

Case No. 79424

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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

DESIRE EVANS-WAIAU,  
individually; GUADALUPE PARRA-  
MENDEZ, individually,

Appellants,

vs.

BABYLYN TATE, individually,

Respondent.

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Elizabeth A. Brown  
Clerk of Supreme Court

**APPEAL**

From the Eighth Judicial District Court, Clark County  
The Honorable Mary Kay Holthus, District Judge  
District Court Case No. A-16-736457-C

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1 PROSPECTIVE JUROR NO. 245: Yes.

2 MR. PRINCE: Tell me what you think.

3 PROSPECTIVE JUROR NO. 245: Well, because it's like  
4 a lot of people -- and I've heard it, and it irritates me, but  
5 I hear, just sue. You know what, I could sue them. It don't  
6 matter. All I have to do is get an attorney. Let them fight  
7 it out.

8 And again, it's not my personal way of doing things.  
9 But that's --

10 MR. PRINCE: What do you mean by that, it's not your  
11 personal way of doing. What does that mean?

12 PROSPECTIVE JUROR NO. 245: Well, if I get injured  
13 -- I've been injured. I didn't sue.

14 MR. PRINCE: How? Tell me how. Oh, okay.  
15 [inaudible].

16 PROSPECTIVE JUROR NO. 245: I had a parachute  
17 accident. I broke my back, 12th vertebra. I didn't sue. I  
18 took the -- even though it was not necessarily my fault, but I  
19 take responsibility, but I have broken my back.

20 MR. PRINCE: Okay.

21 PROSPECTIVE JUROR NO. 245: Yes. But I didn't file  
22 a lawsuit.

23 MR. PRINCE: All right. All right.

24 Was there a problem with the parachute opening or  
25 the -- you know --

1 PROSPECTIVE JUROR NO. 245: No.

2 MR. PRINCE: -- or the instruction or --

3 PROSPECTIVE JUROR NO. 245: The -- the instructor.

4 MR. PRINCE: Okay.

5 PROSPECTIVE JUROR NO. 245: The instructor, the day  
6 we went out --

7 MR. PRINCE: Okay.

8 PROSPECTIVE JUROR NO. 245: -- there had been some  
9 weather conditions. We should not have jumped. I questioned  
10 it. He's the instructor. There was some drinking from the  
11 instructor, should not have occurred.

12 MR. PRINCE: No.

13 PROSPECTIVE JUROR NO. 245: But again, I chose --

14 MR. PRINCE: Why did you make that choice? Tell me  
15 why you made that choice.

16 PROSPECTIVE JUROR NO. 245: Because it was the only  
17 way to get out of the plane.

18 MR. PRINCE: Oh, okay.

19 PROSPECTIVE JUROR NO. 245: Was to jump.

20 MR. PRINCE: Oh. Well, why did you chose not to do  
21 anything? I guess, [inaudible] injury.

22 PROSPECTIVE JUROR NO. 245: Oh, it's just --  
23 accidents happen. I mean, and I'm saying that to me that  
24 happened, it was a combination of whether the wind sheer for  
25 what my accident, the way it happened --

1 MR. PRINCE: Okay.

2 PROSPECTIVE JUROR NO. 245: -- my chute opened, it  
3 closed. I got it back open. Around 350 feet, it closed  
4 again. It was a streamer. I hit the ground, bam. Okay, it  
5 happened, you know, so.

6 MR. PRINCE: All right. And you made the choice not  
7 to hire a lawyer?

8 PROSPECTIVE JUROR NO. 245: Correct.

9 MR. PRINCE: Okay. Did you feel you had a -- you  
10 know, a basis for a case if you wanted one? I'm like, I just  
11 -- he just chose -- hey, I think he's at fault and contributed  
12 to this happening and I'm just choosing not to hire a lawyer.  
13 Is that -- I'm not that kind of -- I don't like to sue, I  
14 don't think people should sue.

15 Tell me what your thoughts were.

16 PROSPECTIVE JUROR NO. 245: I mean, it was -- at  
17 that time, I took it as it was my choice in --

18 MR. PRINCE: Okay.

19 PROSPECTIVE JUROR NO. 245: -- jumping out of the  
20 plane.

21 MR. PRINCE: Okay.

22 PROSPECTIVE JUROR NO. 245: Yes, there was  
23 contributing factors.

24 MR. PRINCE: Okay.

25 PROSPECTIVE JUROR NO. 245: But my choice -- it was,



1 again, my choice --

2 MR. PRINCE: Yeah.

3 PROSPECTIVE JUROR NO. 245: -- not to sue.

4 MR. PRINCE: Okay.

5 PROSPECTIVE JUROR NO. 245: I think there was a  
6 panic among everybody that oh my God, is she going to sue us,  
7 but --

8 MR. PRINCE: Okay. All right.

9 PROSPECTIVE JUROR NO. 245: You know.

10 MR. PRINCE: Well, I think your neighbor, Ms. -- is  
11 it Cundiff? She was -- you were shaking your head about  
12 lawyer advertising.

13 How do you feel about lawyer advertising? Does it  
14 affect you one way or the other?

15 PROSPECTIVE JUROR NO. 244: Well, to me it's a  
16 little cheesy. I mean, you know, it's just --

17 MR. PRINCE: Um-hum.

18 PROSPECTIVE JUROR NO. 244: -- like they're a dime a  
19 dozen out there and they're just -- they obviously can't get  
20 clientele so they have to go out there and put all these  
21 advertisements out.

22 I think if you're a good enough attorney you  
23 shouldn't have to advertise like that.

24 MR. PRINCE: Okay.

25 UNIDENTIFIED PROSPECTIVE JUROR: [Inaudible].

1 PROSPECTIVE JUROR NO. 244: Oh, by word of mouth.

2 MR. PRINCE: Okay. And so do you think that lawyer  
3 advertising has an affect on how you believe, how you feel  
4 about personal injury lawsuits and the civil justice system?  
5 Do you -- does it affect you in any way?

6 PROSPECTIVE JUROR NO. 244: Well, it's almost like  
7 they're promoting it, like you know?

8 MR. PRINCE: Uh-huh. Yeah, and I guess I'm having  
9 this discussion. I'm just -- I'm going to try to find out how  
10 you feel because I -- many jurors feel that way and I need --  
11 we need to know that information.

12 And I guess as I keep seeing it and it feels like  
13 it's kind of escalating. And so like, I don't want my clients  
14 to be affected by that, I want the case judged on its merit,  
15 not you know, but some people are like -- they're just  
16 overwhelmed --

17 PROSPECTIVE JUROR NO. 244: I mean, I don't --

18 MR. PRINCE: -- by lawyer advertising --

19 PROSPECTIVE JUROR NO. 244: -- buy into it --

20 MR. PRINCE: -- and they're sick of it.

21 PROSPECTIVE JUROR NO. 244: -- but there are a lot  
22 of people that do.

23 MR. PRINCE: What's that? Okay.

24 PROSPECTIVE JUROR NO. 244: The -- all the  
25 advertisement stuff, you know, they get -- they get all

1 excited like, oh, well, you know, they say just go get this  
2 attorney, get that attorney, you know.

3 MR. PRINCE: Yeah. Does it --

4 PROSPECTIVE JUROR NO. 244: I just --

5 MR. PRINCE: -- affect how you feel about personal  
6 injury lawsuits generally?

7 PROSPECTIVE JUROR NO. 244: No. But you know, I've  
8 never been -- you know, I've never been hurt so, you know, I'm  
9 not on that side of the fence.

10 MR. PRINCE: Yeah. Let's -- let's say you were  
11 hurt. I mean, do you think you mean how am I going to --  
12 who's going to pay for my needed fixed, what if I need a  
13 rental car, what if I have medical expenses? I mean, you may  
14 have questions, right?

15 PROSPECTIVE JUROR NO. 244: Yeah.

16 MR. WINNER: I think that's a golden rule objection,  
17 Your Honor, asking the juror to place herself in the place of  
18 the plaintiff.

19 MR. PRINCE: No, I'm not asking. I mean --

20 THE COURT: Ask it again.

21 MR. PRINCE: No, I mean -- I mean, you could see  
22 reasons why you might need to hire a lawyer, because some  
23 people here said they've hired lawyers.

24 PROSPECTIVE JUROR NO. 244: Right.

25 MR. PRINCE: You may have questions about what's

1 going to happen to my car, and the medical expenses, who's  
2 going to take -- be responsible for what for me, for what's  
3 happened, right? I mean --

4 PROSPECTIVE JUROR NO. 244: But, you know, then  
5 there's a lot of people out there that just -- they're looking  
6 for a fast buck --

7 MR. PRINCE: Hum.

8 PROSPECTIVE JUROR NO. 244: -- and everybody tells  
9 you, well, just get an attorney. It's just too -- it's so  
10 easy. And these insurance companies, you know, they're -- you  
11 know, you hit somebody, they'll -- they'll tell you, well, you  
12 don't have to worry about it. They'll go to court to settle  
13 and then there goes your insurance premium, because everybody  
14 wants to make money.

15 MR. PRINCE: Okay. Do you think that lawyers who  
16 advertise on personal injuries are greedy in general; do you  
17 think that? And it's kind of -- and it's making the system,  
18 you know, harder for everybody else, it's driving up insurance  
19 rates; do you feel that?

20 PROSPECTIVE JUROR NO. 244: A little bit.

21 MR. PRINCE: Do you? Yeah, I mean, and sometimes  
22 you don't really think about how you feel until you --

23 PROSPECTIVE JUROR NO. 244: I mean, there --

24 MR. PRINCE: -- these questions are asked of you. I  
25 mean, that's why I said, you're going to -- you'll probably

1 think even more thoughts as we go through this discussion.

2 But so as you sit here right now do you -- how do  
3 you feel?

4 PROSPECTIVE JUROR NO. 244: Well, I feel like there  
5 are some really legitimate cases out there, but there is a lot  
6 of -- that shouldn't be, you know? That I think there are a  
7 lot of people that are getting paid out for no good reason.

8 MR. PRINCE: Okay. So you think there's frivolous  
9 ones, like people getting money that they shouldn't receive;  
10 they're not entitled to?

11 PROSPECTIVE JUROR NO. 244: Absolutely.

12 MR. PRINCE: Okay. Do you think lawyer advertising  
13 has an effect on that?

14 PROSPECTIVE JUROR NO. 244: Maybe, some.

15 MR. PRINCE: Okay.

16 PROSPECTIVE JUROR NO. 244: You know, everybody  
17 perceives, you know, advertisement differently, you know?

18 MR. PRINCE: Right.

19 PROSPECTIVE JUROR NO. 244: Myself, I don't -- like  
20 I said, I don't buy into it. If something happened to me, I  
21 don't think I'd be, you know, calling the first person out  
22 there. I would have to sit and analyze it a little bit and --

23 MR. PRINCE: Okay. Okay.

24 And can you hand the microphone to Ms. Fischer?

25 To the -- you're -- clear to the front.

1 UNIDENTIFIED PROSPECTIVE JUROR: There you go.

2 Sorry.

3 MR. PRINCE: I'm coming back to you, Ms. Pronti.

4 PROSPECTIVE JUROR NO. 243: Well, I don't know why.

5 MR. PRINCE: I saw you nodding your head when I  
6 asked about the -- the question about the lawyer advertising  
7 and Ms. Reeves, you kind of shook your head.

8 And do you think there's too much lawyer  
9 advertising?

10 PROSPECTIVE JUROR NO. 295: I don't pay any  
11 attention to it. How about that.

12 MR. PRINCE: Okay. No, that's fair.

13 The reason why I asked the question, because some  
14 jurors are bothered by it, when we ask you to go through these  
15 questions, they bring it up a lot and they're -- they have  
16 lots of concerns about it. And -- many jurors, not all  
17 jurors, but many jurors.

18 PROSPECTIVE JUROR NO. 295: I find life humorous  
19 usually and I laugh at most of the commercials that I see.

20 MR. PRINCE: Okay.

21 PROSPECTIVE JUROR NO. 295: But I have some.

22 MR. PRINCE: Why do think they're humorous? Tell me  
23 why [inaudible]?

24 PROSPECTIVE JUROR NO. 295: Probably one my favorite  
25 one -- I can't even remember what his name is, he's big here

1 in town. It's during a football game, and he's running down  
2 the street and he's chasing an ambulance.

3 MR. PRINCE: Okay.

4 PROSPECTIVE JUROR NO. 295: Do you guys know who  
5 that is?

6 MR. PRINCE: I think I do.

7 PROSPECTIVE JUROR NO. 295: Okay.

8 MR. PRINCE: Okay. So what -- I mean, other than  
9 kind of like -- I mean, it was kind of just funny because it's  
10 just funny and laughable. But I guess, does it affect you and  
11 how you feel about personal injury cases, or you know, people  
12 who make personal injury claims or bring, you know, a case to  
13 court like this that's involving personal injuries?

14 PROSPECTIVE JUROR NO. 295: I don't know enough  
15 about this case to say if it would, correct.

16 MR. PRINCE: No, you don't know anything, right?

17 PROSPECTIVE JUROR NO. 295: Yeah, right.

18 MR. PRINCE: Right.

19 PROSPECTIVE JUROR NO. 295: No. Okay. I think  
20 attorneys should be held responsible for frivolous cases.

21 A long time ago, the McDonald's issue where a woman  
22 ordered coffee at a drive-through.

23 MR. PRINCE: Right.

24 PROSPECTIVE JUROR NO. 295: It spills in her lap.  
25 It's hot and it burns her and she sues. I think that's wrong.

1 MR. PRINCE: Tell me what was wrong about it. Tell  
2 me what you feel is wrong about it.

3 PROSPECTIVE JUROR NO. 295: Now, if you ordered  
4 coffee, do you know that coffee is going to be hot? Are you  
5 ordering a cold coffee or are you ordering a hot coffee?

6 If she had asked for a cold coffee and she received  
7 a hot coffee, then maybe that would be somebody else's fault  
8 [inaudible].

9 MR. PRINCE: Right. So you're thinking that, hey,  
10 that case is way out here, or that -- and that jury just  
11 wanted to be crazy. All right. So, I mean, they awarded her  
12 like \$8 million.

13 PROSPECTIVE JUROR NO. 295: The attorney --

14 MR. PRINCE: It was a big --

15 PROSPECTIVE JUROR NO. 295: -- that case --

16 MR. PRINCE: -- number -- it was a --

17 PROSPECTIVE JUROR NO. 295: They should not have  
18 taken that case.

19 MR. PRINCE: Most people -- many people who have  
20 this discussion, they'll bring up the McDonald's coffee case.

21 PROSPECTIVE JUROR NO. 295: It hasn't come up.

22 MR. PRINCE: But hey, you know, this -- because it's  
23 just so far out. It feels so far out there.

24 PROSPECTIVE JUROR NO. 295: Yeah. Yeah.

25 MR. PRINCE: Yeah. Do you feel there's too many



1 frivolous lawsuits?

2 PROSPECTIVE JUROR NO. 295: I couldn't tell you  
3 that. I don't how many lawsuits there are.

4 MR. PRINCE: Do you feel like as you come in here  
5 today that, you know, your feeling about personal injury  
6 lawsuits or lawyer advertising, does it affect how you might  
7 analyze this case?

8 PROSPECTIVE JUROR NO. 295: Only if it was proven to  
9 be frivolous.

10 MR. PRINCE: Tell me what you mean by that. What  
11 would that mean?

12 PROSPECTIVE JUROR NO. 295: Well, it would be  
13 whatever each side's position was.

14 MR. PRINCE: What's frivolous in your mind?

15 PROSPECTIVE JUROR NO. 295: Um, I don't know, other  
16 than the coffee, right off the top of my head but.

17 MR. PRINCE: Um-hum. Okay.

18 PROSPECTIVE JUROR NO. 295: Things that people don't  
19 take responsibility for themselves on.

20 MR. PRINCE: Okay. So if someone's injured themselves  
21 it's really their own fault or that they cause it, then they  
22 should have kept that responsibility, right?

23 PROSPECTIVE JUROR NO. 295: Yes, they should.

24 MR. PRINCE: But if somebody else caused it, then  
25 that person should be accountable for what they did, right?

1 PROSPECTIVE JUROR NO. 295: Certainly.

2 MR. PRINCE: If you break it, you have to pay for  
3 it.

4 PROSPECTIVE JUROR NO. 295: That's correct.

5 MR. PRINCE: Do you believe in that?

6 PROSPECTIVE JUROR NO. 295: Yes, I do.

7 MR. PRINCE: Who else -- we're really talking bout  
8 lawyer advertising. Who has -- Ms. White -- can you hand the  
9 microphone one back.

10 How do you feel about lawyer advertising? Do you  
11 have any feelings one way or the other about it?

12 PROSPECTIVE JUROR NO. 248: Well, it certainly gets  
13 their name out for sure.

14 MR. PRINCE: For sure. It's marketing. It's  
15 branding. It's all those things.

16 PROSPECTIVE JUROR NO. 248: Right.

17 MR. PRINCE: Um-hum.

18 PROSPECTIVE JUROR NO. 248: But I did fall coming  
19 out of the Smith Center. I broke my foot. It was dark.  
20 There was a lot of gravel there. You know, I got myself to my  
21 car and I drove myself to the ER the next day. I didn't sue  
22 anybody.

23 MR. PRINCE: Okay.

24 PROSPECTIVE JUROR NO. 248: But it was a public  
25 place, you know what I mean? The patrons actually pay for it

1 through insurance premiums, etcetera. And I just didn't think  
2 it was right. I thought it was best I took care of it myself.

3 MR. PRINCE: What didn't you think was right about  
4 if you -- you know, pursued a case or a claim in the -- the  
5 Smith --

6 PROSPECTIVE JUROR NO. 248: Yeah.

7 MR. PRINCE: -- Center?

8 PROSPECTIVE JUROR NO. 248: Yeah.

9 MR. PRINCE: I'm sorry?

10 PROSPECTIVE JUROR NO. 248: I didn't feel it was  
11 right to pursue a claim against the Smith Center.

12 MR. PRINCE: Why did you feel that way?

13 PROSPECTIVE JUROR NO. 248: Because it's a public  
14 institution.

15 MR. PRINCE: Okay.

16 PROSPECTIVE JUROR NO. 248: And the public can  
17 hardly keep things like that open and alive today, at best.

18 MR. PRINCE: Okay.

19 PROSPECTIVE JUROR NO. 248: Without a lot of  
20 donations and support.

21 MR. PRINCE: But if it was -- let's say it's a  
22 hotel. Forget the Smith Center.

23 PROSPECTIVE JUROR NO. 248: Oh, then, yeah, let's  
24 just go for it. No, no, no, no.

25 MR. PRINCE: No, no. That's not -- [inaudible] that

1 was my -- that was my point.

2 PROSPECTIVE JUROR NO. 248: Yeah.

3 MR. PRINCE: So that concern is taken away, now.

4 It's just -- it's not probably --

5 PROSPECTIVE JUROR NO. 248: Probably --

6 MR. PRINCE: -- [inaudible].

7 PROSPECTIVE JUROR NO. 248: -- I would take care of

8 myself if I wasn't dying, yeah. I mean --

9 MR. PRINCE: [Inaudible].

10 PROSPECTIVE JUROR NO. 248: -- which -- depending on

11 the severity of the injury, for sure. But if I'm going to

12 heal from it and I'm going to be able to walk pretty well, I

13 guess I'm -- I'm okay to go.

14 MR. PRINCE: Okay. So you yourself is saying,

15 unless it's something [inaudible] --

16 PROSPECTIVE JUROR NO. 248: Okay. But here's one.

17 You know, I did have a lot of employees and I had a guy with a

18 dislocated shoulder, came back from -- had been a war injury.

19 And he put the shoulder in and out. He worked for our garage

20 for a couple weeks and then put in a claim.

21 Well, our insurance company, of course, settled for

22 a lot of money, paid for his surgery, etcetera, but it was a

23 preexisting condition.

24 MR. PRINCE: Hum.

25 PROSPECTIVE JUROR NO. 248: But they didn't want to

1 battle it out in court so it cost everybody a lot of money.

2 And I, unfortunately, had to settle a lot of claims  
3 like that that weren't necessarily always just.

4 MR. PRINCE: Okay. So you had worker's  
5 compensation, or worker -- work-related injuries [inaudible]?

6 PROSPECTIVE JUROR NO. 248: Correct.

7 MR. PRINCE: Okay. [Inaudible].

8 PROSPECTIVE JUROR NO. 248: And my employees were  
9 threatened if they would testify against him. And there were  
10 -- you know, they felt their lives were in jeopardy.

11 I didn't feel it was right but the insurance  
12 company, of course, did so -- and so --

13 MR. PRINCE: [Inaudible].

14 PROSPECTIVE JUROR NO. 248: -- we never did go to  
15 trial on it.

16 MR. PRINCE: Okay. Did you feel some of those  
17 claims weren't justified?

18 PROSPECTIVE JUROR NO. 248: I don't think it was  
19 justified. That is true.

20 MR. PRINCE: Okay. So do you have like -- you just  
21 feel that people in general shouldn't be making claims? I  
22 mean, is that your --

23 PROSPECTIVE JUROR NO. 248: I do think that they --

24 MR. PRINCE: -- what's your feeling?

25 PROSPECTIVE JUROR NO. 248: -- need to make claims

1 at times, yeah.

2 MR. PRINCE: Okay.

3 PROSPECTIVE JUROR NO. 248: You know what I mean?

4 But I think that there's a lot of people that decide to happen

5 on somebody innocently today, unfortunately.

6 MR. PRINCE: Okay. So are you skeptical of the

7 justice system -- the civil justice system?

8 PROSPECTIVE JUROR NO. 248: Not necessarily.

9 MR. PRINCE: Okay. Do you have a skepticism of it

10 and [inaudible] --

11 PROSPECTIVE JUROR NO. 248: Somewhat. I think it's

12 a healthy skepticism.

13 MR. PRINCE: Yeah. I mean, the way you described,

14 you know, your own experience would be, which would be unique

15 to you and not everybody's had that [inaudible]. If had --

16 owned a business, I bet people, you know, make claims that I

17 think were justified, they weren't injured on the job, it was

18 preexisting or something unrelated, and meanwhile, we had to

19 pay for it.

20 PROSPECTIVE JUROR NO. 248: Well, the -- yeah.

21 MR. PRINCE: Ultimately, right?

22 PROSPECTIVE JUROR NO. 248: Yeah.

23 MR. PRINCE: And --

24 PROSPECTIVE JUROR NO. 248: I had a woman --

25 MR. PRINCE: -- how --

1           MR. PRINCE:  -- who walked into one of the pits and  
2 she fell, right?  It's marked, it's got caution stuff all  
3 around it.  It's, you know, everything's marked and it's with  
4 safety stuff.  And, you know, she just wasn't watching.  She  
5 was looking at her husband and she like walked right in and  
6 broke a hip.

7           MR. PRINCE:  Okay.

8           PROSPECTIVE JUROR NO. 248:  So we took care of it,  
9 for sure.

10          MR. PRINCE:  Okay.  And what -- when you say we took  
11 care of it, what do you mean by that?

12          PROSPECTIVE JUROR NO. 248:  That means that we paid  
13 for it.

14          MR. PRINCE:  Okay.

15          PROSPECTIVE JUROR NO. 248:  You know through  
16 insurance.

17          MR. PRINCE:  Do feel you're obligated to pay for it,  
18 or not obligated to pay for it?

19          PROSPECTIVE JUROR NO. 248:  Well, it happened on our  
20 premise.  We were obligated to pay for it, so we did.

21          MR. PRINCE:  Okay.  Do you think that experience  
22 affects how you would, you know, participate or how you think  
23 a personal injury case is, and you know, because not everybody  
24 has that experience, as a business owner, or employing people,  
25 or dealing with worker's compensation, work injuries, or

1 people come on your property and get hurt and you have to deal  
2 with claims or lawsuits. It's kind of a unique position  
3 [inaudible].

4 PROSPECTIVE JUROR NO. 248: Well, I think facts say  
5 a lot, you know, and usually that's discovered in the process  
6 of, you know, of trial --

7 MR. PRINCE: Right.

8 PROSPECTIVE JUROR NO. 248: -- of what the facts  
9 are.

10 MR. PRINCE: Right. But just having gone through  
11 that experience, do you think that affects your mindset?

12 PROSPECTIVE JUROR NO. 248: No, I don't think I have  
13 a firm --

14 MR. PRINCE: And how you [inaudible]?

15 PROSPECTIVE JUROR NO. 248: -- mindset against  
16 somebody who's been --

17 MR. PRINCE: Okay.

18 PROSPECTIVE JUROR NO. 248: -- injured.

19 MR. PRINCE: Okay. Now, do you think it has any  
20 affect on your mindset, not that, you know, one could  
21 completely foreclose it, but do you think it has a -- any kind  
22 of an affect on your mindset or your openness to listen to a  
23 case openly and, you know, [inaudible]?

24 PROSPECTIVE JUROR NO. 248: Well, I think I would  
25 listening really closely.



1 MR. PRINCE: Um-hum.

2 PROSPECTIVE JUROR NO. 248: Put it that way.

3 MR. PRINCE: Okay. What do you mean by that?

4 PROSPECTIVE JUROR NO. 248: I -- I would really want  
5 to be hearing things.

6 MR. PRINCE: Okay. You want to see [inaudible]?

7 PROSPECTIVE JUROR NO. 248: And hearing what went  
8 on, hearing, you know, how things were positioned, you know,  
9 if they had preexisting situations prior to that possibly --

10 MR. PRINCE: Right.

11 PROSPECTIVE JUROR NO. 248: -- or not, you know. I  
12 would be listening for sure.

13 MR. PRINCE: Okay.

14 PROSPECTIVE JUROR NO. 248: And I would hope to have  
15 a very open mind.

16 MR. PRINCE: Okay. You were talking -- started the  
17 discussion about the lawyer advertising and if it affects them  
18 and their mindset on how they feel.

19 Has anybody got feelings on lawyer advertising? Who  
20 all has feelings about lawyer advertising?

21 Mr. Tran?

22 PROSPECTIVE JUROR NO. 277: You say you know him for  
23 25-years, right?

24 MR. PRINCE: I do know him.

25 PROSPECTIVE JUROR NO. 277: Okay. The way you guys

1 work, will you guys -- you know, able to represent your client  
2 right? Because you're kind of close with each other. It's  
3 like, I work with another mechanic. I know him.

4 MR. PRINCE: Well, this is my job. This is -- I  
5 have an obligation to Desire and Guadalupe. That's -- this is  
6 my profession.

7 PROSPECTIVE JUROR NO. 277: Yeah, I'm just kind of  
8 -- kind of curious --

9 MR. PRINCE: Yeah, no, I -- [inaudible].

10 PROSPECTIVE JUROR NO. 277: -- one [inaudible].

11 MR. PRINCE: Yeah, no I -- just because we know each  
12 other doesn't mean we're -- we're not going to do our jobs.  
13 We have to do our jobs and we'll both try to do that to the  
14 best of our ability as gentlemen [inaudible].

15 PROSPECTIVE JUROR NO. 277: I understand that, but  
16 it's sound kind of --

17 MR. PRINCE: [Inaudible] yeah.

18 PROSPECTIVE JUROR NO. 277: -- I kind of wonder, you  
19 know?

20 MR. PRINCE: Yeah, because you [inaudible].

21 PROSPECTIVE JUROR NO. 277: Back of my head like you  
22 know each other pretty well, but how best will you serve your  
23 client, you know, your working deal, what's up like that? You  
24 know, and waste the --

25 MR. PRINCE: Oh, okay.

1 PROSPECTIVE JUROR NO. 277: -- court time --  
2 MR. PRINCE: Okay.  
3 PROSPECTIVE JUROR NO. 277: -- or whatever. That's  
4 why I'm wondering.  
5 MR. PRINCE: So you'd be concerned that there's  
6 maybe something --  
7 PROSPECTIVE JUROR NO. 277: No, just -- I'm not  
8 concerned --  
9 MR. PRINCE: [inaudible].  
10 PROSPECTIVE JUROR NO. 277: -- it's just in my mind.  
11 MR. PRINCE: Right. It's a thought.  
12 PROSPECTIVE JUROR NO. 277: -- [Inaudible] minds.  
13 MR. PRINCE: It's a thought. Now, you said that  
14 you've worked in a body shop or the reason you left the body  
15 shop is because of lawyers, lawyers involving [inaudible] and  
16 you didn't like some of the things that were going on.  
17 PROSPECTIVE JUROR NO. 277: See --  
18 MR. PRINCE: [Inaudible].  
19 PROSPECTIVE JUROR NO. 277: -- when I was younger I  
20 live a different life. But when I get older slowly, stuff  
21 like that, it bug me. And --  
22 MR. PRINCE: What bugs you?  
23 PROSPECTIVE JUROR NO. 277: You know, the shady  
24 stuff. You know, I become a mechanic for one reason, you  
25 know, driving the street, I see people broke down. I like to

1 help them. And in the body shop business, it's not like that,  
2 you know. A lot of -- you probably have a -- you say you're  
3 representing, you know, a lot of like auto accident, right?  
4 And you probably know a lot of shop, get black flagged by  
5 insurance company.

6 MR. PRINCE: I don't know what black flag means  
7 actually.

8 PROSPECTIVE JUROR NO. 277: Black flag mean, let's  
9 say a car come in, insurance send the car to them. And  
10 they'll -- they'll put something -- they flag a car, they know  
11 where -- what exactly need to be fixed. And a body shop will  
12 override the -- the problem, you know, the damage, so they can  
13 make more money.

14 MR. PRINCE: Hum.

15 PROSPECTIVE JUROR NO. 277: And then sometime we'll  
16 get -- we'll make a quote, like 4,000, and a loyal cause,  
17 that's it? Yeah, that's it. And some body shop will, okay,  
18 let me fix something.

19 So it's -- it go -- it went up much bigger.

20 MR. PRINCE: Okay.

21 PROSPECTIVE JUROR NO. 277: I didn't even like to  
22 work in the business because you go now, you are getting to  
23 legality.

24 MR. PRINCE: Okay.

25 PROSPECTIVE JUROR NO. 277: And that's why I got.

1 MR. PRINCE: Well, that's fraud, right?  
2 PROSPECTIVE JUROR NO. 277: Yeah. Exactly.  
3 MR. PRINCE: That's fraud. That's what that is.  
4 PROSPECTIVE JUROR NO. 277: Yeah. And --  
5 MR. PRINCE: So --  
6 PROSPECTIVE JUROR NO. 277: -- I'm just sitting kind  
7 of wondering like, okay, you guys know each other --  
8 MR. PRINCE: Well, then obviously you're --  
9 PROSPECTIVE JUROR NO. 277: -- for 25 years, how  
10 things work; you know? It's just about --  
11 MR. PRINCE: Right.  
12 PROSPECTIVE JUROR NO. 277: -- and not -- nothing of  
13 to offend you.  
14 MR. PRINCE: No, it doesn't. No. No.  
15 PROSPECTIVE JUROR NO. 277: Yeah. You can say that,  
16 but.  
17 MR. PRINCE: What's that?  
18 PROSPECTIVE JUROR NO. 277: Never mind.  
19 MR. PRINCE: No. No, what I'm trying to figure out  
20 then is do you think like there is in the personal injury, you  
21 know, personal injury lawyers that -- that you've had  
22 experience with in your body shop days, they were fraudulent?  
23 PROSPECTIVE JUROR NO. 277: Ninety percent of it.  
24 MR. PRINCE: Ninety percent of it.  
25 PROSPECTIVE JUROR NO. 277: I see a lot.

1 MR. PRINCE: Right. So obviously, your mindset is,  
2 you -- you're like, hey, I have concerns about personal --  
3 lawyer -- personal injury lawyers, the process, because you're  
4 in an industry --

5 PROSPECTIVE JUROR NO. 277: See, there's a lot of  
6 good lawyers out there and because of the field I'm in, that's  
7 my expertise. I was in [inaudible] and I wouldn't get lawyer,  
8 things got fixed, everything fine. There's no fire. I got  
9 burned.

10 My finger came off the year before that. I also got  
11 a lawyer, everything fixed, fine. But in the -- in the  
12 business of automotive, especially a body shop, it's a  
13 different world.

14 MR. PRINCE: Okay.

15 PROSPECTIVE JUROR NO. 277: And I've been too long,  
16 you know, I got in '92.

17 MR. PRINCE: Okay. And how --

18 PROSPECTIVE JUROR NO. 277: '92.

19 MR. PRINCE: -- long were you in?

20 PROSPECTIVE JUROR NO. 277: Up until about '92 --  
21 almost 2000.

22 MR. PRINCE: Okay. So like --

23 PROSPECTIVE JUROR NO. 277: Yeah.

24 MR. PRINCE: -- eight years.

25 PROSPECTIVE JUROR NO. 277: Yeah, eight years. And

1 I -- I didn't really like it. But we still work close with  
2 body shop, because body shop would do the body work, would  
3 send the car over for us to do the mechanical work. Let's say  
4 you had -- you had a, you know, where you have front end  
5 damage where mechanic had to get into it, because the body  
6 company know body work. Mechanically, they don't know -- they  
7 don't do well.

8 MR. PRINCE: Okay.

9 PROSPECTIVE JUROR NO. 277: That's, you know, that's  
10 how things work.

11 MR. PRINCE: Do you think that you can be fair and  
12 open-minded, kind of given your -- your experience, your  
13 feelings about lawyers, personal injury lawyers? Because this  
14 is a personal injury case, I mean, with that mindset, I mean,  
15 if you were someone sitting in my client's shoes would you  
16 want someone with that mindset, given kind of what the things  
17 that you know or experienced?

18 PROSPECTIVE JUROR NO. 277: I don't know.

19 MR. PRINCE: [Inaudible] I appreciate your candor in  
20 that way. I mean, because you're coming at it with like, hey,  
21 I'm skeptical of lawyers. They've done some fraudulent things  
22 in my business, or my industry and I don't like it.

23 MR. PRINCE: That's how -- that's how I see, I work  
24 with it too many -- many of it, so that's how I see it.

25 MR. PRINCE: Right. Sure.

1 PROSPECTIVE JUROR NO. 277: And --  
2 MR. PRINCE: Okay.  
3 PROSPECTIVE JUROR NO. 277: -- you know, and I've  
4 been doing this in '92.  
5 MR. PRINCE: Yeah. Were you in situations where  
6 body shops got kickbacks or money went back between the  
7 lawyers [inaudible]?  
8 PROSPECTIVE JUROR NO. 277: It's always like that.  
9 MR. PRINCE: It's always -- oh, [inaudible].  
10 PROSPECTIVE JUROR NO. 277: So, I'm in the business  
11 too long.  
12 MR. PRINCE: Okay.  
13 PROSPECTIVE JUROR NO. 277: Probably longer than you  
14 be a lawyer.  
15 MR. PRINCE: Yeah. Okay. Well, all right.  
16 PROSPECTIVE JUROR NO. 277: How many -- how many  
17 people are afraid of mechanic?  
18 MR. PRINCE: None to me, but.  
19 PROSPECTIVE JUROR NO. 277: How many people in here  
20 are afraid of mechanic? You ask them raise their hand.  
21 MR. PRINCE: Okay.  
22 PROSPECTIVE JUROR NO. 277: And you know, even --  
23 there's only a few good guy and honestly I can be one of  
24 those. And not many.  
25 How many people go to a shop and, oh, they're going



1 to rip me off. Half of the time we give them advice. We  
2 didn't ask them to fix it, you know, but everybody afraid of  
3 us. It's kind of that mindset, you know?

4 MR. PRINCE: Okay. Good.

5 And who else has kind of similar feelings, just kind  
6 of lawyers just -- and personal injury lawyers -- Ms. Losio?

7 PROSPECTIVE JUROR NO. 279: Yes, with the replacing.

8 MR. PRINCE: Okay.

9 PROSPECTIVE JUROR NO. 279: I also have kind of like  
10 negative feelings towards it.

11 MR. PRINCE: Okay. What are your negative feelings  
12 towards it?

13 PROSPECTIVE JUROR NO. 279: I feel like there is a  
14 little bit of taking advantage of the situation in some cases.

15 MR. PRINCE: Okay.

16 PROSPECTIVE JUROR NO. 279: I don't know, I just  
17 wanted to say that.

18 MR. PRINCE: No, no, I'm glad you are, because I  
19 want -- I want to hear if people have that feeling. And  
20 sometimes you don't even really think about it until you're  
21 like, now you're in this context and we're in court, we're  
22 here on, you know, in May of 2019, and you're being asked  
23 those questions.

24 And well, what do you feel -- how do you think --  
25 feel they take advantage of the system or the situation?

1 PROSPECTIVE JUROR NO. 279: I mean, like -- like in  
2 you're in the, you know, place, and it was like somebody said  
3 that I've seen happen. And sometimes like they -- I mean, I  
4 was an interpreter and I had to interpret, you know, a lot of  
5 accidents --

6 MR. PRINCE: Right.

7 PROSPECTIVE JUROR NO. 279: -- for insurance. And I  
8 guess I feel like a lot of the times people are told by their  
9 lawyers to say certain things --

10 MR. PRINCE: Um-hum.

11 PROSPECTIVE JUROR NO. 279: -- to get the most out  
12 of it.

13 MR. PRINCE: Okay.

14 PROSPECTIVE JUROR NO. 279: Like they have certain  
15 feelings or pain or whatever. I mean, again, it depends on  
16 the case. And I -- from my ignorant point of view --

17 MR. PRINCE: Okay.

18 PROSPECTIVE JUROR NO. 279: -- because I don't know  
19 much, that's the feeling I have inside. I have -- I'm a  
20 little skeptical or I do think that there is a little bit of  
21 taking advantage of situations.

22 And of all the advertising, I feel a little bit like  
23 when the dentist here in this country, like dentist like call  
24 you and send you messages and want you to go there no matter  
25 what, like they want to do all these things, that I don't know

1 if they are always necessary.

2 I felt like that was super weird when I got here the  
3 dentist go after you all the time. I feel like sometimes it's  
4 not necessary or sometimes they want to do -- get the most out  
5 of you.

6 And I feel like the advertising for the lawyers, I  
7 don't -- I don't personally like it. I think that if I need a  
8 lawyer I should probably be able to find one.

9 MR. PRINCE: Um-hum.

10 PROSPECTIVE JUROR NO. 279: And, yeah, I also feel  
11 like there is some humor involved or on the commercials or --

12 MR. PRINCE: Right.

13 PROSPECTIVE JUROR NO. 279: -- I don't know.

14 MR. PRINCE: How does it make though, the  
15 advertising, as you're sitting here now, make you feel about  
16 personal injury lawsuits for people who've been involved in an  
17 accident through -- and hurt, through no fault of their own.  
18 How does it make you feel about them?

