

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

<p>In the Matter of:</p> <p>THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK,</p> <p>Employer,</p> <p>And</p> <p>GRADUATE WORKERS OF COLUMBIA-GWC, UAW,</p> <p>Petitioner.</p>	<p>Case No. 02-RC-143012</p>
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The above-entitled matter came on for hearing pursuant to Notice, before AUDREY EVEILLARD, Hearing Officer, at the Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York, 10278, in Room 3607A, on Thursday, April 2, 2015, at 9:30 a.m.

A P P E A R A N C E S

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	<u>I N D E X</u>					
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
1						
2						
3	<u>WITNESS</u>					
4						
5	Kenneth Lang	44	49	59	--	--
6						
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9		86				

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P R O C E E D I N G S

(Time Noted: 9:40 a.m.)

HEARING OFFICER EVEILLARD: On the record.
Mr. Meiklejohn, will you call your first witness, please?
MR. MEIKLEJOHN: Petitioner calls Ken Lang.

HEARING OFFICER EVEILLARD: Mr. Lang, can you come here
and have a seat? Please raise your right hand.
(Whereupon,

KENNETH LANG,

was called as a witness by and on behalf of the Petitioner and,
after having been duly sworn, was examined and testified as
follows:)

HEARING OFFICER EVEILLARD: Please state your name.

THE WITNESS: Ken Lang.

DIRECT EXAMINATION

BY MR. MEIKLEJOHN:
Q L-A-N-G?
A L-A-N-G.
Q Mr. Lang, by whom are you employed?
A The UAW.
Q What is your position with the UAW?
A International representative.
Q How long have you been international representative for
the UAW?
A Ten years. Ten years on May 1st.

1 Q You're looking forward to the anniversary.

2 A No.

3 Q Are you familiar with an organization known as Graduate
4 Workers of Columbia-GWC, UAW?

5 A Yes.

6 Q What is that organization?

7 A That is an organizing committee of student workers at
8 Columbia University seeking to form a union and engage in
9 collective bargaining with the university as part of the UAW.

10 Q How did that organization come into existence?

11 A Over a year ago, actually, two different groups of worker
12 on campus contacted us about their desire to form a union, to
13 do that in conjunction with the UAW. And we started meeting
14 with folks and collaborating on the best strategies to do that.
15 That's how it started.

16 Q Have they been recognized as an organizing committee by
17 the UAW?

18 A Yes.

19 Q You said that student workers participate in this
20 organization. What classifications or name some of the
21 classifications of student workers that participate.

22 A Primarily teaching research assistants. Generally
23 speaking, it's student workers, mostly graduate students, some
24 undergraduates, but that are employed in instructionally or
25 research related positions.

1 MR. MEIKLEJOHN: I'd like this document marked as
2 Petitioner's --

3 HEARING OFFICER EVEILLARD: 13.

4 MR. MEIKLEJOHN: -- 13. Thank you.

5 (Petitioner's P-13 identified.)

6 BY MR. MEIKLEJOHN:

7 Q Can you tell me what Union Exhibit 13 is?

8 A This is the union authorization card that student workers
9 signed as part of the organizing campaign and continue to sign.

10 Q If you look at the bottom half of the front page of this
11 document, there is a listing of names and departments. I'm not
12 asking you to identify the specific individuals, but as a group
13 who are those people?

14 A As a group, those are people who agreed -- who were active
15 members of the organizing committee, agreed to have their name
16 be public and help to sign up their co-workers during the card
17 drive last fall.

18 MR. MEIKLEJOHN: I move the introduction of Petitioner's
19 Exhibit 13.

20 MR. PLUM: No objection.

21 HEARING OFFICER EVEILLARD: It's admitted.

22 (Petitioner's P-13 received.)

23 BY MR. MEIKLEJOHN:

24 Q Does Graduate Workers of Columbia-GWC, UAW, maintain an
25 internet website?

1 A Yes.

2 MR. MEIKLEJOHN: I'd like this document marked as
3 Petitioner's -- are we calling it Petitioner's exhibit or Union
4 exhibits?

5 HEARING OFFICER EVEILLARD: Petitioner's.

6 MR. MEIKLEJOHN: Petitioner's Exhibit 14.

7 (Petitioner's P-14 identified.)

8 HEARING OFFICER EVEILLARD: We all have the same exhibit?

9 MR. MEIKLEJOHN: Yeah. There was only one where I printed
10 out a different page.

11 HEARING OFFICER EVEILLARD: Okay.

12 MR. MEIKLEJOHN: I'm sorry.

13 BY MR. MEIKLEJOHN:

14 Q So is Petitioner's Exhibit 14 a screenshot of that
15 website?

16 A Yes.

17 Q And I guess if you go to the website, are there a series
18 of pictures that sort of scroll around as you stare at your
19 computer screen?

20 A Yes.

21 Q And this is one of those pictures?

22 A Yes.

23 Q Again, I don't know whether we need the specific names of
24 the people, but can you identify who the four people in the
25 picture are as a group?

1 A Yes, those are four of the student workers who, in that
2 particular case, are both involved in the organizing committee,
3 but also were I believe interviewed for a news story about the
4 campaign.

5 Q But they are graduate students?

6 A These are graduate students at Columbia who work as RAs
7 and TAs.

8 MR. MEIKLEJOHN: Move the introduction of Petitioner's 14.

9 MR. PLUM: No objection.

10 HEARING OFFICER EVEILLARD: It is admitted.

11 (Petitioner's P-14 received.)

12 BY MR. MEIKLEJOHN:

13 Q Now on the caption of the document, it makes a reference
14 to Local 2110.

15 A Yes.

16 Q What is Local 2110 and what is its relationship to this
17 website and the organizing campaign?

18 A Local 2110 is an amalgamated local union in the UAW that,
19 among other workers, currently represents support staff at
20 Columbia University and is the intended local union that
21 graduate workers of Columbia would be part of once certified.

22 Q If GWC-UAW is certified, Local 2110 would participate in
23 those negotiations or negotiations on their behalf?

24 A That would typically be the case, yes.

25 Q And that is a decision that will be made by the UAW upon

1 certification or recognition?

2 A Yes.

3 Q Would the graduate students workers at Columbia also
4 participate in those negotiations?

5 A Yes.

6 Q In what manner? How would that take place?

7 A Once recognized or certified in the UAW, the workers elect
8 a bargaining committee from among themselves that would work
9 with UAW representatives in carrying out the contract
10 negotiations.

11 MR. MEIKLEJOHN: No further questions.

12 HEARING OFFICER EVEILLARD: Mr. Plum?

13 MR. PLUM: Yeah. Just a second?

14 HEARING OFFICER EVEILLARD: Sure.

15 CROSS-EXAMINATION

16 BY MR. PLUM:

17 Q Mr. Lang, you signed the petition that started this
18 proceeding?

19 A Yes.

20 Q You know what I'm talking about when I say the petition?

21 A The NLRB petition.

22 Q The NLRB petition.

23 MR. PLUM: I don't know if I have to enter that into
24 evidence.

25 HEARING OFFICER EVEILLARD: I think it's part of Board

1 Exhibit 1.

2 MR. PLUM: It's part of the -- okay.

3 BY MR. PLUM:

4 Q You signed it as international representative. Do you
5 recall that? Would you like to see it?

6 A Sure.

7 MR. PLUM: Do we have a copy of that that we can give the
8 witness?

9 HEARING OFFICER EVEILLARD: The Board exhibit.

10 MR. MEIKLEJOHN: I think it's Board 1(a).

11 HEARING OFFICER EVEILLARD: Go ahead. That's not it.

12 MR. PLUM: It's down on the bottom, on the right-hand
13 side.

14 HEARING OFFICER EVEILLARD: First one -- I mean the very
15 last one. It says A.

16 (Pause.)

17 THE WITNESS: Yes.

18 BY MR. PLUM:

19 Q So that's your signature, Kenneth Lang, international
20 representative?

21 A That is my signature.

22 Q I take it that means international representative of the
23 UAW, correct?

24 A Yes.

25 Q The Petitioner, though, is identified as Graduate Workers

1 of Columbia-GWC, UAW. Do you see that under Item 13?

2 A Yes.

3 Q The reason I take it that you signed as the international
4 representative of the UAW is because the GWC-UAW Local 2110 has
5 no authority to sign the petition, correct?

6 A I signed as the lead organizer on the campaign.

7 Q That's not answering my question. My question was whether
8 the entity called GWC-UAW Local 2110 has authority under the
9 UAW constitution to do anything.

10 A GWC-UAW, as I said earlier, is an organizing committee
11 recognized by the International Union. And I signed on behalf
12 of the International Union, on behalf of that campaign.

13 Q On behalf of the campaign? Is that what you said? I
14 didn't hear.

15 A On behalf of the organizing committee's desire to get a
16 union at Columbia.

17 Q Are you familiar with the UAW constitution and bylaws?

18 A I'm not an expert on it.

19 MR. PLUM: I don't know what number we're up to. Is
20 this 1? So, ironically --

21 HEARING OFFICER EVEILLARD: We only have joint exhibits
22 and Petitioner's exhibits.

23 MR. PLUM: We're going to put into --

24 HEARING OFFICER EVEILLARD: Respondent's Number 1?

25 MR. PLUM: Respondent's Number 1, the UAW --

1 MR. MEIKLEJOHN: Well, you're not a respondent, yet.

2 MR. PLUM: I'm not an employer. You can call us what you
3 want.

4 MR. MEIKLEJOHN: You are an employer. There's a dispute
5 over whether your employees --

6 (Employer's E-1 identified.)

7 HEARING OFFICER EVEILLARD: Oh, you didn't have a chance
8 to take a look at it.

9 (Pause.)

10 BY MR. PLUM:

11 Q I'd direct your attention to Article 15, which -- sorry,
12 Section 15.

13 A Which article?

14 Q Sorry. Article 36, Section 15, Page 102. Do you want a
15 minute to look at that?

16 A Sure.

17 (Pause.)

18 BY MR. PLUM:

19 Q Just let me know when you're ready.

20 A Is there a particular section you're interested in?

21 Q Section 15, on Page 102. It's Article 36, Section 15.
22 It's the third paragraph from the left-hand top.

23 A Okay.

24 Q Would you agree with me that under this provision, the
25 GWC-UAW has no authority to act in a matter like this unless it

1 is directed to do so by the UAW?

2 MR. MEIKLEJOHN: I would object. He's asking the witness
3 to interpret the legal consequences of the UAW constitution and
4 he's not -- he testified he's not an expert in the
5 constitution. I mean I think the language is pretty clear and
6 allows counsel to make his argument. I don't think the witness
7 needs to be argued with on this.

8 HEARING OFFICER EVEILLARD: You want to move it in?

9 MR. PLUM: I'd like to move it in.

10 HEARING OFFICER EVEILLARD: Any objection?

11 MR. MEIKLEJOHN: No objection.

12 HEARING OFFICER EVEILLARD: It's admitted.

13 (Employer's E-1 received.)

14 HEARING OFFICER EVEILLARD: Do you understand this
15 particular section or are you familiar with it?

16 THE WITNESS: I believe I've seen it, but I don't claim to
17 be an expert on it.

18 BY MR. PLUM:

19 Q Do you know whether this is why you signed the petition?

20 A I signed the petition because, generally speaking, the
21 International Union supervises organizing campaigns, even
22 though they're going to end up being part of a local union.
23 And the organizing committee, given that its goal is to become
24 part of the UAW is inherently recognized by the UAW as a
25 committee that seeks to join the UAW.

1 Q But if the campaign is successful, I believe you testified
2 that the bargaining will be done by the local.

3 A The bargaining would be done by student workers who elect
4 a committee, but were on an elected committee.

5 Q Who would the bargaining agent be?

6 MR. MEIKLEJOHN: He hasn't -- I'd like him to have an
7 opportunity to finish the answer.

8 HEARING OFFICER EVEILLARD: Were you finished?

9 THE WITNESS: No, I was not.

10 HEARING OFFICER EVEILLARD: Go ahead.

11 THE WITNESS: Would be done by the elected committee,
12 along with most likely the representatives from the local, as
13 well as the International Union.

14 BY MR. PLUM:

15 Q So there is nothing unusual about an elected committee of
16 a bargaining unit participating in or even sometimes leading
17 the bargaining. But who would be the bargaining agent?
18 Wouldn't it be the local or the UAW, one or the other?

