

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF SAN DIEGO, CENTRAL DIVISION

DEPARTMENT NO. C-67 HON. EDDIE C. STURGEON,
 JUDGE

<p>THE PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF, VS. ASHFORD UNIVERSITY, LLC, a California limited liability company; ZOVIO, INC., formerly known as BRIDGEPOINT EDUCATION, INC., a Delaware corporation; and DOES 1 through 50, INCLUSIVE, DEFENDANTS.</p>	}	<p>CERTIFIED TRANSCRIPT DIGITALLY SIGNED</p> <p>CASE NO. 37-2018-00046134- CU-MC-CTL</p> <p>COURT TRIAL</p>
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REPORTER'S TRANSCRIPT OF PROCEEDINGS
 DECEMBER 6, 2021
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[APPEARANCES ON FOLLOWING PAGE]

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THE PEOPLE OF THE STATE OF CALIFORNIA

VS.

ASHFORD UNIVERSITY, LLC, A CALIFORNIA LIMITED LIABILITY
COMPANY; ZOVIO, INC., FORMERLY KNOWN AS BRIDGEPOINT
EDUCATION, INC., A DELAWARE CORPORATION; AND DOES 1
THROUGH 50, INCLUSIVE

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1 SAN DIEGO, CALIFORNIA; MONDAY; DECEMBER 6, 2021;

2 9:03 A.M.

3
4 ---oOo---

5 THE COURT: welcome. It's nice to see
6 everybody back again. Continuation of the trial. The
7 record reflect the parties and the attorneys are
8 present.

9 Counsel, over the weekend I viewed eight --
10 well, sort of -- videos. There were numerous videos.
11 Let's say there were eight witnesses that the Court
12 reviewed in there. I will go through them, what I did.
13 There was only really an issue on one. We'll talk
14 about -- it was the very first one.

15 So for the record, the Court reviewed video
16 depositions of seven -- let me make sure that's right.
17 I think it's seven -- videos, and then I did one
18 deposition. I will go through times, what I looked at,
19 and what I read.

20 The first one that the Court looked at was
21 Emiko Abe.

22 MR. HUMMEL: Emiko Abe.

23 THE COURT: Abe, thank you. This was the only
24 one there was an issue with. For some reason, when I
25 went to look at it on the computer, I couldn't -- the
26 video said "corrupt."

27 The good news is there was a transcript, so I
28 read the transcript. The transcript started on page 5.

1 I read it through 118, which was provided.

2 So I don't know if you want to un- -- I don't
3 know, provide another video, but I read the deposition,
4 which I assume was the video. I'll leave that up to
5 you, okay?

6 The second -- and he was an employee of the
7 defendants.

8 MR. HUMMEL: She.

9 THE COURT: She was an employee. I'll say
10 witness. Thank you, Counsel.

11 The next one I read was a Jeanne -- strike
12 that.

13 For all the rest of them, I watched the video.
14 There was no corruption. It was easy to do. I just sat
15 and watched. The next one was -- is it Jeanne?

16 MR. HUMMEL: Jeanne Chappell.

17 THE COURT: Chappell. Thank you. She is an
18 employee. That was 55 minutes. The Court read and --
19 the Court watched it.

20 The next up was a Jasmine Cox, who was a
21 student, and that was 50 minutes. The Court read that.

22 And in all these, the Court took notes, of
23 course.

24 The fourth one was a Dr. Courtney Anthony
25 Farrell, who was a PMQ for the defense, and that was
26 36 minutes, which the Court again watched.

27 The next one was a Mr. Scott Moore, who was an
28 employee again, and that was an hour and 45 minutes,

1 which the Court watched again.

2 The next one was a Stephen Nettles, who was an
3 employee. There were two videos. The first video was
4 seven minutes. The second video was nine minutes. And
5 again, the Court watched.

6 The next one was a Katie Sledge.

7 MR. HUMMEL: Katie Scheie.

8 THE COURT: Thank you. Katie Scheie.

9 And again, she was an employee for Ashford.
10 Three videos. The first video was 18 minutes. The
11 second video was 9 minutes. The third video was
12 16 minutes. The Court watched all of those.

13 And the last one was a Joseph Ybarra. He was
14 a student. And that was 40 minutes. And again, the
15 Court watched all of those.

16 The Court watched all of those videos of the
17 deposition and took the appropriate notes. And it was
18 very insightful. I really mean that. It was
19 insightful. I'll stop right there, though. I'll let
20 you figure out what "insightful" means.

21 Give me just a second.

22 Now, for the record, have these been marked?
23 This is actually what I saw. These need to be made part
24 of the record, do they not? And there are exhibit
25 numbers on them. Let me go through those real quick.

26 And we're going to have to put in the
27 designated -- yeah, we'll need that too.

28 MS. KALANITHI: Your Honor, these were

1 admitted before we handed them up.

2 THE COURT: Saves me time.

3 Now, do I already have copies of these?

4 MS. KALANITHI: These are your copies.

5 THE COURT: Okay. They're just the Court's.

6 MS. KALANITHI: Yes.

7 THE COURT: So we've got one that would be for
8 the appellate record?

9 MS. KALANITHI: We can make a copy for the
10 appellate record.

11 THE COURT: Okay. So the ones I have in mine
12 were previously admitted?

13 MS. KALANITHI: Yes.

14 THE COURT: Is that a fair -- okay. I've got
15 that. If could be, maybe if you were -- no, no. It's
16 what I read. I wouldn't have reviewed it. I don't know
17 if you want to substitute in an uncorrupted video of
18 Abe? I'll leave that up to you. But these now are part
19 of the official record, correct?

20 MS. KALANITHI: Yes, Your Honor.

21 THE COURT: Here you go, Steph. They're
22 numbered.

23 MS. KALANITHI: Your Honor, I believe there
24 were three exhibits along with Mr. Farrell's --

25 THE COURT: There were.

26 MS. KALANITHI: -- Dr. Farrell's deposition,
27 so we wanted to find out if Your Honor had ruled on the
28 admissibility of those exhibits.

1 THE COURT: I did not.

2 MS. KALANITHI: Okay.

3 THE COURT: I was too enthralled. There was
4 one thing -- and I forgot who -- whose it was in, and we
5 won't go too far down this path, but there was a
6 statement -- and maybe it was from the expert -- that
7 you -- if you had a degree in education, you can't --
8 you can't become a teacher then? It has -- the degree
9 has to be something else?

10 Did I listen to that right?

11 MS. KALANITHI: There was no expert video, but
12 perhaps Your Honor is speaking of Dr. Farrell, who's
13 a -- defendants' employee.

14 THE COURT: But there was a statement in
15 there -- and I listened to it twice -- that if you get a
16 degree, like a BA in -- this is only in California, by
17 the way -- if you get a BA in Education, then you can't
18 become a teacher. Your degree has to be in something
19 else? Does that make sense?

20 MS. WANG: Vivian Wang --

21 THE COURT: Go ahead and speak, yes.

22 MS. WANG: Vivian Wang for the record.

23 Your Honor, we're happy -- we were potentially
24 going to address that in briefing, if the Court would
25 like. But the Fisher Act actually does prevent that for
26 a certain group of teachers -- I think certain grades --
27 up until a recent year, I think 2018.

28 I'm sorry, my colleague Ms. Foodman isn't

1 here. She could provide the details. But that's --

2 THE COURT: No, no. In the big scheme,
3 that's -- I just found that interesting.

4 MS WANG: It is.

5 MR. HUMMEL: It no longer applies.

6 THE COURT: Oh, it no longer applies?

7 MR. HUMMEL: Correct.

8 MS. WANG: That's our understanding.

9 THE COURT: well, I said -- wait a minute.
10 You're in education and you can't become a teacher?

11 MS. WANG: I think the idea is for
12 well-rounded teachers who have --

13 THE COURT: That's kind of my thought, too,
14 but I thought, "Wow."

15 MS. WANG: Yes.

16 THE COURT: You learn something every time.

17 Okay. I'm good to go, with that being said.
18 No, don't do a briefing on it, Counsel. I -- we've got
19 it. I just --

20 MS. WANG: Okay.

21 THE COURT: It was interesting.

22 Okay. Let's talk about -- what do you got?
23 I'm talking to the plaintiff. There's some issues?

24 MS. WANG: Yes. Housekeeping for some other
25 exhibit matters. I guess first, when might we expect a
26 ruling on those three exhibits from the deposition of
27 Dr. Farrell? It's Exhibits 1034, 1039, 1048?

28 THE COURT: Say it again.

1 MS. WANG: It would be Exhibits 1034, 1039,
2 1048.

3 Those are the three exhibits from the Farrell
4 designations that defendants had objected to that the
5 People would like to move in.

6 THE COURT: Tomorrow morning. I'll do them
7 tonight.

8 MS. WANG: Thank you, Your Honor.

9 THE COURT: And if I feel I need any further
10 argument or anything, I'll let you know.

11 MR. HUMMEL: Thank you, Your Honor.

12 THE COURT: Sure.

13 MS. WANG: Okay. And then secondly, there's
14 an issue with the November 30th minute order. We think
15 that it should be -- it should reflect that Exhibit 216
16 was admitted by the People. It currently omits that.
17 This was --

18 THE COURT: Has this been -- who am I --
19 cross-checked.

20 MR. HUMMEL: Yes.

21 THE COURT: So it's agreed, 215 is in?

22 MR. HUMMEL: 216. 2-1-6, yes.

23 THE COURT: Hold on a minute.

24 Steph, let me know when you're ready.

25 THE CLERK: Okay.

26 THE COURT: Next. So -- hold on for the
27 record.

28 Exhibit 216 is admitted.

1 (Court's Exhibit No. 216 received into
2 evidence.)

3 MS. WANG: Thank you.

4 THE COURT: Uh-huh.

5 MS. WANG: Next is regarding the December 1st
6 minute order. We ask that it reflect that the following
7 exhibits are admitted into evidence. Currently, it only
8 says they were identified. It's a number of exhibits.
9 They are Exhibit 474.

10 THE COURT: Let me interrupt. Has this
11 been --

12 MR. HUMMEL: Yes.

13 THE COURT: So you've seen all this, what
14 she's saying, and "Judge, we agree with it"?

15 MR. HUMMEL: Yes.

16 THE COURT: All right. Here we go. Numbers.

17 MS. WANG: Exhibit 474.

18 THE COURT: Uh-huh. Hold on. Steph, let me
19 know when you're ready.

20 THE CLERK: I've got it.

21 THE COURT: Next.

22 MS. WANG: 2029.

23 THE COURT: Steph?

24 THE CLERK: Okay.

25 THE COURT: Next?

26 MS. WANG: 2033.

27 THE CLERK: Okay.

28 MS. WANG: 2038.

1 THE CLERK: Okay.

2 MS. WANG: 2043.

3 THE CLERK: Okay.

4 MS. WANG: 3734.

5 THE CLERK: Okay.

6 THE COURT: Is that it?

7 MS. WANG: I have a couple more items, but
8 that's the only -- those are all regarding the
9 December 1st minute order. Nothing else on that one.

10 THE COURT: And do you know, if you know --
11 you don't have to, but I'd like to double-check that
12 with my notes.

13 Do you know what witness that was, please?

14 MS. WANG: Yes. Should I just go through
15 them.

16 THE COURT: Please, just for me.

17 MS. WANG: Sure. 474 -- oh, actually all of
18 them, all of them were related to Ms. Molly McKinley.

19 THE COURT: Okay. Just give me a quick
20 second. This will take a minute.

21 I just glanced at it. They were received.
22 I'm just double-checking.

23 MS. WANG: Thank you, Your Honor.

24 THE COURT: Counsel, all those -- so for the
25 record, all those are received.

26 (Court's Exhibit No. 474 received into
27 evidence.)

28 ///

1 (Court's Exhibit No. 2029 received into
2 evidence.)

3 (Court's Exhibit No. 2033 received into
4 evidence.)

5 (Court's Exhibit No. 2038 received into
6 evidence.)

7 (Court's Exhibit No. 2043 received into
8 evidence.)

9 (Court's Exhibit No. 3734 received into
10 evidence.)

11 THE COURT: Anything else, Counsel, Ms. Wang?

12 MS. WANG: Yes, just a couple more. Next we
13 wanted to make sure that the Court is aware that we have
14 provided hard copies of four exhibits that were admitted
15 during the Lucido testimony. That's Exhibit 3738, 3740,
16 3741, and 3745.

17 And just as a reminder to the Court, these
18 were exhibits where, after Dr. Lucido's testimony, we
19 had to go back and prepare both electronic and paper
20 versions in the format that the Court ordered.

21 So those hard copies have now been submitted.
22 We'd also ask, just to confirm, that Exhibit 3738 --
23 it's the first of those four -- is admitted. That
24 wasn't clear from the daily transcript, although it is
25 already stated in the minute order that it was admitted.

26 THE CLERK: And it is confirmed we have it.

27 THE COURT: And -- okay. So we have those
28 four hard copies for the record. Thank you.

1 And defense, can I assume that 3738 is
2 admitted?

3 MR. HUMMEL: Yes, Your Honor.

4 THE COURT: Admitted. They're all admitted.
5 Well, those four, yes.

6 (Court's Exhibit No. 3738 received into
7 evidence.)

8 (Court's Exhibit No. 3740 received into
9 evidence.)

10 (Court's Exhibit No. 3741 received into
11 evidence.)

12 (Court's Exhibit No. 3745 received into
13 evidence.)

14 MS. WANG: Thank you, Your Honor.

15 THE COURT: Sure.

16 MS. WANG: And then the next group relates to
17 the testimony of Eric Dean. So we ask the Court to
18 admit Exhibit 620.

19 THE COURT: Say that again?

20 MS. WANG: 620.

21 THE COURT: Hold on. Steph?

22 THE CLERK: So on the exhibit sheet, it goes
23 619, 623. So I don't even have it on here. Do you
24 remember what day that was?

25 MS. WANG: November 9th.

26 THE COURT: And, Steph, what did we have?

27 6 --

28 THE CLERK: Well, there isn't even a 620 on

1 the exhibit list that they gave us.

2 THE COURT: But I assume there was a -- you
3 said 619 through what? 6 what?

4 THE CLERK: No, just -- it says 619, and then
5 it skips to 623 on the exhibit list, but it doesn't mean
6 those are admitted. It's just we don't have 620 on the
7 list.

8 THE COURT: What is 620?

9 MS. FEWER: Your Honor may remember you asked
10 us to go back and redact -- it was an article, an NBC
11 article.

12 THE COURT: I know what that is.

13 MS. FEWER: And then Your Honor asked us to go
14 back and redact it, so the parties conferred on that,
15 redacted the article, and now we have a copy of it.

16 THE COURT: And that was Mr. Dean. I remember
17 that testimony, yes.

18 MS. FEWER: Correct.

19 THE COURT: And so for the record, 620 is the
20 redacted newspaper article?

21 MS. FEWER: Correct.

22 THE COURT: Newspaper -- redacted newspaper
23 article. And you have a hard copy of that?

24 MS. FEWER: I do.

25 THE COURT: Does Madam Clerk have a hard copy
26 of that?

27 MS. FEWER: No. I'll hand it to her right
28 now.

1 THE COURT: Any objection to the hard copy?

2 MR. HUMMEL: Your Honor, I think the hard copy
3 is not a newspaper article, it's an online news piece.
4 It was never published in a newspaper.

5 THE COURT: Is that correct?

6 MS. FEWER: That's correct.

7 THE COURT: Any objection to it being
8 received?

9 MR. HUMMEL: No.

10 THE COURT: Received.

11 (Court's Exhibit No. 620 received into
12 evidence.)

13 MS. WANG: Thank you, Your Honor. There's one
14 more also related to Mr. Dean's testimony. That's
15 Exhibit 7821. Actually, I should let defendants speak
16 on that one. That's one that they had moved on.

17 MR. HUMMEL: Exhibit 7821 is, I believe, the
18 redacted video which has only Mr. Dean's statements.

19 THE COURT: I know that. I did that one too.
20 Any objection?

21 MS. FEWER: None.

22 THE COURT: And is that what's in your hand?

23 MS. FEWER: Yes. So I have a copy of 620, and
24 I also have on a thumb drive an electronic copy of 620,
25 and also 7821, which is the video.

26 THE COURT: And both of those are received.

27 THE COURT: Redacted video, Dean.

28 THE CLERK: And, Your Honor, 7821 was received

1 on 11-15.

2 THE COURT: Good. Well, this is a redacted
3 one, though. Understood. I know what that is.

4 MS. FEWER: Okay. That's all I have,
5 Your Honor. Thank you.

6 THE COURT: No problem at all. So what are
7 we -- real quick, what's the plan for today? What are
8 we doing?

9 MS. KALANITHI: We have an expert,
10 Dr. Stephanie Cellini, prepared to testify.

11 THE COURT: Excellent.

12 Oh, yeah. My -- the good news is my
13 hearing -- my City of San Diego SDG case that was at
14 4:00 o'clock today, everyone is submitting, so I've
15 got -- it will take -- we're going to keep -- I'll
16 interrupt at 4:00 and take two minutes. They'll da da
17 da, "Submit, Judge, on the tentative," and then we'll go
18 right back in and we'll go to 4:30.

19 Remember today, though, I'm walking off at
20 11:30, but we're going to come back at 1:00. Okay.
21 we'll make up for that half hour. I've got something I
22 have to attend.

23 And then we will quit at 4:00 tomorrow for my
24 complex litigation symposium. I can't make that up.
25 Okay. I digress.

26 And it's good to see you. Everybody had a
27 good -- come on now, right?

28 MS. KALANITHI: Yes.

1 THE COURT: Yeah. Let's go. Here we go. And
2 I'm not going to say it, but I almost did again.

3 We are in the People's case.

4 People, call your next witness.

5 MS. KALANITHI: Your Honor, the People call
6 Dr. Stephanie Cellini to the stand.

7 THE COURT: Dr. Cellini. Hopefully I said
8 that right. And thank you for the notebooks, which I
9 have.

10 MS. WANG: Briefly, Your Honor. May I check
11 that the realtime is working with the court reporter?

12 THE COURT: Of course.

13 (Recess.)

14 (Witness enters the courtroom.)

15
16 STEPHANIE CELLINI, Ph.D.,

17 called as a witness on behalf of the Plaintiff,
18 having been first duly sworn, testified as
19 follows:

20
21 THE WITNESS: I do.

22 THE CLERK: Thank you. Please be seated.

23 For the record, can you please state your
24 first and last name and spell it.

25 THE WITNESS: Yeah, I'm Stephanie Cellini,
26 S-t-e-p-h-a-n-i-e, Cellini is C-e-l-l-i-n-i.

27 THE CLERK: Thank you.

28 THE COURT: Good morning.

1 THE WITNESS: Good morning.

2 THE COURT: Counsel.

3 DIRECT EXAMINATION

4 BY MS. KALANITHI:

5 Q. Good morning, Dr. Cellini.

6 A. Good morning.

7 Q. Did you prepare any demonstratives to assist
8 with your testimony today?

9 A. Yes.

10 MS. KALANITHI: Can I please have
11 Demonstrative No. 2. Can I please have Slide 2. Thank
12 you.

13 BY MS. KALANITHI:

14 Q. Dr. Cellini, what is your profession?

15 A. I'm a tenured professor of public policy and
16 public administration and of economics at George
17 Washington University.

18 Q. And how long have you been a professor at
19 George Washington University?

20 A. About 15 years.

21 Q. Dr. Cellini, can you tell me what your area of
22 academic focus is?

23 A. Sure. I'm a labor economist and a public
24 economist, and within that, my specialty is
25 higher-education economics.

26 Q. Can you tell me what a labor economist is?

27 A. Yeah. Labor economists study the labor
28 market. And a kind of key question in labor economics

1 is how wages or earnings are determined, and of course,
2 education and job training are big parts of that.

3 Q. Generally speaking, what methods do you use to
4 study the economics of higher education?

5 A. I use econometric methods, which are kind of
6 advanced statistical methods, as well as benefit/cost
7 analysis.

8 Q. And can you please describe in general terms
9 the type of data you use to perform these analyses?

10 A. Yeah. I use large, usually
11 nationally-representative administrative data sets,
12 typically government data sets with many thousands of
13 institutions and students.

14 Q. Apart from your professorship, do you
15 currently hold any other positions?

16 A. Yes. I am the editor of a journal called
17 Education Finance and Policy published by the MIT Press.
18 I'm also a nonresident senior fellow at the Brookings
19 Institution. I'm a research associate of the NBER, or
20 the National Bureau of Economic Research, and I'm a
21 visiting scholar at the Federal Reserve Bank of
22 Philadelphia.

23 Q. What are your responsibilities as editor of
24 the Education Finance and Policy journal?

25 A. Sure. So along with a coeditor, we oversee
26 about 200 submissions coming to us, and we publish our
27 journal about four times a year. We're in charge of
28 overseeing the whole peer review process, assigning it

1 to associate editors, those kinds of things.

2 Q. And can you please briefly describe your
3 affiliation with the National Bureau of Economic
4 Research?

5 A. Yeah. So as a research associate, I'm invited
6 to their conferences and I'm invited to post their --
7 post working papers in their really well-known series.
8 And this is a big -- you know, it's a nonprofit that's
9 devoted to really cutting-edge economic research, so
10 it's really a privilege to be part of it.

11 Q. And can you please describe your affiliation
12 with the Federal Reserve Bank of Philadelphia?

13 A. Sure. I'm working with some co-authors there
14 on some data from the Federal Reserve Bank of
15 Philadelphia, since I'm a visiting scholar.

16 Q. You said "visiting scholar"?

17 A. Uh-huh, visiting scholar.

18 Q. Dr. Cellini, can you please turn to Tab 1 of
19 the binder in front of you to an exhibit marked 3772.

20 (Court's Exhibit No. 3772, Dr. Stephanie
21 Cellini's CV, first identified.)

22 MS. KALANITHI: And I'll just note for the
23 record clerk that this is not on the exhibit list. It's
24 a new exhibit.

25 BY MS. KALANITHI:

26 Q. Are you there?

27 A. Yes.

28 Q. Okay. Dr. Cellini, can you tell me what

1 Exhibit 3772 is?

2 A. That's my CV.

3 Q. And did you prepare this CV?

4 A. I did.

5 Q. Does this CV accurately reflect your
6 professional experience?

7 A. Yes.

8 Q. And does Exhibit 3772, this CV, appear to be a
9 true and correct copy of your CV?

10 A. Yes.

11 MS. KALANITHI: Your Honor, at this time, the
12 People move to admit Exhibit 3772 into evidence.

13 MR. MUNDEL: No objection.

14 THE COURT: Received.

15 (Court's Exhibit No. 3772 received into
16 evidence.)

17 BY MS. KALANITHI:

18 Q. Dr. Cellini, if we can look down at the bottom
19 of the first page of your CV. Can you please describe
20 your educational background.

21 A. Sure. I have a Ph.D. in Economics from
22 University of California Los Angeles. I also have a
23 Master's in Economics also from UCLA, and then I've got
24 a BA in Public Policy with honors and distinction from
25 Stanford University.

26 Q. And moving to the next page of your CV, do you
27 have any publications in your field?

28 A. I do.

1 Q. What is your publication record?

2 A. So I have about 20, maybe 21 articles and
3 reports that are in peer-reviewed journals. I have one
4 book. I have several book chapters and collections,
5 maybe seven of those. And then I have a number of other
6 policy briefs and other writings.

7 Q. And going to page 4 of your CV, there's a
8 publication listed "Cost-Effectiveness and Cost-Benefit
9 Analysis."

10 Do you see that?

11 A. Yes.

12 Q. And is that one of the book chapters that you
13 referred to?

14 A. Exactly, yes.

15 Q. Can you please describe that book chapter?

16 A. Sure. It's a methodological chapter, and it's
17 about the process for conducting a cost-benefit analysis
18 and how that differs from cost-effectiveness analysis.

19 So we really walk through both of those, and
20 we kind of give a step-by-step process about how one
21 conducts those.

22 Q. Has this book chapter ever been cited by other
23 researchers?

24 A. Yes, I think it's been cited at least 250
25 times.

26 MS. KALANITHI: If I could please have slide
27 3, moving back to the demonstratives.

28 ///

1 BY MS. KALANITHI:

2 Q. Dr. Cellini, can you please describe your
3 publications on the economics of higher education?

4 A. Sure. I look at the costs and benefits of
5 college education and student outcomes, and I also
6 assess the impact of federal student aid on the behavior
7 of colleges.

8 I use, as I mentioned before, econometric
9 methods and benefit-cost analysis to do this. I have a
10 paper called "For-Profit Higher Education: An
11 Assessment of Costs and Benefits" in the National Tax
12 Journal .

13 I also have a publication called "Gainfully
14 Employed? Assessing the Employment and Earnings of
15 For-Profit College Students Using Administrative Data"
16 that uses some anonymized IRS tax data to look at
17 student outcomes.

18 Q. Dr. Cellini, do you teach any classes at
19 George Washington University?

20 A. I do. I teach Benefit Cost Analysis for our
21 master's public policy students and our Ph.D. students
22 in public policy, and I also teach economics for public
23 decision-making, and that's for our master's public
24 administration students.

25 Q. Dr. Cellini, have you ever served as a
26 testifying expert before?

27 A. Yes.

28 Q. How many times?

1 A. Once.

2 Q. And what was that case?

3 A. It was Lori Swanson vs. The Minnesota School
4 of Business.

5 Q. And can you please briefly summarize the
6 subject of your expert testimony there?

7 A. Sure. I looked at an alumni survey and
8 assessed the appropriateness of using that to assess
9 value.

10 Q. Dr. Cellini, are you being compensated for
11 your work in this case?

12 A. Yes.

13 Q. What's your hourly rate?

14 A. \$725 an hour.

15 Q. Approximately how many hours have you spent on
16 this matter?

17 A. About 220 hours.

18 Q. Approximately how much have you billed?

19 A. I think that's about \$160,000.

20 Q. Is payment of your fees dependent on the
21 outcome of this case?

22 A. No.

23 Q. Do you have any financial interest in the
24 outcome of this case?

25 A. No.

26 MS. KALANITHI: If I could please have slide

27 No. 4.

28 ///

1 BY MS. KALANITHI:

2 Q. Can you please describe the first part of your
3 assignment in this case?

4 A. Sure.

5 MR. MUNDEL: Your Honor, objection before the
6 witness has been tendered as an expert.

7 THE COURT: Thank you. Counsel, do you wish
8 to voir dire the witness?

9 MR. MUNDEL: No, Your Honor.

10 THE COURT: Counsel?

11 MS. KALANITHI: Your Honor, I was -- I was
12 just going through the witness's assignments before
13 talking about any of her conclusions, and then we were
14 planning to tender her as an expert.

15 THE COURT: Why don't you tender her now.

16 MS. KALANITHI: Okay. At this time, the
17 People wish to offer Dr. Stephanie Cellini as an expert
18 in the field of labor economics and the economics of
19 higher education.

20 MR. MUNDEL: No objection, Your Honor.

21 THE COURT: You're an expert.

22 MS. WANG: I apologize for the interruption,
23 but it appears there's a realtime issue again.

24 THE COURT: No, no, no. Slow down. Off the
25 record.

26 (Recess.)

27 THE COURT: Back on the record.

28 ///

1 BY MS. KALANITHI:

2 Q. Dr. Cellini, can you please describe the first
3 part of your assignment in this case?

4 A. Sure. It was to determine the economic value
5 of an Ashford education for students in Ashford's
6 College of Education. That's for students who
7 graduated, as well as students who stopped attending,
8 and to look at associate's, bachelor's, and master's
9 students.

10 Q. And can you briefly describe how you
11 determined the economic value for students in Ashford's
12 College of Education?

13 A. Sure. I used benefit-cost analysis using the
14 Department of Education's College Scorecard Data.

15 MS. KALANITHI: Can I please have
16 Demonstrative 5?

17 BY MS. KALANITHI:

18 Q. Dr. Cellini, please describe the next part of
19 your assignment.

20 A. The second part of my assignment was to assess
21 the usefulness of alumni surveys and Net Promoter Scores
22 for determining the value of a college education.

23 MS. KALANITHI: The next slide, please.

24 BY MS. KALANITHI:

25 Q. Can you please describe the next part, the
26 third part of your assignment?

27 A. Sure. That was to determine the amount of
28 revenue that Ashford received from federal taxpayers,

1 including through Pell Grants and student loans, as well
2 as the GI Bill.

3 Q. And you mentioned the first part of your
4 assignment was related to the College of Education.
5 This assignment, part three, is that limited to the
6 College of Education as well?

7 A. No.

8 Q. And what data did you review to perform this
9 assessment?

10 A. I used data from the Department of Education,
11 as well as Department of Veterans Affairs data.

12 MS. KALANITHI: And the next slide, please.

13 BY MS. KALANITHI:

14 Q. Dr. Cellini, what was the last part of your
15 assignment?

16 A. It was to determine the proportion of revenue
17 defendants spent on advertising and marketing compared
18 to student instruction.

19 Q. And what data did you review to perform that
20 assessment?

21 A. I used Zovio's 10K filings, as well as data
22 from the Department of Education.

23 Q. Is your -- oh, actually, I should move on.

24 MS. KALANITHI: If I could have the next
25 slide, please.

26 BY MS. KALANITHI:

27 Q. So let's talk now about the first part of your
28 assignment.

1 You testified earlier that you used a
2 benefit-cost method to analyze the value to students in
3 Ashford's College of Education. Why did you use that
4 method?

5 A. Well, it's really the standard measure that we
6 use in economics to measure the value of education. It
7 comes from really Nobel Prize-winning work by Gary
8 Becker in 1964 under human capital theory where we look
9 at students and think about them as making an investment
10 in their college education so they incur some costs and
11 then we consider the lifetime earnings gain that they
12 get as the benefit.

13 Q. And now we'll go into greater detail in a
14 moment about the inputs into your cost-benefit analysis.
15 But generally speaking, what did you do to compare the
16 benefits and costs?

17 A. Sure. I calculated the lifetime earnings gain
18 to an Ashford College of Education education as far as
19 the benefits, as the main benefit, and then as the
20 costs, we looked at -- I looked at the monetary costs,
21 so that's tuition and fees and those kinds of things, as
22 well as nonmonetary costs, so the value of time.

23 Q. When you do a benefit-cost analysis, do you
24 ever have to fill in missing information?

25 A. Yes.

26 Q. And what do you do if there's missing
27 information?

28 A. We try and make the most conservative

1 assumptions possible. So at every turn, I made
2 assumptions that would make the benefits large in this
3 case and the costs small. So I tried to make
4 assumptions that would favor Ashford at every turn, as
5 is common practice in these analyses.

6 Q. We'll go into detail on the calculations in a
7 moment. But briefly, can you tell us what you concluded
8 from your benefit-cost analysis for students in
9 Ashford's College of Education?

10 A. Sure. For the average Ashford College of
11 Education bachelor's degree graduate who finds a job --
12 so these are employed bachelor's degree graduates --
13 they experience a loss over their lifetime of about
14 \$15,634.

15 Q. You mentioned that that was graduates. Did
16 you conclude anything about students who did not
17 graduate?

18 A. Yes. I know that we would see larger losses
19 for students who did not graduate, as well as for
20 associate's degree students and those who don't find
21 employment.

22 Q. You've testified that this benefit-cost
23 analysis related to Ashford's College of Education. Why
24 does your analysis focus on the particular degree
25 programs within Ashford's College of Education?

26 A. Well, we always prefer using program-level
27 data wherever possible, and I was asked to look at the
28 College of Education in particular.

1 Q. So stepping back one step, you said that your
2 benefit-cost analysis focused on employed bachelor's
3 degree graduates. Why did you choose that set when
4 doing your benefit-cost analysis?

5 A. Those -- of all the groups I looked at, those
6 had the largest benefit, the largest earnings gain from
7 attending. So in the benefit-cost analysis, by using
8 that, it was really a best-case analysis, so we know
9 that the others would be lower.

