

No. 71348

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

EMILIA GARCIA,
Appellant,

v.

ANDREA AWERBACH,
Respondent.

**APPELLANT'S APPENDIX
VOLUME IX, BATES NUMBERS 2001 TO 2250**

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1 strike in that instance.

2 When it happens the second time, he's on
3 notice that this is unacceptable. We've had many
4 motions in limine on this. The Court has essentially
5 given a gift to them because the ruling now has allowed
6 them to bring into evidence some of the things that
7 initially, probably, were going to be kept out. But
8 when he goes beyond like that, there's no purpose for
9 it other than to attempt to poison this jury against
10 our client. And we believe that's grounds for
11 mistrial, because now, in the jury's mind, there is the
12 implication that he has some sort -- he is some sort of
13 drug addict. That's never going to come into evidence,
14 and we believe it does nothing but inflame the jury,
15 and it's going to tend to increase the compensatory
16 award. Therefore, we believe a mistrial is
17 appropriate.

18 Submitted.

19 THE COURT: You guys want to say anything?

20 MR. ROBERTS: Yes, Your Honor. I thought the
21 Court had denied their two separate motions to prevent
22 me from saying "marijuana" instead of "marijuana
23 metabolites." Their argument was marijuana is a code
24 word for THC, one of the active ingredients in
25 marijuana. But the statute that I'm trying to get

1 punitive damages under refers to consuming marijuana.
2 So there are two separate things I have to prove, that
3 he consumed marijuana and that as a result of that
4 consumption, his blood contained marijuana metabolites
5 in excess of the legal limits. Those are the two
6 things I have to prove, and I thought I could talk
7 about both those things.

8 And -- and I don't believe there's certainly
9 no intention, and I don't believe I did violate the
10 Court order in the first instance. However, with
11 regard -- I did clarify that, without objection, so the
12 jury knows what the correct statement is that I was
13 trying to communicate.

14 The second one, can you be fair to someone
15 under the influence of marijuana and drugs, I was
16 actually -- I didn't realize I'd even said it, but I
17 understood why I said it when I got back to my desk
18 over here in front of the jury, because when I said
19 that, I was staring at the question that the defendants
20 wrote in the questionnaire which says, Can you be fair
21 to someone driving under the influence of marijuana
22 metabolite or drugs? So I was staring at it. And
23 that's why I said it. They're the ones who injected
24 "or drugs" into the voir dire by putting that in the
25 questionnaire with the -- with the approval of the

1 Court.

2 So I don't see the prejudice. There was no
3 intent to harm. We're aware of the Court order as far
4 as other drugs. I don't know that they won't open the
5 door to other drugs at some point. If he says what he
6 did in the deposition is, I wasn't high. I just told
7 the officer that so he wouldn't arrest me and find my
8 marijuana. And when they were -- when he was
9 discussing his drug use, he said, Well, during that
10 period of time, I was doing other drugs instead of
11 marijuana. That's why I wasn't doing marijuana. And
12 then he talks about the other drugs he was doing in
13 that time period instead of marijuana.

14 So we -- we know he does other drugs. He's
15 admitted that openly. To the extent his mother knew
16 about that, that's part of recklessly endangering
17 society. It's not just the marijuana use.

18 But we understand the Court's ruling. And
19 we're willing to wait. We won't interject it without
20 talking to the Court if they open the door. But I
21 certainly don't think there's been any prejudice
22 created by any statement or misstatement I may have
23 made given the fact that the defendants are the ones in
24 their questionnaire who interjected whether the jury
25 could be fair to someone under the influence of

1 marijuana or drugs.

2 THE COURT: Okay.

3 MR. TINDALL: Briefly, Your Honor.

4 Mr. Roberts' excuse yesterday did not have anything to
5 do with the questionnaire. It was first, I didn't say
6 that. And then secondly it was, Well, there's going to
7 be evidence that he did other drugs based on his
8 deposition testimony.

9 So the issue with the questionnaire is -- is
10 a red herring. It's an after-the-fact attempt to
11 smooth over what has poisoned the jury.

12 Submitted.

13 THE COURT: All right.

14 MR. ROBERTS: Your Honor, and I apologize. I
15 just want to correct something since we were off the
16 record. I -- and as I said, I did -- didn't think I'd
17 said it, and I didn't realize till I got back that I
18 was staring at those words.

19 But the argument initially made is there's no
20 evidence he was taking any other drugs. And that's
21 when I responded and said, Oh, yes, there is evidence
22 of that. It's in the record. He admitted it. But
23 that wasn't my excuse. I wasn't interjecting drugs
24 because I was going to argue he was taking other drugs.

25 That's all, Your Honor.

1 THE COURT: There was a request for mistrial
2 yesterday. It was denied yesterday. It's denied
3 today. I don't think that there's any error that rises
4 to that level.

5 MR. STRASSBURG: Judge, one other quick
6 matter. I'm actually going to say something
7 commendable about Mr. Roberts before I criticize him,
8 and -- and he -- he provided us with a copy -- excuse
9 me. It was a hectic morning -- with a sheet that
10 had -- that identified for us the depositions that he
11 plans to utilize in -- in opening, which was very
12 commendable. We appreciate that. We reciprocated it
13 in kind. So I just wanted to give credit where credit
14 is due to let you know the parties are working
15 appropriately together --

16 THE COURT: I appreciate that.

17 MR. STRASSBURG: -- before I tell you what I
18 think he did wrong.

19 And what that is, is in the snippets that
20 he's going to use -- I don't know if they're on
21 videotape or what they're doing, but they include the
22 objections that were made in the deposition. Every
23 jurisdiction in the country makes them edit out the
24 objection before you can play the video.

25 The reason is the objections aren't evidence.

1 We have already established a very enlightened
2 procedure of -- of having these kind of legal issues
3 dealt with under the white noise cloak. I think that's
4 very progressive, very enlightened. I just think it
5 ought to carry over into what he's going to play to the
6 jury on videotape. It's a simple matter to edit that
7 stuff out. You know, it was done two years ago when
8 different legal issues were to the fore. It's
9 prejudicial. We'll take out anything of theirs that
10 they objected to. We get it. We're willing to be fair
11 in that regard, of course. But we would ask that that
12 order -- that that be clarified too.

13 Thank you, Judge.

14 MR. ROBERTS: I would be happy to take out
15 the objections, Your Honor. We can edit those out. No
16 problem.

17 MR. MAZZEO: Well, to the extent that
18 objections were made at the time of the deposition,
19 then we didn't waive our right to have certain answers
20 stricken or excluded at the time of trial. So I think
21 it's -- the onus is on the plaintiff to seek a ruling
22 from the Court as to whether the testimony they seek to
23 elicit and to play during opening statement which was
24 objected to at the time of the deposition should
25 actually be played in the first instance since we -- if

1 our objection was registered, we didn't waive our right
2 to it. So that may pose an issue for them to play it
3 during opening statement.

4 THE COURT: I think that's something we
5 should have taken care of at the calendar call.
6 Usually, if you're going to use depositions and there's
7 issues about what's going to come in, what's not,
8 that's something that needs to be addressed before we
9 start trial.

10 MR. MAZZEO: We have no objection to the
11 plaintiff not using the testimony during their opening
12 statement and then us working it out for their -- for
13 the use during their case in chief.

14 MR. STRASSBURG: Well, Judge, I got an
15 objection, because it reflects badly on my guy. So
16 yeah, I join with Mr. Mazzeo with that proviso.

17 THE COURT: Well, here's the thing, guys: If
18 there's objections to questions, then objections have
19 to be ruled on before you can use the questions; right?

20 MR. ROBERTS: I don't think so, Your Honor.
21 I think it's their burden to -- to -- to ask the Court
22 to rule and to strike it. Right now, I can -- I can
23 use the deposition of a party for any purpose. And
24 there's no presumption that their -- that their
25 objection was proper. That presumption doesn't exist.

1 If I want to introduce evidence, they have to object,
2 and then the Court rules on the objections.

3 So if they want to make an objection before I
4 play it, that's fine. But I'm not introducing
5 evidence. I'm telling the jury what I think is going
6 to come into evidence. And it may or may not. They
7 may get an objection sustained. But if they want to
8 raise an objection before I open or during my opening,
9 I think they're entitled to do that.

10 MR. MAZZEO: Well, he's not telling you
11 what -- I'm sorry.

12 MR. ROBERTS: And -- and I left the
13 objections in there for the very purpose they wouldn't
14 think I was hiding the fact that they'd make an
15 objection. I wanted them to see the objection they
16 made so it wasn't hidden in a redacted transcript of
17 page/line designations, so ...

18 THE COURT: You better give me the page/line
19 designations and the objections so I can rule on them
20 before the openings happen.

21 MR. MAZZEO: Thank you, Judge.

22 MR. ROBERTS: Okay.

23 THE COURT: I would suggest in the future
24 that this happens at least a day before you plan to
25 play something, or you don't get to play it at all.

1 Both sides.

2 MR. ROBERTS: We -- we agreed to 48 hour
3 exchange --

4 THE COURT: That's great.

5 MR. ROBERTS: -- so I sent them over Monday
6 night.

7 THE COURT: That's great. But you didn't get
8 them to me 48 hours --

9 MR. ROBERTS: No, I did not.

10 THE COURT: -- so now you're going to tell me
11 that I need to spend my lunch hour going through your
12 page/line designations to decide whether or not I'm
13 going to sustain or overrule objections; right?

14 MR. ROBERTS: I was hoping that you would use
15 your lunch hour to read the trial brief we filed this
16 morning so we can discuss that after lunch, Your Honor.

17 MR. TINDALL: Your Honor, if it would be
18 helpful, we have the snippets broken out. We can
19 e-mail you that and other counsel as well for Jared
20 Awerbach.

21 THE COURT: On the --

22 MR. TINDALL: On -- on what they want to
23 play, and then we can -- you'll be able to see without
24 having to, you know, pull up the transcripts themselves
25 or whatever, what they're talking about.

1 MR. ROBERTS: What --

2 THE COURT: I don't care how you get it to
3 me, just somebody get it to me somehow.

4 MR. ROBERTS: What we got that we normally
5 prepare for the Court is we've got the excerpts from
6 the transcript, and the portions that we've designated
7 are highlighted in yellow.

8 THE COURT: Great.

9 MR. ROBERTS: May I approach?

10 THE COURT: Yep. Thanks.

11 MR. ROBERTS: Thank you.

12 THE COURT: I'll try look at them later.
13 Anything else before we get started?

14 MR. ROBERTS: One other quick thing, Your
15 Honor, and I know we got two separate defense teams
16 over here. But I was asked for assurances that I
17 wouldn't communicate to the juror -- jury in voir dire
18 that my client was not going to be here the whole time
19 and represent because it was a physical condition. And
20 I said, I won't do that. And I passed the panel, and I
21 sit down, and the first thing Mr. Mazzeo does is tell
22 the jury that his client's not going to be here the
23 whole time and give an excuse for her physical
24 condition and testify as to why she won't be here.

25 And I would like the Court, since I'm done

1 with voir dire, to cure that by asking the jury this
2 morning, You were asked about one of the parties not
3 being here, you know, is anyone going to hold it
4 against the plaintiff if she's not here the whole
5 trial? I think I'm entitled to cure that since I was
6 asked for a representation I -- I wouldn't do
7 something. I don't do it and then they get up and do
8 it. And the trial briefs also say, stay --

9 Never mind, Your Honor. That's the only
10 thing I had.

11 MR. MAZZEO: Actually --

12 MR. ROBERTS: I just think there's a little
13 goose-gander issue going on here.

14 MR. MAZZEO: Actually, Your Honor --

15 MR. STRASSBURG: Not me.

16 MR. MAZZEO: Roger, please.

17 Actually, Your Honor, what I asked for was
18 that plaintiff doesn't tell the jury that -- or
19 plaintiff's counsel doesn't tell the jury that his
20 client is out getting a procedure, coordinating that
21 with jury selection or opening statement. Obviously,
22 with my client they can see her condition. They can
23 see the way she ambulates in and out. So that's
24 obvious. That's visible. And so -- and same with
25 plaintiff coming into and out of the courtroom. I'm

1 not talking about her going to get a procedure on any
2 particular day.

3 So I was very specific with my request that I
4 was asking the Court to caution or restrict the
5 plaintiff's counsel from -- from advising the jury that
6 she won't be here because she's getting treatment on
7 a -- with a certain provider related to this case.
8 That was really my request.

9 MR. STRASSBURG: Um, Judge, as long as we're
10 talking about people not being here, I have a -- in
11 another case, there's a -- a settlement conference,
12 mandatory settlement conference that just has to be set
13 on the 22nd of this month. It's a commercial case,
14 bunch of other lawyers. I'm kind of like one voice out
15 of about 12, but I got a policy, so I need to be there.
16 And Mr. Tindall can take it for me, so I would just ask
17 that if I can't get another lawyer to do it, that I may
18 be excused on that day. And there may be lawyers that
19 have a similar -- that they just can't -- we can't fix.
20 So I --

21 THE COURT: That's okay.

22 MR. STRASSBURG: -- just alert you to that.

23 THE COURT: How about I just ask the jury
24 that if they're going to have a problem with the fact
25 that maybe the parties won't be here during the whole

1 time, maybe some of the attorneys may have to leave,
2 and make sure that nobody's going to hold that against
3 anybody.

4 MR. MAZZEO: That's fine, Judge.

5 THE COURT: Okay if I ask the question?

6 MR. MAZZEO: Yeah, that's fine.

7 MR. ROBERTS: That would be great, Your
8 Honor. Thank you.

9 THE COURT: All right. We got them all out
10 there?

11 THE MARSHAL: Yes, sir.

12 THE COURT: Let's bring them back.

13 THE MARSHAL: Jury entering.

14 (The following proceedings were held in
15 the presence of the jury.)

16 THE MARSHAL: Jury is present, Judge.

17 THE COURT: Thank you. Go ahead and be
18 seated. Good morning, ladies and gentlemen. Sorry for
19 the delay this morning. Welcome back.

20 You were asked, I believe, yesterday, about
21 the fact that Ms. Awerbach may not be here all the time
22 during the trial, there may be days and times that
23 she's not going to be able to be here, you were going
24 to hold that against her. I just want to make sure,
25 there may be times that the plaintiff's not here also.

1 There may be times that some of these attorneys may
2 have to leave and do other things and may have other
3 people filling in for them, things like that.

4 Is anybody going to hold that against either
5 side, either attorney or either party? Is that going
6 to affect somebody's ability to be fair and impartial
7 and listen to the evidence? Just raise your hand if
8 that's going to be an issue for you.

9 No hands. All right. Thank you.

10 All right. Mr. Mazzeo, you can go ahead and
11 proceed.

12 MR. MAZZEO: Thank you, Judge.

13

14 VOIR DIRE EXAMINATION

15 MR. MAZZEO: Good morning, everyone.

16 IN UNISON: Good morning.

17 MR. MAZZEO: So, as you know, we left off
18 yesterday with -- I was in the -- the first section of
19 my questioning about your jobs so that we can learn
20 more about you, so we're going to continue with that
21 today. And we're going to go in the order -- as you
22 know, the way the seatings go, in the back, the top
23 row, it goes from right to left 1 through 8, 9 in the
24 second row, 9 through 16, and then 17 through 20. So
25 we're going to go in that direction.

1 Good morning, Ms. Abeles.

2 PROSPECTIVE JUROR NO. 043: Abeles.

3 MR. MAZZEO: Abeles.

4 PROSPECTIVE JUROR NO. 043: Abeles is fine.

5 MR. MAZZEO: That's going to happen. I
6 apologize in advance.

7 So, Ms. Abeles -- sorry. Say it again.

8 PROSPECTIVE JUROR NO. 043: You call me
9 Melissa if that works.

10 MR. MAZZEO: No. I don't want to call you
11 by --

12 PROSPECTIVE JUROR NO. 043: Abeles.

13 MR. MAZZEO: Abeles. Okay. All right.

14 You are a special ed teacher for student
15 support services in the CCSD.

16 PROSPECTIVE JUROR NO. 043: Okay. I kind of
17 sort of. I do general ed and special ed for the school
18 district. I work -- I'm No. 043. I'm sorry. I work
19 for the homebound department which just means there is
20 a doctor's signature for whatever mental or health
21 reasons for a period after two weeks of not being on a
22 comprehensive campus, so at a school site. A billion
23 things could be the reason for that.

24 I work one-on-one with students as prescribed
25 by Nevada Revised Statutes as per agreements with the

1 school district. I'm given a caseload of students. I
2 can go to libraries, homes, nursing homes, facilities,
3 hospitals, wherever in the county and -- so I teach
4 general ed and special ed. I will tell you politically
5 correct, I teach common core curriculum. Whatever. I
6 can teach any subject with any modifications and
7 accommodations except for I don't do phys ed and
8 foreign languages. Anything else, I can do and do do.

9 And -- and when you were asking people
10 yesterday what do you like or dislike, I love having
11 the ability where it keeps me going instead of feeling
12 stale. In a -- one day, I could be anywhere in the
13 county, in a couple of places. So I get to drive. I
14 get to experience different families. It's a different
15 situation than in a big group setting. I feel like I
16 could do more and give more, and I could be teaching
17 calculus one hour, and I could be working with someone,
18 you know, healing from, you know, whatever. I love my
19 position. I have a great support network at work,
20 great supervisor.

21 What I don't like about it, so I do
22 backward -- the background paperwork. Like, if you're
23 thinking of a teacher, lesson plans and prepping --

24 MR. MAZZEO: One of your dislikes?

25 PROSPECTIVE JUROR NO. 043: -- I'm doing --

1 yeah, dislike. I'm doing that of five to seven
2 full-time teachers, so --

3 MR. MAZZEO: Wow.

4 PROSPECTIVE JUROR NO. 043: -- and that's on
5 me.

6 MR. MAZZEO: Is that one of your dislikes
7 that you might have? That's time consuming?

8 PROSPECTIVE JUROR NO. 043: Yeah. So that's
9 pretty much getting up at 3:30, 4:30 in the morning and
10 making sure I'm on my game so I can try to give the
11 best I can to others.

12 MR. MAZZEO: So you have a pretty long day
13 from when you start until --

14 PROSPECTIVE JUROR NO. 043: Okay. I'm not a
15 good sleeper, and I wasn't from being a child so being
16 busy, it's good for me.

17 MR. MAZZEO: Good. All right. And by the
18 way, I don't know if you know, my client also worked
19 for special ed in the homebound department. I know
20 that when we said her name, there was no familiarity.

21 PROSPECTIVE JUROR NO. 043: Not at all.

22 MR. MAZZEO: And Clark County School
23 District, it's the fifth largest in the country.

24 PROSPECTIVE JUROR NO. 043: Huge.

25 MR. MAZZEO: How big is the homebound

1 department?

2 PROSPECTIVE JUROR NO. 043: That's good. So,
3 okay, we have probably 11 full-time teachers, and then
4 a bajillion, I don't know how many, 50 or 100 people
5 that do it on the side for overtime or separate work.
6 I only see five to six students during my full-time
7 week on a regular schedule. My schedule can change
8 daily, weekly, monthly, or every couple of years, just
9 depends.

10 MR. MAZZEO: Sure.

11 PROSPECTIVE JUROR NO. 043: I've only been in
12 the department, probably going on my 11th year now, and
13 I've been with the same people that time.

14 MR. MAZZEO: Great. And what about hobbies
15 outside of work?

16 PROSPECTIVE JUROR NO. 043: Okay. That's so
17 funny. So having last night to think about it, I love
18 cooking. So I do cooking on the outside, and I do some
19 of my volunteer work. I actually love cooking and
20 doing that for other people because I get to enjoy it
21 and other people get to enjoy it and it's all good.

22 My number one thing in life right now and has
23 been for about 15 years, my son's 14. My love in life
24 is being a mom and very humbled by it and very blessed
25 that I can experience and do with him and be and help

1 him grow and his friends and everything else. So I am
2 the mom that learned how to play LEGOs. I am learning
3 lacrosse. I'm learning how to run right now. And if
4 it's just me that I actually have some spare time, I
5 like seeing shows and going to concerts and shows, and
6 I am a closet buffet lover, so ...

7 MR. MAZZEO: Okay. All right. Great. Thank
8 you. I appreciate it.

9 Ms. Perreida.

10 PROSPECTIVE JUROR NO. 130: Yes.

11 MR. MAZZEO: Hi. Good morning.

12 PROSPECTIVE JUROR NO. 130: Number 130. I'm
13 a pharmacy tech right now and working for about one
14 year. And my job had to do get the prescription and
15 filling, answer phone, and make sure we get the right
16 product to the customer. And my job is going to be
17 hard. We cannot talk about the patient. We have to
18 keep information in privacy.

19 MR. MAZZEO: You can't talk about the -- oh,
20 the patient?

21 PROSPECTIVE JUROR NO. 130: Yeah, about the
22 detail.

23 MR. MAZZEO: The details of it. Sure.

24 So what -- do you find other things to talk
25 about because of the confidentiality concerning the

1 subject matter of your work?

2 PROSPECTIVE JUROR NO. 130: Yeah.

3 MR. MAZZEO: Okay.

4 PROSPECTIVE JUROR NO. 130: So it's hard to.

5 MR. MAZZEO: How many others do you work
6 with, by the way?

7 PROSPECTIVE JUROR NO. 130: Right now, they
8 call part time, but it's -- my hour is like a full time
9 even, 32 to 40 hours a week.

10 MR. MAZZEO: Okay. What are some of your
11 likes and dislikes about your job?

12 PROSPECTIVE JUROR NO. 130: I like about this
13 job so I can learn more about how to help people and
14 can learn about medicine, you know what -- but right
15 now, I'm still learning. I don't know much yet. So I
16 cannot say much, but I like to learn, so ...

17 MR. MAZZEO: You like to?

18 PROSPECTIVE JUROR NO. 130: I like to learn.

19 MR. MAZZEO: Learn?

20 PROSPECTIVE JUROR NO. 130: Yeah.

21 MR. MAZZEO: Learn more on the job?

22 PROSPECTIVE JUROR NO. 130: But the thing I
23 dislike about this job is about when the people
24 complain, Why you cannot get this, get that for me.
25 And because we have to call insurance, have to call

1 doctor to get the right thing for you, you know. It's
2 complicated.

3 MR. MAZZEO: And -- and the customers don't
4 always understand that --

5 PROSPECTIVE JUROR NO. 130: Right.

6 MR. MAZZEO: -- that you have some challenges
7 on your end.

8 PROSPECTIVE JUROR NO. 130: Every time it
9 will be like, Why you don't call it, or something like
10 that.

11 MR. MAZZEO: Sure. And what about any
12 hobbies outside of work?

13 PROSPECTIVE JUROR NO. 130: I love to watch
14 movie. And my -- right now, I have two daughters, so I
15 have to find some activity to get them creative. So
16 maybe make craft at home and ride bicycles, swimming.

17 MR. MAZZEO: Okay. Fun stuff. Okay.

18 Also, Ms. Perreida, you -- we know that you
19 had mentioned about English is your second language;
20 right?

21 PROSPECTIVE JUROR NO. 130: Yes.

22 MR. MAZZEO: Has there been any difficulty in
23 understanding any of the questions by plaintiff's
24 counsel, Mr. Roberts, or by the judge?

25 PROSPECTIVE JUROR NO. 130: If there are some

1 technical word, I may not know the meaning well.

2 MR. MAZZEO: Yeah. And one of the sections
3 I'm going to get to, but I'll ask about that now.
4 This -- this case will involve a number of medical
5 terms, medical procedures.

6 And so do you think that you might have any
7 difficulty understanding when witnesses take the stand,
8 doctors or experts, they might --

9 PROSPECTIVE JUROR NO. 130: Some word might.

10 MR. MAZZEO: Yeah, that they will be
11 testifying and referencing medical terms and -- and --

12 PROSPECTIVE JUROR NO. 130: Yeah, that's why
13 I say I'm still learning.

14 MR. MAZZEO: You're still learning, sure.

15 But in this case, do you think that you would
16 have some difficulty -- from what you're suggesting,
17 you might have some difficulty in following what the
18 witnesses say from the witness stand when they testify
19 to medical issues, medical conditions, medical
20 procedures, or even accident reconstructionists
21 testifying to technical terms? Do you think that might
22 be a challenge for you?

23 PROSPECTIVE JUROR NO. 130: Yeah.

24 MR. MAZZEO: Okay.

25 PROSPECTIVE JUROR NO. 130: It might be a

1 little bit difficult.

2 MR. MAZZEO: And so there's -- in the Clark
3 County court system, there's a number of -- there's
4 many different cases. This one is a little technical
5 with medicine and with biomechanics and accident
6 reconstruction.

7 And do you think that a different type of
8 case might be better for you to sit on where it might
9 be easier to -- because we want all -- anyone that's
10 picked, we want them to contribute. We don't want you
11 to just sit back and let the seven others make the
12 decision. We value each and every person's opinion in
13 the deliberation. And that's very important that --
14 that all eight jurors deliberate and discuss it amongst
15 themselves.

16 But if you think that if you didn't follow
17 the -- the testimony of certain witnesses and you don't
18 think that you might be able to contribute, then it's
19 not eight making a decision, then it's seven. Do you
20 understand?

21 PROSPECTIVE JUROR NO. 130: (Nods head.)

22 MR. MAZZEO: So do you think that a different
23 type of case might be better for you to sit on than
24 this case?

25 PROSPECTIVE JUROR NO. 130: I think so.

1 MR. MAZZEO: Okay. Appreciate it.

2 Mr. Evans, good morning.

3 PROSPECTIVE JUROR NO. 053: Good morning.

4 MR. MAZZEO: Mr. Evans, I know you told us
5 that you were a food runner for the Orleans?

6 PROSPECTIVE JUROR NO. 053: Yes.

7 MR. MAZZEO: Okay. Tell us about your job.
8 What are some of -- what's your day like?

9 PROSPECTIVE JUROR NO. 053: Well, I -- I put
10 away the order that the chef ordered. And I get
11 various foods from different kitchens, and I
12 basically -- I make sure everything is in good
13 condition when it's received and stock the entire
14 kitchen, put it away.

15 MR. MAZZEO: Now, as a runner, are you --
16 you're -- you're delivering food from the various
17 kitchens at the Orleans?

18 PROSPECTIVE JUROR NO. 053: Yes.

19 MR. MAZZEO: But on the premises; right?

20 PROSPECTIVE JUROR NO. 053: Yes.

21 MR. MAZZEO: You don't go off premises to
22 deliver?

23 PROSPECTIVE JUROR NO. 053: No, never.

24 MR. MAZZEO: And that would be for certain
25 functions or for guests in the hotel?

1 PROSPECTIVE JUROR NO. 053: No.

2 MR. MAZZEO: No?

3 PROSPECTIVE JUROR NO. 053: It's just to and
4 from the buffet.

5 MR. MAZZEO: Oh, okay. Oh, I got it. Okay.
6 Thank you.

7 What are some of your likes and dislikes
8 about your job?

9 PROSPECTIVE JUROR NO. 053: Well, it's very
10 active. I'm lifting and basically running all the
11 time.

12 MR. MAZZEO: Pretty physical job; right?

13 PROSPECTIVE JUROR NO. 053: Yeah.

14 MR. MAZZEO: Sure. Is that a plus or a
15 minus?

16 PROSPECTIVE JUROR NO. 053: Both.

17 MR. MAZZEO: Both. Okay. Okay.

18 PROSPECTIVE JUROR NO. 053: Sometimes I get a
19 little sore.

20 MR. MAZZEO: Little sore? From -- from the
21 moving about a lot.

22 PROSPECTIVE JUROR NO. 053: Yeah.

23 MR. MAZZEO: What about hobbies outside of
24 work?

25 PROSPECTIVE JUROR NO. 053: Well, I'm -- I'm

1 a musician, and I like to play the guitar.

2 MR. MAZZEO: Okay. And -- and have you
3 played in a band previously? Have you performed in
4 public or more on of a personal nature?

5 PROSPECTIVE JUROR NO. 053: I'm also a
6 violinist.

7 MR. MAZZEO: You are. Okay.

8 PROSPECTIVE JUROR NO. 053: And I perform.

9 MR. MAZZEO: And you perform.

10 PROSPECTIVE JUROR NO. 053: With that.

11 MR. MAZZEO: With the violin.

12 PROSPECTIVE JUROR NO. 053: Yeah.

13 MR. MAZZEO: Are you with Clark County
14 orchestra or symphony?

15 PROSPECTIVE JUROR NO. 053: No.

16 MR. MAZZEO: No? Do you perform at any
17 venues in town?

18 PROSPECTIVE JUROR NO. 053: No.

19 MR. MAZZEO: For family friends?

20 PROSPECTIVE JUROR NO. 053: Mainly right now
21 for myself.

22 MR. MAZZEO: For yourself? Okay. All right.
23 Good. You entertain yourself. Okay. Okay. Thank
24 you.

25 Mr. Roberts, good morning.

1 PROSPECTIVE JUROR NO. 058: 058.

2 MR. MAZZEO: Mr. Roberts, I know from your
3 questionnaire you now work at Accessible Home
4 Healthcare as a community liaison?

5 PROSPECTIVE JUROR NO. 058: That's one of my
6 hats.

7 MR. MAZZEO: That's right. Yesterday you
8 said you have many. Can you tell us about those?

9 PROSPECTIVE JUROR NO. 058: Yeah. I wear
10 many hats during the week and during the day. So
11 Accessible is one of the hats I wear. I'm a market
12 developer or business development person in the
13 community. My job is to go and basically bring clients
14 to the agency. I work in the Allied health insurance
15 fields. So I'm also a licensed person to sell
16 insurance, life, property, health. Licensed to sell
17 insurance to people, so that's one of my hats. I also
18 do marketing and business development for a dental
19 company. That's one of my hats.

20 So my day is always -- there's nothing
21 specifically structured in my day in terms of I know
22 what I'm going to be doing, what -- I know what my
23 scope of my job that I do, but I may be doing home
24 health one minute. I may be doing dental the next
25 minute. I may be talking to someone about insurance.

1 I'm a specialist in retirement plans, so I do high-end,
2 high-value retirement plans to find benefits. I don't
3 know if you're familiar with that, but they're highly
4 complex structured plans. So I may be sitting with an
5 attorney, a dentist, a doctor, an entrepreneur, or
6 business owner to put in a plan that's appropriate for
7 their organization that reflects their needs and their
8 ability to get to -- from here to the end of their work
9 period so that their retirement somewhat looks like
10 what their working period looks like.

11 MR. MAZZEO: Sounds like you keep pretty
12 busy.

13 PROSPECTIVE JUROR NO. 058: I do.

14 MR. MAZZEO: In addition, you play
15 basketball.

16 PROSPECTIVE JUROR NO. 058: In addition, I
17 coach.

18 MR. MAZZEO: And you coach.

19 PROSPECTIVE JUROR NO. 058: I'm an actual
20 high school coach over at Green Valley High School, and
21 I'm in the middle of the season right now.

22 MR. MAZZEO: Okay.

23 PROSPECTIVE JUROR NO. 058: Just about every
24 day I go over there, and I give my time to them. It's
25 not something you're ever going to -- it's not a money

1 picture. That's a give-back picture.

2 MR. MAZZEO: That's true. Yeah.

3 PROSPECTIVE JUROR NO. 058: And I -- that's
4 probably -- that's probably -- I don't know if you say
5 hobby, but I've been involved with athletics or
6 basketball probably 30, 35 years, something like that.
7 So it's a part of my life, and it's a part that I don't
8 want to -- to -- to totally give up.

9 MR. MAZZEO: Sure. And you -- you had told
10 us that you were a pro player as well.

11 PROSPECTIVE JUROR NO. 058: Yes, sir.

12 MR. MAZZEO: What team?

13 PROSPECTIVE JUROR NO. 058: I actually played
14 overseas for 13 years.

15 MR. MAZZEO: Okay.

16 PROSPECTIVE JUROR NO. 058: You probably
17 wouldn't be familiar with the teams. But my base
18 country was Israel, and I lived there for 13 years and
19 played throughout Europe and multiple venues. But I've
20 played against a lot of players you might know, might
21 not know.

22 MR. MAZZEO: Sure. Great. Thank you.

23 Oh, what about positives and negatives about
24 your -- your many hats that you wear in your jobs?

25 PROSPECTIVE JUROR NO. 058: Well --

1 MR. MAZZEO: Lack of sleep?

2 PROSPECTIVE JUROR NO. 058: I have to create
3 income from all of them, so there's no guarantee of my
4 income. So all of them can have positives in terms if
5 I can have some really good successes, and there's days
6 where you go home and go, God, I worked my brain to
7 death today, and I'm mentally exhausted, and you're
8 empty handed and you don't come up with anything. So
9 those are downsides. I guess that kind of goes with
10 the territory.

11 There are other minor things, somewhat minor
12 in terms of sometimes you'll work with a client, like
13 when I do retire plans, I might spend three months,
14 four months working with a client, his attorney, his
15 accountant putting together the plan, and you think
16 everything's going the way it's supposed to go, and
17 then all of a sudden, it falls through -- through the
18 cracks. And when you invest so much time and energy
19 into something, you want that it will create fruition.

20 MR. MAZZEO: There's a payoff in the end.

21 PROSPECTIVE JUROR NO. 058: Yeah. That's
22 probably the downside.

23 And then, you know, just dealing with people.
24 My job is -- is basically a people-type job, and, you
25 know, sometimes you -- you run into people that it just

1 doesn't work.

2 MR. MAZZEO: And it's people, and it also
3 sounds like a lot of selling. I know --

4 PROSPECTIVE JUROR NO. 058: Yeah, it's --
5 it's sales. It's basically sales. I mean, you know,
6 various products. But it's services not -- not
7 necessarily separate insurance, selling services.

8 MR. MAZZEO: Sure. I think you indicated
9 also, it may be past tense the way it was worded, that
10 you had marketed to Dr. Cash and Dr. Shah for the home
11 health patients?

12 PROSPECTIVE JUROR NO. 058: Yeah. So in
13 my -- in my construct as a home health, I would --
14 they -- those offices would be offices that I would go
15 into to potentially to -- to see if they have a need
16 for the services. And if they do have a need for
17 services, obviously I would -- I would hope to -- to be
18 able to help them in some way.

19 MR. MAZZEO: And do you still work with those
20 two offices?

21 PROSPECTIVE JUROR NO. 058: I haven't been
22 into them in a while. But, again, my -- my methodology
23 of -- of marketing is anyone who's kind of in an area
24 that I'm in is open for me to go in and do some
25 calling. So I may have been in there five months ago,

1 six months ago, you know, walk in again because I
2 haven't heard anything.

3 MR. MAZZEO: Sure.

4 PROSPECTIVE JUROR NO. 058: I do have offices
5 that I have very good relationships with, and I can go
6 in there regularly. But the ones that I don't have a
7 solid relationship, it's just hit and miss.

