

873a

ADDITIONAL TRANSPORTATION REQUIRED

BOARD OF EDUCATION PLAN OF DESSEGREGATION

SCHOOL	ELEMENTARY SCHOOLS		Bus Parking	COST
	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED		
Albemarle Road			S	
Allenbrook			S	
Ashley Park			N	
Bain			U	
Barringer	197	4	N	\$4,200.
Berryhill	274	5	S	
Severly Woods			D	
Billingsville	259	5	N	\$4,600.
Briarwood			U	
Bruns Avenue			N	
Chantilly			N	
Clear Creek			U	
Collinswood	233	5	S	
Cornelius			N	
Cotswold	195	4	N	\$4,200.
Davidson			N	
Derita				
Devonshire				
Dilworth				
Double Oaks				
Druid Hills				
Eastover	62	1	N	\$3,000.
Elizabeth				
Elderly Park				
First Ward				
Hickory Grove				

ADDITIONAL TRANSPORTATION REQUIRED
BOARD OF EDUCATION PLAN OF DIVERSIFICATION

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ELEMENTARY SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS PARKING	COST
Hidden Valley				
Highland				
Hoskins	/			
Jintersville				
Huntingtowne Farms				
Idlewild				
Army James				
Lakeview	47	1	N	\$3,000.
Lansdowne				
Lincoln Heights				
Long Creek				
Marie Davis				
Matthews				
Merry Oaks				
Midwood				
Mapleclaire	35	1	U	\$ 400.
Myer Park				
Notices Ford	153	3	S	
Reynell				
Oakdale				
Oakhurst	105	2	N	\$3,400.
Oaklawn				
Olde Providence				
Peach Pond				
Long Creek				
Wardville				
Lower Pond				

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ADDITIONAL TRANSPORTATION REQUIRED
BOARD OF EDUCATION PLAN OF DESIGNSATION

ELEMENTARY SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	Bus Parking	COST
Rara Road				
Sedgefield				
Selwyn				
Shamrock Gardens				
Snaton				
Starmount				
Statesville Road				
Steele Creek			S	
Thomasboro	353	7	N	\$5,400.
Tryon Hills				
Tuckaseegee	30	1	N	\$3,000.
University Park				
Villa Heights				
Westerly Hills	156	3	N	\$3,800.
Wilmore				
Windsor Park				
Winterfield	140	3	N	\$3,600.
Pinewood				
Total	2345	48		\$38,600.

Less reduction to prevent
duplicate use of school buses 7

Net number of buses 41

Schedule 2

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DR. JOHN FINGER PLAN
CHARLOTTE-MECKLENBURG SCHOOLS

1. Cost of Buses	\$ 2,947,048.94
2. Cost of Parking Area	337,400.00
3. Cost Operation	688,271.96
4. Personnel	177,120.00
5. Total Cost First Year	\$ 4,062,640.92

D.A. C.R. 1974-1975

STATE HIGHWAYS

1. Capital Outlay

A. 224 Buses @ \$3337.64 Ea.	\$74,850.96
B. Lubricants	2,000.00
C. Motor Vehicles	2,100.00
D. Service Funds	10,000.00
E. Consumable Supplies	10,000.00

2. Cost of Operation

	Daily	Annual
Dividends & Salaries	\$815.02	\$25,514.02
Gasoline, oil, grease, and lubricants	500.00	15,000.00
Maintenance Supplies	100.00	3,000.00
Rental Costs	27.50	9,000.00
Tires & Tubs	—	—
Total	\$8,152.52	\$25,514.02
Kilometer Cost	150.00	45,000.00
GRAND TOTAL	\$23,602.52	\$60,514.02

3. Personnel

	Annual
A. Supervisors - 3	\$ 22,500.00
B. Clerical - 1	6,400.00
C. Bus Dispatchers - 1	7,600.00

DR. JOHN RINGO, M.D.
JUNIOR HIGH SCHOOLS

A. 129 Issues O 65337.04 Ea.	\$2,029.16
B. Lubricant	2,975.00
C. Service Vehicles	
F. Service Vehicles	12,500.00
G. Gasoline Delivery Trucks	10,000.00

3. Consumables	Monthly	Annual
Lubricants	\$616.17	\$11,035.57
Cas, oil, grease, anti-freeze	110.67	23,134.47
Machining Supplies	390.51	7,805.51
Repair Parts	26.53	5,259.53
Tires & Tubs		
 FOODS	 Mileage Costs	
Food	\$913.92	\$165,119.52
Mileage Costs	190.35	35,539.35
 GRAND TOTALS	 \$1,110.27	 \$200,958.87

3. Personnel	Annual
A. Supervisor - 1	\$ 32,760.00
B. Clerical - 2	12,615.00
C. Bus Driver Teacher - 1	7,800.00

DR. JOHN F. HENRY KELLY

ELEMENTARY SCHOOLS

• Capital Outlay

A. Bus Diesels @ \$55387.00 Ea.	\$1,512,513.00
B. Liners	7,312.00
C. Service Vehicles	
12 Service Trucks	21,111.00
5 Gasoline Delivery Trucks	25,000.00

• Gas & Operation

	Daily	Annual
A. Drivers Salaries	\$1,500.00	\$270,000.00
Gas, oil, gas, maintenance	270.19	45,311.65
Mechanics Salaries	371.97	63,222.52
Repair Parts	70.32	12,741.92
Tires & Tubes	-----	-----
Total	\$2,832.51	\$457,852.47
Mileage	170.15	29,123.15
Grand Total	\$2,932.66	\$486,975.62

• Personnel

A. Supervisor - 5	Ann. sal.
B. Clerical - 3	\$42,000.00
C. Bus Dispatcher - 2	12,000.00
D. Assistant Bus Dispatcher - 2	12,000.00

ADDITIONAL TRANSPORTATION
DR. JOHN FINGER'S PLAN OF DESSEGREGATION,

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SENIOR HIGH SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS PARKING AREA	
East Mecklenburg	323	8	S	
Garinger	862	22	N	11,400
Harding	420	11	U	7,000
Independence	270	-	S	
Myers Park	776	22	N	10,500
North Mecklenburg			S	
Olympic			S	
Second Ward				
South Mecklenburg	488	12	U	7,400
West Charlotte	810	20	U	10,600
WestMecklenburg	157	4	U	4,200
Changes in Attendance Areas		10		
TOTALS- High School	4,105	114		51,200
TOTALS-Junior High	6,129	119		72,000
TOTALS-Elementary	13,149	223		214,200
GRAND TOTALS	23,364	526		337,400

Estimated daily mileage is from 15 to 50 miles per bus. It is estimated that the average daily miles would be approximately 30 miles per bus.

Estimated travel averages 12 miles per hour. This would require an estimated average travel time of 2-1/2 hours per day per bus.

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JUNIOR HIGH SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	LCS PARKING AREA	
Penobscot Head	267	5	S	
Under			S	
Wetmore	270	5	U	4,600
Wm. L. Anagnoson	80	2	S	
W. H. Ross	126	3	S	
Woodland	310	12	U	7,400
Weston-Graham	732	14	N	8,200
Worrell	468	9	N	6,200
Woolwich				
Winton	325	6	U	5,000
Wm. West	747	14	N	8,200
Woodlawn	424	8	N	5,800
Wm. Hollister	103	4	U	4,200
Wright			S	
W. Field	252	5	N	4,000
XI	360	7	S	
XII	352	6	N	5,000
XIII	63	12	N	7,400
XIV			S	
XV Ross	365	7	N	5,400
TOTALS	6,129	119		72,000

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SCHOOL	ADMISSIONS			BUSES PERIOD	AREA
	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	NO. PUPILS		
Albemarle Road	176	4	U	4,200	
Allenbrook	156	3	S		
Ashley Park	197	4	N	4,200	
Bain			S		
Barringer	292	6	N	5,000	
Berryhill			S		
Beverly Woods	272		S		
Billingsville	259	5	N	4,600	
Briarwood	222	5	U	4,600	
Bruns Avenue	528	11	N	7,400	
Chantilly			S		
Clear Creek			S		
Collinswood	168	3			
Cornelius			S		
Cotswold	195	4	N	4,200	
Davidson			S		
Verita			S		
Devonshire	270	6	S		
Dilworth	25	1	U	3,000	
Double Oaks	587	12	N	7,400	
Druid Hills	312	6	N	5,000	
Eastover	237	5	N	4,600	
Elizabeth	95	2	N	3,400	
Fairly Park			S		
First Ward	523	12	N	7,400	
Ickory Grove			S		

MURKIN'S PLAN FOR TRANSPORTATION
MR. JOHN PANTER'S PLAN OF DISCONTINUATION

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ELEMENTARY SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS PARKING AREA	
Ridge Valley	342	7	N	5,400
Highland			S	
Hoskins			S	
Huntersville			S	
Huntingtowne Farms	220	5	N	4,600
Holiday	178	4	U	4,200
Gray James			S	
Lakeview			S	
Pansdowne	354	7	N	5,400
Lincoln Heights	456	9	N	6,200
Long Creek			S	
Marie Davis	473	10	N	6,600
Matthews			S	
Merry Oaks	149	3	N	3,800
Midwood	4	1	N	3,000
Montclaire	252	5	N	4,600
Myers Park	183	4	N	4,200
Nations Ford			S	
Newell			S	
Oakdale			S	
Oakhurst			S	
Oakhurst	405	9	N	6,200
Olde Providence	175	4	U	4,200
Park Road	265	5	II	4,600
Pine Creek	272	5	U	4,600
Pineville			S	
Poplar			S	
Primrose	313	9	II	3,200

AUDITING TRUSTEES' BUDGET
DR. JOHN FLUGEN'S PLAN OF INTEGRATION

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ELEMENTARY SCHOOLS

SCHOOL	NO. STUDENTS TO BE TRANSPORTED	NO. BUSES REQUIRED	BUS PARKING AREA	
Rama Road	277	6	N	5,000
Sedgefield	198	4	N	4,200
Selwyn	391	8	N	5,830
Shamrock Gardens	213	4	N	4,200
Sharon	230	5	N	4,600
Starpoint	256	6	N	5,000
Statesville Road			S	
Steele Creek			S	
Thomasboro	258	5	N	4,600
Tryon Hills	95	2	N	3,400
Tuckaseegee	265	6	N	5,000
University Park	562	12	N	7,400
Villa Heights	728	15	N	8,600
Westerly Hills	137	3	N	3,800
Wilmore	55	1	N	3,000
Windser Park	304	7	N	5,400
Winterfield	358	7	N	5,400
5th & 6th grade students closed schools	140	3		
Changes in Attendance Areas		17		
TOTALS	13,349	293		214,200

SEARCHED 3

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TYPICAL COSTS FOR SCHOOL BUS PARKING

BUS	\$3,000.00
EACH ADDITIONAL BUS	400.00

BREAK DOWN OF COSTS

Entrance Driveway = 15' X 50'
Bus Bus Lot = 50' X 110'

Grading (15' x 50')	=	250.00
Excavation	=	125.00
Paving	=	125.00
Subgrade	=	<u><u>\$1,452.00</u></u>

Vertical Curb	=	1000.00
City Sta. & Carb	=	<u><u>250.00</u></u>
		225.00

Storm Drain	=	200.00
TOTAL	=	<u><u>2252.00</u></u>
ROUNDED	=	3000.00

EACH ADDITIONAL BUS (15' X 110').

Grading	=	20.00
Stone	=	148.00
Paving	=	161.00
		<u><u>329.00</u></u>
Vertical Curb	=	60.00
		<u><u>\$169.00</u></u>
ROUNDED	=	400.00

Bus Loading at SchoolsGeneral Recommendations

1. Safety of pupils should be the primary consideration in locating vehicular circulation on the school site. Convenience, directness and economy are secondary considerations.
2. The bus parking area should be designed in connection with the unloading and loading zone. It should be independent of other driveways and so designed that backing of the buses can be avoided.
3. The bus parking area should be so planned that the movement of buses on the school site will be kept to a minimum.
4. The bus parking area should be of sufficient size to accommodate, at one time, all buses serving the school. Additional space, possibly undeveloped space, for extra buses should be reserved for future growth.
5. The bus parking area should be located away from playground areas, and should be separate from all other vehicle parking areas.
6. The bus parking area should be constructed on a level lot. It should be well drained and all-weather surfaced. Designated spaces and central signs are desired.
7. The bus parking area should be planned in such a manner that:
 - a. Pupils unloading from the bus door will walk away from the bus toward the schoolhouse entrance.
 - b. Pupils will not cross any driveway on which other vehicles may be moving.
 - c. Buses arriving on the lot will not cut through the line of pupils walking to the schoolhouse entrance.
8. Driveway to the bus parking lot should never divide the schoolhouse.
9. Driveway turns over which school buses will travel should be laid out so the turning radius of each will adequately accommodate maximum length school bus.
10. Sufficient space should be so provided that a turnaround place can be walked out for bus mechanics to drive cars along on a plan road enough to the sides to use the turn.

11. Angle (diagonal) parking is preferable to perpendicular parking. Angle parking lends itself more readily to leading and unloading pupils, convincing buses with gasoline and cutting buses out of lines.
12. When the bus lines at any one time exceeds ten to twelve buses, two separate parking areas located apart from one another with separate entrances could conserve time in receiving and dismissing buses and prevent undue confusion in leading and unloading pupils.