19 MR. MEIKLEJOHN: I'm going to object to the ambiguity in
20 the term bargaining agent.

21 MR. PLUM: Who is going to be -- well, that's an
22 interesting objection.

23 HEARING OFFICER EVEILLARD: Are you asking who is going to
24 be the lead?

25 MR. PLUM: Who is going to be the certified representative

1 of the employees after this proceeding is over? Who is seeking
2 certification, assuming there is an election. Who is seeking
3 certification? Is it GWC-UAW? Is it Local 2110? We have to
4 know who is going to be on the ballot.

5 THE WITNESS: GWC-UAW means GWC Local 2110 and the
6 International Union.

7 BY MR. PLUM:

8 Q It means --

9 A They're all connected. They all exist, together.

10 Q They all exist together. So, if there is a certification,
11 the representative, it would be a joint representation of the
12 international, the local, and the GWC, is that your testimony?

13 A GWC exists within the context of the International Union
14 and Local 2110. It would be a unit within Local 2110.

15 Q Are you familiar with -- you said that GWC was established
16 about a year ago? I think that was your testimony.

17 A The initial reaching out to us by the student workers from
18 Columbia started in the fall of 2013. I don't remember the
19 exact date.

20 Q And what happened? Is there a document that created GWC?
21 Is there any authorization or act by the UAW that established
22 GWC?

23 A I would say the act that establishes it is the commitment
24 of the regional director to support the organizing committee in
25 their effort to form a union and engage in collective

1 bargaining with Columbia.

2 Q So insofar as you're aware anyway, there was no formal act
3 or moment where the UAW either in writing or otherwise
4 recognized that there was a new organization called GWC?

5 A I don't remember an exact date. But the commitment to
6 support the organizing committee, which the regional director
7 committed to, and the international union committed to, and the
8 local union committed to, in response to a group of workers who
9 wanted to form a union with the UAW, to me would signify that
10 the UAW recognizes GWC as an organizing committee within the
11 UAW.

12 Q As an organizing committee within UAW. But was there, to
13 your knowledge, was there any kind of document that reflected
14 that recognition?

15 A I would have to review my records. I'm sure there were
16 documents committing to support the campaign.

17 Q Okay. We would ask that you produce whatever documents
18 there are that reflect that creation.

19 MR. MEIKLEJOHN: If there are such documents, I'm not sure
20 that Mr. Lang would be the one who has them. We'll look for
21 them. If we have them, we'll produce them.

22 BY MR. PLUM:

23 Q Do you know whether GWC has a constitution, its own
24 constitution?

25 A No.

1 Q You don't know or --

2 A It does not.

3 Q Does it have bylaws?

4 A No.

5 Q By the way, does 2110 have a constitution?

6 A 2110 has bylaws which are required to be consistent with
7 the international constitution. Every local union is required
8 to have bylaws.

9 Q And the local union is bound by the constitution and
10 bylaws of the UAW. 2110 is bound by the constitution and
11 bylaws of the UAW?

12 A That's my understanding of the constitution.

13 Q Do you know whether -- let me rephrase that. Do you know
14 what entity acted as the bargaining agent for the negotiations
15 between the graduate student -- between the union and New York
16 University?

17 A I'm not, as counsel was saying earlier, I'm not sure what
18 you mean by bargaining agent.

19 Q Who is the collective bargaining agreement going to be
20 between?

21 A The university, the international union, and its Local
22 2110, which includes the graduate student organizing committee
23 unit, which is the equivalent of GWC at NYU.

24 Q Do you know if I was to look at the document, the actual
25 document, whether there is any reference in that draft document

1 to whatever the organizing committee was called at NYU?

2 HEARING OFFICER EVEILLARD: The draft document, the draft
3 collective bargaining agreement?

4 BY MR. PLUM:

5 Q The draft document between NYU and UAW and 2110. Do you
6 know whether there is any reference there, any kind of
7 organizing committee in that document?

8 A There is not.

9 Q There is not?

10 A There is not.

11 Q Were you present for the negotiations of that agreement?

12 A Some. I was not chief negotiator. I was present for a
13 very small subset of the overall negotiations.

14 Q Who was the chief negotiator?

15 A Scott Somer and Maida Rosenstein, I think both played a
16 role.

17 Q What are their affiliations? Who are they employed by?

18 A Scott is an international rep with the UAW. And Nada is
19 the president of Local 2110.

20 Q And you respect that if there were ever negotiations with
21 Columbia that it would work in a similar fashion?

22 A Most likely. The typical recognition agreement in our
23 contracts is between the Employer and the international union
24 and its local.

25 Q And you would expect that to be the case if there were

1 ever a contract here?

2 A I would expect it. But, obviously, it's a bilateral
3 process.

4 MR. PLUM: I have nothing further.

5 HEARING OFFICER EVEILLARD: Mr. Meiklejohn?

6 MR. MEIKLEJOHN: Just one quick follow-up question.

7 REDIRECT EXAMINATION

8 BY MR. MEIKLEJOHN:

9 Q Did graduate student in at least the sessions that you
10 attended in the NYU negotiations, did graduate student from NYU
11 participate in those negotiations as well?

12 A Yes.

13 MR. MEIKLEJOHN: No further questions. I would like to
14 answer one of counsel's questions on behalf of the Union, on
15 behalf of the Petitioner. The question he asked as I think
16 whose name we would like to have on the ballot. Our position
17 is that the name on the ballot should be the name of the
18 Petitioner as it appears in the petition.

19 MR. PLUM: Well, obviously, we don't think the Petitioner
20 -- we think the Petitioner is the UAW. It was signed by -- the
21 petition was signed by the UAW. The constitution -- this is
22 argument for another time, but the constitution --

23 HEARING OFFICER EVEILLARD: Exactly.

24 MR. PLUM: The constitution and bylaws makes clear that
25 this organization, whatever it is, called UWC, has no authority

1 to act.

2 HEARING OFFICER EVEILLARD: Any further questions for this
3 witness?

4 MR. PLUM: No.

5 HEARING OFFICER EVEILLARD: Okay. You're excused, Mr.
6 Lang. And you can give him the exhibits.

7 (Witness excused.)

8 HEARING OFFICER EVEILLARD: I understand that, Mr.
9 Meiklejohn, you have no further witnesses waiting?

10 MR. MEIKLEJOHN: That's correct. We're looking forward to
11 Mr. Rittenbach -- Rittenberg? I apologize. I'm notoriously
12 bad with names.

13 DR. RITTENBERG: I've been called worse.

14 MR. MEIKLEJOHN: You should see what they do with
15 Meiklejohn.

16 HEARING OFFICER EVEILLARD: Mr. Brill, let me know when
17 you're ready.

18 MR. BRILL: Can I just have two minutes?

19 HEARING OFFICER EVEILLARD: Okay, let's go off the record
20 for two minutes.

21 (Pause off the record.)

22 HEARING OFFICER EVEILLARD: Mr. Brill, please call you
23 next witness or your first witness.

24 MR. BRILL: Our first witness, Columbia calls Dr. Stephen
25 Rittenberg.

1 HEARING OFFICER EVEILLARD: Doctor?

2 MR. BRILL: Do you mind, can we close the door?

3 HEARING OFFICER EVEILLARD: Sure. Good morning. Please
4 raise your right hand.

5 (Whereupon,

6 STEPHEN RITTENBERG,
7 was called as a witness by and on behalf of the Employer and,
8 after having been duly sworn, was examined and testified as
9 follows:)

10 HEARING OFFICER EVEILLARD: Please state your name and the
11 spelling of your last name for the record.

12 THE WITNESS: My name is Stephen Rittenberg, Stephen is
13 with a P-H. And the last name is R-I-T-T-E-N-B-E-R-G.

14 HEARING OFFICER EVEILLARD: Thank you. Mr. Brill?

15 DIRECT EXAMINATION

16 BY MR. BRILL:

17 Q Good morning, Dr. Rittenberg. Are you currently employed?

18 A Yes.

19 Q Who is your employer?

20 A Columbia University.

21 Q What is your position?

22 A I'm the vice provost for academic administration.

23 Q How long have you held your current position?

24 A How long have I?

25 Q How long have you held your current position?

1 A Since 1995.

2 Q Can you tell us briefly what your educational background
3 and employment history is?

4 A I have a bachelor's degree from the University of
5 California, Santa Barbara; a master's and a PhD from Columbia,
6 and an MVA from NYU.

7 Q Prior to your present position with Columbia, what
8 employment did you have?

9 A I taught in the history department at Columbia. Prior to
10 being named vice provost, I was associate provost for academic
11 affairs.

12 Q Can you describe the responsibilities of the office of
13 vice provost?

14 A Yes. Well, first of all, it's changing. I'm three months
15 from retirement.

16 Q I knew you'd have to get that in today.

17 A Absolutely. Ninety days, but who is counting.

18 MR. MEIKLEJOHN: Try to restrain your sadness over this
19 issue.

20 THE WITNESS: So let me tell you first what my
21 responsibilities were and how they are being divided. There
22 are three major components to my position or my prior position.
23 I was responsible for the university's policy governing
24 academic appointments, that's faculty, officers of research,
25 and officers of library. I was also responsible for

1 overseeing, approving the educational programming of the
2 university. And, third, my office did a considerable amount of
3 analytical work.

4 This is now being divided between three new vice provosts.
5 There will be -- the provost has hired a vice provost for
6 educational programming to take over all of the educational
7 programming responsibilities. He is very close to hiring a
8 vice provost for institutional research, which deals with the
9 analytical portions of my prior position. And he's about to
10 announce a vice provost for faculty affairs, who will be
11 responsible for the policies, governing the policies related to
12 academic appointments.

13 Q Let me focus on the portion of your responsibilities that
14 deal with appointments. Would those include appointments of
15 students?

16 A Yes, they do.

17 Q Students to what types of positions?

18 A To any position -- appointment of any position relating to
19 officers of instruction and officers of research.

20 Q So who do you report to?

21 A I report to the provost. His name is John Coatsworth.

22 Q Dr. Rittenberg, we have entered into a stipulation in this
23 case that in broad terms describes the organization of the
24 university. But, can you just briefly explain the different
25 academic programs and degrees that are offered by Columbia and

1 what parts of the university offer which programs and which
2 degrees starting with maybe the doctoral programs?

3 A Sure. Just to give you an overview, Columbia has
4 approximately 520, 530 degree programs and another 70 or so
5 certificate programs. There are approximately 80 doctoral
6 programs, out of which 62 are PhDs. We also award the PhD in
7 Education to teachers, college students. That's an affiliated
8 institution. So the rest are other types of doctoral degrees,
9 such as the doctor of engineering science, the doctor of public
10 health, the JSD, and so on.

11 We have another approximately 225 master's degree
12 programs. And then we have about 100 bachelor's degree
13 programs. The bachelor's degree programs are all in one of
14 three schools of the university, the college, Columbia College,
15 the School of General Study, and the School of Engineering and
16 Applied Science. The master's degrees are across all roughly,
17 well, there's 16 schools at the university that run programs.

18 The PhD programs are all within the Graduate School of
19 Arts and Sciences. They are awarded by the Graduate School of
20 Arts and Sciences, the degree, but they are administered by
21 different parts of the university. About 30, about half of
22 them are squarely within the Graduate School of Arts and
23 Sciences. They are both administered by the arts and sciences,
24 Graduate School of Arts and Sciences, and the degree is awarded
25 by the Graduate School of Arts and Sciences.

1 The other 30 are run by other parts of the university,
2 such as the School of Engineering, the business school, the
3 School of Social Work, public health, and so on. But the
4 degree is actually awarded through the Graduate School of Arts
5 and Sciences.

6 Q Within the arts and sciences, what's the relationship of
7 the faculty between say the Columbia College and the Graduate
8 School of Arts and Sciences?

9 A Well, the arts and sciences has five different schools
10 within it and about somewhere around 30 departments of
11 instruction. Schools provide the curriculum. They admit the
12 students. And they determine which students have completed
13 requirements degrees. Departments of instruction hire the
14 faculty and they provide the instruction that lead to
15 completion of the curriculum.

16 Within the arts and sciences, two of the schools have
17 their own faculty. These are the School of the Arts and School
18 of Continuing Education. The other three, GSAS, the Graduate
19 School of Arts and Sciences, Columbia College, and the School
20 of General Studies, they share a faculty so that a professor,
21 for example, of English will teach students in all three of the
22 schools. The departments do not report to the dean of the
23 graduate school or the dean of the college; they report to the
24 vice president for arts and sciences.

25 Q Do you know approximately how many students there are at

1 Columbia and how that's broken down between graduates and
2 undergraduates?

3 A We have around 29,000 students, out of which about 2,000
4 or so are non-degree students. They are not enrolled in a
5 degree program. So we have approximately 27,000 degree
6 students.

