

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.)

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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

APPELLANT'S APPENDIX VOLUME VIII

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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 21st day of July, 2021, I served a true and correct copy of the foregoing **APPELLANT'S APPENDIX VOLUME VIII** 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:
- x 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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By: /s/ E. Breen Arntz
An employee of E. Breen Arntz, Chtd.

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DARELL L. MOORE and CHARLENE A.)
 MOORE, individually and as)
 husband and wife,)

Plaintiffs,)

vs.)

CASE NO.

JASON LASRY, M.D.,)
 individually; FREMONT EMERGENCY)
 SERVICES (MANDAVIA), LTD.;)
 TERRY BARTMUS, RN, APRN; and)
 DOES I through X, inclusive;)
 and ROE CORPORATIONS I)
 through V, inclusive,)

A-17-766426-C

DEPT. NO. 25

Defendants.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

OF JURY VOIR DIRE

BEFORE THE HONORABLE KATHLEEN E. DELANEY

TUESDAY, JANUARY 28, 2020

APPEARANCES:

For the Plaintiffs:

E. BREEN ARNTZ, ESQ.
 HANK HYMANSON, ESQ.
 PHILIP M. HYMANSON, ESQ.

For the Defendants:

ROBERT C. MCBRIDE, ESQ.
 KEITH A. WEAVER, ESQ.
 ALISSA BESTICK, ESQ.

REPORTED BY: DANA J. TAVAGLIONE, RPR, CCR No. 841

1 LAS VEGAS, NEVADA, TUESDAY, JANUARY 28, 2020

2 * * * * *

3
4 THE COURT: Let's get on the record and
5 we'll answer that question.

6 Thank you. Back on the record in trial,
7 Moore vs. Lasry, et al.

8 You all may have a seat. I don't think we
9 need to restate appearances. Just keep in mind our
10 reporter that's with us today is different than our
11 reporter yesterday, and we'll follow all the same
12 rules. We'll speak up. Try to remember to give
13 juror numbers and names as we're doing it -- you're
14 doing a great job with that, by the way.

15 We had a little bit of delay. There's been
16 one juror that was a little late, but it looks like
17 everybody is here and ready to go. We do have an
18 additional group of jurors. I did not bring them
19 into the room. I'm having them sit down in jury
20 services. I don't think we're going to need them.
21 By my count, we have like 16 extra people in the
22 room. And, you know, so far, things seem to be
23 going fairly well here.

24 You were going to ask a question,
25 Mr. Arntz, about folks observing in the courtroom.

1 MR. ARNTZ: Yeah, there's a couple people
2 from my firm. Are they okay there, or --

3 UNIDENTIFIED SPEAKER: If they can move
4 back over here.

5 THE COURT: well, it really depends on, you
6 know, what their advantage point would be best
7 served. There's still seats up here behind counsel
8 table, which we're not bringing the jurors in that
9 way, so that's not an issue, if they want to be
10 there; or they can be back there. We just have
11 jurors, you know, that -- they can probably be over
12 here behind this table, closer, because are you
13 going to bring the rest of the jurors and line them
14 up over here?

15 We're not going to have them all scattered
16 in the courtroom like yesterday. I told them the
17 rest of the gallery people would just line up so
18 you'll feed them in. So it really depends on where
19 you're best --

20 UNIDENTIFIED SPEAKER: We'll just sit back
21 here.

22 THE COURT: All right. You can be in the
23 middle row. You don't have to be in the back row.
24 That gives you a little bit better viewpoint.

25 Okay. Anything else before we bring the

1 jurors in and get started?

2 MR. ARNTZ: That's it, Your Honor.

3 THE COURT: Okay. I'm very hopeful. I
4 don't know what you're all thinking in your agenda,
5 but I really would like to complete jury selection
6 today. Is that a possibility?

7 MR. MCBRIDE: I would love to, but I don't
8 think it's going to be possible. I think each of
9 our clients have to have an opportunity to be able
10 to question and be able to ask the panel questions.

11 THE COURT: Well, I don't disagree, but we
12 have -- you know, it's 1:15, 2:15, 3:15, 4:15 -- we
13 have 3 hours and 45 minutes. We can't finish his
14 questioning and your questioning and your
15 questioning in that amount of time?

16 MR. MCBRIDE: I will do my best,
17 Your Honor. But I think it's important and depends
18 on how much information they're providing us when we
19 ask these general questions. But I really do think
20 it's important for us to get an idea of who these
21 jurors are and which ones are going to be
22 appropriate jurors for this case.

23 THE COURT: All right. Counsel, I don't
24 disagree with you. I know it's important. You
25 don't have to share with the Court what's important.

1 what's also important is we keep this trial on
2 track.

3 MR. MCBRIDE: Understood.

4 THE COURT: And if we can finish jury
5 selection today, we're fine. If not and we have to
6 trail it over to Wednesday, then what are we looking
7 at? Are we looking at trying to do openings with
8 people who just got seated? Are we trying to then
9 postpone openings until Thursday? And then where
10 are we?

11 So this is why we, I think, have to have an
12 aspirational goal here. I know you have prepared
13 your voir dire, but I'm asking you to be creative in
14 that, if you can still do your inquiry, depending on
15 the information -- counsel here is getting quite a
16 bit of information. Lots of people are talking.
17 You're getting to know these people. But, you know,
18 we're not engineering this jury within an inch of
19 its life. We're picking fair and impartial jurors,
20 and I don't why we need to spend hours upon hours
21 separately inquiring if you're getting information
22 and you're doing the followup. I'm just asking you
23 to be thoughtful to whatever your script is, that we
24 try to work within the time frames.

25 MR. ARNTZ: Your Honor, if it helps, if it

1 helps at all, I really believe we're still going to
2 be on track, even if we start with openings on
3 Thursday.

4 THE COURT: Well, that helps a lot. I'm
5 not inclined to start with openings on Thursday if
6 we don't have to, like you know.

7 MR. ARNTZ: I understand.

8 THE COURT: But let's see where we go.
9 But, you know, like I said, all I'm asking -- I know
10 how important this is to both sides, and we've got
11 two folks over here, and I get it -- all I'm asking
12 is each of you have planned the trial you want to
13 conduct. But I have to oversee a whole trial, and I
14 have to get a whole trial done.

15 So you can't just stay on your scripts.
16 You have to start to think along the lines of what
17 gets us done and where we need to go. If we're
18 still on track to finish by next week and we can
19 take until Wednesday, fine. The giant group of
20 people that we're going to keep bringing back here
21 aren't going to be thrilled to be still in jury
22 selection on Wednesday, but that's life.

23 MR. ARNTZ: Well, let me put it this way, I
24 was always planning on finishing my case in chief on
25 Monday, and I will still finish my case in chief on

1 Monday.

2 THE COURT: Let's see how we do. All right.

3 MR. MCBRIDE: Thank you, Your Honor. And
4 just so the Court is clear, I don't intend on taking
5 hours and hours of jury selection, but I honestly
6 don't know how much more that they're going to ask.

7 THE COURT: I don't either, and we'll get
8 started, you know, but we're talking 3 hours and
9 45 minutes. I thought we could finish. But if you
10 tell me we can't --

11 MR. MCBRIDE: And I'll do my best.

12 THE COURT: -- then so be it.

13 MR. MCBRIDE: I'll certainly do my best.

14 THE COURT: Okay. That's all I'm asking.
15 I'm not asking for anything special. I'm just
16 asking -- this is the two days that we blocked for
17 jury selection. I know we got a little bit behind,
18 but plaintiff got rolling and he's in his mix, and
19 let's, you know, try to get this done. You know,
20 we're going to start later in the day. Now we've
21 lost a little time I get it with the juror being
22 late and me committed. But we're going to start
23 earlier than we anticipated and, you know, that was
24 what we were looking at. So I'm just trying to keep
25 to the schedule we actually already talked about.

1 MR. MCBRIDE: Understood, Your Honor.

2 THE COURT: All right.

3 MR. ARNTZ: Understood, Your Honor.

4 THE COURT: Let's get the jurors.

5 THE MARSHAL: All rise for the jury.

6 THE COURT: All right. As the last few
7 jurors are taking their seats, I'll invite everyone
8 else to have a seat. Thank you and welcome back,
9 everyone, to day 2 of our voir dire, discussions with
10 our potential jurors and those who might serve on
11 this panel.

12 I will acknowledge that we have one missing
13 seat or one juror who's no longer with us in the box
14 of 20. We had, with counsel's discussion, gone
15 ahead and excused, for the record, Juror Ms. Ashley,
16 Juror 627. She had expressed some language concerns
17 and disability to be able to fully understand and be
18 able to participate in this trial. So she has been
19 excused.

20 We do need to call the next juror in line
21 to fill that vacancy which is, if you'll again
22 remember as we were coming through between counsel
23 table through what we call the "well" here and then
24 around on the side to take your spot.

25 THE CLERK: Badge 665, James Maltese.

1 THE COURT: Thank you, Mr. Maltese.

2 Before I have counsel for the plaintiffs
3 resume the questioning of the entire panel, now that
4 you have joined the group of 20, we'd like to get to
5 know you a little bit better. I don't know if you
6 can see the board well enough or if you can just --

7 MR. MALTESE: My name is James Maltese. My
8 former job, I was assistant vice president and
9 telecommunications manager for a financial firm in
10 Manhattan. I have a BBA, business computer
11 information systems and quantitative methods.

12 THE COURT: Okay.

13 MR. MALTESE: I don't have a spouse or a
14 domestic partner. I have no children. I've lived
15 in Las Vegas like two and a half years. Moved here
16 from New York. I've been on two, one jury trial
17 that ended after two days of trial they settled.

18 THE COURT: All right. When you say
19 "settled," we use that term typically when we're
20 talking about a civil trial. Do you recall it to
21 have been a civil trial?

22 MR. MALTESE: No. It was a burglary and a
23 stabbing.

24 THE COURT: All right. So it was a
25 criminal trial, but so there was a plea entered?

1 MR. MALTESE: Plea entered.

2 THE COURT: Is that how you understand it?
3 Okay. And you said "second day of trial," so were
4 you actually in the position of listening to
5 witnesses and participating?

6 MR. MALTESE: Yes.

7 THE COURT: And just, again, for the
8 record, even though we had called you right before
9 you began speaking, you're Juror No. 665. Just
10 remember if you're going to be responsive to any
11 questions of counsel, that you give name and your
12 Juror No. And your badge number, last three digits,
13 and I'll remind all of the jurors of that.

14 I think, at this time, you're ready to
15 resume, Mr. Hymanson, with your questions?

16 MR. H. HYMANSON: No questions. Thank you.

17 THE COURT: Oh, no questions of this
18 witness. No, but I meant you're going to resume
19 with the panel.

20 MR. H. HYMANSON: I apologize. Yes,
21 Your Honor.

22 THE COURT: Okay.

23 MR. H. HYMANSON: Thank you so much.
24 Apologize for the confusion.

25 Good afternoon, ladies and gentlemen. Good

1 to see you all again.

2 Mr. Maltese, welcome to the panel.

3 THE COURT: And before you start,
4 Mr. Hymanson, stay there. But I did ask the general
5 panel before Mr. Hymanson started yesterday, do you
6 have anybody in your, you know, close circle, family
7 member, close friend, you, yourself, in a prior job
8 ever working in the medical field.

9 MR. MALTESE: I have a sister who is an
10 R.N., and now she's an administrator in a hospital.

11 THE COURT: Okay. Have there been any
12 occasions that you, a family member, a close friend
13 have been involved in any medical malpractice
14 litigation?

15 MR. MALTESE: My brother-in-law's family
16 sued a doctor because of a heart problem or
17 something, but they lost.

18 THE COURT: Okay. And how long ago was
19 that?

20 MR. MALTESE: Maybe 10, 15 years ago.

21 THE COURT: Was that something that you
22 were sort of directly involved in or just aware of?

23 MR. MALTESE: Not at all.

24 THE COURT: Okay. Is that anything that
25 would impact your ability to be fair and impartial

1 here?

2 MR. MALTESE: No.

3 THE COURT: Mr. Hymanson, whenever you're
4 ready.

5 MR. H. HYMANSON: Thank you very much,
6 Your Honor.

7 Ladies and gentlemen, we're going to start
8 of with group questions like we're doing again -- or
9 like we did yesterday.

10 what does it mean to take full
11 responsibility for your actions?

12 Yes. Ms., is it "Bechtold"?

13 MR. BECHTOLD: Yes. Juror 624. To be
14 accountable for your actions.

15 MR. H. HYMANSON: Okay. And so what does
16 being accountable for your actions mean to you?

17 MS. BECHTOLD: Doing what is expected of
18 you under the rules or the practice or whatever your
19 career is.

20 MR. H. HYMANSON: Does that involve --
21 let's say a hypothetical. There's two kids playing
22 catch with a baseball, and one of them throws the
23 ball over other kid's head, and it breaks a window.
24 What is full accountability in that situation?

25 MS. BECHTOLD: He should have gone to the

1 owner and told his story that it was an accident and
2 that he would come take responsibility for the
3 breakage.

4 MR. H. HYMANSON: And when you say "take
5 responsibility," would you say that paying to fix
6 the window, is that what you consider part of the
7 responsibility or not?

8 MS. BECHTOLD: Yes. Part of it. Yes.

9 MR. H. HYMANSON: Okay. So saying that I
10 did something wrong, but then doing what you can to
11 compensate for the wrong that you caused. I don't
12 want to put words in your mouth, but is that what
13 you're saying?

14 MS. BECHTOLD: Yes.

15 THE COURT: Mr. Hymanson, can I ask a
16 favor. You're kind of dancing around in front of
17 the court reporter, and it's much easier if she can
18 actually see the person speaking. So if you could
19 either just be over there or be over here, it would
20 be great. I don't mind if you move around. Just
21 try not to stand in the line of sight of the court
22 reporter.

23 MR. H. HYMANSON: Understood, Your Honor.
24 Thank you very much, and I apologize.

25 THE COURT: Thank you.

1 MR. H. HYMANSON: Ladies and gentlemen,
2 does anyone agree? Some people shaking their heads.

3 Okay. Does anybody disagree?

4 Yes, sir. Mr. Withers; correct?

5 MR. WITHERS: Bruce Withers, 618. So prior
6 to before the window was broken, there was two
7 people involved in the apartment, and they could
8 have said, "Hey, we're getting kind of close to this
9 house, maybe should move to a different location."
10 So I think ownership is on both boys.

11 MR. H. HYMANSON: Okay. And so you think
12 that the two boys playing catch are both
13 responsible for the window being broken?

14 MR. WITHERS: Yes.

15 MR. H. HYMANSON: Do you still agree that
16 taking full responsibility is to compensate the
17 owner of the house for the damage that's been done?

18 MR. WITHERS: Yes.

19 MR. H. HYMANSON: Do you think that it's
20 important for people to take responsibility for
21 their actions? Is that an important thing for
22 people to do?

23 MR. WITHERS: Yes.

24 MR. H. HYMANSON: Okay. Let's talk to
25 Mr. Headd, Juror 633; correct?

1 MR. HEAD: Correct.

2 MR. H. HYMANSON: why is it important for
3 people to take responsibility for their actions?

4 MR. HEAD: Well, if people didn't, it would
5 be pandemonium. People could do whatever they want
6 and get away with it and, you know, and it would
7 make society really tough.

8 MR. H. HYMANSON: Okay. Does anyone
9 disagree with what Mr. Headd said?

10 Okay. So everyone agrees that if people --
11 people need to take responsibility for their
12 actions; otherwise, it would make everything
13 chaotic?

14 Does anyone have an opinion about, if it's
15 important to compensate -- why it's important to
16 compensate people for their harms and their losses?

17 Mr. "Ehle"?

18 MR. EHLE: "Ehle."

19 MR. H. HYMANSON: "Ehle." I apologize.
20 Mr. Ehle, Badge No. 022; correct?

21 MR. EHLE: Uh-huh.

22 MR. H. HYMANSON: why is it important to
23 compensate people for their harms and their losses?

24 MR. EHLE: Otherwise, there would be no
25 consequences, I guess.

1 MR. H. HYMANSON: There would be no
2 consequences. Okay. And what do you mean by
3 "consequences"?

4 MR. EHLE: Well, you have to take
5 responsibility for your actions, I think.

6 MR. H. HYMANSON: It goes back to kind of
7 what we've been talking about, what I started with.

8 Okay. Mr. Grant, do you agree with what
9 Mr. Ehle said?

10 MR. GRANT: Yeah, for the most part, I do.
11 I think it's important to at least offer
12 compensation, if possible; and it actually truly
13 shows that you're sorry for what happened.

14 MR. H. HYMANSON: And your badge, the last
15 number of your badge.

16 MR. GRANT: 634. I'll try to remember.

17 MR. H. HYMANSON: That's no problem, and
18 I'll try to do my best to help everyone remember
19 also. Mr. Read?

20 MR. READ: Yes.

21 MR. H. HYMANSON: Do you agree with
22 Mr. Ehle and Mr. Grant?

23 MR. EHLE: 637. Yeah, I think so. At
24 least kind of offer. Like, I know you get a
25 situation where like -- like, you know, like kids

1 have broken stuff at my house, and I'm like, "Don't
2 worry. You guys were just playing." And it's like
3 "I'll take care of it. Don't worry about it." It's
4 just it kind of comes out to that. But for the most
5 part, they could at least offer to clean up the
6 glass. You know, just try to do your best, yeah.

7 MR. H. HYMANSON: And I'm going to switch
8 gears a little bit. I just want to talk -- does
9 anybody have any strong feelings, one way or the
10 another, about lawsuits? Yes, sir.

11 MR. HEADD: About 17 years ago --

12 THE COURT: Your name and your badge
13 number, please.

14 MR. HEADD: Oh, Ryan Headd, 633. Back in,
15 I think it was probably 2002, 2003, I was sued for
16 \$10 million in a fender-bender. And so I, after a
17 two-year process, it kind of came out to be a big
18 waste of everybody's time, and it was basically
19 people looking for a payday. And so ever since
20 then, I haven't really had a high opinion of civil
21 suits.

22 MR. H. HYMANSON: Okay. Did that case go
23 to trial?

24 MR. HEADD: Yes.

25 MR. H. HYMANSON: And did it result in a

1 verdict, or did it settle before the trial was over?

2 MR. HEADD: No. It resulted in a verdict.
3 They were trying to get \$10 million. They ended up
4 getting a few thousand for medical expenses.

5 MR. H. HYMANSON: And is it fair to say
6 that soured your opinion about people that file
7 lawsuits?

8 MR. HEADD: If it's a similar case. If it
9 comes out to it's pretty obvious people are trying
10 to get a payday, then yes. If it's something
11 actually was done wrongly or, you know, something
12 that's pretty obvious that somebody was gross
13 negligence or something like that, then, yeah, it
14 makes sense to me. But I think society has kind of
15 gotten sue happy.

16 MR. H. HYMANSON: Okay. What do you use as
17 a basis to determine what you think is -- because I
18 think you're saying -- and, again, I'm not trying to
19 put words in anyone's mouth.

20 But what I think I understand you saying is
21 that you think if it's a suit that you think has
22 merit, you don't have a problem with that; but if
23 you think it's a frivolous suit, you have an issue
24 with that; is that fair?

25 MR. HEADD: Correct.

1 MR. H. HYMANSON: And what kind of criteria
2 do you use to try to determine if it's what you
3 think is a meritorious suit or a frivolous suit?

4 MR. HEADD: I think it depends on the
5 situation. But if it's one of those accidents
6 happen -- accidents happen every day. Does that
7 mean somebody purposely hurt somebody on purpose?
8 If it's something that's purely an accident, I don't
9 think somebody else should really try to make
10 millions of dollars off it.

11 MR. H. HYMANSON: Thank you very much.

12 THE COURT: And before you move on, I just
13 want to clarify something. You used a term of art
14 here, "gross negligence." I don't know if you meant
15 that in any particular way or if that was just a
16 term you were using.

17 But at the end of the day, I just want to
18 remind the jurors that whatever the causes of action
19 are in this case and whatever those standard or law
20 to be applied to them is, the Court will give it to
21 you, and it will be your duty, as jurors, to follow
22 that.

23 So I don't want there to be any
24 misunderstanding that you won't have the
25 instructions on that but that, you know, any kind of

1 idea that you might have in your mind about what the
2 law to be, that's not your province. The Court will
3 give you the law to apply. I just want to make sure
4 everybody is clear on that.

5 Does anybody have any questions about that?
6 All right. You may proceed, Mr. Hymanson.

7 MR. H. HYMANSON: Thank you very much
8 Your Honor. So following-up on what Mr. Headd said,
9 just by a show of hands, does anybody have the
10 opinion that there are too many lawsuits that are
11 being filed today?

12 Okay. All right. Does anybody -- well,
13 let's see. So, Ms. Price, you raised your hand.
14 why is it that you think there are too many lawsuits
15 being filed today?

16 MS. PRICE: I had a similar situation. I
17 was in a car accident about five or six years ago,
18 and the other person was in the fault. However,
19 they decided to sue me. It didn't wind up going
20 through with anything. There was no -- there were
21 no witnesses. There was no evidence on either side.

22 So nothing wound up happening. But it
23 definitely stayed in the back of my mind that
24 somebody would sue.

25 MR. H. HYMANSON: Okay. Thank you very

1 much. And Badge No. 632; correct?

2 MS. PRICE: 632.

3 MR. H. HYMANSON: Thank you very much.

4 Mr. Taylor, I believe you had your hand
5 raised.

6 MR. TAYLOR: Yes.

7 MR. H. HYMANSON: And then why do you think
8 that there are too many lawsuits?

9 MR. TAYLOR: 644. Yeah, I mean, there's
10 circumstances where some lawsuits are justified.
11 Some things happen, and compensation is necessary.
12 However, it does seem like it's, as referenced
13 earlier, people are sue happy. They just want a big
14 payday, just for -- just because they can.

15 MR. H. HYMANSON: Mr., I think it was -- is
16 it Burke?

17 MR. BURKE: Yes.

18 MR. H. HYMANSON: Badge No. 510; correct?

19 MR. BURKE: Yes.

20 MR. H. HYMANSON: Did you have your hand up
21 also?

22 MR. BURKE: Yeah.

23 MR. H. HYMANSON: Okay. And why do you
24 think that there are too many lawsuits?

25 MR. BURKE: Just kind of a group's opinion,

1 just people looking for things that are going out of
2 their way to put themselves in situations they don't
3 need to be just so they can, you know, have it
4 happen for them. Almost put yourself in harm's way
5 to have something happen to you.

6 MR. H. HYMANSON: Can anyone think of a
7 specific example that they can point to why they
8 have this feeling there are too many lawsuits?

9 Yes, sir. Mr. -- I'm sorry. Mr. Wilder;
10 correct?

11 MR. WILDER: 611. As a businessman, I've
12 had a few of those lawsuits thrown at us too. As an
13 example, we had a kid that was doing delivery for
14 us, and believe it or not -- don't laugh -- he drove
15 into a rehab bus. Out of ten -- there were ten
16 people on this bus, and every one of them sued us.
17 And every one of them, it was either dismissed or
18 they got caught on film with investigators doing
19 certain things.

20 It was really a nuisance suit, but it was
21 extremely time consuming and it was pretty evident
22 what was happening, and we had to settle all the
23 little ones like that that were just kind of
24 actually senseless and led now where in the end.

25 MR. H. HYMANSON: Does anybody think that

1 sometimes people have to sue to be compensated for
2 the harm that's been done to them?

3 Does anybody disagree with that statement?

4 Okay. Let's say -- Ms., is it "Sallee"?

5 MS. SALLEE: It's "sallee."

6 MR. H. HYMANSON: "sallee." I apologize,
7 ma'am. Do you think that someone needs to sue
8 sometimes to be justly compensated for the harm
9 that's been done to them?

10 MS. SALLEE: They do sometimes. You know,
11 whether it's medical or property or, you know. It
12 depends on what it is obviously.

13 MR. H. HYMANSON: Does anyone have any
14 example of how they would determine if they think a
15 case is meritorious or if it's frivolous?

16 Yes, sir. Mr. Taylor. 644.

17 MR. TAYLOR: Yeah. Taylor, 644. If it
18 comes down a he-said, she-said basically. If it's
19 just somebody saying something just because and
20 there's no way to quantify it to prove it, then it's
21 hard to justify.

22 MR. H. HYMANSON: Okay. I want to make
23 sure that I understand what you're saying. So you
24 think that if it comes down to a he-said, she-said,
25 that that makes it meritorious?

1 MR. TAYLOR: No, no, no. It becomes, as
2 mentioned before, frivolous basically. So without
3 lack of evidence, facts, it becomes basically his
4 word versus my word, her word, whoever's word.

5 MR. H. HYMANSON: Okay. And so, again, I'm
6 not trying to put words in your mouth. I'm just
7 trying to see if I understand you correctly.

8 Are you basically saying that you want to
9 look to see if there's some other facts that back up
10 what happened.

11 MR. TAYLOR: Precisely.

12 MR. H. HYMANSON: Okay. Does everyone
13 agree with Mr. Taylor by a show of hands?

14 Does anybody disagree with Mr. Taylor?
15 Yes, sir. Mr. Read; correct?

16 MR. READ: I kind of do to -- I don't know.
17 Like, we're just kind of like -- like that almost
18 like kind of needs a lawsuit, kind of, to kind of
19 settle it. It's just when things kind of don't --
20 you can't come to agreement. I don't know. I've
21 never been to a point where I feel like I need to go
22 to court or even get close, like over an issue.
23 Like either trying to concede an issue or like kind
24 of come to some kind of agreement.

25 But like, kind of like I think lawsuits are

1 kind of you just can't come to an agreement like at
2 all. Like, you know, I think that's in -- that's
3 kind of what's this process is about. It's kind of
4 finally settling your argument that it's not like
5 you guys can keep going around in circles.

6 MR. H. HYMANSON: And so it's fair to say
7 that kind of goes back to what we were talking about
8 before that sometimes you think it's necessary for a
9 party to file a lawsuit to get resolution for
10 something?

11 MR. READ: Yeah, yeah.

12 MR. H. HYMANSON: That they feel like, you
13 know what, we're not being properly compensated for
14 the harm that's been done to us. So we have to file
15 this lawsuit?

16 MR. READ: Yeah. So even like -- yeah,
17 he-said, she-said or whether it's. I just realized
18 I probably should give my badge number. It's 637.

19 MR. H. HYMANSON: No problem.

20 MR. READ: I don't know why it just crossed
21 my mind just now. But, yeah, so just kind of like
22 where that is, so it's just kind of that situation
23 where like, you know, I think that like you have --
24 it's like, you know, like even if somebody is lying
25 or not being totally honest or being straightforward,

1 like it's maybe where you're going to have to come
2 up with the facts and at least make some kind of
3 judgment on those facts.

4 MR. H. HYMANSON: Great. Thank you.

5 Ms. Clinton, I haven't talked to you yet
6 today. I know that you are a practicing attorney.
7 what kind of law do you practice?

8 MS. CLINTON: I haven't practiced actively
9 for awhile. I'll be starting a job in a few weeks.
10 When I was practicing, I did civil litigation.

11 MR. H. HYMANSON: Civil litigation. Okay.
12 And your badge number is 658; correct?

13 MS. CLINTON: Yeah, 658.

14 MR. H. HYMANSON: What kind of civil
15 litigation did you do?

16 MS. CLINTON: Mostly business matters,
17 contract disputes, and real estate issues.

18 MR. H. HYMANSON: Okay. May I ask you
19 where you're starting your new job.

20 MS. CLINTON: The Attorney General's
21 office.

22 MR. H. HYMANSON: Okay. Congratulations.
23 Very exciting. How do you feel about lawsuits?

24 Do you think there's too many? There's not
25 enough?

1 MS. CLINTON: I don't have a feeling, one
2 way or the other. I don't know how many lawsuits
3 are filed. So it's all relative, how you look at it.

4 MR. H. HYMANSON: Nothing about your civil
5 practice from before turned you off to thinking
6 there's too many lawsuits or there's not enough
7 lawsuits?

8 MS. CLINTON: No.

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

10 So we've talked about lawsuits. Let's talk
11 about jury verdicts. How many of you think that
12 jury verdicts are too high? Anyone think that jury
13 verdicts are too high?

14 No. No concerns about the size of jury
15 verdicts? Okay.

16 How do you feel about attorney advertising?
17 Does anyone have an opinion about, you know,
18 especially in this town, of advertising all over the
19 place? Yes. Mr. Jones.

20 MR. JONES: Badge 625. Being retired now,
21 having a chance to watch daytime television, there
22 are attorneys everywhere, and I think that they do
23 an injustice to the lawsuit system by basically
24 making it seem as though it's very, very easy to get
25 in a wreck, need a check; or, you know, I mean, it's

1 just like I'm in dire straits, but I invent
2 something, and all of a sudden, wow, I'm rich.

3 And I think they're really creating a real
4 false sense of what the legal system is for and how
5 it should be utilized. There's just -- especially
6 if there are no down sides to bringing an issue. I
7 think that it just makes it way too easy, and it's
8 portrayed as something that should be a lot more
9 careful. I think they should treat it like they do
10 liquor on television. Be very, very careful who you
11 advertise it to and how you put it out there
12 because, you know, it involves some very, very
13 serious situations, and I don't think those things
14 get played up enough.