10 Q. So let's go into some detail now on the inputs
11 to the benefit-cost analysis on the benefits side.

12 MS. KALANITHI: Can I have the next slide,
13 please?

14 BY MS. KALANITHI:

15 Q. Can you please describe what you used to
16 measure benefits to students in Ashford's College of
17 Education?

18 A. Sure. I wanted to look at the earnings gain
19 from the education, so we want to look at kind of the
20 bump in earnings that students get from attending. And
21 in this case, it happened to be a loss. But we try and
22 look at that kind of post versus pre.

23 So the goal is to compare the precollege
24 earnings to postcollege earnings, to really isolate that
25 kind of value-added, if you will, in the earnings of
26 students after they go to college. This is a right --
27 widely-accepted method for valuing the benefit of a
28 college education.

1 So what we ideally like to do is take the
2 postcollege earnings of Ashford College of Education
3 students, which I have data for, and we like to subtract
4 off the precollege earnings. But I don't have
5 precollege earnings, so I need to use a benchmark.

6 Q. Have you used earnings gains in your work
7 previously to assess the benefits of a college
8 education?

9 A. Yes.

10 Q. Does your analysis take into account other
11 intangible benefits besides earnings that a student
12 might get from college?

13 A. So because I'm using earnings gains, we know
14 that there are some other intangible benefits of a
15 college education. The problem is they're, first,
16 difficult to quantify. But second of all, they're often
17 driven by the earnings gains themselves.

18 So to include them would often be to
19 double-count. So take, for example, health. Health may
20 improve after a college education, but it's often driven
21 by the actual income gains where individuals might have
22 enough money to pay for their medications, to get better
23 insurance, to get preventative care, so we can't
24 actually disentangle it from the earnings gain. So
25 including some of those might double-count.

26 Q. How did you go about measuring earnings gains
27 for Ashford's College of Education students? I believe
28 you mentioned a benchmark; is that right?

1 A. Yes. So we don't have precollege earnings for
2 Ashford students. We only have postcollege earnings for
3 Ashford education students. So I needed to develop a
4 benchmark.

5 MS. KALANITHI: And can I have the next slide,
6 please?

7 BY MS. KALANITHI:

8 Q. What benchmark did you use for precollege
9 earnings for the Ashford College of Education students?

10 A. I used a \$25,000 benchmark.

11 Q. And what datapoint is your \$25,000 benchmark
12 based on?

13 A. So it's based on the median earnings of high
14 school graduates age 25 to 34 who have not attended any
15 college. This is the lowest benchmark in any government
16 data source for this group, and because it's so low, I'm
17 accounting for the demographics of Ashford students in
18 that.

19 Q. And you said it's a low benchmark. How does a
20 low benchmark affect your benefit-cost analysis?

21 A. Yeah. So if you take a low benchmark, you'll
22 get a larger gain, if you will. So it's like lowering
23 this -- you know, if you imagine the value added or the
24 gap, by taking a lower benchmark, it's making the
25 benefits bigger.

26 Q. You mentioned some government sources. I
27 think you said this is the lowest benchmark in any
28 government data source for this group. What government

1 data sources are you referring to?

2 A. So I'm referring to the College Scorecard, the
3 U.S. Department of Education's College Scorecard that I
4 used here, but I've also compared it to other
5 census-based benchmarks for median earnings of this
6 group.

7 Q. You mentioned the College Scorecard a couple
8 of times. Can you tell me what information the College
9 Scorecard includes?

10 A. Sure. The --

11 Q. I'm sorry. But --

12 MS. KALANITHI: Sorry to interrupt, but if I
13 can have the next slide. Thank you.

14 THE WITNESS: Sure. The College Scorecard
15 contains data for every U.S. college that participates
16 in federal student aid programs, so those are Pell
17 Grants and student loans, including Ashford. It
18 includes the median postcollege earnings for employed
19 graduates. It includes the number of students who are
20 not employed. It includes the graduation rate, net cost
21 of attendance, and median student loan debt.

22 BY MS. KALANITHI:

23 Q. When was the College Scorecard first
24 published?

25 A. I believe it was about 2014.

26 Q. Has it been updated since?

27 A. It has. So in 2020 the College Scorecard
28 released program level earnings data.

1 Q. What do you mean when you say "program level"?

2 A. I mean that it wasn't just earnings for the
3 entire institution but by -- by specific programs, which
4 we call "classification of instructional program codes,"
5 a little bit of a mouthful, but they did it for
6 education programs and, you know, each different -- I
7 guess you would call them "fields of study."

8 MS. KALANITHI: Can I please have the next
9 slide?

10 BY MS. KALANITHI:

11 Q. Do you know how the Department of Education
12 obtains the data reported in the College Scorecard?

13 A. Yes. So the data is compiled from three
14 federal government sources, and it's really the first
15 time that the U.S. Department of Education has put these
16 together, and researchers are very excited about it
17 because we use them separately.

18 So it includes the Integrated Postsecondary
19 Education Data System, which is the key institutional
20 data that the Department of Education uses and releases.
21 It also includes data from the National Student Loan
22 Data System, all about student debt and repayment. And
23 then really for the first time, the College Scorecard
24 merged on data from the U.S. Treasury, and those are IRS
25 earnings data from W-2 forms and Schedule SE for
26 self-employed graduates. And for each institution, they
27 were able to match on these IRS earnings records for
28 employed graduates by program.

1 Q. The government data that you just described,
2 is that the type of data you've used before in your
3 work?

4 A. Yes, many times.

5 Q. Is the College Scorecard publicly available?

6 A. Yes, it is.

7 Q. In what form is it available?

8 A. It's available in large Excel spreadsheets,
9 CSV files just on the Department of Education website.

10 Q. And I think you mentioned the College
11 Scorecard includes information for Ashford University;
12 is that right?

13 A. It does, correct.

14 Q. Including Ashford's College of Education
15 students?

16 A. Yes.

17 Q. And do you know how many fields of study in
18 the College of Education are included within the College
19 Scorecard data?

20 A. Yes. There were at least ten fields -- there
21 were ten fields of study. I believe there was one
22 associate's degree in education, seven bachelor's
23 degrees in education, and two master's degree programs.

24 Q. So we've talked a bit about the \$25,000
25 benchmark, and now I'm going to move to the post
26 earnings.

27 Did you have any data regarding postcollege
28 earnings of Ashford College of Education students?

1 A. Yes. I had earnings measured two years after
2 completion for students who graduated in 2015 and
3 students who graduated in 2016.

4 MS. KALANITHI: Can I please have the next
5 demonstrative?

6 BY MS. KALANITHI:

7 Q. And what did you find regarding earnings for
8 employed College of Education associate's degree
9 students?

10 A. So I found that the annual postcollege
11 earnings for the employed associate's degree graduates
12 was \$20,030 per year.

13 Q. You testified that there were several fields
14 of study in the College of Education data that you
15 reviewed; is that right?

16 A. Yes.

17 Q. And then there's more than one degree program,
18 right?

19 You just talked about an associate's degree?
20 How many fields of study were within the bachelor's
21 degree program?

22 A. There were seven different, kind of,
23 categories of programs in the bachelor's degree
24 programs. So to get the number for the bachelor's
25 degrees, I took a student-weighted average of the median
26 earnings that I was given in the scorecard across those
27 seven programs.

28 Q. And what did you find regarding earnings for

1 employed College of Education bachelor's degree
2 graduates from Ashford?

3 A. I found that their annual earnings were
4 \$26,759 per year.

5 Q. How did the postcollege earnings for
6 associate's and bachelor's degree graduates of Ashford's
7 College of Education that you just mentioned, how do
8 those compare to the \$25,000 precollege benchmark?

9 A. Sure. The associate's graduates had losses of
10 about \$4,970 lower than the high school benchmark, the
11 \$25,000 benchmark, and for bachelor's students, their
12 earnings were just \$1,759 higher than the \$25,000
13 benchmark.

14 MR. MUNDEL: Your Honor, we object to this
15 slide. It's not -- the testimony is that it's limited
16 to the education school. This slide doesn't have that
17 limitation on it, so it's misleading.

18 THE COURT: Responses?

19 MS. KALANITHI: The witness's testimony is,
20 she's been clear that this is limited to the College of
21 Education. We're happy to amend the slide, but the
22 slide -- we're not planning to move the slides into
23 evidence.

24 THE COURT: Understood. Overruled. But let's
25 be clear, though. Hold on. This is general, correct?
26 when I say "general," it's not specific to the College
27 of Education?

28 THE WITNESS: This is specific to the college

1 of Education.

2 THE COURT: Thank you. Proceed.

3 BY MS. KALANITHI:

4 Q. You just discussed the earnings gains for
5 employed graduates of Ashford's College of Education.
6 Did you include unemployed graduates of Ashford's
7 College of Education in your earnings gains analysis?

8 A. Yes. So I did a kind of separate analysis to
9 calculate those earnings gains. So the college
10 scorecard gives me the number of students who don't have
11 any earnings reported to the IRS, and so I can see that
12 they have particular unemployment rates. For example,
13 the associate's degree students, about 18 percent of
14 them had no earnings there, so I was able to incorporate
15 that.

16 Q. And what about the bachelor's degree students?

17 A. About 10 percent of those students had zero
18 earnings.

19 Q. And why did you include earnings from
20 unemployed graduates in your earnings gains analysis?

21 A. So economists prefer to include unemployed
22 individuals because it measures this -- what we call a
23 different margin, I suppose. It measures employment as
24 an outcome in addition to the earnings. So we'd like to
25 know if students cannot find a job. That seems an
26 important kind of thing we'd like to measure.

27 So what we do is, you know, we put in a zero
28 for those students rather than throwing out the zeroes,

1 if you will, in the previous analysis I described.

2 Q. So when you say "we put a zero" -- "put in a
3 zero for these students," what do you mean?

4 A. So I simply -- for those 18 percent of
5 students that are unemployed, we just adjust the value
6 for 18 percent of them. We give them a zero and then
7 give the other percent -- give the other percentage the
8 earnings gains that we have for those employed students.

9 Q. And what were the earnings gains of graduates
10 of Ashford's College of Education when you factored in
11 unemployed graduates?

12 A. So when I factor in the unemployed graduates,
13 the annual postcollege earnings of associate's degree
14 students in the College of Education was \$16,410, and
15 for bachelor's degree students, the annual postcollege
16 earnings were \$24,071.

17 MS. KALANITHI: And can I please have the next
18 slide?

19 BY MS. KALANITHI:

20 Q. How do those earnings compare to the \$25,000
21 earnings benchmark?

22 A. Sure. So for associate's degree students,
23 those earnings, that \$16,410, is about \$8,590 lower than
24 my benchmark. For associate's [sic] degree graduates,
25 since they're making \$24,071, that's about \$929 lower
26 than the \$25,000 benchmark.

27 Q. So you've now testified about the average
28 earnings gains for graduates of Ashford's College of

1 Education, that's with both employed and unemployed
2 included. Did you do an earnings gains analysis that
3 includes students who didn't graduate from Ashford's
4 College of Education?

5 A. Yes, I did.

6 MS. KALANITHI: Can I please have the next
7 slide?

8 BY MS. KALANITHI:

9 Q. Were you able to determine the graduation rate
10 for Ashford University students?

11 A. Yes. It was about -- well, the graduation
12 rate was 25 percent, so that means 75 percent of
13 students left before completing a degree.

14 Q. And is this for the College of Education
15 specifically?

16 A. No. This one's actually for all of Ashford,
17 and this is degree completion within eight years of
18 entering.

19 Q. Were you able to estimate the earnings of
20 students who withdrew before completing their degree
21 from Ashford's College of Education?

22 A. Yes, using the literature.

23 Q. Can you tell me what literature you're
24 referring to?

25 A. Sure. So I'm -- I'm using a paper that I have
26 done on -- on students in for-profit colleges, and we
27 see there that non-completers, I don't know the exact
28 number, but I use the number from that paper for

1 unemployed graduates.

2 MS. KALANITHI: Could I have the next slide,
3 please? Sorry about that.

4 BY MS. KALANITHI:

5 Q. So, Dr. Cellini, can you tell me what the
6 literature tells you regarding earnings of
7 non-completers?

8 A. Sure. So non-completers experience earnings
9 losses of about \$2,685.

10 Q. And that paper that you just mentioned, has
11 that been cited by other researchers?

12 A. Yes. That paper, last time I looked, it had
13 been cited, you know, more than 150 times.

14 Q. So taking into account the earnings of
15 non-completers, what did you find for postcollege
16 earnings of the average Ashford College of Education
17 graduate?

18 A. Sure. The average earnings for a bachelor's
19 education student who enrolls in Ashford regardless of
20 whether they complete or not is about \$22,754.

21 MS. KALANITHI: And could I have the next
22 slide, please?

23 BY MS. KALANITHI:

24 Q. How does that compare to the precollege
25 earnings benchmark?

26 A. So this is lower than the benchmark by about
27 \$2,264.

28 Q. Is there any economics research showing that

1 some students make less money after attending college
2 than if they had not attended college?

3 A. There's a number of papers in the literature
4 that find this to be the case for for-profit colleges.

5 Q. Is there any research explaining why students
6 enroll in college if their earnings might decrease?

7 MR. MUNDEL: Objection. Undisclosed opinion.

8 THE COURT: One second.

9 MS. KALANITHI: This is in paragraphs 79
10 through 80 of Dr. Cellini's report.

11 THE COURT: Counsel?

12 MR. MUNDEL: And beyond the scope of her
13 expertise as a labor economist. The question is why do
14 students do something.

15 MS. KALANITHI: The question is if there's any
16 research that discusses --

17 THE COURT: Okay. Overruled.

18 You may answer.

19 BY MS. KALANITHI:

20 Q. would you like me to repeat the question?

21 A. Sure.

22 Q. Is there any research explaining why students
23 enroll in college if their earnings might decrease?

24 A. well, there's a lot of research on what we
25 call "asymmetric information" in the market for higher
26 education. So students may not be fully informed about
27 the costs and benefits of each college option they have.
28 So there's a number of studies on that topic.

1 In addition to that, there are really
2 well-known distortions in the market for higher
3 education where -- particularly with for-profit
4 colleges. If there's a profit motive, as well as really
5 high federal taxpayer subsidies in that market coupled
6 with high advertising spending, there may be -- students
7 may invest in an education that doesn't pay off.

8 Q. I'd like to move now to the cost side of the
9 benefit-cost analysis.

10 MS. KALANITHI: Could I please have the next
11 slide?

12 BY MS. KALANITHI:

13 Q. So you testified earlier that the cost of
14 college attendance included monetary and nonmonetary
15 costs. Did you have any data on the monetary costs of
16 an Ashford education?

17 A. Yes. The College Scorecard provides the net
18 cost of attendance for every college.

19 Q. And what specific costs are included as part
20 of that net cost?

21 A. Sure. It includes tuition, fees, books,
22 supplies, and some living expenses.

23 Q. Does that include amounts that a student might
24 receive in Pell Grants?

25 A. It subtracts off Pell Grant aid, so it takes
26 out those grant aids.

27 Q. And do you know the average net cost of
28 attendance for students at Ashford?

1 MR. MUNDEL: Objection. Vague as to the time
2 period.

3 THE COURT: Sustained. Put a time on it,
4 Counsel.

5 MS. KALANITHI: Sure.

6 BY MS. KALANITHI:

7 Q. Dr. Cellini, you mentioned that the College
8 Scorecard provides the net cost of attendance for
9 Ashford students; is that right?

10 A. Correct.

11 Q. And what time period of data did you review
12 from the College Scorecard for -- that showed you the
13 net cost of attendance?

14 A. I believe it was around the same year, 2018.

15 Q. And based on your review of the data, can you
16 tell me the average net cost of attendance for students
17 at Ashford from the 2018 data?

18 A. Sure. For the highest-income students at
19 Ashford, the College Scorecard reported that it was
20 about \$23,215. For the average student, it was \$18,907.
21 And the lowest income students, when you subtract off
22 Pell Grants, you get \$18,761.

23 Q. Are these annual costs?

24 A. Annual costs, correct.

25 Q. And which of these figures did you use for
26 your benefit-cost analysis?

27 A. I used the lowest one. Again, to be most
28 favorable to Ashford by using the very lowest one, we

1 want costs lowest and benefits highest again. So I used
2 the lowest net cost of attendance at \$18,761 per year.

3 Q. Does monetary cost include interest on loans?

4 A. This calculation does not.

5 MS. KALANITHI: Can I please have the next
6 demonstrative?

7 BY MS. KALANITHI:

8 Q. Does the College Scorecard include any
9 information on student loan debt?

10 A. Yes. It includes the median student loan debt
11 of Ashford graduates, and that's about \$34,375.

12 Q. And do you know --

13 MR. MUNDEL: Objection as to time period.

14 THE COURT: Sustained.

15 BY MS. KALANITHI:

16 Q. Dr. Cellini, do you know what time period
17 that -- for which the College Scorecard reports the
18 median student loan debt?

19 A. I believe it was around the same year again,
20 2018.

21 MS. KALANITHI: And I'm not sure. Was the
22 witness's previous answer stricken regarding the median
23 student loan debt?

24 THE COURT: It was.

25 BY MS. KALANITHI:

26 Q. Okay. So, Dr. Cellini, can you tell me the
27 median student loan debt reported by the College
28 Scorecard for 2018?

1 A. The median student loan debt in that year was
2 \$34,375.

3 Q. And can you print -- briefly describe how you
4 calculated the interest cost on loans for Ashford
5 students?

6 A. Sure. So I assumed the standard monthly
7 repayment plan, over ten years, and then I looked at the
8 interest rate on federal student loans for
9 undergraduates in that year. So it was 4.45 percent. I
10 did not include private student loans here, which
11 sometimes have interest rates, you know, 15 percent or
12 higher. So again, a low interest rate.

13 And then I changed the future payments to
14 present value using a 2 percent discount rate, as is
15 commonly done in cost-benefit analysis.

16 And finally, the kind of last few steps, I
17 know that 62 percent of Ashford undergraduates take out
18 federal student loans, so I assumed the other 38 percent
19 had no loans in my calculation. And then I amortized
20 that over four years of education.

21 Q. You've discussed the monetary component of
22 costs. Are there any nonmonetary costs of a college
23 education?

24 A. So I didn't mention that the interest payments
25 were about \$1,187 per year.

26 Q. Thank you.

27 A. But there are other costs that I don't include
28 here, like the value of parents taking out loans through

1 the PLUS Loan program, as well as the costs of student's
2 defaulting on debt.

3 So I know that 13 percent of Ashford's
4 students default on their student loans within two years
5 of entering repayment, and I have not taken those costs
6 into account.

7 Q. And not taking those costs into account, what
8 effect does that have on your benefit-cost analysis?

9 A. So again, this makes the costs lower so that
10 it's more favorable to Ashford.

11 MS. KALANITHI: Can I please have the next
12 slide?

13 BY MS. KALANITHI:

14 Q. Can you please describe the nonmonetary costs
15 of a college education?

16 A. Sure. We call these "opportunity costs" in
17 economics, and they really represent the lost time that
18 could have been spent on other activities.

19 Q. Why should that lost -- based on the research,
20 why is that lost time included as a component of costs?

21 A. Because time has value, very simply. However
22 we choose to spend it, that time has value. So it's
23 important -- anytime you're looking at college education
24 and what people invest in education, according to human
25 capital theory in particular, it's incredibly important
26 to place a value on that time.

27 Q. Did you calculate the opportunity cost of an
28 Ashford education?

1 A. I did.

2 Q. And how did you calculate it?

3 A. So first, I was informed by counsel that
4 Ashford students typically attend year-round and take
5 one class at a time, so I assume that they're in school
6 for 50 weeks per year, and then assume that students
7 spend about 12 hours per week on education-related
8 activities, including being in class or watching videos,
9 homework, registration, all those kinds of things that
10 go along with education. And then I conservatively
11 value a student's time at the federal minimum wage of
12 \$7.25 per hour.

13 Q. Why do you assume 12 hours of
14 education-related activities per week?

15 A. That's really based on my own familiarity with
16 higher education. My own students in their evaluations
17 always have to report how much they spend outside of
18 class, and I -- we know about clock hours and things
19 like that, so it's really based on my own
20 higher-education experience.

21 Q. And what did you conclude regarding the
22 opportunity cost for an Ashford student?

23 A. That opportunity cost is about \$4,350 per
24 year.

25 MS. KALANITHI: Can I please have the next
26 slide?

27 BY MS. KALANITHI:

28 Q. Did you calculate the total cost of an Ashford

1 student, including both monetary and nonmonetary costs?

2 A. I did.

3 MR. MUNDEL: Vague as to time period,

4 Your Honor.

5 THE COURT: Sustained.

6 BY MS. KALANITHI:

7 Q. Dr. Cellini, you've mentioned that the College
8 Scorecard had costs -- net cost of attendance data from
9 2018; is that right?

10 A. Yes.

11 Q. And did you add to that your own opportunity
12 cost calculation?

13 A. Yes.

14 Q. And what did you conclude about the total cost
15 for an Ashford student in 2018, including both monetary
16 and nonmonetary costs?

17 A. Sure.

18 MR. MUNDEL: Objection as to which school,
19 whether this is limited to the education school.

20 THE COURT: Sustained. which school?

21 BY MS. KALANITHI:

22 Q. Dr. Cellini, the cost figures that you
23 testified about from the College Scorecard, were those
24 limited to the College of Education?

25 A. No. These could apply to all of Ashford
26 because I just had institution-level data here.

27 Q. And so given that, what did you conclude about
28 the total cost for an Ashford student in 2018, including

1 both monetary and nonmonetary costs?

2 A. I concluded that the total cost for one year
3 was \$24,298.

4 Q. And did you calculate that for a student's
5 entire education at Ashford?

6 A. Yes. For about four years, that would be
7 \$97,192 in costs.

8 Q. What if a student takes longer than four
9 calendar years to complete their Ashford degree? Would
10 that have an effect on your total cost number?

11 A. So they may incur additional fees and living
12 expenses, so there are additional costs. But if you
13 think about when students take longer to finish, they
14 often -- you know, they take time off and they have to
15 complete the same number of credits, so if you go by
16 credits, the four years here is a conservative estimate.

17 They'll be spending the same amount on
18 credits, essentially, in tuition and fees, over the
19 longer period, so it shouldn't be too different. And if
20 anything, it would be higher. So this is a more
21 conservative estimate again.

22 Q. So now that you discuss the benefits and cost
23 side of the equation, let's discuss how you put them
24 together in the benefit-cost analysis.

25 MS. KALANITHI: Can I please have the next
26 slide?

27 BY MS. KALANITHI:

28 Q. Which earnings gains number did you use in

1 your benefit-cost analysis?

2 MR. MUNDEL: Your Honor, same objection to
3 this slide as to time period and university.

4 THE COURT: Please, yeah. Identify that,
5 Counsel.

6 MS. KALANITHI: Understood.

7 BY MS. KALANITHI:

8 Q. Dr. Cellini, which earnings gains number for
9 the College of Education students from 2018 did you use
10 when performing your benefit-cost analysis?

11 A. Sure. I used the employed bachelor's degree
12 students. So that was the highest one, you know.
13 That's in a best-case scenario. They had the largest
14 positive gain, as I mentioned previously. They had the
15 \$1,759 positive gain relative to the benchmark.

16 So I used that, knowing that all of the other
17 groups that I look at and the other calculations based
18 on unemployed students and non-completers and
19 associate's degree students, knowing that those would be
20 lower.

21 MS. KALANITHI: Can I have the next slide,
22 please?

23 BY MS. KALANITHI:

24 Q. So you've testified that the College Scorecard
25 measures earnings -- or reports earnings two years after
26 graduation. Do you have an understanding about why
27 earnings are measured at that point in time?

28 A. It's really pretty standard in government data

1 sets to have them two years after. There's research
2 that shows that earnings two years after are highly
3 correlated with earnings five, six, seven years after.
4 And I do build in earnings growth over time as well, and
5 I'm going to be looking at 40 years of earnings.

6 Q. So did you use the annual earnings for
7 bachelor's degree graduates of Ashford's College of
8 Education from 2018 to estimate lifetime earnings?

9 A. I did. So to do this, I looked at, again,
10 40 years of earnings, and I assumed a 3 percent annual
11 growth in earnings over time, and I assumed that those
12 earnings grow linearly the whole time that students are
13 working rather than, as is common in the literature, to
14 kind of -- they often flatten out at middle age; our
15 earnings kind of plateau. So I kept going at the
16 3 percent, again, to be favorable to Ashford.

17 I put those into present value using a
18 discount rate of 2 percent again, and then I calculate
19 the present value of those benefits over a lifetime at
20 \$81,558.

21 MR. MUNDEL: Your Honor, move to strike.
22 "Looked at" as opposed to an assumption at the beginning
23 of the answer.

24 THE COURT: Overruled.

25 BY MS. KALANITHI:

26 Q. What was the next step you took in determining
27 the net present value?

28 A. Sure. I subtracted from the benefits the

1 costs of these four calendar years of education, the
2 \$97,192. So I again subtracted in the benefit cost to
3 get -- benefits minus cost to get that present value,
4 and that yields \$15,634, and that's negative. So that's
5 a loss over a lifetime of about \$15,634.

6 Q. And how would that net present value be
7 affected if you'd included the unemployed and
8 non-completers that we've discussed earlier?

9 A. That would be even lower for those groups
10 since they had even lower earnings gains, or larger
11 losses, if you will.

12 Q. Based on your knowledge of the research, is it
13 unusual to find a negative net present value for a
14 college education?

15 A. We see it sometimes for for-profit colleges,
16 but in general, the literature on four-year colleges,
17 more traditional colleges, public and nonprofits, are
18 typically -- we typically see net present value around
19 \$500,000 for other types of colleges.

20 So, yes, we have seen it in the for-profit
21 literature, a negative value, but most other colleges,
22 publics and nonprofits, it tends to be much higher.

23 MR. MUNDEL: Your Honor, move to strike the
24 500,000 figure. That has not been previously disclosed
25 in the expert report.

26 MS. KALANITHI: This was in paragraph 77 of
27 Dr. Cellini's report.

28 MR. HUMMEL: One moment, Your Honor.

1 MS. KALANITHI: I'm sorry. 78 through 80.

2 (Pause.)

3 MS. KALANITHI: It's paragraph 78.

4 MR. MUNDEL: Withdrawn, Your Honor.

5 THE COURT: Thank you. It stands.

6 BY MS. KALANITHI:

7 Q. You discussed during your testimony a number
8 of assumptions that you used for your benefit-cost
9 analysis. If you changed any of those assumptions,
10 would that affect the net present value amount that
11 you've discussed here?

12 A. It could affect it slightly, sure. But it's
13 unlikely to ever get, you know, up to that \$500,000 that
14 we see for other types of colleges.

15 MS. KALANITHI: Can I have the next slide,
16 please?

17 BY MS. KALANITHI:

18 Q. I'd like to discuss your opinion regarding
19 teacher salaries. Why did you compare earnings of
20 Ashford's College of Education graduates to teacher
21 salaries?

22 A. Sure. Economists often compare postcollege
23 earnings to earnings in a related occupation, and
24 particularly for graduate students since a high school
25 benchmark might not be the appropriate benchmark for
26 master's students.

27 Q. And what benchmark did you use here?

28 A. I apply a benchmark of \$44,318.

1 Q. What's that based on?

2 A. It's based on the lowest salary offered to
3 beginning teachers, so first-year teachers in the state
4 of California. And those are in the very smallest
5 unified school districts in California. And in larger
6 districts, salary begins at around \$50,029.

7 So again, I'm making a conservative benchmark
8 here that will make benefits larger in favor of Ashford.

9 MS. KALANITHI: Can I have the next slide,
10 please?

11 BY MS. KALANITHI:

12 Q. How does your teacher salary benchmark compare
13 to earnings of Ashford's College of Education graduates
14 from 2018?

15 A. Sure. So bachelor's degree graduates have
16 these postcollege earnings of about \$26,759, which
17 makes -- that number is \$17,559 lower than the lowest
18 beginning teacher salary in California.

19 For master's degree graduates who are
20 employed --

21 I should mention these are all the employed
22 graduates.

23 Master's degree graduates make about \$35,136,
24 and that is \$9,182 below the teacher benchmark.

25 MS. KALANITHI: Can I please have the next
26 slide?

27 BY MS. KALANITHI:

28 Q. I'd like to move on to discuss the second part

1 of your opinion.

2 You've used earnings gains to measure the
3 benefits to a College of Education student at Ashford,
4 right? That's just what we've been talking about this
5 morning?

6 A. Right.

7 Q. Are you familiar generally with surveys that
8 colleges conduct of their alumni?

9 A. Yes.

10 Q. How are you familiar with those surveys?

11 A. So I see them in my review work, in my
12 editorial work. I see papers cross my desk all the time
13 that use different types of surveys for all kinds of
14 things.

15 Q. Including alumni surveys?

16 A. Including alumni surveys.

17 Q. In your experience --

18 MS. KALANITHI: Actually, the next slide,
19 please.

20 BY MS. KALANITHI:

21 Q. In your experience, have you ever used alumni
22 surveys to determine a college's value to students?

23 A. I have not, because I find administrative tax
24 records are much more reliable.

25 Q. And why do you not use alumni surveys in
26 particular?

27 A. Well, they can really be biased in several
28 ways. So the first thing we're always concerned about

1 are low response rates. You really want to make sure
2 that the students that -- the alumni that you are
3 surveying, you would like to get a representative sample
4 and you would like to get all those students to answer
5 your survey, but they often don't.

6 So low response rates can really create a
7 bias. Particularly, they create what we call "positive
8 selection," and that means that the students who most --
9 who are most maybe favorable to Ashford are perhaps the
10 ones to -- or maybe not Ashford -- to any college would
11 be the ones to respond.

12 So we worry about positive selection, that the
13 students who reply to the survey are different than the
14 average student and they might be more positively
15 selected or more favorable.

16 And then finally, alumni surveys have a lot
17 of -- it depends on the survey, but they have many
18 different design flaws. There might be metrics that are
19 not appropriate for assessing value in particular. So
20 we worry in economics about what we call "stated
21 preferences."

22 Stated preferences means that survey
23 respondents are given a hypothetical or -- and they
24 don't have to put their money where their mouth is, if
25 you will. So we prefer earnings gains where we can see
26 that employers are paying students for their skills.
27 It's a real concrete action.

28 So many times, surveys rely on stated

1 preferences. They also rely on self-reported earnings,
2 and we know from the research that self-reported
3 earnings tend to be much higher than actual earnings
4 reported to the IRS.

5 MR. MUNDEL: Your Honor, move to strike beyond
6 the scope of the expertise in economics and also
7 speculation as to what students may do and as to studies
8 that are undefined.

9 MS. KALANITHI: Your Honor, Dr. Cellini is an
10 expert in the economics of higher education, and she is
11 testifying as to the reason she does not use a
12 particular set of data to determine the value of a
13 college education and issues that she's seen with that
14 data in her experience as a journal editor.

15 THE COURT: Based on her previous testimony,
16 mainly relating to her CV, that is overruled, Counsel.

17 BY MS. KALANITHI:

18 Q. Are you aware of any published studies that
19 use alumni surveys to assess the value -- economic value
20 of a college education?

21 A. No, I'm not.

22 MR. MUNDEL: Objection. Move to strike.
23 Undisclosed opinion.

24 MS. KALANITHI: Dr. Cellini's report at
25 paragraph 84 discusses that economists prefer to use
26 revealed preferences over stated preferences, like an
27 alumni survey. So asking whether she's ever seen a
28 published study using stated preference is just an

1 extension of that opinion.

2 MR. MUNDEL: There's no disclosure about any
3 review of the published studies or literature on this
4 topic in her report, and that conclusion does not appear
5 in her report.