7 Q How would that be broken down between undergraduates and
8 graduate students?

9 A There are about 8,500 undergraduates. The remainder would
10 be master's and doctoral students. I couldn't tell you the
11 division between master's and doctoral students. But --

12 Q And professional students?

13 A And professional students. By master's, I mean both
14 master's and first professional degrees. But the overwhelming
15 majority of the graduate students are studying at the master's,
16 first professional level.

17 Q You mentioned student appointments. Are you familiar with
18 the faculty handbook?

19 A Yes.

20 Q What is the faculty handbook?

21 A The faculty handbook is a document that I wrote that
22 describes -- primarily, its primary function is to describe the
23 policies and processes that deal with the academic staff at the
24 university, their appointments, their compensation, their
25 responsibilities, the services, the benefits that we provide to

1 them.

2 Q Does the faculty handbook include provisions relating to
3 student appointments?

4 A It has a chapter on student appointments, yes.

5 MR. BRILL: I'd like to mark as Exhibit 2, an excerpt from
6 the faculty handbook entitled student officers of instruction
7 and research.

8 (Employer's E-2 identified.)

9 BY MR. BRILL:

10 Q Can you identify the document that we've marked as
11 Employer Exhibit 1 -- 2, I'm sorry?

12 A This is the chapter of the faculty handbook that deals
13 with student officers in instruction and research.

14 MR. BRILL: I offer Exhibit 2.

15 MR. MEIKLEJOHN: No objection.

16 HEARING OFFICER EVEILLARD: It's admitted.

17 (Employer's E-2 received.)

18 BY MR. BRILL:

19 Q Dr. Rittenberg, can you just describe for the record in
20 general terms the types of appointments students would have,
21 graduate students, what types of appointments would they have?

22 A They fall --

23 Q Let me make this question more specific. The heading of
24 the document is student officers of instruction and research.
25 So maybe you could start with instruction appointments.

1 A Okay. Student officers, instruction, have
2 responsibilities relating to the educational programs at the
3 university. Depending upon their title, they could be teaching
4 sections of courses. They could be serving as discussion
5 leaders. They could also be grading exams.

6 Q The document, the faculty handbook indicates that the
7 specific titles into which students can be appointed are
8 teaching fellows, preceptors, and there are some others that
9 are listed. Can you explain the different categories?

10 A We have five different categories of student officers,
11 five different titles for student officers. There is
12 preceptor, teaching fellow, teaching assistant, we call them
13 teaching assistant IIIs, and then readers.

14 Q Can you describe what each of those categories refers to?

15 A A preceptor will be an advanced graduate student who is
16 teaching an independent pace course, for example, preceptors
17 will teach in the undergraduate core curriculum, sections of
18 the core curriculum. They teach sections of it, but under the
19 supervision of a program director and with support through a
20 process of weekly seminars on the different subjects that they
21 are teaching.

22 Teaching assistants perform a wide variety of functions.

23 Q Could you maybe after preceptor, talk about teaching
24 fellows?

25 A Okay. Teaching fellow is a title which is used

1 exclusively in the Graduate School of Arts and Science. These
2 are students who will be serving -- they could be serving in a
3 variety of ways. They could be leading discussion sections.
4 They could be giving individual lectures in courses. They
5 could be teachers. They are used in a variety of ways. The
6 teaching fellows will be doctoral students in the Graduate
7 School of Arts and Sciences.

8 Q What about the preceptors, by the way, are they also
9 doctoral students?

10 A The preceptors will be in a PhD program, yes.

11 Q And then you mentioned teaching assistants.

12 A Teaching assistants perform functions which are very
13 similar to a teaching fellow. They, depending upon the part of
14 the university that the student is in, the student could be a
15 doctoral student. For example, in the School of Engineering,
16 they call their PhD students who are assisting in courses,
17 teaching assistants. In other parts of the university, they
18 will be master's students.

19 Q And then what about a teaching assistant III, or TA III?

20 A A TA III is an undergraduate. They will -- they are
21 concentrated in the arts and science. They teach in the -- or
22 they lead sections, problem sections, laboratory sections
23 within the School of General Studies and Columbia College. The
24 other main group are undergraduates in engineering and these
25 are overwhelmingly computer science students who are assisting

1 students in the computer science lab, helping with programming
2 problems and issues.

3 Q I think the last category you mentioned is called reader?

4 A Yes.

5 Q What is a reader?

6 A A reader is someone who is appointed specifically to grade
7 papers and exams. Those will be master's students.

8 Q Turning to officers of research, what are the different
9 categories of officers of research?

10 A Officers of research are -- appointments to officers of
11 research are given to students who are engaged in research
12 programs at the university. There are three titles, graduate
13 research assistant, or we call GRAs. There is a GRA fellow, a
14 research fellow, and then there is a research fellow. So there
15 are three different titles that we give to student officers of
16 research.

17 Q What's the difference between the three titles?

18 A They have very similar functions. The difference is
19 basically in the source of their stipend, the money they
20 receive. GRAs receive their compensation, their stipend on an
21 external granted contract. A GRA research fellow is in the
22 sciences and receives the stipend, the compensation from a
23 university source. And a research fellow is outside of the
24 sciences, but receives his money or her money from a university
25 income.

1 Q When you say the student is receiving money from the
2 university, could you explain that a little more? For example,
3 if somebody is a science student who is appointed as a GRA
4 research fellow, where would the -- what would be the source of
5 the funding? What would be the duties, if any, of that
6 student?

7 A The university has several different streams of revenue.
8 One source of revenue is from government grants and contracts.
9 This is money that is obtained by the faculty and officers of
10 research putting in proposals and being awarded funding
11 overwhelmingly by the federal government, NIH, NSF, DOD,
12 Department of Energy, and so on.

13 In addition to that, there is revenue from tuition,
14 revenue from endowments, and revenue from investments, and a
15 variety of another sources. All of those other sources come
16 into essentially what we would call general university income.
17 The distinction between a GRA and the other two research titles
18 is that the GRA research fellow and the research fellow are
19 paid from general university income, exactly which revenue
20 stream is immaterial. It comes from that direction.

21 The GRA, on the other hand, is actually working on a
22 specific grant for a specific faculty member engaged in
23 research that leads to their PhD dissertation and, at the same
24 time, contributes to the overall goals of the principal
25 investigator's research project.

1 Q Would the students on the other research appointments,
2 that is the GRA fellow and research fellow, would they also be
3 working on research leading to their dissertations?

4 A They would, yes.

5 Q Are you also familiar with students who are supported on
6 something called training grants?

7 A Yes.

8 Q What is a training grant?

9 A A training grant is another source of revenue. Some of
10 the schools, primarily up in the medical center, they obtain
11 funding from the National Institute of Health, the National
12 Institute of Mental Health, and this is used to train both
13 doctoral students and post-docs.

14 Q Are students on training grants given an appointment?

15 A No, they are not.

16 Q Are you familiar with the term or time period for which
17 students are appointed to each one of these classifications
18 that you've just described, beginning with the instructional
19 classifications, that is preceptor, temporary faculty, teaching
20 assistant?

21 A Yes, I am.

22 Q Can you give a description or explanation of --

23 A Student officers of instruction are appointed to terms in
24 which they are serving in the rank they've been appointed to.
25 So you can have students who may be appointed for just one

1 term, for example, the fall term would run from September
2 through December. But, they could be appointed for two terms.
3 Unless they are teaching during the summer, they would never
4 have an appointment that extends over the entire year.

5 Officers of research, on the other hand, they can be
6 appointed for up to a year at a time. It is typical for them
7 actually to be appointed for a full year and then reappointed
8 after that in future years until they have finished their
9 dissertation.

10 Q With respect to the instructional appointments that are
11 typically a term at a time, would that also include summer term
12 appointments?

13 A It could be. There are a few appointments that are made
14 during the summer term. Most are made during the fall and the
15 spring.

16 MR. BRILL: I'd like to ask the court reporter to show the
17 witness the petition, which I think is Board Exhibit 1(a), is
18 that correct?

19 HEARING OFFICER EVEILLARD: It's at the very bottom.

20 THE WITNESS: This is the right one?

21 HEARING OFFICER EVEILLARD: The petition, yeah.

22 BY MR. BRILL:

23 Q Dr. Rittenberg, I call your attention to the attachment to
24 the second page of the petition. It's headed Columbia
25 University unit description. I just want to run through the

1 description of the unit in the petition to see if you can
2 identify or whether you have identified the different
3 positions. So it starts by saying, included, all student
4 employees who provide instructional services, including
5 graduate and undergraduate teaching assistants (teaching
6 assistants, teaching fellows). Those are two categories you've
7 described, correct?

8 A Yes.

9 Q Law associates, what is a law associate?

10 A Law associate is a title we no longer do. We do not make
11 appointments of law associates. The regular faculty, faculty
12 members who are not students, may be appointed in the rank of
13 associate. A student is never appointed to that title.

14 Q Preceptor, you have talked about. Instructor, is there a
15 student title of instructor?

16 A There are no students appointed in the rank of instructor.
17 An instructor is, again, a title that is reserved for the
18 regular faculty members.

19 Q Listening assistant, what is a listening assistant? Are
20 there listening assistants?

21 A We had them long ago, but we don't have any listening
22 assistants.

23 Q Then course assistants?

24 A We do not have appointments as course assistants. There
25 are some students who are paid on the student casual payroll

1 for providing some assistance with courses. They do not have
2 appointments. We do not construe them as student officers of
3 instruction or research.

4 Q What is the student casual payroll?

5 A It's a payroll that provides money to students, pay to
6 students for anything relating to the work they do at the
7 university. It's sort of supplementary income that they
8 receive. The students who shelves books in the libraries,
9 they're paid on the casual payroll. It's really designed for
10 short-term payments to students.

11 Q Would that include students on work study support, also?

12 A The work study payroll is a separate payroll. But it
13 falls into a similar type of category.

14 Q So someone who is in a job that's being paid through the
15 casual payroll or the work study payroll would not have an
16 appointment through your office?

17 A They would not have an appointment.

18 Q And your office has no responsibility over those
19 appointments, those positions?

20 A No, we do not.

21 Q And then the last two are readers and graders. Readers,
22 you have discussed. What is a grader?

23 A A grader is a colloquial term for a reader.

24 HEARING OFFICER EVEILLARD: They're one in the same?

25 BY MR. BRILL:

1 Q There's no separate appointments of the grader position?

2 A There is no appointment as a grader. There are instances
3 of students who grade problem sets, for example, who again,
4 they don't have appointments. They're on -- they're paid off
5 of the casual payroll for temporary work. But, basically, the
6 formal title is reader; the function is they grade.

7 Q Then the petition goes on to say all graduate research
8 assistants, and you've described that, including those
9 compensated through training grants. You've explained what a
10 training grant is. And then all departmental research
11 assistants and I'm not sure I asked you about departmental
12 research assistants. Can you describe what a departmental
13 research assistant is? First of all, is that a title that's
14 appointed through your office?

15 A That is a formal title. That is a formal appointment.
16 These are students who assist faculty with research. They are
17 master's students. Doctoral students are not appointed to that
18 particular rank.

19 Q What is the typical term or time period for a departmental
20 research assistant?

21 A Typically, students will be appointed as a DRA for one
22 semester, one term, or two terms.

23 MR. BRILL: I'd like to mark as exhibit --

24 HEARING OFFICER EVEILLARD: Three.

25 MR. BRILL: Employer's Exhibit 3, a document headed fall

1 2014 student officers summary by school/department of
2 appointment. Let me just note we did produce a copy of this
3 yesterday to Petitioner, but we actually blew it up a little
4 bit.

5 MR. MEIKLEJOHN: You made it legible.

6 MR. BRILL: It's the same document.

7 MR. MEIKLEJOHN: I'm all in favor. Do you have more
8 copies?

9 (Employer's E-3 identified.)

10 MS. ROTHGEB: Could you send us the blown-up version, too,
11 so we can --

12 MR. BRILL: I may have -- let me just --

13 (Pause.)

14 BY MR. BRILL:

15 Q Do you have the document in front of you?

16 A Yes, I do.

17 Q Can you identify the document that we've marked as
18 Employer Exhibit 3?

19 A Yes, I can. This is a table that shows by department the
20 student officers of instruction research at the university, the
21 fall of 2014. It was produced by my office, under my
22 supervision.

