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ARBITRATION PROCEEDINGS

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SACRAMENTO CITY TEACHERS)
ASSOCIATION, CTA/NEA)

) Case No.
) 01-18-00034761

Grievant,)

vs.)

SACRAMENTO CITY UNIFIED)
SCHOOL DISTRICT,)

Employer/Respondent)

-----)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME I

SACRAMENTO, CALIFORNIA

MARCH 7, 2019

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ARBITRATION PROCEEDINGS

- - -

SACRAMENTO CITY TEACHERS)	
ASSOCIATION, CTA/NEA)	
)	Case No.
)	01-18-00034761
Grievant,)	
)	
Vs.)	
)	
SACRAMENTO CITY UNIFIED)	
SCHOOL DISTRICT,)	
)	
Employer/Respondent)	
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TRANSCRIPT OF ARBITRATION PROCEEDINGS, Taken at
5300 Elvas Avenue, Sacramento, California, Commencing At
9:31 a.m., THURSDAY, MARCH 7, 2019, Before Wendy
Harrity, CSR No. 11494.

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A P P E A R A N C E S

ARBITRATOR:

KENNETH PEREA, ARBITRATOR
P.O. Box 2788
Del Mar, California 92014-5788

FOR The CALIFORNIA TEACHERS ASSOCIATION:

By: JACOB F. RUKEYSER, ESQUIRE
1705 Murchison Drive
Burlingame, California 94010

FOR THE SACRAMENTO CITY UNIFIED SCHOOL DISTRICT:

LOZANO SMITH ATTORNEYS AT LAW
By: SLOAN SIMMONS, ESQUIRE
By: ERIN M. HAMOR, ESQUIRE
One Capitol Mall, Suite 640
Sacramento, California 95814

ALSO PRESENT:

JOHN BORSOS and CANCY McARN

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I N D E X

EXAMINATION

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1 SACRAMENTO, CALIFORNIA; THURSDAY, MARCH 7, 2019;

2 9:31, A.M.

3
4 THE ARBITRATOR: All right. If everyone's
5 ready, let's go on the record. Good morning, ladies and
6 gentlemen. We're present in the matter of arbitration
7 between Sacramento City Teachers Association, CTA, NEA
8 and the Sacramento City Unified School District. I
9 think we'll just refer to it as the District. We have
10 enough acronyms in this case already. We don't need to
11 confuse the picture any more.

12 Anyway, my name is Ken Perea. I'm an impartial
13 arbitrator. I've been invited to serve as the
14 arbitrator in this particular matter. This actually
15 does have a AAA case number, so I might as well identify
16 the case by virtue of AAA's number. It's
17 01-18-0003-4761. We're present today at the gracious
18 invitation of the Teachers Association. And then
19 tomorrow, we're going to move and hopefully we won't
20 lose anyone in that moving process. But we'll be
21 meeting tomorrow at the District's office. There has
22 been a lot of preparation and I want to acknowledge
23 counsels' efforts in that regard. You worked
24 marvelously to get this matter organized for a,
25 hopefully, expedited presentation.

1 So what we have -- first off, we have two
2 binders at this point. There will be a third, I
3 understand. We will begin with the District's case
4 tomorrow. But what we have at this point is one binder
5 which contains all the Joint exhibits so far agreed upon
6 and those are identified on the first page of that -- in
7 that binder. So I'm not going to belabor the record and
8 read them in except to note that Joint Exhibits 1
9 through 12 have been identified or received into the
10 record. Okay?

11 Then in addition, we have a separate binder and
12 this contains all of the Association's exhibits up to
13 this point in time. And I understand there's going to
14 be an index prepared at a later point. You can't
15 imagine the concentration of effort that's gone into
16 this. So I understand if there's still a few little
17 things that are being worked out. But those are
18 identified on the various tabs as Association's 1
19 through 20. And this has been provided to the District
20 at a sufficient time that you had an opportunity to go
21 through these or not?

22 (Whereupon Exhibit Nos. 1 through 20 were
23 received into evidence.)

24 MR. SIMMONS: We received it within the last 15
25 to 30 minutes. I skimmed through it.

1 THE ARBITRATOR: Does it look like there's
2 anything there that's going to be a problem for you?

3 MR. SIMMONS: We are reserving the right to
4 argue as to the relevance or weight when brought in
5 through testimony. We are fine with admission of the
6 them.

7 THE ARBITRATOR: So as I indicated, there's 20
8 Association exhibits. I'll receive Associations -- if
9 you don't mind me calling you the Associations. The
10 acronyms just kind of get me all messed up. I'll
11 receive Association's 1 through 20. Okay?

12 In addition to that, we have -- and I think
13 there's one coming from the Association, as well -- a
14 statement of the issues. The parties have discussed
15 this at considerable length. And I suspect that they're
16 not in 100 percent agreement as to the issues. It's a
17 fairly complicated matter. So I have received the
18 District's statement of the issues and I assume that the
19 Association will be providing me one, as well, correct?

20 MR. RUKEYSER: That is correct, Mr. Arbitrator.
21 We are prepared to read one into the record and if you
22 would also prefer a hard copy version of that, we can
23 provide one of those as well.

24 THE ARBITRATOR: All right. Why don't we --
25 just so it doesn't escape my grasp -- why don't you at

1 this in point, it's a little disjointed -- but we will
2 have the Association's statement of the issues read into
3 the record, please.

4 MR. RUKEYSER: The Association would propose
5 that the statement of issues be as follows: Did the
6 District violate the Tentative Agreement signed by
7 District Superintendent Jorge Aguilar and Sacramento
8 City Teachers Association President David Fisher on
9 December 4th, 2017, and subsequently ratified by the
10 District governing board and the Sacramento City
11 Teachers Association membership. If so, what shall be
12 the remedy?

13 THE ARBITRATOR: If you can provide that in
14 hard copy version, I would appreciate that. Now, the
15 other piece to this is that there's a Joint stipulation
16 and Joint exhibit list. The Joint exhibit list is a
17 little duplicative, but anyway, these are stipulations
18 that have been worked out between counsel and I will
19 receive the stipulations as set forth in this document.
20 I'm not going to identify it. It's not really an
21 exhibit or anything of that nature. But I accept the
22 stipulations and I appreciate the considerable effort to
23 which the parties have gone in preparing those
24 stipulations.

25 Any housekeep matters that we still need to

1 mention?

2 MR. SIMMONS: Just one issue. I notified
3 Mr. Rukeyser this morning, I did late last night note
4 that there were documents that were produced, as we were
5 pushing documents out this week to exchange information,
6 there is actually confidential documents which were
7 prepared for use in closed session with the District's
8 board as it relates to the status of all that is
9 pending, labor contracts.

10 I respect Mr. Rukeyser's position, which as you
11 know, I'm not going to just turn back over to you, but
12 he has indicated that he didn't intend on using them. I
13 think there needs to be further discussion because I
14 would prefer -- request he returns those because they
15 are closed-session documents. In any event,
16 Mr. Rukeyser said maybe in order to turn them back over,
17 I may want to voir dire Ms. McArn to confirm in fact
18 they are closed-session docs. But I just wanted that as
19 an issue that -- not to slow us down today, but
20 something I would like us to address.

21 THE ARBITRATOR: Fair enough. Counsel, let's
22 review the documents and verify that they are what you
23 purport them to be, Mr. Simmons. Then we will take care
24 of what takes place after that.

25 MR. RUKEYSER: Thank you, Mr. Arbitrator. Just

1 on the face of these documents, there's nothing to
2 indicate that they are confidential or prepared for
3 closed session deliberations. And as I indicated to
4 counsel, I'm not sure whether we're going to be relying
5 on these documents at all in the cross-examination. I
6 don't believe we're going to be using them in our Case
7 in Chief. But to the extent that we do wish to use them
8 in cross-examination as I proposed to District counsel,
9 from what I thought would be appropriate before we reach
10 any understanding about the nature of the documents.

11 THE ARBITRATOR: So I'll give you some latitude
12 to satisfy yourself in that regard. And then we'll
13 discuss what will transpire after that.

14 So I indicated the matter, but I need to ask
15 the parties to please state their appearance for the
16 record. So let's begin Mr. Rukeyser.

17 MR. RUKEYSER: Thank you, Mr. Arbitrator.
18 Jacob Rukeyser from the California Teachers Association
19 on behalf of the Sacramento City Teachers Association.

20 THE ARBITRATOR: Good morning, sir. And with
21 you?

22 MR. BORSOS: John Borsos, B-O-R-S-O-S. My
23 first name is J-O-H-N. And I'm the executive director
24 of the Sacramento City Teachers Association.

25 THE ARBITRATOR: Thank you. And on behalf of

1 the District, please.

2 MR. SIMMONS: Sloan Simmons Lozano Smith on
3 behalf of the Sacramento City Unified School District.

4 THE ARBITRATOR: And your co-counsel?

5 MS. HAMOR: Erin Hamor of Lozano Smith, also on
6 behalf of Sacramento City Unified School District.

7 THE ARBITRATOR: Thank you very much. And also
8 with us?

9 THE WITNESS: Cancy McArn, Chief Human Resource
10 Officer.

11 THE ARBITRATOR: For the record, will you spell
12 your first and last names?

13 THE WITNESS: C-A-N-C-Y. Last name, M-c-A-R-N.

14 THE ARBITRATOR: Thank you. All right.
15 Welcome everyone. We're about to begin. Now, I should
16 mention, normally I ask the parties if they have opening
17 statements and they generally do. But in this instance,
18 we're trying to expedite as much as we can. And the
19 parties have provided their respective pre-hearing
20 briefs and I compliment you on the quality of those
21 pre-hearing briefs.

22 I have reviewed them and I think they set forth
23 quite in detail the respective positions of the parties
24 and what they're going to be presenting in these
25 proceedings. So with that in mind, I think the parties

1 have agreed there will be no pre-hearing statements --
2 opening statements, excuse me. So thank you for that.
3 We can just move right along.

4 We will be beginning with the Association
5 initially. We're going to hopefully finish the
6 Association's Case in Chief today, perhaps even a little
7 bit before we have agreed, we will conclude. I
8 understand there is a meeting of the Board of Education
9 this evening which will take place and will require the
10 attendance of a number of our parties in these
11 proceedings. So we will recess at a reasonable hour so
12 that you can attend the Board's meeting.

13 But hopefully we will finish with the
14 Association's Case in Chief and perhaps we'll be able to
15 do a partial -- a part of the District's case in chief
16 before we adjourn. And then we'll resume the District's
17 case in chief tomorrow at the District's offices. Any
18 other housekeeping?

19 MR. RUKEYSER: None from the Union.

20 THE ARBITRATOR: All right. Would you like to
21 call your first witness, please?

22 MR. RUKEYSER: Yes, the Union will call John
23 Borsos as the first witness.

24 THE ARBITRATOR: All right. Mr. Borsos?

25 MR. BORSOS: Are we going here or --

1 THE ARBITRATOR: Right up here because all
2 exhibits for you to refer to are right there, sir.

3 MR. BORSOS: Okay.

4 THE ARBITRATOR: All right. Mr. Borsos, do you
5 swear to tell the truth, the whole truth and nothing but
6 the truth.

7 MR. BORSOS: Yes.

8 THE ARBITRATOR: Thank you, sir. Please have a
9 seat. John, you did spell your name a moment ago. I
10 don't know if it was on the record or not. Would you
11 spell your last name for the record, please?

12 THE WITNESS: Sure. B-O-R-S-O-S.

13 THE ARBITRATOR: Thank you, sir. Counsel?

14 MR. RUKEYSER: Do you mind if I call you John?

15 THE WITNESS: No.

16

17 DIRECT EXAMINATION

18

19 BY MR. RUKEYSER:

20 Q. John, by whom are you employed?

21 A. California Teachers Association.

22 Q. And in what capacity?

23 A. I'm the executive director for the Sacramento
24 City Teachers Association.

25 Q. And how long have you worked as the executive

1 director for SCTA?

2 A. October of 2014.

3 Q. Just by way of background, before coming to
4 SCTA, where did you work?

5 A. I've been a meeting organizer since the early
6 '90s, so I spent 15 years in SCIU, five years in the
7 National Union Healthcare Workers, a year in the
8 California Nurses Association, then the SCTA. It's
9 about 30 years, 25 -- I don't know, something like that.

10 Q. And before coming to SCTA, were you involved in
11 labor negotiations?

12 A. Yes.

13 Q. For the entire duration of your work in the
14 Union movement?

15 A. Yes.

16 Q. And since coming to SCTA, can you give us an
17 overview the kinds of work that you've done?

18 A. In terms of negotiations, there was a reopening
19 that we did on wages in 2015, '16. We had an issue
20 around a unilateral change that had been made to health
21 insurance in 2014. So the collective bargaining
22 negotiations, as well as the administration of the
23 contract day-to-day. Also some organizing work. We
24 organized the Sacramento Saint Hope System that had been
25 independent charter schools. So that is part of it.

1 Q. Now, the parties were involved in collective
2 bargaining in 2016, 2017; is that correct?

3 A. Yes.

4 Q. What sort of bargaining was this? Was this a
5 successor contract or reopener bargaining?

6 A. It was a successor contract.

7 Q. So the entire contract was being renegotiated?

8 A. Yes.

9 Q. And when did this collective bargaining begin?

10 A. October of 2016.

11 Q. When was the contract ratified?

12 A. The Sac City Unified Board approved it on
13 December 7th of 2017, and our ratification happened
14 about a week later.

15 Q. And were you personally involved in this
16 bargaining?

17 A. Yes.

18 Q. In what capacity?

19 A. I was the chief spokesperson.

20 Q. Throughout the entire bargain?

21 A. Yes.

22 Q. From October 2016, until negotiations ceased?

23 A. Yes, I was also the Union's panelist on the
24 fact-finding panel.

25 Q. When did the Union make its first contract

1 proposal in this bargaining?

2 A. October of 2016.

3 Q. Did you help formulate that proposal?

4 A. Yes.

5 Q. Did you help formulate subsequent proposals and
6 counter-proposals?

7 A. Yes.

8 Q. Were you involved in formulating all of the
9 Union's proposals and counter-proposals?

10 A. Yes.

11 Q. Just to provide more overview of the bargain,
12 at some point, the Union declared impasse, correct?

13 A. Yes.

14 Q. When was that?

15 A. February or March of 2007 -- I have got to get
16 the dates. Started October of '16, so that would have
17 been February or March of 2017.

18 Q. And at the point that you declared impasse, had
19 the parties met in negotiations for a number of
20 sessions?

21 A. Yes.

22 Q. Can you give us your best recollection of
23 approximately how many sessions there had been at the
24 time that you declared impasse?

25 A. Somewhere between 15 and 20.

1 Q. And up until that point, when you declared
2 impasse, who were the primary spokespersons for the
3 Union at the negotiation sessions?

4 A. Primarily me and Nikki Milevsky -- N-I-K-K-I,
5 last name is M-I-L-E-V-S-K-Y -- was the bargaining
6 chairperson and David Fisher, F-I-S-H-E-R, was the
7 President of SCTA. And so while I did most of the
8 speaking, periodically they would also add things and
9 then we had a large bargaining team. Those were the --
10 the three of us were the ones that primarily spoke.

11 Q. How about on the other side of the table?
12 Looking at the bargain up until the point that you
13 declared impasse, who were the primary spokespersons for
14 the District?

15 A. The lead spokesperson was Scott Holbrook,
16 H-O-L-B-R-O-O-K, from -- I can't remember which law firm
17 he was with. He was outside counsel. Tad Appel, who
18 was -- I don't remember exactly what his title was. He
19 was Assistant Superintendent for something. And his
20 last name is A-P-P-E-L, I think that's how it's spelled.
21 And then Cancy McCarn also would play that kind of role.

22 Q. After you declared impasse, there was a
23 mediation, correct?

24 A. Yes.

25 Q. And the next step in the impasse procedures

1 after mediation would be the fact-finding that you had
2 eluded to?

3 A. Yes.

4 Q. Between the meditation and the fact-finding --
5 let's step back.

6 Do you recall when about the meditation
7 occurred?

8 A. There were several bargaining -- there were
9 several meditation sessions. So that was -- I don't
10 remember if we did it in April. I know we did it in
11 May, so that was April, May, through the spring of 2017.
12 I think there were four meditation sessions, maybe more.
13 I don't remember.

14 Q. And the fact-finding occurred in October?

15 A. Yeah, I think it was the 1st or 2nd, right at
16 the beginning of the October.

17 Q. Between the meditation, the meditation that you
18 had in the spring and the fact-finding hearing that
19 occurred in October, did the parties have any other
20 negotiation sessions?

21 A. Yeah, we met in -- I can't remember what we
22 labeled it. Free fact-finding or -- there was a lot of
23 work that had to be done on figuring out how to cost the
24 contract. So we met in August and September of 2017,
25 and at least a couple of those meetings then were full

1 blown with our bargaining team and their bargaining
2 team.

3 Q. An in those meetings or those negotiations, did
4 the Union bargaining team --did it remain the same as
5 you had described it earlier?

6 A. Yes.

7 Q. So again, you, Ms. Milevsky and Mr. Fisher as
8 the primary representatives of the Union?

9 A. Yeah, along with the larger bargaining team.

10 Q. What about the District side, same primary
11 spokespeople for the District?

12 A. After meditation, the District had Jack Parham
13 become part of their team. He had been assigned as
14 their fact-finding panelist. This was probably in July
15 or August and so when we started having these
16 discussions in August and September, Mr. Parham was part
17 of their bargaining team.

18 Q. So he joined the other individuals that you had
19 already identified?

20 A. Yes.

21 Q. As being part of the team?

22 A. Yes. Their team had more members than those
23 three, but those were the three that primarily spoke.
24 And then when Mr. Parham joined, then he was the -- the
25 four of us would primarily speak.

1 Q. Now, at some point in there, the current
2 Superintendent of the District, Jorge Aguilar, was hired
3 by the District, correct?

4 A. Yes.

5 Q. Do you recall when about that occurred?

6 A. I believe his start date was July 1 of 2017.
7 He was hired in May or June and began on July 1.

8 Q. At any time during these what you characterize
9 as pre fact-finding negotiation sessions or bargaining
10 sessions, did Superintendent Aguilar participate there
11 at the table with the District?

12 A. No, he did not.

13 Q. And during that time, did you -- meaning did
14 you, SCTA, have any sidebar negotiations Superintendent
15 Aguilar?

16 A. No.

17 Q. Let's now take look a look at the substance of
18 the negotiations. In this bargain, was SCTA making any
19 proposals regarding compensation?

20 A. Yes.

21 Q. And can you give us an overview of what SCTA
22 was proposing by way of changes to the compensation
23 provisions of the contract?

24 A. There were a number of provisions related to
25 compensation. The primary one was a restructuring of

1 the salary schedule. We had additional stipends for
2 people who did special education and stipends for
3 psychologists. So there were a number of other issues,
4 but the primary issue was the restructuring of the
5 salary schedule, as well as across-the-board increases.

6 Q. And just so the record is clear, can you
7 explain what you mean when you say salary schedule?

8 A. Yeah, it's the stepping column, the payment --
9 what do you want to call it? It is the -- I don't know
10 -- the pay schedule for District employees.

11 Q. A chart showing the amount of pay that teachers
12 with certain years of experience or certain education
13 levels would receive?

14 A. There is two axis. There's years of experience
15 and then there's the additional training. So there's --
16 in the Sac City, at least the K-12, there's five
17 columns, A,B,C,D,E. A was, you know, beginning, B was
18 somebody who has a BA plus -- I have to look at it -- 30
19 and then the next may be 45. And the next is BA plus
20 75, then BA plus 90, BA plus 103. And then on the side,
21 there's people moving through based on years of
22 experience and not every year of experience had an
23 additional increase. You know, sometimes it would be
24 the same rate of pay, years 10 through 12, but some
25 years on the side and additional training on the top.

1 Q. Okay.

2 A. Standard in almost every school district in
3 California -- not the same, but everybody had a salary
4 schedule.

5 Q. If the SCTA was proposing across-the-board pay
6 raises --

7 A. Yes.

8 Q. -- for everyone on the salary schedule?

9 MR. SIMMONS: Objection; vague and ambiguous as
10 to when or what proposal he's referred to in this
11 question.

12 THE ARBITRATOR: Well, I think the -- we
13 started this line of questioning in a very general way,
14 what were the areas that were being discussed in
15 negotiations. So I'll overrule. Go ahead and answer
16 the question or repeat it for the witness.

17 THE WITNESS: I think it's fair to say at every
18 proposal we had on the salary schedule, we had a
19 restructuring of the salary schedule, as well as an
20 across-the-board increase.

21 BY MR. RUKEYSER:

22 Q. Thank you. And how -- let's look at the
23 beginning of the negotiations. How was SCTA proposing
24 to restructure the salary schedule?

25 A. Now I'm speaking specifically of the K-12

1 salary schedule. We were proposing to make the steps,
2 that's the years of service, more unified. The way that
3 the current salary schedule is, so if you look at the
4 columns being A,B,C,D,E and the years being years of
5 service. So column A-1 is the top left-hand corner.
6 It's a brand new employee with no experience. The way
7 that the current salary schedule is structured, A-1
8 could be, say, \$47,000 and A-2, that is someone who's
9 still in the A column with another year would get a
10 dollar increase. I think it was like -- it did not make
11 logical sense.

12 So what we did is we proposed to restructure
13 the salary schedule so that the increments between the
14 steps were uniform and the increments between the
15 columns were uniform. And because there was a
16 historical migration of staff at the 10- to 11-year
17 increment, because that's where the SAC City salary
18 schedule was the least competitive, we compressed the
19 salary schedule. I'm doing it with my hands because
20 this is how we did it virtually every bargaining
21 session. In fact, they started making fun of me, so I
22 kept doing it. So we compressed it this way and we
23 compressed it this way. The Sac City salary schedule
24 was competitive for new hires and it was competitive for
25 people who were at the very top of the scale, the most

1 experienced. But you had to wait until 26 years to get
2 to the top. Most other school districts had people
3 getting to the top of the salary schedule in years 19 or
4 20. And you also couldn't get to Column E. It was
5 Column E with 103 units. So we compressed it to 90 and
6 we also added a BA plus 60 step, which is in the middle,
7 because that is where people were migrating out of the
8 District, when they were in the middle of the salary
9 schedule. I mean, those wages, which we provided a
10 comparison of, particularly with Elk Grove and San Juan,
11 which are the neighboring school districts, were
12 extremely uncompetitive, \$10 - \$15,000 per year below
13 San Juan and Elk Grove. There was a crisis in the
14 classrooms where --

15 MR. SIMMONS: Object to the comments. The
16 question was what the proposal was as opposed to the
17 opinion why.

18 THE ARBITRATOR: Yeah, I think maybe we've gone
19 a little bit beyond the question. I appreciate the
20 education, though. Go ahead.

21 BY MR. RUKEYSER:

22 Q. Why was SCTA proposing a restructuring of the
23 salary schedule?

24 A. The district was having a problem recruiting
25 and retaining staff. And the retention problem occurred

1 really with -- and we look at it -- with people with
2 tenure -- the average person leaving the District was
3 leaving with 10 or 11 years of service, right at the
4 heart of that salary schedule. We had over, while we
5 were in bargaining, over a 100 vacancies in the middle
6 of the school year, which is a huge problem for students
7 and we wanted to be able to fix that problem.

8 Q. We've been talking about the salary schedule
9 and you mentioned that it was the K-12 salary schedule.
10 Were there other salary schedules?

11 A. Yes.

12 Q. Was SCTA proposing similar changes for those
13 structures?

14 A. Yes. The psychologist's salary schedule was
15 scheduled differently. There's 1, 2, 3, 4, 5 and then
16 there was a big gap between years 5 and I think it was
17 20. I'd have to look at it. So we proposed to
18 restructure that. And there was a third salary schedule
19 that was a base for 8-hour employees, program
20 specialists and social workers. And we proposed to
21 restructure that. And we proposed that the adult ed
22 hourly employees would be placed on the adult ed salary
23 schedule. It did not require a restructuring, but it
24 changed where people were placed on the schedule --
25 which salary schedule they were placed on.

1 Q. When SCTA first proposed in this bargain
2 across-the-board salary increase, do you recall what the
3 percentage raise you were asking for was?

4 A. Yes.

5 Q. What was that?

6 A. We proposed a change to the salary schedule and
7 on top of that, 6 percent, 6 percent, 6 percent. Or
8 actually, I think our first proposal was for 2 years,
9 6 percent, 6 percent in 2016, '17 and 6 percent for
10 2017, '18. So it would be the salary schedule plus 6
11 percent.

12 Q. To be clear, SCTA was proposing that the new
13 salary schedule be adopted effective the '16, '17 school
14 year?

15 A. Our proposal was that, yes.

16 Q. And then on top of this new salary schedule,
17 there would be across-the-board --

18 MR. SIMMONS: Objection; leading question.

19 THE ARBITRATOR: Leading. Rephrase your
20 question.

21 BY MR. RUKEYSER:

22 Q. Can you explain for the record what the
23 across-the-board raises were going to be on?

24 A. They were on the newly proposed salary
25 structure.

1 Q. Okay. Thank you. During the course of the
2 bargain from October 2016 until the contract was inked,
3 did SCTA change the -- its proposal with respect to the
4 amount of the across-the-board salary increase?

5 A. Yes.

6 Q. During the course of that bargain, from start
7 to finish, did SCTA change its proposal with respect to
8 the restructured schedule?

9 A. No, it was the same exact proposal from the
10 first day of bargaining until the agreement we signed
11 with the Superintendent.

12 Q. During the course of that bargain, did SCTA
13 change what it was proposing as the starting date for
14 implementing a new salary schedule?

15 A. Yes.

16 Q. You testified earlier about the fact-finding
17 hearing. How long of a hearing was this?

18 A. It lasted a day.

19 Q. And just so the record is clear, can you give
20 us an overview of what happened at that hearing?

21 A. It was held at the District office October 1st
22 or 2nd -- I don't remember the exact date -- of 2017.
23 We went first. I was the panelist so the there was
24 fact-finder, Andrea Dooley and the District's panelist,
25 who was Jack Parham and me. We sat at a table like

1 this, the three of us. And then the Union was here and
2 the District was there and the Union went and gave a
3 presentation. That was led by Nikki and David, as well
4 as several other people who spoke on different issues.
5 And that lasted, I would say, maybe two hours or
6 something like that.

7 We had three very large binders and they
8 walked people through the binders and explained the
9 details behind the proposal. And we had a several-page
10 presentation that they actually just walked people
11 through, probably a 20-page presentation. And then
12 there was a break and the District did its presentation
13 that lasted -- that Superintendent came in and spoke for
14 a couple minutes.

15 Q. And here you're talking Superintendent Aguilar?

16 A. Yes.

17 Q. Okay.

18 A. And then the District did a presentation that
19 didn't last particularly long. There were a couple
20 questions that were asked after our presentation and
21 after the District's presentation and then the panelists
22 went into deliberations.

23 Q. Okay. What did Superintendent Aguilar speak
24 about at the fact-finding hearing?

25 MR. SIMMONS: Objection; hearsay.

1 THE ARBITRATOR: I don't know that it's offered
2 for the truth. It's just what was said.

3 MR. RUKEYSER: Precisely.

4 THE WITNESS: I don't remember what he said.
5 It was not particularly memorable -- I mean, I just --
6 it just wasn't.

7 BY MR. RUKEYSER:

8 Q. Sure. Did Superintendent Aguilar make the
9 District's presentation?

10 A. No, he spoke for a couple minutes and then
11 left.

12 Q. Who presented on behalf of the District at that
13 fact-finding hearing?

14 A. Scott Holbrook and John Gray, who was there
15 from school services.

16 Q. Okay.

17 A. That's who I remember speaking. They may have
18 had more people who were on their side, but that's who I
19 remember speaking.

20 Q. Okay. During that '16, '17 bargain, did you
21 have any practice of keeping track of the Union's
22 proposals?

23 A. Yes.

24 Q. What was that practice?

25 A. Of our proposals?

1 Q. Yes.

2 A. I would keep a binder of all our proposals as
3 we made them, a bargaining binder of proposals. Then if
4 it becomes a Tentative Agreement, I move it into a
5 different section and, you know, just standard.

6 Q. Sure. Did you have --

7 A. Because I was responsible for making the
8 proposals and giving the proposals and making sure they
9 were signed off appropriately.

10 Q. Did you keep track of -- did you keep a summary
11 of whether there was an agreement about a particular
12 article or whether that article was left hanging and
13 there was a proposal that had not yet been agreed to?

14 A. Yeah, I do that a lot in bargaining, so it's
15 several stages, especially if there's a lot of open
16 issues and we probably had 30-something open issues.
17 Periodically I would do a status of negotiations, kind
18 of like an index that would say Article 1 and the issue.
19 And then where it was, Tentative Agreement, awaiting
20 Union response, awaiting employer response and would
21 give that book to our team and to the employer to help
22 keep track of proposals and so things don't get lost.

23 Q. And then you mentioned that there were multiple
24 open issues at that time?

25 A. At fact-finding?

1 Q. At fact-finding.

2 A. Yes.

3 Q. So the dispute at that time was not simply
4 about salary?

5 A. No, it was not.

6 Q. Can I have you open the binder that's in front
7 of you, the Association exhibit binder, the smaller
8 white one?

9 A. Okay.

10 Q. Turn to the first tab.

11 A. Okay.

12 Q. We have here a two-page document that says
13 Status of Negotiations, October 2nd, 2017. Do you
14 recognize that document?

15 A. Yeah, this is the kind of -- this is one I did.
16 October 2nd, I believe, is the fact-finding date. And
17 this is the status negotiations thing that I was
18 describing that -- there were previous examples of the
19 list I would just get updated. But you can see, in
20 those issues, there's a Tentative Agreement. We've
21 given a counter of like five hours of employment. We've
22 given a counter where we're -- just kind of lays out
23 where our -- where we believe bargaining is.

24 Q. You prepared this document?

25 A. Yes.

1 Q. On or around October 2nd, 2017?

2 A. Yes.

3 Q. I'm going to move the admission of
4 Association 1.

5 THE ARBITRATOR: It's -- all of the exhibits
6 have been received. District counsel indicated he would
7 like a little more time to digest them.

8 MR. SIMMONS: No objection to admission.

9 THE ARBITRATOR: 2 is in -- sorry, 1 is in. 2
10 is in, as well.

11 BY MR. RUKEYSER:

12 Q. Which article addresses compensation?

13 A. Article 12 and Appendix B. When you say --
14 there are other articles where issues around
15 compensation might be included, but the pay -- wage
16 article is Article 12.

17 Q. Thank you. An just so we're clear, as of
18 October 2nd, what was the status from the Union's
19 perspective of the bargain over Article 12 compensation?

20 A. You can see -- it's referenced. Our position
21 was our previous proposal of September 15, 2017.

22 Q. Okay. If I could have you then turn to Tab 2?

23 A. Tab 2?

24 Q. Tab 2, yes.

25 A. Yep.

1 Q. Do you recognize this document?

2 A. Yes.

3 Q. What is this?

4 A. This is the package proposal referred to on the
5 previous document that we gave to the District on
6 September 15th, 2017.

7 Q. Does this document, this packet proposal dated
8 September 15th, 2017, does it address the Union's
9 proposal with respect to salary?

10 A. Yes.

11 Q. Where is that? Can you -- can you point it out
12 to us?

13 A. It is Number 13, which is not related to the
14 article number. It's -- the issue is the item Number
15 13, compensation.

16 Q. Can you walk us through Number 13 here? What
17 was the Union proposing with respect to compensation in
18 the bargain at the time?

19 A. It was our revised salary schedule, the Union's
20 proposed salary schedule, with a minimum of 4 percent in
21 the first year, retroactive to July 1st, 2016, an
22 additional 3-1/2 percent across-the-board in 2017 and
23 additional 3-1/2 percent across-the-board in 2018.

24 Q. Are the Union's proposed salary schedules
25 included in this package proposal?

1 A. I believe that's what this is.

2 THE ARBITRATOR: Is that the third page in?

3 THE WITNESS: Third page in.

4 BY MR. RUKEYSER:

5 Q. It's the SCTA proposed K-12 salary schedule?

6 A. Yes.

7 Q. Effective July 1, 2016?

8 A. Yes.

9 Q. And then a similar one for 2017 and 2018?

10 A. Yes.

11 Q. Okay. And just so we're absolutely clear, when
12 this -- looking at this document, Number 13-A reads,
13 "Effective July 1, 2016, Association proposed salary
14 schedules with minimum 4 percent increase." What does
15 that mean, "with minimum 4 percent increase"?

16 A. If you -- so I'm going to go to the third page
17 in.

18 Q. Okay.

19 A. If our salary schedule was implemented with a
20 minimum increase, the way that we structured it was you
21 work off of -- this is Column E-20. So the \$97,516
22 that's in the far right, you start there and kind of
23 work back. And all the structure is calculated off of
24 this cell.

25 So if we had implemented our salary schedule

1 without a minimum across-the-board increase, the minimum
2 4 percent represents the increase that Column E-20 would
3 have gotten because that was the top of the salary
4 schedule. If we hadn't set a minimum 4 percent
5 across-the-board, that cell E-20 would have gotten a
6 zero percent increase because the implementation of our
7 salary schedule -- we restructured the salary schedule,
8 but we also wanted to include an additional
9 across-the-board so that those cells, meaning those
10 individuals who are populating that cell also
11 experienced a wage increase as the contract was settled.

12 If we just implemented our salary schedule
13 without a minimum across-the-board, somebody who would
14 have resulted in E-20 would not have gotten a wage
15 increase.

16 Q. Okay. Thank you. A couple other questions
17 about this package proposal. Item 13-E, this is on page
18 1 of Exhibit 2.

19 A. Yes.

20 Q. "Athletic director will be given an additional
21 prep period -- actually, strike that.

22 Let's turn to the second page, Item 13-I.

23 A. Okay.

24 Q. "Effective July 1, 2015, there shall be no
25 maximum limit on years of experience or unit credits

1 credited to new hires."

2 What is the Union proposing here?

3 A. So in the previous contract, when a employee
4 was hired by the District, and she came in with
5 experience that exceeded, I think it was seven years.
6 And she may have exceeded a unit credit -- I'm going to
7 go back to the third document.

8 So the way it was, I think the level was C-7.
9 If you came in and you had qualifications that would
10 have placed you on D-16, for example, the contract
11 limited where you could be placed. So the maximum you
12 could get was -- I think it was seven years this way in
13 terms of the years of experience and the maximum that
14 you could get in terms of credit on the horizontal --
15 the units was the C column.

16 And what this was taking -- essentially taking
17 the governor off so that people could be hired
18 commensurate with what their experience was because it
19 made it easier to recruit staff into the District if
20 there wasn't that prohibition. So it was another way to
21 also go at the problem. The additional complication on
22 this is in violation of the, you know, salary
23 uniformity, the District, without our knowledge, had
24 hired at least five people above the salary schedule
25 that we found out about and demanded equity, which is

1 where this proposal is coming from.

2 Q. Got it.

3 A. Effective July 1 -- that is why that effective
4 date, it actually precedes the date of the contract
5 because that's when we discovered that these five
6 employees had been inappropriately without notice to
7 us --

8 MR. SIMMONS: Objection; opinion.

9 THE ARBITRATOR: What is it relating to?

10 MR. RUKEYSER: History as he knows it.

11 THE WITNESS: In our opinion, without notice to
12 us, put on the salary schedule and there was pending
13 litigation on it and a big complication.

