

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA (ALLENTOWN)

3 KHADIDJA ISSA, : 5:16-cv-03881-EGS  
4 Plaintiff, : PHILADELPHIA, PA  
5 vs. :  
6 THE SCHOOL DISTRICT OF :  
7 LANCASTER, : April 16, 2016  
8 Defendant. : 1:29 p.m. to 5:27 p.m.

9 TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING  
10 BEFORE THE HONORABLE EDWARD G. SMITH  
11 UNITED STATES DISTRICT JUDGE

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15			
	8	Description of the ESL	*
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(\* Marked prior to the start of the proceeding.)

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1 DEPUTY CLERK: All rise. United States District  
2 Court for the Eastern District of Pennsylvania is now in  
3 session. The Honorable Edward G. Smith presiding.

4 THE COURT: You may be seated. Thank you. The  
5 Court is called to order. All parties previously present are  
6 once again present. Counselor will you be calling the next  
7 witness?

8 MS. MOON: Yes, Your Honor, Kristina moon for  
9 the plaintiffs and we call Khadidja Issa.

10 THE COURT: Very well. And I understand my  
11 court officer is going to have to contact the interpreter  
12 through the telephone?

13 MS. MOON: That's right, Your Honor.

14 THE COURT: Very well. And you can have a seat  
15 for now until we get the interpreter. How are you?

16 THE WITNESS: Good afternoon.

17 THE COURT: Good afternoon.

18 THE WITNESS: My name is Khadidja.

19 THE COURT: And we can't promise this technology  
20 will be quick.

21 MS. MOON: Okay.

22 - - -

23 (CALL PLACED TO INTERPRETER)

24 - - -

25 THE COURT: And there is a possibility because

1 of this -- the way this system works it won't register those  
2 key strokes, you might have to have it done on a regular phone  
3 and transfer it in here.

4 - - -

5 (CALL PLACED TO INTERPRETER)

6 - - -

7 THE COURT: Now, Attorney Kulick, you're going  
8 to swear the interpreter first. It is quite amazing that you  
9 can get an interpreter through the phone.

10 ESR OPERATOR: Yes.

11 THE COURT: Almost there.

12 - - -

13 (WAITING FOR THE INTERPRETER)

14 - - -

15 INTERPRETER: Hello.

16 ESR OPERATOR: Hello, this is Jamie Kulick with  
17 Judge Edward Smith and you are on speaker phone in the  
18 courtroom. I'm going to proceed with swearing you in. Is  
19 this Susanne Abdalla?

20 INTERPRETER: Yes.

21 ESR OPERATOR: Would you please raise your right  
22 hand.

23 INTERPRETER: Mm-hmm.

24 - - -

25 (SUSANNE ABDALLA, INTERPRETER - SWORN)

1 - - -

2

3 INTERPRETER: I do.

4 THE COURT: And ma'am, would you please state  
5 your full name?

6 INTERPRETER: My name is Susanne Abdalla.

7 THE COURT: Very well. Counsel you may proceed.  
8 Oh, we got to swear the witness, first. One moment, please,  
9 I'm sorry.

10 ESR OPERATOR: Would you please raise your right  
11 hand?

12 THE WITNESS: My name is Khadidja.

13 - - -

14 (KHADIDJA ISSA - SWORN)

15 - - -

16 MS. MOON: Interpreter you can begin  
17 interpreting as we swear in the witness, please.

18 INTERPRETER: Mm-hmm.

19 - - -

20 (KHADIDJA ISSA - SWORN)

21 - - -

22 INTERPRETER: Okay.

23 THE COURT: And also if at any time you do not  
24 understand what is being said please stop us; okay?

25 THE WITNESS: Okay. Okay.

1 THE COURT: Counselor you may proceed. Thank  
2 you.

3 MS. MOON: Thank you, Your Honor.

4 - - -

5 EXAMINATION

6 - - -

7 BY MS. MOON:

8 Q. Khadidja, could you please scoot your chair to the  
9 front so that you're closer to the microphone and we can all  
10 hear you clearly?

11 A. Okay.

12 THE COURT: And please try to keep your voice up  
13 as loud as possible.

14 BY MS. MOON:

15 Q. Okay. And we need you to answer in complete words  
16 rather than mm-hmm, okay? Do you understand that?

17 A. Okay.

18 Q. All right.

19 THE COURT: Would -- maybe, Miss, would you  
20 please state and spell your name for the record?

21 THE WITNESS: Okay. My name is Khadidja Adam  
22 Issa [indiscernible].

23 THE COURT: And how do you spell your name?

24 THE WITNESS: K-H-A-D-I-D-J-A, Adam, A-D-A-M,  
25 Issa, I-S-S-A.

1 THE COURT: Thank you very much. Counselor you  
2 may proceed.

3 MS. MOON: Thank you.

4 THE WITNESS: You're welcome.

5 BY MS. MOON:

6 Q. Khadidja, what is the first language that you learned  
7 to speak?

8 A. [Indiscernible] is with language for --

9 INTERPRETER: She responded in English.

10 MS. MOON: Yeah, so --

11 INTERPRETER: I can't really hear her. Can she  
12 raise her voice?

13 BY MS. MOON:

14 Q. Khadidja, we need you to speak loudly and into the  
15 microphone so that the interpreter who's on the phone can hear  
16 you clearly; okay?

17 A. Okay. Okay.

18 Q. Okay. And because it's important that you fully  
19 understand we want you to wait for the interpreter to  
20 translate so that we're sure that we get your complete  
21 response.

22 A. Okay.

23 Q. All right. So you said that the first language you  
24 speak is Fur. Is there another language that you're  
25 comfortable speaking?



1 A. Arabic.

2 Q. And where did you learn Arabic?

3 A. I learned at school.

4 Q. Where was this school that you learned Arabic?

5 A. I learned at school.

6 Q. Where was this school that you learned Arabic?

7 A. In Chaad.

8 Q. Where were you born, Khadidja?

9 A. I was born in Sudan.

10 Q. Why did your family leave Sudan?

11 A. Because of the extreme heat and the insecurity.

12 Q. Can you explain what you mean by insecurity? What was  
13 happening in the country?

14 A. There was problems with the President Omar Bashir.

15 Q. Okay. And how old were you when your family first left  
16 home in Sudan?

17 A. I was five years.

18 Q. Where did you live after leaving home at five years  
19 old?

20 A. We went to Chaad.

21 Q. And in Chaad were you living in a refugee camp?

22 A. Yes.

23 Q. How old were you when you left the refugee camp in  
24 Chaad?

25 A. I left the camp, IDP [ph] camp in Chaad when I was 17

1 years old.

2 Q. Okay. And where did you go when you left Chaad?

3 A. We came to the states.

4 Q. And where in particular in the United States?

5 A. Lancaster.

6 Q. When you were living?

7 A. Pennsylvania.

8 Q. Yes. When you were living in refugee camps you said  
9 that you learned Arabic in school; is that right?

10 A. Yes.

11 Q. And did you study anything else?

12 A. I learned Arabic in school.

13 Q. Did you --

14 A. There were Arabic, they were teaching us Arabic, some  
15 English and some French, but it was mostly Arabic?

16 Q. Okay what grade level did you complete before leaving  
17 for the United States?

18 A. Sixth grade.

19 Q. Okay. And when you arrived in the United States could  
20 you speak English?

21 A. No.

22 Q. Could you read or write English?

23 A. No.

24 Q. When did you first arrive in Lancaster?

25 A. She's asking you to repeat the question.

1 Q. When, what month and year did you first come to  
2 Lancaster?

3 A. The first of October 2015.

4 Q. And how old were you when you arrived in Lancaster?

5 A. 17.

6 Q. Can you describe for me the family that came with you  
7 to Lancaster?

8 A. It was six of us.

9 Q. Okay.

10 A. It was six of us.

11 Q. Your mom was with you; is that right?

12 A. Yes.

13 Q. And do you have siblings?

14 A. Yes.

15 Q. Okay. So can you give us the names and ages of your  
16 siblings?

17 A. Narsham Ibrihim [ph], Howa Angela and Howa was born  
18 [indiscernible] and Howa was born here in the states.

19 Q. Okay. And how old is your older sister Narsham?

20 A. She's 16.

21 Q. Okay. Kadidja, when you first came to the United  
22 States, what was your goal?

23 A. We came to get a better education.

24 Q. Okay. So turning to your process enrolling at  
25 Lancaster School District. Go ahead interpreter.

1 A. We went and starting applying in November.

2 Q. Okay. Did your family get help from any agency to  
3 enroll in school?

4 A. I did not hear the last part. I'm going to ask her to  
5 repeat. I'm sorry, I just got the [indiscernible] I did not  
6 get what she said after that, although I asked her to repeat  
7 twice.

8 Q. Okay. I can rephrase the question.

9 A. Sure.

10 Q. Do you remember the names of people that helped you  
11 enroll in school? Okay.

12 A. Bilal, he helped me to get in school.

13 Q. Okay. And was there anyone else working with Bilal  
14 that helped you get to school?

15 A. [Indiscernible].

16 Q. Okay. And does Aleese speak Fur or Arabic?

17 A. No. She speaks English.

18 Q. Okay. And what language does Bilal speak?

19 A. He speaks Arabic and English.

20 Q. Okay. And do you remember at some point did you go to  
21 see a doctor for immunization shots here in Lancaster?

22 A. Yes.

23 Q. Do you remember when you received those immunization  
24 shots?

25 A. October.

1 Q. Okay. Did anyone ever tell you that you could not go  
2 to school because of not having immunization shots?

3 A. No.

4 Q. And did you bring with you from Sudan any education  
5 records from Sudan or Chaad?

6 A. No. I did not bring anything.

7 Q. Okay. And you said that you started to apply in  
8 November. Do you remember going to a meeting at the school  
9 around that time in November?

10 A. No.

11 Q. Okay. Do you remember a meeting at the school with  
12 Bilal and Aleese about registering you to start classes?

13 A. Yes.

14 Q. Okay. What happened at that meeting with Bilal and  
15 Aleese about registering you for school?

16 A. That meeting was in November and they submitted all the  
17 papers in November, but I did not, but I was not able to start  
18 school until the 19th of February and when I started school  
19 they told me that respect is the most important thing in  
20 school and that you're not supposed to be late and that you're  
21 supposed to respect your teachers and your colleagues.

22 Q. Okay. You said that you submitted papers and there was  
23 a meeting in November and then you started classes in  
24 February. So do you recall -- did anybody tell you why you  
25 were not in school right away in November?

1 A. In November the initial meeting when we submitted the  
2 papers for enrollment I was told -- they told me that I am too  
3 old for school and that I should get a job and I responded  
4 that I do not want to get a job if I don't get an education  
5 why would I work if I don't get an education?

6 Q. Okay. At that meeting when they explained that you  
7 would not be starting school right away was there an  
8 interpreter from the School District to translate into Arabic  
9 for you?

10 A. There was no interpreter. It was only Bilal who spoke  
11 Arabic.

12 Q. And Khadidja, did anyone explain to you that you could  
13 challenge or appeal the decision that the District was saying  
14 that you could not immediately enroll in November?

15 A. Nobody told us.

16 Q. Okay. And when you started school in February what  
17 school were you assigned to attend?

18 A. Phoenix Academy.

19 Q. Were you given an option or choice to attend McCaskey  
20 High School instead of Phoenix?

21 A. They told me that my current option is Phoenix and they  
22 might look for a different school for me and when they find a  
23 different school then I can leave Phoenix.

24 Q. Since -- where does your sister Narsham attend school?

25 A. McCaskey.

1 Q. And do you remember when Narsham starting attending  
2 classes at McCaskey?

3 A. She started school before me, but I do not remember  
4 what month exactly.

5 Q. When you started school were you given a test about how  
6 well you speak, read and write English?

7 A. They did a test, but I do not know how to read or  
8 write.

9 Q. Okay. So at Phoenix what grade were you placed in when  
10 you started classes?

11 A. 11th.

12 Q. And did anyone at the school ask you what grade you had  
13 completed before coming to the United States?

14 A. No. Nobody asked me. Nobody asked me.

15 Q. Okay. At some point before you started classes did you  
16 attend a meeting at Phoenix where they explained the school  
17 rules?

18 A. Yes, we did.

19 Q. Is this the same meeting you referenced earlier where  
20 they said to respect teachers, is that the same meeting?

21 A. Yes. Yes, it was that meeting and I went with Bilal  
22 and Aleese.

23 Q. What language were the school staff speaking at that  
24 meeting?

25 A. English.

1 Q. Did the school provide an interpreter into Arabic for  
2 you at that meeting?

3 A. Bilal was there and he was interpreting for me.

4 Q. Okay. But Bilal was the only person there who spoke  
5 Arabic; is that right?

6 A. Yes.

7 Q. Interpreter --

8 A. Yes.

9 Q. Okay. Looking at the school day at Phoenix, what's the  
10 first thing you have to do when you come into the school  
11 building?

12 A. First thing when they arrive at school that they pat us  
13 down.

14 Q. And can you describe to me what happens? What does the  
15 pat down look like?

16 A. I think they have to do the pat down and search all the  
17 students, because some students use drugs.

18 Q. Okay. Did -- have you ever experienced a pat down like  
19 this before starting at Phoenix?

20 A. No. I was -- I was never patted down like that and  
21 I've never even witnessed or heard of patting down like this.

22 Q. And how does it make you feel to have to be patted  
23 down, physically touched when you come into school everyday?

24 A. I have been to school before and I was never -- I have  
25 never seen a place where they pat you down in order to enter



1 school and they actually do it everyday.

2 Q. Are you -- are there particular circumstances or  
3 occasions that a pat down is more uncomfortable for you going  
4 to school?

