

Case No. 78701

In the Supreme Court of Nevada

MOTOR COACH INDUSTRIES, INC.,

Appellant,

vs.

KEON KHIABANI; ARIA KHIABANI, MINORS, by
and through their Guardian MARIE-CLAUDE
RIGAUD; SIAMAK BARIN, as Executor of the
Estate of KAYVAN KHIABANI, M.D.; the Estate of
KAYVAN KHIABANI; SIAMAK BARIN, as
Executor of the Estate of KATAYOUN BARIN,
DDS; and the Estate of KATAYOUN BARIN, DDS,

Respondents.

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APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable ADRIANA ESCOBAR, District Judge
District Court Case No. A-17-755977-C

**APPELLANT'S APPENDIX
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26	Motion for Summary Judgment on Punitive Damages	12/01/17	3	642–664
117	Motion to Retax Costs	04/30/18	47 48	11743–11750 11751–11760
58	Motions in Limine Transcript	01/29/18	12 13	2998–3000 3001–3212
61	Motor Coach Industries, Inc.’s Answer to Second Amended Complaint	02/06/18	14	3474–3491
90	Motor Coach Industries, Inc.’s Brief in Support of Oral Motion for Judgment as a Matter of Law (NRCP 50(a))	03/12/18	32 33	7994–8000 8001–8017
146	Motor Coach Industries, Inc.’s Motion for a Limited New Trial (FILED UNDER SEAL)	05/07/18	51	12673–12704
30	Motor Coach Industries, Inc.’s Motion for Summary Judgment on All Claims Alleging a Product Defect	12/04/17	6 7	1491–1500 1501–1571
145	Motor Coach Industries, Inc.’s Motion to Alter or Amend Judgment to Offset Settlement Proceed Paid by Other Defendants (FILED UNDER SEAL)	05/07/18	51	12647–12672
96	Motor Coach Industries, Inc.’s Opposition to Plaintiff’s Trial Brief Regarding Admissibility of Taxation Issues and Gross Versus Net Loss Income	03/18/18	36	8823–8838
52	Motor Coach Industries, Inc.’s Pre-Trial Disclosure Pursuant to NRCP 16.1(a)(3)	01/19/18	12	2753–2777

120	Motor Coach Industries, Inc.'s Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim	05/07/18	48 49	11963–12000 12001–12012
47	Motor Coach Industries, Inc.'s Reply in Support of Its Motion for Summary Judgment on All Claims Alleging a Product Defect	01/17/18	11	2705–2719
149	Motor Coach Industries, Inc.'s Reply in Support of Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendants (FILED UNDER SEAL)	07/02/18	52	12865–12916
129	Motor Coach Industries, Inc.'s Reply in Support of Renewed Motion for Judgment as a Matter of Law Regarding Failure to Warn Claim	06/29/18	50	12282–12309
70	Motor Coach Industries, Inc.'s Response to “Bench Brief on Contributory Negligence”	02/16/18	19	4728–4747
131	Motor Coach Industries, Inc.'s Response to “Plaintiffs’ Supplemental Opposition to MCI’s Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid to Other Defendants”	09/24/18	50	12322–12332
124	Notice of Appeal	05/18/18	49	12086–12097
139	Notice of Appeal	04/24/19	50	12412–12461
138	Notice of Entry of “Findings of Fact and Conclusions of Law on Defendant’s Motion to Retax”	04/24/19	50	12396–12411
136	Notice of Entry of Combined Order (1) Denying Motion for Judgment as a Matter of Law and (2) Denying Motion for Limited New Trial	02/01/19	50	12373–12384
141	Notice of Entry of Court’s Order Denying Defendant’s Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other	05/03/19	50	12480–12489

	Defendants Filed Under Seal on March 26, 2019			
40	Notice of Entry of Findings of Fact Conclusions of Law and Order on Motion for Determination of Good Faith Settlement	01/08/18	11	2581–2590
137	Notice of Entry of Findings of Fact, Conclusions of Law and Order on Motion for Good Faith Settlement	02/01/19	50	12385–12395
111	Notice of Entry of Judgment	04/18/18	42	10365–10371
12	Notice of Entry of Order	07/11/17	1	158–165
16	Notice of Entry of Order	08/23/17	1	223–227
63	Notice of Entry of Order	02/09/18	15	3511–3536
97	Notice of Entry of Order	03/19/18	36	8839–8841
15	Notice of Entry of Order (CMO)	08/18/17	1	214–222
4	Notice of Entry of Order Denying Without Prejudice Plaintiffs’ Ex Parte Motion for Order Requiring Bus Company and Bus Driver to Preserve an Immediately Turn Over Relevant Electronic Monitoring Information from Bus and Driver Cell Phone	06/22/17	1	77–80
13	Notice of Entry of Order Granting Plaintiffs’ Motion for Preferential Trial Setting	07/20/17	1	166–171
133	Notice of Entry of Stipulation and Order Dismissing Plaintiffs’ Claims Against Defendant SevenPlus Bicycles, Inc. Only	10/17/18	50	12361–12365
134	Notice of Entry of Stipulation and Order Dismissing Plaintiffs’ Claims Against Bell Sports, Inc. Only	10/17/18	50	12366–12370
143	Objection to Special Master Order Staying Post-Trial Discovery Including May 2, 2018 Deposition of the Custodian of Records of the Board of Regents NSHE and, Alternatively, Motion for Limited Post-Trial	05/03/18	51	12495–12602

	Discovery on Order Shortening Time (FILED UNDER SEAL)			
39	Opposition to “Motion for Summary Judgment on Foreseeability of Bus Interaction with Pedestrians of Bicyclists (Including Sudden Bicycle Movement)”	12/27/17	11	2524–2580
123	Opposition to Defendant’s Motion to Retax Costs	05/14/18	49	12039–12085
118	Opposition to Motion for Limited Post-Trial Discovery	05/03/18	48	11761–11769
151	Order (FILED UNDER SEAL)	03/26/19	52	12931–12937
135	Order Granting Motion to Dismiss Wrongful Death Claim	01/31/19	50	12371–12372
25	Order Regarding “Plaintiffs’ Motion to Amend Complaint to Substitute Parties” and “Countermotion to Set a Reasonable Trial Date Upon Changed Circumstance that Nullifies the Reason for Preferential Trial Setting”	11/17/17	3	638–641
45	Plaintiffs’ Addendum to Reply to Opposition to Motion for Summary Judgment on Foreseeability of Bus Interaction with Pedestrians or Bicyclists (Including Sudden Bicycle Movement)”	01/17/18	11	2654–2663
49	Plaintiffs’ Joinder to Defendant Bell Sports, Inc.’s Motion for Determination of Good Faith Settlement on Order Shortening Time	01/18/18	11	2735–2737
41	Plaintiffs’ Joint Opposition to Defendant’s Motion in Limine No. 3 to Preclude Plaintiffs from Making Reference to a “Bullet Train” and to Defendant’s Motion in Limine No. 7 to Exclude Any Claims That the Motor Coach was Defective Based on Alleged Dangerous “Air Blasts”	01/08/18	11	2591–2611

37	Plaintiffs' Joint Opposition to MCI Motion for Summary Judgment on All Claims Alleging a Product Defect and to MCI Motion for Summary Judgment on Punitive Damages	12/21/17	9	2129–2175
50	Plaintiffs' Motion for Determination of Good Faith Settlement with Defendants Michelangelo Leasing Inc. d/b/a Ryan's Express and Edward Hubbard Only on Order Shortening Time	01/18/18	11	2738–2747
42	Plaintiffs' Opposition to Defendant's Motion in Limine No. 13 to Exclude Plaintiffs' Expert Witness Robert Cunitz, Ph.D. or in the Alternative to Limit His Testimony	01/08/18	11	2612–2629
43	Plaintiffs' Opposition to Defendant's Motion in Limine No. 17 to Exclude Claim of Lost Income, Including the August 28 Expert Report of Larry Stokes	01/08/18	11	2630–2637
126	Plaintiffs' Opposition to MCI's Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendants	06/06/18	49	12104–12112
130	Plaintiffs' Supplemental Opposition to MCI's Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendants	09/18/18	50	12310–12321
150	Plaintiffs' Supplemental Opposition to MCI's Motion to Alter or Amend Judgment to Offset Settlement Proceeds Paid by Other Defendants (FILED UNDER SEAL)	09/18/18	52	12917–12930
122	Plaintiffs' Supplemental Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005, 18.020, and 18.110	05/09/18	49	12019–12038

91	Plaintiffs' Trial Brief Regarding Admissibility of Taxation Issues and Gross Versus Net Loss Income	03/12/18	33	8018–8025
113	Plaintiffs' Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005, 18.020, and 18.110	04/24/18	42	10375–10381
105	Proposed Jury Instructions Not Given	03/23/18	41	10207–10235
109	Proposed Jury Verdict Form Not Used at Trial	03/26/18	42	10298–10302
57	Recorder's Transcript of Hearing on Defendant's Motion for Summary Judgment on All Claims Alleging a Product Defect	01/23/18	12	2818–2997
148	Reply in Support of Motion for a Limited New Trial (FILED UNDER SEAL)	07/02/18	52	12755–12864
128	Reply on Motion to Retax Costs	06/29/18	50	12269–12281
44	Reply to Opposition to Motion for Summary Judgment on Foreseeability of Bus Interaction with Pedestrians or Bicyclists (Including Sudden Bicycle Movement)"	01/16/18	11	2638–2653
46	Reply to Plaintiffs' Opposition to Motion for Summary Judgment on Punitive Damages	01/17/18	11	2664–2704
3	Reporter's Transcript of Motion for Temporary Restraining Order	06/15/17	1	34–76
144	Reporter's Transcript of Proceedings (FILED UNDER SEAL)	05/04/18	51	12603–12646
14	Reporter's Transcription of Motion for Preferential Trial Setting	07/20/17	1	172–213
18	Reporter's Transcription of Motion of Status Check and Motion for Reconsideration with Joinder	09/21/17	1 2	237–250 251–312
65	Reporter's Transcription of Proceedings	02/13/18	16 17	3818–4000 4001–4037
66	Reporter's Transcription of Proceedings	02/14/18	17 18	4038–4250 4251–4308

68	Reporter's Transcription of Proceedings	02/15/18	18	4315–4500
69	Reporter's Transcription of Proceedings	02/16/18	19	4501–4727
72	Reporter's Transcription of Proceedings	02/20/18	20 21	4809–5000 5001–5039
73	Reporter's Transcription of Proceedings	02/21/18	21	5040–5159
74	Reporter's Transcription of Proceedings	02/22/18	21 22	5160–5250 5251–5314
77	Reporter's Transcription of Proceedings	02/23/18	22 23	5328–5500 5501–5580
78	Reporter's Transcription of Proceedings	02/26/18	23 24	5581–5750 5751–5834
79	Reporter's Transcription of Proceedings	02/27/18	24 25	5835–6000 6001–6006
80	Reporter's Transcription of Proceedings	02/28/18	25	6007–6194
81	Reporter's Transcription of Proceedings	03/01/18	25 26	6195–6250 6251–6448
82	Reporter's Transcription of Proceedings	03/02/18	26 27	6449–6500 6501–6623
83	Reporter's Transcription of Proceedings	03/05/18	27 28	6624–6750 6751–6878
86	Reporter's Transcription of Proceedings	03/07/18	29 30	7045–7250 7251–7265
88	Reporter's Transcription of Proceedings	03/09/18	30 31	7424–7500 7501–7728
89	Reporter's Transcription of Proceedings	03/12/18	31 32	7729–7750 7751–7993
99	Reporter's Transcription of Proceedings	03/20/18	37 38	9076–9250 9251–9297
100	Reporter's Transcription of Proceedings	03/21/18	38 39	9298–9500 9501–9716
101	Reporter's Transcription of Proceedings	03/21/18	39 40	9717–9750 9751–9799

102	Reporter's Transcription of Proceedings	03/21/18	40	9800–9880
103	Reporter's Transcription of Proceedings	03/22/18	40 41	9881–10000 10001–10195
104	Reporter's Transcription of Proceedings	03/23/18	41	10196–10206
24	Second Amended Complaint and Demand for Jury Trial	11/17/17	3	619–637
107	Special Jury Verdict	03/23/18	41	10237–10241
112	Special Master Order Staying Post-Trial Discovery Including May 2, 2018 Deposition of the Custodian of Records of the Board of Regents NSHE	04/24/18	42	10372–10374
62	Status Check Transcript	02/09/18	14 15	3492–3500 3501–3510
17	Stipulated Protective Order	08/24/17	1	228–236
121	Supplement to Motor Coach Industries, Inc.'s Motion for a Limited New Trial	05/08/18	49	12013–12018
60	Supplemental Findings of Fact, Conclusions of Law, and Order	02/05/18	14	3470–3473
132	Transcript	09/25/18	50	12333–12360
23	Transcript of Proceedings	11/02/17	3	598–618
27	Volume 1: Appendix of Exhibits to Motion for Summary Judgment on Punitive Damages	12/01/17	3 4	665–750 751–989
28	Volume 2: Appendix of Exhibits to Motion for Summary Judgment on Punitive Damages	12/01/17	4 5	990–1000 1001–1225
29	Volume 3: Appendix of Exhibits to Motion for Summary Judgment on Punitive Damages	12/01/17	5 6	1226–1250 1251–1490

1 that on Monday morning.

2 MR. KEMP: Okay.

3 THE COURT: And we can make a decision then.
4 I'm open as long as --

5 MR. KEMP: Yeah. And you remember the way
6 this developed is, in the proposed jury questionnaire they
7 had three or four questions that we thought went kind of
8 over the top, and we objected to the Special Master when
9 he made his ruling. That's the genesis of this.

10 THE COURT: Correct. Okay. Is there
11 anything else that you would like to address?

12 MR. KEMP: Your Honor, I just want to inform
13 the Court we've given nine page lines to them. We've
14 given depositions that we think are going to be read in,
15 we've given them our page lines, and we had already agreed
16 to them that we'd give them to them on Tuesday, I think,
17 and that they have until Thursday to respond.

18 I think that needs to be moved up a little bit,
19 because assuming we take three days to pick the jury,
20 which might be optimistic.

21 But assuming that to be the case, we might be
22 doing the opening statements on Thursday, and then I might
23 want to play one or two of those depositions on Friday.
24 Because we have two facts witnesses that I've already
25 confirmed to next Tuesday, not this Tuesday, but next

1 Tuesday.

2 THE COURT: Okay.

3 MR. KEMP: So I'm just informing the Court
4 that. So I talked to Mr. Roberts, and he said they could
5 get their objections and counters in by Monday night or
6 Tuesday morning.

7 MR. ROBERTS: Well, I thought you said
8 Tuesday.

9 MR. KEMP: Yeah. Tuesday's fine. So that's
10 that. The other issue is, we still have -- I haven't seen
11 it, the Motion in Limine -- or the motion on Hoogenstraat
12 and Cooch on the managing speaking agent PMK issue.

13 MR. ROBERTS: I think the Court deferred
14 ruling to trial, because the record was insufficient to
15 determine if they were managing speaking agents for all
16 purposes, as opposed to just --

17 MR. KEMP: It's allowed. I mean, clearly,
18 Hoogenstraat was produced as the PMK.

19 MR. ROBERTS: Which makes him a managing
20 speaking agent for the notices in the PMK, not for all
21 purposes.

22 MR. KEMP: I know. But I don't know what I
23 can play. I don't know what I can't play during my
24 opening, that's the whole problem. I mean, you can defer
25 it until trial, yeah, but as soon as the opening starts I

1 need to know.

2 THE COURT: Understood. And, also
3 Mr. Cooch, right?

4 MR. KEMP: Cooch, right. And then we still
5 have the caption. Did we talk about the caption?

6 THE COURT: Yes. I'm not going to change
7 the caption until we have everything in order with respect
8 to the Minor's Compromises and everything else, but I'm
9 not going to allow the jury to see the caption.

10 MR. KEMP: How do we stop it from being
11 broadcast on the big screens downstairs then?

12 THE COURT: That's a very good question.
13 Let's see if I can ask them to -- are you talking about
14 the entire, all of the Defendants?

15 MR. KEMP: I would be happy with no
16 Defendants on the caption, if it's just for purposes of
17 telling people where to go, which is what the downstairs
18 directory is supposedly for.

19 THE COURT: Right. Truthfully, I haven't
20 looked at the directory in a while.

21 MR. KEMP: Well, when you go down there, a
22 lot of jurors won't be familiar with the courtroom and so
23 they'll look at the --

24 THE COURT: That's true.

25 MR. ROBERTS: Well, I'm little unclear, Your

1 Honor, as to what the legal basis for taking Defendants
2 off the caption is who are still Defendants.

3 As Mr. Kemp told the Federal Court, if the
4 Minors' Compromise is approved, then they're back in the
5 case. I don't understand why we're even starting trial if
6 they're not severed or dismissed. They need to be severed
7 or dismissed, or they need to stay on the caption, and
8 they probably need to be here.

9 We can't start a trial with Defendants who are
10 still Defendants who are not here.

11 MR. KEMP: Your Honor, what we're talking
12 about is the Court directory, which is really not part of
13 the trial, how it alerts the jurors where to go. That's
14 what we're talking about. And all I'm suggesting is that
15 we just put Khibani. Don't even put him. Don't even put
16 them down as a Defendant.

17 But what he's trying to do is, he's got Court
18 orders saying he can't refer to the other parties, or
19 can't argue their negligence, and he wants the jury to see
20 the captions and start thinking to themselves: Well, I
21 saw the caption downstairs, where are those people now
22 that I'm upstairs?

23 And that would be the prejudice. It would be a
24 way to end run to circumvent a court order. So all I'm
25 saying is, let's ask Jury Services or whoever runs the

1 building, I frankly don't know if --

2 THE COURT: See, I have approved the Good
3 Faith Settlement, I have ordered them so --

4 MR. ROBERTS: But the Minor's Compromise has
5 not been approved, and the Plaintiff's have taken the
6 position that until the Minor's Compromise is approved
7 which is beyond their control, they're still Defendants.

8 So if they're not going to be here and they're
9 not going to be on the caption, the Court needs to sever
10 them from the case. That's our position.

11 MR. KEMP: First of all, Your Honor --

12 MR. ROBERTS: And they don't want a
13 severance, because then they know that will give us
14 grounds for removal. But you've got to either settle them
15 or dismiss them, or they're in the case, Your Honor. It
16 seems simple enough.

17 MR. KEMP: What does that have to do with
18 what you put on the directory downstairs, Your Honor?
19 That doesn't have anything to do with what's on the
20 directory downstairs.

21 The directory downstairs is just a sign that the
22 administrative branch of the Court puts out to help jurors
23 find the courtroom. That's what it is. So all I'm
24 suggesting is that the sign say Khibani, not Khibani and
25 Michelangelo, and Khibani and Hubbard and Khibani and Bell

1 Sports. I'm just saying it should say Khibani.

2 Put on MCI. I don't care if MCI is on there. I
3 think that's a fair accommodation.

4 THE COURT: Mr. Roberts?

5 MR. ROBERTS: It's our position that the
6 sign reflects the caption, and if the caption is modified,
7 the sign should accurately reflect the parties to the
8 case.

9 MR. KEMP: Judge, there's no Rule of Civil
10 Procedure that the sign downstairs is part of the
11 Complaint. I mean, maybe we could ask them to eliminate
12 any reference to the case downstairs.

13 MR. ROBERTS: Your Honor, if it's now
14 Mr. Kemp's position, if he's now changing his position and
15 saying he's confident the Minor's Compromise will be
16 approved, then I would move to sever the settling
17 Defendants from the case.

18 MR. KEMP: Your Honor, first of all, he
19 should file a motion and not wait until two hours before
20 trial to do that. And, second of all, the Minors'
21 Compromises have not been approved.

22 I mean, I can't help that, and neither have the
23 estate compromises, for that matter.

24 MR. ROBERTS: So if the Court meets three weeks
25 of the trial and rejects the Minor's Compromises, do we

1 then do a mistrial and reschedule a new trial with the
2 Defendants?

3 MR. KEMP: I don't know about Your Honor,
4 but there's no motion pending.

5 MR. ROBERTS: There is a motion. We're here
6 in open court. I can make a motion in open court. If you
7 don't want them here, if you don't want them on the
8 caption, then the Defendant Motor Coach Industries moves
9 to sever the settling Defendants from this trial so that
10 we can proceed without them.

11 THE COURT: Mr. Roberts, I would prefer that
12 motion in writing, okay.

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

14 MR. KEMP: Meanwhile, we're back to the
15 problem --

16 THE COURT: Understood.

17 MR. KEMP: -- with The directory downstairs,
18 which either we should have no directory, or it should
19 just -- maybe that's the option, Your Honor.

20 The only reason you have a directory is so people
21 can find the right courtroom. I'm sure Jury Services will
22 tell the jury to go up to 14C, so I don't know we even
23 need a directory. I know how to get here. I'm sure
24 Mr. Roberts knows how to get here.

25 THE COURT: All right. I'll see what I can

1 do for the moment, and then I'll entertain everything
2 later. And, also, we had with respect to the -- I did
3 receive an order to shorten -- something on an order to
4 shorten time yesterday, a motion.

5 MR. KEMP: Yeah. That related to
6 Mr. Larevere. First of all, there's no need to confer on
7 that, which I was kind of surprised by. If the point of
8 the motion was that we're not going to call him in the
9 case in chief, and they're only going to call him in the
10 rebuttal case, I can assure Mr. Roberts that he's only
11 going to be called in the rebuttal case.

12 The other argument they made, which we are filing
13 a formal opposition to, is that he's not a true rebuttal
14 expert, that he should have been designated in the case in
15 chief. If that's his real argument, you know, I think the
16 Court needs to address that at some point.

17 I don't intend to refer to Mr. Larevere in my
18 opening statement so --

19 MR. ROBERTS: Then there's no need to hear
20 it before opening statements.

21 THE COURT: Okay.

22 MR. ROBERTS: If he does not intend to refer
23 to his testimony.

24 THE COURT: Well, I was going to wait for
25 something in writing anyway.

1 MR. ROBERTS: Okay.

2 MR. KEMP: But I don't intend to call him in
3 the case in chief, if that solves the problem. I don't
4 think it does, but --

5 MR. ROBERTS: It defers the problem.

6 THE COURT: Well, I know we're far away from
7 this, but with respect to jury instructions, if you can
8 agree on any of them, I would like a list of those that
9 you stipulate to, okay. Anything else?

10 MR. KEMP: Mr. Roberts asked me if the Court
11 televised voir dire, and I told him, no, to my
12 understanding. So I just want the Court to be aware of
13 that. And usually they don't televise the voir dire
14 because no one wants to watch it anyway, number one.

15 And, number two, the problem is they might
16 inadvertently disclose a juror that's on the case.

17 THE COURT: Right.

18 MR. KEMP: So they are not going to be here,
19 as I understand it. I do think the gentleman who is going
20 to be filming this particular trial is named Peter
21 Hawkman.

22 I think Peter is probably going to come in Monday
23 or Tuesday to kind of eyeball out the setup, but I don't
24 think he's going to set up his camera at that point in
25 time.

1 THE COURT: Okay. Also, are you going --
2 well, we'll wait for Monday morning, but I was wondering
3 if you were going to invoke the exclusionary rule?

4 MR. KEMP: Yes.

5 THE COURT: Okay. Anything else?

6 MR. KEMP: No, Your Honor.

7 MR. ROBERTS: No, Your Honor. Have a nice
8 weekend.

9 THE COURT: You too. It will be busy.

10 MR. ROBERTS: Thank you, Your Honor. I do
11 appreciate this.

12

13 ATTEST: Full, true and accurate transcript of
14 proceedings.

15

Maureen Schorn
MAUREEN SCHORN, CCR NO. 496, RPR

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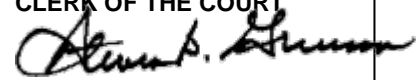
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

KEON KHIABANI and ARIA KHIABANI, minors,
by and through their Guardian, MARIE-CLAUDE
RIGAUD; SIAMAK BARIN, as Executor of the
Estate of Kayvan Khiabani, M.D. (Decedent), the
Estate of Kayvan Khiabani, M.D. (Decedent);
SIAMAK BARIN, as Executor of the Estate of
Katayoun Barin, DDS (Decedent); and the Estate of
Katayoun Barin, DDS (Decedent);

Plaintiffs,

vs.

MOTOR COACH INDUSTRIES, INC., a Delaware
corporation; MICHELANGELO LEASING INC.
d/b/a RYAN'S EXPRESS, an Arizona corporation;
EDWARD HUBBARD, a Nevada resident; BELL
SPORTS, INC. d/b/a GIRO SPORT DESIGN, a
Delaware corporation; SEVENPLUS BICYCLES,
INC. d/b/a PRO CYCLERY, a Nevada corporation,
DOES 1 through 20; and ROE CORPORATIONS 1
through 20.

Defendants.

Case No.: A-17-755977-C

Dept. No.: XIV

NOTICE OF ENTRY OF ORDER

CHRISTIANSEN LAW OFFICES

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Las Vegas, Nevada 89101

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1 TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD

2 Please take notice that a Findings of Fact, Conclusions of Law, and Order was entered in
3 the above-entitled matter on February 2, 2018, a copy of which is attached hereto as Exhibit 1.

4 Please take further notice that a Supplemental Findings of Fact, Conclusions of Law,
5 and Order was entered in the above-entitled matter on February 5, 2018, a copy of which is
6 attached hereto as Exhibit 2.

7 Dated this 9th day of February, 2018.

8 CHRISTIANSEN LAW OFFICES

9
10 By 

PETER S. CHRISTIANSEN, ESQ.
KENDELEE L. WORKS, ESQ.

12 and

13 KEMP, JONES & COULTHARD, LLP

14
15 By  - FOR -

WILL KEMP, ESQ.
ERIC PEPPERMAN, ESQ.

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003512

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of CHRISTIANSEN LAW OFFICES, and that on this 9th day of February, 2018 I caused the foregoing document entitled *Notice of Entry of Order*, to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.



An Employee of Christiansen Law Offices

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EXHIBIT 1

1 FFCL

2
3 EIGHTH JUDICIAL DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 KEON KHIABANI and ARIA KHIABANI,)
6 minors, by and through their Guardian,)
7 MARIE-CLAUDE RIGAUD; SIAMAK)
8 BARIN, as Executor of the Estate of Kayvan)
9 Khiabani, M.D. (Decedent), the Estate of)
10 Kayvan Khiabani, M.D. (Decedent);)
11 SIAMAK BARIN, as Executor of the Estate)
12 of Katayoun Barin, DDS (Decedent); and)
13 the Estate of Katayoun Barin, DDS)
14 (Decedent);)

15 Plaintiffs,

16 vs.

17 MOTOR COACH INDUSTRIES, INC.,)
18 MICHELANGELO EXPRESS; EDWARD)
19 HUBBARD; BELL SPORTS, INC. d/b/a)
20 GIRO SPORT DESIGN; and SEVENPLUS)
21 BICYCLES, INC. d/b/a PRO CYCLERY)

22 Defendant(s).

CASE NO.: A-17-755977-C
DEPT. NO.: XIV

23 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

24 Plaintiffs' and Defendant's motions in limine came on for a hearing before
25 Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar
26 presiding, on January 29, 2018 and January 31, 2018. After considering the pleadings and
27 argument of counsel, the Court issues the following rulings on each motion:

**Plaintiffs' Motion in Limine #1 (Preclude Reference or Argument regarding alleged
negligence of third parties):**

DEFERRED. The Court will issue a supplemental order on this motion.

1 **Plaintiffs' Motion in Limine #2 (Preclude Reference to Settling Defendants):**

2 GRANTED IN PART. The parties will be precluded from mentioning or inferring any
3 settlement amount or that any party settled claims against them by these Plaintiffs. If
4 Defendant wishes to mention the prior existence of a claim against a testifying witness for
5 impeachment purposes, Defendant must request a side-bar conference to discuss the specifics
6 of what question Defendant intends to ask.

7
8 **Plaintiffs' Motion in Limine #3 (Preclude Defendant from Arguing Decedent was**
9 **Contributorily Negligent):**

10 DEFERRED. The Court will issue a supplemental order on this motion.

11
12 **Plaintiffs' Motion in Limine #4 (Preclude Defendant from making Excessive Reference**
13 **to the Fact that Plaintiffs are of Iranian or Persian Descent):**

14 GRANTED IN PART. The Court will allow the parties to ask limited voir dire
15 questions to investigate whether potential jurors harbor biases for or against people of Iranian
16 or Persian descent, or people who have immigrated to the United States as Dr. Khiabani did,
17 as such a bias would likely prevent or substantially impair the performance of the juror's
18 duties as a juror in accordance with his instructions and his oath. *See Leonard v. State*, 117
19 Nev. 53, 65 (2001). Because excessive or improperly phrased questions bear the risk of
20 improperly suggesting opinions to the jury, any such questions must be submitted to the Court
21 for review and approval prior to the beginning of voir dire. Additionally, if the parties so
22 request, the Court will ask such approved questions as part of the Court's standard voir dire
23 questions.

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1 **Plaintiffs' Motion in Limine #5 (Preclude Defendant from Arguing or Suggesting that**
2 **Plaintiffs must Prove that the Bus had any Specific Defect):**

3 GRANTED IN PART. Under the consumer-expectation test, Plaintiffs must prove the
4 product is defectively designed, meaning Plaintiffs must prove the product "fail[s] to perform
5 in the manner reasonably to be expected in light of its nature and intended function and [is]
6 more dangerous than would be contemplated by the ordinary user having the ordinary
7 knowledge available in the community." *Ginnis v. Mapes Hotel Corp.*, 86 Nev. 408, 413
8 (1970). The Court finds the "malfunction theory" exception explained in *Stackiewicz v.*
9 *Nissan Motor Corp.*, 100 Nev. 443 (1984) applies only to manufacturing defect and breach of
10 warranty cases because it has only been applied in such cases, and indeed could not logically
11 be applied to a design defect case where no "malfunction" is alleged to have occurred for
12 which Plaintiffs cannot fairly be required to prove an explanation. On the contrary, Plaintiffs
13 allege the product performed exactly as the Defendant intended, but that the design itself was
14 unreasonably dangerous. However Defendant will be precluded from arguing or suggesting
15 that Plaintiffs' design defect claim requires Plaintiffs bear any burden of proof other than the
16 consumer-expectation test.

17
18 **Plaintiffs' Motion in Limine #6 (Preclude Defendant from Mentioning that Defense**
19 **Expert Dr. Baden Worked for the Christiansen Law Firm):**

20 GRANTED IN PART. The Court will preclude any discussion of Dr. Baden's prior
21 work for the Christiansen law firm, and will also preclude any discussion of the *California v.*
22 *Simpson* case. If Plaintiffs wish to impeach Dr. Baden by questioning him on his opinions
23 given in the *Simpson* case, Plaintiffs will first be required to prove, outside the presence of the
24 jury, sufficient similarity between the facts in that case and this case such that Dr. Baden's
25 prior testimony is relevant to cast doubt on Dr. Baden's testimony in this case.

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Plaintiffs' Motion in Limine #7 (Preclude Defendant from Arguing that the Alleged Lack of Proximity Sensors from a Third Party as a Defense where the True Issue is Whether Proximity Sensors were Technologically Feasible):

GRANTED IN PART. Plaintiffs may, but are not required to, present evidence of an alternative safer design as part of their product defect claim. *Ford Motor Co. v. Trejo*, 402 P.3d 649 (Nev. 2017). Because Plaintiffs have suggested an alternative design consisting of proximity sensors that are not connected to an automatic braking system, Defendant will be precluded from referencing any proximity sensor system that is combined with automatic braking, as the commercial feasibility of such a system is irrelevant to the commercial feasibility of Plaintiffs' proffered alternative design. However, the Court disagrees with Plaintiffs' suggestion that evidence of whether or not a claimed alternative design is available from third-parties is irrelevant to the issue of commercial feasibility, as this is one factor which a jury could consider in finding that a given alternative design was or was not commercially feasible. Thus, Defendant will not be precluded from presenting evidence that Plaintiff's proffered alternative design was not available from third parties.

Plaintiffs' Motion in Limine #8 (Pre-instruct Jury with Standard Instructions for Product Liability Claims):

DENIED. The Court finds that none of Plaintiffs' suggested pre-instructions concern concepts that warrant discussion before any evidence is presented. While a products liability action includes relatively complicated issues of law, the risk of unfair prejudice to the Defendant substantially outweighs the probable utility of pre-instructing the jury. The Court finds the proposed pre-instructions bear a serious risk of suggesting what evidence the jury should be looking for to rule in the Plaintiffs' favor, when Plaintiffs bear the burden of proof.

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1 **Plaintiffs' Motion in Limine #9 (Preclude Metro Report and/or Opinions from Metro**
2 **Officers):**

3 GRANTED IN PART. The conclusions contained in the police reports are
4 inadmissible under *Frias v. Valle*, 101 Nev. 219 (1985) because the officer did not witness the
5 incident and is not qualified to opine as to who was at fault, and because any statements by
6 third parties are hearsay, so the reports would only possibly be admissible in a heavily
7 redacted form. The few factual statements contained in the reports that would be admissible
8 are cumulative of the live witness testimony that will be available, and allowing a redacted
9 report invites improper speculation by jurors. Thus any probative value of the reports is
10 substantially outweighed by risk of unfair prejudice and considerations of undue waste of
11 time, so the reports are precluded.

12 Testimony from investigating officers does not bear the same risks as admission of the
13 redacted reports, so the Court will not preclude testimony by officers as to their personal
14 observations in responding to the scene.

15
16 **Plaintiffs' Motion in Limine #10 (Pre-admit Funeral Video and Funeral Slide Show):**

17 DEFERRED. The Court cannot make an informed ruling on evidence it has not been
18 provided. However, the Court recognizes that evidence of the Plaintiffs' affect at the funeral
19 may be relevant to the jury's determination of the damages recoverable under NRS 41.085.
20 Further, to the extent the statements contained in the video are not being offered for their
21 truth, such statements would not constitute hearsay. Thus, the Court directs Plaintiffs to
22 submit the portions of the video and slide show which Plaintiffs desire to use, so the Court
23 may make a decision as to what portions, if any, would be admissible at trial. Plaintiffs'
24 submission must be delivered to chambers and Defendant's counsel by 5:00 PM on Monday,
25 February 5, 2018, and the Court will issue a further ruling on Tuesday, February 6, 2018.

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1 **Plaintiffs' Motion in Limine #11 (Pre-admit 1993 Generic Bus Wind Testing by**
2 **Defendant):**

3 GRANTED. The records of these tests are admissible hearsay as a business record
4 under NRS 51.135 because the testing was a regularly conducted activity, the records were
5 created by those conducting the tests at or near the time of the tests, and these facts were
6 established by Mr. Hoogestrat as Defendant's relevant person most knowledgeable.
7 Additionally, the records would be admissible as "ancient records" under NRS 51.235
8 because Mr. Hoogestrat established that the records were in Defendant's file, establishing the
9 documents' authenticity. Alternatively, under NRS 51.075, the records would be admissible
10 under the "residual" exception, as the circumstances of Defendant commissioning the testing,
11 from a neutral party, at a time where Defendant has professed to lack any knowledge of
12 possible safety concerns or impending legal action in connection with the purpose of the
13 testing—to improve fuel efficiency—provides an assurance of accuracy not likely to be
14 enhanced by calling the declarant as a witness.

15
16 **Plaintiffs' Motion in Limine #12 (Preclude Defendant Expert Rucoba from Offering**
17 **Meteorologist Opinions Regarding Wind Speed at the Time of the Accident):**

18 GRANTED. Rucoba has not made an opinion on whether wind speed was a factor in
19 the accident, so he will be precluded from offering any opinions to this effect at trial.
20

21 **Plaintiffs' Motion in Limine #13 (Preclude Defendant from Arguing or Referencing**
22 **Rigged Air Blast Testing that is not Substantially Similar Because it Used Stationary**
23 **Bike):**

24 DENIED. Plaintiffs' motion is based on the suggestion that Plaintiffs' expert, Dr.
25 Breidenthal, believes Defendant's expert, Dr. Granat's, methodology is not substantially
26 similar unless the relative speeds of the bus and the bicycle in a wind tunnel are accounted for
27 in the calculations. Dr. Granat testified that for the purposes of what he was measuring in the

1 particular challenged experiment where the bicycle was stationary, the fact that the bicycle
2 was stationary was immaterial. The Court finds Dr. Granat's experiment was not so
3 dissimilar so as to warrant preclusion. Any scientific flaws in Dr. Granat's experiment go to
4 weight, not admissibility, and can be fully explored on cross-examination.