14 BY MR. RUKEYSER:

15 Q. And just so we're clear, these K-12 salary
16 schedules that are included in Association Exhibit 2,
17 the package proposal that the Union had made in the
18 middle of September 2017, are these schedules the same
19 structure that you had been proposing all along?

20 A. Yes.

21 Q. What did the fact-finding panel do after the
22 hearing in early October?

23 A. Deliberated for about a hour. It was not
24 particularly productive.

25 Q. What was the upshot of the fact-finding

1 process? A report was issued?

2 A. The neutral fact-finder was directed to the
3 issue of a report, which she did at the end of October.

4 Q. If I can have you turn to Tab 3?

5 A. Okay.

6 Q. Do you recognize this document here?

7 A. Yes.

8 Q. What is this?

9 A. This is the fact-finder's report?

10 Q. Okay. This is the document that fact-finder
11 chair Andrea Dooley prepared?

12 A. Yes.

13 Q. Okay. What does this represent? What is this
14 document that she prepared? Do you have an
15 understanding of what this text in this document
16 represents?

17 A. It's a non-binding recommendation offered by
18 the neutral fact-finder of what she was recommending to
19 the parties as a pathway to settlement or her
20 recommendation of a settlement.

21 Q. Does the neutral fact-finder, in this report,
22 address the issue of salary?

23 A. She talks about it, yes.

24 Q. Okay. And if I can have you turn to page 11 of
25 this document. It says Article 12, compensation. Is

1 that where she addresses compensation?

2 A. Yes.

3 Q. There's a chart here on the page 11. Do you
4 have an understanding what that chart is?

5 A. Yes.

6 Q. What is it?

7 A. It's her summary of the District's proposal,
8 the Union's proposal and then her recommendation as part
9 of her fact-finding recommendation.

10 Q. Okay. And just so we're clear, after this
11 report issued, did the parties, in fact, reach a
12 settlement on the basis of the neutral fact-finder's
13 recommendation? Did they adopt the neutral
14 fact-finder's recommendation?

15 A. No.

16 Q. Now, where did things stand with the bargains
17 in earlier November after this report was issued?

18 A. After this report was issued, we had taken
19 strike votes and we were slated to strike, I think, on
20 November 8th of 2017.

21 THE ARBITRATOR: Not that it's significant,
22 didn't you go back into mediation with the mediator?

23 THE WITNESS: No.

24 THE ARBITRATOR: You didn't --

25 THE WITNESS: The mediator was -- we never met

1 with the mediator after the spring. The mediator was
2 out of it. We did -- we did have a bargaining session.

3 THE ARBITRATOR: Yeah.

4 THE WITNESS: But the mediator was no longer
5 involved.

6 BY MR. RUKEYSER:

7 Q. Now, in early November, were you invited to
8 participate in a meeting at Sacramento Mayor Darrell
9 Steinberg's house?

10 A. Yes.

11 Q. Do you recall how that came about?

12 A. Yes.

13 Q. What happened?

14 A. When we had begun taking strike votes in
15 mid-October, Mayor Steinberg, who I have known for
16 20 years, called and said, is there a way for him to be
17 helpful around the contract? And we said we weren't
18 requesting his intervention, but if he wanted to be
19 helpful, okay. I met with him sometime in -- I don't
20 know -- the middle of October to kind of brief him on
21 where things stood.

22 And then the next thing that happened was
23 sometime around, let's see --

24 THE ARBITRATOR: Was that before the strike
25 vote?

1 THE WITNESS: It was while we were -- our
2 strike vote, we do it facility-by-facility, so it takes
3 about three weeks to do. So we were in the middle of
4 it. It had not been completed yet. I don't remember
5 hearing from Mayor Steinberg until we did a rally at the
6 school board meeting on Thursday, which I want to say is
7 November the 2nd. Somewhere after that, he called and
8 asked if we would be interested in having him help to
9 try to figure out a settlement.

10 BY MR. RUKEYSER:

11 Q. What did you say?

12 A. We're being asked by the Mayor to attend a
13 meeting, we'll attend a meeting.

14 Q. There, in fact, was a meeting that Saturday,
15 right?

16 A. Yes.

17 Q. Before you showed up at the Mayor's house, was
18 there any discussion between you and the Mayor about who
19 would be in attendance at that meeting?

20 A. Yes.

21 Q. What was that discussion?

22 MR. SIMMONS: I'll just say I don't want to
23 interrupt you, but through the series of these
24 questions, to the extent we are asking him to testify to
25 what the Mayor said, I will object on hearsay. But I

1 don't want to keep bouncing in repeatedly.

2 THE ARBITRATOR: Well, what -- go ahead and ask
3 the question. I will reserve judgment.

4 BY MR. RUKEYSER:

5 Q. Were you told anything by the Mayor about who
6 was going to be in attendance on the District side at
7 this meeting on Saturday, the 4th of November?

8 A. Yeah, I remember him texting me. We had had a
9 bargaining session that occurred on that morning that
10 completely blew up and while we were trying to arrange
11 this meeting with the Mayor in the afternoon. I
12 remember him texting me saying he was going to be there
13 with Mr. Aguilar. It was Jorge alone because we were --
14 we wanted to know who was coming to the meeting. The
15 board leadership itself was in transition, so who was
16 coming on behalf of the board. Who was there to
17 actually make decisions. And Mayor Steinberg informed
18 me that Mr. Aguilar would be there by himself on
19 Saturday.

20 Q. Okay. At that point, did you say anything to
21 the Mayor about the District -- the District
22 participants in this meeting?

23 A. I did. When we got there because this was by
24 text and we also discussed it after the meeting, that it
25 would be strongly recommended that -- the Mayor

1 recommend that Mr. Aguilar bring someone with him.
2 Cancy or Lisa Allen, who is the Deputy Superintendent,
3 who had more familiarity with negotiations and could
4 describe the details of the proposals. They had been
5 more involved in the process.

6 Q. Who did SCTA bring to the Saturday,
7 November 4th meeting?

8 A. Me. I was there, David Fisher and Nikki
9 Milevsky.

10 Q. And at that meeting, that Saturday,
11 November 4th, morning, afternoon, when was this?

12 A. It was the afternoon.

13 Q. Paint a picture for us. Who all was in the
14 meeting? Can you tell us exactly who was participating
15 in that meeting, physically there?

16 A. It was at Mayor Steinberg's house in the
17 Pocket. So it was Mayor Steinberg and Jorge Aguilar,
18 the Superintendent, and Nikki and David and me.

19 Q. Okay. So just the five of you?

20 A. Yes.

21 Q. And what was discussed at that Saturday
22 meeting? Were you making proposals and counter
23 proposals? Were you talking about a deal? Was it
24 something else? What went on at that Saturday meeting?

25 A. The meeting started -- this was really the --

1 it wasn't the first time that we had met the
2 Superintendent, but we did not know him particularly
3 well. Maybe had been in -- you know, shaking his hand
4 maybe three times. So we didn't know him and he didn't
5 know us particularly well.

6 So part of the meeting was a little bit of an
7 introduction that way. And then kind of a -- started at
8 a 30,000-foot view of the bargaining to try to get
9 closer into the details to see if we could get to a
10 place of working out an agreement.

11 Q. Did SCTA talk about any of its frustrations
12 about the bargain at that Saturday meeting?

13 A. Yes.

14 Q. What frustrations did you talk about?

15 A. The lack of decision-makers, the different
16 polls of that. The inability to even cost out a
17 contract, how difficult that was. The fact that the,
18 you know, table had blown up earlier in the day, that
19 was a problem. So just kind of -- the point that we had
20 gotten, we were three days away from a strike and we
21 were expressing frustration that it got to that point.

22 Q. Sure. What did you mean just now when you said
23 inability to cost out a contract?

24 A. In the time that I worked in Sac City, it has
25 been a constant source of frustration about the ability

1 to agree on a simple process to cost a contract. My
2 experience in bargaining, you fight over what the
3 numbers mean, but you generally don't have arguments
4 about the math. And we would constantly have arguments
5 and disagreements with the District about the math.

6 So if you have a \$200 million payroll, one
7 percent of \$200 million is \$2 million. And we would get
8 documents where we have a \$200 million payroll and the
9 District would say the cost is \$2.1 million. It's just
10 the math didn't work out. So we would have this
11 discussion about doing the math.

12 Q. At that Saturday meeting, did you talk about
13 the costing of one percent of payroll?

14 A. Yeah. By that time, there was a back of the
15 envelope assessment that I think most people -- that we
16 all were in agreement. My recollection, including the
17 fact-finder, was that 1 percent was about \$2 million.
18 So we were working off a \$200 million payroll with 1
19 percent equaling \$2 million.

20 MR. SIMMONS: I'm not following. Your question
21 was what? That doesn't seem to be what the question
22 was. I'm confused.

23 MR. RUKEYSER: My question was whether there
24 was discussion about the costing of 1 percent.

25 MR. SIMMONS: At the Mayor's house on Saturday?

1 MR. RUKEYSER: That's correct.

2 MR. SIMMONS: It doesn't -- I thought you were
3 talking about a different discussion there.

4 MR. RUKEYSER: I think the answer was clear. I
5 think the record speaks for itself.

6 THE WITNESS: We got to a place where -- by the
7 time we were meeting at the Mayor's house when we talked
8 about 1 percent, we were talking about \$2 million.

9 BY MR. RUKEYSER:

10 Q. At that meeting at the Mayor's house, did you
11 talk about the problems in the past of costing
12 1 percent?

13 A. Yes. Tired not to dwell on it because we were
14 there to try to figure out a settlement, but the idea
15 was -- this has been a problem that I wanted to alert
16 the Superintendent. Again, this is the first time we
17 ever dealt with him in any kind of substance. This was
18 an ongoing issue that created unnecessary obstacles to
19 reaching an agreement between the parties.

20 Q. At that Saturday, November 4th meeting, did the
21 Superintendent say anything about costing 1 percent of
22 the payroll?

23 MR. SIMMONS: Objection; calls for hearsay.

24 THE ARBITRATOR: Overruled. Go ahead.

25 THE WITNESS: I don't remember him saying

1 anything like that.

2 BY MR. RUKEYSER:

3 Q. Okay. So at the end of the meeting on the
4 4th of November, where did things stand? What was your
5 understanding of next steps, if any?

6 A. We were asked to keep the meeting confidential
7 because the Superintendent had not notified the board
8 that he was meeting with us.

9 Q. Okay.

10 A. The meeting on Saturday concluded with -- we
11 had had a broad discussion about issues and that
12 included a broad discussion about salary and that the
13 Mayor at the time started to float this idea of -- in
14 the fact-finder's report, the amount of money that she
15 suggests is 3-1/2 percent, 3 percent, 2-1/2 percent and
16 she discusses another 2 percent in the out year of the
17 contract, so she --

18 THE ARBITRATOR: What again of the contract?

19 THE WITNESS: The out year.

20 THE ARBITRATOR: After the contract expired?

21 THE WITNESS: Right. So the contract was 2016
22 to 2019, and she's talking about a potential increase in
23 2000 and --

24 THE ARBITRATOR: 20?

25 MR. RUKEYSER: 19, 20?

1 THE WITNESS: 2021. But she -- if you added up
2 across-the-board what she was talking about, it was
3 11 percent. And so I -- the District's last proposal on
4 the table was less than that. So he start having a
5 discussion about 11 percent. And that's kind of where
6 things were, very loose, not so much in the substance so
7 much because it was really our first encounter with the
8 Superintendent and there was still a lot of issues that
9 were open, probably, I don't know, maybe 9 or 10 issues.

10 BY MR. RUKEYSER:

11 Q. So some discussions about continuing
12 negotiations about salary within the Framework of
13 11 percent?

14 A. Yeah, a little looser than that, but it was
15 having a salary discussion and Mayor Steinberg started
16 to talk more about 11 percent. Then we were talking
17 about 11 percent or the District was talking about
18 11 percent.

19 MR. SIMMONS: Sorry, I'll keep doing it. I
20 will say to the extent we are representing what the
21 Mayor said is hearsay.

22 THE ARBITRATOR: Okay. Especially in that
23 context because usually in meditation, you don't ask
24 what happened in the meditation. It's a little unusual.
25 But I won't make findings on it.

1 BY MR. RUKEYSER:

2 Q. To clarify the point, Mr. Arbitrator, did the
3 Mayor represent that this was a mediation that was
4 taking place?

5 A. No, it wasn't a mediation. It was we were
6 trying to come together to work out a settlement for the
7 contract.

8 MR. SIMMONS: I'll object to the extent maybe
9 the Mayor would have a different perspective on how that
10 was handled.

11 THE ARBITRATOR: Yeah, it's a little unusual,
12 but it happens. Go ahead.

13 BY MR. RUKEYSER:

14 Q. At the time that you actually physically left
15 the Mayor's house --

16 THE ARBITRATOR: This is on Saturday?

17 MR. RUKEYSER: Saturday.

18 BY MR. RUKEYSER:

19 Q. Did you know whether you were going to be
20 returning to the Mayor's house on Sunday?

21 A. What I remember is I believe we were, but I
22 think we were waiting for the Mayor and the
23 Superintendent to kind of address the District's
24 internal issues to get authorization to meet again on
25 Sunday.

1 So what I remember is that we were pretty sure
2 we were going to meet the next day. There were some
3 formalities that the District needed to go through on
4 its end. And then after that occurred, we would nail
5 down the time to meet on Sunday.

6 Q. And you subsequently learned that there would,
7 in fact, be a meeting on Sunday?

8 A. Yes.

9 Q. How did you learn that?

10 A. I think we exchanged text -- Mayor Steinberg
11 and I exchanged text messages on Saturday -- I mean, on
12 Sunday to say we're meeting at -- I think it was 3:30 on
13 Sunday.

14 THE ARBITRATOR: How long did you meet on
15 Saturday?

16 THE WITNESS: How long?

17 THE ARBITRATOR: How long? You said you
18 started in the afternoon.

19 THE WITNESS: I would guess 90 minutes.

20 THE ARBITRATOR: Really?

21 THE WITNESS: Yeah.

22 BY MR. RUKEYSER:

23 Q. Okay. Turning to Sunday, November 5th, who
24 from SCTA attended this meeting at the Mayor's house?

25 A. The same three of us. David, Nikki and me.

1 Q. And who from the District attended the meeting?

2 A. It was just Mr. Aguilar. And I had a
3 discussion with Mayor -- after the meeting on Saturday,
4 I had a discussion by telephone with Mayor Steinberg on
5 Saturday evening.

6 Q. And what did you tell the Mayor?

7 A. I strongly recommended that Mr. Aguilar bring
8 somebody with him who had been involved in the
9 bargaining.

10 Q. Okay. When you showed up at the Mayor's house
11 that Sunday, did you bring anything with you?

12 A. Yes.

13 Q. What did you bring?

14 A. When I do bargaining, you know, you have a lot
15 of bargaining that happens. You end up with like
16 massive binders. And when I get to the end of a
17 bargain, I consolidate things to Tentative Agreements,
18 our last position, the District's last position and any
19 kind of financial data I might need. So I would have --
20 I had our fact-finding presentation because a lot of the
21 costing material and argument was in there. So my
22 binder had our last proposal, the District's last
23 proposal, the Tentative Agreements, our fact-finding
24 presentation, the fact-finder's recommendation. It was
25 like a binder like this size, as opposed to this size,

1 that's easy to carry around as opposed to one of those,
2 you know, six-inch deals that you can't find stuff in.

3 Q. Did the Superintendent show up with anything?

4 A. I don't remember him having anything.

5 Q. Okay.

6 A. I don't remember him not -- I just don't
7 remember him having anything.

8 Q. Can you give us sort of a very broad overview
9 of what was discussed? What topics were discussed at
10 that meeting?

11 A. There were, I would guess at that stage, about
12 eight or nine issues that had to be resolved. So there
13 was the salary schedule. There were issues about
14 staffing that we wanted to talk about. The calendar was
15 an open issue. There was an issue around -- that's --
16 vernacular is Appendix D, and that is -- there's an
17 appendix in the contract that's spelled out how special
18 education -- certain elements of special education were
19 contained in the contract and kind of governed by the
20 contract that had been a flash point. There was open
21 issues around hours of work and the issue of unlimited
22 years of service. So there were eight or nine or ten
23 issues that were open.

24 Q. Let's first talk about salary. Did SCTA
25 propose a resolution of the ongoing bargaining dispute

1 regarding salary at that November 5th meeting?

2 A. On November 5th?

3 Q. Yes.

4 A. Yes.

5 Q. And what did you propose?

6 A. At some point -- we actually did the other
7 issues before we got to the salary. And then when we
8 got to the salaries, the Mayor said, is there a way to
9 work within the 11 percent? And we came back saying we
10 can work within the 11 percent if it went this way and
11 then spelled out how it would have to work for us to be
12 able to do that.

13 Q. What did you spell out?

14 A. Our proposal had been -- you can even look at
15 the fact-finder. It had been 4, 4-1/2, 3-1/2, 3-1/2.
16 And the District's was 2-1/2, 3-1/2, 2-1/2 and 3-1/2
17 contingent. And we said we could do the 11 percent if
18 it was 2-1/2, 2-1/2, 2-1/2 --

19 Q. Let me stop you right there. I want to make
20 sure the record is clear. When you say 2-1/2, 2-1/2,
21 2-1/2, what are you referring to?

22 A. That's the across-the-boards.

23 Q. Okay. And that means for each year of the
24 contract?

25 A. Yes.

1 Q. Okay.

2 A. So 2-1/2 percent retroactive to July 1, 2016.

3 Q. For the '16, '17 year?

4 A. Right. An additional 2-1/2 percent effective
5 July 1, 2017.

6 Q. For the '17, '18 year?

7 A. Yes. A third 2-1/2 percent for July --
8 beginning July 1, 2018, for the '18, '19 school year.
9 That's on the old salary schedule.

10 Q. Okay. Thank you.

11 THE ARBITRATOR: I was always wondering about
12 that. So you're talking about 2-1/2 over the three
13 years, but third year being on the old salary schedule?

14 THE WITNESS: All three on the old salary
15 schedule.

16 THE ARBITRATOR: But effective same date,
17 July 1 of 2018, you're talking also about the
18 restructured salary schedule?

19 THE WITNESS: Well, the effective date and how
20 it got implemented was part of the discussion. So I
21 would say everybody knew -- you're going to say you
22 object. We believe -- I believe everybody knew that our
23 salary schedule cost more than 3-1/2 percent. The
24 fact-finder identified it as costing more than 3-1/2
25 percent.

1 So when we talked about the 3-1/2 percent of
2 the restructured salary going into effect, we had to
3 accommodate the cap of 3-1/2 percent while accomplishing
4 our salary schedule. And that's the discussion we had
5 with the Mayor where I would lay out, first of all what
6 the significance of us making that move meant
7 financially, then how it would be done to accomplish our
8 salary schedule within the cap of 3-1/2 percent.

9 BY MR. RUKEYSER:

10 Q. Let me stop you. Just so the record is clear
11 and there's no confusion on this point, at that
12 November 5th meeting at the Mayor's house, did the Union
13 make a proposal as to when the salary schedule would be
14 adopted?

15 A. When it would be adopted? I'm not sure I
16 understand that question.

17 Q. In what year would the salary schedule take
18 effect?

19 A. 2018/19.

20 Q. So the last year of the three-year contract?

21 A. Correct.

22 Q. Was there any -- with that as a starting point,
23 what was the Union's proposal with respect to this 3-1/1
24 percent that you just referenced?

25 A. At the maximum expenditure for the District, to

1 implement the salary schedule for 2018/19 would not
2 exceed 3-1/2 percent; that is, we would get our salary
3 schedule at a cost not to exceed 3-1/2 percent for '18,
4 '19.

5 Q. Let me stop you right there. Did you explain
6 at that meeting on November 5th how a salaried schedule
7 that might cost more than 3-1/2 percent could be
8 implemented at a cost not to exceed 3-1/2 percent?

9 A. Yes.

10 Q. What did you say by way of explaining how this
11 could be accomplished?

12 THE ARBITRATOR: Because this is kind of
13 critical. So to the best of your recollection -- I know
14 it's been some time and I understand that. But if we're
15 going to get into this, I don't want to be general about
16 it. I want to know if you were speaking, what you said.
17 I want to know if Mayor Steinberg was speaking, what he
18 said. I want to know what Superintendent Aguilar said
19 in response to any of this. So I want to be clear,
20 okay, because witnesses have a way of just kind of, you
21 know, playing one thing into another?

22 THE WITNESS: Got it.

23 THE ARBITRATOR: So we're good. So go ahead.

24 THE WITNESS: And I'm sure you'll interrupt me
25 or ask if I'm doing that.

1 BY MR. RUKEYSER:

2 Q. Let do this blow-by-blow, like Mr. Arbitrator
3 has suggested. Let's start at the beginning. When the
4 Union was proposing its salary proposal -- or explaining
5 a salary proposal, who was speaking on behalf of the
6 Union?

7 A. I was.

8 Q. What did you say, as best as you can recall,
9 about what salary structure the Union was proposing at
10 that meeting?

11 A. We had always said, and I reiterated there, we
12 are talking about the same salary schedule that we
13 proposed back in October.

14 Q. October of 2016?

15 A. '16. It compresses this way and it compresses
16 this way. And, you know, again, David and Nikki made
17 fun of me because I used my hands about this. So we're
18 going this way and this way and described it, just as I
19 described it even in our summary of the fact-finder. So
20 here's the salary schedule. So for both the Mayor and
21 the Superintendent, we made it clear that the only way
22 we were agreeing to work within the 11 percent was to
23 get our salary schedule. And here's how we were going
24 to do it.

25 Q. Let me stop right there. When you said get our

1 salary schedule, did you say anything at that meeting by
2 way of referring to the salary schedule that the Union
3 had proposed earlier in bargaining?

4 A. Yes. The same salary schedule that we had been
5 -- when we described it, it was the same salary schedule
6 we had from day one of bargaining.

7 Q. Okay.

8 A. The compression.

9 Q. When you said that, do you remember
10 Superintendent Aguilar saying anything about the Union's
11 proposal that the District agreed to the salary schedule
12 that the Union had been proposing throughout bargaining?

13 MR. SIMMONS: I don't want to interrupt. You
14 know what I'm going to say.

15 THE ARBITRATOR: Yeah, you're leading and this
16 is really critical, so let's just -- foundationally, did
17 the Superintendent say -- you finished your statement
18 and then was a pause, right?

19 THE WITNESS: Uh-huh.

20 THE ARBITRATOR: And then Aguilar said
21 something; is that correct?

22 THE WITNESS: Well, I explained a little
23 further. What I remember Mr. Aguilar saying was he
24 understood that there needed to be some addressing of
25 this issue about the middle, the same thing we were

1 talking about. We can assure you this is why we're
2 proposing it. It addresses the middle. It is
3 addressing your concern as the employer about a need to
4 be able to hold on to staff who are leaving the District
5 at 10 to 11 years of experience.

6 THE ARBITRATOR: So Aguilar said he understood
7 that?

8 THE WITNESS: Pardon me?

9 THE ARBITRATOR: He understood that, he
10 expressed he understood the concern?

11 THE WITNESS: Did he understand the concern,
12 yes.

13 THE ARBITRATOR: Did he say anything else in
14 that regard?

15 THE WITNESS: Around that, he just wanted to be
16 assured that the salary schedule was addressing that
17 concern and I reassured him that's exactly what it was
18 doing.

19 BY MR. RUKEYSER:

20 Q. At that meeting on November 5th, did you, on
21 behalf of SCTA, say anything about when this Union --
22 when the proposed salary schedule would take effect?

23 A. Well, yes. Here's what I said. First I had
24 explained to both Mayor Steinberg and Mr. Aguilar that I
25 had done this with other employers around the

1 implementation of salary schedules multiple times and
2 gave examples. That was --

3 Q. When you say -- let me interrupt for a second.
4 When you said that you had done this, what is the this
5 that you're referring to?

6 A. Implementing a salary schedule under a cap.
7 And the examples that I gave were: I was responsible as
8 a chief spokesperson for SCIU Local 250 with Dignity
9 Health and we did it for 32 hospitals at one time, where
10 we implemented a salary schedule where we had -- I think
11 at the time it was 7-1/2 percent to spend. And we had
12 to do it where we got -- where we accomplished the
13 salary schedule we were proposing with a cap of 7-1/2
14 percent. And the way that -- and I went through this
15 and explained it, that one way that you can do that is
16 by implementing the salary schedule and then putting a
17 cap on what any individual can get to be able to control
18 the cost to hit within the cap. So, for example, let's
19 go to this document, so to the -- just by way of
20 illustration.

21 THE ARBITRATOR: At the third page? Okay.

22 THE WITNESS: Let's say that you were at -- on
23 the old salary schedule --

24 THE ARBITRATOR: Did you have this schedule out
25 when you were talking?

1 THE WITNESS: No, because we were just talking
2 about it in concept on how to get to the cost because
3 the salary schedule itself had never been changed in --
4 all I was trying to do was explain how the salary
5 schedule could be accomplished within the cap. And it
6 doesn't require --

7 THE ARBITRATOR: Okay. Whole picture.

8 THE WITNESS: I mean, in my opinion -- maybe in
9 retrospect, but in my opinion, it didn't require that.

10 THE ARBITRATOR: So I interrupted you. I'm
11 sorry. Go ahead.

12 THE WITNESS: So what I explained was, let's
13 say that if the salary schedule were fully implemented
14 and you were going to move on to step 10-E -- and again,
15 this is just by way of example. And let's say that you
16 were entitled to -- you were currently at step 10-E and
17 your salary was at \$63,000, and to get placed on the
18 salary schedule, it would be \$74,000, but to control the
19 cost to fit within the 3-1/2 percent cap, you put a cap
20 on what any individual could make so that no individual
21 could get more than 10 percent in an increase. You can
22 do it with Excel. You just -- you can put a maximum
23 increase to then make sure that the cost comes under the
24 3-1/2 percent. And again, the 3-1/2 percent back of the
25 envelope was about \$7 million.

1 So how could we get and accomplish the
2 implementation of our salary schedule while coming
3 underneath the cap of the 3-12 percent? Well, you
4 implement the salary schedule with and individual limit.
5 That is one way.

6 BY MR. RUKEYSER:

7 Q. Were there any other ways that you explained at
8 that meeting on the 5th of November?

9 A. Yeah. The other is to delay the
10 implementation. So if you have 3-1/2 percent to spend,
11 so let's say that the salary schedule cost \$10 million,
12 which, by the way, was the amount that -- about what we
13 thought it was. So if it cost \$10 million and you only
14 have \$7 million to spend, that comes out to be about,
15 you know, \$830,000 per month. You delay the
16 implementation for three months and you've now hit the
17 cap of --

18 MR. SIMMONS: I object. It's unclear to me if
19 Mr. Borsos is describing exactly what he said to the
20 folks in the room or for expounding more on --

21 THE WITNESS: That is what I said to the folks
22 in the room.

23 THE ARBITRATOR: Delay implementation. Okay.

24 BY MR. RUKEYSER:

25 Q. To be clear, you told the people in that room

1 at Mayor Steinberg's house on the 5th of November, that
2 the Union had costed its proposed salary schedule at
3 about \$10 million?

4 A. Right. And that is where the fact-finder got
5 the number. It's somewhere between \$9 and \$10 million,
6 right.

7 Q. To be clear, did you say -- did you actually
8 vocalize or verbalize that figure? \$10 million is what
9 we have costed our salary schedule at?

10 A. Yes, and it was a yes, but. And the but is we
11 could never come up with the specific number because
12 there were two variables in play. One was we were
13 putting in a BA plus 60 column and we didn't know who
14 was sitting on BA plus 60 because in the old salary
15 schedule, there was BA plus 45 and then there was BA
16 plus 75, so we didn't know who's sitting on BA plus 60
17 to come up with an accurate cost.

18 The second is that while the details of this
19 unlimited years of service hadn't been nailed down, the
20 idea that we were going to do it was. And we had no
21 idea at the time what the impact of applying that
22 unlimited years of service to employees who were already
23 working for the District would be in terms of the cost
24 of the implementation of the salary schedule.

25 So to be able to accurately compute the cost of

1 the salary schedule implementation, those two things --
2 those two variables needed to be known and they weren't
3 at the time.

4 Q. Returning to the conversation, did you explain
5 on the 5th of November at the Mayor's house that there
6 were these two variables that precluded a precise
7 calculation of the cost of the Union's proposed salary
8 schedule?

9 A. Yes.

10 Q. When you explained these two options for
11 ensuring that the actual cost of the salary schedule did
12 not exceed 3.5 percent, did Superintendent Aguilar say
13 anything?

14 A. What I remember him saying was he just wanted
15 to be sure that the 3-1/2 percent cap was -- I don't
16 remember what the expression he used was -- that it fit
17 within the 3-1/2 percent cap. Because it's like how do
18 you --

19 MR. SIMMONS: The question was what Mr. Aguilar
20 said, I think, right?

21 THE ARBITRATOR: That's true.

22 THE WITNESS: He said he just wanted to be sure
23 it fit within the cap. It's like sticking a round peg
24 in a square hole.

25 BY MR. RUKEYSER:

1 Q. Okay. Did you say anything at that meeting at
2 the Mayor's house on Sunday, the 5th of November about
3 how long the cap would be in place?

4 A. Yes.

5 Q. What did you say?

6 A. It was only for '18, '19 because the additional
7 cost came in the outlying year and we explained how it
8 came in the outlying year.

9 Q. What did -- when you say --

10 A. Meaning the --

11 (Simultaneous discussion; reporter
12 interruption.)

13 THE ARBITRATOR: Let's start all over again.

14 Mr. Rukeyser, ask the question.

15 BY MR. RUKEYSER:

16 Q. Well, you said we explained?

17 A. I explained.

18 Q. You explained. And what did you explain as
19 nearly -- as near as you can recall as you sit here
20 today, what did you explain by way of the duration of
21 the cap?

22 A. Well, the contract expires on June 30 of 2019.
23 So that's when the cap ends. I also explained that the
24 additional cost -- there is additional cost that comes
25 into play in 2021 because we're getting -- we're getting

1 -- we're accomplishing our salary schedule with the
2 limitation of the 3-1/2 percent in 2018/19, and there's
3 an additional cost going forward.

4 Q. Let's be clear. You said 2021 just now?

5 A. Yes.

6 Q. Do you mean '19, '20?

7 A. I mean '19, '20.

8 Q. The year after the three-year contract term?

9 A. Yes.

10 Q. And you -- your testimony is that you explained
11 all of that at that meeting at the Mayor's house on the
12 5th of November?

13 A. Yes.

14 Q. And did -- as best as you can recall right now,
15 did Superintendent Aguilar say anything in response to
16 what you just testified?

17 A. I remember him saying he wanted to be sure that
18 the 3-1/2 percent cap was accomplished.

19 Q. Okay. Did you take any notes at that
20 November 5th meeting?

21 A. Yes, such as they are, but yes.

22 Q. When you say such as they are, what do you mean
23 by that? What is your approach to note taking?

24 A. I am a notoriously bad note taker. So I talk
25 and I also usually have somebody or I usually have

1 somebody that takes notes so I don't have to pay that
2 much attention to being the scribe. So I had notes of
3 the meeting with the Mayor, but they're pretty schematic
4 -- or they're not particularly detailed.

5 Q. Could I have you look at Tab 4 of the
6 Association exhibits?

7 A. Yes.

8 Q. This is a six-page -- six pages of handwritten
9 -- handwriting on lined paper. Do you recognize this?

10 A. Yes.

11 Q. What is this?

12 A. These are my notes.

13 Q. From?

14 A. From the -- this is the meeting at the Mayor's
15 house on the 5th.

16 Q. Okay. What is this first page? It's a
17 numbered list. Off to the left column, there are some
18 TAs written down. What is this page?

19 A. These were the issues that were left open. I
20 kept the list of the issues that were left open as we
21 went through and talked about the resolutions to them.

22 Q. Is this a list of -- as best as you can recall,
23 is this the order in which these items were discussed on
24 the 5th of November?

25 A. Yes.

1 Q. Okay. And down at the bottom of the page, four
2 or five lines up, it says -- I believe it starts fiscal.
3 Can you read that so the record is clear about what
4 these notes say?

5 A. Fiscal over three years.

6 Q. And then the next line with text, what does
7 that say?

8 A. 2-1/2, 2-1/2, 2-1/2. That's the
9 across-the-board. Our salary schedule, 3.5 percent.

10 MR. SIMMONS: Objection; it doesn't say our
11 salary schedule.

12 THE ARBITRATOR: You're right. It doesn't say
13 our. It just says salary schedule.

14 BY MR. RUKEYSER:

15 Q. It's your testimony that this is a list of what
16 was discussed at that meeting?

17 A. Yes.

18 Q. The topic?

19 A. Yes.

20 Q. Turning to the second page, can you just read
21 into the record what you have written down so that
22 there's no confusion about your handwriting?

23 A. 2-1/2, 2-1/2, 2-1/2. 3-1/2 salary schedule.
24 Maximum exposure.

25 Q. Okay. What is this document -- does this

1 reflect discussion, is it something else? What is this
2 document?

3 MR. SIMMONS: Asked and answered.

4 THE WITNESS: This is --

5 THE ARBITRATOR: Explain how -- what does this
6 record?

7 THE WITNESS: How does this work?

8 THE ARBITRATOR: What does this record?

9 THE WITNESS: So here's -- here's how I did it.
10 So I had a -- and I keep things on a -- like this, but
11 regular size. So I had the notes. As we went through,
12 I started off what was agreed. And then --

13 BY MR. RUKEYSER:

14 Q. And here you're referring to the first page of
15 Association Exhibit 4?

16 A. This page?

17 Q. Yes.

18 A. Yes. But then as we were talking, to get into
19 the -- like the order that this was written, these pages
20 were written before this part was written because I kept
21 like a running list of what was being agreed to and then
22 would keep writing because this is my explaining of the
23 salary schedule.

24 THE ARBITRATOR: You're referring to the page

25 --

1 THE WITNESS: The back pages. And then we came
2 to it to reflect this is what we had agreed to.

3 THE ARBITRATOR: I see.

4 BY MR. RUKEYSER:

5 Q. So in other words, Association Exhibit 4 is not
6 to be read chronologically, as a chronological record of
7 page by page what was discussed in what order?

8 A. Correct. This is the order that we discussed
9 them and, at least these notes, these pages actually
10 were written before that part.

11 Q. And just so the record is clear, you're saying
12 that the first page of Association Exhibit 4 was written
13 after pages 2, 3, 6?

14 A. Well, I think that actually the first page,
15 probably items 1, 2, 3, 4, 5 were written before the
16 subsequent pages.

17 Q. Okay.

18 A. But whatever that is, 10 and 11 were written
19 after these pages.

20 Q. John, let's walk through Association Exhibit 4.

21 A. Okay.

22 Q. This second page that you just recently read
23 into the record, 2-1/2, 2-1/2, 2-1/2, 3-1/2 salary
24 schedule, maximum exposure, why did you write this?
25 What does this reflect?

