

1 the TV.

2 MR. CLOWARD: And our law firm does put ads
3 on TV. So we, you know, we're guilty of that. What
4 are other things that maybe contribute to that view,
5 of, you know, Jack pot justice, frivolous lawsuit, you
6 know, the media sensationlizing you got attorneys that
7 are, you know, putting in bunch of ads on TV billboards
8 on the side of the road doing things like that what
9 else do you think that adds to that.

10 PROSPECTIVE JUROR NO. : well, when I
11 first moved here somebody told me, when you're driving
12 down the strip don't drive in the I had inside lane or
13 the outside lane make sure you drive in the middle lane
14 because people intentionally will walk-in front of you
15 so they can gain some profit.

16 MR. CLOWARD: Okay.

17 MR. CLOWARD: You feel like in that even
18 society, has kind of gotten to a point where they
19 recognize that a lawsuit is a payday.

20 PROSPECTIVE JUROR NO. : a payday.

21 MR. CLOWARD: Sure Mr. Unger you're nodding
22 and agreement.

23 PROSPECTIVE JUROR NO. : in agreement.

24 MR. CLOWARD: Tell me your thoughts on that.

25 A. Barton Unger 00 sixer.

1 MR. CLOWARD: Thank you.

2 PROSPECTIVE JUROR NO. : I believe exactly
3 what she's saying what you just how you just your
4 analogy that people have we become such a lit justice
5 society, and we live in in an area where we pay extreme
6 amounts for insurance I pay for umbrella insurance
7 policy to protect myself against situations like this,
8 I own a business I have to take out insurances for
9 things I have never even heard of before like sign
10 better threat insurance for my employee I have to worry
11 about one employee talking about another employee how
12 that's going to affect me as business owner and so I
13 see it and live it every day from a standpoint of
14 trying protect myself and my business.

15 MR. CLOWARD: Yeah. Anything else?

16 PROSPECTIVE JUROR NO. : I.

17 MR. CLOWARD: I appreciate that. Who here
18 also kind of agrees that you know, society's gotten to
19 a point where lawsuit equals payout lawsuit, you know,
20 Jack pot, Mr. Frasier tell me your thoughts on that
21 tell me how you feel.

22 PROSPECTIVE JUROR NO. : I just wanted to
23 commend the judge on his statement about America, I
24 think that somewhere along the line we have lost the
25 ability really to work hard for stuff, so instead of

1 working hard for stuff, we expect somebody to hand us
2 something. And if it means I'm going to slip in a
3 store, and lay there and say I'm hurt that's what I'm
4 going to do because now I don't have to work. You
5 know, and it's it just became it's become the norm.
6 More than the exception.

7 MR. CLOWARD: Easier to-- to, you know, get
8 rear ended or fall down in a store, then get a bunch of
9 money, then you know what actually go out there and
10 work and save, and invest, .

11 PROSPECTIVE JUROR NO. : that's my
12 opinion.

13 MR. CLOWARD: Who who here agrees with that?
14 Tell me about that right agree I think.

15 MR. CLOWARD: Ms. Brown sorry.

16 PROSPECTIVE JUROR NO. : I agree that
17 people want the quick fix. We live in the microwave
18 society, I mean just the other day somebody hit me from
19 behind, and nothing happened, I mean I didn't didn't do
20 anything to my car so I was the lady was really
21 apologetic so I was like it's fine.

22 MR. CLOWARD: Sure.

23 PROSPECTIVE JUROR NO. : she kept asking
24 me are you okay are you okay it's fine I don't need
25 your information it's fine.

1 MR. CLOWARD: Sure. Okay. Anyone else have
2 a similar experience or similar view? There were some
3 other folks raising their hand about lawsuit equals
4 Jack pot lawsuit equals quick buck who here else feels
5 that way? Mr. Madrigal I haven't heard from you in a
6 while do you mean one way or another.

7 PROSPECTIVE JUROR NO. : well, I believe
8 there are a lot of frivolous lawsuits but until you
9 hear the facts of the case you can't really make a
10 decision, I'm just neutral I like to I like to weigh --
11 weight case and then and then make a decision on that.

12 MR. CLOWARD: See from there.

13 PROSPECTIVE JUROR NO. : exactly.

14 MR. CLOWARD: Mr. Rendina you're nodding in
15 approval do you feel the same way.

16 PROSPECTIVE JUROR NO. : yeah, I mean you
17 can't judge you can't say anything before, you know,
18 all the facts, and I feel like everyone is allowed to
19 come into court if they have any problems or if
20 something happened.

21 MR. CLOWARD: Okay. Anyone else care to
22 share some feelings on the Jack pot justice, you know
23 lawsuit equals lottery, you know, they want to voice
24 that opinion? Any other comments? Let me ask this
25 question: Who here believes that the majority some

1 folks believe that the majority of lawsuits filed are
2 somebody trying to get rich quick, that involve
3 personal injury, somebody out to get a quick buck,
4 somebody out to get the golden parachute some folks
5 believe that other folks believe that the majority of
6 the lawsuits are legitimate, but there's sprinkled in
7 there that's.

8 MR. JACKSON: Pot justice question way do you
9 lean, sir,.

10 PROSPECTIVE JUROR NO. : I think there are
11 a lot of lawsuits here out there there aren't real that
12 people have just trying to make a buck that's what I do
13 for a living is manage for my company, and I see it all
14 the time ^KRISTY CHECK Evans.

15 PROSPECTIVE JUROR NO. : we do public
16 events and it happens all the time.

17 MR. CLOWARD: So you feel like that the
18 majority of lawsuits probably fit into the first group
19 of folks that they're more, you know, Jack pot-j
20 frivolous, things like that? That fair?

21 PROSPECTIVE JUROR NO. : I think that
22 they're why he that I have experienced.

23 MR. CLOWARD: Sure I appreciate that. Who
24 who else agrees that with with Mr. Evans, badge
25 No. 012. Who here agrees with Mr. Evans that the

1 majority of lawsuits are, you know, what's the just
2 frivolous Jack pot justice, oh, boy here we got another
3 another case here who here also kind of believes that?
4 That the majority of the cases thank you for being
5 Pruittly honest with he Mr. Frasier you feel that way
6 the majority of the cases are frivolous.

7 PROSPECTIVE JUROR NO. : yeah it seems
8 like everybody's always looking for a way to sue
9 somebody for something. I mean, whether it's big small
10 or in between they're looking for quick fix. You know
11 and Ms. Brown said that she was rear ended once before.
12 I was rear ended four times.

13 MR. CLOWARD: Wow.

14 PROSPECTIVE JUROR NO. : nothing ever
15 happened.

16 MR. CLOWARD: Wow.

17 PROSPECTIVE JUROR NO. : one time I hit a
18 lady, I end up going to court for it.

19 MR. CLOWARD: Got that.

20 PROSPECTIVE JUROR NO. : it was the same
21 situation a little smack on the behind, and she comes
22 out holding her neck and all this other stuff, and you
23 know, zero speed means zero damage.

24 MR. CLOWARD: Sure.

25 PROSPECTIVE JUROR NO. : in my mind.

1 MR. CLOWARD: Who here agrees with that that
2 you know, zero speed, equals zero damage, and that you
3 know, fender benders that just people are, you know,
4 too quick to sue, and that's part of the reason? We
5 all would you all please raise your hand if you feel
6 that way. Okay. Tell me tell me about that Mr. Evans.

7 PROSPECTIVE JUROR NO. : to an extent. I
8 mean, if there's damage, there's damage. But if you
9 get a little tap, say a 2-mile an hour bump from
10 behind, I find it pretty hard to justify that you got
11 whiplash or anything else that could happen at a higher
12 impact.

13 MR. CLOWARD: Sure.

14 PROSPECTIVE JUROR NO. :

15 MR. CLOWARD: Who here also agrees with
16 Mr. Evans, and Mr. Frasier, Ms. Reason Deena did you
17 have your hand raised.

18 PROSPECTIVE JUROR NO. : well, I'm kind of
19 on the fence about that.

20 MR. CLOWARD: Okay. Fair enough. Mrs. Runs
21 I saw your hand up tell me how you feel.

22 PROSPECTIVE JUROR NO. : well, even even
23 though it's 2 miles an hour a person still can get
24 hurt.

25 MR. CLOWARD: But but there are way too many,

1 you know, frivolous lawsuits out there I think.

2 MR. CLOWARD: Okay. Ms. Vair-a tell me your
3 thoughts. Do you think that, you know, people in these
4 mine area tap case, I think is what Mr. Evans said they
5 are they're gist out to get a buck or do you agree with
6 maybe Mr. Runs that people do get hurt, but there are
7 still a lot of frivolous lawsuits which way do you --
8 how do you feel about it?

9 PROSPECTIVE JUROR NO. : I just
10 unfortunately, I know people that have done it,
11 \and\{,?\}and, you know, my ex father-in-law, you know,
12 never got in a car accident that was the first thing he
13 said is oh, my neck my back you know.

14 MR. CLOWARD: Sure.

15 PROSPECTIVE JUROR NO. : unfortunately, I
16 know I know people that have done it, and it's, and
17 it's wrong, and I just -- I think it's the amount of
18 lawsuits I don't know if it's a majority, or what, but
19 it seems to be a lot.

20 MR. CLOWARD: Sure. So based on your
21 personal experience you have seen people who have taken
22 advantage of the system.

23 PROSPECTIVE JUROR NO. : yes.

24 MR. CLOWARD: Okay. Anyone else no someone
25 that, you know, what, I kind of felt they took

1 advantage of the system? Mr. Unger, tell me your
2 experience.

3 PROSPECTIVE JUROR NO. : I had an employee
4 who was in a terrible car accident, and and she had to
5 go through neck and back surgery because of it. But
6 she also was suing for an ex bore than the amount of
7 money at the time, and I don't know what she was
8 awarded, but I know after she was finished she bought a
9 new house a new car for her and her husband there were
10 expenses that were beyond just pain suffering or
11 medical expenses. It was to change their way of life.

12 MR. CLOWARD: It was more of a wind fall than
13 hey just balancing the harms and losses.

14 PROSPECTIVE JUROR NO. : exactly.

15 MR. CLOWARD: Okay. You know, does anyone
16 know someone that, you know, they feel like they may be
17 it wasn't a serious significant accident, but maybe it
18 was a smaller case like Mr. Runs, where they actually
19 were injured, and and it was legitimate I mean, you
20 guys are there legitimate cases throughout too or it
21 kind of like every single, you know, case is -- is
22 frivolous and someone's outlooking for a quick buck?
23 Anyone know someone who was serious hurt and seemingly
24 not a serious event.

25 PROSPECTIVE JUROR NO. : myself. Bart ton

1 Unger 006.

2 MR. CLOWARD: Tell me about that Mr. Unger.

3 PROSPECTIVE JUROR NO. : I was in two car
4 accidents 20 plus years ago rear ended twice and today
5 I suffer, I guess it's called spinal stenosis in my
6 upper vertebra and face surgeries because of it, but I
7 didn't sue somebody from it. I was -- my car was
8 repaired, I got physical therapy from it at the time
9 years ago. And but the doctor had told me recently
10 that what I'm suffering now is probably because of the
11 trauma from the accident years ago.

12 MR. CLOWARD: Anyone else have an experience
13 like that or know someone who had an experience like
14 that? Somebody's got to. Talk to me, please. Pruitt
15 honesty talk to me. Mrs. Brown tell me your
16 experience.

17 PROSPECTIVE JUROR NO. : my mother she had
18 an accident, when she worked at McCarran, and she
19 actually to this day is still disabled and can't really
20 work, but I don't think she was really compensated
21 enough.

22 MR. CLOWARD: You didn't feel in that
23 specific case that there was there was enough too or to
24 balance the harms and losses.

25 PROSPECTIVE JUROR NO. : uh-huh.

1 MR. CLOWARD: Ms. I'm sorry, Mrs. Temple on
2 it tell me your experience.

3 PROSPECTIVE JUROR NO. : with.

4 MR. CLOWARD: I thought you raised your hand.

5 PROSPECTIVE JUROR NO. : I did sorry.

6 MR. CLOWARD: Ms. Vera.

7 PROSPECTIVE JUROR NO. : here's an example
8 I feel this is abuse the system, my son-in-law's
9 mother, legitimately was injured, in her workplace,
10 they settled, she was award money, then years later,
11 she wanted a tummy tuck, and liposuction, and I don't
12 know how she did it, but she got in an accidents, and
13 it didn't do any damage to her vehicle, but she was
14 awarded money, and she got her liposuction and her
15 tummy tuck.

16 MR. CLOWARD: I'm not good with that. I
17 agree with you on that one. You know, .

18 PROSPECTIVE JUROR NO. : she lives in
19 New Mexico and I live all the way over here so it's
20 like try to distance myself from people with morals
21 that are bailed on money.

22 MR. CLOWARD: He agree that's a bad
23 situation. Ms. Agnor. Number 033 tell me your
24 thoughts.

25 PROSPECTIVE JUROR NO. : I was rear ended

1 one time, and the person that rear ended me did not
2 have insurance.

3 MR. CLOWARD: Okay.

4 PROSPECTIVE JUROR NO. : so immediately I
5 had a lawyer call me, and all we did I had to go to a
6 chiropractor, and they did all kinds of adjustments for
7 quite a few months.

8 MR. CLOWARD: You had a lawyer call you.

9 PROSPECTIVE JUROR NO. : yeah the lawyer
10 called me, I think it was a matter of a friend called
11 the lawyer and then the lawyer called me. So we did I
12 did get the lawyer, but all the lawyer paid for was all
13 we sued for was my treatments, and that's all we got.

14 MR. CLOWARD: Okay. Okay. Yeah, they
15 shouldn't do that that's against the rules, to do that.
16 But tell me so let me ask just a broad question, just
17 get a show show of hands-on who believes that the
18 majority so if there's two groups folks, one group that
19 thinks that the majority of personal injury cases you
20 know, slip and fall, injuries that happen at work, you
21 know, automobile crashes, personal injury case the
22 majority of them are frivolous, and then so that's one
23 group and then the other group is that you know,
24 there's -- there's frivolous ones out there, sure, but
25 there's also legitimate ones, and the majority of the

1 cases are legitimate, but it's sprinkled with, you
2 know, some frivolous ones in there, so who here by
3 raise of hands believes that the majority of the
4 cases these days is just about the money, it's about
5 the lawyers Jack pot justice, who hear believes that
6 the majority of the cases they're frivolous cases in
7 personal injury context? Any other hands? Any other
8 hands? Want to make sure everyone has an opportunity
9 answer? Okay..

10 PROSPECTIVE JUROR NO. : majority is a
11 tough word.

12 PROSPECTIVE JUROR NO. : 012. If I saw
13 statistics I could honesty answer that,.

14 MR. CLOWARD: I'm just I'm just.

15 PROSPECTIVE JUROR NO. : it would kind of
16 help.

17 MR. CLOWARD: I appreciate it Mr. Evans I'm
18 I'm just asking baseed on beliefs, and, and opinions
19 canner that the way that you view things. Like I can
20 tell you my -- my aunt Nancy she's the one that had the
21 slip and fall at her store, you know she would she
22 would definitely State into the into the first group,
23 because she thinks all lawsuits hey I was sued myself I
24 think all lawsuits are bad, and that's fine for her to
25 believe that. I love my aunt Nancy, my mother in law

1 she has a different experience. And so, you know,,
2 because she had a different experience she had
3 different views and different beliefs and so that's all
4 I'm trying to get at is just maybe your first blush, do
5 you think all lawsuits are frivolous? Or first blush,
6 you know what most of them are meritorious? Same
7 question, frivolous who thinks frivolous? Same group
8 of folks. Okay. Let me ask just a question, you know
9 with that with that belief or that view, that core
10 value, given that this is a personal injury case, will
11 you level with me and do you feel that because my
12 client filed A the lawsuit she maybe or she wouldn't
13 start at the same place as as Mr. Khoury, just the fact
14 that she's filed the lawsuit,.

15 PROSPECTIVE JUROR NO. : I don't think so
16 so ^KRISTY CHECK Brown.

17 MR. CLOWARD: You don't think so.

18 MR. CLOWARD: Mr. Frasier, what do you think
19 on that on just that one specific issue that's just a
20 slender, you know, the very slender, you know, if you
21 feel like the majority of lawsuits are are -- are
22 frivolous, that, you know, maybe you, you know, you
23 already feel that way so the fact that she filed a
24 lawsuit, the fact that she's hear hers is probably
25 going to fall into that majority as well? Do you feel

1 that way? Mr. Frasier do you feel.

2 PROSPECTIVE JUROR NO. : I just think it's
3 excessive so I guess that's my best answer.

4 MR. CLOWARD: Okay. Do you feel like you
5 know, earlier I talked about a fair fight. That's
6 important for us, and for Mr. Khoury, do you feel like
7 that with that just on that very slender issue, the
8 fact that my client filed a lawsuit and the way that
9 you feel, would you feel uncomfortable having someone
10 if it was you, sit on your jury?

11 PROSPECTIVE JUROR NO. : yes because I
12 would feel they were biased already.

13 MR. CLOWARD: Would you feel that way if you
14 maybe feel uncomfortable having someone sit on a jury
15 of Mrs. Brown, if you were if you were hurt? And you
16 had to file a lawsuit.

17 PROSPECTIVE JUROR NO. : no.

18 MR. CLOWARD: Okay. Thank you. Was it
19 Ms. Vera? Do you feel.

20 PROSPECTIVE JUROR NO. : yes.

21 MR. CLOWARD: You feel uncomfortable having
22 someone with your frame of mind on just that very
23 specific issue on your jury.

24 PROSPECTIVE JUROR NO. : if -- I don't
25 know -- it just occurred to me that I don't know if

1 every person on the jury had that, yes, I would be very
2 uncomfortable. But if it's split, or if it's 5050,.

3 MR. CLOWARD: No assume that kind of like in
4 the pie baking Conn test.

5 PROSPECTIVE JUROR NO. : does everybody
6 have that.

7 MR. CLOWARD: Yeah.

8 PROSPECTIVE JUROR NO. : so everybody
9 feels that way.

10 MR. CLOWARD: You're exact mind frame so you
11 would feel uncomfortable.

12 PROSPECTIVE JUROR NO. : if everybody on
13 the jury neat way.

14 MR. CLOWARD: Shared that same core value or
15 that same belief that you had you agree that?

16 PROSPECTIVE JUROR NO. : yes if everyone
17 on the jury.

18 MR. CLOWARD: Okay. Mrs. Brown,.

19 PROSPECTIVE JUROR NO. : I feel like she
20 said if everybody on the jury, then, yeah I would feel
21 uncomfortable.

22 MR. CLOWARD: Okay. Thank you. And that's
23 that's someone else rated their hands was it Mr. Runs.

24 PROSPECTIVE JUROR NO. : yeah.

25 MR. CLOWARD: Every other jury they have the

1 same view that, you know, what a majority of lawsuits
2 personal injury they're frivolous.

3 PROSPECTIVE JUROR NO. : I yeah it would
4 be have to be everybody.

5 MR. CLOWARD: But if everybody had your same
6 view you would feel uncomfortable having that person
7 orthos jurors with those views on your panel?

8 PROSPECTIVE JUROR NO. : yes.

9 MR. CLOWARD: Thank you. And you agree that
10 that, you know, there are a lot of different --
11 different types of lawsuits you know there's
12 contract -- cases that are contract case, patent cases,
13 trademark cases, you know, but this is a -- this is a
14 personal injury case do you agree with me that just on
15 that specific personal injury you are probably not a
16 good fit for this particular case.

17 PROSPECTIVE JUROR NO. : yes.

18 MR. CLOWARD: Okay. And Ms. Vera you also
19 agree that this specific kind of a case, you are
20 probably not a good fit.

21 PROSPECTIVE JUROR NO. : yeah just I feel
22 I'm not I'm not a good choice.

23 MR. CLOWARD: Okay. Thank you. And
24 Ms. Brown, you agree with Ms. Vera Mr. Runs that for
25 this specific kind of a case a personal injury case,

1 you're you're not a good fit, right?

2 PROSPECTIVE JUROR NO. : yes.

3 MR. CLOWARD: And Mr. Frasier, you also agree
4 that for this specific case you're not a good fit
5 right.

6 PROSPECTIVE JUROR NO. : I do.

7 MR. CLOWARD: Okay. Thank you. Okay. Let
8 me ask I have an outline that I try to remember rather
9 than go over the outline. How do you think that you
10 tell whether it's a frivolous case or whether it's a
11 legitimate somebody said legitimate case Mr. Car
12 pens -- Karepenko.

13 PROSPECTIVE JUROR NO. : yes, sir.

14 MR. CLOWARD: Mr. Car pinko said cases some
15 are legitimate, and they need to have a forum can you
16 tell me how do you think we tell the difference between
17 hey this is someone this is Jack pot justice going on
18 here, you know, that's what's going on here, versus hey
19 you know what this is this is legitimate one? How do
20 you know?

21 PROSPECTIVE JUROR NO. : Nicholas

22 Karepenko 025. I think something like that you don't
23 really know it till after you haired all the phaks.
24 You hear what people want why they want it, and that's
25 when you make the decision whether or not to even think

1 it's legitimate. At this point you know right now,
2 without knowing anything, I think view to assume that
3 both sides are legitimate.

4 MR. CLOWARD: Okay.

5 PROSPECTIVE JUROR NO. : so to answer your
6 question you don't know until you hear everything.

7 MR. CLOWARD: Gotcha what kind of things, you
8 know, you know, you know if you were on a hypothetical
9 jury, and you know, the people they brought the case,
10 and and you had to determine hey is this a gemmated
11 case or this is a frivolous this guy is getting Jack
12 pot justice this is not even, you know, we should kick
13 this out of the door, what things are you going to be
14 looking for to tell you legitimate versus frivolous?

15 PROSPECTIVE JUROR NO. : well, I think I
16 would look at the law, to see what it says, how it
17 applies to the two sides, .

18 MR. CLOWARD: Sure.

19 PROSPECTIVE JUROR NO. : \and\{,?\}and then
20 I would look at going hypothetical not knowing
21 anything, I guess yeah really all we have is just the
22 law at that point, I'm trying not to answer in a way
23 that would, you know, bring bring out something that
24 somebody has already said.

25 MR. CLOWARD: Feel free I want to hear I want

1 to know you too.

2 PROSPECTIVE JUROR NO. : at this point I
3 would just base it on what the law says if this happens
4 you know this is right this is wrong. And just decide
5 it from there.

6 MR. CLOWARD: Yeah.

7 MR. CLOWARD: Okay. You know, I think there
8 are some case that you say hear about them holy smokes
9 there's no we question on that one the guy suing in
10 New York for \$5 million or whatever it was for a pair
11 of setenants got lost and the dry cleaner, and that's
12 there's that's a no brainer that's that's clearly
13 frivolous, so how do you, you know, how do you sift
14 through the, you know, the different one Mrs. Frasier,
15 what do you think? What do you think is important?

16 PROSPECTIVE JUROR NO. : life change.

17 MR. CLOWARD: Okay.

18 PROSPECTIVE JUROR NO. : if someone has a
19 significant life change, does it alter their ability to
20 earn an income. You know, the same income, and by
21 being awarded this money, is it over and above what
22 they would have made over however long their however
23 long their injuries would have like held them back.

24 MR. CLOWARD: Sure.

25 PROSPECTIVE JUROR NO. :

1 MR. CLOWARD: Okay.

2 PROSPECTIVE JUROR NO. : and then I think
3 you also to tie in all the other things attorney fees
4 and all that other stuff, you know, how much is the
5 victim actually going to receive.

6 MR. CLOWARD: Sure.

7 PROSPECTIVE JUROR NO. : to help their
8 life.

9 MR. CLOWARD: Okay. Anyone else have have
10 some views on how you would sift through, you know,
11 whether it's, you know,, it's a Jack pot justice
12 frivolous type lawsuit versus a legitimate one?

13 PROSPECTIVE JUROR NO. : it seems to me
14 like if you would think of a frivolous lawsuits, it
15 would be the amount of money that they're asking for if
16 they're asking for the ex or than the amount of money,
17 I would consider that a frivolous lawsuits, right up
18 front.

19 MR. CLOWARD: Gotcha. ^KRISTY CHECK ex bore
20 than the.

21 PROSPECTIVE JUROR NO. : rather than a
22 lesser amount than than you might think it's more legit
23 because it's not going to change their lifestyle
24 they're gist going to try to get by.

25 MR. CLOWARD: Gotcha. So is it fair to say

1 that you know, the fact that that my client has you
2 know that knowing that my client has sued for in excess
3 of 2 million that, just that that alone makes you to
4 makes you believe that it's it's privilege will you
5 tell lawsuit you agree with that?

6 PROSPECTIVE JUROR NO. : probably because
7 that is a lot of money, but we don't know the case so, .

8 MR. CLOWARD: Sure.

9 PROSPECTIVE JUROR NO. : we can't say.

10 MR. CLOWARD: But just on that very specific
11 issue the very fact fact that the amount you probably
12 think it's for frivolous than --

13 PROSPECTIVE JUROR NO. , right.

14 MR. CLOWARD: And Mr. Young you also were you
15 were agreeing you also share that view.

16 PROSPECTIVE JUROR NO. : yeah 009 that's
17 the first question you asked the first time around
18 about the ex sells of 2 million, but I'm also agreeing
19 with that guy over there, about there being legitimate
20 cases and also frivolous cases depending on want facts.

21 MR. CLOWARD: Sure Mr. Young, you know how
22 would you if you were on the on the hypothetical jury,
23 in a personal type lawsuit where someone was claiming
24 to be injured how would you go about determining
25 whether it was frivolous or whether it was legitimate

1 what kind of things would you look for.

2 PROSPECTIVE JUROR NO. : fact, evidence, .

3 MR. CLOWARD: But what kind of yeah, what
4 kind of facts and evidence would you be interested in
5 hearing.

6 PROSPECTIVE JUROR NO. : talk about the
7 2 million stuff like that so if we're talking about a
8 surgery fees, and that kind of stuff, then, if that's
9 all taken into account, then I guess it would make
10 sense if we're just talking about pain and suffering
11 and what they can get with that money, .

12 MR. CLOWARD: Okay. So you would maybe look
13 for medical bills, things like that.

14 PROSPECTIVE JUROR NO. : yeah.

15 MR. CLOWARD: Okay. What are other things
16 that would be important in determining whether it's
17 frivolous or legitimate Mrs. Brown what do you think?

18 PROSPECTIVE JUROR NO. : I would say how
19 they were medically before the accident.

20 MR. CLOWARD: So maybe what their playing
21 field is before, and their baseline before, and their
22 playing field after or their baseline after the crash?

23 PROSPECTIVE JUROR NO. : yes.

24 MR. CLOWARD: Or after the whatever whatever
25 event. Everyone -- everyone agree that that would be

1 important to know? You guys would all want to know,
2 you know, the playing field before and the playing
3 field after? How would you how would you know, though?
4 You know if the person, you know, just if the person
5 just told you, hey this is how I was before and after,
6 how do you how do you determine hey you know what this
7 is this is frivolous versus this is legitimate how do
8 you think, you know, Mr. Evans.

9 PROSPECTIVE JUROR NO. : well, caterer
10 would be the type of the type of claims it.

11 MR. CLOWARD: Okay.

12 PROSPECTIVE JUROR NO. : and and, you
13 know, if it drastics, then ten it probably isn't
14 frivolous, but if it drawings attention that's what you
15 want to look at and go a little further \into the\in to
16 the details with it before you make an opinion.

17 MR. CLOWARD: Can you tell me what you do you
18 mean by draws attention.

19 PROSPECTIVE JUROR NO. : just something
20 out of the ordinary that soundses ridiculous.

21 MR. CLOWARD: You can give me an example.

22 PROSPECTIVE JUROR NO. : like when you
23 burn burn yourself with cough pee and you're trying to
24 get \$25 million I mean, that sounds ridiculous.

25 MR. CLOWARD: Sure. Where you get your, you

1 know, brother-in-law or whoever's thumb you put it in a
2 cup of coffee or Chile that kind of thing right.

3 PROSPECTIVE JUROR NO. : right but see I
4 wouldn't draw my opinion on that one until I knew for a
5 fact that's what happened.

6 MR. CLOWARD: Gotcha.

7 PROSPECTIVE JUROR NO. : you know I'm not
8 going to automatically assume somebody put that thumb
9 in there.

10 MR. CLOWARD: Sure.

11 PROSPECTIVE JUROR NO. : that's not as
12 easy to young as somebody spilling coffee on their lap.

13 MR. CLOWARD: Over themselves, gotcha. So
14 what are other things that you know would be important
15 Mr. Unger, would what would be important for you if you
16 were determining hey what's legitimate versus frivolous
17 what are you looking for.

18 PROSPECTIVE JUROR NO. : I'm looking for
19 fact.

20 MR. CLOWARD: What kind of facts
21 \though\{,}though{,}\{,}though can you tell me.

22 PROSPECTIVE JUROR NO. : facts on the
23 case, facts on the accident if there was an accident,
24 just the witnesses testimonies, of what they're going
25 to say what the person went through what the person

1 what suffering they feel that the person did have.
2 Association maybe people other than than the person
3 who's injured right.

4 PROSPECTIVE JUROR NO. : I would think the
5 more professional opinions,.

6 MR. CLOWARD: So you would want to hear maybe
7 from more doctors.

8 PROSPECTIVE JUROR NO. : that would be
9 part of it yes.

10 MR. CLOWARD: Or experts or whatever the case
11 was.

12 PROSPECTIVE JUROR NO. , right.

13 MR. CLOWARD: Okay. Who who here has some
14 feelings on that or agrees or disagrees? You were kind
15 of nodding your head Mrs. Rendina do you agree with
16 that.

17 PROSPECTIVE JUROR NO. : yes, I think if
18 we have medical records to show, how the person was
19 before the accident how they are now, because
20 sometimes, if someone's in a certain shape, and they
21 get hit it gets worse, then can you kind of sift
22 through what's really true and what's not.

23 MR. CLOWARD: Gotcha. So maybe like using,
24 you know, the medical records to show a baseline as
25 well like the playing field hey here's the playing

1 field for the person here's what, you know, what the
2 records show was going on and then the accident happens
3 or the event and slip and fall, whatever it is, and
4 then here's what the medical records after is that
5 fair.

6 PROSPECTIVE JUROR NO. : yes.

7 MR. CLOWARD: Everyone agree that would be
8 important anyone agree that wouldn't be important?
9 Mr. Car pen ski what do you think about that.

10 PROSPECTIVE JUROR NO. : Nicholas par
11 pinko 025.

12 MR. CLOWARD: Karepenko sorry sorry.

13 PROSPECTIVE JUROR NO. : that's all right.

14 I think the idea that the playing field before and
15 after it does make sense to me. I can see that, just
16 because if you're on if you're not able to do as much
17 as you could before an accident, I think that would
18 that could potentially have a long term affect on what
19 you're able to bring in as far as money is concerned so
20 if you're going to go the route of money. I could see
21 that as being a possibility if you have kids you know
22 how well you can take care of your kids would be a
23 possibility there. So the idea that you would be
24 trying to get something to compensate that, makes
25 sense. But I think because you are 81 asking for

1 something you would have to be able to prove that this
2 is -- this whatever it is, is really what you needed.

3 MR. CLOWARD: Sure. You know, I think I
4 think you know brutal honesty, okay. . I think you
5 know, we can all make room for the possibility that
6 both parties are going to be a little bit you know,
7 have -- have their side of things just because involves
8 them, and, and that's, you know, that's just human
9 nature. We all agree that you know, that that that's
10 just the way that it is? You agree with that?

11 PROSPECTIVE JUROR NO. : uh-huh ^KRISTY
12 CHECK Brown.

13 MR. CLOWARD: Okay. One second.

14 MR. CLOWARD: Your Honor may I have Court's
15 indulgence for just one moment.

16 THE COURT: Yep.

17 MR. CLOWARD: Okay. I wanted to move on now
18 to a different topic, and there's there's been some
19 discussion we're going to talk about, you know, crashes
20 that happen. I think Mr. Unger, you said you were
21 involved in relatively minor crash, but you've had some
22 long lasting effects from that and then I think you
23 said you have been in four crash, you have been rear
24 ended four times, and you you're not you weren't hurt
25 right.

1 PROSPECTIVE JUROR NO. : no.

2 MR. CLOWARD: So how do we explain, you know,
3 has anyone heard of someone that was in like just a
4 massive rollover, and they they were okay. They walked
5 away from it? Anyone heard of that? And then
6 obviously we unfortunately, you know Mr. Hicks, my
7 partner over there when he was about 17 had he a van
8 full of 17 or I think 1515 kids jooks, Your Honor.
9 This is.

10 MR. CLOWARD: Just it's an example of I mean,
11 he rolled his I mean,, what's so what's the objection?
12 Mr. Jaffe.

13 MR. JAFFE: This is irrelevant and it's now.

14 THE COURT: Ask a question.

15 MR. CLOWARD: Okay. How do you explain when
16 somebody you have a rollover, same two people in the
17 rollover, one person lives, one person dies. Or like
18 Mr. Frasier in your instance have you been rear ended
19 four times and you weren't, but Mr. Unger, had kind of
20 a minor event, and he's had long lasting how do we
21 explain that?

22 PROSPECTIVE JUROR NO. :

23 MR. CLOWARD: Somebody's got to have some
24 ideas.

25 PROSPECTIVE JUROR NO. : did I VIN

1 intervention.

2 MR. CLOWARD: Divine intervention.

3 PROSPECTIVE JUROR NO. : I agree with that

4 ^KRISTY CHECK Vermont have a.