5 A. I'm going to ask her to repeat. I feel the same about  
6 it everyday.

7 Q. And what's that feeling about it everyday?

8 A. Like you're not allowed to bring anything with you from  
9 your home.

10 Q. Okay. Are you allowed to bring anything from school  
11 home with you?

12 A. No.

13 Q. Do your teachers send activities or class work for you  
14 to do at home in the evening?

15 A. No.

16 Q. Would you like to do class work and more school  
17 activities at home in the evening?

18 A. No.

19 Q. Do you -- does your sister at McCaskey, Narsham, does  
20 she bring school work home?

21 A. Yes.

22 Q. And do you ever follow along with your sister in her  
23 homework?

24 A. No. She does her own stuff and I do my own thing.

25 Q. Okay. Do you think that Narsham has better English

1 than you do?

2 A. She learned.

3 Q. I'm sorry, interpreter can you repeat that.

4 A. She said she learned.

5 Q. I'm still not.

6 THE COURT: Her sister learned.

7 MS. MOON: Learned. Okay.

8 THE COURT: [Indiscernible] learning.

9 INTERPRETER: Yes.

10 BY MS. MOON:

11 Q. Okay. At school what happens after the pat down when  
12 you first enter? What do you do next?

13 A. We go and get food and then we have a very short  
14 meeting and then we go to class.

15 Q. Okay. And that short meeting what happens there?

16 A. I don't really know what happens in that meeting  
17 because they speak in English and I do not understand English.

18 Q. Okay. And after that meeting do you go to your  
19 classes?

20 A. Yes.

21 Q. Can you describe for me what classes you took at  
22 Phoenix this past semester?

23 A. First class is math.

24 Q. Okay. What's the next class?

25 A. After math is English.

1 Q. And what comes after English?

2 A. There's a different class that we have to go to in a  
3 different room.

4 Q. Do you know what you're studying in that class?

5 A. They speak and write in English and I don't understand.

6 Q. Is there another class after that one?

7 A. No. We go to recess.

8 Q. Okay. Is there a class after recess?

9 A. Yes, there is a different class.

10 Q. And do you know what you're studying in that class?

11 A. They speak in English and I don't understand them.

12 Q. Does anyone speak Arabic in any of your classes?

13 A. No.

14 Q. Can you tell me how well you understand the teachers  
15 and staff speaking in English?

16 A. I don't understand them.

17 Q. Okay. And how well do you understand your classmates  
18 that speak in English?

19 A. No.

20 Q. Are there students in your classes that speak English  
21 well?

22 A. They speak, but I can't judge.

23 Q. Because you don't speak English, you mean?

24 A. Yes.

25 Q. Okay. Can you explain to me what you're learning in

1 your first class, math you called it?

2 A. Math, I actually understand, because math is mostly  
3 numbers and I do understand math.

4 Q. And the second period class you called English, who's  
5 you teacher for that class?

6 A. Ms. Ortiz.

7 Q. And is everyone in that class with Ms. Ortiz brand new  
8 to English like you?

9 A. No. They know English.

10 Q. I'm sorry, they do know English, the other students?

11 A. I'm going to -- ask. I'm going to ask here to repeat,  
12 I can't hear her. They know English, yes.

13 Q. What do you think of this English class? Are you  
14 learning English?

15 A. I -- I do, but I don't understand much.

16 Q. What would help you understand more, do you think?

17 A. I just don't know their language.

18 Q. What if anything does your teacher do to try to help  
19 you understand?

20 A. There is no interpreter.

21 Q. Okay. Khadidja I'm going to ask you to look at some  
22 documents and for Your Honor's reference and counsel these are  
23 pages pulled from what is marked 15 in the binder.

24 Specifically sheets with bates number 39 through 42 and  
25 counsel I have a copy pull out.

1 MS. MOON: Your Honor, would you prefer an  
2 excerpt copy as well?

3 THE COURT: No, this is fine.

4 MS. MOON: Okay.

5 THE COURT: Thank you very much, counselor.

6 MS. MOON: May I approach the witness?

7 THE COURT: Certainly counselor.

8 BY MS. MOON:

9 Q. So Khadidja, I'm showing you pages that are marked on  
10 the bottom, 39 to 42. Please look at these papers and tell me  
11 if you recognize them.

12 A. Yes, I do.

13 Q. Do you recognize these pages?

14 A. Yes.

15 Q. What are they?

16 A. We did these with Ms. Ortiz in her class.

17 Q. Okay. And is this your work?

18 A. Yes, I wrote this.

19 Q. Okay. And can you turn the page to the second page  
20 marked 40 on the bottom?

21 MS. MOON: May I approach, Your Honor to  
22 reference?

23 THE COURT: Certainly counselor.

24 INTERPRETER: She's asking should she read.

25 MS. MOON: Yes. We're going to turn to the

1 second page.

2 BY MS. MOON:

3 Q. Can you tell me how you completed this activity sheet?

4 A. Yes.

5 Q. What was the assignment for this? What was the  
6 assignment or instruction for this worksheet?

7 A. I'm going to ask her to repeat. We were asked to  
8 underline the correct answer.

9 Q. Okay.

10 A. Letters that are similar.

11 Q. I'm going to show you another set of documents. This  
12 is also in tab 15, but behind the green divider. And for the  
13 record this is bates stamp 354 through 362.

14 MS. MOON: Your Honor, may I approach?

15 THE COURT: Certainly counselor.

16 BY MS. MOON:

17 Q. Do you recognize this set of papers?

18 A. Yes, I remember.

19 Q. Do you recall what class you completed these in?

20 A. I'm sorry, I did not hear the question.

21 Q. Yes. I'll back up. Is this your handwriting on these  
22 pages?

23 A. Yes.

24 Q. And what class did you complete these papers in?

25 A. Class that we draw in.

1 Q. Okay. And looking at that top page, can you tell me  
2 how you completed this?

3 A. I copied from the board.

4 Q. Okay. And can you tell me about what you wrote? Do  
5 you understand what you wrote there?

6 A. No, I don't understand.

7 Q. Okay. You can set those aside. I don't have anymore  
8 questions about those. Does Ms. Ortiz ever come into your  
9 other classes to help you?

10 A. Yes, she helps me.

11 Q. Okay. Do you -- and you said that you have Ms. Ortiz  
12 in your second period class of English; is that right? Does  
13 Ms. Ortiz --

14 A. Yes.

15 Q. I'm sorry. Does Ms. Ortiz ever come into your other  
16 class periods, not your English class?

17 A. No. Only her [indiscernible].

18 Q. Okay. And do you know a teacher named Ms. Weathers  
19 [ph]?

20 A. No, I don't know her.

21 Q. Khadidja, do your teachers help you understand your  
22 classes?

23 A. I'm going to ask here to repeat. I don't know their  
24 name.

25 Q. Okay. If you were to have a question in class do you

1 ask for help?

2 A. The teacher helps me.

3 Q. Okay. How does your teacher help you?

4 A. When I don't know the answers I tell him -- I tell him  
5 or her I don't know the answers.

6 Q. Okay. And what did they do when you say you don't know  
7 the answer?

8 A. They answer for me.

9 Q. Okay. How often has the school called someone on the  
10 phone to interpret in Arabic for you?

11 A. Usually if there's nothing serious they don't interpret  
12 for me, only if I have an appointment with a doctor or a  
13 nurse. Even if I'm sick and can't -- cannot come to the  
14 school, to the school day I come to class and show the teacher  
15 my, like, my worksheet if I have a worksheet or an assignment  
16 I show it to the teacher and then I think back home.

17 Q. Okay. Has the school ever used a computer to speak to  
18 you in Arabic?

19 A. No.

20 Q. And when you take tests in class do you receive help  
21 from the teachers?

22 A. Yes, they help me.

23 Q. And how do they help you when you're taking a test?

24 A. If there is a test and I don't know the answers I tell  
25 them that I don't know the answers.



1 Q. Okay. And then what do they do when you say you don't  
2 know the answer?

3 A. They answer for me.

4 Q. Okay. Khadidja, what do you understand to be different  
5 about learning at McCaskey versus Phoenix?

6 A. I don't like this school. I don't like Phoenix, this  
7 school because it's a bad school and since I started I was  
8 told that I was -- I will study there until people who are  
9 helping me and who can find me a different school and it's  
10 better to find a different school than go to school while you  
11 don't understand anything and just go and sit there.

12 Q. Okay. And do you understand that at Phoenix classes  
13 move faster than classes do at McCaskey?

14 A. The classes move fast, but I don't understand anything.

15 Q. Okay. And Khadidja, why is it important to you that  
16 you learn at school?

17 A. In America, if you don't get an education you'll have a  
18 very hard life and it's very important to get an education.

19 Q. Okay.

20 MS. MOON: No further questions at this time,  
21 Your Honor.

22 THE COURT: Thank you very much, counselor.

23 Attorney O'Donnell --

24 MS. MOON: Khadidja --

25 THE COURT: You may --

1 MS. MOON: The other lawyer is going to ask you  
2 some questions now, okay?

3 THE WITNESS: Okay.

4 THE COURT: Attorney O'Donnell you may  
5 cross-examine the witness.

6 THE WITNESS: Okay.

7 INTERPRETER: I'm sorry, did you want me to stay  
8 on the line to interpret for the --

9 MS. O'DONNELL: Yes.

10 INTERPRETER: -- other lawyer, as well?

11 MS. O'DONNELL: Yes. Yes. Hi. Hi Susanne,  
12 it's Sharon O'Donnell. We met the other day.

13 INTERPRETER: Hi, how are you?

14 MS. O'DONNELL: Fine. Thank you.

15 - - -

16 CROSS-EXAMINATION

17 - - -

18 BY MS. O'DONNELL:

19 Q. Hi, Khadidja?

20 A. Hi.

21 Q. How are you?

22 A. I'm fine. Good.

23 Q. Good. That's good. I have a couple of questions. So  
24 Susan would you interpret these questions for me?

25 A. Mm-hmm.

1 Q. Khadidja, when you met with Bilal at the School  
2 District for enrollment was he the only person who translated  
3 for you?

4 A. He was the one who interpreted for me. In that meeting  
5 he was the only one who interpreted for me.

6 Q. Okay. Khadidja, so when you learned that you were too  
7 old initially to enroll in school, is that what Bilal told  
8 you?

9 A. Yes, he told me this.

10 Q. And did he ever tell you that there was some problems  
11 with your immunization papers initially?

12 A. No. He did not mention something like that.

13 Q. Okay. Khadidja, when you were in Sudan, you said that  
14 the last great you attended was sixth grade; is that correct?

15 A. Yes; correct.

16 Q. And did you finish when you were 17 years old?

17 A. Seventeen years is when I came to America.

18 Q. How old were you when you finished sixth grade?

19 A. I finished sixth grade and then we came to America.

20 Q. Khadidja, how old were you when you finished sixth  
21 grade?

22 A. I was 17 years old and I did, I sat for the first for a  
23 semester exam and then I did not continue on the sixth grade  
24 because we came to America.

25 Q. Okay. And Susanne, I'm sorry, I didn't understand what

1 you said. Did she testify to an age?

2 A. Yes, she said 17. She was 17 years old and she sat for  
3 like a midterm or a semester exam during the sixth great, but  
4 she did not complete the whole year and then they came to the  
5 states.

6 Q. Okay. So you were 17 years old halfway through sixth  
7 grade; is that correct?

8 A. Correct.

9 Q. Okay. And Khadidja, how many grades would it have  
10 taken you to finish to graduate when you were in Sudan?

11 A. I did not study in Sudan. When I was in Sudan I was  
12 five years old and when my family took me to be enrolled, they  
13 were -- you have to be seven years before they enroll you in  
14 the first grade, so I did not study in Sudan.

15 Q. Okay. Where did you have your education before you  
16 came to the U.S.?

17 A. I studied in Chaad.

18 Q. In Chaad. I apologize. So Khadidja, what was the  
19 highest grade you could achieve to graduate when you studied  
20 in Chaad?

21 A. I studied there for six years.

22 Q. And what was the most time? What's the highest grade  
23 you could have reached if you had stayed in Chaad?

24 A. I studied until I reached the sixth grade.

25 Q. Is that the highest grade you -- you could have

1 finished and then you would have graduated?

2 A. No. You move forward.

3 Q. How many grades can you move forward before you finish?

4 A. You study -- you study until you graduate.

5 Q. How old in Chaad do you have to be to graduate?

6 A. When I was in Chaad I was 17 years old then our papers  
7 were finished and then we came to the states.

8 Q. Did you receive a school leaving certify in Chaad?

9 A. No, because I didn't finish the year.

10 Q. Would you have -- if you had stayed would you have  
11 received a school leaving certify in Chaad if you stayed to  
12 finish the year?

13 A. Yes, they give you a paper.

14 Q. Okay. How do you know so much about the education at  
15 McCaskey if you don't go there?

16 A. I know because I hear things.

17 Q. Okay. If you had a chance to finish your education at  
18 Phoenix or go to school with your sister at McCaskey what  
19 would you choose?

20 A. Phoenix Academy the classes go very fast and I do not  
21 understand anything and I'm not benefiting so I want a school  
22 that is slower in pace so I can understand.

23 Q. How do you know that Phoenix is, pardon me, how do you  
24 know that McCaskey is slower in pace?

25 A. Yes, I know they do go, they do have a slower pace and

1 people in Phoenix are moving very, very fast.

2 Q. Do you know that if you were to transfer to McCaskey  
3 you would not graduate in time to get your diploma? Pardon  
4 me. Susanne, strike that. Strike that. Do you know that if  
5 you transfer to McCaskey you would not have infer time in  
6 order to graduate?

7 A. I don't just want to graduation, I want to receive an  
8 actual education. Now, even if I graduate, I know nothing.