5
6 **Plaintiffs' Motion in Limine #14 (Designate Virgil Hoogestraat as Managing Speaking**
7 **Agent of Defendant Motor Coach):**

8 DEFERRED. The Court will issue a supplemental order on this motion.
9

10 **Plaintiffs' Motion in Limine #15 (Designate Bryan Couch as Managing Speaking Agent**
11 **of Defendant Motor Coach):**

12 DEFERRED. The Court will issue a supplemental order on this motion.
13

14 **Plaintiffs' Motion in Limine #16 (Pre-admit June 2001 Article as Notice of Potential**
15 **Rear Tire Suction Hazard and Need for Protective Guard):**

16 DENIED. Plaintiffs' counsel has withdrawn this motion.
17

18 **Plaintiffs' Motion in Limine #17 (Admit Evidence of Facts Establishing Defendant's**
19 **Consciousness of Responsibility):**

20 DENIED. Evidence of the decried conduct by Defendant's counsel and the
21 investigator hired by Defendant's counsel is irrelevant to the material facts of this case.
22 Moreover, any probative value of this evidence is substantially outweighed by undue
23 prejudice and confusion of the issues. If Defendant alludes to or elicits testimony of the
24 allegedly false statements of Mr. Plantz and Mr. Pears procured by Mr. Hildreth, Plaintiffs
25 may at a side-bar conference request to cross-examine the witness on the circumstances
26 surrounding the statements written by Mr. Hildreth.

27 ///

1 **Plaintiffs' Motion in Limine #18 (Preclude the Admission of Irrelevant Information**
2 **Regarding Unrelated Disputes):**

3 DENIED. This motion is moot following the Court's granting of Defendant's motion
4 to dismiss the wrongful death claim of Katy Barin. However, the Court notes that such
5 information would almost certainly be irrelevant to Plaintiffs' remaining claims.
6

7 **Plaintiffs' Motion in Limine #19 (Exclude Testimony of Untimely Disclosed Expert**
8 **Witness Robert Stahl MD):**

9 DENIED AS MOOT. This motion is moot following the Court's granting of
10 Defendant's motion to dismiss the wrongful death claim of Katy Barin, as Dr. Stahl's opinion
11 is not relevant to the remaining claims.
12

13 **Plaintiffs' Motion in Limine #20 (Exclude any Testimony on Untimely Supplemental**
14 **Expert Report by Defense Expert Carhart):**

15 GRANTED. Dr. Carhart's supplemental report admittedly contained new opinions on
16 the helmet, and was admittedly only authored due to the opinions given by Dr. Stalnaker in
17 his deposition, which was scheduled after the deadline for Dr. Carhart's report. Thus, even
18 though Plaintiffs were given a chance to depose Dr. Carhart on the new opinions in the
19 supplemental report, the Court will not allow the opinions in the supplemental report because
20 they were only produced as a result of improper discovery tactics, and had Dr. Carhart's
21 report and deposition schedules not been unilaterally altered, the supplemental report would
22 not have been created.
23

24 **Defendant's Motion in Limine #1 (Limit Opinions by Plaintiffs' Expert Robert**
25 **Caldwell):**

26 DENIED. Defendants seek to exclude Dr. Caldwell's opinion that a properly installed
27 S-1 Gard would have contacted Dr. Khiabani before the tire of the coach did, and that the S-1

1 Gard would have contacted Dr. Khiabani's helmet at a speed below the speed of the bus. Dr.
2 Caldwell makes no opinion on what, if any, injurious effect contact with an S-1 Gard would
3 have had on Dr. Khiabani, so Dr. Caldwell was not required to examine an S-1 Gard to come
4 to this conclusion. Further, because there was in fact no S-1 Gard installed on the subject
5 coach, Dr. Caldwell's reliance on the installation guide is an appropriate method of
6 determining where the S-1 Gard would have been located, had it been properly installed,
7 which is a factual basis for Plaintiffs' claim. This information combined with Dr. Stalnaker's
8 opinion of where Dr. Khiabani's head was placed in relation to the tire at the time of impact is
9 sufficient for Dr. Caldwell to come to the reliable conclusion that Dr. Khiabani's head would
10 have contacted a properly installed S-1 Gard before contacting the Coach's tire. Moreover,
11 Dr. Caldwell testified at his deposition that his conclusion was based on "geometry," a
12 scientific basis, so the conclusion is not based on unhelpful speculation.

13
14 **Defendant's Motion in Limine #2 (Exclude Illustrations by Plaintiff's Expert Joshua**
15 **Cohen that have no Basis in Fact):**

16 GRANTED IN PART. Defendant's motion focuses on three separate categories of
17 illustrations: those depicting (1) a theoretical cyclist riding a bicycle next to the coach; (2)
18 illustrations of Dr. Khiabani lying on his back in the street with the rear tire of the coach about
19 to roll over him; and (3) illustrations of the coach equipped with theoretical proximity sensors.

20 First, the images of a cyclist next to the coach are, apparently, accurate depictions of
21 opinions offered by experts in this case, and therefore the illustrations are not based on
22 speculation and are helpful to depict the experts' opinions. However, due to the fact that the
23 actual distance of Dr. Khiabani's bicycle from the coach is a strongly disputed issue, usage of
24 these images without clearly denoting what distance is being depicted would be confusing and
25 potentially unfairly prejudicial. Therefore, the Court will allow these illustrations if the image
26 is clearly labeled with what distance is being depicted, so that there is no risk of the jury
27 misunderstanding which opinion is being depicted. Plaintiffs must provide illustrations with

1 this additional information to opposing counsel and the Court prior to the beginning of trial,
2 and the Court will inform the parties if any such illustrations are to be excluded prior to
3 opening statements.

4 Second, the images of a cyclist on his back under the bus are accurate depictions of
5 Dr. Stalnaker's opinion. While Dr. Stalnaker's opinion includes an admitted assumption of
6 where Dr. Khiabani's body lay based on where he believes the helmet, and therefore Dr.
7 Khiabani's head, lay, the illustration is not inadmissible merely because Dr. Stalnaker is not
8 certain what precise position Dr. Khiabani's body was in at the time. Rather, Dr. Stalnaker's
9 assumption on this fact is rationally based on his scientific opinion. Dr. Stalnaker has testified
10 that the illustration is an accurate depiction of his opinion, so the illustrations will not be
11 excluded.

12 Third, the images of the proximity sensors are likewise an accurate depiction of
13 Plaintiffs' experts' opinions. The function of a proximity sensor is beyond human perception,
14 so an illustration symbolizing this function is especially helpful, and is by necessity not a
15 depiction of what was actually visible. Mr. Cohen's choice to use the particular method of
16 illustrating the proximity sensors' function is a product of his expertise, and thus is not
17 grounds for this Court to find the illustration is inaccurate; in fact, the illustration appears to
18 be an accurate depiction of the facts Plaintiffs' experts testify to. The fact that Cohen
19 admitted to adopting the particular image from another product that is distinguishable from
20 the actual proximity sensors at issue is irrelevant, as the illustration is still accurate to the
21 expert opinions and is helpful for the jury to understand how a proximity sensor works. The
22 Court will not exclude these images.

23
24 **Defendant's Motion in Limine #3 (Preclude Plaintiffs from making Reference to a Bullet**
25 **Train)**

26 DENIED. The Court finds that the "bullet train" analogy is apt for illustrating the
27 concept of vehicle aerodynamics. While Defendant may be correct that the coach at issue is

1 distinguishable from a bullet train and thus that the coach could not have been designed like a
2 bullet train, this can be easily explored by argument and witness testimony. The jury is not
3 likely to be confused on the material issues by the mere mention of a bullet train as an
4 aerodynamic vehicle. No reason exists to preclude Plaintiffs from using this reference.

5
6 **Defendant's Motion in Limine #4 (Preclude Plaintiffs from Presenting Evidence that**
7 **Proximity Sensors were a Safer Alternative Design)**

8 DENIED. Defendant's person most knowledgeable testified to the possibility of
9 aftermarket proximity sensors that would have been feasible on the subject coach. This is
10 sufficient evidence to enable the issue to go to the jury, as noted in the Court's ruling in
11 denying Defendant's motion for summary judgment on all claims asserting a product defect.

12
13 **Defendant's Motion in Limine #5 (Exclude any Claims of Defect Based on S-1 Gard):**

14 DENIED. As mentioned in regard to Defendant's Motion in Limine #1, Plaintiffs'
15 experts have sufficient scientific basis for opining that a properly installed S-1 Gard would
16 have struck Dr. Khiabani before the coach's tire. Defendant compares this case to the expert
17 that was precluded in *Hallmark v. Eldridge* because he based his opinion on pictures rather
18 than experiments and examination of the actual vehicles. The Court finds the facts here are
19 distinguishable, as there was no S-1 Gard installed that the experts could have examined, and
20 instead the experts offer opinions on what would have happened had an S-1 Gard been
21 installed. Thus, the experts here properly relied on the best evidence available of where the S-
22 1 Gard would have been situated, and scientific data suggesting where Dr. Khiabani's head
23 was situated in comparison to the tire.

24
25 **Defendant's Motion in Limine #6 (Exclude Reference to New Flyer Industries):**

26 GRANTED IN PART. Any reference to New Flyer Industries will be excluded during
27 the liability phase of the trial as irrelevant to whether or not the coach was defective. If the

1 jury finds the Defendant liable and chooses to award punitive damages such that the financial
2 condition of the Defendant is relevant, the Court will consider whether reference to New Flyer
3 Industries is permissible based on the facts discovered at the deposition of Mr. Asham at that
4 time.

5
6 **Defendant's Motion in Limine #7 (Exclude any Claims that Subject Motor Coach was**
7 **Defective Based on Alleged Dangerous Air Blasts):**

8 DENIED. As noted in the Court's ruling denying Defendant's motion for summary
9 judgment on all claims asserting a product defect, sufficient evidence exists to allow Plaintiffs
10 to present evidence of this theory.

11
12 **Defendant's Motion in Limine #8 (Exclude any Reference to Seatbelts):**

13 GRANTED. Reference to the coach not having seatbelts is irrelevant to any material
14 issue in this case where no passenger was injured, and further irrelevant to whether the
15 Defendant designed the coach without regard to the safety of bicyclists. Any probative value
16 of the choice not to include seatbelts in relation to the jury's determination of Defendant's
17 mentality for punitive damages purposes is substantially outweighed by the risk of unfair
18 prejudice and confusion of issues.

19
20 **Defendant's Motion in Limine #9 (Exclude Reference to the Ghost Bike Memorial):**

21 GRANTED. The existence of the ghost bike memorial has no probative value to the
22 issue of liability and very little if any probative value to the issue of Dr. Khiabani's heirs'
23 grief and sorrow, as the memorial indicates primarily the community's response at large and
24 Defendant has stated it is not seeking to exclude the statements of the heirs in relation to the
25 memorial. To the extent the memorial reflects the thoughts and emotional distress of Dr.
26 Khiabani's heirs, this evidence is readily available through the heirs' own testimony, and thus
27 the memorial's probative value is substantially outweighed by concerns of waste of time,

1 cumulative evidence, and risk of unfair prejudice. Additionally, the Court will allow limited
2 voir dire discussion on whether any potential jurors are aware of the ghost bike memorial, as
3 involvement with the memorial itself or the commemorative bike ride would signify a
4 likelihood of personal awareness of the facts of the case. However, any voir dire on this
5 subject must be reasonably limited to this purpose, and will not be allowed if the Court finds
6 the question unnecessarily informs the jury pool of the significance of the memorial.

7
8 **Defendant's Motion in Limine #10 (Exclude Speculation as to Decedent's Thoughts**
9 **about the Motor Coach):**

10 GRANTED. The parties agreed at the hearing that witnesses will be allowed to testify
11 to their perceptions and rationally related inferences, including perceived expressions on Dr.
12 Khiabani's face, but will be precluded from testifying as to any speculation of why Dr.
13 Khiabani had any particular expression or thoughts.

14
15 **Defendant's Motion in Limine #11 (Exclude Plaintiffs' Expert Witness David Roger):**

16 DENIED AS MOOT. In light of the Court's above ruling denying Plaintiffs' Motion
17 in Limine #17, Mr. Roger's testimony is precluded and thus this Motion is moot.

18
19 **Defendant's Motion in Limine #12 (Exclude Reference to the Cost of the S-1 Gard or**
20 **Proximity Sensors):**

21 DENIED. While the Court is aware that evidence of the cost of safety features that
22 were not incorporated into the coach's design is prejudicial to the Defendant's case, these
23 facts are not unfairly prejudicial, as the jury must consider factors including the price of these
24 alternative designs to determine if they were commercially feasible. Further, because the
25 issue of cost is one that is familiar to the typical juror, the jurors will likely be expecting
26 evidence on this issue, and excluding any reference of cost will only invite speculation. Thus,

1 excluding reference of the cost of the S-1 Gard or proximity sensors would be unfairly
2 prejudicial and would risk confusion of issues and misleading the jury.

3
4 **Defendant's Motion in Limine #13 (Exclude Plaintiffs' Expert Witness Robert Cunitz,**
5 **Ph.D, or in the Alternative, Limit His Testimony):**

6 GRANTED IN PART. Dr. Cunitz's opinion is in large part based on accurate
7 testimony and other evidence, and is not so speculative that it would not assist the jury. The
8 one exception is Dr. Cunitz's statement that Hubbard "testified that he would have given
9 bicycles greater clearance during passing maneuvers ..." This conclusion is a misstatement of
10 Hubbard's testimony, as Hubbard first testified that he was not sure if he would have driven
11 differently had he been aware that the coach generated "air blasts," and eventually testified
12 that if he was given a bulletin by the manufacturer that said the coach created "a 10-foot air
13 blast on the front," he would have "taken that into account," and that he would have taken it
14 into account if it was part of his training. Hubbard deposition at 78-82. Hubbard never
15 testified that he would have given bicycles greater clearance during passing maneuvers, so Dr.
16 Cunitz's statement that Hubbard did in fact testify that he would have given bicycles greater
17 clearance during passing maneuvers is demonstrably false. Because that statement is false, it
18 does not assist the jury and is inadmissible. The remainder of Dr. Cunitz's opinions stated in
19 his report, including his scientifically based conclusions, are admissible.

20
21 **Defendant's Motion in Limine #14 (Exclude Articles Regarding or Reference to Transit**
22 **Buses):**

23 DEFERRED. The parties stated at the hearing that they stipulated that this evidence
24 would not be offered during opening statements, and that Plaintiffs would lay adequate
25 foundation prior to seeking admission of this evidence during trial. The Court thus defers
26 ruling on admissibility of these articles until trial.

27 ///

1 **Defendant's Motion in Limine #15 (Exclude Opinion Testimony from Lay Witnesses on**
2 **Causation and Engineering Principles):**

3 GRANTED. Lay witnesses are able to testify as to their personal perceptions, and any
4 inferences that are rationally based on those perceptions. NRS 50.365. Defendant seeks
5 exclusion of any lay witness opinion on (1) whether an S-1 Gard would have saved Dr.
6 Khiabani's life had one been installed; or (2) whether an "air blast" created by the coach
7 caused the accident. Neither of these opinions would be based on the personal perceptions of
8 rational inferences of any of the witnesses in this case. No witness was present near enough
9 to Dr. Khiabani or that portion of the bus such that they could have perceived any air
10 displacement in the vicinity, and no witness perceived where an S-1 Gard would be located
11 simply because there was no S-1 Gard. Thus, witness testimony as to either of these scenarios
12 would be speculative.

13
14 **Defendant's Motion in Limine #16 (Exclude Opinions by Plaintiffs' Expert Dipak**
15 **Panigrahy):**

16 DENIED AS MOOT. This motion is moot in light of the Court's granting of
17 Defendant's motion to dismiss the wrongful death claim of Dr. Katy Barin.

18
19 **Defendant's Motion in Limine #17 (Exclude Claim of Lost Income, including August 28**
20 **Expert Report of Larry Stokes):**

21 DENIED AS MOOT. Defendant is correct that the Plaintiffs' wrongful death claim
22 does not entitle the Plaintiffs to recover the full amount of Dr. Khiabani's lost income, but
23 rather a set of damages including loss of probable support. NRS. 41.085. However, lost
24 income is a factor in determining loss of probable support. *See, e.g. Alsenz v. Clark County*
25 *Sch. Dist.*, 109 Nev. 1062 (1993); Nev. J.I. 10.13. Thus, the jury must be given this
26 information to determine what the Plaintiffs' loss of probable support amounts to. The Stokes
27 report plainly labels Dr. Khiabani's loss income as just that, and thus does not mislead the

1 jury to think that number is the loss of the heirs' probable support. Moreover, the jury
2 instructions remove any uncertainty as to the fact that the jury is to consider the lost income,
3 alongside several other factors, in determining the loss of probable support, so this evidence is
4 relevant and not unfairly prejudicial.

5
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7 DATED this 2nd day of February, 2018.

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10 ADRIANA ESCOBAR
11 DISTRICT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify that on or about the date signed, a copy of this Order was electronically served to all registered parties in the Eighth Judicial District Court Electronic Filing Program and/or placed in the attorney's folder maintained by the Clerk of the Court and/or transmitted via facsimile and/or mailed, postage prepaid, by United States mail to the proper parties as follows:

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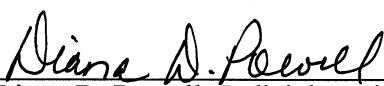

Diana D. Powell, Judicial Assistant

EXHIBIT 2

1 FFCL

2
3 EIGHTH JUDICIAL DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 KEON KHIABANI and ARIA KHIABANI,)
6 minors, by and through their Guardian,)
7 MARIE-CLAUDE RIGAUD; SIAMAK)
8 BARIN, as Executor of the Estate of Kayvan)
9 Khiabani, M.D. (Decedent), the Estate of)
10 Kayvan Khiabani, M.D. (Decedent);)
11 SIAMAK BARIN, as Executor of the Estate)
12 of Katayoun Barin, DDS (Decedent); and)
13 the Estate of Katayoun Barin, DDS)
14 (Decedent);)

11 Plaintiffs,

12 vs.

13 MOTOR COACH INDUSTRIES, INC.,)
14 MICHELANGELO EXPRESS; EDWARD)
15 HUBBARD; BELL SPORTS, INC. d/b/a)
16 GIRO SPORT DESIGN; and SEVENPLUS)
17 BICYCLES, INC. d/b/a PRO CYCLERY)

16 Defendant(s).

CASE NO.: A-17-755977-C
DEPT. NO.: XIV

18 SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

19 Plaintiffs' and Defendant's motions in limine came on for a hearing before
20 Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar
21 presiding, on January 29, 2018 and January 31, 2018. The Court issued findings of fact,
22 conclusions of law, and orders on the majority of the motions in limine on February 2, 2018.
23 After considering the pleadings and argument of counsel, the Court issues the following
24 rulings on the remaining motions.

25 ///

26 ///

27 ///

Plaintiffs' Motion in Limine #1 (Preclude Reference or Argument regarding alleged negligence of third parties):

GRANTED. Under *Young's Mach. Co. v. Long*, 100 Nev. 692 (1984), "the only defenses available in a strict products liability action [are] assumption of the risk and misuse of the product; ordinary contributory negligence [is] not to be considered." The only possible instance of "misuse" in this case would be by the driver, Mr. Hubbard. While negligence of Mr. Hubbard may constitute "misuse," this Court has already ruled that any negligence by the driver is foreseeable as a matter of law, and thus cannot insulate Defendant from liability. *Andrews v. Harley Davidson, Inc.*, 106 Nev. 533, 537 (1990). See also *Price v. Blaine Kern Artista, Inc.*, 111 Nev. 515, 520 (1995) (A defect need only be a substantial factor in producing the injury to establish causation, and an intervening act by a third party must be "both unforeseeable and the proximate cause of the injury" to be an intervening superseding cause) (emphasis in original).

Therefore, Defendant is precluded from referring or arguing to the jury in regard to alleged negligence of any third party.

Plaintiffs' Motion in Limine #3 (Preclude Defendant from Arguing Decedent was Contributorily Negligent):

GRANTED. First, the Court notes that its previous ruling granting Plaintiffs' "motion for summary judgment on foreseeability of bus interactions with pedestrians or bicyclists (including sudden bicycle movement)" establishes that a collision between a bus and a bicycle is foreseeable as a matter of law.

As stated above, under *Young's Mach. Co. v. Long*, 100 Nev. 692 (1984), comparative negligence does not apply to a strict liability-based claim, and "the only defenses available in a strict products liability action [are] assumption of the risk and misuse of the product; ordinary contributory negligence [is] not to be considered." Defendant has not established any grounds for asserting an "assumption of risk" defense, as there is no evidence that Dr.

1 Khiabani was, or even should have been, aware of the claimed defects in the coach. *General*
2 *Electric Co. v. Bush*, 88 Nev. 360 (1972). Further, because Dr. Khiabani was not a “user” of
3 the coach, the only potential “misuse” of the product based on the evidence presented would
4 be by the driver, Mr. Hubbard. This Court has already ruled that any negligence by the driver
5 is foreseeable as a matter of law, and thus cannot insulate Defendant from liability. *See supra*.

6 Therefore, Defendant is precluded from arguing to the jury that Dr. Khiabani’s
7 negligence can absolve Defendant of liability even if the product is found to be defective.

8
9 **Plaintiffs’ Motion in Limine #14 (Designate Virgil Hoogestraat as Managing Speaking**
10 **Agent of Defendant Motor Coach):**

11 DEFERRED UNTIL TRIAL. Plaintiffs have not provided enough information for the
12 Court to make the fact-intensive finding that Mr. Hoogestraat can be considered a managing
13 speaking agent for Defendant for all purposes. *See Palmer v. Pioneer Inn Associates, Ltd.*,
14 118 Nev. 943 (2002). Plaintiffs may request the Court reconsider this issue during trial if the
15 issue becomes pertinent.

16
17 **Plaintiffs’ Motion in Limine #15 (Designate Bryan Couch as Managing Speaking Agent**
18 **of Defendant Motor Coach):**

19 DEFERRED UNTIL TRIAL. Plaintiffs have not provided enough information for the
20 Court to make the fact-intensive finding that Mr. Couch can be considered a managing
21 speaking agent for Defendant for all purposes. *See Palmer v. Pioneer Inn Associates, Ltd.*,
22 118 Nev. 943 (2002). Plaintiffs may request the Court reconsider this issue during trial if the
23 issue becomes pertinent.

24 DATED this 5th day of February, 2018.

25
26 
27 ADRIANA ESCOBAR
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on or about the date signed, a copy of this Order was electronically served to all registered parties in the Eighth Judicial District Court Electronic Filing Program and/or placed in the attorney's folder maintained by the Clerk of the Court and/or transmitted via facsimile and/or mailed, postage prepaid, by United States mail to the proper parties as follows:

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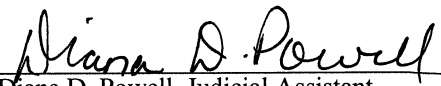
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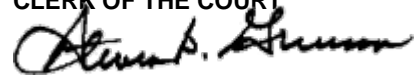

Diana D. Powell, Judicial Assistant



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Steven D. Grierson
CLERK OF THE COURT

1 CASE NO. A-17-755977-C

2 DEPT. NO. 14

3 DOCKET U

4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6 * * * * *

7 KEON KHIABANI and ARIA)
8 KHIABANI, minors by and)
9 through their natural mother,)
10 KATAYOUN BARIN; KATAYOUN)
11 BARIN, individually; KATAYOUN)
12 BARIN as Executrix of the)
13 Estate of Kayvan Khiabani,)
14 M.D. (Decedent) and the Estate)
15 of Kayvan Khiabani, M.D.)
16 (Decedent),)

17 Plaintiffs,)

18 vs.)

19 MOTOR COACH INDUSTRIES, INC.,)
20 a Delaware corporation;)
21 MICHELANGELO LEASING, INC.)
22 d/b/a RYAN'S EXPRESS, an)
23 Arizona corporation; EDWARD)
24 HUBBARD, a Nevada resident, et)
25 al.,)

Defendants.)

21 **REPORTER'S TRANSCRIPTION OF PROCEEDINGS**22 BEFORE THE HONORABLE ADRIANA ESCOBAR
DEPARTMENT XIV

23 DATED MONDAY, FEBRUARY 12, 2018

24 RECORDED BY: SANDY ANDERSON, COURT RECORDER

25 TRANSCRIBED BY: KRISTY L. CLARK, NV CCR No. 708

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* * * * *

1 LAS VEGAS, NEVADA, MONDAY, FEBRUARY 12, 2018;

2
3 P R O C E E D I N G S

4 * * * * *

5 THE MARSHAL: All rise. Department 14 is now
6 in session with the Honorable Adriana Escobar
7 presiding.

8 THE COURT: Good morning.

9 IN UNISON: Good morning.

10 THE MARSHAL: Please be seated. Come to
11 order.

12 THE COURT: Your appearances for the record,
13 please.

14 MR. KEMP: Your Honor, Will Kemp for the
15 plaintiff.

16 MR. CHRISTIANSEN: Pete Christiansen and
17 Kendelee Works for the plaintiff as well.

18 MS. WORKS: Good morning, Your Honor.

19 THE COURT: Good morning.

20 MR. ROBERTS: Good morning, Your Honor. Lee
21 Roberts for Motor Coach.

22 THE COURT: Good morning.

23 MR. BARGER: Good morning, Your Honor.
24 Darrell Barger for Motor Coach.

25 MR. TERRY: Michael Terry for Motor Coach.

1 THE COURT: Good morning.

2 All right. Very good. Let's see. The jury
3 is on its way. Is there anything that you'd like to
4 discuss before they're here?

5 MR. ROBERTS: Yes, Your Honor, very briefly.

6 I discussed with Mr. Christiansen, it's
7 customary to read the names of all of the potential
8 witnesses, but since they've all answered the
9 questionnaire and all gone through the list and we have
10 checkmarks of who potentially recognizes names, I -- we
11 ask to waive that requirement so that we don't have to
12 read 50 names each time a new wave comes in.

13 MR. CHRISTIANSEN: That's fine with
14 plaintiff, Your Honor.

15 THE COURT: Are you sure? Okay. So you're
16 stipulating to that?

17 MR. CHRISTIANSEN: Yeah.

18 THE COURT: All right. I do have a
19 question -- I do -- I was reviewing things this weekend
20 again, and I did see that there's a Dr. Leslie Jacobs
21 on the -- as one of -- someone's witness. I can't
22 remember.

23 MR. CHRISTIANSEN: She was Dr. Barin's, Katy
24 Barin's OB-GYN.

25 THE COURT: She's not an OB-GYN.

1 MR. CHRISTIANSEN: Or general practitioner.
2 I'm sorry.

3 THE COURT: Yes, because she's a friend --
4 childhood friend and also my doctor. So I have no
5 bias, no...

6 MR. CHRISTIANSEN: Judge, we don't predict,
7 at this stage, she's even going to testify, but she's
8 named --

9 THE COURT: Okay. Just so you know.

10 MR. CHRISTIANSEN: Sure.

11 THE COURT: I don't know -- I just want to
12 make sure there's no objection to that. I do think
13 she's very credible or I wouldn't go to her. I mean,
14 she's my physician. She's also a very close friend,
15 but, regrettably, we don't see each other very often.
16 She has a very busy medical practice.

17 MR. ROBERTS: No objection, Your Honor,
18 especially since you're not the finder of fact here.

19 THE COURT: Okay. I just wanted to be sure
20 that I mentioned that.

21 Anything else that we need to review?

22 MR. ROBERTS: We do have a juror that --
23 whose family was operated on by Dr. Khiabani. I didn't
24 notice that the first time until we were doing some
25 file review.

1 THE COURT: Some sort of cosmetic surgery in
2 the chest area.

3 MR. BARGER: And he knows the kids. And he's
4 back here in the back. He's not in the first 23.
5 He's, like, No. 30 or something like that, close to
6 that.

7 MR. ROBERTS: So what we would request is
8 that he be questioned about that relationship outside
9 the presence of the rest of the panel.

10 THE COURT: Counsel?

11 MR. CHRISTIANSEN: We don't have any
12 objection to that, Your Honor.

13 THE COURT: I think that's good. I saw at
14 the end -- it was the same juror. He sent his regards
15 to the family and so forth. So I think that's
16 reasonable.

17 MR. ROBERTS: Thank you. Thank you, Your
18 Honor.

19 THE COURT: I hope I don't forget as we're
20 going along because I've been reviewing. Okay.

21 MR. ROBERTS: And with regard to lawyers, is
22 it okay if we just introduce the lawyers that are here
23 in the courtroom?

24 THE COURT: Yes. But if -- if you're going
25 to have other counsel here, I do think that you should

1 say their names just in case they recognize anyone
2 else.

3 Here's a question I have for you: So to the
4 entire -- you know, to the entire jury, when they come
5 in, I am going to ask the -- you know, the question of,
6 you know, are they a felon, and what's the other one?

7 MR. ROBERTS: Citizen?

8 THE COURT: Are they a citizen.

9 Do you want me -- and I'm not trying to have
10 any issues, but I know that a lot of times I bring
11 someone up and then they don't speak English. Would
12 you like me to ask them about that now, or I can do it
13 the way I've always done it. I have them come up, and
14 then we deal with it then.

15 I just don't want -- I'm trying to make sure
16 that everything is done properly.

17 MR. ROBERTS: It would be our preference
18 that, if you believe that their English might be
19 questionable, that the Court inquire into that so that
20 counsel don't have to.

21 THE COURT: Okay.

22 MR. ROBERTS: But it -- it's up to the Court,
23 but that would be our preference.

24 MR. KEMP: Mr. Christiansen?

25 MR. CHRISTIANSEN: Your preference, Your

1 Honor. We're fine with you inquiring at whatever
2 juncture you see fit to -- persons that you don't
3 believe have an affinity of their English.

4 THE COURT: This is a little bit unique
5 maybe. I don't know. You probably have encountered it
6 before. My first language is Spanish. I'm from
7 Columbia, South America.

8 Do you want me to see if they really
9 understand what -- what's going on or not? I don't
10 know if that's too much of a departure from the -- you
11 know --

12 MR. KEMP: Why don't we take it on a
13 case-by-case basis, Your Honor.

14 THE COURT: Okay. So you prefer that they
15 come up.

16 So the other question is, I don't know if
17 we're going to have an interpreter here or not, but --

18 MR. ROBERTS: The defense has no objection to
19 you inquiring in Spanish of the jurors, Your Honor.

20 THE COURT: I want to make sure they have an
21 understanding of the English language so that you both
22 have a fair trial. It's a complicated case, especially
23 for a lay jury.

24 Do you have any objection to my doing
25 follow-ups -- I can tell you what I'm going to ask

1 them.

2 MR. KEMP: I don't have any objection, Your
3 Honor. I just think we should do it --

4 THE COURT: Do it case by case and we'll
5 do -- that's how I've always done it. I just thought
6 that perhaps we could save some time. So I'll do the
7 classic two questions and then move forward there with
8 any English. I can only ask the questions of those
9 that speak Spanish. My French, after eight years, is
10 not so good.

11 MR. ROBERTS: How's your Belaruskian? We had
12 that.

13 THE COURT: Right. Right. Okay. Anything
14 else that we need to discuss before --

15 MR. BARGER: Can we ask a question? On the
16 first 23, are they all here so we can write their names
17 on the list?

18 THE COURT: We have the first -- we have the
19 first -- except for the ones that we've dismissed, that
20 you're aware of, we have 50 today.

21 MR. BARGER: I guess my question goes a
22 little further. In the first 23 that you're going to
23 seat, do we have the names? Are they all here?

24 THE COURT: We do. We have the names, and
25 they're going to be in order of their badge.

1 MR. BARGER: Okay.

2 THE COURT: And then I don't know --

3 Mr. Barger, I don't believe you were here when we
4 discussed this, but -- or -- or I don't know if anyone
5 was, but it's going to be ten seated on the top, but --
6 the back row; ten seated in the front row closest to
7 the division. Okay? And three in the front.

8 There are going to be five alternates, and
9 those alternates will be the last five to my right on
10 the bottom row. So I just want to be really clear.
11 Okay?

12 All right.

13 MR. ROBERTS: And, Your Honor, I think what
14 Mr. Barger was asking, is there anyone who failed to
15 report that was on our list?

16 THE COURT: I'm not aware of it yet.

17 MR. ROBERTS: Okay. Very good.

18 THE COURT: I haven't been -- right. We'll
19 have a final list for counsel as well. Okay? We'll
20 have a final list for everyone when -- when Marshal
21 Ragsdale brings everyone in.

22 MR. CHRISTIANSEN: Judge, just so I'm clear,
23 because I'm looking at the minute order, I think if I
24 understood you today, it will be seats 18, 19, 21, 22,
25 23 will be the alternates, which would be the last two

1 on the bottom right behind the bar and then this three
2 in front.

3 THE COURT: Correct. Thank you,
4 Mr. Christiansen. Yes, that is correct.

5 MR. CHRISTIANSEN: Okay. I just wanted to
6 make sure I was following.

7 MR. BARGER: Then I'm lost again.

8 MR. ROBERTS: 17.

9 MR. BARGER: 17.

10 MR. ROBERTS: 17.

11 MR. BARGER: 18 and 19.

12 MR. ROBERTS: 17 through 23, and then one
13 strike each will leave five.

14 MR. BARGER: We'll start with 17. That's the
15 first alternate.

16 MR. ROBERTS: Right.

17 THE COURT: Anything else?

18 MR. ROBERTS: One quick question. Mr. Kemp
19 invoked the exclusionary rule on Friday.

20 THE COURT: Yes.

21 MR. ROBERTS: Does this department apply that
22 rule to experts, or are they allowed to see the
23 testimony?

24 THE COURT: Yes, regularly. I mean, is there
25 any other thoughts that you have?

1 MR. KEMP: Judge, we usually don't apply it
2 to experts.

3 THE COURT: Okay. So you don't want it to
4 apply to experts?

5 MR. KEMP: No.

6 MR. ROBERTS: Good.

7 MR. KEMP: We haven't --

8 THE COURT: Okay. For the record, then, the
9 exclusionary rule will be -- will include all witnesses
10 except for experts. Okay?

11 MR. BARGER: I assume that means that they
12 can have daily copy they get to read?

13 MR. KEMP: Yeah.

14 MR. ROBERTS: Thank you, Your Honor.

15 THE COURT: All right. I think we're ready
16 to proceed?

17 Okay. Very good. All right.

18 MR. CHRISTIANSEN: Judge, I have one question
19 for you. Does the Court inquire of the hardships
20 right -- before we sort of get going or is that
21 something you'd like the plaintiff to inquire into?

22 Those persons that are going to hear, hey,
23 the trial is five weeks and immediately raise their
24 hand and say, "We can't do it," is that something you
25 want to discuss with them or --

1 THE COURT: That's something I usually
2 discuss with them.

3 MR. CHRISTIANSEN: Great.

4 THE COURT: Do you prefer to do that?

5 MR. CHRISTIANSEN: That's fine with me. I
6 just wanted to make sure.

7 THE COURT: They're not going to be happy.

8 MR. CHRISTIANSEN: I just wanted to
9 understand how you did it. The understatement of the
10 trial.

11 THE COURT: I know. You're right. It is the
12 understatement of the trial, I believe.

13 Okay. I am going to, towards the beginning,
14 let them know that you can't communicate with them or
15 look at them or talk to them so they don't think that
16 you're -- it comes later in my -- the -- what I have
17 been provided with and use, but I think mentioning that
18 at the beginning is a good idea. Okay?

19 I'm not going to be able to recognize all of
20 your witnesses, so I'm going to make sure to delegate
21 that to the parties. So unless it's an expert, they
22 shouldn't be here. All right?

23 MR. BARGER: Yes.

24 MR. ROBERTS: Very good.

25 THE COURT: Very good. Is there anything

1 else?

2 Okay. Why don't we get started, then.

3 All right. Okay. Marshal Ragsdale is going
4 to let us know when he's ready. He's already gone to
5 bring them in.

6 MR. BARGER: Is it okay for us to be seated?

7 THE COURT: Yes. Until they're here, of
8 course.

9 MR. ROBERTS: Your Honor?

10 THE COURT: We're not on the record. Let's
11 go on the record.

12 MR. ROBERTS: Something just popped up that
13 we haven't talked about. Does this department allow
14 attorneys to qualify jurors as to specific dollar
15 amounts of verdicts? I understand most departments say
16 can you award a multimillion dollar verdict if the
17 evidence supports it, but do you allow plaintiff
18 counsel to qualify specific dollar amounts, like could
19 you award 50 million or 100 million if the evidence
20 supported it? Could you award a billion if the
21 evidence supported it?

