

A. That's correct.

Mr. Stewart. Object as to form. Object. Asked and answered.

By Mr. Hart.

Q. In the numerous evaluations in which you have been involved, was it the practice not to pay attention to the geographical or competitive comparability of the salary levels in the law schools being evaluated?

Mr. Stewart. Object as to form.

By Mr. Hart.

Q. You may answer.

A. You are speaking now of my role as a site evaluator, not as a member of the Accreditation Committee?

Q. Of both.

A. I'll bifurcate my answer. With respect to site evaluations in which I have participated, my general recollection is and it's certainly a correct recollection in recent years. My recollection going back 10 years is not as good. But certainly my recollection is that I would pay attention as a site evaluator to the peer schools selected by the school being evaluated in terms of comparing or looking, at least, salaries, etc., and often would include in the report relevant data in that respect. Similarly I would as a member of the Accreditation Committee or as a monitor pay attention to the data provided in the site evaluation report regarding how the school took up as against those schools that it considers its peers in various areas, library expenditure, salary, etc. and I think much of that would appear in the transcript from yesterday.

Q. And when you, acting as a site evaluator, put together the information with respect to competitive or geographical comparable school salary levels, you did that, did you not, because you thought that was relevant and required by 405A?

Mr. Stewart. Object as to form.

A. Did I hear the word geographical in your question?

Q. Yes, you did.

A. Could I hear the question again, then, please.

Q. Surely.

(Whereupon, the following question is read back by the reporter):

"Question. And when you, acting as a site evaluator, put together the information with respect to competitive or geographical comparable school salary levels, you did that, did you not, because you thought that was relevant and required by 405A?"

Mr. Stewart. Objection as to form. This does not go to the issue of whether 405A served as a basis for the denial of Massachusetts School of Law application for provisional approval, so I'll instruct you not to answer on grounds of relevance.

The Witness. What is my—I need advice.

Mr. Hart. You are not going to get it from me.

The Witness. I understand not answering on the grounds of privilege but I don't understand what my status is with respect to—

Mr. Hart. Would you like to take a brief recess to discuss this with your attorney so you are not influenced by my views?

Let's take a five minute recess.

(Whereupon, there is a brief recess.)

(The deposition resumes and the following question is read back by the reporter:

"Question. And when you, acting as a site evaluator, put together the information with respect to competitive or geographical comparable school salary levels, you did that, did you not, because you thought that was relevant and required by 405A?"

A. With respect to the question just repeated, on the advice of counsel, I respectfully decline to respond on grounds of relevancy.

Q. When you were involved in the evaluation of the Thomas M. Cooley Law School in 1984 did you gather together and set forth a comparative salary data for the faculty at Cooley Law School?

A. When you say I, do you mean I personally?

Q. Or when you were on the team. You were on that team, weren't you?

A. Correct.

Mr. Stewart. I'll repeat my instruction.

A. I'm going to be disobedient for a moment and say I don't have the faintest recollection for the moment what that report contained with respect to salary information comparative or otherwise. That was 10 years ago and 16 sabbatical site evaluations ago and I simply would have to look at the report to be able to answer that.

Q. And you if looked at the report, do you think that would refresh your recollection?

A. I'm sure it would. President Brennan has provided you with a copy of the report.

Q. I have a copy of report on Thomas M. Cooley Law School November 7, 1984 in which you were listed on its face as one of the evaluators and I would ask you, sir, to turn to Page 23.

Mr. Stewart. Are you going to mark this as an exhibit, Ken?

Mr. Hart. I hadn't planned to.

Mr. Stewart. How come? I'm just curious.

Mr. Hart. Mainly I was trying to be merciful, if you will, about reproduction costs and burdening the record unnecessarily. I'm just using this for purpose of refreshing his recollection and see if it can refresh his recollection, which I don't think there's any requirement that I mark it as an exhibit or put it on the flagpole or do anything.

Mr. Stewart. If you are showing it to the witness and questioning him, it's appropriate to mark it as an exhibit but you proceed as you think appropriate.

Mr. Stewart. I will point out that it is marked as Deposition Exhibit Number 12 in the Brennan deposition of July 16, 1994.

By Mr. Hart.

Q. I will ask you, sir, to look at that and see if that refreshes your recollection whether the site report on Cooley Law School in 1984 sets forth comparative salary data?

A. Page 23 of the report does compile comparative information on what I assume are the approved law schools located in the State of Michigan.

Q. With respect to salaries?

A. That's correct.

Q. And as a member of the team at that time you consider that to be a relevant fact on the evaluation of the Cooley Law School?

Mr. Stewart. I object as to relevance and further, as we have with other witnesses, instruct Professor Sowle not to in your answers divulge any of the substantive issue

concerning specific schools and the ABA consideration of their accreditation status. Furthermore, this goes beyond the bounds of the principles laid down in the Court's July 20 order and I'll instruct you not to answer to those grounds.

By Mr. Hart.

Q. Sir, are you going to answer the question?

A. On the advice of Counsel, I respectfully decline to answer on grounds of relevance.

Q. I will ask you to turn to Page 39 of the site report on Cooley Law School in 1984 and ask you if it does not refer to the library staff salaries being competitive with the regional norms?

Mr. Stewart. I object as lack of foundation. I'll object as to form and I'll object—I don't see how this leads to the potential discovery of admissible evidence as far as him saying what a document says or doesn't say.

By Mr. Hart.

Q. You may answer.

A. Yes, the report states with salaries of the junior librarian of professional staff range from \$18,000 to \$29,000. Cooley librarian compensation appears to be competitive with regional and law library norms.

Q. And at the time you as a member of the site inspection team for the American Bar Association understood that to be relevant facts to meeting the American Bar Association Standards?

Mr. Stewart. I object. I instruct you not to answer on the grounds stated earlier.

A. I respectfully decline on advice of Counsel to respond on grounds of relevance.

Q. When you were involved in the inspection team for the American Bar Association on Oral Roberts back in 1986 did you make any findings with respect to competitive or comparable salaries of the faculty at Oral Roberts compared to other law schools in the area?

Mr. Stewart. I'll object as to form and instruct you not to answer on the two grounds previously described relating to relevance, both in terms of outside the bounds the Court's July 20 order and relevance and confidentiality concerns regarding the substantive issues on relating to specific identified schools other than Massachusetts School of Law in their accreditation.

A. On the advice of Counsel, I respectfully decline to answer for the reasons stated just now by Counsel.

Q. Which you incorporate in your refusal?

A. Incorporate by reference.

Q. Same question with respect to Loyola Law School.

Mr. Stewart. Same instruction.

A. Same answer.

Q. Same question with respect to Seton Hall Evaluation 1987, which you were the Chair.

Mr. Stewart. Same instruction.

A. Same response.

Q. Same question with respect to the College of Law at Christian Broadcasting Network School 1987.

Mr. Stewart. Same instruction.

A. And same response.

Q. Same question with respect to the School of Law at the InterAmerican University, San Juan in 1988 in which you were the Chair.