

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

DARELL L. MOORE; AND CHARLENE )  
A. MOORE, INDIVIDUALLY AND AS )  
HUSBAND AND WIFE, )  
Appellants, )  
vs. )  
JASON LASRY, M.D. INDIVIDUAL; )  
AND TERRY BARTIMUS, RN, APRN, )  
Respondents. )

Electronically Filed  
Jul 21 2021 05:18 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court No. 81659

**APPEAL**

From the Eighth Judicial District Court, Clark County  
The Honorable Kathleen E. Delaney, District Judge  
District Court Case No.: A-17-766426-C

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**APPELLANT'S APPENDIX VOLUME IX**

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## CERTIFICATE OF SERVICE

Pursuant to NRAP 25(b), I certify that I am an employee of the law firm and that on this 21<sup>st</sup> day of July, 2021, I served a true and correct copy of the foregoing **APPELLANT'S APPENDIX VOLUME IX** as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ to be sent via facsimile (as a courtesy only); and/or
- ☐ to be hand-delivered to the attorneys at the address listed below:
- ☒ to be submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

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Las Vegas, NV 89113

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By: /s/ E. Breen Arntz  
An employee of E. Breen Arntz, Chtd.

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IN THE EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

DARELLL MOORE, ET AL,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. A-17-766426-C
	)	Dept. No. 25
JASON LASRY, M.D., ET AL,	)	
	)	
<u>Defendants.</u>	)	

JURY TRIAL

Before the Honorable Kathleen Delaney  
Wednesday, January 29, 2020, 1:30 p.m.  
Reporter's Transcript of Proceedings

REPORTED BY:  
  
BILL NELSON, RMR, CCR #191  
CERTIFIED COURT REPORTER

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APPEARANCES:

For the Plaintiffs:     Breen Arntz, Esq.  
                             Philip Hymanson, Esq.  
                             Joseph Hymanson, Esq.

For the Defendants:     Robert McBride, Esq.  
                             Keith Weaver, Esq.  
                             Alissa Bestick, Esq.

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WITNESS	DR	CR	RDR	RCR
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1 Las Vegas, Nevada, Wednesday, January 29, 2020

2 \* \* \* \* \*

3  
4 (Thereupon, the following proceedings were  
5 had out of the presence of the jury.):

6 THE COURT: There are some matters outside  
7 the presence?

8 MR. P. HYMANSON: Yes, Your Honor.

9 Very briefly, we have -- I know you want to  
10 do the cause at the end, but there are three came up  
11 yesterday that I think really we need to clear the  
12 plan and get going, so we can get this done.

13 THE COURT: Speak with them first.

14 MR. P. HYMANSON: Yes.

15 In that case they're actually four, but I  
16 wanted to re-address Mr. Wilder.

17 I noticed we're giving him headphones  
18 today.

19 As you were sitting there yesterday --

20 THE COURT: Did he ask for those?

21 MR. P. HYMANSON: No, the bailiff was  
22 supplying them, the head phones.

23 MR. MC BRIDE: Did he ask for them, or we  
24 just suggested he wear them.

25 THE MARSHAL: I offered them to him,

1 talking about the headphones we use for the  
2 courtroom.

3 THE COURT: Do we have these other things  
4 that dangle?

5 THE MARSHAL: No, the ones that go over his  
6 ears.

7 THE COURT: So he didn't ask for them?

8 MR. P. HYMANSON: He did not ask for it,  
9 and I don't think it makes a deference.

10 As you were sitting there yesterday, you  
11 had that expression that if he doesn't hear 50  
12 percent of it so far and hasn't asked, what type of  
13 appeal is that going to be?

14 And, Your Honor, if he has headphones, and  
15 they go down, if he takes them off, he's missing 50  
16 percent, or if he's only getting 75 percent, you have  
17 issues anyway you look at it.

18 Mr. Wilder we're really trying to get out  
19 of here. As much as he wants to serve, he knows that  
20 he's was never able to serve before because he can't  
21 hear, and you can't do almost good enough for a jury.

22 So I would -- His badge number is 611, and  
23 I just don't think that it's going to be fair to  
24 either side if he have a juror that doesn't hear  
25 everything that is being said.

1 THE COURT: Mr. McBride.

2 MR. MC BRIDE: Yes, Your Honor.

3 I think that we continue with our plan to  
4 keep him on there, until we have absolute information  
5 from him that he's been unable to hear any of the  
6 questions from counsel. I don't think he's indicated  
7 that.

8 He said he hasn't been able to hear some of  
9 the responses from people in the audience, but  
10 nothing specific, and again I don't think that is any  
11 more reason to dismiss him at this point.

12 I think Mr. Weaver should be allowed to  
13 maybe inquire a little bit and make that assessment  
14 when he makes the assessment for the other ones.

15 THE COURT: Mr. Weaver, do you concur, yes  
16 or no?

17 MR. WEAVER: I do.

18 And if it makes it easier, I'll lead with  
19 him.

20 THE COURT: This may be an impertinent  
21 question to ask, but why do we want to keep him any  
22 longer?

23 Any other person might be a problem with  
24 this jury, we let them go. Why is this one an issue?

25 I'm trying to rack my brain because I



1 necessarily don't know the answers one way or the  
2 other, but --

3 MR. MC BRIDE: I would agree.

4 And frankly I don't think there's anything  
5 specific about a reason to keep him on.

6 It's not like we think he's providing all  
7 the great answers because either way I think that  
8 ultimately's just something that we need to kind of  
9 flush out a little bit more if that is true, a reason  
10 why he can't serve.

11 We talked about the other times he was a  
12 prospective juror, again a while back, we don't know  
13 the circumstances in particular in those instances as  
14 to why he was eliminated as a juror, if it was  
15 specifically related to that.

16 THE COURT: Okay.

17 MR. MC BRIDE: So I just think out of an  
18 abundance of caution we be allowed to keep him on  
19 there, and then --

20 THE COURT: I understand Mr. Hymanson's  
21 position, and I'm inclined to excuse Mr. Wilder, but  
22 here's what I'm going to do, not knowing the offer  
23 was made for him to have the revisions, I can't  
24 assume he wouldn't work with his hearing, I think we  
25 need to know what his hearing is, and I think if he

1 wears them, I don't think you want to tell him we  
2 have any of these concerns what we're looking for,  
3 but I'm going to inquire of him afterwards with that  
4 device, was there still anyone he was unable to hear,  
5 if there's anybody he's unable to hear with the  
6 device on, because again whether or not he can hear  
7 those of us who are speaking at him directly in a  
8 higher pitch, or certain toned voice, is not the  
9 issue.

10 The issue's, can he hear everyone, but I'm  
11 not going to take him off.

12 MR. ARNTZ: I was just going to say, my  
13 father's extremely hard of hearing, and the problem  
14 with people who are hard of hearing is, they detach  
15 themselves from the conversation, so they don't even  
16 know they are doing it, just quit pay paying  
17 attention to whatever is being said because they  
18 can't hear it all.

19 I'm not even sure we would be able to know  
20 how much.

21 THE COURT: I understand.

22 He has however been engaged, has been  
23 responsive to the questions as they've been asked, so  
24 he doesn't appear to be tuning out.

25 I think where he helped us understand is,

1 those of us who are speaking directly at him, he has  
2 not had any problem hearing them, there are certain  
3 people with certain tones, generally low or  
4 soft-spoken apparently, he doesn't hear.

5 My concern overall is, would he actually  
6 say something to interrupt, even though if he was  
7 asked if he would to that, and he said he would  
8 rather not do it -- or do it, because it hasn't  
9 connected for him.

10 I don't think being able to hear all the  
11 people if you're participating in the process -- A  
12 side note, what is happening with the screen, and why  
13 is it on the TV, and now going to some picture?

14 MR. J. HYMANSON: Your Honor, I was trying  
15 it out to see if iPad would work.

16 I apologize, Your Honor.

17 THE COURT: You can leave it connected.  
18 It's distracting because I'm looking at things I'm  
19 not used to seeing.

20 MR. J. HYMANSON: That's the story, Your  
21 Honor.

22 THE COURT: All right.

23 The next --

24 MR. P. HYMANSON: My effort was to  
25 expedite.

1 THE COURT: I understand.

2 We got the record.

3 We'll move on.

4 MR. P. HYMANSON: I think this will be the  
5 easy one, juror number 8, badge number 606, Mr. Ehle,  
6 he's had numerous procedures, misdiagnosis, and would  
7 seem to lean toward the Plaintiff.

8 As much as I would like to have him, he has  
9 no place on this jury.

10 THE COURT: Any objection from the Defense?

11 MR. MC BRIDE: No objections, Your Honor.

12 MR. P. HYMANSON: Which would bring me  
13 to --

14 THE COURT: Hold on.

15 I'm I'm going to make the record now and  
16 direct my marshal when we're done, he will go and  
17 bring in the jurors, hold those back, and excuse them  
18 as we did yesterday with one of the others.

19 So, Mr. Ehle, juror 606, will be excused  
20 based on the other bias towards one side or the  
21 other.

22 MR. P. HYMANSON: He says that the other  
23 side he would be favorable to.

24 THE COURT: He has a clear expression.

25 He's not suited for trial under the

1 circumstance.

2 MR. P. HYMANSON: Juror Number 18, badge  
3 number 637, Mr Read, was the same discussion. He's  
4 the one had the former wife who was an ER nurse, sued  
5 for malpractice, and she would -- or that as we  
6 started out the Defense would have a lame duck.

7 It's the same analysis, you can't take it  
8 back, and as such, just like Mr. Ehle, Mr Read would  
9 not be qualified to be fair and impartial.

10 THE COURT: Mr. McBride, the same?

11 MR. MC BRIDE: No objection, Your Honor.

12 MR. WEAVER: No objection, Your Honor.

13 THE COURT: All right.

14 Mr Read, I'm just going to make the record,  
15 I'm going to go ahead, agree with counsel, this  
16 appears to be a request for excusal.

17 I believe Mr Read, he's difficult to  
18 follow, the way he articulates compared to some of  
19 the others jurors. I think in the end he said, he  
20 would attempt to listen to the evidence, and could  
21 listen to the evidence, and try to listen to the  
22 evidence, but also expressed concern about how as the  
23 facts unfold it might affect him, so in the grand  
24 scheme of things I don't see a reason to risk  
25 continuing him on the panel, even though I don't know

1 he has reached a level Mr. Ehle has reached of  
2 excusing, inability to serve.

3 I think there's enough concern here to go  
4 ahead, allow his excusal as well.

5 You had one more?

6 MR. P. HYMANSON: One more, Your Honor,  
7 it's not a move for cause, it's Miss Brown, 668. We  
8 have several Browns on the panel, this Brown happens  
9 to be the one that went to Bible class with the  
10 Plaintiff at the same school and --

11 THE COURT: With the Defendant.

12 MR. P. HYMANSON: --the Defendant.

13 THE COURT: By the way, I've been meaning  
14 to ask, am I incorrectly referring to her -- I know  
15 that she is.

16 MR. WEAVER: We would prefer nurse  
17 practitioner.

18 THE COURT: Nurse Practitioner Bartmus.

19 Thank you.

20 Bartmus.

21 MR. P. HYMANSON: If we were to ask that  
22 question, that is something would probably clear the  
23 room because you want to have that discussion outside  
24 the presence of the jury.

25 THE COURT: We did have some discussion

1 already.

2 I think you are right, if we wanted to find  
3 out anymore involvement, I didn't get the impression  
4 -- I think I asked the question if they are still in  
5 a social connection other tie.

6 The answer was, no.

7 Then I think I asked the question, would it  
8 affect your ability to be fair and impartial, and  
9 again said, no.

10 MR. P. HYMANSON: My recollection, I think  
11 that given the fact we're crossing religious classes  
12 at school, I'd like to know she doesn't have concern  
13 that we're starting on an even keel.

14 I don't know the strength of the  
15 classmate's relationship, some places that would be  
16 an automatic disqualification, but she didn't say she  
17 went to USC, and I would just suggest that out of an  
18 abundance of caution we have her individually  
19 questioned.

20 THE COURT: What is the Defense position on  
21 this?

22 MR. WEAVER: You know, I think the only  
23 thing we would say to that is, there was that  
24 opportunity before passing for cause and questions or  
25 concerns about that, and there wasn't anything that

1 was responded to, other than --

2 THE COURT: I'll bring her in to have a  
3 brief traverse of just her.

4 MR. ARNTZ: Has there been a pass for cause  
5 I heard?

6 THE COURT: No, I instructed counsel at the  
7 bench yesterday that once the Defense is completed we  
8 would have a group discussion about cause.

9 I have no problem with the jury if you want  
10 to challenge it, that's fine.

11 If you wanted to further traverse Mr. Read,  
12 I would have allowed it, but that is not what is  
13 being asked, so he was excused.

14 But as far as Miss Brown, I think the line  
15 of question we had so far would indicate no reason to  
16 remove her, but I think we might as well clear that  
17 up, and Mr. Hymanson, I'll give you some opportunity  
18 to traverse as well.

19 Why don't we bring her in and see.

20 While we are on the subject, up to this  
21 point are there any cause concerns the Defense has to  
22 be mindful of?

23 MR. MC BRIDE: No, Your Honor.

24 MR. WEAVER: No.

25 THE COURT: So, Joshua, please bring us



1 Miss Brown, actually juror 668 on the original list,  
2 she was in seat number -- moved up to seat number 5.

3 (Juror Brown brought into the courtroom.)

4 THE COURT: Miss Brown, come forward.

5 Past counsel's table there's a nice chair  
6 there in the front.

7 We just have a couple questions for you.

8 That chair right there.

9 So we wanted to inquire a little bit more  
10 from you about something that you mentioned at the  
11 beginning of the trial before we actually got  
12 everybody up in the box -- or got you up in the box I  
13 should say, about the fact you had a connection to  
14 one of the parties.

15 JUROR M. BROWN: Yes.

16 THE COURT: And the nurse practitioner was  
17 the party you identified, and I had a very brief  
18 inquiry of you at that time, but are you still  
19 acquainted or social friends in some fashion, and I  
20 think you answered no to that, but I don't want to  
21 answer for you.

22 So have there been any further  
23 communications since you had Bible studies?

24 JUROR M. BROWN: No.

25 THE COURT: How long ago was it you had

1 Bible studies?

2 JUROR M. BROWN: I'm thinking about 2001.

3 THE COURT: I don't mean this to sound  
4 unkind to Nurse Practitioner Bartmus, but why would  
5 you remember her a long time later?

6 JUROR M. BROWN: We had a whole year of  
7 Bible study.

8 THE COURT: I guess the Bible study I was  
9 involved in was many years ago, I don't remember the  
10 people.

11 How many were in the class?

12 JUROR M. BROWN: About probably maybe 8 to  
13 10.

14 THE COURT: But you said, no continuing  
15 communications after that?

16 JUROR M. BROWN: Huh-uh.

17 THE COURT: One of the concerns --  
18 Obviously we always want it to be whoever is on that  
19 panel is just sitting there with an open mind  
20 receiving the evidence, and not biased, and I don't  
21 mean that in a negative way, but just that sort of  
22 bias we all might have about people we know and  
23 things we're familiar with, and things like us, or  
24 whatever it is, that might impact the ability to be  
25 impartial here.

1           So I think I just asked the very general  
2 question, do you think that would impact your ability  
3 to be fair and impartial, and I think you said, no,  
4 but we want to inquire a little further about that.

5           JUROR M. BROWN: I know we had Bible study,  
6 but we didn't have a whole bunch of conversations on  
7 the outside, but I do remember her, I guess I have a  
8 good memory.

9           THE COURT: We like that as jurors all day  
10 long.

11           I don't mean to put you on the spot here,  
12 so I hope it's not coming across like that, but I  
13 guess the next question would be, you know, at least  
14 at some point in time you all shared a religion,  
15 Bible study class, you indicated you still read the  
16 Bible.

17           Is there any reason why that religious  
18 connection you had would impact your ability to be  
19 fair and impartial in this trial?

20           JUROR M. BROWN: I don't think so.

21           THE COURT: You don't anticipate that would  
22 be something you would bring into evaluation of the  
23 witnesses or evidence?

24           JUROR M. BROWN: No.

25           THE COURT: Of the witnesses?

1 JUROR M. BROWN: No.

2 THE COURT: We talk about this any trial  
3 like this, I think still in one of the instructions  
4 the parties start out even Steven, and maybe my  
5 pre-trial instructions about you -- The point is,  
6 everybody sitting in there isn't favoring one side or  
7 the other as we get started, and as we see that  
8 evidence, and brings in common sense what is that  
9 evidence, and when the time comes gets instructions,  
10 goes with their fellow jurors and deliberates and  
11 does that fairly without favoritism or disfavoritism  
12 to either side.

13 Do you think you would be able to do that?

14 JUROR M. BROWN: I do.

15 I tell you my faith comes with me wherever  
16 I go, but looking at evidence and weighing it of  
17 course my faith factors into everything, so I would  
18 leave that to you guys to determine.

19 I don't know how it would connect directly  
20 with the case, I have no idea what it's --

21 THE COURT: The only thing I had about how  
22 it might connect to the indication is, that you share  
23 a religion with one of the parties.

24 Would you favor that party because of that?

25 JUROR M. BROWN: I can't say because right

1 is right, and wrong is wrong.

2 THE COURT: But I heard you saying that,  
3 again not trying to put words in your mouth, what you  
4 are really going to do is what is the evidence --

5 JUROR M. BROWN: Yes.

6 THE COURT: -- and you're going to make  
7 your decision, is that true, based on the evidence  
8 presented, and really that alone?

9 JUROR M. BROWN: Yes.

10 THE COURT: Okay.

11 I'm going to ask Mr. Hymanson, any  
12 follow-up questions for Miss Brown?

13 MR. J. HYMANSON: Just briefly, Your Honor.  
14 Good afternoon, Miss Brown.

15 Thanks so much for coming to talk to us.

16 So you said you remember Nurse Practitioner  
17 Bartmus from about 19 years ago?

18 JUROR M. BROWN: Oh, my gosh yes.

19 MR. J. HYMANSON: From 19 years ago.

20 And it was a class size of about 8 to 10  
21 people?

22 JUROR M. BROWN: Yes.

23 MR. J. HYMANSON: How often did that class  
24 meet?

25 JUROR M. BROWN: Once a week.

1                   MR. J. HYMANSON: Did the class involve  
2 outside discussions?

3                   How many hours a week do you think you  
4 spent with Nurse Practitioner Bartmus during class  
5 time, after class?

6                   JUROR M. BROWN: I remember we did have one  
7 camping trip with the Bible study.

8                   MR. J. HYMANSON: Besides that one camping  
9 trip, would it be a regular week, one week you would  
10 see her?

11                  JUROR M. BROWN: I think so.

12                  MR. J. HYMANSON: And where were you going  
13 to school at this time?

14                  JUROR M. BROWN: Reno.

15                  MR. J. HYMANSON: So UNR?

16                  JUROR M. BROWN: Yes.

17                  MR. J. HYMANSON: This was your  
18 undergraduate?

19                  JUROR M. BROWN: Yes.

20                  MR. J. HYMANSON: Did you have any other  
21 classes with Nurse Practitioner Bartmus, besides the  
22 Bible study.

23                  JUROR M. BROWN: No, not that I can  
24 remember.

25                  MR. J. HYMANSON: That's all I can ask you,

1 the best of your memory.

2 So do you think there's anything about the  
3 fact you're going to have to make some tough  
4 decisions here, and so you are going to be obviously  
5 involved a dispute, we can't get into the dispute,  
6 but you will have to make a decision who you're going  
7 to side with.

8 So do you think as you sit there the fact  
9 you spent that year with Practitioner Bartmus in the  
10 Bible class, you don't think will influence you?

11 Let's say, if things are really, really  
12 close, would you at least give an edge to Nurse  
13 Practitioner Bartmus?

14 JUROR M. BROWN: If it's based on evidence,  
15 it's based on evidence and the law.

16 MR. J. HYMANSON: Absolutely.

17 So that's what I'm asking you.

18 JUROR M. BROWN: I can't say at this point  
19 I would have a bias toward anybody.

20 I just remember her face and remember we  
21 did have that interaction, but beyond that I couldn't  
22 say anything else, like I have a feeling one way or  
23 another.

24 MR. J. HYMANSON: Is there anything about  
25 the fact that you spent a year with Nurse

1 Practitioner Bartmus would make you think instantly  
2 she has either more or less credibility upon the  
3 witness stand?

4 JUROR M. BROWN: No.

5 MR. J. HYMANSON: Thank you very much.

6 THE COURT: Mr. McBride.

7 MR. MC BRIDE: No questions.

8 MR. WEAVER: Just a couple questions.

9 Miss Brown, you said that you identified  
10 the nurse practitioner. Was it her name, or did you  
11 recognize her face?

12 JUROR M. BROWN: Her face.

13 MR. WEAVER: But you haven't had any  
14 contact with her in approximately 20 years, is that  
15 right?

16 JUROR M. BROWN: No.

17 MR. WEAVER: If it weren't for the fact it  
18 was a Bible class, would you have ever even known  
19 her, would it have made any difference to you whether  
20 it was an algebra class, or political science class?

21 JUROR M. BROWN: I've known -- I guess I  
22 knew the Bible study because it was a smaller group  
23 and recognizing if you see somebody on a weekly  
24 basis, you know their face.

25 MR. WEAVER: That was at UNR?



1 JUROR M. BROWN: Uh-huh.

2 MR. WEAVER: You didn't have any other  
3 interaction, other than basically an hour a week that  
4 included other people?

5 JUROR M. BROWN: The Bible study and the  
6 camping trip.

7 MR. WEAVER: So if there were any  
8 implications, you might be in Miss Bartmus' favor,  
9 maybe not a level playing field.

10 What about was there anything about your  
11 interaction with Miss Bartmus we should know whether  
12 you might not give her the same fair deal you give  
13 Plaintiffs?

14 JUROR M. BROWN: No.

15 MR. WEAVER: Thank you, Miss Brown.

16 MR. ARNTZ: Was it UNR, or through a church  
17 while you were at UNR?

18 JUROR M. BROWN: It was through UNR, called  
19 inner-varsity had Bible studies that broke off from  
20 the group.

21 MR. ARNTZ: So a Bible study --

22 JUROR M. BROWN: On the campus.

23 MR. ARNTZ: Okay.

24 THE COURT: Thank you, Miss Brown. We  
25 appreciate your time.

1                   Go ahead and step out.

2                   (Juror excused from the courtroom.)

3                   THE COURT: Mr. Hymanson anything further  
4 you want to add to your request at this time?

5                   MR. P. HYMANSON: Other than apologize for  
6 delaying the Court, I have nothing else.

7                   THE COURT: Unbeknownst to me, until just  
8 now apparently Mr. Jones in seat number 13 is not  
9 with us yet.

10                  We're trying to locate Mr. Jones.

11                  It's always with an issue with something  
12 like that it becomes how long do we wait.

13                  He hasn't made any effort to contact us  
14 that we are aware of.

15                  Jurors tend to find a way to get to us if  
16 they can.

17                  One of the mistakes we made is just to let  
18 my marshal know that generally on the first day of  
19 trial we get a sign-in sheet with everybody on it, so  
20 if something happens, we have a way to contact them,  
21 but this has been a little hectic getting everything  
22 moving forward, we neglected to do that, so it  
23 doesn't automatically come from jury services, so we  
24 will follow-up, but give at least ten more minutes,  
25 and then we will be an hour from the start time,

1 maybe have to consider what to do.

2 MR. P. HYMANSON: Your Honor, just one  
3 moment.

4 THE COURT: Of course.

5 MR. P. HYMANSON: I don't know how counsel  
6 for the Defense feels, but we'll stipulate to let Mr.  
7 Jones go.

8 MR. MC BRIDE: I still want to have him  
9 here.

10 There's no reason to really excuse him.

11 We can wait ten minutes.

12 THE COURT: If we're going to finish jury  
13 selection today, on the plus side the concern I have  
14 on the record about my own personal time frame has  
15 been resolved, so we're fine there.

16 But let's give at least ten more minutes,  
17 see if we can get Mr. Jones here, and come back in  
18 collectively decide how to proceed.

19 MR. MC BRIDE: Before you leave the bench,  
20 I want to let you know we did submit our order on the  
21 motions that we prepared, and I think --

22 THE COURT: How did you submit that?

23 MR. MC BRIDE: We signed it.

24 She brought it back to your chambers.

25 I also have an objection we filed, I wanted

1 to give Your Honor a copy of it, an objection to the  
2 Plaintiff's proposed jury instruction regarding loss  
3 of chance, just prior to opening statements I wanted  
4 to make sure that we kind of address that.

5 Thank you.

6 THE COURT: I've not spent any time on jury  
7 instructions yet, but I would see if anyone has any  
8 objections.

9 Have you seen the filing?

10 MR. ARNTZ: Just so you know, I don't  
11 intend on addressing that in opening, so that will  
12 not be a topic in my opening.

13 THE COURT: Good to know.

14 MR. WEAVER: Your Honor, we join the  
15 objection on behalf of Bartmus, the objection to  
16 Defendant's proposed jury instruction regarding loss  
17 of chance.

18 THE COURT: Let me step in the back, clear  
19 up my prior issues, and see if juror Jones gets here.

20 (Thereupon, a recess was had.)  
21  
22  
23  
24  
25

1           (Thereupon, the following proceedings were  
2 had out of the presence of the jury.):

3           THE COURT: So we're back on the record now  
4 with Juror Crayton Jones, III, juror 625.

5           Apparently he e-mailed the Court this  
6 morning, sent the e-mail to the e-juror e-mail, just  
7 made it's way to my JEA and Court clerk like at 2:19,  
8 so literally as we are talking about him they are  
9 sending it over, so it says:

10           Subject: Sick and unable to return to the  
11 gallery for jury selection in Courtroom 15-B.

12           Then he identifies himself as juror ID.

13           He says, please be advised I've taken ill  
14 and am unable to return to Court as part of the  
15 gallery today at 1:30 p.m. in Courtroom 15-B.

16           I've not been selected for the jury, and I  
17 feel awful for not being able to complete the  
18 obligation, I'm willing to be re-selected in the  
19 future in consideration of others in attendance.

20           It would be irresponsible to expose others  
21 to my illness, and I'm respectfully requesting to  
22 eliminate my appearance in 1:30 p.m.

23           I'm looking forward to serving as a  
24 prospective juror in the future.

25           Mr. Jones will be put in the next available

1 pool.

2 I don't have too much sympathy for the  
3 circumstances, since he's not really identifying the  
4 circumstances, but I'm going to make this a Court's  
5 Exhibit 1, so we have it for the record, even though  
6 I read it in, we have it, and I think we'll have to  
7 proceed with filling Mr. Jones' seat.

8 So at this moment in time we're going to  
9 have three vacant seats in the panel, we're going to  
10 ask my marshal to hold back Juror Number 606, Mr.  
11 Ehle, who is in seat 8, and hold back jurors, and  
12 have Mr. Read, juror 637, in seat 18, you know which  
13 jurors those are, I believe, and is that correct,  
14 hold them back, bring everybody else in, we'll seat  
15 everybody else who is seated, and proceed with the  
16 next three in order to fill those seats.

17 We still have the panel from the original  
18 start of trial.

19 My latest count was down to 11. This will  
20 take us down to 8.

21 We still have an additional 10 we asked to  
22 be brought in, but we're still keeping them in jury  
23 services in hopes we won't need to get to them.

24 All right.

25

1           (Thereupon, the following proceedings were  
2 had in open court and in the presence of the jury.):

3           THE COURT: As the rest of the jurors find  
4 their seat, I'll ask everyone else to have a seat as  
5 well.

6           Thank you, ladies and gentlemen.

7           Welcome back.

8           We are in the home stretch of this jury  
9 selection, we'll most certainly finish the jury  
10 selection today, absent unforeseen circumstances.

11          I do want to note in part the delay  
12 starting today was because of one of your fellow  
13 jurors took ill, was unable to return, so it took a  
14 while to make that determination and be able to  
15 proceed.

16          But we're going to proceed without that  
17 juror.

18          We also have had two additional excusals  
19 from the panel, so we have three empty seats to fill  
20 over here.

21          And the first seat to be filled is going to  
22 be seat number 8 in the back row.

23          So if you will come through between counsel  
24 table, around the podium, through the well, enter  
25 through the left side of the jury box, we would

1 appreciate that.

2 The next juror in order.

3 THE CLERK: Badge 683, Katrina Johnson.

4 THE COURT: Then the next seat to be filled  
5 is the one in the second row, but to the left as  
6 you're looking at the jury box, that is seat number  
7 13.

8 And the next juror in order for that seat.

9 THE CLERK: 688, Teresa Blake.

10 THE COURT: Last but not least, the  
11 remaining seat number 18 will be filled by.

12 THE CLERK: 691, Joel Woods.

13 THE COURT: All right.

14 Thank you, folks.

15 As we did yesterday when we added  
16 additional folks after a break to the panel, we still  
17 need to get a few minutes to get the other folks that  
18 just joined us, so I'm going to start with Juror  
19 Johnson, badge 683.

20 If you are able to see the boards.

21 If not, I'm happy to walk you through it,  
22 but --

23 JUROR JOHNSON: 683.

24 I'm a speech therapist at the Southern  
25 Nevada Health Care System and the VA Hospital here in



1 Vegas.

2 I'm primarily in the outpatient.

3 I have my Masters degree.

4 I moved to Vegas in December of 2018 for  
5 this job.

6 I relocated from Denver, Colorado, where I  
7 worked at a facility that gave therapy is services to  
8 people with dementia.

9 Single.

10 Never married.

11 No children.

12 And this is the first time I received a  
13 jury summons.

14 THE COURT: If someone comes from another  
15 state, I like to ask that.

16 Thank you very much, Miss Johnson.

17 Let me ask you, we just had a couple folks  
18 to go through, obviously in your job there's some  
19 ties to the medical community, but any job you had,  
20 family members, close friends, working in the medical  
21 industry?

22 JUROR JOHNSON: Just me.

23 THE COURT: Okay.

24 And because you haven't been in the  
25 jurisdiction very long, no knowledge or connection to

1 -- that you recall the any of the parties or the  
2 witnesses in the case?

3 JUROR JOHNSON: No, ma'am.

4 THE COURT: Okay.

5 And like you said, primarily you are at the  
6 VA?

7 JUROR JOHNSON: Yes, primarily see out  
8 patients there.

9 THE COURT: Any connection, again yourself,  
10 close friend, or family member, to any kind of  
11 medical malpractice litigation?

12 JUROR JOHNSON: No, ma'am.

13 THE COURT: Thank you so much.

14 Moving now down to the front row, Miss  
15 Blake.

16 JUROR BLAKE: Blake, 688.

17 I'm a librarian for the Clark County School  
18 District.

19 Masters Degree in education.

20 Associate Engineer with SOCM which is a  
21 contractor with the Army.

22 Pre-existing real estate agent.

23 No children.

24 Las Vegas about 25 years.

25 Never been on a jury.

1 THE COURT: Here?

2 JUROR BLAKE: Never.

3 THE COURT: Never even made it this far.

4 JUROR BLAKE: Never even this far.

5 THE COURT: See how fortunate everybody is.

6 What about medical profession connections?

7 JUROR BLAKE: RN, a friend is a case

8 manager at the UMC.

9 THE COURT: How long has she had that

10 position?

11 JUROR BLAKE: At UMC, a few years.

12 THE COURT: Just to get a better

13 understanding, 5 years, 10 years, 15, more?

14 JUROR BLAKE: 15 or more.

15 THE COURT: Okay.

16 And then what about any connections with

17 any medical malpractice litigation?

18 JUROR BLAKE: No.

19 THE COURT: Thank you.

20 Last but not least Mr. Woods.

21 JUROR WOODS: Woods, 691.

22 My job currently -- Before I go any

23 further, I have a stuttering problem, you will have

24 to bear with me, if you know what I'm trying to say.

25 I'll keep going, but that's fine --

1           THE COURT: On the plus side, once jurors  
2 start their service if you are one of the 10, you  
3 don't get to speak until you are in your  
4 deliberations, you just get to listen.

5           I've had some jurors think they should be  
6 speaking, but it's not the case.

7           JUROR WOODS: So I'm buying stock. What I  
8 did was job-related jobs.

9           Prior to that out of college I have a  
10 Bachelors degree.

11          Out of college a case manager for several  
12 years.

13          THE COURT: Where did you do that work?

14          JUROR WOODS: State --

15          THE COURT: Like a hospital?

16          JUROR WOODS: Different out-patients and  
17 in-patient facilities in Oklahoma several years ago,  
18 and later on down the line in software, eventually  
19 medical software where I work with a variety of  
20 doctors and surgeons in the emergency room who I  
21 consider probably the best, so I have a high respect  
22 for doctors and nurses who do work in the emergency  
23 room because I know the way the hospital usually  
24 works, it takes very experienced people in that  
25 situation because that's who you want to handle a

1 emergency, if you're a doctor dealing with patients.

2 So I do have a little bit of extra respect  
3 for people do that sort of work.

4 THE COURT: We appreciate you bringing that  
5 up, but I want to make sure we don't forget.

6 JUROR WOODS: I've been with my spouse for  
7 20 years, he's a registered nurse.

8 We've been together mostly nursing home  
9 work, it was in Washington state.

10 THE COURT: How long?

11 JUROR WOODS: Sorry.

12 Eight years.

13 THE COURT: Any children in the community?

14 JUROR WOODS: No children.

15 THE COURT: Eight years.

16 Moved here from where?

17 JUROR WOODS: Washington.

18 THE COURT: How about jury service?

19 JUROR WOODS: I've never done jury service.

20 THE COURT: So coming back to your  
21 connection to medical profession, let me take the  
22 second question first.

23 Any connection that you had, your spouse,  
24 or another close friends, or family member, to any  
25 kind of medical malpractice litigation specifically?

1 JUROR WOODS: Malpractice was something I  
2 used to hear about because I worked so close with the  
3 doctors and the nurses, and almost in-patient care  
4 going into the exam room, so.