19 PROSPECTIVE JUROR NO. 279: Um --

20 MR. PRINCE: Are you skeptical of them? Are you  
21 like, hey, you know, kind of whether they're being on the up-  
22 and-up or not?

23 PROSPECTIVE JUROR NO. 279: Well, I guess what I  
24 feel is that I guess that, that those advertisings are there  
25 for those people that might just have an accident and they are

1 like, hey, if you were involved in an accident, we might be  
2 able to get you a little money or whatever.

3 MR. PRINCE: Right.

4 PROSPECTIVE JUROR NO. 279: I mean, it might not be  
5 necessarily the case that the person's life has been super --  
6 or no super like -- I don't know, not ruined, but affected  
7 negatively like to the point --

8 MR. PRINCE: Okay.

9 PROSPECTIVE JUROR NO. 279: -- that like maybe  
10 that's not the case, but hey, I might be able to get something  
11 out of these, and people are telling me that I should try.

12 Like, I'm not saying anything like -- I am speaking  
13 from an ignorant point of view, but I want to share my  
14 ignorance.

15 MR. PRINCE: Yeah, you seem pretty helpful about it  
16 [inaudible].

17 PROSPECTIVE JUROR NO. 279: Well, no, it's not  
18 knowledge, it's what --

19 MR. PRINCE: Yeah.

20 PROSPECTIVE JUROR NO. 279: -- how I feel.

21 MR. PRINCE: Well, you -- well, you -- I know you  
22 said you're an interpreter. You're -- in criminal proceedings  
23 you've been an interpreter. But you said also you've done  
24 some interpreting for people who have been injured with some  
25 kind of claim --

1 PROSPECTIVE JUROR NO. 279: I --  
2 MR. PRINCE: -- or giving statements?  
3 PROSPECTIVE JUROR NO. 279: -- yeah, I was an  
4 interpreter for Progressive or different like company --  
5 insurance companies --  
6 MR. PRINCE: Okay.  
7 PROSPECTIVE JUROR NO. 279: -- where they had to  
8 interrogate -- interrogate -- question the two parties --  
9 MR. PRINCE: Okay.  
10 PROSPECTIVE JUROR NO. 279: -- and resolve an issue  
11 with the insurance.  
12 MR. PRINCE: Okay.  
13 PROSPECTIVE JUROR NO. 279: So they asked them all  
14 the questions that the insurance asked them, and I had to  
15 interpret --  
16 MR. PRINCE: So --  
17 PROSPECTIVE JUROR NO. 279: -- in different cases.  
18 MR. PRINCE: So how -- how would they contact you  
19 [inaudible]?  
20 PROSPECTIVE JUROR NO. 279: Yes. I worked for a  
21 company and the calls come and it could be insurance or it  
22 could be 911, or anything else.  
23 MR. PRINCE: Okay. And so you'd go out and what,  
24 and Progressive or whatever insurance company and what, you'd  
25 go [inaudible].

1 PROSPECTIVE JUROR NO. 279: Over the phone,  
2 everything over the phone.

3 MR. PRINCE: Okay.

4 PROSPECTIVE JUROR NO. 279: So I -- I am not in  
5 front of the people.

6 MR. PRINCE: Okay.

7 PROSPECTIVE JUROR NO. 279: But yeah, they --

8 MR. PRINCE: [Inaudible].

9 PROSPECTIVE JUROR NO. 279: -- use me as a tool, I  
10 guess, to communicate.

11 MR. PRINCE: Right. So what, would they call the  
12 injured person, or the injured person's lawyer, and then get  
13 you on the phone and all of you would be on the phone  
14 together?

15 PROSPECTIVE JUROR NO. 279: Sometimes the lawyers  
16 are on the phone, sometimes they are not. And sometimes it's  
17 just like the --

18 MR. PRINCE: Sure.

19 MR. PRINCE: -- insurance client or whatever.

20 MR. PRINCE: So they're taking a statement or  
21 interview -- doing an interview and you're the one doing the  
22 translation?

23 PROSPECTIVE JUROR NO. 279: Yes. A statement, yes.

24 MR. PRINCE: Okay.

25 PROSPECTIVE JUROR NO. 279: A recorded statement.

1           MR. PRINCE: Did that make you feel skeptical about  
2 people who were -- you know, have been involved in some kind  
3 of a motor vehicle crash and, you know, making a --  
4           PROSPECTIVE JUROR NO. 279: Maybe, yes.  
5           MR. PRINCE: -- [inaudible] claim?  
6           PROSPECTIVE JUROR NO. 279: Because I always feel  
7 like both sides of the accident are trying to not say  
8 something they -- that is going to work against their case or  
9 whatever. If they have to lie or they have to not completely  
10 say the truth --  
11          MR. PRINCE: Um-hum.  
12          PROSPECTIVE JUROR NO. 279: -- they are going to --  
13          MR. PRINCE: Do you -- is your impression of that  
14 process that people lie, or don't -- don't always tell the  
15 full truth?  
16          PROSPECTIVE JUROR NO. 279: Yes.  
17          MR. PRINCE: Okay. So they [indiscernible] you're  
18 kind of coming in, I mean, given that experience, I mean, do  
19 you think you're the right fit for this kind of a case given  
20 that kind of experience that you had?  
21          PROSPECTIVE JUROR NO. 279: I'm not sure.  
22          MR. PRINCE: Okay. That -- I appreciate your  
23 openness and your candor because that's all we want from you.  
24 I mean, you have a unique experience in that regard. So you  
25 couldn't tell me unequivocally or what -- that yeah, I can be

1 totally fair --

2 PROSPECTIVE JUROR NO. 279: Right.

3 MR. PRINCE: -- given my experience.

4 PROSPECTIVE JUROR NO. 279: I -- I have my doubts.

5 MR. PRINCE: Right, right.

6 PROSPECTIVE JUROR NO. 279: Yes.

7 MR. PRINCE: Okay. Okay. Thank you.

8 Who has -- who else has their doubts?

9 Ms. -- is it Ms. Pool?

10 PROSPECTIVE JUROR NO. 293: Yeah. Just in terms of

11 like --

12 MR. PRINCE: You have -- there's the microphone back

13 there.

14 PROSPECTIVE JUROR NO. 293: Oh. The advertising, I

15 feel like a lot of it is based on the money, like the

16 commercials they say like we can get you or we've got in this,

17 a 1.2 million case --

18 MR. PRINCE: Um-hum.

19 PROSPECTIVE JUROR NO. 293: -- whatever.

20 And then personally, my experience with mine, it was

21 like I was actually injured and once I started to feel better

22 my lawyers would call me and tell me like why did you say that

23 you felt zero percent pain at the doctor's office, because I

24 didn't today. You know, they kind of were pushing me more --

25 MR. PRINCE: Hum.



1 PROSPECTIVE JUROR NO. 293: -- and -- and it seemed  
2 like if I were to get -- they basically said if I were to get  
3 the injections I would've gotten more money.

4 MR. PRINCE: Hum.

5 PROSPECTIVE JUROR NO. 293: And I denied those,  
6 because I didn't feel like I needed --

7 MR. PRINCE: Didn't need them?

8 PROSPECTIVE JUROR NO. 293: -- them. Yeah. So --

9 MR. PRINCE: Um-hum.

10 PROSPECTIVE JUROR NO. 293: -- I mean, it definitely  
11 makes you a little skeptical.

12 MR. PRINCE: Okay. So you -- even though you went  
13 through the process, you had -- whoever your lawyer was -- you  
14 don't need to tell us who the person or they were -- you are  
15 saying they were asking you questions or saying things to you,  
16 that made you question --

17 PROSPECTIVE JUROR NO. 293: They wanted to like  
18 prolong my --

19 MR. PRINCE: Your care?

20 PROSPECTIVE JUROR NO. 293: -- my care, yeah.

21 MR. PRINCE: Okay. But you made a decision, I don't  
22 think I need it, and I'm just going to try to see how I do on  
23 my own without it?

24 PROSPECTIVE JUROR NO. 293: Right. And I get that  
25 some people do, but

1 MR. PRINCE: For you --

2 PROSPECTIVE JUROR NO. 293: Yeah.

3 MR. PRINCE: How does that make you feel about like

4 sitting as a juror in this case, going through that

5 experience?

6 PROSPECTIVE JUROR NO. 293: I mean, that and -- and

7 the advertisements in general makes me a little bit skeptical

8 of --

9 MR. PRINCE: Okay.

10 PROSPECTIVE JUROR NO. 293: -- or just to look at

11 the situations more, they're like trying to do the same thing,

12 you know.

13 MR. PRINCE: Yeah. I mean, Ms. Losio, she was like,

14 you know, she's skeptical, and not sure she can be fair just

15 because of the things that she's seen.

16 I mean, given the experience you've just described,

17 do you think you can be completely fair to my clients, even

18 though you -- I know you'd try to do your best but --

19 PROSPECTIVE JUROR NO. 293: Yeah.

20 MR. PRINCE: -- I mean, we all have --

21 PROSPECTIVE JUROR NO. 293: I think that --

22 MR. PRINCE: -- our own experiences, so sometimes

23 those things are very hard to do.

24 PROSPECTIVE JUROR NO. 293: Yes, I think it would be

25 a little bit still in the back of my head.

1 MR. PRINCE: Okay. That you'd be thinking what,  
2 about your own experience and whether something like that went  
3 on in your -- and in this case?

4 PROSPECTIVE JUROR NO. 293: yeah, that and it's just  
5 like just the advertising [inaudible] with --

6 MR. PRINCE: Right.

7 PROSPECTIVE JUROR NO. 293: -- with lawyers these  
8 days, yes.

9 MR. PRINCE: I mean, so what happens is in these  
10 cases, I mean, most people know if they felt pain, they have  
11 medical conditions, we're human beings. I mean, we're talking  
12 about like a construction, you know, of the Wynn, the dispute  
13 over building something, I mean, most of us don't have that  
14 experience.

15 PROSPECTIVE JUROR NO. 293: Right.

16 MR. PRINCE: Where people have been in car  
17 accidents, they've been injured, they've been to the doctor.  
18 So they have a human experience. So these cases are unique in  
19 that sort of way.

20 PROSPECTIVE JUROR NO. 293: Correct.

21 MR. PRINCE: And I guess your point is like, given  
22 my own experience, I'm not sure I can be completely fair and  
23 objective just because I'm not -- I may not be able to get  
24 that out of my mind.

25 PROSPECTIVE JUROR NO. 293: Yeah. I just want --

1 MR. PRINCE: So when you're judging the case --

2 PROSPECTIVE JUROR NO. 293: -- [inaudible].

3 MR. PRINCE: What's that?

4 PROSPECTIVE JUROR NO. 293: I said, I just wanted to  
5 put it out there.

6 MR. PRINCE: Absolutely. No, no, no, I'm glad you  
7 did. That's exactly why we're going through this.

8 Who kind of feels the same? Who feels similar to  
9 this?

10 Mr. Schuldt?

11 PROSPECTIVE JUROR NO. 309: Yeah, I kind of feel  
12 similar like -- like she said, because, I mean, you can't -- I  
13 was more like -- like earlier I had said I wouldn't feel too  
14 comfortable to be a juror because you really don't know -- I  
15 mean, even though all the evidence and everything is brought  
16 forward, and everything, me personally, I just don't feel  
17 comfortable because you know, making a decision on something  
18 that really you don't know what's going on behind the scenes,  
19 like she said, that lawyers telling somebody to do something,  
20 or you could've got this or that, or --

21 MR. PRINCE: Okay.

22 PROSPECTIVE JUROR NO. 309: -- you know, that's kind  
23 of related to why I said that earlier.

24 MR. PRINCE: Uh-huh. What'd you say, you'd be  
25 worried about something or thinking about things going on

1 behind the scenes, what do --

2 PROSPECTIVE JUROR NO. 309: Basically, kind of like

3 karma --

4 MR. PRINCE: -- mean by that?

5 PROSPECTIVE JUROR NO. 309: -- karma for myself,

6 basically. Like, you know, if you were to be a juror and --

7 and really the truth nobody knows and you decide on this, you

8 know, just live with that, you know what I mean? Like to live

9 with the decision you made when really it wasn't true kind of,

10 I guess --

11 MR. PRINCE: Okay.

12 PROSPECTIVE JUROR NO. 309: -- [inaudible].

13 MR. PRINCE: So you're going to be wondering whether

14 you had made the right decision on what law --

15 PROSPECTIVE JUROR NO. 309: Exactly.

16 MR. PRINCE: -- after -- after the fact?

17 PROSPECTIVE JUROR NO. 309: Yeah.

18 MR. PRINCE: What if that Judge told you like, don't

19 consider anything -- well, the only thing you can consider is

20 what you see and hear in these four walls.

21 PROSPECTIVE JUROR NO. 309: Exactly. That's why --

22 MR. PRINCE: Just this here. Just --

23 PROSPECTIVE JUROR NO. 309: -- that's why I don't --

24 that's why I don't want to -- you know, I don't feel

25 comfortable making those decisions because you really don't

1 know what went on in the court.

2 MR. PRINCE: Okay. So you're saying --

3 PROSPECTIVE JUROR NO. 309: You don't [inaudible].

4 MR. PRINCE: -- even if the Judge told you, the only

5 -- making a decision based on what you see and hear in the

6 courtroom, in your mind, you're not sure you could do that?

7 PROSPECTIVE JUROR NO. 309: Yeah, exactly. Yeah.

8 MR. PRINCE: So you'd really need -- want to try to

9 do your best to follow the Court's instructions and rules,

10 you're saying to us, I'd be worried about other things, what's

11 going on behind the scenes, what -- where the money is going,

12 who's doing what to who?

13 PROSPECTIVE JUROR NO. 309: Exactly. Even though

14 there's a lot to it, you know?

15 MR. PRINCE: Okay. Well, why do you think you'd be

16 -- you would be thinking about those other things rather than

17 just basing the case on the -- just sort based on the evidence

18 you hear and see in the courtroom?

19 PROSPECTIVE JUROR NO. 309: Well, I mean, I don't

20 know. I mean, you know, from -- you could say from movies,

21 from like I said, just you know karma if, you know, if really

22 something else really went on or whatever the case may be.

23 And I made a decision on this, and these are people's

24 livelihoods that you're dealing with and, you know, then you

25 go from there. And, you know, I mean, it wasn't probably the

1 right decision that you made, you know.

2 I don't know, that's what I don't feel comfortable  
3 with.

4 MR. PRINCE: Okay. Okay.

5 Hand the microphone to Mr. Stratton.

6 Mr. Stratton, how do you feel about lawyer  
7 advertising?

8 PROSPECTIVE JUROR NO. 307: Oh, I think that -- when  
9 I see the lawyer advertising it just -- it just reminds me  
10 that there's not enough personal responsibility in -- in our  
11 society.

12 MR. PRINCE: By whom?

13 PROSPECTIVE JUROR NO. 307: Well, I think by average  
14 people. Average people that get into car accidents that --

15 MR. PRINCE: The injured person or the at fault  
16 person?

17 PROSPECTIVE JUROR NO. 307: No, no, I would -- I  
18 would say there's not enough personal responsibility from the  
19 injured person's side.

20 What I mean is, it seems like there's a small  
21 accident, and then there's a large dollar amount that goes  
22 along with it. There should be more personal responsibility  
23 when you go -- when you take risks like driving, like going to  
24 a concert or -- and something happens, you slip, you know, you  
25 fall and suddenly Star Nursery owes you, you know, a large sum

1 because you've been injured.

2 It just seems like there's -- there's not enough  
3 personal responsibility for --

4 MR. PRINCE: The person -- the hurt person?

5 PROSPECTIVE JUROR NO. 307: For the person --

6 MR. PRINCE: Or who is making the claim.

7 PROSPECTIVE JUROR NO. 307: Well, because there's --  
8 there's an assumption of risk when you do anything in life.

9 MR. PRINCE: Okay.

10 PROSPECTIVE JUROR NO. 307: So that's -- there's  
11 just like --

12 MR. PRINCE: Do you believe that people when they're  
13 driving assume a certain risk?

14 PROSPECTIVE JUROR NO. 307: I do. Absolutely, I do.

15 MR. PRINCE: So you -- so for example, if you're --  
16 you or one of your kids are driving and someone runs in the  
17 back of them, they're hurt, I mean, is there a certain level  
18 of risk that you assumed to be injured?

19 If you were hurt, through no fault of your own?

20 PROSPECTIVE JUROR NO. 307: I would say, yes.

21 MR. PRINCE: Okay. I've never heard that before.

22 Tell me why you feel like that? That's an  
23 interesting perspective.

24 PROSPECTIVE JUROR NO. 307: Well, my perspective is,  
25 is that -- that in life there's things that happen that aren't



1 necessarily in your control or out of your control. And when  
2 you chose to do something, you know, like go to the -- like go  
3 to the lake with a friend of mine that has a boat and there's  
4 an accident, it doesn't -- it doesn't automatically mean that  
5 there should be -- I've taken responsibility for a certain  
6 amount of risk when I -- when I go and do that, you know.

7 MR. PRINCE: Okay.

8 PROSPECTIVE JUROR NO. 307: I guess if someone was  
9 negligent, specifically negligent I would probably change my  
10 mind on that.

11 MR. PRINCE: Yeah. Yeah, this case is about  
12 negligence. And a lot of the cases like that, it is about  
13 negligence. It's not about someone did it intentional. It's  
14 about proving somebody was careless, reckless, and caused  
15 somebody, you know, whatever the claim is, but hurt somebody.

16 I mean, we have to prove that by a preponderance of  
17 the evidence and we're going to talk about what that means.

18 But your part is that a person driving, if -- even  
19 though they're -- they didn't cause it or contribute to it,  
20 then you'd assess the person some responsibility just because  
21 you're on the road and you're going to have to assume some of  
22 those risks?

23 PROSPECTIVE JUROR NO. 307: Absolutely.

24 MR. PRINCE: I understand. So even though the law  
25 says, you know, if someone's negligent and you caused the

1 injury, the person who's negligent and they're responsible for  
2 whatever the harm and the loss that they cause, your thoughts  
3 are, just your own personal beliefs, personally held beliefs  
4 that the injured person has to assume some part of that  
5 responsibility, because that just -- out on the roadway, being  
6 and just a -- a citizen?

7 PROSPECTIVE JUROR NO. 307: No, I think that the --  
8 the amount of a judgment should be tempered by the person's  
9 responsibility when they -- when they chose to do a certain  
10 activity.

11 MR. PRINCE: Okay. Tell me what you mean by that.

12 PROSPECTIVE JUROR NO. 307: Well, I'm just saying if  
13 someone slips and falls at a -- at a restaurant --

14 MR. PRINCE: Um-hum.

15 PROSPECTIVE JUROR NO. 307: -- or let's say a Home  
16 Depot or something and then suddenly --

17 MR. PRINCE: Okay.

18 PROSPECTIVE JUROR NO. 307: -- there's a large  
19 damage because there's a large amount that goes out, it just  
20 seems like, you know, that that person should -- should take  
21 more responsibilities personally for what happened.

22 If -- unless there was something that was very  
23 negligent where you could specifically point at -- at  
24 something that happened, at a situation that was, you know,  
25 there's a -- that the negligence would have to be extreme.

1 MR. PRINCE: Extreme. Okay. It would have to be  
2 extreme for a -- to get a significant judgment amount in your  
3 mind?

4 PROSPECTIVE JUROR NO. 307: I agree, yes.

5 MR. PRINCE: Okay. All right.

6 So you're saying, kind of a high degree of fault,  
7 like kind of a higher than just like hey, just be careless, or  
8 something more [inaudible]?

9 PROSPECTIVE JUROR NO. 307: Yes, sir.

10 MR. PRINCE: Okay. Do you -- how do you feel a  
11 about personal injury lawsuits in general?

12 PROSPECTIVE JUROR NO. 307: Well, that's a good  
13 question. I have never been involved with one personally, you  
14 know, just from acquaintances of mine.

15 But sometimes I feel like they've been brought for,  
16 you know, again, a small accident turned into a mountain out  
17 of a mole hill some, you know --

18 MR. PRINCE: Why do you feel like that? Have you  
19 had experiences either with friends, family, your business or  
20 something else that [inaudible]?

21 PROSPECTIVE JUROR NO. 307: Yeah, sure. A small  
22 accident where there was a settlement that was a large dollar  
23 amount that contributed to -- to my insurance premiums, all of  
24 our insurance premiums --

25 MR. PRINCE: Okay.

1 PROSPECTIVE JUROR NO. 307: -- because of -- because  
2 of insurance companies being concerned about being sued or  
3 insurance companies being concerned about going to the next  
4 step.

5 MR. PRINCE: So your concern is, is that personal  
6 injury cases drive up insurance rates?

7 PROSPECTIVE JUROR NO. 307: Absolutely, yes.

8 MR. PRINCE: Okay. And would you be thinking that  
9 if you're asking to serve as a juror that if I'm asked to  
10 serve as a juror any damage would I be thinking about what  
11 affect would this have on rates to others and to my own  
12 insurance rates in general; would you be thinking that?

13 PROSPECTIVE JUROR NO. 307: Of course, yeah.

14 MR. PRINCE: Okay.

15 PROSPECTIVE JUROR NO. 307: Sure.

16 MR. PRINCE: I appreciate that -- that honesty.

17 Okay. Have you ever -- has your company ever been  
18 sued for any reason? Have you ever been involved in any  
19 litigation? You're a civil engineer, right?

20 PROSPECTIVE JUROR NO. 307: I'm a civil engineer.

21 No, I've been an expert witness.

22 MR. PRINCE: Oh, okay. What kind of expert witness  
23 have you been?

24 PROSPECTIVE JUROR NO. 307: It was a -- just a  
25 lawsuit between a developer and a -- and --

1 MR. PRINCE: [Inaudible].  
2 PROSPECTIVE JUROR NO. 307: -- [inaudible].  
3 MR. PRINCE: [Inaudible]?  
4 PROSPECTIVE JUROR NO. 307: No.  
5 MR. PRINCE: Oh. Homeowner or landowner  
6 [inaudible]?  
7 PROSPECTIVE JUROR NO. 307: It was a landowner and a  
8 contractor.  
9 MR. PRINCE: Okay.  
10 PROSPECTIVE JUROR NO. 307: It was a long time ago,  
11 [inaudible] long time.  
12 MR. PRINCE: Oh, okay. I didn't know if you like --  
13 PROSPECTIVE JUROR NO. 307: No, I'm not --  
14 MR. PRINCE: -- offer those services out and --  
15 PROSPECTIVE JUROR NO. 307: Ten -- ten years ago.  
16 MR. PRINCE: -- and -- okay. Here in Nevada?  
17 PROSPECTIVE JUROR NO. 307: Yes.  
18 MR. PRINCE: Okay. All right. Did you testify in a  
19 deposition or in a trial?  
20 PROSPECTIVE JUROR NO. 307: Deposition.  
21 MR. PRINCE: Deposition? Okay.  
22 Were you hired by the defense or for the plaintiff?  
23 PROSPECTIVE JUROR NO. 307: The defense.  
24 MR. PRINCE: Okay. And was that the contractor?  
25 PROSPECTIVE JUROR NO. 307: It was -- in this

1 particular case it was an engineering firm who was being sued  
2 by a developer because the project took too long and --  
3 MR. PRINCE: Okay.  
4 PROSPECTIVE JUROR NO. 307: -- then kind of the  
5 recession broke out and so.  
6 MR. PRINCE: So a kind of delay issue. Okay.  
7 PROSPECTIVE JUROR NO. 307: It was a delay issue.  
8 MR. PRINCE: Okay. And so were you hired as an  
9 expert on behalf of -- for the -- the engineering firm?  
10 PROSPECTIVE JUROR NO. 307: No.  
11 MR. PRINCE: So the -- or the contractor?  
12 PROSPECTIVE JUROR NO. 307: Yeah, the contractor.  
13 MR. PRINCE: Okay. All right.  
14 PROSPECTIVE JUROR NO. 307: It's been a long time  
15 ago, so.  
16 MR. PRINCE: Okay. When you said that, it was  
17 interesting. [Inaudible] expert witnesses [inaudible].  
18 So if you could hand the microphone up to Ms.  
19 Westbrook.  
20 PROSPECTIVE JUROR NO. 307: I would.  
21 That's you, right?  
22 MR. PRINCE: Yes.  
23 PROSPECTIVE JUROR NO. 282: Westbrooks.  
24 MR. PRINCE: Westbrooks. I'm sorry.  
25 PROSPECTIVE JUROR NO. 282: As far as advertising, I

1 -- it doesn't bother me. I think it just promotes awareness.  
2 We don't have the Yellow Pages anymore to --

3 MR. PRINCE: True.

4 PROSPECTIVE JUROR NO. 282: -- do all of that  
5 because that's where I found my attorney back in, I don't  
6 know, '90 -- my father -- it was a hospital kind of thing  
7 where he -- they had a lawsuit, whatever. But saying that to  
8 say, I think it just promotes awareness.

9 Everybody don't have so many resources.

10 MR. PRINCE: Um-hum.

11 PROSPECTIVE JUROR NO. 282: It doesn't bother me.  
12 Some of them fun, some of them not. I just think it's just  
13 like any other commercial, whether it's a Vargas Ice Cream,  
14 you know, to some there -- I mean, it's their business.

15 I've ran daycare for many years, licensed daycare.  
16 So I've done flyers. You have the new thing, Internet, out  
17 you know so I just -- I just think it promotes awareness.

18 I don't think it's -- it doesn't bother me and I  
19 don't -- it don't affect me in any kind of way. It's just  
20 [inaudible]. It's just a way to put more information out,  
21 just like any other commercial.

22 So, I don't -- I don't have [inaudible].

23 MR. PRINCE: I mean, insurance companies make jokes  
24 in their commercials, too, right? Geico with the cave man and  
25 all the gecko and all that?

1 PROSPECTIVE JUROR NO. 282: Yeah. Um --  
2 MR. PRINCE: Just as an example.  
3 PROSPECTIVE JUROR NO. 282: Yeah, everyone does.  
4 Pepsi Cola, Coca Cola --  
5 MR. PRINCE: Right. All -- all these -- right.  
6 PROSPECTIVE JUROR NO. 282: -- the Super Bowl  
7 commercial.  
8 MR. PRINCE: Right. It doesn't matter what it is.  
9 PROSPECTIVE JUROR NO. 282: I mean, yeah. I mean,  
10 it's -- I mean, it's just -- it's just --  
11 MR. PRINCE: Beer companies.  
12 PROSPECTIVE JUROR NO. 282: -- it just feel -- it's  
13 promoting. They're promoting what they do, what they  
14 represent and how they can be of service to you.  
15 MR. PRINCE: Right.  
16 PROSPECTIVE JUROR NO. 282: Depending on if you need  
17 the service or not. And I feel like for most that don't need  
18 the service as far as, no, you don't need an attorney right  
19 now so you're kind of annoyed by it.  
20 But if you want to have something to eat or have a  
21 beer, you're like oh, they've got this new thing out. I need  
22 to go try it.  
23 MR. PRINCE: Right, right.  
24 PROSPECTIVE JUROR NO. 282: So I think that just  
25 applies to -- to all.



1           MR. PRINCE: Okay. How do you feel about personal  
2 injury lawsuits?

3           PROSPECTIVE JUROR NO. 282: Um --

4           MR. PRINCE: On the issue of there's too many, too  
5 many frivolous ones --

6           PROSPECTIVE JUROR NO. 282: I think it's --

7           MR. PRINCE: Is this the right case for you?

8           PROSPECTIVE JUROR NO. 282: -- it's -- I -- I think  
9 it -- it does what it needs to do. For those that don't have  
10 the resource or they don't have the knowledge or don't know  
11 the laws and they need to reach out, you know, it's just like  
12 hey, well, you know, I mean, I think it's all about what  
13 people put in your head, you know.

14           Oh, you had this or you failed or this happened so  
15 you -- you need to sue or you need to get an attorney, you  
16 know? That's kind of how it is. There's always someone kind  
17 of needing to network to get to the next level, because the  
18 average person don't know how to reach out, you know, saying,  
19 oh, this happened to me, like how the -- the lady said, you  
20 know, I slipped and fell. I hurt myself and I just took  
21 myself to the hospital.

22           But if she would have had a few people in her ear, I  
23 think, to say hey, you know what, you know you can sue, or you  
24 know you can get some money, you know, I mean, that's kind of  
25 how -- and I think people take the attorney part of more --

1 they kind of put it off on the attorney portion that you're  
2 trying to benefit when it might be just the family members  
3 themselves.

4 MR. PRINCE: Um-hum.

5 PROSPECTIVE JUROR NO. 282: So, but I don't -- I  
6 don't -- it doesn't bother me. I think it's just for whoever  
7 it's for. You know, if you need it, it's there, then you  
8 utilize it. I think, you know, everyone gives the advice to  
9 the circumstance of the situation.

10 MR. PRINCE: Okay. So a case-by-case for you then?

11 PROSPECTIVE JUROR NO. 282: Yes, it's case-by-case.

12 MR. PRINCE: Okay. Good.

13 I'm probably at a good point. We can break for the  
14 evening if you want, give them a break.

15 THE COURT: Sure. Okay.

16 MR. PRINCE: I'm going to keep on this line of  
17 questioning [inaudible].

18 THE COURT: That's fine.

19 All right. Ladies and gentlemen, we're going to  
20 take our evening recess.

21 During the recess, you're admonished not to talk to  
22 or converse among yourselves or with anyone else on any  
23 subject connected to this trial or read, watch or listen to  
24 any report of or commentary on the trial of any person  
25 connected with the trial, by any medium of information,

1 including without limitation to newspapers, television, the  
2 Internet and radio, or form or express any opinion on any  
3 subject connected with the trial until the case is finally  
4 submitted to you.

5 We'll see you back here at 1:00 o'clock, please.

6 THE MARSHAL: All rise for the exiting jury.

7 UNIDENTIFIED PROSPECTIVE JUROR: Tomorrow?

8 THE COURT: Tomorrow.

9 UNIDENTIFIED PROSPECTIVE JUROR: Oh.

10 THE COURT: Tomorrow, 1:00 o'clock. Tomorrow,  
11 Wednesday, 1:00 o'clock.

12 (Prospective jurors exit at 4:56 P.M.)

13 (Outside the presence of the prospective jurors)

14 THE COURT: Our New Yorker wanted to come back at  
15 5:30.

16 MR. PRINCE: Yeah.

17 MR. WINNER: What's that?

18 THE COURT: The New York gal wants to come back at  
19 five -- why can't we come back at 5:30.

20 MR. WINNER: Oh, okay.

21 (Pause in the proceedings)

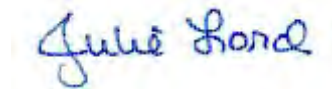
22 THE COURT: Okay. See you all tomorrow at -- we  
23 don't need to do anything early outside the presence, right?  
24 We're just continuing plotting along?

25 MR. PRINCE: Yes.

1  
2  
3

THE COURT: Okay.  
(Court recessed at 4:57 P.M., until Wednesday,  
May 15, 2019, at 1:00 P.M.)

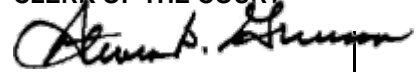
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11



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DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

|                             |   |                        |
|-----------------------------|---|------------------------|
| DESIRE EVANS-WAIAU, et al., | ) |                        |
|                             | ) |                        |
| Plaintiffs,                 | ) | CASE NO. A-16-736457-C |
|                             | ) |                        |
| vs.                         | ) | DEPT. NO. XVIII        |
|                             | ) |                        |
| BABYLYN TATE,               | ) |                        |
|                             | ) |                        |
| Defendant.                  | ) |                        |
|                             | ) |                        |

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE

FRIDAY, MAY 17, 2019

**RECORDER'S ROUGH DRAFT TRANSCRIPT OF:  
JURY TRIAL - DAY 4**

APPEARANCES:

|                     |                                                                             |
|---------------------|-----------------------------------------------------------------------------|
| FOR THE PLAINTIFFS: | DENNIS M. PRINCE, ESQ.<br>JACK F. DEGREE, ESQ.                              |
| FOR THE DEFENDANT:  | THOMAS E. WINNER, ESQ.<br>JOEL D. HENRIOD, ESQ.<br>CAITLIN J. LORELLI, ESQ. |

RECORDED BY: YVETTE SISON, COURT RECORDER  
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1                   LAS VEGAS, NEVADA, FRIDAY, MAY 17, 2019

2                   (Case called at 10:00 A.M.)

3                   (Outside the presence of the prospective jurors)

4                   MR. PRINCE: Judge, I have a couple of matters for  
5 you, a couple of cause challenges I'm going to make.

6                   THE COURT: Okay. Well, I was just loading my  
7 bench. I'll go get it. Where is --

8                   MR. PRINCE: He's here. He's just -- I don't know.

9                   THE COURT: I'll be right back.

10                   (Pause in the proceedings)

11                   THE COURT: Okay. Anything outside the presence?

12                   MR. PRINCE: Yes, Your Honor, a couple of items.  
13 First, kind of scheduling. I think I'll take approximately an  
14 hour to an hour and a half this morning to complete my voir  
15 dire, maybe a little less, but I'm anticipating about that. I  
16 have two cause challenges I'm going to make now, so that could  
17 affect the length. So I'm expecting to go until about the  
18 11:30, noon time frame.

19                   I expect to turn the matter over to Mr. Winner after  
20 lunch. He'll, you know, take whatever time he needs for his  
21 questioning. We agreed, regardless of that, the time, that  
22 we're just going to do openings on Monday. You said we could  
23 come start a little earlier, 10:00 or 11:00, whatever the  
24 Court -- so we can -- we can do the openings and then go right  
25 into our witnesses.

1 THE COURT: Mr. Winner, you expect to only take one  
2 afternoon?

3 MR. WINNER: That would be my hope. If I'm not  
4 finished, we'll just continue Monday.

5 THE COURT: Okay.

6 MR. WINNER: My hope would be to finish today.

7 THE COURT: Well, mine, as well.

8 MR. PRINCE: Right. So I just was -- wanted to give  
9 the Court a preview of what I expect for today, that  
10 regardless, assuming he even gets done at 3:00, by the time we  
11 go through the -- the peremptory challenge process, that would  
12 even be optimistic, I think, and you kind of get everyone  
13 settled, pre-instruct them, there won't be enough time to do  
14 both openings today. And so --

15 THE COURT: That's fine.

16 MR. PRINCE: -- start Monday.

17 THE COURT: And I am anticipating taking off next  
18 Friday, so --

19 MR. PRINCE: That's fine.

20 THE COURT: -- if you all could --

21 MR. PRINCE: I don't think --

22 THE COURT: -- figure it out.

23 MR. PRINCE: I think --

24 THE COURT: I'm missing the Boyd graduation today  
25 for you, just so you all know. I'm here when I wasn't going



1 to be.

2 MR. PRINCE: Okay. Well, thank you for that. So  
3 okay.

4 THE COURT: Yes. Anyway.

5 MR. PRINCE: I'm ready for my cause challenges now.

6 THE COURT: So do your cause challenges.

7 MR. PRINCE: I'm going to make two.

8 THE COURT: I don't suppose these are anything you  
9 all agreed to; right?

10 MR. PRINCE: I'm not sure.

11 MR. HENRIOD: No, I mean, have you even mentioned  
12 the names to us?

13 MR. PRINCE: No, we haven't agreed on anything so  
14 far, so I'm confident that this won't be an agreement.

15 THE COURT: Well, just throw them out just in case.  
16 This could be.

17 MR. PRINCE: The first one is Ms. Reeves, Juror NO.  
18 245. Let me just get my notes here. She -- a few things.  
19 One is she has a disdain for lawyer advertising, says that  
20 it's down your throat, and could allow someone who maybe  
21 wasn't thinking about to sue to actually sue suggesting there  
22 was motivation.

23 Four years ago, she was involved in a collision  
24 herself where she felt that somebody came to like a sudden  
25 stop and she was cited by the officer and someone made a claim

1 against her after that. She didn't think she was at fault.  
2 She was upset her insurance company settled the case on her  
3 behalf. One of the defendants -- one of the claims in this  
4 case, the disputes, I guess, is, at least from a defense  
5 perspective, is that Desire Evans came to a sudden and  
6 unexpected stop. I think you heard that last time during the  
7 opening statement. And that is --

8 THE COURT: Let me just interrupt you for half a  
9 second. Defense, do you not agree that she has lived through  
10 something too close to this for her to be fair during -- I  
11 mean, I look at this akin to when I'm doing a kiddie sex case.  
12 For the most part victims who -- of kiddie sex cases very  
13 rarely make adults who sit on our jury on a kiddie sex case.  
14 If that makes sense.

15 MR. WINNER: I don't agree.

16 THE COURT: Okay.

17 MR. WINNER: And if that is going to be the rule,  
18 then anybody who has experienced neck or back pain before need  
19 to be removed for the same reason.

20 THE COURT: All right. Here's the difference. The  
21 difference is the -- the initial question is one of liability,  
22 and it's literally right on point, number one, the fact that  
23 there was a sudden stop and a rear-end and -- I don't know.  
24 I'll let you guys go through it. I just thought maybe we  
25 could --

1 MR. WINNER: Right.

2 MR. PRINCE: No, I mean --

3 MR. WINNER: No.

4 MR. PRINCE: -- obviously --

5 THE COURT: -- circumvent a little bit.

6 MR. PRINCE: -- they haven't even agreed to even the

7 most obvious ones earlier. So but even more concerning than

8 that was her statement that her husband saw this person on the

9 news and was part of some setup accident ring. So she went

10 another step thinking that, yeah, this person intentionally

11 did this to make some type of a personal injury claim.

12 THE COURT: Of course, that part of it takes it away

13 from the facts of this case, I think.

14 MR. PRINCE: Oh, I don't think so. I think it kind

15 of reinforces the fact that she thinks that that may have been

16 someone set that up to happen. So it's not just that they

17 came to a sudden and unexpected stop, but there was a

18 component of it that may have been fraudulent, that they may

19 be part of someone doing that. And so I think if you look at

20 the Sears Sanders versus Page case, one of the bases for

21 removing a juror for cause is substantial similarity.

22 What's the citation? It's a 2015 case. What's the

23 -- what's the -- it's Nevada Advanced Opinion -- well, I'm

24 going to give you the -- here you go. 354 P.3d 201. Also,

25 alternatively, 131 Nev. Adv. Op. 50. And in that case there

1 was a juror who had substantial similarity to -- I'm sorry.

2 And so anyway, one of the statements by the Court  
3 was where the jurors had experiences similar to the facts of  
4 the case, the District Court's questioning of those jurors was  
5 sufficient to show their impartiality. And I think that that,  
6 because it's so akin factually to the predicate for the injury  
7 in this case that it is simply just too close and that  
8 demonstrates impartiality and we can't remove that potential  
9 bias on her behalf.

