

IN THE SUPREME COURT OF THE STATE OF NEVADA

BARRY JAMES RIVES, M.D.; and
LAPAROSCOPIC SURGERY OF NEVADA,
LLC,

Appellants/Cross-Respondents,

vs.

TITINA FARRIS and PATRICK FARRIS,

Respondents/Cross-Appellants.

BARRY JAMES RIVES, M.D.; and
LAPAROSCOPIC SURGERY OF NEVADA,
LLC,

Appellants,

vs.

TITINA FARRIS and PATRICK FARRIS,

Respondents.

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APPELLANTS' APPENDIX
VOLUME 18

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1 You said you work at the -- is it Blue Bonnet or Blue Bunny?

2 PROSPECTIVE JUROR 417: Well, Blue Bunny.

3 MR. JONES: Blue bunny?

4 PROSPECTIVE JUROR 417: Uh-huh.

5 MR. JONES: Okay. All right.

6 PROSPECTIVE JUROR 417: Uh-huh. Yeah. I know, it ain't
7 that other one.

8 MR. JONES: You say you're a caregiver. What is -- tell us
9 about that?

10 PROSPECTIVE JUROR 417: Well, I like helping people that
11 needs help. These people, you know, changing them, and giving them
12 baths, and someone to walk behind them, because they're on walkers,
13 making sure they're careful. I take them to the -- they like casino, and
14 that's what they do. Sitting in the machine and play their games. And
15 so I just sit back and watch them, and if they smile then I know I'm doing
16 my job.

17 MR. JONES: Belinda, that's wonderful. Thank you for
18 sharing that. Can you please pass it over to Troy?

19 PROSPECTIVE JUROR 412: I'm not much of a big talker.
20 Sorry, excuse me.

21 MR. JONES: No, not all. Not at all.

22 THE COURT: But we do -- if you're passing, we at least need
23 to know your last name and badge number, that you -- okay, just so we
24 know who's saying that you're not a big talker, if you don't mind --

25 PROSPECTIVE JUROR 412: Hocking. Badge number is 412.

1 MR. JONES: Appreciate it.

2 THE COURT: Thank you.

3 MR. JONES: Could I ask you question, anyway, it'll be a
4 different question. When I was sitting there, and I was watching things,
5 as the Judge was asking some questions, there was a gentleman sitting
6 next to you who seemed to not really understand what was going on.
7 Do you recall what I'm talking about, Salvador I think was his name, and
8 you -- I just -- you immediately jumped in there and were trying to help
9 him. Why?

10 PROSPECTIVE JUROR 412: That's my nature, basically. You
11 know, but like I said, I'm a really big -- I get nervous when I start talking.

12 MR. JONES: And I appreciate that. I will -- yeah. I certainly
13 appreciate that. It's -- anyway, I appreciate you taking the mic for a
14 minute and mentioning that. And, yeah, it's nervous up here too, I can
15 tell you. All right. If you could please pass it down. Thank you.

16 All right. Stacey?

17 PROSPECTIVE JUROR 448: Uh-huh.

18 MR. JONES: So what are you passionate about? You're
19 engaged, so you're passionate about some guy?

20 PROSPECTIVE JUROR 448: Most days. I'm Costa, 448. I'm
21 passionate about the arts, I'm an artsy, an artsy person. So I was in
22 college for musical theatre in New York a little bit. A little college kid,
23 that didn't work out. I went back to Florida, found myself loving to like
24 build things, no like construction-wise, but I love to like write plans. So if
25 someone has a good idea that they want, and I have blank canvas, to like

1 plan parties and whatnot, for them and make them happy, that's what I
2 love to do.

3 MR. JONES: Do you do that professionally, or you just try to
4 do it for friends?

5 PROSPECTIVE JUROR 448: Eventually I would like to.

6 MR. JONES: Okay.

7 PROSPECTIVE JUROR 448: But, you know, finances only go
8 so far.

9 MR. JONES: Absolutely, no. But you're on your way to that,
10 eventually?

11 PROSPECTIVE JUROR 448: Uh-huh.

12 MR. JONES: Awesome, awesome. What was it, what
13 triggered you to know that that's what you wanted to do?

14 PROSPECTIVE JUROR 448: I've always find -- found myself
15 just making things at home, just randomly, or if my friends, who just got
16 married, I ended up planning her wedding, and that was fantastic, and I
17 just found myself loving it, so that's what I do, what I like to do.

18 MR. JONES: Now you're wearing a Knight shirt, right?

19 PROSPECTIVE JUROR 448: Uh-huh.

20 MR. JONES: Are you passionate about the Knights, or you
21 just happened to have it in the closet?

22 PROSPECTIVE JUROR 448: I like the Knights, yes. I was here
23 when they built the team, so automatically, I am.

24 MR. JONES: That's awesome, that's good. Yeah. It's
25 something that -- you know there was a comment made at the

1 beginning, right, that Kyle mentioned, that you know, he was a King's
2 fan, and then he -- with everything that happened he became a Knight's
3 fan. And I'm asking you, what do you think that is, what was it about the
4 Knights that brought us together?

5 PROSPECTIVE JUROR 448: I think just not having a hockey
6 team, and then watching everything being built literally from the ground
7 up. And then once everything did happen, watching the team just jump
8 in with, you know, no questions asked, both hands, to help out where
9 they could, just wants me to want to support them, since they supported
10 all of us, when we needed it. So --

11 MR. JONES: That's awesome, thank you. Pass. Anett?

12 PROSPECTIVE JUROR 391: Yes. Liddell, 391.

13 MR. JONES: Yes. So you're an engineer, right?

14 PROSPECTIVE JUROR 391: Sorry?

15 MR. JONES: You're an engineer?

16 PROSPECTIVE JUROR 391: Yes.

17 MR. JONES: And you have a double Master's?

18 PROSPECTIVE JUROR 391: Yes.

19 MR. JONES: What was your other Master's?

20 PROSPECTIVE JUROR 391: Business management.

21 MR. JONES: Okay. All right. So I know, that's not easy. So
22 tell us, what caused you to go down that road, with, you know, those
23 four math classes per semester, that you had to go through for
24 engineering?

25 PROSPECTIVE JUROR 391: Well, I think my inspiration was

1 my, first of all my parents. My dad was pushing me. I've always been a
2 smart kid, but that doesn't go sometimes well later in life, when you
3 don't have support from your family, and they don't believe you. So
4 they always pushed me and believed in me, and I stayed in school until
5 20 -- I was I think 25-years-old, when I finished by second Master's. And
6 that it's a lot of schooling, it's a lot of learning, a lot fun too, but -- so,
7 yeah.

8 MR. JONES: That's awesome. What are you passionate
9 about?

10 PROSPECTIVE JUROR 391: Well, it's going to be a repeat
11 again in here. I'm -- I love nature. So we -- my husband and I, we hike a
12 lot, and when we have a weekend, we're off on a long weekend, we
13 either stay close like Zion or Bryce Canyon. Or if we have a longer week
14 we can take off, then we just travel somewhere and go backpacking. We
15 did the Inca trail, five days, five nights. Yes.

16 We've done some crazy things. We definitely like to be out
17 there and just completely disconnect from the world and be away as far
18 as possible from the noise and people, and just enjoy just -- just nature,
19 and the quiet, and just to our self.

20 MR. JONES: That is tremendous. If you could please pass it
21 up to Felix.

22 PROSPECTIVE JUROR 366: Felix Barrios, 366.

23 MR. JONES: Felix, what are you passionate about?

24 PROSPECTIVE JUROR 366: Well, I don't know. I like college
25 basketball, Arizona Wildcats, obviously, and I like to build things.

1 MR. JONES: What do you like to build?

2 PROSPECTIVE JUROR 366: Well, I do electrical, by trade,
3 I've been doing it over 25 years. So putting up buildings from the
4 ground up, from walking to a pile of dirt, to seeing the finished product
5 at the end. You know, it just -- it's satisfying.

6 MR. JONES: It's satisfying watching all that hard work come
7 together?

8 PROSPECTIVE JUROR 366: Yeah. From like I said, from
9 bottom dirt, an actual building and all that. Hitting that main breaker the
10 first day, you know, make sure it don't go boom. It's a big rush.

11 MR. JONES: A bigger rush perhaps if it did, right?

12 PROSPECTIVE JUROR 366: That it go boom, yeah.

13 MR. JONES: Right. Awesome, thank you. If you could
14 please pass it over to your right. I appreciate that. Chris or Christopher,
15 sorry.

16 PROSPECTIVE JUROR 357: Sorry. Dias, 357. I like a lot of
17 things. I'm heavy into entertainment, I like my entertainment. I like my
18 video game, my sports, a lot of TV and movies. My first major was
19 going to be into production movies, because I love the background of
20 everything. I love knowing how everything is done in the background,
21 because then -- I love watching movies, but I take them, I take them as
22 what they are, entertainment.

23 To make me escape for the two hours, or three hours, or an
24 hour and a half, even if they're eight minutes, you know, for TV. Can I
25 escape, can I just feel away from the world a little bit. So I love that

1 feeling, and you know I sometimes wish I could go back into it, but I
2 ground myself in the real world, I know I have to make some money
3 sometimes.

4 But I do enjoy what I do. I enjoy helping people find the
5 bathroom at work. I help -- I love helping people. I just love helping
6 people too. I want to be a concierge, one day, hopefully, and hope to go
7 somewhere with that one day. That's -- I just like -- I just like it. When I
8 was working at Walt Disney World, I loved seeing the little kid's face
9 when he came up to Mickey Mouse, and just pure happiness at four or
10 five-years-old.

11 You can't get any better than that. I love having my five-
12 year-old, and I missed the moments when he went to Disneyland a
13 couple of years ago, because I had to work. But just when I get to go
14 with him to see his joyful face, when he sees them, and knowing that I
15 did that too, for a while, and just get to see them be happy. I just love it,
16 so --

17 MR. JONES: What did you do at Disneyland?

18 PROSPECTIVE JUROR 357: I was a character greeter. Disney
19 World in Florida, I was a character greeter. So I'm that person who you
20 see, you know, asking -- make sure you have your autograph books
21 ready, and pictures. I help them take pictures and help the kids.
22 Because I -- oh, wow, it's just -- just these moments where they get so
23 scared to come up to them.

24 And anyone who has a five-year-old, or six-year-old knows,
25 you know, a little kid sees this thing in front of them, you're like "what is

1 this thing?" But we trained our son very well, so -- but they get so
2 scared, and then when you get a chance to take them and feed them, you
3 get there, and you see their pure joy in their face; it's so much fun. It's
4 awesome.

5 MR. JONES: Thank you. I appreciate it.

6 And let's come up here to the front. I believe I've talked to
7 everyone except for, is it Tesfay?

8 PROSPECTIVE JUROR 443: Yes.

9 MR. JONES: Tesfay. Will you pass it up here.

10 PROSPECTIVE JUROR 443: My name is Tesfay Andei. My
11 number is 447 [sic]. My passion is to work hard. I work at daily, 6 days a
12 week from 12 to 15 hours. A site which was building movies, working at
13 movies, 49 days. That was pay at Metro Music [indiscernible]..

14 MR. JONES: So you're passionate about work?

15 PROSPECTIVE JUROR 443: What I had to --

16 MR. JONES: Of working hard?

17 PROSPECTIVE JUROR 443: Yeah.

18 MR. JONES: Why?

19 PROSPECTIVE JUROR 443: I love to work hard.

20 MR. JONES: Yeah. Do you love seeing the product of it
21 afterwards, the process itself?

22 PROSPECTIVE JUROR 443: I kind of -- what you had -- you
23 know, it make me happy, that's --

24 MR. JONES: That's awesome.

25 PROSPECTIVE JUROR 443: -- a little bit there. He said that

1 no sport, no [indiscernible]. I work hard for six days.

2 MR. JONES: That's fantastic. And that's where -- what you
3 brings you joy?

4 PROSPECTIVE JUROR 443: Yeah.

5 MR. JONES: Tremendous, thank you. Appreciate you
6 sharing that.

7 How many of you drove to the courthouse today? It looks
8 like a lot of you. What safety rules did you follow, anyone raise your
9 hand, while you were driving to the courthouse today. Just go ahead.

10 PROSPECTIVE JUROR 441: A safety rule is --

11 MR. JONES: Yeah.

12 PROSPECTIVE JUROR 441: Rules of the road, I guess.

13 MR. JONES: Yeah. Tell me about the safety rules that you
14 followed on your way here today?

15 PROSPECTIVE JUROR 441: Don't drive too much over the
16 limit, the speed limit, and you know, stay within the lines, and stop when
17 they stop, go when they say go.

18 MR. JONES: Okay. so stay within the lines.

19 THE COURT: Did we hear your last name and badge
20 number --

21 PROSPECTIVE JUROR 441: Johnson, 441.

22 THE COURT: -- the rule for the courtroom.

23 UNIDENTIFIED SPEAKER: Can you use the microphone,
24 please.

25 PROSPECTIVE JUROR 441: Oh, yeah, sorry. Oh.

1 THE COURT: Yeah. you need to make sure -- yeah,
2 number --

3 PROSPECTIVE JUROR 441: Johnson, 441.

4 THE COURT: Thank you, please. That would be a rule of the
5 courtroom. Thank you.

6 PROSPECTIVE JUROR 441: Yeah.

7 MR. JONES: So as you're driving here, you're staying within
8 the lanes?

9 PROSPECTIVE JUROR 441: Yeah.

10 MR. JONES: You're not going too fast, right?

11 PROSPECTIVE JUROR 441: Right.

12 MR. JONES: You're stopping where you're supposed to
13 stop?

14 PROSPECTIVE JUROR 441: Correct.

15 MR. JONES: Okay. You use your blinker when you're
16 turning?

17 PROSPECTIVE JUROR 441: Correct.

18 MR. JONES: Okay. Good, good. What is the purpose of
19 those safety rules you were following there?

20 PROSPECTIVE JUROR 441: So you don't hit somebody, but
21 it's the idea that them things move at -- there is no chain -- chain of
22 actions, something like that. You're into moves in a consistent pattern,
23 you get to point A to point B.

24 THE COURT: We might need to pause and get you some
25 new batteries, just for one second. Thank you.

1 PROSPECTIVE JUROR 441: You get from one point to the
2 other point without any conflicts, or without the -- in a timely manner.

3 MR. JONES: Yeah. So on the one hand it keeps everything
4 organized so we can get where we need to go.

5 PROSPECTIVE JUROR 441: Right.

6 MR. JONES: All right. And then you mentioned the other
7 thing, first, but I want to emphasize that a little bit more, so you don't --
8 you don't hit somebody?

9 PROSPECTIVE JUROR 441: Right.

10 MR. JONES: Right? But what happens if we don't follow -- if
11 you and I don't follow the safety rules when we're driving around?

12 PROSPECTIVE JUROR 441: Someone could get angry, you
13 could hit somebody, you could create conflicts.

14 MR. JONES: Yeah. Okay. All right.

15 Are there -- for anybody? Are there any other safety rules
16 that we follow in life, aside from just driving on the roadway? Can you
17 think of any other safety rules we follow?

18 PROSPECTIVE JUROR 441: At work. I'm sorry.

19 MR. JONES: Yeah. Go ahead. Let's go ahead and pass it
20 back. La Kisha.

21 PROSPECTIVE JUROR 419: La Kisha Hilley, 419. We follow
22 safety rules at work. You know, there's some jobs require you to follow
23 certain OSHA rules and things like that, or like me, we have, you know,
24 OSHA rules that we have to follow at work, but we're also a store, so the
25 cashiers at the front end know that they shouldn't be stealing, or

1 whatever, giving away free items; do you know what I'm saying? So
2 that's just the rules that you have to follow at work, you know --

3 MR. JONES: Absolutely.

4 PROSPECTIVE JUROR 419: -- clock in on time, you know
5 clock out on time, that type of stuff.

6 MR. JONES: Yeah. What about in your homes. Are there
7 any safety rules that you guys follow, to protect your homes, or you, and
8 whoever else lives there? Yeah, go ahead.

9 PROSPECTIVE JUROR 370: Terry 370. Yeah. You lock the
10 house. You lock the house, keep your house secured.

11 MR. JONES: Why?

12 PROSPECTIVE JUROR 370: So nobody enters it that isn't
13 supposed to be entering. Just close the windows, latch the windows.
14 Lock the house, close your gates, close your garage, don't leave it
15 unsecured.

16 MR. JONES: Awesome. Thank you. Please pass that to
17 Kyle.

18 PROSPECTIVE JUROR 361: Kyle Root, 361. They'd be a
19 candle, don't leave your candles on, a sound sleeper.

20 MR. JONES: Right. And what --

21 PROSPECTIVE JUROR 361: My friends almost burned down
22 their house recently.

23 MR. JONES: Well, so I'd like to stay on that a little bit, right.
24 So what kind of a candle, just an electrical candle, that --

25 PROSPECTIVE JUROR 361: No, it's lightened --

1 MR. JONES: Just like a regular candle?

2 PROSPECTIVE JUROR 361: A regular candle, yeah, only lit,
3 and they go leave the house.

4 MR. JONES: And it almost burned down the house?

5 PROSPECTIVE JUROR 361: Yeah.

6 MR. JONES: What about things like smoke alarms?

7 PROSPECTIVE JUROR 361: Right. Change the battery on
8 them.

9 MR. JONES: And for things like that, right, with candles,
10 smoke alarms, things like that, who are you protecting, what's the
11 purpose of that?

12 PROSPECTIVE JUROR 361: Property, family wasn't at home,
13 dogs, cats --

14 MR. JONES: Yeah.

15 PROSPECTIVE JUROR 361: -- and your neighbors. Yeah.
16 Your house is on fire.

17 MR. JONES: Your neighbor's too, right?

18 If you break one of those safety rules, right, do you have
19 much control over who it is that you hurt?

20 PROSPECTIVE JUROR 361: No.

21 MR. JONES: Let's see. What about doctors or surgeons, do
22 they have to follow safety rules?

23 MR. DOYLE: Your Honor, that question is based on an
24 incorrect statement of the law and is seeking to indoctrinate a jury.

25 MR. JONES: It's seeking to do neither one of those things,

1 nor is it a statement of law, Your Honor. We're just identifying what is
2 safe and unsafe, that is common sense.

3 THE COURT: Counsel, would like to -- I wonder if you'd both
4 approach. Do you want to turn on some wonderfully white noise, and
5 the jury will disregard the commentary of both counsel, the Court will
6 address. Thank you so much.

7 [Sidebar at 2:36 p.m., ending at 2:46 p.m., not transcribed]

8 THE COURT: Appreciate it. Thank you so very much, okay.

9 For the specific question phrased as a yes, or no question,
10 the Court would overrule the objection. Thank you so much.

11 MR. JONES: Okay. So I asked as a general question, to the
12 group, what about doctors and surgeons; do you think they have safety
13 rules they need to follow?

14 PROSPECTIVE JUROR 419: Yes.

15 MR. JONES: Okay. And now I want to make something
16 clear, I'm going to ask some more follow-up questions on that, and I'm --
17 obviously what jurors state, right, is not the law, right, or is not even -- is
18 not the law of the case, or the rules that are going to be required in this
19 case, to demonstrate that Dr. Rives is negligent; does that make sense?

20 And so I'm going to ask the question, I don't want anyone to
21 be confused and think that what I'm asking one of you to tell me what
22 you think the safety rules are, that the surgeon should follow, that you
23 have a misunderstanding and think that I'm asking you to quote what the
24 law is, or what the standards are in this particular case; is that fair?

25 MR. DOYLE: Objection, Your Honor. There's no question.

1 THE COURT: Okay. Well, counsel, first I think the pocket mic
2 needs to go back on.

3 MR. JONES: Thank you, Your Honor.

4 THE COURT: No worries. Now --

5 MR. JONES: Back on.

6 THE COURT: Okay. The Court's going to -- Madam Court
7 Recorder, were you able to hear that or not, part?

8 [Court and Court Recorder confer]

9 THE COURT: Okay. Counsel, I'm not sure that all got heard,
10 because of the microphone not being on. So to the extent, if you wish,
11 the Court takes no position one way or another, the Court just mentions
12 that --

13 MR. JONES: Certainly.

14 THE COURT: -- court recorder may have had some difficulty
15 hearing part of that, because the microphone was not on. And then the
16 Court will address -- well, the Court's going to overrule the objection as
17 phrased, because in light of the statements at bench, from an
18 introduction, to give an explanation of how a question is going to be
19 asked first, I'm not going to find that that was improper, because I
20 understood the question was coming right now, but the Court had to
21 interrupt because of the fact of the microphone not being on.

22 So in that limited context that's what the Court's position is.
23 Go ahead.

24 MR. JONES: Thank you, Your Honor.

25 I'm going to move slightly off target on that and move back

1 to it in a minute. Recognizing that there are easy to follow safety rules,
2 or easy to understand safety rules that we all are aware of, that we
3 follow in our own lives, why is it critical that we all follow safety rules,
4 anyone? Yes, please?

5 PROSPECTIVE JUROR 357: Diaz, 357. To follow safety rules,
6 just so we don't get hurt, or anyone else gets hurt, in the process of just
7 not getting hurt and obeying the laws --

8 MR. JONES: On a scale of --

9 PROSPECTIVE JUROR 357: Oh, I'm sorry.

10 MR. JONES: Oh, no, sorry. Did I interrupt you?

11 PROSPECTIVE JUROR 357: No, no, you're good.

12 MR. JONES: Okay. On a scale of 1 to 10, right, 10 being the
13 most important, how important is it for you that everyone follow the
14 safety rules?

15 PROSPECTIVE JUROR 357: 8 or 9.

16 MR. JONES: Okay. Why 8 or 9, and not 10?

17 PROSPECTIVE JUROR 357: You can't follow all the safety
18 rules to the max. I mean, people do bend the rules. You pick up on the
19 shortcuts at the times that get you even more beneficial, or less
20 beneficial. So, I mean, for example, you know, you cut the law at your
21 house. You know, a lot of people have, you know, one way to do it, they
22 either go straight up and down, or some will go vertical, but it's the way
23 you have the settings to the lawn mower.

24 You know, they have the -- you have the safety guidelines for
25 the lawn mower, but some people might tweak it a little bit to help mow

1 the lawn a little faster, or a little bit slower. I don't know, I don't have a
2 lawn anymore, so -- but people do certain things to try and make their
3 job go a little easier and faster. Some might do it a little bit to go a little
4 slower, so maybe to just be a little more careful. I mean, I don't know,
5 everyone's different, so --

6 MR. JONES: Yeah. No. And I may be misstating. This is
7 something else, sometimes I may try to restate what someone says, and
8 in this case I will with you, or I may try to rephrase it in a way that makes
9 sense to me, and I don't want to put words in your mouth. So if I'm
10 wrong, like just tell me I'm wrong; no, that's not what you meant, okay,
11 and I have no issue with that.

12 So you talked about how, for example, like a lawn mower,
13 right, that you can change the speed or whatever. And when I look at
14 that, I mean, I certainly understand what you're saying, I can't really find
15 any fault with that. I wonder if there's a difference between rules and
16 safety rules? I don't know, what do you think; so for example running a
17 red light, versus changing the speed of the lawnmower?

18 MR. DOYLE: Objection, Your Honor. The question
19 ambiguous and compound.

20 THE COURT: Overruled.

21 PROSPECTIVE JUROR 357: There is a difference. But to me I
22 think it's the same, it -- they all say the same thing. I mean, we have --
23 what we take how we drive, and, you know, we take safety very
24 important, but -- I mean, you know, we're not supposed to text while
25 driving, but there are a lot of us who text while driving, anyways.

1 You know, I was just trying to say, you know, like, there's --
2 there's a difference, but there's not -- I don't know if I'm going to say
3 there's stark difference. I think -- I think you have to be so defined, that
4 you have to have -- because for me, safety rules, they're just rules,
5 they're all the same, really. It's just you have to have a stark difference
6 that show there's some kind of different into it. Sorry.

7 MR. JONES: No, thank you.

8 PROSPECTIVE JUROR 357. Okay.

9 MR. JONES: Does anyone have a thought on that? Yes?
10 Pass the mic down.

11 PROSPECTIVE JUROR 444: Ashley Fossile, 444. In terms of
12 like with the rules, it's definitely a -- we should be at a 10, but really can
13 everyone follow it all at 10? But I still kind of believe in, you know,
14 preferred rules. I'm usually to -- try to have impartial arguments. So for
15 example, at my work, since it's a bit of a startup, it's only been around
16 for about a year and a half, my department, and I tend to always ask
17 about, hey, there isn't a rule about this, can we please have a rule about
18 this?

19 Because if I end up having an issue with another co-worker
20 or something, and there is no rule to fall back on, that's already written,
21 then it tends to be more emotional driven, than really kind of defining,
22 okay, what was actually safe or not safe for the company.

23 MR. JONES: And I'm not sure I fully understood, if you could
24 explain that --

25 PROSPECTIVE JUROR 444: Yeah.

1 MR. JONES: -- a little bit more?

2 PROSPECTIVE JUROR 444: So there's still a lot of like just
3 procedures --

4 MR. JONES: Yes.

5 PROSPECTIVE JUROR 444: -- or processes at my work that
6 still are being developed. And so whenever I see like one that doesn't
7 have rules in place yet, so for example, recently, like sending out an
8 email for an event that isn't work-related.

9 MR. JONES: Right.

10 PROSPECTIVE JUROR 444: Because we deal with a lot of -- a
11 lot of just different cultures and backgrounds. When -- I actually had to
12 deal with this. There wasn't a quite written rule for it, so it created a lot
13 of ambiguity, and just caused issues for like HR and our manager, to
14 have to be like impartial, and make sure they're not playing favorites, or
15 something like that.

16 MR. JONES: Okay. Got it. No, that makes sense. If you're
17 following -- so to make sure we have a clear, clear delineation, right,
18 there are rules and safety rules, and I think -- I understand, sometimes
19 there are some that are kind of in between maybe, that have some
20 reference to both. But talk about texting on the road. What are the
21 consequences of that?

22 PROSPECTIVE JUROR 370: Fatalities.

23 MR. JONES: Okay.

24 PROSPECTIVE JUROR 370: You get a ticket, at least.

25 MR. JONES: You get a ticket?

1 PROSPECTIVE JUROR 370: Yeah.

2 MR. JONES: Has anyone -- sorry, we can go either way. You
3 mentioned fatalities, just go ahead and move it over to Terrence, Terry.

4 PROSPECTIVE JUROR 370: Terry, 370.

5 Yeah. I mean accidents can cause death. So when you're
6 not alert, and you're not paying attention to your surroundings, driving is
7 a 100 percent job, it doesn't have any room for anything else. You have
8 to focus on the road, and the surroundings around you, all the time.
9 Things happen in an instance. As soon as you take your eyes off the
10 road accidents happen within seconds and inches; people die.

11 MR. JONES: And just keeping it with you, we know that
12 people text a lot on the roads, that definitely is a thing that happens,
13 everybody is aware of that. And are you aware, in the role that you
14 have, you're a manager over routes, right?

15 PROSPECTIVE JUROR 370: Uh-huh.

16 MR. JONES: Are you aware that that's caused any
17 problems?

18 PROSPECTIVE JUROR 370: Yeah. It's a very big problem.
19 So we may have disciplinary processes in place, leading them to
20 terminate, and termination events that happen, caused by not paying
21 attention and texting. We have a zero policy -- zero tolerance policy in
22 place for using electronic devices while driving. Zero tolerance. I mean,
23 it could be automatic termination if anyone -- how we -- how we find it,
24 and there's cameras in the vehicles.

25 MR. JONES: And what are the consequences when people

1 aren't following them? You mentioned fatalities, but --

2 PROSPECTIVE JUROR 370: Accidents, at the very least. And
3 when you're driving, you know, a 36,000-pound vehicle, it doesn't take
4 much to do a lot of damage.

5 MR. JONES: If you're following the safety rules, Terry, are
6 you reasonable in expecting that other people -- is it fair for you to
7 expect that other people are going to follow the safety rules?

8 PROSPECTIVE JUROR 370: You know, we have the
9 expectation in place. It's got -- they're signed documents, for everybody
10 that works there, that has to follow those rules.

11 MR. JONES: You deserve to be able to rely on that, that
12 other people are following the rules, if you are?

13 PROSPECTIVE JUROR 370: We have procedures in place,
14 and if they aren't following those rules, that, you know, then we'll
15 prevent them from working for us, or driving a company vehicle.

16 MR. JONES: So let's, just an imaginary scenario. There's a
17 driver on the roadway who takes the same route home every day, and he
18 speeds, and he changes lanes recklessly. Nothing happens, right,
19 time-and-time again nothing happens, and then eventually one of these
20 nights when he's doing this he causes a big wreck, right?

21 Would you stand for that? Would you -- how would you feel
22 about that? Would you tolerate that?

23 PROSPECTIVE JUROR 370: No.

24 MR. JONES: Why?

25 PROSPECTIVE JUROR 370: Because it's risky behavior.

1 Risky behavior eventually leads to accidents, and accidents sometimes
2 lead to fatalities.

3 MR. JONES: Now in that scenario, if someone is breaking
4 the safety rules like that, they know the rules, but they're breaking them,
5 they choose to break them. And then in the end, when they finally do
6 get in that big wreck, they ask for a partial or a complete pass; how do
7 you feel about that?

8 PROSPECTIVE JUROR 370: No.

9 MR. JONES: Why?

10 PROSPECTIVE JUROR 370: Because they entered into risky
11 behavior, there's no pass.

12 MR. JONES: What happens when you give a pass to
13 somebody who breaks the rules?

14 PROSPECTIVE JUROR 370: Then it just reoccurs.

15 MR. JONES: Thank you.

16 Okay. With the admonition I gave earlier I'm not asking for
17 anyone to quote the law, or anything like that, or to even say what the
18 rules are in this particular case. What kind of safety rules would you
19 expect for a doctor to follow?

20 MR. DOYLE: Your Honor, I object. It's an incorrect statement
21 of the law and it's indoctrination.

22 THE COURT: The Court overrules the objection, in light of
23 the introduction previously provided by counsel. It's just not a statement
24 of the law, it's not been the standard in this case.

25 MR. JONES: Anyone, but certainly, Terry, we can stay with

1 you.

2 PROSPECTIVE JUROR 370: I'll move it over.

3 PROSPECTIVE JUROR 388: Inscore, 388. When it comes to
4 safety rules in the medical field you would expect and hope that there's
5 no outdated equipment, that everything is sterile, because if the
6 equipment is outdated there is a huge risk of harm, and if nothing's
7 sterile, then there's a huge risk of infection, and the more problems that
8 come around that, the worse it gets.

9 MR. JONES: Do you think it's important for the doctor to use
10 the right tool that is called for?

11 PROSPECTIVE JUROR 388: Yes.

12 MR. JONES: Why?

13 PROSPECTIVE JUROR 388: Because if you don't use the
14 right tool, for example when you're taking off a cast, you're going to
15 want to use the specific saw that's used to cut through the plaster. If you
16 use a wrong tool you risk injuring the patient.

17 MR. JONES: Thank you. Do you think it's important that
18 medical records are accurate?

19 PROSPECTIVE JUROR 388: Absolutely.

20 MR. JONES: Is it important that they accurately state the
21 condition of the patient?

22 PROSPECTIVE JUROR 388: Yes.

23 MR. JONES: Why?

24 PROSPECTIVE JUROR 388: Because if you misdiagnose
25 someone, there's a possibility that they could get the wrong medication,

1 there's a possibility they could get the wrong treatment, and that could
2 cause some serious problems. Like you could accidentally give someone
3 Oxycontin, then they get addicted, and then it gets worse, and worse for
4 them.

5 MR. JONES: Anyone else have any thoughts on this they'd
6 like to share? Yes, please.

7 PROSPECTIVE JUROR 444: Also, with like misdiagnosis,
8 sometimes --

9 THE COURT: Excuse me.

10 PROSPECTIVE JUROR 444: Oh, sorry. Ashley Fossile, 444.

11 THE COURT: Appreciate it, thank you.

12 PROSPECTIVE JUROR 444: Sometimes they could give too
13 much interventions. It's just something I'm familiar with, with going
14 through two pregnancies, and now a third, so --

15 MR. JONES: Thank you. When you hire a professional, and
16 this is to anyone who wants to answer it, when you hire a professional,
17 someone who has knowledge beyond your knowledge, what are your
18 expectations from them, in terms of how they'll communicate with you?

19 PROSPECTIVE JUROR 419: [Indiscernible].

20 MR. JONES: Yes, please. Kisha?

21 PROSPECTIVE JUROR 419: Kisha Hilley, 4019. Hiring a
22 professional, what I would expect, as far as communication, is just one,
23 you know, be honest with me, as I would be honest with them. Like if
24 I'm going to a doctor and I -- the doctor would expect me to -- if I feel
25 that I have certain symptoms, to be honest with that doctor and tell them

1 what my symptoms are, so that way the doctor can prescribe either the
2 right medication, the right tests, to diagnose my condition.

3 As far as the doctor's communication, I would expect that
4 doctor to not keep anything from me, as his or her patient, whether it be
5 a certain treatment, or maybe an alternative treatment, or something like
6 that, or any risks that can be associated with any treatment that the
7 doctor would provide; side effects, things like that.

8 MR. JONES: What about bringing you in on the
9 decision- making process?

10 PROSPECTIVE JUROR 419: I would 100 percent expect the
11 doctor to do that, because in the end this is my body that I am trusting
12 this professional's, you know, opinion and diagnosis, or whatnot. You
13 know. Ultimately, I'm the one that would have to live with the decision
14 that's being made, not the doctor.

15 MR. JONES: Can you pass the mic over to Yvonne.

16 Yvonne, I saw you nodding your head there. Can you tell us
17 what your thoughts are on this?

18 PROSPECTIVE JUROR 424: Yes. I want --

19 THE COURT: After she --

20 PROSPECTIVE JUROR 424: Yvonne Baker, 424.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR 424: Yeah. I want to know what my --
23 what all my options are, because I think as you get older you may have a
24 different perspective on what kind of treatment you'd want to have done,
25 and what kind of long-lasting effects you're going to live with.

1 I think as you get older it's a completely different
2 conversation, because it's your body, but you know you have limited
3 time in that body, and so you want to live your best life in the best body
4 that you could have.

5 MR. JONES: Nice, thank you. Appreciate it.

6 What are your expectations, and this is for anyone who
7 wants to answer it, for a surgeon in terms of carefulness, skillfulness?
8 Please?

9 PROSPECTIVE JUROR 382: Rene Williams-DeLoach, 382.

10 As far as the surgeon using, we would -- I expect for him to
11 follow guidelines if you're going to do a surgery on me you need to
12 know what site, you need to do the timeout. You need to make sure
13 you're going to operate on the right extremity, or -- so you -- I would
14 want him to do all of that, his due diligence.

15 MR. JONES: Okay. What about the equipment that he
16 chooses, to you?

17 PROSPECTIVE JUROR 382: Yeah. Well, that plays -- I mean,
18 yeah, you wouldn't use -- if you're going to do open heart surgery, you
19 wouldn't use just a scalpel to cut, where you have to use another
20 instrument. So, yeah, you have to have the appropriate instrument.

21 MR. JONES: Okay. We'll just stay with you, on a scale of
22 1 to 10 how important is good medical care for your family?

23 PROSPECTIVE JUROR 382: I see it that that's my family, and
24 my patients are -- they're important also; so it's for anyone to me.

25 MR. JONES: Do you expect your doctor to be qualified?

1 PROSPECTIVE JUROR 382: Definitely, I went to him for that
2 reason.

3 MR. JONES: Okay. All right. And you expect your doctor to
4 be careful and skillful at all times?

5 PROSPECTIVE JUROR 382: Yes.

6 MR. JONES: Okay. We've talked a little bit about the safety
7 rules, we haven't really touched, specifically, on why some of these
8 safety rules are important that we touched on, and why some are. What
9 types of harm can happen if someone violates a safety rule within
10 medicine?

11 PROSPECTIVE JUROR 382: Well, it could lead to death, it can
12 lead to possibly loss of function of a person's body. It could lead to
13 infection that's costly for the hospital, so several things.

14 MR. JONES: Okay. And potentially costly for the patient?

15 PROSPECTIVE JUROR 382: Yes.

16 MR. JONES: Does anyone have the ability to perceive the
17 kind of harm that will be done when they violate a safety rule within
18 medicine?

19 MR. DOYLE: Objection, Your Honor. It mischaracterizes the
20 law applicable in a malpractice case.

21 THE COURT: The Court sustains the objects, in regards to a
22 voir dire question.

23 MR. JONES: Do you have the ability to know the type of
24 harm that will be caused if you break a safety rule in medicine?

25 MR. DOYLE: Objection, Your Honor. The same question,

1 same objection.

2 THE COURT: Approach.

3 [Sidebar at 3:08 p.m., ending at 3:09 p.m., not transcribed]

4 THE COURT: Ladies and gentlemen, we realized that we're
5 going almost two hours after lunch, which is about the time I like to give
6 you an afternoon break. So I think instead of having counsel at bench,
7 we're going to let you sit out on a break, and we're going to take care of
8 that outside of your presence.

9 So ladies and gentlemen, I'm going to give you the afternoon
10 -- how many jurors do we have out, like one out?

11 THE MARSHAL: There should only be one , if any, Your
12 Honor.

13 THE COURT: Let's do a quick look.

14 THE MARSHAL: There's two.

15 THE COURT: There should not be two out.

16 THE MARSHAL: It's okay. Yes, Your Honor.

17 THE COURT: Okay. I can't let you go for break while I have
18 people out, because I have to give everyone the admonition. I can't do
19 that; we have people outside. So what I can do is -- I might just have to
20 repeat it. Can we peek out, like see if they're in the hallway, really quick,
21 if I can do this. As you can appreciate I've got to give you all the
22 admonition at the same time, because I can't have people out without an
23 admonition, so --

24 THE MARSHAL: They're in the restroom.

25 THE COURT: Fair enough, okay. So what I'm going to need

1 to do is, I'm going to need to keep going. So, counsel, would you like to
2 re-approach. Madame Court Recorder, turn on the white noise. As soon
3 as they return, then we'll send you out for a break, okay. Because I can't
4 do it when I don't have everybody here. I appreciate it, thanks so much.

5 [Sidebar at 3:10 p.m., ending at 3:11 p.m., not transcribed]

6 THE COURT: All right. Counsel stipulated that I can give you
7 all the admonition, hopefully they come back. We'll see if they come
8 back, from the time I'm giving it. So I'll speak a little slower, maybe
9 they're coming back, and we can send you all on break. And then,
10 Marshal, when you see those two, they're going to come in, I'm going to
11 talk to them if they come in. Okay.

12 Ladies and gentlemen, we are going on a -- it's 3:10, we're
13 going to have you back at 3:25. Oh, good, we got one back, okay,
14 perfect. There's one more. You're going to listen, sir, because we're
15 going to go on a break, but you're going to listen to my admonition,
16 okay?

17 UNIDENTIFIED PROSPECTIVE JUROR: Yes, Your Honor.

18 THE COURT: Okay. Ladies and gentlemen, we are going on
19 a 15-minute break, you can come back at 3:25. During this lunch recess
20 you're admonished not to talk or converse among yourselves, or with
21 anyone else on any subject connected with this trial.

22 You may not to read, watch or listen to any report, or
23 commentary of the trial, any person connected with the trial, by any
24 medium of information. including without limitation, social media.
25 Everything is included, even though I have not stated each and every

1 type. No texts, no tweets, no newspapers, or television, or internet, no
2 radio. Everything I've not named specifically, is of course also included.

3 Do not visit the scene or the events mentioned during the
4 trial, or the voir dire process. Do not undertake any research,
5 experimentation, or investigation. Do not do any posting or
6 communications on any social networking sites, or anywhere else. Do
7 not do any independent research, including, but limited to internet site
8 searches.

9 Do not form or express any opinion, on any subject
10 connected with the trial or the voir dire process, until the case is fully
11 and finally submitted to those who go back at for jury deliberations.
12 With that we wish you a nice break, we'll see you back at 3:25, and since
13 counsel has stipulated that the one person that's out doesn't need the
14 admonition, we're fine. Have a nice break. Thank you.

15 [Prospective jurors out at 3:13 p.m.]

16 [Outside the presence of the prospective jurors]

17 THE COURT: Okay. One second. Okay. The jurors are all
18 now out of the courtroom. I'm going to give you all a break in just a
19 moment, because my team also needs their break. But just really quick,
20 you heard badge number 567 did confirm to the marshal that -- Marshal
21 you saw with bade 567, her son, there was an email from the
22 physician's, is that correct, that has surgery on the 28th?

23 THE MARSHAL: Yes. The lady right here?

24 THE COURT: Yes.

25 THE MARSHAL: Yes, Your Honor.

1 THE COURT: Okay. In light of that, do you all wish to keep
2 her, or do you wish to excuse badge 567, who was Ms. Gonzalez, Josie
3 Gonzalez, badge 567?