5 THE COURT: Again, the time frame you  
6 engaged in those activities, can you give us a year  
7 span for that?

8 JUROR WOODS: How long, or when was it?

9 THE COURT: Dates I'm thinking.

10 JUROR WOODS: Probably like 2000 to 2010,  
11 around there, probably ten years back.

12 THE COURT: And back now to the first part,  
13 we talked a little bit about it yesterday, and  
14 because I never know with the folks in the gallery if  
15 they are paying attention or not, I want to go over  
16 this again, we fully understand there will be people  
17 on the panel who have life experiences, and who have  
18 perhaps understandings of certain things, or feelings  
19 a certain way, and the question really becomes, even  
20 though you may have some sympathy for a party or a  
21 general circumstance that might affect a party, are  
22 you going to be able to sort of set that aside to do  
23 your duty here, and just listen to the witnesses,  
24 take in the evidence as you receive it from the  
25 witnesses, and the documents, and when it comes time

1 for you and your fellow jurors to do so fairly and  
2 impartial -- The other way to sort of ask that is, it  
3 comes up the most commonly I would say in our  
4 criminal cases because we're going to obviously have  
5 testimony from police officers, and there may be  
6 people who have family members are police officers  
7 and people had very good experiences with police  
8 officers, oftentimes people had bad experiences with  
9 police officers, so their life experience is going to  
10 have them have some feelings one way or the other.

11 What we're trying to ferret out is the kind  
12 of bias that might preclude the person from being  
13 able to do actually jury service, be fair and  
14 impartial with this particular case, with these  
15 particular people, and there's no right or wrong  
16 answer to that.

17 JUROR WOODS: Yes, I feel impartial, but I  
18 believe there are some odd questions, hypotheticals,  
19 have been presented.

20 One of them was a German Shepherd biting  
21 and passers-by. I don't think that has any relation  
22 to a person has a very serious condition going into a  
23 hospital to have that condition treated, and blaming  
24 the person who wasn't able to cure you for that  
25 condition you went in for.

1           If that's that case, I don't see those  
2 things related.

3           THE COURT: Fair enough.

4           We appreciate that.

5           So to your sort of analysis of the  
6 question, one of the things that is always tricky  
7 about jury service in voir dire, which is what we're  
8 doing now, and it kind of came up in the last couple  
9 of days, but just to bring it home, the hypotheticals  
10 have nothing to do with the case in terms of whether  
11 or not, as I'm sure you can appreciate, you can't  
12 have a voir dire where you sit there actually asking  
13 questions related to the case and actually ferreting  
14 out how people feel about the facts and circumstances  
15 of the case.

16           What you do, and I think counsel so far  
17 have done a very skilled job of that, is you ask  
18 questions that sort of ferret out people's thought  
19 processes about different things to help you  
20 understand how they might handle the types of things  
21 that might come up in the case.

22           So I very much appreciate that insight for  
23 you, but again the facts and circumstances of the  
24 case will come into play when we actually start the  
25 case, which is opening statements are not evidence,



1 you will not regard them as evidence, but you will  
2 hear from counsel when the trial starts if you're on  
3 the panel, that these are the facts and circumstances  
4 of the case, and then you will hear the witnesses who  
5 will actually provide the actual evidence through  
6 their testimony and through the documents they  
7 discuss.

8 Then you will know what the case is about.

9 So what we have to know is, to make sure we  
10 don't have anybody predetermining any outcomes  
11 because they think based on the voir dire questions  
12 so far, or what they think they know about the case,  
13 they already think they know what the answer is.

14 If that's the case, that is fine, we need  
15 to know that, but again that is not going to be  
16 somebody going to stay with us on the jury panel.

17 So you indicated you had had a mixed answer  
18 there, which was I think you said, I'd like to be  
19 impartial, or think I'm impartial, something along  
20 that line, but expressed a concern about what if  
21 certain facts are, so really what it boils down to  
22 is, do you believe that not knowing the facts and  
23 circumstances of this case as the case comes in, are  
24 you going to allow the parties to start at the same  
25 starting line, at the so called race start?

1 JUROR WOODS: Yes.

2 THE COURT: Find them even Steven, and as  
3 you listen to the evidence, at the end of the day  
4 decide whether the Plaintiff has met the burden?

5 JUROR WOODS: Yes.

6 THE COURT: There will be more questions  
7 coming from counsel, but I appreciate that.

8 Anything else from the three of you that  
9 you heard questions being asked over the last two  
10 days that you were either chomping at the bit to  
11 answer, or really think we should know about anything  
12 that you have mindset wise about this trial?

13 JUROR JOHNSON: Yes, ma'am.

14 I just wanted to disclose, I'm also  
15 military veteran who receives care at the VA Hospital  
16 that I also work at.

17 So I just wanted to let you know that I've  
18 seen it from a patient perspective and from providing  
19 services, kind of the good, the bad, and the ugly.

20 I wanted to disclose that.

21 THE COURT: Thank you.

22 There may be some more questions.

23 Anybody else?

24 Miss Blake.

25 JUROR BLAKE: No.

1 THE COURT: Anything else, Mr. Woods?

2 JUROR WOODS: No.

3 THE COURT: Thank you.

4 I'm going to pick up with Mr. Weaver,  
5 because that's where we left off I believe, and then  
6 of course we'll still give the other counsel an  
7 opportunity to ask questions of the panel.

8 Mr. Weaver, you may proceed.

9 MR. WEAVER: Good afternoon.

10 I represent Nurse Practitioner Bartmus.

11 Miss Clinton, I'm going to start with you  
12 because I think we left off with you yesterday  
13 afternoon with Mr. McBride, and I just wanted to  
14 mention one small detail.

15 I think you were asked a question about --  
16 or the panel was asked a question about if anybody  
17 had any familiarity or relationship with St. Rose  
18 Hospital, and you mentioned your brother, and then  
19 you asked about where this campus is, the San Martin  
20 Campus.

21 This one is Buffalo and Warm Springs.

22 Does that make any difference to your  
23 recollection whether that may have been where your  
24 brother was treated?

25 JUROR CLINTON: Sabrena Clinton, 658.

1 I don't believe that location you described  
2 on Buffalo and Warm Springs was not where my brother  
3 was.

4 MR. WEAVER: Does anyone else have -- So  
5 the question is:

6 Do any of you have any association with any  
7 of the three campuses of St. Rose Hospital here in  
8 Las Vegas?

9 Yes, ma'am.

10 Miss Chavez.

11 JUROR CHAVEZ: My grandmother had a surgery  
12 sometime ten years ago, but everything was good, she  
13 came out of it great.

14 MR. WEAVER: Any reason to believe that  
15 anything good or bad happened with your grandmother  
16 is in association with Sunrise Hospital would affect  
17 your ability to be fair in this case?

18 JUROR CHAVEZ: The only thing happened, she  
19 didn't know she was allergic to a certain antibiotic,  
20 and they gave it to her, but fixed her up  
21 immediately, everything was fine.

22 I don't hold any grudges or anything.

23 MR. WEAVER: Anybody else?

24 Yes, Miss Bebekyan.

25 JUROR BEBEKYAN: I do work at a call center

1 for San Martin, but I don't believe it should be a  
2 problem.

3 MR. WEAVER: What context do you answer  
4 calls --

5 JUROR BEBEKYAN: Call-ins.

6 MR. WEAVER: Would you just explain a  
7 little more, that is for example do you answer for  
8 physicians associated with San Martin.

9 JUROR BEBEKYAN: No, I'm not familiar with  
10 that.

11 MR. WEAVER: You may have heard the name  
12 Dr. Lasry and some of the others.

13 JUROR BEBEKYAN: I haven't.

14 I've been working there for four months.

15 I haven't.

16 MR. WEAVER: Would it be fair to say, you  
17 also don't take any of the calls that have to do with  
18 the emergency department?

19 JUROR BEBEKYAN: I do take calls from the  
20 emergency department, we do ICU too.

21 MR. WEAVER: Based on the context of any of  
22 the calls that you take, any of the information you  
23 pass along, any reason to believe that would affect  
24 your ability to be fair in in this case?

25 JUROR BEBEKYAN: No.

1 MR. WEAVER: Anybody else have any  
2 association with St. Rose Hospital here in Las Vegas?

3 Yes, sir, Mr. Wilder.

4 JUROR WILDER: 611.

5 My daughter was born in one of them.

6 My mother's been in one of them.

7 My wife had an operation in the other  
8 thing.

9 So all three of them, so --

10 THE COURT: Mr. Wilder, you had the  
11 headphones, but I see you are not utilizing them  
12 anymore.

13 Is there a reason?

14 JUROR WILDER: They worked, just everything  
15 is louder, but it doesn't really have the clarity, so  
16 I can't hear as well, so I kind of put them on and  
17 take them off.

18 I can hear right now fine.

19 THE COURT: We'll let you use your best  
20 judgment.

21 Go ahead.

22 MR. WEAVER: Mr. Wilder, on that point,  
23 were you able to hear Miss Bebekyan, 109, what her  
24 answers were?

25 JUROR WILDER: Yes.

1           MR. WEAVER: You mentioned sometimes you  
2 have difficulty in hearing, has to do with tones more  
3 than anything else?

4           JUROR WILDER: I have problem with tones  
5 because I got really good hearing aids and can hear  
6 okay.

7           MR. WEAVER: Are you able to tell us what  
8 types of tones you can't hear?

9           JUROR WILDER: My daughter.

10          MR. WEAVER: What about your wife?

11          Let's start with that.

12          JUROR WILDER: I can hear my wife.

13          MR. WEAVER: What is it about your  
14 daughter's tones make it difficult to hear --

15          JUROR WILDER: She has a real monotone  
16 voice and doesn't move her lips a lot.

17          I've been reading lips, and that helps me.

18          So I can't read her lips and can't hear  
19 her.

20          MR. WEAVER: With regard to hearing the  
21 answers to other jurors over the last few days, have  
22 you been attempting to be reading lips to understand  
23 what they are saying, or in your judgment be able to  
24 hear?

25          JUROR WILDER: I think I'm hearing pretty

1 good.

2 MR. WEAVER: Going back to the question  
3 about your experience with the St. Rose Hospitals, do  
4 you think your experience with St. Rose Hospital,  
5 including the birth of a child, that is going to  
6 cause you to be favorably disposed to any emergency  
7 department at St. Rose Hospital?

8 JUROR WILDER: I don't think so.

9 MR. WEAVER: With regard to the issue of  
10 the birth of one of your children -- ladies and  
11 gentlemen, I think everybody has answered to  
12 questions from Mr. Hymanson they wouldn't think  
13 negatively, wouldn't hold it against Mr. Moore if he  
14 were to come and go, or have a leave of absence, or  
15 need to excuse.

16 Is everybody on the same page, that would  
17 not be an issue for them?

18 Is there anybody, including you new folks,  
19 Miss Johnson, Mr. Woods, and Miss Blake, have any  
20 concern, or hold it against, or look unfavorably, if  
21 Mr. Moore were to leave at any point, come and go, or  
22 not be present, is that a problem for anybody?

23 No.

24 Miss Bartmus is pregnant.

25 She intends to be here not only throughout



1 the trial obviously, but every moment of every day of  
2 the trial, but what happens with some folks, morning  
3 sickness is not always in the morning, sometimes it's  
4 in the afternoon.

5 So would anybody hold it against Miss  
6 Bartmus if she wasn't here for a small amount of  
7 time, or if she was here and needed to step out, or  
8 any circumstances where you looked over and saw she  
9 was leaving briefly, or looked over and saw she  
10 wasn't here for that reason, would anybody be  
11 concerned that it's a lack of interest, or lack of  
12 concern, or lack of caring on her part, about this  
13 case?

14 So everybody can feel comfortable,  
15 everybody can commit if Miss Bartmus for whatever  
16 reason, even if she's here, needs to step out, isn't  
17 going to hold it against her, is everybody all right  
18 with that?

19 Going back to the issue of the hospital,  
20 and St. Rose Hospital, Dr. Lasry, and Miss Bartmus  
21 worked in St. Rose Hospital in the emergency  
22 department, but were not employed by St. Rose  
23 Hospital, they worked for an emergency medicine group  
24 that contracted with St. Rose Hospital.

25 Does that make any difference to anybody,

1 does anybody care whether or not they worked for the  
2 hospital, as opposed to working in the hospital?

3 Does it make any difference to anybody  
4 whether the nurses that they worked with in the  
5 emergency department worked for the hospital itself,  
6 but not their emergency group?

7 Does anybody have any experience with  
8 circumstances where they work with somebody in a team  
9 approach, where perhaps that person works for a  
10 different employer than they do, but they need to  
11 work collaboratively?

12 Mr. Withers, you have that circumstance?

13 JUROR WITHERS: I do.

14 MR. WEAVER: What type?

15 JUROR WITHERS: The company I work for is  
16 contracted by RTC. Now we manage the bus systems  
17 here in Las Vegas.

18 We're not an entity of that, we're  
19 contracted by them.

20 MR. WEAVER: Thank you.

21 So in your circumstance you work  
22 collaboratively with folks that you may not have  
23 direct control over in terms of what they do, is that  
24 a fair way to look at things?

25 JUROR WITHERS: Yes.

1           MR. WEAVER: Is it your effort or goal to  
2 kind of work closely in doing that?

3           JUROR WITHERS: Yes.

4           MR. WEAVER: Mr. Newman, I haven't talked  
5 with you yet.

6           I think you told us that you were  
7 associated with overseeing environmental services?

8           JUROR NEWMAN: Yes.

9           MR. WEAVER: And in your capacity do you  
10 sometimes work with the folks, you oversee work  
11 collaboratively with other people that are  
12 non-employees with whatever employees you're  
13 associated with?

14          JUROR NEWMAN: Not often, because most all  
15 of us are at the school district.

16          MR. WEAVER: On a little bit of a different  
17 point, there was some talk yesterday, but I'll stick  
18 with you for this moment, we talked about  
19 documentation, and the issue hit on terms of  
20 procedures, part of people's jobs.

21          Do the folks you supervise sometimes have  
22 to document the things they do?

23          JUROR NEWMAN: Yes.

24          MR. WEAVER: Would it be fair to say in  
25 your job as a supervisor sometimes things may get

1 documented, but it doesn't mean in your opinion they  
2 haven't been done, it just means they were done, but  
3 not documented?

4 JUROR NEWMAN: Correct.

5 MR. WEAVER: Anybody who has a feeling that  
6 just because you did something and didn't document  
7 it, it should be you didn't do it in the first place?

8 Anybody hold that feeling that if you  
9 didn't document something, it automatically means  
10 it's not done?

11 Okay. Miss Johnson, welcome.

12 JUROR JOHNSON: Thank you.

13 MR. WEAVER: I am just trying to clarify  
14 some of the answers that my colleagues have given, so  
15 I'm not going to be as extensive as some of the  
16 questions of my colleagues, we have a tight schedule,  
17 and the Court runs a tight ship, and we're going to  
18 do our best to stay on schedule, so if I skip over  
19 asking some of the questions that have already been  
20 asked of others, will you let us know if there's any  
21 particular relevance comes to mind?

22 JUROR JOHNSON: Yes.

23 MR. WEAVER: So, Miss Johnson, in your  
24 capacity as a speech therapist is that including I  
25 think you said some outpatient treatment.

1 JUROR JOHNSON: Yes, sir.

2 MR. WEAVER: And I should have said your  
3 badge number.

4 JUROR JOHNSON: 683.

5 MR. WEAVER: Did that also include some  
6 evaluations of patients?

7 JUROR JOHNSON: Yes, sir.

8 MR. WEAVER: In your experience have there  
9 been times where you have evaluated patients with  
10 speech therapy on an out-patient or in-patient basis  
11 at the VA Hospital where you know they do -- have  
12 provided them the care they needed, that it was  
13 appropriate care, and didn't necessarily document it?

14 JUROR JOHNSON: I would like to think we  
15 did document it.

16 It not be a surprise at the time, things  
17 are left out.

18 MR. WEAVER: So you try to document what  
19 you think is important, because it isn't documented  
20 doesn't mean you didn't do it, is that a fair way to  
21 look at it?

22 JUROR JOHNSON: Yes.

23 MR. WEAVER: Sometimes that documentation  
24 isn't there, and you believe you did it, you know you  
25 did it because it's your habit to do it, your custom

1 is to do it?

2 JUROR JOHNSON: Would you say that again?

3 MR. WEAVER: Sure.

4 In general, in your evaluation and  
5 treatment of patients are there certain things that  
6 you do as part of your processes, part of your  
7 custom?

8 JUROR JOHNSON: Yes.

9 MR. WEAVER: So even if you give some  
10 treatment, do some evaluation, and you didn't  
11 document that you did it, is it fair to say you would  
12 know you did it because it's your habit to do it?

13 JUROR JOHNSON: Sometimes I would say.

14 If it's a patient I've seen routinely, but  
15 if it's something really important, and I realize  
16 after the fact it wasn't addressed, the next time I  
17 see the patient I would emphasize to myself to make  
18 sure I did that.

19 MR. WEAVER: Thank you, ma'am.

20 Mr. Headd, before I come back to you, we're  
21 going go to answer a question -- or tell the Judge  
22 something.

23 James Maltese, 665.

24 THE COURT: We have had a different  
25 reporter each afternoon we've been in selection.

1           Generally either counsel or myself say the  
2 name of the jurors. They've not been saying the  
3 names, so at this point because this reporter is not  
4 used to that process, say your name and badge number  
5 when you speak out.

6           Thank you.

7           JUROR MALTESE: I have been on projects,  
8 and no project was completed until the paperwork was  
9 done and documentation.

10          I just wanted to say that.

11          MR. WEAVER: So with that, Mr. Maltese,  
12 would it be an instance where you needed to document  
13 a little later, than something was done immediately,  
14 it would be done in order for it to be complete?

15          JUROR MALTESE: Most of the times after  
16 hours at dinner, or at a hotel.

17          MR. WEAVER: Whenever there was time to do  
18 it?

19          JUROR MALTESE: Yeah.

20          MR. WEAVER: Mr. Headd, you seem to speak  
21 your mind.

22          Is that a fair thing to say?

23          JUROR HEADD: I'm fine with that.

24          Ryan Headd, 643.

25          MR. WEAVER: All right.

1           You gave us some perception you have of the  
2       emergency department is fast-paced, and the emergency  
3       department providers, health care providers,  
4       basically need to take all comers, whether it a  
5       gunshot trauma, burn, heart attack, or whatever it  
6       is, is that an accurate perception of that?

7           JUROR HEADD:   Yeah, I imagine certain times  
8       it's a very chaotic environment, depending what is  
9       going on.

10          MR. WEAVER:   Does anybody in general have a  
11       different perception of the emergency department,  
12       other than what Mr. Headd described?

13          Mr. Headd, would it also be your perception  
14       that there are times when people go to the emergency  
15       department because they think they have an emergency  
16       condition, and it's determined that the condition  
17       actually isn't an emergency?

18          JUROR HEADD:   Sure.

19          MR. WEAVER:   Can you think of any of what  
20       those scenarios might be, or are you just comfortable  
21       with the concept, even if somebody in good faith  
22       thinks they need to go to the emergency department to  
23       be checked out, that's to see what their condition  
24       is, it wouldn't surprise you if the condition isn't  
25       an emergency?



1 JUROR HEADD: Yeah, I'm fine with that.

2 MR. WEAVER: Is there anybody that would be  
3 surprised by that perception, or anybody who would be  
4 surprised by the idea even a patient who in good  
5 faith thinks they might have an emergency condition  
6 and needs to be treated in the emergency department,  
7 that it doesn't turn out to be an emergency, anybody  
8 subscribe to the view that doesn't make sense or  
9 wouldn't hold true?

10 Does anybody -- or do any of you folks hold  
11 the view that the only people, a health care provider  
12 in the emergency department, who should be able to  
13 treat a patient who believes they need to be  
14 evaluated for an emergency condition should be a  
15 physician?

16 Anybody hold that view?

17 Would anybody think that it would be  
18 appropriate for a nurse practitioner, and we'll talk  
19 about what that is in a moment, anybody have the view  
20 it would be inappropriate for a nurse practitioner to  
21 evaluate a patient in the emergency department when  
22 that patient believes they might have an emergency  
23 condition and needs to be evaluated?

24 Does that strike anybody as something that  
25 shouldn't happen?

1           Mr. Woods, 691, do you have any concern or  
2 perception?

3           Your husband's a registered nurse.

4           Any concern or perception that a nurse  
5 practitioner in the emergency department wouldn't be  
6 appropriate to diagnose the condition of the patient  
7 who came?

8           JUROR WOODS: No, my actual doctor's a  
9 nurse practitioner that I go to as my general  
10 physician is a nurse practitioner, so when I refer to  
11 her, I call her my doctor.

12           I'm aware of kind of how that works, there  
13 are some things she has to get the doctor to sign off  
14 on.

15           I know it's how it works, but for the most  
16 part she's my doctor, so that's how I see it.

17           MR. WEAVER: So is there anybody on the  
18 panel who doesn't have an understanding of what a  
19 nurse practitioner is?

20           So if I tell you that a nurse practitioner  
21 like Miss Bartmus is a registered nurse who then went  
22 on to have additional training, a Masters and a  
23 Doctorate degree, and assumes a practice, even though  
24 we don't call her Dr. Bartmus, she has a Doctorate  
25 degree in nursing practice, but she's not a

1 physician, in other words, she's what some hospitals  
2 -- or some call a mid-level practitioner, does  
3 anybody, without even knowing the facts, hold against  
4 Miss Bartmus if she diagnoses patients in the  
5 emergency department, maybe puts in orders for  
6 medication, or testing, the discharge of patient,  
7 anybody who would hold that against her if she's  
8 licensed to do that, and working within the scope of  
9 what she's allowed to do?

10 Does that strike anybody, even if it's  
11 legal, as not being okay?

12 All right.

13 Mr. Fyfe, 614.

14 How are you today.

15 JUROR FYFE: Good.

16 How are you?

17 MR. WEAVER: Good.

18 Thank you.

19 Yesterday in response to one of the  
20 questions when Mr. McBride was visiting with you was  
21 brutal honesty, and one of the questions had to do  
22 with does anybody think a medical malpractice case  
23 may not be a great case for them, and we appreciated  
24 your response, you're not sure because there might be  
25 terms that come up, medical terms that you may not

1 understand, did I basically summarize what your  
2 thought on that was?

3 JUROR FYFE: Yes.

4 MR. WEAVER: So if we as the lawyers, I'm  
5 sure we intended to do so, if we explain those terms  
6 to you in a way that is acceptable, and a way can be  
7 explained to ease that, give you any concern about  
8 whether or not you would be able to be a fair juror  
9 in this case?

10 JUROR FYFE: No.

11 MR. WEAVER: Somewhat along those same  
12 lines, does anybody have a type A personality?

13 JUROR WOODS: That they admit to?  
14 Me.

15 MR. WEAVER: That answer about whether they  
16 would admit to it was Mr. Woods, juror 691.

17 MR. WEAVER: Do you think having a type A  
18 personality is a bad thing?

19 JUROR WOODS: No, I don't think it's a bad  
20 thing.

21 MR. WEAVER: Does anybody perceive  
22 themselves to have a type A personality?

23 Here's where I'm going with this:

24 Does anybody have a concern that if they  
25 are instructed they can only look at the evidence in

1 this case, and not look -- can't Google, anything,  
2 can't go outside of the information that is provided  
3 or what they are instructed to do, they can't talk to  
4 the spouse about the information, they can't talk to  
5 their sister about the information about health care  
6 terms, health care language, or any of the  
7 information in this case, is there anybody who has a  
8 concern they are just not going to be able to resist  
9 that temptation, anybody?

10 So, Mr. Fyfe, for example whether it's  
11 today or tomorrow, you find me using the term  
12 emergency department, and Mr. McBride's using the  
13 term emergency room, or if it is something as simple  
14 as that probably, it wouldn't be an issue, but if  
15 it's a language issue of say what acute arterial  
16 occlusion means, if you are not getting in the moment  
17 what we're explaining, will you resist the temptation  
18 after hours to look it up, to Google it, do your own  
19 independent research?

20 JUROR FYFE: Yes.

21 MR. WEAVER: Is there anybody based on  
22 their personality or anything else that just doesn't  
23 think they will be able to resist the temptation to  
24 look up stuff, or investigate things on their own, is  
25 there anybody who has somebody in their life who's

1 going to drive them crazy by asking them about what  
2 is going on with the case, what is it all about, and  
3 then tell them what they should think?

4 Miss Bechtold, juror 624.

5 JUROR BECHTOLD: Yes.

6 THE COURT: The question concerns me  
7 because the jurors will understand they are not  
8 allowed to discuss the case with anyone, and even if  
9 they're pestered to share, I don't know how we ever  
10 get to the point where anybody would tell them what  
11 they think, I'm a little concerned about the  
12 impression posed by that question.

13 The admonishment as you know is giving your  
14 version of it, each of you, while you can certainly  
15 help your friend, family, and co-workers, or  
16 employers know you're on a jury, and you can say it's  
17 a civil trial, any specific details about the trial  
18 may not be discussed by anyone, or with anyone,  
19 includes family, friends, anybody.

20 MR. WEAVER: Thank you, Your Honor.

21 Anybody have any opinions about health care  
22 in Las Vegas in general?

23 JUROR WOODS: 691.

24 I think the health care in general in Las  
25 Vegas is a little bit sub-par from other cities I've

1 lived in, so that is a common complaint I've heard  
2 from other people from out of state, and I don't know  
3 why that would be anything -- or anything else, but  
4 in general it seems like it's a little bit more lacks  
5 than it is in other states.

6 MR. WEAVER: Would that information or that  
7 impression you may have give you any cause or concern  
8 about whether Nurse Practitioner Bartmus and Dr.  
9 Lasry would be starting on anything less than a level  
10 playing field for you?

11 JUROR WOODS: No, because I kind of see  
12 emergency room treatment is very different from say a  
13 paid clinic, the general practitioner, again you are  
14 going to be able to do it, but an emergency room  
15 there's an emergency, I don't think anybody comes  
16 into the emergency room, can walk in there and not  
17 feel like it's an emergency, it's an emergency for  
18 everybody who is there, but it's a little different,  
19 so I feel like the kind of people tend to migrate to  
20 that kind of work are probably going to be a little  
21 higher caliber than somebody who works in a  
22 pediatrician's office or something slower.

23 You got certain type of people I noticed  
24 working in health care who gravitate to different  
25 areas of medicine, but the sort of people who end up

1 in the emergency room are the sort of people who are  
2 -- I can't think of the word -- usually are the best  
3 of the class, for lack of a better word.

4 MR. WEAVER: Thank you, sir.

5 Does anybody else have any general  
6 impressions about medical care in -- or health care  
7 in Las Vegas?

8 JUROR JOHNSON: Just from my experience.

9 I was recruited here from out of state, and  
10 they said it's sometimes hard to retain people in  
11 association, so sometimes -- I can speak for the VA,  
12 we are constantly understaffed in multiple  
13 departments, and it makes it difficult to bring  
14 people here and keep them here for a while.

15 MR. WEAVER: All right.

16 Anybody else with any impressions of health  
17 care in general in Las Vegas?

18 Miss Clinton.

19 JUROR CLINTON: Yes, I don't know in terms  
20 of general, but I have personal experience where I  
21 was out of state, I wasn't able to get the assistance  
22 I needed here, but in terms of the medical, whatever  
23 you are here for that particular issue, I had to go  
24 out of state for it.

25 MR. WEAVER: I'm not going to ask you what



1 type of care was it, but did that needing to go out  
2 of state relate to the need to get some type of  
3 specialty care, as opposed to a concern about the  
4 quality of the care here in Las Vegas?

5 JUROR CLINTON: It was more related to  
6 inability to diagnose here, and so we were referred  
7 out of state to get an accurate diagnosis.

8 MR. WEAVER: Anybody else with any  
9 impressions of health care in Las Vegas, or any  
10 perception about the need to go out of Las Vegas for  
11 any type of illness?

12 Yes, Miss price.

13 JUROR PRICE: Juror 632.

14 I had a similar experience where I couldn't  
15 find the health care high quality here, I would have  
16 to go out of state for it for myself.

17 I would think the provider I think is okay,  
18 and I will go out of state if I don't find the  
19 quality.

20 MR. WEAVER: Miss Price, would that  
21 experience that you have give you any concern about  
22 whether or not Nurse Practitioner Bartmus and Dr.  
23 Lasry would be starting with the impression about the  
24 concern of the quality of care they would provide?

25 JUROR PRICE: No.

1           MR. WEAVER: Does anybody hold the opinion  
2 if there's a bad medical outcome, that it means that  
3 somebody is at fault no matter what, anybody hold  
4 that opinion that if somebody had a bad outcome,  
5 somebody is to blame?

6           Anybody hold that viewpoint?

7           There was a hypothetical Mr. Hymanson gave,  
8 I'm just going to follow-up on it, and I'm so  
9 interested in what the answer to that hypothetical  
10 was, in my own mind I don't remember what anybody's  
11 answers were, so I'm not going to re-ask the  
12 hypothetical, but it had to do with there was some  
13 perception of whether if something had ultimately  
14 happened, it comes down to karma I think was the gist  
15 of it.

16           The different question I want to know is,  
17 is there anybody on the panel who doesn't believe  
18 that if there's a perceived bad medical outcome, that  
19 it couldn't be as just a coincidence?

20           Anybody think that nothing can happen by a  
21 coincidence, if something happens that perceives a  
22 bad medical outcome, it must have been predictable?

23           Let's start with that, does anybody have  
24 that perception?

25           Does anybody have the perception that if

1 there's a perceived negative or bad medical outcome,  
2 and somebody seen a physician or a health care  
3 provider, or been in the emergency department, that  
4 that bad outcome must have been preventable one way  
5 or another?

6 Does anybody hold that viewpoint, that any  
7 bad outcome one way or another should be considered  
8 preventable?

9 Nobody.

10 Miss Sallee, 604, do you have any concerns  
11 about the idea that if there's a bad perceived result  
12 after a health care provider, that that must be the  
13 health care provider didn't do something, that it was  
14 preventable?

15 JUROR SALLEE: No.

16 MR. WEAVER: Would anybody have the -- This  
17 is a little bit of a housekeeping matter, and I think  
18 we know the answer to all pf this, does -- or would  
19 anybody have any difficulty in seeing what is up on  
20 any of the screens if there's any exhibits or medical  
21 evidence up on the screen?

22 Would anybody have any difficulty reading  
23 anything that is up on the screen, or any difficulty  
24 along those lines?

25 Thank you, Your Honor.

1 THE COURT: Okay.

2 Thank you.

3 Can I have counsel at the bench just  
4 briefly?

5 (Thereupon, a discussion was had between  
6 Court and counsel at sidebar.)

7 THE COURT: Okay.

8 Let me ask Mr. McBride first, do you have  
9 any additional questions that would you like to ask  
10 of the new members?

11 MR. MC BRIDE: Actually I don't.

12 I'm good.

13 Thank you.

14 THE COURT: All right.

15 Thank you.

16 Mr. Hymanson, do you have any questions you  
17 would like to ask?

18 MR. J. HYMANSON: Very quickly, Your Honor.

19 THE COURT: All right.

20 MR. J. HYMANSON: Good afternoon, everyone,  
21 and good afternoon Miss Blake, Miss Johnson, and Mr.  
22 Woods.

23 I want to go -- You guys have all been here  
24 for everything, we appreciate your patience and  
25 everything, I'm going to do a quick hit list of a

1 couple things.

2 We talked about apple pie, for example how  
3 many of you disclosed you don't like apple pie?

4 So, Miss Johnson, correct?

5 JUROR JOHNSON: 683.

6 MR. J. HYMANSON: Why do you think it  
7 should be disclosed?

8 JUROR JOHNSON: It sort of would depend  
9 upon am I judging on date, or presentation of it.

10 If it's the case specifically, I think you  
11 should disclose it, but if it's the presentation, the  
12 style of it, and not going to interfere, I can be  
13 objective, then no.

14 MR. J. HYMANSON: So on this case you think  
15 she should disclose -- you think you should excuse  
16 yourself?

17 JUROR JOHNSON: No, I think you disclose  
18 it, and a decision is made by the judging party.

19 MR. J. HYMANSON: And then, Miss Blake, you  
20 don't think you should, is that correct?

21 JUROR BLAKE: I think you should like  
22 everything, so I don't know about pie.

23 MR. J. HYMANSON: Hypothetically, if you  
24 didn't like pie, do you think you should disclose it?

25 JUROR BLAKE: Yes.

1 MR. J. HYMANSON: You think you should  
2 excuse yourself?

3 JUROR BLAKE: Personally I probably would  
4 want to excuse myself, but I guess that would be up  
5 to the Judge.

6 MR. J. HYMANSON: Absolutely.

7 Mr. Woods, I think you did not raise your  
8 hand, is that correct, you don't think you should?

9 JUROR WOODS: I wasn't really following  
10 you.

11 MR. J. HYMANSON: You say to Judge a pie  
12 eating competition, there's a apple pie and blueberry  
13 pie, you know you really don't like apple pie, should  
14 you disclose you don't like apple pie?

15 JUROR WOODS: Yes, I think you should  
16 disclose it, but I think it's a hard question for me  
17 because I like either one.

18 MR. J. HYMANSON: You think you should  
19 recuse yourself?

20 JUROR WOODS: Yes.

21 MR. J. HYMANSON: Thank you very much.

22 Do all three believe people should take  
23 responsibility for their actions?

24 Mr. Woods?

25 JUROR WOODS: Woods.

1 Yes.

2 MR. J. HYMANSON: Do you think that you  
3 agree with what people said on I think yesterday  
4 about full responsibility, everyone agree with that?

5 JUROR WOODS: Yes.

6 MR. J. HYMANSON: Are all three of you  
7 comfortable with the facts of this case is about  
8 money?

9 JUROR WOODS: Yes.

10 MR. J. HYMANSON: And I gave a hypothetical  
11 about if you think based on the facts and the  
12 evidence that \$500 is sufficient to compensate the  
13 Plaintiff for their harms and losses, the Plaintiffs  
14 are asking for ten million dollars, are all three of  
15 you comfortable awarding \$500 to the Plaintiff?