22 THE COURT: Well, I understand the lifelong
23 debate of indoctrinating this and that; however, I have
24 plaintiffs' brief, and I -- with respect to Khoury v.
25 Seastrand, I think you can use an amount, but you have

1 to be very cautious in -- in how much you follow up.
2 It has to be -- okay. I think it's reasonable given
3 this case after what I have studied and -- okay. But
4 it has to be done with -- you know, responsibly,
5 because I do think that that's important in a case like
6 this.

7 MR. ROBERTS: Okay.

8 THE COURT: We do have to make sure it's very
9 balanced.

10 MR. ROBERTS: The defense will most likely
11 object --

12 THE COURT: Understood.

13 MR. ROBERTS: -- to specific dollar amounts.

14 THE COURT: By the way, just so you know, I
15 don't know what my colleagues are like in trial, but
16 when you object, I never take it personally. Okay? I
17 don't get angry. You'll see. I -- I just don't. It's
18 your trial. You're both here to advocate for your
19 clients. And I'm just here as a gatekeeper, and I'm
20 trying to be as fair as possible and make sure that you
21 both have an opportunity to try your case.

22 But any objection that you need to do,
23 everything, it's not going to be -- you're not going to
24 find an angry judge about it. It's -- it's -- it's
25 what I used to do. So it's -- it's what you're here

1 for. So understood.

2 MR. ROBERTS: Thank you, Your Honor.

3 MR. BARGER: Can we have one minute for the
4 restroom facilities?

5 THE COURT: Sure. Off the record.

6 (Whereupon a short recess was taken.)

7 THE COURT: Before the jury comes in, I have
8 just been informed by jury services that we have eight
9 missing, but they haven't identified them for me yet.
10 And one that wasn't here on a specific date, perhaps to
11 do the questionnaire -- I'm not sure -- is here.

12 So just thought I'd let you know. I don't
13 know which juror it is yet. I tried to get their names
14 but just heard that when I --

15 MR. KEMP: Yeah, I'm surprised they all
16 showed up, Your Honor.

17 THE COURT: Really?

18 MR. KEMP: Yeah, I've never had all 50 show
19 up.

20 MR. ROBERTS: Eight's a little on the high
21 side, though.

22 THE COURT: Is it? Hmm?

23 MR. BARGER: Did they send the sheriff out to
24 get them?

25 THE COURT: We can. You want them here?

1 MR. KEMP: Sometimes they show up the next
2 day, Your Honor.

3 THE COURT: All right. We have eight missing
4 and one.

5 Did the first question about --

6 THE COURT: You know, it's funny. In this
7 script I have, it goes to say, you know, some -- like,
8 four or five days is not so much. Some med-mal trials
9 take up to two or three weeks. So I have crossed that
10 out and gone straight to the construction defect ones.

11 I'm sure -- well, I don't know. My sense of
12 that, that's going to be a significant issue; right?

13 THE MARSHAL: We only have 41 right now.

14 THE COURT: That illustrates who's here?

15 THE MARSHAL: Yes and no. I guess nine
16 didn't show up. I can give you those names.

17 THE COURT: Yes, I would like those names.

18 THE MARSHAL: First page.

19 THE COURT: Okay. Marshal Ragsdale is going
20 to inform me who's not here. First page.

21 THE MARSHAL: I'll just give you guys the
22 names of the guys who are not here.

23 THE COURT: Why don't you just give us the
24 badge number.

25 THE MARSHAL: Okay. Badge number --

1 THE COURT: Hold on one second. Okay.

2 THE MARSHAL: Page 1, 0825, Green-Wilson, not
3 present.

4 0858, Stephanie Stewart.

5 0912, Brian Murphy.

6 0919, Delaney, last of Delaney.

7 0924, Vanessa, first of Vanessa.

8 Second page --

9 THE CLERK: I'm sorry.

10 THE MARSHAL: 0953, Stefanie Mendoza.

11 0979, Paul Portelli, Portelli.

12 1030, Alexis Galindo.

13 1031, Terence Wapps.

14 Third page, 1087, Erica Monroe.

15 And we kind of skipped. One person showed up
16 that probably shouldn't have been here today. That's
17 1134, and that's Rebeca Chavez. On page 3 she's, like,
18 six names down, Rebeca Chavez.

19 MR. BARGER: I'm sorry. What page, sir?

20 Oh, I see it. Never mind. I'm sorry.

21 THE MARSHAL: That should give us 41.

22 MR. BARGER: So there's two in the first 23.

23 THE COURT: I think that should be sufficient
24 for the record.

25 THE CLERK: Yes, Your Honor.

1 THE COURT: That should be sufficient. Okay.

2 THE MARSHAL: Are we ready? Let me line them
3 up.

4 MR. ROBERTS: May I, Your Honor?

5 THE COURT: Yes. Before you bring them in.

6 MR. ROBERTS: And this is before Mr. Kemp and
7 I knew who it was that had not shown up. I proposed to
8 Mr. Kemp that if they aren't here, they're excused.
9 Mr. Kemp would like to -- if they show up tomorrow or
10 this afternoon, to bring them back into the process.
11 We would object to that.

12 And the reason is, under the statute, the
13 jurors are supposed to be drawn randomly. And whether
14 someone is initially seated in the box that makes them
15 a potential juror or a potential alternate, right now,
16 that's randomly drawn by the commissioner.

17 But if someone gets inserted late, then it's
18 no longer random. Now they're going into a seat that
19 they weren't randomly drawn to sit in, and we believe
20 that that's just inappropriate.

21 And so we either wait for them, but if we
22 decide to proceed without a jury, it's our position
23 that they're excused, Your Honor.

24 MR. KEMP: I think it's still random, Your
25 Honor, because we don't have any control over who

1 doesn't show up. And Mr. Roberts and I have done it
2 the way I'm proposing a couple of times. So I don't
3 see how there's any possible prejudice to him.

4 This assumes someone shows up that wasn't
5 here today. That may not happen. This may be a
6 hypothetical argument we're having. So maybe we should
7 just wait to see what happens.

8 And I'm sure if there's a juror Mr. Roberts
9 likes, he'll change his position.

10 MR. ROBERTS: No, Your Honor, I'll commit to
11 that position right now.

12 THE COURT: Okay. So --

13 MR. ROBERTS: And it's probably better not to
14 do it when we're arguing about a specific juror who
15 happens to show up.

16 MR. KEMP: Your Honor, I don't know what
17 we're going to do with Ms. Chavez who is here a day
18 early.

19 MR. BARGER: Tell her to come back.

20 MR. KEMP: If we send her away, we're missing
21 eight, so that would be missing seven. I know it's not
22 random, but ...

23 MR. ROBERTS: We'd like to preserve the
24 random order, Your Honor.

25 THE COURT: Okay. I will revisit this a

1 little bit later. But when it comes up, I don't
2 believe that -- is it Ms. Chavez? -- that she should be
3 here today because she wasn't contemplated. And then I
4 will let you know with respect to the others.

5 MR. ROBERTS: And if there's a juror who did
6 not fill out a questionnaire and who is here, it would
7 be our preference that they also be excused since we
8 haven't had a chance to -- to vet them. But if -- if
9 they are here and they're in the proper random order
10 and they want to fill out a questionnaire while we're
11 doing the rest of this, I guess that would be a
12 solution.

13 THE COURT: So do you both -- you stipulate
14 to someone --

15 MR. KEMP: Yeah, if they're here, Your Honor,
16 we can have them questioned. Obviously --

17 THE COURT: So both parties agree to that?

18 MR. KEMP: Yeah.

19 MR. ROBERTS: Thank you, Your Honor.

20 MR. KEMP: Assuming they're not --

21 MR. ROBERTS: Right. Assuming they're not in
22 the first 23.

23 THE COURT: Right.

24 MR. BARGER: So can I ask the question, not
25 to be naive --

1 THE COURT: No, any questions is good.

2 MR. BARGER: Jaylen Green-Wilson, the seat
3 will just be empty right now?

4 THE COURT: Okay. So you know, first of all,
5 before I forget -- I'm sure you've dealt with this
6 before.

7 We have a series of 11-dash for their badge
8 numbers, I believe. And also 12. So we're going to
9 have to refer to them by the entire badge number.
10 Okay? That's going to be really important. I'm sorry.

11 I interrupted you, Mr. Barger.

12 MR. BARGER: So Juror 11-0825, Jaylen
13 Green-Wilson, is absent. Will that chair be empty?

14 MR. KEMP: No, Your Honor. That chair will
15 be filled by the next one up.

16 THE COURT: I think we should not leave an
17 empty chair. I think we need to --

18 MR. BARGER: That will move up.

19 THE COURT: -- we need to discuss it with
20 any -- you know, to ask questions of as many as
21 possible.

22 MR. BARGER: I'm just trying to keep track of
23 the names.

24 THE COURT: Right. Understood.

25 MR. ROBERTS: Thank you, Your Honor.

1 THE COURT: Before I talk to the jury,
2 just -- let's go back on. So I'm going to have them
3 come at 9:00 a.m -- 9:30 sharp, okay, so that they're
4 standing here ready to come in on the days that we
5 start 9:30. And then -- so that's Monday, Wednesday,
6 and Friday.

7 Does anyone prefer 9:00?

8 MR. KEMP: No.

9 THE COURT: Glad to hear it.

10 MR. KEMP: It doesn't matter to me, Your
11 Honor.

12 THE COURT: Okay. And then, on the days that
13 I have calendar, I'm happy to accommodate an earlier
14 start as long as I can give everyone their time for
15 lunch. But I'm going to give them the approximation of
16 noon. For instance, tomorrow we have a shorter -- we
17 have -- we have a very short calendar tomorrow.

18 MR. KEMP: Can we start at noon tomorrow?

19 THE COURT: We can definitely start at noon
20 tomorrow. Okay. So I guess we can go along as the
21 days proceed but just wanted to give you an idea.
22 Okay.

23 So I'm telling them it's a five-week trial;
24 correct?

25 MR. KEMP: What?

1 THE COURT: Five-week trial, when I discuss
2 this with them.

3 MR. KEMP: Yeah, five weeks.

4 THE COURT: Correct. Right. That's what we
5 discussed before.

6 MR. KEMP: Hopefully not five weeks, Your
7 Honor, but --

8 THE COURT: But we should give them -- we
9 should tell them that just in case --

10 MR. KEMP: Okay.

11 THE COURT: -- since that was discussed.

12 (Discussion was held off the record.)

13 THE MARSHAL: Yes, we actually have two
14 additional. Yeah, they showed up.

15 THE COURT: Counsel, we're back on the
16 record.

17 THE MARSHAL: We have two additions to -- two
18 jurors just showed up, so ...

19 MR. KEMP: Who would that be?

20 THE MARSHAL: Whenever you guys are ready.
21 First page --

22 THE COURT: Oh, Jerry, we need to call them
23 with their entire badge number because we have a series
24 of 11 and 12. Okay?

25 THE MARSHAL: Sounds great. Didn't realize

1 that.

2 THE COURT: Yes. So from now on -- and they
3 also need to identify themselves with the entire badge
4 number.

5 THE MARSHAL: Okay.

6 THE COURT: So which one?

7 THE MARSHAL: First page, 11-0924, first of
8 Vanessa.

9 THE CLERK: Wait a minute.

10 THE MARSHAL: 11-0924, first name of Vanessa.
11 Second page, 11-0979, first of Paul.
12 So that brings us to 43.

13 Are you ready, Your Honor?

14 THE CLERK: Jerry, we have to redo our list.
15 So hold on a second.

16 THE MARSHAL: Okay.

17 THE CLERK: We were already ready.

18 THE COURT: Are we all ready? Counsel?

19 MR. BARGER: Yes. Yes, Your Honor.

20 THE COURT: Kristy, you ready?

21 THE MARSHAL: All rise. Back row all the way
22 down.

23 (The following proceedings were held
24 within the presence of the jury.)

25 THE MARSHAL: All the jurors are present,

1 Your Honor.

2 THE COURT: Thank you.

3 THE MARSHAL: Please be seated. Come to
4 order.

5 THE COURT: Good morning, ladies and
6 gentlemen.

7 IN UNISON: Good morning.

8 THE COURT: This is the time set for trial of
9 Case No. A-17-755977-C. It is Barin, the plaintiff, v.
10 Motor Coach Industry, Inc., the defendant.

11 The record will reflect the presence of the
12 parties and their counsel. They're all here.

13 Are the parties ready to proceed?

14 MR. ROBERTS: Yes, Your Honor.

15 MR. CHRISTIANSEN: Yes, Your Honor.

16 THE COURT: Very good. All right.

17 Good morning, ladies and gentlemen. You've
18 been summoned to Department 14 of the 8th Judicial
19 District to serve as prospective jurors in this case.

20 I'm going to introduce myself and my staff.

21 My name is Adriana Escobar, and I am the judge in
22 Department 14. I welcome you.

23 Our marshal for this trial is Marshal Jerry
24 Ragsdale, and we -- we work as a team, and you're going
25 to be probably spending more time -- or you're probably

1 going to have more communication with Marshal Ragsdale
2 than anyone else. Okay.

3 And let's see, our court reporter -- so -- so
4 let me just finish that. If you have any questions,
5 problems, needs, concerns, you should address them to
6 Marshal Ragsdale and only to Marshal Ragsdale.

7 Is everyone clear on that? All right.

8 Our court recorder is Sandy Anderson. She
9 will record word for word everything that occurs during
10 the trial. And she's pretty fast and accurate, but she
11 can only record information that she hears. So you
12 have to speak loudly. Make sure that you project.

13 And we cannot have two jurors speaking at the
14 same time, okay, or anyone in the courtroom speaking at
15 the same time. So it is important to follow that.

16 And we also have Kristy Clark, who's going to
17 be our reporter during this trial. And she too is a
18 very experienced person. So we're very fortunate to
19 have her as well.

20 Our court clerk is Denise Husted. She's
21 responsible for keeping the -- she's here to my left --
22 the minutes, taking care of and organizing the
23 exhibits, the evidence. And she administers the oaths
24 to the witnesses and generally takes care of things
25 here in the courtroom.

1 The clerk in Department 14 is Mr. Collin
2 Jayne. He's here to my right. He's an attorney and a
3 very important part of our team.

4 Our judicial executive assistant is Diana
5 Powell. She will be present in the courtroom, at least
6 during portions of the trial, as they assist me in our
7 duties. We pretty much work as a team here.

8 I'm now going to have each of the attorneys
9 stand and introduce themselves, introduce their
10 clients, identify the other lawyers in their respective
11 law firms, briefly tell you the nature of the case.
12 And they will also list for you -- normally they list
13 the name of the jurors, but I've -- they've stipulated
14 waiving that -- excuse me -- a list of the witnesses.
15 They've stipulated to waiving that because it's so
16 long. You had it in your questionnaires. Okay.

17 So counsel for plaintiff?

18 MR. CHRISTIANSEN: Good morning. My name is
19 Pete Christiansen. Along with Mr. Will Kemp, Kendelea
20 Works, and Whitney Barrett, we represent the plaintiffs
21 in this case.

22 And can I use the overhead, Judge, just kind
23 of a --

24 THE COURT: Yes.

25 MR. CHRISTIANSEN: The plaintiffs in this

1 case are these two boys, Aria Khiabani on the right and
2 Keon Khiabani on the left. They're 17 and 14. And the
3 caption, as you all have seen, represents the estates
4 of the parents.

5 On April the 18th, 2017, Dr. Kayvan Khiabani,
6 the father, was struck by a motor coach manufactured
7 and distributed by the defendant, Motor Coach
8 Industries, a 2008 J4500, up near Red Rock Casino on
9 Pavilion Center.

10 Dr. Khiabani died as a result of being struck
11 and the wheels running over -- the rear wheels running
12 over his head. So it's the estate of Dr. Kayvan
13 Khiabani.

14 And what you will also learn is that
15 Dr. Katayoun -- or she went by Katy Barin -- was a
16 dentist here in Las Vegas. At the time her husband was
17 killed, she was battling cancer. She succumbed to that
18 cancer October the 12th of this year.

19 So these -- really, our clients are the
20 estate of the parents as well as the two boys as the
21 heirs.

22 And the boys are minors, right, and so
23 they -- they can't represent themselves. And so you're
24 going to see some people coming in and out of the
25 courtroom.

1 This gentleman is the uncle of the boys.
2 This is Katy Barin's younger brother, Simak Barin.
3 Simak and his wife, Alicia, are the administrators of
4 the estates of the two parents, his sister and his
5 brother-in-law, Katy and Kayvan.

6 And then Marie-Claude is -- Rigaud is her
7 name. She is the sister-in-law of Katy Barin. She's
8 married to Katy, the dentist -- Dr. Barin's brother --
9 older brother, Babak.

10 All of the administrators and the
11 guardians -- the boys now live up in Montreal with
12 Babak and Marie-Claude, who also goes by MC. And
13 they'll be represented by those persons here.

14 This is a products liability case. It is the
15 plaintiffs' contention that Dr. Kayvan Khiabani was
16 killed by an unreasonably dangerous bus. Specifically,
17 it is plaintiffs' contention that the bus was designed
18 defectively and that there was no warnings about an
19 aerodynamic issue that you will hear Mr. Kemp explain
20 to you real well.

21 Similarly, that there were a lack of safety
22 mechanisms, blind spots on the bus; lack of a thing
23 called a proximity sensor, the sensors that alert you
24 to things on your side; and a lack of safety devices
25 that protect persons from going under the rear wheels.

1 Sometimes those are referred to as spats or an S-1 Gard
2 in this case.

3 So that is the nature of the case. It's a
4 wrongful death case of Dr. Kayvan Khiabani v. Motor
5 Coach Industries. And I put people up here because
6 it's a bit confusing as to who everybody is.

7 But the two boys will be here at times during
8 this trial. They both go to school in Montreal now
9 where they live with their aunt and uncle.

10 Thank you.

11 Oh, I forgot to mention from Mr. Kemp's firm,
12 there's another young man who you'll see here. His
13 name is Eric Pepperman. That's another lawyer who's
14 working on the case. He's finishing something next
15 door. He'll be here tomorrow.

16 THE COURT: Thank you. I would like to hear
17 from the defense now, please.

18 MR. ROBERTS: Thank you, Your Honor.

19 Good morning.

20 IN UNISON: Good morning.

21 MR. ROBERTS: My name is Lee Roberts, and I'm
22 a lawyer from here in Vegas, at least for the last
23 17 years. And I'm representing the defendant in this
24 action, Motor Coach Industries, Incorporated.

25 Here at the table with me -- and you'll

1 probably see him just about every day of trial -- is
2 Tim Nalepka. Mr. Nalepka is an employee of Motor Coach
3 Industries and will be representing the company here at
4 the trial along with -- along with the attorneys that
5 you see at the table.

6 There's another attorney in my firm who's not
7 here today. His name is Howard Russell. The name of
8 my firm is Weinberg Wheeler Hudgins Gunn & Dial.

9 Mr. Russell won't be in the courtroom most
10 likely, but you will see him on video as he took some
11 depositions that were recorded and the testimony we'll
12 play here.

13 Joel Henriod may be in and out of the
14 courtroom. He's with the law firm of Lewis & Roca.

15 Assisting the lawyers in the trial of the
16 case will be Audra Bonney and Trent Kelso this week.

17 And here at counsel table right beside me is
18 my cocounsel Mr. Darrell Barger from Corpus Christi,
19 who will be trying the case with me. And down at this
20 end of the table is my cocounsel Mike Terry, also from
21 Corpus Christi, Texas.

22 That is a tragic accident. That's not what
23 the trial is about. This accident was caused when
24 Dr. Khiabani, riding his bicycle, left the bicycle lane
25 and moved into the lane of traffic. The motor coach

1 was not defective. And there was nothing about the
2 design of the motor coach that caused this accident to
3 happen.

4 Thank you for your time in coming down here
5 today, and we'll get to spend some time together this
6 week. Thank you.

7 THE COURT: Thank you to both counsel. All
8 right. We'll now have the court clerk take a roll call
9 of all of the prospective jurors, please.

10 And before we go on, if you could just answer
11 here at this point. Okay.

12 THE CLERK: Badge 11-0798, Byron Lennon.

13 PROSPECTIVE JUROR NO. 11-0798: Here.

14 THE CLERK: 11-0802, Johns Toston.

15 PROSPECTIVE JUROR NO. 11-0802: Here.

16 THE CLERK: 11-0830, Michelle Peligro.

17 PROSPECTIVE JUROR NO. 11-0830: Here.

18 THE CLERK: 11-0834, Joseph Dail.

19 PROSPECTIVE JUROR NO. 11-0834: Here.

20 THE CLERK: 11-0844, Raphael Javier.

21 PROSPECTIVE JUROR NO. 11-0844: Here.

22 THE CLERK: 11-0853, Dylan Domingo.

23 PROSPECTIVE JUROR NO. 11-0853: Here.

24 THE CLERK: 11-0855, Ronald Green.

25 PROSPECTIVE JUROR NO. 11-0855: Here.

1 THE CLERK: 11-0860, Aberash Getaneh.
2 PROSPECTIVE JUROR NO. 11-0860: Here.
3 THE CLERK: 11-0867, Jenny Gagliano.
4 PROSPECTIVE JUROR NO. 11-0867: Here.
5 THE CLERK: 11-0877, Dorothy Lee.
6 PROSPECTIVE JUROR NO. 11-0877: Here.
7 THE CLERK: 11-0879, Vanessa Rodriguez.
8 PROSPECTIVE JUROR NO. 11-0879: Here.
9 THE CLERK: 11-0880, William Richardson.
10 PROSPECTIVE JUROR NO. 11-0880: Here.
11 THE CLERK: 11-0885, Constance Brown.
12 PROSPECTIVE JUROR NO. 11-0885: Here.
13 THE CLERK: 11-0887, Shelbie Bynum.
14 PROSPECTIVE JUROR NO. 11-0887: here.
15 THE CLERK: 11-0901, Salwa Abdalmaseeh.
16 PROSPECTIVE JUROR NO. 11-0901: Here.
17 THE CLERK: Is that correct?
18 11-0902, Sherry Hall.
19 PROSPECTIVE JUROR NO. 11-0902: Here.
20 THE CLERK: 11-0915, Ruth McLain.
21 PROSPECTIVE JUROR NO. 11-0915: Here.
22 THE CLERK: 11-0924, Vanessa Salvatera.
23 PROSPECTIVE JUROR NO. 11-0924: Here.
24 THE CLERK: 11-0926, Enrique Tuquero.
25 PROSPECTIVE JUROR NO. 11-0926: Here.

1 THE CLERK: 11-0937, Raquel Romero.
2 PROSPECTIVE JUROR NO. 11-0937: Here.
3 THE CLERK: 11-0940, Caroline Graf.
4 PROSPECTIVE JUROR NO. 11-0940: Here.
5 THE CLERK: 11-0949, how do you say your
6 first name?
7 PROSPECTIVE JUROR NO. 11-0949: Jayme.
8 THE CLERK: Jayme Patel.
9 PROSPECTIVE JUROR NO. 11-0949: Here.
10 THE CLERK: 11-0975, Jonathan Fortich.
11 PROSPECTIVE JUROR NO. 11-0975: Here.
12 THE CLERK: Is that how you say it?
13 PROSPECTIVE JUROR NO. 11-0975: Fortich.
14 THE CLERK: Fortich.
15 11-0979, Paul Portelli.
16 PROSPECTIVE JUROR NO. 11-0979: Here.
17 THE CLERK: 11-0986, Keli Yohannes.
18 PROSPECTIVE JUROR NO. 11-0986: Here.
19 THE CLERK: 11-0999, Jenelle Reeves.
20 PROSPECTIVE JUROR NO. 11-0999: Here.
21 THE CLERK: 11-1002, Cedric Arinwine.
22 PROSPECTIVE JUROR NO. 11-1002: Arinwine.
23 Here.
24 THE CLERK: 11-1014, Cindy Smith.
25 PROSPECTIVE JUROR NO. 11-1014: Here.

1 THE CLERK: 11-1019, Sanya Bandit.
2 PROSPECTIVE JUROR NO. 11-1019: Here.
3 THE CLERK: 11-1035, Pamela Phillips-Chong.
4 PROSPECTIVE JUROR NO. 11-1035: Here.
5 THE CLERK: 11-1037, Joel Santa Ana.
6 PROSPECTIVE JUROR NO. 11-1037: Here.
7 THE CLERK: 11-1043, Michael Shapiro.
8 PROSPECTIVE JUROR NO. 11-1043: Here.
9 THE CLERK: 11-1047, Glenn Krieger.
10 PROSPECTIVE JUROR NO. 11-1047: Here.
11 THE CLERK: 11-1056, Miguel Arteaga.
12 PROSPECTIVE JUROR NO. 11-1056: Here.
13 THE CLERK: 11-1059, Toshiko Nakamura.
14 PROSPECTIVE JUROR NO. 11-1059: Here.
15 THE CLERK: 11-1071, Chanel Walsh.
16 PROSPECTIVE JUROR NO. 11-1071: Here.
17 THE CLERK: 11-1075, Tri Le.
18 PROSPECTIVE JUROR NO. 11-1075: Here.
19 THE CLERK: 11-1081, Andrew Chavez.
20 PROSPECTIVE JUROR NO. 11-1081: Here.
21 THE CLERK: 11-1089, would you pronounce
22 that?
23 PROSPECTIVE JUROR NO. 11-1089: Ghizlane
24 Berhimou.
25 THE CLERK: Ghizlane. Thank you. Can you

1 say that again, your last name?

2 PROSPECTIVE JUROR NO. 11-1089: Berhimou.

3 THE COURT: Thank you.

4 11-1092, Melissa Favella.

5 PROSPECTIVE JUROR NO. 11-1092: Here.

6 THE CLERK: 11-1093, Curtis Nolos.

7 PROSPECTIVE JUROR NO. 11-1093: Here.

8 THE CLERK: 11-1104, Winnie Pritchett.

9 PROSPECTIVE JUROR NO. 11-1104: Here.

10 THE MARSHAL: You got one more.

11 THE CLERK: One more?

12 THE COURT: I believe that juror is going to
13 be called.

14 THE CLERK: 11-1134, Rebeca Chavez.

15 THE COURT: What is her name?

16 THE MARSHAL: Chavez.

17 THE COURT: Ms. Chavez, this is not the day
18 that you were supposed to be here, but I'd like you to
19 go back to jury services, and they will --

20 PROSPECTIVE JUROR NO. 11-1134: They all say
21 I --

22 THE COURT: They will tell you when to
23 return. Okay? Thank you very much for coming this
24 morning, though.

25 PROSPECTIVE JUROR NO. 11-1134: Thank you.

1 THE COURT: Okay. All right. Has everyone's
2 name been called? I guess no hands means yes; right?
3 All right. Very good.

4 Okay. Is there anyone that was not called?
5 Okay. No -- no? Record reflect no hands.

6 Okay. We are now at the point where we will
7 begin our jury selection process. And this jury
8 selection is going to be conducted under oath.

9 So would you all please stand and raise your
10 right hand to be sworn in.

11 If you'd please administer the oath.

12 THE CLERK: Yes, Your Honor.

13 You do solemnly swear that you will well and
14 truly answer such questions that may be put to you
15 touching upon your qualifications as jurors in the case
16 at issue, so help you God?

17 IN UNISON: I do.

18 THE CLERK: Thank you.

19 THE COURT: So the questions that I'm going
20 to ask first are going to be for the entire room.

21 Where the attorneys are, right behind,
22 that's -- we call that -- they're in front of the
23 bench, and behind that is behind the bench. Okay? So
24 everyone there and everyone that's seated here as well.
25 All right?

1 And the first question is: To qualify as a
2 juror, an individual must be a citizen of the United
3 States. Please raise your hand if you are not -- if
4 you are not a citizen of the United States.

5 So everyone is a citizen? Okay.

6 Let the record reflect there has been no show
7 of hands. It appears everyone indicates that they're
8 citizens.

9 Also, to qualify as a juror, an individual
10 cannot be convicted of a felony whose rights have not
11 been restored. Please raise your hand if you have ever
12 been convicted of a felony and not had your rights
13 restored.

14 Okay. Let the record reflect that no one has
15 raised their hands.

16 So ultimately, in this case, we are going to
17 select or choose a jury that will consist of eight
18 jurors and five alternates. Okay. So 13.

19 The distinction is that the eight jurors will
20 be deliberating. And unless something occurs, the
21 alternates will be released. So that is the difference
22 pretty much. Okay.

23 But you have the same responsibilities, the
24 same authority, the same everything. And it's very
25 important that everybody who's selected at the end

1 understand that they need to, you know, be very close
2 and observe everything and pay attention.

3 Okay. The attorneys, the parties, and myself
4 are all very concerned with having this matter tried by
5 a jury composed of jurors who are completely
6 open-minded, neutral, objective, and unbiased in their
7 thinking.

8 To accomplish this result, I will first ask
9 you some general questions. And then I will allow the
10 attorneys to follow up and ask additional questions.
11 This is to determine your ability to be fair and
12 impartial jurors in the case.

13 You may feel that some of the questions are
14 quite personal. And it is not our intention to pry, to
15 embarrass you, or to intrude into your personal life.
16 It is important that both sides are able to ask you
17 questions so that they can make an intelligent decision
18 as to your ability to serve fairly and impartially in
19 this case.

20 We all have personal prejudice -- prejudices
21 and biases based on our educational background, our
22 political affiliation, our religion -- religious
23 experience, our financial situation, and many other
24 things.

25 The fact that you have a certain bias or

1 prejudice may mean that you are not able to participate
2 in this specific jury, but such bias or prejudice may
3 not disqualify you from sitting as a juror in a
4 different case or a different trial.

5 This is really important. Please be very
6 truthful. Do not hide anything in responding to any of
7 the questions that are asked. That might indicate a
8 bias or a prejudice of any sort. So being completely
9 honest is very important.

10 If you fail to answer truthfully or if you
11 hide or withhold anything that may affect your
12 qualifications that may tend to contaminate your
13 verdict and cause problems for all involved, that's
14 what -- the effect that it could have. And that would
15 be absolutely inappropriate because we must select a
16 fair jury.

17 Try not to be offended by any of the
18 questions that are asked. And if you have some
19 thoughts in the back of your mind, anything that you
20 think may be relevant to the questions that are asked,
21 please err on the side of disclosure and let us know
22 about it. Okay? So if you think that there might be
23 anything, please let us know.

24 I'm going to start with a general examination
25 of all of the jurors to my right that are in front of

1 the bench and the box. Those of you in the gallery
2 should listen carefully to the questions that are asked
3 as you may be called upon to take place -- the place of
4 one of the jurors here in the box. And I want you to
5 be able to respond to all of the questions that are --
6 that were previously asked.

7 During the course of selecting a jury, the
8 attorneys for both sides will have the right to ask
9 that a particular person not serve as a juror. These
10 are called challenges. We can have challenges for
11 cause or peremptory challenges.

12 Please do not be offended if you are excused
13 by one of the challenge procedures in one of those
14 procedures. The attorneys for both sides are simply
15 trying to do their best to get what they believe would
16 be the most fair and unbiased trial for this case.

17 Now, before I start asking you questions, I
18 would like to tell you how important the jury selection
19 is and how I feel it is.

20 This is -- in our country, our forefathers
21 fought for this. Okay. The right to a jury trial is
22 critical in American jurisprudence. And it's unlike
23 many, many other countries. So it's a privilege and a
24 right to be able to serve on a jury, and it's very
25 important for plaintiffs and defendants to have a jury

1 of their peers that are absolutely fair and not biased.

2 I think that our jury process makes the
3 United States the greatest country in that respect and
4 many others, but it really is a very important duty to
5 be here. It may not be a perfect process, but I
6 believe it's probably the best process I've ever
7 studied. Okay.

8 So the jury system ensures we all follow the
9 rules and laws of our society, and it protects us if we
10 are unjustly accused. Our system of government would
11 not work without people such as yourselves who are
12 willing to give your time and serve as jurors in this
13 case.

14 I hope that whether you are chosen for this
15 jury, another jury, or no jury at all, when you are
16 discharged from service, you feel proud that you have
17 taken this opportunity to perform a service for your
18 country and to the state of Nevada. We know that each
19 of you have other things that you would rather be doing
20 and you have other obligations that you believe are
21 important.

22 I just want you to remember how important it
23 is to serve as a juror as well. I hope that you can
24 look at jury service as an opportunity and an honor
25 rather than as a burden.

1 I want to thank you at this point for filling
2 out the jury questionnaire in this case. I know it
3 took some time, but it did provide both the Court and
4 the attorneys with substantial -- you know, significant
5 or -- information about each of you. It was not a
6 waste of time. Some of the questions asked today may
7 be similar to those or follow up on those. And,
8 ideally, it should make the jury selection process
9 shorter. Okay? It should reduce the time spent during
10 jury selection these next few days.

11 Let me first tell you that this case is
12 estimated to last approximately five weeks. We will
13 likely be starting each day Monday, Wednesday, and
14 Friday at 9:30 a.m. and on Tuesdays and Thursdays at
15 noon. Okay? We should probably go until very close to
16 5:00 o'clock, and there may be instances where we need
17 to go a bit further, but we'll let you know if that
18 occurs.

19 While you may think that it is an
20 unreasonable request that you be here for five weeks,
21 please realize that we have construction defect trials
22 that sometimes last four to six months. If you are not
23 selected for this jury, your service still may be
24 required in another trial.

25 There may be events in your life that simply

1 make it impossible for you to serve on a jury these
2 five weeks -- serve as a jury member. For example, if
3 you have nonrefundable tickets to Tahiti or you have a
4 family member who is getting married this week or
5 within one of these five weeks, your services -- jury
6 services doesn't know about those things. So we will
7 ask you about those things as we go on.

8 Let me tell you that everyone is struggling
9 in the economy. And I would say -- I'm not sure what
10 the percentage is, but it's -- I think it's a very high
11 percentage -- that you would consider it a financial
12 hardship to serve on a jury for that period of time.
13 Unfortunately, this is not usually a basis for
14 disqualification from jury service.

15 Consequently, if you want to tell me about
16 how serving on a jury will cause you a struggle
17 financially, I will be happy to listen to you as long
18 as you realize that it likely will not result in you
19 being excused from jury duty.

20 If I have a question that elicits a response
21 from you, I need you to raise your hand. Once I
22 acknowledge you, I would like you to first tell us the
23 entire number of your badge -- because we have 11
24 series and 12 series, so you must read the entire
25 number, not just the last numbers -- as well as your

1 name, and then provide us with your response. And
2 remember our court reporter's need to record everything
3 that is said.

4 Right. I'm going to start with questions for
5 the -- for the panel here. Is there anyone who has
6 difficult -- difficulty understanding the English
7 language? Okay.

8 Please state your name and your badge number.

9 THE MARSHAL: Your name and your badge
10 number?

11 PROSPECTIVE JUROR NO. 11-0860: My name is --

12 THE MARSHAL: Make sure that's on.

13 PROSPECTIVE JUROR NO. 11-0860: My badge
14 No. 11-8060 [sic]. My name is Aberash Getaneh.

15 THE MARSHAL: Speak louder. Put it up closer
16 to your mouth. It's on. Just hold it closer to your
17 mouth.

18 THE COURT: Okay. Please explain what the
19 difficulty is. If you speak a little bit louder,
20 please.

21 PROSPECTIVE JUROR NO. 11-0860: Yeah, I don't
22 understand -- so I'm not speak, like, professional
23 English, so I can't understand. So I don't know how
24 to, like, judge somebody. So I'm scared. It's a
25 difficult time for me, so I don't understand.

1 THE COURT: Okay. Are you -- do you work?

2 PROSPECTIVE JUROR NO. 11-0860: Yeah, I work.

3 THE COURT: And what -- in your work, do you
4 employ the English language? Do you --

5 PROSPECTIVE JUROR NO. 11-0860: Yeah, I'm
6 working, but I speak, like, just a little bit.

7 THE COURT: A little bit?

8 PROSPECTIVE JUROR NO. 11-0860: Yeah.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 11-0860: So I'm
11 scared.

12 THE COURT: You're scared of the jury process
13 or --

14 PROSPECTIVE JUROR NO. 11-0860: Yes.

15 THE COURT: -- or are you worried because you
16 don't understand the language -- you can't understand
17 everything in the English language?