15 MR. H. HYMANSON: And I think you said a
16 lot there. I want to ask you about one particular
17 line in that. I think that if I hear you correctly,
18 you're saying that you think that they almost lessen
19 the effect of the -- we talked about frivolous and
20 meritorious cases, the fact that there's so many ads
21 for everything. People say "hey, in a wreck, need a
22 check," it kind of takes away from how people
23 potentially view the meritorious lawsuits because
24 the system just gets filled with a lot of frivolous
25 lawsuits also. Is that kind of what you're saying?

1 MR. JONES: Yeah, that's correct. Yeah,
2 there's so much garbage, you can't tell what's real.

3 MR. H. HYMANSON: Understood. Does anyone
4 agree with Mr. Jones?

5 Does anyone disagree with Mr. Jones?

6 Yes, sir. Mr. Grant; correct?

7 MR. GRANT: Yes. 634. While I agree that
8 there are a lot of frivolous lawsuits, I think
9 attorneys have every right to advertise their
10 services because they're in business to make money.
11 Just like I'm in business to make money, just like
12 doctors are in business to make money. And I think
13 all of them are -- it's fair game. Go out there,
14 brand yourself in a certain way and have a catchy
15 jingle with your phone number on it. Everyone knows
16 that number, by the way, he just said.

17 But, to me, it's not the fault of someone
18 watching daytime television and being confused with
19 the process. It's up to their own merits to decide
20 whether to reach out to an attorney or not. It's
21 just that, you know, they're putting their sign on
22 the door, so to speak, to get people out there to
23 get them business so they can provide for their
24 families. So I don't have anything against
25 advertising.

1 MR. H. HYMANSON: Thank you very much.

2 By a show of hands, if you were injured,
3 seriously injured by someone else's conduct, would
4 you file a lawsuit?

5 I'm sorry. So Ms. Bechtold; correct?

6 MS. BECHTOLD: 624.

7 MR. H. HYMANSON: 624. You started saying
8 something.

9 MS. BECHTOLD: It's not as clearcut as that
10 for me.

11 MR. H. HYMANSON: Okay. So what would it
12 come down to for you?

13 MS. BECHTOLD: If I was seriously injured?

14 MR. H. HYMANSON: Correct.

15 MS. BECHTOLD: Okay. Well, there are first
16 a lot of facts to be known and medical treatment,
17 and there's just a lot to go through before you just
18 go sue somebody. And that's why there's a Statute
19 of Limitations to kind of see, yes, you're really
20 hurt in the beginning; but then, you know, who knows
21 what's going to happen. So there's just a lot of
22 different unknowns.

23 MR. H. HYMANSON: Absolutely.

24 MS. BECHTOLD: So just to go out and file
25 one right off the cuff, out of the ambulance, I'm

1 not for that.

2 MR. H. HYMANSON: Understood. And it was
3 really, as you put it, that was an incomplete
4 hypothetical that I had, but just for the purposes
5 of talking to people, that's what that was.

6 But that brings out something. So you
7 worked as a paralegal for several years; correct?

8 MS. BECHTOLD: Yes.

9 MR. H. HYMANSON: And what type of law did
10 the firm that you work for practice?

11 MS. BECHTOLD: We did insurance -- I did
12 insurance defense for 15 years.

13 MR. H. HYMANSON: Okay. And I'm sorry. I
14 didn't mean to cut you off, ma'am.

15 MS. BECHTOLD: That's okay. I worked for
16 some really special attorneys that we collected all
17 the evidence, and they were very fair. If they felt
18 that the plaintiff was injured, their
19 recommendations, I always felt were fair.

20 MR. H. HYMANSON: Okay. Is there anything
21 about your experience working for so many years as
22 an insurance defense paralegal that gives you any
23 hesitation about serving as a juror on a medical
24 malpractice case?

25 MS. BECHTOLD: No. I worked both sides.

1 Yeah.

2 MR. H. HYMANSON: And so you don't think
3 there's anything about your experience that would
4 make you give, lean more towards the defense or
5 towards the plaintiff in this?

6 MS. BECHTOLD: No. I've actually worked
7 for a plaintiff firm for like five years. So I've
8 worked both sides, and I think I'm fair to look at
9 all the information.

10 MR. H. HYMANSON: Thank you very much.

11 So I was also asking -- so the way you
12 started on that was if you were injured by someone
13 else's actions, if you were to file a lawsuit. So
14 let's put a little bit more context to that.

15 Not right out of the gate, but if you tried
16 to be -- what you tried to seek what you thought was
17 just compensation and it wasn't offered you and you
18 felt as though you had no choice, given that
19 situation -- so you were severely injured and you're
20 not offered enough to properly compensate you --
21 given that factual scenario, does that change
22 anyone's answer that didn't raise their hand about
23 whether they'd file a lawsuit or not?

24 Yes, sir. Mr. Burke; correct?

25 MR. BURKE: Yes. 510.

1 MR. H. HYMANSON: And why does that change
2 your answer?

3 MR. BURKE: Just because I think, you know,
4 some people take responsibility for their actions
5 and if they hurt someone, they'll -- you know, you
6 can settle before you have to come to those terms or
7 you file a lawsuit. But as you said, that's not
8 happening and you have serious expenses or things to
9 replace or anything like that, then that's when it
10 comes into play to file a lawsuit.

11 MR. H. HYMANSON: Okay. And I know that
12 Mr. Jones said he wouldn't file a lawsuit.

13 Is there anyone else that said that they
14 wouldn't file a lawsuit? No one else?

15 MR. MALTESE: "would" or "wouldn't"?

16 MR. H. HYMANSON: Would not.

17 MR. JONES: You didn't ask under what
18 conditions, why they would file.

19 THE REPORTER: I'm sorry. The two
20 gentlemen, please.

21 MR. H. HYMANSON: So that was Mr. Maltese,
22 665, to the right; and then Mr. Jones, 625.

23 THE REPORTER: Thank you.

24 MR. H. HYMANSON: And so, Mr. Jones, 625.
25 You're saying "what conditions."

1 what conditions would it take for you to
2 file a lawsuit?

3 MR. JONES: Is that something happened
4 where I did not contribute to any of the law. I
5 think that's -- if you know that it's solely someone
6 else's fault. You know, you can have someone do
7 something to you that hurt you, and you may have
8 been involved in something that, by your own
9 actions, that caused the situation to be worse than
10 maybe it should have been.

11 So, yeah, I think that, you know, you have
12 to look at what are all the facts, okay, before you
13 run out and hire somebody and try to get everything
14 done. There's -- just do your due diligence and
15 make sure that it's right before you run out and
16 make a legal issue.

17 MR. H. HYMANSON: Understood. Let me ask
18 you this, you said if you were completely not at
19 fault. But let's say if we're talking about fault,
20 100 percent. If you think you were 20 percent out
21 of fault, would you file a lawsuit do you think, or
22 do you think you wouldn't file a lawsuit?

23 MR. JONES: Depends on what the injury is.

24 MR. H. HYMANSON: Okay. I apologize.

25 Mr. Maltese, 665.

1 MR. MALTESE: I was in the hospital over
2 20 times, and this one time, the nurse, the R.N.
3 gave me an IV for a diabetic person. Now, I guess I
4 could have sued, but I didn't because there was no
5 real harm done really. So I don't know if that
6 makes a difference.

7 MR. H. HYMANSON: Okay. No. The basis of
8 the scenario we've gotten away from a little bit was
9 if you were severely injured or harmed by someone
10 actions. That was what it was premised on. But
11 thank you very much for volunteering that.

12 If there's something that you really need
13 to remember, what do you do to remember, to try to
14 remember that thing? So it's a very abstract
15 question. It's switching gears a little bit.

16 But, yes, Mr. Headd; correct?

17 MR. HEADD: Yes. 633. Just go over it
18 again and again and again, just so that it's, you
19 know, engrained in your memory.

20 MR. H. HYMANSON: Okay. So you just in
21 your head, you try to remember it by repeating it in
22 your head.

23 Okay. Does anybody write something down if
24 they really want to remember something?

25 Anybody that -- any other tricks that

1 anyone has besides repeating it in their head,
2 writing it down? Anything else?

3 Yes, sir. Mr. Taylor.

4 MR. TAYLOR: 644. Yeah, visualization.
5 Basically imagining what the concept or idea or
6 image, person, or whatever, putting it a word
7 associating with a visual.

8 MR. H. HYMANSON: Okay. Anybody else?

9 Let's talk about the effects of lawsuits.
10 How many of you feel that lawsuits are hurting
11 business? I see some hesitant hands in there.

12 So we'll start Mr. Withers.

13 MR. WITHERS: Withers, 618. In the
14 industry I work in, transportation, lawsuits are a
15 norm. And it's, you know, whether it's at-fault
16 negligence or it happened, it just happened, it's
17 something that we actually hand off to our legal
18 department. So it's up to us to collect all the
19 information, document, pictures, so on, and then
20 pass it on to the legal department.

21 MR. H. HYMANSON: Is there anything -- so
22 this came up with saying that you think it hurts
23 business. So is there anything that, of that
24 opinion, that you think it hurts business that makes
25 you feel that, you know, you might have a different

1 opinion coming in as a juror on a medical
2 malpractice case like this?

3 MR. WITHERS: Well, I think with what we've
4 talked about earlier today, there's a lot of
5 frivolous lawsuits, and in my industry, there's a
6 lot of frivolous lawsuits. When it comes to
7 malpractice or just cause, rather, I think there's a
8 place for it. Once again, if it's frivolous, it's
9 just wasting people's time.

10 MR. H. HYMANSON: But there's nothing
11 about -- it sounds like you're saying there's
12 nothing about your background that just makes you
13 automatically want to favor one side or the other.

14 MR. WITHERS: No.

15 MR. H. HYMANSON: Okay. And then I saw
16 Mr. Grant, you had raised your hand; correct?

17 MR. GRANT: Yes.

18 MR. H. HYMANSON: 634; correct?

19 MR. GRANT: 634. Sorry. I forgot again.

20 MR. H. HYMANSON: That's all right. It's
21 tricky.

22 MR. GRANT: No, I don't have any data to
23 back it up whether it hurts business or not. It's
24 strictly just opinion. I just know that if I am --
25 let's say if I am hired to photograph someone's

1 wedding, I stress out a lot about potential mistakes
2 because I don't want to be sued because I've read
3 too many horror stories about it.

4 So as far as that, I kind of just try to
5 minimize mistakes as much as I can to make sure that
6 I don't have any lawsuits handed to me at some
7 point.

8 MR. H. HYMANSON: And so it's something of
9 your kind of personal anxiety about things. But has
10 it affected your business at all?

11 MR. GRANT: It's kept me from doing more
12 weddings, yeah. That's usually the field that
13 they're more suing at.

14 MR. H. HYMANSON: Is there anything about
15 that experience that makes you question your ability
16 to serve on a medical malpractice case?

17 MR. GRANT: No.

18 MR. H. HYMANSON: And, Mr. Headd, you had
19 your hand up also; correct?

20 MR. HEADD: Yeah.

21 MR. H. HYMANSON: 633?

22 MR. HEADD: Correct.

23 MR. H. HYMANSON: And why did you have your
24 hand up?

25 MR. HEADD: Mainly just it seems like it

1 pulls away resources from everybody, time from the
2 jurors, time from the courtrooms, time from
3 everybody. And that being said, there is cases that
4 absolutely should be in court and should be tried.
5 But the frivolous ones, it's just hurting everybody
6 else. It's eating our time, their time, everybody's
7 time.

8 MR. H. HYMANSON: And we may have talked
9 about this directly. If we did, I apologize. But I
10 just want to get more revealed. So we talked about
11 this definition of essentially two designations: A
12 frivolous lawsuit or a meritorious lawsuit.

13 what do you do to determine what the
14 difference of those is?

15 MR. HEADD: Oh, I think it depends on the
16 situation. But it's -- like I said, if it's just a
17 pure accident, you know, some -- nobody is really
18 trying to do harm to anybody else; or, you know,
19 sometimes stuff just happens and if one party tries
20 to sue the other over that, I think it's leaning
21 towards potentially frivolous.

22 Then, again, if there's something that you
23 have somebody hurt somebody else and it's completely
24 their fault, then those people, you know, deserve to
25 be able to go to court and be heard, and so it just

1 depends on the situation.

2 MR. H. HYMANSON: Okay. Mr. Wilder, I saw
3 that you had your hand up.

4 MR. WILDER: Yeah, 611. This might be a
5 one off. But being in the construction business,
6 our little company, we were delivering about 6,000
7 houses a year --

8 THE REPORTER: I'm sorry.

9 (The record was read.)

10 MR. WILDER: Oh, I'm sorry. And I'm the
11 one that can't hear.

12 Anyway, we were in the kitchen cabinet
13 business, and our little company was doing about
14 6,000 houses a year in kitchen and bath cabinetry
15 for the major builders in Las Vegas. But when the
16 construction defect lawsuits came in, it was just
17 brutal. Talk about hurting a business, almost
18 destroyed ours.

19 MR. H. HYMANSON: Okay. And so that's, you
20 said kind of a one off because that's a bigger kind
21 of --

22 MR. WILDER: Purely, purely one off for us
23 because we had nothing to do with anything
24 structural. But we got drug in and sued in every
25 single one, thousands and thousands and thousands.

1 MR. H. HYMANSON: Is there anything about
2 that experience that has affected how you think
3 about lawsuits in general?

4 MR. WILDER: Not really. Not really.

5 MR. H. HYMANSON: Okay. You say "not
6 really." So let's explore that a little bit more.
7 why do you say "not really"?

8 MR. WILDER: It was pretty traumatic. I
9 mean, I literally had to hire my own attorney to
10 just work for me full time, just to handle it, and
11 with no recourse. He would just coordinate with the
12 insurance companies. But it left a pretty bad taste
13 in my mouth, for sure. But, again, it's a one off.
14 But I mean, that's how these things can get out of
15 control when you say, when you talk about frivolous.

16 MR. H. HYMANSON: Okay. I appreciate that.
17 So but it's fair to say that there is still some
18 negative taste in your mouth for lawsuits?

19 MR. WILDER: Yeah, yeah. Probably right.
20 Probably right.

21 MR. H. HYMANSON: Okay. If you're just
22 being completely honest, that's something that's
23 happened for awhile.

24 MR. WILDER: Yeah.

25 MR. H. HYMANSON: And there's nothing that

1 I'm going to say today that's going to change how
2 you feel about lawsuits?

3 MR. WILDER: Not that regard for that
4 specific time, no.

5 MR. H. HYMANSON: This is a bit of a
6 strange question: But if you hear that something
7 bad has happened to someone, do you ever think that
8 that's maybe because of something bad that they did
9 in the past or that, you know, they had that coming
10 for them, that they deserved that?

11 Has anyone ever had that feeling before?

12 MR. JONES: Talking about karma?

13 MR. H. HYMANSON: Sure. Talking about
14 karma. So, Ms. Price, you had your hand up first.

15 MS. PRICE: Yes.

16 MR. H. HYMANSON: So what do you think
17 about that? So 632; correct?

18 MS. PRICE: 632. Yeah, and I guess I was
19 in the same word, "karma," which is sometimes we put
20 ourselves in situations that we shouldn't be putting
21 ourselves into.

22 MR. H. HYMANSON: Okay, okay. What would
23 be an example of that?

24 MS. PRICE: You leave your car open,
25 unlocked. Somebody steals something out of your

1 car. Obviously, it's more out of some -- more on
2 the person who's burglarizing you. But you did just
3 make it a lot easier for them by leaving your car
4 open.

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

6 Mr. Jones, you were talking about karma.
7 So do you feel that sometimes karma is a real thing?

8 MR. JONES: I don't know if it's
9 necessarily a real thing. I think if people
10 continue to think of bad things on them, that at
11 some point, just the odds are that something bad is
12 going to happen to you.

13 MR. H. HYMANSON: Okay. And 625; correct?

14 MR. JONES: Yes.

15 MR. H. HYMANSON: I apologize. Okay. So
16 if you're going to keep doing something bad,
17 basically it's -- maybe playing with fire would be
18 an example. People would say, "Oh, you're playing
19 with fire" or something?

20 MR. JONES: Yeah.

21 MR. H. HYMANSON: That's what you're
22 talking about with that?

23 Okay. I believe -- well, let's see. We
24 haven't heard from Mr. Fife; correct?

25 MR. FIFE: Yes.

1 MR. H. HYMANSON: What do you think about
2 that? Do you think that just because -- so do you
3 think that sometimes bad things happen because
4 someone did something bad in the past?

5 MR. FIFE: 614. I guess not necessarily.
6 But I mean, like he said, if you keep doing bad
7 things, bad things are probably going to happen to
8 you.

9 MR. H. HYMANSON: Thank you very much.
10 Does anyone have a problem with awarding
11 damages for someone's pain and suffering?

12 Money damages for someone's pain and
13 suffering, does that give anyone?

14 Yes, sir. Mr. Back; correct?

15 MR. BACK: Yes. 385. Were you saying if I
16 had anything wrong with it?

17 MR. H. HYMANSON: Yeah. Do you have
18 something that you think it would be hard for you to
19 award money for someone for their pain and
20 suffering?

21 MR. BACK: I actually have the inverse
22 feeling.

23 MR. H. HYMANSON: Okay. Let's talk about
24 that.

25 MR. BACK: I may get a little emotional

1 talking about it. My little sister was born
2 January 2006. She was born ten weeks premature.

3 THE COURT: Can I interrupt you for just
4 one second, and may I have counsel at the bench.
5 Something just occurred, and I want to...

6 (Bench conference.)

7 THE COURT: All right. Thank you.

8 We are going to take a brief recess at this
9 time. I know we've only been back at it about
10 45 minutes. But coming off of lunch is oftentimes a
11 time when more breaks are better than less breaks.
12 But, regardless, we're going to take a slightly over
13 ten minute break. We'll be returning at 2:15.

14 During this recess, of course, I'm just
15 going to remind you again that you're not to talk or
16 converse among yourselves or with anyone else about
17 the case, try to speculate about the case, try to do
18 any research about the case. No social media
19 communications of any kind. No Internet searches.
20 Anything like that. All those same admonishments
21 that I gave you last night. But don't go too far,
22 and we're going to see you back in here at 2:15.

23 All right.

24 (Jury panel exits courtroom.)

25 THE COURT: Let's go ahead and use the

1 restrooms. We'll come back in about five minutes,
2 at 3:10 and we'll have a brief discussion about that
3 matter before we bring the gentleman back in.

4 And there's one other matter that I need to
5 bring to the parties' attention as well about the
6 jurors, but we'll come back in about five minutes.

7 MR. ARNTZ: Thank you, Your Honor.

8 (Pause in the proceedings.)

9 THE COURT: We're going to need some help,
10 Joshua, bringing in a couple of the jurors to talk
11 to, but let me just do a couple of things first.

12 So just to make record of the bench
13 conference, I called the counsel forward because it
14 appeared quite obvious that the juror -- what's his
15 number again? Is it 510? Sorry. It's 385,
16 Mr. Back. "Back" and "Burke," I'm struggling with.
17 Mr. Back, Juror 385, was about to go into some
18 detail about something he had expressed earlier
19 about having a family member who had gone through a
20 medical malpractice case. So we're going to bring
21 him in and have a separate inquiry with him.

22 I also noted for counsel at the bench that
23 it's been my observation that -- and I didn't know
24 if they could see it because of the line of sight --
25 but Juror No. 20 has been appearing to be asleep or

1 at least not engaged almost the entirety of the
2 discussion so far. I don't recall what she said,
3 you know.

4 I know she's young, and I want to say I
5 thought she was a student, but I don't recall what
6 she said as far as if she's working crazy hours or
7 whatever. But I guess we'll figure out some more
8 information.

9 MR. ARNTZ: I think we're in agreement
10 to --

11 MR. MCBRIDE: We'll stipulate too.

12 THE COURT: Yeah, I mean I guess I just --
13 I need to talk to her first anyway, even if I excuse
14 her, just to find out what's going on. I've had
15 occasion where we've had a couple people -- I don't
16 perceive this to be -- where that's how people
17 listen and they really are engaged, but that's how
18 they're listening. That's not been my view so far.

19 And the other issues with the jurors, and I
20 really don't think it's an issue, but if we want to
21 inquiry of them, I suppose we can. I'm not sure
22 which juror brought it to the marshal's attention,
23 but jurors in seats No. 8 and 11, Ehle and Withers
24 apparently know or somehow recognized each other. I
25 didn't get the impression that they're social

1 friends or anything like that.

2 was that the impression that you got,
3 Joshua?

4 THE MARSHAL: I didn't inquire once they
5 told me.

6 THE COURT: Who told you about the
7 friendship?

8 THE MARSHAL: It was Ehle.

9 THE COURT: Ehle indicated that he knew
10 Withers?

11 THE MARSHAL: Yes. And Withers
12 acknowledges it, "Yeah, I know him."

13 THE COURT: All right. So they know each
14 other. I don't know the specifics of that.
15 Obviously, they'll get the same admonishments, and I
16 can specifically, you know, admonish them
17 separately. But does anybody want to bring them in
18 separately, at this point, to inquire about that,
19 how they know each other; or do you just want to
20 make it part of the voir dire?

21 MR. P. HYMANSON: We can make that part of
22 the record to help expedite it, Your Honor.

23 THE COURT: At this point, you know, it's
24 12:15. I know Mr. Hymanson is going to probably be
25 a little past 3:00 before he finishes. Obviously

1 we're not going to finish today. I just needed some
2 time to come to terms with that understanding.

3 MR. MCBRIDE: Understood, understood,
4 Your Honor.

5 THE COURT: And so I've already let jury
6 services know that the extra folks, we don't need
7 them, just to have a little extra panel
8 intentionally for tomorrow just in case. But I
9 don't really perceive we're going to need them then
10 either. But my understanding is we'll go -- so
11 we're not going to try to crush it, rush it,
12 anything like that. And we'll conclude today at
13 5:00 or before, and then we'll come back tomorrow at
14 1:30 and pick up then and finish tomorrow.

15 MR. MCBRIDE: Okay. So I was going to ask
16 you, 1:30 or 1:00?

17 THE COURT: I can't start earlier than
18 1:30. There was a little miscommunication I had
19 with my court reporters about that circumstance. I
20 didn't realize dailies were being done for jury
21 selection. But in order for dailies to work and to
22 not, you know, completely overburden my court
23 reporters, I really do need to start the afternoon
24 sessions at 1:30.

25 MR. MCBRIDE: No problem. It's not a

1 problem.

2 THE COURT: If that's okay. But whatever
3 we get through today, we're finishing jury selection
4 tomorrow.

5 MR. MCBRIDE: And that's the thing, I told
6 Breen too, I thought that Hank was doing a very good
7 job. I don't think there's going to be much overlap
8 in the questions I have. So I think that will
9 streamline it.

10 THE COURT: But just to give everybody an
11 opportunity. We'll see where we are today, but I'm
12 not anticipating we finish today, just, you know,
13 the time.

14 MR. MCBRIDE: Understood.

15 THE COURT: We'll figure it out.

16 All right. So we won't inquire of Ehle and
17 Withers now. We will make that part of the
18 voir dire, however, whoever wants to bring it up and
19 whenever. At the end, we can always address it, if
20 we haven't.

21 But I do want to see -- let's get Juror
22 No. 20 first. You have the name as Jimenez, 664.
23 You all can have your seats, if you wish. I know
24 you normally stand when they come in, but it's just
25 one. I don't want to freak her out that we're all

1 standing. She's so young.

2 MR. ARNTZ: And, Your Honor, I think I'm
3 going to have my clients go home. They're getting a
4 little tired.

5 THE COURT: Certainly. You made that
6 inquiry earlier if anybody would have any concerns
7 with that. I don't think that would be an issue.
8 There's not really any way to go that's not -- you
9 know, do you want to wait until the venire comes
10 back in and then go? Because that won't be much
11 longer and then they're not all outside.

12 MR. MCBRIDE: We can finish --

13 THE MARSHAL: All rise for the juror.

14 THE COURT: Actually, we're not all rising.
15 I told them to sit. But that's okay.

16 Ms. Jimenez, come on in. Just have a seat.
17 See that nice cushy chair that's right there in the
18 front. So it's been my observation, Ms. Jimenez,
19 that you've been, at best, disengaged if not
20 somewhat sleep much of this voir dire process.

21 MS. JIMENEZ: I'm not asleep.

22 THE COURT: You're not asleep. Why are
23 your eyes closed?

24 MS. JIMENEZ: My eyes? My eyes are just
25 normally small.

1 THE COURT: I looked over many times, and
2 it appears that your eyes have been fully closed.
3 I'm not trying to challenge you.

4 MS. JIMENEZ: I was probably looking down.

5 THE COURT: You just may not be aware, but
6 it --

7 MS. JIMENEZ: I'm paying attention though.
8 I just don't think there's anything for me to put
9 out into the conversation yet.

10 THE COURT: Okay. So it's your belief that
11 you are fully engaged in this process, that you are
12 not --

13 MS. JIMENEZ: Not sleeping.

14 THE COURT: Well, I mean, I didn't think
15 you had fully fallen asleep. I mean we can tell
16 what that looks like when someone's head completely
17 goes because they're asleep. But there's a big
18 difference between "not asleep" and "not engaged,"
19 and it really does appear that you're not engaged.

20 There's been lots of questions, lots of
21 ways in which people could respond. Very generalized
22 types of things. Lots of people are sharing
23 information. You're not engaged at all, and every
24 time I looked over, almost every time, your eyes
25 appear again to me to have been closed.

1 It's not a criticism. And it's, you know,
2 if you're doing something, you know, otherwise
3 outside of this courtroom that makes it very difficult
4 for you to stay, engage, or pay attention here, we
5 would understand that. We just need to know because
6 I can't have somebody that's ultimately going to be
7 on this panel who's not going to be engaged and who
8 we lose during the process of the trial.

9 So is there something -- are you working an
10 extra job? Is there something else going on?

11 MS. JIMENEZ: No. I literally have nothing
12 going on. I just don't think it's my time to put
13 anything into the conversation yet.

14 THE COURT: So if I understand you
15 correctly, and like Mr. Hymanson said, nobody is
16 trying to put any words in anybody's mouth. You've
17 heard and listened to all the questions, and you've
18 made a deliberate decision that those questions did
19 not apply to you or you didn't have a response to
20 give? Is that --

21 MS. JIMENEZ: Every question that they've
22 asked, I've either agreed with somebody. Pretty
23 much, I've agreed with one person or the other.

24 THE COURT: Okay. All right. Have you
25 raised your hand or nodded your head or indicated

1 those things in any way?

2 MS. JIMENEZ: Yes.

3 THE COURT: All right. Go ahead. We'll
4 have you step back out.

5 Counsel didn't have any questions, did
6 they, for Ms. Jimenez?

7 MR. ARNTZ: No, Your Honor.

8 THE COURT: Go ahead and step back out.
9 Thank you.

10 (Juror No. 664 exits courtroom.)

11 THE COURT: It was like the perfect opening
12 to get out, but she didn't bite. I don't
13 understand. I kind of have to take her at her word.

14 MR. ARNTZ: We're willing to let her go
15 anyway.

16 THE COURT: I can't. I mean, I've got a
17 juror who's over here telling me that she's engaged
18 and she's listening and she wants to participate.
19 Unless I have -- you know, I'll keep observing her.
20 But I'm not willing to let her go, at this point,
21 with what her responses to the questions were.

22 MR. MCBRIDE: Well, I personally have not
23 seen her raise her hand a single time, and so I
24 wouldn't --

25 THE COURT: I haven't either. But, you

1 know, you guys are directly --

2 MR. MCBRIDE: Sure.

3 THE COURT: -- south of her, and I'm
4 looking at her, and I've seen her eyes open, and
5 I've seen her looking up. I just have also seen
6 times when, you know, she hasn't been -- I don't
7 know why she wouldn't want to admit it. I told her
8 it was okay. I told her there's no harm, no foul.
9 I'm just not ready to cut her loose just yet. So
10 let me keep observing it. We'll probably have
11 another break before the end of the day. If I
12 continue to see this sort of engagement, I'll have
13 to say something.

14 MR. ARNTZ: My problem with her answer was
15 that she doesn't seem willing to engage, that she
16 just isn't willing to enter the conversation.

17 THE COURT: Well, I mean, we'll have to see
18 how that goes. The other thing too is, and I think
19 you all know this, but this opens the door for this
20 conversation. You know that the alternates will be
21 the last two seated, regardless of whomever. So,
22 you know --

23 MR. MCBRIDE: Should the Moores use this
24 opportunity at this point to leave or if they wanted
25 to?

1 THE COURT: Well, this is what I was
2 thinking, I'd rather finish the other and then --

3 MR. MCBRIDE: Oh, sure. Okay.

4 THE COURT: Rather than them going out with
5 everybody out there waiting, we could, if you're
6 okay, just a few more minutes. Let's get the other
7 juror in, and let's have that conversation. You
8 might want to see that conversation anyway. And
9 then once all the panel is back in, in place, you're
10 welcome to go. Okay? Does that work, or do you
11 need to go now?

12 MR. MOORE: No, that's fine. Thank you for
13 that.

14 MR. P. HYMANSON: And, Your Honor, when the
15 panel is seated, do you want us to ask leave of
16 court for them to get going, or do you just want
17 them to --

18 THE COURT: It depends on how much of a
19 thing you want to make about it. At this point,
20 they're welcome to come and go as they please. It's
21 already been asked of the jurors if they want --

22 MR. P. HYMANSON: Make it as innocuous as
23 possible.

24 THE COURT: Right. That's what I'm
25 thinking too, and it's already been offered that

1 they may not stay the whole time. So think it's
2 fine. I don't think anybody will notice. You know,
3 I have no problem if Mr. Hymanson wants to say, you
4 know, just noting again, reminding you all yesterday
5 that, you know, our clients may come and go. I
6 don't think that's a problem.