23 MR. BRILL: I offer it in evidence.

24 MR. MEIKLEJOHN: You don't want to go through what the
25 different lines mean first? Can I have some questions on voir

1 dire?

2 HEARING OFFICER EVEILLARD: Sure, go ahead.

3 VOIR DIRE EXAMINATION

4 BY MR. MEIKLEJOHN:

5 Q Looking at the chart, the categories across the top under
6 instructional and research officers, those correspond to the
7 appointment titles that you have referenced in your --

8 A Yes, they do.

9 Q -- testimony up till now, correct?

10 A Yes.

11 Q And the listing of like under arts and sciences
12 humanities, there is a listing of a bunch of fields of academic
13 inquiry. Is that a listing of departments in the university or
14 in GSAS?

15 MR. BRILL: It's under a column that says department name.

16 MR. MEIKLEJOHN: Oh, I'm sorry, okay. So those are --
17 those are departments within which school?

18 HEARING OFFICER EVEILLARD: Arts and science of
19 humanities.

20 THE WITNESS: They are departments within the arts and
21 sciences. They are grouped into three different areas. These
22 are not formal areas. These are ways that we think of our
23 departments, the humanities, the social sciences, and natural
24 sciences.

25 BY MR. MEIKLEJOHN:

1 Q For the instructional section, are these arranged by the
2 course or the field of study of the appointed student or are
3 these arranged by the course in which they've been assigned to
4 instruct or appointed to instruct.

5 MR. BRILL: I'm not sure the question is clear.

6 THE WITNESS: Neither.

7 HEARING OFFICER EVEILLARD: I think I understand.

8 MR. BRILL: The only purpose of voir dire, I think, is to
9 identify the authenticity of the document, not -- I mean I'll
10 have him explain the document.

11 MR. MEIKLEJOHN: It may go faster with counsel doing it,
12 but I think a legitimate part of voir dire is to determine what
13 the different columns, to get an understanding of what the
14 document means. I'll just ask him one other question and I'll
15 let -- I think it will go more smoothly if counsel goes through
16 it, rather than me.

17 Can I just reserve my position on admission until after
18 he's explained what the document means?

19 HEARING OFFICER EVEILLARD: Sure, that's fine.

20 MR. MEIKLEJOHN: Then we could get a ruling at that point.
21 I think that's probably the most efficient way to do it.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. BRILL:

24 Q Dr. Rittenberg, the title of the document is fall 2014
25 student officers, summary by school/department of employee.

1 So, first of all, this represents the appointments that are
2 made for the fall of 2014?

3 A That is correct.

4 Q Are those the most recent statistics that are available to
5 your office?

6 A Those are the statistics for the most recent full term
7 that we have.

8 Q Can you explain what it means summary by school/department
9 of appointment? In other words, looking at the first column,
10 art history shows 51 teaching fellows, 51 instructional, total.
11 Does that mean that there are 51 students teaching in the art
12 history department or 51 art history students appointed to
13 teach in someplace else? Explain what the numbers mean.

14 A The rows represent the formal department within --
15 department within which they are appointed. They will almost
16 all be students in the art history department, but they don't
17 necessarily have to be. They will be teaching, but not
18 necessarily in programs that are within the art history
19 department. They could be teaching in the core curriculum,
20 which is not run by the art history department. All the rows
21 represent is the unit within the university in which they hold
22 their formal appointment.

23 Q And so, as you said, the first page, you've broken down
24 arts and sciences into three categories, humanities, social
25 sciences, and natural sciences. What's the basis for that

1 division?

2 A This is sort of a historical convention at Columbia within
3 the arts and sciences. The disciplines represented by these
4 different departments are grouped together. The first
5 category, humanities, much more humanistic in their
6 disciplinary orientation. The social sciences are more
7 oriented towards things such as political science, sociology.
8 If you were to go to another university, for example, history
9 would be considered a humanities. At Columbia, it isn't. And
10 the natural sciences are the department in which the arts and
11 sciences appoints faculty who are scientists.

12 Q Just going down the list of department names, some of them
13 are self-evidence, but some of them are acronyms. So could you
14 explain, for example, E-A-L-C?

15 A EALC, that's East Asian languages and cultures.

16 Q Then there is M-S-A-A-S.

17 A MSAAS is Middle East, South Asian, and African studies.

18 Q Then there is L-A-I-C.

19 A Latin American and Iberian culture.

20 Q Under social sciences, there is -- well, there's the
21 provost. There is one DRA indicated for the provost. What
22 would that appointment do?

23 A We made an appointment. This is an individual who works
24 with our provost.

25 Q I-S-E-R-P?

1 A That's the -- now you're starting to get into an area
2 where I always refer to it as ISERP. It's the Institute for
3 Social and Economic Research and Policy, if I remember
4 correctly.

5 Q Under the natural science, there is D-E-E-S.

6 A Department of Earth and Environmental Sciences.

7 Q And E-3-B?

8 A Now you've got me. I'm sure I'm going to get it wrong.
9 Nobody from the university can keep it straight, unless you're
10 in the department, itself. But it's ecology, environmental
11 biology and evolutionary biology. I don't know which order the
12 three E's come in, in the title.

13 Q On the second page, there is something called continuing
14 education. What is continuing education?

15 A Continuing education runs a variety of programs or authors
16 of a variety of programs, mostly at the master's level or
17 leading to a certification. They are not the -- they're more
18 for enrichment or for preparing for specific careers. For
19 example, we do not have a program in actuarial science, in the
20 arts and sciences or any other parts of the university. But
21 what continuing education does is it provides instruction
22 leading to a master's degree that helps prepare students for
23 careers in actuarial science.

24 Q Under the engineering school, there is a number of
25 departments that have also initials. I'm not sure if you can

1 help us there but A-P-A-M?

2 A Applied physics and applied math.

3 Q And then there is I-E-O-R?

4 A Industrial engineering and operations research.

5 Q And finally E-E-E?

6 A Earth and environmental engineering.

7 Q Further down, under something called SIPA, which I think
8 that's --

9 A The School of International Public Affairs. One thing is
10 SIPA does not have separate departments under it. SIPA is both
11 a school and a department. When you see a line where there are
12 no departments listed under it, that's the case.

13 Q And then on the next page, there is a number of programs
14 under biomedical. Just tell us briefly what biomedical school
15 or departments are.

16 A The biomedical programs are all at the Columbia University
17 Medical Center. They prepare students to engage in research,
18 either within the university or a research organization, or for
19 that matter a corporation, in one of the biomedical fields.

20 Q The students in these programs are getting doctoral
21 degrees, so are they medical students?

22 A There are some what we call MDPHD students, students who
23 obtain both the MD and the PhD. And there are others, probably
24 most, who are just studying for the PhD.

25 Q On the last page, there are -- there is this School of

1 Public Health and, again, there is one department that's
2 identified by initials E-H-S.

3 A That's environmental health sciences.

4 Q Again, just to explain the totals then indicated for each
5 department would indicate the number of students appointed to
6 that particular position in the fall of 2014, if you're reading
7 across the rows?

8 A Yes.

9 Q So, for example, to go down to economics, as an example,
10 which is halfway down the first page, there would be 3 TAs,
11 24 TA IIIs, 66 teaching fellows, for a total of 93 students who
12 had instructional appointments. Is that correct?

13 A Yes.

14 Q And then 18 research fellows in that department.

15 A That's correct.

16 Q So a total of 111 students in the economics department who
17 had an appointment of either instructional or research in a
18 position?

19 A They held those appointments through the Department of
20 Economics.

21 MR. BRILL: I renew my offer of Exhibit 3.

22 HEARING OFFICER EVEILLARD: Any objections?

23 MR. MEIKLEJOHN: I still have a few voir dire.

24 VOIR DIRE EXAMINATION

25 BY MR. MEIKLEJOHN:

1 Q First of all, how was the document prepared? This is
2 something that exists on the -- was this something that was
3 prepared for purposes of this case or was it something
4 pre-existing?

5 A This was information -- we produce this sort of
6 information every year, not at this level of detail, but this
7 is a typical document that we would prepare for analytical
8 purposes.

9 Q So the data exists in a database?

10 A Yes.

11 Q Each of these individuals referred to, like the 51
12 teaching fellows in art history, each one reflects a unique and
13 individual appointment?

14 A That is correct.

15 Q These are all appointments made during the fall of 2014 to
16 perform services during the fall of 2014?

17 A Yes.

18 Q It doesn't include anybody left over from --

19 A No.

20 Q People don't stay on the -- are these taken from payroll
21 records or these are different? These are not payroll records.

22 A These are not payroll records.

23 Q These are appointment records.

24 A These are personnel -- these are entries into the
25 university's PeopleSoft personnel system.

1 Q Just there's a couple -- I don't think we stippled to this.
2 What is Nevis?

3 HEARING OFFICER EVEILLARD: What page is that?

4 THE WITNESS: Nevis Laboratories is basically --

5 MR. MEIKLEJOHN: Oh, it's the off-campus -- we do have a
6 stipulation on that. I'm sorry. That's why he didn't ask
7 about that.

8 BY MR. MEIKLEJOHN:

9 Q Does it happen that somebody gets more than one
10 appointment during a semester?

11 A Simultaneously, no.

12 Q Could they get -- are these all semester-long appointments
13 or some of these are short?

14 A They could be shorter than one semester, but they
15 typically are not.

16 Q Most of these would be people who had a full semester
17 appointment.

18 A That is correct.

19 MR. MEIKLEJOHN: I have no objection.

20 HEARING OFFICER EVEILLARD: Okay, it's admitted.

21 (Employer's E-3 received.)

22 CONTINUED DIRECT EXAMINATION

23 BY MR. BRILL:

24 Q Following up on the voir dire examination that Mr.
25 Meiklejohn just engaged in, you mentioned PeopleSoft. In very

1 general terms, what is the process of appointing a student to
2 one of these positions as an officer of instruction or an
3 officer of the school?

4 A An appointment originates in the department that the
5 student will hold the appointment within. It will then go to
6 the office of the dean or the vice president, if you have
7 departments reporting to a school. On the Morningside Campus,
8 it then comes to my office for approval. In the medical
9 center, that responsibility has been given to the executive
10 vice president's office.

11 Once my office or the executive vice president's office
12 has approved it, it is then forwarded to the Department of
13 Human Resources for entry into the university's personnel
14 system. Human resources does not have a function in approving.
15 It simply ensures that these appointments are entered into
16 PeopleSoft.

17 Q Does the human resources department have any role in
18 selecting any of these student officers?

19 A It does not.

20 Q Does the human resources department have any role at all
21 with respect to the student officers after an appointment has
22 been entered into the system?

23 A No.

24 Q Do you know whether student officers get any of the
25 university benefits that are provided to employees of the

1 university?

2 A They do not receive the benefits of an officer of the
3 university.

4 Q Who determines what payments will be made to student
5 officers? How is that determined?

6 A It's basically determined within the schools.

7 Q It's not the human resource department?

8 A It's not human resource, no.

9 Q Did your office prepare an analysis, Dr. Rittenberg, of
10 the terms of enrollment of student officer, versus the terms in
11 which they had appointments as either instructional or research
12 officers?

13 A Yes, we did.

14 MR. BRILL: I'm going to mark as Employer's Exhibit 4, a
15 copy of a document entitled terms of enrollment versus terms of
16 teaching/research.

17 (Employer's E-4 identified.)

18 BY MR. BRILL:

19 Q Do you have the document in front of you?

20 A Yes, I do.

21 Q Does this document describe the methodology and the
22 results of the study that your office performed?

23 A Yes, it does.

24 Q Can you describe in general, before I offer it, can you
25 describe in general terms what this -- how your office went

1 about the study and what's reflected in the proposed exhibit?

2 A What we wanted to do is we wanted to obtain an analysis of
3 the number of terms of enrollment and the number of terms of
4 appointment that student officers have. What we did is we
5 started with a cohort of graduates so that we would have
6 students who have completed their studies for their degree.
7 The cohort consists of students who graduated in 2012-13
8 academic year, '13-14 academic year, and of course we don't
9 have a complete '14-15 academic year, so it would be the fall
10 term of '14-15.

11 There are four graduation dates at Columbia. They are
12 October, February, May, and June. So the 2015 -- '14-15
13 graduates includes those who will formally receive their degree
14 in October and who were certified for their degree, which was
15 awarded in February.