9 Q. Khadidja, did anyone use hand computer, an iPad to  
10 translate into Arabic for you when you were are at Phoenix?

11 A. No.

12 Q. What language are you taught mathematics at Phoenix?

13 A. English.

14 Q. Okay. The papers that you have in front of you,  
15 Khadidja, were prepared by you? Did you write that?

16 A. I did not write it on my own.

17 Q. Okay. Can you read it?

18 A. No.

19 Q. Do you know what the pictures -- can you identify those  
20 pictures?

21 A. She's asking to repeat the question.

22 Q. Sure. Do you know what those pictures are?

23 A. I don't know.

24 Q. You don't know or you don't want to read for me?

25 A. I drew, but I do not know how to read them.

1 Q. Do you know what the pictures are? Can you point to  
2 the hat on that first page?

3 A. She said she did not understand --

4 Q. Okay.

5 A. -- my question.

6 MS. O'DONNELL: May I approach, Your Honor?

7 THE COURT: Certainly counselor.

8 BY MS. O'DONNELL:

9 Q. Khadidja, do you know what this is?

10 A. That's hat.

11 Q. That's a hat; right.

12 A. Hat.

13 Q. And do you know what this is?

14 A. Heart.

15 Q. That is a heart. And do you know what this is?

16 A. Camera.

17 Q. Camera; right. And do you know what this is?

18 A. Bed.

19 Q. A bed. Did you try to apply this year to go to  
20 McCaskey?

21 A. Yes, we are now in the middle of the processes to apply  
22 to McCaskey.

23 Q. Okay. And do you think you have enough credit to  
24 transfer?

25 A. It's not written like that.

1 Q. How is it written?

2 A. My results says just shows my -- my grades and my  
3 subject, and the subject that I take.

4 Q. Okay. Thank you, Khadidja, those are all the questions  
5 I have?

6 A. You're welcome.

7 THE COURT: Thank you very much, counselor.  
8 Attorney Moon, you may redirect the witness.

9 - - -

10 REDIRECT EXAMINATION

11 - - -

12 BY MS. MOON:

13 Q. Khadidja, the meeting that we were talking about in  
14 which you were told that you were too old to enroll; do you  
15 remember that?

16 A. Yes, I remember when I went to enroll in school they  
17 told me that I'm too old to study.

18 Q. Okay. And was Bilal interpreting what the school staff  
19 were saying at that meeting?

20 A. No, this was in the office.

21 Q. Okay. And Bilal was there with you at that time?

22 A. [Indiscernible].

23 Q. Okay. And was Bilal interpreting what the school staff  
24 were saying?

25 A. Yes. This was not in the meeting.



1 Q. What was not at the meeting?

2 A. She's saying that this was not all during the  
3 orientation meeting. This was when we went and applied to  
4 enroll in school.

5 Q. Right. Okay. So at that time when you were trying to  
6 apply to school, Bilal was interpreting for you what the  
7 school staff were saying; is that right?

8 A. Him and [indiscernible] Oscar.

9 Q. I'm sorry, interpreter can you repeat that?

10 A. Him and [indiscernible] Oscar.

11 Q. Who is -- okay. Did anyone at the school ever tell you  
12 you could go to McCaskey?

13 A. No.

14 Q. Okay.

15 MS. MOON: No further questions, Your Honor.

16 THE COURT: Thank you very much, counselor.

17 Attorney O'Donnell, anything further for this witness.

18 MS. O'DONNELL: No further follow-up, thank you.

19 THE COURT: Thank you very much.

20 THE WITNESS: You're welcome.

21 THE COURT: You may step down. We've been on  
22 the record for an hour and a half, would you like a short  
23 break or would you like to press on with the next witness?

24 MS. TACK-HOOPER: Okay. I think we're okay if  
25 Your Honor is okay.

1 THE COURT: Very well. You may call your next  
2 witness, thank you.

3 MS. TACK-HOOPER: Next I'd like to call Qasin  
4 Hassan.

5 INTERPRETER: I'm sorry, did you want me to hang  
6 up?

7 MS. TACK-HOOPER: Oh, yes, thank you. We're all  
8 set.

9 THE COURT: Thank you very much for your  
10 assistance.

11 INTERPRETER: Okay.

12 THE COURT: Have a great afternoon.

13 INTERPRETER: You're very welcome, you too.

14 THE COURT: First we need interpreter.

15 - - -

16 (RAYMONDEA SAMALUI - INTERPRETER - SWORN)

17 - - -

18 THE COURT: Thank you, ma'am, would you please  
19 state your full name spelling your last name.

20 INTERPRETER: Raymondea, R-a-y-m-o-n-d-e-a,  
21 Samalui, S-A-M-A-L-U-I.

22 THE COURT: Thank you. And what language are  
23 you [indiscernible].

24 INTERPRETER: Arabic.

25 THE COURT: Very well. And now, sir, if you

1 would please stand.

2 THE WITNESS: Okay.

3 - - -

4 (QASIN HASSAN - SWORN)

5 - - -

6 THE COURT: Thank you very much. You may be  
7 seated.

8 THE WITNESS: Thank you.

9 THE COURT: And sir, would you please state your  
10 full name, spelling your last name for the record.

11 THE WITNESS: Qasin [indiscernible] Hassan.

12 THE COURT: And how is that spelled, your last  
13 name?

14 THE WITNESS: H-A-S-S-A-N.

15 THE COURT: Thank you very much, sir.  
16 Counselor, you may proceed.

17 - - -

18 EXAMINATION

19 - - -

20 BY MS. TACK-HOOPER: For the record my name is Molly  
21 Tack-Hooper for the plaintiffs. Qasin, when were you born?

22 A. 1998.

23 Q. Do you know what month and day?

24 A. September 9.

25 Q. And so how old are you now?

1 A. I'm 17 years old right now and I will be 18 in  
2 September.

3 Q. Qasin, where is your family from originally?

4 A. From Somalia.

5 Q. And why did your family leave Somalia?

6 A. Because my father was killed over there.

7 Q. How was your father killed?

8 A. There was a militia called Shobha. There was -- he was  
9 killed by a Shobha militia.

10 Q. And where did you go after you left Somalia?

11 A. He went to Egypt.

12 Q. Did you have any schooling in Egypt?

13 A. No. They did not accept me in school in Egypt.

14 Q. How old were you when you got to Egypt?

15 A. I was 12 years old.

16 Q. Okay. Did you study at all while you were in Egypt?

17 A. I did not enroll in school, but I took private school  
18 at home.

19 Q. What did you learn at home?

20 A. I learned the Arabic language.

21 Q. Did you learn to read and write in Arabic?

22 A. I write a little bit and I read a little bit.

23 Q. How many hours a day did you study with this private  
24 tutor?

25 A. I would study five hours everyday.

1 Q. And when did you come to the United States?

2 A. In 2015, in September 9, 2015 [indiscernible].

3 Q. Did you speak any English when you arrived in the  
4 United States?

5 A. A few words.

6 Q. And did you attempt to enroll in school after you  
7 settled in Lancaster?

8 A. I tried.

9 Q. Did you get into school at some point?

10 A. I was [indiscernible] until I enroll in the school.

11 Q. I'm sorry, what?

12 A. I was [indiscernible] until I enroll in school.

13 Q. You were tired until you enrolled in school?

14 A. It was a waiting, I was waiting until I get time to  
15 enroll in the school.

16 Q. So did you go to school at some point?

17 A. Yes, I did.

18 Q. Okay. Where did you go to school?

19 A. I went to Phoenix.

20 Q. All right. Going back to the process of enrolling in  
21 school, what do you remember about that process?

22 A. I tried, I tried a lot.

23 Q. Right. You've mentioned and trying a lot, how long did  
24 it take to enroll in school?

25 A. About five month s.

1 Q. Okay. So who -- was there someone who helped you  
2 enroll in school?

3 A. Two people helped me.

4 Q. Who were they?

5 A. Liz and Megan.

6 Q. Aleese or Aleese and Megan?

7 A. Aleese and Megan, yeah.

8 Q. Okay. So what did they do to help you enroll?

9 A. They did a lot. They helped me a lot to enroll in  
10 school.

11 Q. Was there paperwork involved?

12 A. Yes.

13 Q. Okay. Did they go with you to any meetings about  
14 enrollment?

15 A. Yes.

16 Q. Can you tell me about the first meeting that you  
17 remember that was about enrollment?

18 A. The first meeting was in an office on Prince Street.

19 Q. Who was at that meeting?

20 A. Megan was with me and another person his name is Amar.

21 Q. And who is Amar?

22 A. Amar is a Palestinian man?

23 Q. Was Amar interpreting for you?

24 A. Yes.

25 Q. Okay. Did you at some point meet with Mr. Blackman

1 from the School District?

2 A. I met him twice.

3 Q. Was that the meeting that you mentioned at Prince  
4 Street with Megan and Amar interpreting?

5 A. No.

6 Q. So who was at the -- you mentioned going with Megan and  
7 Amar to interpret to the School District offices on Prince  
8 Street. What did you do at Prince Street?

9 A. I went with one from my family or my people and also  
10 with Megan. We went to this person. We didn't meet with Mr.  
11 Blackman, but he said you don't understand English. He said I  
12 don't want -- I don't want -- I will not send you to Phoenix  
13 and I will not send you to McCaskey.

14 Q. Who was this person who said that you don't understand  
15 English and therefore you don't get to go to school?

16 A. Mr. Blackman.

17 Q. Okay. How much could you understand of that first  
18 meeting with Mr. Blackman?

19 A. I understood my name, that's all. And after that he  
20 didn't -- he didn't say anything and he went to leave.

21 Q. Can you describe his -- Mr. Blackman's attitude during  
22 that meeting?

23 A. He was not paying attention to us even Ms. Megan  
24 recognized that.

25 Q. How long was this meeting?

1 A. Maybe a few minutes. He just asked about a name and  
2 that's it.

3 Q. So what was the outcome of that meeting? What happened  
4 after that meeting?

5 A. He -- he -- he wrote the name of the school that I have  
6 to enroll in.

7 Q. And what is the name of that school? What did he write  
8 down?

9 A. Beside the hotel near us [indiscernible] for the old  
10 people.

11 Q. Is this the Literacy Counsel you're referring to?

12 A. Yes.

13 Q. Okay. How did you react to Mr. Blackman telling you to  
14 go to Literacy Counsel?

15 A. He told me if I don't understand English that I have to  
16 go enroll in the school.

17 Q. In the Literacy Counsel?

18 A. In the literacy, yes.

19 Q. And how did that make you feel?

20 A. I was very disappointed.

21 Q. So after that meeting you were not enrolled in Phoenix;  
22 right?

23 A. Yes.

24 Q. Do you know why you were not admitted to Phoenix at  
25 that meeting?



1 A. Because I didn't know English, because I don't know  
2 English.

3 Q. And how did you get into Phoenix eventually?

4 A. Megan tried so hard to enroll me in school.

5 Q. How long did it take you a Megan to get you into  
6 Phoenix after that meeting?

7 A. Almost like three months.

8 Q. So at some point you started -- you did get into  
9 Phoenix; correct?

10 A. Yes.

11 Q. When you started there did any teachers or staff at  
12 Phoenix understand or speak Arabic?

13 A. No.

14 Q. You also understand some Somalia; correct?

15 A. Yes.

16 Q. Did any teachers or staff at Phoenix speak or  
17 understand Somalia?

18 A. No.

19 Q. All right. I want to talk about how much you  
20 understood in your classes at Phoenix?

21 A. Okay.

22 Q. Can you tell the Court what classes you took at  
23 Phoenix?

24 A. I took five classes.

25 Q. What were they?

1 A. Art, English, Gym.

2 Q. Gym?

3 A. Mathematics and the computer.

4 Q. What is computer class?

5 A. All we watched the pictures on [indiscernible].

6 Q. Okay. Do you know what you were supposed to be  
7 learning in that class?

8 A. I tried to learn as much as I could, but it was hard.

9 Q. Okay. So you didn't really understand the point of the  
10 computer class?

11 A. No.

12 Q. Okay. How well did you understand the teachers and the  
13 staff in your classes when they spoke English?

14 A. I understand only one person.

15 Q. Who is the one person you understood?

16 A. The English teacher.

17 Q. Okay. Other than the English teacher did you  
18 understand anything that your teachers were saying to you in  
19 English?

20 A. No.

21 Q. What about your classmates? How much did you  
22 understand your classmates who could speak English?

23 A. A few words not much.

24 Q. What about the content of your classes? Could you  
25 understand what you were supposed to be learning in your

1 classes?

2 A. The things I understood, I understood a little bit. I  
3 used to, you know, solve the problems, but the rest I  
4 couldn't.

5 Q. Okay. How -- what was the pace like in these classes?  
6 How quickly or slowly did your teacher cover material?

7 A. It was fast paced.

8 Q. Let's talk about your English class where you  
9 understood the teacher. Do you know the name of your teacher  
10 for English?

11 A. No.

12 Q. For how many class periods a day did you have English  
13 with this teacher?

14 A. Only one hour a day.

15 Q. Do you feel like one class period a day was enough time  
16 with this English teacher?

17 A. It's not enough, one hour English a day it was not  
18 enough.

19 Q. Were the other students in the class also brand new to  
20 English like you or were there students in the class who could  
21 speak some more English than you could?

22 A. Some of the students they speak English, but Khadidja  
23 and I were the most people did not speak English.

24 Q. So most people in the English class could speak more  
25 than you and Khadidja?

1 A. They speak better than us.

2 Q. And what did your teacher do to try to help you  
3 understand what was happening in that class, in English class?

4 A. She will help -- she will help me a lot. She showed me  
5 the letters and she connect them together and she explained it  
6 to me.

7 Q. I'm sorry, and she explained it to me? Is that --

8 A. She explains.

9 Q. So how much could you understand what was happening in  
10 English class after she worked with you?

11 A. I understand 1%.

12 Q. I'm sorry 1%?

13 A. 100%.

14 Q. Oh, 100%. Okay. Let's talk about your other classes  
15 other than English and what kinds of language supports you  
16 had.

17 A. I don't understand the rest of the classes.

18 Q. Were your other classes full of students who were  
19 students who were learning English or were you taking classes  
20 with students who could speak English fluently?

