

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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			36	8751–8822
98	Jury Trial Transcript	03/19/18	36 37	8842–9000 9001–9075
35	Motion for Determination of Good Faith Settlement Transcript	12/07/17	9	2101–2105
22	Motion for Summary Judgment on Foreseeability of Bus Interaction with Pedestrians or Bicyclists (Including Sudden Bicycle Movement)	10/27/17	3	589–597
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 PROSPECTIVE JUROR NO. 11-1002: Sure.

2 THE COURT: And go on.

3 MR. KEMP: We're focused on the stroke  
4 situation.

5 THE COURT: I need you to speak louder,  
6 please.

7 MR. KEMP: As we understand it, your mother  
8 has had a stroke. And she's expected to come home  
9 Friday. Is that what you said before?

10 PROSPECTIVE JUROR NO. 11-1002: I'm sorry?

11 MR. KEMP: You're bringing her home Friday?

12 PROSPECTIVE JUROR NO. 11-1002: Well, yeah,  
13 we're scheduled to bring her home that -- depending if  
14 she stays in the hospital till Friday.

15 MR. KEMP: Okay. But it's anticipated if  
16 it's not Friday, it will be Saturday, Sunday, Monday.  
17 Is that fair to say hopefully?

18 PROSPECTIVE JUROR NO. 11-1002: Basically  
19 it's eventually, yeah. Whenever she gets released from  
20 the hospital.

21 MR. KEMP: Okay. And, as I remember, you  
22 were maybe not the primary caregiver, but you are one  
23 of the primary caregivers. Is that fair to say?

24 PROSPECTIVE JUROR NO. 11-1002: Well, I am  
25 the primary.

1 MR. KEMP: For her. For her.

2 PROSPECTIVE JUROR NO. 11-1002: Yes. Yes.

3 MR. KEMP: And I think you also said she has  
4 some sort of dementia?

5 PROSPECTIVE JUROR NO. 11-1002: She does.

6 MR. KEMP: And so you're trying to keep three  
7 jobs going and you have this burden as well?

8 PROSPECTIVE JUROR NO. 11-1002: Basically.

9 MR. KEMP: So fair to say that -- pretty  
10 severe hardship on you?

11 PROSPECTIVE JUROR NO. 11-1002: It is.

12 MR. KEMP: And, because of that, you couldn't  
13 give your full and complete attention to the case?

14 PROSPECTIVE JUROR NO. 11-1002: Yeah, I mean,  
15 I -- honestly, I'm -- I'm having my hardest time  
16 staying awake because I was at the hospital till 12:30  
17 last night. And, you know, I'm working two jobs and  
18 running a business, and, you know, trying to get  
19 prepared for her to be here on Friday, if it's not  
20 sooner, because, like I said, I'm waiting to hear.

21 MR. KEMP: So it's fair to say, for all these  
22 reasons, you just can't give your full and complete  
23 attention?

24 PROSPECTIVE JUROR NO. 11-1002: I agree. I  
25 agree.

1 MR. KEMP: So you might miss something here,  
2 there, and everywhere?

3 PROSPECTIVE JUROR NO. 11-1002: It's possible  
4 because I'm having a hard time staying awake now.

5 MR. KEMP: Judge, I need to -- do we need to  
6 establish more?

7 MR. BARGER: No.

8 THE COURT: No, I don't believe so.

9 MR. BARGER: No.

10 THE COURT: Both parties stipulating?

11 MR. ROBERTS: Yes, Your Honor.

12 THE COURT: All right. So, pursuant to NRS  
13 6.030.1(b), I'm going to excuse Mr. Arinwine and thank  
14 you very much for your service.

15 MR. KEMP: Thank you.

16 PROSPECTIVE JUROR NO. 11-1002: Sorry. I  
17 wish I could be ...

18 MR. ROBERTS: Do we get a discount too?

19 PROSPECTIVE JUROR NO. 11-1002: Oh, everybody  
20 does. If you need giftwrapping, engraving, anything,  
21 please come on down.

22 MR. KEMP: Good luck to you.

23 THE COURT: That is one energetic person,  
24 pretty much.

25 MR. KEMP: Yeah. He keeps busy.

1           Your Honor, maybe we can do Favella next.  
2   That's the one that knows the other witness. I think  
3   that's a pretty easy one too.

4           THE COURT: Right. That is number?

5           MR. ROBERTS: I think that one has already  
6   been dismissed.

7           THE COURT: Is it Mr. Nolos in seat 15? Was  
8   it Nolos?

9           MR. ROBERTS: Yes, I believe it was, Your  
10   Honor.

11          THE COURT: Oh, he was in the marching band  
12   with someone, with Samantha Kolch.

13          MR. CHRISTIANSEN: That's right. He's still  
14   to come.

15          THE COURT: Oh, I'm sorry. I wasn't aware  
16   that Ms. Bynum was here.

17          MR. KEMP: Yeah.

18          THE COURT: Okay. All right. Ms. Bynum,  
19   we -- counsel has some further questions for you.  
20   Okay?

21          MR. CHRISTIANSEN: Ms. Bynum, I asked you a  
22   truckload of questions from yesterday and today. And I  
23   didn't hear anywhere in those answers that you would  
24   have a problem being a juror -- I mean -- I understand  
25   you got work issues and those things that we talked

1 about, but in terms of your belief system, it appeared  
2 to me that you understood what being a juror meant and  
3 you were ready to do so if called upon.

4 PROSPECTIVE JUROR NO. 11-0887: Well, yeah, I  
5 was trying to put, like, my preferences aside, but I  
6 don't think -- I feel like it's discriminating that  
7 other people don't have to put their beliefs aside for  
8 it and can get out of it when, like, I have strong  
9 beliefs and I'm just trying to do the right thing.

10 MR. CHRISTIANSEN: Sure. And until -- so  
11 I -- I take it --

12 THE COURT: You need to take the mic, please.

13 MR. CHRISTIANSEN: Right here. My fault.  
14 I'm sorry.

15 THE COURT: That's okay.

16 PROSPECTIVE JUROR NO. 11-0887: Do you want  
17 me to repeat -- I don't -- am I supposed to sit here?

18 MR. CHRISTIANSEN: You can sit wherever --

19 PROSPECTIVE JUROR NO. 11-0887: Do you want  
20 me to sit --

21 MR. CHRISTIANSEN: You're fine. I just  
22 didn't want to get too close and spook you, so I backed  
23 up.

24 All right. So yesterday all the questions  
25 that you and I have gone back and forth with, and the

1 judge and you, all your answers have been honest,  
2 candid answers?

3 PROSPECTIVE JUROR NO. 11-0887: Yes.

4 MR. CHRISTIANSEN: And all those answers,  
5 you -- although you have some hardship relative to your  
6 job and you have some leanings because of your --  
7 you're a cyclist and your parents drive big rigs, you  
8 were able to put all that aside and be a juror up until  
9 you got concerned because somebody who was next to you  
10 said they were -- they were pagan and got off the  
11 panel; fair?

12 MR. ROBERTS: Objection. Leading.

13 PROSPECTIVE JUROR NO. 11-0887: Well, I'm  
14 just trying -- like, I'm --

15 THE COURT: Sustained.

16 PROSPECTIVE JUROR NO. 11-0887: -- I'm trying  
17 to not be biased, because it's supposed to be my civil  
18 right, but -- so I'm trying to put those aside,  
19 definitely.

20 MR. CHRISTIANSEN: Yep. And I'm just asking  
21 you; I'm not trying to tell you what your answer -- all  
22 your answers were that you could be a juror if called  
23 upon until this afternoon when you raised your hand;  
24 correct?

25 MR. ROBERTS: Objection, Your Honor.

1 PROSPECTIVE JUROR NO. 11-0887: Well, I did  
2 say that I -- that I might have bias because of having  
3 so much experience in the area.

4 MR. CHRISTIANSEN: Right. And you're not  
5 trying to go back and change any of your answers; you  
6 just wanted to point out to the Court that you had a  
7 belief system that was pagan as well; fair?

8 PROSPECTIVE JUROR NO. 11-0887: Right. We  
9 believe the -- we believe that living things are more  
10 valuable. Neo-Druidism specifically does animals and  
11 nature. And that's part of why I was an avid cyclist  
12 and am a avid cyclist, to try to get down off of the  
13 environmental stuff. I am a vegetarian, for  
14 environmental factors. I do a lot of stuff for  
15 spiritual reasons and value life equally for everyone.

16 MR. CHRISTIANSEN: You're not Buddhist?

17 PROSPECTIVE JUROR NO. 11-0887: No, I just  
18 have studied Buddhism. And, like, Buddhists don't --  
19 they're -- they don't worship Buddha. It's like a way  
20 of life. He is, like, a spiritual leader.

21 So I -- like, the book I had, which is in my  
22 car now -- like, I've read -- it's a old beat-up book I  
23 read all the time for just -- like, there's spiritual  
24 practices and ways of life, as, like, a guide of life.

25 MR. CHRISTIANSEN: Okay.



1 PROSPECTIVE JUROR NO. 11-0887: I study it,  
2 like, side by side with paganism.

3 MR. CHRISTIANSEN: If you were chosen to be a  
4 juror, would you follow Her Honor's directions?

5 PROSPECTIVE JUROR NO. 11-0887: I would --  
6 yeah, I would try to follow -- follow with what I can.

7 But I do have my own, like, prior knowledge  
8 and preference of all of this that I would take into  
9 account as I'm hearing these facts, like, with my  
10 own ...

11 THE COURT: I'm sorry. Speak up, please.

12 PROSPECTIVE JUROR NO. 11-0887: With my  
13 own -- like, as I'm hearing these facts, my own  
14 experiences are -- are going to be affected by them  
15 because I know what you're talking about when you're  
16 explaining these things because I've -- personally know  
17 a lot about, like, both cycling and, like, buses and  
18 all those things. So I -- there was -- there's always  
19 going to be a bias because of my prior knowledge to it.

20 So I'll have that, plus, like, what you're  
21 saying. And it's one thing for somebody to tell you  
22 something and you not know what they're saying and just  
23 be like, okay, I'll take that into account. But to,  
24 like, really know exactly what they're talking about is  
25 like a different experience for a person. You know

1 what I mean?

2 MR. CHRISTIANSEN: We all have heard your  
3 life experiences. I'm just focusing in on -- and we'll  
4 all have opportunities to decide about whether or not  
5 you're an appropriate juror. What I'm trying to get  
6 from you is, up until just a bit ago, you were willing  
7 to sit, if chosen, and follow the judge's rulings. And  
8 you're still willing to sit, if chosen, and follow the  
9 judge's rulings?

10 PROSPECTIVE JUROR NO. 11-0887: Yeah.  
11 Because I live here and I'm a citizen, it's my  
12 responsibility.

13 MR. CHRISTIANSEN: Thank you very much.

14 MR. ROBERTS: Hi, Ms. Bynum. I'm Lee  
15 Roberts.

16 PROSPECTIVE JUROR NO. 11-0887: Hello.

17 MR. ROBERTS: And I'd like to take you back  
18 to when you filled out your questionnaire. And you  
19 were trying to tell Mr. Christiansen that you put this  
20 in your questionnaire; right?

21 PROSPECTIVE JUROR NO. 11-0887: Yes. All of  
22 this should be in my questionnaire.

23 MR. ROBERTS: And in Question 6, "Do you have  
24 any religious or philosophical beliefs that would make  
25 it difficult for you to be a juror?" what did you say?

1 PROSPECTIVE JUROR NO. 11-0887: I have put my  
2 paganism down there.

3 MR. ROBERTS: And you said, yes, that you did  
4 have beliefs that would make it difficult for you;  
5 correct?

6 PROSPECTIVE JUROR NO. 11-0887: Yes.

7 MR. ROBERTS: And you heard the other juror  
8 say that -- that because of her Wiccan beliefs, it  
9 would be difficult for her to sit as a juror and sit in  
10 judgment of others.

11 PROSPECTIVE JUROR NO. 11-0887: Right. And  
12 I'm very familiar with the Wiccan beliefs because they  
13 are part of paganism as well.

14 MR. ROBERTS: And so those types of beliefs  
15 that make it difficult for you to sit in judgment of  
16 others, do you also hold those beliefs?

17 PROSPECTIVE JUROR NO. 11-0887: Yes, but I  
18 was trying to put them aside for this.

19 MR. ROBERTS: But -- so -- so you've  
20 expressed a number of different things that would make  
21 it difficult for you to be a juror: your pagan  
22 beliefs that would make you uncomfortable to sit in  
23 judgment; correct?

24 PROSPECTIVE JUROR NO. 11-0887: Right.

25 MR. ROBERTS: You've just told

1 Mr. Christiansen that you do have a bias because of  
2 your experience with cycling --

3 PROSPECTIVE JUROR NO. 11-0887: Right.

4 MR. ROBERTS: -- and with vehicles?

5 PROSPECTIVE JUROR NO. 11-0887: Right.

6 MR. ROBERTS: And even with the Red Rock  
7 area?

8 PROSPECTIVE JUROR NO. 11-0887: Right. I'm  
9 very -- I go there multiple times a week.

10 MR. ROBERTS: And do you think that it would  
11 be very difficult for you to take all of those personal  
12 experiences out of the equation and judge this case  
13 just on what with you hear in the courtroom?

14 PROSPECTIVE JUROR NO. 11-0887: I do -- I do  
15 think that -- like I said, because hearing that fact,  
16 you -- there's more depth to it when you -- when you're  
17 there and have experienced it than just hearing a  
18 courtroom say those words.

19 MR. ROBERTS: And -- and you -- you've also  
20 indicated both a financial hardship and -- and that you  
21 would have a difficult -- your job would have  
22 difficulty without you?

23 PROSPECTIVE JUROR NO. 11-0887: Yeah, I  
24 support myself. And I'm the only vet assistant that  
25 can do a lot of the stuff there. So it would be

1 financial for me, for our small business that I care  
2 about. And I -- and I care about -- because I care  
3 about people and animals, it hurts me that I can't help  
4 my clients and their animals and all that as well.

5 MR. ROBERTS: And I think you recall Her  
6 Honor saying that, you know, as citizens, we're  
7 required to bear some financial hardship in order to do  
8 our duty.

9 But -- but the question for you is, are those  
10 concerns that you have about money and your work going  
11 to make it difficult for you to focus and -- and pay  
12 attention to the evidence -- and -- and --

13 PROSPECTIVE JUROR NO. 11-0887: Yeah, because  
14 there's people that are relying on me that are  
15 waiting -- like, that need me, and I -- I had to come  
16 to work this morning to do surgery, leave work, and I  
17 have to come back because of it to try to make up for  
18 the -- those times because those people do need me.  
19 And so I'm giving where I can right now.

20 MR. ROBERTS: And -- and the combination of  
21 all these things that we've discussed, would that make  
22 it really hard for you to be a good and impartial  
23 juror -- juror on this case?

24 PROSPECTIVE JUROR NO. 11-0887: It would be  
25 hard, and I would try my best to do it; but it would be

1 hard, yes.

2 MR. ROBERTS: Thank you. Thank you very  
3 much, ma'am.

4 THE COURT: Any other questions?

5 MR. KEMP: No, Judge. Can we discuss this  
6 among ourselves?

7 THE COURT: Yes.

8 (The following proceedings were held  
9 outside the presence of the jury.)

10 THE MARSHAL: Okay. Just wait outside.

11 MR. KEMP: Judge, if you'd thrown the juror  
12 before off for being a Dallas Cowboys fan, if you had  
13 told the juror before her that you're off this jury  
14 because you're a Dallas Cowboys fan, this woman  
15 automatically would have become a Dallas Cowboys fan to  
16 get off the jury.

17 So I think that's really what you heard. In  
18 response to Mr. Christiansen's questions, she said she  
19 could be fair, she said she could render judgment.

20 Mr. Roberts didn't even ask her the key to  
21 his question, which was, "Can you pass judgment?"  
22 Didn't ask her that.

23 So I think she's just trying to get off the  
24 jury, Your Honor. And she's been trying since the  
25 beginning. I will admit that. She has been trying

1 since the beginning. She brought up what she alleged  
2 was a financial hardship.

3 But this is in no way like, for example, the  
4 last juror, whose mother had a stroke and he's got to  
5 take care of her. She just doesn't want to be on jury  
6 duty. And the defense doesn't want her on the case  
7 because of her views on bicycles and proximity sensors.  
8 That's the real reason they're trying to get her off.

9 MR. ROBERTS: Your Honor, Mr. Kemp is  
10 correct. We don't want her on the case because she  
11 just admitted on the record under oath that she's  
12 biased against my client and would have difficulty  
13 being fair and impartial.

14 So, yes, that is correct. I admit it.

15 But it's silly to accuse her of just making  
16 up her pagan beliefs on the spot to get out. She's got  
17 a pagan necklace on. And, in her jury questionnaire  
18 that she filled out before she came to court a month  
19 ago, she indicated that she had pagan beliefs that  
20 would make it difficult for her to serve as a juror.

21 I think that she's both enunciated a clear  
22 impartiality, she's indicated it would be difficult for  
23 her to put those aside and be a fair and impartial  
24 juror, and she's also indicated the same type of  
25 beliefs that the plaintiffs just agreed to excuse prior

1 Juror No. 15.

2 MR. KEMP: First of all, she said she was  
3 biased for bicyclists and biased for bus drivers. She  
4 said that. And she said she could balance it out and  
5 be objective.

6 And on the second point, she did not say that  
7 she was a Buddhist and couldn't pass judgment. See,  
8 she said she had a book and she was reading about  
9 Buddha. That question was never asked of whether she  
10 could pass judgment.

11 MR. ROBERTS: You can check the record, Your  
12 Honor. She said it would be difficult for her to pass  
13 judgment, it was part of her pagan beliefs, similar to  
14 the Wiccan beliefs. And she's biased in favor of bus  
15 drivers. That's fine. But we're not bus drivers;  
16 we're bus sellers. And -- and that's a complete --  
17 they've already settled and been paid by the bus  
18 driver.

19 THE COURT: Okay. I -- I'm happy to make a  
20 record and -- and give you my decision. I did note  
21 that she had -- that she reported in her questionnaire  
22 that she was pagan. I have in my notes from the very  
23 beginning, a C, which means cause, question mark,  
24 because she, at the very beginning, indicated that she  
25 was a cyclist. I believe that she -- she -- and she



1 just discussed that again, that she rode there often,  
2 and, you know, talked about a lot of different things  
3 with respect to -- I don't know -- the dangers.

4 She's also discussed her parents. Her  
5 mother's driven a bus since before she was born, and  
6 her father drives a big truck -- I think it is --  
7 for -- he's been doing that for a long time.

8 But I did -- I -- it sounds like she was  
9 trying -- my sense is she was trying to be biased --  
10 unbiased, not biased, but, you know, she has just  
11 enunciated, and she is wearing what I thought to be  
12 some sort of religious symbol.

13 And she's just also indicated that she may be  
14 biased because of her prior knowledge. And I think  
15 that has to do with her -- her former life. But, also,  
16 I don't -- I don't -- my sense is not that she just  
17 became a pagan overnight because she wanted to get  
18 released. I think she does practice this but was  
19 trying -- was trying to be fair. But now that she's  
20 heard others who are bringing their religious issues  
21 up, she's being consistent with what she -- what she  
22 notified us of in the questionnaire from the beginning.

23 So I think there are a lot of facts that,  
24 pursuant to Jitnan, if you look at the totality of  
25 everything she said from day one -- or since yesterday,

1 I suppose -- it feels like it's been a little bit  
2 longer -- the first -- one of the first things out of  
3 her mouth was that she had -- she had -- I don't want  
4 to -- I'm just paraphrasing, but she's a cyclist and  
5 she's familiar with that area, and that, you know, that  
6 was a concern for her. And she just discussed that in  
7 some fashion, which was consistent, at the -- and just  
8 a few minutes ago.

9           So -- and, again, I -- I had a question mark  
10 C after her first comment.

11           So, pursuant to Jitnan and her recently  
12 enunciating that she has a bias because of her prior  
13 knowledge or experience and her paganism, I'm going to  
14 excuse her for cause.

15           MR. KEMP: Judge, that would be seat No. 15.

16           THE CLERK: 14.

17           MR. KEMP: So we've excused first seat,  
18 No. 18, and then second seat, No. 14.

19           THE COURT: Right.

20           MR. CHRISTIANSEN: Judge, before we get too  
21 far down the line, should we -- Seat No. 18 should be  
22 filled by the very last person who was here; is that  
23 right, Ms. Clerk?

24           THE CLERK: Yes.

25           MR. CHRISTIANSEN: And then Seat No. 14

1 should be filled by Mr. Green-Wilson, who is that juror  
2 that came and then you sent -- told to come back  
3 tomorrow and told him he would be at the -- the first  
4 juror; is that right?

5 MR. ROBERTS: I don't believe -- I thought  
6 that he was going to be seated randomly with tomorrow's  
7 panel. We would object to him being seated first. You  
8 know, we pointed out our objection to 16.030, but if --  
9 if I could --

10 THE COURT: Yes.

11 MR. ROBERTS: -- could explain. What happens  
12 is if he had been here and put in his proper seat, then  
13 Juror No. 16 would now be Juror No. 17. Juror No. 16  
14 would be an alternate who could never make it on the  
15 panel. So if I wanted to strike 3 and 16, I wouldn't  
16 have to do it because 16 could never be on my jury.

17 And that's destroying the random order  
18 statutorily. The commissioner picks jurors to be  
19 substituted in in order as jurors are excused. And --  
20 and that's why, you know, we -- if he was going to be  
21 just stuck randomly into the group of putting them at  
22 the front, and now having him seated into a  
23 nonalternate position, Judge, we would preserve our  
24 objection and believe it would be harmful if he ends up  
25 on the panel or if the juror which should have been an

1 alternate had he been here ends up on the panel.

2 So I would just renew my objection on that  
3 basis, Your Honor.

4 MR. KEMP: You already ruled on this, Your  
5 Honor. You said he would be the first one out of the next  
6 50. You ruled on that.

7 MR. ROBERTS: I don't think so. I thought --

8 MR. KEMP: She did. She ruled on -- you made  
9 the exact same --

10 MR. ROBERTS: I thought the commissioner was  
11 proposing that he be randomly inserted with the next  
12 group.

13 MR. KEMP: No, no. She ruled on that.

14 MR. ROBERTS: Then we're requesting  
15 reconsideration of it. I didn't hear that.

16 THE COURT: I'm going to think about it  
17 tonight. Mr. Kemp is correct. I did -- I did rule on  
18 it. But I -- I will entertain it this evening and let  
19 you know first thing in the morning.

20 So we still have -- and I had no idea that  
21 this juror was here, Ms. Bynum. Okay? So we still  
22 have Mr. -- Juror No. 15.

23 MR. KEMP: He's the one that knows the --

24 THE COURT: Yes. He's the one that was in  
25 the band -- the marching band with Ms. Kolch, the

1 witness.

2 MR. BARGER: Nolos is his name.

3 THE COURT: Mr. Nolos.

4 MR. KEMP: I think that's kind of remote, so  
5 I don't care what you want to do first, but Barin was  
6 the patient's doctor.

7 THE COURT: All right. So perhaps I can  
8 bring both Ms. Bynum and Mr. Nolos are -- let's see.

9 MR. KEMP: Well, Ms. --

10 THE COURT: Are you stipulating to Mr. Nolos?

11 MR. KEMP: No, I'm not. I'm suggesting that  
12 Mr. Nolos probably needs to be questioned pretty  
13 thoroughly.

14 THE COURT: Okay. Who would you like to do  
15 next?

16 MR. KEMP: I think Berhimou.

17 MR. ROBERTS: That's fine, Your Honor. No  
18 preference.

19 MR. KEMP: I don't have a preference. I'm  
20 just saying what's the quickest. Berhimou looks  
21 quickest.

22 MR. ROBERTS: Berhimou is quickest.

23 MR. KEMP: Which was the one we were supposed  
24 to -- we had agreed to start with her.

25 MR. ROBERTS: I agree.

1 MR. KEMP: Okay.

2 THE COURT: That's fine. Let's start with  
3 Ms. --

4 MR. CHRISTIANSEN: The lady from Morocco.

5 THE MARSHAL: The one we dismissed. Are we  
6 putting on the record?

7 THE COURT: No, she's supposed to be here  
8 with the other four jurors.

9 MR. KEMP: Bynum needs to be told she's  
10 dismissed.

11 THE MARSHAL: Right. So you want her first?

12 THE COURT: Yes.

13 Ms. Bynum, you don't have to sit down. I  
14 want to thank you for your candor, and I'm going to  
15 excuse you from this jury. Okay?

16 PROSPECTIVE JUROR NO. 11-0887: Okay.

17 THE COURT: All right. Have a great  
18 afternoon. Thank you for your service.

19 PROSPECTIVE JUROR NO. 11-0887: Thank you.

20 MR. KEMP: Thank you.

21 THE COURT: All right. How do you pronounce  
22 it? It's Ms. Berhimou?

23 THE MARSHAL: All rise.

24 Take a seat, ma'am. Go back up.

25 Please be seated.

1 THE COURT: Okay. Ms. Berhimou.

2 PROSPECTIVE JUROR NO. 11-1089: Yeah.

3 THE COURT: Okay. The attorney -- the  
4 counsel or attorneys have some more questions for you.

5 PROSPECTIVE JUROR NO. 11-1089: Sure.

6 THE COURT: Okay.

7 MR. KEMP: Good afternoon, ma'am.

8 PROSPECTIVE JUROR NO. 11-1089: Good  
9 afternoon.

10 MR. KEMP: You said you had only been a  
11 patient a couple of times with Dr. Barin?

12 PROSPECTIVE JUROR NO. 11-1089: Yes.

13 MR. KEMP: And I think you said your family  
14 was also a patient?

15 PROSPECTIVE JUROR NO. 11-1089: Yes.

16 MR. KEMP: And how often did your family go?

17 PROSPECTIVE JUROR NO. 11-1089: Like, the  
18 routine, you know, every year. I have two kids that go  
19 to -- I have two kids that go to her and also my  
20 husband and myself.

21 MR. KEMP: She was the family dentist, then?

22 PROSPECTIVE JUROR NO. 11-1089: Yes.

23 MR. KEMP: And how long in terms of years did  
24 that take place?

25 PROSPECTIVE JUROR NO. 11-1089: For the whole

1 family, you mean? I am so bad with dates, but I said  
2 about maybe four, three years, something like that. I  
3 can't remember.

4 MR. KEMP: And was she the only family  
5 dentist? Did you have another family dentist?

6 PROSPECTIVE JUROR NO. 11-1089: Not a family  
7 dentist before. But random dentists that we used to go  
8 to.

9 MR. KEMP: Okay. And I can -- you said you  
10 talked to her in French every now and then?

11 PROSPECTIVE JUROR NO. 11-1089: Not in  
12 French, but we would -- because she -- because of my  
13 name, you know, she asked me where I was from. And I  
14 thought, because of her looks, that she was also an  
15 Arab. And -- but she wasn't. So that's how we started  
16 communication. And, you know, about French, that she  
17 was raised in France.

18 MR. KEMP: Did you ever go over to her house?

19 PROSPECTIVE JUROR NO. 11-1089: No, never.

20 MR. KEMP: She came to your house?

21 PROSPECTIVE JUROR NO. 11-1089: Never.

22 MR. KEMP: Okay. And I think you said you  
23 had -- you didn't meet her two children?

24 PROSPECTIVE JUROR NO. 11-1089: No. I knew  
25 she had two children, but I have never seen them



1 before.

2 MR. KEMP: And you didn't meet the husband?

3 PROSPECTIVE JUROR NO. 11-1089: No.

4 MR. KEMP: Okay. You think that would affect  
5 the way you -- you look at the case, the fact that she  
6 was your family dentist?

7 PROSPECTIVE JUROR NO. 11-1089: To be honest  
8 with you, the first time I heard the news, my cousin,  
9 like I said -- well, she's actually my husband's  
10 cousin. She called me to tell me about the accident.  
11 I was devastated. But the way she put it down, she  
12 said that -- you know, her husband was hit by a -- a  
13 bus driver, that he didn't see her.

14 I had no idea about what really happened.  
15 And so I went on -- on the internet to read about it  
16 because I felt so bad. And six months later, when she  
17 died of cancer, that also was really bad feelings.

18 MR. KEMP: Okay. When you say you went on  
19 the internet to read about it, you read the newspaper  
20 account on the internet?

21 PROSPECTIVE JUROR NO. 11-1089: Yeah. Yeah,  
22 online. Yeah.

23 MR. KEMP: Would that have been the Review-  
24 Journal or the Sun or --

25 PROSPECTIVE JUROR NO. 11-1089: It was

1 through Facebook --

2 MR. KEMP: Oh, the Facebook postings?

3 PROSPECTIVE JUROR NO. 11-1089: -- that my  
4 cousin sent me.

5 MR. KEMP: Okay.

6 PROSPECTIVE JUROR NO. 11-1089: Yes.

7 MR. KEMP: And was that a family Facebook  
8 post, or what was it?

9 PROSPECTIVE JUROR NO. 11-1089: No, it wasn't  
10 a post; it was a link that she sent me on Facebook -- I  
11 mean, on my phone. Sorry.

12 MR. KEMP: And the link took you over to a  
13 news story?

14 PROSPECTIVE JUROR NO. 11-1089: Yes.

15 MR. KEMP: As we sit here today, do you  
16 remember what the news story said?

17 PROSPECTIVE JUROR NO. 11-1089: Yes, because  
18 I live by Red Rock area, and I saw the bicycle, but I  
19 didn't put the link between the bicycle and  
20 Dr. Khiabani's husband. So when she told me, I was  
21 like, oh, so that's how I put the connection between  
22 the bicycle that was by the stoplight.

23 MR. KEMP: And that would be the white bike?

24 PROSPECTIVE JUROR NO. 11-1089: Yeah.

25 MR. KEMP: The "ghost bike"?

1 PROSPECTIVE JUROR NO. 11-1089: I don't know  
2 the color, I don't recall the color, but it was a bike  
3 without wheels, you know, with the flowers by the  
4 stoplight -- stop sign. Sorry.

5 MR. KEMP: And all this you've told me, would  
6 that affect the way you look at the case?

7 PROSPECTIVE JUROR NO. 11-1089: I had a  
8 prejudgment. So -- so I don't know. In my mind,  
9 that's what she told me. So I thought that -- on the  
10 news, it didn't say any details about who was at fault  
11 or not, but she said that the bus driver didn't see  
12 him. So that's how.

13 MR. KEMP: That was your prejudgment?

14 PROSPECTIVE JUROR NO. 11-1089: That wasn't  
15 mine; that was my husband's cousin that told me. And I  
16 thought so.

17 MR. KEMP: But you said that you had a  
18 prejudgment?

19 PROSPECTIVE JUROR NO. 11-1089: Yeah.

20 MR. KEMP: What was that judgment?

21 PROSPECTIVE JUROR NO. 11-1089: That he was  
22 hit by the driver that didn't see him.

23 MR. KEMP: Okay. Yeah, I have no more  
24 questions.

25 MR. ROBERTS: So when you say a prejudgment

1 that he was hit by a driver who didn't see him, did you  
2 form the conclusion that the bus driver was at fault  
3 for the accident?

4 PROSPECTIVE JUROR NO. 11-1089: A little bit.

5 MR. ROBERTS: Is that still your feeling as  
6 you sit here today?

7 PROSPECTIVE JUROR NO. 11-1089: I'm not  
8 supposed to -- I'm not supposed to have a prejudgment,  
9 to be honest with you. But I don't know. I know I'm  
10 an adult, so I'm not supposed to have prejudgment. But  
11 I feel bad for the family. It's not because I feel bad  
12 that I'm going to lean towards this party or this one,  
13 but that's what I heard. And I already felt so bad.  
14 And I know that some bus driver can be irresponsible,  
15 if I want to say that, and also some cyclists. It's  
16 not, like, only one side, but -- if you know what I  
17 mean.

18 MR. ROBERTS: Yes. So I -- when you say  
19 we're not supposed to have prejudgments, I don't  
20 know -- I think we all have prejudgments and biases  
21 based on what we hear in life.

22 PROSPECTIVE JUROR NO. 11-1089: Sure.

23 MR. ROBERTS: The question is whether or not  
24 those things might be in your mind and affect the  
25 decision that you make as a juror in this case. Do you

1 think they would be in your mind as you -- as you heard  
2 the evidence and deliberated on a verdict if you were  
3 chosen?

4 PROSPECTIVE JUROR NO. 11-1089: I don't know.  
5 I don't -- I don't want to lie and say yes or no, but  
6 I -- I don't know. At this the point, I don't know.

7 MR. ROBERTS: Do you think it might be  
8 difficult for you to put those out of your mind?

9 PROSPECTIVE JUROR NO. 11-1089: Very, very.

10 MR. ROBERTS: Very difficult?

11 PROSPECTIVE JUROR NO. 11-1089: Yes.

12 MR. ROBERTS: And although you would try to  
13 be a good juror, you're worried that it would be  
14 difficult for you to do that?

15 PROSPECTIVE JUROR NO. 11-1089: Yes, yes.

16 MR. ROBERTS: Is there something else you  
17 wanted to add, to tell me?

18 PROSPECTIVE JUROR NO. 11-1089: It's just  
19 that I felt so bad for the kids because -- because I  
20 have two children myself. And the fact that she was a  
21 very nice person. And we talked. And that really  
22 shocked me when I -- like, what a fate? You know?  
23 Like she lost her husband, and then six months later  
24 she lost her own life. And that's how I feel, kind of  
25 like, a little biased. You know?

1 MR. ROBERTS: And you used the word  
2 "devastated."

3 PROSPECTIVE JUROR NO. 11-1089: Yes.

4 MR. ROBERTS: That's how you felt when you  
5 heard about that because --

6 PROSPECTIVE JUROR NO. 11-1089: Yeah, because  
7 my dad died of cancer at age 52. And he battled -- he  
8 fought the cancer before he died. So -- and she went  
9 through that too. That's how I -- and I saw her a few  
10 months before she -- I heard the news. So -- but I --  
11 I didn't know that she had cancer. She was just -- she  
12 looked normal.