18 PROSPECTIVE JUROR NO. 11-0860: Yes.

19 THE COURT: How long have you been in the
20 United States?

21 PROSPECTIVE JUROR NO. 11-0860: Almost six.

22 THE COURT: I'm sorry?

23 PROSPECTIVE JUROR NO. 11-0860: Six years.

24 THE COURT: Six years?

25 PROSPECTIVE JUROR NO. 11-0860: Yes.

1 THE COURT: Have you had any training in
2 English, any education in English?

3 PROSPECTIVE JUROR NO. 11-0860: No.

4 THE COURT: None?

5 PROSPECTIVE JUROR NO. 11-0860: Yeah.

6 THE COURT: Okay. Just have to check
7 something. All right. Very good. Is there anyone
8 else who -- okay. Okay. Go ahead.

9 PROSPECTIVE JUROR NO. 11-0901: My number
10 is --

11 THE COURT: You need to speak louder into the
12 microphone, please.

13 THE MARSHAL: Just speak louder.

14 PROSPECTIVE JUROR NO. 11-0901: Badge
15 11-0901. Salwa Abdalmaseeh.

16 THE COURT: Okay. And please -- please tell
17 us about your -- why you raised your hand.

18 PROSPECTIVE JUROR NO. 11-0901: Because I
19 can't understand all what you say. It's -- it's
20 difficult for me. Don't understand everything. I
21 can't ...

22 THE COURT: Okay. Thank you.

23 THE MARSHAL: Anyone else?

24 THE COURT: Is that -- is that here in the
25 panel? No, we're staying -- we're only -- I'm only

1 addressing questions to everyone behind the bench right
2 now. Okay?

3 All right. Anyone else here?

4 No?

5 Okay. Is there everyone here that would be
6 able to set aside your personal feelings, your biases
7 and prejudice, and listen -- listen to all of the facts
8 in this matter before making a decision? If there's
9 anyone who cannot, please raise your hand.

10 THE MARSHAL: Only here now.

11 PROSPECTIVE JUROR NO. 11-0887: My name is
12 Shelbie Bynum, 11-0887.

13 I personally am a cyclist and cycle thousands
14 of miles a year. And I know how staying in a bike lane
15 can be. It's not required. There's -- a lot of our
16 bike lanes here are very poorly constructed and don't
17 have a lot of room, they have a lot of rocks. It's
18 very common for you to use other lanes.

19 And in Red Rock especially, I go there a lot.
20 And there's a lot of cyclists. So for a bus not to
21 have safety for cycling in a very high cycling area
22 just seems not right to me. And I don't know if I
23 could, like, personally put that bias away because I've
24 personally been ran off the road cycling. I know how
25 it can be out there.

1 So I just want to put that out there before
2 being on this jury.

3 THE COURT: Okay. Thank you for your candor.
4 Yes?

5 PROSPECTIVE JUROR NO. 11-0798: Byron Lennon,
6 11-0798.

7 I personally drive buses -- or I used to
8 drive buses. And I know how people don't see -- see
9 the bus coming, and they try to blame the bus. So I
10 don't know if I really could be really open to somebody
11 blaming the bus for an accident.

12 THE COURT: Okay. Thank you, sir.

13 THE MARSHAL: Pass the mic to your left, sir.

14 PROSPECTIVE JUROR NO. 11-0855: Ronald Green,
15 11-0855.

16 My nephew's a bus driver. And I don't know
17 what safety equipment can actually stop certain
18 accidents from happening. I mean, in the event of,
19 like, airbags, well, people are killed by airbags.
20 They're safety equipment.

21 I don't see every possibility of having every
22 type of accident eliminated. It just doesn't -- just
23 doesn't seem to ring true to me. And the safety
24 equipment on a bus, you know, hopefully, would prevent
25 something from happening, but if it's 10 tons,

1 somebody's going to get hurt, especially on a bicycle.

2 I've ridden a bike for over 50 years myself,
3 and I have never been hit. But I have also been a very
4 aware person about my surroundings. Driving down the
5 road, sure, I've been hit by cars in a car. You know?
6 And it's -- these things, you want to try and avoid as
7 much as possible, but I don't see how you can stop
8 every accident from happening.

9 THE COURT: Thank you very much. Is there
10 anyone else that -- in -- in -- in here that has
11 anything to add with respect to that answer -- or that
12 question?

13 Okay. I have no one else.

14 Anyone have any comments on Question No. 1?

15 Are any of you acquainted with or recognize
16 the attorneys for either party involved in the case?

17 Okay. Let the record reflect that there is
18 no show of hands.

19 Okay. Are any of you acquainted with or
20 recognize the names of any of the witnesses who were
21 identified?

22 Let the record reflect that there is no show
23 of hands.

24 Are there any of you acquainted with or
25 recognize any of the parties in the case?

1 Yes? Your name and --

2 MR. CHRISTIANSEN: Judge, can we approach
3 briefly?

4 THE COURT: Yes.

5 (A discussion was held at the bench,
6 not reported.)

7 THE COURT: Excuse me, Counsel.

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

10 THE COURT: All right. Ladies and gentlemen,
11 I just want you -- I would like to mention two things
12 right now. Okay?

13 One is every time I let you go from this
14 room, any time we're taking a break or a recess, by law
15 I have to read this admonishment. So if you think I'm
16 doing it just to read it, it's required. Okay?

17 And then, also, we're going to take a
18 ten-minute comfort break. Some of the jurors have
19 indicated they need a few minutes. And I would like --
20 is it Ms. Patel? -- to stay behind so I can ask you
21 some questions. Okay?

22 All right. So you're instructed -- oh, one
23 more thing. If you see any of the parties, any of the
24 attorneys, or anyone that is seated there, or anyone
25 that has to do with our department, I am going to say

1 this again later, but it's important, because they --
2 we -- none of us can speak to you. We try to avoid eye
3 contact. We -- we just simply legally have to make
4 sure that we separate ourselves.

5 So if you notice that you see someone in an
6 elevator, in the restroom, walking down the hall, and
7 they're in this case, including myself and everyone
8 that works in Department 14, understand that we're not
9 rude, we're not trying to offend you, but that we're --
10 legally, we cannot -- we legally should be doing that.
11 Okay?

12 So let me give you the admonishment. You're
13 going to hear this quite a few times probably.

14 You're instructed not to talk with each other
15 or with anyone else about any subject or issue
16 connected with this trial. You are not to read, watch,
17 or listen to any report of or commentary on the trial
18 by any person connected with this case or by any medium
19 of information, including, without limitation,
20 newspapers, television, the internet, or radio.

21 You are not to conduct any research on your
22 own relating to this case, such as consulting
23 dictionaries, using the internet, or using reference
24 materials. You are not to conduct any investigation,
25 test any theory of the case, re-create any aspect of

1 the case, or in any other way investigate or learn
2 about the case on your own. You are not to talk with
3 others, text others, tweet others, message others,
4 google issues, or conduct any other kind of book or
5 computer research with regard to any issue, party,
6 witness or attorney involved in this case.

7 You are not to form or express any opinion on
8 any subject connected with this trial until the case is
9 finally submitted to you.

10 Thank you.

11 THE MARSHAL: All rise.

12 THE COURT: Ten-minute recess.

13 THE MARSHAL: Exit.

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

16 THE COURT: All right. Please be seated.
17 Good morning, Ms. Patel.

18 PROSPECTIVE JUROR NO. 11-0949: Hi.

19 THE COURT: You did raise your hand when I
20 asked the question are any of you acquainted with or
21 recognize the names of any of the witnesses who were
22 identified; correct?

23 PROSPECTIVE JUROR NO. 11-0949: Not the
24 witnesses, but the parties.

25 THE COURT: The parties.

1 PROSPECTIVE JUROR NO. 11-0949: Yeah.

2 THE COURT: And I have gone through your
3 questionnaire. And you do indicate that you were
4 working the day that Dr. Khiabani was taken to UMC;
5 correct?

6 PROSPECTIVE JUROR NO. 11-0949: Yes, that's
7 correct.

8 THE COURT: That your spouse also has worked
9 with him in the past?

10 PROSPECTIVE JUROR NO. 11-0949: Yes.

11 THE COURT: Okay. And I believe you also
12 indicated that you had heard a rumor that there was
13 some sort of possibly med-mal or legal issue with
14 respect to Dr. Khiabani's performance and that he had
15 been taken off -- I want to remember --

16 PROSPECTIVE JUROR NO. 11-0949: He was taken
17 off the surgery schedule.

18 THE COURT: Okay. And also a rumor that, due
19 to that, he may have attempted suicide; is that
20 correct?

21 PROSPECTIVE JUROR NO. 11-0949: Yes, that's
22 correct.

23 THE COURT: Okay.

24 MR. CHRISTIANSEN: Judge, I think the parties
25 have reached an agreement relative to this juror, if

1 it's okay with the Court, that she be excused.

2 THE COURT: Okay. I'm going to go ahead and
3 excuse you, Ms. Patel. Thank you for coming. Thank
4 you for being here. And I would like you to go back to
5 jury services.

6 PROSPECTIVE JUROR NO. 11-0949: Jury
7 services? Okay.

8 THE COURT: Thank you very much.

9 So, by stipulation, Juror No. -- thank you.

10 MR. CHRISTIANSEN: 11-0949.

11 THE COURT: I have badge -- correct, 0-0949.
12 Ms. -- I think it's -- Jayme Patel is excused.

13 MR. ROBERTS: Thank you, Your Honor.

14 MR. CHRISTIANSEN: Thank you, Your Honor.

15 MR. KEMP: Your Honor, I had one point.

16 Mr. Roberts, in my view, committed a blatant violation
17 of motion in limine No. 3. He, in his recitation of
18 the facts of the case, told the jury, quote, this
19 accident was caused by Dr. Khiabani moving into the
20 lane of traffic, end quote.

21 The Court precluded, in motion in limine
22 No. 3, both contributory negligence and assumption of
23 risk. So, basically, he planted a seed with the jury
24 already that -- that, number one, the doctor was
25 contributorily negligent; and, two, that this is some

1 sort of defense. And --

2 THE COURT: I'm sorry. Is someone -- I'm
3 sorry to interrupt you, Mr. Kemp.

4 Jerry, who is that?

5 THE MARSHAL: He's the A/V guy.

6 THE COURT: Oh, okay. I just wanted to make
7 sure it wasn't a juror.

8 Go on.

9 MR. KEMP: And, Your Honor, I think the panel
10 clearly picked up on it because the comments from
11 Mr. Green, already he made a comment that, well, you
12 know, if a bicyclist does something wrong, it doesn't
13 matter what kind of safety device you have.

14 So he intentionally told the jury that
15 Dr. Khiabani was negligent, he intentionally violated a
16 motion in limine, and I think it's got to stop right
17 now, Your Honor, because I -- I even considered coming
18 up and moving for a mistrial based on what he said.

19 But I didn't, so I waived it. But I think
20 it's got to stop right now because, as I predicted when
21 we argued the motions in limine, the defense is going
22 to -- this particular one, and motion in limine No. 1,
23 where they're going to try to blame the bus driver,
24 those are the two that they're going to violate over
25 and over again during the trial. And I think it's got

1 to stop right now, and -- it's just got to stop.

2 MR. ROBERTS: Your Honor, Mr. Kemp may have
3 considered a lot of things, but he did not object.
4 There's no timely objection.

5 But that's not the point. This was argued
6 extensively; it was briefed extensively. The Court
7 only precluded us from arguing that Dr. Khiabani was
8 contributorily negligent. And we cannot argue that he
9 was negligent.

10 But, as we briefed the Court, we're entitled
11 to argue that the sole proximate cause of this accident
12 was things other than defects in the bus, including the
13 actions of Dr. Khiabani in leaving the bicycle lane.

14 We have a witness. Mr. Kemp even talked
15 about that witness, who is going to say that
16 Dr. Khiabani turned in to the bus. We're going to have
17 testimony even from their experts that the initial
18 contact was at least 5 feet outside of the bicycle
19 lane. These are the facts of the accident.

20 And the jury needs to know the facts so that
21 they can weigh and determine the extent to which the
22 alleged defects caused the accident. Even if there was
23 a proximity sensor, would it have mattered if he turned
24 left and suddenly came out of the bike lane into the
25 side of the bus? No, of course not.

1 The defect has to both exist and the defect
2 has to have caused the accident in order for Motor
3 Coach to have liability. I was well within the bounds
4 of what the case law entitles us to argue in this case,
5 Your Honor.

6 MR. KEMP: Your Honor --

7 MR. ROBERTS: And -- and I would say that, to
8 the extent that we were supposed to give a short
9 nonargumentative summary of the facts, that
10 Mr. Christiansen went well beyond that in his mini
11 opening statement and has already convinced a
12 bicyclist, Shelbie May Bynum, 11-0887, that the bus
13 caused the -- defects in the bus caused this accident.

14 So I don't think the fact that we've had
15 Juror Lennon express a view indicates in any way that
16 my statement of the case was improper, Your Honor.

17 MR. KEMP: Your Honor, it was Juror Green
18 that I referred to. And he said, quote, this accident
19 was caused by Dr. Khiabani, end quote. And then he
20 continues to say, "moving into the lane of traffic."

21 In the Court's order -- and I'm reading the
22 order on motion in limine No. 3, quote, Defendant is
23 precluded from arguing to the jury that Dr. Khiabani's
24 negligence can absolve defendant of liability even if
25 the product is found to be defective, end quote.

1 That's because the Court found that it was foreseeable.

2 So, basically, what he's done is he's
3 deliberately violated the Court's order. And, true, I
4 didn't object. I'm not moving for a mistrial now. I'm
5 just saying this has got to stop. He's got to be told
6 that he can't keep doing this or this is going to be a
7 mistrial. They're going to do it again and again and
8 again, and this is just the first time, Your Honor.

9 So I ask that the court order be enforced and
10 that he be admonished not to do this again.

11 THE COURT: Thank you. I'm going to take a
12 quick break.

13 MR. ROBERTS: Thank you, Your Honor.

14 (Whereupon a short recess was taken.)

15 THE COURT: Going to go back on the record.

16 THE MARSHAL: Please come to order.

17 THE COURT: Okay. So we've just had two
18 objections in -- well, actually, you did not object,
19 but we were discussing this so that we go on from this
20 moment.

21 While I do agree with Mr. Roberts that
22 Mr. Christiansen's introduction of the case was
23 extremely full for an introduction, and I'd just like
24 you to make sure that you, you know, keep those things
25 in mind.

1 But also, with respect to Mr. Kemp's
2 information -- or what his concern is, you know, I just
3 reviewed plaintiffs' motion in limine No. 3, and it was
4 granted. And it had to do with precluding defendant
5 from arguing decedent was contributorily negligent.

6 Mr. Roberts said that Dr. Khiabani left the
7 bicycle lane and moved into the lane of traffic, and
8 the motor coach was not defective. So that's a
9 description. It's close. You know, I would say it's a
10 bit close to -- to suggesting contributory negligence.
11 So I want you to be very careful.

12 You know, we must follow the Young case, as I
13 have indicated to you. And comparative negligence does
14 not apply in a strict liability claim, as you well
15 know. I'm just reiterating this for the record.

16 Assumption of the risk and misuse of the
17 product are the only two defenses, and there hasn't
18 been any evidence of that thus -- you know, presented
19 or, you know, in a motion practice. And also with
20 respect to driver negligence, Mr. Hubbard is
21 foreseeable as a matter of law. And, thus, his driving
22 cannot insulate the defendant from liability.

23 So the defense is precluded -- I'm just
24 reiterating my -- my discussion in the -- my
25 decision -- or my holding -- the Court's holding in

1 motion in limine No. 3 is precluded from arguing --
2 defense is precluded from arguing to the jury that
3 Dr. Khiabani's negligence can be -- can absolve
4 defendant of liability even if the product is found to
5 be defective.

6 MR. ROBERTS: Thank you, Your Honor.

7 THE COURT: And --

8 MR. ROBERTS: And to -- to make it clear --

9 THE COURT: Yes.

10 MR. ROBERTS: -- the misuse and assumption of
11 the risk, those are not the only defenses. That's what
12 we contend. We contend that part of their burden of
13 proof is proving both that there's a defect and that
14 the defect proximately caused the accident, which,
15 under the instructions, mean, but for the defect, the
16 accident wouldn't have happened.

17 So as our defense, we can point out they're
18 not meeting that burden, and it's our position that
19 we're entitled to show the facts which indicate that
20 the accident would have happened anyway regardless of
21 the defect. So that --

22 MR. KEMP: But, Judge, that sounds good. But
23 he told the jury, quote, this accident was caused by
24 Dr. Khiabani's moving into the lane. That's what he
25 said.

1 MR. ROBERTS: And --

2 MR. KEMP: At a minimum, the Court should
3 tell the jury that contributory negligence is not a
4 defense. I mean, I would ask for at least that
5 curative instruction. They agree that's the law.
6 That's going to be a jury instruction. So let's tell
7 them right now so we don't have people like Mr. Green
8 running around on -- assuming it is some sort of
9 defense.

10 MR. ROBERTS: Your Honor, you don't get a
11 curative instruction unless there's been a sustained
12 objection. So we believe that would be inappropriate.

13 THE COURT: Correct. I'm not going to do
14 that, but I am cautioning both parties to be very
15 careful.

16 MR. BARGER: Judge, can I add one thing?

17 THE COURT: Yes, Mr. Barger.

18 MR. BARGER: And that can be -- changing
19 lanes doesn't necessarily mean he's negligent. The
20 fact -- that's the problem that we have. We can say he
21 changed lanes. We're not going to argue he's negligent
22 because we understand the law.

23 But the fact is that his changing lanes
24 caused him to -- to get hit doesn't mean he's
25 negligent. No one said that. And that's -- that's a

1 problematic issue to deal with as we go forward because
2 the facts have to come out about how the accident
3 occurred.

4 THE COURT: Mr. Roberts said that
5 Dr. Khiabani left the bicycle lane and moved into the
6 lane of traffic. And the motor coach was not
7 defective.

8 So changing lanes is one thing. With respect
9 to changing lanes and moving into the lane of traffic,
10 I would like to hear about that.

11 MR. KEMP: Judge, if they don't contend he --
12 it was contributory negligence, which is what counsel
13 just said, tell the jury that. Tell the jury that the
14 defense does not contend that Dr. Khiabani was
15 contributory negligent. I'll be happy.

16 MR. ROBERTS: We do contend he was, Your
17 Honor. We understand that it's not a defense, but he
18 certainly was contributorily negligent. In fact, his
19 negligence was the sole cause of the accident; we're
20 just not allowed to say it.

21 But we are allowed to say that he caused --
22 that his actions caused the accident, the sole
23 proximate cause language from Banks v. Sunrise dealing
24 with a product defect.

25 MR. KEMP: Your Honor, they have no evidence

1 he was contributorily negligent. We asked each one of
2 their experts. We went through this in the -- in the
3 motion in limine process.

4 THE COURT: Please speak louder.

5 MR. KEMP: None of them -- none of the
6 experts have the opinion that he was contributorily
7 negligent. None of them know what the cause of the
8 wobble is. Okay.

9 We contend it was the air blast. None of
10 them say it was Dr. Khiabani being dehydrated. None of
11 them say he was doing it intentionally. They all say
12 there is no evidence for that.

13 So Mr. Roberts is suggesting to you that his
14 experts have already said there's no evidence, but he
15 can still argue to the jury somehow or another that
16 there's contributory negligence. It's not a defense.
17 They don't have evidence of it. They shouldn't be
18 allowed to float it out there to the jury like they're
19 doing, saying the accident was caused by him.

20 That's what they're doing. They're floating
21 it out there to the jury, implying it's some sort of
22 defense and that there's going to be some evidence of
23 it. That's what they're doing.

24 So I think the jury should be told that they
25 do not contend -- or they cannot contend that

1 contributory negligence is a defense. That's why I
2 think the instruction should be that contributory
3 negligence isn't a defense -- is not a defense.

4 That's the law. What's wrong with telling
5 the jury the law?

6 MR. ROBERTS: Your Honor, there's been no
7 sustained objection. There is no curative instruction
8 that's appropriate. The jury will be instructed on the
9 law by the Court at the appropriate time.

10 MR. KEMP: Judge, he's prejudiced the jury
11 and now he wants to benefit from it by not telling them
12 what the law is. They're going to be told that
13 contributory negligence is not a defense. Why not tell
14 them right now?

15 MR. ROBERTS: And the standard is unfair
16 prejudice. Yes, they're probably prejudiced by the
17 fact that their client left the bicycle lane and turned
18 into the bus. And a witness on the bus said he saw him
19 put out his hand and then suddenly veer into the bus.

20 I'm sure that prejudices their case, but it
21 doesn't unfairly prejudice their case because it goes
22 to causation. How can the proximity sensor be the
23 cause if the driver wouldn't have had time to do
24 anything?

25 MR. KEMP: Judge, all they're doing is

1 they're trying to get this contributory negligence in
2 in another way. Why not just tell the jury right up
3 front that the contributory negligence is not a
4 defense?

5 Then it's over with. Then they can -- then
6 they can dance around this causation thing all they
7 want, but at least the jury knows what the law is. And
8 that is the law. Contributory negligence is not a
9 defense. There's no disagreement about that. That's
10 what the Young's case say. They agree with that. So
11 the jury's going to be told that at the end.

12 The issue here is they've already floated
13 this negligence. Apparently they're going to continue
14 to do so, you know. I usually don't like to object
15 during someone's opening, but I'll probably have to do
16 that a couple of times.

17 But I think the jury should be told that
18 contributory negligence is not a defense. I can't --
19 what is the objection to that? That is the law they
20 admitted.

21 MR. ROBERTS: The objection is that you
22 highlight something that they want. If you give one
23 objection out of context at the wrong time, it
24 highlights it and gives it more importance than all the
25 rest of the instructions including the instruction that

1 says they have to prove that the defect caused this
2 accident.

3 MR. KEMP: Otherwise, Your Honor, we're going
4 to be sitting here doing voir dire and juror after
5 juror is going to bring up this concept of contributory
6 negligence. They're going to follow his lead just like
7 Mr. Green did, and they're going to assume it's some
8 sort of defense. And they're going to focus on that,
9 Your Honor. That's why I think you should tell them
10 now.

11 MR. BARGER: Judge, may I say something? The
12 jury has heard no evidence. They're not going to hear
13 evidence until they start.

14 The fact is that you can't try your case in
15 voir dire. We're not going to be talking about his
16 negligence.

17 And they shouldn't be able to get an
18 instruction at this point that his negligence is not a
19 defense because, at the end of the day, the jury can
20 look at the facts after they hear it. This is just a
21 panel.

22 Now, I understand -- and I'll say this for
23 the last time. I'm not a Nevada lawyer. But I think,
24 the way I see Nevada law, we can at least talk about
25 what he did. But you're not going to be doing a lot of

1 that until you get to the actual opening statement at
2 trial.

3 So I think it's all premature to try to tell
4 a jury right now his negligence is not a defense. I
5 think -- I expect we're opening a door that shouldn't
6 be opened in voir dire right now.

7 MR. KEMP: Your Honor, he opened the door
8 intentionally when he said the accident was caused by
9 Dr. Khiabani moving into the lane.

10 MR. BARGER: And he will say it was
11 negligently caused, and you can have a cause that's not
12 negligent. That's the issue.

13 THE COURT: Okay.

14 MR. KEMP: He implied volition.

15 THE COURT: I'm not going to preinstruct the
16 jury, but I am going to inform the parties that you
17 need to stay close -- you need to -- you need to follow
18 the holdings in these motions in limine. Okay? And
19 that's going to be very important for both sides.
20 Okay?

21 So we're going -- I'm not going to
22 preinstruct the jury, but I don't -- I don't -- I want
23 you to remember that the -- the two defenses to -- in
24 this case are assumption of the risk and misuse of the
25 product.

1 Now, you have to be able to put on your case
2 as well. But it has to be very factual, and you have
3 to be very careful. Okay?

4 MR. ROBERTS: And to clarify, those are the
5 only two affirmative defenses; correct? It's always a
6 defense to argue that they haven't met their prima
7 facie case.

8 MR. KEMP: I don't disagree with that, Your
9 Honor.

10 THE COURT: I think that's generally how
11 our -- no, I'm glad you're --

12 MR. ROBERTS: And I understand that language
13 from Young's.

14 THE COURT: Right. Young.

15 MR. KEMP: Assumption of risk has been
16 resolved by the motion in limine No. 3 as well, Your
17 Honor.

18 THE COURT: Right.

19 MR. KEMP: That's out too.

20 THE COURT: We did go through that. Maybe --
21 perhaps -- does everyone have a copy of --

22 MR. KEMP: I have it right here, Your Honor.

23 THE COURT: -- the order?

24 MR. ROBERTS: Right here, Your Honor.

25 THE COURT: Okay. Because I reviewed these

1 last evening again, even though I analyzed these before
2 when I received them.

3 But last sentence, "Defendant is precluded
4 from arguing to the jury that Dr. Khiabani's negligence
5 can be absolved -- can absolve defendant of liability
6 even if the product is found to be defective" -- so --
7 "and that negligence by the driver, Mr. Hubbard, is
8 foreseeable as a matter of law."

9 You need to keep these very close to you.
10 Okay? I really want for you to both have a very fair
11 case. And, you know, let's -- let's continue from
12 here. Okay.

13 MR. ROBERTS: Thank you, Your Honor.

14 MR. BARGER: As I understand the process, we
15 now move two -- two jurors up from the --

16 MR. CHRISTIANSEN: She doesn't know about the
17 second one yet, Darrell.

18 THE COURT: Oh, the second one?

19 MR. KEMP: Yeah. Judge, we're moving
20 Portelli into Seat 22. That's the next one up from the
21 person that worked at UMC.

22 THE COURT: Into Seat 22?

23 MR. CHRISTIANSEN: Right. Badge No. 11-0979,
24 Paul Portelli, will replace --

25 MR. KEMP: Patel.

1 MR. CHRISTIANSEN: -- Ms. Patel in Seat
2 No. 22.

3 MR. KEMP: And then we stipulated that Salwa
4 Abdalmaseeh, the woman from Iraq, can be excused.
5 She's the one who was born in Mosul, Iraq, and doesn't
6 have very good English.

7 THE COURT: Correct. Let me just ask you
8 about another one. Because I reviewed these
9 questionnaires, and there were --

10 MR. BARGER: I think you're going to ask
11 about No. 8, the lady from Ethiopia?

12 THE COURT: I am. And the reason why -- hold
13 on. For some reason, I don't know how, I misplaced my
14 questionnaires right here.

15 Okay. With respect to Juror No. 8, Badge
16 No. 11-8060 [sic], Aberash Getaneh, if you take a look
17 at the questionnaire, she didn't discuss -- she
18 didn't -- she didn't mark on page 2, the No. 1
19 question, do you speak and read English fluently?
20 There's no -- she doesn't say anything there.

21 And then if you go further in her
22 questionnaire, you might look and see that it's very --
23 many -- many questions are not answered. If you look
24 at questions -- well, the ones that have checks are
25 sometimes answered.

1 But if you look on page 4, No. 13 is not
2 answered. It seems to be very -- you know, 19 is not
3 answered. List all previous jobs and employers,
4 No. 22, not answered. If you look at 24, it's not
5 answered. Neither is -- oh, wait, 26 was. Excuse me.
6 28's not answered. 30's not answered, 31, 32. I don't
7 know exactly why -- hold on one second. 39's not
8 answered.

9 MR. KEMP: Judge, both Mr. Roberts and I
10 talked about this, and we concluded she was probably
11 exaggerating a little bit. You know, the fact that
12 they don't answer things --

13 THE COURT: All right. I was just concerned
14 because I do think that, you know -- and I understand
15 there are many reasons that it could be, but I did
16 think that perhaps the other juror's was very devoid of
17 answers because of that.

18 MR. KEMP: Yeah. But if you look at her
19 three favorite TV shows, she says the Ellen show, the
20 Oprah show, and Dr. Phil. You know, those are all in
21 English.

22 THE COURT: Right. So you don't really have
23 a full questionnaire on her?

24 MR. KEMP: Kind of in English.

25 THE COURT: Excuse me? So you're aware of

1 that; right?

2 MR. KEMP: Right. No, we're aware.

3 THE COURT: Okay. 55, who purchased
4 automobile, is not answered. 56, not answered. 58,
5 not answered. I just wanted to --

6 MR. ROBERTS: We can follow up on those
7 questions --

8 THE COURT: Okay. That's fine.

9 MR. ROBERTS: -- in voir dire. And we may
10 change our mind, but she seemed to follow the Court
11 very well. She seemed to express herself well.

12 THE COURT: Okay. Not a problem.

13 MR. ROBERTS: She's been in Clark County for
14 six years, she said.

15 THE COURT: Yes.

16 MR. ROBERTS: So --

17 THE COURT: That's fine. I just wanted to
18 highlight that because I was concerned when I was
19 reviewing it.

20 All right. So then the other juror that
21 you -- you stipulated to; is that correct?

22 MR. CHRISTIANSEN: She's seated in Seat 17,
23 Your Honor. Her name is Salwa Abdalmaseeh, and she's
24 Badge No. 11-0901.

25 THE COURT: Okay. You've stipulated to

1 excusing her?

2 MR. ROBERTS: Yes, Your Honor.

3 MR. CHRISTIANSEN: So stipulated, Your Honor.

4 THE COURT: Very good.

5 MR. CHRISTIANSEN: She's replaced with Badge
6 No. 11-0986, Keli Yohannes.

7 THE COURT: Is that correct?

8 THE CLERK: I guess so.

9 THE COURT: No, no. You need to know.
10 Okay. Yes.

11 MR. CHRISTIANSEN: That's the next in line.
12 She'd come after Mr. Portelli and replace Ms. Patel.

13 MR. KEMP: That's correct.

14 THE COURT: And then we need to replace
15 Ms. Patel. All right. Very good.

16 So in the 15th seat, that juror is stipulated
17 to because of her language -- her English language
18 skills. She's going to be replaced by Keli -- is it
19 Yohannes? I need to get her badge number.

20 THE CLERK: 11-0896.

21 THE COURT: Okay. Very good. And then
22 Ms. Patel is being replaced by Paul Portelli. And
23 that's ID -- that's Badge No. No. 22 -- 11-0979.

24 Okay. Very good. Anything else?

25 MR. BARGER: One quick question for planning

1 purposes. Will we stop at 12:00, or what time will we
2 stop?

3 THE COURT: I don't think so. We're going to
4 go a little further.

5 Or what is your preference?

6 MR. KEMP: Well, Judge, if you run till 1:00,
7 it's easier for the jurors to get lunch because
8 everybody else ate lunch.

9 THE COURT: And they've had a break, so I
10 think that's fine. Okay. So bring them back in.

11 THE MARSHAL: Are you ready, Your Honor?

12 THE COURT: Yes.

13 THE MARSHAL: All right, folks. Let's go.
14 All rise.

15 (The following proceedings were held
16 within the presence of the jury.)

17 THE MARSHAL: All the jurors are present,
18 Your Honor.

19 THE COURT: Okay. Thank you very much.

20 THE MARSHAL: Please be seated. Come to
21 order.

22 THE COURT: All right. And everyone is --
23 all the jurors are still under oath.

24 All right. I'm going to thank and excuse
25 Juror No. -- Badge No. 11-0901, Ms. Abdalmaseeh.

1 PROSPECTIVE JUROR NO. 11-0901: Abdalmaseeh.

2 THE COURT: Thank you very much, madam. And
3 please go to the third floor to jury services, okay,
4 and let them know that you've been excused. Okay.
5 Thank you.

6 Then also for the record, Juror No. -- Badge
7 No. 11-0949, Ms. Patel, has also been -- the
8 stipulation is for both jurors -- it's also been
9 stipulated by the parties to excuse her. And she is
10 already gone.

11 So, madam clerk, you will please call the
12 next jurors in line.

13 THE CLERK: Yes, Your Honor.

14 Badge 11-0979 in Seat 22.

15 THE COURT: Thank you.

16 THE CLERK: And also Badge 11-0986, Keli
17 Yohannes, in seat 15.

18 THE MARSHAL: Said 22 in the second row seat.

19 Sir -- sir, the seat up front.

20 Ma'am, this one.

21 THE COURT: All right. Welcome to the new
22 jurors or prospective jurors. I've asked some
23 questions that I asked everyone to pay attention to,
24 but I'm just going to briefly go through them to the
25 jurors that have just been seated.

1 Are any of you acquainted with or recognize
2 either of the attorneys involved in the case or the
3 attorneys that they've mentioned? The witnesses --
4 okay. Show of -- no show of hands for either question
5 concerning the attorneys or the witnesses.

6 The witnesses that were identified in the
7 questionnaire? No -- no show of hands.

8 Are any of you acquainted with or recognize
9 any of the parties in the case? No show of hands.

10 Are any of you in any way obligated to any of
11 the parties or any of the lawyers in the case? Okay.

12 Let's see. I guess -- did anyone else --
13 would that be a yes to that -- the last couple of
14 questions? No?

15 All right. So there have been no show of
16 hands from anyone concerning that.

17 This is for everyone. Do any of you know any
18 other member of the jury panel? Let the record reflect
19 that no hands have been raised.

20 Do any of you know --

21 THE MARSHAL: We have one hand, Your Honor.

22 THE COURT: Oh, I'm sorry.

23 PROSPECTIVE JUROR NO. 11-0798: I have a
24 coworker --

25 THE MARSHAL: Please speak in the mic.

1 PROSPECTIVE JUROR NO. 11-0798: I have a
2 coworker --

3 THE COURT: Please state your entire badge
4 number and your name.

5 PROSPECTIVE JUROR NO. 11-0798: Byron Lennon,
6 11-0798.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 11-0798: I work -- I
9 have a coworker that I have on the panel that I work
10 with. I work with --

11 THE COURT: Which coworker? Who is your
12 coworker?

13 PROSPECTIVE JUROR NO. 11-0798: In the green
14 sweater. We work at the same job, not the same
15 department.

16 THE COURT: Can you raise your hand. Okay.
17 So you work in the same job?

18 PROSPECTIVE JUROR NO. 11-0926: Same company.

19 PROSPECTIVE JUROR NO. 11-0798: Same company
20 but not the same department.

21 THE COURT: Okay. How -- what type of
22 communication do you have -- do you work at different
23 departments? Same department? Do you ever have job
24 duties together?

25 PROSPECTIVE JUROR NO. 11-0798: Well,

1 different department. I do security. He works in a
2 different department. Sometimes we might come across
3 each other depending on what we have to do. But just
4 thought I would say that.

5 THE COURT: Okay. Thank you.

6 Do any of you know me or any members of my
7 court staff? Okay. Let the record reflect that no one
8 has raised their hand.

9 Understanding that this case is going to last
10 probably five weeks and based on the schedule that I
11 previously indicated, is there anyone who feels that
12 serving for that period of time would present a
13 physical or medical hardship -- physical or medical
14 hardship?

15 Yes, sir. And please identify your badge
16 number and your name.

17 PROSPECTIVE JUROR NO. 11-0880: Badge number
18 is 11-0880. I'm a VA patient, and I have some issues
19 that require that I see specialists from time to time.
20 I've already canceled an appointment at this point.
21 And if it goes five weeks, it might be difficult for
22 me. I do need to see a specialist within the next
23 month.

24 THE COURT: Okay. Thank you. We're on this
25 side now.

1 Is there anyone else? Okay. There are no
2 other show of hands, for the record.

3 Is there anyone who feels that, for some
4 other reason, serving on this jury would present them
5 with a severe or undue hardship?

6 Okay. Let's start with -- all right. Your
7 name and badge number, please.

8 PROSPECTIVE JUROR NO. 11-0986: 11-0986.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 11-0986: Keli
11 Yohannes.

12 THE COURT: And what -- what do you have to
13 share with us, Ms. Yohannes?

14 PROSPECTIVE JUROR NO. 11-0986: I --

15 THE COURT: Can you speak a little bit
16 louder.

17 PROSPECTIVE JUROR NO. 11-0986: For at least
18 half of the week --

19 THE COURT: I'm sorry?

20 PROSPECTIVE JUROR NO. 11-0986: Three to four
21 days, my husband's out of town and I have to take care
22 of my baby all by myself during that time.

23 THE COURT: Is your husband a pilot?

24 PROSPECTIVE JUROR NO. 11-0986: Yes.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 11-0986: We don't have
2 any family or relatives here in town to help us with
3 her. I have to be able to pick her up by 6:00 o'clock.
4 And if something happens with her, I have to be able to
5 go get her, you know, if she were to get sick or any
6 other -- if something comes up with her, I have to be
7 able to go to -- to go to her because my husband is
8 unable to pick her up when he's working.