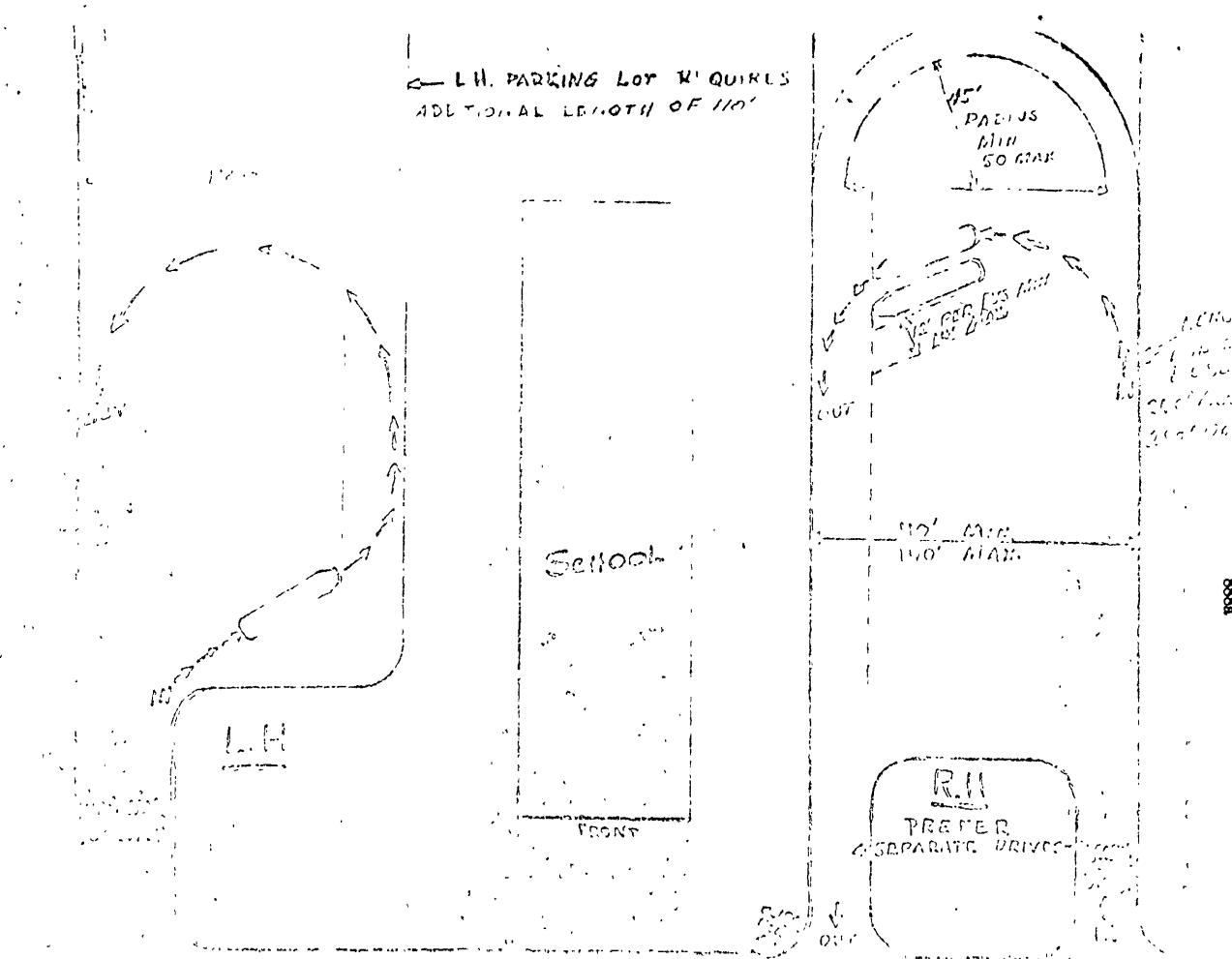
Suggested Layouts

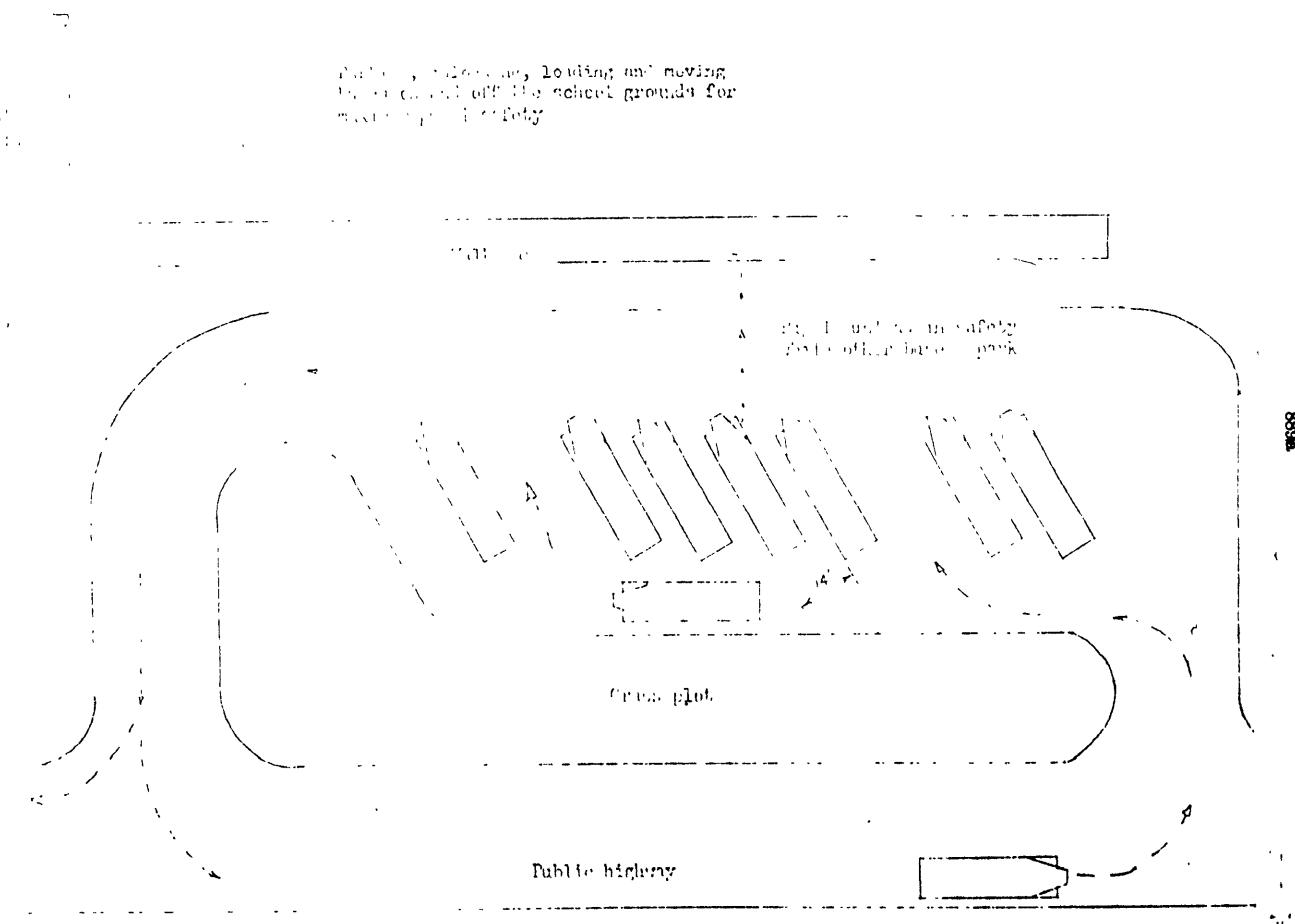
The accompanying diagrams on the following sheets illustrate suggestions for laying out driveways and parking areas for buses.

The suggested parking area layout may be used equally as well for elementary, urban, junior high or senior high schools.

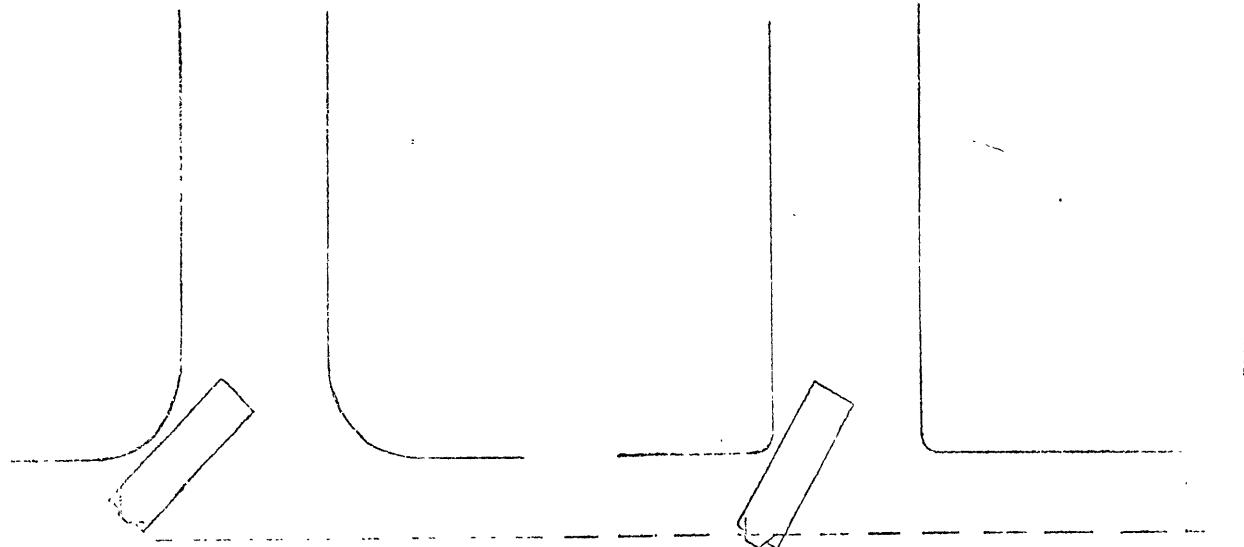
Buses that make school trips should be parked in position nearest the parking area exit to permit freedom of pulling out without moving through the lines of pupils unloading or loading.

It is needless to say that while pupils are loading or unloading, or while buses are moving on or off the area, the operation must be under close direction of assigned school personnel to insure safety.





Driveways to bus parking areas



public road

Planned Entrance Drive

Without wide driveway at
junction with public road,
bus may cross on wrong side of
center in leaving school grounds

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Affidavit of Louis W. Alexander, Assistant Director of Division of Transportation of State Board of Education

(Referred to in Foregoing Tender of Evidence)

LOUIS W. ALEXANDER, being duly sworn, deposes and says that:

1. I am Assistant Director of the Division of Transportation of the North Carolina State Board of Education, a position which I have held for the past three years. For the preceding fifteen years, I was School Bus Route Supervisor for the Western Area of North Carolina (which included Mecklenburg County) and as such was responsible to the Division of Transportation of the North Carolina State Board of Education.
2. In the performance of the duties and responsibilities of my present position, I am familiar with school bus transportation systems throughout the state, with the procurement and operation of school buses and other facilities, with bus routes and schedules, with state laws concerning transportation of school children, safety requirements and standards, and with the various other things that relate to the transportation of school children in North Carolina.
3. I have carefully analyzed the affidavit of J. D. Morgan, Assistant Superintendent for Business Services of the Charlotte-Mecklenburg Public Schools (dated February 13, 1970) and the facts and information set forth therein. I have personally conferred with Mr. Morgan and members of his staff regarding the Pupil Assignment Plans referred to in his affidavit—particularly as they affect the transportation of school children, bus routes and schedules, transportation costs, availability of facilities and the many

Affidavit of Louis W. Alexander, Assistant Director of Division of Transportation of State Board of Education

other facets involved in the movement of a great number of children in the Charlotte-Mecklenburg School System. I have examined the maps showing the assignment proposals under the Board Plan and the Finger Plan and all locations of the schools with particular attention to the transportation that would be required to implement either of these plans.

4. Based upon my experience with school transportation systems in this state (particularly Mecklenburg County) in my judgment, the statements made by Mr. Morgan in his affidavit are sound and well considered. In making my evaluation of these facts and statements, I have, of course, relied upon the data and information furnished me regarding the number of additional children to be transported and the school bus routes to implement either of the two plans. However, I received from Mr. Morgan and his staff, a detailed explanation of the basis upon which the data and information set forth in his affidavit were computed and the many factors which were taken into account. Mr. Morgan's statements regarding the number of buses and other facilities that are required, the length and time of bus routes, the capital and operating expenses, the utilization of equipment, safety factors and other related matters are well in line with what I would expect.

5. In my opinion, the addition of any significant number of buses (irrespective of which plan is used) would create an intolerable situation not only for the Charlotte-Mecklenburg Schools but the public as well. In the operation of any school bus program, the *safety* and well-being of the children are our primary concerns. Even if the buses and

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*Affidavit of Louis W. Alexander, Assistant Director of
Division of Transportation of State Board of Education*

drivers were available, the busing of children into and out of the center of the city along streets and highways already jammed with heavily congested traffic is unwise and unsafe. This is true whether student or adult drivers are used. I would particularly emphasize the difficulties and hazards involved where there are insufficient or inadequate bus parking and other loading and unloading facilities.

LOUIS W. ALEXANDER

6. The above observations were made upon the request of Mr. J. D. Morgan, Assistant Superintendent and Mr. Benjamin S. Horack, Board Attorney.

Louis W. Alexander

(Sworn to February 17, 1970)

**Affidavit of Herman J. Hoose, Director of Traffic
Engineering for the City of Charlotte, North Carolina**

(Referred to in Foregoing Tender of Evidence)

HERMAN J. HOOSE, being duly sworn, deposes and says that:

1. I am now, and have been for the past 22 years, Director of Traffic Engineering for the City of Charlotte. I am charged with primary responsibility for all matters relating to traffic on city streets and thoroughfares. By reason of my position, I also thoroughly familiar with matters relating to traffic in the portions of Mecklenburg County located outside the city limits. The direction and control of inner city traffic must be and is carefully co-ordinated with that of the outlying areas.