16 JUROR JOHNSON: Maybe I'm just not  
17 understanding that question correctly, but is it 500  
18 is agreed upon as it matches what --

19 MR. J. HYMANSON: What you believe.

20 So you think in your evaluation you think  
21 that what the Plaintiff should be compensated is  
22 \$500, and so the Plaintiffs are asking for ten  
23 million dollars, do you think if it's 500, are you  
24 comfortable awarding the Plaintiff \$500?

25 JUROR JOHNSON: I guess that would be my

1     apologies, I thought it was explained that we would  
2     kind of be directed as a jury what the typical  
3     compensation is, so I would kind of follow that  
4     outline more than say, well, I think it's this amount  
5     of money.

6             MR. J. HYMANSON:   Okay.

7             JUROR JOHNSON:   If I was understanding the  
8     Judge correctly.

9             THE COURT:   Let me try to clarify.

10            JUROR WOODS:   I agree with her.

11            JUROR BLAKE:   I also agree.

12            THE COURT:   Interesting all of you are  
13     sitting over there.

14            So let me explain.

15            The instruction talks about pain and  
16     suffering damages in the sense of there's no fixed  
17     number, there's no specific way to determine it, it  
18     gives you instructions how to think about it, but  
19     there are no numbers involved.

20            The determination of that has to come from  
21     the evidence and from the jury's deliberation.

22            We simply have instructions how to go about  
23     it to make the determination if any money is to be  
24     awarded, what the amount should be, and I apologize  
25     for any confusion on that.



1           I don't happen to have instructions in the  
2 room with me, although I could probably find them  
3 very quickly if I needed to clarify, but it's not  
4 something you are going to get any guidance of any  
5 kind what the verdict should be, only how you reach  
6 the verdict.

7           MR. J. HYMANSON: Thank you very much, Your  
8 Honor.

9           I appreciate that.

10          There's going to be, as you will see,  
11 different types of damages we present, some things  
12 you will see some calculations for different  
13 categories, I can't get into the specifics with that,  
14 but just say that you believe that based on what the  
15 verdict -- or the instructions the Court gave you,  
16 you think that \$500 is appropriate, and the  
17 Plaintiff's asking for ten million, are all three of  
18 you comfortable awarding \$500?

19          Okay.

20          So then we flip to that question is to say  
21 that, do you think based on the evaluation of all the  
22 facts and evidence before you the Plaintiff's are  
23 entitled to ten million dollars to compensate them  
24 for their harms and losses, and the Defense wants you  
25 to only award \$500, are you comfortable if you

1 believe it is justified based on the facts and  
2 evidence presented to you that ten million dollars is  
3 what it takes for this Defendant, are you comfortable  
4 with awarding ten million dollars?

5 JUROR WOODS: I believe so, yes.

6 MR. J. HYMANSON: Thank you very much.

7 Mr. Woods, 691.

8 JUROR WOODS: Correct.

9 MR. H. HYMANSON: Thank you so much.

10 THE COURT: I found the instructions, so  
11 why don't we review it.

12 The instruction being proposed is a  
13 standard set of instructions we would give, reads as  
14 follows:

15 No definite standard or method of  
16 calculation is prescribed by law by which to fix  
17 reasonable compensation for pain and suffering.

18 Nor is the opinion of any witness required  
19 as to the amount of such reasonable compensation.

20 Furthermore, the argument of counsel as to  
21 the amount of damages is not evidence of reasonable  
22 compensation.

23 In making an award for pain and suffering  
24 you shall exercise your authority and calm and  
25 reasonable judgment, and the damages you shall fix

1 shall be just and reasonable in the light of the  
2 evidence.

3 That is what we talked about when we say  
4 instructions on how to, not giving you the numbers.

5 MR. J. HYMANSON: Thank you so much, Your  
6 Honor.

7 THE COURT: Thank you.

8 MR. J. HYMANSON: I'm going as quick as I  
9 can, ladies and gentlemen.

10 Do any of the three of you have any  
11 negative feelings about lawsuits, or people who file  
12 lawsuits?

13 JUROR WOODS: Woods.

14 I don't feel pro or negative about it.

15 MR. J. HYMANSON: 691, Mr. Woods.

16 Mr. Woods, I want to ask you a couple  
17 follow-up questions.

18 You talked about your long-term spouse is a  
19 registered nurse, correct?

20 JUROR WOODS: Correct.

21 MR. J. HYMANSON: Where does he work?

22 JUROR WOODS: He does the same thing as I  
23 do now, but he's been a nurse for over 20 years.

24 MR. J. HYMANSON: Did he work more in the  
25 emergency room, in a certain department?

1 JUROR WOODS: The only time he worked in an  
2 emergency room was prior to us meeting, when he was  
3 in rotation or something like that.

4 Most of the time I knew him he either  
5 worked in the nursing home or county general.

6 MR. J. HYMANSON: We talked about that you  
7 used to work, was it software you did in the  
8 emergency room?

9 JUROR WOODS: I did medical stuff, but  
10 didn't actually work in the emergency room.

11 I worked with several different doctors and  
12 specialists in the hospital system who also rotated.

13 I did not actually work in the emergency  
14 room myself, no.

15 MR. J. HYMANSON: When you were asked some  
16 questions about what you thought about health care in  
17 Las Vegas, and correct me if I'm wrong, but you said  
18 you thought it was generally okay, but you -- I  
19 gathered you have saw the emergency room kind of a  
20 top of the heap for the different departments, is  
21 that fair to say.

22 JUROR WOODS: I would think that would be  
23 one of the last places in a hospital that I notice  
24 that, yeah.

25 MR. J. HYMANSON: So you understand this is

1 a medical malpractice case involves the emergency  
2 room, correct, and is there anything about your  
3 belief that the emergency room is the top of the heap  
4 that you think would give the Defendants in this case  
5 a little bit of a leg up in this case?

6 JUROR WOODS: No, because I've always been  
7 living long enough to see bad things happen also, so  
8 I'm also aware of those.

9 MR. J. HYMANSON: The fact you view the  
10 emergency room so much differently, at least from  
11 your words, of all the other kind of types of  
12 medicine practice in Las Vegas --

13 JUROR WOODS: I don't really know the  
14 answer to that question because I don't know the  
15 details or any specifics of this case yet, would all  
16 depend on the specifics of this case because in the  
17 emergency room it could be really wild differences,  
18 you can have somebody coming in for a common cold, or  
19 somebody having a baby, or somebody coming in from a  
20 car wreck, part of their chest removed.

21 I can go on and on, there's so many  
22 variables, and in the emergency room I wouldn't begin  
23 to speculate the details of that.

24 MR. J. HYMANSON: I understand that, and I  
25 appreciate that.

1           But I do need to know how you fell about  
2   that because if it ends up being one of those cases,  
3   to me what I heard from that is that in a certain  
4   situation you don't think emergency room would be  
5   ahead, but in another situation depending what the  
6   facts are the emergency room may be one step ahead,  
7   is that fair?

8           JUROR WOODS: I don't think the emergency  
9   room itself, I think it's the persons around the  
10   emergency room is less likely to be sub-par than say  
11   a dentist's office, or pain clinic, or something like  
12   that around town.

13           You're probably pretty focused and drawing  
14   a reasonable paycheck, and some people are, you know  
15   --

16           MR. J. HYMANSON: Understood. So.

17           I'm sorry I keep asking you this, I want to  
18   focus in, get to the direct issue, and I want to see.

19           So we're dealing with two individuals that  
20   work in an emergency room department, okay, and I  
21   want to know if you think there's a scenario you  
22   could be presented with that you on the basis of the  
23   facts of that are presented here that given the fact  
24   that the people in front of you are emergency room  
25   employees, that you would give them at least a little

1 bit of one step ahead of where my clients are?

2 JUROR WOODS: I don't think so, because it  
3 would all be objective. I would have to hear the  
4 details, and I don't know any details of it.

5 MR. J. HYMANSON: I appreciate that.

6 I want to flush out, make sure I understand  
7 because you said you don't know the details, you  
8 would have a step ahead or not, but by saying you  
9 don't have details to know if you're a step ahead or  
10 not, that leads me to believe that is at least some  
11 scenario where you think by virtue of being an  
12 emergency room employee they would be a step ahead.

13 JUROR WOODS: That is not necessarily --  
14 Tell me what the scenario would be, tell me.

15 MR. J. HYMANSON: I can try to come up with  
16 a hypothetical, I guess.

17 I can't get into the specifics of this  
18 case.

19 THE COURT: I think he answered your  
20 question.

21 MR. J. HYMANSON: Thank you very much, Your  
22 Honor.

23 Thank you very much, Mr. Woods.

24 Do any of you know anyone who uses a  
25 wheelchair?

1 Miss Johnson.

2 JUROR JOHNSON: 683.

3 I work in a hospital, and some of our  
4 survivors are wheelchair-bound, and I have many  
5 patients that are as well.

6 MR. J. HYMANSON: What about anyone that  
7 has an amputation?

8 JUROR JOHNSON: Yes, sir.

9 MR. J. HYMANSON: And what about Miss Blake  
10 or Mr. Woods, anyone had an amputation?

11 JUROR BLAKE: Yes.

12 JUROR WOODS: I can't remember anything.

13 MR. J. HYMANSON: Okay.

14 I want to touch real quickly on something  
15 Mr. McBride touched on yesterday.

16 I think you all have heard him when he was  
17 talking about sympathy.

18 Sympathy is something all the attorneys  
19 agree we don't want you to give your sympathy at all.

20 Mr. McBride asked people about if they are  
21 okay with sympathy for the Plaintiff's side, so let  
22 me ask you this:

23 Are you okay putting sympathy for the  
24 Plaintiff's side in determining whether or not what  
25 is right, compensate them if you find the Defendants



1 are at fault?

2 Yes.

3 Are you also okay putting your sympathy  
4 aside regarding the fact Nurse Practitioner Bartmus  
5 is training and the defers ability to pay a just  
6 compensation to the Defendant, is that something all  
7 three of you are willing to put aside also?

8 Do any of you hold anything against people  
9 that are lifelong smokers?

10 Miss Johnson.

11 JUROR JOHNSON: I hold against them as in  
12 what, a personality, or what are we talking about?

13 MR. J. HYMANSON: Let's say there were  
14 evidence to come out that smoking has nothing to do  
15 with what caused a person's injuries, but the simple  
16 fact a person was a smoker, do you think you would  
17 hold that against them for suffering the injury they  
18 suffered?

19 JUROR JOHNSON: No, sir.

20 MR. J. HYMANSON: Mr. Woods?

21 JUROR WOODS: Not if it had nothing to do  
22 with the injury.

23 MR. J. HYMANSON: Miss Blake?

24 JUROR BLAKE: No.

25 MR. J. HYMANSON: Anything the three of you

1 think we should know that we haven't asked, or we  
2 haven't talked about yet?

3 My final question is:

4 If you were an injured person, injured by  
5 someone's medical malpractice, would you feel  
6 comfortable with someone with your beliefs sitting on  
7 that jury considering your case?

8 Yes?

9 Thank you very much.

10 THE COURT: May I have counsel back at the  
11 bench, please.

12 (Thereupon, a discussion was had between  
13 Court and counsel at sidebar.)

14 THE COURT: Okay.

15 Thank you.

16 I did want to check with counsel, see if  
17 they had any final questions before we have a brief  
18 recess, and Mr. Hymanson indicated one follow-up.

19 I believe it's going to be to the entire  
20 panel, not the three just joined us, based on some  
21 questions and answers came up.

22 MR. J. HYMANSON: I'm sorry, ladies and  
23 gentlemen, I promise.

24 THE COURT: Stop promising.

25 It's not working.

1                   MR. J. HYMANSON: As I said, Your Honor, I  
2 neglected to ask a question about smoking yesterday,  
3 so I want to follow-up with the whole panel about  
4 that.

5                   So my question was:

6                   If you knew someone was a lifelong smoker,  
7 and you saw that something happened to them, there  
8 was a medical issue with them, and smoking didn't  
9 have anything to do with that, would you hold the  
10 fact they were a smoker against them?

11                  Mr. Maltese, I think you sort of raised  
12 your hand about that.

13                  JUROR MALTESE: Yeah, my basic belief is on  
14 smoking, if you're a smoker, you are an idiot, with  
15 all the information out there.

16                  I mean, I have colon cancer, and they  
17 always told me don't smoke.

18                  Every one of my doctors, researchers to  
19 medical people, so I'm sorry.

20                  MR. J. HYMANSON: Would this change your  
21 opinion if someone had been a smoker since their  
22 entire life, and during times when it was always on  
23 TV, the Marlboro Man, would that change your mind, an  
24 older person been smoking their whole life, as  
25 opposed to someone started smoking recently?

1 JUROR MALTESE: No, when I grew up, it was  
2 a Marlboro Man, you put the Marlboro box in your  
3 pocket.

4 MR. J. HYMANSON: Anyone else have any  
5 feelings that way, or other?

6 JUROR EVERETT: I agree with him.

7 MR. J. HYMANSON: Thank you very much.  
8 Anyone else feels that way?

9 Anyone else has an opinion about that one  
10 way or another?

11 Thank you very much.

12 THE COURT: All right.

13 Thank you, Mr. Hymanson.

14 Folks, we're going to take a brief recess,  
15 ten minutes.

16 Be back at ten minutes to 4.

17 (Jury admonished by the Court.)

18 THE COURT: We're going to take a  
19 ten-minute break.

20 See is you back shortly.

21 (Jury excused from the courtroom.)  
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(Thereupon, the following proceedings were  
had out of the presence of the jury.):

THE COURT: All right.

Let's break first and come back in about  
five or seven minutes, resume our conversation with  
Mr. Wilder.

(Thereupon, a recess was had.)

1           (Thereupon, the following proceedings were  
2 had out of the presence of the jury.):

3           THE COURT: Counsel, we're going to have  
4 Mr. Wilder.

5           THE MARSHAL: No problem.  
6 I'll go grab him.

7           (Juror Wilder brought into the courtroom  
8 individually.)

9           THE COURT: Mr. Wilder, come through the  
10 well here and sit in the black chair right there in  
11 the front.

12           All right. I notice you don't have the  
13 headset.

14           Did you give those back?

15           JUROR WILDER: He took them away from me,  
16 Your Honor.

17           THE COURT: Okay.

18           So we wanted to have a few additional  
19 questions with you about your ability to fully  
20 participate in the trial.

21           There's been a lot of discussion that you  
22 have had, and they have asked you about terms of your  
23 ability to hear, and I think over all my impression  
24 is that you are hearing quite a bit, and you feel  
25 good about how you would sort of police it if you

1 weren't hearing.

2 I happened to notice in that last round of  
3 questioning that a couple of the jurors in front of  
4 you when they were speaking, that you went ahead and  
5 picked up the headset and put them on.

6 I did notice though that some of the answer  
7 was going unknowing, as you were making sure it was  
8 adjusted and putting it on, so obviously some of that  
9 was missed, that was Miss Price, but were there any  
10 other jurors speaking, what about Mr. Woods in front  
11 of you?

12 JUROR WILDER: There were two here I  
13 couldn't hear, and I put the headset on, still  
14 couldn't hear because everything was louder, but the  
15 stuff I can't understand is still there.

16 THE COURT: So when you say it wasn't  
17 helping you with the clarity earlier, that's what you  
18 meant?

19 JUROR WILDER: Everything was like right  
20 here now, only louder.

21 THE COURT: To phrase it this way, I want  
22 to make sure I'm making it clear, what you can hear  
23 you can hear better with the headset, but what you  
24 can't hear is not aided by the headset?

25 JUROR WILDER: Correct.

1 THE COURT: There are still things you have  
2 not been able to hear?

3 JUROR WILDER: Correct.

4 THE COURT: Any further questions, counsel?

5 MR. ARNTZ: Your Honor, do you mind if I  
6 ask a couple questions?

7 THE COURT: No.

8 Go ahead.

9 MR. ARNTZ: Hi.

10 You haven't met me.

11 My name is Breen Arntz. I am counsel.

12 My dad is very hard of hearing, and what  
13 I've found with him is that generally he becomes  
14 detached from the conversation, and so my biggest  
15 concern isn't so much you hear every single thing, I  
16 would want you involved in the discussion, and do you  
17 find yourself taking yourself out of the discussion?

18 JUROR WILDER: If it's not really relevant  
19 to me, yes.

20 I've had a hearing problem pretty much my  
21 whole life, kind of in our genes, so I try to stay  
22 focused, I nudge my my wife, what did they say.

23 MR. ARNTZ: My dad will come over and stand  
24 over you and say, what did you say.

25 JUROR WILDER: Again, it's been a lifelong



1        thing for me, I can't believe I'm sitting here.

2                In the past I even had a doctor tell me --  
3        I was going to jury duty the next day, and he laughed  
4        at me said, no, you're not.

5                I said, what do you mean?

6                He said, no, you're not, they don't want  
7        you there.

8                He wrote me a letter, sent the letter out  
9        about 20 years ago.

10               MR. ARNTZ:    Otherwise, we all like you.

11               JUROR WILDER:    Make no mistake, I would  
12        like to serve, but in all due fairness I do have this  
13        problem, and I would do my best to control it and  
14        raise my hand.

15               MR. ARNTZ:    Okay.

16               Thank you.

17               THE COURT:    Anybody else?

18               MR. MC BRIDE:    Just a couple questions.

19               Mr. Wilder, real quick, you don't have any  
20        problem with seeing any of the writing on the screen,  
21        do you?

22               JUROR WILDER:    No.

23               MR. MC BRIDE:    Have you had any problem  
24        hearing me, or anything of the other attorneys?

25               JUROR WILDER:    No.

1           MR. MC BRIDE: Again, if I told you -- I'm  
2 pretty loud, but do you think in any way that your  
3 ability to kind of not hear some of these jurors who  
4 have been talking, some of them in lower tones, Mr.  
5 Everett I think has difficulties speaking up, but do  
6 you think that in any way affected your ability to  
7 participate in answering questions as part of this  
8 voir dire process?

9           JUROR WILDER: I don't think so, because  
10 I'm watching counsel and interface with them, so I  
11 get the gist of what they are talking about, so it's  
12 not like I'm totally flying blind eyed, just can't  
13 hear a lot of their words.

14          MR. MC BRIDE: Do you think though still  
15 even with your hearing difficulties, that you could  
16 still participate in this trial and do your best and  
17 be able to raise your hand if you have any  
18 difficulties?

19          JUROR WILDER: If it's okay for me to raise  
20 my hand, absolutely.

21          MR. MC BRIDE: Thank you, sir.

22          THE COURT: Mr. Weaver.

23          MR. WEAVER: Mr. Wilder, if you were  
24 deliberating, and it were a juror that whose tone was  
25 difficult for you to hear, would you have any

1 hesitation in making sure that you could hear that,  
2 or interact with that?

3 JUROR WILDER: Not if I can read their lips  
4 or get close to them.

5 MR. WEAVER: I think I may have asked you  
6 this question before.

7 Does it matter to you in terms of whether  
8 you can hear better with someone who got a difficult  
9 tone to hear where you sit?

10 JUROR WILDER: Not really.

11 Just certain things with tones.

12 Like I say, I haven't heard my daughter for  
13 several years.

14 MR. WEAVER: Thank you, sir.

15 THE COURT: I have two follow-ups.

16 You indicated you have some proficiency in  
17 reading lips.

18 Just curious, have you made an effort to  
19 try to read lips when we have been up here at the  
20 bench conferences?

21 JUROR WILDER: No.

22 THE COURT: Okay.

23 And maybe --

24 JUROR WILDER: I'm not a lip reader, Your  
25 Honor, but it happens because I kind of get the gist

1 of the conversation.

2 THE COURT: That gets into my more serious  
3 second question.

4 When we are actually in the trial, you are  
5 sort of at a side view of the parties participating,  
6 the witnesses are here, attorneys are here, talking  
7 like this, and you will get a side view.

8 The voir dire of the conversation with the  
9 jury is very different, they are looking at you, not  
10 to say some witnesses don't turn and talk to the  
11 jury, but the vast majority of the witnesses and the  
12 counsel will be facing each other in the courtroom  
13 this way, and you would be over there on the side  
14 view.

15 Do you think that would affect your ability  
16 to hear them?

17 JUROR WILDER: I don't know.

18 Sideways is kind of okay most of the time,  
19 but if it's a tone I can't hear, then I'll do --  
20 raise my hand or whatever.

21 THE COURT: Thank you, Mr. Wilder.

22 Step back out.

23 (Juror Wilder now excused from the  
24 courtroom.)

25

1           (Thereupon, the following proceedings were  
2 had out of the presence of the jury.):

3           THE COURT: Final argument on whether Mr.  
4 Wilder stays or goes, Mr. Hymanson.

5           MR. P. HYMANSON: Very briefly, I think we  
6 made a record. You already indicated where you were  
7 going to go when he did not wear the headset.

8           He had the headset on, you asked how he's  
9 doing, he said okay.

10          It's not a Geico commercial.

11          THE COURT: Actually, that commercial says  
12 okay.

13          MR. P. HYMANSON: But they don't buy that  
14 insurance.

15          So speech and hearing are critical, and you  
16 don't want to make that an appellate issue because as  
17 long as it's going to take to try this case once, we  
18 don't want to try it twice.

19          THE COURT: Okay.

20          Mr. McBride, anything you have to say?

21          MR. MC BRIDE: Nothing further, Your Honor.

22          THE COURT: Mr. Weaver?

23          MR. WEAVER: No.

24          THE COURT: The Court is going to exercise  
25 its discretion to excuse Mr. Wilder, juror 611, based

1 on his hearing difficulties.

2 I think we do have a very good record on  
3 this point, and my biggest concern is even with the  
4 assistance of a hearing device, the clarity he's  
5 given us now is that if the tone is off, he's not  
6 going to hear it, and even though he has indicated  
7 that in circumstances he would perhaps ask his wife,  
8 I've had jurors nudge the other jurors, but I think  
9 it really seems like no matter what the circumstances  
10 are he's not going to hear everything, and then we're  
11 leaving it to his own devices to let us know that he  
12 doesn't hear everything.

13 Even though I think he would give it his  
14 best efforts, I can't be certain he will connect to  
15 all of the testimony and all of the information, and  
16 again that issue with when the tone was down, he made  
17 some effort to try to listen, there was time wasted  
18 there, and ultimately it didn't work.

19 At the end of the day he's not going to be  
20 able to -- or we're not going to be able to be  
21 certain he will pick up a hundred percent of the  
22 circumstances, and while there may be other jurors  
23 don't pay attention, fail to pick up a hundred  
24 percent, he really does have a difficulty, which I  
25 think excludes him from service.

1                   We'll excuse him.

2                   MR. P. HYMANSON: Juror Number 3 and Juror  
3 Number 14, Everett and Mr. Maltese in the closing  
4 moments of voir dire said they felt anyone that  
5 smokes was stupid, I think that was the term, those  
6 who smoke we're stupid, and the follow-up question  
7 that would have been asked probably would have  
8 cleared the courtroom, and I think the question I  
9 would like the Court to inquire with these two jurors  
10 outside the presence of the others is, if you believe  
11 an individual who continues to smoke in this day and  
12 age is stupid, does that impact your ability to be  
13 fair and impartial?

14                   I think that is a critical question.

15                   I think if young Mr. Hymanson asked that,  
16 it would have required the jury to be dismissed  
17 and --

18                   THE COURT: Any objection from the Defense  
19 for bringing them in and inquire of them?

20                   MR. MC BRIDE: That's fine, Your Honor.

21                   THE COURT: Let's start with Mr. Everett,  
22 juror 143, in seat number 3.

23                   MR. P. HYMANSON: Thank you, Your Honor.

24                   (Juror Everett now brought into the  
25 courtroom.)

1 THE COURT: Hi, Mr. Everett.

2 Come forward right here to the chair in the  
3 front there.

4 Mr. Everett, we wanted to ask a couple of  
5 follow-up questions that we thought were better to  
6 ask just directly to you and one of the other  
7 panelists, not to the whole group, and that has to do  
8 with the last few questions about the smoking.

9 As I've said multiple times, I'll just  
10 remind again everybody's coming in here with life  
11 experiences, common sense, who they are as people,  
12 what they think and believe, and the real question I  
13 think that we have is, if it should come out in the  
14 evidence in the trial that any one or more of the  
15 parties have been a lifelong smoker, or are smokers,  
16 would you be able to overcome that concern you have  
17 about generally people being smokers and ultimately  
18 receive the evidence, weigh the evidence with your  
19 fellow jurors, and deliberate for a fair and  
20 impartial verdict.

21 JUROR EVERETT: It's something embedded in  
22 me.

23 I have a lot of negative experiences with  
24 it.

25 THE COURT: I'm not sure that answered my



1 question.

2 I'm not trying to change your thought  
3 process, not trying to change how you feel about it.

4 I'm trying to understand how it might  
5 impact you here in this trial.

6 We understand you have those concerns.

7 The issue becomes, this is still a  
8 hypothetical, but the understanding there could be  
9 people in this case who are smokers, is that  
10 automatically going to then turn you a against them,  
11 or are you able to in this trial with the oath would  
12 indicate what you are required to do, and there's a  
13 separate oath for the people actually on the panel to  
14 listen to the evidence, weigh the evidence, and reach  
15 a verdict the jurors believe is appropriate, would  
16 you be able to do that?

17 JUROR EVERETT: Not easily, I don't think.

18 THE COURT: Okay.

19 Any follow-up questions from the  
20 Plaintiff's side?

21 MR. ARNTZ: No.

22 THE COURT: Any follow-up questions from  
23 the Defense side?

24 MR. MC BRIDE: No, Your Honor.

25 MR. WEAVER: No, Your Honor.

1 THE COURT: Thank you, Mr. Everett.

2 You may step out.

3 (Juror Everett now excused from the  
4 courtroom.)

5 THE COURT: Then we need juror 665, Mr.  
6 Maltese, was the one in the front row.

7 (Juror Maltese now brought into the  
8 courtroom.)

9 THE COURT: Mr. Maltese, can you just come  
10 forward, and we're going to have you sit right in the  
11 black chair in the front row of the jury box here  
12 just for ease of chatting with you a few more  
13 minutes.

14 Thank you.

15 Mr. Maltese, we just brought you in briefly  
16 to follow-up on that last little bit of questioning  
17 we had, and how much we appreciate to know your  
18 candor and feelings about smoking, your prior history  
19 how you feel about people that smoke, so the  
20 follow-up question really not with all the other  
21 jurors present, it follows that same arena I've been  
22 talking about, you know overall, which is we all have  
23 our own life experiences, we all have our own common  
24 sense, we all are who we are as people, we come  
25 together on this jury, so we're going to have

1     whatever life experiences and thought processes we  
2     have.

3             The question is:

4             When it comes to the fact of should it come  
5     to light in the trial that one or more of the parties  
6     in the case are smokers, is that something that is  
7     going to get in the way of your ability to be a fair  
8     and impartial juror in this trial?

9             In other words, if you can set that aside,  
10    even though you have those concerns generally, can  
11    you seat that aside when it comes to this case,  
12    listen to the witnesses, receive their testimony,  
13    receive the exhibits, and when it comes time to  
14    deliberate, sit down with your fellow jurors and  
15    deliberate fairly and impartially, do you think you  
16    would be able to do that?

17            JUROR MALTESE:   I want to say, yes, but I  
18    don't want to lie to you.

19            THE COURT:   And so maybe help us understand  
20    a little bit more about what it is, and how it is you  
21    think it would impact your ability to be fair and  
22    impartial.

23            JUROR MALTESE:   I had aunts and uncles who  
24    smoked at the time, were big, and they both died of  
25    cancer, and when she was in the hospital, I couldn't

1 tell where the sheets ended and they started, that's  
2 how much weight they lost.

3 I tell my friends that smoke they are  
4 morons.

5 THE COURT: I think the question was asked  
6 before quite well by counsel, but just again because  
7 it's just us here, we do want your candor, obviously  
8 the trial is based on whatever evidence is available  
9 too about what occurred in the case, and a lot of  
10 facts going to come into play, and ultimately the law  
11 you are given to apply to those facts.

12 Am I understanding you correctly that  
13 regardless of what the evidence is, regardless of  
14 what the law is, if you find out one of the people  
15 involved in the case is a smoker, you automatically  
16 will be opposed to them, is that what you're  
17 indicating to us?

18 JUROR MALTESE: I believe, yes.

19 THE COURT: Okay.

20 Any further questions from the Defendant?

21 MR. MC BRIDE: No, Your Honor.

22 THE COURT: Any further questions from the  
23 Plaintiff?

24 MR. ARNTZ: None, Your Honor.

25 MR. WEAVER: None, Your Honor.

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THE COURT: All right.

You can step out.

(Juror Maltese excused from the courtroom.)

(Thereupon, the following proceedings were  
had out of the presence of the jury.):

THE COURT: I don't believe either of them.

I think we gave them an open door, but at  
the end of the day they gave their testimony, and it  
is what it is, so we'll excuse Mr. Everett, and we  
will excuse Mr. Maltese and replace their seats, and  
of course we excused Mr. Wilder from our discussion.

So we have three empty seats to fill, and I  
would like to get to know them.

I will invite Mr. Hymanson to inquire  
first, and invite Defense counsel to the extent they  
wish to further inquire.

I appreciate your ability to get through  
the things to have them sitting here.

So Joshua, hold back Mr. Everett, Mr.  
Wilder, and Mr. Maltese as we bring the folks in.

Bring them in.

1           (Thereupon, the following proceedings were  
2 had in open court and in the presence of the jury.):

3           THE COURT: All right.

4           Make sure your cell phones are off or  
5 silent if you used them on the break, please.

6           As folks can see, we have some additional  
7 empty seats.

8           That means the folks over here in the  
9 gallery will need to fill those seats.

10          We're going to start with seat number 3 in  
11 the back row to the left, the next in line.

12          THE CLERK: 694, Julian Abaca.

13          THE COURT: Next up is seat number 9 in the  
14 back row on the right, but please come through and go  
15 around as Mr. Abaca, but if you want to go through  
16 the front row, come up on the side in the back, that  
17 is fine too.

18          THE CLERK: 699, Nicolette Albright.

19          THE COURT: Last but not least replacing  
20 seat number 14.

21          THE CLERK: 714, Terry Brown.

22          THE COURT: Mr. Abaca, may you give us the  
23 information on the board?

24          JUROR ABACA: Badge 694.

25          I install granite counter top.

1           And never graduated high school.  
2           I am single.  
3           I have one child, a son three years old.  
4           This is my -- I lived in Las Vegas for 23  
5 years, my whole life.  
6           And never been a juror.  
7           THE COURT: Thank you, Mr. Abaca.  
8           What about anybody -- It sounds like your  
9 profession you already identified, but any close  
10 friends, family members in the medical profession.  
11          JUROR ABACA: My grandmother.  
12          THE COURT: What did she do?  
13          JUROR ABACA: She was an RN.  
14          THE COURT: Here or somewhere else?  
15          JUROR ABACA: Not here in the hospital.  
16          THE COURT: When did she work for that  
17 hospital?  
18          JUROR ABACA: Ten years ago.  
19          THE COURT: Was that when she was  
20 traveling?  
21          JUROR ABACA: Yes.  
22          THE COURT: What about any circumstances  
23 you might have had regarding malpractice, medical  
24 malpractice litigation?  
25          JUROR ABACA: Nothing.

1 THE COURT: Thank you.

2 Miss Albright, answer the questions on the  
3 board.

4 JUROR ALBRIGHT: Nicolette Albright, badge  
5 699.

6 Currently I'm an accounts payable  
7 specialist.

8 THE COURT: Where do you work.

9 JUROR ALBRIGHT: I work for a company  
10 called G & G Management.

11 I have some college.

12 I'm divorced.

13 I have two children -- Well, I have two  
14 grown people, I have a 25 year old and 27 year old.

15 THE COURT: Do they work here in Las Vegas?

16 JUROR ALBRIGHT: One works for -- he's a  
17 supervisor at Fed Ex, and works part-time at Big 5.

18 My other son lives in Portland, Oregon.

19 THE COURT: How long have you lived here?

20 JUROR ALBRIGHT: Oh, my God, almost 28  
21 years.

22 THE COURT: How about jury service here or  
23 anywhere you lived?

24 JUROR ALBRIGHT: Never had jury service.

25 I never have gotten this far.



1 THE COURT: Okay.

2 You probably thought you were still going  
3 to get away.

4 JUROR ALBRIGHT: Yes.

5 THE COURT: Over than Miss Brown in the  
6 front row -- or I'm sorry -- before that, how about  
7 anybody in the medical profession in your family,  
8 family or friends?

9 JUROR ALBRIGHT: No.

10 I did at one point in time when I was out  
11 of work went to school to be a medical assistant, but  
12 it didn't -- I didn't practice.

13 THE COURT: How about any knowledge of --  
14 would you have any prior knowledge, family member or  
15 close friend, of medical malpractice litigation?

16 JUROR ALBRIGHT: No.

17 THE COURT: Okay.

18 JUROR M. BROWN: Terry Brown, 714.

19 Some college.

20 I work at Four Queens as a server.

21 Some college.

22 My husband Dan works at Planet Hollywood as  
23 a supervisor.

24 Four children.

25 Pharmacy tech at CVS.

1           A branch of manager at City Electric.

2           A school teacher at Lacey School.

3           And been here about ten years.

4           And never been a juror.

5           MR. WEAVER: Your Honor, I'm sorry, I  
6 didn't hear where Miss Brown works.

7           JUROR M. BROWN: Four Queens.

8           THE COURT: Miss Brown, what if any prior  
9 profession for yourself, or friend, or family member  
10 in the medical profession?

11          JUROR BROWN: No.

12          THE COURT: What about any experiences with  
13 anything medical malpractice-related?

14          JUROR M. BROWN: No.

15          THE COURT: Okay.

16          I'll invite Mr. Hymanson to inquire of our  
17 panelists first.

18          MR. J. HYMANSON: Thank you very much, Your  
19 Honor.

20          THE COURT: I could have asked the Four  
21 Queen question, but we've gone over a lot of ground.

22          I'll let you ask the questions.

23          MR. J. HYMANSON: That's fine.

24          Thank you, Your Honor.

25          Mr. Abaca, Miss Albright, and Miss Brown,

1 welcome.