9 THE COURT: Okay. Thank you.

10 Did I see someone else raise their hand?
11 Okay. Your name?

12 PROSPECTIVE JUROR NO. 11-0887: Shelbie
13 Bynum, 11-0887. I'm a lead veterinary assistant. We
14 actually had to cancel surgeries today because I wasn't
15 here, and we currently just lost our other veterinary
16 assistant. So without me there -- I even have a letter
17 from my work -- they're unable to perform surgeries or
18 do certain other exams as far as their practice.

19 It would be a hardship not only for me but
20 their practice. They're a very small practice, very
21 limited staff. And I'm in charge of all of that. So I
22 just -- I -- if you want to see the letter --

23 THE COURT: I do want to see the letter. And
24 what -- when you say they practice -- what did you say?

25 PROSPECTIVE JUROR NO. 11-0887: It's -- I'm a

1 veterinary assistant.

2 THE COURT: I heard that, but they
3 specialize.

4 PROSPECTIVE JUROR NO. 11-0887: It's a pet
5 wellness center. They specialize in certain surgeries,
6 acupuncture, different stuff, cancer, all kinds of
7 stuff that you have to be trained in order to manage
8 those surgeries. You have to be trained in order to
9 assist in those things. I'm the only one there
10 currently that can do that.

11 THE COURT: Okay. Thank you.

12 All right. Is there anyone else?

13 Please state your name and your badge number.

14 PROSPECTIVE JUROR NO. 11-0885: Badge
15 No. 11-0885, Constance Brown. Mine is not necessarily
16 a hardship, but I just remembered that, on March 7, my
17 son has a court date.

18 THE COURT: I'm sorry. March 7th?

19 PROSPECTIVE JUROR NO. 11-0885: March 7th,
20 yes.

21 THE COURT: Your son has a court date?

22 PROSPECTIVE JUROR NO. 11-0885: Yes, ma'am.

23 THE COURT: How old is your son?

24 PROSPECTIVE JUROR NO. 11-0885: 15.

25 THE COURT: And is there anyone else that can

1 take your son to that court date?

2 PROSPECTIVE JUROR NO. 11-0885: Well, my
3 husband, but then we have our grandson that we take
4 care of as well. And during that same time, he has to
5 pick him up from school.

6 THE COURT: What time is the court date?

7 PROSPECTIVE JUROR NO. 11-0885: It's always
8 2:30 -- sorry -- 2:30. And that's the time he leaves
9 to pick up the grandson from school.

10 THE COURT: Do you have other family members
11 that may be able to take him?

12 PROSPECTIVE JUROR NO. 11-0885: There's a
13 possibility, yes.

14 THE COURT: Okay. All right. Thank you.
15 Is there anyone else?

16 PROSPECTIVE JUROR NO. 11-0924: 11-0924.

17 THE COURT: Your name?

18 PROSPECTIVE JUROR NO. 11-0924: Vanessa
19 Salvatera.

20 THE COURT: Okay. Go on.

21 PROSPECTIVE JUROR NO. 11-0924: I'm currently
22 a full-time student with exams coming up in the
23 following week. And if I were to reschedule them, I'd
24 have to reschedule them in a month during midterm
25 month. So I'll need the time to study and take the

1 exams and not interfere with the midterms coming up
2 next month.

3 THE COURT: How many classes are you taking?

4 PROSPECTIVE JUROR NO. 11-0924: I'm taking
5 four at the moment.

6 THE COURT: Four. What classes are they?

7 PROSPECTIVE JUROR NO. 11-0924: I'm taking
8 psychology -- personality psychology, college Algebra,
9 introduction to film, and ...

10 THE COURT: You can't remember right now.

11 PROSPECTIVE JUROR NO. 11-0924: I'm freaking
12 out. I'm sorry.

13 THE COURT: It's okay. It's okay. It's not
14 abnormal to be nervous in this process. It's okay.

15 All right. So you have four classes, and
16 you're worried that, if you sit on this jury for five
17 weeks, it's going to put you behind in school --

18 PROSPECTIVE JUROR NO. 11-0924: Yes.

19 THE COURT: -- with your exams?

20 PROSPECTIVE JUROR NO. 11-0924: Yes. I've
21 spoken to some of my professors about this and how
22 we -- we'll go about, like, rescheduling if possible.
23 And they said I'd have to reschedule on -- during the
24 time they're available, which is usually, like, in the
25 middle of the day or early in the day. And that's the

1 only time that I can come. They won't accept weekends.

2 And if I do have to reschedule and if -- I
3 told them that this might take five weeks, they said
4 that I'd have to reschedule during the month of
5 March -- or -- yeah, next month, which is close to
6 midterms.

7 THE COURT: Okay. What exams are you taking
8 now?

9 PROSPECTIVE JUROR NO. 11-0924: This week,
10 I'll have my math exam.

11 THE COURT: Okay. Thank you.

12 Anyone else?

13 None.

14 Okay. Have any of you been involved in a car
15 accident before?

16 You have? Okay. All right. Let's -- let's
17 start with the far left with the first person who
18 raised their hand.

19 PROSPECTIVE JUROR NO. 11-0798: Byron Lennon,
20 11-0798.

21 Yes, I was involved in a -- a car accident a
22 few years back, and another person got injured.

23 THE COURT: The other person was?

24 PROSPECTIVE JUROR NO. 11-0798: Yes, and me
25 too. I got hit from the back. I had to go to the

1 hospital.

2 THE COURT: Okay. Were you -- did you suffer
3 injuries?

4 PROSPECTIVE JUROR NO. 11-0798: Yes, back --
5 back and neck.

6 THE COURT: Also?

7 PROSPECTIVE JUROR NO. 11-0798: Yes.

8 THE COURT: All right.

9 Who else has been involved in a car accident
10 or a motorcycle accident or a bicycle accident, any
11 type of vehicle accident?

12 PROSPECTIVE JUROR NO. 11-0802: John Toston,
13 11 --

14 THE COURT: Your badge number, please?

15 PROSPECTIVE JUROR NO. 11-0802: 0802.

16 THE COURT: You have to give me your full --

17 PROSPECTIVE JUROR NO. 11-0802: 11-0802.

18 THE COURT: Thank you.

19 THE COURT: Go on, Mr. Toston.

20 PROSPECTIVE JUROR NO. 11-0802: I was in an
21 auto accident. My wife had neck injuries, and I had a
22 shoulder and hip injury.

23 THE COURT: Okay. I think we covered this in
24 the questionnaire. All right. Very good. Go on.

25 PROSPECTIVE JUROR NO. 11-0830: Badge

1 No. 11-0830, Michelle Peligro.

2 January 23rd, I was involved in a fender
3 bender.

4 THE COURT: Were you injured?

5 PROSPECTIVE JUROR NO. 11-0830: No.

6 THE COURT: Okay. Was there anyone else
7 injured?

8 PROSPECTIVE JUROR NO. 11-0830: I want to say
9 he wasn't, but I guess, yeah, he was injured.

10 THE COURT: "He" meaning the other driver?

11 PROSPECTIVE JUROR NO. 11-0830: Yeah.

12 THE COURT: Okay. All right. And that row,
13 anyone else?

14 PROSPECTIVE JUROR NO. 11-0834: Joseph Dail,
15 Badge No. 11-0834.

16 And -- and it was a car accident back in the
17 late '80s, the 1980s, involving a motorcycle. The
18 motorcyclist did not survive.

19 THE COURT: Okay. Did you -- were you
20 injured?

21 PROSPECTIVE JUROR NO. 11-0834: No, I was
22 not.

23 THE COURT: Okay. Anyone else?

24 PROSPECTIVE JUROR NO. 11-0834: No.

25 THE COURT: All right.

1 And I'm going to go back very quickly before
2 I forget. With respect to -- we'll go back to No. 1,
3 Juror 11-0798.

4 THE MARSHAL: Pass the mic down, sir.

5 THE COURT: Were you sued or was there a
6 suit?

7 PROSPECTIVE JUROR NO. 11-0798: I sued the
8 other person, the person that hit me.

9 THE COURT: Okay.

10 THE COURT: All right. And were you
11 satisfied with how the claim was resolved?

12 PROSPECTIVE JUROR NO. 11-0798: Yes. Yes, I
13 was.

14 THE COURT: All right. Very good.

15 And then, next, Juror 11-0802.

16 PROSPECTIVE JUROR NO. 11-0802: Yes.

17 THE COURT: Were you sued, or did you sue?

18 PROSPECTIVE JUROR NO. 11-0802: I sued the
19 party --

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 11-0802: -- that hit
22 me.

23 THE COURT: All right. And were you
24 satisfied with the result?

25 PROSPECTIVE JUROR NO. 11-0802: No.

1 THE COURT: No? Okay.

2 All right. Same question before I forget to
3 ask that one. Let's go on.

4 Same question. Were you sued in the fender
5 bender?

6 PROSPECTIVE JUROR NO. 11-0830: No.

7 THE COURT: Did you sue them?

8 PROSPECTIVE JUROR NO. 11-0830: No.

9 THE COURT: Okay. Thank you. All right.

10 PROSPECTIVE JUROR NO. 11-0834: No to both.

11 THE COURT: Okay. That's Juror 11-0834, no.
12 Next?

13 PROSPECTIVE JUROR NO. 11-0844: Name, Raphael
14 Javier, Badge No. 11-0844.

15 Two years ago, I hit a lady in the back, but
16 it was -- I considered it her fault. She slammed the
17 brakes off the exit at Charleston, and I just hit her
18 back bumper. But she talked to the insurance and
19 claimed she got injured. But none of our cars were --
20 they just had one little scratch. But --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 11-0844: -- that's
23 about it.

24 THE COURT: Was there -- did she file a claim
25 against you, a lawsuit?

1 PROSPECTIVE JUROR NO. 11-0844: No, she
2 just -- all I know is that the insurance just paid her
3 for her neck injury.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 11-0844: But we didn't
6 go to court or anything like that.

7 THE COURT: Very good.

8 All right. Next?

9 PROSPECTIVE JUROR NO. 11-0853: 11-0853,
10 Dylan Domingo. 12 years ago, when I was 12, I was in a
11 car accident. The other person ran a red light. And
12 both cars were totaled. I'm not sure if the other
13 person was injured, and there was no lawsuit either
14 way.

15 THE COURT: Okay. And I'm sorry. Were you
16 injured?

17 PROSPECTIVE JUROR NO. 11-0853: I was, yeah,
18 just minor back and face stuff.

19 THE COURT: Okay. Was -- was this resolved
20 to your satisfaction?

21 PROSPECTIVE JUROR NO. 11-0853: Yeah.

22 THE COURT: Okay. Very good.

23 Yes?

24 PROSPECTIVE JUROR NO. 11-0855: 11-0855,
25 Ronald Green.

1 I've been driving for over 40 years, and I've
2 had, I think, four or five fender benders. One was
3 quite significant. It was a five-car collision. A
4 drunk driver hit a car behind me, which I then hit
5 another car, which then hit another car, pushed that
6 car out into the intersection. The drunk driver went
7 through her windshield. She survived. She was -- it
8 was done on a Sunday morning at 11:00 a.m., and she had
9 left a casino, just legless.

10 But several other fender benders, you know,
11 just ...

12 THE COURT: Have you ever been --

13 PROSPECTIVE JUROR NO. 11-0855: Sued? I've
14 been sued twice.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 11-0855: And both
17 times I was in the middle of -- I was just a -- one of
18 the cars that was part of the collective.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 11-0855: But ...

21 THE COURT: Have you ever sued anyone in any
22 of these fender benders?

23 PROSPECTIVE JUROR NO. 11-0855: No.

24 THE COURT: No? Okay. Thank you.

25 Anyone else in that row?

1 PROSPECTIVE JUROR NO. 11-0867: Badge
2 No. 11-0867, Jenny Gagliano. I think it was back in
3 2007, I was involved in an auto-and-motorcycle
4 accident. The cyclist hit me in my trunk and flew half
5 a block and did not make it.

6 THE COURT: Okay. So there was a fatality?

7 PROSPECTIVE JUROR NO. 11-0867: Yes.
8 Fortunately, myself and my 13-year-old at the time was
9 okay, thankful for the airbag. But we -- if we were
10 sued, he -- they probably filed it against our
11 insurance.

12 THE COURT: I'm sorry. You're not certain if
13 you were sued?

14 PROSPECTIVE JUROR NO. 11-0867: I don't think
15 so, that I know of.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 11-0877: Armando -- my
18 badge is 11 and 0877. My name is Dorothy Lee.

19 I lost my husband on a motorcycle -- is it
20 on?

21 THE MARSHAL: No. You're not speaking into
22 it.

23 PROSPECTIVE JUROR NO. 11-0877: I lost my
24 husband in '88 in a motorcycle accident.

25 THE COURT: Okay. And I'm sorry to hear

1 that.

2 Let's see. Was there a lawsuit as a result
3 of --

4 PROSPECTIVE JUROR NO. 11-0877: No, because
5 it was out on a country road in Tucson, Arizona.

6 THE COURT: Okay. And --

7 PROSPECTIVE JUROR NO. 11-0877: And I also
8 had one right after I got here in '94, and I was hit by
9 a drunk driver. And she ran off.

10 THE COURT: So it was a hit-and-run?

11 PROSPECTIVE JUROR NO. 11-0877: Yeah.

12 THE COURT: Okay. Were you injured?

13 PROSPECTIVE JUROR NO. 11-0877: No.

14 THE COURT: Thank you. Is there anyone in
15 the front row? Let's pass it all the way to the far
16 left.

17 PROSPECTIVE JUROR NO. 11-0879: Vanessa
18 Rodriguez, 11-0879.

19 2015, I was in a car accident. Someone hit
20 me, and, yes, I sued.

21 THE COURT: Okay. Were you injured?

22 PROSPECTIVE JUROR NO. 11-0879: Yes.

23 THE COURT: Okay. And was it resolved to
24 your satisfaction?

25 PROSPECTIVE JUROR NO. 11-0879: Yes.

1 THE COURT: All right. All right. Thank
2 you.

3 PROSPECTIVE JUROR NO. 11-0880: William
4 Richardson, 11-0880.

5 I was involved in a multicar freeway accident
6 in 1996 in San Jose, multiple injuries. I was sued.
7 The insurance company settled out of court. And that
8 was it.

9 THE COURT: Were you injured?

10 PROSPECTIVE JUROR NO. 11-0880: I went to the
11 hospital. I had some minor abrasions, scrapes from the
12 seat belt. That was about it.

13 THE COURT: Okay. Was it resolved to your
14 satisfaction?

15 PROSPECTIVE JUROR NO. 11-0880: It was
16 just -- I guess so. It was settled. That's all I
17 know.

18 THE COURT: Okay. Thank you.

19 All right. Anyone else in the front row?
20 Go on.

21 PROSPECTIVE JUROR NO. 11-0885: Badge
22 No. 11-0885, Constance Brown.

23 Several accidents. The most recent would be
24 on January 30th. It was my fault. I -- the traffic
25 was at a stop. And it started to go, and then the

1 traffic stopped. And I kind of kept going.

2 So, right now, I can't say one way or the
3 other. No one was transported by ambulance or
4 anything. I wasn't injured. I did get a call from a
5 claim agent, but we haven't been able to communicate
6 with each other. We've been playing phone tag.

7 The other ones, I can't really remember, but
8 I remember one where the lady hit me from behind. But
9 I was more concerned with her because she was pregnant,
10 and she just wasn't paying attention at the time. So
11 we -- we kind of settled -- it got settled with the
12 insurance companies.

13 THE COURT: Were you injured?

14 PROSPECTIVE JUROR NO. 11-0885: At that time,
15 I guess -- I was more concerned with her being
16 pregnant. Mine was little minor aches and pains by the
17 next day, but nothing major.

18 Other accidents, more or less the same. I
19 have been rear-ended a few times.

20 THE COURT: And have there been lawsuits as a
21 result of that?

22 PROSPECTIVE JUROR NO. 11-0885: No. Not
23 lawsuits, no. I mean, never went to court, I should
24 say. The insurance companies settled everything. I
25 did have an attorney, and they settled everything, but

1 we never had to go to court.

2 THE COURT: I see.

3 PROSPECTIVE JUROR NO. 11-0885: So I've never
4 been to court on any of them.

5 THE COURT: So were they resolved to your
6 satisfaction?

7 PROSPECTIVE JUROR NO. 11-0885: I -- I guess
8 so.

9 THE COURT: What does that mean? Were they
10 or were they not?

11 PROSPECTIVE JUROR NO. 11-0885: Yes.

12 THE COURT: Yes?

13 PROSPECTIVE JUROR NO. 11-0885: Maybe one
14 wasn't to my satisfaction, but years ago. So ...

15 THE COURT: Okay. Thank you.

16 PROSPECTIVE JUROR NO. 11-0887: 11-0887,
17 Shelbie Bynum.

18 When I first got my driver's license, a
19 person slammed on their brakes, and I kind of slammed
20 into them. The insurance covered everything, though,
21 so there wasn't really any sort of suing going on. And
22 everything was minor injuries to everybody.

23 THE COURT: Okay. You were injured as well?

24 PROSPECTIVE JUROR NO. 11-0887: Yes, just
25 little minor injuries from the seat belt.

1 THE COURT: Okay. And the other -- the other
2 driver was injured?

3 PROSPECTIVE JUROR NO. 11-0887: Yes, the
4 same, just the whiplash of the seat belt.

5 THE COURT: Okay. Was this -- was that case
6 resolved to your satisfaction?

7 PROSPECTIVE JUROR NO. 11-0887: Yes.

8 THE COURT: Okay. Very good. Anything else?
9 No? Okay. Thank you.

10 Go on.

11 PROSPECTIVE JUROR NO. 11-0986: 11-0986, Keli
12 Yohannes.

13 Six or seven years ago, I was involved in a
14 multicar --

15 THE COURT: Can you speak a little bit
16 louder, please, Ms. Yohannes.

17 PROSPECTIVE JUROR NO. 11-0986: I was
18 involved in a multicar accident on the highway, when my
19 car actually spun out across the highway. I had to
20 be -- or I was taken by ambulance to the hospital, but
21 all I had was a broken nose. I did have to have
22 surgery to repair it. And the insurance company
23 covered everything, so I don't know what happened with
24 the other parties that were involved. It was several
25 different ...

1 THE COURT: So do you know if you were
2 involved with a lawsuit or it was ...

3 PROSPECTIVE JUROR NO. 11-0986: Not that I --
4 not to my knowledge, no.

5 THE COURT: Was everything settled to your
6 satisfaction?

7 PROSPECTIVE JUROR NO. 11-0986: Yes.

8 THE COURT: Okay. Thank you.

9 PROSPECTIVE JUROR NO. 11-0902: Badge
10 No. 11-0902, Sherry Hall. 2008, I was involved in a
11 fender bender. It was determined that the other driver
12 was at fault, and I just got my deductible back.

13 THE COURT: Okay. So the -- the other driver
14 was -- when you say it was -- he was at fault?

15 PROSPECTIVE JUROR NO. 11-0902: Correct.

16 THE COURT: Okay. Did you sustain injuries?

17 PROSPECTIVE JUROR NO. 11-0902: No.

18 THE COURT: And the other driver?

19 PROSPECTIVE JUROR NO. 11-0902: No.

20 THE COURT: Okay. Was it resolved to your
21 satisfaction?

22 PROSPECTIVE JUROR NO. 11-0902: Yes.

23 THE COURT: Okay. Thank you.

24 Anyone else?

25 PROSPECTIVE JUROR NO. 11-0924: Badge

1 No. 11-0924, Vanessa Salvatera.

2 I was learning how to drive on the freeway.
3 I was merging onto the lane, and, after checking my
4 blind spot, out of nowhere, some car, speeding, went --
5 got into my lane and hit me. Fortunately, no one was
6 hurt. The driver did check on us but then drove off
7 immediately after. We couldn't get a license plate.

8 THE COURT: Were you injured?

9 PROSPECTIVE JUROR NO. 11-0924: No. No one
10 was injured.

11 THE COURT: Okay. So did you follow
12 through -- were you able to -- all through the lawsuit?

13 PROSPECTIVE JUROR NO. 11-0924: No. When the
14 police got there, and they asked about the other
15 driver, we couldn't give him any information because he
16 didn't have any license plates on his car. And he
17 didn't stick around to show, like, insurance card or
18 anything. He just checked up on us to see if we were
19 okay.

20 THE COURT: Okay. So were you satisfied
21 with -- with that or ...

22 PROSPECTIVE JUROR NO. 11-0924: No.

23 THE COURT: No? Understood. Okay. Thank
24 you.

25 PROSPECTIVE JUROR NO. 11-0937: Badge No.

1 11-0937. My name is Raquel Romero.

2 The most recent car accident that I was in
3 was April of 2015 or '16. I don't remember, to be
4 honest. My dad was driving down a regular street, but
5 there was an apartment opening to my right side. And a
6 driver was nervous when he was coming out. So instead
7 of stopping, he put his foot on the accelerator, and he
8 hit us, like, straight on. And the whole front of the
9 car came in.

10 I had minor injuries, and my dad had a
11 previous back injury, so it aggravated that injury. I
12 had minor bruising on my right side and a contusion on
13 my forehead. But that was about it.

14 We did sue the insurance company, I think.
15 But I wasn't, like, too sure about the proceedings.
16 But it was settled to my satisfaction.

17 THE COURT: Okay. Thank you.

18 THE MARSHAL: Anyone here?

19 PROSPECTIVE JUROR NO. 11-0940: Oh, yeah.

20 THE COURT: Anyone else?

21 PROSPECTIVE JUROR NO. 11-0940: Badge

22 No. 11-0940, Caroline Graf.

23 Just minor fender benders. No lawsuits.
24 They gave me cash for my scratches because it was their
25 fault.

1 The only one a little more major, I hit a kid
2 on a bicycle, but I only tagged his back wheel. And
3 all the witnesses' statements and everything said it
4 was his fault. And there was never a lawsuit and
5 everything was good, and he only had a bloody nose.

6 THE COURT: Okay. So was there -- was there
7 a law school -- lawsuit involved -- so there was no
8 lawsuit?

9 PROSPECTIVE JUROR NO. 11-0940: No lawsuits.

10 THE COURT: None?

11 PROSPECTIVE JUROR NO. 11-0940: Nope.

12 THE COURT: Okay. And were -- did you
13 sustain any injuries, very minor?

14 PROSPECTIVE JUROR NO. 11-0940: Huh-uh, no.

15 THE COURT: In either one?

16 PROSPECTIVE JUROR NO. 11-0940: I never had
17 any injuries, no. The kid on the bicycle hit his face
18 on the ground and had a bloody nose.

19 THE COURT: Okay. Okay. Thank you.

20 PROSPECTIVE JUROR NO. 11-0979: Badge
21 No. 11-0979, Paul Portelli.

22 Minor fender bender, no lawsuits, about six
23 months ago.

24 THE COURT: Were you -- were you struck by
25 someone or did you ...

1 PROSPECTIVE JUROR NO. 11-0979: No, I hit
2 somebody. I ran into somebody.

3 THE COURT: You hit someone? Okay. Were you
4 involved in -- have they -- you know, have they sued
5 you?

6 PROSPECTIVE JUROR NO. 11-0979: No, no.

7 THE COURT: Okay. Okay.

8 PROSPECTIVE JUROR NO. 11-0979: No injuries,
9 no lawsuits.

10 THE COURT: Okay. Okay. So I -- was that
11 resolved to your satisfaction?

12 PROSPECTIVE JUROR NO. 11-0979: Yeah. It
13 turned out that the guy rear-ended, I knew him. And we
14 worked it out between each other. So ...

15 THE COURT: You knew the person?

16 PROSPECTIVE JUROR NO. 11-0979: Yeah.

17 THE COURT: All right. Thank you very much.

18 PROSPECTIVE JUROR NO. 11-0979: You're
19 welcome.

20 THE COURT: Okay. All right. Let me move
21 on.

22 All right. As a juror, you will be asked to
23 listen to witnesses, review evidence, and make a
24 determination based on facts -- you, the jury, whoever
25 is selected, is the fact -- the finder of facts in the

1 case. And my job is to make sure that the trial is
2 fair and to instruct you on the law that you -- that
3 will -- you will apply to the facts that you will hear
4 in this trial.

5 Some of you may disagree with how some of our
6 laws are written. It would be a violation of a juror's
7 duty, however, if he or she tried to render a verdict
8 based upon what he or she believed the law to be if it
9 was different from my instruction. Okay. So you have
10 to follow my legal instruction, the Court's legal
11 instruction.

12 Do any -- this is very important. Do any of
13 you feel that you would not be able to follow all the
14 instructions of the Court on the law even if the
15 instructions differ from your personal opinions or
16 conceptions of what the law ought to be?

17 Okay. For the record, I show no hands -- no
18 show of hands. Okay.

19 Okay. Does anyone believe that they may have
20 heard something about this case, either in the media or
21 otherwise, prior to coming here today?

22 Okay. Pass him the -- okay. This is
23 Mr. Portelli.

24 PROSPECTIVE JUROR NO. 11-0979: Yes, ma'am,
25 Badge No. 11-0979.

1 This accident happened where I live. I live
2 in the neighborhood up where it happened.

3 MR. KEMP: Your Honor, can we approach?

4 THE COURT: Yes.

5 (A discussion was held at the bench,
6 not reported.)

7 THE COURT: Okay. Mr. Portelli, I'd like you
8 to stay, but we're now going to -- just for a few
9 minutes. We're going to take our afternoon break, and
10 I'd like you back here at 2:00 o'clock.

11 Okay. Everyone, the admonishment: You're
12 instructed to not talk with each other or with anyone
13 else about any subject or issue connected with this
14 trial.

15 You are not to read, watch, or listen to any
16 report of or commentary on the trial by any person
17 connected with this case or by any medium of
18 information including, without limitation, newspapers,
19 television, the internet, or radio.

20 You are not to conduct any research on your
21 own relating to this case, such as consulting
22 dictionaries, using the internet, or using any
23 reference materials. You are not to conduct any
24 investigation, test any theory of the case, recreate
25 any aspect of the case, or in any other way investigate

1 or learn about the case on your own.

2 You are not to speak with others, text
3 others, tweet others, message others, google issues, or
4 conduct any other kind of book or computer research
5 with regard to any issue, party, witness, or attorney
6 involved in this case.

7 You are not to form or express any opinion on
8 any subject connected with this trial until the case is
9 finally submitted to you.

10 Thank you. See you at 2:00 o'clock, ladies
11 and gentlemen.

12 THE MARSHAL: All rise.

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

15 MR. ROBERTS: Judge?

16 THE COURT: Oh.

17 PROSPECTIVE JUROR NO. 11-0979: Do I have to
18 stay or no?

19 THE COURT: Just for a moment. Yes.

20 Okay. Mr. Portelli?

21 PROSPECTIVE JUROR NO. 11-0979: Yes, ma'am.

22 THE COURT: You may be seated. All right.

23 So --

24 PROSPECTIVE JUROR NO. 11-0979: Do I need
25 this?

1 THE COURT: So you indicated that -- that you
2 live in the area where the accident occurred --

3 PROSPECTIVE JUROR NO. 11-0979: Yes.

4 THE COURT: -- that is the subject matter of
5 this case?

6 PROSPECTIVE JUROR NO. 11-0979: Yes, I do,
7 ma'am. I live up in Summerlin.

8 THE COURT: Pardon me?

9 PROSPECTIVE JUROR NO. 11-0979: I live up in
10 Summerlin, right behind the Red Rock.

11 THE COURT: Have you heard anything about it,
12 read anything about it?

13 PROSPECTIVE JUROR NO. 11-0979: I haven't
14 heard anything about it. I haven't read anything about
15 it. But I do know, you know, from what I'm hearing,
16 where -- where the accident took place.

17 THE COURT: Well, what do you know about it?

18 PROSPECTIVE JUROR NO. 11-0979: Well, from --
19 that it happened on -- on that street right by -- by
20 the Red Rock Casino.

21 THE COURT: And you don't know anything else
22 about it? You didn't see anything in the media or --

23 PROSPECTIVE JUROR NO. 11-0979: I saw a
24 picture of the doctor, Dr. -- whatever his name is --
25 in the -- on the internet when it happened. That's

1 about it. I don't know much about the -- the accident
2 and --

3 THE COURT: Okay. Counsel, do you have any
4 questions for Mr. Portelli?

5 MR. CHRISTIANSEN: Sure.

6 Mr. Portelli, what is it you saw on the
7 internet?

8 PROSPECTIVE JUROR NO. 11-0979: I just saw a
9 picture of the doctor. I know that, the picture that I
10 saw, he had a gray beard.

11 MR. CHRISTIANSEN: Did you read --

12 PROSPECTIVE JUROR NO. 11-0979: And that he
13 got -- I read about it, yeah. I mean, I'm -- I read
14 the news and, you know, I follow up on what's going
15 around me. I think it's important.

16 MR. CHRISTIANSEN: Sure. You live up in that
17 area, sir?

18 PROSPECTIVE JUROR NO. 11-0979: Yes, sir.

19 MR. CHRISTIANSEN: So you're paying
20 particular attention; right?

21 PROSPECTIVE JUROR NO. 11-0979: Yeah,
22 especially when it happened right by the Red Rock
23 Hotel.

24 MR. CHRISTIANSEN: It sounds like you
25 probably read the articles --

1 PROSPECTIVE JUROR NO. 11-0979: Yes, I did.

2 MR. CHRISTIANSEN: You have to wait for me to
3 stop before you start, otherwise the court reporter
4 can't take us both down. Okay?

5 PROSPECTIVE JUROR NO. 11-0979: Okay.

6 MR. CHRISTIANSEN: So you probably read the
7 articles that went along with the picture you saw?

8 PROSPECTIVE JUROR NO. 11-0979: Uh-huh.

9 MR. CHRISTIANSEN: Yes?

10 PROSPECTIVE JUROR NO. 11-0979: Yes.

11 MR. CHRISTIANSEN: Okay. And my guess is you
12 have a recollection of what those articles said. Fair?

13 PROSPECTIVE JUROR NO. 11-0979: I only read
14 one article when it happened. I know it was something
15 around -- I mean, I know it was like April of last
16 year. I'm trying to think if I'm -- you know, I don't
17 remember all the dates and all that stuff. But I know
18 it was in -- somewhere around April of last year and it
19 was a cyclist because I'm -- you know, I ride a bike
20 too. And he got -- a bus hit him and the bus got, you
21 know --

22 MR. CHRISTIANSEN: Do you remember what the
23 conclusion was of the article?

24 PROSPECTIVE JUROR NO. 11-0979: No, I -- I
25 can't remember. No, I just remember that the cyclist

1 was ran over -- or ran over by a bus. That's about it.
2 And it was on Pavilion Center Drive.

3 MR. CHRISTIANSEN: Just east of the Red Rock?

4 PROSPECTIVE JUROR NO. 11-0979: I can't
5 remember now exactly where it was. I know it was on
6 Pavilion Drive and it was close to the Red Rock.

7 MR. CHRISTIANSEN: Do you know any more facts
8 from the article you read or any conclusions that were
9 reached by the article?

10 PROSPECTIVE JUROR NO. 11-0979: I can't
11 remember any.

12 MR. CHRISTIANSEN: Did you read anything
13 about the police and what they thought back at the
14 time?

15 PROSPECTIVE JUROR NO. 11-0979: I don't
16 remember, to be honest with you.

17 MR. CHRISTIANSEN: I have nothing else.
18 Nothing from me, Your Honor.

19 THE COURT: Mr. Roberts?

20 MR. ROBERTS: Thank you. Mr. Portelli, I'm
21 Lee Roberts. As a juror, you're going to have to base
22 your decision on the evidence you hear in this
23 courtroom and the laws instructed to you by the judge.

24 You going to be able to do that instead of
25 bringing any assumptions with you that you might have?

1 PROSPECTIVE JUROR NO. 11-0979: I'll be
2 honest with you, no, because I'm a cyclist. I ride
3 bikes, and I see how people drive up there. And
4 sometimes I do get mad at people with cars because they
5 don't respect or they try to run us over and all that
6 stuff.

7 So to be honest with you, no, I have my -- my
8 own judgment as far as --

9 MR. ROBERTS: So before you've heard any
10 evidence, you already have your own judgment about this
11 case and who ought to win?

12 PROSPECTIVE JUROR NO. 11-0979: Yeah.

13 MR. ROBERTS: And -- and the cyclist is a
14 little bit -- starting a little bit ahead. If this was
15 a race, he'd be starting a little bit ahead right now;
16 yes?

17 PROSPECTIVE JUROR NO. 11-0979: Yeah.

18 MR. ROBERTS: Yes.

19 PROSPECTIVE JUROR NO. 11-0979: Yeah.

20 MR. ROBERTS: All right. If you were my
21 client and you were defending this case, would you want
22 a jury with your beliefs and opinions on -- on the jury
23 that's deciding the case?

24 PROSPECTIVE JUROR NO. 11-0979: I don't think
25 you want my opinion on -- as a juror on a case like

1 this.

2 MR. ROBERTS: Okay. It would be better for
3 you to serve as a juror on a different case? You're
4 not a good fit for this case?

5 PROSPECTIVE JUROR NO. 11-0979: Exactly, yes.

6 MR. ROBERTS: Thank you, sir.

7 PROSPECTIVE JUROR NO. 11-0979: You're
8 welcome.

9 MR. CHRISTIANSEN: Mr. Portelli, Her Honor,
10 Judge Escobar told you to follow the law. You're going
11 to do what the judge tells you; fair?

12 PROSPECTIVE JUROR NO. 11-0979: Yeah.

13 MR. CHRISTIANSEN: I mean, you took an oath.
14 You come in here. You get sworn as a juror. If
15 Judge Escobar says, "Hey, this is what you're supposed
16 to do," you seem like a pretty conscientious guy,
17 you're going to do your job?

18 PROSPECTIVE JUROR NO. 11-0979: I will.

19 MR. CHRISTIANSEN: Nothing else. Thank you,
20 sir.

21 PROSPECTIVE JUROR NO. 11-0979: But at the
22 same time also, you know, I mean, I do have my
23 full-time job where I work. And as a chief engineer,
24 you know, I run 14 buildings. And I hate to say this,
25 because, you know -- but I need to be on my job 'cause

1 I have a whole crew that's underneath me that needs my
2 supervision on a daily basis.

3 I've been up since 4:00 o'clock this morning
4 to be here. I have to prepare 14 buildings, and two of
5 them are very critical. Okay? And I have been up
6 since 4:00 o'clock to make sure all these buildings are
7 up and normal and set the crews up to be doing what
8 they supposed to be doing.

9 And I have other projects. It's not like I
10 don't want to be here. But for four to five weeks over
11 here, I mean, I'm -- I'm a little bit, you know ...

12 MR. CHRISTIANSEN: Sir, we read about your
13 hardship that you put in, and we'll probably question
14 you more about that later. We're just focused on that
15 one issue of what you saw in the media.

16 PROSPECTIVE JUROR NO. 11-0979: Okay.

17 THE COURT: Thank you.

18 MR. ROBERTS: Your Honor, could I ask one
19 follow-up?

20 THE COURT: Yes, Mr. Roberts.

21 MR. ROBERTS: Do I remember correctly in your
22 questionnaire, you had a cousin run over by a car and
23 killed?

24 PROSPECTIVE JUROR NO. 11-0979: Yes, I do. I
25 was seven years old.

1 MR. ROBERTS: And was that the motorist's
2 fault in that case?

3 PROSPECTIVE JUROR NO. 11-0979: Yes, it was.
4 We were walking on the sidewalk, and he was speeding.
5 And my cousin was on the outside of the street, and she
6 got sucked in underneath the car -- underneath the van.

7 MR. ROBERTS: And how old were you at the
8 time?

9 PROSPECTIVE JUROR NO. 11-0979: I was seven
10 years old.

11 MR. ROBERTS: It obviously is still an
12 emotional experience for you?

13 PROSPECTIVE JUROR NO. 11-0979: Oh, yeah.
14 I'm still traumatized by it. To see your cousin being
15 ran over, then going to her funeral, I think you will
16 be traumatized too.

17 MR. ROBERTS: I think so. And in this case,
18 if you saw pictures of the cyclist who was run over by
19 the truck, you think that might bring back some of
20 these bad feelings? Would that be hard for you?

21 PROSPECTIVE JUROR NO. 11-0979: (Nonverbal
22 response.)

23 MR. ROBERTS: I'm sorry. I don't mean to be
24 personal, sir.

25 You told Mr. Christiansen that you -- you

1 would try to abide by the law and the judge's
2 instructions. We all do our best.