7 Let's have Juror No. 385, Mr. Jeffrey Back
8 back.

9 (Juror No. 385 enters courtroom.)

10 THE COURT: Hi, Mr. Back. Come on through.
11 We're going to have you sit in the front here, not
12 your usual seat. Just that one right there, if
13 that's okay. It's about the same comfort level, I
14 hope, and it brings you a little bit closer.

15 We just felt we have an understanding of
16 obviously where this conversation is going to go,
17 and we just felt that maybe it was better that it be
18 had not in front of all the other jurors.

19 MR. BACK: I figured, yeah.

20 THE COURT: So that's why we -- and it was
21 good time to take a break for other reasons anyway.

22 So at this point, Mr. Hymanson, do you want
23 to pick up where you left off and finish the
24 inquiry, and then we can go from there, and I can
25 give other counsel an opportunity.

1 MR. H. HYMANSON: I'm happy to do that,
2 Your Honor.

3 THE COURT: And wherever it's more
4 comfortable for you to be. I just thought we needed
5 to have this conversation separately.

6 MR. BACK: I had a feeling, yeah.

7 MR. H. HYMANSON: I think I'll just go back
8 to where I was, if that's all right for you.

9 THE COURT: Whatever is easier. I know
10 I've got him here. I mean, I can put him back in
11 his other seat if it's easier.

12 MR. H. HYMANSON: I feel like I got a good
13 space going her now.

14 THE COURT: It's better for the court
15 reporter too.

16 MR. H. HYMANSON: So, Mr. Back, thank you
17 so much for coming back to talk with us. I
18 understand that this is going to be a difficult
19 thing to say and that this is, unfortunately, about
20 as private as we can make it.

21 But so you were talking about -- I had
22 asked about if you think there should be a limit on
23 pain and suffering damages. You said you think it
24 should be exactly the opposite, and then you were
25 going to tell us about your experience with your

1 sister. And so can you just tell us what you were
2 going to say about your sister.

3 MR. BACK: Yes. 385. I do apologize. I'm
4 losing my voice as well. So I was probably about
5 ten years old. So January 2006, my little sister,
6 Chloe, she was born ten weeks premie and with
7 Down Syndrome. She spent 75 days in NICU. About
8 halfway through, a nurse accidentally swapped her
9 breast milk in her IV. So breast milk went through
10 her brain. Had a series of seizures. Sorry.

11 MR. H. HYMANSON: Take your time. I know
12 this is very difficult, and if you'd like, there's
13 tissues right behind you, and there's also some
14 water if you'd like that also.

15 MR. BACK: She is happy. She's healthy
16 now. But, yeah, she did nearly die. We had a
17 six-years suit with Valley View Hospital and the
18 manufacturer.

19 MR. H. HYMANSON: Please take your time.

20 MR. BACK: Lucky enough for her, she was
21 able to -- she's set for life for now. And my mom,
22 she's now a care advocate for a pediatrician. She's
23 an ambassador for Community Patient Care Advocates.
24 But, yeah, luckily she's happy and healthy today and
25 going to school.

1 MR. H. HYMANSON: Very happy to hear that.

2 MR. BACK: Do you have any questions for
3 me, I guess?

4 MR. H. HYMANSON: I don't think I have any
5 further questions.

6 THE COURT: Mr. McBride, would you like to
7 inquire? You can keep your seat too, if you wish.

8 MR. MCBRIDE: I'll just step here.

9 THE COURT: Okay.

10 MR. MCBRIDE: Mr. Back -- and, again, on
11 behalf of all the counsel here, we do appreciate
12 your honesty. I know this is a very difficult thing
13 to have to relive. But as you can understand, from
14 my client's standpoint, I represent Dr. Lasry and
15 obviously Mr. Weaver represents APRN Bartmus.

16 It sounds like this event was a very
17 emotional event for you and for your family and it
18 continues to be. It brings up a lot of emotions for
19 you.

20 MR. BACK: Yep.

21 MR. MCBRIDE: Do you believe that your
22 experience that you had with your sister is going to
23 make you more favorable to whatever plaintiffs might
24 have in this case?

25 MR. BACK: Yeah, I thought about this a lot

1 last night because I figured that this is where it
2 was going to come to. I would like to think that I
3 would be impartial, but I'm not sure if I could be
4 impartial.

5 MR. MCBRIDE: Sure. And that's fine. And
6 that's what we're looking for. All counsel here is
7 looking for brutal honesty. You heard Mr. Hymanson
8 say that. That's what we're looking for.

9 So I guess the other question is would you,
10 if you were Dr. Lasry, would you want someone with
11 your same mindset sitting on the jury in judgment of
12 his care and treatment?

13 MR. BACK: I would guess no.

14 MR. MCBRIDE: Okay. Thank you very much.
15 I appreciate it.

16 MR. WEAVER: I don't have any questions,
17 Your Honor.

18 THE COURT: All right. Thank you.

19 MR. H. HYMANSON: No further questions,
20 Your Honor.

21 THE COURT: Any --

22 MR. ARNTZ: We'll stipulate, Your Honor.

23 THE COURT: I believe there's a stipulation
24 forthcoming, and I was trying to think of the artful
25 way to ask it.

1 we're all very appreciative of your
2 service, but I think we all agree that, as I
3 mentioned on the first day, not every trial is a
4 perfect fit for every person. We're sorry that this
5 trial has invoked these emotions for you, and we
6 thank you for your service, but we are going to go
7 ahead and excuse you at this time. If you have your
8 badge with you, give it to the marshal on your way
9 out, but you are excused.

10 MR. BACK: Thank you.

11 THE COURT: All right. Thank you.

12 And, you know, I'm reconsidering my thought
13 process about Ms. Jimenez. If the counsel are in
14 agreement to stipulate to excuse, I think we might
15 as well fill both seats and move forward before we
16 go too much further.

17 MR. WEAVER: Yes, Your Honor.

18 MR. ARNTZ: Sounds good to me.

19 THE COURT: Bear with me. I get there. It
20 was a really long calendar this morning.

21 MR. MCBRIDE: I don't know how you could do
22 it.

23 THE COURT: It was exhausting. That's what
24 my court clerk just said, and it was.

25 Joshua, we're going to also excuse

1 Ms. Jimenez. Thank her for her service. Tell her,
2 you know, no issue. Just, you know -- why don't we
3 bring everybody back in, hold her back. And then
4 once everybody's back in the room, keep her in the
5 alcove. You can let her go and take her badge.
6 Okay?

7 THE MARSHAL: Okay. No problem,
8 Your Honor.

9 THE COURT: Okay. Thank you.

10 (Jury panel enters the courtroom.)

11 THE COURT: All right. As everyone
12 finishes coming into the courtroom, I'll invite
13 everyone to have a seat.

14 MR. ARNTZ: I think they're going to take
15 this opportunity to leave, if that's okay.

16 THE COURT: That's fine. We're going to
17 excuse the Moores at this time and proceed with our
18 inquiry of the panel.

19 You will note that we have excused two
20 additional members from the panel, and we are going
21 to need to fill those two vacant seats. So the
22 first vacant seat is seat No. 5. It's in the back
23 row. And, again, for the folks who are coming
24 forward, come through the center, around, and enter
25 from the left of the jury box.

1 Next juror in line is:

2 THE CLERK: Badge 668, Marcel Brown.

3 THE COURT: Thank you, Ms. Brown.

4 And the other seat is seat No. 20. We have
5 a little path of travel here behind counsel table.
6 So it might be quicker to go that direction.

7 Filling seat No. 20 is:

8 THE CLERK: Badge 677, Jessica Chavez.

9 THE COURT: All right. Thank you, both.

10 I'm going to start with Ms. Brown. If
11 you're able to see the board or I can just ask you
12 the questions. Either way. Whatever is easier.

13 MR. BROWN: Yes. Question No. 1 is gone.
14 Is that my name?

15 THE COURT: Did it somehow fall off the
16 list? Yeah, we're moving the projector a little
17 bit. It's okay. I'll go through it. Yes, we have
18 your name and your --

19 MR. H. HYMANSON: Are you all right with me
20 standing here? I'm sorry to interrupt you.

21 THE COURT: No, you're fine. Perfectly
22 fine.

23 So, Ms. Brown, your badge number is 668.
24 Yes, the name. And then, of course, it kind of
25 jumps right to former job or current job. Either

1 way.

2 MS. BROWN: My current job, I'm a social
3 worker with Nevada Medicaid. Education, I have a
4 Master's degree in rehab counseling. Not married,
5 no children. I have -- my family's lived in
6 Las Vegas for about 20 years, and I've just been
7 back the last 11.

8 THE COURT: Okay.

9 MS. BROWN: I've never been a juror.

10 THE COURT: Here or anywhere?

11 MS. BROWN: No.

12 THE COURT: Okay. How about any
13 connections -- other than, you know, yourself
14 obviously perhaps in the way that you do the work
15 you do for Medicaid -- but how about, again,
16 yourself in a former position to also discuss or a
17 family member or a close friend in the medical
18 field?

19 MS. BROWN: No. Besides working for
20 insurance. No connections.

21 THE COURT: And meaning yourself and what
22 you do with Medicaid?

23 MS. BROWN: Uh-huh.

24 THE COURT: And what about any involvement
25 in or knowledge of any malpractice, medical

1 malpractice lawsuit?

2 MS. BROWN: No.

3 THE COURT: Okay. Coming now down to
4 Ms. Chavez. Are you able to see?

5 MS. CHAVEZ: Yes.

6 THE COURT: Okay.

7 MS. CHAVEZ: I'm Jessica Chavez, 677. I'm
8 a food server at Olive Garden. I have a high school
9 education.

10 THE REPORTER: I'm sorry.

11 THE COURT: She's a food server at
12 Olive Garden. She has a high school education.

13 Maybe just speak up just a touch.

14 MS. CHAVEZ: From Granada Hills,
15 California. High school. I'm married to Tony
16 Chavez. He's a Sunrun installer, solar installer.
17 we have no children. I've lived in Vegas for
18 11 years, and I've never been a juror.

19 THE COURT: Okay. Thank you. And what
20 about you, yourself, again, family member, close
21 friend with any kind of medical field connections?

22 MS. CHAVEZ: No.

23 THE COURT: Here or California? Nobody
24 does any of that kind of work?

25 MS. CHAVEZ: No.

1 THE COURT: What about anything related to
2 any kind of lawsuits involving medical malpractice?

3 MS. CHAVEZ: No.

4 THE COURT: All right. So we have our two
5 new jurors. We know it's difficult when you add to
6 the panel kind of late.

7 And, you know, I suppose a fair question
8 now because counsel for the Moores have been at it
9 for, total, maybe about an hour, a little over that
10 of questioning, is there anything that you heard
11 that's come up so far that, if you had been in the
12 box and would have answered or could have answered,
13 you might want to say?

14 Anything that you've listened to so far?
15 Any answers you think you might want to give?

16 MS. CHAVEZ: No.

17 THE COURT: All right. Well, there's going
18 to be more questions, and we'll get more time with
19 you. So Mr. Hymanson, whenever you're ready to
20 proceed.

21 MR. H. HYMANSON: Thank you so much,
22 Your Honor.

23 Hello again, ladies and gentlemen. So we
24 were just talking about -- before we took a break,
25 we were talking about if anyone had any negative

1 feelings about pain and suffering damages.

2 Mr. Grant, do you have any particular
3 feelings about pain and suffering damages?

4 MR. GRANT: 634. No strong feelings either
5 way. No. I don't think it's a -- no. Again, no
6 strong feelings. I'll just leave it there.

7 MR. H. HYMANSON: Well, let me ask you. So
8 I'm just picking up a little bit of hesitation when
9 you say you "don't think it's" and then you kind of
10 cut off. What's the -- just the hesitation there?

11 MR. GRANT: Everything is circumstantial.
12 So it depends on what's going on. We've been
13 talking a lot about if things are frivolous or not.
14 You know, if it's -- you know, if it ends up being
15 justified. If say something goes to trial, and then
16 that's fine, I suppose. But without knowing the
17 circumstances, I don't really want to say "yes" or
18 "no" on it.

19 MR. H. HYMANSON: Do you think that if
20 evidence were presented to you, in either via
21 testimony or documents or something, that
22 substantiated an individual's pain and suffering, if
23 you saw that, would you be comfortable awarding pain
24 and suffering damages?

25 MR. GRANT: Yeah, I think so probably.

1 MR. H. HYMANSON: Okay. well, and I'm
2 sorry that I keep hammering on you.

3 MR. GRANT: Yes.

4 MR. H. HYMANSON: But just to be exact with
5 you, when you say, you know, "I think so, probably,"
6 I need to dig in on that a little bit more. So why
7 the, you know, you think so probably?

8 So if there's, you know, documented proof
9 of it, you know, you were saying you needed to see
10 something; and then I changed the scenario if you
11 see something, and it still seems like there's some
12 hesitation.

13 MR. GRANT: Pardon me. With proof, yes.
14 I'd say yes.

15 MR. H. HYMANSON: Okay. So that actually
16 kind of dovetails to something we talked about a
17 little bit earlier, but we can go back to it for a
18 second. So we were talking about the distinction
19 between a frivolous case and a meritorious case.
20 And different people had different opinions about
21 that.

22 Some people talked about this notion of
23 he-said, she-said. And then you started talking
24 about "circumstantial"; right?

25 MR. GRANT: Uh-huh.

1 MR. H. HYMANSON: And so what do you mean
2 by "circumstantial"? What does that mean to you?

3 MR. GRANT: I suppose it would be whether
4 it's determined or not that whatever the complaints
5 are valid or not.

6 For example, there was a wedding
7 photographer I read about that, right after the
8 wedding, let's several years ago and let's say five
9 years later, the couple divorced. They were happy
10 with the photos beforehand. But then after they got
11 divorced, one of them sued the photographer for the
12 full amount of the services given several years
13 before, as well as the amount for the entire wedding
14 itself as for pain and damages, or something along
15 those lines, if I can remember.

16 So, to me, that's ridiculous because the
17 photographer didn't do anything wrong. That's a
18 cash grab, in my opinion.

19 MR. H. HYMANSON: He had nothing to do with
20 the divorce; right? It wasn't the pictures that
21 were the basis of the divorce?

22 MR. GRANT: Yeah, yeah. They were happy
23 with the photos from the start. They were just
24 trying to get some money back from the deal, I
25 think.

1 MR. H. HYMANSON: And is this kind of going
2 back to what you kind of talked about before, that
3 when you're taking your pictures or you do a job for
4 a wedding, you always have it in the back of your
5 mind that: Hey, you know what, I could be sued for
6 this. I've got to cover myself for everything?

7 MR. GRANT: I agree.

8 MR. H. HYMANSON: Okay. And but is there
9 anything about that that you think makes you more
10 hesitant about lawsuits in general?

11 Do you kind of question them? I'm just
12 kind of picking up a kind of consistent theme of,
13 you know, that you have some hesitation about
14 lawsuits. Is that fair to say?

15 MR. GRANT: I think they're overdone. A
16 little too abundant. That's my opinion.

17 MR. H. HYMANSON: And you also questioned,
18 potentially, the validity of pain and suffering
19 damages; correct?

20 MR. GRANT: I'll say yes.

21 MR. H. HYMANSON: Okay. What would you
22 need to see? Because we talked about circumstantial
23 evidence, and we changed, and you still had the
24 hesitation with that. So I just want to figure out
25 where it is. What do you need to feel comfortable

1 awarding pain and suffering damages?

2 MR. GRANT: I'm not really sure.

3 MR. H. HYMANSON: And I don't mean to put
4 you on the spot. I'm sorry if I'm going at you.

5 MR. GRANT: Oh, no, no. You're fine.
6 You're fine.

7 MR. H. HYMANSON: I just need to figure
8 these things out.

9 MR. GRANT: No. No problem. I think,
10 again, just proof that there was actual suffering
11 involved. Proof that financial compensation would
12 actually help the situation as opposed to it just
13 not being about taking advantage of someone else's
14 real pain, I suppose. You know, it's like, for
15 example, if someone wants to try and sue McDonald's
16 because they spill coffee on themselves, for
17 instance. That whole famous story. So maybe more
18 people would try that.

19 A restaurant in town had some food
20 poisoning, I remember, and I knew the owners, and
21 they were -- people were trying to take advantage of
22 them saying, "Yeah, I got sick off of this kind of
23 food that day too." So they were starting to try
24 and sue them. But what happened was is the food
25 that they ate wasn't the contaminated food. They

1 were trying to, you know, see if they could get some
2 money out of it, out of someone else's problem.

3 MR. H. HYMANSON: Okay. With your new
4 examples, is it fair to say that you have a distrust
5 of lawsuits?

6 MR. GRANT: Yeah.

7 MR. H. HYMANSON: And is it fair to say
8 that if starting out judging this case, that you
9 would give the defense a little bit of a -- that
10 let's say the plaintiff would be starting one step
11 behind than the defense?

12 MR. GRANT: No. I don't know the
13 circumstances. SO I reserve all judgment.

14 MR. H. HYMANSON: Okay. Well, you talked
15 about you think that things are frivolous.

16 So, for example, you talked about the
17 McDonald's hot coffee lawsuit; correct?

18 MR. GRANT: Uh-huh.

19 MR. H. HYMANSON: Do you know the facts of
20 that lawsuit?

21 MR. GRANT: No. It's just something I read
22 in the paper like 20plus years ago. It was just an
23 example or two.

24 MR. H. HYMANSON: If you found out that the
25 lady from the McDonald's case was --

1 well, what's your understanding of the
2 facts of what happened with that?

3 MR. GRANT: What I remember is someone
4 spilled hot coffee on themselves in the
5 drivethrough.

6 MR. H. HYMANSON: And has anyone else heard
7 about this case before?

8 MR. GRANT: They sued McDonald's and got
9 some sort of settlement out of it even though
10 everyone knows coffee is hot.

11 MR. H. HYMANSON: Okay. And does everyone
12 agree that they think this is a perfect example of a
13 frivolous lawsuit?

14 I see some people raising their hand.

15 Does anyone think that that was not a
16 frivolous lawsuit? Yes, sir. Mr. Maltese; correct?

17 MR. MALTESE: 665. It depends. Was it
18 coffee at boiling, and was it -- did she get scarred
19 on her lap or whatever the situation was? It
20 depends on the facts.

21 MR. H. HYMANSON: And so if the facts were
22 that she had third-degree burns, would that change
23 your assessment of that case?

24 MR. GRANT: Yeah.

25 MR. H. HYMANSON: Okay. And so that's

1 Mr. --

2 MR. GRANT: 634.

3 MR. H. HYMANSON: Mr. Grant, 634, just for
4 the record, for everything.

5 And if it was documented there was over
6 700 occasions where people had been burned before,
7 would that change your impression of that case?

8 MR. GRANT: Of course. The more facts that
9 get presented, then that could sway my opinion,
10 yeah.

11 MR. H. HYMANSON: Okay. I'm not going to
12 go really into this, but this brought it up a little
13 bit. So we talked about, you know, your impression
14 of frivolous lawsuits. And because of the
15 McDonald's case, does anybody ever think the media
16 exaggerates certain things when they're reporting
17 about lawsuits?

18 Couple people with their hands up.

19 Mr. Burke; correct?

20 MR. BURKE: Yep. 510.

21 MR. H. HYMANSON: Okay. Can you elaborate
22 on that a little bit.

23 MR. BURKE: I mean, I guess I'd say
24 sometimes they might even oversimplify it, as you
25 just listed some possible facts that could have been

1 from the McDonald's case that even swayed his
2 opinion. You know, if you put it in its simplest
3 terms, people watching TV could be easily swayed to
4 see things a certain way. Just kind of how the
5 media works.

6 MR. H. HYMANSON: And, Ms. Chavez, do you
7 ever think that sometimes -- do you think that
8 there's reports on cases where people file
9 meritorious lawsuits but they don't get what they
10 deserve? Do you think that there's many articles or
11 news stories about that?

12 MS. CHAVEZ: Yeah. 677. Sorry. I think
13 that does happen sometimes. I can't think of
14 anything right now, but I'm sure it does.

15 MR. H. HYMANSON: You think it gets
16 reported when people don't get what they deserve?

17 MS. CHAVEZ: Like I said sometimes. Maybe.
18 I don't know. I'll say I don't know.

19 MR. H. HYMANSON: No, that's totally fine.
20 And I don't mean to make you nervous. I just -- and
21 there's no wrong answers to this. We just want to
22 hear what you think of things, and so you're doing
23 just fine.

24 So let's talk about the specifics, this
25 type of case. So we've talked about, you know,

1 different types of damages. Is there anyone that is
2 uncomfortable with the fact that this is a medical
3 malpractice case?

4 Does anyone have a problem with medical
5 malpractice cases?

6 Yes, sir. Mr. Jones, 625; correct?

7 MR. JONES: Yeah. I don't have a problem
8 with it, in general. I have one specifically.

9 MR. H. HYMANSON: Okay.

10 MR. JONES: That, in 2017, I was diagnosed
11 as having prostate cancer. And so, you know, you
12 start the whole series of different things,
13 different tests; and they all lead to certain
14 different procedures going down the line in order to
15 ascertain whether or not you do have prostate
16 cancer. Well, the physician that had me in the
17 process, it wasn't until I got to the point where
18 they were going to do a biopsy. And you think,
19 well, it's 12 minutes, you'll be out. And the nurse
20 goes, "Oh, no. It's 48."

21 And so you do these 48, and then they find
22 out that only four have any type of abnormality.
23 But you have the statistics that say that
24 African-American men, particularly within my age
25 group, have a higher rate of dying from this. Now,

1 I'm not a physician. So, you know, I don't have all
2 of the information. But you go through all of the
3 tests, and had it not been for me having access to
4 another physician that looked at the report, the
5 physicians that were leading me down the path to,
6 more or less, make the situation right, forgot to
7 tell me a number of things.

8 So, yeah, I have some concerns because like
9 when I took a look at it, I began to recount all the
10 facts and asked questions, nothing from an
11 operational standpoint or from a procedural
12 standpoint was wrong. What was wrong is that you
13 have this very large organization of managed care,
14 all these physicians with different ownership
15 positions, and the thing was is to get him in the
16 system and keep him in.

17 So, yeah, I have some problem with it. You
18 know, everywhere you turn, every question you ask,
19 they have an answer for it. So, you know, even
20 through it didn't result in permanent damage; it did
21 result in damage that you could find significant --
22 you could live with it, but it's something I
23 probably never would have entered into without more
24 information.

25 So when I looked at it, I says, you know,

1 it's not worth a lawsuit. But somebody needs to
2 give people more information, and this whole thing
3 needs to be clearer on both sides. I don't want to
4 just run and jump and say, "well, you know, this
5 shouldn't happen or I should sue you" because I
6 can't really say because I'm not debilitated as a
7 result of the treatment. Are they something I would
8 have never entered into? Absolutely.

9 But I didn't think it was worth going
10 through a lawsuit on it. That's just where I'm at
11 right now. I do have some problems with how they
12 come out and some of the things that the people file
13 malpractice lawsuits on and what gets compensated.

14 MR. H. HYMANSON: well, thank you very much
15 for sharing that. I know that sometimes that's
16 difficult to talk about in a room with a lot of
17 other people.

18 Is there anything about that that would --
19 you think that -- you can't get into the facts of
20 the case -- but that you think that because you
21 didn't file a medical malpractice case but my client
22 did file, my clients did file a medical malpractice
23 case, that you would hold against my clients?

24 MR. JONES: No. I wouldn't say I'd hold it
25 against your client, but what I would like to find

1 out and we don't know because we're not into the
2 case, as to what this case is all about, what
3 exactly happened; what is the structure of the
4 organization that supposedly committed the offense
5 and all of those things. There's so much
6 information that not there.

7 And just like I said before, when we asked
8 a question about advertising and those things, I
9 think that some of the advertising cheapens the
10 seriousness of something like this. Just because
11 someone has the ability to pay doesn't mean that
12 they should necessarily be sued, unless it is
13 absolutely necessary and that they earned whatever
14 punishment they're going to receive.

15 MR. H. HYMANSON: Understood. Thank you
16 very much.

17 Does anyone else have any problems with the
18 fact that it's a medical malpractice case?

19 So I'll go from the front row first. So I
20 apologize. Mr. Read; correct?

21 MR. READ: Read, 637. I kind of like had
22 mentioned yesterday, like, my wife's a nurse, and
23 we -- again, she was kind of part of a situation. I
24 kind of still remember when she called me up from
25 work. Like, she worked graveyard at the time, and

1 she called me from work, and I was home for our
2 kids, and I still kind of remember like when she
3 told me that -- first she's like, "I got in
4 trouble."

5 And, like, this happened like it actually
6 was the day after my daughter's first birthday, and
7 it was like -- and this was like over the weekend.
8 So like this happened the week before, and she's
9 like this: "Something came up," and she kind of
10 like told me, she was whispering, and she goes,
11 "They're going to let me work today, but I'm
12 probably going to be put on leave, and like we're
13 probably going to have to hire a lawyer," and just
14 like and "There might be jail time and lose my
15 license" type thing.

16 I'm just like thinking, I'm like I wasn't
17 married too long ago, and my daughter just turned
18 one. And I thought, "Am I ready to take care of my
19 kids by myself?" It's like eventually we got
20 divorced, and we both very good parents, I think.
21 And I was like, at that time, just being, I think it
22 was like 26, 27 at the time, it was like -- it was
23 like scary.

24 And it's still like, even like when I kind
25 of heard about some kind of case like this, it

1 just -- it definitely struck a nerve. Like, you
2 know, it's like just certain things about this like
3 reminded me of the situation. Like the defendants
4 having two sets of attorneys. Like we didn't have
5 the same attorneys, the doctor. And I don't know
6 much about their case -- or I obviously know nothing
7 about their case. But like, you know, just like
8 certain things I've noticed in kind of the room
9 which just kind of reminded me of that situation.

10 And it's just it's more of like nothing
11 prejudging of medical malpractice, like heard things
12 either way. Like I've heard other things just being
13 friends and, you know, everything of medical
14 professionals because of my wife and my mom and
15 other family members, like from a family member of
16 medical professionals. But just like just different
17 things. But and sometimes like trivial, sometimes
18 not.

19 But just like -- just kind of like, and
20 it's just like. I don't know, I got a feeling. You
21 go to work and you kind of try to do your best, and
22 something maybe -- maybe you made a wrong judgment.
23 And not to go much into her case. It's just like --
24 it was like, you know, you got wrong information
25 like from a wrong family member, and it wasn't a

1 family member. It was like a girlfriend, and he was
2 still married --

3 MR. H. HYMANSON: Okay. Yeah, and we don't
4 have to get into all the specifics of that.

5 MR. READ: Just anxiety. And it just --

6 MR. H. HYMANSON: Understood. So let me
7 ask you, does that experience with your ex-wife,
8 does that change how you feel about walking into
9 being a juror for a medical malpractice case?

10 MR. READ: It does in the sense that it
11 definitely like makes me kind of nervous,
12 definitely. But, yeah, but I don't know if it makes
13 me feel like you know, like one way or the other.
14 Like, okay, where I necessarily would feel like I'd
15 side with the nurse or side with the plaintiff. I
16 don't know.

17 MR. H. HYMANSON: Yeah. Let's talk about
18 that a little bit more because you don't know if it
19 would necessarily make you feel that way. But your
20 ex-wife is a nurse, as we've been through; right?
21 And you know that one of the defendants here is a
22 nurse practitioner; correct?

23 MR. READ: Correct.

24 MR. H. HYMANSON: And you tell me, but is
25 it fair to say that you think you would be, just

1 inherently, given your relationship with your
2 ex-wife, what you've been through with her, that you
3 would be more sympathetic to the defendants in this
4 case?

5 MR. READ: Well, I definitely would be in
6 the sense that -- in the sense that they like -- and
7 not knowing any facts of the case, but yeah, in the
8 sense that sometimes you go to work; like, you know,
9 you do try to do a good job, and it's like and
10 something just didn't go right. It's like, you
11 know, it's like not always necessarily your fault.
12 And it's just like that would like in -- yeah, it's
13 like that would make me sympathetic.

14 MR. H. HYMANSON: Okay. And so, again,
15 Mr. Read, just as I've said today, I'm not trying to
16 put words in anyone's mouth. I'm just trying to
17 attempt to distill what we're saying with things.
18 But it sounds, and obviously I can't get into the
19 facts of this case. But it sounds, like you say,
20 that you think that you would be sympathetic to the
21 defendants in this case?

22 MR. READ: I guess if you would say that,
23 yeah.

24 MR. H. HYMANSON: Okay. And so just
25 fleshing that out a little bit, do you think that --

1 is it safe to say that going into this case, you
2 think that my clients would be one step behind the
3 defendants in this case, instead of starting out at
4 an equal starting point?

5 MR. READ: I don't like ever think I'm that
6 person. Like, and I put -- and like -- yeah, so I
7 would want to say no, but like maybe.

8 MR. H. HYMANSON: well, and this kind of
9 goes back to what we started with yesterday, when we
10 were talking about the apple pie competition. And
11 it's not saying that -- it's not a bad thing. When
12 you say that you're "that person," there's no such
13 thing with "that person" with things. But there's
14 such thing as it's not the right case for everyone
15 to judge to from everything.