1 A. This is -- reflects the understanding that we
2 had reached. And then it reiterates this, repeats it
3 with the maximum exposure. That's what we were
4 addressing in terms of the Superintendent's concern.

5 Q. That term, maximum exposure, do you recall who
6 formulated that term?

7 A. I think that came from -- what I remember is it
8 came from Mr. Aguilar. And we then explained your
9 maximum exposure -- I explained, for 2018/19, was the
10 3-1/2 percent.

11 Q. Okay. Turning to the third page of Association
12 Exhibit 4. And really, the remainder of the Association
13 Exhibit 4, there are pages with a lot of numbers and
14 lines and circles. What are these pages?

15 A. This was me explaining to both Mayor Steinberg
16 and Mr. Aguilar the movement and what it meant in terms
17 of the dollars of moving from our proposal to where we
18 ultimately agreed, including cost.

19 Q. Okay. Are these -- these are your personal
20 notes or are these documents that you shared --

21 A. No, I'm writing it out to show them, like to
22 help explain. Here's where we are, 4-1/2, 3-1/2, 3-1/2
23 with a 4-1/2 with a salary schedule. If we move the
24 salary schedule into the third year of the contract,
25 that, in effect, is moving \$9 million, which means

1 \$9 million is moving at -- it's not a 4-1/2 percent
2 move. It's a 9 percent move because you're moving it
3 back into the third year of the contract.

4 MR. SIMMONS: In terms of how this is being
5 described, I'm am not following in terms of -- I know
6 you are referring to one of the pages here, but as far
7 as understanding it.

8 THE ARBITRATOR: He's referring to page 3
9 and 4.

10 THE WITNESS: And I was kind of like -- first
11 thing I did was laid out our position and the District's
12 position. And then to be able to --

13 BY MR. RUKEYSER:

14 Q. Let me stop you right there. Is that reflected
15 on the third page of Association Exhibit 4?

16 A. I got to make sure, yes.

17 Q. And just so we're clear, what part of this
18 third page reflects the District's position with respect
19 to salary at that point?

20 A. The middle, 2-1/2, 3-1/2, 2-1/2 with a
21 contingent.

22 Q. Which part of page 3 reflects the Union's
23 proposal at fact-finder?

24 A. The top; 4, 3-1/2, 3-1/2 with an additional
25 4-1/2 salary schedule.

1 Q. Okay. And that 4-1/2 salary schedule is
2 circled on page three?

3 A. Right.

4 Q. And there is a line that stretches out to the
5 right-hand side of the page. What does that reflect?

6 A. That's us saying we moved the salary schedule
7 from our proposal year one to having it going into
8 effect in the year three, the third year of the
9 contract.

10 Q. Just so we are perfectly clear, was this the
11 first time that the Union was proposing that the salary
12 schedule come in at the end of the contract as opposed
13 to the beginning of the contract?

14 A. Yes.

15 Q. And that was a concession on your part?

16 A. Yeah, that's a \$30 million move, something like
17 that. I mean, I'd have to figure it out, but that's --
18 that's not an insignificant move.

19 MR. RUKEYSER: At this point, Mr. Arbitrator,
20 would you mind if we took a three-minute recess?

21 THE ARBITRATOR: Sure.

22 (Whereupon a recess was taken.)

23 THE ARBITRATOR: All right. We're back.

24 Continue your direct.

25 BY MR. RUKEYSER:

1 Q. After this discussion about the salary issue --

2 A. Uh-huh.

3 Q. -- did Superintendent Aguilar say anything
4 about way of agreement to what the Union was proposing?

5 MR. SIMMONS: For the record, I will object to
6 the extent of hearsay.

7 THE ARBITRATOR: Yeah, you had all of these
8 discussions and you explained things. And just tell us
9 after you explained all of what you just related in your
10 testimony, what did the Superintendent say in response.

11 THE WITNESS: Well, what I remember is that
12 after it got explained and we said this is how it works,
13 Mayor Steinberg said, okay, then it looks like we're in
14 agreement. And we said yeah. And the Superintendent
15 said yeah. And then the Mayor wrote it up because we --
16 he didn't start writing anything up until we were in
17 agreement. Then we both watched him write-up what we
18 had agreed to?

19 BY MR. RUKEYSER:

20 Q. And when you say he wrote it up, can you open
21 the black binder in front of you, the Joint exhibit
22 binder, and turn to what's been tabbed as JX-1?

23 A. JX-1, yes.

24 Q. This Framework Agreement document is what the
25 Mayor wrote up?

1 A. Yes.

2 Q. Right then and there?

3 A. Yeah. The Mayor sat here and I sat here and
4 the Superintendent sat there. And he went and wrote it
5 and sometimes he would say and write this and write it
6 this way and this scratch and that's -- he wrote it and
7 we sat there. Left-handed and then it was done.

8 Q. And as he was writing it out, did you, John,
9 offer suggestions? Did you say anything about what he
10 was writing?

11 A. This document on page -- our Exhibit 4, kind of
12 ended up being what got captured into this. But so --
13 once in a while -- what I remember is there might have
14 been something we got to a point -- let me look at it.

15 Q. Let me stop you, John, and just ask you this:
16 The first page of the Framework Agreement where it
17 addresses in No. 1, the salary agreement, did you --
18 when the Mayor was actually taking pen to paper, writing
19 the first page of this agreement, did you say anything?
20 Were you telling him what to write?

21 A. He was writing it. He was writing it and then
22 he'd do it and then he would say I'm going to do it like
23 this. Okay. Okay. So it wasn't -- I don't remember --
24 it was more like he's writing it and we're approving it
25 as he writes it.

1 Q. Okay.

2 A. And, you know, I guess if I looked, I could
3 probably find something where maybe I made a word
4 suggestion or something, or something else, but that's
5 kind of how he did it.

6 Q. Your testimony is that as the Mayor was
7 drafting, writing this first page, you were indicating
8 your agreement or approval with what he was writing?

9 A. He was writing up what had been approved, what
10 had been agreed and we were validating that he was
11 writing up what had been agreed to.

12 Q. Do you recall the Superintendent saying
13 anything as the Mayor wrote the first page of this
14 Framework Agreement?

15 A. No.

16 THE ARBITRATOR: This is going to sound like a
17 really dumb question, but I want to be sure that I got
18 this because this is an important document. So on page
19 1, under -- somebody has written 1, circled. I assume
20 that's the Mayor's writing. It says, salary -- looks
21 like agreement. All right.

22 THE WITNESS: Yes.

23 THE ARBITRATOR: And then the rest of that
24 page, there's figures and words that in my reading of
25 this appear to relate to salary. Is there anything

1 beyond that page that touches on salary?

2 THE WITNESS: Beyond that page, no.

3 THE ARBITRATOR: Okay.

4 THE WITNESS: And again here, what he was going
5 through is adjustment to the salary schedules. Union --
6 this is like when we're going even back and forth as
7 he's writing it. Union proposed salary schedule, yes.
8 That's our salary schedule. It's proposed. Past tense.
9 That's capturing --

10 THE ARBITRATOR: You answered --

11 (Simultaneous discussion; reporter
12 interruption.)

13 THE ARBITRATOR: You've answered my question.
14 All I wanted to know is because it's handwriting, so
15 it's hard to read in places. That captures everything
16 that Mayor Steinberg wrote on the Framework Agreement on
17 the subject of salary?

18 THE WITNESS: Yes.

19 THE ARBITRATOR: Thank you.

20 MR. RUKEYSER: Okay, I will just say for the
21 record, Mr. Arbitrator, that recognizing that the
22 handwriting is not perhaps the clearest, the parties
23 have stipulated to a transcription -- an agreed upon
24 transcription of what this says.

25 THE ARBITRATOR: Okay. Thank you. So maybe, I

1 guess, we should make that clear. You stipulated to it,
2 so you're stipulating that that portion that -- on this
3 stipulation that reference at the bottom half of page 1
4 of Joint Exhibit 1, accurately reflects what appears --
5 the stipulation accurately reflects what appears in the
6 handwritten portion of Joint Exhibit 1.

7 MR. SIMMONS: So stipulated.

8 MR. RUKEYSER: So stipulated.

9 BY MR. RUKEYSER:

10 Q. John, after the Framework Agreement was
11 completely written, the parties signed it, correct?

12 A. Yes.

13 Q. And the parties initialled each page, as well?

14 A. Yes.

15 Q. Who did so for the Union?

16 A. David -- so if you look on the -- the three
17 signatures -- the three initials are DS, is Darrell
18 Steinberg, the JA is Jorge Aguilar and DF is David
19 Fisher.

20 Q. And as you watched the Mayor write up this
21 first page of the Framework Agreement, did you believe
22 that it accurately captured or reflected the party's
23 discussion about salary?

24 A. Yes.

25 Q. And why did you believe that at the time?

1 A. Why did I believe that at the time?

2 Q. Yeah. Let's look at the actual writing on the
3 first page of the Framework Agreement. How did you
4 interpret this Framework Agreement at that time the
5 Mayor wrote it up?

6 A. The reason why we signed off on it was because
7 it accurately reflected what we had agreed to and what
8 we discussed.

9 Q. There are some columns here and there are some
10 rows. The first row under -- provides some dates. What
11 did these dates mean to you when you saw it written?

12 A. Two and a half percent?

13 Q. No, I'm sorry. The dates above that?

14 A. That's the year of the contract.

15 Q. This was a three-year contract that you were
16 contemplating?

17 A. Yes.

18 Q. And the next row off to the left, it says
19 salary increase?

20 A. Yes.

21 Q. And there are some percentages that follow.
22 What did you understand this reflected?

23 A. Those are the across-the-boards; 2-1/2, 2-1/2,
24 2-1/2.

25 Q. And then below that, what does it say off to

1 the left?

2 A. Adjustment to the salary schedule, Union's
3 proposed structure.

4 Q. Okay. And then there is nothing corresponding
5 to adjustment to salary schedule, Union's proposed
6 structure for that first year, the '16, '17 year?

7 A. Correct.

8 Q. And there is nothing in the next column over
9 for the '17, '18 year?

10 A. Correct.

11 Q. And the third and final year, '18, '19 year, it
12 says 3.5 percent maximum District expenditure. When you
13 saw the Mayor write that, 3.5 percent maximum District
14 expenditure, and you indicated assent to that, what did
15 that mean to you right then as you saw him write it?

16 A. The Union's proposed salary structure with a
17 cap of 3.5 percent for 2018/19, consistent with how I
18 explained it.

19 Q. Okay. Thank you. Now, taking a step back.
20 The proposal that you laid out with respect to salary at
21 that November 5th meeting, how did it compare to the
22 proposal that the Union had made at fact-finding the
23 month before?

24 A. How did it compare?

25 Q. Yeah.

1 A. It was about half the cost of the employer of
2 what our proposal was in fact-finding.

3 Q. And how did it compare -- how did the proposal
4 that the Union made with respect to salary on
5 November 5th, how did that compare to what the District
6 proposed in fact-finding?

7 A. Actually, what we agreed to over the course of
8 the three years of the contract, cost less than the
9 District's proposal.

10 Q. If I can have you turn to Union -- or
11 Association Exhibit 5 in the white binder. This is a
12 one-page spreadsheet.

13 A. Okay.

14 Q. Do you recognize this document?

15 A. Yes.

16 Q. What is it?

17 A. It's a document that I made in preparation for
18 this proceeding.

19 Q. What does it set forth?

20 A. It sets forth the costing of the contract, how
21 you account for the -- it's the cost of the District's
22 proposal and fact-finding, our proposal and fact-finding
23 and what we agreed to.

24 MR. SIMMONS: And I apologize. I missed your
25 initial response, Mr. Borsos. This is -- what you

1 testified, what was this for?

2 THE WITNESS: To explain -- it explains some of
3 the cat scratch that's in our Document 4 and does it in
4 a clear way to be able to explain what we agreed to with
5 the Mayor in terms of the cost to the District for the
6 contract. Our proposal, which I'll walk through,
7 actually costs the District less over the three years of
8 the contract than the District proposal does.

9 BY MR. RUKEYSER:

10 Q. And to be clear, when you say the District's
11 proposal, you're referring to what?

12 A. What they had on the table regarding -- in
13 front of the fact-finder.

14 Q. So, yeah, let's walk through this then. At the
15 top of this chart, off to the left, it says, District
16 Proposal Fact F. Fact-finding.

17 A. Yeah, you know, it's because of the Excel
18 program, I didn't move it all the way over.

19 Q. Sure.

20 A. It's cut off.

21 Q. This reflects your costing of the District's
22 fact-finding proposal?

23 A. Yes.

24 Q. And can you walk us through columns B, C, D and
25 E, just looking at the District's proposal fact-finding?

1 A. Sure. If you look at line 3, if they put 2-1/2
2 percent across-the-board on the table at \$2 million
3 percent, that means they're putting \$5 million in
4 '16/'17, \$5 million in '17/'18 and \$5 million in
5 '18/'19. That's 2-1/2 over three years. That's 15
6 million.

7 THE ARBITRATOR: That's rough because it
8 doesn't include compounding, does it?

9 THE WITNESS: Right. It's just back of the
10 envelope. Then we go into the next line 4, they had
11 3-1/2 percent, so that is 7 and 7. And then the 2-1/2
12 percent of '18/'19 contingent, although when we were
13 there at the Mayor's house, we weren't treating it like
14 a contingent. That's an additional 5. So you add 15,
15 14 and 5, \$34 million over the three years of the
16 contract.

17 BY MR. RUKEYSER:

18 Q. And you did similar back of the envelope
19 calculations for the SCTA fact-finding proposal starting
20 at line 8, correct?

21 A. Correct. And this shoves -- moving the 4-1/2
22 percent off the first year of the contract, our proposal
23 was a \$78 million proposal. When we got to the
24 Framework Agreement, is a cost of \$32 million over the
25 three years. I'm not sure if the blue is coming out.

1 What's behind the blue is 32 million. 2-1/2, 2-1/2,
2 2-1/2 is 15. 2-1/2 and 2-1/2 is another ten. And
3 moving the salary schedule implementation into the third
4 year with a 3-1/2 cap is \$7 million. And what was also
5 explained was one of the reasons why we are willing to
6 agree to a contract that cost the District less --

7 THE ARBITRATOR: I think you're going beyond
8 the question.

9 THE WITNESS: Okay.

10 THE ARBITRATOR: I'm just trying to find out
11 what happened.

12 BY MR. RUKEYSER:

13 Q. My question for you, John, is: Why, at the
14 Mayor's house on the 5th of November, did the Union
15 propose a salary agreement that was less rich than what
16 you had costed the District fact-finding proposal to be?

17 A. Because the impact of the salary schedule was
18 going to be -- when it was -- when there was no cap, it
19 was going to impact in '19/'20. So you offset the cost
20 in the earlier year, backloading a contract. We had
21 done this in the previous bargain with the District,
22 offset the cost so that we achieve the salary schedule
23 that we wanted to achieve in a less fiscally impactful
24 way to the District.

25 Q. So turning back to the Framework Agreement,

1 with respect to the salary agreement that's listed as
2 Item No. 1.

3 A. Uh-huh.

4 Q. At that point, November 5th, in your mind, were
5 there any issues relating to salary that had yet to be
6 agreed upon?

7 A. No.

8 Q. Had the parties reached -- what about the
9 mechanics of implementing that 3.5 percent cap?

10 A. That had to be worked out based on knowing the
11 cost of the unlimited years of service and the cost of
12 the BA plus 60 and then the process by which the
13 implementation would take place.

14 Q. In the Framework Agreement, were there any
15 items on which the parties agreed to negotiation
16 sometime down the road?

17 A. A calendar.

18 Q. Where is calendar reflected in the Framework
19 Agreement?

20 A. Page 2.

21 Q. Okay. Just so the record is clear, can you
22 read the school calendar provision in this Framework
23 Agreement?

24 A. Yeah, if you look at the "Within 60 days," it's
25 whatever the line is. "Within 60 days, the parties

1 agree to meet and confer about the school calendar for
2 the next three years."

3 Q. Okay. Were there any other provisions in this
4 Framework Agreement that simply reflected the parties'
5 agreement to talk about something down the line?

6 A. Yeah, if you go to page 6, start at the bottom
7 and then come back to the top. So there are about 20
8 CTE teachers that their seniority --

9 Q. Just to be clear, what does CTE refer to?

10 A. You know, I actually forget at the moment.

11 Q. Okay.

12 A. Technical employees. I don't remember what the
13 C stands for. Sorry. They are just like -- I can't
14 grasp -- it's like escaping my memory. There is about
15 20 of them and they are -- they did not have permanent
16 status and we wanted to -- and we agreed that we would
17 accomplish the permanent status. And the reason why we
18 agreed to negotiate was there's a provision in EDCO that
19 specifically discusses -- oh, career -- career and
20 technical employees. It specifically discusses CTE
21 teachers and we talked about if EDCO created a barrier
22 to doing that, there's a way to do it by giving
23 permanency through the contract as opposed to having to
24 do it through EDCO. So there was substantial
25 discussions that had to happen around that.

1 And then paragraph above it, "We had previously
2 reached an agreement on health plan savings." There was
3 an article in the contract, 13-- I think it's 13.1 that
4 spells out if we could work together primarily by going
5 into a larger purchasing pool that achieves savings, we
6 would then take those saving to accomplish the class
7 sizes that are set forth beginning on page 3, Item No.
8 5.

9 So what the agreement did is we laid out all
10 the goals of what we wanted the staffing to be. And
11 then said after we determined what the health plan
12 savings are, if there aren't enough savings to
13 accomplish all those class size goals, then we would
14 prioritize what the -- what would be -- what the changes
15 would be.

16 Q. Okay.

17 A. Among other things.

18 Q. The last page of the Framework Agreement, page
19 No. 7, says, "This agreement is subject to the approval
20 of the city school board and the SCTA bargaining team."

21 Did the SCTA bargaining team subsequently
22 approve the Framework Agreement?

23 A. Yes.

24 Q. To your knowledge, did the school board approve
25 the Framework Agreement?

1 A. Yes.

2 Q. After this Framework Agreement was signed on
3 the 5th, did SCTA have any further discussion with any
4 District administrators about the salary agreement
5 that's set out in the Framework Agreement?

6 A. Yes.

7 Q. With whom did you have these discussions?

8 A. We had one set of discussions with Cancy McArn
9 and Cindy Nguyen, N-G-U-Y-E-N, who was a -- I think a
10 director of employee relations. I don't remember
11 exactly her title. And that was on November 8th.

12 Q. Let me stop you there. Let's talk about that
13 November 8th meeting with Ms. McArn and Ms. Nguyen. Was
14 this an in-person meeting or telephonic meeting?

15 A. In-person.

16 Q. Where was that meeting; where did it take
17 place?

18 A. The District.

19 Q. District offices?

20 A. Yes.

21 Q. Who was physically present in that meeting that
22 you had?

23 A. David, Nikki and me for the Association and
24 Cancy and Cindy for the District.

25 Q. Okay. And what was the purpose of this meeting

1 that you had with these two administrators?

2 A. To walk them through the Framework Agreement
3 and to discuss -- what we began to describe may have
4 been at that meeting, the loose ends to wrap up the
5 contract. The Framework Agreement --

6 Q. I'll stop you there and ask.

7 A. Okay.

8 Q. When you say loose ends, what are you referring
9 to?

10 A. Well, they were provisions in say the
11 District's proposal or the District's position and
12 fact-finding that we were in agreement on, for example,
13 that had never been reduced to a Tentative Agreement.
14 And then there were other items that also were -- they
15 weren't like big items, but they were issues that were
16 hanging out there that still needed to be resolved.

17 Q. And to be clear, did these loose ends, in your
18 mind, include a salary schedule?

19 A. No.

20 Q. At the beginning of this meeting you had with
21 Ms. McArn and Ms. Nguyen, do you know whether they were
22 -- they had seen, at that point, the Framework
23 Agreement?

24 A. I was stunned to learn that they hadn't seen
25 it. We gave the chief human resource officer at the

1 Sacramento City Unified School District a copy of the
2 agreement.

3 Q. When you say the chief human resource officer
4 of the District, you're referring to Ms. McArn?

5 A. Yes.

6 Q. And this was on the 8th of November?

7 A. Yes.

8 Q. So this was several days after the agreement
9 was drawn up and signed?

10 A. There was a press conference held. Yes, it was
11 after that.

12 Q. And what did you do when you showed them this
13 Framework Agreement at that November 8th meeting?

14 A. I walked them through what the District -- what
15 the Superintendent, on behalf of the District, had
16 agreed to.

17 Q. Page by page on the Framework Agreement?

18 A. Yeah, I believe so. Yes.

19 Q. Did you discuss --

20 A. Specifically on the salary schedule.

21 Q. What do you remember saying -- what do you
22 remember yourself having said at that meeting on
23 November 8th about the salary schedule?

24 A. I described how the salary schedule would be
25 implemented if there were an individual cap like I

1 described earlier.

2 Q. Okay. And I want to be perfectly clear about
3 this. Did you identify the salary schedule that you
4 were referring to?

5 A. Yes, because -- yes, it was the same salary
6 schedule we had proposed that Cancy was part of the
7 bargaining team from the first day of bargaining.

8 Q. Okay. And in addition to outlining what I
9 think you just testified as a cap, did you discuss any
10 other ways by which -- did you discuss anything else
11 about how the salary schedule could be implemented in
12 '18/'19?

13 A. I remember Cindy Nguyen specifically saying
14 that what I was describing in terms of implementation
15 would be difficult for the district to be able to
16 accomplish because they needed to have every single
17 employee placed on a specific salary itself for purpose
18 of the payroll, meaning if you had three employees who
19 are supposed to be on salary again, say D-10.

20 MR. SIMMONS: Just to preserve the record,
21 objection; hearsay. We're going beyond the question.

22 MR. RUKEYSER: If I may respond, you testified
23 about what a district administrator told him. I don't
24 think that we have a hearsay problem here.

25 THE ARBITRATOR: No, that -- well, you're

1 saying Nguyen expressed the mechanics of doing -- what
2 we're talking about was an individual cap.

3 THE WITNESS: Could not be accomplished.

4 THE ARBITRATOR: Would be difficult, just
5 mechanically.

6 THE WITNESS: Because the way payroll was set
7 up, everybody had to be placed on a specific salary
8 schedule. So you couldn't have somebody who was -- if I
9 was entitled to be placed, for example, on cell D-10,
10 but the cap made it too -- like I -- it cost 17 percent
11 to get on D-10 and we only had 10 percent to spend, you
12 had to be placed on a cell, which then meant -- and this
13 was discussed. Then the way to implement it is not
14 through an individual cap. It has to be through a
15 delayed implementation date to be able to fit within the
16 3.5 percent.

17 THE ARBITRATOR: So Ms. Nguyen expressed the
18 mechanical difficulty of what you're referring to as an
19 individual cap. And then are you saying in response to
20 that? You said, well, if we can't do it mechanically.
21 We can do it by delaying implementation?

22 THE WITNESS: Yes. We always had those as
23 alternatives. One of the reasons why I had emphasized
24 the individual cap was, one, it was an experience I had
25 in the hospital industry. But secondly, when we did a

1 mid-year increase in the previous wage reopener, it
2 created a problem where you had two couches who got
3 stipends for coaching. One who did the work in the fall
4 got a lower stipend than somebody who did the work in
5 the spring. An additional complication was that if
6 somebody had a stipend where the work --

7 THE ARBITRATOR: We're going way beyond the
8 question. Let's go back to the question.

9 BY MR. RUKEYSER:

10 Q. If I ask you some questions about what you said
11 at that meeting, I want to ask you questions about what
12 you recall the administrator saying. When you explained
13 the Framework Agreement as agreeing, among other things,
14 to adopt the Union proposed salary schedule, do you
15 recall whether Ms. McArn said anything about that?

16 A. The only thing that I remember specifically was
17 that the mechanics would not work and we had to then go
18 to the date of implementation.

19 Q. What about Ms. Nguyen, do you recall her saying
20 anything in response to your representation that the
21 Framework Agreement memorializes an agreement to
22 implement the Union's proposed salary structure?

23 A. The comment I just made was Cindy. I don't
24 remember Cancy raising anything about the implementation
25 of the salary schedule at that meeting.

1 Q. Was there -- apart from what you've already
2 testified to, did you discuss -- did you personally
3 discuss anything else about the salary agreement in the
4 Framework Agreement at that meeting on November 8th?

5 A. I don't remember anything other than that.

6 Q. Was there any discussion -- let me ask you
7 this: Apart from what you've already testified to, do
8 you recall either of these District administrators
9 asking any questions about the salary agreement?

10 A. Yeah. The question became how the unlimited
11 years were going to -- how that would go and -- oh, you
12 know what, actually I take that back. What we also
13 asked for was the updated salary schedule placement for
14 employees because that would be a more accurate way to
15 start costing the contract. And then we're also going
16 to have to have a follow-up costing after the unlimited
17 years of service have been applied, as well as figuring
18 out who has BA plus 60. But it got into -- it was more
19 about how -- it was about how the salary schedule would
20 be implemented.

21 Q. At that meeting on November 8th, was there any
22 discussion about the time frame by which the District
23 could provide you the information that you were
24 requesting?

25 A. I don't remember discussion at that meeting. I

1 think that happened -- if there was a discussion, that
2 happened afterwards.

3 Q. Yeah, I want to focus just on this November 8th
4 meeting for the time being. Was there any discussion on
5 November 8th about any follow-up meetings between SCTA
6 and any District administrators about salary?

7 A. No, I don't remember that.

8 Q. Was there -- did you request to meet with
9 anyone, other than any administrator, other than Ms.
10 McArn and Ms. Nguyen to discuss salary?

11 A. At the meeting on the 8th?

12 Q. Yes.

13 A. We requested a meeting with Gerardo Castillo.
14 G-E-R-A-R-D-O, C-A-S-T-I-L-L-O. He was the chief
15 business officer of the District at the time.

16 Q. Why did you want to meet with Gerardo Castillo?

17 A. Having done several negotiations with Gerardo,
18 Gerardo is the money guy. And he's the one that you
19 have to work out the costing and the implementation with
20 him because that's who mechanically does it. And also
21 there was this -- there was this costing follow-up that
22 was going to need to occur and we wanted to get that
23 going as quickly as possible with the person in the
24 District then who could do it.

25 Q. Did you ever end up meeting with Mr. Castillo,

1 the District CBO, to discuss the salary issue?

2 A. May of 2018.

3 Q. But not in November or December?

4 A. No, which was unusual.

5 Q. Why was that unusual in your mind?

6 A. Because when something like this came up
7 before, like in the wage reopener, Gerardo was available
8 and the District made him available. And sometimes we
9 -- in fact, one time specifically when we negotiated a
10 wage reopener, Cancy and I and the Superintendent had a
11 discussion about it. We did a 2-1/2, 2-1/2 and we
12 immediately went to Gerardo to discuss how it would be
13 implemented that day in the office so that there was no
14 time lost and there was no -- anything lost in
15 translation.

16 Q. Okay. At that November 8th meeting, did you
17 explain to Ms. McArn and Ms. Nguyen why you were
18 requesting to meet with Mr. Castillo to discuss salary?

19 A. Yes.

20 Q. And as best you can recall, did either
21 Ms. McArn or Ms. Nguyen respond to your request to meet
22 with Mr. Castillo right then and there in the
23 November 8th meeting?

24 A. No, I don't remember there being a follow-up.
25 I think we followed up with e-mail requesting it.

1 Nothing happened out of the meeting.

2 Q. Do you recall approximately how long after the
3 November 8th meeting with these administrators that you
4 followed up by e-mail?

5 A. I think either that day or the next day.

6 Q. If I can have you turn to what's been
7 identified as Joint Exhibit 11 in this big black binder.

8 A. Okay.

9 Q. And turn to page 11.

10 A. Page 11 of Document 11?

11 Q. That's correct.

12 A. Okay.

13 Q. And this is an e-mail string that has been
14 jointly agreed to as being authentic. There at the top,
15 it appears to reflect an e-mail from you, John Borsos,
16 to Ms. McArn with a CC to Nikki Milevsky, David Fisher
17 and Ms. Nguyen with a date of November 9th, 11:56 a.m.

18 Is that the follow-up e-mail that you were just
19 referencing?

20 A. Yes.

21 Q. Just so the -- I think we will leave it at
22 that. So on the next page?

23 A. Page 12?

24 Q. From page 11 to page 13, there's a whole list
25 of articles and under each article, some details. What

1 does this list represent?

2 A. Those are the loose ends.

3 Q. These are the loose ends that you were just
4 referring to?

5 A. Yep.

6 Q. And I don't see any inclusion here -- any
7 reference to the salary schedule among the loose ends.

8 A. There was no loose ends.

9 Q. Okay. And I would like to direct your
10 attention to the first paragraph of your November 9th
11 e-mail. Second sentence, you say, "We identified the
12 need to meet with Gerardo to discuss how the Union's
13 proposed salary schedules that go into effect July 1,
14 2018, will be implemented to fit within the 3.5 percent
15 total certificated payroll cost."

16 Do you recall Ms. McArn ever responding by
17 e-mail to your request to meet with Gerardo Castillo?

18 A. I don't remember she ever responded.

19 Q. Do you recall ever receiving an e-mail from
20 Ms. McArn questioning your representation that the Union
21 proposed salary schedules would go into effect July 1,
22 2018?

23 A. I do not.

24 Q. Do you ever recall getting a telephone call
25 from Ms. McArn questioning that statement?

1 A. I do not.

2 Q. What about from Ms. Nguyen, did she ever e-mail
3 you to question that statement?

4 A. She did not.

5 Q. Did she ever phone you to question that
6 statement?

7 A. No, she didn't.

8 Q. Did you ever have any in-person meeting at any
9 time after November 9th in which Ms. McArn questioned
10 the statement that you made in this e-mail, that the
11 Union proposed salary schedules would go into effect
12 July 1st, 2018?

13 A. No.

14 Q. Did you ever have an in-person meeting with
15 Ms. Nguyen in which she questioned that statement?

16 A. No.

17 Q. During this time, November 2017, did you ever
18 prepare a proposed TA, Tentative Agreement document,
19 addressing Article 12 having to do with salaries?

20 A. Yes.

21 Q. Do you recall approximately when you did that?

22 A. Middle of November.

23 Q. Okay. And did you -- what did you do with that
24 TA document that you prepared, if you can recall?

25 A. I sent it to Cancy.

1 Q. Okay. And why did you do that?

2 A. Specifically, it was because the -- if you look
3 at that document that we're on, page 12.

4 Q. Uh-huh.

5 A. You had to nail down a Tentative Agreement for
6 unlimited years of service and it would have been signed
7 off.

8 Q. If I can have you turn to Association Exhibit
9 No. 6.

10 A. Okay.

11 Q. Do you recognize these two pages?

12 A. Yes.

13 Q. What are they?

14 A. This is the e-mail I sent to Cancy -- here it
15 is, November 13, 2017, with a draft Tentative Agreement
16 regarding wages.

17 Q. And could you read the first paragraph of
18 Article 12 of -- the draft Tentative Agreement for
19 Article 12?

20 A. "The Parties agree that this article will need
21 to be revised and reformatted to incorporate the Union's
22 proposed and agreed upon new salary structure as set
23 forth in the settlement Framework Agreement dated
24 November 4, 2017."

25 Q. Did Ms. McArn ever respond by e-mail to the

1 draft Tentative Agreement for Article 12?

2 A. No.

3 Q. Did she ever question your assertion in Article
4 -- in the draft TA for Article 12 that the Union's
5 proposed -- there was a Union's proposed and agreed upon
6 new salary structure? Did she ever question that?

7 A. She did not, no. She didn't.

8 Q. Ultimately this document, this draft Tentative
9 Agreement for Article 12 was not signed, correct?

10 A. It was not signed.

11 Q. And why is that?

12 A. Around this point, Cancy ceased being --
13 actually, I would say after the Framework Agreement was
14 reached, the details around the contract we were dealing
15 directly with the Superintendent. Cancy was, at least
16 with us, not playing a role.

17 Q. Who was -- who were you dealing with on the
18 District's end in tying down loose ends?

19 A. The Superintendent and then periodically Lisa
20 Allen, the deputy Superintendent, but primarily it was
21 with the Superintendent, Jorge Aguilar.

22 Q. And just so we're clear, was -- did the parties
23 at SCTA and the District eventually reach an agreement
24 about this issue of unlimited years of experience?

25 A. Yes.

1 Q. So that loose end was tied down?

2 A. Yes.

3 Q. And it was incorporated into the Tentative
4 Agreement that parties ended up signing and ratifying?

5 A. Yes.

6 Q. If I could then have you turn to Joint
7 Exhibit 11, page 6.

8 A. Okay.

9 Q. It appears to be a November 17th, 2017, e-mail
10 from Superintendent Aguilar. It says, "Colleagues." It
11 starts, "Good morning, John. Per our call on Tuesday."

12 Did you receive this e-mail?

13 A. Yes.

14 Q. And question about -- down at the bottom of
15 page 6 and onto page 7, the e-mail states that -- it
16 says, "I" meaning Aguilar, "propose that the board adopt
17 the following language which also has been part of the
18 offer that has been made prior to the November 5, 2017,
19 agreement."

20 The second bullet point that follows at the top
21 of page 7, it says, "Increased stipends of athletic
22 directors from Category B to Category A. An additional
23 per diem compensation equivalent to one prep."

24 What are the stipends of athletic directors?

25 What did that language mean to you?

1 A. The contract sets forth, I think it's A through
2 E stipends. So high school football coach gets an A
3 stipend and somebody who say, for example, coaches a
4 sport that has less commitment might get an E type and
5 the athletic directors were currently receiving a B
6 stipend, and this would move them up to the higher paid
7 A stipend.

8 Q. An A stipend is a higher dollar value than a B
9 stipend?

10 A. Yes.

11 Q. Down at the next -- after the bullet point from
12 the top of page 7, the first paragraph there.
13 Superintendent Aguilar goes on to say, "To ensure there
14 is no misunderstanding between our team and your team's
15 interpretation of SCTA's proposed salary schedule as we
16 move to conclude this matter" and then it goes on.

17 Quick question. When you saw Superintendent
18 Aguilar refer to SCTA's proposed salary schedule, what
19 did you make of that? Were you concerned?

20 A. Yes. That on November 17th, he was writing a
21 question asking about something that was already
22 settled, yes.

23 Q. And he then goes onto say -- well, I'll ask
24 this follow-up question. At any point after getting
25 this e-mail, did you talk to anyone at the district

1 about what -- what the agreement, in your mind, was
2 about this salary schedule?

3 A. Yes.

4 Q. When?

5 A. We talked to the Superintendent, Lisa Allen, on
6 -- can you ask the question again?

7 Q. At any point after receiving this e-mail on
8 November 17th, did you follow-up with any District
9 administrator to explain what the Union's understanding
10 of that -- of the Framework Agreement salary provision
11 was?

12 A. Yes. We met with the Superintendent on
13 November 27th, and --

14 Q. I'll ask you some questions about that.

15 A. Go ahead.

16 Q. On November 27th, who was in attendance at that
17 meeting?

18 A. David, Nikki and me and the Superintendent and
19 Lisa Allen, the deputy Superintendent.

20 Q. What did you, John, say about the salary
21 agreement and the Framework Agreement?

22 A. I remember the Superintendent asking for some
23 kind of a narrative to be able to explain the agreement
24 to the board. And I said that I would be happy to go
25 with him and answer questions from the board in closed

1 session if they had any questions whatsoever about the
2 salary schedule. And that -- that's it.