3 But are you going to be able to put your
4 feelings about cyclists and motor vehicles and the --
5 the thoughts that you expressed earlier out of your
6 mind and -- and just --

7 PROSPECTIVE JUROR NO. 11-0979: Yes, it would
8 be hard -- it will be hard for me to sit here and see
9 you know, pictures, you know, because, you know, it'll
10 bring back memories.

11 MR. ROBERTS: Okay. And -- and my client was
12 still starting a little bit behind.

13 You already have some preconceived notions
14 about who's at fault; right?

15 PROSPECTIVE JUROR NO. 11-0979: (Nonverbal
16 response.)

17 MR. ROBERTS: It's okay. I want you to be
18 honest with me. Everyone is looking for your honest
19 opinions here. It's not wrong if you're honest.

20 PROSPECTIVE JUROR NO. 11-0979: Yeah, I mean,
21 you know, you're applying the -- I'm looking at it in a
22 way where -- as a chief engineer, I work with a lot of
23 engineering stuff. As a safety thing, I mean, your
24 client should have sensors on the side on the car -- on
25 the side of the bus. Okay?

1 They are available. And, you know, safety
2 issues -- I mean, even in a small car and even in a
3 small SUV, you have, you know, sensors that there's
4 a -- there's something in the way.

5 Did the bus have it? I mean, did you have
6 these sensors? Were they checked? Were they
7 operating?

8 I -- I understand they're a mechanical device
9 and a mechanical device could fail, but that's why you
10 do -- you know, I mean, having a CDL license, to my
11 knowledge, is you're supposed to check your vehicle
12 before you get in it every time.

13 Am I right or wrong? I don't know. I don't
14 have a CDL license. So to -- your -- I'm -- did your
15 client's employee did the safety checks before he
16 starts driving?

17 MR. ROBERTS: As a lawyer, I'm not supposed
18 to be answering questions, just asking them. So I
19 apologize for not answering your questions.

20 But as I heard what you've told me, there
21 seems to be a very deeply held conviction right now
22 before you've heard any evidence that the bus should
23 have had a proximity sensor on the side. Is that fair
24 to say?

25 PROSPECTIVE JUROR NO. 11-0979: That's fair

1 to say.

2 MR. ROBERTS: Okay.

3 PROSPECTIVE JUROR NO. 11-0979: I mean, like
4 my job as the chief engineer, okay, I'm liable for 14
5 buildings, with all the people that they work in them,
6 that all fire and life safety operates. And I make
7 sure that these devices are tested on a monthly basis
8 so, if something happens, everything goes accordingly.

9 So I guess I'm answering your question how I
10 feel about it; right?

11 MR. ROBERTS: So, yes, there should have been
12 some detectors on the bus?

13 PROSPECTIVE JUROR NO. 11-0979: Yeah.

14 MR. ROBERTS: And you strongly feel that?

15 MR. KEMP: Your Honor, can we approach?

16 THE COURT: Yes.

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

19 MR. KEMP: Good morning, Mr. Portelli. My
20 name is Will Kemp. Just a couple of questions.

21 You, I thought, said that you didn't remember
22 anything from the media articles with regards to how
23 this accident happened.

24 PROSPECTIVE JUROR NO. 11-0979: I -- like I
25 said, I -- I don't remember the whole article. I know

1 it happened on -- close in my neighborhood. And I just
2 read about it, and I just moved on with my regular
3 life.

4 MR. KEMP: Okay. So it's fair to say you
5 don't know what kind of bus was involved?

6 PROSPECTIVE JUROR NO. 11-0979: I don't know
7 what kind of bus -- was it a CAT bus? Was it a tour
8 bus? I know there's a lot of tour buses in our
9 neighborhood. There's also CAT buses. So I don't know
10 what kind of bus is it.

11 MR. KEMP: And you don't know when the bus
12 was made?

13 PROSPECTIVE JUROR NO. 11-0979: No, I don't
14 know none of that stuff.

15 MR. KEMP: And you don't know whether or not
16 the bus had proximity sensors on it?

17 THE COURT: You need to speak louder, please.

18 MR. KEMP: You don't know whether or not the
19 bus had proximity sensors?

20 PROSPECTIVE JUROR NO. 11-0979: No, I -- I
21 don't know. I'm just ...

22 MR. KEMP: And you don't -- you don't know,
23 in the year the bus was made, what the status of
24 proximity sensors were?

25 PROSPECTIVE JUROR NO. 11-0979: No.

1 MR. KEMP: Okay. So you really haven't made
2 up your mind whether proximity sensors had anything to
3 do with this accident?

4 Do you know? Do you have an opinion as to
5 whether?

6 PROSPECTIVE JUROR NO. 11-0979: I do have
7 opinion about it as -- as a biker, because every time
8 we ride bikes up there, you know, when there's buses at
9 the Red Rock, they're always -- you know, we have to
10 watch out for them. It's not just buses; it's cars,
11 period.

12 MR. KEMP: Let's stick with the proximity
13 sensors, first of all.

14 So the direct answer is you don't really have
15 an opinion about proximity sensors in this case as we
16 sit here now?

17 PROSPECTIVE JUROR NO. 11-0979: No, I don't
18 have any.

19 MR. KEMP: Okay. Now, you said you feel as a
20 bicyclist that buses are a potential danger. Is that
21 what you're saying?

22 PROSPECTIVE JUROR NO. 11-0979: Well, you're
23 on a bicycle; right? And you have vehicles around you.
24 You're always -- you know, any vehicle, not just a bus,
25 any vehicle is a danger to -- to a bicyclist. Yes or

1 no? I mean, we're talking flesh against metal here --
2 or plastic.

3 MR. KEMP: Since you don't know any of the
4 facts of the accident, you don't know what the bus in
5 the case did; correct?

6 PROSPECTIVE JUROR NO. 11-0979: No. All I
7 know is that this morning is -- he was crushed under a
8 rear wheel.

9 MR. KEMP: Okay. And you don't know what the
10 bicyclist did, if anything; correct?

11 PROSPECTIVE JUROR NO. 11-0979: No, I don't.

12 MR. KEMP: So you don't have an opinion one
13 way or the other whether the bus was at fault or if
14 there was some other cause of the accident? As we sit
15 here today, you don't have any opinion because you
16 don't know the facts; right?

17 PROSPECTIVE JUROR NO. 11-0979: I don't know
18 the facts, so I don't know --

19 MR. KEMP: So you don't have any preconceived
20 opinion about this particular case?

21 PROSPECTIVE JUROR NO. 11-0979: No, I don't.

22 MR. KEMP: So what you're saying is that, in
23 your general experience, you think that some drivers
24 should give bicyclists more attention. Is that what
25 you're saying?

1 PROSPECTIVE JUROR NO. 11-0979: Yeah.

2 MR. KEMP: Okay. But you don't know whether
3 the bus in this case gave the appropriate amount of
4 attention that you think is appropriate; right?

5 PROSPECTIVE JUROR NO. 11-0979: No, I don't
6 know the details.

7 MR. KEMP: So it would be wrong for someone
8 to say that you've already made up your mind about how
9 this case is going to come out?

10 I mean, how could you? You don't know the
11 facts.

12 PROSPECTIVE JUROR NO. 11-0979: I don't know
13 the facts. You know, I mean --

14 MR. KEMP: So you could -- you could -- you
15 could think that what Mr. Roberts' client did was
16 appropriate or you could think what the bicyclist did
17 was appropriate; you just don't know as we sit here
18 now?

19 PROSPECTIVE JUROR NO. 11-0979: Exactly.

20 MR. KEMP: Okay. And with regards to whether
21 you would follow the judge's instructions, I think you
22 said you would follow the judge's instructions; right?

23 PROSPECTIVE JUROR NO. 11-0979: I will.

24 MR. KEMP: Okay. Great. Thank you.

25 MR. ROBERTS: Did anything that Mr. Kemp just

1 went over with you make you change your mind about what
2 you said earlier?

3 PROSPECTIVE JUROR NO. 11-0979: (No audible
4 response.)

5 MR. ROBERTS: It's undisputed in this case
6 there are no proximity sensors. There's not going to
7 be any evidence that the bus had a proximity sensor.

8 Do you still think all buses should have them
9 as you sit here today before you have heard any
10 evidence?

11 PROSPECTIVE JUROR NO. 11-0979: I mean, yeah,
12 they do -- they should. I mean, any big trucks, when
13 they're backing up, they have a backing sound; right?
14 You -- when you're backing up on -- even in your car,
15 your reverse lights come on; right? If it's a big
16 truck, you have a horn; right? So why buses should be
17 any different?

18 I mean, I don't know what buses you're trying
19 to talk about, but if you have a bus and you're backing
20 it up, I will bet you money you have reverse lights on
21 and you have a reverse horn. Yes or no?

22 Now, if you have a young small kid on a bike
23 or whatever and you're backing up a huge bus, you think
24 your side mirrors and your rearview mirror is going to
25 be enough for a big bus? You're telling me that that

1 bus is safe and he doesn't have anybody behind him
2 guiding him which way to go?

3 You're telling me that if there's a small kid
4 behind him or even an adult standing behind that bus,
5 it doesn't have no reverse lights on, doesn't have a
6 horn, and that bus is coming -- backing up and that
7 individual is sitting there doing something else and
8 that bus runs him over, you think that is safe?

9 I am asking you. You look like you're a
10 smart guy. You're a lawyer; right? Pretty smart;
11 right? You think that is safe? Do you think that
12 these buses shouldn't have sensors on the side,
13 especially towards the rear wheels. Because I can tell
14 you, I have a Ford Explorer. It has side sensors,
15 front sensors, rear sensors. And that's a Ford
16 Explorer. You're talking about a bus. We could sit
17 here and argue all day long, me and you, about sensors
18 and all that stuff.

19 MR. ROBERTS: Did I understand that you
20 personally rode -- ride your bike around the Red Rock
21 Casino area?

22 PROSPECTIVE JUROR NO. 11-0979: Yeah.

23 MR. ROBERTS: And you've had bad experience
24 with buses and motor coaches operating in that area?

25 PROSPECTIVE JUROR NO. 11-0979: Yeah. They

1 don't pay attention.

2 MR. ROBERTS: And that's already coloring
3 your expectation about what you think might have
4 happened here; correct?

5 You're a little bit biased against buses who
6 operate in that area, at least as far as how they
7 interact with cyclists?

8 PROSPECTIVE JUROR NO. 11-0979: I'm not
9 biased against buses because they bring revenue up in
10 our area. So, you know --

11 MR. ROBERTS: And we talk about bias
12 different in the courtroom, not like it's a bad thing.
13 Bias means, even before you hear the evidence, you've
14 already got a feeling or an expectation. You -- you --
15 that you --

16 PROSPECTIVE JUROR NO. 11-0979: Well, I'm not
17 accusing all buses. But some, they do need to pay more
18 attention to what they're doing. I'm not going to --
19 I'm not going to sit here and accuse every single bus
20 driver that they don't pay attention, that they're not
21 alert to what needs to be done, 'cause there is some
22 bus drivers that they do what they supposed to do.

23 But there's also some that they don't pay as
24 much attention. They think because they're driving a
25 big rig, everybody's going to make way for them.

1 MR. ROBERTS: And is it going to be tough for
2 you to put your own personal experiences -- bad
3 experience with buses around Red Rock out of your mind
4 when you decide this case?

5 PROSPECTIVE JUROR NO. 11-0979: Like -- like
6 I said, I'm -- I'm not going to judge every single bus,
7 because every -- every -- every bus is different. It
8 depends who's driving it. Is the chauffeur being safe?
9 Does he take every precaution or not?

10 I'll go back to me again, what I do. Okay?
11 Not every chief engineer does what I do. I take it
12 personally. Okay? I mean, I don't know if I wrote it
13 in my questionnaire, but when I lived in New York, I
14 was a firefighter volunteer in my town in West Nyack.
15 When 911 happened, I got called in. Okay? So my job
16 was to drive a truck, a fire truck. Okay? I made sure
17 that fire truck, every device operated, everything was
18 the way it's supposed to be. Okay?

19 So when I drive it -- when I'm on the road
20 with it -- okay? -- I don't harm anybody or my
21 coworkers that they're riding with me. Because we
22 carry eight people in there. I made sure, when I'm
23 driving that big rig, everything around me was clear.
24 But that's what I do.

25 I'm -- I'm conscientious what I do, me

1 personally. Not every chief engineer in -- in
2 Las Vegas does what I do with the fire -- fire and life
3 safeties in the buildings. I mean, heck, you could go
4 to certain buildings in Las Vegas, Nevada, that they
5 haven't been inspected in two, three years.

6 And it happened to the company where I work
7 at, because when we took over a certain -- certain
8 buildings, sprinkler systems and fire alarms were not
9 inspected for three years. Okay? It depends on each
10 driver, how conscientious are they, how long they've
11 been driving. Are they tired? Are they too tired? It
12 depends on each driver.

13 And, yes, there's times where I'm riding my
14 bike and buses, they give -- they let us pass and all
15 that stuff. And there's times where they don't. They
16 just beep their head right in the front of us, and we
17 have to stop. Depends on the drivers.

18 MR. ROBERTS: Is there anything that you told
19 me earlier when we were talking that you've changed
20 your mind about and you want to take back now?

21 PROSPECTIVE JUROR NO. 11-0979: Take back
22 what?

23 MR. ROBERTS: Your testimony under oath, you
24 still stand by it?

25 PROSPECTIVE JUROR NO. 11-0979: Yeah, it's --

1 it's -- not every bus is the same. It depends on the
2 driver.

3 MR. ROBERTS: But you still agree you're not
4 a good juror for this case involving a bus and a
5 bicyclist around Red Rock?

6 PROSPECTIVE JUROR NO. 11-0979: Listen, I
7 will be a great juror for this case if I had the time.
8 I don't have the time. I -- I need to go back to work.
9 You understand what I'm saying? I need to get back to
10 work. I would love to sit on this jury. Okay? It's
11 right up my alley. It's got mechanical devices in it
12 and all that stuff.

13 But if there's a way, Your Honor, you could
14 excuse me because I have to go back to work. I have
15 people that they're starting. I have a new engineer
16 that's starting on the job on Wednesday. I have a huge
17 fire alarm changeout in one of the buildings that it's
18 happening in a couple of weeks.

19 I mean, I would love to sit on -- on this
20 jury. But, right now, the way things are, I don't have
21 the time. I don't. I honestly don't. You know, if it
22 was a different time, I would be more than happy to
23 serve my country. You know?

24 I mean, like I said, I was a firefighter
25 volunteer in New York. You know, I -- I would love to

1 sit here on a jury if I can, but I really can't. I
2 mean, I'm really tied up at work.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR NO. 11-0979: If that means
5 anything to you guys. So ...

6 MR. KEMP: Nothing more, Your Honor.

7 MR. ROBERTS: Nothing more, Your Honor.
8 Thank you.

9 THE COURT: Okay. I'm going to excuse you.
10 And I would like you to return at 2:00 o'clock, please.

11 PROSPECTIVE JUROR NO. 11-0979: 2:00 o'clock.

12 THE MARSHAL: All rise.

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

15 THE MARSHAL: Do we need to admonish him
16 again, Your Honor, or --

17 THE COURT: Oh, thank you. Thank you, Jerry.

18 All right. Mr. Portelli, you're instructed
19 not to talk with each other -- with anyone else about
20 any subject or issue connected with this trial. You're
21 not to read, watch, or listen to any report of or
22 commentary on the trial by any person connected with
23 this case or by any medium of information, including,
24 without limitation, newspapers, television, the
25 internet, or radio.

1 You are not to conduct any research on your
2 own relating to this case, such as consulting
3 dictionaries, using the internet, or using any
4 reference materials. You are not to conduct any
5 investigation, test any theory of the case, re-create
6 any aspect of the case, or in any other way investigate
7 or learn about the case on your own.

8 You are not to talk with others, text others,
9 tweet others, message others, google issues, or conduct
10 any other kind of book or computer research with regard
11 to any issue, party, witness, or attorney involved in
12 this case. You are not to -- excuse me -- you are not
13 to form or express any opinion on any subject connected
14 with this trial until the case is finally submitted to
15 you.

16 Thank you.

17 (The following proceedings were held
18 outside the presence of the jury.)

19 THE COURT: Okay.

20 MR. KEMP: Your Honor, do we want to argue
21 this now or -- I mean --

22 THE COURT: We can argue it right now.

23 MR. KEMP: Yeah, I think Mr. Roberts killed
24 himself when he followed up and the guy said he has no
25 bias against buses. That's a direct quote, he has no

1 bias against buses. And then he -- then he went on and
2 on about this bus, that bus, you know, some buses --
3 some bus drivers is really what he was talking about,
4 who really aren't even at issue in this case at this
5 point.

6 But, in any event, then he talked for a long
7 time about proximity sensors when you are going in
8 reverse and backing up. That seemed to be his big
9 thing. And proving that he doesn't even know the facts
10 of the case, because the bus wasn't going in reverse
11 when it hit Dr. Khiabani.

12 But if you take a look at the Jitnan test, it
13 says, "Broadly speaking, if a prospective juror
14 expresses a preconceived opinion or bias about the
15 case."

16 This guy has no preconceived opinion or bias
17 about this case, because, when I was questioning him,
18 he doesn't know any of the facts about the case. He
19 doesn't know anything about the case.

20 "A juror should not be removed for cause if
21 the record as a whole demonstrates that the prospective
22 juror could set aside his impression or opinion and
23 render a verdict based on the evidence presented in
24 court."

25 He said that five times, that he would follow

1 Your Honor's instructions and give an opinion based
2 upon that.

3 So I can understand why Mr. Roberts wants to
4 get rid of the juror, but that's why he has a
5 peremptory challenge.

6 THE COURT: Thank you.

7 Go on, Mr. Roberts.

8 MR. ROBERTS: Your Honor, under the Jitnan
9 case, right at the bottom of page 432, beginning of
10 page 433, the supreme court said that "the voir dire of
11 Prospective Juror 40 exemplifies a situation where a
12 district court must set forth on the record findings
13 explaining the basis of its ruling."

14 The prospective juror in this case
15 continually gave inconsistent responses. At times he
16 indicated he could be fair and impartial; at other
17 times, he reiterated his preconceived opinion and bias.
18 And once he starts being inconsistent, that makes him
19 less reliable, not more reliable.

20 Mr. Kemp beat him up pretty good in appeal,
21 though. "You can be fair? You can do your duty? You
22 can follow the law?"

23 Those types of formulaic answers are
24 insufficient in Jitnan. He expressed bias against
25 buses and said we -- we'd be starting behind the line.

1 He expressed the fact that he thought that cyclists in
2 that area were exposed and he would -- he would tend to
3 favor the cyclist at the beginning.

4 The motion detector, he was never
5 rehabilitated on. He clearly said, in his opinion,
6 he's already formed it and held a deep conviction that
7 buses should have side proximity sensors. There's no
8 dispute that this bus -- this motor coach in question
9 had no side proximity sensor. He's already made up his
10 mind on that issue. Nothing he said indicated he had
11 changed his mind on that deeply held conviction.

12 So just on that alone, that is one of the key
13 issues in the case, Your Honor, whether this bus was
14 unreasonably dangerous because it didn't have a side
15 proximity sensor. And he's already made up his mind on
16 that key element of the case.

17 So on -- on a number of issues and a number
18 of indications of bias, we would request that he be
19 excused for cause, Your Honor.

20 MR. BARGER: May I say something?

21 MR. KEMP: One lawyer, Your Honor.

22 THE COURT: Okay. Go on.

23 MR. BARGER: Well, actually, Pete started out
24 with the witness first, but that's fine. We're not in
25 front of the jury, so I'd like to say something if

1 possible. If not -- then I won't.

2 THE COURT: No, I'm going to allow it.

3 MR. BARGER: Okay. I think the Court can
4 look at the demeanor of the witness as well.

5 THE COURT: I did.

6 MR. BARGER: And, obviously, Judge, you
7 know -- well, I don't need to say anything further --

8 THE COURT: Thank you.

9 MR. BARGER: -- the demeanor of this witness.

10 MR. KEMP: Your Honor, I agree. He wants off
11 the jury. But it's a hardship situation; it's not a
12 Jitnan situation. And if he can convince the Court
13 that his hardship is so compelling compared to all the
14 other hardships you're going to see, you know, that's a
15 different story.

16 We're arguing about Jitnan right now. And so
17 they have to prove there's a bias about the case that
18 cannot be set aside. And he's -- he's already said he
19 has no bias against buses. He said he would not treat
20 all buses the same. He said he would follow the
21 Court's instructions.

22 On proximity sensors, he doesn't even know
23 when the bus was made. He doesn't know whether they
24 were available at the time. You know, he has one in
25 his car. He thinks it's a good thing. But that's --

1 you know, there's going to be a lot of jurors that have
2 proximity sensors on their car. You can't throw them
3 all off.

4 So they have not made the showing that's
5 required under Jitnan. And, again, hardship may be a
6 different story when he explains the hardship a little
7 more and whether he can get around the hardship or not.
8 You know, sounds like -- you know, we haven't asked who
9 else is in the engineering department. I don't even
10 know what company it is. You know, he's overseeing 12
11 buildings. I don't know what kind of buildings.

12 THE COURT: 14.

13 MR. KEMP: 14 buildings.

14 You know, there may be a hardship there. I'm
15 not saying there's not, but there's not a Jitnan issue
16 here.

17 THE COURT: Okay. I will -- I will give
18 you -- I will give you the answer when we get back from
19 lunch.

20 MR. KEMP: Do you need a copy of Jitnan or
21 the cite?

22 THE COURT: I have it.

23 MR. BARGER: Did you say it's 1:45 they're
24 coming back?

25 THE COURT: They're coming back at 2:00. You

1 can come back a few minutes later.

2 MR. CHRISTIANSEN: Come back at 2:00, a
3 couple of minutes before?

4 THE COURT: Yeah. Just five, so we have
5 enough time to have lunch. Actually, it has to be a
6 full hour of lunch for my -- okay. So 2:00 o'clock.

7 MR. ROBERTS: 2:00 o'clock. Thank you, Your
8 Honor.

9 THE MARSHAL: All rise. Court is in recess.
10 2:00 o'clock.

11 (Whereupon a lunch recess was taken.)

12 THE COURT: All right. Just before we had
13 our afternoon recess, we were talking about Juror
14 No. -- Badge No. 11-0979. This is Mr. Portelli. And
15 there's been a challenge for cause by the defense, and
16 I've heard from both parties.

17 Does anyone have anything else to say?

18 MR. KEMP: No, Your Honor.

19 MR. ROBERTS: No, Your Honor.

20 THE COURT: Okay. So I have reviewed Jitnan
21 and also NRS 16.050. And let me just go over some of
22 the pertinent information that I think is important for
23 this analysis.

24 MR. KEMP: Can we be seated, Your Honor?

25 THE COURT: Oh, yeah. I'm sorry. Please be

1 seated. Okay.

2 Okay. So here -- here's how I see this.

3 Mr. Portelli indicated that he was a cyclist -- this is
4 at the beginning of his questioning -- near -- that he
5 cycles near the area. He lives in the area. He did
6 see the article and the picture. He rides on the same
7 street.

8 I'm paraphrasing. But he gets angry at
9 vehicles, I -- think he may have mentioned buses --
10 because it's dangerous. Sometimes they feel like they
11 own the road. I'm paraphrasing everything, but it's in
12 the record. And they have to be very careful. He
13 actually said angry. And I think he was very adamant
14 about this.

15 He also has a cousin who, at an early age,
16 was sucked under a vehicle and run over in front of
17 him. And I think that that's a significant concern.
18 He said that that would be difficult for him to review.

19 Further, he did talk about -- he did say that
20 buses should have proximity sensors in front and the
21 back. He also mentioned on the side. They're
22 easily -- easily available. He discussed blind spots.

23 And at the beginning, he actually said, "You
24 don't want me to hear this case or to be on this jury."
25 I'm paraphrasing but almost -- something just like

1 that.

2 Then there were further -- well, there was an
3 attempt to rehabilitate him. He said he would try to
4 keep his personal experiences out and follow, you know,
5 and follow the law.

6 However, I think that he was extremely
7 adamant. His voice was very certain when he spoke
8 about his feelings about buses, proximity sensors and
9 so forth. And when he was -- in my -- in my view, this
10 Court's view, when he was agreeing to follow the law, I
11 was watching his affect and his body language and he
12 appeared to feel uncomfortable.

13 So with respect to the United States Supreme
14 Court in Wainwright, the Nevada Supreme Court relied on
15 this decision citing -- this comes from actually
16 plaintiffs' brief -- prospective jurors must be excused
17 if their views could substantially impair their ability
18 to perform their function as jurors. And the
19 impairment need not be shown in unmistakable clarity.
20 And there's another area that they highlight where the
21 whole record shows the panel member had a fixed opinion
22 or bias against plaintiffs. In this case, it was
23 personal injury.

24 Here, when we talk about this case
25 specifically, they further go on to -- that the panel

1 member had a fixed opinion of bias against plaintiffs
2 in that case. And his belief may be substantially
3 impaired -- may have substantially impaired him from
4 performing his duties, if seated as a juror, given the
5 nature of the case.

6 And in Jitnan, this is -- they say this is a
7 prime example that cannot be rehabilitated. Even
8 though there was a good attempt to try, I don't think
9 that we get there.

10 And also Mr. Roberts pointed out -- and I
11 agree with this, and this is also in the brief --
12 answers -- it may be true that, on examination, a
13 prospective juror's answers tended to contradict his
14 previous statements, but we believe that his very
15 contradictions do not increase his fitness as a
16 juror.

17 So for those reasons -- and also, pursuant to
18 NRS 16.05, the second portion says -- so it begins with
19 "Having formed or expressed an unqualified opinion or
20 belief as to the merits of the action or the main
21 question involved therein." Here we have the theory of
22 the proximity sensors, we have the -- the cousin was
23 sucked in under the car. That is analogous to one of
24 the issues here. So I am going to excuse this juror
25 for cause.

1 MR. KEMP: Judge, can we bring him in and do
2 it outside of the presence so we don't encourage --

3 THE MARSHAL: Bring him in now, Your Honor?

4 THE COURT: Yes, please, Jerry.

5 MR. KEMP: We were just saying he's the
6 perfect juror, Your Honor.

7 THE COURT: Oh, I know.

8 MR. KEMP: He understands --

9 THE COURT: I know. I'm just -- my job is to
10 give you a level playing field, guys.

11 THE MARSHAL: All rise.

12 THE COURT: Mr. Portelli, I want to thank you
13 for your candidness and for your being here and
14 spending this time with us, but I'm going to go ahead
15 and excuse you. Okay?

16 PROSPECTIVE JUROR NO. 11-0979: Thank you.

17 THE COURT: And go ahead -- I'd like you to
18 report to jury services on the third floor, please.

19 PROSPECTIVE JUROR NO. 11-0979: Thank you.

20 THE COURT: Okay. Thank you. Have a good
21 day, sir.

22 MR. CHRISTIANSEN: Your Honor, just so the
23 record is clear, I wanted to introduce the Court to
24 Mr. Simak Barin, who's the administrator of both
25 Dr. Barin and Dr. Khiabani's estate. He's present in

1 the courtroom.

2 THE COURT: Welcome, sir. I'm glad to have
3 you.

4 Counsel, also here's a letter from Keli
5 Yohannes, 14. Thank you. She's the cyclist but also
6 works at the vet center -- veterinarian center. Yes,
7 that's 14.

8 THE CLERK: That's Shelbie Bynum.

9 THE COURT: It is Shelbie Bynum, No. 11-0887.
10 Just wanted to share that with you.

11 MR. CHRISTIANSEN: Thank you, Your Honor.

12 I was reading over your shoulder. I'm sorry.

13 THE COURT: All right. Is there -- is there
14 anyone else that we would like to discuss thus far --

15 MR. KEMP: No, Your Honor.

16 THE COURT: -- before we get the rest of the
17 jurors in?

18 All right. So we're going to be moving
19 someone into 22; correct?

20 THE CLERK: Uh-huh.

21 THE MARSHAL: Is that the new gentleman, Your
22 Honor?

23 THE COURT: Well, no. He's probably --
24 should he have been on the panel before already? Who
25 is he, Jerry?

1 THE MARSHAL: This is the third one down on
2 the page, Jaylen Green-Wilson, Badge No. 11-0825.

3 THE COURT: Okay. Apparently, Mr. Wilson has
4 been here since this morning sitting at jury services,
5 so -- I just found this out during the break.

6 Do you want him to -- he should have been, I
7 believe, on the panel.

8 MR. ROBERTS: Right.

9 THE COURT: So --

10 MR. ROBERTS: Your Honor, it would be our
11 preference, as annunciated earlier, that he be excused.

12 MR. KEMP: Judge, if he was down here, what's
13 the grounds for excusing him? He was downstairs.
14 That's not the jury.

15 MR. ROBERTS: The problem is that, randomly
16 speaking, he should be in Seat 3, and someone else is
17 in Seat 3 because he wasn't here.

18 MR. KEMP: He has the right to participate.
19 It's a fundamental constitutional right. And to
20 deprive that person of the right -- and I think the
21 real reason Mr. Roberts doesn't like this person is
22 he's an African American. So we have a Batson
23 situation on top of it.

24 So we have a situation where, to no fault of
25 the juror -- he wasn't late. He was sitting down

1 there. Apparently, they didn't round him up or
2 something. I don't know. But, yeah, I think -- I
3 think we've got a real problem if we excuse him.

4 THE COURT: So let -- let me ask you, what do
5 you think about making him a part of the pool in the
6 back? You know, like -- I know he should be there and
7 this is a certain way, but any thoughts on that?

8 Frankly, I haven't researched that. And you
9 can see I'm big on research.

10 MR. KEMP: Whatever Mr. Roberts will agree
11 to, I would agree to, Your Honor.

12 MR. ROBERTS: Your Honor, he -- he should
13 have been randomly chosen. He should be in a seat. He
14 can't be in that seat now. It's no longer random.

15 And I just -- we -- we would object to him
16 being seated at this point. I know it may not be his
17 fault, but he -- he wasn't here when we swore the jury.

18 MR. CHRISTIANSEN: Actually, he was. He was
19 in jury services, and it was a mistake by the jury
20 commissioner staff.

21 THE COURT: We don't know whose mistake it
22 was, Mr. Christiansen.

23 MR. KEMP: We don't know why he --

24 THE COURT: He said he didn't hear his name
25 called, but most of them did.

1 MR. ROBERTS: I just meant he wasn't in the
2 courtroom, Your Honor.

3 THE COURT: I'm sorry?

4 MR. ROBERTS: I only meant he was not in the
5 courtroom.

6 THE COURT: No, I know.

7 THE MARSHAL: He didn't respond to his name
8 being called.

9 MR. KEMP: Okay. Judge, I'm really concerned
10 about the Batson issue, though, because, you know, if
11 it was just someone else --

12 MR. ROBERTS: We -- we've actually probably
13 got a representative, if not overrepresentative, panel
14 already. Batson is not an issue here, and we're not
15 moving to strike him.

16 I took this position at the beginning of the
17 day before anyone had any idea who the jurors were that
18 would not show up. So it was a race-neutral reason at
19 the time I offered it this morning, and it's still a
20 race-neutral reason, Your Honor.

21 MR. KEMP: We got 300 jurors. He was here.
22 I mean, how can we punish the guy for being here?

23 THE COURT: You know, this may be the slowest
24 trial you've ever gone through, but I -- I research.
25 I'm sorry. Sometimes I just want to double-check and

1 see if there's anything -- and I'd rather do that
2 than --

3 MR. KEMP: Not a problem, Your Honor.

4 THE COURT: Okay. Give me five minutes. I
5 just found out as I was walking in, or I would have
6 already done it.

7 THE MARSHAL: Five minutes.

8 MR. CHRISTIANSEN: Thank you, Your Honor.

9 (Whereupon, a short recess was taken.)

10 THE MARSHAL: Please come to order.
11 Department 14 is back in session.

12 THE COURT: You may be seated.

13 Okay. I -- I believe that Mr. Roberts made
14 that motion at the beginning. We aren't in peremptory
15 challenges, so Batson doesn't apply. It could later.

16 But in my view, the greatest concern is that
17 this juror hasn't been here all day and didn't hear all
18 of the introduction and everything else. So what I'm
19 going to do is bring him in tomorrow. Okay?

20 I don't -- I don't think -- everyone is
21 selected the same way, Mr. Roberts. And I understand
22 your objection. But what I can do is place him at the
23 beginning so he's closer to the other -- to the day one
24 jury. But I don't think that that's an issue, and I --
25 I -- I know you've objected to that.

1 MR. ROBERTS: And -- and if I could just
2 state for the record.

3 THE COURT: Yes.

4 MR. ROBERTS: I believe that I can't --
5 couldn't find it. I think the Supreme Court refused to
6 look at this, in one case, because there was no basis
7 stated in the record on the grounds for -- for the jury
8 being drawn.

9 So I did want to put this on the record that
10 our objection is based on NRS 16.030, Subsection 3
11 [sic]. And this is under "Drawing and Examination of
12 Jurors."

13 THE COURT: NRS what?

14 MR. ROBERTS: 16.030, Subsection 2, Your
15 Honor. And this says, "Whenever the jurors are drawn
16 by the jury commissioner, the judge may also direct the
17 jury commissioner to draw in advance the names of
18 additional jurors in the order they would be used to
19 replace discharged or excused jurors pursuant to
20 Subsection 3 and 4."

21 So we do have a requirement that jurors are
22 drawn randomly, they're in the order they are, it
23 determines what seat they're in. And when a juror
24 isn't here and we've gone this far, we believe that it
25 would violate 16.030 to put them into the process

1 somewhere other than the order in which they were drawn
2 by the commissioner.

3 Thank you, Your Honor.

4 MR. KEMP: Well, Judge, they were the ones
5 that agreed we do 50 a day but we didn't have to bring
6 them all in at the same time. So I don't see that
7 argument holding a lot of water when they've already
8 taken that position.

9 MR. ROBERTS: No. We brought in the first
10 50, Your Honor. We didn't change the order in which
11 they were drawn by the commissioner.

12 THE COURT: All right. I think -- I think
13 we're going to -- I hear your objection, and I'm going
14 to continue.

15 MR. ROBERTS: Thank you, Your Honor.

16 THE MARSHAL: Would you like me to bring them
17 in, Your Honor?

18 THE COURT: Yes, please.

19 THE MARSHAL: Just stand there, sir. All
20 rise.

21 Give your name and badge number.

22 PROSPECTIVE JUROR NO. 11-0825: Jaylen
23 Green-Wilson, and my badge number is 11-0825.

24 THE COURT: Okay. Good afternoon,
25 Mr. Wilson. How are you? Have you been here? When

1 did you arrive?

2 PROSPECTIVE JUROR NO. 11-0825: I came at
3 9:00 this morning, and they told me to wait till 12:00.
4 I guess I missed the first group. I showed up at,
5 like, 9:05 because I had to park. And then she told me
6 to wait till 12:00 and come back. When I came back at
7 12:00, they told me that I needed to come back at 2:00
8 because they were on lunch.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 11-0825: So, yeah.

11 THE COURT: Who is "they"?

12 PROSPECTIVE JUROR NO. 11-0825: The
13 commissioner downstairs.

14 THE COURT: To wait until 12:00?

15 PROSPECTIVE JUROR NO. 11-0825: Yeah. She
16 told me to just wait till 12:00 when they start sending
17 up another group, and I was -- okay. So I waited. And
18 then she came back when they went to check me in and
19 she said that everybody was on lunch, so I needed to
20 come back at 2:00 o'clock when everybody was off of
21 lunch. So that's how I'm here now.

22 THE COURT: Okay. I'd like you to return to
23 the jury services, and I'd like you to be here tomorrow
24 morning, please.

25 PROSPECTIVE JUROR NO. 11-0825: Okay.

1 THE COURT: At the right time.

2 MR. KEMP: 12:00 tomorrow.

3 THE COURT: I'm sorry. Thank you.

4 Tomorrow you need to be here at 12:00 o'clock
5 sharp.

6 PROSPECTIVE JUROR NO. 11-0825: 12:00 o'clock
7 sharp.

8 THE COURT: In this courtroom -- or in jury
9 services.

10 PROSPECTIVE JUROR NO. 11-0825: Okay.

11 THE COURT: Okay?

12 PROSPECTIVE JUROR NO. 11-0825: All right.

13 THE COURT: Or wherever Marshal Ragsdale
14 tells you to go.

15 THE MARSHAL: We ready for the rest, Your
16 Honor?

17 THE COURT: Yes, please.

18 (Discussion was held off the record.)