8 MR. MAZZEO: Right. And you know that
9 Dr. Cash is one of the witnesses in this case.

10 PROSPECTIVE JUROR NO. 058: Yeah.

11 MR. MAZZEO: Have you met Dr. Cash in person?

12 PROSPECTIVE JUROR NO. 058: I've met him a
13 while back. I haven't had any recent interaction with
14 him. Probably haven't had any interaction with
15 Dr. Cash in, I want to say, probably a year and a
16 half --

17 MR. MAZZEO: Okay.

18 PROSPECTIVE JUROR NO. 058: -- or so. He's
19 over by Spring Valley Hospital. So -- so that --
20 that -- I go over there, here and there.

21 MR. MAZZEO: He's one of the witnesses in
22 this case for the plaintiff. He had consulted with the
23 plaintiff in this case.

24 Does your prior work and relationship with
25 Dr. Cash, in whatever limited sense it is, give cause

1 for concern for my client or for either of the
2 defendants?

3 PROSPECTIVE JUROR NO. 058: I don't think so.
4 I mean, it's -- you know, it's just something that it's
5 part of my work and I go out there. I don't -- I
6 haven't had any interaction with him in terms of my
7 former occupation as a claims adjustor so I don't have
8 any -- I haven't read any of his work.

9 MR. MAZZEO: Okay. Thank you.

10 Mr. Berkery, good morning.

11 PROSPECTIVE JUROR NO. 063: 063.

12 MR. MAZZEO: Mr. Berkery, you had told us you
13 worked for the Nevada -- you're a duty manager for
14 Nevada -- I didn't write the whole thing down --
15 National.

16 PROSPECTIVE JUROR NO. 063: Nevada National
17 Security Site.

18 MR. MAZZEO: Right. Can you tell -- we know
19 that it's not top secret, that you were able to talk
20 about it. So can you tell us about your duties and
21 what the day is like in your job?

22 PROSPECTIVE JUROR NO. 063: Day to day, we
23 coordinate air and ground activities for the site.
24 It's about the size of Rhode Island. We want to make
25 sure everybody goes to work and comes home safe. There

1 are a number of activities that take place out there
2 ranging from experiments to stockpiles stewardship,
3 those kinds of things. When I'm -- when I'm in the
4 room, I oversee a fire dispatcher, air-ground
5 operations support, our security liaison, couple other
6 positions.

7 And our job is when something occurs, whether
8 it's a chemical or radiological emergency, we would
9 ensure life/safety for the site and the communities
10 around, as well as mitigate the incident.

11 MR. MAZZEO: Okay. Likes and dislikes?

12 PROSPECTIVE JUROR NO. 063: When you go home,
13 you know whether you made a difference that day or
14 not --

15 MR. MAZZEO: Okay.

16 PROSPECTIVE JUROR NO. 063: -- directly.

17 MR. MAZZEO: So that's a positive.

18 PROSPECTIVE JUROR NO. 063: That's definitely
19 a positive.

20 MR. MAZZEO: And dislikes?

21 PROSPECTIVE JUROR NO. 063: Kind of like
22 walking on The Strip on Halloween, there's some things
23 you can't unsee.

24 MR. MAZZEO: Can you give us a for-instance?

25 PROSPECTIVE JUROR NO. 063: No.

1 MR. MAZZEO: No? I'll respect that. That's
2 fine. But you leave it to our imagination now, so ...

3 PROSPECTIVE JUROR NO. 063: Yes, sir.

4 MR. MAZZEO: Exactly. You also stated in
5 your questionnaire that you're a former EMT and
6 firefighter.

7 As a former EMT -- EMT and firefighter, how
8 long did you do that for?

9 PROSPECTIVE JUROR NO. 063: Ten years as a
10 volunteer in North Jersey.

11 MR. MAZZEO: In where?

12 PROSPECTIVE JUROR NO. 063: In Northern
13 New Jersey.

14 MR. MAZZEO: Northern New Jersey.

15 PROSPECTIVE JUROR NO. 063: I averaged about
16 700 calls a year.

17 MR. MAZZEO: Yeah, wow.

18 And -- and so you responded to a lot of, I
19 imagine, accidents --

20 PROSPECTIVE JUROR NO. 063: Sure.

21 MR. MAZZEO: -- as well. Fires and
22 accidents.

23 And as an EMT you had -- you were the first
24 responder, so you would be rendering first aid and
25 assistance to individuals that were injured in

1 accidents.

2 Do you think your training gives you some --
3 and I'm going to ask about medical training. Actually,
4 I may hold off on that. I'm going to ask about medical
5 training. I know that you have some as an EMT, so
6 we're going to get back to you when I get to that topic
7 later on.

8 PROSPECTIVE JUROR NO. 063: Okay.

9 MR. MAZZEO: Hobbies outside of your work?

10 PROSPECTIVE JUROR NO. 063: I like to ride
11 motorcycles, brew beer. I'm trying to get back to
12 gardening. It's not as easy as it was in Oregon.

13 MR. MAZZEO: That's true.

14 PROSPECTIVE JUROR NO. 063: We used to grow
15 food year round at my house. So I'm trying to get back
16 into it.

17 MR. MAZZEO: It's not as wet here. Some of
18 the soil is very dry and -- and sun is very harsh.

19 PROSPECTIVE JUROR NO. 063: It's a tougher
20 environment.

21 MR. MAZZEO: Okay. Great. Thank you.

22 PROSPECTIVE JUROR NO. 063: You bet.

23 MR. MAZZEO: Ms. Bias, good morning.

24 PROSPECTIVE JUROR NO. 066: Good morning.

25 066.

1 MR. MAZZEO: And you -- I know you told us
2 that you work at the Charleston --

3 PROSPECTIVE JUROR NO. 066: Outlet.

4 MR. MAZZEO: -- Outlet.

5 Can you tell us what your job is?

6 PROSPECTIVE JUROR NO. 066: I'm a price
7 reducer. So my responsibility is to reduce the price
8 of each item in the store. And there's a lot of items.
9 And it's all by hand. So I don't have a machine. It's
10 pencil and stickers, and that's my job.

11 MR. MAZZEO: Okay. And that's Charleston
12 Outlet Thrift Store.

13 PROSPECTIVE JUROR NO. 066: Yes.

14 MR. MAZZEO: So you -- it's a donate -- it's
15 a donation store?

16 PROSPECTIVE JUROR NO. 066: Yes. It's for
17 the Vietnam Veterans of America.

18 MR. MAZZEO: Oh, okay. They're the ones that
19 send the flyers, the envelopes, actually, to the home
20 with a yellow bags in them.

21 PROSPECTIVE JUROR NO. 066: Yes, that's them.

22 MR. MAZZEO: I got it. I get those every two
23 months.

24 PROSPECTIVE JUROR NO. 066: Yeah. It
25 happens.

1 MR. MAZZEO: Okay. What are -- what are your
2 likes and dislikes about the job?

3 PROSPECTIVE JUROR NO. 066: My likes is that
4 I have the opportunity to meet new people, and I like
5 to spend each day learning something new, even though
6 it might be, like, somebody's culture, their likes,
7 dislikes. It's just a learning opportunity for me.

8 My dislikes is, besides being there -- it's
9 hard to say what I don't like about it. I just -- I
10 know I don't like my boss always being pushy, but
11 that's every boss, I guess.

12 MR. MAZZEO: I missed the first thing that
13 you said aside from not being.

14 PROSPECTIVE JUROR NO. 066: There.

15 MR. MAZZEO: Oh, at the job.

16 PROSPECTIVE JUROR NO. 066: Yeah.

17 MR. MAZZEO: Oh, from not being there.

18 PROSPECTIVE JUROR NO. 066: Yeah, I don't
19 like to be there.

20 MR. MAZZEO: Oh, you don't like to be there.
21 I'm sorry.

22 And that's -- and then you started to say
23 because your job your boss is pushy?

24 PROSPECTIVE JUROR NO. 066: Yeah. He's
25 very -- yeah.

1 MR. MAZZEO: Yeah. So it makes it into a
2 high-stress job for you.

3 PROSPECTIVE JUROR NO. 066: Oh, very because
4 I'm the only one. There's nobody to take my place if
5 I'm not there. So for three days, nothing's been done.

6 MR. MAZZEO: Right. Okay.

7 PROSPECTIVE JUROR NO. 066: So, yeah.

8 MR. MAZZEO: He's probably having a fit this
9 week.

10 PROSPECTIVE JUROR NO. 066: Oh, yeah, I've
11 heard it already.

12 MR. MAZZEO: Okay. What about hobbies?

13 PROSPECTIVE JUROR NO. 066: Hobbies? I'm a
14 very adventurous person. So I like to go hiking,
15 fishing, camping. I like to just tell my husband, Get
16 in the car and just drive. Wherever the car takes us,
17 that's where we go.

18 MR. MAZZEO: That's nice.

19 PROSPECTIVE JUROR NO. 066: I like to do
20 Zumba, read, spend time with my daughter, teach my
21 daughter about nature. And just live life.

22 MR. MAZZEO: Mr. Avilaroa, hi. Good morning.

23 PROSPECTIVE JUROR NO. 078: Good morning.

24 MR. MAZZEO: I know you've talked about it
25 somewhat, that you are a Brinks guard.

1 Primarily, you are -- you retrieve money from
2 ATMs? Or you fill them up?

3 PROSPECTIVE JUROR NO. 078: 078.

4 MR. MAZZEO: Sorry.

5 PROSPECTIVE JUROR NO. 078: I pretty much --
6 I'm a -- what you call a messenger, and I am a driver
7 as well. So I transport not just money. So, like, I
8 could transport -- like, I can't really talk too much
9 about it, but different -- different things of value,
10 you know, so -- and I also service ATMs as well. Like,
11 I deliver money, I pick up money, I -- I go to
12 different casinos all over -- all over the city and
13 some parts like Pahrump. I go to Pahrump, too, pick up
14 there, deliver money there, so ...

15 MR. MAZZEO: Right. Well, what are some of
16 the challenges you have? Likes and dislikes?

17 PROSPECTIVE JUROR NO. 078: I guess, the
18 likes is that I meet a whole bunch of people. So I --
19 I meet a lot of different kinds of people, and I like
20 that. I like being active. I like that it's kind of
21 physically demanding. And -- and, you know, I'm
22 kind -- I'm not -- I'm not really a big guy, so I get
23 to lift a lot of -- I get to do a lot of exercise,
24 so ...

25 MR. MAZZEO: Keeps you in shape; right?

1 PROSPECTIVE JUROR NO. 078: It keeps me in
2 shape, and I like that. I like that I get to know the
3 city. I know the city a lot -- a lot better now than I
4 did. I know -- I like that I get to see the
5 behind-the-scenes of everything, you know, different,
6 like, restaurants and banks and things like that. And
7 I like that.

8 I think the only dislike that -- the only
9 thing I don't like about it is that I don't know if I'm
10 going to come home. So that's the only thing, that I
11 don't know if I'm going -- that's going to be my last
12 day, so ...

13 MR. MAZZEO: Sure. How long have you been
14 doing that work?

15 PROSPECTIVE JUROR NO. 078: I've been doing
16 it for almost, like, eight, nine months.

17 MR. MAZZEO: Sure. And is it -- your concern
18 about not coming home, is it because of the fact that
19 you're -- you're a target?

20 PROSPECTIVE JUROR NO. 078: Yeah.

21 MR. MAZZEO: You're a moving target.

22 PROSPECTIVE JUROR NO. 078: Oh, yeah.

23 MR. MAZZEO: So have you -- have there been
24 any instances? You don't have to tell us specifically
25 but had any instances, close calls where -- where there

1 was a threat of danger?

2 PROSPECTIVE JUROR NO. 078: Yes, sir. Almost
3 every day.

4 MR. MAZZEO: Oh, really?

5 PROSPECTIVE JUROR NO. 078: Yeah. Every --
6 almost every day something happens.

7 MR. MAZZEO: Wow. Okay.

8 PROSPECTIVE JUROR NO. 078: So ...

9 MR. MAZZEO: I can understand your concerns.
10 What about outside of work? What are your
11 hobbies?

12 PROSPECTIVE JUROR NO. 078: Since my line of
13 work, you know what I do, I kind of like to spend time
14 with family. I don't get -- I do this full time, so I
15 only get, like, a couple of days, you know. So I like
16 to spend time with family, with my -- with my kids and
17 my wife. We go out, try to do something active, go to
18 Bonnie Springs, go watch movies. Sometimes I'll be,
19 like, let's just stay home. Let's watch a movie, you
20 know, just --

21 MR. MAZZEO: That's the best place to be
22 sometimes --

23 PROSPECTIVE JUROR NO. 078: Oh, yeah.

24 MR. MAZZEO: -- so ...

25 Okay. Great. Thank you.

1 Good morning, Mr. Retzlaff. Did I say that
2 correctly --

3 PROSPECTIVE JUROR NO. 088: Yes.

4 MR. MAZZEO: -- Retzlaff?

5 So -- and I know yesterday you had your Solar
6 City shirt on.

7 PROSPECTIVE JUROR NO. 088: Yep.

8 MR. MAZZEO: And so you're a -- is it correct
9 that you're a technician, Solar City?

10 PROSPECTIVE JUROR NO. 088: 088. Yeah.

11 I'm -- I'm what they call a field service technician.
12 So I'm certified PV or photovoltaic electrician. So I
13 work with the solar equipment. I can, from time to
14 time, work with the main electrical panels that -- that
15 are on the houses. But generally, I work from the
16 panels down to the service panel. So anything in
17 between.

18 And kind of my daily duties are to go out to
19 the fairly newer installs, and when the systems get
20 turned on or systems that have been running and kind of
21 troubleshoot them, figure out why they're not working
22 at 100 percent efficiency and just go through and --
23 and get them back up and get them running the way
24 they're supposed to be.

25 MR. MAZZEO: What kind of qualifications do

1 you need for your position?

2 PROSPECTIVE JUROR NO. 088: For my job,
3 they -- they actually do the training through the
4 company. They have kind of their own little university
5 thing that they do. It's online schooling. They give
6 you all the safety issues, you know, from -- with
7 regards to driving the vehicles, to, you know, safety
8 with electronics, any electrical equipment in general.
9 Have to be certified with that as well as first aid and
10 medical procedures that, you know, you might have to
11 attend to while on site.

12 And then, of course, working with
13 photovoltaic systems, any systems that work with solar,
14 because it's a little different process than, you know,
15 just working with AC and DC electricity because the
16 system converts the light into -- into the energy.
17 That's where the photovoltaic comes from. So you're
18 starting with DC, but then the inverter converts it to
19 the AC electricity. So I'm having to work with both,
20 so I have to be certified in both of those.

21 And I was going to school for -- at CSN for
22 electrical engineering, but I was able to kind of speed
23 through the courses I was taking there through the
24 company, so ...

25 MR. MAZZEO: Oh, good. And did you -- do you

1 have a degree in engineering in -- electrical
2 engineering?

3 PROSPECTIVE JUROR NO. 088: I do not have a
4 degree in electrical engineering. I'm actually
5 attempting to kind of get settled with my schedule
6 because my schedule isn't necessarily set. I generally
7 work when the sun is out. So kind of moonlighting
8 courses that I need to finish out my degree. It's kind
9 of hard. There's not too many of those specialty
10 classes that run into the night because they tend to
11 run, you know, three-hour classes. So I'm trying to
12 figure out a way, whether it's online or not, to kind
13 of finish that out since I've got about a semester
14 left.

15 MR. MAZZEO: Are you wanting to check out the
16 National Weather Service the night before to see the
17 work you're going to be doing the next day?

18 PROSPECTIVE JUROR NO. 088: I should. I
19 should.

20 MR. MAZZEO: You can speak with Mr. Jensen.
21 I know he's retired now.

22 PROSPECTIVE JUROR NO. 088: You know, I tend
23 to -- to try and look at the weather. But, you know,
24 nine times out of ten with the rainy days and stuff,
25 I'm the type of guy that I'll go out there, and if I

1 can get to the system -- we have an area where we ran
2 all the wires from the panels on the roof, that goes
3 down to the inverter, called a combiner box. And, you
4 know, nine times out of ten, if it's raining, you know,
5 it's not super hard or it's blowing it sideways, I'll
6 just put my raincoat on and just kind of huddle over so
7 the water doesn't get in it and still work.

8 But they like us to work when the sun is out
9 because you can actually see the efficiency, whereas,
10 you know, if you got a lot of cloud cover and stuff,
11 it's not -- it's not going to work to the fullest. It
12 will still be working, but you can't necessarily
13 troubleshoot it best.

14 MR. MAZZEO: I get the sense that you like
15 the technical aspect of your job --

16 PROSPECTIVE JUROR NO. 088: I love it.

17 MR. MAZZEO: -- the way you described it.

18 PROSPECTIVE JUROR NO. 088: Yes.

19 MR. MAZZEO: What are some of your likes
20 and -- and dislikes?

21 PROSPECTIVE JUROR NO. 088: Likes about the
22 job, I actually love the job. I've always been
23 interested with electronics and -- and the way they
24 work and stuff ever since I was kid. So I -- I really
25 love that I got the opportunity to even get this job

1 without, you know, having a lot of qualifications and
2 everything. I get to meet new people. I get to
3 provide for cleaner energy. So it makes me feel good.

4 As far as dislikes, the only thing I would
5 say about disliking is -- is the fact that I can't work
6 on systems, you know, all day long, whatever. So it
7 kind of limits me time-wise as far as how long I can
8 work on the systems because, you know, I got a full
9 route that's planned. So I don't -- I guess what I'm
10 saying is I don't like to have to go back to a site if
11 I can't finish it that day. I like to get everything
12 up and running when I show up.

13 And hobbies outside of work, I also build
14 PCs. I like to cook. I actually started off growing
15 up cooking in a restaurant until I got to be a sous
16 chef at the age of 18. So pursued cooking school,
17 culinary school, and was able to get a degree. And
18 that's pretty much it. Just cooking and relaxing when
19 I'm not working.

20 MR. MAZZEO: Okay. All right. Just a
21 question about the solar.

22 When you're working the solar systems because
23 I know they have the -- the Solar City that's off -- is
24 that off of 15?

25 PROSPECTIVE JUROR NO. 088: We -- we do

1 have -- we've since been closing them down. We did
2 have two warehouses. We had one off of 15 and Craig
3 right by the Cannery, and then we also had a warehouse
4 in Henderson that was off of Auto Show Drive and the
5 215. We do have our -- they're considered call centers
6 and also sales buildings. We've got the three
7 buildings in Town Square that are kind of in The
8 Corners. And then we've got an office we just opened
9 up off of 215 and Warm Springs that's also a call
10 center.

11 And there was going to be a training center
12 that they were building next to the IKEA, but I think
13 they moved that -- since the rulings with QEC and
14 everything, they moved that to Dallas.

15 MR. MAZZEO: All right. Thank you.

16 Good morning, Mr. Inglett.

17 PROSPECTIVE JUROR NO. 091: 091.

18 MR. MAZZEO: Thank you. And I keep on
19 talking over before you give your number. I apologize.

20 So -- and you told us yesterday and the day
21 before you work with Aruze Gaming, and that's -- that
22 includes both -- and you're R&D with slot machines,
23 both -- you do both electrical engineering and
24 mechanical engineering?

25 PROSPECTIVE JUROR NO. 091: Yes.

1 MR. MAZZEO: Can you tell us about that?

2 PROSPECTIVE JUROR NO. 091: I report directly
3 to a board member. It's a private company. So what I
4 do is ground-up design, any new products, integration,
5 which means new product or compositions of product that
6 we want to market in different jurisdictions, whether
7 that's in the United States or outside of the country,
8 that we can go into that market and be compliant with
9 law. So that involves a lot of testing, working with
10 labs in different jurisdictions as well, ensuring
11 there's no software bugs, working with our production
12 to import contract manufacturing we do locally as well
13 as outside of the United States to our facility here.
14 And distribute information to our materials department
15 so they can purchase items for us to complete
16 production, work with sales team to understand some of
17 the specs of the product they'll be selling, so things
18 like that.

19 MR. MAZZEO: Yeah. And -- and you don't work
20 with the computer programming aspect of it.

21 PROSPECTIVE JUROR NO. 091: I do.

22 MR. MAZZEO: Oh, you do.

23 PROSPECTIVE JUROR NO. 91: The source code
24 and -- yeah. Everything -- literally every aspect
25 ground up.

1 MR. MAZZEO: Okay. And it's not -- because
2 I -- I envision and I've heard on the news a couple of
3 weeks ago about the changing market in -- in Las Vegas
4 for slot machines and how they're -- they're changing
5 it to attract younger players and they're -- by having
6 different characters on the slot machines.

7 So you don't work with existing product. You
8 actually build it, like you're saying, from the ground
9 up.

10 PROSPECTIVE JUROR NO. 091: Part of that is
11 maintaining what's in the field. So right now, it's
12 math based. It's called Class 3, which means we have
13 mathematicians create the math, and we overlay graphics
14 on top of that to entertain the customer.

15 So what recently got passed is skill-based
16 games, which are more commonly referred to as video
17 games. So we will now be able to incorporate skill
18 base into our graphics and market that in a gambling
19 environment. So that's pretty exciting, and we think
20 it will attract a different market.

21 MR. MAZZEO: Different -- the younger crowd,
22 primarily.

23 PROSPECTIVE JUROR NO. 091: Yeah, a wider
24 audience.

25 MR. MAZZEO: Yeah. Okay. What are some of

1 your likes and dislikes?

2 PROSPECTIVE JUROR NO. 091: Every day there's
3 a new problem. It's never the same thing. Could be a
4 project currently working on or something completed a
5 few years prior, and there's -- there's always
6 something to fix.

7 And dislike is it's an extremely fast-paced
8 environment. It's 24/7. So anything that's needed, it
9 was needed yesterday, so you're already late.

10 MR. MAZZEO: As I'm standing up here, I'm
11 guessing that there's a lot of competition that's vying
12 for the latest, the most recent, or the newest
13 development in the field, so --

14 PROSPECTIVE JUROR NO. 091: Uh-huh.

15 MR. MAZZEO: -- is that part of the reason,
16 because it's very competitive?

17 PROSPECTIVE JUROR NO. 091: Yes, it is very
18 competitive. We can have a successful product here in
19 Southern Nevada, and in Northern Nevada it's a complete
20 miss. So different markets require different
21 approaches. So it's constantly evolving.

22 We like to refer to the product as a living
23 product, so it's always changing. It's evolving. You
24 know, we're adding and taking from it to provide our
25 customer, the casino, with the end consumer, you know,

1 an entertainment factor.

2 MR. MAZZEO: Sure. Great. What about
3 outside of work, what hobbies do you have?

4 PROSPECTIVE JUROR NO. 091: I like gaming,
5 enjoying a good glass of whiskey, and decent
6 hand-rolled cigar.

7 MR. MAZZEO: Great. Thank you.

8 Mr. Corum, good morning.

9 PROSPECTIVE JUROR NO. 093: Good morning.

10 MR. MAZZEO: I know you told us yesterday and
11 even Monday about your job. You work at Star Nursery.
12 You work with a synthetic grass?

13 PROSPECTIVE JUROR NO. 093: Yes.

14 MR. MAZZEO: Right? Okay.

15 And do you -- you just work on the premises.
16 You don't do the installation of it.

17 PROSPECTIVE JUROR NO. 093: No, no. We
18 actually sell the grass. We don't do the installs at
19 all.

20 MR. MAZZEO: Sell it to other contractors?

21 PROSPECTIVE JUROR NO. 093: Yeah,
22 contractors, retail customers.

23 MR. MAZZEO: Sure. If you would, just tell
24 us what -- what's your day like, typical day over at
25 Star Nursery?

1 PROSPECTIVE JUROR NO. 093: Well, I work at
2 the warehouse, so, you know, I get there about
3 7:00 o'clock, check to see if there's any orders. If
4 there are, I cut. If not, I actually help the rest of
5 the warehouse with what they do, which is just
6 stocking, down stocking, cleaning. Sometimes I
7 receive, like, you know, products that goes into the
8 warehouse. And then also sometimes I help make the
9 orders to send them to the stores.

10 MR. MAZZEO: Okay.

11 PROSPECTIVE JUROR NO. 093: Other than that,
12 like, in my actual field with the synthetic turf, I
13 keep inventory every month. So I actually count
14 everything every month, make sure everything is safe
15 because it is a very expensive product that they sell.

16 What else?

17 MR. MAZZEO: Likes and dislikes as well?

18 PROSPECTIVE JUROR NO. 093: What I like about
19 it is one thing, it is -- I did work full time before.
20 I just moved there six months ago into the warehouse
21 doing that. Before I used to work at a store closer
22 by, like in North Town where I do live, and now I got
23 to drive like a half an hour to work. Then sometimes
24 it could be an hour to get home. So that -- that's a
25 dislike for me.

1 MR. MAZZEO: Sure.

2 PROSPECTIVE JUROR NO. 093: But I do -- it is
3 a seasonal thing. You know, a nursery, it is seasonal.
4 So in spring, you get more hours. In the winter and in
5 the summer, you get less hours, you know. So right
6 now, I'm kind of at a flat -- you know, at least I'm
7 going to get my eight hours a day all year round.

8 MR. MAZZEO: Sure. Okay. Good. And outside
9 of work, what hobbies do you have?

10 PROSPECTIVE JUROR NO. 093: Well, I kind of
11 live on a day-to-day basis. Since I do work further
12 away during the week, I don't have much time. So
13 during the week, I normally stay at home, watch movies,
14 play my PlayStation 4, you know, stuff like that.

15 But on the weekends, I try to get out. I
16 just went shooting recently. I just went to Reno to
17 see my brother. He just moved out there. Last
18 weekend, I -- one of my little nephews had a birthday
19 party, Super Bowl, and then also I went out to Apex
20 and -- went with my uncle, looked at the sky with
21 telescope, and all that.

22 MR. MAZZEO: Oh, wow. Oh, nice.

23 PROSPECTIVE JUROR NO. 093: That was fun.

24 MR. MAZZEO: And also, in addition to Star
25 Nursery, you indicated that you have a start-up lawn

1 maintenance company and you co-own a stair shop with
2 your uncle.

3 PROSPECTIVE JUROR NO. 093: Oh, no, I don't
4 co-own -- the lawn maintenance, it's turned into more
5 of a hobby, because I do go to -- all the way out in
6 Henderson now. So I don't really have as much time.

7 MR. MAZZEO: Oh, sure.

8 PROSPECTIVE JUROR NO. 093: That sucks,
9 but ...

10 MR. MAZZEO: What about the stair shop that
11 you --

12 PROSPECTIVE JUROR NO. 093: That was just
13 something that -- I think the question was, Do you have
14 any family members -- or I forgot what the question
15 was. So that was just somebody that I knew that has a
16 stair shop.

17 MR. MAZZEO: Oh, okay.

18 PROSPECTIVE JUROR NO. 093: Out in Colorado.
19 So it's not really anything that I --

20 MR. MAZZEO: Associated with.

21 PROSPECTIVE JUROR NO. 093: Yeah.

22 MR. MAZZEO: You don't do work for them.
23 Okay. Understood. Thank you.

24 Ms. Go, good morning.

25 PROSPECTIVE JUROR NO. 141: Good morning,

1 Badge 141.

2 MR. MAZZEO: Ms. Go, are you -- you're
3 presently a claims examiner --

4 PROSPECTIVE JUROR NO. 141: Correct.

5 MR. MAZZEO: -- with workers' compensation
6 claims?

7 PROSPECTIVE JUROR NO. 141: Yes.

8 MR. MAZZEO: And I think you told us
9 yesterday, you'll handle the claims for injuries, but
10 if -- if surgery is something that's recommended, that
11 gets bumped up to another level from you; right?

12 PROSPECTIVE JUROR NO. 141: Lost time
13 adjustor. I handle medical-only claims, meaning we get
14 you treated and released, and then we diary for closure
15 the claim. I don't have medical background. It's just
16 what it's called, medical claims only. I review,
17 investigate the claims, accept and/or deny the claims.
18 And then I pay or review, pay or deny bills as well.
19 And we work directly with the injured workers,
20 employers, doctors, and attorneys.

21 MR. MAZZEO: So when you get a -- when you
22 get a claim that's sent to you, that's your job at your
23 office, you have to evaluate -- you have to do some
24 sort of evaluation with medical bills.

25 PROSPECTIVE JUROR NO. 141: Uh-huh.

1 MR. MAZZEO: And with injuries; right?

2 PROSPECTIVE JUROR NO. 141: Uh-huh.

3 MR. MAZZEO: And then do you make a
4 determination as to whether certain treatment is
5 related to an industrial accident or not?

6 PROSPECTIVE JUROR NO. 141: Correct, yes.

7 MR. MAZZEO: Okay. And you have to look at
8 maybe preexisting conditions --

9 PROSPECTIVE JUROR NO. 141: Yes.

10 MR. MAZZEO: - right?

11 So do you -- then is it on you to make a
12 request for prior -- the prior medical history --

13 PROSPECTIVE JUROR NO. 141: Correct, yes.

14 MR. MAZZEO: -- with a particular worker?

15 PROSPECTIVE JUROR NO. 141: Well, we run --
16 of course, we'll do a three-point contact, what we call
17 "three-point contact." We contact the employers first
18 to see their side of the story and then the claimant
19 and the providers, the doctors or clinic. And then
20 when -- when I do contact the injured worker, I always
21 ask for their prior. Sometimes they say no, and then
22 we run what we call ISO Index, and there it will show
23 if you have prior records or not. And if -- if there's
24 the prior records, then of course, we will request for
25 the records.

1 MR. MAZZEO: Sure. And the ISO, I believe,
2 shows whether a prior claim was made --

3 PROSPECTIVE JUROR NO. 141: Correct.

4 MR. MAZZEO: -- not necessarily whether a
5 person received treatment.

6 PROSPECTIVE JUROR NO. 141: Yes. It's --
7 sometimes motor vehicle accident, it will show there.
8 But it has to be matched with the injured body parts
9 that we are claimants.

10 MR. MAZZEO: If I'm not mistaken, the ISO
11 will identify the body part that --

12 PROSPECTIVE JUROR NO. 141: Correct.

13 MR. MAZZEO: -- that's injured, the day of
14 the accident, and what type of accident, whether it was
15 motor vehicle or something else.

16 PROSPECTIVE JUROR NO. 141: Correct.

17 MR. MAZZEO: All right. Likes and dislikes?
18 Oh, by the way, how long have you been doing
19 this work?

20 PROSPECTIVE JUROR NO. 141: I was hired 2004
21 up till 2005. I got laid off due to economy, less
22 construction, less injuries. And then I got rehired
23 back in 2000 -- it's two years ago. So it's been a
24 while. A long time, yeah.

25 And I like -- I like my job. I like

1 everything about it except for I can't afford to miss
2 one -- one day because when I come back, I have tons of
3 emails, fax, mails and everything, so that's the only
4 thing.

5 MR. MAZZEO: That's the nature of your
6 business.

7 PROSPECTIVE JUROR NO. 141: Yes.

8 MR. MAZZEO: It's nonstop.

9 PROSPECTIVE JUROR NO. 141: Correct.

10 MR. MAZZEO: And whether you're in court or
11 on vacation, it's the same thing --

12 PROSPECTIVE JUROR NO. 141: Correct.

13 MR. MAZZEO: -- right?

14 And hobbies outside?

15 PROSPECTIVE JUROR NO. 141: Hobbies, I enjoy
16 shopping. I enjoy going out with my children like to
17 watch movies and eat out with them, spend more time
18 with them.

19 MR. MAZZEO: Sure. Okay. What was the last
20 movie you guys saw?

21 PROSPECTIVE JUROR NO. 141: It's been a
22 while. Usually just rent because I'm kind of more like
23 a homebody. And if I get bored, we go out shopping or
24 just window shopping, yeah.

25 MR. MAZZEO: Sure. Thank you. I appreciate

1 it.

2 Mr. Franco, good morning.

3 PROSPECTIVE JUROR NO. 096: Good morning.

4 096.

5 MR. MAZZEO: I know you told us that you're a
6 postal worker in North Las Vegas?

7 PROSPECTIVE JUROR NO. 096: Right.

8 MR. MAZZEO: Okay. And you've been doing
9 that for how long?

10 PROSPECTIVE JUROR NO. 096: Sixteen years.

11 MR. MAZZEO: And what are your job -- what's
12 your day like?

13 PROSPECTIVE JUROR NO. 096: It sounds like I
14 got the best job in the whole room. You guys are in
15 the wrong line of work. That's too much work for me.

16 MR. MAZZEO: Probably envious because of what
17 you said the other day, you're getting paid.

18 PROSPECTIVE JUROR NO. 096: This is awesome.

19 MR. MAZZEO: He's not rubbing it in your
20 face.

21 PROSPECTIVE JUROR NO. 096: This is the first
22 time I've been here. I'm having a good time listening
23 to everything that's happening.

24 I've been doing it for 16 years up in -- the
25 best part of Las Vegas, up in north. Everything

1 happens up there. Day or night, doesn't matter.

2 MR. MAZZEO: What part of North Las Vegas,
3 Aliante?

4 PROSPECTIVE JUROR NO. 096: I'm up there near
5 North Decatur and Lone Mountain and Camino Al Norte,
6 right in the best -- Craig and Martin Luther King, all
7 that nice area there. So we have fun.

8 MR. MAZZEO: Okay. And so what's your day
9 like?

10 PROSPECTIVE JUROR NO. 096: Oh, starts about
11 7:30, ends about 1700. Sort all your mail, load up
12 your vehicle, get all your thousands of packages that
13 people are ordering that's taking over the mail, and go
14 about my route. That's the best thing to do.

15 MR. MAZZEO: Likes and dislikes?

16 PROSPECTIVE JUROR NO. 096: Likes, I get to
17 talk and visit with all types of people. Dislikes is
18 that customer comes out with his Doberman Pinscher and
19 says he doesn't bite, but there's a mouth full of
20 teeth.

21 MR. MAZZEO: With saliva.

22 PROSPECTIVE JUROR NO. 096: And they do try
23 to get the mailman. But other than that, I have no
24 complaints.

25 MR. MAZZEO: Right. Right. Okay. Great.

1 Hobbies outside of work?

2 PROSPECTIVE JUROR NO. 096: Hobbies, my
3 family, my cars, and riding my motorcycle.

4 MR. MAZZEO: Okay. What kind of bike do you
5 have?

6 PROSPECTIVE JUROR NO. 096: I got an Indian
7 Scout.

8 MR. MAZZEO: Okay. Nice. And what cars?

9 PROSPECTIVE JUROR NO. 096: I have an '81
10 turbo Trans Am and 1966 Chrysler Newport, four-door.

11 MR. MAZZEO: Wow. Nice. Do you race them,
12 no?

13 PROSPECTIVE JUROR NO. 096: No, no, no.

14 MR. MAZZEO: Because I know -- I know you can
15 go to Nellis, I think.

16 PROSPECTIVE JUROR NO. 096: The Speedway.

17 (Multiple speakers.)

18 PROSPECTIVE JUROR NO. 096: I haven't had a
19 chance to get in there, but I'll get them up there one
20 of these days.

21 MR. MAZZEO: And the question, just for the
22 record, that I asked you about was about racing at
23 Nellis racetrack.

24 PROSPECTIVE JUROR NO. 096: Right. I've
25 heard about it, but I've not had a chance to get in

1 there and go around the track with them.