6 THE COURT: Read -- what was -- what number
7 was it?

8 MS. KALANITHI: Paragraph 84.

9 THE COURT: Read it to me.

10 MS. KALANITHI: "Economists -- and
11 particularly those engaged in benefit-cost analyses --
12 have long argued that 'revealed preference' methods for
13 valuation are much more reliable than 'stated
14 preferences.' That is, we prefer to value costs and
15 benefits based on observed or actual behavior (revealed
16 preferences), rather than rely on vague preferences or
17 opinions that are merely elicited in hypothetical
18 surveys with no real-world repercussions (stated
19 preferences, as in a Net Promoter Score or satisfaction
20 survey.)"

21 THE COURT: Overruled.

22 You may answer.

23 THE WITNESS: Could you repeat the last
24 question?

25 BY MS. KALANITHI:

26 Q. Yes. Are you aware of any published studies
27 that use alumni surveys to assess the value -- economic
28 value of a college education?

1 A. No.

2 Q. You've discussed a number of issues with
3 alumni surveys. Is the earnings gains analysis that you
4 undertook affected by those same issues?

5 A. No. So because the Department of Education
6 collects data on every student that is part of a
7 criteria, you know, of the College Scorecard, we don't
8 have a problem with response rates. Students are not
9 responding.

10 It's government data, you know, matched by the
11 Department of Education and the IRS based on the
12 enrollment in Ashford that is -- that the Department of
13 Education knows because those students are getting
14 federal student aid. So response rates are not a
15 problem.

16 Positive selection is not a problem, because
17 again, it's the universe of students, it's the
18 population of students that fit that Department of
19 Education definition. And metrics and design flaws are
20 not a problem because we're seeing revealed preference
21 in earnings.

22 So the important thing about earnings is that
23 earnings represent the value to employers of a student's
24 skill, and employers are in a sense putting their money
25 where their mouth is, and they wouldn't pay that person
26 that wage or that hourly rate if that hour of that
27 person's time was not at least that valuable to them.

28 So we always prefer to use these kind of

1 earnings because they are revealed preference method
2 where we can see how somebody's skills are valued in the
3 labor market.

4 So that's revealed preference rather than
5 stated. And again, these are not self-reported
6 earnings. They are typically W-2's or given by the
7 employer. They're auditable. They're, you know, IRS
8 tax records, which is about as accurate as they get.

9 MS. KALANITHI: Could I please have the next
10 slide?

11 BY MS. KALANITHI:

12 Q. Dr. Cellini, are you familiar with Net
13 Promoter Score?

14 A. I am.

15 Q. And what is it?

16 A. It's a marketing tool --

17 MR. MUNDEL: Same objection. No expertise.

18 MS. KALANITHI: This is foundation.

19 Dr. Cellini is going to be talking about why she does
20 not use Net Promoter Score surveys in her --

21 THE COURT: Uh-huh.

22 MS. KALANITHI: Should I keep going,
23 Your Honor?

24 THE COURT: So what we're going to do right
25 now, I am going to allow you to testify to that. It
26 will be subject to a motion to strike if I'm not
27 satisfied there's a sufficient foundation.

28 Go.

1 BY MS. KALANITHI:

2 Q. Dr. Cellini, how are you familiar with Net
3 Promoter Scores?

4 A. Sure. They're a question that's asked as a
5 marketing tool typically to alumni as part of alumni
6 surveys, and they ask on a scale from zero to ten how
7 likely are you to recommend this college. They then
8 classify alumni or respondents into detractors who say
9 zero to six and promoters from seven to ten.

10 Q. Have you ever used Net Promoter Scores to
11 determine a college's value to students?

12 A. No, because they're not appropriate for that.

13 Q. And why do you say "they're not appropriate"?

14 A. Well, Net Promoter Scores measure only a vague
15 overall perception that may or may not be correlated
16 with student outcomes.

17 So again, this is like the stated preferences
18 that I just mentioned previously rather than revealed
19 preference. They're not -- it's not a concrete action.
20 We also know that there's cognitive biases that
21 economists often recognize that make perceptions complex
22 and even sometimes contradictory in these kind of
23 hypothetical situations.

24 MR. MUNDEL: Move to strike. Expressing an
25 opinion as to marketing surveys and also cognition.
26 Beyond the scope of an economist.

27 MS. KALANITHI: I could lay the foundation for
28 that, Your Honor.

1 THE COURT: Please do. Sustained.

2 BY MS. KALANITHI:

3 Q. Dr. Cellini, you just testified about
4 cognitive biases. Can you tell me based on your
5 experience what -- what experience you have regarding
6 that issue?

7 A. Sure. I'm teaching about it this week in my
8 class. We talk a lot about different biases. Our
9 brains almost play tricks on us when we're answering
10 hypotheticals. So we may stretch things. We may,
11 again, contradict ourselves somewhat irrationally in
12 answering hypotheticals.

13 So we're not valuing this concrete action but
14 rather seeing this perception. So our brains really
15 rely on these heuristics, these shortcuts.

16 Q. And that, what you just discussed, that's
17 based on your training and experience in economics?

18 A. Yes. This is common graduate-school material.
19 It's, you know, behavioral. It's part of behavioral
20 economics which we teach in particular all throughout --
21 you know, for our graduate students. They need to know
22 about all these types of biases in our programs, in our
23 master's programs.

24 Q. Are you aware of any published studies that
25 use Net Promoter Scores to assess the economic value of
26 a higher education?

27 A. No.

28 Q. I would like to switch gears now to discuss

1 your opinion regarding the percentage of Ashford's
2 revenue from federal sources.

3 MS. KALANITHI: Can I have the next slide,
4 please?

5 MR. MUNDEL: Object to the relevance of this
6 topic, Your Honor. It's not relevant to any issue in
7 the case.

8 MS. KALANITHI: As discussed in our opening,
9 the percentage of -- high percentage of Ashford's
10 revenue that came from federal sources is part of the
11 harm here. In addition to the harm to students, there's
12 a harm to the public --

13 THE COURT: Overruled.

14 BY MS. KALANITHI:

15 Q. In the course of your work, have you looked at
16 the amount of revenue colleges receive from federal
17 sources?

18 A. Yes.

19 Q. What data sources have you consulted for that
20 analysis?

21 A. I've consulted the Department of Education's
22 data on what they call the "90-10 rule." So for-profit
23 colleges need to -- or the Department of Education
24 collects data and makes public the amount of federal
25 student aid that institutions -- for-profit institutions
26 get from federal taxpayers through Title IV of the
27 Higher Education Act. So that's Pell Grants and student
28 loans.

1 Q. And do you -- have you consulted any other
2 data sources?

3 A. Yes. I've also looked at what students -- or
4 what institutions get from the GI bill through the U.S.
5 Department of Veterans Affairs.

6 Q. And did you review those sources to determine
7 the percentage of federal aid that Ashford received?

8 A. I did.

9 MS. KALANITHI: Could I have the next slide,
10 please?

11 BY MS. KALANITHI:

12 Q. And what did you find regarding Ashford's
13 Title IV revenue in 2017?

14 A. Sure. So based on the Title IV revenue, the
15 Pell Grants and federal student loans, Ashford received
16 about \$362 million.

17 Q. And what did you find regarding Ashford's
18 revenue from the Post-9/11 GI Bill during that same
19 period?

20 MR. LAKE: Your Honor, objection. You've
21 already excluded the evidence through the testimony of
22 Mr. Dean.

23 THE COURT: Of whom?

24 MR. LAKE: Mr. Dean. Military and military
25 funding through the GI Bill.

26 MS. KALANITHI: Your Honor, this is a
27 component of the federal funding.

28 THE COURT: And Mr. Dean was a student, right?

1 MS. KALANITHI: He was a student, but also a
2 former admissions counselor.

3 THE COURT: I've got it. Overruled.

4 Go.

5 THE WITNESS: So the Post-9/11 GI Bill,
6 Ashford received about \$30.8 million through that source
7 of funding.

8 BY MS. KALANITHI:

9 Q. And how much did Ashford receive in total from
10 federal sources in 2017?

11 MR. MUNDEL: Objection for the record,
12 Your Honor.

13 THE COURT: So noted for the record.

14 You may answer, ma'am.

15 THE WITNESS: It was \$392 million.

16 MS. KALANITHI: And the next slide, please.

17 BY MS. KALANITHI:

18 Q. Can you please tell me the proportion of
19 Ashford's revenue it received from federal sources in
20 2017-2018?

21 A. Sure. That darker portion of the pie chart
22 there is federal student aid under Title IV. That's
23 about 81 percent of their revenue. And the GI bill is
24 another 7 percent. So it's about 88 percent total.

25 Q. Did you calculate Ashford's revenue from
26 federal sources for any other years?

27 A. Yes.

28 Q. And what did you find?

1 A. From 2009 to 2019, I found that Ashford
2 received about \$6 billion in federal student -- student
3 aid through Title IV and the GI bill.

4 Q. I'd like to --

5 MR. MUNDEL: Your Honor, may I have a moment,
6 please?

7 THE COURT: You may. Hold on.

8 (Pause.)

9 MR. MUNDEL: Move to strike the answer as
10 undisclosed in the expert report.

11 MS. KALANITHI: Your Honor, Dr. Cellini has
12 testified about the revenue from federal sources. I
13 believe she has not mentioned it here, but I can elicit
14 for the record that Dr. Cellini reviewed 10-Ks, which
15 are already admitted into evidence, and she simply did
16 the same thing with those 10-Ks that she did for this
17 part.

18 THE COURT: Lay that foundation.

19 MS. KALANITHI: Sure.

20 BY MS. KALANITHI:

21 Q. Dr. Cellini, you testified that you calculated
22 Ashford's revenue from federal sources for a set of
23 other years; is that right?

24 A. Correct.

25 Q. And what did you review to do that
26 calculation?

27 A. I reviewed Zovio's 10-K forms.

28 Q. And what did you find regarding revenue from

1 federal sources after you reviewed those Zovio 10-Ks?

2 MR. MUNDEL: Your Honor, objection. This is
3 not disclosed in the expert report. The calculation was
4 only for 2017. There's no calculation from 2009 to
5 2019. And if I may have a moment, the only 10-K that's
6 listed in the documents considered is the 2019 10-K.
7 The other ones have not been listed in the documents
8 considered by the witness.

9 MS. KALANITHI: Dr. Cellini is merely
10 reporting the proportion of federal funding in the 10-Ks
11 which have already been admitted into evidence, and
12 she's -- this is an extension of her opinion about the
13 proportion of federal revenue during the year 2017-2018.

14 THE COURT: Did she only review, though, a
15 10-K from 2019 to arrive at this?

16 MS. KALANITHI: No. I can ask the witness,
17 but I believe it was from all those years.

18 MR. MUNDEL: Page 5 of the documents
19 considered includes only the 2019 10-K, and the only
20 opinions disclosed were the 2019 figures. So this may
21 have been done after the expert report, but it was not
22 part of what was in the report or disclosed.

23 THE COURT: Counsel, response?

24 MS. KALANITHI: Yes. This is -- because this
25 is evidence that's already admitted, Dr. Cellini
26 reviewed those 10-Ks. Mr. Mundel is correct. They are
27 not in the report. This is after Dr. Cellini's report
28 was prepared. But she did the same thing -- essentially

1 the same thing from her part three of her assignment to
2 the other side of already admitted Zovio 10-Ks.

3 THE COURT: Thank you. When was that
4 disclosed to the defense?

5 MS. KALANITHI: It was not previously
6 disclosed.

7 THE COURT: Thank you. Sustained.

8 MS. KALANITHI: Thank you, Your Honor.

9 BY MS. KALANITHI:

10 Q. Dr. Cellini, I'd like to turn now to your
11 opinion regarding Ashford's spending on marketing.

12 MS. KALANITHI: Can I please have the next
13 slide?

14 BY MS. KALANITHI:

15 Q. Did you review any documents to arrive at your
16 opinion on Ashford's spending on marketing?

17 MR. MUNDEL: Your Honor, we object to the
18 relevance of this topic.

19 THE COURT: Counsel?

20 MS. KALANITHI: As Dr. Cellini testified, part
21 of the distortion in the higher education labor market
22 relates to the advertising spending.

23 Also, defendants have an expert that they plan
24 to call, Dr. Wind, who has put in his report that he has
25 kind of touted Ashford's instructional spending as one
26 of the -- one of several indicia supposedly of value.
27 And so Dr. Cellini will be testifying as to the
28 advertising spending compared to the instructional

1 spending by Ashford.

2 THE COURT: And based on her previous
3 testimony, overruled.

4 Doctor?

5 BY MS. KALANITHI:

6 Q. Dr. Cellini, did you review any documents to
7 arrive at your opinion on Ashford's spending on
8 marketing?

9 A. Yes. I looked at Zovio's 10-K filings and the
10 Department of Education data.

11 Q. And 10-K filing from what year?

12 A. 2019, I believe.

13 MS. KALANITHI: I would just note that this is
14 Exhibit 9023, which has already been admitted.

15 THE COURT: Uh-huh.

16 MS. KALANITHI: Could I please have the next
17 slide?

18 BY MS. KALANITHI:

19 Q. Dr. Cellini, what did you find regarding
20 Zovio's spending on marketing in 2019?

21 A. I found that Zovio spent \$170.8 million or
22 about 41 percent of its revenue on what they term
23 "admissions advisory and marketing costs."

24 Q. And based on your review of the Zovio 10-K, do
25 you know what that category includes?

26 A. Yeah. It includes compensation of personnel
27 engaged in marketing and recruitment, as well as costs
28 associated with advertising media, purchasing leads, and

1 producing marketing materials.

2 Q. Did you calculate the marketing spending on a
3 per-student basis?

4 A. I did. On a per-student basis, that's about
5 \$4,570 per student.

6 Q. Is there any research regarding institutional
7 spending and student outcomes?

8 MR. MUNDEL: Objection.

9 May I have a moment, Your Honor?

10 THE COURT: You may.

11 MS. KALANITHI: I direct counsel to paragraphs
12 94 and 95.

13 (Pause.)

14 MR. MUNDEL: Undisclosed opinion.

15 MS. KALANITHI: I'd asked Dr. Cellini
16 regarding institutional spending and student outcomes,
17 and paragraphs 94 and 95 of her report discuss the fact
18 that recruiting and advertising may be necessary, but
19 these expenditures that she's just testified to do not
20 directly benefit students once they enroll in Ashford.
21 They simply bring students in the door and generate
22 profits from enrollment and tuition payments and says
23 they have little, if any, connection to student's
24 success after enrolling.

25 MR. MUNDEL: The question asked about whether
26 there was any research on institutional spending and
27 student outcomes, and no research is disclosed on that
28 topic in the expert report or in the documents

1 considered.

2 THE COURT: Overruled.

3 BY MS. KALANITHI:

4 Q. Dr. Cellini, is there any research regarding
5 institutional spending and student outcomes?

6 A. There is, and it points to instructional
7 spending as being more important for student outcomes,
8 generally.

9 Q. And based on your research, are there any
10 categories of spending that do affect student outcomes?

11 A. Yes. Instructional spending is about the
12 teachers, the instructors, the -- maybe the video
13 production and those kinds of things for an online
14 institution, but those types of instructional
15 expenditures help students gain skills once they're in
16 the door versus admissions and marketing really just
17 bring students in.

18 So it has little benefit to them once they're
19 already there in increasing their skills to be valuable
20 in the labor market.

21 Q. Did you determine the amount of -- that
22 defendants spent on instruction?

23 MR. MUNDEL: Objection as to time period.

24 THE COURT: Let's make it clear.

25 MS. KALANITHI: Thank you, Your Honor.

26 BY MS. KALANITHI:

27 Q. For the same time period that we've been
28 talking about, 2018-2019, did you determine the amount

1 that defendants spent on instruction?

2 A. Yes.

3 Q. And what did you find?

4 A. Instructional expenditures per student were
5 \$2,478.

6 MS. KALANITHI: Could I have the next slide,
7 please?

8 BY MS. KALANITHI:

9 Q. And how does the per-student instructional
10 spending that you just testified about, how does that
11 compare to Zovio's spending on advertising in 2019?

12 A. That \$2,478 is about \$2,000 lower, as you can
13 see here, than their spending on advertising and
14 marketing.

15 MR. MUNDEL: Objection. Move to strike as to
16 "advertising." The foundation has been laid for not
17 advertising, but rather than marketing -- admissions
18 advisory and marketing costs.

19 THE COURT: Response?

20 MS. KALANITHI: I can rephrase the question,
21 Your Honor.

22 THE COURT: Thank you.

23 BY MS. KALANITHI:

24 Q. Dr. Cellini, how does the per-student
25 instructional spending you just testified about, how
26 does that compare to Zovio's spending on marketing and
27 advisory costs in 2019?

28 A. Sure. The instructional spending is about

1 \$2,000 less than the reported admissions advisory and
2 marketing costs.

3 MS. KALANITHI: I have no further questions,
4 Your Honor.

5 Oh, I'm sorry. Could I have one moment,
6 please?

7 THE COURT: Hold on.

8 (Attorneys confer.)

9 MS. KALANITHI: Your Honor, may I have a
10 moment to confer with my colleagues? We can take a
11 break if that --

12 THE COURT: We are going to take a break.
13 That will be for 15 minutes.

14 Doctor, there's restrooms outside. Be sure
15 you put your mask back on. In here you don't have to,
16 but out there you do. Be back in this chair in
17 15 minutes, please.

18 (The witness exits the courtroom.)

19 THE COURT: Plaintiff, anything?

20 MS. KALANITHI: No, Your Honor.

21 THE COURT: Defense?

22 MR. HUMMEL: Off the record, Your Honor, yes.

23 THE COURT: Sure. Off the record.

24 (A discussion was held off the record.)

25 THE COURT: I just want to put one other thing
26 on the record.

27 This morning I swore in --

28 MR. SWETT: Mr. Swett, Jeremiah.

1 THE COURT: And you know me, I chitchat a lot.
2 So I asked him what college he went to, and I asked --
3 and then I found out that he is here on behalf of
4 University of Arizona Global Campus, to which I stopped
5 inquiring and being my chitchatty self. I didn't
6 realize that his capacity was here -- so I just
7 wanted -- but I swore him in -- congratulations again --
8 and we just talked about he went to Cornell, where he
9 went to school, and then when he said he was here in
10 that capacity, I stopped my usual self. That's all.

11 MR. HUMMEL: Thank you, Your Honor.

12 MS. KALANITHI: Thank you, Your Honor.

13 (Recess.)

14 THE COURT: Back on the record.

15 People.

16 MS. KALANITHI: Just briefly, Your Honor.

17 BY MS. KALANITHI:

18 Q. Dr. Cellini, you testified earlier that you
19 had not used Net Promoter Scores to determine a
20 college's value to students; is that right?

21 A. Correct.

22 Q. And then I asked why do you say -- why do
23 you -- why have you not used Net Promoter Scores for
24 measuring the value of a college education to students?

25 A. Wait. That was the question?

26 Q. Yes, I'm sorry. Thank you. I'm just going
27 back to something. I realized I had skipped past a
28 question where counsel had moved to strike, and then I

1 later laid a foundation and didn't actually go back to
2 the actual question. So if you wouldn't mind, I'd
3 appreciate it.

4 Have you ever used Net Promoter Scores to
5 determine a college's value to students?

6 A. No, I have not.

7 Q. And why is that?

8 A. Because it's not -- it's not reliable in
9 assessing value. It's not used in that. It's not
10 helpful for assessing value.

11 Q. And why is it not reliable or helpful in
12 assessing value?

13 A. Because it is really based on these stated
14 preferences, so it's very hypothetical. It's not a
15 concrete action of students. It may or may not be
16 correlated with student outcomes.

17 And, again, people may have cognitive biases
18 that make their answers to these types of hypothetical
19 questions and very vague questions contradictory or very
20 complex.

21 MS. KALANITHI: Thank you, Dr. Cellini. No
22 further questions.

23 THE COURT: Cross-exam.

24 MR. MUNDEL: Thank you, Your Honor. May I
25 hand up a binder and thumb drive to the bailiff?

26 THE COURT: You may.

27 Shall we?

28 MR. MUNDEL: May I proceed, Your Honor?

1 THE COURT: You may.

2 CROSS-EXAMINATION

3 BY MR. MUNDEL:

4 Q. Good morning, Professor Cellini.

5 A. Good morning.

6 Q. Nice to meet you.

7 A. Nice to meet you too.

8 Q. Do you understand that it is a fundamental
9 allegation in this case that the defendants
10 systematically misled prospective students in order to
11 induce enrollment?

12 MS. KALANITHI: Objection. Vague,
13 "fundamental allegation."

14 THE COURT: Do you understand the question,
15 Doctor? Do you understand it?

16 THE WITNESS: Yes, I think so.

17 Yes.

18 THE COURT: Overruled. The answer was "yes."

19 BY MR. MUNDEL:

20 Q. And you did nothing to assess whether that
21 allegation was true, correct?

22 A. Yes.

23 Q. And do you also understand that the Attorney
24 General has alleged that Ashford's admissions counselors
25 were in reality salespersons who operated in a
26 pressurized boiler room environment and had no choice
27 but to mislead students in order to meet unrealistic
28 enrollment quotas?

1 A. Could you repeat the question?

2 Q. Sure. Do you know that the AG has alleged
3 that Ashford's admissions counselors were in reality
4 salespersons who operated in a pressurized boiler room
5 environment and had no choice but to mislead students in
6 order to meet unrealistic enrollment quotas?

7 A. No, I'm not familiar with details like that.

8 Q. And you did nothing to assess whether that is
9 a true fact, correct?

10 A. Correct.

11 MR. MUNDEL: Your Honor, defendants would like
12 to move Exhibit 7720 into evidence. It is the Attorney
13 General's verified responses to the fifth set of special
14 interrogatories.

15 (Court's Exhibit No. 7720, People's Amended
16 Responses to Defendant Zovio's 5th Special
17 Rogs - October 28, 2020, first identified.)

18 MS. KALANITHI: No objection.

19 THE COURT: One second.

20 (Pause.)

21 THE COURT: Received.

22 (Court's Exhibit No. 7720 received into
23 evidence.)

24 MR. MUNDEL: Thank you, Your Honor. May I
25 proceed?

26 THE COURT: You may.

27 BY MR. MUNDEL:

28 Q. Professor Cellini, you are not offering any

1 opinion about what form or amount of monetary relief is
2 appropriate in this case, true?

3 A. True.

4 Q. And you're not offering an opinion about the
5 amount of restitution that is appropriate, correct?

6 A. Correct.

7 Q. And do you understand that the Attorney
8 General contends that some of Ashford's students were
9 deceived into enrolling at the school?

10 A. Yes.

11 Q. And you did not analyze -- do a value analysis
12 for the students that the AG alleges were deceived as
13 opposed to the students that they don't allege were
14 deceived, correct?

15 MS. KALANITHI: Objection. Vague.

16 THE COURT: Sustained. Rephrase.

17 BY MR. MUNDEL:

18 Q. Let me do it this way. Can you look at
19 Exhibit 7720 in the binder? This is the Attorney
20 General's response to the fifth set of special
21 interrogatories that was just admitted.

22 Have you seen this document before, Professor?

23 A. No, I don't think so.

24 Q. If you flip to page 6, you can see that the
25 defendants asked the Attorney General to identify
26 students who the Attorney General alleges were deceived
27 here about transfer credits.

28 Do you see that?

1 It's Interrogatory No. 16 on page 6.

2 Do you see that?

3 A. Am I looking at a particular line? Is that
4 me?

5 Q. Yes, page 6. If you look at Special
6 Interrogatory No. 16, it's on lines 8 to 15.

7 (Pause.)

8 BY MR. MUNDEL:

9 Q. Have you read it, Professor?

10 A. I'm still reading it, but, yes, I've read most
11 of it.

12 Q. You see here on Special Interrogatory No. 16,
13 the defendants asked the Attorney General to identify
14 any student that they contend enrolled in Ashford based
15 upon a false or misleading statement about transfer
16 credits.

17 Do you see that?

18 A. Yes, I do.

19 Q. And if you flip to the next page, page 7, the
20 Attorney General provides an answer which identifies
21 some students by PIU, public integrity unit, complaints.

22 Do you see that?

23 A. Yes.

24 Q. And you did not analyze these -- the students
25 that were listed here, correct?

26 A. They may have been --

27 MS. KALANITHI: Objection.

28 THE WITNESS: -- in my data, but I wouldn't

1 know.

2 BY MR. MUNDEL:

3 Q. You did not do an independent analysis of the
4 students that the Attorney General identified as being
5 misled; is that correct?

6 A. Correct.

7 Q. And you did not analyze the cost that those
8 students incurred; is that correct?

9 A. Again, they may have been in the data from the
10 Department of Education, so they may be in there, but I
11 didn't identify them individually.

12 Q. You do not specifically analyze the amount
13 that the students spent at Ashford that were identified
14 by the AG; is that correct?

15 A. Correct.

16 Q. And you did not specifically analyze the
17 benefits that was [sic] received by the students that
18 were identified by the Attorney General as being
19 deceived, correct?

20 A. That's right. I use all the students in the
21 Department of Education's data.

22 Q. And you are not providing an opinion that is
23 specific to the students the Attorney General alleges
24 were deceived; is that correct?

25 MS. KALANITHI: Objection. Vague.

26 THE COURT: Yes. Sustained.

27 BY MR. MUNDEL:

28 Q. Let's look at the Interrogatory Response

1 No. 23, which is on page 73. And in this Interrogatory
2 Response No. 23, the defendants ask the Attorney General
3 to identify students who enrolled in the education
4 school based upon a false or misleading statement in
5 their view.

6 Do you see that?

7 A. Can you repeat that? Something about the
8 education school I don't see.

9 Q. I can. So in Interrogatory No. 23, the
10 defendants ask the Attorney General to identify the
11 students who enrolled in the education school based upon
12 a false or misleading statement about the degree
13 conferring a teacher certification.

14 Do you see that?

15 MS. KALANITHI: Objection. I don't think
16 there's anything about the education school in
17 Interrogatory 23.

18 THE COURT: Sustained. Just read it directly.

19 BY MR. MUNDEL:

20 Q. "Identify each and every present or former
21 student who ever attended a class at Ashford and who
22 made the decision to enroll at Ashford based, in whole
23 or in part, on what you contend to have been one or more
24 false or misleading, oral or written statements by an
25 Ashford employee or representative regarding an Ashford
26 degree conferring teaching certification."

27 Do you see that?

28 A. Oh, so the teaching certification being within

1 the education school is what you mean?

2 Q. Yes.

3 A. Okay. Yes, I see that.

4 Q. And if you look to the next page, you'll see
5 the Attorney General identified a number of students
6 that it contends fall into that category.

7 Do you see that?

8 A. I do.

9 Q. And you do not specifically analyze the costs
10 or benefits to those students as compared to the general
11 population in Ashford's education school, correct?

12 A. They may be in my data, but I don't know
13 specifically.

14 Q. And you made no effort to focus exclusively on
15 the students that the AG contends were deceived or
16 misled, correct?

17 A. Correct.

18 Q. And you're not providing an opinion about the
19 economic value that only those students received, true?

20 A. Correct. I'm looking at the students in
21 Ashford's College of Education and the value they
22 received based on the College Scorecard data in 2018.

23 Q. And you're looking at not any particular
24 students, but the average student; is that correct?

25 A. That's correct.

26 Q. And you did no analysis to determine whether
27 the students identified by the Attorney General were
28 above or below the average; is that correct?

1 A. Correct. The data won't permit me to do that.

2 Q. And you didn't do it here?

3 A. I did not do it.

4 Q. So let's talk a bit more about your opinion.

5 You're not offering the opinion in this case that
6 Ashford made any false or misleading statements about
7 the economic value of an Ashford education, are you?

8 A. No, I'm not. Correct.

9 Q. In fact, you're not aware of Ashford ever
10 making any statement about the economic value of
11 education, are you?

12 A. Correct.

13 Q. And you did not identify any student who
14 enrolled at Ashford based upon a misrepresentation of
15 any type, true?

16 A. True. I can see the students who enrolled,
17 the -- again, the group of all the students that the
18 Department of Education follows.

19 Q. And you are not testifying that any student
20 who enrolled at Ashford did so based upon a
21 misrepresentation about the economic value, correct?

22 A. Correct.

23 Q. And you're not offering the opinion that
24 Ashford made a false or misleading statement to any
25 prospective student on any topic, true?

26 A. Correct.

27 Q. And you're -- you're not offering the opinion
28 that Ashford management ever authorized its employees to

1 make a false or misleading statement?

2 A. Correct.

3 Q. And you're not offering the opinion that any
4 of Ashford's advertisements created a false impression
5 for prospective students, true?

6 A. True.

7 Q. And you're not offering the opinion that any
8 of Ashford's advertising is false or misleading,
9 correct?

10 A. Correct.

11 Q. And you're not offering the opinion that any
12 student enrolled at Ashford did so based upon a lie?

13 A. Correct.

14 Q. And you're not offering the opinion that the
15 defendants intended to induce prospective students to
16 enroll at Ashford based upon a misleading statement,
17 correct?

18 A. Correct.

19 Q. You're not offering the opinion that Ashford's
20 practices were likely to deceive reasonable students?

21 A. Correct.

22 Q. And you've done no analysis to determine if
23 students were likely to be deceived by Ashford, correct?

24 A. Correct, but to the extent that their earnings
25 are low and their costs are high.

26 MR. MUNDEL: Your Honor, move to strike
27 everything after "correct."

28 THE COURT: One second.

1 Sustained. Stricken.

2 BY MR. MUNDEL:

3 Q. You're not offering the opinion that the
4 defendants said anything false or misleading about the
5 money they received from federal sources, correct?

6 A. Correct.

7 Q. And you don't believe that -- you're not
8 offering the opinion that Ashford deceived any students
9 regarding where their sources of funds were coming from;
10 is that true?

11 A. Correct.

12 Q. And you're not offering the opinion that
13 Ashford did anything deceptive in regards to federal
14 funding, true?

15 A. True.

16 Q. Your opinion in this case about economic value
17 is not based upon Ashford deceiving or misleading
18 students, fair?

19 MS. KALANITHI: Objection. Vague.

20 THE COURT: One second.

21 No. Overruled.

22 You may answer that, ma'am.

23 THE WITNESS: I'm sorry. Could I have that
24 question again?

25 BY MR. MUNDEL:

26 Q. Of course. Your opinion in this case about
27 the economic value is not based upon Ashford deceiving
28 or misleading students, true?

1 A. Correct.

2 Q. Let's talk for a moment about things that you
3 did in this case.

4 You did not look at any of Ashford's
5 advertising materials, did you?

6 A. No.

7 Q. You didn't look at any of Ashford's marketing
8 materials?

9 A. Aside from their website, one or two things,
10 yeah.

11 Q. And you conducted no review of the one or two
12 marketing materials you looked at for purposes of this
13 case, correct?

14 A. In my report, I think I point out the "Behind
15 the Numbers" website and I talk a little bit about that,
16 but that's it.

17 Q. Nothing other than that "Behind the Numbers"
18 portion; is that correct?

19 A. Correct.

20 Q. And you did not analyze the disclosures that
21 Ashford makes to prospective students?

22 A. Correct.

23 Q. You do not analyze the training that Ashford
24 provides to its admissions counselors, right?

25 A. Correct.

26 Q. And you're not offering the opinion that
27 Ashford failed to disclose the cost of attending to its
28 students, correct?

1 A. Correct.

2 Q. And you're not offering the opinion that
3 Ashford failed to disclose the loans or financial aid
4 factors to prospective students, are you?