5 MR. CLOWARD: Ms. Vera.

6 PROSPECTIVE JUROR NO. : unfortunate lie a

7 set of twin as family went down to Florida father and

8 the boy twin were sitting up-front dad was driving, the

9 girl twin the mother, and her sister were asleep in the

10 back of the van, the girl twin died, how do we know?

11 We don't. Sorry.

12 THE COURT: At least I'm not the only one who
13 got emotional today.

14 MR. CLOWARD: Yeah sometimes I think it
15 definitely is out of our hands. Mr. Unger.

16 PROSPECTIVE JUROR NO. : another example
17 it just happened in St. George Utah about a months ago
18 where a family driving in a motor home, and the
19 grandmother was driving the vehicle, I think she had
20 four or five of her family members in the back of it
21 and she lost control went off the highway, through a
22 house, through another street and stopped in another
23 house, and she and her husband was from killed, but
24 none was other kids were killed in the backseat. You
25 don't know how or why or when, or to what extent.

1 MR. CLOWARD: I heard about that. You know,
2 I'm a basketball fan, and I remember earlier this year
3 there was a guy from Kansas state, who jumped, and it
4 didn't seem like it was a out of the ordinary jump,
5 didn't seem like there was anything you know there's
6 thousands and thousands of players throughout the
7 nation thousands and thousands of jumps just like that,
8 but in that situation, and I'm sure some of you have
9 seen that, Mr. Frasier tell the jurors what happened
10 there.

11 PROSPECTIVE JUROR NO. : his knee just
12 snapped his leg just snapped.

13 MR. CLOWARD: Right in half.

14 PROSPECTIVE JUROR NO. : right in half,
15 and it was just a freaky accident.

16 MR. CLOWARD: Probably the worst you know the
17 worst sportings injury I think that that I have ever
18 seen anyway other than, you know, if somebody lost
19 their life. But how do we explain those things other
20 than, you know, divine intervention, you know that
21 better's all built kind of differently, Mr. Young,
22 okay. Ms. Pro sick pro sick pro check.

23 PROSPECTIVE JUROR NO. : pro sick 044. I
24 think it's the law of physics, it's, you know,, how big
25 how small are you? Your physical condition, and how

1 you get hit. Because you can be wearing your seat belt
2 or not, and then you get ejected from the vehicle
3 and you die, or you know you're whoever's sitting next
4 to you, they get hit a different way, and something,
5 you know, I don't know if they can get hurt a different
6 way just because of the different way that they get
7 hit, so and your fine, and you might not have even been
8 wearing your seat belt, so. I think it's a law
9 physics.

10 MR. CLOWARD: So just different maybe just
11 one little thing tweaked a little bit differently that
12 makes all the difference.

13 PROSPECTIVE JUROR NO. : yeah absolutely.

14 MR. CLOWARD: Anybody agree with that or
15 disagree with that?

16 PROSPECTIVE JUROR NO. : I agree ^KRISTY
17 CHECK Agnor.

18 MR. CLOWARD: Anybody disagree with that?

19 MR. CLOWARD: Okay. Anyone here believe that
20 in order to have a, you know, a serious or significant
21 injury you have to have a serious or significant event
22 like you got to have a roll over? Mrs. -- Mrs. Pro
23 sick tell me you're nodding your head or shake your
24 head why.

25 A. I don't think you have to have a roll over to

1 be hurt. You could have just a minor accident, and you
2 could be, you know, like okay. I just bought an SUV
3 because it's much safer than my 350Z I have, but I
4 still try to sit far away from the steering wheel
5 because I'm afraid of the airbag that's going to hurt
6 me, and I'm 52, so a guy that's as big as you, you
7 know, you might take a an accident a lot different than
8 than I would, I can get severely injured just because
9 I'm shorter \and\{,?}and, you know, the I can get
10 killed by the bit bag. So.

11 MR. CLOWARD: Sure. Like Mr. Mr. Frasier
12 looks like he's lifted lots of weight and is he's, you
13 know,, pretty strong pretty strong guy.

14 PROSPECTIVE JUROR NO. , right.

15 MR. CLOWARD: He probably wouldn't have the
16 same risk factor or pre disposition than maybe you
17 would, you agree with that.

18 PROSPECTIVE JUROR NO. : correct yeah.

19 MR. CLOWARD: Does anyone does anyone here
20 believe that or not believe that, anyone not think
21 that? Anyone that thinks that, you know, what, we're
22 all created in the image of God some, you know, some
23 say so, that's what everyone's going to be hurt the
24 exact same and the same way every single time does
25 anyone have that belief? okay. Mr. Evans, what do you

1 think.

2 PROSPECTIVE JUROR NO. : no.

3 MR. JAFFE: Your Honor may we approach?

4 THE COURT: Okay.

5 (Whereupon a brief discussion was
6 held at the bench.)

7 THE COURT: Everybody okay right now or
8 anybody need a break right now? I don't see any hands.
9 Go for a little bit longer.

10 MR. CLOWARD: Thanks Judge. Just one just
11 these two pieces of paper are getting the better of me.
12 Just one — one more question and then we can move on
13 to another section. You know some folks believe that
14 in order to have significant injury you got to have
15 significant damage you got to be a significant
16 collision with significant property damage, other folks
17 believe that, you know, what, our bodies are made
18 differently, different factors contribute. And so
19 there's really there's nothing about the the damage in
20 the vehicle versus damage to the person. Who here
21 liens towards in the in your mind, you got to have
22 significant damage in order for there to be a
23 significant significant injury, and we're talking
24 property damage to a vehicle? Anyone have that belief
25 got to be somebody. Not one person.

1 PROSPECTIVE JUROR NO. : 008.
2 MR. CLOWARD: Ms. Vera thank you for sharing.
3 PROSPECTIVE JUROR NO. : can you say it
4 differently. Maybe a little more specific. And give
5 us a little bit more than that.
6 MR. CLOWARD: Sure. It was a bad question.
7 Who here believes that someone cannot have a serious
8 injury without significant property damage? Anyone
9 believe that?
10 MR. JAFFE: Judge I have to -- to raise the
11 same objection.
12 THE COURT: Overruled.
13 MR. CLOWARD: Anyone have that belief? Got
14 to be -- nobody at all? Okay.. Thank you very much.
15 I will move on. Okay. Next thing that I want to talk
16 about, and I'm getting I'm really I know you guys
17 probably don't believe me, but I'm getting close to the
18 end here. So let me ask about personal injury cases
19 where money damages you know money damages are asked
20 for, there's been a couple of folks \and\{,?\}and it's
21 okay to have that feeling have those beliefs, have
22 those core values there's nothing wrong with that, some
23 folks believe that, you know, pain and suffering is
24 just, you know, something that that they just have a
25 hard time with, and that's fine. Nothing wrong with

1 that. Okay? Nothing wrong with with being having
2 different views and beliefs and core values. Who here
3 has a hard time with, you know, medical bills, that you
4 know, you feel like medical bills are just not
5 something that somebody should be able to recover for,
6 anyone have that view? Anyone? What about like lost
7 wages or, you know, if someone is no longer able to
8 work or if their work was reduced or something along
9 those lines, does anyone have a view one way or
10 another, about that specific issue? Mrs. Temple on it,
11 do you have a view one way or another on that?

12 PROSPECTIVE JUROR NO. : as far as whether
13 they should receive it or not 08 teen temple ton.

14 MR. CLOWARD: Sure like somebody brings a
15 lawsuit, and one of the things that they're suing for
16 is like an economic type.

17 PROSPECTIVE JUROR NO. : recovery of lost
18 wages or -- or whatever the case is on that.

19 MR. CLOWARD: Sure. Something.

20 PROSPECTIVE JUROR NO. : I think they
21 should be awarded that, sure. It's not their fault
22 that they missed the work or they have had to leave for
23 therapy or just days off to recuperate that type of
24 thing is what you are a he asking?

25 MR. CLOWARD: Sure.

1 PROSPECTIVE JUROR NO. : sure they should
2 get that.

3 MR. CLOWARD: Anybody have a problem with
4 that? Even if just it's a little bit of a problem.
5 Okay. Let me ask this question: What if what if there
6 was a situation where you know let's say you had you
7 had two you had you had some high school kids they were
8 playing they were horsing around, and one of the high
9 school kids, you know, let's say he had -- does anyone
10 know what hemophilia is like a person with home know a
11 feel yack what is that, sir tell me what that is
12 Mr. Fitzgerald.

13 PROSPECTIVE JUROR NO. : yeah double 03
14 basically if your blood will not clot so literally
15 blood will run out of your body and you die.

16 MR. CLOWARD: You bleed to death really easy.

17 PROSPECTIVE JUROR NO. , right.

18 MR. CLOWARD: So let's just say you had you
19 had students, and they were horsing around one of them
20 had hemophilia, and then the other one didn't have
21 anything, and the 11 student pushes the the one with no
22 issue, and he falls down and he gets a crack, and then,
23 you know, I has to go and get some stitches and the
24 stitches \you know\{,}you know{,}\{,}you know\you
25 know{,} to do that it's only maybe \$2,000 to the

1 emergency room. Now, let he's say across town in
2 another High School you have another situation two kids
3 they're horsing around and one of them pushes the kid
4 with home Phil feel yack the same way it's exact same
5 push, he falls down hits his head in the same spot, but
6 this time he has very serious very serious issues.
7 And, you know, he has to go to UMC trauma, he's in
8 there he has to get transfusions he has to get a lot of
9 treatment and the medical bills are, you know, they're
10 just really high, we're talking, you know, he's in
11 there for two or three months and it's several, you
12 know, maybe even five or six or seven or \$800,000 for
13 the medical bills. Do you think it's fair that in the
14 one situation, where you know it's same act, they're
15 both just horsing around, do you think it's fair in the
16 one situation, the one kid has to pay for so much more
17 than the other kid because it's just it's the same act,
18 who thinks that's unfair for him to the one kid to have
19 to pay more? Ms. Vera tell me about that.

20 PROSPECTIVE JUROR NO. : 008. Which one?
21 The hemophiliac is the one you're saying.

22 MR. CLOWARD: The boy that pushed the home
23 know feel yack down so because of his action the heme
24 mow feel yack his bills were up here, balances the kid
25 across town at the other high school his bills were

1 down here from the act of pushing down.

2 PROSPECTIVE JUROR NO. : I don't think
3 it's a question of fair numbers it's he's receiving the
4 medical attention, and that's what it costs. If the
5 other boy is healthy his blood clots his only costs
6 \$2,000. I don't see where fairness pays into that is
7 it fair for the hemophiliac have to live with that his
8 life?

9 MR. CLOWARD: Okay. Does anyone feel like
10 it's unfair in the second situation because you know
11 it's the same act, they're both just horsing around one
12 pushing the one the other pushes the other so one's
13 not, you know, didn't do it, you know, wasn't being
14 mean, but one boy, you know, he has to pay a lot more.
15 Anyone feel that's unfair? Mr. Evans.

16 PROSPECTIVE JUROR NO. : 012. I think now
17 I don't think it's unfair that he should his medical
18 bills should shouldn't be paid for rather than the one
19 that's got a lesser bill. But I think the hemophiliac
20 boy should know he should know better than to be
21 horsing around in the first place that's my opinion on
22 your scenario. He knows his medical condition, he
23 should point that out ahead of time look we can't be
24 horsing around, I have a medical condition.

25 MR. CLOWARD: Sure.

1 PROSPECTIVE JUROR NO. :
2 \but\{,}but\{,}but{~}... \at the\if he does that and he
3 gets hurt aways then it doesn't matter a bill's a bill.
4 And and at that point it's not his fault any more and
5 yeah it should be taken care of.

6 MR. CLOWARD: Does anyone feel like in the,
7 you know, the second case with the hemophiliac, that
8 that the little the boy that pushed him down, let's
9 just say they weren't horsing around just in one
10 situation the kid pushes him down the other situation
11 the kid pushes him down do you think the kid who calls
12 for speculationed the hemophiliac and his problems
13 should get some sort of a discounted because you know,
14 over Ms. -- Ms. Agnor, tell me 033, your nodding
15 shaking your head.

16 PROSPECTIVE JUROR NO. : 033, it's it's an
17 act of kids horsing around: So kids do that all the
18 time and it's just unfortunate that that boys that the
19 hemophilia and the other boy didn't, but like Mr. Evans
20 was saying a bill is a bill and it's got to be paid one
21 way or another, so is this one suing for 2,000 and this
22 one suing for 500,000 they should both be compensated
23 the amount of the medical bills.

24 MR. CLOWARD: Okay. Mr. Fitzgerald tell me
25 what do you think about that.

1 PROSPECTIVE JUROR NO. : well, I think
2 that any case I think like all my fellow jurors here
3 needs to be decided on the merit, and not every case
4 that comes before us is going to be the same. And like
5 Judge is saying we're here to do justice we're not here
6 to, you know, gold brick or anything like that. Use
7 common sense.

8 MR. CLOWARD: Sure.

9 PROSPECTIVE JUROR NO. : we hope that
10 prevails, and and that's everything I am hear hearing
11 righten U up and down the front front row right up and
12 down the back row No. 003.

13 MR. CLOWARD: One more question then I will
14 move on. Is there anyone that thinks that that the
15 situation in the hemophiliac that he should get a
16 discount? Anybody feel that way? Okay.. Okay. Now I
17 want to ask some questions about, you know, about
18 sympathy and who here feels like, you know, let's say
19 that had that this was this was a case about, you know,
20 let's say this bottle was filled with some diamonds,
21 okay, and the defendant grabbed the bottle through it
22 into Lake Mead, and the diamonds went to the bottom of
23 the of Lake Mead. And experts were hired, and it was
24 determininged that the value was, you know, let as I
25 say for the value of those diamonds was \$2.5 million.

1 Mr. Frasier, you know if you felt bad for the person
2 who threw the diamonds into Lake Mead, would you if the
3 value has been determined, you know, it was determined,
4 would you give less because you maybe felt bad for one
5 party or the other?

6 MR. JAFFE: Objection. Your Honor.
7 Rule 7.70C.

8 THE COURT: Sustained talking about a
9 specific hypothetical facts.

10 MR. JAFFE: Yes.

11 THE COURT: Try again.

12 MR. CLOWARD: Okay. In -- in a hypothetical
13 situation, do you think that sympathy should come into
14 play when making determinations about issues? I mean
15 if you feel bad for one party or you like the other
16 party, do you think that you should, you know, award
17 less or enter less into the verdict form or.

18 PROSPECTIVE JUROR NO. : I think sympathy
19 comes into all of our decisions ^KRISTY CHECK Frasier.
20 I don't know who threw the bottle in the water. Was it
21 the plaintiff was it a friend. You just said somebody
22 through it in I don't know who threw it in.

23 THE COURT: We're not going to talk about the
24 bottle any more.

25 PROSPECTIVE JUROR NO. : good because I

1 got lost on that, but the bottom line is I think in
2 every decision we make we have sympathy for some
3 people, but I mean, even sympathy is limited.

4 MR. CLOWARD: Sure.

5 PROSPECTIVE JUROR NO. : so. I guess
6 that's my answer. Yes, I would be sympathetic, but how
7 she can she can there would be would be a cutoff point.

8 MR. CLOWARD: Your Honor, I think.

9 THE COURT: Want to take a break.

10 MR. CLOWARD: Okay.

11 THE COURT: Probably a good time take our
12 afternoon break and see if we can push through after
13 this ladies and gentlemen during our broke.

14 You're instructed not to talk with each other
15 or with anyone else, about any subject or issue
16 connected with this trial. You are not to read, watch,
17 or listen to any report of or commentary on the trial
18 by any person connected with this case or by any medium
19 of information, including, without limitation,
20 newspapers, television, the Internet, or radio. You
21 are not to conduct any research on your own, which
22 means you cannot talk with others, Tweet others, text
23 others, Google issues, or conduct any other kind of
24 book or computer research with regard to any issue,
25 party, witness, or attorney, involved in this case.

1 You're not to form or express any opinion on any
2 subject connected with this trial until the case is
3 finally submitted to you..

4 Let's take another ten minutes.

5 THE BAILIFF: All rise.

6 (Whereupon jury the courtroom.)

7 THE COURT: All right. We're outside the
8 presence of the jury. Does anybody need to make a
9 record?

10 MR. SMITH: Do you want to make a record.

11 MR. JAFFE: Yes, Your Honor, I believe that
12 when there were questions being asked before regarding
13 the intensity of impacts and how that may affect injury
14 as well as roll overs people walking away minor
15 accidents people being seriously hurt that was indoc
16 Nateing the jury in contradiction to the Nevada Supreme
17 Court.

18 THE COURT: I disagree that's why it was
19 overruled anything else.

20 MR. JAFFE: Nothing, sir.

21 THE COURT: All right off the record.

22 (Whereupon a short recess was taken.)

23 THE COURT: Back on the record Case
24 No. 636515. We're outside the presence of the jury.
25 Mr. Cloward is going to make a record on his challenges

1 for cause.

2 MR. CLOWARD: Okay. We already made the full
3 record on Mr. Frasier he was the No. 1. 20049. So
4 we'll move to -- oh, yeah there's also addition
5 chemical reasons for him to be challenged for cause.
6 In later questioning, yeah, in later questioning he
7 felt like, he felt like the majority of cases are going
8 to be frivolous cases. He felt like the fact that my
9 client had filed the lawsuit, that the fact that she
10 filed a lawsuit it probably be more likely that it's
11 going to be frivolous versus legitimate, he also thinks
12 that he's uncomfortable with someone of his state of
13 mind on the jury, he's had that belief he's felt that
14 way, he felt like \$2 million was, you know, out of
15 the -- out of the, you know, was outrageous.
16 Regardless of what the evidence showed. He also talked
17 about how he would not be a good fit for this
18 particular caisson that particular issue. That the
19 parties would not have a fair fight. Because
20 Mr. Khoury would start off in a position higher or you
21 know ahead of Mrs. Seastrand on that very specific
22 issue. He also talked about how.

23 MR. JAFFE: What specific issue? So I know
24 exactly what I'm questioning on? The 2 million-dollars
25 demand.

1 MR. CLOWARD: The excessive amount.

2 MR. CLOWARD: Mr. Evans, and so the second
3 cause challenge would be Christopher Evans, and he is
4 badge No. 020012, he was questioned about pain and
5 suffering. He expressed clear opinions, clear views,
6 clear beliefs about pain and suffering. He does not
7 agree with pain and suffering. He does not think that
8 pain and suffering justifies money at all. You know,
9 you should only have cause for damages, lost
10 income, med things of that nature property damage.
11 That's it. Mr. Evans also indicated that he would not
12 feel comfortable with someone on -- with his frame of
13 mind sitting on the jury, that he wouldn't, you know,
14 he he wouldn't be able to that the parties wouldn't
15 have a fair fight because ultimately Mr. Khoury would
16 start off in a position higher or in front of
17 Mrs. Seastrand on that very specific issue.

18 MR. JAFFE: Again what specific issue is it
19 the \$2 million?

20 MR. CLOWARD: So Mr. Evans was dealing with
21 the pain and suffering.

22 MR. JAFFE: Okay.

23 MR. CLOWARD: Additionally, that he said that
24 no one is going to change his mind, not Mr. Jaffe, not,
25 Your Honor, not myself, not his neighbor. And he

1 agreed or you know that he would not even be a good fit
2 for this specific caisson that very, you know, on that
3 issue. Which is a significant issue in in the case.
4 And then, let's see. The third cause challenge is
5 Mr. Gary Walker, and that's badge No. 020034, and yeah,
6 and Mr. \walker\Walker's case he was the very first
7 American raised his hand. He said hey look, I I think
8 that that \$2 million that's outrageous, he said that's
9 the lawsuits are wasting people's time. Yeah, he
10 actually said I'm wasting their time. Additionally he
11 felt like that there's just no way under any
12 circumstance, under any factual any evidence that he
13 could award above \$2 million ever.

14 Mr. Walker said that yeah he's always felt
15 that way, nothing that I -- I'm going to say is going
16 to change his mind nothing that Mr. Jaffe is being to
17 change his mind nothing that the Court is going to say,
18 is going to change his mind. And Your Honor, if you
19 remember, he's the one that I said hey, you know,
20 mr. \walker\Walker, please just level with me, you
21 know, could you give us a fair fight? And he said no.
22 Because he's already he's already got views on that, on
23 that issue.

24 THE COURT: I thought he was the one that you
25 tried to nail him down on that and he said that he

1 didn't know the facts of this case so he wouldn't be
2 able to tell you one way or another.

3 MR. CLOWARD: Yeah he did at first and then
4 if it you remember, I went through the additional he
5 was the first person that we talkeded to about about
6 the the amount. He was the first person and then I
7 went and talked to the other ones and then came back to
8 him, and that's when he said yeah you know what, I
9 can't answer it's just ridiculous. Yeah, he says, and
10 we're going to quote, client is not going to get a fair
11 fight from him, he cannot say that he would be fair.
12 That's what specifically what he said, and I went back
13 to him, and I acknowledged that he did at first he
14 said, you know he was wishy-washy then when I went back
15 to him, and let's see Mr. Walker which one is he so
16 he's No. 3 so the No. fourth one is Mr. Runs, that's
17 badge No. 020001, and Mr. Runs, also was asked about
18 the the amount of the award, he felt that that any
19 amount above, you know -- any amount is is going to be
20 ridiculous. The \$2 million is going to be ridiculous.
21 Yeah, he actually agreed that he had a bias on that
22 issue. He said \flat out\flat-out I have a bias on
23 that issue. And not only that, but then he goes on to
24 say that he he couldn't he would be uncomfortable with
25 someone on his with his state of mind, No. 1, he says

1 he wouldn't be a good fit, and he says that Mr. Khoury
2 would start off ahead of Mrs. Seastrand on that
3 specific issue. And he also said that, you know, he's
4 held that belief for a long time, nothing that I say
5 will change it, nothing Mr. Jaffe says will change it,
6 nothing the Court says will change it it. Nothing that
7 his neighbor says will change it. That's just the way
8 he feels. Now, the next one is No. 5, which is
9 Ms. Vera, badge No. 20008, and Ms. Remember have a, the
10 same questions, note Vera. Sure. Ms. Vera was -- was
11 this is on the pain and suffering Mr. Jaffe, Mr. Orr
12 Ms. Vera agreed with -- Mr. Evans, on the specific
13 issue of pain and suffering. She didn't believe in
14 pain and suffering. In award yeah in awarding money
15 for pain and suffering she just does not believe that
16 that's something that that is even compensable area of
17 damage. She says flat-out that she agrees with
18 Mr. Evans that she would feel uncomfortable with her,
19 you know, having her frame of mind, having someone on
20 the jury, not only that, but she says that she's not
21 going to change her mind. She says that the parties
22 are are not going to have a fair fight because
23 Mr. Khoury is going to start off ahead of Ms. Seastrand
24 on that specific narrow issue, and that, you know,
25 nothing is going to change her mind I'm not going to

1 change her mind Mr. Jaffe is not going to change her
2 mind the Court's not going to change her mind that's
3 just the way she feels.

4 Next is No. 6, will he tissue Shah one way or
5 another badge No. 020028, and this was dealing with
6 the -- with the 2 million-dollar amount. Ms. One way
7 or another was asked about that, and she says that
8 it's outrageous, she says that you know, that there's
9 she would feel uncomfortable having a jury or a juror
10 with her frame of mind on a case hypothetical case,
11 where she was the plaintiff, she's felt that way for a
12 long time. She says that it's not going to be a fair
13 fight. Because Mr. She actually I believe said that
14 she also had had bias. And then additionally she
15 that's Mr. Khoury is going to start off, you know,
16 ahead of ahead of Ms. Seastrand. Again she says she
17 has felt that way for a long time that no one is going
18 to change her mind I'm not going to change her mind
19 Mr. Jaffe is not going to change her mind or the judge,
20 Your Honor is not going to change her mind. . Let's
21 see. Young Mr. Young, the gentleman on the back row,
22 what is his badge number? I can't see him yeah 20009,
23 he also says he's uncomfortable in an amount above
24 2 million. He would feel uncomfortable bag having a
25 juror with his frame of mind his state of mind, his,

1 you know, if he was a plaintiff, and that that the
2 plaintiff would not get a fair fight. He also
3 talked about how that no one is going to change his
4 mind he has had that plea for a long time he
5 carried that belief with him into the Court today he
6 didn't form it today he has it had for a long time I'm
7 not going to change it Mr. Jaffe is not going to change
8 it the Court is not going to change it. Additionally
9 he testified that they're not going to have a fair
10 tight that Mr. Khoury is going to start off ahead of
11 Ms. Seastrand on that specific issue. Now, finally or
12 not finally, the eighth is Joey Bulason. Badge
13 No. 20017, and Mr. Bellson he also felt like the
14 2 million was a problem. He put that in his jury
15 questionnaire.

16 MR. JAFFE: If you want Bulason off I will
17 stipulate to him.

18 MR. EGLET: Okay.

19 MR. JAFFE: I'm not I have no problem with
20 with throwing Bulason off.

21 THE COURT: Okay.

22 MR. CLOWARD: Okay. Your Honor. The next
23 one.

24 MR. JAFFE: I'm not I'm not necessarily
25 saying that it's for any of the reasons you said, but

1 if you want Bulason off I will agree to Bulason off.

2 THE COURT: Just a stipulated strike.

3 MR. JAFFE: Yeah.

4 MR. CLOWARD: No. 9, Your Honor, ninth cause
5 challenge, for plaintiff Margie Seastrand is juror
6 badge No. 20033, Patty J Agnor. And there were a lot
7 of things Ms. Agnor had problems with. You know, she
8 says that hey look, unless the plaintiff is mises ago
9 limb, is completely disabled, there's no way she could
10 go to 2 million for anyone that she felt like 2 million
11 as well just outrageous, it's so much money,
12 additionally she feels like there's -- there's a source
13 of intent or a a level level of intent that needs to be
14 involved. She says look only if it's on purpose, yeah
15 that, if the if the if the person hurt the other person
16 on purpose. That's what she would require. Another
17 thing is that she would she said she would be
18 uncomfortable with someone with her frame of mind on
19 this specific issue. You know if she was a plaintiff,
20 serving on the on the jury, she also felt like she said
21 flat-out that there wouldn't be a fair fight because
22 Mcwould start out ahead of her or ahead of
23 Ms. Seastrand on that issue. And and she agreed that
24 she would not be a good fit ^KRISTY CHECK Mr. Khoury.
25 For this particular jury on that specific issue. And

1 finally, you know she said that she's held these
2 beliefs for a long time. Nothing that I'm going to say
3 is going to change that. Nothing Mr. Jaffe's going to
4 say is going to change that. Nothing the Court is
5 going to say is going to change that. That's the way
6 she feels, that's the way she, you know, what what we
7 are core values and her beliefs are, regarding that.

8 THE COURT: I would suggest that since we're
9 going to let the defendant defense counsel try to
10 rehabilitate on the rest of these, if I excuse
11 Bulason right now, and we put someone else? his place
12 air going to ask him more questions of that person
13 before we move on, so, .

14 MR. CLOWARD: Yeah.

15 THE COURT: Maybe we let the defense go, and,
16 and try to rehabilitate the ones that have been
17 addressed now.

18 MR. JAFFE: Sure Judge .

19 THE COURT: Go from there.

20 MR. CLOWARD: I think that's fair everybody
21 good with that?

22 THE COURT: All right. Those are your
23 challenges for cause so far?

24 MR. CLOWARD: Oh, yes, Your Honor, that's it.

25 THE COURT: Okay. So are we going to just

1 let Mr. Jaffe go next?

2 MR. EGLET: With those eight jurors on those
3 issues we just addressed.

4 MR. JAFFE: Yeah.

5 THE COURT: You good with that.

6 MR. JAFFE: Yes, sir.

7 THE COURT: See what you can do as far as
8 rehabilitating on these eight jurors.

9 MR. JAFFE: Sure.

10 THE COURT: And then we'll address whether or
11 not I'm going to grant the challenges for cause or not
12 and maybe put new people up there see what happens.

13 MR. JAFFE: Yes, sir.

14 THE COURT: Okay. Let's bring them back.

15 THE BAILIFF: All rise.

16 (Whereupon jury the courtroom.)

17 THE COURT: All right. Go ahead and be
18 seated. Welcome back folks we're back on the record
19 Case No. 636515. Apologize for the delay that's going
20 to happen a lot during the trial I'm going tell you ten
21 minutes and will ends up being half hour and because
22 sometimes there's things and the attorneys and I have
23 to discuss it's not that we're not working we're trying
24 to move things along in a manner that will actually be
25 better for you you just don't understand it and why

1 that happens, but trust me that we were in here working
2 and we're trying to move things along, and at this
3 point, the plaintiff is not completed with their voir
4 dire, but Mr. Jaffe's going to ask some questions at
5 this point. and turn the time over to him.

6 MR. JAFFE: Thank you, Your Honor good
7 afternoon. Going to be ask certain jurors questions
8 following up on some issues raised by Mr. Cloward
9 earlier.

10 So Ms. Agnor, if I can talk to you for a
11 couple of minutes.

12 PROSPECTIVE JUROR NO. : okay.

13 MR. JAFFE: Now, I was a little confused
14 before, and I want to make sure I understand one thing
15 correctly. When Mr. Cloward was asking you questions
16 about whether you would feel uncomfortable bothered, or
17 could not accept a 2 million-dollar pain and suffering
18 request, that they would be making okay, does that mean
19 that you could never award pain and suffering in a case
20 if there was some that you found to exist.

21 PROSPECTIVE JUROR NO. : oh, no, no. I
22 think if someone's deserves a reward, not a reward,
23 not a reward, but.

24 MR. JAFFE: A verdict.

25 PROSPECTIVE JUROR NO. , right. Or even

1 for pain and suffering, or missed work compensation,
2 medical bills, of course they're entitled to whatever
3 their whatever they miss out on.

4 MR. JAFFE: So when you were asked questions
5 about my client possibly being ahead of his client
6 being behind on a 2 million-dollar request, does that
7 mean that the plaintiff is ahead ever or behind on any
8 request for pain and suffering if they prove it 20 to
9 be appropriate in the case.

10 PROSPECTIVE JUROR NO. :

11 MR. JAFFE: In other words, if let me ask it
12 this way, Judge Wiese at the the end of the trial is
13 going to give every \juror\Juror an instruction he's
14 going to read instructions and tell you about how to
15 view certain -- the evidence you have heard, how to
16 \structure\structural your award to -- to make your
17 award, and what you can and cannot award for one of
18 which being pain and suffering. First of all, will you
19 follow the law that Judge Wiese reads if you're
20 selected as a juror?

21 PROSPECTIVE JUROR NO. : yes if that's the
22 law, you bet.

23 MR. JAFFE: Okay. And if pain and suffering
24 is allowed, as a measure of damages, will you give the
25 plaintiff as equal a chance to prove her pain and

1 suffering claim whether you want to believe \$2 million
2 or not, but you will still at least listen to the law,
3 and if you felt that pain and suffering was
4 appropriate, render what you would believe to be a fair
5 pain and suffering verdict consistent with the law?

6 PROSPECTIVE JUROR NO. : of course.

7 MR. JAFFE: So you can follow the law on pain
8 and suffering.

9 PROSPECTIVE JUROR NO. : you bet.

10 MR. JAFFE: So it sounds to me like what
11 you're saying is you can give a fair award on pain and
12 suffering it's just if \$2 million is requested, you may
13 not necessarily feel comfortable with that number, but
14 you would give something a different number if you felt
15 it was fair.

16 PROSPECTIVE JUROR NO. , right. Right. I
17 mean, if she's got \$2 million worth of medical bills,.

18 MR. JAFFE: Different story.

19 PROSPECTIVE JUROR NO. : different story.

20 MR. JAFFE: Different story. So in other
21 words, then, when it comes to giving a pain and
22 suffering award you will follow the law and give a
23 number that you would feel would be appropriate based
24 upon the law and the facts and the evidence and
25 everything you hear in the trial.

1 PROSPECTIVE JUROR NO. : of course.

2 MR. JAFFE: Okay. And are both sides on an
3 equal footing going into the start of the trial on what
4 any pain and suffering award could potentially be given
5 the fact that you have heard nothing and seen nothing
6 in the case?

7 PROSPECTIVE JUROR NO. : I don't think so.

8 MR. JAFFE: No?

9 PROSPECTIVE JUROR NO. : I don't think so.

10 MR. JAFFE: Why is that.

11 PROSPECTIVE JUROR NO. : because we don't
12 know where the pain and suffering's coming from.

13 MR. JAFFE: Okay. But that's part of the
14 proof's that you would hear.

15 PROSPECTIVE JUROR NO. , right.

16 MR. JAFFE: I guess my point is this would
17 you give plaintiff an equal point prove her pain and
18 suffering claim.

19 PROSPECTIVE JUROR NO. : yes.

20 MR. JAFFE: Just as you will give Mr. Khoury
21 an equal chance to defend against the pain and
22 suffering claim.

23 PROSPECTIVE JUROR NO. , right.

24 MR. JAFFE: So I guess going into the trial,
25 are each of them on a separate on an equal footing

1 given that you don't know anything yet.

2 PROSPECTIVE JUROR NO. , right. Yes.

3 MR. JAFFE: That's true?

4 PROSPECTIVE JUROR NO. ; yes.

5 MR. JAFFE: Okay. Now, and when you were
6 asked questions about whether you would want to sit on
7 a jury be a litigant have a jury with your frame of
8 mind were you answering that based upon a 2 million
9 pain and suffering claim or the simple fact of any pain
10 and suffering claim or a personal injury claim?