21 A. All the subjects that were in English.

22 Q. Well, so you were in these classes that were taught in  
23 English, but you didn't understand its, so what I'm trying to  
24 ask is whether the other students in your math class, your  
25 computer class were also English learners or whether they were

1 American students who spoke English?

2 A. Yes.

3 Q. Yes they were -- your classes had some English  
4 speakers?

5 A. The majority they speak English.

6 Q. Okay. Were you allowed to leave your classes, gym,  
7 math, computers, art to go work with the English teacher who  
8 helped you if you needed extra language support to understand  
9 what was happening in class?

10 A. No.

11 Q. Did your English teacher ever come into your other  
12 classes if you needed extra language help to understand them?

13 A. No, only in her class.

14 Q. How often did the school bring in an interpreter to  
15 help you understand something?

16 A. Never.

17 Q. How often did your teachers call an interpreter on the  
18 phone to help you understand something?

19 A. No, none.

20 Q. Other than your English teacher were there other  
21 teachers who would come to math, gym, art computers to help  
22 you understand some of the English?

23 A. No.

24 Q. Did a teacher ever use a computer or an iPad to  
25 translate something for you?

1 A. No.

2 Q. How often did your teachers show you pictures to help  
3 you understand a concept that they were teaching?

4 A. The only -- the English class only.

5 Q. What about using hand gestures to act something out to  
6 help communicate to you what they were talking about?

7 A. Yes.

8 Q. Which teachers used hand gestures to help you  
9 understand?

10 A. All of them they would use [indiscernible].

11 Q. All of them? So how often was that helpful to you?

12 A. Not much.

13 Q. Okay. Did you ever get mail from Phoenix or the School  
14 District?

15 A. When before or after?

16 Q. Before or after what?

17 A. When I was in school or after I left the school.

18 Q. Let's talk about when you were in school.

19 A. I -- I think -- I think once or twice, but it's the  
20 results of the school.

21 Q. Okay. What language was that mail in?

22 A. It was in the English language.

23 Q. Did you ever get -- when you were enrolled in school  
24 did you ever get mail in a language other than English?

25 A. No.

1 Q. Mr. Did Phoenix ever translate any documents into  
2 Arabic for you so you could understand a document?

3 A. No.

4 Q. You mentioned after you stopped going to school, did  
5 you get mail from Phoenix or the School District after you  
6 stopped going to school?

7 A. Yeah, I received [indiscernible] from the school.

8 Q. What language was that in?

9 A. In the Somalian language.

10 Q. Can you read Somalia?

11 A. No.

12 Q. Can your mother read Somalia?

13 A. Yes.

14 Q. What -- how well does she read Somalia?

15 A. 50%.

16 Q. What language do you read and write best?

17 A. The Arabic language.

18 Q. Going back to when you were at Phoenix, when you took  
19 tests or exams what language were they generally in?

20 A. In the English language.

21 Q. Did you have an interpreter to help you understand  
22 them?

23 A. No.

24 Q. And after your classes ended for the day were you aware  
25 of any after school classes at Phoenix that you could attend

1 for extra help?

2 A. No.

3 Q. Were you aware of any teachers who stayed late after  
4 school to offer you extra help?

5 A. No.

6 Q. Were you aware of any activities after school at  
7 Phoenix that you could stay and participate in?

8 A. No.

9 Q. Did you ever get homework assignments, by which I mean  
10 work to take and do at home so you could practice what you  
11 were learning during the day?

12 A. No.

13 Q. Could you take books home from school to continue  
14 learning from home?

15 A. No.

16 Q. Could you take your class work or tests home to study  
17 them in the evening?

18 A. No.

19 Q. Would it have been helpful to you to bring home papers  
20 and books so you could keep studying in the evenings?

21 A. Of course.

22 Q. Oh, did anyone ever offer to photocopy a book that  
23 stayed at school so that you could take home that part of the  
24 book?

25 A. No.



1 Q. Did anyone ever offer to make a photocopy of your class  
2 work or tests so you could leave one at school and take an  
3 extra one home?

4 A. No.

5 Q. Okay. I want to talk a little bit about the learning  
6 environment and the atmosphere at Phoenix. Does Phoenix have  
7 rules about what you can and can't bring into the school with  
8 you?

9 A. They told me them all, the rules. They told me the  
10 rules that I cannot bring anything from home. You leave your  
11 cell phone in the security office or place, that's it.

12 Q. Okay. Are there things you would've brought to school  
13 with you if you were allowed to?

14 A. If I was allowed to bring I would bring my food with  
15 me.

16 Q. Your food?

17 A. Food and my books.

18 Q. Books. Did you ever to go through security screening,  
19 oh, I'm sorry, why would you bring books to and from school  
20 with you?

21 A. So I can practice my English.

22 Q. Do you have to go through security screening in the  
23 morning at Phoenix?

24 A. Yes.

25 Q. What is that like?

1 A. It makes me feel like I'm a bad person.

2 Q. Can you tell us how they do the security screening at  
3 Phoenix?

4 A. You open your arms and take off your -- I should take  
5 off my shoes.

6 Q. So you open your arms and then what happens?

7 A. They -- they search. They -- they pat you down.

8 Q. Does it matter what you're wearing? Do you have to do  
9 anything special with your clothes while this is happening?

10 A. It's from the outside.

11 Q. I'm sorry, it's from the outside?

12 A. Mm-hmm.

13 Q. So they pat you down on the outside of your clothes?

14 A. Yes.

15 Q. Okay. How do the pat downs make you feel about the  
16 school you go to?

17 A. He makes me hate the school and hate the system.

18 Q. How do they make you feel about yourself?

19 A. It makes me feel bad.

20 Q. Why does it make you feel bad?

21 A. Police only search those who they carry illegal things.

22 Q. I'm sorry, you said the -- the police?

23 A. The police only search people who carry illegal things  
24 with them.

25 Q. So it makes you feel like their -- suspect you of

1 having illegal things?

2 A. Yes.

3 Q. All right. Let's talk about your classmates at  
4 Phoenix. How did you get along with your classmates at  
5 Phoenix?

6 A. It was good.

7 Q. You got along well?

8 A. My friends in the class I had a good relationship with  
9 them.

10 Q. Okay. What about the students who were not friends  
11 from your class?

12 A. We were not good together, to each other.

13 Q. Are there negative interactions with those students  
14 that stand out particularly in your mind?

15 A. No.

16 Q. Is there -- is there anything you remember about having  
17 a negative interaction with someone at your school?

18 A. In the mathematic class and in the bathroom, but I  
19 didn't know them.

20 Q. Okay. So the first one you said was in the bathrooms?

21 A. Yes.

22 Q. Okay. So what -- what would happen when you would go  
23 to the bathroom at Phoenix?

24 A. I go to the bathroom to use the bathroom and somebody  
25 comes and knock on the door and I don't know what to do when I

1 open the door to see.

2 Q. When you say knock on the door or with their hands or  
3 with their feet? How -- what was this knocking like?

4 A. Those who knock on the door use their hand, they were  
5 respectful, but those who knock on the door by their feet they  
6 were disrespectful.

7 Q. So sometimes someone would just knock on the door,  
8 like, to see if you were in the bathroom, is that what you're  
9 saying?

10 A. The first things that I entered the bathroom they just  
11 knock on the door.

12 Q. Right. So, okay. And that was respectful and you had  
13 no problem with that?

14 A. No.

15 Q. Okay. So let's talk about the kicking which you said  
16 was not respectful.

17 A. No, it's not respectful.

18 Q. So what -- so what would happen? You were in the stall  
19 and someone kicked on the door?

20 A. Yes.

21 Q. Or did they say anything?

22 A. When I opened the door they make themselves there is  
23 nothing happen.

24 Q. Were these other students from your school?

25 A. [Indiscernible].

1 Q. Did you know their names?

2 A. No.

3 Q. Could you describe their attitude or demeanor?

4 A. I can't describe that.

5 Q. What tone of -- do you know what tone of voice they  
6 were using?

7 A. They scream, they yell, they speak in their own  
8 language.

9 Q. Did you understand their language?

10 A. No.

11 Q. Okay. How often did this happen?

12 A. It happened about two, three times.

13 Q. Two or three times the whole time you were at Phoenix?

14 A. Yes.

15 Q. Okay. And after the first time that this happened,  
16 what did you do?

17 A. I -- I didn't know what to do, I'm not in my country  
18 and I don't know what to do. I just waited there.

19 Q. Did you tell anyone about the kicking on the bathroom  
20 doors?

21 A. I was afraid to tell anybody.

22 Q. Why were you afraid?

23 A. I'm alone here and I have -- there are more people that  
24 are like a group of people I couldn't do anything.

25 Q. Were you -- so you were scared of what, what the

1 students would do to you if you told someone?

2 A. Yes.

3 Q. All right. After the second time that this happened,  
4 how did that make you feel?

5 A. I kept silence, I didn't do anything.

6 Q. What about the third time that this happened?

7 A. The third time I stopped going to the school, period.

8 Q. Okay. So before you stopped going to school  
9 altogether, how many times a day would you have to go into the  
10 bathrooms?

11 A. Whenever I needed I used to go.

12 Q. Okay. Did you avoid using the bathrooms at all?

13 A. Yeah, I tried.

14 Q. Do you know why -- why this kept happening in the  
15 bathrooms?

16 A. I don't know.

17 Q. Okay. Are there rules at Phoenix about using the  
18 bathrooms, like, how many students there can be, who can be in  
19 the bathroom at any given time?

20 A. From the class only two people can leave the class, one  
21 girl and boy can use the bathroom during that class  
22 [indiscernible].

23 Q. So the other students in there were not students you  
24 knew from your classes?

25 A. Yes.

1 Q. And Phoenix has security guards; right?

2 A. Yes.

3 Q. Can the security guards go in the bathroom?

4 A. If he hear screaming in the bathroom.

5 Q. Did you ever see a security guard go into the bathroom  
6 because there was screaming?

7 A. Yes.

8 Q. Okay. Is that when you were in the bathroom or when  
9 someone else was in the bathroom?

10 A. I was in the bathroom and the other people were there  
11 too.

12 Q. Okay. What did the security guard do when they got  
13 there?

14 A. He was telling them everybody should return to their  
15 classes.

16 Q. Okay. So apart from the bathroom incidents are there  
17 other negative interactions with Phoenix students that you  
18 remember?

19 A. There was another girl from a different class, she  
20 tried to pull my hair and I didn't [indiscernible].

21 Q. Where did this happen?

22 A. In the math period.

23 Q. So she was in your math class? You said from -- it was  
24 a girl from a different class, do you mean she was in a  
25 different grade than you were?

1 A. No. In the same, from the same class.

2 Q. Same class. Did you know her name?

3 A. No.

4 Q. What -- did she speak English?

5 A. She speaks English and Spanish.

6 Q. Okay. So what did you do when she pulled your hair?

7 A. I did not like it.

8 Q. So how did you react?

9 A. I just told her do not touch my hair.

10 Q. Did she stop touching your hair when you told her this?

11 A. Yes, she did.

12 Q. Okay. Was the teacher in the room when this happened?

13 A. He was talking to other students.

14 Q. Okay. How long did this incident affect you?

15 A. It bothered me a lot.

16 Q. You mentioned at some point you stopped going to  
17 school; right?

18 A. Yes.

19 Q. Was that after your first quarter at Phoenix?

20 A. I didn't understand.

21 Q. Do you -- are you aware of the school year being broken  
22 up into four parts?

23 A. Can I explain this to him?

24 Q. If you interpret for everyone, yes.

25 A. I didn't know that.



1 Q. Okay. Do you know what month it was when you stopped  
2 going to school?

3 A. I don't know.

4 Q. Okay. Do you know whether you kept getting credit for  
5 school even after you stopped going?

6 A. I don't know.

7 Q. Qasin, what do you want to do with your life?

8 A. When I came here I want to -- I was [indiscernible] I  
9 want to pursue my education and to help my family and I want  
10 to be a policeman in the United States.

11 Q. How well do you think Phoenix prepared you to pursue  
12 these goals?

13 A. I believe if I stay in Phoenix probably it will take me  
14 10 years to graduate.

15 Q. Do you -- let's set aside when you graduate, do you  
16 feel that you learned at Phoenix?

17 A. No, it's impossible.

18 Q. Did anyone ever suggest to you that if you got some  
19 credit at Phoenix you could transfer to McCaskey?

20 A. No.

21 Q. Do you remember your lawyers asking to transfer you to  
22 McCaskey?

23 A. Who's the lawyer?

24 Q. I am one of your lawyers, we've met, hi.

25 A. Yes.

1 Q. Okay.

2 MS. TACK-HOOPER: Nothing more right now, Your  
3 Honor.

4 THE COURT: Very well, thank you very much,  
5 counselor.

6 UNIDENTIFIED SPEAKER: Your Honor, would we be  
7 able to take a break now in the afternoon?

8 THE COURT: Certainly. Why don't we stand in  
9 recess for 15 minutes?

10 UNIDENTIFIED SPEAKER: That'd be great.

11 THE COURT: Certainly.

12 MS. TACK-HOOPER: We're going to take a break.

13 DEPUTY CLERK: All rise.

14 - - -

15 (Whereupon, there was a recess in the proceeding from  
16 3:37 p.m. to 3:55 p.m.)

17 - - -

18 DEPUTY CLERK: All rise. The United States  
19 District Court is again in session. The Honorable Edward G.  
20 Smith presiding.

21 THE COURT: You may be seated, thank you. The  
22 Court is called to order. All parties previously present are  
23 once again present. The witness is on the witness stand.  
24 Counselor, I understand that there is an issue you want to  
25 address scheduling for the rest of the day. I note it's now,

1 it's not that I can't see that clock with that sun on there  
2 I'm just not sure it's right, but it's now almost 4:00; is  
3 that correct.