2. I have carefully reviewed with Mr. J. D. Morgan, Assistant Superintendent for Business Services of the Charlotte-Mecklenburg Public Schools, his affidavit (dated February 13, 1970) relating to the transportation requirements of the Board Plan and the Court approved Finger Plan referred to in that affidavit—particularly as they would affect traffic patterns, facilities and safety within the City of Charlotte.

3. The peak traffic rush hours in Charlotte are from 7:30 to 9:30 in the morning and from 4:30 to 6:30 in the evening. As is true with most other cities, the control and movement of vehicular traffic along our already over burdened streets and thoroughfares constitutes one of our most critical problems.

4. The main traffic arteries in the city (as well as those in the perimeter) are already jammed almost to the break-

*Affidavit of Herman J. Hoose, Director of Traffic
Engineering for the City of Charlotte, North Carolina*

ing point. Consistent with vehicular and pedestrian safety (which, of course, must be our primary concern), it is the objective of my Department to devise traffic patterns and controls that will expedite the orderly movement and flow of traffic within the city. The addition of a large number of school buses to the congested inner city thoroughfares would occasion serious problems—both from the standpoint of traffic movement and safety.

5. By State law a loaded school bus cannot be operated on a public street or road at a speed in excess of 35 miles per hour. Many of our inner city traffic arteries prescribe a 40 or 45 mile maximum in order to speed up the movement of traffic. The cross-bussing and satellite bussing required of the Court's Finger Plan will necessarily require the school buses to use these thoroughfares. This would make a shambles out of our city traffic—particularly during the morning rush hours and, if staggered school schedules involve bussing after 4:30 p.m., during the evening rush hour as well. We have some expressways in the city that prescribe maximum speeds of 55 or 60 miles per hour. In my judgment it would be completely impractical to expect to allow school buses to use these expressways. Under State law traffic must stop while a school bus is loading or unloading children. To the extent that pickup and discharge points are located on public streets and roads, the movement of traffic would come to a complete standstill. This will create an intolerable situation. Stop-and-go traffic of slow moving school buses in congested traffic would constitute a real danger for both the school buses and other traffic. From a safety standpoint, children will be particularly vulnerable at the points where they are picked up and

*Affidavit of Herman J. Hoose, Director of Traffic
Engineering for the City of Charlotte, North Carolina*

dropped off by school buses. This hazard can be minimized to the extent that school buses load and unload children on school grounds or other off street locations. However, it is anticipated that many of the pickup and dropoff points would be on streets which children reach only by crossing busy streets and intersections and where children will congregate to board or get off the school buses.

6. Of special concern to my Department would be the problems caused by the entry of loaded school buses into the main traffic arteries from secondary and residential streets—particularly during rush hour traffic. Police or traffic controls (which frequently would not otherwise be needed) would be required at these intersections to reduce the hazards occasioned by the entry of the buses into the mainstream of traffic. This in turn will further slow down traffic and clog the already over burdened thoroughfares of the city. Similar problems will exist where loaded school buses enter and leave bus parking areas.

7. It is anticipated that the difficulties involved in the movement of large numbers of children within the city by bus will be further compounded by the increased congestion that will result on bad weather days when parents will forego the use of school buses and will drive their children to school in the morning and pick them up at school in the afternoon.

8. Traffic safety and control will be seriously impaired by any program of mass bussing of school children within the City of Charlotte. Substantially similar problems would be encountered outside the city—although perhaps not as

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*Affidavit of Herman J. Hoose, Director of Traffic
Engineering for the City of Charlotte, North Carolina*

acute where the buses are able to use secondary roads that run through the less densely populated areas of the county. The Charlotte-Mecklenburg Public Schools already operate a large bus fleet to provide the transportation that the State law requires. This existing bussing occasions many problems—which should not be unnecessarily aggravated by additional movement of a large number of children as will be required to implement the plans referred to in Mr. Morgan's affidavit.

/s/ HERMAN J. HOOSE
Herman J. Hoose

(Sworn to February 24, 1970)

Affidavit of Robert L. Deaton, Assistant General Manager of Charlotte City Coach Lines, Inc.

(Referred to in Foregoing Tender of Evidence)

ROBERT L. DEATON, being first duly sworn, says that:

1. I am the Assistant General Manager and an officer of Charlotte City Coach Lines, Inc., which operates the public transit system in the City of Charlotte. We operate under an exclusive franchise granted by the City of Charlotte which permits us to furnish our regular service within the City and the two mile perimeter beyond the city limits. We also hold a Certificate issued by the North Carolina Utilities Commission which permits us to operate a charter or contract service anywhere in Mecklenburg County.
2. At present Charlotte City Coach Lines has a fleet of 128 busses. 114 of the busses are required to furnish the normal transportation needs of the public. Of the remaining 14 busses, 2 are already under contract commitments and 7 more must be kept in reserve as replacement spares when busses used for our regular service break down or are in need of repairs. We should keep at least 10% of our fleet available for replacement spares. Therefore, a replacement reserve of only 7 busses is substantially less than what we normally consider to be our minimum needs in this respect. With our present fleet, 5 busses are the maximum that we could make available on a contract basis to provide transportation for school children. The largest bus in our fleet has a seating capacity for 53 adults. By utilizing standing room in the aisles, we anticipate that each of the busses could transport 65 school children or a total of 325 for the 5 busses that would be

*Affidavit of Robert L. Deaton, Assistant General
Manager of Charlotte City Coach Lines, Inc.*

available. Some additional children could be transported by the use of these busses if the opening and closing hours of the various schools are staggered so that we can make greater use of our equipment by permitting one bus to serve more than one school.

3. The busses we have in our fleet cost approximately \$38,000 to \$39,000 each. It is not economically feasible for us to expand our fleet by the addition of more busses for the sole purpose of providing transportation for school children in the mornings and afternoons of school days. Further, it takes some 8 to 10 months to obtain delivery of a new bus. Nor is it economically feasible for us to supplement our fleet by the acquisition of used busses, since our experience indicates that the maintenance cost of such busses is prohibitive.

4. We would be willing to negotiate with the Charlotte-Mecklenburg Schools on a contract basis for the use of these 5 available busses to transport school children. As fixed by the North Carolina Utilities Commission, our normal contract rate per bus is \$18.00 per hour (or fraction) for the first hour and \$10.00 for each additional hour (or fraction). Our hourly rates are charged from the time a bus leaves its garage until it returns. Although we do not now know the specifics of the proposed school routes which might be served by our busses on a contract basis, we anticipate that the time of a morning or afternoon run would be about 30 minutes for the short urban routes and 1 hour and 15 minutes or more for the longer routes out in the County. We might be able to negotiate some reductions in our normal contract rates. However,

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*Affidavit of Robert L. Deaton, Assistant General
Manager of Charlotte City Coach Lines, Inc.*

we will be unable to do so until we know what the routes and schedules will be and anticipate that (after we are advised of the children to be transported) we will need about 3 weeks to analyze the routes before coming up with a rate proposal. Any contract rates which may be negotiated with the Schools must be approved by the North Carolina Utilities Commission.

/s/ ROBERT L. DEATON
Robert L. Deaton

(Sworn to February 10, 1970.)

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Order

(Filed February 25, 1970)

Upon motion duly made, IT IS HEREBY ORDERED that the following persons and organizations described in the petition of the plaintiffs as additional parties-defendant be, and they are hereby made parties herein:

HONORABLE ROBERT W. SCOTT, Governor of the State of North Carolina

HONORABLE A. C. DAVIS, Controller of the State Department of Public Instruction

HONORABLE WILLIAM K. McLEAN, Judge of the Superior Court of North Carolina

TOM B. HARRIS, Charlotte, North Carolina

G. DON ROBERSON, Charlotte, North Carolina

A. BREECE BRELAND, Charlotte, North Carolina

JAMES M. POSTELL, Charlotte, North Carolina

WILLIAM E. RORIE, JR., Charlotte, North Carolina

CHALMERS R. CARR, Charlotte, North Carolina

ROBERT T. WILSON, Charlotte, North Carolina

CONCERNED PARENTS ASSOCIATION, an unincorporated association in Mecklenburg County, North Carolina

JAMES H. CARSON, JR., Attorney, Charlotte, North Carolina

WILLIAM H. BOOE, Attorney, Charlotte, North Carolina

It is directed that service of the following documents be made immediately by certified mail, return receipt requested, upon the additional parties hereby made:

1. MOTION TO ADD ADDITIONAL PARTIES DEFENDANT AND FOR FURTHER RELIEF, with attached POINTS OF AUTHORITY, served by plaintiffs on February 13, 1970.

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Order

2. NOTIFICATION AND REQUEST FOR DESIGNATION OF THREE-JUDGE COURT, dated February 19, 1970, including exhibits referred to therein, as follows:

Exhibit A—OPINION AND ORDER filed December 1, 1969.

Exhibit B—ORDER filed February 5, 1970.

Exhibit C—ORDER filed December 2, 1969.

Exhibit D—Complaint, amended complaint and two orders entered by Judge William K. McLean on February 12, 1970, in suit pending in the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, bearing No. 70-CVS-1097.

Exhibit E—Statement made by Governor Robert W. Scott on February 11, 1970.

Exhibit F—Letter dated February 12, 1970, written by Governor Robert W. Scott to Dr. W. L. Turner, Director of the North Carolina Department of Administration.

Exhibit G—Statement made by Dr. A. Craig Phillips on February 11, 1970.

3. DESIGNATION OF THREE-JUDGE COURT, filed February 24, 1970.

The plaintiffs are directed to prepare and file on or before Monday, March 2, 1970, proposed findings of fact and conclusions of law and a proposed order, and a brief in support of their position.

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Order

The other parties are directed to prepare and file on or before Friday, March 6, 1970, proposed findings of fact and conclusions of law and a proposed order, and a brief in support of their position.

If there is any additional evidence which any party desires to introduce by deposition or affidavit, the court will receive such evidence, in written form, up to and including Friday, March 6, 1970. It is not contemplated that any more oral testimony in a court hearing will be necessary.

The hearing before the three-judge court will not be an evidentiary hearing, but will be a hearing based upon the record which has been developed by the time of the hearing.

This the 25th day of February, 1970.

/s/ JAMES B. McMILLAN
James B. McMillan
United States District Judge

A True Copy

TESTE:

THOS. E. RHODES, Clerk
By: Mildred L. Loozer
Deputy Clerk

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Notice of Appeal
(Filed February 25, 1970)

Notice is hereby given that the Charlotte-Mecklenburg Board of Education, a public body corporate; William E. Poe, Henderson Belk, Dan Hood, Ben F. Huntley, Betsy Kelly, Sam McNinch, III and Carlton G. Watkins, defendants above named hereby appeal to the United States Court of Appeals for the Fourth Circuit from the following orders entered in this action on the dates indicated:

Opinion and Order dated April 23, 1969,
Two Orders dated June 4, 1969,
Opinion and Order dated June 20, 1969,
Order dated August 15, 1969,
Order dated August 29, 1969,
Order dated October 10, 1969,
Order dated November 7, 1969,
Opinion and Order dated December 1, 1969,
Order dated December 2, 1969, and
Order dated February 5, 1970,

together with the findings of fact and conclusions of law relied upon by the Court in support of the foregoing orders.

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Notice of Appeal

This 25th day of February, 1970.

WILLIAM J. WAGGONER
William J. Waggoner
Weinstein, Waggoner, Sturges, Odom
and Bigger
1100 Barringer Office Tower
Charlotte, North Carolina

BENJ. S. HORACK
Benj. S. Horack
Ervin, Horack and McCartha
806 East Trade Street
Charlotte, North Carolina

Attorneys for Defendants

**Motion to Add Additional Parties Defendant and
For Further Relief**

(Filed February 27, 1970)

On February 5, 1970, this Court directed that the Charlotte-Mecklenburg Board of Education and other defendants proceed immediately with a plan for complete desegregation of the Charlotte-Mecklenburg Schools. On February 26, 1970, this Court entered an order adding additional parties and directing that they show cause why they should not be enjoined from interfering with or otherwise preventing the implementation of the February 5 order. The additional parties defendant had taken steps and conspired to thwart, inhibit and in any way frustrate the orders of this Court. Some of the additional parties defendant had secured patently illegal orders from the State Superior Court purportedly enjoining implementation of the orders of this Court.

On Sunday night, February 22, at approximately 10:16 p.m., a time when plaintiffs understand the courts of this State are normally closed for business purposes, approximately 50 people, some of whom have now been added as parties defendant, filed in the Superior Court of Mecklenburg County another complaint seeking to enjoin implementation of the orders of this Court. They secured from the Honorable Frank Snepp, Resident Judge of the Superior Court of Mecklenburg County, an order purportedly enjoining the Charlotte-Mecklenburg School Board from instituting or implementing or putting into effect the order of this Court. The order of the Superior Court of Mecklenburg County was dated Sunday, February 22, 1970 and was filed in the Superior Court of Mecklenburg County on the same date at 10:16 p.m. This is the third order of the Mecklenburg County Superior Court seeking to frus-

*Motion to Add Additional Parties Defendant and
For Further Relief*

trate and to prevent implementation of the orders of this Court. With full knowledge of the lack of jurisdiction of the Superior Court to enjoin orders of the Federal Court declaring constitutional rights, Superior Courts of the State have repeatedly entered such orders and, plaintiffs are advised and so allege, will continue to do so unless and until enjoined by this Court.

It is clear that the plaintiffs involved in the proceeding in the Superior Court of Mecklenburg County and the Superior Court well knew the lack of jurisdiction of the Superior Court to restrain or enjoin orders entered by this Court. The timing of the order, the continued efforts of the plaintiffs in that proceeding clearly show the ingenuous efforts of the parties in those proceedings to attempt to frustrate, inhibit and prevent the implementation of the orders of this Court.