2 As briefly as I can, do you agree about the  
3 comments about personal responsibility, most of you  
4 agree with those statements?

5 JUROR ABACA: Yes.

6 THE COURT: Any of you have any different  
7 feelings or input about that?

8 JUROR ABACA: No.

9 THE COURT: Any of you have any specific  
10 feelings regarding lawsuits, good feelings, bad  
11 feelings, too many, or any specific feelings come up  
12 for anything in the community?

13 JUROR ALBRIGHT: No.

14 MR. J. HYMANSON: Do any of you have a  
15 problem with the fact this is a case about money?

16 JUROR ALBRIGHT: No.

17 JUROR ABACA: No.

18 MR. J. HYMANSON: Thank you very much.

19 Is there anything else, you heard  
20 everything, been through -- been here for several  
21 days now, anything that you heard that you thought I  
22 really need to speak up about that, I really have a  
23 feeling about that, or something we should know?

24 I'll go individually.

25 Mr. Abaca, anything?

1 JUROR ABACA: No, sir.

2 MR. J. HYMANSON: Thank you very much.

3 Miss Albright.

4 JUROR ALBRIGHT: Badge 699.

5 No.

6 MR. J. HYMANSON: Okay.

7 And Miss Brown?

8 JUROR M. BROWN: 714.

9 No.

10 MR. J. HYMANSON: Miss Albright, just real

11 briefly, you went to school to be a medical

12 assistant.

13 Do you have any strong feelings one way or

14 the other about the medical profession?

15 JUROR ALBRIGHT: Well, not really, no.

16 MR. J. HYMANSON: The final question is,

17 I'll ask you individually, would you if you were a

18 person seeking compensation for harm caused to you by

19 medical malpractice, would you be comfortable with

20 somebody like you sitting on the jury, Mr. Abaca?

21 JUROR ABACA: Break that down, please.

22 MR. J. HYMANSON: If you were injured

23 because of someone's medical malpractice, and trying

24 to recover from your injuries or damages, would you

25 be comfortable with your view points sitting on the

1 jury to decide that case?

2 JUROR ABACA: Yes.

3 MR. J. HYMANSON: Same question for you,  
4 Miss Albright.

5 JUROR ALBRIGHT: 699.

6 Yes.

7 MR. J. HYMANSON: And Miss Brown?

8 JUROR M. BROWN: If I was the Plaintiff,  
9 yes.

10 If I was the Defendant, no.

11 MR. J. HYMANSON: Okay.

12 I have no further questions.

13 Thank you very much.

14 THE COURT: Mr. McBride.

15 MR. MC BRIDE: Thank you.

16 Good afternoon, everyone, and welcome as  
17 well to the new members.

18 Miss Brown, I'm going to follow-up directly  
19 on that last answer you gave there.

20 Can you tell me why you feel you would not  
21 feel comfortable if you were either Dr. Lasry or  
22 Nurse Practitioner Bartmus if you were on the jury?

23 JUROR M. BROWN: I feel like doctors make a  
24 lot of mistakes, and I think they act like they  
25 don't, so --

1 MR. MC BRIDE: So in this case before  
2 hearing any evidence in this case that Dr. Lasry and  
3 Nurse Practitioner Bartmus would be basically at a  
4 disadvantage in your view, based on your feelings  
5 they make mistakes?

6 JUROR M. BROWN: Absolutely.

7 MR. MC BRIDE: You heard us talk about the  
8 other cases being more appropriate, either a criminal  
9 case or other type of case.

10 Would you agree this is probably not the  
11 right case for you to act as a juror?

12 JUROR M. BROWN: I don't think I would be  
13 fair.

14 Yeah, I agree.

15 MR. MC BRIDE: Thank you for your honesty,  
16 I appreciate it.

17 Miss Albright, I wanted to follow-up with  
18 the question where I think it was asked about your  
19 feelings about the medical profession, and if you  
20 have strong feelings one way or another, and you  
21 somewhat hesitated I think in your response.

22 Is there something you want me wanted to  
23 say about your feelings about -- whether it's  
24 positive or negative, and this is tough, but this is  
25 where we need to know, and my clients as well as the

1 Moores need to know, if you are the right type of  
2 juror for this case.

3 JUROR ALBRIGHT: Okay.

4 Back in July I lost my mom.

5 She went months with fluid on her lungs,  
6 and her oncologist would not see her without an  
7 appointment.

8 Her appointment was so far out, so she was  
9 going to her cardiologist, thought he can find where  
10 the fluid is coming from.

11 He sent her for a scan, and it came back,  
12 said you have a small mass, we're just going to treat  
13 this, but we think that fluid on your lungs might  
14 just be allergies, they gave a hundred an one things  
15 back and forth to the doctor we went to, until he  
16 decided she was staying to Mountain Vista Hospital,  
17 and she checked her in, and she was diagnosed within  
18 hours, I won't even say hours, I would say an hour,  
19 of stage 4 ovarian cancer, where it has just spread.

20 Not saying that I don't know why or what  
21 decisions were made in the office to say we don't  
22 need to look further at this, but I took issue with  
23 it, I have problems with it, nobody would ever --  
24 after they did her surgery to remove the mass, she  
25 never woke up.

1 MR. MC BRIDE: Not to interrupt you, but  
2 this is very recently you said?

3 JUROR ALBRIGHT: In July.

4 MR. MC BRIDE: In July.

5 So your mother passed away in July?

6 JUROR ALBRIGHT: In July.

7 MR. MC BRIDE: I appreciate your honesty  
8 and telling us about that.

9 That is why it's very important, just like  
10 I asked Miss Brown those questions in terms of her  
11 ability to sit here and listen to the evidence in  
12 this case and be able to be fair and impartial to  
13 everyone, including my clients, who are my client Dr.  
14 Lasry, as well as Nurse Practitioner Bartmus.

15 Would you agree given the fact this was  
16 just recent in time, and resulted in the loss of your  
17 mother, your feelings about this, that again this is  
18 probably not the right type of case for you to be  
19 sitting on?

20 JUROR ALBRIGHT: I probably would agree  
21 with it.

22 But I will say that I had another instance,  
23 my son, he had an issue and had to be -- he had to  
24 have emergency surgery.

25 Then we ended up at actually the campus



1 your speaking of, and they did a fabulous job, I mean  
2 I couldn't have asked for a better response, better  
3 doctors, better -- just better care for my baby.

4 He's 25, but you know I care for my kid.

5 MR. MC BRIDE: And that's very great to  
6 hear, but you agree with me that happened a lot  
7 farther away, years ago, right?

8 JUROR ALBRIGHT: No.

9 MR. MC BRIDE: Relatively recently?

10 JUROR ALBRIGHT: His emergency surgery was  
11 probably about not even two months ago.

12 MR. MC BRIDE: You had both experiences,  
13 negative experiences, as well as the positive ones?

14 JUROR ALBRIGHT: Right.

15 MR. MC BRIDE: And that's why it's just  
16 important for us to know the loss of your mother, and  
17 what you just related to us sounds like that was a  
18 pretty emotional event and involved a lot of concerns  
19 you had about the providers that were treating her.

20 JUROR ALBRIGHT: You're right, those are  
21 those providers.

22 I can't hold this individual over here  
23 accountable for what this one over here didn't do, so  
24 everybody is an individual, and what their  
25 capabilities are is their capabilities, and not

1 somebody else's.

2 They weren't standing next to them when  
3 they gave that diagnosis.

4 MR. MC BRIDE: And let me ask you the  
5 question, if you were someone like Dr. Lasry or Nurse  
6 Practitioner Bartmus, would you want someone with  
7 your same mindset sitting on a jury if you were them?

8 All given what you just related, those  
9 experiences?

10 JUROR ALBRIGHT: I think I would be fair  
11 and impartial.

12 I don't see those doctors that misdiagnosed  
13 my mother, or missed her diagnosis several times  
14 over, I don't see those doctors sitting down there, I  
15 see them as individuals, and what their capabilities  
16 are.

17 MR. MC BRIDE: Fair enough.

18 That is all we're asking, and you are  
19 willing, and Mr. Abaca, you are also willing, to sit  
20 and listen to all the evidence in this case, as is  
21 presented before you make a decision?

22 JUROR ABACA: Yes.

23 MR. MC BRIDE: Is it something you think  
24 you can make -- the Plaintiff's, since they have the  
25 burden of proof in this case, prove that case and

1 every element of their case before you even consider  
2 an award of damages is appropriate?

3 JUROR ABACA: Yes.

4 MR. MC BRIDE: In this particular case is  
5 there any other questions I asked yesterday you  
6 happened to be paying attention to any of them, was  
7 there any of those questions that raised something in  
8 your mind that you feel you need to say today?

9 JUROR ABACA: No.

10 MR. MC BRIDE: Anything we should know, all  
11 of us collectively, as about you, or something that  
12 you in your background you think is important for us  
13 to know?

14 JUROR ABACA: Yes.

15 I'm very stressed out right now,  
16 understanding I'm supposed to be here.

17 It's my first time, I thought it was going  
18 to be a one-day thing.

19 I have a three year old son, and because I  
20 do construction work, I don't get on the job, I don't  
21 get paid, so no way to pay rent, and I'm very  
22 stressed out, and I'm really sorry.

23 MR. MC BRIDE: There is nothing to  
24 apologize about.

25 You think given that you're stressed out

1 about that, obviously it is weighing on you, that  
2 that is going to potentially interfere with your  
3 ability to listen to the evidence and that this case  
4 goes until next Friday?

5 JUROR ABACA: I'm going to be honest with  
6 you, I don't want to be here at all.

7 I just want to be released.

8 MR. MC BRIDE: Again, if you were someone  
9 -- I apologize for asking this question, but do you  
10 think you could set aside these sort of feelings, the  
11 stress you're experiencing right now, and be able to  
12 listen to the evidence and view it impartially, or be  
13 so upset you think by the fact you're sitting here  
14 that you might not pay attention?

15 JUROR ABACA: I'm paying attention, just  
16 stressed out.

17 That's all I can say.

18 THE COURT: Can I remind Mr. Abaca, are you  
19 currently on work job now?

20 JUROR ABACA: I work.

21 THE COURT: So --

22 JUROR ABACA: I actually was supposed to  
23 start a job yesterday.

24 Like I said, I thought it was going to be a  
25 one-day thing, so the fact I'm here still is

1        stressing me out.

2                THE COURT:    I understand that.

3                I'm trying to remind you of a couple  
4 things, see if it makes any difference.

5                So you are not out looking for work, you  
6 have the work waiting for you to go do it, correct?

7                JUROR ABACA:    Yeah, whoever comes on the  
8 job first.

9                THE COURT:    Tomorrow and Friday we're  
10 essentially here full days, but next week we're only  
11 here half days, 1:30 to 5.

12               Can you talk to your relative and work the  
13 schedule around that, so you can still work?

14               JUROR ABACA:    It's not going to make a  
15 difference.    It's the first one on the job, and the  
16 next job whoever is on that job.

17               THE COURT:    So I want to make sure I'm  
18 understanding you clearly, that even though our  
19 schedule is relatively how much time you sit here in  
20 the courtroom, you see no possibility of engaging in  
21 any work between now and next Friday, is that what  
22 you're telling me?

23               JUROR ABACA:    No work at all, that's why  
24 I'm stressed.

25               THE COURT:    Okay.

1 MR. MC BRIDE: Thank you.

2 THE COURT: Mr. Weaver.

3 MR. WEAVER: Thank you.

4 Good afternoon.

5 I'll be super brief.

6 Miss Albright, and Miss Blake, and Mr.

7 Abaca, have any of the questions --

8 THE COURT: Mr. Weaver, I want to make sure  
9 there's no confusion.

10 It's Miss Albright, Miss Brown, and Mr.  
11 Abaca.

12 MR. WEAVER: Thank you, Your Honor.

13 The questions that I asked about Nurse  
14 Practitioner Bartmus, do any of you have any  
15 responses or concerns or anything that contributes to  
16 any of the questions that was specific to Nurse  
17 Practitioner Bartmus, specifically having to do with  
18 whether you have any concerns about a nurse  
19 practitioner diagnosing, treating, doing orders in  
20 the emergency department, as opposed to a physician,  
21 any concerns about that?

22 JUROR ALBRIGHT: No.

23 MR. WEAVER: Thank you, Miss Albright.

24 Mr. Abaca.

25 JUROR ABACA: No feelings at all.

1 MR. WEAVER: Miss Brown?

2 JUROR M. BROWN: No.

3 MR. WEAVER: And I assume, Miss Brown, that  
4 since you said that you are not a fan of doctors,  
5 would the same be true with regard to nurse  
6 practitioners?

7 JUROR BROWN: I have a nurse practitioner  
8 and as my doctor.

9 MR. WEAVER: But it sounds like your  
10 concerned with the health care providers in general,  
11 is that fair?

12 JUROR M. BROWN: Yes.

13 MR. WEAVER: Miss Albright, just for  
14 clarification, 699, given that you expressed concern  
15 about what happened with your mother, and I think you  
16 said repeatedly a misdiagnosis, if hypothetically  
17 there were issues in this matter that had to do with  
18 allegations of misdiagnosis, are you worried, or do  
19 you think that that may cause emotions or issues of  
20 concern that given how recent it was just in July  
21 having to do with your mother?

22 JUROR ALBRIGHT: You don't know when your  
23 emotions is going to flare up from day to day.

24 I can hear a song on the radio and get in  
25 my heart and absolutely boo-hoo, go from one extreme

1 to the other, and sit there and laugh.

2 So hearing something, this is not my mom's  
3 case, this is not her issue, this is something  
4 totally separate, and does not have anything to do  
5 with me per se.

6 So I will hear it, and hopefully I wouldn't  
7 have issues, but you never know from day to day.

8 MR. WEAVER: That is just what I'm asking  
9 you about.

10 It sounds like even though you are trying  
11 to be fair and impartial, given this doesn't have to  
12 do with your mother, it has to do with someone else,  
13 it sounds like it would be fair to say that you would  
14 have some concern about whether if any of the issues  
15 were the same in terms of concerns that you had about  
16 your mother's care, you don't know that you might not  
17 have emotional reactions because of what happened  
18 with your mother, is that fair?

19 JUROR ALBRIGHT: Well, it's fair, yeah,  
20 that's fair.

21 I just, like I said, I don't see the  
22 doctors that took care of my mom.

23 I don't see the doctors took great care of  
24 my son.

25 I see the people who are there, and



1 whatever their abilities are, those are their  
2 abilities.

3 Everybody's not the same.

4 Just like the lawyers sitting next to -- at  
5 the table, so everybody's abilities are different,  
6 and whatever they brought to the table that day is  
7 what they brought to the table that day, has nothing  
8 to do with what happened with my mother in July, has  
9 nothing to do with my son and 18 months ago.

10 MR. WEAVER: Thank you, Miss Albright.

11 One last clarification, did you say your  
12 mother was taken to Mountain View Hospital?

13 JUROR ALBRIGHT: Yes.

14 MR. WEAVER: And the diagnosis was made  
15 within an hour, give or take?

16 JUROR ALBRIGHT: Yes.

17 MR. WEAVER: Was she admitted through the  
18 emergency department?

19 JUROR ALBRIGHT: She was admitted through  
20 the emergency department.

21 THE COURT: Okay.

22 Thank you.

23 Any further questions?

24 I'll see counsel at the bench, please.

25

1                   (Thereupon, a discussion was had between  
2 Court and counsel at sidebar.)

3                   THE COURT: At this time we have two  
4 additional excusals from the panel.

5                   We're going to excuse juror number 694, Mr.  
6 Abaca, and Juror Number 714, Miss Brown.

7                   You are excused.

8                   Please see the marshall on your way out to  
9 turn your badges in.

10                  I'll ask my clerk to call next in line to  
11 fill seat number 3 in the back row.

12                  THE CLERK: 730, Joey Polk.

13                  THE COURT: The front row seat.

14                  THE CLERK: 731, Jose Cordova.

15                  THE COURT: Let's start with you and get to  
16 know you a little better.

17                  Answer the questions on the board.

18                  JUROR POLK: 730.

19                  My husband is a manager at the Golden  
20 Nugget.

21                  We have five children together. None of  
22 them are old enough to work.

23                  I lived in Las Vegas 28 years.

24                  I've been a juror before on a civil case  
25 and was the foreperson.

1                   And a verdict was reached.

2                   MR. MC BRIDE:   How long ago was that.

3                   JUROR POLK:    2008.

4                   THE COURT:   How was that experience for  
5   you?

6                   JUROR POLK:   It was a good time.

7                   THE COURT:   I appreciate you being back for  
8   service this time.

9                   And I would like to know the two questions  
10   coming next, any connection between you, a close  
11   friend, family member to the medical profession?

12                  JUROR POLK:   No.

13                  THE COURT:   How about any experiences with  
14   the medical profession?

15                  JUROR POLK:   No.

16                  THE COURT:   Turning to Mr. Cordova.

17                  JUROR CORDOVA:  I'm a control supervisor.

18                  THE COURT:   Where do you work?

19                  JUROR CORDOVA:  For Boyd Corporation,  
20   downtown.

21                  I went to high school, graduated.

22                  I'm divorced.

23                  I have two kids.

24                  One is growing up.

25                  One is in New Mexico.

1           The other one lives here. He's a chef in a  
2 restaurant down on The Strip.

3           I've been here 34 years.

4           THE COURT: Jury service?

5           JUROR CORDOVA: I've been through this, but  
6 didn't get this far.

7           THE COURT: That's the last question there,  
8 jury service.

9           Why are you nervous, sir?

10          JUROR CORDOVA: I don't know.

11          THE COURT: You understand once we get to  
12 the final qualifications, ultimately only 10 will  
13 serve, and again at that point -- I mean, I could say  
14 it's a passive role, it's not entirely passive, you  
15 have to be engaged, listening, receiving the  
16 evidence, and ultimately deliberating, but you won't  
17 be participating back and forth like this then.

18          Is that okay with you?

19          JUROR CORDOVA: Yes.

20          THE COURT: How about you, as far as  
21 yourself, family member, close friends in the medical  
22 profession?

23          JUROR CORDOVA: No.

24          THE COURT: How about any interactions with  
25 any kind of medical malpractice experience?

1 JUROR CORDOVA: I had an experience with a  
2 nephew.

3 THE COURT: Okay.

4 And was that recent?

5 JUROR CORDOVA: About 10, 12 years ago.

6 THE COURT: When you say, experience, I've  
7 asked the question more specifically about medical  
8 malpractice, like litigation. Was he involved in  
9 litigation?

10 JUROR CORDOVA: He died.

11 They ended up taking him to Kingman in the  
12 ER, and they found him nine days later behind the  
13 hospital somewhere.

14 THE COURT: You said this occurred in  
15 Kingman?

16 JUROR CORDOVA: Yes.

17 THE COURT: Did the family ever pursue any  
18 kind of litigation?

19 JUROR CORDOVA: My sister did.

20 THE COURT: And that was in Kingman related  
21 to like what the hospital did?

22 JUROR CORDOVA: The hospital and police for  
23 negligence.

24 THE COURT: And how directly involved were  
25 you with with that circumstance?

1 JUROR CORDOVA: I am the one went and  
2 looked for him, and when they told me he was missing,  
3 and I didn't find him.

4 THE COURT: Like Miss Albright back there,  
5 she was having your questions, kind of had some  
6 experience on both sides, maybe you had some good  
7 experiences with doctors and hospitals, or not, I  
8 don't know, but I guess the question is, will you be  
9 able to look out on the evidence, the witnesses, the  
10 parties, the case as its own separate thing?

11 JUROR CORDOVA: I shouldn't have a problem  
12 with that.

13 THE COURT: You will be able to be fair and  
14 impartial, deliberate with your fellow jurors?

15 JUROR CORDOVA: Concerning myself, I have  
16 had my hips replaced, so --

17 THE COURT: Thank you, sir.

18 Mr. Hymanson, any questions of those two  
19 new panelists?

20 MR. J. HYMANSON: Thank you, Your Honor.

21 Good afternoon, Miss Polk and Mr. Cordova.

22 So you heard all of this.

23 You have any feelings about personal  
24 responsibility, any positive, negative feeling about  
25 lawsuits?

1 JUROR POLK: No.

2 MR. J. HYMANSON: Any problems that the  
3 case is about money?

4 JUROR POLK: No.

5 MR. J. HYMANSON: Anything else you really  
6 think we should know that in everything we've been  
7 talking about will affect your ability to serve as  
8 fair and impartial jurors on this particular case?

9 Miss Polk?

10 JUROR POLK: No.

11 MR. J. HYMANSON: And, Mr. Cordova, the  
12 same thing, anything?

13 JUROR CORDOVA: No.

14 MR. J. HYMANSON: I'll ask you a couple  
15 follow-ups.

16 Miss Polk, you said you were a foreperson  
17 on a jury before?

18 JUROR POLK: It was a good time.

19 MR. J. HYMANSON: What do you mean by, it  
20 was a good time?

21 JUROR POLK: I have a Bachelor's Degree in  
22 criminal justice, so I was just out of college.

23 MR. J. HYMANSON: And you got to apply your  
24 knowledge of that?

25 JUROR POLK: Yes.

1           MR. J. HYMANSON: Mr. Cordova, I'm very  
2 sorry to hear about your nephew, and thank you for  
3 sharing that, I know it's tough to say that in front  
4 of everyone else.

5           You understand that the facts of this case  
6 are different than what happened with your nephew,  
7 correct?

8           JUROR CORDOVA: Yes.

9           MR. J. HYMANSON: And you think given the  
10 facts of this case will be different than what  
11 happened to your nephew, you think you will be able  
12 to just look at the facts and evidence presented to  
13 you in this Court, and make a fair and impartial  
14 decision?

15          JUROR CORDOVA: Yes.

16          MR. J. HYMANSON: Ladies and gentlemen, I  
17 have no further questions.

18          THE COURT: Mr. McBride.

19          MR. MC BRIDE: Thank you, Your Honor.

20          I'll try to be brief.

21          Miss Polk and Mr. Cordova -- Miss Polk, the  
22 experience as a juror, you were able to apply your  
23 experience in your background in criminal justice.

24          You said it was a civil case, right?

25          JUROR POLK: Yes.



1           MR. MC BRIDE: What was it that you felt  
2 you were able to apply to that civil case?

3           MR. MC BRIDE: This was ten years ago, so  
4 please don't take offense, but they didn't really  
5 explain the process as well as possible, so I was one  
6 of the few people could help explain it, so a lot of  
7 people on the jury didn't understand what it was they  
8 were supposed to do.

9           MR. MC BRIDE: And you understood because  
10 you were presented with instructions from the Judge  
11 at the conclusion of the case before you actually  
12 won't back, that told you what the law is, and what  
13 you were supposed to consider, is that right?

14          JUROR POLK: Yes.

15          MR. MC BRIDE: So as the foreperson, did  
16 you help explain that process to other jurors?

17          JUROR POLK: Yes.

18          MR. MC BRIDE: And a case like -- again,  
19 this is a case you know nothing about the facts and  
20 circumstances, other than the little tidbits you may  
21 have heard.

22                Anything -- This occurred in an emergency  
23 room.

24                Anything about any personal experiences you  
25 may have may impact your ability to be other than

1 fair and impartial in this case?

2 JUROR POLK: No.

3 MR. MC BRIDE: This is a case of the  
4 Plaintiff's are going to be asking for money at the  
5 conclusion of, and same question I would ask, but in  
6 a different light, if the evidence suggested at the  
7 conclusion of it all that Plaintiff's are not  
8 entitled to any damages, if the jury finds the  
9 Defendants didn't do anything wrong, are you able to  
10 turn the Plaintiffs away and award zero dollars to  
11 them?

12 JUROR POLK: Yes.

13 MR. MC BRIDE: You have any problem with  
14 that?

15 JUROR POLK: No.

16 MR. MC BRIDE: You understand sympathy is  
17 not going to enter into any of the decision making?

18 JUROR POLK: Yes.

19 MR. MC BRIDE: Okay.

20 Mr. Cordova, again I'm sorry for your  
21 experience, personal experience, and I want to make  
22 sure, it sounds like you are able to separate the  
23 facts in what happened to your nephew in that case  
24 from anything that you haven't even heard the facts  
25 of, right?

1 JUROR CORDOVA: Right.

2 MR. MC BRIDE: Do you have any strong  
3 opinions one way or another about the medical care  
4 here in Las Vegas?

5 JUROR CORDOVA: No.

6 MR. MC BRIDE: Do you have a doctor who you  
7 regularly treat with for any reason?

8 JUROR CORDOVA: Dr. Manning was one the one  
9 did my hips, did both surgeries on both hips within a  
10 year, so it was great, everything turned out good.

11 MR. MC BRIDE: What hospital did that take  
12 place?

13 JUROR CORDOVA: Mountain Vista.

14 MR. MC BRIDE: And you heard me talk about  
15 the fact this is a case that you would decide on the  
16 facts and evidence.

17 Do you think you're able to do that in this  
18 particular case?

19 JUROR CORDOVA: I should be able to.

20 MR. MC BRIDE: Are you willing to wait  
21 until the Plaintiffs have put on their case and  
22 before making any certain judgment allow the Defense  
23 to put on their case?

24 JUROR CORDOVA: Yeah.

25 MR. MC BRIDE: Again, one last thing, if

1 you were someone like Dr. Lasry, would you want  
2 someone with your same mindset, given your prior  
3 experience, would you want someone where your same  
4 mindset sitting on a jury in judgment of him or his  
5 character?

6 JUROR CORDOVA: I wouldn't judge him  
7 because I don't know the whole thing, don't know what  
8 went down or whatever, but I'd be fair as much as I  
9 could, if the evidence was provided.

10 MR. MC BRIDE: That's all we can ask.

11 Again, we're just asking for you to be fair  
12 and impartial.

13 You think you can do that, and you think  
14 also that if the facts in this particular case don't  
15 support an award of damages to the Plaintiff, would  
16 you be okay turning the Moores away, not awarding  
17 them any money?

18 JUROR CORDOVA: If that's what would be the  
19 facts and all that comes out, that's fair.

20 MR. MC BRIDE: Okay.

21 Anything from either one of you on anything  
22 I should know about either one of you, or anything in  
23 your background based on any of the questions you  
24 heard today might be important for any of us to know?

25 Thank you very much.

1 THE COURT: Mr. Weaver.

2 MR. WEAVER: Thank you, Your Honor.

3 Good afternoon, Miss Polk.

4 Is there any answer that you would give me  
5 as pertains to Miss Bartmus -- or Nurse Practitioner  
6 Bartmus that is different than what you gave Mr.  
7 McBride about Dr. Lasry?

8 JUROR POLK: No.

9 MR. WEAVER: Mr. Cordova, any answer would  
10 you give me as pertains to Nurse Practitioner Bartmus  
11 would be different than the answers that you gave to  
12 Mr. McBride as pertains to Dr. Lasry, if I were  
13 asking you the same question?

14 JUROR CORDOVA: No, I wouldn't.

15 MR. WEAVER: Thank you, Your Honor.

16 THE COURT: All right.

17 Thank you.

18 Counsel, please.

19 (Thereupon, a discussion was had between  
20 Court and counsel at sidebar.)

21 THE COURT: All right.

22 Ladies and gentlemen, at this time I can  
23 inform the panel we have qualified 20 jurors to  
24 possibly serve at this trial.

25 Those are the 20 here in the box.

1           The five of you back there, I saw you were  
2 getting ready, I don't know if that was engaging in  
3 any specific prayer or hopefulness one way or the  
4 other, but at this time the remaining five of you are  
5 excused.

6           Thank you for your service.

7           Please see the marshal on the way out.

8           I think we had a voucher for you.

9           They served three days, do they not  
10 vouchers?

11          THE MARSHAL: Yes.

12          I already explained it to them.

13          THE COURT: Thank you for your service.

14          THE COURT: What we're going to do now is,  
15 complete the final portion of the process, ladies and  
16 gentlemen.

17          I'm going to have some instructions I'm  
18 going to read to you that will give you some basic  
19 information about this trial.

20          We will begin with the opening statements  
21 tomorrow, and the jurors will return at 9:30.

22          I originally thought we were going to start  
23 at 9, but I forgot there was one other unrelated  
24 Court matter I need to handle and resolve in the  
25 morning at 9, so we'll move that quickly, expect to

1 start with you at 9:30.

2 Just like every other day, come here, be  
3 out front waiting to go.

4 Things that will change, the marshal can  
5 explain, answer any questions you might have.

6 So you will now be provided parking, so you  
7 won't be on your own for parking, that is one  
8 benefit, and because it's a full day tomorrow and  
9 Friday you will be on your own for lunch, but we'll  
10 give you a lunch break for those remaining with us.

11 For the 10 don't remain, we're very  
12 appreciative of your service.

13 I want to, like I said, I have some basic  
14 information that we provide now, so that you kind of  
15 understand the playing field.

16 To the extent some of the stuff has come up  
17 in the time that we have been through this voir dire  
18 process, again there's some redundancies, and I  
19 apologize for that.

20 Forgive me again for reading. I just want  
21 to make sure we get through it quickly.

22 I have this script, so the reporter does  
23 not have to write this down, I can provide that to  
24 the reporter.

25 So I'm going to do it as quickly as

1 possible, so you all have this information, and then  
2 of course the final instructions, inclusive of some  
3 of these will come at the end of the trial, but I'll  
4 do them now, since we have a little bit of time for  
5 this final selection process.

6 (The Judge read the pre-trial information  
7 to the jurors.)

8 THE COURT: I'm just looking at the final  
9 list, and when I'm certain we have a final panel of  
10 10, I'm going to ask my Court clerk to read the  
11 names.

12 I want to review it.

13 Any motions to be made by either counsel at  
14 this time?

15 MR. MC BRIDE: No, Your Honor.

16 MR. ARNTZ: No, Your Honor.

17 THE COURT: At this time I believe we do  
18 have the final panel of 10.

19 I'll give it to my clerk, she will read  
20 your name and the seat you have.

21 If you hear your name read, you are one of  
22 the 10 staying with us.

23 If you do not hear your name read, please  
24 keep seated until all 10 names are read, so people  
25 aren't getting up leaving causing a disruption.



1           Once all 10 are named, I will excuse the  
2 rest of the panel, and thank you now on behalf of  
3 counsel and myself for your service.

4           THE CLERK:   Seat number, 1 Sabrena Clinton.

5           Seat number 2, Marcel Brown.

6           Number 3, Ryan Burk.

7           Number 4, Lynevieve Sallee.

8           Number 5, Katrina Johnson.

9           Number 6, Timothy Fyfe.

10          Number 7, Theresa Blake.

11          Number 8, Rebecca Price.

12          Number 9, Terry brown.

13          Number 10, Michael Newman.

14          THE COURT:   All right.

15          If you did not hear your name read at this  
16 time, you are excused.

17          Thank you for your service.

18          (Remaining jurors excused from the  
19 courtroom.)

20          THE COURT:   Ladies and gentlemen, when you  
21 come back in tomorrow, we'll have your seats.

22          You will be seated more central in the jury  
23 box.

24          You will have your note pads and pens.

25          You will have your new badge.

1 I do expect to start promptly at 9:30.

2 If there's any slight delay, please stand  
3 by because sometimes things beyond our control need  
4 to be addressed with the jurors not present.

5 We promise you, if you are not in here, we  
6 are working in here, not wasting time.

7 We like to run a tight ship, keep the trial  
8 on track.

9 We do believe we are on track to finish  
10 this.

11 All we ask again is that you return  
12 tomorrow with your open mind and your juror hat on  
13 and ready to serve.

14 If you have any questions at all as you  
15 leave here, the marshal will take you outside, and he  
16 can answer the questions.

17 But you will be given parking instructions.

18 And see you back here tomorrow for a 9:30  
19 start.

20 Thank you all.

21 Have a good night.

22 (Jury excused from the courtroom.)  
23  
24  
25

1           (Thereupon, the following proceedings were  
2 had out of the presence of the jury.):

3           THE COURT: I think we have a very good  
4 panel.

5           I really do anticipate -- I have one  
6 attorney going to be here tomorrow is very  
7 long-winded, I won't say which one it is, but I'll do  
8 everything in my power to keep it tight, and if you  
9 see we're still arguing, I'll try to get you in and  
10 set up right at 9:30 to get going.

11           We'll take the lunch break because we're  
12 having the dailies.

13           Depending when we do take lunch break, we  
14 need to resume no earlier than 1:30, so I'm trying to  
15 take that somewhere between 12 and 1:30, but we'll  
16 see you all tomorrow.

17           Anything we need to address before we  
18 leave?

19           MR. MC BRIDE: We were going to ask to  
20 confirm on the record who you anticipate calling as  
21 your witnesses tomorrow.

22           MR. ARNTZ: I anticipate calling Miss  
23 Bartmus first, and Dr. Lasry second, and then  
24 depending on what time is left we may call  
25 Christopher, the son.

1           THE COURT:   How long do you think your  
2 opening might be?

3           MR. MC BRIDE:   We talked about that.

4           We're going to try make it around 45  
5 minutes I think each, it may go 45 minutes to an hour  
6 hopefully.

7           THE COURT:   We might break for lunch then,  
8 and whenever we break keep in mind I'm not bringing  
9 anybody back before 1:30 because of the dailies and  
10 time frame, and how the schedule works I need that  
11 last reporter to be here for 1:30 to 5, so if we can  
12 get it up to noonish, if we take a little longer  
13 lunch, I don't have a problem, I don't want to lose  
14 any time in the trial.

15          MR. MC BRIDE:   Right.

16          MR. ARNTZ:   So we're looking at possibly  
17 two-and-a-half hours.

18          THE COURT:   Yes.

19          So two-and-a-half hours, so a start at 9:30  
20 puts us right at 12.

21          If we go into the 12:00 hour, we can start  
22 a little later than 1:30, it just can't start before.

23          Have a good night.

24          (Proceedings concluded.)

25

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REPORTER'S CERTIFICATE

I, Bill Nelson, a Certified Court Reporter  
in and for the State of Nevada, hereby certify that  
pursuant to NRS 2398.030 I have not included the  
Social Security number of any person within this  
document.