4 MR. JONES: Excuse, Your Honor.

5 MR. DOYLE: That's fine.

6 THE COURT: Is that stip, excused?

7 MR. DOYLE: Yes.

8 THE COURT: Okay. Do you wish her to come back from the
9 break, or do you just want the marshal to tell her when she's coming
10 back in, that she's stippled excused?

11 MR. DOYLE: The marshal can tell her.

12 THE COURT: The marshal tell her?

13 MR. JONES: Absolutely.

14 THE COURT: Okay. So marshal, 567.

15 THE MARSHAL: 567 --

16 THE COURT: Yes.

17 THE MARSHAL: -- so Ms. Gonzalez?

18 THE COURT: Ms. Gonzalez, yes. So she'll be stippled
19 excused, she doesn't need to return from the break.

20 Okay. So, Counsel, the issue, let's rule quickly, you wanted
21 outside the presence of the jury. Counsel for Plaintiff, can you re-read
22 the one question that Plaintiff [sic] objected to, which the Court overruled
23 it was a yes, or no, question --

24 MR. JONES: Yes, Your Honor.

25 THE COURT: -- because you had the one juror answer. You

1 had the one juror, Mr. Root answer, badge 361? Yes, or no on doctor
2 safety rules, the rules doctors follow?

3 MR. JONES: Yeah. I'm trying to find the exact question. I
4 said: "What about doctors and surgeons, do they also -- do you think
5 they also have to follow safety rules?"

6 THE COURT: Okay. So that question was objected to by
7 Defense counsel. The reason why the Court overruled it, because that
8 was a yes, or no, and after -- because that is a yes, or no question, it's
9 not giving any explanation of the law, so the objections that were raised
10 by Defense counsel, as the Court had stated at the bench, your earlier
11 bench, is that wouldn't be an inaccurate statement of the law, because it
12 was not a legal standard, it's just an opinion of a juror, one juror
13 answering the question in a yes, or no fashion.

14 It wasn't giving you an explanation of what would be safety
15 rules, what would or would not be any standard of care, et cetera, it's
16 just do doctors, medical surgeons have to follow safety rules? It wasn't
17 said anything in particular to this case, anything with regards to the
18 facts, instances in this case, or anything with regards to any explanation.
19 It was a yes, or no question, and only one juror, and then he went on, so
20 that's why the Court's ruling, is the other reason I stated at bench.

21 So counsel for Defense, you said you wanted to make a
22 record, feel free.

23 MR. DOYLE: Right. And then we circled back to it just before
24 the break. But my objection is, and I know the Court has seen the
25 different times, a motion, or a trial brief on the Reptile theory, and --

1 THE COURT: There was no motions in limine in this case.

2 MR. JONES: No.

3 MR. DOYLE: I understand that. But in our *Sims* case, which
4 we tried a year or two ago, I believe there was, and if I'm recalling
5 correctly --

6 THE COURT: This is not the *Sims* case. Counsel, you had no
7 motion. The Court can't go from another case involving other people.

8 MR. DOYLE: Well, my understanding is the bench has
9 generally taken the position that it's not an appropriate motion in limine,
10 because it's simply presenting the law without applying it to any
11 particular witness that deposed, a Defendant, or an expert, or whatnot.

12 But be that as it may. I object to the use of safety rules for
13 any reason, or any purpose in any form or fashion when it is tied to a
14 physician, a surgeon or medical care.

15 THE COURT: Okay. But that was not your objection. Your
16 objection was, Counsel, question specific. Which question-specific
17 during a voir dire, remember question-specific, you raise the objection,
18 the Court has to look at a question-specific objection. You only raised it
19 on that one question, right?

20 And then as a caution, just in case there was going to be an
21 open-ended follow-up question, the Court went through and talked about
22 how there was no way that Plaintiff could imply that there was a
23 difference between -- Plaintiff could not imply that the law in this case
24 was anything other than the law in this case is what it is.

25 If there was going to be the law, and this case would be a

1 standard of care analysis, but that you couldn't go into law in this case
2 anyway, that the Plaintiff had to ensure that he was not in any way
3 stating or implying that the law in this case would be something that the
4 jury got to decide, as far as their own view of the law.

5 So what the question specifically objected to, is the only
6 question that this Court needs to address, is a specific case-by-case,
7 question-by-question, right, objection? This Court takes no position on
8 motions that were never presented to the Court. This Court takes no
9 position on people's viewpoint of what other judges may or may not say.
10 If you have a motion the Court timely, properly presented to this Court,
11 the Court's more than glad to hear it, or would have heard it every time it
12 was presented to the Court.

13 So that question-specific, the Court made its ruling based on
14 the question. Because I even had counsel come and bring it and read it
15 to us at bench, that question, specifically, is a yes or no. The Court's
16 ruling is -- what the Court's ruling is, for the reason stated, because that
17 in and off itself is not an improper question. It would be proper under
18 voir dire, and the objections raised to it, is saying a legal standard
19 wasn't.

20 So now, you are raising a new issue with regards to the next
21 question that you're about to State, counsel, which was?

22 MR. JONES: Let's see?

23 THE COURT: Right before the break.

24 MR. JONES: What type of harm can come if someone
25 chooses to violate a safety rule in medicine?

1 THE COURT: Okay. And then counsel for Defense, the
2 reason why I called you to the bench, is because you said "same
3 objection" and remember the Court needs to have an understanding of
4 what is the actual objection you're doing, because I didn't know -- or the
5 same objection was the preceding one, five proceedings there, I need to
6 have an understanding of what actually is the objection that you're
7 raising.

8 So if it was the same objection of the prior one, of misstating
9 the law, then I needed to know that, if it was something different I
10 needed to know that. But since someone needed to go to the restroom
11 anyway, it made a good time for a break. So, Counsel, what was the
12 objection to that question, please?

13 MR. DOYLE: The objection is that it's attempting to introduce
14 prejudicial material or information. It's attempting to indoctrinate the
15 jury on an inaccurate statement to the law, and the question is based on
16 an incorrect statement of the law. Because the expert witnesses who
17 have testified in this case, no one has at any time used the word "safety"
18 or "rule" when discussing whether Dr. Rives' care was or was not within
19 the standard of care.

20 There will be no jury instructions. We have submitted our
21 jury instructions, agreed upon and disagreed upon jury instructions, and
22 there's no jury instruction, agreed upon or disagreed upon, that speaks
23 about safety, or safety rules as applicable to the facts of this case, or to a
24 physician or surgeon. So to keep coming back, I mean, I understand,
25 you know, asking about safety rules, in terms of auto accidents, and you

1 know, driving through a red light and a stop sign.

2 My quarrel is not with that, my quarrel is injecting in any
3 form or fashion the concept of safety rules into a medical malpractice
4 case where the standard by which a Defendant is judged is the standard
5 of care that comes from the expert witnesses. It's not a lay standard that
6 comes from jurors, based upon their own experiences and what they
7 think about safety rules, and what rules they would like to see imposed
8 or not imposed. So for all those reasons I object to any question that ties
9 safety rules --

10 THE COURT: You can't object to any -- remember, it's got to
11 be question-by-question, because the Court's not going to have an
12 understanding of what you think may tie into safety rules. So what case
13 law, or do you have any support in any case law authority, rule,
14 anything, that would preclude Plaintiffs' counsel from using -- the
15 question you said, "What type of harm would result of a physician failing
16 to follow a safety rule"? I'm paraphrasing, it wasn't exactly like that. So
17 how would that question be impermissible?

18 I know you -- is there any case law, is there any rule, is there
19 any authority that supports that that would be an impermissible voir dire
20 question when the purposes of voir dire are -- you know, the two prongs,
21 define voir dire, or anything that you have that supports that would be
22 an impermissible voir dire question?

23 MR. DOYLE: No. The Nevada Supreme Court, nor the
24 Nevada Appellate Court have not been presented with this issue, or
25 addressed the issue of the Reptile --

1 THE COURT: Yes, they have.

2 MR. DOYLE: -- theory and safety rules, to my knowledge.

3 THE COURT: Well, the Nevada Supreme Court has, and it --

4 MR. DOYLE: Not in a medical malpractice case.

5 THE COURT: That's what I'm just asking, do you have any
6 authority that supports your position? Because the reptile theory-type
7 arguments have been addressed in appellate court decisions.

8 MR. DOYLE: Not in a medical malpractice case, where the
9 Plaintiff is trying to blur the standard of care or marry the standard of
10 care somehow to safety rules.

11 THE COURT: So there's no authority or anything that
12 supports -- I'm just trying to ask, if there's something I should be looking
13 at from an authority basis to support your objection?

14 MR. DOYLE: Not for a medical malpractice case, no, where
15 the issue is the Defendant and the standard of care; I'm not aware of
16 such as case.

17 THE COURT: Okay. So now, Plaintiff, your response?

18 MR. JONES: Your Honor, I mean, we should of course be
19 given the latitude to be able to use the language, the vernacular that we
20 think is appropriate to get at what we need to identify bias among the
21 jurors, to identify who these jurors are so we can evaluate them,
22 moreover during the case itself. There's no prohibition against safety
23 rules, and medical malpractice, or anywhere else.

24 It's certainly -- I mean, it's a term of art, and as you've seen
25 all of these -- you know, when these Reptile motions are filed, I

1 commonly go back and usually show the dictionary definitions, and
2 show where it very clearly lines up to statute, and where there are cases
3 that support it, that we're allowed to use the word "safety" and "safety
4 rule." I'm doing nothing to trick, or confuse, or anything else. The jury is
5 going to be told ultimately what the standards of care are that have been
6 violated.

7 There was a reference that none of the experts have said
8 anything in terms of safety rules. I don't have all their depositions here
9 with me today, but I don't think that's accurate. I do think that I actually
10 had one of the Defense experts acknowledge that a safety rule was
11 violated in a certain circumstance, or not that a safety rule was violated,
12 but that certain action would be in violation of a safety and to the
13 standard of care.

14 But it doesn't really matter whether an expert has said it or
15 not, I can choose the language I want to establish what I want to do,
16 unless it's for some reason, improper; and the safety rule is certainly not
17 improper. And for me to ask a juror to get a sense of what the juror's
18 understanding is of the harms that might occur, in the event that
19 somebody does something wrong in the context of medical care, that is
20 certainly appropriate.

21 And if I want to use the word "safety rule" versus they did
22 something wrong in the course of medical care, or they violated the
23 standard of care, I've been very clear that the questions I'm asking are
24 not citing the law, and that I'm not asking for a recitation of the specific
25 law.

1 At this point we haven't done that, and so I'm trying to get a
2 general sense of what these jurors feel, and what these jurors think, in
3 the event that something has been done wrong. They will be briefed on
4 what the law is, and what the standard of care is, in this case.

5 THE COURT: Yeah. Here's the challenge here, really for this
6 Court, is that the question in and of itself, and we've got Plaintiffs'
7 counsel did give the specific, that he was going to be asking questions,
8 he gave that introduction. I appreciate you objected to the introduction,
9 because there wasn't a question pending.

10 And the Court is allowed, because you all specifically
11 discussed that at bench, that he was going to do that to make it clear that
12 he was not setting down the law, that he was just asking their general
13 opinions to make it very clear to address the objection that you raise,
14 that in any way saying that he was going to be saying, that somehow
15 instead of the standard of care.

16 So ensure that there was no confusion to give that
17 introduction, since that's what he was saying he was going to do to
18 ensure there was no confusion, and there seemed to be an objection at
19 the bench for him to being to doing that, then the Court's consistent with
20 that, allowed it, and he stated it in open court.

21 So I don't see how there's the jury confusion between the
22 standard of care, which is going to be the legal evidentiary basis, under a
23 negligence theory, because medical malpractice here is a negligence
24 theory, and then you have the other claims by Mr. Farris, as well, that
25 those rules, and you've got the corporate; so I'm not seeing it under

1 there.

2 So I don't see that he is indoctrinating the jury, not in direct
3 *Lioce* argument, golden rule *Lioce* violation. Having the correct
4 statement of the law, because he's made it clear to the jurors that he is
5 not stating that it's the law of the case, he's stated that he is not stating
6 the law of the case, he's asking their thoughts, and that as long as he
7 clarifies it, once again, it's not stating exactly what type of harm. It's not
8 saying it for this case. That wasn't your objection anyway, but okay.

9 Single, and I don't -- jury nullification, how is it jury
10 nullification?

11 MR. DOYLE: I didn't bring up jury nullification.

12 THE COURT: Sorry. Jury indoctrination, sorry, you said jury
13 indoctrination. So jury indoctrination, seeing as you're saying it's jury
14 indoctrination, because --

15 MR. DOYLE: It's attempting to indoctrinate the jury on the
16 law in this case being safety rules, which is an incorrect statement of the
17 law that will be applicable to the facts of this case.

18 THE COURT: Counsel for Plaintiff specifically stated that he
19 is not stating that it is the law of this case. That's where this Court is
20 seeing a distinction. Because of that concern you raised at bench, he
21 said that he would clearly say to the jury that he is not stating that it's the
22 law.

23 So if he's telling the jury, specifically, what I'm asking you
24 now is not the law of the case, it's hard for this Court to be saying how
25 you're asserting that he's indoctrinating him to the incorrect aspect of

1 the law, when he specifically told him that this is not the law.

2 So with that specific qualification, and if he's going to be
3 asking the jury these questions just to kind of get their thoughts and their
4 opinions, and it is not the law of this case, and that is not the law, and he
5 specifically asked them, and asked them if they all understood that, okay.

6 So how that's to be viewed as in indoctrination when he's
7 clearly said that his questions are not the law in this case, it's get to their
8 thoughts and opinion, and it's not the law in this case, the Court's not
9 seeing how that could be viewed as indoctrination when he's made that
10 clear to the prospective jurors, that it is not the law in the case.

11 So unlike a situation where there could be confusion, he's
12 not saying that, in fact said just the opposite, as the preface to this line of
13 questioning, so --

14 MR. DOYLE: But then to follow-up, then it's not an
15 appropriate question for determining a challenge for cause or a
16 peremptory challenge. I mean, you can't --

17 THE COURT: That's why the Court asked for what the
18 purposes for voir dire, and it was explained from Plaintiffs' viewpoint, he
19 says that that's -- I thought I heard you say that you were trying to
20 establish if they have any biases in order to get their background
21 thoughts and opinions on these topics in, order to make well-reasoned
22 peremptory challenges.

23 So if I'm hearing that, then I can't say it's indoctrination when
24 he's given the preface. I'm listening to your objections, but I'm running
25 through each of your objections, which conceptually I understand the

1 basis of your objection, but I don't see how your objection applies in this
2 case, based on what Plaintiffs' counsel has specifically stated, and so in
3 that regard the Court's going to have to overrule it, because precautions
4 have been taken in this case, in front of this jury to not have those issues
5 of indoctrination.

6 The question is said, in a very general sense, not to this
7 client, not narrowly to this type of case, it's focusing in a more general
8 sense, a list of question, as read. Now if it changes the question that
9 may be a different matter, but the question, and general types of harms,
10 you know, and doesn't follow safety rules, because the wide range of
11 safety rules, and how that's been clarified already by this jury, right?

12 We've got everything from candles to OSHA, okay. So
13 you've got a wide variety, you don't have doctor-specific. Because even
14 counsel's prior question about generally a professional, some of the
15 people answered it in a non-medical context, and then you had Juror No.
16 15 answer it in a medical context, and it was a follow-up medical context
17 by No. 16.

18 So this case, based on these jurors, and how these questions
19 have been asked, and this particular question, which you raise the
20 objection, the Court's going to have to rule it on the objections that you
21 have raised in this context.

22 It's five minutes after, but my team still hasn't had a break.
23 So I'm going to put you out for another ten minutes. Marshal, can you
24 let the jury know it's going to be another ten minutes, please? Thank
25 you so much.

1 THE MARSHAL: Yes, Your Honor.

2 THE COURT: We're going to come back at 3:40. Thank you
3 so much.

4 MR. DOYLE: Thank you, Your Honor.

5 THE COURT: And then you can let that one juror know that
6 she's --

7 MR. LEAVITT: Do we need to step out, Your Honor?

8 THE COURT: Yes. Thank you so much. I appreciate it.

9 THE MARSHAL: Do you want me to dismiss that one juror,
10 Your Honor?

11 THE COURT: Yes, please. Ms. Gonzalez --

12 THE MARSHAL: Yes, Your Honor.

13 THE COURT: -- 567. Appreciate it. Thank you so much.
14 And we should go off the record. Thank you, Madam Court Recorder.

15 [Recess at 3:32 p.m., recommencing at 3:44 p.m.]

16 [Outside the presence of the prospective jurors]

17 THE COURT: Okay. On the record, outside the presence of
18 the jury. The Court was trying to look at its schedule. Tomorrow it looks
19 like -- are you all going to want to start at 11:00, or do you want to start
20 at 1:00? When I say 11:00, I'm going to have to say "11:00-ish" because
21 I've got a couple of Rule 16 conferences, which you all know from
22 experience, sometimes to be short and sometimes to be longer.

23 So some people like to get in that extra half-hour or 40
24 minutes before the lunch break, some people don't. So I'm just giving
25 you that quick heads-up which way you want to do it, because I'm going

1 to then ask you how much longer Plaintiffs' counsel is going to have with
2 your voir dire, and Defense counsel, so we can give appropriate
3 estimates to the jury, and then we'll call the jury in.

4 Marshal, you should feel free to line them, this should only
5 take a moment, Your Honor.

6 THE MARSHAL: Yes, Your Honor.

7 THE COURT: Thank you.

8 THE MARSHAL: And, Josie Gonzalez, I advised her she was
9 free to leave.

10 THE COURT: Okay. I appreciate it. Thank you so much.
11 Thank you, Marshal.

12 THE MARSHAL: You're welcome.

13 MR. JONES: Your Honor, I'd estimate about two hours.

14 THE COURT: Two hours more?

15 MR. JONES: Uh-huh.

16 THE COURT: Okay. And counsel for Defense, how much
17 time do you anticipate for voir dire?

18 MR. DOYLE: Best guess, a couple of hours.

19 THE COURT: Does "a couple" to you mean --

20 MR. DOYLE: Two.

21 THE COURT: Okay. So that means a total of four, which --
22 okay. So what do you all want to do about --

23 MR. DOYLE: If we started at 11:00-ish, is lunch from 12:00 to
24 1:30, or is it a one-hour lunch?

25 THE COURT: Well, we usually have to do an hour and 15

1 minutes, at least, because with this many jurors, to get them down the
2 elevators, in fairness to them they're not going to be able to get down
3 the elevators, get lunch, and then back up the elevators; so that's really
4 where you're going.

5 MR. DOYLE: We'd like to start at 1:00.

6 MR. JONES: Okay. Start at 1:00 is fine. Yeah, perfect.

7 [Court and Clerk confer]

8 THE COURT: Okay. Marshal's getting the jury back in, and
9 we'll get you going in just a second, and then Plaintiffs' counsel, just
10 have your pocket mic on and --

11 MR. JONES: Absolutely.

12 THE COURT: -- you're ready to go.

13 MR. DOYLE: And, Your Honor, if I filed those three trial briefs
14 were filed, so I have courtesy copies --

15 THE COURT: Okay.

16 MR. DOYLE: -- for the Court, and then I also have one
17 original deposition transcript that wasn't yet available when we met for
18 the calendar call; that was Dr. Hurwitz.

19 THE COURT: It wasn't available because?

20 MR. DOYLE: We took his deposition quite late, and the
21 original transcript arrived in my office on either that Monday or Tuesday
22 of last week when we were here in Court.

23 THE COURT: Is there any objection by Plaintiffs' counsel for
24 the late lodging of the deposition? No one brought it to the Court's
25 attention at the time of the calendar call. Is there any objection by

1 Plaintiffs' counsel? If the answer is no, we'll just --

2 MR. LEAVITT: Your Honor, it wasn't brought up -- why
3 wasn't this brought to our attention, Counsel? I'm objecting, I mean, we
4 came, we had it, this could have been addressed; here we go again.

5 THE COURT: Was the deposition ordered expedited?

6 MR. DOYLE: No. I did not pay an expedited fee, because I
7 didn't think that cost was necessary.

8 THE COURT: It was not brought up at the calendar call, right,
9 that there was any outstanding depositions, and everybody knew that
10 you had to lodge the depositions if they wished to be used at the trial,
11 right? We went over the specifically.

12 MR. DOYLE: I'd have to go back and read the transcript, but I
13 thought Dr. Hurwitz came up, but I -- don't hold me to that, I need to go
14 back and read it.

15 THE COURT: I don't.

16 MR. LEAVITT: I don't have a specific recollection of that at
17 all, Your Honor.

18 THE COURT: So stay tuned, let me know tomorrow if it came
19 up in the calendar call, okay?

20 MR. DOYLE: Okay.

21 THE COURT: I mean, it's a fair thing to do, since I have an
22 objection, right?

23 MR. LEAVITT: Yeah.

24 THE COURT: You all can both read, you ordered the
25 transcript. Let the Court know if somebody did a carve-out on that, right;

1 that's the fair thing to do.

2 MR. LEAVITT: Okay. Yeah.

3 THE COURT: If you did a carve- out, we'll address it.

4 MR. LEAVITT: All right.

5 THE COURT: You said that there's trial briefs?

6 MR. DOYLE: Yes.

7 THE COURT: They were e-served on Plaintiffs' counsel?

8 MR. DOYLE: They were e-served on everyone this afternoon,
9 and I provided Mr. Hand with paper copies, and I have --

10 THE COURT: Do you have a courtesy copy for the Court,
11 then, by chance?

12 MR. DOYLE: I do.

13 THE COURT: Okay. I'd appreciate those, if you've got them
14 for us.

15 MR. DOYLE: Who would I give those to?

16 THE COURT: Anyone around us is perfectly fine, because the
17 marshal is taking of the jury, so whoever you want to give those to,
18 would be great. They're 7.27 trial memoranda?

19 MR. DOYLE: Yes.

20 THE COURT: Okay.

21 MR. DOYLE: Thanks.

22 THE COURT: Okay. So the Court just got handed, today, a
23 trial memoranda, Rives and Microscopic Surgery's trial brief regarding
24 the need to limit evidence of past medical expenses, and a brief
25 regarding the need to preclude evidence kept on non-economic

1 damages, and -- wait a second, this says, "A request to preclude
2 Defendant's expert witnesses, as a Defendant in the malpractice." How
3 is that a trial brief, that looks like it's a motion?

4 MR. DOYLE: Yeah. It's a motion.

5 THE COURT: How is that a trial brief?

6 MR. DOYLE: It's news to me.

7 THE COURT: Trial briefs are informational trial briefs to
8 explain the area of law to the Court.

9 MR. JONES: Right.

10 THE COURT: They can't be a substantive request for the
11 Court to rule on anything.

12 MR. DOYLE: Well, then, it's an explanation of the law for -- if
13 Plaintiffs go into one of the Defense expert's own malpractice history, as
14 I would with theirs, because they all have those malpractice histories --

15 THE COURT: Okay. Counsel, the Court's going to have to
16 look at these, I've got the jury outside. But as you know, you can't style
17 something -- a 7.27 brief is very specific on what a 7.27 brief can be. You
18 can't the Court, in the midst of trial or voir dire, something called a 7.27
19 brief, when it's really a motion in any manner that's untimely filed.

20 You know with all the sanction issues and the rule issues, I
21 am sure no one would ever do that to this Court, after being cautioned
22 so many times, verbally, in writing et cetera. So the Court's going to
23 have to look at this. I just was merely looking at the title, and title use
24 the words "exclude." I haven't had chance, obviously, to look at it,
25 because you just handed it to me, but when people use the word

1 "exclude" that generally looks affirmative, rather than informational, and
2 that's why the Court mentioned that concern.

3 The Court takes no position. The Court needs to --

4 MR. DOYLE: Okay.

5 THE COURT: -- read and take a look at these and we'll see if
6 there's any issues, because the Court just looked at trials from general
7 informational purposes. It never requires a Court to do anything, it's just
8 the Court -- it's basically a handy-dandy informational piece, it's never
9 supposed to ask the Court to rule on anything. Okay?

10 MR. DOYLE: And that --

11 THE COURT: And the Court is just supposed to look at those
12 as a general informational piece.

13 MR. DOYLE: And that's what they're intended to do to assist
14 the Court, when, if the questions are asked, there is an objection.

15 THE COURT: That's not necessarily consistent, but the Court
16 takes no position. I've got a jury outside.

17 MR. JONES: Sure.

18 THE COURT: We're in the midst of voir dire, the Court takes
19 no position, because there's nothing before it at this juncture. Let's just
20 bring the jury in, okay? Thank you so much.

21 [Prospective jurors in at 3:51 p.m.]

22 THE MARSHAL: Jurors are present.

23 [Within the presence of the prospective jurors]

24 THE COURT: And as our jurors walk in, it's a perfect subtle
25 time for everyone to remember to turn off your cells phones. We're sure

1 you all are doing that anyway, but just a subtle reminder to make sure
2 they're all completely off. Appreciated. Just to let you know those cell
3 phones do interfere with our JAVs recording systems, which you can
4 appreciate. So much as we love to hear the wonderful different ring
5 tones that everybody has, and know it, you know, you truly like. Okay.

6 THE MARSHAL: All are present, Your Honor. Please be
7 seated.

8 THE COURT: Do appreciate it. Thank you so much.
9 Welcome back, ladies and gentlemen. I just want to make sure,
10 particularly since we have one person out, I want to make sure, everyone
11 listen to their -- I'll phrase it this way: Did anyone violate the Court's
12 admonition and talk about the voir dire process or case in any manner; if
13 so, please raise your hand. No hands raised in the box, no hands raised
14 left gallery, no hand raised right gallery.

15 Okay. So everyone followed the Court's admonition, right?

16 GROUP RESPONSE: Yes.

17 THE COURT: I'm hearing all the affirmative, yes.

18 Okay, thank you. We're in the middle of Plaintiffs' voir dire
19 questioning, when you went to have your nice relaxing break that was a
20 few moments longer. And just to let you know, the reason why it had to
21 be is, realistically, things sometimes that a little bit longer than we
22 originally anticipate. We thought that you'd rather be out in the hallway,
23 stretching your legs, and me sitting in here listening white noise. And I
24 presume nobody disagrees with that assessment.

25 So at this juncture, counsel for Plaintiff, we're in the middle

1 of your voir direct questioning, feel free to continue. Appreciate, it.
2 Thank you so much. I'm sure your pocket mic phone is on and you're
3 ready to go.

4 MR. JONES: Thank you, Your Honor, It is on now. All right.

5 Okay. Who was I talking to the last time, right at the end.

6 Okay.

7 THE COURT: Did we give you back the microphone over
8 there, we hope we did?

9 THE MARSHAL: I got it over here.

10 THE COURT: The handheld mic, you got it.

11 MR. JONES: Perfect.

12 THE COURT: Thank you. See, I have a wonderful team,
13 they're always one step ahead of me. I appreciate it. Thank you so
14 much.

15 MR. JONES: All right. Does anyone have the ability to know,
16 in advance, the type of harm they'll cause if they violate a safety rule of
17 medicine?

18 PROSPECTIVE JUROR 382: They know some of the potential
19 harm --

20 THE COURT: Okay.

21 PROSPECTIVE JUROR 382: Do I have to say my name again?

22 THE COURT: Yes. If you wouldn't mind, just because we did
23 take a break. Look at that. See how wonderful --

24 PROSPECTIVE JUROR 382: Every time.

25 THE COURT: Look at you all, fantastic prospective jurors.

1 Thank you. See, you all jumped in, thank you.

2 PROSPECTIVE JUROR 382: Renee Williams, badge 382.

3 THE COURT: I appreciate it, thanks.

4 PROSPECTIVE JUROR 382: So, yes. We have some idea of
5 the harm that we could cause if we don't follow proper procedures.

6 MR. JONES: Tell us about that.

7 PROSPECTIVE JUROR 382: Well, it depends on what it is.
8 For example, when you're going into surgery, and if you don't mark the
9 extremity that you're going to do surgery on, you can do the surgery on
10 the wrong side. If you're giving blood and you don't check the ABO
11 capability, you can give the wrong type of blood. So, yeah, there's, you
12 know, policy and procedures to everything.

13 MR. JONES: Absolutely. And safety rules, like that or others
14 where -- such as checking the AB, checking the blood, or marking, who
15 are those designed to protect?

16 PROSPECTIVE JUROR 382: The patient.

17 MR. JONES: The patient?

18 PROSPECTIVE JUROR 382: The patient, yeah.

19 MR. JONES: And the patient might be anybody?

20 PROSPECTIVE JUROR 382: Yes.

21 MR. JONES: You jurors are part of a special process. Jury
22 trials for civil cases are guaranteed by the U.S. Constitution, and by the
23 Nevada Constitution. It's been said by many people, judges, legal
24 scholars, the United States Supreme Court, the Nevada Supreme Court,
25 the jury in civil cases act as the conscience of the community, and with

1 one voice speaks on behalf of the community.

2 We can't have every person in Las Vegas here for the trial, to
3 decide what everybody thinks about it, but you are here for that purpose.
4 So the process bestows a huge burden on jurors, that you're speaking
5 not only for yourselves, but for the community. Raise your hands if you
6 feel confident with that burden, if you feel that you can do that. High,
7 raise them high.

8 Okay. So I have some people who are a little bit more
9 hesitant. Let's start -- you did raise it ultimately, but go ahead, let's go
10 ahead and pass the mic forward.

11 PROSPECTIVE JUROR 391: I'm Anett Liddell, 391.

12 MR. JONES: Yeah. Talk about that.

13 PROSPECTIVE JUROR 391: I'm comfortable.

14 MR. JONES: You are comfortable, okay. You just raised your
15 hand a little bit at the end. Okay. I'm sorry. Can you pass the mic down.

16 PROSPECTIVE JUROR 448: Costa, 448. I personally don't
17 feel comfortable with being the voice of Nevada, I guess you could say,
18 because I am only one human. I'm one human and I don't want to mess
19 with anybody's jobs, or well-being, or lack thereof, I just -- I want to stay
20 neutral: that's my whole thing.

21 MR. JONES: Okay. Okay.

22 PROSPECTIVE JUROR 448: It gives me really bad anxiety.

23 MR. JONES: No. Thank you for saying that.

24 Do you feel like you are not in a position that you could
25 actually make that judgment call?

1 PROSPECTIVE JUROR 448: I personally don't think so, no.

2 MR. JONES: Okay. So, and I'm try to just kind of project. In
3 that setting, if you didn't feel comfortable making a judgment against
4 somebody in this case, would that cause you to be more likely to make
5 no judgment, if you were left on this jury?

6 PROSPECTIVE JUROR 448: It depends, I guess if I'm on the
7 jury and I -- you're listening to everything, then I'll probably end up
8 [indiscernible] in the end, but it might not be the right one, and I don't --
9 personally don't want to sit with that guilt, if it isn't the right one,
10 because I have to deal with that burden for the rest of my life.

11 MR. JONES: Okay.

12 PROSPECTIVE JUROR 448: Knowing that I affected
13 somebody else's families.

14 MR. JONES: Okay. And so do you think that would cause
15 you to -- okay. We'll go ahead and move on; I appreciate you sharing
16 that. Anyone else feel the same way. I know we didn't have some hands
17 raised down here. Can you pass it down a couple.

18 PROSPECTIVE JUROR 412: I won't pass judgment,
19 personally.

20 MR. JONES: Let's keep it with you, go ahead.

21 THE COURT: Remember the badge number.

22 PROSPECTIVE JUROR 412: Hocking, 412. I won't -- I will not
23 pass judgment on another's life, period.

24 MR. JONES: So tell us about that?

25 PROSPECTIVE JUROR 412: It's not in my behalf. I wouldn't

1 want to be judged by someone. Why should I judge anybody?

2 MR. JONES: Okay.

3 PROSPECTIVE JUROR 412: That's the way I was brought up.

4 MR. JONES: Okay. Thank you. I appreciate it.

5 PROSPECTIVE JUROR 417: I also wouldn't want that fate, or
6 that burden on me either. I've been there once, and we didn't do it right.

7 MR. JONES: You were on a jury once?

8 PROSPECTIVE JUROR 417: Yeah. Oh, Belinda Hightower,
9 417.

10 MR. JONES: Belinda, thank you. So you felt that the last
11 time that you did it, it wasn't the right thing?

12 PROSPECTIVE JUROR 417: They didn't -- they didn't do it
13 right. The same weakness, everybody knew who, just went along with
14 one person to get in there, it wasn't right. I mean, he called it, because
15 he was saying that we weren't saying anything, but it ain't likely -- like if
16 the judgment, it was the right one, well, we should have talked about it,
17 you know, as a group --

18 MR. JONES: The voice --

19 PROSPECTIVE JUROR 417: -- I just let him get up.

20 MR. JONES: Right. The jury needs to be a tribe --

21 PROSPECTIVE JUROR 417: That's right.

22 MR. JONES: -- together and make a decision.

23 PROSPECTIVE JUROR 417: And he was leading, and
24 everybody was not believing; it wasn't right.

25 MR. JONES: Okay. All right. And so because of that past

1 experience that's something that's tough for you?

2 PROSPECTIVE JUROR 417: Every time they call me down,
3 here, it means, like I ain't doing it.

4 MR. JONES: Okay. Thank you. Pass that.

5 PROSPECTIVE JUROR 418: Thomas, 418.

6 MR. JONES: Yeah, go. You didn't raise your hand either?

7 PROSPECTIVE JUROR 418: Okay, yeah. I can't -- I can't pass
8 judgment on somebody. I wouldn't want nobody passing judgment on
9 me, you know, It's something I just -- I can't live with that.

10 MR. JONES: Okay. All right. We'll talk about this more in a
11 little bit, and let's go ahead and go up to the top. Francisco?

12 PROSPECTIVE JUROR 387: Francisco Hernandez, badge
13 number 387. I agree with, I don't remember her name, but what she
14 said, I don't want to be responsible for making, you know, the wrong
15 choice for someone else.

16 MR. JONES: And I appreciate very much each of you saying
17 this, and something that it definitely tells me is that you kind of get it,
18 that this is a -- you recognize that this a big-time assignment, that your
19 job is to come in and look at all the evidence and make a decision, and
20 do the right thing, right? And that is a big responsibility for sure, and
21 we'll get into that a little bit more, still, in the future.

22 The Plaintiffs are here today, but they won't always be here
23 during the trial, there will be days that they won't be here. You'll hear
24 people testify about what happened, and you'll hear them testify, as well.
25 There's a few reasons for it. One, is that we want you, when you hear

1 their testimony, that you hear their testimony without them having been
2 here for opening statements, just have an un-sanitized, they'll just tell
3 you from their memory what it is.

4 And so I just want to make sure that if they're not here in
5 future days, when we're going through evidence, if you guys are okay
6 with that, that you're not going to hold it against the Plaintiffs, because
7 I've asked them to not be here; is that okay?

8 PROSPECTIVE JUROR 387: Uh-huh.

9 MR. JONES: Yeah. Everybody okay with that?

10 GROUPS RESPONSE: Yeah.

11 MR. JONES: Okay. In this case the way that the proof goes,
12 the Plaintiffs go first, the Defendant get to go last, after the Plaintiffs have
13 produced their evidence, and the Defense produces their evidence, and
14 it's closer to the time that you make your decision, right, when the
15 Defense gets to? The only exception for this is closing arguments at the
16 very end, the Plaintiff will make their closing argument, then the Defense
17 will, and then the Plaintiff gets a short rebuttal close.

18 Some people feel that this is an advantage, right, to go closer
19 to the time that you're making your decision. Some people would rather
20 go first, but can you all commit to not giving either side any advantage,
21 based on when they're producing their evidence? And can you all
22 commit to not making a final decision until you've heard all the evidence,
23 but keeping in mind the evidence that the Plaintiff presented, even
24 though the Defendants have gone last; is that fair? Okay.

25 Yvonne, I want to talk to you. Do you bake pies?

1 PROSPECTIVE JUROR 424: Yvonne Baker, 424.

2 MR. JONES: Do you bake pies --

3 PROSPECTIVE JUROR 424: I do.

4 MR. JONES: -- in addition to cakes?

5 PROSPECTIVE JUROR 424: Yes.

6 MR. JONES: What kind of pies do you bake?

7 PROSPECTIVE JUROR 424: Usually apple and pumpkin.

8 MR. JONES: Okay. Apple and pumpkin. So I'm going to talk
9 a little bit about kind of an analogy here that I think is valid. So if we
10 were having a pie contest, right, pie baking contest, you I'm sure with
11 mop the floor with everyone here, and because of you are, and you are a
12 baker. But in the event that many people were presenting many
13 different kinds of pies, right, and I was asked to be the judge, right of this
14 pie contest, it turns out I don't like pumpkin pies; so I don't, sorry.

15 And if people have apple, pumpkin, raspberry, whatever,
16 every type of pie, do you think that that would be fair for me, to sit there
17 as judge, if I knew that some people were going to be submitting
18 pumpkin pies; what do you think?

19 PROSPECTIVE JUROR 424: No. Because I don't think you
20 could make a decision, because your taste buds don't like pumpkin. So it
21 would be -- naturally you'd be inclined not to choose pumpkin.

22 MR. JONES: Right. Let's suppose that I tried my hardest to
23 be fair, I'm absolutely trying to be fair and impartial, and you know, I'm
24 nibbling a little bit of the crust, you know, and kind of looking at the
25 texture and figuring it out. At the end of the day it probably just isn't fair,

1 because my lip just -- I just don't like pumpkin, I don't like the taste of the
2 pumpkin pie.

3 PROSPECTIVE JUROR 424: Right. So you can't override
4 your biological choices.

5 MR. JONES: Okay. And so do you think the best thing to do
6 would be for me to tell everybody that, hey, I'm sorry, I'm not a good fit
7 for this, I don't like pumpkin pie?

8 PROSPECTIVE JUROR 424: Yes.

9 MR. JONES: Yeah. That would be the right thing to do? Do
10 you think it would be shameful for me in any way, if I did that? Should
11 that be shameful? Would I be weak by saying, look, I'm not a good fit for
12 this?

13 PROSPECTIVE JUROR 424: No.

14 MR. JONES: Okay. And it would be the actual appropriate
15 thing to do, right?

16 PROSPECTIVE JUROR 424: Yes.

17 THE COURT: And nobody would look down on me for that,
18 right ?

19 PROSPECTIVE JUROR 424: Uh-huh.

20 THE COURT: Okay. I want to talk a little bit about medical
21 training that any of you have. Now we know we have a registered nurse
22 in the room. Does anyone else have medical training? None at all? Yes,
23 please, Francisco.

24 PROSPECTIVE JUROR 387: Francisco Hernandez, Badge No.
25 387. Well, I work at West Dermatology, but it's with a different specialty,

1 which is for allergy immunology. So I've worked with both sides, so I
2 can have an experience on both sides of those.

3 MR. JONES: Of dermatology?

4 PROSPECTIVE JUROR 387: Yeah. So dermatology, and
5 allergy, and immunology.

6 MR. JONES: Okay. You're a receptionist, right?

7 PROSPECTIVE JUROR 387: Yes.

8 MR. JONES: Okay. How long have you been doing that?

9 PROSPECTIVE JUROR 387: It's going to be three years.

10 MR. JONES: Okay, awesome. How do you like it?

11 PROSPECTIVE JUROR 387: I like it --

12 MR. JONES: Yeah.

13 PROSPECTIVE JUROR 387: -- it's interesting.

14 MR. JONES: Interesting getting into the science of that, I
15 imagine?

16 PROSPECTIVE JUROR 387: Yes. Interesting enough to
17 where I am debating whether I want to go to school for it.

18 MR. JONES: Fantastic, fantastic. I missed my calling, I was
19 supposed to be a professor, or something like that, and then -- anyway, I
20 love what I do now, but it's interesting learning new things, right, about
21 science and everything?

22 PROSPECTIVE JUROR 387: Yeah.

23 MR. JONES: And so the two of you -- and no one else works
24 in the medical community, then; is that right? Okay. Yes, kind of? Go
25 ahead and pass it down.

1 PROSPECTIVE JUROR 391: Liddell, 391. I just wanted to add
2 that I'm a first responder at the McCarren Airport. So if anyone getting a
3 heart attack, or something, that I know what to do.

4 MR. JONES: Okay. What training did you have to go
5 through for that?

6 PROSPECTIVE JUROR 391: We go for two-days' training
7 with the County, and then you get a First Responder Card.

8 MR. JONES: Okay.

9 PROSPECTIVE JUROR 391: So if needed them.

10 MR. JONES: So is that CPR?

11 PROSPECTIVE JUROR 391: Yes, correct. Using defibrillator
12 on person.

13 MR. JONES: Oh, even using the defibrillator?

14 PROSPECTIVE JUROR 391: Yes, correct.

15 MR. JONES: Defibrillators. Easy for me to say, right? And,
16 okay, so you've been trained to use those as well?

17 PROSPECTIVE JUROR 391: Yes, correct.

18 MR. JONES: Okay. All right. And so in your job you don't
19 actually work within the medical community --

20 PROSPECTIVE JUROR 391: No.

21 MR. JONES: -- but you've received that training to be a first
22 responder?

23 PROSPECTIVE JUROR 391: Just because of our customer
24 service, and we working around [indiscernible].

25 MR. JONES: Awesome.

1 PROSPECTIVE JUROR 391: I know.

2 MR. JONES: Good. Good to be prepared.

3 PROSPECTIVE JUROR 391: Yeah.

4 MR. JONES: Do any of you have, and I'm going to preface
5 this and say, I'm not asking -- please don't feel obligated to put
6 something that you feel is overly sensitive, okay, I'm not trying to put
7 anyone in an awkward spot. But do any of you have a family member or
8 a close friend that has a medical condition that limits their social life,
9 work like, or their recreational activities?