At great expense, plaintiffs have sought to secure the enjoyment of their rights as protected and secured by the Constitution of the United States. At great expense, plaintiffs have been harassed, intimidated and threatened because of their efforts to enjoy their rights. The efforts of the parties in the proceedings in the Superior Court of Mecklenburg County and of the parties added as defendants by this Court having inhibited and frustrated the efforts not only of the black students in this System to enjoy constitutionally protected rights but have similarly frustrated the efforts of black teachers and school personnel. Black teachers and school personnel have been threatened and intimidated by said parties solely as an effort to prevent implementation of the orders of this Court. Only unless this Court proceed immediately to deal with these patently illegal acts and practices of these parties will Negro chil-

*Motion to Add Additional Parties Defendant and
For Further Relief*

dren, Negro teachers and Negro parents in the community be able to enjoy their rights as secured by the Constitution.

The parties involved in the latest proceeding filed in Superior Court of Mecklenburg County are as follows: Mrs. Robert Lee Moore, for herself and for her minor children, Oscar Moore, Lois Moore, Grace Moore and Jerry Moore; J. D. Little, Jr. and Bettie C. Little, for themselves and for their minor child, Alec Little; John T. Vernon and Nancy H. Vernon, for themselves and for their minor children, David Vernon and Patty Vernon; Floyd T. Boyce and Louise D. Boyce, for themselves and for their minor children, Lou Ann Boyce and Lisa C. Boyce; V. Don Perrin and Nancy G. Perrin, for themselves and for their minor child, Vic Perrin; Jack V. Scott and Jane B. Scott, for themselves and for their minor children, Kenny Scott and Craig Scott; Mrs. Martha M. Glenn, for herself and for her minor child, Connie Glenn; William M. Hood, Jr. and Mary D. Hood, for themselves and for their minor children, Roby Hood, Wrenn Hood, William M. Hood, III and Mary Lib Hood; John D. Hasty, for himself and for his minor children, John D. Hasty, Jr. and Renee Hasty; Aubrey E. Easterlin, Jr., for himself and for his minor children, Billy Easterlin, Vickie Easterlin and Kim Easterlin; James E. King, for himself and for his minor children, Leigh King, Cynthia King, Susan King and Jan King; Melvin D. Childers, Jr., for himself and for his minor child, Cynthia Childers; Thomas S. Weaver and Margaret S. Weaver, for themselves and for their minor children, Libby Weaver and Terry Weaver; Ted E. Manning and Jackie Manning, for themselves and for their minor child, Steven Manning; Horace Davis, Jr. and Evelyn A. Davis, for themselves and for their minor children, Horace Davis, III,

*Motion to Add Additional Parties Defendant and
For Further Relief*

Evelyn Davis and Susan Davis; Orrie B. Oats, for herself and for her minor child, Leroy Oats, Jr.; Thomas B. Harris, for himself and for his minor children, Steve Harris and Kelly Harris; Lorene H. Dresser, for herself and for her minor child, Michell Dresser; John H. Horner, for himself and for his minor children, Laura Horner, John Horner and Brian Horner; Shirley C. Nail, for herself and for her minor children, Kim Nail and Deana Nail; G. Donald Roberson, for himself and for his minor child, Charles Roberson; Raymond Kenneth Young and Edna R. Young, for themselves and for their minor child, Kathy Young; William K. Summerville, for himself and for his minor children, Michael Summerville and Craig Summerville; James L. Kiser, for himself and for his minor child, Kimberly Kiser; Charles N. Briley, for himself and for his minor children, Allison Briley and Nathaniel Briley; William R. Dowtin and Marion W. Dowtin; J. Frank Newton and Frances M. Newton; W. Baine Martin and Elizabeth M. Martin; Edward S. Fisher and Emily S. Fisher; Thomas E. McCabe and Ann R. McCabe; Lloyd Ellis Zedaker, Jr. and Mary Frances Zedaker; Brenda A. Hill; Baxter L. Dixon; and Horace N. Williamson. Attorneys William H. Booé and Whiteford S. Blakeney brought suit on behalf of said parties. The Honorable Frank Snepp issued the restraining order on behalf of the parties. The temporary restraining order issued by Judge Snepp is returnable before him on the 3rd day of March, 1970 at 9:30 a.m.

Plaintiffs respectfully pray that the Court issue an order joining the following as additional parties defendants: Mrs. Robert Lee Moore, for herself and for her minor children, Oscar Moore, Lois Moore, Grace Moore and

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Jerry Moore; J. D. Little, Jr. and Bettie C. Little, for themselves and for the minor child, Alec Little; John T. Vernon and Nancy H. Vernon, for themselves and for their minor children, David Vernon and Patty Vernon; Floyd T. Boyce and Louise D. Boyce, for themselves and for their minor children, Lou Ann Boyce and Lisa C. Boyce; V. Don Perrin and Nancy G. Perrin, for themselves and for their minor child, Vic Perrin; Jack V. Scott and Jane B. Scott, for themselves and for their minor children, Kenny Scott and Craig Scott; Mrs. Martha M. Glenn, for herself and for her minor child, Connie Glenn; William M. Hood, Jr. and Mary D. Hood, for themselves and for their minor children, Roby Hood, Wrenn Hood, William M. Hood, III and Mary Lib Hood; John D. Hasty, for himself and for his minor children, John D. Hasty, Jr. and Renee Hasty; Aubrey E. Easterlin, Jr., for himself and for his minor children, Billy Easterlin, Vickie Easterlin and Kim Easterlin; James E. King, for himself and for his minor children, Leigh King, Cynthia King, Susan King and Jan King; Melvin D. Childers, Jr. for himself and for his minor child, Cynthia Childers; Thomas S. Weaver and Margaret S. Weaver, for themselves and for their minor children, Libby Weaver and Terry Weaver; Ted E. Manning and Jackie Manning, for themselves and for their minor child, Steven Manning; Horace Davis, Jr. and Evelyn A. Davis, for themselves and for their minor children, Horace Davis, III, Evelyn Davis and Susan Davis; Orrie B. Oats, for herself and for her minor child, Leroy Oats, Jr.; Thomas B. Harris, for himself and for his minor children, Steve Harris and Kelly Harris; Lorene H. Dresser, for herself and for her minor child, Michell

*Motion to Add Additional Parties Defendant and
For Further Relief*

Dresser; John H. Horner, for himself and for his minor children, Laura Horner, John Horner and Brian Horner; Shirley C. Nail, for herself and for her minor children, Kim Nail and Deana Nail; G. Donald Roberson, for himself and for his minor child, Charles Roberson; Raymond Kenneth Young and Edna R. Young, for themselves and for their minor child, Kathy Young; William K. Summerville, for himself and for his minor children, Michael Summerville, and Craig Summerville; James L. Kiser, for himself and for his minor child, Kimberly Kiser; Charles N. Briley, for himself and for his minor children, Allison Briley and Nathaniel Briley; William R. Dowtin and Marion W. Dowtin; J. Frank Newton and Frances M. Newton; W. Baine Martin and Elizabeth B. Martin; Edward S. Fisher and Emily S. Fisher; Thomas E. McCabe and Ann R. McCabe; Lloyd Ellis Zedaker, Jr. and Mary Frances Zedaker; Brenda A. Hill; Baxter L. Dixon; Horace N. Williamson; William H. Booc; Whiteford S. Blackeney; and the Honorable Frank Snepp.

Plaintiffs further pray that the Court issue a temporary restraining order dissolving the injunctive order entered in the proceeding by the Honorable Frank Snepp entitled: *Mrs. Robert Lee Moore, et al. v. Charlotte-Mecklenburg Board of Education, et al.*, 70 CVS 2045, and temporarily and permanently restraining any further proceedings in the action.

Plaintiffs further pray that the Court specifically enjoin Honorable Frank Snepp and all other State Court judges from issuing temporary injunctive orders or entering further proceedings designed to or which have the effect of restraining, preventing, prohibiting or in any way inhibiting the order of this Court.

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*Motion to Add Additional Parties Defendant and
For Further Relief*

Plaintiffs further pray the Court for a temporary and permanent injunction against all defendants, including the additional parties defendant added and requested herein to be added and all parties having notice of the orders of this Court from initiating or proceeding with any action in any state court which has the purpose or effect of interfering with outstanding order in this cause.

Plaintiffs further pray the Court for a temporary and permanent injunction restraining all parties defendant from in any way intimidating the plaintiffs, students and teachers who seek in this proceeding to enjoy their constitutionally protected rights.

Plaintiffs further pray that the Court temporarily and permanently enjoin all defendants from in any way taking steps to inhibit or frustrate the orders of this Court.

Plaintiffs further pray the Court that they be allowed their costs in this proceeding and reasonable counsel fees.

Plaintiffs further pray that the Court direct the United States Marshal to personally serve a copy of the Complaint, the Amended Complaint, the Motion for Further

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Relief and all orders, including the injunctive order prayed
for herein upon all defendants named herein.

Respectfully submitted,

CONRAD O. PEARSON
203½ East Chapel Hill Street
Durham, North Carolina

CHAMBERS, STEIN, FERGUSON &
LANNING
216 West Tenth Street
Charlotte, North Carolina

JACK GREENBERG
JAMES M. NABRIT, III
NORMAN CHACKIN
10 Columbus Circle
New York, New York

Attorneys for Plaintiffs

**Motion for Temporary Restraining
Order and for Contempt**
(Filed February 27, 1970)

Plaintiffs, by their undersigned counsel, respectfully move the Court for a temporary restraining order and an order finding all members of the Charlotte-Mecklenburg Board of Education and the Superintendent of the Charlotte-Mecklenburg Public Schools in contempt and exacting a fine of each of the said defendants in the amount of \$10,000.00 per day or imprisonment pending compliance by said defendants with the orders of this Court. As grounds for said motion, plaintiffs respectfully show the following:

1. On Sunday night, February 22, 1970, the Honorable Frank Snepp of the Mecklenburg Superior Court entered an *ex parte* temporary restraining order purporting to enjoin the School Board from complying with the orders of this Court. The *ex parte* order of the Mecklenburg Superior Court was patently in violation of the supremacy clause of the Constitution of the United States.
2. On February 26, 1970, the defendants, Charlotte-Mecklenburg Board of Education and Superintendent of the Charlotte-Mecklenburg Public Schools removed the State proceeding to this Court.
3. Knowing the patent invalidity of the State Court order, the Charlotte-Mecklenburg Board of Education and the Superintendent of Charlotte-Mecklenburg Public Schools have now decided to ignore the orders of this Court and to follow the unconstitutional order of the State Superior Court. Said defendants have never intended and do not intend now to implement the orders of this Court

*Motion for Temporary Restraining
Order and for Contempt*

and, in the absence of some immediate steps by this Court, will continue to frustrate and deny the constitutional rights of plaintiffs herein.

4. On four different occasions, plaintiffs have alleged the contemptuous practices of these defendants of ignoring the clear directives of the Court and the rights of the plaintiffs. On each occasion, the Court has reserved decision. The patience of the Court now places the plaintiffs in the position of having declared constitutional rights which are being and will continue to be illegally frustrated and denied by the lawless actions of these public officials who have refused to obey every substantive directive of this Court.

5. In order to insure implementation of the Court's orders and the enjoyment by plaintiffs of their constitutional rights immediate and effective steps need be taken now by the Court. In the order entered by this Court on February 26, 1970, adding additional parties the Court directed the added parties-defendant to show cause on March 10, 1970, why the relief requested by plaintiffs should not be granted. Plaintiffs requested, on February 27, 1970, that other additional parties be added, parties who initiated and obtained the temporary restraining order issued by the Mecklenburg Superior Court. To wait now for the March 10, 1970 hearing would clearly frustrate and prevent implementation of the February 5, 1970 order of this Court.

WHEREFORE, plaintiffs respectfully pray that the Court issue immediately a temporary restraining order enjoining the enforcement of the State Court orders which infringe

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*Motion for Temporary Restraining
Order and for Contempt*

upon outstanding orders of this Court; enjoining any further efforts by all defendants from taking steps which would prevent and inhibit the implementation of the orders of this Court and finding all members of the Charlotte-Mecklenburg Board of Education and the Superintendent of the Charlotte-Mecklenburg Public Schools in contempt of the orders of this Court and imposing a fine of not less than \$10,000.00 or imprisonment for each day that said defendants fail to implement the orders of this Court.

Respectfully submitted,

CONRAD O. PEARSON
203½ East Chapel Hill Street
Durham, North Carolina

CHAMBERS, STEIN, FERGUSON & LANNING
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Charlotte, North Carolina 28202

JACK GREENBERG
JAMES M. NABRIT, III
NORMAN CHACHKIN
10 Columbus Circle
New York, New York 10019

Attorneys for Plaintiffs

Affidavit of J. LeVonne Chambers in Support of Order

J. LEVONNE CHAMBERS, being first duly sworn, deposes and says:

That he is one of counsel for plaintiffs in the above-styled case.

That since the filing of the most recent motion by plaintiffs for the addition of parties defendant and for further relief, it has been brought to his attention that the School Board, on advice of their counsel, has now decided to do nothing else to comply with this Court's order on the basis of the most recent restraining order entered by the Superior Court of Mecklenburg County on Sunday night, February 22, 1970 in the case entitled *Moore, et al. v. Charlotte-Mecklenburg Board of Education*, 70 CVS 2045.

That plaintiffs have taken further discovery with respect to steps previously taken by the School Board following this Court's order of February 5, 1970.

That the evidence now of record will establish that the Board has not complied and does not intend to comply with the mandate of the Court to desegregate.