4 MR. ROTHSCHILD: Yes.

5 THE COURT: And I know we've brought several  
6 children up here with interpreters and the hope was that we  
7 would have moved along a little more quickly, although the  
8 evidence has been very compelling and I understand why it's  
9 taking as long as it is, but I understand there's also an  
10 issue from the standpoint of the defendants that there is a  
11 graduation tonight or something of that sort? Of course  
12 there's a graduation, we heard about it in the testimony. Mr.  
13 Rothschild, what is your thought in this matter?

14 MR. ROTHSCHILD: So the witnesses that we would  
15 like to put on understanding that the challenges of the  
16 schedule are the two sisters here who've traveled from  
17 Lancaster, they are -- they wrote their testimony up so we  
18 translated, it will be much shorter than the first two student  
19 witnesses and probably after we get one because they share  
20 much of the same life we can make the second sister's  
21 testimony shorter. Then we have another witness who's a  
22 former teacher at Phoenix who I know is not available tomorrow  
23 and I'm not sure about her availability Thursday or Friday  
24 we're trying to find out that answer, maybe by the time we  
25 finish cross-examination I'll have it for you. I don't know

1 what for the graduation what that requires for defendants.

2 THE COURT: And Attorney O'Donnell.

3 MS. O'DONNELL: Yes. Yes, Your Honor. So I  
4 think generally if you're -- if you had ended court today at  
5 4:30 that would ever been enough time for my folks to get back  
6 in time for graduation, but if we don't finish by 4:30 then  
7 we'll just continue on, because they won't be able to make it  
8 then.

9 THE COURT: And what would you like me to do?

10 MS. O'DONNELL: Whatever --

11 THE COURT: You can say it.

12 MS. O'DONNELL: Well, obviously, I'd like  
13 [indiscernible] court at 4:30 so my folks can attend  
14 graduation, but, again, if --

15 THE COURT: Is it at all possible and I know  
16 that you won't be here during all of the testimony, but is it  
17 at all possible that you would remain but they would depart to  
18 go to the graduation?

19 MS. O'DONNELL: Yeah, they could, they could --

20 THE COURT: Would you feel comfortable doing  
21 that?

22 MS. O'DONNELL: Go.

23 UNIDENTIFIED SPEAKER: Yes.

24 THE COURT: Would that be a solution then?

25 MS. O'DONNELL: That would be a solution.

1 THE COURT: And then we'll press on as best we  
2 can. At some point they'll start to complain about the CSOs  
3 if we go too much past normal business hours, but why don't we  
4 wait until we hear any -- some complaining and if not we'll  
5 try to get as much in today as possible.

6 MR. ROTHSCHILD: Thank you, Your Honor.

7 MS. O'DONNELL: Thank you, very much.

8 THE COURT: So whenever the two of you need to  
9 leave, by all means just feel free to depart.

10 UNIDENTIFIED SPEAKER: Thank you.

11 THE COURT: You're welcome.

12 MR. ROTHSCHILD: Okay. And Your Honor, we just  
13 got news that Ms. Rivera who's the former teacher can testify  
14 Thursday, so that makes things a little bit more manageable  
15 and we'll just do the students today and [indiscernible].

16 THE COURT: Very well. So we'll continue with  
17 the cross-examination here and the redirect and then we'll put  
18 the two other students on and then we'll conclude for the day.

19 MR. ROTHSCHILD: Thank you, Your Honor.

20 THE COURT: Very well. Attorney O'Donnell, you  
21 may cross-examine the witness.

22 MS. O'DONNELL: Thank you, very much.

23 - - -

24 CROSS-EXAMINATION

25 - - -

1 BY MS. O'DONNELL:

2 Q. Good afternoon, [indiscernible] Qasin, how are you?

3 A. Fine thank you.

4 Q. Very good, yes. So Qasin, I listened to your direct  
5 examination and I have a few questions. Remember when we  
6 talked last week at your deposition? Yes. Okay. You have a  
7 brother Abdacata [ph]? And tell us how old he is.

8 A. He's 19 years old.

9 Q. He's 19. And you have a sister Elham [ph].

10 A. Elham, yes.

11 Q. And do you have a sister Miriam?

12 A. Yes.

13 Q. And how old is Elham?

14 A. Twenty years old.

15 Q. She's 20? And how old is Miriam?

16 A. Eighteen.

17 Q. And your currently 17?

18 A. Yes.

19 Q. Okay. And out of yourself, Miriam, Elham and Abdacata  
20 how many of you applied or enrolled to the School District of  
21 Lancaster this year?

22 A. Me, myself and my brother [indiscernible].

23 Q. Okay. That's your younger brother?

24 A. Yes.

25 Q. Okay. And how old is he?

1 A. I don't know this.

2 Q. You don't remember how old your brother is?

3 A. I don't know.

4 Q. Okay. Is he enrolled in the school?

5 A. Yes.

6 Q. Okay. And what school does he attend?

7 A. Hand school.

8 Q. High school?

9 A. Hand.

10 Q. Oh, Hand Middle School, okay. When you were all in  
11 Cairo did you apply -- did you enroll in school?

12 A. No.

13 Q. So neither you nor Miriam nor Elham nor Abdacata had  
14 ever gone to school?

15 A. No.

16 Q. Never been to school in your life?

17 A. No.

18 Q. How long did you attend Phoenix Academy?

19 A. Not exactly probably a month or a month and a half.

20 Q. Okay. Do you feel like you gave it enough time to find  
21 out whether or not you liked to be in school?

22 A. Yes.

23 Q. Do you remember that after you left school a group of  
24 people from the School District came to your house?

25 A. The English teachers.

1 Q. Right. But I'm talking about a different time when a  
2 group of people including Ms. Hisey [ph] to speak with you and  
3 your mother?

4 A. No. Only the English teacher and another person came.

5 Q. Do you have any recollection of telling anybody at the  
6 School District that you didn't want to go to school that you  
7 wanted to work?

8 A. No.

9 Q. Okay. Are you working now?

10 A. I was working before I enrolled in Phoenix.

11 Q. Where were you working?

12 A. A place that -- in a market where I sell produce.

13 Q. Where does your sister Miriam work?

14 A. She works at [indiscernible].

15 Q. Okay. And where does your sister Elham work?

16 A. She doesn't work.

17 Q. Didn't you tell me in your deposition that Elham worked  
18 at the market selling produce?

19 A. No.

20 Q. Okay.

21 A. She applied for a job. She [indiscernible].

22 Q. Is Elham the one who has the baby, Ali?

23 A. Yes.

24 Q. And isn't she the one who works at the hotel?

25 A. No, Miriam.



1 Q. Do you know the name of the hotel?

2 A. No.

3 Q. Do you know the name of the market?

4 A. No.

5 Q. You don't know the name of the market and you worked  
6 there?

7 A. No.

8 Q. No? You don't know the name of the market that you  
9 worked at?

10 A. It's [indiscernible] fruits.

11 Q. When you were at Phoenix do you remember your English  
12 teacher telling you that you just needed to come to her and  
13 she would help you with whatever you needed help with in terms  
14 of understanding English?

15 A. No.

16 Q. Okay. Do you remember anybody telling you that there  
17 was a school program where you could earn extra credits and  
18 learn more English?

19 A. No.

20 Q. Did anyone tell you that there was a summer program  
21 where you can learn more English and engage in other  
22 activities like going to the zoo?

23 A. No.

24 Q. Okay. You indicated, Qasin that you wanted to be a  
25 police officer?

1 A. Yes.

2 Q. And do you know that you need a diploma or a diploma  
3 equivalent like a GED in order to do that?

4 A. It's impossible, because it's [indiscernible]  
5 education.

6 Q. Okay. So are you coming back to Phoenix Academy?

7 A. No.

8 Q. Why not?

9 A. They're not supporting me. They're not helping me.

10 Q. Do you recall that -- do you recall anybody telling you  
11 that you had a -- there was a plan for you to contact five  
12 people within the Phoenix Academy that you can go to at any  
13 time for help?

14 A. No.

15 Q. I want to go back to the enrollment. Do you remember  
16 visiting the school to enroll?

17 A. What do you mean by how did I remember?

18 Q. Do you remember coming to the school to enroll? He  
19 doesn't remember? You don't remember enrolling in the School  
20 District at all?

21 A. What do you mean by --

22 Q. Did there come a point and time last you're when you  
23 visited the School District to tell them you were interested  
24 in becoming a student?

25 A. I was happy to enroll in school.

1 Q. Okay. And did you give them your date of birth?

2 A. Yes.

3 Q. Okay. Did you know that there was an issue with your  
4 date of birth that delayed your immediate enrollment?

5 A. No, I did not know.

6 Q. Okay. You told me at your deposition, do you remember  
7 that you would -- you want to go to McCaskey High School?

8 A. I -- yes, I remember.

9 Q. And why do you believe that you would do better at  
10 McCaskey?

11 A. Because they -- McCaskey had a good reputation.

12 Q. How do you know McCaskey has a good reputation?

13 A. All my friends and my relatives they said McCaskey is a  
14 good school.

15 Q. Whether your friends and relatives tell you that --  
16 that McCaskey is a good school?

17 A. Yes.

18 Q. And what relatives do you have that attended McCaskey  
19 High School?

20 A. They were from Somalia. My neighbors.

21 Q. Are they relatives?

22 A. Relatives that means that people from my own country.

23 Q. Okay. Thank you very much.

24 MS. O'DONNELL: Those are all the questions I  
25 have.

1 THE COURT: Thank you very much counselor.  
2 Attorney Tack-Hooper, you make redirect the witness. You may  
3 redirect.

4 MS. TACK-HOOPER: [Indiscernible] I'll be brief.

5 - - -

6 REDIRECT EXAMINATION

7 - - -

8 BY MS. TACK-HOOPER:

9 Q. Qasin, is it more important to you to get a high school  
10 diploma or to learn?

11 A. Both.

12 Q. Both. Do you feel that at Phoenix you were learning?

13 A. No.

14 Q. If you had the choice would you rather stay at Phoenix  
15 for another year and get a high school diploma or go to a  
16 better school where you might not get a high school diploma?

17 A. No, I would choose to [indiscernible] a better school.

18 Q. Okay. Thank you.

19 MS. TACK-HOOPER: Nothing else, Your Honor.

20 THE COURT: Thank you, counselor. Attorney  
21 O'Donnell.

22 MS. O'DONNELL: Nothing further, Your Honor.

23 THE COURT: And I just have a few questions.  
24 Sir, you came from Somalia to Egypt; is that correct?

25 INTERPRETER: Yes.

1 THE COURT: And when you were in Somalia you did  
2 not have the opportunity to go to school?

3 INTERPRETER: We were afraid to go to the  
4 school.

5 THE COURT: And can you describe what life was  
6 like in Somalia as best you can remember?

7 INTERPRETER: They were fighting and my mother  
8 will hide us in the house as nothing can harm us.

9 THE COURT: Okay. And so it was a very  
10 unstable -- it wasn't a good life?

11 INTERPRETER: It was.

12 THE COURT: And when you heard you were going to  
13 Egypt how do you hear that?

14 INTERPRETER: [Indiscernible] can you repeat?

15 THE COURT: That was a terrible question. How  
16 did you hear about the fact that you were going to Egypt?

17 INTERPRETER: From -- from somebody who was  
18 there that my mother find out that he can help us to escape to  
19 Egypt, to go to Egypt.

20 THE COURT: And was it a government official or  
21 was it a private person?

22 INTERPRETER: I don't know, but only we know  
23 that we have to -- we have to -- we sold the house and we gave  
24 him the money to help us to escape out of the country.

25 THE COURT: Okay. And did you have to hide when

1 you were escaping out of the country?

2 INTERPRETER: We were -- we were in the house  
3 hiding until we find this person to take us out of the  
4 country.

5 THE COURT: And did they drive you out of the  
6 country in a car?

7 INTERPRETER: No, in the airplane.

8 THE COURT: So you got onto an airplane?

9 INTERPRETER: Yes.

10 THE COURT: And then once you got to Egypt where  
11 did you live?

12 INTERPRETER: We met -- we met -- we met people  
13 that we lived with them in some place in Egypt. They give us  
14 one room.

15 THE COURT: So all of you lived in one room?

16 INTERPRETER: Yes.

17 THE COURT: Did you have enough food?

18 INTERPRETER: It was not much.

19 THE COURT: And you were not able to go to  
20 school in Egypt?

21 INTERPRETER: No.

22 THE COURT: But you still learned to speak  
23 Arabic? Can you also read and write Arabic?

24 INTERPRETER: A little bit.

25 THE COURT: And is Arabic close to Somalian?

1 INTERPRETER: No.

2 THE COURT: Okay. When did you hear that you  
3 were going to be resettled in the United States or how -- how  
4 and when?

5 INTERPRETER: When we went and lived with this  
6 family they applied for an asylum for us and we waited many  
7 years and we get acceptance to come to the United States.

8 THE COURT: Okay. And when you got that news  
9 was that good news?

10 INTERPRETER: I was the happiest person  
11 [indiscernible].

12 THE COURT: Okay. What did you know about the  
13 United States?

14 INTERPRETER: America's number one.

15 THE COURT: Okay. And once you arrived here was  
16 it what you expected? I think I'm making the interpreter cry.  
17 Take a moment, that's fine.

18 INTERPRETER: [Indiscernible] come for freedom.

19 THE COURT: That's fine, ma'am.

20 INTERPRETER: I didn't.

21 THE COURT: Excuse me.

22 INTERPRETER: I didn't. I did not.

23 THE COURT: Did not? It was not -- it.

24 INTERPRETER: I did not find what I expected.

25 THE COURT: Okay and why was that? I know you

1 were expecting it to be wonderful and it wasn't wonderful and  
2 your -- you get here your 17 years old what was it that made  
3 if not wonderful?

4 INTERPRETER: I did not find my opportunity to  
5 take my education and I did not find the support that I  
6 deserve.

7 THE COURT: Now in Egypt you learned Arabic and  
8 you learned it in at least within five years you can speak  
9 Arabic; correct?