10 Yeah. Let's go ahead. We'll go up top first, then we'll come
11 down. Yeah. Go ahead, Ashley.

12 PROSPECTIVE JUROR 444: Ashley Fossile, 444. Yeah. I
13 have a sister and myself will sometimes have issues with it, but it's just a
14 severe like, you know, mental depression, borderline personality
15 disorder, that's it.

16 MR. JONES: Personal what disorder?

17 PROSPECTIVE JUROR 444: Borderline personality disorder.

18 MR. JONES: Okay. And it causes severe emotional issues?

19 PROSPECTIVE JUROR 444: Yes. Yes. Right now she
20 actually just had her baby, and having issues now, post-partum
21 depression with that, so.

22 MR. JONES: It can be super tough, yeah. Okay. And
23 basically that just kind of shuts down life, right --

24 PROSPECTIVE JUROR 444: Yeah.

25 MR. JONES: -- and -- okay. All right. Thank you for sharing

1 that, I appreciate it. Okay. Let's go ahead and pass it over here and then
2 we'll come up front.

3 PROSPECTIVE JUROR 388: Inscore, 388. Oh, boy. Let's see.
4 My ex has also BPD and that's extremely crippling. We both have
5 anxiety, depression. And I have autism. So every mental problem that I
6 have that autism does not work well with the depression and anxiety
7 because the social awkwardness that comes with the autism is magnified
8 with the other two. And it is debilitating, and it is impossible to work
9 with.

10 MR. JONES: I'm sorry, that's rough. Thank you for sharing.
11 No, absolutely. Thank you. Let's go ahead and pass the mike up front,
12 please. Cindy.

13 PROSPECTIVE JUROR 426: Cindy Peacock, 426. My 19-year-
14 old has Asperger's. My 21-year-old has low-functioning autism and my
15 mother has Alzheimer's. So that's --

16 MR. JONES: Wow. Okay.

17 PROSPECTIVE JUROR 426: -- everything.

18 MR. JONES: Thank you.

19 PROSPECTIVE JUROR 441: Johnson, 441. My mother-in-law
20 has onset autism, but also what she has is my -- or Alzheimer's. I was
21 mistaken. And my wife she's all kinds of sick, shoulders are -- she's had
22 shoulder operations that are [indiscernible]. So she's stopped from
23 doing a lot of physical activities, back, discs replaced, knees been
24 cleaned up two or three times. Now she'll get knee replacements. And
25 her elbows are shattered so there's plates in her elbow. There's things

1 like that.

2 MR. JONES: And how does it affect her life and her ability to
3 go do things?

4 PROSPECTIVE JUROR 441: It really slows her down in doing,
5 you know, she can't go to the gym. She used to swim a lot and go to the
6 gym. She doesn't do that anymore. She can't go for walks with the dog
7 or with myself or the grandkids. She's -- it's caused her to not be -- I
8 could say gain some mass and not able to get rid of it. So it gets her a
9 little depressed in that respect. And so it's -- the activities reduced a lot
10 in her. She looks at me and, you know, why aren't you getting these
11 illnesses, you know, and I'm older than her. And so if she's got things
12 like that, things kind of creep up. Just slows things down within the
13 family unit.

14 MR. JONES: Yeah. Yeah, I can imagine. And for you, you
15 know, we talked about it.

16 PROSPECTIVE JUROR 441: Yeah.

17 MR. JONES: How being in shape and being able to go do the
18 physical things --

19 PROSPECTIVE JUROR 441: Right.

20 MR. JONES: -- brings such meaning.

21 PROSPECTIVE JUROR 441: Correct.

22 MR. JONES: Yeah. No. Thank you for sharing that. I
23 appreciate that.

24 PROSPECTIVE JUROR 388: Could I add to mine?

25 MR. JONES: Sure. Absolutely.

1 PROSPECTIVE JUROR 388: Because that actually brought up
2 some more stuff. Inscore, 388. To add on to mine, my mom actually had
3 to have a knee replacement and is getting to the point where she will
4 probably need to replace the other one. And my grandma had a rotator
5 cuff tear in her shoulder. And my grandpa who is now deceased had an
6 infection in his leg because the hospital he was staying at he scraped his
7 knee and something around the hospital infected it and it became a
8 flesh-eating disease which was the cause of his death.

9 MR. JONES: Oh, my goodness.

10 PROSPECTIVE JUROR 388: Any my grandma who -- my
11 other grandma who is deceased had pancreatic cancer. No, gallbladder
12 cancer which spread after they took out her gallbladder. At that point, it
13 was too late. And my grandpa who is still alive had a tumor that had to
14 be taken out. And he now has a colostomy bag. And let's just say my
15 entire family has a history of problems.

16 MR. JONES: Goodness, Skyler, thank you for sharing. I
17 appreciate it. It's not an easy thing to do, and I do appreciate it. Thank
18 you. And that goes for each one of you who did. Thank you very much
19 everyone.

20 I want to ask you some questions about any experience with
21 or knowledge about some specific medical conditions, okay? Hernia
22 repair. Let's go ahead and come down here to the front. Roger.

23 PROSPECTIVE JUROR 441: Johnson, 441. This was done -- I
24 had my hernia taken care of when I was like in fifth grade. So it's just
25 decades ago, many decades ago.

1 MR. JONES: Okay. Okay. So you had a hernia when you
2 were in fifth grade, it got taken care of and that's --

3 PROSPECTIVE JUROR 441: Yeah.

4 MR. JONES: -- been the end of it?

5 PROSPECTIVE JUROR 441: That's been the end of it.

6 MR. JONES: Okay. Perfect. Someone up -- okay. Please
7 pass over to La Kisha.

8 PROSPECTIVE JUROR 419: La Kisha Hilley, 419. I had a -- I
9 believe it was called a herniated esophagus or a herniated diaphragm up
10 here where my esophagus is actually coming up through my diaphragm.
11 And the surgeon -- the first surgeon that did it didn't do the sutures
12 correctly, and then I had to -- they had to go back in and redo it. So
13 that's my experience with that.

14 MR. JONES: Okay. And when was that?

15 PROSPECTIVE JUROR 419: 2014.

16 MR. JONES: Okay. All right. Go ahead, back row to Ashley.

17 PROSPECTIVE JUROR 444: Can we have more water.

18 THE COURT: Oh, thank you. Thank you.

19 MR. JONES: And that was all, right, in terms of hernia
20 repair? No one else raised their hand? Okay. All right. And this is
21 similar. Abdominal surgery, surgery anywhere in the abdomen, belly
22 area. Yeah.

23 PROSPECTIVE JUROR 419: Oh, Lord. La Kisha Hilley, 419. I
24 had a gastric sleeve in 2014 which was when they found the -- my
25 esophagus coming up over my diaphragm. So they did that surgery and

1 did the repair at the same time. And come to find out that the surgeon
2 did not do the gastric sleeve correctly. And she actually did not take out
3 enough of my stomach. So I was offered a revision by that surgeon and
4 I declined and just said, you know what, forget it. Just leave it the way it
5 is so --

6 MR. JONES: Okay.

7 PROSPECTIVE JUROR 419: -- yeah.

8 MR. JONES: All right.

9 PROSPECTIVE JUROR 419: A little untrusting of surgeons,
10 things like that.

11 MR. JONES: Thank you. Appreciate you sharing.

12 PROSPECTIVE JUROR 388: Inscore, 388. With the GI system,
13 that's where my grandpa's tumor was because he -- they needed to cut
14 into his colon to then take out a head-sized tumor, either head or
15 football-sized tumor.

16 MR. JONES: Wow. Okay. All right. Thank you. Anyone
17 else with any specialized knowledge or any experience with the
18 abdominal surgery? Okay. Hernia mesh. Does anyone have any
19 specialized -- yes? Pass it all the way down.

20 PROSPECTIVE JUROR 424: Baker, 424. I had lap band
21 surgery about 20 years ago and then had to have a revision about 15
22 years ago.

23 MR. JONES: Okay. Okay. Intubation. Whose -- certainly I'm
24 sure -- well, who has experience or knowledge about intubating patients?
25 So we'll go to our resident nurse first for that and then we'll come down

1 to La Kisha.

2 PROSPECTIVE JUROR 382: Williams-DeLoach, 382.

3 MR. JONES: Yes, go ahead. Intubation.

4 PROSPECTIVE JUROR 382: What do you want to know?

5 That's where you --

6 MR. JONES: I guess --

7 PROSPECTIVE JUROR 382: -- put the tube down so that --

8 MR. JONES: -- so --

9 PROSPECTIVE JUROR 382: -- the patient can breathe.

10 MR. JONES: Okay. And so you -- do you do this

11 professionally?

12 PROSPECTIVE JUROR 382: I don't put the tube down. I work
13 with the patients that the tubes are in.

14 MR. JONES: Got it. Got it. Understood. Thank you. That's
15 fine. Appreciate it.

16 Go ahead, La Kisha.

17 PROSPECTIVE JUROR 419: Oh, God. Let me get -- La Kisha
18 Hilley, 419. Just with my experience with my surgery. I actually had
19 to -- they did the -- what is it called? The microscopic --

20 PROSPECTIVE JUROR 382: Intubation.

21 PROSPECTIVE JUROR 419: They did the microscopic first to
22 look down into my stomach and in my esophagus, you know, to check
23 the -- that area that they were going to work on first to make sure that
24 there wasn't any serious damage. And then during the surgery, of
25 course. And then when I had my carpal tunnel surgery and I was

1 intubated as well.

2 MR. JONES: Okay. All right. Who is familiar with colotomy,
3 knows what a colotomy is?

4 UNIDENTIFIED PROSPECTIVE JUROR: Do you mean
5 colostomy?

6 MR. JONES: No. Colotomy.

7 UNIDENTIFIED PROSPECTIVE JUROR: Colotomy.

8 MR. JONES: Yeah. No? We'll talk about that later.

9 Colostomy, we can talk about that. What is a colostomy? Who knows
10 what a colostomy is? Or who has experience with that? Let's go ahead
11 and pass it forward here.

12 PROSPECTIVE JUROR 426: Cindy Peacock, 426. I may be
13 incorrect, but my --

14 THE COURT: Excuse me.

15 PROSPECTIVE JUROR 426: -- brother had --

16 THE COURT: What was that last name and your badge
17 number?

18 PROSPECTIVE JUROR 426: Sorry. Cindy Peacock, 426.

19 THE COURT: Appreciate it. Thank you. Just --

20 PROSPECTIVE JUROR 426: You got it.

21 THE COURT: -- you must have been quiet. We just didn't
22 hear anything. Go ahead.

23 PROSPECTIVE JUROR 426: I think it was my brother-in-law
24 had kidney stones and then he ended up having the colostomy bags if
25 that's what you're referring to.

1 MR. JONES: And what is the colostomy bag to your
2 understanding?

3 PROSPECTIVE JUROR 426: It was just he couldn't urinate
4 naturally during that time so they had the bags somehow hooked up,
5 and I would empty it for him and bring it back to him.

6 MR. JONES: Okay. All right.

7 Who -- does anyone have any experience with sepsis? Let's
8 go -- did I think -- Renee, I think you were the only one. Yeah, let's go
9 ahead and pass it back. Anyone else that I missed?

10 PROSPECTIVE JUROR 382: Williams-DeLoach, 382.

11 MR. JONES: Yeah, go ahead. What is your experience?

12 PROSPECTIVE JUROR 382: Systemic infection that's
13 throughout the body. So they tried to -- actually, they had to do a few
14 things in order to get it down. They gave them an appropriate antibiotic
15 blood culture to see what antibiotic would work for whatever the
16 infection that they have.

17 MR. JONES: Okay. Is anyone familiar with critical illness
18 neuropathy?

19 UNIDENTIFIED PROSPECTIVE JUROR: I want to go to the
20 [indiscernible].

21 MR. JONES: Oh, okay.

22 PROSPECTIVE JUROR 382: Yeah. So it's basically they don't
23 feel, or they have numbness and tingling, and it depends on where. So it
24 could be the hands. It could be their feet. It could be their toes. It could
25 be all over actually, the neuropathy.

1 MR. JONES: Okay. And foot drop. This is the last one, guys.
2 You have experience with foot drop, Renee?

3 PROSPECTIVE JUROR 382: Yes.

4 MR. JONES: Can you share it for us?

5 PROSPECTIVE JUROR 382: It's basically when the foot no
6 longer sits the way that it's supposed to. So it's like down farther. I
7 don't know how to explain it. But it doesn't sit up like it should.

8 MR. JONES: Okay. All right. Has anyone here done this or
9 know someone who has asked for a second opinion for a medical
10 condition? Yeah. Let's go ahead and start up there in the corner with
11 Ken.

12 PROSPECTIVE JUROR 386: Ken Beck, 386. Yeah, my in-laws
13 both have neuropathy and have had second opinions on that because
14 they've had some issues with doctors here, so they travelled down to the
15 Mayo Clinic in Phoenix and get second opinions.

16 MR. JONES: Okay. All right. And you said that they had
17 issues with doctors here so that's why they did it. What issues?

18 PROSPECTIVE JUROR 386: With the neuropathy, they
19 couldn't -- they just weren't getting any success getting treatment or
20 figuring out what was causing it. So they went to and had a second
21 opinion somewhere else.

22 MR. JONES: Okay. Let's go ahead and let's pass it down. I
23 think -- okay, right here. It's coming down to the front and we'll bounce -
24 - right back up.

25 PROSPECTIVE JUROR 426: Cindy Peacock, 426. My folks are

1 88. So at this stage in life, we're having a lot of second opinions, but I'm
2 happy to do that.

3 MR. JONES: Oh, okay. All right. Excellent. Thank you.

4 PROSPECTIVE JUROR 388: Inscore, 388. My ex-girlfriend's
5 mom has EDS and fibromyalgia. And every single doctor she's been to
6 both in Lake Havasu, Arizona and here she's had problems with doctors
7 asking if she actually has it, who diagnosed her, if she self-diagnosed it.
8 And every single time she said each and every rheumatologist I went to
9 has diagnosed me with it. But for some reason, none of the doctors she
10 goes to actually believe it because EDS and fibromyalgia are problems
11 that aren't visible.

12 MR. JONES: Thank you. Thank you.

13 Does anyone have a -- any general impression about the
14 quality of medical care in Las Vegas? Such as good, bad, okay. Let's
15 start up there with Kyle and then we'll bring it back down.

16 PROSPECTIVE JUROR 361: Kyle Root, 361. I think generally
17 it's probably somewhere in the middle. Personally, I've never had a bad
18 experience here so -- but if they're going to need a major procedure. I
19 don't know. Going to the second opinion thing, I would probably look
20 around.

21 MR. JONES: Okay. Thank you. Let's pass it forward to
22 Cindy.

23 PROSPECTIVE JUROR 426: Cindy Peacock, 426. Again, care
24 of my parents who are 88, they love to tell stories and like to have people
25 listen to them. I found the doctors here to be very, very patient and

1 listening to things completely unrelated to their medical issues. So I
2 would say favorable.

3 MR. JONES: Good. Excellent. Thank you. Anyone -- let's go
4 ahead and go to Ashely and then we'll move it down to Renee.

5 PROSPECTIVE JUROR 444: Ashley Fossile, 444. I tend to get
6 a mix. I haven't found, like, an OB that I truly liked so I'm actually -- it
7 will be my third home birth. Just because of experience, I would
8 have -- like my first would have very likely been a cesarean with just how
9 it is with that. And then every time we find a pediatrician we like; they
10 end up getting moved and it just -- it sucks trying to find pediatricians
11 that we like.

12 MR. JONES: Okay. All right. Thank you. Appreciate you
13 sharing.

14 Renee.

15 PROSPECTIVE JUROR 382: Williams-DeLoach, 382. Coming
16 from Chicago a bigger inner city, I notice that Nevada is a little behind as
17 far as the medical services that they offer patients here.

18 MR. JONES: Okay. Okay. All right. Thank you. I appreciate
19 that.

20 Anyone else? Yes. Back -- oh, let's pass it all the way across
21 here and then we'll bring it back up to Roger.

22 PROSPECTIVE JUROR 357: Diaz, 357. Yeah, 357. My wife
23 had Lasik done. She kind of regrets it because they over corrected her
24 one -- one of her eyes like a couple times now. And it was like actually a
25 gift from her parents. So I mean it was a welcome gift. But with the over

1 correction, she's been going to the same doctor over and over again and
2 there's nothing he can do with it.

3 Overall experience with most other medical issues that we've
4 had have been okay. I know I've had a couple procedures here, and I
5 haven't had any issues so far.

6 But other than that, that's the only thing that, you know, she
7 has an issue with just because she has to focus more on one eye than
8 the other one. But the other eye is perfect, and they did over correct the
9 other one too many times so --

10 MR. JONES: Okay. Thank you. Appreciate it, Chris.

11 PROSPECTIVE JUROR 388: Inscore, 388. Coming from Utah,
12 I've noticed that in my personal opinion, it's pretty much the same. Not
13 too good, not too bad. I have noticed that in Utah they're more attentive.
14 They pay more attention to the problems. That's pretty much what I can
15 think of.

16 MR. JONES: Thank you. Just go ahead and pass it up.

17 PROSPECTIVE JUROR 441: Johnson, 441. I dealt with
18 my -- overall, it seems to be good, okay. I guess we don't have any
19 really any complaints outside of my wife shattered her elbow at a work
20 event and went to UMC and had plates put in. And they didn't have
21 much -- didn't do -- did a little bit of I guess discussion with what the
22 problem is and issues and events. They weren't really personal or say --
23 give her any -- give her much of a hope. And then so she went to
24 another primary that dealt strictly with that type of an injury and so forth,
25 for elbow and it was every time I went in the room with the doctor he

1 was going she's doing fine, you're doing okay. You know, start
2 stretching it out a little bit more and different things. And then so the
3 last time we went to see that physician for coverage and so forth, then
4 that physician came down and -- came back just in tears. And she says
5 the doctor -- you weren't there, and the doctor said you're going to lose
6 your arm, you're going -- not going to be able to use it anymore, this,
7 this and that and just really made her feel awful. And it just took weeks
8 to get her out of that slump.

9 MR. JONES: Oh, my gosh.

10 PROSPECTIVE JUROR 441: Didn't go to work the rest -- took
11 the rest of the week off from work. And just all the issues in that respect.
12 So I think it's the bed manner, more or less, trying to communicate and
13 then just give her -- everything is doing fine with that arm, that shoulder,
14 still has some strength issues. But it's just that the physician gave no
15 positive response for that.

16 MR. JONES: No hope.

17 PROSPECTIVE JUROR 441: No hope.

18 MR. JONES: Yeah, that's rough. Like you said, bedside
19 manner from one physician to another --

20 PROSPECTIVE JUROR 441: Yeah.

21 MR. JONES: -- to another might be different. Okay.

22 Anyone else of did that cover everyone who raised their
23 hand on that. All right.

24 Has anyone here or have you had someone that you know
25 been admitted to St. Rose Hospital, St. Rose Dominican? The two up

1 front right here and that's it, right? We'll stay with you, Roger.

2 PROSPECTIVE JUROR 441: Okay. One of our neighbor --
3 Johnson, 441. What we did is that -- the -- one of our neighbors, played
4 cards with all the time, and that -- and there again, they were in their 70s
5 and that and we'd playing cards all the time. And the wife went in
6 because she's down to one lung, and she started getting -- the other lung
7 getting issues with. And they recuperated it and brought her back to
8 health and then she went home. But then the husband went in because
9 his blood pressure was way off the [indiscernible]. And he -- they always
10 complained that they couldn't get any answers. The doctors weren't
11 doing well. But then after a while he went home and then he passed.
12 And then she just passed recently last week. Because of lung cancer in
13 her last lung. And so it's just issues of that nature. They just didn't feel
14 they were getting good responses.

15 I went in there for -- I had bell's palsy. One side of my face
16 just dropped like a rock, and it was just way to like -- almost like a 60-
17 degree angle. And they were really well at the emergency room. They
18 were really good. They couldn't figure out what was going on. By the
19 morning came, the muscles drew back up and they said you're one out
20 of 100. They said it worked out really well in that respect.

21 So anyway, I personally have no problems, but Russ and
22 friends of ours had real issues.

23 MR. JONES: Okay. Okay. Thank you.

24 PROSPECTIVE JUROR 426: Cindy Peacock, 426. Again with
25 my parents being 88, been here for eight years now so we've had a

1 number of ER trips there for heart issues and falling issues and those
2 sorts of things. And my 21-year-old developed teenage-onset epilepsy.
3 So the first couple seizures we went there just not knowing what was
4 happening. And then with the service, they were way overcrowded in
5 the ER room but said we were fine.

6 MR. JONES: Okay. Thank you.

7 Has anyone here or a close family member ever had a
8 circumstance where they considered filing a medical malpractice
9 lawsuit? Let's go ahead -- let's start way up top.

10 PROSPECTIVE JUROR 357: Diaz, 357. My wife's aunt. I think
11 actually my people want to do one right now come to think about it.
12 She's had a lot -- she has a lot of issues, though. And just from the
13 opinion from my own wife and her own sister, my mother-in-law, some
14 of them are legit, some of them they don't think is that much. But I know
15 she is going through one right now, so I know -- and she's done it in the
16 past, too. So I don't hear about it all the time because we don't talk to
17 her all the time. But we hear about what's going on every so often,
18 though. And, you know, we try to be, you know, as family, you know, we
19 try to stay on family's side. But sometimes, you know, we listen to the
20 opinion and we think, you know, it's just kind of trumped up sometimes.
21 You know, it's just a little bit of an over dramatic sometimes.

22 MR. JONES: Yeah.

23 PROSPECTIVE JUROR 357: She is -- she can be, but -- and I
24 believe she is right now, but she can be, though, sometimes. So other
25 than that, that's the only shot -- only experience I'm having right now is

1 through my wife's aunt right now.

2 MR. JONES: Okay. All right. Thank you. Go ahead.

3 PROSPECTIVE JUROR 361: Kyle Root, 361. So we
4 considered it for a minute. My grandpa passed because they left him
5 food to eat at a hospital. He ended up choking on it and passing away
6 that night. He kind of went in there for a fall, and then ended up dying
7 that night. So we kind of looked at it and but, you know, we were kind of
8 like how could you let that happen. But we kind of chalked it up as
9 probably just a freak accident. So we never went through with anything,
10 but it crossed our mind.

11 MR. JONES: Okay. All right. Thank you.

12 PROSPECTIVE JUROR 388: Inscore, 388. My mom actually.
13 A few years ago -- not a few years ago. When I was a kid, basically,
14 about 10 or 11, she has a hole in her heart which sent bubbles up to her
15 brain, gave her massive migraines. And she went in. And the doctor
16 that -- the surgeon that worked on her heart was using outdated tools
17 and messed up the surgery. So there's a good chance. I don't think
18 she's actually gone through with it yet, but there's a good chance that
19 there is a winnable suit there.

20 MR. JONES: Sorry, and who was next? Who -- okay. Thank
21 you.

22 PROSPECTIVE JUROR 419: La Kisha Hilley, 419. I was
23 considering filing a suit against the surgeon that did my gastric sleeve.
24 But at the time, my mom was actually in the middle of a suit. She was
25 actually suing the surgeon and her job because the -- her job -- she was

1 having to have surgery because of work-related issues. So workers'
2 comp said they'd pay for it, but they wanted her to go to their doctor and
3 all this other stuff. And she didn't want to, and she was adamant about it
4 at first. But then was, like, in so much pain she had to have shoulder
5 surgery. So she went and that doctor messed up the surgery. And then
6 six months later, they let her go to her own doctor and finally got that
7 taken care of. So then she filed suit against the first doctor. And I just
8 saw everything that she was going through. This -- she was fighting this
9 case for like over two years, you know what I mean, because it was
10 workers' comp for her job and the doctor as well. So I just didn't want to
11 go through it, you know what I mean? It's like I figure I lost the weight
12 that I lost from the surgery, and I'll just leave it at that.

13 MR. JONES: Okay. Thank you. Appreciate that.

14 Your Honor, could we have a quick sidebar?

15 THE COURT: Sure. You want to approach?

16 MR. JONES: Yes.

17 THE COURT: Is that right?

18 MR. JONES: Yes.

19 THE COURT: Of course. Just turn off your microphone. And
20 feel free to approach, Madam Court Reporter, while I turn on some lovely
21 white noise.

22 [Sidebar at 4:38 p.m., ending at 4:38 p.m., not transcribed]

23 THE COURT: Appreciate it. Thank you so much. Okay,
24 Counsel, feel free to proceed.

25 MR. JONES: Do you all expect doctors to practice medicine

1 as they've been trained?

2 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

3 MR. JONES: Yeah? And is it reasonable to expect that your
4 doctors have been appropriately trained?

5 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

6 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

7 MR. JONES: To do things within the standard of care?

8 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

9 MR. JONES: Has anyone here gone to a doctor with
10 symptoms that they didn't fully understand and felt like the doctor
11 diagnosed was -- diagnosed them incorrectly? No?

12 Does anyone feel that it's important for a general
13 practitioner, a general doctor, to involve a specialist before making
14 specialized diagnoses? Let's start over here. Who --

15 MR. JONES: She -- I want to know what you have to say
16 about it --

17 UNIDENTIFIED PROSPECTIVE JUROR: Yeah.

18 MR. JONES: -- because you're not talking. You go ahead, La
19 Kisha, please.

20 PROSPECTIVE JUROR 419: La Kisha Hilley, 419. I definitely
21 believe that anybody who has a general knowledge of something that is
22 possibly has either diagnosed or been asked to do something that is a
23 specialty should get a specialist involved because that's the whole point
24 of a specialist. You know, that's their job, that's something that they
25 specialize in whether it's a heart surgeon or someone that specializes in

1 cancer or treatment and things like that. I mean, like, I wouldn't want
2 my, you know, general doctor to try to do open heart surgery on me if
3 that's not her specialty. You know what I mean?

4 MR. JONES: Absolutely.

5 PROSPECTIVE JUROR 419: And definitely would want her to
6 consult a specialist to make sure that her diagnosis is correct as well.

7 MR. JONES: Okay. And would -- who had their hands
8 raised? I apologize. I didn't catch it -- catch it all. Who had their hands
9 raised again?

10 UNIDENTIFIED PROSPECTIVE JUROR: Oh, my hand is down.

11 MR. JONES: Well, let's go ahead and pass it down all the
12 way here.

13 PROSPECTIVE JUROR 388: Inscore, 388. I actually when I
14 moved down here in December, I decided that I wanted to see a doctor
15 because of the migraines that I've been getting. And with my mom's
16 hole in her heart, I had assumed that I might have the same problem
17 because it is a congenital affect. So I went to my doctor, asked him if
18 something might be wrong. Then at that -- that day, he sent me -- he
19 didn't send me to, but he referred me to a cardiologist to see if it is,
20 indeed, a hole. And he referred me to a neurologist to see as a backup if
21 it's a brain problem instead of a heart problem. Thankfully,
22 all -- everything came negative. But I did have a couple EKGs from both
23 my doctor and my cardiologist. But yes, I do believe that your general
24 doctor absolutely needs to get an opinion from a specialist before
25 actually making a full diagnosis.

1 MR. JONES: Thank you. I appreciate it.

2 I believe you had your hand up, correct?

3 UNIDENTIFIED PROSPECTIVE JUROR: Yeah, nothing
4 different.

5 MR. JONES: Okay. Nothing different? Okay.

6 Is there anybody else who wanted to comment on that that I
7 missed? I apologize. I didn't -- there were a number of hands up, but I
8 didn't catch them all. Okay.

9 Why is it important for the general practitioner to make sure
10 that they have a specialist making the specialized determination or the
11 diagnosis? Let's to with Renee.

12 PROSPECTIVE JUROR 382: Williams-DeLoach, 283. And it
13 would be appropriate if you find out one of your patients had cancer that
14 someone that deals with cancer works -- I mean do the work up, see
15 what medication is appropriate for that particular cancer. So yeah, it's
16 appropriate for them to get someone that works in that area, that field, or
17 a heart specialist.

18 MR. JONES: Excellent. Thank you. And the same for any
19 other field, right? If it's a specialized diagnosis, they should have a
20 specialist do it?

21 PROSPECTIVE JUROR 382: Yeah. Yeah. Endocrinology,
22 urology. Yeah, all of them.

23 MR. JONES: Okay. Awesome. Thank you.

24 Your Honor, I'm kind of at a stopping point.

25 THE COURT: Okay.

1 MR. JONES: If it's --

2 THE COURT: Okay. So ladies and gentlemen, Plaintiffs said
3 this is a good stopping point. We'll continue as we said with the voir
4 dire process tomorrow. The question really became what time to start
5 tomorrow. And looking at the morning motion calendar, you can
6 appreciate I got about, well, 7, 800 other cases on my calendar which, of
7 course, you are the most important case, right, because you're ongoing
8 right now. But trying to balance those cases and realistically decide if
9 we're going to start at either 11:00 tomorrow or 1:00 tomorrow. If we
10 started at 11ish, really by the time we go you all in here and seated
11 down, right, and then asked some questions, it would almost be time
12 really for our lunch break.

13 So we're going to start at 1:00 instead of at 11:00 tomorrow
14 because realistically we'd be sending you out to lunch about 40 minutes
15 later anyway. And so that way you can do what you need to get done.
16 And we're going to start -- we're actually going to ask you to get here at
17 -- I said 1:00, but we're really going to start at 12:45. Okay? So we're
18 going to ask you to get here at 12:45 so we can get you all in and actually
19 get started a few minutes before 1. Okay? So I'm going ask you,
20 Marshal, just to make sure everyone is here. 12:45 be lined up, you
21 know, down the hall.

22 Marshal, are you going to have them down by the D
23 courtroom? Are you going to ask them to meet down by the --

24 THE MARSHAL: Yes. Please, Your Honor.

25 THE COURT: Yeah, so D courtroom is that far -- it goes A, B,

1 C, D. Okay? Surely, you see, right? Alphabetically. So we ask you to be
2 down by the D courtroom because realistically we'll have counsel and
3 their clients coming in this door, so we want to make sure that you're not
4 wandering about. Once again, we just want to make sure fair and
5 impartial, right? Not running around near the counsel and their clients.
6 So we're --

7 UNIDENTIFIED SPEAKER: [Indiscernible].

8 THE COURT: Give me two seconds. I'm going to walk
9 through a couple of the different answers. And then we'll see if I've
10 taken care of everything. And then I'm going to probably tell you that
11 the Marshal is going to have to answer any other procedural questions
12 for you.

13 You don't need to stop by jury services in the morning
14 tomorrow at all. Just you can come straight up here to the twelfth floor.
15 Go down there, and we're going to start at 12:45. And we'll take an
16 afternoon break. So you'll please do have lunch before you come here.
17 Okay? And if anyone needs accommodations for any medical things,
18 you need to bring your own water or a little snack, feel free to do so.
19 Okay? Please don't bring out your whole steak dinner, right, unless you
20 need it medically. Okay? So we can get that taken care of for you.

21 The Marshal is going to explain the parking after outside.
22 Okay? And how that gets dealt with, I'm sure. And we do, hopefully,
23 expect that we will have a jury picked by tomorrow afternoon. It's not a
24 guarantee, but we do hope that that will happen so that individuals will
25 know whether you are selected on this jury or not. Doing the best

1 opportunity. You can appreciate with this many people and we just
2 sometimes take a little bit longer than originally anticipated. So which
3 you'll come back, like I said, what will actually happen is you'll come
4 back to be seated in your same seats. Although we'll make sure with the
5 gallery we'll scoot you over a couple of seats because we got a couple
6 that are left so that we make sure we fill in all seats. But you'll basically
7 be in about the same seat, one -- given maybe one or two seats over.

8 And then we'll get started and Plaintiff will continue with his
9 voir dire question. Once he's finished, then Defense Counsel will have
10 an opportunity to ask their voir dire questioning. And then what will end
11 up happening is we'll determine who will be staying with us. Okay?

12 Now, for the -- I'm going to have the Marshal come up here
13 because we have one -- first I'm going to have counsel come up here for
14 one quick moment as well for one little procedural detail that we need to
15 turn on the white noise before we do one other thing. Thank you so
16 much. White noise please for just one quick second.

17 [Sidebar at 4:48 p.m., ending at 4:51 p.m., not transcribed]

18 THE COURT: Thank you. Sorry, Madam Court Reporter, I
19 should have said that out loud.

20 THE MONITOR: Yes.

21 THE COURT: Okay. So ladies and gentlemen, so the Marshal
22 will explain to you about the parking issue. You'll come back here, like I
23 said, 12:45. We'll get started then. The marshal is going to ask two
24 individuals just to stay a moment after you're out in the hallway. So he'll
25 mention it's badge 42 and 565. You'll just have to take a quick second

1 with the marshal right outside, so he'll take care of you two then we'll
2 explain the parking. Was that your question? Parking and timing?

3 UNIDENTIFIED SPEAKER: No. The time we're going to be
4 dismissed.

5 THE COURT: Be done tomorrow? Right before the 5:00
6 hour.

7 UNIDENTIFIED SPEAKER: Right before?

8 THE COURT: Yeah. About the same time as today, quarter
9 of to ten til. Okay? Estimate for the same time tomorrow. If, however,
10 we get done earlier, earlier. But we won't be after 5:00. If we're running
11 so that we can just finalize and pick a jury and it gets close to the 5:00,
12 what this Court does is we ask you all would you rather us spend
13 another five or ten minutes or come back for a third day. And we leave
14 that up to the prospective jurors. I generally get one viewpoint versus
15 the other point, but it really is up to you all, Okay? So --

16 UNIDENTIFIED PROSPECTIVE JUROR: I'll stay a few more
17 minutes.

18 THE COURT: -- but you understand so if we're getting really,
19 really close, that's what we ask you all. Okay? But if it looks like we're
20 going to be done and it would be right around the 5:00 hour. Okay?
21 Give or take about five or ten minutes either way. Okay? Because we try
22 and get down in that regard.

23 Okay, so with that, ladies and gentlemen, of course you need
24 the overnight recess -- and I fully appreciate for those of you who love to
25 go looking up things, it would be a violation of your oath as prospective

1 jurors if you do so. Okay? And it is so very, very, important. We're in no
2 way trying to infringe upon your searching things, but there's so many
3 different things that you can look up. Okay? So please exercise that
4 restraint because it is so very important to have fair and impartial.
5 Okay?

6 So, ladies and gentlemen, we're about to have overnight
7 recess. And we get to see you tomorrow at?

8 GROUP RESPONSE: 12:45.

9 THE COURT: Thank you. I'm -- wow, you are fantastic
10 prospective jurors. Okay, so during this overnight recess, you are
11 admonished not to talk or converse among yourselves or with anyone
12 else on any subject connected with the voir dire process and the trial.
13 You may not read, watch or listen to report or commentary on the trial or
14 the voir dire process with any -- or any person connected with the trial or
15 the voir dire process by any medium of information, including without
16 limitation, social media, texts, tweets, newspapers, television, the
17 internet and radio. Do I need to list every type of those or are you all
18 understanding it includes everything?

19 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

20 THE COURT: You understand it includes everything. Perfect.
21 Thank you so very much.

22 Do not visit the scene of the events mentioned during the
23 trial or the voir dire process. Do not undertake any research,
24 experimentation or investigation. Do not do any posting or
25 communications on any social networking sites or anywhere else. Do

1 not do any independent research including but not limited to, internet
2 searches. Do not form or express any opinion on any subject connected
3 with the trial or the voir dire process until the case is fully and finally
4 submitted to those of you that go back for jury deliberations.

5 With that, I wish you'd have a very nice and relaxing evening
6 to watch and enjoy anything other than anything related to this case. So
7 I'm telling you watch baseball, go bake and do whatever you like to do
8 just nothing related to this case. Have a wonderful evening. Be safe.
9 And we'll see you at 12:45.

10 [Prospective jurors out at 4:54 p.m.]

11 [Outside the presence of the prospective jurors]

12 THE COURT: You'll go out that -- if you all -- Marshal, do you
13 want me to -- you know what, to make it easier we can have -- do you all
14 know how to get out the hallway this way?

15 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

16 THE COURT: Quicker. I can get you out the hallway this
17 way. You 20 can go that way. We'll get you out quicker. That way
18 they're going to -- Marshal, I'm just having them go out in the hallway.

19 THE MARSHAL: That's fine, Your Honor.

20 THE COURT: Get you out quicker if you don't mind.

21 THE MARSHAL: That's fine.

22 THE COURT: Okay. Just watch your head at the TVs. See
23 the TV? Do not hit your head on the corner of the TV. Okay? That's an
24 expressed disclaimer. Watch yourselves. Okay? So you make a right
25 and you make another right, go down the hallway. Thank you so much.

1 Okay. They're all getting out that way. Okay. Everybody taken care of in
2 a second. Okay. One second until the door clicks. Okay. Okay.

3 So counsel, said 12:45 so a few minutes before. Now,
4 because we have a full motion calendar going on in the morning, if you'd
5 like to, Plaintiff's Counsel, feel free to use that area over there by yours if
6 you need to store any boxes or whatever. Just please don't leave any
7 trash or valuables.

8 Defense Counsel, if you'd like to, you can use this area over
9 here if you need to leave any boxes, et cetera, over there.

10 MR. DOYLE: Behind the chair here?

11 THE COURT: Yeah. Or if you want to actually where you
12 kind of have that box over there is fine as well. Right in front of the
13 marshal just as long as the marshal stands by them as well. Just -- so
14 that we can have a clear area for other people that need to come in for
15 our morning calendar. Okay? So if that meets your --

16 THE MONITOR: Off the record?

17 THE COURT: No, I can use one more second. Let me make
18 sure. Is there anything else you all need before my court reporter has
19 got to go off the record and we'll see you tomorrow? So anything?

20 MR. DOYLE: No.

21 THE COURT: No, no, no.

22 MR. JONES: Not on behalf of the Plaintiffs.

23 THE COURT: And no. Then have a wonderful evening, and
24 we'll see you tomorrow. Thank you.

25 /////

1 MR. DOYLE: Thank you, Your Honor.

2 THE COURT: Madam Court Reporter, feel free to go off the
3 record. Thank you.

4 [Proceedings adjourned at 4:55 p.m.]

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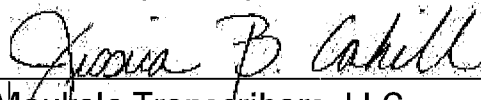
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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-visual recording of the proceeding in the above entitled case to the best of my ability.



Maukele Transcribers, LLC

Jessica B. Cahill, Transcriber, CER/CET-708



1 RTRAN

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 TITINA FARRIS, ET AL.,
9 Plaintiffs,

10 vs.

11 BARRY RIVES, M.D.,
12 Defendants.

)
) CASE#: A-16-739464-C
)
) DEPT. XXXI
)
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)
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)
)

13 BEFORE THE HONORABLE JOANNA S. KISHNER
14 DISTRICT COURT JUDGE
TUESDAY, OCTOBER 15, 2019

15 **RECORDER'S TRANSCRIPT OF JURY TRIAL - DAY 2**

16 APPEARANCES:

17 For the Plaintiffs:

KIMBALL JONES, ESQ.
JACOB G. LEAVITT, ESQ.
GEORGE F. HAND, ESQ.

19 For the Defendants:

THOMAS J. DOYLE, ESQ.

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22
23
24
25 RECORDED BY: SANDRA HARRELL, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, October 15, 2019

2
3 [Case called at 12:49 p.m.]

4 [Outside the presence of the prospective jurors]

5 THE COURT: Okay. We're on the record in case number
6 739464; Titina Farris versus Barry Rives.

7 So, Counsel, first question is, do you all want to make daily
8 appearances on who's here or do you want -- or do you want the Court
9 to say, "Same counsel"? I mean, I know sometimes you might have
10 different counsel here. And like right now, neither of you have your
11 clients here, so I'm not sure if you want that indicated or not. Or what do
12 you all want to do as far as appearances?

13 MR. JONES: I don't -- I don't have any preference,
14 Your Honor. I'm very comfortable not having appearances on the
15 record.

16 MR. DOYLE: And that's fine with me.

17 THE COURT: So you just want me to call the case and say,
18 same Counsel?

19 MR. JONES: Sure. Perfect, Your Honor.

20 MR. DOYLE: The -- Dr. Rives texts he -- texted me. He's
21 running a little bit behind. And I think the Court indicated yesterday, but
22 I don't recall the Court just expressing --

23 THE COURT: 12:45, telling the jury they need to be here. We
24 were starting right at 12:45, is what the Court said. Yes.