That in order to insure the full implementation of the directives of this Court, it is imperative that the Court take action to insure compliance with its orders by immediately enjoining all proceedings in the State Court, temporarily and permanently enjoining the additional parties and the original parties defendants from in any way attempting to prevent or obstruct the carrying out of this Court's orders.

This 27 day of February, 1970.

J. LEVONNE CHAMBERS

(Sworn to February 27, 1970)

Request for Admission

(Filed February 27, 1970)

To: William J. Waggoner, Esq.
Weinstein, Waggoner, Sturges & Odom
1100 Barringer Office Tower
Charlotte, North Carolina

Benjamin S. Horack, Esq.
806 East Trade Street
Charlotte, North Carolina

Plaintiffs request that the defendants admit the following facts pursuant to Rule 36 of the Federal Rules of Civil Procedure:

1. That at least since 1930 until 1961 Mecklenburg County Board of Education, which has merged with the former Charlotte City Board of Education, operated public school buses to transport students to and from school.
2. That said Board operated and routed these buses on a racially segregated basis, transporting Negro students to Negro schools and white students to white schools.
3. That because of the segregated schools, bus routes overlapped and Negro students who may have resided near white schools were transported by such schools to all-Negro schools and white students who may have lived near Negro schools were transported by such schools to all-white schools.
4. That at least since 1930 until 1961 the Charlotte City Board of Education which has now merged with the former Mecklenburg County Board of Education, operated public school buses to transport students to and from school.

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Request for Admission

5. That said Board operated and routed these buses on a racially segregated basis, transporting Negro students to Negro schools and white students to white schools.

6. That because of the segregated schools, bus routes overlapped and Negro students who may have resided near white schools were transported by such schools to all-Negro schools and white students who may have lived near Negro schools were transported by such schools to all-white schools.

7. Since 1961, following the merger of the County and City Boards, the school board continued to provide transportation for students in the system who resided in the county or within the areas of the city annexed subsequent to 1957 who resided more than 1½ miles from the schools to which they were assigned.

8. That since 1961 until the closing of the ten all-Negro schools in the county in 1966, the merged board continued to provide separate bus service for Negro and white students.

9. That pursuant to the plan approved by the Court in August, 1969, the school board has provided transportation for approximately 767 inner-city black students to be transported to white residential areas of the city and county.

10. That the inner-city black students above referred to in many instances passed other schools serving their grade level on the way to the schools to which they had been assigned.

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Request for Admission

PLEASE TAKE NOTICE that answers to the foregoing Request for Admission must be served upon the undersigned within ten (10) days.

Respectfully submitted,

CONRAD O. PEARSON
203½ East Chapel Hill Street
Durham, North Carolina

CHAMBERS, STEIN, FERGUSON AND LANNING
216 West Tenth Street
Charlotte, North Carolina

JACK GREENBERG
JAMES M. NABRIT, III
10 Columbus Circle
New York, New York 10019

Attorneys for Plaintiffs

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**Amendment, Correction or Clarification of Order of
February 5, 1970 dated March 3, 1970**

Paragraph 7 of the February 5, 1970, order read in part as follows:

“7. That transportation be offered on a uniform non-racial basis to all children whose attendance in any school is necessary to bring about the reduction of segregation, and who live farther from the school to which they are assigned than the Board determines to be walking distance. Estimates of the number of children who may have to be transported have run as high as 10,000 or more.”

Since February 5, estimates have been made by defendants that paragraph 7 would require transporting more than 23,000 pupils rather than 10,000 to 14,000, as estimated at the hearing. Upon reviewing the evidence introduced since that hearing, it appears that these higher estimates may be based on construing the above language of paragraph 7 so as to require an offer of transportation to all children who live more than 1½ miles from their school, including city children who are not now entitled to transportation. These, according to the testimony, may number as many as 13,000.

The court regrets any lack of clarity in the order which may have given rise to this interpretation. Paragraph 7 was never intended to require transportation beyond that now provided by law for city children who are not reassigned, nor for those whose reassignments are not required by the desegregation program.

Accordingly, paragraph 7 of the February 5, 1970 order is amended by deleting the words “attendance in any school” and inserting the words “reassignment to any school,” in the first sentence.

This the 3rd day of March, 1970.

/s/ JAMES B. McMILLAN
James B. McMillan
United States District Judge

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**Court of Appeals Order Granting Stay Order of
March 5, 1970**

ORDER

An application for a stay pending appeal of the order of the District Court dated February 5, 1970 made to Judge Craven was by him referred to the entire Court pursuant to Rule 8 of the Federal Rules of Appellate Procedure.

Upon consideration by the full Court, it appears that disposition of this appeal will depend in part upon a resolution of factual questions as yet undetermined in the District Court. Specifically, the parties are in wide disagreement as to the impact of the order upon the School Board's transportation system, the number of pupils for whom transportation will be required under the order, the number of school buses needed to provide such transportation, their availability, and the cost of their acquisition and operation. The resolution of such factual issues is necessary to an orderly consideration of the issues on appeal insofar as they are directed to the order's requirement that transportation be provided for pupils reassigned under the order.

To facilitate the hearing and the disposition of this appeal, the District Court is requested, after such evidentiary hearings as may be necessary, to make supplemental findings of fact respecting the general issue of busing and the effect of its order with respect to the number of pupils transported, the number of buses required, their availability, and the additional capital and operating costs of transportation.

The District Court is requested, if possible, to file a supplemental order or memorandum, including such findings of fact, by March 20, 1970.

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*Court of Appeals Order Granting Stay Order of
March 5, 1970*

This appeal is accelerated. The hearing of the appeal will be scheduled in the Court of Appeals in Richmond, Virginia, on April 9, 1970 and the attorneys for all parties are directed to file their briefs in the office of the Clerk of the Court of Appeals for the Fourth Circuit not later than Tuesday, April 7, 1970.

Since it appears that the appeal cannot be heard and determined prior to April 1, 1970, the date for implementation of the first phase of the order of the District Court, and since the Court of Appeals is presently unable to appraise, in the absence of the requested additional findings of fact, the impact of the busing requirements,

IT IS NOW ORDERED that the order of the District Court dated February 5, 1970 be, and it hereby is, stayed insofar as it requires the reassignment of pupils for whom transportation would be required under the order but who are now not transported or who are now being transported at substantially less distance and at substantially less expense, such reassessments being those arising out of the pairing and clustering of schools with resulting cross-busing.

To the extent that the stay granted by this order requires other modifications in the District Court's order, such modifications as may appear appropriate to the District Court to achieve a cohesive and efficient system of public education are authorized.

Except with respect to the busing requirements of the order which are hereby stayed and the resulting necessary modifications hereby authorized, the application for a stay is denied, and implementation of the order of the District Court is directed at the times and in the manner specified

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*Court of Appeals Order Granting Stay Order of
March 5, 1970*

therein, subject to the further orders of this Court and the ultimate disposition of the appeal. This is in conformity with the general direction of the Supreme Court that orders of the District Court shall be implemented pending the hearing and determination of appeals from such orders. Alexander v. Holmes County Board of Education, 396 U.S. 19; Carter v. West Feliciana Parish School Board, — U.S. — —(January 14, 1970).

By direction of the Court.

/s/ CLEMENT L. HAYNSWORTH, JR.
Chief Judge, Fourth Circuit

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Order Suspending Superior Court Order

(Filed March 6, 1970)

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

CHARLOTTE DIVISION

CIVIL ACTION No. 2631

JAMES E. SWANN, *et al.*,

Plaintiffs,

—v.—

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION,
a public body corporate, *et al.*,

Defendants.

and

CIVIL ACTION No. 1974

MRS. ROBERT LEE MOORE, *et al.*,

Plaintiffs,

—v.—

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION, *et al.*,
Defendants.

On Sunday, February 22, 1970, Judge Frank W. Snepp, in *Moore, et al. v. Charlotte-Mecklenburg Board of Education, et al.*, a suit filed in the Superior Court of Mecklenburg County, North Carolina, signed a restraining order against the defendants. The order is of record. It appears

Order Suspending Superior Court Order

to have been filed at 10:16 P.M. on Sunday night, February 22, 1970.

On Friday, February 27, 1970, the defendant Board of Education had a meeting. Without any inquiry of this court, the Board staff were instructed to comply with the state court order and to stop work on compliance with the order previously entered by this court.

On February 28, 1970, counsel for all interested parties were notified that a hearing would be conducted on March 2, 1970, on motions to set aside or to restrain the effect of the Snepp order. Counsel for plaintiffs in the Moore case did not appear, but sent word through secretaries by telephone that they were occupied elsewhere.

The School Board attorneys have also filed on March 2, 1970, in the Swann case, Civil Action No. 1974, a motion which, although it does not clearly say so, amounts to a request by the Board to this court to relieve the Board of the burden of Judge Snepp's order so that it will not interfere with the preparation and implementation of a desegregation plan.

The Fourth Circuit Court of Appeals has now, on March 5, 1970, issued an order which postpones pending appeal the implementation of the clustering, pairing and cross-bussing provisions of the February 5, 1970 order, but which directs the implementation of the rest of the February 5 order according to its terms. It would appear that the Board should without question follow the order of the Court of Appeals, rather than consider itself hampered by the Snepp order. Nevertheless, in order that there may be no possible question about the effect of the Snepp order henceforward, it is now, in the discretion of the court and in the furtherance and protection of the jurisdiction and orderly processes of this court, and pursuant to ap-

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Order Suspending Superior Court Order

plicable statutes, ORDERED, ADJUDGED AND DECREED, that the order heretofore signed by Judge Snepp in Civil Action No. 2631 in the Superior Court of Mecklenburgh County be, and it is hereby suspended and held in abeyance and of no force and effect pending the final determination by a three-judge court or by the Supreme Court of the issues which will be presented to the three-judge court on March 24, 1970.

IT IS FURTHER ORDERED, that the *Moore Case*, No. 2631, be referred to the three-judge court of March 24, 1970, for such hearing and determination as that court may find proper.

This the 6th day of March, 1970.

/s/ JAMES B. McMILLAN
James B. McMillan
United States District Judge

Order

(Filed March 6, 1970)

On March 5, 1970, the Fourth Circuit Court of Appeals entered an order which included the following:

"Upon consideration by the full court, it appears that disposition of this appeal will depend in part upon a resolution of factual questions, as yet undetermined in the District Court. Specifically, the parties are in wide disagreement as to the impact of the order upon the school board's transportation system, the number of pupils for whom transportation will be required under the order, the number of school buses needed to provide such transportation, their availability, and the cost of their acquisition and operation.

"The resolution of such factual issues is necessary to an orderly consideration of the issues on appeal insofar as they are directed to the order's requirement that transportation be provided for pupils reassigned under the order.

"To facilitate the hearing and disposition of this appeal, the District Court is requested, after such evidentiary hearings as may be necessary, to make supplemental findings of fact respecting the general issues of busing and the effect of its order with respect to the number of pupils transported, the number of buses required, their availability and the additional capital and operating costs of transportation.

"The District Court is requested, if possible, to file a supplemental order or memorandum, including such findings of fact, by March 20, 1970."

The court directs the parties to prepare and file with the Clerk of this court not later than Friday, March 13, 1970, all evidence (evidence should not be interpreted to include

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argument of counsel or others nor any extended opinions) which they would like for the court to consider bearing upon the factual questions referred to in the March 5, 1970 order of the Court of Appeals.

Counsel for all parties are directed to produce upon written request of opposing counsel all documents, records, exhibits, reports, evidence or data of any and every kind which may be requested by opposing counsel. If there are objections upon any basis the evidence shall nevertheless be produced and the court will pass upon the objections after examining the evidence and hearing from counsel.

Counsel are directed to appear before the court at 2:00 P.M. on Monday, March 16, 1970, for the purpose of examining such evidence as may then be available, and determining what matters can then be stipulated and whether any further testimony will then be necessary.

The objections filed by the defendants on March 6, 1970, to the plaintiffs' list of additional exhibits in evidence, and any other objections that any party makes to any demand for evidence or addressed to the production of evidence will be heard at the conference among court and counsel on March 16, 1970, and counsel will be given adequate opportunity to record their then objections and exceptions.

All counsel will provide opposing counsel with copies of all exhibits or other evidence sought to be introduced or which the court is requested to consider.

If a further hearing is necessary after the conference among court and counsel scheduled for March 16, 1970, it will be conducted on Tuesday, March 17, 1970, at 10:00 A.M.

This the 6th day of March, 1970.

JAMES B. McMILLAN
James B. McMillan
United States District Judge

Order

(Filed March 6, 1970)

Among other questions on which findings of fact for the court's report to the Court of Appeals may be necessary are the following:

1. Total numbers of children who live (1) in the pre-1957 city boundaries, (2) in the "perimeter" area, and (3) in the rural areas:
 - (a) Elementary, black and white;
 - (b) Junior High, black and white; and
 - (c) Senior High, black and white.
2. Numbers of children in each school in the entire system who live in a different zone from that of the school they attended in January, 1970:
 - (a) Those who are supplied transportation; and
 - (b) Those who are not supplied transportation.
3. Average daily number of pupils riding school busses in each school for the months of October, November and December, 1969, and January and February, 1970.
4. With respect to the schools whose students are to be desegregated under the court ordered plan by rezoning:
 - (a) How many pupils, school by school, live within a radius of one and one-half miles of each school?
 - (b) How many pupils, school by school, live within a radius of two miles of each school?

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5. Statistics from the National Safety Council or any other responsible source showing the accident rate among school children and the relative safety of:

- (a) Walking;
- (b) Riding in private vehicles; and
- (c) Riding in school busses.