11 PROSPECTIVE JUROR NO. :

12 MR. JAFFE: In other words, when you were
13 asked that question about I am not feeling comfortable
14 with a whole jury with your frame mind was that because
15 of the 2 million-dollar pain and suffering claim was
16 thrown into the mix.

17 PROSPECTIVE JUROR NO. : I think so.
18 Yeah.

19 MR. JAFFE: Now, given that how you said you
20 are you would be a fair juror on pain and suffering,
21 would you feel comfortable having a jury made-up
22 entirely of your frame of mind when it comes to obeying
23 the law and giving each side a fair shake when it comes
24 to deliberations?

25 PROSPECTIVE JUROR NO. : I think so.

1 MR. JAFFE: So you can be fair to both sides.

2 PROSPECTIVE JUROR NO. : I think so.

3 MR. JAFFE: Is that what you would want if
4 you were sitting at one of these tables and picking a
5 jury.

6 PROSPECTIVE JUROR NO. : to share share
7 you bet.

8 MR. JAFFE: So in other words, you would feel
9 comfortable having jurors like yourself, deliberating
10 on your case because they would be fair?

11 PROSPECTIVE JUROR NO. : exactly. Because
12 that's what the law is.

13 MR. JAFFE: Thank you. That's all I mented
14 to find out. Now, Ms. Vera, do you agree with
15 everything Mrs. Agnor said or do you feel differently.

16 PROSPECTIVE JUROR NO. : I agree.

17 MR. JAFFE: So Ms. Vera it soundses to me
18 like what you're saying, then, is you can award pain
19 and suffering in a fair amount, Kent with what the law
20 and consistent with the facts and evidence if you're
21 selected as Juror.

22 PROSPECTIVE JUROR NO. : yes.

23 MR. JAFFE: Okay. And given that, would you
24 feel comfortable having eight jurors like yourselves
25 deliberating on your case if you were here knowing that

1 they would be fair and following the law.

2 PROSPECTIVE JUROR NO. : yes.

3 MR. JAFFE: Okay. And are you -- are you do
4 you feel that you can under no circumstances award pain
5 and suffering?

6 PROSPECTIVE JUROR NO. :

7 MR. JAFFE: In other words, if if you heard
8 evidence that there was pain and suffering -- excuse
9 me. If you heard evidence that there was pain and
10 suffering, Judge Wiese reads the law regarding pain and
11 suffering, and you are allowed to deliberate and
12 consider that, would you award what you felt would be a
13 fair pain and suffering award bailed upon the evidence
14 and the law?

15 PROSPECTIVE JUROR NO. : based upon what
16 they can prove, .

17 MR. JAFFE: Yes.

18 PROSPECTIVE JUROR NO. : yes.

19 MR. JAFFE: Okay. So you can listen to the
20 law and deliberate fairly on the evidence.

21 PROSPECTIVE JUROR NO. : yes.

22 MR. JAFFE: \but\{, }but\{, }but{~}... it's the
23 simple fact that a 2 million-dollar figure was thrown
24 out there.

25 PROSPECTIVE JUROR NO. : yeah.

1 MR. JAFFE: That's what sort of kind of
2 allowed you.

3 PROSPECTIVE JUROR NO. : yeah a red flag
4 went up.

5 MR. JAFFE: Okay. If there was a situation
6 where or are you saying that you could envision
7 absolutely no situation whatsoever where would would
8 potentially be \$2 million in pain and suffering, or
9 would it have to be just in the overall scale of things
10 in your deliberations of a certain level of pain and
11 suffering that somebody would have to experience?

12 PROSPECTIVE JUROR NO. : say that one more
13 time.

14 MR. JAFFE: Okay. I guess what I'm trying to
15 say is this.

16 PROSPECTIVE JUROR NO. : bets an a a long
17 day.

18 MR. JAFFE: I know it has and my mind is numb
19 too.

20 Ms. Vera, obviously, people are going to
21 experience different types of pain and suffering based
22 upon whatever sort of traumatic injury they have. I
23 mean, if you fall down and you break your supplying it
24 heels within six weeks okay that's one thing if you end
25 up having surgery so and so on the long r and the more

1 extensive the potentially the greater the pain and
2 suffering. I guess what I'm saying is in that whole
3 graduated scales a things keep moving up the line you
4 can envision no possible circumstances of ever awarding
5 \$2 million?

6 PROSPECTIVE JUROR NO. :

7 MR. JAFFE: Or would it just have to be a
8 very supreme circumstance.

9 PROSPECTIVE JUROR NO. : well with the
10 pain, you know, there's -- okay. In my -- my small
11 mind.

12 MR. JAFFE: That's fine.

13 PROSPECTIVE JUROR NO. : pain is
14 associated with treatment. Okay? Suffering is
15 associated with treatment too. But it would it would
16 have to it would have to be Batesed on the amount of
17 treatment they got for their suffering.

18 MR. JAFFE: Okay. So in other words, you
19 would fairly deliberate and determine what you feel is
20 a fair number, and you don't have any artificial limit
21 placed in your mind as to what it would be it would
22 just depend on the circumstances?

23 PROSPECTIVE JUROR NO. : yes.

24 MR. JAFFE: Thank you very much.

25 Mr. Evans, let me ask you heard me ask the

1 same things do you feel any differently from Mrs. Agnor
2 and Mrs. Mr. Evans or Ms. Vera.

3 PROSPECTIVE JUROR NO. : no.

4 MR. JAFFE: So do you feel you auto could
5 award for pain and suffering if it was appropriate.

6 PROSPECTIVE JUROR NO. : no.

7 MR. JAFFE: Not at all.

8 PROSPECTIVE JUROR NO. : no.

9 MR. JAFFE: You said no circumstances could
10 you find pain and suffering to be an appropriate
11 measure of damages?

12 PROSPECTIVE JUROR NO. : no.

13 MR. JAFFE: Even if the law allowed it.

14 PROSPECTIVE JUROR NO. : personally, no.

15 MR. JAFFE: Okay. That's just your feeling.

16 PROSPECTIVE JUROR NO. : that's just my
17 feeling opinion.

18 MR. JAFFE: If Judge Wiese reads you the law,
19 and the law says you're allowed to award for pain and
20 suffering, would you fool the law or at that point.

21 PROSPECTIVE JUROR NO. : I would
22 definitely follow the law so I definitely would follow
23 the law so it doesn't put me into contempt of court,
24 but it's not going to change my opinion on whether
25 somebody should be awarded pain and suffering.

1 MR. JAFFE: Okay. Auto.

2 MR. JAFFE: But that's just your personal

3 kneeling pain and suffering is is not something you

4 feel comfortable awarding.

5 PROSPECTIVE JUROR NO. : yes.

6 MR. JAFFE: Whether somebody asks for it or

7 not.

8 PROSPECTIVE JUROR NO. , correct.

9 MR. JAFFE: And I'm not certain you're saying

10 the law requires you must find pain and suffering, but

11 you will follow the law?

12 PROSPECTIVE JUROR NO. , correct.

13 MR. JAFFE: Would you expect any different

14 from jurors if you were sitting at that table, and you

15 were bringing a lawsuit.

16 PROSPECTIVE JUROR NO. : nope.

17 MR. JAFFE: No?

18 PROSPECTIVE JUROR NO. : no.

19 MR. JAFFE: So then you.

20 PROSPECTIVE JUROR NO. : I was brought up

21 I was raised you work for your money you earn your

22 money, if I get in an accident, and I need my bills

23 covered and everything taken care of that I lost during

24 the injury, yeah I want that back.

25 Q (By Mr. Jaffe) Okay. So then.

1 PROSPECTIVE JUROR NO. : I didn't ask for
2 that.

3 MR. JAFFE: Okay. My point, then, is that
4 you would feel comfortable having eight people feeling
5 the same as you judge your case because that's a
6 principal by which you would stand.

7 PROSPECTIVE JUROR NO. :
8 \right\{,}right\right\{,}\{,}right\{,} now if if.

9 MR. JAFFE: You wouldn't expect different of
10 others.

11 PROSPECTIVE JUROR NO. : if I'm sitting in
12 her place, and I'm no longer able to to earn my living,
13 this person took that from me, I want what I would have
14 made until I retired.

15 MR. JAFFE: Okay.

16 PROSPECTIVE JUROR NO. : whether you deem
17 that pain and suffering that's up to you. I don't feel
18 that's pain and suffering. So it's my opinion.

19 MR. JAFFE: Thank you, sir, were runs how
20 \but\you about, sir with with with what I asked Mrs.
21 Agnor and Ms. Vera could you agree with that.

22 PROSPECTIVE JUROR NO. : yes, I do.

23 MR. JAFFE: So do you believe you could award
24 pain and suffering.

25 PROSPECTIVE JUROR NO. : I could and if

1 the situation was extreme enough, yes.

2 MR. JAFFE: Okay. And if it was fair would
3 you award what you would believe to be a fair amount
4 consistent with the law and the evidence that you have
5 heard, and that law as told you by Judge Wiese.

6 PROSPECTIVE JUROR NO. : yes, fair is a
7 good word.

8 MR. JAFFE: That's all we want is fairness.

9 So would it sounds again just like I have
10 asked the others is that 2 million-dollar figure, sort
11 of kind of jolted you.

12 PROSPECTIVE JUROR NO. : yes.

13 MR. JAFFE: But if if the law was that you
14 were not not necessarily held to that, but you could
15 award what was in your mind a fair pain and suffering
16 award that is something you could abide by.

17 PROSPECTIVE JUROR NO. : yes.

18 MR. JAFFE: You feel comfortable with that.

19 A. Pree.

20 Q. And if you were sitting at that table and
21 eight jurors were told in that case to do that same
22 thing would you feel comfortable with those eight same
23 jurors has having the same frame of mind as you do
24 deliberating on your case.

25 PROSPECTIVE JUROR NO. : yes.

1 MR. JAFFE: Thank you very much, sir.
2 Mrs. One way or another, how about you anything
3 different or do you feel the same way as those others.

4 PROSPECTIVE JUROR NO. : I feel the same
5 way although I would say seeing pain every day I don't
6 think there's like a certain amount that would take it
7 away right there, but then there's relief, but I think
8 the amount that they have been asking is too much I
9 mean, whatever question we decide if ever, I will go
10 for that.

11 MR. JAFFE: Okay., but would you listen to
12 the facts to at least decide whether the 2 million is
13 justified.

14 PROSPECTIVE JUROR NO. : yes, I would.

15 MR. JAFFE: And if it was justified, and you
16 felt it was fair would you award that?

17 PROSPECTIVE JUROR NO. : I would think
18 about it. Because for me it's too much really.

19 MR. JAFFE: Okay. But if Judge Wiese reads
20 you the and you have says to you, air allowed to award
21 a fair amount for pain and suffering, what you believe
22 to be is fair, can you do that?

23 PROSPECTIVE JUROR NO. : yes.

24 MR. JAFFE: You can follow the law.

25 PROSPECTIVE JUROR NO. : yes.

1 MR. JAFFE: And you have no problem with a
2 pain and suffering award it was it was the
3 2 million-dollar figure that general jolted you.

4 PROSPECTIVE JUROR NO. : uh-huh.

5 MR. JAFFE: Thank you very much Mrs. One way
6 or another.

7 Mr. Waker,.

8 PROSPECTIVE JUROR NO. : yes.

9 MR. JAFFE: Got to come back to you I think
10 you made it very clear actually that in you were in no
11 way pre \judge\Judge{~}ing any amount until that case;
12 is that right.

13 PROSPECTIVE JUROR NO. : yes.

14 MR. JAFFE: You were you're willing to give
15 both sides an equal and fair shake.

16 PROSPECTIVE JUROR NO. : yes.

17 MR. JAFFE: Are you willing to listen to the
18 evidence and and listen to it fairly, and impartially.

19 A. Yes.

20 Q. Are you willing to owe Bate law that
21 Judge Wiese reads and apply that law to the facts as
22 you see fit if you were selected as juror?

23 A. Yes.

24 Q. Sir, I know again, you were bothered by that
25 2 million-dollar figure or sort of startled you a bit.

1 But can you award pain and suffering if that is the
2 law, and there are facts to support it and you believe
3 it's fair?

4 A. Yes.

5 MR. JAFFE: And can you award it what you
6 believe to be a fair amount for pain and suffering if
7 you are selected as juror.

8 A. Yes.

9 MR. JAFFE: Some you were bothered by the
10 2 million, not the concept of pain and suffering; is
11 that right.

12 PROSPECTIVE JUROR NO. : because I believe
13 that an amount that large for automobile accident is
14 frivolous extremely frivolous.

15 MR. JAFFE: Okay. You will give the
16 plaintiff a chance to prove her case for pain and
17 suffering and award what you -- and render an award
18 consistent with the facts and the law?

19 PROSPECTIVE JUROR NO. : yes.

20 MR. JAFFE: And even if that includes a pain
21 and suffering award?

22 A. That depends on.

23 MR. JAFFE: Depends on the facts you hear.

24 A. What the law states, and what is -- right.

25 A. Facts are give glen so if that's the

1 indication are both sides equally \place\playsedded in
2 your mind going into everything since you have heard
3 nothing? I think that's what you have pretty much
4 said.

5 A. Right. Zillion you haven't pre
6 \judge\Judge{~}ed anything, right.

7 A. I haven't yet.

8 Q. Mrs. one way or another you haven't pre
9 \judge\Judge{~}ed anything you have? About this case
10 are both sides equally set since you have heard no
11 evidence or facts in this case.

12 PROSPECTIVE JUROR NO. : so far.

13 MR. JAFFE: Pardon me.

14 PROSPECTIVE JUROR NO. : so far yeah.

15 MR. JAFFE: Thank you. Mr. Runs, are they
16 equal in your mind.

17 PROSPECTIVE JUROR NO. : so far.

18 MR. JAFFE: Thank you. Mr. Frasier, will you
19 follow the law.

20 PROSPECTIVE JUROR NO. : absolutely.
21 July.

22 Q. Will you listen to the evidence and
23 deliberate on the evidence and apply that to the law
24 that Judge Wiese gives you?

25 A. Yes.

1 Q. And if the law allowed for a pain and
2 suffering award, would you deliberate on on that and
3 render what you would feel to be a fair pain and
4 suffering award based upon the evidence you hear?

5 A. Fair based on on the evidence, yes.

6 Q. So similar to the others is it the
7 2 million-dollar figure when it was just randomly
8 throwed out bothered you?

9 A. Absolutely.

10 Q. But not the concept of pain and suffering?

11 A. No.

12 Q. So then, is the plaintiff, and Mr. Khoury are
13 they both in an equal position in your mind as well at
14 the start since you've heard no evidence or facts?

15 A. Correct.

16 Q. You will be able to fairly drink on this case
17 and give each a equal showed the fair fight Mr. Cloward
18 was talking about you will give both sides an equal
19 chance to prove their case in your mind?

20 A. (Witness nods head.)

21 MR. JAFFE: Thank you very much, sir. Now
22 you had also made a comment, that you thought were
23 concerned that the majority of cases are frivolous. Do
24 you remember that, sir,.

25 PROSPECTIVE JUROR NO. : yes I do.

1 MR. JAFFE: Is this case a frivolous case.

2 PROSPECTIVE JUROR NO. : I haven't heard
3 it.

4 MR. JAFFE: That's exactly, right. That's my
5 point. So you're not you haven't Judgeed in your mind
6 that this is a frivolous case have you.

7 PROSPECTIVE JUROR NO. : no it's just you
8 know the dollar figure being thrown out there, .

9 MR. JAFFE: Kind of puts on your radar scope.

10 A. Yeah.

11 Q. So is that why someone is asking for that
12 much money?

13 A. Right.

14 Q. But you haven't Judgeed this as frivolous or
15 not?

16 A. No.

17 Q. Will you have to hear the evidence, and the
18 facts to make that determination in your mind?

19 A. To make it \clear cut\clear-cut yes.

20 Q. One way or another?

21 A. Flight are both sides again equally placed in
22 your mind in that regard as well?

23 A. Yeah. If we're starting out a level ground.

24 Q. Yes?

25 A. Not one already has this.

1 Q. Yeah?

2 A. Yeah then it's it's all fine in my mind.

3 Q. Thank you.

4 MR. JAFFE: Last one, Mr. Young, I did
5 pronounce it right.

6 PROSPECTIVE JUROR NO. : it's young, but
7 everyone says young.

8 MR. JAFFE: That's I want to make sure
9 unnerve know who is going to be offended
10 \sir\{,}sir\{,}sir\{,}\sir\{,} you have heard what I have
11 asked these other people as well.

12 PROSPECTIVE JUROR NO. : it's the way the
13 first question was worded by him.

14 MR. JAFFE: Mr. Cloward.

15 PROSPECTIVE JUROR NO. : yeah it was it
16 was very general, and it was saying himly if it was
17 \$2 million how would you view it that obviously you're
18 going to say that's a crazy amount of money so it's
19 going to seem a little off so I think that's how most
20 of us were answering the question.

21 MR. JAFFE: That's the way I took it that's
22 why I wanted to clarify so, sir, in your mind are you
23 saying that there is no such thing as pain and
24 suffering award in my personal injury lawsuit.

25 PROSPECTIVE JUROR NO. : I think there has

1 to be some kinds of proof something on paper whether it
2 be medical something like that because I mean, you
3 heard the stories about buying housings and cars and
4 stuff like that if that's where the money is being
5 spent, then. Obviously.

6 MR. JAFFE: And that's what I wanted to ask
7 you, sir, is this this: You have heard me.

8 ALL JURORS: These other people the same
9 question Judge Wiese is going to give you the law at
10 the conclusion of the trial you're going to hear the
11 evidence during the corset of of the trial you will
12 fairly deliberate on that evidence apply the law and if
13 you found it was appropriate, award a fair pain and
14 shivering amount to the plaintiff?

15 A. Yeah.

16 Q. So you don't have a problem with the concept
17 of pain and suffering it's just the \$2 million bothered
18 you being thrown at you right out of the the of the
19 box?

20 A. I guess it's how you view pain and suffering,
21 if it's just like R like how someone lives but if you
22 have the proof whether it's the money that they lost
23 from their job not working, or disability or something
24 like that if that's proven that I think I can go with
25 that, but I think if it's just because you know, .

1 BY MR. JAFFE:

2 Q. Well, okay but excuse me, so you wouldn't
3 want to see facts and evidence to support, pain and
4 suffering, right?

5 A. Yeah.

6 Q. I mean, you would agree with me that in
7 somebody fell and broke their leg they're going to feel
8 pain right?

9 A. Of course you.

10 Q. Wouldn't question that or debate that point?

11 A. But I don't think they should get compensated
12 for the pain. As far as like treatment, and getting
13 back to normal getting back on your feet I completely
14 agree with that, but ...

15 Q. Now, if if Judge Wiese gives you the law and
16 says people aren't entitled to recover for pain and
17 suffering as they see -- as as is fair, and proven, at
18 least in your mind, there is a measure a way to measure
19 pain and suffering for you to give such an award; is
20 that right?

21 A. I don't know how you would put a monetary
22 amount on that.

23 Q. That's -- that's that's what why you are the
24 jury and you get to figure that one out I'm just a
25 lawyer and I get to tell you why.

1 Okay. And quite candidly it's always an
2 issue that comes up in every case, but you will hear
3 evidence about what you experience about medical
4 treatment claimed injuries obviously there's a big
5 dispute here, so I don't want to sit here and say that
6 all of it it of agents guaranteed proven given it's
7 going to be what you accept what you want to hear, but
8 would you able to follow the law as it applies to
9 rendering an award for pain and suffering biopsied on
10 the evidence you hear if you feel it is appropriate?

11 A. I would have to.

12 Q. You would?

13 A. Yeah.

14 Q. Okay.. And if that's the indication are both
15 sides equally placed at that starting line since you
16 have heard no evidence or facts at this point in the
17 case?

18 A. I said the opposite the first time, but I
19 mean it's because how it was worded but if you're
20 playing from that side, yeah.

21 Q. Bombs the first time you heard it was when
22 the \$2 million was thrown into it?

23 A. That was all that was put in there nothing
24 you.

25 Q. Throw the \$2 million out now all of a sudden

1 you're hearing about, that there's a lawsuit there's
2 claim for injuries there's claim for damages, in your
3 mind, are both sides at an equal position to prove
4 their case having given you nothing at that point?

5 A. Yes, sir.

6 Q. Thank you.

7 MR. JAFFE: Have the Court's inindulgence for
8 one moment. Your Honor I have nothing further. Thank
9 you.

10 THE COURT: So do you want any more on those
11 eight Mr. Cloward?

12 MR. CLOWARD: Yeah may we approach?

13 THE COURT: Sure.

14 (Whereupon a brief discussion was
15 held at the bench.)

16 THE COURT: All right folks, I'm going to let
17 you a few of of you go. Lucky. Let me get the names
18 right here. Mr. Evans, Juror No. 9. We thank and
19 excuse you.

20 PROSPECTIVE JUROR NO. : \juror\Juror
21 number what.

22 THE COURT: Juror No. 9 I don't know what
23 your badge number is we're going to excuse you go back
24 down to the third floor and let them know you have been
25 excused by Department 30 thank you for your time, sir.

1 THE CLERK: Badge number.

2 THE COURT: Badge 12. Okay. You know what,
3 let's bring the next bring the next \juror\Juror up so
4 we don't get confused about the chair numbers. Whose
5 next?

6 THE CLERK: Jonathan dairy Jan knee badge 53,
7 please take seat No. 9.

8 THE COURT: All right the next one I'm going
9 to excuse is Mr. Walker,.

10 PROSPECTIVE JUROR NO. : yes, sir.

11 THE COURT: You're in seat No. 15 what's your
12 badge number.

13 PROSPECTIVE JUROR NO. : 34.

14 THE COURT: Badge No. 34 we're going to thank
15 and excuse you appreciate your time, sir. Go back down
16 to the third floor let them know you've been excused by
17 Department 30.

18 PROSPECTIVE JUROR NO. : yes, sir.

19 THE CLERK: Michael Saxton, please take seat
20 No. 15.

21 THE COURT: The next one we're going to
22 excuse is Mr. Young. Seat No. 6 what's your badge
23 number.

24 PROSPECTIVE JUROR NO. : No. 9009.

25 THE COURT: No. 9 Mr. Young thank you for

1 your time appreciate your service today.

2 THE CLERK: Vicky Ellen aurone know badge
3 No. 63, please take seat six.

4 THE COURT: And Mr. Bulason, Mr. Bulason, my
5 prior client I hate to see him leave. We're going to
6 thank and excuse you, sir, have a good day we
7 appreciate your service go back down to the third floor
8 let them know you've been excused by dent 30.

9 THE CLERK: Mark did you play badge No. 64,
10 please take seat 12.

11 THE COURT: See I told you folks in the back,
12 you never safe until it's over. So about ten after
13 4:00 Mr. Cloward, you want to keep going?

14 MR. CLOWARD: Yes, Your Honor.

15 MR. CLOWARD: Your Honor, who was moved into
16 seat No. 6 and No. 9.

17 THE COURT: Seat No. 6 is per ran know
18 Mrs. Her ran no am I saying that right.

19 PROSPECTIVE JUROR NO. : that's correct.

20 THE COURT: Seat No. 9, is Darren Jan knee.

21 PROSPECTIVE JUROR NO. : dairy ananny.

22 THE COURT: You got those?

23 MR. CLOWARD: Yes, Your Honor how long would
24 you like me to.

25 THE COURT: Let's keep going till about 4:45.

1 leave.

2 PROSPECTIVE JUROR NO. : all right.

3 THE COURT: But, the attorneys have
4 guaranteed me that the case will be done by next
5 Thursday.

6 PROSPECTIVE JUROR NO. : sounds good. So
7 I'm not going to make you miss your trip.

8 PROSPECTIVE JUROR NO. : thank you.

9 THE COURT: Anybody else? I don't see any
10 other hands. All right. I'm going to ask you some
11 case specific questions. Actually you know what these
12 questions were all asked in the jury questionnaire so,
13 I may not ask these I may just let the attorneys follow
14 up on them. As a juror you're going to be asked to
15 listen to witnesses review and evidence make a
16 determination based on the facts are you the finders of
17 fact. My job is to make sure that the trial is fair,
18 and to instruct you object the law that you will apply
19 to the facts. Some of you may disagree with how some
20 of the laws are written. But it would be a violation
21 of your duty as jurors if you tried to render a verdict
22 based on what you thought the law should be as opposed
23 what I told you the law was. Do any of you feel that
24 you would not be able to follow the instructions of the
25 court on the law even if the instructions differ from

1 your personal opinions or conceptions of what the law
2 ought to be so if you didn't agree what I told you the
3 law was how many of you would have a difficult time
4 applying what I told you the law was. Anybody? Don't
5 see any hands. Is there anybody anybody who has such a
6 sympathy prejudice or bias, relating to age religion,
7 raise gender or national origin that they feel would be
8 effect their ability to be fair open minded and
9 impartial jurors I don't see any hands. Are there any
10 of that you believe for any other reason, it would be
11 difficult for to you be a fair and unbiased juror in
12 this case. Still don't know really anything about it
13 other than the fact that's the car accident based
14 upon what you know. Anybody think that they're going
15 to have a hard time being fair? I don't see any other
16 hands. All right. What I'm going to do now is I'm
17 just going to go with the 20 people over here in the
18 box we're going to start with Juror number one,
19 Mr. Runz, I'm going to you ask a bunch of questions as
20 we get about I'm going to ask everybody the same
21 questions about four or five people in you're going to
22 remember the all the questions that's okay. You can
23 just start giving me the answers if you remember all
24 the questions, but I need you to make sure you give me
25 your badge number and you're name, I'm going to ask you

1 how long you have lived in the Las Vegas area, what you
2 do for a living if you retired what did you do for a
3 living before you retired. Are you married or do you
4 have a significant other. And if so what does that
5 person do for a living. If you have a children what
6 are their ages, any of them are adults what do they do
7 for work. Have you ever been a juror before. If so,
8 was it a civil or criminal indication did you reach a
9 jury verdict. I know I think some of these if not most
10 of them were in the jury questionnaire. But I'm going
11 to go through them again with you real quick because
12 it's not going to take long. Okay? When we ask you
13 about jury verdict we don't want to know what the
14 verdict was just whether or not you reached a verdict
15 and then I'm going to ask whether or not you were the
16 foreperson on the jury if you served. Previously on a
17 jury. Okay? So Mr. Runz, first of all, name and badge
18 number.

19 PROSPECTIVE JUROR NO. : Mark runs, 001.

20 THE COURT: How long in Las Vegas.

21 PROSPECTIVE JUROR NO. : 25 years.

22 THE COURT: What do you do for work.

23 PROSPECTIVE JUROR NO. : poker room
24 supervisor.

25 THE COURT: Which casino.

1 PROSPECTIVE JUROR NO. : MGM Grand.
2 THE COURT: Okay. Are you married or
3 significant other.
4 PROSPECTIVE JUROR NO. : married.
5 THE COURT: Okay. What does your spouse do.
6 PROSPECTIVE JUROR NO. : she's on
7 disability.
8 THE COURT: Did she work previously.
9 PROSPECTIVE JUROR NO. : yes. She was a
10 lawyer and she was in charge of the human resources at
11 the Binion's Horseshoe a long time ago.
12 THE COURT: Did she ever work in private
13 practice.
14 PROSPECTIVE JUROR NO. : not in this town.
15 Do you have any children that work outside the home.
16 PROSPECTIVE JUROR NO. : no.
17 THE COURT: Okay. You ever served on a jury
18 before.
19 PROSPECTIVE JUROR NO. : no.
20 THE COURT: Thank you. Let's move on to
21 Mr. Fitzgerald.
22 PROSPECTIVE JUROR NO. : yes, Your Honor.
23 THE COURT: Name and badge number please.
24 PROSPECTIVE JUROR NO. : last name is
25 Fitzgerald badge number double '03.

1 THE COURT: How long in Las Vegas.
2 PROSPECTIVE JUROR NO. : since 2004.
3 THE COURT: Okay. So that's about.
4 PROSPECTIVE JUROR NO. : more or less nine
5 years.
6 THE COURT: Nine years. What did you do for
7 work?
8 PROSPECTIVE JUROR NO. : I'm refired.
9 THE COURT: What did you do.
10 PROSPECTIVE JUROR NO. : I'm a certified
11 public accountant.
12 THE COURT: Were you married or.
13 PROSPECTIVE JUROR NO. : single.
14 THE COURT: Do you have any children that
15 work outside the home.
16 PROSPECTIVE JUROR NO. : no, Your Honor.
17 THE COURT: Ever serve odden a jury before.
18 PROSPECTIVE JUROR NO. : I have never been
19 selected. No, sir.
20 THE COURT: Okay. Thank you. See how easy
21 this is. Mr. Unger.
22 PROSPECTIVE JUROR NO. : Barton Unger 006.
23 THE COURT: How long in Vegas.
24 A. Seventeen years.
25 Q. What did you do for work?

1 A. I'm business owner in the valley here.
2 Q. What business?
3 A. We are a manufacturing company overseas.
4 Q. Are you married or have a significant other.
5 A. Married.
6 Q. What does your spouse do?
7 A. Stays at home.
8 Q. Has she ever worked outside the home?
9 A. Yes, but not in Las Vegas.
10 Q. Okay. Any children that work outside the
11 home?
12 A. Twenty-four year old.
13 Q. Son or daughter?
14 A. Son. And he works at my company.
15 Q. Okay. That's kind of nice to have your son
16 working with you?
17 A. Sometimes.
18 Q. Ever served on jury before.
19 PROSPECTIVE JUROR NO. : no.
20 THE COURT: Okay. Thank you Mr. Unger is it
21 Mrs. Ignore.
22 PROSPECTIVE JUROR NO. : Agnor.
23 THE COURT: Agnor.
24 PROSPECTIVE JUROR NO. : uh-huh.
25 THE COURT: How long.

1 PROSPECTIVE JUROR NO. : Patty Agnor 033.
2 THE COURT: How long in Vegas.
3 PROSPECTIVE JUROR NO. : I have been here
4 11 years.
5 THE COURT: Do you work outside the home?
6 A. I do I'm a sales rep for a souvenir company
7 out of California. So I sell souvenirs to all of the
8 casinos, gift stores, ABCs Walgreens,.
9 THE COURT: Great okay. Are you married have
10 a significant other.
11 PROSPECTIVE JUROR NO. : I am married my
12 husband is retired, and he worked with me once in a
13 while.
14 THE COURT: What did he do before he retired.
15 PROSPECTIVE JUROR NO. : he was in
16 insurance.
17 THE COURT: Okay.
18 PROSPECTIVE JUROR NO. : I have three
19 kids, but they don't live with me.
20 THE COURT: Okay. They work outside the
21 home, though,.
22 PROSPECTIVE JUROR NO. : yes.
23 THE COURT: What do they do.
24 PROSPECTIVE JUROR NO. : my oldest son is
25 going well he's going to school. My second son is a

1 restaurant manager up in San Francisco, and my daughter
2 is run as dental office.

3 THE COURT: Okay. Have you ever served on a
4 jury before.

5 PROSPECTIVE JUROR NO. : no. This is my
6 fourth time I have been here, but I lucked out.

7 THE COURT: Maybe this is the lucky time.

8 PROSPECTIVE JUROR NO. :

9 THE COURT: Thank you, ma'am. Is it
10 Ms. Vera.

11 PROSPECTIVE JUROR NO. : Mrs. Margaret
12 Vera, Bandage No. 008.

13 THE COURT: How long in Vegas.

14 PROSPECTIVE JUROR NO. : nine years.

15 THE COURT: Married or significant other.

16 PROSPECTIVE JUROR NO. : married.

17 THE COURT: Okay. What does your spouse do.

18 PROSPECTIVE JUROR NO. : he's a letter
19 carrier with the postal service.

20 THE COURT: What you do.

21 PROSPECTIVE JUROR NO. : I'm a letter
22 carrier with the postal service.

23 THE COURT: That's convenient do you have any
24 children that work outside the home.

25 PROSPECTIVE JUROR NO. : I have three. I

1 have a son who's a medical assistant he lives in
2 Washington and I have a another son in Phoenix he's a
3 police officer. And I have a daughter who is self
4 employed in the home.

5 THE COURT: Self employed doing what.

6 PROSPECTIVE JUROR NO. : she works she
7 sells supplements out of the her home.

8 THE COURT: Okay. Have you ever served on
9 jury before.

10 PROSPECTIVE JUROR NO. : no.

11 THE COURT: None of you have served on jury
12 before.

13 PROSPECTIVE JUROR NO. : fourth time here
14 we go.

15 THE COURT: All right. Thank you, ma'am.

16 Is it Mr. Jeung.

17 MR. CLOWARD: Paul Jeung, badge No. 0009.

18 Six years in Vegas. I work as a security supervisor at
19 the Marriott grand chateau and I have a wife, and she
20 works at food and beverage for the Mandarin oriental.

21 THE COURT: And you you don't have any
22 children that outside the home.

23 PROSPECTIVE JUROR NO. : not yet.

24 THE COURT: You ever served on a jury before.

25 PROSPECTIVE JUROR NO. : no.

1 THE COURT: Okay. Thank you, sir.
2 Mrs. JUROR NO.1 : uh-huh Johnson.
3 PROSPECTIVE JUROR NO. : I can't say
4 Johnson 010. Fifteen years here. I am also a U.S. PO
5 carrier, my significant other works in gaming, I have
6 never served on a jury,.
7 THE COURT: Do you have any grown kids.
8 PROSPECTIVE JUROR NO. : no.
9 THE COURT: Okay. Thank you.
10 THE COURT: Okay. How do I say your name,
11 sir, .
12 PROSPECTIVE JUROR NO. : Gary Okamoto
13 badge No. 11.
14 THE COURT: Okay. Mr. Okamoto. How long in
15 Vegas.
16 PROSPECTIVE JUROR NO. : 24 years.
17 THE COURT: What do you do for work.
18 PROSPECTIVE JUROR NO. : I am a waiter at
19 two different casinos. Venetian hotel and Paris Hotel.
20 THE COURT: Okay. And do you have a wife or
21 significant other.
22 PROSPECTIVE JUROR NO. : I'm single.
23 Okay.
24 THE COURT: Okay. Do you have any children
25 that working work outside the home.

