

*Bill Lamson*

EIDSON, LEWIS, PORTER & HAYNES  
LAWYERS

1300 MERCHANTS NATIONAL BANK BUILDING  
EIGHTH AND JACKSON STREETS  
TOPEKA, KANSAS 66612-1252  
913-233-2332

PHILIP H. LEWIS  
JAMES W. PORTER  
WILLIAM G. HAYNES  
CHARLES N. HENSON  
AUSTIN NOTHERN  
CHARLES D. MCATEE  
DALE L. SOMERS  
K. GARY SEBELIUS  
RICHARD F. HAYSE  
RONALD W. FAIRCHILD  
JOHN H. WACHTER

ANNE L. BAKER  
JAMES P. RANKIN  
PATRICIA A. REEDER  
THOMAS D. HANEY  
CRAIG A. FONTAINE  
JOHN D. ENSLEY  
N. LARRY BORK  
CATHERINE A. WALTER  
AARON G. HOVE  
OF COUNSEL:  
O. B. EIDSON

July 31, 1986

Chris Hansen  
National Staff Counsel  
American Civil Liberties Union  
132 West 43rd Street  
New York, NY 10036

Re: Brown v. Board of Education, et al.  
U.S.D.C. Kansas, No. T-316

Dear Chris:

This will confirm our telephone conversation of earlier today and summarize current plans regarding the scheduling of depositions and other pretrial activities. This letter is intended to supplement and modify, in part, the schedule set forth in my letter dated July 18, 1986.

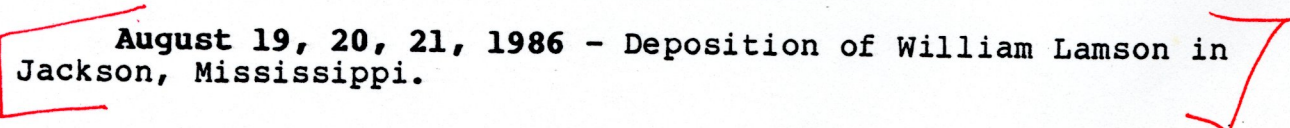
**August 7, 1986** - Due to Dr. Clark's schedule, it now appears I will not receive his report until August 5, 1986. Since you will be out of town on August 6, you have indicated that as long as his report is received in your office by August 7, you have no problem with the slight delay in receiving the report. While I have not yet received a report from Dr. Poggio, I am told that it will be available to me on August 4, 1986. In any event, I anticipate it also being in your office on August 7 when you return from New Orleans.

**August 13, 1986** - Deposition of Dr. William Clark in Topeka (with the understanding that this deposition may extend into August 14).

**Mid-August** - As I indicated, Dr. Armor is not doing a formal report; however, I do anticipate receiving a certain number of tables and/or graphs from Dr. Armor which he anticipates will be completed by the middle of August. Hopefully, at the very least I will be able to deliver whatever tables or charts he prepares to you in Jackson, Mississippi on August 19.

**August 19, 20, 21, 1986** - Deposition of William Lamson in Jackson, Mississippi.

*Please note*



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**August 23, 1986** - Deposition of Dr. Walberg in Topeka. Depending upon Dr. Walberg's schedule, we may do this deposition in Kansas City at Dan Biles' office. We will let you know in plenty of time.)

**August 27, 1986** - Deposition of Dr. John Poggio in Kansas City at Dan Biles' office.

**September 3, 4, 1986** - Deposition of Dr. Gordon Foster in Miami, Florida. You indicated that you will check with Dr. Foster and confirm this date at your earliest opportunity. It is conceivable that Dr. Foster's deposition will run into September 5 and we have agreed to clear our schedules to include that date.

**September 13, 1986** - Deposition of Dr. David Armor in Washington, D.C. (I will arrange for a place for the taking of the deposition.)

In addition, would you please check with Dr. Foster to determine whether he has a conference room available for the taking of his deposition. I understand that I will need to arrange a place for the taking of Mr. Lamson's deposition in Jackson, Mississippi.

As I indicated to you, where the tables and/or graphs portray the information used by experts, we reserve the right to use different depictions at trial. It is my belief that as long as you have the information we are free to develop exhibits using that information for the purposes of trial. If you do not share my belief, please notify me at once. I do not want any misunderstanding regarding this point.

You have also requested the opportunity to take the deposition of a financial officer of the School District who was familiar with the source of federal funds and the way in which those funds are funneled or channeled to the specific programs or activities. As I indicated, Wayne Warner, who was the chief financial officer for the School District, is no longer with U.S.D. No. 501. Moreover, he may not have been the most appropriate person to answer the kinds of questions you propose. I will be meeting with administrators for the School District next week and will let you know specifically who should be deposed. Your desire to take this deposition has been prompted by the discovery which we propounded to plaintiffs regarding their recent Title VI claims. I indicated that because of this development it did not seem appropriate for us to attempt to file our proposed motion for summary judgment regarding plaintiffs' Title VI claims until after you had completed this deposition. You indicated that you would not oppose such an extension of time for the defendants to file a dispositive motion which currently is due on August 4, 1986. We will file a formal motion reflecting our agreement.

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Finally, we discussed the fact that we believe Dr. Crain's deposition demonstrated that he was not able to share with us his opinions and conclusions regarding matters upon which he intends to testify at trial because he has not completed his analysis through data which has been supplied previously. Likewise, he had not reviewed opinions of other plaintiffs' experts which he believes he will rely upon, in part, in providing his testimony to the Court. Without belaboring the point, I advised you that we were contemplating filing some motion with the Court regarding the failure of Dr. Crain to be prepared and our inability to elicit his formal opinion. You indicated the possibility of resolving this matter without the Court's assistance. Once we have had an opportunity to review Dr. Crain's deposition and evaluate available courses of action, I will let you know. If it is possible to resolve this matter without the Court's assistance, it would be desirable.

Under separate cover, as we discussed, I am forwarding to you the original of Dr. Crain's deposition which the court reporter sent directly to me. Please have Dr. Crain review and sign the deposition at his earliest convenience and return it to me. I now understand this is the customary practice in New York. Since it is not customary here in Kansas, I appreciate your assistance in obtaining Dr. Crain's signature.

Finally, something that we did not discuss, but I should mention is the fact that we are not convinced that the responses provided to the recent discovery are adequate under the discovery rules. Our position regarding this matter will be set forth in a separate letter in the near future.

If this letter does not accurately reflect your understanding of our conversation and our agreement regarding scheduling and deadlines, please notify me immediately of any differences in your understanding.

Yours very truly,

*K. Gary Sebelius*  
K. Gary Sebelius (TF)  
of Eidson, Lewis, Porter & Haynes

KGS:tf  
cc: Dan Biles  
Carl Gallagher  
Rich Jones