10 THE COURT: Well, let me just -- I don't have the  
11 case in front of me, but based upon what you just read to me,  
12 that case seems to support the fact that there can be adequate  
13 questioning to determine that even somebody with substantially  
14 the same facts actually is okay. Read that to me again.

15 MR. PRINCE: No. We agree with jurisdictions --

16 THE COURT: Okay.

17 MR. PRINCE: Let me read the holding to you. We  
18 agree with these jurisdictions and hold that if a juror's  
19 background is replete with circumstances which would call into  
20 question his ability to be fair, the District Court should  
21 remove the juror for cause, even if the juror has stated he or  
22 she can be impartial.

23 THE COURT: In which case -- that's not what you  
24 read to me last time.

25 MR. PRINCE: I just -- I quoted part, but I'm

1 reading the actual holding. This is on page 11 if you look at  
2 the advanced opinion. I don't know if you're looking at the  
3 P.3d or what. And --

4 THE COURT: Court of appeals.

5 MR. PRINCE: Great. It says we agree -- we're in  
6 the second regarding removing juror for cause. It says we  
7 agree with these jurisdictions and hold that if a juror's  
8 background is replete with circumstances which would call into  
9 question his ability to be fair, the district court should  
10 remove the juror for cause, even if the juror has stated he or  
11 she can be impartial. And it says the trial court should  
12 assess the actual facts of the juror's experience rather than  
13 rely solely upon the juror's assertion of impartiality.

14 So just because she may say I can be impartial, I'm  
15 neutral, I think because of the circumstances, the sudden stop  
16 experience, and, remember, moreover, she said I swerved and it  
17 was only my front corner to her -- of her bumper to the rear  
18 corner of whoever the person the person she hit. She felt it  
19 was unfair that she is found to be at fault. She didn't feel  
20 it was fair for her insurance company to settle the case, and  
21 it's obviously left some sort of bitterness or negative taste  
22 or feeling about that experience. And because of that,  
23 there's no way under the facts of this case that we can insure  
24 ourselves of impartiality.

25 Moreover, she suggested that people making personal

1 injury claims, there's an entitlement generation out there,  
2 and that she's going to -- that is affecting her view of it.  
3 When it came to the burden of proof, remember, she's the one  
4 who was shocked that it wasn't beyond a reasonable doubt. She  
5 indicated that it's surprising to her the law doesn't require  
6 you to show more. She believes that the law should be beyond  
7 a reasonable doubt.

8           She'll listen. She can't honestly say she can make  
9 a decision holding us to the applicable legal standard. She  
10 said that this is about truth, truth is black or white, it's  
11 not gray, it's either 100 percent or not. You have to prove  
12 your case 100 percent. And she said that she can't tell us  
13 with some certainty or without equivocation that she can  
14 follow the legal standard because in her mind it has to be  
15 black or white.

16           There's no -- remember, I asked her that over and  
17 over. It's either this way or not at all. So she's going to  
18 hold us to a legal standard in addition to the other comments  
19 she's made that the law doesn't require. And that, Your  
20 Honor, because she's demonstrated her partiality that she is  
21 not of the mindset that she can follow the law. I asked her  
22 can -- I told her even though the Judge instructs you that,  
23 would you still be in your mind holding us to this standard?  
24 She said yes because the truth is either 100 percent or not.  
25 There's nothing short of that for her.

1           THE COURT: I think she was trying to say to you  
2 that she could make the decision. It wasn't --

3           MR. PRINCE: She -- she used the word --

4           THE COURT: -- gray and black and white and --

5           MR. PRINCE: No, she used the word truth is black  
6 and white. It's not gray. She would need to feel 100  
7 percent.

8           THE COURT: But I think she came off that and  
9 re-explained what she -- what she meant by that. I'm more  
10 concerned with the other part of it.

11          MR. PRINCE: Okay. Well, I'm saying -- I'm saying  
12 it's additive.

13          THE COURT: Okay.

14          MR. PRINCE: All of those factors together under  
15 Cory demonstrates that we can't assure ourselves that she's  
16 going to be fair and impartial, number one, because factually,  
17 similar to the Sears Sanders case, it's so similar to her own  
18 experience with the swerving, the corner to corner contact,  
19 the alleged -- alleged sudden stopping for no reason, that  
20 which the defense of this case she was in that exact posture  
21 herself, that we can't be assured of impartiality. So on the  
22 totality of those circumstances. We believe that she can't be  
23 fair, and she should be removed for cause.

24          THE COURT: Do you want to do them one at a time or  
25 do you want to do them both at the same time? Do them one at

1 a time and then I can keep them straight. Go ahead.

2 MR. HENRIOD: Well, I think in terms of the lawyer  
3 advertising, that is real world experience and the State Bar  
4 has similar disdain. Being asked what their perception of it  
5 is and whether or not they think it's tasteful, they are  
6 likely to evoke a reaction that is similar to what many  
7 citizens have, and that that is the risk that, unfortunately,  
8 the profession has run by allowing it. But it does not create  
9 the kind of bias that gets someone removed.

10 On the common experience, they are -- it was the  
11 same doctor in the middle of trial. Boom, I had this problem,  
12 too, with this doc, as opposed to the very common experience  
13 that all of us driving on the road have. By this rationale,  
14 by this rationale, or really anybody who has had an accident  
15 or a near miss, these -- with traffic accidents we are in a  
16 very common domain.

17 I mean, it's like working at a restaurant and seeing  
18 a lot of slip and falls. There are going to be a lot of  
19 common experiences. So that doesn't disqualify, either, that  
20 the person has real world experience as long as they can  
21 distinguish.

22 MR. WINNER: That was actually my case, Sanders v.  
23 -- the jury in that case, there was an attack on the  
24 credibility of the plaintiff's doctor. That's what the case  
25 was about. That juror said, oh, I was a patient of that very



1 same doctor and I didn't like him. He was trying to send me  
2 to have treatment I didn't need. That was the -- it was the  
3 very same doctor, and that's what the juror said. That was a  
4 substantial similarity.

5 THE COURT: Okay. But here's -- here's what I'm  
6 saying. The bit that I've been able to read so far is one of  
7 the things they said the crux of the case was the credibility  
8 of the experience that which is in common. Part of the crux  
9 of this case to me is liability in terms of the sudden stop  
10 and the rear-ending.

11 So although it's not the exact same person, the  
12 facts are -- it's not just any old accident. It's literally  
13 someone is driving, stopped, admittedly, I think is going  
14 happen, stopped suddenly and is rear-ended. And you've got  
15 someone who is in the same situation and feels like she was  
16 wrongly accused of doing something wrong. To the extreme,  
17 even, she said it was -- I think she, I suspect, that her  
18 whole thing with the news thing was that she may have been set  
19 up for it.

20 MR. HENRIOD: Well, I think it's a major thing that  
21 in this case, right, the juror said, oh, that witness was my  
22 -- this -- the plaintiff's doctor was also my doctor, and this  
23 was the perception of the advice that I had from my doctor.  
24 So this goes to the kind of question that you asked very early  
25 on in the case when you list the names because there you had

1 very particular knowledge. Ever having somebody stop short in  
2 front of you, a near miss, this is not such an oddity that you  
3 have some particular insight into the case or some particular  
4 experience that is beyond real world experience that jades you  
5 necessarily.

6 THE COURT: I have --

7 MR. HENRIOD: And so --

8 THE COURT: You don't -- I mean, I think nine out of  
9 ten times, when somebody rear-ends somebody, they go my bad, I  
10 rear-ended because it's -- there's not as much gray, you know,  
11 you were following too closely or whatever. But I just feel  
12 like hers is just a little bit stronger in that. But we'll  
13 ask some more questions. And I'm sorry I interrupted you, so  
14 go ahead.

15 MR. HENRIOD: Well, I mean, as long as we can follow  
16 up on that and I appreciate knowing where Your Honor is going  
17 and we can read the Sanders case even more closely before we  
18 bring this up again.

19 In terms of reasonable doubt, I think both this  
20 prospective juror and a couple other were caught up yesterday  
21 in formulations that were outside of what the instructions  
22 will be with the scale and the 51 percent. And I'm not  
23 criticizing counsel for suggesting that the standard is  
24 tantamount to those things, but it is in more complex  
25 articulation of what the standard is, which is designed to be

1 pretty common sense than what the Court will give. And I  
2 think they are -- they're overthinking it. I think that voir  
3 dire is not supposed to punish the self-aware. And so we need  
4 to be able to --

5 THE COURT: Although, you know it does half the  
6 time. The truthful and the self-aware.

7 MR. HENRIOD: So but the problem with the -- it  
8 shouldn't, especially when the self-awareness just causes  
9 someone to be more hypersensitive to their psychology than  
10 they otherwise would be. And I think we need to talk with  
11 them about the reasonable -- or, I'm sorry, the preponderance  
12 of the evidence standard a little bit before the Court  
13 decides.

14 THE COURT: I'm going to -- I'm going to let -- let  
15 it go a little bit more, but that's just kind of my feeling.  
16 Was there another one?

17 MR. PRINCE: Yes, but I want to just respond to --  
18 to that. The holding was, of Sears Sanders, was broader than  
19 that dealing with the Court's decision-making regarding  
20 removing a juror for cause. And part of the import was the  
21 effect of a juror who may or is impartial and how that could  
22 affect a jury's decision-making.

23 I think as you demonstrated, you can look at the  
24 overall context. She is very firm in her beliefs. She is a  
25 strong advocate for herself. She's a good communicator, not

1 easily influenced. And so with that in mind, given how she's  
2 answered many questions over the last couple of days, that the  
3 holding of Sears Sanders wasn't just limited to, oh, only if  
4 you've treated with a particular doctor or know a witness  
5 personally is that the circumstance.

6 [Indiscernible] there might be a broad range of  
7 circumstances of substantial similarity in giving courts  
8 guidance in going through this process. Because you can't --  
9 we can't assure ourselves at this point that she can be  
10 impartial given her own relative experience. When she starts  
11 to deliberate and, yeah, when this happened to me, this is how  
12 I felt and I got a ticket, I didn't feel I was at fault, that  
13 was wrong of the officer to do.

14 And she indicated that the person didn't -- wasn't  
15 entitled to money, was upset with her insurance company  
16 because they didn't listen to her. So if the background has  
17 such circumstance which calls into question the ability to be  
18 fair, you should remove the juror for cause. That's well  
19 within your discretion.

20 It's that in addition to her beliefs regarding the  
21 ability to follow law, not willing -- about being 100 -- has  
22 to be 100 percent certain, she says it was a strongly held  
23 belief that the law should be different, and we should be held  
24 to a reasonable doubt standard. All of those combined impact  
25 impartiality.

1 THE COURT: Okay.

2 MR. PRINCE: Okay.

3 THE COURT: You guys can pursue it. I think she  
4 came around more on the reasonable doubt, but --

5 MR. PRINCE: So -- but, yeah. So anyway. Okay.

6 THE COURT: Like I said, my concern is the  
7 similarity. And you can lay the groundwork on that one, but I  
8 really felt she came back on it.

9 Did you want -- I'm sorry?

10 MR. HENRIOD: I mean --

11 MR. PRINCE: No, I ---

12 MR. HENRIOD: -- as long as we can -- as long as we  
13 can talk with her a little bit more.

14 THE COURT: Yeah, I'm not going to --

15 MR. HENRIOD: I mean --

16 THE COURT: I'm not going to rule on it right now.

17 MR. HENRIOD: -- the more sweeping the holding is,  
18 the more the context of the decision matters, right.

19 THE COURT: And I need to read this.

20 MR. HENRIOD: Because if it's a sweeping statement,  
21 then sometimes the exception can swallow the rule.

22 THE COURT: No, and I need to read it. I'm not  
23 ready to kick her yet. I'd just like to get the jury in here  
24 and do something and then we could --

25 MR. PRINCE: Well, I guess -- I guess -- well, if

1 we're -- we're moving a cause challenge, I guess we need to  
2 decide. I don't want to like pass and then if we're going to  
3 put -- seat new jurors --

4 THE COURT: Now, I'll -- as soon as they come back,  
5 I'll let Mr. Winner go and do his thing --

6 MR. PRINCE: Okay.

7 THE COURT: -- with these two.

8 MR. PRINCE: All right. Mr. Stratton now. Mr.  
9 Stratton is the engineer. He's Juror 307. He was very, very,  
10 very clear that, in his questioning, that all drivers should  
11 take personal responsibility, that when you drive you take  
12 risks, and even if you're not at fault, you assumed the risk  
13 of driving, everybody should bear responsibility. That is not  
14 the law.

15 It's a strongly held belief. He reiterated that  
16 point multiple times during the questioning. He also said  
17 that personal injury cases drive up insurance rates. And that  
18 even if instructed, told him not to consider outside factors,  
19 he said of course he'd be thinking about it. So his decision,  
20 he'd be thinking about outside factors of like what this  
21 decision, how that would impact not only his insurance rate  
22 generally, but his own insurance rates.

23 Further, on the burden of proof, while he said he  
24 could make a fair decision, his background and personal  
25 experience requires him to have way more certainty than 51

1 percent or more of being more probably true than not true. He  
2 said maybe he needs to hear more than that, he would need to  
3 be in the situation where he could make the decision, he  
4 doesn't know one way or the other whether he could follow the  
5 law, and he even went as far as saying that he doesn't think  
6 it would be hard for him to follow the law.

7           He isn't even sure that he is the right fit for this  
8 case because of his beliefs and decision-making criteria,  
9 primarily because he's an engineer, about the level of  
10 precision and certainty he needs to make an important  
11 decision.

12           So all of those factors combined demonstrate clear  
13 impartiality because if you're already assuming just because  
14 you're on the road, you have to accept some responsibility for  
15 your injury even though somebody else caused it, it's almost  
16 like this backward comparative fault analysis when that is not  
17 the law. It's like now all of the sudden, if you're hurt,  
18 well, part of it is your fault just because you were driving  
19 that day.

20           He analogized it to a sporting event. Hey, that's  
21 just part of it. And that -- that sporting event, here's the  
22 difference. A sporting event, everybody made a choice to  
23 participate. My clients didn't make a choice to participate  
24 in this collision and would have been happy to be going trick  
25 or treating with their kids and would not be here this many

1 years later with a spine fusion involved.

2 THE COURT: All right. You're going to need to talk  
3 to him more. There's a difference between responsibility and  
4 assumption of the risk.

5 MR. PRINCE: He said assumption of the risk. He  
6 used the word.

7 THE COURT: Assumption of the risk, that's true.  
8 Every time we get on the road, we assume the risk that  
9 something may happen.

10 MR. PRINCE: Yeah, but he -- he acquainted that to  
11 like --

12 THE COURT: I don't know that that --

13 MR. PRINCE: -- hey, if you're involved in an  
14 accident and you get injured, you assumed part of that risk on  
15 that automatically. You --

16 THE COURT: Well, assuming the risk --

17 MR. PRINCE: People don't do that.

18 THE COURT: But you do assume the risk. It doesn't  
19 mean that --

20 MR. PRINCE: Well, he's saying --

21 THE COURT: -- you shouldn't be compensated if --

22 MR. PRINCE: He feels that --

23 THE COURT: -- somebody hurts you.

24 MR. PRINCE: He feels that because you assume that  
25 risk, that you bear some responsibility for your injury and



1 your loss. He's taking it to the next level. I guess, of  
2 course, every time we get on the road there's a risk involved,  
3 but if you're following the rules and you're doing nothing to  
4 contribute, and now he's believing that you've assumed that  
5 risk and you bear some personal responsibility for those  
6 injuries because you're just on the road, just because you're  
7 on the road that day, that is of a mindset that he can never  
8 be fair to any injured plaintiff ever, even if they're not at  
9 fault in a motor vehicle collision, at least.

10 THE COURT: Clarify that a little bit. Because my  
11 guess is if -- if you are on the road and you were hit head on  
12 by a drunk driver going the wrong way, he'd tell you not so  
13 much, so --

14 MR. PRINCE: You know, when we use like kind of  
15 extreme examples, people say of course not; right? I mean, we  
16 kind of -- but I think his --

17 THE COURT: And I'm not saying use that example.  
18 I'm just saying I'm not clear that he's as --

19 MR. PRINCE: I guess you could draw -- you could  
20 create hypothetical examples to where you could move everybody  
21 to a point where, oh, yeah, I don't mean in that certain  
22 circumstance, but in general that's his belief. That's a  
23 closely held belief. And that's how in a rear-end collision  
24 like simple like that, not a drunk driver, not an extreme case  
25 where, number one, that person is going to be subject to a

1 criminal penalty also.

2 I don't feel that that's a fair example. I  
3 appreciate you giving me an example, but I don't think it's a  
4 fair example to understand his beliefs, understand his bias,  
5 and how it may affect his decision-making. And I'm not going  
6 to call this a garden variety of motor vehicle accidents.  
7 They're the snowflakes, quite honestly. And because of that,  
8 we can't -- he can't demonstrate his fairness or his ability  
9 to be impartial.

10 He even went as far as to say he didn't feel he was  
11 the right person for this type of a case given his mindset.  
12 So with that in mind, we can't overcome that. And he is  
13 obviously a strong, articulate, educated person who we can't  
14 be certain. And that's what Sears Sanders is about, we can't  
15 be certain that his viewpoints, as impartial as they may be --  
16 or not be, rather, are going to affect this jury pool, taint  
17 it in a way.

18 But your job is to understand fundamental fairness,  
19 understand partiality. You're the gatekeeper of that. And  
20 you're never wrong, never wrong if you feel that under the  
21 totality of the circumstances someone has some implicit bias  
22 that could affect their ability to be impartial and have them  
23 participate in the deliberation process and to remove them.  
24 That is your role as a gatekeeper. So we would ask you to  
25 remove Mr. Stratton, as well.

1 THE COURT: Okay.

2 MR. HENRIOD: Let me start at the end. I completely  
3 disagree with that. I think the Court ought to look at the  
4 Cory decision. You know, the Court can't abuse its discretion  
5 by disallowing citizens to sit on a jury certainly.

6 Now, here is the thing. If somebody is asked, if  
7 somebody is asked about their ethical preferences, their --  
8 their personal ethical systems, their public policy  
9 preferences, just like when you're certifying a death penalty  
10 panel, they can say -- they can say I favor drug reform, if I  
11 were a citizen voting, I favor drug reform. My system of  
12 ethics personally is that I don't -- I wouldn't sue unless I  
13 felt somebody were really culpable.

14 But he was asked could you follow the law. He  
15 recognizes the difference between someone enforcing rights and  
16 their ability to do that versus when he would decide to sue.  
17 He said he can follow the law on the preponderance of the  
18 evidence standard. He said that he could do that, as well.  
19 And, again, just like Ms. Reeves, I think we need to talk a  
20 little bit more about that with them because I think they got  
21 caught up in analogies more than in the actual standard as the  
22 Court will instruct with them.

23 Yeah, he said that he will follow the law. He said  
24 that unequivocally. He said he can distinguish his preference  
25 for more than 51 percent in the decisions he makes as an

1 engineer from what the standard is here. There is some  
2 assumption of the risk. We can clarify what he means by that  
3 because when it comes to a lay person using legalese, right,  
4 it may mean something to us that it doesn't mean to them when  
5 they say it.

6           Negligence is not a strict liability tort. Yeah, I  
7 may get on the road, I may be hit, and that doesn't mean that  
8 somebody is at fault. And I want to make sure that that's not  
9 what he means. We do all assume, again, because it's not a  
10 strict liability tort.

11           The fact that somebody causes an action or causes an  
12 accident, even if they cause it, you still have to prove that  
13 an ordinary prudent person acting prudently wouldn't have done  
14 the same thing. And we need to make sure that that is not  
15 what he meant. I don't think that that is what he meant.

16           THE COURT: Okay.

17           MR. PRINCE: Just a couple more finals points, Your  
18 Honor. I know we're going to have some more questioning on  
19 this, but simply stating, for example like in Sears Sanders, I  
20 can be impartial is not enough. The case law is very clear.  
21 I'll follow your instructions is not enough. Both of those  
22 state even if they say yes to that question 15 times, there's  
23 other statements and representations made in response to  
24 questions which call into question their ability to be fair  
25 and impartial based upon overall circumstances.

1           His underlying belief about personal responsibility  
2 and people -- even if you're not at fault, you bear some  
3 personal responsibility, that's one. The burden of proof is,  
4 I think, a disqualifying factor because he's going to hold us  
5 to a standard that doesn't exist.

6           He says to you I can't do it. In my own mind,  
7 because of how I make decisions both personally and  
8 professionally, that is a standard that I just don't -- I'm  
9 not sure I can do and, therefore, I don't think I'm the right  
10 fit for this case because of that standard. And that's an  
11 ideological philosophical issue and belief that he firmly  
12 holds. It was very clear that that's firm.

13           There's never any way to overcome that, so we're  
14 going to be held to a standard, some individualized standard  
15 that we don't know what exists, and he's not sure he can tell  
16 you, yeah, I can -- I can make that decision, Your Honor, I  
17 can clearly make that decision. 18 other people said they  
18 could, but two said they can't.

19           So it's not like I'm talking about something that's  
20 foreign or unknown, it's two people who said they couldn't do  
21 it, or, really, at a minimum, there's a serious doubt whether  
22 they could, even if they said they could do it. The more they  
23 say they can do it adds more to the confusion and uncertainty.  
24 So for the same reasons we're asking you to remove them, they  
25 can ask the questions as you allowed.

1 THE COURT: Okay.

2 MR. HENRIOD: Do you want to go on now, or can we

3 continue to speak with them?

4 THE COURT: No, we're going to continue to speak to

5 them.

6 MR. HENRIOD: Very well.

7 THE COURT: Ready? Are we ready? Okay.

8 (Inside the presence of the prospective jury)

9 THE COURT: Good morning, everybody. Welcome back.

10 Day 4.

11 Ready? Mr. Winner.

12 MR. WINNER: Thank you, Your Honor.

13 Ms. Reeves.

14 PROSPECTIVE JUROR NO. 245: Oh. Yes, sir?

15 MR. WINNER: Mind passing that back?

16 PROSPECTIVE JUROR NO. 245: Yes, sir.

17 MR. WINNER: Ms. Reeves, the other day you were

18 telling us a little bit about an accident that you were

19 involved in where you -- it was a rear-end accident you were

20 involved in.

21 PROSPECTIVE JUROR NO. 245: Yes, sir.

22 MR. WINNER: Can you tell me a little bit more about

23 that?

24 PROSPECTIVE JUROR NO. 245: Well, again, I was

25 headed home, decided to go pick up some things at the store.

1 Come off the 215 towards onto Lake Mead. And as -- the speed  
2 limit drops to 45 off the 215 onto Lake Mead Parkway in front  
3 of the Fiesta Casino Hotel area, southeast side --

4 MR. WINNER: Okay.

5 PROSPECTIVE JUROR NO. 245: -- of Henderson. So  
6 you've got a lane coming from the right, people off the 95  
7 onto Lake Mead. So you've got to be very careful with that,  
8 and then you have --

9 MR. WINNER: Right.

10 PROSPECTIVE JUROR NO. 245: -- another one. So I'm  
11 in the center lane. Nobody in front of me in the center lane.  
12 There's traffic to my left and coming to my right. They pass.  
13 As I come to the light, there's an onramp coming. I slow down  
14 to about 27, 30, and about that time there's a car just  
15 literally -- there's not even a half a car length in front of  
16 us. Comes in front of me and this car is stopped. And I'm  
17 like, oh. So I look real quick.

18 MR. WINNER: So did somebody cut you off?

19 PROSPECTIVE JUROR NO. 245: No, they just literally  
20 came to the center lane and stopped.

21 MR. WINNER: Okay.

22 PROSPECTIVE JUROR NO. 245: There was -- yes, I got  
23 cut off.

24 MR. WINNER: Okay.

25 PROSPECTIVE JUROR NO. 245: So I tried to avoid it,

1 and then caught the rear section of their car. Their right  
2 rear section --

3 MR. WINNER: Okay.

4 PROSPECTIVE JUROR NO. 245: -- on the car. Yes,  
5 sir.

6 MR. WINNER: All right. And you said something  
7 afterwards. You said there was something on the news or you  
8 saw something on the news about it that concerned you or --

9 PROSPECTIVE JUROR NO. 245: Well, no, I said some  
10 years later. Maybe this is two years ago now because this  
11 happened maybe five. It's been a few years.

12 MR. WINNER: It's been awhile.

13 PROSPECTIVE JUROR NO. 245: Yes, sir. So a couple  
14 years ago my husband mentioned -- again, I don't watch the  
15 news a lot. I kind of like don't care for it, but my husband  
16 brought up there was a -- there was a group of people arrested  
17 for causing accidents.

18 MR. WINNER: Staging the accidents.

19 PROSPECTIVE JUROR NO. 245: Staging.

20 MR. WINNER: Yeah.

21 PROSPECTIVE JUROR NO. 245: That what it was. Yes,  
22 sir.

23 MR. WINNER: Okay.

24 PROSPECTIVE JUROR NO. 245: And he says look at this  
25 guy. He says take a look at this. There was a few pictures,



1 maybe five, six. I don't remember now. But one of the  
2 gentlemen, he was like, whoa, that looks like the guy that was  
3 in the car with that woman. I mean, you just -- again, I  
4 can't say yes or no, you know, that's the man that was there,  
5 but it was odd because you're like was that --

6 MR. WINNER: It really made you think about it.

7 PROSPECTIVE JUROR NO. 245: It did. It did.

8 MR. WINNER: Yeah.

9 PROSPECTIVE JUROR NO. 245: Yes, sir.

10 MR. WINNER: Okay. I can tell you -- I'm not here  
11 to talk about the case, but I can tell you there's not going  
12 to be any suggestion in this case that anybody tried to stage  
13 an accident or intentionally cause an accident. Would that  
14 experience of yours affect the way you view this case if I  
15 tell you that?

16 PROSPECTIVE JUROR NO. 245: Again, I don't feel that  
17 I would bring that to, my experience five years ago, I don't  
18 think I would say that's a yea or nay. I don't think that  
19 would sway me either way on how I feel.

20 MR. WINNER: Okay. I bet if I asked for a show of  
21 hands, most people, I assume, that we either bumped into  
22 somebody or had a near miss while driving. True? I see a lot  
23 of nods and hands go up. Okay. You don't believe that would  
24 affect the way you look at this particular --

25 PROSPECTIVE JUROR NO. 245: No, sir.

1 MR. WINNER: -- case?  
2 PROSPECTIVE JUROR NO. 245: No, sir.  
3 MR. WINNER: Okay. Mr. Stratton. Mr. Stratton,  
4 your background is engineering.  
5 PROSPECTIVE JUROR NO. 307: Yes.  
6 MR. WINNER: So you kind of have a swiss pocket of  
7 brain where you calculate probabilities and make decisions.  
8 PROSPECTIVE JUROR NO. 307: I wouldn't say that,  
9 but --  
10 MR. WINNER: Okay.  
11 PROSPECTIVE JUROR NO. 307: -- what I do for a  
12 living is precise.  
13 MR. WINNER: Okay. Mr. Prince described -- kind of  
14 described to you yesterday, described to all of us yesterday,  
15 something about the burden of proof; right? Do you remember  
16 that conversation? And the burden of proof is, he said it  
17 correctly, that the burden of proof in a civil case is not  
18 beyond a reasonable doubt, that it means probability. It  
19 means more likely than not.  
20 It seems to me we could look at this maybe on a  
21 scale that some things are completely unlikely, impossible,  
22 some things are very unlikely but possible, putting a quarter  
23 in a slot machine and winning would be unlikely but possible,  
24 and then there's something that's quite possible. This town  
25 was -- this is a city built on possibilities. You put money

1 on red on a roulette wheel, it's possible that you're going to  
2 -- you're going to hit it, but understand that it's almost 50  
3 percent.

4           And then there's 50 percent, there's something  
5 equally likely, like a coin toss, equally likely. And then  
6 there's more likely than not, probable, meaning I believe that  
7 because it's probable. Are you going to be okay holding the  
8 plaintiff to that standard of I believe it because it's  
9 probable? If that is the law explained to you in the case  
10 that they need to prove to you that it's probable, not beyond  
11 a reasonable doubt, but probable, will you follow the law?

12           PROSPECTIVE JUROR NO. 307: Yes.

13           MR. WINNER: Okay. Do you have any difficulty  
14 following the law?

15           PROSPECTIVE JUROR NO. 307: No. What I would say is  
16 that I might be more skeptical than others about what 50  
17 percent or 49 percent means to me.

18           MR. WINNER: Sure.

19           PROSPECTIVE JUROR NO. 307: But that's just my  
20 personal experience.

21           MR. WINNER: Okay. Sure. So if -- if the plaintiff  
22 is asking for \$100, it might take you a little -- a little bit  
23 of time to figure out whether they have proved something to  
24 you probably more likely than not, and if plaintiff is asking  
25 for \$100,000, a lot more money, it might take you a little

1 time to think about whether it's probable or more likely than  
2 not; right?

3 PROSPECTIVE JUROR NO. 307: I think I would spend  
4 more time on something that has a large monetary value.

5 MR. WINNER: Okay. But would you still hold the  
6 plaintiff to that probable standard, I believe it because it's  
7 probable?

8 PROSPECTIVE JUROR NO. 307: Yes.

9 MR. WINNER: Okay. Thank you.

10 THE COURT: You guys want to approach.

11 (Bench conference)

12 THE COURT: I'm going to grant them as to both. I  
13 didn't like his response. My opinion -- the first lady, I  
14 think, based on the Sanders case, everything tells me that the  
15 district court's finding of bias for a prospective juror in a  
16 criminal trial is engaged in similar conduct as the conduct  
17 what the defendant was criminal charged. To me, that's just  
18 -- it's too close. It's not worth it. We'll find some other  
19 impartial people. I just -- and I do remember her being very  
20 strong about it yesterday in terms of being angry.

21 Mr. Stratton I wasn't kicking until he just said I  
22 think I might see the evidence and require more to get to the  
23 50 percent than other jurors. That's what I hear him saying.

24 MR. PRINCE: Right.

25 MR. WINNER: I thought he said he would take more

1 time to think about it.

2 THE COURT: He didn't say time. He said it would  
3 take more to get me where other people would get.

4 MR. PRINCE: Yes.

5 THE COURT: And what he's saying is, yes, I'll  
6 follow the law, but my idea of what 50 percent is is going to  
7 be different than other people based upon my experience.

8 MR. HENRIOD: No, no, no. I don't -- I don't think  
9 so. I think what he's saying is I am less gullible than other  
10 people.

11 MR. PRINCE: Oh.

12 MR. HENRIOD: Give me a break. There is a reason  
13 why we have so many people on a jury that it's no one person.  
14 Because you have some people who believe more easily. You  
15 have some who say, yeah, I want to see the evidence before I  
16 think it's more probable than not. But the standard is  
17 whether or not you believe it's more likely than not, and he  
18 said that. That he said I'm more skeptical a person than  
19 perhaps normal makes him part of the cross-section.

20 And I think in terms of similarity with Sanders  
21 where you have so many people saying, yeah, [indiscernible],  
22 the more common experience, the less it matters that they  
23 overlap. What you had in Sanders was I know this person, I  
24 got suggested I had a diagnosis that I didn't think I had,  
25 this person recommended surgery to me that I didn't need.

1 That is uncanny.

2 MR. WINNER: It was the same doctor.

3 THE COURT: Be impartial in a murder trial where the  
4 juror's brother died under circumstances similar to those  
5 suffered by the victims, I mean, that's not -- that's not any  
6 party identification or witness identification. It's  
7 literally circumstantial.

8 MR. HENRIOD: Well, then by that standard, I think  
9 we have to be able to [indiscernible] people who have had a  
10 near miss because somebody cut them off.

11 MR. WINNER: Or anybody who has neck or back pain.  
12 They're all gone for cause.

13 MR. HENRIOD: Anybody who has been bumped into in a  
14 crowd.

15 MR. WINNER: This is why we can't do this. We're  
16 trying to quintuple, quadruple ten times the peremptory  
17 challenges by manufacturing cause challenges. Everybody he  
18 slightly doesn't like he gets to do a cause challenge for so  
19 that he gets -- he gets 15 challenges instead of 5. That's  
20 why he's doing this. We filed a trial brief about it.

21 THE COURT: I know what he's doing. I know why he's  
22 doing it. I get it.

23 MR. WINNER: Yeah.

24 MR. PRINCE: You're just disrespectful is what  
25 you're being right now.

1 MR. WINNER: I'm not being disrespectful.

2 MR. PRINCE: You're pounding the bench, you're red  
3 and angry and yelling and you're -- keep you your voice down.

4 MR. HENRIOD: Common life experiences. There's a  
5 reason why you have so many of them and they have to reach a  
6 consensus. You'll have some who haven't driven much at all.

7 THE COURT: I understand.

8 MR. HENRIOD: And you'll have some who have driven a  
9 lot. And having a near miss, and especially --

10 THE COURT: I'm not talking about a near miss.

11 MR. HENRIOD: Well, no.

12 THE COURT: I'm talking about the -- I'm talking  
13 about somebody driving in front of you, you're driving along,  
14 and for no reason somebody stops. That's exactly what  
15 happened here. And she was mad that she got cited, which says  
16 to me she completely believed she was not wrong. I just --  
17 I'm not going to take a chance on it. It just -- it's not  
18 worth it to me.

19 I don't -- I know maybe it's the easier way out, but  
20 when people make a record and they say something like I would  
21 need to see more than these other people to get to my 50  
22 percent, then they've set themselves apart from these other  
23 people and made them different, and I just don't see any --

24 MR. PRINCE: All right. Thank you.

25 THE COURT: And if you want to pursue the back pain

1 people and all the other stuff, that's certainly all right  
2 to --

3 MR. PRINCE: Okay.

4 MR. HENRIOD: Very well.

5 THE COURT: Okay.

6 (End of bench conference)

7 THE COURT: I'm going to thank and excuse at this  
8 time Ms. Reeves and Mr. Stratton. Appreciate it. Have a good  
9 weekend.

10 Call two more.

11 THE CLERK: Minerva Tapia, Badge No. 371, replace  
12 Seat 3.

13 PROSPECTIVE JUROR NO. 371: What did you say?

14 THE CLERK: 3.

15 MR. PRINCE: Could you tell me the number again, the  
16 juror number?

17 THE CLERK: Yes. 371.

18 MR. PRINCE: Okay. Thank you.

19 THE CLERK: And Dylan Sweikert, Badge No. 376,  
20 replace Seat 18.

21 THE COURT: Do they have the sheet?

22 THE MARSHAL: Yep.

23 THE COURT: Okay. Ms. Tapia.

24 PROSPECTIVE JUROR NO. 371: Hi. My name is Minerva  
25 Tapia, and I've been here for 16 years. And the farthest



1 school I got in grade was 10th grade. And I am employed right  
2 now. I work in a warehouse called Vitacost.com. And I am  
3 married. I got married in March, so I've got two months.

4 THE COURT: Does your spouse work?

5 PROSPECTIVE JUROR NO. 371: My wife, she lives in  
6 Mexico.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 371: Yeah. I have no kids,  
9 and this is the furthest I got in jury duty. This is my third  
10 time here. And I don't have a reason to be fair, the last  
11 question.

12 THE COURT: Okay. No reason that you can't be fair  
13 and impartial in this case?

14 PROSPECTIVE JUROR NO. 371: Yeah, I have no reason.

15 THE COURT: All right. And then if you'll pass it  
16 down to Mr. Sweikert.

17 PROSPECTIVE JUROR NO. 376: Dylan Sweikert, Badge  
18 No. 376. I've lived in Clark County for 19 years, born and  
19 raised. High school diploma and a year of college, currently  
20 in college. I'm employed at Bear's Best Golf Course, and I'm  
21 a porter. I'm not married. No children, obviously.

22 THE COURT: It's not necessarily obviously.

23 PROSPECTIVE JUROR NO. 376: Okay. You're right. My  
24 grandmother actually had kids at 17, so I shouldn't say that.  
25 I've never served as a juror before and -- well, actually,

1    yeah, this is my first time and this is -- yeah.    I have no  
2    reason why I couldn't be completely fair and impartial if  
3    selected for the case.

4                THE COURT:    Great.    Thanks.

5                And I don't know if I made the record, but everybody  
6    stipulates that we have all our jury here now?

7                MR. PRINCE:    We do.

8                MR. WINNER:    Yes, Your Honor.

9                THE COURT:    Thank you.

10               MR. PRINCE:    Happy Friday.    We made it.    We kind of  
11    fight for the weekend sometimes in these cases and we're right  
12    here.    I'm hoping, I believe -- well, I'm going to be done  
13    here in a little.    I'm sure you'll be so happy.    Thank you,  
14    Ms. Westbrooks, for the --

15               PROSPECTIVE JUROR NO. 282:    It's my birthday today.

16               MR. PRINCE:    Well, happy birthday, Ms. Westbrooks.  
17    I wish you a happy birthday.    I thank you for being here and  
18    your patience.

19               And so, Mr. Sweikert, you have the microphone, so  
20    I'm going to start with you.    Let's start with first things  
21    first.    I think you told us earlier that you're a college  
22    athlete, you know, that you're a swimmer.

23               PROSPECTIVE JUROR NO. 376:    Yeah.

24               MR. PRINCE:    Okay.    What college do you go to?

25               PROSPECTIVE JUROR NO. 376:    California Baptist

1 University in Riverside, California.

2 MR. PRINCE: Okay. And I think you said right now  
3 you're -- you should or you should be training daily?

4 PROSPECTIVE JUROR NO. 376: Yeah. So --

5 MR. PRINCE: Tell me more about that.

6 PROSPECTIVE JUROR NO. 376: So currently my practice  
7 is I -- so my club team here in Vegas, I came back for summer  
8 training, and currently the group that I'm with has practices  
9 from 3:00 to 5:00 and no morning practices, so I've been doing  
10 my own workouts in the morning. They're -- the reason I  
11 brought up that before we started here was because it's a lot  
12 less effective when you're swimming on your own than when  
13 you're working out with your team.

14 MR. PRINCE: Okay.

15 PROSPECTIVE JUROR NO. 376: Any athlete can attest  
16 to that. And so, yeah, that's -- I mean, for -- for right  
17 now, I mean, I have -- I have time before I have to swim my  
18 first meet coming up in June, so, I mean, I guess there's no  
19 reason why I couldn't be here. I'll just work around it.

20 MR. PRINCE: Okay. Thank you for -- for doing that.  
21 In addition to your college team, it sounds like it's kind of  
22 [indiscernible] college athletes. And so you're with a club  
23 team, you're working out all summer. You're probably already  
24 sore around your team, worked out with the club team, they --  
25 right, and swims all summer long and goes to the

1 [indiscernible]; is that true?

2 PROSPECTIVE JUROR NO. 376: Yeah.

3 MR. PRINCE: Okay. And so it sounds like you can  
4 work out in the mornings most days, and then come to court  
5 where it's sort of -- sometimes it's a little earlier, but  
6 usually the afternoon.