5 A. Corr- -- was that a double negative? Correct.

6 Q. You're not offering that opinion?

7 A. I'm not offering that opinion.

8 Q. And you do not analyze the efficacy of
9 Ashford's compliance program?

10 A. Correct.

11 Q. You did not interview any of its compliance
12 officers?

13 A. My work is with large government data sets, so
14 the interviews are not part of that analysis, no.

15 Q. And you didn't do that here?

16 A. No, I did not.

17 Q. You did not interview any of Ashford's
18 admissions counselors; is that correct?

19 A. Correct.

20 Q. And you did not look at any of the depositions
21 of students or employees at Ashford, correct?

22 A. Correct.

23 Q. And you didn't conduct any surveys of actual
24 Ashford students or former students?

25 A. Again, I think I mentioned that I don't think
26 surveys are a reliable way to measure value, so -- so
27 no. I used government administrative data.

28 Q. To be clear, Professor, you did not conduct

1 any surveys of actual or former students at Ashford; is
2 that correct?

3 A. Correct.

4 Q. And you also did not review any complaints
5 that Ashford students may have made; is that right?

6 A. Correct, insofar -- well, aside from the
7 original complaint in this case.

8 Q. You're referring to the complaint filed by the
9 Attorney General in court?

10 A. Yes. Thank you.

11 Q. And you did not interview any of Ashford's
12 faculty members when you assessed value, did you?

13 A. Correct. Again, that wouldn't be appropriate
14 for this analysis.

15 MR. MUNDEL: Move to strike everything after
16 "correct."

17 THE COURT: Overruled.

18 BY MR. MUNDEL:

19 Q. You also did not evaluate the curriculum of
20 any of Ashford's courses; is that right?

21 A. Correct. Again, that's not necessary for this
22 analysis.

23 Q. And you didn't do it here?

24 A. Correct.

25 Q. And you did not review the -- the course of
26 study that a student has to take to earn a degree in a
27 particular field at Ashford, did you?

28 A. Correct.

1 Q. You didn't look at the academic requirements?

2 A. Correct.

3 Q. You didn't look at the reading materials that
4 were provided?

5 A. Correct. Again, I didn't need to.

6 Q. And you didn't watch any lectures from
7 professors to students; is that correct?

8 A. Correct.

9 Q. And you did not evaluate whether any of the
10 allegations in the complaint filed by the Attorney
11 General are true?

12 A. Correct.

13 Q. You didn't review the deposition transcript of
14 Dr. Farrell, did you?

15 A. No, I don't think so.

16 Q. And you didn't analyze the qualifications of
17 the professors who teach at Ashford?

18 A. No.

19 Q. You didn't ask any students if they received
20 value from their Ashford degree; is that correct?

21 A. Again, I have revealed preference data from
22 the IRS that can indicate value with a reliable metric
23 that is standard in economics. So no, I didn't need to.

24 Q. To be clear, you did not ask any students if
25 they received value from their Ashford degree?

26 A. Correct.

27 Q. Did you review any of the testimony from trial
28 where the students testified?

1 MS. KALANITHI: Objection. Relevance.

2 THE COURT: No. Overruled.

3 Did you?

4 THE WITNESS: No.

5 BY MR. MUNDEL:

6 Q. Were you told that Ms. Tomko, a former student
7 at Ashford, testified that she doubled her salary after
8 she got her degree from Ashford?

9 A. No.

10 Q. So you obviously didn't take that into account
11 in formulating your opinion?

12 MS. KALANITHI: Objection. Argumentative.

13 THE COURT: Sustained.

14 BY MR. MUNDEL:

15 Q. Did you review -- did you hear that
16 Ms. Roberts, a former student, testified that her degree
17 was the first step in becoming a licensed substance
18 abuse counselor associate in North Carolina?

19 A. No.

20 Q. You did not review the testimony from Thomas
21 Perrelli, did you?

22 A. No.

23 MS. KALANITHI: Objection. Relevance. Undue
24 consumption of time.

25 THE COURT: Overruled. Overruled.

26 THE WITNESS: No.

27 BY MR. MUNDEL:

28 Q. And you did not review the testimony from

1 Norton Norris?

2 A. No.

3 Q. You didn't review the WASC accreditation
4 papers from Ashford?

5 A. No.

6 Q. You didn't review the information that Ashford
7 submitted to WASC, the accreditation agency, did you?

8 A. No. Again, those are not relevant for my
9 analysis based on the government data I have.

10 Q. And you also didn't review the information
11 that WASC sent back to Ashford granting its
12 accreditation, correct?

13 A. Correct.

14 Q. And you don't know what steps Mr. Perrelli
15 took as part of the settlement monitor from the Iowa AG
16 settlement, do you?

17 A. No.

18 Q. And you're not offering an opinion that any
19 number of students enrolled based upon a
20 misrepresentation by the defendants, true?

21 A. Correct.

22 Q. And you did not review the expert report by
23 Professor Jerry Wind?

24 A. I did.

25 Q. You did review his report?

26 Did you review his first report or his
27 rebuttal report?

28 A. I believe it was his first report.

1 Q. You're not offering any opinions about his
2 report in this case, are you?

3 A. Correct, I am not.

4 Q. Let's move to your first assignment.

5 You were asked by the California Attorney
6 General to determine the economic value of an Ashford
7 education; is that correct?

8 A. Correct.

9 Q. And you --

10 A. In the College of Education.

11 Q. In the College of Education.

12 You calculated the economic value by
13 conducting a return on investment analysis, true?

14 A. True, yeah.

15 Q. And you also called this a "cost-benefit
16 analysis," correct?

17 A. Correct.

18 Q. And the way you conducted that analysis was to
19 compare the student's earning gains against the full
20 cost of the student's investment in education; is that
21 right?

22 A. Yes, the lifetime earnings gain.

23 Q. So let's talk a bit about the scope of that
24 analysis.

25 To be clear, your analysis was limited to
26 Ashford's College of Education, true?

27 A. True.

28 MS. KALANITHI: Objection. Vague as to which

1 part of the analysis counsel's referring to.

2 THE COURT: Yeah. There were some --
3 sustained, Counsel.

4 BY MR. MUNDEL:

5 Q. The empirical analysis you conducted was
6 limited to Ashford's College of Education, correct?

7 MS. KALANITHI: Same objection.

8 THE COURT: No. That's a direct question.
9 Overruled.

10 That's either "yes" or "no," ma'am.

11 THE WITNESS: Can you -- I'm sorry. Can you
12 say it again. The "empirical"?

13 BY MR. MUNDEL:

14 Q. The empirical analysis you conducted.

15 A. Yes, because the benefits were from the
16 College of Education and then the costs were from the
17 broader Ashford.

18 Q. And you do not do a salary cost-benefit
19 analysis for any other college at Ashford, correct?

20 A. Correct.

21 Q. And you did not do a salary cost-benefit
22 analysis for the business school at Ashford, true?

23 A. True.

24 Q. You didn't do one for the human health and
25 services for the school?

26 A. Correct.

27 Q. You didn't do one for the liberal arts
28 college?

1 A. Correct.

2 Q. And you did not do a salary cost-benefit
3 analysis for any individual degrees that are outside the
4 College of Education, correct?

5 A. Correct.

6 Q. So you did not do a salary cost-benefit
7 analysis for an accounting degree at Ashford?

8 A. Correct.

9 Q. Or a computer graphic design degree?

10 A. Correct.

11 Q. Or an applied behavioral sciences degree?

12 A. Correct.

13 Q. Or a computer science and mathematics degree?

14 A. Correct.

15 Q. Or a master's in health care administration?

16 A. Correct.

17 Q. And the reason you limited your cost-benefit
18 analysis to the education school was because you were
19 asked to do so by counsel for the Attorney General,
20 true?

21 A. True.

22 Q. Do you know what percentage of Ashford
23 students are in the education school as compared to all
24 the other schools?

25 A. Yes. From what I remember, it was about
26 17.5 percent, at least in my field of study codes, and
27 those codes -- the education school was actually, from
28 what I remember in the data, the largest of all of the

1 fields that were available.

2 Q. And that's for one year of data?

3 A. That's for the College Scorecard in 2018,
4 which has two cohorts of students, yes.

5 Q. So from 2009 to present, do you know what
6 percentage of Ashford's students are in the College of
7 Education?

8 A. No.

9 Q. And you don't anywhere in your report
10 extrapolate the salary cost-benefit analysis results
11 from the education schools to any other school at
12 Ashford, true?

13 A. True.

14 Q. And you do not do any empirical analysis to
15 ensure that the results you report from the education
16 school were consistent with what the results would be
17 from other schools; is that correct?

18 A. Yes, because we prefer to look at these
19 field-specific or program-specific data.

20 Q. And you could have looked at multiple
21 programs, correct?

22 MS. KALANITHI: Objection. Vague.

23 THE COURT: Sustained.

24 BY MR. MUNDEL:

25 Q. There's no reason you could not have done the
26 same salary cost-benefit analysis on the business
27 school, correct?

28 A. I was not asked to.

1 Q. But you could have done it?

2 A. If I had been asked.

3 Q. And if you were asked, you would have done it,
4 right?

5 MS. KALANITHI: Objection. Calls for
6 speculation.

7 THE COURT: Sustained.

8 BY MR. MUNDEL:

9 Q. When you do a cost-benefit analysis, it's
10 important to identify the scope of what you're studying;
11 is that fair?

12 A. Could you clarify what you mean by "scope"?

13 Q. That you're studying the College of Education
14 specifically as opposed to Ashford University generally;
15 is that right?

16 A. Sure.

17 Q. And that's because different degrees and
18 fields of study may have different earning gains; is
19 that right?

20 A. Yes.

21 Q. So the result of a salary cost-benefit
22 analysis for one program may be different from the
23 results for another program, true?

24 A. True.

25 Q. For example, health care administrator
26 graduates may earn more than teachers, right?

27 MS. KALANITHI: Objection. Calls for
28 speculation.

1 THE COURT: Sustained, Counsel.

2 BY MR. MUNDEL:

3 Q. From your work as a labor economist, you study
4 earnings results across fields; is that fair?

5 A. I don't know exactly what you mean by
6 "earnings results." Could you clarify?

7 Q. You've seen BLS data about the salaries
8 that -- that people earn on average in particular
9 fields, correct?

10 A. Correct.

11 Q. And you've also looked at data that shows the
12 salary that certain degrees can lead to, is that fair,
13 on average?

14 A. Yeah.

15 Q. And you know that graduates with education
16 degrees are among the lowest earners in this country, do
17 you not?

18 MS. KALANITHI: Objection. Foundation.

19 THE COURT: No.

20 You're -- if you can answer that as an expert,
21 I'm going to overrule that.

22 THE WITNESS: Could you ask that again?

23 BY MR. MUNDEL:

24 Q. Of course. You know that graduates with
25 education degrees are among the lowest-earning degrees
26 in this country?

27 A. I don't agree with that, because it depends on
28 what you're comparing it to. So you may be comparing it

1 to cosmetology degrees or arts degrees or music degrees
2 or other types of degrees. There may be lots of other
3 degrees, and it -- I don't know that it's among the
4 lowest.

5 Q. You do agree that conducting a salary
6 cost-benefit analysis on a lower-paying degree as
7 opposed to a higher-paying degree will lead to a lower
8 overall cost-benefit analysis?

9 MS. KALANITHI: Objection. Vague.

10 THE COURT: Sustained. Vague.

11 BY MR. MUNDEL:

12 Q. Let's talk about a few of the other
13 limitations on the data that you had.

14 The empirical analysis you conducted was
15 limited to a single year of student data; is that
16 correct?

17 A. Actually, it's two years of data. So
18 graduates in 2015 were measured in 2017, and then
19 graduates in 2016 were measured in 2018.

20 Q. And do you have the -- both the cost and
21 benefit data for those two years?

22 A. I believe the cost data was just for 2018 and
23 all the earnings of the 2015 graduates measured in 2017
24 were adjusted for inflation to be in 2018 dollars, so I
25 believe they matched up with the 2018 dollars.

26 Q. Just make sure we understand that. So there
27 are two cohorts. There's the graduating cohort in 2015
28 that was measured in 2017. That's first, right?

1 A. Uh-huh.

2 Q. And then there's the graduating cohort in 2016
3 that's measured in 2018, true?

4 A. True.

5 Q. And on the cost side of the ledger, from what
6 cohort does the cost data come from?

7 A. So I believe it's the 2017-18 cost, and I
8 believe the earnings gains again for the earlier cohort
9 are inflated to make sure they're all in 2018 dollars.

10 Q. Let me just make sure I understand. For the
11 cost, we're talking about the money that they spend on a
12 degree, that's from what year of graduation?

13 A. Oh. I believe it's -- I don't -- I don't know
14 the exact year of graduation. It's in the College
15 Scorecard matched to the same year as those graduates,
16 which I believe is 2018.

17 Q. So they incurred the cost in 2018?

18 A. Let me think about that for a second. You're
19 saying they incur -- they may have incurred the cost in
20 a year prior.

21 Q. So I just want to make sure we're clear. Two
22 cohorts: One is the 2015 graduating class and the data
23 was collected in 2017. The other cohort is the 2016
24 graduating class that was measured in 2018. So from
25 which of those two cohorts does the cost data come from?

26 A. I would have to look back at the documentation
27 to be sure.

28 Q. So you don't know which -- which year it comes

1 from?

2 A. I believe it's the 2017-18 year. But I can
3 tell you that, you know, costs are pretty similar year
4 to year. They don't change a whole lot. So even if it
5 was one year different or off, it wouldn't change that
6 cost calculation much.

7 Q. When you say "the costs are from 2017 and
8 2018," I thought we said the two cohorts were one was
9 2015, one was 2016. So is there a third cohort?

10 A. Not yet in the 2020 data that I was using, so
11 as far as I know, they haven't put out additional
12 cohorts yet.

13 Q. So where does the cost data come from? The
14 2015 cohort or the 2016 cohort?

15 A. It would be closer to the -- probably the --
16 it's reported in 2018 and merged on with the 2018 data,
17 and it's put on the College Scorecard on their
18 consumer-facing website and on their CSV files matched
19 for the same year, so I believe that that is 2017-18.

20 Q. Class year 2017-2018?

21 A. I think so. It's all in the data collection
22 year from these different sources, all in the data
23 collection year of 2018.

24 Q. So on the benefit side, the salary, from what
25 year do you have the benefits data from?

26 A. 2018, and then looking 40 years over.

27 Q. So the benefit data is from 2018, the cost
28 data is from the class year 2017-2018 you think?

1 A. I believe so.

2 Q. And your calculation of the salary
3 cost-benefit analysis was based on the 2018 data,
4 correct?

5 A. The -- yes. It was the College Scorecard
6 released data in 2020, just to be clear, and that data
7 was based on 2018 -- the kind of cohort year, if you
8 will, the data was typically collected over 2017-18 for
9 most of the variables.

10 So there's a little bit of mismatch in the
11 government data sets used occasionally with the iPads
12 and the student loan and the treasury data, but it's all
13 in the -- the documentation suggests it's all 2018-ish.

14 Q. So generally speaking, the data that you used
15 to calculate the salary cost-benefit analysis is from
16 students in the -- out -- in the school year of 2018; is
17 that right?

18 A. Yes.

19 Q. And you did not do a salary cost-benefit
20 analysis for students in the school year of 2009,
21 correct?

22 A. Correct.

23 Q. 2010?

24 A. Those data are not available until -- I used
25 as much data as was available by the government.

26 Q. I just want to be clear what you did and
27 didn't do, okay?

28 A. Yes.

1 Q. You did not do a salary cost-benefit analysis
2 for students in the school year 2009, correct?

3 A. Correct.

4 Q. And you didn't do one for 2010 school year?

5 A. Correct.

6 Q. 2011 school year?

7 A. Correct.

8 Q. And you didn't do one for 2012 school year?

9 MS. KALANITHI: Objection. Undue consumption
10 of time. Dr. Cellini testified the years that she did
11 her benefit-cost analysis from.

12 THE COURT: I understand, but overruled.

13 Go through it, Counsel. Go ahead. You're up
14 to 2012.

15 BY MR. MUNDEL:

16 Q. 2012; is that correct?

17 A. Correct.

18 Q. And you didn't do one for 2013?

19 A. Correct.

20 Q. 2014?

21 A. Correct.

22 Q. 2015?

23 A. Again, the graduates in one of the cohorts
24 that I looked at was 2015.

25 Q. But you didn't do it based upon the costs that
26 those students incurred from 2015, correct?

27 A. Correct. It was all inflated to 2018 dollars.

28 Q. The same is true for 2016, true?

1 A. Same is true for 2016.

2 Q. And you did not do a salary cost-benefit
3 analysis for 2019 through 2020, correct?

4 A. Correct. Those data have not been released.

5 Q. Because they haven't been released, you
6 haven't?

7 A. Correct.

8 Q. And you did no empirical analysis to ensure
9 that the results you calculated for the cohort in 2018
10 are consistent with any other year, true?

11 A. Correct.

12 Q. Now let's talk about the way you reported the
13 data, Professor.

14 You reported the data of your cost-benefit
15 analysis as an average; is that right?

16 A. Yeah.

17 Q. And you reported that average only for the
18 School of Education for the cohort in 2018, correct?

19 A. Correct, as the cohorts that we've just
20 explained. It wasn't just the 2018 cohort, but also the
21 2017.

22 Q. And you understand, even with the 2017-2018
23 cohort, some students had a cost-benefit analysis result
24 that is above the average, right?

25 A. Well, an average is just that, it's an
26 average. So there's always going to be some students
27 above and students below, but the majority would be
28 below to get a negative average, if you will. So the

1 majority have to be below essentially. If the majority
2 were above, it would be a positive average.

3 MR. MUNDEL: Move to strike as nonresponsive.

4 THE COURT: Overruled.

5 BY MR. MUNDEL:

6 Q. To be clear, some students received value
7 above the average that you reported, correct?

8 A. We can't see how much above, but they could,
9 sure.

10 Q. By definition, some students received above
11 the average, right?

12 A. Sure. Yes.

13 Q. And some students received below the average,
14 correct?

15 A. That's right.

16 Q. And you did not calculate the median, did you?

17 A. So I was using median earnings of each
18 program. So each program -- each field code in the
19 college scorecard gives a median earnings of that
20 program, so say, teacher education has a median
21 earnings. And then I took a student-weighted average of
22 those seven medians for bachelor's degree students.

23 Q. So the final result that you reported was an
24 average, not a median?

25 A. It's an average of the medians.

26 Q. And you don't know which percentage of
27 students in the 2018 cohort from the education school
28 were above the average, correct?

1 A. Correct, but I know the majority had to be
2 below.

3 Q. And you did not calculate the salary return on
4 investment for any individual student, did you?

5 A. Correct. We don't -- that's not part of this
6 analysis.

7 Q. Okay. But you understand that the actual cost
8 and benefits vary by student, do they not?

9 A. Yes.

10 Q. Some students have higher costs than other
11 students, true?

12 A. True.

13 Q. And some students have higher benefits than
14 other students, right?

15 A. True.

16 Q. And the benefits and the way you calculated it
17 depend upon the salary that an individual student earns;
18 is that fair?

19 A. Can you repeat that question?

20 Q. In the calculation you did, if it was for an
21 individual student, the benefit depends upon how much
22 that student earned; is that correct?

23 A. Well, it depends on how much that student
24 earned, the bump above the threshold, over their
25 lifetime, calculated in the way I described, compared to
26 the costs that they incurred.

27 Q. And you didn't look at any individual student,
28 how much they earned, did you?

1 A. As I explained, this is the student-weighted
2 average of the median earnings.

3 Q. So, for example, the Attorney General didn't
4 ask you to look at the cost-benefit analysis for one of
5 the testifying students, Alison Tomko, correct?

6 A. Correct, because the government doesn't allow
7 me to access student records individually.

8 Q. And you were not asked to do that here; is
9 that fair?

10 A. Correct.

11 Q. And you didn't speak to any of the witnesses
12 here, did you?

13 MS. KALANITHI: Objection. Asked and
14 answered.

15 THE COURT: Sustained.

16 Counsel, I've got my meeting --

17 MR. MUNDEL: Thank you, Your Honor.

18 THE COURT: -- that I have to attend to.

19 Doctor, if you can be back in this chair at
20 1:00 o'clock, and I will promise you, you'll be done
21 today, Doctor --

22 THE WITNESS: Thank you.

23 THE COURT: -- okay?

24 Plaintiff, anything?

25 MS. KALANITHI: Not for the record,
26 Your Honor.

27 THE COURT: Defense?

28 MR. HUMMEL: No, Your Honor.

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THE COURT: Off the record.
(A discussion was held off the record.)

* * * *

Lunch Recess

* * * *

1 SAN DIEGO, CALIFORNIA; MONDAY; DECEMBER 6, 2021;

2 12:53 P.M.

3 ---oOo---

4 THE COURT: Back on the record. Let the
5 record reflect the parties, the attorneys are present.

6 We shall continue with cross-exam, Counsel.

7 CROSS-EXAMINATION (RESUMED)

8 BY MR. MUNDEL:

9 Q. Welcome back, Professor Cellini.

10 I want to talk -- one more question about
11 Exhibit 7720, which has been admitted into evidence.
12 It's the binder -- it's in the binder in front of you.
13 These are the interrogatory responses we were talking
14 about earlier.

15 And if you flip to page 73, it's Special
16 Interrogatory No. 23 is the one that we were looking at
17 together earlier.

18 You see this is where we asked the Attorney
19 General to identify the students who enrolled at Ashford
20 based upon misrepresentations regarding teacher
21 licensure.

22 And if you flip to page 74, you'll see the
23 list by PIU numbers.

24 Do you see that?

25 A. Yes.

26 Q. And how many of the students that are listed
27 by PIU number in the interrogatory response enrolled at
28 Ashford's education school?

1 MS. KALANITHI: Objection. Foundation.

2 THE COURT: That's a -- hold on. If you know.
3 That's a very direct question based on the answers in
4 the interrogatories.

5 Do you understand that?

6 THE WITNESS: Not really.

7 THE COURT: Explain, Counsel. So vague. It's
8 proper inquiry. Make sure the doctor understands.

9 BY MR. MUNDEL:

10 Q. So if you look at page 74, you see a list of
11 PIU numbers.

12 Do you see that?

13 A. Yes.

14 Q. And do you know, from looking at this
15 interrogatory response, how many of the students listed
16 there actually enrolled at Ashford?

17 MS. KALANITHI: Objection. Foundation. The
18 witness said she hadn't seen this document before today.

19 THE COURT: That is true. Sustained. No, no.
20 She hasn't seen it. Sustained.

21 BY MR. MUNDEL:

22 Q. Were you asked to identify how many of the
23 students listed by PIU number in response to
24 Interrogatory No. 23 enrolled at Ashford?

25 A. No.

26 Q. And were you asked to look at how many of
27 those students graduated from Ashford?

28 A. No.

1 Q. So therefore, you're offering no opinion today
2 about the number of students identified by the Attorney
3 General that actually enrolled in Ashford's education
4 school, correct?

5 A. Correct.

6 Q. And you're not offering any opinion about the
7 number of students identified by the Attorney General in
8 this interrogatory response that graduated from
9 Ashford's education school, correct?

10 A. Correct.

11 MR. MUNDEL: Your Honor, if I may --
12 permission to publish the slides that were shown as a
13 demonstrative during the direct exam.

14 THE COURT: Absolutely. Just make sure you
15 specify which one. Sure.

16 MR. MUNDEL: We'd like to start with slide 30,
17 Your Honor.

18 THE COURT: You may.

19 BY MR. MUNDEL:

20 Q. Professor Cellini --

21 THE COURT: Continue, sir.

22 MR. MUNDEL: Thank you, Your Honor.

23 BY MR. MUNDEL:

24 Q. Professor Cellini, do you see slide 30 in the
25 slides that you showed during your direct exam?

26 A. Yes.

27 Q. And you testified, based on this slide, that
28 Ashford received \$392 million from federal sources.

1 Do you see that?

2 A. Yes.

3 Q. How much of the money, the \$392 million, was
4 received as a result of lies to prospective students?

5 A. I didn't calculate that.

6 Q. So you're not offering the opinion that any of
7 the \$392 million was received as a result of lies by
8 Ashford, true?

9 A. That's outside of the scope of my report.

10 Q. And therefore, you're not offering the
11 opinion?

12 A. Correct.

13 Q. And how much of the \$392 million was received
14 as a result of misrepresentations that Ashford made to
15 prospective students?

16 A. I don't know that.

17 Q. And you're not offering the opinion that any
18 of the \$392 million was received as a result of Ashford
19 making misrepresentations to prospective students, true?

20 A. Sure.

21 Q. And you're not offering the opinion that any
22 of the \$392 million was received as a result of Ashford
23 making misleading statements to prospective students,
24 true?

25 A. True.

26 MR. MUNDEL: We can take the slide back down?

27 BY MR. MUNDEL:

28 Q. Let's talk a bit more about the calculation

1 that you did.

2 And the cost-benefit salary calculation that
3 you provided to this Court was an estimate; is that
4 right?

5 A. As is every benefit-cost analysis, yes.

6 Q. And yours in particular was an estimate, true?

7 A. As they always are, correct.

8 Q. And you based your estimate on a number of
9 assumptions, correct?

10 A. Correct, as well as data from Ashford
11 students.

12 Q. You made assumptions about the discount rate?

13 A. Correct.

14 Q. You made assumptions about the rate of salary
15 increase that Ashford students might have?

16 A. Correct.

17 Q. You made an assumption about the value of
18 opportunity costs, true?

19 A. Correct. These are all standard assumptions
20 in this field.

21 Q. And you made an assumption about the hours
22 Ashford students spent on their school activities; is
23 that right?

24 A. Correct. Based on my knowledge of the field,
25 correct.

26 Q. And if your assumptions are not accurate, then
27 it would affect the accuracy of the final number that
28 you provided, correct?

1 A. Can you clarify what you mean by "accuracy"?

2 Q. If your assumptions were wrong -- if you
3 assumed the discount rate was one thing, but the
4 discount rate was actually something else -- that would
5 affect the final conclusion you reached, true?

6 A. It might affect the numbers as you calculate
7 them, but all of these assumptions are totally standard
8 in the literature.

9 Q. Your goal was to make your assumptions
10 accurate, correct?

11 A. To give them the -- to be the most favorable
12 assumptions to Ashford, in fact, so to be a best-case
13 analysis. So whenever I had to make assumptions, I made
14 them in Ashford's favor with the highest possible
15 benefits and the lowest possible costs.

16 Q. And we'll walk through -- go through some of
17 those assumptions in a moment. But just let me clarify
18 this, that because your calculation rests on
19 assumptions, you do not calculate the actual average
20 value for Ashford College of Education students, true?

21 MS. KALANITHI: Objection. Vague.

22 THE COURT: Sustained. Rephrase.

23 BY MR. MUNDEL:

24 Q. You cal- -- your calculation is an estimate,
25 not an actual average; is that fair?

26 MS. KALANITHI: Objection. Vague.

27 THE COURT: Sustained, Counsel. She did a lot
28 of calculations, so let's zero in, please.

1 BY MR. MUNDEL:

2 Q. The cost-benefit number that you provided to
3 this Court on the slides today, that was an estimate,
4 not an actual average, fair?

5 A. It was based on an actual average of the
6 postcollege earnings of Ashford students.

7 Q. And it included a number of estimates, did it
8 not?

9 A. It included some assumptions that were part of
10 that calculation, as any benefit-cost analysis does.

11 Q. And if those assumptions are incorrect, it
12 would affect the final number you provided to this
13 Court, yes?

14 A. There's -- for assumptions, there's really no
15 way to prove that they're incorrect necessarily,
16 especially if they're things like the discount rate that
17 people use kind of standard -- wise. So there's no
18 correct assumption there. It's just part of the
19 analysis. But it could change.

20 Q. All right. So the salary return on investment
21 number that you provided this -- to this Court, that's
22 consistent with the literature about for-profit schools
23 generally, true?

24 A. Sure. I think so, yeah.

25 Q. And the result that you reported here is
26 consistent with studies in the economic literature that
27 have found zero or negative earning gains for for-profit
28 schools generally, yes?

1 MS. KALANITHI: Objection. Vague.

2 THE COURT: No. Overruled.

3 Do you understand the question?

4 THE WITNESS: Yes. Yes, in general. I think
5 it's consistent.

6 BY MR. MUNDEL:

7 Q. And in your report, you do not compare the
8 results you found for the 2018 cohort of Ashford
9 education students to any other university; is that
10 right?

11 A. Correct. I was not asked to do that.

12 Q. And in your report, you don't compare the
13 results that you reached for the 2018 cohort of Ashford
14 education students to other graduates of education
15 programs, for-profit or not-for-profit?

16 A. Correct. I mentioned the \$500,000 number that
17 I think we talked about before, which is for four-year
18 colleges, publics and nonprofits, the kind of standard
19 in the literature for those colleges, that 500,000.

20 Q. And that number includes engineering
21 graduates, as well as education graduates, correct?

22 A. It includes any graduates from the colleges
23 that those researchers studied.

24 Q. Would that be engineering degrees as well?

25 MS. KALANITHI: Objection. Foundation.

26 THE COURT: Hold on. I'm going to allow that.
27 Overruled.

28 You're the expert.

1 THE WITNESS: Yes, but also education.

2 THE COURT: Thank you.

3 BY MR. MUNDEL:

4 Q. All right. Let's talk about the specifics of
5 your formula.

6 MR. MUNDEL: Your Honor, permission to take
7 notes on the board.

8 THE COURT: Sure.

9 BY MR. MUNDEL:

10 Q. The economic value formula that you used, you
11 took the benefits and you subtracted the costs; is that
12 correct?

13 A. That's correct.

14 MR. MUNDEL: May I approach, Your Honor?

15 THE COURT: You can move those chairs if you
16 need to, Counsel.

17 MR. MUNDEL: Thank you. I'll try to avoid
18 doing it.

19 MS. KALANITHI: Your Honor, can I ask counsel
20 just to turn the board so we can see whenever's
21 convenient. Thank you.

22 MR. MUNDEL: Is that okay?

23 MS. KALANITHI: So far, yeah. Thank you.

24 BY MR. MUNDEL:

25 Q. So the formula you used was economic value
26 equals benefits minus costs, true?

27 A. Specifically the net present value is equal to
28 the benefits minus the cost. The net present value of

1 the education.

2 Q. So the NPV for net present value. Is that
3 good?

4 A. Uh-huh.

5 Q. Does that work?

6 A. Yeah.

7 Q. So let's talk about the costs side of the
8 equation first, okay?

9 For costs, you included tuition?

10 A. Uh-huh.

11 Q. Is that "yes"?

12 A. Yes.

13 Q. Did you include fees?

14 A. Yes.

15 Q. What about books?

16 A. Yes. The College Scorecard estimates that as
17 part of their cost.

18 Q. And you included books in your costs?

19 A. Correct. Yes.

20 Q. Supplies?

21 A. Yes.

22 Q. And what about living expenses? Did you
23 include those as a cost?

24 A. Some of them are in there. About \$300 a month
25 or so when I calculated it.

26 Q. And you included the living expenses as a cost
27 in your calculation, correct?

28 A. Yes, because that's how the College Scorecard

1 reports them based on Ashford's stated cost of
2 attendance under federal student aid.

3 Q. And you also included opportunity cost on the
4 costs side of your calculation, true?

5 A. True.

6 Q. Now, let's talk about some of the things that
7 are included in the opportunity costs, okay?

8 A. Sure.

9 Q. You would include anything that a student
10 could have done other than going to school as an
11 opportunity cost, correct?

12 MS. KALANITHI: Objection. Misstates
13 testimony.

14 THE COURT: Overruled.

15 You may answer.

16 THE WITNESS: So opportunity cost is the value
17 of the next-best foregone alternative. So in this case,
18 we thought about -- I thought about time. And that's a
19 standard in this literature to think about the time
20 spent on educational activities, whatever those may be.

21 So that's time that can't be used for anything
22 else, and no matter how they spend that time, we need to
23 value that time. So that time is in there.