13 MR. ROBERTS: And you mentioned feelings when  
14 you heard that Dr. Barin had also died?

15 PROSPECTIVE JUROR NO. 11-1089: Oh, yes.

16 MR. ROBERTS: How did you hear that?

17 PROSPECTIVE JUROR NO. 11-1089: That she  
18 died?

19 MR. ROBERTS: Yes.

20 PROSPECTIVE JUROR NO. 11-1089: Again, from  
21 my husband's cousin.

22 MR. ROBERTS: Okay. And were you told  
23 anything about why she had died or any --

24 PROSPECTIVE JUROR NO. 11-1089: Colon cancer.

25 MR. ROBERTS: Any other details other than

1 just that?

2 PROSPECTIVE JUROR NO. 11-1089: No. I know  
3 that she managed -- before she died that she was  
4 strong, that she managed to take care of everything  
5 before she -- she was gone. And that's -- that's a  
6 heroic act of leaving everything set up before -- for  
7 her children. I know that her children went back to  
8 Canada, but ...

9 MR. ROBERTS: You mentioned that -- that you  
10 had a great deal of sympathy. I'm not sure if I --

11 PROSPECTIVE JUROR NO. 11-1089: Yes.

12 MR. ROBERTS: -- for the children based on  
13 what's happened?

14 PROSPECTIVE JUROR NO. 11-1089: Yes.

15 MR. ROBERTS: And I think any -- okay.

16 May we approach, Your Honor?

17 THE COURT: Yes.

18 (A discussion was held at the bench,  
19 not reported.)

20 THE COURT: Ms. Berhimou, I'm going to thank  
21 and excuse you. Thank you very much for being so  
22 candid and for being patient and going through this  
23 process. We appreciate it very much. We all do.

24 PROSPECTIVE JUROR NO. 11-1089: Thank you,  
25 Your Honor.

1 THE COURT: Have a great evening.

2 PROSPECTIVE JUROR NO. 11-1089: Thank you.

3 You too. Sorry about that.

4 THE COURT: That's okay.

5 MR. ROBERTS: Thank you, Ms. Berhimou. We do  
6 appreciate it.

7 THE COURT: Okay. So, for the record,  
8 Ms. Berhimou, that's Juror 11 --

9 THE CLERK: 1089.

10 THE COURT: 1089, the parties stipulated to  
11 dismiss her for cause. All right. Let's see. Who do  
12 we have next?

13 MR. KEMP: Mr. Nolos, Your Honor.

14 THE COURT: Okay.

15 THE CLERK: 15, Badge 11-1093.

16 (The following proceedings were held in  
17 the presence of the jury.)

18 THE COURT: How are you?

19 PROSPECTIVE JUROR NO. 11-1093: I guess good.

20 THE COURT: Okay. We have a few more  
21 questions for you.

22 PROSPECTIVE JUROR NO. 11-1093: All right.

23 THE COURT: Okay.

24 And go ahead, Counsel.

25 MR. KEMP: I think you said you knew Samantha



1 Kolch from high school.

2 PROSPECTIVE JUROR NO. 11-1093: Yes.

3 MR. KEMP: And is it -- how do you pronounce  
4 her last name?

5 PROSPECTIVE JUROR NO. 11-1093: Nolos.

6 MR. KEMP: No, her last name.

7 PROSPECTIVE JUROR NO. 11-1093: Oh, Kolch.

8 MR. KEMP: What high school did you guys go  
9 to?

10 PROSPECTIVE JUROR NO. 11-1093: Cheyenne High  
11 School.

12 MR. KEMP: And she was in the band and you  
13 were in the band?

14 PROSPECTIVE JUROR NO. 11-1093: Yes.

15 MR. KEMP: And how many people in the band?

16 PROSPECTIVE JUROR NO. 11-1093: Oh, quite --  
17 like, 50 of us.

18 MR. KEMP: 50 of us? So close friends with  
19 her?

20 PROSPECTIVE JUROR NO. 11-1093: More of  
21 acquaintances, actually, and just -- well, but we do  
22 interact with each other professionally in the band.

23 MR. KEMP: Okay. I mean, was she ever your  
24 girlfriend or --

25 PROSPECTIVE JUROR NO. 11-1093: No, no, no.

1 I'm not at all that way.

2 MR. KEMP: And then you ever go to her house  
3 during high school or she come to your house?

4 PROSPECTIVE JUROR NO. 11-1093: No.

5 MR. KEMP: So you just knew each other from  
6 band?

7 PROSPECTIVE JUROR NO. 11-1093: Yes.

8 MR. KEMP: Okay. And since -- when did you  
9 graduate from high school?

10 PROSPECTIVE JUROR NO. 11-1093: 2009.

11 MR. KEMP: Was she in your class?

12 PROSPECTIVE JUROR NO. 11-1093: No, she was a  
13 class -- she's my sister's class. So two years after  
14 me.

15 MR. KEMP: So you're 2009; she would have  
16 been --

17 PROSPECTIVE JUROR NO. 11-1093: 2011?

18 MR. KEMP: Okay. Great. After you graduated  
19 from high school, had you ever seen her since?

20 PROSPECTIVE JUROR NO. 11-1093: No.

21 MR. KEMP: So you haven't seen her since  
22 2009?

23 PROSPECTIVE JUROR NO. 11-1093: No.

24 MR. KEMP: Nine years?

25 PROSPECTIVE JUROR NO. 11-1093: It's been a

1 while.

2 MR. KEMP: Okay. You ever talk to her on the  
3 phone?

4 PROSPECTIVE JUROR NO. 11-1093: No.

5 MR. KEMP: Okay. And -- and exchange  
6 anything on Facebook or social media with her or  
7 anything?

8 PROSPECTIVE JUROR NO. 11-1093: Not really.  
9 I think she's been inactive for a while.

10 MR. KEMP: Do you know the name of her  
11 current boyfriend?

12 PROSPECTIVE JUROR NO. 11-1093: No.

13 MR. KEMP: Do you know anything about her  
14 hobbies or where she's working now?

15 PROSPECTIVE JUROR NO. 11-1093: No.

16 MR. KEMP: I have no further questions, Your  
17 Honor.

18 MR. ROBERTS: Mr. Nolos, let's assume that  
19 Ms. Kolch was called as a witness in this case and she  
20 disagreed with another witness who also testified in  
21 the case.

22 PROSPECTIVE JUROR NO. 11-1093: All right.

23 MR. ROBERTS: Based on your past relationship  
24 with her and your friendship with her, to the extent  
25 you've indicated that -- that you had a casual

1 friendship relationship, the question I have for you is  
2 would you tend to believe her over another witness  
3 simply because of your past relationship with her?

4 PROSPECTIVE JUROR NO. 11-1093: I would, yes.  
5 She's -- she's a really good person, so I would  
6 definitely take her side over anyone else's based on  
7 what she believes because she's -- you know, she's --  
8 she's -- in my high school, I really thought -- I  
9 really thought highly of her. She's a good musician,  
10 and good student, so I really thought good of her.

11 MR. ROBERTS: Can you be that confident  
12 without even knowing what the dispute is and without  
13 knowing or having an ability to evaluate the other  
14 witness?

15 PROSPECTIVE JUROR NO. 11-1093: Yes. Yes, I  
16 would.

17 MR. ROBERTS: Okay. Thank you, sir.

18 THE COURT: I'm sorry?

19 MR. KEMP: I have no questions.

20 THE COURT: Okay.

21 MR. ROBERTS: We have no further questions,  
22 Your Honor.

23 THE COURT: All right.

24 Mr. Nolos?

25 PROSPECTIVE JUROR NO. 11-1093: Nolos.

1 THE COURT: Nolos. Excuse me. I'm going to  
2 excuse you. Okay? Thank you very much for -- for  
3 serving and for being so honest.

4 PROSPECTIVE JUROR NO. 11-1093: Uh-huh.

5 THE COURT: Okay. And you can go back to  
6 the -- well, let's see -- the third floor or wherever  
7 Mr. -- Marshal Ragsdale indicates you should go. Thank  
8 you very much for your service.

9 PROSPECTIVE JUROR NO. 11-1093: Thank you so  
10 much. Thank you so much.

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

13 THE COURT: I haven't had input from you, but  
14 I'm going to -- I mean, he said that he -- he's going  
15 to be --

16 MR. ROBERTS: He was pretty unequivocal.

17 THE COURT: Yes. That -- for the record,  
18 Mr. Nolos, Badge No. 11-1093, is a former band member  
19 with one of the witnesses, Samantha Kolch. And he  
20 unequivocally said he would believe her over other  
21 witnesses, she's a very nice person, great in music,  
22 honest, and so forth. So I -- he's dismissed for  
23 cause.

24 Thank you very much.

25 MR. BARGER: What time did you say tomorrow?

1 THE COURT: 9:30. All right. Have a great  
2 evening, everybody.

3 MR. ROBERTS: Thank you. You too, Your  
4 Honor.

5 (Thereupon, the proceedings  
6 concluded at 5:02 p.m.)

7

8 -oOo-

9

10 ATTEST: FULL, TRUE, AND ACCURATE TRANSCRIPT OF  
11 PROCEEDINGS.

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KRISTY L. CLARK, CCR #708

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66

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, )  
25 et al., )  
Defendants. )  
\_\_\_\_\_ )

20 REPORTER'S TRANSCRIPTION OF PROCEEDINGS

21 BEFORE THE HONORABLE ADRIANA ESCOBAR  
22 DEPARTMENT XIV  
23 DATED WEDNESDAY, FEBRUARY 14, 2018

24 RECORDED BY: SANDY ANDERSON, COURT RECORDER

25 TRANSCRIBED BY: KIMBERLY A. FARKAS, NV CCR No. 741

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\* \* \* \* \*

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1 LAS VEGAS, NEVADA, WEDNESDAY, FEBRUARY 14, 2018;

2 9:33 A.M.

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

4 \* \* \* \* \*

5 THE COURT: Let's see. I see -- it  
6 appears that everyone is here for -- counsel for  
7 plaintiffs are all here.

8 MR. CHRISTIANSEN: Yes, Your Honor.

9 THE COURT: Why don't we go ahead and  
10 just check in. Go ahead.

11 MR. KEMP: Will Kemp for plaintiffs,  
12 Your Honor.

13 THE COURT: Okay.

14 MR. KEMP: And Mr. Pepperman is done  
15 with his trial, so he's back.

16 THE COURT: Welcome, Mr. Pepperman.

17 MR. CHRISTIANSEN: Good morning, Your  
18 Honor. Peter Christiansen, Kendelea Works, and  
19 Whitney Barrett for plaintiffs.

20 MR. BARGER: Darrell Barger for the  
21 defendant.

22 THE COURT: Good morning.

23 MR. ROBERTS: Good morning, Your Honor.  
24 Lee Roberts for the defendant.

25 MR. TERRY: Michael Terry for the

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1 defendant.

2 THE COURT: Good morning. So we are on  
3 the record now, and I just want to go over a  
4 couple of things.

5 Because we have a panel -- a new panel,  
6 this is the order I'm taking it in. I'm going to  
7 follow -- and I don't know if I was clear. We  
8 have one woman left. She's going next. And then  
9 I'm placing the one that wasn't present. I can't  
10 even remember his name.

11 MR. CHRISTIANSEN: Jaylen Green?

12 THE COURT: Yes, even though the defense  
13 has objected to that. Okay?

14 But I do want to be very clear with you.  
15 I know many of you are not familiar with me in  
16 trial or in court, but -- so my goal, as it should  
17 be, is to have a fair trial. And your goals are  
18 to, you know, enthusiastically and thoroughly  
19 represent your clients, as we all know.

20 But, Mr. Christiansen, we're going to --  
21 yesterday -- and I took her name off, but the  
22 juror that -- what was her name, the one that was  
23 sitting here? She was the patient of Dr. Katy  
24 Barin and her family?

25 MR. ROBERTS: Ms. Berhimou.

1           THE COURT: Thank you. Ms. Berhimou.  
2    Okay.

3           The agreement was -- the instruction was  
4    to question her outside of the presence of the  
5    jury, but you asked her some more questions after  
6    that before the jury left. So I don't want to --  
7    do you recall that?

8           MR. CHRISTIANSEN: I recall the  
9    agreement. My understanding of the agreement was  
10   to not talk to her about the nature of her  
11   relationship. I asked her questions about the  
12   length of it, how often she'd seen her, just  
13   things --

14          THE COURT: Well, that has to do with  
15   the relationship. That's crossing the line, in my  
16   view. I just want to be very upfront with you,  
17   with everyone. Okay?

18          MR. CHRISTIANSEN: Sure.

19          THE COURT: So I don't want to have to  
20   admonish people in front of the jury, but we're  
21   going to be here for another four weeks. And if I  
22   start seeing things seeping through that I've  
23   instructed the attorneys to do or not to do, then  
24   I will start to do that. Okay? And I'm trying to  
25   avoid that, but I won't avoid it anymore. Okay?

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1           So I just want to be clear with  
2 everyone. I think that's reasonable. I'm using  
3 you as an example because that's the last thing  
4 that I saw.

5           Now, also, I want everyone to keep in  
6 mind that voir dire is not opening statement, as  
7 you all know, and I'm not going to allow the  
8 thoroughness in allowing for either side to go too  
9 far into the elements of this case aside from  
10 personal knowledge without -- as we discussed  
11 before, Mr. Christiansen, you know, educating the  
12 jury and so forth via or through one of the  
13 jurors.

14           MR. CHRISTIANSEN: Good enough. Fair  
15 enough, Your Honor.

16           THE COURT: I think you understood that  
17 the last time we discussed it. I just wanted to  
18 make sure we start off understanding one another  
19 today.

20           MR. CHRISTIANSEN: Understood, Your  
21 Honor. From the plaintiffs' perspective, the  
22 Court allows Mr. Roberts to stand up and tell the  
23 jury that Dr. Khiabani is the cause of the  
24 accident. That's arguing the case, and I'm just  
25 simply trying to --

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1 THE COURT: No. What I heard  
2 Mr. Roberts say was that Dr. Khiabani went into  
3 the other lane --

4 MR. CHRISTIANSEN: And caused the  
5 accident, actually is what he said.

6 THE COURT: Did you say "cause the  
7 accident"?

8 MR. CHRISTIANSEN: Yes. Both Will and I  
9 wrote it down.

10 MR. ROBERTS: Yes. I referred to  
11 causation, Your Honor. And I actually went  
12 further than I had planned to based on the mini  
13 opening statement that Mr. Christiansen did.

14 THE COURT: Right. Well, the truth is,  
15 Mr. Christiansen, it's not an opening statement,  
16 and I want you to make sure that you're very  
17 precise in your questioning.

18 And Mr. Roberts as well, that's  
19 something that I won't allow.

20 So I just want everyone to understand  
21 that, from now on, I'm just going to be just  
22 moving forward in front of the jury and stopping  
23 you, however it goes. Okay?

24 And I dislike doing that, but it's too  
25 long of a trial. We need to move forward.

1           So do you understand my instructions,  
2 Mr. Roberts?

3           MR. ROBERTS: I do, Your Honor, and I  
4 appreciate that. I think the Court knows I could  
5 have objected many more times than I did. I hate  
6 objecting and standing up constantly during voir  
7 dire.

8           THE COURT: You have a right to do it,  
9 and so does plaintiffs' counsel. I agree. I feel  
10 that way too, but that's why I'm having this  
11 discussion, because the situation is now that I've  
12 discussed this with you, I'm going to be  
13 admonishing on these specific things that we've  
14 discussed.

15           I'm not going to be objecting for each  
16 side; that's your job. But I think it's important  
17 for you to understand that that's how it's going  
18 to work.

19           MR. CHRISTIANSEN: Understood, Your  
20 Honor. So I don't run afieled of your order, the  
21 next group is going to come in and you're going to  
22 start over and say, "Hey" -- tell plaintiff,  
23 "Stand up and tell what type of case it is."

24           I'm going to stand up and say it's a  
25 products liability case. It has to do with a

1 defective bus. I mean, I'm just going to walk  
2 through what's in the complaint. I'm not doing  
3 anything else. This is the date it happened.  
4 Here's where it happened. Here are the people  
5 involved, and show them pictures again.

6 I'd like you to tell me if you think  
7 that's running afieled or afar of the Court's  
8 order, because I think that's fair game for me to  
9 do that. That's what the complaint says.

10 THE COURT: Did we -- remind me, please.  
11 I have reviewed pretty much everything, but I may  
12 not remember everything.

13 Did we agree -- was there an agreement  
14 to photographs?

15 MR. CHRISTIANSEN: There was -- I told  
16 Mr. Roberts I intended to use the photographs  
17 because I couldn't have everybody here for this  
18 lengthy process, and I gave them to him ahead of  
19 time. I don't think he objected, but there was  
20 no, like, agreement, I don't think.

21 MR. ROBERTS: One of the things that we  
22 always do is introduce our clients. And, because  
23 his clients were not here, I thought it was  
24 appropriate for him just to introduce them by  
25 showing the pictures, not to argue the case, and I

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1 think he went beyond just introductions.

2 THE COURT: The case will not be argued,  
3 so you have to work with us a little bit in that  
4 regard.

5 MR. CHRISTIANSEN: I'll make all my  
6 efforts.

7 THE COURT: And, Mr. Roberts too, with  
8 respect to the causation and so forth, please very  
9 careful. Okay?

10 I'm sorry that we have to go through  
11 this entire introduction again.

12 MR. CHRISTIANSEN: Do we have the ELMO  
13 working, Your Honor, just so I can check before  
14 you bring them in so I can use it?

15 THE COURT: By the way, there are a  
16 couple of people that have asked to be excused.  
17 Because we've started jury selection, I haven't  
18 done that, but I'll indicate who they are as we go  
19 along.

20 Before I bring them in, I just want to  
21 double-check one thing. Excuse me.

22 (Discussion off the record.)

23 THE COURT: All right. Does anyone have  
24 any other housekeeping things? No?

25 MR. CHRISTIANSEN: I don't think so,

1 Your Honor.

2 THE COURT: Let's bring the jury in.

3 MR. CHRISTIANSEN: Do you want me to  
4 step out and tell your marshal?

5 THE COURT: No. I would like this  
6 gentleman -- he's been doing it.

7 MR. CHRISTIANSEN: Sure. Sure. That's  
8 fine. I just offered.

9 THE COURT: Thank you. I believe he's a  
10 gentleman with IT; right?

11 MR. CHRISTIANSEN: I think he is for the  
12 defense, Your Honor.

13 THE COURT: Well, if you have someone in  
14 IT on your side, I'm happy to --

15 (Discussion off the record.)

16 THE COURT: So long as we are waiting, I  
17 received -- it appears that on the panel today,  
18 Badge No. 11-1226, Rachael Wiltshire has asked to  
19 be excused. She says she can't afford to miss  
20 work. She attends school multiple days per week  
21 at a variety of times. I didn't want to make a  
22 decision, since the trial is starting, without  
23 input from counsel.

24 And then we have another one. I don't  
25 have her badge -- she's Badge 11-1224. This is

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1 Corinne Combs. She called this morning saying  
2 she's unable to report at 9:00. She's 71 years  
3 old and uncomfortable driving herself here, and  
4 she's blind too. Her husband has a doctor's  
5 appointment today.

6 MR. ROBERTS: I'm sorry, Your Honor.  
7 Would you tell me the badge number you just --

8 THE COURT: Badge No. 11-1226, and her  
9 name is Rachael Wiltshire.

10 MR. ROBERTS: Thank you, Your Honor.

11 THE COURT: So with respect to  
12 NRS 6.0202.2, the second juror, Ms. Combs, is 71.  
13 So I think she should be dismissed. I'm going to  
14 go ahead and dismiss her.

15 And then the other you can talk to. I  
16 just didn't want to -- since we've started this, I  
17 thought I'd discuss this with the parties.

18 MR. ROBERTS: So the older one, we're  
19 dismissing?

20 THE COURT: Yes. By statute, she's  
21 automatically able to be dismissed. Okay?

22 MR. ROBERTS: Your Honor, I did notice  
23 1226 attends college three days a week, and she  
24 may be missing classes. So we're not going to get  
25 to her for maybe tomorrow. So perhaps we could

1 bring her in or -- if the Court doesn't want to  
2 dismiss her just based on this. But, generally, I  
3 hate to have college students missing their  
4 courses.

5 MR. KEMP: I have no objection to  
6 bringing her in now if that's what Mr. Roberts  
7 wants.

8 THE COURT: We'll bring her in first.  
9 All right.

10 (Discussion off the record.)

11 THE COURT: With respect to the order,  
12 I've indicated that the woman that was left,  
13 she'll go next.

14 MR. KEMP: Judge, can we get a badge  
15 number for her?

16 THE CLERK: 11-1104, Winnie Pritchett.

17 THE COURT: All right. And then the  
18 beginning of the next pool, we would go -- I just  
19 want you to know where they're going.

20 THE CLERK: 11-0825, Jaylen  
21 Green-Wilson, will go in Seat 14.

22 And then 11-1107, Thomas Phares, will go  
23 in Seat 26. And then --

24 MR. KEMP: Excuse me, Your Honor. I had  
25 it the other way around. I had 15 first and then

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1 26.

2 THE CLERK: Yesterday you released 18  
3 first, then 14 next, then 26, and then 15. That's  
4 the order that they were released yesterday.

5 MR. KEMP: Okay. I apologize. I wrote  
6 -- that's the way I had it, Your Honor. I  
7 apologize.

8 THE COURT: Okay. Thank you.

9 THE CLERK: Where was I?

10 MR. KEMP: Can we have 26 again, please.

11 THE CLERK: 26 is going to be 11-1107,  
12 Thomas Phares.

13 And then 15 will be 11-1114, Thomas  
14 Garibay.

15 MR. ROBERTS: And Pritchett was in 18;  
16 is that correct?

17 THE CLERK: Yes.

18 THE COURT: Yes. How many are missing?

19 THE MARSHAL: Seven. Did you want to do  
20 show causes or what? Do you want those names now?

21 THE COURT: I'd like the names now.

22 THE MARSHAL: Is everyone ready for the  
23 seven missing?

24 THE COURT: Yes.

25 THE MARSHAL: Badge No. 11-1115, first

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1 of Candy.

2 Same page, Badge No. 11-1165, Cynthia  
3 Aguilar.

4 Same page, Badge No. 11-1177, first of  
5 Joshua.

6 THE COURT: What's his last name?

7 THE MARSHAL: Bagwin.

8 Next page, page 4, Badge No. 11-1206,  
9 first of Kendall, last of Young.

10 Same page, Badge No. 11-1211, Jarennny --  
11 first of Cardenas -- I mean, last of Cardenas.

12 Same page, Badge No. 11-1224, first of  
13 Corinne, last of Combs.

14 Same page, Badge No. 11-1253, first of  
15 Frederick, last of Commo.

16 THE COURT: I'm sorry. Repeat that one.

17 THE MARSHAL: Frederick is the first  
18 name.

19 THE COURT: Last name?

20 THE MARSHAL: Commo.

21 And that will be it. Is that seven?

22 THE CLERK: Was Combs the one that  
23 wanted to be excused, 11-1224?

24 THE COURT: Yes.

25 THE CLERK: She didn't show up.

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1 THE COURT: The one that's over 70?

2 THE CLERK: Yes.

3 THE COURT: Badge 11-1124 is Ms. Combs,  
4 I believe. And she's the woman who I just  
5 excused. She's over 70 years old and has a  
6 problem driving and has to go to the physician.

7 Anyway, by statute, she's been excused.  
8 So we'll mark her off.

9 All right.

10 THE MARSHAL: Get them back in line,  
11 Your Honor.

12 MR. KEMP: Judge, I thought we were  
13 bringing in the UNLV student.

14 THE COURT: Thank you for that reminder.  
15 Jerry, Badge 11-1126.

16 THE CLERK: She's on page 4.

17 THE COURT: I need you to bring her  
18 before we speak to everyone else.

19 THE MARSHAL: Okay. The number we  
20 stopped at was page 5, 11-1373, Panel No. 130.

21 THE CLERK: Thank you.

22 (Discussion off the record.)

23 THE COURT: Good morning. Please be  
24 seated. Please state your name and your badge  
25 number.

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1 PROSPECTIVE JUROR NO. 11-1226:

2 Wiltshire, 11-1226.

3 THE CLERK: Could you stand and raise  
4 your right hand.

5 You do solemnly swear the testimony  
6 you're about to give will be the truth, the whole  
7 truth, and nothing but the truth, so help you God?

8 PROSPECTIVE JUROR NO. 11-1226: I do.

9 THE CLERK: And your name is? Say that  
10 again.

11 PROSPECTIVE JUROR NO. 11-1226:

12 Wiltshire, 11-1226.

13 THE COURT: Ms. Wiltshire, good morning.  
14 My name is Adriana Escobar. I'm the presiding  
15 judge for Department 14. And you have your  
16 counsel for the plaintiff and defendants.

17 And there's a couple of follow-up  
18 questions that I'd like to do and counsel may have  
19 concerning some of the answers in your  
20 questionnaire.

21 PROSPECTIVE JUROR NO. 11-1226: Yes,  
22 ma'am.

23 THE COURT: It's my understanding, on  
24 page 2, that you attend University of Nevada, Las  
25 Vegas, three days a week, and it says you cannot



1 afford to miss that much school.

2 Will you please describe your schedule  
3 for us. When you say three days a week, how many  
4 credits are you taking?

5 PROSPECTIVE JUROR NO. 11-1226: I'm  
6 taking a total of seven credits currently. I go  
7 to school Monday, Tuesdays, and Thursdays. I'm  
8 also getting ready to apply for a radiography  
9 program, so those credits are very necessary to  
10 get into the program. And I've put a lot of time  
11 and money into this semester already. So it is  
12 very detrimental if I do miss those classes.

13 THE COURT: Okay. And what time are  
14 your classes?

15 PROSPECTIVE JUROR NO. 11-1226: So my  
16 one is about 10:00 a.m. to --

17 THE COURT: Which day?

18 PROSPECTIVE JUROR NO. 11-1226: Tuesdays  
19 and Thursdays. They're 10:00 a.m. to about noon.  
20 And my Monday one is about 3:00 to 5:30.

21 THE COURT: Thank you.

22 Any questions?

23 MR. KEMP: No, Your Honor.

24 MR. CHRISTIANSEN: No, Your Honor.

25 THE COURT: I'm going to excuse you due

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1 to hardship. We wish you good luck with your  
2 studies.

3 PROSPECTIVE JUROR NO. 11-1226: Thank  
4 you so much. I appreciate it.

5 THE COURT: Thank you for being here.

6 Jerry, did we call to make sure we have  
7 the bathroom clean?

8 THE MARSHAL: Yes, I did.

9 THE COURT: Okay. Thank you. You just  
10 go to the third floor.

11 That's pursuant to NRS 6.030.1(c).

12 Okay. Shall we bring the rest of them  
13 in?

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

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

18 THE COURT: Thank you, Marshal.

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

21 THE COURT: Good morning, ladies and  
22 gentlemen. And happy Valentine's Day.

23 Will you please call the roll.

24 THE CLERK: Yes, Your Honor.

25 Badge 11-1104, Winnie Pritchett.

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004056

1 PROSPECTIVE JUROR NO. 11-1104: Here.

2 (Discussion off the record.)

3 THE COURT: Ms. Pritchett, that is not  
4 going to be the seat you're going to be seated in  
5 yet. Thank you.

6 THE CLERK: Badge No. 11-0825, Jaylen  
7 Green-Wilson. Thank you.

8 THE MARSHAL: Just say here,  
9 "affirmative." You need to speak.

10 THE CLERK: Badge 11-1107, Thomas  
11 Phares.

12 PROSPECTIVE JUROR NO. 11-1107: Here.

13 THE CLERK: 11-1114, Thomas Garibay.

14 PROSPECTIVE JUROR NO. 11-1114: Here.

15 THE CLERK: 11-1125, Michael Kaba.

16 PROSPECTIVE JUROR NO. 11-1125: Here.

17 THE CLERK: 11-1127, Gregg Stephens.

18 PROSPECTIVE JUROR NO. 11-1127: Here.

19 THE CLERK: 11-1133, Franky Luo.

20 PROSPECTIVE JUROR NO. 11-1133: Here.

21 THE CLERK: 11-1137, Lana Larsen.

22 PROSPECTIVE JUROR NO. 11-1137: Here.

23 THE CLERK: 11-1155, Emilie Mosqueda.

24 PROSPECTIVE JUROR NO. 11-1155: Here.

25 THE CLERK: 11-1164, Kimberly Flores.

1 PROSPECTIVE JUROR NO. 11-1164: Here.

2 THE CLERK: 11-1170, Kazandra --

3 PROSPECTIVE JUROR NO. 11-1170: Here.

4 THE CLERK: Could you say your last name  
5 for me.

6 PROSPECTIVE JUROR NO. 11-1170:

7 Chacon-Higuera.

8 THE CLERK: Thank you.

9 11-1171, Albert Browning.

10 PROSPECTIVE JUROR NO. 11-1171: Here.

11 THE CLERK: 11-1174, Veronica Gutierrez.

12 PROSPECTIVE JUROR NO. 11-1174: Here.

13 THE CLERK: 11-1186, Ashley Vandevanter.

14 PROSPECTIVE JUROR NO. 11-1186: Here.

15 THE CLERK: 11-1192, Philamer Robinson.

16 PROSPECTIVE JUROR NO. 11-1192: Here.

17 THE CLERK: 11-1193, Amie Turpin.

18 PROSPECTIVE JUROR NO. 11-1192: Here.

19 THE CLERK: 11-1199, Judy Sanderlin.

20 PROSPECTIVE JUROR NO. 11-1199: Here.

21 THE CLERK: 11-1200, April Hannewald.

22 PROSPECTIVE JUROR NO. 11-1200: Here.

23 THE CLERK: 11-1207, Hani Noshi.

24 PROSPECTIVE JUROR NO. 11-1207: Here.

25 THE CLERK: 11-1216, Elizabeth Comeaux.

1                   **PROSPECTIVE JUROR NO. 11-1216:**   Here.  
2                   THE CLERK:   11-1218, Iris Adachi.  
3                   **PROSPECTIVE JUROR NO. 11-1218:**   Here.  
4                   THE CLERK:   11-1221, Sheri White.  
5                   **PROSPECTIVE JUROR NO. 11-1121:**   Here.  
6                   THE CLERK:   11-1222, Carol Padilla.  
7                   **PROSPECTIVE JUROR NO. 11-1121:**   Here.  
8                   THE CLERK:   11-1223, Jasmine Carrillo.  
9                   **PROSPECTIVE JUROR NO. 11-1223:**   Here.  
10                  THE CLERK:   11-1229, Jaymi Johnson.  
11                  **PROSPECTIVE JUROR NO. 11-1229:**   Here.  
12                  THE CLERK:   11-1246, Brian Stokes.  
13                  **PROSPECTIVE JUROR NO. 11-1246:**   Here.  
14                  THE CLERK:   11-1255, Heidi Wooters.  
15                  **PROSPECTIVE JUROR NO. 11-1255:**   Here.  
16                  THE CLERK:   11-1256, Robert Summerfield.  
17                  **PROSPECTIVE JUROR NO. 11-1256:**   Here.  
18                  THE CLERK:   11-1268, Katherine Beswick.  
19                  **PROSPECTIVE JUROR NO. 11-1268:**   Here.  
20                  THE CLERK:   11-1278, Elizabeth Mundo.  
21                  **PROSPECTIVE JUROR NO. 11-1278:**   **Here.**  
22                  THE CLERK:   11-1283, Justin Lettau.  
23                  **PROSPECTIVE JUROR NO. 11-1283:**   Here.  
24                  THE CLERK:   11-1293, Kim Schell.  
25                  **PROSPECTIVE JUROR NO. 11-1293:**   Here.

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1 THE CLERK: 11-1296, Alan Castle.

2 **PROSPECTIVE JUROR NO. 11-1296:** Here.

3 THE CLERK: 11-1297, Anna Campbell.

4 **PROSPECTIVE JUROR NO. 11-1297:** Here.

5 THE CLERK: 11-1314, Pragnit Thakor.

6 **PROSPECTIVE JUROR NO. 11-1314:** Here.

7 **Pragnit Thakor.**

8 THE CLERK: Thank you.

9 11-1325, Claudia Ledda.

10 **PROSPECTIVE JUROR NO. 11-1325:** Here.

11 THE CLERK: 11-1328, Sarah Oelke.

12 **PROSPECTIVE JUROR NO. 11-1328:** Here.

13 THE CLERK: 11-1336, E. Lemons.

14 **PROSPECTIVE JUROR NO. 11-1336:** Here.

15 THE CLERK: 11-1349, Mohamed Hosain.

16 **PROSPECTIVE JUROR NO. 11-1349:** Here.

17 THE CLERK: 11-1351, Kenneth Prince.

18 **PROSPECTIVE JUROR NO. 11-1351:** Here.

19 THE CLERK: 11-1358, Adam Elliott.

20 **PROSPECTIVE JUROR NO. 11-1358:** Here.

21 THE CLERK: 11-1360, Bridget Slezak.

22 **PROSPECTIVE JUROR NO. 11-1360:** Here.

23 THE CLERK: 11-1373, Chante Webb.

24 **PROSPECTIVE JUROR NO. 11-1373:** Here.

25 THE CLERK: Is there anyone whose name I

1 didn't call?

2 Please stand and raise your right hands.

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

7 IN UNISON: I do.

8 THE CLERK: Thank you.

9 THE COURT: I want to --

10 MR. KEMP: Your Honor, Mr. Roberts and I  
11 will stipulate to the presence of the people in  
12 the boxes. We don't have to do the roll call.

13 THE COURT: Thank you, Mr. Kemp.

14 For those of you that have been here for  
15 a couple of days, I want to thank you and I wanted  
16 to let you know that I'm going to be going through  
17 the same introduction as I did with you before, so  
18 I appreciate your patience.

19 All right. So this is the time set for  
20 trial -- for this trial. It's Case  
21 No. A-17-755977-C. This is Barin, the plaintiff,  
22 v. Motor Coach Industries, Inc., defendant. The  
23 record will reflect that the presence of the  
24 parties or their counsel are here.

25 Are the parties ready to proceed?

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1 MR. KEMP: Yes, Your Honor.

2 MR. ROBERTS: Yes, Your Honor.

3 THE COURT: All right.

4 Good morning, ladies and gentlemen.

5 You've been summoned to Department 14 of the  
6 Eighth Judicial District to serve as prospective  
7 jurors in this civil case.