16 And what I'm hearing from you is that you
17 think that you would be more sympathetic, despite
18 your best efforts. You want to be as objective as
19 you can. And, again, I'm not trying to put words in
20 your mouth. But you'd like to be as objective as
21 you can. But you feel as though, ultimately, when
22 it came down to it, that the defendants would be one
23 step ahead of my clients before this case started?

24 MR. READ: If you put it that way, yes.

25 MR. H. HYMANSON: Thank you very much.

1 Anyone else have any thoughts about medical
2 malpractice cases?

3 I'm sorry. Mr. Burke; correct.

4 MR. BURKE: 510.

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

6 MR. BURKE: I guess mine would come down
7 more to a couple of questions ago when we were
8 talking about damages or payments for pain and
9 suffering, and I just, I guess find that really hard
10 to determine. You know, people have different
11 tolerances of pain. People suffer in different
12 ways. Without being in their shoes -- and it's, I
13 guess, hard to say especially if you're looking at
14 future pain and suffering.

15 How do you know when their pain will end?
16 How do you know -- I mean, pain is a feeling more
17 than anything, and people's feelings are different.
18 And then as far as the amount of money awarded to
19 things like that is so monetarily -- like frivolous
20 lawsuits when people are looking for money, to go
21 after McDonald's, billion dollar corporations.
22 Doctors might be perceived as wealthy people,
23 hospital establishments, stuff like that.

24 So are you asking for more money because
25 they have more money, and where does that correlate

1 to your pain and suffering?

2 THE COURT: I just want to add because it
3 begs the followup that I had before. There will be
4 a jury instruction for those who are on the panel
5 that discusses how to determine pain and suffering
6 damages, if it's determined that any should be
7 awarded. Okay? So the instructions cover a lot of
8 the ground that maybe some uncertainty that the
9 jurors have in their mind. Okay.

10 MR. H. HYMANSON: Thank you very much,
11 Your Honor.

12 And thank you very much also, Mr. Burke.

13 Anybody else that thinks they have some
14 hesitations about the fact that this is a medical
15 malpractice case? Yes, sir. Mr. Taylor.

16 MR. TAYLOR: Taylor, 644. Well, yeah. If
17 it basically comes down to just the case of pain and
18 suffering, that's a very subjective view. We all
19 have to determine whether we believe that or not.
20 And just to come and say, "Okay. I'm going to give
21 you \$10 million because I believe," I mean, what's
22 the foundation for that?

23 I mean, is it loss of work time? Is it
24 just because I say I'm hurting? I mean, it comes
25 down to what you believe. If there's actual factual

1 evidence that supports that, that okay maybe I cut
2 off the wrong arm instead of this arm, which has
3 happened in medical history. We've seen that.
4 We've seen lawsuits justified. Those are very
5 justified. But if it comes down to basically, you
6 know, as I mentioned earlier, he-said, she-said,
7 then I don't know. I don't know if I can buy that.

8 MR. H. HYMANSON: Okay. Understood. Let's
9 talk about that a little bit more. So we talked
10 about he-said, she-said. We touched on this a
11 little bit yesterday, but let's go into it a little
12 bit more.

13 If it's he-said, she-said, do you think
14 that you could come to a decision based on just two
15 different people, their stories, and what they said;
16 or would you need to see more evidence than just
17 what he said or she said?

18 MR. TAYLOR: Basically, I would need more
19 because you could tell me something. I could tell
20 you something. Maybe we're both correct, you know,
21 or maybe we're both wrong. It's, you know, for all
22 of us to decide obviously.

23 But it's -- without some kind of evidence,
24 you know, a third person or perhaps a procedure or
25 some instance, say like if somebody gave a needle to

1 somebody that had been used by somebody else,
2 something resulted as that, obviously there's
3 evidence. But if it's basically: I'm hurting
4 because somebody forgot to check my heart or, you
5 know, take my blood pressure or whatever, you know,
6 that's minute.

7 MR. H. HYMANSON: Understood. Are you
8 comfortable being in a position to judge someone's
9 credibility?

10 I mean you're all going to be hearing
11 from -- if you're picked for this jury, you're going
12 to be hearing from witnesses that come up and take
13 the stand. And as the judge will tell you, it's
14 your job to judge their credibility and if you
15 believe them or not.

16 Is that something that you're comfortable
17 with? Are you comfortable judging whether the
18 individuals that take this stand are telling the
19 truth?

20 MR. TAYLOR: Yeah, I've been on a jury
21 before. I am comfortable to listen to facts and to
22 hear what's happening. But, ultimately, if it
23 really comes down to just basically one person
24 saying this and the other person saying this and
25 there's no evidence to support really either way, I

1 have questions about that.

2 THE COURT: Can you get the juror some
3 water, please.

4 MR. H. HYMANSON: And so just so -- again,
5 I'm trying to clarify that I'm hearing you
6 correctly, that being if a juror is up there -- if a
7 witness is up testifying and even if you believe
8 that they're credible, that's not sufficient for you
9 as a basis to make your decision? If you don't have
10 anything else in a vacuum, that basis alone is not
11 enough?

12 MR. TAYLOR: Not particularly, no.

13 MR. H. HYMANSON: So you're in agreement
14 with my statement; correct?

15 MR. TAYLOR: Yeah. Basically, if somebody
16 is just saying something, I can't -- I can't back it
17 up with any evidence that's been presented to me,
18 then it's just, why are they here? What's the point
19 of this whole thing?

20 MR. H. HYMANSON: Understood. Thank you
21 very much.

22 Anyone else that have any particular
23 reservations about the fact that this is a medical
24 malpractice case?

25 Okay. So we've already kind of touched on

1 the next topic I want to talk about. But at the end
2 of the day, what this case is about, unfortunately,
3 the only way that we can compensate -- that the
4 Moores can receive compensation for what's happened
5 to them is money, and so ultimately this is a case
6 about money, where we're going to be asking you to
7 award money to the Moores.

8 Does anyone have a problem with the fact
9 that this is a case about money?

10 Does that bother anyone?

11 MR. TAYLOR: Taylor, 644. Only if it's
12 excessive.

13 MR. H. HYMANSON: Okay, okay. Anybody
14 else? Yes, sir. Mr. Burke; correct?

15 MR. BURKE: Yeah, 510. Just same as I was
16 saying earlier.

17 MR. H. HYMANSON: Yes, ma'am. Ms. Price;
18 correct?

19 MS. PRICE: I was going to say what he
20 says. If it's too excessive, I think that would put
21 a point in my mind that already that this person is
22 just trying to get money.

23 MR. H. HYMANSON: Okay. And so it depends
24 on the amount of money that's being asked for. And,
25 again, not trying to put words in your mouth. But

1 I'm just trying to interpret what I'm hearing. You
2 think that if someone is asking for too much -- if
3 it's a number that you think is too much money, that
4 that fact alone, you think, takes away from their
5 credibility with something, and you think that it
6 makes it into at least the territory of a frivolous
7 lawsuit or a money grab or something like that?

8 MS. PRICE: Yes.

9 MR. H. HYMANSON: Okay. And how would that
10 affect your overall opinion? Would that make you
11 inclined to award no money or exactly what you think
12 they're entitled to?

13 How do you think that would affect you?

14 MS. PRICE: I somewhat dealt with that in
15 the last case that I was a jury on, and we tried to
16 come up with an amount that we felt was appropriate.
17 It wound up coming up we gave nothing.

18 MR. H. HYMANSON: Okay. And so it's at
19 least fair to say that you think that that would
20 influence that fact alone of asking for what you
21 determine to be too much money would influence how
22 you looked at the rest of the facts of the case --

23 MS. PRICE: Yes.

24 MR. H. HYMANSON: -- and whether you
25 thought that it was proper to award X-amount to

1 properly compensate the plaintiff for the damages?

2 MS. PRICE: Uh-huh.

3 MR. H. HYMANSON: Okay. Does anybody else
4 have a problem this case is about money?

5 Yes, sir. Mr. Headd; correct?

6 MR. HEADD: I pretty much agree with her --
7 633 -- that, you know, that if it's to an
8 astronomical level, that it takes away from the
9 credibility of, you know, what they're trying to
10 prove.

11 MR. H. HYMANSON: Okay. Thank you.
12 Does anybody else have any thoughts about
13 that?

14 Okay. So we're going to move to -- the
15 judge, as the Court has told you several times,
16 she's going to be the one that instructs you about
17 the law. But the standard of proof here is going to
18 be lower than the standard of proof in a criminal
19 trial. So everyone has heard in criminal trial
20 "beyond a reasonable doubt."

21 Here it's going to be "preponderance of the
22 evidence," and the Court will explain what that
23 means. But does anyone have a problem with the fact
24 that we're going to be asking for money based on a
25 lower standard than beyond a reasonable doubt?

1 Is there anyone that that gives someone
2 issue? Yes, sir, Mr. Jones.

3 MR. JONES: 625. It gives me issue because
4 if you're asking for what I consider to be a huge
5 amount of money, then you need to be able to
6 prove -- you know, there should be a high level of
7 proof. I mean, it shouldn't be a low bar for
8 something like that. I mean, if you genuinely and
9 sincerely believe that you have been wronged and the
10 evidence is there, then you should present it. I
11 mean, if anything, it should -- I feel it should be
12 higher.

13 MR. H. HYMANSON: Okay. And so, as I said,
14 the Court is going to instruct you of the law. And
15 your job is going to be to follow the law as
16 instructed by the Court. And so if the Court
17 instructs you that the law is this lower standard,
18 preponderance of the evidence, do you think that you
19 personally would have a hard time following the law?

20 MR. JONES: I wouldn't have a problem
21 following it. I necessarily may not like it. But I
22 wouldn't have a problem following it because those
23 are the instructions. That's what you've agreed to
24 do by being here.

25 MR. H. HYMANSON: Okay. Thank you very

1 much.

2 Does anyone else have an issue with the
3 fact that we're going to be asking for money and
4 that the standard is preponderance of the evidence?

5 Yes, sir. Mr. Withers.

6 MR. WITHERS: 618. I think there's a
7 quality of life to be considered when talking about
8 money. And, you know, did it change the person's
9 outcome because of the mistake? Is there an
10 ownership involved in whatever took place? And we
11 don't know the details, and I'm sure we'll find out.
12 But I think that plays a big role in this.

13 MR. H. HYMANSON: Okay. And how does that
14 play role to you? Just a little more.

15 MR. WITHERS: So there's responsibility,
16 and we talked about ownership earlier. Did the
17 mistake or what would be presumed was the mistake
18 change the person's quality of life? And because of
19 that, now they're going to be awarded this
20 exponential amount of money. You know, and are we
21 going to have any evidence, or is it somebody
22 saying, well, "Yeah, now I can't do this."

23 MR. H. HYMANSON: Thank you very much.

24 Is there anyone else that has an issue or
25 thinks that they have a question about that, that

1 that would be difficult for them?

2 All right. So let's go through just two
3 quick hypotheticals. So if the plaintiff was
4 seeking \$10,000 in damages, would you be comfortable
5 awarding \$10,000 of damages based on the
6 preponderance of the evidence standard?

7 And so the preponderance of the evidence
8 that the defendants harmed the plaintiff in the
9 amount of \$10,000, would anyone have a problem with
10 that?

11 MS. PRICE: Can you say it again.

12 MR. H. HYMANSON: Yeah. Does anyone have a
13 problem with the standard being that the plaintiff
14 has to prove, by a preponderance of the evidence,
15 that the defendant caused them harm and is asking
16 for \$10,000?

17 would you have a hard time awarding \$10,000
18 if you determined that the defendant was at fault
19 for the plaintiff's harm?

20 Is there anyone that would have a problem
21 with that?

22 MR. MALTESE: No. 665. No.

23 MR. H. HYMANSON: Okay. Thank you very
24 much. Let's change the hypothetical -- and this
25 kind of goes off what you were saying, Mr. Jones.

1 If it was proven that the defendant's harm
2 caused \$10 million in damages, would everyone be
3 comfortable awarding \$10 million in damages with
4 still using that preponderance of the evidence
5 standard to determine if the defendant was at fault?

6 Does that change anyone's perception?
7 we've kind of talked about it, but I just wanted a
8 direct example of that.

9 Does that change anyone's perception?
10 Thank you very much. And so I've got two more
11 hypotheticals that kind of go with that. But I want
12 you all to think about this:

13 If you thought it would only take five --
14 based on the facts and the evidence that you saw, if
15 you determined that the defendant was at fault for
16 the plaintiff's arm and you thought that all it
17 would take to compensate the plaintiff was \$500 and
18 the plaintiff was asking for \$10 million, would
19 everyone be comfortable awarding the plaintiff \$500?

20 Is there anyone that would have a problem
21 doing that?

22 Okay. So let's flip the scenario. If the
23 facts of that incident that you saw, you thought
24 warranted compensation for the harm of \$10 million
25 and if the defense was just asking for \$500, is

1 there any of you that would have a hard time
2 returning a verdict of \$10 million?

3 Yes. Ms. Price.

4 MS. PRICE: You said that if it was shown
5 that it was only worth 500, would I --

6 MR. H. HYMANSON: I'm sorry. No. This
7 hypothetical was different in the sense that the
8 defense is asking for 500, but the facts and the
9 evidence, in your determination, warrant a
10 \$10 million award and that's what the plaintiff is
11 asking.

12 MS. PRICE: And would I have a problem if
13 they award the \$10 million, if it was proved that it
14 really was done?

15 MR. H. HYMANSON: Exactly. If you believe
16 that, based on the facts and the evidence, it
17 warrants a \$10 million award, but the defense is
18 asking for a \$500 award, would that change -- would
19 that affect your ability to give that award?

20 MS. PRICE: No.

21 MR. H. HYMANSON: It's the same answer for
22 everyone?

23 THE COURT: There's a hand, Mr. Hymanson.

24 MR. TAYLOR: Taylor, 644. Slightly, just
25 based on the fact that, in a criminal trial, I've

1 experienced you have to have unanimous; whereas, in
2 this case, not quite the case. So there could be
3 the majority decision; yet I could have a dissenting
4 view on this and, unfortunately, almost stuck to it.

5 MR. H. HYMANSON: Okay. Well that brings
6 up a good point. So is there anyone that thinks
7 that they would have a problem deciding the way that
8 they think about this case?

9 So you're talking about, in the jury room,
10 that you think, if you had one opinion and the other
11 people had a different opinion, is there anyone that
12 feels like that they would let other people opinions
13 influence the way that they would vote?

14 So you think that no money should be
15 awarded; they think that money should be awarded.
16 Do you think that you would let that influence you,
17 even though you didn't think money should be
18 awarded, that you would vote to award money?

19 Does anyone think that they would be
20 influenced like that?

21 Now, let's talk about something that was
22 brought up by several of you, and as the Court
23 stated, she's going to give you the instructions,
24 the jury instructions of how you determine
25 everything. But let's talk about, you know, 1this

1 term of "pain and suffering" damages and emotional
2 distress. It's an amorphous term, and there's no
3 scale or metric or a thing that you can put up, you
4 know, what does it mean if you've lost an arm? If
5 you've lost a leg. But does anyone have any
6 thoughts about how you would try to determine what
7 factors you would look at to determine how to
8 compensate someone for pain and suffering or
9 emotional distress?

10 Yes, sir. Mr. Headd.

11 MR. HEADD: 633. Yeah, I guess it depends
12 on how it changes their life, you know, what they
13 were doing before the accident or whatever happened
14 and to what happens after and what they now can't
15 do. So I think that would be important for me.

16 MR. H. HYMANSON: Okay. Thank you.

17 Mr. Ehle, do you have any thoughts on this?

18 MR. EHLE: Yeah, I think about -- 606.

19 MR. H. HYMANSON: Thank you.

20 MR. EHLE: I think, yeah, about the same.
21 I think it would depend on how their life changes.

22 MR. H. HYMANSON: Okay. Thank you.

23 Ms. Chavez, what do you think? What kind
24 of factors would you look at?

25 MS. CHAVEZ: 677. Same thing that they're

1 saying, whether or not they can still work, if they
2 are able to take care of their children. Anything
3 like that.

4 MR. H. HYMANSON: Thank you.

5 Does anybody think that there's something
6 that has been -- that they think that they would use
7 that hasn't been brought up yet?

8 Yes, ma'am. Ms. Clinton.

9 MS. CLINTON: 658. Medical records,
10 medical testimony describing the type of injury and
11 the potential impact on life in terms of
12 physicality. That type of thing.

13 MR. H. HYMANSON: Thank you. Anybody else?

14 How many of you go to see a doctor on a
15 regular basis? Okay. I think there's, in general,
16 kind of two different types of people. There's a
17 type of people that something first shows up and
18 they want to go to the doctor right away and get it
19 checked out; and there's other people, like me, that
20 want to put it off and wait to go see a doctor.

21 Does anyone think that they're the type of
22 person that, when something first comes up, they're
23 going to go get it checked out right away?

24 Ms. Price. Okay.

25 Does anybody think that they would kind of

1 wait awhile to go see a doctor?

2 Okay. why do you go -- when you go to see
3 a doctor, why do you go to the doctor? kind of a
4 generic question. But why do you go see the doctor?

5 Yes, ma'am. Ms. Bechtold.

6 MS. BECHTOLD: 624. It depends on how it's
7 impacting my life, you know, and what is the -- is
8 it an injury, or is it some kind of chronic illness?
9 I mean, it depends on how it's affecting me or will
10 affect me as to when my decision is whether to run
11 to the doctor with a cold. Everyone's got a cold
12 this season.

13 So do we wait a few days or run -- is it
14 going to your lungs and your bronchitis so you
15 better go so it's not pneumonia. I mean, there's a
16 lot of different aspects when I go to the doctor.

17 MR. H. HYMANSON: Absolutely. And when you
18 go to the doctor, do you have an expectation that
19 they're going to diagnose what's wrong with you?

20 MS. BECHTOLD: Yes.

21 MR. H. HYMANSON: And that they're going to
22 properly treat you for what's wrong?

23 MS. BECHTOLD: Yes. Doesn't mean I always
24 agree with them though.

25 MR. H. HYMANSON: Understood.

1 Does everyone have that expectation when
2 they go to the doctor, that they're going to be
3 properly diagnosed? They're going to be properly
4 treated for what is wrong with them?

5 How many people trust hospitals?

6 I see a couple of hands up. I see a couple
7 basically saying "not so much."

8 How many people don't trust hospitals?

9 Okay. I see a lot of hands up.

10 Ms. Bebekyan, I keep butchering that. I
11 apologize.

12 MS. BEBEKYAN: No, it's correct.

13 MR. H. HYMANSON: Okay. Ms. Bebekyan, why
14 don't you trust hospitals?

15 MS. BEBEKYAN: 109. That's just my
16 opinion. I mean, I don't trust them in many ways
17 because you can get treated by not going to the
18 hospital or by not going to the doctors.

19 I mean, my situation, they said I might be
20 diabetic because I just started gaining a lot of
21 weight and not getting enough insulin, but I went to
22 the doctors, and he said, "Oh, I'll give you
23 Metformin. Go ahead and drink this once a day.
24 You'll be fine, and then you've just got to stick to
25 it."

1 And I'm like, "Okay. No, I'm not going to
2 take that. I'm not taking Metformin. I'm only
3 26 years old. I'm young. I'll just lose weight,
4 and I'll just exercise and keep myself healthy. And
5 I mean, knock on wood. I'm not diabetic. So why
6 trust a doctor to give you medicines when you can
7 cure yourself alone?

8 MR. H. HYMANSON: Understood.

9 Mr. Ehle, I think you had your hand up.

10 MR. EHLE: Yeah. Recently, I had a couple
11 of people I know die in hospitals from bad
12 decisions. One went in for something relatively,
13 you know, that he had before, a stint -- a "stent"
14 rather, and he ended up getting a staff infection
15 and dying.

16 MR. H. HYMANSON: I'm very sorry to hear
17 that.

18 MR. EHLE: I had another friend, she was in
19 a car accident, and she was in surgery for her back.
20 And in the middle of the surgery, they said
21 everything was going fine; everything was going
22 great; they were only going to do part of the
23 surgery. "We'll push on through, we'll do the rest
24 of it," she ended up her kidneys failing and, again,
25 the staff infection.

1 MR. H. HYMANSON: I'm sorry to hear that.

2 Does anybody have any different feelings
3 about nurses or nurse practitioner?

4 We've been talking about kind of doctors
5 and hospitals. What about nurses and nurse
6 practitioners? The same general thoughts?

7 Anyone have any specific thoughts about
8 nurses or nurse practitioners? No.

9 How many people think that just because
10 someone is a medical professional, that they have
11 more credibility? Okay. So Ms. Price and
12 Mr. Headd.

13 Mr. Headd, why do you think that?

14 MR. HEADD: Well, they go to school. They
15 do residency. They go through a lot to learn their
16 trade. So I think they have more credibility than
17 someone who doesn't.

18 MR. H. HYMANSON: Okay. And Ms. Price?

19 MS. PRICE: 632. I just want to clarify,
20 you're saying "credibility" as a person in general;
21 or "credibility" in the medical field?

22 MR. H. HYMANSON: I think as a person in
23 general.

24 MS. PRICE: Then no.

25 MR. H. HYMANSON: Okay. Does that change

1 your answer at all, Mr. Headd?

2 MR. HEADD: I'm talking about in the
3 medical field, I trust their information more than
4 somebody who's not in the medical field.

5 MR. ARNTZ: Ms. Chavez was going to say
6 something.

7 MR. H. HYMANSON: Thank you very much.
8 Ms. Chavez.

9 MS. CHAVEZ: 677. I was just going to say
10 the same thing as him. They went to school for it,
11 you know, more than me.

12 MR. H. HYMANSON: Okay. Thank you.

13 Is there anyone that thinks that just by
14 having a doctor or a nurse practitioner take the
15 stand, that you think that they're going to be
16 automatically more credible in what they're going to
17 say than anyone else?

18 MR. MALTESE: No. 665.

19 MR. H. HYMANSON: Does anybody think that?
20 Okay. Mr. Headd.

21 MR. HEADD: Well, they do take oaths to --
22 you know, the Hippocratic Oath, and so hopefully
23 they're not going to purposely lie up there. So,
24 you know, a lot of other witnesses maybe don't have
25 the same or are held to that same standard. I think

1 they might have a little more credibility than
2 Joe Schmoe off the street.

3 MR. H. HYMANSON: Okay. So you think the
4 fact -- and so what's your understanding of what the
5 Hippocratic Oath is?

6 MR. HEADD: Do no harm.

7 MR. H. HYMANSON: Okay. And so you think
8 the fact that a doctor or nurse practitioner took an
9 oath to do no harm, that you think that would give
10 them more credibility when they came and sat up on
11 the stand?

12 MR. HEADD: When it comes to a medical
13 case. I mean, I think they're doctors and nurses;
14 by default, they're trying to help people. You
15 know, they -- people come to them with a problem.
16 They try to help and fix it. So I think in this --
17 in that type of situation, they're called on the
18 stand to talk about medical things that, you know,
19 they're going to be more credible than somebody
20 who's not in the field.

21 MR. H. HYMANSON: Okay. So we've talked
22 about how people go to the doctor with the
23 expectation that they're going to be properly
24 diagnosed and properly treated. We talked about
25 responsibility earlier.

1 Earlier, Mr. Headd, you were just talking
2 about giving them potentially more credit because
3 they have taken this Hippocratic Oath.

4 Is there anyone that thinks that doctors or
5 nurse practitioners should be held to a higher
6 standard if they give improper care?

7 Meaning people put their trust in them to
8 be treated correctly, but if they aren't treated
9 correctly -- first of all, do you think that those
10 providers should take responsibility for those
11 actions? Ms. Price.

12 MS. PRICE: Yes. I think they should take
13 responsibility for that.

14 MR. H. HYMANSON: Okay. Thank you very
15 much. And 632; correct?

16 MS. PRICE: 632.

17 MR. H. HYMANSON: Sorry.

18 And, Mr. Ehle, you raised your hand also.

19 MR. EHLE: Yeah. 606. I think they should
20 be held to a higher standard because they're dealing
21 with a human life.

22 MR. H. HYMANSON: Does anybody else have
23 any thoughts about that?

24 Is anybody familiar with the phrase "If
25 it's not recorded, it didn't happen?"

1 Yes. I see some people nodding their
2 heads. Let's talk to Ms. Brown. You said you're
3 familiar with that phrase. And what does that
4 phrase mean to you?

5 MS. BROWN: If it's not documented, it
6 didn't take place.

7 MR. H. HYMANSON: Okay. And is that
8 important in your line of work?

9 MS. BROWN: Yes.

10 MR. H. HYMANSON: Why is it --

11 MS. BROWN: 668.

12 MR. H. HYMANSON: Thank you. I apologize.
13 Why is it important in your line of work?

14 MS. BROWN: Individual recipients could
15 come back and say that you didn't provide them a
16 service or they could tell you that you didn't call
17 them on X, Y, and Z. But if you can go back to your
18 documentation, you can prove all the different
19 aspects, all the different times that you made
20 contact or the resources that you gave them.

21 MR. H. HYMANSON: And is there ever a time
22 that you're worried that there may be an issue with
23 something and you decide to make a little more
24 detailed documentation?

25 MS. BROWN: More detailed documentation?

1 MR. H. HYMANSON: Yeah. well, just in
2 terms of for a specific note. Maybe something, I
3 don't know. You're worried about a specific issue
4 coming up, and so you may have a basic way to do
5 notes; but you may, in certain cases, make even more
6 detailed notes.

7 MS. BROWN: Oh. Yes.

8 MR. H. HYMANSON: Has that ever happened to
9 you?

10 MS. BROWN: Yes.

11 MR. H. HYMANSON: And why do you make more
12 detailed notes?

13 MS. BROWN: If we know that individuals --
14 usually you document everything that individuals are
15 saying; but if someone has a questioning component,
16 they question you on everything, to cover yourself,
17 you make every detail, put every detail in there.

18 MR. H. HYMANSON: Has anyone ever had any
19 issues with blood flow issues in their body?
20 Vascular issues or anything like that?

21 Mr. Ehle.

22 MR. EHLE: Yeah, a number of times.

23 MR. H. HYMANSON: And we don't have to get
24 into the medical history or anything. I can just
25 leave it at that. We don't need to --

1 MR. EHLE: Okay.

2 MR. H. HYMANSON: But Mr. Ehle, 022;
3 correct?

4 MR. EHLE: 606.

5 MR. H. HYMANSON: 606 jury number. I
6 apologize. I have it written down wrong. Thank you
7 so much. Anybody else? Oh, okay. Mr. Maltese.

8 MR. MALTESE: Yep.

9 MR. H. HYMANSON: What about does anyone
10 have any people from their family, family, friends
11 that have blood flow issues?

12 THE COURT: Mr. Wilder had raised his hand
13 previously.

14 MR. H. HYMANSON: Thank you so much,
15 Your Honor. Mr. Wilder.

16 MR. WILDER: 611. Well, I had a heart
17 attack four years ago.

18 MR. H. HYMANSON: Sorry to hear that.

19 MR. WILDER: And I was the one that --

20 THE REPORTER: I'm sorry. Could you
21 repeat, sir. I apologize.

22 THE COURT: She can't see you, Mr. Wilder,
23 so if you could please speak up.

24 MR. WILDER: I trust hospitals because they
25 saved my life.

1 MR. H. HYMANSON: Thank you very much,
2 Mr. Wilder. Let me ask you a couple of other
3 questions. So we talked about your hearing before;
4 correct? And you've been on jury panels before but
5 haven't been selected; correct?

6 MR. WILDER: Never made it that far.

7 MR. H. HYMANSON: Okay. And was the basis
8 for that sometimes your hearing?

9 MR. WILDER: Always my hearing.

10 MR. H. HYMANSON: Always your hearing.
11 Okay. Has your hearing improved since that time?

12 MR. WILDER: No.

13 MR. H. HYMANSON: Okay. We talked
14 yesterday, you were talking about different tones.
15 Certain tones you could hear, and certain tones you
16 couldn't hear; correct?

17 MR. WILDER: Correct.

18 MR. H. HYMANSON: And if I remember
19 correctly, you said that there were -- even when the
20 counsel were introducing themselves, you could hear
21 some people and you couldn't hear other people;
22 correct?

23 MR. WILDER: Correct.

24 MR. H. HYMANSON: I assume you've been able
25 to hear me while I've been talking today.

1 MR. WILDER: I can't hear you. I can hear
2 the judge, but I can't hear her (to reporter).

3 MR. H. HYMANSON: What about the other
4 jurors that have been talking? Have you been able
5 to hear all them, or do you have certain issues with
6 that?

7 MR. WILDER: About half of them.

8 MR. H. HYMANSON: About half you've heard.
9 Okay. Do you have any concerns -- and I don't mean
10 to call you out with everything. I'm sorry. But we
11 just need to know. Do you have any concerns about,
12 you know, given that you've heard about half of
13 what's going on, that you're not going to hear
14 certain testimony or certain evidence that is
15 presented during this trial?

16 MR. WILDER: Absolutely.

17 MR. H. HYMANSON: Okay. And do you think
18 that that will affect your ability to properly serve
19 as a juror in this case?

20 MR. WILDER: Well, unless I, you know, like
21 the judge suggested, I raise my hand and have
22 everybody repeat when I can't hear.

23 MR. H. HYMANSON: And do you have any --
24 and I don't know because I haven't seen you do that
25 yet, and I understand that is a dynamic process with

1 everything -- but do you have any concerns about
2 raising your hand during the trial when you can't
3 hear something?