24 BY MR. MUNDEL:

25 Q. So you valued time spent napping on the cost
26 side, correct?

27 A. It doesn't matter what a student does with
28 their time. It's an hour is an hour.

1 Q. And if they were napping, you would value that
2 as a cost, correct?

3 A. It doesn't matter what they were doing,
4 correct.

5 Q. So you valued napping as a cost if that's what
6 the student were doing, true?

7 A. So economists know that time has value no
8 matter how you choose to spend it. So that student
9 could have chosen to spend that time however they liked.

10 Q. If a student spent their time napping, you
11 would have included it as a cost; is that right?

12 MS. KALANITHI: Objection. Asked and
13 answered.

14 THE COURT: "Yes" or "no," Counsel -- I mean,
15 Ms. --

16 THE WITNESS: Yes.

17 BY MR. MUNDEL:

18 Q. And if a student wanted to spend their time
19 playing video games, you would include that as a cost,
20 true?

21 A. Anything they would like to do with their
22 time. Time has value.

23 Q. And that would include playing video games?

24 A. That time has value, yes.

25 Q. And you included lost time playing video games
26 in your cost, correct?

27 A. I included the number of hours that a student
28 would use for educational activities that they wouldn't

1 have used had they not enrolled, so edu- -- anything
2 that they do for those hours of education activities.
3 It could be anything they want.

4 Q. Just to be clear, if they want to play video
5 games, you included that as a cost? Yes?

6 A. Anything they want to do, correct.

7 Q. And the same is true with surfing social
8 media? That would be in the opportunity cost, true?

9 A. Anything they want to do, yes.

10 Q. Let's talk about the benefit side of the
11 equation, okay?

12 On the benefits, you included salary as the
13 benefit, yes?

14 A. Can I mention that you didn't mention that I
15 also included interest on student loans on the cost
16 side?

17 Q. That's okay. Let's focus on benefits for now.

18 A. Sure.

19 Q. On the benefits side you included salary,
20 right?

21 A. Earnings, annual earnings as reported to the
22 IRS.

23 Q. And earnings is salary, the amount of money
24 they made, yes?

25 A. Could be hourly wages rather than a salary.

26 Q. If I write "salary/earnings," is that okay
27 with you?

28 A. "Earnings" is a better word.

1 Q. Okay. You didn't include as a benefit the
2 value of friendship that an Ashford student might have
3 gained at school, correct?

4 A. Correct.

5 Q. And you didn't attempt to value the friendship
6 an Ashford student might get from attending the
7 university; is that right?

8 A. That's correct. Those things are hard to
9 quantify and they tend to be quite small, so they won't
10 make a difference with the main benefit being earnings
11 gains.

12 Q. Well, you didn't attempt to value it here, did
13 you?

14 A. Correct.

15 Q. And you also didn't include mentorship as a
16 benefit, did you?

17 A. Correct. That's not standard. Nobody adds
18 that.

19 Q. You would agree that having mentorship is an
20 important part of a college experience, right?

21 MS. KALANITHI: Objection. Foundation.

22 THE COURT: Overruled.

23 THE WITNESS: Well, if the mentorship is
24 effective, it should lead to higher earnings gains, so
25 it should actually be reflected in higher earnings
26 gains. So if you have a mentor that helps you gain
27 valuable skills in the workplace, that should be
28 reflected in that bump in earnings you get.

1 BY MR. MUNDEL:

2 Q. Mentorship can be beyond helping somebody get
3 a job; isn't that true?

4 A. Sure.

5 Q. And if a mentorship was not job- or
6 salary-related, it wouldn't be reflected in the earnings
7 gains?

8 A. That's not true, because it could also be
9 about things like communication skills that students
10 develop in college or other types of skills that then
11 could be valued by employers, so that would be counted,
12 other things.

13 Q. But you didn't attempt to calculate the
14 mentorship value here, true?

15 A. Again, that would already be reflected in an
16 earnings gain, I believe.

17 Q. It's your testimony that all of the value of
18 mentorship is reflected in the earnings gain?

19 A. Not necessarily all of it, but certainly some
20 of it.

21 Q. Let's talk about pride. You didn't include
22 the pride of going and graduating from Ashford as a
23 benefit in your calculation, did you?

24 A. No.

25 Q. And you do understand that college graduates
26 are proud of the fact that they graduated from school,
27 true?

28 A. I don't know that to be true.

1 Q. Did you look at the testimony of the students
2 in this case, talking about whether they were proud of
3 graduating or not?

4 MS. KALANITHI: Objection. Asked and
5 answered, about the "testimony of students in this
6 case."

7 THE COURT: That has been asked and answered.
8 Sustained, Counsel.

9 BY MR. MUNDEL:

10 Q. Let's talk about the enjoyment. You did not
11 include the enjoyment of a college education as part of
12 the benefits, did you?

13 A. Nope.

14 Q. What about going to college and getting a
15 passion for something? You didn't include that in the
16 benefits in your calculation, correct?

17 MS. KALANITHI: Objection. Vague.

18 THE COURT: Yeah, sustained. Passion.

19 BY MR. MUNDEL:

20 Q. What about going to college and becoming
21 interested in a particular field? Did you include that?

22 A. So, again, I think that would be reflected in
23 earnings gains. If you become interested in a
24 particular field, that will be reflected later in the
25 jobs you take and the earnings you get.

26 Q. That's if you choose to focus on making money
27 as part of your career as opposed to following your
28 interests; is that correct?

1 MS. KALANITHI: Objection.

2 THE COURT: No. Overruled.

3 Do you understand the question?

4 THE WITNESS: No. Could you repeat the
5 question?

6 BY MR. MUNDEL:

7 Q. You understand some people pick a job not
8 because it is where they can maximize their salary, but
9 it's because they enjoy the job, right?

10 A. Sure.

11 Q. And if somebody found a passion for a job
12 where they might not maximize their salary, but they
13 maximize their -- their value in what they're doing, you
14 didn't include that in the benefits side of your
15 calculation, did you?

16 A. No. These things are really hard to quantify,
17 and it's not standard to put something like that in.

18 Q. What about if someone was the first person in
19 their family to graduate from college? You didn't
20 include that as a benefit either?

21 A. No.

22 Q. You didn't include as a benefit if somebody
23 graduated from college and then set an example for
24 others in their family to go on to graduate from
25 college, correct?

26 A. No.

27 Q. And if a -- you understand that Ashford
28 students can work full time while attending Ashford,

1 true?

2 A. True.

3 Q. And when -- you did not include the salary
4 that an Ashford student could earn while attending
5 school as a benefit in your calculation; is that
6 correct?

7 A. Correct. You don't do that as a practice
8 because what you really need is a post- versus
9 pre-earnings gain, and we always throw out the years
10 while students are in school because they may or may not
11 reflect their true human capital and the value of the
12 skills. So I didn't look at that, but I also did not
13 include any foregone earnings, so I did account for the
14 fact that students worked while enrolled.

15 Q. Just to be clear, you threw out from your
16 calculation the salary that a student earns while --

17 A. Oh.

18 Q. -- attending Ashford --

19 A. No, to --

20 MS. KALANITHI: Objection.

21 THE COURT: Everybody slow down. The basis.
22 And then I'm going to overrule it.

23 MS. KALANITHI: Argument -- argumentative
24 throughout.

25 THE COURT: She was going to answer.
26 Overruled.

27 Doctor.

28 THE WITNESS: Apologies. I didn't mean

1 "throughout." I mean they don't -- we don't have that
2 data, but even if we did have those data in the
3 government data that I use, we wouldn't use them because
4 we would like a clear pre/post.

5 So to get an accurate assessment, you use post
6 minus pre or benchmark. So that's what I did. So it
7 wouldn't actually matter. What we're looking for is
8 that gain that students get from attending, the bump,
9 the kind of before versus after.

10 BY MR. MUNDEL:

11 Q. You understand that Ashford students also can
12 be full-time caregivers for their family while attending
13 Ashford; is that right?

14 A. Yes.

15 Q. And you didn't take into account in your
16 benefits side of the equation the fact that they could
17 be full-time caregivers while attending Ashford, did
18 you?

19 A. Correct.

20 Q. And you also didn't take into account that if
21 they went to a traditional school, they may have to pay
22 money to a caregiver, correct?

23 A. Let me think about how you just phrased that.

24 If we go back to opportunity cost, caregiving
25 would be one of the things that -- that individuals
26 might have to give up to go to college, so that -- that
27 is in there, if that's how they would use their time.

28 Q. So you did include lost caregiving; is that

1 your testimony?

2 A. If that is what they would have done in the
3 absence of attending, that would be an opportunity cost.

4 Q. So you included that as a cost, but you didn't
5 include it as a benefit, that an Ashford student would
6 not have to pay someone to take care of their family
7 because they could do it themselves while at Ashford,
8 right?

9 A. Could you clarify what you mean by "they could
10 do it by themselves while at Ashford"?

11 Q. You understand that at Ashford a student could
12 take care of their family while maintaining a course
13 schedule, correct?

14 MS. KALANITHI: Objection. Foundation.

15 THE COURT: Overruled.

16 THE WITNESS: Having tried to work at home
17 with children, I'm not sure that they wouldn't need care
18 while they were attending classes and doing homework.

19 BY MR. MUNDEL:

20 Q. Do you know that while attending an online
21 school, one of the advantages is you can be a full-time
22 caregiver and then take your courses in the evening?
23 Did you know that?

24 A. I understand that that's a benefit, but I also
25 think that with small children, you still sometimes need
26 caregiving to be able to take online classes and to be able
27 to be present for your children when they need you.

28 Q. So just to be clear, to the extent there was

1 any savings by not having to pay for childcare by going
2 to Ashford instead of a traditional school, you did not
3 include that on the benefits side of your equation,
4 correct?

5 A. I'm not sure that there are savings, but I did
6 not include it.

7 Q. Thank you.

8 And do you know what full tuition grant at
9 Ashford is? Full tuition grant?

10 A. No.

11 Q. Do you know that there's a full tuition grant
12 program at Ashford where employers pay the full tuition
13 for students to attend?

14 A. I did not know that.

15 Q. And you obviously don't know, then, how
16 many -- what percentage of Ashford students get full
17 tuition grants from their employer, true?

18 A. True.

19 Q. And to the extent there are students that have
20 full tuition grants and their employer is paying for the
21 education and not them, you did not include that -- you
22 did not take account of that in your cost-benefit
23 analysis, did you?

24 A. Well, the data I have shows what students pay,
25 their debt that they take on, so that's already
26 accounting for any employer subsidies that they may get.
27 So they wouldn't have to take on as many loans if they
28 were subsidized by their employer, so that is already

1 wrapped into my calculations.

2 Q. So is it your testimony that the College
3 Scorecard data takes into account the full tuition grant
4 that Ashford provides?

5 A. Yes, because, as I mentioned, the tuition and
6 fees, they subtract out grant aid, which I believe
7 includes those sources of aid in that tuition
8 calculation, and then student loans would not have to be
9 taken out as large as they are if they had more grants
10 from employers. Does that make sense?

11 Q. Doesn't the grant category in the College
12 Scorecard only apply to grants from the federal
13 government and grants from the university, not from
14 third-party employers?

15 A. I'd have to look at the documentation.

16 Q. So you just don't know?

17 A. I'd have to double-check the documentation on
18 that. I do know that student loans, again, would be
19 lower if a student was fully subsidized.

20 Q. Let's talk more about the benefits side, the
21 earnings or salary part of the calculation. You tried
22 to estimate the salary that a 2018 graduate of the
23 College of Education at Ashford would earn for their
24 entire career after they left Ashford, true?

25 A. I used the actual data on earnings two years
26 after graduation, and then I assumed a 3 percent
27 earnings gain over the lifetime.

28 Q. Just to be clear, what -- the best number you

1 could have on the benefits side is the actual amount a
2 student earned for their entire career after they left
3 Ashford? That's the goal, right?

4 A. The -- can you clarify what you mean by "the
5 goal"?

6 Q. That's a number you want there, but you
7 estimate it because you can't get that number; is that
8 right?

9 A. Yes. We'd like more years of data if we had
10 them.

11 Q. And the goal of your estimation is to try to
12 get as close as possible to what a student would earn
13 for their entire career post graduating from Ashford in
14 2018, right?

15 A. Correct.

16 Q. And the way you did that here was you took
17 college Scorecard data that gave you the actual earnings
18 of the graduate two years after graduation, correct?

19 A. Was -- yes. That's how I started.

20 Q. To start. So you didn't have actual data in
21 their third year after graduation, did you?

22 A. Correct. I just had two years after.

23 Q. And you didn't have their actual salary data
24 four years to 40 years after graduation, correct?

25 A. Well, we know that the research has shown that
26 two years after is very highly correlated with five,
27 six, and seven years after. So I do have the two years,
28 and then I can use the gains for the 40-year career.

1 Q. So let me be very clear about what data you
2 have. You do not have actual salary data for years
3 three to 40, correct?

4 A. Correct.

5 Q. And you are making an estimate of the salary
6 gains for years three to 40, true?

7 A. Yes.

8 Q. And you're making that estimate based upon how
9 much they earned in the second tax year after they
10 graduated from Ashford, correct?

11 A. Yes.

12 Q. And your testimony is the second year data is
13 highly correlated to their later year earnings; is that
14 your testimony?

15 A. Yes.

16 Q. You understand that earnings in the early
17 years after graduation may not be indicative of
18 longer-term earnings, right?

19 A. But they typically are. When we look at data
20 over a lifetime, the research has over and over again
21 shown that they are very correlated.

22 Q. Let me try to ask the question again.

23 You understand, Professor, that earnings in
24 the early years after graduation may not be indicative
25 of longer-term earnings, true?

26 A. Correct. They may not be.

27 Q. And even the College Scorecard data that you
28 use acknowledges that earnings reported in the early

1 years after graduation may not be indicative of
2 longer-term earnings, true?

3 A. I don't remember reading that.

4 Q. Let me direct your attention to what is marked
5 for identification as Exhibit 7848 in your binder.

6 (Court's Exhibit No. 7848, Technical
7 Documentation, College Scorecard Data by Field
8 of Study, first identified.)

9 BY MR. MUNDEL:

10 Q. Exhibit 7848 is the -- you see it's the
11 Technical Documentation, College Scorecard Data by Field
12 of Study?

13 A. Yes.

14 Q. And you relied on this document in formulating
15 your expert opinion in this case, true?

16 A. Yes.

17 MR. MUNDEL: Your Honor, defendants move
18 Exhibit 7848 in.

19 MS. KALANITHI: No objection.

20 THE COURT: Received.

21 (Court's Exhibit No. 7848 received into
22 evidence.)

23 BY MR. MUNDEL:

24 Q. And this is the technical explanation of the
25 data from the College Scorecard, correct?

26 A. Correct.

27 Q. If you look at page 3 of that document, do you
28 see the section "Post-completion earnings"?

1 MR. MUNDEL: Your Honor, permission to
2 publish?

3 THE COURT: You may.

4 THE WITNESS: Yes.

5 BY MR. MUNDEL:

6 Q. Page 3 in the section "Post-completion
7 earnings," the Scorecard says: "The Department
8 acknowledges that earnings in the early years after
9 graduation may not be indicative of longer-term
10 earnings."

11 Do you see that?

12 A. I do.

13 Q. And the "Department" here refers to the
14 Department of Education?

15 A. Correct.

16 Q. Let's look at page 10, Professor.

17 On page 10, do you see the section "Earnings
18 timepoints"?

19 A. Oh.

20 Yes.

21 Q. And about halfway through, do you see where
22 the Department of Education says the "Data users should
23 use caution in using earnings data that are measured
24 close to graduation because they may not be predictive
25 of longer-term earnings outcomes."

26 Do you see that?

27 A. I do.

28 Q. And can you look at page 11 after the

1 figure -- is it a 4?

2 Can you read in summary what the Department of
3 Education says in that paragraph? You can read it out
4 loud if you don't mind.

5 A. "In summary, users should interpret first-year
6 and second-year earnings with the understanding that
7 these data values may not be indicative of longer-term
8 earnings outcomes and factors such as credential type
9 may substantially influence the change in earnings over
10 time."

11 Q. Thank you. My voice was going, so I wanted
12 you to read it.

13 Let's now talk about some reasons why the
14 early-year data might not be indicative of long-term
15 earnings, okay?

16 A. Okay.

17 Q. If a student graduated from Ashford's
18 education program undergrad and decided to go to
19 master's -- a master's program, okay, in your data, you
20 would have that student as a zero earnings for their
21 entire career, true?

22 A. No, that's not correct. Those students are
23 not in the data.

24 Q. Because they enrolled in a separate master's
25 program; is that your testimony?

26 A. Because they enrolled elsewhere. So these are
27 students who are employed and not enrolled.

28 Q. So let's talk about students that might be --

1 you're saying only employed students are in the data?

2 A. Employed students have earnings in the data,
3 and then there are unemployed students they give me
4 counts of. So I use the unemployed students who have
5 the zero earnings and we added those in later on.

6 Q. So for students that are in further education,
7 where do they show up in the data?

8 A. They are not in the data if they are currently
9 enrolled. If they are no longer enrolled, they would be
10 in.

11 Q. So were they included in your calculation or
12 excluded from your calculation?

13 A. If they were currently enrolled two years
14 after graduation, they were not in my calculation. If
15 they had enrolled for say one year, if they had enrolled
16 for six months, they might be in my data.

17 Q. So if they enrolled for a partial period of
18 time, they would be in your data; that's your testimony?

19 A. I believe so.

20 Q. Let's talk about graduates becoming teachers,
21 okay? You know that a graduate from Ashford's education
22 school is not automatically licensed as a teacher, true?

23 A. I don't know anything about their licensure.

24 Q. So you didn't take that into account in
25 formulating your opinion in this case?

26 A. No. It doesn't matter because I was just
27 looking at the postcollege earnings.

28 Q. And you didn't take into account how long it

1 takes for an Ashford graduate to become licensed after
2 graduation; is that correct?

3 A. Correct.

4 Q. You didn't take into account how long it takes
5 to complete student teaching?

6 A. Correct.

7 Q. You didn't take into account how long it takes
8 to complete a post-bac if that needs to happen?

9 A. Correct.

10 Q. You didn't take into account how long it takes
11 to get actually your license from the state authorities,
12 true?

13 A. Correct. I have their earnings as they are
14 measured two years after.

15 Q. And you also didn't take into account how long
16 it takes in school districts to obtain a job, right?

17 A. Correct, but I have no reason to believe that
18 graduates can't get a job in any field within two years.

19 Q. You understand that most teaching positions
20 start in the fall, correct?

21 A. Correct.

22 Q. And you made no effort to ensure that
23 graduates of Ashford education school can obtain student
24 teaching, a post-bac if needed, and their licensure in
25 time so they would have a full-salaried year as a
26 teacher within two years after graduation, did you?

27 A. Could you repeat that question, please?

28 Q. Sure. You made no effort to ensure that

1 graduates in Ashford's education school could obtain a
2 student teaching position, a post-bac if needed, and
3 their licensure so that they could have an entire
4 salaried year as a teacher prior to the end of the
5 two-year period you measured?

6 A. I don't see why they wouldn't have time to
7 take any position they want for two years. So what I'm
8 looking at is two years of earnings after, regardless of
9 their occupation.

10 Q. Just to be clear, you don't know how long the
11 student teaching position is, right?

12 A. Correct.

13 Q. And you don't know how long it takes to sit
14 for an exam to get licensed, correct?

15 A. Correct, but any earnings they make as a
16 student teacher would be reflected in my data.

17 Q. Right. The earnings as a student teacher, not
18 their earnings as a full teacher, correct?

19 A. Or their earnings as a full teacher.

20 Q. But if it took them more than a year to get
21 their license, they would then not have a full year of
22 salary data in your calculation, would they?

23 A. Can you say that again?

24 Q. If it took an Ashford graduate more than one
25 year to start their full-time teaching job, then you
26 would not include the full salary of their teaching job
27 in your data?

28 A. Their data have annual earnings from the year

1 two years later based on their IRS W-2, so it's whatever
2 they reported for that second year out.

3 Q. I understand. Let me give you an example.
4 You graduate in 2017, correct? That's part of your
5 data. Or is it 2018? I'm sorry.

6 A. 2016.

7 Q. 2016. You graduate 2016. If it takes you a
8 year and a half to get student teaching, post-bac,
9 license, and a job, then you only have one half of a
10 year's salary in your data, correct?

11 A. I personally am not familiar with anyone
12 taking that long to find a job after college. But I
13 guess that's correct, yeah.

14 Q. And if it takes two years to do all of those
15 activities and get your full-time job, then you also did
16 not include them in your data as having a full-time job,
17 correct?

18 A. They have whatever earnings at that point that
19 they have, and that is -- in whatever job they could
20 find in that time.

21 Q. And it wouldn't be their full teaching job
22 under this example, would it?

23 A. This is really kind of outside the scope of
24 this. I don't know what job they have. I just know
25 where they are two years later.

26 Q. And you do not analyze how long it takes for
27 an Ashford education graduate to go through the process
28 of becoming licensed, did you?

1 A. No, I didn't look at that.

2 Q. And you do not do any separate calculation for
3 Ashford students after they got licensed versus before,
4 correct?

5 A. Correct.

6 Q. Let's talk about another example. If a -- if
7 an Ashford graduate took family leave during their
8 second year, they would only have partial salary in your
9 data, true?

10 MS. KALANITHI: Objection. Calls for
11 speculation. Incomplete hypothetical.

12 THE COURT: Do you understand the question,
13 Doctor?

14 THE WITNESS: No. Could you rephrase what you
15 mean?

16 BY MR. MUNDEL:

17 Q. Sure.

18 THE COURT: You may.

19 BY MR. MUNDEL:

20 Q. In the -- you only looked at data in the
21 second full year after graduation, correct?

22 A. Correct.

23 Q. And that data was IRS reported salary data,
24 true?

25 A. Earnings data, including whatever is reported
26 on the W-2, yes.

27 Q. So if a graduate had family leave for six
28 months during that second year and, therefore, only

1 reported six months of salary, the baseline you would
2 use for their salary was the six-month version, correct?

3 A. If that was what they reported to the IRS,
4 then yes.

5 Q. You were not able to determine if somebody
6 only reported partial-year data to the IRS, did you?

7 A. Correct. As long as they were employed,
8 that's what mattered for the employed bachelor's degree
9 graduates.

10 Q. And you made no efforts to extrapolate
11 partial-year data to full-year data in this calculation,
12 correct?

13 A. That's not a common practice. I don't ever
14 see that done in these calculations.

15 Q. And you didn't do it here, did you, Professor?

16 A. No, because it doesn't make sense to do it.

17 MR. MUNDEL: Move to strike everything after
18 "no," Your Honor.

19 THE COURT: Overruled. It will stand.

20 BY MR. MUNDEL:

21 Q. Let's talk about the 3 percent number you
22 used. You took the second year salary data and you
23 increased it literally by 3 percent every year; is that
24 right?

25 A. I took the earnings gain, again that value
26 add, that amount that's the gain, not the post data, but
27 the gain, and I inflated that by 3 percent per year.

28 Q. And that 3 percent is an assumption, correct?

1 A. Yes, but it's based on the literature and my
2 reading of the literature, and that's a pretty typical
3 number that's often used thinking about salary increases
4 over time.

5 Q. That 3 percent is not from the literature
6 about education graduates, is it?

7 A. It's -- no, it's the broader literature in
8 labor economics.

9 Q. And the assumption about 3 percent is not
10 specifically about Ashford graduates is it?

11 A. No. Again, it's the full field.

12 Q. And you didn't test whether that 3 percent
13 assumption is correct for Ashford graduates, did you?

14 A. Correct.

15 Q. And you also did not do a sensitivity analysis
16 to determine if adjusting that 3 percent would have a
17 material difference on your results, did you?

18 A. So I didn't need to, because the 3 percent, I
19 did it -- again, I think I mentioned I did it linearly
20 so that every year, I added 3 percent.

21 And it's much more common to take, say,
22 3 percent of the start of a career and then flatten it
23 out to zero percent over time. So rather than
24 flattening it out to zero percent, I just assumed that
25 it continued increasing by 3 percent to again make the
26 benefits favorable to Ashford.

27 So that was a favorable assumption.

28 Q. Just to be clear, Professor, you did not do

1 any sensitivity analysis to determine if 4 percent would
2 make a material difference as opposed to 3 percent, did
3 you?

4 A. I did not do it in this particular case
5 because this was a best-case scenario.

6 Q. So let's talk more about this benefits or
7 earnings side of the calculation. You did not take just
8 the gross earnings that an Ashford graduate obtains for
9 that part of the calculation, did you?

10 A. Can you explain what it means?

11 Q. Let me make it easier. You took the actual --
12 what you estimated to be the actual lifetime salary with
13 an Ashford degree and you subtracted from it the salary
14 that the student would have obtained if they didn't go
15 to Ashford; is that right?

16 A. I'm sorry. Could you repeat that one more
17 time?

18 Q. Of course. So on the benefits side of your
19 calculation, if you estimated that the lifetime earnings
20 of a student were, let's just call it, a hundred
21 thousand dollars, you took the hundred thousand dollars
22 and subtracted from it what they would have earned had
23 they not gone to Ashford; is that right?

24 A. I did it at a different part of the
25 calculation. So I did it with a two-year number, and I
26 did the subtraction there, and then I used the gains to
27 project the gains over a lifetime.

28 Q. So what you did was you took the two-year

1 earnings and you subtracted from the two-year earnings
2 what they would have earned in the second year had they
3 not gone to Ashford, correct?

4 A. Theory -- yes. Theoretically, that's right.

5 Q. It's theoretical because you don't know what
6 they actually would have earned in that second year,
7 right?

8 A. I do know what they earned in the second year.

9 Q. I'm sorry. You don't know what they actually
10 would have earned had they not gone to Ashford, correct?

11 MS. KALANITHI: Objection. Vague, "actually
12 would have earned."

13 THE COURT: Proper inquiry. Rephrase,
14 Counsel.

15 BY MR. MUNDEL:

16 Q. For this calculation, you took how much the
17 student earned in the second year -- that was the
18 starting point -- from the College Scoreboard data,
19 correct?

20 A. Correct.

21 Q. And then you subtracted from that a baseline;
22 is that correct?

23 A. Correct.

24 Q. And the baseline was intended to approximate
25 what the student would have earned had they not gone to
26 Ashford for that second year?

27 A. Correct.

28 Q. And that baseline that you used to subtract

1 from their actual salary was an estimated figure that
2 you came up with, true?

3 A. It was the lowest source that I could find for
4 median earnings of students aged -- not students -- of
5 high school graduates aged 25 to 34 who have never
6 attended college.

7 Q. And the benchmark is \$25,000, correct?

8 A. \$25,000.

9 Q. And the \$25,000 benchmark you used was not
10 based upon any data of actual Ashford students, correct?

11 A. It was based on national averages, based on
12 the census, and the U.S. Department of Education.

13 Q. So to be clear, the \$25,000 benchmark you used
14 was not based on any Ashford-specific data, true?

15 A. Correct.

16 Q. And you did not do any calculation to reach
17 that \$25,000 baseline, correct?

18 A. I considered several -- several different
19 options that were all higher, and so I used the lowest
20 possible benchmark I could to be most favorable to
21 Ashford, and this is a much lower baseline than the
22 census estimates in 2018. It's a lower benchmark than
23 high school graduates of that same age group in the
24 years these students were graduating.

25 The 25,000 was the lowest one I could find
26 that is used by the College Scorecard in comparisons to
27 high school graduates, so it's the lowest benchmark I
28 could justify.

1 Q. Do you know the average age of Ashford
2 students?

3 A. I know that about 88 percent of them are over
4 age 25, or at least upwards of 80 percent. I'm not sure
5 it's 88.

6 Q. So do you know the average age of Ashford
7 students is between 35 and 37? Do you know that?

8 A. I didn't know that. So then my benchmark
9 would be --

10 Q. Would that affect your decision in this case?

11 A. That would make the benchmark even lower than
12 it -- even more favorable to Ashford, because my
13 benchmark is based on a younger group. So it would even
14 be more favorable -- if I had used a benchmark for
15 35-year-olds, it would have been a higher benchmark,
16 somewhere around 30,000 or more potentially.

17 Q. And that's because your benchmark is based
18 upon census data, correct?

19 A. Correct.

20 Q. And your benchmark is not based upon any
21 Ashford-specific data; is that right?

22 A. Correct, since those are not available.

23 Q. And you didn't attempt to study that --
24 that from Ashford's specific population, did you?

25 A. I know that Ashford students are -- more than
26 30 percent of them are black students. I know that
27 13 percent are Hispanic students. I know that
28 average -- you know, most of them are above the age of

1 25. So I accounted for all of that by picking this
2 benchmark.

3 Q. But you didn't attempt to do a study to
4 identify actual Ashford-specific data about what the
5 students made prior to attending Ashford, did you?

6 A. Those data are not available, to my knowledge.

7 Q. Okay. Let's talk about something called an
8 "unemployed adjustment." Did you do that in your
9 calculation?

10 A. An unemployment adjustment?

11 Q. Yes. I'm sorry. Unemployment adjustment.

12 A. Yes.

13 Q. And you attempted to adjust your calculation
14 for the percentage of students who were unemployed after
15 leaving Ashford, correct?

16 A. Correct.

17 Q. And the way you defined "unemployed" was that
18 a graduate did not report any income to the IRS in the
19 second year after graduation, true?

20 A. I believe that's how the College Scorecard
21 reports it, so, yes, they are not in the earnings data.

22 Q. And you incorporated that as part of your
23 calculation, correct?

24 A. As the second piece of it. So I first started
25 with the employed bachelor's degree students, which is
26 what only employed students -- which is what I used in
27 the benefit-costs analysis. And I also looked at
28 earnings gains by incorporating those -- those with zero

1 earnings.

2 Q. But in the analysis for all graduates, you
3 included unemployed graduates, correct?

4 A. Correct.

5 Q. And the way you identified a student as being
6 unemployed, it is because they had zero reported income
7 to the IRS in the second year after graduation, true?

8 A. True.

9 Q. And if a student graduate had zero income in
10 the second year, but in the third, fourth, and fifth
11 year they had substantial income, you still would
12 include them at zero in your calculation, right?

13 A. Correct.

14 Q. And if a student -- if a graduate had income
15 below the IRS reporting threshold, you would include
16 them as zero throughout their entire time in your
17 calculation, correct?

18 A. I would need to look in the documentation
19 about the IRS data and what they -- if they fill in
20 numbers for the lowest -- if they know that in some way
21 and fill it in, but I don't know off the top of my head.

22 Q. So sitting here today, you cannot testify that
23 you took into account income below the IRS reporting
24 threshold, true?

25 MS. KALANITHI: Objection. Asked and
26 answered.

27 THE COURT: Overruled.

28 THE WITNESS: True.

1 BY MR. MUNDEL:

2 Q. And just to be clear, for a student that was
3 unemployed in the second year but employed in the third
4 through 40th year of their career, you would include
5 them as having zero salary throughout the entire
6 lifetime of their career in your calculation, correct?

7 A. I did not put them in the calculation where I
8 did the lifetime earnings. I used only the employed
9 graduates, as I've mentioned. So that was irrelevant to
10 the lifetime earnings portion of it.

11 So again, I'm using the best case, the
12 employed graduates who were doing the best at that time
13 period to --

14 Q. Let's talk about non-completers. You tried to
15 take into accounts that some Ashford students did not
16 complete their degree, correct?

17 A. Correct.

18 Q. And you do not have any salary data for
19 Ashford students who enrolled, but did not complete
20 their degree, true?

21 A. Correct.

22 Q. So you had developed an estimate for the
23 amount of money those non-completers would earn after
24 graduation; is that right?