10 INTERPRETER: In three years.

11 THE COURT: Three years. Do you find English a  
12 more difficult language?

13 INTERPRETER: No.

14 THE COURT: So you will learn English?

15 INTERPRETER: Yes.

16 THE COURT: And why do you wish to be a police  
17 officer?

18 INTERPRETER: I love the personality, the  
19 character.

20 THE COURT: Does it have anything to do with  
21 protecting people?

22 INTERPRETER: Yes.

23 THE COURT: Okay. All right. And do you feel  
24 different because you don't speak English?

25 INTERPRETER: Yes.



1 THE COURT: Do you feel different when you were  
2 in Egypt?

3 INTERPRETER: Yes.

4 THE COURT: And when you were at the Phoenix  
5 school do you basically sit there all day long without  
6 understanding anything except that one hour with the English  
7 teacher?

8 INTERPRETER: Yes.

9 THE COURT: Did you tell anybody about this?

10 INTERPRETER: No.

11 THE COURT: Okay. Is there anything else you  
12 would like to tell me, sir?

13 INTERPRETER: I came to United States to pursue  
14 my education and be able to help my family.

15 THE COURT: Okay. Thank you very much, sir.  
16 Attorney Tack-Hooper, do you have any questions in light of  
17 the Court's questions?

18 MS. TACK-HOOPER: No. No, Your Honor.

19 THE COURT: And Attorney O'Donnell, do you have  
20 any questions in right of the Court's questions?

21 MS. O'DONNELL: I do not.

22 THE COURT: Very well, thank you, counselor.  
23 Thank you very much, sir, you may step down. And who is  
24 calling the next witness?

25 MR. ROTHSCHILD: Your Honor, Eric Rothschild.

1 I'm calling the next witness [indiscernible], we need to call  
2 the interpreter.

3 THE COURT: Very well. Let's hope it goes a  
4 little smoother this time, but --

5 MR. ROTHSCHILD: At least once we get it going  
6 we've got three in a row with the same language.

7 THE COURT: You can have a seat.

8 - - -

9 (CALL PLACED TO INTERPRETER)

10 - - -

11 THE COURT: We know it's going to work we've  
12 done it before.

13 MS. O'DONNELL: This should a [indiscernible].

14 - - -

15 (CALL PLACED TO INTERPRETER)

16 - - -

17 INTERPRETER: Hi, my name is Salai. I will be  
18 your Hakha Chin Interpreter I.D. number 453013. How can I  
19 help you today?

20 MR. ROTHSCHILD: Good afternoon.

21 INTERPRETER: Good afternoon.

22 THE COURT: And sir, are you in a position to be  
23 sworn as the interpreter in this matter?

24 INTERPRETER: Yes.

25 THE COURT: Very well. Attorney Kulick.

1 ESR OPERATOR: Please raise your right hand.

2 INTERPRETER: Yes.

3 - - -

4 (SALAI LIAN - INTERPRETER - SWORN)

5 - - -

6 THE COURT: Thank you very much, sir. And sir,  
7 would you please state your full name, spelling your last name  
8 for the record?

9 INTERPRETER: Yes, my full name is Salai  
10 [indiscernible] Lian and last name is spelled L-I-A-N.

11 THE COURT: And the language you will be  
12 interpreting.

13 INTERPRETER: Hakha Chin.

14 THE COURT: And you are qualified and certified  
15 to interpret in that language?

16 INTERPRETER: I am qualified interpreter for  
17 that language.

18 THE COURT: Very well. Thank you very much,  
19 sir. Mr. Rothschild, you may proceed, sir.

20 MR. ROTHSCHILD: We need to swear the witness?

21 THE COURT: Certainly. She's there. Quiet as  
22 can be, but she's there.

23 DEPUTY CLERK: Please raise your right hand.

24 - - -

25 (VAN NI LANG - SWORN)

1 - - -

2 THE COURT: And Miss, if you would keep your  
3 voice up as much as you can.

4 INTERPRETER: Okay. Thank you.

5 THE COURT: Mr. Rothschild, you may proceed,  
6 sir.

7 - - -

8 EXAMINATION

9 - - -

10 BY MR. ROTHSCHILD:

11 Q. Good afternoon, Van Ni. Are you ready to answer my  
12 questions?

13 A. Yes.

14 Q. And I'm going to ask you to wait until the interpreter  
15 has finished my question before you answer; okay?

16 A. Okay.

17 Q. Van Ni, can you tell the judge your full name?

18 A. My name is Van Ni Lang.

19 Q. How old are you?

20 A. Seventeen.

21 Q. What's your birthday?

22 A. October 30, 1998.

23 Q. Where were you born?

24 A. I was born in Xiao Pai [ph].

25 Q. Can you repeat that please?

1 A. I was born in Xiao Pai.

2 Q. And what country is that in?

3 A. Chin State.

4 Q. Could you repeat that?

5 A. [Indiscernible].

6 Q. Where did you live before you came to the United  
7 States?

8 A. Yeah, I was in [indiscernible].

9 Q. Okay. And did you go to school there?

10 A. Yes.

11 Q. Okay. How many years of school did you complete?

12 A. Yes, I was eight grade.

13 Q. And what was the last month and year that you went to  
14 school there?

15 A. Yeah, it was around March, but I don't remember the  
16 year for sure. I don't know [indiscernible].

17 Q. What language did you speak there before you came to  
18 the United States? Did you speak any other -- I'm sorry.

19 A. Hakha Chin.

20 Q. Did you speak any other languages before you came to  
21 the United States?

22 A. Yeah, I speak some Burmese as well.

23 Q. But you didn't speak any English?

24 A. Yeah, I don't -- I -- I don't speak English.

25 Q. Okay. And before you came to the United States did you

1 understand any English?

2 A. No.

3 Q. Why did your family come to the United States?

4 A. Yes, in my country there were -- there was, like, force  
5 labor by the army, a lot, mean time and because of that my  
6 father left the country.

7 Q. Was your dad, your father forced into labor before he  
8 left for the United States?

9 A. Yes.

10 Q. Did he come to the United States before you and the  
11 rest of the family?

12 A. Yes.

13 Q. And did he come to Lancaster, Pennsylvania?

14 A. Yes.

15 Q. When did you arrive in the United States?

16 A. November 2015.

17 Q. And what city did you -- what city do you live in now?

18 A. This is your interpreter, can you repeat again?

19 Q. Yes. What city do you live in?

20 A. Lancaster.

21 Q. Who came to the United States with you in November  
22 2015?

23 A. My mom and my old siblings and two younger siblings.

24 Q. Is your older sibling in the Court with you here today?

25 A. Yes.

1 Q. And what's her name?

2 A. [Indiscernible].

3 Q. How old is she?

4 A. Nineteen.

5 Q. And tell us about your younger siblings. What are  
6 their names and how old are they?

7 A. Yes, my younger witness is [indiscernible] and he is 15  
8 year old and the younger is [indiscernible] and she is 14 year  
9 old.

10 Q. When you came to the United States did your family have  
11 a case worker that helped you settle in Lancaster?

12 A. Yes.

13 Q. Do you remember his name or her name?

14 A. Malcolm.

15 Q. Malcolm?

16 A. Yes.

17 Q. When you came to the United States did you want to go  
18 to school?

19 A. Yes.

20 Q. Why?

21 A. Yes, I want to Phoenix school.

22 Q. But why did you want to go to school?

23 A. Yeah, I wanted to be educated.

24 Q. You go to school at Phoenix?

25 A. Yes.

1 Q. And that's where Sui Hnem goes also?

2 A. Yes.

3 Q. Where does -- sorry. Where does your younger brother  
4 go to school?

5 A. McCaskey.

6 Q. Did the District give you the choice of going to  
7 McCaskey?

8 A. No.

9 Q. And where does your younger sister go to school? Where  
10 will she go --

11 A. Abraham Lincoln School.

12 Q. Where will she go to school next year?

13 A. McCaskey.

14 Q. Did Malcolm help you enroll in school?

15 A. Yes.

16 Q. And do you -- do you remember -- do you remember going  
17 to the school office to fill out forms to go to school?

18 A. Yes, I remember.

19 Q. And was that soon after you came to the United States?

20 A. Yes.

21 Q. Was it in November 2015?

22 A. Yes.

23 Q. When did you begin at Phoenix?

24 A. In December.

25 Q. Do you remember whether it was early December or late



1 December?

2 A. Yeah, just before Christmas days.

3 Q. Did your older sister Sui Hnem start at Phoenix at the  
4 same time?

5 A. No.

6 Q. When did she start?

7 A. Yeah, February.

8 Q. I want to ask you some questions about going to school  
9 at Phoenix; okay?

10 A. Okay.

11 Q. When you enter school in the morning are you patted  
12 down?

13 A. Hello, this is your interpreter, can you repeat again?

14 Q. Sure. When you enter school in the morning are you  
15 patted down?

16 A. Yes. While we enter the school, yes. We were -- we  
17 were always checked.

18 Q. Everyday?

19 A. Yes.

20 Q. How does that make you feel?

21 A. Yes. Sometimes I was afraid of checking because  
22 sometime I my clothes got [indiscernible] and the  
23 [indiscernible] and sometime they ask me what is that so I  
24 wasn't able to speak to them in [indiscernible]. I -- I'm --  
25 I was afraid of.

1 Q. I want to make sure I understood. So sometimes my  
2 clothes became what?

3 A. Yes. In my clothes sometimes I got [indiscernible] a  
4 little bit bumps [indiscernible] in the bottom and they --  
5 they -- they asking me what is the bump on my clothes and I  
6 wasn't able to tell them what it was in English.

7 Q. Did you ever bring a purse or a backpack into school  
8 with you?

9 A. No.

10 Q. Why not?

11 A. No.

12 Q. Why not?

13 A. I don't know why.

14 Q. Did your teacher send books home with you from school?

15 A. No.

16 Q. Would you like to be able to bring books home?

17 A. Yes.

18 Q. Why?

19 A. Yes, if I bring book back to my home I can study and I  
20 can -- it can help me to speak English better.

21 Q. What's your favorite class at Phoenix?

22 A. ESL.

23 Q. What is that your favorite class?

24 A. Yes, because I don't speak English and I wanted to  
25 learn English.

1 Q. And is your ESL is that just one class period everyday?

2 A. Yes.

3 Q. Would you like to have more ESL time?

4 A. Yes.

5 Q. What other classes do you take at Phoenix?

6 A. This is your interpreter I would like to request  
7 [indiscernible] to repeat again.

8 Q. Yes, that's fine.

9 A. Okay.

10 Q. Go ahead.

11 A. Counseling, yes, like, the -- just mathematic, science  
12 and history and drawing and counseling.

13 Q. Are those classes taught in English?

14 A. Yes.

15 Q. Are there English speaking kids in the class? English  
16 speaking students in the class?

17 A. Yes.

18 Q. Do you have trouble understanding what's being taught  
19 in those classes?

20 A. Yes.

21 Q. And why is that?

22 A. Yes, when they talk faster or when they talk not clear  
23 then I could not understand them.

24 Q. Is it also hard to understand the English speaking  
25 students in the class?

1 A. Yes.

2 Q. Are there ever interpreters in any of the classes?

3 A. No, never.

4 Q. If you don't understand something do your teachers ever  
5 call to get translation help like we're doing here in the  
6 Court?

7 A. No, never.

8 Q. Are there any teachers in the school who speak Hakha  
9 Chin?

10 A. No.

11 Q. And are there any other students who speak Hakha Chin  
12 in Phoenix besides your sister?

13 A. No. No one else [indiscernible].

14 Q. When the school sends papers home do they translate  
15 those papers into Hakha Chin?

16 A. No.

17 Q. Could you just give us an example about what you  
18 learned in science class?

19 A. Yeah. We study about moon, star, rock and the sign.

20 Q. And can you describe the work you actually do in  
21 science class, what kind of assignments you do?

22 A. Yes, first we write a note and then the teacher explain  
23 and then we answer questions. We pick out the right answers.

24 Q. Did you ever take -- have homework from your science  
25 class?

1 A. No. Never.

2 Q. Outside of school do you receive any English language  
3 tutoring?

4 A. Yes, at home I receive once a week.

5 Q. And who arranged that? Did your caseworker arrange  
6 that for you?

7 A. Yes, caseworker arranged, yes that work, that  
8 assignment.

9 Q. What grade is your brother going into at McCaskey?

10 A. Yes, he was 10th grade last year, but this year he will  
11 going to 11th grade.

12 Q. Does she speak better English than you?

13 A. Yes, very much better.

14 Q. Even though he's younger than you?

15 A. Yes.

16 Q. Why do you think that is?

17 A. Yeah, at his school she -- she spend more time on the  
18 ESL class and he also brought back books and that way he got a  
19 lot of help.

20 Q. Does he do work at home?

21 A. Yes.

22 Q. Is it a little frustrating that your little brother  
23 knows more English than you do?

24 A. Yes. Yes.

25 Q. Would you like to go to McCaskey like your brother?

1 A. Yes.

2 Q. What would you like to do when you're older?

3 A. Yeah, I want to become a medical doctor.

4 MR. ROTHSCHILD: I have no further questions.

5 Thank you, Your Honor.

6 THE COURT: Thank you very much, counselor.

7 Attorney O'Donnell, you may cross-examine the witness.

8 MS. O'DONNELL: Thank you.

9 - - -

10 CROSS-EXAMINATION

11 - - -

12 BY MS. O'DONNELL:

13 Q. Hi, Van Ni. Do you remember speaking with me last  
14 week? Yes?

15 A. Yes.

16 Q. Do you know whether or not there are other students at  
17 the Abraham Lincoln School that speak Hakha Chin?

18 A. No. I don't know.

19 Q. And do you know whether there are any other students at  
20 McCaskey that speak Hakha Chin?

21 A. Yes.

22 Q. Who -- do you know the people that speak Hakha Chin  
23 other than your sibling at McCaskey?

24 A. This is your interpreter, interpreter would like to  
25 [indiscernible] okay. I'm just to [indiscernible] the

1 question one more time.