7 PROSPECTIVE JUROR NO. 376: Yeah, so typically, if I  
8 get selected for a jury, I'll just change my schedule and then  
9 I'll try to like work with my team. I'm sure they'd be  
10 understanding. And also, you know, I'm 5:00 to 7:00 every  
11 morning, or if it's --

12 MR. PRINCE: All right. I understand you swim on  
13 your own and you also swim with a team, but you can make that  
14 work for yourself?

15 PROSPECTIVE JUROR NO. 376: Yeah.

16 MR. PRINCE: Okay.

17 PROSPECTIVE JUROR NO. 376: I'll have to do that.

18 MR. PRINCE: All right. I appreciate that. All  
19 right. I feel like all of us are born and raised, we always  
20 say we're born and raised. What high school did you go to?

21 PROSPECTIVE JUROR NO. 376: Palo Verde High School.

22 MR. PRINCE: Oh.

23 PROSPECTIVE JUROR NO. 376: My father is the  
24 principal.

25 MR. PRINCE: Oh, okay.

1 THE COURT: That's cool.

2 MR. PRINCE: And what are you majoring in at

3 California Baptist?

4 PROSPECTIVE JUROR NO. 376: Mechanical engineering.

5 MR. PRINCE: What do you hope to do?

6 PROSPECTIVE JUROR NO. 376: I feel like it would be

7 fun to do research and development for a company. I mean, one

8 of my idols is Mr. Elon Musk, so it would be cool to work

9 Tesla or SpaceX.

10 MR. PRINCE: Okay. Something kind of automotive

11 design or something, whatever.

12 PROSPECTIVE JUROR NO. 376: Aerospace.

13 MR. PRINCE: Aerospace.

14 PROSPECTIVE JUROR NO. 376: Yeah.

15 MR. PRINCE: All right. Good. All right. You've

16 heard a lot of the questions from yesterday, and anything

17 about personal injury lawsuits or lawyer advertising that

18 affects your thinking and how you might view this case in any

19 way?

20 PROSPECTIVE JUROR NO. 376: No, probably not. But I

21 can tell you that like one of the questions was have -- have

22 you -- I've never been injured in an automotive accident, but

23 my parents and my grandfather were, and they received

24 chiropractic help.

25 MR. PRINCE: Okay.

1 PROSPECTIVE JUROR NO. 376: And then my mom's cousin  
2 in Colorado was hit by a drunk driver, the car rolled over,  
3 she fell out of it, like she threw -- went -- was thrown  
4 through the window and she ended up passing away from that.

5 MR. PRINCE: Okay. I'm sorry to hear that. With  
6 regard to your parents and your grandmother had injuries?

7 PROSPECTIVE JUROR NO. 376: Grandfather.

8 MR. PRINCE: Grandfather. Okay. And so they are --  
9 how long ago were they injured in a motor vehicle collision?

10 PROSPECTIVE JUROR NO. 376: Well, it was -- I  
11 believe it was before I was born by about a month, so 20 years  
12 ago maybe.

13 MR. PRINCE: Okay. Do you know if they made full  
14 recoveries, any ongoing issues?

15 PROSPECTIVE JUROR NO. 376: So, yes, full  
16 recoveries, but my dad suffers back pain. He played football,  
17 and I think that's kind of where it mostly came from. He had  
18 -- he's currently doing a case study for stem cell research  
19 because I -- I believe it's not currently like legal to sell  
20 stem cells, but they have -- you can sign up for a study and  
21 so he's doing that.

22 MR. PRINCE: Is it to help reduce pain and  
23 inflammation and improve --

24 PROSPECTIVE JUROR NO. 376: Yeah.

25 MR. PRINCE: -- the quality of his life --

1 PROSPECTIVE JUROR NO. 376: Yeah.

2 MR. PRINCE: -- in the long term? Okay.

3 PROSPECTIVE JUROR NO. 376: Yes.

4 MR. PRINCE: Has he -- has he actually started doing  
5 that treatment?

6 PROSPECTIVE JUROR NO. 376: Well, so it's -- it's --  
7 it's a three-year case study, and he got the injections, and  
8 then every three months he has to report back to kind of --  
9 they gauge what his progress is.

10 MR. PRINCE: Part of a clinical trial. Okay. How  
11 about mom, did she make a full recovery from that?

12 PROSPECTIVE JUROR NO. 376: Yep, mom made a full  
13 recovery.

14 MR. PRINCE: Okay. Do you know if they hired a  
15 lawyer to assist them through the process? I know it's before  
16 you were born.

17 PROSPECTIVE JUROR NO. 376: So I would say they  
18 wouldn't have just because, I mean, some of the people here  
19 are kind of under the same logic that I have. They just  
20 wanted to -- so it was a rear-end collision. I believe that  
21 they, you know, had the, you know, the car, they had the car  
22 paid for, the chiropractic care paid for, all the medical  
23 stuff, but they didn't -- I doubt that they took anything for  
24 the pain and suffering damages or --

25 MR. PRINCE: Okay.

1 PROSPECTIVE JUROR NO. 376: -- loss of --  
2 MR. PRINCE: Okay. Why do you think you doubt that?  
3 Why do you doubt that?  
4 PROSPECTIVE JUROR NO. 376: I just feel like that's  
5 something that they would do and it's something I would do and  
6 I feel like they've raised me to be an image of their beliefs.  
7 MR. PRINCE: Okay. And so tell me about those  
8 beliefs. And so you of course, you know, if you get your --  
9 someone breaks something, they need to pay for it; right?  
10 PROSPECTIVE JUROR NO. 376: Yep. Obviously.  
11 MR. PRINCE: So if you're -- someone is at fault or  
12 careless and crashes into you, you should pay for the car.  
13 That's one thing; right? Any medical expenses or if you need  
14 treatment or therapy to help you in your recovery.  
15 PROSPECTIVE JUROR NO. 376: Yep.  
16 MR. PRINCE: So but above that, the law does allow  
17 for pain, suffering, loss of enjoyment of life as the case may  
18 be.  
19 PROSPECTIVE JUROR NO. 376: Yeah.  
20 MR. PRINCE: And you're saying you do not feel  
21 comfortable yourself that people should be -- that they  
22 shouldn't be entitled to that part?  
23 PROSPECTIVE JUROR NO. 376: Well, no. So personally  
24 myself, I would not accept money in addition to, I guess,  
25 those medical expenses, the car, and then whatever. Like some



1 people said wages I would receive in the time period that I  
2 was recovering, I would accept that, but personally I wouldn't  
3 accept any additional for loss of enjoyment of life. I have  
4 no problem with other people exercising their right to that,  
5 so I don't think that I would go against that.

6 MR. PRINCE: Okay. Tell me why you wouldn't if the  
7 law allowed for that?

8 PROSPECTIVE JUROR NO. 376: So, I mean, just from  
9 like from what I've heard, it's a long process. I mean, you  
10 said that this is three years in the making.

11 MR. PRINCE: Four.

12 PROSPECTIVE JUROR NO. 376: Four years in the  
13 making.

14 MR. PRINCE: Four.

15 PROSPECTIVE JUROR NO. 376: And if it wasn't  
16 signification, then I would rather not go through the trouble  
17 of it.

18 MR. PRINCE: Right.

19 PROSPECTIVE JUROR NO. 376: Just personally. I  
20 would rather -- instead of spending of my time, you know, in  
21 the courtroom trying to fight for any additional money that I  
22 can get, I would rather just go on with my life.

23 MR. PRINCE: Okay. What about for if they don't --  
24 the person didn't want to pay you anything, they didn't think  
25 you were hurt, just didn't want to accept their fault for

1 causing a collision and hurting you, they didn't want to do  
2 anything. Would you file a suit?

3 MR. WINNER: Objection, Your Honor.

4 MR. PRINCE: I'm following up on the witness's  
5 answer.

6 THE COURT: Overruled.

7 MR. PRINCE: Go ahead.

8 PROSPECTIVE JUROR NO. 376: So -- so, yes, if -- I  
9 mean, if the -- if the person who rear-ended me is what you're  
10 saying?

11 MR. PRINCE: Or it could be anything. It could be  
12 t-boned, rear-ended you.

13 PROSPECTIVE JUROR NO. 376: If the person at fault  
14 refused to --

15 MR. PRINCE: Yeah.

16 PROSPECTIVE JUROR NO. 376: -- pay my --

17 MR. PRINCE: Yeah, they don't think they're at fault  
18 and you think they are --

19 PROSPECTIVE JUROR NO. 376: Yes.

20 MR. PRINCE: -- and they don't want to pay for  
21 anything.

22 PROSPECTIVE JUROR NO. 376: Lawsuit. If the -- I  
23 mean, if the -- if they can't be handled through the insurance  
24 or the insurance companies, then, yes, lawsuit.

25 MR. PRINCE: Right. So you would do it if you were

1 put in that position?

2 PROSPECTIVE JUROR NO. 376: Yes.

3 MR. PRINCE: Okay. I just wanted to follow up.

4 Because there could be a lot of reasons why a lawsuit gets

5 filed.

6 PROSPECTIVE JUROR NO. 376: Sure, yeah.

7 MR. PRINCE: Someone could say I'm not at fault, I

8 don't want to pay, you know, I'm not -- you know, I'm not

9 paying for your damages.

10 PROSPECTIVE JUROR NO. 376: Yeah, sure. Okay.

11 MR. PRINCE: Okay. Are you okay with that? I mean,

12 so you would do it if compelled to. If that was your only

13 option, then --

14 PROSPECTIVE JUROR NO. 376: Well, yeah, I wouldn't

15 -- I mean, if it wasn't my fault, I wouldn't pay for it.

16 MR. WINNER: Your Honor, we need to approach,

17 please.

18 (Bench conference)

19 MR. HENRIOD: [Indiscernible] offers in this case --

20 MR. PRINCE: What?

21 MR. HENRIOD: -- and hear the insinuation that we're

22 here --

23 THE COURT: The first question I thought was fair

24 because I think he was pinning him down on --

25 MR. PRINCE: We're not talking about insurance.

1           THE COURT:  -- on something, but I think you're  
2 going down --

3           MR. HENRIOD:  Well, whether she paid it herself or  
4 the person -- or the indemnitor is paying it, it doesn't  
5 matter, right.  We're not here because nobody has offered to  
6 pay any damages, and that's exactly the impression they're  
7 getting.

8           THE COURT:  Like I said, I think the first -- the  
9 first time when you objected, I was okay with you following up  
10 because of what he said needed to clarify, but now you're  
11 going down a road where I feel like you're kind of hinting to  
12 them, hey --

13          MR. PRINCE:  Well, he said if it's me personally,  
14 I'm not going to court, so I'm trying to figure out under what  
15 circumstance --

16          THE COURT:  I understand.

17          MR. PRINCE:  -- would he go to court.

18          THE COURT:  But you -- but I let you ask that one  
19 question, you know, if they wouldn't pay for your -- what you  
20 thought you were entitled to, but now you're kind of going in  
21 that, and then you're going a little more above, you know,  
22 there's lot of people -- lots of reasons why people sue people  
23 and --

24          MR. PRINCE:  There are.

25          THE COURT:  -- kind of -- that's not a question.

1 MR. PRINCE: Okay. I'll move on, then.  
2 THE COURT: So I'm going to --  
3 MR. WINNER: No, no, no. The insinuation --  
4 THE COURT: -- sustain that one.  
5 MR. WINNER: -- was just made to the entire panel  
6 that the reason we're here is we won't offer any money.  
7 MR. PRINCE: No, that's --  
8 MR. WINNER: That's the --  
9 MR. PRINCE: -- not true.  
10 MR. WINNER: That's exactly what you just did, and  
11 you did it on purpose.  
12 MR. PRINCE: No, I didn't.  
13 MR. WINNER: Yes, you did.  
14 THE COURT: Well, I'm sustaining it. I agree with  
15 -- like I said, the first question I thought was fun,  
16 clarifying what he said if there were circumstances so that we  
17 knew where his head was, but the other questions, I think,  
18 were more inclined to educate the jury.  
19 MR. PRINCE: Oh, no, no. Hang on. That wasn't my  
20 intent. I am definitely not going down that --  
21 THE COURT: I didn't say that was your intent.  
22 MR. PRINCE: No, no, no. I understand.  
23 THE COURT: I said they were more --  
24 MR. PRINCE: But I'll move on.  
25 THE COURT: -- inclined to educate the jury.

1 MR. WINNER: If he made a statement to the panel  
2 that sometimes people have to file a lawsuit because they  
3 don't offer anything, they won't take any responsibility and  
4 they won't pay for anything, that's what he just said to the  
5 entire panel.

6 THE COURT: I know. Did he say offer?

7 MR. PRINCE: I said because he said he wouldn't do  
8 it. He said he wouldn't do it.

9 THE COURT: Okay. Well, I'm -- I'm --

10 MR. PRINCE: He wouldn't file a suit in that  
11 circumstances.

12 THE COURT: -- I'm sustaining the objection, and  
13 that's all I can do.

14 MR. WINNER: I'd like to move to strike the question  
15 and the comment, please.

16 THE COURT: Will do.

17 (End of bench conference)

18 THE COURT: Ladies and gentlemen, you'll disregard  
19 the last question and the --

20 MR. PRINCE: Okay.

21 THE COURT: -- comments.

22 MR. PRINCE: All right.

23 THE COURT: Okay.

24 MR. PRINCE: And with regard to someone who does  
25 file a lawsuit, in your mind does that have any -- make them

1 less believable or put them under some kind of suspicion in  
2 any way for you?

3 PROSPECTIVE JUROR NO. 376: No. No.

4 MR. PRINCE: Okay. And do you have any feelings,  
5 and you may or may not, but do you have any feelings that  
6 there needs to be any type of reform or legal reform when it  
7 comes to personal injury lawsuits in the civil justice system?

8 PROSPECTIVE JUROR NO. 376: So I believe that it  
9 should be case by case. And the fact that obviously -- like I  
10 would feel uncomfortable awarding someone, you know, a billion  
11 dollars for something like that, something very excessive.  
12 But I feel like the jury itself kind of puts a cap on what  
13 someone can earn themselves. Like I feel like the -- I feel  
14 like since you have a diverse jury system, that each person  
15 would come from different backgrounds and, you know, financial  
16 standing, so I feel like the amount awarded would not be  
17 excessive in many cases.

18 MR. PRINCE: The jury kind of filters that out for  
19 themselves.

20 PROSPECTIVE JUROR NO. 376: Yeah, that's what I  
21 believe.

22 MR. PRINCE: Case by case.

23 PROSPECTIVE JUROR NO. 376: Yeah.

24 MR. PRINCE: Okay. That's a really -- how old are  
25 you?

1 PROSPECTIVE JUROR NO. 376: 19.

2 MR. PRINCE: Very thoughtful response. Do you have  
3 any problems or concerns if someone hires a lawyer to answer  
4 questions about, you know, how they're going to handle the  
5 property damage, pay for medical expenses, any problems with  
6 doing that, any concerns?

7 PROSPECTIVE JUROR NO. 376: No. A lot of people  
8 would benefit from the help of a lawyer so that they know, you  
9 know, their rights and the laws that apply to their case.

10 MR. PRINCE: Any concerns with, you know, lawyers or  
11 doctors who refer people back to one another? Does that cause  
12 a problem for you?

13 PROSPECTIVE JUROR NO. 376: No.

14 MR. PRINCE: Okay.

15 PROSPECTIVE JUROR NO. 376: I mean, obviously, if  
16 they were -- if they were illegal activities or kickbacks  
17 involved, then obviously that would be bad, but I have no  
18 problem with referrals.

19 MR. PRINCE: Okay. Obviously, the case is about  
20 money, and do you have any personal belief, it doesn't sound  
21 like you are, but there should be any limits on how much a  
22 jury can award or anything like that, do you have any feelings  
23 -- any feelings you have one way or the other on that?

24 PROSPECTIVE JUROR NO. 376: No. As I said, I feel  
25 like a jury would sort that itself. I feel like a jury's



1 verdict and award would be sufficient.

2 MR. PRINCE: Okay.

3 PROSPECTIVE JUROR NO. 376: In most cases.

4 MR. PRINCE: Okay. And interestingly, we had an  
5 engineer in that same seat, so it's interesting how the  
6 universe works that way and oftentimes people with similar  
7 backgrounds get the same seat. And so it's not the first time  
8 I've seen that. And now we're talking about the burden of  
9 proof. You heard me explain to you about is it more likely  
10 true than not true, this probability, not certainty --

11 PROSPECTIVE JUROR NO. 376: Yeah.

12 MR. PRINCE: -- in the law. I'm kind of use the  
13 analogy 51 percent versus 49. That -- if we meet that  
14 standard, then we're entitled to your decision, whether it be  
15 51, 80, it could be 99 percent. If you hit 51 percent, it's  
16 kind of like Mr. Marquez was saying, I'm going to start using  
17 this in every case from now on, once someone in an election,  
18 assuming there was, you know, only two people, once you hit 51  
19 percent, it doesn't matter if they have 89, 95 percent of the  
20 vote, 51.2 percent of the vote, they still win. Do you see my  
21 point there?

22 PROSPECTIVE JUROR NO. 376: Uh-huh.

23 MR. PRINCE: All right. Do you have any problem  
24 following that standard or making a decision in court using  
25 that standard?

1 PROSPECTIVE JUROR NO. 376: No. I believe that -- I  
2 believe that in, you know, civil cases, the word that you  
3 would use in engineering is tolerance would be very low.

4 MR. PRINCE: Okay.

5 PROSPECTIVE JUROR NO. 376: And then in a criminal  
6 case it should be very high because most of the time criminal  
7 cases have more importance.

8 MR. PRINCE: It's also lose their -- protect their  
9 liberty.

10 PROSPECTIVE JUROR NO. 376: Yeah.

11 MR. PRINCE: They're going to go to prison if they  
12 don't.

13 PROSPECTIVE JUROR NO. 376: Yeah.

14 MR. PRINCE: Okay. Okay. Good. Do you believe in  
15 responsibility, that people should be responsible for their  
16 actions?

17 PROSPECTIVE JUROR NO. 376: Yes.

18 MR. PRINCE: Do you also, in addition to that,  
19 believe people should be -- this case is about an accounting  
20 in addition to that, about accountable for the consequences of  
21 their actions.

22 PROSPECTIVE JUROR NO. 376: Yes.

23 MR. PRINCE: Okay. That corporations, individuals  
24 -- a corporation, they always said, you know, like important  
25 with them, they're like we want to be treated the same, we

1 want to be treated like an individual.

2 PROSPECTIVE JUROR NO. 376: Sure.

3 MR. PRINCE: An individual is like, hey, you know,  
4 we all should be treated equally. Can you do that?

5 PROSPECTIVE JUROR NO. 376: Yeah.

6 MR. PRINCE: And whether -- if you cause harm or  
7 damage and if the law allows for that and the evidence  
8 supports it, then the person or the corporation should be held  
9 fully accountable for their actions?

10 PROSPECTIVE JUROR NO. 376: If the evidence supports  
11 it, yes.

12 MR. PRINCE: Okay. And you can make a decision just  
13 based on what you hear within the four walls, what you see and  
14 what you hear and don't worry about what happens later or what  
15 happens after and just make your decision on what -- what  
16 happens in court?

17 PROSPECTIVE JUROR NO. 376: Yes.

18 MR. PRINCE: Okay. Thank you. If we could pass the  
19 microphone back to our new juror, Ms. Tapia.

20 Good morning.

21 PROSPECTIVE JUROR NO. 371: Good morning.

22 MR. PRINCE: Good morning today. Thank you for your  
23 patience. Congratulations on your recent marriage.

24 PROSPECTIVE JUROR NO. 371: Thank you.

25 MR. PRINCE: Tell me what you do at -- at -- is it

1 Vitacom?  
2 PROSPECTIVE JUROR NO. 371: Yeah, Vitacost.com.  
3 MR. PRINCE: Vitacost.  
4 PROSPECTIVE JUROR NO. 371: I'm team lead.  
5 MR. PRINCE: Okay. And what kind of business is  
6 that?  
7 PROSPECTIVE JUROR NO. 371: It's a distribution.  
8 It's picking, packing, receiving, and shipping.  
9 MR. PRINCE: For what, like vitamins?  
10 PROSPECTIVE JUROR NO. 371: Vitamins, protein  
11 shakes.  
12 MR. PRINCE: Okay.  
13 PROSPECTIVE JUROR NO. 371: It's like a big Walmart.  
14 MR. PRINCE: Okay.  
15 PROSPECTIVE JUROR NO. 371: Yeah.  
16 MR. PRINCE: How long have you worked there?  
17 PROSPECTIVE JUROR NO. 371: Six years.  
18 MR. PRINCE: Six years. Well, tell me what you do  
19 as a team lead?  
20 PROSPECTIVE JUROR NO. 371: I take care of the  
21 packers, fill up their stations, ask them what they need, I  
22 observe in the way they pack and just make sure we  
23 [indiscernible] every hour.  
24 MR. PRINCE: Okay. Do you supervise people in that  
25 position?

1 PROSPECTIVE JUROR NO. 371: Yeah.

2 MR. PRINCE: How many people? How many people do  
3 you supervise?

4 PROSPECTIVE JUROR NO. 371: Maybe like 86 to 100.

5 MR. PRINCE: Oh. Oh, quite a few.

6 PROSPECTIVE JUROR NO. 371: Yeah.

7 MR. PRINCE: Do you have to resolve issues at work  
8 with people if there's --

9 PROSPECTIVE JUROR NO. 371: Sometimes.

10 MR. PRINCE: -- production problems or issues like  
11 that? Do you have to like get involved and, you know, make  
12 decisions for people?

13 PROSPECTIVE JUROR NO. 371: Yeah, sometimes.

14 MR. PRINCE: Okay. How long have you been a team  
15 leader?

16 PROSPECTIVE JUROR NO. 371: Three years.

17 MR. PRINCE: Three years. You obviously heard my --  
18 lots of my questions from earlier. I'm not going to repeat  
19 all of those, obviously, to you, but if you have a response, I  
20 want you to share it. But has anything you heard during the  
21 last couple of days in your mind, if I'm asked, if I get to  
22 this -- to the box, now you're here in the box, they probably  
23 need to know this from me? Is there anything that you've  
24 heard or do you have any thought or feelings that you think  
25 you need to share? Just before we ask you anything else.

1 PROSPECTIVE JUROR NO. 371: Honestly, I'm just here  
2 because it's court ordered. I'd rather be at work, learning a  
3 lot of stuff.

4 MR. PRINCE: Oh, you just don't want to be here in  
5 jury duty, is that what you're saying?

6 PROSPECTIVE JUROR NO. 371: I don't -- I don't want  
7 to get a fine, so I show up every day.

8 MR. PRINCE: It's a great act of service, so thank  
9 you for being here. I know it's not [inaudible], but thank  
10 you. Thank everybody. Do you have any feelings about  
11 personal injury cases or advertising, any personal feelings or  
12 thoughts?

13 PROSPECTIVE JUROR NO. 371: No, I can care less.

14 MR. PRINCE: What do you -- what do you mean you can  
15 care less?

16 PROSPECTIVE JUROR NO. 371: If I need a lawyer, then  
17 I just turn on the TV and there's an advertisement. I mean,  
18 I'll get it from that.

19 MR. PRINCE: You know, that's one way people,  
20 consumers, find out people who many offer a service. You may  
21 want to call them, you don't want to call them.

22 PROSPECTIVE JUROR NO. 371: Correct.

23 MR. PRINCE: Okay. And do you have any problem with  
24 someone -- you know, if someone files a lawsuit because they  
25 can't resolve a problem or dispute, does that, in your mind,

1 in a personal injury case make them less believable, put them  
2 under a cloud of --

3 PROSPECTIVE JUROR NO. 371: No.

4 MR. PRINCE: -- suspicion in any way? Do you have  
5 any problems if someone hires a lawyer first and -- because  
6 they had questions about the process and how -- how they're  
7 going to get paid for the damage or the medical, anything like  
8 that?

9 PROSPECTIVE JUROR NO. 371: No, no problem.

10 MR. PRINCE: How about if doctors and lawyers at  
11 times make referrals back and forth to each other? Is that a  
12 problem in any way?

13 PROSPECTIVE JUROR NO. 371: No, it doesn't bother  
14 me.

15 MR. PRINCE: Okay. And obviously we're going to be  
16 talking about money and accountability in this case. Any --  
17 if you're asked to serve as a juror, you know, obviously  
18 you're going to follow the instructions the Court gives them.  
19 Any personal beliefs or feelings that bother you about, you  
20 know, returning a verdict if the evidence that supports that  
21 for money? Does that bother you in any way?

22 PROSPECTIVE JUROR NO. 371: I'm just wondering if  
23 I'm going to get paid the same like at work.

24 MR. PRINCE: You're wondering if you're going to get  
25 paid, I'm sorry, at work?

1 PROSPECTIVE JUROR NO. 371: Yeah, like if I'm going  
2 to get paid if I serve as a juror.

3 MR. PRINCE: Oh, okay. So your -- your question is  
4 moneywise you're worried about -- okay. I got you. I'm --

5 PROSPECTIVE JUROR NO. 371: I'm worried about my  
6 money and I've got a plan going on.

7 MR. PRINCE: With -- I'm sorry, what's your plan?

8 PROSPECTIVE JUROR NO. 371: I'm saving up to build  
9 my house in Mexico and eventually move out there.

10 MR. PRINCE: Okay. To move -- okay. Because that's  
11 where your wife lives currently?

12 PROSPECTIVE JUROR NO. 371: Yes.

13 MR. PRINCE: Okay. So that's why -- that's what --  
14 you're saving money so you can accomplish that?

15 PROSPECTIVE JUROR NO. 371: Yeah, that's my goal.

16 MR. PRINCE: Good. Good for you. With regard to  
17 about if you're asked to serve as a juror and you do serve as  
18 a juror, is there anything about your personal beliefs or  
19 feelings that awarding money to someone to balance out any  
20 harm or loss or damage caused by somebody else? Is any -- is  
21 that a problem for you?

22 PROSPECTIVE JUROR NO. 371: No.

23 MR. PRINCE: Okay. If the evidence supported  
24 returning a verdict in a personal injury case, you know, 2 to  
25 3 million dollars, could you do that, assuming it's supported



1 by the evidence?

2 PROSPECTIVE JUROR NO. 371: Yeah.

3 MR. PRINCE: Okay.

4 PROSPECTIVE JUROR NO. 371: I could do that.

5 MR. PRINCE: Or if it was supported to where it was  
6 zero for the defense, then you could do that, too, I assume?

7 PROSPECTIVE JUROR NO. 371: Yes.

8 MR. PRINCE: You're going to follow the evidence?

9 PROSPECTIVE JUROR NO. 371: I'm going to follow the  
10 evidence.

11 MR. PRINCE: Okay. Good. Ever been in an accident,  
12 hurt in an accident, either a car accident, work accident,  
13 anything like that?

14 PROSPECTIVE JUROR NO. 371: No.

15 MR. PRINCE: Do you know anybody who suffers any,  
16 you know, chronic pain, medical -- medical issues or anything?

17 PROSPECTIVE JUROR NO. 371: No.

18 MR. PRINCE: Okay. Do you believe that everybody  
19 should be fully accountable for the consequences of their  
20 actions?

21 PROSPECTIVE JUROR NO. 371: Yes.

22 MR. PRINCE: Okay. With regard to the preponderance  
23 of the evidence standard, we kind of talked -- you heard me  
24 talk about that. Do you have any problems making a decision  
25 using that legal standard?

1 PROSPECTIVE JUROR NO. 371: No, no problems.

2 MR. PRINCE: Okay. Good. All right. We're back to

3 -- since you have the microphone, I'll move it into another

4 area. I should be done here -- I can assure you this, I'll be

5 done before lunch. So I'm going to -- I'm going to promise

6 everybody that. Rules of the road. Are you a driver?

7 PROSPECTIVE JUROR NO. 371: Yes, sir, I am.

8 MR. PRINCE: Is there anybody on the panel -- let me

9 start with this. Is there anyone on the panel who is not a

10 driver? Everybody is a driver. Do you think it's important

11 to follow the rules of the road?

12 PROSPECTIVE JUROR NO. 371: Yes.

13 MR. PRINCE: Tell me why you feel it's important to

14 follow the rules of the road?

15 PROSPECTIVE JUROR NO. 371: So everybody can be safe

16 and not get a ticket.

17 MR. PRINCE: Okay. So, one, it's just to make sure

18 you follow the law; right?

19 PROSPECTIVE JUROR NO. 371: Right.

20 MR. PRINCE: And two is you said safe. What do you

21 mean about safe, so no one gets hurt?

22 PROSPECTIVE JUROR NO. 371: So no one gets hurt.

23 MR. PRINCE: Right. Do you think following the

24 rules of the road is a life safety issue or a health safety

25 issue?

1 PROSPECTIVE JUROR NO. 371: Yes, both.

2 MR. PRINCE: Okay. Good. Who else feels similar to  
3 that? Who else feels that following the rules of the road is  
4 a life safety issue or health safety issue? Does everybody --  
5 everybody feels that way? Okay. Does everybody feel it's  
6 important to follow the -- the rules of the road?

7 And if you could pass the microphone to Ms. White.

8 PROSPECTIVE JUROR NO. 248: Good morning.

9 MR. PRINCE: Good morning. I keep saying afternoon,  
10 but good -- I'm used to saying good afternoon to you. Good  
11 morning. Happy Friday. We talked yesterday, over a couple of  
12 days, and people said one of the things they don't like about  
13 personal injury lawsuits is some are frivolous and they take  
14 advantage of the system, okay. I think we all agree to that.  
15 I 100 percent agree to that.

16 But also I think there's another thought we can  
17 explore, maybe. Do you think there could be -- one of the  
18 problems with the court system and these cases is there can be  
19 frivolous defenses like if someone doesn't want to have to be  
20 responsible or they want to defend themselves and they make a  
21 frivolous defense by saying they're not responsible for  
22 whatever reason the case may be, do you think that exists?

23 PROSPECTIVE JUROR NO. 248: I'm sure it does.

24 MR. PRINCE: Okay. Do you think that could also be  
25 a problem?

1 PROSPECTIVE JUROR NO. 248: It could be.

2 MR. PRINCE: Right. I know you've been involved in  
3 some litigation. Obviously, you thought your positions were  
4 -- you know, you had merit and you had, you know, evidence to  
5 support your position, but can you also envision a situation  
6 where like someone who, you know, slips and falls or makes up  
7 a claim or makes up, you know --

8 PROSPECTIVE JUROR NO. 248: Yes.

9 MR. PRINCE: -- fakes their injury or whatever the  
10 case may be. So somehow the defense may be making frivolous  
11 arguments as to avoid being accountable.

12 PROSPECTIVE JUROR NO. 248: That is true.

13 MR. PRINCE: Okay.

14 PROSPECTIVE JUROR NO. 248: I have known many people  
15 who are not accountable in business.

16 MR. PRINCE: Okay.

17 PROSPECTIVE JUROR NO. 248: And otherwise.

18 MR. PRINCE: Mr. Marquez -- okay, thank you, Ms.  
19 White.

20 Do you feel that one of the things that could affect  
21 the justice system is frivolous defenses and that's why  
22 lawsuits get filed?

23 PROSPECTIVE JUROR NO. 264: Yes.

24 MR. PRINCE: Okay. Tell me what -- tell me your  
25 thoughts on that. You probably haven't thought -- maybe you

1 have thought about it. I don't know. What are your thoughts  
2 on that?

3 PROSPECTIVE JUROR NO. 264: Well, I believe that in  
4 some cases, not in all cases, the system is abused by people  
5 and attorneys that like to take advantage of an accident or a  
6 tragedy.

7 MR. PRINCE: I'm not talking about from the injured  
8 person's side. I'm talking about like, you know, on the  
9 defense side, like someone gets sued and then the defendant is  
10 making up claims or arguments because they don't want to be  
11 accountable, so they have frivolous defenses or frivolous  
12 arguments --

13 PROSPECTIVE JUROR NO. 264: Okay.

14 MR. PRINCE: -- and that could be affecting our  
15 court system. Because before we talked about people who have  
16 false claims or frivolous claims, that affects the court  
17 system, but do you think the defense can also cause that  
18 problem?

19 PROSPECTIVE JUROR NO. 264: Oh, yes.

20 MR. PRINCE: Making frivolous arguments to avoid  
21 being accountable?

22 PROSPECTIVE JUROR NO. 264: Yes, it goes both ways.

23 MR. PRINCE: So they could be aggressive in their  
24 position that way?

25 PROSPECTIVE JUROR NO. 264: Correct.

1 MR. PRINCE: Okay. Ms. Rodriguez, you shook your  
2 head. Do you -- do you agree, do you feel that there also  
3 could be frivolous defenses by individuals or corporations and  
4 that's why lawsuits need to get filed and why we come to  
5 court?

6 PROSPECTIVE JUROR NO. 249: Yes.

7 MR. WINNER: I think we need to approach again, Your  
8 Honor.

9 THE COURT: Okay.

10 (Bench conference)

11 MR. WINNER: There was a motion in limine about this  
12 also that the plaintiff is prohibited from intimating or  
13 suggesting that we're avoiding responsibility by defending  
14 this case.

15 MR. PRINCE: I brought up frivolous defenses because  
16 they were talking about frivolous lawsuits. I'm not even --

17 MR. WINNER: Well, look at the transcript of your  
18 words.

19 THE COURT: Okay. I need to look at the --

20 MR. PRINCE: As long as I don't use the word  
21 responsible, then I can do it.

22 THE COURT: Well, I know that you've used the word  
23 responsible.

24 MR. PRINCE: What?

25 THE COURT: You have used the word responsible.

1 MR. PRINCE: I did once. I agree.

2 MR. WINNER: You said avoiding responsibility  
3 several times, which you were told not to do in this order.

4 MR. PRINCE: Then what --

5 THE COURT: And I'm going to sustain the objection.  
6 Move on. Pick something else to talk about. Can you do that?

7 MR. PRINCE: Well, why -- how can they talk about  
8 frivolous lawsuits and that's a problem, and they -- they had  
9 no --

10 THE COURT: They haven't even talked yet.

11 MR. PRINCE: I know. They had no objection -- I  
12 know. They had no objection to me talking about it when  
13 they --

14 THE COURT: But they do now.

15 MR. PRINCE: -- were talking about frivolous  
16 lawsuits, but if I talk about frivolous defenses -- as long as  
17 I don't use the word responsible, then I'm within the order.

18 THE COURT: Did we -- did we fix this white noise?  
19 Are they able to hear us now?

20 MR. WINNER: I don't think so.

21 THE CLERK: We're trying to turn it to bench  
22 conference, we just -- we haven't got [inaudible].

23 THE COURT: Keep your -- keep your voices down  
24 because our white noise isn't quite loud enough and Adam says  
25 they're able to hear over there.

1 MR. PRINCE: As long as I don't use the term  
2 avoiding responsibility, but, I mean, people do do that. I  
3 want to --

4 THE COURT: Well, I know.

5 MR. PRINCE: -- find out what their feeling is on  
6 frivolous defenses. How can they get up there and, you know,  
7 be one sided about people filing lawsuits and they're  
8 frivolous and they don't like frivolous cases and it bothers  
9 me.

10 THE COURT: Can anybody refer me to where it says  
11 it?

12 MR. WINNER: Excuse me a second, Judge.

13 THE COURT: Thanks.

14 MR. WINNER: We're trying to find it.

15 MR. PRINCE: Anyway, I just -- I took the order as I  
16 can't argue they're avoiding responsibility [indiscernible].  
17 I'm just asking them --

18 THE COURT: Well, but I think that's --

19 MR. PRINCE: I did use the word responsibility.

20 THE COURT: -- kind of what you're -- you used the  
21 word, you actually used the word.

22 MR. PRINCE: I did. I did.

23 THE COURT: And even when you didn't use the word,  
24 it was the same as the word. What do you call it, it was --

25 MR. WINNER: He said frivolous defenses and avoiding



1 responsibility.

2 THE COURT: Yeah.

3 MR. PRINCE: But how do -- how else do you say that?  
4 I mean, they talked about frivolous lawsuits and talked  
5 about --

6 THE COURT: I don't know. You didn't say any of  
7 that at the last trial, so --

8 MR. PRINCE: What? Yes, I did.

9 THE COURT: Frivolous defenses.

10 MR. PRINCE: Oh, yes, I did. Oh, yeah, I did.

11 THE COURT: Well, I don't remember.

12 MR. WINNER: If you mean, they, I didn't talk about  
13 frivolous -- oh, you mean the jurors?

14 MR. PRINCE: Yes.

15 MR. WINNER: Well, you asked them about frivolous  
16 lawsuits.

17 MR. PRINCE: No, they bring it up on their own and  
18 then I asked about it. Of course. Because they're saying  
19 that lawyer advertising, things like that, they don't like  
20 frivolous lawsuits, they feel there's too many frivolous  
21 lawsuits.

22 THE COURT: I thought you asked them the question,  
23 but I could be wrong.

24 MR. WINNER: There have been multiple orders on  
25 motions in limine, so it might not be in --

1 THE COURT: Yeah, you think?  
2 MR. WINNER: Yeah.  
3 MR. PRINCE: I mean, I'm not agreeing that I can't  
4 argue -- that the current state of the order is that I can't  
5 say that they are in court because they're avoiding  
6 responsibility. I'm talking about a frivolous defense.  
7 THE COURT: Okay.  
8 MR. PRINCE: And I am going to tell the jury --  
9 MR. WINNER: Is the same.  
10 THE COURT: It's the same as before. It's -- it's  
11 one thing to ask that everybody can return a \$2 million  
12 verdict or something. It's a different thing when you start  
13 -- to me, when you start hitting each one of them with it and,  
14 again, I don't know if indoctrination is the right thing, but  
15 why keep hitting every one of them with frivolous defenses and  
16 that's why we're in court, people avoiding responsibility. I  
17 think you're exactly doing kind of what you were doing with --  
18 THE CLERK: [Inaudible].  
19 MR. PRINCE: That's it.  
20 MR. WINNER: Yeah.  
21 THE COURT: Okay. I'm going to sustain the  
22 objection. You can generally ask --  
23 MR. PRINCE: Okay.  
24 THE COURT: -- if there are frivolous --  
25 MR. PRINCE: Yeah, defenses.

1 THE COURT: -- lawsuits filed and frivolous  
2 defenses, but you can't keep chipping away at it.

3 MR. PRINCE: Okay. Thank you.

4 (End of bench conference)

5 MR. PRINCE: We talked yesterday about -- or the  
6 last couple days about when people that -- trouble they have  
7 with lawsuits is frivolous lawsuits. Does anybody here  
8 believe or not believe, have any feelings about that there's  
9 also frivolous defenses, meaning there's excuses being made as  
10 to why they should be accountable?