1 PROSPECTIVE JUROR NO. : no kids outside
2 the home.

3 THE COURT: You look pretty young to me ever
4 serve odden a jury before.

5 PROSPECTIVE JUROR NO. : no.

6 THE COURT: Okay. All right. Thank you,
7 sir. Will come back over here.

8 PROSPECTIVE JUROR NO. : Chris Evans, 012,
9 I have been here for 15 years. I am divorced, I have
10 an eight-year-old son, and I'm a safety and risk
11 manager for an audio/visual company.

12 THE COURT: Okay. What does your ex-wife do.

13 PROSPECTIVE JUROR NO. : she is a property
14 manager.

15 THE COURT: You ever served on a jury before.

16 PROSPECTIVE JUROR NO. : no.

17 THE COURT: Thank you, sir.

18 THE COURT: Mrs. Rendina.

19 PROSPECTIVE JUROR NO. : Mary Grace

20 Rendina, Badge 013 I have lived here for nine years
21 years I'm a lay lifeguard at the MGM and I have never
22 served.

23 THE COURT: And you're young do you have a
24 spouse or significant other.

25 PROSPECTIVE JUROR NO. :

1 (Witness shakes head.)
2 THE COURT: No? Okay.. Thank you, ma'am.
3 Mr. Madrigal.
4 PROSPECTIVE JUROR NO. : Victor Madrigal
5 badge No. 015. Own and operate a construction and
6 demolition company, and I married have three children
7 69 and 14.
8 THE COURT: Okay. Does your wife work
9 outside the home.
10 PROSPECTIVE JUROR NO. : no, she doesn't
11 homemaker.
12 THE COURT: Have you ever served on a jury
13 before?
14 PROSPECTIVE JUROR NO. : no.
15 THE COURT: Okay. Thank you, sir,
16 Mr. Bulosan.
17 PROSPECTIVE JUROR NO. : my name is Joey
18 Bulosan, bandage No. 07 teen, and currently working at
19 Caesars Palace as a cook inside the --
20 THE COURT: Talk loud.
21 PROSPECTIVE JUROR NO. : inside Italian
22 restaurant Rae, working there 16 years, and married,
23 two sonses one daughter. I served on jury and we
24 reached a verdict.
25 THE COURT: Was it a civil or criminal case.

1 PROSPECTIVE JUROR NO. : I think it was
2 civil.
3 THE COURT: Just one time.
4 PROSPECTIVE JUROR NO. : yes.
5 THE COURT: Were you the jury foreperson.
6 PROSPECTIVE JUROR NO. : no, sir.
7 THE COURT: Okay. Thank you.
8 Mrs. Templeton.
9 PROSPECTIVE JUROR NO. : Elizabeth
10 Templeton badge No. 08 teen. I have lived here 28
11 years. I am a firm administrator for husband and
12 mother in law's firm, two children, one that still
13 lives at home going to UNLV the other is in son that's
14 in Reno works for a geology company.
15 THE COURT: You have.
16 PROSPECTIVE JUROR NO. : served on an jury
17 before.
18 THE COURT: Okay. And did you was a civil or
19 criminal case.
20 PROSPECTIVE JUROR NO. : civil.
21 THE COURT: How long ago?
22 PROSPECTIVE JUROR NO. : since I have been
23 in Vegas so I don't know. Fifteen years maybe.
24 THE COURT: Did you reach a verdict.
25 PROSPECTIVE JUROR NO. : yes.

1 THE COURT: And were you the foreman.
2 PROSPECTIVE JUROR NO. : no.
3 THE COURT: I don't know that you told us,
4 you're married.
5 PROSPECTIVE JUROR NO. : yes.
6 THE COURT: What does your spouse do.
7 PROSPECTIVE JUROR NO. : he's a CPA.
8 THE COURT: Okay. I think you did say that.
9 Okay. All right. Thank you, ma'am. I don't know how
10 to say your last name pro sick.
11 PROSPECTIVE JUROR NO. : Dominika Procek
12 badge 044, I'm an entertainer, and I have been here for
13 eight years. I am single, and I have no kids.
14 THE COURT: You ever served on a jury.
15 PROSPECTIVE JUROR NO. : no.
16 THE COURT: Okay. Thank you.
17 PROSPECTIVE JUROR NO. : welcome.
18 THE COURT: How about Mr. Walker.
19 PROSPECTIVE JUROR NO. : yes, sir. Badge
20 No. 034. Work for Clark County water reclamation as an
21 auto and equipment specialist been in Las Vegas for 23
22 years. My wife works for department of motor vehicles,
23 I have been on a jury before. And we did reach a
24 verdict. Probably 11 years ago.
25 THE COURT: Was it civil or criminal case.

1 PROSPECTIVE JUROR NO. : criminal.
2 THE COURT: Were you are the jury foreman.
3 PROSPECTIVE JUROR NO. : no, sir.
4 THE COURT: Okay. Thank you. Mr. Karpenko.
5 PROSPECTIVE JUROR NO. : yes, sir.
6 Nicholas Karpenko, badge No. 025. Been in Las Vegas
7 for just under two years. I'm in the military. Single
8 no kids, and I have never served on a jury.
9 THE COURT: Okay. Thank you.
10 THE COURT: Come back down here to the front
11 Mrs. Brown.
12 MR. CLOWARD: Angela Brown, badge No. 043, I
13 have been here for maybe 27 years. I work for capital
14 one as a collector my husband also works for capital
15 one as an analyst, one kid, out of -- that works
16 outside of the house she works at the Polo outlet and I
17 have never served on a jury.
18 THE COURT: Okay. Thank you, ma'am.
19 Mr. Frasier.
20 PROSPECTIVE JUROR NO. : excuse me cliff
21 Frasier, '04 nine. Forgot the questions.
22 THE COURT: How long in Las Vegas.
23 PROSPECTIVE JUROR NO. : I have been here
24 40 years. I teach school, I'm getting married on the
25 27th of this month.

1 THE COURT: Congratulations.
2 PROSPECTIVE JUROR NO. : thank you.
3 THE COURT: We'll be done.
4 PROSPECTIVE JUROR NO. : and my children
5 all grown.
6 THE COURT: What do they do.
7 PROSPECTIVE JUROR NO. : one teaches
8 school one works for a nonprofit, and one works
9 foundational basis as a laborer.
10 THE COURT: Okay. Do you have a wife.
11 PROSPECTIVE JUROR NO. : I will soon.
12 THE COURT: Wife or significant other.
13 PROSPECTIVE JUROR NO. : I'm getting
14 married on the 27th.
15 THE COURT: Oh, you told me that. What is
16 your fiance do.
17 PROSPECTIVE JUROR NO. : she's retired.
18 THE COURT: What did she do.
19 PROSPECTIVE JUROR NO. : she worked for
20 Phoenix public schools as a social worker.
21 THE COURT: Okay. Did you tell me you have
22 been on a jury before.
23 PROSPECTIVE JUROR NO. : I have never have
24 been, no.
25 THE COURT: Okay. Thank you, sir. Ms. One

1 way or another.

2 PROSPECTIVE JUROR NO. : I'm will he
3 tissue Shah badge 028 I'm a nurse and I have been in
4 Vegas for the last five years. Married, my husband is
5 stay home to help me take care of my dad who is '83,
6 had a small stroke last year, and never served on jury,
7 never been a juror.

8 THE COURT: Okay. Do you have any grown
9 kids.

10 PROSPECTIVE JUROR NO. : no kids.

11 THE COURT: Okay. Thank you, ma'am.

12 THE COURT: Mr. Payne.

13 PROSPECTIVE JUROR NO. : my name is Thomas
14 Payne 029, and I don't remember all the questions I
15 remember a few.

16 THE COURT: That's okay. How long in Vegas.

17 PROSPECTIVE JUROR NO. : off and on since
18 87.

19 THE COURT: Okay. What do you do fork work.

20 A. Truck driver, lead driver for Caesars
21 Entertainment.

22 THE COURT: Do you have a spouse or
23 significant other.

24 PROSPECTIVE JUROR NO. : no, I have had ex
25 spouses but no spouses.

1 THE COURT: Any grown kids.
2 A. Four grown.
3 THE COURT: What do they do.
4 A. Three unemployed and one works at Home Depot.
5 THE COURT: All right. Ever serve odd an
6 jury before.
7 PROSPECTIVE JUROR NO. : no, sir.
8 THE COURT: Thank you. We're to the point
9 where I'm going to turn you over to the attorneys we're
10 not going to have a long time before lunch. I think
11 we'll probably go until about 12 o'clock and I will
12 give you an hour for lunch, and we'll come back and
13 keep going just so you know, because I'm going to
14 forget to tell you in 20 minutes. There's not a lot of
15 options for lunches that you can get to and back in be
16 a in an hour, but I am going to tell you the ones I
17 know of right downstairs, there's a sandwich shop,
18 Capriotti's. You don't have to go out the security and
19 come back in, so a lot of people go there. But because
20 a lot of people go there there's a big group of people
21 here you probably have a little bit of a waited right
22 across the street there's a pizza place called Anthony
23 there's also a place across the street called
24 courthouse grille a about a half a lock away to the
25 East there's a Quiznos and another sandwich place

1 called City Center cafe, about a block if you want to
2 go about a block north there's a little place on the
3 right side of the road called Norah's is it closed down
4 it's closed never mind. Those are kind of your
5 options. I'm going to give you an hour for lunch but
6 just try to be back in time we can get started again I
7 want to make sure we get a jury before the end of the
8 day okay so right now I'm going to turn the time over
9 to the plaintiff's counsel just be honest open and
10 answer his questions truthfully okay.

11 MR. CLOWARD: Thank you, Judge.

12 MR. CLOWARD: I would say good morning but
13 we're afternoon now. So I like to give you a little
14 bit of a roadmap of this process. I know for me, I
15 know where I'm going and how I'm I'm going to get there
16 I have a little less anxiety about it some of you folks
17 have served on a jury some of you haven't so I think
18 it's helpful for those who haven't to know a little bit
19 about the process. The Judge talked about this is
20 called voir dire, or voir dire. Depending upon where
21 you live in the country you might say it a little bit
22 differently. Really what it means is jury selection,
23 and it comes from French and then Latin which is to see
24 and to speak and to feel, and so it's a process that we
25 get to learn about about you guys, and you guys get to

1 learn a little bit about us. There are a couple of
2 rules that we attorney versus to follow. One of them
3 is we can't discuss the facts of the case. And so if
4 myself or Mr. Jaffe we get up here, and we don't tell
5 you anything about the case, please don't hold it
6 against us don't be frustrated that's just one of the
7 rules we have to follow as attorneys, and and so, you
8 know some of you all might think toward the end. Well
9 they haven't said anything about the facts of the case
10 how come that's one of the reasons so after this
11 process we'll select ten of you to sit on the jury and
12 then we'll begin opening statements and then opening
13 statements progresses into presentation of the evidence
14 and then after presentation of evidence. There's
15 closing statement. Jury instructions, and then you go
16 and deliberate. Like the judge indicated this process
17 here today, we'll probably hopefully be done today, if
18 not I don't imagine it would go too much into tomorrow.
19 Hopefully we can resolve we can get through it today.
20 With that introduction, the Judge talked about biases
21 and prejudices, and things likes that, and that's not a
22 bad word in this -- here today. That's not a bad word.
23 Kind of has a negative connotation outside. But it's
24 not, and I like to share two stories before I get
25 started just real short ones about what that -- that

1 is, and and you learn one thing about me me. I don't
2 like cherry pie. Now, you guys are probably thinking
3 what the heck is he talking about cherry pie in this
4 case. Well, the question that I have is, do you think
5 it would be fair for me if all of you folks had entered
6 a the Clark County the Clark County fair had a pie
7 baking Conn test, and there were 100 applicants but
8 all of you folks you specialized in making cherry pie,
9 do you think it would be fair for me to sit and judge
10 the pie baking Conn test, sir, what do you think about
11 that.

12 PROSPECTIVE JUROR NO. : no 049.

13 MR. CLOWARD: Why no, Mr. Frasier would
14 wouldn't that be fair.

15 PROSPECTIVE JUROR NO. : because you
16 already have a predetermined idea that you don't like
17 something. So in my mind you have already to use your
18 term prejudiced yourself against cherry pie.

19 MR. CLOWARD: Sure. Is there anything wrong
20 with me not like cherry pie?

21 PROSPECTIVE JUROR NO. : no.

22 MR. CLOWARD: Does anyone think hey you know
23 what that guy, you know I mean, we all have our
24 different views and our different opinions there's
25 nothing bad about me right because I don't like cherry

1 pie.

2 PROSPECTIVE JUROR NO. : no.

3 MR. CLOWARD: What do you think what do you
4 think I should do in that situation if I was the judge
5 and I got there, and I didn't know, you know, that it
6 was an open Conn test I thought that maybe it was just
7 a or a chocolate cake Conn test and I get there, and
8 I'm the judge, and all of a sudden I see 20 or 30
9 cherry piles and I know for a fact you know what I
10 don't like cherry pie I hate it. What should I do
11 about it, ma'am what do you think I should do about it.

12 PROSPECTIVE JUROR NO. : just ask someone
13 else to be the judge for the pies. ^KRISTY CHECK.

14 MR. CLOWARD: It's it's Mrs. Templeton 018.

15 MR. CLOWARD: And I may look down at this
16 seating chart, the the nice reporter she has to type
17 everyone's name and the bandage number so, I apologize
18 if I lose eye contact it's I just want to make sure
19 that the record bears out you know who who is whose
20 giving the comments. Would it be okay for me to sit
21 judge, you know, like a a cake chocolate cake contest?
22 Mrs. Templeton what do you think.

23 PROSPECTIVE JUROR NO. : sure why not?

24 MR. CLOWARD: Because I don't have a view one
25 way our the other about chocolate cake right. All

1 right let me give you one more example. About this and
2 then I will launch into the questions, and, and I hope
3 this gives you an idea of why we're going to ask the
4 questions today but I have 22 Nancys in my life I have
5 an aunt Nancy, and then I have a mother in law Nancy,
6 and my aunt Nancy was a store owner, and patron came
7 into her store and she slipped and fell and had he
8 injured themselves, and they filed a lawsuit against my
9 Aunt Nancy. Now, my mother in law Nancy, she had a
10 different experience she actually fell in a store, and
11 she shattered her knee and she had to file a lawsuit
12 and so she had a different experience with a slip and
13 fall type case. Do you think who here thinks that
14 they're their opinions about like a slip and fall case
15 might be different? Who here thinks that their
16 experiences will would be different? No hands, ma'am.
17 Ms. Johnson 010.

18 PROSPECTIVE JUROR NO. , correct. They
19 were two separate incidents so she probably have
20 different viewpoints on how they experienced it.

21 MR. CLOWARD: Is either one of those women do
22 eventer them are they bad people because they have a
23 different experience? Sir, Mr. Madrigal 015 you're
24 shaking your head tell me what you think.

25 PROSPECTIVE JUROR NO. : no, I don't think

1 it's they're bad people just different circumstances,
2 on what happened.

3 MR. CLOWARD: Sure. Does anyone think that
4 because they had a different view about, you know, a
5 slip and fall case, one has a positive view, one has a
6 negative view does anyone think that that -- that one
7 person is is a bad person or one person is a good
8 person? Anybody feel that way? I think we can all
9 agree that hey you know what they had different
10 experiences so, you know they're entitled to those
11 thoughts and it doesn't make either one a better person
12 or a worst person. Does everyone agree with that? And
13 that's, sir, .

14 PROSPECTIVE JUROR NO. : yes, I agree with
15 that.

16 PROSPECTIVE JUROR NO. : Chris Evans, 012.

17 MR. CLOWARD: Thank you Mr. Evans, and that's
18 just because they have had different experiences
19 different life experiences, and that's kind of, you
20 know, with that overview I know they're kind of corny
21 examples, but they kind of illustrate that that, you
22 know, it's okay for people to have different views,
23 nobody's going to be critical of of you guys if you
24 express those views, nobody's going to say oh, my
25 heavens, I can't believe he just said that or she just

1 said that that's what make our community great is
2 diversity, you know, we all come from different place
3 ofs he we're raiseed differently and, and that's really
4 the strength of our community. So . So two things I
5 believe in. No. 1, a fair fight. And No. 2, brutal
6 honesty. And neither myself nor Mr. Jaffe and his
7 client my client Ms. Seastrand none of the parties can
8 have a fair fight unless there's brutal honesty in this
9 this process right here called jury selection. And so
10 I ask each of you that if it's uncomfortable, you know,
11 I understand, but please be brutally honest with the
12 way that you feel. I promise you nobody's going to
13 nobody's going to be critical or anything along those
14 lines. We're all experienced and and I appreciate
15 that.

16 Can I get a commitment is there can everybody
17 raise their hands for me, if you agree too just be
18 brutally honorrest and share the way you feel can I get
19 everybody to give me that commitment. Thank you.
20 Thank you very much. So I believe in brutally honesty
21 as well. I'm going to be brutally honest with you
22 folks right now. I'm going to say something that's a
23 little uncomfortable for me to say. My client is suing
24 for in excess of \$2 million, and that's, you know,,
25 that's that's what it is, and I'm putting that out

1 there, I'm just going to be brutally honest with about
2 that. And I know that some of you folks, you know, you
3 had different views, and different beliefs in -- in the
4 jury questionnaire, and that's fine. But I want to
5 talk about that right now. So who who here is a little
6 uncomfortable even if it's just a little bit about what
7 I just said? Sir, I appreciate it. Thank you. For
8 talking to me. Tell me a little bit about why you
9 feel.

10 PROSPECTIVE JUROR NO. : I think it's
11 excessive.

12 THE COURT: Name and badge number.

13 PROSPECTIVE JUROR NO. : sorry Gary Walker
14 badge No. 34.

15 THE COURT: Thank you.

16 MR. CLOWARD: Mr. Waker, I appreciate it.
17 Tell me why you feel that way.

18 PROSPECTIVE JUROR NO. : we all pay
19 insurance everybody knows in Nevada we pay higher rates
20 than most people in the United States. If you're
21 insurance doesn't cover everything, that is incurred in
22 an accident, I just feel that it's -- it's too
23 excessive I mean, you can't ask for a golden pot when
24 you haven't really earned it.

25 MR. CLOWARD: Sure.

1 PROSPECTIVE JUROR NO. : if there was a
2 death involved, possibly. But I don't know that the
3 case so I really can't say.

4 MR. CLOWARD: Sure. Mr. Walker, I appreciate
5 that, I really do. And you know, is there there anyone
6 else that feels that way, Mrs. Agnor.

7 PROSPECTIVE JUROR NO. : Patty Agnor 033.
8 I think I agree. I think it's excessive because I'm
9 sure I can't remember his name, I'm sure he didn't mean
10 to do this, if it was -- if it was a death, maybe it
11 would be a little bit more to pay that kind of money,
12 but he I'm sure he didn't mean to -- to cause the
13 accident.

14 MR. CLOWARD: Sure. I appreciate that., sir.
15 Tell me Mr. Mr. Evans 012.

16 PROSPECTIVE JUROR NO. : yes.

17 MR. CLOWARD: Tell me your thoughts.

18 PROSPECTIVE JUROR NO. : I'm just assuming
19 that most of that's pain and suffering. Which I don't
20 agree such a big lump sum should be paid out for pain
21 and suffering. I think if you have to continue on in
22 life and perform your job you were doing before and you
23 cannot because of it then yeah maybe some pain and
24 suffering, but I think millions of dollars I think is
25 unnecessary.

1 MR. CLOWARD: You have a hard time with that.

2 PROSPECTIVE JUROR NO. : I do.

3 MR. CLOWARD: I appreciate that I really do.

4 I saw some other handses. Let me let's go with
5 Mrs. One way or another No. 28 and then I will come
6 back to you folks.

7 PROSPECTIVE JUROR NO. : I think it's a
8 bit excessive too, because's an accident. Nobody
9 intends to harm nobody. So that for me too much.

10 MR. CLOWARD: Okay. So you would have a hard
11 time.

12 PROSPECTIVE JUROR NO. : yes.

13 MR. CLOWARD: Okay. Mr. Unger, 006. Tell me
14 your thoughts.

15 PROSPECTIVE JUROR NO. : well, I agree
16 with the people who have also spoken with similar I was
17 in two car accidents rear ended both times and did not
18 pursue legal action against the person insurance
19 covered some work that I needed for neck help but other
20 than that, I didn't believe in pain and suffering. I
21 had employees who have been in car accidents who I have
22 gone after a lot of money in accidents, for pain and
23 suffering, and for medical expenses that I thought were
24 at the time I couldn't Judge my employees, but I
25 thought it was above and beyond, what the the incident

1 was.

2 MR. CLOWARD: Okay. Thank you Mr. Unger.

3 Sir, Mr. Runz.

4 PROSPECTIVE JUROR NO. : 001.

5 MR. CLOWARD: Tell me your thoughts.

6 PROSPECTIVE JUROR NO. : I agree, without
7 knowing the facts of \$2 million just for a car accident
8 just seems excessive.

9 MR. CLOWARD: Seems excessive you have a hard
10 time just with the thought of that.

11 PROSPECTIVE JUROR NO. : yes.

12 MR. CLOWARD: Okay. I appreciate the
13 thoughts. Mr. Bulosan I believe in your in your
14 questionnaire you also indicated that you felt that way
15 can you tell me about that.

16 PROSPECTIVE JUROR NO. : badge No. 17.

17 MR. CLOWARD: Okay.

18 PROSPECTIVE JUROR NO. : well,, got
19 involved in a car accident went two therapy, so when
20 the to couple of doctors.

21 MR. CLOWARD: Okay.

22 PROSPECTIVE JUROR NO. : I think that
23 amount of money asking for is excessive too, but mine
24 had settled add little bit, but quite not too high, and
25 I think I agree with what they say.

1 MR. CLOWARD: So you would have a difficult
2 time just the amount \$2 million being.

3 PROSPECTIVE JUROR NO. : yes.

4 MR. CLOWARD: It's just too much you wouldn't
5 feel comfortable.

6 PROSPECTIVE JUROR NO. : yes.

7 MR. CLOWARD: I appreciate it. Thank you.
8 Who else who else agrees with these folks that that
9 they have those feelings Mr. Young tell me a little
10 about it 009.

11 PROSPECTIVE JUROR NO. : 009 I also agree
12 with Mr. Unger over there, my wife got into a car
13 accident pretty badly, and she hurt her back and her
14 neck had to go to therapy about four or five months, we
15 didn't take any legal action against the person, even
16 though that person ended up running away. but we just
17 had just went after basically the fees for therapy,.

18 MR. CLOWARD: Okay.

19 PROSPECTIVE JUROR NO. : and nothing
20 beyond that.

21 MR. CLOWARD: I appreciate that. Is there a
22 reason tell me why a little bit more about that is
23 there a reason why you didn't you didn't pursue
24 anymore.

25 PROSPECTIVE JUROR NO. : well I mean,

1 after all the therapy she was fine, so it's not like,
2 you know, her life was altered because of the accident
3 even though it wasn't her fault even though he ran the
4 red light, you know it is what it is.

5 MR. CLOWARD: Right. I appreciate that.
6 Mr. Unger, can you tell me a little bit more about I
7 think you mentioned something about, you know, pain and
8 suffering, you know, that you specifically have a heard
9 time with that issue. Itself.

10 PROSPECTIVE JUROR NO. : I'm not clear
11 what you're asking.

12 MR. CLOWARD: When I I asked you can the
13 question about the \$2 million being excessive I think
14 maybe maybe it was someone else correct me if I'm
15 wrong, but I thought you said I am assuming the
16 majority of that is pain and suffering, oh, that was.

17 PROSPECTIVE JUROR NO. : that was me
18 ^KRISTY CHECK Evans-i I'm sorry sorry.

19 PROSPECTIVE JUROR NO. : 002.

20 MR. CLOWARD: Thank you Mr. Evans tell me
21 about that.

22 PROSPECTIVE JUROR NO. : I just think
23 that's for pain and suffering I don't think pain and
24 suffering justifies money I really don't.

25 MR. CLOWARD: At all.

1 PROSPECTIVE JUROR NO. : I don't.

2 MR. CLOWARD: I appreciate that how come?

3 PROSPECTIVE JUROR NO. : I think a lawsuit
4 should be for — for loss. Whatever damages to your
5 vehicle or to your health to your house whatever
6 property's damage, and medical bills and whatever time
7 lost from work, all that should be covered, but I don't
8 think it should go above and beyond that. I don't
9 think you should be an instant millionaire.

10 MR. CLOWARD: Sure and I appreciate that and,
11 you know, some folks they I have heard in a lot of
12 times when I have done this process some folks say hey
13 you know money won't make the pain go away, and in
14 wrongful death indication money won't make the person,
15 you know, it's not going to bring someone back. You
16 know who here, you know, who here agrees with Mr. Evans
17 that you just have a belief that someone shouldn't get
18 money for pain and suffering because it doesn't change
19 anything and people should only be able to bring bring
20 a suit for, you know, like medical bills or property
21 damage things like that.

22 PROSPECTIVE JUROR NO. : now you mentioned
23 wrongful death, there's a death involved that person
24 will make certain amount of money through their
25 lifetime to support their children, to everything

1 they're going to do in life, now, in that case, I think
2 that should be compensated for, but pain and suffering,
3 no that's different.

4 MR. CLOWARD: Sure I appreciate that, no, I
5 do. Who here who here shares the same feeling or the
6 same views as Mr. Evans that, you know, they would have
7 a hard time with pain and suffering just the concept of
8 it? And keep in mind you know, there's no bad opinions
9 good opinions, we're just having a discussion here.
10 Who who has those feelings? Ma'am, Ms. Vera, 008 tell
11 me your thoughts.

12 PROSPECTIVE JUROR NO. : I just I agree
13 that any losses that you suffered, medical bills,
14 property damage, pain and suffering, I don't think you
15 can I don't think you should put a value on it so that
16 you know, maybe you don't have to work anymore.

17 MR. CLOWARD: Sure. It's just too hard to
18 value anything else that you feel and then we'll go to
19 Ms. Agnor.

20 PROSPECTIVE JUROR NO. : I just think of,
21 you know, my sister she was in a car accident, Guy ran
22 a light and hit her. She didn't get anything for pain
23 and suffering. She's 60 years old she's still out
24 there working, and that's how I feel.

25 MR. CLOWARD: Sorry that she had that

1 experience.

2 Ms. Agnor, tell me tell me your thoughts.

3 PROSPECTIVE JUROR NO. :

4 PROSPECTIVE JUROR NO. : 033. I think
5 pain and suffering is -- there's a big difference. You
6 got pain and suffering on one hand clear to the other
7 end. I mean, clear to when you're disabled for pain
8 and suffering, so there's a big difference in how much
9 you're going to get from this ends to a disability to
10 where you're not going to be able to work anymore.

11 MR. CLOWARD: Yeah.

12 PROSPECTIVE JUROR NO. , but even if you
13 can't work, \$2 million is a lot.

14 MR. CLOWARD: Just the amount of money being
15 asked for is just.

16 PROSPECTIVE JUROR NO. : it's
17 astronomical.

18 MR. CLOWARD: Astronomical there's been quite
19 a bit of discussion on that on that, and and loft you
20 folk versus shared that opinion, and and I appreciate
21 it it. Anyone else that I haven't talked to that
22 shares that feeling, that, you know, what, just
23 Mr. Cloward you saying your client is suing for
24 \$2 million that bothers me, and and it is just too
25 much? Anyone else that shares that feeling, sir?

1 Mr. Frasier.

2 PROSPECTIVE JUROR NO. : my ex-wife was
3 involved in an accident, and I think that's what we're
4 talking about is an accident. Not something that's
5 intentional.

6 MR. CLOWARD: Sure.

7 PROSPECTIVE JUROR NO. : with the
8 resulting in a if a fatality, and our insurance company
9 paid the policy limits, and and nothing else ever
10 happened. And I think that's why there are policy
11 limits is to cover what the insurance company says
12 they're going to pay. And although we can never
13 Judge pain and suffering, but I guess the figures a
14 little exorbitant for me too.

15 MR. CLOWARD: A little bit difficult.

16 PROSPECTIVE JUROR NO. : yes.

17 MR. CLOWARD: Anyone else feels that way that
18 just, you know, me being brutally honest about, you
19 know, what my client she's going to sue you know she's
20 suing for in excess of 2 million that people just they
21 have a hard time with that and I do appreciate it I
22 appreciate everybody's thoughts on that. Anyone else
23 Mrs. Brown tell me your thoughts.

24 PROSPECTIVE JUROR NO. : I think that it
25 is a little excessive I know my mom was in an accidents

1 and she is disabled now because of that accident years
2 ago, and I do feel like she should be compensated for
3 it. But I think it is a little excessive.

4 MR. CLOWARD: A little too much, okay anybody
5 else before we anyone? Okay..

6 THE COURT: Let's go ahead and take our break
7 now Mr. Cloward.

8 MR. CLOWARD: Thanks Judge.

9 THE COURT: Ladies and gentlemen, I'm going
10 to give you the admonition again. Like I told you,
11 those of you that get seated as jurors you're going to
12 hear this a lot every time we take a break during our
13 break.

14 You're instructed not to talk with each other
15 or with anyone else, about any subject or issue
16 connected with this trial. You are not to read, watch,
17 or listen to any report of or commentary on the trial
18 by any person connected with this case or by any medium
19 of information, including, without limitation,
20 newspapers, television, the Internet, or radio. You
21 are not to conduct any research on your own, which
22 means you cannot talk with others, Tweet others, text
23 others, Google issues, or conduct any other kind of
24 book or computer research with regard to any issue,
25 party, witness, or attorney, involved in this case.

1 You're not to form or express any opinion on any
2 subject connected with this trial until the case is
3 finally submitted to you.

4 Let's plan on coming back about five after
5 1:00. Randy will meet you in the hall.

6 THE BAILIFF: All rise.

7 (Whereupon jury the courtroom.)

8 THE COURT: We're outside the presence of the
9 jury. Anything we need to take up, gentlemen.

10 MR. JAFFE: One brief thing, Your Honor.
11 When we were arguing motions in limine we were talking
12 about the whole concept of putting numbers out there
13 obviously I was very concerned about that slippery
14 slope, but what this is now doing is getting into
15 another area which is insurance I think it's time to
16 tell these people that they're not to worry about or
17 consider insurance as part of this,.

18 THE COURT: I think it was a response a that
19 got into insurance I don't think it was the question.

20 MR. JAFFE: But I know the concept is now
21 being thrown out there and three of these potential
22 jurors have already addressed insurance and insurance
23 limits and things of that nature I'm just concerned if
24 it gets any further along these lines we're going to
25 need to admonish these people.

1 THE COURT: I mean, there's going to be to be
2 an instruction that they're not to take that into
3 consideration, but.

4 MR. JAFFE: Okay. I guess we'll see how it
5 goes I don't know where else Mr. Cloward is going with
6 this.

7 THE COURT: I think every trial that I have
8 done there has been some discussion among the jurors
9 about insurance it's just something that always comes
10 up in response to questions in voir dire.

11 MR. JAFFE: Of course.

12 THE COURT: The fact that the jurors have
13 bring it up is not a problem for me.

14 MR. CLOWARD: And I just briefly want to put
15 on the record that, that it was a response as the Court
16 pointed out to a question, and I didn't follow up on
17 the question, so just want to make sure the record is
18 clear on that.

19 MR. JAFFE: I and I understand, but that's
20 part of this whole the slippery slope that we're not
21 encounters by bringing up the concepts of numbers in
22 the first place that's my whole point.

23 THE COURT: Okay.

24 MR. JAFFE: Thank you, sir.

25 THE COURT: See you back in an hour.

1 MR. CLOWARD: Thanks, Judge.

2 THE COURT: Off the record.

3 (Whereupon a lunch recess was taken.)

4 THE BAILIFF: All rise.

5 (Whereupon jury the courtroom.)

6 THE COURT: All right. Go ahead and be
7 seated welcome back folks hope you all found something
8 good to eat back on the record Case No. 636515. I
9 believe we were in the middle of Mr. Cloward's
10 questions so we'll turn the back over to him.

11 MR. CLOWARD: Thank you, Your Honor.

12 Mr. Evans, before the break, we had an opportunity talk
13 to you about pain and suffering, you indicated that
14 you have fundamental core beliefs that and values that
15 you, you know, you just don't believe in pain and
16 suffering is that fair.

17 PROSPECTIVE JUROR NO. : yes that's pretty
18 fair.

19 MR. CLOWARD: Or you know, compensating
20 somebody for pain and suffering, money damages for pain
21 and suffering.

22 PROSPECTIVE JUROR NO. : I don't
23 necessarily think they shouldn't get everything for
24 pain and suffering, but I don't think it should be
25 millions of dollars.

1 MR. CLOWARD: Sure, and you have a hard time
2 I guess with just the -- with the general idea much
3 giving money for pain and suffering is that fair.