8 My name is Adriana Escobar, and I am the  
9 judge in Department 14.

10 Our marshal for this trial, and part of  
11 our team, is Marshal Jerry Ragsdale. And you're  
12 going to have most of the communication with him.  
13 Okay? If you have any questions, problems, needs,  
14 or concerns, you should address those to Marshal  
15 Ragsdale and only Marshal Ragsdale.

16 Our court recorder is Sandy Anderson.  
17 She's to my far left, and she will record word for  
18 word everything that occurs during the trial. And  
19 she needs to be fast, accurate, and only one  
20 person can speak at a time. Okay?

21 We also have our court clerk to my left,  
22 Denise Husted. And she's responsible for keeping  
23 minutes, taking care of and organizing all  
24 exhibits, evidence, and administering oaths to  
25 the witnesses, and generally takes care of things

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1 in the courtroom.

2 We also have Kristy Clark, who is seated  
3 here in front at the desk. And she is our  
4 reporter for this trial, and she will be typing  
5 everything that everyone says as we go.

6 At some point, you'll see a gentleman  
7 sitting somewhere to my right. He's not here  
8 right now. But that is our court clerk, and his  
9 name is Collin Jayne. He's an attorney that works  
10 in our department.

11 So you will also meet Diana Powell, who  
12 will be present in the courtroom from time to  
13 time. She's the judicial executive assistant in  
14 this department. She works with me.

15 I'm going to have now each of the  
16 attorneys stand and introduce themselves,  
17 introduce their clients, and identify the other  
18 lawyers in their respective law firms and briefly  
19 tell you about the nature of the case.

20 And they will also -- I believe there  
21 may not be a need to list all of the witnesses  
22 since they were in your questionnaires. It was a  
23 pretty lengthy list. It would take a long time.  
24 Okay.

25 So I'd like now counsel for plaintiff to

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1 start. Thank you.

2 Mr. Christiansen?

3 MR. CHRISTIANSEN: Thank you, Your  
4 Honor. Good morning. My name is Pete  
5 Christiansen. This is Kendelee Works and Whitney  
6 Barrett, lawyers that work in my office. And this  
7 is Will Kemp and Eric Pepperman. We represent  
8 Aria and Keon Khiabani.

9 And with the Court's permission, I'll  
10 show you a picture. This is the Khiabani family.  
11 Aria is the 17-year-old boy on the right, and Keon  
12 is the 14-year-old boy on the left.

13 Dr. Kayvan Khiabani, their father, was  
14 killed April the 18th of last year in the area of  
15 Red Rock Casino when a bus and his bike came into  
16 contact. He fell off the bike. The bike went  
17 down. The back wheels of the bus ran his head  
18 over.

19 This is a products liability case. The  
20 plaintiffs have sued the bus manufacturer or  
21 seller, MCI, the defendant in the case.

22 Six months after Dr. Khiabani passed,  
23 his wife, Katy Barin, succumbed to cancer. So  
24 Katy and Kayvan are represented by Katy's younger  
25 brother as the administrator of their estate. His

1 name is Siamak Barin. And Siamak will be here  
2 this afternoon. You'll see him come in and out.  
3 Aria was here yesterday. You may see him come in  
4 and out.

5 The boys, because they're minors, have a  
6 guardian. Their guardian is Mrs -- their  
7 guardians are Katy, their mom's older brother,  
8 Babak Barin and Marie-Claude Rigaud. This is a  
9 picture of Marie-Claude. It's Babak's wife.  
10 Those are the guardians of the boys.

11 The plaintiff has alleged that the bus  
12 was defective in design, in failure to warn, for  
13 aerodynamic defects, blind spots, lack of  
14 proximity sensors, and lack of physical guards  
15 behind or in front of the rear tire.

16 That's the nature of the case. Thank  
17 you.

18 THE COURT: Go on, Mr. Roberts, please.

19 MR. ROBERTS: Thank you, Your Honor.

20 Good morning. My name is Lee Roberts.  
21 I'm an attorney here in Las Vegas. And I  
22 represent the defendant in this case, Motor Coach  
23 Industries, which sold the motor coach involved in  
24 the accident you've just heard about.

25 Trying the case with me will be two

1 attorneys from Corpus Christi, Texas, Mr. Darrell  
2 Barger and Mr. Mike Terry. Another lawyer in my  
3 firm, Howard Russell, is not in court, but you'll  
4 see him because he took some of the depositions  
5 which will be shown on videotape.

6 Also, another attorney from town, Joel  
7 Henriod, may be in the courtroom and participate  
8 in part of the trial.

9 Here at the table with me is Mr. Tim  
10 Nalepka. He's actually a vice president and part  
11 of the senior management team at Motor Coach  
12 Industries, and he'll be here with me for the  
13 entire trial.

14 As Mr. Christiansen said, this took  
15 place near Red Rock Casino. It actually took  
16 place on Pavilion Center Drive in the bus's travel  
17 lane.

18 It's our position that the motor coach  
19 was not defective and no defect in the motor coach  
20 caused this accident. Thank you.

21 Oh, there may also be another attorney  
22 who works with Mr. Henriod, Mr. Dan Polsenberg.  
23 In case any of you know him, he may be in the  
24 courtroom from time to time. Thank you.

25 THE COURT: Very good. All right.

1 We've had the roll call.

2 Is there anyone in the panel that was  
3 called that -- or that is here that was not  
4 called -- whose name was not called?

5 Okay. There are no hands. All right.

6 Okay. So this is going to be a bit  
7 repetitive for those that are here. But to  
8 qualify to serve as a juror, you must be a citizen  
9 of the United States.

10 Is there anyone that's a prospective  
11 juror that is not a citizen of the United States?

12 Okay. There's no show of hands. All  
13 right.

14 Also, to qualify to serve as a juror, an  
15 individual cannot be a convicted felon whose  
16 rights have not been restored.

17 Is there anyone here who's been  
18 convicted of a felony but not had their rights  
19 restored yet?

20 Okay. I show no hands. No show of  
21 hands. Okay.

22 So we are now -- to give you an idea,  
23 for those that have just arrived today, this is  
24 called voir dire. And it is the process of jury  
25 selection. So this is the first phase of a trial,

1 for those who haven't -- who are not familiar.

2 Okay. Ultimately, this is a simple  
3 case. We will have eight jurors, and we are going  
4 to have six alternates.

5 The jurors and the alternates have the  
6 same duties and the same responsibilities. So  
7 whether they're an alternate or a -- seated on the  
8 jury panel, their responsibilities and duties are  
9 the same.

10 The attorneys, the parties, and the  
11 Court are very concerned with having this matter  
12 be tried by a jury composed of jurors who are  
13 completely open-minded, neutral, objective, and  
14 unbiased in their thinking. To accomplish this  
15 result, I will first ask you some general  
16 questions, and then I will allow the attorneys to  
17 follow up and ask individual questions to  
18 determine your ability to be fair and impartial  
19 jurors in this case.

20 You may feel that some of the questions  
21 are quite personal. And it is not our intention  
22 to pry, to embarrass you, or to intrude into your  
23 personal life. However, it is important that both  
24 sides are able to ask you questions so that they  
25 may make an intelligent decision as to your

1 ability to serve fairly and impartially in this  
2 case.

3 We all have personal prejudices and  
4 biases based on our educational background, our  
5 political affiliation, our religious experiences,  
6 our financial situations, and so forth. The fact  
7 that you have a certain bias or prejudice may mean  
8 that you are not able to participate in this jury,  
9 but such bias or prejudice may not disqualify you  
10 from sitting as a juror in a different case.

11 Please do not hide anything in  
12 responding to any of the questions that are asked  
13 that might indicate a bias or a prejudice of any  
14 sort. Please be completely honest and forthright.  
15 It is very important.

16 If you feel -- if you fail to answer  
17 truthfully or if you hide or withhold anything  
18 that may affect your qualifications, that may  
19 contaminate your verdict and cause problems for  
20 all involved. This would be a very significant  
21 problem. Okay.

22 Try not to be offended by any of the  
23 questions that are asked. And if you have some  
24 thoughts in the back of your mind, anything that  
25 you think may be relevant to the questions that

1 are asked, please err on the side of disclosure  
2 and let us know about it.

3 I'm going to start with a general  
4 examination of all the jurors to my right. There  
5 are going to be some jurors placed behind the  
6 bench in certain seats that are vacant. And then  
7 after that, we will continue with the rest that  
8 are in the pen.

9 So for those of you that are in the  
10 gallery, please listen very carefully to the  
11 questions that are asked as you may be called upon  
12 to take the place of the jurors who are currently  
13 in the jury box. If that occurs, I want you to be  
14 able to respond to all the questions that were  
15 provided and asked.

16 So in the course of selecting a jury,  
17 the attorneys for both sides will have the right  
18 to ask particular -- that a particular person not  
19 serve as a juror. These are called challenges.  
20 And we have challenges for cause or peremptory  
21 challenges.

22 Should that occur, please do not be  
23 offended if you are excused by any of the  
24 challenge procedures. The attorneys for both  
25 sides are simply trying to do their best to get

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1 what they believe would be the most fair and  
2 unbiased jury for this case.

3 I will share with you that -- before we  
4 start the selection, that I truly believe that the  
5 United States is the greatest country. And one of  
6 the reasons that it is is that our forefathers  
7 fought very hard for the rights that we have.

8 So I really believe that serving on a  
9 jury is an honor. It's not something that should  
10 be looked at as a inconvenience. It's an honor  
11 and it's a privilege to serve on a jury.

12 And we've even had a couple of judges  
13 serve on juries. I'm not one of them, but I know  
14 that that's occurred in the last few years. And I  
15 want you to embrace this process. It's very  
16 important. It's what makes this country so great,  
17 to be able to have our peers sit here and judge us  
18 instead of some other type of system.

19 Let's see. Something else that I want  
20 to mention early is that, by law, no one in the  
21 court or our staff in Department 14, none of the  
22 parties or their attorneys are allowed to  
23 communicate with you. So if you see them in the  
24 hallway not looking at you, looking away, not  
25 saying hello, avoiding you, it's their duty to do

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1 so, their legal duty to do so. If they're not  
2 doing that, that's something that you should let  
3 Marshal Ragsdale know.

4 I'm not worried that that's going to  
5 happen, but I want you to understand how important  
6 that is. And I don't want you to hold that  
7 against anyone in our department or any of the  
8 parties. It's really very necessary. Okay. So I  
9 wanted you to be aware of that.

10 I also wanted to thank each of you for  
11 filling out the questionnaire in this case. I  
12 know it took some time. And it did provide the  
13 court and the attorneys with quite a bit of  
14 information about each of you. So it was not a  
15 waste of time. It was a thorough process.

16 And I believe I can speak for all of us  
17 that we appreciate your time and your  
18 thoughtfulness when you were preparing your  
19 questionnaires and filling them out.

20 This case is estimated to last about  
21 five weeks. So after this week, another four.  
22 For those that are starting today, we will likely  
23 be starting on Monday, Wednesday, and Friday at  
24 9:30 and, on Tuesday and Thursday, as close to  
25 noon as possible. And we will be going through

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1 approximately 5:00 p.m. every day.

2 If that changes later, I will let you  
3 know beforehand, but that's generally the schedule  
4 for this case.

5 Some of you may think that that's  
6 unreasonable as it is a few weeks, but there are  
7 construction defect trials that sometimes take  
8 four to six months and perhaps longer. So if you  
9 are not picked for this jury, your service still  
10 may be -- you still may be required to serve on  
11 another jury.

12 I know that there are events in your  
13 life that simply make it impossible for you to  
14 serve as jurors during these next five weeks.  
15 Many of those people -- of those prospective  
16 jurors have already indicated that to my office.  
17 But it would be something like non-refundable  
18 tickets or preplanned vacation, someone is getting  
19 married in your family, or something along those  
20 lines.

21 Okay. So, you know, many, many people  
22 are going through financial hardships. To serve  
23 on a jury for a period of that time may be a  
24 financial hardship. That is not usually a basis  
25 to disqualify anyone from service.

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1           So, consequently, if you want to tell me  
2 how serving on a jury will cause you to struggle  
3 financially, I will be happy to listen to you as  
4 long as you realize that that is likely not a  
5 result for being excused from jury duty.

6           If I ask a question that elicits a  
7 response -- this is very important -- you need to  
8 raise your hand, give your entire badge number,  
9 and then state your name. Once I acknowledge you,  
10 I would like you to remember this. It's very  
11 important because we have a court record, which is  
12 very important.

13           Okay. This goes to everyone in the  
14 panel. Well, we'll wait on these.

15           Will you please seat the jurors now.

16           THE CLERK: Badge No. 11-1104, Winnie  
17 Pritchett, in Seat 18.

18           Badge 11-0825, Jaylen Green-Wilson, in  
19 Seat 14.

20           11-1107, Thomas Phares, in Seat 26.

21           And Badge 11-1114, Thomas Garibay, in  
22 Seat 15.

23           THE COURT: Good morning. All right.  
24 Do any of those who have just been seated have any  
25 difficulty understanding the English language?

1           Okay. Will you please state your name  
2 and your badge number?

3           PROSPECTIVE JUROR NO. 11-1104: Hi. My  
4 name is --

5           THE COURT: You need to speak louder,  
6 please.

7           THE WITNESS: My name is Winnie  
8 Pritchett, and my badge number is 11-1104.

9           THE COURT: Ms. Pritchett, please bring  
10 the mic closer or speak a little bit louder.

11           All right. Please explain your  
12 difficulty with English.

13           PROSPECTIVE JUROR NO. 11-1104: My  
14 English is okay, but I don't think I understand  
15 all what you say.

16           THE COURT: You don't understand  
17 everything?

18           PROSPECTIVE JUROR NO. 11-1104: No, not  
19 all of them.

20           THE COURT: Okay. So you've been  
21 sitting here for two days.

22           PROSPECTIVE JUROR NO. 11-1104: Yes. I  
23 know some of the questions that you ask, I don't  
24 understand.

25           THE COURT: Okay. How long have you

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1 lived -- are you -- how long have you spoken  
2 English?

3 PROSPECTIVE JUROR NO. 11-1104: I've  
4 been -- spoken English for some times.

5 THE COURT: How long approximately?

6 PROSPECTIVE JUROR NO. 11-1104:  
7 40 years.

8 THE COURT: 40 years.

9 Okay. Have you worked?

10 PROSPECTIVE JUROR NO. 11-1104: Yes.

11 THE COURT: Okay. Have you used English  
12 in your work?

13 PROSPECTIVE JUROR NO. 11-1104: Most  
14 time, I speak Chinese with my coworker.

15 THE COURT: You speak Chinese?

16 PROSPECTIVE JUROR NO. 11-1104: Yes.

17 THE COURT: Okay. Have you studied  
18 English?

19 PROSPECTIVE JUROR NO. 11-1104: Not  
20 much.

21 THE COURT: No?

22 PROSPECTIVE JUROR NO. 11-1104: No.

23 THE COURT: Okay. What does "not much"  
24 mean?

25 PROSPECTIVE JUROR NO. 11-1104: I didn't

1 go to school that much.

2 THE COURT: Okay. So you haven't  
3 studied English?

4 PROSPECTIVE JUROR NO. 11-1104: No.

5 THE COURT: Does "not much" mean you  
6 have not or you've taken some courses in English?

7 PROSPECTIVE JUROR NO. 11-1104: I took  
8 some courses when I first come here to United  
9 States.

10 THE COURT: 40 years ago?

11 PROSPECTIVE JUROR NO. 11-1104: Yes.

12 THE COURT: Okay.

13 Let's see. Is there anyone else who may  
14 have difficulty understanding the English language  
15 of those that have just been seated?

16 Okay. Very good.

17 All right. For those that have just  
18 been seated, are any of you acquainted with or  
19 recognize either -- any of the attorneys involved  
20 in this case?

21 Okay. There's no show of hands.

22 Are any of you acquainted with or  
23 recognize the names of any of the witnesses who  
24 were identified in your questionnaire?

25 No one? Okay. No show of hands.

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1           Are any of you acquainted with or  
2 recognize any of the parties in the case?

3           No show of hands.

4           Are any of you obligated to any of the  
5 parties or any of the attorneys in the case?

6           No show of hands.

7           Are any of the attorneys or the parties  
8 in this case in any way obligated to you?

9           There's no show of hands.

10          Do any of you know any other member of  
11 the jury panel, as far as you can tell?

12          Yes?

13          PROSPECTIVE JUROR NO. 11-0834: I  
14 recognize the --

15          THE COURT: I'd like you to state your  
16 name and your badge number.

17          PROSPECTIVE JUROR NO. 11-0834: I'm  
18 sorry. Joseph Dail --

19          THE MARSHAL: Wait for a microphone,  
20 sir.

21          PROSPECTIVE JUROR NO. 11-0834: Joseph  
22 Dail, Badge No. 11-0834.

23          And the gentleman sitting there, I don't  
24 know him by name, but I'm a casino host.

25          Everybody knows that. And I have issued comps to

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1 him in the past.

2 THE COURT: I'm sorry?

3 PROSPECTIVE JUROR NO. 11-0834: I do  
4 recognize the gentleman up in the front row,  
5 second seat. I've issued comps to him in the  
6 casino that I work in. So, I mean, I recognize  
7 him in that sense. I don't know him as a friend,  
8 but I do recognize him.

9 THE COURT: Okay. Thank you.

10 Is there anyone else who is familiar or  
11 knows anyone else on the jury panel, those who  
12 have just been seated?

13 No? No hands. Okay. Thank you.

14 Do any of you know me or anyone that  
15 I've discussed as part of our Department 14 team?

16 No. Okay.

17 All right. Understanding that this case  
18 is going to last probably four more weeks --  
19 approximately four more weeks and based on the  
20 schedule that I previously indicated, is there  
21 anyone who feels that serving that period of time  
22 would present a physical or medical hardship?

23 Yes. Your name and badge number,  
24 please?

25 THE MARSHAL: Please stay seated, sir.

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1 THE COURT: I need you to --

2 THE MARSHAL: It's the number there,  
3 sir. There you go.

4 PROSPECTIVE JUROR NO. 11-1107: Thomas  
5 Phares, 1107.

6 THE COURT: Okay. And what physical or  
7 medical hardship would you endure?

8 PROSPECTIVE JUROR NO. 11-1107: Well,  
9 the only thing I'd say is I'm in great shape, I  
10 think. I'm 74 years old. I'm a type 2 diabetic,  
11 and I do take medication, and I have high blood  
12 pressure. I question only my attention factor  
13 remain -- I might not be able to have full  
14 attention all the time because of the diabetic.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 11-1107: And my  
17 age.

18 THE COURT: Thank you very much. And if  
19 you'd pass the microphone, please.

20 PROSPECTIVE JUROR NO. 11-1104: Winnie  
21 Pritchett, Badge --

22 THE COURT: Ms. Pritchett, you have to  
23 speak louder and clearer into the microphone,  
24 please.

25 PROSPECTIVE JUROR NO. 11-1104: Winnie

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1 Pritchett. My badge is 11-1104.

2 THE COURT: Okay. And you have a  
3 physical or medical hardship that would make it  
4 difficult for you to serve? Please describe that.

5 PROSPECTIVE JUROR NO. 11-1104: I was  
6 diagnosed with breast cancer.

7 THE COURT: Okay. That's all you have  
8 to say. We'll address that later. Okay. Thank  
9 you.

10 Is there anyone else?

11 Okay. I show no one else.

12 Is there anyone that --

13 MR. BARGER: Judge, can we approach real  
14 quick?

15 THE COURT: Yes.

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

18 THE COURT: Ms. Pritchett, I'm going to  
19 excuse you. Okay. And I hope you feel better.  
20 And please go to the third floor. All right.  
21 Thank you for your service.

22 Clerk, can you call the next person.

23 THE CLERK: Yes, Your Honor. Badge  
24 11-1125, Michael Kaba.

25 THE COURT: Mr. Kaba, good morning.

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1 PROSPECTIVE JUROR NO. 11-1125: Good  
2 morning.

3 THE COURT: Do you have -- do you  
4 understand English?

5 PROSPECTIVE JUROR NO. 11-1125: Yes, I  
6 do.

7 THE COURT: Okay. Thank you.

8 All right. Are you acquainted with or  
9 recognize any of the attorneys that are here or  
10 have been named?

11 PROSPECTIVE JUROR NO. 11-1125: No, I  
12 don't.

13 THE COURT: Thank you. Are you  
14 acquainted with or recognize the names of any of  
15 the witnesses who were identified in the  
16 questionnaire?

17 PROSPECTIVE JUROR NO. 11-1125: No, I  
18 don't.

19 THE COURT: Okay. Are you acquainted  
20 with or recognize any of the parties in the case?

21 PROSPECTIVE JUROR NO. 11-1125: No.

22 THE COURT: Okay. Are any of -- the  
23 parties or attorneys in this case, do you have any  
24 obligation to them in any way?

25 PROSPECTIVE JUROR NO. 11-1125: No.

1 THE COURT: Or do they to you?

2 PROSPECTIVE JUROR NO. 11-1125: No.

3 THE COURT: Do you know any other member  
4 or are familiar with any other member of the jury  
5 panel as far as you can tell?

6 PROSPECTIVE JUROR NO. 11-1125: No.

7 THE COURT: Okay. Do you know me or any  
8 of the Department 14 staff that has been  
9 described -- mentioned?

10 PROSPECTIVE JUROR NO. 11-1125: No, I  
11 don't.

12 THE COURT: Okay. Thank you.

13 Understanding that this is going to be a  
14 five-week trial, four more weeks after this, based  
15 on the schedule that I have discussed this  
16 morning, do you have any physical or medical  
17 hardship that would present a problem serving on  
18 this jury?

19 PROSPECTIVE JUROR NO. 11-1125: No.

20 THE COURT: Thank you.

21 Do you feel in any way that you have --  
22 that serving on this jury would create a severe or  
23 undue hardship?

24 PROSPECTIVE JUROR NO. 11-1125: No,  
25 ma'am.

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1 THE COURT: No? Okay.

2 All right. I'm going to ask this to all  
3 of those that have just been seated.

4 Has any one of you been involved in a  
5 car accident before where you suffered injuries?  
6 Car accident? bicycle? pedestrian? any type of  
7 automobile accident?

8 Okay. Your badge number and your name,  
9 please.

10 PROSPECTIVE JUROR NO. 11-1125: 11-1125,  
11 Mike Kaba.

12 THE COURT: And you are going to have to  
13 speak louder, please. Is it on? Is the mic on?

14 PROSPECTIVE JUROR NO. 11-1125: Can you  
15 hear me now?

16 THE COURT: I can hear you much better.  
17 Please describe the accident.

18 PROSPECTIVE JUROR NO. 11-1125: It was a  
19 one-car accident many years ago.

20 THE COURT: Okay. And did you  
21 experience injuries?

22 PROSPECTIVE JUROR NO. 11-1125: Yes. I  
23 lost a number of my teeth, and lacerations.

24 THE COURT: All right. And were you  
25 involved -- did you sue someone or were you

1 involved in a lawsuit?

2 PROSPECTIVE JUROR NO. 11-1125: No.

3 THE COURT: No? Okay.

4 Is there anyone else that has been in an  
5 accident?

6 I show no one else is raising their  
7 hands. All right.

8 As a juror, you'll be asked to listen to  
9 witnesses, review evidence, and make  
10 determinations based on the facts. The jury is  
11 the finder of facts, and my role is to make sure  
12 that the trial is fair and to instruct you on the  
13 law that you will apply to the facts.

14 Some of you may disagree with the law as  
15 it is written. It would be a violation of a  
16 juror's duty, however, if he or she tried to  
17 render a verdict based upon what he or she  
18 believed the law to be if it was different from  
19 the instructions given by me -- by the Court.

20 Do any of you feel that you would not be  
21 able to follow all of the instructions of the  
22 Court on the law even if the instructions differ  
23 from your personal opinions or conceptions of what  
24 the law ought to be?

25 Okay. I show no hands. No one has

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1 raised their hand.

2 All right. Has anyone heard about this  
3 case in any fashion -- media, whether it's  
4 written, print, internet, television -- of those  
5 of you that have just been seated?

6 Okay. No one has raised their hands.

7 Is there anyone who has such a sympathy,  
8 prejudice, or bias relating to age, religion,  
9 race, gender, or national origin that they feel  
10 would affect their ability to be open-minded,  
11 fair, and impartial jurors?

12 Okay. I show no hands raised.

13 All right. I'm going to ask you now,  
14 each of those that have just been seated,  
15 individual questions. You've provided us with  
16 certain information. I'm going to follow through  
17 with some others. Please list, before speaking,  
18 the entire badge number and your name.

19 All right. So I'm going to -- the  
20 person who is seated in 14, that's Mr. Wilson?

21 Okay. Please state your name and your  
22 badge number for the record.

23 PROSPECTIVE JUROR NO. 11-0825: Jaylen  
24 Green-Wilson, Badge No. 11-0825.

25 THE COURT: Okay. Mr. Wilson, how long

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1 have you lived in the Las Vegas area?

2 PROSPECTIVE JUROR NO. 11-0825: All my  
3 life, so 21 years.

4 THE COURT: 21 years.

5 And what do you do for a living or for  
6 work?

7 PROSPECTIVE JUROR NO. 11-0825: I'm a  
8 personal assistant, so I'm taking care of kids.  
9 And then I'm at school at night.

10 THE COURT: What are you studying?

11 PROSPECTIVE JUROR NO. 11-0825:  
12 Kinesiology.

13 THE COURT: How long have you worked as  
14 a personal assistant?

15 PROSPECTIVE JUROR NO. 11-0825: For the  
16 last six months.

17 THE COURT: Okay. And you're an  
18 assistant to a person who is a professional or ...

19 PROSPECTIVE JUROR NO. 11-0825: My mom  
20 is a therapist, and it's one of her coworkers. So  
21 I pick his kids up, take them to school.

22 THE COURT: What kind of a therapist?

23 PROSPECTIVE JUROR NO. 11-0825:  
24 Family -- I'm trying to think of the exact term  
25 for it. Basically --

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1 THE COURT: Marriage and family --

2 PROSPECTIVE JUROR NO. 11-0825: Yeah,  
3 marriage and family.

4 THE COURT: MSC?

5 PROSPECTIVE JUROR NO. 11-0825: Yeah.

6 THE COURT: What jobs or education have  
7 you had before this job?

8 PROSPECTIVE JUROR NO. 11-0825:  
9 Graduated high school and two years of college.  
10 I'm in my junior year of college right now.

11 THE COURT: Okay. And where are you  
12 studying?

13 PROSPECTIVE JUROR NO. 11-0825: UNLV.

14 THE COURT: Okay. Where else have you  
15 been employed?

16 PROSPECTIVE JUROR NO. 11-0825: Before  
17 this, it was Quicksilver at the North Premium  
18 Outlets.

19 THE COURT: How long were you employed  
20 there?

21 PROSPECTIVE JUROR NO. 11-0825: Four  
22 months at the most.

23 THE COURT: What were your duties?

24 PROSPECTIVE JUROR NO. 11-0825: Opening  
25 the store, helping customers, running register.

1 THE COURT: And before your employment  
2 with Quicksilver?

3 PROSPECTIVE JUROR NO. 11-0825: There  
4 was a store called New in Chinatown. It's another  
5 clothing store. It was retail.

6 THE COURT: Okay. What other work  
7 experience do you have?

8 PROSPECTIVE JUROR NO. 11-0825: Before  
9 that, Skechers and Urban Outfitters at the same  
10 time.

11 THE COURT: So it's safe to say you've  
12 been in retail?

13 PROSPECTIVE JUROR NO. 11-0825: Yeah,  
14 it's been retail for the longest. Yeah.

15 THE COURT: Are you married, or do you  
16 have a significant other?

17 PROSPECTIVE JUROR NO. 11-0825: No, I do  
18 not.

19 THE COURT: Have you in the past?

20 PROSPECTIVE JUROR NO. 11-0825: I've  
21 never been married; I've had a girlfriend.

22 THE COURT: Okay. What area of work was  
23 she in?

24 PROSPECTIVE JUROR NO. 11-0825: She  
25 didn't work; she was in school.

1 THE COURT: Okay. All right. Do you  
2 have children?

3 PROSPECTIVE JUROR NO. 11-0825: No, I do  
4 not.

5 THE COURT: Okay. Have you ever served  
6 as a juror before?

7 PROSPECTIVE JUROR NO. 11-0825: No, I  
8 have not.

9 THE COURT: Okay. Thank you. All  
10 right. Will you pass the mic to the person next  
11 to you.

12 So this is Mr. Garibay.

13 PROSPECTIVE JUROR NO. 11-1114: Badge  
14 No. 11-1114, Thomas Garibay.

15 THE COURT: All right. How long have  
16 you lived in the Las Vegas area, sir?

17 PROSPECTIVE JUROR NO. 11-1114: 12  
18 years.

19 THE COURT: Where did you live before  
20 that?

21 PROSPECTIVE JUROR NO. 11-1114: Corpus  
22 Christi, Texas.

23 THE COURT: How long?

24 PROSPECTIVE JUROR NO. 11-1114: Since I  
25 was born, so 25 years.

1           THE COURT: All right. And what area of  
2 work are you in?

3           PROSPECTIVE JUROR NO. 11-1114: I'm a  
4 teacher with the Clark County School District.

5           THE COURT: Okay. What do you teach?

6           PROSPECTIVE JUROR NO. 11-1114: 6th,  
7 7th, and 8th, and I'm a mariachi teacher.

8           THE COURT: So you're a music teacher?

9           PROSPECTIVE JUROR NO. 11-1114: Yes,  
10 ma'am.

11           THE COURT: How long have you been  
12 employed by the Clark County School District?

13           PROSPECTIVE JUROR NO. 11-1114: Since  
14 2005.

15           THE COURT: And before that?

16           PROSPECTIVE JUROR NO. 11-1114: I worked  
17 for Enterprise Rent-A-Car.

18           THE COURT: Okay. What were your duties  
19 there?

20           PROSPECTIVE JUROR NO. 11-1114: I was a  
21 porter, just washing rental cars and occasionally  
22 picking up customers and dropping them off.

23           THE COURT: All right. Have you had any  
24 other work experience?

25           PROSPECTIVE JUROR NO. 11-1114: Retail,

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1 a few retail jobs when I got out of high school.

2 THE COURT: Okay. What type? Clothing  
3 or other ...

4 PROSPECTIVE JUROR NO. 11-1114: I worked  
5 for the Men's Wearhouse, pretty much selling  
6 accessories to suits. And the other one was just  
7 a general department store, men's clothing.

8 THE COURT: Okay. Thank you.

9 Are you married or do you have a  
10 significant other?

11 PROSPECTIVE JUROR NO. 11-1114: Yes, I'm  
12 married.

13 THE COURT: Okay. And what area of work  
14 is your spouse in?

15 PROSPECTIVE JUROR NO. 11-1114: She's  
16 not currently employed, a homemaker.

17 THE COURT: Before she became a  
18 homemaker, what did she do?

19 PROSPECTIVE JUROR NO. 11-1114: Just the  
20 occasional retail jobs. She worked at a few  
21 restaurants and stuff of that nature.

22 THE COURT: So retail and the service  
23 industry?

24 PROSPECTIVE JUROR NO. 11-1114: Yeah.

25 THE COURT: Okay. Do you have children?

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1 PROSPECTIVE JUROR NO. 11-1114: Yes, I  
2 have three children.

3 THE COURT: How old are they?

4 PROSPECTIVE JUROR NO. 11-1114: 11, 7,  
5 and 4.

6 THE COURT: Okay. Thank you.

7 Have you ever served as a juror before?

8 PROSPECTIVE JUROR NO. 11-1114: No,  
9 ma'am.

10 THE COURT: Thank you very much. Please  
11 pass the microphone to Mr. Kaba.

12 I want you to make sure you speak  
13 loudly. Okay?

14 PROSPECTIVE JUROR NO. 11-1125: Mike  
15 Kaba, 11-1125.

16 THE COURT: Okay. Thank you. Mr. Kaba,  
17 how long have you lived in the Las Vegas area?

18 PROSPECTIVE JUROR NO. 11-1125: About 27  
19 years.

20 THE COURT: How about before that?

21 PROSPECTIVE JUROR NO. 11-1125: Wichita,  
22 Kansas.

23 THE COURT: Kansas. Okay.

24 So what area of work are you in?

25 PROSPECTIVE JUROR NO. 11-1125: I'm

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1     retired.

2                 THE COURT:   Okay.   But before you were  
3     retired.

4                 PROSPECTIVE JUROR NO. 11-1125:   I worked  
5     for Clark County Water Reclamation District.

6                 THE COURT:   How long?

7                 PROSPECTIVE JUROR NO. 11-1125:   17  
8     years.

9                 THE COURT:   What were your duties in  
10    that position?

11                PROSPECTIVE JUROR NO. 11-1125:   Well, I  
12    started out as an operator, and I was a supervisor  
13    when I retired.

14                THE COURT:   Okay.   And before you worked  
15    there, what were you employed in?

16                PROSPECTIVE JUROR NO. 11-1125:   I was  
17    self-employed as -- in construction back in  
18    Wichita.   And I worked for a couple chemical  
19    plants for about ten years.

20                THE COURT:   Have you had other work  
21    experience before that?

22                PROSPECTIVE JUROR NO. 11-1125:   Mostly  
23    construction in my younger days.

24                THE COURT:   Construction?

25                PROSPECTIVE JUROR NO. 11-1125:   Yeah.

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1 THE COURT: Are you married or do you  
2 have a significant other?

3 PROSPECTIVE JUROR NO. 11-1125: I'm  
4 married.

5 THE COURT: And what does your spouse  
6 do?

7 PROSPECTIVE JUROR NO. 11-1125:  
8 Actually, she's the office manager for ADR for the  
9 courts.

10 THE COURT: For the courts?

11 PROSPECTIVE JUROR NO. 11-1125: Yes.

12 THE COURT: Okay. How long -- which  
13 courts?

14 PROSPECTIVE JUROR NO. 11-1125: I'm not  
15 sure.

16 THE COURT: Is it district court?  
17 justice court? municipal court?

18 PROSPECTIVE JUROR NO. 11-1125: Probably  
19 district court.

20 THE COURT: So this --

21 PROSPECTIVE JUROR NO. 11-1125: For -- I  
22 forget what program it is, ADR, attorney dispute  
23 resolution.

24 THE COURT: Okay. How long has she been  
25 in that position, sir?

1 PROSPECTIVE JUROR NO. 11-1125: About 25  
2 years.

3 THE COURT: 25 years? Okay.

4 And -- let's see -- do you have  
5 children?

6 PROSPECTIVE JUROR NO. 11-1125: I have  
7 two -- two children and two stepchildren.

8 THE COURT: Okay. What ages are they?

9 PROSPECTIVE JUROR NO. 11-1125: 39, 37,  
10 and 30, and 26.

11 THE COURT: All right. Let's talk about  
12 your 39-year-old.

13 What area of work or education does your  
14 39-year-old have?

15 PROSPECTIVE JUROR NO. 11-1125: She's an  
16 architect.

17 THE COURT: She's an architect?

18 PROSPECTIVE JUROR NO. 11-1125: Yes.  
19 She's had her master's degree.

20 THE COURT: Okay. And what about your  
21 37-year-old?

22 PROSPECTIVE JUROR NO. 11-1125: That's  
23 my daughter also, yeah. She's a scientist. She  
24 works for Stanford.

25 THE COURT: What area of science is she

1 in?