25 A. For the gain. Again, that difference is what
26 I used to estimate, is what I put in.

27 Q. You estimated the difference, how much more or
28 less they would earn after graduation, after they left

1 Ashford, compared to if they did not go to Ashford,
2 correct?

3 A. Correct, based on my own research -- previous
4 research.

5 Q. And you provided the number of -- I think it
6 was negative 2,000; is that right?

7 A. Correct.

8 Q. And that negative 2,000 number was not based
9 upon any Ashford-specific data, was it?

10 A. In the study that I did, Ashford was also in
11 that data set. It was IRS earnings data for many -- all
12 for-profit colleges in the United States, so Ashford was
13 part of that.

14 Q. So it wasn't -- the data you used was not
15 specific to Ashford? It included many other
16 universities as well, correct?

17 A. Correct.

18 Q. And you had -- from that data, could you have
19 determined what the number should have been just for
20 Ashford?

21 A. I no longer have access to those data, so I
22 could not have done it.

23 Q. So from that data, you could determine what
24 that number should have been for just Ashford, correct?

25 A. From the -- you're saying from my previous
26 research using IRS tax data merged with the U.S.
27 Department of Education data that I had at the time. We
28 gave each school a code so that it was anonymized within

1 that, so I don't know that I could ever have pulled it
2 out of the data given that I don't work at Treasury.

3 Q. But at least for today's purposes, you are not
4 offering a number of what an Ashford non-completer would
5 earn after graduation based specifically on Ashford
6 data, correct?

7 A. Could you repeat that so I can process it
8 again?

9 Q. Yes. Your number that you used for
10 non-completers is not specific to Ashford students, is
11 it?

12 A. Correct.

13 Q. So to the extent there's a difference between
14 the Ashford non-completers and non-completers from other
15 universities, you just use the average, right?

16 A. For for-profit institutions in the United
17 States.

18 Q. To the extent there's a difference between
19 non-completers at Ashford and other for-profits, you did
20 not take that into account in the calculation you
21 provided here today?

22 A. Correct.

23 Q. You assumed that all non-completers at Ashford
24 earned less than they otherwise would have if they had
25 decided not to go to Ashford, true?

26 A. Could you please repeat that question?

27 Q. You assumed that all non-completers at Ashford
28 actually earned less because they decided to go to

1 Ashford than if they just never would have gone to
2 Ashford at all, correct?

3 A. So that's the -- that's the estimate supported
4 in the literature, correct. But there's actually this
5 bump down when students, you know, would not have
6 gone -- before they attended Ashford, their earnings may
7 be going up and then it may drop after they attend,
8 particularly if they don't have a degree for
9 non-completers. We see that in the data quite often,
10 that earnings drop.

11 Q. Just to be clear, when you say you "see that
12 in the data," that's not data that's specific to
13 Ashford, is it?

14 A. That's the broader research, correct.

15 Q. And you call that a "salary penalty," do you
16 not?

17 A. I don't believe I've ever called it that.

18 Q. Do you know that -- what percentage of Ashford
19 students don't graduate but transfer credits from
20 Ashford to another institution?

21 A. I don't know that number specifically.

22 Q. Did you investigate that as part of your
23 expert opinion in this case?

24 A. No.

25 Q. And you calculated no benefit for students
26 that were able to transfer credits from Ashford to
27 another institution, did you?

28 A. So in higher education, transfer credit we

1 know is not uniformly applied by schools. We know it's
2 very arbitrary sometimes which schools will accept which
3 transfer credit, so it's very challenging to see that,
4 so we don't typically look at it.

5 Q. Just to be clear, Professor, in this case, you
6 did not attempt to calculate how many Ashford students
7 transferred credits to other institutions, did you?

8 A. Correct.

9 Q. And you gave no value in the benefits side of
10 your calculation for transferring credits to other
11 institutions, correct?

12 A. Well, it's not clear that credits always do
13 transfer in any case, so that wouldn't be appropriate to
14 do.

15 Q. To the extent a single credit transferred, you
16 did not provide any value for that credit transferring,
17 correct?

18 A. To the extent that there would have been
19 transfer credits, students might have had to take out
20 fewer loans or something like that for their next piece
21 of their education or something like that. So that
22 would be in the loan calculation potentially, but not
23 specifically.

24 Q. That wouldn't be in the loan calculation
25 for -- that you did?

26 A. So you're -- because --

27 Q. Because you were -- you weren't looking at
28 loans that they took from other institutions?

1 A. Correct. I'm talking about transferring in
2 credits from another institution would lower the loans,
3 that's correct, not going out.

4 Q. So let me just be clear. If an Ashford
5 non-completer, as you call it, was able to take Ashford
6 credits and use that -- those credits at another
7 institution, that would save them money at their other
8 institution, true?

9 A. Correct.

10 Q. And you did not provide any benefit in your
11 calculation for students being able to transfer credits
12 from Ashford to another institution, did you?

13 A. Correct, because you're never sure how many
14 credits will actually transfer.

15 Q. And you didn't analyze how many credits did
16 actually transfer for actual Ashford students, correct?

17 A. Correct.

18 Q. And you understand that there are other ways
19 to calculate the value of an education beyond just the
20 pure economic value that you calculated; is that right?

21 A. Can you repeat that question?

22 Q. There are other ways to calculate the value of
23 an education other than the purely economic value
24 calculation that you're providing here today?

25 A. I need to think about how you phrased that.

26 The methods I use are the appropriate methods.
27 They're the methods I am most familiar with. Off the
28 top of my head, I can't think of other methods that

1 would be any more appropriate to calculate the value of
2 a college education from my economic standpoint.

3 Q. You're offering testimony from the perspective
4 of an economist on how to calculate value, correct?

5 A. Yes, but we believe that we -- that we
6 understand how to calculate the value of a college
7 education since there's a whole field kind of built
8 around this, if you will.

9 Q. And have you heard of the "U.S. News & World
10 Report"?

11 A. Yes.

12 Q. And you understand they rank college
13 institutions, correct?

14 A. Correct. And economists don't believe they
15 rank them appropriately, if you will.

16 Q. And I presume the same is true for other
17 college rankings; is that right?

18 A. That's why we typically don't use them in our
19 research unless there's something about the rankings
20 that we're interested in, but we don't -- we don't use
21 them to assess value in any way.

22 Q. The same is true about accreditation? You
23 don't use accreditation to assess value either, do you?

24 A. No, because accreditation is based on inputs
25 typically, not on the student outcomes. So economists
26 care about student outcomes in assessing value.

27 Q. Let's talk about Net Promoter Scores. Do you
28 remember talking about that a bit during your direct

1 testimony?

2 with respect to NPS, your opinion is that a
3 Net Promoter Score survey is not useful in assessing the
4 value of education; is that right?

5 A. Correct.

6 Q. But you're not offering the opinion about
7 whether Net Promoter Score is useful for other purposes
8 to a university?

9 A. Correct.

10 Q. Including whether students are satisfied or
11 not satisfied with their experience at that university?

12 MS. KALANITHI: Objection. Vague.

13 THE COURT: Overruled.

14 THE WITNESS: So I'm not clear if Net Promoter
15 Scores are correlated or not with satisfaction. It's
16 not clear based on the reasons I described before that
17 it gives you a reliable measure for that. But
18 universities can use it however they like.

19 BY MR. MUNDEL:

20 Q. And you're not offering the opinion that it's
21 inappropriate for a university to use NPS to determine
22 satisfaction?

23 A. No.

24 Q. And you're not offering any opinion about
25 whether Net Promoter Score is useful for determining
26 whether a student is likely or not likely to recommend a
27 university?

28 MS. KALANITHI: Objection. Vague.

1 THE COURT: Do you understand the question,
2 Doctor?

3 THE WITNESS: Could you ask it again?

4 BY MR. MUNDEL:

5 Q. You're not offering the opinion that Net
6 Promoter Score is not useful for determining likelihood
7 to recommend, correct?

8 A. No.

9 Q. You're not offering that opinion?

10 A. I think there are enough questions about the
11 biases inherent in answering a hypothetical stated
12 preference question like that that I would be cautious
13 about using it for any of these things.

14 Q. And isn't it true that a responder to a Net
15 Promoter Score survey who feels deceived is less likely
16 to be a promoter?

17 A. They are less likely to answer the survey in
18 the first place.

19 Q. If they answer the survey, they're less likely
20 to be a promoter, true?

21 A. True.

22 Q. Let's talk about alumni surveys. Your opinion
23 is that alumni surveys have no role in the assessment of
24 the value of education from an economic perspective,
25 true?

26 A. Can you clarify what you mean by "no role"?

27 Q. They shouldn't be used for that purpose.

28 A. Correct.

1 Q. Do you think they provide useful data for that
2 purpose?

3 A. It depends on how they are designed and what
4 their response rates, but not for this purpose, not for
5 the purpose of valuation of an education, but for --
6 potentially they could be useful for other things,
7 depending on things like response rates and survey
8 design, other types of questions in higher education.

9 Q. So just to be clear, you are not offering the
10 opinion that alumni surveys are not valuable for other
11 purposes, correct?

12 A. Correct.

13 MS. KALANITHI: Objection. Vague.

14 THE COURT: Overruled. The answer stands.
15 Question.

16 THE WITNESS: Correct.

17 BY MR. MUNDEL:

18 Q. Your testimony is it depends upon how the
19 survey was conducted; is that right?

20 A. And what it is used for.

21 Q. Both of those things.

22 A. Correct.

23 Q. And you do not analyze any alumni surveys that
24 Ashford did in this case, did you?

25 A. Correct. I looked at a "Behind the Numbers"
26 website that had a survey reported on it. That's in my
27 report. I looked at that one.

28 Q. But you didn't look at any of the alumni

1 surveys that Ashford did in this case and produced to
2 the Attorney General, did you?

3 A. No.

4 Q. You didn't analyze their methodology?

5 A. No.

6 Q. You didn't analyze their response rate?

7 A. No.

8 Q. You didn't analyze what they were used for?

9 A. No.

10 Q. The same is true with NPS surveys, correct?

11 A. Correct.

12 Q. You didn't analyze any of Ashford's NPS
13 surveys?

14 A. Correct.

15 Q. And the same is true for Dr. Wind's survey?
16 You didn't analyze his survey, did you?

17 A. I read over his survey.

18 Q. You're offering no opinions about his survey
19 here, correct?

20 A. Not here.

21 Q. And you're not offering the opinion as to
22 whether or not he adequately tested for nonresponse
23 bias?

24 A. No.

25 Q. Is that right?

26 A. Correct.

27 MR. MUNDEL: May I have a moment, Your Honor?

28 THE COURT: You may.

1 MR. MUNDEL: May I have two minutes,
2 Your Honor?

3 THE COURT: You may.

4 MR. MUNDEL: Thank you.

5 THE COURT: Can we get the doctor some water?

6 THE WITNESS: I have some.

7 THE COURT: Never mind. She has some water.
8 We're just going to sit here for two minutes,
9 if it's really two minutes.

10 (Recess.)

11 THE COURT: All right. Counsel. Back on the
12 record. We are still on cross.
13 Counsel.

14 MR. MUNDEL: Thank you, Your Honor. May I
15 proceed?

16 THE COURT: You may.

17 BY MR. MUNDEL:

18 Q. Professor, I want to talk just for a moment
19 about advertising spend. You understand that it's
20 common for universities to spend money on advertising
21 and marketing, true?

22 A. True.

23 Q. And for-profit schools and not-for-profit
24 schools both spend money on advertising and marketing,
25 correct?

26 A. Correct.

27 Q. And you conducted no analysis in this case to
28 compare the amount that Ashford spent versus the amount

1 that other schools spend on advertising and marketing,
2 true?

3 A. True.

4 Q. And you're offering no comparative opinion
5 here that Ashford spends a higher percentage of its
6 revenue on advertising and marketing as compared to
7 other schools, are you?

8 A. Correct.

9 Q. And if you look at the number that you used
10 for the advertising and marketing spend, that included
11 admissions advisory costs; is that correct?

12 A. Yes, I believe so.

13 Q. And do you know how much of the \$178 million
14 that you reported as being admissions advisory and
15 marketing costs, do you know the breakdown how much was
16 admissions advisory and how much was marketing cost?

17 A. No, I don't.

18 Q. You know that compliance costs are included in
19 admissions advisory, right?

20 A. I'd have to read the definition again.

21 Q. We can look at --

22 A. Do you have it?

23 Q. We can look at slide 33 from your
24 demonstrative.

25 MR. MUNDEL: Permission to publish,
26 Your Honor?

27 THE COURT: You may.

28 ///

1 BY MR. MUNDEL:

2 Q. Do you have that in front of you, Professor?

3 A. I do, yeah.

4 Q. And you know that compliance costs are
5 included in admissions advisory?

6 A. I don't see compliance costs here.

7 Q. So you don't know one way or the other?

8 A. I don't know.

9 Q. And what about admissions counselor training?
10 Do you know if that's included in admissions advisory?

11 A. I don't know.

12 Q. And what about costs for financial aid
13 advisors? Do you know if that's included here?

14 A. I don't know that.

15 Q. What about training for financial aid
16 advisors? Is that included?

17 A. I don't know that.

18 Q. And what about materials to inform students
19 about their financial aid options? Is that included?

20 A. So the wording of this suggests that it does
21 have the compensation of personnel engaged in marketing
22 and recruitment, so that may include those advisors
23 doing financial aid, to answer your last question.

24 And the media and purchasing leads, marketing
25 materials, may include financial aid forms. I don't
26 know.

27 Q. You don't know exactly what is in and outside
28 of this definition, do you?

1 A. I know instructional spending is not part of
2 this.

3 Q. But you don't know if other things like
4 compliance and training and financial aid and registrar
5 are included in this definition, do you?

6 A. Correct.

7 MR. MUNDEL: Can we take a look at slide 21?

8 BY MR. MUNDEL:

9 Q. And if you look at the upper right-hand corner
10 of slide 21, you included a number of \$17,400 for the
11 opportunity costs, four calendar years at Ashford; is
12 that right?

13 A. Correct.

14 Q. And we already established that that
15 opportunity cost includes leisure activities a student
16 might engage in, like playing video games or napping,
17 true?

18 A. It's the value of their time, however they
19 spend it.

20 Q. And it could include those things, yes?

21 A. It could include anything.

22 Q. And isn't it true that if you did not include
23 the opportunity cost in your calculation, the net
24 present value would be positive?

25 A. You would never not include an opportunity
26 cost in measuring the value of an education.

27 Q. I understand that you wouldn't do that,
28 Professor. But if you didn't include the \$17,400 in

1 opportunity costs, the net present value of the
2 education would be positive, not negative; isn't that
3 true?

4 A. Small positive, that's correct. But I would
5 never do that.

6 MR. MUNDEL: Thank you, Your Honor. Nothing
7 further.

8 THE COURT: Uh-huh. Redirect.

9 MS. KALANITHI: Thank you, Your Honor. May I
10 proceed?

11 THE COURT: You may.

12 MS. KALANITHI: Thank you.

13 REDIRECT EXAMINATION

14 BY MS. KALANITHI:

15 Q. Dr. Cellini, you just testified that you would
16 never not include opportunity costs in your calculation
17 of the net present value of a college education; is that
18 right?

19 A. That's right.

20 Q. Can you explain why?

21 A. Yeah. It's really a foundation of labor
22 economics, that the time you spend going to college has
23 value, and that time, no matter how you spend it, in
24 many analyses, people use foregone earnings where
25 students may not work while they're attending a
26 traditional four-year college. That's kind of the
27 classic example of opportunity costs, that students take
28 time out of the workforce to attend a traditional

1 four-year college.

2 I didn't do that here, but I did take into
3 account -- because I believe that students work while
4 attending. So what I did look at is the time that
5 students spend -- however they spend it -- and that time
6 that they're going to go to that education and take the
7 time to take their classes, that time has value and they
8 could be doing other things during that time. They
9 could even be working during that time, additional
10 hours. They could be doing anything. They could be
11 spending time with their children.

12 Economists don't care how people spend their
13 time because they know that people make the best use of
14 their time and they know that that time has value, and
15 so we always include it in calculating the economic cost
16 or benefit -- the benefit-cost in the value of an
17 education.

18 Q. And I know we talked about a lot of different
19 numbers today, so I just wanted to kind of get back to
20 the earnings number that you used for your net present
21 value calculation.

22 which set of students did you use to calculate
23 the lifetime earnings gains that you used in the net
24 present value calculation?

25 A. Sure. I used the bachelor's degree graduates
26 who were employed. I did not include any of the
27 unemployed students. I did not include any of the
28 non-completing students. I did not include associate's

1 degree students. I just looked at those bachelor's
2 degree graduates who were able to find jobs.

3 Q. And so when you did the 40-year projected
4 earnings, it was for that set of students, the employed
5 graduates of Ashford's College of Education; is that
6 right?

7 A. Correct.

8 Q. In your work as a labor economist, are you
9 aware of any studies showing that it might take two
10 years for an education graduate to find a job?

11 A. No.

12 Q. And do you know whether students who attend
13 education programs at any other schools can become
14 teachers more quickly after graduating than Ashford
15 graduates?

16 MR. MUNDEL: Objection. Scope.

17 THE COURT: Sustained.

18 BY MS. KALANITHI:

19 Q. You discussed with counsel a hypothetical
20 where an Ashford graduate had zero income in the year --
21 one of their first two years after graduating.

22 Do you recall that?

23 A. Yes.

24 Q. Now, if an Ashford graduate had zero income in
25 their third or fourth or fifth year after graduating,
26 but did have income in the first or second year, would
27 that zero income be reflected in your data?

28 A. No. The third, fourth, and fifth year would

1 not be in the data. So the second-year estimate for
2 that student would overstate their earnings, if you
3 will, relative to those other years.

4 MS. KALANITHI: One moment, please.

5 THE COURT: Uh-huh.

6 (Attorneys confer.)

7 MS. KALANITHI: No further questions,
8 Your Honor.

9 THE COURT: Recross?

10 MR. MUNDEL: Nothing, Your Honor.

11 THE COURT: May this witness be excused?

12 MS. KALANITHI: Yes, Your Honor.

13 MR. MUNDEL: Yes, Your Honor.

14 THE COURT: Doctor, thank you for your
15 testimony. Have a safe trip home, Doctor.

16 THE WITNESS: Thank you.

17 THE COURT: You're welcome.

18 (The witness exits the courtroom.)

19 THE COURT: Off the record.

20 (A discussion was held off the record.)

21 THE COURT: Ms. Wang?

22 MS. WANG: Thank you, Your Honor.

23 The first housekeeping matter pertains to some
24 exhibits that have previously been admitted, but we've
25 now prepared redacted copies to redact PII, personally
26 identifying information, so we'd like to make
27 substitutions of these redacted versions into the
28 previously admitted ones.

1 THE COURT: And have you talked to the defense
2 about this?

3 MS. WANG: I have, and the little wrinkle is
4 that there's 151 of these. They're on a thumb drive.
5 I'm happy to read them in for the record, but just so
6 that the Court knows.

7 THE COURT: Can you do a stipulation?

8 MS. WANG: Sure.

9 THE COURT: Thank you. And it's just for
10 Madam Clerk. That way -- she shouldn't have to write --
11 do a stipulation, sign it, hand it in. It will make it
12 much easier for her.

13 MS. WANG: Certainly, Your Honor. Should we
14 hand up to the Court now the thumb drive with the
15 redacted versions?

16 THE COURT: Madam Clerk, what's best for you?

17 THE CLERK: Sure. I can take that now. And
18 is there also going to be hard copies?

19 THE COURT: Yes. And I assume the hard copies
20 will be --

21 MS. WANG: We will be preparing those, yes.

22 THE COURT: Thank you, Counsel.

23 MS. WANG: And then the second matter is that
24 previously, we admitted 568 audio sound files. That was
25 with the testimony of Dr. Lucido. I was reminded that
26 some of these sound files, I think many of them are .wav
27 format files, which we've found have difficulty opening
28 up on many computers. So we just wanted to see if the

1 Court would prefer that we also provide a set in a
2 different format, which is MP4, which, in our
3 experience, tends to play a little better.

4 MR. HUMMEL: No objection.

5 THE COURT: MP4.

6 MS. WANG: Okay. We'll get those together.

7 THE COURT: Yeah, yeah, yeah. That will take
8 some time.

9 MS. WANG: I think in the next couple of days
10 we'll be able to do that.

11 THE COURT: Sure.

12 MS. WANG: And we can hand them up to the
13 Court on a drive.

14 THE COURT: Thank you.

15 MS. WANG: Okay. So subject to providing
16 those, the substitution -- or those additional format,
17 the MP4 files later, and just a couple of other
18 housekeeping matters that may trail into the next couple
19 of days --

20 THE COURT: Sure.

21 MS. WANG: -- in particular, those three
22 exhibits that came from the Farrell deposition, plus any
23 potential issues from today's minute order or daily
24 transcript, subject to those issues, the People rest our
25 case.

26 THE COURT: And counsel for both sides, even
27 though you've rested, as far as exhibits, you're not
28 waiving anything. Things come up. I've got that.

1 Especially when there's this volume. There's no waiver,
2 Counsel. You don't have to worry about that.

3 MS. WANG: Thank you.

4 THE COURT: Okay. Off the record.

5 (A discussion was held off the record.)

6 (Recess.)

7 THE COURT: Let's go on the record, please.

8 The People have rested as of 2:30.

9 Defense?

10 MR. HUMMEL: Yes, Your Honor. At this time,
11 the defendants hereby move for judgment pursuant to
12 California Code of Civil Procedure Section 631.8 on all
13 issues involved in the action.

14 Or in the alternative, individually and
15 separately on each of the following issues:

16 One, defendants' liability as alleged in the
17 operative complaint in this matter for having allegedly
18 violated California Business and Professions Code
19 Sections 17200, the UCL, and 17500.

20 THE COURT: One second. Can I assume that
21 what you're doing -- this is going to be outlined in
22 your written motion, sir?

23 MR. HUMMEL: Yes, Your Honor. Second --

24 THE COURT: One second.

25 Proceed, Counsel. Thank you.

26 MR. HUMMEL: Yes, Your Honor.

27 Second, defense will move individually for
28 judgment with respect to -- on the issue of plaintiff's

1 request for restitution.

2 Third, with respect to plaintiff's request for
3 injunctive relief.

4 And fourth, with respect to plaintiff's
5 request for civil penalties in any amount, the plaintiff
6 having failed to meet its burden of proof on the factors
7 set forth in Business and Professions Code
8 Section 17206B and 17536.

9 Your Honor, the defense has today handed up to
10 Your Honor the completed Notice of Motion and Motion for
11 Judgment pursuant to CCP Section 631.8 and a 23-page
12 Memorandum of Points and Authorities.

13 we have also submitted a proposed statement of
14 decision -- sorry, Your Honor.

15 THE COURT: Slow down. I've only got -- say
16 that last sentence --

17 MR. HUMMEL: We have submitted a Memorandum of
18 Points and Authorities --

19 THE COURT: Correct.

20 MR. HUMMEL: -- which because the document is
21 numbered from page 1 through page 28, it's actually a
22 23-page Memorandum of Points and Authorities.

23 THE COURT: Understood now. Thank you,
24 Counsel.

25 Go.

26 MR. HUMMEL: We have also submitted for Your
27 Honor's consideration a proposed Statement of Decision
28 on the Motion for Judgment. We have handed that to the

1 clerk. We have also e-filed both documents, or will do
2 so shortly, and have provided copies to the Attorney
3 General's Office.

4 THE COURT: Thank you.

5 MR. HUMMEL: Your Honor, as I said before, we
6 think the motion has substantial merit on any or all of
7 the topics, and we'd ask the Court to consider a short
8 recess to consider this before the defense has to
9 undertake and the Court has to undertake the
10 considerable expense and time of a defense
11 case-in-chief, which, we believe, is unnecessary.

12 THE COURT: Thank you, Counsel.

13 MS. WANG: Vivian Wang for the People.

14 We disagree that the motion has substantial
15 merit and would ask the defendants' case to continue
16 today.

17 THE COURT: And I assume, based on our
18 previous discussions, the Court will give the People
19 until this Friday, which is the 10th, at -- what -- it
20 was either noon or 3:00 o'clock. What did I say?

21 MR. LAKE: 3:00 o'clock, Your Honor.

22 THE COURT: -- by 3:00 o'clock to respond to
23 this. My thought process will be you do that. That
24 gives me the weekend. Can we schedule argument -- I
25 want to keep going, but to make sure I have enough time,
26 we will hear argument at 1:30 on the motions on Monday.

27 MS. WANG: Monday the 13th?

28 THE COURT: Uh-huh.

1 MS. WANG: Yes, Your Honor.

2 MR. HUMMEL: I have one time issue,
3 Your Honor, which I can raise off the record, but --

4 THE COURT: No, go ahead.

5 MR. HUMMEL: We have an expert witness,
6 Dr. Jerry Wind, who you know --

7 THE COURT: I know.

8 MR. HUMMEL: -- you're very familiar with the
9 testimony.

10 THE COURT: Yeah.

11 MR. HUMMEL: He is flying in from Philadelphia
12 for the testimony. He needs to be done Monday.

13 THE COURT: All right.

14 MR. HUMMEL: So --

15 THE COURT: Ready?

16 MR. HUMMEL: Yes.

17 THE COURT: I will adjust.

18 MR. HUMMEL: Thank you.

19 THE COURT: Ready? Tuesday 9:00 o'clock.

20 MR. HUMMEL: That's fine, Your Honor.

21 THE COURT: For argument.

22 MR. HUMMEL: Appreciate that.

23 THE COURT: That's all right. Ooh. No, these
24 aren't the originals. They've been e-filed. Hold on.

25 And the motion to pause the trial, the Court,
26 in using its discretion, feels it's best to move on.

27 And, Counsel, it doesn't prejudice you one way
28 or the other.

1 MR. HUMMEL: I understand. It's in the
2 statute, Your Honor.

3 THE COURT: I understand.

4 MR. HUMMEL: We're not waiving anything by --

5 THE COURT: Absolutely not.

6 MR. HUMMEL: -- proceeding with the defense.

7 THE COURT: We're absolutely not. Hey, we're
8 making progress. I like that.

9 Here we go. We are now starting the defense's
10 case-in-chief.

11 Mr. Yeh, call your first witness.

12 MR. YEH: Thank you, Your Honor. The
13 defendants call Dr. Richard Pattenaude to the stand.

14
15 RICHARD PATTENAUDE, Ph.D.,
16 called as a witness on behalf of the
17 Defendants, having been first duly sworn,
18 testified as follows:

19
20 THE WITNESS: I do.

21 THE CLERK: Thank you. Please be seated.

22 THE WITNESS: Thank you.

23 MR. YEH: If I may approach the witness with
24 the binder?

25 THE COURT: You may, Counsel.

26 THE CLERK: And for the record, sir, can you
27 please state your first and last name and spell it.

28 THE WITNESS: Richard Pattenaude,

1 R-i-c-h-a-r-d, Pattenaude, which I've spelled a million
2 times, P-a-t-t-e-n-a-u-d-e.

3 THE CLERK: Thank you.

4 MR. YEH: And I believe Your Honor has the
5 thumb drive.

6 THE COURT: I do not.

7 MS. PESIRI: We gave you the thumb drive
8 earlier today.

9 THE COURT: It's the same one?

10 MS. PESIRI: It is.

11 THE COURT: Hold on. I've got it. One
12 minute.

13 (Pause.)

14 THE COURT: Let's proceed, Counsel.

15 MR. YEH: Thank you, Your Honor.

16 THE COURT: You're welcome.

17 DIRECT EXAMINATION

18 BY MR. YEH:

19 Q. Good afternoon, Dr. Pattenaude.

20 A. Good afternoon.

21 Q. You are the designated corporate
22 representative for the defendants in this case; is that
23 right?

24 A. Correct.

25 Q. What do you currently do for a living?

26 A. Well, I'm retired, but I teach part time for
27 the University of Arizona Global Campus, UAGC. I do
28 some consulting. I -- but I do some consulting with

1 Zovio and with some other folks.

2 Q. I'd like to spend just a few brief moments on
3 your educational background. Is that okay?

4 A. Sure.

5 Q. Would you mind sharing with your -- with the
6 Court your educational background?

7 A. Bachelor's Degree in Economics from San Jose
8 State, and I moved on to University of Colorado, entered
9 into the Economics Ph.D. program. I actually got
10 drafted out of there and went to Vietnam, and so that
11 interrupted, and I changed majors as a Ph.D. program and
12 finished a Ph.D. in Political Science in 1974.

13 Q. And what did you do after you graduated?

14 A. I became -- my first job after graduation was
15 assistant professor at Drake University in Des Moines,
16 Iowa, the Institute of Public Affairs, Political Science
17 Department.

18 Q. Is that when you began your teaching career?

19 A. I had taught -- "teaching career" means full
20 responsibility for a course. So I had full
21 responsibility for a course as a graduate student, at
22 least three or four courses. As a professor, that
23 appointment and that title first came at Drake in the
24 fall of '74, assistant professor.

25 Q. So your teaching career began in 1974?

26 A. Yes.

27 Q. I'd like to talk about the history of your
28 teaching career for a moment, Dr. Pattenau, and I

1 think it might be useful for us to take a look at your
2 resumé for a moment. Is that okay?

3 A. Sure.

4 Q. Can I direct your attention to Exhibit 1205 in
5 your binder?

6 (Court's Exhibit No. 1205, Biography and
7 Curriculum Vitae of Richard L. Pattenaude,
8 first identified.)

9 BY MR. YEH:

10 Q. Do you see Exhibit 1205?

11 A. Yes, I see it. I'm there.

12 Q. Is Exhibit 1205 a current resumé for you?

13 A. Yes, it's current.

14 Q. And what's contained in Exhibit 1205?

15 THE COURT: Stop.

16 MR. YEH: Sorry, Your Honor.

17 THE COURT: It's not you. It's me. I've got
18 his deposition. Now, are the exhibits -- that's all I
19 show. Oh, no. No, no, no, no. Wrong. 1205, it's in
20 front of me now, Counsel.

21 Go.

22 BY MR. YEH:

23 Q. What is Exhibit 1205?

24 A. 1205 shows what I've done over the years and
25 starting with Drake up through the completion of my time
26 at Ashford, publications, public service, teaching
27 responsibilities, but mostly administrative
28 responsibilities.

1 So in '74 through about '80, '81, I was a --
2 '74 through '80, I was a faculty member at Drake, but I
3 also became an assistant dean and an associate dean.

4 Moved to SUNY --

5 And when I was there, I was teaching a full
6 load the whole time, even as an administrator.

7 Moved to SUNY Binghamton, a research
8 university, and became associate vice president for
9 budgets and planning, continued to teach. It's unusual
10 for administrators to teach, but I wanted to keep my
11 hand in and liked it.

12 And so I was at SUNY Binghamton for about six
13 years and then moved to -- and then became a provost at
14 Central Connecticut State University approximately 1981.
15 There again, continued to teach, but had the whole
16 academic responsibility, was involved in accreditation
17 and was busy with all of the things that you do as an
18 academic.

19 '91 I became president of the University of
20 Southern Maine in Portland, Maine. Did that for
21 16 years, taught virtually every year as president,
22 always taught at night, always taught part-time
23 students, always took what the department would give me,
24 didn't want to rile the troops.

25 And then -- so I did that for 16 years, and
26 that included a lot of accreditation work and a lot of
27 accreditation, a couple of cycles, but also I became a
28 member of NEASC, N-E-A-S-C, which is the New England

1 equivalent of WASC, and did that for six or seven years,
2 became vice chair and chair of NEASC, served on a number
3 of accreditation visits, actually chaired -- for the
4 northwest, I chaired two or three.

5 And then in 2007, I had the opportunity to
6 apply for and be named chancellor of the entire
7 university system in Maine. Seven universities reported
8 to me, including land-grant, reported to board of
9 trustees appointed by the governor, continued -- took a
10 year off but continued to teach as chancellor.