I further Certify that I am not a relative  
or employee of any party involved in said action, not  
a person financially interested in said action.

\_\_\_\_\_/s/ Bill Nelson\_\_\_\_\_

Bill Nelson, RMR, CCR 191

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I, Bill Nelson, RMR, CCR 191, do hereby  
certify that I reported the foregoing proceedings;  
that the same is true and correct as reflected by my  
original machine shorthand notes taken at said time  
and place.

/s/ Bill Nelson

20 -----  
21 Bill Nelson, RMR, CCR 191  
22 Certified Court Reporter  
23 Las Vegas, Nevada  
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TRAN

IN THE EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

DARELLL MOORE, ET AL,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. A-17-766426-C
	)	Dept. No. 25
JASON LASRY, M.D., ET AL,	)	
	)	
<u>Defendants.</u>	)	

JURY TRIAL

Before the Honorable Kathleen Delaney  
Wednesday, January 29, 2020, 1:30 p.m.  
Reporter's Transcript of Proceedings

REPORTED BY:  
  
BILL NELSON, RMR, CCR #191  
CERTIFIED COURT REPORTER



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APPEARANCES:

For the Plaintiffs:     Breen Arntz, Esq.  
                             Philip Hymanson, Esq.  
                             Joseph Hymanson, Esq.

For the Defendants:     Robert McBride, Esq.  
                             Keith Weaver, Esq.  
                             Alissa Bestick, Esq.

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WITNESS	DR	CR	RDR	RCR
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1 Las Vegas, Nevada, Wednesday, January 29, 2020

2 \* \* \* \* \*

3  
4 (Thereupon, the following proceedings were  
5 had out of the presence of the jury.):

6 THE COURT: There are some matters outside  
7 the presence?

8 MR. P. HYMANSON: Yes, Your Honor.

9 Very briefly, we have -- I know you want to  
10 do the cause at the end, but there are three came up  
11 yesterday that I think really we need to clear the  
12 plan and get going, so we can get this done.

13 THE COURT: Speak with them first.

14 MR. P. HYMANSON: Yes.

15 In that case they're actually four, but I  
16 wanted to re-address Mr. Wilder.

17 I noticed we're giving him headphones  
18 today.

19 As you were sitting there yesterday --

20 THE COURT: Did he ask for those?

21 MR. P. HYMANSON: No, the bailiff was  
22 supplying them, the head phones.

23 MR. MC BRIDE: Did he ask for them, or we  
24 just suggested he wear them.

25 THE MARSHAL: I offered them to him,

1 talking about the headphones we use for the  
2 courtroom.

3 THE COURT: Do we have these other things  
4 that dangle?

5 THE MARSHAL: No, the ones that go over his  
6 ears.

7 THE COURT: So he didn't ask for them?

8 MR. P. HYMANSON: He did not ask for it,  
9 and I don't think it makes a deference.

10 As you were sitting there yesterday, you  
11 had that expression that if he doesn't hear 50  
12 percent of it so far and hasn't asked, what type of  
13 appeal is that going to be?

14 And, Your Honor, if he has headphones, and  
15 they go down, if he takes them off, he's missing 50  
16 percent, or if he's only getting 75 percent, you have  
17 issues anyway you look at it.

18 Mr. Wilder we're really trying to get out  
19 of here. As much as he wants to serve, he knows that  
20 he's was never able to serve before because he can't  
21 hear, and you can't do almost good enough for a jury.

22 So I would -- His badge number is 611, and  
23 I just don't think that it's going to be fair to  
24 either side if he have a juror that doesn't hear  
25 everything that is being said.

1 THE COURT: Mr. McBride.

2 MR. MC BRIDE: Yes, Your Honor.

3 I think that we continue with our plan to  
4 keep him on there, until we have absolute information  
5 from him that he's been unable to hear any of the  
6 questions from counsel. I don't think he's indicated  
7 that.

8 He said he hasn't been able to hear some of  
9 the responses from people in the audience, but  
10 nothing specific, and again I don't think that is any  
11 more reason to dismiss him at this point.

12 I think Mr. Weaver should be allowed to  
13 maybe inquire a little bit and make that assessment  
14 when he makes the assessment for the other ones.

15 THE COURT: Mr. Weaver, do you concur, yes  
16 or no?

17 MR. WEAVER: I do.

18 And if it makes it easier, I'll lead with  
19 him.

20 THE COURT: This may be an impertinent  
21 question to ask, but why do we want to keep him any  
22 longer?

23 Any other person might be a problem with  
24 this jury, we let them go. Why is this one an issue?

25 I'm trying to rack my brain because I

1 necessarily don't know the answers one way or the  
2 other, but --

3 MR. MC BRIDE: I would agree.

4 And frankly I don't think there's anything  
5 specific about a reason to keep him on.

6 It's not like we think he's providing all  
7 the great answers because either way I think that  
8 ultimately's just something that we need to kind of  
9 flush out a little bit more if that is true, a reason  
10 why he can't serve.

11 We talked about the other times he was a  
12 prospective juror, again a while back, we don't know  
13 the circumstances in particular in those instances as  
14 to why he was eliminated as a juror, if it was  
15 specifically related to that.

16 THE COURT: Okay.

17 MR. MC BRIDE: So I just think out of an  
18 abundance of caution we be allowed to keep him on  
19 there, and then --

20 THE COURT: I understand Mr. Hymanson's  
21 position, and I'm inclined to excuse Mr. Wilder, but  
22 here's what I'm going to do, not knowing the offer  
23 was made for him to have the revisions, I can't  
24 assume he wouldn't work with his hearing, I think we  
25 need to know what his hearing is, and I think if he

1 wears them, I don't think you want to tell him we  
2 have any of these concerns what we're looking for,  
3 but I'm going to inquire of him afterwards with that  
4 device, was there still anyone he was unable to hear,  
5 if there's anybody he's unable to hear with the  
6 device on, because again whether or not he can hear  
7 those of us who are speaking at him directly in a  
8 higher pitch, or certain toned voice, is not the  
9 issue.

10 The issue's, can he hear everyone, but I'm  
11 not going to take him off.

12 MR. ARNTZ: I was just going to say, my  
13 father's extremely hard of hearing, and the problem  
14 with people who are hard of hearing is, they detach  
15 themselves from the conversation, so they don't even  
16 know they are doing it, just quit pay paying  
17 attention to whatever is being said because they  
18 can't hear it all.

19 I'm not even sure we would be able to know  
20 how much.

21 THE COURT: I understand.

22 He has however been engaged, has been  
23 responsive to the questions as they've been asked, so  
24 he doesn't appear to be tuning out.

25 I think where he helped us understand is,

1 those of us who are speaking directly at him, he has  
2 not had any problem hearing them, there are certain  
3 people with certain tones, generally low or  
4 soft-spoken apparently, he doesn't hear.

5 My concern overall is, would he actually  
6 say something to interrupt, even though if he was  
7 asked if he would to that, and he said he would  
8 rather not do it -- or do it, because it hasn't  
9 connected for him.

10 I don't think being able to hear all the  
11 people if you're participating in the process -- A  
12 side note, what is happening with the screen, and why  
13 is it on the TV, and now going to some picture?

14 MR. J. HYMANSON: Your Honor, I was trying  
15 it out to see if iPad would work.

16 I apologize, Your Honor.

17 THE COURT: You can leave it connected.  
18 It's distracting because I'm looking at things I'm  
19 not used to seeing.

20 MR. J. HYMANSON: That's the story, Your  
21 Honor.

22 THE COURT: All right.

23 The next --

24 MR. P. HYMANSON: My effort was to  
25 expedite.



1 THE COURT: I understand.

2 We got the record.

3 We'll move on.

4 MR. P. HYMANSON: I think this will be the  
5 easy one, juror number 8, badge number 606, Mr. Ehle,  
6 he's had numerous procedures, misdiagnosis, and would  
7 seem to lean toward the Plaintiff.

8 As much as I would like to have him, he has  
9 no place on this jury.

10 THE COURT: Any objection from the Defense?

11 MR. MC BRIDE: No objections, Your Honor.

12 MR. P. HYMANSON: Which would bring me  
13 to --

14 THE COURT: Hold on.

15 I'm I'm going to make the record now and  
16 direct my marshal when we're done, he will go and  
17 bring in the jurors, hold those back, and excuse them  
18 as we did yesterday with one of the others.

19 So, Mr. Ehle, juror 606, will be excused  
20 based on the other bias towards one side or the  
21 other.

22 MR. P. HYMANSON: He says that the other  
23 side he would be favorable to.

24 THE COURT: He has a clear expression.

25 He's not suited for trial under the

1 circumstance.

2 MR. P. HYMANSON: Juror Number 18, badge  
3 number 637, Mr Read, was the same discussion. He's  
4 the one had the former wife who was an ER nurse, sued  
5 for malpractice, and she would -- or that as we  
6 started out the Defense would have a lame duck.

7 It's the same analysis, you can't take it  
8 back, and as such, just like Mr. Ehle, Mr Read would  
9 not be qualified to be fair and impartial.

10 THE COURT: Mr. McBride, the same?

11 MR. MC BRIDE: No objection, Your Honor.

12 MR. WEAVER: No objection, Your Honor.

13 THE COURT: All right.

14 Mr Read, I'm just going to make the record,  
15 I'm going to go ahead, agree with counsel, this  
16 appears to be a request for excusal.

17 I believe Mr Read, he's difficult to  
18 follow, the way he articulates compared to some of  
19 the others jurors. I think in the end he said, he  
20 would attempt to listen to the evidence, and could  
21 listen to the evidence, and try to listen to the  
22 evidence, but also expressed concern about how as the  
23 facts unfold it might affect him, so in the grand  
24 scheme of things I don't see a reason to risk  
25 continuing him on the panel, even though I don't know

1 he has reached a level Mr. Ehle has reached of  
2 excusing, inability to serve.

3 I think there's enough concern here to go  
4 ahead, allow his excusal as well.

5 You had one more?

6 MR. P. HYMANSON: One more, Your Honor,  
7 it's not a move for cause, it's Miss Brown, 668. We  
8 have several Browns on the panel, this Brown happens  
9 to be the one that went to Bible class with the  
10 Plaintiff at the same school and --

11 THE COURT: With the Defendant.

12 MR. P. HYMANSON: --the Defendant.

13 THE COURT: By the way, I've been meaning  
14 to ask, am I incorrectly referring to her -- I know  
15 that she is.

16 MR. WEAVER: We would prefer nurse  
17 practitioner.

18 THE COURT: Nurse Practitioner Bartmus.

19 Thank you.

20 Bartmus.

21 MR. P. HYMANSON: If we were to ask that  
22 question, that is something would probably clear the  
23 room because you want to have that discussion outside  
24 the presence of the jury.

25 THE COURT: We did have some discussion

1 already.

2 I think you are right, if we wanted to find  
3 out anymore involvement, I didn't get the impression  
4 -- I think I asked the question if they are still in  
5 a social connection other tie.

6 The answer was, no.

7 Then I think I asked the question, would it  
8 affect your ability to be fair and impartial, and  
9 again said, no.

10 MR. P. HYMANSON: My recollection, I think  
11 that given the fact we're crossing religious classes  
12 at school, I'd like to know she doesn't have concern  
13 that we're starting on an even keel.

14 I don't know the strength of the  
15 classmate's relationship, some places that would be  
16 an automatic disqualification, but she didn't say she  
17 went to USC, and I would just suggest that out of an  
18 abundance of caution we have her individually  
19 questioned.

20 THE COURT: What is the Defense position on  
21 this?

22 MR. WEAVER: You know, I think the only  
23 thing we would say to that is, there was that  
24 opportunity before passing for cause and questions or  
25 concerns about that, and there wasn't anything that

1 was responded to, other than --

2 THE COURT: I'll bring her in to have a  
3 brief traverse of just her.

4 MR. ARNTZ: Has there been a pass for cause  
5 I heard?

6 THE COURT: No, I instructed counsel at the  
7 bench yesterday that once the Defense is completed we  
8 would have a group discussion about cause.

9 I have no problem with the jury if you want  
10 to challenge it, that's fine.

11 If you wanted to further traverse Mr. Read,  
12 I would have allowed it, but that is not what is  
13 being asked, so he was excused.

14 But as far as Miss Brown, I think the line  
15 of question we had so far would indicate no reason to  
16 remove her, but I think we might as well clear that  
17 up, and Mr. Hymanson, I'll give you some opportunity  
18 to traverse as well.

19 Why don't we bring her in and see.

20 While we are on the subject, up to this  
21 point are there any cause concerns the Defense has to  
22 be mindful of?

23 MR. MC BRIDE: No, Your Honor.

24 MR. WEAVER: No.

25 THE COURT: So, Joshua, please bring us

1 Miss Brown, actually juror 668 on the original list,  
2 she was in seat number -- moved up to seat number 5.

3 (Juror Brown brought into the courtroom.)

4 THE COURT: Miss Brown, come forward.

5 Past counsel's table there's a nice chair  
6 there in the front.

7 We just have a couple questions for you.

8 That chair right there.

9 So we wanted to inquire a little bit more  
10 from you about something that you mentioned at the  
11 beginning of the trial before we actually got  
12 everybody up in the box -- or got you up in the box I  
13 should say, about the fact you had a connection to  
14 one of the parties.

15 JUROR M. BROWN: Yes.

16 THE COURT: And the nurse practitioner was  
17 the party you identified, and I had a very brief  
18 inquiry of you at that time, but are you still  
19 acquainted or social friends in some fashion, and I  
20 think you answered no to that, but I don't want to  
21 answer for you.

22 So have there been any further  
23 communications since you had Bible studies?

24 JUROR M. BROWN: No.

25 THE COURT: How long ago was it you had

1 Bible studies?

2 JUROR M. BROWN: I'm thinking about 2001.

3 THE COURT: I don't mean this to sound  
4 unkind to Nurse Practitioner Bartmus, but why would  
5 you remember her a long time later?

6 JUROR M. BROWN: We had a whole year of  
7 Bible study.

8 THE COURT: I guess the Bible study I was  
9 involved in was many years ago, I don't remember the  
10 people.

11 How many were in the class?

12 JUROR M. BROWN: About probably maybe 8 to  
13 10.

14 THE COURT: But you said, no continuing  
15 communications after that?

16 JUROR M. BROWN: Huh-uh.

17 THE COURT: One of the concerns --  
18 Obviously we always want it to be whoever is on that  
19 panel is just sitting there with an open mind  
20 receiving the evidence, and not biased, and I don't  
21 mean that in a negative way, but just that sort of  
22 bias we all might have about people we know and  
23 things we're familiar with, and things like us, or  
24 whatever it is, that might impact the ability to be  
25 impartial here.

1           So I think I just asked the very general  
2 question, do you think that would impact your ability  
3 to be fair and impartial, and I think you said, no,  
4 but we want to inquire a little further about that.

5           JUROR M. BROWN: I know we had Bible study,  
6 but we didn't have a whole bunch of conversations on  
7 the outside, but I do remember her, I guess I have a  
8 good memory.

9           THE COURT: We like that as jurors all day  
10 long.

11           I don't mean to put you on the spot here,  
12 so I hope it's not coming across like that, but I  
13 guess the next question would be, you know, at least  
14 at some point in time you all shared a religion,  
15 Bible study class, you indicated you still read the  
16 Bible.

17           Is there any reason why that religious  
18 connection you had would impact your ability to be  
19 fair and impartial in this trial?

20           JUROR M. BROWN: I don't think so.

21           THE COURT: You don't anticipate that would  
22 be something you would bring into evaluation of the  
23 witnesses or evidence?

24           JUROR M. BROWN: No.

25           THE COURT: Of the witnesses?



1 JUROR M. BROWN: No.

2 THE COURT: We talk about this any trial  
3 like this, I think still in one of the instructions  
4 the parties start out even Steven, and maybe my  
5 pre-trial instructions about you -- The point is,  
6 everybody sitting in there isn't favoring one side or  
7 the other as we get started, and as we see that  
8 evidence, and brings in common sense what is that  
9 evidence, and when the time comes gets instructions,  
10 goes with their fellow jurors and deliberates and  
11 does that fairly without favoritism or disfavoritism  
12 to either side.

13 Do you think you would be able to do that?

14 JUROR M. BROWN: I do.

15 I tell you my faith comes with me wherever  
16 I go, but looking at evidence and weighing it of  
17 course my faith factors into everything, so I would  
18 leave that to you guys to determine.

19 I don't know how it would connect directly  
20 with the case, I have no idea what it's --

21 THE COURT: The only thing I had about how  
22 it might connect to the indication is, that you share  
23 a religion with one of the parties.

24 Would you favor that party because of that?

25 JUROR M. BROWN: I can't say because right

1 is right, and wrong is wrong.

2 THE COURT: But I heard you saying that,  
3 again not trying to put words in your mouth, what you  
4 are really going to do is what is the evidence --

5 JUROR M. BROWN: Yes.

6 THE COURT: -- and you're going to make  
7 your decision, is that true, based on the evidence  
8 presented, and really that alone?

9 JUROR M. BROWN: Yes.

10 THE COURT: Okay.

11 I'm going to ask Mr. Hymanson, any  
12 follow-up questions for Miss Brown?

13 MR. J. HYMANSON: Just briefly, Your Honor.  
14 Good afternoon, Miss Brown.

15 Thanks so much for coming to talk to us.

16 So you said you remember Nurse Practitioner  
17 Bartmus from about 19 years ago?

18 JUROR M. BROWN: Oh, my gosh yes.

19 MR. J. HYMANSON: From 19 years ago.

20 And it was a class size of about 8 to 10  
21 people?

22 JUROR M. BROWN: Yes.

23 MR. J. HYMANSON: How often did that class  
24 meet?

25 JUROR M. BROWN: Once a week.

1                   MR. J. HYMANSON: Did the class involve  
2 outside discussions?

3                   How many hours a week do you think you  
4 spent with Nurse Practitioner Bartmus during class  
5 time, after class?

6                   JUROR M. BROWN: I remember we did have one  
7 camping trip with the Bible study.

8                   MR. J. HYMANSON: Besides that one camping  
9 trip, would it be a regular week, one week you would  
10 see her?

11                  JUROR M. BROWN: I think so.

12                  MR. J. HYMANSON: And where were you going  
13 to school at this time?

14                  JUROR M. BROWN: Reno.

15                  MR. J. HYMANSON: So UNR?

16                  JUROR M. BROWN: Yes.

17                  MR. J. HYMANSON: This was your  
18 undergraduate?

19                  JUROR M. BROWN: Yes.

20                  MR. J. HYMANSON: Did you have any other  
21 classes with Nurse Practitioner Bartmus, besides the  
22 Bible study.

23                  JUROR M. BROWN: No, not that I can  
24 remember.

25                  MR. J. HYMANSON: That's all I can ask you,

1 the best of your memory.

2 So do you think there's anything about the  
3 fact you're going to have to make some tough  
4 decisions here, and so you are going to be obviously  
5 involved a dispute, we can't get into the dispute,  
6 but you will have to make a decision who you're going  
7 to side with.

8 So do you think as you sit there the fact  
9 you spent that year with Practitioner Bartmus in the  
10 Bible class, you don't think will influence you?

11 Let's say, if things are really, really  
12 close, would you at least give an edge to Nurse  
13 Practitioner Bartmus?

14 JUROR M. BROWN: If it's based on evidence,  
15 it's based on evidence and the law.

16 MR. J. HYMANSON: Absolutely.

17 So that's what I'm asking you.

18 JUROR M. BROWN: I can't say at this point  
19 I would have a bias toward anybody.

20 I just remember her face and remember we  
21 did have that interaction, but beyond that I couldn't  
22 say anything else, like I have a feeling one way or  
23 another.

24 MR. J. HYMANSON: Is there anything about  
25 the fact that you spent a year with Nurse

1 Practitioner Bartmus would make you think instantly  
2 she has either more or less credibility upon the  
3 witness stand?

4 JUROR M. BROWN: No.

5 MR. J. HYMANSON: Thank you very much.

6 THE COURT: Mr. McBride.

7 MR. MC BRIDE: No questions.

8 MR. WEAVER: Just a couple questions.

9 Miss Brown, you said that you identified  
10 the nurse practitioner. Was it her name, or did you  
11 recognize her face?

12 JUROR M. BROWN: Her face.

13 MR. WEAVER: But you haven't had any  
14 contact with her in approximately 20 years, is that  
15 right?

16 JUROR M. BROWN: No.

17 MR. WEAVER: If it weren't for the fact it  
18 was a Bible class, would you have ever even known  
19 her, would it have made any difference to you whether  
20 it was an algebra class, or political science class?

21 JUROR M. BROWN: I've known -- I guess I  
22 knew the Bible study because it was a smaller group  
23 and recognizing if you see somebody on a weekly  
24 basis, you know their face.

25 MR. WEAVER: That was at UNR?

1 JUROR M. BROWN: Uh-huh.

2 MR. WEAVER: You didn't have any other  
3 interaction, other than basically an hour a week that  
4 included other people?

5 JUROR M. BROWN: The Bible study and the  
6 camping trip.

7 MR. WEAVER: So if there were any  
8 implications, you might be in Miss Bartmus' favor,  
9 maybe not a level playing field.

10 What about was there anything about your  
11 interaction with Miss Bartmus we should know whether  
12 you might not give her the same fair deal you give  
13 Plaintiffs?

14 JUROR M. BROWN: No.

15 MR. WEAVER: Thank you, Miss Brown.

16 MR. ARNTZ: Was it UNR, or through a church  
17 while you were at UNR?

18 JUROR M. BROWN: It was through UNR, called  
19 inner-varsity had Bible studies that broke off from  
20 the group.

21 MR. ARNTZ: So a Bible study --

22 JUROR M. BROWN: On the campus.

23 MR. ARNTZ: Okay.

24 THE COURT: Thank you, Miss Brown. We  
25 appreciate your time.

1           Go ahead and step out.

2           (Juror excused from the courtroom.)

3           THE COURT: Mr. Hymanson anything further  
4 you want to add to your request at this time?

5           MR. P. HYMANSON: Other than apologize for  
6 delaying the Court, I have nothing else.

7           THE COURT: Unbeknownst to me, until just  
8 now apparently Mr. Jones in seat number 13 is not  
9 with us yet.

10          We're trying to locate Mr. Jones.

11          It's always with an issue with something  
12 like that it becomes how long do we wait.

13          He hasn't made any effort to contact us  
14 that we are aware of.

15          Jurors tend to find a way to get to us if  
16 they can.

17          One of the mistakes we made is just to let  
18 my marshal know that generally on the first day of  
19 trial we get a sign-in sheet with everybody on it, so  
20 if something happens, we have a way to contact them,  
21 but this has been a little hectic getting everything  
22 moving forward, we neglected to do that, so it  
23 doesn't automatically come from jury services, so we  
24 will follow-up, but give at least ten more minutes,  
25 and then we will be an hour from the start time,

1 maybe have to consider what to do.

2 MR. P. HYMANSON: Your Honor, just one  
3 moment.

4 THE COURT: Of course.

5 MR. P. HYMANSON: I don't know how counsel  
6 for the Defense feels, but we'll stipulate to let Mr.  
7 Jones go.

8 MR. MC BRIDE: I still want to have him  
9 here.

10 There's no reason to really excuse him.

11 We can wait ten minutes.

12 THE COURT: If we're going to finish jury  
13 selection today, on the plus side the concern I have  
14 on the record about my own personal time frame has  
15 been resolved, so we're fine there.

16 But let's give at least ten more minutes,  
17 see if we can get Mr. Jones here, and come back in  
18 collectively decide how to proceed.

19 MR. MC BRIDE: Before you leave the bench,  
20 I want to let you know we did submit our order on the  
21 motions that we prepared, and I think --

22 THE COURT: How did you submit that?

23 MR. MC BRIDE: We signed it.

24 She brought it back to your chambers.

25 I also have an objection we filed, I wanted



1 to give Your Honor a copy of it, an objection to the  
2 Plaintiff's proposed jury instruction regarding loss  
3 of chance, just prior to opening statements I wanted  
4 to make sure that we kind of address that.

5 Thank you.

6 THE COURT: I've not spent any time on jury  
7 instructions yet, but I would see if anyone has any  
8 objections.

9 Have you seen the filing?

10 MR. ARNTZ: Just so you know, I don't  
11 intend on addressing that in opening, so that will  
12 not be a topic in my opening.

13 THE COURT: Good to know.

14 MR. WEAVER: Your Honor, we join the  
15 objection on behalf of Bartmus, the objection to  
16 Defendant's proposed jury instruction regarding loss  
17 of chance.

18 THE COURT: Let me step in the back, clear  
19 up my prior issues, and see if juror Jones gets here.

20 (Thereupon, a recess was had.)  
21  
22  
23  
24  
25

1           (Thereupon, the following proceedings were  
2 had out of the presence of the jury.):

3           THE COURT: So we're back on the record now  
4 with Juror Crayton Jones, III, juror 625.

5           Apparently he e-mailed the Court this  
6 morning, sent the e-mail to the e-juror e-mail, just  
7 made it's way to my JEA and Court clerk like at 2:19,  
8 so literally as we are talking about him they are  
9 sending it over, so it says:

10           Subject: Sick and unable to return to the  
11 gallery for jury selection in Courtroom 15-B.

12           Then he identifies himself as juror ID.

13           He says, please be advised I've taken ill  
14 and am unable to return to Court as part of the  
15 gallery today at 1:30 p.m. in Courtroom 15-B.

16           I've not been selected for the jury, and I  
17 feel awful for not being able to complete the  
18 obligation, I'm willing to be re-selected in the  
19 future in consideration of others in attendance.

20           It would be irresponsible to expose others  
21 to my illness, and I'm respectfully requesting to  
22 eliminate my appearance in 1:30 p.m.

23           I'm looking forward to serving as a  
24 prospective juror in the future.

25           Mr. Jones will be put in the next available

1 pool.

2 I don't have too much sympathy for the  
3 circumstances, since he's not really identifying the  
4 circumstances, but I'm going to make this a Court's  
5 Exhibit 1, so we have it for the record, even though  
6 I read it in, we have it, and I think we'll have to  
7 proceed with filling Mr. Jones' seat.

8 So at this moment in time we're going to  
9 have three vacant seats in the panel, we're going to  
10 ask my marshal to hold back Juror Number 606, Mr.  
11 Ehle, who is in seat 8, and hold back jurors, and  
12 have Mr. Read, juror 637, in seat 18, you know which  
13 jurors those are, I believe, and is that correct,  
14 hold them back, bring everybody else in, we'll seat  
15 everybody else who is seated, and proceed with the  
16 next three in order to fill those seats.

17 We still have the panel from the original  
18 start of trial.

19 My latest count was down to 11. This will  
20 take us down to 8.

21 We still have an additional 10 we asked to  
22 be brought in, but we're still keeping them in jury  
23 services in hopes we won't need to get to them.

24 All right.

25

1           (Thereupon, the following proceedings were  
2 had in open court and in the presence of the jury.):

3           THE COURT: As the rest of the jurors find  
4 their seat, I'll ask everyone else to have a seat as  
5 well.

6           Thank you, ladies and gentlemen.

7           Welcome back.

8           We are in the home stretch of this jury  
9 selection, we'll most certainly finish the jury  
10 selection today, absent unforeseen circumstances.

11           I do want to note in part the delay  
12 starting today was because of one of your fellow  
13 jurors took ill, was unable to return, so it took a  
14 while to make that determination and be able to  
15 proceed.

16           But we're going to proceed without that  
17 juror.

18           We also have had two additional excusals  
19 from the panel, so we have three empty seats to fill  
20 over here.

21           And the first seat to be filled is going to  
22 be seat number 8 in the back row.

23           So if you will come through between counsel  
24 table, around the podium, through the well, enter  
25 through the left side of the jury box, we would

1 appreciate that.

2 The next juror in order.

3 THE CLERK: Badge 683, Katrina Johnson.

4 THE COURT: Then the next seat to be filled  
5 is the one in the second row, but to the left as  
6 you're looking at the jury box, that is seat number  
7 13.

8 And the next juror in order for that seat.

9 THE CLERK: 688, Teresa Blake.

10 THE COURT: Last but not least, the  
11 remaining seat number 18 will be filled by.

12 THE CLERK: 691, Joel Woods.

13 THE COURT: All right.

14 Thank you, folks.

15 As we did yesterday when we added  
16 additional folks after a break to the panel, we still  
17 need to get a few minutes to get the other folks that  
18 just joined us, so I'm going to start with Juror  
19 Johnson, badge 683.

20 If you are able to see the boards.

21 If not, I'm happy to walk you through it,  
22 but --

23 JUROR JOHNSON: 683.

24 I'm a speech therapist at the Southern  
25 Nevada Health Care System and the VA Hospital here in

1 Vegas.

2 I'm primarily in the outpatient.

3 I have my Masters degree.

4 I moved to Vegas in December of 2018 for  
5 this job.

6 I relocated from Denver, Colorado, where I  
7 worked at a facility that gave therapy is services to  
8 people with dementia.

9 Single.

10 Never married.

11 No children.

12 And this is the first time I received a  
13 jury summons.

14 THE COURT: If someone comes from another  
15 state, I like to ask that.

16 Thank you very much, Miss Johnson.

17 Let me ask you, we just had a couple folks  
18 to go through, obviously in your job there's some  
19 ties to the medical community, but any job you had,  
20 family members, close friends, working in the medical  
21 industry?

22 JUROR JOHNSON: Just me.

23 THE COURT: Okay.

24 And because you haven't been in the  
25 jurisdiction very long, no knowledge or connection to

1 -- that you recall the any of the parties or the  
2 witnesses in the case?

3 JUROR JOHNSON: No, ma'am.

4 THE COURT: Okay.

5 And like you said, primarily you are at the  
6 VA?

7 JUROR JOHNSON: Yes, primarily see out  
8 patients there.

9 THE COURT: Any connection, again yourself,  
10 close friend, or family member, to any kind of  
11 medical malpractice litigation?

12 JUROR JOHNSON: No, ma'am.

13 THE COURT: Thank you so much.

14 Moving now down to the front row, Miss  
15 Blake.

16 JUROR BLAKE: Blake, 688.

17 I'm a librarian for the Clark County School  
18 District.

19 Masters Degree in education.

20 Associate Engineer with SOCM which is a  
21 contractor with the Army.

22 Pre-existing real estate agent.

23 No children.

24 Las Vegas about 25 years.

25 Never been on a jury.

1 THE COURT: Here?

2 JUROR BLAKE: Never.

3 THE COURT: Never even made it this far.

4 JUROR BLAKE: Never even this far.

5 THE COURT: See how fortunate everybody is.

6 What about medical profession connections?

7 JUROR BLAKE: RN, a friend is a case

8 manager at the UMC.

9 THE COURT: How long has she had that

10 position?

11 JUROR BLAKE: At UMC, a few years.

12 THE COURT: Just to get a better

13 understanding, 5 years, 10 years, 15, more?

14 JUROR BLAKE: 15 or more.

15 THE COURT: Okay.

16 And then what about any connections with

17 any medical malpractice litigation?

18 JUROR BLAKE: No.

19 THE COURT: Thank you.

20 Last but not least Mr. Woods.

21 JUROR WOODS: Woods, 691.

22 My job currently -- Before I go any

23 further, I have a stuttering problem, you will have

24 to bear with me, if you know what I'm trying to say.

25 I'll keep going, but that's fine --



1           THE COURT: On the plus side, once jurors  
2 start their service if you are one of the 10, you  
3 don't get to speak until you are in your  
4 deliberations, you just get to listen.

5           I've had some jurors think they should be  
6 speaking, but it's not the case.

7           JUROR WOODS: So I'm buying stock. What I  
8 did was job-related jobs.

9           Prior to that out of college I have a  
10 Bachelors degree.

11          Out of college a case manager for several  
12 years.

13          THE COURT: Where did you do that work?

14          JUROR WOODS: State --

15          THE COURT: Like a hospital?

16          JUROR WOODS: Different out-patients and  
17 in-patient facilities in Oklahoma several years ago,  
18 and later on down the line in software, eventually  
19 medical software where I work with a variety of  
20 doctors and surgeons in the emergency room who I  
21 consider probably the best, so I have a high respect  
22 for doctors and nurses who do work in the emergency  
23 room because I know the way the hospital usually  
24 works, it takes very experienced people in that  
25 situation because that's who you want to handle a

1 emergency, if you're a doctor dealing with patients.

2 So I do have a little bit of extra respect  
3 for people do that sort of work.

4 THE COURT: We appreciate you bringing that  
5 up, but I want to make sure we don't forget.

6 JUROR WOODS: I've been with my spouse for  
7 20 years, he's a registered nurse.

8 We've been together mostly nursing home  
9 work, it was in Washington state.

10 THE COURT: How long?

11 JUROR WOODS: Sorry.

12 Eight years.

13 THE COURT: Any children in the community?

14 JUROR WOODS: No children.

15 THE COURT: Eight years.

16 Moved here from where?

17 JUROR WOODS: Washington.

18 THE COURT: How about jury service?

19 JUROR WOODS: I've never done jury service.

20 THE COURT: So coming back to your  
21 connection to medical profession, let me take the  
22 second question first.

23 Any connection that you had, your spouse,  
24 or another close friends, or family member, to any  
25 kind of medical malpractice litigation specifically?

1 JUROR WOODS: Malpractice was something I  
2 used to hear about because I worked so close with the  
3 doctors and the nurses, and almost in-patient care  
4 going into the exam room, so.

5 THE COURT: Again, the time frame you  
6 engaged in those activities, can you give us a year  
7 span for that?

8 JUROR WOODS: How long, or when was it?

9 THE COURT: Dates I'm thinking.

10 JUROR WOODS: Probably like 2000 to 2010,  
11 around there, probably ten years back.

12 THE COURT: And back now to the first part,  
13 we talked a little bit about it yesterday, and  
14 because I never know with the folks in the gallery if  
15 they are paying attention or not, I want to go over  
16 this again, we fully understand there will be people  
17 on the panel who have life experiences, and who have  
18 perhaps understandings of certain things, or feelings  
19 a certain way, and the question really becomes, even  
20 though you may have some sympathy for a party or a  
21 general circumstance that might affect a party, are  
22 you going to be able to sort of set that aside to do  
23 your duty here, and just listen to the witnesses,  
24 take in the evidence as you receive it from the  
25 witnesses, and the documents, and when it comes time

1 for you and your fellow jurors to do so fairly and  
2 impartial -- The other way to sort of ask that is, it  
3 comes up the most commonly I would say in our  
4 criminal cases because we're going to obviously have  
5 testimony from police officers, and there may be  
6 people who have family members are police officers  
7 and people had very good experiences with police  
8 officers, oftentimes people had bad experiences with  
9 police officers, so their life experience is going to  
10 have them have some feelings one way or the other.