25 MR. DOYLE: No. The Court said that you were going to say

1 something to the jurors, that sometimes the parties, you know --

2 THE COURT: Sure.

3 MR. DOYLE: -- might not be able to get here right at start
4 time or might not be here, but not to, you know, think anything about
5 that.

6 THE COURT: Sure. I generally do that with the seated jurors,
7 not the prospective jurors.

8 MR. DOYLE: Okay.

9 THE COURT: But if you want me to do it with the prospective
10 jurors, I'll be glad to do so.

11 MR. DOYLE: No. It's not necessary.

12 THE COURT: I can easily do it. I'm perfectly fine if you don't
13 want me to do it. So does that work? Do you want it?

14 MR. DOYLE: Sure.

15 MR. JONES: To announce --

16 THE COURT: Just that if we're starting the -- you know, don't
17 take notes, but sometimes they may see counsel walking in and out, or
18 they may see the various individuals who are sitting at the various tables
19 walking in and out or coming in a little bit late --

20 MR. JONES: Sure.

21 THE COURT: -- and just take no notice of that.

22 MR. JONES: I -- yeah. We -- if they'd like it, that's fine.

23 THE COURT: Would you like something like that?

24 MR. DOYLE: Yes.

25 THE COURT: Okay. So then the second question is, since

1 there now will be seats available in the last row, what is Plaintiff's
2 counsel's position on what you would like the Court to do?

3 MR. JONES: Your Honor, just anyone who wants -- so I will
4 say I have actually a potentially selfish motive. My father's from out of
5 town, and he may end up showing up at some point today just to
6 observe, if that wouldn't be a problem. And he'll be quiet and sit in the
7 back. But --

8 THE COURT: Oh, no. Okay. Sorry. My question was
9 focused a little bit differently. If you recall yesterday, you all raised an
10 objection with regards to Mr. Eisenberg sitting at the second table or
11 anybody sitting at the second table. So the Court's ruling was that
12 people fairly and accurately introduced to the jury could sit at counsel --
13 these tables, right, from either side.

14 So in that regard, I understood Mr. Eisenberg decided he was
15 sitting in the last row, which he could decide, if he wishes to sit in the
16 last row. Whoever wanted to sit in the last row was welcome to sit in the
17 last row to observe. One -- whoever wanted to sit at the two tables was
18 welcome to sit at the two tables and could be introduced. It was really
19 up to you all how you wished to do that.

20 Then what ended up happening is because of the number of
21 jurors, and for some reason we were a seat or two short, you all
22 stipulated that it was agreeable that the three individuals who were,
23 quote, "observing the trial," who normally would have sat in that last
24 row, could then sit at the second table on what is normally referred to as
25 the defendant's side, and we just call them, the three overflow people

1 could go sit at that second table, was how it was agreed it would be said,
2 and they could sit there.

3 Today that same issue is not going to present because
4 certain jurors have been excused. There will now be some seats
5 available in the back row.

6 So my question is, does Plaintiff still have that same
7 objection or are you okay with individuals sitting at that second table, or
8 not, or what's your position? So let me hear your position, and then
9 we'll take care of it.

10 MR. JONES: Thank you, Your Honor. Sorry for --

11 MR. EISENBERG: Your Honor, maybe I can --

12 THE COURT: Let me let Plaintiff finish with their position
13 first, and then I'll let you talk. Okay?

14 Did you hear Plaintiff -- I asked Plaintiff --

15 MR. EISENBERG: I was going to say --

16 THE COURT: -- a question. Let --

17 MR. EISENBERG: -- I can cut this all short. And --

18 THE COURT: Let me ask -- I -- but, counsel, I was right in the
19 middle of asking Plaintiff a question. So you're interrupting," right --

20 MR. EISENBERG: All right.

21 THE COURT: -- in fairness?

22 MR. JONES: Your Honor, we're happy to go with the status
23 quo from yesterday. We are not making an objection. We think that's
24 fine.

25 THE COURT: Okay.

1 MR. EISENBERG: And, Your Honor, I -- Robert Eisenberg for
2 the record. And I don't think there's any reason for the jury to know who
3 I am and what I'm doing here. So if that's what's going to happen if I'm
4 sitting here, then I would prefer to sit in the back.

5 THE COURT: I'm not -- I'm asking what Plaintiff was
6 requesting. So that's really where I was going first, is --

7 MR. DOYLE: We're just continuing from yesterday. There
8 won't be anything --

9 THE COURT: Well, that's --

10 MR. DOYLE: -- said today about the people sitting here.

11 THE COURT: That's why I'm asking --

12 MR. EISENBERG: Well --

13 THE COURT: -- the clarification point. That's why, Counsel,
14 you came in in the middle of what I was asking, and I don't think you
15 understood what I was asking. That's why I was having --

16 MR. EISENBERG: Okay.

17 THE COURT: -- counsel say what their position was first to
18 see if there was an issue. If there wasn't an issue, then we didn't have to
19 address it.

20 MR. EISENBERG: Okay.

21 THE COURT: So --

22 MR. JONES: We don't feel the need for any additional
23 introductions.

24 THE COURT: Okay. So if people wish to either sit at that
25 second table or sit in the last row, are you fine with either of that?

1 MR. JONES: Certainly.

2 THE COURT: Okay. So I didn't think --

3 MR. EISENBERG: Okay.

4 THE COURT: -- there was an issue for today. That's what we
5 were going for.

6 Okay. And then the additional individuals who just came in
7 the last row, you're more than welcome. We just need to get --

8 We may have to have some jurors go across them over to
9 the end. And they understand that they can't talk to any of the
10 prospective jurors, correct?

11 MR. JONES: Absolutely.

12 THE COURT: Perfectly fine. People are more than welcome
13 to be in here.

14 Okay. Does that work for everybody?

15 MR. DOYLE: Yes.

16 MR. JONES: Yes, Your Honor.

17 THE COURT: Everybody's happy?

18 MR. JONES: Yes.

19 THE COURT: Okay. So, Marshal, how are we doing with our
20 jurors?

21 THE MARSHAL: We are missing -- we're missing six. One in
22 the box.

23 THE COURT: Okay. Well, let's walk through who we're
24 missing. Okay. Who in the box are we missing?

25 THE MARSHAL: Andei, Tesfaye Andei, Juror No. 20.

1 THE COURT: Okay.

2 THE MARSHAL: Or seat number 20.

3 THE COURT: Okay. And who else are we missing, please?

4 THE MARSHAL: Elizabeth Holt Maddox.

5 THE COURT: Badge -- last two digits of the badge number,
6 please?

7 THE MARSHAL: 463.

8 THE COURT: 463? Anybody else?

9 THE MARSHAL: Monae Balitine, 470.

10 THE COURT: Okay. And who else, please?

11 THE MARSHAL: Michael Stanley, 494.

12 THE COURT: Uh-huh. And --

13 THE MARSHAL: You just want the badge -- the juror
14 number?

15 THE COURT: Last name and last two digits of the badge
16 number.

17 THE MARSHAL: Okay. Donathan, 520.

18 THE COURT: 520. Okay. Thank you.

19 THE MARSHAL: And Perez, 583.

20 THE COURT: Okay. And Perez, 583.

21 Okay. Madam Clerk, can you please check with Jury Services
22 just to see if inadvertently some of them may have gone down to Jury
23 Services? Maybe our jurors are potentially down there by chance.

24 THE CLERK: Yes, Your Honor.

25 THE COURT: I would appreciate it. Thank you so very much.

1 Okay. So, Counsel, I'm going to have to ask you the question
2 while our wonderful clerk is going to check with Jury Services to see if
3 people inadvertently went down. Do you have those names -- all the
4 names of the people? You had a chance to circle the names, right --

5 MR. JONES: Yes.

6 THE COURT: -- of the six missing jurors? Okay.

7 So there's a couple of different options, and whatever option
8 you all request. Okay. So one option is we wait until an unspecified
9 time -- you all get to pick that specified time, right -- that you wish to wait
10 to see who comes and who doesn't come, and we hold off making any
11 decision until that specified time. Another potential choice is that you
12 tell the Court now what you would like to do with regard to the various
13 individuals that are here or not here. Since you have one in the box,
14 obviously that is a direct decision. With the other ones, sometimes what
15 happens is people trail in a little bit during the case, and then they can be
16 put back in the gallery because the rest of your individuals are far
17 enough back that you got a little space until you get to them. Okay?

18 So that may be an option that you want to consider. One,
19 two, three, four, five, six -- your next one, you've got about seven more
20 people. It just depends on what you want to do with the person in the
21 box. But you've got about seven/six more people before you get to your
22 next person who didn't show up. So you can wait to see if they trail in.
23 That happens a lot. And if you have some third option that you'd like to
24 do, let the Court know.

25 So -- and the marshal's double-checking to see in any of the

1 people came in the intervening time. And our wonderful clerk is double-
2 checking with Jury Services because sometimes people inadvertently go
3 down to Jury Services, even though you heard the Court clearly tell
4 them that they just needed to come up here.

5 So thoughts from each side? Counsel for Defense?

6 MR. DOYLE: My suggestion is wait 15 minutes and see
7 where we are.

8 THE COURT: Does that work for Plaintiff?

9 MR. LEAVITT: The Plaintiff's fine with that, Your Honor.

10 THE COURT: Okay.

11 MR. LEAVITT: Is in agreement.

12 THE COURT: Then in that regard, it seems to me that we
13 may have a little bit of time. If there's something else that we can
14 address to get taken care of, right, so that we utilize that time in an
15 effective and efficient manner. So --

16 MR. DOYLE: I have something, Your Honor.

17 THE COURT: Okay. Let's just -- let me make sure we've got
18 it taken care of. I'm going to take care of -- first we've got -- remember
19 the Court said it had some jury issues --

20 MR. DOYLE: Oh.

21 THE COURT: -- that we needed to take care of first, please.
22 So we can do this in a nice organized manner.

23 If you recall yesterday, badge 482, which was Fajardo, Tiara
24 Fajardo, that was the individual who had the funeral today at 1 p.m. that
25 you all stipulated to excuse, but you had done that at bench. So I just

1 need your confirmation that you did stipulate that she be used.

2 MR. LEAVITT: Yes, Your Honor.

3 MR. DOYLE: Yes, Your Honor.

4 THE COURT: Okay. Similarly, badge 585, that was
5 Mr. Fuentes, that was the second to the last gentleman. That was the
6 gentleman who had mentioned that he worked nights and had the wife
7 who had the high-risk pregnancy. And you all stipulated at bench that he
8 could be excused.

9 And did he appear today or not?

10 THE MARSHAL: He did, and I excused him.

11 THE COURT: Okay. So he did --

12 THE MARSHAL: And we're only missing two, Judge.

13 THE COURT: Okay. Thank you. Hold on.

14 So he did appear despite Jury Services trying to reach out to
15 him, despite us -- the marshal trying to reach out to him last night. But
16 he did conscientiously appear today. And hopefully he -- the marshal, as
17 you all have directed before we went on the record, when he did appear,
18 told him that he could leave.

19 So I wanted to confirm badge 585, Fuentes, was stipulated to
20 excuse, correct?

21 MR. DOYLE: Yes.

22 MR. LEAVITT: Yes, Your Honor.

23 THE COURT: Okay. So now the Marshal has an update on
24 our missing jurors.

25 The update is we are now missing how many?

1 THE MARSHAL: Two.

2 THE COURT: Two. And which --

3 THE MARSHAL: And we are still missing the one in the
4 box --

5 THE COURT: Mr. --

6 THE MARSHAL: -- Andei, 443.

7 THE COURT: Okay. And who else are we missing?

8 THE MARSHAL: And Stanley, 494.

9 THE COURT: Okay. The rest have appeared?

10 THE MARSHAL: The rest have showed up.

11 THE COURT: Okay. Well, that's good news. At that rate,
12 we -- who knows, if we wait a few moments, we might get -- and we do
13 not -- and we've probably not yet heard from Jury Services because
14 they're going to be very busy checking people in. So they may take a
15 few moments.

16 And so do you all still wish to wait about -- until ten after to
17 revisit the idea?

18 MR. DOYLE: Yes.

19 MR. LEAVITT: Yes, Your Honor.

20 THE COURT: Okay. So then, in that regard, that takes care of
21 those two juror issues.

22 Is there anything else with voir dire that's outstanding that
23 the parties need to address? We're doing this in a nice little organized
24 manner. Because the Court doesn't show that we had anything else
25 from the juror issues. We just had that one stipulation to get taken care

1 of. So anything else from the voir dire from either side?

2 MR. DOYLE: I'm not aware of anything.

3 THE COURT: Okay. Because you only had --

4 MR. LEAVITT: No, Your Honor.

5 THE COURT: -- the one objection. We already took care of
6 that yesterday. And then we had the one stipulation. Okay. One
7 stipulation as to the two jurors.

8 MR. LEAVITT: Absolutely.

9 THE COURT: Okay. So now counsel for Defense, you have
10 an issue. Does that relate juror selection or not?

11 MR. DOYLE: It relates to a witness that the Plaintiffs
12 indicated they'll be calling tomorrow. So we don't have to do it right
13 now.

14 THE COURT: Okay.

15 MR. DOYLE: We can do it at some other time --

16 THE COURT: Well --

17 MR. DOYLE: -- when it is more convenient for the Court, if
18 the Court wishes.

19 THE COURT: Well, let's -- is the witness being called
20 tomorrow? Okay. Have you discussed it with Plaintiff's counsel? And
21 has Plaintiff's counsel and you all come to an agreement? Well, first off,
22 who's the witness? And let's --

23 And whoever's cell phone it is, I am sure they are turning
24 that off. You heard that lovely ringing of a cell phone. So please ensure
25 it's off. And I will tell you, likely, because of the way that that rang and

1 the way it rang through the system, that means it's likely near one of the
2 microphones. A subtle hint, please.

3 See, so our wonderful spectators are completely following
4 the rules. It's one of these people at the tables.

5 So name of the person?

6 MR. JONES: Mary Jayne --

7 MR. DOYLE: Langon, L-A-N-G-O-N [sic] --

8 MR. JONES: -- Langon.

9 THE COURT: L-A-N-G-O-N [sic]. Okay.

10 And so what is --

11 Marshal, can you just let me -- can you go double-check and
12 just let us know when we've got --

13 THE MARSHAL: Yes.

14 THE COURT: I appreciate it. Thanks. If you don't mind, just -
15 - and just let the other -- just one sec. Can you just let the other jurors
16 know?

17 THE CLERK: No response from Jury Services. They called
18 out --

19 THE COURT: Okay.

20 THE CLERK: -- to the two missing jurors. No response.

21 THE COURT: Sure.

22 Before you start, let's -- a kick heads up, Jury Services has
23 called out through their whole grouping of people that are down there.
24 No one has responded for our missing people. So they are not down in
25 Jury Services.

1 Marshal, just let us know when the two appear. Okay?

2 Appreciate it. Thanks so much.

3 Okay. So Mary Jayne Langdon [sic]. Okay.

4 So what -- have you all talked among yourselves about the
5 issue?

6 MR. DOYLE: Yes.

7 THE COURT: Okay. And you could not reach an agreement?

8 MR. DOYLE: Correct.

9 THE COURT: Okay.

10 MR. JONES: No, Your Honor.

11 THE COURT: So, first off, is this individual listed anywhere
12 as either subject to any motions or subject to any objections? And if so,
13 where, so the Court can have the opportunity to look to see what has
14 previously been stated about this individual, if there has been anything?

15 MR. DOYLE: So this witness was first disclosed in Plaintiff's
16 ninth supplemental disclosure, which was filed on September 11th, 2019.
17 We filed an objection to the ninth supplemental disclosure on
18 September 25th, 2019. And the -- this witness was listed at the same
19 time as Vickie Center.

20 THE COURT: Okay. So hold on a sec. Okay. So ninth
21 supplemental September 11th. And then objection September 25th. So
22 give me a sec to --

23 MR. DOYLE: Uh-huh.

24 THE COURT: -- get on to that. Because no one has courtesy
25 copies for the Court, right, of these documents? I have to look them up,

1 right?

2 MR. JONES: We didn't know --

3 THE COURT: I have to --

4 MR. JONES: -- it was coming in.

5 THE COURT: -- look them up on the system --

6 MR. JONES: I don't have one, Your Honor.

7 THE COURT: -- is that right?

8 MR. DOYLE: I don't have one, correct.

9 THE COURT: Okay. Well, sir, then please give me a moment
10 to find what you're referencing. Because obviously you can appreciate
11 this -- give me a moment. Okay. So 9/11 and -- one moment, please.
12 Okay. Okay. So --

13 You said 9/11, Counsel?

14 MR. DOYLE: I'm sorry, Your Honor?

15 THE COURT: You said 9/11, Counsel?

16 MR. DOYLE: Yes. Plaintiff's ninth supplemental.

17 THE COURT: Okay. I'm not seeing a document filed on
18 9/11/2019. That's what -- so I'm not sure if we've got a date correct or
19 incorrect. So --

20 MR. JONES: Your Honor, I think we would have just served
21 it. It would have been just --

22 THE COURT: That's -- because I don't see a file document.

23 MR. JONES: Right.

24 THE COURT: That's why I'm asking. Okay. I'm trying to find
25 it. So did you -- let's look to see if you filed an objection. Okay. There is

1 an objection. Okay. So first question, is this a --

2 [Court and Clerk confer]

3 THE COURT: Okay. So it's in Plaintiff's pretrial memoranda
4 as well.

5 MR. DOYLE: Yeah. But she was also --

6 THE COURT: And is there an objection in the pretrial
7 memoranda to her?

8 MR. DOYLE: Yes. We filed an objection to the -- well, we --
9 she was also in the pretrial disclosure, which was filed or served, I can't
10 tell, on September 13th. And we did do an objection to that as well.

11 THE COURT: Sorry. Sorry. My question -- I'm looking
12 through the pretrial memoranda to see if there was an objection to any
13 of Plaintiff's witnesses in the pretrial memoranda. That's what I was
14 looking for. I do not --

15 Oh, you all -- but you all did separate pretrial memoranda.
16 And then we had the issue of it not being timely done. Okay.

17 Okay. So what's the issue with Ms. Langan? Okay. So she's
18 been objected to. The Court will have you all discuss about timeliness in
19 a second. So let's hear what the issue is with regards to Ms. Langan.

20 MR. DOYLE: So Ms. Langan -- oh, I don't know if she still is,
21 but at the time was a respiratory therapist who took care of -- or was
22 involved in Mrs. Farris' care. And it's my understanding that she was not
23 disclosed until she was disclosed on September 11th, which was almost
24 two months after the close of discoveries, because Plaintiffs did not
25 know about her because she did not have any notes in the St. Rose

1 records alerting them to her and her involvement.

2 I did find, when I looked at the hospital records, that Plaintiff
3 produced with their first supplemental 16.1 disclosure --

4 THE COURT: On what date?

5 MR. DOYLE: -- their --

6 Pardon me?

7 THE COURT: On what date?

8 MR. DOYLE: I don't have the date that they filed their first
9 supplemental 16.1, but it would have been a couple of years ago.

10 THE COURT: Okay.

11 MR. DOYLE: I found, when I looked at those records, that she
12 has notes in the chart on July 29th, August 3rd, August 4th, August 9th,
13 August 10th, and August 11th. It's my position that if Plaintiff had timely
14 disclosed a hospital employee who was involved in her care and
15 treatment, that we would have taken that --

16 THE COURT: Uh-huh.

17 MR. DOYLE: -- individual's deposition to find out what she
18 had to say, good, bad, or indifferent --

19 THE COURT: Okay.

20 MR. DOYLE: -- about either Ms. Farris, the care, or Dr. Rives.

21 And if I recall from Mrs. Farris' deposition, she mentioned a
22 person whose name sounded like Mary Langan or Mary or something.
23 And referenced this person's comment about Dr. Rives and having dirty
24 hands or something like that, or not washing his hands.

25 But in any event, she, as a hospital -- well, she was not timely

1 disclosed as a hospital employee. If she had been, we would have taken
2 her deposition to find out why that one staff member out of dozens of
3 staff members who cared for Mrs. Farris was listed, we would have
4 found out what she knew or didn't know, and we would have prepared
5 for examining her at trial.

6 THE COURT: Okay. So, counsel for Plaintiff, first question is,
7 is the date -- do you agree with Defense counsel as to the date
8 sequence? And then hear your discussion, if you disagree and the
9 substance. I just want to know if you all agree on the date sequence.

10 MR. JONES: I think that's fair, Your Honor.

11 THE COURT: Okay. Sure. Okay. Your response, please.

12 MR. JONES: Yes, Your Honor. So the -- so Ms. -- we met
13 and conferred regarding Ms. Langan at the 2.67 conference. And at that
14 time, it was -- Defense counsel said, well, she's not even in the chart, or
15 something along those lines. I did a search for her at that time, and we
16 didn't find her.

17 THE COURT: Okay.

18 MR. JONES: I understand she was in the chart --

19 THE COURT: Okay. I'm going to stop you one quick second.
20 Counsel, he gave you the courtesy when you were --

21 MR. DOYLE: I --

22 THE COURT: -- speaking not to make comments and noises.
23 Please give him the same courtesy. Okay? Thank you so much. Go
24 ahead.

25 MR. JONES: Thank you. Your Honor, and I'm telling you

1 exactly as I recall it. My recollection is Mr. Doyle said, well, she's not in
2 the chart. I ran a search of the chart at that time just to -- just in the PDF,
3 and it didn't come up for me while we were there in that meeting. And
4 so I concurred with him that I didn't believe it was in the chart.

5 He -- as of -- I don't remember when -- today or yesterday
6 said that she was in the chart and identified her in the locations that he
7 listed. I haven't gone back and verified that, but I don't have any reason
8 to believe that he's incorrect.

9 Regardless, we didn't have any reason to think that she was
10 -- was specifically important or a witness that -- that had information that
11 was important. And I offered at that time, if Mr. Doyle felt that there was
12 an issue, that we would be happy to allow him to take her deposition, if
13 he wished. And he declined.

14 THE COURT: This is 2.67 -- I don't have all your dates --
15 September 11th on or about? Is that the date that you all did the 2.67
16 conference?

17 MR. JONES: That is correct.

18 THE COURT: You all would know. You were there. But --

19 MR. JONES: Absolutely.

20 THE COURT: -- was it? Okay. I'm just --

21 MR. JONES: Yes.

22 THE COURT: -- trying to get dates. Okay. Okay. But is
23 there --

24 MR. JONES: So --

25 THE COURT: -- any basis for the untimely disclosure? July

1 24th you agree was your discovery closure subject to your last eighth
2 stipulation to extend discovery, right?

3 MR. JONES: Correct.

4 THE COURT: That was the June 1, right? So --

5 MR. JONES: Your Honor, I can -- I can tell you that -- well, I --
6 I don't want to divulge too much in terms of attorney-client
7 communications --

8 THE COURT: Yeah. Right. The Court's --

9 MR. JONES: -- or anything --

10 THE COURT: -- the Court's -- the Court's done asking you
11 that.

12 MR. JONES: So --

13 THE COURT: What I'm trying -- as you know, what -- the
14 analysis the Court has to go into, right? They have -- without the Court
15 double checking all these specific dates and times, they have objected in
16 a variety of different forms -- the Court will have to double-check the
17 time on this issue, but they have objected both to your supplement,
18 they've objected in the pretrial memoranda --

19 MR. JONES: They did.

20 THE COURT: -- have explained that the information, at least
21 presumably, was available in the record back several years ago, right?
22 Subject to you all double-checking this, I'm -- I presume -- doesn't
23 somebody have a piece of paper? Can you just show it?

24 MR. DOYLE: I --

25 THE COURT: Okay. I was going to say, I would assume

1 there's a Bates stamped number of papers. If someone's quoting from
2 something, that they'd have it.

3 So with all of those factors, the Court has to do the analysis,
4 right? So --

5 MR. JONES: Yes.

6 THE COURT: -- a particular cause -- I mean, you know the
7 analysis the Court has to do. So --

8 MR. JONES: I do. So --

9 THE COURT: -- how do you meet it?

10 MR. JONES: So, Your Honor, this -- this I can say: When it
11 was --

12 THE COURT: Just a second. I'm going to be real quick.

13 Marshal, do you have -- we're still waiting?

14 THE MARSHAL: No. We're -- Mr. Andei showed up, 443. So
15 we're missing --

16 THE COURT: Number 20?

17 THE MARSHAL: -- Mr. Stanley --

18 THE COURT: Okay.

19 THE MARSHAL: -- yeah, 494.

20 THE COURT: Okay.

21 THE MARSHAL: That's the only one we're missing now.

22 THE COURT: Okay. So I'm going to let Defense [sic] counsel
23 finish, and then my thought is that before the Court goes any further
24 with this, you probably don't want to have the jury waiting outside,
25 because you need to get a jury picked today. Is that correct?

1 MR. DOYLE: Correct.

2 MR. JONES: Absolutely, Your Honor.

3 THE COURT: So I'm going to let Plaintiff finish his response,
4 and then we'll finish this at the end of the day, okay, if we have a jury
5 picked. If we don't, then I'm going to have on find another time. Okay?

6 MR. JONES: Your Honor, excellent.

7 THE COURT: Go ahead.

8 MR. JONES: So here -- this -- herein lies the issue, I just had
9 a chance to look at the records, and I agree that there's a Mary Langan
10 that is listed there. The information that I received, that I have, was that
11 there was a Mary Jayne. Other information about this person was not
12 specifically known. I -- sufficient to make a proper disclosure. I had to
13 go through the process of gathering information to get the proper
14 information for a disclosure. And when I did search for her, I searched
15 for her as Mary Jayne. I can tell you that because that is how I knew her
16 name.

17 And so I didn't see her within the records. The Plaintiff knew
18 of her, knew her by Mary Jayne. And so ultimately, at the time that we
19 have all of the information about who this person was, about their
20 contact information, for a disclosure, at that time we disclosed. And
21 when we had a meet and confer about it, we offered to make her
22 available for deposition so that the Defense would not be prejudiced.

23 THE COURT: When did you first reach out to her -- or
24 become aware of who she was?

25 MR. JONES: Maybe about month before the disclosure, and

1 then maybe about a week or a few days before the disclosure I actually
2 got her information sufficient to make a disclosure.

3 THE COURT: Okay. You can appreciate the Court's going to
4 have revisit this because, I mean -- well, I'm going to tell you what my
5 question is going to be, is she was employed by St. Rose, correct?

6 MR. JONES: She was, Your Honor. She was, Your Honor.
7 We understand that to be the case.

8 I can tell you when I first found out about her I wasn't sure if
9 she was an employee of St. Rose or of some separate entity that was
10 responsible for rehabilitative care or something like that.

11 THE COURT: Was there -- refresh the Court's recollection.
12 Was there a PMK of St. Rose deposed or anybody like that? Were any
13 subpoenas done --

14 MR. JONES: No.

15 THE COURT: -- to St. Rose?

16 MR. JONES: No, Your Honor.

17 THE COURT: Okay. There could have been, right?

18 MR. JONES: Certainly.

19 THE COURT: There could have been discovery of anybody
20 who had in any way worked with your client?

21 I appreciate when you came into the case. I'm talking
22 generally, right? There -- that wasn't an issue? I'm trying to make the
23 distinction between are you asserting that her name was hidden or just
24 not discovered? That's what I'm trying to make a determination.

25 MR. JONES: Not discovered, Your Honor.

1 THE COURT: Okay. That --

2 MR. JONES: Not hidden.

3 THE COURT: Okay. I appreciate it.

4 Okay. So did you each have an opportunity to explain your
5 positions? So we're just waiting for --

6 MR. DOYLE: Yes, Your Honor.

7 THE COURT: -- the Court's determination? It's not a motion
8 to the Court. Each side gets one shot at it --

9 MR. DOYLE: Okay.

10 THE COURT: -- right? Because --

11 MR. DOYLE: All right.

12 THE COURT: -- that's the way we do it when people are just
13 raising an issue, right? Because you had an opportunity if you wanted to
14 do a motion to strike at the time that you -- and chose not to do a motion
15 to strike. So the way we do it, when people are just raising an objection,
16 each side gets a position and a response, then the Court makes a ruling,
17 because that's the fair way to do it.

18 MR. DOYLE: I simply wanted to respond to a purported
19 conversation. But I'm fine.

20 THE COURT: The Court appreciates that people have
21 purported conversations all the time. Okay? If you want an answer, did
22 you -- do you believe that you were offered the opportunity to take his
23 deposition, and you chose not to do so?

24 MR. DOYLE: That is incorrect.

25 THE COURT: Okay. Okay. By the comments and noises, and

1 you made at the time he said it, the Court had an indication that that's
2 what your viewpoint was, but --

3 MR. DOYLE: I apologize --

4 THE COURT: Okay.

5 MR. DOYLE: -- for doing that.

6 THE COURT: No worries. But now you've confirmed it.

7 Okay. So at this juncture, do the parties agree that it would
8 make more sense to bring the jury in so you can finish your voir dire and
9 get the jury picked than this have the Court rule at this moment?

10 MR. JONES: Yes, Your Honor.

11 MR. DOYLE: Yes.

12 THE COURT: Okay. Marshal, let's bring our jury in. Thank
13 you so much. Let's rise for the jury. Thank you

14 [Pause]

15 THE MARSHAL: Ready, Judge?

16 THE COURT: Yes. Thank you so much.

17 THE MARSHAL: Then we are.

18 THE COURT: Pardon?

19 THE MARSHAL: I've got everybody.

20 THE COURT: I appreciate it. Thank you so much.

21 THE MARSHAL: All rise for the jury.

22 THE COURT: I appreciate it.

23 [Prospective jurors in at 1:21 p.m.]

24 [Within the presence of the Jury]

25 THE COURT: And yes, you have a water pitcher at that end

1 now, too. So you don't have to go reaching over. There's really no great
2 way to try and put it in front of you all. It means you can share with one
3 of the two, if people would nicely help you out. If we fill in every seat,
4 we should be doing good. Okay. We're changing up your view a little
5 bit there in the galleries, right? Okay.

6 Come on, folks, just stay until jury selection. Guy, it's a
7 beautiful day outside I hear. Okay? And I can't make any more ice
8 cream remarks, so I have to think of other things. It's mid-October, and
9 we're good to go.

10 Okay. Good to go?

11 THE MARSHAL: All jurors are accounted for.

12 THE COURT: Perfect.

13 THE MARSHAL: Please be seated.

14 THE COURT: I do appreciate it. Well, welcome back, Ladies
15 and Gentlemen. I hope everyone have a very nice, relaxing evening.
16 You know what I'm going to ask, right? Did everyone obey the Court's
17 admonition.

18 GROUP RESPONSE: Yes.

19 THE COURT: Thank you so very much. I like it. Nice
20 harmony. Anyway, I do like it. I appreciate it very much.

21 As you recall when you left yesterday, you were so excited
22 because you were still in the middle of voir dire, and Plaintiff was in the
23 middle of asking some questions.

24 So Plaintiffs' counsel, would you like to continue with your
25 voir dire?

1 MR. JONES: Yes, Your Honor.

2 THE COURT: You know, did we get you a pocket microphone
3 or we did not because we were so busy other matters --

4 MR. JONES: Yes.

5 THE COURT: -- while we were waiting for couple of jurors,
6 which we appreciate it?

7 So Madam Court Reporter will get you that pocket
8 microphone. And then the marshal's ready to give the microphone to
9 whichever jurors you think would like to answer your next question.

10 MR. JONES: Given my struggles yesterday, you'd think that
11 I'd have this mastered by now. Here we go. All right.

12 UNIDENTIFIED PROSPECTIVE JUROR: Don't try and think
13 about it.

14 MR. JONES: What's that?

15 UNIDENTIFIED PROSPECTIVE JUROR: Don't try and think
16 about it.

17 MR. JONES: You know, I should have -- oh, and I lost the
18 clip. There we go. Okay.

19 All right, guys, this is going to be fun. We're going to
20 continue on. And last night, I'll tell you, it felt like we were dragging. I
21 was -- I was feeling like I was dragging at the end there. So I appreciate
22 you bearing with me.

23 We're going to roll through at a relatively quick pace today.
24 First I want to talk about TV shows. Who watches TV? Everyone, come
25 on, let's have some hands raised. Everyone watch -- no, you don't

1 watch --

2 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

3 MR. JONES: -- TV?

4 PROSPECTIVE JUROR 417: No.

5 MR. JONES: Not at all?

6 PROSPECTIVE JUROR 417: Two jobs. No.

7 MR. JONES: Okay. Okay.

8 THE COURT: Oh, except for, remember, we've got to get a
9 microphone your way if you speak.

10 MR. JONES: Oh.

11 THE COURT: Yeah, we need to get you --

12 PROSPECTIVE JUROR 417: Oh, I sure remember.

13 THE COURT: I do appreciate it. Thank you so very much. If
14 you don't mind, last name and badge number.

15 PROSPECTIVE JUROR 417: Hightower. 417.

16 MR. JONES: And you just mentioned that you don't watch
17 TV shows, correct?

18 PROSPECTIVE JUROR 417: Two -- two jobs. No TV.

19 MR. JONES: Okay. Okay. Now, Belinda, have you ever --
20 have you -- have you ever watched TV shows? Back before when you
21 didn't have to work quite so hard, did you have any shows that you
22 liked?

23 PROSPECTIVE JUROR 417: Yes.

24 MR. JONES: What kind of shows did you enjoy from time to
25 time?

1 PROSPECTIVE JUROR 417: Comedy shows.

2 MR. JONES: Comedy?

3 PROSPECTIVE JUROR 417: Uh-huh.

4 MR. JONES: What show do you like in particular, or what did
5 you?

6 PROSPECTIVE JUROR 417: See, back in our days, it was like
7 Good Times, and stuff like that.

8 MR. JONES: Fantastic. Fantastic. Thank you.

9 Listen, what I want to do is I want to go down quickly, and
10 we're going to go through every person. I want you to identify a show
11 that you like to watch or if not a specific show, kind of the type of show
12 you like. Like, I like documentaries, crime dramas, whatever.

13 So go ahead, please. Pass it down.

14 PROSPECTIVE JUROR 418: Thomas. 418. I like stuff like
15 Criminal Minds and stuff like that.

16 MR. JONES: Okay.

17 PROSPECTIVE JUROR 418: Yeah.

18 MR. JONES: Absolutely. Is it still as good since the lead guy
19 got kicked off the show? I haven't seen it for --

20 PROSPECTIVE JUROR 418: Hotch?

21 MR. JONES: -- a while. What's that?

22 PROSPECTIVE JUROR 418: Are you talking about Hotch?

23 MR. JONES: Yes.

24 PROSPECTIVE JUROR 418: It's cool. It's --

25 MR. JONES: Okay. Still good. All right.

1 PROSPECTIVE JUROR 418: Yeah.

2 MR. JONES: All right. Thank you.

3 PROSPECTIVE JUROR 419: Hilley. 419. I watch -- pretty
4 much watch anything as long as it's interesting.

5 MR. JONES: Okay. Do you have any favorite? Any
6 preference?

7 PROSPECTIVE JUROR 419: Walking Dead.

8 MR. JONES: Okay.

9 PROSPECTIVE JUROR 419: Yeah.

10 MR. JONES: Does anyone else feel that way about the
11 Walking Dead? Yeah? A few people. Some people. No, not at all? All
12 right.

13 You are?

14 PROSPECTIVE JUROR 424: Baker. 424. I like dramas; I like
15 Game of Thrones, and Handmade Stamp [phonetic].

16 MR. JONES: Excellent. Thank you.

17 Francisco?

18 PROSPECTIVE JUROR 387: Francisco Hernandez. 387. I'm
19 more of a movie person. I just like to watch it from beginning and end.
20 Get it over with.

21 MR. JONES: Okay. What kind of movies? What -- do you
22 have a particular type, or do you like it all?

23 PROSPECTIVE JUROR 387: No. More of just like romance
24 and comedy.

25 MR. JONES: Okay.

1 PROSPECTIVE JUROR 387: Yeah.

2 MR. JONES: Fantastic. Good.

3 Ken?

4 PROSPECTIVE JUROR 386: Ken Beck. Badge 386. Anything
5 fact-based, like Modern Marvels, Engineering Disasters.

6 MR. JONES: Absolutely. Thank you.

7 Renee?

8 PROSPECTIVE JUROR 382: Renee Williams-DeLoach. 382.
9 Okay. So I like crime movies also. SVU, Criminal Minds. Shows like
10 that.

11 MR. JONES: Fantastic. Thank you.

12 PROSPECTIVE JUROR 370: Terry Harker. 370. I kind of stay
13 with the Discovery shows and the Motor Trend shows, and -- you know,
14 like -- you know, like over here, the house refurb design shows, reality
15 shows. That's kind of my thing.

16 MR. JONES: Okay. Awesome. Thank you, Terry. I
17 appreciate it.

18 PROSPECTIVE JUROR 370: Yeah.

19 MR. JONES: Ashley?

20 PROSPECTIVE JUROR 444: Ashley Fossile. 444. I like
21 workplace comedies. So like Parks and Rec.

22 MR. JONES: Okay. Yeah.

23 PROSPECTIVE JUROR 366: Barrios. 366. I like ESPN and the
24 History channel. I watch Ancient Aliens.

25 MR. JONES: Excellent. Beautiful. Thank you.

1 PROSPECTIVE JUROR 361: Kyle Root. 361. I'm forced to
2 watch -- forced to watch a lot of Reality with my wife. I have to. I watch
3 her show. But I like sports. Lately I've been kind of on the Netflix, crime
4 series, kind of -- Mindhunters. What's the other one I watch? Oh, The
5 Sinners are good. That's not Apple, it's USA, but yeah.

6 MR. JONES: So I need to stop right there for just a second,
7 Kyle. Now, are you just acting like you don't like Reality shows because
8 you don't want to be that guy that does, or are you --

9 PROSPECTIVE JUROR 361: You have to like it if you're going
10 to watch it. So --

11 MR. JONES: There you go. Okay. All right.

12 PROSPECTIVE JUROR 361: If you don't buy in, you're not
13 going to be happy with it. So you -- yeah, I bought in.

14 MR. JONES: And, by the way, Mindhunters, for those that
15 you who haven't seen it, yeah, it's pretty good.

16 PROSPECTIVE JUROR 361: Very, very good.

17 MR. JONES: Yeah.

18 PROSPECTIVE JUROR 357: Diaz. 357. I watch superhero
19 shows, ESPN, sports, HGTV, Cooking Channel. I'm going to watch
20 anything that my wife watches, and my kid watches, a ton of cartoons.
21 So we watch pretty much everything.

22 MR. JONES: That's awesome, man. Thank you.

23 PROSPECTIVE JUROR 388: Inscore. 388. Pretty much
24 anything that's on Netflix because I don't have cable. So it's --

25 MR. JONES: Absolutely.

1 PROSPECTIVE JUROR 388: -- usually like historical dramas,
2 sci-fi, really bad Netflix cartoons.

3 MR. JONES: Fantastic. Well, thank you very much for
4 sharing, Skyler. I appreciate it.

5 PROSPECTIVE JUROR 391: Liddell. 391. My favorite TV
6 show is Breaking Bad. I think I seen it two times. Baxter, Good Guys. I
7 watch a lot of Netflix shows. Parks and Rec when I want something
8 easy.

9 MR. JONES: What about Better Call -- Better Call Saul?

10 PROSPECTIVE JUROR 391: Not as much --

11 MR. JONES: Not as much.

12 PROSPECTIVE JUROR 391: -- as Breaking Bad.

13 MR. JONES: Okay. All right.

14 PROSPECTIVE JUROR 391: I was a little disappointed.

15 MR. JONES: Thank you. I appreciate it.

16 PROSPECTIVE JUROR 448: Costa. 448. I watch everything,
17 but mostly Lifetime, TLC, Reality TV, Bill cartoons, all the girly stuff,
18 wedding shows. That's me.

19 MR. JONES: Thank you.

20 PROSPECTIVE JUROR 412: Hocking. 412. Games of
21 Thrones [sic] basically?

22 MR. JONES: You've seen the whole thing?

23 PROSPECTIVE JUROR 412: Yeah.

24 MR. JONES: Okay. All right.

25 PROSPECTIVE JUROR 412: I have it on DVD, so I watch it

1 over and over.

2 MR. JONES: Thank you very much.

3 Let's go ahead and hand it up front right here with Rex.

4 PROSPECTIVE JUROR 425: Rex Dalton. 425. I pretty much
5 watch everything except probably soap operas. I'm not big into dramas.
6 But history, FOX News, you know, just anything.

7 MR. JONES: Absolutely. So history -- well, it sounds like
8 there's a little bit of a preference there. You're kind of into the news, into
9 historical stuff or no?

10 PROSPECTIVE JUROR 425: Sports --

11 MR. JONES: Okay.

12 PROSPECTIVE JUROR 425: -- comedies. No. There's --
13 there's quite a bit.

14 MR. JONES: Okay.

15 PROSPECTIVE JUROR 425: Just not the dramas or the -- you
16 know, or Reality TV. Nothing -- ah, Survivor's pretty good. Not a lot.