2 PROSPECTIVE JUROR NO. 11-1125: They  
3 work in proteins and stuff, cancer.

4 THE COURT: Okay. And what was her  
5 major?

6 PROSPECTIVE JUROR NO. 11-1125: Well,  
7 she had several. I can't remember.

8 THE COURT: Okay. Okay. What about  
9 your -- you said 30-year-old?

10 PROSPECTIVE JUROR NO. 11-1125: She  
11 works for the State of Nevada.

12 THE COURT: Okay. And what is her  
13 position for the state?

14 PROSPECTIVE JUROR NO. 11-1125: She's an  
15 interviewer for -- I want to say the welfare  
16 program. I can't remember what her title is.

17 THE COURT: All right. And how long has  
18 she been doing that?

19 PROSPECTIVE JUROR NO. 11-1125: About  
20 seven years.

21 THE COURT: All right. What about your  
22 20-year-old?

23 PROSPECTIVE JUROR NO. 11-1125: She  
24 works at 7-Eleven.

25 THE COURT: I'm sorry. 26-year-old.

1 PROSPECTIVE JUROR NO. 11-1125: Yeah.  
2 Right.

3 THE COURT: So how long has she worked  
4 with 7-Eleven?

5 PROSPECTIVE JUROR NO. 11-1125: Just a  
6 couple years.

7 THE COURT: Okay. What about before  
8 that?

9 PROSPECTIVE JUROR NO. 11-1125: She's a  
10 housewife.

11 THE COURT: She was a housewife. And  
12 before she was married, did she work?

13 PROSPECTIVE JUROR NO. 11-1125: No, I  
14 don't believe so. I can't remember. I think she  
15 had a couple of part-time jobs.

16 THE COURT: But you're not sure what  
17 area?

18 PROSPECTIVE JUROR NO. 11-1125: No, I  
19 don't.

20 THE COURT: Have you ever served as a  
21 juror before?

22 PROSPECTIVE JUROR NO. 11-1125: Many  
23 years ago, yes.

24 THE COURT: Okay. Do you know if it was  
25 a civil or a criminal case?

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1 PROSPECTIVE JUROR NO. 11-1125: It was a  
2 criminal.

3 THE COURT: Without telling us what the  
4 verdict was, did the jury reach a verdict?

5 PROSPECTIVE JUROR NO. 11-1125: Yes, we  
6 did.

7 THE COURT: Okay. And were you the  
8 foreperson?

9 PROSPECTIVE JUROR NO. 11-1125: No.

10 THE COURT: Thank you very much. Thank  
11 you.

12 Your name and badge number, please.

13 PROSPECTIVE JUROR NO. 11-1107: Thomas  
14 Phares, 1107.

15 THE COURT: Mr. Phares, how long have  
16 you lived in the Las Vegas area?

17 PROSPECTIVE JUROR NO. 11-1107: 19  
18 years.

19 THE COURT: And before that?

20 PROSPECTIVE JUROR NO. 11-1107: Rancho  
21 Cucamonga, California.

22 THE COURT: And what do you do for a  
23 living or for work?

24 PROSPECTIVE JUROR NO. 11-1107: I'm  
25 retired.

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1 THE COURT: And before your retirement?

2 PROSPECTIVE JUROR NO. 11-1107: My last  
3 job was Rio Hotel, accounting clerk.

4 THE COURT: Accounting clerk?

5 PROSPECTIVE JUROR NO. 11-1107: Yes.

6 THE COURT: And how long were you  
7 employed there?

8 PROSPECTIVE JUROR NO. 11-1107: About  
9 five years.

10 THE COURT: What about before that?

11 PROSPECTIVE JUROR NO. 11-1107: I worked  
12 at the automaker Chrysler Corporation for 33  
13 years.

14 THE COURT: What was your position  
15 there?

16 PROSPECTIVE JUROR NO. 11-1107: I worked  
17 in Ontario, California, parts depot.

18 THE COURT: Parts depot?

19 PROSPECTIVE JUROR NO. 11-1107: We sent  
20 parts to dealers, car wrecks or replacements.

21 THE COURT: All right. Before that?

22 PROSPECTIVE JUROR NO. 11-1107: Chrysler  
23 in the midwest. I built starters, alternators.

24 THE COURT: Okay. Very good. Are you  
25 married, or do you have a significant other?

1 PROSPECTIVE JUROR NO. 11-1107: Married.

2 THE COURT: What does your spouse do?

3 PROSPECTIVE JUROR NO. 11-1107: She's  
4 retired also.

5 THE COURT: Before she was retired, did  
6 she work?

7 PROSPECTIVE JUROR NO. 11-1107: Yes.  
8 She worked at the Rio Hotel as a casino host.

9 THE COURT: How long?

10 PROSPECTIVE JUROR NO. 11-1107: About  
11 five years.

12 THE COURT: Okay. And what other  
13 positions -- what other area of work has she been  
14 in?

15 PROSPECTIVE JUROR NO. 11-1107:  
16 Actually, my wife was a schoolteacher.

17 THE COURT: What did she teach?

18 PROSPECTIVE JUROR NO. 11-1107: She  
19 taught English.

20 THE COURT: How long did she teach  
21 English?

22 PROSPECTIVE JUROR NO. 11-1107: 18  
23 years. It was in another country.

24 THE COURT: In another country? Where?

25 PROSPECTIVE JUROR NO. 11-1107: She

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1 taught in Taiwan.

2 THE COURT: Okay. All right. Do you  
3 have children?

4 PROSPECTIVE JUROR NO. 11-1107: No.

5 THE COURT: Okay. Have you ever served  
6 as a juror before?

7 PROSPECTIVE JUROR NO. 11-1107: Yes.

8 THE COURT: Okay. And was it a civil or  
9 a criminal case?

10 PROSPECTIVE JUROR NO. 11-1107:  
11 Criminal.

12 THE COURT: Okay. Without telling us  
13 what the verdict was, did the injury reach a  
14 verdict?

15 PROSPECTIVE JUROR NO. 11-1107: Yes.

16 THE COURT: And were you the foreperson?

17 PROSPECTIVE JUROR NO. 11-1107: No.

18 THE COURT: Okay. Thank you very much.

19 Okay. At this point, I'm going to --  
20 that's it. Okay. The plaintiff starts. So I'm  
21 going to ask Mr. Christiansen --

22 MR. CHRISTIANSEN: Can we approach just  
23 briefly, Judge?

24 THE COURT: Yes.  
25



1 (A discussion was held at the bench,  
2 not reported.)

3 THE COURT: Ladies and gentlemen, before  
4 the parties start to ask you questions, I'm going  
5 to give you a 15-minute break. Those that have  
6 been here for a couple of days are familiar with  
7 this, but this is an admonishment that legally I  
8 have to give you every time you leave this room.

9 So you're going to be hearing it over  
10 and over again. Okay. If I don't give it to you,  
11 there could be a mistrial. So we don't want that.

12 All right. You're instructed not to  
13 talk with each other or with anyone else about any  
14 subject or issue connected with this trial.

15 You are not to read, watch, or listen to  
16 any report of or commentary on the trial by any  
17 person connected with this case or by any medium  
18 of information including, without limitation,  
19 newspapers, television, the internet, or radio.

20 You are not to conduct any research on  
21 your own relating to this case such as consulting  
22 dictionaries, using the internet, or using any  
23 reference materials.

24 You are not to conduct any  
25 investigation, test any theory of the case,

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1   recreate any aspect of the case, or in any other  
2   way investigate or learn about the case on your  
3   own.

4               You are not to talk with others, text  
5   others, tweet others, message others, google  
6   issues, or conduct any other kind of book or  
7   computer research with regard to any issue, party,  
8   witness, or attorney involved in this case.

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

12              Before I let you go, I wanted to ask, is  
13   there anyone here that has the flu? It's nothing  
14   to be ashamed of if you do. I'm just trying to  
15   make sure we don't contaminate everyone here.

16              Okay. Sir?

17              THE MARSHAL: Name and badge, sir?

18              THE COURT: Let me let all the jurors  
19   go, and we'll just chat with you in a few minutes.  
20   Okay. Thank you.

21              THE MARSHAL: All rise. 15-minute  
22   break.

23              THE COURT: Please be seated.

24              Will you please identify your badge  
25   number and your name.

1 PROSPECTIVE JUROR NO. 11-1283: My name  
2 is Justin Lettau, Badge 11-1283.

3 THE COURT: Okay. Mr. Lettau, tell us  
4 about your flu.

5 PROSPECTIVE JUROR NO. 11-1283: I have a  
6 bronchial disease right now that's a -- I have  
7 another appointment I need to go to get it fully  
8 figured out, but -- you know, I have the flu. I  
9 have all these medications that I'm taking.

10 And along with that, I have three broken  
11 vertebrae in my lumbar. So I have to take  
12 medication for that as well. And it's  
13 uncomfortable for me to stand or sit for  
14 30 minutes in between each --

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 11-1283: -- or  
17 sit for a long time.

18 THE COURT: Do you have any questions,  
19 counsel?

20 MR. KEMP: No, Your Honor.

21 MR. ROBERTS: No, Your Honor.

22 MR. KEMP: Do you want us to approach,  
23 Your Honor?

24 THE COURT: Yes, please.

25 (A discussion was held at the bench,

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1 not reported.)

2 THE COURT: Sir, I'm going to excuse you  
3 because you -- apparently, you have the flu and  
4 you need to get well. And also I sincerely don't  
5 want to contaminate the rest of the room.

6 Okay. I hope you feel better. All  
7 right. Please go to jury services on the third  
8 floor. Thank you very much.

9 Jerry, will you please come back?

10 THE MARSHAL: Yeah.

11 THE COURT: Jerry, I'd like you to  
12 disinfect the mic, please.

13 THE MARSHAL: Actually, there's another  
14 lady. I'm going to speak with her.

15 THE COURT: Does she have the flu too?

16 THE MARSHAL: People don't want to sit  
17 next to her because she keeps coughing, so I'll  
18 find out. They're concerned.

19 THE COURT: Was the accident in the  
20 men's --

21 MR. CHRISTIANSEN: Men's room. That's  
22 what I was told, yes. Let me find out --

23 THE COURT: Do you want me to bring her  
24 in, Counsel?

25 MR. KEMP: Yeah, let's do her now, Your

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1 Honor.

2 THE COURT: Okay. Very good. We may as  
3 well.

4 (Discussion off the record.)

5 THE COURT: It's my understanding from  
6 Jerry -- Marshal Ragsdale that the people around  
7 her don't want to sit next to her because she's  
8 coughing?

9 MR. KEMP: Right.

10 THE COURT: That's what happened to me  
11 on airplanes recently. It's crazy. I don't say  
12 anything.

13 MR. KEMP: It's always when you get the  
14 middle seat, Your Honor. They're on both sides.

15 MR. ROBERTS: With their dogs and  
16 peacocks.

17 (Discussion off the record.)

18 THE MARSHAL: All rise. Badge number,  
19 Your Honor, is 11 --

20 PROSPECTIVE JUROR NO. 11-1216: 11-1216.

21 THE COURT: All right. And your name,  
22 please?

23 PROSPECTIVE JUROR NO. 11-1216:  
24 Elizabeth Comeaux.

25 THE COURT: Ms. Comeaux, are you -- I

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1 understand you've been coughing. Are you ill?

2 PROSPECTIVE JUROR NO. 11-1216: I'm not,  
3 but I could be disruptive to -- yes, I could be  
4 very disruptive.

5 THE COURT: What is your cough due to?

6 PROSPECTIVE JUROR NO. 11-1216: I had  
7 surgery almost two years ago now. And ever since  
8 then, I have had this chronic cough. It just  
9 flares up whenever it wants to. I have no control  
10 over it. Other than that, I'm fine.

11 THE COURT: Okay. Thank you.

12 Counsel?

13 PROSPECTIVE JUROR NO. 11-1216: I know.  
14 You guys don't want me; right?

15 MR. ROBERTS: Not for the defense, Your  
16 Honor. No questions.

17 MR. KEMP: I have no questions, Your  
18 Honor.

19 PROSPECTIVE JUROR NO. 11-1216: Do you  
20 want me in or out?

21 MR. KEMP: Maybe a couple questions,  
22 Your Honor.

23 THE COURT: Okay.

24 MR. KEMP: Ma'am, is this a daily  
25 occurrence?

1 PROSPECTIVE JUROR NO. 11-1216: Yes.

2 MR. KEMP: Hourly?

3 PROSPECTIVE JUROR NO. 11-1216: Hourly,  
4 minutely. Whenever it wants to.

5 Is this on?

6 MR. KEMP: We can hear you.

7 So in a typical hour, how many times?

8 PROSPECTIVE JUROR NO. 11-1216: It just  
9 depends.

10 MR. KEMP: On average, if you had to  
11 guess.

12 PROSPECTIVE JUROR NO. 11-1216: Oh,  
13 sometimes it's for hours at a time. Sometimes I  
14 can go two or three hours with nothing. It  
15 just -- it has a mind of its own. It's something  
16 I can't control and I haven't been for the last  
17 two years.

18 MR. KEMP: And it's spontaneous.

19 PROSPECTIVE JUROR NO. 11-1216: Yes.

20 MR. KEMP: So, for example, someone  
21 could be talking and you can't control it?

22 PROSPECTIVE JUROR NO. 11-1216: Exactly.  
23 I'm so sorry. I apologize, but yes.

24 MR. KEMP: I have no further questions,  
25 Your Honor.

1 MR. ROBERTS: No questions, Your Honor.

2 Should we approach, Your Honor?

3 THE COURT: Yes, please.

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

6 THE COURT: Madam, I'm going to excuse  
7 you. Thank you for your service, and I'd like you  
8 to go to the third floor, please.

9 PROSPECTIVE JUROR NO. 11-1216: Yes,  
10 ma'am.

11 THE MARSHAL: Thank you, ma'am. If  
12 you'll just follow me, ma'am.

13 PROSPECTIVE JUROR NO. 11-1216: Sure.  
14 It's no fun not to be wanted.

15 THE MARSHAL: You're okay. Thank you,  
16 ma'am.

17 MR. KEMP: Yeah, not good. Not good.

18 THE COURT: All right. I'm going to  
19 take a quick break. Let's make sure that our mic  
20 is disinfected. All right. Thank you.

21 (Whereupon, a recess was taken.)

22 THE MARSHAL: All rise. Go up front and  
23 be seated, sir.

24 THE COURT: Can you please state your  
25 name and your badge number.

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1 THE MARSHAL: Please be seated and come  
2 to order.

3 PROSPECTIVE JUROR NO. 11-1107: Thomas  
4 Phares, 1107.

5 THE COURT: Okay. Mr. Phares, please be  
6 seated.

7 THE MARSHAL: Have a seat, sir.

8 THE COURT: I just wanted to let you  
9 know that you have an absolute right to serve on  
10 the jury; that should you be unable to, there's an  
11 exemption for jurors over 70 years old.

12 PROSPECTIVE JUROR NO. 11-1107: That's  
13 too bad.

14 THE COURT: I mean, you may choose to  
15 continue.

16 PROSPECTIVE JUROR NO. 11-1107: I would  
17 actually gladly get off because of the medication  
18 in me and afternoon drowsiness.

19 THE COURT: Okay. Very good. Thank you  
20 for your candor, and I'm going to go ahead and  
21 exempt you. Okay.

22 PROSPECTIVE JUROR NO. 11-1107: Okay.  
23 Thank you.

24 THE COURT: And just let them know. Go  
25 to the third floor. Okay. Thank you very much.

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1 (Discussion off the record.)

2 THE MARSHAL: All rise.

3 Have a seat there, sir.

4 Please be seated and come to order.

5 THE COURT: You may be seated.

6 I'd like you to state your name and your  
7 badge number, please.

8 PROSPECTIVE JUROR NO. 11-1125: Mike  
9 Kaba, 11-1125.

10 THE COURT: All right. Mr. Kaba, I just  
11 want to inform you that you have an absolute right  
12 to serve as a juror. But I will tell you that, by  
13 statute, if you choose not to, I can exempt you  
14 from service. And I wanted to know what you would  
15 prefer.

16 PROSPECTIVE JUROR NO. 11-1125: I'd like  
17 to serve.

18 THE COURT: Okay. Wonderful. Thank you  
19 very much.

20 THE MARSHAL: All right. Anyone else,  
21 Your Honor?

22 THE COURT: No, I think that's it for  
23 now; right? Okay.

24 Mr. Kemp, are those gentlemen on your  
25 side?

1 MR. KEMP: I think those are the media  
2 people.

3 THE COURT: Oh, okay.

4 MR. KEMP: This is Peter Hoffmann. He's  
5 with Courtroom View Network, Your Honor.

6 THE COURT: Right. How are you?  
7 Welcome.

8 You're not taping while we're doing the  
9 voir dire?

10 MR. HOFFMANN: Absolutely not.

11 THE COURT: Okay. Very good. Thank  
12 you.

13 (Discussion off the record.)

14 THE MARSHAL: All rise.

15 THE COURT: Let's go back on the record.

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

18 THE COURT: Okay. Thank you.

19 THE MARSHAL: Please be seated and come  
20 to order.

21 THE COURT: Could you please call the  
22 next juror.

23 THE CLERK: Yes, Your Honor,  
24 Badge 11-1127, Gregg Stephens, in Seat 26.

25 THE COURT: Okay. Very good.

1 MR. KEMP: Your Honor, can we stipulate  
2 to the presence of the jury?

3 THE COURT: Yes. Thank you.

4 MR. KEMP: Thank you, Your Honor.

5 THE COURT: Parties have stipulated to  
6 the presence of the jury.

7 Thank you, Mr. Kemp.

8 Good morning.

9 PROSPECTIVE JUROR NO. 11-1127: Good  
10 morning.

11 THE COURT: I'd like your badge number  
12 and your name, please.

13 PROSPECTIVE JUROR NO. 11-1127: Yeah,  
14 badge number is 1127.

15 THE COURT: And your name?

16 PROSPECTIVE JUROR NO. 11-1127: Gregg  
17 Stephens.

18 THE COURT: Okay. Mr. Stephens, do you  
19 have any difficulty understanding the English  
20 language?

21 PROSPECTIVE JUROR NO. 11-1127: No.

22 THE COURT: Doesn't appear to. Okay.

23 All right. Are you acquainted with  
24 any -- are you acquainted with or recognize either  
25 of the -- or any of the attorneys involved in this

1 case?

2 PROSPECTIVE JUROR NO. 11-1127: No.

3 THE COURT: Okay. Are you acquainted  
4 with or recognize the names of any of the  
5 witnesses that were named in the questionnaire?

6 PROSPECTIVE JUROR NO. 11-1127: No.

7 THE COURT: Are you acquainted with or  
8 recognize any of the parties in this case?

9 PROSPECTIVE JUROR NO. 11-1127: No.

10 THE COURT: Okay. Are any of the  
11 parties or attorneys in this case -- in any way,  
12 are you obligated to them?

13 PROSPECTIVE JUROR NO. 11-1127: No.

14 THE COURT: Or are they to you?

15 PROSPECTIVE JUROR NO. 11-1127: No.

16 THE COURT: Okay. Do you know any of  
17 the -- or do you recognize or know any other  
18 member of the jury panel?

19 PROSPECTIVE JUROR NO. 11-1127: No.

20 THE COURT: Okay. Do you know me or  
21 anyone that has been mentioned in Department 14?

22 PROSPECTIVE JUROR NO. 11-1127: No.

23 THE COURT: Understanding that this case  
24 is going to last approximately five weeks and  
25 understanding the schedule that I've previously

1 mentioned, is there any reason why you would not  
2 be able to serve due to any type of physical or  
3 medical hardship?

4 PROSPECTIVE JUROR NO. 11-1127: No.

5 THE COURT: Okay. The same question  
6 but -- would the length of this trial or the  
7 schedule represent a severe or undue hardship?

8 PROSPECTIVE JUROR NO. 11-1127: No.

9 THE COURT: Okay. Have you ever been  
10 involved in an accident before?

11 PROSPECTIVE JUROR NO. 11-1127: No.

12 THE COURT: Never?

13 PROSPECTIVE JUROR NO. 11-1127: Never.

14 THE COURT: Okay. As a juror, you'll be  
15 asked to listen to witnesses, review evidence, and  
16 make a determination based on the facts. So the  
17 jury is the finder of fact, and the Court is in  
18 charge of the law.

19 Sometimes a juror may disagree with how  
20 some of our laws are written, and it would be a  
21 violation of a juror's duty if he or she tried to  
22 tender a verdict based upon what he or she  
23 believed the law to be if it was different from my  
24 instructions.

25 Do you feel that you would not be able

1 to follow all of the instructions of the Court on  
2 the law even if the instruction differs from your  
3 personal opinion or conceptions of what the law  
4 ought to be?

5 PROSPECTIVE JUROR NO. 11-1127: Yes.

6 THE COURT: Okay. Yes, you could  
7 follow?

8 PROSPECTIVE JUROR NO. 11-1127: Yes.

9 THE COURT: Okay. You feel you would  
10 not be able to or you would be able to?

11 PROSPECTIVE JUROR NO. 11-1127: I would  
12 be able to.

13 THE COURT: Okay. Thank you.

14 Have you heard about this case in any  
15 media -- any type of media, television, print,  
16 internet?

17 PROSPECTIVE JUROR NO. 11-1127: No.

18 THE COURT: Okay. Do you have sympathy,  
19 prejudice, or bias relating to age, religion,  
20 race, gender, or national origin that would make  
21 you feel that it would affect your ability to be  
22 open-minded, fair, and impartial as a juror?

23 PROSPECTIVE JUROR NO. 11-1127: No.

24 THE COURT: Do you, for any other  
25 reason, believe that you would be unable to be a

1 fair and impartial juror to serve in this  
2 particular case?

3 PROSPECTIVE JUROR NO. 11-1127: No.

4 THE COURT: How long have you lived in  
5 the Las Vegas area, Mr. Stephens?

6 PROSPECTIVE JUROR NO. 11-1127: 17  
7 years.

8 THE COURT: And before that?

9 PROSPECTIVE JUROR NO. 11-1127: In  
10 St. Louis, Missouri.

11 THE COURT: Okay. All right. And what  
12 is your occupation, or what area of work are you  
13 in?

14 PROSPECTIVE JUROR NO. 11-1127: Work for  
15 DirecTV.

16 THE COURT: Okay. How long have you  
17 worked there?

18 PROSPECTIVE JUROR NO. 11-1127: It will  
19 be going on three years.

20 THE COURT: All right. And what are  
21 your duties?

22 PROSPECTIVE JUROR NO. 11-1127:  
23 Installation and repair of satellite services.

24 THE COURT: Okay. What did you do  
25 before that?



1 PROSPECTIVE JUROR NO. 11-1127: I worked  
2 with Cox Communications.

3 THE COURT: How long?

4 PROSPECTIVE JUROR NO. 11-1127: That was  
5 10 years.

6 THE COURT: You worked there for Cox  
7 Communications for approximately 10 years?

8 PROSPECTIVE JUROR NO. 11-1127: Correct.

9 THE COURT: Okay. And were the duties  
10 similar?

11 PROSPECTIVE JUROR NO. 11-1127: Yes.

12 THE COURT: Okay. And before that?

13 PROSPECTIVE JUROR NO. 11-1127: With  
14 Charter Communications in St. Louis, Missouri.

15 THE COURT: How long?

16 PROSPECTIVE JUROR NO. 11-1127: That was  
17 four years.

18 THE COURT: Okay. All right. Are you  
19 married, or do you have a significant other?

20 PROSPECTIVE JUROR NO. 11-1127: Married.

21 THE COURT: Okay. And what area of work  
22 is your spouse in?

23 PROSPECTIVE JUROR NO. 11-1127: She  
24 works for the Southern Nevada Regional Housing  
25 Authority.

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1 THE COURT: Okay. And what are her  
2 duties there?

3 PROSPECTIVE JUROR NO. 11-1127: She's a  
4 director, a department director over housing.

5 THE COURT: Oh, very nice. How long has  
6 she worked in that area?

7 PROSPECTIVE JUROR NO. 11-1127: Man --

8 THE COURT: For Southern Nevada --

9 PROSPECTIVE JUROR NO. 11-1127: I want  
10 to say seven, eight years.

11 THE COURT: Okay. And before that?

12 PROSPECTIVE JUROR NO. 11-1127: She  
13 worked for Oakwood Management.

14 THE COURT: Okay. What did that entail?

15 PROSPECTIVE JUROR NO. 11-1127: Managing  
16 of apartments and condos.

17 THE COURT: Okay. How long was she  
18 employed there?

19 PROSPECTIVE JUROR NO. 11-1127: That  
20 was, I want to say, five, six years.

21 THE COURT: All right. Has she had any  
22 other type of work aside from the housing issue --  
23 the housing --

24 PROSPECTIVE JUROR NO. 11-1127: She was  
25 in retail before then.

1 THE COURT: Okay. Very good. Do you  
2 have children?

3 PROSPECTIVE JUROR NO. 11-1127: Yes.

4 THE COURT: What ages?

5 PROSPECTIVE JUROR NO. 11-1127: 21 and  
6 13.

7 THE COURT: Okay. What area of work  
8 does your 21-year-old work in?

9 PROSPECTIVE JUROR NO. 11-1127: She's in  
10 retail right now.

11 THE COURT: Okay. How long has she  
12 worked in retail?

13 PROSPECTIVE JUROR NO. 11-1127: She's  
14 been, I want to say, two and a half years.

15 THE COURT: Okay. Has she had any other  
16 work experience, any other type?

17 PROSPECTIVE JUROR NO. 11-1127: No.

18 THE COURT: Okay. Thank you. All  
19 right. Have you ever served as a juror before?

20 PROSPECTIVE JUROR NO. 11-1127: No.

21 THE COURT: Okay. Thank you very much.

22 All right. Mr. Christiansen, please go  
23 ahead.

24 MR. CHRISTIANSEN: Thank you, Your  
25 Honor.

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1 I think I heard somebody groan when I  
2 stood up.

3 I'm going to try to focus on the four of  
4 you -- four gentlemen that just came in --  
5 Mr. Stephens, Mr. Kaba, Mr. Garibay, and  
6 Mr. Wilson -- and talk about things that the  
7 others heard in the last two days that you've not  
8 heard. And because there's only four of you,  
9 we'll try to sort of clip through it a bit.

10 And if the folks in the audience could  
11 listen because, then, if you make your way up  
12 here, we'll revisit the questions. Sound good to  
13 you guys?

14 Mr. Stephens, you're first up. You're  
15 holding the mic. Don't drop it. Somebody already  
16 did that to me.

17 Of the four of you gentlemen, who's been  
18 on jury service? Mr. Kaba?

19 Mr. Kaba, help me understand -- you want  
20 to hand that back to him, Mr. Stephens. Thank  
21 you.

22 Mr. Kaba, is your badge number 11-1125?

23 PROSPECTIVE JUROR NO. 11-1125: Yes, it  
24 is.

25 THE COURT: You said that your wife is

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1 in the ADR?

2 PROSPECTIVE JUROR NO. 11-1125: Yes.

3 MR. CHRISTIANSEN: Alternative dispute  
4 resolution for district court?

5 PROSPECTIVE JUROR NO. 11-1125: Yes.

6 MR. CHRISTIANSEN: Tell me your wife's  
7 name.

8 PROSPECTIVE JUROR NO. 11-1125: Lisa  
9 Kaba.

10 MR. CHRISTIANSEN: Does she work with  
11 the senior judges or down in the arbitration?

12 PROSPECTIVE JUROR NO. 11-1125: I  
13 believe the arbitration.

14 MR. CHRISTIANSEN: Got it.

15 All right. So you four gentlemen know  
16 some weeks ago you all came in and filled this  
17 out; right? Filled this big, long, 25- or 6-page  
18 questionnaire. From that 25- or 6-page  
19 questionnaire, we got some summaries, or I made  
20 summaries. That's what I'm looking at when I'm  
21 talking to you. It's just a shorthand version  
22 of -- for example, I'll use you, Mr. Kaba -- what  
23 you said in your questionnaires. And all I'm  
24 looking at here is a seating chart. So try to  
25 keep track of where you fellows are sitting and

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1 the others around you that have been through this  
2 with me.

3 Mr. Kaba, you had been in a prior motor  
4 vehicle accident?

5 PROSPECTIVE JUROR NO. 11-1125: Yes,  
6 sir.

7 MR. CHRISTIANSEN: Was it the single-car  
8 one, where you sort of ran off the road, hit some  
9 trees, and I think you said you lost some teeth?

10 PROSPECTIVE JUROR NO. 11-1125: Yes,  
11 that's the one.

12 MR. CHRISTIANSEN: Any others besides  
13 that?

14 PROSPECTIVE JUROR NO. 11-1125: Not that  
15 comes to mind. Probably not.

16 MR. CHRISTIANSEN: All right. As the  
17 Court told you four folks -- you guys are up  
18 close. Usually, I stand right here, but there's  
19 so many of you, that I can't step on you. So I'm  
20 trying to keep from being blocked out from  
21 everybody.

22 Is -- the case beyond this week was  
23 expected to last about another four weeks. All of  
24 you expressed that you were okay with that; is  
25 that right? Is that fair? Any of the four of you

1 have a problem with that?

2 You want to hand that down to this young  
3 man, please.

4 Mr. Wilson. Badge number, Mr. Wilson.

5 PROSPECTIVE JUROR NO. 11-0825: Yeah.

6 Sorry about that. 11-0825.

7 So, yeah, I understand that it's a  
8 five-week trial. But, as I said before, I also do  
9 school at night. And I got this week covered  
10 because I also have a lab, but they won't take any  
11 more absences because I was also sick at a point.  
12 So I have one more.

13 And I can try to get something to get  
14 around that, but my lab starts at about 5:00 every  
15 night, or 5:00 on Tuesdays and Wednesdays. So I  
16 just wanted to know if there was anything --  
17 like -- like, that might be an issue for me.

18 MR. CHRISTIANSEN: As I understood you  
19 to explain to Her Honor, your classes are in the  
20 evening?

21 PROSPECTIVE JUROR NO. 11-0825: Yeah,  
22 evening time.

23 MR. CHRISTIANSEN: The only thing you  
24 have an issue with is this lab that starts about  
25 5:00?

1           PROSPECTIVE JUROR NO. 11-0825: Yeah,  
2 the actual classes, I can get covered. That, I  
3 can have somebody get the notes from. But the  
4 lab, I have to be there myself.

5           MR. CHRISTIANSEN: Have you discussed  
6 with whoever the instructor is in the lab that  
7 you're on jury duty?

8           PROSPECTIVE JUROR NO. 11-0825: Yeah.  
9 And he told me a week to a week and a half is  
10 okay, but I don't think I can get away with a full  
11 four weeks of not showing up. I take a test in  
12 that lab every night. That's why.

13          MR. CHRISTIANSEN: Two days a week?

14          PROSPECTIVE JUROR NO. 11-0825: Yeah,  
15 two days a week. Every time I go to the lab, I  
16 take a test.

17          MR. CHRISTIANSEN: Tell me the days of  
18 the week it is again. I'm sorry. Tuesday and  
19 Wednesday?

20          PROSPECTIVE JUROR NO. 11-0825: Tuesday  
21 and Wednesday, yeah.

22          MR. CHRISTIANSEN: At UNLV?

23          PROSPECTIVE JUROR NO. 11-0825: Uh-huh,  
24 For Bio 189.

25          MR. CHRISTIANSEN: If anybody says



1 uh-huh or unh-unhs or shakes their heads, you're  
2 going to hear me say "Is that a yes? Is that a  
3 no?" because this lady is typing everything down.

4 PROSPECTIVE JUROR NO. 11-0825: Sorry  
5 about that.

6 MR. CHRISTIANSEN: That's okay. That's  
7 how we talk every day.

8 So if we let out a bit early on Tuesdays  
9 and Wednesdays, could you make it to your lab and  
10 do it just fine?

11 PROSPECTIVE JUROR NO. 11-0825: Yeah,  
12 most definitely.

13 MR. CHRISTIANSEN: And to get to UNLV  
14 takes about 15 minutes from here?

15 PROSPECTIVE JUROR NO. 11-0825: Yeah.

16 MR. CHRISTIANSEN: And you'd be fine  
17 doing that?

18 PROSPECTIVE JUROR NO. 11-0825: Yeah.

19 MR. CHRISTIANSEN: Great.

20 While you've got the microphone -- I  
21 won't make you hand it back. Try to keep the  
22 handing to a minimum.

23 So you all understand -- you four  
24 understand, the judge, through the jury  
25 commissioner, brought in about 300 people a few

1 weeks back to fill out these long questionnaires  
2 that you guys all took the time to do.

3 Starting Monday, we started with the  
4 first group of 50. Those are the persons around  
5 you that are sort of sitting there. And we worked  
6 all the way through the conclusion of them, I  
7 guess, late yesterday afternoon or early this  
8 morning, and then you folks came in, because we're  
9 trying to get a jury of 14 people who can be fair  
10 and impartial. So that's sort of the goal here.

11 Is everybody okay with that?

12 That's the good news. The bad news is  
13 it takes a few days, and it's not super exciting.

14 What the judge said to the four of you  
15 and those in the audience about wanting honest  
16 answers is really the truth. Both the lawyers on  
17 this side and lawyers on my side, we just want to  
18 hear honest answers to these questions so we can  
19 figure out who 14 suited persons are that can be  
20 fair and impartial.