6. Three maps showing in clear coloring or markings with respect to elementary, junior high and senior high schools the following data:

- (a) The school zone for all schools in which desegregation by zoning is to be accomplished under the court ordered plan; and
- (b) Those schools in which desegregation is to be accomplished under the court ordered plan by pairing or grouping or clustering with other schools and providing transportation.

7. A map showing (1) the pre-1957 city limits, (2) the perimeter area, and (3) the rural area, with all elementary schools clearly located on it.

8. A map showing (1) the pre-1957 city limits, (2) the perimeter area, and (3) the rural area, with all junior high schools clearly located on it.

The parties are directed to procure and supply the court by March 13, 1970, with information as above described.

This the 6th day of March, 1970.

/s/ JAMES B. McMILLAN
James B. McMillan
United States District Judge

**Deposition of John A. Finger
March 11, 1970**

【1】 By consent this deposition was taken on March 11, 1970, at 12:15 P.M., in the offices of Chambers, Stein, Ferguson & Lanning, Attorneys at Law, 216 W. 10th Street, Charlotte, North Carolina.

By consent all objections except as to the form of the question are waived and objections will be made and ruled on at the time of trial. With the consent of all counsel, signature is waived.

APPEARANCES:

Plaintiffs—Julius L. Chambers, Esq.

Attorney at Law
Charlotte, North Carolina
Adam Stein, Esq.
Attorney at Law
Charlotte, North Carolina

Defendants—William J. Waggoner, Esq.

Attorney at Law
Charlotte, North Carolina

DR. JOHN A. FINGER, having first been duly sworn, was examined and testified as follows:

By Mr. Chambers:

Q. Your name is Dr. John A. Finger? A. Yes.

Q. What is your address? A. 35 Larch Street, Providence, Rhode Island.

Q. What is your occupation? 【2】 A. I am a college professor.

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Q. Were you requested by the Court to assist the Court in preparing a plan for desegregation of the Charlotte-Mecklenburg schools? A. Yes, I was.

Q. When were you so requested? A. On December 2, 1969.

Q. What instructions did you receive at that time, Dr. Finger? A. I was told to read the order of the Court and to prepare a desegregation plan for Charlotte-Mecklenburg that met the Court order.

Q. Would you state generally for the record what the objectives of the Court order were in terms of the kind of plan you were to prepare? A. As I understood it, I was to draw up a plan that resulted in the elimination of all of the all black schools.

Q. What kind of assistance were you to receive in the preparation of the plan? A. The Court ordered the School Department to provide me with whatever assistance was needed to draw up a desegregation plan.

Q. Were you given an office? A. Yes, I was given an office.

Q. Where was the office? A. In the School Department headquarters.

Q. Was the staff of the School Board directed to provide you with [3] all the information that you needed to prepare a plan for desegregation? A. Well, the Court order required the School Department to provide me with whatever information was needed and when I wanted information or when I wanted to meet with someone, I wrote to the School Superintendent and asked for the information or asked for a meeting with the school staff members.

Q. Did you receive information from the school staff? A. I received everything I asked for.

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Q. Would you explain for the record some of the things that you did receive? A. I received the School Board minutes for the past year, I received demographic maps that showed the location of pupils by grade and race, I received enrollments in the various schools in Charlotte-Mecklenburg, I received school department maps showing the School Board desegregation plan.

Q. Did you get information relative to the teachers in the schools, the school capacities? A. Yes. I have information concerning the number of teachers in each school by race and I have met with the Superintendent, Asst. Superintendent Anderson, who is in charge of teacher assignments, to discuss the plans that he had for desegregating the faculties of the schools.

Q. Do you feel, Dr. Finger, that you received sufficient information in order to prepare a plan for desegregation of the [4] schools? A. Yes, I do.

Q. In the demographic map did that show the residences of the children, too? A. No. It simply showed the number of children residing in each half-mile grided area. The demographic maps are a grid that coincides with the larger school department maps and the number of children residing in each half-mile square block was shown.

Q. Did you receive information about the transportation presently provided by the school system for students? A. No, I did not. I didn't ask for it.

Q. Now, have you had occasion to study the transportation that is provided by the school system? A. I have not studied the present transportation system in detail.

Q. Would you tell us when you began work on the plan? A. That must have been about . . . it was a Thursday, must have been about December 5, I think it was, but it was a Thursday, whatever that date is.

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Q. And when did you submit your plan to the Court?

Mr. Waggoner: We will stipulate February 2. That's the date we had that first hearing.

A. February 2. I submitted a portion of the report the previous Thursday. The final portion of the report was submitted on [5] the day of the hearing.

Q. Would you tell us what you did in terms of a plan for the desegregation of this school system? How did you go about preparing the plan? A. When I accepted this appointment by Judge McMillan and he called a meeting on, I guess it was December 5, wasn't it, Mr. Waggoner?

Mr. Waggoner: Yes.

A. In his chambers where Mr. Waggoner and Supt. Self and I met, we agreed on the procedure that I would follow in working with members of the school department. It was agreed that whatever I wanted from Supt. Self would be requested in writing and I followed that procedure. I also stipulated that I did not feel that I should be a witness in this lawsuit after I accepted the position as consultant to the Court and I'd like to state for the record I am here under protest, that it was my understanding that I would be subpoenaed if I didn't appear. I do feel it is not appropriate to probe into the procedures that I followed in preparing the desegregation plan. I have reported the plan to the Court and that constitutes my official document.

Q. Would you tell us how you proceeded to desegregate the high schools in the system? A. The general procedure I followed in preparing the plan that I submitted to the Court was to meet with various members of [6] the school

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department staff to talk to them about how, to ask them about how, to ask them to react to various plans and procedures that I developed and to evaluate them in terms of their feasibility and in the process I obtained as many documents as were available to help me understand what would be the most effective way to proceed. The plan that I submitted to the Court for senior high schools is very similar to the plan that the school department prepared under the direction of the School Board and the only change that I made was to make it conform with the Court order that I was operating under so that it provided for desegregation of all the schools. I also made the plan so that it would provide very nearly equal ratios of black and white students in all the senior high schools.

Q. Now, how did your proposal differ from the proposal of the School Board with respect to the senior high schools?
A. Both plans have been presented as evidence in the court. I would think that that question was answered by the documents that were submitted to the Court.

Q. Could you just explain for the record what you propose to desegregate the high schools that added to or modified what the Board proposed? A. Yes. I made the ratio of black and white students approximately equal to the ratio of all the students at that grade level.

Q. How did you accomplish that? A. By assigning grids to the various high schools. I used the [7] demographic map and just counted the number of students residing in each grid until I achieved a ratio that was approximately equal. In the plan that I submitted to the Court all of the schools have a ratio between 22% and 26 with the exception of Olympic, which was intentionally left low because of an anticipated housing development, and for North Mecklenburg which I felt ought not to be included in the desegregation plan.

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Q. Is North Mecklenburg the only senior high school that had no changes in terms of the boundaries? A. There might have been a slight change in North Mecklenburg, I'm not positive, but otherwise all the senior high schools had changes in the boundaries. I'd have to check the maps to make sure because occasionally boundaries were altered slightly.

Q. The plan designed by the Board made use of computer matching of grids from the map and enlarging or altering school boundaries, is that correct? A. Yes, that's correct.

Q. Does it also create a satellite district for one of the schools? A. Yes, it creates a satellite district for Independence High [8] School.

Q. Would you explain for the record what a satellite district is? A. Well, it's a district that is—in effect it's two districts that are not connected to each other. One district includes the geographic area in which the school is located and the other satellite district is a district not attached to the first one.

Q. Did your plan follow basically the plan submitted by the School Board with respect to the junior high schools? A. There is a good deal of similarity between the plan I submitted and the plan submitted by the School Board. The major difference is that their plan did not desegregate all of the junior high schools and it required that the attendance zones all be connected. I established some satellite attendance zones.

Q. Do you recall the satellite attendance zones you established for the junior high schools? A. They are shown on the map that I submitted to the Court. There is a satellite zone for Cochran, for Eastway, for Albermarle Road, for Alexander Graham, for McClintock, for Wilson, for

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Project 600 Carmel Road, for Smith, for Wilson and for Quail Hollow.

Q. Are these satellite zones that you have proposed for the junior high schools basically Negro residential areas? A. Yes, they are basically Negro residential areas.

【9】 Q. And these students are to be assigned to the outlying white junior high schools? A. Yes, they are to be assigned to the outlying white junior high schools.

Q. Now, did your plan follow basically the plan of the School Board with respect to the elementary schools? A. Well, yes, and then again, no. The School Board plan for elementary schools used grid assignments but it did not desegregate all of the elementary schools that my plan called for, pairing of schools in the center of the city with those in the outlying areas.

Q. Now, the pairing, are those schools shown on the last page of the exhibit you attached to your proposal? A. Yes, that's correct. I don't know that is a page but it's a document labeled Elementary Schools Paired. Is that the one you're referring to?

Q. That's the one. Did your consideration in desegregating the schools take account of the transportation of students? A. Well, I don't know just what you mean by take account of. I considered the problems of transportation in developing various desegregation plans and came to understand what kind of control one had over the amount of transportation involved.

Q. Now, do you know the number of students who would be involved in desegregation of the high schools as you have proposed? A. Repeat that question, please.

【10】 Q. Do you know the number of students who would be involved in the reassignment under the proposal you submitted to the Court for desegregation of the high schools?

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Mr. Waggoner: Would you read the question back, please?

(The Court Reporter reads the question on Line 1 above.)

A. Well, according to my count there are approximately 17,000 high school students. I guess they'd all be more or less involved.

Q. You indicated that the boundary for North Mecklenburg might have been altered some. Could you just estimate for us how many students would be reassigned under the high school provision of the plan? A. There have been some alterations in the students assigned to North Mecklenburg. Some students who were not assigned there last year will be going there and some students who were assigned there will not be. These are students who live close to the present city limits of Charlotte. My earlier statement should have simply noted that the children who live well north of the city limits were not included in the desegregation plan.

Q. Well, in your opinion would approximately 17,000 students be reassigned under the plan or less than 17,000 in the senior high schools. A. I never tried to estimate the number of children who would be [11] reassigned. It's a considerable number. It varies with the color of the student. There are more black students being reassigned proportionately than white students. Just a rough estimate I think there are probably 4000 students being reassigned.

Q. 4000? A. That would be a rough estimate. I need to sit down and do a more careful . . .

Mr. Waggoner: Move to strike the rest of it.

Q. Could you give us an estimate of the number that would be reassigned under your proposal of the junior high schools?

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Mr. Waggoner: Objection.

A. Well, Mr. Chambers, I could sit down with a map and make those estimates but I have not prepared those estimates and I really don't know the numbers that are involved. It's something that is easy enough to obtain. The school department could obtain that number if I were to ask for it. I didn't ask for it.

Q. Did you determine how many students would be provided transportation in the high schools? A. I asked the school department to prepare a report for me on the additional number of students that would be required to be transported under the State regulations and they have prepared such a report for me.

Q. How many senior high school students would be provided ~~12~~ transportation under the State regulations? A. Under the court consultant plan the additional number of students to be transported is 1,815.

Q. What about the junior high school students? A. I asked the school department to prepare an estimate of that and their estimate of the additional number of students to be transported according to State regulations is 2,286.

Q. What about the elementary schools? A. They prepared an estimate for me for the elementary schools and that estimate is 10,614.

Q. Dr. Finger, did you consider a different method for desegregating the elementary schools besides that you submitted to the Court?

Mr. Waggoner: Read that to me.

(The Court Reporter reads the question on Line 11 above.)

A. Yes, I did.

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Do you have a copy of the affidavit there, Bill?

Mr. Waggoner: No. I have a copy of your report to . . .

A. All right, I have that.

Mr. Chambers: You have a copy of the report to whom?

Mr. Waggoner: Whatever the one was that the Court received there. Have you not seen this?

Mr. Chambers: No.

【13】 (Off the record at this point by consent.)

Q. The proposal you initially considered was altered in what respect from that finally submitted to the Court? A. I believe I prepared some . . . I prepared three, four desegregation plans in considerable detail. I prepared more than that in partial detail. I have already stated that in an affidavit to the School Board attorney and I have already testified to the fact that I prepared several plans.

Q. Do you know why the plan that was finally submitted to the Court differed from the one that you had initially considered? A. I submitted to the Court the one that I thought was the best plan.

Q. Did you have any consultation with the staff to determine the one submitted was more feasible than the others you considered? A. I have always felt that the school department was the best judge of what would be the most effective plan.

Q. Did you have consultations with the staff as to the feasibility of the plan you submitted to the Court? A. You see, Mr. Chambers, I am not sure that I can answer

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your question because I have been in a unique position and the school department was ordered by the Court to cooperate with me and I think that all I can say is that they did cooperate with me. I consulted them extensively about the development of desegregation plans; they provided me with the information [14] I needed. I asked the Superintendent to provide me with staff members who would examine my plans and make judgments about them. I asked the Superintendent to make these judgments himself and when I finally submitted a plan it was the one I thought was the most feasible.

Q. Since the Court order have you had occasion to study approximately how many children would be provided transportation under your plan? A. Well, we read off the numbers that were prepared for me by the school department and these seem to me to be reasonable estimates of the amount of transportation that would be required. I have checked the transportation estimates for all of the elementary schools and I came up with approximately the same number as the original estimates made by the Board of Education . . . by the school department, excuse me. They show 10,614 and my estimates are approximately that same number, approximately 10,000.

(Off the record by consent at this time.)

Q. How many students did you estimate would be provided transportation for the junior high schools? A. Well, the School Board estimate was 2,286, but that estimate did not include any students to be transported to Alexander Graham Junior High School and the students who reside in the satellite district live approximately about four miles from the Alexander Graham Junior High School and it seems to me [15] to be unreasonable not to provide transportation for them. I would have increased my transporta-

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tion estimate for Alexander Graham by about 360 students.