4 PROSPECTIVE JUROR NO. : yes that's fair.

5 MR. CLOWARD: Okay. And, you know, I
6 appreciate that. And like I said earlier this is
7 brutal honesty, no wrong answers, you know, just like
8 me with cherry pie or my aunt Nancy or my mother in law
9 Nancy, we're all entitled to our own views and beliefs,
10 and so forth. So you agree you've had this belief or
11 this value or a long time you didn't just form it as
12 you waked into court today.

13 PROSPECTIVE JUROR NO. : I think the first
14 time I ever thought that's ridiculous was when
15 McDonald's was sued for the hot coffee.

16 MR. CLOWARD: Sure.

17 PROSPECTIVE JUROR NO. : that kind of
18 set -- setted the stage for my belief on that.

19 MR. CLOWARD: Sure. And so then that I
20 believe that case was quite a while ago so you had that
21 belief for quite a while.

22 PROSPECTIVE JUROR NO. : yeah I think
23 people need to be accountable for their own actions and
24 if you buy hot coffee you should know you're getting
25 hot coffee.

1 MR. CLOWARD: Sure, and I appreciate that.
2 And you know that's — just like me with with a pie or
3 you know, nobody did anything, you know, my wife's not
4 going to say hey Ben please just like cherry pie. I
5 just feel that way about it you agree you have the
6 feelings on pain and suffering that you have, .

7 PROSPECTIVE JUROR NO. : yeah, I have the
8 same opinion on good drivers in Clark County. I
9 believe they're all crazy.

10 MR. CLOWARD: Sure.

11 PROSPECTIVE JUROR NO. : except for me of
12 course.

13 MR. CLOWARD: Yeah that's what all of us
14 thought. But you know nothing I'm going to say or
15 nothing Mr. Jaffe is going to say or your neighbor or
16 anybody that anyone's going to say, is going to change
17 that core value, and that belief that you have.

18 PROSPECTIVE JUROR NO. , right.

19 MR. CLOWARD: Okay. And I appreciate that.

20 Let me ask you, you know, Question supposing
21 that, you know, there's a hypothetical hypothetical
22 case, and your -- you're actually bringing the case,
23 and you and your attorney I know you have a hard time
24 you do have a hard time with pain and suffering, but
25 assume for me that your attorney, and you are going to

1 ask for a substantial amount in the verdict, for pain
2 and suffering. You agree with me that you would
3 project feel or you would feel uncomfortable having
4 someone with your core values your beliefs sit on your
5 specific jury.

6 PROSPECTIVE JUROR NO. : yes.

7 MR. CLOWARD: Okay. And I I appreciate that.

8 PROSPECTIVE JUROR NO. , but I don't think
9 I would go that far personally.

10 MR. CLOWARD: You just wouldn't File.

11 PROSPECTIVE JUROR NO. : somebody's got to
12 the pay that money, and I don't deserve that money I
13 don't feel I should get that money somebody's paying
14 for it.

15 MR. CLOWARD: Yeah. I appreciate that. But
16 you would you would have you would feel uncomfortable
17 having someone I know you wouldn't file the lawsuit.

18 PROSPECTIVE JUROR NO. : if it was my
19 lawsuit, and I was getting a million dollars and I
20 thought it was okay to do that, I definitely wouldn't
21 want anybody with my beliefs on the panel.

22 MR. CLOWARD: Sure, and I appreciate that.
23 And again this is brutal honesty and, and, you know, I
24 really thank you for your opinions. And, again, you
25 know well all have different views and that's okay.

1 You would agree that on this just this very specific
2 issue of pain and suffering, you are probably not a
3 right fit for this case knowing that my client is going
4 to ask for an amount above 2 million for pain and
5 suffering.

6 PROSPECTIVE JUROR NO. : if it's all pain
7 and suffering, yeah. No, I'm not the right person for
8 this panel.

9 MR. CLOWARD: Okay. I appreciate that. And
10 you would agree with me that on this just this specific
11 issue, the parties are are probably not starting at a
12 fair -- fair place Mr. Khoury is probably starting a
13 little bit a ahead of my client on this just this one
14 issue. You agree that right?

15 PROSPECTIVE JUROR NO. : I don't know.
16 I'm not educated enough on this case I don't think.

17 MR. CLOWARD: Sure. Well, I'm talking just
18 about, you know, just about like if if the issue of of
19 pain and suffering and and, you know, having to insert
20 that amount into the verdict, your core values and your
21 beliefs that you that you hold would favor Mr. Khoury
22 just a little bit and so that Mr. Khoury would start
23 off just a little bit different.

24 PROSPECTIVE JUROR NO. : he would start.

25 MR. JAFFE: Your Honor I have to object.

1 This is -- this is, you know, badgering the juror he's
2 already answered the question.

3 THE COURT: Overruled.

4 PROSPECTIVE JUROR NO. : he's probably a
5 little ahead of the game.

6 MR. CLOWARD: Sure.

7 PROSPECTIVE JUROR NO. : if this jury was
8 full of me replicated all the way down he would be
9 ahead of the game I would say.

10 MR. CLOWARD: Sure, and I really do I
11 appreciate that. And, again, you know, no -- no bad
12 answers, just you know that's the way it is. And and
13 serve entitled to their own -- their own beliefs.
14 Ms. Vera I wanted to ask you you also indicated you you
15 share the same view on pain and suffering. You have
16 fundamental kinds of core values, beliefs, regarding
17 pain and suffering you agree with that.

18 PROSPECTIVE JUROR NO. : uh-huh.

19 MR. CLOWARD: Is that a yes?

20 PROSPECTIVE JUROR NO. : yes.

21 MR. CLOWARD: Okay. The nice reporter she
22 types everything down so if I say is that a yes or no
23 I'm not trying to be rude or it's just so she can get
24 yes otherwise she'll type uh-huh or huh-uh. But plus
25 she'll get mad at me if I don't do that. So, but

1 regarding just this one narrow issue of of pain and
2 suffering, you agree like Mr. Evans that, you know, if
3 you brought a case, and you knew your attorney was
4 going to ask for pain and suffering, you would feel
5 uncomfortable having a juror with your same frame of
6 mind sitting on, you know, a case that you were asking
7 for that.

8 PROSPECTIVE JUROR NO. : yes.

9 MR. CLOWARD: Okay. And that's just because
10 you have core beliefs and values that you have had for
11 a long time and that's just.

12 MR. JAFFE: Your Honor, may we approach?

13 THE COURT: Sure.

14 (Whereupon a brief discussion was
15 held at the bench.)

16 THE COURT: Go ahead.

17 MR. CLOWARD: Mrs. Vera, so back to, you
18 know, your beliefs and your opinions, those are those
19 are beliefs that you have you had for prior to just
20 wake up today you would agree.

21 PROSPECTIVE JUROR NO. : yes.

22 MR. CLOWARD: You had those for a long time.

23 PROSPECTIVE JUROR NO. : yes.

24 MR. CLOWARD: And you know nothing that I'm
25 going to say or nothing that Mr. Jaffe is going to say

1 or your neighbor is going to say is going to change the
2 way that you have those beliefs and those values right.

3 PROSPECTIVE JUROR NO. , correct.

4 MR. CLOWARD: Okay. And let me just ask
5 the -- the the same question did I ask if you were
6 sitting object on a hypothetical jury like Mr. Evans
7 whether you would feel comfortable with is someone with
8 your frame of mind sitting on that jury?

9 PROSPECTIVE JUROR NO. : no, I would not
10 feel comfortable.

11 MR. CLOWARD: Okay. You would not feel
12 comfortable. And you you would agree with me that just
13 on this very narrow just on pain and suffering, just on
14 that issue alone, you -- you would not be a good fit
15 for this specific case right.

16 PROSPECTIVE JUROR NO. , correct.

17 MR. CLOWARD: Okay. And the parties on that
18 just on just that specific issue wouldn't have a fair
19 fight on just that specific issue the defendant would
20 start just a little bit ahead of the plaintiff, you
21 agree with that right.

22 PROSPECTIVE JUROR NO. : I agree.

23 MR. CLOWARD: All right. Thank you I
24 appreciate it.

25 Mr. Walker, I forgot where's.

1 PROSPECTIVE JUROR NO. : right here.

2 MR. CLOWARD: I'm sorry Mr. Walker. I
3 changed my notes around wrote some notes kind of going
4 off them instead of my seating chart. You talked about
5 you were kind enough you were the first person when I
6 asked hey, you know, if you knew my client was going to
7 ask for, you know, in excess of \$2 million whether who
8 would feel uncomfortable you you were kind enough
9 before the break you were kind of enough to raise your
10 hands and share those beliefs and so I had some of the
11 same questions for you, regarding the amount of of, you
12 know, \$2 million and so forth. You know on that very
13 specific issue, assume that you were, you know, you
14 brought a lawsuit. You were injured you hired an
15 attorney, and the attorney, you know, was was doing
16 jury selection kind of like this, and you knew that
17 there was someone that shared your same core values and
18 your same beliefs that was sitting on the jury on that
19 very specific issue of the amount of money being asked,
20 you would agree with me that you would be uncomfortable
21 having someone with your same core values and beliefs
22 on the jury?

23 PROSPECTIVE JUROR NO. : I don't have a
24 feeling one way or another. Doesn't matter to me what
25 somebody else thinks because I myself have my own

1 thoughts, and I brought that to your attention. What
2 everybody else thinks doesn't really matter to me.

3 MR. CLOWARD: Sure. Would you agree with me
4 that that in that specific case, though,, in the
5 specific specification with your core values and your
6 beliefs, that knowing that, you know, my client's going
7 to ask for an amount in excess of 2 million, that your
8 core values and your beliefs that my client would not
9 get a fair fight just on that very.

10 PROSPECTIVE JUROR NO. : I have no idea if
11 your client would get a fair fight or not I could just
12 tell you what I feel about it.

13 MR. CLOWARD: Sure tell me a little more
14 about how you feel about.

15 PROSPECTIVE JUROR NO. : well, I think
16 it's I mean, in all honesty I think you're wasting
17 people's times by going over what above what insurance
18 companies pay. I didn't see any limbs missing from the
19 person that was in here, that was your client. I don't
20 know what other kind of damage someone might have. But
21 personally, I think it's a waste of people's time to
22 ask for something above and beyond what they have
23 already received.

24 MR. CLOWARD: Okay. And assuming for assume
25 with me for a moment that you can't consider insurance,

1 and you can't consider insurance at all. Would you
2 have a hard time even jaws little bit.

3 PROSPECTIVE JUROR NO. : I think I made
4 that clear already.

5 MR. CLOWARD: Okay. So you would have a hard
6 time inserting an amount above 2 million into the --

7 PROSPECTIVE JUROR NO. : I wouldn't even
8 go to 2 million. way, amount I guess is.

9 MR. JAFFE: Objection. Your Honor objection,
10 Your Honor, this is now asking for a verdict based upon
11 hypothetical facts, it's in violation of Rule 7.70.

12 MR. CLOWARD: Your Honor we we talked about
13 this.

14 THE COURT: It's not based on any
15 hypothetical facts let me just instruct you folks
16 because it has come up with several different jurors
17 the issue of insurance is not something you can
18 consider okay whether or not somebody was or was not
19 insured's going to get an instruction at the very ends
20 that's not something you can take into consideration
21 that's not something you can talk in the deliberation
22 room it's not something you can consider during the
23 trial will you get an instruction in more detail on
24 that later on but just because it keeps coming up, I
25 figure I will tell you that now.

1 MR. CLOWARD: Thank you, Your Honor.
2 Mr. Wakerrrr.

3 MR. CLOWARD: Just one question would you
4 agree with me that regardless of what the evidence is
5 you personally would not be willing to insert an amount
6 above \$2 million into the verdict form? Is that a fair
7 statement.

8 MR. JAFFE: Your Honor again I have to
9 object, Rule 770 prohibits questions touching on the
10 verdict a juror would return based upon hypothetical
11 facts.

12 THE COURT: We already discussed this in
13 the pre trial motion it's overruled.

14 MR. CLOWARD: You agree that's a fair
15 statement.

16 PROSPECTIVE JUROR NO. : I don't even know
17 what the statement is any more I'm sorry. It's.

18 MR. CLOWARD: That happens a lot. A lot of
19 things are lost in translation. You would agree you
20 have expressed you were the first person to raise your
21 hands-on \$2 million. When I said that you, you know,
22 you raised your hand and I appreciated that Mr. Waker I
23 appreciated your brutal honesty, because I want want to
24 get a fair fight. Especially the question is you agree
25 with me that you would not award you would have a hard

1 time you would not award fundamentally an amount above
2 \$2 million regardless of of what the evidence showed
3 just based on your beliefs and your core values.

4 PROSPECTIVE JUROR NO. :

5 A. I can't even say. It's -- is it -- I don't
6 know that it's up to me to award anybody anything.
7 You're asking me something that I don't have I can't
8 give somebody \$2 million. You're asking me to make a
9 judgment. I don't know. I don't know the facts of the
10 case. I can't tell you what my answer's going to be on
11 Thursday.

12 MR. CLOWARD: Okay. I'm just trying to
13 follow-up because earlier you indicated that, you know,
14 you you would not be able to award an amount above
15 2 million. When I said.

16 PROSPECTIVE JUROR NO. : I -- you're
17 asking for something that I can't answer. I don't
18 know. I just said I think it's ridiculous amount that
19 that you're asking for. That's all I said. That's the
20 only thing that I did say. I can't tell you whether I
21 would give that amount or not. I have no idea. I
22 don't know the facts of the case.

23 MR. CLOWARD: Okay. You agree you felt this
24 way for a long time, you know, about the amounts and.

25 PROSPECTIVE JUROR NO. : yes.

1 MR. CLOWARD: In other cases that's not
2 something that you -- you formed as you walked in.

3 PROSPECTIVE JUROR NO. : no, it's not I
4 have always felt like that.

5 MR. CLOWARD: Okay. I appreciate that. Let
6 me ask Mrs. Agnor, you shared an opinion earlier you
7 would have a hard time awarding an amount above
8 \$2 million.; is that correct.

9 PROSPECTIVE JUROR NO. , correct.

10 MR. CLOWARD: Okay. And would you tell
11 knowing anything about the facts of the case, you agree
12 with me that you would you would have a hard time that
13 would be something that you would just due to your
14 fundamental beliefs your core beliefs you would have a
15 hard time doing is that true.

16 PROSPECTIVE JUROR NO. : I think so unless
17 that person was physically disabled or missing a limb,
18 or.

19 MR. CLOWARD: Sure.

20 PROSPECTIVE JUROR NO. :

21 MR. CLOWARD: Sure.

22 PROSPECTIVE JUROR NO. : couldn't go on
23 with life in a normal way.

24 MR. CLOWARD: Sure. And you saw my client in
25 the courtroom earlier. Correct?

1 PROSPECTIVE JUROR NO. , right.

2 MR. CLOWARD: Do you feel that you have
3 already made an opinion regarding her ability or
4 disability one way or another, and it would be hard for
5 to award an amount above 2 million.

6 PROSPECTIVE JUROR NO. : I think I would
7 have a hard time awarding 2 million, but why I see her
8 stand why I see her walk, you know, there was no
9 interaction or anything to see her how she can
10 function. I don't know.

11 MR. CLOWARD: Yeah, how long have you had the
12 belief that, you know, 2 million is just a number that
13 you kind of, you know, would be difficult.

14 PROSPECTIVE JUROR NO. : well, I think for
15 any of us two millions dollars is kind of unfathomable
16 we can't imagine that kind of money having or just
17 giving to somebody. So to me, that is so much money,
18 that somebody is hurt, by an accident, which I'm sure
19 he didn't cause or create knowingly, but yeah, that
20 would be a lot of money to give to a woman.

21 MR. CLOWARD: I pry appreciate that and
22 knowing that about yourself, you know, assume
23 hypothetically, you know, you were A injured, and you
24 brought a lawsuit, and your attorney was asking for an
25 amount above 2 million, or in excess of 2 million,

1 knowing that about you and you're frame of mind would
2 you feel uncomfortable having someone with your frame
3 of mind sit on the jury?

4 PROSPECTIVE JUROR NO. : I would.

5 MR. CLOWARD: You would.

6 PROSPECTIVE JUROR NO. : I would.

7 MR. CLOWARD: Okay. Thank you. And.

8 PROSPECTIVE JUROR NO. : I would hope I
9 wouldn't be to the point to where I would ask for that
10 much money.

11 MR. CLOWARD: Sure. I appreciate that.
12 Would you agree with me that you know, just on this
13 specific issue, just the amount that we have talked
14 about just that specific issue, you would not be a good
15 fit for this particular case on just that specific
16 issue.

17 PROSPECTIVE JUROR NO. , correct.

18 MR. CLOWARD: Okay. And you agree that the
19 parties wouldn't start on a fair or on not a fair, but
20 at a level field on that specific issue.

21 PROSPECTIVE JUROR NO. , right.

22 MR. CLOWARD: And that's because you have
23 these beliefs and these core values that you're fine to
24 have, but you've had those and you didn't form those
25 today right.

1 PROSPECTIVE JUROR NO. , right.

2 MR. CLOWARD: And nothing that I say or
3 Mr. Jaffe says or you know your neighbor says or a
4 fellow juror says is going to change your mind right.

5 PROSPECTIVE JUROR NO. : I would doubted
6 it, but like was already brought up we don't know what
7 happened. We don't know any of the situation that has
8 happened.

9 MR. CLOWARD: Sure. But just the
10 preliminary, you know, without knowing any of the facts
11 it would be difficult for you and you wouldn't want
12 someone with your frame of mind on a hypothetical jury
13 if it was and you against the plaintiff right.

14 PROSPECTIVE JUROR NO. , right.

15 MR. CLOWARD: All right. I appreciate that.
16 Mr. You think or Ms. You think I'm sorry. My notes.
17 Ms. You think you also indicated you felt like you the
18 amount is is just outrageous it's too much you agree
19 with that.

20 PROSPECTIVE JUROR NO. : yes, I do.

21 MR. CLOWARD: And, you know, assuming the
22 same hypothetical, would you you would feel
23 uncomfortable having someone with your core values and
24 your beliefs sitting on jury, if it was you as the
25 plaintiff, right?

1 PROSPECTIVE JUROR NO. : yes.

2 MR. CLOWARD: All right. And in fact, you
3 know you would agree that just on -- and we're just
4 talking about just this one specific issue, you know,
5 remember how I talk about the pie baking and all you
6 know versus the chocolate cake you know, where you
7 might be on one issue versus another issue, but I'm
8 talking, you know, just this is specific issue of of,
9 you know, in excess of 2 million, you would not be the
10 right the right fit for this specific case right.

11 PROSPECTIVE JUROR NO. : I won't be yeah
12 because I will be biased evidently.

13 MR. CLOWARD: You know, I appreciate that.
14 And it's okay. Bias isn't bad word. It's not a bad
15 word. ,

16 And you you've had these beliefs for a long
17 time you didn't wake up.

18 PROSPECTIVE JUROR NO. : a long time I
19 even put it in my questionnaire I don't believe in
20 those class lawsuits because I think some of them are
21 just for making money.

22 MR. CLOWARD: Sure.

23 PROSPECTIVE JUROR NO. : because I work in
24 the healthcare field which is it's like every move you
25 have to take you have to be cautious because of

1 lawsuits.

2 MR. CLOWARD: Be really careful.

3 PROSPECTIVE JUROR NO. : so you don't get
4 to the practice sometimes you forget what you're
5 supposed to do because you're scared to touch, because
6 they might be suing you.

7 MR. CLOWARD: I can definitely understand
8 that my brother's dentist, and he he talks about that.

9 PROSPECTIVE JUROR NO. : yes, uh-huh.

10 MR. CLOWARD: I appreciate that. And nothing
11 that I'm going to say or, you know, Mr. Jaffe or even
12 the judge is going to say is going to change the way
13 that you view that that's a belief you have had for a
14 long time right.

15 PROSPECTIVE JUROR NO. : yes.

16 MR. CLOWARD: Okay. Thank you very much.
17 Mr. Runs are. You also indicated you, you know, you
18 had a problem it would be difficult 2 million is just
19 too much money, you know, you agree with with Ms. You
20 think, and Mrs. Agnor that you know, having someone
21 with your frame of mind if it was hypothetically if it
22 was your case you were if the plaintiff, and you were
23 bringing a lawsuit, and you knew someone was on there
24 with with your state of mind you would be feel
25 uncomfortable having them on just, and I'm just talking

1 about this one specific issue not the whole thing just
2 this one specific issue you agree that you would feel
3 uncomfortable having that person on your jury.

4 PROSPECTIVE JUROR NO. : not necessarily.
5 I would feel that, you know, I would, you know, they
6 would make the right decision at the the end. You
7 know.

8 MR. CLOWARD: Sure. Do you think that they
9 might have a little bit of a bias kind of like of have
10 a bias with cherry pie?

11 PROSPECTIVE JUROR NO. : yes.

12 MR. CLOWARD: Okay. And you agree that you
13 would have a bias on just that one specific issue.

14 PROSPECTIVE JUROR NO. : yes.

15 MR. CLOWARD: Okay. And so maybe, you know,
16 just on that one specific issue you might not be the
17 right fit for this particular case right.

18 PROSPECTIVE JUROR NO. , right.

19 MR. CLOWARD: And you agree that on just just
20 talking just this one issue, just that particular
21 issue, the parties are not starting out at the same
22 place right.

23 PROSPECTIVE JUROR NO. : right.

24 MR. CLOWARD: Okay. And I appreciate that.
25 And you felt this way for a long time right.

1 PROSPECTIVE JUROR NO. : a long time.

2 MR. CLOWARD: Sure. And, you know, our our
3 biases our beliefs our core values, the way that we
4 feel about things, you know those don't happen
5 overnight they happen you know over a long period of
6 time, and that's okay. That's what makes us human.
7 And, but you agree with me that nothing that I say you
8 know, is going to change way you feel, your -- your
9 values your beliefs, right?

10 PROSPECTIVE JUROR NO. : that's correct.

11 MR. CLOWARD: Nothing Mr. Jaffe says is going
12 to change that right.

13 PROSPECTIVE JUROR NO. : that's correct.

14 MR. CLOWARD: Okay. Nothing in fact that
15 even the judge or you know maybe your neighbor, or your
16 dad is going to say, or you know someone in your family
17 member is going to say is going to change way you feel
18 right.

19 PROSPECTIVE JUROR NO. , correct.

20 MR. CLOWARD: All right. Thank you.

21 Mr. Bulason, and just on this this one specific issue,
22 just that the million you know in excess of 2 million,
23 that's the only thing I'm asking, you know do you agree
24 you know, with Mr. Runs, and Mrs. One way or another I
25 never changed that in my outline. Mrs. One way or

1 another, and Mrs. Agnor that, you know, on just that
2 specific issue, you would feel you would also feel
3 uncomfortable if you were the plaintiff, in this
4 hypothetical case and there was jurors that had your
5 same frame of mind you would feel uncomfortable with
6 them on your jury.

7 PROSPECTIVE JUROR NO. : yes.

8 MR. CLOWARD: You agree that just on that one
9 just that one slender issue, you're not the right fit
10 for this particular case.

11 PROSPECTIVE JUROR NO. : yes.

12 MR. CLOWARD: Okay. Is that a yes.

13 PROSPECTIVE JUROR NO. : yes.

14 MR. CLOWARD: Okay. And you agree that just
15 again, and we're just talking that specific issue the
16 parties are not on the same, you know, they don't start
17 in the same place maybe the defendant starts just a
18 little bit ahead of the plaintiff.

19 PROSPECTIVE JUROR NO. : yes.

20 MR. CLOWARD: Okay. And you felt this way
21 for a long time right?

22 PROSPECTIVE JUROR NO. : yes.

23 MR. CLOWARD: I mean, you didn't you didn't
24 wake up today get the jury summons and say, hey you
25 know what I'm going to form this belief or this core

1 value this is something you felt for a long time right.

2 PROSPECTIVE JUROR NO. : I think so yes.

3 MR. CLOWARD: Okay. And you agree that
4 nothing that I say or nothing that Mr. Jaffe says is
5 going to change way you feel right.

6 PROSPECTIVE JUROR NO. : uh-huh, yes.

7 MR. CLOWARD: Okay. Thank you. Mr. Young,
8 on the same issue, do you agree you would also feel
9 uncomfortable having someone with your frame of mind
10 sit on the jury for that specific issue of the amount
11 you feel uncomfortable right.

12 PROSPECTIVE JUROR NO. : yeah.

13 MR. CLOWARD: And you agree that you know, on
14 just that specific narrow issue, you're not the right
15 fit for this particular case?

16 PROSPECTIVE JUROR NO. : no, I wouldn't
17 be.

18 MR. CLOWARD: Because you have that bias or
19 that core belief that value, and Mr., you know,
20 Mr. Khoury would start off in just a little bit
21 different place than my client right.

22 PROSPECTIVE JUROR NO. , correct.

23 MR. CLOWARD: And you felt this way.

24 PROSPECTIVE JUROR NO. : long time.

25 MR. CLOWARD: Long time. And nothing that I

1 say will change that right.

2 PROSPECTIVE JUROR NO. : no, sir.

3 MR. CLOWARD: Nothing Mr. Jaffe says will
4 change that right.

5 PROSPECTIVE JUROR NO. : no, sir.

6 MR. CLOWARD: Nothing the Judge says will
7 change that right.

8 PROSPECTIVE JUROR NO. :

9 (Witness shakes head.)

10 MR. CLOWARD: All right. Thank you. Mr.
11 walker, on this issue, I just can I level with you and
12 just ask you, you know, based on what you have told us
13 about, you know, not the amount the award 2 million,
14 you would have a hard time with that, you feel it's
15 just way too much, just want to level with you, is is
16 my client going to get a fair fight on that specific
17 issue?

18 PROSPECTIVE JUROR NO. : I can't answer
19 that are you talking about from me myself.

20 MR. CLOWARD: From you from you.

21 PROSPECTIVE JUROR NO. : well, I think I
22 made myself clear when I said, I think it's ridiculous
23 that the amount you're asking for, so I can't see how I
24 can be fair and say, oh, yeah I'm just going to give
25 her whatever she wants.

1 MR. CLOWARD: I appreciate that. So on just
2 that specific issue my client would not get a fair
3 fight.

4 PROSPECTIVE JUROR NO. : that's all I know
5 about right now so that's all can I say.

6 MR. CLOWARD: Okay. So I appreciate it.
7 Thank you. Mrs. Brown, in your jury questionnaire, you
8 you indicated you know that you you wouldn't have a
9 problem with the multimillion dollar or I think that's
10 the questionnaire said multimillionaire, but today you
11 kind of expressed a little bit of maybe hesitancy can
12 you tell me how you file.

13 PROSPECTIVE JUROR NO. : I think it would
14 depend on the extent of her injuries.

15 MR. CLOWARD: Okay.

16 PROSPECTIVE JUROR NO. : like one of the
17 other ladies said depending on if it's life changing if
18 if she's not able to get back to her life as she
19 usually would.

20 MR. CLOWARD: Sure.

21 PROSPECTIVE JUROR NO. : now if that was
22 the case I feel she should get compensated.

23 MR. CLOWARD: , so you don't agree with maybe
24 like Mr. Walker where just you you just kind of have a
25 feeling that you know that, amount is I think

1 Mr. Walker said it's just rid clues includes you don't
2 feel that way just on first blush.

3 PROSPECTIVE JUROR NO. : no.

4 MR. CLOWARD: Okay. Thank you Mr. Frasier
5 same thing I think in your questionnaire you said you
6 know, no, you wouldn't have a problem, but then today,
7 you know you talked a little bit about, you know, you
8 talked a little bit I'm sorry. Maybe you wouldn't have
9 a problem, so are you are you more like Mr. Mr. Walker
10 where you know what, you just have a problem with
11 2 million is just ridiculous or are you more like
12 Mrs. Mrs. Brown here. Can you tell me a little bit
13 that.

14 PROSPECTIVE JUROR NO. : I think probably
15 when I went through that excuse me that questionnaire I
16 wasn't little bit haphazardlily, you know, why you kind
17 of want to get it over with that's project what I did,
18 but I will say two things I was an expert witness for a
19 case, where the people were asking for twin tee a
20 million dollars, and I was supposed to be on the
21 plaintiffs side and I really had a hard time like
22 fulfilling my obligation with that just based on that
23 will figure because I figure -- after reading the case
24 and everything else, that was way over the top, and I
25 think that a lot of times that is the case, that

1 there's significant amount of money, that's being asked
2 for that's over and above what actually the defendant
3 or the plaintiff needs or deserves.

4 MR. CLOWARD: Okay. Can I ask what kind of
5 an expert are you?

6 PROSPECTIVE JUROR NO. : it was for a well
7 because I coach it was a situation where some coaches
8 were being sued.

9 MR. CLOWARD: Got you what do you coach.

10 PROSPECTIVE JUROR NO. : football and
11 wrestling.

12 MR. CLOWARD: Cool. I did a little of both
13 in high school, but so let me just see if I understand.
14 In that case it was 20 million you just felt like, holy
15 smokes that's way out there, you know and I can tell
16 you that's not -- what in this case.

17 PROSPECTIVE JUROR NO. , right.

18 MR. CLOWARD: But do you have a problem, you
19 know, with with 2 million like for instance if you were
20 on a hypothetical juror -- jury, can you tell me a
21 little bit more or if you were a hypothetical
22 plaintiff, and you had a lawsuit and you knew your
23 attorney was going to ask for -- for in ex sills of
24 2 million, would you feel comfortable knowing what you
25 know about about your opinions and your beliefs and

1 your core values would you have a problem having that
2 person sit on your jury?

3 PROSPECTIVE JUROR NO. : I think I got
4 that twisted. I guess-f I were if I were the
5 plaintiff,.

6 MR. CLOWARD: If you were the plaintiff,.

7 PROSPECTIVE JUROR NO. : I wouldn't ask
8 for that much money.

9 MR. CLOWARD: Okay.

10 PROSPECTIVE JUROR NO. : period.

11 MR. CLOWARD: Just I know you wouldn't. But
12 just assume for me that you did, just for me that you
13 did, and would you feel uncomfortable having a jury
14 with your frame of mind, sit on the, you know, on the
15 panel on that just that specific issue? Just, you
16 know, not talking about everything else but just that
17 one little issue? Would you feel uncomfortable.

18 PROSPECTIVE JUROR NO. : yeah.

19 MR. CLOWARD: Okay. I appreciate that. You
20 know, I do. I do. Thank you.

21 You agree in on that specific issue, you
22 would not be a good fit.

23 PROSPECTIVE JUROR NO. : I would not. and
24 the parties, you know, they're not going to get a good
25 or a fair fight on just that issue, the defendant is

1 going to start off just a little bit ahead of the
2 plaintiff.

3 PROSPECTIVE JUROR NO. : absolutely.

4 MR. CLOWARD: Okay. Thank you. I appreciate
5 your — your brutal honesty. And you you felt that way
6 nothing that I say will change that right?

7 PROSPECTIVE JUROR NO. : no.

8 MR. CLOWARD: Nothing that Mr. Jaffe says is
9 going to change that right.

10 PROSPECTIVE JUROR NO. : absolutely not.

11 MR. CLOWARD: Nothing that, you know, your
12 fiance, correct congratulations by the way your fiance
13 or Mr. Orr I mean, Mr. I'm sorry Judge, or the judge
14 going to say is ask going to change that right.

15 PROSPECTIVE JUROR NO. : no.

16 MR. CLOWARD: Okay. And that's just a core
17 value core belief that you hold.

18 PROSPECTIVE JUROR NO. , correct.

19 MR. CLOWARD: Thank you very much.

20 THE COURT: Somebody needs a break already?

21 MR. CLOWARD: I'm sorry judge may we approach
22 briefly.

23 THE COURT: Sure.

24 MR. CLOWARD: I'm sorry Judge.

25 /////

1 (Whereupon a brief discussion was
2 held at the bench.)

3 THE COURT: All right. Folks. Let's go
4 ahead and take a quick break. During our break, you're
5 instructed not to talk with each other.

6 You're instructed not to talk with each other
7 or with anyone else, about any subject or issue
8 connected with this trial. You are not to read, watch,
9 or listen to any report of or commentary on the trial
10 by any person connected with this case or by any medium
11 of information, including, without limitation,
12 newspapers, television, the Internet, or radio. You
13 are not to conduct any research on your own, which
14 means you cannot talk with others, Tweet others, text
15 others, Google issues, or conduct any other kind of
16 book or computer research with regard to any issue,
17 party, witness, or attorney, involved in this case.
18 You're not to form or express any opinion on any
19 subject connected with this trial until the case is
20 finally submitted to you..

21 Take about ten minutes.

22 THE BAILIFF: All rise.

23 THE COURT: Everybody use the bathroom now so
24 we don't have to take another break.

25 (Whereupon jury the courtroom.)

1 THE COURT: All right. We're outside the
2 presence of the jury. You guys want to make a record
3 on Mr. Jaffe, did you want to make a record on that
4 conference.

5 MR. JAFFE: Yeah, Your Honor, I believe many
6 of these questions are in violation of Rule 7.70,
7 especially subsection C, which are questions touch
8 willing on the verdict a juror would return when based
9 upon hypothetical facts. and that that's what this
10 whole line has been. Not when we were arguing in
11 limine about the whole prospect of how much money is
12 too much or a dollar figure, but what he's asking is
13 whether the jurors can return a verdict for that pain
14 and suffering amount that he's asking for, and it's
15 basically a hypothetical fact predicated upon what
16 they've not heard all they have done is heard what
17 we've had to say about the case and seen his client.

18 THE COURT: And I think that's why he got the
19 response he did from Mr. Walker. That he was unable to
20 tell him what he would do because he doesn't know the
21 facts of the case.