19 THE MARSHAL: All rise.

20 (The following proceedings were held in
21 the presence of the jury.)

22 THE MARSHAL: All the jurors are present,
23 Your Honor. Please be seated. Come to order.

24 THE CLERK: Badge No. 11-0999. Janelle
25 Reeves in Seat 22.

1 THE COURT: Okay. Very good. State your
2 name and your badge number, please, your full badge
3 number.

4 PROSPECTIVE JUROR NO. 11-0999: Janelle
5 Reeves, 11-0999.

6 THE COURT: Okay. And you've heard the
7 questions that I've been asking the other -- the other
8 prospective jurors?

9 PROSPECTIVE JUROR NO. 11-0999: Yes, ma'am.

10 THE COURT: Okay. I'm just going to quickly
11 go through them with you.

12 It appears you have an understanding of
13 English?

14 PROSPECTIVE JUROR NO. 11-0999: Yes.

15 THE COURT: Okay. Are you affiliated with or
16 recognize either of the attorneys involved in this
17 case?

18 PROSPECTIVE JUROR NO. 11-0999: No.

19 THE COURT: Or any of the witnesses?

20 PROSPECTIVE JUROR NO. 11-0999: No.

21 THE COURT: Okay. Are any of -- or are you
22 acquainted with or recognize the names of any of the
23 witnesses that were in the questionnaire?

24 PROSPECTIVE JUROR NO. 11-0999: No.

25 THE COURT: Okay. Are you acquainted with or

1 recognize any of the parties in the case?

2 PROSPECTIVE JUROR NO. 11-0999: No.

3 THE COURT: Are you in any way obligated to
4 any of the parties or any of the lawyers in the case?

5 PROSPECTIVE JUROR NO. 11-0999: No.

6 THE COURT: Okay. Or to myself?

7 PROSPECTIVE JUROR NO. 11-0999: No.

8 THE COURT: Okay. Or any of the court --
9 Department 14 staff?

10 PROSPECTIVE JUROR NO. 11-0999: No.

11 THE COURT: Okay. Do you know any other
12 member of the jury panel?

13 PROSPECTIVE JUROR NO. 11-0999: No.

14 THE COURT: Understanding that this case is
15 probably going to last approximately five weeks and
16 based on the schedule that I previously indicated, do
17 you feel that serving that period of time would present
18 a physical or medical hardship?

19 PROSPECTIVE JUROR NO. 11-0999: No.

20 THE COURT: No. Do you feel that that --
21 serving that -- that amount of time would present a
22 severe or undue hardship?

23 PROSPECTIVE JUROR NO. 11-0999: No.

24 THE COURT: Okay. Have you ever been
25 involved in a car accident?

1 PROSPECTIVE JUROR NO. 11-0999: Minor fender
2 benders.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 11-0999: No injuries.
5 No lawsuits. Just a couple of scratches on the cars.

6 THE COURT: Okay. So you've never sued
7 anyone in those accidents?

8 PROSPECTIVE JUROR NO. 11-0999: No.

9 THE COURT: Or been sued?

10 PROSPECTIVE JUROR NO. 11-0999: No.

11 THE COURT: And you -- do you feel that
12 everything was resolved to your --

13 PROSPECTIVE JUROR NO. 11-0999: Yes.

14 THE COURT: Were you happy with the
15 resolution --

16 PROSPECTIVE JUROR NO. 11-0999: Yes.

17 THE COURT: -- or not? Okay.

18 As a juror, you'll be asked to listen to
19 witnesses, review evidence, and make a determination
20 based on the facts. You are -- you -- oh, I've
21 explained this already. You heard this. You are the
22 finder of facts, and the Court is the finder -- you
23 know, decides the law in this case.

24 PROSPECTIVE JUROR NO. 11-0999: Yeah.

25 THE COURT: Okay. You're aware of that.

1 Okay. Have you heard anything in the media
2 about this case?

3 PROSPECTIVE JUROR NO. 11-0999: No.

4 THE COURT: Have you read anything, seen
5 anything on television, Facebook, any -- any type of
6 media?

7 PROSPECTIVE JUROR NO. 11-0999: No.

8 THE COURT: Okay. So you heard the question
9 about do you have any sympathy, prejudice, or bias
10 relating to age, religion, race, gender, or national
11 origin that you feel would affect you to be
12 open-minded --

13 PROSPECTIVE JUROR NO. 11-0999: No.

14 THE COURT: -- fair and impartial as a juror?

15 PROSPECTIVE JUROR NO. 11-0999: Yes.

16 THE COURT: Okay. No or yes?

17 PROSPECTIVE JUROR NO. 11-0999: I will be
18 fair and impartial.

19 THE COURT: Okay. Is there any other reason
20 that you would be unable to be fair to serve as a juror
21 in this particular case?

22 PROSPECTIVE JUROR NO. 11-0999: No.

23 THE COURT: No? Okay.

24 All right. Just give me one moment. Okay.

25 Very good.

1 Let's go, then, to the juror in Box No. 1,
2 Badge No. 11-0798.

3 How long have you lived in Las Vegas, sir?

4 PROSPECTIVE JUROR NO. 11-0798: Ten years.

5 THE COURT: Ten years. Okay.

6 And what do you do for a living or for work?

7 PROSPECTIVE JUROR NO. 11-0798: Work
8 security.

9 THE COURT: What type of security?

10 PROSPECTIVE JUROR NO. 11-0798: In a casino.

11 THE COURT: In a casino. Okay.

12 Okay. Are you married or do you have a
13 significant other?

14 PROSPECTIVE JUROR NO. 11-0798: Married.

15 THE COURT: Okay. And what type of work
16 or -- is your spouse involved in?

17 PROSPECTIVE JUROR NO. 11-0798: Payroll, HR.

18 THE COURT: Okay. All right. Do you have
19 children?

20 PROSPECTIVE JUROR NO. 11-0798: I have two
21 children, boy and a girl.

22 THE COURT: How old are they?

23 PROSPECTIVE JUROR NO. 11-0798: 26 and 23.

24 THE COURT: Okay. Tell us about what your
25 children do for a living or what education they have.

1 PROSPECTIVE JUROR NO. 11-0798: My son is a
2 firefighter, and my daughter just -- she works at a
3 convenience store.

4 THE COURT: At a convenience store?

5 PROSPECTIVE JUROR NO. 11-0798: Yes.

6 THE COURT: Is she in school?

7 PROSPECTIVE JUROR NO. 11-0798: She takes
8 some online courses right now.

9 THE COURT: Do you know what area she's
10 studying?

11 PROSPECTIVE JUROR NO. 11-0798: Business.

12 THE COURT: Business.

13 PROSPECTIVE JUROR NO. 11-0798: A minor in
14 business.

15 THE COURT: Okay. Have you ever been a juror
16 before?

17 PROSPECTIVE JUROR NO. 11-0798: Yes.

18 THE COURT: Okay. Was it a civil or a
19 criminal case?

20 PROSPECTIVE JUROR NO. 11-0798: It was a
21 civil. A civil.

22 THE COURT: Civil. Okay.

23 Without telling us what the verdict was, did
24 the jury reach a verdict?

25 PROSPECTIVE JUROR NO. 11-0798: Yes.

1 THE COURT: Okay. Were you the foreperson?

2 PROSPECTIVE JUROR NO. 11-0798: No.

3 THE COURT: Okay. All right. Thank you.

4 Let's see. Please pass the microphone to the next
5 person.

6 This is Juror 11-0802. Good afternoon.

7 Going to ask you the entire -- so I've just
8 written -- that is your badge number; correct?

9 PROSPECTIVE JUROR NO. 11-0802: Yes.

10 THE COURT: Okay. How long have you lived in
11 the Las Vegas area?

12 PROSPECTIVE JUROR NO. 11-0802: 29 years.

13 THE COURT: Okay. And what do you do for a
14 living or work?

15 PROSPECTIVE JUROR NO. 11-0802: Commercial
16 driver for Republic Service.

17 THE COURT: I'm sorry?

18 PROSPECTIVE JUROR NO. 11-0802: Commercial
19 driver for Republic Service.

20 THE COURT: Okay. Commercial driver. Okay.
21 How long have you done that?

22 PROSPECTIVE JUROR NO. 11-0802: 24 years.

23 THE COURT: Okay. And were you a driver
24 before that too?

25 PROSPECTIVE JUROR NO. 11-0802: No.

1 THE COURT: No. What did do you before that?

2 PROSPECTIVE JUROR NO. 11-0802: Maintenance
3 at McDonald's.

4 THE COURT: All right. Are you married, or
5 do you have a significant other?

6 PROSPECTIVE JUROR NO. 11-0802: No.

7 THE COURT: Did you in the past?

8 PROSPECTIVE JUROR NO. 11-0802: Yes.

9 THE COURT: Okay. What area of work was your
10 significant other or your spouse in?

11 PROSPECTIVE JUROR NO. 11-0802: Title.

12 THE COURT: Title, as in real property?

13 PROSPECTIVE JUROR NO. 11-0802: Sold houses,
14 yeah.

15 THE COURT: Okay. Do you have children?

16 PROSPECTIVE JUROR NO. 11-0802: Three sons.

17 THE COURT: How old are your children, your
18 sons?

19 PROSPECTIVE JUROR NO. 11-0802: 28, 19, 18.

20 THE COURT: All right. 28, 19, and 10?

21 PROSPECTIVE JUROR NO. 11-0802: 18.

22 THE COURT: And 18. 28, 19, and 18.

23 All right. Please describe what education or
24 work your 28-year-old is in.

25 PROSPECTIVE JUROR NO. 11-0802: He's in law

1 school, ASU.

2 THE COURT: Oh, that's great -- or I think
3 that's great. Good for you. Okay. What year?

4 PROSPECTIVE JUROR NO. 11-0802: Second year.

5 THE COURT: Okay. I think I remember reading
6 about that.

7 What about your 19-year-old?

8 PROSPECTIVE JUROR NO. 11-0802: He goes to
9 CSN.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 11-0802: And he's
12 unemployed right now.

13 THE COURT: All right. Do you know what area
14 he is studying in at CSN?

15 PROSPECTIVE JUROR NO. 11-0802: Gaming.

16 THE COURT: Gaming. And what was he employed
17 in before, if he has been?

18 PROSPECTIVE JUROR NO. 11-0802: He worked at
19 a Goodwill store.

20 THE COURT: A Goodwill store? Okay.

21 You said you have an 18-year-old son as well.

22 PROSPECTIVE JUROR NO. 11-0802: He's a senior
23 in high school.

24 THE COURT: He's a senior. And what area is
25 he interested in?

1 PROSPECTIVE JUROR NO. 11-0802: Psychology.

2 THE COURT: Psychology. Okay. Very good.

3 Does he work?

4 PROSPECTIVE JUROR NO. 11-0802: No.

5 THE COURT: Okay. All right. Very good.

6 Have you ever been a juror before?

7 PROSPECTIVE JUROR NO. 11-0802: No.

8 THE COURT: Okay. All right. Please pass
9 the microphone over. This is -- may I have your name
10 and your badge number?

11 PROSPECTIVE JUROR NO. 11-0830: Michelle
12 Peligro, 11-0830.

13 THE COURT: Okay. And I'm going to ask you
14 the same questions. How long have you lived in the
15 Las Vegas area?

16 PROSPECTIVE JUROR NO. 11-0830: Since 2006.

17 THE COURT: 2006. Where did you live before
18 that?

19 PROSPECTIVE JUROR NO. 11-0830: San Jose,
20 California.

21 THE COURT: Okay. And what do you do for a
22 living, for work or --

23 PROSPECTIVE JUROR NO. 11-0830: I'm an
24 Uber/Lyft driver.

25 THE COURT: Okay. I think I saw that. Okay.

1 And do you -- are you married or do you have
2 a significant other?

3 PROSPECTIVE JUROR NO. 11-0830: I have a
4 significant other.

5 THE COURT: Okay. What area of work is your
6 significant other in or educational level?

7 PROSPECTIVE JUROR NO. 11-0830: He's a
8 disabled veteran.

9 THE COURT: Okay. What did -- what area of
10 work was he in before -- before he was in the service?

11 PROSPECTIVE JUROR NO. 11-0830: He enlisted
12 right after high school.

13 THE COURT: Okay. All right. Very good.
14 All right.

15 Do you have children?

16 PROSPECTIVE JUROR NO. 11-0830: I have two.

17 THE COURT: How old are they?

18 PROSPECTIVE JUROR NO. 11-0830: One is nine;
19 the other one just turned one.

20 THE COURT: Okay. That sounds great. All
21 right.

22 Have you ever served as a juror before?

23 PROSPECTIVE JUROR NO. 11-0830: No, this is
24 my first time.

25 THE COURT: Okay. Thank you very much.

1 Please pass the mic.

2 PROSPECTIVE JUROR NO. 11-0834: Joseph Dail,
3 Badge No. 11-0834.

4 THE COURT: Okay. Mr. Dail, how long have
5 you lived in Las Vegas area?

6 PROSPECTIVE JUROR NO. 11-0834: Just over 23
7 years.

8 THE COURT: 23 years.

9 Where were you before that?

10 PROSPECTIVE JUROR NO. 11-0834: Tampa,
11 Florida.

12 THE COURT: Okay. And what do you do for a
13 living or work?

14 PROSPECTIVE JUROR NO. 11-0834: I'm a casino
15 host.

16 THE COURT: Okay. How long have you done
17 that?

18 PROSPECTIVE JUROR NO. 11-0834: On and off
19 for about 20 years.

20 THE COURT: Okay. What about before that?

21 PROSPECTIVE JUROR NO. 11-0834: Well, in
22 between, when the economy went down, I had to get
23 some -- I had to find other employment. Did security
24 and worked in the census bureau. Before I moved here,
25 I was a radio disc jockey.

1 THE COURT: Oh, you were? Okay. What type
2 of radio show was it?

3 PROSPECTIVE JUROR NO. 11-0834: It was talk
4 radio. I was a board on for talk radio/shock radio.

5 THE COURT: Okay. What -- what type of
6 programs did it focus on?

7 PROSPECTIVE JUROR NO. 11-0834: The show was
8 called Hooters on the Radio. It was the Hooters
9 waitresses.

10 THE COURT: Okay. Okay. All right. And
11 let's see.

12 Are you married or do you have a significant
13 other?

14 PROSPECTIVE JUROR NO. 11-0834: I'm married.

15 THE COURT: You're married?

16 PROSPECTIVE JUROR NO. 11-0834: Yes.

17 THE COURT: And what area of work or
18 education does your spouse have?

19 PROSPECTIVE JUROR NO. 11-0834: My wife?
20 She's got a degree in psychology.

21 THE COURT: Okay. Does she -- what does she
22 work in?

23 PROSPECTIVE JUROR NO. 11-0834: She does --
24 she's stay-at-home right now.

25 THE COURT: For how long?

1 PROSPECTIVE JUROR NO. 11-0834: Past five to
2 six years.

3 THE COURT: Before that, what did she work
4 in?

5 PROSPECTIVE JUROR NO. 11-0834: She was in --
6 worked with the -- trying to think of the word. I'm
7 getting a little nervous.

8 THE COURT: It's okay. You know what? Being
9 nervous is absolutely expected. I would be surprised
10 if you weren't.

11 PROSPECTIVE JUROR NO. 11-0834: Homeowners
12 associations, doing the claims on the -- for homeowners
13 associations.

14 THE COURT: Okay. Claims for homeowners
15 association. How long did she do that, sir?

16 PROSPECTIVE JUROR NO. 11-0834: We got
17 married seven years ago, so this is going back before
18 we got married. So it was -- guestimate -- eight
19 years.

20 THE COURT: Okay. All right. Do you have
21 children?

22 PROSPECTIVE JUROR NO. 11-0834: No, no kids.

23 THE COURT: Okay. Have you ever served as a
24 juror before?

25 PROSPECTIVE JUROR NO. 11-0834: Yes.

1 THE COURT: Okay. Was it a civil or criminal
2 case?

3 PROSPECTIVE JUROR NO. 11-0834: Both.

4 THE COURT: All right. Without informing us
5 of the verdict, did you reach a verdict in the criminal
6 case?

7 PROSPECTIVE JUROR NO. 11-0834: Yes.

8 THE COURT: Okay. And what about the civil
9 case?

10 PROSPECTIVE JUROR NO. 11-0834: I believe so.
11 I was an alternate on that one, so when they went to
12 deliberation, I was sent home.

13 THE COURT: Okay. All right. Were you the
14 foreperson?

15 PROSPECTIVE JUROR NO. 11-0834: No, on
16 either.

17 THE COURT: On either. Okay. Thank you very
18 much. Please pass the mic.

19 Okay.

20 PROSPECTIVE JUROR NO. 11-0844: My name is
21 Raphael Javier, Badge No. 11-0844.

22 THE COURT: Okay. Good afternoon,
23 Mr. Javier. How long have you lived in the Las Vegas
24 area?

25 PROSPECTIVE JUROR NO. 11-0844: Born and

1 raised, 23. 23 years.

2 THE COURT: 23 years? Okay. And what area
3 of education have you studied, or what work do you do
4 for a living?

5 PROSPECTIVE JUROR NO. 11-0844: I work in
6 retail at an outlet mall.

7 THE COURT: At what mall?

8 PROSPECTIVE JUROR NO. 11-0844: An outlet,
9 the south.

10 THE COURT: Okay. What type of retail?

11 PROSPECTIVE JUROR NO. 11-0844: I'm -- like,
12 watches, like, a store.

13 THE COURT: So watches?

14 PROSPECTIVE JUROR NO. 11-0844: Yeah.

15 THE COURT: Okay. All right. How long have
16 you done that?

17 PROSPECTIVE JUROR NO. 11-0844: Four years.

18 THE COURT: Okay. Have you ever worked in
19 any other area?

20 PROSPECTIVE JUROR NO. 11-0844: No. But when
21 I left -- when I graduated high school, I just did some
22 work with my uncle, like -- like, lawn work and stuff.

23 THE COURT: Okay. All right. Let's see.

24 Are you married?

25 PROSPECTIVE JUROR NO. 11-0844: No.

1 THE COURT: Do you have a significant other?

2 PROSPECTIVE JUROR NO. 11-0844: No.

3 THE COURT: Did you before?

4 PROSPECTIVE JUROR NO. 11-0844: Like, high
5 school.

6 THE COURT: Okay. So it's been a while?

7 PROSPECTIVE JUROR NO. 11-0844: Yeah.

8 THE COURT: Okay. All right. Let's see. Do
9 you have children?

10 PROSPECTIVE JUROR NO. 11-0844: No.

11 THE COURT: Okay. All right. You might.
12 You know, but I don't think you have adult children,
13 so -- okay.

14 Have you ever been a juror before?

15 PROSPECTIVE JUROR NO. 11-0844: No, I
16 haven't.

17 THE COURT: Okay. All right. Thank you very
18 much.

19 Please pass the microphone.

20 PROSPECTIVE JUROR NO. 11-0853: Dylan
21 Domingo, Badge No. 11-0853.

22 THE COURT: Okay. Good afternoon. How long
23 have you lived in the Las Vegas area?

24 PROSPECTIVE JUROR NO. 11-0853: All my life,
25 24 years.

1 THE COURT: Okay. All right. And what area
2 of work are you in -- or education do you have?

3 PROSPECTIVE JUROR NO. 11-0853: I'm
4 unemployed. I have some college.

5 THE COURT: What college?

6 PROSPECTIVE JUROR NO. 11-0853: I went to
7 UNLV for film, for not very long.

8 THE COURT: UNLV film?

9 PROSPECTIVE JUROR NO. 11-0853: Yes.

10 THE COURT: And before you became unemployed,
11 what were you doing?

12 PROSPECTIVE JUROR NO. 11-0853: I did retail,
13 clothing, for a store called Top Shop. And then my
14 most recent job was about a year ago. I did
15 reservations for Caesars.

16 THE COURT: Okay. All right.

17 Do you -- are you married?

18 PROSPECTIVE JUROR NO. 11-0853: No.

19 THE COURT: Do you have a significant other?

20 PROSPECTIVE JUROR NO. 11-0853: Yes.

21 THE COURT: Okay. What area of work or
22 education is your significant other in?

23 PROSPECTIVE JUROR NO. 11-0853: Some college
24 also. She runs a grocery store.

25 THE COURT: Okay. What is -- what are her

1 duties at the grocery store?

2 PROSPECTIVE JUROR NO. 11-0853: She manages
3 the whole thing.

4 THE COURT: Oh, she's the manager. That's
5 great.

6 Okay. Do you have children?

7 PROSPECTIVE JUROR NO. 11-0853: No.

8 THE COURT: Okay. Have you ever served as a
9 juror before?

10 PROSPECTIVE JUROR NO. 11-0853: No.

11 THE COURT: Okay. Very good. If you could
12 please pass the mic. Thank you.

13 Go on.

14 PROSPECTIVE JUROR NO. 11-0855: Ronald Green,
15 11-0855.

16 THE COURT: Okay, Mr. Green. Let's see. How
17 long have you lived in the Las Vegas area?

18 PROSPECTIVE JUROR NO. 11-0855: Since 1989.

19 THE COURT: 1989? Before that?

20 PROSPECTIVE JUROR NO. 11-0855: Basically, I
21 didn't have a home for about ten years. I lived -- I
22 worked with a road show.

23 THE COURT: Oh, interesting.

24 PROSPECTIVE JUROR NO. 11-0855: Not a
25 carnival, but a road show.

1 THE COURT: Not a carnival? What kind of a
2 road show?

3 PROSPECTIVE JUROR NO. 11-0855: Ice follies,
4 Holiday on Ice, did different shows.

5 THE COURT: All right. And so what -- what
6 do you do for a living now -- and what --

7 PROSPECTIVE JUROR NO. 11-0855: My main job
8 is a skate instructor.

9 THE COURT: Oh, you are? Okay. How long
10 have you done that now?

11 PROSPECTIVE JUROR NO. 11-0855: 18 years.

12 THE COURT: Okay.

13 Are you married, or do you have a significant
14 other?

15 PROSPECTIVE JUROR NO. 11-0855: I'm married.

16 THE COURT: Okay. And what does your spouse
17 do, what area of work?

18 PROSPECTIVE JUROR NO. 11-0855: She's a
19 flight attendant.

20 THE COURT: She's a flight attendant. How
21 long has she been doing that?

22 PROSPECTIVE JUROR NO. 11-0855: 18 years.

23 THE COURT: Do you have children?

24 PROSPECTIVE JUROR NO. 11-0855: No children.

25 THE COURT: Okay. Have you ever served as a

1 juror before?

2 PROSPECTIVE JUROR NO. 11-0855: Yes.

3 THE COURT: Okay. Was it a civil or
4 criminal --

5 PROSPECTIVE JUROR NO. 11-0855: Criminal.

6 THE COURT: -- case?

7 Okay. Without telling us what the verdict
8 was, did the jury reach a verdict?

9 PROSPECTIVE JUROR NO. 11-0855: We reached a
10 verdict.

11 THE COURT: You did? Okay. And were you the
12 foreperson?

13 PROSPECTIVE JUROR NO. 11-0855: No.

14 THE COURT: Okay. Thank you very much. Will
15 you please pass the microphone. Okay.

16 PROSPECTIVE JUROR NO. 11-0860: Aberash,
17 11-0860.

18 THE COURT: Okay. Very good. I think you
19 may have mentioned this before, but I think you said
20 six years, you've lived in Las Vegas; is that correct?

21 PROSPECTIVE JUROR NO. 11-0860: Only five
22 years, and I having been living in --

23 THE COURT: You need to speak louder, please.

24 PROSPECTIVE JUROR NO. 11-0860: Here, I'm
25 only five years. And before, I'm only here for one

1 year.

2 THE COURT: Okay. So you lived in Las Vegas
3 five years and where for one year?

4 PROSPECTIVE JUROR NO. 11-0860: Carson City.

5 THE COURT: Oh, Carson City?

6 PROSPECTIVE JUROR NO. 11-0860: Yes.

7 THE COURT: Okay. All right. All right.

8 Let's see.

9 Are you married, or do you have a significant
10 other?

11 PROSPECTIVE JUROR NO. 11-0860: No.

12 THE COURT: Did you have a significant other
13 before?

14 PROSPECTIVE JUROR NO. 11-0860: No.

15 THE COURT: No. All right. Let's see.

16 Do you have any children?

17 PROSPECTIVE JUROR NO. 11-0860: No.

18 THE COURT: Okay. Have you ever served as a
19 juror before?

20 PROSPECTIVE JUROR NO. 11-0860: No. First
21 time.

22 THE COURT: Pardon?

23 PROSPECTIVE JUROR NO. 11-0860: It's first
24 time.

25 THE COURT: First time. Okay. Thank you

1 very much.

2 PROSPECTIVE JUROR NO. 11-0860: You're
3 welcome.

4 THE COURT: Please pass the mic.

5 PROSPECTIVE JUROR NO. 11-0860: Jenny
6 Gagliano, 11-0867.

7 THE COURT: How long have you lived in the
8 Las Vegas area?

9 PROSPECTIVE JUROR NO. 11-0867. Since '95.

10 THE COURT: Since '95. And before that?

11 PROSPECTIVE JUROR NO. 11-0867: In
12 California.

13 THE COURT: Where?

14 PROSPECTIVE JUROR NO. 11-0867: San Jose.

15 THE COURT: Okay. All right. And what do
16 you do for a living, or what work do you do?

17 PROSPECTIVE JUROR NO. 11-0867: I'm an RN for
18 a nursery.

19 THE COURT: For a nursery?

20 PROSPECTIVE JUROR NO. 11-0867: Yes, in a
21 hospital.

22 THE COURT: In a hospital?

23 PROSPECTIVE JUROR NO. 11-0867: Yes.

24 THE COURT: Is it a NICU ward or --

25 PROSPECTIVE JUROR NO. 11-0867: Well --

1 well-baby nursery, well-born, newborn.

2 THE COURT: Newborn? Okay.

3 Okay. All right. Very good. How long have
4 you done that?

5 PROSPECTIVE JUROR NO. 11-0867: About six
6 years now.

7 THE COURT: Before that?

8 PROSPECTIVE JUROR NO. 11-0867: I was in the
9 casino industry. I was a table games dealer.

10 THE COURT: How long were you employed in
11 that area?

12 PROSPECTIVE JUROR NO. 11-0867: At least 15
13 years.

14 THE COURT: All right. Very good. Are you
15 married, or do you have a significant other?

16 PROSPECTIVE JUROR NO. 11-0867: I'm married.

17 THE COURT: Okay. And what area of work --

18 PROSPECTIVE JUROR NO. 11-0867: He's also a
19 table games dealer.

20 THE COURT: -- is your spouse in?

21 Okay. Does he continue to work in the gaming
22 industry?

23 PROSPECTIVE JUROR NO. 11-0867: Yes, he's
24 still there.

25 THE COURT: How long has he been in that

1 industry?

2 PROSPECTIVE JUROR NO. 11-0867: 15 or 20
3 years.

4 THE COURT: Do you have children?

5 PROSPECTIVE JUROR NO. 11-0867: I do.

6 THE COURT: What ages are they?

7 PROSPECTIVE JUROR NO. 11-0867: 22, 15, and
8 6.

9 THE COURT: 22, 15, and 6?

10 PROSPECTIVE JUROR NO. 11-0867: Yes.

11 THE COURT: Wow. Okay. Your 22-year-old?

12 PROSPECTIVE JUROR NO. 11-0867: She just
13 graduated UCLA --

14 THE COURT: Congratulations.

15 PROSPECTIVE JUROR NO. 11-0867: Thank you --
16 premed. She just took her MCATs, so hopefully she
17 passed.

18 THE COURT: Good for you. That's great.
19 What area has she worked in before?

20 PROSPECTIVE JUROR NO. 11-0867: Just after
21 she graduated, she worked for a few months for a
22 doctor's office as a medical transcribe.

23 THE COURT: Do you know what type of medical
24 doctor?

25 PROSPECTIVE JUROR NO. 11-0867: I think he

1 was family practice.

2 THE COURT: Family? Okay.

3 All right. Your 15-year-old is in -- a
4 sophomore in high school?

5 PROSPECTIVE JUROR NO. 11-0867: She's a
6 freshman in high school.

7 THE COURT: A freshman?

8 PROSPECTIVE JUROR NO. 11-0867: She just
9 broke her foot.

10 THE COURT: I'm sorry to hear that.

11 So does she have any interest -- what area is
12 she interested in?

13 PROSPECTIVE JUROR NO. 11-0867: She's at LVA
14 for photography.

15 THE COURT: Okay. She's an artist. Okay.
16 Very good.

17 And I don't think at this point we're going
18 to ask you too much about that -- I'm going to ask
19 about your six-year-old.

20 PROSPECTIVE JUROR NO. 11-0867: She's just a
21 first-grader.

22 THE COURT: That's great. Okay. Let's see.
23 Have you ever served on a jury before?

24 PROSPECTIVE JUROR NO. 11-0867: No.

25 THE COURT: Okay. Thank you very much.

1 Please pass the mic.

2 PROSPECTIVE JUROR NO. 11-0877: My number is
3 11-0877.

4 THE COURT: Okay. And you're Ms. Dorothy
5 Lee.

6 PROSPECTIVE JUROR NO. 11-0877: Dorothy Lee.

7 THE COURT: Good afternoon, Ms. Lee.

8 Ms. Lee, how long have you lived in the Las Vegas area?

9 PROSPECTIVE JUROR NO. 11-0877: 24 years.

10 THE COURT: Okay. Before that?

11 PROSPECTIVE JUROR NO. 11-0877: I was in
12 Wichita going to school there.

13 THE COURT: What were you studying?

14 PROSPECTIVE JUROR NO. 11-0877:
15 Entrepreneurship and business.

16 THE COURT: So business. Okay. And is
17 that -- what -- what area do you work in now?

18 PROSPECTIVE JUROR NO. 11-0877: I'm retired
19 now.

20 THE COURT: You are?

21 PROSPECTIVE JUROR NO. 11-0877: Uh-huh.

22 THE COURT: Okay. How long have you been
23 retired?

24 PROSPECTIVE JUROR NO. 11-0877: About ten
25 years.

1 THE COURT: Okay. How long did you -- what
2 did you do after you studied in Wichita? What area
3 were you --

4 PROSPECTIVE JUROR NO. 11-0877: I was working
5 for customer service for the convention center.

6 THE COURT: Okay. How long?

7 PROSPECTIVE JUROR NO. 11-0877: About ten
8 years at that.

9 THE COURT: And any other jobs? Any other
10 areas?

11 PROSPECTIVE JUROR NO. 11-0877: Yeah, I
12 worked for the Hilton International for one year, and
13 then I went to another --

14 THE COURT: What capacity were you in?

15 PROSPECTIVE JUROR NO. 11-0877: It was
16 working in the office upstairs.

17 THE COURT: Office upstairs?

18 PROSPECTIVE JUROR NO. 11-0877: Uh-huh.
19 Working computers and office work.

20 THE COURT: Okay. And what else have you
21 done?

22 PROSPECTIVE JUROR NO. 11-0877: Then there
23 was a small business. It was a calling business that I
24 did. TMC, I think, is what it was called. And you
25 just called different to -- to buy stuff for the

1 companies --

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 11-0877: -- you know,
4 whatever -- whatever they wanted. You know, it was
5 really for the military, and then you just called and
6 got the supplies for them.

7 THE COURT: Okay. Very good. Any other type
8 of work?

9 PROSPECTIVE JUROR NO. 11-0877: No. No. No.

10 THE COURT: No. Okay. All right. Are you
11 married or do you have a significant other?

12 PROSPECTIVE JUROR NO. 11-0877: My husband,
13 he is deceased.

14 THE COURT: Okay. And what area of work is
15 your husband in?

16 PROSPECTIVE JUROR NO. 11-0877: He was a
17 military officer.

18 THE COURT: He was. What area of the
19 military?

20 PROSPECTIVE JUROR NO. 11-0877: He was a
21 pilot.

22 THE COURT: Oh, that's very interesting.

23 Okay. And since your retirement or his, do
24 you work in any other areas? Sometimes people have --

25 PROSPECTIVE JUROR NO. 11-0877: No, but I'm

1 thinking about it here soon.

2 THE COURT: You are, huh? What about him?

3 PROSPECTIVE JUROR NO. 11-0877: Oh, he --
4 he's deceased.

5 THE COURT: Oh, I'm sorry to hear that.

6 All right. So how many years was your
7 husband in the -- in the military?

8 PROSPECTIVE JUROR NO. 11-0877: He retired at
9 25 years.

10 THE COURT: Okay. Very good. Thank you.
11 Let's see. Do you have children?

12 PROSPECTIVE JUROR NO. 11-0877: Yeah, I have
13 four, two daughters and two sons.

14 THE COURT: Okay. What ages are they?

15 PROSPECTIVE JUROR NO. 11-0877: They are like
16 50 --

17 THE COURT: I'm sorry?

18 PROSPECTIVE JUROR NO. 11-0877: They're
19 50-something.

20 THE COURT: 50.

21 PROSPECTIVE JUROR NO. 11-0877: And -- yeah.
22 And the boys -- the boys are twins, and they just
23 turned 50.

24 THE COURT: Okay. And so -- so you have
25 four?

1 PROSPECTIVE JUROR NO. 11-0877: Yeah, four,
2 two girls. Uh-huh.

3 THE COURT: Okay. One is 50? Two are just
4 turning --

5 PROSPECTIVE JUROR NO. 11-0877: And the other
6 one, she's a year behind, and she's -- she's a doctor.

7 THE COURT: But how old is she?

8 PROSPECTIVE JUROR NO. 11-0877: She's like
9 54.

10 THE COURT: Oh, 54. Okay.

11 All right. So your 54-year-old daughter is a
12 doctor?

13 PROSPECTIVE JUROR NO. 11-0877: Uh-huh.

14 THE COURT: That's great. What area of
15 medicine is she in?

16 PROSPECTIVE JUROR NO. 11-0877: OB-GYN.

17 THE COURT: Oh, okay. All right. And then
18 what about the twins?

19 PROSPECTIVE JUROR NO. 11-0877: One's in
20 computers. And the other one, he works in just regular
21 store.

22 THE COURT: In retail?

23 PROSPECTIVE JUROR NO. 11-0877: Yeah.

24 THE COURT: Okay. How long has your one --
25 has the twin in computers been in that area?

1 PROSPECTIVE JUROR NO. 11-0877: He graduated
2 in like '97. So he went to worked for Intel. You
3 know, he's in that kind of field.

4 THE COURT: Okay. Very good.
5 And your twin that's in retail?

6 PROSPECTIVE JUROR NO. 11-0877: I don't know.

7 THE COURT: You don't know?

8 PROSPECTIVE JUROR NO. 11-0877: No.

9 THE COURT: Has he held any --

10 PROSPECTIVE JUROR NO. 11-0877: Yeah, he --
11 he works in it, but I don't know what --

12 THE COURT: I'm sorry?

13 PROSPECTIVE JUROR NO. 11-0877: He works
14 in -- in the retail. But ask me what he does, I don't
15 know.

16 THE COURT: Okay. But he's been in retail
17 for a long time?

18 PROSPECTIVE JUROR NO. 11-0877: Yeah.
19 Uh-huh.

20 THE COURT: How many years would you say?

21 PROSPECTIVE JUROR NO. 11-0877: Ooh, maybe
22 about -- he stayed in Wichita.

23 THE COURT: Okay. All right.

24 PROSPECTIVE JUROR NO. 11-0877: So he's
25 there.

1 THE COURT: And then you have one more? Is
2 that the --

3 PROSPECTIVE JUROR NO. 11-0877: I have a
4 daughter, and she's a year older than them. So she's
5 55.

6 THE COURT: She's 55.

7 PROSPECTIVE JUROR NO. 11-0877: And she works
8 for Becton Dickinson, and she's in a high position
9 there.

10 THE COURT: And what -- what -- when you say
11 that, what -- what -- her responsibilities, what does
12 she do?

13 PROSPECTIVE JUROR NO. 11-0877: Well,
14 she's -- good question. I don't know.

15 THE COURT: I should probably know this, but
16 I don't know what --

17 PROSPECTIVE JUROR NO. 11-0877: Well, she
18 used to be -- you know, she used to be a manager and
19 director, and now she went over into the business side.
20 And so that -- that's why I don't know in the business
21 side.