21 Are the four of you okay with that?

22 Sometimes it may seem like I'm asking  
23 you a personal question. I'm not trying to get in  
24 your business or be nosey, but you wrote things on  
25 questionnaires, some of which interests me or

1     cause me concern. I'll give you a silly example.

2             You heard this case involves a bike;  
3     right? Some of you ride bikes, so I'm going to  
4     ask you questions about bikes. Make sense? Some  
5     of you ride the bus. You ride the bus, or at  
6     least your questionnaire indicated that you're on  
7     the bus, so I might have some questions about the  
8     bus.

9             In a courtroom, there's no wrong  
10    answers; there's just your answers. Are you okay  
11    with that?

12            We'll stick with you since you've got  
13    the microphone, Mr. Wilson.

14            PROSPECTIVE JUROR NO. 11-0825: Yeah,  
15    I'm fine with that.

16            MR. CHRISTIANSEN: Mr. Garibay, you got  
17    any problem with that?

18            Mr. Kaba?

19            Mr. Stephens?

20            PROSPECTIVE JUROR NO. 11-1127: No.

21            THE COURT: In life, when somebody asks  
22    you if you have a bias, sort of the reaction is to  
23    say, "No, I'm not a biased person. I'm an honest  
24    person." But in a courtroom, a bias isn't a bad  
25    thing. A bias is just you lean one way or

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1 another.

2 I use silly examples. If somebody  
3 wanted to pick me as a juror about tomatoes, I'd  
4 be terrible because I hate them. I'm biased  
5 against tomatoes. They gross me out.

6 We've got a juror who was the first  
7 person we had to speak to this week that couldn't  
8 impose the death penalty in a capital case.  
9 That's a bias, right? That's not bad. There's  
10 nothing wrong with that. She had a redeeming  
11 quality in a human being, but it's a bias that we  
12 all need to know about.

13 So when I ask you questions, if you have  
14 a leaning one way or another, don't feel like you  
15 should hide it. You should tell us all.

16 Mr. Roberts, Mr. Barger, Mr. Kemp and I, and Her  
17 Honor, we all want to know what leanings persons  
18 have.

19 Mr. Wilson, I'll start with you because  
20 you've got the mic. No secret. No science to  
21 this.

22 You ride a bus and a bike from my read  
23 of your questionnaire; is that right?

24 PROSPECTIVE JUROR NO. 11-0825: Yes.

25 MR. CHRISTIANSEN: Tell me about your

1     biking.

2                 PROSPECTIVE JUROR NO. 11-0825:   Biking  
3     was before I had a car.   So that was just to get  
4     to point A, point B, get to school.   Because I  
5     actually live closer to campus now.   Beforehand, I  
6     lived farther down Desert Inn.   So I would just  
7     bike all the way to campus.   And then, some days,  
8     I would take the bus.   Same thing.   It was all  
9     before I had a vehicle of my own.

10                MR. CHRISTIANSEN:   Give me an idea of  
11     what kind you ride.   A mountain bike? a road bike?

12                PROSPECTIVE JUROR NO. 11-0825:   Just a  
13     regular, I guess, BMX bike.   I don't know.   It was  
14     just something I picked up from Walmart.   It  
15     wasn't anything fancy.

16                MR. CHRISTIANSEN:   Like a bike that goes  
17     up and down those jumps and ...

18                PROSPECTIVE JUROR NO. 11-0825:  
19     Something like that.   I think it's a Mongoose bike  
20     or something like that.   I think that's the brand.

21                MR. CHRISTIANSEN:   I had a Mongoose when  
22     I was a kid.   All right.   So more like a BMX as  
23     opposed to, like, a road bike or one of those big  
24     mountain bikes with big tires on it?

25                PROSPECTIVE JUROR NO. 11-0825:   Yeah,

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1 just something simple like that.

2 MR. CHRISTIANSEN: Did you ride that on  
3 the roads here in Clark County?

4 PROSPECTIVE JUROR NO. 11-0825: Yeah, I  
5 used the bicycle lanes.

6 MR. CHRISTIANSEN: Do you have any  
7 experience with vehicles of any type when you were  
8 riding your bike?

9 PROSPECTIVE JUROR NO. 11-0825: I've had  
10 a couple people try to cut me off. That's about  
11 it, yeah.

12 MR. CHRISTIANSEN: You ever feel the  
13 wind when a vehicle passes by you?

14 PROSPECTIVE JUROR NO. 11-0825: All the  
15 time.

16 MR. CHRISTIANSEN: What about a bigger  
17 vehicle?

18 PROSPECTIVE JUROR NO. 11-0825: I try to  
19 stay as far to the right in the bicycle lane as I  
20 can. But, yeah, there's been a couple times  
21 where, like, it's almost knocked me off the bike  
22 depending how fast they are going.

23 MR. CHRISTIANSEN: You yourself have  
24 experienced that?

25 PROSPECTIVE JUROR NO. 11-0825: Yes.

1 MR. CHRISTIANSEN: Who else rides a  
2 bike? Was it you that rides a bike, Mr. Stephens?

3 PROSPECTIVE JUROR NO. 11-1127: No.

4 MR. CHRISTIANSEN: Mr. Garibay, you  
5 answered that you sometimes ride a bicycle. Is  
6 that a mistake? Tell me your badge number,  
7 please.

8 PROSPECTIVE JUROR NO. 11-1114: Thomas  
9 Garibay, 11-1114.

10 I have in the past. Regularly? No.

11 MR. CHRISTIANSEN: In the past -- you  
12 lived in Corpus Christi at some point?

13 PROSPECTIVE JUROR NO. 11-1114: Yes.

14 MR. CHRISTIANSEN: All right. You heard  
15 that these two gentlemen are from Corpus Christi.  
16 Are you going to believe them more because they're  
17 from the same spot in Texas you are?

18 PROSPECTIVE JUROR NO. 11-1114: No.

19 MR. CHRISTIANSEN: Everybody starts out  
20 even?

21 PROSPECTIVE JUROR NO. 11-1114: Yeah.

22 MR. CHRISTIANSEN: Where was it that you  
23 rode the bike? Corpus Christi or here or both?

24 PROSPECTIVE JUROR NO. 11-1114: Most of  
25 my bike riding was in Corpus Christi.

1 MR. CHRISTIANSEN: Have you had occasion  
2 to ride a bike here in Las Vegas?

3 PROSPECTIVE JUROR NO. 11-1114: No.

4 MR. CHRISTIANSEN: Okay. If you would,  
5 hand that back to Mr. Wilson.

6 Mr. Wilson, your badge number is  
7 11-0825?

8 PROSPECTIVE JUROR NO. 11-0825: Yes, it  
9 is.

10 MR. CHRISTIANSEN: Mr. Wilson, when did  
11 you stop riding that BMX bike on the roads of Las  
12 Vegas and start using, I think you said, a car?

13 PROSPECTIVE JUROR NO. 11-0825: I want  
14 to say mid 2016.

15 MR. CHRISTIANSEN: And when you  
16 described for me -- I didn't follow up with you --  
17 how you tried to stay away from -- I think you  
18 said the words "away from" -- vehicles, why was it  
19 you were trying to do that?

20 PROSPECTIVE JUROR NO. 11-0825: To avoid  
21 any possible accidents.

22 MR. CHRISTIANSEN: When you were further  
23 away from the vehicles, did the air that you felt  
24 when they passed you diminish?

25 PROSPECTIVE JUROR NO. 11-0825: As I



1 said before, it varied on how fast they were  
2 going, but I still felt it regardless. It just  
3 was more of a -- I felt safer riding closer to the  
4 sidewalk. Like, for myself is why I did that.

5 MR. CHRISTIANSEN: When a vehicle passed  
6 you, explain to all of us what it is you would  
7 feel.

8 PROSPECTIVE JUROR NO. 11-0825: Like a  
9 gush of wind. Like, either it would come from the  
10 back of me and I would kind of catch speed or,  
11 like, if it was a bigger vehicle, yeah, it would  
12 kind of push me off to the side and the bike would  
13 wobble.

14 MR. CHRISTIANSEN: Would it cause your  
15 bike to wobble?

16 PROSPECTIVE JUROR NO. 11-0825: Yeah.

17 MR. ROBERTS: Objection, Your Honor.

18 THE COURT: Sustained.

19 And also, Mr. Christiansen, I believe --  
20 Mr. Kaba, did you raise your hand a few minutes  
21 ago?

22 PROSPECTIVE JUROR NO. 11-1125: About --  
23 when he asked whether somebody else had a bike or  
24 rode a bike.

25 MR. CHRISTIANSEN: He sure did, Your

1 Honor. I'm sorry. I missed it. Thank you for  
2 helping me, Judge.

3 THE COURT: That's fine.

4 MR. CHRISTIANSEN: Sure. You can go  
5 pass it down to Mr. Kaba. Didn't mean to not see  
6 you, Mr. Kaba. I'm sorry. I've got things in my  
7 line of sight.

8 Mr. Kaba, you also answered that you  
9 rode bicycles.

10 PROSPECTIVE JUROR NO. 11-1125: Yes.

11 MR. CHRISTIANSEN: Is that here in Clark  
12 County?

13 PROSPECTIVE JUROR NO. 11-1125: Yes.

14 MR. CHRISTIANSEN: And how frequently  
15 would you ride a bike?

16 PROSPECTIVE JUROR NO. 11-1125: It's  
17 been several years, but I was trying to get in  
18 shape. And I rode it pretty much daily, maybe  
19 five to ten miles a day.

20 MR. CHRISTIANSEN: What part of town --

21 PROSPECTIVE JUROR NO. 11-1125: This was  
22 in Boulder City.

23 MR. CHRISTIANSEN: That's right. I  
24 recall now. You still live in Boulder City?

25 PROSPECTIVE JUROR NO. 11-1125: Yes.

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1 MR. CHRISTIANSEN: How long have you  
2 lived in Boulder City?

3 PROSPECTIVE JUROR NO. 11-1125: 22  
4 years, I think, 23, somewhere in there.

5 MR. CHRISTIANSEN: Same question that I  
6 had for Mr. Wilson. What kind of bike were you  
7 riding when you were trying to get in shape?

8 PROSPECTIVE JUROR NO. 11-1125: I  
9 believe it was just a street bike.

10 MR. CHRISTIANSEN: Okay. I don't care  
11 about the brand. But, like, a road bike?

12 PROSPECTIVE JUROR NO. 11-1125: Yeah, it  
13 would be like a road bike.

14 MR. CHRISTIANSEN: In the old days what  
15 we used to call a 10-speed, something like that?

16 PROSPECTIVE JUROR NO. 11-1125: Yeah.

17 MR. CHRISTIANSEN: Okay. And did you  
18 have any experiences, like Mr. Wilson did, with  
19 vehicles as you were riding your bike?

20 PROSPECTIVE JUROR NO. 11-1125: Not so  
21 much. I rode the bike trails mostly, paths, loop  
22 trail, and designated areas in Boulder City. But  
23 I have rode on the street also and got passed  
24 before, yes.

25 MR. CHRISTIANSEN: When you got passed

1 by a car, what is it, if anything, you felt?

2 PROSPECTIVE JUROR NO. 11-1125: Like he  
3 said, just a gush of wind, just what you would  
4 expect to kind of push you a little bit or you can  
5 feel it.

6 MR. CHRISTIANSEN: Do you have an  
7 understanding what caused that or what causes the  
8 wind?

9 MR. ROBERTS: Objection, Your Honor.

10 THE COURT: Sustained.

11 MR. CHRISTIANSEN: I'm looking at your  
12 questionnaire. You do not ride a bus?

13 PROSPECTIVE JUROR NO. 11-1125: I do  
14 not.

15 MR. CHRISTIANSEN: Did you ever have any  
16 interaction on your bicycle with buses?

17 PROSPECTIVE JUROR NO. 11-1125: Not that  
18 I recall, no.

19 MR. CHRISTIANSEN: Since Mr. Wilson rode  
20 a bus, would you hand the mic down back to him. I  
21 want to ask him some questions about that.

22 Mr. Wilson, Badge No. 11-0825?

23 PROSPECTIVE JUROR NO. 11-0825: Yeah.

24 MR. CHRISTIANSEN: Did I understand you  
25 correctly that you rode a bus to get to and from

1 school?

2 PROSPECTIVE JUROR NO. 11-0825: Yes.

3 MR. CHRISTIANSEN: Let me make sure --  
4 you grew up here, so was that a school bus that  
5 you rode, like, to high school, or was it a city  
6 bus you rode?

7 PROSPECTIVE JUROR NO. 11-0825: This is  
8 a city bus. This was for college, yeah.

9 MR. CHRISTIANSEN: And for how long do  
10 you think you rode that bus?

11 PROSPECTIVE JUROR NO. 11-0825: About a  
12 year and a half. Yeah, I graduated 2015, and I  
13 got my car midway through 2016. So around  
14 summertime. That's, like, a year and a half,  
15 somewhere around there.

16 MR. CHRISTIANSEN: Where did you  
17 graduate from high school?

18 PROSPECTIVE JUROR NO. 11-0825: Las  
19 Vegas High School.

20 MR. CHRISTIANSEN: LVA?

21 PROSPECTIVE JUROR NO. 11-0825: Not LVA,  
22 the one on Sahara and Hollywood.

23 MR. CHRISTIANSEN: Is that on the east  
24 side of town?

25 PROSPECTIVE JUROR NO. 11-0825: Yeah,

1    yeah.

2                   MR. CHRISTIANSEN:   And in your  
3   questionnaire, Mr. Wilson, you answered that you  
4   had some knowledge of the Khiabani family.   Do you  
5   remember answering that?

6                   PROSPECTIVE JUROR NO. 11-0825:   Yeah.

7                   MR. CHRISTIANSEN:   Today when the judge  
8   asked if anybody knew the parties or their  
9   families, you didn't raise your hand.   So I just  
10   wanted to ask you if maybe it was a mistake or  
11   something.   I don't know.

12                   PROSPECTIVE JUROR NO. 11-0825:   It  
13   was -- I thought the case that we were doing was  
14   something that I talked about with my mother  
15   prior, but getting the full, like, information of  
16   the case, I don't think it was the same case,  
17   unless she had her information wrong.

18                   But I remember her mentioning me a name,  
19   something around -- something similar to that when  
20   we did the questionnaire beforehand, like, we  
21   talked about this -- I want to say December  
22   because she was worried about me not having a car  
23   at the time because mine was in the shop and I was  
24   just going to get back to riding a bike.   And she  
25   had brought up a case where a woman had gotten hit

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1 by a bus.

2 But, you know, like I said, I'm not sure  
3 if that was the same case or she just had her  
4 information backwards.

5 MR. CHRISTIANSEN: Got it. So sounds  
6 like you were being conscientious when you were  
7 filling out your questionnaire and erring on the  
8 side of it might have been the case your mom  
9 talked to you about, so you checked off that you  
10 may know the parties?

11 PROSPECTIVE JUROR NO. 11-0825: Yes.

12 MR. CHRISTIANSEN: Now you've heard that  
13 it wasn't a woman; it was Dr. Khiabani, who was a  
14 man who was involved in the incident. That  
15 doesn't sound like the same thing your mom was  
16 speaking to you about?

17 PROSPECTIVE JUROR NO. 11-0825: Yeah.  
18 No, it doesn't sound like the same one.

19 MR. CHRISTIANSEN: As you've heard Her  
20 Honor and me show you a picture of the family, do  
21 you know the Khiabani family at all?

22 PROSPECTIVE JUROR NO. 11-0825: No, not  
23 at all.

24 MR. CHRISTIANSEN: Got it. So you  
25 wouldn't have any leanings in their favor or

1 against them in any way because they're unknown to  
2 you?

3 PROSPECTIVE JUROR NO. 11-0825: Yeah,  
4 none at all.

5 MR. CHRISTIANSEN: You other four --  
6 Mr. Garibay -- am I saying your name right?

7 PROSPECTIVE JUROR NO. 11-1114: Garibay.

8 MR. CHRISTIANSEN: All right.  
9 Mr. Garibay, neither you, Mr. Kaba, or  
10 Mr. Stephens have heard anything about this case  
11 in the media. Is that fair?

12 If you have, just raise your hand and  
13 I'll skip through it. Good enough.

14 Mr. Wilson, you have some medical  
15 training.

16 Any of the other four of you have any  
17 medical training?

18 Mr. Kaba, I know you have some military  
19 experience.

20 PROSPECTIVE JUROR NO. 11-1125: Yeah,  
21 I've taken courses.

22 MR. CHRISTIANSEN: Badge number, please.

23 PROSPECTIVE JUROR NO. 11-1125: 11-1125.  
24 I've taken courses over the years through work for  
25 CPR and whatnot, first aid.



1 MR. CHRISTIANSEN: Okay. I know  
2 Mr. Wilson does not -- I know Mr. Stephens does --  
3 actually, I think all three of you have children,  
4 right, Mr. Garibay, Mr. Kaba, and Mr. Stephens?

5 Mr. Kaba, your kids are older.

6 Was there ever a time where your  
7 children, two of them or more, came to you about a  
8 single event with very different versions about  
9 what happened?

10 PROSPECTIVE JUROR NO. 11-1125: Yes.

11 MR. CHRISTIANSEN: All right. And what  
12 did you have to do to figure out which of the  
13 children was giving you -- maybe telling you the  
14 truth?

15 PROSPECTIVE JUROR NO. 11-1125: Talk to  
16 them separately to try to figure it out.

17 MR. CHRISTIANSEN: Is that the same for  
18 Mr. Stephens and Mr. Garibay? Have you had a  
19 similar experience with your kids?

20 PROSPECTIVE JUROR NO. 11-1127: That  
21 sounds about right.

22 MR. CHRISTIANSEN: Being a juror is much  
23 like being a parent.

24 Any of you think you'd have any trouble  
25 judging witnesses from this stand and discerning

1 what version of events is an accurate version and  
2 making a determination in a civil case? Anybody  
3 think they'd have a problem doing that?

4 If you have a problem, raise your hand.  
5 Okay.

6 What type of things, Mr. Kaba, did you  
7 look for when you separated -- that sounds like a  
8 pretty good tactic, to separate. Sounds like a  
9 police tactic. You separate the suspects and ask  
10 them questions.

11 What other types of things did you look  
12 for in figuring out which kid was being the most  
13 candid with you?

14 PROSPECTIVE JUROR NO. 11-1125: Well,  
15 anything physical, scrapes, bruises, stuff like  
16 that.

17 MR. CHRISTIANSEN: All right. So you  
18 looked for some evidence?

19 PROSPECTIVE JUROR NO. 11-1125: Yes.

20 MR. CHRISTIANSEN: Sounds similar to you  
21 other two gentlemen with children?

22 And the judge is going to tell us, in  
23 the state of Nevada, corporations are treated just  
24 like individuals. No better, no worse.

25 Does anybody have a problem with that?

1           Mr. Kaba, we'll start with you.

2           PROSPECTIVE JUROR NO. 11-1125: No, I  
3 have no problem with that.

4           MR. CHRISTIANSEN: All right. Do you  
5 think corporations should be treated better or  
6 worse than individuals or the same is probably the  
7 way it should work?

8           PROSPECTIVE JUROR NO. 11-1125: They  
9 should be treated the same.

10          MR. CHRISTIANSEN: You want to hand the  
11 microphone down to Mr. Garibay so I can ask him.

12          PROSPECTIVE JUROR NO. 11-1114: 11-1114.

13          MR. CHRISTIANSEN: Mr. Garibay, what do  
14 you think about that?

15          PROSPECTIVE JUROR NO. 11-1114: Equal.

16          MR. CHRISTIANSEN: It's important we ask  
17 you that in this case because, on this side of the  
18 aisle, we've got the two minor children, through  
19 their representatives, their aunts and uncles, who  
20 are here. And on the other side of the aisle is a  
21 business, a corporation. And both sets of lawyers  
22 want to make sure we start from an even playing  
23 field.

24                 Is that acceptable to you?

25          PROSPECTIVE JUROR NO. 11-1114: Yes.

1                   MR. CHRISTIANSEN:   How about you,  
2   Mr. Wilson?

3                   PROSPECTIVE JUROR NO. 11-0825:   11-0825.  
4   And, yeah, they should be treated the same, both  
5   as individuals.   Sorry about that.

6                   MR. CHRISTIANSEN:   You're all right.

7                   Mr. Stephens, do you have any different  
8   thoughts you want the mic for, or are you good?

9                   PROSPECTIVE JUROR NO. 11-1127:   I'm  
10   good, I think, if everybody can hear me.

11                  MR. CHRISTIANSEN:   You've got a big,  
12   deep voice.   We can hear you good.

13                  The four of you -- I want to just sort  
14   of explain a little bit about how the process  
15   goes.

16                  So we're all advocates; right?   We're  
17   lawyers on behalf of people.   And we have jobs to  
18   ask questions, make objections.   And sometimes we  
19   have arguments.

20                  I promise, over the course of this case,  
21   you'll see me and Mr. Roberts have an argument.  
22   Or Mr. Kemp and Mr. Barger, they're going to have  
23   an argument.   We do that by way of things called  
24   objections.   We object to each other's questions,  
25   and then Her Honor decides if it's appropriate or

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1 not appropriate.

2           Anybody have a problem with that? All  
3 right. Anybody going to hold it against -- in my  
4 case, are you going to hold it against these two  
5 boys I represent because I may ask some tough  
6 questions of persons? Everybody okay with that?

7           Sometimes -- you guys haven't seen too  
8 much of it; the other jurors have -- our arguments  
9 start back here and they make their way up there.  
10 And we go up and the judge turns on the white  
11 noise in the background.

12           And then she -- Judge Escobar is the  
13 boss. She makes the rules and says, when we have  
14 a disagreement, who's right and who's wrong. And  
15 sometimes we have to go up there and do -- we call  
16 that a sidebar even though we're standing in front  
17 of her.

18           Everybody okay with those types of  
19 things?

20           Other times -- the record should reflect  
21 that nobody raised their hand that they weren't  
22 okay with that, Your Honor. I'm sorry.

23           Other times, the fights may start back  
24 here, they go to the bench, and then they lead to  
25 the whole courtroom having to be cleared of

1 everybody else so we can argue loudly with each  
2 other and you guys don't have to suffer through  
3 it.

4 Is everybody okay with that process?

5 Mr. Wilson -- any of the four of you --  
6 Wilson, Garibay, Kaba, or Stephens -- raise your  
7 hand if you're not okay with any of that process.

8 All right. Let the record reflect no  
9 hands were raised of the four new jurors.

10 Similarly, jurors can ask questions in  
11 this department. And how that works is a witness  
12 testifies. They get questioned by all the  
13 lawyers. And then Her Honor says, "Are there any  
14 questions from the jury?"

15 And if there is, one or more of you  
16 write it out on a piece of paper. You hand it to  
17 the marshal. The marshal takes it to the judge,  
18 who's the boss. All the lawyers go up there. And  
19 much like the judge does with our questions when  
20 we object, she reads the question to the lawyer  
21 and then the judge decides. Is it a question that  
22 should be asked or should not be asked?

23 That make sense to everybody?

24 All four heads are nodding in the  
25 affirmative.

1           Mr. Wilson, do you think you'd like to  
2 participate in a process like that where you got  
3 to actually pose questions?

4           PROSPECTIVE JUROR NO. 11-0825: Yeah. I  
5 don't see why not.

6           MR. CHRISTIANSEN: Okay. You're in  
7 junior year? Did I write that down right?

8           PROSPECTIVE JUROR NO. 11-1114: Yeah, my  
9 junior year.

10          MR. CHRISTIANSEN: And so you probably  
11 take some American history -- or had to, at least  
12 your freshman year maybe?

13          PROSPECTIVE JUROR NO. 11-1114: Yeah.

14          MR. CHRISTIANSEN: And you probably  
15 learned a bit about jury trials?

16          PROSPECTIVE JUROR NO. 11-1114: Yeah.

17          MR. CHRISTIANSEN: And figured out that  
18 it's a rare -- it's a unique thing in our system  
19 to have a trial by your peers?

20          PROSPECTIVE JUROR NO. 11-1114: Yeah.

21          MR. CHRISTIANSEN: Now you get to  
22 actually see it play out.

23                 Is it as exciting as you thought it  
24 would be?

25          PROSPECTIVE JUROR NO. 11-1114: I mean,

1 when we start, I'll give you another answer.

2 MR. CHRISTIANSEN: Fair enough. Just  
3 like I told you all that -- you're going to see us  
4 disagree, "us" being the two different sets of  
5 lawyers disagree about things.

6 You're also going to see that we get  
7 along sometimes and are polite to each other, may  
8 hold the door for each other, may crack a joke  
9 with each other.

10 Is that going to bother anybody?

11 Does anybody think that the fact that we  
12 can be professional means that either side  
13 believes less strongly in their case?

14 I want to just make sure that what you  
15 see in the courtroom is going to be -- what you  
16 decide on in the courtroom is going to come from  
17 that witness stand as opposed to some nuance that  
18 you may read into between lawyers.

19 You understand why that's important?

20 Can everybody promise to decide the case  
21 from the evidence in the courtroom?

22 All right. That leads me into my next  
23 area, which is that admonition Her Honor reads to  
24 you every time you leave. Part of it says, "Don't  
25 go out and do your own investigation." I'm



1 summarizing in short form. "Don't go on the  
2 internet. Don't be tweeting about it."

3 Are all four of you okay with sort of  
4 the following notion? If you're selected as a  
5 juror, you can tell your friends and family that  
6 you're a juror on a civil case in front of  
7 Judge Escobar. That's it.

8 Are you okay with that, Mr. Wilson?

9 PROSPECTIVE JUROR NO. 11-0825: Yes.

10 MR. CHRISTIANSEN: You're cool with not  
11 talking to your mom about what we're doing here in  
12 court?

13 PROSPECTIVE JUROR NO. 11-0825: I  
14 promise, yes.

15 MR. CHRISTIANSEN: All right. Anybody  
16 else -- Mr. Garibay, Mr. Kaba, or Mr. Stephens --  
17 have a problem following that rule?

18 All right. Nobody is raising their  
19 hands with an affirmative answer.

20 All right. Similarly, all anybody  
21 wants -- there's going to be some media attention  
22 to this case. Okay. This may be on TV. It may  
23 be on the internet. It may be in the newspaper.

24 Of the four of you, who thinks that the  
25 media reports everything a hundred percent

1 accurate? Any of you?

2 Mr. Wilson, do you?

3 PROSPECTIVE JUROR NO. 11-0825: Not at  
4 all.

5 MR. CHRISTIANSEN: If any of the four of  
6 you gentlemen believe that the media reports  
7 things accurately, raise your hand.

8 All right. No hands are raised.

9 So can all of you see why it's  
10 important -- and the judge will tell you you're  
11 not supposed to read about this case. You're  
12 supposed to learn about this case from the witness  
13 stand. That's it.

14 Everybody agree to do that?

15 And everybody agree to not go do their  
16 own research, go take measurements, go out to  
17 where it actually occurred, look at Google Earth?  
18 Everybody promise us they're not going to do that?

19 Yeah? All right. So we've got four  
20 heads nodding in the affirmative.

21 Because what do you think, Mr. Wilson,  
22 happens when jurors disregard that directive given  
23 by the judge?

24 PROSPECTIVE JUROR NO. 11-0825: You  
25 become biased.

1 MR. CHRISTIANSEN: You become biased.

2 And then guess what happens?

3 PROSPECTIVE JUROR NO. 11-0825: Then you  
4 bring the bias into the courtroom.

5 MR. CHRISTIANSEN: And then when the  
6 judge hears about it, then guess what happens?

7 PROSPECTIVE JUROR NO. 11-0825: Well,  
8 hears about the bias or -- oh, then the whole case  
9 is messed up.

10 MR. CHRISTIANSEN: That's right. We  
11 call that a mistrial. That's a good way to put  
12 it. The whole case is messed up, and we all  
13 wasted everybody's time and energy. And we also  
14 have to start over.

15 So can everybody promise not to do  
16 research, their own experiments, google stuff?

17 I say it to the younger people, tweet  
18 about it, Snap, Insta, Facebook. I know I'm not  
19 covering it all.

20 Can you promise not to do any of that  
21 otherwise acceptable stuff if selected as a juror  
22 in this case?

23 All right. Anybody that can't do it,  
24 hold your hand up of the four of you.

25 Okay. This is a civil case. Who knows,

1 of the four of you, what the burden is in a  
2 criminal case? Has to be proven beyond a  
3 reasonable doubt. Everybody heard that, that  
4 something has to be proven beyond a reasonable  
5 doubt? That's a criminal standard.

6 Would you hand that mic down to  
7 Mr. Kaba, sir.

8 Mr. Kaba, you were a juror in a criminal  
9 case a few years back?

10 PROSPECTIVE JUROR NO. 11-1125: Yes, I  
11 was.

12 MR. CHRISTIANSEN: Badge number, sir?  
13 I'm sorry.

14 PROSPECTIVE JUROR NO. 11-1125: 11-1125.

15 MR. CHRISTIANSEN: How long ago was that  
16 jury -- or was that trial?

17 PROSPECTIVE JUROR NO. 11-1125: Maybe  
18 40 years.

19 MR. CHRISTIANSEN: Okay. I venture to  
20 guess you don't remember the instructions the  
21 judge gave you 40 years ago?

22 PROSPECTIVE JUROR NO. 11-1125: Not word  
23 for word, no.

24 MR. CHRISTIANSEN: Okay. In this --  
25 this is a civil case. Okay. The burden in this

1 case is -- the lawyer words are "preponderance of  
2 evidence." What that means is "more likely than  
3 not."

4 Who knows what lady -- of the four of  
5 you, who knows what Lady Justice, the statue,  
6 looks like? Anybody?

7 Mr. Kaba, have you ever seen the statue?

8 PROSPECTIVE JUROR NO. 11-1125: Statue  
9 of Liberty, yes, I have.

10 MR. CHRISTIANSEN: That's one statue.

11 How about Lady Justice? Have you seen  
12 that one?

13 PROSPECTIVE JUROR NO. 11-1125: I  
14 believe so, but I can't describe it.

15 MR. CHRISTIANSEN: It's the lady holding  
16 a scale -- the scales of justice in her hand, and  
17 she's got a blindfold on.

18 Hand that mic to the right to  
19 Mr. Garibay. He's nodding his head at me like he  
20 knows what I'm talking about.

21 Mr. Garibay, you're a middle school  
22 teacher?

23 PROSPECTIVE JUROR NO. 11-1114: 11-1114.  
24 Yes, sir.

25 MR. CHRISTIANSEN: And you got the badge

1 number for me. Thank you.

2 And you're a mariachi instructor?

3 PROSPECTIVE JUROR NO. 11-1114: Yes,  
4 sir.

5 MR. CHRISTIANSEN: Like the dance or the  
6 music or both?

7 PROSPECTIVE JUROR NO. 11-1114: Music.

8 MR. CHRISTIANSEN: And do you teach  
9 mariachi separate from your work at the middle  
10 school?

11 PROSPECTIVE JUROR NO. 11-1114: No.  
12 That's full time, six classes a day.

13 MR. CHRISTIANSEN: So you've seen the  
14 statue of Lady Justice?

15 PROSPECTIVE JUROR NO. 11-1114: Yes.

16 MR. CHRISTIANSEN: And tell me, if you  
17 know, why is the blindfold on her?

18 PROSPECTIVE JUROR NO. 11-1114: I  
19 believe the phrase is justice is blind.

20 MR. CHRISTIANSEN: Perfect. Those  
21 around you have heard this before.

22 Why, in your opinion, is justice  
23 supposed to be blind?

24 PROSPECTIVE JUROR NO. 11-1114: I guess  
25 you could say that you give justice based on fact

1 and you form opinion based on fact.

2 MR. CHRISTIANSEN: Perfect. Can all  
3 four of you agree that the color of somebody's  
4 skin should not matter in a court of law?

5 Anybody that disagrees with that, raise  
6 your hand for me.

7 All right. No affirmative answers.

8 How about the wealth of a party? Should  
9 that matter in a court of law?

10 Mr. Garibay?

11 PROSPECTIVE JUROR NO. 11-1114: No.

12 MR. CHRISTIANSEN: How about somebody's  
13 sexual orientation? Should that matter?

14 PROSPECTIVE JUROR NO. 11-1114: No.

15 MR. CHRISTIANSEN: How about how tall  
16 they are?

17 PROSPECTIVE JUROR NO. 11-1114: Nope.

18 MR. CHRISTIANSEN: How short they are?

19 PROSPECTIVE JUROR NO. 11-1114: Nope.

20 MR. CHRISTIANSEN: How fat they are?

21 PROSPECTIVE JUROR NO. 11-1114: Nope.

22 MR. CHRISTIANSEN: None of that should  
23 matter; right? Justice should be blind.

24 Can all of you promise that's what  
25 you'll apply in here?

1           And I ask it, you know, not in a vacuum.  
2   I represent a family of persons who came from  
3   Iran. You'll hear testimony that both Dr. Katy  
4   Barin and her husband escaped Iran during the  
5   revolution. And their boys, my clients -- our  
6   clients, Aria and Keon, are American citizens,  
7   first generation.

8           Does that bother anybody or going to  
9   cause them to start ahead or behind the defendant  
10   in this case?

11           Mr. Garibay?

12           PROSPECTIVE JUROR NO. 11-1114: No.

13           MR. CHRISTIANSEN: Mr. Wilson?

14           PROSPECTIVE JUROR NO. 11-0825: No.

15           MR. CHRISTIANSEN: Mr. Kaba?

16           PROSPECTIVE JUROR NO. 11-1125: No.

17           MR. CHRISTIANSEN: How about you,  
18   Mr. Stephens?

19           PROSPECTIVE JUROR NO. 11-1127: No.

20           MR. CHRISTIANSEN: All right. You still  
21   have the mic, Mr. Garibay. Keep it.

22           So the preponderance of the evidence  
23   standard that you have to win in a civil case, a  
24   good way to think about it is those scales that  
25   Lady Justice is holding.



1           If they're equal, to win, to prevail, a  
2 plaintiff in a civil action has to tip those  
3 scales however slightly. Just that much. Some  
4 people call it "more likely than not." Others  
5 call it "the 51 percent rule." And others refer  
6 to it as "more right than wrong." You've got to  
7 be more right than wrong.

8           Do you four all understand that's the  
9 standard?

10          Anybody have a problem with that  
11 standard?

12          Hand the mic down to Mr. Kaba, if you  
13 would, please.

14          Mr. Kaba, oftentimes, when I question  
15 jurors, I get to this point and I say, "Well, what  
16 about in a case" -- you said you don't have a  
17 problem with the more-likely-than-not standard.  
18 Fair?