11 What we're trying to ferret out is the kind  
12 of bias that might preclude the person from being  
13 able to do actually jury service, be fair and  
14 impartial with this particular case, with these  
15 particular people, and there's no right or wrong  
16 answer to that.

17 JUROR WOODS: Yes, I feel impartial, but I  
18 believe there are some odd questions, hypotheticals,  
19 have been presented.

20 One of them was a German Shepherd biting  
21 and passers-by. I don't think that has any relation  
22 to a person has a very serious condition going into a  
23 hospital to have that condition treated, and blaming  
24 the person who wasn't able to cure you for that  
25 condition you went in for.

1           If that's that case, I don't see those  
2 things related.

3           THE COURT: Fair enough.

4           We appreciate that.

5           So to your sort of analysis of the  
6 question, one of the things that is always tricky  
7 about jury service in voir dire, which is what we're  
8 doing now, and it kind of came up in the last couple  
9 of days, but just to bring it home, the hypotheticals  
10 have nothing to do with the case in terms of whether  
11 or not, as I'm sure you can appreciate, you can't  
12 have a voir dire where you sit there actually asking  
13 questions related to the case and actually ferreting  
14 out how people feel about the facts and circumstances  
15 of the case.

16           What you do, and I think counsel so far  
17 have done a very skilled job of that, is you ask  
18 questions that sort of ferret out people's thought  
19 processes about different things to help you  
20 understand how they might handle the types of things  
21 that might come up in the case.

22           So I very much appreciate that insight for  
23 you, but again the facts and circumstances of the  
24 case will come into play when we actually start the  
25 case, which is opening statements are not evidence,

1 you will not regard them as evidence, but you will  
2 hear from counsel when the trial starts if you're on  
3 the panel, that these are the facts and circumstances  
4 of the case, and then you will hear the witnesses who  
5 will actually provide the actual evidence through  
6 their testimony and through the documents they  
7 discuss.

8 Then you will know what the case is about.

9 So what we have to know is, to make sure we  
10 don't have anybody predetermining any outcomes  
11 because they think based on the voir dire questions  
12 so far, or what they think they know about the case,  
13 they already think they know what the answer is.

14 If that's the case, that is fine, we need  
15 to know that, but again that is not going to be  
16 somebody going to stay with us on the jury panel.

17 So you indicated you had had a mixed answer  
18 there, which was I think you said, I'd like to be  
19 impartial, or think I'm impartial, something along  
20 that line, but expressed a concern about what if  
21 certain facts are, so really what it boils down to  
22 is, do you believe that not knowing the facts and  
23 circumstances of this case as the case comes in, are  
24 you going to allow the parties to start at the same  
25 starting line, at the so called race start?

1 JUROR WOODS: Yes.

2 THE COURT: Find them even Steven, and as  
3 you listen to the evidence, at the end of the day  
4 decide whether the Plaintiff has met the burden?

5 JUROR WOODS: Yes.

6 THE COURT: There will be more questions  
7 coming from counsel, but I appreciate that.

8 Anything else from the three of you that  
9 you heard questions being asked over the last two  
10 days that you were either chomping at the bit to  
11 answer, or really think we should know about anything  
12 that you have mindset wise about this trial?

13 JUROR JOHNSON: Yes, ma'am.

14 I just wanted to disclose, I'm also  
15 military veteran who receives care at the VA Hospital  
16 that I also work at.

17 So I just wanted to let you know that I've  
18 seen it from a patient perspective and from providing  
19 services, kind of the good, the bad, and the ugly.

20 I wanted to disclose that.

21 THE COURT: Thank you.

22 There may be some more questions.

23 Anybody else?

24 Miss Blake.

25 JUROR BLAKE: No.

1 THE COURT: Anything else, Mr. Woods?

2 JUROR WOODS: No.

3 THE COURT: Thank you.

4 I'm going to pick up with Mr. Weaver,  
5 because that's where we left off I believe, and then  
6 of course we'll still give the other counsel an  
7 opportunity to ask questions of the panel.

8 Mr. Weaver, you may proceed.

9 MR. WEAVER: Good afternoon.

10 I represent Nurse Practitioner Bartmus.

11 Miss Clinton, I'm going to start with you  
12 because I think we left off with you yesterday  
13 afternoon with Mr. McBride, and I just wanted to  
14 mention one small detail.

15 I think you were asked a question about --  
16 or the panel was asked a question about if anybody  
17 had any familiarity or relationship with St. Rose  
18 Hospital, and you mentioned your brother, and then  
19 you asked about where this campus is, the San Martin  
20 Campus.

21 This one is Buffalo and Warm Springs.

22 Does that make any difference to your  
23 recollection whether that may have been where your  
24 brother was treated?

25 JUROR CLINTON: Sabrena Clinton, 658.



1 I don't believe that location you described  
2 on Buffalo and Warm Springs was not where my brother  
3 was.

4 MR. WEAVER: Does anyone else have -- So  
5 the question is:

6 Do any of you have any association with any  
7 of the three campuses of St. Rose Hospital here in  
8 Las Vegas?

9 Yes, ma'am.

10 Miss Chavez.

11 JUROR CHAVEZ: My grandmother had a surgery  
12 sometime ten years ago, but everything was good, she  
13 came out of it great.

14 MR. WEAVER: Any reason to believe that  
15 anything good or bad happened with your grandmother  
16 is in association with Sunrise Hospital would affect  
17 your ability to be fair in this case?

18 JUROR CHAVEZ: The only thing happened, she  
19 didn't know she was allergic to a certain antibiotic,  
20 and they gave it to her, but fixed her up  
21 immediately, everything was fine.

22 I don't hold any grudges or anything.

23 MR. WEAVER: Anybody else?

24 Yes, Miss Bebekyan.

25 JUROR BEBEKYAN: I do work at a call center

1 for San Martin, but I don't believe it should be a  
2 problem.

3 MR. WEAVER: What context do you answer  
4 calls --

5 JUROR BEBEKYAN: Call-ins.

6 MR. WEAVER: Would you just explain a  
7 little more, that is for example do you answer for  
8 physicians associated with San Martin.

9 JUROR BEBEKYAN: No, I'm not familiar with  
10 that.

11 MR. WEAVER: You may have heard the name  
12 Dr. Lasry and some of the others.

13 JUROR BEBEKYAN: I haven't.

14 I've been working there for four months.

15 I haven't.

16 MR. WEAVER: Would it be fair to say, you  
17 also don't take any of the calls that have to do with  
18 the emergency department?

19 JUROR BEBEKYAN: I do take calls from the  
20 emergency department, we do ICU too.

21 MR. WEAVER: Based on the context of any of  
22 the calls that you take, any of the information you  
23 pass along, any reason to believe that would affect  
24 your ability to be fair in in this case?

25 JUROR BEBEKYAN: No.

1 MR. WEAVER: Anybody else have any  
2 association with St. Rose Hospital here in Las Vegas?

3 Yes, sir, Mr. Wilder.

4 JUROR WILDER: 611.

5 My daughter was born in one of them.

6 My mother's been in one of them.

7 My wife had an operation in the other  
8 thing.

9 So all three of them, so --

10 THE COURT: Mr. Wilder, you had the  
11 headphones, but I see you are not utilizing them  
12 anymore.

13 Is there a reason?

14 JUROR WILDER: They worked, just everything  
15 is louder, but it doesn't really have the clarity, so  
16 I can't hear as well, so I kind of put them on and  
17 take them off.

18 I can hear right now fine.

19 THE COURT: We'll let you use your best  
20 judgment.

21 Go ahead.

22 MR. WEAVER: Mr. Wilder, on that point,  
23 were you able to hear Miss Bebekyan, 109, what her  
24 answers were?

25 JUROR WILDER: Yes.

1           MR. WEAVER: You mentioned sometimes you  
2 have difficulty in hearing, has to do with tones more  
3 than anything else?

4           JUROR WILDER: I have problem with tones  
5 because I got really good hearing aids and can hear  
6 okay.

7           MR. WEAVER: Are you able to tell us what  
8 types of tones you can't hear?

9           JUROR WILDER: My daughter.

10          MR. WEAVER: What about your wife?

11          Let's start with that.

12          JUROR WILDER: I can hear my wife.

13          MR. WEAVER: What is it about your  
14 daughter's tones make it difficult to hear --

15          JUROR WILDER: She has a real monotone  
16 voice and doesn't move her lips a lot.

17          I've been reading lips, and that helps me.

18          So I can't read her lips and can't hear  
19 her.

20          MR. WEAVER: With regard to hearing the  
21 answers to other jurors over the last few days, have  
22 you been attempting to be reading lips to understand  
23 what they are saying, or in your judgment be able to  
24 hear?

25          JUROR WILDER: I think I'm hearing pretty

1 good.

2 MR. WEAVER: Going back to the question  
3 about your experience with the St. Rose Hospitals, do  
4 you think your experience with St. Rose Hospital,  
5 including the birth of a child, that is going to  
6 cause you to be favorably disposed to any emergency  
7 department at St. Rose Hospital?

8 JUROR WILDER: I don't think so.

9 MR. WEAVER: With regard to the issue of  
10 the birth of one of your children -- ladies and  
11 gentlemen, I think everybody has answered to  
12 questions from Mr. Hymanson they wouldn't think  
13 negatively, wouldn't hold it against Mr. Moore if he  
14 were to come and go, or have a leave of absence, or  
15 need to excuse.

16 Is everybody on the same page, that would  
17 not be an issue for them?

18 Is there anybody, including you new folks,  
19 Miss Johnson, Mr. Woods, and Miss Blake, have any  
20 concern, or hold it against, or look unfavorably, if  
21 Mr. Moore were to leave at any point, come and go, or  
22 not be present, is that a problem for anybody?

23 No.

24 Miss Bartmus is pregnant.

25 She intends to be here not only throughout

1 the trial obviously, but every moment of every day of  
2 the trial, but what happens with some folks, morning  
3 sickness is not always in the morning, sometimes it's  
4 in the afternoon.

5 So would anybody hold it against Miss  
6 Bartmus if she wasn't here for a small amount of  
7 time, or if she was here and needed to step out, or  
8 any circumstances where you looked over and saw she  
9 was leaving briefly, or looked over and saw she  
10 wasn't here for that reason, would anybody be  
11 concerned that it's a lack of interest, or lack of  
12 concern, or lack of caring on her part, about this  
13 case?

14 So everybody can feel comfortable,  
15 everybody can commit if Miss Bartmus for whatever  
16 reason, even if she's here, needs to step out, isn't  
17 going to hold it against her, is everybody all right  
18 with that?

19 Going back to the issue of the hospital,  
20 and St. Rose Hospital, Dr. Lasry, and Miss Bartmus  
21 worked in St. Rose Hospital in the emergency  
22 department, but were not employed by St. Rose  
23 Hospital, they worked for an emergency medicine group  
24 that contracted with St. Rose Hospital.

25 Does that make any difference to anybody,

1 does anybody care whether or not they worked for the  
2 hospital, as opposed to working in the hospital?

3 Does it make any difference to anybody  
4 whether the nurses that they worked with in the  
5 emergency department worked for the hospital itself,  
6 but not their emergency group?

7 Does anybody have any experience with  
8 circumstances where they work with somebody in a team  
9 approach, where perhaps that person works for a  
10 different employer than they do, but they need to  
11 work collaboratively?

12 Mr. Withers, you have that circumstance?

13 JUROR WITHERS: I do.

14 MR. WEAVER: What type?

15 JUROR WITHERS: The company I work for is  
16 contracted by RTC. Now we manage the bus systems  
17 here in Las Vegas.

18 We're not an entity of that, we're  
19 contracted by them.

20 MR. WEAVER: Thank you.

21 So in your circumstance you work  
22 collaboratively with folks that you may not have  
23 direct control over in terms of what they do, is that  
24 a fair way to look at things?

25 JUROR WITHERS: Yes.

1           MR. WEAVER: Is it your effort or goal to  
2 kind of work closely in doing that?

3           JUROR WITHERS: Yes.

4           MR. WEAVER: Mr. Newman, I haven't talked  
5 with you yet.

6           I think you told us that you were  
7 associated with overseeing environmental services?

8           JUROR NEWMAN: Yes.

9           MR. WEAVER: And in your capacity do you  
10 sometimes work with the folks, you oversee work  
11 collaboratively with other people that are  
12 non-employees with whatever employees you're  
13 associated with?

14          JUROR NEWMAN: Not often, because most all  
15 of us are at the school district.

16          MR. WEAVER: On a little bit of a different  
17 point, there was some talk yesterday, but I'll stick  
18 with you for this moment, we talked about  
19 documentation, and the issue hit on terms of  
20 procedures, part of people's jobs.

21          Do the folks you supervise sometimes have  
22 to document the things they do?

23          JUROR NEWMAN: Yes.

24          MR. WEAVER: Would it be fair to say in  
25 your job as a supervisor sometimes things may get



1 documented, but it doesn't mean in your opinion they  
2 haven't been done, it just means they were done, but  
3 not documented?

4 JUROR NEWMAN: Correct.

5 MR. WEAVER: Anybody who has a feeling that  
6 just because you did something and didn't document  
7 it, it should be you didn't do it in the first place?

8 Anybody hold that feeling that if you  
9 didn't document something, it automatically means  
10 it's not done?

11 Okay. Miss Johnson, welcome.

12 JUROR JOHNSON: Thank you.

13 MR. WEAVER: I am just trying to clarify  
14 some of the answers that my colleagues have given, so  
15 I'm not going to be as extensive as some of the  
16 questions of my colleagues, we have a tight schedule,  
17 and the Court runs a tight ship, and we're going to  
18 do our best to stay on schedule, so if I skip over  
19 asking some of the questions that have already been  
20 asked of others, will you let us know if there's any  
21 particular relevance comes to mind?

22 JUROR JOHNSON: Yes.

23 MR. WEAVER: So, Miss Johnson, in your  
24 capacity as a speech therapist is that including I  
25 think you said some outpatient treatment.

1 JUROR JOHNSON: Yes, sir.

2 MR. WEAVER: And I should have said your  
3 badge number.

4 JUROR JOHNSON: 683.

5 MR. WEAVER: Did that also include some  
6 evaluations of patients?

7 JUROR JOHNSON: Yes, sir.

8 MR. WEAVER: In your experience have there  
9 been times where you have evaluated patients with  
10 speech therapy on an out-patient or in-patient basis  
11 at the VA Hospital where you know they do -- have  
12 provided them the care they needed, that it was  
13 appropriate care, and didn't necessarily document it?

14 JUROR JOHNSON: I would like to think we  
15 did document it.

16 It not be a surprise at the time, things  
17 are left out.

18 MR. WEAVER: So you try to document what  
19 you think is important, because it isn't documented  
20 doesn't mean you didn't do it, is that a fair way to  
21 look at it?

22 JUROR JOHNSON: Yes.

23 MR. WEAVER: Sometimes that documentation  
24 isn't there, and you believe you did it, you know you  
25 did it because it's your habit to do it, your custom

1 is to do it?

2 JUROR JOHNSON: Would you say that again?

3 MR. WEAVER: Sure.

4 In general, in your evaluation and  
5 treatment of patients are there certain things that  
6 you do as part of your processes, part of your  
7 custom?

8 JUROR JOHNSON: Yes.

9 MR. WEAVER: So even if you give some  
10 treatment, do some evaluation, and you didn't  
11 document that you did it, is it fair to say you would  
12 know you did it because it's your habit to do it?

13 JUROR JOHNSON: Sometimes I would say.

14 If it's a patient I've seen routinely, but  
15 if it's something really important, and I realize  
16 after the fact it wasn't addressed, the next time I  
17 see the patient I would emphasize to myself to make  
18 sure I did that.

19 MR. WEAVER: Thank you, ma'am.

20 Mr. Headd, before I come back to you, we're  
21 going go to answer a question -- or tell the Judge  
22 something.

23 James Maltese, 665.

24 THE COURT: We have had a different  
25 reporter each afternoon we've been in selection.

1           Generally either counsel or myself say the  
2 name of the jurors. They've not been saying the  
3 names, so at this point because this reporter is not  
4 used to that process, say your name and badge number  
5 when you speak out.

6           Thank you.

7           JUROR MALTESE: I have been on projects,  
8 and no project was completed until the paperwork was  
9 done and documentation.

10          I just wanted to say that.

11          MR. WEAVER: So with that, Mr. Maltese,  
12 would it be an instance where you needed to document  
13 a little later, than something was done immediately,  
14 it would be done in order for it to be complete?

15          JUROR MALTESE: Most of the times after  
16 hours at dinner, or at a hotel.

17          MR. WEAVER: Whenever there was time to do  
18 it?

19          JUROR MALTESE: Yeah.

20          MR. WEAVER: Mr. Headd, you seem to speak  
21 your mind.

22          Is that a fair thing to say?

23          JUROR HEADD: I'm fine with that.

24          Ryan Headd, 643.

25          MR. WEAVER: All right.

1           You gave us some perception you have of the  
2       emergency department is fast-paced, and the emergency  
3       department providers, health care providers,  
4       basically need to take all comers, whether it a  
5       gunshot trauma, burn, heart attack, or whatever it  
6       is, is that an accurate perception of that?

7           JUROR HEADD:   Yeah, I imagine certain times  
8       it's a very chaotic environment, depending what is  
9       going on.

10          MR. WEAVER:   Does anybody in general have a  
11       different perception of the emergency department,  
12       other than what Mr. Headd described?

13          Mr. Headd, would it also be your perception  
14       that there are times when people go to the emergency  
15       department because they think they have an emergency  
16       condition, and it's determined that the condition  
17       actually isn't an emergency?

18          JUROR HEADD:   Sure.

19          MR. WEAVER:   Can you think of any of what  
20       those scenarios might be, or are you just comfortable  
21       with the concept, even if somebody in good faith  
22       thinks they need to go to the emergency department to  
23       be checked out, that's to see what their condition  
24       is, it wouldn't surprise you if the condition isn't  
25       an emergency?

1 JUROR HEADD: Yeah, I'm fine with that.

2 MR. WEAVER: Is there anybody that would be  
3 surprised by that perception, or anybody who would be  
4 surprised by the idea even a patient who in good  
5 faith thinks they might have an emergency condition  
6 and needs to be treated in the emergency department,  
7 that it doesn't turn out to be an emergency, anybody  
8 subscribe to the view that doesn't make sense or  
9 wouldn't hold true?

10 Does anybody -- or do any of you folks hold  
11 the view that the only people, a health care provider  
12 in the emergency department, who should be able to  
13 treat a patient who believes they need to be  
14 evaluated for an emergency condition should be a  
15 physician?

16 Anybody hold that view?

17 Would anybody think that it would be  
18 appropriate for a nurse practitioner, and we'll talk  
19 about what that is in a moment, anybody have the view  
20 it would be inappropriate for a nurse practitioner to  
21 evaluate a patient in the emergency department when  
22 that patient believes they might have an emergency  
23 condition and needs to be evaluated?

24 Does that strike anybody as something that  
25 shouldn't happen?

1           Mr. Woods, 691, do you have any concern or  
2 perception?

3           Your husband's a registered nurse.

4           Any concern or perception that a nurse  
5 practitioner in the emergency department wouldn't be  
6 appropriate to diagnose the condition of the patient  
7 who came?

8           JUROR WOODS: No, my actual doctor's a  
9 nurse practitioner that I go to as my general  
10 physician is a nurse practitioner, so when I refer to  
11 her, I call her my doctor.

12           I'm aware of kind of how that works, there  
13 are some things she has to get the doctor to sign off  
14 on.

15           I know it's how it works, but for the most  
16 part she's my doctor, so that's how I see it.

17           MR. WEAVER: So is there anybody on the  
18 panel who doesn't have an understanding of what a  
19 nurse practitioner is?

20           So if I tell you that a nurse practitioner  
21 like Miss Bartmus is a registered nurse who then went  
22 on to have additional training, a Masters and a  
23 Doctorate degree, and assumes a practice, even though  
24 we don't call her Dr. Bartmus, she has a Doctorate  
25 degree in nursing practice, but she's not a

1 physician, in other words, she's what some hospitals  
2 -- or some call a mid-level practitioner, does  
3 anybody, without even knowing the facts, hold against  
4 Miss Bartmus if she diagnoses patients in the  
5 emergency department, maybe puts in orders for  
6 medication, or testing, the discharge of patient,  
7 anybody who would hold that against her if she's  
8 licensed to do that, and working within the scope of  
9 what she's allowed to do?

10 Does that strike anybody, even if it's  
11 legal, as not being okay?

12 All right.

13 Mr. Fyfe, 614.

14 How are you today.

15 JUROR FYFE: Good.

16 How are you?

17 MR. WEAVER: Good.

18 Thank you.

19 Yesterday in response to one of the  
20 questions when Mr. McBride was visiting with you was  
21 brutal honesty, and one of the questions had to do  
22 with does anybody think a medical malpractice case  
23 may not be a great case for them, and we appreciated  
24 your response, you're not sure because there might be  
25 terms that come up, medical terms that you may not



1 understand, did I basically summarize what your  
2 thought on that was?

3 JUROR FYFE: Yes.

4 MR. WEAVER: So if we as the lawyers, I'm  
5 sure we intended to do so, if we explain those terms  
6 to you in a way that is acceptable, and a way can be  
7 explained to ease that, give you any concern about  
8 whether or not you would be able to be a fair juror  
9 in this case?

10 JUROR FYFE: No.

11 MR. WEAVER: Somewhat along those same  
12 lines, does anybody have a type A personality?

13 JUROR WOODS: That they admit to?  
14 Me.

15 MR. WEAVER: That answer about whether they  
16 would admit to it was Mr. Woods, juror 691.

17 MR. WEAVER: Do you think having a type A  
18 personality is a bad thing?

19 JUROR WOODS: No, I don't think it's a bad  
20 thing.

21 MR. WEAVER: Does anybody perceive  
22 themselves to have a type A personality?

23 Here's where I'm going with this:

24 Does anybody have a concern that if they  
25 are instructed they can only look at the evidence in

1 this case, and not look -- can't Google, anything,  
2 can't go outside of the information that is provided  
3 or what they are instructed to do, they can't talk to  
4 the spouse about the information, they can't talk to  
5 their sister about the information about health care  
6 terms, health care language, or any of the  
7 information in this case, is there anybody who has a  
8 concern they are just not going to be able to resist  
9 that temptation, anybody?

10 So, Mr. Fyfe, for example whether it's  
11 today or tomorrow, you find me using the term  
12 emergency department, and Mr. McBride's using the  
13 term emergency room, or if it is something as simple  
14 as that probably, it wouldn't be an issue, but if  
15 it's a language issue of say what acute arterial  
16 occlusion means, if you are not getting in the moment  
17 what we're explaining, will you resist the temptation  
18 after hours to look it up, to Google it, do your own  
19 independent research?

20 JUROR FYFE: Yes.

21 MR. WEAVER: Is there anybody based on  
22 their personality or anything else that just doesn't  
23 think they will be able to resist the temptation to  
24 look up stuff, or investigate things on their own, is  
25 there anybody who has somebody in their life who's

1 going to drive them crazy by asking them about what  
2 is going on with the case, what is it all about, and  
3 then tell them what they should think?

4 Miss Bechtold, juror 624.

5 JUROR BECHTOLD: Yes.

6 THE COURT: The question concerns me  
7 because the jurors will understand they are not  
8 allowed to discuss the case with anyone, and even if  
9 they're pestered to share, I don't know how we ever  
10 get to the point where anybody would tell them what  
11 they think, I'm a little concerned about the  
12 impression posed by that question.

13 The admonishment as you know is giving your  
14 version of it, each of you, while you can certainly  
15 help your friend, family, and co-workers, or  
16 employers know you're on a jury, and you can say it's  
17 a civil trial, any specific details about the trial  
18 may not be discussed by anyone, or with anyone,  
19 includes family, friends, anybody.

20 MR. WEAVER: Thank you, Your Honor.

21 Anybody have any opinions about health care  
22 in Las Vegas in general?

23 JUROR WOODS: 691.

24 I think the health care in general in Las  
25 Vegas is a little bit sub-par from other cities I've

1 lived in, so that is a common complaint I've heard  
2 from other people from out of state, and I don't know  
3 why that would be anything -- or anything else, but  
4 in general it seems like it's a little bit more lacks  
5 than it is in other states.

6 MR. WEAVER: Would that information or that  
7 impression you may have give you any cause or concern  
8 about whether Nurse Practitioner Bartmus and Dr.  
9 Lasry would be starting on anything less than a level  
10 playing field for you?

11 JUROR WOODS: No, because I kind of see  
12 emergency room treatment is very different from say a  
13 paid clinic, the general practitioner, again you are  
14 going to be able to do it, but an emergency room  
15 there's an emergency, I don't think anybody comes  
16 into the emergency room, can walk in there and not  
17 feel like it's an emergency, it's an emergency for  
18 everybody who is there, but it's a little different,  
19 so I feel like the kind of people tend to migrate to  
20 that kind of work are probably going to be a little  
21 higher caliber than somebody who works in a  
22 pediatrician's office or something slower.

23 You got certain type of people I noticed  
24 working in health care who gravitate to different  
25 areas of medicine, but the sort of people who end up

1 in the emergency room are the sort of people who are  
2 -- I can't think of the word -- usually are the best  
3 of the class, for lack of a better word.

4 MR. WEAVER: Thank you, sir.

5 Does anybody else have any general  
6 impressions about medical care in -- or health care  
7 in Las Vegas?

8 JUROR JOHNSON: Just from my experience.

9 I was recruited here from out of state, and  
10 they said it's sometimes hard to retain people in  
11 association, so sometimes -- I can speak for the VA,  
12 we are constantly understaffed in multiple  
13 departments, and it makes it difficult to bring  
14 people here and keep them here for a while.

15 MR. WEAVER: All right.

16 Anybody else with any impressions of health  
17 care in general in Las Vegas?

18 Miss Clinton.

19 JUROR CLINTON: Yes, I don't know in terms  
20 of general, but I have personal experience where I  
21 was out of state, I wasn't able to get the assistance  
22 I needed here, but in terms of the medical, whatever  
23 you are here for that particular issue, I had to go  
24 out of state for it.

25 MR. WEAVER: I'm not going to ask you what

1 type of care was it, but did that needing to go out  
2 of state relate to the need to get some type of  
3 specialty care, as opposed to a concern about the  
4 quality of the care here in Las Vegas?

5 JUROR CLINTON: It was more related to  
6 inability to diagnose here, and so we were referred  
7 out of state to get an accurate diagnosis.

8 MR. WEAVER: Anybody else with any  
9 impressions of health care in Las Vegas, or any  
10 perception about the need to go out of Las Vegas for  
11 any type of illness?

12 Yes, Miss price.

13 JUROR PRICE: Juror 632.

14 I had a similar experience where I couldn't  
15 find the health care high quality here, I would have  
16 to go out of state for it for myself.

17 I would think the provider I think is okay,  
18 and I will go out of state if I don't find the  
19 quality.

20 MR. WEAVER: Miss Price, would that  
21 experience that you have give you any concern about  
22 whether or not Nurse Practitioner Bartmus and Dr.  
23 Lasry would be starting with the impression about the  
24 concern of the quality of care they would provide?

25 JUROR PRICE: No.

1           MR. WEAVER: Does anybody hold the opinion  
2 if there's a bad medical outcome, that it means that  
3 somebody is at fault no matter what, anybody hold  
4 that opinion that if somebody had a bad outcome,  
5 somebody is to blame?

6           Anybody hold that viewpoint?

7           There was a hypothetical Mr. Hymanson gave,  
8 I'm just going to follow-up on it, and I'm so  
9 interested in what the answer to that hypothetical  
10 was, in my own mind I don't remember what anybody's  
11 answers were, so I'm not going to re-ask the  
12 hypothetical, but it had to do with there was some  
13 perception of whether if something had ultimately  
14 happened, it comes down to karma I think was the gist  
15 of it.

16           The different question I want to know is,  
17 is there anybody on the panel who doesn't believe  
18 that if there's a perceived bad medical outcome, that  
19 it couldn't be as just a coincidence?

20           Anybody think that nothing can happen by a  
21 coincidence, if something happens that perceives a  
22 bad medical outcome, it must have been predictable?

23           Let's start with that, does anybody have  
24 that perception?

25           Does anybody have the perception that if

1     there's a perceived negative or bad medical outcome,  
2     and somebody seen a physician or a health care  
3     provider, or been in the emergency department, that  
4     that bad outcome must have been preventable one way  
5     or another?

6             Does anybody hold that viewpoint, that any  
7     bad outcome one way or another should be considered  
8     preventable?

9             Nobody.

10            Miss Sallee, 604, do you have any concerns  
11     about the idea that if there's a bad perceived result  
12     after a health care provider, that that must be the  
13     health care provider didn't do something, that it was  
14     preventable?

15            JUROR SALLEE:   No.

16            MR. WEAVER:   Would anybody have the -- This  
17     is a little bit of a housekeeping matter, and I think  
18     we know the answer to all pf this, does -- or would  
19     anybody have any difficulty in seeing what is up on  
20     any of the screens if there's any exhibits or medical  
21     evidence up on the screen?

22            Would anybody have any difficulty reading  
23     anything that is up on the screen, or any difficulty  
24     along those lines?

25            Thank you, Your Honor.



1 THE COURT: Okay.

2 Thank you.

3 Can I have counsel at the bench just  
4 briefly?

5 (Thereupon, a discussion was had between  
6 Court and counsel at sidebar.)

7 THE COURT: Okay.

8 Let me ask Mr. McBride first, do you have  
9 any additional questions that would you like to ask  
10 of the new members?

11 MR. MC BRIDE: Actually I don't.

12 I'm good.

13 Thank you.

14 THE COURT: All right.

15 Thank you.

16 Mr. Hymanson, do you have any questions you  
17 would like to ask?

18 MR. J. HYMANSON: Very quickly, Your Honor.

19 THE COURT: All right.

20 MR. J. HYMANSON: Good afternoon, everyone,  
21 and good afternoon Miss Blake, Miss Johnson, and Mr.  
22 Woods.

23 I want to go -- You guys have all been here  
24 for everything, we appreciate your patience and  
25 everything, I'm going to do a quick hit list of a

1 couple things.

2 We talked about apple pie, for example how  
3 many of you disclosed you don't like apple pie?

4 So, Miss Johnson, correct?

5 JUROR JOHNSON: 683.

6 MR. J. HYMANSON: Why do you think it  
7 should be disclosed?

8 JUROR JOHNSON: It sort of would depend  
9 upon am I judging on date, or presentation of it.

10 If it's the case specifically, I think you  
11 should disclose it, but if it's the presentation, the  
12 style of it, and not going to interfere, I can be  
13 objective, then no.

14 MR. J. HYMANSON: So on this case you think  
15 she should disclose -- you think you should excuse  
16 yourself?

17 JUROR JOHNSON: No, I think you disclose  
18 it, and a decision is made by the judging party.

19 MR. J. HYMANSON: And then, Miss Blake, you  
20 don't think you should, is that correct?

21 JUROR BLAKE: I think you should like  
22 everything, so I don't know about pie.

23 MR. J. HYMANSON: Hypothetically, if you  
24 didn't like pie, do you think you should disclose it?

25 JUROR BLAKE: Yes.

1 MR. J. HYMANSON: You think you should  
2 excuse yourself?

3 JUROR BLAKE: Personally I probably would  
4 want to excuse myself, but I guess that would be up  
5 to the Judge.

6 MR. J. HYMANSON: Absolutely.

7 Mr. Woods, I think you did not raise your  
8 hand, is that correct, you don't think you should?

9 JUROR WOODS: I wasn't really following  
10 you.

11 MR. J. HYMANSON: You say to Judge a pie  
12 eating competition, there's a apple pie and blueberry  
13 pie, you know you really don't like apple pie, should  
14 you disclose you don't like apple pie?

15 JUROR WOODS: Yes, I think you should  
16 disclose it, but I think it's a hard question for me  
17 because I like either one.

18 MR. J. HYMANSON: You think you should  
19 recuse yourself?

20 JUROR WOODS: Yes.

21 MR. J. HYMANSON: Thank you very much.

22 Do all three believe people should take  
23 responsibility for their actions?

24 Mr. Woods?

25 JUROR WOODS: Woods.

1 Yes.

2 MR. J. HYMANSON: Do you think that you  
3 agree with what people said on I think yesterday  
4 about full responsibility, everyone agree with that?

5 JUROR WOODS: Yes.

6 MR. J. HYMANSON: Are all three of you  
7 comfortable with the facts of this case is about  
8 money?

9 JUROR WOODS: Yes.

10 MR. J. HYMANSON: And I gave a hypothetical  
11 about if you think based on the facts and the  
12 evidence that \$500 is sufficient to compensate the  
13 Plaintiff for their harms and losses, the Plaintiffs  
14 are asking for ten million dollars, are all three of  
15 you comfortable awarding \$500 to the Plaintiff?

16 JUROR JOHNSON: Maybe I'm just not  
17 understanding that question correctly, but is it 500  
18 is agreed upon as it matches what --

19 MR. J. HYMANSON: What you believe.

20 So you think in your evaluation you think  
21 that what the Plaintiff should be compensated is  
22 \$500, and so the Plaintiffs are asking for ten  
23 million dollars, do you think if it's 500, are you  
24 comfortable awarding the Plaintiff \$500?

25 JUROR JOHNSON: I guess that would be my

1     apologies, I thought it was explained that we would  
2     kind of be directed as a jury what the typical  
3     compensation is, so I would kind of follow that  
4     outline more than say, well, I think it's this amount  
5     of money.