22 THE COURT: To be very honest with you, I
23 don't know what that company does.

24 PROSPECTIVE JUROR NO. 11-0877: It's -- it
25 makes medical supplies.

1 THE COURT: Okay. Okay. Let's see. Have
2 you ever been a juror before?

3 PROSPECTIVE JUROR NO. 11-0877: Yes. Two of
4 them here.

5 THE COURT: You have?

6 PROSPECTIVE JUROR NO. 11-0877: Here.

7 THE COURT: Here in Las Vegas?

8 PROSPECTIVE JUROR NO. 11-0877: Yes.

9 THE COURT: In Clark County?

10 PROSPECTIVE JUROR NO. 11-0877: Yes.

11 THE COURT: Okay. Okay. And were the cases
12 civil or criminal?

13 PROSPECTIVE JUROR NO. 11-0877: I think one
14 was -- I think they must have been civil.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 11-0877: Somebody was
17 hurt, and I don't know how that went -- how that goes.

18 THE COURT: Okay. Well, we can -- it can be
19 heard in civil or criminal, but --

20 PROSPECTIVE JUROR NO. 11-0877: It was with
21 the police. I think the police had done something to
22 them.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 11-0877: And they
25 settled.

1 THE COURT: Okay. I was going to say don't
2 tell me what the verdict was. So the case settled; it
3 didn't go to --

4 PROSPECTIVE JUROR NO. 11-0877: No.

5 THE COURT: -- verdict.

6 PROSPECTIVE JUROR NO. 11-0877: We didn't
7 give a verdict.

8 THE COURT: Okay. What about the second one?

9 PROSPECTIVE JUROR NO. 11-0877: The second
10 one, it was -- I guess that would be criminal.

11 THE COURT: Okay. But did you -- did the
12 jury reach a verdict?

13 PROSPECTIVE JUROR NO. 11-0877: Yes, we did.

14 THE COURT: Okay. Thank you. Were you the
15 foreperson?

16 PROSPECTIVE JUROR NO. 11-0877: No.

17 THE COURT: Okay. Thank you very much.

18 Let's pass the mic all the way down.

19 Good afternoon.

20 PROSPECTIVE JUROR NO. 11-0879: Hello.

21 Vanessa Rodriguez, 11-0879.

22 THE COURT: Okay. Good. Ms. Rodriguez, how
23 long have you lived in the Las Vegas area?

24 PROSPECTIVE JUROR NO. 11-0879: 26 years.

25 THE COURT: Okay. And is that your entire

1 life or --

2 PROSPECTIVE JUROR NO. 11-0879: No.

3 THE COURT: Where did you live before that?

4 PROSPECTIVE JUROR NO. 11-0879: Arlington,
5 Texas.

6 THE COURT: Texas. Okay.

7 All right. And what do you do for a living
8 or for work?

9 PROSPECTIVE JUROR NO. 11-0879: Finance.

10 THE COURT: Finance?

11 PROSPECTIVE JUROR NO. 11-0879: Yes.

12 THE COURT: Is your education in that -- in
13 that?

14 PROSPECTIVE JUROR NO. 11-0879: No.

15 THE COURT: What -- do you have --

16 PROSPECTIVE JUROR NO. 11-0879: Just I guess
17 years prior to that, working in fast food helped me to
18 where I am now.

19 THE COURT: That's great.

20 PROSPECTIVE JUROR NO. 11-0879: Thank you.

21 THE COURT: Okay. So what are -- when you
22 say finance, what are your responsibilities?

23 PROSPECTIVE JUROR NO. 11-0879: Like putting
24 in numbers, getting numbers from every restaurant to
25 see the -- the revenue and whatnot.

1 THE COURT: Okay. How long have you been in
2 this area of work?

3 PROSPECTIVE JUROR NO. 11-0879: Two years.

4 THE COURT: Two years before that?

5 PROSPECTIVE JUROR NO. 11-0879: Hostess.

6 THE COURT: Where? At a restaurant?

7 PROSPECTIVE JUROR NO. 11-0879: At the pool
8 in the casino.

9 THE COURT: Okay. And before that?

10 PROSPECTIVE JUROR NO. 11-0879: I worked at
11 Taco Bell for 11 years.

12 THE COURT: Okay. So it's been in the
13 service industry?

14 PROSPECTIVE JUROR NO. 11-0879: Yep.

15 THE COURT: Okay. Very good. Are you
16 married or do you have a significant other?

17 PROSPECTIVE JUROR NO. 11-0879: A significant
18 other.

19 THE COURT: Okay. In what area of work or
20 education is your significant other in?

21 PROSPECTIVE JUROR NO. 11-0879: Busser.

22 THE COURT: I'm sorry?

23 PROSPECTIVE JUROR NO. 11-0879: At a
24 restaurant.

25 THE COURT: Okay. And how long has your

1 significant other worked in that area?

2 PROSPECTIVE JUROR NO. 11-0879: Six years.

3 THE COURT: Six years?

4 PROSPECTIVE JUROR NO. 11-0879: Yeah.

5 THE COURT: And before that?

6 PROSPECTIVE JUROR NO. 11-0879: Electrician.

7 THE COURT: An electrician?

8 PROSPECTIVE JUROR NO. 11-0879: Yes.

9 THE COURT: How long?

10 PROSPECTIVE JUROR NO. 11-0879: Oh, man. I
11 don't know. Before -- before we met.

12 THE COURT: Okay. Before you met. All
13 right. Very good.

14 All right. Do you have children?

15 PROSPECTIVE JUROR NO. 11-0879: Yes.

16 THE COURT: How old are your children?

17 PROSPECTIVE JUROR NO. 11-0879: 13, 12, and
18 4.

19 THE COURT: 13, 12, and 4. Okay. All right.
20 Very good.

21 Have you ever served as a juror before?

22 PROSPECTIVE JUROR NO. 11-0879: No.

23 THE COURT: All right. Okay. Thank you very
24 much. Please pass the mic.

25 Good afternoon.

1 PROSPECTIVE JUROR NO. 11-0880: Good
2 afternoon. William Richardson, 11-0880.

3 THE COURT: Okay. Good afternoon. Let's
4 see. How long have you lived in Las Vegas?

5 PROSPECTIVE JUROR NO. 11-0880: I moved here
6 in March of 2015.

7 THE COURT: March of 2015?

8 PROSPECTIVE JUROR NO. 11-0880: Yeah. I
9 became a legal resident December of that year.

10 THE COURT: I need you to speak a little
11 bit --

12 PROSPECTIVE JUROR NO. 11-0880: I became a
13 legal resident in December of '13. I moved here to go
14 to school in March. I became a resident in December.

15 THE COURT: Okay. And where did you live
16 before that?

17 PROSPECTIVE JUROR NO. 11-0880: Eugene,
18 Oregon.

19 THE COURT: In Oregon, how long?

20 PROSPECTIVE JUROR NO. 11-0880: Six years.

21 THE COURT: Before that?

22 PROSPECTIVE JUROR NO. 11-0880: Honolulu,
23 Hawaii.

24 THE COURT: Okay. All right. How long?

25 PROSPECTIVE JUROR NO. 11-0880: Four years in

1 Hawaii.

2 THE COURT: Okay. And before that?

3 PROSPECTIVE JUROR NO. 11-0880: California
4 for the rest of my life.

5 THE COURT: Okay. All right. You say that
6 you came to school?

7 PROSPECTIVE JUROR NO. 11-0880: I came to
8 dealer school here in Las Vegas.

9 THE COURT: Dealer school. Okay.
10 And how long -- do you work in that area?

11 PROSPECTIVE JUROR NO. 11-0880: I'm now
12 retired. I did deal on and off for about two years.

13 THE COURT: Two years. Okay.

14 Before dealer school, what area of work were
15 you in?

16 PROSPECTIVE JUROR NO. 11-0880: I'm primarily
17 a writer. But I've done it in marketing, advertising,
18 public relations, and editorial.

19 THE COURT: Okay. What type of writing?

20 PROSPECTIVE JUROR NO. 11-0880: Marketing,
21 advertising --

22 THE COURT: Oh, in that area. Okay. I see.
23 How long?

24 PROSPECTIVE JUROR NO. 11-0880: I started
25 writing professionally in 1977.

1 THE COURT: Okay. Very good. All right.
2 Let's see. Are you married or do you have a
3 significant other?

4 PROSPECTIVE JUROR NO. 11-0880: Never
5 married, no kids.

6 THE COURT: Never married, no kids.

7 PROSPECTIVE JUROR NO. 11-0880: Never
8 married, no kids.

9 THE COURT: Okay. Former significant other?

10 PROSPECTIVE JUROR NO. 11-0880: Not at this
11 time, no.

12 THE COURT: Okay. Former?

13 PROSPECTIVE JUROR NO. 11-0880: It's been
14 years.

15 THE COURT: Okay. All right. Let's see. No
16 kids.

17 Okay. Have you ever served as a juror?

18 PROSPECTIVE JUROR NO. 11-0880: Yes.

19 THE COURT: Okay. Was it a civil or criminal
20 case?

21 PROSPECTIVE JUROR NO. 11-0880: It was a
22 civil case.

23 THE COURT: Okay. Without telling us what
24 the verdict was, did the jury reach a verdict?

25 PROSPECTIVE JUROR NO. 11-0880: Yes. Yes, we

1 did.

2 THE COURT: Okay. Were you the foreperson?

3 PROSPECTIVE JUROR NO. 11-0880: I was not.

4 THE COURT: Okay. Thank you very much.

5 Please pass the mic.

6 Okay. Your name?

7 PROSPECTIVE JUROR NO. 11-0885: Badge
8 No. 11-0885, Constance Brown.

9 THE COURT: Good afternoon, Ms. Brown.

10 Let's see. How long have you lived in
11 Las Vegas?

12 PROSPECTIVE JUROR NO. 11-0885: Since '89.

13 THE COURT: Since '89. Okay.

14 And before that?

15 PROSPECTIVE JUROR NO. 11-0885: Louisiana.

16 THE COURT: Louisiana. Okay.

17 How long?

18 PROSPECTIVE JUROR NO. 11-0885: Born and
19 raised.

20 THE COURT: Born and raised. Okay.

21 What do you do for a living or work?

22 PROSPECTIVE JUROR NO. 11-0885: I'm an office
23 assistant at UMC Sunset Primary/Quick Care.

24 THE COURT: Oh, yeah. I think I saw that.

25 Okay. What are your duties there?

1 PROSPECTIVE JUROR NO. 11-0885: I do a lot of
2 things. I scan in information to the patients' charts,
3 I order supplies, help where needed.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 11-0885: Answer phones
6 as well.

7 THE COURT: How long have you been there?

8 PROSPECTIVE JUROR NO. 11-0885: 13 years.

9 THE COURT: Okay. What about before that?

10 PROSPECTIVE JUROR NO. 11-0885: Owens Welfare
11 Office.

12 THE COURT: Owens what office?

13 PROSPECTIVE JUROR NO. 11-0885: Welfare
14 office.

15 THE COURT: Oh, okay. The welfare office.

16 How long did you work there?

17 PROSPECTIVE JUROR NO. 11-0885: Seven years.

18 THE COURT: Okay. What was your position
19 there?

20 PROSPECTIVE JUROR NO. 11-0885:
21 Administrative assistant --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 11-0885: -- I.

24 THE COURT: All right. Very good.

25 All right. Do you -- and your duties?

1 PROSPECTIVE JUROR NO. 11-0885: Oh, my gosh.
2 There, what did I do? Ooh, I don't remember. I did a
3 number of things. I -- sometimes I worked at the front
4 desk. Oh, my gosh. It's been too long ago.

5 THE COURT: Pretty much, was it office type
6 of duties?

7 PROSPECTIVE JUROR NO. 11-0885: Yes.

8 THE COURT: Okay. Thank you. Are you
9 married or do you have a significant other?

10 PROSPECTIVE JUROR NO. 11-0885: Married.

11 THE COURT: Okay. And what does your spouse
12 do?

13 PROSPECTIVE JUROR NO. 11-0885: He's a
14 custodial for UNLV.

15 THE COURT: Okay. And how long has he done
16 that?

17 PROSPECTIVE JUROR NO. 11-0885: About five
18 years. Five, six years.

19 THE COURT: What about before that?

20 PROSPECTIVE JUROR NO. 11-0885: He was a
21 shift manager at the Opera House before it closed.

22 THE COURT: The Opera House?

23 PROSPECTIVE JUROR NO. 11-0885. Yes. It was
24 a little casino.

25 THE COURT: Okay. And how long was he in --

1 in that area?

2 PROSPECTIVE JUROR NO. 11-0885: Not sure. We
3 met when he -- well, we met prior to that, but we kind
4 of reunited during that time when he was at the Opera
5 House.

6 THE COURT: All right. So if you met him
7 before the Opera House, what was he doing before the
8 Opera House?

9 PROSPECTIVE JUROR NO. 11-0885: Back in '95
10 when we met, I'm not sure. I don't remember.

11 THE COURT: You can't remember.

12 Okay. Do you have children?

13 PROSPECTIVE JUROR NO. 11-0885: Yes.

14 THE COURT: Okay. What ages are your
15 children?

16 PROSPECTIVE JUROR NO. 11-0885: 26 and --
17 and -- 25 and 15.

18 THE COURT: All right. What -- what area of
19 work or education is your 25-year-old in?

20 PROSPECTIVE JUROR NO. 11-0885: She -- well,
21 she went to school for massage therapy, but she works
22 at this company called Sykes in HR.

23 THE COURT: Sykes?

24 PROSPECTIVE JUROR NO. 11-0885: Sykes.

25 THE COURT: Sykes. What --

1 PROSPECTIVE JUROR NO. 11-0885: S --
2 S-y-k-e-s, I think.

3 THE COURT: Okay. And do you know what that
4 company does, what -- what their service is or their
5 product or --

6 PROSPECTIVE JUROR NO. 11-0885: I know they
7 have different areas that they have, like Amazon. They
8 have PlayStation. It's different -- different areas
9 within the company.

10 THE COURT: Okay. And do you know what
11 area -- what she's working?

12 PROSPECTIVE JUROR NO. 11-0885: She's in the
13 HR department.

14 THE COURT: HR. Okay. Very good.
15 And your 15-year-old is still --

16 PROSPECTIVE JUROR NO. 11-0885: A sophomore.

17 THE COURT: A sophomore. Okay.

18 Any interests yet?

19 PROSPECTIVE JUROR NO. 11-0885: Well, he
20 always talked about being a -- a singer, rapper,
21 dancer. But he's interning with U.S. Congress -- well,
22 his history teacher is running for U.S. Congress. So
23 he's been interning with him. So maybe he'll switch to
24 politics.

25 THE COURT: Okay. All right. Have you ever

1 served on a jury before?

2 PROSPECTIVE JUROR NO. 11-0885: No.

3 THE COURT: Okay. Thank you very much.

4 All right. Go on.

5 PROSPECTIVE JUROR NO. 11-0887: Shelbie
6 Bynum, 11-0887.

7 THE COURT: Okay. Ms. Bynum, how long have
8 you lived in the Las Vegas area?

9 PROSPECTIVE JUROR NO. 11-0887: Born and
10 raised.

11 THE COURT: Okay. What do you do for a
12 living or for your work?

13 PROSPECTIVE JUROR NO. 11-0887: A veterinary
14 assistant.

15 THE COURT: That's right. How long have you
16 been in that area?

17 PROSPECTIVE JUROR NO. 11-0887: Five years,
18 in various animal hospitals.

19 THE COURT: And you've recently started with
20 Magnolia; is that correct?

21 PROSPECTIVE JUROR NO. 11-0887: Yeah, I
22 recently switched to them.

23 THE COURT: Yeah, I saw that in your
24 questionnaire.

25 Okay. Before being in the -- a veterinary

1 assistant, what area were you in?

2 PROSPECTIVE JUROR NO. 11-0887: For a year, I
3 got certified as a dog trainer. And before that, I
4 just did volunteer work for the Boy Scouts, for
5 cheerleading, and -- you know, basically stuff like
6 that.

7 THE COURT: Okay. All right. Are you
8 married, or do you have a significant other?

9 PROSPECTIVE JUROR NO. 11-0887: No.

10 THE COURT: Have you in the past?

11 PROSPECTIVE JUROR NO. 11-0887: Yes.

12 THE COURT: Okay. What area was your spouse
13 or significant other in, what area of work or --

14 PROSPECTIVE JUROR NO. 11-0887: He was a
15 certified autism behavior interventionist. He worked
16 with kids on the autism spectrum.

17 THE COURT: Okay. All right. And do you
18 have children?

19 PROSPECTIVE JUROR NO. 11-0887: No.

20 THE COURT: Okay. Have you ever been on a
21 jury before?

22 PROSPECTIVE JUROR NO. 11-0887: No.

23 THE COURT: Okay. All right. Thank you very
24 much. Pass the mic.

25 PROSPECTIVE JUROR NO. 11-0986: 11-0986.

1 THE COURT: I'm going to need you to speak
2 louder, Ms. Yohannes.

3 PROSPECTIVE JUROR NO. 11-0986: 11-0986, Keli
4 Yohannes.

5 THE COURT: Yohannes. Okay.

6 All right. Ms. Yohannes, how long have you
7 lived in the Las Vegas area?

8 PROSPECTIVE JUROR NO. 11-0986: About ten
9 years.

10 THE COURT: Okay. Where did you live before
11 that?

12 PROSPECTIVE JUROR NO. 11-0986: Cleveland,
13 Ohio.

14 THE COURT: Okay. How long?

15 PROSPECTIVE JUROR NO. 11-0986: The rest of
16 my life.

17 THE COURT: Okay. And what do you do for a
18 living or for work, or what is your educational
19 background?

20 PROSPECTIVE JUROR NO. 11-0986: I'm a second
21 grade teacher.

22 THE COURT: Okay. How long have you done
23 that?

24 PROSPECTIVE JUROR NO. 11-0986: I've been
25 teaching for about 20 years.

1 THE COURT: 20 years? Okay.

2 And I believe you're married and you're -- is
3 that correct?

4 PROSPECTIVE JUROR NO. 11-0986: Yes, I'm
5 married.

6 THE COURT: And your spouse is a pilot?

7 PROSPECTIVE JUROR NO. 11-0986: Yes.

8 THE COURT: Okay. What type of a pilot?

9 PROSPECTIVE JUROR NO. 11-0986: An airline
10 pilot for Southwest Airlines.

11 THE COURT: And how long has he been employed
12 in that area?

13 PROSPECTIVE JUROR NO. 11-0986: About 14
14 years.

15 THE COURT: What about before that?

16 PROSPECTIVE JUROR NO. 11-0986: He drove a
17 truck, I believe.

18 THE COURT: He drove a truck?

19 PROSPECTIVE JUROR NO. 11-0986: Yes.

20 THE COURT: How long?

21 PROSPECTIVE JUROR NO. 11-0986: I think from
22 high school on.

23 THE COURT: I'm sorry?

24 PROSPECTIVE JUROR NO. 11-0986: From high
25 school on until he became a pilot, until he went to

1 flight school.

2 THE COURT: Okay. What type of a truck or
3 what company? Do you know?

4 PROSPECTIVE JUROR NO. 11-0986: I don't know.

5 THE COURT: Okay. And I know you have a -- I
6 believe she's three. You have a three-year-old child?

7 PROSPECTIVE JUROR NO. 11-0986: She's 19
8 months.

9 THE COURT: Oh, she's 19 months. Okay.
10 And do you have any other children?

11 PROSPECTIVE JUROR NO. 11-0986: No.

12 THE COURT: All right. Have you ever been a
13 juror before?

14 PROSPECTIVE JUROR NO. 11-0986: No.

15 THE COURT: All right. Thank you very much.

16 PROSPECTIVE JUROR NO. 11-0902: Sherry Hall,
17 11-0902.

18 THE COURT: Good afternoon, Ms. Hall.

19 PROSPECTIVE JUROR NO. 11-0902: Hello.

20 THE COURT: Let's see. How long have you
21 lived in the Las Vegas area?

22 PROSPECTIVE JUROR NO. 11-0902: 30 years.

23 THE COURT: Okay. Did you live anywhere
24 before that?

25 PROSPECTIVE JUROR NO. 11-0902: Arkansas born

1 and raised.

2 THE COURT: Arkansas. How long?

3 PROSPECTIVE JUROR NO. 11-0902: The rest of
4 my life.

5 THE COURT: All right. And what do you do
6 for a living or for work?

7 PROSPECTIVE JUROR NO. 11-0902: I work for
8 Capital One.

9 THE COURT: Capital One? And what do you do
10 in that area of work?

11 PROSPECTIVE JUROR NO. 11-0902: I work in a
12 call center, customer service.

13 THE COURT: Okay. How long have you been
14 employed by them?

15 PROSPECTIVE JUROR NO. 11-0902: For ten
16 years.

17 THE COURT: Ten years? What about before
18 that? What area of work were you in?

19 PROSPECTIVE JUROR NO. 11-0902: Banking call
20 center, Credit One Bank.

21 THE COURT: So banking?

22 PROSPECTIVE JUROR NO. 11-0902: Yes.

23 THE COURT: For how long -- how many years in
24 banking?

25 PROSPECTIVE JUROR NO. 11-0902: Total, about

1 25.

2 THE COURT: Okay. Anything before that?

3 PROSPECTIVE JUROR NO. 11-0902: Drug
4 counseling.

5 THE COURT: Drug counseling. Okay. All
6 right.

7 Do you -- are you married, or do you have a
8 significant other?

9 PROSPECTIVE JUROR NO. 11-0902: No.

10 THE COURT: Have you in the past?

11 PROSPECTIVE JUROR NO. 11-0902: Yes.

12 THE COURT: What area of work was your
13 significant -- your spouse or significant other in?

14 PROSPECTIVE JUROR NO. 11-0902: Customer
15 service.

16 THE COURT: In what?

17 PROSPECTIVE JUROR NO. 11-0902: Banking.

18 THE COURT: Also?

19 PROSPECTIVE JUROR NO. 11-0902: Yes.

20 THE COURT: Okay. Any other areas your
21 significant other or spouse worked in?

22 PROSPECTIVE JUROR NO. 11-0902: Not that I'm
23 aware of.

24 THE COURT: Okay. All right. Do you have
25 children?

1 PROSPECTIVE JUROR NO. 11-0902: No.

2 THE COURT: Okay. Have you ever been a juror
3 before?

4 PROSPECTIVE JUROR NO. 11-0902: No.

5 THE COURT: Okay. Thank you. Pass the mic.
6 All right.

7 PROSPECTIVE JUROR NO. 11-0915: Ruth McLain,
8 11-0915.

9 THE COURT: Okay. Good afternoon.

10 PROSPECTIVE JUROR NO. 11-0915: Hi.

11 THE COURT: How long have you lived in the
12 Las Vegas area?

13 PROSPECTIVE JUROR NO. 11-0915: 41 years this
14 month.

15 THE COURT: Okay. Before that?

16 PROSPECTIVE JUROR NO. 11-0915: In western
17 New York.

18 THE COURT: I'm sorry?

19 PROSPECTIVE JUROR NO. 11-0915: Western
20 New York, Collins, New York.

21 THE COURT: All right. What area of work are
22 you in?

23 PROSPECTIVE JUROR NO. 11-0915: I don't work
24 presently. Before, I was a correctional officer at
25 Southern Desert.

1 THE COURT: All right. How long?

2 PROSPECTIVE JUROR NO. 11-0915: About nine
3 years.

4 THE COURT: Okay. And before that?

5 PROSPECTIVE JUROR NO. 11-0915: I worked at
6 the Hilton as a maid. I worked at Westward Ho as
7 change. And, before that, in New York, I worked in a
8 psychiatric hospital.

9 THE COURT: What were your duties?

10 PROSPECTIVE JUROR NO. 11-0915: They called
11 us a therapy aide. We were basically a nurse's aide,
12 really, taking care of the patients.

13 THE COURT: Okay. All right. Let's see.
14 And so you're working presently?

15 PROSPECTIVE JUROR NO. 11-0915: No.

16 THE COURT: But you -- you're retired?

17 PROSPECTIVE JUROR NO. 11-0915: Yes.

18 THE COURT: So do you -- do you work in any
19 capacity, though?

20 PROSPECTIVE JUROR NO. 11-0915: No.

21 THE COURT: No. Okay.

22 Are you married, or do you have a significant
23 other?

24 PROSPECTIVE JUROR NO. 11-0915: I'm a widow.

25 THE COURT: Okay. I'm sorry to hear that.

1 What area was your spouse in?

2 PROSPECTIVE JUROR NO. 11-0915: He was in the
3 Navy.

4 THE COURT: He was in the Navy? How long?

5 PROSPECTIVE JUROR NO. 11-0915: Probably
6 eight years.

7 THE COURT: Okay. And what did he do in the
8 Navy?

9 PROSPECTIVE JUROR NO. 11-0915: He was an E3.

10 THE COURT: I'm sorry?

11 PROSPECTIVE JUROR NO. 11-0915: He was an E3.
12 He was on the USS Constellation.

13 THE COURT: Okay. So that was eight years.

14 PROSPECTIVE JUROR NO. 11-0915: He did
15 computers, yeah.

16 THE COURT: He's in computer -- he was in
17 computers?

18 PROSPECTIVE JUROR NO. 11-0915: Yeah, he did
19 computers on the boat.

20 THE COURT: Okay. All right. And --
21 computers.

22 What -- what did he do before that, before
23 those eight years?

24 PROSPECTIVE JUROR NO. 11-0915: I really
25 couldn't tell you.

1 THE COURT: Really?

2 PROSPECTIVE JUROR NO. 11-0915: I don't know.

3 THE COURT: Okay. Do you have adult
4 children?

5 PROSPECTIVE JUROR NO. 11-0915: Yes, I have
6 four. My oldest son passed away when he was four and a
7 half. And then I have a 46-year-old boy, a 31-year-old
8 boy, and a 28-year-old girl.

9 THE COURT: How old is your daughter?

10 PROSPECTIVE JUROR NO. 11-0915: 28.

11 THE COURT: Okay. Let's talk about your
12 46-year-old son. What area of work is he in?

13 PROSPECTIVE JUROR NO. 11-0915: He's a
14 Henderson police officer.

15 THE COURT: Okay. And how long has he been
16 in Henderson police?

17 PROSPECTIVE JUROR NO. 11-0915: Oh, gosh.
18 23, 24 years. It's been quite a while, yeah.

19 THE COURT: All right. What about your
20 31-year-old son?

21 PROSPECTIVE JUROR NO. 11-0915: He works --
22 he's a meat manager. He has his own meat department
23 with Food 4 Less down in Barstow.

24 THE COURT: Okay. And your 28-year-old is a
25 daughter?

1 PROSPECTIVE JUROR NO. 11-0915: Presently,
2 she's not working. She has a new baby, a
3 five-month-old.

4 THE COURT: Okay. What about before?

5 PROSPECTIVE JUROR NO. 11-0915: She worked,
6 like, in retail convenience stores, stuff like that.

7 THE COURT: Okay. Her entire working career?

8 PROSPECTIVE JUROR NO. 11-0915: Yeah, she was
9 taking college courses for, like, counseling.

10 THE COURT: Counseling?

11 PROSPECTIVE JUROR NO. 11-0915: Uh-huh.

12 THE COURT: Okay. All right. Let's see.

13 Have you ever served as a juror before?

14 PROSPECTIVE JUROR NO. 11-0915: No, I
15 haven't.

16 THE COURT: Okay. All right. Thank you very
17 much.

18 PROSPECTIVE JUROR NO. 11-0915: Thank you.

19 THE COURT: Please pass the mic.

20 Okay.

21 PROSPECTIVE JUROR NO. 11-0924: 11-0924,
22 Vanessa Salvatera.

23 THE COURT: Okay. Good afternoon,
24 Ms. Salvatera.

25 How long have you lived in the Las Vegas

1 area?

2 PROSPECTIVE JUROR NO. 11-0924: Since 2004.

3 THE COURT: And did you live somewhere before
4 that?

5 PROSPECTIVE JUROR NO. 11-0924: I lived in
6 Newark, California.

7 THE COURT: Okay. And I -- I know you're
8 studying; right?

9 PROSPECTIVE JUROR NO. 11-0924: Yes.

10 THE COURT: Are you at the university?

11 PROSPECTIVE JUROR NO. 11-0924: Yes. I'm a
12 senior at UNLV.

13 THE COURT: Okay. That's great. What are
14 you studying?

15 PROSPECTIVE JUROR NO. 11-0924: Psychology.

16 THE COURT: That's right. Okay. And do you
17 work, or have you worked in the past?

18 PROSPECTIVE JUROR NO. 11-0924: I'm -- I
19 recently got a part-time job For Caesars Entertainment
20 as a promotions ambassador.

21 THE COURT: Okay. Any other work?

22 PROSPECTIVE JUROR NO. 11-0924: I work at
23 UNLV as a lab monitor for the art department.

24 THE COURT: For the art department?

25 PROSPECTIVE JUROR NO. 11-0924: For the art

1 department.

2 THE COURT: All right. Let's see.

3 Are you married?

4 PROSPECTIVE JUROR NO. 11-0924: No.

5 THE COURT: Do you have a significant other?

6 PROSPECTIVE JUROR NO. 11-0924: Yes.

7 THE COURT: What area of work or education is
8 your significant other in?

9 PROSPECTIVE JUROR NO. 11-0924: He's a
10 technical support for a company called DTT.

11 THE COURT: Okay. And what does that company
12 do?

13 PROSPECTIVE JUROR NO. 11-0924: They're a
14 drive-thru technology, so they're surveillance --
15 surveillance cameras for fast-food, like McDonald's.

16 THE COURT: For fast-food and what else?

17 PROSPECTIVE JUROR NO. 11-0924: It's --

18 THE COURT: Like McDonald's, you said?

19 PROSPECTIVE JUROR NO. 11-0924: Yeah, like
20 fast food.

21 THE COURT: All right. Very good.

22 Do you have children?

23 PROSPECTIVE JUROR NO. 11-0924: No.

24 THE COURT: Okay. Have you ever been a juror
25 before?

1 PROSPECTIVE JUROR NO. 11-0924: No.

2 THE COURT: Okay. Thank you. Pass the mic,
3 please.

4 PROSPECTIVE JUROR NO. 11-0926: Enrique
5 Tuquero, 11-0926.

6 THE COURT: Good afternoon, sir. How long
7 have you lived in the Las Vegas area?

8 PROSPECTIVE JUROR NO. 11-0926: 25 years.

9 THE COURT: Okay. And before that?

10 PROSPECTIVE JUROR NO. 11-0926: Honolulu,
11 Hawaii.

12 THE COURT: Okay. How long?

13 PROSPECTIVE JUROR NO. 11-0926: Since 1970.

14 THE COURT: '70. Okay. What area of work
15 are you in or education?

16 PROSPECTIVE JUROR NO. 11-0926: I work in the
17 casino industry right now.

18 THE COURT: What -- what area of --

19 PROSPECTIVE JUROR NO. 11-0926: Engineering
20 department.

21 THE COURT: The engineering department? Do
22 you have a background in engineering?

23 PROSPECTIVE JUROR NO. 11-0926: No.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 11-0926: But we do

1 maintenance work.

2 THE COURT: Okay. How long have you worked
3 in that specific position?

4 PROSPECTIVE JUROR NO. 11-0926: I've been
5 there since '99.

6 THE COURT: Since '99? That's great.

7 What did you do before that?

8 PROSPECTIVE JUROR NO. 11-0926: Same thing in
9 Hawaii.

10 THE COURT: Okay. Are you married, or do you
11 have a significant other?

12 PROSPECTIVE JUROR NO. 11-0926: Married.

13 THE COURT: Okay. And what area of education
14 or work is your spouse in?

15 PROSPECTIVE JUROR NO. 11-0926: She also
16 works in the casino, as a hotel manager.

17 THE COURT: What kind?

18 PROSPECTIVE JUROR NO. 11-0926: Housekeeping
19 department.

20 THE COURT: How long has she been in that
21 area?

22 PROSPECTIVE JUROR NO. 11-0926: About nine --
23 nine, ten years.

24 THE COURT: And before that?

25 PROSPECTIVE JUROR NO. 11-0926: MGM.

1 THE COURT: Okay. Has she been in the
2 service industry?

3 PROSPECTIVE JUROR NO. 11-0926: For quite --
4 yeah, since we moved out here.

5 THE COURT: And what about before you moved
6 here?

7 PROSPECTIVE JUROR NO. 11-0926: Same thing in
8 Hawaii, she was also working in housekeeping
9 department.

10 THE COURT: Okay. So -- all right. Very
11 good.

12 All right. Do you have children?

13 PROSPECTIVE JUROR NO. 11-0926: Two.

14 THE COURT: How old are they?

15 PROSPECTIVE JUROR NO. 11-0926: 24 and 22.

16 THE COURT: All right. Why don't you -- I'd
17 like to know what your 24-year-old does.

18 PROSPECTIVE JUROR NO. 11-0926: He's a
19 student, nursing student.

20 THE COURT: He's a nursing student?

21 PROSPECTIVE JUROR NO. 11-0926: Yes.

22 THE COURT: And what did he do before being a
23 nursing student?

24 PROSPECTIVE JUROR NO. 11-0926: Well, he was
25 always in school.

1 THE COURT: In school?

2 PROSPECTIVE JUROR NO. 11-0926: Yeah.

3 THE COURT: Has he ever worked before?

4 PROSPECTIVE JUROR NO. 11-0926: I think he
5 was part-time work doing -- he works as Kumon.

6 THE COURT: As what?

7 PROSPECTIVE JUROR NO. 11-0926: Taking care
8 of some young kids. You know, I forget what his status
9 was, but he grades paperworks.

10 THE COURT: Very good. What about your
11 22-year-old?

12 PROSPECTIVE JUROR NO. 11-0926: He's an
13 intern right now for GE.

14 THE COURT: Is he studying?

15 PROSPECTIVE JUROR NO. 11-0926: Yes.

16 THE COURT: What is he studying?

17 PROSPECTIVE JUROR NO. 11-0926: Electrical
18 engineering.

19 THE COURT: That's great.

20 Okay. Let's see. Have you ever served on a
21 jury before?

22 PROSPECTIVE JUROR NO. 11-0926: No.

23 THE COURT: No? Okay. Thank you. Pass the
24 mic.

25 PROSPECTIVE JUROR NO. 11-0937: Raquel

1 Romero, Badge No. 11-0937.

2 THE COURT: Good afternoon, Ms. Romero.

3 How long have you lived in Las Vegas?

4 PROSPECTIVE JUROR NO. 11-0937: 21 years.

5 THE COURT: Okay. Did you live anywhere
6 before that?

7 PROSPECTIVE JUROR NO. 11-0937: No. I was
8 born here.

9 THE COURT: Okay. All right.

10 And what do you do for a living or work?

11 PROSPECTIVE JUROR NO. 11-0937: I am
12 unemployed right now.

13 THE COURT: Okay. So before you were
14 unemployed, what area of work or study were you in?

15 PROSPECTIVE JUROR NO. 11-0937: I study -- I
16 studied -- I just graduated -- respiratory therapy.
17 And before that, I was a federal work study.

18 THE COURT: You were a federal?

19 PROSPECTIVE JUROR NO. 11-0937: Work study.

20 THE COURT: Okay. What does that mean
21 exactly?

22 PROSPECTIVE JUROR NO. 11-0937: I was an
23 administrative assistant for my school.

24 THE COURT: Okay. And are you -- are you
25 looking for work in your area?

1 PROSPECTIVE JUROR NO. 11-0937: Yeah. I'm
2 just waiting for my license to come in.

3 THE COURT: Okay. Great. All right. Are
4 you married, or do you have a significant other?

5 PROSPECTIVE JUROR NO. 11-0937: No.

6 THE COURT: Have you in the past?

7 PROSPECTIVE JUROR NO. 11-0937: No.

8 THE COURT: Okay. Do you have children?

9 PROSPECTIVE JUROR NO. 11-0937: No.

10 THE COURT: Okay. Have you ever served as a
11 juror before?

12 PROSPECTIVE JUROR NO. 11-0937: No.

13 THE COURT: Okay. Thank you. Pass the mic
14 all the way to the left.

15 PROSPECTIVE JUROR NO. 11-0940: Caroline
16 Graf, 11-0940.

17 THE COURT: Good afternoon, Ms. Graf.

18 Okay. Ms. Graf, how long have you lived in
19 Las Vegas?

20 PROSPECTIVE JUROR NO. 11-0940: 22 years.

21 THE COURT: 22 years?

22 PROSPECTIVE JUROR NO. 11-0940: Uh-huh.

23 THE COURT: Where did you live before that?

24 PROSPECTIVE JUROR NO. 11-0940: Queens,
25 New York.