11 Actually, I taught for the University of Maine
12 Augusta's extension campus over on the far side of
13 Bangor, but then decided I wanted to learn how to teach
14 online, and so I volunteered to teach online my last
15 year as -- as chancellor. Eye-opening experience. I
16 was very interested in online.

17 Just a quick comment, if I may, sir.

18 When I was at University of Southern Maine, I
19 created an online operation, hired a national expert to
20 come in and build an online function at the University
21 of Southern Maine. Then when I was pro- -- chancellor,
22 University of Maine Augusta was where our primary online
23 work was, and continued to invest in that and worked
24 with them and taught for them when I taught online as
25 chancellor.

26 I retired, stepped down from chancellor. I
27 agreed for a limited time to be chancellor, and then I
28 was just about to make the transition to a full-time

1 faculty member at the University of Southern Maine again
2 in the Political Science Department when I got a phone
3 call asking if I was interested in a place called
4 "Ashford University." And I didn't know much about
5 Ashford, but I began to explore it and took the job and
6 taught for a while.

7 Q. Okay. That's a good stopping point right
8 there, Dr. Pattenau.

9 A. Okay.

10 Q. Is Exhibit 1205 an accurate -- accurate in
11 terms of describing your professional teaching and
12 higher education career?

13 A. Yes.

14 MR. YEH: Move Exhibit 1205 into evidence,
15 Your Honor.

16 MS. FOODMAN: No objection.

17 THE COURT: Received.

18 (Court's Exhibit No. 1205 received into
19 evidence.)

20 BY MR. YEH:

21 Q. So you've been teaching since 1974 and you're
22 currently teaching today; is that right?

23 A. Yeah. Actually, I have a class that starts in
24 about five days.

25 Q. So you've been teaching for the past 47 years?

26 A. Yeah.

27 Q. That's a "yes"?

28 A. I'll get the hang of it eventually.

1 Q. That's a "yes"?

2 A. That's a "yes."

3 Q. You also mentioned as you were describing your
4 teaching history that you served in roles as an
5 administrator?

6 A. Yes. Actually --

7 Q. What did you mean by that?

8 A. There's two sides of the house in a typical
9 academic entity, a university: the faculty side and the
10 administrative side. And at Drake, I made that
11 transition to part-time faculty. It didn't mean I was
12 teaching, but actually my primary role was as
13 administrator, as the associate dean, I believe.

14 And then for the rest of my career, my primary
15 role was always as an administrator, a manager of
16 increasingly sized operations, keeping my hand into
17 teaching and continuing to be part of that.

18 Q. So as an administrator, are you involved in
19 the management of the university?

20 A. Yes.

21 Q. Let's turn to your time at Ashford. When did
22 you -- when did you join Ashford?

23 A. October 2012.

24 Q. Okay. And how long were you at Ashford?

25 A. I was president until May of 2016. My
26 original appointment was three years. They asked me to
27 extend for a year and also help bring on the new
28 president, and when the new president -- they brought on

1 Craig Swenson, and we handed off on May of 2016.

2 Q. So what did you do after May of 2016?

3 A. They -- part of the contract I had agreed to,
4 I had a three-year appointment as a faculty member, so I
5 took off. My first sabbatical in my entire life. I
6 took a few months to figure out Ashford's systems as a
7 professor, to get to know the materials, read the books,
8 and prepare to teach introduction to American
9 government.

10 Q. And how long did that last?

11 A. I -- the -- the -- that role, three years.

12 Q. And tell us about your role from May of 2016
13 through April 2021.

14 A. Took a little time off -- actually, it was the
15 third time I flunked retirement -- and began to
16 structure my time, serving a lot of local boards,
17 teaching part time, asked the permission to teach part
18 time at Ashford, which they gave to me, and also doing
19 some consulting and coaching. And it's been pretty well
20 what I've been doing since May of 2016.

21 Q. And while you were at Ashford, you said you
22 were the president and CEO; is that correct?

23 A. Yes.

24 Q. Who was your successor?

25 A. Craig Swenson.

26 Q. Did you serve in any capacity as an advisor to
27 Mr. Swenson after you left?

28 A. Thank you. Yes. As part of the transition,

1 they had asked that I be available to the new president
2 as a strategic advisor. We would meet initially about
3 once every three weeks for a couple hours and -- and
4 sort of a long handoff, and also presidents like to talk
5 to presidents. And after about six months or ten
6 months, we just -- that sort of faded away.

7 Q. So how long did you continue to work for
8 Ashford?

9 A. Three years.

10 Q. Up till 2020 -- 2020; is that right?

11 A. Yes.

12 Q. And what is your current role with Ashford
13 University?

14 A. Oh, with Ashford?

15 Q. Yes.

16 A. Well, Ashford doesn't exist anymore. So
17 I'm -- I'm -- I think I'm representing Ashford here,
18 but -- so I have no role with Ashford. I have no role
19 with University of Arizona Global Campus except as a
20 part-time faculty member.

21 Q. All right. I'd like to talk for a moment
22 about how you came to join Ashford, all right?

23 Could you -- could you explain to the Court
24 how you became employed by Ashford?

25 A. The short version, I had increasing interest,
26 as I noted, in online education, the role it was going
27 to play. And one of my personal beliefs is that all
28 parts of the education continuum should be of high

1 quality, and so I'd gotten more and more involved in
2 trying to increase the quality of online for the
3 University of Maine system.

4 So I'm about to become a professor at the
5 University of Southern Maine. I offered to teach an
6 online course for them. And I get a phone call from
7 Stephen Joel Trachtenberg. He was with Korn Ferry.
8 He's actually the former president of George Washington
9 University, I believe, and I've known him a long time.

10 And he goes, "Rich, there's an opportunity
11 that I want you to take a look at. It's important.
12 It's important work. It's -- you love the students.
13 They're the students that you really believe in."

14 I said, "Okay, I'll take a look at it."

15 And so I take a look at it.

16 And I said, "well, I'm always willing to
17 talk."

18 So they flew me to New York, and I met with
19 some folks. And Andrew Clark was up on the big screen.
20 And continued to be interesting, and I was doing my
21 research.

22 And then they flew me out to California. I
23 met with the board of trustees. I met with
24 administrators. I met with faculty. I met with some
25 students, representatives.

26 And I'm going, "The minute you walk in the
27 building, the first thing you detect is everybody is
28 serious about education, and everybody is serious about

1 students and that it's -- it's part of the culture and
2 the values there."

3 It surprised me, because I'd heard all of
4 this, you know, riffraff talk and all kinds of things.
5 And I'm going, like, "These folks are serious about
6 making this a good university. And if I want online to
7 be very good, maybe I should be a part of this."

8 The real closer on it was they -- so they --
9 they flew me out to the campus in Iowa, and I visited
10 there, but they were having commencement there that
11 particular year. And I'm at commencement. I'm in a
12 suit and tie. Nobody knows who I am.

13 And this like 70-year old African-American
14 lady comes up and, "will you take a picture of me and my
15 son?" He's about 50. He's got his hat on and honors
16 cords.

17 I said, "Sure." I said, "where are you from?"

18 She goes, "Atlanta."

19 I said, "You flew from Atlanta to here in Iowa
20 for commencement?"

21 She said, "No, I drove. We drove."

22 I said, "why did you drive?"

23 She said, "My son has been to four
24 universities. He couldn't make it work because of time
25 and structure of it and all this. Ashford was perfect
26 for him. I am so proud of him. This is the biggest
27 accomplishment in his life. I would not miss this for
28 anything."

1 I thought, "well, if this university does that
2 sort of thing for students so deep into their family," I
3 said -- I said, "I want to be part of this." Because
4 my -- as I moved from a research university to the
5 University of Southern Maine, my focus was I want to go
6 to universities and make a difference in people's lives
7 where people cry at commencement, where families attend,
8 and where you -- you can see the impact that it has on
9 people. And Ashford was a perfect example of that as I
10 got to know more and more about it.

11 So I said, "I think I'd like to do this,
12 Andrew." And then I had to -- the board actually hired
13 me, because I reported to the board. I didn't report to
14 Andrew. So that's -- I'm sorry. That's sort of a long
15 story, but it's a -- it's a -- making the decision to go
16 to Ashford was not easy.

17 I knew there had been some problems. I knew
18 they had some accreditation problems, but I also knew
19 that -- from my visit there, how serious they were about
20 education, quality education, and students, lifting up
21 student's lives.

22 MS. FOODMAN: Move to strike, Your Honor, the
23 recitation of what the woman at commencement told
24 Dr. Pattenaude as hearsay.

25 THE COURT: It's hearsay. State of mind
26 exception. Overruled.

27 Go.

28 ///

1 BY MR. YEH:

2 Q. Dr. Pattenau, this experience that you're
3 describing was in 2012, if I'm reading the timeline
4 here?

5 A. September 2012, early October.

6 Q. When you were interviewing with Ashford, did
7 you have any understanding as to why they were
8 interested in you specifically?

9 A. I asked them that. And I said, "Hey, I've
10 never run a public -- a for-profit university, never run
11 a publicly-traded institution. I've never run an online
12 institution."

13 They said, "Perfect. We want somebody who
14 understands accreditation, understands academic quality,
15 understands our students, and is committed to increasing
16 the quality of our institution."

17 And I said, "That's me. And if that's what's
18 interesting to you" -- and, also, I knew how to run big
19 systems. Seven universities, 40,000 students,
20 \$300 million budget, so I'm comfortable in big systems
21 and it's -- and the place is a big, complex place.

22 Q. So you decided to join Ashford --

23 A. Yes.

24 Q. -- as its president and CEO?

25 If I'm reading the timeline correctly, you
26 spent about nine years there?

27 A. All together, yeah.

28 Q. Oh, can you describe for the Court what your

1 understanding of Ashford's mission is?

2 A. Ashford's mission -- it has several
3 components. One of them is to take a risk on students
4 who have struggled because of life gets in the way, jobs
5 get in the way, they're not ready.

6 It's also -- it's a place where you're
7 committed to transforming people's lives with education
8 and working primarily with nontraditional students,
9 older students, and making a difference -- making a
10 difference in people's lives, and giving them an
11 opportunity to achieve their dreams and goals.

12 I -- I teach -- so I have students all the
13 time, and we talk to each other all the time. You know,
14 "I tried this. It didn't work. I'm coming back to
15 school. I'm awfully scared. I don't know if I'm going
16 to be able to do this.

17 "Hang in there. You'll be okay."

18 So these are students who have never seen the
19 inside of Stanford University and never will, okay? But
20 they're important students.

21 There's 180 million students in the United
22 States with some college credits who did not graduate.
23 That's a big part of what that's about.

24 Q. You used the phrase "nontraditional students"
25 a couple of times now. What do you mean by that?

26 A. Well, when I was at Drake University, we
27 brought in first-year freshmen class, you know, six,
28 seven hundred students, marched them through in four

1 years, and they graduated and they're -- was a pretty
2 good job. Those are traditional students. Typically
3 come from high school, got pretty strong support
4 background.

5 Nontraditional students, they -- they're
6 older. They tend to be predominantly women who are
7 coming back to school. We're about 70 percent female,
8 65 percent female. They have -- they -- they are
9 looking for ways to move forward in their lives or -- or
10 to be proud of something, but they are older, typically
11 employed, and have -- and have a motivation to finish
12 college.

13 Q. Before Ashford, had you had any experience
14 with nontraditional learners?

15 A. Yes, because I taught at night at the
16 University of Southern Maine, which had a pretty sizable
17 nontraditional population. The majority of my students
18 were nontraditional students. When I taught at the
19 university -- at the chancellor's level, again, over an
20 extension -- a little tiny extension center on the far
21 side of Bangor near the airport, and they're every --
22 every color, every -- every ilk you can imagine, and
23 they tell their stories, and they're proud to be there,
24 and it's -- it's very heartwarming and rewarding work.

25 Q. Do the nontraditional learners usually have
26 some kind of family support for education?

27 A. Some.

28 MS. FOODMAN: Objection. Leading. Vague.

1 THE COURT: Leading. Sustained.

2 BY MR. YEH:

3 Q. What kind of support does a nontraditional
4 learner usually have?

5 A. It varies, but more than any -- more than the
6 traditional kind of student conversation. It's a team
7 effort.

8 So I'm at a graduation one time, and this
9 young woman comes up to me and she says, "Can I take a
10 picture with you, Mr. President?"

11 "Sure." I'm in all my regalia. And up comes
12 three little kids and her husband. I said, "Is this
13 your family?"

14 She goes, "Yeah."

15 I said, "They proud of you?"

16 She said, "They're very proud of me. And I
17 wouldn't be here without them. He took over childcare.
18 He allowed me to study. They went to bed and were
19 quiet."

20 That's a very typical story of the kind of
21 support that these folks have. A lot of cheerleaders.

22 Then there's a small group of them who are on
23 their own. We -- we had a -- specialized in people who
24 had post-traumatic stress. We had a unit that dealt
25 just with that, because there's a large group of
26 students who are afraid to go to a classroom.

27 So we had -- we had a military group and a
28 nonmilitary group to deal with post-traumatic stress so

1 that these folks could come and get their college
2 degree.

3 So it's a wide range. But there's a large,
4 large segment that had a strong network of family around
5 them.

6 Q. what about nontraditional learners did you
7 find to be more inspiring than traditional learners?

8 A. well, I always said to people, "They have more
9 courage and determination than I ever had." I -- as
10 I've gotten as a professor to know their stories and
11 they tell -- each -- the first thing you do in a class
12 is a student has to write an autobiographical -- you
13 know, a 200-word statement.

14 You know, "Dad's in the hospital." "I just
15 had a baby, and I've got to get back to school" or "I've
16 just been shipped off somewhere by the military."
17 And -- and I'm -- and they're determined to complete the
18 course and be successful.

19 I had a woman have a baby in the middle of the
20 course, and she said, "Can I have a week off to delay my
21 assignments?"

22 I said, "Take two," you know.

23 So these people have courage and
24 determination -- and "grit" is the word we often use --
25 that you don't always see in a traditional university
26 setting. It's not as important because they've got more
27 complex lives, they've got very difficult lives.

28 Q. In your experience, did you find the

1 non-traditional learners were less intelligent than
2 traditional learners?

3 MS. FOODMAN: Objection. Leading.

4 THE COURT: Sustained.

5 BY MR. YEH:

6 Q. How did you feel about the intelligence of the
7 traditional -- non-traditional learners versus
8 traditional learners?

9 A. Not unlike the students at the University of
10 Southern Maine, a whole range. You've got a group of
11 students -- a small group. You go, "I'm not sure if
12 they're going to be okay." You've got a group of people
13 who can be successful at any university. So there's a
14 wide range.

15 So I found them -- and I'm teaching a course
16 that's about a year in, and is that -- consistently very
17 good students, well informed, good writers by the time
18 they reach me.

19 So, no, I would not say that these are
20 low-intelligence students. These are students who have
21 had tough lives. That's different.

22 Q. Can you describe for the Court the --
23 Ashford's philosophy with respect to students?

24 MS. FOODMAN: Objection. Overbroad. Calls
25 for a narrative.

26 THE COURT: Do you understand the question?

27 THE WITNESS: Yes, sir.

28 THE COURT: You may answer.

1 Overruled.

2 THE WITNESS: Ashford liked to view itself as
3 a place of opportunity, as a place where you take a risk
4 on a student that maybe another institution wouldn't
5 take a risk at. And so you build your structures around
6 it. You -- you stay close to them when they come in the
7 door. You know, the admissions folks hold on to them
8 until their first class, and then the advisors have to
9 rip them away from the admissions people because they've
10 built the relationships.

11 But it's a place where you give a student a
12 chance knowing that not all of them are going to make
13 it. They're going to -- the primary reason people left
14 Ashford University was personal financial issues. Lost
15 a job, have to take care of grandma, grandma -- and they
16 have to -- have medical bills to pay.

17 So they were good students, and they just had
18 things going on in their lives.

19 MS. FOODMAN: Objection, Your Honor. Move to
20 strike Dr. Pattenauade's testimony about the reasons why
21 students leave as calls for spec- -- as speculative and
22 nonresponsive to the question.

23 THE COURT: Sustained.

24 BY MR. YEH:

25 Q. The illustrations that you provided the Court
26 a moment ago, you encountered those in your experience
27 at Ashford?

28 A. Yes.

1 Q. Okay. Was every prospective student a fit for
2 Ashford, in your experience?

3 A. We tried to make sure that those students who
4 were not -- truly not a good fit didn't get in the door.
5 The student inquiry center, SIC, did some basic parsing
6 out of students: "Do you have a computer?" "Do you
7 have access to a computer?"

8 I can't tell you how many of my students do
9 their homework in the library because that's where
10 public computers are available. I hear that all the
11 time.

12 Then you get to admissions: "Do we have the
13 program you want or something near it?" You know, "We
14 don't have engineering. We don't have -- don't come
15 here."

16 So there's a fair amount of -- of making sure
17 that the right person comes through the door.

18 And then it becomes, are they -- up to them
19 with motivation. It's part of it. And hopefully the
20 life experience sustains them.

21 So I would say the vast majority of people who
22 entered Ashford University were capable of being
23 successful.

24 Q. And for those that were admitted into Ashford
25 University, I want to talk about value for a moment. Is
26 that okay?

27 A. Sure.

28 Q. Okay. In your experience having been in

1 education for 47 years and online education at least
2 since the University of Maine, do you believe there's
3 value in online education?

4 A. Oh, yes.

5 Q. what kind of value?

6 A. well, people express the value in different
7 ways, and certainly not just a salary. I mean, that
8 is -- most everybody's employed. So maybe they want to
9 advance in their career. But what you hear a lot of is
10 "I'm doing this for me." "I want to be proud about me."
11 "I bailed on college when I was 20. I'm 35 now. I'm
12 grown up. This is for me."

13 So that's another kind of value. "This is
14 being a role model for my kids." I hear that all the
15 time. "I want them -- if I can do it, they can do it."
16 "I want to feel pride." "I want my family to feel
17 pride." "I want to have the opportunity to think about
18 different career paths." And things like that.

19 So you hear many, many things, but it's not
20 dominated by "I want to make more money." I've often
21 said if it was -- if higher education was just about
22 making more money, we'd never have another philosophy
23 major in our lives.

24 So there's a lot going on to why people come
25 to any university and why they come to Ashford
26 University.

27 Q. what does an online education like at Ashford
28 offer that a traditional education does not?

1 MS. FOODMAN: Objection. Overbroad.

2 THE COURT: Overruled.

3 THE WITNESS: Flexibility. If you leave a
4 traditional course at the end of the third week, you
5 can't get back in -- so it's February. You go like,
6 "Uh-uh, I've got all these assignments. I have to go to
7 San Diego, and I have to take care of all these
8 assignments, and I can't keep up with the class." So
9 you drop the class up at U -- Cal State LA. You can't
10 get back in until September. You have lost seven
11 months.

12 We, and most online institutions, enter a new
13 class every Monday. "So you're out -- so you need three
14 weeks? Fine. Put you on hold for three weeks. Come
15 back in three weeks. See what classes you got and we've
16 got the classes for you." "Can't come back for two
17 months? Come back in two months."

18 But we stay in touch with them. Those are
19 called stop-outs. And so you have that flexibility.

20 You have the ability to move as fast as you
21 want or as slow as you want.

22 And so I think flexibility and the ability to
23 complete a program while working are really two of the
24 most important things. And I think during this last
25 whole problem with COVID, we're all finding out about
26 the value of online education and what it provides.

27 BY MR. YEH:

28 Q. What is the Ashford Promise?

1 A. The Ashford Promise. The Ashford Promise was
2 generated to help entering students so that if you come
3 in and start your first class and you go like, "whoa,
4 this is not for me, I don't -- I just don't like that,"
5 if you withdraw by the end of the third week out of
6 five, which is far more generous than traditional
7 universities percentage-wise, you have no payment, you
8 have no transcript, you have no failure, you have no
9 record of attendance. You may leave when you feel -- if
10 you really feel that you made a mistake by walking in
11 the door.

12 Now, you've already been through an
13 orientation, but this is into a course.

14 The other side of the Ashford Promise is if we
15 believe by the end of the third week or sooner --
16 nonattendance is a great example. I have students all
17 of a sudden just disappear. We may then have you leave
18 during the Ashford Promise time period, no cost, no
19 financial aid, no transcript, no record of failure.
20 Because you don't want people walking away from this
21 experience with a sense of failure or with an
22 obligation.

23 Q. So you mentioned a moment ago not everybody
24 graduates. So for those that don't graduate, is there
25 any value in their attendance at Ashford University?

26 A. I think so. The fact -- first of all, the
27 value, you're making progress. You may be back -- we
28 see lots of people come back later, two years later,

1 three years later.

2 The second is, you're learning things that can
3 apply because you typically -- nontraditional students
4 typically take a major related to their employment or
5 employment plans. You -- a lot of our students transfer
6 and transfer very well. We hear very few real transfer
7 problems.

8 And like one of the earlier witnesses said,
9 it's -- it's an interesting art form. You might have 60
10 credits, and they might only take 50. It depends on the
11 receiving institution.

12 I'll give you a quick thumbnail. The
13 University of Maine Land Grant with its engineering
14 programs would not accept calculus from the University
15 of Maine Fort Kent, didn't feel that it covered enough
16 chapters. That's a faculty decision. That didn't make
17 transfers of electives.

18 So it's tricky business, but you have credits
19 you can transfer.

20 So you make some progress. You learn more
21 about yourself, and if you're not ready, then maybe it's
22 a good thing to stop for a while, but -- or life gets in
23 the way, it's a good thing you stop for a while, which
24 is why we try to make it so easy to come back in.

25 Q. The Attorney General presented an expert this
26 morning who testified in her belief that an Ashford
27 education was of no value to a student, at least in the
28 College of Education.

1 Do you agree with that?

2 MS. FOODMAN: Objection. Lacks foundation.
3 Misstates testimony.

4 THE COURT: Yeah, lay a foundation to that,
5 Counsel.

6 BY MR. YEH:

7 Q. Were you present in the courtroom when
8 Dr. Cellini was testifying today?

9 A. Yes.

10 Q. Did you agree with her opinions?

11 A. No.

12 MS. FOODMAN: Objection. Overbroad.

13 THE WITNESS: Sorry.

14 THE COURT: Hold on. Sustained. Overbroad.
15 Yes.

16 MS. FOODMAN: Move to strike
17 Dr. Pattenau's --

18 THE COURT: Did he answer? He did.
19 Sustained. Stricken.
20 Question.

21 BY MR. YEH:

22 Q. Did you agree with Dr. Cellini's opinion that
23 an Ashford education has no value to a student who
24 doesn't earn more than what -- what it cost them?

25 MS. FOODMAN: Objection. Lacks foundation.

26 THE COURT: Overruled.

27 THE WITNESS: No, I disagree.

28 ///

1 BY MR. YEH:

2 Q. why?

3 A. I saw that analysis view value of education
4 only as a salary component with a very, very interesting
5 set of assumptions, because I know the value of an
6 education goes well beyond salary.

7 A value of education, some of the things I
8 talked about, about pride, about accomplishment, about
9 role modeling for a family, about being the first to
10 complete in an extended family, about pride and
11 confidence and bringing on new life skills, all those
12 things that occur both inside and outside the classroom.
13 The soft skills are a very -- very large part of this
14 too.

15 So I think there's a lot of value to a
16 college. You mature there. You network. You get
17 business relationships, friends. All of that is part of
18 what is the value of a college experience.

19 MS. FOODMAN: Objection. Move to strike
20 Dr. Pattenaude's answer as improper opinion testimony.

21 THE COURT: Response, defense?

22 MR. YEH: Dr. Pattenaude has had 47 years of
23 teaching experience. Dr. Cellini has not. He is more
24 qualified to talk about his own personal opinion about
25 the value of education to his students. That's all
26 we're asking about.

27 THE COURT: No, I understand.

28 MS. FOODMAN: If I could, Your Honor.

1 MR. YEH: It's not a rebuttal to Dr. Cellini.
2 I asked him the question about how he -- how he views
3 value relative to that presented with respect to salary.

4 MS. FOODMAN: And I would say, Your Honor, the
5 direct question was whether he agreed with Dr. Cellini's
6 opinion, and he's commenting on her assumptions, among
7 other things.

8 THE COURT: You're -- hold on. Not hold on.
9 Are you finished?

10 MS. FOODMAN: Yes, Your Honor.

11 THE COURT: That would be opinion testimony as
12 to the expert. Sustained. Stricken.

13 Question.

14 BY MR. YEH:

15 Q. Let's talk about the collaboration between
16 Ashford University and Bridgepoint, which is now Zovio.
17 During your nine years at Ashford University, did you
18 have an opportunity to work with personnel at
19 Bridgepoint?

20 A. All the time.

21 Q. In what ways?

22 A. Well, the two institutions or two entities are
23 intertwined. I always used to tell my folks, "We're a
24 university that happens to be inside a business." I
25 report to a board that Bridgepoint has about half the
26 seats on it. But we are like Chevrolet inside of
27 General Motors, so we have to pay attention to the --
28 what the corporation is up to.

1 Plus, more importantly, they provided all
2 kinds of services to us: Legal, HR, marketing,
3 compliance. And we -- we were very dependent upon the
4 relationship between the two entities.

5 They had another university, University of the
6 Rockies, and that similar relationship. But again, I
7 was a part of the Bridgepoint family, and my role was to
8 run the Ashford University part of the family.

9 Q. In your experience at Ashford working with the
10 people at Bridgepoint, did you believe that there were
11 shared values between the two organizations?

12 A. Shared values, yes.

13 Q. What kind of shared values?

14 A. Transparency, students first, effectiveness,
15 efficiency, making a difference in people's lives.

16 Q. You mentioned "students first." What was it
17 about "students first" being a shared value with
18 Bridgepoint?

19 MS. FOODMAN: Objection. Vague.

20 BY MR. YEH:

21 Q. Why did you identify --

22 THE COURT: Sustained. Go ahead.

23 BY MR. YEH:

24 Q. Why did you identify "students first" as a
25 shared value?

26 A. That was part of the culture. It was part of
27 the language. I always told everybody who worked for
28 me, "When in doubt and you're not sure what to do, do

1 what's right for the student." I heard the same thing
2 from Bridgepoint all the way up to the top. Because
3 Andrew Clark is the CEO. He believes -- he's an
4 educator. He believes that he's making a difference in
5 people's lives. He is committed to what the institution
6 is doing. He's also a hardheaded businessman, which is
7 just part of his role.

8 So "students first" was pervasive. Why did we
9 have -- why did we have a complaint department, a big
10 complaint department? Because we have lots and lots of
11 students. Is because we took all of the complaints very
12 seriously.

13 Q. And was student success something that was
14 important both to Ashford and to Bridgepoint in terms of
15 your observation?

16 A. Well, it's inherent, but it's also a very
17 important part of accreditation. And the expectations
18 that you are a university and students should be
19 learning, that's the first part of success. Completing
20 courses, that's another part of success. Growing in
21 terms of their internal confidence and then graduating
22 hopefully. That's always hard, particularly with a
23 student group.

24 But students first was how we looked at what
25 we did and -- and -- and it's a value that if you add
26 here to it, then you're not going to make a -- a bad
27 mistake.

28 Q. So if a student failed, was that considered a

1 profitable student?

2 A. No.

3 MS. FOODMAN: Objection.

4 BY MR. YEH:

5 Q. Why not?

6 MS. FOODMAN: Incomplete hypothetical.

7 THE COURT: Sustained. Sorry. Stricken.

8 BY MR. YEH:

9 Q. Did the university consider a -- a student
10 failure to be a profitable business venture?

11 MS. FOODMAN: Objection. Leading.

12 Foundation.

13 THE COURT: Counsel, I don't understand it.
14 Can you rephrase? Sustained.

15 MR. YEH: I'll rephrase the question.

16 BY MR. YEH:

17 Q. What does "student success" mean?

18 MS. FOODMAN: Objection. Asked and answered.

19 THE COURT: Overruled.

20 Go ahead.

21 THE WITNESS: Well, "student success" means
22 learning, completing courses, completing your program,
23 growing as a person, gaining opportunities. And we
24 always -- success was very important. Also because we
25 had a concept: what is -- what is the lifetime value of
26 a student?

27 You spend a lot of energy and a lot of money
28 getting the student to come to the institution. The

1 longer they stay, the better it is for the institution
2 because they're paying tuition, they're being
3 successful. We get a lot of referrals. They're
4 recruiting their friends.

5 So we wanted students to stay as long as
6 possible. That's why we always put so much energy into
7 being -- trying to be supportive to students.

8 BY MR. YEH:

9 Q. So the longer they stay, the more profitable
10 it was for the university?

11 MS. FOODMAN: Objection. Leading.

12 THE COURT: All right. Sustained. Stricken.

13 BY MR. YEH:

14 Q. How important was it to find students that fit
15 Ashford's philosophy?

16 MS. FOODMAN: Objection. Vague.

17 THE COURT: Do you understand the question,
18 Doctor?

19 THE WITNESS: I'm not quite sure I do.

20 THE COURT: Thank you.

21 BY MR. YEH:

22 Q. You mentioned the SIC, the student inquiry
23 center.

24 A. Yeah.

25 Q. They perform a screening function. What was
26 the purpose of that type of process?

27 A. To avoid misleading students, to avoid
28 students thinking they should be here, to avoid students

1 who shouldn't be here coming in. Very fundamental
2 stuff. To avoid wasting our time and money. Because
3 students who start a class, fill it up, take somebody
4 else's seat and then don't finish, cost you money.

5 So you -- no matter where you are, what kind
6 of institution you're at, you want students who you
7 think are going to be successful.

8 Q. Are there any financial benefits to students
9 who drop out?

10 MS. FOODMAN: Objection. Overbroad.

11 THE COURT: Sustained. Yeah.

12 BY MR. YEH:

13 Q. Is there any financial benefit to students who
14 don't pay?

15 A. Who --

16 MS. FOODMAN: Objection. Overbroad.

17 THE COURT: Sustained. Zero in, Counsel.

18 BY MR. YEH:

19 Q. In your tenure at Ashford University,
20 Dr. Pattenau, did you find that retention had any
21 impact on profitability?

22 A. Retention was important for profitability.

23 Q. In what way?

24 A. Again, it's -- the old saying in higher
25 education: "It's less expensive to keep a student than
26 to go find a new one." So generally, wherever you are
27 in higher education, you would like to retain your
28 students.

1 Secondly is that it gives -- it's how you
2 judge yourself a little bit. Like if we're good, we'll
3 get these students through, or at least far enough
4 along. And you don't -- and it -- it's -- it's a
5 financial loser to have students drop out. And so
6 just --

7 Q. You mentioned earlier --

8 A. I'm sorry.

9 Q. -- Dr. Pattenaude, that Ashford and
10 Bridgepoint worked together quite often?

11 A. Yes.

12 Q. Did you consider them as a team?

13 A. Yes.

14 Q. How did they work together? You mentioned
15 providing centralized services. Can you describe for
16 the Court what you mean by that?

17 A. well, it -- the working together occurred at
18 several levels. There were these -- I will call them
19 "contractual services, centralized," and so you have a
20 large centralized entity, Bridgepoint.

21 They have all of the HR folks, all of the
22 training folks, all of the marketing resources, all of
23 the PR resources, and it goes on and on.

24 We would purchase those with the internal kind
25 of price each year, so there would be a transfer of
26 resources from Ashford to Bridgepoint for these
27 services.

28 At the next level up, we had a lot of

1 co-management. So you would have a team that's looking
2 at compliance or a team that's looking at accreditation.
3 People from Bridgepoint would be there. People from
4 Ashford would be there. Work together.

5 So there was a lot of teamwork because some
6 expertise -- some expertise was at Ashford. Some
7 expertise was at Bridgepoint.