19          PROSPECTIVE JUROR NO. 11-1125: Right.  
20 11-1125.

21          MR. CHRISTIANSEN: Sorry. You guys are  
22 all are better than me today at this.

23          What if I told you I was going to ask,  
24 on behalf of these boys, for tens of millions of  
25 dollars from this defendant? Would you think I

1 should have to prove my case more than a tissue on  
2 one side of the scales?

3 PROSPECTIVE JUROR NO. 11-1125: No.

4 MR. CHRISTIANSEN: Anybody think I  
5 should have to bring more evidence than what is  
6 required if I'm going to ask for -- and I'm  
7 gonna -- tens of millions of dollars for these  
8 boys? Everybody agree that's a fair standard?  
9 Anybody disagree?

10 Pass it back down to Mr. Wilson,  
11 Mr. Kaba.

12 PROSPECTIVE JUROR NO. 11-0825: 11-0825.

13 MR. CHRISTIANSEN: Tell me your  
14 thoughts, Mr. Wilson.

15 PROSPECTIVE JUROR NO. 11-0825: I mean,  
16 if you're going to be charging them tens of  
17 millions of dollars, then they should get their  
18 money's worth. That's just how I see it. You get  
19 what you pay for.

20 So if they're paying tens of millions of  
21 dollars, like not -- you don't have to guarantee  
22 them to win. But you should at least be trying  
23 your hardest, like, as much as you can possibly do  
24 because, you know, it's also -- it's a choice.

25 You can't just give them the win. But

1 at the same time, like, you should be doing  
2 everything in your possible power to make sure  
3 they get as close as possible to that win.

4 MR. CHRISTIANSEN: All right. You got  
5 all of our words. We're going to do everything in  
6 our possible power to give everything we got, all  
7 right, on behalf of these two boys.

8 The standard is and the rule the judge  
9 will instruct you on is that the plaintiff, in  
10 order to prevail, needs to tip the scales in their  
11 favor, however slightly. That's all we've got to  
12 do to win. We think we're going to do more.

13 I need to make sure all of you are okay  
14 with that standard, even in a case where I'm  
15 asking for tens of millions of dollars.

16 Are you okay with that?

17 PROSPECTIVE JUROR NO. 11-0825: Yeah.

18 MR. CHRISTIANSEN: And Her Honor asked  
19 you a question, and you gave a great way to  
20 illustrate this. Her Honor said, if the law  
21 happened to conflict with your own personal  
22 beliefs, could you still listen to Judge Escobar  
23 and follow the law that she gives you. And all of  
24 you said yes to that. That's just a little  
25 example.

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1           Could all of you still understand that  
2 whatever Her Honor says the law is, that's the  
3 rule? None of us lawyers get to make up the law.  
4 The judge does. And the jury applies the facts of  
5 the law.

6           Do you all four promise to do that if  
7 selected?

8           IN UNISON: Yes.

9           MR. CHRISTIANSEN: All right. I think I  
10 have talked to you four about everything that I  
11 talked to the other 22 about. So now I'm going to  
12 move on to a section that I've talked to none of  
13 you about. So everybody is at risk of the mic  
14 again.

15           This case has another aspect to it, and  
16 that aspect is called a punitive damage portion of  
17 the case. The more likely than not scenario is  
18 for what we call compensatory damages, the tens of  
19 millions that I'm going to ask for in this case to  
20 compensate Aria and Keon Khiabani for the loss of  
21 their father, and Katy Barin for her loss before  
22 she passed. Okay?

23           Who knows what compensatory damages are  
24 intended to cover? Anybody? Compensatory to  
25 compensate?

1 Mr. Wilson, you got any idea?

2 PROSPECTIVE JUROR NO. 11-0825: Grieving  
3 and medical bills and whatever else they need to  
4 have covered during that time span.

5 MR. CHRISTIANSEN: You got almost all of  
6 them. So there's the thing called grief, sorrow,  
7 pain, suffering. That's part of it. You folks  
8 determine what the value of that is for these boys  
9 and for Katy, the wife, before she passed away.

10 There's also a thing called a loss of  
11 probable support or economic loss. That's the  
12 economic loss of Dr. Khiabani to his boys.  
13 Anybody have an idea of what an economic loss may  
14 be?

15 Mr. Wilson, hand that to Ms. Brown next  
16 to you.

17 PROSPECTIVE JUROR NO. 11-0885: 11-0885.

18 MR. CHRISTIANSEN: You even remembered  
19 your number.

20 Ms. Brown, what can you think of that  
21 might amount to economic loss of a parent who  
22 passed away?

23 PROSPECTIVE JUROR NO. 11-0885: The  
24 ability to provide for the children.

25 MR. CHRISTIANSEN: Sure. Right. That's

1 part of it. Us lawyers talk about economic loss  
2 and loss of what the judge will instruct you  
3 about, a thing called probable support. We do  
4 that through expert witnesses.

5 Anybody heard of an economist? Who  
6 knows what an economist is?

7 Give it to Mr. Richardson. He knows  
8 what it is.

9 PROSPECTIVE JUROR NO. 11-0880: William  
10 Richardson, 11-0880.

11 MR. CHRISTIANSEN: You never regretted  
12 going to law school so much, did you? Tell me  
13 what your understanding of an economist is.

14 PROSPECTIVE JUROR NO. 11-0880: An  
15 economist is a social science who studies the  
16 science of economics.

17 MR. CHRISTIANSEN: Anybody have a  
18 problem listening to an economist come in and say,  
19 "Hey, Dr. Khiabani, he had wages of X. He was  
20 this number of years old. He was expected to work  
21 this long, probable work expectancy"? Everybody  
22 sort of familiar with that idea?

23 Anybody unfamiliar with it?

24 And then that comes to a total number,  
25 right, of what he would have earned. And then who

1 knows what a personal -- you've got the  
2 microphone, Mr. Richardson. What's personal  
3 consumption?

4 MR. ROBERTS: Your Honor, may we  
5 approach?

6 THE COURT: Yes.

7 MR. ROBERTS: Thank you.

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

10 THE COURT: Please proceed,  
11 Mr. Christiansen.

12 MR. CHRISTIANSEN: Thank you, Your  
13 Honor.

14 So as we were discussing, there will be  
15 testimony from an economist in this case about  
16 what the father earned, et cetera, and what is the  
17 loss of probable support from the economist's  
18 perspective for Aria and Keon Khiabani.

19 Does anybody conceptually have a problem  
20 listening to an economist talk about those types  
21 of things? Anybody that does, raise their hand.

22 There will be other experts in this case  
23 who the parties respectively have hired to talk  
24 about a variety of different areas ranging from  
25 accident reconstruction to aerodynamics.

1 Does anybody think they would have  
2 difficulty evaluating those types of experts?

3 Who was the bus mechanic? Right here;  
4 right? I remember that this is  
5 Ms. Phillips-Chong.

6 Will you take the microphone,  
7 Ms. Phillips-Chong?

8 PROSPECTIVE JUROR NO. 11-1035:  
9 Phillips-Chong, 11-1035.

10 MR. CHRISTIANSEN: Ms. Phillips-Chong,  
11 help me understand -- I know you told the judge  
12 yesterday, but it was getting late. I might not  
13 have caught it all, and I saw it in your  
14 questionnaire that you -- at your work you, I  
15 think, are a supervisor of mechanics --

16 PROSPECTIVE JUROR NO. 11-1035: A  
17 foreman.

18 MR. CHRISTIANSEN: A foreperson?

19 PROSPECTIVE JUROR NO. 11-1035: A  
20 foreman, forewoman.

21 MR. CHRISTIANSEN: Where do you work?

22 PROSPECTIVE JUROR NO. 11-1035: I work  
23 at Transdev. It's on Simmons and -- Cheyenne and  
24 Simmons.

25 MR. CHRISTIANSEN: Out north of town?



1 PROSPECTIVE JUROR NO. 11-1035: Yes.

2 MR. CHRISTIANSEN: And what kind of --

3 PROSPECTIVE JUROR NO. 11-1035: Well, we  
4 work on the big transit buses, but I'm more on the  
5 paratransit side, where the different clientele.  
6 It's personal. You pick them up from the house,  
7 take them to medical and wherever they need to go.

8 MR. CHRISTIANSEN: Okay.

9 PROSPECTIVE JUROR NO. 11-1035: But it's  
10 still part of the bus transit.

11 MR. CHRISTIANSEN: So is it part of -- I  
12 want to make sure I understand. Is it a  
13 subdivision of the transit system, the RTC system  
14 we see going around town?

15 PROSPECTIVE JUROR NO. 11-1035: Right.  
16 It's the smaller paratransits. That's the  
17 personal service.

18 MR. CHRISTIANSEN: They look like a  
19 pickup truck on the front and have a --

20 PROSPECTIVE JUROR NO. 11-1035: Yes, the  
21 E450s.

22 MR. CHRISTIANSEN: Sure.

23 PROSPECTIVE JUROR NO. 11-1035: Oh, I'm  
24 sorry. Sorry. It just comes out.

25 MR. CHRISTIANSEN: So you work in the

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1 subsidiary for the paratransit that does the  
2 personal service. They pick people up at homes  
3 and deliver them?

4 PROSPECTIVE JUROR NO. 11-1035: And the  
5 bigger transit one is next door to us.

6 MR. CHRISTIANSEN: Do you work on those  
7 buses?

8 PROSPECTIVE JUROR NO. 11-1035: We have.  
9 At one point, we were contracted to work on those,  
10 and we did a little bit to them, but they mostly  
11 go to the Veolia, which is that company that takes  
12 care of that, but we still coexist together.

13 MR. CHRISTIANSEN: So help me understand  
14 what, in a given day, you would do.

15 Look, we sued the seller of a bus,  
16 right, of a motor coach. That company is called  
17 Motor Coach Industries. You work for a bus  
18 company. I've got to figure out how that plays  
19 into the case. So help me understand what you do.

20 PROSPECTIVE JUROR NO. 11-1035:  
21 Basically, I'm in charge of eight to ten  
22 mechanics. I work graveyard. So I'm the  
23 foreperson that delegates, assigns work, deals  
24 with operations, handles roll calls, any  
25 discrepancies with buses, along with clients.

1 And, pretty much, that's it. You know?

2 They -- we still -- we still hear what  
3 is next door, meaning the transit buses. We still  
4 get their stories and, you know, their -- like, if  
5 they get lawsuits with them, we still hear it, but  
6 it doesn't affiliate in the sense of where we can  
7 make a decision on our bus.

8 MR. CHRISTIANSEN: Did you have any  
9 training in --

10 PROSPECTIVE JUROR NO. 11-1035: ASEs,  
11 automotive service excellence.

12 MR. CHRISTIANSEN: Okay.

13 PROSPECTIVE JUROR NO. 11-1035: I have  
14 it in brakes.

15 MR. CHRISTIANSEN: In brakes?

16 PROSPECTIVE JUROR NO. 11-1035: Yes.

17 MR. CHRISTIANSEN: So you have some  
18 special knowledge about brakes?

19 PROSPECTIVE JUROR NO. 11-1035: Exactly.

20 MR. CHRISTIANSEN: On buses?

21 PROSPECTIVE JUROR NO. 11-1035: Yes.

22 MR. CHRISTIANSEN: Okay. How about  
23 safety devices on buses?

24 PROSPECTIVE JUROR NO. 11-1035: That's  
25 part of our PM system. See, graveyard is --

1 we're -- being that we're graveyard, we handle the  
2 PM, which -- it's called PMIs, which is preventive  
3 maintenance inspection. We do periodic  
4 inspections in the bus.

5 And this checks out all the  
6 undercarriage and any safety features, sensors,  
7 backup sensors, everything. We do an overall PM  
8 checklist on that.

9 MR. CHRISTIANSEN: Do the buses you work  
10 on have proximity sensors?

11 PROSPECTIVE JUROR NO. 11-1035: Yes.

12 MR. CHRISTIANSEN: What's your  
13 understanding of that?

14 PROSPECTIVE JUROR NO. 11-1035: We're --  
15 we don't -- we install them, and we're to check  
16 them and we're to make sure that they're in  
17 functioning order and -- along with the mirrors.  
18 Because we have a lot of blind spots on our little  
19 paratransit buses. And that's our main concern on  
20 those buses because the way they were  
21 manufactured, it's not -- they have, like, a  
22 little -- what do you call? -- like, a New York  
23 side window, where it's very hard to see because  
24 they have the outside mirror that's adjacent to  
25 it.

1           So the drivers always -- we have a lot  
2 of MDTs, which is GPS systems, in there that they  
3 have installed, which obstruct from views for the  
4 mirrors and stuff like that. So we're still  
5 working on those bugs to get that working right.

6           MR. CHRISTIANSEN: The stuff you've told  
7 me about, is that on the smaller paratransit  
8 buses?

9           PROSPECTIVE JUROR NO. 11-1035: Right.  
10 Right.

11          MR. CHRISTIANSEN: Are you familiar with  
12 what's on the bigger buses?

13          PROSPECTIVE JUROR NO. 11-1035: It's  
14 kind of similar, but we focus mostly on the  
15 paratransit.

16          MR. CHRISTIANSEN: Because you're  
17 employed by a bus company and we sued a bus  
18 company, I need to see if you perhaps are leaning  
19 in favor of the bus company as you sit here.

20          PROSPECTIVE JUROR NO. 11-1035: No.

21          MR. CHRISTIANSEN: You're fair and  
22 impartial?

23          PROSPECTIVE JUROR NO. 11-1035: Yes.

24          MR. CHRISTIANSEN: Okay. You can follow  
25 the judge's instructions, whatever she gives you?

1 PROSPECTIVE JUROR NO. 11-1035: Yes.

2 MR. CHRISTIANSEN: Follow Her Honor's  
3 instructions as to --

4 PROSPECTIVE JUROR NO. 11-1035: I worked  
5 for three different -- this is my fourth bus  
6 company that's changed over. I've been there for  
7 22 years. So I've been through four different  
8 transits gone through.

9 The first one was ATC/Vancom, which was  
10 my very first one I worked with. And that was on  
11 Tropicana when they first started.

12 The second one was -- Laidlaw was a  
13 transit company. They were affiliated with AMR  
14 and other ambulance stuff.

15 And also -- the next one was First  
16 Transit. I'm sure you've heard of them.

17 And then now Transdev, which is a  
18 brother company to Veolia, which is next door to  
19 us.

20 MR. CHRISTIANSEN: Do any of the buses  
21 in all the time you've been doing it -- you've  
22 been doing it a long time. Were any of those  
23 Motor Coach Industry buses, the defendant in the  
24 case?

25 PROSPECTIVE JUROR NO. 11-1035: I've

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1 heard of that company, so yeah.

2 MR. CHRISTIANSEN: Can you promise the  
3 lawyers for that company that whatever you heard  
4 is not going to --

5 PROSPECTIVE JUROR NO. 11-1035: No.

6 MR. CHRISTIANSEN: -- come into this  
7 courtroom? You're going to focus on what happens  
8 from that stand?

9 PROSPECTIVE JUROR NO. 11-1035: Yes.

10 MR. CHRISTIANSEN: You think you can be  
11 a fair and impartial juror?

12 PROSPECTIVE JUROR NO. 11-1035: By far.

13 MR. CHRISTIANSEN: Great. You want to  
14 hand the mic to the gentleman to your left.

15 The Court's indulgence.

16 THE COURT: Certainly.

17 MR. CHRISTIANSEN: Judge, this might be  
18 a good spot. Is that okay?

19 THE COURT: Yes. We're going to take  
20 our lunch break or afternoon break. And I'm going  
21 to admonish you before you go.

22 You're instructed not to talk with each  
23 other or with anyone else about any subject or  
24 issue connected with this trial. You're not to  
25 read, watch, or listen to any report of or

1 commentary on the trial by any person connected  
2 with this case or by any medium of information,  
3 including, without limitation, newspapers,  
4 television, the internet, or radio.

5           You're not to conduct any research on  
6 your own relating to this case, such as consulting  
7 dictionaries, using the internet, or using any  
8 reference materials. You're not to conduct any  
9 investigation, test any theory of the case,  
10 re-create any aspect of the case, or in any other  
11 way investigate or learn about the case on your  
12 own.

13           You're not to talk with others, text  
14 others, tweet others, message others, google  
15 issues, or conduct any other kind of book or  
16 computer research with regard to any issue, party,  
17 witness, or attorney involved in this case.

18           You are not to form or express any  
19 opinion on any subject connected with this trial  
20 until the case is finally submitted to you.

21           And we're going to resume at 2:00 p.m.  
22 sharp.

23           THE MARSHAL: All rise.

24           (The following proceedings were held  
25 outside the presence of the jury.)



1 THE COURT: See you at 2:00 o'clock.

2 (Whereupon, a luncheon recess was  
3 taken.)

4 THE MARSHAL: Department 14 is now in  
5 session.

6 THE COURT: Everyone may be seated.

7 Apparently, there is a juror that has  
8 childcare issues.

9 Jerry, what did he say to you?

10 THE MARSHAL: Badge No. 11-1349, first  
11 name Mohamed, last name Hosain.

12 MR. CHRISTIANSEN: 1349.

13 THE COURT: What did this juror  
14 indicate, Jerry?

15 THE MARSHAL: That he is the only  
16 caretaker to pick his kid up at 3:40 from school  
17 today. He said he had full custody, and he would  
18 like to explain it more to the Court.

19 Badge number is 11-1349, page 5.

20 THE COURT: All right. I'll let you get  
21 up to speed.

22 THE MARSHAL: He also said he had  
23 documentation, Your Honor.

24 THE COURT: Are we ready for him? Let's  
25 talk to him while we still have our missing juror.

1           Good afternoon, sir. Please state your  
2 badge number and your name.

3           PROSPECTIVE JUROR NO. 11-1349: My name,  
4 it's Mohamed Hosain, Badge No. 11-1349.

5           THE COURT: All right. And you've  
6 spoken to Marshal Ragsdale, correct, our marshal?

7           PROSPECTIVE JUROR NO. 11-1349: Yes.

8           THE COURT: Concerning childcare?

9           PROSPECTIVE JUROR NO. 11-1349: Yes.

10          THE COURT: Okay. Will you please  
11 explain?

12          PROSPECTIVE JUROR NO. 11-1349: I have  
13 full custody for my son, and his school --

14          THE COURT: How old is he?

15          PROSPECTIVE JUROR NO. 11-1349: He's 12.

16          THE COURT: 12?

17          PROSPECTIVE JUROR NO. 11-1349: Yes,  
18 ma'am.

19          THE COURT: Okay. Go on.

20          PROSPECTIVE JUROR NO. 11-1349: So I  
21 call this morning, and I did know that I have to  
22 be here today. So what he does -- I pick up at  
23 school, and he has another class to Wednesday and,  
24 then he goes another class, which is Boy Scouts at  
25 school.

1           Do you have anyone else who can help  
2     you?

3           PROSPECTIVE JUROR NO. 11-1349:   No.   I'm  
4     a full single father.

5           THE COURT:   Okay.   But do you have  
6     anyone who cares for -- do you have three  
7     children?

8           PROSPECTIVE JUROR NO. 11-1349:   Yes.

9           THE COURT:   How old are they?

10          PROSPECTIVE JUROR NO. 11-1349:   21, 22,  
11     and 20 years.

12          THE COURT:   Okay.   Do any of those -- of  
13     your children live with you?

14          PROSPECTIVE JUROR NO. 11-1349:   21 and  
15     22 doesn't live with me.   19 lives with me, but he  
16     goes to school.

17          THE COURT:   Okay.

18          PROSPECTIVE JUROR NO. 11-1349:   He's at  
19     school.

20          THE COURT:   Do you have a neighbor or a  
21     relative or someone who sometimes cares for your  
22     child, your 12-year-old?

23          PROSPECTIVE JUROR NO. 11-1349:   Tuesday,  
24     Wednesday, my day off my job -- my day off.

25          THE COURT:   Yes.

1 PROSPECTIVE JUROR NO. 11-1349: And I  
2 responsible for that. And Friday, Saturday, his  
3 brother responsible to take care of him.

4 THE COURT: Okay. Thank you.

5 Counsel, do you have any questions?

6 MR. ROBERTS: No questions, Your Honor.

7 MR. CHRISTIANSEN: No questions, Your  
8 Honor.

9 THE COURT: Okay. May I see you at the  
10 bench, please?

11 (A discussion was held at the bench,  
12 not reported.)

13 THE COURT: All right. Sir, I'm going  
14 to excuse you for the day because you have this  
15 childcare issue today, but I'm going to ask you to  
16 make sure -- and my office will contact the jury  
17 administrator so that you're back in the pool.

18 MR. KEMP: Judge, can we approach?

19 THE COURT: Yes.

20 (A discussion was held at the bench,  
21 not reported.)

22 THE COURT: Okay. Sir, we -- and I  
23 appreciate counsel for indicating that. I'm  
24 having a little problem with my calendar here.

25 So tomorrow and Friday, we won't need

1 you. Okay. It's possible that the parties will  
2 have selected a jury by then. But, if not, I'll  
3 expect you back on Monday. They'll let you know.

4 MR. KEMP: Tuesday, Your Honor. Monday  
5 is a holiday.

6 THE COURT: Thank you. It's not a  
7 holiday for me. But, yeah, it is. On Tuesday.

8 MR. KEMP: Tuesday.

9 PROSPECTIVE JUROR NO. 11-1349: So  
10 Tuesday, I come here?

11 THE COURT: You're going to call.

12 PROSPECTIVE JUROR NO. 11-1349: I got to  
13 call to office Tuesday?

14 THE COURT: Yes. And Tuesday we start  
15 at noon.

16 PROSPECTIVE JUROR NO. 11-1349: Okay.

17 THE COURT: Okay. And so I know that  
18 your days off are Tuesday and Wednesday.

19 PROSPECTIVE JUROR NO. 11-1349: Yes.

20 THE COURT: But if you are selected to  
21 be on the jury, then you would need to arrange for  
22 care for the rest of the working days that you  
23 don't have care.

24 PROSPECTIVE JUROR NO. 11-1349: Tuesday,  
25 Wednesday or Thursday, Friday?

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1 THE COURT: Well, this week it would  
2 be -- Monday's a holiday -- Tuesday -- it would be  
3 Tuesday afternoon and Wednesday that you have off.  
4 So it would be for Thursday and Friday if we're  
5 going to continue.

6 PROSPECTIVE JUROR NO. 11-1349: Okay.

7 THE COURT: And the next week, it would  
8 be Monday through Friday unless there's a holiday  
9 I don't realize.

10 All right. So please go back and let  
11 them know.

12 PROSPECTIVE JUROR NO. 11-1349: Thank  
13 you.

14 THE COURT: Thank you.

15 And, Collin, please ask Diana to send an  
16 email.

17 MR. JAYNE: Okay.

18 THE COURT: Thank you.

19 MR. BARGER: Can I ask a clarification?  
20 Is Monday a holiday?

21 THE COURT: Apparently, it is.

22 MR. BARGER: It's President's Day.

23 THE COURT: We can go off the record.

24 (Discussion off the record.)

25 THE MARSHAL: All rise.

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1 All the jurors are present, Your Honor.

2 THE COURT: Thank you.

3 THE MARSHAL: Please be seated and come  
4 to order.

5 (The following proceedings were held  
6 in the presence of the jury.)

7 THE CLERK: Badge 11-1133, Franky Luo.

8 PROSPECTIVE JUROR NO. 11-1133: Here.

9 THE CLERK: Oh, I'm sorry. I didn't  
10 hear you.

11 11-1137, Lana Larsen.

12 PROSPECTIVE JUROR NO. 11-1137: Here.

13 THE CLERK: 11-1155 -- you know what? I  
14 should have started with them. Let's do this  
15 again. Okay.

16 Badge 11-0798, Byron Lennon.

17 PROSPECTIVE JUROR NO. 11-0798: Here.

18 THE CLERK: 11-0802, John Toston.

19 PROSPECTIVE JUROR NO. 11-0802: Here.

20 THE CLERK: 11-0825, Jaylen

21 Green-Wilson.

22 PROSPECTIVE JUROR NO. 11-0825: Here.

23 THE CLERK: 11-0830, Michelle Peligro.

24 PROSPECTIVE JUROR NO. 11-0830: Here.

25 THE CLERK: 11-0834, Joseph Dail.

1 PROSPECTIVE JUROR NO. 11-0834: Here.  
2 THE CLERK: 11-0844, Raphael Javier.  
3 PROSPECTIVE JUROR NO. 11-0834: Here.  
4 THE CLERK: 11-0853, Dylan Domingo.  
5 PROSPECTIVE JUROR NO. 11-0853: Here.  
6 THE CLERK: 11-0855, Ronald Green.  
7 PROSPECTIVE JUROR NO. 11-0855: Here.  
8 THE CLERK: 11-0860, Aberash Getaneh.  
9 PROSPECTIVE JUROR NO. 11-0860: Here.  
10 THE CLERK: 11-0867, Jenny Gagliano.  
11 PROSPECTIVE JUROR NO. 11-0867: Here.  
12 THE CLERK: 11-0879, Vanessa Rodriguez.  
13 PROSPECTIVE JUROR NO. 11-0879: Here.  
14 THE CLERK: 11-0880, William Richardson.  
15 PROSPECTIVE JUROR NO. 11-0880: Here.  
16 THE CLERK: 11-0885, Constance Brown.  
17 PROSPECTIVE JUROR NO. 11-0885: Here.  
18 THE CLERK: 11-0902, Sherry Hall.  
19 PROSPECTIVE JUROR NO. 11-0902: Here.  
20 THE CLERK: 11-0915, Ruth McLain.  
21 PROSPECTIVE JUROR NO. 110915: Here.  
22 THE CLERK: 11-0926, Enrique Tuquero.  
23 PROSPECTIVE JUROR NO. 11-0926: Here.  
24 THE CLERK: 11-0937, Raquel Romero.  
25 PROSPECTIVE JUROR NO. 11-0937: Here.



1 THE CLERK: 11-0940, Caroline Graf.  
2 PROSPECTIVE JUROR NO. 11-0940: Here.  
3 THE CLERK: 11-0975, Jonathan Fortich.  
4 PROSPECTIVE JUROR NO. 11-0975: Here.  
5 THE CLERK: 11-0999, Janelle Reeves.  
6 PROSPECTIVE JUROR NO. 11-0999: Here.  
7 THE CLERK: 11-1035, Pamela  
8 Phillips-Chong.  
9 PROSPECTIVE JUROR NO. 11-1035: Here.  
10 THE CLERK: 11-1037, Joel Santa Ana.  
11 PROSPECTIVE JUROR NO. 11-1037: Here.  
12 THE CLERK: 11-1047, Glenn Krieger.  
13 PROSPECTIVE JUROR NO. 11-1047: Here.  
14 THE CLERK: 11-1056, Miguel Arteaga.  
15 PROSPECTIVE JUROR NO. 11-1056: Here.  
16 THE CLERK: 11-1114, Thomas Garibay.  
17 PROSPECTIVE JUROR NO. 11-1114: Here.  
18 THE CLERK: 11-1125, Michael Kaba.  
19 PROSPECTIVE JUROR NO. 11-1125: Here.  
20 THE CLERK: 11-1127, Gregg Stephens.  
21 PROSPECTIVE JUROR NO. 11-1127: Here.  
22 THE CLERK: 11-1133, Franky Luo.  
23 PROSPECTIVE JUROR NO. 11-1133: Here.  
24 THE CLERK: 11-1137, Lana Larsen.  
25 PROSPECTIVE JUROR NO. 11-1137: Here.

1 THE CLERK: 11-1155, Emilie Mosqueda.  
2 PROSPECTIVE JUROR NO. 11-1155: Here.  
3 THE CLERK: 11-1164, Kimberly Flores.  
4 PROSPECTIVE JUROR NO. 11-1164:  
5 THE CLERK: 11-1170, Kazandra  
6 Chacon-Higuera.  
7 PROSPECTIVE JUROR NO. 11-1170: Here.  
8 THE CLERK: 11-1171, Albert Browning.  
9 PROSPECTIVE JUROR NO. 11-1171: Here.  
10 THE CLERK: 11-1174, Veronica Gutierrez.  
11 PROSPECTIVE JUROR NO. 11-1174: Here.  
12 THE CLERK: 11-1186, Ashley Vandevanter.  
13 PROSPECTIVE JUROR NO. 11-1186: Here.  
14 THE CLERK: 11-1192, Philamer Robinson.  
15 PROSPECTIVE JUROR NO. 11-1192: Here.  
16 THE CLERK: 11-1193, Amie Turpin.  
17 PROSPECTIVE JUROR NO. 11-1193: Here.  
18 THE CLERK: 11-1199, Judy Sanderlin.  
19 PROSPECTIVE JUROR NO. 11-1199: Here.  
20 THE CLERK: 11-1200, April Hannewald.  
21 PROSPECTIVE JUROR NO. 11-1200: Here.  
22 THE CLERK: 11-1207, Hani Noshi.  
23 PROSPECTIVE JUROR NO. 11-1207: Here.  
24 THE CLERK: 11-1218, Iris Adachi.  
25 PROSPECTIVE JUROR NO. 11-1218: Here.

1 THE CLERK: 11-1221, Sheri White.

2 PROSPECTIVE JUROR NO. 11-1221: Here.

3 THE CLERK: 11-1222, Carol Padilla.

4 PROSPECTIVE JUROR NO. 11-1222: Here.

5 THE CLERK: 112 -- sorry. 11-1223,

6 Jasmine Carrillo.

7 PROSPECTIVE JUROR NO. 11-1223: Here.

8 THE CLERK: 11-1229, Jaymi Johnson.

9 PROSPECTIVE JUROR NO. 11-1229: Here.

10 THE CLERK: 11-1246, Brian Stokes.

11 PROSPECTIVE JUROR NO. 11-1246: Here.

12 THE CLERK: 11-1255, Heidi Wooters.

13 PROSPECTIVE JUROR NO. 11-1255: Here.

14 THE CLERK: 11-1256, Robert Summerfield.

15 PROSPECTIVE JUROR NO. 11-1256: Here.

16 THE CLERK: 11-1268, Katherine Beswick.

17 PROSPECTIVE JUROR NO. 11-1268: Here.

18 THE CLERK: 11-1278, Elizabeth Mundo.

19 PROSPECTIVE JUROR NO. 11-1278: Here.

20 THE CLERK: 11-1293, Kim Schell.

21 PROSPECTIVE JUROR NO. 11-1293: Here.

22 THE CLERK: 11-1296, Alan Castle.

23 PROSPECTIVE JUROR NO. 11-1296: Here.

24 THE CLERK: 11-1297, Anna Campbell.

25 PROSPECTIVE JUROR NO. 11-1297: Here.

1 THE CLERK: 11-1314, Pragnit Thakor.

2 PROSPECTIVE JUROR NO. 11-1314: Yes.

3 Here. Yep.

4 THE CLERK: 11-1325, Claudia Ledda.

5 PROSPECTIVE JUROR NO. 11-1325: Here.

6 THE CLERK: 11-1328, Sarah Oelke.

7 PROSPECTIVE JUROR NO. 11-1328: Oelke.

8 THE CLERK: Oelke. Sorry.

9 11-1336, E Lemons.

10 PROSPECTIVE JUROR NO. 11-1336: Here.

11 THE CLERK: 11-1351, Kenneth Prince.

12 PROSPECTIVE JUROR NO. 11-1351: Here.

13 THE CLERK: 11-1358, Adam Elliott.

14 PROSPECTIVE JUROR NO. 11-1358: Here.

15 THE CLERK: 11-1360, Bridget Slezak.

16 PROSPECTIVE JUROR NO. 11-1360: Here.

17 THE CLERK: 11-1373, Chante Webb.

18 PROSPECTIVE JUROR NO. 11-1373: Here.

19 THE COURT: Do counsel stipulate to the  
20 presence of the jury?

21 MR. ROBERTS: Yes, Your Honor.

22 MR. KEMP: Yes, Your Honor.

23 THE COURT: Okay. Very good.

24 Mr. Christiansen, you can proceed.

25 MR. CHRISTIANSEN: Thank you, Your

1 Honor.

2 Who's got the mic? Will you pass the  
3 mic down to Mr. Wilson, please.

4 Mr. Wilson, your badge number is  
5 11-0825?

6 PROSPECTIVE JUROR NO. 11-0825: Yes, it  
7 is.

8 MR. CHRISTIANSEN: Mr. Wilson, going  
9 back to your questionnaire, I wanted to clarify a  
10 couple of things with you.

11 In the questionnaire, you listed that  
12 you may know Will Kemp, who's this gentleman right  
13 here, and one of his partners, Randall Jones. And  
14 you also listed -- I'm not sure if it was me or my  
15 dad. My dad has the same last name as me, just  
16 different middle initial.

17 Is it clear you didn't know us?

18 PROSPECTIVE JUROR NO. 11-0825: Yeah,  
19 same thing. It was something else I saw. It was  
20 an advertisement. That's why the name sounded  
21 familiar, but that was my fault.

22 MR. CHRISTIANSEN: Perfect. I just  
23 wanted to clear that up.

24 And while you have it, I was talking to  
25 you about preponderance of the evidence. And in a

1 big case, you and I had an exchange about -- to  
2 paraphrase, you either bring more or something to  
3 that extent.

4 By way of analogy, you watch basketball?

5 PROSPECTIVE JUROR NO. 11-0825: Yes.

6 MR. CHRISTIANSEN: You've seen a  
7 basketball game where the score is 100 to 101?

8 PROSPECTIVE JUROR NO. 11-0825: Yes.

9 MR. CHRISTIANSEN: Who won?

10 PROSPECTIVE JUROR NO. 11-0825: The 101.

11 MR. CHRISTIANSEN: You've only got to  
12 win by one point?

13 PROSPECTIVE JUROR NO. 11-0825: Yeah.

14 MR. CHRISTIANSEN: That's kind of a  
15 similar way to think of it. Okay? You don't have  
16 to win by a blowout to prevail in a civil case.  
17 You've got to win by more likely than not.

18 Does that make sense?

19 PROSPECTIVE JUROR NO. 11-0825: Yeah, it  
20 does.

21 MR. CHRISTIANSEN: You're okay with  
22 that?

23 PROSPECTIVE JUROR NO. 11-0825: Yeah.

24 MR. CHRISTIANSEN: All right. Hand the  
25 phone back to the nice lady that had it right

1 before we left, Ms. -- Phillips-Chong. I got it  
2 backwards. I'm sorry.