2 PROSPECTIVE JUROR NO. 003: Stay away from
3 walls.

4 MR. MAZZEO: From an expert over here.
5 Great. Thank you, Mr. Franco.

6 Judge, may we approach?

7 (A discussion was held at the bench,
8 not reported.)

9 THE COURT: You guys talk like that, there's
10 no way you can hear us.

11 PROSPECTIVE JUROR NO. 003: We figured you're
12 talking, we're going to talk.

13 THE COURT: As long as you're not talking
14 about the case, I'm okay with it.

15 PROSPECTIVE JUROR NO. 003: We were talking
16 about me hitting the wall.

17 THE COURT: Go ahead, Mr. Mazzeo.

18 MR. MAZZEO: Thank you, Your Honor.

19 All right. Ladies and gentlemen. This next
20 topic you were asked some questions yesterday or
21 question about values. I started to touch upon it with
22 one or two people yesterday, what are the most
23 important values to you? I'm not going to go over that
24 again, of course. But I have a question.

25 There were -- there were a number of -- of

1 jurors who said integrity was one of the values. Just
2 show of hands. I know, Mr. Roberts, I believe you said
3 that was one. Mr. Jensen, right? Anyone else? I
4 thought there were a couple. Mr. Evans.

5 PROSPECTIVE JUROR NO. 053: Yeah.

6 MR. MAZZEO: And if I can, that's -- that's
7 just one word I wanted to -- to ask about.

8 Mr. Jensen, I'll start with you. When --
9 when you -- when you refer to integrity, what does that
10 term, what does that word mean to you?

11 PROSPECTIVE JUROR NO. 015: 015. To me, that
12 means that I'm going to honor my word. If I say I'll
13 help you move your house on Saturday, I will do
14 everything I can to meet you Saturday and help you. My
15 life, just how I live it. Try to uphold a fairly high
16 standard. If I give my word, you can count on it.

17 MR. MAZZEO: Okay. So integrity to you
18 encompasses keeping your word, moral principles; right?

19 PROSPECTIVE JUROR NO. 015: Correct.

20 MR. MAZZEO: Okay. Thank you.

21 And why do you consider integrity to be an
22 important character trait?

23 PROSPECTIVE JUROR NO. 015: Probably the
24 easiest, if I can't count on you or you can't count on
25 me, then we really don't have anything. And to be

1 honest with you, I'll move on. I'll find a different
2 friend. Because it's very important. I need that
3 support. I need that backup.

4 MR. MAZZEO: Right. Thank you.

5 Mr. Evans, same question, and -- integrity
6 what is -- what does the term mean to you?

7 PROSPECTIVE JUROR NO. 053: Well, keeping
8 your word.

9 MR. MAZZEO: Sure.

10 PROSPECTIVE JUROR NO. 053: And basically
11 what he said. I mean, I think I --

12 MR. MAZZEO: About the moral -- keeping your
13 word and having a high moral standard?

14 PROSPECTIVE JUROR NO. 053: Yeah.

15 MR. MAZZEO: Right? Okay. Great.

16 And, Mr. Roberts, same question.

17 PROSPECTIVE JUROR NO. 058: Probably concur
18 with what they said. Grew up in a military family, so
19 how you present yourself. You need to present yourself
20 with -- with integrity in everything that you try to
21 do. Trust -- it builds trust, and that's an important
22 piece.

23 MR. MAZZEO: Sure.

24 PROSPECTIVE JUROR NO. 058: I'm like him. I
25 can't have a good relationship with you if I don't

1 think I can truly depend on what you're saying and
2 having trust, so that's very important.

3 MR. MAZZEO: Okay. Great. Thank you.

4 And I know there's a number of jurors
5 yesterday or -- and/or Monday had talked about kids and
6 even today. How many here have or have had teenage
7 kids? Okay. Quite a few of you. Okay.

8 And it will be a general question initially
9 for all of you. And this is for all of you with or
10 without kids. It's not limited to only one person.

11 When a teenager engages in bad behavior,
12 what's your first instinct, to blame the parent or to
13 feel sorry for the parent? And just by show of hands.
14 So, again, teenager engages in bad behavior, and let's
15 say -- and to make it easier for the hypothetical.
16 Let's say you're out in public and you're observing
17 this not in your own teenagers. Our -- our own
18 teenagers are angels. But out in public, you see
19 somebody else's teenager engaging in bad behavior.
20 Are -- the first thought that comes to mind, and a show
21 of hands, is to blame the parent?

22 Mr. Franco.

23 Or -- or feel sorry for the parent? Okay.
24 We got a few more showing of hands. And then there's
25 some that didn't raise their hands. So it's neither.

1 For those that didn't raise their hand, they're not
2 going to blame the parent or feel sorry for the parent;
3 is that right? Sure. Okay.

4 Mr. Franco, I know that yesterday you told us
5 about raising your kids and teaching them not at the
6 age of 16 because you were indicating that that's too
7 late. You're -- you felt a sense of obligation to
8 teach them when they were two years old about values
9 and raising them to engage in proper conduct, I guess.

10 So your response today, and I think you were
11 one by yourself, why -- why do you say blame the
12 parent?

13 PROSPECTIVE JUROR NO. 096: 096. They're our
14 kids. They belong to me. They belong to my wife. We
15 have a responsibility as parents to raise those kids
16 from when they're babies, not when they're not 12 years
17 old. They're babies. When they're doing something
18 wrong, you tell them they're doing something wrong.
19 You don't got to beat them. You don't got to yell at
20 them. And I have no complaints with my kids. You can
21 call them up right now and ask them. They had -- I've
22 been lucky. They were never in trouble. They
23 conducted themselves in a good manner at school.
24 They're good academic and sports. They -- if they try
25 to veer off, you get them back on track. You don't

1 wait, you know, five or six years to say, Hey, you
2 know, this is not right. This is wrong. No. You
3 start from the beginning.

4 MR. MAZZEO: So if a child's acting out, you
5 believe that their behavior is reflective of the
6 parenting skills.

7 PROSPECTIVE JUROR NO. 096: Of course, unless
8 there's some kind of medical issues or something that
9 you don't know about. But other than that, I believe
10 that the parents, if they put a lot of time and effort
11 and attention to their kids, those kids are going to --
12 they're going to be grown adults, and they're going to
13 have a good life. They of course need counseling.
14 They need coaching. They need -- they need their
15 parents. Some people don't have that.

16 Our kids were lucky enough to have Mom and
17 Dad, but I know there's other kids that don't have it.
18 But it all comes down to the parents. I look at the
19 parents, and I won't change my mind because it's the
20 parents' responsibility for their kids.

21 MR. LASSART: Sure. Okay. Do you have
22 any -- oh, by the way, how long have you been married
23 for?

24 PROSPECTIVE JUROR NO. 096: Thirty years.

25 MR. MAZZEO: Thirty years.

1 PROSPECTIVE JUROR NO. 096: Yeah.

2 MR. MAZZEO: And you understand and -- that
3 in our society, that there are kids that grow up in
4 single -- single-parent families; right?

5 PROSPECTIVE JUROR NO. 096: I do understand
6 that, and I've seen single parents, females or males,
7 and they have good kids. I don't know if that's an
8 excuse, because I didn't have a dad or I didn't have a
9 mom. I mean, there's -- there's things out there that
10 you can as a parent -- yeah, it's harder if you're by
11 yourself. I understand that. And I don't look wrong
12 at you because you have a mom or just a dad. Of course
13 there's -- you're go going to be missing one side of
14 the family. I understand that.

15 MR. MAZZEO: Okay. Does anyone else agree
16 with Mr. Franco at all?

17 Mr. Roberts?

18 PROSPECTIVE JUROR NO. 058: I kind of agree
19 with him. Maybe I'm misunderstanding the nuance of
20 your question. So I believe parents have a direct
21 responsibility of being involved in their children's
22 lives. But I think there's also a point where the
23 children have to take personal responsibility for what
24 we instill in them and what we've been teaching them.
25 And so I don't know where -- you know, mine are 25 and

1 20. At this stage, they're young adults.

2 I work with kids, you know, 15 to 18, and
3 you're still teaching them. So I'm kind of, like,
4 there. Like, yes, I think you have to give the parents
5 some culpability, but at what point do you say that
6 they've done their best and the kids now have to -- to
7 take that mantle, because that's what we teach them.
8 As a coach, that's what I'm always trying to teach.

9 MR. MAZZEO: And, Mr. Roberts, you can coach
10 kids to do the right thing, to make certain plays, you
11 know, in basketball.

12 PROSPECTIVE JUROR NO. 058: Yeah.

13 MR. MAZZEO: But when they're out on that
14 court, they may disregard what you've coached them to
15 do.

16 PROSPECTIVE JUROR NO. 058: They make
17 decisions. They're making decisions at any moment
18 that's spontaneous.

19 MR. MAZZEO: And it may work out well for
20 them and it may not.

21 PROSPECTIVE JUROR NO. 058: True.

22 MR. MAZZEO: But regardless the decision they
23 make, they live with those ramifications from that
24 decision.

25 PROSPECTIVE JUROR NO. 058: True. But the

1 hope is that you've given them the proper foundation so
2 that the choice at that moment is to -- is the correct
3 and proper choice. Again, if they make an improper
4 choice, then the question is: Have you given them
5 enough tools in their life so that they can make those
6 proper choices?

7 MR. MAZZEO: Sure. Great. Thank you. Very
8 good.

9 Mr. Blurton.

10 PROSPECTIVE JUROR NO. 150: Yeah.

11 MR. MAZZEO: Yes, hi. I saw you raised your
12 hand as well?

13 PROSPECTIVE JUROR NO. 150: That's correct.
14 150. I agree with people here. It's a mix; right? So
15 the parents are responsible to a point, but at some
16 point, the child also has to be responsible. At what
17 age -- you know, and the question is: Is what age is
18 that?

19 MR. MAZZEO: Sure.

20 PROSPECTIVE JUROR NO. 150: Right.

21 MR. MAZZEO: And you have, I believe you told
22 us, a 13- or 14-year-old?

23 PROSPECTIVE JUROR NO. 150: Fourteen.

24 MR. MAZZEO: Fourteen-year-old. Okay. Son?

25 PROSPECTIVE JUROR NO. 150: Son, yes.

1 MR. MAZZEO: And do you have in your mind,
2 you know, at what age you have -- just from having your
3 own son and seeing the way he's growing up and he's
4 going through changes now from puberty to adolescence,
5 does he act, despite your coaching and -- and your --
6 the instruction you try to give him in how to live life
7 to the fullest in the right way?

8 PROSPECTIVE JUROR NO. 150: I'm sure he --
9 you know, he makes his own decisions. But I feel that
10 I've taught him well enough. You know, he listens.

11 MR. MAZZEO: Sure.

12 PROSPECTIVE JUROR NO. 150: Right? And I --
13 I try to teach him from my own experiences; right? I
14 don't say, Don't do this because I said so; right? I
15 say, Don't do this because I did it once, and it turned
16 out badly; right?

17 MR. MAZZEO: Right.

18 PROSPECTIVE JUROR NO. 150: And at first
19 getting him to learn that was difficult. Because
20 kids -- kids will be kids, and they want to find out
21 the hard way sometimes, and sometimes that's the way it
22 is.

23 MR. MAZZEO: Sorry.

24 PROSPECTIVE JUROR NO. 150: But, you know,
25 I -- I feel that -- that, you know, he has made good

1 decisions in his life, and I'm not trying to boast
2 about my parenting ability or anything like that. I
3 don't know what that is. If it's me, if it is his --
4 his -- his mom, you know, because I am a single dad;
5 right? I have custody of my child. But I'm sure she
6 taught him values as well. So I'm just very grateful
7 and very fortunate that he is the way he is.

8 MR. MAZZEO: Very good. And the fact that
9 you've taught him and he more or less complies and --
10 and complies with your teachings, that doesn't preclude
11 him or -- from making mistakes at some point.

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

13 PROSPECTIVE JUROR NO. 150: Yeah, he makes
14 mistakes.

15 THE COURT: Come on up.

16 (A discussion was held at the bench,
17 not reported.)

18 THE COURT: Going to go ahead and give you a
19 break for a moment, folks.

20 During our break, you're instructed not to
21 talk with each other or with anyone else about any
22 subject or issue connected with this trial. You are
23 not to read, watch, or listen to any report of or
24 commentary on the trial by any person connected with
25 this case or by any medium of information, including,

1 without limitation, newspapers, television, the
2 Internet, or radio. You are not to conduct any
3 research on your own, which means you cannot talk with
4 others, Tweet others, text others, Google issues, or
5 conduct any other kind of book or computer research
6 with regard to any issue, party, witness, or attorney
7 involved in this case. You're not to form or express
8 any opinion on any subject connected with this trial
9 until the case is finally submitted to you.

10 Plan on ten minutes. I try to make them
11 ten-minute breaks. I really do.

12 (The following proceedings were held
13 outside the presence of the jury.)

14 THE COURT: All right. We're outside the
15 presence of the jury.

16 At the bench, Mr. Roberts made a comment
17 about, or an objection about the way the questions are
18 being asked by Mr. Mazzeo, allegedly indoctrinating the
19 jury that kids make mistakes, it's not the parents'
20 fault; right?

21 MR. ROBERTS: That's fair, Your Honor.

22 THE COURT: Do you want to say anything else
23 about it?

24 MR. ROBERTS: No, I just think that the
25 record would indicate that -- that Mr. Mazzeo was

1 telling the jurors that even if you teach the kids the
2 right thing to do, it's not the parents' fault if they
3 make mistakes and don't do what you teach them. And
4 then asking them if they agree, thus trying to
5 indoctrinate them that his client taught her son the
6 right thing, and it's not her fault if he chose to do
7 something different. And I just think that's too close
8 to the facts of this case, and asking them if they
9 agree essentially with the -- with the topic they're
10 going to be asked to discuss. And not just asking
11 them, but sort of telling them what he thinks and
12 asking them to agree with -- them to agree with him,
13 and I think it's too close.

14 MR. MAZZEO: Actually, that's not the order
15 in which it went, Your Honor. I'm not indoctrinating
16 them. But I am finding out about their own personal
17 experiences with -- with kids and their own opinions
18 about teenagers being raised. And then what I might be
19 doing is parroting back to them what they've just said.
20 But I'm certainly not -- I don't know what they're
21 going to express before they actually say it. So
22 they're saying it first, and then I'm repeating it to
23 confirm what they're saying. That's all.

24 Now, this case involves a mother and a son
25 with -- with claims -- two different claims against

1 them. So we have a claim that -- with Andrea where she
2 can certainly defend, obviously, against the permissive
3 use of this vehicle. That's a claim against her. And
4 there's going to be evidence that comes into the --
5 comes out during trial, and I'm sure maybe they
6 highlighted it in Jared's testimony that they want to
7 use in opening statement. But there's no secret that
8 he's a troubled teen and that there was -- there were
9 issues between his mom and -- and her son, Jared,
10 raising him up.

11 So we certainly should be able to elicit
12 information and find out what their -- their viewpoints
13 are about whether the mom should be held accountable
14 for the son's actions. Well.

15 MS. ESTANISLAO: Outside permissive use.

16 MR. MAZZEO: That goes to the heart of issues
17 in this case. So I certainly want to find that out --
18 find out about that. So I don't think there's any
19 indoctrination going on.

20 MR. ROBERTS: If I could --

21 MR. STRASSBURG: Judge, I got a dog in this
22 fight too. Do you mind?

23 MR. ROBERTS: No --

24 MR. STRASSBURG: Real quick.

25 MR. ROBERTS: I just wanted to point out a

1 part of the record, but I'll do it after you speak.

2 MR. STRASSBURG: Thank you, Mr. Roberts.

3 Despite the degree of adversariness that's
4 developed between the mother and the son, particularly
5 after your ruling allowing the mother to put a
6 full-fledged defense on negligent entrustment, that --
7 I -- I agree with Mr. Mazzeo on that, with this
8 proviso: That the issue here is not, is the jury being
9 asked to hold Andrea responsible for the tort of her
10 son. The -- the issue is, is the jury is being asked
11 to hold Andrea responsible for her own personal
12 negligence in facilitating the son's acquiring the
13 vehicle. I mean, that's a different matter.

14 So in -- in one sense, questions about should
15 parents be responsible for their kids' stupid stuff,
16 that's really outside because that's really not the
17 legal issue here. The legal issue is, should parents
18 be held liable for their own negligent supervision of
19 their children. That is the issue. And I think
20 questions on that point are entirely appropriate. And
21 the ability of parents charged with that duty to
22 anticipate that stupid stuff that teenage kids do, I
23 mean, I think that's fair game, Judge. And, you know,
24 typically in these kind of claims, that is allowed.

25 MR. ROBERTS: Just so I can be more specific

1 in my objection, I'll point out the part of the record
2 where I thought it crossed the line. And -- and I
3 don't see a juror here. It may have been Mr. Roberts
4 when he moved on to him. It's at 10:35:11 where the
5 juror says, "But, you know, I feel that, you know, he's
6 made good decisions in his life, and I'm not trying to
7 b-o-s -- boast about my parenting ability. I don't
8 know what that is. If it's me, if it is his -- his
9 mom, you know. Because I'm a single dad; right? I
10 have custody of my child, but I'm sure she taught him
11 values as well. So I am grateful and very fortunate
12 that he's the way he is."

13 So the juror is saying, My kid's great, and
14 I'm a lucky guy. And -- and I don't know if it's me
15 instilling values or his mom, but I'm great, I'm a
16 lucky guy, my kid's good. And then Mr. Mazzeo said,
17 Well, that's all fine and well, but that doesn't
18 preclude him from making mistakes at some point.

19 So he's not parroting back what the juror
20 said. He's -- he's saying, yeah, your kid may be good,
21 you may teach him, but trying to inject that, the kids
22 make mistakes even if they're taught well. That --
23 that's where I thought it crossed the line, Judge.

24 MR. MAZZEO: And the reason why I didn't
25 cross the line, we have Mr. Franco and Mr. Blurton, I

1 believe he was just talking about Mr. Blurton's
2 response, Mr. Blurton as well as Mr. Roberts both said
3 that parents are responsible at some point, and then
4 the kids are responsible. So that's -- that's from
5 Mr. Blurton -- Mr. Blurton as well as Mr. Roberts.

6 So -- so yes, will I prompt? Am I going to
7 prompt him based on an answer he already gave? Well,
8 certainly. Again, that's parroting it back. I'm not
9 indoctrinating him. Then we have Mr. Franco who said
10 he blames -- he came right out and said he blames the
11 parent for it.

12 So this obviously -- this obviously concerns
13 issues in this case, and we should know about it so
14 that we can make sure we have a juror of our peers that
15 can sit here fairly and impartially and look at this
16 evidence, not with any preconceived notions by saying,
17 You know what, whatever Jared did, well, Andrea's just
18 as complicit because they're both responsible. She's
19 responsible for any of his actions. That just doesn't
20 cut it in this case. We need to know this information.

21 THE COURT: All right, guys. I don't have a
22 problem with the questions. I think you ask questions
23 that get answers, and you find out what jurors think.
24 When you tell them what you think and ask them if they
25 agree, that's indoctrination. So just be careful how

1 you ask the questions.

2 MR. MAZZEO: Certainly.

3 THE COURT: If it comes up again, just object
4 to the question.

5 MR. ROBERTS: Okay. Thank you, Your Honor.

6 THE COURT: All right off the record.

7 (Whereupon a short recess was taken.)

8 THE MARSHAL: Jury entering.

9 (The following proceedings were held in
10 the presence of the jury.)

11 THE MARSHAL: Jury is present, Judge.

12 THE COURT: Thank you. Go ahead and be
13 seated, folks. Back on the record, Case No. A637772.
14 I know it was longer than ten minutes, but it was
15 closer this time. Our goal is to actually tell you how
16 long it's going to take, and that's actually how long
17 it takes. We'll see if that happens sometime during
18 the trial.

19 Just be reminded, folks, you're still under
20 oath to tell the truth.

21 Mr. Mazzeo, go ahead.

22 MR. MAZZEO: Thank you, Judge.

23 General question for all of you, just show of
24 hands. This is -- this is the easiest part where I
25 just ask general questions.

1 Does anyone have a personal experience where
2 you had a family member use a car without permission
3 and cause the motor vehicle accident? Mr. Roberts.
4 Ms. Perreida. There's two. Anyone else? Okay.

5 Ms. Perreida, we'll start with you. Your
6 badge number?

7 PROSPECTIVE JUROR NO. 130: 130.

8 MR. MAZZEO: Okay.

9 PROSPECTIVE JUROR NO. 130: It happened when
10 I was young, and my sister, she not -- she underage --
11 under 18 years old. And she took the car, I think it's
12 a her friend's car, and drove out and get accident.
13 But not -- not hurt to anyone because not under the
14 real road.

15 MR. MAZZEO: It was on a rural road?

16 PROSPECTIVE JUROR NO. 130: It was off the
17 road.

18 MR. MAZZEO: Off the road? She went off the
19 road?

20 PROSPECTIVE JUROR NO. 130: Yeah. And the
21 window is come out. But nobody injured anything.

22 MR. MAZZEO: Okay. So it was your -- your
23 younger sister who took her friend's --

24 PROSPECTIVE JUROR NO. 130: No, my older
25 sister.

1 MR. MAZZEO: Your older sister, I'm sorry,
2 who took her friend's car without permission.

3 PROSPECTIVE JUROR NO. 130: Yes.

4 MR. MAZZEO: Yes?

5 PROSPECTIVE JUROR NO. 130: Yes.

6 MR. MAZZEO: And then -- so then she caused a
7 single-car accident.

8 PROSPECTIVE JUROR NO. 130: Yes.

9 MR. MAZZEO: Okay. All right. And how did
10 she -- how did she go about getting the car and taking
11 it without permission?

12 PROSPECTIVE JUROR NO. 130: Without
13 permission, but she went with the -- with the friend,
14 so ...

15 MR. MAZZEO: She went with her friend?

16 PROSPECTIVE JUROR NO. 130: Yes.

17 MR. MAZZEO: But not the owner of the car.

18 PROSPECTIVE JUROR NO. 130: Not.

19 MR. MAZZEO: Okay.

20 PROSPECTIVE JUROR NO. 130: I think it's the
21 parent friend's are the owner.

22 MR. MAZZEO: Okay. And I may come back to
23 you with that instance.

24 Mr. Roberts, can you tell us about --

25 PROSPECTIVE JUROR NO. 058: Yeah. My son had

1 access to a third vehicle and I also, but on this
2 particular day, he was told that he couldn't take it.
3 But he was at that age where girls were calling him,
4 and he decided to go rendezvous with his friend. And
5 he actually let that person drive the car and they hit
6 something on -- I don't know. They did something on
7 the road, but they damaged the front end of the car
8 where it took the whole tie rod off the front of the
9 car. But they didn't hit any other car. I don't know
10 what they did. So that was -- he had access to the
11 keys in terms of they were in the house. He was just
12 told that on that particular day, he was not supposed
13 to take the car. It was a car he had access to on a
14 semi-regular basis. But we were trying to control his
15 activities with this -- this particular person.

16 MR. MAZZEO: And who was the registered owner
17 of the car?

18 PROSPECTIVE JUROR NO. 058: Myself and my
19 wife.

20 MR. MAZZEO: Oh, okay. All right. And with
21 your situation -- and I know both of -- both your
22 situation, Mr. Roberts, and your situation,
23 Ms. Perreida, there was -- it was a single-car accident
24 just resulted in property damage and no personal
25 injuries.

1 PROSPECTIVE JUROR NO. 058: Exactly.

2 MR. LASSART: And, Mr. Roberts, do you
3 believe in a situation where -- let's say it did --
4 there was a situation where injuries did result and it
5 involved, like, a second vehicle, do you believe that
6 the owner should automatically be responsible for
7 punitive damages for motor vehicle accident caused by
8 another driver?

9 PROSPECTIVE JUROR NO. 058: So you put me in
10 a quandary because I -- professionally, I know I've had
11 to adjust cases, and who's right or wrong. From a
12 personal standpoint, you know, as a parent, I'd
13 probably say, you know, I did my best to -- to give him
14 the right thing, to not do what was wrong. That's --
15 that's a tough one.

16 MR. MAZZEO: And keep in mind, Mr. Roberts,
17 you brought up a good point, from your situation as an
18 adjustor, you adjusted cases. We all come in here with
19 our experiences.

20 PROSPECTIVE JUROR NO. 058: Exactly.

21 MR. MAZZEO: You're not asked to leave your
22 experience at the door or common sense. So that's why
23 we're -- that's why we take some time with this
24 process. It's a very important process, but we want to
25 know about your experiences. So you can certainly

1 access the experiences that you've have. Obviously,
2 that formulates our opinions. It gives us certain
3 filters -- and I didn't really touch upon this yet, but
4 we have -- all jurors, we -- all people have certain
5 filters as we -- as we come into -- with regard to
6 certain things.

7 And our -- our concern here is to know
8 whether you have filters with regard to certain issues
9 affecting this case, meaning do you see -- do you
10 have -- come in with certain bias or prejudice.
11 Mr. Roberts said yesterday prejudice is basically to
12 prejudge. Prejudge could be -- as he said, it's not
13 just about some of the more controversial or socially
14 improper things as, you know, with racism. It could be
15 with the food that we eat. Broccoli, we -- we may have
16 prejudice against it. That's a prejudice.

17 Mr. Roberts, you're nodding your head.

18 PROSPECTIVE JUROR NO. 058: I do not like
19 broccoli.

20 MR. MAZZEO: I happen to like broccoli, but
21 that's -- that's all it is. We come in here with
22 filters. We come in here with our own mind-set based
23 on the accumulation of all our experiences. That's
24 what we want to learn about.

25 So we can certainly draw upon your --

1 Mr. Roberts, you're certainly entitled to draw upon
2 your experience, whatever it is, you know, as -- as
3 a -- as an adjustor. And, Mr. Brandon, as a racecar
4 aficionado. And anyone else, we all have our different
5 experiences.

6 So don't shy away from expressing your
7 opinions. We -- there's nothing that you can say to us
8 that would offend us. We -- what we need to know is we
9 need to know your feelings, your attitudes, your
10 opinions about the issues that we're -- we're
11 discussing with you. So appreciate you bringing that
12 up. That kind of reminded me of that -- of that, you
13 know, topic.

14 So -- and, Ms. Perreida, same question to
15 you. Do you think that the owner of the -- a
16 vehicle -- I guess the owner would be the friend,
17 right, of your -- of your older sister. Do you think
18 that the owner of that vehicle should be automatically
19 responsible for punitive damages simply because or --
20 for an accident caused by a driver who didn't have
21 permission?

22 PROSPECTIVE JUROR NO. 130: I think they --
23 they both should take responsible, because the friend
24 should know that my sister didn't -- is not a good
25 driver yet. So, you know, my sister should take

1 responsible too, and her friend should take responsible
2 too.

3 MR. MAZZEO: Okay. And your older sister,
4 you said she wasn't a good driver.

5 Was she licensed or unlicensed?

6 PROSPECTIVE JUROR NO. 130: Because she was
7 not the age able to drive yet.

8 MR. MAZZEO: She was not supposed to drive
9 yet?

10 PROSPECTIVE JUROR NO. 130: Yeah.

11 MR. MAZZEO: Oh, she wasn't of the age to
12 drive?

13 PROSPECTIVE JUROR NO. 130: Yeah.

14 MR. MAZZEO: To drive by herself or to --

15 PROSPECTIVE JUROR NO. 130: Yeah, to drive by
16 herself.

17 MR. MAZZEO: Okay. Had your older sister,
18 had she had prior permission to drive the vehicle?

19 PROSPECTIVE JUROR NO. 130: No.

20 MR. MAZZEO: Okay. And how did she come
21 about to gain access to the keys for the car?

22 PROSPECTIVE JUROR NO. 130: I think her
23 friends give her.

24 MR. MAZZEO: But --

25 PROSPECTIVE JUROR NO. 130: I don't know the

1 detail. I just know after the accident that happened
2 and she come to -- she came to tell me and borrow my
3 money to fix the car, and --

4 MR. MAZZEO: Yeah. You're talking about the
5 friend.

6 PROSPECTIVE JUROR NO. 130: I think so. One
7 of them, they don't have money.

8 MR. MAZZEO: So they came to you.

9 PROSPECTIVE JUROR NO. 130: And they trying
10 to -- don't want to tell parents to know about it.
11 That's why.

12 MR. MAZZEO: Okay. So -- so they came to you
13 because you had the money.

14 PROSPECTIVE JUROR NO. 130: Yes.

15 MR. MAZZEO: And -- but was it a situation
16 where the -- the friend gave -- you know, if she
17 gave --

18 PROSPECTIVE JUROR NO. 130: Yeah.

19 MR. MAZZEO: -- your older sister keys or did
20 not give her keys?

21 PROSPECTIVE JUROR NO. 130: That's what I
22 said, I don't know the detail.

23 MR. MAZZEO: Okay. Okay.

24 If -- well, okay. Well -- and that was the
25 question that I was asking. So assuming that the

1 friend didn't know that the -- that your older sister
2 took the car --

3 PROSPECTIVE JUROR NO. 130: No. They both
4 took -- they both go together, went together.

5 MR. MAZZEO: Oh, in the same car.

6 PROSPECTIVE JUROR NO. 130: Yeah, in the same
7 car.

8 MR. MAZZEO: Oh, okay. So -- so the friend
9 knew that -- she was with her --

10 PROSPECTIVE JUROR NO. 130: Yeah, the friend
11 knew.

12 MR. MAZZEO: Okay.

13 PROSPECTIVE JUROR NO. 130: But the friend's
14 parent don't actually know.

15 MR. MAZZEO: Okay. I understand.

16 I wanted to ask you another question about
17 the -- on your -- on your jury questionnaire,
18 Ms. Perreida, you were asked -- do you remember you
19 were asked a question, as everyone was, about the
20 person who most influenced your life? Do you recall
21 being asked that question, answering a question -- you
22 were asked to identify -- name the person who most
23 influenced your life.

24 PROSPECTIVE JUROR NO. 130: Influence?

25 MR. MAZZEO: Influenced, had an influence on

1 your life.

2 PROSPECTIVE JUROR NO. 130: I think my
3 sister.

4 MR. MAZZEO: And is that the response you're
5 going -- you're giving us today?

6 PROSPECTIVE JUROR NO. 130: Pardon me?

7 MR. MAZZEO: And you think your sister had
8 the biggest influence on your life?

9 PROSPECTIVE JUROR NO. 130: Yes.

10 MR. MAZZEO: Okay. Why is that?

11 PROSPECTIVE JUROR NO. 130: She like to make
12 trouble. I know in -- in the -- what do you call, in
13 the bottom of her heart, I think she don't want to do
14 it. But I think -- I don't know. Somehow maybe her
15 friend or I think that society --

16 MR. MAZZEO: Society?

17 PROSPECTIVE JUROR NO. 130: -- in the school,
18 at school, her friend at school maybe take her to do
19 something that not supposed to, and she follow her
20 friend and ...

21 MR. MAZZEO: Okay. Do you understand my
22 question when I ask you about the person who had an
23 influence on your life? That was in the jury
24 questionnaire that you had filled out.

25 PROSPECTIVE JUROR NO. 130: I don't remember

1 what I had answered.

2 MR. MAZZEO: Okay. Well, according to your
3 response, you had indicated -- so we wanted to know
4 who -- who's the person that you felt most influenced
5 your life and tell us why. And -- and the response you
6 gave us was, The person that broke my car because I did
7 not know why he did it, just for fun or want to see if
8 people's life scared.

9 PROSPECTIVE JUROR NO. 130: Yeah, it's -- I
10 think that person -- that -- I think is a teenager
11 because see on the camera, video cameras.

12 MR. LASSART: I'm sorry, camera?

13 PROSPECTIVE JUROR NO. 130: Yeah, the camera
14 at work.

15 MR. MAZZEO: Okay.

16 PROSPECTIVE JUROR NO. 130: That was happened
17 at my workplace.

18 MR. MAZZEO: Oh, okay. So -- so the person
19 that broke into your car, that was -- that was -- the
20 image, it was recorded on --

21 PROSPECTIVE JUROR NO. 130: They broke into
22 my car.

23 MR. MAZZEO: It was recorded on a camera?

24 PROSPECTIVE JUROR NO. 130: Yes.

25 MR. MAZZEO: Okay. And -- and why did that

1 person -- why do you feel that person most influenced
2 your life?

3 PROSPECTIVE JUROR NO. 130: Because I don't
4 know that person, and I don't know why they have to did
5 that. They can't -- and that case can happen to anyone
6 car, you know, and --

7 MR. MAZZEO: And that what?

8 PROSPECTIVE JUROR NO. 130: Can happen to
9 anyone car.

10 MR. MAZZEO: Sure.

11 PROSPECTIVE JUROR NO. 130: So -- and police,
12 they didn't caught that -- they didn't caught them. So
13 I don't know if it going to happen to me again. That's
14 why I'm scared.

15 MR. MAZZEO: Okay. So it influenced -- now,
16 this is a situation where this person had an influence
17 on your life in a negative way; right?

18 PROSPECTIVE JUROR NO. 130: Yes.

19 MR. MAZZEO: Okay. And --

20 PROSPECTIVE JUROR NO. 130: So right now, I
21 don't know -- I have to park in -- like, the regular
22 customer in the parking lot. So -- you know. Right
23 now, I have to watch -- when I on break, I have to go
24 look for my car. And --

25 MR. MAZZEO: Sure. And -- and -- and how

1 long ago did that happen?

2 PROSPECTIVE JUROR NO. 130: I think last
3 month -- no. In December.

4 MR. MAZZEO: Okay. And so throughout your
5 entire life, this person who broke into your car had
6 the most significant influence on your life?

7 PROSPECTIVE JUROR NO. 130: Yes.

8 MR. MAZZEO: Okay.

9 PROSPECTIVE JUROR NO. 130: Right now.

10 MR. MAZZEO: Right now. Okay. Right now.

11 So what I want to do is then ask you: Can
12 you name a person who had a -- can you name a public
13 figure who you believe is a significant person in your
14 life, not from a personal experience and not a family
15 member like a mother or father? But can you -- can you
16 name a public figure who had a -- someone you believe
17 to be significant?

18 PROSPECTIVE JUROR NO. 130: I don't have one
19 right now.

20 MR. MAZZEO: No? Okay. All right. Thank
21 you.

22 Okay, guys, I told you yesterday that -- that
23 some of these -- we do need -- I do need to delve into
24 some personal areas, and it's not to embarrass anyone,
25 but it's important because it pertains to issues in the

1 case. So, again, we -- I encourage you and I
2 appreciate the candor that you've all have given, and I
3 encourage you to continue so -- and if it's too
4 personal, just let us know. And we'll -- we'll talk to
5 the judge about how we'll approach that.

6 So does anybody here have any family members
7 or friends, close friends, who have been addicted to
8 drugs, alcohol, or gambling? Okay. Okay. A number of
9 hands. Great. And -- and so appreciate -- appreciate
10 you raising the hands on that.