Q. So your estimate would be approximately. . . ? A. I'm not finished yet. There is a satellite district for McClintock Junior High School and I estimate that there are approximately 325 students who would need transportation to McClintock. There are a small number of students, I estimate 100, who would need transportation to Sedgefield. And I estimate that there are about 500 students who would need transportation to Williams. According to my estimates, the school department report overestimated the number of children needing transportation in Smith Junior High School. They reported 432 and I think that 300 is a more accurate estimate. That would make 3,439 students.

Q. You estimate 3,439 for the junior high schools? A. Yes.

Q. What is your estimate for the senior high schools? A. I think the estimate that the school department prepared for me is essentially the same as my estimate.

Q. 1,815? A. That's correct.

Q. Did you consider the number of buses that might be necessary to provide transportation? A. Excuse me a minute. I need to have Mr. Morgan's affidavit.

【16】 (Paper writing is handed to the witness.)

Q. Did you estimate the number of buses? A. Give me a few minutes to check my last statement.

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Q. Did you estimate the number of buses that would be required for implementation of the plan? A. I have made a number of estimates of the number of buses required. I based my estimates on 45-passenger buses. I also made estimates on 60-passenger buses. If there were no round

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trips at all, my estimates for busing are the elementary school level 217 45-passenger buses; 51 45-passenger buses at the junior high school; and 40 at the senior high school.

Q. Let me get those figures again. For the elementary? A. 45-passenger buses, 217.

Q. And for the junior high? A. 51, and for the senior high 40.

Q. And you say you also made an estimate with 60-passenger buses? A. Yes. That would take 163 buses at the elementary level; 38 at the junior high school level; and 30 at the senior high school.

Mr. Waggoner: What size bus is that?

A. 60.

Q. Your estimates are made on the basis of one trip? A. Yes, that's correct. It seems to me there are two ways that [17] one could utilize a bus for two trips. One way would be to have the elementary school buses used to transport the junior high and senior high school students. There are 217 elementary buses required. Half of these, approximately a hundred, would be coming into the city and a hundred would be going out from the city. Those hundred coming into the city could be utilized to provide the transportation for the junior high school students since most of those are bused out and also a large number of senior high school students are bused out and those buses could be used in that way. That would require staggering the starting hours of the elementary schools and junior and senior high schools. If one were to follow that pattern, it would require approximately the number of elementary school buses needed which would be 217. There is another alternate way of providing the transportation. One could

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provide staggered hours for the elementary schools. One could start a bus in the center of the city leaving for the, shall we call it the suburbs, and would be going against the traffic. Traffic would be coming into the city at that time of day, and it might leave at whatever time is desirable, let's say 8:00. It would arrive at its destination at approximately 8:30—take an average run time of half an hour. I haven't driven one of these routes and I don't know what the actual run time would be. Of course, the bus would be going non-stop, it would not be stopping to pick up any children, **[18]** it will not be stopping to leave off children. It will have a full bus that it's running on a straight run to its destination. In any event, when it arrives at that destination, it picks up children at the school. If it's a school in an area where children are transported in, those children have already been transported into the school under existing transportation and they are at that school. They board this bus which turns around and presumably not is behind the rush hour traffic and goes back into the center of the city. That bus, in following this plan, would then have to return to its starting point because the busing pattern would be the opposite way when school is closed. That is just one possible plan that one might use if the objective was to minimize the number of buses required. Under that plan instead of needing 217 45-passenger buses for elementary, I estimate one would need 109.

Q. Dr. Finger, let's look at the plan that the Court has directed itself and see how it operates. You have some maps here and these maps have been introduced as exhibits in court. The map for the senior high school has established boundaries. A. This is the Board plan map and that is the Finger plan map.

Q. I see. Now, on the Finger plan map, so-called, the one that has been directed by the Court, you have a satellite

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district in the midst of the city for Independence High School. **【19】** A. Yes, that's correct.

Q. You provide for approximately 300 high school students being assigned out of that satellite district? A. The School Board estimate of number of students to be transported to Independence was 300 and so I presume that that's the number of students residing in the Independence satellite zone. We could check that by getting the demographic map.

Q. Now, other than that satellite district, your plan is basically the same as that of the School Board? A. If one looks, for example, at the attendance zone for West Charlotte, one finds that the zones are almost identical. There is a difference way over here on the northeast section where the zone for the Board's plan follows this old attendance line here and on the Finger plan it goes just straight across, going across on the top of grids number 236, 237, 238, etc. Not very many children reside in that area and for practical purposes it's almost identical zones. You can see there is a little difference down in here where that zone is straight out.

Q. Now, the School Board proposed under its plan to provide transportation only for students who live outside the city limits or are assigned to schools outside the city limits as it existed in 1957. There is an affidavit by Mr. Morgan about the number of students who would be provided transportation under the Board plan for the senior high schools. **【20】** A. Yes, that's correct.

Q. How many students does the Board estimate it would be providing transportation for under its plan for the senior high schools? A. According to the Morgan affidavit, 53.

Q. 53 additional students? A. 53 additional students.

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Q. In looking at this map would there be several students living more than two miles from the school who would not be provided transportation under the Board plan? A. Well, I believe that all of these children who live out in the Hidden Valley area who would reside about four and a half, five miles from the school would not be provided transportation. That's pre-'57? I don't know how many children are going to be transported. The Board says under their plan that 53 students would be transported and then they say under the Finger plan 810 students would be transported.

Q. You're talking about for West Charlotte? A. For West Charlotte. Those essentially are the same attendance zones so that it's obvious that the number of students transported is not a function of the attendance zone nor a function of the size of the zone. If the same rules were to be followed under the Finger plan as followed under the Board plan, the Finger plan, I suppose, would require transporting about 53 students.

【21】 Q. For West Charlotte High School? A. For West Charlotte High School.

Q. Looking at the junior high schools, what does the Finger plan propose? Students would be assigned there to junior high schools according to geographic zones? A. Students are assigned to junior high schools by geographic zones and there are satellite zones for ten of the junior high schools.

Mr. Waggoner: Could I interrupt? I have to make a phone call—I picked up the wrong file.

SHORT RECESS

Q. Going back to the senior high school, did you recompute the number of students who would be provided trans-

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portation? A. In the Morgan affidavit it shows that the number of students to be transported under the Board at the high school level would be 1,202. The major difference between the Board plan and the court consultant plan is in the satellite zone for Independence High School which has approximately 300 students in it. Thus one would expect the estimate of the number of students to be transported for senior high schools under the court consultant plan to be approximately 1,500, 1,200 plus 300. When the school department prepared their estimate they estimated 1,800 and I presume that the difference between those two figures has to do with the slight differences in racial balance in the attendance zones and that the minor [22] differences in these attendance zones result in 300 more pupils being transported under the court consultant plan than under the Board plan and I can't make any more accurate estimate than that 1500 to 1800 students would seem to me to be the appropriate estimate for senior high school students to be transported if one were to follow the Board rules for transporting students. The Morgan affidavit shows the court consultant plan to be transporting 4,106 senior high school students and that's at least 2300 more than my estimate. They are counting students in different ways in the Morgan affidavit.

Q. Now, for the junior high schools did you compute the approximate numbers of students that would be transported under the Court ordered plan? A. Well, the school department prepared estimates for me and they estimated 2,286. That's the estimate that I would make if I were counting students in the same way that the students are counted under the Board plan in the Morgan affidavit.

Q. How many does Mr. Morgan indicate would be transported in his affidavit? A. He shows that under the Board

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plan a total of 1388 students would be transported. My estimates of the number transported under the court consultant plan would be somewhat more than that. I already gave you the estimate that the school department prepared for me. In the Morgan affidavit he reports that [23] the court consultant plan would require 6,129 junior high school students to be transported. That is nearly 4,000 more than my estimate.

Q. Would you state the criteria that you're using for your estimates? A. Well, the criterion I am using for my estimates are the number of students to be transported according to State regulations. That's the rule that was followed when the school department prepared this transportation estimate for me. When one compares the attendance zones for the court consultant plan and the Board plan, one will find there are many instances where the attendance zones are identical or nearly identical. For example, we might look at the Williams Junior High School attendance zones and observe that those attendance zones are nearly identical and according to the Morgan estimate for transportation under the Finger plan there would be 630 students transported, but under the Board plan there would be no students transported. Now, obviously if one follows the same rules one transports the same number of students in the same attendance zone. We could go through many of these attendance zones and discover that the court consultant plan, in fact, requires less transportation.

Q. Than the proposal of the school . . . ? A. Than the proposal of the School Board, or it puts more students in close proximity of the school.

[24] Q. Looking at the Court ordered plan for elementary schools, would you explain basically what this plan does? A. What the Board plan does?

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Q. No, what the Court plan does. A. The Court plan has some schools that have redrawn attendance zones which are essentially walk-in schools. These schools with redrawn attendance zones are the schools that are largely on the perimeter of the center of the city or in the area where the Barringer and Marie Davis schools are. There are then some remaining schools that are all black in the center of the city and one all black school, the Marie Davis School near the center of the city, and a large number of white or predominantly white schools in the outlying area of the city. The attendance zones for the center city schools and for these outlying schools are essentially the same attendance zones as now exist and these schools are paired or grouped with schools in the center of the city so that black students from the center of the city at grades 1 through 4 leave their schools and are transported to a school that has been all white and the white students in turn in grades 5 and 6 go into the center of the city school.

Q. The number of paired schools is 34, 10 black and 24 white schools? A. It's a matter of record here. Is that the correct number? Yes.

【25】 Q. The Court ordered plan differs in that respect from the plan submitted by the School Board? A. Yes, that's right.

Q. With respect to elementary schools? A. Yes, that's right.

Q. Have you made an estimate of the number of students who would be provided transportation under the Court ordered plan? A. Yes, I have. The court ordered plan requires transporting the students from the center of the city out to the white schools and the transporting of white students into the center of the city and there are approx-

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imately 10,000 students to be transported, 5,000 white students and 5,000 black students.

Q. Now, could you tell us whether the methods that are followed in desegregating the elementary schools are independent? You have some schools that have zones and some schools that are paired. Could the Board implement the plan for the paired schools immediately? A. Yes, they could.

Q. Could they implement the plan for the zoned schools immediately? A. Well, interestingly enough, it's harder to do that than it is the pairing because there is a lot more schools with change involved and they all have to change at the same time. But I believe the answer to that question is yes, they could.

Q. First of all, let's establish whether some schools in the [26] county have retained their previous geographic attendance zones. A. Yes, that's correct.

Q. The schools that are affected by the plan principally are those that are in the inner city and adjacent to the inner city, is that correct? A. The inner city schools have the same attendance zones under the court consultant plan as they had before. Those have not been changed.

Q. And is the same true of those schools that are paired with the inner city schools? A. Those schools that are paired with the inner city schools have, for the most part, not been changed. We could look at some specific illustrations if you wanted to.

Q. Would you do that? A. We could note the Bruns Avenue School that is located at grid 317B and it has, I believe, the same attendance zone under this plan that it has had previously and under the court consultant plan it is to be paired with Huntingtown Farms, which is lo-

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cated at grid 534B, and with Sharon at 570B, and with Starmount at 508C. All three of those schools have the same attendance zones under the court consultant plan that they have at the present time. Thus it would be possible to just carry out the pairing or clustering since there are four schools involved here for those four schools and it wouldn't [27] involve any other schools or any other dislocation of pupils at all.

Q. The pairing or clustering, then, could be done independently of each other, you could do one set of pairing without doing the others? A. Yes, you could. It was the major reason that this plan was proposed to the Court. It can be done step by step.

Q. Would you explain that? A. Well, if there are questions as to the exact amount of transportation required, one way to find out the exact amount of transportation required is to carry out or begin to carry out the desegregation plan and you could pair group by group as long as you've got school buses to do it with. When you run out of school buses, you may have to stop implementing the plan at that point.

Q. What makes it easier to carry out the clustering of schools than to make the assignments under the new attendance zones? A. Well, the attendance zones for the paired schools have not been changed and, therefore, the children already going to that school can get to the school using the present transportation routes that are already established. When they arrive at that school, there is a bus to take them to their new school assignment and so that the only change that takes place is the cross city bus run, a straight run.

Q. And with the rezoning, if it becomes necessary for the Board [28] to determine who the students are in the new

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zone? A. The school department can do that because they know the names of the students that live in each one of the grids but you have to do it all at the same time. Many of the children, a large proportion of the children will be going to the same school they were going to in the past. When you change one school, some children who have been in that school have to leave in order to make room for the new children coming in. So you have to schedule a day in which a large number of children change schools. Since most of these children are going to be able to walk in, it will be feasible to do this. I suppose the Superintendent can write a letter. The computer system has the names of all the children in those grids and it's a matter of preparing a letter and addressing it by computer advising the parents what school to go to.

Q. We talked earlier this morning about the other plans that you had considered. Would you tell us now the reason why the plan that was submitted to the Court was substituted in lieu of the plan that you had initially worked up? A. I developed one plan that had some features that were improvements on the one that the Court has ordered. It used hand-drawn attendance zones, zones that followed natural boundaries for the schools that were contiguous to the center city. By doing it that way you can reduce the number of children to be transported, but not a great deal. It also changed a large [29] number of attendance zones and it was apparent when the plan was thoroughly studied by the school staff that it was extremely difficult to implement that plan and I became aware of the fact that while the plan had some features that were improvement, it was very hard to carry out.

Q. Was the difficulty of implementing the plan that you initially prepared a matter of time, that it would take more

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time to implement the one that you had than the one you submitted? A. Well, there were other features that were different and it seems obvious when one studies this plan that was submitted to the Court that one of its major features is that it's a feasible plan one can carry out and I think that it was in consultation with the school staff that I became aware of the fact that this was a plan that could be carried out.