8 Then at the highest levels -- I met with
9 Andrew Clark every week, talk about how things are
10 going, our senior executives, all the VPs that reported
11 to me and the senior VPs reported to him. We met every
12 couple weeks to talk about how things are going.

13 So there was like a little mind meld so that
14 we would stay -- they were also responsible -- we would
15 say, "We want a new program in cybersecurity." Course
16 development occurred at Bridgepoint. Then training for
17 the new folks occurred at Bridgepoint. Building the
18 software for it occurred at Bridgepoint. Faculty at
19 Ashford delivered the program.

20 Q. How did Ashford and Bridgepoint work together
21 in terms of enrollment and admissions?

22 A. Enrollment and admissions?

23 Q. Yes.

24 A. Bridgepoint was responsible for all marketing
25 and for generating leads or prospects, as we called
26 them, in the public sector. Same idea. And that -- and
27 then delivering them to admissions for review and
28 consideration.

1 So student inquiry center reports to
2 Bridgepoint. Admissions reports to me. So, first of
3 all, we -- they've got to be on the same page, and they
4 spend a lot of time talking to each other and a lot
5 of -- a lot of policies and procedures.

6 We would meet regularly to discuss admissions
7 and to discuss enrollment because that's really at the
8 heart of a successful university. And they would offer
9 advice, and I would offer advice. And they would offer
10 data, and I would offer data. And we would have
11 these -- come to -- come to agreements on should we hire
12 more of these folks or should we move forward with those
13 folks or should -- what should we do? Should we close
14 this program? Those conversations were shared
15 conversations.

16 Q. So just to be clear, training and marketing
17 for enrollment occurred at Bridgepoint?

18 A. Yes.

19 MS. FOODMAN: Objection. Leading.

20 MR. YEH: I'm just summarizing, Your Honor.

21 THE COURT: Overruled.

22 THE WITNESS: Excuse me. Yes.

23 BY MR. YEH:

24 Q. And enrollment and admissions occurred over at
25 Ashford?

26 MS. FOODMAN: Objection. Misstates testimony.

27 THE COURT: Sustained. Re- -- no, no.

28 Sustained based on previous testimony.

1 Go.

2 BY MR. YEH:

3 Q. Where was enrollment and admissions -- who had
4 responsibility for enrollment and admissions? Ashford
5 or Bridgepoint?

6 A. Ashford had responsibility for admissions
7 counselors.

8 Q. With respect to compliance, can you describe
9 for the Court how compliance worked between the two
10 organizations?

11 A. Well, I had never in my life encountered a
12 formal compliance operation, so I was curious about it.
13 It was at Bridgepoint. It stood alone, and they were
14 very protective of their alumnus.

15 They -- it was a pretty large operation, dealt
16 with meeting state regs, meeting federal regs, policing
17 the admissions process, several -- a number of lawyers,
18 a number of professionals, tech people, all that.

19 So compliance was a very serious business at
20 Ashford and Bridgepoint. Bridgepoint executed it for
21 us.

22 Q. And the compliance function was housed only at
23 Bridgepoint; is that --

24 A. Yes.

25 Q. Am I understanding your testimony correctly?

26 A. Yes.

27 Q. So they were independent from the Admissions
28 Department that you were managing at Ashford?

1 MS. FOODMAN: Objection. Leading.

2 THE COURT: Sustained. Leading.

3 BY MR. YEH:

4 Q. Did you consider them to be independent from
5 what you were doing in the Admissions Department at
6 Ashford?

7 A. Well, their work is very important to us, but
8 they were not part of admissions.

9 Q. Understood.

10 You mentioned a moment ago that the Compliance
11 Department focused on regulations that might apply to
12 admissions counselors. Can -- in your experience while
13 at Ashford, were there any regulatory obligations under
14 which you had to operate?

15 MS. FOODMAN: Objection. Vague.

16 THE COURT: Sustained.

17 BY MR. YEH:

18 Q. Did you have --

19 THE COURT: Go ahead.

20 MR. YEH: Sorry. I'll rephrase the question.

21 BY MR. YEH:

22 Q. Did you have any understanding that Ashford
23 was under any regulatory obligations under which Ashford
24 had to operate?

25 MS. FOODMAN: Objection. Vague.

26 THE COURT: Yeah.

27 MS. FOODMAN: Overbroad.

28 THE COURT: And I don't understand that

1 question, so sustained.

2 BY MR. YEH:

3 Q. What kinds of regulations were involved in the
4 operations of Ashford?

5 MS. FOODMAN: Objection. Overbroad.

6 THE COURT: No. Overruled.

7 You're the president.

8 THE WITNESS: Like any university, there's --
9 there are layers of regulatory oversight of the
10 institution. We start with the federal government, the
11 rules, the Department of Education, the Veterans
12 Affairs, Health and Human Services that you have to
13 comply with.

14 Every institution that's accredited has a
15 regional accreditor who has a set of rules and
16 regulations, very thick book, like a hundred
17 different -- then you have a state level of oversight,
18 BPPE, Bureau of Postsecondary Education.

19 And -- and so then you have your own internal
20 kind of regulatory activities, which, like the
21 compliance officers, were essentially regulatory for us
22 internally.

23 Universities, particularly public -- private
24 universities, particularly private, for-profit
25 universities, are highly regulated entities.

26 BY MR. YEH:

27 Q. All right. Dr. Pattenau, I want to break
28 those down into separate topics.

1 A. Okay.

2 Q. Let's talk about the federal rules and
3 regulations that applied to Ashford during your tenure.

4 what kinds of federal -- and I believe you
5 mentioned Department of Education -- rules and
6 regulations applied to Ashford?

7 A. What's the definition of a transfer credit?
8 It was the definition generated at the federal level.
9 How do you handle sexual harassment cases? Those rules
10 come from the federal level. Who's a witness that can't
11 be a witness? Department of Education also has policies
12 on trans -- on transfer itself. How many credits can
13 you transfer in an institution?

14 So the Department of Education is a very busy
15 little place, producing lots of regulations governing
16 higher education. There are other entities at the
17 federal level, of course, that are doing this also.
18 Veterans Affairs, Health and Human Services.

19 It's -- it's -- we had specialists who at --
20 for each level, and every -- we delivered to 47 states,
21 so we also had to understand the regulatory environment
22 in 47 states.

23 Q. So on the federal level, the Department of
24 Education regulations specifically, were there any
25 regulations that governed the kinds of statements you
26 can make to students?

27 A. Oh, yes.

28 Q. What kinds of regulations?

1 A. You can't make misleading statements. You
2 can't make false statements. There -- there is this --
3 at -- the accreditors are really big on this. But at
4 the federal level, there's the expectations that you'll
5 be truthful to your students. I don't know exactly
6 where that reg is. There's lots of -- the regs come and
7 go. But there's expectation that you will be
8 straightforward.

9 Q. And what is the impact of those rules and
10 regulations on the operations of Ashford?

11 A. The basic impact is, "Don't break the rules."
12 There's a price for breaking the rules. And so why do
13 we have such a large operation over there with all these
14 states and the feds and all that and all of the eyeballs
15 on online education at the time? Because it is
16 detrimental to the operation of the institution to be
17 breaking rules.

18 Q. And what is the price for breaking rules?

19 A. You can be -- you can be asked to stop doing
20 that, stop doing that program.

21 For example, if there's -- there's also
22 licensure for nationally -- professional degrees. You
23 can end up in court with people disagreeing with you.
24 You can be fined. You can lose your accreditation. You
25 can get a bad reputation. There's all kinds of prices
26 for running an outlaw kind of rule -- an organization
27 that doesn't listen to and abide to -- by rules. Sorry.

28 Q. So let's talk about the -- strike that.

1 Are there rules for funding loans?

2 MS. FOODMAN: Objection. Vague. Leading.

3 THE COURT: Yeah. Both. Sustained.

4 MR. YEH: Let me rephrase the question,
5 Your Honor.

6 BY MR. YEH:

7 Q. Did you encounter any rules or regulations
8 from the Department of Education relating to financial
9 aid?

10 A. The financial aid regulations book was
11 probably 3 inches thick. Everything about how you do
12 it, what the FAFSA is. The FAFSA changes every year.
13 The regs change every year.

14 So you have a whole department who is nothing
15 but experts on financial aid policy. What is eligible
16 for -- what kind of -- what kind of student to spend
17 money on? How does the money come down? What are the
18 disbursement rates? What are the disbursement dates?

19 So there's a great deal of regulatory activity
20 in financial aid.

21 Remember, universities don't have Pell money.
22 It's passed through from the federal government.
23 Universities don't make federal loans. It's passed
24 through from the government.

25 So financial aid was really -- had to be
26 responsive to how the federal government saw things,
27 because the federal government was making these
28 decisions, and then you had to abide by the rules or you

1 didn't get the money for the students.

2 Q. Were there any rules with respect to full
3 tuition grants?

4 MS. FOODMAN: Objection. Leading.

5 THE COURT: Sustained.

6 BY MR. YEH:

7 Q. Do you know of any rules related to federal --
8 or full tuition grants?

9 MS. FOODMAN: Same objection.

10 THE COURT: Overruled.

11 THE WITNESS: Not -- not -- well, it's a
12 little arcane. Full tuition grants are typically
13 limited by institutions to 5250, \$5,250, because that's
14 the maximum amount that a corporation can claim as an
15 educational expense during a given year.

16 So that was -- when we were doing B to B, it's
17 called, business to business, that would be a full
18 tuition grant.

19 So, yes, there are controlling factors about
20 full tuition grants.

21 BY MR. YEH:

22 Q. Dr. Pattenau, do you -- to your knowledge,
23 has the California Attorney General ever filed a
24 complaint with the Department of Education regarding
25 their rules and regulations as practiced at Ashford?

26 MS. FOODMAN: Objection. Vague.

27 BY MR. YEH:

28 Q. To your knowledge.

1 MS. FOODMAN: And relevance.

2 THE COURT: Hold on. Proper inquiry, but
3 that's vague, Counsel.

4 BY MR. YEH:

5 Q. Do you personally know if the California
6 Attorney General has ever filed a complaint with the
7 Department of Education regarding Ashford and any
8 violation of its rules or regulations?

9 A. I do not.

10 Q. Let's talk about the regional regulators.
11 WASC, I think you referred to. What is WASC?

12 A. They've renamed themselves, but WASC was the
13 Western Association of Schools and Colleges. It's one
14 of the six regional accreditors across the United
15 States.

16 Q. And how does accreditation work, if you can
17 just describe it very briefly?

18 A. Universities agree to abide by the rules and
19 regulations and expectations of the accreditor. The
20 accreditor -- every ten years at a minimum -- at a
21 minimum -- for us it was every three years -- you write
22 a big report telling them what you do. They put
23 together an outside independent team, reads the report,
24 comes and visits, crawls through all your materials and
25 your papers, writes a report to the commission, which is
26 made up of peers, 20 peers, and then that commission
27 decides whether or not to award you with accreditation.

28 And if the accreditation has any, "we'll be

1 back in two years for a special visit," "We'll be back
2 in five years and we want you to look at these four or
3 five things."

4 And then if you receive accreditation, that
5 maintains your eligibility for federal financial aid.
6 It also allows you to say on your website that you're an
7 accredited institution and also for you to tell
8 interested students that you're an accredited
9 institution, that you have met the rules and regulations
10 of WASC.

11 Q. What's the importance of federal financial aid
12 for a university?

13 A. Every university in the country is highly
14 dependent upon federal financial aid, and Ashford is
15 certainly one, particularly given the income profile of
16 our students, which tends to be a lower income level,
17 and as a result, it was very important to our students.

18 MS. FOODMAN: Objection. Lacks foundation
19 with respect to the first sentence, "Every university in
20 the country is highly dependent on financial aid."

21 THE COURT: Yes. Sustained. Foundation.
22 Go.

23 BY MR. YEH:

24 Q. Dr. Pattenaude, you've had 47 years of
25 teaching experience; is that right?

26 A. Uh-huh.

27 Q. And that includes administrative experience as
28 well; is that right?

1 A. Yes.

2 Q. Okay. Have you -- have you -- during your
3 47 years of professional experience, have you had
4 occasion to deal with accreditation issues throughout
5 those 47 years?

6 A. Yes.

7 Q. How often?

8 A. Based -- I would say over the last 25 years,
9 every five years.

10 Q. And why is financial aid -- why is federal
11 financial aid so important to universities via
12 accreditation?

13 MS. FOODMAN: Objection. Vague. Overbroad.
14 Leading.

15 THE COURT: I'm going to overrule it. Again,
16 there's a big distinction on the one he had you compare,
17 Doctor, from the -- which was like two or three
18 questions ago. This is kind of a more general question.
19 So I don't want to hear a comparison, because I don't --
20 I sustained that. This is just a general question.

21 Do you understand?

22 THE WITNESS: Yes, sir.

23 THE COURT: Overruled.

24 THE WITNESS: Federal financial aid is the
25 primary source of financial aid for institutions in the
26 United States.

27 MS. FOODMAN: Objection. Lacks foundation.

28 THE COURT: Yeah, I'm going to sustain that,

1 foundation, Counsel.

2 MS. FOODMAN: Move to strike.

3 THE COURT: Stricken.

4 BY MR. YEH:

5 Q. Would students have access to funding for
6 tuition at Ashford University if Ashford wasn't
7 accredited?

8 MS. FOODMAN: Objection. Vague, "access to
9 funding."

10 MR. YEH: Federal funding.

11 THE COURT: Yeah, yeah, rephrase it. Proper
12 inquiry. Rephrase.

13 BY MR. YEH:

14 Q. Would students have access to federal funding
15 for tuition at Ashford University if Ashford -- Ashford
16 wasn't accredited?

17 A. No.

18 Q. You said WASC was a regional accreditor. What
19 area -- what region does WASC cover?

20 A. WASC covers all of California and Hawaii,
21 four-year institutions of -- institutions. There's a
22 separate commission for community colleges.

23 Q. And does WASC accredit only nontraditional
24 universities?

25 A. Oh, no, all universities.

26 Q. What kinds of other universities are
27 accredited by WASC?

28 A. Trying to avoid examples, I don't know, but

1 every institution that offers a degree is eligible for
2 accreditation, a four-year degree, from WASC. And so
3 you have everything from USD to Stanford to Cal Berkeley
4 to other institutions, University of Redlands. All of
5 those institutions, all types of institutions that are
6 offering degrees need the accreditation from WASC.

7 Q. Let's talk about the process of accreditation
8 that you went through with respect to Ashford; is that
9 okay?

10 Let me direct your attention to Exhibit 929.
11 (Court's Exhibit No. 929, Letter from Ralph A.
12 Wolff, President of WASC to Richard
13 Pattenaude, President and CEO of Ashford
14 University, first identified.)

15 THE WITNESS: Got it.

16 BY MR. YEH:

17 Q. Dr. Pattenaude, what is Exhibit 929?

18 A. Exhibit 929 is a letter from WASC to me
19 following up on our accreditation process and visit in
20 2013 and the commission's decision indicating their
21 decision and the factors they would like us to consider
22 when they return.

23 Q. Now, you received this document in 2013?

24 A. Yes.

25 Q. You recognize this as a true and correct copy
26 of the letter you received from WASC?

27 A. Yes.

28 MR. YEH: Your Honor, offer 929 into evidence.

1 MS. FOODMAN: Objection. Hearsay.

2 THE COURT: First of all, it's hearsay. I'm
3 just thinking if there's an exception because this is a
4 letter he personally received. Give me one minute.

5 MR. YEH: Business record, Your Honor. Not
6 offered for the truth of the matter asserted.

7 THE COURT: That did it.

8 MR. YEH: Course and conduct.

9 THE COURT: Thank you. It's not being offered
10 for the truth of the admitted -- truth as contained
11 within the report. With that being said, overruled.

12 Go.

13 MR. YEH: Permission to publish, Your Honor?

14 THE COURT: You may.

15 MR. YEH: Thank you. Is it admitted,
16 Your Honor?

17 THE COURT: It is. I'm sorry.

18 (Court's Exhibit No. 929 received into
19 evidence.)

20 MR. YEH: I didn't hear you say "received."
21 First one.

22 BY MR. YEH:

23 Q. Dr. Pattenaude, can you describe what was
24 happening with respect to accreditation before you
25 received this letter?

26 MS. FOODMAN: Objection. Overbroad. Vague.

27 THE COURT: Sustained.

28 ///

1 BY MR. YEH:

2 Q. Had Ashford received accreditation prior to
3 July of 2013?

4 A. Ashford had received accreditation for over a
5 decade from HLC, the Higher Learning Commission, and
6 then in 2011 decided it wanted to change accreditors
7 because of the majority of our workers had moved to
8 California putting us under the oversight of WASC.

9 Their first application for WASC accreditation
10 was denied in July of 2013 -- 2012, excuse me, for a
11 variety of reasons, which were listed in that particular
12 letter, a similar letter, whereupon Bridgepoint and
13 Ashford began to look for new leadership in order to
14 respond to the accreditation decision.

15 Q. So Ashford --

16 THE COURT: Can you hold just for a second?

17 MR. YEH: Yes, Your Honor.

18 THE COURT: And, Counsel, we're going to have
19 to take just a five-minute recess so I can do my
20 4:00 o'clock matter. They're online right now.

21 So, Doctor, if you could wait outside and then
22 be back in this chair in five minutes, and we'll keep
23 rolling.

24 THE WITNESS: Yes, sir.

25 THE COURT: Thank you, sir.

26 Counsel, we're going to be in recess for five
27 minutes so I can do another case.

28 MR. YEH: Thank you, Your Honor.

1 (Recess.)

2 THE COURT: Back in session. Let the record
3 reflect the parties, the attorneys are present.

4 Mr. Yeh, you may continue, sir.

5 MR. YEH: Thank you, Your Honor.

6 BY MR. YEH:

7 Q. Dr. Pattenau, just to reorient us in terms
8 of the timeline, you mentioned before we took our break
9 that Ashford had previously been accredited by HLC?

10 A. Higher Learning Commission, which is the
11 regional accreditor for sort of the center, Rocky
12 Mountain areas of the country.

13 Q. I see. So Ashford was switching its
14 accreditation center --

15 A. Yes.

16 Q. -- for lack of a better phrase?

17 A. Yes.

18 Q. I see. And so prior to receiving this
19 July 10, 2013 letter, can you describe for us what the
20 accreditation status was with WASC at that time?

21 A. We were still with HLC. We were in
22 application to WASC, and that was under consideration,
23 so with a specific due date, I think six months or so,
24 to get a report to them addressing the issues they had
25 raised.

26 Q. And did the university provide that report to
27 WASC?

28 A. Yes.

1 Q. And what was WASC's response to that report?

2 A. Well, the report, of course, included a visit
3 prior to -- oh, we submitted -- what you do is you
4 submit a report, a big, fat, thick report, everything
5 you can think about, but particularly related to issues
6 in this letter, that were alluded to in this letter.

7 And then WASC comes with a team and knocks on
8 the door, visits, stays for two or three days, talk to
9 anybody they want, do anything they want, see anything
10 they want.

11 The WASC seemed pleased with the report. It
12 addressed the issues they had raised, pleased with the
13 visit. They got to see the things they wanted to see
14 and felt it was well-organized. There's comments that
15 come back to you on that.

16 So it was what I would consider a very good
17 application and visitation and submission process.

18 Q. And let me direct your attention -- let's -- I
19 want to talk about that process a bit more in detail --

20 A. Sure.

21 Q. -- for a moment. I want to direct your
22 attention to Exhibit 929, the very first page and the
23 second paragraph, second sentence where the commission
24 tells you that: "As more fully described below, the
25 commission has acted to grant initial accreditation to
26 Ashford University for five years, until July 15, 2018;
27 to make recommendations for further strengthening of the
28 university and sustaining its improvements; and to

1 request a special visit in spring 2015 to monitor
2 progress with respect to the recommendations made in
3 this letter and the team report."

4 And that's the process you were just
5 describing in your report --

6 MS. FOODMAN: Objection.

7 BY MR. YEH:

8 Q. -- is that right?

9 MS. FOODMAN: I renew my hearsay objection to
10 the extent this letter is now, it appears, being offered
11 for the truth.

12 THE COURT: So noted. Overruled.

13 BY MR. YEH:

14 Q. I want to talk about the -- is that correct?

15 A. Yes.

16 Q. That's the process?

17 There's a description in the evaluation
18 process, and I want to talk about your experience with
19 that evaluation process as you experienced it during
20 that time.

21 Down at the bottom of page 1, do you see where
22 it says "The evaluation process"?

23 A. Yes.

24 Q. "The evaluation process used for this special
25 visit was extensive and involved multiple stages."
26 would you agree with that statement?

27 A. Yes.

28 Q. And you mentioned a reapplication report.

1 How -- how extensive -- strike that.

2 How detailed was that reapplication report
3 submitted by the university?

4 A. Very detailed.

5 Q. How long did it take for the university to
6 prepare that report?

7 A. Fully, the six months that they were afforded
8 to do that. It was -- when I arrived in October 2012,
9 it was almost -- the first draft was almost done.

10 Q. And when you -- were you involved in preparing
11 that report?

12 A. Yes.

13 Q. What was your involvement?

14 A. I reviewed it, edited it, suggested, you know,
15 additional information as needed in terms of the
16 submitting of the report and made sure we had covered
17 effectively what they had asked us to cover.

18 Q. On page 2 of Exhibit 929 at the very top, it
19 mentions that the June commission was evaluating, quote,
20 whether it was "proceeding with a site visit in spring
21 2013."

22 Was a site visit done at Ashford --

23 A. Yes.

24 Q. -- by WASC?

25 A. Excuse me. Yes.

26 Q. How many people from WASC -- strike that.

27 Was that site visit on site at the Ashford
28 campus?

1 A. Yes.

2 Q. How many people from WASC showed up?

3 A. Well, it depends on what you mean by "from
4 WASC." I think there were two WASC employees and then
5 about a five- or six-person team made up from
6 administrators and faculty from other universities.

7 Q. And were there any offsite reviews?

8 MS. FOODMAN: Objection. Vague.

9 THE COURT: Sustained.

10 BY MR. YEH:

11 Q. Well, let me direct your attention to the
12 second-to-last sentence in that top paragraph starting
13 with "since." That reads, "Since the most current
14 evidence possible was needed, WASC staff arranged for a
15 preliminary offsite review, the purpose of which was to
16 identify special [sic] items of updated and new
17 evidence."

18 Do you know what that's referring to?

19 A. Yes.

20 Q. What is that referring to?

21 A. Prior to the actual visit, we had -- we had
22 a -- a -- a gathering where we talked about what the
23 visit was about and I could inquire about their
24 expectations. Then the chair is named, and then you
25 had -- you have a phone conference with the chair.
26 These are all -- I traveled to WASC headquarters to talk
27 to Ralph, who signed this, and that was off-site. So --

28 Q. I see.

1 A. -- before the team comes on board, there's a
2 fair amount of consultation that goes on to make sure
3 that everybody's talking about the same thing.

4 Q. Okay. And is data provided to the WASC team?

5 MS. FOODMAN: Objection. Vague.

6 THE COURT: Sustained.

7 BY MR. YEH:

8 Q. Did WASC ask for any kind of information from
9 Ashford prior to its visit?

10 A. Yes.

11 Q. What kind --

12 MS. FOODMAN: Objection. Overbroad.

13 THE COURT: Overruled.

14 BY MR. YEH:

15 Q. What kind of information?

16 A. Every accreditation comes with a set of data
17 expectations defined by WASC. They -- and it's a rather
18 thick attachment, which was really an important part of
19 describing the institution to them, so they had --
20 everything from enrollment to finances, to staffing, to
21 compliance, to how the governance system works, the
22 mission of the board, lots and lots and lots of
23 attachments.

24 But really at the heart of it is a set of data
25 requirements that extend to all institutions. The data
26 requirements on a ten-year or five-year review are a bit
27 larger than the data requirements for a special review,
28 which this was, but still a considerable amount of data.

1 Q. What kind of data was asked for with respect
2 to compliance?

3 A. Well, they want --

4 MS. FOODMAN: Objection. Lacks foundation.

5 THE COURT: Overruled.

6 THE WITNESS: They certainly wanted to know
7 how our compliance system worked. I don't know if they
8 fully understood it. Remember, this is a different
9 team. This is a different team. This is not the team
10 that visited us -- visited before I came.

11 So one of the -- in one of the conversations,
12 they say, "Please make sure we understand your
13 compliance operation." So we had a section of the
14 report that was rather detailed on compliance and what
15 the status of compliance was at that time, because it
16 continued to grow and mature.

17 BY MR. YEH:

18 Q. And did -- did Ashford provide the WASC team
19 everything that was requested of them?

20 A. Yes.

21 Q. Did you withhold anything?

22 A. No.

23 Q. And you -- when you say "data was provided to
24 them," what kind of data are you talking about? Are you
25 talking about data in spreadsheets, or are we talking
26 about documents as well, policies, procedures, written
27 data?

28 MS. FOODMAN: Objection. Excuse me.

1 Objection. Compound. Leading.

2 THE COURT: Sustained. Both.

3 BY MR. YEH:

4 Q. What kind of -- what did you -- what do you
5 mean by "data"?

6 A. There are several types of data. One was -- a
7 body was describe the operation of the organization,
8 how -- you know, how those processes work, what's the
9 enrollment, what's the -- how is that going along? A
10 fair amount on retention.

11 And one of my jobs was to make sure that the
12 data were thorough, organized, and understandable and
13 came -- and did not have any internal contradictions,
14 which was one of the problems before.

15 Q. I see. And so how long of a process was that,
16 to collect the data that was requested by WASC and
17 provide it to them?

18 A. Well, we did it in two stages. You first
19 provide the attachments to the report that was
20 submitted, I don't know, in February or something like
21 that. But then they then come back -- they get the
22 report, and then they come back and go, "We have
23 additional data needs that we want. We want to know
24 about this. We want to know program discontinuance. We
25 want to know about where are you on program review. Can
26 you send us the calendar for program review?" But they
27 came back with 20, 25 items. You submit that.

28 And then when they visit, you have

1 presentations where you -- they ask to learn more about
2 certain things, and you often have data that accompanies
3 that.

4 So it's a -- really a -- it becomes a dynamic
5 process of exchange, and our job was to comply as fast
6 as possible.

7 Q. Did the WASC team members have an opportunity
8 to speak with Ashford employees?

9 A. Oh, yes.

10 Q. What kinds of Ashford employees --

11 A. All kinds.

12 Q. What kind of roles?

13 A. Everything from me, my team, deans, managers.
14 They sat in on -- I think on some of the admissions
15 counsel meetings. They essentially have free run of the
16 institution. They don't have to ask for permission to
17 see anybody. They've got a coordinator, and that person
18 is -- tries to be the communication hub, so I don't know
19 everybody they talk to.

20 Q. And they could walk the floors?

21 A. They could walk the floors, yes.

22 Q. I want to direct your attention to the -- the
23 paragraph in the bottom half of page 2 on 929 stating
24 "Summary of action."

25 A. Okay.

26 Q. And specifically to the second -- I guess it's
27 the second sentence: "while Ashford University is not a
28 new institution, its significant growth as a primarily

1 online institution is recent; the commission reviewed
2 the university under these circumstances and thus
3 applied the criteria for initial accreditation."

4 Do you know if the criteria for initial
5 accreditation is different for an online institution
6 versus a traditional institution?

7 A. A little bit. They ask about processes that
8 may not exist at a traditional institution. But what
9 really they're saying here is that rather than just a --
10 a substantive change, you know, "Oh, you're going to get
11 a new accreditor." "Hi, welcome. Come on in." They
12 view this as an initial accreditation. They viewed
13 Ashford's application to WASC as an initial serious
14 accreditation request.

15 Q. It says -- jump down a couple of sentences
16 there where it starts: "As a result, the commission has
17 acted to grant initial accreditation."

18 And then I want to direct your attention to
19 the last sentence in that paragraph: "The commission
20 has established a monitoring process to verify continued
21 progress and improvement in the university's achieving
22 and going beyond the initial goals set by the
23 university."

24 Do you know what that monitoring process was?

25 A. I don't recall at all. Part of it is, of
26 course, they're going to come back in a year and a half
27 or two. That's a very quick return.

28 Q. I see. So there were follow-up reports that

1 the university had to provide to WASC?

2 MS. FOODMAN: Objection. Leading.

3 THE COURT: Sustained. Leading.

4 BY MR. YEH:

5 Q. Did the university have to provide any
6 follow-up information to WASC?

7 A. We had to keep them informed about what we
8 were doing. It was somewhat informal. The university
9 has an accreditation liaison who is the focal point for
10 all of this, and then WASC has a person assigned that
11 Ashford is part of that person's portfolio so that -- a
12 lot of informal conversations and some reports.

13 Q. Let me direct your attention to page 3, the
14 first full paragraph, specifically the second sentence
15 that starts with "Some of the steps." It says, "Some of
16 the steps, such as the REAL," all caps R-E-A-L,
17 "dashboard, have already demonstrated their value within
18 the university and have the potential to become useful
19 tools for other institutions."

20 what -- what was or what is the REAL
21 dashboard?

22 A. I can't remember what the acronym stands for,
23 but it put in front of a faculty member or advisor a
24 student's work in progress, so it allowed them much
25 more -- more effective ways to monitor student activity.

26 Now, why that could be a useful tool for other
27 institutions, we were -- we were cutting-edge in
28 applying technology to managing academic-quality student

1 progress and so on, to the point that we dominated the
2 presentations at WASC' annual Academic Affairs
3 Conference, because they -- people wanted to know what
4 we were doing, and REAL was one of them. There were
5 several.

6 MS. FOODMAN: Objection, Your Honor. Move to
7 strike as nonresponsive to the question starting with
8 "Now, why that could be a useful tool."

9 THE COURT: Sustained. And we're done because
10 I want to put something on the record, Counsel.

11 You may step down. We're going to see how
12 long -- much longer you're going to be. Step down.

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: Counsel, I want to make it clear
15 on Exhibit 929. It is a hearsay document. Counsel
16 indicated it was not being offered for the truth of the
17 matter asserted. I accepted that. That's why I
18 admitted it.

19 So let's make sure when I hear that testimony,
20 I'm not taking it as truth of what is said in the
21 letter, but his response to what is said in the letter.

22 I hope you make that distinction. That's
23 proper. Not what the letter says, but it's, "Here's
24 what the letter said. What did you do, Doctor?"
25 Everybody got that? I just want to make sure everybody
26 understood that.

27 MR. YEH: Yes, Your Honor. Thank you.

28 THE COURT: And that's for the appellate

1 review too.

2 Now, with that being said, anything for the
3 record? And then we'll talk about tomorrow.

4 Anything for the record, People?

5 MS. KALANITHI: No, Your Honor.

6 THE COURT: Anything for the record, defense?

7 MR. YEH: No, Your Honor.

8 THE COURT: Off the record.

9 (A discussion was held off the record.)

10 (Proceedings adjourned at 4:30 p.m.)

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1 STATE OF CALIFORNIA)
2) SS.
3 COUNTY OF SAN DIEGO)
4

5 I, Christina Lothar, CSR No. 8624, Official
6 Reporter Pro Tempore for the Superior Court of the State
7 of California, in and for the County of San Diego, do
8 hereby certify:

9 That as such reporter, I reported in machine
10 shorthand the proceedings held in the foregoing case;

11 That my notes were transcribed into
12 typewriting under my direction and the proceedings held
13 on December 6, 2021 contained within pages 1 through
14 241, are a true and correct transcription.

15 Dated this 7th day of December, 2021.
16
17

Christina Lothar

(DIGITALLY SIGNED)

Christina Lothar, CSR No. 8624
Official Reporter Pro Tempore
San Diego Superior Court

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25 *** Pursuant to Government Code Section
26 69954(D), any court, party or person who has purchased a
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