22 SKWRAO: I understand that but the point is
23 counsel was -- was -- was asking questions in such a
24 way, that were that was more indoctrine Nateing than
25 anything else with respect to the case not an

1 opportunity to learn what their feelings are, and Your
2 Honor, I believe that that is in violation of land
3 versus State, 251P third 700, 2011 it's a Nevada
4 Supreme Court case, and it says the purpose of voir
5 dire is to discover whether a jury Juror will consider
6 and decide the facts impartially and consciously apply
7 the law as charged by court. But that indoctrination
8 questions are not supposed to be brought out, and
9 that's also there's case law throughout Nevada talking
10 about that. The whole purpose is, the purpose of voir
11 dire and this is now I'm looking at another case,
12 Whitlock versus salmon 104 Nevada 24 purpose of voir
13 dire to determine whether a prospective juror can and
14 will render a fair and impartial verdict on the
15 evidence presented and apply the facts, as he or she
16 find them to the law given. Your Honor, this is going
17 well beyond that it's going to indoctrination.

18 MR. CLOWARD: Your Honor if I May R may
19 respond.

20 THE COURT: Sure.

21 MR. CLOWARD: Briefly. It seems as though we
22 have a moving objection first it's a violation forever
23 O for touching upon want facts, second it's a violation
24 for indoctrination. First, there was not a specific a
25 single fact. Mr. Jaffe for the record did not illicit

1 a single fact that was given by Mr. Cloward by me
2 during my voir dire, I did not ask the jurors like hey,
3 this is a personal injury case where my client got this
4 and this and this surgery you can award \$5 million?
5 That's just not what happened. The the multimillion
6 dollar was a question that Mr. Jaffe stipulated to
7 which was in the jury questionnaire I'm entitled to
8 follow up on that and the second part of the purpose of
9 voir dire from the case that was just cited by
10 Mr. Jaffe the Whitlock versus salmon is second for
11 trial to gather information for an intelligent exercise
12 of preemptory challenges. Nothing that I asked was in
13 violation of either the local rule cited by counsel or
14 any of the case authority, and No. 3, the lamb case is
15 is clearly factually distinguishable it dealt with the
16 criminal case, and has nothing it's not applicable to
17 this current situation.

18 MR. JAFFE: Your Honor, first off, I did not
19 stipulate to the multimillion dollar verdict question
20 the only reason, we agreeded to it going in there, was
21 bombs the Court had already ruled on the motion in
22 limine, and we specifically stated that it was in no
23 way deemed a waiver of our objection to that line
24 irrespective. That's No. 1.

25 No. 2, Your Honor, this I believe this is

1 indoctrination, and whether the lamb case does or does
2 not apply, because it's a criminal case is
3 inconsequential because lamb does discuss what is and
4 is not appropriate voir dire from a general
5 perspective. So Your Honor, similar ply saying that I
6 believe these questions go well over the line. Thank
7 you.

8 THE COURT: Okay. You made your record. I
9 don't think they do I don't think we're talking about
10 hypothetical facts, and I think that's what the pre
11 trial ruling was as well. I don't think that there's
12 been indoctrination, the question is -- some of the
13 questions that were recently asked were more close
14 ended, but they were follow ups from prior questions
15 that were more open ended where the jurors did offer
16 opinions based on a very general open-ended question
17 so.

18 MR. JAFFE: And, Your Honor, I do have to add
19 in there because I feel like many of those questions
20 were specifically phrased with counsel putting the
21 words into the juror's mouths as to what their beliefs
22 were and as to what their core values were, et cetera,
23 rather than learning from the jurors their beliefs, so
24 that we can make the intelligent voir dire decision
25 which is exactly what the Nevada Supreme Court wants.

1 THE COURT: Okay.

2 MR. JAFFE: Thank you, Your Honor.

3 THE COURT: We want to make any other record
4 do you want to make your challenge for cause I'm going
5 to let him.

6 MR. EGLET: No, I figure you would let him
7 ask questions, but we can go ahead and make them.

8 MR. CLOWARD: And we're going to make them in
9 a very specific order as well. So the first the first
10 challenge for cause is Clifford Frasier, Juror badge
11 No. 020049. And he says that he would need significant
12 he says that hypothetically he would be a uncomfortable
13 sitting on the jury if it was if it was him, he also
14 said he flat out would not be a good fit on that
15 specific issue. He also said that the parties would
16 not be at the same starting point, but Mr. Khoury would
17 be starting off a little bit ahead of Ms. Seastrand on
18 that very specific narrow issue. And that no one is
19 going to change his view, not me, not Mr. Jaffe, not
20 the Court, .

21 THE COURT: You got several of them to say
22 the same thing, so I guess my question is do you need
23 to make a record on it now or should we wait until I
24 mean you're going to have to make the same record later
25 on.

1 MR. CLOWARD: Correct.

2 THE COURT: Let's wait until he asks his
3 questions and then make your motions I'm guessing that
4 you're going to move to exclude more than that just on
5 cause. You're going to get to some other issues.

6 MR. CLOWARD: My thought is just that if
7 if -- if they've already expressed, views that are
8 bias, .

9 THE COURT: I know.

10 MR. CLOWARD: Rather than leave them there
11 let some other folks come up so we can ask the new.

12 THE COURT: If the Supreme Court had passed
13 that bill, then you would be right. But the -- or not
14 the supreme court the legislature. If the legislature
15 had passed that bill that eliminated the ability of the
16 judge to look at any other information, you would be
17 right, but they didn't pass that one in session, so.

18 MR. CLOWARD: But it's my understanding that
19 Jitnan allows for the Court to do that and look at that
20 information.

21 THE COURT: It does, and so does the article
22 that Mr. Eglet published in the -- in the magazine. I
23 read it, but -- but I'm going to -- I'm going to let
24 other side get a chance.

25 MR. CLOWARD: Sure. Do you want me to tell

1 you who in the order that they're who I would be making
2 the record on.

3 THE COURT: If you would like.

4 MR. CLOWARD: Okay. So the second would be
5 Christopher Evans, badge Nos. 020012, the third would
6 be Gary Walker, badge No. 020034; the fourth would be
7 Mark Runz, badge No. 020001; the fifth is Margaret
8 Vera, badge No. 0200 '08; the sixth is Leticia Ong,
9 badge No. 020028; the seventh is Paul Jeung, badge
10 No. 020009; the eighth is Joey Bulason, badge
11 No. 020017. And the ninth is Ms. Patty Agnor, badge
12 No. 020033, Your Honor.

13 THE COURT: Okay.

14 MR. JAFFE: Your Honor.

15 THE COURT: I think I'm still going to let
16 the defense question beforehand I excuse anybody for
17 cause on that issue.

18 MR. JAFFE: So am I going to traverse now or.

19 THE COURT: No, I think we let the plaintiff
20 keep going.

21 MR. JAFFE: Okay.

22 THE COURT: Okay. Anything else?

23 MR. CLOWARD: No.

24 THE COURT: Let's take a break for a little.
25 Off the record.

1 (Whereupon a short recess was taken.)

2 THE BAILIFF: All rise.

3 (Whereupon jury the courtroom.)

4 THE COURT: All right. Go ahead and be
5 seated folks. Welcome back ladies and gentlemen we're
6 back on the record in Case No. 636515. Go ahead
7 Mr. Cloward, .

8 MR. CLOWARD: Thank you.

9 THE COURT: You may continue.

10 MR. CLOWARD: Thank you.

11 Before I, you know, before I I move on I
12 wanted to just get everyone one last opportunity if
13 they had an opinion or a view on the amount that we
14 talked about in excess of 2 million and then also pain
15 and suffering, does anyone else have any views on those
16 that they didn't get to share that they care to share?
17 Everyone okay? Okay.. Thank you. So along the lines
18 of the next question I want to ask you is who's heard
19 the term, you know, frivolous lawsuit Jack pot justice,
20 things like that, and Mrs. Brown, you're smiling tell
21 tell me your thoughts.

22 PROSPECTIVE JUROR NO. : I think that
23 there are there are a lot of frivolous lawsuits. and
24 people who think that they can get rich quick because
25 of car accidents and things.

1 MR. CLOWARD: Sure. And you use a lawsuit as
2 a way to I think someone said a golden parachute kind
3 of thing. You agree with that.

4 PROSPECTIVE JUROR NO. : yep ^KRISTY CHECK
5 Frasier.

6 PROSPECTIVE JUROR NO. : yes absolutely.

7 MR. CLOWARD: Who who -- who else has heard
8 of some people some folks talked about the McDonald's
9 case raise your hand if you have heard that case.
10 Anyone not heard of that case? Okay.. What about was
11 there a case involving Wendy's where you know someone
12 said there was.

13 PROSPECTIVE JUROR NO. : finger ^KRISTY
14 CHECK Brown the finger in I forget what the finger was
15 in.

16 MR. CLOWARD: In the Chile, yeah. Who here
17 agrees that there's just too many some folks think, you
18 know, the way that our process or our system was set
19 up, there's just too many frivolous lawsuits it's just
20 gotten out of hand? You know, okay. Raise your hand
21 if everybody if you feel like, you know, what's the
22 just gotten out of hand. Okay. Mr. Bulason, do you
23 feel like it's gotten out of hand anyone feel like it's
24 not gotten out of hand? Mr. Karepenko.

25 PROSPECTIVE JUROR NO. : yeah it's

1 Nicholas Karepenko 025.

2 MR. CLOWARD: You are in the military thank
3 you for your service. Tell me what you feel like you
4 don't share that same view or opinion.

5 PROSPECTIVE JUROR NO. : well, you asked
6 the question, if there's too -- too many of these cases
7 in there, it made me think of like, if there's anybody
8 who has a I guess a legitimate case that isn't able to
9 get their business taken care of. And if they can do
10 what they got to do, then that's why this whole thing
11 is here in the first place.

12 MR. CLOWARD: Okay. So you you feel like
13 that by let me see if I got you right. That you know,
14 that when people do have a legitimate case they need to
15 have a forum, whereby they can bring and get take care
16 of their issue is that fair.

17 PROSPECTIVE JUROR NO. : that's fair.

18 MR. CLOWARD: Okay. Does anyone also share
19 that same view that Mr. Karepenko? Please talk to me.
20 Ms. Temple on it, tell me your thoughts.

21 PROSPECTIVE JUROR NO. : well, it's --
22 it's that's the system, and if you have a complaint or
23 a problem, then you bring it before the Courts, and
24 that's how our system is set up. That you should be
25 able to do that. I'm sorry. Elizabeth temple on it 08

1 teen.

2 MR. CLOWARD: Okay. Thank you. Ms. Johnson
3 010 tell me your thoughts.

4 PROSPECTIVE JUROR NO. : I believe the
5 media sensationallizes frivolous lawsuits and that's
6 what you hear about a lot, and you do not hear about
7 the rest of the lawsuits that are legitimate, so what
8 you are hearing, people think their lawsuits are out of
9 the control it's because the media sensationlizing
10 those cases that are.

11 MR. CLOWARD: Sure who agrees with that that
12 just a general statement that hey you annoy what, the
13 media sensationlizes, lawsuits like Mr. Cloward
14 McDonald's the Wendy's one I also heard about a dry
15 cleaner lawyers suing for millions of dollars for
16 something Mr. Evans you raised your hand tell me your
17 thoughts.

18 PROSPECTIVE JUROR NO. : I think the media
19 overdoes everything, but, I think there's a lot of
20 people out there that try to go after free money.

21 MR. CLOWARD: Sure.

22 PROSPECTIVE JUROR NO. : that don't
23 deserve it and I think if if you're case is just
24 totally ridiculous, and seen in court I think you
25 should get a fine for wasting our time. Absolutely.

1 MR. CLOWARD: Okay. I appreciate that.
2 Mr. Runs, you also raised your hand tell me your
3 thoughts.

4 PROSPECTIVE JUROR NO. : yeah, the media
5 definitely influences, you know, .

6 MR. CLOWARD: Why do you think Mr. Runs that
7 the media only talks or you know why do you think
8 there's a perception that the media only talks about
9 like cases like McDonald's, you know, you never hear in
10 a case of hey someone filed a lawsuit, and the jury
11 gave them zero.

12 PROSPECTIVE JUROR NO. : yeah because it
13 sells newspapers or it's a story.

14 MR. CLOWARD: Would everyone agree with that?
15 Ms. Ms. Agnor tell me, you know, do you agree with that
16 do you agree with the --

17 PROSPECTIVE JUROR NO. : well, I think
18 it's not only the media, I think it's all of the lawyer
19 commercials that you see on TV.

20 MR. CLOWARD: Sure.

21 PROSPECTIVE JUROR NO. : been in an
22 accident, call so and so, we can get you lots of money.

23 MR. CLOWARD: Sure.

24 PROSPECTIVE JUROR NO. : I think I think a
25 I think lot I think a lot of it comes from their from

EXHIBIT “K”

1 CASE NO. A-11-636515-C

2 DEPT. NO. 30

3 DOCKET U

4

5

DISTRICT COURT

6

CLARK COUNTY, NEVADA

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* * * * *

8

9 MARGARET G. SEASTRAND,

10 Plaintiff,

11 vs.

12 RAYMOND RIAD KHOURY, DOES 1
13 through 10; and ROE ENTITIES
11 through 20, inclusive,

14 Defendants.

15

16

REPORTER'S TRANSCRIPT ROUGH DRAFT

17

OF

18

Motion name

19

BEFORE THE HONORABLE JERRY A. WIESE, II

20

DEPARTMENT XXX

21

DATED Weekday , Month

22

Date , 2013

23

24

REPORTED BY: KRISTY L. CLARK, RPR, NV CCR #708,
CA CSR #13529

25

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1 LAS VEGAS, NEVADA, weekday
2 Month , 2013;
3 Time a/p .M.
4

5 P R O C E E D I N G S
6 * * * * *

7
8 THE COURT: All right. Let's go on the
9 record, Case No. 636515 Margaret Seastrand versus
10 Raymond Khoury. Why don't you guys make your
11 appearances before we start for the record.

12 MR. CLOWARD: Benjamin Cloward and Allison
13 Brasier and Jonathan Hicks for the plaintiff.

14 MR. JAFFE: Good morning, Your Honor, Steven
15 Jaffe, Hall Jaffe and Clayton for Randy Khoury.

16 MR. SMITH: Jacob Smith from Hall Jaffe and
17 Clayton for Defendant Khoury.

18 THE COURT: Okay. And you're Mr. Scott?

19 MR. SCOTT: Yes, Your Honor. Good morning.

20 THE COURT: Who's this behind you?

21 MR. JAFFE: Ray Khoury.

22 THE COURT: Mr. Khoury, good to have you
23 over. On this side we have the plaintiff also,
24 Margaret Seastrand, right?

25 MR. CLOWARD: Correct.

1 THE COURT: Okay. Go ahead and sit. Before
2 we get started, I know we have motions to take care of.
3 Let me just talk to you first about the jury. Because
4 since I was gone last week, there were, and I got a
5 letter from Mrs. Brasier with several people that had
6 been agreed to that we were going to release from the
7 jury. Let me just request through those to make sure
8 everybody still agrees to these.

9 MR. JAFFE: Sure.

10 THE COURT: Based on this letter, there was
11 an agreement to strike the following prospective
12 jurors, Badge No. 20042 Jennifer Genovese; 20118, Brian
13 Drohn; 20132, Keena House-Mitchell.

14 MR. CLOWARD: Can you slow down just one
15 moment. Thank you. After Brian Drohn, who was the
16 next one, Judge?

17 THE COURT: 20132, Keena House-Mitchell.
18 Next someone 20187, Raya Alsaiegh, something like that.

19 MR. CLOWARD: Okay.

20 THE COURT: Next one is 20201, Maria Gabriel;
21 20214, Jennifer Fitzpatrick; and 20223, Richard
22 Depaseo -- DePaso. That's my understanding from this
23 letter that all the parties have agreed to excuse these
24 folks; is that right?

25 MR. JAFFE: Yes, sir.

1 MR. CLOWARD: Correct.

2 THE COURT: All right. Since I wasn't here
3 last week, they probably will all be here today. Let
4 me go through, and I don't know if you guys were
5 provided with all of the other letters that we received
6 from people that had travel arrangements and stuff like
7 that.

8 MR. JAFFE: I don't believe we were, sir. I
9 know some did reference in questionnaires that they had
10 certain travel arrangements planned, but.

11 THE COURT: I can make the letters available
12 to you. But let me go through the rest of the people
13 that I'm going to excuse because of travel
14 arrangements. Okay? Badge No. 20032 is Ann Jeanette
15 Rodriguez or Tucker. Badge No. 20007, Amy Iozzo. I
16 apologize if these aren't in order, Badge No. 20251,
17 Michelle Caruso.

18 MR. JAFFE: I'm sorry. That number again,
19 sir?

20 THE COURT: 20251.

21 MR. JAFFE: Thank you.

22 THE COURT: Badge No. 20024, Carolyn Rolins;
23 20019, Glynis Robson; 20026, Jesus Moreno. They have
24 all provided me with documentation of travel
25 arrangements during the time of our trial, so I'm not

1 going to screw up somebody else's vacation. So we're
2 going to excuse all of them as well. Now, I have got
3 two other individuals who sent stuff in that wanted to
4 be excused. One was badge No. 20076, Fidencio Chavez.
5 This individual says that they were terminated from
6 employment at the the end of June, and struggling to
7 make ends meet they need to be excused so they can find
8 a job and be able to pay their bills. . I don't know
9 about that. What do you guys think? I mean, I think
10 we're going to have a lot of people that are going to
11 say they have financial struggles.

12 MR. JAFFE: Your Honor, if I I guess my
13 feeling is well obviously we all feel for somebody
14 who's out of work and wants to work, if he had a job
15 that was lined up, and he needed to start it, then it
16 was there that's one thing. But I -- it's -- it's
17 tough situation, sir.

18 THE COURT: I kind of feel the same way.

19 MR. CLOWARD: We agree.

20 Q (By The Court) And I think at least in doing
21 jury duty, they're making 40 bucks a day, something.
22 The next one I have is from Barton Unger, 20006. This
23 individual has a trip planned for July 26th. I
24 believe, is that -- isn't that Friday?

25 MR. CLOWARD: Your Honor, fairly confident

1 we'll be done by then. I think you only gave us nine
2 days, so we have to be done by then.

3 MR. JAFFE: You gave us through the 25th.

4 THE COURT: I gave you through the 25th. I
5 guess I'm just wondering how confident we are that
6 we're going to get done.

7 MR. CLOWARD: I think very confident, yeah.

8 MR. JAFFE: I'm cautiously optimistic.

9 THE COURT: Well, if we keep this individual,
10 and he ends up on the jury, he will not be here. I am
11 going to excuse him on the 26th, so

12 MR. JAFFE: We understand, and then obviously
13 we're going to have alternates so an alternate would
14 simply step in. The other the other thing, sir, we can
15 agree and I have no problem if if we want to agree
16 right now that if Mr. Unger is selected, as a juror and
17 remains on we can stipulate right now that he's an
18 alternate.

19 MR. CLOWARD: We — I am fairly confident
20 well answer done, Your Honor. By by the 25th so I
21 don't think it's going to be an issue.

22 THE COURT: Okay. Let's keep him for now.
23 And we'll just plan on being done by the 25th.

24 MR. JAFFE: Sounds great, sir.

25 THE COURT: I know Mr. Cloward has picked a

1 jury in here before and Mr. Eglet has. I have kind of
2 changed the way I like too pick a jury, so let me just
3 talk to you guys about that real quick. They will be
4 seated up here with the first 20 we have No. 1 in the
5 top right, goes one through eight, right to left along
6 the back row, nine through 16 along the middle row
7 right to left and 17 through when it on the front right
8 to left. Okay? If there are challenges for cause, I
9 will ask you to do them at the bench. I don't make you
10 do them in front of the jury and I would prefer to wait
11 until which of a group so that the individuals don't
12 know what they have to say to get out of jury duty. So
13 I will bring you up every so often to do challenges for
14 cause, and we can argue about them at the bench. If we
15 do a challenge for cause we excuse somebody, I bring
16 somebody from the back to fill that seat. Okay? We
17 don't move everybody around. Once question get done
18 with the challenges for cause and both sides have
19 passed the panel for cause. I will -- we'll give you a
20 form. You just pass it back and forth and exercise
21 your preemptory challenges. What I would prefer to do,
22 if everybody agrees, is I would give you five
23 preemptory challenges for each side. You get four plus
24 one for the alternate. What I did in the last jury
25 trial that we did, and I think it worked out really

1 well, was instead of randomly picking the alternate
2 jurors at the beginning, we picked them at the end so
3 nobody knew who the alternates were till the very end.
4 And I think that worked well. The attorneys seemed to
5 think it worked well. You folks tell me what you think
6 about that.

7 MR. JAFFE: I prefer to know the alternates
8 up front, Your Honor, and pick them up front.

9 THE COURT: Okay.

10 MR. CLOWARD: Yeah, Your Honor, we agree, and
11 we would prefer that they be the last two seats as well
12 in the jury box.

13 THE COURT: You like them to be the last two
14 seats?

15 MR. CLOWARD: Yeah, that way we know who they
16 are. Easier for us to remember, Judge.

17 MR. JAFFE: I don't have a problem if it's
18 going to be two randomly selected numbers up front,
19 last two seats are two that the Court designates I
20 would just prefer that we know, as we're selecting the
21 jurors, who the alternates are. If it's going to be
22 the last two seats, we know that that last challenge is
23 for one of those two seats. It's got to be one of the.

24 THE COURT: Yeah that's how we're going to
25 work it if we're going to use the last two seats, then

1 and we're not going to do it condomly the way it would
2 work you get four preemptory challenges for the first
3 eight and you get one for to use on the last two.

4 MR. JAFFE: I also have no problem if you
5 want to pick two numbers at random and then use five
6 challenges, and whoever the last whoever the two that
7 fall in those seats are so be it.

8 THE COURT: Well, these guys want to do last
9 two seats are you okay doing last two seats.

10 MR. JAFFE: I suppose.

11 THE COURT: Okay. So what we'll do is we'll
12 narrow it down to ten, I will see the 20, you'll each
13 get four preemptory, or four preemptories for the
14 regular panel and two -- one each for the alternates,
15 so we'll narrow it down to 10, so we'll have a jury of
16 eight and two alternates. I think the two will be
17 enough for a two week trial. Anybody disagree with
18 that?

19 MR. JAFFE: I think that should be fine.

20 MR. CLOWARD: We agree.

21 THE COURT: Any problem with the jury
22 selection process.

23 MR. JAFFE: The only question I have, Your
24 Honor, is this, as we're selecting jurors, do you allow
25 questioning at large of of the veneer of the 20 seated

1 or do you want us to go one at a time. Because I know
2 that some judges like it that way, and it just
3 lengthens things out terribly.

4 THE COURT: You can talk to the whole panel.
5 I will ask a bunch of questions first. That should
6 narrow it down. You have your jury questionnaires that
7 have been completed so hopefully that will narrow it
8 down.

9 MR. JAFFE: Your Honor --

10 THE COURT: My experience is that if the
11 jurors have already filled out a questionnaire, they
12 hope that the jury selection process goes pretty quick.
13 Because they they've already give pen you a lot of a
14 lot of answers. So I'm going to encourage you to just
15 try to move it along quickly, try not to reask any of
16 the questions that have already been asked in the
17 questionnaires and just follow-up that's fine if you
18 want to ask details that's fine, but let's not ask the
19 same questions that have already been asked. All
20 right? Let's talk about the stuff that we need to take
21 care of we have a couple of motions.

22 MR. JAFFE: Your Honor, before we hear the
23 Plaintiffs' motions, I need to raise a procedural issue
24 related to them, and I need to make a procedural
25 objection before they're even heard substantively.

1 THE COURT: Okay.

2 MR. JAFFE: Your Honor, on July 3, we
3 appeared for a conference between counsel pursuant rule
4 2.67, and we did have that transcribed and if Your
5 Honor, would prefer, I would like to mark that
6 transcript as a Court exhibit. If I may approach.

7 THE COURT: Sure. And you know what I would
8 like to do at this point do is direct, Your Honor,'s
9 attention to page 16.

10 THE COURT: Hold on a second let her mark it
11 first.

12 MR. JAFFE: I apologize, Your Honor.

13 THE COURT: Okay.

14 MR. JAFFE: On page 16, at line 15, this is
15 now on July 3, basically -- the day before our four day
16 holiday weekend Mr. Cloward, said, I will let you know
17 we're going to file a motion to exclude the photograph,
18 it's a late motion, whether'll entertain it or not is
19 one thing but I'm going to file that motion so I won't
20 at this time agree to stipulate the photos in. And
21 then, I asked him what the basis for excluding them
22 was. He said well, we've just thought about the issue
23 little more and think that the biomechanical opinions
24 were concerned whether or not they are those are going
25 to get in any way pursuant Hallmark, and I think

1 obviously both parties would lodge objections basically
2 he's now going to be filing a motion pursuant to
3 Hallmark. And Your Honor, if we move to page 20 of the
4 transcript, at line 5, I asked him why do you think
5 there's a Hallmark problem with any of these experts?
6 Mr. Cloward said I think the fact that there could have
7 been done more done to investigate I think the fact
8 that neither men were able to examine the Honda prior
9 to being repaired create as foundational issue for both
10 of their opinions. And then I said, down further, you
11 mean inspected before the repairs were made? He said,
12 correct. Then again on line 14 of the next page, sir,
13 I said, well, I mean, Ben what else the excuse for not
14 having filed the motion, you know, timely with other
15 motion unless limine, when judge already heard 20 of
16 yours and eight of ours. Mr. Cloward said sure yeah
17 well in preparing for the trial obviously you analyze
18 issues and get a little deeper in the analysis and in
19 discussing things with Allison, and I just think that
20 that's something that's kind of glaring for both of the
21 men that they didn't neither of them inspected her
22 vehicle before it was repaired, I think that's an
23 issue. So the only issue that they raised by way of
24 what would be a 2.47 discussion, was at the experts had
25 not inspected the vehicles, prior to the to their

1 report. The inspected inspected the plaintiff's
2 vehicle rather prior to the repair having been made.
3 Mr. Cloward then told me that he thought the motion was
4 going to be filed with the court on Wednesday, and we
5 were not provided at that time with a copy of the
6 motion. On now I need to fast forward one week on
7 Wednesday July 10th I called Mr. Cloward because we
8 still had not heard anything about these motions. And
9 I asked him what's going on with the motions? When are
10 we getting these, or is this the judge going to agree
11 to hear them? And Mr. Cloward said that they had he
12 believed that they had gone down to the Court, either
13 that day our the day before and they were waiting for
14 Your Honor's chambers to decide if the motions were
15 going to be heard. I said when am I getting the
16 motions and again this is -- well, we don't know if the
17 judge is going to be hearing them our not. On sures
18 the 11th now so now we're basically two days then that
19 was the afternoon of that Thursday, at 2:00 o'clock,
20 Mr. Smith and Mr. Cloward, and Mrs. Brasier met to go
21 over which jurors we wanted to eliminate based upon the
22 questionnaires as well go over demonstratives for
23 openings. At that time Mr. Cloward advised Mr. Smith,
24 that they had been advised by Your Honor's chambers,
25 that the Court had agreed to hear the plaintiff's two

1 motions. Which was now the first we had heard about
2 it. Mr. Smith got back to the office was around 430,
3 5:00 o'clock he told me this. So I called Mr. Cloward,
4 and said when are we getting these motions if the Court
5 has apparently agreed to hear them. And and at that
6 point I received at 6:30 an e-mail and if I may again
7 approach, Your Honor.

8 THE COURT: Uh-huh.

9 MR. JAFFE: An e-mail from Mr. Cloward, and I
10 ask this be marked as the next court Exhibit in line
11 saying Steve/Jake sorry for the delay it's in excusable
12 here are the word files you or at least you are able to
13 read them, but what I got were two drafts they were
14 unsigned I didn't know what they were. So I'm still
15 waiting to get served with these motions. On Friday,
16 now, this past Friday, the 12th the -- the judicial day
17 before trial, I still had not received the motions by
18 two in the afternoon. So that the time, I wrote to
19 Mr. Cloward. And if I may, Your Honor this is a letter
20 dated July 12th from my office to Mr. Cloward which was
21 faxed to him at two -- fax confirmation at the back
22 faxed him at 2:10 in the afternoon. And at that time,
23 I basically said I still haven't received these
24 motions. And we're now just before the trial, you
25 could have given copies to Mr. Smith the day before

1 when he was at your office, and we could have had the
2 motion, especially since you knew that the judge had
3 signed them or was agreeing to hear them, but you
4 didn't even do that. So now we are three judicial
5 hours from trial, and I still don't even have the
6 motions. So at that point, Your Honor, I called
7 chambers to find out if the motions were on calendar to
8 be heard since I hadn't received anything I then faxed
9 a second letter to Mr. Cloward. I offer this as the
10 next court exhibit. Which was faxed to at 2:34 in the
11 afternoon, basically saying that I just found out from
12 the judge's chambers, that your motion was signed the
13 day before, but it was still sitting in your out box
14 for your runner to pick up so a full day had gone by
15 from the Court signing this, until the plaintiff still
16 hadn't even picked up the motion and we're now two 1/2
17 judicial hours from trial. We were finally served, and
18 I have an affidavit from my secretary, Your Honor, I
19 will lodge the original with the Court. At 2:34,
20 Friday afternoon, less than two 1/2 judicial hours
21 before we were in court. Now, the motion that we were
22 served with we were served with two motions one was on
23 the photographs but the second was now no longer just
24 a -- a motion against my expert, for not having
25 inspected the vehicle before -- the plaintiff's vehicle

1 before it was repaired, but this was now a full and
2 complete Hallmark challenge. Something which had had
3 not even been raised before or discussed before. And
4 Your Honor, it's my position that it is a violation of
5 two -- of court rules, as well as the -- a Court order,
6 if president court is going to hear this motion at that
7 time. First, Rule 2.47 requires that before a motion
8 in limine is to be heard, it must be discussed. All
9 they discuss with us was a motion aimed at the expert
10 not being able to testify because they didn't inspect
11 the vehicles before a the repairs were made. Now we've
12 got a complete Hallmark challenge going well beyond
13 that going into credentials background, and a variety
14 of different things. The second one is rule -- and
15 these are both eighth judicial district court rules of
16 course rule 2.26 on shortening time, and it says in no
17 event may the notice of a hearing of a motion be
18 shortened to less than one full judicial day. Now,
19 obviously the Court didn't do that. But the plaintiff
20 did. Because what the Court will also requires, is
21 that if a motion to shortening time is granted it must
22 be served upon all partyies promptly and that is the
23 Court rule, and you can't do it by mail. You can't do
24 it by e-mail you can't do it by fax it must be served
25 promptly. They did not serve promptly. When the

1 motion was signed and in their box on a Thursday, and
2 as of Friday afternoon it's still wasn't even picked up
3 so a full day goes by, when there is slightly more than
4 one full judicial day when the Court agrees to hear
5 this motion, and then they wasted a full day of it, and
6 they don't serve me with the motion until 2:34 on
7 Friday afternoon, the day before the trial two hours
8 two six judicial minutes before the trial starts now.
9 Here's the real problem judge. It's -- to allow this
10 to go forward is going to be a violation of my client's
11 due process rights because we haven't had a chance to
12 brief this. And and it's very clear this is a brief
13 that took quite some time. If on July 3, they were
14 ready to file this, it means they were work working on
15 this brief for at least a few days, probably at least a
16 week. So two and a half hours to put this brief
17 together or two and a half days, rather -- weeks,
18 rather, two and a half weeks to put this brief together
19 and they serve it on me two and a half hours before
20 there's a hearing? And the problem is this: To oppose
21 this motion, I need to get affidavits from my experts I
22 need to speak to my experts, my experts in San Antonio
23 so on Friday at 234 when I'm first served with it's
24 already 434 there on a Friday in the summer. I can't
25 reach him. And at that point I didn't even realize

1 because it took a while before once I got the motion
2 until I read it and realized that this was well beyond
3 what was discussed so Your Honor, at this point it's
4 our position, that to hear the motion would violate our
5 due process rights provided by Rule 2.47, Rule 2.26,
6 and it violates the Court order regarding filing
7 motions in limine which should have been done two
8 months ago. Because this is a Hallmark challenge,
9 against my expert. Who was disclosed a year ago. Who
10 was deposed in January. And the plaintiffs filed a
11 Hallmark challenge timely against Dr. Schifini. Now,
12 we all know Hallmark and Hallmark is probably the most
13 significant case in auto litigation that's come down
14 out of the Supreme Court in many, many years probably
15 going back to the Levine case. And everybody who does
16 any auto related litigation knows and is very familiar
17 with Hallmark, but it's amazing me they can file a
18 Hallmark challenge which deals with biomechanical
19 engineers against a doctor on time, but they can't file
20 it against the biomechanical engineer on time. They
21 know Hallmark. And now to serve this on me at the last
22 minute when I'm prepping for trial with an opening,
23 getting ready for jurors, a lot of issues when I can't
24 possibly respond to that voluminous a motion in time
25 and to do it effectively and so to do it substantively

1 is such a violation that we ask the Court to hold off
2 on hearing this motion. I understand that a challenge
3 can be raised to the expert, and they can do it from
4 the stand. We can all do it -- we have all done it as
5 trial lawyers. But to do this now denies us the chance
6 to brief this.

7 Dr. Smith is scheduled to testify a week from
8 tomorrow, the 23rd. Let's deal with it when he's ready
9 to testify. So it at least gives us a chance to brief
10 this issue substantively on the merits. So that my
11 client's due process rights are preserved.