11 And of those same people, do those family
12 members or close friends belong to or have they
13 participated in any programs like NA, Narcotics
14 Anonymous, AA, or Gamblers Anonymous, or any other
15 12-step program? Just show of hands. Okay.

16 Now I want to ask specific questions. Now,
17 just in the back row, I know there are a couple.
18 Mr. Brandon, you raised your hand. And I don't -- I'm
19 not going to ask you who the person is. There's no
20 need for us to -- to learn that -- you know, to uncover
21 that information.

22 But do you have any -- based on this
23 experience of a family member or close friend, do you
24 have any opinions or feelings about how the drugs or
25 alcohol or -- or gambling controlled the addict's life?

1 PROSPECTIVE JUROR NO. 003: No, I don't have
2 any opinions.

3 MR. MAZZEO: No?

4 PROSPECTIVE JUROR NO. 003: It was his
5 decision. He chose it. Okay. So be it. Now he's
6 6 feet under, but ...

7 MR. MAZZEO: Okay.

8 PROSPECTIVE JUROR NO. 003: It was his
9 decision.

10 MR. MAZZEO: And I understand his decision,
11 but it certainly affected his life in a negative way --

12 PROSPECTIVE JUROR NO. 003: Yeah.

13 MR. MAZZEO: -- right?

14 PROSPECTIVE JUROR NO. 003: I mean, like I
15 say, he was -- 003, by the way. It was my stepdad.

16 MR. MAZZEO: It was what?

17 PROSPECTIVE JUROR NO. 003: My stepdad. You
18 know, he smoked marijuana, but it helped him sometimes
19 and other times it was tearing apart his body. We kept
20 telling him to stop. This is what it's doing to you.
21 He couldn't do it, and it made him race better, weld
22 better, work on the racecars better. But to me, it --
23 you know, I just told him to stop. He needs to stop.
24 Otherwise -- well, now I can't tell him, Look what
25 happened, so ...

1 MR. MAZZEO: Sure. Sure.

2 Again, in this first row, I know, Ms. Klein,
3 you had raised your hand.

4 Who else in the first row raised their hand?
5 I'm sorry, the top row. Then I'll come down to the
6 second row. We'll go with you, Ms. Klein.

7 Do you have any opinions or feelings about --
8 how the addiction with drugs or alcohol controlled that
9 individual's life?

10 PROSPECTIVE JUROR NO. 146: Badge 146. And
11 yes. Different people with different circumstances.
12 More than one member of my family or extended family
13 has had different problems. So I can see how different
14 substances or addictions have caused different
15 problems.

16 MR. MAZZEO: Did it give you any appreciation
17 for what addiction -- what addiction means or what
18 it -- what an addiction does to a person?

19 PROSPECTIVE JUROR NO. 146: Yes.

20 MR. MAZZEO: Can you -- can you tell us about
21 that?

22 PROSPECTIVE JUROR NO. 146: Well, I know,
23 like, specifically, someone that had a gambling
24 addiction. And it bankrupted their entire family.
25 They were forced to move to another state because they

1 just couldn't live in Nevada anymore because it was too
2 available. He had a very successful private business
3 that he ran into the ground. It -- it tore their
4 family apart. And, you know, he tried to avoid it, but
5 he did not have the willpower. And even with
6 assistance, didn't have the willpower to not gamble.

7 I also seen with substance abuse where, you
8 know, it's having to physically remove themselves from
9 everything they've known in order to remove the
10 availability of the substance that they're addicted to
11 because -- because otherwise, it -- they don't have
12 willpower to resist it.

13 MR. MAZZEO: And -- and not having the
14 willpower, not having control to -- to --

15 PROSPECTIVE JUROR NO. 146: Right. And
16 it's -- you know, chemically, it becomes a --
17 wired-in-your-brain kind of thing. And they're -- it's
18 not necessarily something that they can control after,
19 you know, a certain amount. You know, some people are
20 more susceptible to it than others. And some people --
21 some things are more addicting than others.

22 MR. MAZZEO: Sure. How did this affect the
23 relationship with -- that the other family members,
24 yourself or other family members had with -- dealing
25 with a person who's an addict?

1 PROSPECTIVE JUROR NO. 146: In almost every
2 case, it's been more difficult because of their
3 addiction. You know, several family members have had
4 to go to rehab and/or, you know, those kind of programs
5 or -- sometimes it helps. Sometimes they don't.

6 MR. MAZZEO: Sure. Okay. All right. Thank
7 you.

8 In the second row, starting from the right
9 side. Who -- who raised -- Mr. Roberts. Okay.

10 Same question: Do you have any -- what are
11 your opinions about how drugs and alcohol control or
12 impact an addict's life?

13 PROSPECTIVE JUROR NO. 058: 058. Tough one,
14 because it involved a close family member's son. He's
15 now 31, and he's slowly dying because of his activities
16 that he did previously has done something to his body.
17 He had some other complicating factor, but it's
18 basically almost like a suicide when you figure it out
19 by the end. And that makes me angry because it put
20 my -- it's my sister's son, put her through tremendous
21 amount of torment during this stage of his life. And
22 although he's no longer addicted to the -- the issues
23 that he has, it's affected him now, and he can't
24 reverse what's going on.

25 MR. MAZZEO: Sure.

1 And, Mr. Berkery.

2 PROSPECTIVE JUROR NO. 063: Yeah. 063.

3 MR. MAZZEO: Okay. Same question: What is
4 your feeling, opinions about how the drugs or alcohol
5 or gambling affected this addict's life?

6 PROSPECTIVE JUROR NO. 063: It wasn't good.
7 You know, when you say an opinion, that's a very broad
8 topic that you're throwing out there. And so my
9 personal opinion has very little impact on this
10 individual's life because the addiction has more of an
11 impact on it than I do.

12 MR. MAZZEO: Certainly. Just for
13 clarification, what I want to know is, I want to know
14 from you your perspective and your opinion and feelings
15 about what you observed. I'm not talking about the
16 addict themselves. I'm just talking to you, since
17 you're sitting in the box here.

18 What did you observe with respect to how the
19 drugs or alcohol affected or controlled the addict's
20 life?

21 PROSPECTIVE JUROR NO. 063: Well, it's still
22 an ongoing process for him. And it is a daily part of
23 his life. And it is -- it probably is the more -- more
24 important part of his life than other aspects. I think
25 it -- I think it rules more of his life than anything

1 else does.

2 MR. MAZZEO: Okay. All right. And were you
3 privy to the struggles that the other family members or
4 friends had in coping with and dealing with an addict
5 as a friend or a family member?

6 PROSPECTIVE JUROR NO. 063: Yes. There
7 are -- there -- there have been a number of people
8 involved in different situations that have occurred.
9 You know, people say it takes a village to, you know,
10 raise a kid or an idiot, either one, but in this
11 particular case, he -- he has a large village of his
12 own. And so when something's happening, people touch
13 base on what's going on and different people jump in
14 when they can and help out or support or whatever's
15 required at that time.

16 MR. MAZZEO: And did you -- did you observe
17 any frustration in the people trying to help the addict
18 out? Was it an easy process for them or was it -- were
19 there challenges for --

20 PROSPECTIVE JUROR NO. 063: I think it -- I
21 think that, again, goes to a broad question because
22 different people handle things differently.

23 MR. MAZZEO: And just, again, from your
24 observation, from what you observed --

25 PROSPECTIVE JUROR NO. 063: Some people are

1 frustrated. Some people did just fine.

2 MR. MAZZEO: In handling it?

3 PROSPECTIVE JUROR NO. 063: Uh-huh.

4 MR. MAZZEO: Sure: Thank you very much.

5 PROSPECTIVE JUROR NO. 063: Of course.

6 MR. MAZZEO: Who else in this -- yes,

7 Ms. Bias.

8 PROSPECTIVE JUROR NO. 066: 066. I just want
9 to say it was my father. He had a real bad drinking
10 problem growing up. And now he's 16 years sober, and
11 he did it himself. He had an incident with my mom,
12 which I won't go into --

13 MR. MAZZEO: I'm sorry. He?

14 PROSPECTIVE JUROR NO. 066: He had an
15 incident with my mom, and I guess it just made him
16 realize that it's controlling his life with his family,
17 that he'd rather be with that than his family, and he
18 just decided that his family is more important. And
19 he's been 16 years sober.

20 MR. MAZZEO: And how long did he have that
21 drinking problem for?

22 PROSPECTIVE JUROR NO. 066: To be honest, he
23 always told me he was in bars at 13.

24 MR. MAZZEO: Since 13?

25 PROSPECTIVE JUROR NO. 066: Yeah. He had

1 been drinking for a long time. And he just went cold
2 turkey, just stopped. And so far, he's been doing
3 pretty good.

4 MR. MAZZEO: Was there a time, though, as --
5 while you were growing up with your dad where he might
6 have denied that he had a problem? Or might have
7 said --

8 PROSPECTIVE JUROR NO. 066: It was on a daily
9 basis he would deny it. But like I said, that one
10 incident that really -- something clicked, and he's
11 like, You know, I can't do it no more. And it was just
12 me and my sister and my mom. And he goes, My family's
13 more important. So he just quit.

14 MR. MAZZEO: Sure. And prior to -- to him
15 quitting and prior to that incident, what were some of
16 the -- how was it growing up in a house where you
17 had --

18 PROSPECTIVE JUROR NO. 066: It was very hard.
19 He would work, and he would waste his whole paycheck.
20 So we would have to struggle trying to figure out how
21 we're going to make ends meet. And he was very angry,
22 and I want to say abusive, more like emotional, kind
23 of. And it was hard.

24 MR. MAZZEO: Okay. And were there family
25 members, yourself, your mom, or others, that tried to

1 help him to --

2 PROSPECTIVE JUROR NO. 066: My brother.

3 MR. MAZZEO: -- stop doing that?

4 PROSPECTIVE JUROR NO. 066: My older brother.

5 Yeah, the one that's in the military. And he -- he was

6 there with that incident, and he's the one that snapped

7 him out of it I guess, so ...

8 MR. MAZZEO: Okay. Great. Thank you.

9 Thanks for sharing. Appreciate it.

10 Mr. Retzlaff, I know you raised your hand.

11 So, again, from your perspective -- not from the

12 addict's perspective, from your perspective observing

13 this, what -- what did you observe with -- with regard

14 to how drugs or alcohol had controlled or -- controlled

15 and/or destroyed the addict's life?

16 PROSPECTIVE JUROR NO. 088: Yeah. 088.

17 Well, I have had a couple of occasions and like that

18 previous jurors were saying, they were handled

19 different by -- you know, by the different people. One

20 instance, my -- my aunt and uncle, not sure what

21 substances they were abusing and using, but they were

22 using them heavily. It got to the point where, one,

23 because of my dad's job, we couldn't have contact with

24 them. But, I mean, even to this day, they cut off

25 contact with us and other family members because, you

1 know, even though we were there to help, we wouldn't
2 help supply them with money to, you know, feed the
3 addiction. So that in turn made them angry towards us,
4 and they ended up cutting us out.

5 And I mean, to this day, we still get phone
6 calls asking if we've heard anything about their
7 whereabouts, any information, any contact with them
8 from various police offices in California and all
9 throughout the U.S.

10 But I've also had incidences with a friend
11 that was struggling with -- with alcohol addiction, and
12 he just kind of cold turkeyed it too. He saw some
13 effects. There was nothing major, but he could see
14 that, you know, it was something that -- that wasn't
15 necessarily controlling him, but he just saw that there
16 was no -- I guess there were no positive ends to it.
17 It wasn't -- it wasn't leading to anything, you know,
18 good waking up, you know, in the street and trying to,
19 you know, play detective every day. So I mean, he cold
20 turkeyed it. He took care of it.

21 But I consider it an addiction, but it
22 wasn't -- you know, it wasn't anything that controlled
23 him at that point. But I've seen the other end of the
24 spectrum in my aunt and uncle where it most certainly
25 can control you because it becomes almost like a

1 biological function at that point.

2 MR. MAZZEO: And -- and kind of, as you said,
3 destroyed the relationship essentially.

4 PROSPECTIVE JUROR NO. 088: Yes, uh-huh.

5 MR. MAZZEO: Okay. Thank you.

6 Anyone in this first row?

7 PROSPECTIVE JUROR NO. 141: First row?

8 MR. MAZZEO: Yes. Ms. Go.

9 PROSPECTIVE JUROR NO. 141: I'm going to talk
10 about two different people.

11 MR. MAZZEO: Sure.

12 PROSPECTIVE JUROR NO. 141: First one is a
13 very good family friend of ours. I've known him for
14 almost 25 years, and he's been sober for probably
15 longer than that. And I would say in his situation,
16 he's more like a positive thing because he choose to
17 change. So he's married with two kids, and he's still
18 going to the AA. And he met friends, and I'm assuming
19 those friends became a family to him.

20 And the negative side is my
21 ex-brother-in-law, he's addicted to drugs and gambling.
22 He lost a wife, my sister, and the children. He ruined
23 their life and our life and I hated him. And I
24 still -- I don't even mention his name because of what
25 he's done.

1 MR. MAZZEO: Had a huge impact on you and --
2 it had a huge impact on you --

3 PROSPECTIVE JUROR NO. 141: Correct, yes.
4 Not just my sisters and family, but the whole family.
5 So I'm holding a grudge on him.

6 MR. MAZZEO: I understand. And -- and -- but
7 was there a time when family members, yourself or
8 others, tried to help him and tried to get him to --

9 PROSPECTIVE JUROR NO. 141: Well, my sister
10 tried everything. His -- before in the process of
11 divorce, he's asked to go for counseling and
12 everything, and I guess he refused. He went out of
13 state. And not paying child support. And so he's a
14 deadbeat dad.

15 MR. MAZZEO: Okay.

16 PROSPECTIVE JUROR NO. 141: And he -- he lost
17 his job as well, so -- unfortunately for him.

18 MR. MAZZEO: Sure.

19 PROSPECTIVE JUROR NO. 141: Yeah. I can
20 forgive him, but I cannot forget.

21 MR. MAZZEO: Okay. Thanks for sharing.
22 Appreciate it.

23 I also wanted to ask you, I made -- I thought
24 I heard you say, yesterday was it, did you say your dad
25 had died?

1 PROSPECTIVE JUROR NO. 141: Correct, yeah.

2 MR. MAZZEO: Two weeks ago?

3 PROSPECTIVE JUROR NO. 141: Just two weeks

4 ago.

5 MR. MAZZEO: Wow, I'm --

6 PROSPECTIVE JUROR NO. 141: I don't want to

7 talk about it.

8 MR. MAZZEO: No, I understand. No, I'm

9 sorry. I just heard that.

10 With that, I just want to ask you, because

11 that's -- that's a pretty significant --

12 PROSPECTIVE JUROR NO. 141: Sorry.

13 MR. MAZZEO: No, no. I -- the reason why I

14 asked is will your ability to sit here, will that

15 impact you at all with this -- I didn't mean to bring

16 it up.

17 MR. STRASSBURG: Perhaps we could take a

18 break, Judge.

19 THE COURT: You need a few minutes, ma'am?

20 PROSPECTIVE JUROR NO. 141: I -- I can't talk

21 about it. It's hard.

22 MR. MAZZEO: I will move on. Yeah.

23 PROSPECTIVE JUROR NO. 141: Yeah. I mean, I

24 just don't want anybody to feel sympathy for me.

25 MR. MAZZEO: Right.

1 PROSPECTIVE JUROR NO. 141: You might see me
2 smiling because I want to move on.

3 MR. MAZZEO: And -- and --

4 PROSPECTIVE JUROR NO. 141: But it's so hard.

5 MR. MAZZEO: And -- and I've lost my dad, and
6 when I heard that -- so I know what it's like. I know
7 the impact that it has, and when I heard that just two
8 weeks ago, I just want -- and this happened in another
9 trial recently where it was a few days before jury
10 selection, and so that -- that was -- that was
11 certainly a concern. And so it's not about -- I mean,
12 obviously, we're going to feel for you and anyone that
13 has a loss like that.

14 But also the question is: Will -- will that
15 loss impact -- should we have any concerns about you
16 sitting here?

17 PROSPECTIVE JUROR NO. 141: I'm sorry. There
18 was some times that I can't concentrate because when my
19 dad passed, I was right beside him, so yeah.

20 MR. MAZZEO: Okay.

21 PROSPECTIVE JUROR NO. 141: But most of the
22 time I can comprehend, but there's some times that my
23 mind isn't here, so yeah.

24 MR. MAZZEO: Okay. And you understand you'll
25 be -- if you're chosen as a juror, you'll be sitting in

1 here for a few weeks, three weeks, three --

2 PROSPECTIVE JUROR NO. 141: Yes. I
3 understand that I have to put personal things aside,
4 but it's just I can't help it sometimes.

5 MR. MAZZEO: No, I understood. I understand.

6 But you'll let us know and -- you know,
7 you'll certainly let the Court know, let us attorneys
8 know as we continue with this process if you feel that
9 it might be a burden for you? Because we want to
10 consider -- obviously, that's a pretty significant
11 thing that happened in your life, so -- all right.

12 PROSPECTIVE JUROR NO. 141: Thank you.

13 MR. MAZZEO: Thank you, Ms. Go.

14 Mr. Avilaroa, had you -- did I pass over you?
15 Did you raise your hand?

16 PROSPECTIVE JUROR NO. 078: Yes, sir.

17 MR. MAZZEO: Okay. Sorry about that.

18 PROSPECTIVE JUROR NO. 078: No problem.

19 MR. MAZZEO: So you had -- and it was a
20 question about the addiction, and so you have a family
21 member or close friend who was addicted to drugs or
22 alcohol or gambling?

23 PROSPECTIVE JUROR NO. 078: Yes. 078.

24 Yeah -- my two examples. Well, a few. My brother, he,
25 you know, got in -- got in a physical confrontation

1 with a police officer while being under the influence
2 of alcohol, and he was speeding while driving, and,
3 yeah, that affected -- you know, he actually wanted to
4 be a lawyer and was going to college, university,
5 everything. And, you know, that affected him and
6 affected everybody around him. And, you know --

7 MR. MAZZEO: Was that -- Mr. Avilaroa, was
8 that an isolated incident where he was -- where he was
9 stopped for drinking, and --

10 PROSPECTIVE JUROR NO. 078: Yes.

11 MR. MAZZEO: -- and arrested, or did he have
12 a history of -- was he an addict?

13 PROSPECTIVE JUROR NO. 078: He had a history
14 of doing that for a long time. He would -- he had a
15 job, like, he was doing maintenance, and he would spend
16 all of his money on -- on alcohol. He had a very -- he
17 had a very large collection of alcohol. And --

18 MR. MAZZEO: Okay.

19 PROSPECTIVE JUROR NO. 078: -- you know, I
20 don't know why my parents didn't stop him. But -- but,
21 yeah, that -- that affected, you know, him, and -- and
22 us, you know.

23 MR. MAZZEO: Did that -- so being that it was
24 your brother, and you grew up in the same house with
25 your brother, did that give you an appreciation for how

1 the alcohol may have controlled and impacted his life?

2 PROSPECTIVE JUROR NO. 078: Yes.

3 MR. MAZZEO: Okay.

4 PROSPECTIVE JUROR NO. 078: And also, my
5 grandfather, he lost his whole family. You know, my
6 dad, he, you know, is the only one out of -- I think
7 out of ten brothers and sisters is the only one that
8 talks to him. And, you know, I don't know now -- he --
9 my grandpa, he -- he's been sober for, like, I think
10 15 years, I think. So he's -- he's been able to make
11 it and change his life around, and, you know, he's not
12 a bad person, you know.

13 MR. MAZZEO: How did your brother's use or
14 addiction to alcohol impact your relationship with him?

15 PROSPECTIVE JUROR NO. 078: It just, you
16 know -- I just -- it didn't really affect it to where I
17 would never want to talk to him again, you know. But I
18 just felt bad for him. But he changed his life around,
19 you know. He's -- he's a better person now. He's --
20 you know, he went through a process where, you know, he
21 talks to victims that have lost, you know, family
22 members of drivers that have, you know, been under the
23 influence. And that changed his life around. After
24 that process, he's not the same anymore. He's, you
25 know what, I never want to do that again. I regret

1 ever doing that. And what happens if I were to hurt
2 you or somebody were to hurt you, you know, like --
3 and, yeah, that -- that process, you know.

4 MR. MAZZEO: Sure. And -- and I appreciate
5 that.

6 Did he also seek out any assistance through
7 an AA program or 12-step program?

8 PROSPECTIVE JUROR NO. 078: Yes, sir.

9 MR. MAZZEO: Is he -- does he still
10 participate in --

11 PROSPECTIVE JUROR NO. 078: Yes.

12 MR. MAZZEO: -- in that?

13 And did that have an impact on him changing
14 and turning his life around as well?

15 PROSPECTIVE JUROR NO. 078: Yes.

16 MR. MAZZEO: Okay.

17 PROSPECTIVE JUROR NO. 078: Yes, definitely.

18 MR. MAZZEO: All right. And I don't know
19 if -- I know I didn't follow up with this with all the
20 others.

21 Ms. Bias, did -- did your dad have a -- seek
22 out any help with --

23 PROSPECTIVE JUROR NO. 066: Badge No. 066.

24 No, he -- we just -- with family. We were his support
25 system. And he kind of -- it would hurt his pride to

1 go to AA, I guess. So he confided in his family. So
2 we never gave up on him, and he -- he did it.

3 MR. MAZZEO: Okay. Thank you.

4 Mr. Berkery, with the family member that you
5 mentioned, did they attempt to or go to any program?

6 PROSPECTIVE JUROR NO. 063: 063. My -- it
7 was actually a friend, and he has attempted to 12-step
8 programs before. He's not currently in one.

9 MR. MAZZEO: Okay. Thank you.

10 PROSPECTIVE JUROR NO. 063: Of course.

11 MR. MAZZEO: Mr. Roberts, I believe you
12 answered -- you answered the question as well; right?

13 Did they participate in a AA program or NA
14 program?

15 PROSPECTIVE JUROR NO. 058: I believe he was
16 in a format for a while, but the change really came
17 because of his health. He had some significant health
18 compromise that has caused him to -- to make an internal
19 decision to do what he's doing.

20 MR. MAZZEO: Okay. Great. Thank you.

21 Mr. Retzlaff, not with your aunt and uncle,
22 but -- or -- or either of those two scenarios you gave
23 us, did either of them attempt to go to AA or NA?

24 PROSPECTIVE JUROR NO. 088: 088. Actually,
25 my aunt and uncle were. My friend, he just kind of

1 cold turkeyed it and got rid of it. But my aunt and
2 uncle did, and it seemed to be going good, but for
3 whatever reason, they relapsed or were hanging with the
4 wrong crowd or something and got right back into it.

5 MR. MAZZEO: All right. Thank you.

6 And, Mr. Corum, and I apologize, you had
7 raised your hand as well; right?

8 PROSPECTIVE JUROR NO. 093: Yes.

9 MR. MAZZEO: So I didn't even -- I think I
10 passed over you.

11 So the question that I had is: What is -- I
12 want to know from your perspective how the drug or
13 alcohol addiction had controlled and impacted, from
14 your perspective, the addict's life?

15 PROSPECTIVE JUROR NO. 093: Well, I've known
16 this addict for a very long time. He's been some -- I
17 couldn't always tell, but, like, he's been doing it for
18 a very long time. Always tried to hide it. Shit.

19 Q. Was it -- was it --

20 PROSPECTIVE JUROR NO. 093: It was a family
21 member.

22 MR. MAZZEO: Okay.

23 PROSPECTIVE JUROR NO. 093: I always -- you
24 know, we're close in age. We're close in age, but not
25 so close within the family. He's a distant cousin.

1 I've always been there, you know, to support him in
2 whatever it was. It wasn't always with the drugs or
3 anything. But recently he's -- you know, how I said
4 I've been given the shaft or, you know, been done wrong
5 to? He's one of the ones that have done wrong to me.

6 MR. MAZZEO: Oh, okay.

7 PROSPECTIVE JUROR NO. 093: And right now,
8 we're working on it. I was almost to the point where I
9 didn't want to see him for the rest of my life.

10 MR. MAZZEO: Okay.

11 PROSPECTIVE JUROR NO. 093: But he just
12 recently contacted me, told me that he knew -- you
13 know, he confessed, basically. Told me he did know
14 what was going -- that he did wrong, told me what he
15 did wrong. And now I'm waiting for reconciliation, and
16 I won't see him until -- he does it every -- once a
17 month because he owes me money.

18 MR. MAZZEO: I see. Okay. Sure. Okay.

19 And was it -- and I come from a big family, I
20 told you guys yesterday. So I know that there's
21 personality conflicts with certain family members.

22 So is your -- is the difficulty in your
23 relationship with your brother --

24 PROSPECTIVE JUROR NO. 093: It's not a
25 brother.

1 MR. MAZZEO: I'm sorry.

2 PROSPECTIVE JUROR NO. 093: It's -- it's a
3 distant cousin.

4 MR. MAZZEO: Cousin. Okay. Is that more of
5 a personality conflict or is it related to -- to an
6 addiction?

7 PROSPECTIVE JUROR NO. 093: It's related to
8 an addiction. My cousin, he -- he loves me, man. I've
9 always been there for him. But the addiction is what
10 caused him to make it where I don't want to, you know.
11 I can't -- I can't do it.

12 MR. MAZZEO: Okay. And why is that? What's
13 the challenge you have in -- in interacting with
14 someone with an addiction?

15 PROSPECTIVE JUROR NO. 093: Just the facade,
16 I can say. He masks his addiction.

17 MR. MAZZEO: So you're not -- you're not
18 really interacting with him. You're interacting with
19 this -- with, like, a pretense or a -- like you said, a
20 facade.

21 PROSPECTIVE JUROR NO. 093: He'll lie to your
22 face.

23 MR. MAZZEO: Okay. Okay. Thank you. Yeah,
24 thank you for sharing.

25 Ladies and gentlemen, in the -- in the jury

1 questionnaire, there was a question about -- and
2 there's -- again, all -- not all of the jurors -- there
3 were a big pool of jurors that received this jury
4 questionnaire. They're not all in this courtroom.
5 But -- so one of the questions on the jury
6 questionnaire was whether -- whether any jurors -- or
7 whether you, since you're answering the jury
8 questionnaire, would be unable to be fair in a case
9 where a driver was impaired by marijuana metabolite and
10 caused a motor vehicle accident.

11 Do you all remember that question? Something
12 like that. I see a nod of heads. Okay.

13 And so based on certain responses -- I'm just
14 going to follow up based on certain responses that were
15 given, and we're going to start in the first row from
16 the right side. Let me just turn to the page.

17 Ms. Fiore, do you recall that question?

18 PROSPECTIVE JUROR NO. 010: Flores?

19 MR. MAZZEO: Oh, Flores. I have Fiore. Oh,
20 it's not Fiore. It's Flores. I apologize, let me
21 correct that.

22 PROSPECTIVE JUROR NO. 010: 010. And I do
23 recall that question, and I said yes, I was going to be
24 fair.

25 MR. MAZZEO: And also your answer was, even

1 though the -- the -- and this is quoted, "Even though
2 the person was on marijuana, it doesn't mean that they
3 don't know what they are doing. They chose to smoke
4 and get into a car knowingly."

5 Do you remember -- do you remember that?

6 PROSPECTIVE JUROR NO. 010: Yes.

7 MR. MAZZEO: And then -- oh, and also, you
8 said, "Against it. It was their choice to do drugs and
9 drive"; right?

10 PROSPECTIVE JUROR NO. 010: Yes.

11 MR. MAZZEO: Do you recall that? Can you
12 just elaborate on that for us?

13 PROSPECTIVE JUROR NO. 010: Well, I mean,
14 they knew what they were doing. Like, they got in the
15 car and they smoked, got in the car and drove. They
16 had a choice to not drive.

17 MR. MAZZEO: Okay. So because of -- because
18 the person smoked, got into a car, drove, how does that
19 affect your ability to -- okay. So this is -- this is
20 one of those questions where we're looking for our
21 preconceived notions and biases and prejudices that we
22 may have. And let's face it, it's no secret, marijuana
23 is -- there's a stigma associated with that, with --
24 with smoking it and with smoking and driving. Not for
25 everybody, but there is for, you know, a good section

1 of society. And so that's -- it's a sensitive issue.
2 It's an issue in this case.

3 So based on your view about people who smoke
4 marijuana and drive, how would that -- how will that
5 affect your ability to sit on this case where -- where
6 you know that there's been a finding that there's been
7 an impairment by marijuana metabolite?

8 PROSPECTIVE JUROR NO. 010: I mean, I've seen
9 both sides. I've seen, you know, family members who
10 smoke marijuana and they drive, and, you know, they
11 drive perfectly fine. And I've also seen family
12 members who smoke and, you know, they drive like if
13 they were drunk or like they don't -- they're not
14 driving right. So I -- I've been on -- you know, I've
15 seen both sides to where they drive perfectly fine and
16 where they don't.

17 MR. MAZZEO: And --

18 PROSPECTIVE JUROR NO. 010: So I'm just kind
19 of, like, in the middle, you know.

20 MR. MAZZEO: And I guess what I'm asking is:
21 Do you have any -- do you harbor any negative feelings
22 knowing what -- what -- about this ruling against Jared
23 Awerbach -- my client was the owner of the car, but
24 against Jared where -- where maybe Jared and/or Andrea
25 are starting -- if we're on the starting line, where

1 we, our side, Jared and/or Andrea, are starting a
2 little behind the plaintiff in your eyes?

3 PROSPECTIVE JUROR NO. 010: No.

4 MR. MAZZEO: So your -- the response that you
5 gave isn't -- there's nothing for us to be concerned
6 about in terms of sitting on this case, looking at the
7 evidence, and -- and not having any issues regarding
8 this -- this ruling regarding marijuana metabolite in
9 his system? No?

10 PROSPECTIVE JUROR NO. 010: Huh-uh.

11 MR. MAZZEO: Okay. Thank you.

12 And moving down the line, Mr. Jensen, in your
13 questionnaire, your response, something to the effect
14 if impaired or used drugs within ten days prior, you
15 could not be impartial.

16 PROSPECTIVE JUROR NO. 015: 015. One, I'm
17 not familiar with the term "metabolite." So that I
18 just arbitrarily took ten days. I mean, if someone was
19 driving impaired, it's going to affect me, yes.
20 Because we all have, in this day and age, enough
21 information that, you know, we really should not be
22 driving either drugs, alcohol, marijuana, whatever. If
23 you're driving a vehicle in an impaired state, you're
24 taking a risk. I mean, you're taking a huge risk to
25 yourself. You're taking a huge risk of other people.

1 So yes, you're one step behind already.

2 MR. MAZZEO: Okay. And that's -- and I
3 appreciate your candor and the way you phrased it "one
4 step behind."

5 So is it fair to say, then, that your view
6 about the -- using marijuana and driving, and in this
7 case, it was using marijuana, there being a finding of
8 marijuana metabolite in the system and causing an
9 accident, that gives you a certain bias?

10 PROSPECTIVE JUROR NO. 015: Definitely.

11 MR. MAZZEO: With this particular case.

12 PROSPECTIVE JUROR NO. 015: Yes.

13 MR. MAZZEO: Okay. And so -- and as you
14 said, that's -- we're one step behind. When I say
15 "we," we're on the defense side. My -- my client, the
16 mother, she was -- she's not the operator of the car.
17 Jared was. But we're still on the other side.

18 So, in your opinion -- and I appreciate your
19 candor -- on the starting line, you would agree that
20 we're -- we're starting behind the plaintiff in this
21 case?

22 PROSPECTIVE JUROR NO. 015: Correct.

23 MR. MAZZEO: Okay. And -- and that -- that
24 would influence the way you look at the evidence,
25 possibly the way you make a decision with regard to

1 damages in this case?

2 PROSPECTIVE JUROR NO. 015: As I mentioned, I
3 believe it was yesterday, a similar question, judge was
4 going to give us the rules, restrictions, on how we're
5 going to be judging this case. I think I can still
6 follow those rules, but I definitely am going to have a
7 bias when it comes to a judgment. I'm not sure how
8 that's going to affect, but I have that bias.

9 MR. MAZZEO: Sure, and I appreciate that.
10 And this is -- this is the -- part of the process.
11 This is why we do jury selection, because we want, of
12 course, you know, eight jurors who are -- actually ten,
13 because we're picking ten, who are fair and impartial,
14 and who are not -- where we're not starting behind --
15 you know, where one party is not starting, you know, in
16 front of the other or one behind the other from the
17 start, from the get-go, because that -- that already
18 puts us -- puts one party at a disadvantage; right?

19 PROSPECTIVE JUROR NO. 015: Right.

20 MR. MAZZEO: So from what you said, is it
21 fair to say that -- that the defense is at a
22 disadvantage based on your notions and -- and -- and
23 opinions about consuming marijuana, driving, and
24 causing an accident?

25 PROSPECTIVE JUROR NO. 015: Yes.

1 MR. MAZZEO: Okay. All right. Appreciate
2 it.

3 And is it -- is it -- would it be appropriate
4 for me to say that maybe a different type of case, even
5 a motor vehicle case which doesn't involve maybe
6 alcohol or marijuana metabolites, would be a more
7 appropriate case to sit on than this type of case?

8 PROSPECTIVE JUROR NO. 015: If there was no
9 impairment, then I would say that that would be a true
10 statement, yes.

11 MR. MAZZEO: Okay. And okay. Thank you.
12 Moving on to Ms. Klein.

13 PROSPECTIVE JUROR NO. 146: 146. I had a
14 very similar answer to his in that, in this day and
15 age, the effects of marijuana are fairly well
16 established and people who use it and then knowingly
17 operate vehicles are putting others and themselves --
18 they're liable for the damage that they cause. It
19 definitely biases -- I am definitely biased toward, you
20 know, that is a -- even taking a prescription medicine
21 that causes any sort of impairment, you should not
22 operate a vehicle or any machinery that might injure
23 someone.

24 MR. MAZZEO: And I think you equated it --
25 you gave an analogy in your response, and you equate it

1 to someone using -- or knowingly allowing someone to
2 use a vehicle who should not is in the same is -- is --
3 is the same as giving a gun to someone who should not
4 have had it, equally as dangerous.

5 PROSPECTIVE JUROR NO. 146: Right. A vehicle
6 is just as deadly as a loaded weapon.

7 MR. MAZZEO: Okay. Sure.

8 PROSPECTIVE JUROR NO. 146: And if somebody
9 who is impaired knowingly operates that with -- with an
10 impairment, that's really -- I mean, I've had friends
11 who have been injured in car accidents because of
12 people who are impaired, so ...

13 MR. MAZZEO: And I believe you disclosed you
14 had a brother-in-law who caused a DUI accident --

15 PROSPECTIVE JUROR NO. 146: Uh-huh.

16 MR. MAZZEO: -- went back to rehab and had a
17 suspended license as a result. Okay.

18 So you have some personal experience --

19 PROSPECTIVE JUROR NO. 146: Yes.

20 MR. MAZZEO: -- with this.

21 And so notwithstanding -- and I appreciate
22 you expressing that, so -- so then you -- it's fair to
23 say that, as you said, you have a bias in -- in this
24 type of issue involved in this case; right, Ms. Klein?