3 Q. Did either Ms. Allen or Mr. Aguilar respond to
4 your offer to explain the salary schedule to the board?

5 A. Just that they appreciate the offer.

6 Q. Did you, in fact, end up talking to the board
7 about this in closed session?

8 A. No, we reiterated that offer when we met again
9 on November 30th with both Mr. Aguilar and Ms. Allen
10 also.

11 Q. Turning back to page 7 of Joint Exhibit 11,
12 Superintendent Aguilar says that -- he says, "I can only
13 recall your description of "compressing" the schedule.
14 Please send me an explanation of case study showing who
15 and how the 3.5 percent adjustment will impact so that I
16 can accurately follow-up and describe this to our
17 board."

18 When you got that e-mail and read those words,
19 what, if anything, did you make of it? What was your
20 reaction?

21 A. My reaction was I'm -- it's the first time that
22 I can ever remember being asked by an employer to help
23 him explain the proposal. I remember -- it's too strong
24 to say offended, but kind of taken aback that he somehow
25 was expecting me to help him explain to the board.

1 Q. That being said, did you end up providing a
2 explanation to Superintendent Aguilar?

3 A. Yeah, we had a follow-up meeting --

4 Q. We'll get to that later.

5 A. Okay. But the answer is yes, a detailed
6 explanation.

7 Q. One other question about page 7 of Joint
8 Exhibit 11. Did you have any reaction when you saw in
9 this parenthetical that the Superintendent could only
10 recall your description of, quote, unquote, compressing
11 the salary schedule? What did you make of that?

12 A. I didn't know what to make of it. We discussed
13 it so thoroughly, I don't know how he could only recall
14 the description. Even as reflected in the notes, we
15 were -- spent time explaining it.

16 Q. Okay. Turning again to this November 27th
17 meeting that you testified about with Ms. Allen and
18 Mr. Aguilar, did you talk about what salary schedule you
19 believe was going to implemented in the '18, '19 year?

20 A. No. That was resolved. It didn't -- what was
21 being implemented did not even come up.

22 Q. What was discussed with respect to the salary
23 schedule?

24 A. Could we give case study -- I think those are
25 the words he used -- case studies or a narrative to

1 explain how it would be implemented. It was a very
2 short discussion. And that's where I made the offer to
3 answer whatever questions that the board had in closed
4 session. I said I would be happy to answer anything
5 that anybody asked. We want people to have a clear
6 understanding what was agreed to.

7 Q. After that November 27th meeting with
8 Mr. Aguilar and Ms. Allen, did you have any other
9 face-to-face meetings with the Superintendent to discuss
10 loose ends for the Framework Agreement?

11 A. We met on November 30th.

12 Q. Where did you meet?

13 A. Capitol Garage, down by the Capitol.

14 Q. Just for the record, what is Capitol Garage?

15 A. A little coffee shop.

16 Q. Who was in attendance in that meeting?

17 A. David, Nikki and me for the Association. And
18 Superintendent Aguilar and Ms. Allen for the District.

19 Q. What was the purpose of this meeting in your
20 mind?

21 A. To tie up these remaining loose ends so we
22 could have a finalized agreement, so that the board can
23 vote on it and our members can ratify it.

24 Q. Was there any discussion at that meeting on the
25 30th about the salary agreement?

1 A. The only discussion that I remember was me
2 making an offer again to go with him to the board in
3 closed session, if necessary, to answer questions.

4 Q. With you say with him, you mean --

5 A. The Superintendent.

6 Q. Did you make that offer out of the blue or was
7 it in response to something?

8 A. I think he may have asked or Lisa may have
9 asked, I don't remember which one of them, about a
10 narrative again. And I said I'm happy to go answer
11 questions with the board. It was in response to a
12 question of the narrative. I don't remember if it came
13 from Lisa or if it came from Mr. Aguilar.

14 Q. And after that meeting, you received an e-mail
15 from Superintendent Aguilar regarding the meeting?

16 A. Yes.

17 Q. If I can have you turn to Joint Exhibit 12,
18 page 2. The November 30th, 11:58 p.m. e-mail from
19 Superintendent Aguilar, do you recognize that e-mail as
20 a follow-up e-mail that you received from the
21 Superintendent?

22 A. Yes.

23 Q. He starts the e-mail by saying he is providing
24 a summary of the issues for the finalization of the TA.
25 Do you see that?

1 A. Yes.

2 Q. Then down at the bottom, item No. 6, it says,
3 salary schedule adjustment. And then it says, within 30
4 and then in parenthesis, 45 days of the Tentative
5 Agreement's approval, the parties agree to finalize a
6 mutually agreeable adjustment to the salary schedule for
7 2018-19 that does not exceed the total District
8 expenditures of 3.5 percent.

9 When you got that e-mail, what did you make of
10 this -- of Superintendent Aguilar's summary of the -- of
11 this issue for finalization?

12 A. He wanted to have a process completed by which
13 we would implement the salary schedule within 45 days.

14 Q. Or 30 days?

15 A. Yeah, I think it was the 45 days more than the
16 30 days, but.

17 Q. And so this was --

18 A. That's how I read it.

19 Q. That there would be an agreement about how it
20 would be implemented?

21 A. Yes.

22 Q. Was there any doubt in your mind about what was
23 going to be implemented?

24 A. There was not.

25 Q. Did you at that point, the end of

1 November 2017, did you think that it was realistic that
2 the parties could reach an agreement about how the
3 salary structure would be implemented within either a
4 month or a month and a half after the Tentative
5 Agreement approval?

6 A. I thought it was ambitious.

7 Q. Turning the page to page No. 3 at the top.
8 Superintendent Aguilar goes onto say that he has asked
9 Lisa -- that would be Lisa Allen and Cancy McArn -- to
10 make themselves available to meet with you so that you
11 can discuss the, quote, compression concept of the
12 salary schedule and jointly draft a written description.

13 Was a meeting with Lisa and Cancy discussed at
14 the November 30th meeting, if you can recall?

15 A. I suggested again meeting -- what I recall was
16 I suggested again meeting with Gerardo and he came back
17 to meet with Lisa and Cancy, he being the
18 Superintendent.

19 Q. Did you, in fact, meet with Lisa and Cancy --
20 Ms. McArn and Ms. Allen?

21 A. Yes, the next day.

22 Q. The very next day?

23 A. December 1.

24 Q. Where was this meeting?

25 A. The District.

1 Q. Who was present at that meeting?

2 A. For that one, it was just David and me for the
3 Union and Cancy and Lisa for the District.

4 Q. And what was discussed at that meeting, what
5 topics?

6 A. The implementation of the salary schedule.

7 Q. Was the schedule itself discussed?

8 A. It was -- when we gave them a copy of the
9 salary schedule, by then we had the numbers filled in.
10 We had a caveat at the bottom about how it would have to
11 be implemented and we discussed -- we actually discussed
12 how Cancy, in particular, and Lisa were going to explain
13 it to the board, how you implement our salary schedule
14 with a cap of 3.5 percent.

15 Q. If I can have you turn to Association
16 Exhibit 8. Do you recognize the four pages; do you
17 recognize those pages?

18 A. Yes.

19 Q. What are they?

20 A. These are the salary -- this is the Union
21 structured salary schedule that would be implemented --
22 that was to be implemented in 2018/'19.

23 Q. Let's walk through this. First of all, up at
24 the top, it -- on page 1, it says 2018/'19 uncapped K-12
25 salary schedule. What did that mean, uncapped?

1 A. That meant -- and this goes back to when the
2 document was originally created about the individual
3 caps -- this is a fully-loaded salary schedule '18/'19
4 with no individual cap. This is what it would be.

5 Q. Each cell in this uncapped salary schedule
6 would reflect the total salary under the schedule?

7 A. Yes.

8 Q. Okay. But there's an asterisk there that
9 corresponds to a footnote, essentially, down below under
10 the schedule itself. Who drafted this footnote
11 language?

12 A. I did.

13 Q. Why did you draft this footnote?

14 A. Primarily because we did not want a member who
15 was going to vote on this agreement to believe that the
16 salary schedule here was going to automatically be
17 implemented effective on July 1, 2018/'19 because we had
18 to accomplish implementing the salary schedule within
19 the 3-1/2 percent cap. If the dollars didn't get to the
20 point that it could be accomplished, you either had to
21 -- as it says, we will either have to figure out how to
22 put a cap on or modify the implementation date.

23 Q. At that meeting on December 1st with Ms. McArn
24 and Ms. Allen, did you -- is it your testimony that you
25 gave them these documents?

1 A. Yes.

2 Q. Did you discuss the footnote?

3 A. Yes.

4 Q. What do you recall having told these two
5 District administrators at that December 1st meeting
6 about the footnote?

7 A. This is how the salary schedule implementation
8 occurs within the 3-1/2 percent cap. By the time we
9 were meeting with them on December the 1st, because of
10 the discussion we had with Cindy Nguyen on November the
11 8th, I was no longer talking about an individual cap.
12 We were now talking about the delayed implementation
13 date to be able to accomplish the implementation within
14 the 3-1/2 percent cap.

15 Q. Do you recall Ms. McArn asking you any
16 questions about your explanation of this footnote?

17 A. Specific questions, no. I remember there were
18 questions that were being asked. And it was -- what I
19 remember saying was because she wanted to be able to
20 explain it to the board and there was kind of a
21 rehearsal of how to explain it.

22 Q. Do you recall Ms. McArn disputing that this
23 salary schedule was going to come into effect on -- in
24 the '18/'19 year?

25 A. Not only was there no dispute, they -- both

1 Lisa and Cancy at that meeting structurally requested me
2 to write the narrative to be able to give it to the
3 Superintendent.

4 Q. You say they strongly requested that. Do you
5 recall what they said?

6 A. It would really be helpful if you wrote the
7 narrative.

8 Q. Did they explain why it would be helpful or in
9 what way it would be helpful?

10 A. I don't remember specifics. I just -- nope.

11 Q. I guess just for the sake of completeness, did
12 Ms. Allen ask you any specific questions about your
13 explanation of this footnoted language on the salary
14 schedule?

15 A. No.

16 Q. And did Ms. Allen dispute that -- dispute that
17 your representation that this was the salary schedule
18 that was going to come into effect in the '18/'19 year?

19 A. No.

20 Q. On the first page of Association Exhibit 8,
21 there are handwritten vertical lines through parts of
22 the first three columns. Do you have any idea of -- I
23 guess, first, do you know who actually wrote those
24 lines?

25 A. I think that's me. That was me.

1 Q. And why did you write these lines?

2 A. The reason why we even -- first, you will see
3 that line 8, \$58,992, they repeat. So BA-8, BA-9,
4 BA-10, BA-11, BA-12, they're all the same number. And
5 to be able to accomplish the implementation of a new
6 salary schedule based on salary uniformity issues, you
7 had to repeat -- we have been advised by legal counsel
8 that you had to repeat each one as its own cell to
9 address these concerns about that. And all this was
10 doing was -- they're all the same number.

11 Q. But the line simply indicates that the number
12 is unchanged in the cells that are struck through with a
13 line?

14 A. Correct.

15 Q. At that November -- I'm sorry, December 1st
16 meeting with Ms. McArn and Ms. Allen, did you provide
17 those administrators any other documents; do you recall?

18 A. Yeah. We had, I think -- there were two other
19 documents that I remember. One was a salary schedule
20 that had no numbers in it and it just had the structure
21 with the 5 percent between the columns delineated and
22 the 3-1/2 percent with the number. I remember among the
23 steps on the side, the experience steps that laid out
24 the structure of the salary schedule without the
25 numbers, like blank in the numbers -- like this that has

1 numbers in it, it would have been this without any
2 numbers in it.

3 Q. So it's simply reflecting the structure, but
4 not the precise values of each cell?

5 A. Yes.

6 Q. If you can turn to Association Exhibit 7. Do
7 you recognize these three pages?

8 A. Yeah. That's what that is, the first one that
9 I was describing. So this is the K-12 salary schedule.
10 This is the program specialist salary schedule. This is
11 the psychologist salary schedule. And this is how the
12 salary schedules are being restructured based on the
13 Union's proposed salary schedule.

14 Q. These are the documents that you provided to
15 these two District administrators on December 1st?

16 A. Yes.

17 Q. These documents are all titled Proposed Salary
18 Schedule, Proposed K-12, Proposed Program Specialist,
19 Proposed Psychologist. Why are these documents titled
20 proposed?

21 A. Because they go to what we gave the District
22 back in December of 2016. This is the structure that we
23 used all the way throughout. And because we already had
24 this printed off, we gave it to them again. I guess it
25 was just out of saving time.

1 Q. Was there any discussion that you can recall at
2 that December 1st meeting about the Union's salary
3 schedule structure, these documents showing simply the
4 uniform increments between columns and the uniform
5 increments between steps?

6 A. I don't remember any discussion about it. It
7 was -- just this was it.

8 Q. And apart from these documents that we've
9 already discussed, did you provide the District
10 administrators any other documents at that December 1st
11 meeting?

12 A. Must be in here somewhere. There was another
13 one that we created for bargain that had under the old
14 salary structure what the percentage increases would be
15 per cell based on the implementation of the new salary
16 structure. So say like C might say 13.7 percent. And
17 C7 might -- so we did that with all the percentage
18 increases that those individuals cells would experience
19 by virtue of the implementation of the agreed upon
20 salary schedule.

21 Q. If I can have you turn to Association
22 Exhibit 9?

23 A. Nine.

24 Q. Do you recognize that document?

25 A. Yes, that's the document I was describing.

1 Q. Why did you give the District administrator
2 this document?

3 A. Because this also seemed to be -- or this was a
4 direct response to what we interpreted Mr. Aguilar to be
5 asking. You can then see how it impacted people in the
6 middle of the salary schedule by the percentage
7 increases that they can get. So if anybody had any
8 question about who was getting what increase and how
9 that would affect those individuals based on their
10 distribution through the salary schedule, you can see
11 it.

12 Somebody with 10 years of experience who was C
13 is going to get a 13.57 percent increase. Somebody who
14 is at the top of the salary schedule, E-26, is not going
15 to get anything by virtue of the implementation of the
16 salary schedule. So you can then see by individual
17 where the dollars were being directed into the -- where
18 the agreed upon salary schedule directed the dollars.

19 Q. At that meeting on December 1st, do you recall
20 whether you said anything about what would happen to the
21 new salary schedule after the '18/'19 year?

22 A. What would happen to it? It's -- that's when
23 it's -- that's when it goes fully impact depending on
24 how --

25 Q. Let me talk. Let me stop you and let me ask

1 you this: I'm asking a very specific question. At that
2 December 1st meeting, did you talk to these two District
3 administrators about what would happen after the '18/'19
4 year? Did you tell them that the salary schedule would
5 stay in place and be uncapped?

6 A. Yes.

7 Q. An you're sure about that?

8 A. Yes.

9 Q. Do you recall Ms. McArn responding in any way
10 to your explanation of what would happen after '18/'19?

11 A. Responding in any way? No, I don't remember a
12 response at all. It was just an acceptance of that's
13 what was agreed to.

14 Q. What about Ms. Allen, did she respond in any
15 way to your explanation that the salary schedule would
16 be uncapped after the '18/'19 year?

17 A. No.

18 Q. The parties signed their final Tentative
19 Agreement on December 4th, correct?

20 A. Sounds right.

21 Q. Well, let's take a look at the -- let's take a
22 look. That is --

23 MR. SIMMONS: No. 2.

24 BY MR. RUKEYSER:

25 Q. Number 2, yes. Joint Exhibit 2?

1 A. Joint Exhibit 2?

2 Q. Joint Exhibit 2, yes.

3 A. Yeah.

4 Q. Tentative Agreement, down at the bottom it
5 looks like someone signed for the Association and for
6 the District. Do you happen to know whose signature
7 those are?

8 A. David Fisher for the Association and Jorge
9 Aguilar for the District.

10 Q. Okay. And just so I'm clear, this entire set
11 of documents represented the -- that the TA that the
12 parties signed on December 4th?

13 A. Yeah, this is -- it's a weird document because
14 it says -- I don't know what the DD436 is.

15 Q. Oh, I'm sorry.

16 A. DD435 is 1 of 2. Then you go to 437, it's 2 of
17 2.

18 Q. Those numbers down at the bottom are simply the
19 District's Bates stamping of documents that they
20 produced.

21 A. So the 438, this -- there is all of these blank
22 pages. This -- this is the Tentative Agreement. I just
23 don't know what the blank pages represent.

24 Q. So just quick question about the -- quick
25 question about this first page. I gather then that the

1 parties had reached a Tentative Agreement about the
2 stipends that were going to be paid to the athletic
3 directors?

4 A. Yes.

5 Q. That's reflected on the first page, No. 3A?

6 A. Yes.

7 Q. So that we're clear, the parties agree that
8 athletic director's stipend was going to shift from
9 category B stipend to the higher value category A
10 stipend?

11 A. Yes.

12 Q. Do you know whether the District is paying
13 athletic directors the category A stipend, as we sit
14 here today?

15 A. They are now is my understanding.

16 Q. Do you know when the District began paying
17 athletic directors the category A stipend?

18 A. Only after ratification and only from that
19 point forward.

20 Q. Okay. And the Union is disputing this?

21 A. Effective date of the agreement was July 1,
22 2016.

23 Q. And that's addressed in your grievance?

24 A. Yes.

25 Q. Let's take a look at that grievance, which is

1 Joint Exhibit 9. Do you know who prepared this
2 grievance document?

3 A. I did.

4 Q. And where do you address this issue of
5 retroactive pay of the athletic director stipend?

6 A. Let's see. Where the underline says, "Describe
7 the specific details of the grievance." The paragraph,
8 the last clause --

9 (Reporter requests clarification.)

10 THE WITNESS: So on the paragraph, it says,
11 "and as well as refuse to honor the effective date of
12 the agreement retroactive to July 1, 2016."

13 BY MR. RUKEYSER:

14 Q. Just so there's no confusion, does the Union
15 contend that the Union's proposed salary structure or
16 salary schedule should have been implemented effective
17 July 1, 2016?

18 A. No.

19 Q. So that we are all so perfectly clear, when --

20 THE ARBITRATOR: Well, you used different
21 language in here now and it's concerning me because when
22 you talked about the revised salary structure, there's
23 two words that have been placed in the front of that.
24 One is the date when it would be -- actually go into
25 effect, right?

1 MR. RUKEYSER: Correct.

2 THE WITNESS: That would be -- now here's the
3 salary schedule. It's in effect. Then the second word
4 that we sometimes use is the salary schedule is now
5 implemented.

6 MR. RUKEYSER: And you're absolutely correct,
7 Mr. Arbitrator. Thank you for flagging that point. Let
8 me try to rephrase the question.

9 BY MR. RUKEYSER:

10 Q. So that we're absolutely clear, when does the
11 Union believe that the Union's proposed salary schedule
12 should have gone into effect?

13 A. When should this have gone into effect?

14 Q. That is correct.

15 THE ARBITRATOR: When should it have become a
16 salary schedule? Break it down. Do you understand
17 there may be a difference? I don't know. I want to --

18 THE WITNESS: It's from the '18/'19 school
19 year, but depending on the actual implementation date,
20 it may have to be delayed, say, until, you know,
21 December 1st to fit within the cap.

22 THE ARBITRATOR: Do you have any understanding
23 as to when it would come into being pursuant to these,
24 you know, the parties' negotiations and agreement, when
25 it would actually come into being rather than being

1 implemented, was there a distinction drawn, in your
2 mind, in terms of the agreement reached between the
3 parties?

4 THE WITNESS: It came into being when we agreed
5 with to the meetings with the proposed salary schedule
6 with the Mayor. That was -- that's when -- I guess,
7 existentially, that's -- that's where it is and then it
8 becomes implemented based on where the dollars go.
9 There was nothing to discuss about what it was. That
10 was agreed. The only thing from our -- and we believe
11 we agreed. The only thing to be discussed is when it
12 was to be implemented.

13 BY MR. RUKEYSER:

14 Q. Let me ask one follow-up question about that.
15 Was there any doubt in your mind about which year the
16 salary schedule would be implemented at some point in
17 that year?

18 A. No, it was 2000 -- the last year of the
19 contract, 2018/'19.

20 Q. Okay. Thank you. You testified earlier that
21 you had provided some sort of written summary or
22 explanation of the salary agreement to the District?

23 A. Uh-huh.

24 Q. Do you recall when you -- when you provided
25 that to the District?

1 A. I think I sent it on December 6th.

2 Q. To whom did you send it?

3 A. I sent it to Mr. Aguilar and Lisa Allen.

4 Q. And Ms. Allen is the Deputy Superintendent?

5 A. Correct.

6 Q. Is she essentially the second highest
7 administrator in the District?

8 A. Yes.

9 Q. To be clear, she is Mr. Aguilar's deputy?

10 A. Yes.

11 Q. Okay.

12 A. In the organizational chart, Lisa reports to
13 Mr. Aguilar and all of the cabinet officers as far as
14 the last organizational chart I saw, they all reported
15 to Lisa.

16 Q. Okay. Thank you. Who wrote the summary or the
17 explanation that you provided to Superintendent Aguilar
18 and Ms. Allen?

19 A. I did.

20 Q. Could you take a look at Association
21 Exhibit 10?

22 A. Yes.

23 Q. Do you recognize this?

24 A. Yes.

25 Q. What's the first page?

1 A. This is the cover e-mail that I sent with this
2 document as the attachment.

3 Q. Okay. And the following pages of Association
4 Exhibit 10, this is the document that you prepared and
5 that you transmitted by e-mail?

6 A. Yes.

7 Q. And before we turn to the document itself, what
8 was your purpose in writing this document; what were you
9 attempting to do?

10 A. To provide the narrative that Mr. Aguilar had
11 requested. I also sent it as a Word document so he
12 could edit it and make it his own. And that's what I
13 was trying to accomplish.

14 Q. Why did you provide it in editable form? So
15 that Mr. Aguilar could edit it as he saw fit?

16 MR. SIMMONS: Asked and answered.

17 THE ARBITRATOR: It's been answered. I don't
18 know if it was actually a question, but you did it at
19 his request is what you said already.

20 THE WITNESS: I did it at his request and I
21 also did it in this way, that I did not identify it as
22 being a SCTA document because I was not writing it as if
23 I were the voice of SCTA. I was writing it as if I were
24 the voice of the Superintendent who asked me to prepare
25 a document to help him explain it to the board.

1 BY MR. RUKEYSER:

2 Q. Had you ever done that before?

3 A. No. It was the first time I've ever been
4 asked. I've probably bargained 200 contracts. I've
5 never been asked by an employer to help them put
6 together a narrative to explain an agreement to a board.

7 Q. Okay. Let's walk through this narrative that
8 you prepared. The first page, there are some charts,
9 sort of salmon-colored charts with green cells. What do
10 these charts show?

11 A. This was a comparison of the Sac City salary
12 schedule to San Juan and Elk Grove. And the salmon
13 shows -- actually, the easier way at this point, the
14 green is where the cells and Sac City were higher than
15 Elk Grove or San Juan. And the red meant this is --
16 those are the places graphically so that you can see it
17 where the Sac City salary schedule was substandard to
18 San Juan and Elk Grove. And the numbers represent the
19 dollar amount that each cell was behind San Juan and Elk
20 Grove.

21 Q. Turning down to the bottom of that page.
22 There's -- No. 2, it says, overview of the new salary
23 schedules. What does this section address?

24 A. It lays out the structure of the salary
25 schedule.

1 Q. This is the same document on page 2 that you
2 provided to the District administrators on December 1st?

3 A. Yes. And it then provides a narrative as
4 requested to further explain what the salary schedule is
5 doing.

6 Q. Okay. Turning then to page 2, item No. 3, what
7 was your intent in drafting this section of your
8 narrative?

9 A. Mr. Aguilar asked for a couple -- I think what
10 he called them were case studies. So that's what this
11 tries to accomplish. There's a few examples of exactly
12 what the salary schedule does to be able to explain to
13 the board what had already been agreed to. Here's what
14 the agreement accomplishes and here is how it addresses
15 whatever concerns people might have.

16 Q. And then turning the page there to charts.
17 These look familiar. Why did you include them in the
18 document?

19 A. Just to be -- the first chart on the pages
20 aren't numbered, but it's the -- it's the fourth page
21 in. Again, you wanted to see how an individual who was
22 currently on the Sac City salary schedule was impacted
23 by the implementation of the new salary schedule. You
24 can see it by individual cell. So if I'm currently on
25 C-5, I'm going to get a 15.88 percent increase. And you

1 can then go -- and this is also -- you did it in colors
2 so that you could see it's impacting the middle of the
3 salary schedule in the most significant way.

4 Q. Okay.

5 A. Green is like -- I think we did it -- we did
6 it, if you're 12 percent or higher, you're green. If
7 you're 8 percent or higher, you're yellow and if you're
8 under 8, you're white -- or I did it, I should say.

9 Q. Turning the page, No. 4, it says, "Working
10 within the 3.5 percent maximum allocation." Why did you
11 include this?

12 A. To further explain how the square peg fits in a
13 round hole.

14 Q. And when you say how a square peg fits in a
15 round hole, what exactly do you mean by that?

16 A. How we accomplish the agreed upon salary
17 structure within the cap of 3.5 percent.

18 Q. When?

19 A. Depends on this other information that came in,
20 unlimited years of service and who is sitting on BA plus
21 60.

22 Q. Did you ever get any reply e-mail from
23 Superintendent Aguilar in response to this document that
24 you sent him on December 6th?

25 A. I did not.

1 Q. Did you ever have any conversations with
2 Superintendent Aguilar about this document that you
3 provided on December 6th?

4 A. Yes.

5 Q. When?

6 A. When we met with the Mayor in August of 2018,
7 after the District didn't implement the salary schedule.

8 Q. Okay, let me stop you there. You never had any
9 conversations with Superintendent Aguilar in
10 December 2017 about this document?

11 A. Did not.

12 Q. What about Ms. Allen, did you ever receive an
13 e-mail from Ms. Allen in December of 2017 regarding this
14 document?

15 A. No.

16 Q. Did you ever have a conversation with her in
17 December 2017 about this document?

18 A. Just the one -- about the document on
19 December 1st, when she asked to have it written, but
20 after that, no.

21 Q. In December 2017, after you transmitted this
22 document to Superintendent Aguilar and Ms. Allen, did
23 anyone from the District say anything to you about this
24 document?

25 A. No.

1 Q. You're sure about that?

2 A. Yes.

3 Q. And just so we're clear, do you know when the
4 District governing board approved the Tentative
5 Agreement that the parties had reached?

6 A. The evening of December the 7th of 2017.

7 Q. At some point, did SCTA prepare a communique
8 advising its members about the terms of the parties
9 Tentative Agreement?

10 A. Yes.

11 Q. And why did you prepare -- why did SCTA prepare
12 a communique to its members about the terms of the
13 Tentative Agreement?

14 A. We did -- I think we did three. First one we
15 did after -- the first one we did after -- let's see.
16 So we met with the Mayor on November the 5th, so that's
17 a Sunday. And then we did a press conference on
18 November 6th. We provided a kind of a down-and-dirty
19 update because we still had a pending strike.

20 So after the press conference, which was around
21 noon, we put something out like, I think, within an hour
22 and a half of that press conference, just saying we had
23 a settlement and kind of laid out the agreement.

24 Q. Let me ask you this: Did SCTA provide a -- an
25 explanation of the terms of the Tentative Agreement to

1 its membership in advance of the membership's
2 ratification vote?

3 A. Yes.

4 Q. When about was the ratification vote?

5 A. The ratification vote was -- I think we
6 actually started voting after the District had already
7 approved it. I don't remember the exact date that we
8 started, but we did it like maybe -- I think we were
9 done by the 13th of December, so somewhere between
10 December the 7th and December of 13, somewhere around
11 that.

12 MR. RUKEYSER: At this point, Mr. Arbitrator, I
13 would like to take a quick break and check on the status
14 of the lunch.

15 THE ARBITRATOR: Okay, let's do that. You do
16 that and give us an update. We're off the record.

17 (Whereupon a recess was taken.)

18 THE ARBITRATOR: You may resume your direct
19 exam of the witness, please.

20 MR. RUKEYSER: Okay.

21 BY MR. RUKEYSER:

22 Q. I believe when we left off, I was asking some
23 questions about communique to the SCTA membership about
24 the Tentative Agreement. Why don't we turn to
25 Association Exhibit 11.

1 A. Okay.

2 Q. Do you recognize this multiple page document,
3 five pages?

4 A. Yes.

5 Q. What is this?

6 A. This is the notice that we did that we sent --
7 that I wrote to our members as we were voting on the
8 contract.

9 Q. Why did you send this out?

10 A. So that people voted on it.

11 Q. Does this summary that you provided to the SCTA
12 members, does this talk about the salary deal?

13 A. Yes, I'm looking for it. Yeah, page 3.

14 Q. Thank you. And you wrote this No. 2,
15 Compensation, you wrote that text?

16 A. Yeah, I wrote the whole thing.

17 Q. Okay. Now, after the deal was ratified by the
18 SCTA membership and had been approved by the board, did
19 you have any subsequent communications with District
20 administrators regarding the process by which the
21 unlimited years of experience could be determined and
22 calculated?

23 A. Yes.

24 Q. Do you recall with whom you had those
25 communications?

1 A. Cindy Nguyen and Cancy.

2 Q. Do you recall around when that was that you had
3 these communication?

4 A. I'd say mid-December, somewhere in there.

5 Q. Let's take a look at Association Exhibit 12.
6 It's a two-page e-mail string --

7 A. Okay.

8 Q. -- between you and Ms. McArn, Ms. Nguyen,
9 Ms. Milevsky and Mr. Fisher. Do you recognize that
10 e-mail exchange?

11 A. Yes.

12 Q. And then the third page is a document on
13 District letterhead. Do you recognize that?

14 A. Yes.

15 Q. And on the second page of the e-mail string,
16 Ms. Nguyen says, "Please take a look and let me know
17 what you think." The subject of that e-mail is
18 Unlimited Years Process Draft. The third page of the
19 document on lettered, is that the document that was
20 attached to the e-mail?

21 A. Yes.

22 Q. Okay.

23 A. I believe so.

24 Q. And did you have an understanding when you
25 received that e-mail of what this proposed process that

1 the District had provided you, what that was addressing?

2 A. What it was addressing?

3 Q. What is this about, this document?

4 A. The agreement regarding the unlimited years of
5 service would apply to new people who were being hired
6 into the District. It also needed to be applied
7 retroactively. So this was the process by which we were
8 going to implement the process -- implement the
9 unlimited years of service retroactively.

10 Q. Did you have an understanding at that point
11 what the District was proposing by way of the actual
12 mechanical process by which current employees could
13 potentially put in for a credit for additional years of
14 experience?

15 A. Yeah, that's what's set forth.

16 Q. What was your understanding of that process? Is
17 that something that the employees would have to
18 initiate? Would they have to provide information? What
19 did you understand would happen?

20 A. One of the reasons why even this was being
21 requested, we had a rep council, like a body that meets.
22 And we started to get questions on when the salary
23 schedule would be implemented and how this was going to
24 work. The first step would be the application of the
25 unlimited years of service. So that's where this was --

1 that's what this was addressing, to initiate the process
2 of beginning to apply the unlimited years of service.
3 And the way that it was set up to work was people were
4 on notice if they had unlimited years of service. They
5 were then supposed to follow-up directly with HR. It's
6 kind of like an individually driven thing. And then if
7 there were disputes about what that might be -- what it
8 might look like, there's a way, you know, to start
9 working through what the disputes might be. And this
10 was the triggering of the process.

11 Q. And on the third page of Association
12 Exhibit 12, down at the bottom there, in bold text, it
13 says, "Deadline. All verification forms must be
14 submitted via the e-mail above or hand-delivered to
15 Human Resources Services Department no later than
16 February 15, 2018."

17 Was that the anticipated schedule or timeline?

18 A. Yes, that's what the -- Cindy and Cancy were
19 saying. They thought the time was necessary to be able
20 to do this.

21 Q. Now, let me just ask for clarification's sake.
22 In your mind, was it possible to resolve the mechanics
23 of implementing the Union salary schedule in '18/'19
24 before the unlimited years of experience issue was
25 resolved?

1 A. No, we had to know who was being credited for
2 what. We could -- we changed the costing of the
3 implementation depending on where an individual ended
4 up? The more that landed in the middle, the more
5 expensive the implementation would be because that's
6 where the biggest gap that needed to be closed.

7 Q. At any time in December 2017, did any District
8 administrator contact you with request to bargain a new
9 salary schedule?

10 A. No.

11 Q. What about in January of 2018, did any District
12 administrator ask to bargain a new salary schedule with
13 you?

14 A. No.

15 Q. And just so we're clear, currently, here we are
16 in the '18/'19 school year, on what salary schedule are
17 the SCTA members currently being paid by the District?

18 A. They are on the old salary schedule that has
19 been increased by 2-1/2 percent July 1 of 2016, 2 -- 1/2
20 percent July 1 of 2017, 2-1/2 percent July 1, 2018.

21 Q. So the District has refused to implement the
22 Union proposed salary schedule?

23 A. They have.

24 MR. RUKEYSER: At this point, Mr. Arbitrator, I
25 would move the admission of all of the exhibits that

1 have been introduced so far.

2 THE ARBITRATOR: I can't specifically identify
3 them yet, but we will have an index prepared shortly.
4 I'll just indicate for the record, I have received, as I
5 had earlier indicated, all the Union's Exhibits 1
6 through 20.

7 MR. RUKEYSER: That concludes my examination of
8 Mr. Borsos.

9 THE ARBITRATOR: All right. District ready for
10 cross or do you need a moment?

11 MR. SIMMONS: I'm ready and maybe I might take
12 a quick break at the end to see if there's something
13 else I'm missing.

14 THE ARBITRATOR: Of course. Cross-examine,
15 please.

16

17 CROSS-EXAMINATION

18

19 BY MR. SIMMONS:

20 Q. Thank you, Mr. Borsos. I'm sure you've been up
21 there for quite a while now. Let's start with the
22 Framework Agreement itself. If I can have you turn in
23 the black binder, to Joint Exhibit 1. On that
24 agreement, I think you just testified the District has
25 implemented 2.5 on its old schedule for each of those

1 three years. But from my understanding and for the
2 Arbitrator and for the record, so that -- for '16/'17
3 when that 2.5 percent goes into place, it is not as if
4 it goes away the next year. We're building on that each
5 year, so 2.5 in '16/'17, added with 2.5 in '17/'18, then
6 add 2.5 in '18/'19 for a total of 7?

7 A. Seven and a half.

8 Q. Seven and a half?

9 A. Yes.

10 Q. But that's normally the cost, right? You are
11 better at math than me all day long probably. That is
12 the ongoing cost. Those percentages don't come one year
13 and go away the next?

14 A. Yes.

15 Q. So 3.5 same thing, right, 3.5 going forward?

16 A. Yes.

17 Q. So on the face of the Framework Agreement,
18 wouldn't it be safe to say that based upon this
19 Framework Agreement, the total increased cost to the
20 District for the Framework Agreement is 11 percent?