3 PROSPECTIVE JUROR NO. 11-1035: Pamela  
4 Phillips-Chong, 11-1035.

5 MR. CHRISTIANSEN: Ms. Chong, I wanted  
6 to just touch base a little bit more about your --  
7 you have some personal background in the area of  
8 buses and being a foreperson at a bus company here  
9 in Las Vegas.

10 Is that a fair statement?

11 PROSPECTIVE JUROR NO. 11-1035: Right.  
12 Correct.

13 MR. CHRISTIANSEN: In that capacity, do  
14 you have any experience with buses and blind  
15 spots?

16 PROSPECTIVE JUROR NO. 11-1035: Well, we  
17 do deal with that. Like I said earlier, our  
18 drivers, they tend to make note that they have a  
19 lot of accidents per se because of the blind  
20 spots. They can't see out of that one side window  
21 that we have. I don't know if you're familiar  
22 with the Paratransit buses.

23 THE COURT: Just by seeing them.

24 PROSPECTIVE JUROR NO. 11-1035: Right.  
25 There is on the -- on the curb side, it's -- they

1 have this long window. I don't know -- I forget  
2 what they're called. You know, it's a long glass  
3 piece that they -- they had manufactured it that  
4 way. But when they put the outside mirrors on, it  
5 was in front of it.

6 So prior to that, we have the driver's  
7 seat here. You have an MDT, which is their GPS  
8 screen here. So all these obstructions -- you got  
9 radios, you got your backup screen for your  
10 sensors and your cameras. And then you also have  
11 like -- on the dash, they have -- it's called an  
12 Echovision, which is affiliated with the  
13 cameras --

14 MR. CHRISTIANSEN: Okay.

15 PROSPECTIVE JUROR NO. 11-1035: --  
16 within the bus. And they also have cameras  
17 outside of the bus.

18 MR. CHRISTIANSEN: Okay. The bus we're  
19 talking about in this case is a 2008 Motor Coach  
20 Industries J4500.

21 I just want to ask you, do you have any  
22 specialized knowledge about that particular bus?

23 PROSPECTIVE JUROR NO. 11-1035: No.

24 MR. CHRISTIANSEN: Can you leave -- the  
25 judge will tell everybody on the jury you're



1 supposed to use your common sense. So I don't  
2 want you to leave that anywhere.

3 But would you be able to leave whatever  
4 special knowledge you have at work at work and  
5 judge this case based on what you hear in the  
6 courtroom and the bus in question -- the day in  
7 question, which is April the 18th of last year?

8 PROSPECTIVE JUROR NO. 11-1035: Most  
9 definitely.

10 MR. CHRISTIANSEN: You're okay with  
11 doing that?

12 PROSPECTIVE JUROR NO. 11-1035: Yes.

13 MR. CHRISTIANSEN: All right. And  
14 nobody has got a head start one way or another?

15 PROSPECTIVE JUROR NO. 11-1035: No.

16 MR. CHRISTIANSEN: Just to finish that  
17 out, in your capacity, have you ever dealt with  
18 safety mechanisms called spats or tire covers?

19 PROSPECTIVE JUROR NO. 11-1035: No.

20 MR. CHRISTIANSEN: Okay. Great. Thank  
21 you.

22 Would you hand -- the gentleman right in  
23 front of you is Mr. Krieger, I believe.

24 PROSPECTIVE JUROR NO. 11-1047: Yes.

25 MR. CHRISTIANSEN: Don't look so happy

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1 to get the microphone.

2 Mr. Krieger, your badge number is  
3 11-1047?

4 PROSPECTIVE JUROR NO. 11-1047: Yes,  
5 that's correct.

6 MR. CHRISTIANSEN: Mr. Krieger, from  
7 your questionnaire, I gathered something similar  
8 to the lady behind you, that you have some  
9 specialized training in areas that we've sort of  
10 talked about generally.

11 Is that accurate?

12 PROSPECTIVE JUROR NO. 11-1047: Not  
13 buses, but --

14 MR. CHRISTIANSEN: Aerodynamics? Does  
15 that strike a familiar --

16 PROSPECTIVE JUROR NO. 11-1047: Yeah.  
17 Yeah. Okay.

18 MR. CHRISTIANSEN: I'm sorry.

19 PROSPECTIVE JUROR NO. 11-1047: My head  
20 was on buses.

21 MR. CHRISTIANSEN: I have written down  
22 that you --

23 PROSPECTIVE JUROR NO. 11-1047:  
24 Aeronautics.

25 MR. CHRISTIANSEN: Aeronautics.

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1                   And you had something about school bus  
2 safety?

3                   PROSPECTIVE JUROR NO. 11-1047: Sure.  
4 As a teacher, you've got to be familiar with --

5                   MR. CHRISTIANSEN: That's where that  
6 comes from. Okay.

7                   PROSPECTIVE JUROR NO. 11-1047: --  
8 loading kids. And you take the -- you go on field  
9 trips or you take a team somewhere.

10                  MR. CHRISTIANSEN: All right. Back up  
11 with me first and tell me about the aerodynamics  
12 and what training -- you were up late yesterday;  
13 right? You and a few others got the late shift  
14 when you came in. So there wasn't any questions  
15 of you.

16                  So help me understand your training in  
17 aerodynamics.

18                  PROSPECTIVE JUROR NO. 11-1047: Well, as  
19 a teacher, I taught aeronautics. So we're talking  
20 about how airplanes fly, that kind of thing. And  
21 you work with wind tunnels. And, you know, you're  
22 working with -- showing the kids how to make cars  
23 and CNC milling. And then they learn how the air  
24 flows over the airfoil and so forth.

25                  MR. CHRISTIANSEN: Help me understand

1 what you mean by that, how air flows over a  
2 vehicle?

3 PROSPECTIVE JUROR NO. 11-1047: We know  
4 that, when you're looking at an airfoil for a  
5 wing, for example, wind is flowing over the top  
6 differently than it is at the bottom. So it  
7 creates a low-pressure area. This creates -- it's  
8 how the wing gets its lift.

9 MR. CHRISTIANSEN: You said foil, not  
10 flow. I misheard you. I apologize about that.

11 Any experience, like others I've spoken  
12 to, about air flow in vehicles displacing air as  
13 they pass through it?

14 MR. ROBERTS: Objection, Your Honor.

15 THE COURT: Sustained.

16 MR. CHRISTIANSEN: As part of your  
17 teaching of aerodynamics and -- help me out. What  
18 grades do you teach again?

19 PROSPECTIVE JUROR NO. 11-1047: At the  
20 time I taught aeronautics, it would have been  
21 middle school, high school.

22 MR. CHRISTIANSEN: Do you teach about  
23 air displacement?

24 PROSPECTIVE JUROR NO. 11-1047: I don't  
25 know that I've ever used that word in class, no.

1 We talk about Bernoulli's principle and how air  
2 flows over the wing.

3 MR. CHRISTIANSEN: What's that mean?

4 MR. ROBERTS: Objection.

5 THE COURT: Overruled.

6 MR. CHRISTIANSEN: That means you can  
7 answer.

8 PROSPECTIVE JUROR NO. 11-1047: Oh,  
9 okay.

10 MR. CHRISTIANSEN: This is how us  
11 lawyers do it. "Objection."

12 PROSPECTIVE JUROR NO. 11-1047: So it's  
13 a well-known principle that, when you have sort of  
14 a Venturi effect, the air is flowing through this  
15 chamber faster, it starts to accelerate, it goes  
16 over the wing top faster, and that's how we get  
17 the lift. It's creating a low pressure area over  
18 the top of the wing, and you have a higher  
19 pressure area on the bottom, and then we get our  
20 lift.

21 So we're concerned about that when we're  
22 trying to create an airfoil. Often students had  
23 to create airplanes -- wings to fly. So that was  
24 one of the terms that they had to learn.

25 MR. CHRISTIANSEN: Okay. Now, jump with

1 me to the bus safety. I think I understand better  
2 what your bus safety training is because of the  
3 teacher. But help -- I want to make sure I don't  
4 miss anything -- what you meant.

5 PROSPECTIVE JUROR NO. 11-1047: From the  
6 teacher standpoint, it was more about students  
7 being in their seats, safely seated, not causing a  
8 disruption or distracting the driver so that the  
9 driver couldn't be attentive. That's the kind of  
10 things. We're not -- as teachers, we're not  
11 instructed on the backup lights.

12 THE COURT: You need to project a little  
13 bit more.

14 PROSPECTIVE JUROR NO. 11-1047: I said,  
15 as teachers, we're not necessarily instructed on  
16 light safety or where the mirrors are positioned  
17 or anything. We're talking about how that  
18 behavior inside the cab is occurring, what's  
19 happening inside that bus.

20 MR. CHRISTIANSEN: Sort of looking at it  
21 from the perspective of keeping the students that  
22 are passengers on the bus safe?

23 PROSPECTIVE JUROR NO. 11-1047:  
24 Absolutely. Yeah.

25 MR. CHRISTIANSEN: And you still teach;

1 is that right?

2 PROSPECTIVE JUROR NO. 11-1047: Yes.

3 That's correct.

4 MR. CHRISTIANSEN: But maybe not  
5 aerodynamics?

6 PROSPECTIVE JUROR NO. 11-1047: No.

7 MR. CHRISTIANSEN: That's where I was  
8 having the hiccup. So what do you teach these  
9 days?

10 PROSPECTIVE JUROR NO. 11-1047: I teach  
11 technology to teachers and continuing education  
12 credits.

13 MR. CHRISTIANSEN: Tell me. I don't  
14 understand. I don't know what that means, so  
15 you've got to help.

16 PROSPECTIVE JUROR NO. 11-1047: Okay.  
17 Well, teachers are tasked with many different  
18 kinds of technology programs, everything from new  
19 electronic digital grade books, how to maintain  
20 the grades websites, those kind of things, to get  
21 that information out to parents and students. So,  
22 many of them, the teachers, are kind of  
23 technochallenged, so you have to get in there and  
24 get them up to speed.

25 MR. CHRISTIANSEN: Got it. When was it

1 that you stopped teaching aerodynamics and sort of  
2 moved into this different area of teaching?

3 PROSPECTIVE JUROR NO. 11-1047: What  
4 year?

5 MR. CHRISTIANSEN: Yeah, just  
6 timing-wise, 10 years ago? 15?

7 PROSPECTIVE JUROR NO. 11-1047: Like,  
8 18.

9 MR. CHRISTIANSEN: Got it. And I wrote  
10 down also that you're a licensed pilot.

11 PROSPECTIVE JUROR NO. 11-1047: Yes.  
12 According to the government, you're licensed for  
13 life, but it doesn't mean that you're current.  
14 I'm not current.

15 MR. CHRISTIANSEN: When was it that you  
16 flew?

17 PROSPECTIVE JUROR NO. 11-1047: Probably  
18 in -- up to about 2000. Then it got too  
19 expensive, so I just bagged it.

20 MR. CHRISTIANSEN: Did you fly  
21 recreationally?

22 PROSPECTIVE JUROR NO. 11-1047: Yes.  
23 It's a Cessna 150, and a two- and four-place  
24 Cessna aircraft. Got about 200 hours.

25 MR. CHRISTIANSEN: Got it. You also



1 answered that you both ride bikes and buses.

2 PROSPECTIVE JUROR NO. 11-1047: I have  
3 ridden bikes, and I ride buses. I was just  
4 covering the bases. This was a check, you know.  
5 Because I was thinking, have you never ridden a  
6 bike? Well, yes, I have ridden a bike, but I  
7 don't currently, no.

8 MR. CHRISTIANSEN: Ask you the question  
9 I've asked others: When on a bike, have you felt  
10 air disturbance when a car passed you?

11 PROSPECTIVE JUROR NO. 11-1047: Not --  
12 no. I can say no because, when I ride a bike, I  
13 tend to ride off road in parks and paths, very  
14 quiet and subdued areas, usually with no traffic.

15 MR. CHRISTIANSEN: Like the gentleman  
16 behind a couple rows, not in traffic-type areas?

17 PROSPECTIVE JUROR NO. 11-1047: Correct.

18 MR. CHRISTIANSEN: Have you as a  
19 pedestrian felt air disturbance as a vehicle  
20 passed?

21 PROSPECTIVE JUROR NO. 11-1047: Yes, of  
22 course.

23 MR. CHRISTIANSEN: Okay. Similar  
24 questions to what I asked the lady,  
25 Ms. Phillips-Chong. I want to make sure I don't

1 get them backwards. I want to call you

2 Ms. Chong-Phillips. I'm sorry.

3 Ms. Phillips-Chong, do you have any  
4 familiarity with proximity sensors?

5 PROSPECTIVE JUROR NO. 11-1047: No, I  
6 don't.

7 MR. CHRISTIANSEN: Blind spots in buses?

8 PROSPECTIVE JUROR NO. 11-1047: Well,  
9 I'm sure they're there, but I've never driven a  
10 bus, so no.

11 MR. CHRISTIANSEN: Great.

12 All right. Let's move to the next  
13 section. So all of you were asked questions  
14 relative to caps on damages or lawsuit tort  
15 reform. You guys remember those questions in your  
16 questionnaire?

17 Who's heard of some of the following?

18 Verdicts are too high. Anybody?

19 There's too many lawsuits? Some person  
20 has heard of that?

21 Too many lawyers?

22 Lawyers gaming the system. Some  
23 affirmative.

24 Jackpot justice?

25 How about verdicts -- anybody heard of

004200

1 verdicts hurting businesses?

2 Got some head-nodding down here. And  
3 this is Ms. Adams-Reeves?

4 PROSPECTIVE JUROR NO. 11-0999: They  
5 actually put my whole name on it.

6 MR. CHRISTIANSEN: Just Ms. Reeves. Is  
7 that okay?

8 PROSPECTIVE JUROR NO. 11-0999: Yeah,  
9 Reeves is my last name.

10 THE COURT: Badge number?

11 PROSPECTIVE JUROR NO. 11-0999: Janelle  
12 Reeves, 11-0999.

13 MR. CHRISTIANSEN: Ms. Reeves, you and  
14 Ms. Graf to your right were nodding heads to a  
15 couple of those questions. Tell me what it is  
16 that you heard or what your thoughts are. I could  
17 find your -- on your questionnaire, but I remember  
18 seeing that you'd made comments relative to that.

19 PROSPECTIVE JUROR NO. 11-0999: Well, I  
20 don't have any actual opinions on it. My father  
21 was an attorney for a civil law office. The jokes  
22 were always heard, and we talked about it quite  
23 often.

24 MR. CHRISTIANSEN: There are lawyer  
25 jokes?

1 PROSPECTIVE JUROR NO. 11-0999: I'm sure  
2 you've heard them all. Most lawyers have.

3 But, no, when I was in high school and  
4 stuff, we'd talk about -- I was in high school, my  
5 father would talk about some of the cases they  
6 were working on. We always asked why the damages  
7 were so high.

8 MR. CHRISTIANSEN: Okay. Well, help me  
9 understand. What kind of lawyer was your dad and  
10 was it here in Las Vegas?

11 PROSPECTIVE JUROR NO. 11-0999: He was a  
12 paralegal. No, it was not in Vegas; it was in San  
13 Diego. He was a paralegal first in a civil law  
14 office. He now works for the Coast Guard law  
15 office.

16 MR. CHRISTIANSEN: What kind of law  
17 practice was he employed by in San Diego?

18 PROSPECTIVE JUROR NO. 11-0999: I don't  
19 know what you would call it. I don't even  
20 remember a couple of the cases because they were  
21 so long. But they were suing manufacturers of  
22 things for people that were injured or killed. I  
23 don't know if you call that personal injury.

24 MR. CHRISTIANSEN: Products-type cases  
25 like this maybe?

1 PROSPECTIVE JUROR NO. 11-0999: Yes.

2 MR. CHRISTIANSEN: Where somebody was  
3 alleging that a product was defective and, as a  
4 result of that, somebody had been hurt.

5 PROSPECTIVE JUROR NO. 11-0999: Correct.

6 MR. CHRISTIANSEN: You had heard some of  
7 the terms that I just threw out, like verdicts are  
8 too high, lawyers are taking advantage, and you  
9 were nodding in the affirmative?

10 PROSPECTIVE JUROR NO. 11-0999: My  
11 sister and I would have questions on things like  
12 that. It was new to us as far as ...

13 MR. CHRISTIANSEN: What are your  
14 feelings about that?

15 PROSPECTIVE JUROR NO. 11-0999: More  
16 curiosity than anything.

17 MR. CHRISTIANSEN: I asked you  
18 specifically -- I kind of picked on you because I  
19 knew in your questionnaire you wrote that you  
20 thought that 50 percent of lawsuits were  
21 frivolous.

22 PROSPECTIVE JUROR NO. 11-0999: Can be,  
23 yeah.

24 MR. CHRISTIANSEN: And that if you had a  
25 chance, you would vote for some laws to put caps

004203

1 on damage awards.

2 PROSPECTIVE JUROR NO. 11-0999: On  
3 certain things. I think people start being  
4 accountable for their own actions.

5 MR. CHRISTIANSEN: Who agrees with this  
6 lady by a show of hands?

7 Hang on. Got to keep your hands up.

8 How about in that second row?

9 Mr. Wilson, Mr. Garibay.

10 Did you have your hand up, Ms. Brown?

11 No? Yes?

12 Anybody else in the second row?

13 Ms. McLain, did you have your hand up?

14 Ms. Graf, I know I saw you nodding with  
15 your neighbor, Ms. Adams-Reeves.

16 Anybody else in the second row from me?

17 And how about in the front row?

18 All right.

19 So tell me what -- you sort of qualified  
20 your answers to me when I asked you about -- your  
21 answer on the questionnaire said 50 percent of all  
22 lawsuits are frivolous. And just now you said "in  
23 certain circumstances" or some qualification of  
24 that. Help me understand what you mean.

25 PROSPECTIVE JUROR NO. 11-0999: Well, I

004204

1 put 50 percent on the questionnaire because it was  
2 kind of like a really generalized question. I'm a  
3 fact-based person completely, very literal about  
4 things. So when you ask me a question like that  
5 and don't give me an example, I would probably  
6 assume probably maybe half the -- maybe not civil.  
7 Small claims and some of these are -- people are  
8 looking for a payday.

9 MR. CHRISTIANSEN: What does "people  
10 looking for a payday" mean to you?

11 PROSPECTIVE JUROR NO. 11-0999: Oh,  
12 they're just suing somebody to pay the bills.  
13 But, I mean, if you're jaywalking and you get run  
14 over by a car, that's your fault for jaywalking;  
15 it's not the car's fault for doing what they're  
16 supposed to be doing.

17 MR. CHRISTIANSEN: Okay. As you've  
18 heard, this is a products case. It's not about a  
19 bus driver and a bicycle and who was at fault;  
20 it's about whether a product is defective and if  
21 that defect caused the death of Dr. Khiabani.

22 PROSPECTIVE JUROR NO. 11-0999: Correct.

23 MR. CHRISTIANSEN: Is that a frivolous  
24 type of case using your definition?

25 MR. ROBERTS: Objection, Your Honor.

1 THE COURT: Please approach.

2 (A discussion was held at the bench,  
3 not reported.)

4 MR. CHRISTIANSEN: Ms. Adams-Reeves, let  
5 me ask you about -- who's heard of the Ford Pinto  
6 case, the old Ford Pinto that the gas tank was in  
7 a spot to where it got in a wreck and blew up and  
8 burnt? Anybody heard of that case?

9 A few people? Mr. Toston,  
10 Mr. Richardson, and some others?

11 While you've got the microphone --  
12 actually, hand it to Ms. Graf next to you.

13 Ms. Graf, you were shaking your head  
14 with your neighbor when I was asking about the  
15 notion that there's too many lawsuits.

16 PROSPECTIVE JUROR NO. 11-0940: I think  
17 I was shaking my head --

18 MR. CHRISTIANSEN: Badge number?

19 PROSPECTIVE JUROR NO. 11-0940: 11-0940,  
20 Caroline Graf.

21 I was shaking my head when you said do I  
22 think there should be a cap.

23 MR. CHRISTIANSEN: Okay. Well, start  
24 there with me. What do you think about that?

25 PROSPECTIVE JUROR NO. 11-0940: Well,

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004206



1 sometimes people get an outrageous amount of  
2 money. How much do you need to live? You know, I  
3 understand if somebody did something wrong and  
4 they should be punished, but I don't understand  
5 why they need so much money.

6 I don't want to use it. They can hear  
7 me.

8 So that's basically what I'm thinking.  
9 Why do they need millions upon millions? I  
10 understand, yes, make up for the earnings of  
11 someone you've lost, pay for your medical, and you  
12 should be comfortable too, but sometimes it's  
13 just, to me, seems outrageous, the amount of money  
14 some people get.

15 MR. CHRISTIANSEN: Do you have in your  
16 mind a ceiling that you would put on the amount of  
17 recovery in general?

18 PROSPECTIVE JUROR NO. 11-0940: In  
19 general, I would see how much money they lost due  
20 to whatever happened. Like -- all right. I guess  
21 I can't use this case.

22 But let's say if you lost somebody close  
23 to you that was paying your bills, how much money  
24 would they have earned, how much did you lose  
25 because you lost them, pay for your medical,

1 whatever that figure comes out to, plus a little  
2 extra to help you out.

3 And if you want to punish a company or  
4 somebody, I say take the money and fix things.  
5 Give it to people. But why does one person need  
6 so much money?

7 MR. CHRISTIANSEN: All right. Other  
8 people have similar feelings? Usually, they do.  
9 Anybody sort of agree with Ms. Graf? Anybody  
10 else?

11 Mr. Garibay, Mr. Lennon. A couple  
12 people.

13 I haven't gotten to you yet. Mr. Santa  
14 Ana, you're hiding over here.

15 Oh, I'm sorry. Mr. Arteaga. Say it  
16 correctly for me.

17 PROSPECTIVE JUROR NO. 11-1056: Arteaga.

18 MR. CHRISTIANSEN: Sorry about that.

19 Some other persons have those same  
20 opinions.

21 Doesn't sound like you're a big believer  
22 in awards for pain and suffering or grief and  
23 sorrow.

24 PROSPECTIVE JUROR NO. 11-0940: Within  
25 reason. But millions? I mean, how much does one

1 person need?

2 MR. CHRISTIANSEN: First, let's back up  
3 a bit. The way you explained it, the system  
4 doesn't work that way. How the system works is  
5 there's an injured person who brings a claim. And  
6 that's -- there's no vehicle by which some award  
7 can be given and handed out to the needy.

8 PROSPECTIVE JUROR NO. 11-0940: I know.  
9 I wish it went to the people that should get it.

10 MR. CHRISTIANSEN: You have to use that  
11 so Ms. Court Recorder can hear you. She's getting  
12 down everything. She's the official record.

13 PROSPECTIVE JUROR NO. 11-0940: I'll  
14 make sure she can hear me.

15 MR. CHRISTIANSEN: This is a case  
16 where -- it's a civil case. Damages are being  
17 sought, compensatory and punitives, punishment  
18 damages. The numbers for the compensatory are  
19 going to be in the tens of millions and for  
20 punitives maybe in the hundreds of millions.

21 Your personal disposition, are you  
22 somebody that can hear fairly those types of  
23 requests and, without leaning one way or another,  
24 make an award based on the law Her Honor gives  
25 you?

1           PROSPECTIVE JUROR NO. 11-0940: Yes. I  
2 wish I could lie, because I do want to get out.  
3 But I'm a very fair person. I would follow  
4 whatever Your Honor tells me to do whether or not  
5 I agree with it, because there's a lot of things I  
6 don't agree with and a lot -- and I follow them  
7 because they're rules. But I can follow the law.

8           MR. CHRISTIANSEN: One of the  
9 instructions the judge will give everybody is that  
10 there's no formula for making an award for grief  
11 and sorrow; it's for a jury to decide, jury of the  
12 peers. Would you -- you told me already you sort  
13 of have, like, a within-reason ceiling in your  
14 mind; right?

15           PROSPECTIVE JUROR NO. 11-0940: Um-hum.

16           MR. CHRISTIANSEN: Yes?

17           PROSPECTIVE JUROR NO. 11-0940: I don't  
18 have a particular number in mind now, but I'd have  
19 to hear what happened, what went on, how much --  
20 you know, what transpires during the case to come  
21 up with a number. But I don't have a number in my  
22 head right now, no.

23           MR. CHRISTIANSEN: That's what I'm  
24 trying to ask of you, and I'm probably not doing  
25 the best job.

004210

1 PROSPECTIVE JUROR NO. 11-0940: With me,  
2 just be blunt.

3 MR. CHRISTIANSEN: Okay. I got that  
4 impression.

5 Do you have a ceiling in every case that  
6 that's 50 million bucks; you won't award a penny  
7 more?

8 PROSPECTIVE JUROR NO. 11-0940: I'm --  
9 if everybody else wants to and they can convince  
10 me why I should -- I mean, I'd have to hear the  
11 facts.

12 MR. CHRISTIANSEN: Okay. Fair enough.

13 I guess as the side that's going to be  
14 making the request, I want to know if I'm starting  
15 on an even playing field or I'm behind because  
16 generally you don't like the notion of big awards.  
17 Make sense? That's about as blunt as I can make  
18 it.

19 PROSPECTIVE JUROR NO. 11-0940: Yeah.  
20 No, you're not behind. I will be fair, and I will  
21 listen to everything. And if that's the amount,  
22 that's the amount. If I find you've proven your  
23 case, then so be it.

24 MR. CHRISTIANSEN: Ms. Adams-Reeves, you  
25 want to take that. Same question posed to you.

004211

1           PROSPECTIVE JUROR NO. 11-0999: Janelle  
2 Reeves, 11-0999.

3           I don't have a ceiling cap. I have a  
4 hard time placing a value on somebody's life. But  
5 in the end, I do believe in our justice system. I  
6 will do what she tells me to. But I do have a  
7 problem placing money value on somebody.

8           MR. CHRISTIANSEN: Would you pass that  
9 to the end and then to the front, to Mr. Arteaga.

10          PROSPECTIVE JUROR NO. 11-1056: Miguel  
11 Arteaga, 11-1056.

12          MR. CHRISTIANSEN: Thank you.

13          Mr. Arteaga, I want to talk to you about  
14 your notions regarding tort reform and caps on  
15 damages and that. But, initially, I wanted to  
16 just ask you about a hardship that you listed in  
17 your questionnaire relative to work and paying  
18 your bills. You didn't mention anything today, so  
19 I just want to see if it still existed or ...

20          PROSPECTIVE JUROR NO. 11-1056: It just  
21 seems like it's going to be hard for me to pay the  
22 bills. I live by myself, and I take care of my  
23 mom.

24          MR. CHRISTIANSEN: I remember reading  
25 that.

1 PROSPECTIVE JUROR NO. 11-1056: Just  
2 seems like it's going to be tough. I don't know  
3 how this whole system is going to work out.

4 MR. CHRISTIANSEN: Well, on that  
5 particular area, I can tell you that the judge has  
6 given you the schedule. Monday, Wednesday,  
7 Friday, 9:30 to 5:00-ish and Tuesday, Thursdays  
8 from 12:00 to 5:00-ish. Will that impact your  
9 ability to work and earn to pay your bills?

10 PROSPECTIVE JUROR NO. 11-1056: I'm sure  
11 I can make something happen, I think. I got my  
12 sister helping me. My brother just won't help me  
13 at all, but my sister will.

14 MR. CHRISTIANSEN: How old is your mom?

15 PROSPECTIVE JUROR NO. 11-1056: 63.

16 MR. CHRISTIANSEN: And she lives with  
17 you?

18 PROSPECTIVE JUROR NO. 11-1056: No. She  
19 lives with my sister. She works in the daytime,  
20 and I take care of her during the day. And  
21 usually she takes care of her at night.

22 MR. CHRISTIANSEN: What do you currently  
23 do for a living?

24 PROSPECTIVE JUROR NO. 11-1056: I'm a  
25 mechanic at a bowling center.

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1 MR. CHRISTIANSEN: Oh, that's right. At  
2 the --

3 PROSPECTIVE JUROR NO. 11-1056: Gold  
4 Coast.

5 MR. CHRISTIANSEN: Gold Coast?

6 Help me understand what a mechanic at a  
7 bowling center does.

8 PROSPECTIVE JUROR NO. 11-1056: I just  
9 fix the pinsetters up and make sure the pins go up  
10 and down, make sure everybody is having fun. Make  
11 the kids happy, I guess.

12 MR. CHRISTIANSEN: If -- given the  
13 schedule -- I mean, everybody has got financial  
14 hardships, as you heard. None of us are so nuts  
15 to believe that sitting for 40 bucks a day is the  
16 same as working.

17 So the question really becomes, bluntly,  
18 can you give us your full time and attention for  
19 the schedule the judge has outlined, or are you  
20 going to be so worried about the bills that you're  
21 not paying attention to what's going on in here  
22 and both sides aren't -- you know, at risk of not  
23 having a jury full of people that are giving their  
24 full time and attention.

25 PROSPECTIVE JUROR NO. 11-1056:



1 Honestly?

2 MR. CHRISTIANSEN: Honestly.

3 PROSPECTIVE JUROR NO. 11-1056: I  
4 haven't paid attention at all really.

5 MR. CHRISTIANSEN: Okay. Well, I bet  
6 you can understand that both sides want jurors  
7 that will pay attention; right?

8 PROSPECTIVE JUROR NO. 11-1056: Yes.

9 MR. CHRISTIANSEN: Is that something you  
10 just don't think you can do?

11 PROSPECTIVE JUROR NO. 11-1056: I don't  
12 think I can do that.

13 MR. CHRISTIANSEN: And because -- no  
14 creative lawyer question is going to change that?

15 PROSPECTIVE JUROR NO. 11-1056: No.

16 MR. CHRISTIANSEN: And so it would, you  
17 know, put at risk this entire process.

18 PROSPECTIVE JUROR NO. 11-1056: I  
19 wouldn't put me on.

20 MR. CHRISTIANSEN: Say that again. I'm  
21 sorry.

22 PROSPECTIVE JUROR NO. 11-1056: I  
23 wouldn't put me on.

24 MR. CHRISTIANSEN: You wouldn't put  
25 yourself on a jury?

1 PROSPECTIVE JUROR NO. 11-1056: I  
2 wouldn't put me in any kind of situation like  
3 this.

4 MR. CHRISTIANSEN: Because you're not  
5 going to give us your full attention?

6 PROSPECTIVE JUROR NO. 11-1056: Yes.

7 MR. CHRISTIANSEN: Sorry. You just have  
8 to answer out loud. Thank you, Mr. Arteaga.

9 May I approach, Your Honor?

10 THE COURT: Yes.

11 (A discussion was held at the bench,  
12 not reported.)

13 MR. CHRISTIANSEN: Mr. Arteaga, if you  
14 want to hand that mic to Mr. Santa Ana, who is  
15 right behind you, if you would.

16 PROSPECTIVE JUROR NO. 11-1037: Joel  
17 Santa Ana, Badge No. 11-1037.

18 MR. CHRISTIANSEN: Mr. Santa Ana, I  
19 didn't ask you any questions yesterday because  
20 you, like these other folks, were sort of late in  
21 the afternoon.

22 But I recall you had some medical  
23 training; is that fair?

24 PROSPECTIVE JUROR NO. 11-1037: Yes.

25 MR. CHRISTIANSEN: If doctors testify --

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1 doctors are going to testify in this case.

2 Would you be able to judge doctors no  
3 differently than any other witness?

4 PROSPECTIVE JUROR NO. 11-1037: I'll be  
5 fair. I'll listen to both sides.

6 MR. CHRISTIANSEN: Do you have any  
7 leanings one way or another, as you sit here  
8 today?

9 PROSPECTIVE JUROR NO. 11-1037: No.

10 MR. CHRISTIANSEN: You don't ride bikes  
11 or buses, I got from your --

12 PROSPECTIVE JUROR NO. 11-1037, well,  
13 technically, when I was living in San Francisco, I  
14 took the bus, you know, to go to school downtown.  
15 But bike, no.

16 MR. CHRISTIANSEN: And I know from  
17 listening to you yesterday and reading your  
18 questionnaire that you served in the armed forces?

19 PROSPECTIVE JUROR NO. 11-1037: Yes,  
20 sir.

21 MR. CHRISTIANSEN: And you were in the  
22 infantry, I wrote down.

23 PROSPECTIVE JUROR NO. 11-1037: That's  
24 correct.

25 MR. CHRISTIANSEN: Did you see combat?

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1 PROSPECTIVE JUROR NO. 11-1037: No, but  
2 we trained the people that went to combat.

3 MR. CHRISTIANSEN: Got it. What are  
4 your feelings on the issue of putting caps on jury  
5 awards?

6 PROSPECTIVE JUROR NO. 11-1037: Okay.  
7 The thing is, like, one week after we had to fill  
8 out the information sheet or the questionnaire,  
9 our corporate lawyer actually kind of -- we have,  
10 like, a sexual harassment class. Actually, it's a  
11 corporate level.

12 So he explained us, like, if you got to  
13 find somebody, they're not going to -- for  
14 example, we're like a billion-dollar industry in a  
15 sense. So 1 million is nothing to us in a sense.

16 So the court or, you know, just the law,  
17 it's not going to punish the corporation with a  
18 little bit of money. They're going to punish them  
19 for what they think will hurt the company or give  
20 them a message.

21 That's what I understand what our lawyer  
22 says.

23 MR. CHRISTIANSEN: Pretty good  
24 explanation.

25 Anybody else have an -- I think that

1 explanation is for punitive damages.

2 Anybody else heard of a similar type of  
3 notion? Anybody else on the jury? Okay.

4 In this case, there's a claim for  
5 punitive damages.

6 Would you be able to consider such a  
7 claim?

8 PROSPECTIVE JUROR NO. 11-1037: Whatever  
9 the law required, sir. I based upon -- my  
10 judgment on whatever the presentation they gave  
11 me. I have no leaning against either side.

12 MR. CHRISTIANSEN: Great. And I think I  
13 understand what you said. You had a class on  
14 sexual harassment, and it was a class on how to  
15 not sexually harass persons, right, not how to?

16 PROSPECTIVE JUROR NO. 11-1037: That's  
17 correct. Also it's kind of like discrimination of  
18 other people, you know, gender. It's like the  
19 whole thing.