17 MR. JONES: Assume. Thank you, Rex.

18 PROSPECTIVE JUROR 426: Cindy Peacock. 426. Very little
19 TV. But Survivor when it's on, and Jeopardy and Wheel of Fortune.

20 MR. JONES: Awesome. Thank you, Cindy.

21 Roger?

22 PROSPECTIVE JUROR 441: Johnson. 441. It's like Hallmark
23 Movies & Mysteries, NCIS, that type of show, and then construction and
24 Lottery.

25 MR. JONES: Okay. All right. Thank you.

1 PROSPECTIVE JUROR 443: Tes Andei. 443. I like to see
2 [indiscernible] comedies and [indiscernible] beside [indiscernible].

3 MR. JONES: Besides what?

4 PROSPECTIVE JUROR 443: Besides if I see -- if I find
5 interesting. Like joke a lot --

6 MR. JONES: Oh, okay.

7 PROSPECTIVE JUROR 443: -- [indiscernible].

8 MR. JONES: Awesome. Thank you.

9 So I want to go from there a little bit and talk about some of
10 these -- there were a number of people who liked crime shows, that
11 talked about crime shows. They enjoy that.

12 Is it fair to say -- well, let's talk about a crime show. Let's
13 start with Criminal Minds. Criminal Minds -- who's seen Criminal Minds
14 here? Several of you. Well, what I can tell you, Criminal Minds is very
15 good. I like it better than some other crime shows. But 15 minutes into
16 the show, what is the status in Criminal Minds? What's going on?

17 Darea'l?

18 PROSPECTIVE JUROR 418: Thomas. 418. The beginning of
19 the show, it's kind of just showing like the murder I guess.

20 MR. JONES: So it kind of --

21 PROSPECTIVE JUROR 418: How it's -- how it happened.

22 MR. JONES: Uh-huh.

23 PROSPECTIVE JUROR 418: And then they get the call and
24 they go.

25 MR. JONES: And then they go --

1 PROSPECTIVE JUROR 418: Yes.

2 MR. JONES: -- right? And then when you get about halfway
3 through the show, typically something happens to make it really difficult,
4 and the looks like oh, no, they're never coming back from this one, right?

5 PROSPECTIVE JUROR 418: Maybe.

6 MR. JONES: Maybe? A little bit?

7 At the end of the show, what happens?

8 PROSPECTIVE JUROR 418: They solve the -- the crime.

9 MR. JONES: They solve the --

10 PROSPECTIVE JUROR 418: They solve the murder.

11 MR. JONES: -- crime?

12 PROSPECTIVE JUROR 418: Yeah.

13 MR. JONES: Okay. And on CIS, they do -- they do that as
14 well, correct?

15 UNIDENTIFIED PROSPECTIVE JUROR: Uh-huh.

16 THE COURT: Now, do they -- in -- in -- which they're solving
17 these crimes, they use a term sometimes called forensic analysis. Have
18 you heard that? Has anybody heard that?

19 UNIDENTIFIED PROSPECTIVE JUROR: Uh-huh.

20 MR. JONES: You've seen Forensic Files. Anybody? Yes.
21 Okay. So what is forensic analysis? Anybody? Anybody know what
22 forensic analysis is?

23 Here, pass it on down to Skyler, please.

24 PROSPECTIVE JUROR 388: Inscore. 388. Forensic analysis
25 is when you get a team of people who specify in going to the scene and

1 picking up DNA, sometimes a murder weapon, and they take it back to a
2 lab and they analyze it, see if there's any fingerprints on the weapon, see
3 if there's a match for the blood or anything else on the scene.

4 MR. JONES: Excellent. So after the fact, after things have
5 already taken place, they go to the scene, they collect evidence, right?
6 And then what do they -- they analyze it. And then they try to figure out
7 how to solve the issue. Does that -- does that sound about right for
8 everybody? Yeah?

9 So when they do the forensic analysis, they're -- they talk
10 about the forensic team, the forensic analysis. They're not there in the
11 moment of event, correct? Right? They're not there when it actually
12 happened, correct?

13 UNIDENTIFIED PROSPECTIVE JUROR: No. Huh-uh.

14 MR. JONES: But does that make their evaluation and their
15 analysis less meaningful?

16 UNIDENTIFIED PROSPECTIVE JUROR: No.

17 MR. JONES: Are they still able to effectively put the evidence
18 together and solve the issue?

19 And that's done, we all, all the time, whether it be in shows
20 we like to watch or in real life. That's how we know that -- we go, and we
21 figure things out. Is that fair? Okay.

22 Do you think that in some ways there's an advantage to
23 being able to look in hindsight, go back and collect, and evaluate?

24 UNIDENTIFIED PROSPECTIVE JUROR: Yeah.

25 MR. JONES: Yeah? Let's go ahead -- who -- let's go up top.

1 Right there, please.

2 PROSPECTIVE JUROR 361: Kyle Root. 361. Can you repeat
3 that again? I'm sorry.

4 MR. JONES: Yeah. Do you think -- do you think sometimes
5 it's advantageous to be able to go back and take a look at it?

6 PROSPECTIVE JUROR 361: Well, that's probably the best we
7 can do, given the circumstance.

8 MR. JONES: Ideally we'd like to be right there and just
9 watched it occur, right?

10 PROSPECTIVE JUROR 361: Yeah.

11 MR. JONES: Okay. So it's the best it -- it's the best that can
12 be done given the circumstances?

13 PROSPECTIVE JUROR 361: Exactly.

14 MR. JONES: Okay. Now, do you think -- do you think that
15 that's an appropriate way of doing things, to go back afterwards to
16 verify, if that's all we have?

17 PROSPECTIVE JUROR 361: Yeah.

18 MR. JONES: Okay. Yes? Anybody feel differently? Okay.

19 Who has heard of the phrase, "Hindsight is 20/20" "Monday
20 Morning Quarterback"? Right? What do those phrases mean?

21 Go ahead, Kyle. If you know.

22 PROSPECTIVE JUROR 361: I'm trying to think of how to put
23 it. Someone's got the answer here.

24 PROSPECTIVE JUROR 388: Inscore. 388. Hindsight is
25 always 20/20. Meaning, you can't really know what's going to happen

1 until after it happens. And you can't go back and fix it.

2 MR. JONES: Okay. Good. Thank you.

3 PROSPECTIVE JUROR 388: That's how I put it.

4 MR. JONES: Anybody else have something to add to that, or
5 does that sound pretty good for everybody? Does it sound pretty good
6 for everybody?

7 UNIDENTIFIED PROSPECTIVE JUROR: Uh-huh.

8 MR. JONES: Yeah? Okay. All right.

9 So you know, I watch more football than my wife would like.
10 And Monday Morning Quarterback, also rings for me. It's like hindsight
11 is 20/20. Do you think, you know, when they say, Monday Morning
12 Quarterback, they -- they're referring to -- they're saying, well, he played
13 on Monday -- or they played on Sunday and now you're here on Monday
14 saying, you know, what he should or should not have done.

15 Do you think that going through film sessions and going
16 through the Monday morning quarterback dynamic is helpful for a team?
17 Helpful for a quarterback to get better?

18 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

19 MR. JONES: Is it helpful to identify what he did wrong?

20 GROUP RESPONSE: Yes.

21 MR. JONES: Okay. Do you think that's a pretty effective way
22 to learn, to go through and identify that for everybody involved?

23 UNIDENTIFIED PROSPECTIVE JUROR: Uh-huh.

24 MR. JONES: Okay. In the -- we'll go back to Criminal Minds
25 because I also like it. So in Criminal Minds the -- do they operate

1 individually, or do they operate as a team?

2 PROSPECTIVE JUROR 382: As a team.

3 MR. JONES: Let's go ahead and pass it down. So I don't
4 know who said, a team. Okay. Thank you.

5 PROSPECTIVE JUROR 382: Williams-DeLoach. 382. They
6 operate as a team.

7 MR. JONES: They operate as a team. And has anyone here,
8 in their job or whatever, been a member of a team?

9 PROSPECTIVE JUROR 391: Uh-huh.

10 THE COURT: Has everybody here been a member of a team
11 at some point.

12 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

13 MR. JONES: Yes? Anett?

14 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

15 MR. JONES: Have you been a member of the -- of a team?

16 PROSPECTIVE JUROR 391: Sure.

17 MR. JONES: Okay. Sorry. I didn't -- I didn't see --

18 PROSPECTIVE JUROR 391: Sure.

19 MR. JONES: -- you react. Okay. All right. And when you're
20 on a team, each member of the team has a specific role, correct? Okay.

21 If you could pass that just a little bit, because I just want to --
22 I want to ask some questions to our basketball star a little bit. Okay. So
23 Darea'l, you're -- you are -- what position did you play?

24 PROSPECTIVE JUROR 418: Thomas. 418. I was a power
25 forward, and I was a center.

1 MR. JONES: Okay. So you played power forward and
2 center?

3 PROSPECTIVE JUROR 418: Yeah.

4 MR. JONES: Okay. What is -- what is the job of the center on
5 a basketball team? And let's talk defensively.

6 PROSPECTIVE JUROR 418: All right. Don't let in -- don't let
7 nobody get in the paint --

8 MR. JONES: Let --

9 PROSPECTIVE JUROR 418: -- and let them score.

10 MR. JONES: You own the paint, right?

11 PROSPECTIVE JUROR 418: Uh-huh.

12 MR. JONES: And a point guard on the other hand,
13 defensively, what's his job?

14 PROSPECTIVE JUROR 418: Don't let him get through.

15 MR. JONES: Yeah. Don't allow a dribble penetration to
16 break -- to break by you, right? Because that's going to put pressure on
17 the center, right?

18 PROSPECTIVE JUROR 418: Uh-huh.

19 MR. JONES: So you work as a team and you -- and you
20 make sure to -- well, you make sure that you're doing things -- operating
21 the right way so that --

22 PROSPECTIVE JUROR 418: Uh-huh.

23 MR. JONES: -- the other team doesn't score on you --

24 PROSPECTIVE JUROR 418: Uh-huh.

25 MR. JONES: -- is that right?

1 PROSPECTIVE JUROR 418: Right.

2 MR. JONES: Why is it important that everybody does their
3 job?

4 PROSPECTIVE JUROR 418: Because if we don't do our job,
5 then they have the opportunity of making some baskets on us. You
6 don't want that.

7 MR. JONES: And so let's talk about basketball. In basketball,
8 there's somebody on the -- on the team who is the leader, the coach,
9 right?

10 PROSPECTIVE JUROR 418: Uh-huh.

11 MR. JONES: Ultimately, who decides the type of defense
12 you're going to run.

13 PROSPECTIVE JUROR 418: If you have a team captain, then
14 your team captain will decide what play you're going to run on the floor
15 or defensively.

16 MR. JONES: Okay. All right. So the team captain ultimately
17 makes the decision?

18 PROSPECTIVE JUROR 418: Uh-huh.

19 MR. JONES: And now we talked about team members. Each
20 one is personally responsible for their role and for their own mistakes,
21 right?

22 PROSPECTIVE JUROR 418: Uh-huh.

23 MR. JONES: Okay. If the team captain, if the person that's
24 actually calling the shots, calls it poorly, then what happens?

25 PROSPECTIVE JUROR 418: You've got to do better next

1 time.

2 MR. JONES: Right. They're going to score on you, right?

3 PROSPECTIVE JUROR 418: Yeah.

4 MR. JONES: Yeah. And so it's going to go badly, right? It's
5 going to go badly --

6 PROSPECTIVE JUROR 418: Yeah.

7 MR. JONES: -- for the whole team, right?

8 PROSPECTIVE JUROR 418: Yeah.

9 MR. JONES: So I want to talk more generally. Thinking of --
10 you know, in addition to basketball, just in generally [sic] that -- that,
11 generally speaking when you have a team, is there typically a team lead,
12 such as a team captain, that calls what play you're running, or a person
13 that ultimately -- it comes down to this -- this guy, this gal who is going
14 to make the decision as to what we're going to do?

15 PROSPECTIVE JUROR 418: Uh-huh.

16 MR. JONES: Is that the case? So there's somebody
17 who's going to be the lead ultimately? Yes?

18 PROSPECTIVE JUROR 418: Uh-huh.

19 MR. JONES: And the team lead ultimately has to make the
20 decision, right? Can the team lead take into consideration the input of
21 other specialists or other people on the team, other members of the
22 team? Yes? Does the team lead have the power to reject the ideas of
23 other people on the team?

24 UNIDENTIFIED PROSPECTIVE JUROR: Yes.

25 MR. JONES: Yeah? Has anyone had a team lead, the

1 decision-maker, that had too much ego and would not listen to the
2 recommendations? Yes?

3 GROUP RESPONSE: Uh-huh.

4 MR. JONES: It sounds -- it looks like pretty much everybody
5 has suffered through that at some point.

6 Has anyone been unfairly blamed for something they didn't
7 even do because of a team lead that was sloppy or didn't do things the
8 right way? Has that happened to anybody?

9 UNIDENTIFIED PROSPECTIVE JUROR: Uh-huh.

10 MR. JONES: Yeah? What happens if the lead team,
11 anybody, ignores the work and recommendations of the other people on
12 the team?

13 MR. DOYLE: Objection. Asking the jury to prejudge the
14 evidence in this case.

15 MR. JONES: Your Honor, I'm not asking the jury to prejudge
16 anything.

17 THE COURT: The Court's going to overrule the objection
18 with the way that the question was phrased.

19 MR. JONES: So what happens -- I'm just going to repeat the
20 same question just in case it was forgotten.

21 What happens when a team lead ignores the work of others
22 on the team or the recommendations of others on the team? What
23 happens, guys?

24 Let's go ahead and pass it down to Kyle.

25 PROSPECTIVE JUROR 361: Boy, I must be tired. Can you

1 repeat that one more time?

2 MR. JONES: Absolutely. So what happens when the team
3 lead ignores the work or the recommendations of the other people on his
4 team?

5 PROSPECTIVE JUROR 361: Usually you kind of go around --
6 goes around and kind of turn around a little bit.

7 THE CLERK: Can I have your badge number?

8 PROSPECTIVE JUROR 361: Oh. Yeah. Kyle. 361. Kyle. 361.

9 THE COURT: Thank you.

10 PROSPECTIVE JUROR 361: You got me.

11 THE COURT: I know. I don't even have to say it -- I was
12 waiting five seconds -- after yesterday. Thank you.

13 Please go ahead, Counsel. Go ahead.

14 PROSPECTIVE JUROR 361: Yeah. Usually, you know, goes
15 around [indiscernible] be unhappy, and usually -- something could go
16 wrong potentially [indiscernible] perspective.

17 MR. JONES: Now, if the team lead, the decision-maker
18 ignores the suggestions of the others on the team, should he be
19 accountable for the outcome of what happened?

20 THE COURT: Counsel, can you both approach?

21 MR. JONES: Accountable by --

22 THE COURT: And court reporter, can --

23 Just a sec. I need you for just a quick moment, if you don't
24 mind.

25 [Sidebar at 1:43 p.m., ending at 1:45 p.m., not transcribed]

1 THE COURT: I appreciate it. I figured you all missed the
2 white noise. Go ahead. Thank you, counsel, I appreciate it.

3 MR. JONES: If the team lead, the decision maker fails to take
4 into consideration, or ignores the suggestions of others on the team,
5 should he or she, right, regardless of whether it's a he, or she, be held
6 accountable for the outcome?

7 PROSPECTIVE JUROR 361: It kind of depends on the
8 outcome. I mean, sometimes the team lead will make a decision that
9 was the right one, against the team, you know, I want to do it, and I'll try
10 for better, you know, so it's kind of tough to judge that --

11 MR. JONES: Yeah.

12 PROSPECTIVE JUROR 361: -- if it's critical.

13 MR. JONES: No. Thank you. I appreciate that.

14 Let me ask one more follow-up, and then we'll pass it
15 forward. On that same line, in the event that it turns out very badly, is it
16 appropriate to then, for him or her to then blame someone else who had
17 an idea that might have been able to correct it?

18 PROSPECTIVE JUROR 361: Like, if it's someone else --

19 MR. JONES: Made a suggestion, yeah.

20 PROSPECTIVE JUROR 361: And then not being --

21 MR. JONES: And then he ends up blaming them for the
22 outcome, even though he didn't take into consideration the suggestion.

23 PROSPECTIVE JUROR 361: Well, I guess as a team lead I
24 guess it's also your responsibility to shoulder the outcome, if you're the
25 leader?

1 MR. JONES: Yes. Kyle, thank you, I appreciate it. Sorry, I
2 kept pushing you on that one, thank you.

3 PROSPECTIVE JUROR 361: Not, it's all right. It's all good.

4 PROSPECTIVE JUROR 388: Inscore, 388. To add onto that, a
5 business that I ran with my mom and stepdad, it was the three of us in
6 charge of the company, and our drivers, as a taxi business, and the three
7 of us were always butting heads about ways to run, what to do.
8 Decisions that we all made were overruled by the other, and blame was
9 put on everyone else, and ultimately it was the end of that business, it
10 was the ultimate failure of it. Because we --

11 MR. JONES: So can you tell us about outcomes, when that's
12 going around?

13 PROSPECTIVE JUROR 388: Because all three of us had
14 extreme, extremely horrible egos that would not let us listen to the other.

15 MR. JONES: Thank you. I appreciate it, Skyler.

16 I want to hit a couple of other points, really quickly. Does
17 anyone --is anyone of the understanding that doctors in Las Vegas work
18 for free, or if they get paid for their work, generally speaking?

19 UNIDENTIFIED PROSPECTIVE JUROR: I think they get --

20 UNIDENTIFIED PROSPECTIVE JUROR: Paid for it.

21 UNIDENTIFIED PROSPECTIVE JUROR: -- paid.

22 MR. JONES: They get paid?

23 UNIDENTIFIED PROSPECTIVE JUROR: Yeah.

24 MR. JONES: What about surgeons, do they get paid to
25 perform surgeries, typically?

1 GROUP RESPONSE: Yes.

2 MR. JONES: Okay. So we can agree that surgeons choose
3 to perform surgeries, which is their trade, for money?

4 GROUP RESPONSE: Yes.

5 MR. JONES: Yes, okay.

6 A couple of years ago I had a leak in my shower at home,
7 and it caused a problem, we ended up -- I mean, obviously, it leaks down
8 into the next floor, and a co-worker of mine recommended a brother-in-
9 law to fix the job. So I hired him. Well, it turns out that he was not
10 particularly careful, or skillful, wasn't very good, and you can imagine
11 how it all ended up working out.

12 Eventually, we did hire somebody who was capable, and
13 they got it fixed right, and also fixed the damage of the first guy, right. If
14 you hire a plumber or a contractor, and you're paying him to do a job, do
15 you expect them to be careful and skillful?

16 UNIDENTIFIED PROSPECTIVE JUROR: Definitely.

17 MR. JONES: Why? Why is that important. Let's go right
18 here, please. I can see on your face you were dying to talk. So, no,
19 thank you, Stacey, I appreciate it.

20 PROSPECTIVE JUROR 448: Stacey Costa, 448, if I'm paying
21 you to perform a service, that is your trade, and you better get it right.
22 Because if not, then things are going to go wrong. And if I'm paying you
23 to fix my plumbing issue, which is your trade, that you should know how
24 to do it, and do it correctly, and not, you know, half the job.

25 MR. JONES: Thank you. Now if he isn't careful and he isn't

1 skillful, and he damages your house, what is your expectation?

2 PROSPECTIVE JUROR 448: That he's going to fix it.

3 MR. JONES: Okay. Now what if he doesn't, do you think he
4 should still be paid in full for what he did?

5 PROSPECTIVE JUROR 448: Well, at that point you already
6 paid for the job, because you trusted him the first time. And if you
7 entrust him again to fix the job that he did not perform well, then that's,
8 in my eyes, is a whole other issue.

9 MR. JONES: Would it be appropriate for him to return the
10 money, if he botched it up?

11 PROSPECTIVE JUROR 448: I believe so or pay for somebody
12 else to be able to fix the job properly, that he could not fulfill.

13 MR. JONES: Okay. Anybody feel differently about that, or
14 do you feel the same?

15 UNIDENTIFIED PROSPECTIVE JUROR: The same.

16 MR. JONES: You feel the same about that?

17 UNIDENTIFIED PROSPECTIVE JUROR: Uh-huh.

18 MR. JONES: Okay. Do you think that he should pay you for
19 damages that he does?

20 PROSPECTIVE JUROR 338: Personally, for me, if it's to my
21 home, if you are paying another person, and I don't have to come
22 out-of-pocket, but again, for your mistake, then I'm okay. If it's to my
23 body, then absolutely, I feel -- I'm not going to go any further.

24 MR. JONES: No. No, you're totally fine, and that's far
25 enough. If you did have to pay out-of-pocket, though, because of

1 damage to your home, would you expect him to pay for that?

2 PROSPECTIVE JUROR 388: Absolutely.

3 MR. JONES: Okay. All right. Thank you, I appreciate it. I
4 haven't directly asked you questions for a while, so I thought it was, you
5 know, try to spread it around so that everybody feels equally
6 uncomfortable, right? Thank you.

7 And this for anybody to answer. Would you be upset, at
8 least, over the stress and the inconvenience, the loss of quality of life, for
9 part of your house that was in disrepair, for an extended period of time?

10 UNIDENTIFIED PROSPECTIVE JUROR: Absolutely.

11 MR. JONES: Does everybody feel that way?

12 GROUP RESPONSE: Yes.

13 MR. JONES: Okay. Now do you think it's more important, or
14 less important for a surgeon, who you also pay to perform a task, to be
15 careful and skillful in what he does; more important or less important?

16 GROUP RESPONSE: More important.

17 MR. JONES: What are your expectations if he is not careful or
18 skillful?

19 MR. DOYLE: Objection, Your Honor. Golden rule.

20 THE COURT: The Court is going to ask each of the counsel to
21 please approach, and ask, Madam Court Recorder, please put on some
22 white noise.

23 [Sidebar at 1:52 p.m., ending at 1:54: p.m., not transcribed]

24 THE COURT: Thanks so much. Counsel?

25 MR. JONES: I'm going to -- the last question I'm going to

1 withdraw, I'm going to say it in a different way, okay?

2 THE COURT: And since counsel is withdrawing it, the Court
3 need not rule. Thank you so much. Please proceed.

4 MR. JONES: What are the expectations, if the surgeon is not
5 careful or skillful? Please, pass the mic to Renee.

6 PROSPECTIVE JUROR 382: Williams-DeLoach, 382. My
7 expectation would be that they get someone in that can do the job. If
8 that surgeon is not able to, then maybe the head surgeon, or whoever --
9 whoever is over him.

10 MR. JONES: Thank you. Thank you, I appreciate it.

11 PROSPECTIVE JUROR 382: Okay. Who is familiar with
12 diabetes, Type 1, Type 2? Let's pass it to Terry. Yeah, please.

13 PROSPECTIVE JUROR 369: Harker, 370. What would you
14 like to know about it?

15 MR. JONES: What is the difference? What is the primary
16 difference between Type 1 and 2?

17 PROSPECTIVE JUROR 369: So Type 1 --

18 THE COURT: And counsel in no way is asking you to
19 disclose any confidential medical information that they may not to
20 disclose in a public court setting.

21 PROSPECTIVE JUROR 369: That's fine. Type 1 is juvenile
22 onset, it's insulin dependent. Generally you get before you're 18, and
23 then Type 2 is adult onset, where you generally can take pills, rather than
24 insulin shots, to manage your diabetes.

25 MR. JONES: Excellent, thank you.

1 So I'm just going to ask you a few questions really quick,
2 related to diabetes. Should a person with diabetes receive careful and
3 skillful medical care, just as much as a person who doesn't have
4 diabetes?

5 PROSPECTIVE JUROR 369: Generally a Type 1 diabetic will
6 have an endocrinologist. I believe that's the diabetic doctor.

7 MR. JONES: Excellent, thank you.

8 And in the -- within general medicine would you expect that
9 someone who's diabetic has every right to go to medical care, just as
10 somebody who is not diabetic?

11 PROSPECTIVE JUROR 369: Absolutely.

12 MR. JONES: You'd agree that somebody who is diabetic has
13 the right to good surgical care, just like somebody who is not diabetic?

14 PROSPECTIVE JUROR 369: Hopefully they don't need
15 surgical care, but it can happen if it's not managed properly.

16 MR. JONES: Well, being diabetic doesn't change the level of
17 care that a person should receive, right?

18 PROSPECTIVE JUROR 369: No.

19 MR. JONES: Everybody, regardless, they would deserve to
20 be treated appropriately, correct? Is everybody comfortable with that?

21 GROUP RESPONSE: Yes.

22 MR. JONES: Okay. Or does someone disagree, anybody?
23 Okay. If the doctor knows that a patient is diabetic, and the doctor says
24 that this patient is healthy enough for surgery, and then the doctor
25 makes a mistake during surgery, is it fair for the doctor to later blame the

1 patient for not healing well enough, or quickly enough?

2 MR. DOYLE: Objection. Prejudge the evidence and incorrect
3 statement of the law.

4 THE COURT: Counsel, can you both approach, please.

5 MR. JONES: Sure.

6 THE COURT: Madam Court Recorder, would you mind
7 putting on some lovely white noise?

8 [Sidebar at 1:58 p.m., ending at 1:58 p.m., not transcribed]

9 MR. JONES: I'm just going to withdraw the last question.

10 THE COURT: And since counsel is withdrawing, the Court
11 may not rule. Thank you so much. You're free to proceed.

12 MR. JONES: This case involves a medical malpractice case,
13 as you're aware. During the case you're going to learn about medicine.
14 Some things many of you already know, some things will be new. And
15 frankly, some of it's very interesting, a lot of things that I had no idea,
16 about my own body about -- as you go through and learn what
17 happened.

18 And you're going to hear the standards of care that the
19 Plaintiffs believe that were breached or violated in the case. And so,
20 essentially, you're going to have the information to make a decision by
21 the end. You're going to understand what happened, in detail, and
22 you're going to have that in front of you, before you make a final
23 determination.

24 Is anyone intimidated? You're going to have all the
25 information, but is anyone still intimidated by having to judge a doctor,

1 as opposed to another type of person; just anybody else? Anybody
2 intimidated by that? No. It looks like everybody is saying, no. Is that
3 fair?

4 GROUP RESPONSE: Yes.

5 MR. JONES: Is anyone concerned and thinks that they
6 wouldn't be able to find for the Plaintiff, because it might hurt the
7 doctor's livelihood, or his reputation?

8 MR. DOYLE: Objection, Your Honor.

9 THE COURT: The Court will sustain the objection. Counsel,
10 would you like to come up. Please approach. Madam Court Recorder,
11 would you like to turn on some lovely white noise?

12 [Sidebar at 2:00 p.m., ending at 2:00 p.m., not transcribed]

13 MR. JONES: So I'm going to rephrase. Is anyone concerned,
14 or thinks they would not be able to find for the Plaintiff, even if the
15 evidence supported the Plaintiff, because it might hurt the doctor's
16 livelihood and reputation? Anybody have an issue with that, even a
17 little? Anybody. Okay.

18 Do any of you feel that for a doctor to be found at fault that
19 he must have the intention to harm the patient, before you'd be able to
20 find for the patient? So even if the doctor had good intentions, if you
21 came to believe that, but is negligent, can you find in favor of the
22 Plaintiff?

23 I see a couple of you not moving. Terry, how do you feel
24 about that.

25 PROSPECTIVE JUROR 370: You have to -- can you repeat

1 that?

2 MR. JONES: Yeah. Yeah, absolutely.

3 If the doctor has good intentions, but based on the evidence
4 you believe he is negligent, can you find in favor of the Plaintiff?

5 PROSPECTIVE JUROR 370: Yes.

6 THE COURT: And we didn't hear --

7 PROSPECTIVE JUROR 370: Harker, 370.

8 THE COURT: Thank you. My backup will see -- perfect, I
9 appreciate it. Okay.

10 MR. JONES: So if the evidence proves Plaintiff's case, does
11 anyone have an issue finding for the Plaintiff?

12 GROUP RESPONSE: No.

13 MR. JONES: Okay. And if the evidence shows that the
14 doctor did wrong, he violated the standard of care, can you hold him
15 accountable for what he did? Yes?

16 GROUP RESPONSE: Yes.

17 MR. JONES: Now if chosen for this jury, if you end up being
18 -- I think that the group that's going to be on this jury is a lucky group, I
19 really do. I think it's going to be a trial that will be meaningful, and I
20 think you'll be glad you were a part of it. But if you are chosen for the
21 jury, will you all commit of course to do what the Judge instructs; you
22 will follow the rules the Judge lays down? Everybody is agreeable --

23 GROUP RESPONSE: Yes.

24 MR. JONES: -- to that?

25 GROUP RESPONSE: Yes.

1 MR. JONES: Okay. And you all will consider all of the
2 evidence that is presented?

3 GROUP RESPONSE: Yes.

4 MR. JONES: Yes. You will carefully weigh the evidence and
5 decide, based on the evidence and not based on personal preference,
6 correct?

7 GROUP RESPONSE: Yes.

8 MR. JONES: Everybody?

9 GROUP RESPONSE: Yes.

10 MR. JONES: Okay. And even though -- okay. And I'm going
11 to talk about the standard of care a little bit more. In trial, Plaintiff's
12 experts will say, this is how it is, they're going to tell you exactly what
13 the specific standard of care is; the standards of care, that they say were
14 violated in the case.

15 Dr. Rives' expert will not -- the experts will not be agreeing,
16 they will say the standard of care is something else, okay? The bottom
17 line is the experts in this case will not be agreeing on what the standard
18 of care is. It's the jury's job to decide the standard of care of the
19 community, and by saying so you make an important statement.

20 If you are chosen for the jury, will you commit to look at the
21 evidence and say who is right and who is wrong?

22 MR. DOYLE: Objection. It's argumentative, it
23 mischaracterizes the law, and it's asking the jury to prejudge the
24 evidence.

25 THE COURT: So would you both like to approach. And

1 Madam Court Recorder, would like to turn on some white noise.

2 [Sidebar at 2:04 p.m., ending at 2:10 p.m., not transcribed]

3 MR. JONES: So I'm withdrawing, and I'm going to ask it in a
4 slightly different away, okay.

5 THE COURT: And since it's being withdrawn, the Court need
6 not rule. Thank you so much.

7 MR. JONES: If you are chosen for this jury will you commit
8 to look at the evidence and to look at the competing standards of care,
9 and make a determination as to which one makes sense, and which one
10 doesn't?

11 GROUP RESPONSE: Yes.

12 MR. JONES: Everybody?

13 GROUP RESPONSE: Yes. Yes.

14 MR. JONES: And I'd like to -- let's go right here in the
15 middle, for just a moment, my man. Hey, look, I don't put you on the
16 spot much, but Troy?

17 PROSPECTIVE JUROR 412: Hocking, 412.

18 MR. JONES: So, Troy, you understand that if you're called to
19 be a juror in this case, that the instruction will be that you need to weigh
20 the evidence and consider it?

21 PROSPECTIVE JUROR 412: Correct.

22 MR. JONES: And you understand that you have to make a
23 determination about who is right, and who is wrong on this, right?

24 PROSPECTIVE JUROR 412: Of course.

25 MR. JONES: And you'd do that, wouldn't you?

1 PROSPECTIVE JUROR 412: I said, yesterday, I don't put
2 judgment on those individuals.

3 MR. JONES: Would you be willing to evaluate the evidence,
4 and identify what evidence makes sense, what evidence does not make
5 sense?

6 PROSPECTIVE JUROR 412: That, yes.

7 MR. JONES: And based on the evidence, if some evidence
8 makes sense, some evidence doesn't make sense, would you be able to
9 choose a side, and say, look the evidence supports this side?

10 PROSPECTIVE JUROR 412: Yeah.

11 MR. JONES: Okay. You'd be willing to do that, even though
12 that's difficult for you?

13 PROSPECTIVE JUROR 412: Yeah, most likely.

14 MR. JONES: Okay. Now, and when you say "most likely" is
15 it something, if that was the requirement from the Court, is that
16 something you'd be willing to do?

17 PROSPECTIVE JUROR 412: I'd have to, I suppose.

18 MR. JONES: And, you know, this is a tough one, because I
19 understand it's difficult to be a person making the judgment call, and I
20 mean, it's quite a thing. It's quite a thing to be a juror, in the United
21 States of American, where kings, and even judges don't have the
22 ultimate decision, you do. All right. And then it comes down to that.
23 Would you do that if you were chosen to be the juror? Could you
24 evaluate the evidence and make a decision, one way or the other?

25 PROSPECTIVE JUROR 412: Yes, I would.

1 THE COURT: Okay. Thank you. I appreciate it.

2 I want to pass it down Belinda.

3 PROSPECTIVE JUROR 417: Hightower, 417.

4 MR. JONES: We talked yesterday, and I thought it was very
5 heartfelt, what you shared with all of us, about the prior experience that
6 you had, where you felt like it was not done the right way, and that's -- I
7 mean, that's difficult. I understand it as a person who can hear it, having
8 not been through it, you know, and I understand it must be very difficult
9 for you.

10 If you were called to be a juror in this case, and you were one
11 of the jurors that remained, would you evaluate the evidence fair?

12 PROSPECTIVE JUROR 417: Yes.

13 MR. JONES: And you would make --

14 PROSPECTIVE JUROR 417: I can do that.

15 MR. JONES: You would? Okay, thank you. I appreciate it.

16 I want to go down one more, to our basketball and future
17 music star.

18 PROSPECTIVE JUROR 418: Thomas, 418.

19 MR. JONES: You know the question that I'm going to ask
20 you, it's the same one.

21 PROSPECTIVE JUROR 418: Yeah.

22 MR. JONES: If you're in this case will you do that, will you
23 take the evidence and evaluate it fairly, and make a decision --

24 PROSPECTIVE JUROR 418: Yeah.

25 MR. JONES: -- as to who's right and who's wrong, yeah?

1 PROSPECTIVE JUROR 418: I will.

2 MR. JONES: All right. I want to go up top. Francisco. It's
3 the same question, and you guys know why I'm specifically asking you
4 about this, right? Because I know that judgment can be tough, and for
5 you guys in particular, you mentioned that that was something that was
6 extra tough for you.

7 And so, Francisco, if you're chosen as a juror in this case, will
8 you carefully evaluate all of the evidence, and make a decision based on
9 the evidence you receive?

10 PROSPECTIVE JUROR 387: Francisco Hernandez, 387. I feel
11 like it would be difficult for me to make a decision, but I would consider
12 all the evidence.

13 MR. JONES: And ultimately if that's what you were called to
14 do, you'd do it?

15 PROSPECTIVE JUROR 387: Uh-huh.

16 MR. JONES: Okay, thank you. I appreciate that.

17 This is for everybody, just go ahead -- at any time, by the
18 way, during this, if somebody has a thought that comes up, and they feel
19 like something isn't quite right, or something like that, and they have --
20 you're welcome to kind of throw your hand up, and we'll pass it down,
21 and you can -- you can express that. Just so you know, anybody who --
22 if something comes up.

23 And, just to be clear, I don't want you to hold something back
24 that you wanted to say, and I didn't give you an opportunity, okay? If the
25 Plaintiffs prove their case do you have a problem saying that Dr. Rives

1 violated the standard of care and must be held accountable, anybody?

2 Would any of you be inclined to give Dr. Rives the benefit of
3 the doubt, even a little, because he is a surgeon?

4 UNIDENTIFIED PROSPECTIVE JUROR: No.

5 MR. JONES: Would that make any of you more sympathetic
6 to Dr. Rives?

7 GROUP RESPONSE: No.

8 PROSPECTIVE JUROR 388: Inscore, 388. When it comes to
9 the case, or people in general, I don't judge based on title, it's based on
10 person, character and who -- realistically who they are as a person, and
11 not as a profession.

12 MR. JONES: Thank you. I appreciate that, Skyler.

13 I'm going to -- this, I'm going to go around to each and every
14 one of you. We're going to start right at the top, and we're just going to
15 go through, very quickly; and this is basically a yes, or no.

16 If you or one of your loved ones was injured by a physician,
17 would you consider filing a lawsuit?

18 PROSPECTIVE JUROR 357: Yes. 357, sorry. It's a hard
19 question to answer, but it depends on what the situation was.

20 MR. JONES: Absolutely fair.

21 PROSPECTIVE JUROR 357: I only say that, because like I
22 said, yesterday. My wife had Lasik. The doctor looked at her eyes a
23 couple of times, but we did not go ahead, and go back and sue them or
24 anything, we went back each time to see if they could fix it. They said
25 they cannot fix it any further, or it could damage her eye permanently.

1 So we're not going to try anymore, but she will have -- you know, she
2 will be taken care, you know, because the doctor still cares. And if so, try
3 to keep it going, you know, where she can still see.

4 MR. JONES: Okay.

5 PROSPECTIVE JUROR 357: So, I mean, personally, if it
6 happened to me I might not. I would go back to the doctor and say, hey,
7 you know, can you re-fix it. If they can't, then I still probably won't. I've
8 just got to live with it.

9 MR. JONES: I'm going to ask you something, and please tell
10 me if I'm totally off-base, if I am. It sounds to me like you're saying that
11 a lot of it has to do with the severity of the situation?

12 PROSPECTIVE JUROR 357: Yes. It has to do with the
13 severity of the situation.

14 MR. JONES: Okay.

15 PROSPECTIVE JUROR 357: If it's something that's where it
16 affects our living like our actual living, then maybe, maybe not. Again, it
17 just depends on severe it is.

18 MR. JONES: Okay. Awesome, thank you. I appreciate it.

19 PROSPECTIVE JUROR 361: Kyle Root, 361. Like you said, it
20 depends on the situation, but, yes.

21 MR. JONES: Okay. All right. Go ahead. Felix?

22 PROSPECTIVE JUROR 366: Barrios, 366. Again, the severity.
23 It would depend if I can live with it. So if not, that would be a whole
24 different story.

25 MR. JONES: Okay. Thank you. Ashley?

1 PROSPECTIVE JUROR 444: Fossile, 444. Can you just repeat
2 the question one more time?

3 MR. JONES: Yes. Absolutely.

4 If you or one of your loved ones was injured by a physician,
5 would you consider filing a lawsuit?

6 PROSPECTIVE JUROR 444: Yes, I would consider.

7 MR. JONES: Okay. Terry?

8 PROSPECTIVE JUROR 370: Harker, 370. It would depend on
9 the situation for me.

10 MR. JONES: Okay.

11 PROSPECTIVE JUROR 370: Yeah. I can't say, yes, or no. It's
12 just whatever, it depends.

13 MR. JONES: And when you say it would depend on the
14 situation, a couple of people have expressed --

15 PROSPECTIVE JUROR 370: Severity.

16 MR. JONES: -- the severity. Are there other -- are there other
17 areas that go beyond that for you?

18 PROSPECTIVE JUROR 370: Not really. I mean, severity, loss
19 of income, those types of things.

20 MR. JONES: Okay.

21 PROSPECTIVE JUROR 370: It depends on the situation.

22 MR. JONES: So, essentially, how completely or, you know,
23 ordinarily it had impacted your life. Okay. Thank you.

24 PROSPECTIVE JUROR 370: You're welcome.

25 PROSPECTIVE JUROR 382: Williams-DeLoach, 382. And the

1 answer to that is, if I'm able to work, and it doesn't affect my ability to
2 bring in my income, it would depend on the severity of the case. But if
3 I'm not able to work, then, yes.

4 MR. JONES: Okay. Okay. Thank you. Ken?

5 PROSPECTIVE JUROR 386: Beck, 386. Possibly, depending
6 on severity.

7 MR. JONES: Thank you.

8 PROSPECTIVE JUROR 487: Francisco Hernandez, 387.

9 MR. JONES: Francisco?

10 PROSPECTIVE JUROR 487: Yes, I would.

11 MR. JONES: Oh, thank you.

12 PROSPECTIVE JUROR 424: Yvonne Baker 424, depending on
13 the severity, I would consider it.

14 PROSPECTIVE JUROR 419: Hailey, 419. I would, and the
15 severity doesn't really matter to me, because I could be okay now, and
16 ten years from now I could not, because of something that a surgeon did
17 or didn't do.

18 MR. JONES: Sorry, let's pause for just a moment.

19 [Counsel confer]

20 MR. JONES: My apologies, let's continue on. Thank you
21 very much.

22 PROSPECTIVE JUROR 418 : Thomas, 418. Yes.

23 MR. JONES: Yes?

24 PROSPECTIVE JUROR 417: Hightower, 417, yes.

25 MR. JONES: Okay.

1 PROSPECTIVE JUROR 412: Hocking, 412, yes, I would.

2 PROSPECTIVE JUROR 448: Costa, 448, depending on the
3 situation, severity and overall experience, Yes.

4 MR. JONES: Thank you.

5 PROSPECTIVE JUROR 391: Liddell, 391. The same, it
6 depends on the situation.

7 MR. JONES: Okay.

8 PROSPECTIVE JUROR 391: Inscore, 388. Not necessarily
9 based on severity, more for the fact if it causes problems later on, if I'm
10 fine now, worse later, definitely.