11 You can go ahead, Ms. Rodriguez.

12 PROSPECTIVE JUROR NO. 249: Yes, I think that  
13 dishonesty or manipulation does discriminate.

14 MR. PRINCE: Okay. It can be both sides?

15 PROSPECTIVE JUROR NO. 249: Uh-huh.

16 MR. PRINCE: Okay. Anybody else feel similar to  
17 that? Who else feels similar to that? Anybody else? Anybody  
18 else feel similar to that?

19 Mr. Horner, do you feel similar?

20 PROSPECTIVE JUROR NO. 250: In terms of defense?

21 MR. PRINCE: Yeah. Frivolous arguments, excuses,  
22 defenses, I mean, I'm kind of using those words kind of  
23 interchangeably.

24 PROSPECTIVE JUROR NO. 250: Well, if they're not  
25 taking the responsibility for what has occurred and they're

1 going to fight it, I'm not sure if that's frivolous or not.

2 MR. PRINCE: Yeah, some positions may not have  
3 merit; right? Kind of like -- like someone who is injured and  
4 maybe their injury doesn't have merit or the fall doesn't have  
5 merit, whatever the case may be. You know, my -- you know, my  
6 client's side, my people made claims that really aren't  
7 supported; right?

8 PROSPECTIVE JUROR NO. 250: Right.

9 MR. PRINCE: And do you think the defense can do  
10 that, too, in cases, and that's a problem?

11 PROSPECTIVE JUROR NO. 250: Yeah, I suppose if the  
12 defense comes up with reasons as to why they're not at fault,  
13 then that would be considered that, sure.

14 MR. PRINCE: It could be; right? If it wasn't  
15 supported by the evidence; right?

16 PROSPECTIVE JUROR NO. 250: Exactly. Yeah, that's  
17 probably the -- the biggest swayer is the evidence.

18 MR. PRINCE: Yeah, because you were involved in a  
19 lawsuit you thought was frivolous because someone sued you.

20 PROSPECTIVE JUROR NO. 250: Yes.

21 MR. PRINCE: And you were on the defense side of  
22 that.

23 PROSPECTIVE JUROR NO. 250: I was.

24 MR. PRINCE: You felt you had good arguments, but I  
25 guess if you were making up -- if you didn't have -- you

1 didn't have any -- you had baseless arguments or no evidence  
2 to support your position, it might be construed as frivolous,  
3 or someone in that position.

4 PROSPECTIVE JUROR NO. 250: Yes.

5 MR. PRINCE: Okay. All right. Okay. You know  
6 what, I want to thank you for your time, your attention. I  
7 don't have any further questions for you. Mr. Winner is going  
8 to have some more questions.

9 Other than, Ms. Westbrook, would you like to answer  
10 a few more questions for me, or are you good? You're all  
11 good? Okay. Thank you.

12 THE COURT: All right. Counsel approach, please.

13 (Bench conference)

14 THE COURT: What do you guys want? Do you want to  
15 break now for lunch, and if so, how long? Or do you want to  
16 start going?

17 MR. WINNER: I wouldn't mind beginning and just  
18 going for 20 or 30 minutes.

19 THE COURT: Okay.

20 MR. WINNER: I can ask some general questions.

21 THE COURT: That's fine. And how long do you want  
22 to go to lunch for?

23 MR. WINNER: I'm sorry, Judge?

24 THE COURT: How long do you all want for lunch?

25 MR. WINNER: 45 minutes.

1 MR. PRINCE: I'd say an hour.  
2 MR. WINNER: An hour is fine.  
3 THE COURT: Well, I was between an hour and an hour  
4 and a half.  
5 MR. PRINCE: An hour and 15 is fine.  
6 THE COURT: I have to get to the bank because my  
7 debit card is declining and I don't have any money for the  
8 weekend, so I have to --  
9 MR. PRINCE: Then let's do whatever you want. You  
10 want an hour and a half, that's --  
11 THE COURT: But an hour is fine. I just didn't know  
12 if you guys want -- because you all --  
13 MR. PRINCE: Let's do an hour and 15 minutes and  
14 kind of split your difference.  
15 THE COURT: I don't care.  
16 MR. WINNER: An hour and a half is fine. Whatever  
17 you want to do. I thought you were asking me how much time I  
18 needed.  
19 THE COURT: Well, it was how much -- in a perfect  
20 world, what would you like? Because I -- as long as I have an  
21 hour, I don't care beyond that. How about that.  
22 MR. PRINCE: An hour is fine, an hour and 15  
23 minutes, an hour and 15 minutes so you don't cut yourself  
24 short.  
25 THE COURT: An hour is fine.

1 MR. PRINCE: Perfect.

2 THE COURT: Tough decisions.

3 (End of bench conference)

4 THE COURT: Okay. Mr. Winner.

5 MR. WINNER: Thank you.

6 I'm going to ask a question first to which I don't

7 think I'm not going to see any hands. Is there anybody here

8 who has never made a mistake? No hands. Is there anybody

9 here who has never made a mistake while driving a car?

10 Ms. Reeves talked a few minutes ago about having

11 rear-ended somebody and I asked for a show of hands. Is there

12 anybody else who has either bumped into the back of somebody

13 or had a near miss? I see a lot of hands here. Where's the

14 microphone?

15 I saw your hand go up first, so I'm going to pick on

16 you first. So have you rear-ended somebody or had a near

17 miss?

18 PROSPECTIVE JUROR NO. 323: No, they rear-ended me.

19 MR. WINNER: Okay. Have you ever bumped into

20 somebody else or had a near miss with somebody else?

21 PROSPECTIVE JUROR NO. 323: Yes.

22 MR. WINNER: Okay. How did that happen?

23 PROSPECTIVE JUROR NO. 323: My foot came off the gas

24 pedal -- or the brake.

25 MR. WINNER: Foot came off the brake. I think you

1 might have told us about that yesterday.

2 PROSPECTIVE JUROR NO. 323: No, the rear-end one  
3 where I got hit, I told that yesterday. That one is -- when I  
4 hit the person we were turning. It was on one of those merge  
5 lanes off the highway to where you wait and you yield. Well,  
6 I thought he went, and I looked down. And as I looked up, my  
7 foot twitched and came off the gas and I went bump.

8 MR. WINNER: So you thought the guy ahead of you was  
9 going and he --

10 PROSPECTIVE JUROR NO. 323: Oh, yeah.

11 MR. WINNER: -- didn't go and you -- okay.

12 PROSPECTIVE JUROR NO. 323: The worst part it was a  
13 brand new -- brand new Porsche.

14 MR. WINNER: Yours or his?

15 PROSPECTIVE JUROR NO. 323: His.

16 MR. WINNER: Oh.

17 PROSPECTIVE JUROR NO. 323: Yeah.

18 MR. WINNER: Were you injured?

19 PROSPECTIVE JUROR NO. 323: No.

20 MR. WINNER: Was he injured?

21 PROSPECTIVE JUROR NO. 323: No.

22 MR. WINNER: Was he nice about it?

23 PROSPECTIVE JUROR NO. 323: Actually, he was.

24 MR. WINNER: Okay.

25 PROSPECTIVE JUROR NO. 323: Surprisingly.



1 MR. WINNER: Did you feel like that was entirely  
2 your fault or did you --  
3 PROSPECTIVE JUROR NO. 323: Oh, yeah.  
4 MR. WINNER: Okay. Did you -- did you tell us when  
5 you were -- you talked to us yesterday about being rear-ended  
6 also; correct?  
7 PROSPECTIVE JUROR NO. 323: Uh-huh.  
8 MR. WINNER: Were you injured when you were  
9 rear-ended?  
10 PROSPECTIVE JUROR NO. 323: At the time I didn't  
11 think so, but I'm pretty good. My neck hurts every once in  
12 awhile and -- no, I wasn't injured.  
13 MR. WINNER: Did you ever go to the doctor for it?  
14 PROSPECTIVE JUROR NO. 323: No.  
15 MR. WINNER: Never went to the doctor, and you think  
16 you were okay?  
17 PROSPECTIVE JUROR NO. 323: Yeah.  
18 MR. WINNER: How hard were you hit when you were  
19 rear-ended?  
20 PROSPECTIVE JUROR NO. 323: 10-12 miles an hour.  
21 MR. WINNER: Any airbags go off or anything like  
22 that?  
23 PROSPECTIVE JUROR NO. 323: No. No.  
24 MR. WINNER: It wasn't on a highway or anything?  
25 PROSPECTIVE JUROR NO. 323: It was. It was on

1 Tropicana.

2 MR. WINNER: Okay.

3 PROSPECTIVE JUROR NO. 323: Well, it's a six-lane

4 road --

5 MR. WINNER: Yeah.

6 PROSPECTIVE JUROR NO. 323: -- with a median, so, I

7 mean, it's a main road.

8 MR. WINNER: 45 an hour speed limit there.

9 PROSPECTIVE JUROR NO. 323: Yeah.

10 MR. WINNER: Yeah. Nobody injured in either car

11 that time, either?

12 PROSPECTIVE JUROR NO. 323: No.

13 MR. WINNER: Okay. No airbags went off?

14 PROSPECTIVE JUROR NO. 323: Not in my car. I don't

15 know about his.

16 MR. WINNER: Okay. How long ago was that?

17 PROSPECTIVE JUROR NO. 323: New Year's Day. New

18 Year's Eve -- New Year's Day. I was on my way home. Both of

19 us were dealers and he was at one casino, I was at another. A

20 kid ran across the street, I slowed down, I saw him in my

21 rearview mirror and I pulled over to the turn lane, and he

22 caught my left rear bumper.

23 MR. WINNER: Okay.

24 PROSPECTIVE JUROR NO. 323: Because of two

25 pedestrians that were jaywalking.

1 MR. WINNER: Two pedestrians jaywalking.  
2 PROSPECTIVE JUROR NO. 323: Yes.  
3 MR. WINNER: Do you feel like the pedestrians might  
4 have been at fault for jaywalking?  
5 PROSPECTIVE JUROR NO. 323: Absolutely.  
6 MR. WINNER: Okay. Can you envision a circumstance  
7 where a rear-end accident happens and it's not just the fault  
8 of the following car or the car behind it?  
9 PROSPECTIVE JUROR NO. 323: That would have been  
10 one.  
11 MR. WINNER: That would have been one. Okay.  
12 PROSPECTIVE JUROR NO. 323: Because both of us were  
13 going about the same miles an hour, and no one screeched.  
14 Everybody -- there was three of us. The one behind him didn't  
15 hit him.  
16 MR. WINNER: Okay.  
17 PROSPECTIVE JUROR NO. 323: So there would have been  
18 three of us, but it was the pedestrians fault.  
19 MR. WINNER: Okay. Who else had a hand up?  
20 PROSPECTIVE JUROR NO. 325: Because I was doing the  
21 speed limit.  
22 MR. WINNER: Okay. Yes, sir, you had -- you  
23 rear-ended somebody in the past?  
24 PROSPECTIVE JUROR NO. 325: No, not rear-ended them.  
25 Had a near miss, though.

1 MR. WINNER: Okay. What happened in the rear -- in  
2 the near miss?

3 PROSPECTIVE JUROR NO. 325: It was a wet road and I  
4 was following too close.

5 MR. WINNER: Okay. Where did this happen?

6 PROSPECTIVE JUROR NO. 325: Over off of Bonanza.

7 MR. WINNER: That's probably happened to most of us.  
8 Couldn't -- you almost didn't get stopped in time.

9 PROSPECTIVE JUROR NO. 325: Yeah, I had to veer off  
10 to the -- off to the side to miss him.

11 MR. WINNER: Okay. What -- what was the car in  
12 front of you doing that caused you to need to brake?

13 PROSPECTIVE JUROR NO. 325: They were slowing down  
14 for a light.

15 MR. WINNER: Okay. And just the wetness of the  
16 street caused the --

17 PROSPECTIVE JUROR NO. 325: Yes.

18 MR. WINNER: Okay. Anybody else here? I think you  
19 had -- have you bumped into the back of somebody or had a near  
20 miss?

21 PROSPECTIVE JUROR NO. 311: I have.

22 MR. WINNER: Okay. Was it a bump into somebody or a  
23 near miss?

24 PROSPECTIVE JUROR NO. 311: I bumped into somebody.  
25 It was on the freeway. It was heavy traffic and I got a

1 ticket for, let's say, start and stop. And it was just mere  
2 -- traffic moved, I looked away for a second, then --  
3 MR. WINNER: Looked away for a second?  
4 PROSPECTIVE JUROR NO. 311: For a second.  
5 MR. WINNER: Okay. How hard was the impact?  
6 PROSPECTIVE JUROR NO. 311: Not hard, but there was  
7 a little damage and I was cited.  
8 MR. WINNER: Did your airbag go off?  
9 PROSPECTIVE JUROR NO. 311: No.  
10 MR. WINNER: Were you injured?  
11 PROSPECTIVE JUROR NO. 311: No.  
12 MR. WINNER: Anybody in the other car claim to be  
13 injured?  
14 PROSPECTIVE JUROR NO. 311: No.  
15 MR. WINNER: As far as you know?  
16 PROSPECTIVE JUROR NO. 311: As far as I know, no.  
17 MR. WINNER: Okay. Did you speak to them after the  
18 event happened?  
19 PROSPECTIVE JUROR NO. 311: Yeah.  
20 MR. WINNER: And they told you they weren't hurt?  
21 PROSPECTIVE JUROR NO. 311: Right.  
22 MR. WINNER: Okay. Anybody else? Yes, sir.  
23 PROSPECTIVE JUROR NO. 275: I had a near miss. I  
24 had had the brakes fixed like the day before, and I was coming  
25 down Lake Mead to about Water Street. The light changed, so I

1 hit the brakes and the brake pad fell off. And so I had to --  
2 I had to dart into the right-hand lane real quickly, and when  
3 I hit the parking brake it stopped, but it was pretty close.

4 MR. WINNER: Can I get the name of that brake show  
5 so -- so I don't -- so that was almost a rear-end -- a  
6 rear-end accident that happened and you were able to get --  
7 you pulled the parking brake and you were able to stop that  
8 way?

9 PROSPECTIVE JUROR NO. 275: Yeah. I wasn't going  
10 really fast and -- but it was a real surprise. Nobody expects  
11 their brake pad to fall off.

12 MR. WINNER: No, I suppose that's true.

13 Did we have any other hands up, somebody rear-end  
14 somebody else? Ms. White. Ms. White, what happened with you?

15 PROSPECTIVE JUROR NO. 248: It was on a hill. It  
16 was snowing, black ice underneath. My car just slid down a  
17 hill into the police officer's car. He did not give me a  
18 ticket, but I was honking the horn because I couldn't stop the  
19 car. I could not stop. It just kept sliding.

20 MR. WINNER: Let me back up a second.

21 PROSPECTIVE JUROR NO. 248: And there was like a  
22 dozen cars down at the bottom of the hill and that's just the  
23 way it was.

24 MR. WINNER: Guess what happened today? I ran into  
25 somebody and it was a police officer. That's what -- that's

1 what happened to you. That was obviously not in Las Vegas if  
2 it was snowing and black ice?

3 PROSPECTIVE JUROR NO. 248: We lived in Colorado.

4 MR. WINNER: Colorado. All right. Did the -- was  
5 the police officer in his car when you bumped into him?

6 PROSPECTIVE JUROR NO. 248: No. He was --

7 MR. WINNER: Did he claim to be hurt?

8 PROSPECTIVE JUROR NO. 248: He was on foot. No, he  
9 -- he did see it for sure, but I did not get a ticket and he  
10 just --

11 MR. WINNER: Were you yourself hurt?

12 PROSPECTIVE JUROR NO. 248: No.

13 MR. WINNER: Okay. Did you hit him hard enough that  
14 any airbags went off or anything like that?

15 PROSPECTIVE JUROR NO. 248: No, but the car spun,  
16 mine did. Probably his, too.

17 MR. WINNER: Hard enough to spin the car?

18 PROSPECTIVE JUROR NO. 248: Yeah.

19 MR. WINNER: Okay. How fast do you think you were  
20 going before you start your brakes?

21 PROSPECTIVE JUROR NO. 248: The brakes don't work on  
22 that situation at all. But --

23 MR. WINNER: And it's hilly in Colorado.

24 PROSPECTIVE JUROR NO. 248: It was hilly, and so I  
25 wasn't really going fast at all. But, you know, I don't know

1    how fast that slide started I was -- I was going down.  
2    Because I didn't have -- I wasn't on the gas at all.  
3               MR. WINNER:   You were just riding the brakes,  
4    sliding down the ice it sounds like?  
5               PROSPECTIVE JUROR NO. 248:   Correct.  
6               MR. WINNER:   Okay.   But no airbag went off?  
7               PROSPECTIVE JUROR NO. 248:   No.  
8               MR. WINNER:   Nobody hurt?  
9               PROSPECTIVE JUROR NO. 248:   No.  
10              MR. WINNER:   Okay.   Do you feel like there's  
11    anything you could have done to have avoid that?  
12              PROSPECTIVE JUROR NO. 248:   Probably not.  
13              MR. WINNER:   Okay.  
14              PROSPECTIVE JUROR NO. 248:   It could have been far  
15    worse had I had any acceleration.  
16              MR. WINNER:   I'm sure.  
17              PROSPECTIVE JUROR NO. 248:   For sure.  
18              MR. WINNER:   Yeah.  
19              PROSPECTIVE JUROR NO. 248:   But I didn't have, you  
20    know -- I didn't have any acceleration at all.  
21              MR. WINNER:   Anybody else have a similar experience,  
22    near miss or bump into the back of someone?   Any other hands?  
23    Mr. Marquez.  
24              PROSPECTIVE JUROR NO. 264:   Yes.   My accident, the  
25    one that I'm trying to dispute right now, I was driving



1 forward and this working van backed up into my van and I hit  
2 him in the back. That's -- that's my experience in that  
3 regard.

4 MR. WINNER: Yeah, you started telling --

5 PROSPECTIVE JUROR NO. 264: It was their fault.

6 MR. WINNER: Yeah, you started telling us about  
7 that. So were you moving or stopped when the impact happened?

8 PROSPECTIVE JUROR NO. 264: I'm sorry?

9 MR. WINNER: Were you -- when the impact happened,  
10 were you moving or stopped?

11 PROSPECTIVE JUROR NO. 264: No, I was -- I was  
12 driving. I was moving.

13 MR. WINNER: Okay.

14 PROSPECTIVE JUROR NO. 264: And -- and when he  
15 backed up, I just hit him in the back.

16 MR. WINNER: Okay. So he pulled into where you were  
17 driving and --

18 PROSPECTIVE JUROR NO. 264: Yeah, he was backing up  
19 and he did all the way -- he backed up all the way into my  
20 lane, so that's when I hit. I didn't have time to -- to stop  
21 or anything.

22 MR. WINNER: Okay.

23 PROSPECTIVE JUROR NO. 264: Just, you know --

24 MR. WINNER: Okay. Was there anything that you  
25 could have done to avoid that accident?

1 PROSPECTIVE JUROR NO. 264: It was very sudden. No.

2 MR. WINNER: Okay. Any other events you had,  
3 rear-enders or near miss, rear-enders?

4 PROSPECTIVE JUROR NO. 264: Smaller, on a different  
5 location years ago, I was riding behind my -- my uncle. We  
6 were both going to a place and I stopped. I rear-ended him,  
7 but nothing happened. No damage.

8 MR. WINNER: No air bags?

9 PROSPECTIVE JUROR NO. 264: No, very -- very light.  
10 Yes. My fault. I turned away for a minute, or a second,  
11 actually, and when I came back, I hit him.

12 MR. WINNER: Okay. So turned away for one second,  
13 you were careless maybe for one second and an impact happened?

14 PROSPECTIVE JUROR NO. 264: Yes.

15 MR. WINNER: Nobody was hurt, you weren't hurt?

16 PROSPECTIVE JUROR NO. 264: No.

17 MR. WINNER: Okay. Any other occasions like that?

18 PROSPECTIVE JUROR NO. 264: No.

19 MR. WINNER: Okay. Anybody else [indiscernible]?  
20 Oh, I'm sorry.

21 PROSPECTIVE JUROR NO. 248: I did have one other.

22 MR. WINNER: Yeah.

23 PROSPECTIVE JUROR NO. 248: It was snowing. It was  
24 really nasty out. And I had a deer went right in front of me.  
25 Nobody got hurt, but it did smash the entire front of my car.

1 MR. WINNER: How was the deer?  
2 PROSPECTIVE JUROR NO. 248: You know, actually he  
3 got up. I thought he was dead, but he got up.  
4 MR. WINNER: What kind of car did you hit the deer  
5 with?  
6 PROSPECTIVE JUROR NO. 248: Jeep.  
7 MR. WINNER: Okay. No person involved, just a deer?  
8 PROSPECTIVE JUROR NO. 248: Just a deer.  
9 MR. WINNER: Okay. Did the deer get a lawyer  
10 afterwards?  
11 PROSPECTIVE JUROR NO. 248: Yeah.  
12 PROSPECTIVE JUROR: It died a mile away.  
13 PROSPECTIVE JUROR NO. 301: I got one.  
14 MR. WINNER: Yeah.  
15 PROSPECTIVE JUROR NO. 301: A couple years ago in  
16 California I hit someone on the freeway going 74 miles an  
17 hour.  
18 MR. WINNER: You were going 74, or the person you  
19 hit was going 74?  
20 PROSPECTIVE JUROR NO. 301: I was going 74.  
21 MR. WINNER: Was that -- how did that happen? And  
22 you're smiling.  
23 PROSPECTIVE JUROR NO. 301: He -- well, he cut me  
24 off, he brake checked me. I hit him, and he had like a Toyota  
25 Corolla I want to say.

1 MR. WINNER: I'm sorry. What does brake check mean?  
2 PROSPECTIVE JUROR NO. 301: He -- he just got in  
3 front of me and started braking.  
4 MR. WINNER: Okay.  
5 PROSPECTIVE JUROR NO. 301: And that was it. And  
6 then I kind of got away from him, and then he got back in  
7 front of me, and then slammed his brakes, and I hit him.  
8 MR. WINNER: Okay. And you were on one of the  
9 freeways in the SoCal, I assume?  
10 PROSPECTIVE JUROR NO. 301: The 210.  
11 MR. WINNER: The -- okay.  
12 PROSPECTIVE JUROR NO. 301: It's a fun freeway.  
13 MR. WINNER: Yeah. Were you just sort of driving  
14 with the flow of traffic, or were you driving faster than  
15 everybody else?  
16 PROSPECTIVE JUROR NO. 301: I was going with the  
17 flow of traffic.  
18 MR. WINNER: Okay.  
19 PROSPECTIVE JUROR NO. 301: But it was -- it was  
20 pretty empty. I think I was -- I was in the -- I went into  
21 the carpool lane when I hit him.  
22 MR. WINNER: Okay. Was he going about the same  
23 speed, a little slower, or was he --  
24 PROSPECTIVE JUROR NO. 301: He went faster to get in  
25 front of me.

1 MR. WINNER: And then braked?  
2 PROSPECTIVE JUROR NO. 301: And then braked.  
3 MR. WINNER: Did you feel like that incident was  
4 entirely your fault?  
5 PROSPECTIVE JUROR NO. 301: Oh, no way.  
6 MR. WINNER: Okay. Why is that?  
7 PROSPECTIVE JUROR NO. 301: I was just kind of  
8 minding my own business. There was -- like the car behind me  
9 was like a mile off, the car in front of me was maybe a couple  
10 miles ahead, there was no one around me. I don't see why he  
11 would need to get in front of me in such a hurry or brake if  
12 nobody was in front of us.  
13 MR. WINNER: Okay. Did your airbags go off?  
14 PROSPECTIVE JUROR NO. 301: Huh?  
15 MR. WINNER: Did your airbags go off?  
16 PROSPECTIVE JUROR NO. 301: It was in my husband's  
17 chase truck.  
18 MR. WINNER: Your husband's what?  
19 PROSPECTIVE JUROR NO. 301: Chase truck. It's --  
20 it's one of the trucks that -- that chases like the Mint 400.  
21 MR. WINNER: Okay.  
22 PROSPECTIVE JUROR NO. 301: He chases the -- the  
23 off-road trucks. So it had complete steel bumpers on the back  
24 and front of it.  
25 MR. WINNER: Was there damage to the other car?

1 PROSPECTIVE JUROR NO. 301: A lot.

2 MR. WINNER: Was -- was it a -- was it a Porsche?

3 PROSPECTIVE JUROR NO. 301: No. The whole like back  
4 of the car was pushed in completely.

5 MR. WINNER: Okay. And you felt like the other  
6 driver was at fault, or at least partly at fault?

7 PROSPECTIVE JUROR NO. 301: Uh-huh.

8 MR. WINNER: Okay. Did the other driver claim to be  
9 injured?

10 PROSPECTIVE JUROR NO. 301: He did.

11 MR. WINNER: Okay. What happened with him?

12 PROSPECTIVE JUROR NO. 301: He -- we stopped, I  
13 called my insurance, he called his insurance, a cop came down.  
14 We -- everybody talked it out and a couple days later my  
15 insurance called me and said that he wants me to pay off his  
16 car and like some other things. I don't really remember  
17 exactly what. And I went down to my insurance office and I --  
18 luckily, I have a GoPro because it is a chase truck, so it's  
19 supposed to follow the race trucks, so the GoPro was on and it  
20 was in the truck.

21 MR. WINNER: It was on when it happened?

22 PROSPECTIVE JUROR NO. 301: Yes.

23 MR. WINNER: Okay.

24 PROSPECTIVE JUROR NO. 301: So I guess at that time,  
25 within a couple days they had hired a lawyer. I didn't

1 because my insurance was like, hey, if you got --

2 MR. WINNER: Yeah.

3 PROSPECTIVE JUROR NO. 301: -- you don't need to.  
4 So I gave it in to my insurance and they took care of the rest  
5 of it. I never heard anything from his lawyer or him every  
6 again.

7 MR. WINNER: Okay. Did he tell you that at the  
8 scene after you bumped into him that he was hurt?

9 PROSPECTIVE JUROR NO. 301: He went -- he like came  
10 out of the car and then he had said something was going on  
11 with his back. I asked him if he was okay. I told him I  
12 would call an ambulance. He said he would call his buddy to  
13 pick him up and take him to the hospital, and so I said okay.

14 MR. WINNER: Okay.

15 PROSPECTIVE JUROR NO. 301: And he -- his friend  
16 came and -- and they left. And then I didn't hear anything  
17 until my insurance said something.

18 MR. WINNER: Okay. And that was a few days later?  
19 Yeah. Did he think you were frivolous in saying that it  
20 wasn't your fault you bumped into the back of him?

21 PROSPECTIVE JUROR NO. 301: I mean, I definitely  
22 think that he intentionally did what he did. He probably saw  
23 the truck and the bumpers. I mean it's not small. It  
24 definitely will do damage to anything it hits.

25 MR. WINNER: How would you feel if somebody said you

1 were frivolous?

2 PROSPECTIVE JUROR NO. 301: I was frivolous?

3 MR. WINNER: For saying that he stopped in front of  
4 you and that's why it happened?

5 PROSPECTIVE JUROR NO. 301: I mean, everyone has a  
6 right to their opinion.

7 MR. WINNER: Okay. Thank you. Anybody else have a  
8 similar experience? Up in the back, somebody there have  
9 anything else? Thank you.

10 PROSPECTIVE JUROR NO. 249: I hesitated a little bit  
11 to share this just because it involves my kids, but I've --

12 MR. WINNER: Share as little detail as you want.  
13 Just what you're comfortable sharing.

14 PROSPECTIVE JUROR NO. 249: Yes. My -- my daughter  
15 is two, my son is five and he has autism. We were driving and  
16 he decided he no longer liked the car, had a behavioral  
17 meltdown and unbuckled his seatbelt, was trying to unbuckle  
18 his sister's seatbelt, and he was wanting to get out. And so  
19 I was trying to mediate what was going on in the back and came  
20 inches away from a car because I -- I turned away to get them.

21 MR. WINNER: Right.

22 PROSPECTIVE JUROR NO. 249: It became an issue of  
23 they're safe or you know, it -- it was difficult, and I just  
24 came inches from a car in front of me.

25 MR. WINNER: You were concerned about your kids.



1 PROSPECTIVE JUROR NO. 249: Uh-huh.

2 MR. WINNER: Okay. But you managed to avoid the  
3 contact completely?

4 PROSPECTIVE JUROR NO. 249: Uh-huh.

5 MR. WINNER: Okay.

6 PROSPECTIVE JUROR NO. 249: The -- the driver of the  
7 car in front of me was not happy and continued to do a little  
8 bit of the game that she described in her scenario.

9 MR. WINNER: Wasn't happy that you missed it; right?

10 PROSPECTIVE JUROR NO. 249: Well, wasn't happy that  
11 I came so close and thought I was trying to play a game, and  
12 so he just started -- he got behind me and was following every  
13 lane that I got into, and I just -- I had to --

14 MR. WINNER: [Indiscernible].

15 PROSPECTIVE JUROR NO. 249: -- get away from him, so  
16 that way I could get my kids back in the car seat. I wasn't  
17 going to pull over and let him beat me up. I don't know.

18 MR. WINNER: So it wasn't even an accident, it was  
19 an almost accident?

20 PROSPECTIVE JUROR NO. 249: Uh-huh.

21 MR. WINNER: And somebody was mad at you?

22 PROSPECTIVE JUROR NO. 249: Uh-huh.

23 MR. WINNER: Did you ever speak to that person  
24 afterwards?

25 PROSPECTIVE JUROR NO. 249: Nope.

1 MR. WINNER: Okay.

2 PROSPECTIVE JUROR NO. 249: I was able to kind of  
3 get out of his range of --

4 MR. WINNER: Even though you almost had an accident,  
5 did you believe you were behaving reasonably under the  
6 circumstances given what was going on with your kids?

7 PROSPECTIVE JUROR NO. 249: Yes. I mean, if I would  
8 have hit him, I would have expected him to -- to be upset  
9 because he didn't know my side of the story.

10 MR. WINNER: Sure.

11 PROSPECTIVE JUROR NO. 249: But I think it's one of  
12 those Catch-22s.

13 MR. WINNER: Yeah. Anybody else have a similar  
14 experience, near miss or rear-ender? Ms. White, you raised  
15 your hand again.

16 PROSPECTIVE JUROR NO. 248: I took a green light  
17 over on Las Vegas Boulevard, I mean, from a side street. It  
18 was around the town center, and I was in the turn lane. I got  
19 the green light and I went, and this gal was coming down off  
20 of some viaduct and she was honking and screaming at me. I  
21 don't even know where she came from. I don't even know why  
22 she was coming, so -- or where she came for, but she was like  
23 so outrageous. I didn't -- I was -- you know what I mean, I  
24 -- I had the green light.

25 MR. WINNER: Yeah.

1 PROSPECTIVE JUROR NO. 248: And a turn light right,  
2 so I did the proper turn that I needed to get into the far  
3 lane, and she just was crazy.

4 MR. WINNER: And then what happened when you made a  
5 turn?

6 PROSPECTIVE JUROR NO. 248: She just was crazy.

7 MR. WINNER: Did you feel like you were at fault?

8 PROSPECTIVE JUROR NO. 248: No.

9 MR. WINNER: Okay. Did you bump into her or just --

10 PROSPECTIVE JUROR NO. 248: No.

11 MR. WINNER: -- almost?

12 PROSPECTIVE JUROR NO. 248: I guess she felt I cut  
13 her off, but I don't know why she would have thought that.

14 MR. WINNER: Okay. Fair enough. Thank you, Ms.  
15 White.

16 Anybody else? Have we heard from everybody? I  
17 think our coast guard might have had his hand up. Could we  
18 pass the mic down, please.

19 I think you might have raised your hand a moment ago  
20 and I was just going to ask you what you -- what happened or  
21 what you remember, if you rear-ended somebody your had a near  
22 miss while you were driving.

23 PROSPECTIVE JUROR NO. 331: No.

24 MR. WINNER: You did not? Okay. I had another  
25 question for you. I was -- I don't know Coast Guard

1 terminology, so forgive me. My -- my dad had been in the  
2 Army, and there were something in the Army called the Army  
3 game, meaning if somebody wanted to get out of doing kitchen  
4 duty or wanted to get out of doing work or wanted to get out  
5 of having to do something that day, there was something called  
6 the Army game where they'd have to go see the medic or they  
7 weren't feeling well, they'd need to use the bathroom, and  
8 other people did that work. Is there a similar term in the  
9 Coast Guard to the Army game?

10 PROSPECTIVE JUROR NO. 331: I don't believe so, but  
11 I know people do it.

12 MR. WINNER: Okay. You didn't have your own term  
13 for it?

14 PROSPECTIVE JUROR NO. 331: No.

15 MR. WINNER: Okay. Did you see colleagues or guys  
16 under your hand or guys under your control or people you  
17 worked alongside do that?

18 PROSPECTIVE JUROR NO. 331: Yes.

19 MR. WINNER: When they were doing that, what made  
20 you think that they were trying to get out of their  
21 responsibility? Did they tell you hey, I'm faking, or did you  
22 just --

23 PROSPECTIVE JUROR NO. 331: No.

24 MR. WINNER: -- watch them?

25 PROSPECTIVE JUROR NO. 331: I just take it for what

1 it's worth. Because I can't -- I'm not -- I'm not a doctor or  
2 a physician. I can't say, oh, yeah, you are sick, you know.  
3 So I just say if you're sick, then you need to go see the  
4 corpsman.

5 MR. WINNER: Did you sometimes suspect they weren't  
6 quite as sick as they claimed in order to get some benefit  
7 from it?

8 PROSPECTIVE JUROR NO. 331: Sure.

9 MR. WINNER: Okay. Thank you. Tell us what -- what  
10 did you look at or what did you think about or what made you  
11 suspect that?

12 PROSPECTIVE JUROR NO. 331: The individual  
13 themselves as far as how they carry themselves, whether they  
14 take the actual job serious enough, you know, in the Coast  
15 Guard. It is a small service at the Coast Guard that I -- I  
16 was at, you have a galley, you do have a mess cook, and you're  
17 a mess cook for two weeks. The job is not hard, but it is  
18 long hours. So the individual may not want to be there, you  
19 know, 12, 14 hours for that day.

20 MR. WINNER: I imagine you have to feed a lot of  
21 people depending on the size of the vessel.

22 PROSPECTIVE JUROR NO. 331: It's -- the unit had 50  
23 people at the unit, so --

24 MR. WINNER: Were there people who tried to get out  
25 of doing that, doing the galley?

1 PROSPECTIVE JUROR NO. 331: Not all the time, but it  
2 did happen.

3 MR. WINNER: Okay. And sometimes you suspected it  
4 based on what you knew about the individual, or maybe -- maybe  
5 they weren't on the up and up and were just trying to get out  
6 of it or --

7 PROSPECTIVE JUROR NO. 331: Younger generation  
8 coming into the military might not want to be told what to do,  
9 they might want to take other avenues to try -- try and get  
10 out of the duty. You know, and I did -- you know, I was at  
11 the time, been in almost 20 years, and I've seen a lot of  
12 change. And it -- you know, after seeing the change after  
13 many years, you know, they -- they don't take their  
14 responsibility seriously enough to where, you know, you're --  
15 you're on a two-week rotation, that's your duty, just do it  
16 two weeks and you're done.

17 MR. WINNER: Okay. You -- while you have the  
18 microphone, let me change subjects just for a minute. You  
19 mentioned that you had 100 percent disability at the time you  
20 left the service after 21 years?

21 PROSPECTIVE JUROR NO. 331: Yes.

22 MR. WINNER: Or rated at 100 percent.

23 PROSPECTIVE JUROR NO. 331: Yes.

24 MR. WINNER: And you went on, began some work,  
25 started going to college, etcetera. I don't mean to ask you

1 anything embarrassing, so only share what you're comfortable  
2 sharing.

3 PROSPECTIVE JUROR NO. 331: Sure.

4 MR. WINNER: But what -- what was the nature of the  
5 physical disability?

6 PROSPECTIVE JUROR NO. 331: I have L4-L5 bulging  
7 disc in my lower back.

8 MR. WINNER: Okay. Did --

9 PROSPECTIVE JUROR NO. 331: And -- what's that?

10 MR. WINNER: And I think you mentioned some of that.

11 PROSPECTIVE JUROR NO. 331: Yes. And so a lot of  
12 the job and physical part of my job, search and rescue, me and  
13 at my age, I was at the time like 45, usually, you know, a  
14 45-year-old in the military, you're not doing that physical  
15 activity at that age.

16 MR. WINNER: You're not doing the stuff that  
17 19-year-old kids are doing.

18 PROSPECTIVE JUROR NO. 331: Correct.

19 MR. WINNER: Yeah.

20 PROSPECTIVE JUROR NO. 331: So being, you know, at  
21 that age and the wear and tear on your joints and everything,  
22 also my -- my weight kind of contributed to it. And --

23 MR. WINNER: You were a heavier guy?

24 PROSPECTIVE JUROR NO. 331: No, actually, I was  
25 lighter then, but, you know, being on medication, I did put on

1 some weight, and -- but at the time like, you know, you're --  
2 you're doing search and rescue case, which -- which means  
3 you're running down to the boat docks --

4 MR. WINNER: Yeah.

5 PROSPECTIVE JUROR NO. 331: -- getting dressed out,  
6 getting the boats fired up and doing, you know, somebody -- a  
7 person in the water, a PIW, and it's -- it -- it's crunch  
8 time. It means somebody's life or death kind of thing. So  
9 you're running, and you're not thinking about you as an  
10 individual. You're thinking about getting this plan in place,  
11 get the boats ready, get on the way, and go pick this person  
12 up out of the water. And after not realizing I injured  
13 myself, that was a contributing factor to two knee surgeries  
14 within a two-year period.

15 MR. WINNER: The bulging disc in L4-5, are you able  
16 to pinpoint any exact moment when that happened, or was it  
17 just years of wear and tear doing that?

18 PROSPECTIVE JUROR NO. 331: Years of wear and tear.

19 MR. WINNER: Yeah. Is that from -- I've heard  
20 people who know more than I do tell me that, especially on a  
21 small vessel, if you're bouncing really hard on the waves,  
22 that's hard on your back. Is that -- did that contribute to  
23 it?

24 PROSPECTIVE JUROR NO. 331: Yes.

25 MR. WINNER: Okay. And were you doing any lifting,



1 twisting, that sort of thing?

2 PROSPECTIVE JUROR NO. 331: Not necessarily. It's  
3 just you're in the military, you've got to stay physically  
4 fit, you have to run, you have to stay in condition, exercise.