12 MR. CLOWARD: Couple things, Your Honor. I
13 do apologize to Mr. Jaffe. You know, I -- I apologized
14 to him in my e-mail. I said you, you know, it's
15 inexcusable. We were also prepping. It wasn't
16 intentional delay. No. one, a couple things that need
17 to be pointed out. Mr. Jaffe is somewhat
18 misrepresenting the record. And you can read the
19 transcript of the 267. I didn't tell him that the
20 motion was done and ready to be filed. I didn't say
21 that. I said we hope to get it filed today. I thought
22 we were a little further in the process. As it turns
23 out, we weren't. That's why it took us through the
24 weekend to get it filed. And we actually I believe we
25 sent it down on Monday, and we had problems getting the

1 OST. I think the first time we sent it down my staff
2 didn't include the OST, the exact same thing happened
3 to Mr. Jaffe's one of their motions they forgot the OST
4 so that wasn't signed, so then it had to be resent, you
5 know, with the OST, so there was some issues. Issues
6 that were innocent issues, that Issues happen too both
7 emergency and myself there's nothing untorrid about
8 that there's nothing you know I'm trying to pull
9 something over on Mr. Jaffe second if you read the
10 transcript in the 267 Mr. Jaffe himself states and I
11 quote paraphrase I can't quote because I don't have it
12 there 234 fronted much me, but Mr. Jaffe states yeah I
13 have a pretty good of what that motion is going to be I
14 know that I kind of felt you might file something like
15 that or something along those license, but he says he
16 has a pretty good idea. So for him to -- to to
17 represent for the defense the defendant to represent to
18 the Court that hey this is a huge surprise, and that
19 you know that I'm somehow trying to pull a fast one.
20 That's just not an accurate representation. The record
21 doesn't bear that out. Second, interestingly, in the
22 transcript, there's one thing that Mr. Jaffe omits.
23 Mr. Jaffe omits the discussion of why I was filing it
24 late. You know, he says why didn't you file this at
25 some point before, you know, during the process? And I

1 said well, you know, the more that I thought about it
2 it, both of us have experts that are out of state.
3 Mine's in California. Yours is in Texas. These folks
4 are going to be flying in. So because a motion in
5 limine is interlocutory in nature, because the Court
6 has a duty, a gatekeeping duty, I would a sure hate to
7 fly Dr. Croft in here. And I'm sure, Mr. Jaffe, you
8 would hate to fly Dr. Smith up from Texas and then have
9 a Hallmark objection lodged on the record after they're
10 flown in and have the Court decide there's not a
11 foundational basis for these opinions. So now we've
12 just incurred the cost of flying these folks up, paying
13 them their time, paying them their travel, paying them
14 their travel fees whereas this is a motion that can be
15 filed, and albeit, I will admit, it's -- I could have
16 gotten it to him faster. And I apologize for that,
17 Mr. Jaffe. I really sincerely do. You know, and the
18 other thing is during the 267 conference, Jake did not
19 ask me about the motion. He didn't say we didn't have
20 any discussion. If he would have said, hey, what about
21 this --

22 MR. JAFFE: The 267?

23 MR. CLOWARD: The motion when he came
24 Thursday.

25 MR. JAFFE: Thursday afternoon.

1 MR. CLOWARD: Thursday afternoon. No
2 discussion was had. And so, you know, there's --
3 there's also a -- you know, it's hey, Mr. Cloward, you
4 didn't turn it over. You didn't turn it over. Well, I
5 wasn't asked to. The second I got the e-mail from
6 Mr. Jaffe, I sent him the e-mail with the word copy.
7 It wasn't the signed copy, but it was the copy that was
8 sent to the Court, said hey, here you go. Here's the
9 word copy. This is -- this is what the motion will
10 say. Yes, it's unsigned but it's the -- it's the exact
11 motion that's going to be filed. So those are -- those
12 are the important issues that I -- I think that -- that
13 the Court should consider, both of us are going to have
14 to incur costs. And the other thing to address it now
15 versus a week from now, we're going to give opening
16 statements, and opening statements are going to give a
17 forecast of what the evidence we think will be
18 presented. Obviously, the property damage, the
19 biomechanical opinions are the central issue in the
20 case. So if we give the jurors all of this
21 information, give them this forecast, give them this
22 play by play of what we think the evidence will show
23 and then a week from now the Court decides that neither
24 Dr. Croft nor Dr. Smith have the foundational basis to
25 make the opinions regarding the forces involved,

1 because the only car that really is important ton
2 evaluate the only forces in the accident are the forces
3 upon Mrs. Seastrand's car. That's it. It's what were
4 the forces to her car? That's it. And if they can't
5 make -- if due to foundation, if they can't make that
6 opinion, then everything that would be forecasted in
7 opening statement would be inappropriate and improper.
8 And so that's why we feel that it's -- it's important
9 to have that discussion today. If Mr. Jaffe wants to,
10 you know, have it heard tomorrow before any openings
11 are given, that's fine with us. But I think that
12 before trial commences and evidence is presented and
13 openings are given, it is something that does need to
14 be addressed, because I do think there's a huge
15 foundational deficit.

16 THE COURT: Okay. Here's what we're going to
17 do, guys. The rule is actually pretty clear that I
18 can't hear a motion in limine without giving the other
19 side 24 hours, at least one-day judicial notice. So I
20 can't hear it today because the affidavit says it
21 wasn't served until 2:34 on Friday. And there's -- I
22 don't think you're disputing that is when it was
23 actually served.

24 MR. CLOWARD: No.

25 THE COURT: I can't hear it today. What I

1 would like to do is just consider it I think it's an
2 EDCR2.27 trial brief I will consider it a trial brief
3 and then if you want to oppose it or file your own
4 trial brief in that regard, you can.

5 MR. JAFFE: I will, sir.

6 THE COURT: It sounds to me like both of you
7 are a little bit concerned about whether or not your
8 biomechanical experts are going to be able to testify.
9 Maybe you can stipulate that neither of them are going
10 to testify. And make it easy on everybody. But.

11 MR. JAFFE: I'm not willing to stipulate to
12 that, sir.

13 THE COURT: Okay. We'll see what happens
14 then.

15 MR. JAFFE: We'll have to see what happens,
16 sir.

17 THE COURT: So as far as the Plaintiffs'
18 motion in limine number, I guess I have -- I just have
19 two here. No. 2, to preclude defendants from raising a
20 minor low impact defense and to exclude evidence of
21 property damage. And then I have a motion in limine
22 No. 3 to exclude defendant's expert Harry Smith from
23 testifying at trial. I'm going to vacate both of those
24 because they weren't timely served.

25 MR. JAFFE: Thank you, sir.

1 MR. CLOWARD: Fair enough.

2 THE COURT: We'll consider them two-point two
3 seven trial briefs. We still have defendant's motion
4 for leave to amend and motion in limine No. 9 to
5 preclude plaintiff from arguing when Defendant Khoury
6 admitted liability on order shortening time. I can
7 tell you what my inclination is on this, and then I
8 will let you argue if you want to. Because of the fact
9 that liability seems to have been disputed all along
10 even in light of deposition and interrogatory answers
11 and things like that, I am inclined to allow you to
12 amend the answer, but not to limit what they can say
13 about when that happened, so...

14 MR. JAFFE: Your Honor, here's -- I need --

15 THE COURT: You may not want to amend the
16 answer in that regard.

17 MR. JAFFE: No, no, no. Because, I mean -- I
18 mean, the thing is this: I need to at least make a
19 statement for the Court to give you a proffer as to why
20 the amendment is late at this time. When the case was
21 first filed without discussing what those are there was
22 a policy limit demand made. As soon as the case was
23 started. We wrote to plaintiff's counsel and said we
24 would like a an extension on this, so that we can
25 because there was some issues regarding some

1 preexisting medical conditions that we would need to
2 address and discuss. And we would like an opportunity
3 to address the policy the policy limit that demand at a
4 later date counsel never responded. And we didn't know
5 if therapy going to be taking the position that the
6 insurer was uncapped, if they were not, we didn't know.
7 And the problem I had at that point, I could not admit
8 my client into a potential excess verdict. Now, we
9 were served with an offer of judgment by the
10 plaintiff's at which time the insurer issued a letter
11 of protection saying that they're going to protect my
12 client for all damages that -- awarded in any verdict
13 irrespective of policy limit. Also now that my client
14 had that protection, I could freely admit liability
15 which is why we then filed this motion, sir. So the
16 problem is that it was not from some sort of nefarious
17 reason that we withheld admitting liability. Because
18 if there was a protection or I knew that this -- there
19 was an opportunity to address those limits issues again
20 later on, we likely would have admitted early on, but I
21 couldn't because of that. And I could not admit my
22 client into a potential situation of an excess verdict
23 having not yet done any discovery to know what the
24 preexisting issues and injuries were. So because of
25 that, sir, that was the reason why we did not admit

1 liability earlier than this. Once we got an offer of
2 judgment again for those policy limits and the insurer
3 had an opportunity, the insurer decided that they were
4 going to protect Mr. Khoury. Now I was free to admit.

5 So I believe it would be improper to allow
6 the plaintiffs to sit here and argue we're bad people
7 by stretching this out or pushing this out as long as
8 possible and making them do unnecessary or I am -- work
9 or whatever may have been just to push the plaintiff to
10 trial, for no reason other than you know, then, you
11 know, then to do it. Because the only reason it was
12 done was because of that one particular issue.
13 Otherwise we would have admitted up front, and I
14 believe it would be an unfair representation if counsel
15 was going to impart some sort of nefarious conduct on
16 Mr. Khoury on my -- on me, Mr. Smith or my office, by
17 doing it, and that's why I believe that it would be
18 appropriate to grant the order, and not allow them to
19 imply anything sinister, by the timing related to the
20 admission of liability, sir.

21 THE COURT: Do you want to talk?

22 MR. CLOWARD: Are you going to entertain
23 the -- I -- I felt like you made a ruling, and he was
24 making a record.

25 THE COURT: I said what I was inclined to do,

1 and I'm still inclined to do that. It seems to me
2 that -- I understand the basis -- the reason for it.
3 But I mean the fact that there was a denial of
4 liability in the answer and then there was apparently
5 interrogatory answers where there was essentially
6 admission of fault, and there's deposition testimony
7 where there was essentially admission of fault, and
8 it's not until just before trial that you want to amend
9 the answer, I think that that -- I don't know how they
10 want to the use that, but I'm going to let him use it.
11 I will allow you to amend the answer if you want to,
12 but if you don't want to based on that, you don't have
13 to.

14 MR. JAFFE: We're going to file our amended
15 answer. We stand behind our willingness to admit
16 liability, and --

17 THE COURT: Okay. So the motion to amend is
18 granted. The motion in limine No. 9 is denied.

19 MR. JAFFE: Okay. Your Honor the only thing
20 I need to be concerned about now is that I'm sort of in
21 a bit of a catch-22, because --

22 THE COURT: You can't talk about insurance to
23 the jury.

24 MR. JAFFE: Exactly. And that's the only
25 reason why Mr. Khoury would -- in his answer did not

1 admit liability earlier and if he's asked, why didn't
2 you admit liability sooner, I mean, there's no honest
3 answer he can give without violating a Court order.

4 THE COURT: Actually he did admit it in his
5 deposition and his interrogatory answers?

6 MR. JAFFE: I agree. But in a pleading
7 format, I mean, what it basically puts me in a position
8 of having to do if this is going to be thrown in my
9 face is to stand up in front of the jury and say we
10 cleaned it up for technical reasons, having already
11 admitted in discovery, even though it was not
12 admitted initially in the pleading, and I mean, if I do
13 that, I am really not being wholly honest. And I don't
14 want to be in that position, sir. And the question
15 is, it leave it is out there-h potentially as a
16 prejudicial issue against either me, and my office,
17 Mr. Khoury, or both, with no way to answer it honestly,
18 and put it in front of the jury without violating court
19 order.

20 THE COURT: Well, I'm not going to let you
21 talk about insurance, so. I mean, I'm happy to
22 consider however else you want to try to explain it to
23 them.

24 MR. JAFFE: Okay.

25 THE COURT: So.

1 THE BAILIFF: Judge excuse me me do you want
2 me to go downstairs now.

3 THE COURT: Yeah.

4 THE COURT: Send Randy down to get the get
5 the jurors does that take care everything we have
6 before we start.

7 MR. JAFFE: Yes, sir. At least on our side.

8 MR. SMITH: Your Honor I believe you wanted
9 jury instructions.

10 THE COURT: Do you have those for me.

11 MR. SMITH: Right now I do I have the ones
12 that the parties stipulated to and then the defendant's
13 proposed.

14 MR. JAFFE: Your Honor while Mr. Smith is
15 doing this may I step outside for a minute and make a
16 brief phone call.

17 THE COURT: Yeah it will probably take ten or
18 15 minutes for the jurors to get up here.

19 THE COURT: Let's go off the record for a
20 minute.

21 (Whereupon a short recess was taken.)

22 THE COURT: Which ones are no calls, no
23 shows?

24 MR. JAFFE: First one.

25 THE BAILIFF: First one is Juror 19, Glynis

1 Robson.

2 MR. JAFFE: That one has already been
3 excused.

4 THE COURT: Not yet, but.

5 MR. JAFFE: We were planning on being.

6 THE BAILIFF: No. 30 Jesse Slade.

7 THE COURT: Okay.

8 THE BAILIFF: No. 37, Maria Bonilla-Eisner.

9 THE COURT: Okay.

10 THE BAILIFF: 132, Keena Mitchell House.

11 MR. EGLET: What was the last number? Sorry.

12 MR. JAFFE: Thirty-seven.

13 THE COURT: Thirty-seven and then 132.

14 THE BAILIFF: 132 Keena Mitchell-House. 156,
15 Madelin Rodriguez-Martin. And 223, Richard DePaso.

16 MR. CLOWARD: 223, Richard what was that one?

17 THE BAILIFF: Richard DePaso.

18 MR. CLOWARD: DePaso.

19 THE COURT: It's about half of those are ones
20 we were going to excuse anyway.

21 THE BAILIFF: So it should be a total of six.

22 THE COURT: I'm not going to issue a bench
23 warrant for them. I think we bring them in. I will
24 excuse all the ones we're going to excuse right off the
25 bat and then I will go into my initial spiel. Okay.

1 Anybody else have anything that we need to talk about
2 before we start?

3 MR. JAFFE: Just waiting for them to come in,
4 what's the -- do we know what the Court's schedule is
5 going to be for the rest of the week?

6 THE COURT: That's a good question. Tuesday
7 and Thursday I have a morning calendar, I don't know
8 how bad it is yet. If it's a light calendar, I would
9 prefer to start in the morning maybe 1030 or 11 with
10 the jury maybe take a later lunch. So that's kind of
11 my plan on Tuesday and Thursday. Wednesday and Friday
12 we can start at nine or 930 whatever you guys prefer.

13 MR. JAFFE: In speaking with Mr. Cloward, and
14 on scheduling, originally had he indicated to me that
15 he was likely going to need to go into Monday, of next
16 week, as part of his case in chief, so I started
17 scheduling and I scheduled basically two witnesses for
18 that afternoon. Police officer and my vocational
19 expert. When we did the 2.67 Mr. Cloward, indicated
20 that he believes now he would be likely done by Friday.

21 MR. CLOWARD: We're going to use that as a
22 before you remember?

23 MR. JAFFE: Right. There is a buffer, but we
24 received a phone call from the officer that next week
25 he has to be out of town on some training so, that if

1 we're going to call him we need to call him this week
2 and if we can we will figure out when that would be.
3 In addition, plaintiff has dropped their -- their
4 vocational loss claim. And that the -- so my expert
5 who was I was going to call on Monday is now
6 drastically reduced. All she's going to be talking
7 about is the smaller thing, the household services
8 issue. So what I'm going to be able to do is in all
9 likelihood -- I don't want to have to bring her in. If
10 they're not going to be calling a witness in on Monday,
11 I would rather not bring her up from Tucson just to
12 call her to testify for one hour of court time when I
13 can squeeze her in Tuesday or Wednesday. And what it
14 may mean is next Monday we may have basically a free
15 day for the jurors and for the Court.

16 THE COURT: As long as you can guarantee that
17 we're going to be done by Thursday, that would probably
18 be okay.

19 MR. JAFFE: I have got all my witnesses
20 scheduled for Tuesday afternoon and then Wednesday. So
21 I can't imagine that we're not going to be done. And
22 then we would be able to settle jury instructions
23 Wednesday, sum it up Thursday, and send it to the jury.

24 THE COURT: Let me just tell you a couple of
25 of ground rules that we kind of do in this department.

1 Because this is a reporting department not a recording
2 department, anything said at the bench is not recorded.
3 So if you need to make a record on that I will give you
4 a chance at the next break, you can make a record on
5 whatever you wanted to that was said at the bench.
6 Okay? If you don't take that opportunity it's on you.
7 Also, I would ask that you let the other side know at
8 least a day before, who you are going to call the next
9 day.

10 MR. JAFFE: We have agreed on that.

11 THE COURT: Let's not have any surprises.

12 MR. JAFFE: We have both agreed we'll let
13 each other know the next day who is planned on the
14 schedule to be called.

15 THE COURT: All right. Sounds good. Let's
16 bring the jury in let's get started.

17 THE BAILIFF: They may not even be up yet
18 takes them few minutes to get up the elevators I will
19 go and do a roll call.

20 THE COURT: Tell me when you're ready.

21 THE COURT: Actually there may not be seats
22 for you there either because we got a larger group than
23 normal.

24 THE COURT: Just so you guys know Juror No. 7
25 seen it a former client of mine.

1 MR. JAFFE: You mentioned that, and on his
2 form.

3 THE COURT: I don't know that it would affect
4 anything but just so you know.

5 MR. JAFFE: I would hope they're all going to
6 believe the judge.

7 MR. CLOWARD: When you are done with all of
8 your questions I imagine it will take a bit can we take
9 just a short bathroom break.

10 THE COURT: We'll see.

11 MR. CLOWARD: I remember it seems like you
12 took.

13 THE COURT: I take a while.

14 MR. CLOWARD: It took a while I Randy would
15 bring them right in otherwise I would have gone.

16 THE BAILIFF: Ready when you are.

17 THE COURT: All right.

18 THE BAILIFF: All rise. Right through here,
19 sir.

20 (Whereupon jury panel entered the
21 courtroom.)

22 THE BAILIFF: Four people in the front come
23 right here, please. Folks you can go ahead and have a
24 seat. Down here on the end. Thank you. Everybody in
25 the back your order does not matter just go ahead and

1 sit wherever you like to.

2 THE COURT: Going to probably have to put
3 some of them on the other side too Randy.

4 THE COURT: Go ahead and be seated folks.
5 Good morning ladies and gentlemen.

6 ALL JURORS: Good morning.

7 THE COURT: Welcome to Department 30. I
8 notice that everybody comes in you don't know whether
9 to sit or stand. We always stand for the jurors as
10 they come that's a show of respect for you because we
11 respect your time and the fact that you are here
12 serving jury duty even though you don't want to be. If
13 I was to come in after you were already here Randy
14 would you have stand for me, but I'm always to be here
15 before you come in, so come in get comfortable sit
16 down, and we'll sit after you all sit okay? My name is
17 Jerry Wiese I'm the judge in Department 30, I will
18 introduce everybody else in a few minutes as you see we
19 have a pretty big group here, and I know all of you
20 folks filled out jury questionnaires, in advance
21 because of the fact that you filled out jury
22 questionnaires in advance, we have some information
23 about you, we also I got lots of letters from people
24 asking to be excused for trips and things like that.
25 That you're that you may be involved in. Some of you

1 may not be excused some of you will be. And I
2 apologize for having to have everybody come in today.
3 I was out of town last week so I wasn't able to excuse
4 anybody before today so I apologize for that. But
5 before we get started I'm going to excuse a bunch of
6 you. Okay? So before we even really get going. If I
7 if I call your badge number and you're name I'm going
8 to ask you to stand, and just kind of head back towards
9 the towards the door, and make sure we have those of
10 you that I have on my list first, before I let you all
11 go okay? First person is badge No. 20042 Jennifer
12 Genovese. Just hang out there by the door, ma'am.
13 20118, Brian Drohn. 20132, Keena House-Mitchell.
14 She's not here. She one that wasn't here? Okay.
15 20187, Raya Alsaiegh. I'm sure I butchered that name
16 sorry. 20201, Maria Gabriel. All right. 20214,
17 Jennifer Fitzpatrick; 20223, Richard DePaso. I think
18 he's one that wasn't here also. Also, badge No. 20032,
19 Ann Jeanette Rodriguez. Badge No. 2007, Amy Iozzo.
20 Sorry if I am mispronouncing names, folks.
21 Michelle Caruso, Badge 251. Carolyn Rolins,
22 Badge 024. Okay. Glynis Robson, Badge 019. She was
23 not here. Jesus Moreno, Badge No. 026. All right,
24 folks. We appreciate your time and your service.
25 You're excused. I'm going to send you back down to the

1 third floor. Just let them know you've been excused by
2 Department 30. Thank you, folks. All right. Before
3 we get started, I have got three seats over here, so
4 let's call the next three up.

5 THE CLERK: Ann Jeanette Tucker, Badge 302.

6 THE COURT: Ms. Tucker.

7 MR. JAFFE: That was.

8 THE CLERK: 032 is excused?

9 THE COURT: I did already excuse her.

10 MR. JAFFE: Yes, sir.

11 THE COURT: All right. Who's next?

12 THE CLERK: Okay. Patty Agnor, Badge 233,
13 please take seat No. 4.

14 THE COURT: Just so you folks know, we number
15 these really weird. It's one through eight on the back
16 row from my right to left. Nine through 16 is in the
17 middle row so seat No. 4 is in the back row, ma'am.

18 THE CLERK: Gary Walker, Badge 034, please
19 take seat No. 14.

20 THE COURT: Fifteen.

21 THE CLERK: Don't we have Glynis Robson gone?

22 THE COURT: Yeah, but somebody else in that
23 seat.

24 THE CLERK: I have seat 14 Glynis Robson just
25 excused, so that's who, Gary Walker? Angela Brown, 043

1 please take seat No. 16.

2 THE COURT: It's actually 17.

3 THE CLERK: Please take seat No. 17.

4 Dominika Procek --

5 THE COURT: That's all we need. We got 20
6 now.

7 THE CLERK: I have 18.

8 THE COURT: You can sit.

9 PROSPECTIVE JUROR NO. 044: Great.

10 THE COURT: That doesn't mean that you won't
11 come up in a few minutes, but ... All right, folks.
12 Let me introduce everybody to you till you get started
13 you have all been summoned here to Department 30 of the
14 eighth judicial district court to serve on a jury.
15 This is going to be a civil trial. There's a
16 difference between criminal and civil trial. Criminal
17 cases if somebody was charged with a crime and the
18 district attorney's office brings the case civil case
19 is where one individual or entity sues another
20 individual or entity, usually for money, and that's
21 that's what you have been called here is for a civil
22 case it's a car accident case. I am Jerry Wiese, and
23 I'm the judge in Department 30. I have been doing this
24 for about two and a half years. We have 32 district
25 court departments in the courthouse. We also have

1 justice court and municipal court in here. That's why
2 it's such a big building, but this is Department 30.
3 Just so you know, who everybody is, right down here in
4 front of me is Kristy Clark. She's our court reporter.
5 She takes down everything that's said word for word,
6 by everybody that's talking, myself and you folks, if
7 you answer, and the attorneys. Everybody that says
8 everything or anything, she writes that down. That's
9 not a regular typewriter. It's a special machine that
10 she can take us all down really fast. One thing that
11 you need to be sure of is when we're talking, you need
12 to talk loud enough that she can hear you. You can't
13 talk over somebody else because she can't record two
14 people talking at the same time. Also, if I ask you to
15 respond or if I ask a question and somebody has a wants
16 to give a response, there's so many people in here she
17 doesn't know all of your names, so you're going to have
18 to tell us what your badge number is, and what your
19 name is. Okay? And your badge number we actually are
20 only interested in the last three numbers. Okay. So
21 if you have a give us a response say I'm so and so and
22 badge number and just give us the last three numbers,
23 then she'll know what it is that's responding to any
24 given question.

25 During the trial, Kristy may not be here it

1 may be another court reporter that fills in for her,
2 but she's our regular reporter. Over here to my left
3 is Alice is our court clerk she is the one that keeps
4 track of the exhibits she swears in the witnesses, she
5 keeps me organized, and she's quiet most of the time,
6 but, but you will see her in here everyday keeping
7 traffic stuff you have met Randy. Randy is our marshal
8 he will be the one that you have the most interaction
9 with during the course of the trial during the course
10 of the trial, if you are picked on jury or even even
11 during this time period we're here together as
12 potential jurors, if you see an attorney or myself or
13 any member of the Court staff in the hallway in the
14 elevator or something like that, and they don't say hi
15 you to they don't have a conversation with you even if
16 you want to talk to them them that's because I have
17 instructed them not to that's an ethical rule that
18 they can't have communications with you-u it might make
19 it look like there was some -- something improper going
20 on. So it's not that they're mean, it's not that
21 they're not friendly, it's just that they they can't
22 talk to you in the elevators or outside in the hallway.
23 So don't be offended by that. If you need to talk to
24 anybody, it's going to be through Randy so get to know
25 Randy. You can't talk to him about the case, but you

1 can talk to him about anything else, and he's the one
2 you communicate with to get to the Court. I have a
3 couple of externs over here from UNLV. They're here
4 getting credits for school and learning. And I have
5 got a couple of other court staff you may see come in
6 and out during the course of the trial, if so, you may
7 may introduce them at that time may not. I'm going to
8 have each of the attorneys stand if they would one of
9 the attorneys from each side and they're going to
10 introduce themselves they're going to tell who the
11 other attorneys are that are at their firms, you have
12 already seen these names in the questionnaires. But
13 pay attention to the names anyway they're going to tell
14 you who they are they're going to introduce their
15 clients to you they're going to tell you who the
16 lawyers are at their firm and they're going to give you
17 just -- I guess, I will have you go through the which
18 is witnesses again also tell us the witnesses you are
19 going to call and then I like to have the attorneys
20 give you just a brief summary of what the case is about
21 when I say brief I am talking a couple of sentences.
22 Okay? So Mr. Cloward you want to go first.

23 MR. CLOWARD: Sure. Good morning. My name
24 is Ben Cloward. This is Allison Brasier, Jonathan
25 Hicks. They're both attorneys for my office, and my

1 client is Margie Seastrand. This is Mr. Robert Eglet.
2 He'll be assisting with the jury selection process.
3 Attorneys in our firm, there's -- there's several.
4 Mr. Richard Harris, Joshua Harris, Dan Martinez, Alice
5 comes Brian Boyack, Amy yes no saw with a, who am I
6 forgetting Dan Laird Brian Keith, Curtis Millington,
7 Lawrence Ruiz, Seth little. And the doctors, and the
8 witnesses that we will anticipate calling they're going
9 to be several doctors, some expert witnesses,
10 Dr. Croft, Dr. Muir, Dr. Grover, Dr. Cap kin,
11 Dr. Belsky, then there's also going to be somewhat we
12 call percipient witnesses those will be coworkers,
13 families friends, people who known or associateed with
14 Mrs. Seastrand, and then in addition to those folks, I
15 think those will be all of the witnesses. I think I
16 have covered the witnesses. It's an automobile
17 accident, rear end accident, that resulted in my client
18 requiring several medical procedures, including, but
19 not limited to a neck and a low back surgery. Thank
20 you, Judge.

21 THE COURT: Okay. Go ahead.

22 MR. JAFFE: Thank you, Your Honor. Good
23 morning ladies and gentlemen my name is Steve Jaffe I'm
24 a partner in the law firm haul Jaffe and Clayton a
25 local firm with me is Jake Smith, who is an attorney in

1 our firm. He'll be trying the case with me. Also with
2 me is Greg Scott Greg is a paralegal who works with me
3 who is much more technically advanced then I could ever
4 be, and he's going to help me with technical
5 presentation. Also, I would like to introduce Ray
6 Khoury Ray is my client and Ray will be here during my
7 trial Ray why don't you turn around, so everybody guess
8 a chance to see you. In our firm, I have two partners
9 Michael hall, and Reilly Clayton. As well three other
10 partners James Harper, Michael Shannon, and Kevin king.
11 Other attorneys who work in my firm, are brief Is
12 certificate S do the Jacob Lee, Jeremy Ellen Ashley
13 certificate remember, Karen bash Sherwood, Manny tee
14 mall hall and no, he will not make a deal he's heard
15 all the jokes Dana cruel although witness, Michelle
16 Schwartz, Paul Hoffmann, Chad Butterfield. And Taylor
17 sialoma, I think that's all. Witnesses that will be
18 calling during the trial, are in addition to Mr. Khoury
19 who will testify well we'ring going to be called
20 Las Vegas metropolitan police department ton conyou may
21 also you will hear from him, other expert witnesses we
22 be calling include one Pablo Villablanca who is the
23 chief of neuro radiology at UCLA, Dr. Harry Smith, a
24 biomechanical engineer from San Antonio, and who is
25 also a radiologist, John Siegler, a physical medicine

1 specialist from Las Vegas, and Dr. Joseph Schifini, who
2 is a pain management specialist also from Las Vegas,
3 and Staci Schonbrun who is vocational expert she's
4 based out of Tucson. In this particular case
5 Mr. Khoury will admit that he is responsible for having
6 caused the accident that we're here for, we are
7 disputing that the accident was of sufficient force in
8 nature to have produced the injuries and the need for
9 the surgeries that the plaintiff alleges that she --
10 well, that she actually did have. I believe that
11 covers everything, Your Honor.

12 THE COURT: Thank you Mr. Jaffe. All right
13 folks. Next thing thing that we do is we're going to
14 start our jury selection process, in order to do that
15 we do that understand oath because we expect you all to
16 tell the truth so what I'm going to do is, you know,
17 before I swear you in I'm going to have our clerk do a
18 roll call make sure we have everybody here we're
19 supposed to have and make sure that there's not
20 somebody here that's supposed knob a different
21 department, so when she calls your name this is just
22 like elementary school say here raise your hand
23 something that we can actually spot you, and and hear
24 you okay.

25 THE COURT: And I will apologize in advance.

1 We're both going to screw up your names. Some of you
2 have names that are difficult. My name is Wiese.
3 Everybody says it Weiss. I'm used to it. I try to
4 correct it first couple of times and then as we get
5 going, and we'll try to try to get your names correct
6 but the first time during the roll call she's going to
7 get some wrong. Just bare with us.

8 THE CLERK: Mark Runz, Badge 01. Here. Tom
9 Fitzgerald badge 03 Barton Unger badge '06. Here.
10 Margaret Vera, Badge '08. Here. Paul young, badge
11 near '09. Here Janeen Johnson badge ten. Here. Gary
12 o coma tow badge 11 here. Chris Evans, badge 12.
13 Here. Mary, grace Redmond badge 13. Here. Victor mad
14 badge 15. Here. Joey Bulosan 17. Here Elizabeth
15 Templeton, Badge 18. Here Richard Moles, Badge 22.
16 Here. Nicholas badge 25. Here. Joe seen deprod doe
17 badge 27. Here. La tissue Shah one way or another
18 \badge\bandage 28. Here. Thomas pain, badge 29.
19 Here. Patty anger badge 33. Here. Gary Walker badge
20 34. Here. Angelella brown badge 43. Here. Bang 44
21 here. Cliff arrested Frasier badge 49. Here.
22 Jonathan dare badge 53. Here. Michael Saxton badge
23 56. Here. Slick key Allen her badge 63. Here. Mark
24 declay badge 64. Here. Helen paren badge 71. Here.
25 Christina ais a bandage 75. Here. If a feed Chavez

1 badge 76.

2 THE COURT: Fidencio Chavez?

3 THE CLERK: Sherwood Ronda Andersen badge

4 '82. Here. Have Gina arrow badge 84. Inaudible

5 response Francisco badge ate five. Here. Joan fall R

6 talker in badge 100.

7 A. Here Garfield millier 104. Here. Ann boon

8 badge 106. Here. Anodal badge 113 here. Veronica

9 badge 117. Here Taylor Steve badge 129. Here. Sky

10 baroquely bow badge 140. Here Benjamin Jackson badge

11 165. Here. Robert Einstein badge 182. Here. Raya

12 assay, badge 187.

13 THE COURT: She's been excused.

14 THE CLERK: Ryan Brown badge 192. Here.

15 Matthew Vic badge one '93. Right here. David heck

16 badge 202. Here. Brittany Harris badge 210. Here.

17 Stephanie base, badge 213. Here. Trophy mayor badge

18 221. Here Brian beard badge 225. Here. Tin Avvy

19 badge 227. Here. Bonnie Goldberg badge 228. Here.

20 Michelle Caruso Kay la calls badge 22 name of here

21 Nancy comb badge 240. Here. Charlie Brown badge 245.

22 Here. And John sack badge 249. Here.

23 MR. CLOWARD: Your Honor may we approach

24 briefly.

25 THE COURT: Sure. Come on up.

1 (Whereupon a brief discussion was
2 held at the bench.)

3 THE COURT: So, you folks have already had
4 the experience of hearing the white noise. During the
5 course of the trial, there will be many occasions when
6 the attorneys will have to come up and talk to me, and
7 we have to talk about something that you're not
8 supposed to hear. So I will turn on the white noise,
9 and that purpose period of time white noise is to make
10 it so you can't hear don't try to listen. And you
11 know, I know it's not a pleasant noise, but you know
12 that's why we do that, and it it has a purpose because
13 otherwise we would have to excuse all of you, while we
14 have a little talk and then bring you all back in and
15 it's a lot faster if I just bring them up, and we turn
16 on the white noise and we have a little conversation up
17 here, and we get back to it and you can all stay there.
18 So anyway, now that we're going to do is I'm going to
19 have the clerk swear you all in, so I'm going to have
20 everybody stand, please and raise your right hand.