6             MR. J. HYMANSON:   Okay.

7             JUROR JOHNSON:   If I was understanding the  
8     Judge correctly.

9             THE COURT:   Let me try to clarify.

10            JUROR WOODS:   I agree with her.

11            JUROR BLAKE:   I also agree.

12            THE COURT:   Interesting all of you are  
13     sitting over there.

14            So let me explain.

15            The instruction talks about pain and  
16     suffering damages in the sense of there's no fixed  
17     number, there's no specific way to determine it, it  
18     gives you instructions how to think about it, but  
19     there are no numbers involved.

20            The determination of that has to come from  
21     the evidence and from the jury's deliberation.

22            We simply have instructions how to go about  
23     it to make the determination if any money is to be  
24     awarded, what the amount should be, and I apologize  
25     for any confusion on that.

1           I don't happen to have instructions in the  
2 room with me, although I could probably find them  
3 very quickly if I needed to clarify, but it's not  
4 something you are going to get any guidance of any  
5 kind what the verdict should be, only how you reach  
6 the verdict.

7           MR. J. HYMANSON: Thank you very much, Your  
8 Honor.

9           I appreciate that.

10           There's going to be, as you will see,  
11 different types of damages we present, some things  
12 you will see some calculations for different  
13 categories, I can't get into the specifics with that,  
14 but just say that you believe that based on what the  
15 verdict -- or the instructions the Court gave you,  
16 you think that \$500 is appropriate, and the  
17 Plaintiff's asking for ten million, are all three of  
18 you comfortable awarding \$500?

19           Okay.

20           So then we flip to that question is to say  
21 that, do you think based on the evaluation of all the  
22 facts and evidence before you the Plaintiff's are  
23 entitled to ten million dollars to compensate them  
24 for their harms and losses, and the Defense wants you  
25 to only award \$500, are you comfortable if you

1 believe it is justified based on the facts and  
2 evidence presented to you that ten million dollars is  
3 what it takes for this Defendant, are you comfortable  
4 with awarding ten million dollars?

5 JUROR WOODS: I believe so, yes.

6 MR. J. HYMANSON: Thank you very much.

7 Mr. Woods, 691.

8 JUROR WOODS: Correct.

9 MR. H. HYMANSON: Thank you so much.

10 THE COURT: I found the instructions, so  
11 why don't we review it.

12 The instruction being proposed is a  
13 standard set of instructions we would give, reads as  
14 follows:

15 No definite standard or method of  
16 calculation is prescribed by law by which to fix  
17 reasonable compensation for pain and suffering.

18 Nor is the opinion of any witness required  
19 as to the amount of such reasonable compensation.

20 Furthermore, the argument of counsel as to  
21 the amount of damages is not evidence of reasonable  
22 compensation.

23 In making an award for pain and suffering  
24 you shall exercise your authority and calm and  
25 reasonable judgment, and the damages you shall fix

1 shall be just and reasonable in the light of the  
2 evidence.

3 That is what we talked about when we say  
4 instructions on how to, not giving you the numbers.

5 MR. J. HYMANSON: Thank you so much, Your  
6 Honor.

7 THE COURT: Thank you.

8 MR. J. HYMANSON: I'm going as quick as I  
9 can, ladies and gentlemen.

10 Do any of the three of you have any  
11 negative feelings about lawsuits, or people who file  
12 lawsuits?

13 JUROR WOODS: Woods.

14 I don't feel pro or negative about it.

15 MR. J. HYMANSON: 691, Mr. Woods.

16 Mr. Woods, I want to ask you a couple  
17 follow-up questions.

18 You talked about your long-term spouse is a  
19 registered nurse, correct?

20 JUROR WOODS: Correct.

21 MR. J. HYMANSON: Where does he work?

22 JUROR WOODS: He does the same thing as I  
23 do now, but he's been a nurse for over 20 years.

24 MR. J. HYMANSON: Did he work more in the  
25 emergency room, in a certain department?



1 JUROR WOODS: The only time he worked in an  
2 emergency room was prior to us meeting, when he was  
3 in rotation or something like that.

4 Most of the time I knew him he either  
5 worked in the nursing home or county general.

6 MR. J. HYMANSON: We talked about that you  
7 used to work, was it software you did in the  
8 emergency room?

9 JUROR WOODS: I did medical stuff, but  
10 didn't actually work in the emergency room.

11 I worked with several different doctors and  
12 specialists in the hospital system who also rotated.

13 I did not actually work in the emergency  
14 room myself, no.

15 MR. J. HYMANSON: When you were asked some  
16 questions about what you thought about health care in  
17 Las Vegas, and correct me if I'm wrong, but you said  
18 you thought it was generally okay, but you -- I  
19 gathered you have saw the emergency room kind of a  
20 top of the heap for the different departments, is  
21 that fair to say.

22 JUROR WOODS: I would think that would be  
23 one of the last places in a hospital that I notice  
24 that, yeah.

25 MR. J. HYMANSON: So you understand this is

1 a medical malpractice case involves the emergency  
2 room, correct, and is there anything about your  
3 belief that the emergency room is the top of the heap  
4 that you think would give the Defendants in this case  
5 a little bit of a leg up in this case?

6 JUROR WOODS: No, because I've always been  
7 living long enough to see bad things happen also, so  
8 I'm also aware of those.

9 MR. J. HYMANSON: The fact you view the  
10 emergency room so much differently, at least from  
11 your words, of all the other kind of types of  
12 medicine practice in Las Vegas --

13 JUROR WOODS: I don't really know the  
14 answer to that question because I don't know the  
15 details or any specifics of this case yet, would all  
16 depend on the specifics of this case because in the  
17 emergency room it could be really wild differences,  
18 you can have somebody coming in for a common cold, or  
19 somebody having a baby, or somebody coming in from a  
20 car wreck, part of their chest removed.

21 I can go on and on, there's so many  
22 variables, and in the emergency room I wouldn't begin  
23 to speculate the details of that.

24 MR. J. HYMANSON: I understand that, and I  
25 appreciate that.

1           But I do need to know how you fell about  
2   that because if it ends up being one of those cases,  
3   to me what I heard from that is that in a certain  
4   situation you don't think emergency room would be  
5   ahead, but in another situation depending what the  
6   facts are the emergency room may be one step ahead,  
7   is that fair?

8           JUROR WOODS: I don't think the emergency  
9   room itself, I think it's the persons around the  
10   emergency room is less likely to be sub-par than say  
11   a dentist's office, or pain clinic, or something like  
12   that around town.

13           You're probably pretty focused and drawing  
14   a reasonable paycheck, and some people are, you know  
15   --

16           MR. J. HYMANSON: Understood. So.

17           I'm sorry I keep asking you this, I want to  
18   focus in, get to the direct issue, and I want to see.

19           So we're dealing with two individuals that  
20   work in an emergency room department, okay, and I  
21   want to know if you think there's a scenario you  
22   could be presented with that you on the basis of the  
23   facts of that are presented here that given the fact  
24   that the people in front of you are emergency room  
25   employees, that you would give them at least a little

1 bit of one step ahead of where my clients are?

2 JUROR WOODS: I don't think so, because it  
3 would all be objective. I would have to hear the  
4 details, and I don't know any details of it.

5 MR. J. HYMANSON: I appreciate that.

6 I want to flush out, make sure I understand  
7 because you said you don't know the details, you  
8 would have a step ahead or not, but by saying you  
9 don't have details to know if you're a step ahead or  
10 not, that leads me to believe that is at least some  
11 scenario where you think by virtue of being an  
12 emergency room employee they would be a step ahead.

13 JUROR WOODS: That is not necessarily --  
14 Tell me what the scenario would be, tell me.

15 MR. J. HYMANSON: I can try to come up with  
16 a hypothetical, I guess.

17 I can't get into the specifics of this  
18 case.

19 THE COURT: I think he answered your  
20 question.

21 MR. J. HYMANSON: Thank you very much, Your  
22 Honor.

23 Thank you very much, Mr. Woods.

24 Do any of you know anyone who uses a  
25 wheelchair?

1 Miss Johnson.

2 JUROR JOHNSON: 683.

3 I work in a hospital, and some of our  
4 survivors are wheelchair-bound, and I have many  
5 patients that are as well.

6 MR. J. HYMANSON: What about anyone that  
7 has an amputation?

8 JUROR JOHNSON: Yes, sir.

9 MR. J. HYMANSON: And what about Miss Blake  
10 or Mr. Woods, anyone had an amputation?

11 JUROR BLAKE: Yes.

12 JUROR WOODS: I can't remember anything.

13 MR. J. HYMANSON: Okay.

14 I want to touch real quickly on something  
15 Mr. McBride touched on yesterday.

16 I think you all have heard him when he was  
17 talking about sympathy.

18 Sympathy is something all the attorneys  
19 agree we don't want you to give your sympathy at all.

20 Mr. McBride asked people about if they are  
21 okay with sympathy for the Plaintiff's side, so let  
22 me ask you this:

23 Are you okay putting sympathy for the  
24 Plaintiff's side in determining whether or not what  
25 is right, compensate them if you find the Defendants

1 are at fault?

2 Yes.

3 Are you also okay putting your sympathy  
4 aside regarding the fact Nurse Practitioner Bartmus  
5 is training and the defers ability to pay a just  
6 compensation to the Defendant, is that something all  
7 three of you are willing to put aside also?

8 Do any of you hold anything against people  
9 that are lifelong smokers?

10 Miss Johnson.

11 JUROR JOHNSON: I hold against them as in  
12 what, a personality, or what are we talking about?

13 MR. J. HYMANSON: Let's say there were  
14 evidence to come out that smoking has nothing to do  
15 with what caused a person's injuries, but the simple  
16 fact a person was a smoker, do you think you would  
17 hold that against them for suffering the injury they  
18 suffered?

19 JUROR JOHNSON: No, sir.

20 MR. J. HYMANSON: Mr. Woods?

21 JUROR WOODS: Not if it had nothing to do  
22 with the injury.

23 MR. J. HYMANSON: Miss Blake?

24 JUROR BLAKE: No.

25 MR. J. HYMANSON: Anything the three of you

1 think we should know that we haven't asked, or we  
2 haven't talked about yet?

3 My final question is:

4 If you were an injured person, injured by  
5 someone's medical malpractice, would you feel  
6 comfortable with someone with your beliefs sitting on  
7 that jury considering your case?

8 Yes?

9 Thank you very much.

10 THE COURT: May I have counsel back at the  
11 bench, please.

12 (Thereupon, a discussion was had between  
13 Court and counsel at sidebar.)

14 THE COURT: Okay.

15 Thank you.

16 I did want to check with counsel, see if  
17 they had any final questions before we have a brief  
18 recess, and Mr. Hymanson indicated one follow-up.

19 I believe it's going to be to the entire  
20 panel, not the three just joined us, based on some  
21 questions and answers came up.

22 MR. J. HYMANSON: I'm sorry, ladies and  
23 gentlemen, I promise.

24 THE COURT: Stop promising.

25 It's not working.

1                   MR. J. HYMANSON: As I said, Your Honor, I  
2 neglected to ask a question about smoking yesterday,  
3 so I want to follow-up with the whole panel about  
4 that.

5                   So my question was:

6                   If you knew someone was a lifelong smoker,  
7 and you saw that something happened to them, there  
8 was a medical issue with them, and smoking didn't  
9 have anything to do with that, would you hold the  
10 fact they were a smoker against them?

11                  Mr. Maltese, I think you sort of raised  
12 your hand about that.

13                  JUROR MALTESE: Yeah, my basic belief is on  
14 smoking, if you're a smoker, you are on idiot, with  
15 all the information out there.

16                  I mean, I have colon cancer, and they  
17 always told me don't smoke.

18                  Every one of my doctors, researchers to  
19 medical people, so I'm sorry.

20                  MR. J. HYMANSON: Would this change your  
21 opinion if someone had been a smoker since their  
22 entire life, and during times when it was always on  
23 TV, the Marlboro Man, would that change your mind, an  
24 older person been smoking their whole life, as  
25 opposed to someone started smoking recently?



1 JUROR MALTESE: No, when I grew up, it was  
2 a Marlboro Man, you put the Marlboro box in your  
3 pocket.

4 MR. J. HYMANSON: Anyone else have any  
5 feelings that way, or other?

6 JUROR EVERETT: I agree with him.

7 MR. J. HYMANSON: Thank you very much.  
8 Anyone else feels that way?

9 Anyone else has an opinion about that one  
10 way or another?

11 Thank you very much.

12 THE COURT: All right.

13 Thank you, Mr. Hymanson.

14 Folks, we're going to take a brief recess,  
15 ten minutes.

16 Be back at ten minutes to 4.

17 (Jury admonished by the Court.)

18 THE COURT: We're going to take a  
19 ten-minute break.

20 See is you back shortly.

21 (Jury excused from the courtroom.)  
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(Thereupon, the following proceedings were  
had out of the presence of the jury.):

THE COURT: All right.

Let's break first and come back in about  
five or seven minutes, resume our conversation with  
Mr. Wilder.

(Thereupon, a recess was had.)

1           (Thereupon, the following proceedings were  
2 had out of the presence of the jury.):

3           THE COURT: Counsel, we're going to have  
4 Mr. Wilder.

5           THE MARSHAL: No problem.  
6 I'll go grab him.

7           (Juror Wilder brought into the courtroom  
8 individually.)

9           THE COURT: Mr. Wilder, come through the  
10 well here and sit in the black chair right there in  
11 the front.

12           All right. I notice you don't have the  
13 headset.

14           Did you give those back?

15           JUROR WILDER: He took them away from me,  
16 Your Honor.

17           THE COURT: Okay.

18           So we wanted to have a few additional  
19 questions with you about your ability to fully  
20 participate in the trial.

21           There's been a lot of discussion that you  
22 have had, and they have asked you about terms of your  
23 ability to hear, and I think over all my impression  
24 is that you are hearing quite a bit, and you feel  
25 good about how you would sort of police it if you

1 weren't hearing.

2 I happened to notice in that last round of  
3 questioning that a couple of the jurors in front of  
4 you when they were speaking, that you went ahead and  
5 picked up the headset and put them on.

6 I did notice though that some of the answer  
7 was going unknowing, as you were making sure it was  
8 adjusted and putting it on, so obviously some of that  
9 was missed, that was Miss Price, but were there any  
10 other jurors speaking, what about Mr. Woods in front  
11 of you?

12 JUROR WILDER: There were two here I  
13 couldn't hear, and I put the headset on, still  
14 couldn't hear because everything was louder, but the  
15 stuff I can't understand is still there.

16 THE COURT: So when you say it wasn't  
17 helping you with the clarity earlier, that's what you  
18 meant?

19 JUROR WILDER: Everything was like right  
20 here now, only louder.

21 THE COURT: To phrase it this way, I want  
22 to make sure I'm making it clear, what you can hear  
23 you can hear better with the headset, but what you  
24 can't hear is not aided by the headset?

25 JUROR WILDER: Correct.

1           THE COURT:   There are still things you have  
2 not been able to hear?

3           JUROR WILDER:   Correct.

4           THE COURT:   Any further questions, counsel?

5           MR. ARNTZ:   Your Honor, do you mind if I  
6 ask a couple questions?

7           THE COURT:   No.

8           Go ahead.

9           MR. ARNTZ:   Hi.

10          You haven't met me.

11          My name is Breen Arntz.   I am counsel.

12          My dad is very hard of hearing, and what  
13 I've found with him is that generally he becomes  
14 detached from the conversation, and so my biggest  
15 concern isn't so much you hear every single thing, I  
16 would want you involved in the discussion, and do you  
17 find yourself taking yourself out of the discussion?

18          JUROR WILDER:   If it's not really relevant  
19 to me, yes.

20          I've had a hearing problem pretty much my  
21 whole life, kind of in our genes, so I try to stay  
22 focused, I nudge my my wife, what did they say.

23          MR. ARNTZ:   My dad will come over and stand  
24 over you and say, what did you say.

25          JUROR WILDER:   Again, it's been a lifelong

1        thing for me, I can't believe I'm sitting here.

2                In the past I even had a doctor tell me --  
3        I was going to jury duty the next day, and he laughed  
4        at me said, no, you're not.

5                I said, what do you mean?

6                He said, no, you're not, they don't want  
7        you there.

8                He wrote me a letter, sent the letter out  
9        about 20 years ago.

10               MR. ARNTZ:    Otherwise, we all like you.

11               JUROR WILDER:    Make no mistake, I would  
12        like to serve, but in all due fairness I do have this  
13        problem, and I would do my best to control it and  
14        raise my hand.

15               MR. ARNTZ:    Okay.

16               Thank you.

17               THE COURT:    Anybody else?

18               MR. MC BRIDE:    Just a couple questions.

19               Mr. Wilder, real quick, you don't have any  
20        problem with seeing any of the writing on the screen,  
21        do you?

22               JUROR WILDER:    No.

23               MR. MC BRIDE:    Have you had any problem  
24        hearing me, or anything of the other attorneys?

25               JUROR WILDER:    No.

1 MR. MC BRIDE: Again, if I told you -- I'm  
2 pretty loud, but do you think in any way that your  
3 ability to kind of not hear some of these jurors who  
4 have been talking, some of them in lower tones, Mr.  
5 Everett I think has difficulties speaking up, but do  
6 you think that in any way affected your ability to  
7 participate in answering questions as part of this  
8 voir dire process?

9 JUROR WILDER: I don't think so, because  
10 I'm watching counsel and interface with them, so I  
11 get the gist of what they are talking about, so it's  
12 not like I'm totally flying blind eyed, just can't  
13 hear a lot of their words.

14 MR. MC BRIDE: Do you think though still  
15 even with your hearing difficulties, that you could  
16 still participate in this trial and do your best and  
17 be able to raise your hand if you have any  
18 difficulties?

19 JUROR WILDER: If it's okay for me to raise  
20 my hand, absolutely.

21 MR. MC BRIDE: Thank you, sir.

22 THE COURT: Mr. Weaver.

23 MR. WEAVER: Mr. Wilder, if you were  
24 deliberating, and it were a juror that whose tone was  
25 difficult for you to hear, would you have any

1       hesitation in making sure that you could hear that,  
2       or interact with that?

3               JUROR WILDER:   Not if I can read their lips  
4       or get close to them.

5               MR. WEAVER:    I think I may have asked you  
6       this question before.

7               Does it matter to you in terms of whether  
8       you can hear better with someone who got a difficult  
9       tone to hear where you sit?

10              JUROR WILDER:   Not really.

11              Just certain things with tones.

12              Like I say, I haven't heard my daughter for  
13       several years.

14              MR. WEAVER:    Thank you, sir.

15              THE COURT:    I have two follow-ups.

16              You indicated you have some proficiency in  
17       reading lips.

18              Just curious, have you made an effort to  
19       try to read lips when we have been up here at the  
20       bench conferences?

21              JUROR WILDER:   No.

22              THE COURT:    Okay.

23              And maybe --

24              JUROR WILDER:   I'm not a lip reader, Your  
25       Honor, but it happens because I kind of get the gist



1 of the conversation.

2 THE COURT: That gets into my more serious  
3 second question.

4 When we are actually in the trial, you are  
5 sort of at a side view of the parties participating,  
6 the witnesses are here, attorneys are here, talking  
7 like this, and you will get a side view.

8 The voir dire of the conversation with the  
9 jury is very different, they are looking at you, not  
10 to say some witnesses don't turn and talk to the  
11 jury, but the vast majority of the witnesses and the  
12 counsel will be facing each other in the courtroom  
13 this way, and you would be over there on the side  
14 view.

15 Do you think that would affect your ability  
16 to hear them?

17 JUROR WILDER: I don't know.

18 Sideways is kind of okay most of the time,  
19 but if it's a tone I can't hear, then I'll do --  
20 raise my hand or whatever.

21 THE COURT: Thank you, Mr. Wilder.

22 Step back out.

23 (Juror Wilder now excused from the  
24 courtroom.)

25

1           (Thereupon, the following proceedings were  
2 had out of the presence of the jury.):

3           THE COURT: Final argument on whether Mr.  
4 Wilder stays or goes, Mr. Hymanson.

5           MR. P. HYMANSON: Very briefly, I think we  
6 made a record. You already indicated where you were  
7 going to go when he did not wear the headset.

8           He had the headset on, you asked how he's  
9 doing, he said okay.

10          It's not a Geico commercial.

11          THE COURT: Actually, that commercial says  
12 okay.

13          MR. P. HYMANSON: But they don't buy that  
14 insurance.

15          So speech and hearing are critical, and you  
16 don't want to make that an appellate issue because as  
17 long as it's going to take to try this case once, we  
18 don't want to try it twice.

19          THE COURT: Okay.

20          Mr. McBride, anything you have to say?

21          MR. MC BRIDE: Nothing further, Your Honor.

22          THE COURT: Mr. Weaver?

23          MR. WEAVER: No.

24          THE COURT: The Court is going to exercise  
25 its discretion to excuse Mr. Wilder, juror 611, based

1 on his hearing difficulties.

2 I think we do have a very good record on  
3 this point, and my biggest concern is even with the  
4 assistance of a hearing device, the clarity he's  
5 given us now is that if the tone is off, he's not  
6 going to hear it, and even though he has indicated  
7 that in circumstances he would perhaps ask his wife,  
8 I've had jurors nudge the other jurors, but I think  
9 it really seems like no matter what the circumstances  
10 are he's not going to hear everything, and then we're  
11 leaving it to his own devices to let us know that he  
12 doesn't hear everything.

13 Even though I think he would give it his  
14 best efforts, I can't be certain he will connect to  
15 all of the testimony and all of the information, and  
16 again that issue with when the tone was down, he made  
17 some effort to try to listen, there was time wasted  
18 there, and ultimately it didn't work.

19 At the end of the day he's not going to be  
20 able to -- or we're not going to be able to be  
21 certain he will pick up a hundred percent of the  
22 circumstances, and while there may be other jurors  
23 don't pay attention, fail to pick up a hundred  
24 percent, he really does have a difficulty, which I  
25 think excludes him from service.

1                   We'll excuse him.

2                   MR. P. HYMANSON: Juror Number 3 and Juror  
3 Number 14, Everett and Mr. Maltese in the closing  
4 moments of voir dire said they felt anyone that  
5 smokes was stupid, I think that was the term, those  
6 who smoke we're stupid, and the follow-up question  
7 that would have been asked probably would have  
8 cleared the courtroom, and I think the question I  
9 would like the Court to inquire with these two jurors  
10 outside the presence of the others is, if you believe  
11 an individual who continues to smoke in this day and  
12 age is stupid, does that impact your ability to be  
13 fair and impartial?

14                   I think that is a critical question.

15                   I think if young Mr. Hymanson asked that,  
16 it would have required the jury to be dismissed  
17 and --

18                   THE COURT: Any objection from the Defense  
19 for bringing them in and inquire of them?

20                   MR. MC BRIDE: That's fine, Your Honor.

21                   THE COURT: Let's start with Mr. Everett,  
22 juror 143, in seat number 3.

23                   MR. P. HYMANSON: Thank you, Your Honor.

24                   (Juror Everett now brought into the  
25 courtroom.)

1 THE COURT: Hi, Mr. Everett.

2 Come forward right here to the chair in the  
3 front there.

4 Mr. Everett, we wanted to ask a couple of  
5 follow-up questions that we thought were better to  
6 ask just directly to you and one of the other  
7 panelists, not to the whole group, and that has to do  
8 with the last few questions about the smoking.

9 As I've said multiple times, I'll just  
10 remind again everybody's coming in here with life  
11 experiences, common sense, who they are as people,  
12 what they think and believe, and the real question I  
13 think that we have is, if it should come out in the  
14 evidence in the trial that any one or more of the  
15 parties have been a lifelong smoker, or are smokers,  
16 would you be able to overcome that concern you have  
17 about generally people being smokers and ultimately  
18 receive the evidence, weigh the evidence with your  
19 fellow jurors, and deliberate for a fair and  
20 impartial verdict.

21 JUROR EVERETT: It's something embedded in  
22 me.

23 I have a lot of negative experiences with  
24 it.

25 THE COURT: I'm not sure that answered my

1 question.

2 I'm not trying to change your thought  
3 process, not trying to change how you feel about it.

4 I'm trying to understand how it might  
5 impact you here in this trial.

6 We understand you have those concerns.

7 The issue becomes, this is still a  
8 hypothetical, but the understanding there could be  
9 people in this case who are smokers, is that  
10 automatically going to then turn you a against them,  
11 or are you able to in this trial with the oath would  
12 indicate what you are required to do, and there's a  
13 separate oath for the people actually on the panel to  
14 listen to the evidence, weigh the evidence, and reach  
15 a verdict the jurors believe is appropriate, would  
16 you be able to do that?

17 JUROR EVERETT: Not easily, I don't think.

18 THE COURT: Okay.

19 Any follow-up questions from the  
20 Plaintiff's side?

21 MR. ARNTZ: No.

22 THE COURT: Any follow-up questions from  
23 the Defense side?

24 MR. MC BRIDE: No, Your Honor.

25 MR. WEAVER: No, Your Honor.

1 THE COURT: Thank you, Mr. Everett.

2 You may step out.

3 (Juror Everett now excused from the  
4 courtroom.)

5 THE COURT: Then we need juror 665, Mr.  
6 Maltese, was the one in the front row.

7 (Juror Maltese now brought into the  
8 courtroom.)

9 THE COURT: Mr. Maltese, can you just come  
10 forward, and we're going to have you sit right in the  
11 black chair in the front row of the jury box here  
12 just for ease of chatting with you a few more  
13 minutes.

14 Thank you.

15 Mr. Maltese, we just brought you in briefly  
16 to follow-up on that last little bit of questioning  
17 we had, and how much we appreciate to know your  
18 candor and feelings about smoking, your prior history  
19 how you feel about people that smoke, so the  
20 follow-up question really not with all the other  
21 jurors present, it follows that same arena I've been  
22 talking about, you know overall, which is we all have  
23 our own life experiences, we all have our own common  
24 sense, we all are who we are as people, we come  
25 together on this jury, so we're going to have

1     whatever life experiences and thought processes we  
2     have.

3                 The question is:

4                 When it comes to the fact of should it come  
5     to light in the trial that one or more of the parties  
6     in the case are smokers, is that something that is  
7     going to get in the way of your ability to be a fair  
8     and impartial juror in this trial?

9                 In other words, if you can set that aside,  
10    even though you have those concerns generally, can  
11    you seat that aside when it comes to this case,  
12    listen to the witnesses, receive their testimony,  
13    receive the exhibits, and when it comes time to  
14    deliberate, sit down with your fellow jurors and  
15    deliberate fairly and impartially, do you think you  
16    would be able to do that?

17                JUROR MALTESE:   I want to say, yes, but I  
18    don't want to lie to you.

19                THE COURT:   And so maybe help us understand  
20    a little bit more about what it is, and how it is you  
21    think it would impact your ability to be fair and  
22    impartial.

23                JUROR MALTESE:   I had aunts and uncles who  
24    smoked at the time, were big, and they both died of  
25    cancer, and when she was in the hospital, I couldn't



1 tell where the sheets ended and they started, that's  
2 how much weight they lost.

3 I tell my friends that smoke they are  
4 morons.

5 THE COURT: I think the question was asked  
6 before quite well by counsel, but just again because  
7 it's just us here, we do want your candor, obviously  
8 the trial is based on whatever evidence is available  
9 too about what occurred in the case, and a lot of  
10 facts going to come into play, and ultimately the law  
11 you are given to apply to those facts.

12 Am I understanding you correctly that  
13 regardless of what the evidence is, regardless of  
14 what the law is, if you find out one of the people  
15 involved in the case is a smoker, you automatically  
16 will be opposed to them, is that what you're  
17 indicating to us?

18 JUROR MALTESE: I believe, yes.

19 THE COURT: Okay.

20 Any further questions from the Defendant?

21 MR. MC BRIDE: No, Your Honor.

22 THE COURT: Any further questions from the  
23 Plaintiff?

24 MR. ARNTZ: None, Your Honor.

25 MR. WEAVER: None, Your Honor.

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THE COURT: All right.

You can step out.

(Juror Maltese excused from the courtroom.)

(Thereupon, the following proceedings were had out of the presence of the jury.):

THE COURT: I don't believe either of them.

I think we gave them an open door, but at the end of the day they gave their testimony, and it is what it is, so we'll excuse Mr. Everett, and we will excuse Mr. Maltese and replace their seats, and of course we excused Mr. Wilder from our discussion.

So we have three empty seats to fill, and I would like to get to know them.

I will invite Mr. Hymanson to inquire first, and invite Defense counsel to the extent they wish to further inquire.

I appreciate your ability to get through the things to have them sitting here.

So Joshua, hold back Mr. Everett, Mr. Wilder, and Mr. Maltese as we bring the folks in.

Bring them in.

1           (Thereupon, the following proceedings were  
2 had in open court and in the presence of the jury.):

3           THE COURT: All right.

4           Make sure your cell phones are off or  
5 silent if you used them on the break, please.

6           As folks can see, we have some additional  
7 empty seats.

8           That means the folks over here in the  
9 gallery will need to fill those seats.

10          We're going to start with seat number 3 in  
11 the back row to the left, the next in line.

12          THE CLERK: 694, Julian Abaca.

13          THE COURT: Next up is seat number 9 in the  
14 back row on the right, but please come through and go  
15 around as Mr. Abaca, but if you want to go through  
16 the front row, come up on the side in the back, that  
17 is fine too.

18          THE CLERK: 699, Nicolette Albright.

19          THE COURT: Last but not least replacing  
20 seat number 14.

21          THE CLERK: 714, Terry Brown.

22          THE COURT: Mr. Abaca, may you give us the  
23 information on the board?

24          JUROR ABACA: Badge 694.

25          I install granite counter top.

1           And never graduated high school.  
2           I am single.  
3           I have one child, a son three years old.  
4           This is my -- I lived in Las Vegas for 23  
5 years, my whole life.  
6           And never been a juror.  
7           THE COURT: Thank you, Mr. Abaca.  
8           What about anybody -- It sounds like your  
9 profession you already identified, but any close  
10 friends, family members in the medical profession.  
11          JUROR ABACA: My grandmother.  
12          THE COURT: What did she do?  
13          JUROR ABACA: She was an RN.  
14          THE COURT: Here or somewhere else?  
15          JUROR ABACA: Not here in the hospital.  
16          THE COURT: When did she work for that  
17 hospital?  
18          JUROR ABACA: Ten years ago.  
19          THE COURT: Was that when she was  
20 traveling?  
21          JUROR ABACA: Yes.  
22          THE COURT: What about any circumstances  
23 you might have had regarding malpractice, medical  
24 malpractice litigation?  
25          JUROR ABACA: Nothing.

1 THE COURT: Thank you.

2 Miss Albright, answer the questions on the  
3 board.

4 JUROR ALBRIGHT: Nicolette Albright, badge  
5 699.

6 Currently I'm an accounts payable  
7 specialist.

8 THE COURT: Where do you work.

9 JUROR ALBRIGHT: I work for a company  
10 called G & G Management.

11 I have some college.

12 I'm divorced.

13 I have two children -- Well, I have two  
14 grown people, I have a 25 year old and 27 year old.

15 THE COURT: Do they work here in Las Vegas?

16 JUROR ALBRIGHT: One works for -- he's a  
17 supervisor at Fed Ex, and works part-time at Big 5.

18 My other son lives in Portland, Oregon.

19 THE COURT: How long have you lived here?

20 JUROR ALBRIGHT: Oh, my God, almost 28  
21 years.

22 THE COURT: How about jury service here or  
23 anywhere you lived?

24 JUROR ALBRIGHT: Never had jury service.

25 I never have gotten this far.

1 THE COURT: Okay.

2 You probably thought you were still going  
3 to get away.

4 JUROR ALBRIGHT: Yes.

5 THE COURT: Over than Miss Brown in the  
6 front row -- or I'm sorry -- before that, how about  
7 anybody in the medical profession in your family,  
8 family or friends?

9 JUROR ALBRIGHT: No.

10 I did at one point in time when I was out  
11 of work went to school to be a medical assistant, but  
12 it didn't -- I didn't practice.

13 THE COURT: How about any knowledge of --  
14 would you have any prior knowledge, family member or  
15 close friend, of medical malpractice litigation?

16 JUROR ALBRIGHT: No.

17 THE COURT: Okay.

18 JUROR M. BROWN: Terry Brown, 714.

19 Some college.

20 I work at Four Queens as a server.

21 Some college.

22 My husband Dan works at Planet Hollywood as  
23 a supervisor.

24 Four children.

25 Pharmacy tech at CVS.

1           A branch of manager at City Electric.

2           A school teacher at Lacey School.

3           And been here about ten years.

4           And never been a juror.

5           MR. WEAVER: Your Honor, I'm sorry, I  
6 didn't hear where Miss Brown works.

7           JUROR M. BROWN: Four Queens.

8           THE COURT: Miss Brown, what if any prior  
9 profession for yourself, or friend, or family member  
10 in the medical profession?

11          JUROR BROWN: No.

12          THE COURT: What about any experiences with  
13 anything medical malpractice-related?

14          JUROR M. BROWN: No.

15          THE COURT: Okay.

16          I'll invite Mr. Hymanson to inquire of our  
17 panelists first.

18          MR. J. HYMANSON: Thank you very much, Your  
19 Honor.

20          THE COURT: I could have asked the Four  
21 Queen question, but we've gone over a lot of ground.

22          I'll let you ask the questions.

23          MR. J. HYMANSON: That's fine.

24          Thank you, Your Honor.

25          Mr. Abaca, Miss Albright, and Miss Brown,

1 welcome.

2 As briefly as I can, do you agree about the  
3 comments about personal responsibility, most of you  
4 agree with those statements?

5 JUROR ABACA: Yes.

6 THE COURT: Any of you have any different  
7 feelings or input about that?

8 JUROR ABACA: No.

9 THE COURT: Any of you have any specific  
10 feelings regarding lawsuits, good feelings, bad  
11 feelings, too many, or any specific feelings come up  
12 for anything in the community?