5 MR. WINNER: Yeah.

6 PROSPECTIVE JUROR NO. 331: And that was just a  
7 normal way of life.

8 MR. WINNER: Yeah. At what point did you realize  
9 you might have injured your back, how much time had passed?

10 PROSPECTIVE JUROR NO. 331: It's -- it's been years,  
11 like, you know, probably like within my first four years, you  
12 know, just being on the boats and crawling in small -- small  
13 spaces as far as like the engineering side of it. And, you  
14 know, you -- you're on a search a rescue case and you take a  
15 wave, you're on the boat, just you're strapped in, obviously,  
16 and the weight of yourself coming down on the boat itself puts  
17 more strain on your joints and your back. And doing it for  
18 14-plus years --

19 MR. WINNER: Okay.

20 PROSPECTIVE JUROR NO. 331: -- compounded.

21 MR. WINNER: Did you ever get injections in your low  
22 back?

23 PROSPECTIVE JUROR NO. 331: Luckily, no.

24 MR. WINNER: Why do you say luckily?

25 PROSPECTIVE JUROR NO. 331: Well, I know when I had

1 my knee injuries and, you know, torn ligaments, they did try  
2 shooting me up with like cortisone and whatever, shots. They  
3 did it twice and it was fine at the doctor's office. Six  
4 hours, eight hours later, still back in pain.

5 MR. WINNER: Pain came back?

6 PROSPECTIVE JUROR NO. 331: Yes.

7 MR. WINNER: That was a corticosteroid they  
8 injected?

9 PROSPECTIVE JUROR NO. 331: Yes.

10 MR. WINNER: Okay. And you didn't -- you -- you --  
11 it sounds like you didn't want to go back and try any  
12 injections again?

13 PROSPECTIVE JUROR NO. 331: Yeah, after that point  
14 it was pretty much we're doing surgery.

15 MR. WINNER: Are we talking about the knee, or the  
16 back?

17 PROSPECTIVE JUROR NO. 331: My knees.

18 MR. WINNER: Okay.

19 PROSPECTIVE JUROR NO. 331: Yes.

20 MR. WINNER: And did you go ahead with a knee  
21 surgery?

22 PROSPECTIVE JUROR NO. 331: Yes.

23 MR. WINNER: Was that an arthroscopic kind of  
24 surgery?

25 PROSPECTIVE JUROR NO. 331: Yes.

1 MR. WINNER: Okay. So outpatient with a -- or maybe  
2 just one night?

3 PROSPECTIVE JUROR NO. 331: Correct.

4 MR. WINNER: How did the knee surgery work out after  
5 recovery?

6 PROSPECTIVE JUROR NO. 331: Immediately after, a lot  
7 of pain, but once you're in physical therapy for about eight  
8 weeks, after -- after three weeks of being out from duty, I  
9 was back at -- I was back at the station still working as  
10 like, you know, desk -- desk duty.

11 MR. WINNER: Yeah.

12 PROSPECTIVE JUROR NO. 331: But still continuously  
13 going to my physical therapy three times a week. But until  
14 today, I still have joint -- you know, knee pains, joint  
15 pains, and whatnot.

16 MR. WINNER: How often do you get the knee pain?

17 PROSPECTIVE JUROR NO. 331: Probably -- almost all  
18 the time.

19 MR. WINNER: Okay. What do you do for it, just  
20 aspirin or do you take --

21 PROSPECTIVE JUROR NO. 331: Yes.

22 MR. WINNER: -- some medication right now?

23 PROSPECTIVE JUROR NO. 331: I do take my  
24 chemotherapy for my skin cancer and psoriatic arthritis, but  
25 like as far as the joint pain is concerned, the medication

1 that I do take helps

2 MR. WINNER: Is the skin -- I was going to ask you,  
3 you mentioned the skin cancer yesterday. I assume that is  
4 kind of particularly a risk of service members in the Coast  
5 Guard because you're out in the sun all the time; right?

6 PROSPECTIVE JUROR NO. 331: In the sun all the time.

7 MR. WINNER: Yeah. Okay. And was that part of the  
8 disability given to you by the Coast Guard?

9 PROSPECTIVE JUROR NO. 331: On the tail end of my  
10 career is when they actually noted in my records, so it's not  
11 part of my VA claim. It's probably something that I'm going  
12 to be, you know, getting added into it like in the near  
13 future.

14 MR. WINNER: Okay. Did you have a lawyer assist you  
15 with a VA claim?

16 PROSPECTIVE JUROR NO. 331: No.

17 MR. WINNER: Okay. You did it yourself?

18 PROSPECTIVE JUROR NO. 331: Yes.

19 MR. WINNER: Okay. Thank you.

20 Your Honor, we're up at noon-o'clock. I can take a  
21 break --

22 THE COURT: That's fine.

23 MR. WINNER: -- if you'd like.

24 THE COURT: Whatever you all want to do. Ready?

25 MR. WINNER: Okay. Thank you.

1 THE COURT: Good time for lunch, everybody? Yes?

2 MR. WINNER: That okay?

3 THE COURT: All right. During the recess you're

4 admonished not to talk or converse amongst yourselves or with

5 anyone else on any subject connected to this trial, or read

6 watch or listen to any report of or commentary on the trial of

7 any person connected with this trial by any medium of

8 information, including, without limitation to, newspapers,

9 television, the Internet, and radio, or form or express any

10 opinion on any subject connected with the trial until the case

11 is finally submitted to you.

12 We'll come back at 1:20. And I'll just remind you,

13 if you see any of -- anybody from the courtroom wandering

14 around, they can't talk to you. They're not rude, okay.

15 Enjoy your lunch. See you back.

16 (Prospective jury recessed at 12:04 P.M.)

17 THE COURT: Nothing outside the presence; right?

18 MR. PRINCE: No.

19 MR. WINNER: No.

20 MR. HENRIOD: No. No, thank you.

21 THE COURT: Okay.

22 MR. WINNER: What time you want us back here?

23 MR. PRINCE: 1:20.

24 MR. WINNER: Did you say 1:20?

25 THE COURT: Yeah. I'm -- I'm trying to find -- I

1 thought I made a court exhibit of the actual pre-instructions  
2 I read last time. Does anybody remember if I did or not? We  
3 can't find them right now. I got the ones from the  
4 plaintiffs. Does anybody remember how many?

5 MR. WINNER: I think there were a total of eight.

6 THE COURT: That sounds right.

7 MR. PRINCE: Did you get any last -- oh, you had a  
8 comparative negligence instruction.

9 THE CLERK: Yeah. The updates are all in here, so  
10 I'll find them.

11 THE COURT: Awesome. Thanks so much.

12 (Court recessed at 12:06 P.M., until 1:33 P.M.)

13 (Outside the presence of the prospective jurors)

14 THE COURT: All right. Are we ready to continue?

15 MR. PRINCE: Yes.

16 MR. WINNER: Yeah.

17 THE COURT: I have this brief -- what -- where is it  
18 -- the protective order, motion for a protective order.

19 MR. PRINCE: We had -- this is in response to the  
20 subpoenas we served.

21 THE COURT: No, I know it is. And we'll deal with  
22 it. Bu while I've got a jury waiting and I'm already late --  
23 we've got plenty of time; right?

24 MR. PRINCE: We -- we do, yeah.

25 THE COURT: Okay.

1 MR. PRINCE: Well --  
2 THE COURT: When are you calling the witness?  
3 MR. WINNER: Third week.  
4 THE COURT: Okay. All right. Let's keep going, get  
5 to a jury; yeah.  
6 (To the Marshal) We're ready, thanks.  
7 MR. PRINCE: Depending on where we're at, I would --  
8 I would -- if we have a little time after we let the jury go,  
9 after Mr. Winner's done, then I would like to discuss that  
10 with you today before we leave today if it's possible.  
11 THE COURT: That's fine. We're -- I mean, we're --  
12 MR. PRINCE: Because I think we could --  
13 THE COURT: -- it's technically not on calendar.  
14 My short answer is if service was just on counsel, I  
15 don't think that's sufficient, but that's where we are.  
16 MR. PRINCE: I served him the last trial, too. And  
17 we had a resolution of the issue, I felt, and I just wanted --  
18 THE COURT: Well, I was --  
19 MR. PRINCE: I think --  
20 THE COURT: -- wondering why you all didn't resolve  
21 it the last trial or bring it up before the middle of trial,  
22 but I just wondered that.  
23 MR. PRINCE: Right.  
24 THE COURT: Just a preview of my thoughts.  
25

1 THE MARSHAL: All rise for the entering jury.  
2 (Prospective jurors enter at 1:38 P.M.)  
3 THE MARSHAL: All present, Your Honor.  
4 THE COURT: Thank you.  
5 Do both sides stipulate to the presence of the jury?  
6 MR. PRINCE: Yes, Judge.  
7 THE COURT: Thank you.  
8 Mr. Winner?  
9 MR. WINNER: Thank you, Your Honor.  
10 Everybody sleep from lunch?  
11 UNIDENTIFIED PROSPECTIVE JUROR: Yeah.  
12 MR. WINNER: Perfect. Great.  
13 We were talking a little while about -- we were  
14 talking a little while about burden of proof and Mr. Prince  
15 talked to you a little bit about the burden of proof yesterday  
16 and we were talking to each other a little bit about it this  
17 morning.  
18 What the burden of proof means preponderance of the  
19 evidence, meaning, more probable than not, more probable than  
20 not. Examples would be, way down here we've got almost  
21 impossible; up here we have plausible. Buying a lottery  
22 ticket up here we might have more than possible. Maybe there,  
23 you know, a roll of the dice.  
24 Up here we have very possible. As someone pointed  
25 out to me, this town was built on things that are very



1 possible. You can put a red on a roulette wheel, right, and  
2 you have an almost 50 percent chance of winning. But it's  
3 only almost possible.

4 And then we have 50/50. Fifty-fifty is a coin toss.  
5 It's going to come up heads, it's going to come up tails and  
6 that's 50/50.

7 And more likely than not is, you believe it because  
8 it's probable. It's not beyond a reasonable doubt, but it's  
9 probable.

10 Okay. Is everybody going to be okay with holding  
11 the plaintiff to that burden of proof of proving to you that  
12 it's probable? Is everybody going to be all right with that?  
13 Does that make sense, the way we talked about it? Anybody  
14 have thoughts or questions about it?

15 Okay. The plaintiff is going to be asking as you  
16 probably heard, for some money in this case. Now, you may or  
17 may not reach the issue of damages in this case, but if you do  
18 reach the issue of damages -- if you do reach the issue of  
19 damages for the first dollar, for the third dollar, for the  
20 hundredth dollar, for the thousandths dollar, for the fifty-  
21 thousandth dollar, would you for every one of those dollars  
22 hold her to that probability standard, and hold her to that  
23 burden of proof that you believe it because it's probable.

24 Can everybody do that? Anybody else have a thought,  
25 question, concern about it? Everybody going to be okay with

1 that burden?

2 Is there any of you -- is there going to be anybody  
3 who's uncomfortable at holding the plaintiff to that burden?

4 What the law says is, if the plaintiff doesn't meet  
5 that burden, then the defendant doesn't need to call any  
6 witnesses. If -- if the plaintiff doesn't meet that burden,  
7 and if the plaintiff just says, well, it's equally, likely  
8 equally, not likely, I'm not sure, it's not the burden of  
9 maybe, it's the burden of proof.

10 And if all she does is tip the scales, would you  
11 have any difficulty telling the plaintiff no, and sending her  
12 away?

13 Anybody have a problem with that? Anybody have a  
14 thought about that?

15 Mr. Ralston, you seem to be pointing to yourself?

16 PROSPECTIVE JUROR NO. 311: Oh, no. Just  
17 [indiscernible]. Sorry.

18 MR. WINNER: You're just gesturing?

19 PROSPECTIVE JUROR NO. 311: Just relaxing.

20 MR. WINNER: Okay. We can all agree that you  
21 haven't heard any evidence in this case yet; right? You've  
22 sat here for four days now listening to questions.

23 Is there anybody who thinks having listened to four  
24 days of questioning from Mr. Prince that this case is worth a  
25 million dollars or more, before you've heard any evidence?

1           Okay. Is there anybody who thinks -- is there  
2 anybody in this room who doesn't believe in responsibility? I  
3 think I'm going to see every hand. Do we all -- do we all  
4 agree in responsibility? Can we all agree with personal  
5 responsibility? I think everybody in the room agrees with  
6 personal responsibility.

7           Okay. Babylyn Tate, I can tell you, believes in  
8 responsibility. She wants to be responsible. If she caused  
9 damage she wants to pay for the damage she caused. She's been  
10 here every day looking you in the eye.

11           Is there anybody here that believes Babylyn Tate is  
12 avoiding responsibility for asking some questions, and  
13 defending herself when someone is asking for a million dollars  
14 because of a car accident she was in?

15           Is anybody going to be angry with Babylyn Tate for  
16 that? Is anybody going to be angry with Babylyn Tate for  
17 having the gall to have a lawyer here representing her?

18           MR. PRINCE: Your Honor, I have a question. Can we  
19 approach?

20                               (Bench conference)

21           MR. PRINCE: You see the issue, right?

22           THE COURT: Um-hum.

23           MR. PRINCE: That's a purposeful, wilful, knowing  
24 violation of your order. We got up here. When I used the one  
25 time, they both raced up here. I couldn't use the

1 accountable, I could use the word avoiding. He just said to  
2 them, anybody have a problem, because she's seeking to avoid  
3 responsibility because she'd defending herself here. Does she  
4 -- that they --

5 THE COURT: I heard it.

6 MR. PRINCE: -- are they angry, or the gall --

7 THE COURT: I heard everything, yes.

8 MR. PRINCE: Yeah, that --

9 THE COURT: What's your take?

10 MR. PRINCE: -- so that is -- that door is open and  
11 it's over now. But I got handcuffed, right? I couldn't ask  
12 any of those questions. You've sustained an objection.  
13 Admonished me and struck it.

14 And so --

15 MR. WINNER: I'm responding to it.

16 MR. PRINCE: Oh.

17 THE COURT: Isn't that the -- aren't you saying --

18 MR. PRINCE: No, no.

19 THE COURT: -- the converse of the order, Mr.  
20 Winner?

21 MR. PRINCE: Yes. That's exactly.

22 MR. WINNER: No.

23 THE COURT: You couldn't say -- he couldn't say she  
24 was avoiding responsibility --

25 MR. WINNER: I could have used the word responsible.

1 THE COURT: -- and you come in and say she's  
2 accepting responsibility?  
3 MR. PRINCE: Yeah.  
4 THE COURT: What am I missing? Am I --  
5 MR. PRINCE: That's exactly my point with that --  
6 the order.  
7 MR. WINNER: He -- he asked the question repeatedly,  
8 and you asked him --  
9 THE COURT: I'm thinking yes, I -- I only remember  
10 initially -- and I don't remember how he used it -- and then I  
11 said well he started getting down the road. That's when he  
12 asked it. It was frivolous defenses is actually where it  
13 started.  
14 MR. PRINCE: Yes.  
15 MR. WINNER: Yes.  
16 THE COURT: And then at some point, once he said  
17 responsibility, I sustained it and I said stop.  
18 MR. PRINCE: And not just that, you struck --  
19 MR. WINNER: [Inaudible].  
20 MR. PRINCE: -- you struck it and admonished me.  
21 THE COURT: I did.  
22 MR. PRINCE: So hang on -- no, no, no, you don't get  
23 to both argue all the time. Judge, that's -- this is getting  
24 too much now.  
25 MR. HENRIOD: [Inaudible].

1 MR. PRINCE: One we aren't going to argue it --  
2 MR. HENRIOD: [Inaudible].  
3 MR. WINNER: We talked about responsibility for an  
4 hour.  
5 MR. PRINCE: To -- to -- no, [indiscernible] talk  
6 about generally. He sat up here just because he's defending  
7 herself do you feel she's seeking to avoid responsibility?  
8 So I couldn't even use those words.  
9 THE COURT: I know.  
10 MR. PRINCE: I couldn't do anything. And now all of  
11 a sudden he used those very words like I'm precluded but he  
12 did it. That's the same thing he did during the opening  
13 statement last time when he knows that was completely  
14 foreclosed.  
15 Your order forecloses that. And he's saying, is  
16 anybody angry or that she has the gall to defend herself.  
17 THE COURT: Okay. Well, let me just say this. The  
18 first several questions were not objected to, so it was just  
19 the last --  
20 MR. PRINCE: Oh, no. I let him go on because now I  
21 think the door's open. Now, I can do it. Now, I can do it.  
22 In the opening, I can do it, in the closing, I can do it all  
23 throughout the trial now when it's relevant.  
24 No, no, he's completely opened that door. But now  
25 we need to worry about a sanction, right? A sanction, because

1 I was foreclosed from asking those --

2 THE COURT: Well, theoretically, if he opened the  
3 door, if he was the one that requested to close the door and  
4 he opened it, I don't know that it's sanctionable. It's kind  
5 of what you did. You asked to be -- the Court to rule that  
6 you couldn't get into attorney --

7 MR. PRINCE: Like the lawyer advertising --

8 THE COURT: -- advertising --

9 MR. WINNER: Yeah.

10 THE COURT: -- and then you went --

11 MR. PRINCE: I did.

12 THE COURT: -- and asked the question anyway.

13 MR. PRINCE: Yeah, I did.

14 THE COURT: And I'm not going to sanction you. You  
15 opened your own door.

16 MR. PRINCE: Correct.

17 THE COURT: And so, I mean, if that's the way I go  
18 with it but --

19 MR. PRINCE: But no, no, what -- here's -- here's  
20 the differences. I was prevented from asking these types of  
21 questions about not accepting responsibility, things like  
22 that. And when I got into frivolous defenses, that's where  
23 they got objectionable.

24 THE COURT: Um-hum.

25 MR. PRINCE: Because like yeah, you can maintain a

1 frivolous defense. That's the way you avoid your  
2 responsibility. That's when they got up here and objected,  
3 said I wasn't allowed to ask that question. You had -- you  
4 agreed, sustained the objection.

5           You admonished me and struck it from the record.

6           THE COURT: I did.

7           MR. PRINCE: So you issued a sanction against me.

8           THE COURT: Well, it wasn't a sanction.

9           MR. WINNER: Okay.

10           MR. PRINCE: For doing it. And so now Mr. Winner,  
11 he's -- so that door's open for all purposes now. The only  
12 question we need to deal --

13           MR. WINNER: No.

14           MR. PRINCE: -- with is -- oh, yeah, it's open.  
15 It's over.

16           MR. WINNER: Nice try, no.

17           MR. PRINCE: You said, you seek -- seeking to avoid  
18 responsibility. Those are the exact words he used and  
19 employed. And do you think she's trying to seeking -- just  
20 because she's defending herself, exact thing he was trying to  
21 prevent us from saying, he said.

22           And he -- he implanted that in the voir dire. That  
23 I don't know if it was -- and it was calculated. It was  
24 clearly calculated. We just had a bench conference less -- an  
25 hour ago on this exact topic, for which I received a sanction.



1           Therefore, I am prejudiced because I couldn't ask  
2 any of those questions in relationship to the frivolous  
3 defense argument.

4           THE COURT: A question I have a problem with is --  
5 I'm not even sure it was a question -- when you tell them that  
6 she wants to take responsibility.

7           MR. PRINCE: Yep.

8           MR. WINNER: Yeah. Well --

9           THE COURT: That's -- that's the statement I'm  
10 having a problem with.

11          MR. WINNER: What's that?

12          THE COURT: That's the statement I'm having a  
13 problem with.

14          MR. WINNER: Uh --

15          THE COURT: And I actually may need to go back --

16          MR. WINNER: -- well, I said she --

17          THE COURT: -- and look at the JAVS --

18          MR. WINNER: -- I think I said she believes in --

19          THE COURT: -- because I don't remember the order.

20          MR. WINNER: -- responsibility.

21          MR. PRINCE: No, you said she's taking  
22 responsibility.

23          MR. WINNER: Yeah.

24          MR. PRINCE: You did.

25          THE COURT: You said --

1 MR. WINNER: For any damage she caused, yeah.

2 THE COURT: -- I'm not -- I'm not offended by you  
3 saying, are you angry that she has a lawyer here, are you  
4 angry -- none of that bothers me.

5 MR. PRINCE: So, Jude --

6 THE COURT: It's just that -- I don't know what to  
7 do with that, honestly.

8 MR. WINNER: Well --

9 MR. PRINCE: Moreover, Judge, let me add another  
10 point to this. I wasn't even allowed to say that. So now I'm  
11 saying we don't think she accepting responsibility.

12 He gets up here and makes an affirmative statement,  
13 not even a question, says, oh, Babylyn Tate, she's here  
14 looking you in the eye. She's been here everybody and she's  
15 willing -- she's -- will take any responsibility for any  
16 damage she caused.

17 So she injected the argument. So number one, the  
18 door is open to all of it.

19 Two, he purposefully handcuffed me during the voir  
20 dire process on this topic, because I was only going to deal  
21 with it during the frivolous defense argument, because they  
22 talk about frivolous lawsuits, and I want it to balance out  
23 with frivolous defenses.

24 And so he said she's taking responsibility. Does  
25 anybody believe she's -- by defending herself she's seeking to

1 avoid responsibility, the exact thing your order prevents.

2 THE COURT: No. I know, I know.

3 MR. PRINCE: And so how can he -- this is the second  
4 --

5 THE COURT: I don't know.

6 MR. PRINCE: It's clear, this pattern -- it's a  
7 pattern of behavior by Mr. Winner, that's not only unethical,  
8 but it's --

9 MR. WINNER: Unethical?

10 MR. PRINCE: -- misleading. Yeah, because you lied  
11 to the Court and you purposely, wilfully, violated an order,  
12 because you objected, both of you got up here and argued that  
13 I was in violation of the order. She sustained an objection,  
14 admonished me and struck it.

15 And now all of a sudden you're up here doing --  
16 using the exact words from the order, the precise words from  
17 the order.

18 THE COURT: Is it your intention to reverse the  
19 order?

20 MR. WINNER: Mo, my intention was to undo all of the  
21 questions yesterday, and all of the questions this morning  
22 about responsibility, and duty [indiscernible] responsibility,  
23 do you believe people need to take responsibility --

24 MR. PRINCE: Oh, you're a liar.

25 MR. WINNER: -- for their actions, do they need to

1 take responsibility and be accountable. That was asked for  
2 hours yesterday.

3 THE COURT: Now, there was one thing, doing in a  
4 general --

5 MR. PRINCE: Yeah.

6 THE COURT: -- but for you to come in and represent  
7 to the jury that --

8 MR. PRINCE: Yeah.

9 THE COURT: -- she wants to take responsibility, you  
10 don't think that's --

11 MR. PRINCE: She -- she did say that -- that's  
12 exactly what he did say.

13 THE COURT: You don't think that's a little bit more  
14 -- more different?

15 MR. PRINCE: Yeah, so -- so then -- so think about  
16 how I got sanctioned --

17 MR. WINNER: For violating the order.

18 MR. PRINCE: Yeah. So that you just violated the  
19 order, the one you're stuck to enforce, and now all of a  
20 sudden you did precisely those things, precisely those things.

21 And the unfair advantage was, he got to do it and I  
22 didn't. I was trying to just ferret it out during  
23 questioning.

24 Using one example, Mr. Horner, when talking about  
25 this exact topic of responsibility and accountability, he said

1 -- frivolous defenses, he himself said, well, if you aren't  
2 willing to take responsibility if you cause something then  
3 that might be frivolous. He -- he -- I didn't even use those  
4 words, he used the words.

5           So he invited it. And Mr. Winner now to say she's  
6 taking responsibility, and I'm not even allowed to argue that,  
7 that she's not? But he can say that she affirmatively is? Do  
8 you see the imbalance of that?

9           THE COURT: I do. I have.

10          MR. PRINCE: And so now we need to fashion a remedy  
11 for it.

12          MR. WINNER: It's not imbalanced if asked a lot of  
13 these lawsuits are brought because people won't take  
14 responsibility, we're going to carry our burden of proof, the  
15 implication being the only reason we're here is because of  
16 frivolous defenses.

17          THE COURT: [Inaudible] but --

18          MR. WINNER: He asked about frivolous defenses all  
19 morning.

20          THE COURT: -- there's totally not. There's a  
21 difference between an implication and you saying, my client is  
22 here. She wants to take responsibility. She's been here  
23 looking at you in the eye. She wants to take responsibility.

24          MR. PRINCE: Yeah.

25          MR. WINNER: And then I asked --

1           THE COURT:   And then telling the -- yesterday or  
2 whenever --

3           MR. WINNER:   Is there anybody who thinks --

4           THE COURT:   -- it was -- it feels like -- I don't  
5 know what --

6           MR. WINNER:   My question was, is there anybody who  
7 thinks she's here avoiding responsibility for defending  
8 herself.   And all I said --

9           MR. PRINCE:   You're not allowed to ask that  
10 question.

11          THE COURT:   But isn't that really kind of --

12          MR. PRINCE:   That's covered by your order.

13          THE COURT:   -- the converse of what he said?  
14 I'm looking for that order but I thought it --

15          MR. WINNER:   I wouldn't have asked the question if  
16 he hadn't don't that all day yesterday.

17          MR. PRINCE:   Oh, wow.   We had an objection up here  
18 earlier today just because I was going down the path of  
19 frivolous defenses and they both sought to -- both Mr. Henriod  
20 and Mr. Winner sought to enforce that order, which you agreed,  
21 and said we had to move on, I got a sanction, and an  
22 admonishment in front of the jury.

23          THE COURT:   This is [inaudible].

24          MR. PRINCE:   And now he uses -- he's a sword and a  
25 shield always with him.   And it's disingenuous, it's unethical

1 and a violation of your order.

2 MR. HENRIOD: [Inaudible] sanction.

3 MR. PRINCE: It's unethical.

4 MR. HENRIOD: I don't think it was [inaudible].

5 MR. PRINCE: The remark is stricken.

6 THE COURT: Tell me -- counsel cannot argue that

7 we're in trial because defendant is trying to avoid the

8 responsibility. How is the converse, that she's sitting here

9 and wants to accept responsibility, how is that not a problem?

10 MR. WINNER: Well, what I said was, is there anybody

11 here who -- she'll just accept responsibility for whatever

12 damage she caused. So -- which I said, and is there anybody

13 here who thinks she's here because she's avoiding

14 responsibility.

15 MR. PRINCE: The statement was --

16 THE COURT: I'm missing the hair split here.

17 MR. PRINCE: No, she's taking --

18 THE COURT: Um --

19 MR. PRINCE: Well, let's excuse the jury and let's

20 listen to it.

21 MR. WINNER: Well, you didn't file a motion saying

22 we can't say she isn't avoid responsibility. Oh. Oh, boy.

23 Oh. It's unethical conduct. I'm going to file another motion

24 for sanctions.

25 THE COURT: I'm going to give the jury ten minutes.

1 MR. PRINCE: Okay. Good. Let's listen to what you  
2 have to say.

3 THE COURT: Ladies and gentlemen, we're going to  
4 take a ten-minute recess. During this recess, you are  
5 admonished not to talk or converse among yourself nor with  
6 anyone else on any subject connected to this trial, or read,  
7 watch or listen to any report or commentary on the trial, of  
8 any person connected with this trial, by any medium of  
9 information, including without limitation to newspapers,  
10 television the Internet and radio, or form or express any  
11 opinion on any subject connected with the trial until the case  
12 is finally submitted to you.

13 THE MARSHAL: All rise for the exiting jury, please.

14 (Court/Court Recorder colloquy)

15 THE COURT: Was it today or yesterday that I struck?

16 MR. PRINCE: Say [inaudible] Judge.

17 THE COURT: Was it today or yesterday? It was  
18 today, right?

19 MR. PRINCE: About what?

20 THE COURT: When I struck your --

21 MR. PRINCE: Yes.

22 THE COURT: -- comments?

23 MR. PRINCE: Yes.

24 MR. WINNER: This morning.

25 THE COURT: Do you remember about what time it was?



1 MR. PRINCE: No.

2 MR. WINNER: No. We started at 10:00 or 10:30.

3 MR. PRINCE: It was probably about 11:00 o'clock.

4 THE COURT: Let me see; you know what I'm talking  
5 about right?

6 THE COURT RECORDER: You mean [inaudible]?

7 MR. PRINCE: Can you search for a word? Is that --

8 THE COURT: That right here?

9 MR. PRINCE: -- possible? I know I started with the  
10 word frivolous, and so --

11 (JAVS RECORDING PLAYING)

12 MR. PRINCE: Do you have a bench -- all the bench  
13 conferences jotted down?

14 (Pause in the proceedings)

15 (JAVS RECORDING PLAYING)

16 (Off the record at \*:\* P.M. until 2:02 P.M.)

17 THE COURT: You didn't object until whenever.

18 MR. PRINCE: Yeah, but it wasn't avoiding -- I never  
19 said to avoid responsibility. I never talked and said the  
20 defendant isn't accepting responsibility.

21 There's a whole series of problems with that  
22 statement to this jury.

23 (Pause in the proceedings)

24 MR. PRINCE: Yeah, just before. She wants -- you  
25 want to hear the statements just before the bench conference?

1 THE COURT: Um-hum. Please.  
2 THE COURT RECORDER: Right here? Is that?  
3 MR. PRINCE: Yeah, 11:40 -- 11:41.  
4 THE COURT RECORDER: [Inaudible]?  
5 MR. PRINCE: Yeah.  
6 (JAVS RECORDING PLAYING)  
7 (Pause in the proceedings)  
8 MR. WINNER: -- as you just heard, where he said  
9 defendants will try to escape responsibility.  
10 THE COURT: All right. Let's hear this one and then  
11 let's go back on the record.  
12 (Pause in the proceedings)  
13 THE COURT RECORDER: Do you -- you don't want to be  
14 on the record or?  
15 THE COURT: I want to be on the record. If we can  
16 be on the record and hear it, that's what I want.  
17 MR. PRINCE: Yeah.  
18 MR. PRINCE: That's [inaudible] 11:40'ish here.  
19 (Pause in the proceedings)  
20 (JAVS RECORDING PLAYING)  
21 (Pause in the proceedings)  
22 MR. WINNER: We might even go back to yesterday,  
23 too.  
24 (JAVS RECORDING PLAYING)  
25 MR. WINNER: Are we still on the record?

1 THE COURT RECORDER: We are.

2 MR. WINNER: This follows, as you might recall, Your  
3 Honor, either yesterday or this morning, asking jurors one-by-  
4 one-by-one; do you believe in personal responsibility; do you  
5 believe if someone causes an accident you need to not only  
6 accept that responsibility but accept the consequences?

7 THE COURT: I understand that, but there's a  
8 difference between generic and you getting up there and  
9 specifically -- first of all, stop -- stopping the plaintiff  
10 from using the word responsible, responsibility; and in  
11 fairness, I know you're counting the time he said it, but  
12 you've got to object.

13 If -- I mean, if there's a problem, I -- as soon as  
14 you brought it to my attention, I sustained it, I struck the  
15 comment. And the same -- Mr. Prince, he said a number of  
16 things that we probably could've nipped it in the bud sooner  
17 if you'd have popped up and said -- in fact, I was waiting.

18 But --

19 MR. PRINCE: I had my reasons for my timing.

20 THE COURT: Well, I just -- I don't even know what  
21 to do. Do you want to just withdraw the order?

22 MR. WINNER: No.

23 MR. PRINCE: Wait --

24 THE COURT: So you want to be able to talk about her  
25 not avoiding her responsibility but you don't want Mr. Prince

1 to say that she is?

2 MR. WINNER: I don't want Mr. Prince to say  
3 repeatedly for a couple of days, in violation of an order,  
4 that the reason we're here is someone who's avoiding  
5 responsibility.

6 MR. PRINCE: I never said that. I've never used  
7 those words.

8 MR. WINNER: You've intimated that.

9 THE COURT: I -- I don't think it was -- was that --  
10 um --

11 MR. PRINCE: No, here's the limitation.

12 I believe, number one, at a minimum, that they've  
13 opened the door to this topic and I can talk about  
14 responsibility or lack thereof. I'm not going to use the  
15 words "she's here to avoid", I'm here because she doesn't  
16 accept -- I will say she won't accept.

17 I think you have the right to defend yourself, but  
18 she doesn't accept responsibility for the collision or the  
19 damages.

20 THE COURT: So then where --

21 MR. PRINCE: That's clear.

22 THE COURT: -- where do we draw the line?

23 MR. PRINCE: So --

24 THE COURT: Because then you're going to get up  
25 here --

1 MR. WINNER: No.

2 MR. PRINCE: No, I think he's waived -- I think he's  
3 waived that issue now.

4 THE COURT: That's fine. But then you get up here  
5 and say she's avoiding responsibility. So then do they come  
6 up and say she doesn't, she made offers, she's been trying to  
7 pay but --

8 MR. PRINCE: No, no, no.

9 THE COURT: -- they -- it's not enough, I mean,  
10 where do --

11 MR. PRINCE: Well, she doesn't think she's at fault.  
12 I'm saying, that's the reason why we're here. She doesn't --  
13 she doesn't accept any fault for the collision.

14 I mean, that's not accepting responsibility; right?  
15 That -- that is it. I mean, and the -- any of the damage.  
16 She doesn't think she's responsibility for any damage. So  
17 there is a responsibility component.

18 The whole case is about legal responsibility and  
19 establishing legal responsibility. They -- it's a -- the  
20 responsibility argument, as you're going to learn, is a two-  
21 edge sword. So they want to handcuff the plaintiff, we're not  
22 allowed to use the word responsible.

23 I did do it. You -- and then I started using the  
24 word accountable, because that's not a prohibited term. I  
25 feel accountability is more about the consequences of your

1 actions not the responsibility of it.

2 So I view them differently.

3 Secondly, once I did that, you not only sustained  
4 the objection, you admonished me and struck it.

5 THE COURT: I did. I did.

6 MR. PRINCE: So, now he gets up and says, I can tell  
7 you now, that she's here and look -- been looking you in the  
8 eye and she accepted responsibility for any of the damage that  
9 she's caused. And then says, if anybody believes she's here  
10 seeking to avoid responsibility, because she's defending  
11 herself and has some questions in the lawsuit.

12 Then he took it to the next level; does it make you  
13 angry that -- or does she -- because has the gall to defend  
14 herself. That is precisely the things that they were trying  
15 to prevent us from arguing. This is the exact same logic that  
16 was used when we dealt with the traffic citation and the  
17 traffic report when we dealt with that, which resulted in a  
18 mistrial.

19 I'm not asking for a mistrial, I'm asking now that  
20 the door has just opened and I can just do it, and we'll  
21 fashion another remedy in terms of other fees, costs or  
22 otherwise for the violation, because I was prohibited.

23 You told me -- and you told me to move on, which I  
24 had to. Then I just asked it in a generic way, and then I --  
25 on the frivolous topic and I moved on.

1           So that is a limitation -- just because I asked  
2 something in a general sense, because that's really all I was  
3 allowed to do, and then he went to the specifics of the case.

4           And we had a number of arguments yesterday about a  
5 fact in issue. He got up and told this jury that she's here  
6 and she accepts responsibility. He's making an affirmative  
7 statement to them.

8           It's not a question; that was a statement. The  
9 question was, then just because she's now defending herself  
10 she has questions of law, is she seeking to avoid  
11 responsibility, after making the statement, talking about  
12 looking them in the eye.

13           In light of your order and the discussion that we  
14 had and the belief that they sought, that's it's unethical,  
15 unethical in the sense that they made a false representation  
16 to this tribunal. They're seeking to use that order as a  
17 sword and a shield which is also inappropriate, and for which  
18 there needs to be sanctions.

19           And one sanction is, well, that door is open, now we  
20 can talk about responsibility and those issues. And then,  
21 two, we'll fashion -- I'll file an appropriate brief seeking  
22 another sanction for doing that.

23           MR. WINNER: And we'll oppose it.

24           MR. PRINCE: Right.

25           MR. WINNER: This is -- this is really cute. This

1 is --

2 MR. HENRIOD: All a sense of proportionality.

3 MR. WINNER: This is really cute.

4 All day yesterday and all day this morning he talked  
5 about frivolous defenses; don't get cases filed because of  
6 frivolous defenses. People come into court with frivolous  
7 defenses. Don't you think that's why cases come into court;  
8 over and over and over and over again.

9 And when I respond to that with one sentence, he  
10 blows a gasket and he wants sanctions against everybody. He  
11 makes a living off getting mistrials and trying to get  
12 sanctions against everybody because one set of rules --

13 MR. PRINCE: Wow.

14 MR. WINNER: -- applies to Mr. Prince, he can ignore  
15 all of the Pretrial Orders. And when I respond to it, I have  
16 violated a Pretrial Order and he should get sanctions.

17 It is completely wrong and it's completely out of  
18 proportion. If he stood in front of this jury for three days  
19 and intimated then the reason that they're here is because of  
20 frivolous defenses, and people don't --

21 MR. PRINCE: I didn't say that.

22 MR. WINNER: -- accept accountability and won't make  
23 things right, and then he actually says, we're avoiding our  
24 responsibilities and that's why these lawsuits get filed.

25 And I say, one thing in response, he wants sanctions



1 and now the door is wide open because he violated the order  
2 about 40 times, he should get sanctions.

3 MR. HENRIOD: There certainly is no prejudice that  
4 isn't --

5 MR. PRINCE: I never used the term --

6 MR. HENRIOD: -- cured by an admonishment.

7 MR. PRINCE: -- frivolous defense until this  
8 morning. That was my last scope of my questioning.

9 THE COURT: In my opinion you have both violated --

10 MR. WINNER: I stand corrected. It was this  
11 morning.

12 THE COURT: -- the order. I told you when you did.

13 MR. PRINCE: Yes.

14 THE COURT: I sustained the objection. You violated  
15 the order. So I don't know where the whole sanction thing  
16 comes in, I'm just trying to make it balance -- I don't see a  
17 sanction thing beyond trying to --

18 MR. HENRIOD: Admonish [inaudible].

19 THE COURT: -- fix what I -- I think you both did.  
20 The difference I have here is you violated the order on the  
21 attorney advertising thing. But it was my order or Villani's  
22 order or whoever's order it was, but it was at your request.

23 So to me --

24 MR. PRINCE: Great.

25 THE COURT: -- if you choose to do that, I don't

1 know that that's the same as -- and then that's why I'm  
2 looking at this one. I don't know --

3 MR. WINNER: Well, it shouldn't matter. I should  
4 have the right to respect that counsel is going to obey both  
5 orders when he comes in here. He can't say, well, I changed  
6 my mind.

7 THE COURT: But you -- then you didn't obey it.

8 MR. WINNER: Huh?

9 THE COURT: That's what I'm saying, I made him obey  
10 and then you didn't. You know what I'm saying?

11 MR. WINNER: And respectfully, I don't think I did  
12 violate that order.

13 MR. PRINCE: At this point, all I want you to say --  
14 rule is the door is open to the topic and we can move on.

15 MR. WINNER: If you want to admonish or have the  
16 question of stricken, and I'll ask it another way, that's  
17 fine. I didn't --

18 MR. PRINCE: How can --

19 MR. WINNER: -- I didn't open the door. There isn't  
20 -- there isn't an order saying that my client is not allowed  
21 to say she's accepting responsibility.