25 PROSPECTIVE JUROR NO. 146: Yeah. Very

1 strong opinion about --

2 MR. MAZZEO: Okay.

3 PROSPECTIVE JUROR NO. 146: --the use of
4 impairment.

5 MR. MAZZEO: And notwithstanding the ruling
6 that you were all told about, notwithstanding the
7 ruling by the Court finding impairment by marijuana
8 metabolite, that doesn't -- that doesn't diminish the
9 bias that you have in -- in this case; is that fair to
10 say?

11 PROSPECTIVE JUROR NO. 146: The -- that
12 someone is found to have had an impairment or?

13 MR. MAZZEO: Correct.

14 PROSPECTIVE JUROR NO. 146: That wouldn't
15 change my personal bias. I mean, I could make a
16 unbiased ruling on, like, damages because that's cut
17 and dry. But on a punitive thing, that would be very
18 difficult for me to remain unbiased because that's, you
19 know ...

20 MR. MAZZEO: Sure. Because of your
21 experience and also the opinions you've expressed.

22 PROSPECTIVE JUROR NO. 146: Yes.

23 MR. MAZZEO: Okay. And so would you agree
24 that -- that one or both of the defendants would be
25 starting behind the starting line if --

1 PROSPECTIVE JUROR NO. 146: Yes. They're not
2 on the same level as the -- the prosecution, the
3 plaintiff.

4 MR. MAZZEO: Okay. And I appreciate your
5 candor, and that -- and then so, the opinions that you
6 have might affect the way you view the evidence in this
7 case?

8 PROSPECTIVE JUROR NO. 146: I could view the
9 evidence. It just might influence, like I said, the
10 punitive judgment. Not -- not necessarily the -- the
11 facts are what they are, and I could view them
12 impartially as facts. It's just when it comes time
13 for, you know, a punitive judgment, that that would be
14 where my bias would -- might play a bigger role.

15 MR. MAZZEO: Okay. Okay. Thank you.
16 Appreciate it.

17 Moving on to the second row. Ms. Abeles?

18 PROSPECTIVE JUROR NO. 043: Abeles.

19 MR. MAZZEO: Abeles.

20 PROSPECTIVE JUROR NO. 043: 043.

21 MR. MAZZEO: It's long A, Abeles. I'll try
22 to remember that.

23 Ms. Abeles, you also -- let me just turn to
24 your page. I believe you also gave a response in your
25 questionnaire with regard to maybe the use of

1 marijuana.

2 PROSPECTIVE JUROR NO. 043: If you could
3 refresh me of what I said.

4 MR. MAZZEO: And maybe you had a question
5 about -- maybe you put it down there.

6 Did you have a question about marijuana
7 metabolite?

8 PROSPECTIVE JUROR NO. 043: What does the
9 word "metabolite" mean? Because I didn't know if I was
10 allowed to Google it or not, so I didn't. So I don't
11 want to break rules, I'm a rule follower by nature.

12 MR. MAZZEO: Good for you. That's -- the
13 judge is very happy about that, that you didn't. So --

14 THE COURT: You're not allowed to Google, and
15 you're not allowed to ask questions back in jury
16 selection, unfortunately. That's okay. You are --

17 MR. MAZZEO: I won't answer you.

18 THE COURT: He just can't answer. You're
19 going to hear it -- evidence about it during the course
20 of the trial. You can ask the question. You're not in
21 trouble for asking the question, but he can't answer.

22 PROSPECTIVE JUROR NO. 043: Okay. Great, I'm
23 not in any trouble.

24 MR. MAZZEO: If I answer it, I can get in
25 trouble, so I won't answer it, so ...

1 But anyway, since you had underlined it and
2 you had a question about it, that's fine.

3 But since I'm talking to you, do you have any
4 preconceived notions or opinions about individuals who
5 consume marijuana who might be deemed impaired by
6 marijuana metabolite and are involved in an accident?

7 PROSPECTIVE JUROR NO. 043: I'm not here -- I
8 don't -- personally, I don't think I was put on the
9 earth to really judge everyone. I have my own of what
10 I think I would do or not do in my life. Everyone else
11 lives -- especially with the career path and choice
12 that I have now, I see anything and everything, the
13 good, the bad, and the indifferent. And it's not up
14 for me to say -- you know, we have rules, the rights
15 and the wrongs, and I do what I feel is in the best
16 interest of me for my life. So no preconceived. It's
17 what it is.

18 MR. MAZZEO: Okay. Thank you. Very good.

19 Ms. Perreida?

20 PROSPECTIVE JUROR NO. 130: Yes.

21 MR. MAZZEO: I know in your jury
22 questionnaire, you had --

23 THE COURT: Mr. Mazzeo, before you move on to
24 her, why don't we take our lunch break. You can do
25 that when we come back.

1 MR. MAZZEO: Certainly, Judge.

2 THE COURT: I know you're going to just get
3 into each different person, so I think we're about at
4 noon.

5 Ms. Abeles brought up a good -- a good
6 example, folks, of why I read the admonition that I
7 read every time. Okay? Part of what it says is you
8 can't Google things like that. She made a good choice,
9 decided not to do that. Those are some of the things
10 that you can't do. You hear words, you hear terms, you
11 hear names while you're sitting here doing jury
12 selection, you can't go home and Google those things
13 and talk to people about those things. That's why we
14 have the admonition that we have.

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

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

4 You know what, why don't you come back at
5 1:15. Let's have the lawyers come back at 1:00, and
6 we'll have the jury come back at 1:15.

7 (The following proceedings were held
8 outside the presence of the jury.)

9 THE COURT: All right. We're outside the
10 presence of the jury.

11 You guys need to take up anything now, or you
12 want to wait and come back at 1:00 and address stuff
13 then?

14 MR. ROBERTS: One's good with me since we
15 have 15 minutes then.

16 THE COURT: I would suggest because I -- I've
17 actually looked through the plaintiff's trial brief,
18 and I have gone through the deposition designations.
19 There's only a couple of questions in the designations
20 that were objected to during the deposition. If
21 there's other objections, they need to be raised at
22 1:00 o'clock so we can deal with them at that point.

23 And I don't know if they have designations
24 that you guys are objecting to, but maybe we can take
25 care of it all at once. That -- that's just a

1 suggestion.

2 I'll see you back at 1:00 o'clock. Off the
3 record.

4 (Whereupon a lunch recess was taken.)

5 THE COURT: All right. Back on the record,
6 Case No. A637772. We're outside the presence.

7 What do we need to address with you guys?
8 You want to go over the plaintiff's trial brief?

9 MR. TINDALL: First, Your Honor, could we
10 address -- revisit the issue of the amount of
11 peremptory challenges? Each side's going to get based
12 on the Court's new ruling that there's going to be a
13 rebuttable presumption. We submit that pursuant to
14 16.0402, we now definitely are at odds with Mr. Mazzeo,
15 and we request additional peremptory challenges.

16 MR. MAZZEO: And I would -- I would agree,
17 Your Honor, we are. Because as you -- prior to the
18 lunch break, there are a number of jurors that would
19 certainly -- I think would be favorable to my client,
20 Andrea Awerbach but not as favorable to Jared Awerbach
21 given the circumstances of the issues involved. We
22 have some very definite opinions against people who
23 consume marijuana, have a marijuana metabolite level,
24 and are involved in an accident or drive a vehicle.
25 And --

1 THE COURT: Doesn't that just mean they're in
2 favor of the law that's on the books?

3 MR. MAZZEO: Well, it's actually -- that's
4 fine if they're in favor of the law, but it's to the
5 point where they're -- they express bias. These are
6 words that they came up with themselves. So they have
7 definitive -- definite bias which will impact their
8 ability to look at damages in a --

9 THE COURT: What's your suggestion as far as
10 peremptories?

11 MR. TINDALL: We submit that just one
12 additional, so six on this side total to be exercised
13 three and three. And then, the two for the alternates
14 as well. So instead of --

15 MR. MAZZEO: Well -- sorry.

16 MR. TINDALL: So yeah, we each -- each party
17 would get three. Three for Mr. Mazzeo, three for us,
18 and then the one for the alternates each.

19 MR. MAZZEO: Well --

20 THE COURT: So instead of having five total,
21 you would have eight total.

22 MR. TINDALL: Yes.

23 MR. MAZZEO: Judge, so that would be four,
24 four, and four.

25 MR. TINDALL: Three -- well, yes, four and

1 four.

2 MR. MAZZEO: And then plaintiff has five. I
3 still think that puts us at a disadvantage because I
4 thought -- I mean, I -- I -- at one point --

5 THE COURT: Might as well ask for the moon;
6 right?

7 MR. TINDALL: No, no, no, no. We won't get
8 the moon.

9 MR. MAZZEO: Judge, and I say that with all
10 candor to the Court because, if we had five, then we'd
11 be making that collectively that -- you know, the four
12 plus the one for the alternate. I would have access
13 essentially to all five, four and one, and now it's
14 going to actually have less to use on my side. So I
15 would ask that we have an equal number between all the
16 parties.

17 THE COURT: Mr. Roberts.

18 MR. ROBERTS: I'm not sure that the
19 permissive use finding really changes them from one
20 side and two sides. There's still no claims or
21 counterclaims between them. And although I can't
22 remember the name of the lawyer -- Michael Mushkin went
23 up to the supreme court on a conflict of interest, and
24 the supreme court said if an insurance company is
25 paying you to represent someone, you got two clients.

1 You've got the person you're representing and the
2 insurance company. Well, we both know that the same
3 insurance company is paying both of them and the same
4 file. So there's really one side with one common
5 client who's going to have to foot the bill no matter
6 which one of them is held liable. I just don't see
7 them as two separate sides.

8 But even more important, I believe this is
9 untimely, because the -- we've already passed the panel
10 for cause. And we can't give them extra strikes
11 against the people in the box because we don't have
12 enough jurors unless we're going to not have any
13 alternates, which I don't think is acceptable. So now
14 we've got to change the size of the box. We've got to
15 add two more. I've got to start all over again with my
16 voir dire that I had completed and passed the panel on.
17 And I just think it's too late for them to be raising
18 this after I have passed the panel because we don't
19 have enough jurors to give them two extra strikes.

20 MR. TINDALL: I fail to see how any of what
21 he just mentioned in any way prejudices them. Why
22 would we have to increase the size of the box?

23 THE COURT: Because if you have more
24 peremptory challenges, we're going to get rid of more
25 people over here. So in order to leave ten, we have to

1 have more people sitting here.

2 MR. TINDALL: That would be dependent upon
3 whether everybody exercises their strikes.

4 THE COURT: Okay.

5 MR. MAZZEO: You still need a starting point
6 with more jurors, then, in the box.

7 MR. TINDALL: And I'm not sure I ever heard
8 Mr. Lee Roberts pass for cause. Did that happen? I
9 didn't -- I never heard that.

10 THE COURT: He passed the jury. I'm guessing
11 he was passing for cause.

12 MR. ROBERTS: I think that may have been
13 implied by my action. If something new comes up,
14 something new comes up, but I pass for cause.

15 THE COURT: I -- I agree that things have
16 changed based on my ruling at the beginning of trial.
17 I don't know that it necessarily puts you guys as
18 adverse to each other as you may think. But -- but I
19 also agree with Mr. Roberts's suggestion that it's
20 probably too late. So I'm going to leave it the way it
21 is.

22 What else?

23 MR. ROBERTS: On our trial brief, Your Honor,
24 one, we just wanted to make sure we -- we made a
25 complete record and filed the brief. We understand

1 that you've told us what your inclination is. But, you
2 know, as -- as I mentioned when you told us this for
3 the first time after lunch on Monday, it's our position
4 that, you know, the supreme court's been pretty clear
5 that a written order is the law of the case and minute
6 orders don't change the written orders and oral
7 pronouncements from the bench don't change the written
8 orders. So we've still got a written order.

9 There are some additional things in here that
10 I thought the Court should know about before deciding
11 whether to modify the -- the orders of Judge Allf.
12 One, is that I didn't mention on Monday that there was
13 a motion for reconsideration or clarification, after
14 the first order that I read into the record, and I
15 believe that second order is much more clear that --
16 that a finding of permissive use as a matter of law is
17 being entered.

18 THE COURT: That's the one you cited on the
19 top of page 7?

20 MR. ROBERTS: That is -- that is correct.
21 And -- and this is what I think is particularly
22 probative to the intent of Judge Allf as reflected in
23 the actual written order she signed. She says, The
24 finding of permissive use does not prevent adjudication
25 on the merits because plaintiff still maintains the

1 burden of showing causation and damages.

2 So if -- it seems to me if it was her intent
3 to preserve their ability to adjudicate the merits of
4 permissive use when she was talking about what they
5 still had left, she would have mentioned, Oh, and they
6 can try to rebut this finding, if they want. They can
7 do that too. So we are still adjudicating it on the
8 merits.

9 The written -- regardless of her recollection
10 now, a year later, the written order she signed is
11 fairly clear and fairly unambiguous and doesn't
12 preserve a rebuttable presumption, doesn't make a
13 rebuttable presumption. And when talking about what's
14 left for trial on the merits, does not mention
15 permissive use in any fashion.

16 So we believe that the record is clear and
17 that once she recused herself, she said, I'm out of
18 this case, and it's improper for her through either
19 written orders or conversation with the new judge to
20 try to influence the new judge in either new findings
21 or an interpretation of her old findings. She's
22 recused herself. She's for whatever reason said, I'm
23 not going to be involved anymore. And we all know what
24 that reason is. And -- and certainly there could be an
25 implication that she'd be biased against Mr. Tindall,

1 but we all know when there's a facial bias, sometimes
2 judges go the other way to prove they're not biased.
3 But for whatever reason, she recused herself. She's
4 now out of the case. And -- and I -- I don't believe
5 it's proper for this Court to rely on what she may have
6 told you about her intent when her written orders
7 entered a year ago are clear.

8 Now, there was another issue which we haven't
9 spent any time on and thought was moot, and that was
10 that at the beginning of this case, they answered
11 interrogatories indicating that he had permission. But
12 more importantly, they responded to a request for
13 admission on permissive use, and we've indicated that
14 here in our pleadings, that -- where she admitted
15 permissive use in response to a request for admission.
16 Not just failed to respond, but admitted permissive
17 use.

18 Now, when she got new counsel, she filed an
19 amended response denying permissive use. But at that
20 time, this is when the motion for sanctions was being
21 made, we were moving to strike their answer altogether.
22 We got a finding of permissive use. It doesn't matter
23 that they tried to amend their answer. But the
24 statute, NRS 36B, is clear that if you admit something,
25 the only way to get relief from that admission is upon

1 motion to the Court and upon a showing. And they've
2 never filed a motion for relief from the admission they
3 properly made under 36A, long before the Court made a
4 finding of permissive use as a sanction.

5 So there is still a binding admission in
6 place which they've never moved for relief from, and
7 it's simply too late to move for relief from that
8 admission now that the trial has started. We'd be
9 prejudiced in our preparation, the same way we believe
10 we're prejudiced by the modification of Judge Allf's
11 sanction order.

12 Thank you, Judge.

13 MR. MAZZEO: Not much different from the way
14 Andrea believes she was prejudiced by the initial
15 ruling by Judge Allf regarding a discovery sanction
16 when she found a fact -- made a fact that's in dispute,
17 took it out of dispute and found permissive use against
18 her.

19 With regard to the trial brief regarding the
20 permissive use, I haven't had -- I know it was filed
21 today. It has a date on it of February 8th for a
22 hearing date, but I know it was filed today. Haven't
23 had the opportunity to read it or -- or to address the
24 points and authorities that -- I guess addressed by the
25 plaintiff in the brief.

1 With regard to the request to make reference
2 to a request for admission, as -- as the Court knows,
3 that's not -- there's not a verification that's
4 actually signed by the party, admitting to the
5 averments that are contained therein, to the
6 truthfulness of the averments. That's by counsel. So
7 I'm not certain, and I don't necessarily agree with
8 Mr. Roberts, that a motion has to be made in lieu of
9 simply doing an amended response to request for
10 admission, which was done in this case.

11 There were a number of mistakes made by prior
12 counsel that did not accurately reflect the actual
13 statements that I have -- in communications that I've
14 had with my client. And I know that this occurred --
15 this occurred also with respect to co -- when one
16 attorney represented both defendants and Mr. Awerbach
17 was incarcerated. He wasn't -- that's the area --
18 that's when he was given the answer to interrogatories
19 to sign without an opportunity to actually review it.
20 Well, that's not proper, you know, sign on the line.
21 The requirement is to have your client make sure that
22 the questions and answers -- the answers to the
23 questions are appropriate and accurate, and they
24 weren't.

25 So there were a number of mistakes that were

1 made in this case. But, again, doesn't accurately
2 reflect the -- what actually occurred in this case. So
3 I -- I may have filed a -- an amended response to
4 request for admission. I don't think that I need to do
5 a motion on that, but I'll defer to the Court on that.

6 With respect to the other arguments by
7 Mr. Roberts today, I don't think he brings up anything
8 new with respect to why he makes some -- suggestions or
9 he -- he has an opinion as to that Judge Allf had a --
10 might have had a motivation. But there's -- there's
11 certainly no basis for that motivation. Only -- only
12 Your Honor knows that because you had direct
13 communications with Judge Allf. No one else was privy
14 to that.

15 So I -- I would say that we're not in -- he
16 hasn't given you any additional reason to change your
17 ruling, or your clarification, I should say, on
18 Judge Allf's ruling regarding permissive use as a
19 rebuttable presumption.

20 MR. STRASSBURG: Judge, no one's more
21 surprised than me to be agreeing with Mr. Roberts twice
22 in one day, but we would also agree with him and for --
23 for reasons that I would like to put on the record.
24 And I don't wish to sound critical of you. I think you
25 know the high regard in which all of us hold you for

1 the -- the job that you've been doing.

2 However, I think we know something about
3 Judge Allf because she indicated it when she recused
4 herself. And she recused herself because of
5 Mr. Tindall joining this case to render -- so I might
6 have the benefit and Jared might have the benefit of
7 his able assistance.

8 MR. MAZZEO: Objection, Judge. Can we have a
9 moment to -- can I confer with co-defense counsel?

10 THE COURT: Okay.

11 MR. MAZZEO: Please. Thank you. Off the
12 record.

13 THE COURT: Sure. Off the record.

14 (Whereupon a short recess was taken.)

15 THE COURT: All right. Back on the record,
16 Case No. A637772. We're still outside the presence.

17 You guys have taken a little bit of time
18 talking. Tell me where we are.

19 MR. MAZZEO: Sure. All right. Judge, so
20 we're at a point -- obviously there is a -- as -- as
21 you can see, and I -- I think you had mentioned earlier
22 that we -- based on responses given by certain jurors,
23 that that might have changed your view of -- of some of
24 the issues or may be potentially the conflict between
25 the two defendants in terms of defending this case.

1 THE COURT: No.

2 MR. MAZZEO: No, not at all?

3 Well, in any event there is a conflict.

4 THE COURT: Okay.

5 MR. MAZZEO: And -- and so we -- we need --
6 we were talking for about five or ten minutes, I guess,
7 and we're at an impasse with -- with legal strategy at
8 that point based on --

9 MR. STRASSBURG: It's not --

10 MR. MAZZEO: It's actually based on
11 responses --

12 MR. STRASSBURG: It's not an impasse.

13 MR. MAZZEO: It's based on responses by
14 jurors, so we need to give it a little bit more thought
15 and -- and -- before we resume with jury selection.
16 And -- and to also properly review plaintiff's trial
17 memo regarding permissive use unless you're not going
18 to --

19 THE COURT: Whether I rule on that right now
20 or not shouldn't affect whether we go forward with the
21 jury selection; right?

22 MR. STRASSBURG: Correct.

23 MR. MAZZEO: Correct. Yeah, if you're not
24 going to give us additional peremptory challenges,
25 that's true.

1 THE COURT: Sounds like we should go forward.
2 Let's keep picking a jury.
3 MR. MAZZEO: Okay.
4 MR. STRASSBURG: Thank you, Judge.
5 THE COURT: Do you want make -- cause
6 challenges at this point?
7 MR. MAZZEO: No.
8 THE COURT: Okay.
9 MR. MAZZEO: Not yet.
10 THE COURT: Before we bring the jury as a
11 whole back in --
12 MR. MAZZEO: Hold on, Judge. One minute.
13 MR. STRASSBURG: We'd like to challenge for
14 cause, Judge.
15 MS. ESTANISLAO: Raquel Go.
16 MR. MAZZEO: There is one --
17 THE COURT: Go ahead.
18 MR. MAZZEO: There is one juror, and it would
19 be Raquel Go in Seat No. 19, because of her dad --
20 dad's death two weeks ago, you saw that she had an
21 emotional breakdown when I asked her about that. And
22 she indicated -- I asked her if that would be a
23 problem, and she said she would be distracted or have
24 problems focusing at times. So there's a whole lot of
25 information coming from -- between openings and

1 plaintiff's case, defendants' case. We don't need any
2 juror being distracted and missing information. So we
3 would stipulate to have her excused for cause.

4 THE COURT: Mr. Strassburg.

5 MR. STRASSBURG: Is it -- am I at liberty to
6 make another motion for cause?

7 THE COURT: Let's just talk about Ms. Go for
8 a minute.

9 MR. STRASSBURG: Sorry?

10 THE COURT: Let's just talk about Ms. Go.
11 What's your position on that?

12 MR. STRASSBURG: Yes, we would join with
13 Andrea's counsel on Go.

14 THE COURT: Mr. Roberts?

15 MR. ROBERTS: We would object to excusing
16 Ms. Go.

17 THE COURT: Let me tell you what my thought
18 is because I was going to do this had there not been a
19 challenge, is I was going to bring her in by herself
20 and ask her if she wants to stay. And if she feels
21 like she needs to go because of the emotional problems
22 that her dad just died two weeks ago, I'm going to let
23 her go. If she feels that she'll be able to pay
24 attention and this would distract her from that and she
25 would rather stay, I think we let her stay.

1 Are you guys okay with that?

2 MR. MAZZEO: Yes.

3 MR. ROBERTS: That's fine, Your Honor. You
4 do all the questioning. I think that's best.

5 MR. STRASSBURG: Would the plaintiffs
6 stipulate to let her go?

7 MR. ROBERTS: No. No. She -- she sat here
8 the whole time --

9 MR. STRASSBURG: I'm just asking.

10 MR. ROBERTS: -- paying attention, being
11 responsive, understanding --

12 MR. STRASSBURG: I'm just asking.

13 MR. ROBERTS: -- and the only time she got
14 upset was when she was directly asked about her
15 father's death impacting her. I don't expect that
16 she's going to be asked that question by anyone else
17 again during the course of trial. And so as long as
18 she's not asked that question, she seemed to be fine.

19 No, she's indicating --

20 MR. STRASSBURG: Are you kidding?

21 MR. ROBERTS: No, I'm not. That's my
22 perception. She never once had a problem following my
23 voir dire over two days.

24 MR. STRASSBURG: Yes, Judge, we would agree
25 with your proposal.

1 THE COURT: Let's just bring Ms. Go in by
2 herself. It's Juror 141, Tom.

3 Welcome back, Ms. Go.

4 PROSPECTIVE JUROR NO. 141: Thank you.

5 THE COURT: I don't mean to single you out.
6 And hopefully you're not afraid.

7 PROSPECTIVE JUROR NO. 141: Just don't make
8 me cry.

9 THE COURT: People get nervous when I bring
10 them in by themselves. I'm not going to make you cry.
11 I'm going to give you a choice because -- based on the
12 emotional state that you're in, I understand that. So
13 my question to you is this: If you would like to
14 remain, I'm not telling you -- you get to be on the
15 jury, but if you would like to remain at this point, it
16 may help you to distract you from other things, that
17 might be a beneficial thing for you, I will let you
18 stay for now.

19 If you think that -- and that's with the
20 understanding that you're going to be able to focus on
21 the things that you hear and if you think that you're
22 going to be able to do that during the trial.

23 If, on the other hand, you think that because
24 of your emotional state it would be better if you were
25 excused from the jury, I'm going to excuse you. I

1 don't usually give people their choice. But I'm going
2 to give you your choice.

3 PROSPECTIVE JUROR NO. 141: Well, because I
4 don't really like to use my father as an excuse to get
5 out of here, so I would rather you make the decision.

6 THE COURT: Doesn't help me at all.

7 PROSPECTIVE JUROR NO. 141: It's fair, but --
8 'cause I swore to -- you know, and it's my obligation
9 to be here, but I --

10 THE COURT: If nobody asks you that question
11 again that you were asked earlier about your dad, are
12 you going to be okay sitting here?

13 PROSPECTIVE JUROR NO. 141: I think so.

14 THE COURT: Okay. You're going to be able to
15 focus on the trial and -- and the things that you see
16 here?

17 PROSPECTIVE JUROR NO. 141: Focus, I can't
18 promise because --

19 THE COURT: Because you're distracted.

20 PROSPECTIVE JUROR NO. 141: Yes, sometimes.

21 THE COURT: All right. I'm going to let you
22 go.

23 PROSPECTIVE JUROR NO. 141: Okay.

24 THE COURT: Okay? I'm going to thank and
25 excuse you. Report back down to the third floor. Let

1 them know that you've been excused by Department 30.

2 Thank you, ma'am.

3 PROSPECTIVE JUROR NO. 141: Thank you.

4 MR. MAZZEO: Thanks, Ms. Go. Appreciate it.

5 THE COURT: All right. So we're outside the
6 presence of Ms. Go now. Since she wouldn't make the
7 call, I think it came down to whether or not she would
8 be able to pay attention and not be distracted, and the
9 fact that she said that would be a problem for her, I
10 think we have to let her go.

11 So you want to make a record on? That you
12 just --

13 MR. ROBERTS: No, I appreciate the Court
14 doing that rather than subjecting her to -- to
15 traversing by counsel. I think that was the best way
16 to handle it.

17 THE COURT: Okay. Who's our next juror in
18 order that will take Seat No. 19?

19 THE CLERK: Shanel Sako, Juror 159.

20 MR. MAZZEO: Lee?

21 THE COURT: All right. So were there other
22 challenges that you guys want to make? Anything else
23 we need to do on the record before we bring the jury
24 back?

25 MR. STRASSBURG: I have one, Judge.

1 THE COURT: Okay.

2 MR. STRASSBURG: Mr. Jensen.

3 THE COURT: Based on?

4 MR. STRASSBURG: He said that it was
5 regarding a bias on people who use marijuana, and he
6 said that he -- he didn't feel that he could be fair
7 and impartial regarding people who do that. He said
8 that -- that -- that we would be starting a little bit
9 behind. That is a statement of a -- of a bias. And we
10 would -- would move that he be excluded on that basis,
11 Judge.

12 THE COURT: Here's the problem: The problem
13 I have is that when Mr. Roberts asked the marijuana
14 questions, he asked it in a way that elicited whether
15 the jurors thought that they had a bias with the
16 understanding that they didn't have to decide fault.
17 The way Mr. Mazzeo has been asking the questions I
18 think invites every juror up there to agree with him
19 that they don't like the fact some people drink alcohol
20 or do marijuana or something else and then drive
21 afterwards. That's what the law is.

22 So the fact that they agree with what the law
23 is, yeah, I think that that automatically somewhat
24 biases them against the defendant based on the fact
25 that there's already a finding by the Court. But

1 they've got to have a bias against the defendant
2 separate and apart from the fact that there's a finding
3 against him. And I think the way that the -- that the
4 questions have been asked, I don't think have elicited
5 a bias against the individual. It's a bias against the
6 action, and I don't think that a bias against the
7 action justifies a challenge for cause.

8 So that's -- that's how I'm reading the --
9 the questions and the answers as they've been given.
10 I'm not saying that there can't be a bias against the
11 individual. But the way the questions have been asked,
12 I think it's that the jurors are expressing a bias
13 against the action.

14 So I'm not going to let him go now. But
15 questions may be asked that result in a challenge for
16 cause in the future. I'm not saying that I won't. But
17 the questions have got to be asked in a different way.

18 MR. STRASSBURG: Thank you, Judge.

19 MR. ROBERTS: And we sort of derailed the --
20 the argument on our trial brief, and I will be very,
21 very brief, but just in response to Mr. Mazzeo's
22 argument, I don't believe there's any requirement that
23 requests for responses to requests for admissions be
24 verified by the client only signed by the attorney.
25 And to the -- even if there was, then there's a failure

1 to respond within 30 days, and you still need to move
2 for relief.

3 So either way, they haven't moved for the
4 proper relief, and they're bound by that right now.

5 THE COURT: I'll tell you what my thought
6 right now is about your trial brief, and you can argue
7 it later again if you -- if you feel the need to. But
8 I think that what the jury needs to hear is that
9 they're -- there was one statement made to an adjustor
10 that was written down in a document. There's another
11 statement that was made later on about whether or not
12 there was permission. There was one statement where
13 permission was admitted in one document, and there was
14 another statement where the permission was denied in
15 another document. I think all of those things are
16 issues that the jury gets to hear, and they're going to
17 get to decide what they think. I mean, and -- yeah,
18 okay, so there's a request for admission that was
19 answered to admit and then there was an amended one
20 answered denied. The jury gets to see those things or
21 hear about them anyway. And I think that's all
22 evidence that they can hear to decide, and it's going
23 to -- it's going to be a credibility issue, I think.

24 But I don't think as -- as far as my ruling
25 is concerned, whether Judge Alf, what her impression

1 was or what her intent was, that might have
2 subconsciously affected me, but the only reason I
3 called her is because I had a dilemma about what I was
4 going to allow based on the fact that there was a
5 finding of permissive use, I believe, on the liability
6 issue in the trial. I don't believe that she had an
7 intention or even thought about the fact that that
8 finding would affect the punitive damages claim.
9 Because of that, I was in a dilemma, and I was looking
10 for a way to try to resolve that issue.

11 I think that by giving effect to at least a
12 portion of her intent, because her intent was to have
13 a -- at least what she told me, was to have a
14 rebuttable presumption on the issue of negligent
15 entrustment. That's not what I did. I said I was
16 going to modify and allow a rebuttable presumption on
17 the issue of permissive use because -- so, in effect,
18 I'm taking part of her order and keeping it, and I'm
19 taking part of her order and modifying it, not in
20 accordance with her complete intent because she
21 intended to modify both parts according to what she
22 told me.

23 So I think by the modification that I did, it
24 keeps -- it keeps the discovery sanction in place.
25 It's a different discovery sanction. I understand

1 that. But it keeps the discovery sanction in place as
2 it relates to the liability issue. But it also gives
3 the defendant, I believe, a fair opportunity to dispute
4 the punitive damages as far as whether or not there was
5 some reckless disregard or things like that, where she
6 may not be able to dispute that with the finding in
7 place as it was by Judge Allf's prior order.

8 So I understand that Judge Allf shouldn't
9 have influence over my decision, and I don't know that
10 there was influence or not. I did talk to her. I told
11 you I talked to her. I try to be up front with people
12 about what I do and why I do it. But whether I talked
13 to her or not, I think what I decided to do is a fair
14 compromise that resolves the dilemma that I had based
15 on her prior order.

16 MR. ROBERTS: And -- and if that's the way
17 you decide to go, am I going to be able to show the
18 jury the finding as long as before I sit down I tell
19 them, And by the way, they can present evidence and
20 they would have the burden of convincing you that this
21 finding is incorrect, and that there was no permissive
22 use?

23 THE COURT: Well --

24 MR. ROBERTS: Can I show them that finding?

25 THE COURT: Show them what finding?

1 MR. ROBERTS: Judge Allf's finding of
2 permissive use. The order finding permissive use that
3 I've quoted in page 7 of the brief. Because if there
4 is a rebuttable presumption, they need to know what it
5 is that's presumed in the absence of evidence that
6 shows it's wrong. Her order is what they have to
7 rebut. She created a rebuttable presumption rather
8 than a sanction. They've got to see what she said so
9 they know their burden of proof, what they have to
10 overcome. And I'd like to talk to them about that.

11 THE COURT: The rebuttable presumption is
12 that permissive use existed.

13 MR. ROBERTS: So I can't show them the order?

14 THE COURT: No. I'm actually in the process
15 of drafting my own order that will take the place of
16 Judge Allf's as it relates to that. It's not done yet.

17 MR. ROBERTS: One final thing for you to
18 think about now that I hear your rationale. And -- and
19 I think that maybe the case of Bahena v. Goodyear is
20 something that you could think about. If you remember
21 in that case, there was a sanction striking their
22 answer, I believe. It may not -- it may have been
23 worded differently, but the -- the question then arose:
24 Did that sanction extend to the punitive phase? And
25 the judge found that it did not extend to the punitive

1 phase. So after a verdict was entered, there were
2 cross appeals that were filed by Goodyear and the
3 Bahena plaintiffs, and the Court sort of approved the
4 bifurcation there and -- of the sanction.

5 So I think that there would be a way if the
6 concern is that the sanction is now making -- going
7 over into the punitive phase, that the Court could
8 preserve the sanction under 41.440, the permissive use
9 for the purposes of joint and several liability on
10 damages, but allow them to put on evidence that only
11 goes to whether or not there's implied malice for the
12 purpose of negligent entrustment. And I think they
13 could be instructed to separate those two issues.

14 But if the concern is about having them -- no
15 defense left for punitive damages, there should be a
16 way to more closely preserve the sanction on the
17 compensatory phase but still implement your intent on
18 the punitive.

19 Just request the Court think about that.

20 THE COURT: I don't think I get there.
21 Because I think under the statute, there has to be --
22 you have to establish evidence that justifies the jury
23 marking the box that punitive damages are warranted.
24 And there has to be discussion about the issues that
25 would justify that -- the jury marking that box.

1 So the punitive phase is generally for
2 determining the amount not necessarily whether or not
3 punitives are appropriate; right?

4 MR. ROBERTS: Correct. And I used phase -- I
5 shouldn't have used phase. That -- in other words,
6 there's an instruction -- a pattern instruction on,
7 you've heard some evidence, you're only to apply it for
8 this purpose and not for any other. So you would tell
9 them -- or you don't even have to tell them, Judge.
10 You could -- I guess we could tell the jury that there
11 was a rebuttable presumption. But then once we get the
12 verdict, you got joint and several liability client
13 because there's permissive use for the damages. So we
14 don't even have to tell the jury that there's still a
15 finding of permissive use for the purpose of
16 compensatory phase. Just like we don't tell the jury
17 there's a damages cap, and then you cut it back down
18 either 3 or 10 or 12 times, whatever the applicable
19 situation is.

20 So the Court could implement the sanction
21 after the verdict. Preserve the sanction, let the jury
22 discuss it, and implement the sanction after the
23 verdict, if necessary, to conform it to Judge Allf's
24 order.

25 THE COURT: I think it makes it too messy.

1 MR. MAZZEO: Agreed.

2 THE COURT: Too messy.

3 Mr. Mazzeo, how much longer do you think you
4 have with the jury?

5 MR. MAZZEO: Well, with replacing Seat 19,
6 plaintiff's counsel is going to go through his litany
7 of questions, and then I'll get back up.