21 A. For 2016 to 2019, the term of the agreement.

22 Q. So the 2.5 -- the 7.5 that you identified in
23 the above set, the above -- the top row, that's going
24 forward, that 7-1/2 percent?

25 A. Yes.

1 Q. And you're saying the 3.5 is treated
2 differently?

3 A. I'm saying the 11 percent is for the term of
4 the agreement through June 30, 2019.

5 Q. Okay.

6 A. And in effect, yes, the 3-1/2 percent is
7 treated differently as was explained to the
8 Superintendent and the Mayor.

9 Q. So none of the Framework Agreement says
10 anything -- does it list a mid-year implementation under
11 3.5 maximum District expenditure? Is there any date
12 listed on the 3.5 maximum District expenditure that
13 would suggest an implementation day be on July 1, 2018,
14 on the agreement. Look at the document.

15 MR. RUKEYSER: The exhibit does speak for
16 itself.

17 BY MR. SIMMONS:

18 Q. Yes or no, Mr. Borsos, is there an
19 implementation date listed on the 3.5 maximum District
20 expenditure?

21 THE ARBITRATOR: Well, in a sense, I think
22 counsel's objection the document speaks for itself
23 should be sustained. But that doesn't limit you because
24 this witness did testify what went on in discussion.
25 You can go ahead on that.

1 MR. SIMMONS: Right.

2 BY MR. SIMMONS:

3 Q. So does -- is there any reference on the
4 Framework Agreement to a cap, quote, C-A-P, end quote,
5 cap?

6 A. The maximum District expenditure is referencing
7 a cap.

8 Q. Okay. Does the Framework Agreement attach to
9 it a specific salary schedule?

10 MR. RUKEYSER: Same objection.

11 THE ARBITRATOR: Sustained.

12 MR. SIMMONS: Okay.

13 BY MR. SIMMONS:

14 Q. Mr. Borsos, can we turn to the Union exhibits.
15 We will start with Exhibit 7 and 9. These are some of
16 the documents I believe you testified to providing
17 Ms. Allen and Ms. McArn in either late November or early
18 December of 2017, correct?

19 A. Yes.

20 Q. So these were documents that you testified were
21 going to help explain or help the District understand
22 how you might utilize the Union's salary structure
23 within the 3.5 cap, correct?

24 A. They were documents that explain the agreed
25 upon salary structure.

1 Q. On Exhibit 7, how many rows and columns are on
2 that document, on page 1 of Exhibit 7?

3 MR. RUKEYSER: I'll object again to the extent
4 counsel is asking the witness to characterize the
5 document right in front of him.

6 MR. SIMMONS: I'll go ahead -- I mean, he
7 testified a lot as to what the documents meant in terms
8 of him providing them to the District staff. I'm
9 entitled to measure what he did mean by the documents,
10 what he did mean.

11 THE ARBITRATOR: Go ahead.

12 BY MR. SIMMONS:

13 Q. So I'll make this even simpler. These are --
14 you've already testified you gave these docs and I'll
15 let the record speak for itself.

16 You already said you gave the documents to the
17 District. Is the schedule on page 1 of Exhibit 7 the
18 same as the schedule on page 4 of Exhibit 9?

19 A. The schedule?

20 Q. Are the rows and columns the same for those two
21 schedules?

22 A. No, they are explaining different things.

23 Q. Thank you, sir. You answered my question.
24 Let's turn to Joint Exhibit 2, please, the Tentative
25 Agreement. I will say -- so I don't get myself into

1 trouble, it speaks for itself. It was signed on 12/4.
2 I believe you've already testified that the board took
3 action on 12/7, 3 days later. I would have you turn to
4 an e-mail that follows and if we go by the District
5 pagination at the bottom, DD-439.

6 A. Okay.

7 Q. This document contains initials. Am I
8 appropriate to assume those are SCTA President Fisher
9 and Superintendent Aguilar's initials there?

10 A. DD-439, yes.

11 Q. And that these were initialed and part of the
12 Tentative Agreement approved on 12/4 before going to the
13 board, correct?

14 A. I don't know if that was included in what the
15 board approved.

16 Q. Well, this is the Tentative Agreement that went
17 to the board for -- the board voted on December 7th to
18 approve the Tentative Agreement. This is the agreed
19 upon Joint Exhibit 2, which is the Tentative that was
20 set on the 4th, not your full membership?

21 A. I'm sorry, I'm not following the question.

22 Q. All right. So let's ignore everything else.
23 This is the Joint Exhibit in terms of the Tentative that
24 was signed off on by Jorge and SCTA board President on
25 12/4. I want to look specifically at 439, DD-439. This

1 e-mail follows, correct, a meeting you held with Ms.
2 Allen and Superintendent Aguilar November 30th?

3 A. Yes.

4 Q. If we go down to 6-A, I believe you testified
5 earlier that you thought 6-A was addressing a timeline
6 for implementation. Is that what you testified to
7 earlier?

8 A. Yes.

9 Q. Can you read for me what 6A actually states?

10 A. "Within 30 or 45 days of Tentative Agreement
11 approval, the parties agree to finalize a mutually
12 agreeable adjustment to the salary schedule for 2018/'19
13 that does not exceed a total District expenditure of
14 3.5 percent.

15 Q. I'm not -- the word implement is nowhere in
16 that section, right?

17 A. You're right.

18 Q. And in terms of that 30 or 45, you testified
19 earlier that you thought it was 45. Do you recall
20 having communications with Ms. McArn around this time
21 period in which the two of you actually verified it was
22 -- 45 was the intended number there?

23 A. I don't.

24 Q. You don't recall. And again 6-A is signed off
25 on by the Superintendent and board President Fisher?

1 A. Yes.

2 Q. Or ex-President Fisher, pardon me. If we turn
3 to Joint Exhibit 4, please?

4 A. Okay.

5 Q. Mr. Borsos, are you familiar with what this
6 document is?

7 A. Yes.

8 Q. And would you describe to me what this document
9 is? Well, let me say this: So is this the -- this is
10 the board's agenda item for 8.4 approval on the
11 December 7, 2017, board meeting, correct?

12 A. That's what it appears to be.

13 Q. Okay.

14 A. And the reason why I say that is I don't -- the
15 District typically has items on the agenda and then the
16 documents don't appear until the day of the meeting. I
17 can't represent what it was.

18 Q. On this agenda item, if we turn forward to the
19 section entitled, Board of Education Executive Summary.
20 Turn forward to page 4.

21 A. Okay.

22 Q. And then summary of Compensation, Article 12.
23 Will you read for me those first two bullets there in
24 the agenda, that item?

25 A. "Parties agreed to 2-1/2 percent --

1 THE ARBITRATOR: Slowly.

2 THE WITNESS: "Parties agreed to 2-1/2 percent
3 salary increase from 2016/'17, retroactive to July 1,
4 2016. 2.5 percent salary increase for 2017/'18
5 retroactive to July 1, 2017. 2.5 percent salary
6 increase for 2018/'19 effective July 1, 2018. Within
7 45 days of a Tentative Agreement approval, the parties
8 agree to finalize a mutually acceptable adjustment to
9 the salary schedule that does not exceed a total
10 District expenditure of 3.5 percent effective July 1,
11 2018.

12 BY MR. SIMMONS:

13 Q. Is that second bullet that you just read
14 consistent with the provision we just went over in terms
15 of the November 30th e-mail in which Superintendent
16 Aguilar and Fisher signed or initialled?

17 A. It is different.

18 Q. The one difference being effective July 1,
19 2018, at the conclusion?

20 A. It also said 30 days versus 45 days.

21 Q. So let me ask you this: Do they both call for
22 a 45 day time line?

23 A. Well, one has a -- I mean, ambiguity of 30 or
24 45 days. Generally, I think you're right.

25 Q. And the time timeline would commence upon

1 approval of the Tentative Agreement?

2 MR. RUKEYSER: Just to be clear, you're asking
3 the witness to --

4 MR. SIMMONS: I'm asking him --
5 (Simultaneous discussion; reporter
6 interruption.)

7 MR. RUKEYSER: Just to be clear, you're asking
8 the witness to testify about what these documents say?

9 MR. SIMMONS: I'm asking him to testify to
10 whether or not he thinks the two documents are
11 consistent.

12 MR. RUKEYSER: I think they speak for
13 themselves.

14 THE WITNESS: I didn't write the documents.
15 They're not our documents. You're asking me to
16 interpret your documents.

17 BY MR. SIMMONS:

18 Q. Well, I'm asking you to compare a District
19 document to one that was agreed to by the SCTA board
20 President. That's fine. We can move on from there.

21 Do you know whether or not agenda item 8.4 on
22 the December 7th board meeting contained within it a
23 specific salary structure for public viewing and signing
24 for approval that night?

25 MR. RUKEYSER: I'll object. The question is

1 ambiguous, that they're contain something.

2 BY MR. SIMMONS:

3 Q. Was a copy of a specific salary structure, to
4 your knowledge, attached to or accompanying the
5 materials for agenda item 8.4 at the December 7th
6 meeting?

7 A. I don't know what was attached to it.

8 Q. I will have you turn to Joint Exhibit 5,
9 please. Mr. Borsos, were you at the December -- did you
10 attended the December 7th board meeting that year? Were
11 you there that night?

12 A. December 7, 2017?

13 Q. Right.

14 A. Yes.

15 Q. And does this document, Joint Exhibit 5, look
16 familiar to you?

17 A. I guess -- I mean.

18 Q. I don't want you to guess. Either it looks
19 familiar or it doesn't.

20 A. It looks like a document that could have been
21 used at a school board meeting. I can't -- I don't know
22 that this is it.

23 Q. Okay. We can move on.

24 A. Especially because of the date on the top.
25 Because usually -- my experience with these documents

1 that are handed out at the school board, is that date
2 corresponds with the date of the meeting. So the
3 3/5/2019 --

4 Q. I think it's safe to say that --

5 THE ARBITRATOR: That date was printed out, but
6 it's fine.

7 MR. SIMMONS: We can move on. No need to get
8 hung up there.

9 THE WITNESS: Oh, that might explain it because
10 we get the documents that day. Okay. There you go.
11 That's we normally --

12 MR. SIMMONS: We're solving problems here
13 today. We're solving problems.

14 THE WITNESS: We always try to solve problems.
15 BY MR. SIMMONS:

16 Q. I'm going to ask you to turn to Joint
17 Exhibit 11, all the way back to page 11 in Joint
18 Exhibit 11.

19 A. Okay.

20 Q. You testified on direct about this message.
21 You testified having been -- having this e-mail
22 communication after the negotiations involving the
23 Mayor, I think following your initial meeting. Did you
24 mean in your opening paragraph -- what was the intent
25 behind saying proposed salary schedule would go into

1 effect July 1, 2018?

2 A. It's a calendar year. It's 2018/'19 because we
3 had discussed that it may need to be delayed, the
4 implementation. So when we say in effect July 1, 2018,
5 if the cost exceeds 3-1/2 percent, then it had to be
6 delayed.

7 Q. So that's in normal negotiating parlance? It
8 would be safe to assume references July 1, 2018, means
9 potentially the implementation date?

10 MR. RUKEYSER: I object. Misstates the
11 testimony.

12 THE ARBITRATOR: I think that's -- you're
13 asking this witness who authored this document, what he
14 meant by the words he used?

15 THE WITNESS: Right. Can I answer?

16 THE ARBITRATOR: So the question counsel is
17 asking and the way you phrased that is, does that
18 encompass the potentiality that there might be a delayed
19 implementation. Is that fair enough?

20 BY MR. SIMMONS:

21 Q. I would ask, on its face, how would someone
22 reading this understand that to mean something other
23 than July 1, 2018?

24 A. Because the discussion around the
25 implementation of the salary schedule was we could do it

1 for the individual cap, which turned out not to be
2 possible or we could do it through delayed
3 implementation. But it was specifically referencing
4 that it does not go back to July 1, 2017, I mean --
5 yeah, 2017 or July 1, 2018. It's from July 1, 2018, or
6 some point forward. Just as in the memo that I --

7 Q. You answered my question, Mr. Borsos.

8 A. The memo that I wrote --

9 THE ARBITRATOR: Go ahead. Finish up your
10 answer.

11 THE WITNESS: It says, if after the unlimited
12 years of service had been applied, and it turns out that
13 the cost is less than 3-1/2 percent, it gets implemented
14 on July 1, 2018, and there's no problems going forward.
15 We did not know what the impact of the unlimited years
16 of service would be.

17 In fact, the District had costed that proposal
18 at about 2-1/2 percent, which was an additional
19 \$5 million, which from our perspective had been possible
20 of allowing us to implement our salary schedule
21 effective on July 1, 2018.

22 BY MR. SIMMONS:

23 Q. Let's go to that meeting, Mr. Borsos, that you
24 referenced in Exhibit 10 from the Union. You did
25 testified and you just testified again to the concept

1 that the unlimited service years had to get worked out?

2 A. Wait --

3 Q. Sorry, the other binder, Mr. Borsos?

4 A. Sorry about that.

5 Q. Exhibit 10, that final page.

6 A. Yes.

7 Q. You just summarized this again, in part, that
8 both parties knew in terms of the unlimited services
9 credit, those were going to have to be worked out before
10 you could cost out any new salary structure, correct?

11 A. That and who was sitting on the BA plus 60,
12 yes.

13 Q. And you testified that the District had
14 informed you and perhaps more clearly by mid-December
15 their timeline for when they thought they could do that,
16 correct?

17 A. No, they put their timeline -- well, yes and
18 no.

19 Q. I'll follow up.

20 A. The timeline that they put together is when
21 they needed information back. How quickly that would be
22 applied was a different question. All the timeline did
23 was establish the deadlines by which employees were
24 supposed to submit their information.

25 Q. So that -- ultimately what you agreed to -- in

1 fact, to make it easier, we went over the exhibit on
2 unlimited service credits in the District doc. I know
3 it's in here.

4 Jacob, could you help me, which exhibit number
5 is that?

6 MR. RUKEYSER: I believe it's No. 12 you're
7 looking for.

8 MR. SIMMONS: 12, okay.

9 THE WITNESS: Yeah. There it is.

10 MR. SIMMONS: All right. Thank you.

11 BY MR. SIMMONS:

12 Q. So this document, which you already provided
13 testimony to, what you're saying is that there was A) an
14 initial deadline the District was setting forth for
15 teachers to get their forms in to get the credits. Are
16 you saying that is one time line that was set,
17 February 15th, down on the second to the last section?

18 A. Yes.

19 Q. What I'm hearing you say is that -- all right.
20 So that's a deadline to get your information in, but
21 it's unclear by what point we'll actually have all that
22 processed and calculated. You said that there was just
23 one deadline -- you distinguished between a deadline to
24 provide information versus when the District could
25 really kind of see what the impact of that documentation

1 had on its staffs' unlimited service rights; is that
2 correct? Let's walk through the document.

3 A. You know what, I think you're asking is to
4 expedite this. The deadline says you submit your own
5 information. How long it took the District to process
6 that information once they got it, I'm not -- it's not
7 clear.

8 Q. Right. That's -- sorry, I was doing an
9 unarticulate way of asking a simple question. You
10 answered it clearly.

11 So in other words, we know generally a timeline
12 of when we're going to start to figure out the unlimited
13 service credit issue, but it could have been -- it be in
14 March. It could have been in April. It could be have
15 been later by the time the District got that all sorted
16 out, possibly. There is no set deadline within this?

17 A. They're suggesting that they thought it could
18 happen by March 31st, but --

19 Q. Could be later.

20 A. Right.

21 Q. And you testified and we'll go back -- let's go
22 back to your December 1 narrative. We were
23 discussing -- I'll take you back to Exhibit 10 of the
24 Union.

25 A. Okay.

1 Q. That final page, you testified earlier about
2 within that final page, you're acknowledging we need to
3 figure out the unlimited service credit before we can
4 wrap our hands around what's the cost of the structure,
5 correct?

6 A. If the cost of implementation is less, I don't
7 know that it specifically says the cost of the
8 unlimited, that was one the factors that made it open-
9 ended.

10 Q. So your third sentence in that first paragraph?

11 A. There it is. Second, we will need to determine
12 -- yes, first is unlimited years of service. Second are
13 the number of people sitting on BA plus 60.

14 Q. And you provided this narrative, you testified
15 at the request of the Superintendent. You provided this
16 narrative on December 6th, the day before the
17 December 7th board meeting, correct?

18 A. Yes.

19 Q. And within this document, we're acknowledging
20 that we can't cost the salary structure yet, correct?

21 A. No.

22 Q. I may be misunderstanding what you just said.
23 We need to figure out what's within the 3.5 cap, we need
24 to first deal with unlimited years of service and we
25 need to deal with the BA plus 60?

1 A. Well, I need to ask, what do you mean by cost
2 out the salary structure? Because we had cost out the
3 salary structure. We had a --

4 Q. So I don't have a question pending right now.

5 A. Okay.

6 Q. Let's go down to the -- let's go down to the
7 second paragraph. Can you read me what you state in
8 that narrative description, second paragraph?

9 A. Do you want me to read it to you?

10 Q. Yes, please.

11 A. "If the cost of implementation is 3.5 percent
12 or less, then the salary schedule can easily be
13 implemented. If the cost is higher than 3.5 percent,
14 then the parties will need to work out a method of
15 implementation that falls within the 3.5 percent maximum
16 distribution expenditure for 2018/'19. Possibilities
17 might include modifying the date of implementation or
18 creating a maximum individual increased cap or some
19 other agreed upon alternative that fits within the 3.5
20 percent cap."

21 Q. Okay. So there you describe the three ways how
22 you would propose the new structure is implemented
23 within the 3.5 cap, correct? You described the delayed
24 implementation, increase in individual cap or some other
25 agreed upon alternative, correct?

1 A. That's what I wrote.

2 Q. And that's reflective because on 12/6, before
3 the board was going to take action on the agenda item
4 action before it, there had not been an agreement
5 reached yet on how to implement and in what way there
6 could be a viable implementation of any salary structure
7 SCTA proposals or other ones within this 3.5 cap,
8 correct?

9 A. There are so many clauses in the question, I'm
10 not sure what I'm responding to.

11 Q. By December 6th, you had and District staff
12 agreed upon a way in which you could implement what you
13 have referred to as SCTA's proposed salary structure
14 within the 3.5 cap?

15 A. By December 6th, we had not reached an
16 agreement on how the agreed upon salary structure would
17 be implemented.

18 Q. Within the 3.5?

19 A. In the 3.5 percent cap.

20 Q. Okay.

21 A. For 2018/'19.

22 Q. You discussed some SCTA messages. And I think
23 in particular, we went over one. You said you drafted
24 and sent to your membership on December 5th, correct?

25 A. I don't know.

1 Q. Let's find that exhibit again.

2 MR. RUKEYSER: Number 11.

3 MR. SIMMONS: Thank you.

4 BY MR. SIMMONS:

5 Q. You describe this explanation. You said you
6 prepared so your members would know, in your view, what
7 they would be voting on. This is on December 5, 2017,
8 in reference to Union Exhibit 11. Do you want me to
9 re-ask? I want to confirm I understood your testimony
10 correctly.

11 A. Okay.

12 Q. You said you prepared this for SCTA membership
13 so you could explain to them what they were -- they
14 would be voting on to approve?

15 A. Yes.

16 Q. Did your explanation of what you received them
17 to be voting on to approve, did you run that by the
18 District for approval before you sent that to your staff
19 members, out to Union membership?

20 A. Did we run the e-mail past the district?

21 Q. Your answer here is going to be obvious,
22 Mr. Borsos, but you didn't get District sign-off of what
23 your communication was to your Union members before you
24 sent this, did you? You wouldn't normally do that?

25 A. I did not. I did give a copy of the District

1 -- the copy.

2 Q. No question pending.

3 A. Okay.

4 Q. Bear with me for just a second. On
5 November 5th -- you testified on November 4th that you,
6 the Mayor and Superintendent Aguilar and your other two
7 bargaining team members from SCTA met for 90 minutes on
8 the fourth approximately?

9 A. I think so.

10 Q. Do you recall approximately how long you met on
11 Sunday?

12 A. Two hours maybe.

13 Q. Two hours. Let's go back to Joint Exhibit 1
14 and the Framework Agreement. I'm switching back and
15 forth with the binders. That is more of a reflection of
16 my scatter brain, Mr. Borsos.

17 A. No, you were clear. I just had a different
18 one.

19 Q. So in that Joint Agreement or Framework
20 Agreement, how many issues or agreements -- how many
21 issues on which agreements reached in this Framework
22 Agreement? How many different issues?

23 A. I don't know the number. There was also a --
24 so it's six. There was also an agreement on a parcel
25 tax that's not here.

1 Q. So the six identified here plus parcel tax?

2 A. Uh-huh.

3 Q. So seven total. Did you testify that you got
4 through the issues other than salary schedule before you
5 got to the salary agreement or am I misremembering what
6 you testified to?

7 A. I think that is more or less right.

8 Q. So within two hours, on Sunday November 5th,
9 the Mayor, Mr. Aguilar and your team resolved seven
10 issues in this Framework Agreement?

11 A. Actually it was an hour and 25 minutes. We
12 start at 2:00 and ended this session at 3:25 p.m.

13 Q. An hour 25. So an hour and 25 to fully resolve
14 all of those issues. Is there -- do you attach any
15 significance to the use of the term framework as you had
16 put this together or is that one of the other parties'
17 or the Mayor's suggestion to use the term Framework
18 Agreement?

19 A. There were other issues that still had to be
20 discussed that ended up coming up, which is why -- what
21 I remember the discussion around the framework being.
22 Appendix D was an issue. Again, that is the special ed
23 provision. There were a couple others. Actually,
24 whatever -- there were other items that had become part
25 of this loose ends discussion that had not been resolved

1 when this Framework Agreement was reached.

2 And the purpose behind the language of
3 framework was enough to be able to justify not having a
4 strike occur three days later.

5 Q. Thank you. Bear with me. If you were to turn
6 to Joint Exhibit 12, Mr. Borsos.

7 A. Uh-huh.

8 Q. You provided some testimony on this already
9 with your counsel. Turn to page 2, which is the start
10 of the e-mail from Mr. -- Superintendent Aguilar on
11 November 30th, then move to the next page. You
12 testified as to the first sentence on that top
13 paragraph.

14 A. Mr. Simmons, is it?

15 Q. Yes.

16 A. I'm sorry, I lost you.

17 THE ARBITRATOR: On page 3.

18 THE WITNESS: Page 3?

19 THE ARBITRATOR: Yeah.

20 THE WITNESS: Okay.

21 BY MR. SIMMONS:

22 Q. Page 3, that top paragraph.

23 A. Okay.

24 Q. And so you testified on direct with regard to
25 the negotiation of compression and the meetings that

1 were intended to follow up thereafter with Ms. Allen and
2 Ms. McArn. Can you also read the next sentence which
3 follows? Read it into the records.

4 A. The second sentence, I'm sorry.

5 Q. The second sentence.

6 A. "I need this to provide assurance to the board
7 that the teachers in column B and C will be benefited
8 the most and there will not be unexpected fiscal impacts
9 associated to this after implementing the 3.5 percent
10 maximum expenditure."

11 Q. What did you understand Superintendent Aguilar
12 to be expressing to you and your team with that
13 sentence?

14 A. I understood him to need an explanation to the
15 board about what he agreed to. He was having trouble
16 explaining. That's how I read it. He was looking to be
17 able to assure the board that the new salary schedule
18 was addressing the middle of the salary schedule.

19 Q. Do you have -- this may or may not be a fair
20 question and I'm sure your counsel will object if he
21 sees the need to do so. Joint Exhibits 11 and 12 are,
22 in essence, the two extended e-mail chains that went
23 back and forth between the parties -- between following
24 the negotiations at the Mayor's house up until right
25 before the board meeting, right?

1 And, Mr. Arbitrator, you may have a suggestion
2 on how we do it, but I would -- I would, having looked
3 at these exhibits and I would certainly -- my question
4 to you, is there anywhere in any of these exchanges, the
5 discussion of the 3.5 percent cost for the
6 implementation, the proposed salary structure exceeding
7 3.5 percent in any school year thereafter? It's an
8 unfair question that -- I can ask you to go through
9 those e-mails, but I would say --

10 THE ARBITRATOR: Of course, we do have these
11 documents in front of us and we can pour through them.

12 MR. SIMMONS: Yes.

13 THE ARBITRATOR: But another question to follow
14 up on that line of thinking is, was there anything
15 expressed between the parties that's not in the e-mails,
16 but maybe verbally expressed or however expressed that
17 would be the answer to that same question, if you follow
18 my thinking?

19 MR. SIMMONS: Well, I mean --

20 THE WITNESS: Can I answer that?

21 THE ARBITRATOR: I'll defer to counsel. It's
22 his opportunity, so.

23 BY MR. SIMMONS:

24 Q. Through direct, I've heard discussion that you
25 testified to with District team members in which you

1 have expressed ways in which you thought there was ways
2 to modify implementation, et cetera, as far as cost. At
3 least at point, I think you testified that you gave them
4 a document that noted uncapped salary structure. Would
5 it make sense to you that you said repeatedly that
6 Superintendent Aguilar, in the negotiations with the
7 Mayor, repeatedly emphasized what he really cared about
8 was that we have a 3.5 maximum expenditure? If that was
9 his greatest concern, why would the interpretation which
10 you testified to that is your view, that as soon as
11 '18/'19 was over, it literally would dump?

12 MR. RUKEYSER: I will object. Misstates
13 testimony. The testimony is what it is in the record.

14 THE ARBITRATOR: He may not have even stated in
15 those terms. I think, if it were uncapped for 2021 --
16 let's see, it's '18/'19, '19/'20. So for 1920, which is
17 beyond the contract, if left uncapped, did you have any
18 discussions as --

19 THE WITNESS: Yes.

20 THE ARBITRATOR: -- to what would occur?

21 THE WITNESS: Three times, at least.

22 THE ARBITRATOR: In the e-mails, did you have
23 any discussions?

24 THE WITNESS: In the e-mails, the narrative
25 that I wrote is a response in the e-mails. And I wrote

1 it back because I felt like we had answered and
2 explained it. And then it had got asked again and we
3 explained it again. And then the narrative that we
4 wrote is a response in writing in an e-mail and it
5 explains it.

6 BY MR. SIMMONS:

7 Q. And when you say --

8 A. It also explains because -- when you
9 characterize as Mr. Aguilar's pressing concern, that was
10 not a pressing concern. It's basically -- the one thing
11 that he said and we explained -- I explained that there
12 was additional cost in the outlining years. That's why
13 we were willing to take an agreement that cost less over
14 the three years. I also explained that to Ms. McArn.

15 Q. I don't have a question pending right now.

16 A. And I also explained it to Ms. McArn and --

17 THE ARBITRATOR: In fairness, counsel needs to
18 ask you a question.

19 THE WITNESS: Okay. I thought he had asked --

20 THE ARBITRATOR: We'll give your counsel a
21 chance to follow up.

22 BY MR. SIMMONS:

23 Q. Going back to -- you said -- you explained your
24 view of costing forward in your view -- through this
25 December 6th memo -- narrative. But you also testified,

1 correct, that no one responded to you about that,
2 correct?

3 A. Yes.

4 Q. And in your meetings with Ms. McArn or
5 Ms. Allen, at any point in time, did they represent to
6 you that they have authority to approve, agree, sign off
7 on, what you were proposing as potential ways in which
8 the parties could find a way to make the Framework
9 Agreement work? Did anyone represent to you that they
10 had authority to say, yes, that's the one -- that's the
11 approach we want to take?

12 A. They did not dispute that that was the salary
13 schedule we were talking about.

14 Q. That is not the question, Mr. Borsos.

15 A. We were not in a position to have agreed how it
16 could be implemented because the unlimited years of
17 services. They did not -- I do not recall Ms. Allen or
18 Ms. McArn discussing their authority to agree or not
19 agree.

20 Q. They never told you that they had authority to
21 approve in any discussions they had with you in November
22 and early December?

23 A. They never told us they could approve. They
24 never told us that they couldn't approve. I assumed,
25 however, when the Superintendent --

1 Q. You answered my question, Mr. Borsos. You
2 answered by question.

3 A. -- Ms. McArn and Ms. Allen that they had
4 authority.

5 THE ARBITRATOR: Next question.

6 BY MR. SIMMONS:

7 Q. Do you recall a meeting in May of 2018 with
8 District team members about the salary schedule?

9 A. Yes.

10 Q. Do you remember discussing or becoming
11 apparent, at that point, of disagreements between the
12 parties about the salary schedule and its
13 implementation?

14 A. That's when we got a -- began to have an
15 understanding from our perspective the District is
16 backtracking on the agreement.

17 Q. Did you say that -- did you inform the
18 attendees at that meeting that if the District didn't
19 agree with your view of your interpretation that there
20 was no contract? Do you remember saying that?

21 A. No, but I may have said that.

22 Q. When your SCTA membership votes on a Tentative
23 Agreement like this, do you -- the norm would be,
24 perhaps in most circumstances, that SCTA membership
25 would vote before the board. Is that safe to say that

1 is the norm?

2 A. Not in my experience.

3 Q. So in this instance, SCTA membership voted
4 after the board?

5 A. Uh-huh.

6 Q. Correct?

7 A. Uh-huh.

8 Q. When you took it to your membership for a vote,
9 was among those -- that information before your
10 membership when the vote occurred, the District agenda
11 Item 8.4, which explains what the board was approving
12 that evening?

13 A. I'm -- I didn't follow that question.

14 Q. So the board approved the Tentative Agreement
15 and we went over the Joint Exhibit which is the agenda
16 item in which the board took action on what it believed
17 it was approving on the night of December 7th. Do you
18 recall that set of documents?

19 A. Yes.

20 Q. So I'm asking when you, then later in the
21 following days to within the next week -- I think you
22 said as late as the 13th, although I think we jointly
23 stipulated it was on the 11th -- before your membership,
24 when they're voting, did they have the agenda Item 8.4,
25 which is the District board has approved on the night of

1 the 7th?

2 MR. RUKEYSER: Objection; vague about do they
3 have.

4 BY MR. SIMMONS:

5 Q. When your member is voting on a TA, what do you
6 usually give them to review before they vote? Is it
7 just enough to see a Messenger like the one that you
8 drafted, a Messenger plus the copy of the TA, what do
9 you usually give them?

10 A. A summary of the Tentative Agreement, as well
11 as the Tentative Agreement.

12 Q. Makes a lot of sense. In this instance, did
13 you also include agenda Item 8.4, which the governing
14 board took action on in the week before that on the
15 Tentative Agreement?

16 A. No.

17 Q. If I can just take five, I think I'm done.

18 THE ARBITRATOR: Right. We're off.

19 (Whereupon a recess was taken.)

20 THE ARBITRATOR: Back on the record. Anything
21 further?

22 MR. SIMMONS: I'm done with cross.

23 THE ARBITRATOR: Redirect?

24 MR. RUKEYSER: Just a few questions.

25

1 REDIRECT EXAMINATION

2
3 BY MR. SIMMONS:

4 Q. John, you were asked some questions on
5 cross-examination by District counsel about a difference
6 between the salary schedule structure. That is
7 Association Exhibit 7?

8 A. Yes.

9 Q. And the chart that has been identified as
10 Association Exhibit 9.

11 A. Yes.

12 Q. But counsel didn't want to hear your
13 explanation of why they were different. Why are they
14 different?

15 A. Okay. This was the Exhibit 7. If you are
16 looking at K through 12, there's a new agreed upon
17 salary schedule. Exhibit 9 is if you had the old salary
18 schedule and implemented the new salary schedule, this
19 is how we would impact those who were sitting on the old
20 salary schedule. So this is the structure of the old
21 salary schedule --

22 Q. Let me stop you there. When you say this, you
23 mean No. 9?

24 A. Nine. Nine is the structure of the old salary
25 schedule with a representation of the increases that

1 those individuals would get who were on the old salary
2 schedule when the new salary schedule was implemented.
3 So if you look at -- I'm on Document 9. People who are
4 on that column that is D and column E. In the new
5 salary schedule, D and E become the same column. And
6 how -- so how would that have been implemented. Column
7 -- somebody who was on column D in the current salary
8 schedule would get a 15 percent increase when the salary
9 schedule was implemented.

10 Somebody who is on -- I'm looking on D-1.
11 Column D-1 would get 15 percent when the new salary
12 schedule is implemented. Somebody who is on column E-1
13 would get 9.43 percent when the salary schedule was
14 implemented.

15 In the new salary schedule, which is -- go to
16 page -- No. 7, they both then would be on column -- in
17 here it's marked 5, but that was really E.

18 Q. The BA plus 90?

19 A. Yes.

20 Q. Thank you.

21 A. So that's why the documents are different, but
22 they're referencing the same process.

23 Q. You were asked some questions about the e-mail
24 threads that are included as Joint Exhibits 11 and 12.
25 If you can take a look at Joint Exhibit 11.

1 A. Okay.

2 Q. What is the -- if you can read into the record
3 the subject of that e-mail thread, the subject line?

4 A. "Loose Ends."

5 Q. Okay. And likewise, if you can take a look at
6 Joint Exhibit 12, do you see the subject line there of
7 that e-mail thread? What is that? If you can read that
8 into the record?

9 A. "Tying up the last loose ends."

10 Q. In November of 2017, was the -- in your mind,
11 was the salary schedule itself a loose end that needed
12 to be tied up?

13 A. No.

14 Q. Why was that?

15 A. It had already been agreed to.

16 Q. When?

17 A. November the 5th, 2017.

18 Q. Were the across-the-board salary increases for
19 '16/'17, '17/'18, and '18/'19, were those -- did you --
20 in your mind, were those loose ends in November of 2017?

21 A. No.

22 Q. Why?

23 A. They were already resolved.

24 Q. When?

25 A. November 5th of 2017.

1 Q. Okay. Turning back to that Sunday,
2 November 5th meeting at the Mayor's house. You were
3 asked on cross-examination some questions about
4 Superintendent Aguilar's concerns that he expressed
5 then, expressed some concerns about cost. What do you
6 recall him saying his concerns were about the cost of a
7 salary deal?

8 A. He wanted to keep it within the 11 percent over
9 '18/'19. And the 3-1/2 percent as it related to
10 '18/'19, the last year of the contract.

11 Q. Okay. And on -- just so we're clear, that
12 Sunday, November 5th, at the Mayor's house, did you,
13 John, say anything about what would happen to that
14 salary schedule after the '18/'19 year?

15 A. Yeah.

16 Q. What did you say?

17 A. It's in effect going forward. At the time that
18 we were having that discussion, we assumed that its cost
19 was higher than 3.5 percent, which then I explained
20 meant that the additional -- I don't know how you want
21 to describe it -- the effect of the implementation gets
22 felt in the outlying year.

23 And I explained it. It's the same thing we had
24 done in the previous negotiation, where we agreed on a
25 5 percent increase, but we broke it up, 2-1/2 percent

1 and a second 2-1/2 percent. That just happened the year
2 before, which I explained -- I did explain to
3 Mr. Aguilar because he wasn't around for that.

4 Q. Okay.

5 A. We did 2-1/2 and 2-1/2. The cost for that year
6 ended up being 3.75 percent, but the ongoing cost going
7 forward was 5 percent.