2 Q. Sure.

3 A. Yes. I know one person, one student who speak Hakha  
4 Chin there.

5 Q. And is that person your sibling?

6 A. No.

7 Q. Who is that person?

8 A. I don't know that student name but he is a friend of my  
9 brother.

10 Q. Okay. So to your knowledge there are two students at  
11 McCaskey that speak Hakha Chin like you and your sister are  
12 the two students at Phoenix that speak Hakha Chin; is that  
13 correct?

14 A. I'm sorry, this is your interpreter, could you repeat  
15 again, one more time?

16 Q. Sure. To the best of Van Ni's knowledge, there are two  
17 people at McCaskey that speak Hakha Chin just like there are  
18 two people -- go ahead?

19 A. I'm sorry.

20 Q. That's okay. You could interpret that.

21 A. Yes.

22 Q. And to the best of your knowledge there are only two  
23 people at Phoenix Academy, you and your sister that speak  
24 Hakha Chin; is that correct? Okay.

25 A. Yes.

1 Q. Do you know whether there are any interpreters at  
2 McCaskey?

3 A. I don't know.

4 Q. Let's go back to your education when you were in Burma.  
5 I believe you testified that you left Burma when you were in  
6 eight grade; is that correct?

7 A. Yes.

8 Q. And how old were you at the time you finished eight  
9 grade in Burma?

10 A. Fifteen.

11 Q. Fifteen?

12 A. Yes.

13 Q. And how old -- can you tell me what grade your sister  
14 finished, your older finished when -- when leaving Burma?

15 A. Ninth grade.

16 Q. And how old was your sister when she finished ninth  
17 grade?

18 A. No. I am not sure. I don't know.

19 Q. Do you know how old your sister is now?

20 A. Yes.

21 Q. How old is she?

22 A. Nineteen.

23 Q. And how long ago did you leave Burma?

24 A. Almost two year now.

25 Q. Okay. Are you happy with your education at the Phoenix



1 Academy?

2 A. I think not bad.

3 Q. Okay. Last week you told me you were happy with your  
4 education. Did something change between then and now?

5 A. No.

6 Q. Okay. And Van Ni do you want to transfer to McCaskey?

7 A. Yes.

8 Q. Why?

9 A. Yes. I wanted to spend more time on ESL class and  
10 there are -- there are -- there are -- there is also my  
11 younger sibling and there are -- there are -- there are a lot  
12 of Burmese student there.

13 Q. When you say you want more time in ESL class are you  
14 aware that the classes at McCaskey are about half the length  
15 of time everyday that you receive at Phoenix Academy?

16 A. No. I don't know.

17 Q. So if it's just the amount of English language  
18 instruction you receive isn't it better for you to stay at  
19 Phoenix?

20 MR. ROTHSCHILD: Objection. Lacks foundation.

21 THE COURT: There's an objection. Hold on.

22 INTERPRETER: Sorry.

23 MR. ROTHSCHILD: Your Honor, objection, lacks  
24 foundation when she's just stating the facts about what's  
25 taught at McCaskey.

1 THE COURT: It's somewhat of a rhetorical  
2 question in any case, because the idea is we're going to get  
3 more specific information about what is taught at each school,  
4 so it's somewhat rhetoric. Ask her if you get more English  
5 training at Phoenix, doesn't it make more sense to stay at  
6 Phoenix. So I'm going to overrule the objection. I think  
7 it's really tough for this witness to answer that question  
8 understanding what the mechanics of it all is.

9 MS. O'DONNELL: Let me -- let me rephrase it the  
10 question.

11 THE COURT: Very well.

12 BY MS. O'DONNELL:

13 Q. Van Ni, if you learned that there's only 40 minutes or  
14 50 minutes of English instruction a day at McCaskey and  
15 English is important to you and you get 80 minutes of English  
16 instruction at Phoenix what's better for you?

17 A. This is your interpreter, yeah, interpreter would like  
18 to clarify what your question; okay that you say that if  
19 you -- if she receive like 40 or 50 a day from in the English  
20 [indiscernible] ESL at [indiscernible] and you also asked the  
21 question about 80 minutes at Phoenix?

22 Q. Are you asking for an interpretation?

23 A. Oh, yes, this is your interpreter, yeah, okay. I just  
24 -- interpreter was trying to [indiscernible] your question.

25 Q. Right. I want her to be able to -- to tell me whether

1 having more minutes of English instruction a day is more  
2 important to her than attending McCaskey?

3 A. Okay.

4 MR. ROTHSCHILD: And Your Honor, I'm going to --

5 INTERPRETER: Okay.

6 MR. ROTHSCHILD: I'm going to object --

7 INTERPRETER: Thank you.

8 MR. ROTHSCHILD: Interpreter, could you just  
9 wait one moment before translating? Thank you. I'm going to  
10 object, because it's incomplete and I appreciate this is  
11 challenging to ask this question, but it's incomplete  
12 hypothetical, it states facts that are not in evidence and I  
13 believe it states facts that will not be in evidence, so I'm  
14 going to register that objection. I think it would be very  
15 difficult for the witness to answer this question as well.

16 THE COURT: I'm going to overrule the objection,  
17 however, my understanding is the [indiscernible] of the issue  
18 is you can't learn in a science class that's taught in English  
19 unless you can understand English, so the importance of  
20 learning English is paramount in order to be able to learn in  
21 all the other subjects. You know, if you put me in a class  
22 where they're speaking this language I wouldn't learn one  
23 single word, maybe something on the blackboard. So again, the  
24 question is a little rhetorical and again, I know where you're  
25 going. Would it be better for her to be in a school where she

1 gets more English instruction so that her proficiency in  
2 English increases is I think what you're going for; correct?

3 MS. O'DONNELL: Well, yes, because she's  
4 testified that she wants to go -- to go to McCaskey because  
5 she'll learn more English.

6 THE COURT: And there's also been evidence that  
7 her brother who goes to McCaskey speaks better English than  
8 she does even though she appears to be a very bright young  
9 girl, so the question is why we're going to get sooner or  
10 later, and I don't think through her, but we're going to get  
11 to why that might be the case. So I'm going to allow you to  
12 ask that question about isn't, and you can phrase it yourself,  
13 but isn't it more important to you that you get a lot of  
14 English instruction so that your proficiency in English can  
15 get effective so that you can be learning in the other  
16 classes.

17 MS. O'DONNELL: Interpreter, did you -- did you  
18 understand that question that the judge just asked?

19 THE COURT: That would be impossible.

20 INTERPRETER: Yeah, you may -- you may -- you  
21 may want to ask me to her.

22 MS. O'DONNELL: Okay. Let me -- let me -- let  
23 me pose it to Van Ni.

24 BY MS. O'DONNELL:

25 Q. Van Ni, is it more important for you to get more

1 minutes of English instruction a day so that you become more  
2 proficient in English than it is to attend a different school  
3 where you get lessons -- less time per day?

4 A. Yes. I wanted to learn English and McCaskey is much  
5 more closer to my home than the other one and now the current  
6 one it took too long for us to get there.

7 Q. Thank you, Van Ni?

8 MS. O'DONNELL: Those are all the questions I  
9 have.

10 THE COURT: Thank you very much counselor. Mr.  
11 Rothschild -- Mr. Rothschild, you may redirect the witness.

12 MR. ROTHSCHILD: Thank you, Your Honor, just one  
13 question.

14 - - -

15 REDIRECT EXAMINATION

16 - - -

17 BY MR. ROTHSCHILD:

18 Q. Van Ni, did your brother attend the International  
19 School at McCaskey?

20 A. Yes.

21 MR. ROTHSCHILD: That's all, Your Honor.

22 THE COURT: Thank you, counselor. Attorney  
23 O'Donnell, anything further?

24 MS. O'DONNELL: Nothing further, thank you.

25 THE COURT: Very well. And Miss, at home you

1 speak your native language; is that correct?

2 INTERPRETER: Yes, we -- we speak Hakha Chin at  
3 home.

4 THE COURT: And outside of school where do you  
5 speak or hear English?

6 INTERPRETER: No. I will stay after school, no,  
7 no English.

8 THE COURT: Do you speak any English at all?

9 INTERPRETER: I only speak English just a little  
10 bit, very easy one, just a little bit.

11 THE COURT: Okay. And are you happy at home?

12 INTERPRETER: Yes, I am happy a little bit back  
13 home, yes.

14 THE COURT: And are you happy at school?

15 INTERPRETER: Yes.

16 THE COURT: Was that a yes? Okay. Does either  
17 counsel have any questions in light of my questions?

18 MR. ROTHSCHILD: No, Your Honor.

19 MS. O'DONNELL: No, Your Honor.

20 THE COURT: Very well. Ma'am, thank you very  
21 much. You may step down.

22 MR. ROTHSCHILD: Could the interpreter stay on  
23 the line, please, for the next witness.

24 THE COURT: Yes, sir, we have another witness  
25 about to take the stand who also is going to need your

1 assistance in interpreting.

2 INTERPRETER: Okay, Your Honor.

3 THE COURT: Thank you very much, sir.

4 DEPUTY CLERK: Please raise your right hand.

5 - - -

6 (SUI HNEM SUNG - SWORN)

7 - - -

8 THE COURT: Very well, you may be seated, ma'am.

9 And ma'am, would you -- would you please state your full name  
10 spelling your last name for the record.

11 INTERPRETER: My full name is Sui Hnem Sung.

12 THE COURT: And how is that last name spelled.

13 INTERPRETER: S-U-N-G.

14 THE COURT: Okay. Thank you very much.

15 Counselor, you may proceed.

16 - - -

17 EXAMINATION

18 - - -

19 BY MR. ROTHSCHILD:

20 Q. Good afternoon, Sui Hnem?

21 A. Good afternoon.

22 Q. I'm going to ask you some questions, but not as many as  
23 I asked your sister; okay?

24 A. Okay.

25 Q. How old are you Sui Hnem?

1 A. Nineteen.

2 Q. And what's your birthday?

3 A. October 19, 1996.

4 Q. Sui Hnem, where were you born?

5 A. Xiao Pai.

6 Q. Sui Hnem is that part of Burma?

7 A. Yes, Burma and Chin state.

8 Q. Did you go to school in Burma?

9 A. Yes.

10 Q. How many years did you go to school?

11 A. Yeah, I was ninth grade.

12 Q. And do you remember when you stopped going to school in  
13 Burma, what month and year?

14 A. Yes, I don't remember the year, but it was around the  
15 beginning of March.

16 Q. Okay. This year is 2016; right?

17 A. Yes.

18 Q. Do you think it was in 2000 -- do you think it was in  
19 2015 in March that you stopped going to school in Burma?

20 A. No. No.

21 Q. That's --

22 A. Not in 2015?

23 Q. Was it in 2014?

24 A. I don't know. I don't remember the years.

25 Q. That's okay. What's your native language? What



1 language did you first start speaking?

2 A. Hakha Chin.

3 Q. Did you speak any other languages before moving to the  
4 United States?

5 A. Yeah. I also speak Burmese a little bit.

6 Q. Okay. When did you arrive in the United States?

7 A. November 2015.

8 Q. And at that time did you speak any English?

9 A. No. No, I didn't understand English [indiscernible].

10 Q. Did you understand English?

11 A. No.

12 Q. Interpreter, we're hearing some background noise?

13 A. This is your interpreter, yeah, I'm not sure if that  
14 may be the office.

15 Q. Okay.

16 A. Sorry, sir.

17 Q. Sui Hnem, what city do you live in?

18 A. I'm sorry, this is your interpreter. Did you mean  
19 where city she's in?

20 Q. I'm sorry, what's -- the question was what city did --  
21 does she live in?

22 A. Lancaster.

23 Q. When you came to the United States did you want to go  
24 school?

25 A. No. As soon as I came here, no. I didn't going to

1 school right away.

2 Q. But did you want to go to school?

3 A. Yes.

4 Q. Why is that?

5 A. Yeah, without education it's not good for the future,  
6 but if I have education yeah my feature is good.

7 Q. When you went to school in Burma do you like going to  
8 school?

9 A. Yes.

10 Q. Did your case working help you enroll in school in  
11 Lancaster?

12 A. Yes.

13 Q. Was that in --

14 A. Yeah.

15 Q. Was that Malcolm that, Malcolm who helped you?

16 A. Yes.

17 Q. Did you -- did you go with your sister in November 2015  
18 the enrollment office so that you could enroll in school?

19 A. Yeah, we went there together.

20 Q. And what school did you eventually go to?

21 A. Phoenix.

22 Q. When did you start going to school at Phoenix?

23 A. In February.

24 Q. Of this year?

25 A. Yes.

1 Q. Do you understand why you didn't start in December when  
2 your sister did?

3 A. Yeah, my caseworker told me that I -- I am 19 year old.  
4 It's very difficult for me to be enrolled in school, but the  
5 caseworker were going to help me to get to school.

6 Q. Interpreter, could you just repeat that answer? It was  
7 a bit hard for us to hear you?

8 A. Yeah. Yeah. Yeah. My caseworker told me that it is  
9 very difficult for me to get -- to enroll in school, because I  
10 am 19 year old, but caseworker help me and finally I got  
11 enrolled in the school.

12 Q. Did the School District give you a choice of going to  
13 McCaskey instead of Phoenix?

14 A. No. They just send me directly to Phoenix. No.

15 Q. When you go to Phoenix everyday do they search you?

16 A. Yes, they -- they check me, yes.

17 Q. Tell me -- tell us what they do. How do they search  
18 you?

19 A. Yes, they check around my -- my hand and all of my body  
20 and they -- they ask me to take off my shoe.

21 Q. Okay. And do they check out your body by patting you  
22 down with their hands?

23 A. Yes, they use their hand and they check my body.

24 Q. How do you feel about that?

25 A. Yes, you know, sometime I used to wear a jacket and

1 they asked me to take off and sometime if they thought I had  
2 bump on my clothes they asked me and -- and I wasn't able to  
3 tell them at that time I was afraid of them.