8 THE COURT: Okay.

9 MR. MAZZEO: Two hours, two and a half hours.

10 THE COURT: All right. So we're not going to
11 get done today. You're not going to give
12 Mr. Strassburg a chance today, it sounds like.

13 MR. MAZZEO: What is it now? Yeah, you're
14 going to take 20 --

15 MR. ROBERTS: Twenty minutes.

16 MR. MAZZEO: -- 20 minutes maybe?

17 THE COURT: All right. Let's just keep
18 going.

19 Mr. Strassburg, how long do you think you
20 have? I'm not going to hold you to it. You have more
21 than a half hour?

22 MR. STRASSBURG: Yeah.

23 THE COURT: Okay.

24 MR. STRASSBURG: Yeah, I'm afraid I do,
25 Judge.

1 THE COURT: All right. That's fine. Because
2 I think I have a feeling that may be all you get today.
3 So that just means we won't get a jury today.

4 I've got a number of people sitting down in
5 the -- in the deliberation room that we had come back
6 today. And I'm just going to have them sit there for a
7 couple of hours. I probably will let them go by 4:00,
8 especially if we still have 15 or 20 people sitting
9 back here in the back. And I will tell them to come
10 back tomorrow morning. Can't start till about 10:30
11 tomorrow morning.

12 MR. STRASSBURG: All right. Thank you,
13 Judge.

14 THE COURT: All right. Let's bring the jury
15 back in, keep going.

16 THE MARSHAL: Jury entering.

17 (The following proceedings were held in
18 the presence of the jury.)

19 THE MARSHAL: Jury is present, Judge.

20 THE COURT: Thank you. Go ahead and be
21 seated be seated, folks. So this morning I thought I
22 did really good, I told you 10 minutes and it was only
23 about 15. Now, this break we're about an hour later
24 than I told you. I'm sorry.

25 Some of you may have noticed I did excuse

1 Ms. Go who was sitting in Seat 19.

2 So let's call our next juror to replace

3 Ms. Go in Seat 19.

4 THE CLERK: Shanel Sako, I'm sorry,

5 Juror 159.

6 THE COURT: Good afternoon, ma'am.

7 PROSPECTIVE JUROR NO. 159: Good afternoon.

8 THE COURT: Is it Sako or Sako?

9 PROSPECTIVE JUROR NO. 159: Sako.

10 THE COURT: Sako. All right. Ms. Sako, how
11 long have you lived in Las Vegas?

12 PROSPECTIVE JUROR NO. 159: Lived here for
13 15 years.

14 THE COURT: Do you work?

15 PROSPECTIVE JUROR NO. 159: I do. I work as
16 about a barista at Starbucks.

17 THE COURT: Do you have a spouse or
18 significant other?

19 PROSPECTIVE JUROR NO. 159: Significant
20 other. Been together five years. He's a graphic
21 designer.

22 THE COURT: Okay. Any children?

23 PROSPECTIVE JUROR NO. 159: No.

24 THE COURT: Ever served on a jury before?

25 PROSPECTIVE JUROR NO. 159: No, I have not.

1 THE COURT: You heard a lot of questions
2 asked of a lot of different jurors.

3 In response to any of those questions, have
4 you been sitting back there thinking, When they ask me
5 that question, I'm going to say this?

6 PROSPECTIVE JUROR NO. 159: I've mostly been
7 agreeing with just the majority of the jury.

8 THE COURT: Okay. Nothing that set you apart
9 or anything you want to offer to us now?

10 PROSPECTIVE JUROR NO. 159: No, nothing that
11 really sets me, like, a different opinion or anything.

12 THE COURT: Okay. All right. Mr. Roberts.

13 MR. ROBERTS: Thank you, Your Honor.

14 THE COURT: He gets his chance with you, and
15 then we'll go back to Mr. Mazzeo.

16 MR. ROBERTS: We lose someone we all have to
17 start all over again. I will try to be quick, though.

18

19 VOIR DIRE EXAMINATION

20

21 MR. ROBERTS: Good afternoon, Ms. Sako.
22 Let's talk briefly about some of the questions about
23 pain, and one of the questions I asked the jurors
24 was -- was about their pain tolerance.

25 What do you consider to be your own pain

1 tolerance? High, average, low?

2 PROSPECTIVE JUROR NO. 159: I would say --
3 physical pain, I'd say moderate, not super high but not
4 super low, so just in the middle, I'd say, for my pain
5 tolerance.

6 As for mental pain, I'd say I -- little bit
7 on the weaker side, I'd say, just not too weak but not
8 in the middle. So somewhere in that.

9 I see that I have sympathy for -- you know,
10 when you're scrolling through online or on Facebook and
11 you see, like, starving children or a pet or an animal
12 being abused, you know, you feel sympathy. So I'd
13 say -- I give sympathy to everyone, I'd say. So that's
14 kind of what make me -- why -- why I consider myself a
15 little bit weaker.

16 MR. ROBERTS: Now, some -- some people drew a
17 distinction between their tolerance for emotional pain
18 and dealing with things happening to them versus things
19 happening to others.

20 Would you draw that same distinction?

21 PROSPECTIVE JUROR NO. 159: I would. I'd say
22 when something is happening to me, I can handle it a
23 lot better. If it was something happening to a family
24 member or even someone that I don't know, I'd probably
25 have a little bit more sympathy.

1 MR. ROBERTS: So your feeling -- and I think
2 you mentioned, you know, starving children, maybe even
3 in another country. So your strong feelings of
4 sympathy for others extends well beyond your immediate
5 family.

6 PROSPECTIVE JUROR NO. 159: Yes.

7 MR. ROBERTS: What is the most significant
8 physical pain you can recall experiencing?

9 PROSPECTIVE JUROR NO. 159: Probably the most
10 physical, I did have reconstructive surgery on my face,
11 and so I was on pretty heavy medication most of the
12 time, but when those were wearing off, I did feel sort
13 of just a head pain. I'd probably rate that about a 6.
14 Another time I believe the back muscles were -- became
15 really super tense and I just sort of fell, and I was
16 very surprised because I'm not -- I'm pretty active,
17 and so just my back muscles just contracted very hard
18 and I fell. That was probably the worst pain. I'd
19 rate that probably about a 7.

20 I haven't had -- I've never broken any bones.
21 I've never put myself into situations where I would --
22 the outcome would be me getting physically hurt. So I
23 wouldn't, you know -- I avoid, like, the super intense,
24 like skateboarding, I know I'm going to fall. I'm
25 probably going to break something. Those intense

1 sports I don't go into because I know I would break
2 something. So I guess that's how I haven't broken
3 anything yet.

4 MR. ROBERTS: Thank you. That's great with
5 the most you've experienced is a 6. So you've
6 successfully avoided --

7 PROSPECTIVE JUROR NO. 159: I feel very
8 lucky.

9 MR. ROBERTS: One -- one thing that I -- I'd
10 like to add -- actually, a couple of things, but the
11 first thing I'd like to ask you about in your
12 questionnaire is: Do you believe in awarding money for
13 pain and suffering? And you checked the "No" box.
14 Tell me about that. Tell me -- tell me what you were
15 feeling at the time when you decided to check "No, I
16 don't believe in awarding money for pain."

17 PROSPECTIVE JUROR NO. 159: Just because I
18 know myself, and I know that I give more sympathy than
19 a normal person would, so I know that I could be taken
20 advantage of in that sense, that I give a lot of
21 sympathy, and I just don't want that being taken
22 advantage of. So I guess that's why I selected no.

23 And I guess I have sort of a view where
24 people sort of exaggerate. And so -- exaggerate the
25 pain. And of course I'll try to be as fair and as --

1 rule with justice as much as I possibly can, but there
2 will always be that, well, what if they're sort of
3 trying to exaggerate?

4 But what the evidence is going to be shown
5 and everything, I'll -- I'll definitely try to maintain
6 a very fair, and very honest, very flat opinion.

7 MR. ROBERTS: Okay. So in a way, what you're
8 telling me is you don't believe in awarding pain and
9 suffering because you think you might be inclined to
10 award a lot for it.

11 PROSPECTIVE JUROR NO. 159: Yes.

12 MR. ROBERTS: And when you say that people
13 might be exaggerating their pain, does it rise to the
14 level of the few of the jurors, one of whom's gone -- I
15 looked up there. That's no longer Mr. Solomon. But do
16 you believe that most plaintiffs in a personal injury
17 case would exaggerate their pain to the jury in order
18 to recover more money?

19 PROSPECTIVE JUROR NO. 159: No, I don't think
20 most of them would. I guess I -- I draw that opinion
21 because as a barista, I do have a lot of people that
22 will exaggerate -- that's -- this is very minor, but
23 the people exaggerate their drink order, or they'll
24 exaggerate something was wrong just to get something
25 for free. And that happens very, very, very often. So

1 I guess that's why I have that opinion. Again, that's
2 a very small, you know, compared to a giant trial. But
3 I guess that's just where I draw the distinction from.

4 MR. ROBERTS: Even though it's not the
5 majority of people, you're a little bit jaded and
6 disappointed that so many people.

7 Is that fair to say?

8 PROSPECTIVE JUROR NO. 159: I'd say that's
9 fair to say. I would say that's fair to say in
10 outside, outside the court. But I think as someone
11 said before, when someone comes to, you know, suing in
12 court, people don't just kind of do it just to do it.
13 And I'm sure the lawyers and the attorneys don't
14 continue to pursue it if it's -- if the outcome would
15 be to seem like it was jaded, if that makes sense.

16 MR. ROBERTS: So let's assume that you were
17 seated on this jury and one of the items was that you
18 had to consider whether to award pain and suffering as
19 an element of damage.

20 Does your personal belief that you're against
21 awarding money for pain and suffering, would -- would
22 that make it hard for you? Would that substantially
23 impair your ability to fairly consider whether or not
24 my client should be compensated for pain and suffering?

25 PROSPECTIVE JUROR NO. 159: I think as

1 someone said before in the jury, I would absolutely
2 award pain as far as medical bills and the car
3 accident, all of that completely covered. That's fair
4 and just. As for -- as for emotional pain, as pain
5 that's a doctor can't prove, I would -- I would
6 probably have to look at the evidence a bit more and
7 look at just -- really try to judge myself if -- if the
8 plaintiff is being fair -- is being truthful. And --
9 and so I don't think I'd say now if I would -- if I do
10 become a part of the jury, I will absolutely try to be
11 as fair and as honest as I absolutely can. And I'll
12 try to keep that out of my mind, that maybe this --
13 I'll keep -- I'll go in with everyone being innocent
14 without proven, you know, guilty. And so that's how I
15 want to approach the trial. That's how I want to
16 approach my thinking of being a juror if I am selected.

17 MR. ROBERTS: And -- and that's what we all
18 want is we haven't met our burden of proof yet. You
19 haven't heard any evidence. You shouldn't already have
20 beliefs.

21 PROSPECTIVE JUROR NO. 159: Right.

22 MR. ROBERTS: So you're willing to consider
23 the evidence of pain and suffering, evaluate how
24 credible you believe it is, and then award a fair
25 amount if you believe the testimony?

1 PROSPECTIVE JUROR NO. 159: Yes, yes.

2 MR. ROBERTS: And you'd be able to -- you
3 don't have any limits on the amount that you would
4 award if it's justified by the facts and evidence
5 that's put on that you believe.

6 PROSPECTIVE JUROR NO. 159: I wouldn't have
7 any caps, just because I would probably think of the
8 limit as a fair amount. So I wouldn't -- I wouldn't
9 have any caps, no.

10 MR. ROBERTS: And I noticed that you've got
11 no beliefs that would prevent you from awarding either
12 a high or low dollar amount if justified by the
13 evidence.

14 PROSPECTIVE JUROR NO. 159: No outside
15 beliefs, no.

16 MR. ROBERTS: And would -- would that
17 include, because of your answer to the other question,
18 do you have any beliefs that would prevent you from
19 awarding a high amount just for physical pain and
20 suffering?

21 PROSPECTIVE JUROR NO. 159: That -- I believe
22 that would be based on the evidence. I believe --
23 yeah, I guess that would just be depending on the
24 evidence. I wouldn't give a substantial amount of
25 money, something that's like an outrageous amount.

1 Just, I'll give a very fair amount to what I believe
2 and, of course, discussed with the rest of the jury.
3 And I think -- yeah.

4 MR. ROBERTS: Now, when you say "I wouldn't
5 give an outrageous amount, I'd give a fair amount" --

6 PROSPECTIVE JUROR NO. 159: Right.

7 MR. ROBERTS: -- I don't think anyone would
8 disagree with that. Based on the evidence; right?

9 PROSPECTIVE JUROR NO. 159: Exactly, yes.

10 MR. ROBERTS: But before you hear any
11 evidence, do you already have in your mind, what an
12 outrageous amount would be that you wouldn't award even
13 though you haven't heard any evidence?

14 PROSPECTIVE JUROR NO. 159: I think with --
15 with me, I would -- I think probably millions would be
16 too much for me to handle just because that would
17 affect the other person's life just too much. And just
18 giving millions for some sort of car accident, I'm not
19 sure -- again, I don't know what the evidence is. I
20 don't know any of that. But I wouldn't give millions.
21 I guess you could call that a cap, but I wouldn't give
22 millions of dollars, but just something that is fair
23 and reasonable once I receive all of the information
24 and all the evidence.

25 MR. ROBERTS: Okay. So no matter what

1 evidence is presented in court, you can tell me right
2 now, whatever that evidence is, I couldn't award
3 millions for pain and suffering.

4 PROSPECTIVE JUROR NO. 159: Correct, yes. So
5 I guess you can call that a cap, yes.

6 MR. ROBERTS: Okay. So if my client is going
7 to ask the jury to allow those amounts, can you sit as
8 a juror on this case knowing that you've already
9 prejudged that you can't award those amounts?

10 PROSPECTIVE JUROR NO. 159: Again, I'd try to
11 be as fair and as honest as I possibly absolutely can,
12 and --

13 MR. ROBERTS: And there's no -- there's no
14 right answer. It doesn't -- it doesn't -- no one here
15 is going to judge you. The only thing that would be
16 wrong is having beliefs that you're not honest and
17 forthcoming about so that we can make decisions about
18 whether or not you can be a juror on the case.

19 Do you understand?

20 PROSPECTIVE JUROR NO. 159: I understand,
21 yes.

22 MR. ROBERTS: So I really want to know how
23 you honestly feel, and -- and we all have, I think
24 we've talked about before, biases, prejudices. The
25 question isn't whether or not you don't -- you have a

1 bias against large awards. The question is whether or
2 not you can set those aside and consider fairly and
3 impartially, be open to evidence that would support
4 that kind of award.

5 PROSPECTIVE JUROR NO. 159: I can -- yeah, I
6 can absolutely put that aside to consider -- to
7 consider whatever. So I'd be able to put that aside,
8 yes.

9 MR. ROBERTS: Okay. And you would be --
10 you'd be willing to consider making awards that are
11 substantial like that if the evidence justifies it.

12 PROSPECTIVE JUROR NO. 159: Even if I am
13 uncomfortable, I would consider, yes.

14 MR. ROBERTS: You've heard some of the
15 discussion about punitive damages, damages to punish
16 and damages by way of example.

17 Is that something that you would be
18 comfortable considering sitting on a jury that was
19 going to be asked to assess damages that are not to
20 compensate but rather to punish?

21 PROSPECTIVE JUROR NO. 159: Yes, I would.
22 Yes.

23 MR. ROBERTS: You can do that?

24 PROSPECTIVE JUROR NO. 159: Yes.

25 MR. ROBERTS: Tell me a little bit about the

1 most important values to you that you would want to
2 instill in your children or other loved ones and that
3 you try to emulate in your own life.

4 PROSPECTIVE JUROR NO. 159: I'd say what
5 stands -- the value that has me stand out, of course,
6 you know, integrity, honesty, loyalty. But I think the
7 value that really stands out to me would be freedom,
8 the freedom this country gives. Just because I come
9 from parents who weren't born in America. They were
10 born in the Middle East, and they understand the
11 oppression, and they understand what it's like to not
12 have freedom. And so my parents have taught me that,
13 to really value freedom.

14 So I'd say that would be the first thing that
15 comes to mind with me. When someone says that they
16 don't -- either don't like how this country is run or
17 don't like the laws or whatnot, the first thing comes
18 to mind is, well, you have freedom. So I think that's
19 something that I really value is the freedom this
20 country gives. Although, of course there are faults
21 and corruption, but it's still a step way higher than,
22 you know, being oppressed because of your religion or
23 being repressed because of your gender. It's -- that's
24 not oppressed by the government as other countries are,
25 so that's what I really value is freedom.

1 Other than that, it would be integrity and
2 honesty and, of course, loyalty and, you know, all the
3 very generic ones.

4 MR. ROBERTS: There were questions in the
5 questionnaire. One of them was Question 55, Would you
6 be able to serve as a fair and impartial juror in a
7 case where the operator of a motor vehicle used
8 marijuana and was involved in a motor vehicle accident?
9 You said yes, that you could be fair and impartial.
10 You've heard a lot of discussion about that issue over
11 the last two days.

12 Do you still feel that way, you can be fair
13 and impartial to the defendants --

14 PROSPECTIVE JUROR NO. 159: Yes.

15 MR. ROBERTS: -- in this case?

16 PROSPECTIVE JUROR NO. 159: Yes.

17 MR. ROBERTS: Fifty-six, "Would you be able
18 to serve as a fair and impartial juror in a case
19 involving driving under the influence of marijuana
20 metabolite or drugs?"

21 Do you still feel the same way, you can be
22 fair, just as you indicated in your jury questionnaire?

23 PROSPECTIVE JUROR NO. 159: Yes, I can be
24 fair, yes.

25 MR. ROBERTS: And -- and I hate to dwell on

1 this point, but it's a very important one. It's part
2 of my job to make sure that I have jurors who can --
3 who are not going to be substantially impaired in
4 deliberations because of biases and preconceptions.
5 And I want to ask this a little differently and get
6 just a better understanding.

7 The belief that you have that -- that you
8 don't believe that there should be money awarded for
9 pain and suffering, how long have you held that belief?
10 Is it something that you formed while you were
11 listening in the last two days or is this a deep and
12 long-held belief?

13 PROSPECTIVE JUROR NO. 159: I think it's just
14 a belief just based on my inexperience. I just really
15 never experienced anything -- any, like, sort of life
16 decisions or anything. So I guess I just haven't had
17 the experience or I haven't seen in person, really,
18 what the effects are of, like, damages and accidents
19 and loss. Because I've never been into an accident.
20 I've never been into anything sort of like that -- so I
21 guess that's sort of a naive way of, I guess you could
22 say, of thinking that -- that they don't -- that I
23 don't believe in punitive damages.

24 But I guess now with seeing this and seeing
25 how it really affects people -- like I said before, I

1 haven't seen -- I've never been in a court, I've never
2 been in any of this, so I guess my opinion's sort of
3 changing as I'm seeing more, really learning more about
4 the court and jury and all that.

5 So I guess, that I would -- if I could, sort
6 of not change my answer, but just to say it more
7 clearly, I guess I just couldn't give -- I guess I
8 could say that I do have a cap. I couldn't give -- I
9 guess I couldn't give so much damages that it would
10 impair another person's life, if that makes sense.

11 MR. ROBERTS: Now, when you're talking about
12 impairing another person's life, you're not talking
13 about the plaintiff. You're talking about the effect
14 the verdict might have on the defendants?

15 PROSPECTIVE JUROR NO. 159: Yes, yes. I
16 guess you could say that.

17 MR. ROBERTS: So you -- you would not be able
18 to keep that part out of your mind in deliberations.
19 If the Court were to instruct you that that's an issue
20 that shouldn't be considered, that you should only
21 consider the amount necessary to compensate the
22 plaintiff, you -- you'd be thinking about the effect on
23 the defendants, and no matter what the evidence is, you
24 probably wouldn't award millions; right? Regardless of
25 the evidence before you've heard anything. And I'm

1 sorry to put you on the spot, but this is something I
2 need to know.

3 PROSPECTIVE JUROR NO. 159: I'm really not
4 sure, but if -- if the judge says to put all those
5 aside and just look at it dead on, then I'll do that,
6 and I will be fair and I will put that aside if the
7 judge does say that, which I'm sure that's going to
8 happen, so ...

9 MR. ROBERTS: That's my guess.

10 PROSPECTIVE JUROR NO. 159: So I would just
11 try to be as fair and as honest and really judge it
12 based on what the court laws say, regardless of what my
13 personal feelings are. So if the Court says that this
14 is -- these are the examples, and this is the way
15 you're supposed to go, then I will do that, regardless
16 of what I feel about millions of damages and punitive
17 damages and sort of that thing, I guess.

18 MR. ROBERTS: Okay. So, you know, you
19 mentioned sympathy, and you told me that you
20 sympathize.

21 PROSPECTIVE JUROR NO. 159: Yes.

22 MR. ROBERTS: Now, one of the other things
23 the Court's likely going to say is that you can't base
24 your award on sympathy that you might have for my
25 client. You have to be objective. And you -- can you

1 also keep sympathy out so that the defense isn't
2 prejudiced?

3 PROSPECTIVE JUROR NO. 159: Yes, I can keep
4 that out, yes.

5 MR. ROBERTS: Okay. Let's go back to what
6 you said about caps, and I know that, you know --

7 PROSPECTIVE JUROR NO. 159: I guess --

8 MR. ROBERTS: I know you're struggling with
9 this issue and you want to do your duty as a good
10 juror. And you said you probably do have a cap, and
11 then you explained some things.

12 As you sit here right now, do you have a cap
13 where you could never give in the millions regardless
14 of what the evidence is?

15 PROSPECTIVE JUROR NO. 159: Um, I guess -- I
16 guess I couldn't -- no, I couldn't give millions. I
17 think that's -- that's something I just couldn't do. I
18 would, I guess, go along with it. But I just couldn't
19 be that deciding factor that that's what -- to give
20 millions. I just couldn't be that deciding factor.

21 MR. ROBERTS: Thank you, Ms. Sako.

22 Is there anything else you feel the parties
23 should know about you? You know, anything that would
24 make you a good juror or a bad juror for this case
25 other than the things that we have discussed?

1 PROSPECTIVE JUROR NO. 159: I would try to be
2 as fair and as honest as I possibly can and follow the
3 rules as closely as I can as a juror, so ...

4 MR. ROBERTS: Okay. Thank you so much.

5 PROSPECTIVE JUROR NO. 159: Thank you.

6 MR. ROBERTS: May we approach, Your Honor?

7 THE COURT: Come on up.

8 PROSPECTIVE JUROR NO. 159: 159 by the way.

9 Sorry.

10 (A discussion was held at the bench,
11 not reported.)

12 THE COURT: All right. Go ahead, Mr. Mazzeo.

13 MR. MAZZEO: Thank you, Judge.

14

15 VOIR DIRE EXAMINATION

16 MR. MAZZEO: Ms. Sako, good afternoon. I'm
17 going to -- I know I was in the middle of questioning
18 earlier before the lunch break on a particular topic.
19 I'm going to switch gears because you just took the
20 seat now. So I'm going to go over some of the
21 questions that I asked the jurors earlier and
22 yesterday.

23 So you're a barista at Starbucks. Tell us
24 about what your day is like and some of your likes and
25 dislikes about your job.

1 PROSPECTIVE JUROR NO. 159: I'm an opener, so
2 I go in about 4:00 o'clock in the morning and prepare
3 the beverages and prepare coffee and make sure
4 everything is health code and prepared beverages as
5 correct as possible. And I'm also cashier
6 drive-through. So getting orders and making sure
7 they're correct and being friendly and open, and that's
8 just day-to-day.

9 And I guess the likes is I love my coworkers.
10 They're a ton of fun, and they really -- they really
11 help me to learn more about the job.

12 I guess my dislikes is the people that come
13 in that haven't had their coffee yet and they're little
14 bit mean. That would be my dislike. You don't want to
15 mess with people and their coffee. That would be my
16 dislike.

17 MR. MAZZEO: The other one I think you
18 mentioned earlier is those that try to fib and try to
19 say they didn't get what they ordered and you gave them
20 something less, and clearly do they ask you for, like,
21 a refund, or they ask you for something in addition?

22 PROSPECTIVE JUROR NO. 159: They would --
23 they would ask for -- of course, with Starbucks people,
24 we'll always remake your drink, always remake your
25 order no matter what. And it's also those people that

1 don't exactly know what they want. So they -- I can't
2 make your drink 250 degrees, but -- I physically cannot
3 make that, but they'll fight and -- fight on that. So
4 it's just the people that -- like I said -- yeah, just
5 like I said before, just the people that I know you
6 made your drink right, you don't know what you want.
7 That sort of thing. But of course I'll be open and
8 friendly, and I'll be very kind, and I won't show any
9 sort of doubt or anything like that.

10 MR. MAZZEO: What about outside of work, what
11 hobbies do you have?

12 PROSPECTIVE JUROR NO. 159: Hobbies, I love
13 going hiking at Red Rock. I love going on the trails.
14 I try to go as often as I can. I'm very surprised,
15 actually, that a lot of people are outdoors people.

16 And another thing, I guess, that makes me
17 stand out is I love going to conventions that are in
18 Nevada and the southern states and on the East/West
19 Coast, whether it's trade shows or, like, CES,
20 electronics, Japanese animation, comics conventions,
21 all that. I love planning to go out to those and
22 getting the venues and hotel and dressing up and all
23 that. Great stuff. I guess you could say that's a
24 hobby of mine.

25 MR. MAZZEO: What's your theme? What's the

1 costume you wore?

2 PROSPECTIVE JUROR NO. 159: It's several
3 different things. I've done anything from, you know,
4 comic books and anime and Japanese animation and all
5 that. Something fun to make your own costumes and all
6 that. So it's fun.

7 MR. MAZZEO: Have you seen the new movie yet,
8 *Deadpool*?

9 (Clarification by the Reporter.)

10 PROSPECTIVE JUROR NO. 159: Sorry. I'll be a
11 little bit slower. I apologize.

12 The *Deadpool* movie actually does not come out
13 until this weekend, but I'm excited.

14 MR. MAZZEO: Okay. Another question that I
15 asked was: Do you -- if you have any family members or
16 close friend that had been -- was or is addicted to
17 alcohol or drugs?

18 PROSPECTIVE JUROR NO. 159: I do have my
19 first cousin who was -- I'm not sure what he's addicted
20 to, but he hasn't told me, one, he hasn't gotten any
21 help. And it's sort of just -- it hasn't been
22 affecting me because my parents are sort of keeping me
23 away from that. He does live in -- live here, and
24 he -- with my aunts and my uncles. They're sort of
25 causing their life a little bit of turmoil and causing

1 their life to be a little hectic. But my parents are
2 doing their best to keep me out of it.

3 But I see how it's affecting my family and my
4 aunts, and it's very crazy, the things he's doing, very
5 out of character for what he's doing. And it has to be
6 because of substance just because it sort of came out
7 of the blue, and -- but we know none of us know what
8 he's on. He hasn't gotten any help, nothing like that.
9 So I can see what substance does to people.

10 MR. MAZZEO: How would you characterize his
11 behavior based on how you perceive it?

12 PROSPECTIVE JUROR NO. 159: It's very --

13 MR. MAZZEO: Drugs are affecting him.

14 PROSPECTIVE JUROR NO. 159: It's very
15 sporadic. He will leave in the middle of the night to
16 just walk. He will call the cops on my aunts and
17 uncles just out of the blue and sort of -- just -- it's
18 very -- it can't be anything like marijuana or anything
19 like that. It can't be alcohol. Just something that's
20 really messing, like, his nerves and his system inside
21 of his head. It's -- it's very weird.

22 He would ask for my aunt's keys with a
23 chicken with oil -- you know, a chicken that you buy, a
24 whole chicken, at whatever market. And then he would
25 go into the car and just spill it everywhere sort of

1 things. So that's not -- I'm not sure what kind of
2 drug can do that to someone. But it's -- it's very
3 weird and it's a very neurotic. I'm not sure what's
4 going on, but has to be because of some sort of drug.
5 That's what we're all guessing.

6 MR. MAZZEO: And was there a time in your
7 life that you had a close relationship with your
8 cousin?

9 PROSPECTIVE JUROR NO. 159: No.

10 MR. MAZZEO: Okay. So it's -- it's not that
11 that relationship, you had one previously and it
12 changed. You just never had a close relationship with
13 your cousin.

14 PROSPECTIVE JUROR NO. 159: Right. I just
15 see how it affects my aunt and my family and my -- my
16 mother and my uncles.

17 MR. MAZZEO: Okay. Then I also asked the
18 questions on the jury questionnaire about the opinions
19 that jurors might have about being unable to -- would
20 they be fair -- would they be able to sit on a case
21 where a driver was impaired by marijuana metabolite and
22 caused a motor vehicle accident? Not sure if I saw a
23 response from you on your questionnaire.

24 But would that pose an issue for you?

25 PROSPECTIVE JUROR NO. 159: Now hearing that

1 we're not -- we're not going to be deciding who's at
2 fault, I think it makes it a lot easier for me to be
3 very fair and very with -- with the decisions. I can
4 be fair about that.

5 MR. MAZZEO: And then a follow-up question,
6 which I'm going to follow up with the other jurors as
7 well that I spoke with, is: Are you inclined to think
8 that a person who has been found impaired by marijuana
9 metabolite would be less credible as a witness simply
10 because of that fact?

11 PROSPECTIVE JUROR NO. 159: That he would be
12 a witness to what -- what had happened in --

13 MR. MAZZEO: Witness a courtroom.
14 Regarding -- yes, a witness in a courtroom regarding
15 the -- the case.

16 PROSPECTIVE JUROR NO. 159: I would have to
17 see the evidence of, I guess, how much marijuana
18 metabolite was in the system. I heard that it was over
19 the limit, I believe I've heard. But I guess I'd have
20 to see the evidence and see really how -- for me to
21 judge how clear I guess the defendant was and the
22 situation.

23 MR. MAZZEO: Okay. But overall, even if not
24 discussing the circumstances surrounding the accident,
25 would you think you -- you might be inclined to see a

1 person or view a person, have preconceived notions
2 about a person who -- who was a party in a case and has
3 been deemed to be impaired by marijuana metabolite as
4 being less credible as a witness regarding anything as
5 a witness in a courtroom? Meaning, while they're
6 testifying, would you look at them and say, well, I
7 already know in my mind that there's been a ruling, you
8 know, about this particular witness who's a party with
9 this finding. So in my mind, because of that, I'm
10 going to see him or her as less credible.

11 PROSPECTIVE JUROR NO. 159: No, I wouldn't.

12 MR. MAZZEO: Okay. Would you be -- you were
13 asked by Mr. Roberts a few minutes ago about punitive
14 damages.

15 Do you think you would be more likely or less
16 likely to award punitive damages in a case where --
17 where the driver has already been found impaired by
18 marijuana metabolite?

19 PROSPECTIVE JUROR NO. 159: I would try to be
20 as fair as I absolutely can. I guess if it was a
21 decision between the two, I'd say I'd be a little bit
22 more likely to add more damages, add more -- the other
23 damages, if I had to choose between the two, but I
24 would be as fair as I possibly can.

25 MR. MAZZEO: And just to be clear, the

1 question was: Would you be more likely or less likely
2 to award punitive damages?

3 PROSPECTIVE JUROR NO. 159: Oh, I'm sorry.

4 MR. MAZZEO: So starting at 0, that's a
5 decision that you all will make in the deliberations
6 after the -- all the evidence is in. And so starting
7 at 0, there's no -- there's no amount when you go into
8 the -- in to deliberate.

9 So would you be more or less inclined to
10 award punitive damages with just knowing that fact, not
11 having heard any evidence in this case?

12 MR. ROBERTS: Objection, Your Honor.
13 Violation of the local rule.

14 THE COURT: Come on up for a minute.

15 (A discussion was held at the bench,
16 not reported.)

17 THE COURT: All right. The objection is
18 sustained.

19 Go ahead and ask another question,
20 Mr. Mazzeo.

21 MR. MAZZEO: Thank you, Judge.

22 Ms. Sako, so a new question, and it's
23 regarding bias. I guess that's really what I want to
24 know.

25 Having heard, and as everyone in here has

1 heard, having heard that there's been a finding of
2 impairment by marijuana metabolite, does -- do you have
3 any -- is there any prejudice or bias that comes up,
4 you know, in your mind that might affect your ability
5 to sit on a case like this in any way?

6 PROSPECTIVE JUROR NO. 159: In -- with
7 marijuana, I -- I guess you could say that I have a
8 slight -- a slight prejudice just because a lot of my
9 friends out of high school would -- you know, got into
10 it, and I can see their life deteriorate around it.
11 But I haven't been directly influenced by it. So I
12 just see that, and I -- I tend to just stay away from
13 that. But I would -- I would be fair and -- but I
14 guess that's the only slight prejudice I see in this.

15 MR. MAZZEO: And I appreciate it, and it
16 seems like your answer was also consistent now that I'm
17 looking at your jury questionnaire answer.

18 You -- you said you would consider all
19 objectives and evidence as fair as you can. So okay.
20 Thank you. I appreciate it.

21 Now I'm going to move on, continue with where
22 I was earlier. And I believe we were with
23 Ms. Perreida.

24 PROSPECTIVE JUROR NO. 130: Yes.

25 MR. MAZZEO: Hi.

1 PROSPECTIVE JUROR NO. 130: No. 130.

2 MR. MAZZEO: Ms. Perreida, in your jury
3 questionnaire, you had indicated with regard to DUI
4 cases, you said, to quote, you're not sure if you can
5 be impartial.

6 Do you recall that statement?

7 PROSPECTIVE JUROR NO. 130: No.

8 MR. MAZZEO: Okay. Do you recall the
9 question about -- there was a question about --

10 PROSPECTIVE JUROR NO. 130: I remember the
11 DUI, but the name of the whatever it was, I don't know.

12 MR. MAZZEO: Oh, the marijuana metabolite.

13 PROSPECTIVE JUROR NO. 130: Yeah.

14 MR. MAZZEO: Okay. And I don't know if this
15 was -- I don't -- the word "DUI" was in here, so I
16 wasn't sure if that was a reference that you actually
17 put in or if you were referring to marijuana
18 metabolite, so --

19 But do you recall the reference in your
20 questionnaire with regard to either marijuana
21 metabolite or DUI where you said that you're not sure
22 if you could be impartial sitting on a case like this?

23 PROSPECTIVE JUROR NO. 130: It's about me
24 or --

25 MR. MAZZEO: Yeah, yeah, it's your opinion.

1 It's your opinion that you expressed.

2 Did you understand the question?

3 PROSPECTIVE JUROR NO. 130: Yeah, it's
4 someone in the -- under -- like, take whatever medicine
5 named?

6 MR. MAZZEO: Oh, the marijuana metabolite?

7 PROSPECTIVE JUROR NO. 130: Yeah.

8 MR. MAZZEO: Sure.

9 PROSPECTIVE JUROR NO. 130: Depend on how --
10 how much they take and how much -- can they respond to
11 the judge? I mean ...

12 MR. MAZZEO: Okay. And so are you saying
13 that when you -- when you got this question -- because
14 I don't want to put words into your mouth. We just
15 want to know if you cannot be -- if -- if you can't be
16 impartial, what were you referring to with regard to
17 the statement?