11 MR. JONES: Thank you.

12 PROSPECTIVE JUROR 425: Dalton, 425. Consider, yes.

13 MR. JONES: Okay.

14 PROSPECTIVE JUROR 426: Peacock, 426. I don't think it's a
15 yes, of no question. I think it's kind of vague, to say that the surgeon
16 hurt you, okay.

17 MR. JONES: Okay.

18 PROSPECTIVE JUROR 426: Is it did they intentionally hurt
19 you. Every surgery hurts, there's recovery time, I don't know, if that
20 even [indiscernible] question.

21 MR. JONES: Let's see. If you were one of your loved ones
22 was injured by a physician, would you consider filing a lawsuit? That's
23 too vague?

24 PROSPECTIVE JUROR 426: I guess lots of surgeries have risk
25 to them.

1 MR. JONES: Okay.

2 PROSPECTIVE JUROR 426: If you know that going into it,
3 and the outcome was like 50/50, I mean, then it's not their fault if 50
4 percent of it came through.

5 MR. JONES: Okay.

6 PROSPECTIVE JUROR 426: So I'd be -- it depends on how
7 you're injured.

8 MR. JONES: Okay. Yeah. Yeah. No, I understand. And by
9 the way, nice shirt. Go ahead Roger.

10 PROSPECTIVE JUROR 441: Johnson, 441. It depends on the
11 severity and if the physician tried to help repair whatever became
12 involved.

13 MR. JONES: So kind of depending on how the physician
14 reacted afterwards?

15 PROSPECTIVE JUROR 441: Right.

16 MR. JONES: So what that matter to others here, how the
17 physician reacted after causing the injury?

18 GROUP RESPONSE: Yes.

19 MR. JONES: Okay.

20 PROSPECTIVE JUROR 441: Unfortunately, that's family, I
21 consider it, yes.

22 MR. JONES: Okay.

23 THE COURT: Counsel, would this be a wonderful time for
24 you both to approach. And Madam Court Recorder, turn on some lovely
25 white noise.

1 [Sidebar at 2:26 p.m., ending at 2:26 p.m., not transcribed]

2 MR. JONES: Just kind of as a group, right, some
3 complications can happen from surgery, at the fault of the surgeon.
4 Some complications can happen that aren't the fault of the surgeon. Do
5 you think a surgeon should not be held liable for a complication, if it is
6 his fault?

7 GROUP RESPONSE: Can you repeat that.?

8 MR. JONES: Still kind of confusing?

9 GROUP RESPONSE: Yeah.

10 MR. JONES: So if a complication of surgery is the surgeon's
11 fault, do you believe the surgeon should be held liable for that?

12 GROUP RESPONSE: Yes.

13 MR. JONES: Now before the -- this goes a little bit onto
14 something that you just mentioned a moment ago. Before any surgery a
15 patient is required to sign a consent form, that lists a bunch of potential
16 complications. Do you believe a patient should not be able to sue a
17 doctor, if the injury caused is listed there, on the consent form? Do you
18 think that waives the patient's right to be able to sue the doctor, even if
19 the doctor is negligent?

20 GROUP RESPONSE: No.

21 MR. JONES: I see some people struggling on this one.

22 UNIDENTIFIED PROSPECTIVE JUROR: How's it written?

23 How's it --

24 THE COURT: Just a second. Counsel, we did not hear the
25 last name and badge number, sorry. The juror was very quiet, it was --

1 we don't if the batteries maybe are running out, but the last answer was
2 very, very soft.

3 MR. JONES: Was it Terry? Let's go ahead and pass the mic
4 to Terry.

5 THE COURT: Sorry, your answer was?

6 PROSPECTIVE JUROR 370: Harker, 370. I just asked how -- it
7 depends on how it's written on the consent form that they sign.

8 MR. JONES: What do you mean by that?

9 PROSPECTIVE JUROR 370: Well, I mean, it may say that ,
10 you know, by signing this, you're not eligible to sue.

11 MR. JONES: Uh-huh. If it doesn't say something like that, or
12 something like that was considered to be not legal, would that change
13 your view?

14 PROSPECTIVE JUROR 370: Yeah. Yes.

15 MR. JONES: Okay. So if it said, hey, there's a possibility of
16 bad things happening, including these things, but if it said you're not
17 allowed to sue for those, that's basically where it would come for you --

18 PROSPECTIVE JUROR 370: Right.

19 MR. JONES: -- one way or the other. Okay. Anyone else?
20 Yes?

21 PROSPECTIVE JUROR 419: Hilley, 419. If I'm not mistaken,
22 the question that you asked is, should the patient not be able to sue if
23 they sign a consent form, listing the possible injuries that can happen,
24 but I'm not sure if you said injuries caused by the surgeon, or something.
25 So can you repeat it?

1 MR. JONES: Yes. So before any surgery a patient is
2 required to sign a consent form that lists a bunch of potential
3 complications --

4 PROSPECTIVE JUROR 419: Right.

5 MR. JONES: -- right? Do you believe the patient should not
6 be able to sue and doctor, or a surgeon, if the injury caused is listed
7 there? And I guess -- my question is supposed to pre-suppose the injury
8 is caused by the surgeon.

9 PROSPECTIVE JUROR 419: Okay. So I think that the patient,
10 even if they sign the consent form, should be able to sue, because the
11 complications that could happen during the surgery, to my
12 understanding, wouldn't be anyone's fault. Like if, you know, if the
13 patient has a blocked artery, or a bad heart, or something like that, and
14 then having open heart surgery, as a patient you should know that there
15 could be complications and you could die.

16 But if the surgery is going fine and the surgeon nicks an
17 artery, and the patient is injured, or the patient dies, then, yeah, but they
18 should be able to sue.

19 MR. JONES: Okay.

20 PROSPECTIVE JUROR 419: Or the family should be able to
21 sue, if the patient does pass away.

22 MR. JONES: So if you sign a consent and through no fault of
23 the surgeon one of those things happens, then you'd say, probably
24 shouldn't sue, but if it is caused by the surgeon --

25 PROSPECTIVE JUROR 419: Correct.

1 MR. JONES: Then you'd say, yes, you should be able to sue
2 him --

3 PROSPECTIVE JUROR 419: Correct.

4 MR. JONES: If he is --

5 MR. DOYLE: Objection.

6 MR. JONES: -- negligent?

7 MR. DOYLE: Prejudging the evidence.

8 THE COURT: The Court's going to overrule that, because I
9 think the juror had already answered the question before the objection --

10 MR. DOYLE: I was trying to get in between.

11 PROSPECTIVE JUROR 419: Okay. So, yes. Like I was saying,
12 yes. I mean, if I know the possible injuries, or the possible outcomes, or
13 things that can happen that can go wrong, and I sign that form, fine. If
14 something was caused by a surgeon, or someone else on the medical
15 team that's in there, yeah, I feel I have -- I would have every right to
16 sue --

17 MR. JONES: Okay.

18 PROSPECTIVE JUROR 419: -- or a person has every right to
19 sue.

20 MR. JONES: Excellent. Does anyone feel differently than
21 that? I saw you nodding your head earlier. Let's pass it up to the top, to
22 Kyle.

23 PROSPECTIVE JUROR 361: Kyle Root, 361. Yeah. It's kind of
24 rare. It's like, I guess you can always sue for anything. But I'd say it's
25 kind of upheld to you going into a surgery with potential outcomes and

1 being that can happen. Even depending on their -- how a doctor. I
2 mean, that could be a potential outcome, if that's how it came out.

3 MR. JONES: Does it -- if the outcome is purely because of
4 the surgeon's negligence, does that make you feel any different about it?

5 PROSPECTIVE JUROR 361: I guess it depends on the
6 negligence. If it's some other wrongdoing, another spectrum, not too
7 much on what they sign, but if it's something that's intimate like that,
8 you know, use like, a sample: a wrong, or sanitation was an issue, now
9 it's one of the topic that -- so constant, then I'd maybe see a problem
10 with that, but --

11 MR. JONES: Okay. Okay.

12 Anybody else have any -- Ashley?

13 PROSPECTIVE JUROR 444: Ashley Fossile, 444. It depends if
14 -- you know, there is evidence that points that it is negligence, then, yes
15 But again, it would depend -- I don't see going into surgery as
16 something, rightly, that just a form can kind of waive everything. But it
17 just -- it just depends on how the whole procedure, not just the on point.

18 MR. JONES: And does the fact that every hospital, every
19 surgery center has a consent form that you have to sign, or they don't go
20 forward with the procedure; does that impact your view on that at all?

21 PROSPECTIVE JUROR 444: Can you -- can you repeat that?

22 MR. JONES: Yeah. The fact that basically every hospital,
23 every surgery center is always going to have a consent form, before you
24 go in for a surgery, is that -- does that have any impact on your views on
25 this?

1 PROSPECTIVE JUROR 444: Yeah. It can. It also just depends
2 at the end, is it actually something that was legally binding or not.

3 MR. JONES: Perfect. And that would fall into the category,
4 like with Terry's where it says, hey, if these things happen you're not
5 allowed to sue us for this?

6 PROSPECTIVE JUROR 444: Yeah. I mean, just something
7 like in my industry you're not supposed to go a third party, supposedly
8 to get, you know, your equipment repaired, but - -because you avoid
9 warranty, but really that's not the case, and it's just extra stuff that
10 sometimes people just throw in.

11 MR. JONES: Got it, understood. It sounds to me like most of
12 the people didn't have -- they felt that you should be able to sue, but with
13 the caveat, specifically, of course only if the surgeon was actually
14 negligent. Is that how everybody pretty much feels?

15 GROUP RESPONSE: Yes.

16 MR. JONES: Mostly, but maybe a little bit, okay. No, I
17 appreciate it. Thank you, Kyle.

18 You all agree that everyone, including a doctor has a right to
19 defend themselves if they're sued, correct?

20 GROUP RESPONSE: Yes.

21 MR. JONES: Okay. And no one will be unfair to Dr. Rives,
22 just because he's a Defendant in the case, correct?

23 GROUP RESPONSE: Yeah.

24 MR. JONES: Everyone's going to be fair to both sides in this
25 case; is that right?

1 GROUP RESPONSE: Yes.

2 MR. JONES: Okay. And you all agree that a patient who is
3 injured by a doctor, and believes that the doctor was unsafe or negligent,
4 has a right to sue the doctor, right?

5 GROUP RESPONSE: Yes.

6 MR. JONES: Right? Does anybody feel differently.

7 Okay. All right. In a civil case like this the jury is asked to
8 resolve disputes based on a preponderance of the evidence. In a
9 criminal case the prosecutor has to prove the case beyond a reasonable
10 doubt, okay. The preponderance of the evidence, what it means, in other
11 words is what side you think is more right, likely right than wrong, right?

12 MR. DOYLE: And, Your Honor, that mischaracterizes the law
13 and the jury instruction.

14 MR. JONES: It does not, Your Honor. Is more likely right
15 than wrong.

16 THE COURT: It's one of the many. The Court is going to
17 overrule the objection because there's of a variety of different ways.
18 Here's what the Court's going to say to the jury. There's a variety of
19 different ways in which a preponderance of the evidence is stated . That
20 sometimes is one of the many ways in which a preponderance of the
21 evidence is stated, and so that's why the Court has to overrule the
22 objection. It's not the only way that it's stated, but it's one of the many
23 ways that has been stated, and there has not been any case law that has
24 precluded that statement of it.

25 So the Court overrules the objection and takes --

1 MR. DOYLE: But if the Court looks at the agreed upon jury
2 instructions?

3 THE COURT: There is --

4 MR. JONES: We did not agree to anything that doesn't say
5 this.

6 THE COURT: Okay. Counsel, there is no discussion in front
7 of our prospective jury. The Court has made its ruling. Please proceed
8 with the questions.

9 MR. JONES: Thank you, Your Honor.

10 THE COURT: Please note that we need -- okay?

11 MR. JONES: Thank you, Your Honor.

12 THE COURT: I appreciate it. Look at the time, folks.

13 MR. JONES: More likely right than wrong, okay; what does
14 that mean to you? Anybody? How much do my hands have to move,
15 assuming that they're level right now?

16 UNIDENTIFIED PROSPECTIVE JUROR: Slightly.

17 MR. JONES: So pass it to Felix really quick.

18 PROSPECTIVE JUROR 366: Barrios, 366. One percent, half a
19 percent.

20 MR. JONES: That's it. So if one side produces slightly more
21 evidence than the other side, that's it, right? So that's -- and that's a
22 preponderance of the evidence. Does anyone have a problem with that
23 standard?

24 MR. DOYLE: Objection. It mischaracterizes the law.

25 THE COURT: Counsel, can you please both approach.

1 [Sidebar at 2:36 p.m., ending at 2:42 p.m., not transcribed]

2 THE COURT: Okay. Here's what the Court's ruling is going
3 to be. After discussion with counsel, at bench, there's a lack of clarity on
4 what the question was and what the objection is.

5 So counsel, you're moving on to your next question. The
6 Court couldn't rule because no one could articulate what the objection
7 and the basis was or really what the question was. Counsel, feel free to
8 move on.

9 MR. JONES: Thank you, Your Honor.

10 All right. So we just talked about the preponderance of the
11 evidence. Okay? A little -- a small change makes it more convincing to
12 one side than the other, just a little bit, that's enough. Some people feel
13 that that makes it too easy for the Plaintiff. Some people feel that it's
14 appropriate that one side proves more than the other, that that's
15 sufficient.

16 Does anyone feel that it's too easy for the Plaintiff?
17 Everybody okay with the standard, preponderance of the evidence?
18 Okay.

19 Okay. Do any of you have a limit in your mind of how much
20 you can award a plaintiff for medical damages? You know, if the medical
21 damages were a certain amount, a million dollars, I couldn't do it. \$10
22 million, I couldn't do it. There's a certain amount where you could not
23 award that? Yes, please.

24 PROSPECTIVE JUROR 382: Williams-DeLoach, 382. And
25 correct me if I'm incorrect. But I was under the --

1 THE COURT: No. Let's make sure --

2 PROSPECTIVE JUROR 382: -- impression that --

3 THE COURT: Hold on. Of course, no member of the
4 prospective jury is any way going to cite any potential aspects of law.
5 He's just asking people's personal viewpoints. And I'm sure that that
6 would be in your response that anyone would be giving. Because the
7 Court will be giving appropriate jury instructions to those individuals
8 who will be seating with us, and I'm sure any prospective juror would
9 just -- the question was, personal viewpoints.

10 Is that correct, Counsel?

11 MR. JONES: That is correct, Your Honor. Yeah.

12 THE COURT: Okay. Appreciate it. Thank you.

13 PROSPECTIVE JUROR 382: Okay.

14 MR. JONES: Thank you. And the Judge -- there will be
15 clarifications on law --

16 THE COURT: Yes.

17 MR. JONES: -- on all of these issues --

18 PROSPECTIVE JUROR 382: Okay.

19 MR. JONES: -- and the Judge will tell everybody what those
20 are. Okay?

21 PROSPECTIVE JUROR 382: Okay.

22 MR. JONES: Thank you, though. So --

23 THE COURT: I didn't mean to cut you off on your answer. I
24 just was trying to make an explanation distinction that the jury
25 instructions, the issues of law, will come to the Court at the end of the

1 case. Okay?

2 PROSPECTIVE JUROR 382: Okay.

3 MR. JONES: All right. So nobody raised their hand or had
4 any particular viewpoint on that in terms of them having a maximum.

5 Yes, please?

6 PROSPECTIVE JUROR 357: Diaz, 357. Personally, my own
7 opinion, I think a certain amount is too much -- and I'm not going to state
8 how much is too much because I -- it -- again, like I said earlier, severity
9 of the issue. I know one has a reason what they want, you know.
10 Personally, for me, if I was going to do it, it would probably most like be
11 cover the costs. Like, reasonable amount of costs, for me, personally.
12 That I'd have to go through the whole -- but the sad state of going to do
13 the lawsuit. Cost of the lawsuit most likely and then cost of what I
14 missed for work, for example.

15 MR. JONES: Okay.

16 PROSPECTIVE JUROR 357: I would add that up.

17 MR. JONES: Got it.

18 PROSPECTIVE JUROR 357: But personally, I'm not going to
19 say too much is too much or too little is too little just because, you know,
20 I don't know the person at all. So --

21 MR. JONES: Absolutely. If the evidence, right, if the
22 evidence indicated that the medical bills were \$10 million, would you
23 have a problem with that?

24 PROSPECTIVE JUROR 357: No, if the evidence would -- that
25 -- then no.

1 MR. JONES: Okay.

2 PROSPECTIVE JUROR 357: If the evidence shows then no.

3 MR. JONES: Okay. And because right now I'm kind of
4 talking about the medical expenses, right, associated. And you
5 mentioned work also, right?

6 So, yeah, please pass it down.

7 PROSPECTIVE JUROR 386: Beck, 386. I guess my personal
8 opinion, I recently had an accident. And what I thought was ironic -- my
9 answer would normally be no. But what I thought was ironic was when
10 they were sued, everybody's medical bills were exactly policy limits and
11 that seems of weird to me so. I'm a little bit more subjective to if there
12 was a real number or not.

13 MR. JONES: Okay. Just you'd want to know that these are
14 legitimate medical bills related to this?

15 PROSPECTIVE JUROR 386: Yeah. And I guess I'm a hair
16 more skeptical when I see doctors writing bills that were exactly policy
17 limits.

18 MR. JONES: Okay.

19 PROSPECTIVE JUROR 386: That seems odd.

20 MR. JONES: No, thank you. I appreciate that.

21 Anybody else have any thoughts on that or any questions or
22 concerns? Otherwise, it sounds like nobody has any particular limit as
23 long as the evidence shows that that's what the actual medical damages
24 are you wouldn't have a problem awarding that? Is that fair?

25 PROSPECTIVE JUROR 386: Uh-huh. Yep.

1 MR. JONES: Okay. Now, pain and suffering. And I think this
2 is something you were touching on there a moment ago. Have you all
3 heard of the -- of pain and suffering --

4 PROSPECTIVE JUROR 386: Uh-huh.

5 MR. JONES: -- right? And it goes to remorse, sorrow, loss
6 of freedom, loss of right. Anything - -- essentially, it's the big catch-all
7 for everything that a person goes through aside from the actual bills,
8 right? Does that make sense?

9 UNIDENTIFIED PROSPECTIVE JUROR: Uh-huh.

10 MR. JONES: Does anyone have a limit on pain and suffering
11 that they just wouldn't be able to go above a certain amount?

12 Yeah. Let's bring down here.

13 PROSPECTIVE JUROR 426: Peacock, 426. At some point, it
14 has to be a limit. If the result was fatality and loss of life, all the money
15 in the world can't bring them back. You can't sue them for like a billion
16 dollars. There's a limit --

17 MR. JONES: Okay.

18 PROSPECTIVE JUROR 426: -- just because people couldn't
19 afford to -- to pay it.

20 MR. JONES: Okay. So -- but do you have -- so --

21 PROSPECTIVE JUROR 426: I would say some things you
22 can't place a value on.

23 MR. JONES: Right.

24 PROSPECTIVE JUROR 426: It's never going to be enough.
25 So at some point, you have to cap it. And some -- even insurance

1 companies or a worker just can't -- you know --

2 MR. JONES: I totally understand. If the amount being asked
3 for is more than the United States gross domestic product, right?

4 PROSPECTIVE JUROR 426: Yeah.

5 MR. JONES: Then that probably ends up -- and so -- but -- so
6 that makes sense. So incrementally it would need to be less than that.

7 What if the evidence indicated that the pain and suffering
8 was so severe that you thought that it was probably \$20 million of pain
9 and suffering or something like that? And that was your personal
10 evaluation. Would you be okay awarding something like that if that was
11 your evaluation?

12 PROSPECTIVE JUROR 426: Yes.

13 MR. JONES: Okay.

14 Pain and suffering is a difficult concept that you'll get into in
15 jury selection. And you're going to have to decide what it is. What the
16 value of that loss is, right?

17 PROSPECTIVE JUROR 426: Uh-huh.

18 MR. JONES: Okay. So when you come in to numbers that
19 we're not talking about like, you know, bankrupting the State of Nevada
20 or something. But you're talking about numbers that would relate to --
21 do you have any other limit beyond that?

22 PROSPECTIVE JUROR 426: No.

23 MR. JONES: Okay. Sorry. I -- anyone else?

24 Okay. So I'm going to ask some easier questions. That was
25 a very good comment.

1 PROSPECTIVE JUROR 426: Uh-huh.

2 MR. JONES: Thank you. Could all of you award past
3 medical bills, even if they were millions of dollars, if you believe they
4 were caused by the negligence of the Defendant?

5 GROUP RESPONSE: Yes.

6 MR. JONES: Could all of you award future medical bills,
7 even if projected to be millions of dollars and you believed that they
8 were going to be incurred, if they were caused by the negligence of the
9 Defendant?

10 GROUP RESPONSE: Yes.

11 MR. JONES: Okay. And could all of you award the fair value
12 of the suffering that you believe the Plaintiffs went through, if you
13 believe it was caused by the negligence of the Defendant?

14 GROUP RESPONSE: Uh-huh.

15 MR. JONES: Okay. And if the evidence showed that
16 negligence destroyed a significant area of a person's life, would you be
17 able to award a large amount of money for that, for pain and suffering?

18 GROUP RESPONSE: Uh-huh.

19 MR. JONES: Okay. When we come to trial -- or when we
20 start witnesses, we're going to have experts that come in. Some of these
21 experts have charged, both on our side and on the Defense, believe me,
22 thousands of dollars to analyze records and to provide reports and
23 opinions. They're going to come here. Does anyone have a problem
24 with the fact that we're bringing in experts that are paid? No?

25 A little bit of a problem over there?

1 PROSPECTIVE JUROR 419: I mean --

2 MR. JONES: Let's go ahead and pass it back to Lakeisha
3 (phonetic).

4 PROSPECTIVE JUROR 419: Lakeisha Hilley, 419. When you
5 say paid, you mean like you were -- they were hired to do their job which
6 was to analyze evidence or whatever it is. I have no problem with that.
7 But paid anything beyond that, I would have a problem with that
8 because how could I take their word for it? You know, if I know that
9 they're being paid anything other than doing their job.

10 MR. JONES: Absolutely. No, I think that's more than fair,
11 right?

12 PROSPECTIVE JUROR 419: Uh-huh.

13 MR. JONES: And frankly, even the fact that they're paid at
14 all, right? I think that's a fair thing to question too, right? But you
15 wouldn't hold it against the Plaintiff or --

16 PROSPECTIVE JUROR 419: Uh-huh.

17 MR. JONES: -- the Defendant just because it happened to be
18 the case that experts charge money, right?

19 So a few days ago, I woke up in the morning and my ankle
20 was hurting me and it was from something that happened many years
21 ago, late at night in one of those military exercises, right? I twisted my
22 ankle and had this severe sprain.

23 MR. DOYLE: Your Honor, I object to the --

24 THE COURT: Counsel, can you please ask the question?

25 The Court's going to sustain the introduction as to personal --

1 MR. JONES: Sure.

2 THE COURT: -- story. Please ask a question. Thank you.

3 MR. JONES: Absolutely. Do any of you have any pain or
4 discomfort from something that happened to you earlier in life?

5 Go ahead. Pass it on down. And you know what, and you
6 don't necessarily have to share. I saw a lot of heads nodding. Let's -- to
7 shorten this, let's just say -- it sounds like everybody is familiar with that
8 concept. Something happened earlier and you know what happened,
9 and you look back in life and you know it came from that. Is that fair?

10 GROUP RESPONSE: Yes.

11 MR. JONES: Everybody's aware of that? Okay.

12 Some people believe that if you were injured by someone's
13 negligence and you had pain before, but the negligent person made it
14 worse, you should be compensated for the additional pain and treatment
15 needed because of the negligence. Other people think you shouldn't get
16 anything because they think that you can't really see a difference if there
17 was already pain before. Which way do you lean?

18 And so I'm just going to -- a show of hands. So first, hands
19 up for those who think that you should be able to get compensated for
20 the additional amount of injury, but not for the original injury. Raise
21 your hands please, very high so I can see. Okay. Now, raise your hands
22 if you feel that if a person already had any injury, any pain, that just
23 because it got worse, they shouldn't be able to have any compensation
24 for that. Raise your hands. Raise them high.

25 PROSPECTIVE JUROR 386: I've got a comment.

1 MR. JONES: Yeah. Go ahead. Pass it down.

2 PROSPECTIVE JUROR 386: Beck, 386. My -- I've got injuries
3 like that and it's just hard to tell. You know, you have good days and bad
4 days. So for me, I have a hard time quantifying what's worse than
5 before because any day it could be good and any day it could be bad. So
6 I have a hard time saying what's worse on something that goes up and
7 down to start with.

8 MR. JONES: Okay. No. So what you're saying is that you --
9 that because of your experience, you wouldn't be able to award
10 something based on an aggravation that someone had if -- just making it
11 worse. Is that right?

12 PROSPECTIVE JUROR 386: I think if you've got something
13 that's kind of a roller coaster in the beginning, it's hard to say what was
14 that baseline before and what's the baseline after.

15 MR. JONES: Okay. No, it's fair enough. And so because of
16 that, you would not be able to award or compensate -- you wouldn't be
17 able to compensate someone for additional injury that they might have
18 suffered, correct?

19 PROSPECTIVE JUROR 386: It would be difficult for me
20 because if I -- if I couldn't say where were you at before and where are
21 you at now, definitively between those two, because you had ups and
22 downs, that makes it more difficult for me.

23 MR. JONES: Okay. So I want to make sure, because the
24 answers you're responding back are just slightly different. So in the
25 event that it was -- so I'm trying to get separated. If it was able to be

1 shown to you, that the injury was made worse in a way that was
2 available and one could see through the evidence that it was made
3 worse, would you be able to award or to compensate based on that?

4 PROSPECTIVE JUROR 386: I -- if there's some type of
5 evidence that shows, you know, this was how much I was able to work
6 before and not able to work down the road, that way. But when it comes
7 to how much does it hurt and what should I be compensated for hurting?
8 That's a tough one because like I said, it's hard to put a baseline on
9 something that's not the same every day.

10 MR. JONES: Yeah. So even if there was evidence, people
11 testifying that it's worse than it was before, that wouldn't be something
12 that you'd be comfortable putting an amount on?

13 PROSPECTIVE JUROR 386: Not necessarily, no.

14 MR. JONES: Okay. And that's based on your -- just your
15 own experience in life and what you've been through, like you said, with
16 some of your own nicks and bruises?

17 PROSPECTIVE JUROR 386: Correct.

18 MR. JONES: Okay. And, you know, we talked about -- and
19 we talked about it yesterday. I appreciate the honesty on that. It's
20 something that -- that's kind of a core belief. There's not anything that I
21 can say to you that would cause you to change your view on that to
22 where you'd be able to award for those types of injuries, right?

23 MR. DOYLE: Objection, Your Honor.

24 THE COURT: Basis?

25 MR. DOYLE: He's asking to prejudge on the law.

1 THE COURT: Overruled.

2 MR. DOYLE: Or prejudge the evidence, I'm sorry.

3 MR. JONES: Go ahead.

4 PROSPECTIVE JUROR 386: All right. It would be difficult
5 too --

6 MR. JONES: Okay.

7 PROSPECTIVE JUROR 386: -- because of my own
8 experience --

9 THE COURT: Very offendable.

10 PROSPECTIVE JUROR 386: -- there's not a set level and
11 there's -- and it's difficult too. You want to look at things like work.
12 There's days where I don't miss anything. And then three years later, it
13 might be missing a completely different amount of work. So for me, it's
14 hard to say there's a definitive baseline on something like that.

15 MR. JONES: Okay. All right. And so because there is no
16 definitive baseline on something like that, you wouldn't be able to find or
17 to compensate someone for injuries even if they did bring up -- based
18 on --

19 PROSPECTIVE JUROR 386: Or what I'm saying --

20 MR. JONES: -- their pain?

21 PROSPECTIVE JUROR 386: -- is, my own experience is, I can
22 be fine. I have an injury that I sustained in the past. I can be fine for two
23 years. And then two years down the road, it can hurt a lot for six
24 months. And for me, I see that that injury that I had before doesn't cause
25 me problems and then it does. So I would have a hard time saying, what

1 if I had gone somewhere in that middle? You can say hey, that
2 additional pain you're having for a longer period of time is because of
3 this incident. Where I know, having had an incident like that, with my
4 pain, can completely change from a prior accident without anything
5 coming in. So for that part it would be difficult for me.

6 MR. JONES: Right. No. And I think I fully understand where
7 you're coming from. And I think that makes sense. And so I mean, yeah,
8 it's -- I mean, frankly, it takes a lot of courage to be the guy in front of the
9 mic and to be telling everybody what you think and talking about that.
10 And so I mean, thank you.

11 And so I just want to make sure that I understand that
12 because of that, this is -- because of that and because of your experience
13 with that, you would not be able to compensate someone for additional
14 pain that they had. Because in your experience, that's not how it works?

15 PROSPECTIVE JUROR 386: Correct.

16 MR. JONES: Okay. And there's nothing that I could say,
17 hopefully, that would -- I mean, there's nothing I could say to have you
18 change kind of your viewpoint. This is fundamental to who you are.
19 This is the experiences that you have had in life, right?

20 PROSPECTIVE JUROR 386: Correct.

21 MR. JONES: Okay. All right. Thank you. I appreciate you
22 sharing that with all of us.

23 Does anyone else feel similarly? Okay. All right. Thank you.

24 I just have a few more. There are some people out there who
25 believe that each case should be judged on the facts of that case and not

1 on the public perception of lawsuits in general. There are others who
2 believe there are too many lawsuits filed, generally, so they should all be
3 discarded. Which way do you lean? I know where Rex leans. He wants
4 them all gone. Just kidding.

5 Does anyone lean -- let's go ahead. First, you lean towards
6 each case, should be judged on its facts and its own circumstances?
7 Okay. That's everybody.

8 Some people believe doctors should be sued as it keeps
9 them responsible for treating patients within the correct standards of
10 care and weeds out bad doctors. Others believe doctors should not be
11 sued because then we will not have doctors. Which way do you lean?

12 Let's go to number 1. You believe doctors should be sued
13 for those reasons?

14 UNIDENTIFIED PROSPECTIVE JUROR: Can you repeat it?

15 MR. JONES: Yeah. Some people believe doctors should be
16 sued for negligence when they commit negligence as it keeps -- which
17 wasn't stated there, so sorry. I'm going to restate that one. My
18 apologies, guys.

19 Some believe doctors should be sued when they are
20 negligent as it keeps them responsible for treating patients within the
21 correct standard of care and weeds out bad doctors. Others believe
22 doctors should not be sued because then we will not have enough
23 doctors. Which way do you lean?

24 They should be sued if they are negligent? Raise your hands
25 high, please. And they should not be? Raise your hands high, please.

1 So Christopher, you abstained, my man.

2 Let's pass it down to Christopher really quick.

3 PROSPECTIVE JUROR 357: Diaz, 357. I'm in the middle.

4 THE COURT: Did I hear your badge number. I heard your
5 name. I just didn't hear the badge name. Okay. I heard down in the
6 middle.

7 PROSPECTIVE JUROR 357: I could have.

8 THE COURT: I couldn't hear the badge number between that
9 sentence.

10 PROSPECTIVE JUROR: Diaz, 357.

11 THE COURT: Appreciate it. Thank you so much.

12 PROSPECTIVE JUROR 357: Okay. I'm in the middle. Only
13 because I do believe there -- you should listen to all facts, first of all. But
14 also at the same time, I do believe bad doctors should be, you know,
15 weeded out too. But sometimes they may not be that bad of a doctor
16 and they can be a great doctor. It's just -- I also believe people are very
17 sue happy too. I mean, I'm sorry. I just -- I don't want to take the
18 previous case that was involved. But it's that, we are who we are here in
19 America for a reason. But I don't want to say that I'm going to raise my
20 hand just because I want to sue a doctor because they're bad. That
21 doctor could be great for all I know, and he was great with me. Could
22 have been bad with the next patient.

23 Now as a patient, it's my responsibility to tell the doctor what
24 I suffer and what I go through and what I had. As a doctor, it's my
25 responsibility to listen to their concerns and apply my -- apply my own

1 specific specialty to that for them. To care for them the best way I
2 possibly can care for them. Give them the best care instructions.

3 I am not going to just sue doctors because something
4 happened. Again, like I said before, severity. It has to be very severe --
5 or you know, severity there.

6 I'm also not just going to say let's not just sue doctors
7 because we need doctors. We always need doctors. I mean, I was just
8 at the doctor's office the other -- a couple of weeks ago. And I listened to
9 some people and they said, you know, Las Vegas is one of the cities that
10 have the least amount of doctors per capita -- per -- what is it, per capita,
11 whatever it is. Per person that we have that lives here. You know,
12 instead of yeah, we're short on doctors -- like specialized doctors, which
13 is crazy to think about for a city this big. But again, I'm not going to say,
14 let's just -- you know, let's just get rid of doctors. You know, get rid of
15 them.

16 It's like, same thing with lawyers too. I'm not -- no offense.
17 You know --

18 MR. JONES: No.

19 PROSPECTIVE JUROR 357: -- it's just if you're a bad lawyer,
20 you're a bad lawyer. But if you're a good lawyer, you know, you're a
21 good lawyer. But at the same time, a bad lawyer can still be a good
22 lawyer, you know. What works for one person may not work for the next
23 person.

24 Same thing with mechanics. What works for a mechanic,
25 you know, same thing.

1 I'm not -- I'm in the middle of it because I'm not going to say
2 one or the other.

3 MR. JONES: I mean, I'm going to try to rephrase in a way
4 that --

5 PROSPECTIVE JUROR 357: Sorry.

6 MR. JONES: No, no. You and I do this a lot. So we're old
7 pros at it.

8 No. What I think -- I mean, what it sounds to me like you're
9 saying, among a number of things, but one of the things you're saying is
10 that you do believe that there might be a problem with too many
11 lawsuits and perhaps, some frivolous lawsuits. That you think that that's
12 actually potentially a problem.

13 But in addition, where a doctor really is negligent, they
14 should be held accountable.

15 PROSPECTIVE JUROR 357: If it's proven, yes.

16 MR. JONES: Okay.

17 PROSPECTIVE JUROR 357: Yes, he should be held
18 accountable. Yes.

19 MR. JONES: Okay. And who do you think proves that?

20 PROSPECTIVE JUROR 357: Well, it depends on where -- it
21 depends on where you go. I mean, some doctors do their surgeries in
22 hospitals because they have cameras. And they use the cameras to
23 show the surgery itself.

24 I've watched a Discovery medical show with my wife. She
25 can watch it all -- all day. I can't watch it because I get kind of grossed

1 out watching it. But you know, if the video footage shows that they were
2 negligent then yes. But if there is no video footage and you're going
3 based off witness testimony then I would have to say that, you know,
4 you have to definitely prove that they were negligent, or it was just really
5 a simple little mistake that could happen anywhere. I mean, I could trip
6 down the stairs because I'm not paying attention, you know. And then I
7 want to go sue the people who made the stairs. You know, I'm just
8 saying. You know, like work --

9 MR. JONES: Just --

10 PROSPECTIVE JUROR 357: -- the shoe company. You know,
11 I'm just --

12 MR. JONES: Absolutely. And so if the -- tell me if I'm right
13 or wrong about this. Because of this, although you would be willing to
14 accept the possibility that the doctor is negligent, and you'd be willing to
15 evaluate evidence for it, as we get started in this case, the two parties
16 would not be at the starting line for the race together. The doctor would
17 be a little bit ahead because you would feel like there would be more
18 than the normal amount would need to be proven for the Plaintiff to be
19 successful?

20 PROSPECTIVE JUROR 357: Personally, I would say even. I'm
21 going to say --

22 MR. JONES: Okay.

23 PROSPECTIVE JUROR 357: -- everyone starts even slate,
24 boom, boom. You guys show me the evidence to prove otherwise. If I
25 don't think so, the evidence proves one way or the other, you know,

1 based on my opinion that I listened to all this evidence then something
2 different. But I'm going to start everyone even slate. I -- if I don't know
3 the facts yet, because I don't know the --

4 MR. JONES: Okay.

5 PROSPECTIVE JUROR 357: -- facts anyways, I can't say
6 anything.

7 MR. JONES: So when the evidence comes in --

8 PROSPECTIVE JUROR 357: Until I hear it then --

9 MR. JONES: Sorry.

10 PROSPECTIVE JUROR 357: Until I hear it then, you know, my
11 opinion will start formulating.

12 MR. JONES: So when the evidence comes in, you will weigh
13 that evidence and you'll make a decision based purely on the evidence?

14 PROSPECTIVE JUROR 357: Yes.

15 MR. JONES: Excellent. And you'll evaluate the people that
16 are testifying. Whether they seem like they're here to just kind of tell you
17 the truth about what the situation is. Are these people who are just
18 coming and telling you the truth about it or if they seem like they're here
19 because they're one side or the other, right?

20 PROSPECTIVE JUROR 357: I will --

21 MR. JONES: You'll evaluate it?

22 PROSPECTIVE JUROR 357: Yeah. I'll evaluate their opinion
23 and what they say.

24 MR. JONES: Does everyone commit that it starts off with
25 both of them at the starting point together? That nobody has an

1 advantage as we start? Is that fair?

2 GROUP RESPONSE: Yes.

3 MR. JONES: Yeah? Everybody?

4 GROUP RESPONSE: Yes.

5 MR. JONES: Do any of you feel that during this process that
6 I have done anything through the way that I've talked or through
7 something that I've said that I'm trying to create sympathy for my client?

8 PROSPECTIVE JUROR 444: Yeah.

9 MR. JONES: Yes?

10 PROSPECTIVE JUROR 444: Yes.

11 MR. JONES: Ashley. Go ahead.

12 PROSPECTIVE JUROR: Ashley Fossile, 444. Just kind of
13 based off of just certain questions you can kind of -- at least, kind of see
14 how things are going to go. Like, for example, like the passion thing. It -
15 - like that, for example because I don't believe you would ask questions
16 that would not pertain to anything. You know, there has to be some sort
17 of, like, correlation to what's going on right now. So --

18 MR. JONES: Okay. Okay. Okay. Thank you. No, I very
19 much appreciate that.

20 I will tell you that -- oh, go ahead.

21 PROSPECTIVE JUROR 388: Inscore, 388. I personally
22 wouldn't say sympathy. I would say you're doing your job. You're doing
23 what you're supposed to do. You're defending the Plaintiff. You're
24 doing your job as a lawyer, as a person. So if there's any sympathies
25 there it's because you're trying to do what you can to help.

1 MR. JONES: Thank you. I definitely can agree that it's
2 probably true that both of those things are true. And I will tell you that it
3 has not been intentional on my end. I try to avoid it. But, you know,
4 something can come across.

5 The reason I say it is because that is not my intent. Okay?
6 And during the course of this case --

7 MR. DOYLE: Objection, Your Honor. There's no question.

8 MR. JONES: Yeah, I have a question right now.

9 THE COURT: The Court's going to wait to hear the end of the
10 question to see if there is an objection.

11 MR. JONES: During the course of this case, you are going to
12 hear a lot of information. The Plaintiff is not here in any way for
13 anybody's sympathy. Okay? The Plaintiffs. They're not here for your
14 sympathy.

15 MR. DOYLE: Your Honor, this is --

16 MR. JONES: The time --

17 MR. DOYLE: -- argument.

18 MR. JONES: It is --

19 MR. DOYLE: objection.

20 THE COURT: The Court's going to listen to the end of the
21 question before it makes a ruling.

22 Proceed. Thank you.

23 MR. JONES: The time for sympathy, as far as we are
24 concerned, is past. Now it is time for a calculated, methodical, clinical
25 determination of what has happened here by you, the jury. Are all of

1 you agreeable to not allow sympathy to weigh in to your evaluation of
2 the case? Whether it be for my clients or for the Doctor? Can you agree
3 to that?

4 GROUP RESPONSE: Yes.

5 MR. JONES: Okay.

6 THE COURT: The Court in ruling, the Court overrules the
7 objection after I heard the end of it. It was a proper question. So the
8 Court will overrule the objection. Okay.

9 MR. JONES: Thank you, Your Honor. And I am finished. I
10 took a long time and I did my best. And I apologize if I took more than I
11 needed to. I did the best I could. Thank you, guys.

12 THE COURT: Counsel, which -- are you going to ask to
13 approach or are you going to say something else?

14 MR. JONES: I'm finished.

15 THE COURT: Oh.

16 MR. JONES: Excuse me. I pass the --

17 THE COURT: Then you need to say either out loud pass for
18 cause or do you want to approach?

19 MR. JONES: Oh, yes.

20 THE COURT: I just need you to do one of the two. Okay.

21 MR. JONES: Thank you. Sorry.

22 THE COURT: No worries.

23 MR. JONES: I would like to approach.

24 THE COURT: Okay. Ladies and gentlemen, it's a great time
25 for a break. We've been keeping you. So we want -- it's 3:10. We're

1 going to have you come back at 3:30.