22 MR. PRINCE: Oh.

23 THE COURT: You're right. There's an order saying  
24 that plaintiff is not allowed to say, I'm avoiding  
25 responsibility. They're not allowed to do that.

1 MR. PRINCE: Think about that, Judge.

2 THE COURT: It's not even that the -- well --

3 MR. PRINCE: Think about that, Judge. They can --  
4 under his logic, which is the same thing that we've been --

5 THE COURT: I know, I know, I know, I know, I know.  
6 I know. I know. So we have two choices; we strike the  
7 question, the answer which is what I did when you did it. Or  
8 we leave it if you want it and let defense go back into it.  
9 That's what I'm thinking.

10 THE COURT: Well, I -- my option -- I think there's  
11 another option is that that issue is now -- because he's  
12 represented to the jury an affirmative fact that she's here to  
13 accept responsibility for any damage she caused, that she's  
14 here to do that. That -- there's no way that you can fix it.

15 I think that door is open on the concept of  
16 responsibility. Should you maybe -- do you want to further  
17 limit like seek -- because she's defending herself she's  
18 seeking to avoid, that's what's really covered by the order,  
19 quite frankly, by defending herself.

20 But he's going to get up here about, you know,  
21 everybody has the right to defend themselves and should -- is  
22 there -- are you going to have a problem because someone wants  
23 to come in and defend themselves, someone sued them, and they  
24 have the right to defend themselves, we -- like we can't comment  
25 it, but they can.

1           That's kind of the imbalance of that order. That's  
2 why the order doesn't -- respectfully, it's inconsistent,  
3 because it doesn't apply equally.

4           THE COURT: I'm not sure what you're saying.

5           MR. PRINCE: Is like they're going to --

6           THE COURT: Him arguing --

7           MR. PRINCE: -- he'll --

8           THE COURT: -- that does she have a right to defend  
9 herself --

10          MR. PRINCE: Yes.

11          THE COURT: -- is just the same as you arguing your  
12 client has a right to file suit. And --

13          MR. PRINCE: Right. I'm not --

14          THE COURT: -- we've -- we've been doing that for  
15 four --

16          MR. PRINCE: -- arguing that they don't have a right  
17 to defend themselves.

18          THE COURT: -- days.

19          MR. PRINCE: That's -- see, that's how I think the  
20 difference of the issue -- if you don't accept responsibility  
21 that's one thing. You have the right to come in and defend  
22 yourself and avoid it, if you want. It could be frivolous, it  
23 could be. But you can avoid -- I think that's -- the  
24 terminology is very critical.

25          And seeking to avoid means you don't have a right to

1 defend yourself. They have a right to defend themselves. She  
2 does not accept responsibility for causing this collision.  
3 That's a fact. And she'll be the first witness up here, and  
4 that's exactly what's coming out of her mouth.

5 THE COURT: All right. Then why are we -- why are  
6 we making much ado about nothing?

7 MR. PRINCE: Right.

8 THE COURT: Because, I mean, this is Jury Questions.  
9 So really? We're spending so much time that I think the  
10 jury's going to focus on facts from jury questioning that  
11 isn't even part of the trial. We're really kind of -- I feel  
12 like we're --

13 MR. PRINCE: But I guess the argument --

14 THE COURT: -- losing sight of the whole --

15 MR. PRINCE: Well, it could relate to --

16 THE COURT: -- thing.

17 MR. PRINCE: -- the opening statement of -- and I  
18 was like yeah, she doesn't accept responsibility, because she  
19 doesn't. She says she does, but I'm going to show -- I'm  
20 going to show the jury that she doesn't.

21 THE COURT: Well, but I don't understand why this is  
22 all important. I don't know, why are we trying the case in  
23 jury selection? I guess, that's my question.

24 MR. PRINCE: The -- the --

25 THE COURT: And I feel like that's what --

1 MR. WINNER: -- the order on that was, Mr. Prince is  
2 allowed to say he believes the evidence shows the defendant is  
3 responsible. He's not allowed to say that she's avoiding  
4 responsibility.

5 I would say that includes avoiding accountability,  
6 being frivolous in her defenses. He's not allowed to attack  
7 her from the manner in which she defended the case.

8 MR. PRINCE: Oh. If the -- if I believe the  
9 evidence supports that the defense is frivolous, then I can  
10 say that.

11 MR. WINNER: No.

12 MR. PRINCE: That is an absurd defense. It --  
13 there's no order covering that.

14 MR. WINNER: Okay. Then I'll say your damages are  
15 frivolous --

16 MR. PRINCE: Oh, well --

17 MR. WINNER: -- but you [inaudible].

18 MR. PRINCE: -- I hope you do. I mean, I would love  
19 for you to do that --

20 MR. WINNER: Yeah.

21 MR. PRINCE: -- honestly. And you're allowed to do  
22 that. That's at your -- it's at your peril.

23 MR. WINNER: You filed an order saying I can't.

24 THE COURT: All right. Let's take ten minutes.  
25 Tell the jury I apologize, we need another ten minutes.

1 THE MARSHAL: Okay.

2 MR. WINNER: And I mean no disrespect to anybody but  
3 if -- okay.

4 THE COURT: What?

5 MR. WINNER: If consulting with colleagues, have  
6 further ex parte conversations with Mr. Prince with your  
7 colleague next door, I don't think that's fair to me.

8 THE COURT: Doing what?

9 MR. WINNER: Having ex parte conversations with your  
10 colleague next door before you go speak to her with Mr.  
11 Prince, I don't think it's fair to me.

12 THE COURT: With Mr. Prince?

13 MR. WINNER: If that's happening, I'm going to have  
14 a -- an issue with that.

15 THE COURT: With Mr. Prince?

16 MR. WINNER: Yes. If you're consulting with -- all  
17 due respect to Judge Gonzalez -- if you're consulting with  
18 Judge Gonzalez when you go back there after Prince is in --  
19 been pitching the case by himself to her, I have a problem  
20 with.

21 MR. PRINCE: I haven't spoken to Judge Gonzalez.

22 THE COURT: Okay. Well, I don't --

23 MR. WINNER: Yes, you have.

24 THE COURT: -- anything about that. I've certainly  
25 never --

1 MR. PRINCE: I have not.

2 THE COURT: -- spoken to a colleague with another  
3 lawyer or anything else.

4 MR. WINNER: No, you did not, Judge.

5 (Court recessed at 2:20 P.M., until 2:42 P.M.)

6 (Outside the presence of the prospective jurors)

7 THE COURT: Okay. Here's where I am. It's my  
8 personal opinion and also my ruling here that you have both  
9 violated court orders. That I'm offering -- and here's -- if  
10 you guys want to agree that the responsibility avoidance  
11 argument comes in, you both agree, then I will.

12 Otherwise, I'm going to do the same here; I'm going  
13 to sustain the objection. I'm going to order it stricken and  
14 we're not going down the road. I think you have both rung a  
15 bell, if you will, and unring a -- you can't unring the bell.

16 But I think it's been kind of balanced at this  
17 point. And so unless you both want to agree to open it,  
18 that's what I'm going to do.

19 MR. PRINCE: Well, I'm agreeing to open it, so.

20 MR. WINNER: I don't agree --

21 THE COURT: Okay.

22 MR. WINNER: -- to open it at all.

23 MR. PRINCE: Okay. And then so the -- let's fashion  
24 under Gunderson [phonetic], you have to fashion an appropriate  
25 instruction and that any statement that the defendant take --



1 is accepting responsibility or not avoiding responsibility,  
2 but by, you know, defending herself in court, that is stricken  
3 from the record, right? You have to say it specific under the  
4 Gunderson case. And so -- so the jury knows precisely what's  
5 being stricken.

6 And so we need to fashion -- that if that's the case  
7 we need to fashion what the striking is. And so my belief --

8 MR. HENRIOD: I think that we can --

9 MR. PRINCE: -- is --

10 MR. HENRIOD: -- [inaudible] and say exactly what  
11 you said before.

12 MR. PRINCE: Well, no, we need to know what's going  
13 to be stricken from the record. And the -- it wasn't just  
14 simply a question, it was a statement of fact by Mr. Winner,  
15 that she's looked the jurors in the eyes and she's here to  
16 accept responsibility for any damage she's caused.

17 That statement, right, she -- they can't believe  
18 that. That's a statement. That's not a question, that's a  
19 statement. So that has to --

20 THE COURT: Yeah, but -- but you didn't object to  
21 that statement.

22 MR. PRINCE: Yes, I did.

23 THE COURT: You didn't object until --

24 MR. PRINCE: Oh -- oh --

25 THE COURT: -- down the road and the --

1 MR. PRINCE: -- I did.

2 THE COURT: -- objection was regarding the  
3 responsibility. So what I'm going to say is any -- any  
4 statements or questions with regard to the defendant taking  
5 responsibility are stricken --

6 MR. PRINCE: Right.

7 THE COURT: -- and you're to ignore it.

8 MR. PRINCE: Fine.

9 THE COURT: And then I'm done.

10 MR. PRINCE: Fine.

11 THE COURT: Okay?

12 MR. WINNER: Yep.

13 THE MARSHAL: Ready?

14 THE COURT: Yes.

15 (Pause in the proceedings)

16 THE COURT: I think I told the jury yesterday 4:30,  
17 so we'll go with that.

18 MR. WINNER: Oh, okay.

19 THE COURT: Did we not? Yeah.

20 THE MARSHAL: All rise for the entry of the jury.

21 (Prospective jurors enter at 2:45 P.M.)

22 THE MARSHAL: All present, Your Honor.

23 THE COURT: Thank you.

24 Do the parties stipulate to the presence of the  
25 jury?

1 MR. WINNER: Yes, Your Honor.

2 MR. PRINCE: Yes, Judge.

3 THE COURT: Welcome back.

4 Ladies and gentlemen, you are ordered and instructed  
5 to disregard any statements made by Mr. Winner regarding his  
6 client and her willingness to accept responsibility. It can't  
7 be considered for you, for any purposes; okay?

8 Thank you.

9 PROSPECTIVE JUROR NO. 249: Your Honor, can you  
10 clarify what you mean by that?

11 THE COURT: None of this is evidence, anyway. So it  
12 really on some level -- but anything that you've heard  
13 regarding whether or not the defendant is taking  
14 responsibility or not taking responsibility --

15 PROSPECTIVE JUROR NO. 249: Oh, okay.

16 THE COURT: -- is not to have -- you're to disregard  
17 it.

18 PROSPECTIVE JUROR NO. 249: Gotcha. Sorry. Thank  
19 you.

20 THE COURT: No worries.

21 UNIDENTIFIED PROSPECTIVE JUROR: And I needed it  
22 too, thanks.

23 MR. WINNER: I'm going to ask that question a little  
24 differently.

25 Is there anybody here who is going to be angry at

1 Babylyn Tate or hold it against Babylyn Tate that she is here  
2 asking some questions about a million dollar claim because of  
3 a lawsuit that she was involved in?

4 MR. PRINCE: Objection, Your Honor, to that --

5 THE COURT: Okay.

6 MR. PRINCE: -- we've had a 30 minute recess over  
7 this exact topic.

8 (Bench conference)

9 THE COURT: What's the objection?

10 MR. PRINCE: It's covered by your order that -- that  
11 goes to --

12 THE COURT: I think that's --

13 MR. PRINCE: -- seeking to avoid --

14 THE COURT: I think that's different.

15 MR. PRINCE: -- responsibility.

16 THE COURT: I think that's the --

17 MR. PRINCE: Now they've got -- are they angry  
18 because she has some questions.

19 THE COURT: That's corollary to what you're saying.  
20 Does anybody think that because a plaintiff comes in here and  
21 sues somebody that they're --

22 MR. PRINCE: Well, no, he's talking about --

23 THE COURT: -- more or less believable --

24 MR. PRINCE: -- being angry.

25 THE COURT: -- or what -- it's the same kind of

1 thing. It's a different emotion, but it's kind of the same  
2 question. You're getting to the same thing. I don't think  
3 that has anything to do with the order. I'm going to overrule  
4 it.

5 MR. PRINCE: Okay.

6 (End of bench conference)

7 MR. WINNER: I was looking down at my notes and  
8 wasn't watching this morning. But is everybody here a  
9 licensed driver, at least rides in a car with somebody who's a  
10 licensed driver? That's almost everybody.

11 In your experience, are there occasions when  
12 accidents can happen with nobody being at fault and nobody to  
13 blame? Anybody have an experience with that?

14 The first thing I heard was from -- the first nod I  
15 saw was from Mr. Sweikert.

16 PROSPECTIVE JUROR NO. 376: So kind of like Tracy's  
17 example of -- of the pedestrian walking out in the -- the  
18 road. So I guess can I ask you to clarify for those like no  
19 fault accidents; does that like include all parties?

20 MR. WINNER: Well, yeah. I'm asking is it -- is it  
21 possible in your experience, or is it possible in your  
22 understanding that accidents just happen, and sometimes there  
23 isn't somebody to blame?

24 PROSPECTIVE JUROR NO. 376: Well, yeah, I believe  
25 that. I guess I was looking for clarification on what you

1 said.

2 MR. WINNER: Okay.

3 PROSPECTIVE JUROR NO. 376: Instead of like putting  
4 in my [inaudible].

5 MR. WINNER: Can car accidents happen between two  
6 drivers with not necessarily anybody to blame?

7 PROSPECTIVE JUROR NO. 376: Sure, I guess that it  
8 does -- it wouldn't -- I couldn't say no, that that doesn't  
9 happen. But I -- off the top of my head, I couldn't think of  
10 an example --

11 MR. WINNER: Okay.

12 PROSPECTIVE JUROR NO. 376: -- of such.

13 MR. WINNER: Mr. Schuldt, what do you think of that?

14 PROSPECTIVE JUROR NO. 309: The only thing I could  
15 think of is, you know, things that just come up that happen,  
16 you know, say things that end up coming into traffic,  
17 construction cones, or --

18 MR. WINNER: [Inaudible].

19 PROSPECTIVE JUROR NO. 309: -- animals or, you know,  
20 things out of the ordinary that basically like you said it  
21 doesn't take two drivers --

22 MR. WINNER: Yeah.

23 PROSPECTIVE JUROR NO. 309: -- can cause a  
24 distraction.

25 MR. WINNER: Well, somebody in the back mentioned, I

1 think it was Ms. White, mentioned getting cut off. Sometimes  
2 a person cutting you off doesn't know he's cutting you off,  
3 doesn't mean to cut you off, doesn't make -- you just get cut  
4 off. Have we seen situations like that before?

5 PROSPECTIVE JUROR NO. 309: Yes.

6 MR. WINNER: Can accidents happen without somebody  
7 being at fault and somebody to blame?

8 PROSPECTIVE JUROR NO. 309: Yes.

9 MR. WINNER: Anybody else have any thoughts about  
10 that? Yes, sir?

11 PROSPECTIVE JUROR NO. 376: So along with that, you  
12 know, example about being cut off, even though it may have not  
13 been intentional or it's -- I mean, even if it's completely an  
14 accident on both sides there still has to be someone at fault  
15 in that specific case; correct?

16 MR. WINNER: That's -- that's your experience,  
17 that's your belief?

18 PROSPECTIVE JUROR NO. 376: Yeah, that's my belief.

19 MR. WINNER: Okay.

20 PROSPECTIVE JUROR NO. 376: That even though like I  
21 guess like blind spot accidents for example, someone still has  
22 to be to blame for those.

23 MR. WINNER: Okay. Can you envision -- while you  
24 still have the microphone can you envision circumstances where  
25 more than one party is at fault even in a rear-end collision?

1 PROSPECTIVE JUROR NO. 376: Oh, absolutely.

2 MR. WINNER: Okay. Under what circumstances could  
3 more than one person be at fault when the front of one car  
4 makes contact with the back of another car? Can you think of  
5 an example off the top of your head?

6 PROSPECTIVE JUROR NO. 376: Yeah, so I guess -- I  
7 mean, I -- from what I heard, the law states that if one car  
8 hits another car from behind that's considered the -- the  
9 farther back car's like fault. But --

10 MR. WINNER: Usually, yes. Yes.

11 PROSPECTIVE JUROR NO. 376: Usually. In a case that  
12 someone like is in traffic and they slow down and -- or they  
13 slam on their brakes because they were too close to the person  
14 in front of them and then the person behind them was too close  
15 so they hit, if there's a traffic collision and both parties  
16 were too close to the person in front of them, that would be a  
17 case, in my mind, that I would think would apply.

18 MR. WINNER: Okay.

19 Mr. Strickler, what do you think about that?

20 PROSPECTIVE JUROR NO. 275: I can easily see  
21 situations where the person getting hit might not really be  
22 responsible.

23 MR. WINNER: Can you see circumstances where the  
24 person, the car behind the person doing the hitting --

25 PROSPECTIVE JUROR NO. 275: Yeah.



1 MR. WINNER: -- might not be completely responsible?  
2 PROSPECTIVE JUROR NO. 275: I can think of a lot of  
3 possibilities there.  
4 MR. WINNER: Can you envision possibilities where  
5 the car in front of the car that gets hit, at least bears some  
6 of the fault?  
7 PROSPECTIVE JUROR NO. 275: Yeah, theoretically.  
8 MR. WINNER: Okay. Anybody else have any thoughts  
9 about that, any experiences with that?  
10 Can we all agree that accidents can happen between  
11 motor vehicles with maybe more than one party at fault? Is  
12 everybody okay with that?  
13 Ms. Rodriguez, you had your hand up.  
14 PROSPECTIVE JUROR NO. 249: Oh, I thought you were  
15 motioning for us to raise our hands, so.  
16 MR. WINNER: You don't have anymore --  
17 PROSPECTIVE JUROR NO. 249: No.  
18 MR. WINNER: -- nothing to add?  
19 PROSPECTIVE JUROR NO. 249: No.  
20 MR. WINNER: Please don't pass me the microphone?  
21 Anybody else?  
22 You're going to hear in the jury instructions,  
23 you're going to hear the word I think it's a dozen -- 12 times  
24 in the jury instructions the law -- the Judge is going to give  
25 you the law at the end of the case. It's not my time to argue

1 the law to you.

2 Mr. Prince talked about a jury instruction about  
3 burden of proof yesterday and we did this morning; and about  
4 damages yesterday and this morning.

5 What you're going to hear in 12 -- I think it's 12  
6 of the jury instructions, is the word "reasonable" --  
7 "reasonable". And the parties in this case, Babylyn Tate,  
8 including the plaintiff, they're held to the standard of a  
9 reasonable person.

10 So let me ask Mr. Strickler, since you already have  
11 the microphone, what does the word "reasonable" mean to you as  
12 a -- as an adult?

13 PROSPECTIVE JUROR NO. 275: That would be maybe like  
14 standard, someone that follows the norms.

15 MR. WINNER: Is a reasonable person a perfect person  
16 who --

17 PROSPECTIVE JUROR NO. 275: No.

18 MR. WINNER: -- never makes a mistake?

19 PROSPECTIVE JUROR NO. 275: No.

20 MR. WINNER: Okay. Is it possible for somebody to  
21 make a mistake or some bad event to happen while still being  
22 reasonable?

23 PROSPECTIVE JUROR NO. 275: I believe so.

24 MR. WINNER: Okay.

25 Ms. Harvey-Jackson?

1 PROSPECTIVE JUROR NO. 270: Um-hum.  
2 MR. WINNER: I haven't picked on you yet.  
3 PROSPECTIVE JUROR NO. 270: Oh, good. I didn't want  
4 to be picked on.  
5 MR. WINNER: Well, I won't --  
6 PROSPECTIVE JUROR NO. 270: That's why --  
7 MR. WINNER: -- pick on you.  
8 PROSPECTIVE JUROR NO. 270: -- I want to be real  
9 quiet.  
10 MR. WINNER: If I promise not to pick on you,  
11 [inaudible] ask you a couple --  
12 PROSPECTIVE JUROR NO. 270: Yeah.  
13 MR. WINNER: -- of questions, what do you think  
14 about that?  
15 PROSPECTIVE JUROR NO. 270: It's okay.  
16 MR. WINNER: Okay. What do you tink about what Mr.  
17 Strickler just said, about what it is to be a reasonable  
18 adult?  
19 PROSPECTIVE JUROR NO. 270: I think we're all --  
20 hopefully all of us in here are reasonable adults.  
21 MR. WINNER: Uh --  
22 PROSPECTIVE JUROR NO. 270: We're not perfect.  
23 MR. WINNER: I know I'm not.  
24 PROSPECTIVE JUROR NO. 270: Okay. And I'm not  
25 either.

1 MR. WINNER: Have -- I assume this might be  
2 everybody -- have we all had incidents where an incident or an  
3 accident happened and we thought, gees, I thought I was  
4 reasonable, I really didn't see what I was doing at the time,  
5 but I can't criticize myself for being reasonable.

6 Have you had that experience before?

7 PROSPECTIVE JUROR NO. 270: You mean an accident?

8 MR. WINNER: [Inaudible].

9 PROSPECTIVE JUROR NO. 270: Fortunately for me, I  
10 haven't had an accident. Now, I'm from the Midwest. I've had  
11 spin-outs on Lake Shore Drive [phonetic] where my car did a  
12 360 and fortunately no one was in back of me or in front of  
13 me. But suppose someone had been there.

14 MR. WINNER: Lake Shore Drive might be the coldest  
15 place on earth.

16 PROSPECTIVE JUROR NO. 270: Yes, it's right around a  
17 lake. So fortunately, I have not been placed in those type of  
18 predicaments.

19 MR. WINNER: Who agrees with Mr. Strickler or agrees  
20 with Ms. Harvey-Jackson?

21 Yes, sir, Mr. Sweikert, back up front.

22 PROSPECTIVE JUROR NO. 376: Oh, I was just agreeing.

23 MR. WINNER: You were just agreeing?

24 Anybody else have any thoughts [inaudible] about  
25 that?

1                   Okay. Mr. Marquez? Pass that back please.

2                   PROSPECTIVE JUROR NO. 264: I think that there are

3 some occasions where there's no -- no one at fault, you know,

4 not necessary every -- on every -- every time somebody have to

5 be responsible for something.

6                   There are some -- very few occasions maybe that

7 there are -- there's no -- no fault on either side. Or fault

8 on both sides.

9                   MR. WINNER: Sure, okay.

10                  So you can envision an accident between two cars

11 where nobody really is at fault, or both vehicles are at

12 fault?

13                  PROSPECTIVE JUROR NO. 264: Correct.

14                  MR. WINNER: Yeah. Can you envision a circumstance

15 where that might happen, even when the front of a vehicle

16 bumps into the back of an other vehicle?

17                  PROSPECTIVE JUROR NO. 264: Yes, if somebody in the

18 front steps on the brakes maybe accidentally or purposely, and

19 can cause an accident. However, if the person behind the

20 vehicle is driving too close, that's also a fault.

21                  MR. WINNER: Yeah, agreed. Understood.

22                  Who agrees with Mr. Marquez?

23                  Yes, sir? We're going to go to Mr. Ralston again.

24                  Tired of -- tired of being passed the microphone?

25                  PROSPECTIVE JUROR NO. 311: Yeah.

1 MR. WINNER: What are your thoughts about that?

2 PROSPECTIVE JUROR NO. 311: Well, I've been cited  
3 for unsafe start and stop on the freeway as I told you,  
4 [inaudible] accident.

5 MR. WINNER: Yeah.

6 PROSPECTIVE JUROR NO. 311: And I got the citation,  
7 but you know, because I was checking traffic to my left and my  
8 right, you know, I was moving, I did rear-end a car. I kind  
9 of feel that it wasn't my fault but then again, I did strike  
10 you in the back --

11 MR. WINNER: Sure.

12 PROSPECTIVE JUROR NO. 311: -- and I wasn't looking  
13 at the time, so it's difficult --

14 MR. WINNER: Do you believe that at the time that  
15 accident happened, five seconds before, one second before, you  
16 were checking your mirrors --

17 PROSPECTIVE JUROR NO. 311: Um-hum.

18 MR. WINNER: -- or checking both sides driving  
19 along, do you think you were behaving as a reasonable person  
20 would behave --

21 PROSPECTIVE JUROR NO. 311: Oh, definitely, I was.

22 MR. WINNER: -- when the accident happened.

23 PROSPECTIVE JUROR NO. 311: Yes, I was driving  
24 reasonably, yes.

25 MR. WINNER: Okay. Thank you.

1           Anybody else see how that incident could happen the  
2 way Mr. Ralston described it? Thoughts about that?

3           I see some nods.

4           Okay. Ms. Jackson?

5           PROSPECTIVE JUROR NO. 270: Um-hum.

6           MR. WINNER: I'm going to pick on you some more.

7           PROSPECTIVE JUROR NO. 270: Okay. I'm here and  
8 available.

9           MR. WINNER: You worked in the past as a school  
10 teacher?

11          PROSPECTIVE JUROR NO. 270: Yes.

12          MR. WINNER: What age kids did you teach?

13          PROSPECTIVE JUROR NO. 270: I had special education  
14 my first 18 years.

15          MR. WINNER: [Inaudible].

16          PROSPECTIVE JUROR NO. 270: And then fourth grade my  
17 last 12.

18          MR. WINNER: Fourth grade?

19          PROSPECTIVE JUROR NO. 270: Fourth grade was  
20 wonderful.

21          MR. WINNER: So ten-year olds?

22          PROSPECTIVE JUROR NO. 270: Eight.

23          MR. WINNER: Eight.

24          PROSPECTIVE JUROR NO. 270: Eight and nine.

25          MR. WINNER: Right. Eight and nine years can be

1 angels and they can be a little devil sometimes too, do you  
2 agree?

3 PROSPECTIVE JUROR NO. 270: Yeah, of course.

4 MR. WINNER: So teachers --

5 PROSPECTIVE JUROR NO. 270: They're kids.

6 MR. WINNER: I'm sorry?

7 PROSPECTIVE JUROR NO. 270: They're kids.

8 MR. WINNER: They're kids.

9 PROSPECTIVE JUROR NO. 270: Um-hum.

10 MR. WINNER: Teachers can be a great person to ask  
11 this question because I know many of us might be parents, but  
12 as a teacher you're dealing with kind of a larger group of  
13 students than most parents do and you're dealing with a  
14 different set of students I think every year, right?

15 PROSPECTIVE JUROR NO. 270: Every year, right.

16 MR. WINNER: Do you ever have to resolve disputes  
17 between the students?

18 PROSPECTIVE JUROR NO. 270: Sure.

19 MR. WINNER: So if one student comes to you and  
20 tells you one story, and another comes and tells you a  
21 different story, what do you're trying to resolve that  
22 dispute.

23 PROSPECTIVE JUROR NO. 270: To try to weigh all the  
24 facts and give my best discernment for -- and resolve the  
25 situation. That's my feeling.



1 MR. WINNER: Um --

2 PROSPECTIVE JUROR NO. 270: With the information  
3 that I have.

4 MR. WINNER: Well, thank you.

5 When you say you're trying to ascertain the facts, I  
6 appreciate that.

7 PROSPECTIVE JUROR NO. 270: Um-hum.

8 MR. WINNER: Give us an example. What facts might  
9 you try to ascertain?

10 PROSPECTIVE JUROR NO. 270: Let's say there's a  
11 dispute on the playground and maybe they got into a little  
12 entanglement fighting. And I really try to bring them  
13 together and just listen to each -- each story that's  
14 presented. And I try to come up with what I think is a fair  
15 judgment.

16 MR. WINNER: Okay. I sometimes a --

17 PROSPECTIVE JUROR NO. 270: That's just using kind  
18 of after so many years it's like a teacher discernment, a  
19 teacher gut feeling of situations --

20 MR. WINNER: You've got a pretty --

21 PROSPECTIVE JUROR NO. 270: -- that have happened.

22 MR. WINNER: -- good radar after awhile?

23 PROSPECTIVE JUROR NO. 270: Yeah.

24 MR. WINNER: Yeah.

25 PROSPECTIVE JUROR NO. 270: Um-hum.

1 MR. WINNER: Do you ever have -- I'm sure this has  
2 happened -- have you ever had a situation where you have two  
3 four-year old kids who are completely convinced or seem to be  
4 convinced that they are absolutely right but they're telling  
5 you two completely different stories?

6 PROSPECTIVE JUROR NO. 270: Oh, of course,  
7 definitely.

8 MR. WINNER: have you had occasions where you kind  
9 of like both the kids?

10 PROSPECTIVE JUROR NO. 270: Oh, yeah.

11 MR. WINNER: Did you ever have any difficulty in  
12 trying to resolve the issue in just finding one way and  
13 disappointing the other kid?

14 PROSPECTIVE JUROR NO. 270: Sometimes, I did. And  
15 sometimes I would just let them go down to the counselor if I  
16 didn't feel like I could resolve the issues.

17 MR. WINNER: Hum. Gave it off to someone else?

18 PROSPECTIVE JUROR NO. 270: Yeah.

19 MR. WINNER: Okay.

20 PROSPECTIVE JUROR NO. 270: You know, those are two  
21 children and I usually had 30, so I needed to get back to the  
22 other twenty [inaudible].

23 MR. WINNER: Well, teachers in my experience -- and  
24 maybe I was just lucky -- but in my experience teachers seemed  
25 to -- one they seemed to be no-nonsense, and two, they -- at

1 least my teachers were kind-hearted, soft-hearted people. I  
2 assume that's true of you and teachers you work with?

3 PROSPECTIVE JUROR NO. 270: Oh, yeah, definitely.

4 MR. WINNER: As a kind-hearted person, did you ever  
5 have any difficult making a decision when you're resolving a  
6 dispute between two kids? Did you ever have difficulty  
7 saying, look, I like this kid. He's a nice kid. I just don't  
8 believe what he's telling me. It doesn't quite seem right.

9 So, I'm going to tell him no, and I'm going to  
10 decide with the other kid. Were you able to do that?

11 PROSPECTIVE JUROR NO. 270: Oh, yeah, sometimes.  
12 Yes.

13 MR. WINNER: Did you have difficulty doing that, if  
14 you liked the other kid and felt sympathy for him?

15 PROSPECTIVE JUROR NO. 270: No.

16 MR. WINNER: Okay.

17 PROSPECTIVE JUROR NO. 270: Fair is fair.

18 MR. WINNER: Here in the courtroom, if it's  
19 necessary for you to make a difficult decision --

20 PROSPECTIVE JUROR NO. 270: Um-hum.

21 MR. WINNER: -- will you be able to set sympathy  
22 aside in rendering a verdict --

23 PROSPECTIVE JUROR NO. 270: Um-hum.

24 MR. WINNER: -- and if say the plaintiff doesn't  
25 prove her case to you, beyond that preponderance of the

1 evidence, [inaudible] because it's probable, are you going  
2 have any difficulty telling her no, even if you feel some  
3 sympathy for her?

4 PROSPECTIVE JUROR NO. 270: No.

5 MR. WINNER: Okay. Who else here is a parent?

6 Oh, my goodness. We have lots of people [inaudible]  
7 parents.

8 Mr. Brunell, I hope [inaudible].

9 PROSPECTIVE JUROR NO. 270: I'm trying to get over  
10 [inaudible].

11 PROSPECTIVE JUROR NO. 325: Yes, sir.

12 MR. WINNER: Do you ever have to resolve disputes  
13 between the children or between children and their friends?

14 PROSPECTIVE JUROR NO. 325: Yes.

15 MR. WINNER: That come to you as an adult and make  
16 you the judge, jury and executioner and you have to decide how  
17 to deal with the situation?

18 PROSPECTIVE JUROR NO. 325: Yes.

19 MR. WINNER: How do you deal with that situation  
20 with a little kid?

21 PROSPECTIVE JUROR NO. 325: I listen to both of  
22 their sides and see which one tells me the truth and go from  
23 there.

24 MR. WINNER: How can you tell who's telling the  
25 truth?

1 PROSPECTIVE JUROR NO. 325: With my kids, I can tell  
2 if there's -- if they're telling the truth or not telling the  
3 truth.

4 MR. WINNER: If one of your kids isn't telling you  
5 the truth, you suspect the kid is not telling the truth, what  
6 do you look at to reach that suspicion?

7 PROSPECTIVE JUROR NO. 325: What do you mean, what I  
8 do I look at to --

9 MR. WINNER: Well, what do you -- what are you  
10 considering? You say you know your kids and you figure you  
11 can tell which one's telling you the truth. So what are you  
12 looking at?

13 PROSPECTIVE JUROR NO. 325: I'm telling her --  
14 usually my daughter was the instigator. I can see it in her  
15 eyes the way she -- her body language if she's telling the  
16 truth, or not telling the truth. And I'm like, okay, this is  
17 your chance. You better straighten up, tell me the truth and  
18 we'll go from there.

19 MR. WINNER: Do you ever kind of look at other  
20 evidence or talk to others or talk to a sibling --

21 PROSPECTIVE JUROR NO. 325: If there's others  
22 around.

23 MR. WINNER: -- or talk to a friend --

24 PROSPECTIVE JUROR NO. 325: Yeah.

25 MR. WINNER: -- and see if the story adds up?

1 PROSPECTIVE JUROR NO. 325: Yes, I have.

2 MR. WINNER: Okay. Even though I'm sure you love

3 the daughter, and you [inaudible] and you feel sympathy and

4 affection for her, did you have any difficulty telling her no

5 and ruling against her?

6 PROSPECTIVE JUROR NO. 325: No, I do not.

7 MR. WINNER: Okay.

8 PROSPECTIVE JUROR NO. 325: That phone comes in

9 handy.

10 MR. WINNER: The phone is the punishment?

11 PROSPECTIVE JUROR NO. 325: Yeah, the phone is the

12 punishment.

13 MR. WINNER: Yeah. I don't understand how that

14 became a punishment but --

15 PROSPECTIVE JUROR NO. 325: It's a wonderful

16 punishment.

17 MR. WINNER: It works well --

18 PROSPECTIVE JUROR NO. 325: Yes.

19 MR. WINNER: -- that's right.

20 Mr. Gomes? Okay. You at one time or another -- you

21 are obviously responsible for I'm guessing a lot of equipment

22 and a lot of -- a lot of people that you have had to interact

23 with and some people who've had to report to you over the

24 course of a 21-year career.

25 PROSPECTIVE JUROR NO. 331: Yes.

1 MR. WINNER: Did you ever like ask to resolve  
2 disputes or --

3 PROSPECTIVE JUROR NO. 331: Yes.

4 MR. WINNER: Okay. When resolving disputes, what do  
5 you think about? What do you look at generally?

6 PROSPECTIVE JUROR NO. 331: Individual's character.

7 MR. WINNER: How do you know their character?

8 PROSPECTIVE JUROR NO. 331: Lots of times I work  
9 with these individuals, so I know more or less just by  
10 conversation, how individuals are. And you kind of pick up  
11 and you learn.

12 MR. WINNER: You watch.

13 PROSPECTIVE JUROR NO. 331: -- and you watch and you  
14 base your decision on -- on that basically.

15 MR. WINNER: How often -- this might be an  
16 impossible question -- but how often would people rotate in  
17 and out of the group you were responsible for?

18 PROSPECTIVE JUROR NO. 331: The only thing --

19 MR. WINNER: The reason I ask is did you ever have  
20 to resolve disputes between two people who were kind of  
21 strangers, you've never met before?

22 PROSPECTIVE JUROR NO. 331: Very rarely.

23 MR. WINNER: Okay. If that happened rarely, what  
24 would you look at? What would you think about?

25 PROSPECTIVE JUROR NO. 331: Lots of times I also

1     rely on my peers --

2                 MR. WINNER:   Yeah.

3                 PROSPECTIVE JUROR NO. 331:   -- because I'm not the  
4     only one --

5                 MR. WINNER:   You go talk to other people?

6                 PROSPECTIVE JUROR NO. 331:   -- that actually works  
7     with them.

8                 MR. WINNER:   Yeah.

9                 PROSPECTIVE JUROR NO. 331:   So there's other people  
10    that -- you know, within my department that I can use as  
11    resources and find out more about, you know, a specific  
12    individual or individuals.

13                MR. WINNER:   So you didn't -- you investigate?

14                PROSPECTIVE JUROR NO. 331:   Right.

15                MR. WINNER:   Get more information?

16                PROSPECTIVE JUROR NO. 331:   Correct.

17                MR. WINNER:   And on getting some information, did  
18    you sometimes feel a little sympathy for both sides?

19                PROSPECTIVE JUROR NO. 331:   Yes.

20                MR. WINNER:   Okay.   Even though you felt sympathy  
21    for maybe both sides did you have any difficulty making a  
22    decision that one of them didn't like?

23                PROSPECTIVE JUROR NO. 331:   No.

24                MR. WINNER:   Okay.   Would you have any difficulty  
25    doing that in this lawsuit, in this court case?



1 PROSPECTIVE JUROR NO. 331: No.  
2 MR. WINNER: Okay. Thank you.  
3 Mr. Strickler, I think we already asked you that.  
4 Ms. Orduno, do you need to rest?  
5 PROSPECTIVE JUROR NO. 251: Um-hum.  
6 MR. WINNER: Are you okay?  
7 PROSPECTIVE JUROR NO. 251: Yeah.  
8 MR. WINNER: I [inaudible]. I feel your pain.  
9 PROSPECTIVE JUROR NO. 251: Yeah. I need coffee.  
10 MR. WINNER: I made some notes here. Remind us what  
11 -- what -- what it was you did for -- I wrote down Taco Bell.  
12 PROSPECTIVE JUROR NO. 251: Correct.  
13 MR. WINNER: Okay. What -- what Taco Bell?  
14 PROSPECTIVE JUROR NO. 251: I managed five  
15 restaurants.  
16 MR. WINNER: Oh.  
17 PROSPECTIVE JUROR NO. 251: I recently got promoted  
18 to an area coach. Forever, I was a general manager of one  
19 location managing 30 employees.  
20 MR. WINNER: Okay. Managing 30 Taco Bell employees?  
21 PROSPECTIVE JUROR NO. 251: Yes.  
22 MR. WINNER: You probably have some good stories.  
23 PROSPECTIVE JUROR NO. 251: I sure do.  
24 MR. WINNER: Okay. Did you -- this is a dumb  
25 question -- did you ever have to resolve disputes among Taco

1 Bell employees?

2 PROSPECTIVE JUROR NO. 251: I did. Most of the  
3 time, I would get both of the stories and then confront both  
4 of them and -- and then if I needed any help that's when I  
5 would bring my area coach on board to help me resolve the --

6 MR. WINNER: Did you ever have to --

7 PROSPECTIVE JUROR NO. 251: -- situation.

8 MR. WINNER: -- I'm sorry, I didn't mean to  
9 interrupt you.

10 PROSPECTIVE JUROR NO. 251: No, you're okay.

11 MR. WINNER: Did you ever have to go kind of  
12 investigate or ask other people before you --

13 PROSPECTIVE JUROR NO. 251: Of course.

14 MR. WINNER: -- decided how to resolve --

15 PROSPECTIVE JUROR NO. 251: Yes.

16 MR. WINNER: -- the dispute?

17 PROSPECTIVE JUROR NO. 251: Other people the  
18 majority of the time there's not only -- there's more than two  
19 people working at the same time so --

20 MR. WINNER: Okay.

21 PROSPECTIVE JUROR NO. 251: -- I try to get  
22 statements from everybody else or just their stories to see  
23 what exactly happened.