8 Q. Okay.

9 A. That's -- you know, I would say it. It's
10 back-loading a contract. The way that we accomplish our
11 goal of the salary structure while addressing the
12 District's concern about -- and the 11 percent as
13 Mr. Steinberg expressed it, was how did they reconcile
14 that because that's -- it was the face saver that the
15 fact-finder, a number that they put out.

16 Q. And that was for the life of the contract, the
17 11 percent for the life of the contract?

18 A. Right, because the contract expires on
19 June 30th of 2019.

20 Q. Okay.

21 A. After that, all bets are off.

22 Q. Let's turn to Joint Exhibit 12 on page 3. Up
23 at the top of page 3, this is an e-mail that
24 Superintendent Aguilar sent on November 30th. He says
25 that, "I need this to provide assurance to the board

1 that teachers in column B and C will be benefited the
2 most and that there will not be unexpected fiscal impact
3 associated to this after implementing the 3.5 percent
4 maximum expenditure."

5 Were the costs of the uncapped salary schedule
6 in the '19/'20 year and beyond, were those, at this
7 point, unexpected costs?

8 A. No.

9 Q. Okay.

10 MR. RUKEYSER: I have nothing further.

11 THE ARBITRATOR: Anything further from the
12 District?

13 MR. SIMMONS: No.

14 THE ARBITRATOR: I don't want to delay this,
15 but I do have a question. If you go to Association
16 Exhibit 2, I believe it is -- Yeah, first page.

17 THE WITNESS: What number?

18 THE ARBITRATOR: Association 2.

19 THE WITNESS: Two?

20 THE ARBITRATOR: Yes, SCTA 2. All right. The
21 salary schedule.

22 THE WITNESS: Uh-huh.

23 THE ARBITRATOR: You created this?

24 THE WITNESS: Yes.

25 THE ARBITRATOR: When was this created?

1 THE WITNESS: This one was probably -- this was
2 -- I have to look. Because the first one we did -- this
3 one would have been created around this date, September
4 the 15th, 2017.

5 THE ARBITRATOR: All right.

6 THE WITNESS: Because the earlier reiteration
7 of this would have been this salary structure with a
8 minimum -- like our opening proposal was 6 percent
9 across-the-board.

10 THE ARBITRATOR: Okay.

11 THE WITNESS: Going into this meeting, we went
12 to -- in the first year, 4 percent across-the-board. So
13 that -- we had to take 2 percent off of our previous
14 document to make that consistent with that proposal?

15 THE ARBITRATOR: Okay. So in other words, what
16 -- if I said second page, I should have said third page.
17 This is the third page of Association's 2. But this
18 salary schedule that you created on or about -- I think
19 you said September --

20 THE WITNESS: Yes.

21 THE ARBITRATOR: -- 15 of 2017. This was a
22 salary schedule that you created, which plugged
23 everything in that you were proposing. In other words,
24 it plugged in the across-the-board salary increase that
25 would be -- have been effective July 2016, and also the

1 adjusted salary matrix, you know, with the additional BA
2 plus 60, I guess it was.

3 THE WITNESS: Yes.

4 THE ARBITRATOR: And you eliminated some of the
5 other things. So this was a creation. If the District
6 agreed to everything that you were proposing, this is
7 what the salary schedule would look like effective
8 July 1, 2016?

9 THE WITNESS: Yes.

10 THE ARBITRATOR: Correct?

11 THE WITNESS: Yes.

12 THE ARBITRATOR: And then did you do the same
13 thing -- forgive me because I haven't seen these
14 exhibits before -- for each of the subsequent years, as
15 well?

16 THE WITNESS: Well, we did on this proposal and
17 they're actually here, July 1.

18 THE ARBITRATOR: Oh, it's right after that.

19 THE WITNESS: And this -- because this is --

20 THE ARBITRATOR: Right.

21 THE WITNESS: Okay. This is the new salary
22 schedule.

23 THE ARBITRATOR: Right.

24 THE WITNESS: And this next year by this
25 proposal in September. It's the new salary schedule

1 with a minimum 4 percent.

2 THE ARBITRATOR: I see.

3 THE WITNESS: And the minimum 4 percent --
4 again, the salary structure of our proposals always
5 stayed the same. The only thing that was changing was
6 the across-the-boards.

7 THE ARBITRATOR: Right.

8 THE WITNESS: So on this one, the
9 across-the-boards were 4 percent.

10 THE ARBITRATOR: Okay.

11 THE WITNESS: And that's reflected here. So in
12 this next one for July 1, 2017, the structure is
13 consistent. The only thing that's different is it's an
14 across-the-board attached to it.

15 THE ARBITRATOR: I got it. Okay. You use your
16 words with your hands, compression?

17 THE WITNESS: Right.

18 THE ARBITRATOR: So what you did with respect
19 to, say, the July 1, 2016, salary schedule that you
20 created, what you were doing in creating that salary
21 schedule is you were adding the BA plus 60 from the old
22 salary schedule, right? You were adding the BA plus 60?

23 THE WITNESS: Uh-huh.

24 THE ARBITRATOR: And you were -- I think you
25 said you were changing the salaries in these various

1 columns. So I don't know -- explain it to me what you
2 were doing.

3 THE WITNESS: You know, this is a little
4 unorthodox, but it might also be easier if you had a
5 current salary schedule to look at.

6 THE ARBITRATOR: Yeah, well --

7 THE WITNESS: It shows -- on the current one,
8 there's 26 steps.

9 THE ARBITRATOR: Okay. So you compressed that.

10 THE WITNESS: The compression happened this
11 way. And then there was not BA plus 60. It went BA, BA
12 plus 45, BA plus 75, BA plus 90 and there was a BA plus
13 103.

14 THE ARBITRATOR: Oh, okay.

15 THE WITNESS: In fact, this document really is
16 the old salary schedule if you take out the C column.
17 That's how the old one -- so see how that goes to 26?

18 THE ARBITRATOR: Uh-huh.

19 THE WITNESS: So the compression is happening
20 this way and it's also happening this way because we're
21 also adding in this BA plus 60 step. So you didn't have
22 to wait the 30 units to get from B to C.

23 THE ARBITRATOR: Right. And then you also
24 mentioned that you were trying to add some, for lack of
25 a better term, some congruity in terms of the increase

1 in salary based upon each step --

2 THE WITNESS: Yes.

3 THE ARBITRATOR: -- that the employee achieved
4 due to longevity?

5 THE WITNESS: Yeah, let me -- this. That's
6 what this is.

7 MR. RUKEYSER: And I'm sorry, just for the
8 record, when you say --

9 THE WITNESS: I'm sorry, we're on document
10 Union Exhibit 7.

11 THE ARBITRATOR: All right. Seven, yeah.
12 Okay.

13 THE WITNESS: So this uniformity of 5 percent
14 between the columns, they were kind of uniform, but I
15 don't believe that they were exactly uniform. Now they
16 were completely uniform 5, 5, 5, 5, 5. And on this,
17 like the BA -- the A-1 column in the old salary schedule
18 going from A-1 to A-2, there was like a dollar increase,
19 like literally \$1. And we took and made it uniform. So
20 you were getting a understood step 3-1/2 percent and a
21 column of 5 percent as opposed to just these random
22 numbers that were --

23 THE ARBITRATOR: Well, I understand that and,
24 you know, I'm not arguing with you, but sometimes done
25 with delivered purpose.

1 THE WITNESS: Well, you know, there is like
2 you're adding in something to address -- you have a
3 little chunk of monkey and you add it in.

4 THE ARBITRATOR: Sure. I understand. I just
5 wanted to be clear as to what you were -- what you were
6 doing.

7 THE WITNESS: Then we had got to the point
8 where it had been Jerry-rigged enough that the middle
9 needed to be addressed and that's what we were
10 addressing.

11 THE ARBITRATOR: I got it. Did my questions
12 open up any other questions from counsel for the
13 District?

14 MR. RUKEYSER: Not from me.

15 MR. SIMMONS: I have one question.

16

17

18 RECROSS-EXAMINATION

19

20 BY MR. SIMMONS:

21 Q. SO utilizing the proposed structure and the
22 3.5 percent limit, let's assume we don't do individual
23 cap and we don't do the delayed implementation, if we
24 think about it another way it can be done, is it
25 possible to do SCTA's salary strike proposal as you see

1 it with a 3 percent cost limit on that structure?

2 A. No. The only reason why I agreed upon
3 alternative in that thing is because there might be one
4 that I might not have thought of. In my mind, there
5 were only two ways to do it, individual cap or delayed
6 implementation. Now, maybe somebody with more
7 experience than I do would be able to come up with a
8 different way to do it, but I can't think of it.

9 Q. Let's assume the proposals that you had made
10 leading up to then, what you are describing as the
11 Union's proposal. Now, the Framework Agreement is not
12 just the Union's proposal unadorned. It's the Union's
13 proposal with the 3.5 cap. Are there adjustments in
14 which utilizing the Union's proposal, but say 70 percent
15 of it?

16 A. And it's not our proposal.

17 Q. That proposal, unlike prior proposals, is the
18 Framework Agreement limited expressly to a 3.5 percent?

19 A. You're --

20 Q. I'm just asking -- I'm just asking the
21 question.

22 A. I appreciate the question, but what you're --
23 and I'm going to answer it, but you're asking him to
24 renegotiate the deal. The deal was --

25 Q. That's not -- that's not my question. I'm not

1 opening up a narrative.

2 THE ARBITRATOR: Right. The question is
3 whether it's possible.

4 BY MR. SIMMONS:

5 Q. To say if the Union proposal, in your mind,
6 involves 10 elements in escrow -- and I'm using that in
7 a generic way -- could you do 7 of those elements and
8 get within the 3.5 cost going forward, not only '18/'19,
9 but perspective years thereafter?

10 A. And not being in agreement to the Union's
11 proposal.

12 (Simultaneous discussion; reporter
13 interruption.)

14 THE WITNESS: The answer is then you're not
15 agreeing to the Union's proposed salary structure. It
16 says Union proposed salary structure. We sat there as
17 Mr. Steinberg wrote it out. It is included in there for
18 a reason, to capture what the parties agreed to.

19 MR. RUKEYSER: And I will take advantage of
20 this moment to object to this line of questioning
21 because it's very unclear to my mind whether what the
22 witness is being asked on cross-examination is what was
23 agreed to in November or whether it would be
24 theoretically possible to come up with some other deal
25 that also costed no more than 3-1/2 percent in '18/'19.

1 THE ARBITRATOR: You know, I think counsel hit
2 the nail on the head. If it's not part of the
3 negotiations back and forth, it's not part of what
4 someone perceived or did not perceive to be an
5 understanding, then it's just a general question in
6 terms is it possible that the parties could have
7 structured a different type of agreement.

8 THE WITNESS: Yeah, I mean, of course, but
9 that's not what was agreed to.

10 THE ARBITRATOR: Anything else, counsel?

11 MR. RUKEYSER: No further questions.

12 THE ARBITRATOR: Anything else?

13 MR. SIMMONS: No further questions.

14 THE ARBITRATOR: Thank you very much,
15 Mr. Borsos.

16 THE WITNESS: Thank you so much.

17 THE ARBITRATOR: Off the record.

18 (Whereupon a recess was taken.)

19 THE ARBITRATOR: We'll go on the record. Would
20 you state your name for the record, sir?

21 THE WITNESS: David Fisher.

22 THE ARBITRATOR: All right. Swear in the
23 witness. Do you swear to tell the truth, the whole
24 truth and nothing but the truth?

25 THE WITNESS: Yes.

1 THE ARBITRATOR: Thank you, sir.

2

3 DIRECT EXAMINATION

4

5 BY MR. RUKEYSER:

6 Q. Do you mind if I call you David?

7 A. Sure.

8 Q. You're a teacher at Sacramento City Unified
9 School District?

10 A. Yes. I've been employed for about 23 years as
11 a teacher.

12 Q. And you're also the SCTA President?

13 A. Correct.

14 Q. How long have you served as President of SCTA?

15 A. Beginning in July of 2017.

16 Q. Okay.

17 A. Second year.

18 Q. That was midway through the bargain when you
19 became President?

20 A. Correct.

21 Q. Before you became President, have you held any
22 other SCTA office?

23 A. Yes.

24 Q. What office?

25 A. Prior to that, I was Vice-President, second

1 Vice-President for one term and became Vice-President as
2 elected office. And prior to that, only as a site
3 representative. And then also as a member of the
4 bargaining team.

5 Q. And so how many bargains have you been involved
6 in in one capacity or another on behalf of the SCTA?

7 A. So beginning with, I think, 2002-2003 year, it
8 was my first year on the bargaining team. Just roughly
9 doing the math, must be five or six different contracts
10 I have been involved in.

11 Q. Before you became President of SCTA and in
12 mid-2017 --

13 A. Uh-huh.

14 Q. -- were you involved in the '16/'17 successful
15 contract bargain?

16 A. Yes, I was the bargaining chair and also as
17 Vice-President.

18 Q. Then you remained active in the bargain as
19 President?

20 A. Correct.

21 Q. And just very quickly, who were the primary
22 spokespersons for the Union in that bargain?

23 A. So John Borsos and myself and Nikki Milevsky.

24 Q. Okay. What about on the other side of the
25 table, who was primarily involved in negotiating the

1 contract during that bargain for the District?

2 A. The attorney Scott Holbrook. Ted Appel for the
3 District. Cancy McArn. Cindy Nguyen. I think there
4 were others.

5 Q. And just so we're clear, did the new
6 Superintendent of the District, Jorge Aguilar sit at the
7 bargaining table?

8 A. No.

9 Q. Did you attend the fact-finding hearing?

10 A. Yes.

11 Q. In what capacity did you attend that?

12 A. I was -- myself and Nikki Milevsky, we were the
13 presenters of our documents during the fact finding.

14 Q. Do you recall who presented for the District?

15 A. It was School Services. I think a consultant.

16 Q. Okay.

17 A. The name escapes me.

18 Q. It was not the Superintendent?

19 A. No, it was not.

20 Q. And one of the issues that the parties were
21 bargaining was salary in the successor contract bargain,
22 correct?

23 A. Correct.

24 Q. In your own words, can you tell us what -- what
25 the Union's initial salary proposal, what it looks like?

1 What were you asking for?

2 A. Sure. So our initial proposal, I believe, was
3 proposed officially in December of 2016 at the
4 bargaining table. And in addition to an
5 across-the-board salary increases over three years on
6 the previous or, I guess, existing salary schedule, we
7 proposed a structure and we proposed a salary structure
8 that reduced the number of years it took to get all the
9 way to top from 26 to 20. It added up a column in the
10 middle that made it so teachers could move to the middle
11 column with only 60 units as opposed to 75. And it
12 decreased how many units it took to the final or last
13 column from 103 to 90. It also hadn't had any
14 uniformity in the steps in the same personnel increase
15 as the teachers went down. Roughly based on being
16 competitive with the surrounding districts.

17 Q. During the course of the bargain which
18 stretched for many many months --

19 A. Uh-huh.

20 Q. -- did the Union end up changing its proposal
21 or its demands with respect to the across-the-board
22 salary increases?

23 A. The across-the-board, yes. The percentage
24 increases for the previous, that did change, but not the
25 structure.

1 Q. So the structure remained the same throughout
2 the entire bargain?

3 A. Yeah, the entire time.

4 Q. Why was it so important to SCTA that the salary
5 schedule be revamped?

6 A. We had suffered many years of losing teachers
7 around mid career. Mostly San Juan, Elk Grove and other
8 districts, as well. The beginning of the salary
9 schedule was very competitive and the end was
10 competitive.

11 We did an analysis of where the average teacher
12 was leaving the district. It was around year 11. So in
13 order to solve that problem, even much more important
14 than across-the-board increase, was our proposal to
15 restructure the salary schedule to solve that problem
16 and so teachers would get towards the top both more
17 quickly in years and more quickly in units so that we
18 can be competitive in surrounding districts.

19 MR. SIMMONS: I would just note much of this
20 Mr. Borsos has testified, I do recall and I didn't
21 object or convene a lot of background in terms of
22 testimony. I would say in light of time, I would
23 propose some of the stuff is covered, so we don't need
24 to recover.

25 MR. RUKEYSER: I think that's probably doable.

1 BY MR. RUKEYSER:

2 Q. You attended a meeting in early November at
3 Mayor Darrel Steinberg's house?

4 A. Correct.

5 Q. And there was the meeting on Saturday and a
6 meeting on Sunday, right?

7 A. Correct.

8 Q. Were you -- what did you make of the fact that
9 on Sunday, District Superintendent appeared at that
10 meeting by himself without any --

11 A. On Sunday?

12 THE ARBITRATOR: On Sunday? He was there by
13 himself on Saturday, was he not?

14 MR. SIMMONS: He was also there on Saturday.

15 THE ARBITRATOR: Oh, by himself, yes.

16 BY MR. RUKEYSER:

17 Q. Turning to the Sunday session, what did you
18 make of the fact that Superintendent Aguilar did not
19 bring any of his administrators with him?

20 A. Right. Well, I thought it was unusual.
21 Although as I mentioned, I knew he came alone on
22 Saturday, so I wasn't that surprised that he also came
23 alone on Sunday. Although I did think it was unusual in
24 my experience with sidebars, in both this negotiation
25 and previous bargaining, I had not experienced

1 situations where a Superintendent would come alone for a
2 meeting like that.

3 Q. We've heard testimony Mr. Borsos made a
4 presentation about what the Union was proposing as far
5 as salaries at that Sunday, November 5th meeting?

6 A. Correct.

7 Q. You were not present when Mr. Borsos just
8 testified earlier today about that meeting?

9 A. No.

10 Q. I would like to hear from you in your own words
11 what you recollect Mr. Borsos verbally communicated at
12 that Sunday, November 5th, meeting regarding the Union
13 salary proposal?

14 A. So on Sunday, Mr. Borsos articulated that we
15 had had this Union proposed structure and that we
16 continued to propose the need. He described it much as
17 I did little earlier, as the shortening of the time it
18 took to get to the top from 26 to 20, shorting the time
19 it took to get across the columns to 60 and using hand
20 gestures and the compression and described it, you know,
21 as it had been proposed in over a year at that time.

22 Q. Okay. Was there any other part of the salary
23 proposal that Mr. Borsos expressed at that meeting?

24 A. On Sunday?

25 Q. On Sunday.

1 A. Not the structure. I believe we did talk about
2 the across-the-board on the existing salary schedule.

3 Q. What were those across-the-board, if you
4 recall?

5 A. They were 2-12 percent over 3 years. 2-12,
6 2-1/2 and 3-1/2. And then the restructuring of the
7 Union proposal schedule on the third year '18/'19 capped
8 at 3.5 percent for '18/'19.

9 Q. When you say capped at 3.5 percent for '18/'19,
10 what do you mean by that?

11 A. I mean that we -- the agreement was that our
12 salary would be implemented in such a way as to not
13 cause the District to exceed the 3.5 percent, the value
14 of 2.5 percent for 2018.

15 Q. Just for 2018/'19?

16 A. Right.

17 Q. Was there any discussion -- did Mr. Borsos say
18 anything about what would happen to that salary
19 structure after 2018/'19?

20 A. So, I know he mentioned that the cap would come
21 off. I don't know of any specific numbers or anything
22 about that. That would be capped for '18/'19.

23 Q. Do you recall Superintendent Aguilar, how he
24 responded to this proposal?

25 A. He was nodding and seemed to be through body

1 language and, you know, he didn't ask questions or
2 didn't seem to be -- at that time, he didn't seem to
3 have questions about it and again, thinking to myself
4 about how long we had had that same proposal, it made
5 sense to me that he would understand that concept
6 because it was the same that we had for over a year at
7 that point.

8 Q. Did you take notes at that meeting on
9 November 5th?

10 A. Yes.

11 Q. Could you take a look at what's been marked in
12 the smaller binder under Tab 13? It is two pages of
13 handwritten notes. Do you recognize this?

14 A. Yes.

15 Q. What are these?

16 A. These are my notes from that meeting that
17 Sunday, November 5th, at the Mayor's house.

18 Q. Do these notes reflect the parties' discussion
19 about the salary issue?

20 A. Yes, they do.

21 Q. Where is that?

22 A. On the second page, you can see there's just a
23 dash and it talks about the full 11 percent over 3
24 years. And then you can see the 2-1/2, 2-1/2, 2-1/2,
25 which is the across-the-boards with the 3-1/2, that says

1 salary schedule max at 11 percent in the third year.

2 Q. Where did this 11 percent figure come from?

3 A. So we had gone through fact finding and I think
4 there was a feeling that the -- although we had
5 dissented on the fact finding, there was this number of
6 11 percent that had come out of that. That was what our
7 understanding of what the Superintendent and the school
8 board was willing to approve during the life of the
9 contract in the three-year period.

10 Q. When you wrote in parenthesis here, S.S. max,
11 what does that reflect?

12 A. That reflects the cap that we would have to
13 figure out how the salary schedule would fit and how it
14 would be implemented in that final year '18/'19 to stay
15 within the 3.5 -- the value of the 3.5 percent.

16 Q. Okay. Now, at the end of your meeting on the
17 5th at the Mayor's house, a Framework Agreement was
18 drawn up?

19 A. Correct.

20 Q. And it was Mayor Steinberg who drew this up,
21 correct?

22 A. Yes.

23 Q. If you can take a look at the other binder, the
24 black one, under tab JX-1, Joint Exhibit 1. This is the
25 Framework Agreement, correct?

1 A. Correct.

2 Q. And the first page, there's a one circled,
3 saying salary agreement. These words and numbers are
4 ones that the Mayor wrote, correct?

5 A. Correct.

6 Q. As he was writing it, did anyone from SCTA
7 object and tell him that he had made a mistake?

8 A. No.

9 Q. Did Superintendent Aguilar say anything about
10 this being inaccurate in any way?

11 A. No.

12 Q. Was there any discussion, as you can recall
13 now, as the Mayor was actually writing this document?
14 Was there any discussion about what he was writing?

15 A. I don't recall any discussions of this. It
16 came after we had explained the salary schedule and
17 talked about what we were agreeing to.

18 Q. And you ended up signing this agreement along
19 with the Mayor and the Superintendent, correct?

20 A. Correct.

21 Q. And you had initialled each page?

22 A. Correct.

23 Q. That's your initial D.F. there?

24 A. D.F. Yes, it is.

25 Q. At the time that you reviewed this and signed

1 it and initialed each page, can you tell me -- can you
2 interpret for us this schematic under No. 1, the salary
3 agreement?

4 THE ARBITRATOR: Wait a minute. I have trouble
5 with the word interpret.

6 MR. RUKEYSER: Sure.

7 THE ARBITRATOR: Can you rephrase that?

8 MR. RUKEYSER: Yes, Mr. Arbitrator.

9 THE ARBITRATOR: Tell us what it means?

10 MR. RUKEYSER: Yes.

11 BY MR. RUKEYSER:

12 Q. Will you walk us through No. 1, the salary
13 agreement and tell us what it means?

14 A. Sure. So first of all, you have the dates on
15 the top. That's self-explanatory from retroactive to
16 July 1st, 2016, through June 30th, 2019. Then you have
17 the three columns, representing the three years.

18 Q. The three years of the contract?

19 A. Three years of the contract, '16/'17, '17/'18
20 and '18/'19. And then you see in the margin, it says
21 salary increase. Those were the across-the-boards on
22 the existing salary schedule: 2.5 percent in '16/'17,
23 2.5 percent in '17/'18 and 2.5 percent '18/'19. And
24 then below, it says, "Adjustment to salary schedule
25 Union proposed structure." That is, of course, blank in

1 the first two years. Then in '18/'19, it says
2 2.5 percent maximum District expenditure.

3 Q. Let me stop you there for a minute. Why was it
4 blank next to adjustment to salary schedule Union's
5 proposed structure for '16/'17 and 17/'18?

6 A. Because the agreement that was our proposed
7 structure would go into effect in '18/'19 capped at
8 3.5 percent for that year.

9 Q. Okay. Now, some days later, after this
10 Framework Agreement was signed, the Union had a meeting
11 with Cancy McArn and Cindy Nguyen?

12 A. Yes.

13 Q. Do you recall, off the top of your head, when
14 that was, approximately?

15 A. November -- it was like the 27th or the 30th.
16 No, November 8th.

17 Q. Let me ask you about a meeting shortly after
18 the Framework Agreement was signed. Do you remember a
19 meeting shortly thereafter?

20 A. Yeah, I think November 8th.

21 Q. It was just you, Mr. Borsos, Ms. Milevsky,
22 Ms. McArn and Ms. Nguyen?

23 A. Yes.

24 Q. And what was the point of this meeting; what
25 was the purpose of it?

1 A. If I recall, it was -- if I remember my notes,
2 it has loose ends. We were talking about, you know,
3 that we agreed to with Superintendent and we were
4 talking about how the salary structure would be
5 implemented in '18/'19. Some different options are on
6 that. I believe there was discussion about other things
7 to.

8 Q. Did you take note at that meeting?

9 A. Yes.

10 Q. Why don't you take a look at Association
11 Exhibit 14 in the smaller white binder? It's a one-page
12 handwritten document. Do you recognize that?

13 A. Yes.

14 Q. What is this?

15 A. This is -- these are my notes from that meeting
16 what we just talked about.

17 Q. Are these verbatim notes? Were you trying to
18 transcribe everything that was said?

19 A. No.

20 Q. What were you trying to capture in the notes?

21 A. Just the broad concept of what we were
22 discussing.

23 Q. Now, down at the bottom, the second to the last
24 bullet point, could you read that text just so we're all
25 on the same page?

1 A. Second to the last bullet. "Our structure of
2 salary schedule with a 3.5 percent cap in '18/'19."

3 Q. What does that -- does that reflect something
4 that someone said at that meeting?

5 A. Right. Yes, it reflected what we were
6 communicating had been -- was the agreement, the
7 Framework Agreement that was signed at the Mayor's
8 house.

9 Q. And who was the person who was speaking on
10 behalf of the Union and communicating this?

11 A. Mostly, it was John Borsos.

12 Q. Okay. And then down below, the last bullet
13 point, what does that say?

14 A. It says, "We need."

15 Q. Do you have any idea what that is referring to?

16 A. I think so because what we needed in order to
17 be able to figure out how we were going to fit in the
18 cap, we needed to know how many people, how many current
19 teachers were sitting out there already with BA plus 60
20 that would be moved over.

21 We needed to know including how many people
22 might already be sitting out there with BA plus 90 for
23 E. Then even as the important -- or more important
24 maybe, we had reached an agreement for unlimited years
25 of service. And so that all had to be calculated before

1 we'd be able to figure out the value of 3.5 percent.

2 Q. And at this meeting, do you recall either
3 Ms. McArn or Ms. Nguyen ever responding in any way to
4 Mr. Borsos' statement that, as reflected in your notes,
5 "our structure of salary schedule with 3.5 percent cap
6 in '18/'19"?

7 A. I don't recall.

8 Q. Do you recall either of them responding to
9 Mr. Borsos' expression of a need on SCTA's part for
10 certain information about unlimited years of experience
11 and BA plus 60?

12 A. No, other than they thought it would take some
13 time, but they would be able to get that.

14 Q. Okay. Now, you testified earlier that there
15 was a meeting later on in November, November 27th. Do
16 you recall with whom you met at that late date,
17 November 27th?

18 A. Right. So the 27th was with Lisa Allen and
19 Lieutenant Aguilar.

20 Q. Who from SCTA was present?

21 A. Myself, Nikki Milevsky and John Borsos.

22 Q. Okay. And what was the purpose of that
23 meeting?

24 A. Again, that was -- we had a lot of these loose
25 end meetings and it was -- there was a few.

1 MR. SIMMONS: For a second, are you reading off
2 the -- just so we know?

3 THE WITNESS: Yeah, is it okay if I do?

4 MR. RUKEYSER: If you can remember without
5 looking at the document first.

6 MR. SIMMONS: You'll get to do that. I just
7 want to make sure -- make clear that we're doing it in
8 reference to an exhibit. That's all.

9 THE WITNESS: Yeah. Again, there were a few
10 things that needed to still be worked out. There was
11 hours of employment, Article 5 and also I recall the
12 Superintendent -- I think he wanted like hypotheticals
13 about how it would affect somebody moving from the
14 previous salary schedule to the new salary schedule and
15 specifics about how that would -- individual would be
16 affected.

17 BY MR. RUKEYSER:

18 Q. Okay. And all you can recall having been
19 discussed at that meeting about the salary structure or
20 the salary issue was the Superintendent's request for
21 examples?

22 A. Yes, I recall he requested examples.

23 Q. And you took notes at that meeting?

24 A. Yes.

25 Q. Take a look at Exhibit 15.

1 A. Okay.

2 Q. Those are your notes?

3 A. Yes.

4 Q. And do these reflect any discussion about the
5 salary issue?

6 A. Yes.

7 Q. Where is that?

8 A. Starting in the middle, it says Jorge,
9 referring to Superintendent Aguilar, hypothetical for
10 salary schedules. So he was asking for hypotheticals.
11 And then I have some numbers written there and I
12 honestly don't recall exactly. My best recollection is
13 that was an example of somebody who currently was on --
14 for example, one spot on the current salary schedule
15 when the new one was implemented, where they might go
16 to, I think. And then Jorge asked some language to show
17 how the middle would get the bulk of the increase. I
18 don't even know what my next note says. I don't recall
19 what that was about.

20 Q. And then you attended a meeting with
21 Superintendent Aguilar and assistant Superintendent
22 Allen at the Capitol Garage Cafe?

23 A. Uh-huh.

24 Q. And what was the purpose of this meeting, also
25 to tie up loose ends?

1 A. Right.

2 Q. And do you recall the issue of salary being
3 discussed at any length at that Capitol Garage meeting
4 on the 30th?

5 A. I think it was brought up briefly by Mr. Borsos
6 at that meeting.

7 Q. Do you remember what Mr. Borsos said?

8 A. Again, about we're going to need information to
9 figure out how to implement the salary schedule
10 structure.

11 Q. Okay. Now, if I can have you turn to the
12 bigger binder to Joint Exhibit 2. This is an e-mail
13 that was later printed out. Are those your initials --
14 oh, I'm sorry. I am so sorry. This is page 1, 2, 3, 4,
15 page 5 down at the bottom. It says DD-439.

16 A. Okay. I'm there.

17 Q. Sorry about that.

18 A. No problem. Okay. What's the question?

19 Q. This is an e-mail that Mr. Aguilar, the
20 Superintendent, sent on November 30th. Are these your
21 initials by items 1 through 6?

22 A. Yes, D.F.

23 Q. Okay. And I want to ask you some questions
24 about No. 6, it says salary schedule adjustment?

25 A. Uh-huh.

1 Q. Superintendent Aguilar writes in this e-mail
2 using 30 and then in parenthesis 45 "days of the
3 Tentative Agreement approval. The parties agree to
4 finalize a mutually agreeable adjustment to the salary
5 schedule for 2018/'19 that does not exceed the total
6 District expenditure of 3.5 percent."

7 Do you see that?

8 A. On this same e-mail?

9 Q. Item No. 6 at the bottom of what has been
10 marked as DD-430.

11 A. Uh-huh; yes.

12 Q. And you initialled that?

13 A. I initialled No. 6.

14 Q. Yes. And just a questions for you: When you
15 received this e-mail, how did you understand this
16 discussion or this statement about within 30 or 45 days
17 of the TA's approval, the parties agreeing to finalize a
18 mutually agreeable adjustment to the salary schedule for
19 '18/'19 not exceeding 3.5 percent. What does that mean
20 to you?

21 A. It meant the same thing that we had talked --
22 we referenced the Framework Agreement, that we had to
23 work out how the salary schedule -- Union proposed
24 salary schedule would not exceed 3.5 percent for
25 '18/'19.

1 Q. Okay. There is the cap?

2 A. Yes, that's the cap that we agreed upon.

3 Q. And there was -- then December 1st you had a
4 meeting with Ms. McArn and Ms. Allen, correct?

5 A. Correct.

6 Q. What do you recall the purpose of that meeting
7 having been December 1st?

8 A. That meeting was more about the Union proposed
9 salary schedule and talking to Ms. McArn and Ms. Allen
10 about, I believe, if I recall, about how they were --
11 Ms. McArn was going to present to the school board and,
12 you know, just talking specifically about our salary
13 schedule.

14 Q. Okay. When you say our salary schedule, what
15 are you referring to?

16 A. The Union proposed salary schedule. It
17 actually had the K-12 one, program specialist,
18 psychologist. I think that was it.

19 Q. When you say that there were these, what do you
20 mean? Did you actually come to the meeting with
21 documents?

22 A. At that meeting on the first, yes, we came with
23 documents and examples of those salary schedules.

24 Q. Who at that meeting did the bulk of the
25 speaking on behalf the SCTA?

1 A. Mr. Borsos.

2 Q. Do you recall either Ms. McArn or Ms. Allen, at
3 that December 1st meeting, asking any questions about
4 the fact that the Union salary schedule was going to be
5 adopted for the '18/'19 year?

6 A. Specifically not about that, no.

7 Q. Do you remember them asking any questions at
8 all about anything having to do with the salary?

9 A. I don't remember any specific questions.

10 Q. Did you take any notes at that meeting?

11 A. I think I did a bit.

12 Q. Could you turn to Association Exhibit 16? Is
13 that your handwriting?

14 A. Yes.

15 Q. Do you recognize this?

16 A. Yes.

17 Q. These are your notes from December 1st?

18 A. Correct.

19 Q. They are very sparse?

20 A. Yes.

21 Q. You wrote 2019/'20 when caps come off. Then
22 underneath that you wrote John. What does that reflect?

23 A. That's -- again, like I said, very sparse. I
24 put in quotation marks because I just remember John
25 explaining that that's when the cap would come off.

1 However, we had figured out how to make the caps under
2 2.5 percent, whether that would be individual people
3 capped or potentially phasing it in at a late mid-year
4 start or late-year start, but in '19/'20, the caps would
5 come off.

6 Q. The cap would be there for '18/'19, but not for
7 1920?

8 A. The cap would be '18/'19 in order to stay under
9 3.5 percent for '18/'19.

10 Q. And why did you write that down in your notes?

11 A. Just it's the only thing I wrote down, so it
12 was, I think, just the major point. I want to make sure
13 that I got it down on paper. The rest of it was just
14 showing the salary schedules and talking through the
15 explanation of those.

16 Q. Okay. When you say showing the -- never mind.

17 You attended the District's governing board
18 meeting on December 7th when the TA was approved?

19 A. Yes.

20 Q. And you attended the entire open session of
21 that meeting?

22 A. I believe so.

23 Q. Okay. You were there when the Tentative
24 Agreement with SCTA was being discussed?

25 A. Yes, I was.

1 Q. Did you hear anything in that governing board
2 meeting that was from any District administrator that
3 was -- that ran counter to your understanding of the
4 Framework Agreement that you had reached back in -- on
5 November 5th?

6 A. No.

7 Q. Did you hear anything from anyone at that
8 meeting of the governing board on December 7th that was
9 counter to your understanding of the agreement that had
10 been reached on November 5th?

11 A. No.

12 MR. RUKEYSER: Nothing further.

13 THE ARBITRATOR: All right. Cross or do you
14 need a break?

15 MR. SIMMONS: I need to use the restroom.

16 THE ARBITRATOR: Take a short break.

17 (Whereupon a recess was taken.)