18 PROSPECTIVE JUROR NO. 130: I think it's kind
19 of like someone that take alcohol, and it depend on how
20 much they take and how much -- long -- longer that they
21 wait until the first time they take, because it should
22 take about maybe an hour to -- to get to be normal
23 person.

24 MR. MAZZEO: Okay. But in this case, there's
25 already been a determination --

1 PROSPECTIVE JUROR NO. 130: Yeah.

2 MR. MAZZEO: -- with regard to impairment
3 based on a level of marijuana metabolite in the system.
4 So you don't have to hear -- there's no need for that
5 information --

6 PROSPECTIVE JUROR NO. 130: Yeah.

7 MR. MAZZEO: -- because the ruling's already
8 been made.

9 PROSPECTIVE JUROR NO. 130: I still have
10 to -- I'm not sure how it's work, but how that person
11 going to be after they have that medicine in their
12 system already. So I -- I don't know how to judge it.

13 MR. MAZZEO: So you need to hear evidence of
14 what --

15 PROSPECTIVE JUROR NO. 130: So how -- how the
16 personality after they take that medicine in the system
17 already. Because I don't know how -- what do you call
18 the -- what the result after they have that medicine in
19 the system already, how the person already -- they be
20 bad or, like, they can think like a normal people or
21 they can, like -- you know.

22 MR. MAZZEO: So you're -- you're going to
23 look at such factors such as demeanor?

24 PROSPECTIVE JUROR NO. 130: Uh-huh.

25 MR. MAZZEO: And -- and ambulation, ability

1 to move and -- and walk and --

2 PROSPECTIVE JUROR NO. 130: Yeah, like when
3 people drunk, you know.

4 MR. MAZZEO: Okay. So you want to look at
5 things such as a person's balance and cognitive
6 abilities?

7 PROSPECTIVE JUROR NO. 130: Yeah.

8 MR. MAZZEO: But is there anything based on
9 what you've heard in any questions today, yesterday, or
10 in the jury questionnaire, where we should be concerned
11 about your impartiality, where you -- you might say,
12 well, if I hear this, then I can't be impartial in this
13 case? Do you understand?

14 PROSPECTIVE JUROR NO. 130: No.

15 MR. MAZZEO: Okay. Is there any situation,
16 any set of facts which might prevent you from being
17 impartial in a -- in a case such as this, which you
18 know involves -- it's a motor vehicle accident, and it
19 involves a ruling that a person was found impaired by
20 marijuana metabolite?

21 PROSPECTIVE JUROR NO. 130: I guess, yes.

22 MR. MAZZEO: Yes?

23 PROSPECTIVE JUROR NO. 130: Uh-huh.

24 MR. MAZZEO: Yes, you will be fair; or yes,
25 you will --

1 PROSPECTIVE JUROR NO. 130: I will be fair.

2 MR. MAZZEO: You can be fair?

3 PROSPECTIVE JUROR NO. 130: Uh-huh.

4 MR. MAZZEO: Okay. We shouldn't have any
5 concerns about what you put into the questionnaire
6 about being impartial?

7 PROSPECTIVE JUROR NO. 130: No, I'm not sure.

8 MR. ROBERTS: Your Honor, may we approach?
9 I'm sorry. I'll make it real quick, Your Honor.

10 THE COURT: Come on up.

11 (A discussion was held at the bench,
12 not reported.)

13 MR. MAZZEO: May I proceed, Your Honor?

14 THE COURT: Go ahead.

15 MR. MAZZEO: Ms. Perreida -- Ms. Perreida,
16 right, Perreida? So now I was looking at a summary.
17 Now, I'm looking at the actual questionnaire, and so
18 there was a reference, and it's No. 55. And the
19 question was, Would you be able to serve as a fair and
20 impartial juror in a case where the operator of a motor
21 vehicle used marijuana and was involved in a motor
22 vehicle accident?

23 So from what I'm seeing here, you marked yes,
24 and then with the explanation, you said you were not
25 sure. So I guess my follow-up -- and I -- I was going

1 off of my summary. So my follow-up, then, where it
2 says "not sure," you're not sure why you can be fair
3 and impartial or you -- what aren't you sure about?

4 PROSPECTIVE JUROR NO. 130: (Inaudible
5 response.)

6 MR. MAZZEO: If you don't know, that's fine,
7 I don't want to belabor the point.

8 PROSPECTIVE JUROR NO. 130: I don't want to
9 say much if I don't understand really clearly.

10 MR. MAZZEO: You're saying you don't --

11 PROSPECTIVE JUROR NO. 130: I don't
12 understand the question clearly. I don't want to say
13 anything more to be, it's not my right opinion.

14 MR. MAZZEO: Okay. And is that -- could that
15 be --

16 PROSPECTIVE JUROR NO. 130: That's why I say
17 not sure.

18 MR. MAZZEO: Not sure. Okay. Thank you. I
19 appreciate it.

20 So by saying you're not sure, you're saying
21 that with -- with what you just told us, you didn't
22 really understand the question --

23 PROSPECTIVE JUROR NO. 130: Yeah.

24 MR. MAZZEO: -- that well?

25 PROSPECTIVE JUROR NO. 130: Very clearly to

1 my -- my thought.

2 MR. MAZZEO: Sure. Okay. Okay. Thank you.

3 Well, actually, before we move on, and I know
4 I addressed this earlier, this brings me back to some
5 concerns about understanding -- being able to sit in a
6 case like this and understand the testimony of
7 witnesses to discuss not just medical matters but to
8 discuss matters just pertaining to regarding --
9 regarding the accident, regarding various things in
10 this case.

11 Is it possible -- and you can -- and please
12 be open with us still -- that there are -- there might
13 have been some questions or answers that were given by
14 jurors or questions by attorneys that you may not have
15 understood during the last two and a half days?

16 PROSPECTIVE JUROR NO. 130: Some question,
17 just like, I think, yesterday.

18 MR. MAZZEO: Okay.

19 PROSPECTIVE JUROR NO. 130: But I already
20 told I don't understand. He trying to explain to me,
21 but I still don't.

22 MR. MAZZEO: Oh, okay. And that was by
23 Mr. Roberts, plaintiff's counsel?

24 PROSPECTIVE JUROR NO. 130: Yeah.

25 MR. MAZZEO: Were those questions about

1 punitive damages or --

2 PROSPECTIVE JUROR NO. 130: No, I think about
3 taking one medicine or something.

4 MR. MAZZEO: Medicine?

5 PROSPECTIVE JUROR NO. 130: Yeah. If anyone
6 under -- I don't remember the name, yeah.

7 MR. MAZZEO: He named a particular medicine?

8 PROSPECTIVE JUROR NO. 130: Yeah.

9 MR. MAZZEO: Okay. All right. And we -- we
10 just want to -- I'm just checking in with you again,
11 because we're still in this process of jury selection,
12 and we want to be -- we want to be certain, and we want
13 the jurors to, you know, to -- just at any time -- and
14 also with all the jurors, if -- if there are statements
15 that you want to make with regard to an earlier
16 question or question we might have asked someone else,
17 feel free to interrupt me, you know, after I'm done
18 with an answer from a juror. Just raise your hand.
19 Feel free to do that. We can -- we can have this as an
20 open forum discussion. That's perfectly fine.

21 So I -- if you feel inclined, something that
22 might -- if you feel inclined to tell us something that
23 might assist us in making, you know, the decision to
24 have certain jurors in this case, please let us know.
25 Fair enough, guys? Everyone? Yes? Okay.

1 So, Ms. Perreida, yeah, and I know I had
2 asked you earlier this morning about this, about
3 your -- whether -- whether this -- whether a different
4 type of case would be better to sit on than this case,
5 and I think you had said yes; right?

6 PROSPECTIVE JUROR NO. 130: Yeah.

7 MR. MAZZEO: What -- can you express to us --
8 because I don't want to put words into your mouth --
9 what concerns do you have about sitting in on a trial
10 like this with the subject matter that's involved in
11 this case?

12 PROSPECTIVE JUROR NO. 130: Well --

13 MR. MAZZEO: I couldn't hear you.

14 PROSPECTIVE JUROR NO. 130: What it's about,
15 you said?

16 MR. MAZZEO: Yes. What concerns do you have
17 about sitting in on a case like this, if any, as a
18 juror, to listen to all the evidence?

19 PROSPECTIVE JUROR NO. 130: I think I like to
20 hear people that saying about thing -- trying to help
21 people to get what they want, like what happened to the
22 defendant, so ...

23 MR. STRASSBURG: Judge, this --

24 PROSPECTIVE JUROR NO. 096: No, I had
25 something to say to the attorney.

1 MR. STRASSBURG: Oh, I see.

2 MR. MAZZEO: Can -- once she finishes.

3 PROSPECTIVE JUROR NO. 096: Okay.

4 MR. MAZZEO: Yeah, certainly.

5 PROSPECTIVE JUROR NO. 130: I think everyone
6 in -- in this country are whatever, who -- whatever
7 came from another country, if they move to different
8 country and they be a citizen, I understand that you
9 have to do your duty about be a citizen, good
10 citizenship I mean. That's -- that's why I have been
11 here, and I try my best to understand, you know. And
12 I'm trying to help whatever my experience have, and --
13 but some word I try, because I know medical terms,
14 medical word, some -- some word that have a lot of
15 meaning that translate to my language. So sometime
16 maybe I get tripped, you know.

17 MR. MAZZEO: Okay. And -- and -- and we want
18 a varied jury pool here. We want all sorts of
19 citizens, different age ranges, different cultures.
20 That's fine. And I just wanted to know if you had any
21 concerns, though, with the communication because it's
22 your second language, English is. So that's all I was
23 asking for. And -- and -- and --

24 PROSPECTIVE JUROR NO. 130: Just say I cannot
25 Google-- or pen the word. That's why some word I

1 wonder what is meaning and I want to open to translate
2 to my language, and I cannot. That's why I -- and I
3 want to learn, but I cannot open to what they meaning,
4 so --

5 MR. MAZZEO: You're not allowed to.

6 PROSPECTIVE JUROR NO. 130: I'm not allowed
7 to.

8 THE COURT: Can I have counsel come up.

9 (A discussion was held at the bench,
10 not reported.)

11 THE COURT: Mr. Franco, I know you had a
12 question.

13 PROSPECTIVE JUROR NO. 096: Yes, Your Honor.

14 THE COURT: I'm going to let him come back to
15 you in a few minutes.

16 PROSPECTIVE JUROR NO. 096: What I wanted to
17 say is -- 096 my badge number is -- I am going to have
18 problems if I'm in the same jury room with the lady
19 there. There's -- she's just all over the board for
20 me, and she comes in one angle and leaves another.

21 THE COURT: That's okay. Don't worry about
22 it.

23 Ms. Perreida, I'm going to thank and excuse
24 you. I appreciate you being here. And I know you're
25 being real honest and you're doing your best. There

1 just may be some things that -- some things that maybe
2 aren't translating well. So we're going to excuse you.
3 Thank you, ma'am. Appreciate you being here. Go ahead
4 and go back down to the third floor. Let them know
5 you've been excused by Department 30.

6 Who's next?

7 MR. STRASSBURG: Thank you, ma'am.

8 THE CLERK: Gary Gallegos, Badge No. 160.

9 PROSPECTIVE JUROR NO. 003: Hey, welcome to
10 the jury box.

11 THE COURT: Mr. Gallegos.

12 PROSPECTIVE JUROR NO. 160: I'm sorry.

13 THE COURT: Am I saying that right, Gallegos?

14 PROSPECTIVE JUROR NO. 160: Yeah.

15 THE COURT: You're Badge 160?

16 PROSPECTIVE JUROR NO. 160: Yes, sir.

17 THE COURT: How long in Vegas, sir?

18 PROSPECTIVE JUROR NO. 160: Eleven years.

19 THE COURT: Do you work?

20 PROSPECTIVE JUROR NO. 160: Yes, I do.

21 THE COURT: What do you do?

22 PROSPECTIVE JUROR NO. 160: I work at Lowe's
23 Home Improvement. I'm a loader/unloader/stocker.

24 THE COURT: Okay. Do you have a spouse or
25 significant other?

1 PROSPECTIVE JUROR NO. 160: No.

2 THE COURT: Any children?

3 PROSPECTIVE JUROR NO. 160: No.

4 THE COURT: Ever served on a jury before?

5 PROSPECTIVE JUROR NO. 160: No.

6 THE COURT: All right. Thank you, sir. In
7 response to any of the other questions that you've
8 heard, anything you want to tell us?

9 PROSPECTIVE JUROR NO. 160: No.

10 THE COURT: All right.

11 PROSPECTIVE JUROR NO. 160: Not at this time.

12 THE COURT: That just means they have to ask
13 you all the questions again.

14 PROSPECTIVE JUROR NO. 160: Well, okay.
15 That's funny.

16 THE COURT: All right. Mr. Roberts.

17 MR. ROBERTS: Thank you, Your Honor.

18

19 VOIR DIRE EXAMINATION

20 MR. ROBERTS: And, sir, could you say your
21 name for me one more time?

22 PROSPECTIVE JUROR NO. 160: Gary Gallegos.

23 MR. ROBERTS: Gallegos. Okay. Very good. I
24 think I got it now.

25 So you -- you know what I'm going to ask you

1 because you have been following along.

2 PROSPECTIVE JUROR NO. 160: Pretty much.

3 MR. ROBERTS: So let's first talk about your
4 individual pain tolerance.

5 PROSPECTIVE JUROR NO. 160: Okay. I -- I've
6 had a very fortunate life. I never really injured
7 myself. I slept on a down pillow my whole life, I
8 guess, so no broken bones or anything. Pain tolerance
9 I'd say if I ever get hurt, which is seldom, probably a
10 6 or a 7. Not very high.

11 MR. ROBERTS: And -- and what -- what -- can
12 you share with us when it was that you felt 6 to 7
13 pain?

14 PROSPECTIVE JUROR NO. 160: Well, I'm a
15 little embarrassed, but tattoos.

16 MR. ROBERTS: Okay. I think we've heard that
17 before.

18 PROSPECTIVE JUROR NO. 160: Yeah.

19 MR. ROBERTS: Maybe even that same number.

20 PROSPECTIVE JUROR NO. 160: Maybe, yeah.

21 MR. ROBERTS: All right. What about
22 distinguishing between physical pain and mental pain?
23 What's the worst mental pain you've ever experienced?
24 Just a number from 1 to 10, and don't share the event
25 with me unless you're comfortable.

1 PROSPECTIVE JUROR NO. 160: Probably I have a
2 high tolerance for mental pain. I'm not a cold fish,
3 but things don't faze me as -- as well as the -- as
4 much the average guy, I guess. Just doesn't bother me.

5 MR. ROBERTS: Is that different -- are you
6 just talking about the people that you don't know that
7 well or don't know at all or --

8 PROSPECTIVE JUROR NO. 160: People in
9 general, family, just -- I'm kind of isolated from
10 everyone. So I'm not really in contact with everyone.
11 So I -- if I hear something tragic, I'm concerned, of
12 course. I go with the flow.

13 MR. ROBERTS: When you say you're isolated,
14 do you have in your life occasions where you regularly
15 have to make decisions as part of a group?

16 PROSPECTIVE JUROR NO. 160: Earlier in my
17 life, I used to have those, you know, decisions and
18 things I had to make. But now as I've gotten older,
19 I'm financially more secure, so I don't have to worry
20 about that -- those type things. My decisions are kind
21 of for adventure. The adventurous-type thing.

22 Did I answer your question?

23 MR. ROBERTS: Yes, yes, you did.

24 Are you more comfortable making decisions in
25 a group where other people are validating your thoughts

1 or disagreeing with you and challenging your process,
2 or would you rather just be making decisions yourself?

3 PROSPECTIVE JUROR NO. 160: No, I think with
4 a group. When you put it that way, yeah, with a group.

5 MR. ROBERTS: As far as pain and suffering
6 go, you don't have any caps, still, that -- no
7 preconceived amounts that you wouldn't award beyond?

8 PROSPECTIVE JUROR NO. 160: No.

9 MR. ROBERTS: With regard to the fairness
10 issue that we've been talking about with someone who --
11 these are Questions 55 and 56 where the operator of a
12 motor vehicle used marijuana and was involved in a
13 motor vehicle accident. I don't know if you recall,
14 but your questionnaire, you checked "no" on that as far
15 as your ability to be fair and impartial. But since
16 then, you've heard other jurors talk about this, you've
17 gained some more information.

18 You have been paying attention. You've heard
19 all the discussion?

20 PROSPECTIVE JUROR NO. 160: Yes.

21 MR. ROBERTS: How -- how do you currently
22 feel about that? Knowing the posture of this case, can
23 you be fair and impartial where the driver of a motor
24 vehicle used marijuana and was involved in a motor
25 vehicle accident?

1 PROSPECTIVE JUROR NO. 160: Basically, when I
2 first wrote that down, I didn't think I could be. But
3 listening to everyone and thinking about it, I'm pretty
4 sure I could be.

5 MR. ROBERTS: So even to the extent you might
6 have any preconceived biases about whether people ought
7 to be using marijuana and driving, you can set those
8 aside, and --

9 PROSPECTIVE JUROR NO. 160: Absolutely.

10 MR. ROBERTS: -- and fairly and impartially
11 judge the evidence.

12 PROSPECTIVE JUROR NO. 160: Absolutely.

13 MR. ROBERTS: Thank you.

14 You okay with the concept of punitive damages
15 and comfortable sitting on a jury being asked to award?

16 PROSPECTIVE JUROR NO. 160: Yes, I am.

17 MR. ROBERTS: Tell me about the most
18 important values in your life that -- that you try --
19 would try to share with others that you were close to.

20 PROSPECTIVE JUROR NO. 160: Well, not to
21 repeat what everyone else has said and to repeat what
22 everyone else has said, one of my main values is to
23 treat people better than they treat me. Basically it.
24 And that, to me, involves everything. You know, being
25 honest with them. As long as I can sleep at night, put

1 my head on a pillow and sleep well, that's what I like.

2 MR. ROBERTS: It sounds like a corollary of
3 the Platinum Rule.

4 PROSPECTIVE JUROR NO. 160: Well, like I
5 said --

6 MR. ROBERTS: Better than you treat yourself,
7 yes, the way they might want to be treated.

8 With -- with regard to some of the comments
9 that people have shared about being skeptical that
10 people might exaggerate their injuries, exaggerate
11 their pain if there was monetary gain associated with
12 that, do you have any of those same feelings?

13 PROSPECTIVE JUROR NO. 160: I think when
14 someone gets to this point, I think they're being
15 fairly honest on their pains and sufferings.

16 MR. ROBERTS: So you're open to hearing the
17 evidence --

18 PROSPECTIVE JUROR NO. 160: Absolutely.

19 MR. ROBERTS: -- and making an award based on
20 the evidence and not on any other factor?

21 PROSPECTIVE JUROR NO. 160: Yes, I am.

22 MR. ROBERTS: Very good.

23 Anything else that you -- you think I should
24 know about you? I haven't gone through all of the
25 questions that everyone else had to endure. Thinking

1 back, did anything pop into your head when I was
2 talking to the jury for the last couple of days where
3 you had a strong opinion about something that you'd
4 like to share with me now?

5 PROSPECTIVE JUROR NO. 160: No. The -- about
6 the only thing that pops into my head is when we were
7 talking about caps. At the beginning, I used to think
8 there should be caps. But now, listening to people,
9 it's -- it's on a case-by-case-type thing now. I'm a
10 little more lenient on my decision there.

11 MR. ROBERTS: Okay. And there's no amount
12 that, without hearing the facts and evidence, you could
13 say, I'll never go over that.

14 PROSPECTIVE JUROR NO. 160: There's no
15 amount.

16 MR. ROBERTS: All right. Excellent.
17 Excellent. Thank you, sir.

18 I pass, Your Honor.

19 THE COURT: Mr. Mazzeo.

20 MR. MAZZEO: Yes, Judge. Thank you.

21

22 VOIR DIRE EXAMINATION

23 MR. MAZZEO: Good afternoon, Mr. Gallegos.

24 PROSPECTIVE JUROR NO. 160: Good afternoon.

25 MR. MAZZEO: Did I pronounce that correctly?

1 PROSPECTIVE JUROR NO. 160: 160. Yes.

2 MR. MAZZEO: Gallegos?

3 PROSPECTIVE JUROR NO. 160: Yes.

4 MR. MAZZEO: You -- you -- you said a minute
5 ago that you assumed that -- and I guess it was an
6 assumption that you made that -- referring to the
7 plaintiff, that she -- she's honest if she got to this
8 point, I guess in a case with a litigation?

9 PROSPECTIVE JUROR NO. 160: Yes.

10 MR. MAZZEO: Okay. So -- and -- and what I
11 want to know is -- because one of the -- one of the
12 jobs as jurors is to look at the credibility of all the
13 witnesses on the stand. Not just doctors and experts
14 for both sides, but also the parties. It seems as
15 though you may have made a -- a leap of faith and said,
16 Well, if we're at trial today, you know, at the point
17 of trial after an accident from so many years ago, that
18 the plaintiff, in my mind, she's honest.

19 And so we need to -- that tells me and my
20 client, it makes us a little jittery over there and
21 makes us concerned that we're not on the same footing
22 as the plaintiff because you've already made an
23 assumption that she's honest.

24 PROSPECTIVE JUROR NO. 160: No, I was talking
25 about in general. Most people who come this far, to me

1 tend to be a little more honest with -- with their
2 pains. Not in this case. I -- just in general.

3 MR. MAZZEO: In general. So what experience
4 do you have to -- you know, to make that -- to support
5 that statement? Otherwise, it's -- so we know it's not
6 just an assumption you're making about this case?

7 PROSPECTIVE JUROR NO. 160: Well, personally,
8 I don't have anything to back that up. It's just what
9 I have heard in the media, that type thing.

10 MR. MAZZEO: Okay. In the media that -- I
11 mean, and have you heard of specific cases in the
12 media?

13 PROSPECTIVE JUROR NO. 160: No.

14 MR. MAZZEO: No?

15 PROSPECTIVE JUROR NO. 160: (Shakes head.)

16 MR. MAZZEO: Okay. You can understand why
17 I'm asking you about this, because there is --
18 credibility is an issue in this case, and -- but if you
19 have a mind-set, a bias, if you already have a filter
20 in your mind that anything that the plaintiff says or
21 her representatives say on her behalf is -- you take at
22 face value because it's true because we're at trial,
23 then that puts -- do you understand how that would put
24 us at a disadvantage because then you're not
25 questioning credibility? You are taking it at face

1 value; right?

2 PROSPECTIVE JUROR NO. 160: I understand what
3 you're saying --

4 MR. MAZZEO: Okay.

5 PROSPECTIVE JUROR NO. 160: -- sir.

6 MR. MAZZEO: And you're not alone because --
7 and I was trying to look for it in my notes, but there
8 was someone here yesterday that said the same thing, if
9 it got to this point, then I assume that she's being
10 honest or telling the truth about her pain and
11 symptoms.

12 Did you hear that yesterday?

13 PROSPECTIVE JUROR NO. 160: Yes, I did.
14 That's kind of what I was agreeing on, but it doesn't
15 always mean that in this particular case. I would
16 just -- I tend to lean that way.

17 MR. MAZZEO: Okay. So you're -- you're
18 leaning that way. Where does that -- do you understand
19 that may cause some concern for the defendants because
20 if you're leaning in a particular direction in favor of
21 making an assumption about a party's credibility
22 without even having heard any evidence -- you've heard
23 us attorneys talk and ask questions and make references
24 to certain issues, but you haven't heard any evidence;
25 right?

1 PROSPECTIVE JUROR NO. 160: No, I haven't.

2 MR. MAZZEO: And I'm not picking on you -- I
3 am picking on you, but there's a point to be made --
4 you know, there's a point.

5 PROSPECTIVE JUROR NO. 160: I understand.

6 MR. MAZZEO: And who else, by the way, agrees
7 with Mr. Gallegos? And who -- I don't know if there
8 was someone yesterday that mentioned it, something
9 about assuming the plaintiff is honest because she
10 wouldn't have gotten to this point in the litigation.
11 But we're at this point in the litigation because
12 there's a dispute. So anyone else agree with
13 Mr. Gallegos?

14 Okay. So do you understand what I'm saying?
15 So can you assure us -- it seems like you were making a
16 generalization, but it may not be accurate.

17 PROSPECTIVE JUROR NO. 160: I might have
18 misspoke. I can be fair.

19 MR. MAZZEO: Okay. Fair enough.

20 And you can be fair and you might have
21 misspoke, but do you have this preconceived notion that
22 plaintiff is -- has a certain credibility for bringing
23 this claim and -- and making it to this point?

24 PROSPECTIVE JUROR NO. 160: Before I came to
25 the courtroom, I didn't have that notion at all. But

1 from what someone said, I thought to myself, Well, that
2 sort of makes sense.

3 MR. MAZZEO: Does the inverse make sense as
4 well, that, well, the defendant has a certain
5 credibility for getting to this point and the case
6 hasn't resolved? Does it go both ways?

7 PROSPECTIVE JUROR NO. 160: True.

8 MR. MAZZEO: Okay.

9 PROSPECTIVE JUROR NO. 160: Yeah.

10 MR. MAZZEO: Fair enough.

11 PROSPECTIVE JUROR NO. 146: I think he was
12 responding to a comment I had made yesterday regarding
13 the credibility of cases that make it to court as
14 opposed to frivolous things that die before they get
15 here. The people who just complain for the sake of
16 complaining to see if they can get something versus if
17 it's -- if it's a legitimate something that they have
18 that it gets all the way to court, there has evidence
19 behind it and things versus just somebody complaining
20 to see if they can get something.

21 MR. MAZZEO: Okay. So and --

22 PROSPECTIVE JUROR NO. 146: Sorry, Juror 146.

23 MR. MAZZEO: Yep. Ms. Klein, I appreciate --
24 I appreciate you -- you offering that.

25 And so do you think that there's a certain --

1 there's authenticity to the plaintiff's case simply
2 because we're here picking a jury for a trial and it
3 didn't resolve prior to coming to trial?

4 PROSPECTIVE JUROR NO. 146: There's
5 sufficient evidence to bring it before a jury or before
6 a Court. Not necessarily that the -- the plaintiff's
7 case is more valid than the defendants' case, but there
8 is sufficient evidence that it has progressed this far,
9 and it is not just something frivolous to be dismissed
10 previously.

11 MR. MAZZEO: Okay.

12 PROSPECTIVE JUROR NO. 146: It's not -- it's
13 not just some frivolous thing that is dismissed.
14 It's -- there is something that needs to be looked at
15 more seriously.

16 MR. MAZZEO: And I think I see where you're
17 going with that. Typically, if something -- if -- if a
18 matter is dismissed, it's really regarding liability
19 issue more so than damages.

20 MR. ROBERTS: Objection, Your Honor.

21 THE COURT: Yes. Let's ask questions,
22 Mr. Mazzeo.

23 MR. MAZZEO: Okay. Sure.

24 PROSPECTIVE JUROR NO. 146: You know, a lot
25 of stuff that is -- is portrayed in popular media or

1 whatever, there's frivolous things that somebody is
2 going to file a suit about something, but then it just
3 goes away because there was no substance to it. There
4 was no evidence to substantiate that they had a claim
5 at all in the first place. So the fact that there is a
6 case that we're sitting here in a courtroom, there's
7 some substance that needs to be looked at. Whether it
8 turns out to go one way or the other, there is
9 something that needs to be looked at. That's all I
10 was --

11 MR. MAZZEO: Fair enough. Fair enough. And
12 just to just -- and I think you were the one yesterday
13 who might have made that reference?

14 PROSPECTIVE JUROR NO. 146: I believe that
15 was what -- I think I brought that up.

16 MR. MAZZEO: Okay. So -- and the reason why
17 I -- I meant to -- and I wanted to bring that up today
18 even if Mr. Gallegos -- Gallegos did not bring it up is
19 because I want to know if it affects whether we have
20 the right jury. If -- if they're assuming -- if you or
21 others are assuming that there's a certain
22 creditability to plaintiff's claim because we're
23 sitting here today, then I'm concerned and my clients
24 are concerned that we might be starting a little bit
25 behind the plaintiff because of a -- of a notion not

1 based on any evidence, but just simply on a notion
2 that, well, she has her claim at the point of trial.

3 PROSPECTIVE JUROR NO. 146: I think the only
4 point that I'm making is that because it's here, there
5 is a situation that needs to be looked at more closely.
6 It's not something frivolous that we can just dismiss
7 easily. It is more serious, and it needs close
8 attention and should be considered seriously.

9 MR. MAZZEO: Okay. Good.

10 And -- and so, Ms. Klein, you're not saying
11 that the plaintiff because her case is at trial, she's
12 any more credible than the defendants in this case.

13 PROSPECTIVE JUROR NO. 146: No.

14 MR. MAZZEO: You're not saying she's starting
15 in your mind at a -- you know, a foot ahead of the --

16 PROSPECTIVE JUROR NO. 146: This
17 particular -- that does not make a difference in the
18 end who is the plaintiff and defendant. It's just this
19 is a serious matter that needs to be looked at.

20 MR. MAZZEO: Okay. For both sides.

21 PROSPECTIVE JUROR NO. 146: Correct.

22 MR. MAZZEO: And that thank you for offering
23 that and clarifying that. Appreciate it.

24 Mr. Gallegos, am I saying that -- I'm trying
25 to -- Gallegos?

1 PROSPECTIVE JUROR NO. 160: Gallegos.

2 MR. MAZZEO: Gallegos. Okay. The accent on
3 the "a," Gallegos.

4 PROSPECTIVE JUROR NO. 160: Double L is Y.

5 MR. MAZZEO: Right, Gallegos.

6 PROSPECTIVE JUROR NO. 160: Gallegos.

7 MR. MAZZEO: That's easy once you learn it.

8 So anyway, you work at -- you work at Lowe's.

9 PROSPECTIVE JUROR NO. 160: Lowe's.

10 MR. MAZZEO: Tell us about your job, your
11 daily life and likes and dislikes about your job.

12 PROSPECTIVE JUROR NO. 160: Okay. I work at
13 Lowe's Home Improvement. I begin at 4:00 in the
14 morning. I end at 1:00. I work with four guys. I
15 unload semis of their merchandise. We sort it out, we
16 take it to the department, and we stock it.

17 The dislikes are that's a job for a much
18 younger man. The likes are I get to know brand-new
19 home improvement methods and techniques, you know,
20 whatever's new in home improvement, and that's what
21 interests me.

22 MR. MAZZEO: Okay. Did you have a history of
23 working in the construction or home improvement
24 business?

25 PROSPECTIVE JUROR NO. 160: Actually, no.

1 But my -- if we can go on to hobbies, one of my hobbies
2 is woodworking and stained glass. So I like to work
3 with my hands. I love mechanical things, so ...

4 MR. MAZZEO: And previously you had worked in
5 your dad's auto part -- or auto body shop?

6 PROSPECTIVE JUROR NO. 160: Yes.

7 MR. MAZZEO: Little challenging working with
8 your dad?

9 PROSPECTIVE JUROR NO. 160: Yes. Yes.
10 Pumping gas, that type thing. Oil changes. I was very
11 young, so ...

12 MR. MAZZEO: Okay.

13 PROSPECTIVE JUROR NO. 160: Family business.

14 MR. MAZZEO: Yep. And woodworking, what are
15 the things you like to build?

16 PROSPECTIVE JUROR NO. 160: I love building
17 liquor cabinets. And I do stained glass, so I put the
18 stained glass into the doors, and that's what I like to
19 do. But I can do tables and chairs. It's strictly a
20 hobby.

21 MR. MAZZEO: Sure. Okay. Thank you.

22 And I don't know if you were asked. Do you
23 have any kids?

24 PROSPECTIVE JUROR NO. 160: No.

25 MR. MAZZEO: And significant other?

1 PROSPECTIVE JUROR NO. 160: (Shakes head.)

2 MR. MAZZEO: No? Okay. I ask you that --
3 and I thought that's what you said earlier, no, but in
4 your questionnaire you had responded, you had a
5 significant other for 25 years, but --

6 PROSPECTIVE JUROR NO. 160: Yeah, that's not
7 legal, though, so ...

8 MR. MAZZEO: Okay. Okay. And, Mr. Gallegos,
9 do you have -- do you know any family members,
10 immediate family members or close friends that have
11 been addicted or are addicted to drugs or alcohol?

12 PROSPECTIVE JUROR NO. 160: Yes, I do. My
13 sister.

14 MR. MAZZEO: Okay. And --

15 PROSPECTIVE JUROR NO. 160: She has -- it's
16 been negative. She ruined her family's lives, you
17 know, her three daughters, and they're all gone and
18 separate. And the addiction has ruined her relations
19 with the rest of her family.

20 MR. MAZZEO: Sure. Okay.

21 And has she participated in any recovery
22 program?

23 PROSPECTIVE JUROR NO. 160: That's a good
24 question. I believe so. I'm not in contact with her.
25 Severed ties with her years ago. So only through my

1 mom do I know these things. And she's never really
2 mentioned anything like that.

3 MR. MAZZEO: Okay. All right. With regard
4 to -- and I know that you had -- when you were giving
5 response to Mr. Roberts, you had kind of changed
6 your -- the answer you had previously given in your
7 questionnaire about your ability to be impartial in a
8 DUI or marijuana metabolite case.

9 Let me ask you this: Do you think you would
10 be more inclined -- or strike that.

11 Do you think you would be inclined to think
12 that a person who has been deemed impaired by marijuana
13 metabolite and causes an accident and then comes to
14 trial and testifies, do you think that person, in your
15 eyes, would be less credible than, let's say, the other
16 operator of the vehicle?

17 PROSPECTIVE JUROR NO. 160: No, I don't
18 believe -- I don't believe they would be less credible.

19 MR. MAZZEO: Or do you think that you would
20 be inclined to sympathize with the other driver
21 involved in the accident, which is the plaintiff,
22 simply because of that fact that there's been a ruling
23 that the driver, Jared, has been deemed impaired as a
24 result of marijuana metabolite?

25 PROSPECTIVE JUROR NO. 160: No. I think I

1 would be partial -- still be partial.

2 MR. MAZZEO: Okay. And you were asked the
3 question by Mr. Roberts about punitive damages.

4 Have you ever had -- by the way, have you
5 ever served on a juror before -- jury before?

6 PROSPECTIVE JUROR NO. 160: No.

7 MR. MAZZEO: And do you have -- do you have
8 any bias with regard to anything that you've heard with
9 regard to the issues that were discussed, specifically,
10 I guess, the fact that there was an accident involving
11 a person impaired by marijuana metabolite? Does that
12 give rise to any bias in your mind with respect to
13 plaintiff's claim for punitive damages?

14 PROSPECTIVE JUROR NO. 160: No.

15 MR. MAZZEO: No? Okay. Thank you,

16 Mr. Gallegos.

17 And, Mr. Berkery.

18 PROSPECTIVE JUROR NO. 063: Yes.

19 MR. MAZZEO: Hi. You -- in your -- in your
20 questionnaire, you had a couple of friends with DUIs
21 you had mentioned, you referred to.