16 Q So you started with that group.

17 A We start with that group and what we did is --

18 Q How did you identify that group?

19 A -- the students have records in two different systems.
20 There are student records in what's called SIS, or the student
21 information system, and we extracted from SIS a record of every
22 single graduate of those two and a half years. We then went to
23 PeopleSoft, the university's personnel system, and we extracted
24 from there a dataset of everybody who had an appointment as a
25 student officer from -- I'm sorry, I believe it's January 1996

1 to the fall of 2015. And then we matched the two.

2 Q How were you able to match the two? Is there a common
3 identification?

4 A With difficulty. Unfortunately, the two systems don't
5 talk directly to one another. In PeopleSoft, the unique
6 identifier is called the employee ID number or we call it EMPI.
7 And in SIS, it's called the personnel ID or PID. But,
8 fortunately, both of these are connected to what in university
9 jargon is called the UNI, the university ID. So to get into
10 your email, for security purposes, a variety of things, you
11 have a UNI. And both of these are linked to the UNI, so we
12 used the UNI to match what was in the file from SIS against the
13 file that was in PeopleSoft.

14 We took then -- we extracted then out of SIS, a record for
15 every student who had a student appointment and who graduated
16 in the time period we were looking at. We then went to the
17 file from PeopleSoft and we extracted from that a record of
18 every appointment that they had had going back to 1996. And
19 what fell out were all of the students in -- all the graduates
20 in SIS who never had a student appointment and all of the
21 appointments in PeopleSoft that were not held by one of the
22 graduating students.

23 That's the way we constructed the dataset. We then
24 essentially did a count of the number of terms of enrollment
25 and the number of terms of appointment, and then we generated

1 averages. And we did this by degree level, doctoral, master's,
2 and bachelor's.

3 Q And the master's includes the first professional degree?

4 A The master's include the first professional, yes.

5 Q And so the chart on the second page, does this show the
6 result -- the final result of your analysis?

7 A That is correct.

8 MR. BRILL: I offer Exhibit 4.

9 MR. MEIKLEJOHN: I object on the grounds of relevance.

10 MR. BRILL: One of the issues that you've raised is the
11 argument that master's and undergraduate students should be
12 excluded from the bargaining unit based on the fact that they
13 are appointed for temporary periods of time without a
14 reasonable expectation of reappointment and also that they lack
15 a community of interest with the doctoral students. This chart
16 is evidence that's relevant to that determination.

17 It shows that there is a very large difference in the
18 duration of appointments of the master's and undergraduate
19 students versus the doctoral students. And that the average
20 appointment for master's versus professional students is under
21 two terms, and for the undergraduate students just over two
22 terms, versus the average appointment of doctoral students of
23 over nine terms. So this is clearly relevant to that
24 determination.

25 MR. MEIKLEJOHN: With that, while I don't think it

1 establishes what counsel would like it to establish, with that
2 explanation I'll withdraw my objection.

3 HEARING OFFICER EVEILLARD: It's admitted.

4 (Employer's E-4 received.)

5 BY MR. BRILL:

6 Q You didn't mention this in your summary; but, on the first
7 page of the methodology explanation, you state that students
8 who receive the Masters of Philosophy degree, which is awarded
9 to doctoral students on completion of their qualifying exams
10 and is not an independent degree, were excluded. What was the
11 reason for excluding the MPhil students?

12 A There are certain -- we wanted to avoid double counting
13 students and there are certain students who obtain multiple
14 degrees within the same program. PhD students, they are
15 admitted to the PhD program, but the course of their studies is
16 that they receive a Master's of Arts or a Master's of Science
17 after typically one year of study. They then continue to the
18 point where they take the qualifying exams, they defend their
19 thesis proposal, and then they receive what's called the Master
20 of Philosophy. And they then go onto the PhD.

21 In the dataset that we had, for each student who was in a
22 doctoral program, she or he had both a Master of Arts or
23 Science, an MPhil, and a PhD. So we didn't want to, in this
24 case, triple count. Also, the university has programs that are
25 what we call dual-degree programs; so, for example, you can

1 study simultaneously, to give you one example, for Master of
2 Business Administration and Master of Public Administration.
3 The first is offered through the business school, the second
4 through SIPA, School of International Public Affairs.

5 Essentially, what this permits the student to do is it
6 permits the student to double count certain credits toward both
7 degrees and, therefore, to take longer to complete both than if
8 they took them independent. But in those cases, the student
9 will have two records in the dataset that we extracted from
10 SIS, one for the MBA and one for the MPA, and we didn't want to
11 double count them, either.

12 Q Now looking at the chart on the second page of Exhibit 4,
13 first of all, just to be completely clear, this study included
14 only students who graduated during the relevant time period and
15 had at least one appointment as an officer of instruction or
16 research, is that correct?

17 A That's correct.

18 Q So, for example, there may be thousands of undergraduates
19 who never had such an appointment; they would not be included
20 in your average statistics.

21 A Yes, that's right.

22 Q Just so the record is completely clear looking at your
23 chart, under degree program doctrine, that would include the
24 PhD degree students?

25 A Most of those students are PhD students.

1 Q But it would also include some of the other doctorates?

2 A Yes.

3 Q And so the total shown would be 854 and that represents
4 the total number of doctorate students who receive their
5 doctorate degree in that relevant time period and had an
6 appointment?

7 A That is correct.

8 Q Can you explain the second two terms, the average terms of
9 enrollment and the average terms of appointment?

10 A Well, what we did is we counted by each individual
11 student, the number of terms of enrollment, the number of terms
12 of appointment. We summed the number of terms for each
13 individual and then we divided by 854 to come up with the
14 average.

15 Q So the average term of appointment for the students who
16 receive doctoral degrees during this time would be 9.19?

17 A That is correct.

18 Q For the master's and first professional students, there
19 were 2,426 students that you identified?

20 A Who held appointments at some point during the period that
21 they were studying for their master's degree or first
22 professional degree.

23 Q And the average term of enrollment was 4.56?

24 A Yes.

25 Q What is the typical, if there is, any length of the

1 master's or first professional programs?

2 A With master's, with the Master of Science and Master of
3 Arts, leave aside the first professional, and such other
4 master's degree as the MFA, the Master of Fine Arts, the
5 typical length of the program, typically a student completes
6 the program by taking either 30 or 60 credits, which they do in
7 either 1 or 2 years. There are a few programs which require
8 the students to go beyond two years, but they're a very small
9 minority.

10 With the first professional degree, it's going to vary
11 depending upon the degree program. First professional degree
12 includes the Master of Architecture, that's a three year
13 program; the JD, three year program; and so on. So I can't
14 give you the same level of assurances to the length of the
15 program for the first professional. But I would say that
16 typically it would be a little longer than the Master of Arts,
17 Master of Science program.

18 Q For the typical master's program in the arts and sciences,
19 the two-year program, when are master students appointed to a
20 student officer position?

21 A They are appointed in their second year. They are almost
22 never, virtually never appointed in their first year.

23 Q So they would have one term or at the most two terms of an
24 appointment?

25 A That's correct.

1 Q And the average that you found was 1.88, is that correct?

2 A That's correct.

3 Q And then for the undergraduate students, you've identified
4 341, who received their degree during this time period and had
5 at least 1 appointment?

6 A Yes.

7 Q The average term of enrollment of the undergraduate was
8 slightly over eight terms?

9 A Yes.

10 Q So just over a four-year period.

11 A Four years.

12 Q The average terms of appointment again was just over two
13 terms?

14 A That is correct.

15 MR. BRILL: I don't have anything further for Dr.
16 Rittenberg.

17 MR. MEIKLEJOHN: Can we go off the record?

18 HEARING OFFICER EVEILLARD: Yes, sure.

19 (Whereupon, a brief recess was taken.)

20 CROSS-EXAMINATION

21 BY MR. MEIKLEJOHN:

22 Q Good morning, Mr. Rittenberg. You understand that I'm
23 representing the Petitioner in this case.

24 A Yes, I do.

25 Q I guess just about all of your testimony related to

1 students who were appointed as officers in the university. Can
2 you explain what it means to be an officer of the university?

3 A To be an officer of the university, to be a student
4 officer of the university means that you were formally
5 appointed by the secretary of university to the rank that you
6 hold.

7 Q Who else is appointed or what other, not by name, but what
8 other categories of people are appointed to the rank of
9 officer?

10 A Every faculty member, every officer of research, every
11 officer of the library, every officer of administration.

12 Q Is there some significance or definition of the term
13 officer as applied across the schools, across the board?

14 A I'm not quite clear on what you're asking?

15 Q Some people who work at the university are appointed as
16 officers.

17 A Yes.

18 Q I think there are also people who work for the university
19 who are not appointed as officers.

20 A Yes. They are members of the support staff.

21 Q What is the dividing line between people who get
22 appointments as officers and people who get appointed to the
23 support staff, if there is one?

24 A Well, there is. They have different levels of
25 responsibility. An officer typically has a significantly

1 higher level of responsibility. There is differences in the
2 way they are paid. Officers are paid bimonthly. Support staff
3 can be paid weekly. Officers are what is -- I think the
4 category is called exempt employees. They don't earn overtime.
5 Support staff can earn overtime. They have different fringe
6 benefits packages.

7 Q The first answer you gave is that officers have a higher
8 level of responsibility.

9 A They have a different type of responsibility. If you look
10 at officers of administration and support staff, yes, it's in
11 terms of the level of their responsibility.

12 Q What about faculty and student officers versus the
13 students who don't get appointments but perform work and get
14 paid hourly, is there a difference in the level of
15 responsibility there?

16 A There is. A faculty member will, for example, teach an
17 advanced seminar. A faculty member is expert in a particular
18 area of knowledge and will be offering instruction in that
19 area. A student officer of instruction will not have the same
20 level of expertise and background. They won't be teaching a
21 lot of courses, the substantive courses that the regular
22 faculty teach. But they all teach.

23 Q Is that the dividing line between an officer and some, in
24 the academic side, between an officer and somebody who doesn't
25 qualify as an officer, well, some teach and some do research,

1 correct?

2 MR. BRILL: I object to the question.

3 MR. MEIKLEJOHN: Yeah, I'll try that again.

4 BY MR. MEIKLEJOHN:

5 Q My question is what's the dividing line between a student
6 who is getting paid by the university and gets appointed as an
7 officer, and a student who is getting paid by the university
8 but doesn't get appointed as an officer?

9 A It will be a combination of responsibilities and it will
10 be the level of -- at the form in which they are paid for what
11 they do. It will be in terms of the duration that they are
12 providing services. So it's a combination.

13 Q This is a pretty minor point, but I have it in my notes.
14 We entered into a stipulation. I think we ended up stipulating
15 that there were 61 PhD programs at the university. You
16 testified that there are 62. I'm not sure it matters a heck of
17 a lot. You're pretty confident that it's 62?

18 A I assume the difference arises from the fact that when I
19 said 62, it includes the PhD program in education, which is for
20 students at Teachers College.

21 Q Okay.

22 MR. BRILL: Do you have anything more?

23 MR. MEIKLEJOHN: Yes. Yes.

24 BY MR. MEIKLEJOHN:

25 Q You testified that some students with appointments teach

1 or are involved in instructing in the classes in the core
2 curriculum.

3 A That is correct.

4 Q From your knowledge, can you explain what the core
5 curriculum is?

6 A The core curriculum is a series of courses that make up
7 the liberal arts undergraduate general education requirements
8 of the college, general studies, and engineering. Columbia
9 believes that every student should graduate with a bachelor's
10 degree, not just with an expertise in a particular area, but
11 with a broad understanding, knowledge that will make them
12 responsible members of society. So there are a series of
13 courses they need to take. And Columbia is quite defined by
14 its undergraduate core curriculum.

15 They take what's called contemporary civilizations where
16 they read the actual writings of great thinkers from Plato to
17 Marx and Freud. That's a year-long course. They will take a
18 year-long course in literary humanities, which looks at the
19 great literature of mankind. They will take what's called the
20 frontiers of science, which is an introduction to how
21 scientists think. It's not the knowledge, specific knowledge
22 of chemistry or physics, but really how does a scientist go
23 about doing her work or his work. So there is a series of
24 courses like that that they will take.

25 What is distinctive about the core curriculum is it is

1 really taught in small sections. You will not have discussion
2 sections of more than 20 or 22 students. It's really
3 essentially a structured conversation around a particular piece
4 of work. To give an example, they will spend a day talking
5 about *Das Kapital*. And it's the responsibility of the
6 instructor to help them understand that particular work and to
7 place it within the context of where did it come from, what
8 does it tell us about the society at the time it was written,
9 what can it tell us about our own society, today.

10 Q What role do student officers, instructional student
11 officers play in teaching those classes that are part of the
12 core curriculum?