20 MR. CHRISTIANSEN: You could have done  
21 the whole Lady Justice talk, blind and doesn't  
22 matter what color you are.

23 None of that, right?

24 PROSPECTIVE JUROR NO. 11-1037: Yes.  
25 I'm a Libra, too, so...

1           MR. CHRISTIANSEN: Okay. Who's heard  
2 the notion -- let's still stick with this same  
3 idea of placing caps on jury awards -- that large  
4 awards drive up insurance premiums or insurance  
5 rates? Anybody heard that?

6           Ms. Brown, you've heard it?

7           You want to hand that, Mr. Santa Ana,  
8 back to Ms. Brown or hand it down.

9           PROSPECTIVE JUROR NO. 11-0885: Badge  
10 No. 110885, Constance Brown.

11          MR. CHRISTIANSEN: Tell me what you  
12 heard about that, Ms. Brown.

13          PROSPECTIVE JUROR NO. 11-1037: Well,  
14 when I --

15          MR. ROBERTS: Objection, Your Honor.

16           I'm sorry, Ms. Brown.

17           I would just object. If we can  
18 approach?

19          THE COURT: Yes.

20           (A discussion was held at the bench,  
21 not reported.)

22          MR. CHRISTIANSEN: Ms. Brown, I asked an  
23 inartful question.

24           What are your feelings about large  
25 verdicts driving up insurance premiums?

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1           PROSPECTIVE JUROR NO. 11-1037: Well, I  
2 don't know. Because they say it. But then also,  
3 you know, when you're in different areas of town,  
4 your insurance is more than it is in others  
5 because of accident rates. So I don't know.

6           I just -- I guess the question is out,  
7 but I don't like having my insurance raised all  
8 the time, even without having accidents and then  
9 to possibly have it raised because of one either.

10          MR. CHRISTIANSEN: Okay. Would that  
11 make you lean one way or another in terms of being  
12 a fair and impartial juror in this case?

13          PROSPECTIVE JUROR NO. 11-1037: Oh, no.

14          MR. CHRISTIANSEN: Knowing that there's  
15 going to be a request for a large award, is that  
16 going to cause you, in the back of your mind, to  
17 think, "Well, something could happen to me  
18 personally or outside the courtroom" and that  
19 consideration weigh into your deliberations?

20          PROSPECTIVE JUROR NO. 11-1037: No. I  
21 mean, a fair trial, you need all the facts as to  
22 both sides to really make a fair judgment. So to  
23 say that I'm going to lean towards one more than  
24 the other, no. It has to be fair. I need all the  
25 facts to say, you know, either/or.

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1 MR. CHRISTIANSEN: Great.

2 Did anybody else raise their hand? I  
3 just neglected to make a mark about that.

4 Mr. Dail -- you want to hand that back?

5 Mr. Dail, your Badge No. is 11-0834?

6 PROSPECTIVE JUROR NO. 11-0834: That's  
7 correct.

8 MR. CHRISTIANSEN: Okay. Tell me what  
9 your feelings are on this topic, Mr. Dail.

10 PROSPECTIVE JUROR NO. 11-1037: I think,  
11 not just in general, that insurance claims drive  
12 up insurance prices. I think it's more frivolous  
13 lawsuits that drive up insurance premiums, though.

14 Kind of my example of that would be we  
15 had one of our jury members talking about being in  
16 an accident with one of the landscapers. I think  
17 he was in one of the little golf carts. The next  
18 day he's out doing landscaping and gets videotaped  
19 by the boyfriend. So there was no suit in that  
20 case. That's kind of where I would go with that.

21 MR. CHRISTIANSEN: So your big concern  
22 is with frivolous lawsuits?

23 PROSPECTIVE JUROR NO. 11-1037: That's  
24 correct.

25 MR. CHRISTIANSEN: Okay. Anybody, by

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1 way of showing of hands, agree with Mr. Dail?

2 Some of the same people.

3 Mr. Dail, while I've got you, I forgot  
4 to ask you: You were like a radio shock jock?

5 PROSPECTIVE JUROR NO. 11-1037: I worked  
6 behind the scenes, yeah. I was a producer kind of  
7 like -- if anybody's heard of Howard Stern, I was  
8 the Baba Booeey.

9 MR. CHRISTIANSEN: I apologize, but I  
10 have to ask because I wrote it down.

11 Was the name of the show called Hooters?

12 PROSPECTIVE JUROR NO. 11-1037: Hooters  
13 on the Radio.

14 MR. CHRISTIANSEN: Like the --

15 PROSPECTIVE JUROR NO. 11-1037: The  
16 Hooters waitresses, yeah. It was three Hooters  
17 waitresses doing the show.

18 MR. CHRISTIANSEN: All right. I had to  
19 ask.

20 PROSPECTIVE JUROR NO. 11-1037: This was  
21 in Florida -- Clearwater, Florida, with the  
22 original Hooters.

23 MR. CHRISTIANSEN: And, Mr. Dail, also  
24 while I've got you, I forgot to ask you yesterday.

25 You were involved in a

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1 vehicle-to-motorcycle-type accident; is that  
2 right?

3 PROSPECTIVE JUROR NO. 11-1037: That's  
4 correct.

5 MR. CHRISTIANSEN: And the -- I think my  
6 notes say the motorcyclist passed away?

7 PROSPECTIVE JUROR NO. 11-1037: That's  
8 correct, yeah.

9 MR. CHRISTIANSEN: And I also wrote down  
10 that it was -- it was -- the motorcyclist was at  
11 fault.

12 PROSPECTIVE JUROR NO. 11-1037: Yeah. I  
13 was at a stoplight waiting for the light to turn  
14 green. He went through the light coming the other  
15 direction and swerved to miss a car. And I was in  
16 the way, so he -- I was dead stopped, and he  
17 actually pushed the car back about 6 feet. It  
18 might --

19 MR. CHRISTIANSEN: Anything --

20 PROSPECTIVE JUROR NO. 11-1037:  
21 -- not --

22 MR. CHRISTIANSEN: I'm sorry. I didn't  
23 mean to interrupt you.

24 PROSPECTIVE JUROR NO. 11-1037: No, no.  
25 Go ahead. It might not have been 6 feet, but he

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1 actually pushed the car back. So he hit it pretty  
2 hard and flew up and landed behind the car. It  
3 was not pleasant.

4 MR. CHRISTIANSEN: I imagine not.  
5 Anything about that experience, where somebody is  
6 trying to figure out who's at fault for a traffic  
7 accident and ultimately it wasn't you, that would  
8 affect your ability to be fair and impartial here?

9 PROSPECTIVE JUROR NO. 11-1037: No.

10 MR. CHRISTIANSEN: You understand I  
11 represent the family of a person who's deceased.  
12 This isn't a traffic accident case. It's not, you  
13 know, was the bus driver or Dr. Khiabani at fault  
14 in a traffic accident; it's whether he was -- the  
15 doctor was killed as a result of a defective  
16 product.

17 PROSPECTIVE JUROR NO. 11-1037: I  
18 understand that.

19 MR. CHRISTIANSEN: You okay with that?  
20 You understand why I would want to ask that  
21 question?

22 PROSPECTIVE JUROR NO. 11-1037: Yes.

23 MR. CHRISTIANSEN: And I'm going to make  
24 you hand the phone down -- the phone -- the  
25 microphone down to -- I think it was Ms. Gagliano

1 that might have had a similar incident.

2 I made a note to myself to ask you,  
3 Ms. Gagliano.

4 PROSPECTIVE JUROR NO. 11-0867: Badge  
5 No. 11086.

6 THE COURT: Will you please speak  
7 louder.

8 PROSPECTIVE JUROR NO. 11-0867: Can you  
9 hear me?

10 THE COURT: I can hear you.

11 PROSPECTIVE JUROR NO. 11-0867: Badge  
12 No. 11-0867.

13 THE COURT: Thank you.

14 MR. CHRISTIANSEN: Similar questions as  
15 I posed to Mr. Dail. And I neglected, I  
16 apologize, to hit it with you yesterday. I just  
17 was looking at my notes late in the evening.

18 You were -- you had -- at some point in  
19 life were in a wreck with a motorcyclist, and the  
20 motorcyclist passed as a result of that traffic  
21 accident?

22 PROSPECTIVE JUROR NO. 11-0867: Yes.

23 MR. CHRISTIANSEN: How long ago in time  
24 was that, Ms. Gagliano?

25 PROSPECTIVE JUROR NO. 11-0867: I

1 believe it was back in around 2007. It turns out  
2 I guess it was my fault because I was making a  
3 left turn.

4 But, again, he came out of nowhere. I  
5 was turning into a driveway of a -- I guess you  
6 can call it shopping centers. And as I was  
7 turning, I was almost already past the -- I guess  
8 the sidewalk part. And he just came, hit the back  
9 of my trunk, and just flew out a few hundred feet.

10 MR. CHRISTIANSEN: Okay. So I take it  
11 you were turning left into a shopping mall and the  
12 motorcyclist was going the opposite way?

13 PROSPECTIVE JUROR NO. 11-0867: Yes.

14 MR. CHRISTIANSEN: And your car sort of  
15 cleared the -- one maybe or partially the driving  
16 lanes, and then the back of your car was struck by  
17 a motorcycle?

18 PROSPECTIVE JUROR NO. 11-0867: Yes.

19 MR. CHRISTIANSEN: All right. And  
20 similar question to Mr. Dail.

21 In that case, there was some  
22 determination of who was at fault for either him  
23 maybe speeding or not paying attention and you  
24 maybe turning in front of him?

25 PROSPECTIVE JUROR NO. 11-0867: Right.

1           MR. CHRISTIANSEN: Anything about that  
2 case that's different than this -- you understand  
3 that's not what this case is about?

4           PROSPECTIVE JUROR NO. 11-0867: Right.  
5 Right.

6           MR. CHRISTIANSEN: Anything about that  
7 case where the other person passed that would  
8 cause you to favor one side or the other in this  
9 case?

10          PROSPECTIVE JUROR NO. 11-0867: No.

11          MR. CHRISTIANSEN: You understand why  
12 I'd ask; right? Makes sense?

13          PROSPECTIVE JUROR NO. 11-0867: Yes, of  
14 course.

15          MR. CHRISTIANSEN: You can be fair and  
16 impartial?

17          PROSPECTIVE JUROR NO. 11-0867:  
18 Absolutely.

19          MR. CHRISTIANSEN: You can follow -- can  
20 you -- I'm not -- I don't want to tell you what  
21 you can do.

22                 Can you follow whatever Judge Escobar  
23 tells you the law is in Nevada in a products  
24 liability case, which is what this is?

25          PROSPECTIVE JUROR NO. 11-0867: Yes.

1 MR. CHRISTIANSEN: And keep out of your  
2 mind who was at fault for a traffic accident that  
3 you were involved in some years ago?

4 PROSPECTIVE JUROR NO. 11-0867: Yes.

5 MR. CHRISTIANSEN: And speaking of  
6 traffic, I looked at your -- do I understand that  
7 you presently drive a 2006 Yukon?

8 PROSPECTIVE JUROR NO. 11-0867: No. I  
9 drive a 2016 CRV.

10 MR. CHRISTIANSEN: All right. I  
11 wrote -- I might have mistranscribed it. I  
12 thought you drove a -- drove an SUV that did have  
13 proximity sensors. Is it maybe --

14 PROSPECTIVE JUROR NO. 11-0867: It was a  
15 CRV. I don't think it has, like, the proximity  
16 sensor on the side. But if I drive too fast, it  
17 will give me that brake sensor where, okay, you're  
18 too close to the car in front of you.

19 MR. CHRISTIANSEN: Like it comes up on  
20 your dash or your window or something?

21 PROSPECTIVE JUROR NO. 11-0867: Yes.  
22 And I do have, like, the back -- backup monitor.

23 MR. CHRISTIANSEN: I knew I remember  
24 somebody has a Yukon.

25 Where's Ms. Brown?

1 All right. I'm not finished with you.

2 The backup monitor -- and I did write  
3 down that your vehicle has some type of proximity  
4 sensor and you're familiar with them.

5 PROSPECTIVE JUROR NO. 11-0867: Yes.

6 MR. CHRISTIANSEN: You know how they  
7 work?

8 PROSPECTIVE JUROR NO. 11-0867: Yes.

9 MR. CHRISTIANSEN: And you've seen at  
10 least how it operates in your car?

11 PROSPECTIVE JUROR NO. 11-0867: Yes.

12 MR. CHRISTIANSEN: Okay. Great. Thank  
13 you. Will you hand it down to Ms. Brown, who I  
14 think has the Yukon.

15 PROSPECTIVE JUROR NO. 11-0885: Badge  
16 No. 11-0885, Constance Brown.

17 MR. CHRISTIANSEN: Thank you, Ms. Brown.  
18 Do you have a 2006 Yukon?

19 PROSPECTIVE JUROR NO. 11-0885: Yes.

20 MR. CHRISTIANSEN: And does it have  
21 proximity sensors?

22 PROSPECTIVE JUROR NO. 11-0885: No, I  
23 don't have backup sensors or anything.

24 MR. CHRISTIANSEN: Nothing when you're  
25 changing lanes tells you if there's something next



1 to you?

2 PROSPECTIVE JUROR NO. 11-0885: No.

3 MR. CHRISTIANSEN: And no backup camera?

4 PROSPECTIVE JUROR NO. 11-0885: No.

5 MR. CHRISTIANSEN: Okay. And the last  
6 person, Ms. Graf -- will you hand that right in  
7 front of you to Ms. Graf.

8 Ms. Graf, you haven't had to answer for  
9 two days. I'm just giving you a couple of  
10 questions today.

11 PROSPECTIVE JUROR NO. 11-0940: I know.  
12 I was hoping.

13 Okay. Caroline Graf, Badge No. 11-0940.

14 MR. CHRISTIANSEN: Same type of  
15 questions I asked to Ms. Gagliano and Mr. Dail.

16 You, at some point in your life, were  
17 involved in an incident with a bicycle --

18 PROSPECTIVE JUROR NO. 11-0940: Yes.

19 MR. CHRISTIANSEN: -- where it sounds  
20 like the boy got a bloody nose but was otherwise  
21 just fine?

22 PROSPECTIVE JUROR NO. 11-0940: Yes.

23 MR. CHRISTIANSEN: This is a case where  
24 a bicycle is involved, and it's not a traffic  
25 accident case.

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1           You understand that?

2           PROSPECTIVE JUROR NO. 11-0940: Yes.

3           MR. CHRISTIANSEN: Anything about the  
4 youth that ran into your car and got a bloody nose  
5 that's going to cause you to try to make this into  
6 a traffic accident case?

7           PROSPECTIVE JUROR NO. 11-0940: No. I  
8 was, like, 17 when that happened.

9           MR. CHRISTIANSEN: Okay. Great.

10          PROSPECTIVE JUROR NO. 11-0940: I barely  
11 remember.

12          MR. CHRISTIANSEN: I just needed to  
13 check. Like the other individuals, you'd had an  
14 incident that sort of resembled this one.

15          Everybody gets a fair, even playing  
16 field?

17          PROSPECTIVE JUROR NO. 11-0940: Yes.

18          MR. CHRISTIANSEN: I touched on with you  
19 all just briefly -- and then we got sort of the  
20 new batch, and so I stopped so I can do it all at  
21 once again -- the idea of punitive damages,  
22 damages to punish a defendant for conduct that the  
23 judge will tell you is punishable. It's not up to  
24 me. It's up to Her Honor.

25          Has anybody heard of the notion of

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1 punitive damages, damages to punish as opposed to  
2 compensate?

3 Mr. Richardson, I know you have.

4 Anybody else?

5 Ms. Adams-Reeves?

6 PROSPECTIVE JUROR NO. 11-0999: Yes.

7 MR. CHRISTIANSEN: You want to hand her  
8 the mic.

9 PROSPECTIVE JUROR NO. 11-0999: Janelle  
10 Reeves, 11-0999.

11 MR. CHRISTIANSEN: And what are your  
12 feelings about punitive damages?

13 PROSPECTIVE JUROR NO. 11-0999: Again,  
14 that will come down to anything that is proven  
15 because -- the one case I remember from my dad  
16 working on it, it was a defective propane tank on  
17 an RV and unfortunately blew somebody up.

18 Was the company responsible for that or  
19 not? I don't know. Was it because they failed to  
20 do anything that was already set forth? That  
21 makes it -- that's where I would see punishment  
22 would come in.

23 They were told these safety functions  
24 have to be here. If they don't follow it, then  
25 they're punitive.

1           If we're finding out things should be  
2 put in because of an accident, that's not.

3           MR. CHRISTIANSEN: Okay. Well, I'm not  
4 going to try to tell you what the law is. Her  
5 Honor is going to do that at the end of the case.

6           But generally, folks, the first part of  
7 the trial is called the compensatory part of the  
8 case. And that is whether or not the defendant is  
9 responsible -- "liable" is the word us lawyers  
10 use -- and, if so, how much are the compensatory  
11 damages.

12           Also, you will hear evidence and  
13 argument about punitive damages. And those are  
14 damages to punish a defendant for conduct the  
15 judge will define for you.

16           If you agree that that conduct has been  
17 proven by a different standard, clear and  
18 convincing evidence, then we start a different  
19 portion of the trial to determine what's an  
20 appropriate amount to deter or punish a defendant.

21           Everybody sort of understand how it  
22 works? Did I explain it decent enough?

23           Anybody have a problem with punitive  
24 damages or the notion of potentially considering  
25 punitive damages?

1 I need to make sure -- both sides need  
2 to make sure the jurors can be fair and impartial  
3 on that issue as well.

4 So, if you would, back over your left  
5 shoulder to Mr. Green, who raised his hand early  
6 on about tort reform. And so maybe I'll start  
7 with him.

8 PROSPECTIVE JUROR NO. 11-0855: Ronald  
9 Green, 11-0855.

10 MR. CHRISTIANSEN: Mr. Green, how do you  
11 feel about punitive damage awards?

12 PROSPECTIVE JUROR NO. 11-0855: I don't  
13 have a feeling about punitive.

14 MR. CHRISTIANSEN: Okay. I'll back up  
15 because I remember you did raise your hand when I  
16 started talking about tort reform, and I think you  
17 may have answered in the affirmative in your  
18 questionnaire.

19 PROSPECTIVE JUROR NO. 11-0855: The  
20 reason I feel caps would be fair is that there's a  
21 structure to it. And I think that most of us,  
22 when it comes to emotions, have trouble evaluating  
23 emotions, loss of a person that they cared deeply  
24 about. I don't know if we can put a price upon  
25 that. But with caps, it would be a structure.

1           MR. CHRISTIANSEN: Okay. So if you were  
2 making the laws in the state that you resided in,  
3 you'd put caps on awards for compensatory damages?

4           PROSPECTIVE JUROR NO. 11-0855: I think  
5 that would smoothen out a little bit the system.  
6 It would be something that would have to be  
7 decided on by the people.

8           But at the same time, I'm not a lawyer.  
9 I'm not a politician. I would hate to be in that  
10 situation.

11           I actually felt so troubled by your  
12 questioning yesterday that it's played on my mind  
13 that I believe this and how do I be fair to the  
14 plaintiffs. It troubled me greatly.

15           MR. CHRISTIANSEN: I asked a million  
16 questions yesterday, so you got to narrow it  
17 down --

18           PROSPECTIVE JUROR NO. 11-0855: This  
19 particular question that would I be able to -- I  
20 put my hand up at the time, but you didn't come  
21 back to me.

22           MR. CHRISTIANSEN: Sorry.

23           PROSPECTIVE JUROR NO. 11-0855: Would I  
24 be fair to the plaintiffs in giving the amount  
25 requested as compensatory damages? You know,

1 would I be that person that could -- yes, I think  
2 they're right and they deserve this amount of  
3 money. I don't know whether -- I felt guilt that  
4 I haven't come to you and to Her Honor and said I  
5 don't feel I'm this person that is right for this  
6 case. I don't know whether I am.

7 MR. CHRISTIANSEN: Okay. Don't --  
8 that's why we're doing this. That's why I came  
9 back to you today. I didn't know it weighed on  
10 you heavy, but I appreciate your candor. It  
11 sounds like it did weigh on you.

12 PROSPECTIVE JUROR NO. 11-0855: It  
13 weighed on me greatly.

14 MR. CHRISTIANSEN: And it sounds like,  
15 because of your beliefs about caps, that you're  
16 concerned that you -- knowing that there are no  
17 caps, that you could fairly and impartially sit as  
18 a juror in this case?

19 PROSPECTIVE JUROR NO. 11-0855: I  
20 believe that I'm not a good juror for this case  
21 because I -- you know, I empathize with the  
22 plaintiffs. I don't know whether I am a person  
23 that would be awarding them, if they should win  
24 the case, correctly.

25 MR. CHRISTIANSEN: And that's -- that

1 stems not from anything bad; it just stems from  
2 beliefs you've had for a long period of time.  
3 Right?

4 PROSPECTIVE JUROR NO. 11-0855: I'm a  
5 very structured person.

6 MR. CHRISTIANSEN: And it stems a bit  
7 out of sort of that analogy you told me on day one  
8 whereas -- you know, I won't do it as good as  
9 you -- people jump and they want to stay in the  
10 air for a second, but they have to basically stay  
11 inside to be safe from everything. You remember  
12 telling me that? Maybe you told Judge Escobar  
13 that. I don't recall. Do you remember saying  
14 that?

15 PROSPECTIVE JUROR NO. 11-0855: Yes.

16 MR. CHRISTIANSEN: You think that caps  
17 should apply in cases like this?

18 PROSPECTIVE JUROR NO. 11-0855: I think  
19 that it would actually make the system run  
20 smoother. I don't know whether it's going to  
21 improve it. I'm not a lawyer.

22 MR. CHRISTIANSEN: Understood. And  
23 you're entitled to your beliefs. And there's  
24 nothing wrong with having beliefs. And because of  
25 your beliefs that caps should apply, as I hear



1 you, you don't think you can be fair to the  
2 plaintiffs in this particular case where a large  
3 award is going to be requested?

4 PROSPECTIVE JUROR NO. 11-0855: It  
5 troubles me greatly.

6 MR. CHRISTIANSEN: And you certainly  
7 can't promise us that you're going to be fair and  
8 impartial because it's still weighing on your  
9 mind?

10 PROSPECTIVE JUROR NO. 11-0855: Yes.

11 MR. CHRISTIANSEN: Okay. If you happen  
12 to be seated or know somebody that was seated at  
13 plaintiffs' table making such a request, you  
14 wouldn't want a juror like yourself on the panel,  
15 would you?

16 PROSPECTIVE JUROR NO. 11-0855: I  
17 wouldn't.

18 MR. CHRISTIANSEN: May we approach, Your  
19 Honor?

20 THE COURT: Yes.

21 (A discussion was held at the bench,  
22 not reported.)

23 THE COURT: Okay. We're going to take a  
24 20-minute break. And I would like -- is it  
25 Mr. Green? -- Mr. Green and Mr. Arteaga to stay.

1 And I'm going to redo the admonition. My voice is  
2 getting too soft.

3           You are instructed not to talk with each  
4 other or with anyone else about any subject or  
5 issue connected with this trial. You are not to  
6 read, watch, or listen to any report of or  
7 commentary on the trial by any person connected  
8 with this case or by any medium of information,  
9 including, without limitation, newspapers,  
10 television, the internet, or radio.

11           You are not to conduct any research on  
12 your own relating to this case, such as consulting  
13 dictionaries, using the internet, or using any  
14 reference materials. You are not to conduct any  
15 investigation, test any theory of the case,  
16 re-create any aspect of the case, or in any other  
17 way investigate or learn about the case on your  
18 own.

19           You are not to talk with others, text  
20 others, tweet others, message others, google  
21 issues, or conduct any other kind of book or  
22 computer research with regard to any issue, party,  
23 witness, or attorney involved in this case.

24           You are not to form or express any  
25 opinion on any subject connected with this trial

1 until the case is finally submitted to you.

2 We'll take a 20-minute break. Thank  
3 you.

4 THE MARSHAL: All rise.

5 (The following proceedings were held  
6 outside the presence of the jury.)

7 THE COURT: Mr. Arteaga?

8 THE MARSHAL: Please be seated. Come to  
9 order.

10 THE COURT: Mr. Arteaga, I'm going to  
11 excuse you. Okay? I do suggest that the next  
12 time you -- I understand you have a lot on your  
13 mind, but this is a very serious system. It's  
14 very, very important to the parties, to our  
15 judicial system, and perhaps even one day to you.  
16 You know?

17 So the next time that you get called for  
18 jury duty, I do encourage you strongly to please  
19 try to pay attention. Okay? I think that that's  
20 not too much to ask of you or anyone else that's  
21 here.

22 I wish you the best. All right? So  
23 please go to the jury services.

24 PROSPECTIVE JUROR NO. 11-1056: Thank  
25 you.

1 THE COURT: Thank you. All right.

2 MR. KEMP: Your Honor, can I ask who  
3 we're putting in that seat first? Who's next?

4 THE COURT: Who is going to be placed in  
5 that seat?

6 THE CLERK: I'm trying to find that  
7 right now. It will be Badge 11-1133.

8 MR. KEMP: Thank you.

9 THE CLERK: That's Franky Luo.

10 THE COURT: Okay. First of all, I'd  
11 like to thank you for your candor. It's very  
12 important. And you're following all of the  
13 instructions I've given you, so that's very good,  
14 Mr. Green. I think the attorneys would like to  
15 ask you a few more questions perhaps. Thank you.

16 We're on the record, so I do need you to  
17 use the mic. Thank you.

18 PROSPECTIVE JUROR NO. 11-0855: I have  
19 the microphone. Do you want me to start back with  
20 my name again?

21 THE COURT: Yes, please.

22 PROSPECTIVE JUROR NO. 11-0855: Ronald  
23 Green, Badge No. 11-0855.

24 THE COURT: Mr. Roberts, go on.

25 MR. ROBERTS: Thank you so much.

1           Mr. Green, Lee Roberts, attorney for the  
2 defendant.

3           I'd like to first say, I agree with  
4 Mr. Christiansen, we both want jurors who can be  
5 fair to both sides. But I want to ask you a few  
6 questions just so I can better understand your  
7 concern so that the Court can make a decision on  
8 that.

9           First of all, you expressed a concern  
10 about whether you could consider fairly an award  
11 in the millions; is that correct?

12           PROSPECTIVE JUROR NO. 11-0855: Yes.

13           THE COURT: Please speak a little bit  
14 louder.

15           PROSPECTIVE JUROR NO. 11-0855: Yes.

16           THE COURT: Thank you.

17           MR. ROBERTS: So let's talk first --  
18 Mr. Christiansen talked about compensatory  
19 damages. There are several kinds of compensatory  
20 damage. One is economic damage.

21           So let's say, if someone committed arson  
22 and burnt down a building that was worth a billion  
23 dollars, would you have any trouble making an  
24 award of a billion dollars if you thought the  
25 value of that building had been proven?

1           PROSPECTIVE JUROR NO. 11-0855: I think  
2 I could come to that agreement, yes.

3           MR. ROBERTS: So the fact that it's a  
4 lot of money would be okay if you felt comfortable  
5 it had been proven by the evidence, correct, as  
6 far as economic damages go?

7           PROSPECTIVE JUROR NO. 11-0855: On the  
8 economic damages, but I'm logistically saying I  
9 don't know how anybody would ever pay back a  
10 billion dollars if they burnt down a structure and  
11 they were worth zero dollars. So what would be  
12 the use of this?

13           I said before, I feel I'm a very  
14 structured person. So something that doesn't make  
15 logical sense, I have trouble with that. Why  
16 would they award somebody -- I mean, because he  
17 would hopefully be going to prison for this, how  
18 would he ever have a chance of paying back a  
19 billion dollars? It's just -- it doesn't make  
20 sense to me.

21           MR. ROBERTS: Well, let's say it's a  
22 product defect case like this, and someone proved  
23 economic damages to you that was tens of millions.  
24 Would you be comfortable awarding that if you felt  
25 it had been proven more likely than not that that

1 was the economic loss?

2 PROSPECTIVE JUROR NO. 11-0855: On the  
3 economic loss? Well, the way it was explained to  
4 me -- and so this furthered my doubt about  
5 myself -- was that it was upon what a person  
6 probably could make over a term of years. And  
7 that, again, can't be logically explained because,  
8 you know, you're saying, in the sense of a doctor,  
9 makes X amount of dollars per year and could maybe  
10 work for the next 30 years. But this is not  
11 probable in the sense that life doesn't work that  
12 way. So it's illogical to look at that aspect of  
13 it.

14 MR. ROBERTS: So are you open to the  
15 fact that they could put on an expert economist  
16 who could talk about statistics and probability  
17 and life expectancy, and would you be open to  
18 considering his evidence and whether you were  
19 satisfied that the case was proven?

20 PROSPECTIVE JUROR NO. 11-0855: I would  
21 have trouble believing it. If you're looking at  
22 it from my point of view that -- I don't believe  
23 that, because the man was killed in an accident,  
24 what was to say that the next day this same  
25 scenario played out?

1           So this type of logic doesn't make sense  
2 to me because it's not been my life experience  
3 that everything works out in this type of way.  
4 And just like his wife died two months later. I  
5 feel so horrible for these folks, but, at the same  
6 time, that had nothing to do with the accident per  
7 se in the sense of what -- the way I see it, she  
8 had an illness, it was explained to me.

9           But I won't go on further into the case.  
10 It's like talking about the future. To me, one of  
11 the saying, if you can look back, you've got 20/20  
12 vision. Looking forward is very murky. And so  
13 from an economist's point of view, such as a  
14 doctor, if he had a malpractice lawsuit, how is he  
15 going to make that same amount of money over the  
16 next 30 years?

17           So I have trouble believing in that type  
18 of economies because life is -- can be very  
19 difficult to prove in that sense.

20           MR. CHRISTIANSEN: You remember  
21 Mr. Christiansen explained to you the standard --  
22 or the preponderance of the evidence standard, the  
23 more likely than not standard?

24           PROSPECTIVE JUROR NO. 11-0855: I  
25 believe that too. I didn't really -- I thought



1 for -- like, in negligence and then gross  
2 negligence, there's negligence of, you know, the  
3 1 percent. But then gross negligence would be --  
4 and he explained it further on, and I didn't know  
5 that -- that when we went into the punishment  
6 side, that that would turn into -- and I can't  
7 remember the phrase he used -- that he used --  
8 and -- oh, that would be a higher standard.

9 MR. ROBERTS: And the Court would  
10 explain to you the higher standard to punish  
11 someone and award more than what's necessary to  
12 compensate for their loss.

13 Let's go back to your feelings about how  
14 there's a lot of chance moving forward. You  
15 understand I could go look at a life expectancy  
16 table and say, "More likely than not, I'm going to  
17 live 27 years." So it's not more likely than not  
18 that I would die before that.

19 So it's just statistics. It's that more  
20 likely than not is the standard we're going to be  
21 using. If you think about everything in terms of  
22 more likely than not, does that make it easier to  
23 see how you'd make a decision?

24 It doesn't have to be certain, random  
25 things could happen, but you're applying more

1 likely than not what would have happened if not  
2 for this accident. Are you comfortable with that?  
3 Does that make you feel any better?

4 PROSPECTIVE JUROR NO. 11-0855: Not  
5 really, no, because we were talking about caps and  
6 awards where I felt that I'm the type of person  
7 that would appreciate that there's caps set.

8 Like, I hate to put a dollar amount on a  
9 finger, a dollar amount on a thumb, a dollar  
10 amount on an elbow, knee, ankle, whatever. But  
11 sometimes I think, in situations like this, a loss  
12 of a limb, and then how do you put a price on the  
13 loss of a child? You know, where do those lines  
14 go?

15 And I think emotion plays in that,  
16 because what I would say is a value that would be  
17 correct and right, who am I to think that, because  
18 I don't know -- I can't put it in perspective.

19 MR. ROBERTS: And you understand that  
20 Nevada doesn't have caps; right?

21 PROSPECTIVE JUROR NO. 11-0855: I  
22 understand that.

23 MR. ROBERTS: And so the cap is the  
24 enlightened conscience of each and every juror  
25 sits to judge in the case.

1           And did you hear Ms. Graf say that she  
2           doesn't have a cap in her mind now? She has to  
3           hear the evidence. And once she's heard the  
4           evidence, she wouldn't award more than was  
5           reasonable, but she was willing to award what she  
6           in her heart felt was reasonable based on the  
7           evidence she heard. You understand that?

8           PROSPECTIVE JUROR NO. 11-0855: I  
9           believe that's --

10          MR. ROBERTS: As you sit here today, are  
11          you okay saying, "This is the amount I think is  
12          reasonable and nothing more," but yet you don't  
13          have a dollar amount until you hear the facts?

14          PROSPECTIVE JUROR NO. 11-0855: I felt  
15          that I would be a person that wasn't able to say  
16          millions of dollars. It just seemed like that was  
17          not something that would be in my thought process.

18          MR. ROBERTS: No matter what the  
19          evidence?

20          PROSPECTIVE JUROR NO. 11-0855: Just for  
21          loss of a life, for the children, I don't think  
22          there is an amount of dollars available. But at  
23          the same time, what would be awarded against  
24          another person or in your position in the company,  
25          I'm not sure whether I would be looking at high

1 dollars amounts that was being asked about.

2 I felt like I'm -- you know, I'm not in  
3 that kind of person that would say, oh, you  
4 know -- I guess where it goes into the frivolous  
5 lawsuits, where the \$30 million for a cup of  
6 coffee that burned a lady, it kind of upsets me  
7 that -- I don't want to put this on an equivalent  
8 level, but, at the same time, I felt very  
9 strongly. And I almost asked the bailiff if I  
10 could speak to you folks on my own and say what I  
11 said because I felt that I wasn't right for this  
12 because I couldn't see the millions of dollars  
13 that were being spoken about yesterday, and the  
14 question played on my mind since yesterday.

15 MR. ROBERTS: Just a second, Your Honor.  
16 Court's indulgence?

17 THE COURT: Sure.

18 MR. ROBERTS: Thank you.

19 As you sit here, do you think that, as  
20 things have been explained to you by plaintiffs'  
21 counsel, that, if they prove this, that we're  
22 liable for this accident, they're automatically  
23 entitled under the law to tens of millions? Is  
24 that what you think?

25 PROSPECTIVE JUROR NO. 11-0855: No. I