18 THE ARBITRATOR: Back on the record, please.
19 Cross-examine.

20
21 CROSS-EXAMINATION

22
23 BY MR. SIMMONS:

24 Q. Good afternoon, Mr. Fisher. Thank you for
25 being patient today. It took so long to be here with

1 us.

2 Let me start with Joint Exhibit 1, the
3 Framework Agreement with which your counsel went over
4 with you.

5 A. Okay.

6 Q. So on that Joint -- on the Framework Agreement
7 in the third column?

8 A. Uh-huh.

9 Q. '18/'19 2.5 percent, what will be that --
10 increase in salary, the salaries of your membership will
11 continue into '19/'20, correct?

12 A. The 2.5 percent?

13 Q. Right.

14 A. Yes.

15 Q. And at what percentage will that 2.5 continue
16 going forward?

17 A. 2.5 would be 2.5 percent? Exactly.

18 Q. When it comes to the 3.5 max in that same
19 column, is there any -- I don't want to get into the
20 same thing I got in with your counsel earlier today --
21 but is it safe to say there's no specific implementation
22 date listed underneath that column expressly in writing?

23 A. No.

24 Q. That document speaks for itself. I'm not going
25 to take myself through that. Again, sorry, Mr. Fisher.

1 I know where I'm at.

2 A. Okay.

3 Q. How long -- do you recall how long your meeting
4 with the Mayor and your team and Mr. Aguilar on Sunday
5 November 5th was?

6 A. Not exactly, but we started maybe early
7 afternoon and we were out of there, I think, before
8 dark.

9 Q. Fairly brief?

10 A. Yes.

11 Q. And a number of issues resolved by way of at
12 least agreements reached under this Framework Agreement
13 during that brief period of time?

14 A. Correct.

15 Q. Let's go to Joint Exhibit 2, which your counsel
16 discussed with you. In light of -- on page DD-439, if
17 you go to the bottom corner, I'm going back to the
18 e-mail.

19 A. Got it.

20 Q. The language there says, "The parties agree to
21 finalize a mutually agreeable adjustment to the salary
22 schedule," right?

23 A. Correct.

24 Q. Is it safe to say then as of the date of this
25 e-mail, November 30th, that the parties had not yet

1 fully finalized, but that adjustment to the a salary
2 schedule would be within the 3.5 cap?

3 A. I would answer this way: It hadn't been
4 determined as to how the salary schedule -- proposed
5 salary schedule would be implemented in order to stay
6 within the 3.5 percent expenditure for '18/'19.

7 Q. When you initialled this, which I assume is on
8 12/4, based upon the first page of that exhibit, seems
9 you and Superintendent Aguilar would have been doing is
10 signing and initialling on 12/4?

11 A. Yes, that makes sense.

12 Q. That's three days before the governing board
13 took action?

14 A. Right. The governing board took action on the
15 7th, correct.

16 Q. So is it safe to say that as of initialling
17 this on 12/4, having given an agreed upon time of 45
18 days to try to figure out how to work this out, there
19 would not have been anything finalized and before the
20 governing board for approval as to a finalized mutually
21 agreeable adjustment to this schedule of 3.5 as of the
22 December 7th, just a few days later?

23 A. Again, there wouldn't have been an exact
24 determination of the implementation of the salary
25 schedule. In other words, how it would be implemented

1 to stay within the 3.5 percent cap for 18 months.

2 Q. We went through some of your notes. Am I
3 correct that of the notes that you took at the various
4 meetings, that the first set of notes never mentioned
5 something about the caps coming off as you describe it
6 on December 1st, 2017?

7 A. So yeah, based on that's the first time I
8 really knew those words exactly.

9 Q. And you said you wrote those there because it
10 was a big concept. How did you characterize --

11 A. It is only thing I wrote, so it would safe to
12 say that I felt it important enough to write that.

13 Q. Because if the caps did come off, the
14 difference between 3.5 and without a cap is -- I would
15 have to assume for the Union membership would be a plus,
16 right? I mean, it's not a trick question.

17 A. Yes.

18 Q. Caps off, caps off a plus. So something which
19 would be a major selling point for coming to work at Sac
20 City Unified?

21 A. Sure.

22 Q. I will give you an e-mail. This is an e-mail
23 -- I'll let you just read this e-mail. It's one -- I
24 think a thoughtful response from you to a prospective
25 teacher for the District. I'm really going to focus on

1 just that top paragraph, if you want to give it a read.
2 You might as well read it into the record.

3 A. You want me to read the whole e-mail?

4 Q. Just the first paragraph.

5 A. "Hi, James, thanks for your interest in
6 working --

7 THE ARBITRATOR: Slowly.

8 THE WITNESS: Sorry. "Hi, James. Thanks for
9 your interest in working in Sacramento the next school
10 year. We have just signed a Tentative Agreement that
11 includes an across-the-board 7.5 percent for the '18/'19
12 school year, as well as a conditional 3.5 percent that
13 will be to restructure the salary schedule to get to the
14 top faster and move across columns more quickly. The
15 exact details have to be worked out. You can add
16 7.5 percent to the attached salary schedule to get an
17 idea, but knowing that the structure will be different
18 and you will move up faster than the current structure.
19 We also have negotiated to continue fully paid health
20 benefits in addition to the now competitive salary."

21 BY MR. SIMMONS:

22 Q. So my question to you, Mr. Fisher, is that
23 knowing the positive thing taking the cap off would
24 reflect for Union membership or prospective employees,
25 why in this e-mail, which is several weeks before the

1 first set of notes of yours which discussed the caps
2 coming off concept, why would you not have included in
3 the e-mail the fact that after '18/'19, guess what,
4 James, that cap comes off and it's an even higher salary
5 increase for us?

6 A. Well, of course, Mr. James Baker, from wherever
7 he was, he wouldn't know what something like a Union
8 proposed salary schedule was. And he wouldn't -- you
9 know, the energy and amount of paragraphs to explain our
10 current salary schedule, which he would have no concept
11 of going from 26 to 20, for example. I just used the
12 shorthand that you're going to all -- everyone will get
13 to the top faster and across faster.

14 Does that answer your question?

15 Q. It does. I mean, you're explaining it to me.
16 It just seems to me that if, in fact, the caps are
17 coming off, that that would be a critical line to put in
18 there. Seven plus 5 plus 3.5, that equals 11. And then
19 not only that, it gets even greater after the '18/'19
20 school year. You answered --

21 MR. RUKEYSER: Let's just strike that as
22 argumentative and not a question.

23 MR. SIMMONS: I appreciate you responding to
24 that question.

25 BY MR. SIMMONS:

1 Q. Only a couple more. Mr. Fisher, you described
2 some of the meetings which you had with Mr. Borsos and
3 others at times with District staff.

4 A. Correct.

5 Q. At any of those meetings, did District staff
6 represent or indicate to you that they were -- they had
7 the authority to officially sign off on a proposed
8 adjustment of the salary schedule within this 3.5 cap?

9 A. I'm not 100 percent sure I understand the
10 question. Are you talking about after the meeting with
11 the Mayor and --

12 Q. So after meeting with the Mayor, you meet on --
13 first on November 8th?

14 A. Right.

15 Q. I'm more interested in later. I think you
16 described one that happened on the 27th; is that
17 correct?

18 A. Twenty-seventh and an additional one on the
19 30th.

20 Q. Those two were -- those are the ones with -- I
21 think you described those were with Lisa Allen and
22 Superintendent Aguilar?

23 A. One of those ones.

24 Q. One of those. My main core of questioning here
25 is despite handing over documents at different times and

1 these meetings as to how the structure might work within
2 the 3.5 cap, was there a point in time where a District
3 administrative representative said, okay, we're agreed
4 to, we're going to take this to the board for approval?

5 A. Those words, no. I mean, some of the meetings
6 were with the Superintendent, so obviously he was the
7 one that had agreed to the original.

8 Q. Did he say, okay, this is the -- you've
9 provided me a structure within the 3.5 cap that we will
10 work under the terms of the Framework Agreement?

11 A. Didn't use those words, no.

12 Q. Didn't use those words, so what words did he
13 use?

14 A. Well --

15 Q. In the subsequent meetings?

16 A. Again, we had -- the agreement had been signed
17 at the Mayor's house and we had subsequent meetings and
18 at no time did anyone say, wait a minute, we didn't
19 agree to this. I mean, we had agreed to something and
20 nobody said anything different after that. I wouldn't
21 think that they would say that the thing we agreed to we
22 really didn't agree to. They just -- nobody objected
23 and said, no, this is not what we agreed to.

24 Q. Is the biggest complicated factor in this that
25 there is two parts to the Framework Agreement when it

1 comes to the structure? It's the Union's proposal and
2 then there is the 3.5 limit. And that the -- perhaps
3 the Union did not even contemplate yet how that was not
4 acceptable and going to result in struggle for the time
5 and how to figure out how to make that work?

6 MR. RUKEYSER: Objection; vague.

7 THE ARBITRATOR: Could you rephrase the last
8 question?

9 BY MR. SIMMONS:

10 Q. What do you see as the central reason why it
11 was complicated to figure out how to make what the Union
12 sees as its proposed structure and the 3.5 limit work
13 together?

14 MR. RUKEYSER: Assumes facts not in evidence
15 that Mr. Fisher believed it was difficult.

16 THE ARBITRATOR: Well, what was causing these
17 loose ends, as you put it? We'll rephrase it in his
18 terms.

19 THE WITNESS: So the fact that we didn't have
20 complete information, like I mentioned earlier, of how
21 many current employees were already potentially sitting
22 out there at BA plus 60. Also, we didn't know the
23 effect, the complete effect of granting unlimited years
24 of service because not only that was going forward with
25 new hires, we had to figure out exactly how many

1 unlimited years or how many years of previous service.
2 Those factors made it -- like you mentioned, made it
3 that we needed to tie up the loose ends.

4 BY MR. SIMMONS:

5 Q. Thank you. You said you were in attendance at
6 the December 7th board meeting when the board took
7 action on this?

8 A. Yes.

9 Q. Is there anything in your personal knowledge
10 that would confirm that the board, when approving this,
11 believed the 3.5 percent for '18/'19 would be something
12 different in subsequent years?

13 A. Sorry, I think -- can you repeat that again to
14 make sure I understand?

15 Q. Yeah. So let's turn to Joint Exhibit 4. I may
16 be over-complicating it, Mr. Fisher, by going there. Is
17 there -- if you turn to -- if you go past the agenda
18 information line and go to page 4 of the board executive
19 summary. And then there's the summary of the
20 compensation provisions.

21 A. Uh-huh.

22 Q. Is there anything within that summary that
23 would have put the District's board or the public, in
24 general, on notice of or to have the expectation that
25 the 3.5 limit would then go up after the '18/'19 school

1 year?

2 MR. RUKEYSER: I'm going to object to your --
3 it's not clear that the witness has seen this document
4 or is familiar with it. So to the extent this is just
5 quizzing the witness about what a document appears to
6 say, I think it's irrelevant.

7 MR. SIMMONS: And I'll go ahead and strike my
8 question.

9 BY MR. SIMMONS:

10 Q. I'll go back to when you were at the board
11 meeting, do you recall anything during the public
12 presentation on this item where it would have put the
13 public or the board itself on notice that the 3.5 limit
14 for '18/'19 would then go up and there would be no limit
15 beyond '18/'19?

16 A. Well, when it comes to your question there
17 would be no limit, I mean, that's not true of any salary
18 schedule. But there wasn't -- I didn't see anything
19 that talked about -- I don't recall talking about other
20 years.

21 Q. When you -- having had various meetings, as we
22 discussed leading up to the board meeting and then
23 having addressed the board that night, which I believe
24 you did, correct?

25 A. Yes.

1 Q. Did you, having been in meetings with
2 Mr. Borsos and District staff, express any concern as a
3 result of those meetings to the board before they took
4 action on the item?

5 A. Had I expressed?

6 Q. Did you, in your presentation to the board,
7 express concerns such as we think that you guys should
8 be implementing this? It should be easier than the
9 other time and that we need to discuss how to make this
10 work?

11 A. No.

12 MR. SIMMONS: No further questions.

13 THE ARBITRATOR: Redirect?

14 MR. RUKEYSER: Just a couple questions.

15

16 REDIRECT EXAMINATION

17

18 BY MR. RUKEYSER:

19 Q. Turning your mind back to the November meeting
20 at the Mayor's house. As of that time, had SCTA
21 conducted strike authorization votes?

22 A. Yes.

23 Q. And had those votes been completed as of say
24 November 3rd?

25 A. Yes.

1 Q. And what was the result of those strike
2 authorization votes?

3 A. 96 point something percent, yes.

4 Q. In favor of authorizing the strike?

5 A. In favor of authorizing the strike.

6 Q. Did SCTA publicize the fact that the
7 overwhelming majority of its members had authorized a
8 strike if necessary?

9 A. Yes.

10 Q. And, in fact, was SCTA preparing for a strike
11 at that point?

12 A. Yes, very much so.

13 Q. What sort of preparations were you doing?

14 A. We had --

15 MR. SIMMONS: Is this within the scope of my
16 cross?

17 MR. RUKEYSER: It is because you had asked
18 repeatedly questions about whether all of these issues
19 were negotiated in a relatively short amount of time --

20 MR. SIMMONS: My question was about his
21 knowledge about what the board did at the December 7th
22 board meeting.

23 MR. RUKEYSER: You asked questions about the
24 negotiations on November 5th and I am providing
25 necessary context -- factual context.

1 MR. SIMMONS: I think I asked him how long they
2 talked on December -- November 5th.

3 MR. RUKEYSER: And the number of issues that
4 were resolved in a short amount of time.

5 THE ARBITRATOR: I'll overrule the objection.
6 You can tell us. Prepping for a strike.

7 BY MR. RUKEYSER:

8 Q. What sort of preparation was SCTA conducting at
9 that time?

10 A. On that weekend, we were in our strike
11 captain's office and we were filling our strike boxes
12 with supplies for each site. We had set up
13 communication and a whole organizational structure argue
14 for how we would communicate with each site. We were
15 fully prepared -- getting prepared to strike.

16 Q. Just to be clear, the contract, Collective
17 Bargaining Agreement, that the parties negotiated, what
18 was the term of that contract?

19 A. It was a three-year contract and from '16/'17,
20 July of 2016 through June of 2019.

21 Q. That was the contract that the District school
22 board ratified?

23 A. Correct.

24 MR. RUKEYSER: I have nothing further. Thank
25 you.

1 THE ARBITRATOR: Recross?

2 MR. SIMMONS: No.

3 THE ARBITRATOR: All right, Mr. Fisher. Thank
4 you very much.

5 THE WITNESS: Thank you.

6 THE ARBITRATOR: Appreciate your testimony.
7 Off the record for a moment.

8 (Whereupon a recess was taken.)

9 THE ARBITRATOR: We're back on the record. Can
10 you please state your name for record, please?

11 THE WITNESS: Nicole Milevsky.

12 (Reporter requests clarification.)

13 THE WITNESS: Milevsky, M-I-L-E-V-S-K-Y. I
14 brought you a card in case. It's not an easy last name.

15 THE ARBITRATOR: And is Nikki with two Ks?

16 THE WITNESS: Yes, yes.

17 THE ARBITRATOR: Ms. Milevsky, please raise
18 your right hand? Do you swear to tell the truth, the
19 whole truth and nothing but the truth?

20 THE WITNESS: I do.

21 THE ARBITRATOR: Thank you.

22

23 DIRECT EXAMINATION

24

25 BY MR. RUKEYSER:

1 Q. Hi, Nikki.

2 A. Hi.

3 Q. You're currently the first Vice-President of
4 SCTA?

5 A. Uh-huh.

6 Q. How long have you been first Vice-President?

7 A. This is my second year. I was Vice-President
8 at this time. Prior to that, I was President for four
9 years and prior to that, I was first Vice-President
10 again for two years.

11 Q. Apart from those offices, have you held any
12 other office in SCTA?

13 A. Yes, I started as a site rep for the school
14 psychologist. And off and on over a few years, I was a
15 the board's director for People Personnel Services.

16 Q. And you've had considerable bargaining
17 experience in your various positions?

18 A. Over the years, yes.

19 Q. And you were an active participant in the SCTA
20 side in the 2016/'17 bargain, correct?

21 A. Uh-huh.

22 Q. You attended a meeting at the Mayor's house on
23 Saturday, November 4th?

24 A. Uh-huh.

25 THE ARBITRATOR: You need to answer yes or no.

1 THE WITNESS: Sorry. Yes.

2 BY MR. RUKEYSER:

3 Q. And Superintendent Jorge Aguilar appeared by
4 himself on behalf of the District?

5 A. Yes, he was there by himself.

6 Q. What did you make of that?

7 A. I thought it was a little strange. We thought
8 he would bring other people from the District, other
9 knowledgeable people with him.

10 Q. And he participated in the bargain, at least at
11 the -- strike that.

12 Had he sat at the bargaining table during the
13 parties bargain over '16/'17?

14 A. No, he had not.

15 Q. And as best as you can recall sitting here now,
16 what was discussed at that Saturday, November 4th
17 meeting at the Mayor's house?

18 A. On Saturday, we were kind of trying to figure
19 out can we fix some -- you know, can we avert the
20 strike, is it possible? I mean, we shared some things
21 that were really important to us, our salary structure,
22 lowering class sizes, things like that.

23 Q. And did Superintendent Aguilar share any
24 concerns that the District had similar to the concerns
25 that the Union shared?

1 A. He kind of went to his vision speech.

2 Q. I'm sorry, I have to stop you there. What do
3 you mean by his vision speech?

4 A. He had kind of a spiel that he gives about his
5 vision for the District and some things that we didn't
6 really want to hear, like about equity in assets, making
7 sure that all of our students are able to succeed in
8 life and things like that. Then he spent some time
9 talking about elementary sports.

10 Q. What did he say about elementary sports?

11 A. Well, he shared that he was going to sit in
12 kind of an elementary sports program because his sons,
13 back where they had -- growing up, had elementary sports
14 programs in their elementary school. His sons were --
15 children were upset that they couldn't have that here in
16 Sac City.

17 Q. Was elementary sports something over which the
18 parties were bargaining in the '16/'17 bargain?

19 A. Never been mentioned. I never heard it as an
20 issue in any of the community meetings we held. I never
21 heard of him bringing it up at a board meeting. It was
22 never discussed in bargaining. It was something that he
23 put out in his propaganda.

24 Q. Was anything else discussed on Saturday that
25 you can recall?

1 A. I remember him saying that his board didn't
2 know that he was there, that he needed to go talk to
3 them. He talked about the need to be more money and he
4 was going to go talk to his board.

5 Q. Did you take notes at that meeting?

6 A. I did.

7 Q. Could you turn to the smaller white binder in
8 front of you and open to tab No. 17?

9 A. Uh-huh.

10 Q. Do you recognize that one-page document?

11 A. Uh-huh.

12 Q. What is this?

13 A. My notes from the first day on Saturday at the
14 Mayor's house.

15 Q. Let's walk through this just so we're all clear
16 and there's no confusion about your handwriting?

17 A. Yes.

18 Q. Up at the top, it says VK. Do you know what
19 means?

20 A. I don't remember. I was making some sort of
21 initial note to myself. It had meaning at the time, but
22 I don't remember what it was.

23 Q. Okay. And then it says, vision. What does
24 that refer to?

25 A. That was referring that he did his vision

1 speech.

2 Q. He being the Superintendent?

3 A. The Superintendent, yes.

4 Q. And then below that, I'd like you to read it so
5 I don't mangle your notes?

6 A. I apologize for my handwriting. The 76 percent
7 in Fresno, I'm not sure what that referenced. The sons
8 we're going to play sports. That was about the
9 elementary sports issue that he was concerned about.

10 Q. Below that, it says, 1.5 percent --

11 A. Uh-huh.

12 Q. -- structural fixed. And then what does it say
13 after structural fixed?

14 A. We don't know. I think we went into our
15 explanation of how our salary structure needed -- our
16 current salary structure needs a fix and we went over
17 our salary structure.

18 Q. What does this reference, they don't know?

19 A. It could be about the cost of 1 percent. That
20 was what was said next. That was a long kind of
21 historical problem we had had in bargaining with the
22 District and their inability to cost 1 percent and
23 explain some of that history.

24 Q. Do you recall Superintendent Aguilar at this
25 Saturday, November 4th meeting saying anything about the

1 cost of one percent or the parties' dispute about that?

2 A. I'm sorry. I don't remember him saying
3 anything. I remember us referring to our frustrations
4 about it.

5 Q. Then there was a meeting the following day,
6 Sunday, the 5th?

7 A. Uh-huh.

8 Q. Again, it was the same participants, you and
9 Mr. Fisher and Mr. Borsos for SCTA, Superintendent
10 Aguilar for the district and the Mayor?

11 A. Uh-huh.

12 Q. And can you give us sort of an overview of what
13 was discussed at that meeting?

14 A. We were getting down to more specific concerns
15 and how to resolve things in the strike.

16 Q. The Union made a proposal regarding salaries?

17 A. Uh-huh.

18 Q. Who was actually speaking, making that
19 proposal?

20 A. John was our primary speaker.

21 Q. What do you recall John Borsos saying by way of
22 the Union's proposal for salaries?

23 A. Sure. He went over the salary structure that
24 we have been proposing since the beginning of
25 bargaining, since December 2016, that's the salary

1 structure that would be compressed to top out in
2 20 years, that would add a BA plus 60 and get rid of the
3 BA plus 103 so a person can move across more quickly and
4 also you had uniform amount that you would move down and
5 across percent -- a uniform percentage.

6 Q. Just to be clear, was there a proposal?

7 A. Yes, this was the same salary structure
8 proposal we had been presenting since the beginning of
9 bargaining.

10 Q. So apart from proposing the Union salary
11 structure -- salary schedule --

12 A. Uh-huh.

13 Q. -- Did Mr. Borsos make any other -- were there
14 any other components to the proposal that he made?

15 A. Yeah. We talked about his need to keep the
16 cost under 11 percent in the life of the contract. And
17 so John -- we talked about being able to do that by
18 back-loading the salary schedule. And then John went
19 into several different examples of his long history of
20 bargaining and creating salary schedules and our history
21 of back loading our most recent agreement.

22 So we talked about how in the past we had had
23 an agreement for 5 percent, but it -- we split it up
24 retro 2.5 back further. Then another 2.5 came in later,
25 so it really only cost the District 2.75 for the year of

1 the contract, right?

2 John also then went into there were ways to do
3 our salary structure and have a cost under 3.5 percent
4 by things like having individual caps. He went onto
5 explain kind of what that is like. Maybe someone moving
6 to the uncapped salary schedule, they would be entitled
7 to -- I don't know, I'll give an example -- \$15,000 or
8 15 percent increase. People would be capped. You know,
9 no one could make more than a certain percentage. That
10 would keep you under the 3.5 for that year.

11 Q. Let me stop you there. When you say for that
12 year, what are you referring to?

13 A. For the '18/'19.

14 Q. That was when there was going to be a cap?

15 A. Yes, we were discussing how to keep our salary
16 structure cost under 3.5 percent for that last year of
17 the contract.

18 Q. Did Mr. Borsos say anything at that meeting
19 about what would happen after the term of the contract?

20 A. Of course. That was part of the discussion.

21 Q. What did he say about what would happen after
22 the term of the contract?

23 A. We talked about -- this is an example of the
24 cap. Individual caps would come off the next year and
25 you would go onto the full salary structure after that.

1 We also talked about delayed implementation and
2 then we just would start later in the year of '18/'19 on
3 the full salary structure, so it would cost a
4 3.5 percent, but it would be more ongoing.

5 Q. As Mr. Borsos was explaining this on Sunday,
6 the 5th of November, do you recall whether
7 Superintendent Aguilar said anything regarding this
8 notion, the cap?

9 A. We were having a discussion about it. I don't
10 remember him asking specific questions. He was nodding
11 and engaging and making eye contact and engaging in the
12 discussion.

13 Q. At that November 5th meeting, was the issue of
14 Appendix D having to do with special education
15 discussed?

16 A. Yeah, I remember that very well.

17 Q. Why do you remember that very well?

18 A. Because special education was a really
19 significant issue to our members, to our District, to
20 our students.

21 Q. Do you recall anything that Superintendent
22 Aguilar said about the Appendix D issue?

23 A. He said he didn't really know much about it,
24 but he had heard of it, that he had heard parents
25 mention it a couple times at board meetings.

1 Q. Did you respond to that?

2 A. Yeah, I said something like I would think that
3 that's an issue that you really would want to have
4 resolved, I know we want it resolved. For inclusion,
5 it's a huge issue that we need to improve. Something
6 like that.

7 Q. Did you take notes that Sunday?

8 A. Uh-huh.

9 Q. Could you turn to tab No. 18, a two-page
10 document?

11 A. Uh-huh.

12 Q. Do you recognize this?

13 A. Uh-huh.

14 Q. What is this?

15 A. These are my notes from the second day.

16 Q. About two-thirds of the way down the first
17 page, I see something that looks like it says,
18 Appendix D.

19 A. Uh-huh.

20 Q. Could you read that so we are clear on what you
21 wrote?

22 A. It's a little hard to read my handwriting, but
23 "Appendix D, we think it should be a big issue for him."

24 Q. Him being?

25 A. The Superintendent. I have to say I was -- I

1 felt very frustrated that the Superintendent of our
2 District, who had been around since last spring, did not
3 grasp that special ed was a huge issue.

4 Q. Do these notes reflect any discussion about the
5 salary issue?

6 A. Uh-huh.

7 Q. Where's that?

8 A. It's further on. Let me see. Yes, it's past
9 CT permanency. That is what that means. We agreed to
10 further discussions about making SCTA teachers
11 permanent. RP is restorative practices, which was
12 another issue that's very very important to us. Then
13 you go to JA, that's Jorge Aguilar. Challenge with
14 board politics, stay within the fact-finder's report.

15 Q. Let me stop you there.

16 A. Uh-huh.

17 Q. Are these notes that you took of something that
18 Mr. Aguilar said?

19 A. Uh-huh.

20 Q. What do the notes reflect Mr. Aguilar saying at
21 that meeting?

22 MR. SIMMONS: Objection to the extent that it
23 calls for speculation as to what Mr. Aguilar meant by
24 that.

25 THE ARBITRATOR: Well, I don't want you to

1 speculate. Just tell us the words that he used with
2 respect to board politics and staying within the
3 fact-finder's report.

4 THE WITNESS: What he was expressing to us was
5 his need to keep the life of the contract under the
6 fact-finder's report.

7 BY MR. RUKEYSER:

8 Q. Okay.

9 A. That's what he needed to sell to his board.

10 Q. When you say under the fact-finder's report,
11 what are you referring to -- rather what did
12 Superintendent Aguilar explain at that meeting what he
13 meant by under the fact-finder's report?

14 A. We had discuss that it was 11 percent.

15 Q. Okay, moving down.

16 A. Uh-huh.

17 Q. Under the equation of 2-1/2 times 3 equals
18 7-1/2, can you read that next line?

19 A. Yes, "Salary fix in last year 3 percent --
20 3-1/2 percent cap."

21 Q. And then the next line?

22 A. "The rest comes in the next year, explanation
23 point."

24 Q. Does this reflect something that was said at
25 that meeting on Sunday?

1 A. Yes.

2 Q. Who said this?

3 A. We were saying it and Jorge was agreeing to it.

4 Q. The last line, can you read that into the
5 record?

6 A. "He said max exposure is 3-1/2 percent."

7 Q. Who is he?

8 A. He is Jorge.

9 Q. And this note, does that reflect something that
10 Mr. Aguilar said at that meeting?

11 A. Right.

12 Q. What does it reflect him saying?

13 A. We were talking about the 3-1/2 percent cap for
14 that last year and the rest comes in the next year. And
15 his concern was that his maximum exposure for the last
16 year was 3.5 percent for the '18/'19 school year.

17 Q. Okay. Several days later, you had a meeting at
18 the District office with Ms. McArn and Ms. Nguyen?

19 A. Uh-huh.

20 Q. Did you take notes at that meeting?

21 A. Yes.

22 Q. Before going there, can you just give us a
23 summary of what was discussed at that meeting, what
24 topics were discussed?

25 A. There was some bits and bobs and stuff that we

1 wanted to follow-up on the contract and, you know, of
2 course, we ended up talking about the salary structure.

3 Q. Okay. And who did most of the speaking for
4 SCTA?

5 A. John usually does.

6 Q. Okay. And what do you recall John --
7 Mr. Borsos saying at that meeting on November 8th
8 regarding the salary issues?

9 A. Well, first we discovered that the Chief of HR
10 and director of --

11 MR. SIMMONS: It's not responsive to the
12 question.

13 THE WITNESS: Well, it matters that the first
14 thing they relayed to us was they hadn't seen the
15 agreement.

16 BY MR. RUKEYSER:

17 Q. They being the District administrator?

18 A. -- Yes, who is the Chief of HR, who's the
19 highest person in bargaining and Cindy Nguyen -- I'm
20 trying to remember her title, but Director of Employee
21 Relations, he was also at the bargaining table.

22 Q. So with that context, what do you recall
23 Mr. Borsos saying about the salary issues?

24 A. Well, we went over the salary structure and
25 what we had agreed to with the Superintendent and the

1 3-1/2 percent cap in '18/'19 and then how it would
2 become uncapped after that.

3 Q. Do you recall either of those administrators,
4 Ms. McArn or Ms. Nguyen objecting to the Union's
5 explanation of the deal that had been struck days
6 before?

7 A. No.

8 Q. You took notes at that meeting?

9 A. Uh-huh.

10 Q. Why don't we turn to Association Exhibit 19?

11 A. Uh-huh.

12 Q. That's three pages of notes?

13 A. Sure.

14 Q. Are these yours?

15 A. Uh-huh. Yes, this is my bad handwriting.

16 Q. Are these notes that you took right then and
17 there in the meeting or some time later?

18 A. In the meeting.

19 Q. And if I can have you turn to the second page?

20 A. Uh-huh.

21 Q. I don't know, maybe half a dozen lines up from
22 the bottom?

23 A. Uh-huh.

24 Q. There's a line that begins -- looks like "last
25 thing." Do you see that?

1 A. Yes.

2 Q. Could you read that just so we're all on the
3 same page here?

4 A. Uh-huh. "Last thing, salary schedule issue got
5 resolved. Our salary scheduled structure for all of the
6 salary schedule."

7 Q. Let me stop you there.

8 A. Sure.

9 Q. Does that reflect something that was said at
10 that meeting?

11 A. Yes.

12 Q. Something Mr. Borsos said?

13 A. Yes.

14 Q. And then the next line, there's a C with a
15 circle around it. What does that indicate?

16 A. That's for Cancy.

17 Q. Ms. McArn?

18 A. Uh-huh.

19 Q. What follows that?

20 A. She said the December structure? And we said
21 yes. So referring to the -- we first made our structure
22 proposal in December of 2016.

23 Q. And then can you read the last two lines here?

24 A. "You can't fully load for 3.5 percent. The
25 need for 4.5 percent. We agreed to spend only 3.5

1 percent."

2 Q. And then going onto the next page?

3 A. "We discussed with Mayor and Superintendent."

4 Q. And then -- sorry to make you do this.

5 A. Yeah, sure.

6 Q. Do it slowly so the court report can take it
7 all down, but I'd like you to read this page just so
8 there's no confusion about your handwriting.

9 A. Uh-huh.

10 Q. If you could turn -- start in that line that
11 says -- the line right after, "Discussed with Mayor and
12 Superintendent"?

13 A. Sure. This is John explaining, "You take
14 across-the-board, 2.5 plus 2.5 plus 2.5. Our salary
15 schedule is based on E26 and all is calculated back from
16 there."

17 Q. E26 refers to a particular cell on the salary
18 schedule?

19 A. Yes, the top cell of our old schedule.

20 Q. Okay.

21 A. "E26 times 7.2 percent."

22 Q. Okay.

23 A. "Five percent for columns and 2.5 steps."

24 Q. When you say "five percent column, 2.5.
25 steps" --

1 A. Uh-huh.

2 Q. -- is that something that Mr. Borsos said?

3 A. Yes, it was specifically in -- it's our salary
4 structure.

5 Q. The one that you had been proposing to bargain?

6 A. Uh-huh. As you went across the columns, it
7 would be a 5 percent gain and if you went down, it would
8 be a 2-1/2 percent gain in steps.

9 Q. If you could continue reading so we're all on
10 the same page?

11 A. "You get a cap on 12 percent. It is in the
12 next year. You're fully loaded."

13 Q. Let me stop you there.

14 A. Uh-huh.

15 Q. This is again something Mr. Borsos said?

16 A. Yes.

17 Q. Were those his words, fully loaded?

18 A. Yes. He's giving the example of kind of an
19 individual cap. Say you're capped at 12 percent, the
20 most you can gain in the '18/'19 year, then it's fully
21 loaded the next year.

22 Q. What do you mean by fully loaded?

23 A. It's the full SCTA salary structure.

24 Q. Okay. And after fully loaded?

25 A. "Let us control cost going forward. In

1 '18/'19, you will have a very nice salary schedule to"
2 -- I assume it meant to hire people. Here's the
3 example. "Maybe I'm entitled to 17 percent to get to
4 the salary schedule, but capped at 12 percent and then
5 the next year you move onto the next."

6 Q. Again, is this an example -- does this reflect
7 an example that Mr. Borsos communicated verbally at that
8 meeting on December 8th?

9 A. Right. He was explaining the individual cap
10 concept.

11 Q. Okay. And then moving on?

12 A. Comment says, "You should think about how much
13 time you need for people to process it."

14 Q. Process it?

15 A. "How long does it take."

16 Q. What does this refer to, processing it?

17 A. Uh-huh.

18 Q. What is it?

19 A. Well, there was some other issues about being
20 able to know how much the new salary structure would
21 cost in '18/'19. They were years of experience,
22 unlimited years of experience and -- I'm sorry,
23 unlimited years of experience -- oh, and the BA plus 60.
24 There's no way to know who has a BA plus 60 unless you
25 go through people's files or people resubmit.

1 Q. Okay.

2 A. Plus there was the complication of the
3 mechanics of keeping the new salary structure being
4 under 3.5 percent.

5 Q. Okay. And then moving on after that?

6 A. Uh-huh.

7 Q. What does this say?

8 A. "The thought" -- I'm not quite sure what the
9 next word says -- "what you need may be 90 days."

10 Q. As you sit here now, do you have any
11 recollection of what these notes -- what those notes
12 that you just read reflect?

13 A. I think the District -- Cindy and Cancy were
14 saying maybe 90 days to figure out those things.

15 Q. And then the last line or two, what does that
16 say?

17 A. "Cindy 2, Cindy says, get the placement of all
18 members on the salary schedule position control." Cindy
19 was --

20 Q. Do you recall what that reflects?

21 A. This was the first we heard any questions about
22 and it was specifically about position control and how
23 they needed a salary schedule for everyone in order to
24 process the pay scale -- the paychecks. And that there
25 was a complication and Cindy Nguyen was kind of an

1 expert on that payroll stuff. So she seemed to have
2 identified that the individual cap concept was going to
3 be hard logistically for the District.