4 MR. WILDER: No, not really.

5 MR. H. HYMANSON: But you are concerned
6 that you haven't been able to hear -- at least half
7 of what's been happening you haven't heard?

8 MR. WILDER: Correct.

9 MR. H. HYMANSON: Okay. Thank you very
10 much. I'm sorry to go through that but --

11 MR. WILDER: No problem. I can't hear my
12 own daughter.

13 MR. H. HYMANSON: Okay. Fair enough. Has
14 anyone here -- well, does anyone know anyone here
15 that has had a limb amputated? A limb amputated,
16 like an arm or a leg?

17 Yes, sir Mr. Jones.

18 MR. JONES: My grandfather had a limb
19 amputated after he had a knee surgery that went bad.
20 They eventually amputated the entire leg.

21 MR. H. HYMANSON: I'm sorry to hear that.

22 MR. JONES: Because it wouldn't properly
23 heal. He's been deceased now for about 15 years.

24 MR. H. HYMANSON: Okay. How did that
25 affect him?

1 MR. JONES: Well, it was pretty
2 debilitating. He was in a lot of pain and really
3 couldn't move around, you know, on that leg. So at
4 that point, he was an elderly man when that
5 happened, and he had some other physical issues.
6 But still the fact is it never healed properly, and
7 after a couple of operations, they realized there
8 was nothing that could be done, particularly with
9 the infection that set in, and they amputated his
10 leg.

11 MR. H. HYMANSON: I'm sorry to hear that.
12 You said you recall it was very painful for him?

13 MR. JONES: Before they decided to make the
14 decision. You know, I had a knee surgery myself.
15 So I knew what knee surgeries looked like, and his
16 looked bad. I mean, I don't know who his orthopedic
17 person was, but it just didn't look like a quality
18 surgery.

19 MR. H. HYMANSON: Understood. Do you know,
20 did you hear anything about him talking about
21 phantom limb pain?

22 MR. JONES: He felt like it was still there
23 once it was removed. He had mentioned that a number
24 of times, that he could feel his toes.

25 MR. H. HYMANSON: And did he ever talk

1 about being -- that he felt his leg that wasn't
2 there had pain? Do you remember having any
3 discussions with him about that?

4 MR. JONES: No pain.

5 MR. H. HYMANSON: Okay. No pain, but he
6 could feel it.

7 MR. JONES: Right.

8 MR. H. HYMANSON: Understood.

9 Has anyone here ever had a femoral
10 popliteal graft or bypass surgery called a
11 "fem-pop"? If you don't know what it is, that's
12 fine. I'm just curious if anyone has had an
13 experience or has a family member that's had that
14 experience?

15 THE COURT: How are we doing, Mr. Hymanson,
16 on time?

17 MR. H. HYMANSON: We're getting very close.
18 Court's indulgence, Your Honor.

19 MR. ARNTZ: Can we take a break?

20 THE COURT: Can I have counsel at the
21 bench.

22 (Bench conference.)

23 THE COURT: Ladies and gentlemen, we've
24 been at it about an hour, I think since we resumed,
25 and I think we want to take another brief recess.

1 Do about ten minutes, just to give everybody time to
2 stretch your legs, use the restrooms, and make sure
3 they're back and ready to start promptly at 3:40.

4 Reminding you again, please do not talk or
5 converse among yourselves or with anyone else about
6 this case. No Internet searches, no trying to
7 investigate anything. You've heard a lot of medical
8 terms here. Again, none of it -- your whole case
9 and your service as jurors is based on the evidence
10 that comes into this case through the witnesses and
11 through the exhibits. So make sure you avoid any of
12 those kinds of communications. But we'll see you
13 back here in a little over ten minutes. 3:40.

14 THE MARSHAL: All rise for the jury.

15 (Jury panel exits the courtroom.)

16 THE COURT: All right. I definitely want
17 to resume at 3:40. So whatever discussion you have
18 to streamline, let's do it. Okay.

19 MR. H. HYMANSON: Thank you so much,
20 Your Honor.

21 (Pause in the proceedings.)

22 THE COURT: I'll have everybody take their
23 seat and resume. I didn't mention this before.
24 we've had no problems with this. But please do make
25 sure your cellphones are off or silenced if you've

1 had them on during the break.

2 Mr. Hymanson, whenever you're ready.

3 MR. H. HYMANSON: Thank you very much,
4 Your Honor.

5 Mr. Everett, I'm sorry I haven't spoken to
6 you all day. I'm going to direct this question to
7 you. Do you think that it's important for a
8 treating medical physician to physically examine
9 patients?

10 MR. EVERETT: Physically examine?

11 MR. H. HYMANSON: Yes.

12 MR. EVERETT: Yes, I do.

13 MR. H. HYMANSON: What about, Mr. Newman, I
14 haven't spoken to you either. I apologize.

15 MR. NEWMAN: Could you repeat.

16 MR. H. HYMANSON: Yes. No problem. Do you
17 think it's important for a treating medical
18 professional to physically examine a patient?

19 MR. NEWMAN: Yes.

20 MR. H. HYMANSON: Does everyone agree with
21 that? Does anybody disagree with that?

22 Yes, sir. Mr. Headd.

23 MR. HEADD: Yes. 633. I think in certain
24 situations, if their assistants are taking good
25 notes or, you know, doing their job properly, that

1 maybe he doesn't have to actually see the person --
2 in certain situations, not all.

3 MR. H. HYMANSON: Understood. And so you
4 say "doing their job properly," what is doing job
5 properly?

6 MR. HEADD: Just, you know, following the
7 correct operating procedures that are, you know,
8 standard operating procedures, doing everything
9 they're, you know, they're trained to do.

10 MR. H. HYMANSON: Okay. And is part of
11 that -- so you're talking about if basically someone
12 like working under someone is doing -- looking at
13 the patient and then communicating that information
14 to the supervising person; is that correct?

15 MR. HEADD: Yeah, either verbally or
16 through notes.

17 MR. H. HYMANSON: Okay. But you think does
18 that require proper communication?

19 MR. HEADD: Yes.

20 MR. H. HYMANSON: Okay. Does anybody agree
21 with that, with what Mr. Headd just said?

22 Ms. Price, okay, 632.

23 Anyone else? Yes, sir. Mr. Taylor?

24 MR. TAYLOR: No. I just agree.

25 MR. H. HYMANSON: You agree. Okay.

1 Is anyone here or either themselves or
2 their close, you know, friends or family suffering
3 from any kidney problems?

4 Ms. Price. Okay. Thank you.

5 Anyone else?

6 Does anyone here know anyone that is
7 confined to a wheelchair? Mr. Newman.

8 MR. NEWMAN: 640 badge. My sister is.
9 She's had some illness that started in her head, and
10 basically she had surgery. She had a light stroke.
11 So she's basically unable to maybe move one side of
12 her body, particularly it's the left side.

13 MR. H. HYMANSON: I'm sorry to hear that.
14 Have you noticed that have an effect on her
15 life?

16 MR. NEWMAN: Yes. Considerably. She was
17 really outgoing doing everything, working her job.
18 And it basically, you know, took her quality of life
19 away.

20 MR. H. HYMANSON: Did she have to make any
21 modifications to her house?

22 MR. NEWMAN: Yes, yes.

23 MR. H. HYMANSON: And what kind of
24 modifications did she make?

25 MR. NEWMAN: Bathrooms, no stairs. Lifts

1 to come through in and out. It's a major life
2 change, no matter how you look at it.

3 MR. H. HYMANSON: Okay. Well, thank you
4 for sharing that. Does anyone else know someone
5 that is confined to wheelchair?

6 Yes, Mr. Ehle, 022 -- I keep getting that's
7 the one I have wrong. I apologize.

8 MR. EHLE: Yeah, a good friend of mine is
9 confined. I missed the part about the kidney
10 disease, but he has third-stage kidney disease.

11 MR. H. HYMANSON: I'm sorry to hear that.

12 MR. EHLE: Just kind of happened recently.
13 So he's been in a wheelchair now for probably three
14 months.

15 MR. H. HYMANSON: I'm sorry to hear that.

16 All right. Ladies and gentlemen, I'm
17 getting very close today, and I'll finally sit down
18 and you won't have to hear from me anymore.

19 Is there anyone here that thinks that they
20 will have an issue following the law as given to
21 them by the Court? No hands.

22 This is an important question: Is there
23 anything that I didn't ask or that I asked and
24 didn't follow-up with you about that you think that
25 we should know before we decide who should sit on

1 this jury? Anything anybody can think of?

2 Yes, ma'am. Ms. Brown.

3 MS. BROWN: Yes. 668. I do work on a
4 daily basis with a lot of individuals with
5 disability. So when you're talking about
6 wheelchairs and different handicaps, I do come
7 across a lot of people with Medicaid, and our
8 population is primarily disabled.

9 MR. H. HYMANSON: Okay. Thank you for
10 sharing that, and you have a Master's in, is it
11 rehab counseling?

12 MS. BROWN: Yeah.

13 MR. H. HYMANSON: And what is a Master's in
14 rehab counseling?

15 MS. BROWN: It's where you help individuals
16 who have disabilities find employment, but that's
17 what my Master's is in. That's not currently what
18 I'm working.

19 MR. H. HYMANSON: Okay. And so what's the
20 day-to-day description? I know you kind of said it,
21 but just is there anything else in the description
22 you said that describes what your job description
23 is?

24 MS. BROWN: What the rehab counseling is or
25 what my current job?

1 MR. H. HYMANSON: Your current job
2 description.

3 MS. BROWN: Well, I'm a supervisor, and I
4 supervise individuals who go out to nursing
5 facilities and hospitals, and we help them
6 transition individuals with Medicaid, transition
7 back home.

8 MR. H. HYMANSON: Okay. Thank you very
9 much. Is there anyone else that has something that
10 they think that I should really ask you about or
11 that you should tell me about.

12 Yes, sir. Mr. Ehle.

13 MR. EHLE: 606. I've had extensive medical
14 history, lots of dealings with doctors. You're
15 talking about giving an edge to somebody. I'd be
16 more inclined, right off the bat, to give an edge to
17 you.

18 MR. H. HYMANSON: Okay, okay. Thank you
19 very much. Is there anyone else that has any
20 statements? Oh, yes. Ms. Price.

21 MS. PRICE: I just don't know how much the
22 kidney thing is going to be. I just have a lot of
23 family history with kidney disease.

24 MR. H. HYMANSON: Okay, okay.

25 MS. PRICE: I don't know if that's

1 important or not.

2 MR. H. HYMANSON: Understood. I'll ask you
3 a couple of questions about that. Thank you. So
4 632; correct?

5 MS. PRICE: Yes.

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

7 MS. Price, so you say you have a lot of
8 family history with kidney disease. I don't want to
9 go into a lot with that, but can you expand on that
10 a little bit.

11 MS. PRICE: My family has a genetic
12 disorder with polycystic kidney disease. My brother
13 was actually just diagnosed on Saturday with it.

14 MR. H. HYMANSON: I'm sorry to hear that.

15 MS. PRICE: That's really it.

16 MR. H. HYMANSON: Okay. All right. Well,
17 thank you very much for sharing that. I appreciate
18 that.

19 Is there anything that any of you have
20 heard so far that makes you think that it would be
21 difficult for you to sit and serve as a juror on
22 this case?

23 All right. Ladies and gentlemen --

24 MR. ARNTZ: Wait.

25 MR. H. HYMANSON: Court's indulgence.

1 Apologies. Thank you very much, Your Honor.

2 (Pause in the proceedings.)

3 MR. H. HYMANSON: I'm not quite done. I
4 have a couple more.

5 So, Mr. Ehle, I want to just follow-up on
6 what you said. You said that you think that given
7 your issues with medical treatment before, you think
8 that you would be potentially having -- well, to ask
9 the question, would one side be more ahead than the
10 other? You think that my side would be more ahead,
11 the plaintiffs; correct?

12 MR. EHLE: Correct.

13 MR. H. HYMANSON: And so do you think
14 that -- you understand that the facts of this case
15 that are going to be presented are different from
16 any of the facts of what's happened to either
17 yourself or your friends; correct?

18 MR. EHLE: Yes, I think so.

19 MR. H. HYMANSON: Okay. And that's a
20 different scenario. Even if it's something similar,
21 it's not the same person, not the same set of facts;
22 correct?

23 MR. EHLE: Correct.

24 MR. H. HYMANSON: Do you think that there
25 is a way that you can still be fair and impartial

1 and sit and judge this case?

2 MR. EHLE: I'll try. I think, like I said,
3 I have a very extensive medical history, starting
4 when I was eight years old. I'm 69 now. A lot of
5 different doctors, a lot of different misdiagnoses.
6 A lot of -- I had a botched operation. I could go
7 on and on and on. I mean, I can try to be fair. It
8 would be, you know, just I'm afraid of whatever the
9 other side brings up, it's going to reference
10 something that I've already been through.

11 MR. H. HYMANSON: Understood. Thank you
12 very much for that.

13 Ladies and gentlemen, if you were a
14 plaintiff who was injured as a result of someone's
15 medical malpractice, would you feel comfortable with
16 someone with your viewpoint or disposition sitting
17 on the jury?

18 Is there anybody that feels that they
19 wouldn't be comfortable? If you were injured and
20 you were severely harmed by someone's medical
21 malpractice, would you be comfortable with someone
22 with your viewpoints sitting on the jury?

23 Is there anyone that wouldn't be
24 comfortable?

25 Seeing that, I have no further questions.

1 Thank you very much, Your Honor.

2 THE COURT: Thank you. We'll let Mr. --
3 are you going to use the podium?

4 MR. MCBRIDE: Sure. I might as well,
5 Your Honor. Thank you.

6 THE COURT: All right. And are you okay
7 with that location? We don't have the same line of
8 much sight issues from you.

9 MR. MCBRIDE: My voice is very loud too.
10 Good afternoon, everyone. Can everyone
11 hear me?

12 You can hear me all right, Mr. Wilder?

13 And one thing, so that we know -- and,
14 Mr. Wilder, in case you're concerned about being
15 able to hear anything, see these little microphones
16 in front of the jury box and over in front of the
17 witness stage, and the judge has one up there?
18 That's going to help, I think, project so you can
19 hear.

20 But you understand you can also use that
21 device that the judge told you about as well; right?
22 Okay. You feel comfortable given that information
23 the fact that there's microphones here to be able to
24 hear the witnesses testifying and the judge and
25 counsel, what they might say?

1 You feel comfortable with being able to
2 raise your hand if you can't hear anything?

3 MR. WILDER: I think so.

4 MR. MCBRIDE: All right. One question I
5 wanted to ask everyone in general -- and I think
6 we've covered this earlier -- is just, in general,
7 do the people here in this panel, do you feel or
8 have one opinion of physicians negatively or
9 positively? Either negatively or positively?

10 Mr. Ehle, we already know, I think, where
11 you're coming from.

12 MR. EHLE: Yeah.

13 MR. MCBRIDE: All right. I'll get to you
14 in a second. Anyone else here who has a very
15 favorable about physicians, Mr. Maltese?

16 MR. MALTESE: Yeah.

17 MR. MCBRIDE: And that's Mr. Maltese, you
18 are at 665.

19 MR. MALTESE: Correct. I have a
20 favorable -- I was in a hospital and had almost
21 20 surgeries in a hospital stay; and they, you know,
22 I was about to die. They just took me up and got me
23 better.

24 MR. MCBRIDE: So was that here locally in
25 Las Vegas, or was that back in New York?

1 MR. MALTESE: No. It was in New York,
2 yeah.

3 MR. MCBRIDE: And how long ago was that?

4 MR. MALTESE: Colon cancer survivor about
5 20 years ago.

6 MR. MCBRIDE: Congratulations. Do you
7 think that that positive experience that you had as
8 a result of the physicians and the healthcare
9 providers that took care of you, do you think that's
10 going to impact, one way or another on your ability
11 to be fair and impartial juror in this case?

12 MR. MALTESE: I could be fair and
13 impartial.

14 MR. MCBRIDE: Okay. Does everyone here
15 understand like, up to this point, no one has heard
16 a single thing about the facts of this case?
17 You'd agree with that; right? So everyone, you're
18 coming into this case with a clean slate; right?

19 Mr. Ehle, let's go to your concerns, and I
20 appreciate, I think counsel mentioned the term
21 "brutal honesty," and that's all we're asking for,
22 everyone's brutal honesty here, because it's very
23 important to both sides, to our clients as well as
24 to the plaintiffs.

25 And so, Mr. Ehle, I wanted to touch really

1 quickly on your feelings about physicians given your
2 extensive medical history. If you were in
3 Dr. Lasry's position or APRN Bartmus's position,
4 would you want someone with your same mindset, as
5 you sit here right now, judging against them in this
6 case?

7 MR. EHLE: I wouldn't want me judging
8 against them.

9 MR. MCBRIDE: Right. And is that because
10 you have had such bad experiences?

11 MR. EHLE: Yeah, yeah.

12 MR. MCBRIDE: And not just personally. I
13 think you told us about other individuals who you
14 believe have been victims of malpractice; is that
15 right? Maybe I -- I took that down in my notes.
16 Was there anyone else that you've encountered that
17 you felt to have had malpractice against them?

18 MR. EHLE: I don't think I know anybody
19 that had malpractice against them. I have a good
20 friend that's in a wheelchair because of third-stage
21 kidney disease. I've thought about doing
22 malpractice suits myself. I never have.

23 MR. MCBRIDE: And I guess what I'm trying
24 to get at and counsel even mentioned, there's other
25 cases that are in this courtroom, and some are not

1 medical malpractice. Some are criminal cases.
2 There's construction defect cases, as we've heard
3 about. Do you think, given your past experience,
4 that this is maybe not the right case for you to be
5 a juror on because of that?

6 MR. EHLE: Yeah, medical malpractice suits
7 aren't the right case for me. I've served before on
8 a criminal case.

9 MR. MCBRIDE: Right, right.

10 MR. EHLE: This is not -- I don't think you
11 want me.

12 MR. MCBRIDE: Okay. Well, and, again, and
13 I appreciate your brutal honesty, and that's all
14 we're asking for from everyone here. We want
15 everyone to disclose if there is some feeling, as
16 much as each of us want to believe we can be fair
17 and impartial, it's really important if there's
18 something maybe deep down or some past experience
19 that might affect our ability to be fair and
20 impartial. And I appreciate -- Mr. Ehle, I
21 appreciate that.

22 How about anyone else, given what Mr. Ehle
23 has talked about, anyone else kind of have that same
24 feeling, one way or the other? Mr. Read.

25 MR. READ: 637. Yeah, if you asked the

1 question like he asked and I probably should have
2 raised my hand when he kind of mentioned it like at
3 the end it was like "Is this the right case for
4 you?" And this is probably like -- like there's
5 probably like tons of cases on your dockets that
6 would be probably a better case for me to have
7 walked in and like where I would have. But, yeah,
8 if you're asking me the question, "Is this probably
9 the right case for me?" No.

10 MR. MCBRIDE: Okay. And, again, that's for
11 the opposite reason? That's because -- and I think
12 in response to questioning, you felt that you might
13 be more favorable, given your experience with your
14 ex-wife towards the defendants in this case.

15 MR. READ: Well, yeah, just also just kind
16 of being able to not think of like myself in that
17 situation and like, you know, just kind of like
18 we're like just being that family observer-type
19 person that, you know, like it's affecting their
20 lives. Yeah, it's more of that person and --

21 MR. MCBRIDE: And is that even the case,
22 Mr. Read, even though everyone agrees here we
23 haven't heard anything about the facts of the case?

24 MR. READ: Yeah, and that's where I kind of
25 like were kind of hesitant to even mention it when

1 he asked it before because I haven't heard anything.
2 so it's like, you know, it might be totally
3 something where it's just -- or it disappears or it
4 doesn't -- so I wouldn't know. But like if you're
5 asking me the question like right now, like just
6 even listening to like just his comments, it's like
7 if you're asking me that particular question, "Is
8 this the right case for you," you know, like move me
9 next-door, and then I'd love to serve, and I think
10 it might be a better fit than where this wouldn't be
11 a good fit for me.

12 MR. MCBRIDE: Understood. Anyone else have
13 any similar strong feelings, one way or another
14 about their ability to be fair and impartial in this
15 case? Mr. Headd.

16 MR. HEADD: Mr. Headd, 633. I don't know
17 if it will be an issue, but I heard it's an E.R.
18 case. Is that -- it's going to deal with the E.R.?

19 MR. MCBRIDE: It pertains to the care and
20 treatment rendered was in the emergency room; right?

21 MR. HEADD: Yeah, my just personal opinion
22 is it's a very -- you know, they don't know what's
23 coming in the door a lot of times, and they're going
24 to just -- they have to kind of take it as it comes
25 and do the best they can because, you know, they

1 don't have any prior knowledge of what's going on.

2 So I think, in that case, I potentially
3 might be skewed towards the E.R. doctor because
4 they're just trying to do the best they can with
5 what they know right that second. So like, you
6 know, their chances of making a mistake might be
7 higher because they don't have this long-term
8 history with the patient, and I think I would feel
9 more forgiving towards them in that situation versus
10 like a family practitioner.

11 MR. MCBRIDE: Understood. But you would
12 agree with me, you know absolutely no facts about
13 this case?

14 MR. HEADD: Yeah. I'm saying the facts
15 might come out and might not affect me at all.

16 MR. MCBRIDE: Right, right. And I
17 appreciate you being honest and telling me about
18 that and telling us about that. However, do you
19 think, again, in this case, that --

20 And I would ask this of everyone: Do you
21 think all of you can sit and wait until you hear all
22 of the evidence that comes in before you make up
23 your mind in this case?

24 Can everyone agree to do that?

25 Mr. Withers, can you agree with that too?

1 MR. WITHERS: Yes.

2 MR. MCBRIDE: All right. Mr. Newman.

3 MR. NEWMAN: Yes.

4 MR. MCBRIDE: And, Mr. Newman, you are 640.

5 MR. NEWMAN: Yes.

6 MR. MCBRIDE: And, Mr. Headd, I wanted to
7 just touch that based on that, in terms of your, you
8 know, feelings already that you've expressed about
9 this if this is an E.R. case, are you willing to
10 wait and until all the evidence has been in, until
11 plaintiff has put their evidence and submitted their
12 evidence and defendants have had an opportunity to
13 respond before you make any decision in this case?

14 MR. HEADD: Like I said, it's going to
15 depend on how the facts come out.

16 MR. MCBRIDE: Right.

17 MR. HEADD: But for me, in my mind, I'm
18 trying to look at it in a different scenario. If I
19 look at it as, you know, somebody is in a burning
20 house and the fireman pulls them out trying to save
21 their life and dislocates their shoulder, should
22 that fireman then be sued for dislocating their
23 shoulder while he was trying to save their life? I
24 feel no. But I mean, depending how the facts come
25 out, you know, if it's not a situation like that at

1 all, I'll be fine.

2 MR. MCBRIDE: Right. And, again, those are
3 not the facts of this case.

4 MR. HEADD: Yeah, okay. Just I don't want
5 to -- you know, if a certain scenario like that
6 comes on, I might shut down a little bit and, you
7 know what I'm --

8 MR. MCBRIDE: Understood, understood.

9 And, again, everyone has to wait until the
10 evidence comes in. How about this general question
11 in terms of we talked about the burden of proof.

12 Does everyone here understand that the
13 plaintiff is the one that has the burden of proof of
14 their case by a preponderance of the evidence?

15 Does everyone -- Mr. Headd, you understand
16 that?

17 MR. HEADD: Uh-huh.

18 MR. MCBRIDE: And that means that the
19 plaintiff will go first. That's why they ask
20 questions first of the jurors here, and then the
21 defense goes.

22 Do you think that everyone here can make a
23 promise to all of us that you'll wait until all of
24 the evidence has been presented before you make up
25 your mind in this case? Everyone can do that?

1 Mr. Headd, again, coming back to you, you
2 think, again, understanding what you told us, do you
3 believe that you could still be fair and impartial
4 and wait until all the evidence has been submitted?

5 MR. HEADD: Yeah, yeah.

6 MR. MCBRIDE: Okay. Thank you.

7 THE COURT: And I'm just going to interject
8 briefly, Mr. McBride. Don't lose your place on your
9 questions.

10 MR. MCBRIDE: Sure.

11 THE COURT: I think that's a good place to
12 just interrupt briefly and say we even have an
13 instruction that talks about how you are, you know,
14 nobody lives in a vacuum; right? We all have common
15 life experiences, and we're all entitled to bring to
16 our jury service our common life experiences; and
17 even if we have some empathy or sympathy or whatever
18 it is, one way or the other, what we need to know is
19 if you could not set that aside and if you could not
20 overcome whatever those feelings are and, at the end
21 of the day, deliberate with your fellow jurors to
22 render, you know, a verdict according to the
23 evidence. That's the concern.

24 We know people are going to have their life
25 experiences. We know people are going to have

1 their, again, empathies and sympathies, and there
2 are instructions that talk about this. But at the
3 end of the day, your duty, your oath is going to be
4 that you will listen to the evidence and you will
5 receive the instructions, and you will render a
6 verdict based on what you find the evidence to be.

7 Is there anyone here, as you sit here right
8 now, who does not believe that they can do that?
9 And there's no right or wrong answer?

10 MR. MCBRIDE: Mr. Ehle.

11 MR. EHLE: And I think, again, as I said --

12 MR. MCBRIDE: Mr. Ehle, you're 606?

13 MR. EHLE: 606. I think I'd be predisposed
14 for against your side.

15 MR. MCBRIDE: Against the doctor and the
16 healthcare provider.

17 MR. EHLE: Yeah, I wish it wasn't the case,
18 but I've had too many past experiences.

19 MR. MCBRIDE: Sure.

20 THE COURT: And you've explained. It was
21 just -- it was really a yes-or-no answer at that
22 point. I was just trying to clarify. So we
23 appreciate your additional information.

24 Go ahead, Mr. McBride.

25 MR. MCBRIDE: And that actually brings --

1 that was a perfect segue into my next line of
2 question. The judge just told you there's going to
3 be instructions on what the law is, and in terms of
4 one of those instructions is going to talk to you
5 about how you can't judge this case on the basis of
6 sympathy.

7 Does anyone, by the mere fact that
8 Mr. Moore, who you saw here earlier today and
9 yesterday, and Mrs. Moore sitting here, but
10 Mr. Moore is here in a wheelchair, is that going
11 to -- do you think you're going to be more
12 sympathetic towards him because of that he's in a
13 wheelchair? Anyone?

14 Okay. How many of you feel that simply
15 because we're here in court, that that means that
16 necessarily either my client, Dr. Lasry or APRN
17 Bartmus must have done something wrong?

18 Any of you come to that conclusion before
19 we started talking to you? Okay. Everyone --

20 Mr. Withers.

21 MR. WITHERS: Yeah. 618. I guess it's
22 kind of presumed. That's why, you know, there's ill
23 feelings or there's reasons to be here. Obviously
24 if there wasn't, there wouldn't be a lawsuit; right?

25 MR. MCBRIDE: Well, and you've managed a

1 car -- what's the general gist of the company that
2 you work for right now?

3 MR. WITHERS: A bus company.

4 MR. MCBRIDE: I'm sorry?

5 MR. WITHERS: A bus company.

6 MR. MCBRIDE: A bus company. And have you
7 said, in the past, that you've actually been
8 involved in lawsuits that have been filed against
9 your company?

10 MR. WITHERS: Many of them.

11 MR. MCBRIDE: And do you believe, on that
12 basis, that every one of those cases -- have any of
13 them ever ended up in the courtroom?

14 MR. WITHERS: I've been in deposition a
15 lot. Most of them got settled outside of court.

16 MR. MCBRIDE: Okay. Have you ever had
17 occasions, in your personal experience, where
18 there's -- a lawsuit is filed, but it's your belief
19 and after all the evidence that you've gathered as
20 part of your job that you feel that there was
21 absolutely nothing that was done inappropriately or
22 wrong?

23 MR. WITHERS: Yes.

24 MR. MCBRIDE: Given that information, do
25 you necessarily feel that -- would you agree with me

1 that a defendant -- if a plaintiff files a lawsuit,
2 a defendant or defendants is entitled to defend
3 themselves if they feel that they don't do anything
4 wrong?

5 MR. WITHERS: Absolutely.

6 MR. MCBRIDE: So with that in mind, do you
7 think that have you made any sort of decision in
8 your mind that, before you've even heard any of the
9 facts of this case, that either Dr. Lasry or Nurse
10 APRN Bartmus had done anything wrong in this case?

11 MR. WITHERS: I haven't heard any facts. I
12 can't come to that conclusion. Like I said earlier,
13 if you're here, somebody believes they did something
14 wrong.

15 MR. MCBRIDE: Fair enough.

16 MR. WITHERS: It's what evidence comes into
17 play. Once we see the evidence, I'd like to think I
18 could draw a conclusion.

19 MR. MCBRIDE: Fair enough. In other words,
20 I think you said this earlier in response to
21 counsel's questions about you need to see some sort
22 of evidence to be able to make your decision; is
23 that right?

24 MR. WITHERS: Absolutely.

25 MR. MCBRIDE: And does everyone pretty much

1 agree with that's your job as a juror by its very
2 essence, that you're here to judge the evidence and
3 the testimony that you're going to hear before you
4 make any sort of judgment against either in favor of
5 the plaintiff or against my clients? You understand
6 that? You're all good with that?