24 MR. WINNER: Okay. Did you have any [inaudible]  
25 even though you might have liked or felt a little sympathy for

1 both of the people involved, did you ever have difficulty  
2 making a decision one of them didn't like or was upset with  
3 you about?

4 PROSPECTIVE JUROR NO. 251: No.

5 MR. WINNER: Okay.

6 Ms. Cimino, how about you?

7 PROSPECTIVE JUROR NO. 253: Which question?

8 MR. WINNER: Do you ever have to resolve disputes  
9 among other people?

10 PROSPECTIVE JUROR NO. 253: For sure, yes.

11 MR. WINNER: Okay. Give us -- you don't have to  
12 name names, but give us an example of occasions where you feel  
13 you might have to do that.

14 PROSPECTIVE JUROR NO. 253: I mean, for sure I do it  
15 between my two daughters daily.

16 MR. WINNER: Daughters don't get along.

17 PROSPECTIVE JUROR NO. 253: Right? Sisters.

18 MR. WINNER: And how do you resolve those disputes  
19 [inaudible]?

20 PROSPECTIVE JUROR NO. 253: Well, generally, my  
21 youngest doesn't really have a good poker face so she kind of  
22 looks to the left or -- when she's not telling the truth or  
23 looks down.

24 MR. WINNER: Body language.

25 PROSPECTIVE JUROR NO. 253: Right. So -- and my

1 oldest daughter always tells the truth.

2 MR. WINNER: Really?

3 PROSPECTIVE JUROR NO. 253: Pretty much, past  
4 behavior.

5 MR. WINNER: When -- have there been occasions where  
6 you have to resolve disputes between your daughters where you  
7 [inaudible] telling the truth, you weren't sure which was  
8 which? You couldn't quite get the clues from the poker face  
9 and you weren't quite sure what to believe and you had to make  
10 a decision?

11 PROSPECTIVE JUROR NO. 253: Not yet.

12 MR. WINNER: Not yet? You can always tell from the  
13 poker face and --

14 PROSPECTIVE JUROR NO. 253: Un --

15 MR. WINNER: -- [inaudible]?

16 PROSPECTIVE JUROR NO. 253: I mean, I guess, if it  
17 gets to a certain point where the matter is super important  
18 then my husband and I really corner the one daughter and say,  
19 it's really important for you to tell the truth in this  
20 matter; tell us the truth.

21 MR. WINNER: The one daughter -- and believe me, I  
22 don't want you to name names -- or give any details, but when  
23 the one daughter doesn't give a good poker face is she telling  
24 you something that isn't true?

25 PROSPECTIVE JUROR NO. 253: Usually.

1 MR. WINNER: Okay.

2 PROSPECTIVE JUROR NO. 253: Bending the truth.

3 MR. WINNER: And do you figure she's bending the  
4 truth to get something from you, to get out of trouble, to get  
5 privileges?

6 PROSPECTIVE JUROR NO. 253: Right, she just doesn't  
7 want to be in trouble.

8 MR. WINNER: Okay. Has she ever said something  
9 untrue to get something from you?

10 PROSPECTIVE JUROR NO. 253: No, it usually only  
11 after some sort of incident had happened.

12 MR. WINNER: Okay. Ms. Fischer, you're an officer  
13 manager?

14 PROSPECTIVE JUROR NO. 295: Um-hum.

15 MR. WINNER: You manage -- it's a manufacturing  
16 firm. I assume you deal with employee disputes?

17 PROSPECTIVE JUROR NO. 295: No, I just have one  
18 individual that works for me right now.

19 MR. WINNER: Okay. Have you ever had to resolve  
20 disputes between customers or between contractors or between  
21 people who you oversee or who report to you?

22 PROSPECTIVE JUROR NO. 295: No, I can say I've been  
23 very fortunate in the positions I've had. I lead by example.  
24 I show the employees respect, they show me respect. And I've  
25 been just very fortunate that everybody wants to work with me

1 and they work hard.

2 MR. WINNER: I'll need to take some tips from you at  
3 some point.

4 PROSPECTIVE JUROR NO. 295: I've also worked in  
5 small environments; 33 people. That's the biggest environment  
6 I've been in for about 20 years.

7 MR. WINNER: Well, with 33 people, do you have to  
8 mediate disputes among persons in the 33 or get a consultant  
9 about it?

10 PROSPECTIVE JUROR NO. 295: No, everyone gets along  
11 very well. This is the current position I'm in or the current  
12 job I'm in. Most of our employees have been there 20 and 30  
13 years. And in an environment like that, they all grew up  
14 together. They respect each other's work.

15 MR. WINNER: Would you have any -- in other aspects  
16 of your life do you have to resolve disputes or mediate  
17 disputes?

18 PROSPECTIVE JUROR NO. 295: No.

19 MR. WINNER: Okay. Would you have any difficulty  
20 resolving disputes here?

21 PROSPECTIVE JUROR NO. 295: No, not based on the  
22 facts that were presented.

23 MR. WINNER: Okay. Even if you might feel sympathy  
24 for both sides in the case, would you have any difficulty  
25 finding -- making a finding in this case that one party isn't

1 going to like?

2 PROSPECTIVE JUROR NO. 295: There shouldn't be any  
3 sympathy in a court of law.

4 MR. WINNER: I agree with you.

5 Would you have any difficulty setting sympathy  
6 aside?

7 PROSPECTIVE JUROR NO. 295: No.

8 MR. WINNER: Okay.

9 Ms. Hawara, what do you think about resolving  
10 disputes? I mean, what do you think? [Inaudible].

11 PROSPECTIVE JUROR NO. 301: I don't resolve any  
12 dispute. I just have dogs. That's the only disputes that I  
13 resolve.

14 MR. WINNER: They can just be so unreasonable; can't  
15 they?

16 You said -- you said the other day that you  
17 typically have some degree of suspicion --

18 PROSPECTIVE JUROR NO. 301: Um-hum.

19 MR. WINNER: -- of people that you interact with.  
20 Does that mean you automatically disbelieve everybody who  
21 talks to you?

22 PROSPECTIVE JUROR NO. 301: I don't automatically  
23 disbelieve them, but I -- I won't believe exactly what they  
24 say. I'll just be skeptical.

25 MR. WINNER: You're not going to swallow every word

1 they tell you without question?

2 PROSPECTIVE JUROR NO. 301: Um-hum.

3 MR. WINNER: Okay. You're open to the -- you're  
4 open to the notion of being a little cynical sometimes when  
5 somebody's telling you a story? Yeah.

6 PROSPECTIVE JUROR NO. 301: I mean, it depends on  
7 the story. I mean, if it's like a story about something that  
8 happened between you and a friend the other day or -- but if  
9 it's like an outrageous story like -- then I'll totally be  
10 cynical towards it, yes.

11 MR. WINNER: Okay. So if the story is outrageous  
12 you're not going to believe it. If the story seems plausible  
13 and they wouldn't have any reason to embellish you might  
14 believe it, but you're always going to be questioning and --

15 PROSPECTIVE JUROR NO. 301: Yes.

16 MR. WINNER: What do you look at? Do you look at  
17 motivations? Some people just --

18 PROSPECTIVE JUROR NO. 301: Yeah. Motivations, or  
19 you know, I don't know, I think I just -- I became -- I don't  
20 trust people. I don't know, I think I just got burned a lot  
21 in the past so it's kind of like an instinct.

22 MR. WINNER: Okay. Burned by people you trusted?

23 PROSPECTIVE JUROR NO. 301: Yeah, close people.

24 MR. WINNER: Do you think your level of -- your  
25 degree of suspicion, I think you call it, do you think that's



1 a healthy adult degree of suspicion that most people should  
2 have?

3 PROSPECTIVE JUROR NO. 301: Yeah.

4 MR. WINNER: Okay.

5 PROSPECTIVE JUROR NO. 301: I think we shouldn't  
6 take everyone for their word, especially if they're strangers.

7 MR. WINNER: Don't take strangers at their word?

8 PROSPECTIVE JUROR NO. 301: Yeah.

9 MR. WINNER: People you know well, at their word?  
10 Okay.

11 Who agrees with Ms. Hawara, don't necessarily take  
12 strangers at their word?

13 Mr. Ralston raised his hand. Anybody else?

14 And Ms. Rodriguez who didn't want to be picked on;  
15 you were trying not to -- not to make your hand show, I guess.

16 PROSPECTIVE JUROR NO. 249: [Inaudible].

17 MR. WINNER: I won't pick on you.

18 Ms. Rodriguez, what do you think?

19 PROSPECTIVE JUROR NO. 249: I think there's a  
20 certain level of suspicion that's healthy and appropriate in  
21 order to maintain a level of safety. I -- she kind of hit it  
22 on the head when she said you don't just automatically trust  
23 strangers. You teach your kids that from a very early age.

24 MR. WINNER: Yeah.

25 PROSPECTIVE JUROR NO. 249: In this type of setting,

1 obviously, we just have to look at the facts. We can't just  
2 go off of our gut. But I think generally speaking, a healthy  
3 amount of suspicion is appropriate.

4 MR. WINNER: Okay. A healthy amount of suspicion to  
5 strangers, do you look at motivations, what they have to gain?  
6 What reasons they might have to slant the truth a little bit?

7 PROSPECTIVE JUROR NO. 249: Yeah.

8 MR. WINNER: Okay. We talked to Ms. White. Mr  
9 Horner, what do you think about that?

10 PROSPECTIVE JUROR NO. 250: Well, you were talking  
11 about disputes and then strangers. So I'll go to the disputes  
12 portion.

13 In '95 through 2001, I was at the Stardust and ran  
14 150-member department. So yeah, there was disputes. And all  
15 of them were strangers to me.

16 So what I would do is listen to both sides of the  
17 story, make a determination, and go with that in terms of the  
18 facts.

19 MR. WINNER: It was how many employees for six  
20 years?

21 PROSPECTIVE JUROR NO. 250: 150.

22 MR. WINNER: I'm guessing, there wasn't half a day  
23 that went by that there wasn't a dispute.

24 PROSPECTIVE JUROR NO. 250: The very first day I  
25 arrived there was a dispute.

1 MR. WINNER: Okay.

2 PROSPECTIVE JUROR NO. 250: So you listened to both

3 sides of the story and you determine the facts and come up

4 with a person that is at fault.

5 MR. WINNER: How do you go about determining the

6 facts if two people were telling you different stories?

7 PROSPECTIVE JUROR NO. 250: Well, there were times

8 when we would have them complete statements. We would then

9 need to bring in other people to corroborate those statements.

10 MR. WINNER: Okay.

11 PROSPECTIVE JUROR NO. 250: Surveillance was a big

12 issue in casinos.

13 MR. WINNER: Oh, yeah. Yeah.

14 PROSPECTIVE JUROR NO. 250: So when you saw a gal

15 take \$10,000 out of the vault, and you confront her about it

16 through a videotape, she ends up telling you that's me, but I

17 didn't do it, you kind of know that she did and you fire her.

18 MR. WINNER: Yeah. Casinos kind of frown on that,

19 don't they?

20 PROSPECTIVE JUROR NO. 250: A little bit, yeah.

21 MR. WINNER: Taking money out of the vault?

22 PROSPECTIVE JUROR NO. 250: Especially, at that

23 casino.

24 UNIDENTIFIED PROSPECTIVE JUROR: [Inaudible].

25 PROSPECTIVE JUROR NO. 250: I beg your pardon?

1 MR. WINNER: Did you --  
2 PROSPECTIVE JUROR NO. 250: So it was -- it was --  
3 you come to the decision on what is reasonable in terms of  
4 plausible and factual, you listen to both sides.  
5 MR. WINNER: Yeah.  
6 PROSPECTIVE JUROR NO. 250: And you come up with who  
7 was the person that you side with in terms of the dispute.  
8 MR. WINNER: Well, and I think -- I think it was Mr.  
9 Ralston said the same, Mr. Gomes said the same, so if you were  
10 -- if you were looking to try to resolve the dispute you  
11 sometimes had to go investigate to figure out what the right  
12 thing to do was?  
13 PROSPECTIVE JUROR NO. 250: Sure.  
14 MR. WINNER: Yeah.  
15 PROSPECTIVE JUROR NO. 250: Yes.  
16 MR. WINNER: And sometimes that took a little time?  
17 PROSPECTIVE JUROR NO. 250: Yes.  
18 MR. WINNER: Okay. Other than checking the -- other  
19 than checking surveillance what else might you do? Would you  
20 go ask others if they had thoughts about it?  
21 PROSPECTIVE JUROR NO. 250: Sure.  
22 MR. WINNER: Okay.  
23 PROSPECTIVE JUROR NO. 250: Observations of my own,  
24 you know, seeing what a particular at this time booth cashier  
25 was doing with the fill bags, on my own.

1 MR. WINNER: Okay.

2 PROSPECTIVE JUROR NO. 250: That kind of thing.

3 MR. WINNER: I'm guessing you got pretty good at?

4 PROSPECTIVE JUROR NO. 250: Yeah. But --

5 MR. WINNER: Okay.

6 PROSPECTIVE JUROR NO. 250: -- catching cheats at a

7 slot machine.

8 MR. WINNER: How'd you catch cheats at a slot

9 machine?

10 PROSPECTIVE JUROR NO. 250: Observation again.

11 MR. WINNER: [Inaudible] the thread in the --

12 PROSPECTIVE JUROR NO. 250: Thread, drills, back in

13 the say, snapping the handle, just a lot of stuff that they

14 get good at.

15 MR. WINNER: Okay. And do you -- do you -- knew to

16 look for those signs and could make a decision?

17 PROSPECTIVE JUROR NO. 250: Certainly.

18 MR. WINNER: When resolving disputes on patrons of

19 the casino or on employees of the casino, sometimes you'd have

20 to investigate and sometimes you'd have to --

21 PROSPECTIVE JUROR NO. 250: Certainly have to

22 investigate it. Patrons might have gotten the benefit of the

23 doubt a little more in terms of we wanted to take care of our

24 customers.

25 MR. WINNER: Yeah.

1 PROSPECTIVE JUROR NO. 250: So we might give them a  
2 compliment --

3 MR. WINNER: Okay.

4 PROSPECTIVE JUROR NO. 250: -- [inaudible] meal and  
5 type of things.

6 MR. WINNER: Okay.

7 PROSPECTIVE JUROR NO. 250: But yeah, investigations  
8 of course. If there was a problem with a payout we have an  
9 agency that would come in and make the determination.

10 MR. WINNER: Did you ever have a situation where  
11 there was a dispute and you weren't quite really sure, and you  
12 kind of liked -- of the people who were telling you different  
13 stories and you had to make a decision that made one of those  
14 people unhappy?

15 PROSPECTIVE JUROR NO. 250: I don't think that came  
16 into play.

17 MR. WINNER: Do you dislike both of them or you  
18 didn't dislike one?

19 PROSPECTIVE JUROR NO. 250: Not, not necessarily  
20 that. It was going to be what was the correct way to render  
21 the decision --

22 MR. WINNER: Okay.

23 PROSPECTIVE JUROR NO. 250: -- not based on anything  
24 else.

25 MR. WINNER: So if you had sympathy or friendship or

1 kinship with one of the parties to the dispute you didn't have  
2 any problem ignoring that and making a decision?

3 PROSPECTIVE JUROR NO. 250: That's correct.

4 MR. WINNER: Okay. Is that something you're able to  
5 do in a courtroom?

6 PROSPECTIVE JUROR NO. 250: Absolutely.

7 MR. WINNER: Okay.

8 Ms. Rodriguez, do you have any thoughts about that,  
9 resolving disputes among people?

10 PROSPECTIVE JUROR NO. 249: Um --

11 MR. WINNER: I'm going to stand over here so I can  
12 hear you.

13 PROSPECTIVE JUROR NO. 249: I've gotten pretty good  
14 at it. I resolve disputes with my kids, my husband, every day  
15 at the job.

16 MR. WINNER: Are you able to set sympathy aside when  
17 you're making those decisions?

18 PROSPECTIVE JUROR NO. 249: Yeah. We -- I mean, I'm  
19 the type of person that -- I mean, I work pretty much in  
20 social work without being a social worker. It's -- it's a  
21 social type setting.

22 And so even recently we had a -- I had an employee  
23 who we had to terminate due to issues of fraud and when it  
24 came time to make the decision I could make it very clear, you  
25 know, right and wrong, this is what the facts say, this is

1 what we've evaluated, this is what the investigation says.

2 But when I went home and talked to my husband, I was  
3 like, well, this guy's a single dad, and I just feel so bad,  
4 but I have to -- I have to set the boundary. So --

5 MR. WINNER: Are you okay setting a boundary and  
6 making a decision even when somebody won't like it here in the  
7 courtroom?

8 PROSPECTIVE JUROR NO. 249: Um-hum. Yep.

9 MR. WINNER: Okay.

10 Ms. White, I think we talked to you about that a  
11 little bit.

12 PROSPECTIVE JUROR NO. 248: I don't think so.

13 MR. WINNER: Well, let me ask you about that then.

14 PROSPECTIVE JUROR NO. 248: I think sometimes --  
15 sometimes people get a misperception about something. And no  
16 matter what facts there are, you can't change their mind,  
17 period, you know, unfortunately, I think.

18 MR. WINNER: People who are wrong and you can't  
19 change their mind do you mean?

20 PROSPECTIVE JUROR NO. 248: Well, okay, I had a  
21 client and a male therapist and he had a hot water bottle.  
22 And he wore it on the front kind of high up to, you know, get  
23 to it right -- and of course this woman thought it was a hard  
24 on -- sorry -- and so no matter what he did, she took it as a  
25 sexual implication.



1           And, you know, so anyway it was -- it was a big  
2 deal. I had to, of course, take a report, take a report --

3           MR. WINNER: [Inaudible].

4           PROSPECTIVE JUROR NO. 248: -- you know, knowing his  
5 height, there's no way that it was plausible, not in my book.  
6 Sorry, but anyway, but she -- you know, she couldn't  
7 understand that.

8           So anyway, I had to, of course, you know, make a --  
9 file a complaint with the police. They did come out an  
10 investigate. And they did talk to her, but she just was  
11 certain that's what it was.

12          MR. WINNER: Okay. You're --

13          PROSPECTIVE JUROR NO. 248: So I made a new rule  
14 that all water bottles were to the side.

15          MR. WINNER: Yeah.

16          PROSPECTIVE JUROR NO. 248: So, yeah. There is no  
17 mistaking this. Sorry.

18          But anyway, there were a ton of disputes and a ton  
19 of things to be investigated between employees, etcetera, so.

20          MR. WINNER: Well, I thank you for telling that.  
21 I think I speak for the group when I say, they'll be glad if I  
22 don't ask anymore of you about that investigation.

23          But this was -- this was a -- someone kind of making  
24 a claim who was just convinced she was right and you took a  
25 look at it and realized, I'm sorry, they're not right. Does

1 that sound right?

2 PROSPECTIVE JUROR NO. 248: Well, I couldn't quite  
3 say that to her, but just list the facts. The facts did not,  
4 you know, could no way support --

5 MR. WINNER: Yes.

6 PROSPECTIVE JUROR NO. 248: -- [inaudible] what her  
7 impression was [inaudible]. And, you know, once somebody has  
8 that in their mind though they can't back -- if they have  
9 issues about it, they can't back off of it, you know what I  
10 mean?

11 MR. WINNER: And I think we can all agree that if  
12 the lady perceived what she perceived, she had every reason to  
13 be upset and offended.

14 PROSPECTIVE JUROR NO. 248: Correct. Absolutely.

15 MR. WINNER: Did you have any difficulty knowing  
16 that, that she had every reason to be upset, she just  
17 misperceived something? Did you have any difficulty saying no  
18 to her even though you might have felt sympathy for her?

19 PROSPECTIVE JUROR NO. 248: I did not say no to her.

20 MR. WINNER: You let somebody else do that?

21 PROSPECTIVE JUROR NO. 248: I just --

22 MR. WINNER: Changed the rule?

23 PROSPECTIVE JUROR NO. 248: -- stated the facts.

24 MR. WINNER: Yeah.

25 PROSPECTIVE JUROR NO. 248: And, of course, you

1 know, there was a recent intervention as well, so you know and  
2 of course we did what we do. This -- we stand behind our work  
3 and we were a very legitimate operation. There wasn't any  
4 question about the quality and the professionalism of the  
5 therapist for the most part.

6 MR. WINNER: I ask this cautiously, but any other  
7 disputes?

8 PROSPECTIVE JUROR NO. 248: That -- well, yes, there  
9 were plenty of them.

10 MR. WINNER: Okay. Do you ever have to resolve  
11 disputes between customers and people who work for you or  
12 [inaudible]?

13 PROSPECTIVE JUROR NO. 248: Absolutely.

14 MR. WINNER: Yeah.

15 PROSPECTIVE JUROR NO. 248: People who lost things  
16 and --

17 MR. WINNER: Yeah.

18 PROSPECTIVE JUROR NO. 248: -- they were sure they  
19 lost it, we might have searched up and down. We didn't find  
20 it. They still think they lost it, until they find it. Then  
21 they realize that, you know, but most of the time we don't  
22 always hear about that.

23 MR. WINNER: Yeah. And thank you. It sounds like  
24 from what you're describing you would -- you would talk to the  
25 people involved, sometimes the people involved would tell you

1 two completely different things and you'd have to do a little  
2 looking or investigating or --

3 PROSPECTIVE JUROR NO. 248: Correct.

4 MR. WINNER: -- figuring out on your own, yeah.

5 PROSPECTIVE JUROR NO. 248: Correct.

6 MR. WINNER: When you were accused by that customer  
7 in that -- and I don't mean to make light of it, because I'm  
8 sure it wasn't funny to her at all --

9 PROSPECTIVE JUROR NO. 248: Oh, no, it wasn't.

10 MR. WINNER: -- but --

11 PROSPECTIVE JUROR NO. 248: It wasn't at the time  
12 either.

13 MR. WINNER: No, no, I understand. And I don't mean  
14 to make light of it. But when -- did you feel like your shop  
15 and your employee were falsely accused?

16 PROSPECTIVE JUROR NO. 248: Well, I certainly hoped  
17 that -- that there wasn't any truth in it.

18 MR. WINNER: Okay.

19 PROSPECTIVE JUROR NO. 248: But I had to do some  
20 investigation.

21 MR. WINNER: Okay. And you had some -- you had to  
22 spend some time to investigate and you had to --

23 PROSPECTIVE JUROR NO. 248: Correct.

24 MR. WINNER: -- do some careful investigation --

25 PROSPECTIVE JUROR NO. 248: Correct.

1 MR. WINNER: -- because you were afraid you might  
2 have been falsely accused?

3 PROSPECTIVE JUROR NO. 248: Yeah. And I knew for  
4 sure that he was, at the end, but that didn't change it for  
5 the client, period.

6 MR. WINNER: Would you have felt badly if someone  
7 had insulted you for asking questions and investigating after  
8 that allegation?

9 PROSPECTIVE JUROR NO. 248: No. I mean, I think  
10 it's important to --

11 MR. WINNER: Okay.

12 PROSPECTIVE JUROR NO. 248: -- ask questions, yeah.

13 MR. WINNER: Would you have felt insulted if someone  
14 attacked you for asking the questions, you ought to just  
15 believe me, don't ask those questions, don't check on it?

16 PROSPECTIVE JUROR NO. 248: No, I would have to,  
17 because that's my job is to check on it.

18 MR. WINNER: Okay.

19 PROSPECTIVE JUROR NO. 248: And to question  
20 everybody involved, to question, you know, other -- you know,  
21 other people, other employees, anybody who might have been a  
22 witness or anything else in regards to something like that.

23 MR. WINNER: So Ms. Tapia -- Tapia -- Tapia?

24 PROSPECTIVE JUROR NO. 371: Tapia.

25 MR. WINNER: Yeah. How about you, do you have to

1 resolve disputes among other people?

2 PROSPECTIVE JUROR NO. 371: No, I don't.

3 MR. WINNER: I think I saw somewhere and I made a  
4 note that you've supervised 80 people, is that right?

5 PROSPECTIVE JUROR NO. 371: Yeah, 86.

6 MR. WINNER: 86?

7 PROSPECTIVE JUROR NO. 371: Yeah, but like half of  
8 them go downstairs to [inaudible] and I get like 15 packers  
9 upstairs. My job is just to make sure they have work.

10 MR. WINNER: Do you ever have to resolve disputes  
11 among anybody; friends --

12 PROSPECTIVE JUROR NO. 371: No.

13 MR. WINNER: -- co-workers, kids, employees?

14 PROSPECTIVE JUROR NO. 371: No.

15 MR. WINNER: Okay.

16 PROSPECTIVE JUROR NO. 371: I stick to myself.

17 MR. WINNER: Okay.

18 PROSPECTIVE JUROR NO. 371: Um-hum.

19 MR. WINNER: If resolving a dispute, would you be  
20 able to investigate what you're being told, consider  
21 motivations of the people talking to you and make a decision?

22 PROSPECTIVE JUROR NO. 371: Yes.

23 MR. WINNER: Okay. Do you think you can do while  
24 setting sympathy aside?

25 PROSPECTIVE JUROR NO. 371: Yes.

1 MR. WINNER: Okay. Ms. Cundiff?  
2 You mentioned the other day that you can sometimes  
3 be a skeptical person.  
4 PROSPECTIVE JUROR NO. 244: Yeah.  
5 MR. WINNER: Why do you suppose that is?  
6 PROSPECTIVE JUROR NO. 244: I don't know.  
7 MR. WINNER: Life experience?  
8 PROSPECTIVE JUROR NO. 244: Yeah. Trust issues  
9 with, you know, what people tell you.  
10 MR. WINNER: Ms. Hawara told us kind of the same  
11 thing and she's -- I think she said she's been burned by  
12 people she trusted before and -- do you, yourself, ever  
13 mediate disputes, resolve disputes, try to help people resolve  
14 fights and disputes Do you ever thrust into that position?  
15 PROSPECTIVE JUROR NO. 244: No, not really.  
16 MR. WINNER: Were you in that position, how would  
17 you go about doing that?  
18 PROSPECTIVE JUROR NO. 244: I'd have to listen to  
19 both parties and base my decision off that. It depends on the  
20 circumstances.  
21 MR. WINNER: Okay.  
22 Ms. Pronti, you're just waiting not to be picked on.  
23 That's right.  
24 PROSPECTIVE JUROR NO. 243: Yes.  
25 MR. WINNER: You said, I think it was two days ago

1 you said you had some bad experiences with the court system I  
2 think back [inaudible]?

3 PROSPECTIVE JUROR NO. 243: Yeah, yeah.

4 MR. WINNER: Yeah. And I think you said something  
5 like, you know, don't really trust anybody --

6 PROSPECTIVE JUROR NO. 243: Just anybody.

7 MR. WINNER: -- might -- might have been based on  
8 that experience?

9 PROSPECTIVE JUROR NO. 243: [Inaudible] don't trust  
10 anyone.

11 MR. WINNER: You don't trust anyone?

12 PROSPECTIVE JUROR NO. 243: No, I have to just make  
13 sure I know them, like them, [inaudible].

14 MR. WINNER: How would you --

15 PROSPECTIVE JUROR NO. 243: I just don't -- I just  
16 don't, I don't know, I'm cautious.

17 MR. WINNER: You're cautious. Okay.

18 Do you think your level of caution and your  
19 suspicious and cautious of what people tell you [inaudible]  
20 know them?

21 PROSPECTIVE JUROR NO. 243: You know, when I know  
22 them, I have a thing. I keep my best friend here, because you  
23 don't know where he's coming from. And I keep my enemy here  
24 because you're -- if it's your best friend, your guard's down.  
25 My best friend is standing [inaudible] so no, I don't trust



1 nobody.

2 MR. WINNER: You don't trust the best friend?

3 PROSPECTIVE JUROR NO. 243: And I don't want to get  
4 into that, you know, what she did. But yeah, I just don't  
5 trust anybody.

6 MR. WINNER: No, I won't ask it.

7 PROSPECTIVE JUROR NO. 243: [Inaudible] right there.

8 MR. WINNER: Does that -- and that's fine, but is  
9 that maybe the little level of suspicion or mistrust carry  
10 into other parts of your life?

11 PROSPECTIVE JUROR NO. 243: Oh, yeah. I'll carry  
12 that with me until the day I die, yeah. Might be, yeah.

13 MR. WINNER: Do you ever have two strangers or two  
14 acquaintances talk to you about trying to resolve the dispute?

15 PROSPECTIVE JUROR NO. 243: In my business that I  
16 do, there was always a dispute among people. But this is a  
17 different business that everybody else has. My business was a  
18 little bit more tougher.

19 MR. WINNER: And your business, given the way you --

20 PROSPECTIVE JUROR NO. 243: Handle it?

21 MR. WINNER: -- [inaudible]?

22 PROSPECTIVE JUROR NO. 243: Oh, yeah, either get in  
23 the back or get on the pole, you know, either/or.

24 MR. WINNER: Okay.

25 PROSPECTIVE JUROR NO. 243: I don't want to hear --

1           MR. WINNER: I don't believe either one of you, get  
2 out of here --

3           PROSPECTIVE JUROR NO. 243: That's right.

4           MR. WINNER: -- something like that?

5           PROSPECTIVE JUROR NO. 243: Yeah.

6           MR. WINNER: Okay.

7           PROSPECTIVE JUROR NO. 243: There's a truth, the  
8 truth and then the truth.

9           MR. WINNER: All right. If you had to investigate  
10 [inaudible] telling you the truth, how would you go about  
11 assessing that?

12          PROSPECTIVE JUROR NO. 243: [Inaudible] talk to both  
13 of them and this I don't believe either one of you, kiss and  
14 make up and get out of my office, period. I don't want to  
15 hear it. I had 51 employees, I don't have time for that.

16          MR. WINNER: Um --

17          PROSPECTIVE JUROR NO. 243: And it's petty stuff,  
18 you know, it's just petty stuff [inaudible] --

19          MR. WINNER: Like what?

20          PROSPECTIVE JUROR NO. 243: -- my G-string, I don't  
21 know.

22          MR. WINNER: Somebody -- somebody took my lunch out  
23 of the fridge?

24          PROSPECTIVE JUROR NO. 243: Yeah, [inaudible].

25          MR. WINNER: Okay. She won't give me the bathroom

1 key back that sort of --

2 PROSPECTIVE JUROR NO. 243: Yeah.

3 MR. WINNER: -- okay. Did you --

4 PROSPECTIVE JUROR NO. 243: [Inaudible].

5 MR. WINNER: -- on those occasions when it was less  
6 petty and you couldn't say, I'm not going to be bothered, how  
7 would you assess [inaudible] two people talking?

8 PROSPECTIVE JUROR NO. 243: I'd give it to my  
9 manager, handled it.

10 MR. WINNER: All right.

11 PROSPECTIVE JUROR NO. 243: Work it out.

12 MR. WINNER: Would you look for corroborating  
13 evidence? Would you look for motivations people might have to  
14 be less than truthful?

15 PROSPECTIVE JUROR NO. 243: Different types of  
16 people. These people lie anyway. They're dancers. They're  
17 strippers. They lie, period. So, no, I wouldn't trust any of  
18 them. I've been in the business 25 years, I know.

19 MR. WINNER: Okay. A lot of drama.

20 PROSPECTIVE JUROR NO. 243: Very much so  
21 [inaudible]. I sold it though, I'm out, so I'm good.

22 MR. WINNER: Given that your experience in the  
23 business you've been in and given your bad experience in New  
24 York that you think you're somebody who should be on a jury in  
25 a civil case?

1 PROSPECTIVE JUROR NO. 243: No, I should leave.  
2 MR. WINNER: Is that your serious answer?  
3 PROSPECTIVE JUROR NO. 243: That's a serious answer,  
4 yeah, I can't [inaudible].  
5 MR. WINNER: And why do you believe that?  
6 PROSPECTIVE JUROR NO. 243: Oh, because to be  
7 honest, I mean, if somebody hit me from behind I'm going to  
8 nail it, okay? She's at fault, period. I already know. I  
9 can't -- I can't get that unwrapped out of my head.  
10 MR. WINNER: Okay. If somebody hit you from behind  
11 you'd nail them?  
12 PROSPECTIVE JUROR NO. 243: I would, yeah, take them  
13 to court, yeah. You get hit from behind, you're in my car,  
14 okay. And it's the person who hit the person from behind is  
15 at fault. That's how I perceive it, even in New York.  
16 Well, in New York that's how they do it. If you hit  
17 me from behind it's over with.  
18 MR. WINNER: Okay. And what do you mean by  
19 [inaudible]?  
20 PROSPECTIVE JUROR NO. 243: In other words, I go to  
21 court, fix my car, and do what you have to do, and get --  
22 well, we don't have to usually get lawyers for that to be  
23 honest with you. We could just go to small, you know, court.  
24 MR. WINNER: Okay.  
25 PROSPECTIVE JUROR NO. 243: Our system's a little

1 different. A law is a law but it's still a little different.

2 MR. WINNER: Okay. Well, would that mean that if

3 you go in and nail somebody who caused a rear-end accident

4 does that --

5 PROSPECTIVE JUROR NO. 243: Yeah.

6 MR. WINNER: -- mean coming into this you want to

7 nail --

8 PROSPECTIVE JUROR NO. 243: You know, I mean --

9 MR. WINNER: -- the [inaudible] in this case?

10 PROSPECTIVE JUROR NO. 243: -- to get money or

11 whatever, I just want my stuff fixed. In other words, if

12 somebody hit the back end of my car, if I get [inaudible] out

13 and somebody rammed into my car, that's a lot of money.

14 MR. WINNER: Okay.

15 PROSPECTIVE JUROR NO. 243: Okay? [Inaudible] my

16 license plate.

17 MR. WINNER: Would you be angry at or resentful of

18 someone who was the rear-ender who is --

19 PROSPECTIVE JUROR NO. 243: Yeah, because --

20 MR. WINNER: -- resisting some of the claims?

21 PROSPECTIVE JUROR NO. 243: I'd be pissed. I'd be

22 totally upset. Because if they -- if they ran into the back

23 of me, were they on the phone, were they texting? What were

24 they doing to ram me in the back?

25 MR. WINNER: Okay.

1 PROSPECTIVE JUROR NO. 243: You know what I'm  
2 saying? If they ran into the back, what are they -- I'm --  
3 how could you not see a car?

4 MR. WINNER: Okay.

5 PROSPECTIVE JUROR NO. 243: Were you looking this  
6 way, that way, what were you doing? I was supposed to be on  
7 the road.

8 MR. WINNER: And you'd want to nail that person?

9 PROSPECTIVE JUROR NO. 243: Well, you know what I'm  
10 talking about. It's just a metaphor. It's a word I was  
11 [inaudible].

12 MR. WINNER: No, I mean, I'm just asking. Would you  
13 want to nail the person who's the defendant in this lawsuit?

14 PROSPECTIVE JUROR NO. 243: I don't know the whole  
15 thing. I don't know. I don't know.

16 MR. WINNER: Okay. Would you have difficulty  
17 setting those attitudes aside --

18 PROSPECTIVE JUROR NO. 243: I don't know.

19 MR. WINNER: I'm sorry?

20 PROSPECTIVE JUROR NO. 243: I don't know. I don't  
21 know.

22 MR. WINNER: Is there anybody who agrees with Ms.  
23 Pronti about that?

24 Okay.

25 PROSPECTIVE JUROR NO. 243: Should I give it to her?

1 MR. WINNER: Ms. Stevens?

2 PROSPECTIVE JUROR NO. 323: I agree with her that  
3 the person at the end, the back, I don't care where you are,  
4 if your car's back, one car back, whatever, according to the  
5 law, you are responsible because you hit the other one,  
6 because you're at the end.

7 But the burden of proof has to be presented because  
8 it's not all what -- just because it's a picture doesn't mean  
9 you color inside the lines all the time. In other words, it's  
10 not black and white.

11 MR. WINNER: Okay.

12 PROSPECTIVE JUROR NO. 323: And you have to -- you  
13 have to give it to me. So [inaudible] partially agree with  
14 her, you know, she says whoever's on the end is at fault.

15 MR. WINNER: Okay. Well, can you envision a  
16 circumstance where in a rear-end collision more than one  
17 person is at fault?

18 PROSPECTIVE JUROR NO. 323: Possibly, yes.

19 MR. WINNER: Okay. If -- and I'm going to tell your  
20 right now there isn't any argument or dispute that the front  
21 of my client's car came into contact with the back of the  
22 plaintiff's car.

23 Do you believe that that means Ms. Tate should be  
24 nailed and automatically responsible?

25 PROSPECTIVE JUROR NO. 323: I have no idea. You

1 haven't told me everything yet.

2 MR. WINNER: No, I'm not allowed to --

3 PROSPECTIVE JUROR NO. 323: Exactly.

4 MR. WINNER: -- yet. Did you think walking into  
5 this case because Ms. -- Ms. Tate was the vehicle in back,  
6 that her defense must be frivolous?

7 PROSPECTIVE JUROR NO. 323: No.

8 MR. WINNER: Okay. Anybody else agree with Ms.  
9 Pronti and Ms. Stevens? No hands? Okay.

10 Ms. Westbrooks?

11 PROSPECTIVE JUROR NO. 282: Here. Birthday girl.

12 MR. WINNER: You're the birthday girl?

13 PROSPECTIVE JUROR NO. 282: Yeah. Yes, sir.

14 MR. WINNER: Do you agree with Ms. Pronti?

15 PROSPECTIVE JUROR NO. 282: [Inaudible]?

16 MR. WINNER: Well, if somebody gets rear-ended in an  
17 accident that person should be nailed, lawsuit in court?

18 PROSPECTIVE JUROR NO. 282: I don't know. If the  
19 person is rear-ended then they should be held accountable for  
20 any damages or harm that's caused [inaudible] injury person.

21 MR. WINNER: Okay. So only the injury caused, only  
22 the damage caused?

23 PROSPECTIVE JUROR NO. 282: I mean, whatever they're  
24 -- the harm, the injury, whatever the situation is, whatever,  
25 if this causes some type of harm, damages, loss in any form or