13 JUROR ALBRIGHT: No.

14 MR. J. HYMANSON: Do any of you have a  
15 problem with the fact this is a case about money?

16 JUROR ALBRIGHT: No.

17 JUROR ABACA: No.

18 MR. J. HYMANSON: Thank you very much.

19 Is there anything else, you heard  
20 everything, been through -- been here for several  
21 days now, anything that you heard that you thought I  
22 really need to speak up about that, I really have a  
23 feeling about that, or something we should know?

24 I'll go individually.

25 Mr. Abaca, anything?



1 JUROR ABACA: No, sir.

2 MR. J. HYMANSON: Thank you very much.

3 Miss Albright.

4 JUROR ALBRIGHT: Badge 699.

5 No.

6 MR. J. HYMANSON: Okay.

7 And Miss Brown?

8 JUROR M. BROWN: 714.

9 No.

10 MR. J. HYMANSON: Miss Albright, just real

11 briefly, you went to school to be a medical

12 assistant.

13 Do you have any strong feelings one way or

14 the other about the medical profession?

15 JUROR ALBRIGHT: Well, not really, no.

16 MR. J. HYMANSON: The final question is,

17 I'll ask you individually, would you if you were a

18 person seeking compensation for harm caused to you by

19 medical malpractice, would you be comfortable with

20 somebody like you sitting on the jury, Mr. Abaca?

21 JUROR ABACA: Break that down, please.

22 MR. J. HYMANSON: If you were injured

23 because of someone's medical malpractice, and trying

24 to recover from your injuries or damages, would you

25 be comfortable with your view points sitting on the

1 jury to decide that case?

2 JUROR ABACA: Yes.

3 MR. J. HYMANSON: Same question for you,  
4 Miss Albright.

5 JUROR ALBRIGHT: 699.

6 Yes.

7 MR. J. HYMANSON: And Miss Brown?

8 JUROR M. BROWN: If I was the Plaintiff,  
9 yes.

10 If I was the Defendant, no.

11 MR. J. HYMANSON: Okay.

12 I have no further questions.

13 Thank you very much.

14 THE COURT: Mr. McBride.

15 MR. MC BRIDE: Thank you.

16 Good afternoon, everyone, and welcome as  
17 well to the new members.

18 Miss Brown, I'm going to follow-up directly  
19 on that last answer you gave there.

20 Can you tell me why you feel you would not  
21 feel comfortable if you were either Dr. Lasry or  
22 Nurse Practitioner Bartmus if you were on the jury?

23 JUROR M. BROWN: I feel like doctors make a  
24 lot of mistakes, and I think they act like they  
25 don't, so --

1 MR. MC BRIDE: So in this case before  
2 hearing any evidence in this case that Dr. Lasry and  
3 Nurse Practitioner Bartmus would be basically at a  
4 disadvantage in your view, based on your feelings  
5 they make mistakes?

6 JUROR M. BROWN: Absolutely.

7 MR. MC BRIDE: You heard us talk about the  
8 other cases being more appropriate, either a criminal  
9 case or other type of case.

10 Would you agree this is probably not the  
11 right case for you to act as a juror?

12 JUROR M. BROWN: I don't think I would be  
13 fair.

14 Yeah, I agree.

15 MR. MC BRIDE: Thank you for your honesty,  
16 I appreciate it.

17 Miss Albright, I wanted to follow-up with  
18 the question where I think it was asked about your  
19 feelings about the medical profession, and if you  
20 have strong feelings one way or another, and you  
21 somewhat hesitated I think in your response.

22 Is there something you want me wanted to  
23 say about your feelings about -- whether it's  
24 positive or negative, and this is tough, but this is  
25 where we need to know, and my clients as well as the

1 Moores need to know, if you are the right type of  
2 juror for this case.

3 JUROR ALBRIGHT: Okay.

4 Back in July I lost my mom.

5 She went months with fluid on her lungs,  
6 and her oncologist would not see her without an  
7 appointment.

8 Her appointment was so far out, so she was  
9 going to her cardiologist, thought he can find where  
10 the fluid is coming from.

11 He sent her for a scan, and it came back,  
12 said you have a small mass, we're just going to treat  
13 this, but we think that fluid on your lungs might  
14 just be allergies, they gave a hundred an one things  
15 back and forth to the doctor we went to, until he  
16 decided she was staying to Mountain Vista Hospital,  
17 and she checked her in, and she was diagnosed within  
18 hours, I won't even say hours, I would say an hour,  
19 of stage 4 ovarian cancer, where it has just spread.

20 Not saying that I don't know why or what  
21 decisions were made in the office to say we don't  
22 need to look further at this, but I took issue with  
23 it, I have problems with it, nobody would ever --  
24 after they did her surgery to remove the mass, she  
25 never woke up.

1 MR. MC BRIDE: Not to interrupt you, but  
2 this is very recently you said?

3 JUROR ALBRIGHT: In July.

4 MR. MC BRIDE: In July.

5 So your mother passed away in July?

6 JUROR ALBRIGHT: In July.

7 MR. MC BRIDE: I appreciate your honesty  
8 and telling us about that.

9 That is why it's very important, just like  
10 I asked Miss Brown those questions in terms of her  
11 ability to sit here and listen to the evidence in  
12 this case and be able to be fair and impartial to  
13 everyone, including my clients, who are my client Dr.  
14 Lasry, as well as Nurse Practitioner Bartmus.

15 Would you agree given the fact this was  
16 just recent in time, and resulted in the loss of your  
17 mother, your feelings about this, that again this is  
18 probably not the right type of case for you to be  
19 sitting on?

20 JUROR ALBRIGHT: I probably would agree  
21 with it.

22 But I will say that I had another instance,  
23 my son, he had an issue and had to be -- he had to  
24 have emergency surgery.

25 Then we ended up at actually the campus

1 your speaking of, and they did a fabulous job, I mean  
2 I couldn't have asked for a better response, better  
3 doctors, better -- just better care for my baby.

4 He's 25, but you know I care for my kid.

5 MR. MC BRIDE: And that's very great to  
6 hear, but you agree with me that happened a lot  
7 farther away, years ago, right?

8 JUROR ALBRIGHT: No.

9 MR. MC BRIDE: Relatively recently?

10 JUROR ALBRIGHT: His emergency surgery was  
11 probably about not even two months ago.

12 MR. MC BRIDE: You had both experiences,  
13 negative experiences, as well as the positive ones?

14 JUROR ALBRIGHT: Right.

15 MR. MC BRIDE: And that's why it's just  
16 important for us to know the loss of your mother, and  
17 what you just related to us sounds like that was a  
18 pretty emotional event and involved a lot of concerns  
19 you had about the providers that were treating her.

20 JUROR ALBRIGHT: You're right, those are  
21 those providers.

22 I can't hold this individual over here  
23 accountable for what this one over here didn't do, so  
24 everybody is an individual, and what their  
25 capabilities are is their capabilities, and not

1 somebody else's.

2 They weren't standing next to them when  
3 they gave that diagnosis.

4 MR. MC BRIDE: And let me ask you the  
5 question, if you were someone like Dr. Lasry or Nurse  
6 Practitioner Bartmus, would you want someone with  
7 your same mindset sitting on a jury if you were them?

8 All given what you just related, those  
9 experiences?

10 JUROR ALBRIGHT: I think I would be fair  
11 and impartial.

12 I don't see those doctors that misdiagnosed  
13 my mother, or missed her diagnosis several times  
14 over, I don't see those doctors sitting down there, I  
15 see them as individuals, and what their capabilities  
16 are.

17 MR. MC BRIDE: Fair enough.

18 That is all we're asking, and you are  
19 willing, and Mr. Abaca, you are also willing, to sit  
20 and listen to all the evidence in this case, as is  
21 presented before you make a decision?

22 JUROR ABACA: Yes.

23 MR. MC BRIDE: Is it something you think  
24 you can make -- the Plaintiff's, since they have the  
25 burden of proof in this case, prove that case and

1 every element of their case before you even consider  
2 an award of damages is appropriate?

3 JUROR ABACA: Yes.

4 MR. MC BRIDE: In this particular case is  
5 there any other questions I asked yesterday you  
6 happened to be paying attention to any of them, was  
7 there any of those questions that raised something in  
8 your mind that you feel you need to say today?

9 JUROR ABACA: No.

10 MR. MC BRIDE: Anything we should know, all  
11 of us collectively, as about you, or something that  
12 you in your background you think is important for us  
13 to know?

14 JUROR ABACA: Yes.

15 I'm very stressed out right now,  
16 understanding I'm supposed to be here.

17 It's my first time, I thought it was going  
18 to be a one-day thing.

19 I have a three year old son, and because I  
20 do construction work, I don't get on the job, I don't  
21 get paid, so no way to pay rent, and I'm very  
22 stressed out, and I'm really sorry.

23 MR. MC BRIDE: There is nothing to  
24 apologize about.

25 You think given that you're stressed out



1 about that, obviously it is weighing on you, that  
2 that is going to potentially interfere with your  
3 ability to listen to the evidence and that this case  
4 goes until next Friday?

5 JUROR ABACA: I'm going to be honest with  
6 you, I don't want to be here at all.

7 I just want to be released.

8 MR. MC BRIDE: Again, if you were someone  
9 -- I apologize for asking this question, but do you  
10 think you could set aside these sort of feelings, the  
11 stress you're experiencing right now, and be able to  
12 listen to the evidence and view it impartially, or be  
13 so upset you think by the fact you're sitting here  
14 that you might not pay attention?

15 JUROR ABACA: I'm paying attention, just  
16 stressed out.

17 That's all I can say.

18 THE COURT: Can I remind Mr. Abaca, are you  
19 currently on work job now?

20 JUROR ABACA: I work.

21 THE COURT: So --

22 JUROR ABACA: I actually was supposed to  
23 start a job yesterday.

24 Like I said, I thought it was going to be a  
25 one-day thing, so the fact I'm here still is

1        stressing me out.

2                THE COURT:    I understand that.

3                I'm trying to remind you of a couple  
4 things, see if it makes any difference.

5                So you are not out looking for work, you  
6 have the work waiting for you to go do it, correct?

7                JUROR ABACA:    Yeah, whoever comes on the  
8 job first.

9                THE COURT:    Tomorrow and Friday we're  
10 essentially here full days, but next week we're only  
11 here half days, 1:30 to 5.

12               Can you talk to your relative and work the  
13 schedule around that, so you can still work?

14               JUROR ABACA:    It's not going to make a  
15 difference.    It's the first one on the job, and the  
16 next job whoever is on that job.

17               THE COURT:    So I want to make sure I'm  
18 understanding you clearly, that even though our  
19 schedule is relatively how much time you sit here in  
20 the courtroom, you see no possibility of engaging in  
21 any work between now and next Friday, is that what  
22 you're telling me?

23               JUROR ABACA:    No work at all, that's why  
24 I'm stressed.

25               THE COURT:    Okay.

1 MR. MC BRIDE: Thank you.

2 THE COURT: Mr. Weaver.

3 MR. WEAVER: Thank you.

4 Good afternoon.

5 I'll be super brief.

6 Miss Albright, and Miss Blake, and Mr.

7 Abaca, have any of the questions --

8 THE COURT: Mr. Weaver, I want to make sure  
9 there's no confusion.

10 It's Miss Albright, Miss Brown, and Mr.  
11 Abaca.

12 MR. WEAVER: Thank you, Your Honor.

13 The questions that I asked about Nurse  
14 Practitioner Bartmus, do any of you have any  
15 responses or concerns or anything that contributes to  
16 any of the questions that was specific to Nurse  
17 Practitioner Bartmus, specifically having to do with  
18 whether you have any concerns about a nurse  
19 practitioner diagnosing, treating, doing orders in  
20 the emergency department, as opposed to a physician,  
21 any concerns about that?

22 JUROR ALBRIGHT: No.

23 MR. WEAVER: Thank you, Miss Albright.

24 Mr. Abaca.

25 JUROR ABACA: No feelings at all.

1 MR. WEAVER: Miss Brown?

2 JUROR M. BROWN: No.

3 MR. WEAVER: And I assume, Miss Brown, that  
4 since you said that you are not a fan of doctors,  
5 would the same be true with regard to nurse  
6 practitioners?

7 JUROR BROWN: I have a nurse practitioner  
8 and as my doctor.

9 MR. WEAVER: But it sounds like your  
10 concerned with the health care providers in general,  
11 is that fair?

12 JUROR M. BROWN: Yes.

13 MR. WEAVER: Miss Albright, just for  
14 clarification, 699, given that you expressed concern  
15 about what happened with your mother, and I think you  
16 said repeatedly a misdiagnosis, if hypothetically  
17 there were issues in this matter that had to do with  
18 allegations of misdiagnosis, are you worried, or do  
19 you think that that may cause emotions or issues of  
20 concern that given how recent it was just in July  
21 having to do with your mother?

22 JUROR ALBRIGHT: You don't know when your  
23 emotions is going to flare up from day to day.

24 I can hear a song on the radio and get in  
25 my heart and absolutely boo-hoo, go from one extreme

1 to the other, and sit there and laugh.

2 So hearing something, this is not my mom's  
3 case, this is not her issue, this is something  
4 totally separate, and does not have anything to do  
5 with me per se.

6 So I will hear it, and hopefully I wouldn't  
7 have issues, but you never know from day to day.

8 MR. WEAVER: That is just what I'm asking  
9 you about.

10 It sounds like even though you are trying  
11 to be fair and impartial, given this doesn't have to  
12 do with your mother, it has to do with someone else,  
13 it sounds like it would be fair to say that you would  
14 have some concern about whether if any of the issues  
15 were the same in terms of concerns that you had about  
16 your mother's care, you don't know that you might not  
17 have emotional reactions because of what happened  
18 with your mother, is that fair?

19 JUROR ALBRIGHT: Well, it's fair, yeah,  
20 that's fair.

21 I just, like I said, I don't see the  
22 doctors that took care of my mom.

23 I don't see the doctors took great care of  
24 my son.

25 I see the people who are there, and

1     whatever their abilities are, those are their  
2     abilities.

3             Everybody's not the same.

4             Just like the lawyers sitting next to -- at  
5     the table, so everybody's abilities are different,  
6     and whatever they brought to the table that day is  
7     what they brought to the table that day, has nothing  
8     to do with what happened with my mother in July, has  
9     nothing to do with my son and 18 months ago.

10            MR. WEAVER: Thank you, Miss Albright.

11            One last clarification, did you say your  
12     mother was taken to Mountain View Hospital?

13            JUROR ALBRIGHT: Yes.

14            MR. WEAVER: And the diagnosis was made  
15     within an hour, give or take?

16            JUROR ALBRIGHT: Yes.

17            MR. WEAVER: Was she admitted through the  
18     emergency department?

19            JUROR ALBRIGHT: She was admitted through  
20     the emergency department.

21            THE COURT: Okay.

22            Thank you.

23            Any further questions?

24            I'll see counsel at the bench, please.

25

1                   (Thereupon, a discussion was had between  
2 Court and counsel at sidebar.)

3                   THE COURT: At this time we have two  
4 additional excusals from the panel.

5                   We're going to excuse juror number 694, Mr.  
6 Abaca, and Juror Number 714, Miss Brown.

7                   You are excused.

8                   Please see the marshall on your way out to  
9 turn your badges in.

10                  I'll ask my clerk to call next in line to  
11 fill seat number 3 in the back row.

12                  THE CLERK: 730, Joey Polk.

13                  THE COURT: The front row seat.

14                  THE CLERK: 731, Jose Cordova.

15                  THE COURT: Let's start with you and get to  
16 know you a little better.

17                  Answer the questions on the board.

18                  JUROR POLK: 730.

19                  My husband is a manager at the Golden  
20 Nugget.

21                  We have five children together. None of  
22 them are old enough to work.

23                  I lived in Las Vegas 28 years.

24                  I've been a juror before on a civil case  
25 and was the foreperson.

1                   And a verdict was reached.

2                   MR. MC BRIDE:   How long ago was that.

3                   JUROR POLK:    2008.

4                   THE COURT:   How was that experience for  
5   you?

6                   JUROR POLK:   It was a good time.

7                   THE COURT:   I appreciate you being back for  
8   service this time.

9                   And I would like to know the two questions  
10   coming next, any connection between you, a close  
11   friend, family member to the medical profession?

12                  JUROR POLK:   No.

13                  THE COURT:   How about any experiences with  
14   the medical profession?

15                  JUROR POLK:   No.

16                  THE COURT:   Turning to Mr. Cordova.

17                  JUROR CORDOVA:  I'm a control supervisor.

18                  THE COURT:   Where do you work?

19                  JUROR CORDOVA:  For Boyd Corporation,  
20   downtown.

21                  I went to high school, graduated.

22                  I'm divorced.

23                  I have two kids.

24                  One is growing up.

25                  One is in New Mexico.



1           The other one lives here. He's a chef in a  
2 restaurant down on The Strip.

3           I've been here 34 years.

4           THE COURT: Jury service?

5           JUROR CORDOVA: I've been through this, but  
6 didn't get this far.

7           THE COURT: That's the last question there,  
8 jury service.

9           Why are you nervous, sir?

10          JUROR CORDOVA: I don't know.

11          THE COURT: You understand once we get to  
12 the final qualifications, ultimately only 10 will  
13 serve, and again at that point -- I mean, I could say  
14 it's a passive role, it's not entirely passive, you  
15 have to be engaged, listening, receiving the  
16 evidence, and ultimately deliberating, but you won't  
17 be participating back and forth like this then.

18          Is that okay with you?

19          JUROR CORDOVA: Yes.

20          THE COURT: How about you, as far as  
21 yourself, family member, close friends in the medical  
22 profession?

23          JUROR CORDOVA: No.

24          THE COURT: How about any interactions with  
25 any kind of medical malpractice experience?

1 JUROR CORDOVA: I had an experience with a  
2 nephew.

3 THE COURT: Okay.

4 And was that recent?

5 JUROR CORDOVA: About 10, 12 years ago.

6 THE COURT: When you say, experience, I've  
7 asked the question more specifically about medical  
8 malpractice, like litigation. Was he involved in  
9 litigation?

10 JUROR CORDOVA: He died.

11 They ended up taking him to Kingman in the  
12 ER, and they found him nine days later behind the  
13 hospital somewhere.

14 THE COURT: You said this occurred in  
15 Kingman?

16 JUROR CORDOVA: Yes.

17 THE COURT: Did the family ever pursue any  
18 kind of litigation?

19 JUROR CORDOVA: My sister did.

20 THE COURT: And that was in Kingman related  
21 to like what the hospital did?

22 JUROR CORDOVA: The hospital and police for  
23 negligence.

24 THE COURT: And how directly involved were  
25 you with with that circumstance?

1 JUROR CORDOVA: I am the one went and  
2 looked for him, and when they told me he was missing,  
3 and I didn't find him.

4 THE COURT: Like Miss Albright back there,  
5 she was having your questions, kind of had some  
6 experience on both sides, maybe you had some good  
7 experiences with doctors and hospitals, or not, I  
8 don't know, but I guess the question is, will you be  
9 able to look out on the evidence, the witnesses, the  
10 parties, the case as its own separate thing?

11 JUROR CORDOVA: I shouldn't have a problem  
12 with that.

13 THE COURT: You will be able to be fair and  
14 impartial, deliberate with your fellow jurors?

15 JUROR CORDOVA: Concerning myself, I have  
16 had my hips replaced, so --

17 THE COURT: Thank you, sir.

18 Mr. Hymanson, any questions of those two  
19 new panelists?

20 MR. J. HYMANSON: Thank you, Your Honor.

21 Good afternoon, Miss Polk and Mr. Cordova.

22 So you heard all of this.

23 You have any feelings about personal  
24 responsibility, any positive, negative feeling about  
25 lawsuits?

1 JUROR POLK: No.

2 MR. J. HYMANSON: Any problems that the  
3 case is about money?

4 JUROR POLK: No.

5 MR. J. HYMANSON: Anything else you really  
6 think we should know that in everything we've been  
7 talking about will affect your ability to serve as  
8 fair and impartial jurors on this particular case?

9 Miss Polk?

10 JUROR POLK: No.

11 MR. J. HYMANSON: And, Mr. Cordova, the  
12 same thing, anything?

13 JUROR CORDOVA: No.

14 MR. J. HYMANSON: I'll ask you a couple  
15 follow-ups.

16 Miss Polk, you said you were a foreperson  
17 on a jury before?

18 JUROR POLK: It was a good time.

19 MR. J. HYMANSON: What do you mean by, it  
20 was a good time?

21 JUROR POLK: I have a Bachelor's Degree in  
22 criminal justice, so I was just out of college.

23 MR. J. HYMANSON: And you got to apply your  
24 knowledge of that?

25 JUROR POLK: Yes.

1           MR. J. HYMANSON: Mr. Cordova, I'm very  
2       sorry to hear about your nephew, and thank you for  
3       sharing that, I know it's tough to say that in front  
4       of everyone else.

5           You understand that the facts of this case  
6       are different than what happened with your nephew,  
7       correct?

8           JUROR CORDOVA: Yes.

9           MR. J. HYMANSON: And you think given the  
10      facts of this case will be different than what  
11      happened to your nephew, you think you will be able  
12      to just look at the facts and evidence presented to  
13      you in this Court, and make a fair and impartial  
14      decision?

15          JUROR CORDOVA: Yes.

16          MR. J. HYMANSON: Ladies and gentlemen, I  
17      have no further questions.

18          THE COURT: Mr. McBride.

19          MR. MC BRIDE: Thank you, Your Honor.

20          I'll try to be brief.

21          Miss Polk and Mr. Cordova -- Miss Polk, the  
22      experience as a juror, you were able to apply your  
23      experience in your background in criminal justice.

24          You said it was a civil case, right?

25          JUROR POLK: Yes.

1           MR. MC BRIDE: What was it that you felt  
2 you were able to apply to that civil case?

3           MR. MC BRIDE: This was ten years ago, so  
4 please don't take offense, but they didn't really  
5 explain the process as well as possible, so I was one  
6 of the few people could help explain it, so a lot of  
7 people on the jury didn't understand what it was they  
8 were supposed to do.

9           MR. MC BRIDE: And you understood because  
10 you were presented with instructions from the Judge  
11 at the conclusion of the case before you actually  
12 won't back, that told you what the law is, and what  
13 you were supposed to consider, is that right?

14          JUROR POLK: Yes.

15          MR. MC BRIDE: So as the foreperson, did  
16 you help explain that process to other jurors?

17          JUROR POLK: Yes.

18          MR. MC BRIDE: And a case like -- again,  
19 this is a case you know nothing about the facts and  
20 circumstances, other than the little tidbits you may  
21 have heard.

22                Anything -- This occurred in an emergency  
23 room.

24                Anything about any personal experiences you  
25 may have may impact your ability to be other than

1 fair and impartial in this case?

2 JUROR POLK: No.

3 MR. MC BRIDE: This is a case of the  
4 Plaintiff's are going to be asking for money at the  
5 conclusion of, and same question I would ask, but in  
6 a different light, if the evidence suggested at the  
7 conclusion of it all that Plaintiff's are not  
8 entitled to any damages, if the jury finds the  
9 Defendants didn't do anything wrong, are you able to  
10 turn the Plaintiffs away and award zero dollars to  
11 them?

12 JUROR POLK: Yes.

13 MR. MC BRIDE: You have any problem with  
14 that?

15 JUROR POLK: No.

16 MR. MC BRIDE: You understand sympathy is  
17 not going to enter into any of the decision making?

18 JUROR POLK: Yes.

19 MR. MC BRIDE: Okay.

20 Mr. Cordova, again I'm sorry for your  
21 experience, personal experience, and I want to make  
22 sure, it sounds like you are able to separate the  
23 facts in what happened to your nephew in that case  
24 from anything that you haven't even heard the facts  
25 of, right?

1 JUROR CORDOVA: Right.

2 MR. MC BRIDE: Do you have any strong  
3 opinions one way or another about the medical care  
4 here in Las Vegas?

5 JUROR CORDOVA: No.

6 MR. MC BRIDE: Do you have a doctor who you  
7 regularly treat with for any reason?

8 JUROR CORDOVA: Dr. Manning was one the one  
9 did my hips, did both surgeries on both hips within a  
10 year, so it was great, everything turned out good.

11 MR. MC BRIDE: What hospital did that take  
12 place?

13 JUROR CORDOVA: Mountain Vista.

14 MR. MC BRIDE: And you heard me talk about  
15 the fact this is a case that you would decide on the  
16 facts and evidence.

17 Do you think you're able to do that in this  
18 particular case?

19 JUROR CORDOVA: I should be able to.

20 MR. MC BRIDE: Are you willing to wait  
21 until the Plaintiffs have put on their case and  
22 before making any certain judgment allow the Defense  
23 to put on their case?

24 JUROR CORDOVA: Yeah.

25 MR. MC BRIDE: Again, one last thing, if



1 you were someone like Dr. Lasry, would you want  
2 someone with your same mindset, given your prior  
3 experience, would you want someone where your same  
4 mindset sitting on a jury in judgment of him or his  
5 character?

6 JUROR CORDOVA: I wouldn't judge him  
7 because I don't know the whole thing, don't know what  
8 went down or whatever, but I'd be fair as much as I  
9 could, if the evidence was provided.

10 MR. MC BRIDE: That's all we can ask.

11 Again, we're just asking for you to be fair  
12 and impartial.

13 You think you can do that, and you think  
14 also that if the facts in this particular case don't  
15 support an award of damages to the Plaintiff, would  
16 you be okay turning the Moores away, not awarding  
17 them any money?

18 JUROR CORDOVA: If that's what would be the  
19 facts and all that comes out, that's fair.

20 MR. MC BRIDE: Okay.

21 Anything from either one of you on anything  
22 I should know about either one of you, or anything in  
23 your background based on any of the questions you  
24 heard today might be important for any of us to know?

25 Thank you very much.

1 THE COURT: Mr. Weaver.

2 MR. WEAVER: Thank you, Your Honor.

3 Good afternoon, Miss Polk.

4 Is there any answer that you would give me  
5 as pertains to Miss Bartmus -- or Nurse Practitioner  
6 Bartmus that is different than what you gave Mr.  
7 McBride about Dr. Lasry?

8 JUROR POLK: No.

9 MR. WEAVER: Mr. Cordova, any answer would  
10 you give me as pertains to Nurse Practitioner Bartmus  
11 would be different than the answers that you gave to  
12 Mr. McBride as pertains to Dr. Lasry, if I were  
13 asking you the same question?

14 JUROR CORDOVA: No, I wouldn't.

15 MR. WEAVER: Thank you, Your Honor.

16 THE COURT: All right.

17 Thank you.

18 Counsel, please.

19 (Thereupon, a discussion was had between  
20 Court and counsel at sidebar.)

21 THE COURT: All right.

22 Ladies and gentlemen, at this time I can  
23 inform the panel we have qualified 20 jurors to  
24 possibly serve at this trial.

25 Those are the 20 here in the box.

1           The five of you back there, I saw you were  
2 getting ready, I don't know if that was engaging in  
3 any specific prayer or hopefulness one way or the  
4 other, but at this time the remaining five of you are  
5 excused.

6           Thank you for your service.

7           Please see the marshal on the way out.

8           I think we had a voucher for you.

9           They served three days, do they not  
10 vouchers?

11          THE MARSHAL: Yes.

12          I already explained it to them.

13          THE COURT: Thank you for your service.

14          THE COURT: What we're going to do now is,  
15 complete the final portion of the process, ladies and  
16 gentlemen.

17          I'm going to have some instructions I'm  
18 going to read to you that will give you some basic  
19 information about this trial.

20          We will begin with the opening statements  
21 tomorrow, and the jurors will return at 9:30.

22          I originally thought we were going to start  
23 at 9, but I forgot there was one other unrelated  
24 Court matter I need to handle and resolve in the  
25 morning at 9, so we'll move that quickly, expect to

1 start with you at 9:30.

2 Just like every other day, come here, be  
3 out front waiting to go.

4 Things that will change, the marshal can  
5 explain, answer any questions you might have.

6 So you will now be provided parking, so you  
7 won't be on your own for parking, that is one  
8 benefit, and because it's a full day tomorrow and  
9 Friday you will be on your own for lunch, but we'll  
10 give you a lunch break for those remaining with us.

11 For the 10 don't remain, we're very  
12 appreciative of your service.

13 I want to, like I said, I have some basic  
14 information that we provide now, so that you kind of  
15 understand the playing field.

16 To the extent some of the stuff has come up  
17 in the time that we have been through this voir dire  
18 process, again there's some redundancies, and I  
19 apologize for that.

20 Forgive me again for reading. I just want  
21 to make sure we get through it quickly.

22 I have this script, so the reporter does  
23 not have to write this down, I can provide that to  
24 the reporter.

25 So I'm going to do it as quickly as

1 possible, so you all have this information, and then  
2 of course the final instructions, inclusive of some  
3 of these will come at the end of the trial, but I'll  
4 do them now, since we have a little bit of time for  
5 this final selection process.

6 (The Judge read the pre-trial information  
7 to the jurors.)

8 THE COURT: I'm just looking at the final  
9 list, and when I'm certain we have a final panel of  
10 10, I'm going to ask my Court clerk to read the  
11 names.

12 I want to review it.

13 Any motions to be made by either counsel at  
14 this time?

15 MR. MC BRIDE: No, Your Honor.

16 MR. ARNTZ: No, Your Honor.

17 THE COURT: At this time I believe we do  
18 have the final panel of 10.

19 I'll give it to my clerk, she will read  
20 your name and the seat you have.

21 If you hear your name read, you are one of  
22 the 10 staying with us.

23 If you do not hear your name read, please  
24 keep seated until all 10 names are read, so people  
25 aren't getting up leaving causing a disruption.

1           Once all 10 are named, I will excuse the  
2 rest of the panel, and thank you now on behalf of  
3 counsel and myself for your service.

4           THE CLERK:   Seat number, 1 Sabrena Clinton.

5           Seat number 2, Marcel Brown.

6           Number 3, Ryan Burk.

7           Number 4, Lynevieve Sallee.

8           Number 5, Katrina Johnson.

9           Number 6, Timothy Fyfe.

10          Number 7, Theresa Blake.

11          Number 8, Rebecca Price.

12          Number 9, Terry brown.

13          Number 10, Michael Newman.

14          THE COURT:   All right.

15          If you did not hear your name read at this  
16 time, you are excused.

17          Thank you for your service.

18          (Remaining jurors excused from the  
19 courtroom.)

20          THE COURT:   Ladies and gentlemen, when you  
21 come back in tomorrow, we'll have your seats.

22          You will be seated more central in the jury  
23 box.

24          You will have your note pads and pens.

25          You will have your new badge.

1 I do expect to start promptly at 9:30.

2 If there's any slight delay, please stand  
3 by because sometimes things beyond our control need  
4 to be addressed with the jurors not present.

5 We promise you, if you are not in here, we  
6 are working in here, not wasting time.

7 We like to run a tight ship, keep the trial  
8 on track.

9 We do believe we are on track to finish  
10 this.

11 All we ask again is that you return  
12 tomorrow with your open mind and your juror hat on  
13 and ready to serve.

14 If you have any questions at all as you  
15 leave here, the marshal will take you outside, and he  
16 can answer the questions.

17 But you will be given parking instructions.

18 And see you back here tomorrow for a 9:30  
19 start.

20 Thank you all.

21 Have a good night.

22 (Jury excused from the courtroom.)  
23  
24  
25

1           (Thereupon, the following proceedings were  
2 had out of the presence of the jury.):

3           THE COURT: I think we have a very good  
4 panel.

5           I really do anticipate -- I have one  
6 attorney going to be here tomorrow is very  
7 long-winded, I won't say which one it is, but I'll do  
8 everything in my power to keep it tight, and if you  
9 see we're still arguing, I'll try to get you in and  
10 set up right at 9:30 to get going.

11           We'll take the lunch break because we're  
12 having the dailies.

13           Depending when we do take lunch break, we  
14 need to resume no earlier than 1:30, so I'm trying to  
15 take that somewhere between 12 and 1:30, but we'll  
16 see you all tomorrow.

17           Anything we need to address before we  
18 leave?

19           MR. MC BRIDE: We were going to ask to  
20 confirm on the record who you anticipate calling as  
21 your witnesses tomorrow.

22           MR. ARNTZ: I anticipate calling Miss  
23 Bartmus first, and Dr. Lasry second, and then  
24 depending on what time is left we may call  
25 Christopher, the son.



1           THE COURT:   How long do you think your  
2 opening might be?

3           MR. MC BRIDE:   We talked about that.

4           We're going to try make it around 45  
5 minutes I think each, it may go 45 minutes to an hour  
6 hopefully.

7           THE COURT:   We might break for lunch then,  
8 and whenever we break keep in mind I'm not bringing  
9 anybody back before 1:30 because of the dailies and  
10 time frame, and how the schedule works I need that  
11 last reporter to be here for 1:30 to 5, so if we can  
12 get it up to noonish, if we take a little longer  
13 lunch, I don't have a problem, I don't want to lose  
14 any time in the trial.

15          MR. MC BRIDE:   Right.

16          MR. ARNTZ:   So we're looking at possibly  
17 two-and-a-half hours.

18          THE COURT:   Yes.

19          So two-and-a-half hours, so a start at 9:30  
20 puts us right at 12.

21          If we go into the 12:00 hour, we can start  
22 a little later than 1:30, it just can't start before.

23          Have a good night.

24          (Proceedings concluded.)

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REPORTER'S CERTIFICATE

I, Bill Nelson, a Certified Court Reporter  
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pursuant to NRS 2398.030 I have not included the  
Social Security number of any person within this  
document.

I further Certify that I am not a relative  
or employee of any party involved in said action, not  
a person financially interested in said action.

\_\_\_\_\_/s/ Bill Nelson\_\_\_\_\_

Bill Nelson, RMR, CCR 191

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) SS .

I, Bill Nelson, RMR, CCR 191, do hereby  
certify that I reported the foregoing proceedings;  
that the same is true and correct as reflected by my  
original machine shorthand notes taken at said time  
and place.

/s/ Bill Nelson

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21 Bill Nelson, RMR, CCR 191  
22 Certified Court Reporter  
23 Las Vegas, Nevada  
24  
25

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