7 Okay. Thank you, Mr. Withers. I
8 appreciate it.

9 In terms of the medical care, I think there
10 was some of you -- I think, Ms. Bechtold, I think it
11 was you and actually Mr. Withers, and I want to talk
12 about you, Ms. Bechtold, you talked about you may
13 not go to a doctor necessarily on a regular basis;
14 is that right?

15 MS. BECHTOLD: I go for well checkups, yes.

16 MR. MCBRIDE: Well checkups.

17 MS. BECHTOLD: Yes.

18 MR. MCBRIDE: Okay. And but you might wait
19 a little while to see if there's really something
20 more wrong if you think you have the symptoms of a
21 cold; is that right?

22 MS. BECHTOLD: That's correct.

23 MR. MCBRIDE: Do you think a patient, such
24 as yourself, are you responsible, do you think
25 you're responsible for certain aspects of your own

1 health?

2 MS. BECHTOLD: Yes. My own self-care. I
3 think we know our own bodies better sometimes and
4 know our healing responses at this age especially,
5 so.

6 MR. MCBRIDE: And in terms of that, does
7 everyone kind of feel that same way that if you go
8 see a doctor, if you have other prior health
9 conditions, that each of us or each of you are
10 responsible, to a certain degree, with your own
11 health? You would agree with that?

12 That, and in terms of following a
13 physician's advice, do you think that if a doctor
14 tells you to go see another doctor, do you think
15 that that's something that's important for you to
16 follow? Everyone agree with that?

17 Anyone disagree with that? Okay.

18 MR. WEAVER: Ms. Brown, I think.

19 MS. BROWN: Brown, 668.

20 MR. MCBRIDE: Oh, I'm sorry. Yeah,
21 Ms. Brown. I'm sorry.

22 MS. BROWN: You said if anybody disagrees
23 like if a referral is made to a different doctor, I
24 would think that would be on their own personal
25 preference. It would depend on if you take the

1 doctor's information and then you process that
2 information. If you want to follow-up with a
3 referral, you can. It's free will.

4 MR. MCBRIDE: Fair enough. And that's
5 something that would you also agree that everyone is
6 entitled to a second opinion if they disagree with
7 another doctor?

8 MS. BROWN: Yes.

9 MR. MCBRIDE: Everyone agree with that
10 concept? Okay.

11 Thank you, Ms. Brown. I appreciate that.
12 I'm sorry I didn't see your hand raised.

13 Has anyone here either have you personally
14 experienced it where you've been disabled for a
15 period of time, or do you know people who, in your
16 family, immediate family, who have been disabled for
17 a period of time? I think we talked about some
18 people. Ms. Brown, you mentioned an individual you
19 knew about in -- excuse me.

20 Mr. Jones, you knew someone about who was
21 in a wheelchair.

22 MR. JONES: Yeah, well, I said I had a
23 grandfather who had a leg amputated. But I have a
24 nephew who was in a wheelchair as a result of a
25 surgery and caught some kind of a -- what do you

1 call it? He caught something in the hospital that
2 debilitated him and he couldn't recover from it. It
3 wasn't a staff infection. It was something else,
4 and he was never able to recover from it. He's
5 still in a wheelchair. He's only 41 years old.

6 MR. MCBRIDE: How long ago did that happen?
7 I'm sorry to hear that.

8 MR. JONES: About eight years ago.

9 MR. MCBRIDE: Would anything about that
10 particular instance and understanding that Mr. Moore
11 is in a wheelchair -- again, we don't know, you
12 don't know the circumstances behind that -- anything
13 which might cause you to be less than fair and
14 impartial in this case?

15 MR. JONES: No.

16 MR. MCBRIDE: Okay. Thank you. I
17 appreciate it.

18 Anyone else? Anyone else have anyone who
19 had a long-term disability that kept them out of
20 work or in a wheelchair for a long period of time?

21 All right. Mr. -- I'm going to get your
22 606, and it's Mr. Ehle.

23 MR. EHLE: I just have a question.

24 MR. MCBRIDE: Sure.

25 MR. EHLE: Personally or if we know

1 somebody?

2 MR. MCBRIDE: Either one.

3 MR. EHLE: Yeah. I been disabled several
4 times. I was on crutches for three years. After
5 that, I had a broken leg one time. I was on
6 crutches for about six weeks, I think, for that one.
7 Let me think. There might be another time. I can't
8 remember.

9 THE COURT: Okay.

10 MR. MCBRIDE: But fair to say a few times?

11 MR. EHLE: A few times, yeah.

12 MR. MCBRIDE: And in terms of there was
13 some questions about anyone who knew anyone who had
14 vascular insufficiency or any of those questions, do
15 you remember those questions? How about the term
16 DVT, deep vein thrombosis? Anyone know about that?

17 MR. JONES: I actually had a DVT.

18 MR. MCBRIDE: Oh, you did. Okay. And
19 without getting too personal, how long was that?

20 MR. JONES: Actually, I had two over a
21 12-year period. The last one was about six years
22 ago. And so they put me on a blood thinner as a
23 result of it. I played a lot of basketball, and a
24 leg injury and migrated blood clot. So not any
25 fault of -- just one those lumps, it was a P.E.,

1 pulmonary embolus.

2 MR. MCBRIDE: Pulmonary embolus. And in
3 terms of the medication you were on, is that going
4 to be something, without getting too invasive, is
5 that something you were on medication for a period
6 of time?

7 MR. JONES: I'm still on it. After you
8 have the second one, they usually kind of -- they
9 feel that you may have a predisposition for
10 clotting, and they put you on a thinner on a
11 permanent basis.

12 MR. MCBRIDE: Okay. And in terms of your
13 understanding of your condition, the reasons why
14 you're taking that medication, do you take that
15 medication on a daily basis?

16 MR. JONES: As instructed, right.

17 MR. MCBRIDE: And is that because you know
18 what could happen if you don't take that medication?

19 MR. JONES: Yeah.

20 MR. MCBRIDE: Okay. How did you feel about
21 the treatment you received as a result of the DVT
22 that you had?

23 MR. JONES: I had excellent treatment.

24 MR. MCBRIDE: All right. And in terms of
25 anyone else, anyone else heard that term "DVT" or

1 had experience? Ms. Price, 632.

2 MS. PRICE: I've just heard of it. My
3 father had coronary artery disease, had to have
4 surgery, was on blood thinners. So I know that he
5 had one in the past.

6 MR. MCBRIDE: Right, right. And there's a
7 medication known as Xarelto. Is that --

8 MR. JONES: Actually, I take Eliquis.

9 MR. MCBRIDE: Eliquis.

10 MR. JONES: It's the same family of
11 thinners but just a different brand name.

12 MR. MCBRIDE: Have all of you seen those
13 commercials on TV about Xarelto and Eliquis and all
14 those sorts of things? So people generally have an
15 understanding of blood thinners and what they're
16 used for? Okay. You're going to hear physicians,
17 experts get up here to talk and explain all of the
18 medical terminology to you that might come up in
19 this case, and that's a general question.

20 Does anyone here have any sort of
21 hesitation, without hearing any sort of evidence,
22 that they're not going to understand what this case
23 is about? Anyone at this point?

24 Mr. Fife, 614.

25 MR. FIFE: Yes.

1 MR. MCBRIDE: What's your concern, sir?

2 MR. FIFE: Well, just like you said, just
3 not understanding the terms or exactly what's going
4 on with it.

5 MR. MCBRIDE: And I think, you know, with
6 the exception of a couple of people that have
7 relatives -- Mr. Read, your ex-wife, who was a
8 nurse -- for the most part, I don't believe -- and
9 Ms. Jones (sic), I believe you're Medicaid, but
10 there's no other individuals here on this panel who
11 actually have medical background; is that right?

12 Did I miss that? Oh. Ms. Bebekyan.

13 MS. BEBEKYAN: Yes.

14 MR. MCBRIDE: Did I say that right?

15 MS. BEBEKYAN: Yes, 109. I work in a
16 medical call center. So I'm paging out to doctors
17 and nurses, and you hear all these words that are
18 familiar, and I didn't go to medical school. So I
19 learned it based off of two weeks. So and every
20 day, you just learn something new and catch up.

21 MR. MCBRIDE: And that's something I could
22 assure you that those of us who do this sort of
23 work, as attorneys I'm not a doctor, but we learn
24 things all the time, including in every trial.

25 So I could assure you we're going to have

1 witnesses who are going to testify, who are going to
2 be medical experts, as well as the defendants who
3 are going to testify, and they'll explain that
4 information to you, and hopefully you'll be able to
5 get a gist of what's happened.

6 That brings up another point. Does anyone
7 here have a problem with the fact that some of the
8 physicians who might be called in to testify, either
9 as experts or as treating physicians, that they may
10 be compensated for their time away from patients and
11 here on the stand? Anyone have a problem with that?

12 Ms. Price, what's your concern? 632.

13 MS. PRICE: It's not necessarily I have a
14 problem with it. It just puts -- I know that
15 they're getting paid for it. So it's not as -- I
16 don't know if I take the testimony with as much
17 weight as somebody who I know is doing it of their
18 own volition. They know that they're doing it
19 because they truly believe the stuff, what they're
20 saying.

21 MR. MCBRIDE: Sure. And if it's the case
22 that, on both sides, experts have been retained and
23 are going to testify, are you saying basically it
24 would be kind of a wash to you in terms of given the
25 fact that they're being paid to --

1 MS. PRICE: No, it wouldn't be a wash. I'd
2 just maybe take it with a grain of salt.

3 MR. MCBRIDE: Okay. Fair enough, fair
4 enough. I appreciate that.

5 THE COURT: Just to interject, there is
6 also an instruction on how to determine credibility
7 and believability of witnesses, and it kind of goes
8 into some detail. The counsel may inquire of any
9 person who's testifying and whether or not they're
10 being compensated. It's very hard in these trials
11 to predict timing and when to call and things like
12 that, and people have to rearrange their schedules
13 and circumstances.

14 So, you know, it really does boil down to
15 an understanding by all the parties and all the
16 counsel that certain folks with certain expertise in
17 certain areas of certain knowledge would be
18 compensated. So, and, again, it's all instructions.
19 The instructions talk about all factors to be
20 considered about credibility, believability of
21 witnesses, how you weigh them, whether you believe
22 them, all of those things.

23 So you'll get instructions on that. But,
24 again, it's not uncommon at all for witnesses to be
25 compensated.

1 MR. MCBRIDE: Thank you, Your Honor.

2 There was some questions -- I just wanted
3 to go briefly over it. There was some questions by
4 counsel about people taking responsibility for their
5 actions. Do you remember that line of questioning?

6 How many here believe that patients --
7 again, this kind of goes to a question I asked
8 earlier -- how many believe that patients have a
9 certain responsibility of their own when it comes to
10 their healthcare? Pretty much everyone?

11 Mr. Grant, you believe that as well?

12 MR. GRANT: Yes. 634.

13 MR. MCBRIDE: Okay. Anything about any
14 experience that you've had where you feel that if a
15 physician were to come in and defend his care and
16 treatment of this, that in a particular case -- and
17 in this case, Dr. Lasry -- would you have any
18 problem listening to his point of view before making
19 any sort of decision on the case relative to the
20 plaintiff?

21 MR. GRANT: I have no problem, no.

22 MR. MCBRIDE: How many of you have ever
23 been either judged by someone else on the benefit of
24 hindsight or you judged something on the benefit of
25 hindsight? Do you understand that?

1 MR. WITHERS: No.

2 MR. MCBRIDE: Okay. How about the term
3 "Monday morning quarterback," let's put it in a term
4 like that. Has everyone heard that term "Monday
5 morning quarterback"?

6 Ms. Price, you've not heard that term
7 before. MS. PRICE: No.

8 MR. MCBRIDE: 632.

9 Mr. Withers, why don't you explain what
10 your understanding is of a Monday morning
11 quarterback.

12 MR. WITHERS: 618. This is something I
13 deal with constantly, working for 24/7 business.
14 Things are going to happen when I'm not there.
15 Things are going to happen over the weekend,
16 overnight. It happened in a different department,
17 and I manly get a portion or a part of the truth,
18 and the first thing I would say to myself or to
19 others is "I wouldn't have done it that way" or "why
20 did they do it like that?"

21 That's the Monday morning quarterback is:
22 I would have done it different than you, even though
23 I wasn't in that situation.

24 MR. MCBRIDE: Right. And in those certain
25 circumstances, when someone comes back to you and

1 they have a good response to the reason why they did
2 it, do you accept that explanation for it?

3 MR. WITHERS: I expect it.

4 MR. MCBRIDE: Okay. And, again, in terms
5 of does everyone kind of feel that same way that if
6 you kind of look at something, you might have a
7 difference of opinion as to whether or not a certain
8 employee underneath you should have done certain
9 things a certain way, that you want to listen to
10 them and see what their explanation is for it?

11 And if the explanation is a reasonable
12 explanation, are you inclined to at least allow them
13 the benefit of that doubt?

14 Anyone so adamant that they cannot accept
15 that and it's only your decision, your hindsight
16 that should be the determinative factor? Anyone?

17 Mr. Everett, anything about that? We
18 haven't heard much from you today, and you're
19 probably thankful for that. But I wanted to ask you
20 some stuff about your work as a -- was it content
21 creator.

22 MR. EVERETT: Videographer.

23 MR. MCBRIDE: Videographer. And in terms
24 of the work that you do, do you have other people
25 who work for you?

1 THE COURT: Mr. Everett, I could barely
2 hear you. So I can only imagine certainly Mr.
3 wilder is not hearing you.

4 MR. EVERETT: Just maybe like one other
5 person.

6 THE COURT: We need your court reporter to
7 hear you.

8 MR. WEAVER: I still can't. I'm sorry.

9 THE COURT: You're really going to have to
10 speak up, sir.

11 MR. EVERETT: One other person.

12 MR. MCBRIDE: One other person. All right.
13 Thank you. And then you do you collaborate together
14 with that other person?

15 MR. EVERETT: Yeah. We do it together.

16 THE COURT: So I'm going to interrupt.
17 Mr. Everett, I've got to be honest. You're talking
18 to Mr. McBride. But nobody else can hear you. So I
19 know it's going to sound awkward, but you're going
20 to have to shout or you're going to have to stand
21 because you're just having a very soft conversation,
22 and even though we're telling you we can't hear you,
23 you haven't raised the decibels of your voice at
24 all.

25 MR. EVERETT: Okay.

1 THE COURT: So either stand up or project.
2 Okay? Thank you.

3 MR. EVERETT: Yes. We work together, one
4 other person.

5 MR. MCBRIDE: All right. And certainly
6 don't mean to call you out, sir. I just want to --
7 and in your line of work, is it important, do you
8 believe to collaborate with that other person and
9 take that other person's opinions and decisions as
10 well?

11 MR. EVERETT: Yes. All of it. Everything,
12 yeah.

13 MR. MCBRIDE: Do you think you're
14 ultimately the one in charge and the only one who
15 can make that decision?

16 MR. EVERETT: No.

17 MR. MCBRIDE: Thank you, sir. Appreciate it.

18 There was also some talk about award of
19 millions of dollars and whether you could feel
20 comfortable awarding \$10 million or \$5 million if
21 the found that the particular case and the facts
22 presented itself. How about the reverse of that?

23 If you felt that after you heard all of the
24 evidence in this case and you listened to all of the
25 witnesses, if at the end of the day, you feel that

1 the plaintiff did not prove their case or they did
2 not prove that they are entitled to damages, would
3 you be okay turning the plaintiff away,
4 Mr. and Mrs. Moore away, without awarding anything?

5 Could everyone do that?

6 Anyone who would have a problem or
7 difficulty doing that, besides maybe Mr. Ehle? And
8 I don't mean to call you out.

9 Anyone else who would have a problem doing
10 that? No.

11 Ms. Brown, are you okay with if the facts
12 and evidence did not support the fact that plaintiff
13 was entitled to an award of damages, would you have
14 any problem turning Mr. and Mrs. Moore away?

15 MS. BROWN: No.

16 MR. MCBRIDE: How about in terms of medical
17 care in the practice of medicine, how many of you
18 believe that medicine is an exact science; in other
19 words, there's only one answer that can be for any
20 particular condition? Anyone?

21 All right. No hands.

22 All right. So in this particular case,
23 you've heard the term the "practice of medicine";
24 right? Ms. Price, what's your understanding of what
25 that means?

1 MS. PRICE: "Practice of medicine"?

2 MR. MCBRIDE: 632.

3 MS. PRICE: 632. A patient healthcare. So
4 basically people going in, getting a diagnosis,
5 getting prescription, surgery, mental care,
6 psychology, therapy. Anything that falls under the
7 umbrella of taking care of your body and mind.

8 MR. MCBRIDE: Okay. And I think there was
9 some discussion, Mr. Headd, you talked about it, I
10 think you did as well, Ms. Price, about physicians,
11 the fact that they go to medical school for years of
12 training and practice of medicine in a particular
13 area; right?

14 Do you feel that that makes them
15 necessarily the only experts to listen to? In other
16 words, do you --

17 MS. PRICE: Are you asking me?

18 MR. MCBRIDE: Yeah, I'm talking to you,
19 Ms. Price. I'm sorry. In other words, do you
20 believe that there's other ways to treat certain
21 conditions? And different physicians might have
22 different opinions as to how to treat those
23 conditions.

24 MS. PRICE: 632. And yes. Definitely,
25 there's multiple ways for something to have been

1 handled.

2 MR. MCBRIDE: Okay. And, again, Mr. Jones,
3 would you feel that same way?

4 MR. JONES: Yes.

5 MR. MCBRIDE: Ms. Sallee, you are 604. I
6 have not heard you today. But I wanted to just kind
7 of inquire of you, is there anything that you've
8 heard from either side here that raises a question
9 in your mind as to whether or not you could be fair
10 and impartial in this case?

11 MS. SALLEE: Not at all.

12 MR. MCBRIDE: Have you heard of the term
13 "standard of care"?

14 MS. SALLEE: Yes.

15 MR. MCBRIDE: Okay. What's your
16 understanding of that term as it relates to the
17 practice of medicine?

18 MS. SALLEE: I'd say it's the basics.
19 without it being a special -- just the basic normal
20 standard of care.

21 MR. MCBRIDE: And has anyone else heard
22 that term?

23 THE COURT: We didn't get Ms. Sallee's
24 number. It's 604.

25 MR. MCBRIDE: Oh, I'm sorry. 604.4.

1 Anyone else, have you heard that term, what
2 the "standard of care" is generally?

3 I guess let me just kind of finish it up
4 with this, and I think I'm actually done. Let me
5 just check my notes real quick. Oh, a couple of
6 things. Sorry. Sorry to give you false hope,
7 everyone. But has anyone here been treated at
8 St. Rose, San Martin, in the emergency room?

9 Has anyone here been treated or had any
10 close family members treated in the emergency room
11 at any hospital here in Las Vegas?

12 Show of hands. There's several of you.
13 Okay. Mr. Withers.

14 And how about, of those who raised their
15 hands, have any of you any bad experiences of the
16 emergency room departments that you've been treated
17 at here in Las Vegas? No one.

18 Okay. Any good experiences? I know that's
19 hard to even imagine, but any good experiences?

20 Mr. Newman, did you raise your hand there,
21 640?

22 MR. NEWMAN: 640. Yes.

23 MR. MCBRIDE: Okay. What was good
24 experience in the emergency room?

25 MR. NEWMAN: My sister, they did very well

1 with her. You know, she was really messed up for
2 quite awhile, but they stayed with it, and
3 everything they did, it helped her. Even now, she's
4 lost a lot of movement in one side, but the movement
5 is back. I mean, she's in a wheelchair. She can't
6 do what she normally was able to do, but she could
7 function; and, you know, and she could get around.

8 MR. MCBRIDE: Right. And were you there
9 when your sister was in the emergency room?

10 MR. NEWMAN: I came in later. She was
11 already inside.

12 MR. MCBRIDE: Did you have occasion to
13 personally interact with any of the healthcare
14 providers?

15 MR. NEWMAN: Sometimes, but not all the
16 time because my other sister, which is a nurse also.
17 I mean, she's retired. It's many years ago. So she
18 kind of controlled everything.

19 MR. MCBRIDE: Okay. And but were you and
20 your sister, were you happy with the answers that
21 you got from the physicians and the nurses who took
22 care --

23 MR. NEWMAN: Yes, I was. Yeah.

24 MR. MCBRIDE: Do you remember if you saw if
25 your sister was treated specifically by a physician,

1 or was the APRN or a P.A., a Physician's Assistant.

2 MR. NEWMAN: I think they had a team, a
3 team of them. You know, after she was recovered and
4 went home, she was back with a therapist and
5 everyone else, and that's what really helped her.

6 MR. MCBRIDE: Great. That's good to hear.

7 And then let's just talk real quick about
8 any other hospitalizations here in Las Vegas.
9 Besides those that you've already mentioned, anyone
10 who have had any hospitalizations of close family
11 members or yourselves at St. Rose, San Martin.

12 No one? Ms. Clinton. I'm sorry. And you
13 are 658.

14 MS. CLINTON: 658, yes. And where is
15 St. Rose, San Martin?

16 MR. MCBRIDE: San Martin campus is up off
17 of St. Rose Parkway.

18 MS. CLINTON: Okay. I believe I had a
19 brother who was in the hospital there.

20 MR. MCBRIDE: Okay. Anything -- did you go
21 visit that brother?

22 MS. CLINTON: Yes.

23 MR. MCBRIDE: Okay. And anything about
24 that experience that caused you any concern, one way
25 or another?

1 MS. CLINTON: No.

2 MR. MCBRIDE: Ms. Clinton, while I have you
3 there and you raised your hand, I want to ask you
4 another couple questions about your work in civil
5 litigation. I think you said you did mostly
6 business litigation and real estate.

7 MS. CLINTON: Yes.

8 MR. MCBRIDE: The fact that that's an
9 entirely different area of law compared to a medical
10 malpractice case or personal injury case, do you
11 feel that you're able to view this case impartially
12 and fairly as a juror in this case?

13 MS. CLINTON: Yes.

14 MR. MCBRIDE: All right. Anything about
15 that experience as a civil litigator you think
16 you're going to judge the attorneys harsher or less
17 harsh.

18 MS. CLINTON: No.

19 MR. MCBRIDE: Okay. Again, I'm going to
20 ask the final question, I think for me, similar to
21 what counsel had already asked, is there any
22 question that you think that I need to ask of you
23 that would help me decide whether or not, and
24 whether Dr. Lasry would need to know, about you
25 personally that would help us decide whether you

1 could be fair and impartial in this case?

2 Anything? No.

3 And all of you, I think, have promised us
4 if you were chosen to be jurors in this case, you
5 could view this evidence fair and impartially and
6 wait until all the evidence has been submitted?

7 would you agree that you will make every
8 effort to make sure that the plaintiff proves every
9 element of their case before you make a decision as
10 to whether or not damages are appropriate in the
11 case? Everyone agree with that?

12 That's all the questions I have. Thank you
13 very much.

14 THE COURT: All right. Thank you.

15 I'm going to have counsel at the bench for
16 a brief scheduling conference.

17 (Bench conference.)

18 THE COURT: All right. Ladies and
19 gentlemen, I wanted to have a conversation. I think
20 you probably have figured out that, based on the
21 classic and we're only 20 minutes or so before
22 5:00 o'clock and we really don't have the luxury to
23 go past 5:00 unless it's going to be circumstances
24 where it's just going to be just past 5:00 and we
25 know we can complete, we still have a party and

1 their counsel who have to finish inquiring of the
2 jurors.

3 We are not going to finish today. I'm
4 sorry for that. We had hoped to do that, but that
5 did not work, and this is not an exact science. We
6 do our very best. I can assure you that we will
7 finish tomorrow. We are going to return here
8 tomorrow at 1:30. We will take however long it
9 takes to qualify the final group of 20; and then
10 from there, the final selection of ten will be
11 complete. So I appreciate very much your indulgence
12 to have the ability to return at least one more day
13 for this process.

14 I will remind you again, and I will go over
15 the, you know, admonishment a little bit more in
16 detail again that you are to be reminded that you're
17 not to talk or converse among yourselves or with
18 anyone else about the trial, not to do any independent
19 researching, not to try to recreate any aspect of
20 the case, not to visit any of the locations we
21 talked about in the case and, you know, really most
22 importantly, not to form or express any opinion on
23 the case.

24 Of course, you have zero evidence in the
25 case, and the reason you know that is you can't

1 infer anything from the questions that are being
2 asked is this is just to sort of get to people's
3 mindsets on how certain things might work so final
4 selections can be made. But until you actually hear
5 the witnesses and until you actually see the
6 documents, you don't have any evidence in the case.
7 But please do not try to form or express any opinion
8 on the case.

9 I will check with the jury services. I
10 think if you're here on the third day, there might
11 be some compensation that comes. I don't want to
12 make any false promises, but that's my recollection.
13 And but, again, we will absolutely complete
14 tomorrow. There's no doubt about that. We have one
15 remaining set of inquiries and whatever slight
16 followup there might be. But thank you again for
17 patience while we complete this process.

18 We are still on track, by the way. I've
19 spoken with counsel, and the way we've looked at
20 things, that we still expect to finish on the 7th.
21 That does not delay us on the end of the trial. It
22 just is taking us a little bit longer to complete
23 this part of the process than we anticipate.

24 Thank you again for your patience. Have a
25 good night. Any questions, you can pose them to the

1 marshal.

2 THE MARSHAL: All rise for the jury.

3 (Jury panel exits the courtroom.)

4 THE COURT: Let me get the marshal back in
5 so we can have that conversation about storing
6 stuff, where we might put it.

7 MR. ARNTZ: Your Honor, I think we're all
8 in agreement that regardless -- we probably won't
9 get done until 3:00 or 3:30 tomorrow at the
10 earliest. If we all prefer just to plan on starting
11 our openings on Thursday.

12 THE COURT: That's fine. I figured that's
13 where you want to. We actually have some things we
14 have to work out. We can go off the record on this.
15 I don't think we have anything further on the
16 record.

17 THE REPORTER: Thank you.

18 (Pause in the proceedings.)

19 THE COURT: I'm sorry. I should have
20 thought of this. I just want to make one final
21 record before we adjourn for the day that I did
22 inform counsel at this last bench conference that we
23 had a concern about Mr. Wilder in seat No. 9,
24 Juror 611, and his ability to truly hear the
25 proceedings and whether or not he would, in fact,

1 engage in interruptions, so to speak, if he wasn't
2 hearing people speaking.

3 His indication that he can hear about half
4 the people, that it's based on tone, there's really
5 no way for us to know who he's hearing and who he is
6 not hearing, and we would have to be reliant on him
7 to interrupt the proceedings, I'm not really sure
8 since he certainly hasn't done that, not once here,
9 but he has indicated he could hear the counsel. So
10 maybe that's why.

11 But, of course, some of the questions feed
12 off of answers from other people's, you know, other
13 answers that people have given, and he's shown no
14 indication to want to know what that was or have you
15 missed anybody. There's no way he heard
16 Mr. Everett. There's no way he's heard lots of the
17 people. So I am concerned. But we're going to
18 wait, and by agreement of counsel, to deal with that
19 concern tomorrow. We still have obviously --

20 Mr. Weaver, are you doing any voir dire?

21 MR. WEAVER: Yes.

22 THE COURT: We have Mr. Weaver's voir dire
23 and then, of course, any final requests to traverse
24 anybody that might be in question. So we'll deal
25 with them.

1 There also obviously has been identified,
2 informally up to this, two potential cause excusals.
3 Perhaps there are more in counsels' mind. But we
4 talked about the two at the bench, Mr. Ehle,
5 Juror 606; and Mr. Read, Juror 637, and we agreed
6 also to wait until all of the questions have been
7 asked to deal with those. So that was the nature of
8 the final bench conference, besides the scheduling
9 of when we might break today and resume tomorrow.

10 I hope I did tell all the jurors to come
11 back at 1:30.

12 MR. MCBRIDE: You did.

13 THE COURT: But that's when we're going to
14 start, and then we'll complete. And if we complete
15 early tomorrow, that's fine, and we will wait and
16 begin with opening statements on Thursday morning.

17 It's never my preference to hit the ten who
18 are in shock that they just got selected with trying
19 to pay attention to opening statements. It just is
20 not conducive, I don't think, to anybody's efforts.
21 So we will do and plan on doing opening statements
22 at 9:00 on Thursday.

23 MR. MCBRIDE: Thank you, Your Honor.

24 THE COURT: Last housekeeping. I've gotten
25 from Mr. Weaver the order on his motions of limine,

1 but I haven't seen anyone else's. Again, I'm not
2 trying to push you. I know you're trying to prepare
3 for trial. But I obviously, in case any issues come
4 up, having the order in place would be ideal. If
5 not, I certainly have notes and things.

6 But do we have any potential for those
7 orders.

8 MR. MCBRIDE: I will have ours submitted by
9 tomorrow.

10 THE COURT: And Mr. Arntz, any ETA on
11 yours?

12 MR. ARNTZ: I'll contact the others.

13 THE COURT: Yeah, tomorrow or the next day.
14 Just somewhere in the process so that we have them
15 when things might become an issue. Okay?
16 Everybody, goodnight.

17 MR. WEAVER: And, Your Honor, on that
18 housekeeping point, we may also have a stipulation
19 that we can submit jointly on some of the ones that
20 weren't contested.

21 THE COURT: Okay. Fantastic.

22 MR. WEAVER: We'll get that to you.

23 THE COURT: That's great. Yeah, we did
24 talk about that too.

25 Thank you so much. Have a good night.

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(The proceedings concluded at 4:46 p.m.)