4 Q. Do you bring books home from school?

5 A. No.

6 Q. Would you like to be able to do that?

7 A. Yeah, if I can -- yeah, bring book back then I wanted  
8 to do so.

9 Q. Do you take an ESL class at Phoenix?

10 A. Yes.

11 Q. And how do you feel about that class?

12 A. Yeah, it was very good class and the teacher was very  
13 good at teaching.

14 Q. Would you have liked to do more time in ESL class?

15 A. Yes, I wanted to learn more.

16 Q. Your other classes, math and science and social  
17 studies, are those all taught in English?

18 A. Yes, everything is in English.

19 Q. Are they hard for you to understand?

20 A. Yes, very, very difficult.

21 Q. Do -- does the school ever provide interpreters in your  
22 classes?

23 A. No, never.

24 Q. And if you don't understand something do your teachers  
25 ever call a phone interpreter like we are doing here in this

1 courtroom?

2 A. No, never.

3 Q. Do you receive the same tutoring in home in English  
4 that you sister described?

5 A. Yes, they come once a week for all of my family  
6 members.

7 Q. Van Ni said your brother speaks better English than she  
8 does. Does he speak better English than you do?

9 A. Yes, compared to him we are nothing, because he speak  
10 very, very good. A lot more better than us.

11 Q. How do you feel about that?

12 A. Yes, sometimes when I am not at his level in English I  
13 wanted to give up and sometime [indiscernible].

14 Q. I'm sorry, what was the last thing you said?

15 A. Yes, yeah, I am not -- I am not at his level in  
16 English. Sometimes I wanted to give up our [indiscernible]  
17 until I [indiscernible].

18 Q. Too sad?

19 A. No. Sometime I feel [indiscernible] right and I --

20 Q. Oh, you're sad? Thank you?

21 A. Yeah.

22 Q. Why do you think your brother speaks better English  
23 than you do?

24 A. Yes, I believe he -- he have more time on ESL class at  
25 his school. And he also got homework at home and he was doing

1 homework everyday. I think that help him a lot.

2 Q. Sui Hnem, would you like to go to McCaskey?

3 A. Yes.

4 Q. And why is that?

5 A. Yes, I -- I wanted to go to McCaskey because I wanted  
6 to learn more ESL class and my sibling are also going to that  
7 school and, you know, McCaskey is closer to my home, the other  
8 school, you know, it took us about 45 or 45 or 50 minutes to  
9 get there, it's a little bit far away.

10 Q. How do you get to Phoenix?

11 A. By walking.

12 Q. Sui Hnem, when you finish your education what would you  
13 like to do with your life in America?

14 A. School teacher.

15 Q. And why do you want to do that?

16 A. Yes. Yeah, because I wanted to teach the student and  
17 they will become all together and they will be the leader for  
18 the country.

19 MR. ROTHSCHILD: Those are all my questions,  
20 thank you.

21 THE COURT: Okay. And just to clarify, the  
22 question regarding how the witness gets to school, did she say  
23 that she walks to school?

24 MR. ROTHSCHILD: I believe that's right.

25 BY MR. ROTHSCHILD:

1 Q. Sui Hnem, you walk to school everyday; right?

2 A. Yes.

3 THE COURT: And how long is --

4 INTERPRETER: [Indiscernible] walking everyday.

5 THE COURT: I'm sorry, and how long does that  
6 take.

7 INTERPRETER: Yeah, it take us about 45 or 50  
8 minutes.

9 THE COURT: Okay. Thank you.

10 MR. ROTHSCHILD: Thank you, Your Honor.

11 THE COURT: Excuse me. Attorney O'Donnell, you  
12 may cross-examine the witness.

13 MS. O'DONNELL: Thank you, Your Honor.

14 - - -

15 CROSS-EXAMINATION

16 - - -

17 BY MS. O'DONNELL:

18 Q. Hi Sui Hnem.

19 A. Hi.

20 Q. Are you aware that there's a bus system available to  
21 student within the School District to ride the bus to school  
22 if you wanted to do that instead of walk?

23 A. No. I know there are school bus there, but they told  
24 me that we could not get school bus.

25 Q. Can you get to McCaskey and take a bus over to Phoenix?

1 A. Yes. I can -- I can walk to McCaskey school by walking  
2 because it -- it will only take me about 15 to 20 minutes from  
3 my home.

4 Q. Okay. But from McCaskey you can take a bus to Phoenix;  
5 right?

6 A. I don't know.

7 Q. Okay. You -- you attend the summer school classes too;  
8 right at Phoenix?

9 A. Yes, I did.

10 Q. And what did you learn during the summer?

11 A. Yes, ESL, mathematic and drawing picture.

12 Q. Okay. And do you take any extra classes after school  
13 for additional ESL or any other subjects?

14 A. No.

15 Q. Okay. Do you know how many credit you have accumulated  
16 so far at McCaskey? Pardon me, at Phoenix?

17 A. Yeah, I don't know my credit because I don't speak  
18 English yet and I don't know how to ask question to them.

19 Q. Okay. Did you ever complain to anyone, any of your  
20 teachers at Phoenix that you don't feel like you're getting  
21 enough ESL instruction?

22 A. No, never.

23 Q. And why not?

24 A. Because I don't speak English, that's why I'm not able  
25 to tell them.



1 Q. Okay.

2 MS. O'DONNELL: That's all the questions I have.

3 Thank you.

4 THE COURT: Thank you very much, counselor.

5 Attorney Rothschild, do you have any redirect of the witness.

6 MR. ROTHSCHILD: One question.

7 THE COURT: Certainly.

8 - - -

9 REDIRECT EXAMINATION

10 - - -

11 BY MR. ROTHSCHILD:

12 Q. Sui Hnem, when you go to summer school at Phoenix are  
13 there only Phoenix students there or are there also McCaskey  
14 students?

15 A. Yes. From Phoenix school we were only four students,  
16 but other student were from McCaskey.

17 MR. ROTHSCHILD: Those are all my questions.

18 Thank you.

19 THE COURT: Thank you, counselor. Attorney  
20 O'Donnell, anything further of the witness?

21 MS. O'DONNELL: No, I have no further questions,  
22 thank you.

23 THE COURT: And, ma'am, I just have one  
24 question, it's going to turn into, but did you ever think you  
25 would be testifying in a Federal Court?

1 INTERPRETER: No.

2 THE COURT: And would you like to take this --

3 INTERPRETER: We never -- we never -- we never  
4 thought that we will do this and, you know, we were afraid of  
5 doing this [indiscernible].

6 THE COURT: Did it turn out as bad as you  
7 thought?

8 INTERPRETER: No. I think, not -- not very  
9 difficult day, it's easy.

10 THE COURT: And is there anything else that you  
11 would like to tell me that would help me make a decision in  
12 this matter?

13 INTERPRETER: No.

14 THE COURT: Okay. Thank you very much. And I  
15 assume there are no other questions of the witness.

16 MS. O'DONNELL: No there's not questions from  
17 me.

18 THE COURT: Very well. Ma'am, you may step  
19 down. And Mr. Rothschild, I believe that is all the evidence  
20 you hope to present today; is that correct?

21 MR. ROTHSCHILD: That's right, Your Honor. I  
22 want to thank every [indiscernible] for staying as late as  
23 they did [indiscernible] your staff. The only other thing I  
24 wanted to do is move three exhibits into evidence today.

25 THE COURT: Very well.

1 MR. ROTHSCHILD: Two of them were referenced in  
2 the opening, those exhibit 8 which was the description of the  
3 ESL Services in Lancaster School District and exhibit 25 which  
4 is the all the abstract and support of grant and then we'd  
5 like to move into exhibit 15 which are Khadidja Issa's school  
6 records.

7 THE COURT: And Attorney O'Donnell, do you have  
8 any objection to the admission of exhibits 8, 25 and 15?

9 MS. O'DONNELL: I don't -- I don't think that  
10 these were the appropriate witnesses to -- to introduce those  
11 exhibits into the record for example, there wasn't a witness  
12 here that testified that they were the person who wrote the  
13 grant or what the purpose was. There was only one excerpt  
14 from the exhibit number 25 that counsel read into the record  
15 during his opening and I don't believe there was another  
16 person who talked about it during this entire examination.

17 THE COURT: Well, I would agree if you were  
18 objecting to 8 and 25 coming in I would probably sustain that  
19 objection until we had more evidence to authenticate that and  
20 to demonstrate exactly what those are. If you believe that's  
21 going to happen anyway we can just admit them now, but if you  
22 want to wait until you get that additional evidence.

23 MS. O'DONNELL: I prefer to wait, 8 and 25.

24 THE COURT: And Mr. Rothschild, do you have any  
25 problem with waiting until additional evidence is presented?

1 MR. ROTHSCHILD: So I don't think a decision  
2 needs to me made this evening, but I think this flags an issue  
3 that Ms. O'Donnell and I had discussed and I don't think we're  
4 reached a clear resolution on it and so let me just flag it  
5 now and it's late, so.

6 THE COURT: It's no -- it's no problem. It's  
7 easy for me to say, I don't have to drive far.

8 MR. ROTHSCHILD: So exhibits -- all of the  
9 exhibits have been [indiscernible] authentic and business  
10 records [indiscernible] in the inquiry. Exhibit 15 which is  
11 Khadidja's school records and this would be true for the  
12 school records, each of our six plaintiffs [indiscernible] we  
13 think are clearly relevant evidence. They don't need a  
14 witness to sponsor to bring them into evidence.

15 The exhibit 8 which is basically the template  
16 for the delivery of the English language learning in Lancaster  
17 I think would similarly fit that description. What's  
18 important here is whether we need to call witnesses such as  
19 the ones who were in court today for each one of these  
20 business records that the School District has produced to us  
21 in order to get them into evidence. And so, in a sense, I'm  
22 testing a proposition here --

23 THE COURT: Right.

24 MR. ROTHSCHILD: -- of whether we actually need  
25 to call Ms. [Indiscernible] and Ms. Hisey and maybe other

1 witnesses in our case-in-chief solely for that purpose for  
2 documents that I think have been already, you can, just, you  
3 know the face of it are going to be relevant to this case.

4 And the last thing I'll say is for exhibits 8  
5 and 25 this won't necessarily fit all of the examples or the  
6 exhibits that I'm raising this issue for, but they actually  
7 were shown to witnesses and there will be designated to  
8 testimony for them. So those may be easier cases than some of  
9 the other business records. We certainly did not show every  
10 page of them, 15,000 pages of exhibits.

11 THE COURT: Is it fair to say that many of these  
12 exhibits will be relied upon by the expert in rendering the  
13 expert's opinion?

14 MR. ROTHSCHILD: Many will.

15 THE COURT: And of course in any case they would  
16 be admissible just to establish the facts upon which the  
17 expert relied, but if there's no objection to the authenticity  
18 and there's no hearsay objection and they've actually been  
19 provided by the School District what is the objection to them  
20 being introduced into evidence?

21 MS. O'DONNELL: Well, it -- it goes to  
22 relevance. So far they haven't really been introduced.  
23 They've been -- the authenticity -- so -- so these records  
24 were produced in discovery and they were produced from the  
25 District Solicitor and so they are authentic and they are kept

1 in the normal course of business within the district and we  
2 stipulated to that, but there's the next standard, the next  
3 standard for review would then be or the next standard for  
4 admissibility is whether or not they're relevant, they're  
5 probative in one way or another to the plaintiff's  
6 case-in-chief and I believe that a witness has to testify to  
7 those documents in order to give it some meaning.

8 So I don't know how this court can make a  
9 decision about the abstract that was only mentioned in  
10 counsel's opening and so for right now all we're talking about  
11 is number 8 and number 15, pardon me, number 25 and  
12 [indiscernible] has been here and she will be testifying and  
13 certainly counsel could move for their admission after she  
14 testifies, but no one's testified to them today.

15 I don't know about all the other documents and  
16 certainly if -- if the Court is [indiscernible] find to allow  
17 the expert to testify about all the records that she read and  
18 have them admitted into evidence through her that's -- I may  
19 object, but that's your ruling, so we'll deal with that  
20 eventually.

21 THE COURT: And why don't we defer on the ruling  
22 even addressing that issue. Obviously, this is a preliminary  
23 injunction hearing the rules of evidence are relaxed. Even  
24 the hearsay rules are relaxed within the discretion of the  
25 Court and obviously I would not allow anything in that I

1 thought was unfair to either side or that could somehow be  
2 confusing or misleading, but if that's the concern, of course,  
3 I'm always going to be vigilant to make sure nothing of that  
4 sort does get in.

5 I want to recess and wish you all a good night  
6 and I also want to urge you I cannot assist you in trying to  
7 settle this matter because of the nature of it and it is  
8 nonjury. I wish I could, because I do believe that both sides  
9 have the same interests, the best interests of the children  
10 always are in the best interest of both sides and also  
11 ensuring that you're in compliance with the state and federal  
12 law obviously is both sides are on the same page and want to  
13 make sure that you are in compliance, but even beyond that  
14 making sure you're doing everything for these children that  
15 reasonably can be done within the challenges that schools have  
16 to face everyday in trying to educate children. And these are  
17 unique challenges, unique circumstances, very important for  
18 both sides to get it right. So if I can help you to get to  
19 somebody to help you or I hope there's a dialogue between you  
20 to, at least be discussing those areas where there is no  
21 dispute so we can narrow the issues to where there is a  
22 dispute. That said, everyone have a great night. I'll see  
23 you at 9:30 tomorrow morning. We'll stand in recess.

24 MS. O'DONNELL: Thank you.

25 DEPUTY CLERK: All rise.

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(Whereupon, the proceeding was concluded  
at 5:36 p.m.)

- - -



C E R T I F I C A T E

I do hereby certify that the aforesaid hearing was transcribed by me from an audio recording to the best of my ability; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.

WITNESS my hand and official seal this \_\_\_\_ day of \_\_\_\_, 2016.

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Janine Thomas  
Notary Public

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