4 Q. So on these notes, you have written down
5 something that Ms. McArn said?

6 A. Uh-huh.

7 Q. On the bottom of page 2?

8 A. Uh-huh.

9 Q. Also, something that Ms. Nguyen said there at
10 the bottom of page 3?

11 A. Uh-huh.

12 Q. Apart from these notes reflecting things that
13 these administrators said, do you recall them saying
14 anything else in response to Mr. Borsos's explanation of
15 the salary deal?

16 A. No.

17 Q. Okay. And quickly, since we're cognizant of
18 the time, do you recall Mr. Borsos making any offers to
19 the Superintendent to help explain the salary deal?

20 A. Yes, John offered to go to the school board
21 with Jorge in the closed session and help explain the
22 salary structure and agreement.

23 Q. Are you aware of whether the Superintendent
24 ever responded to that offer?

25 A. He did not take it that well at all.

1 Q. Finally, there was a meeting at the District
2 offices on December 1st. We heard testimony about this.

3 A. Uh-huh.

4 Q. Were you in attendance at that meeting?

5 A. Uh-huh; yes.

6 Q. December 1st?

7 A. Oh, December 1st. I'm sorry. No, I was in
8 Seattle for a presentation.

9 Q. Were you briefed by your colleagues at SCTA on
10 that meeting that they had at the District offices on
11 December 1st?

12 A. Yes, I talked to David immediately after he
13 left the meeting.

14 Q. Okay. And did you take any notes --

15 A. Uh-huh.

16 Q. -- then about your -- based on your
17 conversation with Mr. Fisher?

18 A. Yes, I did take notes.

19 Q. Then why don't we turn to -- actually, before
20 we do that, what do you recall Mr. Fisher having told
21 you on December 1st about his meeting with District
22 administrators?

23 A. That he and John had run through the whole
24 salary structure spiel and the cap and idea of how that
25 would work.

1 Q. Who were they running it past, do you know?

2 A. Cancy McArn and Ms. Allen.

3 Q. Do you recall Mr. Fisher telling you anything
4 else about that meeting?

5 A. That they had -- didn't have any questions
6 about the salary structure and that -- oh, Cancy was
7 rehearsing what she was going to say to the board.

8 Q. Okay.

9 A. And that John again offered to help.

10 Q. Let's take a look at Association Exhibit 20,
11 the next page in there.

12 A. Uh-huh.

13 Q. Do you recognize this document?

14 A. Uh-huh.

15 Q. Okay. What is this?

16 A. This is my notes from talking to David on
17 December 1st.

18 Q. And again, why don't you read this since I
19 don't want there to be any confusion about your
20 handwriting?

21 A. It says, "Lisa and Cancy, SCE statigram,
22 present caps. Wrote a narrative on bottom. Cancy
23 rehearsed what she would say to the board. They didn't
24 react to next year. Delay it for a year. Cap maximum
25 for first year. Experience level submission.

1 Q. Okay. These are things that Mr. Fisher told
2 you?

3 A. Uh-huh.

4 Q. Just a couple questions about this. What did
5 you mean by "wrote a narrative on bottom"?

6 A. That John had prepared a document that had a
7 narrative at the bottom that had a salary structure.

8 MR. SIMMONS: I'm going to object. I'm
9 confused. My perception is this is a phone call from
10 Mr. Fisher to you. And so I want to make sure the
11 answer is what Mr. Fisher was telling her as opposed to
12 thought what --

13 MR. RUKEYSER: Fair enough.

14 THE WITNESS: Absolutely. He told me that John
15 had written a narrative on the bottom of the document.

16 BY MR. RUKEYSER:

17 Q. Did he explain what kind of a narrative this
18 was?

19 A. Explaining the cap concept.

20 Q. Okay. Cancy rehearsed --

21 A. What she would say to the board.

22 Q. What do you recall Mr. Fisher telling you in
23 that telephone conversation about this point here, about
24 Cancy rehearsing something?

25 A. Just that, that he had -- that Cancy had talked

1 with John and David about what to say to the board and
2 how to say it, rehearsed it.

3 Q. After that, "They didn't react to next year."
4 What did this reflect about your conversation with
5 Mr. Fisher?

6 A. That they didn't have any questions about the
7 next year being uncapped.

8 Q. They being?

9 A. Cancy and Lisa.

10 Q. Okay. Then "Delay it for a year. Cap maximum
11 for first year."

12 A. Uh-huh.

13 Q. What did Mr. Fisher tell you that resulted in
14 you writing those notes?

15 A. He was telling me what they had said to them.
16 They had explained that it would be delayed for a year.

17 Q. What would be delayed for a year?

18 A. The fully-loaded salary schedule.

19 Q. What about "Cap maximum for first year"?

20 A. That the cap maximum is referring to the
21 3.5 percent that we discussed over and over again would
22 be for the first year, the '18/'19, the first year of
23 the new salary structure.

24 Q. Finally last line there "Experience levels"?

25 A. Submission.

1 Q. What does that refer to?

2 A. They talked about how to resolve this maximum
3 -- I'm sorry, unlimited years of experience. And that
4 we would figure out some way for teachers to submit
5 their years of experience. We were concerned that
6 teachers wouldn't have -- because we had a maximum of
7 how many years, teachers wouldn't have even bothered to
8 get records of other years because it wouldn't have
9 counted. But now all of a sudden, it counted, so we
10 need to have a mechanism. So they talked about that.

11 MR. RUKEYSER: Okay. Thank you. I have no
12 further questions. But at this point, just so we're a
13 clear, I would like to move -- or confirm the movement
14 of all of these exhibit into the record.

15 THE ARBITRATOR: Yes, thank you. 1 through 20
16 have been received.

17 MR. RUKEYSER: Thank you, Mr. Arbitrator.

18 THE ARBITRATOR: Ready for cross or do you need
19 a moment?

20 MS. HAMOR: A quick moment. If you would.

21 THE ARBITRATOR: We are off.

22 (Whereupon a recess was taken.)

23 THE ARBITRATOR: All right. We're back on the
24 record. Cross-examination, please.

25

CROSS-EXAMINATION

1
2
3 By MS. HAMOR:

4 Q. Ms. Milevsky, how are you today?

5 A. Good, thank you.

6 Q. So I wanted to circle back to the beginning of
7 your testimony. You were talking about the
8 November 5th, 2017, meeting.

9 A. Sunday or Saturday?

10 Q. Sunday meeting?

11 A. Uh-huh.

12 Q. I believe it was a Sunday meeting. Correct me
13 if I'm wrong, please. You talked about how
14 Superintendent Aguilar gave his vision speech. Is that
15 the Saturday meeting?

16 A. That was Saturday.

17 Q. Okay. That was the Saturday meeting. Was that
18 also when you discussed the elementary sports program?

19 A. Yeah, that was part of it.

20 Q. So that's part of that, as well. Taking a look
21 then -- let's look at Joint Exhibit 1.

22 MR. RUKEYSER: That's the black binder.

23 MS. HAMOR: That's in the black blinder.

24 THE WITNESS: Okay.

25 BY MS. HAMOR:

1 Q. So we're back to the Framework Agreement. So
2 it was on Sunday that you discussed the salary proposals
3 with the District; is that right?

4 A. Yeah.

5 Q. The salary components of the Framework
6 Agreement? I heard you say that the information you
7 discussed related to a proposal that had been presented
8 since the beginning of bargaining, is that correct?

9 A. Uh-huh.

10 THE ARBITRATOR: You need to answer yes,
11 please.

12 THE WITNESS: It was December of 2016.

13 BY MS. HAMOR:

14 Q. Okay. When you say the beginning of
15 bargaining, you meant December of 2016?

16 A. Uh-huh. I clarified that.

17 Q. So my question to you is: Looking at the
18 bottom half of the first page of the Framework
19 Agreement --

20 A. Uh-huh.

21 Q. -- I see a couple things here. First of all,
22 if you could follow along with me. There's a 7/1/16 to
23 6/30/17 column that says 2.5 percent.

24 A. Uh-huh.

25 Q. To your understanding, when was that

1 2.5 percent meant to take effect?

2 A. The 2016/'17 school year.

3 Q. Okay. So at that point in time, it would be
4 retroactive?

5 A. Uh-huh.

6 Q. To what date in that school year?

7 A. July 1, 2016.

8 Q. Moving to the next column, the 2.5 percent
9 under the second column, when was that meant to take
10 effect?

11 A. 2000 -- sorry. 7/1/2016.

12 Q. July 1, 2017, is it -- in the second column?

13 A. Yes, that's what the Mayor's handwriting says.

14 Q. I agree, it's not the --

15 A. It's not as bad as mine.

16 THE ARBITRATOR: He was educated in this
17 District.

18 BY MS. HAMOR:

19 Q. And then looking over at the third column,
20 we've got, again, the same figure, right? We've got
21 2.5 percent and can you tell me when that is meant to
22 take effect?

23 A. 7/1/2018.

24 Q. So across-the-board in these three uniform
25 columns, we've got the 2.5 percent, each of which is, as

1 you testified, meant to take effect July 1st of that
2 respective year.

3 A. Uh-huh.

4 Q. Now, moving down below the 2.5 percent, I see a
5 3.5 percent number. I know we have been discussing that
6 all day, so it's not new to any of us. But tell me when
7 that was meant to take effect?

8 A. It was to be within the '18/'19 school year.

9 Q. And specifically July 1, 2018; is that correct?

10 A. No. It was to be used in the '18/'19 school
11 year to do our proposed salary structure.

12 Q. Now, why is that -- why is the number above
13 that effective July 1, 2018, but that number is not --
14 because to my eye, they fall in the same column?

15 MR. RUKEYSER: Objection; argumentative.

16 MS. HAMOR: I think it's a fair -- it's a fair
17 question.

18 THE ARBITRATOR: I think she can answer -- I
19 think the witness can answer that question. Why didn't
20 they not specify as they did for the 2.5 that it ran
21 from 7/1/18 to 6/31?

22 THE WITNESS: They just made the columns and
23 then they were already on the paper and he was trying to
24 make it -- get everything written down.

25 THE ARBITRATOR: Okay.

1 THE WITNESS: I remember him writing both
2 statements. I think he was just finding a place to put
3 them.

4 BY MS. HAMOR:

5 Q. So based on the face of this document as I look
6 at it --

7 A. Uh-huh.

8 Q. -- can you explain to me how I would know that
9 the number -- the 2.5 number, which falls in the exact
10 same column as the 2.5 percent number was not meant to
11 take effect on the exact same date?

12 MR. RUKEYSER: Same objection. It also calls
13 for speculation about what the Mayor was intending.
14 This isn't a question about why or how Ms. Milevsky
15 interprets it this way. It's a question about why did
16 the drafter drafted it in this particular way.

17 MR. SIMMONS: She is doing --

18 MR. RUKEYSER: Well, it's one counsel or
19 another.

20 MR. SIMMONS: She's doing direct. We talked
21 about the Mayor earlier today. All right? So the Mayor
22 is not here. All parties signed this. I think the
23 question as to the -- there's been plenty of testimony
24 that everybody sat around when all three were signed.
25 To suggest that this question shouldn't be answered as

1 to one of the three witnesses because the Mayor wrote
2 the document, I think --

3 MR. RUKEYSER: It's argument. Save it for your
4 brief.

5 THE ARBITRATOR: The problem here, is there's
6 an ambiguity. You know, we have the dates up in the
7 top. We didn't repeat the dates where the 3.5 percent
8 appears. Now, admittedly when I called to interpret an
9 ambiguity, it's not quite in this format. But
10 nevertheless, it's an ambiguity. It can be addressed by
11 adding whatever the discussion was at the Mayor's home
12 concerning that 3.5 and the witness is certainly there
13 and she can testify as to what was said. But, you know,
14 that's the best that we can do. So I'll ask you to
15 redirect your question to the witness.

16 MS. HAMOR: Thank you.

17 BY MS. HAMOR:

18 Q. So looking at the face of this document as it
19 appears to us, how would one know, looking at the face
20 of the document, that the two numbers in the exact same
21 column, one above the other, are meant to be effective
22 on different dates?

23 A. I don't know what was going through the Mayor's
24 mind in his visual spacial allotment on the page. But I
25 do know what we've been discussing and we were

1 discussing ad nauseam about there being the Union
2 proposed salary structure and that we would figure out a
3 way to keep that cost capped under 3.5 percent for the
4 '18/'19 school year and when it would go into full
5 effect.

6 Q. Looking below, I see -- we were talking about
7 the 3.5 number and then to the left of that, it says,
8 adjustment to salary schedule. Do you see that piece
9 there?

10 A. Uh-huh.

11 Q. "Adjustment to Union proposed salary
12 structure"?

13 A. Uh-huh.

14 Q. So I understand then those are both on the same
15 set of lines on this document?

16 A. Uh-huh.

17 Q. And those are meant to interact with one
18 another; is that correct?

19 A. Certainly is what we discussed.

20 Q. So one interacts with the other. So going back
21 to your statement now that we have covered that, that
22 the salary structure -- proposed structure that was
23 contemplated at the time of this meeting, was the one
24 that was the December salary structure; is that correct?

25 A. Uh-huh.

1 Q. Okay. Again, the same question for the purpose
2 of helping us interpret this document, how would one
3 know -- I -- we can -- as we discussed earlier, we can
4 look at the document. We can see that it's not
5 incorporated. Do you agree with that?

6 A. Say that again?

7 Q. Do you agree that the proposed salary structure
8 that you are alleging the Union had in mind is not
9 incorporated with this document; is that correct? It's
10 not attached, we can agree to that?

11 MR. RUKEYSER: Speaks for itself.

12 MS. HAMOR: Right, okay.

13 BY MS. HAMOR:

14 Q. So again, same question. How would one know,
15 looking at the face of this document, this specific
16 salary structure, was meant to be incorporated herein?

17 A. Because it says Union Proposed Structure and
18 that is exactly what we discussed.

19 Q. Okay. So -- I'm sorry, you testified you have
20 been working in the collective bargaining world for how
21 long now? I apologize. I missed that?

22 A. Bargaining since 2012, '13.

23 Q. Okay. So in my experience -- and correct me if
24 there's a difference -- a salary structure is not a
25 vague concept; would you agree with that? It has

1 numbers and figures and rows, a variety of variables on
2 it; is that correct in your experience?

3 A. Our salary structure proposal, yes.

4 Q. And those numbers and figures within a
5 proposal, within the grades can change over time. Would
6 you agree with that, as well?

7 A. I am not entirely sure what you mean. We had a
8 salary structure that entailed what the salary structure
9 would be.

10 Q. Uh-huh.

11 A. And over time, they were different across the
12 board. That did change the numbers in the cells, but
13 the structure was exactly the same and the same
14 percentage and the same years to top out and the same
15 columns.

16 Q. Okay. There's -- I hear you testifying,
17 though, that there is inevitably some variables
18 occurring in the costs that will change over time,
19 correct?

20 A. There were issues in regards to placement on
21 the salary schedule.

22 Q. But that was --

23 A. It's cost over time.

24 Q. So to circum back to my earlier question, given
25 that that's not inadmissible in a stagnant document, how

1 is that -- as I sit here today, I don't know. So my
2 question is how is one to know which salary structure is
3 meant to be incorporated herein?

4 A. I guess, I am not sure what you mean by
5 moveable. That is not an immovable document. It was a
6 salary structure that had very precise cells that had
7 been talked about since December 2016.

8 Q. Okay. So if we had a copy of your notes from
9 that meeting, I believe that was --

10 A. Which meeting?

11 Q. Exhibit from the November -- thank you, the
12 November 5, 2017, meeting. I believe that is
13 Exhibit 18, correct?

14 A. Uh-huh; yes.

15 Q. I'm trying to align my notes with what is
16 written on the page here.

17 A. I'm sure you can't read my handwriting.

18 Q. So I understood -- I'm looking now at the
19 second page of Union Exhibit 18 for the record.

20 A. Uh-huh.

21 Q. I understood you to testify that looking at the
22 -- specifically at the part of the page saying that the
23 rest comes in the next year, exclamation point.

24 A. Uh-huh.

25 Q. I understood you to testify that Superintendent

1 Aguilar said that; did I get that correct? That's your
2 writing?

3 A. Right.

4 Q. Tell me where that came from?

5 A. That was what John was saying about the salary
6 structure.

7 Q. Okay. And so that's what --

8 A. It's what we were agreeing to.

9 Q. Thank you. So that's John's statement and I
10 have written down that you said -- or it is your
11 understanding the Superintendent agreed to that; is that
12 correct?

13 A. Uh-huh.

14 Q. Tell me how specifically he agreed to that
15 statement?

16 A. I can't remember really what he said or, you
17 know, his body language. I'm sitting there looking at
18 him and he is affirming to me by the way he looks and
19 nodding or whatever, I'm interpreting he is agreeing to
20 that. Plus he's not saying he doesn't agree to it or
21 propose anything else or discussing anything else.
22 That's what we talked about. And that's what we wrote
23 down -- or Darrell wrote down.

24 Q. So there is no expressed agreement from what
25 I'm hearing you say on the part of the Superintendent?

1 MR. RUKEYSER: Objection to the extent it calls
2 for a legal conclusion.

3 THE ARBITRATOR: Well, it -- rephrase the
4 question. By expressed, are you saying he didn't. Did
5 the Superintendent say, I agree?

6 MS. HAMOR: Correct; yes.

7 THE ARBITRATOR: So did that happen? He never
8 said, I agree.

9 THE WITNESS: Sorry, I'm not remembering saying
10 I agree. It was an indication.

11 THE ARBITRATOR: He didn't say I don't agree.

12 THE WITNESS: He absolutely didn't say he
13 didn't agree. He didn't ask any questions and he didn't
14 have any further conversation and that was when we moved
15 on to write it down and agree upon and initial, move
16 forward with.

17 THE ARBITRATOR: So let me ask you this: In
18 terms of these notes that you're taking --

19 THE WITNESS: Uh-huh.

20 THE ARBITRATOR: -- this is based on
21 conversations --

22 THE WITNESS: Uh-huh.

23 THE ARBITRATOR: -- that was occurring between
24 the parties?

25 THE WITNESS: Uh-huh.

1 THE ARBITRATOR: John was doing most of the
2 talking on behalf of the SCTA?

3 THE WITNESS: Uh-huh.

4 THE ARBITRATOR: And the Superintendent wasn't
5 saying as much as John was saying, but he did say
6 something, which you noted in your notes?

7 THE WITNESS: Yeah, he was engaged in the
8 conversation.

9 THE ARBITRATOR: And made eye contact?

10 THE WITNESS: Uh-huh.

11 THE ARBITRATOR: Was all of this conversation
12 that you made notes on before the Mayor took pen in hand
13 and began to write out the structure -- what is it
14 called, the frame agreement -- Joint Exhibit 1 --

15 THE WITNESS: That's my memory.

16 THE ARBITRATOR: Framework Agreement.

17 THE WITNESS: That's my memory, that it was --

18 THE ARBITRATOR: You discussed all this and you
19 took notes and then the Mayor sat down and started
20 writing this Framework Agreement out?

21 THE WITNESS: That's what I recall.

22 THE ARBITRATOR: And these notes don't reflect
23 anything that might have been said as the Mayor was
24 writing that Framework Agreement out, to the best of
25 your recollection? I'm just trying to get the sequence.

1 That's all I'm concerned about. If you can't recall,
2 that's okay too. I understand.

3 THE WITNESS: I can't be entirely sure.

4 THE ARBITRATOR: Okay. All right. Let's go
5 on. Thank you.

6 BY MS. HAMOR:

7 Q. Thank you. And so I -- there's one other thing
8 I want to follow up on this page. I see it says, salary
9 in the last year?

10 A. The rest comes in the next year.

11 Q. It says, salary in the last year, 3 percent
12 cap. What did you mean by that word "cap"?

13 A. So that was the cap that we discussed that we
14 needed to cost the 3.5 percent for the last year, the
15 contract for '18/'19. So we discussed how to cap it at
16 that cost for '18/'19.

17 Q. It's your -- thank you. So looking at or
18 turning to the November 8th meeting, I believe you had
19 some notes from that meeting?

20 A. Okay.

21 Q. Tab 19 of the exhibit. So coming out of the
22 Framework Agreement, was it your understanding that this
23 was the framework of an agreement as to multiple terms
24 that needed to later be worked out after it was signed?

25 A. There were -- there was just a Framework

1 Agreement and then there were bits and bobs that needed
2 to be worked out.

3 Q. Bits and bobs?

4 A. Uh-huh.

5 Q. Was one of the bits and bobs related to the
6 adjustment of the salary structure?

7 A. Only the mechanics of making a cost under --
8 containing the cost of 3.5 percent for the '18/'19
9 school year.

10 Q. So that's -- yes, that's one of the pieces
11 related to the certificated salary structure, correct?

12 A. It was how to make it cost under 3.5 for the
13 last year.

14 Q. Is that a "yes"?

15 A. Yes. It included the unlimited years of
16 experience and finding out who is BA plus 60.

17 Q. So going into the November 8th meeting, there
18 was not a set salary structure that the parties had
19 agreed to, correct?

20 MR. RUKEYSER: Objection; misstates testimony.

21 THE ARBITRATOR: I think your question is a
22 little ambiguous, so would you rephrase it?

23 BY MS. HAMOR:

24 Q. Sure. Going into the November 8th meeting --

25 A. Uh-huh.

1 Q. -- there were still details that needed to be
2 worked out regarding adjustment to the certificated
3 salary structure, correct?

4 A. The implementation of the 3.5 percent cap in
5 the '18/'19 school year.

6 Q. Only the implementation?

7 A. Including the unlimited years of experience and
8 who has a BA plus 60.

9 Q. So there are multiple factors that needed to be
10 worked out, correct?

11 A. Those factors, yes.

12 Q. So my question is: Although I understand --
13 and correct me if I'm wrong -- there's a position that a
14 set salary structure was agreed to. I heard you testify
15 at the same time earlier and similarly just now, that
16 there's no way to know -- there was no way to know as of
17 the 8th who had BA plus 60. Is that correct, that you
18 didn't have that information on November 8th?

19 A. True.

20 Q. Okay. So isn't it true there were -- well, let
21 ask you another question. Is who has a BA plus 60 an
22 essential element of the cost of that salary structure?

23 A. Yes, it would impact. We needed to implement
24 and how we could implement the 3.5 cap in '18/'19,
25 basically individual cells.

1 Q. So going into the November 8th meeting, there
2 were essential elements related to that cost that still
3 had not yet been worked out on the salary structure; is
4 that right?

5 A. There were those factors that you couldn't know
6 without looking through personnel files and stuff like
7 that.

8 Q. So in the sense of, you know, you go to a --
9 well, let me do this. Give me one moment -- strike
10 that.

11 Let me move on. Okay. I'm going to give you a
12 document here.

13 THE ARBITRATOR: Thank you.

14 MS. HAMOR: There you go.

15 BY MS. HAMOR:

16 Q. This is what I understand to be a SCTA
17 Messenger. Would you take a look at it and let me know
18 if you recognize it?

19 A. Uh-huh. Yes, I do.

20 Q. You do recognize it?

21 A. Uh-huh.

22 Q. Okay. I see your name at the -- return to the
23 very last page of this document. I see your name as one
24 of the signatories -- I mean electronic signature to the
25 document; is that correct?

1 A. It is often that we end messages like this.

2 Q. Can you turn to page 2?

3 A. Uh-huh.

4 Q. And I would first note for the record, this is
5 an SCTA Messenger that is undated. However, if we look
6 at the very top line under where it says, Dear Nikki?

7 A. Uh-huh.

8 Q. It says, "This morning our bargaining approved
9 an agreement reached with the District." Do you see
10 that?

11 A. Uh-huh.

12 Q. So would you agree -- this looks to me like it
13 was sent out likely on November 5th, 2017; does that
14 seem accurate to you?

15 A. It was sent out as quickly as possible after we
16 got back from the press conference down at City Hall, to
17 my memory. Uh-huh.

18 Q. Looking at page 2, item 2.

19 A. Uh-huh.

20 Q. Can you read into the record, please, just part
21 C of that and go -- go ahead and read that, if you
22 would, please?

23 A. "Effective July 1, 2018, 2.5 percent across the
24 board, plus revised salary schedule valued at additional
25 3.5 percent. This will result in a minimum 3.5 -- I

1 mean, 7.5 percent increase from the top and bottom of
2 the salary schedule, considerably more for others.
3 Total wages are 11 percent over three years, although
4 the actual amount of any individual will receive may
5 vary based on the placement on the new salary schedule."

6 Q. Thank you for reading that.

7 A. Uh-huh.

8 Q. So as I read this, it does not talk about a
9 cap. Does not use the word cap, does it?

10 A. I don't see it, no.

11 Q. And it doesn't discuss delayed implementation,
12 does it?

13 A. No.

14 Q. Does it discuss that there may be options for
15 different sorts of implementation?

16 A. No.

17 Q. The other thing I read here is that it says the
18 total wages are 11 percent over 3 years.

19 A. Over 3 years.

20 Q. What does that mean to you?

21 A. It means that the total percentage increase
22 over the three-year life of the contract is 11 percent.

23 Q. Okay. So does that factor in the 2.5 -- the
24 three 2.5 percent increases?

25 A. Uh-huh.

1 Q. All right. And how do you get to 11 percent
2 from there?

3 A. That doesn't add up.

4 Q. I acknowledge it's an obvious question.

5 A. 7.5 plus the 3.5 is 11 percent and that's what
6 Jorge needed as a cost to stay under that for the three
7 years of the contract.

8 Q. Is it your understanding -- typically, if we
9 look at, for instance, this 2.5 in 16, that was
10 prospective and stayed on the salary structure, correct,
11 that amount?

12 A. Uh-huh.

13 Q. And then is that the same for 2017, that
14 2.5 percent amount is prospective on the salary
15 structure into the future?

16 A. Uh-huh.

17 Q. And is that same for 2018 for the 2.5
18 prospective into the future on the salary structure?

19 A. Across the board, yes.

20 Q. But are you saying the 3.5 is meant to be --
21 the 3.5 percent piece of this 11 was meant to be a cap
22 that's crossed off at the end of the contract; is that
23 right?

24 A. 3.5 percent for the '18/'19 school year for the
25 life of the contract.

1 Q. But that's not what this says. This says that
2 the wages are 11 percent. So I'm asking you how -- how
3 would one know that 3.5 percent of that essentially
4 dropped off because it's a cap as opposed to an
5 application to the overall salary structure?

6 A. It doesn't drop off. It keeps going. It's
7 11 percent over the three years and that's ongoing.

8 Q. And then after the end of the contract period,
9 I'm assuming that these three 2.5 percent increases stay
10 on the salary structure, correct?

11 A. Uh-huh.

12 Q. But I am hearing from you, 3.5 only applies in
13 the last contract year?

14 A. 3.5 applies to the new salary structure. It
15 would only cost 3.5 percent for '18/'19, keeping the
16 whole total for three years of the contract to be
17 11 percent.

18 Q. So you're saying this was meant to be -- this
19 piece was meant to be separate from the rest of the
20 11 percent?

21 A. I'm not sure what you mean by that.

22 Q. I will move on. Then I have one more. It is a
23 document I would like to hand out here.

24 THE ARBITRATOR: Everybody get a copy? I have
25 an extra here.

1 BY MS. HAMOR:

2 Q. And so before -- just one more quick question
3 about the last -- the SCTA Messenger we were just
4 discussing. Before we move onto the next is, does it,
5 looking at part -- page 2, No. 2-C, does the Messenger
6 mention that the cap you're talking about comes off in
7 2018/'19?

8 A. I think that talk about '19/'20. It doesn't
9 say anything about that.

10 Q. So it does not mention that the cap comes off
11 in '18/'19, correct?

12 A. It doesn't say that. It says the salary
13 schedule.

14 Q. For '19 -- it comes off for '19/'20?

15 A. There is nothing here that says the 3.5 percent
16 comes off for '19/'20.

17 Q. For '19/'20.

18 MR. RUKEYSER: Please let the witness finish?

19 MS. HAMOR: Sure. Sorry about that. My
20 apologies.

21 BY MS. HAMOR:

22 Q. So moving to the second SCTA Messenger that I
23 just handed out.

24 A. Uh-huh.

25 Q. I'd like to turn to the second page of this.

1 This will be brief. Looking at the -- halfway down the
2 first paragraph there?

3 A. Uh-huh.

4 Q. If you could just read where it starts with,
5 "In addition to across the board." If you wouldn't mind
6 reading that into the record, please.

7 A. Give me a second.

8 Q. Sure.

9 A. I'm familiarizing myself with this. So you
10 want me to read from where?

11 Q. Do you recognize this Messenger, let me just
12 ask you first?

13 A. It has a SCTA logo at the top?

14 Q. Okay.

15 A. Yes.

16 Q. Does this look like something that was
17 distributed around or do you know when this was
18 distributed?

19 A. I don't know.

20 Q. Can you read the second part of this paragraph,
21 please, at the top of the second page?

22 A. The major reason is the inequity in our salary
23 schedule, our new agreement fixes that. For the first
24 time in many years, next year, all or almost all of our
25 students can be taught by fully credentialed students

1 (sic). In addition to across-the-board wage increases
2 of 2.5 percent retroactive to July 1, 2016, another 2.5
3 retroactive to July 1, 2017, and another 2.5 percent
4 effective on July 1, 2018, the District has committed an
5 additional 3.5 percent, approximately 8 million to
6 restructure the salary schedule effective on July 1,
7 2018, adding significant raises to the middle ranges of
8 our salary schedule so that our experienced teachers can
9 remain in Sacramento City.

10 Q. Thank you. So just to clarify as with the
11 other, does this discuss delayed implementation?

12 A. It doesn't go into the details.

13 Q. Does it discuss a cap that comes off in '19/'20
14 year?

15 A. No, it does not.

16 Q. Okay. Finally, just as to Exhibit 20 that was
17 entered into -- or that was referenced to the Union's
18 case, we just wanted to note for the record briefly that
19 we would generally object to this record -- object to
20 this exhibit on the grounds it is double hearsay.

21 I understand this is your account of
22 Mr. Fisher's minutes at a meeting; is that correct?

23 A. Uh-huh.

24 MS. HAMOR: So I generally object to that and
25 associated line of testimony on the same?

1 MR. RUKEYSER: To which the Union would respond
2 that this has been testified to that this is a
3 contemporaneous record and it's being offered as
4 corroborating evidence.

5 THE ARBITRATOR: Your point might go to the
6 fact that these words were uttered by David to Nikki --

7 MR. RUKEYSER: That's correct.

8 THE ARBITRATOR: -- in a telephone
9 conversation. And she took these down, so that adds
10 some veracity to what it was she heard. But it still
11 doesn't change the fact that what was actually stated at
12 the table or at this meeting on 12/2, I guess it is of
13 '17, it's still hearsay.

14 MR. RUKEYSER: That's absolutely correct. We
15 are offering that at least part 2 corroborate other
16 testimony.

17 THE ARBITRATOR: The tradition in arbitration,
18 I'm not responsible for this. It happened off my watch
19 many years ago. Hearsay is received and it's just
20 routine. It's part of the tradition, part of the
21 tradition of law of arbitration that you receive all
22 this information. I can't do anything with it, but I'll
23 receive it.

24 MS. HAMOR: I have nothing further. Thank you.

25 THE ARBITRATOR: Anything further on redirect?

1 MR. RUKEYSER: Did you have any more questions?

2 MS. HAMOR: No.

3

4 REDIRECT EXAMINATION

5

6 BY MR. RUKEYSER:

7 Q. Nikki, you've just been questioned about two
8 SCTA e-mails.

9 A. Uh-huh.

10 Q. Did you write these e-mails?

11 A. No.

12 Q. Do you know who did?

13 A. John did.

14 Q. Okay. If I can have you look at the second of
15 the two e-mails that counsel just asked you some
16 questions about. On the second page, up at the top,
17 there is some text in bold font.

18 A. Uh-huh.

19 Q. It says, "The major reason is the inequity of
20 our salary schedule."

21 A. Uh-huh.

22 Q. The next sentence says, "Our new agreement
23 fixes that."

24 A. Uh-huh.

25 Q. What was your understanding at that time of how

1 the agreement fixed the inequity of the salary schedule?

2 A. It fixed it because it was our salary
3 structure.

4 Q. I'm sorry, because what?

5 A. It fixed it because it was our salary
6 structure.

7 Q. What was your salary structure?

8 A. What we had agreed upon with the
9 Superintendent.

10 Q. And turning back to the meeting at the
11 Sacramento Mayor's house on Sunday, the 5th, I just want
12 to be clear. Did Superintendent Aguilar himself make a
13 proposal at that meeting regarding the salary issue?

14 A. It was our proposal for the salary structure.
15 It was -- for him, it was needing to stay within the
16 11 percent for the life of the contract.

17 Q. Let me ask you very specifically, you testified
18 the Mr. Borsos explained the Union proposal?

19 A. Uh-huh.

20 Q. After Mr. Borsos explained that, did
21 Mr. Aguilar ever counter that with his own
22 counter-proposal?

23 A. No.

24 Q. And prior to Mr. Borsos explaining the Union's
25 proposal regarding salaries?

1 MR. SIMMONS: I apologize. But I object to the
2 extent that counter-proposal is vague and ambiguous as
3 to -- I don't know what you thought the counter would
4 be, but I think in many ways through the negotiations,
5 whether he was asking for in that contract, whether or
6 not it's a structural counter, it is a counter to what
7 is being proposed. I think it's vague and ambiguous to
8 ask was there a counter-proposal made by Mr. Borsos.

9 THE ARBITRATOR: You can rephrase it, I think.

10 MR. RUKEYSER: Sure.

11 BY MR. RUKEYSER:

12 Q. After Mr. Borsos explained the Union's
13 proposal, did Superintendent Aguilar himself offer any
14 idea about how the parties could solve their
15 disagreement regarding salary?

16 A. He did not offer any other idea.

17 Q. Before Mr. Borsos explained the Union's idea or
18 how to fix the salary dispute, had Superintendent
19 Aguilar himself offered any ideas about how that salary
20 dispute could be fixed?

21 A. No, he did not.

22 Q. Thank you. I have no further questions.

23 THE ARBITRATOR: Any further recross issues?

24 MS. HAMOR: Nothing further.

25 THE ARBITRATOR: All right. Thank you very

1 much. We appreciate your testimony.

2 THE WITNESS: Thank you.

3 THE ARBITRATOR: All right. I have to ask a
4 question, but you want to confer before I ask it or are
5 you resting your case?

6 MR. RUKEYSER: The Union is resting its Case in
7 Chief.

8 THE ARBITRATOR: Fair enough. We didn't finish
9 quite as early as we hoped. That's not to say -- that's
10 not being critical of you. Everybody does this. So
11 we'll reconvene. What is a good hour?

12 MR. RUKEYSER: Well, this --

13 THE ARBITRATOR: We can go off the record for
14 this housekeeping.

15 (Concluded at 5:22 p.m.)

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1 REPORTER'S CERTIFICATE

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I, WENDY HARRITY, CSR NO. 11494, Certified
Shorthand Reporter, certify:

That the foregoing proceedings were taken before
me at the time and place therein set forth;

That the proceedings were recorded
stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct
transcript of my shorthand notes so taken.

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

I declare under penalty of perjury under the laws
of California that the foregoing is true and correct.

Dated this 11th day of March, 2019.



WENDY HARRITY, CSR No. 11494

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