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C E R T I F I C A T E

STATE OF NEVADA)
)SS:
COUNTY OF CLARK)

I, Dana J. Tavaglione, RPR, CCR 841, 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, and prepared in daily
copy before the Hon. Kathleen E. Delaney, District
Court Judge, presiding.

Dated at Las Vegas, Nevada, this 29th day
of January 2020.

/S/Dana J. Tavaglione

Dana J. Tavaglione, RPR, CCR NO. 841
Certified Court Reporter
Las Vegas, Nevada

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IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DARELL L. MOORE and CHARLENE A.)
MOORE, individually and as)
husband and wife,)

Plaintiffs,)

vs.)

CASE NO.

JASON LASRY, M.D.,)
individually; FREMONT EMERGENCY)
SERVICES (MANDAVIA), LTD.;)
TERRY BARTMUS, RN, APRN; and)
DOES I through X, inclusive;)
and ROE CORPORATIONS I)
through V, inclusive,)

A-17-766426-C

DEPT. NO. 25

Defendants.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

OF JURY VOIR DIRE

BEFORE THE HONORABLE KATHLEEN E. DELANEY

TUESDAY, JANUARY 28, 2020

APPEARANCES:

For the Plaintiffs:

E. BREEN ARNTZ, ESQ.
HANK HYMANSON, ESQ.
PHILIP M. HYMANSON, ESQ.

For the Defendants:

ROBERT C. MCBRIDE, ESQ.
KEITH A. WEAVER, ESQ.
ALISSA BESTICK, ESQ.

REPORTED BY: DANA J. TAVAGLIONE, RPR, CCR No. 841

1 LAS VEGAS, NEVADA, TUESDAY, JANUARY 28, 2020

2 * * * * *

3
4 THE COURT: Let's get on the record and
5 we'll answer that question.

6 Thank you. Back on the record in trial,
7 Moore vs. Lasry, et al.

8 You all may have a seat. I don't think we
9 need to restate appearances. Just keep in mind our
10 reporter that's with us today is different than our
11 reporter yesterday, and we'll follow all the same
12 rules. We'll speak up. Try to remember to give
13 juror numbers and names as we're doing it -- you're
14 doing a great job with that, by the way.

15 We had a little bit of delay. There's been
16 one juror that was a little late, but it looks like
17 everybody is here and ready to go. We do have an
18 additional group of jurors. I did not bring them
19 into the room. I'm having them sit down in jury
20 services. I don't think we're going to need them.
21 By my count, we have like 16 extra people in the
22 room. And, you know, so far, things seem to be
23 going fairly well here.

24 You were going to ask a question,
25 Mr. Arntz, about folks observing in the courtroom.

1 MR. ARNTZ: Yeah, there's a couple people
2 from my firm. Are they okay there, or --

3 UNIDENTIFIED SPEAKER: If they can move
4 back over here.

5 THE COURT: well, it really depends on, you
6 know, what their advantage point would be best
7 served. There's still seats up here behind counsel
8 table, which we're not bringing the jurors in that
9 way, so that's not an issue, if they want to be
10 there; or they can be back there. We just have
11 jurors, you know, that -- they can probably be over
12 here behind this table, closer, because are you
13 going to bring the rest of the jurors and line them
14 up over here?

15 We're not going to have them all scattered
16 in the courtroom like yesterday. I told them the
17 rest of the gallery people would just line up so
18 you'll feed them in. So it really depends on where
19 you're best --

20 UNIDENTIFIED SPEAKER: We'll just sit back
21 here.

22 THE COURT: All right. You can be in the
23 middle row. You don't have to be in the back row.
24 That gives you a little bit better viewpoint.

25 Okay. Anything else before we bring the

1 jurors in and get started?

2 MR. ARNTZ: That's it, Your Honor.

3 THE COURT: Okay. I'm very hopeful. I
4 don't know what you're all thinking in your agenda,
5 but I really would like to complete jury selection
6 today. Is that a possibility?

7 MR. MCBRIDE: I would love to, but I don't
8 think it's going to be possible. I think each of
9 our clients have to have an opportunity to be able
10 to question and be able to ask the panel questions.

11 THE COURT: Well, I don't disagree, but we
12 have -- you know, it's 1:15, 2:15, 3:15, 4:15 -- we
13 have 3 hours and 45 minutes. We can't finish his
14 questioning and your questioning and your
15 questioning in that amount of time?

16 MR. MCBRIDE: I will do my best,
17 Your Honor. But I think it's important and depends
18 on how much information they're providing us when we
19 ask these general questions. But I really do think
20 it's important for us to get an idea of who these
21 jurors are and which ones are going to be
22 appropriate jurors for this case.

23 THE COURT: All right. Counsel, I don't
24 disagree with you. I know it's important. You
25 don't have to share with the Court what's important.

1 what's also important is we keep this trial on
2 track.

3 MR. MCBRIDE: Understood.

4 THE COURT: And if we can finish jury
5 selection today, we're fine. If not and we have to
6 trail it over to Wednesday, then what are we looking
7 at? Are we looking at trying to do openings with
8 people who just got seated? Are we trying to then
9 postpone openings until Thursday? And then where
10 are we?

11 So this is why we, I think, have to have an
12 aspirational goal here. I know you have prepared
13 your voir dire, but I'm asking you to be creative in
14 that, if you can still do your inquiry, depending on
15 the information -- counsel here is getting quite a
16 bit of information. Lots of people are talking.
17 You're getting to know these people. But, you know,
18 we're not engineering this jury within an inch of
19 its life. We're picking fair and impartial jurors,
20 and I don't why we need to spend hours upon hours
21 separately inquiring if you're getting information
22 and you're doing the followup. I'm just asking you
23 to be thoughtful to whatever your script is, that we
24 try to work within the time frames.

25 MR. ARNTZ: Your Honor, if it helps, if it

1 helps at all, I really believe we're still going to
2 be on track, even if we start with openings on
3 Thursday.

4 THE COURT: Well, that helps a lot. I'm
5 not inclined to start with openings on Thursday if
6 we don't have to, like you know.

7 MR. ARNTZ: I understand.

8 THE COURT: But let's see where we go.
9 But, you know, like I said, all I'm asking -- I know
10 how important this is to both sides, and we've got
11 two folks over here, and I get it -- all I'm asking
12 is each of you have planned the trial you want to
13 conduct. But I have to oversee a whole trial, and I
14 have to get a whole trial done.

15 So you can't just stay on your scripts.
16 You have to start to think along the lines of what
17 gets us done and where we need to go. If we're
18 still on track to finish by next week and we can
19 take until Wednesday, fine. The giant group of
20 people that we're going to keep bringing back here
21 aren't going to be thrilled to be still in jury
22 selection on Wednesday, but that's life.

23 MR. ARNTZ: Well, let me put it this way, I
24 was always planning on finishing my case in chief on
25 Monday, and I will still finish my case in chief on

1 Monday.

2 THE COURT: Let's see how we do. All right.

3 MR. MCBRIDE: Thank you, Your Honor. And
4 just so the Court is clear, I don't intend on taking
5 hours and hours of jury selection, but I honestly
6 don't know how much more that they're going to ask.

7 THE COURT: I don't either, and we'll get
8 started, you know, but we're talking 3 hours and
9 45 minutes. I thought we could finish. But if you
10 tell me we can't --

11 MR. MCBRIDE: And I'll do my best.

12 THE COURT: -- then so be it.

13 MR. MCBRIDE: I'll certainly do my best.

14 THE COURT: Okay. That's all I'm asking.
15 I'm not asking for anything special. I'm just
16 asking -- this is the two days that we blocked for
17 jury selection. I know we got a little bit behind,
18 but plaintiff got rolling and he's in his mix, and
19 let's, you know, try to get this done. You know,
20 we're going to start later in the day. Now we've
21 lost a little time I get it with the juror being
22 late and me committed. But we're going to start
23 earlier than we anticipated and, you know, that was
24 what we were looking at. So I'm just trying to keep
25 to the schedule we actually already talked about.

1 MR. MCBRIDE: Understood, Your Honor.

2 THE COURT: All right.

3 MR. ARNTZ: Understood, Your Honor.

4 THE COURT: Let's get the jurors.

5 THE MARSHAL: All rise for the jury.

6 THE COURT: All right. As the last few
7 jurors are taking their seats, I'll invite everyone
8 else to have a seat. Thank you and welcome back,
9 everyone, to day 2 of our voir dire, discussions with
10 our potential jurors and those who might serve on
11 this panel.

12 I will acknowledge that we have one missing
13 seat or one juror who's no longer with us in the box
14 of 20. We had, with counsel's discussion, gone
15 ahead and excused, for the record, Juror Ms. Ashley,
16 Juror 627. She had expressed some language concerns
17 and disability to be able to fully understand and be
18 able to participate in this trial. So she has been
19 excused.

20 We do need to call the next juror in line
21 to fill that vacancy which is, if you'll again
22 remember as we were coming through between counsel
23 table through what we call the "well" here and then
24 around on the side to take your spot.

25 THE CLERK: Badge 665, James Maltese.

1 THE COURT: Thank you, Mr. Maltese.

2 Before I have counsel for the plaintiffs
3 resume the questioning of the entire panel, now that
4 you have joined the group of 20, we'd like to get to
5 know you a little bit better. I don't know if you
6 can see the board well enough or if you can just --

7 MR. MALTESE: My name is James Maltese. My
8 former job, I was assistant vice president and
9 telecommunications manager for a financial firm in
10 Manhattan. I have a BBA, business computer
11 information systems and quantitative methods.

12 THE COURT: Okay.

13 MR. MALTESE: I don't have a spouse or a
14 domestic partner. I have no children. I've lived
15 in Las Vegas like two and a half years. Moved here
16 from New York. I've been on two, one jury trial
17 that ended after two days of trial they settled.

18 THE COURT: All right. When you say
19 "settled," we use that term typically when we're
20 talking about a civil trial. Do you recall it to
21 have been a civil trial?

22 MR. MALTESE: No. It was a burglary and a
23 stabbing.

24 THE COURT: All right. So it was a
25 criminal trial, but so there was a plea entered?

1 MR. MALTESE: Plea entered.

2 THE COURT: Is that how you understand it?
3 Okay. And you said "second day of trial," so were
4 you actually in the position of listening to
5 witnesses and participating?

6 MR. MALTESE: Yes.

7 THE COURT: And just, again, for the
8 record, even though we had called you right before
9 you began speaking, you're Juror No. 665. Just
10 remember if you're going to be responsive to any
11 questions of counsel, that you give name and your
12 Juror No. And your badge number, last three digits,
13 and I'll remind all of the jurors of that.

14 I think, at this time, you're ready to
15 resume, Mr. Hymanson, with your questions?

16 MR. H. HYMANSON: No questions. Thank you.

17 THE COURT: Oh, no questions of this
18 witness. No, but I meant you're going to resume
19 with the panel.

20 MR. H. HYMANSON: I apologize. Yes,
21 Your Honor.

22 THE COURT: Okay.

23 MR. H. HYMANSON: Thank you so much.
24 Apologize for the confusion.

25 Good afternoon, ladies and gentlemen. Good

1 to see you all again.

2 Mr. Maltese, welcome to the panel.

3 THE COURT: And before you start,
4 Mr. Hymanson, stay there. But I did ask the general
5 panel before Mr. Hymanson started yesterday, do you
6 have anybody in your, you know, close circle, family
7 member, close friend, you, yourself, in a prior job
8 ever working in the medical field.

9 MR. MALTESE: I have a sister who is an
10 R.N., and now she's an administrator in a hospital.

11 THE COURT: Okay. Have there been any
12 occasions that you, a family member, a close friend
13 have been involved in any medical malpractice
14 litigation?

15 MR. MALTESE: My brother-in-law's family
16 sued a doctor because of a heart problem or
17 something, but they lost.

18 THE COURT: Okay. And how long ago was
19 that?

20 MR. MALTESE: Maybe 10, 15 years ago.

21 THE COURT: Was that something that you
22 were sort of directly involved in or just aware of?

23 MR. MALTESE: Not at all.

24 THE COURT: Okay. Is that anything that
25 would impact your ability to be fair and impartial

1 here?

2 MR. MALTESE: No.

3 THE COURT: Mr. Hymanson, whenever you're
4 ready.

5 MR. H. HYMANSON: Thank you very much,
6 Your Honor.

7 Ladies and gentlemen, we're going to start
8 of with group questions like we're doing again -- or
9 like we did yesterday.

10 what does it mean to take full
11 responsibility for your actions?

12 Yes. Ms., is it "Bechtold"?

13 MR. BECHTOLD: Yes. Juror 624. To be
14 accountable for your actions.

15 MR. H. HYMANSON: Okay. And so what does
16 being accountable for your actions mean to you?

17 MS. BECHTOLD: Doing what is expected of
18 you under the rules or the practice or whatever your
19 career is.

20 MR. H. HYMANSON: Does that involve --
21 let's say a hypothetical. There's two kids playing
22 catch with a baseball, and one of them throws the
23 ball over other kid's head, and it breaks a window.
24 What is full accountability in that situation?

25 MS. BECHTOLD: He should have gone to the

1 owner and told his story that it was an accident and
2 that he would come take responsibility for the
3 breakage.

4 MR. H. HYMANSON: And when you say "take
5 responsibility," would you say that paying to fix
6 the window, is that what you consider part of the
7 responsibility or not?

8 MS. BECHTOLD: Yes. Part of it. Yes.

9 MR. H. HYMANSON: Okay. So saying that I
10 did something wrong, but then doing what you can to
11 compensate for the wrong that you caused. I don't
12 want to put words in your mouth, but is that what
13 you're saying?

14 MS. BECHTOLD: Yes.

15 THE COURT: Mr. Hymanson, can I ask a
16 favor. You're kind of dancing around in front of
17 the court reporter, and it's much easier if she can
18 actually see the person speaking. So if you could
19 either just be over there or be over here, it would
20 be great. I don't mind if you move around. Just
21 try not to stand in the line of sight of the court
22 reporter.

23 MR. H. HYMANSON: Understood, Your Honor.
24 Thank you very much, and I apologize.

25 THE COURT: Thank you.

1 MR. H. HYMANSON: Ladies and gentlemen,
2 does anyone agree? Some people shaking their heads.

3 Okay. Does anybody disagree?

4 Yes, sir. Mr. Withers; correct?

5 MR. WITHERS: Bruce Withers, 618. So prior
6 to before the window was broken, there was two
7 people involved in the apartment, and they could
8 have said, "Hey, we're getting kind of close to this
9 house, maybe should move to a different location."
10 So I think ownership is on both boys.

11 MR. H. HYMANSON: Okay. And so you think
12 that the two boys playing catch are both
13 responsible for the window being broken?

14 MR. WITHERS: Yes.

15 MR. H. HYMANSON: Do you still agree that
16 taking full responsibility is to compensate the
17 owner of the house for the damage that's been done?

18 MR. WITHERS: Yes.

19 MR. H. HYMANSON: Do you think that it's
20 important for people to take responsibility for
21 their actions? Is that an important thing for
22 people to do?

23 MR. WITHERS: Yes.

24 MR. H. HYMANSON: Okay. Let's talk to
25 Mr. Headd, Juror 633; correct?

1 MR. HEAD: Correct.

2 MR. H. HYMANSON: why is it important for
3 people to take responsibility for their actions?

4 MR. HEAD: Well, if people didn't, it would
5 be pandemonium. People could do whatever they want
6 and get away with it and, you know, and it would
7 make society really tough.

8 MR. H. HYMANSON: Okay. Does anyone
9 disagree with what Mr. Headd said?

10 Okay. So everyone agrees that if people --
11 people need to take responsibility for their
12 actions; otherwise, it would make everything
13 chaotic?

14 Does anyone have an opinion about, if it's
15 important to compensate -- why it's important to
16 compensate people for their harms and their losses?

17 Mr. "Ehle"?

18 MR. EHLE: "Ehle."

19 MR. H. HYMANSON: "Ehle." I apologize.
20 Mr. Ehle, Badge No. 022; correct?

21 MR. EHLE: Uh-huh.

22 MR. H. HYMANSON: why is it important to
23 compensate people for their harms and their losses?

24 MR. EHLE: Otherwise, there would be no
25 consequences, I guess.

1 MR. H. HYMANSON: There would be no
2 consequences. Okay. And what do you mean by
3 "consequences"?

4 MR. EHLE: Well, you have to take
5 responsibility for your actions, I think.

6 MR. H. HYMANSON: It goes back to kind of
7 what we've been talking about, what I started with.

8 Okay. Mr. Grant, do you agree with what
9 Mr. Ehle said?

10 MR. GRANT: Yeah, for the most part, I do.
11 I think it's important to at least offer
12 compensation, if possible; and it actually truly
13 shows that you're sorry for what happened.

14 MR. H. HYMANSON: And your badge, the last
15 number of your badge.

16 MR. GRANT: 634. I'll try to remember.

17 MR. H. HYMANSON: That's no problem, and
18 I'll try to do my best to help everyone remember
19 also. Mr. Read?

20 MR. READ: Yes.

21 MR. H. HYMANSON: Do you agree with
22 Mr. Ehle and Mr. Grant?

23 MR. EHLE: 637. Yeah, I think so. At
24 least kind of offer. Like, I know you get a
25 situation where like -- like, you know, like kids

1 have broken stuff at my house, and I'm like, "Don't
2 worry. You guys were just playing." And it's like
3 "I'll take care of it. Don't worry about it." It's
4 just it kind of comes out to that. But for the most
5 part, they could at least offer to clean up the
6 glass. You know, just try to do your best, yeah.

7 MR. H. HYMANSON: And I'm going to switch
8 gears a little bit. I just want to talk -- does
9 anybody have any strong feelings, one way or the
10 another, about lawsuits? Yes, sir.

11 MR. HEADD: About 17 years ago --

12 THE COURT: Your name and your badge
13 number, please.

14 MR. HEADD: Oh, Ryan Headd, 633. Back in,
15 I think it was probably 2002, 2003, I was sued for
16 \$10 million in a fender-bender. And so I, after a
17 two-year process, it kind of came out to be a big
18 waste of everybody's time, and it was basically
19 people looking for a payday. And so ever since
20 then, I haven't really had a high opinion of civil
21 suits.

22 MR. H. HYMANSON: Okay. Did that case go
23 to trial?

24 MR. HEADD: Yes.

25 MR. H. HYMANSON: And did it result in a

1 verdict, or did it settle before the trial was over?

2 MR. HEADD: No. It resulted in a verdict.
3 They were trying to get \$10 million. They ended up
4 getting a few thousand for medical expenses.

5 MR. H. HYMANSON: And is it fair to say
6 that soured your opinion about people that file
7 lawsuits?

8 MR. HEADD: If it's a similar case. If it
9 comes out to it's pretty obvious people are trying
10 to get a payday, then yes. If it's something
11 actually was done wrongly or, you know, something
12 that's pretty obvious that somebody was gross
13 negligence or something like that, then, yeah, it
14 makes sense to me. But I think society has kind of
15 gotten sue happy.

16 MR. H. HYMANSON: Okay. What do you use as
17 a basis to determine what you think is -- because I
18 think you're saying -- and, again, I'm not trying to
19 put words in anyone's mouth.

20 But what I think I understand you saying is
21 that you think if it's a suit that you think has
22 merit, you don't have a problem with that; but if
23 you think it's a frivolous suit, you have an issue
24 with that; is that fair?

25 MR. HEADD: Correct.

1 MR. H. HYMANSON: And what kind of criteria
2 do you use to try to determine if it's what you
3 think is a meritorious suit or a frivolous suit?

4 MR. HEADD: I think it depends on the
5 situation. But if it's one of those accidents
6 happen -- accidents happen every day. Does that
7 mean somebody purposely hurt somebody on purpose?
8 If it's something that's purely an accident, I don't
9 think somebody else should really try to make
10 millions of dollars off it.

11 MR. H. HYMANSON: Thank you very much.

12 THE COURT: And before you move on, I just
13 want to clarify something. You used a term of art
14 here, "gross negligence." I don't know if you meant
15 that in any particular way or if that was just a
16 term you were using.

17 But at the end of the day, I just want to
18 remind the jurors that whatever the causes of action
19 are in this case and whatever those standard or law
20 to be applied to them is, the Court will give it to
21 you, and it will be your duty, as jurors, to follow
22 that.

23 So I don't want there to be any
24 misunderstanding that you won't have the
25 instructions on that but that, you know, any kind of

1 idea that you might have in your mind about what the
2 law to be, that's not your province. The Court will
3 give you the law to apply. I just want to make sure
4 everybody is clear on that.

5 Does anybody have any questions about that?
6 All right. You may proceed, Mr. Hymanson.

7 MR. H. HYMANSON: Thank you very much
8 Your Honor. So following-up on what Mr. Headd said,
9 just by a show of hands, does anybody have the
10 opinion that there are too many lawsuits that are
11 being filed today?

12 Okay. All right. Does anybody -- well,
13 let's see. So, Ms. Price, you raised your hand.
14 why is it that you think there are too many lawsuits
15 being filed today?

16 MS. PRICE: I had a similar situation. I
17 was in a car accident about five or six years ago,
18 and the other person was in the fault. However,
19 they decided to sue me. It didn't wind up going
20 through with anything. There was no -- there were
21 no witnesses. There was no evidence on either side.

22 So nothing wound up happening. But it
23 definitely stayed in the back of my mind that
24 somebody would sue.

25 MR. H. HYMANSON: Okay. Thank you very

1 much. And Badge No. 632; correct?

2 MS. PRICE: 632.

3 MR. H. HYMANSON: Thank you very much.

4 Mr. Taylor, I believe you had your hand
5 raised.

6 MR. TAYLOR: Yes.

7 MR. H. HYMANSON: And then why do you think
8 that there are too many lawsuits?

9 MR. TAYLOR: 644. Yeah, I mean, there's
10 circumstances where some lawsuits are justified.
11 Some things happen, and compensation is necessary.
12 However, it does seem like it's, as referenced
13 earlier, people are sue happy. They just want a big
14 payday, just for -- just because they can.

15 MR. H. HYMANSON: Mr., I think it was -- is
16 it Burke?

17 MR. BURKE: Yes.

18 MR. H. HYMANSON: Badge No. 510; correct?

19 MR. BURKE: Yes.

20 MR. H. HYMANSON: Did you have your hand up
21 also?

22 MR. BURKE: Yeah.

23 MR. H. HYMANSON: Okay. And why do you
24 think that there are too many lawsuits?

25 MR. BURKE: Just kind of a group's opinion,

1 just people looking for things that are going out of
2 their way to put themselves in situations they don't
3 need to be just so they can, you know, have it
4 happen for them. Almost put yourself in harm's way
5 to have something happen to you.

6 MR. H. HYMANSON: Can anyone think of a
7 specific example that they can point to why they
8 have this feeling there are too many lawsuits?

9 Yes, sir. Mr. -- I'm sorry. Mr. Wilder;
10 correct?

11 MR. WILDER: 611. As a businessman, I've
12 had a few of those lawsuits thrown at us too. As an
13 example, we had a kid that was doing delivery for
14 us, and believe it or not -- don't laugh -- he drove
15 into a rehab bus. Out of ten -- there were ten
16 people on this bus, and every one of them sued us.
17 And every one of them, it was either dismissed or
18 they got caught on film with investigators doing
19 certain things.

20 It was really a nuisance suit, but it was
21 extremely time consuming and it was pretty evident
22 what was happening, and we had to settle all the
23 little ones like that that were just kind of
24 actually senseless and led now where in the end.

25 MR. H. HYMANSON: Does anybody think that

1 sometimes people have to sue to be compensated for
2 the harm that's been done to them?

3 Does anybody disagree with that statement?

4 Okay. Let's say -- Ms., is it "Sallee"?

5 MS. SALLEE: It's "sallee."

6 MR. H. HYMANSON: "sallee." I apologize,
7 ma'am. Do you think that someone needs to sue
8 sometimes to be justly compensated for the harm
9 that's been done to them?

10 MS. SALLEE: They do sometimes. You know,
11 whether it's medical or property or, you know. It
12 depends on what it is obviously.

13 MR. H. HYMANSON: Does anyone have any
14 example of how they would determine if they think a
15 case is meritorious or if it's frivolous?

16 Yes, sir. Mr. Taylor. 644.

17 MR. TAYLOR: Yeah. Taylor, 644. If it
18 comes down a he-said, she-said basically. If it's
19 just somebody saying something just because and
20 there's no way to quantify it to prove it, then it's
21 hard to justify.

22 MR. H. HYMANSON: Okay. I want to make
23 sure that I understand what you're saying. So you
24 think that if it comes down to a he-said, she-said,
25 that that makes it meritorious?

1 MR. TAYLOR: No, no, no. It becomes, as
2 mentioned before, frivolous basically. So without
3 lack of evidence, facts, it becomes basically his
4 word versus my word, her word, whoever's word.

5 MR. H. HYMANSON: Okay. And so, again, I'm
6 not trying to put words in your mouth. I'm just
7 trying to see if I understand you correctly.

8 Are you basically saying that you want to
9 look to see if there's some other facts that back up
10 what happened.

11 MR. TAYLOR: Precisely.

12 MR. H. HYMANSON: Okay. Does everyone
13 agree with Mr. Taylor by a show of hands?

14 Does anybody disagree with Mr. Taylor?
15 Yes, sir. Mr. Read; correct?

16 MR. READ: I kind of do to -- I don't know.
17 Like, we're just kind of like -- like that almost
18 like kind of needs a lawsuit, kind of, to kind of
19 settle it. It's just when things kind of don't --
20 you can't come to agreement. I don't know. I've
21 never been to a point where I feel like I need to go
22 to court or even get close, like over an issue.
23 Like either trying to concede an issue or like kind
24 of come to some kind of agreement.

25 But like, kind of like I think lawsuits are

1 kind of you just can't come to an agreement like at
2 all. Like, you know, I think that's in -- that's
3 kind of what's this process is about. It's kind of
4 finally settling your argument that it's not like
5 you guys can keep going around in circles.

6 MR. H. HYMANSON: And so it's fair to say
7 that kind of goes back to what we were talking about
8 before that sometimes you think it's necessary for a
9 party to file a lawsuit to get resolution for
10 something?

11 MR. READ: Yeah, yeah.

12 MR. H. HYMANSON: That they feel like, you
13 know what, we're not being properly compensated for
14 the harm that's been done to us. So we have to file
15 this lawsuit?

16 MR. READ: Yeah. So even like -- yeah,
17 he-said, she-said or whether it's. I just realized
18 I probably should give my badge number. It's 637.

19 MR. H. HYMANSON: No problem.

20 MR. READ: I don't know why it just crossed
21 my mind just now. But, yeah, so just kind of like
22 where that is, so it's just kind of that situation
23 where like, you know, I think that like you have --
24 it's like, you know, like even if somebody is lying
25 or not being totally honest or being straightforward,

1 like it's maybe where you're going to have to come
2 up with the facts and at least make some kind of
3 judgment on those facts.

4 MR. H. HYMANSON: Great. Thank you.

5 Ms. Clinton, I haven't talked to you yet
6 today. I know that you are a practicing attorney.
7 what kind of law do you practice?

8 MS. CLINTON: I haven't practiced actively
9 for awhile. I'll be starting a job in a few weeks.
10 When I was practicing, I did civil litigation.

11 MR. H. HYMANSON: Civil litigation. Okay.
12 And your badge number is 658; correct?

13 MS. CLINTON: Yeah, 658.

14 MR. H. HYMANSON: What kind of civil
15 litigation did you do?

16 MS. CLINTON: Mostly business matters,
17 contract disputes, and real estate issues.

18 MR. H. HYMANSON: Okay. May I ask you
19 where you're starting your new job.

20 MS. CLINTON: The Attorney General's
21 office.

22 MR. H. HYMANSON: Okay. Congratulations.
23 Very exciting. How do you feel about lawsuits?

24 Do you think there's too many? There's not
25 enough?

1 MS. CLINTON: I don't have a feeling, one
2 way or the other. I don't know how many lawsuits
3 are filed. So it's all relative, how you look at it.

4 MR. H. HYMANSON: Nothing about your civil
5 practice from before turned you off to thinking
6 there's too many lawsuits or there's not enough
7 lawsuits?

8 MS. CLINTON: No.

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

10 So we've talked about lawsuits. Let's talk
11 about jury verdicts. How many of you think that
12 jury verdicts are too high? Anyone think that jury
13 verdicts are too high?

14 No. No concerns about the size of jury
15 verdicts? Okay.

16 How do you feel about attorney advertising?
17 Does anyone have an opinion about, you know,
18 especially in this town, of advertising all over the
19 place? Yes. Mr. Jones.

20 MR. JONES: Badge 625. Being retired now,
21 having a chance to watch daytime television, there
22 are attorneys everywhere, and I think that they do
23 an injustice to the lawsuit system by basically
24 making it seem as though it's very, very easy to get
25 in a wreck, need a check; or, you know, I mean, it's

1 just like I'm in dire straits, but I invent
2 something, and all of a sudden, wow, I'm rich.

3 And I think they're really creating a real
4 false sense of what the legal system is for and how
5 it should be utilized. There's just -- especially
6 if there are no down sides to bringing an issue. I
7 think that it just makes it way too easy, and it's
8 portrayed as something that should be a lot more
9 careful. I think they should treat it like they do
10 liquor on television. Be very, very careful who you
11 advertise it to and how you put it out there
12 because, you know, it involves some very, very
13 serious situations, and I don't think those things
14 get played up enough.