Q. You have a statement in your report to the Court which reads as follows: . . . the last page of the report . . . "I have prepared several different desegregation plans. No matter which is pursued the end result is that approximately 5,000 children must be bused out from the center of the city and 5,000 bused in. The problem becomes one of deciding which children should be bused and how far. Should the distance traveled be given priority? Should a child residing five miles from a school be exempt but not a child who would be bused four miles?" And skipping the next two paragraphs, you then say: "It is my understanding that the School Board had considered and [30] rejected a plan that would bus children to provide for complete desegregation. That plan is attached to this report. You will find that there are various tables showing projected enrollment and a map detailing the schools to be paired." What plan was that that was rejected by the Board? A. The court consultant plan.

Q. The one that was submitted to the Court? A. That's my understanding, yes.

Q. Dr. Finger, had the staff considered the plan you have submitted to the Court and that has been directed to be implemented by the Court and found that plan to be feasible?

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Mr. Waggoner: Objection unless he knows.

A. I wouldn't have submitted the plan to the Court if I didn't think it was a feasible plan and if it was not my impression the school department felt it could be carried out.

Mr. Waggoner: Motion to strike his answer.

Q. Have you studied Mr. Morgan's affidavit? A. I only received it this morning but I have studied it and I have a page missing on the elementary schools. I read it through and, yes, I have studied it briefly.

Q. Mr. Morgan has stated in his affidavit that he estimates that he needs approximately 526 buses to implement the court ordered plan. Did you have a chance to consider that estimate? A. Yes, I did.

Q. Did you find that estimate to be accurate? **[31]** A. I found it to be utilizing different rules for counting students under the court consultant plan than under the Board plan and I don't know how Mr. Morgan arrived at these numbers that he lists under his transportation estimates for the court consultant plan. We've already testified to the effect that at the junior high school and high school levels he makes estimates that are grossly different from my estimates and it's quite clear that when he says that the Board plan is requiring one number of buses and the court consultant plan is requiring a different number of buses he is using different methods of estimating the number. As far as I can tell, the number of junior high school students and the number of high school students . . . strike that, please, I want to start over again. I've already testified to the number of high school and junior high school students that would be transported under the court consultant plan. Un-

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der the elementary school plan I estimate that the number of children to be bused would be approximately 10,000, the 5,000 children bused into the center of the city and the 5,000 bused out in addition to those already bused.

Q. Did you find any other discrepancies in the estimates of Mr. Morgan? A. Well, yes. We could detail all of the discrepancies at the junior high school level if you wanted to do that.

Q. Let's do that. 【32】 A. I can also note some discrepancies at the elementary school level but because I am missing a page of his affidavit, I can only note discrepancies in a few of the elementary schools.

Mr. Waggoner: What page is missing?

A. It's the first page that begins Albemarle School, and so on, for elementary schools. I note that he shows under the court consultant plan for elementary schools for Huntingtown Farms he shows 220 students; for Sharon he shows 230; for Starmount he shows 256. Those add up to 706 students. Those schools are all clustered with Bruns Avenue. But the number of white students to be transported are only 540. Therefore, there's a difference of 166 students. I don't know how he got those estimates. I would think that the number of additional students to be transported from those three schools, Huntingtown Farms, Sharon and Starmount, would be 540 since that is the number of 5th and 6th grade white students shown in Bruns Avenue.

Q. Would you give us some other examples of the elementary schools? A. Yes. His Park Road and Pinewood add to 691 but only 532 white students are to go to Marie Davis, the school paired with those two schools. He shows 342 from Hidden Valley. That school is paired with Druid

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Hills but 303 white students are assigned to Druid Hills. His estimates for Montclaire, Rama Road are 529. Those schools are grouped with University Park [33] and the number of white students there is 461. For Selwyn, Windsor Park and Winterfield the total number of students is 1053 but their satellite school is Villa Heights which has 668 white students in it. I might add that all of those schools have the same attendance zones under the court ordered plan as they do now.

Q. No additional students would be involved? A. No additional students would be involved. The only addition would be the transportation for pairing or clustering.

Q. Would you look at the junior high school estimates and tell us whether you have noted any discrepancies there in Mr. Morgan's affidavit? A. I believe we have already mentioned the Williams discrepancy. Those attendance zones are essentially the same zones but under the court consultant plan there are 630 students to be transported and none under the Board plan. For Alexander Graham Bell there are 732 to be transported under the court consultant plan and none under the Board plan. If one compares those two districts one finds that the distances involved in getting to school are approximately the same even though the court consultant plan has a satellite zone. Those same children residing in that satellite zone are assigned to the Alexander Graham School under the Board plan so that the same students are involved. The difference is that a group of students in an interim area are assigned to a different [34] school. They are assigned to Piedmont under the court consultant plan and they are assigned to the Alexander Graham School under the Court ordered plan.

Q. Court ordered or Board plan? A. Under the Board plan, whichever it should be. I'm mixed up. Eastway shows

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603 students to be transported under the court consultant plan and none under the Board plan but again if one compares the attendance zones for Eastway, one finds that this grid #296A, C and D constitute the satellite zone for Eastway and under the Board plan two of those same grids, 296C and D are assigned to that school. The difference is that the Board plan has this long, strung-out attendance zone but the attendance zone for the court consultant plan is essentially a more compact one. Therefore, it ought not to require more transportation but less, if one were to count the transportation in the same way. The court consultant plan, according to the Morgan affidavit, York Road transports 365 students and the Board plan none; Hawthorne 468 under the court consultant plan and under the Board plan none; Spaugh under the court consultant plan 290 and under the Board plan none; Randolph under the court consultant plan 90 and under the Board plan 59; Piedmont under the court consultant plan 424 and under the Board plan none. If one examines those attendance zones one would find they are for the most part very similar in geographic area except for Piedmont. Piedmont has [35] a different configuration under the court consultant plan because it is a desegregated school and under the Board plan it was an all black school or predominantly black school. If one examines the compactness of the two districts under the two plans, one finds one is as compact as the other. The other two schools to be mentioned are Sedgefield, 252 under the court consultant plan and in the Morgan affidavit none; and Coulwood 126 and the Board plan has more, 220.

Q. Again, as I understood your testimony with respect to the number of buses, you estimate is that if the method of staggering school terms is used that the Court ordered

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plan could be implemented with 109 buses. A. At the elementary school level.

Q. Would additional buses be needed for the junior high and senior high schools? A. Yes. The 109 for elementary schools assumes staggered hours, with each bus making a run in and a run out, or a run out and a run in.

Q. One of the questions directed by the Court of Appeals was how many buses would be needed to implement the plan. Now, would you give us a figure of what you would consider the minimum number that would be needed to implement the plan as directed by the Court? A. If one were to start with, let's say the Marie Davis, Park Road, Pine-wood cluster, and use staggered hours, it would take [36] 11 buses to do that one clustering, 11 45-passenger buses. As I have already testified, one can begin to implement the plan because one can do it cluster by cluster. You asked me the total number of buses required to implement the plan and I'll try to make an estimate of that. I have already testified that one estimate would be the number of elementary school buses making a single run because these buses could be used for junior and senior high schools transportation. That estimate would result in 217 being required. Another procedure would be to use elementary buses on staggered hours and one way bus runs for junior and senior high school students. That would give me an estimate of 200 45-passenger buses.

Q. Would that 200 be for the elementary, junior and senior high schools? A. That would be for all levels, that's correct. I believe that it would be possible to use less transportation than this because I believe that it would be possible to utilize public transportation for some of these junior and senior high school students and that might be by far the more feasible procedure to follow. I am unable

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to work out the complete details or the details on what such a plan would be but I have made a rough estimate that the number of buses required might be under 150 if public transportation were used to supplement the senior and junior high school transportation. This would not [37] mean using their buses for just school purposes but providing funds for junior and senior high school students to ride on the buses on their existing routes.

Q. The estimates you have just given us were based on a 45-passenger bus? A. That's correct.

Q. Would the estimate be less if you were talking about a 60-passenger bus? A. Yes. If you're talking about a 60-passenger bus the elementary might require only 83 buses and the junior and senior high schools 20 buses. I want to make it clear that I have made these estimates without a very detailed analysis of exactly where these bus runs are but in contrast to the affidavit here that shows some 500-odd buses are required, I think that my estimates are far more accurate than those.

Q. There is an affidavit submitted by the Board to the effect that by adding buses on the streets that it would, Mr. Hoose says. . . .

Mr. Waggoner: You're starting to bedraggle this thing. Can you hit the nails and get going because I've got a lot of questions I have to ask and I'm going to stay here as long as I have to and I'm not going to burden Mrs. Berger with a deposition that she can't complete by Friday.

Mr. Chambers: The thing I want to do here is to [38] check. You filed some affidavits in here.

Mr. Waggoner: I have no objection, I'm just making a statement.

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Q. It's talking about stop and go traffic of the buses on the streets. Would you state the method that is proposed? Are these buses going to be stopping on the streets? A. Not to load and unload passengers. The pickups in the center of the city would be, I suppose, at the schools and I would suppose the pickup would be at the white schools that are paired because many of those children would be bused into their schools on existing bus routes and so there would be no pickups at all. The paired school transportation would be from school to school with no stops.

Q. In picking the pairs for the schools did you take into account the roads and streets over which the students would be transported? A. I believe that the staff that prepared those plans for me took two things into consideration. One was the capacity of the school and the other was the available transportation.

Q. Did you have some pairs that you considered that were eliminated because the ones that were finally adopted were more feasible? A. Well, by the time we came to the drawing up of this final plan, the staff and I had worked together on a great many different arrangements of clustering and pairing and we had [39] come to know what schools would pair with what and some of the earlier plans, we had corridor-like clustering, and some of the members of the school department staff were well familiar with where the clustering would effectively take place, given where the roads existed where clustering would be most effective.

Q. I might have asked you this but I'll ask you again. In your opinion can the plan as directed by the Court feasibly be implemented by the School Board within the time directed by the Court? A. I have already testified to the effect and I believe it is in the report that I submitted to the Court that it was possible to make a step by step im-

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plementation of this plan. I've said a number of times this afternoon that the plan for elementary schools could be started at once. When the School Board will find that it does not have sufficient school buses to continue implementing the plan, I'm not positive, I presume at that point . . . I presumed originally that at that point they would come to the Court and say we've carried out half of the clustering that you ordered and now we are out of buses. It's my understanding that there are enough buses available to begin the implementation of the plan. It's not my opinion they could do it all tomorrow.

Q. Is your answer to my question whether they could implement the plan within the time directed by the Court yes or not?

【40】 Mr. Waggoner: I object. I don't think this witness could possibly know the answer.

A. It seems to me I already testified to that on several occasions. I have said the redrawn attendance zones in the area contiguous to the center of the city could be implemented, children could be reassigned in that area, and I have already testified to the effect that some of the pairings could be done at once. I'm not positive that the school department has sufficient buses to do all of it. However, they say that there are 75 buses available from the State. I don't know what availability those are. My estimates would indicate that would come close to fulfilling the requirements.

Mr. Chambers: I have nothing further.

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By Mr. Waggoner:

Q. Dr. Finger, your first participation in this case was as witness for the plaintiff, was it not? A. Yes, that's right.

Q. And you came in at that time with a plan for desegregation. A. Yes, that's right.

Q. And you had two of your colleagues from Rhode Island College who also testified on behalf of the plaintiffs. A. Yes, that's right.

Q. You later came back with a plan for desegregation which involved substantial pairing of schools, did it not? A. Yes.

【41】 Q. This pairing arrangement left a large number of black and white schools, did it not? Do you recall that you left some all black and all white schools as a result of that pairing arrangement? A. I believe that's correct.

Q. And the only possibility you saw for breaking up the all black and all white schools was fairly long-distance busing, is this correct? A. I believe that's correct.

Q. You were appointed by the Court and first came to Charlotte around December 5, is this correct? A. Yes.

Q. How much time did you actually spend in Charlotte during the period that you actually worked on devising the court consultant plan? A. Didn't bring my vouchers with me but I would estimate that I was in Charlotte approximately fifteen to twenty days.

Q. And most of your time was in reviewing statistics and reviewing maps and records of the school system, is this correct? A. No, that is not correct. I spent a great deal of time meeting with the members of the school administrative staff, consulting with them as to what would be the best strategy to follow in developing a desegregation plan

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and in providing them with procedures to follow to draw up a desegregation plan. When I first arrived in the school department, the school department [42] was unable to work on a desegregation plan because they had no authorization from the Board of Education and so when I arrived they were under Court order at that point to work with me and so we began together to explore the various ways in which the Court order could be met.

Q. All right. Now, with reference to your understanding of what was required of you, what criteria did you impose in seeking to achieve a desegregated school system in Charlotte? A. I believe I have defined that in my report to the Court. I have given a definition and it's my understanding that that definition is more or less implied by the Court order.

Q. Would you state the definition, please, sir? A. A desegregated school will be defined herein as one whose minority group enrollment does not exceed by more than 5% the proportions in all of the schools at that school level.

Q. So what this would mean is that at the elementary level a school should not have more than 35% black. A. That's correct.

Q. And on the junior high approximately 33% black. A. That's correct.

Q. And 31% on the senior high. A. That's correct.

Q. It makes no difference to you if it's 1% or 2% as long as you do not exceed the 5% ratio, is this correct? A. I'm not quite sure what you mean by it makes no difference.

[43] Q. Would you regard a school as desegregated if it had 1% black provided no other elementary school had more than 35% black? A. As I understand the order of the Court, it did not require the elimination of all of the all white schools. It only required the elimination of the