22 And would that -- and I know that you also
23 said that you can be fair in a case of marijuana or
24 other drugs, listen, be open minded, and apply the law.
25 So certainly appreciate your candor.

1 And with anything that you've heard, is there
2 any reason to be -- for the defendant or any -- either
3 party to be concerned about because you had friends who
4 were involved in DUIs? Anything that the parties
5 should be concerned about because of that experience?

6 PROSPECTIVE JUROR NO. 063: No.

7 MR. MAZZEO: Okay. Thank you.

8 THE COURT: Mr. Mazzeo, I think we need a
9 break.

10 MR. MAZZEO: Okay.

11 THE COURT: Let's go ahead and take a break
12 for the afternoon, folks.

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

1 any opinion on any subject connected with this trial
2 until the case is finally submitted to you.

3 Should we say ten minutes? We can say it;
4 right?

5 (The following proceedings were held
6 outside the presence of the jury.)

7 **THE COURT:** All right. We're outside the
8 presence.

9 Anything we need to put on the record,
10 Counsel?

11 **MR. ROBERTS:** No, Your Honor.

12 **MR. TINDALL:** No, Your Honor.

13 **MR. MAZZEO:** No, Judge.

14 **THE COURT:** All right. Off the record.

15 (Whereupon a short recess was taken.)

16 **THE MARSHAL:** Jury entering.

17 (The following proceedings were held in
18 the presence of the jury.)

19 **THE MARSHAL:** Jury is present, Judge.

20 **THE COURT:** Thank you. Go ahead and be
21 seated, folks. We're back on the record, Case
22 No. A637772. We were actually waiting for you guys to
23 get lined up today. This time. Just want to let you
24 know that we were ready after ten minutes.

25 All right. Mr. Mazzeo, go ahead.

1 MR. MAZZEO: Thank you, Judge.

2 Ms. Bias, you had a response on your
3 questionnaire with regard to driving while impaired,
4 and I think you wrote out that no one should be driving
5 while impaired regardless of the substance; right?

6 PROSPECTIVE JUROR NO. 066: 066. That is
7 correct.

8 MR. MAZZEO: Thank you. So -- and do you
9 have any -- are there any concerns that you have about
10 sitting on a case like this that we should be aware of
11 because of any opinions that you might have, positive
12 or negative, about driving while impaired?

13 PROSPECTIVE JUROR NO. 066: No. How I see it
14 is everybody is equal. I haven't seen nothing to prove
15 otherwise, so I am open minded and everybody's start
16 right there. No before. No after. Just still there.

17 MR. MAZZEO: Having heard that there has been
18 a ruling with regard to -- a ruling finding impairment
19 by marijuana metabolite, does that -- does that bring
20 up any -- any perceptions or opinions in your mind,
21 conceptions about what to expect on in a case like
22 this?

23 PROSPECTIVE JUROR NO. 066: No.

24 MR. MAZZEO: No? Okay.

25 PROSPECTIVE JUROR NO. 066: Huh-uh.

1 MR. MAZZEO: Thank you.

2 PROSPECTIVE JUROR NO. 066: You're welcome.

3 MR. MAZZEO: And, Mr. Retzlaff. I'll wait
4 this time for the number.

5 PROSPECTIVE JUROR NO. 088: Oh, yeah, 088.

6 MR. MAZZEO: Thank you. And some juries they
7 don't -- the judge doesn't request the number each and
8 every time, so that's why I'm not used to it. It
9 depends on the courtroom we're in, so ...

10 THE COURT: I'm an odd judge.

11 MR. MAZZEO: He's a very good judge, if I may
12 say so myself.

13 You had -- you had disclosed on your jury
14 questionnaire that you -- I guess you were in a car
15 with your dad?

16 PROSPECTIVE JUROR NO. 088: Yes. Actually, I
17 can -- I can make it real quick.

18 MR. MAZZEO: Sure.

19 PROSPECTIVE JUROR NO. 088: I'm pretty sure I
20 know what you're trying to, going to expect from me.

21 So I did -- I did disclose about a few
22 accidents in there. I think I kind of struggled with,
23 along the same lines as some of the other jurors. When
24 filling out the questionnaire, wasn't exactly clear as
25 to what exactly the question was kind of prying for as

1 far as being able to be impartial. I can definitely be
2 impartial. After, you know, hearing and discussing the
3 way we have throughout the courtroom the past couple of
4 days, I have no problem being impartial and seeing one
5 side as weighing more than the other.

6 MR. MAZZEO: Okay. But you're -- now, your
7 experience in the answer you gave is a little different
8 than what the other jurors gave because they're
9 referring to what their opinion might be with regard to
10 the person who drives while impaired by whatever the
11 question was, alcohol or marijuana metabolite.

12 But -- but with you, you actually were
13 involved in a situation where you were in a car, you
14 were rear-ended by a drunk driver; right?

15 PROSPECTIVE JUROR NO. 088: Yes.

16 MR. MAZZEO: And I believe either -- you were
17 in the car with your father?

18 PROSPECTIVE JUROR NO. 088: Correct.

19 MR. MAZZEO: And -- and were -- someone
20 sustained an injury to your low back.

21 Was it yourself?

22 PROSPECTIVE JUROR NO. 088: We both did, yes.

23 MR. MAZZEO: All right. So you -- for you,
24 it's much more of a personal nature because of -- you
25 had a direct experience with a drunk driver, now

1 involving similar issues as in this case.

2 So now the concern is, as you might
3 anticipate, is whether you might be sympathetic to the
4 plaintiff because, well, she was involved in an
5 accident. And you haven't heard a lot of evidence, but
6 from what you have heard from what we were able to
7 disclose to you in our preliminary statement the other
8 day, that this case involves an accident while under
9 impaired by marijuana metabolite.

10 So with you, in your case, you -- you not --
11 not only were you struck from behind by a drunk driver,
12 you were also injured, correct, in that accident? Do
13 you still -- you and -- you or your father still
14 experience any symptoms from that accident?

15 PROSPECTIVE JUROR NO. 088: To be honest, I
16 can't really say on my own behalf whether -- you know,
17 if I have back pain, if it's due to my work that I'm --
18 I'm currently involved in now. I do have to, you know,
19 lift converters and install them on the sides of
20 houses. They can be anywhere from -- installed at
21 4 feet high, 6 feet high, you know. So I do a lot of
22 heavy lifting in my job as well. So that could be an
23 issue. I played a lot of sports. I don't -- I tend to
24 not think of it from the accident.

25 But as far as my dad, there were apparent

1 signs probably for a good five, six years after. But
2 after that, you know, with physical therapy and
3 everything, he seems to have kind of weeded that issue
4 out.

5 MR. MAZZEO: Are any of you still going for
6 treatment, chiropractic or physical therapy?

7 PROSPECTIVE JUROR NO. 088: No.

8 MR. MAZZEO: Okay. So -- and in any event --
9 and I'm going to ask about motor vehicle accidents, but
10 I wanted to separate that out from cases involving DUI
11 and your impressions about that, so -- but since you
12 had a personal experience with that, that's why I'm
13 following up.

14 Now, because you had that personal
15 experience, so you're telling us that there's nothing
16 to be concerned about with you identifying with the
17 plaintiff and kind of sympathizing with her and saying,
18 Oh, you know what, I know what she's going through --

19 PROSPECTIVE JUROR NO. 088: Right.

20 MR. MAZZEO: -- right?

21 Okay. Because, you know, as a matter of
22 fact, there have been jurors on other cases where
23 they've said I -- I know the pain that he's
24 experiencing or she's experiencing, referring to the
25 plaintiff. And -- and that's -- that's almost --

1 that's an impossibility because you can only speculate
2 as to what pain the plaintiff might have. But you
3 certainly can't -- and I'm not saying you, but a juror
4 can't say, I can feel -- actually, that was the word, I
5 can feel that person's pain. It's just impossible. So
6 I just wanted to know.

7 So that's not an issue for you?

8 PROSPECTIVE JUROR NO. 088: No, no. And I --
9 you know, I understand -- I mean, even when, you know,
10 the accident had occurred, I -- I know I can speak on
11 behalf of my father as well as myself. I was younger.
12 I wasn't, you know, expecting him to be a bad person or
13 anything. I understand mistakes are made by everybody
14 on a small or large scale, whatever it is. You know,
15 things happen.

16 MR. MAZZEO: Thank you.

17 And did you have -- did you have any
18 friends -- I know someone put down friends killed in --

19 PROSPECTIVE JUROR NO. 088: Yes. In 2007, I
20 was not involved, I was there on site when four of my
21 friends were killed.

22 MR. MAZZEO: And what were the circumstances?
23 How were you on site when they were killed?

24 PROSPECTIVE JUROR NO. 088: We were actually
25 leaving New Year's Eve party fairly early to get back

1 to his house and spend the rest of -- of watching the
2 ball drop with his family, his immediate family. And
3 as we were coming to a stop sign, there was a car kind
4 of a ways down, not -- you know, not too far. I'd say
5 maybe, like, two car lengths. My friends -- it was a
6 four-way stop. My friends were in the car in front of
7 me, and I was just following just -- just because, you
8 know, there wasn't enough room for five of us to fit in
9 the car because of clothes and school stuff.

10 And they proceeded to pull forward, and the
11 other driver did not stop and ended up T-boning their
12 car and killing two of them on impact. One died while
13 I was checking on him. And when the helicopter arrived
14 to air lift my last friend, he died on the way to the
15 hospital.

16 MR. MAZZEO: Wow. That's -- how long ago was
17 that?

18 PROSPECTIVE JUROR NO. 008: That was in 2007.

19 MR. MAZZEO: Oh, '07. That's -- that's a --
20 not a pretty -- that's a very traumatic incident you
21 were involved in even though you weren't in the
22 accident per se, but you witnessed it firsthand.

23 By the way, was that a four-way stop?

24 PROSPECTIVE JUROR NO. 088: Yes.

25 MR. MAZZEO: And so at that point in time,

1 your friend had the right-of-way to enter the
2 intersection after having stopped, but the other driver
3 did not stop at all --

4 PROSPECTIVE JUROR NO. 088: Right.

5 MR. MAZZEO: -- and T-boned them?

6 So that's -- that's some -- we can have life
7 experiences that leave a very indelible impression upon
8 us that -- that is triggered when -- let's say when we
9 sit on a case that involves a DUI, you know.

10 So anything about that -- and I appreciate
11 you disclosing that in your questionnaire. I know it's
12 been a number of years ago, but I don't think that's
13 anything that can just simply go away as a matter of
14 time, the impact may lessen for you; correct?

15 PROSPECTIVE JUROR NO. 088: Right.

16 MR. MAZZEO: That's a huge tragedy, huge
17 loss.

18 Is there anything residual, though? Is there
19 anything that might -- that we should be concerned
20 about if you just think about the circumstances and --
21 and --

22 PROSPECTIVE JUROR NO. 088: Right. And given
23 the circumstances that, you know, in the case, the
24 driver was impaired, like I said, before, you know, I
25 understand people make mistakes. I, to this day and as

1 far as I remember, I have never held any, you know,
2 resentment towards the other driver that was involved.
3 I understand, you know, he -- he had a clean record up
4 until that point. I understand he made a bad decision.
5 You know, didn't think anything evil of him or
6 anything. You know, it's tragic to -- unfortunate to
7 lose friends and family, but, you know, it's like I
8 said, you know, even if I had to testify or anything
9 against him or anything, you know, I wouldn't -- I
10 wouldn't take his credibility or anything he's done
11 prior to, close to in effect, you know.

12 MR. MAZZEO: Appreciate your candor. Thank
13 you.

14 By the way, since you were a witness in that
15 case, did you have to testify at a deposition or -- or
16 in court?

17 PROSPECTIVE JUROR NO. 088: I did not. As
18 far as I know, he was compliant with everything. He
19 accepted the charges. He didn't --

20 MR. MAZZEO: Thank you. Appreciate it.

21 So now just moving -- I'm going to move
22 around a little bit. Going back to Ms. Sako. Sako?

23 PROSPECTIVE JUROR NO. 159: Yes.

24 MR. MAZZEO: Ms. Sako, so you work as a
25 barista in a Starbucks coffee shop.

1 Do you sometimes -- and I think you -- you
2 kind of alluded to it that you sometimes get difficult
3 customers that come in?

4 PROSPECTIVE JUROR NO. 159: Yes. 159.

5 MR. MAZZEO: Correct. Thank you.

6 PROSPECTIVE JUROR NO. 159: Yes, yes, I do
7 get difficult customers, yes.

8 MR. MAZZEO: And -- and you get all sorts --
9 all age ranges; right?

10 PROSPECTIVE JUROR NO. 159: Yes.

11 MR. MAZZEO: All the people, middle age,
12 young adults, teenagers; right?

13 PROSPECTIVE JUROR NO. 159: Yes.

14 MR. MAZZEO: So I had asked a question of
15 jurors earlier about teenagers that engage in bad
16 behavior, whether you're more inclined to blame the
17 parent or feel sorry for the parent.

18 Do you recall that question? You were
19 sitting in the back.

20 PROSPECTIVE JUROR NO. 159: Yes, I do.

21 MR. MAZZEO: What's your inclination, blame
22 the parent or feel sorry for the parent?

23 PROSPECTIVE JUROR NO. 159: For me, it would
24 depend on the situation. If it was the teenager coming
25 in on his own or on her own with no parental

1 supervision, that would be on the -- the teenager.
2 When it is the child and the -- and the parent that
3 comes in and there's -- child is being -- is acting
4 out, and the parent is not doing anything about it,
5 sort of just letting it happen, kids will be kids,
6 that's when I will blame the parent.

7 MR. MAZZEO: And, Mr. Gallegos?

8 PROSPECTIVE JUROR NO. 160: Yes. 160.

9 MR. MAZZEO: Same question to you about --
10 about teenagers that act out: Do you think that the
11 responsibility is -- you blame the parent or is it --
12 do you feel sorry for the parent?

13 PROSPECTIVE JUROR NO. 160: Well, every case
14 is different. But if there are two parents involved, I
15 tend to blame parents.

16 MR. MAZZEO: Okay.

17 PROSPECTIVE JUROR NO. 160: My sister is a
18 single parent, and she had problems controlling her
19 daughters. Just too much for her, so I can see that.

20 MR. MAZZEO: Because your sister is a single
21 parent, obviously didn't have the -- the daughters you
22 said? Two daughters?

23 PROSPECTIVE JUROR NO. 160: Three daughters.

24 MR. MAZZEO: Three daughters. Because they
25 didn't have a role model or a male, you know, figure in

1 the household --

2 PROSPECTIVE JUROR NO. 160: Correct.

3 MR. MAZZEO: -- you think that might have had
4 an impact on the girls?

5 PROSPECTIVE JUROR NO. 160: Yes, I do. Plus
6 the fact that she's an alcoholic and tended to ignore
7 them so she let them run wild. And now they're paying
8 for it.

9 MR. MAZZEO: Okay. Thank you.

10 Mr. Franco, just getting back to you. You
11 made a reference earlier about you -- your idea would
12 be to blame the parents.

13 Would that be regardless of the
14 circumstances?

15 PROSPECTIVE JUROR NO. 096: 096. The parent
16 has the kids for 60 years, not 17 years or 18 years.
17 The parent's responsible. Of course, the kids are
18 going to fall. You got to pick them up, get them on
19 their way. When you get to a certain age, of course,
20 those teenagers are going to take responsibility. They
21 become adults, now they got pay for their actions.

22 The parents can only do so much till they get
23 to a certain age. Once they get to a certain age, you
24 know, if you didn't do your homework, you're going to
25 see what happens, the result of those kids.

1 MR. MAZZEO: Sure. Which is the -- they're
2 the product of the parents.

3 PROSPECTIVE JUROR NO. 096: Right.

4 MR. MAZZEO: Okay. Okay. And Mr. Roberts
5 gave -- shared with us earlier today about a family
6 member who had used the car without permission, got
7 into a single-car accident.

8 Do you recall that.

9 PROSPECTIVE JUROR NO. 096: Yes, I do.

10 MR. MAZZEO: And so do you think -- your own
11 personal opinion, so is it your opinion that -- that
12 the owner is equally responsible -- in that situation,
13 equally responsible for the accident even though there
14 was not permission for the child to take the car?
15 Because of the way the child was raised, had they been
16 raised a certain way, they wouldn't have taken the car?

17 MR. ROBERTS: Objection, Your Honor.

18 THE COURT: Pretty close.

19 MR. MAZZEO: Okay.

20 THE COURT: Rephrase.

21 MR. MAZZEO: So overruled?

22 THE COURT: Sustained. Why don't you
23 rephrase it.

24 MR. MAZZEO: Okay.

25 THE COURT: Don't make it so close.

1 MR. MAZZEO: Okay. So -- and -- and maybe
2 I -- it was a little run-on as well.

3 So do you -- do you think that in
4 Mr. Roberts' -- the example that he gave us today of
5 the personal experience with his son, right, with his
6 son, that the parent in that case, where he didn't give
7 his son permission to use the car, that the parent
8 is -- you still put the blame on the -- on the parent?

9 MR. ROBERTS: Same objection, Your Honor.

10 THE COURT: Come on up for a minute, guys.

11 (A discussion was held at the bench,
12 not reported.)

13 THE COURT: All right. Here we go. New
14 question, Mr. Mazzeo.

15 MR. MAZZEO: Okay. Thank you, Judge.

16 So it's been a while. Who was I on? On
17 Mr. Franco, yes. Okay. Okay.

18 And it's along the same lines as -- as far
19 as, you know, responsibility and blame. So you're
20 inclined, which we know, to put the responsibility on
21 the parents for the actions where a child, teenager is
22 acting out. Pretty much?

23 PROSPECTIVE JUROR NO. 096: 096. Yes, pretty
24 much. The decision that the teenager made due to
25 whatever age he was or she was, the parent is still

1 going to be responsible for the actions that teenager
2 did.

3 MR. MAZZEO: Okay. So here you have a
4 situation where -- not this case, obviously, but you
5 have a kid playing baseball, kid hits the baseball,
6 goes -- breaks into -- breaks a window of a house
7 that's along the street.

8 Is it the -- whose fault is that, the parents
9 or the kids?

10 PROSPECTIVE JUROR NO. 096: Neither, that's
11 part of the game. That's just like --

12 MR. MAZZEO: So --

13 PROSPECTIVE JUROR NO. 096: Just like parking
14 a car, you know, somebody hits a home run, you got that
15 baseball in your windshield because you parked there.
16 It wasn't the hitter. No.

17 MR. MAZZEO: So the person -- the people who
18 live in the house and the baseball field came
19 afterwards. Okay.

20 What about this: A child that, let's say, is
21 involved in criminal mischief, as an example, goes into
22 a park, breaks -- breaks furniture that's in the park.

23 That -- it's your opinion that that's
24 probably the responsibility of the parents for the
25 child to do that?

1 PROSPECTIVE JUROR NO. 096: No, the
2 responsibility of the parents is to what his kid's been
3 doing or who's he hanging out with. And if they're
4 going the wrong way, the parents should have put him in
5 some kind of institution or counseling or some kind of
6 military school or something to get him back on track.

7 MR. MAZZEO: Okay.

8 PROSPECTIVE JUROR NO. 096: You just can't be
9 with your kids 24 hours day.

10 MR. MAZZEO: That's a good point, you can't
11 be with your kids 24 hours a day. And let's say the
12 kid 99 percent of the time is fine, acts appropriately.
13 And yet this one time breaks a window or, you know,
14 commits mischief in a park of some sort, destroys
15 property, let's say.

16 PROSPECTIVE JUROR NO. 096: Right. The
17 parent is going to end up paying for that stuff that he
18 did. And that's when you come in as a parent and
19 advise them of what he did or she did and what the
20 consequences are. I mean, you got to talk to them. I
21 mean, I'm pretty sure after you counsel them or talk to
22 them or whatever you guys do to them, she or he's going
23 to get the picture, We're not going to do that again.

24 MR. MAZZEO: But that -- that incident
25 already occurred, though; right?

1 PROSPECTIVE JUROR NO. 096: Right. The
2 parents are going to be responsible what he did.

3 MR. MAZZEO: And should the kid have any
4 responsibility for his or her role in --

5 PROSPECTIVE JUROR NO. 096: Of course he's
6 going to end up having to pay you back, or he's going
7 to do something for his actions. But he's not just
8 going to come out with 2- to \$300 out of his pocket.
9 The parents are going to pay for what he did. But of
10 course, we're going to do something to the kid so he
11 learns his lesson.

12 MR. MAZZEO: You made an interesting
13 statement a few minutes ago about how the kids are --
14 they're are kids for, I think you said 60 years.

15 PROSPECTIVE JUROR NO. 096: Yeah. They'll be
16 my kids forever. They're not just for 18 or 19 years
17 old. They continue on. I'll be a dad for as long as
18 those kids are alive.

19 MR. MAZZEO: And -- and as a dad, you see
20 yourself as continuing to instruct them and guide them
21 and to --

22 PROSPECTIVE JUROR NO. 096: I give them
23 advice. I don't tell them how to do it, what to do.
24 If they want my advice, if they want an opinion, I'll
25 give it to them. If they take it and run with it, it's

1 on them. If they don't, they choose not to, that's
2 fine.

3 MR. MAZZEO: And if they choose not to, are
4 you somehow to blame for them choosing not to?

5 PROSPECTIVE JUROR NO. 096: Oh, no, they're
6 grown now. They can do their -- whatever they want to
7 do now.

8 MR. MAZZEO: At what point are they grown in
9 your mind?

10 PROSPECTIVE JUROR NO. 096: My kids were
11 ready to go at 15, 16. They're -- I mean, that's what
12 I'm saying. I can't -- I can't put my kids against
13 somebody else's kids. Of course our kids are always
14 the best. But I can't talk to you about probation. I
15 can't talk to you about jail time. I can't talk about
16 that. I have no experience on that side of the house.
17 My kids were never in that -- of course we knew they
18 hung out with that kind, you know, kids. They chose
19 not to do that. They saw something going on and they
20 left. They got away from the parties. They got away
21 from what was happening. I just can't talk to you
22 about a bad kid.

23 Yeah, I have seen them. They're everywhere.
24 But I think most of those kids, if they would have had
25 parents, they would have done good. They're good, so

1 they would do good in society.

2 MR. MAZZEO: All right. Thank you.

3 Ladies and gentlemen, I'm going to move now
4 into -- going to talk about motor vehicle accidents,
5 and not just limited to accidents, motor vehicle
6 accidents, but accidents of any sort that you all might
7 have been involved with. And I'm going to start
8 with -- if I could just have a show of hands. So
9 initially I do want to see a show of hands of those
10 that have personally been involved in a motor vehicle
11 accident or a family member or close friend. Just a
12 show hands. Okay.

13 PROSPECTIVE JUROR NO. 003: Does it matter
14 what type of motor vehicle accident?

15 MR. MAZZEO: It can be on a racetrack going
16 130 miles per hour. Okay. Great.

17 So there's a bunch of you. So what we're
18 going to do is we're going to start on the top row,
19 Seat No. 2, with Mr. Brandon.

20 And, Mr. Brandon, I know that you had shared
21 with us the accident that you had on the racetrack.
22 But other than that accident, were you, personally, or
23 a family member or close friend involved in any -- in
24 any accident on public streets, I should ask?

25 PROSPECTIVE JUROR NO. 003: 003. When I was

1 younger, my mom was rear-ended. We were in California
2 on a highway. The sun, the way it was hitting the
3 road, I guess the lady couldn't see that they were at a
4 dead stop, and she drilled the back of my mom's truck
5 about 75 miles an hour. I hit my head on the back
6 window. That's all I remember that happened to that.

7 MR. MAZZEO: What about any injuries that --
8 did you sustain any injuries from that accident?

9 PROSPECTIVE JUROR NO. 003: A headache.

10 MR. MAZZEO: That's it.

11 PROSPECTIVE JUROR NO. 003: That's it.

12 MR. MAZZEO: Otherwise, you were able to exit
13 the vehicle and you continued with -- with your
14 activities of normal --

15 PROSPECTIVE JUROR NO. 003: I got out and
16 started looking at the truck, like, This is awesome.
17 I'm in the middle of a road.

18 MR. MAZZEO: But -- how old did you say you
19 were?

20 PROSPECTIVE JUROR NO. 003: I was probably
21 eight or nine.

22 MR. MAZZEO: Okay. And what about -- that
23 was your mom's vehicle you said.

24 What about to your mom or any other occupants
25 in the car? Was anyone injured?

1 PROSPECTIVE JUROR NO. 003: No, she was
2 pregnant at the time, but nothing happened to her. I
3 think my brother was in the truck too, but nothing
4 happened to him. He was -- actually, he was shorter so
5 the seat was behind him. I was tall enough to where
6 the back window was right at my head. So when she hit,
7 I went backwards.

8 MR. MAZZEO: Did the window break?

9 PROSPECTIVE JUROR NO. 033: No.

10 MR. MAZZEO: No.

11 PROSPECTIVE JUROR NO. 003: I guess I'm not
12 that hardheaded.

13 MR. MAZZEO: Okay. Was that the only
14 accident?

15 PROSPECTIVE JUROR NO. 003: Yeah. I mean --

16 MR. MAZZEO: And then -- I'm sorry.

17 PROSPECTIVE JUROR NO. 003 -- nothing comes to
18 mind other than the racetrack stuff, but --

19 MR. MAZZEO: And --

20 PROSPECTIVE JUROR NO. 003: -- that's beside
21 the point.

22 MR. MAZZEO: And that racetrack accident was
23 more severe because you actually sustained injuries
24 from that.

25 PROSPECTIVE JUROR NO. 003: Yeah. Sore body.

1 But that usually -- any type of time I'm racing,
2 rear-end hit, head-on collision, you got the -- you're
3 in a five-point harness, so your body is not moving.
4 Everything inside your body will move left, right,
5 forward, back, upside down, so --

6 MR. MAZZEO: Okay.

7 PROSPECTIVE JUROR NO. 003: -- you're usually
8 sore for a week or two. The last one when I hit the
9 wall, I'm still cracking my back just because it was a
10 sudden stop.

11 MR. MAZZEO: Sure. The last one. How many
12 have you -- have you had at the racetrack, collisions?

13 PROSPECTIVE JUROR NO. 003: A lot.

14 MR. MAZZEO: A lot. That's the nature of the
15 business; right?

16 PROSPECTIVE JUROR NO. 003: Yeah.

17 MR. MAZZEO: Okay. So --

18 PROSPECTIVE JUROR NO. 003: You're trying to
19 win, but you're also trying to not wreck with the guy
20 who's trying to win with you.

21 MR. MAZZEO: So that's part of the risk of
22 doing that sport, that hobby that you do is you have to
23 accept the fact that you -- you're going to get --
24 you're going to crack up or get hit by another car.

25 PROSPECTIVE JUROR NO. 003: Yeah. Anything

1 can go wrong. You can blow your own motor in the car,
2 and it will send you straight into the wall.

3 MR. MAZZEO: All right. Thank you,
4 Mr. Brandon.

5 Moving on down, Ms. Flores? Did you raise
6 your hand?

7 PROSPECTIVE JUROR NO. 010: No.

8 MR. MAZZEO: No? Mr. Jensen.

9 PROSPECTIVE JUROR NO. 015: I have been in
10 three. My wife has been in one.

11 MR. MAZZEO: Okay. Well, let's talk about
12 that, and I guess if you want, we can talk about the
13 most severe one.

14 Did you sustain any injuries in any of them?

15 PROSPECTIVE JUROR NO. 015: I'm sorry, 015.

16 I did not. My wife did in one of the accidents.

17 MR. MAZZEO: Were you both in the car at the
18 time?

19 PROSPECTIVE JUROR NO. 015: Yes.

20 MR. MAZZEO: Okay. Can you describe the
21 circumstances?

22 PROSPECTIVE JUROR NO. 015: We were heading
23 west on 215. This was about two years ago. And right
24 about 5:00 o'clock in the evening where the sun was
25 directly in front of us. Freeway traffic in front of

1 us just came to a dead stop. And my wife looked at me
2 and said, Are you going to stop in time? I said, Yeah,
3 I will. But the guy behind us is not going to, and he
4 rearranged the car.

5 MR. MAZZEO: Okay. Pretty -- pretty hard
6 impact.

7 PROSPECTIVE JUROR NO. 015: The car was
8 totaled. You know, personally, I don't think it was
9 that bad of an impact per se. But, you know, like I
10 said, the car was totaled.

11 MR. MAZZEO: Sure. And what injuries did
12 your wife sustain?

13 PROSPECTIVE JUROR NO. 015: She had some
14 weird injury with her finger. We don't even know how
15 it got hurt. But she had to do a few weeks of physical
16 therapy.

17 MR. MAZZEO: Other than her finger, did she
18 sustain any other injuries to her body?

19 PROSPECTIVE JUROR NO. 015: No.

20 MR. MAZZEO: What about yourself in any of
21 the three accidents?

22 PROSPECTIVE JUROR NO. 015: No injuries to
23 myself.

24 MR. MAZZEO: Okay.

25 PROSPECTIVE JUROR NO. 015: And,

1 unfortunately, that wasn't the most severe. I had
2 the -- my most severe accident was being about 16 years
3 old -- probably 17, actually. I was a little stupid.
4 I rolled a Volkswagen a little too high of speed coming
5 off a freeway.

6 MR. MAZZEO: Okay.

7 PROSPECTIVE JUROR NO. 015: And I lost count
8 after four times. They tend to go quite nicely rolling
9 down the freeway.

10 MR. MAZZEO: Because of their shape; right?
11 It was a Volkswagen bug?

12 PROSPECTIVE JUROR NO. 015: Very -- you know,
13 try and experience when you get out of a car through
14 the driver's window. Maybe you've had that.

15 PROSPECTIVE JUROR NO. 003: That's the only
16 way in or out.

17 PROSPECTIVE JUROR NO. 015: Thankfully no one
18 was behind me, so I didn't get hit.

19 MR. MAZZEO: That was a Volkswagen bug that
20 you were in?

21 PROSPECTIVE JUROR NO. 015: Yes, sir.

22 MR. MAZZEO: And those front windows, they're
23 very, very tight and small --

24 PROSPECTIVE JUROR NO. 015: Yes.

25 MR. MAZZEO: -- right? Almost all -- not

1 all, but pretty small.

2 So -- and -- and in that accident where you
3 rolled the car countless times, more than four, you
4 didn't -- you didn't -- how -- you were 16 you said.

5 PROSPECTIVE JUROR NO. 015: Sixteen, 17.

6 MR. MAZZEO: Okay. And no -- did you get any
7 treatment, any physical therapy, any --

8 PROSPECTIVE JUROR NO. 015: Thankfully I had
9 a seat belt on, and the only injury was talking to my
10 parents.

11 MR. MAZZEO: Oh, yeah. Okay. All right.
12 Thank you very much.

13 Mr. Foerstel.

14 PROSPECTIVE JUROR NO. 023: Yes. 023. The
15 only car accident that I can recall was maybe 30 years
16 ago. I got hit from the side by a car. Only injury I
17 sustained was a fractured rib. The car was pretty bad.
18 But yeah, that was it.

19 MR. MAZZEO: Rib fractures, they can be
20 painful breathing.

21 PROSPECTIVE JUROR NO. 023: Yeah.

22 MR. MAZZEO: Breathing in.

23 PROSPECTIVE JUROR NO. 023: I was on the
24 couch for a few days.

25 MR. MAZZEO: Right. Okay.

1 PROSPECTIVE JUROR NO. 023: Other accidents,
2 bicycle accidents where I've hurt things as well, so --
3 but that's the only car.

4 MR. MAZZEO: You seem like you're -- I know
5 sports is a big thing for you.

6 You've always been pretty active?

7 PROSPECTIVE JUROR NO. 023: Yeah, yeah.

8 MR. MAZZEO: So you're going to bound --
9 you're bound to have injuries and things like that.
10 Okay.

11 Have you ever rolled your ankle running
12 or ...

13 PROSPECTIVE JUROR NO. 023: I sprained an
14 ankle one time where I thought I had broken it, and it
15 was on a rock-climbing trip but not actually rock
16 climbing. It was done with a rock climb and just
17 stepping on the trail on a rock, my ankle just buckled.
18 And I thought I broke it, but it was just third grade
19 sprain. So it was yeah -- that was painful.

20 MR. MAZZEO: Two years ago I'm out on the
21 road running and I hit a rock about the size of a
22 lemon, and I was -- I was actually admiring someone's
23 lawn, house, and I -- so I didn't know it and my whole
24 ankle rolled, fractured my metatarsal.

25 PROSPECTIVE JUROR NO. 023: I've done trial

1 runs where I've done Superman trip over a rock and go
2 flying but just a few scrapes and dirt. That's about
3 it, dirt.

4 MR. MAZZEO: Right. Right. Embedded. Sure.

5 PROSPECTIVE JUROR NO. 023: That's it.

6 MR. MAZZEO: Thank you.

7 PROSPECTIVE JUROR NO. 023: Sure.

8 MR. MAZZEO: Ms. Klein.

9 PROSPECTIVE JUROR NO. 146: I have been in a
10 few fender benders where no one was injured. My
11 husband was in -- in a more serious car accident where
12 he did sustain some -- a back injury that needed
13 treatment, saw a chiropractor for quite a while.

14 MR. MAZZEO: Sure.

15 PROSPECTIVE JUROR NO. 146: My mother was in
16 a very serious car accident that required
17 hospitalization and she was in traction, all that
18 stuff. Yeah, that's pretty much.

19 MR. MAZZEO: Okay. Well -- and you gave us a
20 couple, so let's -- let's start with your husband who
21 was involved in an accident and injured his back.

22 PROSPECTIVE JUROR NO. 146: Yes. Somebody
23 T-boned him, and they were at fault and it was -- they
24 paid for the damages and injuries --

25 MR. MAZZEO: Sure.

1 PROSPECTIVE JUROR NO. 146: -- and treatment.

2 MR. MAZZEO: Now, when we speak of T-bone,
3 we're talking about the front?

4 PROSPECTIVE JUROR NO. 146: She was driving
5 this way and the car came in and hit the passenger
6 side.

7 MR. MAZZEO: Hit the side of his car.

8 PROSPECTIVE JUROR NO. 146: Yes.

9 MR. MAZZEO: And have you ever heard the term
10 "center mass"?

11 PROSPECTIVE JUROR NO. 146: Yes.

12 MR. MAZZEO: Okay. So that would be, I
13 guess, the center of the car, direct dead center,
14 where -- where the weight is equally distributed front
15 and back; right?

16 PROSPECTIVE JUROR NO. 146: The other vehicle
17 hit slightly forward of center mass.

18 MR. MAZZEO: Okay. Causing -- causing your
19 husband's car to spin?

20 PROSPECTIVE JUROR NO. 146: No. Because it
21 was -- it didn't spin. It just --

22 MR. MAZZEO: Came to a stop.

23 PROSPECTIVE JUROR NO. 146: It -- it pretty
24 much crushed in the passenger side door.

25 MR. MAZZEO: Okay. Sure. And what type