13 A They will lead sections of the core curriculum.
14 Essentially, you may have in any given term 20 or 30 different
15 sections of contemporary civilizations, to give you an example.
16 So what the faculty committee is responsible for contemporary
17 civilizations does is it will have weekly seminars, seminars in
18 which the instructors in the different sections will meet
19 collectively to discuss what they are going to be teaching in
20 the next session.

21 And then each of the instructor that takes what they have
22 learned in the seminars, along with their own study of text and
23 whatever they think else is appropriate, and then integrates
24 that into essentially a plan for what they want to achieve
25 during discussion of that particular text.

1 Q Now you identified the core curriculum as being -- the
2 word you used wasn't hallmark, but of the Columbia --

3 A It's liberal arts. It's undergrad liberal arts
4 requirements.

5 Q It's a requirement, but is it also -- you used a word to
6 suggest that this is one of the things that makes Columbia
7 distinctive and attractive to undergraduate students.

8 A Yes.

9 Q Do you remember -- you don't remember the word. I suppose
10 the word is not that important. But this is something -- it's
11 a selling point for the university, is that a fair statement?

12 A Yes. I mean to give you an example, if you think of it as
13 a continuum and at one end there is an institution like
14 Columbia or Chicago, where there is a very structured
15 undergraduate curriculum, and at the other end you have Brown
16 where you can just do your own thing, you know, there are no
17 requirements, you create your own program.

18 Q I thought that was Wesley.

19 A That could be, as well.

20 Q So the undergraduate students who select Columbia are
21 students who have chosen for way of a reason the type of
22 program that you're describing?

23 A Well, I would like to think that they chose Columbia for
24 other reasons as well, like the success of our football team.
25 So, no, seriously, I mean students choose Columbia for a

1 variety of reasons. And a structured curriculum that is
2 defined by the core is part of that. Any student who comes to
3 Columbia is going to be aware of the core. But they could
4 choose to come to Columbia because we have really good
5 mathematicians or we have outstanding historians. They could
6 come to Columbia because they love the idea of coming to a
7 university in the middle of New York City. So there's a
8 variety of different --

9 Q I didn't mean to suggest that was the only people why
10 people pick Columbia, but it's one of the selling points. And
11 part of the selling point in this core curriculum is that the
12 classes are taught in the small or they're instructed in these
13 small 20 to 25 student classes that you described.

14 A Well, one of the selling points of the Columbia curriculum
15 is we have very small classes. Even if you leave -- leaving
16 aside the core curriculum, most of our classes are taught in
17 small classes of 20 students or less.

18 Q And a substantial number of those classes are taught by
19 student officers?

20 A No.

21 Q In the core curriculum, are these small groups led by
22 student officers, some of them?

23 A Some of them are, yes.

24 Q And the students, the undergraduate students who attend
25 these, at least many of those students are paying tuition to

1 the university, correct?

2 A They're all paying tuition in one way or another.

3 Q Okay. Do you have Employer Exhibit 2 in front of you?

4 A No, I don't.

5 Q You will in a minute.

6 A Okay. That's this one?

7 (Pause.)

8 MR. MEIKLEJOHN: This is the one that's labeled student
9 officers of instruction and research.

10 HEARING OFFICER EVEILLARD: He has it in front of him.

11 MR. MEIKLEJOHN: Okay, thank you.

12 BY MR. MEIKLEJOHN:

13 Q In the fifth paragraph, it states that doctoral students
14 in the Graduate School of Arts and Sciences who engage in
15 teaching are appointed as teaching fellows. Do you see that
16 sentence?

17 A Um-hum.

18 Q Are the categories of teaching fellows -- I'm sorry, the
19 categories of employees listed below, the preceptors, the
20 teaching assistants, and the readers, do they fall within the
21 category of teaching fellows or are those separate categories?

22 MR. BRILL: I'd just object to the form of the question
23 describing --

24 HEARING OFFICER EVEILLARD: Employees?

25 MR. BRILL: -- the categories as employees. I don't think

1 they're described as employees in this document.

2 HEARING OFFICER EVEILLARD: Well, it states graduate
3 students, so are the graduate students --

4 BY MR. MEIKLEJOHN:

5 Q Are the graduate students appointed as preceptors,
6 teaching assistants, and readers, do they fall within the
7 broader category of teaching fellows or is that a different
8 category?

9 A It's a different category.

10 Q There is a pretty good definition of preceptor, teaching
11 assistant, and reader. But can you elaborate on what the
12 duties and responsibilities of a teaching fellow are?

13 A Well, a teaching fellow, as I explained to Mr. Brill, is a
14 term which is used for doctoral students within the arts and
15 science. And the types of responsibilities that they perform
16 are really the same as teaching assistants in many parts of the
17 university. They include leading discussion sessions. They
18 include teaching introductory Italian or Spanish. They include
19 giving occasional lectures in a big lecture course. They
20 include grading. So there is a variety of responsibilities
21 that teaching fellows have, just as there are a variety of
22 responsibilities that a teaching assistant would have.

23 Q How does it differ from a preceptor?

24 A A preceptor is a more advanced graduate student, more
25 advanced doctoral student. And a preceptor is someone who

1 really has a significantly greater independent responsibility
2 for a particular section of a course.

3 Q You said that a teaching fellow might teach Italian. You
4 gave a couple of examples of languages. Are those languages,
5 are they considered part of the -- are first and second year
6 language courses considered part of the core curriculum?

7 A No. But they are part of the undergraduate liberal arts
8 requirements.

9 Q So undergraduates aren't required to take or pass out of
10 two years of language requirements, is that correct?

11 A I'm not certain whether it's two years or not, but they do
12 -- they either have to demonstrate proficiency in a language up
13 to a certain level or they have to take the courses.

14 Q Are teaching fellows appointed as instructors of record in
15 some of these language classes?

16 A They are not appointed as instructor of records. They
17 will lead sections of an introductory language course. But
18 they are not the instructor of record.

19 Q In the language courses, do they have large lecture groups
20 or they're taught exclusively in sections?

21 A They are taught in sections.

22 Q So what does the instructor of record do -- strike that.
23 The instructor of record would not be a teaching fellow, I take
24 it.

25 A Wouldn't be a teaching fellow.

1 Q Could it be a preceptor?

2 A No.

3 Q Who in the language class would be, what category of
4 person would be the instructor of record?

5 A A regular faculty member supervising the language
6 programs.

7 Q And then the individual sections would meet, what, two or
8 three times a week?

9 A I couldn't tell you the exact number.

10 Q The contact that the students would have, the
11 undergraduate students, would be with the teaching fellow who
12 is leading the section?

13 A Yes.

14 Q And hopefully they would learn Italian from the instructor
15 of record -- I mean from the teaching fellow.

16 MR. BRILL: If they're in the Italian.

17 MR. MEIKLEJOHN: Only the ones in the Italian class.

18 BY MR. MEIKLEJOHN:

19 Q There are teaching assistants who are master's students,
20 correct?

21 A The overwhelming majority of teaching assistants are
22 master's students.

23 Q What is the difference between the work that the teaching
24 assistants or master's students do and the work that teaching
25 fellows do, or other categories of PhD teachers?

1 A There is considerable similarity between what they do.
2 You won't have a teaching assistant in a SIPA, teaching a
3 section of the course, because the curriculum for the Master of
4 International Affairs and the Master of Public Administration
5 are different. But they will be leading discussion sections or
6 they will be giving individual lectures, some will, not all.
7 Some will be grading. So there are considerable similarities.
8 But the exact responsibility is going to be structured somewhat
9 differently because the curriculum that they are teaching in is
10 going to be structured differently.

11 Q Their education is not as advanced, so one would expect
12 them to need more guidance and direction, is that a fair
13 statement?

14 A It's hard for me to say. It's hard for me to generalize.

15 Q The master's TAs are paid twice a month, same as the
16 teaching fellows and the preceptors?

17 A All officers are paid on bimonthly payments.

18 Q Okay.

19 A The one thing I have to say is that the doctoral students,
20 they get a stipend, a fellowship stipend. And that doesn't --
21 that isn't distributed bimonthly. I couldn't tell you the
22 schedule that is on, but they get a substantial, in fact it's
23 probably considerably larger amount of money in the form of a
24 stipend than they do compensation for teaching.

25 Q And the master's TAs don't get -- are there master's TAs

1 who also get stipends, do you know?

2 A It's theoretically possible, but the two aren't connected.
3 If you come in with a fellowship or the school gives you a
4 fellowship, you've earned that quite separately from what
5 you're paid for being a teaching assistant; whereas, with the
6 doctoral students, they are all part of one package.

7 Q You testified that the overwhelming number of
8 undergraduate -- overwhelming number of students who get TA III
9 appointments are in the engineering school and they have jobs
10 teaching or jobs in computer science, is that --

11 A No, that is what I --

12 MR. BRILL: Objection. I don't think -- mischaracterizing
13 the testimony. He never said they had jobs in computer
14 science.

15 MR. MEIKLEJOHN: I changed it to teaching.

16 MR. BRILL: I mean I don't think that's what he testified
17 to.

18 THE WITNESS: What I said was --

19 HEARING OFFICER EVEILLARD: Appointments.

20 THE WITNESS: -- the overwhelming majority of them are
21 either in the natural sciences or in the computer science
22 department.

23 BY MR. MEIKLEJOHN:

24 Q Why are most of those appointments in those two areas?

25 A These students, they don't teach independently. They

1 basically -- they are there to help with very large courses,
2 for example, Calculus I, to run problem sections. In computer
3 science, you've got to be in a computer lab. They are there to
4 help students in the computer lab. So they have a variety of
5 functions related to the specific programs, math and computer
6 science, the two that come most immediately to mind, that
7 relate to certain aspects of the education of the
8 undergraduates.

9 Q Why do the TA IIIs rather than more advanced categories
10 end up in those areas?

11 A I can only speculate on that.

12 MR. BRILL: Don't speculate.

13 BY MR. MEIKLEJOHN:

14 Q Is it, in fact, the case that it's because there is a need
15 for people with those specific skills?

16 A Once again, I would only be giving you a guess as to my
17 estimation of what the answer might be.

18 Q Do you remember testifying in a similar proceeding to this
19 about 15 years ago?

20 A Regrettably, yes.

21 Q I read the transcript. It didn't look like it was too
22 painful of a -- I mean I'm sure it wasn't as much fun as you're
23 having, today, but it wasn't that painful, was it.

24 MR. MEIKLEJOHN: Where am I at?

25 MR. BRILL: Mr. Rather was much more difficult than --

1 MR. MEIKLEJOHN: Oh, there I am. Here we go.

2 BY MR. MEIKLEJOHN:

3 Q If you look at Employer Exhibit 3, it indicates that --

4 HEARING OFFICER EVEILLARD: This one, right there.

5 UNIDENTIFIED SPEAKER: The blue one.

6 HEARING OFFICER EVEILLARD: Sorry.

7 THE WITNESS: The one that is labeled Table 2, fall 2014,
8 the student officers?

9 MS. ROTHGEB: Yes.

10 BY MR. MEIKLEJOHN:

11 Q I know when I looked at it before, somewhere I found the
12 total for the TA IIIs, but now I -- oh, there it is.

13 MR. BRILL: It's all the way at the last page.

14 BY MR. MEIKLEJOHN:

15 Q There were 234 TA IIIs in the fall of 2014?

16 HEARING OFFICER EVEILLARD: It's on Page 4.

17 BY MR. MEIKLEJOHN:

18 Q It's the 4th -- Page 4 of 5.

19 A Yes.

20 Q We're on the total line. And is that about -- I could
21 show you something to remind you, is that almost a tenfold
22 increase in the number of TA IIIs since you testified 14 years
23 ago?

24 A I don't know.

25 Q Has there been a substantial increase in the use of

1 TA IIIs in the time that you've been the vice provost?

2 A Well, thank you for the promotion.

3 Q I'll get it right.

4 A There has been expansion of the undergraduate student
5 population, so one would naturally expect there to be an
6 expanded need for that reason. There are changes in student
7 interests. If you look over the years, students will --
8 student majors, undergraduate majors, you will see shifts and
9 they are shifts towards disciplines where there is a greater
10 need for small problem group discussions. Economics is a good
11 example. I had forgotten about that till I looked at this.
12 But economics is probably one of the -- is one of the two or
13 three most popular majors now. Its popularity has increased
14 over time, so there is a greater need for people who can assist
15 students, advise them on problems they may be having in
16 understanding the problems that they are given to do as part of
17 their courses.