2 So ladies and gentlemen, before you go, you know you're
3 going to get a recess admonishment, right? Because you know you want
4 to hear those lovely words because you know I'm going to say them.

5 So ladies and gentlemen, as you go out for your lovely break,
6 I am going to remind you that, of course, during this recess, you're
7 admonished not to talk or converse among yourselves or with anyone
8 else on any subject connected with this trial or the voir dire process.

9 You may not read, watch or listen to any reported
10 commentary on the trial or the voir dire process, or anyone connected
11 with the trial or the voir dire process by any meeting of information,
12 including without limitation, social media, tweets, text tweets,
13 newspapers, television, internet, radio, anything I'm not stating
14 specifically is, of course, also included.

15 Do not visit the scene or the events mentioned during the
16 trial or the voir dire process. Do not undertake any research,
17 experimentation or investigation. Do not do any posting or
18 communications on any social networking sites or anywhere else. Do
19 not do any independent research, including but not limited to internet
20 searches.

21 Do not form or express any opinion on any subject
22 connected with the trial or the voir dire process, until the case has fully
23 and finally submitted to those of you who go back for deliberations.

24 With that, enjoy stretching your legs. We'll see you back at
25 3:25.

1 THE MARSHAL: All rise for the jury.

2 [Prospective jurors out at 3:13 p.m.]

3 THE COURT: Marshal, while the jury is going out that way,
4 do you want the rest of the jurors to go out the double doors?

5 THE MARSHAL: Yes.

6 THE COURT: Feel free to do so, so we can all do this at the
7 same time, unless you start going to your break. Thank you so much.

8 See you back. Thank you. Just watch your heads as you're
9 walking by that TV screen, please. Thank you so much.

10 [Outside the presence of the prospective jurors]

11 THE COURT: Okay. Everyone's exited the courtroom so you
12 can appreciate, of course, my team also needs their state and federally
13 mandated afternoon break. So we're see you back at 3:25. Feel free to
14 exit the courtroom. And just remember not to talk to any of our
15 prospective jurors. And we'll see you back at 3:25. Thank you so much.

16 [Recess taken from 3:14 p.m. to 3:28 p.m.]

17 [Outside the presence of the prospective jurors]

18 THE COURT: Okay. We're on the record, outside of the jury.
19 Counsel for Plaintiff, you had completed your voir dire questioning. Do
20 you pass for cause, or do you have any cause challenges?

21 MR. JONES: One cause challenge, Your Honor.

22 THE COURT: Okay, Counsel. What's your one cause
23 challenge?

24 MR. JONES: Number 7, Ken Beck, badge number 0386.

25 THE COURT: Okay. Let me find out first if Defense

1 stipulates, if Defense does not stipulate then I'll ask you to set forth your
2 basis for your cause challenge, and then we'll let Defense respond.

3 MR. DOYLE: No stipulation.

4 THE COURT: Okay. Counsel for Plaintiff, can you please set
5 forth your basis for Beck's cause challenge?

6 MR. JONES: Yes, Your Honor. I asked Mr. Beck if he -- well, I
7 asked the group if they would be able to award damages, aggravation
8 damages, where a person was made worse. Mr. Beck first indicated that
9 he might have a problem with that, and when we analyzed it more he
10 made it very clear that he wouldn't be able to award additional damages
11 for pain, if the person had had pain in that area before, and that if the
12 pain just got worse he wouldn't be able to award damages for that.

13 I asked him if that was something that we'd be able to
14 change his mind about, of if this is a core value, this is something that's
15 part of him, that based on his experience, and he said, yes, it is, and he
16 would not be able to change his mind about that issue.

17 And so, Your Honor, he will not be able to award any
18 aggravation damages in the case, and so he's not a fit juror.

19 THE COURT: Okay. Counsel, for Defense, your response?

20 MR. DOYLE: I think his answers were much more fuzzy than
21 counsel paints, and I think he simply expressed, based upon his own
22 personal experiences the difficulty one would have trying to determine
23 what's base line versus what's new, which I think is something everyone
24 is going to have difficulty with.

25 And so I don't believe, based on the totality of his answers,

1 that we have a sufficient basis for a challenge for cause on bias, or
2 enmity, for one side or the other, and my fallback position would be the
3 opportunity to ask him questions when I'm doing the voir dire for my
4 clients.

5 THE COURT: Here's what the Court's viewpoint is. As you
6 know, I'm looking usually at some of the voir dire questions, there's a
7 series of case law, including *Sanders v. Sears-Page*, *Khoury v.*
8 *Seastrand*, *Sayedzada, S-A-Y-E-D-Z-A-D-A, v. State*, okay. *Jithan*, as
9 well, *J-I-T-N-A-N*, and if you want the citations, 127 Nev. 431; we can get
10 you a couple of citations. But *Jithan v. Oliver*, 127 Nev. 424, 2011.
11 *Sanders v. Sears-Page*, 134 Nev. Adv. 50, which the Court appeals 2015,
12 and of course that also cites, *Torres*, 128 F.3d 43. *Sayedzada*, 134 Nev.
13 Adv. Reporter 38. And also there's some citations to the *Torres* case at
14 128 F.3d 43.

15 And so in looking at those cases and the examples of the
16 type of bias and the type of questions that the Court has to look at. What
17 you have to look at is what is the totality of the questions and the
18 answers provided to the juror. Have they indicated, if the juror's
19 statements, taken as a whole indicate bias the juror must be struck; and
20 that obviously is a citation to *Sanders*.

21 But if it is equivocal, or it's unclear, then the Court has to
22 potentially provide an opportunity to see if that juror can be rehabilitated
23 before the Court makes a determination. In this particular case what the
24 Court looks at is, what were Mr. Beck's specific answers. Mr. Beck's
25 specific answers, this is around 2:56 p.m.

1 One of the questions, I think at issue, what the Plaintiff is
2 addressing, is that his response was things would be difficult, whether
3 he was -- he said he may not be comfortable, and things would difficult,
4 he' have a hard time. But then when counsel, and this is the key point,
5 part of the things the Court looks at is, counsel gave his own, counsel's
6 own summation and then asked whether or not the prospective juror
7 agreed with that summation; and that's when he kind of got the answer
8 about whether he would, or would not be able, and that's when he said,
9 It would be difficult for me.

10 And so it wasn't the juror himself explaining in his own
11 words, what his own position was, it was after a summation, in counsel's
12 words, and then kind of an agreement. And that's where the Court really
13 finds that that falls within that -- it's not statements as a whole, indicating
14 bias, this kind of falls within that more speculative aspect, where this
15 Court would find it would be more appropriate to hear answers in
16 response to Defendant's voir dire before the Court makes a well-
17 reasoned determination, because of the nature.

18 And since those were the only questions, really, that came in
19 that, and you look at the totally of his different answers, when he was
20 asked questions, yesterday, which kind of fell in that same area, he did
21 not bring forth this type of issue, and he was asked all those.

22 And in fact your more generalized questions about all the
23 other type of damages, which would include these type of damages for
24 pain and suffering, et cetera, he agreed with you in all the other ones. It
25 was only this very, very narrow inquiry, where he explained his own

1 position based on his own experiences, and the issue here really didn't
2 go into taking it out of his own experience, whether he would apply his
3 own experience to this case or not.

4 I don't think that was clearly flushed out, and that's why this
5 Court would find it's appropriate not to strike him at this juncture, and
6 instead allow some additional voir dire, as requested by Defense
7 counsel, before the Court makes a determination.

8 So the Court is going to defer on Beck, badge number 386,
9 who is seated in seat 7, in the panel. Okay. That's the Court's ruling.
10 Does anyone wish to be heard, have a clarification on that?

11 MR. JONES: No, Your Honor.

12 MR. DOYLE: No.

13 THE COURT: Okay. So there's one other issue before --
14 Marshal, you can start getting the jury lined up, because the Court is
15 going to real quickly, just go over one brief issue. The Court is going to
16 remind the parties, and in particular, if you all are go say something in
17 front of all of the prospective jurors, right, that quote: "there is an
18 agreed upon jury instruction," you better make sure you're correct on
19 that, okay, because counsel for Defense, you're not. Okay.

20 At least -- you mentioned that there was an agreed upon jury
21 instruction, and counsel for Plaintiff said, no, it was proposed, objected
22 to by each of the parties. So the Court went during the break to check,
23 because obviously no one gave me a forewarning on that, and so the
24 Court didn't have a basis.

25 In fact, I asked Defense counsel, well, show me the agreed

1 upon instruction. No one could provide me, quote: "the agreed upon
2 instruction," and so given the nature that that was stated in our entire
3 prospective jury panel, it was important enough that, of course during
4 the break I was going and trying to find whether Plaintiff was correct --
5 Plaintiff's counsel was correct, or Defense counsel was correct. Because
6 when I asked for the agreed upon, Defense counsel couldn't provide it to
7 me.

8 So Plaintiff's counsel proposed in the packet provided to the
9 Court, and I can only rely on what you all provided to me, and the packet
10 provided to the Court, labeled, Plaintiffs' proposed special jury
11 instructions objected to by Defendants. Plaintiffs' proposed P-6 has a
12 definition of preponderance of the evidence, so the Court, since it's in the
13 packet, defined Plaintiffs' proposed special jury instructions objected to
14 by Defendants.

15 The Court would view that that's not the quote: "agreed
16 upon." I don't know, Plaintiff, is that your agreed upon, or is that your
17 proposed, objected to by Defendants?

18 MR. LEAVITT: Our opposed, objected to by Defendant's,
19 Your Honor.

20 THE COURT: Okay. Similarly, and this is another concern
21 that the Court is going to raise, and is yet unfortunately another violation
22 by Defense counsel, of the rules. Okay. The Court clearly in its hand-out
23 for procedures of civil jury trials, District Court Department 31, right,
24 which always is available at counsel table, specifically told everyone, and
25 this is your at least third trial in this department, so it's not news.

1 And reminded everyone, reminded everyone before the
2 calendar call, reminded everyone at the pretrial conference, and I know
3 that you actually came and picked upon, because you came in the middle
4 of a different hearing and picked up another one. Also available online,
5 page 2, proposed jury instructions and verdict forms specifically sets
6 forth that any jury instructions proposed by Defendant which are not
7 stipulated to shall be captioned "Defendant's proposed jury instructions,
8 objected to by Plaintiff and Defendant's proposed jury instructions
9 objected to Plaintiff, uncited, and shall be numbered in the lower right-
10 hand corner, in numerical order, D-1, D-2, et cetera.

11 Once again, Defendant did not comply with that, but the
12 Court still found it, and in, I can't tell you what number it is, because of
13 Defendant's failure to comply with the Court's instructions, but in the --
14 well, it's the third one in, the third one in, Defendant also has, in what is
15 labeled Defendant's proposed special jury instructions objected to by
16 Plaintiffs, also has a definition of preponderance of the evidence.

17 The Court's not going to go into what you all's quote:
18 "definitions" are. The issue was, the statement was made that it was in
19 the joint agreed upon jury instructions, and that is at least from what is
20 shown by what you all provided to the Court; unless you're telling me
21 you provided something different to the Court; Plaintiff's counsel, did
22 you provide something different?

23 MR. LEAVITT: No, Your Honor.

24 MR. JONES: No, Your Honor.

25 THE COURT: Defense counsel, did you provide something

1 different?

2 MR. DOYLE: No.

3 THE COURT: Okay. So it was not in the joint agreed upon
4 jury instructions as specifically stated in open court, in front of all of our
5 prospective jurors. So I would caution you and remind you, please do
6 not make objections that include statements, if they are not accurate.

7 MR. DOYLE: Your Honor, at sidebar I did clarify and correct
8 my memory, just for the record, that in our both separate sets of
9 instructions we have the same definition of preponderance of the
10 evidence, their P-6 and ours as well. So --

11 THE COURT: The Court's concern, as you know, and as was
12 Plaintiff raised, right, is that you stated it in front of all of our prospective
13 jurors. The prospective jurors wouldn't have heard what you said at
14 bench, and that was after Plaintiff said it was in their objected to, then
15 you said, well, it may be in each of those, but it's a different statement.

16 But the point is, you can't things in open court in front of our
17 prospective jurors, or subsequent our jurors, that is incorrect. It was
18 incorrect to say it anyway, because it's argument, it's not a proper
19 objection, but more egregious it was incorrect. And so --

20 MR. DOYLE: Thank you.

21 THE COURT: -- the Court cautions you, again, and you know
22 there's pending extensive sanctions, and still the pending issue about
23 striking you all's answer for the repeated conduct of Defense counsel.
24 So remember that's out there. Please --

25 MR. DOYLE: I haven't forgotten.

1 THE COURT: Okay. But you still didn't even give the jury
2 instructions compliant with the rules that's right there. So I'm not sure
3 what the reasoning for that is, but that wasn't provided appropriately
4 either. So the Court notes that, not further discussion for today's
5 purposes, but the Court hasn't heard anything.

6 Counsel for Plaintiff, you're standing up. Is there some the
7 Court can assist you with?

8 MR. LEAVITT: Yes, Your Honor. We have another continued
9 violation, the EDCR-727. What they're looking for -- see, the issue is, is
10 this, his continued violation, now I've got my researchers and writers --
11 what they submit is not a trial brief. Again, that's a misrepresentation to
12 the Court. 727 --

13 THE COURT: Which one?

14 MR. LEAVITT: The 727 --

15 THE COURT: There was multiple 727s. There were --

16 MR. LEAVITT: All three.

17 THE COURT: -- multiple documents that were presented to
18 the Court as characterized as 727 memoranda.

19 MR. LEAVITT: Correct. All three of them are motions in
20 limine; I mean, let's not be coy. At this point I have nothing other to
21 think that Mr. Doyle is doing this on purpose, to try and either influence
22 the Court to give sympathy for his sanctions, but now I have researchers
23 and writers, because I've got to respond, because they are asking for
24 relief.

25 At this point, I've got to dedicate my resources, instead of

1 dedicating my time to the trial to deal with his continued violations of
2 your Court's orders, and pick up the book, read EDCR-727.

3 THE COURT: Sorry, who is that directed to, I'm sure it wasn't
4 direct ed to me?

5 MR. LEAVITT: To counsel. When is this going to end?
6 Further, do I need to address his objections in Court? Can we get -- this
7 is my concern, Your Honor, is if he -- when we're in trial, these speaking
8 objections are going to continue. This Court has admonished him I don't
9 know how many times at this point, yet he continues to follow any of the
10 rules.

11 He makes his own rules up, as this Court can see. They file
12 affidavits that are incorrect. Further, when we were in the sanctions'
13 hearing last week, I'm finding out that they filed ex parte motions that
14 I've never even heard. Kimbell and I were looking at each other, like this
15 OST was never sent to me, the one in front of the discovery
16 commissioner. I don't recall seeing that; do you recall see that, Kim?

17 Okay. This is beyond a grave concern at this point. Counsel
18 is not going to -- and further, I went ahead and pulled Brett Carter's
19 [phonetic] trial with counsel. I pulled Brensky's [phonetic] with counsel.
20 This is a repeated issue with this particular attorney.

21 THE COURT: Okay.

22 MR. LEAVITT: What can this Court do that it hasn't done, to
23 deal with this issue? How many times are we going to have to deal with
24 this? And yet we're taking my time, my client's time, and frankly, it's just
25 an embarrassment at this point.

1 THE COURT: As you can appreciate, what would you like the
2 Court to do at this juncture? You have a prospective -- you have 61
3 people of our community as prospective jurors --

4 MR. LEAVITT: Sure.

5 THE COURT: -- standing outside, ready to come in the
6 courtroom --

7 MR. LEAVITT: I would suggest --

8 THE COURT: -- what would you like the Court to do at this --

9 MR. LEAVITT: -- we continue voir dire. At 8:30 we show up,
10 because I'm going to prepare another brief on OST to strike that answer.
11 Because that's the only thing I can do, and to strike the trial briefs as
12 rogue documents.

13 THE COURT: Okay. As you know the Court cannot make any
14 advisory ruling, as you're also aware --

15 MR. LEAVITT: Correct.

16 THE COURT: -- there's one judicial day issues, as you're also
17 probably aware, the Court actually does have about 700 other cases on
18 its docket, including a motion calendar tomorrow. Now granted we've
19 tried to move almost everything off of it, so I'll only have, I think, two
20 motions tomorrow. We've been able to move almost everything, but
21 tomorrow is my CD calendar.

22 I've only got a couple of motions. You all can talk among
23 yourselves, but remember, if people present something to the Court in a
24 proper timely manner the Court will be glad to address it.

25 MR. LEAVITT: We'll do it, Your Honor.

1 THE COURT: Do you wish things addressed, right now, or
2 would you like the juror brought in to continue voir dire?

3 MR. LEAVITT: Let's continue. Plaintiffs' position. Let's
4 continue voir dire and we'll handle it tonight. We're going to have to
5 spend time to draft this up and get it on calendar?

6 THE COURT: Is that agreeable to Defendant counsel?

7 MR. DOYLE: Yes, Your Honor.

8 THE COURT: Okay. So we're going to bring the jury in, and
9 so in light of the Court's ruling, then that juror number 7 will remain, and
10 Defense counsel will commence their voir dire questioning, okay. And
11 then we'll reserve that at the end to address that, okay.

12 MR. LEAVITT: Thank you, Your Honor.

13 THE COURT: Just remind the Court. Okay. Thank you so
14 much. Appreciate it.

15 Marshal, can you please let in our jurors. Thank you so
16 much.

17 THE MARSHAL: All rise for the jury.

18 [Prospective jurors in at 3:44 p.m.]

19 THE MARSHAL: All jurors are accounted for. Please be
20 seated.

21 THE COURT: Okay. I do appreciate it. Thank you so much.
22 Welcome back. Okay. Welcome back ladies and gentlemen. At this
23 juncture -- okay, so what you all have realized it, right, we said "ish"
24 right, okay? We said about 15 minutes-ish, right? You realize my name,
25 right, has the "ish" there right in there, okay? Ha, ha, ha, ha. The best I

1 can do on an afternoon, okay. Okay.

2 Usually I wait until the middle of trial to have to use that one.
3 Realistically, folks, so I do appreciate it. Plaintiff's counsel has completed
4 their voir dire questioning, so at this juncture it's time for Defense
5 counsel. Feel free to commence with your voir dire questioning. Thank
6 you.

7 MR. DOYLE: Thank you, Your Honor. And I haven't used this
8 before so, turning it on and off?

9 THE COURT: If the green light is on, we should be able to
10 hear you. I see a green light.

11 [Counsel and Clerk confer]

12 THE COURT: Feel free to commence.

13 MR. DOYLE: Good afternoon everyone.

14 GROUP RESPONSE: Good afternoon.

15 MR. DOYLE: Good afternoon, everyone.

16 GROUP RESPONSE: Good afternoon.

17 MR. DOYLE: What you're going to find during the course of
18 this trial is that I often will go second, and I often will end up at the end
19 of the day, and so I hope you are able to give to me, as much attention
20 as I know you gave to Mr. Jones, throughout today, earlier, as well as
21 yesterday.

22 What I want to find out, first, is who among you was excited
23 when you got the jury summons? Anyone? I always get maybe one or
24 possibly two hands. Anyone excited about it?

25 THE COURT: You've got back in the gallery one.

1 MR. DOYLE: Okay. All right. Now I know a couple of you
2 have prior jury service -- and by the way, I wanted to mention, you know,
3 I've always found that the courtroom is a formal and respectful place
4 where people come to resolve issues that they can't resolve informally,
5 or on their own. And so I'm not going to be using your first names, I'm
6 going to be using your last names, and I'm assuming that that's okay,
7 given the fact that we are in a court of law.

8 So Ms. Hightower, you mentioned that you had -- not yet.
9 You mentioned you had prior jury service. What I wanted to find out is
10 who else had prior jury service? Okay. Ms. Fossile let's start with her.
11 And I'm going to ask -- so what I want to find out is, was it a criminal, or
12 a civil case, or if there's more than one, if you could let me know.

13 PROSPECTIVE JUROR 444: Okay. Fossile, 444. It was a
14 criminal case.

15 MR. DOYLE: And how long ago?

16 PROSPECTIVE JUROR 444: It was probably about 2012,
17 2013.

18 MR. DOYLE: Here in Las Vegas?

19 PROSPECTIVE JUROR 444: Yes.

20 MR. DOYLE: And without telling me what the verdict was,
21 was the jury able to reach a verdict?

22 PROSPECTIVE JUROR 444: Yes.

23 MR. DOYLE: And were you the foreperson, or not?

24 PROSPECTIVE JUROR 444: No.

25 MR. DOYLE: Okay. And who else had their hand up?

1 Ms. Williams-DeLoach, please same questions. Was it -- I'm sorry, go
2 ahead.

3 PROSPECTIVE JUROR 382: Okay. It's Williams-Deloach, 328.

4 MR. DOYLE: How many times have you sat on a jury?

5 PROSPECTIVE JUROR 382: This is the second time.

6 MR. DOYLE: The first time was it a criminal or civil?

7 PROSPECTIVE JUROR 382: Criminal.

8 MR. DOYLE: Did the jury reach a verdict?

9 PROSPECTIVE JUROR 382: Yes.

10 MR. DOYLE: And were you the foreperson or not?

11 PROSPECTIVE JUROR 382: No.

12 MR. DOYLE: Mr. Beck.

13 PROSPECTIVE JUROR 386: Beck, 386.

14 MR. DOYLE: Criminal -- well, how many times, first of all?

15 PROSPECTIVE JUROR 386: One.

16 MR. DOYLE: Criminal or civil?

17 PROSPECTIVE JUROR 386: Criminal.

18 MR. DOYLE: How long ago?

19 PROSPECTIVE JUROR 386: About three years ago.

20 MR. DOYLE: And the jury was able to reach a verdict?

21 PROSPECTIVE JUROR 386: Yes.

22 MR. DOYLE: And you were the foreperson?

23 PROSPECTIVE JUROR 386: Yes.

24 MR. DOYLE: Okay. Now, Mr. Beck, as long as you have the
25 microphone I wanted to ask you some follow-up questions based on

1 some information earlier. Do you consider yourself to be a law-abiding
2 person?

3 PROSPECTIVE JUROR 386: Yes.

4 MR. DOYLE: Do you typically follow the rules?

5 PROSPECTIVE JUROR 386: Yes.

6 MR. DOYLE: All right. If at the end of this case the Court
7 gives you jury instructions, the law that the jury has to follow, if they're
8 selected to sit on the jury, perhaps based upon your other experience,
9 but will you be able to follow the law?

10 PROSPECTIVE JUROR 386: Yes.

11 MR. DOYLE: All right. Do you believe you'll have any
12 difficulty following the law as given to you?

13 PROSPECTIVE JUROR 386: No.

14 MR. DOYLE: And if the law on damages gives you certain
15 instructions about trying to sort through those damages, do you believe
16 you'll have any difficulty following those instructions?

17 PROSPECTIVE JUROR 386: No.

18 MR. DOYLE: When you were asked some questions a little
19 bit ago, and you were being asked about trying to distinguish, you know,
20 a situation where you're dealing with existing pain, and then now the
21 pain has become worse, and there were some questions to you about, is
22 that something you could evaluate or look at.

23 What I'd like to hear from you is, can you explain to me
24 whether you believe you could do that, based upon the instructions that
25 would be given?

1 PROSPECTIVE JUROR 386: I think that particular part is
2 difficult. Just because I said an example I have, I have an injury that I
3 can go two years and have no pain, and then five years later I can have
4 significant pain from that injury, that will last me six months. So in my
5 experience I see that I have a hard time saying, here's a consistent --
6 here is the baseline level of pain that had before, where I could say after
7 an event something increased, so I think that could be really difficult to
8 do.

9 MR. DOYLE: Are you telling me that that would be difficult to
10 do, based upon looking at your own pain, and what happens to you?

11 PROSPECTIVE JUROR 386: Based on my experience, I think
12 that would make it difficult, because I don't see it being a flat amount, or
13 I can say, okay, this went up 50 percent.

14 MR. DOYLE: Okay. But if we assume in this case that there
15 was evidence, there was testimony, there were doctors that testified
16 about the baseline, and then how the baseline has changed or increased,
17 do you have some reason to doubt that you wouldn't be able to listen
18 and evaluate that testimony?

19 PROSPECTIVE JUROR 386: I'd do my best. I'm just saying
20 my situation is different. I don't -- without something happening, or a
21 case happening, I could see that sometimes it's low, and sometimes it's
22 really high, and there can be years of space between those two without
23 an event, or a surgery, or anything else that went right or wrong that can
24 change that. So --

25 MR. DOYLE: But are you willing, if you're selected as a juror

1 in this case, to put aside your own personal experiences on how your
2 pain has come and gone over the years, and listen to the evidence about
3 pain in this case, or other problems, and how those may have changed
4 or become exacerbated or worse?

5 PROSPECTIVE JUROR 386: Yes.

6 MR. DOYLE: Okay. And would you have any reason to
7 doubt that you wouldn't be able to follow the Court's instructions, if
8 given instructions on that particular topic?

9 PROSPECTIVE JUROR 386: I can follow instructions when
10 given instructions.

11 MR. DOYLE: Okay. And you believe you'd be able to set
12 aside your own personal experiences and evaluate this issue of pain or
13 other problems, and whether they're worse, compared to baseline, just
14 on the evidence presented to you?

15 PROSPECTIVE JUROR 386: I can make a decision based on
16 evidence presented.

17 MR. DOYLE: Okay. Mr. Inscore?

18 PROSPECTIVE JUROR 388: Inscore, 388.

19 MR. DOYLE: How are you?

20 PROSPECTIVE JUROR 388: I'm doing pretty good, how
21 about you?

22 MR. DOYLE: I'm okay. Thank you.

23 Yesterday, you went through a long list of medical issues
24 affecting you, family members, I can't remember if there were close
25 friends in that list, as well, but the list was quite long; am I remembering

1 correctly?

2 PROSPECTIVE JUROR 388: Very expansive, yes.

3 MR. DOYLE: Okay. And I don't want to go back through
4 those details again, but in addition to this list of medical problems and
5 issues that are affecting you and others, close to you, or related to you, if
6 I recall correctly there have also been instances where there's been
7 medical care for those problems, and then afterwards someone has been
8 unhappy or disappointed with that care?

9 PROSPECTIVE JUROR 388: Yes.

10 MR. DOYLE: And that's what I was trying to remember from
11 yesterday. Now in terms of receiving medical care and being unhappy,
12 disappointed, or perhaps angry with that care afterwards, is that
13 something that has affected you?

14 PROSPECTIVE JUROR 388: Not personally, no.

15 MR. DOYLE: Who has it affected in terms of a family
16 member or close friend?

17 PROSPECTIVE JUROR 388: My mom, with her hole in her
18 heart.

19 MR. DOYLE: And how long ago was that?

20 PROSPECTIVE JUROR 388: That was probably when I was
21 early preteen, so I would say about 10 through 12, somewhere in that
22 range.

23 MR. DOYLE: Does she have -- and I don't want to get into a
24 lot detail about your mother's medical history, but does she still have the
25 problem?

1 PROSPECTIVE JUROR 388: She does have -- she does have
2 problems with the -- with the migraines that it caused, though I'm not
3 sure if the doctor was actually able to close up that hole.

4 MR. DOYLE: Okay. Now given the experiences that you
5 have had in your own life, with medical problems and issues, and
6 medical care in the family, what I'd like to find out from you is, is how
7 would you feel if you were sitting where Dr. Rives is sitting and there
8 was a juror, just like you sitting over here, who's being contemplated for
9 this jury with the same background, feelings and thoughts, how would
10 you feel about that?

11 PROSPECTIVE JUROR 388: I personally would feel as if that
12 juror would be swayed to the other side. But if the question is, if I would
13 be swayed, I would look at both sides, and I would look at it at a logical
14 point-of-view.

15 MR. DOYLE: Okay. So have you ever seen a horse race?

16 PROSPECTIVE JUROR 388: No.

17 MR. DOYLE: Okay. If you have ever seen, and let me
18 describe this, and perhaps you're familiar with it in some other method,
19 but in a horse race, you know, you might have eight or ten horses and
20 they all come up to the gate, which is "V," and when the bell goes off the
21 V opens at that same time for all the horses, and then all the horses
22 come out of the gate and begin the race; does sound familiar to you?

23 PROSPECTIVE JUROR 388: I have seen -- I have seen some
24 shows that do have horse races in them, so it is vaguely familiar.

25 MR. DOYLE: All right. So let me try something different.

1 There was a discussion yesterday about pumpkin pie; do you remember
2 the discussion yesterday about pumpkin pie?

3 PROSPECTIVE JUROR 388: Yes.

4 MR. DOYLE: And the business about being a judge at a pie
5 contest, and if one of these pie submissions is pumpkin pie, and you
6 were a judge, and you really dislike pumpkin pie, but you love apple pie,
7 which is the other pie to be submitted; do you remember that from
8 yesterday?

9 PROSPECTIVE JUROR 388: Yeah.

10 MR. DOYLE: Did that ring some bells with you in terms of an
11 analogy, as you were listening to it?

12 PROSPECTIVE JUROR 388: It did, but with my experience
13 with my mom, I couldn't really -- I couldn't care less, because it hasn't
14 affected me personally.

15 MR. DOYLE: Okay. So do you think you would be a good
16 person to judge a pie contest if the pie contest was about pumpkin pie,
17 but you disliked it strongly?

18 PROSPECTIVE JUROR 388: I would look at it from a logical
19 point-of-view.

20 MR. DOYLE: Okay. Great, thank you.

21 PROSPECTIVE JUROR 388: You're welcome.

22 MR. DOYLE: Ms. Peacock.

23 PROSPECTIVE JUROR 426: Peacock, 426.

24 MR. DOYLE: I'm very dry, so I apologize. You mentioned
25 something a little bit ago when there were questions about surgery, and

1 you mentioned something that I jotted down about risks; do you recall
2 that?

3 PROSPECTIVE JUROR 426: Yes.

4 MR. DOYLE: Tell me what you were thinking, at that point in
5 time, when there was a discussion about surgery, and you said
6 something about risk, what was going through your mind?

7 PROSPECTIVE JUROR 426: I thought the question was vague
8 to say if you were injured by a physician, because sometimes there are
9 inherent risks when you have a surgery, there's about an 20 percent
10 chance that you'll be healed, and an 80 percent chance that you won't,
11 and you end up being injured, I don't consider that an injury, it was just a
12 calculated risk that was likely to happen. So I don't think you can sue,
13 because, like the outcome differ.

14 MR. DOYLE: And without asking what kind of surgery --

15 PROSPECTIVE JUROR 426: Uh-huh.

16 MR. DOYLE: -- but have you ever had surgery?

17 PROSPECTIVE JUROR 426: I had corrective leg surgery.

18 MR. DOYLE: Okay. Was that done by an orthopedic
19 surgeon?

20 PROSPECTIVE JUROR 426: Twice, yes.

21 MR. DOYLE: Before the surgery did you have a discussion
22 with the orthopedic surgeon about the surgery?

23 PROSPECTIVE JUROR 426: I was about nine, so I'm
24 assuming --

25 MR. DOYLE: Oh.

1 PROSPECTIVE JUROR 426: -- my parents did, but, no, I
2 didn't.

3 MR. DOYLE: Okay. All right. Who as an adult has had
4 surgery, and I'm not going to ask about the particulars of the surgery,
5 but what I'm interested in finding out is, who, as an adult, has gone
6 through surgery and pre-operative process, and the consent process, et
7 cetera? If we could see some hands? Oh, we've got a lot of hands.

8 Well, let's start with Mr. Harker.

9 PROSPECTIVE JUROR 370: Harker, 370.

10 MR. DOYLE: How many surgeries have you had?

11 PROSPECTIVE JUROR 370: Two.

12 MR. DOYLE: Recently, or in the distant past, or perhaps
13 both?

14 PROSPECTIVE JUROR 370: One was in the way distant past,
15 and the most remember one was probably about 12 or 15 years ago.

16 MR. DOYLE: All right.

17 PROSPECTIVE JUROR 370: And the most recent one was
18 probably about 12 or 15 years ago.

19 MR. DOYLE: All right. Before both of those surgeries did
20 you have a discussion with the surgeon about the surgeries?

21 PROSPECTIVE JUROR 370: Yeah. I don't remember the first
22 one, but the second -- the most recent on, yes.

23 MR. DOYLE: And was that here in Las Vegas?

24 PROSPECTIVE JUROR 370: No.

25 MR. DOYLE: Where was it?

1 PROSPECTIVE JUROR 370: It was in California.

2 MR. DOYLE: Did the surgeon discuss with you, beforehand,
3 any risks or complications of the surgery, going into the surgery?

4 PROSPECTIVE JUROR 370: Yes.

5 MR. DOYLE: And when you were having that discussion with
6 the surgeon, what was your understanding, generally, of risks and
7 complications of surgery?

8 PROSPECTIVE JUROR 370: It was pretty clear. There wasn't
9 a lot of risk for the surgery.

10 MR. DOYLE: Were there any risks for your surgery?

11 PROSPECTIVE JUROR 370: Yes.

12 MR. DOYLE: Did any of those risks occur?

13 PROSPECTIVE JUROR 370: No.

14 MR. DOYLE: Okay. Before I move on, there were some
15 questions to you yesterday about diabetes.

16 PROSPECTIVE JUROR 370: Today, I believe.

17 MR. DOYLE: Okay. Today, it's all kind of blended together
18 for me. Is there diabetes in your family?

19 PROSPECTIVE JUROR 370: Yes.

20 MR. DOYLE: Is there both Type 1 and Type 2 diabetes in
21 your family?

22 PROSPECTIVE JUROR 370: Yes.

23 MR. DOYLE: Are there people in your family that require
24 insulin to treat their diabetes?

25 PROSPECTIVE JUROR 370: Yes.

1 MR. DOYLE: If I use the term peripheral neuropathy does
2 that have some meaning to you?

3 PROSPECTIVE JUROR 370: Yes.

4 MR. DOYLE: What is your understanding of peripheral
5 neuropathy?

6 PROSPECTIVE JUROR 370: Nerve damage.

7 MR. DOYLE: Caused by?

8 PROSPECTIVE JUROR 370: Lack of care for you diabetes.

9 MR. DOYLE: Now, do you have -- in your family, are there
10 people who have a peripheral neuropathy?

11 PROSPECTIVE JUROR 370: No.

12 MR. DOYLE: How did you come to learn about peripheral
13 neuropathy, generally?

14 PROSPECTIVE JUROR 370: Just education on the diabetes.

15 MR. DOYLE: Is this something, just on your own studying,
16 or looking up?

17 PROSPECTIVE JUROR 370: Through endocrinologist's care
18 for my loved ones.

19 MR. DOYLE: Okay. Did you come to an understanding that if
20 a person has diabetes and they don't take good care of the diabetes that
21 they can develop a peripheral neuropathy?

22 PROSPECTIVE JUROR 370: Yes.

23 MR. DOYLE: In your own study did you come to learn what
24 the signs, or symptoms of peripheral neuropathy are?

25 PROSPECTIVE JUROR 370: Some -- somewhat.

1 MR. DOYLE: Tell me what you understand them to be?

2 PROSPECTIVE JUROR 370: Loss of feeling in your feet, and
3 discoloring in your legs, and things of that nature.

4 MR. DOYLE: How about pain?

5 PROSPECTIVE JUROR 370: Oh, yeah, there's some pain
6 involved.

7 MR. DOYLE: Have you come to learn about any of the
8 medications that are used to treat a peripheral neuropathy, like Cymbalta
9 or Gabapentin?

10 PROSPECTIVE JUROR 370: no.

11 MR. DOYLE: Okay. If you could hand the microphone to Ms.
12 Williams-Deloach, because I think I'm seeing her head go up and down.

13 Ms. Williams-Deloach, you mentioned, I think it was
14 yesterday, that you have an interest in patient education; do you I
15 remember that correctly?

16 PROSPECTIVE JUROR 382: Williams-Deloach, 382. Yes,
17 that's correct.

18 MR. DOYLE: Are you currently involved in patient education?

19 PROSPECTIVE JUROR 382: Yes.

20 MR. DOYLE: And how long have you been a registered
21 nurse?

22 PROSPECTIVE JUROR 382: Twenty-three years.

23 MR. DOYLE: Have you worked both in an in-patient and out-
24 patient setting?

25 PROSPECTIVE JUROR 382: No. Just basically doing

1 in-patient.

2 MR. DOYLE: Over the years have you developed a particular
3 specialty or area of expertise in nursing, for example, Med-Surg, or
4 neurosurgery, or something of that sort, telemonitoring?

5 PROSPECTIVE JUROR 382: I'm CCR, and I'm certified, so a
6 critical care certification.

7 MR. DOYLE: Have you worked in intensive care units?

8 PROSPECTIVE JUROR 382: Yes.

9 MR. DOYLE: And are you currently working as a registered
10 nurse, and I apologize, you might have mentioned this yesterday?

11 PROSPECTIVE JUROR 382: Yes.

12 MR. DOYLE: And I think you said something about the VA?

13 PROSPECTIVE JUROR 382: Correct.

14 MR. DOYLE: Are you working currently in critical care at the
15 VA?

16 PROSPECTIVE JUROR 382: Yes.

17 MR. DOYLE: Working, and does the VA hospital have
18 different kinds of intensive care units, or just one?

19 PROSPECTIVE JUROR 382: It's just one, the Med-Surg. It's a
20 critical care unit, and we have surgical patients as well as medical
21 patients.

22 MR. DOYLE: Okay. I've been using the term ICU, you've
23 been saying critical care unit, are you we speaking the same thing?

24 PROSPECTIVE JUROR 382: The same language, basically.

25 MR. DOYLE: Okay. And how long have you been working in

1 the critical care unit, or ICU at the VA hospital?

2 PROSPECTIVE JUROR 382: With the VA, I would say about
3 nine years.

4 MR. DOYLE: And do you interact regularly with the different
5 doctors who work in the critical care unit?

6 PROSPECTIVE JUROR 382: Yes.

7 MR. DOYLE: Are you familiar with the specialty of critical
8 care medicine?

9 PROSPECTIVE JUROR 382: Yes.

10 MR. DOYLE: Are you familiar with the specialty of
11 hospitalist?

12 PROSPECTIVE JUROR 382: Yes.

13 MR. DOYLE: Cardiologist?

14 PROSPECTIVE JUROR 382: Yes.

15 MR. DOYLE: Nephrologist?

16 PROSPECTIVE JUROR 382: Yes.

17 MR. DOYLE: Infectious disease?

18 PROSPECTIVE JUROR 382: Yes.

19 MR. DOYLE: General surgery?

20 PROSPECTIVE JUROR 382: Yes.

21 MR. DOYLE: In your own experience, working in an intensive
22 care unit over these years, could you describe for me what you've
23 observed in terms of the doctors interacting, and collaborating with one
24 another, when there's multiple specialists involved in a patient's care?

25 PROSPECTIVE JUROR 382: So basically the doctors -- they'll

1 put in a consult. So say for example if we have a patient that started out
2 as Med-Surg patient, but now have developed acute kidney injury, so
3 they may -- they might consult the nephrologist. So, yes, they interact
4 with each other.

5 MR. DOYLE: And if I were to use the terms "closed" or
6 "open" ICUs, does that mean anything to you?

7 PROSPECTIVE JUROR 382: Yes.

8 MR. DOYLE: And at the VA is it an open or closed ICU?

9 PROSPECTIVE JUROR 382: It's open, we have intensivists.

10 MR. DOYLE: And have you worked in a close ICU?

11 PROSPECTIVE JUROR 382: Yes.

12 MR. DOYLE: How long ago did you work in a closed ICU?

13 PROSPECTIVE JUROR 382: About five years ago.

14 MR. DOYLE: Okay. In the ICU where you're currently
15 working, if a patient is in there, even a post-operative patient, are they
16 typically being followed by the intensivist, or critical care specialist?

17 PROSPECTIVE JUROR 382: Yes, the intensivist.

18 MR. DOYLE: Okay. Intensivist is another word for critical
19 care specialist?

20 PROSPECTIVE JUROR 382: No. Because they're intensivists.

21 They are doctors that throughout the hospital, so, yeah.

22 MR. DOYLE: Okay.

23 PROSPECTIVE JUROR 382: But we do have a pulmonary
24 doctor, that's ICU only.

25 MR. DOYLE: Got it. Thank you for clarifying that.

1 So in your setting currently, if you have a patient who's had
2 surgery at the hospital, they've developed some problems after surgery
3 and they go into the ICU, in your ICU who -- is it the intensivist who is
4 managing the patient and then keeping track of all the consultants and
5 other people?

6 PROSPECTIVE JUROR 382: So basically, it is -- it depends. If
7 they're still under surgery, surgery follows that patient. But if surgery
8 has signed them off and given them over to the medicine doctor, then
9 they follow the patient. But surgery will still probably come and look in
10 on them.