21 THE CLERK: You do solemnly swear that you
22 will well did truly answer such questions that may be
23 put you to touching upon your qualifications as jurors
24 in the case at issue so help you God.

25 ALL JURORS: I do.

1 THE COURT: Go ahead and be seated. Thank
2 you folks. What happens in jury selection is I'm going
3 to ask a bunch of questions first. I'm going to ask
4 some real general questions first, and then we'll get
5 more and more specific eventually I will turn it over
6 to the attorneys so they can ask you questions I know
7 you guys have all filled out jury questionnaires, so
8 that's going to help us a lot so a lot of questions
9 that would have been asked you have already answered so
10 hopefully you won't hear those questions again but
11 there will probably be some follow-up on some of the
12 questions you already answered so just bear with us.
13 This will probably be a process that will take us, I'm
14 guessing, most of the day. I know you didn't want to
15 hear that, but that's the way it works. First of all,
16 to qualify to sit as a juror an individual has to be a
17 citizen of the United States. Is there anybody here in
18 the panel is not a citizen of the United States?
19 Please raise your hand. Don't see any hands. Next
20 one, in order to serve as juror an individual cannot be
21 a convicted flown felon who's rights have not been
22 restored is there anybody in the panel convicted felon
23 who's rights have not been's stored raise your hand I
24 don't see any hands. Let me explain to you before I go
25 on, why you're separated. I have got 20 people over

1 here. This is the area that we call the box. Okay?
2 And you four in the front are not quite in the box yet,
3 but you might get there. This is our jury box okay.
4 In a civil case, we will have eight jurors, and two
5 alternate. Okay. You won't know who the alternates
6 are, till the very end of the trial, so sorry if you
7 are an alternate and you have to sit through the whole
8 trial and you don't get to deliberate, but we have to
9 make sure we have alternates just in case there's some
10 unforeseen circumstance.

11 What will happen is I'm going to ask
12 questions of primarily the box. Okay. The 20 people
13 that are over here to my right. Everybody in the back
14 needs to listen to these questions, though, because
15 there will be challenges, and some of these people will
16 have to be excused. And some of you from the back will
17 come up and fill their spaces. So as that happens, we
18 would hope we won't have to go back through all the
19 questions that have been asked all day with each you
20 new jurors that come up and sit in the box, so we're
21 going to ask you maybe some of those questions again
22 but primarily we're going to to ask you are you've
23 heard all the questions that have been asked is there
24 there any of those questions that you would need to
25 responds to with a an affirmative response, so listen

1 carefully to the questions you people in the back don't
2 fall asleep because you don't have to pay asked the
3 questions yet. Because many of you will probably be up
4 here before the day's out okay?

5 Let me tell you first of all, the attorneys,
6 and I are all the purpose of jury selection is to get a
7 fair and impartial jury. There's been a lot of news
8 media recently about jury trials. You know, maybe we
9 think that jury did the wrong thing in a certain case.
10 Maybe we don't. Doesn't matter. The purpose of being
11 here today and for the next couple of weeks, you know,
12 this trial is supposed to last throughout the 25th
13 which is next Thursday. The purpose of this trial is
14 and the purpose of jury selection is to try to get fair
15 and unbiased jury. Understand that or try to
16 understand some of the questions that are going to be
17 asked of you may seem a little personal, and you may
18 not be real excited about offering information to us
19 especially in front of all these other people. We're
20 really not trying to pry into your individual person
21 livings but there are certain things that are important
22 for the parties and the attorneys to know to make sure
23 that we get a fair and unbiased jury panel. Okay? And
24 that's really all we're looking for is somebody that
25 can be fair. Now, you are going to hear words like

1 bias and prejudice. And most of the time we think of
2 the word prejudice as being a negative word because if
3 you have a prejudice against a person or a race or
4 something like that that's negative. You know, you
5 have a bad feelings about somebody, and you shouldn't
6 okay those kind of prejudices are bad but the
7 prejudices and biases that we're talking about here in
8 court are not necessarily those kind of prejudices and
9 biases, but because of the way that we were all raised,
10 we were all born in different places and had different
11 upbringings. We had different family lives. We have
12 different kind of jobs. We have different financial
13 and economic backgrounds. Some of us went to college.
14 Some of us didn't. Because of our life experiences, we
15 all have different thoughts and feelings about
16 different issues. Okay. If I was to go through each
17 one of you and asked you how you felt about a car
18 accident you would all have different feelings about
19 that because some of you have been in car accidents and
20 others haven't some of you have family members that
21 were injured bad some of you were involved in fender
22 bender where nobody was injured. You all have
23 different life experiences and because of those life
24 experiences you-all have different feelings about
25 issues that are going to be important in this case.

1 Okay? So the fact that you have a strong feeling about
2 something, don't feel bad about that. Okay. That just
3 means that you have a different life experience than
4 somebody else.

5 During the course of our jury selection, you
6 may be excused for cause because of a bias or prejudice
7 that you have. Don't feel bad about that. That
8 doesn't mean you're a bad juror or you're a bad person.
9 It just means you may not be the perfect juror for this
10 case. Doesn't mean you wouldn't be the perfect juror
11 for the case right next door. Okay. So what will
12 happen, and I always tell people this, don't answer the
13 questions in a way that you think will get you off jury
14 duty. I know you're all tempted to do that because you
15 don't want to be here. We understand you don't want to
16 be here, but here's the problem. If you answer the
17 questions in a way to get off this jury duty, doesn't
18 mean you're done with jury service. Just means you go
19 back down to the third floor, and they may send you up
20 in the courtroom next door and some trials only last a
21 couple of days some last a week some last a couple of
22 weeks some last a couple of months the longest one I
23 was involved in went from November to February so, you
24 know, if you want to answer the questions in a way that
25 you think might get you off this jury panel, and you

1 get stuck on a jury that goes for three or four months
2 you might get what you asked for. So just be careful
3 answer the questions truthfully and honest, some of
4 will you end up staying some of you will ends up going,
5 and that's just the way the system works and just kinds
6 of play along okay. But answer the questions honestly
7 and truthfully about all your prejudices and biass so
8 we can try to get the best jury panel we can. Don't
9 hide anything from us, you may during the course of the
10 jury selection process, hear a question and you will
11 think well if if that guy had just asked that question
12 a little bit different I would have had to answer. But
13 because it was asked the way it was I don't really have
14 to say anything. If that's that close, please answer.
15 Okay. Give us the information. Err on the side of
16 disclosure on as opposed to, you know, trying to keep
17 it to your self. If it's anything you think we need to
18 know go ahead and offer it. All right? Try not to try
19 not to be secretive about something that you know is
20 going to be an issue or something that the attorneys or
21 myself want to hear. I'm going to start with the
22 general examination of all the jurors here on my right.
23 Like I told you folks before in the back please listen
24 because you're probably many of you are going to have
25 to answer these questions as well as we go along. I

1 talked to you before about challenges for cause, some
2 of you might be challenged for cause. If you're
3 challenged for cause I'm going to send you back down to
4 the third floor they may send you somewhere else.
5 After we get to a certain point, the attorneys will
6 going to pass the panel for cause which means that all
7 20 people over here, are don't have the prejudices and
8 biases that would affect their being a juror on this
9 case. Okay. That means you can all sit as jurors on
10 this case. Once we get to that point then the
11 attorneys have a chance to do what's called preemptory
12 challenges. And they get to challenge you for any
13 reason reason or no reason they may not like the color
14 of your shoes or the color of your eyes they may not
15 like the way you looked at them when you came in, you
16 might have answered a question they weren't comfortable
17 with, but it didn't rise to the level of a challenge
18 for cause. Each side gets a certain number of
19 preemptory challenges so so that they get to boot some
20 of you off for some reason or no reason don't be
21 offended if that happens that means you got out of jury
22 duty. My understanding is if you — if you sit here
23 and you get excused, you have 18 months before you get
24 called again. So that's always good news, right? I
25 don't know that that applies if you're excused without

1 actually sitting on a jury or not. So I mean, I don't
2 know how jury services works on that. But I know if
3 you sit on a jury you have at least 18 months. Let me
4 tell you first of all, before I start asking questions
5 about jury duty in general, and I know you folks are
6 you don't want to be here we understand you don't want
7 to be here we understand jury duty is a challenge for
8 some of you. And and let me just tell you, you know,
9 our forefathers hundreds of years ago fought for our
10 freedoms, okay, you folks all know about the
11 declaration of independence and the constitution, you
12 know the freedoms that the people that came before us
13 fought for and we still have people today that are
14 fighting for our freedoms that's important, and you
15 know, I'm a scout leader I have taught boy scouts and
16 can you be scout I'm a can you be scout leader right
17 now and one of the things I always emphasize with them
18 is citizenship and duty and honor and those kinds of
19 things. See this flag, this United States flag, means
20 something, okay. You folk folks are all citizens of
21 the United States that means something. I tell you I
22 went to a track meet with one of my kids a couple of
23 months ago at a high school my kids this kid was an
24 elementary school kid, but they had a big tract meet at
25 a high school, and the stands were full of people, and

1 the the stadium of full of kids, and when they
2 announced that the they were going to do flag ceremony
3 and the color guard came out with the flags, and they
4 started Marching down the through through the field, I
5 stood up and put my hands over my heart and, you know,
6 what I was the only person, in the whole place that
7 stood up and put my hand over my heart. And it wasn't
8 until that flag went all the way down the field, came
9 through the band, and they said, now we want everybody
10 to join us in the pledge of alien Januaries that's when
11 everybody else stood up. I got to tell you that
12 citizenship in the United States today doesn't mean
13 what it used to mean. And that's a problem in my mind.
14 You know, I think it's important that you folks
15 understand that what we're doing here today is being
16 good citizens you're doing your civic obligation to
17 serve as jurors. And while you may not like it you may
18 not enjoy this time, hopefully at the the end of the
19 day, you know whether you serve as jurors orb you don't
20 serve as jurors I am hoping you go home and felt like
21 this was a good experience. I don't want you to have
22 to go home at the the end of the day and say, you know,
23 your kids or your significant others come up and say
24 how was your day, and I got out of the jury duty.
25 Well, how did that happen? Well, I lied to the judge.

1 Okay. That is not the kind of message that we want to
2 send to people. We want to sends the message that I
3 was a good citizen. I told the truth. I either got
4 out of jury duty or I'm sitting on a jury. Either way,
5 you -- we want to send a message to those people around
6 us that we're good citizens. Okay? We want everybody
7 around us to be good citizens. Let me suggest you to
8 folks, if you're if you're somewhere where they're
9 having a flag ceremony, and you see the flag coming
10 stand up and put your hands over your heart because we
11 belong to a country that citizenship and honor and duty
12 mean something. When the when the founding fathers
13 wrote the constitution, it starts out the preamble some
14 of you probably know this some of you don't but the
15 preamble of the constitution says we the people it's
16 all about us. We the people of the United States. In
17 order to form a more perfect union, they didn't say in
18 order to form a perfect union it's in order to form a
19 more perfect union because we were tired of the tyranny
20 we were having undergo and go under with the king of
21 England so they said we want to do something to form a
22 more perfect union. What was the first thing they talk
23 about after that. To establish justice. That's what
24 the court system is about is justice. Okay? If
25 somebody feels like somebody did something wrong, then

1 they can bring a lawsuit. If somebody breaks the law,
2 then they get charged. Okay? What the jury system is
3 about, what the court system is about, is justice.
4 Okay. That's the first thing that the most important
5 thing to the founding fathers, so just think about
6 those things as we're sitting here today tell the truth
7 in response to the questions. And, and like I said,
8 hopefully this will be a good experience for you folks
9 whether you sit on the jury or not, but I do appreciate
10 all of your time, and we I know that you folks had to
11 come down and fill out a questionnaire on a separate
12 day and then you had on to come back today and I
13 apologize for the inconvenience that that is, and I
14 know it's an inconvenience, but, but we need folks like
15 you to serve on juries so that justice can be done in
16 our country. Okay. There's juries just like this
17 throughout this building throughout this state and
18 through the our country there's lots of people serving
19 jury duty today, and you're all doing that because
20 you're citizen of the United States, and because we
21 need folks like you to -- to make this process work. .
22 That's enough of my soapbox.

23 Let me tell you about the schedule. As you
24 know, the case is scheduled to go through next
25 Thursday. This week I have a morning calendar where I

1 hear law and motion filed by different lawyers on other
2 case. I do that on Tuesday and Thursday mornings at
3 nine so Tuesdays and Thursdays we will start a little
4 bit later. Some days it may be one, but other days I'm
5 going to try to get you started by 1030 or 11, and give
6 you the longest possible day as we can we will usually
7 ends at 445. Wednesdays and Friday, Monday Wednesday
8 and Friday we'll probably start at nine or 930 we'll
9 take a break for lunch well'll take a another break in
10 the morning another break in the afternoon for ten
11 minutes each orthos breaks and an hour lunch the reason
12 I tell you that is because I know some people have
13 obligation with their kids in the morning they have to
14 pick their kids up in the evenings, you know you may be
15 a diabetics, and you need to eat certain times during
16 the day or you need to have a regular food, I will give
17 you a chance to take breaks if anybody needs a break at
18 any time, and it's not a scheduled break time, just
19 raise your hands tell me you need your break or you can
20 do this. This is kind of the universal symbol for
21 break okay. Randy will see that if I don't see it, and
22 we'll give you a break we're not here to make anybody
23 uncomfortable. But that's our — our case is scheduled
24 to last through next Thursday. I know there was one of
25 you that submitted a letter to me about a trip that was

1 scheduled for next Friday, we're confident that the
2 indication is going to be done so that the Friday trip
3 next week is not going to be an issue. I know that he
4 there are events in some of your lives that will make
5 it difficult for you to serve jury duty. Those of you
6 that have already sent some people sent in letters
7 about trips or stuff they had planned I'm not here to
8 ruin anybody's vacation if you tell me you have a trip
9 planned and you can't provide me with a air plain
10 ticket or show me you have a trip planned I'm probably
11 not going to let you go because I know you're just
12 trying to get out of jury duty. Also, understand that
13 we know that there's people in the community that have
14 financial difficulties especially in this time that our
15 community and our country's going through with the
16 economy.

17 Unfortunately, and you can tell me about your
18 story you can tell me about how this is going to be
19 hard for you to miss work for the next couple weeks and
20 I will listen to you. But I just need to let you know
21 that, financial hardship is no longer really a basis
22 for excusal for -- from jury duty. If it was, the only
23 people we would have here would be retired people and
24 homeless people, and that's a fair cross section of the
25 community to haves a jurors. So I'm happy to listen to

1 how your you're going to miss out on money at work. As
2 long as you understand that's probably not going to get
3 you you excused okay. If I ask a question, and it
4 illicit a response from you like I told you, you need
5 tell me your name and last three digits of your badge
6 number. Some of you will forget, and I will have to
7 interrupt and ask you what that is, but please try to
8 give your name and badge number if you have a response
9 to a question.

10 First question: Is there -- is there anybody
11 that has difficulty understanding the English language?

12 THE COURT: Yes, ma'am. What's your name and
13 badge number?

14 PROSPECTIVE JUROR NO. : Joseane Do-Prado,
15 Badge No. 027.

16 THE COURT: Okay. And what's your -- what's
17 your native language?

18 PROSPECTIVE JUROR NO. : Portuguese.

19 THE COURT: How long have you been in the
20 United States?

21 PROSPECTIVE JUROR NO. : Seven years.

22 THE COURT: Okay. Do you work?

23 PROSPECTIVE JUROR NO. : No.

24 THE COURT: Okay. Do you have a difficult
25 have you had difficulty understanding what I have said

1 so far.

2 PROSPECTIVE JUROR NO. : Yeah, a little

3 bit.

4 THE COURT: Some of it, yes; some of it, no.

5 PROSPECTIVE JUROR NO. : yes, I understand

6 half.

7 THE COURT: Okay. Are there just certain

8 words that you don't understand?

9 PROSPECTIVE JUROR NO. : yes.

10 THE COURT: Okay. You feel like it would be

11 difficult for you to sit through a trial and understand

12 what's going on?

13 PROSPECTIVE JUROR NO. : yes. For trial,

14 yes.

15 THE COURT: Okay.

16 THE COURT: Anybody else over here in the

17 box? I had a hands in the back. What else your name

18 and badge number, ma'am stand up.

19 PROSPECTIVE JUROR NO. : Trophy Mayor,

20 Badge No. 221.

21 THE COURT: 221. What's your native

22 language, ma'am?

23 PROSPECTIVE JUROR NO. : Filipino Tagalog.

24 THE COURT: Tagalog. How long have you been

25 in the United States?

1 PROSPECTIVE JUROR NO. : eight years.
2 THE COURT: Do you work outside the home.
3 PROSPECTIVE JUROR NO. : as of now, I am
4 unemployed.
5 THE COURT: You're unemployed. Have you
6 worked outside the home.
7 PROSPECTIVE JUROR NO. : yes.
8 THE COURT: Where have you worked?
9 PROSPECTIVE JUROR NO. : I work in
10 Japanese company.
11 THE COURT: I can't hear you.
12 PROSPECTIVE JUROR NO. : I work at
13 Japanese company.
14 THE COURT: A Japanese company.
15 PROSPECTIVE JUROR NO. : Yes.
16 THE COURT: Do you speak English there?
17 PROSPECTIVE JUROR NO. : little bit.
18 THE COURT: Okay.
19 THE COURT: Have you had a difficult time
20 understanding what I have said so far today.
21 PROSPECTIVE JUROR NO. : a little bit,
22 yeah.
23 THE COURT: Okay.
24 THE COURT: All right. Thank you, ma'am.
25 It's Trophy Mayor.

1 PROSPECTIVE JUROR NO. : yes.
2 THE COURT: Okay. Thank you.
3 THE COURT: Anybody else? Difficulty
4 understanding English language? If you really have a
5 difficulty you probably wouldn't have understood that
6 question, so. All right. Are any of you acquainted
7 with or recognize any of the attorneys involved in the
8 case? Got a hand back there in the back what's your
9 name and badge number, sir, talk loud.
10 PROSPECTIVE JUROR NO. : cliff Frasier
11 049.
12 THE COURT: 049. Okay. Who do you know?
13 PROSPECTIVE JUROR NO. : Gabe Martinez.
14 THE COURT: You know Gabe Martinez I don't
15 think Gabe Martinez firm was involved in 24.
16 PROSPECTIVE JUROR NO. : I thought it was
17 I'm not trying to get out of it.
18 THE COURT: I know Gabe Martinez he's not
19 involved here.
20 PROSPECTIVE JUROR NO. : I thought I heard
21 his name.
22 THE COURT: Anybody else name and badge
23 number.
24 PROSPECTIVE JUROR NO. : Skye Curbelo
25 badge No. 140.

1 THE COURT: Who do you know.

2 PROSPECTIVE JUROR NO. : the Harris law
3 firm.

4 THE COURT: Okay. Have they represented you
5 in the past.

6 PROSPECTIVE JUROR NO. : no. I used to
7 work for Desert Orthopaedic Center so we had a lot of
8 cases that we dealt with their attorneys on.

9 THE COURT: Okay. I'm not going to ask you
10 if you had bad or good experiences with them do you
11 think that your experiences with them in the past,
12 would fact your ability to be fair and I am partial
13 juror in this case.

14 PROSPECTIVE JUROR NO. : yes.

15 THE COURT: So you think you be a better
16 juror for a different case than this one is that what
17 you're saying.

18 PROSPECTIVE JUROR NO. : I'm sorry I
19 didn't understand what you said.

20 THE COURT: Do you think that it would be
21 make it hard for you to be a fair juror in this case
22 because you had prior dealings with them.

23 PROSPECTIVE JUROR NO. : oh, no, I didn't
24 deal with them personally just we got their cases and I
25 worked with the medical assistant.

1 THE COURT: So you have heard with them, you
2 know, about their firm, but you don't think it would
3 affect your ability to be fair.

4 PROSPECTIVE JUROR NO. : no.

5 THE COURT: Okay. . Anybody else know any
6 of the attorneys? That have been named for you? Don't
7 see any other hands.

8 Are any of you acquainted or recognize any of
9 the names of the witnesses who were identified as
10 people who were going to be testifying during the trial
11 yes, sir name and badge number.

12 PROSPECTIVE JUROR NO. : bar No. 006. I
13 was a patient for Matt Smith I saw that name on the
14 witness list. For his physical therapy.

15 THE COURT: Okay. You were a patient of his.

16 PROSPECTIVE JUROR NO. : yes of his
17 facility.

18 THE COURT: Okay. How long was that.

19 PROSPECTIVE JUROR NO. : last year.

20 THE COURT: Without telling me whether or not
21 it was a good or bad experience do you think that your
22 experience with Matt Smith physical therapy would
23 affect your ability to be fair and impartial during the
24 trial.

25 PROSPECTIVE JUROR NO. : no.

1 THE COURT: It's not going to cause you to
2 give or more or less weight to somebody that testifies
3 from there.

4 PROSPECTIVE JUROR NO. :
5 (Witness shakes head.).

6 THE COURT: Okay anybody else. Yes, ma'am
7 name and badge number.

8 PROSPECTIVE JUROR NO. : Skye Curbelo
9 badge 140. I know Dr. Grover, and Dr. Schifini. Just
10 not personally, but we refer patients to them, and they
11 refer patients to us.

12 THE COURT: Grover and Schifini?

13 PROSPECTIVE JUROR NO. : uh-huh.

14 THE COURT: Do you know either of them
15 personally.

16 PROSPECTIVE JUROR NO. no, not
17 personally.

18 THE COURT: Have you met either of them
19 personally.

20 PROSPECTIVE JUROR NO. : I have met Dr.
21 Grover once at a social function that we were at.

22 THE COURT: The fact that you know of them,
23 is that going to be is that going to effect your
24 ability to be fair and I am partial.

25 PROSPECTIVE JUROR NO. : it will not.

1 THE COURT: Okay. Thank you, ma'am. Anybody
2 else know any of the witnesses? I don't see any other
3 names or any other handses. If.

4 MR. CLOWARD: Your Honor there was one -- one
5 doctor I do recall we for got to mention Dr. Jeffrey
6 gross. He will also be another one that I just
7 remembered.

8 THE COURT: Okay. With addition any other
9 hands anybody know Dr. Jeffrey gross? I don't see any
10 other hands. Okay. Thanks folks if I don't see your
11 hand please tell me, say you didn't see my hand Judge,
12 but I was waiving a hand okay? Don't let me ignore
13 you.

14 Are any of you acquainted or recognize any of
15 the parties in the case? Either of the parties? Yes,
16 sir name and badge number.

17 PROSPECTIVE JUROR NO. : Richard moles
18 022, .

19 THE COURT: And who do you recognize.

20 PROSPECTIVE JUROR NO. : Mr. Khoury and
21 myself worked for sister engineering companies about
22 ten years ago.

23 THE COURT: So you know him personally.

24 PROSPECTIVE JUROR NO. : I do.

25 THE COURT: I think that would affect your

1 ability to be fair and impartial juror in this case.

2 PROSPECTIVE JUROR NO. : I don't.

3 THE COURT: Really? All right. Okay. Thank
4 you, sir.

5 PROSPECTIVE JUROR NO. : sure.

6 THE COURT: Did you you said you worked for
7 sister companies.

8 PROSPECTIVE JUROR NO. : right structure
9 he worked for structural company I am a civil engineer.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. : at times in the
12 same building a often we were in separate buildings.

13 THE COURT: All right. Thanks. Anybody else
14 recognize or know either of the parties? Don't see any
15 other hands. Are any of you in any way obligated to
16 any of the parties or any of the lawyers in the case?
17 You owe them anything? I don't see any hands. Are any
18 of them obligated in any way to you? Don't see any
19 hands. Do any of, you know, any other member of the
20 jury panel sometimes question of juries come in and
21 question of jurors that know each other. Any of, you
22 know, each other? I don't see any hands. Do any of
23 you know either myself or any other member of our Court
24 staff? I know Mr. Bulosan does. He's former client of
25 mine. Is that going to effect your ability to be fair

1 and impartial in the trial.

2 PROSPECTIVE JUROR NO. : no.

3 THE BAILIFF: We need a break Judge .

4 THE COURT: We need a break.

5 THE COURT: We need to take a break if
6 somebody is going to leave we got to all leave. Give
7 me one second. Anybody else other -- other than
8 Mr. Bulosan know either myself or any other member of
9 the Court staff? I don't see any other hands. All
10 right. Let's go ahead and take a break for a second.
11 Before we break, just so you guys know, I have to read
12 this admonition to you everybody time we take a break.
13 Basically the admonition says you can't talk to anybody
14 about the case, but listen to it carefully I will read
15 it slowly the first time as we go through the trial it
16 will get faster and faster because you will get tired
17 of hearing it by the need to make sure you understand
18 the importance of it you are.

19 You're instructed not to talk with each other
20 or with anyone else, about any subject or issue
21 connected with this trial. You are not to read, watch,
22 or listen to any report of or commentary on the trial
23 by any person connected with this case or by any medium
24 of information, including, without limitation,
25 newspapers, television, the Internet, or radio. You

1 are not to conduct any research on your own, which
2 means you cannot talk with others, Tweet others, text
3 others, Google issues, or conduct any other kind of
4 book or computer research with regard to any issue,
5 party, witness, or attorney, involved in this case.
6 You're not to form or express any opinion on any
7 subject connected with this trial until the case is
8 finally submitted to you.

9 Go ahead and take a break come back in about
10 ten minutes.

11 THE BAILIFF: All rise.

12 THE COURT: You folks in the box remember
13 where you're sitting because I need you to sit in the
14 same place.

15 (Whereupon jury exited the courtroom.)

16 THE COURT: All right. We're outside the
17 presence of the jury. I have a concern about Mr. Moles
18 who previously worked with the defendant. He says that
19 he can be fair and impartial, but I usually find if
20 somebody knows or knows one of the parties, personally
21 that's that's usually a problem. You guys have a
22 problem excusing him?

23 MR. JAFFE: I think just being hyper
24 technical here Judge I'm joking I'm joking.

25 THE COURT: What about the ones.

1 MR. CLOWARD: So Your Honor, are you going to
2 excuse Mr. Moles then.

3 THE COURT: I think I have to. Okay. I
4 think I'm going to excuse Mr. Moles, and then I also
5 had two people that said they had difficult time
6 understanding the English language.

7 MR. JAFFE: I think we have to let them both
8 go, Your Honor.

9 THE COURT: I don't know where I wrote it
10 down on the first one who was the first lady there was
11 somebody over here.

12 MR. JAFFE: No. 18 Mrs. Do-Prado.

13 MR. CLOWARD: We would agree with that judge.

14 THE COURT: Okay. Do-Prado is badge No. 27,
15 right? She is sitting in seat No. 18 and then also,
16 badge No. 221, trophy mayor, you okay letting both of
17 them go.

18 MR. CLOWARD: Yes, Your Honor.

19 MR. JAFFE: No problem, Your Honor.

20 THE COURT: So I will excuse them when we
21 come back. All right. Let's go ahead and go off the
22 record, come back in a few minutes.

23 (Whereupon a short recess was taken.)

24 THE BAILIFF: All rise.

25 (Whereupon jury the courtroom.)

1 THE COURT: Go ahead and be seated. Welcome
2 back, folks. Back on the record in Case No. 636515.
3 Before we get going, we're going to thank and excuse a
4 couple of you. Richard moles, badge No. 022, we're
5 going to thank and excuse you. Badge 027, Joseane
6 Do-Prado. Thank and excuse you. You guys can go back
7 down to the third floor let them know you've been
8 excused by Department 30. Also, trophy mayor badge
9 221. Thank you, ma'am. .

10 All right. So I have got two seats.

11 THE CLERK: Dominika Procek, please take seat
12 No. 14 and Clifford Frasier please take seat No. 18.

13 PROSPECTIVE JUROR NO. : that way or back.

14 THE COURT: You're in the middle row right
15 there.

16 THE COURT: Okay. See I told you folks in
17 the back don't get too comfortable see people keep
18 coming up it's going to keep happening during the day
19 so keep paying attention. All right. Ladies and
20 gentlemen, understanding that this this case is going
21 to last probably threw next Thursday, based on the
22 schedule that I gave you as far as when we'll start and
23 stop each day, is there anybody who feels that serving
24 for that period of time would present a physical or
25 medical hardship? Physical or medical hardship.

1 Because of some physical or medical condition you have.

2 PROSPECTIVE JUROR NO. : not me but my
3 wife she has CO P.D.

4 THE COURT: El tell tell me your name and
5 badge number.

6 PROSPECTIVE JUROR NO. : Mark Runz, 001.
7 She has COPD and we spoke the smoke from the northwest
8 has been bothering her quite a bit.

9 THE COURT: Do you stay home with her most
10 the time.

11 PROSPECTIVE JUROR NO. : if I'm not at
12 work.

13 THE COURT: Is she going to be able to get
14 along without you.

15 PROSPECTIVE JUROR NO. : yeah she's going
16 to the doctors right now as we speak. Yeah.

17 THE COURT: Okay. Tell me tell me how
18 serving on jury is going to make it difficult for her.

19 PROSPECTIVE JUROR NO. : well in case she
20 has to go to the hospital or something like that she's
21 been in and out of the 4079s for the last three months
22 you know.

23 THE COURT: Hopefully that smoke.

24 PROSPECTIVE JUROR NO. : it was really
25 bad.

1 THE COURT: Is going away.

2 PROSPECTIVE JUROR NO. : yeah it's got
3 better yeah anybody else physical or medical hardship?
4 Mr. Bulosan.

5 PROSPECTIVE JUROR NO. : I have sometimes
6 I have to go to the restroom. I can't stand and
7 sitting down certain time period of time.

8 THE COURT: You ever need a break just tell
9 us you need a break we'll give you a break happy to
10 accommodate you there. Everybody else probably be
11 happy to take a break too when whenever that happens,
12 so. Anybody else? I don't see any other hands.

13 Is there anybody else that feels for some
14 other reason serving on a jury would present them with
15 a severe or undue hardship? Any other reason that --

16 PROSPECTIVE JUROR NO. , sir.

17 THE COURT: That's it's going to be a
18 hardship for you. Tell me your name and badge number.

19 PROSPECTIVE JUROR NO. : My name is Ann
20 Boone, Badge 106. I don't know how severe, but I just
21 want to throw it out there. I didn't put anything.
22 I'm the sole caregiver a three 1/2 year old and
23 six-year-old. The three year and a half has social
24 anxiety so we can't have anybody else care for her
25 other than a grand parent or my husband and he has a

1 subpoena. He works for Metro he has a subpoena for
2 tomorrow we don't know if it's going or not until
3 tonight so he won't be able to possibly care for her
4 tomorrow then he works Wednesday Thursday and Friday,
5 afternoons, and I am having difficulties finding
6 someone else to take care for her,.

7 THE COURT: Grandparents aren't in town?

8 PROSPECTIVE JUROR NO. : we do have grand
9 parents. They work as well. If I were to serve, and I
10 totally appreciate, you know, my civic duty if I were
11 to have to serve, I would be asking other people to try
12 to takeoff of work so I don't know how that works. I
13 just feel like I need to say that.

14 THE COURT: All right. Thank you, ma'am.

15 PROSPECTIVE JUROR NO. : thank you so
16 much.

17 THE COURT: Anybody else? yes, sir. Name and
18 badge joins.

19 PROSPECTIVE JUROR NO. : Paul Jeung, 0009.
20 My wife just had our first child. She's two months old
21 now she's going back to I work over night she works
22 during the day so it would be difficult to imagine that
23 time wise as far as someone being home with the baby
24 during the day.

25 THE COURT: You work during the day.

1 PROSPECTIVE JUROR NO. : I work at night
2 and she works during the day.

3 THE COURT: So there's nobody home during the
4 day to take care of the two month old.

5 PROSPECTIVE JUROR NO. : it's supposed to
6 be me during the day we switch off.

7 THE COURT: Anybody else. Have you day care
8 or anything.

9 PROSPECTIVE JUROR NO. : we have day care
10 set up for a couple of days, but would be every day
11 because she works weekdays and has weekend off, so it's
12 kind of difficult we have it set for about two days a
13 week when she goes back she goes back this Monday.

14 THE COURT: Okay. Thank you anybody else?
15 yes, sir.

16 PROSPECTIVE JUROR NO. : Barton Unger, 006
17 I'm the person that submitted the letter being out of
18 the country on the 15th and I was just concerned if it
19 drags any.

20 THE COURT: On the 26th.

21 PROSPECTIVE JUROR NO. : the 26th,
22 correct. I'm sorry the 26th. That it might interfere
23 with the paid trip so I just wanted to clarify that.

24 THE COURT: Put it this way I will let you
25 leave if the case goes too long I'm going to let you

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAYMOND RIAD KHOURY,

Appellant,

vs.

MARGARET SEASTRAND,

Respondent.

Supreme Court Case No. 64702

Supreme Court Case No. 65007
Electronically Filed
Nov 13 2014 08:26 a.m.

Supreme Court Case No. 65172
Tracie K. Lindeman
Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Clark County

The HONORABLE JERRY WEISE, District Court Judge

District Court Case No. A-11-636515-C

APPELLANT'S APPENDIX

VOLUME XXI

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VOLUME XXI

Exhibit 49 Exhibit “K” to Defendant’s Motion For New JA 3882-4121
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