18 Q And so looking at this chart, there are 24 TA IIIs in
19 economics?

20 A Yes.

21 Q And you're using that as an example to explain why there
22 are so many TA IIIs, because for the reasons you just described
23 in economics?

24 A Well, I don't know whether there are more or less. What
25 I'm saying is, is you asked me what accounts for the increase.

1 I assumed that there was an increase. I don't know how large
2 it is. I assume there was increase both because the number of
3 students has increased, the total population has increased.
4 And, secondly, student interests have shifted over time. They
5 have shifted in directions where there is a greater need for
6 assistance of undergraduates with homework, problem sessions,
7 lab sessions, and whatever.

8 Q You testified that one of your responsibilities or one of
9 the steps in getting an appointment as a student officer is
10 that it has to be approved by your office?

11 A If it's on the Morningside Campus, yes.

12 Q I'm sorry, yes, on the Morningside Campus. There is a
13 vice president who has a similar responsibility for the health
14 sciences campus. In your shop, in the area that you supervise,
15 what do you look for to decide whether to approve a student
16 officer appointment?

17 A We look -- it's primarily -- pro forma is not the right
18 word. It's primarily sort of a process question, rather than a
19 substantive question. The decisions on who is appointed are
20 made basically at the level of the departments and schools.
21 We're looking for things such as consistency in the level of
22 compensation that the students receive. Are the TAs receiving
23 the same levels of compensation, if they're in the same
24 department? Are they students? If they're not students, they
25 are not supposed to hold the appointment.

1 Q They get a different appointment.

2 A Are they doing other things at the -- they have other
3 appointments at the university that if you took all of their
4 appointments together would interfere with their studies. So
5 that's sort of the level at which we are looking at the student
6 appointments that come through.

7 Q You mentioned some major sources of income to the
8 university including tuition, and you mentioned endowment, and
9 also government or grants, primarily federal government grants.
10 Does the university also receive income from licensing
11 intellectual property?

12 A Yes.

13 Q If an officer of the union -- officer of the university --
14 if an officer of the university conducts research that results
15 in a patent or some other form of intellectual property, who
16 does that patent or other intellectual property belong to?

17 A The university owns it.

18 Q That would include student officers, correct?

19 A If a student officer has a discovery that is patentable
20 and it is done in the course of work on a grant or contract
21 that has been given to the university, then yes.

22 Q That would also be the case if he was working on -- or
23 she, working on a research project in which a faculty officer
24 was the principle investigator, correct? The university would
25 still own the intellectual property resulting from that

1 research?

2 A Yes, it would.

3 Q Is it the case that research assistants work on -- that
4 research assistants work on research projects that result in
5 intellectual property for the university?

6 A Yes.

7 Q Are there differences in the type of work done by the
8 different categories of research officers?

9 A You meant the --

10 Q Student research officers, sorry.

11 A There is, if you're talking about DRAs. They would not be
12 engaged in research that's likely to lead to discoverable
13 products that can be patented or licensed. The same is
14 probably true -- is pretty much true for research fellows,
15 because they are not in the sciences. A GRA research fellow
16 and a TRA, yes, they would -- they could be working on
17 something that ultimately could lead to a patent.

18 Q And the GRAs and the GRA fellows typically work in some
19 sort of laboratory on a faculty member's area of inquiry?

20 A Typical is not a word that's appropriate here. They will
21 always work with a faculty member.

22 Q And they would be working in an area of research usually
23 on a grant for that faculty member?

24 A You have to understand the educational program of a
25 doctoral student. You come in. You take some courses. But

1 the most important part of your education is obtained through a
2 mentor/mentee relationship that you establish with an
3 individual faculty member. So if you are interested in
4 synthetic organic chemistry, you're going to be working with
5 one of our synthetic organic chemists. There are different
6 types. Synthetic organic chemists come in different flavors.

7 If you want to be working in what's called natural whole
8 synthesis, you're going to work with Professor A. If you want
9 to work on synthetic chemistry that leads to discoverable
10 medical cures, then you're going to be working with
11 Professor B. So basically what you do is when you come in,
12 very often a doctoral student will actually come to Columbia to
13 work with Professor Smith or Professor Jones.

14 You finish your course work. You then go into the labs.
15 In the labs, you are conducting research that basically forms
16 -- that forms the basis of your dissertation. But the
17 research, itself, is within the scope of your principle
18 investigator, your mentor's research program, so simultaneously
19 contributing to his or her research program.

20 And when you publish the results of your research, in
21 addition to getting the dissertation, you come out of it with
22 maybe a half a dozen, a dozen publications. You will be listed
23 as first author and your principle investigator will be listed
24 as senior author. I don't know if I'm making this clear, but
25 essentially what a graduate research assistant does is work

1 under the tutelage of a faculty member in the given area in
2 which they want to specialize. And by doing that, acquires the
3 education, the training that is necessary to go onto an
4 independent career, be it in academia, or in industry, or a
5 research organization.

6 Q So there are educational benefits to the graduate research
7 assistant or fellow, correct, as you've described?

8 A That's the purpose of it.

9 Q They also further the PI's research objectives, correct?

10 A Yes.

11 Q And if the PI has funding for that research, then the GRA
12 and the research fellow help to fulfill the requirements of
13 that funding, is that correct?

14 A You've lost me there.

15 Q If the PI has a research grant from NIH or NSF, which you
16 identified as the two main sources of grant funding to the
17 university, those grants will require that certain types of
18 work be done and certain types of research be conducted,
19 correct?

20 A Yeah, when you get a grant, you get it to do research on a
21 particular topic.

22 Q There's a bunch of grant papers that say the research that
23 we're paying for from the NSF must fit within the description
24 of this grant.

25 A Oh, yes.

1 Q And the research conducted by the graduate research
2 assistant or the fellow is -- must fall within the parameters
3 of that grant papers -- of those grant requirements in order
4 for the university to get the funding, is that correct?

5 A I would phrase it a little bit differently.

6 Q Probably better, yes, go ahead.

7 A A faculty member put in their proposal, let's say, to the
8 NIH. NIH, the gold standard is called an RO-1. This is a
9 multiyear contract to work on a specific problem. And it will
10 be very clearly specified what that problem is, otherwise,
11 you're not going to get funding. Funding is becoming more and
12 more competitive and difficult to obtain. So only the most
13 creative, promising proposals ever get funding. But that
14 defines what the PI, principle investigator, has been given
15 money to do.

16 The principle investigator puts together a budget. It
17 says I'm going to spend X amount on equipment. I'm going to
18 spend Y amount on research assistants, research officers of
19 research. These are not students. They are all going to help
20 me. And I'm going to put aside X amount of money to support
21 graduate students and also to support post-docs.

22 Why do they do that, well, some of the most creative ideas
23 come out of the youngest people. They don't have blinders on.
24 They come into a research project quite fresh and they make a
25 contribution to achieving the research goals that aren't

1 requirements, but the research goals that the PI has specified
2 in a very, very specific area. It's not synthetic organic
3 chemistry. It's not even natural total synthesis organic
4 chemistry. It will be on a specific compound. I'm a
5 historian; I can't give you an example. But it gets that
6 specific. That's what the PI gets the grant for.

7 Graduate students will then look -- they come in and they
8 say, you know, as seniors in college, they look around and say
9 I want to become a synthetic organic chemist, and Professor
10 Jones at Columbia is doing spectacular work in the following
11 areas. If I can get into Columbia and work for her, then that
12 is going to prepare me to become a professor who can go out and
13 get RO-1s of my own.

14 They work with that individual. They sit down with
15 Professor Jones and they say to her here is what I'm interested
16 in pursuing. And she'll say to them, well, you really go down
17 the hall to Professor Smith, that ain't my area, that's not
18 what my grant supports, but --

19 Q You can continue, it's interesting. I think you've gotten
20 a little bit beyond my question.

21 HEARING OFFICER EVEILLARD: Let him just finish.

22 BY MR. MEIKLEJOHN:

23 Q All right. Go ahead.

24 A So they agree upon what will be the doctoral dissertation
25 research of the individual. And it will serve two purposes.

1 The primary purpose is it will assist the student in obtaining
2 the PhD and preparing to become an independent scientist. It
3 will, in addition, at the same time, contribute to the PI
4 achieving the research goals that they have outlined when they
5 submitted the proposal for funding to the funding agency.

6 Q You mentioned that there are students who are doing work
7 on a casual payroll. This may be outside of your area of
8 experience but you may know this. Do you know what titles are
9 given to students who do work on the casual payroll?

10 A They don't have formal titles. These are informal. Some
11 schools systematize it, others don't. And this can change over
12 time.

13 HEARING OFFICER EVEILLARD: Are these people usually just
14 work study students?

15 THE WITNESS: No, these are not work study students.

16 BY MR. MEIKLEJOHN:

17 Q That's a third pay. Work study is, I don't know, sorry,
18 an additional payroll.

19 A Yes.

20 Q It's separate from casual.

21 A That's correct.

22 Q I don't know, for clarity of the record, do you want what
23 the -- can you explain what the distinction is?

24 A The big distinction is we get money from the federal
25 government to pay for work study students. Work study students

1 are almost entirely office assistants. I have two work studies
2 in my office. They do Xeroxing. They do filing, fairly basic
3 work.

4 Q I'm ready for Exhibit 4 now. It's your study.

5 A The terms of enrollment versus terms of teaching/research?

6 Q Correct. First of all, this is a study that you conducted
7 for purposes of this testimony, is that correct?

8 A Yes, it was.

9 Q You said you went back, it says it here someplace, I think
10 it's clear, back in 1996 to look at the records. That was --
11 you were not looking at people who graduated back that far.
12 You went back that far to find how many semesters students who
13 graduated in the 2012 to 2015 period, how many semesters they
14 had been enrolled, is that right?

15 A That's right. We wanted to be sure that we captured every
16 semester in which they held an appointment as a student
17 officer.

18 Q You chose to use the mean in reporting these figures,
19 rather than, for example, the median, correct?

20 A Um-hum.

21 HEARING OFFICER EVEILLARD: Yes?

22 THE WITNESS: Yes. Sorry.

23 BY MR. MEIKLEJOHN:

24 Q Why did you choose to use the mean?

25 A It's a standard method of trying to provide an overview of

1 experience of a large data group.

2 Q Do you know what the, for example, the second page, for
3 the doctoral, for the people who were awarded doctorate
4 degrees, who are in the doctorate category, the average was
5 9.19. Do you have a recollection did you have a chance to see
6 what the range was between the ones who had the fewest terms of
7 appointment and the ones who had the most?

8 A I have a general recollection that they overwhelmingly
9 concentrate somewhere between 7 terms of appointment and around
10 12 terms of appointment.

11 Q I guess this has gotten clear, but these are measured in
12 terms of semesters. Everything on here measures fall and
13 spring semesters, is that right?

14 A And summer.

15 Q For the terms of enrollment, you're not counting summer
16 semesters or are you?

17 A If they were enrolled during the summer, we counted it.
18 If they were not enrolled during the summer, we did not.

19 Q But this doesn't include people who received appointments
20 during -- the officer appointments, some of those were during
21 the summer as well?

22 A Yes. Once again, if they held an appointment during the
23 summer months, we included it. If they did not, we did not
24 include it.

25 MR. MEIKLEJOHN: Can we have another minute?

1 HEARING OFFICER EVEILLARD: Certainly. Off the record.

2 (Whereupon, a brief research was taken.)

3 HEARING OFFICER EVEILLARD: We're back on the record.

4 BY MR. MEIKLEJOHN:

5 Q Does the provost office award or play a role in giving
6 awards to graduate students for their teaching services to the
7 university?

8 A Are you referring to the teaching awards?

9 Q Yes. There is something called the graduate teaching
10 awards. Are they given out annually?

11 A They are given out annually, yes.

12 Q Is that something that's done through the provost office?

13 A Yes.

14 Q Do you have some role in that process?

15 A I used to. I used to run the competition.

16 HEARING OFFICER EVEILLARD: Is it a competition?

17 MR. MEIKLEJOHN: Well, here. I'd like this marked as
18 Union Exhibit 15 -- Petitioner's Exhibit 15.

19 (Petitioner's P-15 identified.)

20 BY MR. MEIKLEJOHN:

21 Q Is this a description of the grant of the award program?

22 A Every fall, what we do, and it's still being done by my
23 successor, in November, we send out to every student of the
24 university, every faculty member of the university, a research
25 for nominations. And that's what this is.

1 Q The awards are granted to students who have made
2 outstanding contributions to the teaching mission of the
3 university?