11 MR. DOYLE: Okay. And so I would assume in your intensive
12 care unit there are patients where both the general surgeon and the
13 intensivist are seeing that patient together?

14 PROSPECTIVE JUROR 382: Correct.

15 MR. DOYLE: Okay. Different specialist, different expertise.

16 PROSPECTIVE JUROR 382: Correct.

17 MR. DOYLE: Okay. Now, going back for a moment to your
18 patient education, has it included diabetes?

19 PROSPECTIVE JUROR 382: Yes.

20 MR. DOYLE: And I thought I saw you nodding your head
21 when I was asking Mr. Harker about peripheral neuropathy. Is that
22 something you're familiar with?

23 PROSPECTIVE JUROR 382: Uh-huh.

24 MR. DOYLE: What is your understanding of peripheral
25 neuropathy?

1 PROSPECTIVE JUROR 382: Yeah. It's basically damage to
2 the nerves. So they can have loss of sensation in their fingers, their toes.
3 And, actually, the neuropathy it just depends on the individual because
4 I've seen people who have just neuropathy on one side of their
5 extremities. So if they had a stroke, they may develop neuropathy from
6 that as well. So it just depends. But with diabetes, yeah, it's normally or
7 it's just more -- it's the fingers, toes.

8 MR. DOYLE: Do you have knowledge about if someone is
9 diabetic and is taking insulin for their diabetes do you have any
10 knowledge about blood sugars and the need to follow blood sugars?

11 PROSPECTIVE JUROR 382: I do.

12 MR. DOYLE: Do you have knowledge about what would be
13 normal or abnormal blood sugars?

14 PROSPECTIVE JUROR 382: Yes.

15 MR. DOYLE: Do you have knowledge about what can
16 happen to a patient who has diabetes and is taking insulin and the blood
17 sugars remain too high for too long?

18 PROSPECTIVE JUROR 382: Yes.

19 MR. DOYLE: What's your understanding of that?

20 PROSPECTIVE JUROR 382: So if that -- if the blood sugar
21 remained too high for too long, they could develop all kind of issues.
22 They can develop issues with their kidneys, with their heart. So it just
23 could be. So with the blood sugar being too high, if they -- they could
24 develop problems with their eyes as well.

25 MR. DOYLE: Okay. Now, is there anyone else amongst you

1 besides Mr. Harker and Ms. Williams-DeLoach that has some knowledge
2 about diabetes, complicated versus uncomplicated, or the problems that
3 can occur? Anybody else besides those two? If you do -- Mr. Inscore,
4 I'm seeing you wobble your hand, but we'll pass on the wobble.

5 Anyone body else? If you have any knowledge about this, if
6 you could just pop your hand up for me. Okay.

7 Do any of you by chance know anyone else here in what we
8 call the box? Do any of you know anyone by chance who's sitting out in
9 the gallery?

10 If we could give the microphone to Mr. -- it's Root, correct?

11 PROSPECTIVE JUROR 361: Root, 361.

12 MR. DOYLE: Mr. Root, I think -- and frankly, I don't
13 remember if it was yesterday or today. I apologize. Again, when there
14 was a discussion about surgery and risks, I made a note that you had
15 something to say about that. Apparently, it was today. Could you
16 explain what thoughts were going through your mind.

17 PROSPECTIVE JUROR 361: Was that in regards to, like,
18 signing something going into it? Yeah, I just, I don't know, I kind of -- I
19 guess it's kind of a personal belief of mine. I read everything before I
20 sign it kind of deal. I'm one of those people. Now, like with my line of
21 work, contracts are everything. And when you have one there it could be
22 the difference between something and something totally different. So I
23 believe when you sign something, you're held to that knowledge of
24 what's on it.

25 MR. DOYLE: Okay. Now, do you have a general

1 understanding of whether surgery has risks?

2 PROSPECTIVE JUROR 361: Yeah. Yeah. I've had surgery
3 about ten years ago so --

4 MR. DOYLE: Do you have some understanding whether the
5 anesthesia necessary for surgery has risks?

6 PROSPECTIVE JUROR 361: Yeah, that's one of the bigger
7 things.

8 MR. DOYLE: And is there anyone amongst the 20 of you that
9 is unaware that, say, general anesthesia for surgery that it has risks and
10 carries its own risks? Is there anyone who is not familiar with that?

11 Is there anyone amongst the 20 of you that is not familiar or
12 didn't know until perhaps yesterday or today that surgery carries risks?
13 Anybody?

14 If we could give the microphone to Ms. -- is it Liedel or
15 Liddell?

16 PROSPECTIVE JUROR 391: Liddell.

17 MR. DOYLE: Liddell, please.

18 PROSPECTIVE JUROR 391: Liddell, 391.

19 MR. DOYLE: I think you also -- there was something about
20 risks, if I remember correctly. Tell me what you understand as a general
21 matter about surgery and risks of surgery.

22 PROSPECTIVE JUROR 391: Well, what I think when you need
23 a surgery, I'm the type of person I try to keep myself away from doctors.
24 I'm more a holistic approach. When I have to go under surgery or
25 someone from my family, then usually there's no time to read all those

1 truths, so when they give you all those risks and read it when you really
2 need to go into the surgery room, you don't really have time to really go
3 through all those jargons and just read it and understanding what it
4 really means because it's about your life and you need to get surgery.
5 Then you go on and your hands in your surgeons -- your life is in your
6 surgeon's hand basically --

7 MR. DOYLE: Okay.

8 PROSPECTIVE JUROR 391: -- at that point. So -- and yes,
9 they all do have risks, and everyone knows that. You know, it does not
10 come without risks. I mean it would be nice. But I did always sign the
11 consent form, too, you know, like every other patient. And -- but did I
12 really read it? I have to tell you that no, I did not all the way through.
13 And it just -- it was not my most, you know, I be honest, it's just
14 not -- wasn't my priority to make sure that I read every word of that. I
15 was concerned about my life or someone else life in an emergency room
16 and before the surgery.

17 MR. DOYLE: Okay. Does -- is anyone who's sitting here, the
18 20 of you, is anyone already thinking that oh, it sounds like there was a
19 complication in this case, that Dr. Rives did surgery and there was a
20 complication so he must have done something wrong, he must have
21 been negligent? Is anyone thinking about or rolling such a thought
22 around in your mind? Okay. Ms. Peacock.

23 PROSPECTIVE JUROR 426: I'm not making a judgment -- I'm
24 sorry. Peacock, 426. I'm not making a judgment one way or another, but
25 if you know it's a malpractice suit, somebody is alleging that someone

1 did something wrong. So I'm not making a judgment, but you'd be silly
2 not to be thinking that's the accusation.

3 MR. DOYLE: Right. Okay. But do you also have a thought in
4 mind that well, because we're even here today, he must have done
5 something wrong?

6 Do you have any quarrel with the notion that --

7 THE COURT: Counsel, I didn't hear a verbal response.
8 Remember JAVS --

9 MR. DOYLE: Oh, I'm sorry.

10 THE COURT: -- can't pick up a --

11 PROSPECTIVE JUROR 426: No.

12 THE COURT: Thank you. Appreciate it.

13 MR. DOYLE: Do you have any quarrel with the notion that
14 Dr. Rives, just like Ms. Farris, is entitled to his day in court?

15 PROSPECTIVE JUROR 426: Yes.

16 MR. DOYLE: All right. Do you have any quarrel with the
17 notion that he's entitled to come to court and defend himself?

18 PROSPECTIVE JUROR 426: He is.

19 MR. DOYLE: And if you're selected as a juror in this case and
20 sit for a couple of weeks, would you hold it against him in some form or
21 fashion?

22 PROSPECTIVE JUROR 426: No.

23 MR. DOYLE: Okay. Let's give the microphone to Mr. Barrios.

24 PROSPECTIVE JUROR 366: Barrios, 366.

25 MR. DOYLE: And Mr. Barrios, what were you thinking as I

1 was asking Ms. Liddell those last few questions?

2 PROSPECTIVE JUROR 366: That's exactly what I would have
3 said. That last portion, yes.

4 MR. DOYLE: So you don't have any quarrel with the notion
5 that Dr. Rives wants to come to court and defend himself?

6 PROSPECTIVE JUROR 366: No.

7 MR. DOYLE: And do you think for a moment that because
8 we're here that Mrs. Farris's case and her husband's case must have
9 some merit?

10 PROSPECTIVE JUROR 366: That's to be seen.

11 MR. DOYLE: Okay. Is there anyone amongst the 20 of you
12 that's already thinking well, we're here, the case being brought by Mr.
13 and Mrs. Farris must have some merit before you've even heard any of
14 the evidence in this case? Is anybody already having that kind of
15 thought or thinking along those lines?

16 There were questions earlier today about hindsight. Does
17 everyone remember those questions about hindsight? Let me ask Ms.
18 Fossile.

19 PROSPECTIVE JUROR 444: Fossile, 444.

20 MR. DOYLE: Do you have any thoughts about if you're
21 selected as a juror in this case and you're going to listen to the evidence
22 and you're going to have to make a decision about Dr. Rives and what he
23 did or didn't do and whether that was below the standard of care,
24 negligent or was within the standard of care or appropriate, do you have
25 any thoughts about whether you can use hindsight to make that analysis

1 versus setting aside hindsight and only looking at the information
2 available at the time? What do you think about that?

3 PROSPECTIVE JUROR 444: Just basing this decision solely
4 on hindsight, no because it's very situational in that situation. If it was
5 something that was, like, okay, I have to make a decision now, I mean
6 no. There's -- yeah, there's high risk. But if it's --

7 MR. DOYLE: Let me ask you a different question.

8 PROSPECTIVE JUROR 444: Okay.

9 MR. DOYLE: Have you ever been in a situation where you've
10 said to yourself well, gosh, you know, if I could only go back, you know, I
11 would have done this, this or that?

12 PROSPECTIVE JUROR 444: Oh. Sure. I mean I've thought of
13 that. But it's, you know, that whole question of oh, if you had a
14 superpower, what would it be. I would never choose time travel.

15 MR. DOYLE: Well, wait a minute. Time travel forward, back
16 or both?

17 PROSPECTIVE JUROR 444: Backwards, yeah.

18 MR. DOYLE: Okay. Let's give the microphone back to Ms.
19 Williams-Deloach because I saw her head. I think she's
20 understanding -- I think she understands.

21 Ms. Williams-Deloach, as a registered nurse and if you're
22 looking at the care provided by one of your colleagues, another nurse in
23 the critical care unit or intensive care unit, and there's an analysis or
24 assessment whether that nursing care was appropriate and within the
25 standard of care, in that analysis, do you get to use hindsight and go

1 backwards or do you have to stand in the person's shoes at the time with
2 the information they had at the time?

3 PROSPECTIVE JUROR 382: It depends on the situation.

4 And I could tell you, for instance, in a situation with myself, not another
5 nurse.

6 MR. DOYLE: Okay.

7 PROSPECTIVE JUROR 382: But I had a critically ill patient
8 who was dying. The patient said he had enough, he didn't want to go
9 any further. The doctor said no, continue. We're going to continue with
10 what the patient said. And if I had to do all over again, I would have
11 advocated for my patient. Once my patient said no, he had enough,
12 that's what should have been the case. So unfortunately, we continued,
13 and it just prolonged the patient's suffering.

14 MR. DOYLE: Okay. All right. Let's give the microphone to
15 Mr. Diaz.

16 PROSPECTIVE JUROR 357: Diaz, 357.

17 MR. DOYLE: This notion of hindsight and whether you can
18 or cannot use hindsight to evaluate whether someone was negligent or
19 not. What thoughts do you have about that?

20 PROSPECTIVE JUROR 357: My own personal thought would
21 be that I know in my own past, there's things I wish I'd done differently. I
22 mean I think everyone is like that. There's always things you want --
23 wish you'd done differently. In my current job as a security officer, I
24 have to remember a lot of policies and procedures. And anytime I do
25 any type of investigation for missing property, especially like from the

1 hotel room, I got to ask so many questions. And there's times whereas
2 I'm writing down my report I'm like shoot, I forgot to ask that question.
3 But I can't go back and ask them because you don't want to go bother
4 the guests, and I won't see them the next couple of days because I'm just
5 already doing my report.

6 So in that sense, you know, it's like you want to -- it's hard to
7 say. You want to try your best to remember everything to tell the
8 patient, do everything you can with the patient as you're doing, for a
9 doctor's sake it's surgery, do everything the right -- I mean you want to
10 be sure you're doing everything the right way the first time. Hopefully,
11 everything you works out and then everything is better. Sometimes it's
12 not because the doctor might remember they did forget a step, and no
13 one in the staff thought about it either. So I guess you want to say in
14 hindsight, oh, shoot. You know, it's like I guess in golfing terms, you
15 know, you want to take a mulligan.

16 MR. DOYLE: Right. Well, do you have any quarrel with the
17 notion that if you're selected as a juror in this case and you have to
18 evaluate Dr. Rives and his care and the quality of his care, that you have
19 to stand or as a juror you have to take the information available to him at
20 the time, you can't take the information that comes later and back it into
21 what didn't yet exist?

22 PROSPECTIVE JUROR 357: No, I just take what they -- what's
23 given to me at the time.

24 MR. DOYLE: Okay. And you understand that?

25 PROSPECTIVE JUROR 357: Yes.

1 MR. DOYLE: Okay. Mr. Dalton.

2 PROSPECTIVE JUROR 425: Dalton, 425. I'm a little confused
3 on your question because to me hindsight is a decision that I've made.
4 Then I come back and go well, in hindsight, I shouldn't have made that
5 decision. As a juror, that decision is already done. My hindsight is far
6 past anything that has to do with this court.

7 MR. DOYLE: And I guess, you know, it's been a long day for
8 me already, and I think you might have said it better than I've been
9 trying to express it. But do you have any quarrel with the notion that
10 yes, you can always use hindsight, you can be the Monday morning
11 quarterback so to speak and look back and evaluate what happened. But
12 in terms of deciding whether someone in real time did the right thing or
13 not, you have to only use the information that was available to them in
14 real time?

15 PROSPECTIVE JUROR 425: So you're talking then?

16 MR. DOYLE: Right.

17 PROSPECTIVE JUROR 425: Okay. Yes, I agree with that. But
18 when you're talking about me and my hindsight --

19 MR. DOYLE: Okay.

20 PROSPECTIVE JUROR 425: -- that where I was confused with
21 what you're saying.

22 MR. DOYLE: All right. So tell -- so when you say for them
23 and don't use hindsight, what -- explain that to me.

24 PROSPECTIVE JUROR 425: Well, if something happened and
25 he looks at it and says well, in hindsight, you're right, I shouldn't have

1 done that, well, it's too late now.

2 MR. DOYLE: Okay.

3 PROSPECTIVE JUROR 425: Like in court.

4 MR. DOYLE: Okay.

5 PROSPECTIVE JUROR 425: It's too late. You already lost.

6 MR. DOYLE: Right. But if you're evaluating, you know, if it's
7 Monday morning and you're evaluating or trying to evaluate whether the
8 quarterback should have passed or run those last four yards into the goal
9 line and you're trying to decide whether that was a good decision or bad
10 decision, would you agree with the notion that you have to look at the
11 information available to the quarterback at the time?

12 PROSPECTIVE JUROR 425: Correct.

13 MR. DOYLE: You can't take the hindsight and tack it onto
14 what the quarterback knew at the time to decide whether the decision
15 was a good one or not?

16 PROSPECTIVE JUROR 425: Correct.

17 MR. DOYLE: Okay. It's a fine -- it's a nuance. I'm sorry.

18 PROSPECTIVE JUROR 425: Yeah, it's -- I've tried to -- I'm
19 trying to decide how you're evaluating me as a juror with hindsight.
20 Doesn't really commute with me. I don't really understand --

21 MR. DOYLE: Okay.

22 PROSPECTIVE JUROR 425: -- how you're trying to get
23 hindsight.

24 MR. DOYLE: Okay.

25 PROSPECTIVE JUROR 425: Or the quarterback. I mean you

1 made a decision. Am I getting told this decision? Am I going to judge
2 whether he should have used hindsight or not? That's where I'm a
3 little --

4 MR. DOYLE: Okay. And I think it's probably just the time of
5 day for me, but I saw Ms. Williams-DeLoach put her hand up. And I think
6 -- let's --

7 PROSPECTIVE JUROR 382: Williams-DeLoach, 382. So the
8 question is -- well, the answer to that question would be you can't really
9 take hindsight into consideration. But you can take into consideration
10 whether or not a person followed policy and procedures.

11 MR. DOYLE: Of course.

12 PROSPECTIVE JUROR 382: So that's what's important. Did
13 the person follow the policy and procedures?

14 MR. DOYLE: All right. So does anyone have a quarrel with
15 the general notion that if you're going to look at someone and what they
16 did or didn't do and determine whether they were negligent or not, does
17 anyone have a quarrel with the notion that you have to look at the
18 information in real time? You can't add to that real time information
19 with hindsight? Mr. Inscore?

20 PROSPECTIVE JUROR 388: Inscore, 388. It's not necessarily
21 a problem but more of a comment. I personally am always using
22 hindsight because it's a good way to learn from your mistakes. It's a
23 good way to see hey, I made a mistake that I shouldn't have made. But I
24 can use that mistake, I can use the hindsight from that mistake and then
25 put it to future events to make sure you don't make that mistake. The

1 way I think of hindsight is that it's a good way of keeping people honest.

2 MR. DOYLE: Okay. All right. Anybody disagree with that
3 thought? Okay. If we could hand the microphone to Ms. Hilley. I had a
4 few questions for her. I'm sorry.

5 PROSPECTIVE JUROR 419: Hilley, 419.

6 MR. DOYLE: And your last name.

7 PROSPECTIVE JUROR 419: Hilley, 419.

8 MR. DOYLE: You shared with us yesterday some unhappy
9 experiences that you've had with the medical profession.

10 PROSPECTIVE JUROR 419: That's correct.

11 MR. DOYLE: With those unhappy experiences that you've
12 had with the medical profession, what do you think about serving as a
13 juror in this case if selected?

14 PROSPECTIVE JUROR 419: I mean I can put my personal
15 situation aside because if I -- if I'm agreeing to do this, you know, like
16 you said, there's instructions that were given that we're supposed to
17 weigh the testimony and the evidence and this, that and another. I mean
18 it's something that happened outside of this whole situation.

19 MR. DOYLE: Okay. Mr. Hernandez, I had a couple questions.
20 The -- sorry, go ahead.

21 PROSPECTIVE JUROR 387: Hernandez, 387.

22 MR. DOYLE: How long have you worked in the dermatology
23 office?

24 PROSPECTIVE JUROR 387: For the dermatology, I was there
25 for about two years, and then I went to the allergy and urology, so I've

1 been there for a year. So altogether three years.

2 MR. DOYLE: And did I hear you say yesterday that you were
3 interested in pursuing a career in medicine?

4 PROSPECTIVE JUROR 387: Yes.

5 MR. DOYLE: What sort of career are you interested in?

6 PROSPECTIVE JUROR 387: Right now, I'm planning to go to
7 school for medical assistant.

8 MR. DOYLE: Have you enrolled or done any research for a
9 particular program?

10 PROSPECTIVE JUROR 387: Maybe like two.

11 MR. DOYLE: Okay. In the years you've been working with
12 and interacting with doctors, ever any problems or issues interacting
13 with those doctors?

14 PROSPECTIVE JUROR 387: Like myself personally or --

15 MR. DOYLE: Right.

16 PROSPECTIVE JUROR 387: -- if I see patients?

17 MR. DOYLE: No, no, no, no. Just your own personal
18 interactions with the doctors. Have there ever been any negative ones?
19 Things, you know, situations where you thought you were being treated
20 unfairly or things like that that might have some effect on how you
21 would view a case involving a doctor as a defendant.

22 PROSPECTIVE JUROR 387: No.

23 MR. DOYLE: Ms. Williams-DeLoach, I'm sorry to keep
24 bouncing this back to you.

25 PROSPECTIVE JUROR 382: Williams-DeLoach, 382.

1 MR. DOYLE: Working with doctors over the years, what's
2 been your general experience?

3 PROSPECTIVE JUROR 382: I've had some good experiences,
4 some negative experiences.

5 MR. DOYLE: More of the good ones or more of the bad
6 ones?

7 PROSPECTIVE JUROR 382: I would say it's probably about
8 even.

9 MR. DOYLE: And so those experiences how do you think
10 they would have an effect on you, if any, if you were selected as a juror
11 in this case?

12 PROSPECTIVE JUROR 382: For me, it's hearing the evidence.
13 So it has nothing to do about -- nothing to do with if a doctor is a jerk or
14 not so it just depends on the evidence.

15 MR. DOYLE: Have you encountered some doctors who are
16 jerks but are still really good doctors?

17 PROSPECTIVE JUROR 382: That's a two-way answer. Yes
18 and no.

19 MR. DOYLE: Okay.

20 PROSPECTIVE JUROR 382: So there's some doctors who are
21 jerks and probably shouldn't be practicing. And there are other doctors
22 who they might be a jerk for whatever reason that day, maybe that day
23 just didn't go well, but they're a pretty good doctor. So that you can, you
24 know, you can probably bypass. But if it's a doctor who always have a
25 problem, an attitude, then, you know, he's just what he, what he was

1 born as.

2 MR. DOYLE: And you've never crossed paths with Dr. Rives?

3 PROSPECTIVE JUROR 382: No.

4 MR. DOYLE: Ever heard anything about Dr. Rives from
5 colleagues or --

6 PROSPECTIVE JUROR 382: No.

7 MR. DOYLE: Okay. And Mr. Andei.

8 PROSPECTIVE JUROR 447: Yes.

9 MR. DOYLE: If we could -- go ahead.

10 PROSPECTIVE JUROR 447: 447, Tesfaye Andei.

11 MR. DOYLE: And I want to make sure I pronounce it
12 correctly. Andei?

13 PROSPECTIVE JUROR 447: Yeah.

14 MR. DOYLE: How long have you been driving cab?

15 PROSPECTIVE JUROR 447: I've been driving last night, yes.

16 MR. DOYLE: And are you going to be working full time
17 during the trial?

18 PROSPECTIVE JUROR 447: Yes.

19 MR. DOYLE: How's that going to work?

20 PROSPECTIVE JUROR 447: I'm working a lease. That's a
21 lease where I pay them every week. So this week I don't know what I'm
22 going to do.

23 MR. DOYLE: Okay. Well, so if you don't work, do you earn
24 any income?

25 PROSPECTIVE JUROR 447: No.

1 MR. DOYLE: And whether you work or not, you owe money
2 on the lease?

3 PROSPECTIVE JUROR 447: The lease, yeah.

4 MR. DOYLE: Do you think that during the course of this trial
5 that you're going to try and work and sit as a juror if you're selected?

6 PROSPECTIVE JUROR 447: I think some. Yeah.

7 MR. DOYLE: Okay. Is that something you think you can do?

8 PROSPECTIVE JUROR 447: No.

9 MR. DOYLE: Why not? I mean it's perhaps an obvious
10 question but --

11 PROSPECTIVE JUROR 447: Yeah, the question is -- can you
12 repeat the question, please?

13 MR. DOYLE: Sure. If I remember correctly, you typically
14 work five to six days a week?

15 PROSPECTIVE JUROR 447: Yeah, six days.

16 MR. DOYLE: Six days a week. And if I remember correctly,
17 you work 12, 15 hours a day?

18 PROSPECTIVE JUROR 447: Yes.

19 MR. DOYLE: Do you work night? What time of day do you
20 like to work?

21 PROSPECTIVE JUROR 447: Start like 9 or 10:00 and go 1 or
22 2.

23 MR. DOYLE: At night or in the day?

24 PROSPECTIVE JUROR 447: In the afternoon.

25 MR. DOYLE: Okay. Did you work last night?

1 PROSPECTIVE JUROR 447: No.

2 MR. DOYLE: Good. But if you're not working, you're not
3 earning any income?

4 PROSPECTIVE JUROR 447: No income, sometimes.

5 MR. DOYLE: And are you supporting anyone besides
6 yourself?

7 PROSPECTIVE JUROR 447: No, I just by myself.

8 MR. DOYLE: Okay. How long have you been driving cab?

9 PROSPECTIVE JUROR 447: Five years.

10 MR. DOYLE: How long have you been in Las Vegas? I think
11 you might have told us.

12 PROSPECTIVE JUROR 447: Yeah, totally [indiscernible]. I
13 just started immediate, one or two months.

14 MR. DOYLE: Where did you come from before Las Vegas?

15 PROSPECTIVE JUROR 447: I be in Boston.

16 MR. DOYLE: Driving cab?

17 PROSPECTIVE JUROR 447: No. I used to work as a doorman
18 at Liberty Hotel in Boston.

19 MR. DOYLE: I'm sorry. The where?

20 PROSPECTIVE JUROR 447: In Boston, Liberty Hotel, a
21 doorman.

22 MR. DOYLE: Oh, okay. At a hotel?

23 PROSPECTIVE JUROR 447: Yeah.

24 MR. DOYLE: Okay. And then where do you come from
25 originally?

1 PROSPECTIVE JUROR 447: Originally, I was born and raised
2 in Ethiopia.

3 MR. DOYLE: How long have you been in the United States?

4 PROSPECTIVE JUROR 447: Almost eight years.

5 MR. DOYLE: Okay. You enjoy working hard?

6 PROSPECTIVE JUROR 447: Yeah.

7 MR. DOYLE: Okay. And if you -- if you're selected as a juror
8 in this case, do you think you'll be able to maintain both work and
9 serving as a juror?

10 PROSPECTIVE JUROR 447: It's too tough.

11 MR. DOYLE: Why is it too tough?

12 PROSPECTIVE JUROR 447: I don't have any income to pay
13 rent, to pay for myself anything.

14 MR. DOYLE: Do you have any source of income other than
15 driving the taxi?

16 PROSPECTIVE JUROR 447: No.

17 MR. DOYLE: Okay. What do you like to do in your spare
18 time?

19 PROSPECTIVE JUROR 447: [Indiscernible] like --

20 MR. DOYLE: When you're not working. If you weren't here
21 and you weren't working, are -- what do you like to do for fun?

22 PROSPECTIVE JUROR 447: Mostly I don't go out from my
23 home.

24 MR. DOYLE: Okay. Okay. If we could give the microphone
25 to Ms. Fossile.

1 PROSPECTIVE JUROR 444: Fossile, 444.

2 MR. DOYLE: You mentioned yesterday, and my notes are
3 kind of hard to read at this point, but something about your experiences
4 with the medical profession and too much intervention?

5 PROSPECTIVE JUROR 444: Yes.

6 MR. DOYLE: And I -- was that in conjunction with
7 pregnancies?

8 PROSPECTIVE JUROR 444: Yes.

9 MR. DOYLE: How do you feel about the medical profession
10 in general given your experiences with the medical profession?

11 PROSPECTIVE JUROR 444: In general, I've definitely
12 gone -- I'm definitely a bit more realizing, you know, how much more I
13 need to advocate for myself with it. And, you know, when I don't have
14 questions regarding something I need to go through, I -- now I question
15 myself then. Okay, if I don't have questions, why don't I have questions?
16 Because I've had experience where I thought I didn't need to ask a
17 question, and then I realized I should have asked questions. But I just
18 didn't know what those questions were.

19 MR. DOYLE: Given your experiences with the medical
20 profession, do you think it would be difficult for you to sit as a juror in
21 this case?

22 PROSPECTIVE JUROR 444: No.

23 MR. DOYLE: Why not?

24 PROSPECTIVE JUROR 444: Since we need to be basing
25 things off of, you know, evidence and I guess, you know, with the

1 guidelines within what the law is -- how it's written, yeah.

2 MR. DOYLE: Do you see an OB/GYN if need be?

3 PROSPECTIVE JUROR 444: If need be, yes. I know with my
4 current midwife, she has a backup OB and has actually have told another
5 midwife she was attending no, you need to -- it's -- you need to go to a
6 hospital to go have an OB finish the rest of this labor.

7 MR. DOYLE: Okay. So you understand -- I think you
8 mentioned yesterday that you're planning on a home birth. But you
9 understand that if problems developed at home, then you would have to
10 go to a hospital?

11 PROSPECTIVE JUROR 444: Yes.

12 MR. DOYLE: Any problems with that notion?

13 PROSPECTIVE JUROR 444: Not with my current provider.

14 MR. DOYLE: Were there issues or problems with your prior
15 provider about that?

16 PROSPECTIVE JUROR 444: I never went to enough
17 appointments to really develop that trust mostly because of cost.

18 MR. DOYLE: All right. If we could give the microphone to
19 Ms. Costa, please.

20 PROSPECTIVE JUROR 448: Costa, 448.

21 MR. DOYLE: Yesterday you said something about not
22 judging or can't judge people if -- am I remembering correctly?

23 PROSPECTIVE JUROR 448: I can't remember to be honest
24 with you.

25 MR. DOYLE: Okay. Well, then let me -- how do you feel -- I

1 mean if you were selected as a juror in this case and you had to evaluate
2 the evidence and judge the evidence and come to a decision about what
3 to do, how do you feel about going through that process?

4 PROSPECTIVE JUROR 448: It's very stressful because like I
5 had said yesterday, I don't want to be a person who makes the decision
6 for somebody else whether it's bad or good or indifferent or whatever
7 because I don't feel that's my responsibility. I don't want to take
8 responsibility for any other party. I'd rather just want to focus on myself
9 and make sure that I'm doing right and abiding by the law.

10 I'm doing what I have to do for me and not have anybody
11 else's hard times or whatnot -- me have to make a decision and be
12 burdened with that decision. Because knowing myself, the whole
13 hindsight thing comes into play. And I'm like okay, well, what if it would
14 have went the other way? What if it could have been this way? And I
15 don't want to deal with that. I have enough on my own plate.

16 MR. DOYLE: I assume you would prefer not to be here at all?

17 PROSPECTIVE JUROR 448: Correct.

18 MR. DOYLE: And I assume you would not want to be
19 selected as a juror in this case?

20 PROSPECTIVE JUROR 448: Correct.

21 MR. DOYLE: And I assume you would not want to be a juror
22 in this case because you wouldn't be able to be fair and open to either
23 side because of your own personality and background?

24 PROSPECTIVE JUROR 448: It doesn't have anything to do
25 with my own personality and background because at the end of the day

1 if I was selected, then I'm going to see whatever is presented in front of
2 me because that's what's given to me. I have no other judgment on
3 either party because I don't know either party. So it's not like I'm already
4 going in biased. That's not what it's about. It's about not having to live
5 with the decision going forward for me. I don't want to have to do that.

6 MR. DOYLE: Okay.

7 PROSPECTIVE JUROR 448: A lot.

8 MR. DOYLE: Okay. If you could give the microphone to Mr.
9 Hocking.

10 PROSPECTIVE JUROR 412: Hocking, 421 [sic].

11 MR. DOYLE: You also mentioned yesterday something about
12 not wanting to judge or can't judge. Could you explain what you were
13 thinking yesterday?

14 PROSPECTIVE JUROR 412: I just don't judge upon people.

15 MR. DOYLE: Is that something in your moral fabric?

16 PROSPECTIVE JUROR 412: Exactly.

17 MR. DOYLE: Has that been in your moral fabric for a number
18 of years?

19 PROSPECTIVE JUROR 412: All -- ever since I was born.

20 MR. DOYLE: So how do you feel about the idea of being
21 selected as a juror in this case and you would have to listen to and judge
22 the evidence?

23 PROSPECTIVE JUROR 412: Difficult.

24 MR. DOYLE: Do you think you would have a hard time
25 keeping an open mind and listening to all the evidence whether the

1 evidence comes from this side or that side?

2 PROSPECTIVE JUROR 412: I'm not really sure to tell you the
3 truth.

4 MR. DOYLE: Explain what you're thinking, please.

5 PROSPECTIVE JUROR 412: Well, in my religion I will not
6 push no judgment on a person.

7 MR. DOYLE: May I ask what religion?

8 PROSPECTIVE JUROR 412: Yeah. Jehovah witness.

9 MR. DOYLE: Jehovah --

10 THE COURT: Counsel, can you both approach?

11 Madam Court Reporter --

12 MR. DOYLE: Yeah.

13 THE COURT: -- can you come up?

14 [Sidebar at 4:43 p.m., ending at 4:46 p.m., not transcribed]

15 THE COURT: Okay. Ladies and gentlemen, the reason why
16 we paused is because we realized it's a quarter to 5 and you can
17 probably appreciate that as much as the goal was to select a jury by the
18 end of day today, you can probably appreciate that's not happening.
19 Right? Right. I think you all figured that out a while ago.

20 Okay? You're a smart group. However, here's what we're
21 thinking. Okay? We currently have 20 in the box and we have 41 in the
22 gallery. As much as we would love to keep all of you and as much as I
23 know all of you in the gallery would love to stay, it looks like some, not
24 all. Sorry for some of you in the left gallery. However, it looks like that
25 we can -- let me make sure my counting is correct. We've got eight in

1 each row, correct? I should know this by now after ten years, right? I
2 know, but they keep on moving chairs in and out. That's the reason why.
3 You noticed we got extra chairs. It's not like, you know what I mean?
4 They do redesign this.

5 How many do we have in the first two rows? We have 16 in
6 the first two rows?

7 THE MARSHAL: Yes.

8 THE COURT: Left side, left gallery, Marshal.

9 THE MARSHAL: This one, yes.

10 THE COURT: Sixteen, correct? Okay. So if I have an
11 agreement from the right gallery, as you tear up as you potentially leave,
12 and the last row in the left gallery, so I've kept enough people here that
13 we need, right? That last row in the left gallery. If you agree that you
14 will not be -- I will read you the admonish, that you follow this admonish
15 until at least October 30th, then we can let you go. Does anyone think
16 that we need to keep you all here just to insure? Raise your hand if you
17 do. I'm not seeing any hands raised. You want to stay?

18 UNIDENTIFIED SPEAKER: No.

19 THE COURT: Oh, you're raising your hand. I asked you to
20 raise your hand if you think I need to keep you. I saw two hands being
21 raised. You all want to stay, you're welcome to stay. I know most
22 people want to stay here in this department. I get it, but, you know, we
23 thought you might -- okay.

24 So realistically, we're not going to get to you all because of
25 where we are in the process. And so let me read the admonition and it's

1 going to only be to the right gallery and the last row in the left gallery.

2 So can the last row in the left gallery stand up so we make sure we know
3 who you are. Like I said, if the two of you all want to stay, you're
4 welcome. No, no, no. You changed your mind.

5 UNIDENTIFIED PROSPECTIVE JUROR: Let's stand up. Let's
6 get up.

7 THE COURT: Stand up. All right, stand up. Okay? So you
8 know who you are. So left gallery, right, last row and our right gallery.
9 Okay. If I read the admonition to you, you all will follow it and obey if we
10 let you out today and your jury service is completed for this case? Is that
11 an affirmative yes?

12 GROUP RESPONSE: Yes.

13 THE COURT: Anybody can't follow the Court's admonition
14 and needs to stay, raise your hand. Sure? Okay. Just checking. Okay.
15 So let me read it to you and let you go, and then we'll address
16 everybody else. Okay?

17 So ladies and gentlemen, you are going to be excused from
18 jury services with the contingency that you have agreed that because we
19 are in the middle of jury selection and going to continue with the trial
20 that you're admonished that you can't in any way talk among yourselves
21 or with anyone else on any subject connected to what you heard in the
22 voir dire process. You can't post. You can't do any posting of
23 information, social media, text, tweet, newspapers, television, internet,
24 radio.

25 Obviously, you don't even know where the scene is, but you

1 can't undertake any research, experiment, investigation. You can't
2 contact -- if you made some wonderful buddies among the rest of the
3 prospective jurors that are still here, you can't contact them until after
4 the 30th. So you can't discuss the case in any manner with any of them,
5 obviously. You can't contact any of us and ask us about the case, right,
6 because we'll be in the middle of trial.

7 And so you can't do posting of any communication on social
8 networking sites. You can't do any independent research including
9 internet searches. You can't in any way discuss the matter with any
10 other prospective jurors. You heard the names of the witnesses, you
11 heard the names of counsel, you heard the names of the Court. Do you
12 agree to do so?

13 GROUP RESPONSE: Yes.

14 THE COURT: Okay. Thank you so very much. You're
15 excused.

16 THE MARSHAL: Rise for the jurors.

17 [Prospective jurors out at 4:50 p.m.]

18 THE COURT: And please quickly and quietly leave because
19 we're going to need to take care of all of you all right -- okay. Not too
20 many tears as you're leaving. Okay. So do appreciate that. Okay.

21 So as that group is leaving -- okay. So you ladies and
22 gentlemen I don't care if you want to stay standing or you want to sit
23 down because I'm going to read you the admonish for overnight, okay?
24 Because the rest of you all are going to need to come back tomorrow
25 because we need to finish. And I -- okay. So listen, I think I'm going to

1 have to hand you to my marshal to ask a question. We need a time. I'm
2 going to give you all a time. I promised you before 5:00 today. I'm
3 keeping that part of it. Marshal is going to have to address any
4 questions.

5 Everyone is going to need to come back tomorrow. I'm
6 going to tell you a time. Just give me one second. We're going
7 to -- we're trying to get you out of here so that we can get you taken care
8 of and know who's going to be on this case and who's not. I moved
9 almost everything but two matters from my tomorrow's calendar so we
10 can give this case as much trial time as possible. So 9:30, okay?

11 MR. JONES: 9:30.

12 THE COURT: 9:30. I guess. 9:30. We moved every -- I tried
13 to move every single thing so we can get you taken care of and hopefully
14 this can be done before --

15 MR. JONES: So 9:15 in the hallway?

16 THE COURT: Well --

17 UNIDENTIFIED SPEAKER: Right at 9:00?

18 THE COURT: -- yes, that's a real 9:15, folks. You realize why
19 we start, you know, appreciate some of you ran a little late which meant
20 we had to start a little bit later this morning.

21 So these are two really quick matters. I mean I probably
22 should be done before 9:30. So if we say 9:15, 9:20 in the hallway so we
23 can get you started right at 9:30 and hope to have a jury selected right
24 around lunch-ish time. Yes, I said ish. So we can try and get you taken
25 care of and then move forward with the opening statements and get the

1 case going for you all.

2 So ladies and gentlemen, we are going to wish you a very
3 nice and relaxing evening. And jury is in overnight recess. You are, of
4 course, admonished not to talk or converse among yourselves or with
5 anyone else on any subject connected with the trial or the voir dire
6 process.

7 You may not read, watch or listen to any report or
8 commentary on the trial or the voir dire process or any person connected
9 with the trial or the voir dire process by any medium of information,
10 including without limitation, social media, texts, tweets, newspapers,
11 television, internet and radio. Anything I'm not stating specifically you
12 understand is also included, yes?

13 GROUP RESPONSE: Yes.

14 THE COURT: Okay. Perfect. Thank you.

15 Do not visit the scene of the events mentioned during the
16 voir dire process or the trial. Do not undertake any research,
17 experimentation or investigation. Do not do any posting or
18 communications on any social networking sites or anywhere else. Do
19 not do any independent research, including but not limited to, internet
20 searches. Do not form or express any opinion on any subject connected
21 with the trial or the voir dire process until the case is fully and finally
22 submitted to those of you who are going to jury deliberations.

23 Wonderful the Marshal can answer any kind of general
24 procedural question for you so that we can get this taken care of and get
25 you out as I said before the 5:00 hour. With that, we are going to wish

1 you a very nice and relaxing evening. And we look forward to seeing
2 you tomorrow and for those of you we'll be seeing you a little bit longer
3 than that. So feel free -- free of the gallery. If you go out that door, the
4 Marshal is going to assist you at that door.

5 THE MARSHAL: All rise for the jury.

6 THE COURT: And stay for a moment so he can touch base
7 with you if you have any questions, okay? He'll be out in the hallway in
8 just a moment for you, okay? Thank you so much.

9 [Prospective jurors out at 4:53 p.m.]

10 [Outside the presence of the prospective jurors]

11 THE COURT: Okay. So counsel, I do have two of my
12 construction defect matters in the morning so that means for all of you
13 feel free to clean up the area so that the other attorneys -- because it will
14 be often times a lot of attorneys on those cases. So feel free to use your
15 respective areas, and we can get you taken care of. And we will see you
16 bright and sharp, like I said, the court is going to be open because we'll
17 be handling CD first in the morning. So if you're here earlier, perfectly
18 fine. And we'll get started as soon as that's over, and we've got our
19 jurors, and you are all ready to go. Okay? Appreciate it.

20 MR. JONES: Thank you.

21 MR. DOYLE: Thank you.

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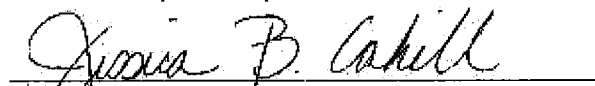
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THE COURT: Thank you so very much.

MR. DOYLE: Thank you, Your Honor.

[Proceedings adjourned at 4:54 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-visual recording of the proceeding in the above entitled case to the best of my ability.



Maukele Transcribers, LLC

Jessica B. Cahill, Transcriber, CER/CET-708