions, once in November of 2003 and again in July of 2004, we were requested by Gary Burningham to write letters relative to Coach Michael O'Connor. The first letter addressed to Lynn Allen, who was then the athletic director for Lehi High School, was with regard to what we understood from Gary Burningham to be a possible misappropriation by Coach O'Connor of funds meant for the girls basketball program. We subsequently learned that no funds were ever misappropriated. We also learned to our surprise that no other parents submitted anything in writing to Mr. Allen on the subject. We had been informed by Gary Burningham that a number of parents were writing letters regarding that subject.

The letter in July of 2004 was written only after we had been requested a couple of times by Gary Burningham to write such a letter, and after we had talked with our daughter Tara Asay about her experiences being on the Lehi High School girls basketball team. Tara is a very quiet girl and does not express herself very much. Therefore, in light of what she was telling us, in her emotional state, and in light of the requests by Gary Burningham that we write something, we did write the letter which we delivered to Gary Burningham at his place of residence.

In re-reviewing the letter we wrote, particularly in light of what we intended to say, we admit that the letter inaccurately accuses Coach O'Connor of wrongdoing. We do not believe that Coach Michael O'Connor has been unethical as that term is generally used. We do not believe he misused any monies belonging to the girls basketball team. We have seen nothing to make us believe that he was abusive to the girls on the basketball team. We did not attend the Alpine District School Board meeting in July of 2004. We tried not to sit at basketball games near those parents who were

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of June, 2006, I caused two true and correct copies of the foregoing **ADDENDUM TO BRIEF OF APPELLEES** to be served via, first class United States mail, postage prepaid, upon each of the following:

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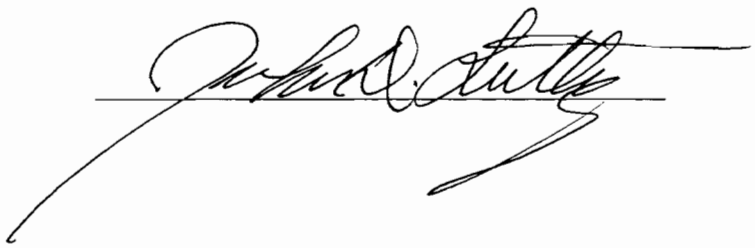

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