4 A Yes.

5 MR. MEIKLEJOHN: I move Petitioner's 15.

6 MR. BRILL: No objection.

7 HEARING OFFICER EVEILLARD: Okay, it's admitted.

8 (Petitioner's P-15 received.)

9 MR. MEIKLEJOHN: No further questions.

10 HEARING OFFICER EVEILLARD: Mr. Brill, do you have any
11 questions?

12 MR. BRILL: Just a few.

13 REDIRECT EXAMINATION

14 BY MR. BRILL:

15 Q Are there also other awards to students for areas, types
16 of academic accomplishment?

17 A Oh, sure. There are a whole variety.

18 Q Can you give a few examples?

19 A You can get awards from your discipline for best papers.
20 You can graduate, get a doctorate with honors, with
21 distinction, rather. There is an assortment of them.

22 Q Are there any that the provost office gives?

23 A For graduate students?

24 Q To students or graduate students.

25 A I don't think so. None come to mind.

1 Q I really just want to clarify one thing. Perhaps it is
2 self-evidence, but with respect to each of the categories of
3 student officers that you've identified and that are indicated
4 at the top of Employer Exhibit 3, is it necessary for the
5 student enrolled in Columbia University to receive such an
6 appointment?

7 A Yes.

8 Q Finally, at the bottom of the last two pages of Exhibit 3,
9 I didn't ask you about this, but there is a legend that
10 describes each of the positions, for example, a preceptor will
11 work as part-time instruction under the supervision of an
12 officer of higher rank, and so on. Where do those descriptions
13 come from? Do they come from another document?

14 A No. They come from the faculty member.

15 MR. BRILL: I don't have anything further.

16 HEARING OFFICER EVEILLARD: Anything else?

17 MR. MEIKLEJOHN: You're asking me?

18 HEARING OFFICER EVEILLARD: Yeah.

19 RE CROSS EXAMINATION

20 BY MR. MEIKLEJOHN:

21 Q With respect to the awards, you mentioned other student
22 awards were given. Do they carry cash prizes?

23 A They could.

24 Q Do you know of any that do?

25 A I don't run them, so I couldn't tell you.

1 Q If you look at Petitioner's Exhibit 15, these are awards
2 that --

3 HEARING OFFICER EVEILLARD: Hold on.

4 THE WITNESS: Which is?

5 MR. MEIKLEJOHN: The newest one.

6 MS. ROTHGEB: The call for nomination.

7 THE WITNESS: Oh, the call for nominations, okay.

8 BY MR. MEIKLEJOHN:

9 Q I should have it figured out by now. I didn't draw your
10 attention to something. The only people eligible for those
11 awards are ones who have served as student instructors,
12 correct?

13 A Yes.

14 Q Nothing further.

15 A To be a little bit more precise, graduate student
16 instructors.

17 Q It does say that, yes.

18 A So this would not be --

19 Q No TA IIIs.

20 A -- available for TA IIIs.

21 MR. BRILL: I have nothing further.

22 HEARING OFFICER EVEILLARD: Thank you very much.

23 (Witness excused.)

24 HEARING OFFICER EVEILLARD: Off the record.

25 (Whereupon, a brief recess was taken.)

1 HEARING OFFICER EVEILLARD: No more witnesses today,
2 right?

3 MR. BRILL: Not today.

4 HEARING OFFICER EVEILLARD: There is just one outstanding
5 matter. On Tuesday, March 31st, Petitioner offered
6 Petitioner's Exhibits 1 through 12, which were a series of
7 collective bargaining agreements in the public sector
8 universities, and I had reserved my ruling on whether they
9 would be admitted or not.

10 As I have indicated earlier, I am going to allow
11 Petitioner's Exhibit 1 through 12 be admitted into the record
12 and I have two reasons for that decision. One, in Brown
13 University, the dissent noted that the collective bargaining
14 agreements in the public sector demonstrated that the
15 collective bargaining agreement in NYU was not an anomaly. So
16 on that basis, I find that the issue of whether collective
17 bargaining harms academic freedom -- I find that the collective
18 bargaining agreements are relevant to the issue of whether
19 collective bargaining hurts academic freedom.

20 And, two, in the decision by the Board ordering this
21 hearing, the Board cited to its earlier remand in the NYU
22 decision, which was cited as 356 NLRB #7 (2010). In that
23 decision, the Board had ordered the regional director to
24 reinstate the petition and remand it for a full evidentiary
25 hearing, and specifically referred to various factual

1 representations, contentions, and arguments of the parties that
2 should be considered in a full evidentiary record, as well as
3 any others deemed relevant by the regional director.

4 Specifically, the Board found relevant the issue raised by
5 the Petitioner's offer to present evidence of collective
6 bargaining experience in higher education, as well as expert
7 testimony demonstrating that even given weight to the
8 considerations relied by the Board in Brown University, the
9 graduate students are appropriately classified as employees
10 under the Act.

11 So based on both the NYU remand noted above and the Brown
12 decision, the experience of collective bargaining for units of
13 graduate research assistants at other institutions of higher
14 learning is relevant, I find. And that's that.

15 (Petitioner's P-1 to P-12 received.)

16 HEARING OFFICER EVEILLARD: So I guess you have no further
17 business, today?

18 MR. BRILL: No. Although, we will take your ruling under
19 advisement.

20 HEARING OFFICER EVEILLARD: Sure.

21 MR. BRILL: We reserve the right either to an appeal or to
22 consider whether to present evidence in response, because we
23 can't cross-examine a document.

24 HEARING OFFICER EVEILLARD: True.

25 MR. BRILL: I mean so I don't know what it shows but --

1 HEARING OFFICER EVEILLARD: I do think the piece referred
2 to expert testimony, so that might be --

3 MR. BRILL: We may consider expert testimony.

4 HEARING OFFICER EVEILLARD: -- helpful for the record.

5 MR. BRILL: Two other things. First, I would like to
6 suggest based on Mr. Lang's testimony that the petition should
7 be amended to reflect the correct name of the Petitioner as the
8 International Union, which it seems pretty clear is the actual
9 labor organization here that's seeking to be certified.

10 MR. MEIKLEJOHN: Well, I think that it's unusual for the
11 Employer to move to amend the petition, the name of the
12 Petitioner on the petition.

13 MR. BRILL: I didn't move. Excuse me, I didn't move. I
14 made a suggestion.

15 MR. MEIKLEJOHN: But we feel with respect to that issue
16 that the statutory definition of a labor organization is an
17 organization in which employees participate. Now if a finding
18 is made that the people we're seeking to represent are not
19 employees, then that would have some potential impact on the
20 question of whether they're a labor organization. But I
21 suppose then it really wouldn't make much difference.

22 On the other hand, if the finding is made that at least
23 two of the people we are seeking to represent here are
24 statutory employees, then we feel we've fulfilled the first
25 requirement that it's an organization in which employees

1 participate. And the second requirement is that they're
2 seeking to engage in collective bargaining and, again, with
3 respect to wages, hours, and terms and conditions of
4 employment. And again the record establishes that that is the
5 purpose for which they exist. So, therefore, we feel that the
6 Petitioner is, in fact, a labor organization.

7 MR. PLUM: I'd like to address this. I want to start with
8 the statute, which Mr. Meiklejohn has misrepresented today and
9 yesterday. I mean the definition of a labor organization is
10 any organization in which employees participate and which
11 exists for the purpose, in whole or in part, of dealing with
12 employers concerning grievances, labor disputes, wages, rates
13 of pay, hours of employment, or conditions of the work.

14 So it's pretty clear from the testimony that the GS
15 whatever it is, the GWC exists for the purpose of organizing.
16 It doesn't exist for the purpose of dealing with an employer.
17 And it didn't deal with an employer at NYU. The testimony was
18 pretty clear about that.

19 When it comes time to deal with the Employer, the only
20 entity that would have authority to deal with the Employer on
21 bargaining under the constitution is the International, or it
22 can delegate that under the terms of Section 15 to the local.
23 And that's exactly what happened.

24 So this is a charade where this organization is being put
25 forward as the Petitioner, when it's not. At the end of the

1 day, when there is a certification, and we all know what a
2 bargaining agent is, maybe the witness didn't know, but we all
3 know what a bargaining agent is, the bargaining agent will be
4 the local.

5 So I don't know what -- I think I understand the purpose
6 of the shell game, of putting forward GWC as the Petitioner. I
7 think it's probably pretty clear to everyone. But the
8 Petitioner -- the petition and the certification have to be of
9 an entity that is a labor organization and that will be dealing
10 with employers over terms and conditions of employment. That
11 not what we have here.

12 MR. MEIKLEJOHN: But --

13 MR. PLUM: I'd just like to add one thing. And I don't
14 mean to double-team this but --

15 MR. MEIKLEJOHN: But you're going to.

16 MR. PLUM: But the Board's rules and regulations also are
17 quite explicit, and the regional director in the Poly (ph.)
18 case so ruled, that the ballot has to contain the name of the
19 actual -- the full and legal name of the actual Petitioner, not
20 an acronym or some undefined sub-organization of a group that's
21 not really going to have the legal authority that attaches to
22 an organization that's certified.

23 So I won't go on, but I just wanted to reference the rules
24 and regulations, as well as the statutory definition.

25 MR. MEIKLEJOHN: I do feel I have to respond to some of

1 Mr. Plum's comments referring to it as a shell game and I
2 forget some other --

3 MR. PLUM: Charade, I think.

4 MR. MEIKLEJOHN: Charade. He used both phrases. I
5 couldn't remember charade, but he used both phrases. There is
6 nothing nefarious about this. As Mr. Lang testified, this was
7 initiated by the student employees. They came to the union.
8 They asked the UAW for assistance in forming an organization,
9 and they have created an organization.

10 If the Union wins this election, when the Union wins this
11 election, the employees on that committee will participate in
12 electing their representatives and will participate in
13 negotiations, will deal with the Employer.

14 So a lot of, and I guess, on a slightly calmer note, well,
15 I mean the suggest -- are you done discussing this with each
16 other so I can finish my comments. I mean if you want to talk
17 between each other, that's fine, but I'd like to complete my
18 response, which I think is very disrespectful to the
19 individuals who initiated this campaign, treating them as if
20 they don't know what they want.

21 MR. PLUM: It has nothing to do with --

22 MR. MEIKLEJOHN: Well, I am --

23 MR. PLUM: It has nothing to do with --

24 MR. MEIKLEJOHN: I sat quietly while you talked and I
25 would appreciate the same courtesy.

1 MR. PLUM: Finish, and I will explain.

2 HEARING OFFICER EVEILLARD: Can we all calm down.

3 MR. MEIKLEJOHN: That's fine.

4 MR. PLUM: There is no need for you to scream.

5 MR. MEIKLEJOHN: Well, apparently, that's the only way I
6 can keep you from trying to talk over me.

7 HEARING OFFICER EVEILLARD: Mr. Plum, let him finish,
8 please.

9 MR. PLUM: I said I was happy to let him finish.

10 MR. MEIKLEJOHN: On a calmer note, I would refer to the
11 regional director's decision in NYU-2, I guess it is,
12 determining that GWC-UAW was a labor organization.

13 HEARING OFFICER EVEILLARD: What I was going to say a long
14 time ago was that he has declined to amend the name of the
15 labor organization and that issue will be decided by the
16 regional director.

17 You said you have something else you wanted to discuss?

18 MR. BRILL: Are we off the record?

19 HEARING OFFICER EVEILLARD: No, we're still on the record.

20 MR. BRILL: Can we go off the record.

21 HEARING OFFICER EVEILLARD: Are we done?

22 MR. BRILL: You can end, today. I thought we ought to
23 talk the schedule going forward.

24 HEARING OFFICER EVEILLARD: Okay. Since there are no
25 other issues before me right now, I'll adjourn. We are

1 schedule to resume on Monday, April 6, at 9:30.

2 Off the record.

3 (Whereupon, at 12:50 p.m., the above-entitled matter was

4 adjourned, to reconvene on Monday, April 6, 2015, at 9:30 a.m.)

C E R T I F I C A T E

This is to certify that the attached proceedings done before
the NATIONAL LABOR RELATIONS BOARD REGION TWO

In the Matter of:

THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW
YORK,

Employer,

And

GRADUATE WORKERS OF COLUMBIA-GWC, UAW,

Petitioner.

Case No.: 02-RC-143012

Date: April 2, 2015

Place: New York, New York

Were held as therein appears, and that this is the original
transcript thereof for the files of the Board

Official Reporter

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