15 MR. H. HYMANSON: And I think you said a
16 lot there. I want to ask you about one particular
17 line in that. I think that if I hear you correctly,
18 you're saying that you think that they almost lessen
19 the effect of the -- we talked about frivolous and
20 meritorious cases, the fact that there's so many ads
21 for everything. People say "hey, in a wreck, need a
22 check," it kind of takes away from how people
23 potentially view the meritorious lawsuits because
24 the system just gets filled with a lot of frivolous
25 lawsuits also. Is that kind of what you're saying?

1 MR. JONES: Yeah, that's correct. Yeah,
2 there's so much garbage, you can't tell what's real.

3 MR. H. HYMANSON: Understood. Does anyone
4 agree with Mr. Jones?

5 Does anyone disagree with Mr. Jones?

6 Yes, sir. Mr. Grant; correct?

7 MR. GRANT: Yes. 634. While I agree that
8 there are a lot of frivolous lawsuits, I think
9 attorneys have every right to advertise their
10 services because they're in business to make money.
11 Just like I'm in business to make money, just like
12 doctors are in business to make money. And I think
13 all of them are -- it's fair game. Go out there,
14 brand yourself in a certain way and have a catchy
15 jingle with your phone number on it. Everyone knows
16 that number, by the way, he just said.

17 But, to me, it's not the fault of someone
18 watching daytime television and being confused with
19 the process. It's up to their own merits to decide
20 whether to reach out to an attorney or not. It's
21 just that, you know, they're putting their sign on
22 the door, so to speak, to get people out there to
23 get them business so they can provide for their
24 families. So I don't have anything against
25 advertising.

1 MR. H. HYMANSON: Thank you very much.

2 By a show of hands, if you were injured,
3 seriously injured by someone else's conduct, would
4 you file a lawsuit?

5 I'm sorry. So Ms. Bechtold; correct?

6 MS. BECHTOLD: 624.

7 MR. H. HYMANSON: 624. You started saying
8 something.

9 MS. BECHTOLD: It's not as clearcut as that
10 for me.

11 MR. H. HYMANSON: Okay. So what would it
12 come down to for you?

13 MS. BECHTOLD: If I was seriously injured?

14 MR. H. HYMANSON: Correct.

15 MS. BECHTOLD: Okay. Well, there are first
16 a lot of facts to be known and medical treatment,
17 and there's just a lot to go through before you just
18 go sue somebody. And that's why there's a Statute
19 of Limitations to kind of see, yes, you're really
20 hurt in the beginning; but then, you know, who knows
21 what's going to happen. So there's just a lot of
22 different unknowns.

23 MR. H. HYMANSON: Absolutely.

24 MS. BECHTOLD: So just to go out and file
25 one right off the cuff, out of the ambulance, I'm

1 not for that.

2 MR. H. HYMANSON: Understood. And it was
3 really, as you put it, that was an incomplete
4 hypothetical that I had, but just for the purposes
5 of talking to people, that's what that was.

6 But that brings out something. So you
7 worked as a paralegal for several years; correct?

8 MS. BECHTOLD: Yes.

9 MR. H. HYMANSON: And what type of law did
10 the firm that you work for practice?

11 MS. BECHTOLD: We did insurance -- I did
12 insurance defense for 15 years.

13 MR. H. HYMANSON: Okay. And I'm sorry. I
14 didn't mean to cut you off, ma'am.

15 MS. BECHTOLD: That's okay. I worked for
16 some really special attorneys that we collected all
17 the evidence, and they were very fair. If they felt
18 that the plaintiff was injured, their
19 recommendations, I always felt were fair.

20 MR. H. HYMANSON: Okay. Is there anything
21 about your experience working for so many years as
22 an insurance defense paralegal that gives you any
23 hesitation about serving as a juror on a medical
24 malpractice case?

25 MS. BECHTOLD: No. I worked both sides.

1 Yeah.

2 MR. H. HYMANSON: And so you don't think
3 there's anything about your experience that would
4 make you give, lean more towards the defense or
5 towards the plaintiff in this?

6 MS. BECHTOLD: No. I've actually worked
7 for a plaintiff firm for like five years. So I've
8 worked both sides, and I think I'm fair to look at
9 all the information.

10 MR. H. HYMANSON: Thank you very much.

11 So I was also asking -- so the way you
12 started on that was if you were injured by someone
13 else's actions, if you were to file a lawsuit. So
14 let's put a little bit more context to that.

15 Not right out of the gate, but if you tried
16 to be -- what you tried to seek what you thought was
17 just compensation and it wasn't offered you and you
18 felt as though you had no choice, given that
19 situation -- so you were severely injured and you're
20 not offered enough to properly compensate you --
21 given that factual scenario, does that change
22 anyone's answer that didn't raise their hand about
23 whether they'd file a lawsuit or not?

24 Yes, sir. Mr. Burke; correct?

25 MR. BURKE: Yes. 510.

1 MR. H. HYMANSON: And why does that change
2 your answer?

3 MR. BURKE: Just because I think, you know,
4 some people take responsibility for their actions
5 and if they hurt someone, they'll -- you know, you
6 can settle before you have to come to those terms or
7 you file a lawsuit. But as you said, that's not
8 happening and you have serious expenses or things to
9 replace or anything like that, then that's when it
10 comes into play to file a lawsuit.

11 MR. H. HYMANSON: Okay. And I know that
12 Mr. Jones said he wouldn't file a lawsuit.

13 Is there anyone else that said that they
14 wouldn't file a lawsuit? No one else?

15 MR. MALTESE: "would" or "wouldn't"?

16 MR. H. HYMANSON: Would not.

17 MR. JONES: You didn't ask under what
18 conditions, why they would file.

19 THE REPORTER: I'm sorry. The two
20 gentlemen, please.

21 MR. H. HYMANSON: So that was Mr. Maltese,
22 665, to the right; and then Mr. Jones, 625.

23 THE REPORTER: Thank you.

24 MR. H. HYMANSON: And so, Mr. Jones, 625.
25 You're saying "what conditions."

1 what conditions would it take for you to
2 file a lawsuit?

3 MR. JONES: Is that something happened
4 where I did not contribute to any of the law. I
5 think that's -- if you know that it's solely someone
6 else's fault. You know, you can have someone do
7 something to you that hurt you, and you may have
8 been involved in something that, by your own
9 actions, that caused the situation to be worse than
10 maybe it should have been.

11 So, yeah, I think that, you know, you have
12 to look at what are all the facts, okay, before you
13 run out and hire somebody and try to get everything
14 done. There's -- just do your due diligence and
15 make sure that it's right before you run out and
16 make a legal issue.

17 MR. H. HYMANSON: Understood. Let me ask
18 you this, you said if you were completely not at
19 fault. But let's say if we're talking about fault,
20 100 percent. If you think you were 20 percent out
21 of fault, would you file a lawsuit do you think, or
22 do you think you wouldn't file a lawsuit?

23 MR. JONES: Depends on what the injury is.

24 MR. H. HYMANSON: Okay. I apologize.

25 Mr. Maltese, 665.

1 MR. MALTESE: I was in the hospital over
2 20 times, and this one time, the nurse, the R.N.
3 gave me an IV for a diabetic person. Now, I guess I
4 could have sued, but I didn't because there was no
5 real harm done really. So I don't know if that
6 makes a difference.

7 MR. H. HYMANSON: Okay. No. The basis of
8 the scenario we've gotten away from a little bit was
9 if you were severely injured or harmed by someone
10 actions. That was what it was premised on. But
11 thank you very much for volunteering that.

12 If there's something that you really need
13 to remember, what do you do to remember, to try to
14 remember that thing? So it's a very abstract
15 question. It's switching gears a little bit.

16 But, yes, Mr. Headd; correct?

17 MR. HEADD: Yes. 633. Just go over it
18 again and again and again, just so that it's, you
19 know, engrained in your memory.

20 MR. H. HYMANSON: Okay. So you just in
21 your head, you try to remember it by repeating it in
22 your head.

23 Okay. Does anybody write something down if
24 they really want to remember something?

25 Anybody that -- any other tricks that

1 anyone has besides repeating it in their head,
2 writing it down? Anything else?

3 Yes, sir. Mr. Taylor.

4 MR. TAYLOR: 644. Yeah, visualization.
5 Basically imagining what the concept or idea or
6 image, person, or whatever, putting it a word
7 associating with a visual.

8 MR. H. HYMANSON: Okay. Anybody else?

9 Let's talk about the effects of lawsuits.
10 How many of you feel that lawsuits are hurting
11 business? I see some hesitant hands in there.

12 So we'll start Mr. Withers.

13 MR. WITHERS: Withers, 618. In the
14 industry I work in, transportation, lawsuits are a
15 norm. And it's, you know, whether it's at-fault
16 negligence or it happened, it just happened, it's
17 something that we actually hand off to our legal
18 department. So it's up to us to collect all the
19 information, document, pictures, so on, and then
20 pass it on to the legal department.

21 MR. H. HYMANSON: Is there anything -- so
22 this came up with saying that you think it hurts
23 business. So is there anything that, of that
24 opinion, that you think it hurts business that makes
25 you feel that, you know, you might have a different

1 opinion coming in as a juror on a medical
2 malpractice case like this?

3 MR. WITHERS: Well, I think with what we've
4 talked about earlier today, there's a lot of
5 frivolous lawsuits, and in my industry, there's a
6 lot of frivolous lawsuits. When it comes to
7 malpractice or just cause, rather, I think there's a
8 place for it. Once again, if it's frivolous, it's
9 just wasting people's time.

10 MR. H. HYMANSON: But there's nothing
11 about -- it sounds like you're saying there's
12 nothing about your background that just makes you
13 automatically want to favor one side or the other.

14 MR. WITHERS: No.

15 MR. H. HYMANSON: Okay. And then I saw
16 Mr. Grant, you had raised your hand; correct?

17 MR. GRANT: Yes.

18 MR. H. HYMANSON: 634; correct?

19 MR. GRANT: 634. Sorry. I forgot again.

20 MR. H. HYMANSON: That's all right. It's
21 tricky.

22 MR. GRANT: No, I don't have any data to
23 back it up whether it hurts business or not. It's
24 strictly just opinion. I just know that if I am --
25 let's say if I am hired to photograph someone's

1 wedding, I stress out a lot about potential mistakes
2 because I don't want to be sued because I've read
3 too many horror stories about it.

4 So as far as that, I kind of just try to
5 minimize mistakes as much as I can to make sure that
6 I don't have any lawsuits handed to me at some
7 point.

8 MR. H. HYMANSON: And so it's something of
9 your kind of personal anxiety about things. But has
10 it affected your business at all?

11 MR. GRANT: It's kept me from doing more
12 weddings, yeah. That's usually the field that
13 they're more suing at.

14 MR. H. HYMANSON: Is there anything about
15 that experience that makes you question your ability
16 to serve on a medical malpractice case?

17 MR. GRANT: No.

18 MR. H. HYMANSON: And, Mr. Headd, you had
19 your hand up also; correct?

20 MR. HEADD: Yeah.

21 MR. H. HYMANSON: 633?

22 MR. HEADD: Correct.

23 MR. H. HYMANSON: And why did you have your
24 hand up?

25 MR. HEADD: Mainly just it seems like it

1 pulls away resources from everybody, time from the
2 jurors, time from the courtrooms, time from
3 everybody. And that being said, there is cases that
4 absolutely should be in court and should be tried.
5 But the frivolous ones, it's just hurting everybody
6 else. It's eating our time, their time, everybody's
7 time.

8 MR. H. HYMANSON: And we may have talked
9 about this directly. If we did, I apologize. But I
10 just want to get more revealed. So we talked about
11 this definition of essentially two designations: A
12 frivolous lawsuit or a meritorious lawsuit.

13 what do you do to determine what the
14 difference of those is?

15 MR. HEADD: Oh, I think it depends on the
16 situation. But it's -- like I said, if it's just a
17 pure accident, you know, some -- nobody is really
18 trying to do harm to anybody else; or, you know,
19 sometimes stuff just happens and if one party tries
20 to sue the other over that, I think it's leaning
21 towards potentially frivolous.

22 Then, again, if there's something that you
23 have somebody hurt somebody else and it's completely
24 their fault, then those people, you know, deserve to
25 be able to go to court and be heard, and so it just

1 depends on the situation.

2 MR. H. HYMANSON: Okay. Mr. Wilder, I saw
3 that you had your hand up.

4 MR. WILDER: Yeah, 611. This might be a
5 one off. But being in the construction business,
6 our little company, we were delivering about 6,000
7 houses a year --

8 THE REPORTER: I'm sorry.

9 (The record was read.)

10 MR. WILDER: Oh, I'm sorry. And I'm the
11 one that can't hear.

12 Anyway, we were in the kitchen cabinet
13 business, and our little company was doing about
14 6,000 houses a year in kitchen and bath cabinetry
15 for the major builders in Las Vegas. But when the
16 construction defect lawsuits came in, it was just
17 brutal. Talk about hurting a business, almost
18 destroyed ours.

19 MR. H. HYMANSON: Okay. And so that's, you
20 said kind of a one off because that's a bigger kind
21 of --

22 MR. WILDER: Purely, purely one off for us
23 because we had nothing to do with anything
24 structural. But we got drug in and sued in every
25 single one, thousands and thousands and thousands.

1 MR. H. HYMANSON: Is there anything about
2 that experience that has affected how you think
3 about lawsuits in general?

4 MR. WILDER: Not really. Not really.

5 MR. H. HYMANSON: Okay. You say "not
6 really." So let's explore that a little bit more.
7 why do you say "not really"?

8 MR. WILDER: It was pretty traumatic. I
9 mean, I literally had to hire my own attorney to
10 just work for me full time, just to handle it, and
11 with no recourse. He would just coordinate with the
12 insurance companies. But it left a pretty bad taste
13 in my mouth, for sure. But, again, it's a one off.
14 But I mean, that's how these things can get out of
15 control when you say, when you talk about frivolous.

16 MR. H. HYMANSON: Okay. I appreciate that.
17 So but it's fair to say that there is still some
18 negative taste in your mouth for lawsuits?

19 MR. WILDER: Yeah, yeah. Probably right.
20 Probably right.

21 MR. H. HYMANSON: Okay. If you're just
22 being completely honest, that's something that's
23 happened for awhile.

24 MR. WILDER: Yeah.

25 MR. H. HYMANSON: And there's nothing that

1 I'm going to say today that's going to change how
2 you feel about lawsuits?

3 MR. WILDER: Not that regard for that
4 specific time, no.

5 MR. H. HYMANSON: This is a bit of a
6 strange question: But if you hear that something
7 bad has happened to someone, do you ever think that
8 that's maybe because of something bad that they did
9 in the past or that, you know, they had that coming
10 for them, that they deserved that?

11 Has anyone ever had that feeling before?

12 MR. JONES: Talking about karma?

13 MR. H. HYMANSON: Sure. Talking about
14 karma. So, Ms. Price, you had your hand up first.

15 MS. PRICE: Yes.

16 MR. H. HYMANSON: So what do you think
17 about that? So 632; correct?

18 MS. PRICE: 632. Yeah, and I guess I was
19 in the same word, "karma," which is sometimes we put
20 ourselves in situations that we shouldn't be putting
21 ourselves into.

22 MR. H. HYMANSON: Okay, okay. What would
23 be an example of that?

24 MS. PRICE: You leave your car open,
25 unlocked. Somebody steals something out of your

1 car. Obviously, it's more out of some -- more on
2 the person who's burglarizing you. But you did just
3 make it a lot easier for them by leaving your car
4 open.

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

6 Mr. Jones, you were talking about karma.
7 So do you feel that sometimes karma is a real thing?

8 MR. JONES: I don't know if it's
9 necessarily a real thing. I think if people
10 continue to think of bad things on them, that at
11 some point, just the odds are that something bad is
12 going to happen to you.

13 MR. H. HYMANSON: Okay. And 625; correct?

14 MR. JONES: Yes.

15 MR. H. HYMANSON: I apologize. Okay. So
16 if you're going to keep doing something bad,
17 basically it's -- maybe playing with fire would be
18 an example. People would say, "Oh, you're playing
19 with fire" or something?

20 MR. JONES: Yeah.

21 MR. H. HYMANSON: That's what you're
22 talking about with that?

23 Okay. I believe -- well, let's see. We
24 haven't heard from Mr. Fife; correct?

25 MR. FIFE: Yes.

1 MR. H. HYMANSON: What do you think about
2 that? Do you think that just because -- so do you
3 think that sometimes bad things happen because
4 someone did something bad in the past?

5 MR. FIFE: 614. I guess not necessarily.
6 But I mean, like he said, if you keep doing bad
7 things, bad things are probably going to happen to
8 you.

9 MR. H. HYMANSON: Thank you very much.
10 Does anyone have a problem with awarding
11 damages for someone's pain and suffering?

12 Money damages for someone's pain and
13 suffering, does that give anyone?

14 Yes, sir. Mr. Back; correct?

15 MR. BACK: Yes. 385. Were you saying if I
16 had anything wrong with it?

17 MR. H. HYMANSON: Yeah. Do you have
18 something that you think it would be hard for you to
19 award money for someone for their pain and
20 suffering?

21 MR. BACK: I actually have the inverse
22 feeling.

23 MR. H. HYMANSON: Okay. Let's talk about
24 that.

25 MR. BACK: I may get a little emotional

1 talking about it. My little sister was born
2 January 2006. She was born ten weeks premature.

3 THE COURT: Can I interrupt you for just
4 one second, and may I have counsel at the bench.
5 Something just occurred, and I want to...

6 (Bench conference.)

7 THE COURT: All right. Thank you.

8 We are going to take a brief recess at this
9 time. I know we've only been back at it about
10 45 minutes. But coming off of lunch is oftentimes a
11 time when more breaks are better than less breaks.
12 But, regardless, we're going to take a slightly over
13 ten minute break. We'll be returning at 2:15.

14 During this recess, of course, I'm just
15 going to remind you again that you're not to talk or
16 converse among yourselves or with anyone else about
17 the case, try to speculate about the case, try to do
18 any research about the case. No social media
19 communications of any kind. No Internet searches.
20 Anything like that. All those same admonishments
21 that I gave you last night. But don't go too far,
22 and we're going to see you back in here at 2:15.

23 All right.

24 (Jury panel exits courtroom.)

25 THE COURT: Let's go ahead and use the

1 restrooms. We'll come back in about five minutes,
2 at 3:10 and we'll have a brief discussion about that
3 matter before we bring the gentleman back in.

4 And there's one other matter that I need to
5 bring to the parties' attention as well about the
6 jurors, but we'll come back in about five minutes.

7 MR. ARNTZ: Thank you, Your Honor.

8 (Pause in the proceedings.)

9 THE COURT: We're going to need some help,
10 Joshua, bringing in a couple of the jurors to talk
11 to, but let me just do a couple of things first.

12 So just to make record of the bench
13 conference, I called the counsel forward because it
14 appeared quite obvious that the juror -- what's his
15 number again? Is it 510? Sorry. It's 385,
16 Mr. Back. "Back" and "Burke," I'm struggling with.
17 Mr. Back, Juror 385, was about to go into some
18 detail about something he had expressed earlier
19 about having a family member who had gone through a
20 medical malpractice case. So we're going to bring
21 him in and have a separate inquiry with him.

22 I also noted for counsel at the bench that
23 it's been my observation that -- and I didn't know
24 if they could see it because of the line of sight --
25 but Juror No. 20 has been appearing to be asleep or

1 at least not engaged almost the entirety of the
2 discussion so far. I don't recall what she said,
3 you know.

4 I know she's young, and I want to say I
5 thought she was a student, but I don't recall what
6 she said as far as if she's working crazy hours or
7 whatever. But I guess we'll figure out some more
8 information.

9 MR. ARNTZ: I think we're in agreement
10 to --

11 MR. MCBRIDE: We'll stipulate too.

12 THE COURT: Yeah, I mean I guess I just --
13 I need to talk to her first anyway, even if I excuse
14 her, just to find out what's going on. I've had
15 occasion where we've had a couple people -- I don't
16 perceive this to be -- where that's how people
17 listen and they really are engaged, but that's how
18 they're listening. That's not been my view so far.

19 And the other issues with the jurors, and I
20 really don't think it's an issue, but if we want to
21 inquiry of them, I suppose we can. I'm not sure
22 which juror brought it to the marshal's attention,
23 but jurors in seats No. 8 and 11, Ehle and Withers
24 apparently know or somehow recognized each other. I
25 didn't get the impression that they're social

1 friends or anything like that.

2 was that the impression that you got,
3 Joshua?

4 THE MARSHAL: I didn't inquire once they
5 told me.

6 THE COURT: Who told you about the
7 friendship?

8 THE MARSHAL: It was Ehle.

9 THE COURT: Ehle indicated that he knew
10 Withers?

11 THE MARSHAL: Yes. And Withers
12 acknowledges it, "Yeah, I know him."

13 THE COURT: All right. So they know each
14 other. I don't know the specifics of that.
15 Obviously, they'll get the same admonishments, and I
16 can specifically, you know, admonish them
17 separately. But does anybody want to bring them in
18 separately, at this point, to inquire about that,
19 how they know each other; or do you just want to
20 make it part of the voir dire?

21 MR. P. HYMANSON: We can make that part of
22 the record to help expedite it, Your Honor.

23 THE COURT: At this point, you know, it's
24 12:15. I know Mr. Hymanson is going to probably be
25 a little past 3:00 before he finishes. Obviously

1 we're not going to finish today. I just needed some
2 time to come to terms with that understanding.

3 MR. MCBRIDE: Understood, understood,
4 Your Honor.

5 THE COURT: And so I've already let jury
6 services know that the extra folks, we don't need
7 them, just to have a little extra panel
8 intentionally for tomorrow just in case. But I
9 don't really perceive we're going to need them then
10 either. But my understanding is we'll go -- so
11 we're not going to try to crush it, rush it,
12 anything like that. And we'll conclude today at
13 5:00 or before, and then we'll come back tomorrow at
14 1:30 and pick up then and finish tomorrow.

15 MR. MCBRIDE: Okay. So I was going to ask
16 you, 1:30 or 1:00?

17 THE COURT: I can't start earlier than
18 1:30. There was a little miscommunication I had
19 with my court reporters about that circumstance. I
20 didn't realize dailies were being done for jury
21 selection. But in order for dailies to work and to
22 not, you know, completely overburden my court
23 reporters, I really do need to start the afternoon
24 sessions at 1:30.

25 MR. MCBRIDE: No problem. It's not a

1 problem.

2 THE COURT: If that's okay. But whatever
3 we get through today, we're finishing jury selection
4 tomorrow.

5 MR. MCBRIDE: And that's the thing, I told
6 Breen too, I thought that Hank was doing a very good
7 job. I don't think there's going to be much overlap
8 in the questions I have. So I think that will
9 streamline it.

10 THE COURT: But just to give everybody an
11 opportunity. We'll see where we are today, but I'm
12 not anticipating we finish today, just, you know,
13 the time.

14 MR. MCBRIDE: Understood.

15 THE COURT: We'll figure it out.

16 All right. So we won't inquire of Ehle and
17 Withers now. We will make that part of the
18 voir dire, however, whoever wants to bring it up and
19 whenever. At the end, we can always address it, if
20 we haven't.

21 But I do want to see -- let's get Juror
22 No. 20 first. You have the name as Jimenez, 664.
23 You all can have your seats, if you wish. I know
24 you normally stand when they come in, but it's just
25 one. I don't want to freak her out that we're all

1 standing. She's so young.

2 MR. ARNTZ: And, Your Honor, I think I'm
3 going to have my clients go home. They're getting a
4 little tired.

5 THE COURT: Certainly. You made that
6 inquiry earlier if anybody would have any concerns
7 with that. I don't think that would be an issue.
8 There's not really any way to go that's not -- you
9 know, do you want to wait until the venire comes
10 back in and then go? Because that won't be much
11 longer and then they're not all outside.

12 MR. MCBRIDE: We can finish --

13 THE MARSHAL: All rise for the juror.

14 THE COURT: Actually, we're not all rising.
15 I told them to sit. But that's okay.

16 Ms. Jimenez, come on in. Just have a seat.
17 See that nice cushy chair that's right there in the
18 front. So it's been my observation, Ms. Jimenez,
19 that you've been, at best, disengaged if not
20 somewhat sleep much of this voir dire process.

21 MS. JIMENEZ: I'm not asleep.

22 THE COURT: You're not asleep. Why are
23 your eyes closed?

24 MS. JIMENEZ: My eyes? My eyes are just
25 normally small.

1 THE COURT: I looked over many times, and
2 it appears that your eyes have been fully closed.
3 I'm not trying to challenge you.

4 MS. JIMENEZ: I was probably looking down.

5 THE COURT: You just may not be aware, but
6 it --

7 MS. JIMENEZ: I'm paying attention though.
8 I just don't think there's anything for me to put
9 out into the conversation yet.

10 THE COURT: Okay. So it's your belief that
11 you are fully engaged in this process, that you are
12 not --

13 MS. JIMENEZ: Not sleeping.

14 THE COURT: Well, I mean, I didn't think
15 you had fully fallen asleep. I mean we can tell
16 what that looks like when someone's head completely
17 goes because they're asleep. But there's a big
18 difference between "not asleep" and "not engaged,"
19 and it really does appear that you're not engaged.

20 There's been lots of questions, lots of
21 ways in which people could respond. Very generalized
22 types of things. Lots of people are sharing
23 information. You're not engaged at all, and every
24 time I looked over, almost every time, your eyes
25 appear again to me to have been closed.

1 It's not a criticism. And it's, you know,
2 if you're doing something, you know, otherwise
3 outside of this courtroom that makes it very difficult
4 for you to stay, engage, or pay attention here, we
5 would understand that. We just need to know because
6 I can't have somebody that's ultimately going to be
7 on this panel who's not going to be engaged and who
8 we lose during the process of the trial.

9 So is there something -- are you working an
10 extra job? Is there something else going on?

11 MS. JIMENEZ: No. I literally have nothing
12 going on. I just don't think it's my time to put
13 anything into the conversation yet.

14 THE COURT: So if I understand you
15 correctly, and like Mr. Hymanson said, nobody is
16 trying to put any words in anybody's mouth. You've
17 heard and listened to all the questions, and you've
18 made a deliberate decision that those questions did
19 not apply to you or you didn't have a response to
20 give? Is that --

21 MS. JIMENEZ: Every question that they've
22 asked, I've either agreed with somebody. Pretty
23 much, I've agreed with one person or the other.

24 THE COURT: Okay. All right. Have you
25 raised your hand or nodded your head or indicated

1 those things in any way?

2 MS. JIMENEZ: Yes.

3 THE COURT: All right. Go ahead. We'll
4 have you step back out.

5 Counsel didn't have any questions, did
6 they, for Ms. Jimenez?

7 MR. ARNTZ: No, Your Honor.

8 THE COURT: Go ahead and step back out.
9 Thank you.

10 (Juror No. 664 exits courtroom.)

11 THE COURT: It was like the perfect opening
12 to get out, but she didn't bite. I don't
13 understand. I kind of have to take her at her word.

14 MR. ARNTZ: We're willing to let her go
15 anyway.

16 THE COURT: I can't. I mean, I've got a
17 juror who's over here telling me that she's engaged
18 and she's listening and she wants to participate.
19 Unless I have -- you know, I'll keep observing her.
20 But I'm not willing to let her go, at this point,
21 with what her responses to the questions were.

22 MR. MCBRIDE: Well, I personally have not
23 seen her raise her hand a single time, and so I
24 wouldn't --

25 THE COURT: I haven't either. But, you

1 know, you guys are directly --

2 MR. MCBRIDE: Sure.

3 THE COURT: -- south of her, and I'm
4 looking at her, and I've seen her eyes open, and
5 I've seen her looking up. I just have also seen
6 times when, you know, she hasn't been -- I don't
7 know why she wouldn't want to admit it. I told her
8 it was okay. I told her there's no harm, no foul.
9 I'm just not ready to cut her loose just yet. So
10 let me keep observing it. We'll probably have
11 another break before the end of the day. If I
12 continue to see this sort of engagement, I'll have
13 to say something.

14 MR. ARNTZ: My problem with her answer was
15 that she doesn't seem willing to engage, that she
16 just isn't willing to enter the conversation.

17 THE COURT: Well, I mean, we'll have to see
18 how that goes. The other thing too is, and I think
19 you all know this, but this opens the door for this
20 conversation. You know that the alternates will be
21 the last two seated, regardless of whomever. So,
22 you know --

23 MR. MCBRIDE: Should the Moores use this
24 opportunity at this point to leave or if they wanted
25 to?

1 THE COURT: Well, this is what I was
2 thinking, I'd rather finish the other and then --

3 MR. MCBRIDE: Oh, sure. Okay.

4 THE COURT: Rather than them going out with
5 everybody out there waiting, we could, if you're
6 okay, just a few more minutes. Let's get the other
7 juror in, and let's have that conversation. You
8 might want to see that conversation anyway. And
9 then once all the panel is back in, in place, you're
10 welcome to go. Okay? Does that work, or do you
11 need to go now?

12 MR. MOORE: No, that's fine. Thank you for
13 that.

14 MR. P. HYMANSON: And, Your Honor, when the
15 panel is seated, do you want us to ask leave of
16 court for them to get going, or do you just want
17 them to --

18 THE COURT: It depends on how much of a
19 thing you want to make about it. At this point,
20 they're welcome to come and go as they please. It's
21 already been asked of the jurors if they want --

22 MR. P. HYMANSON: Make it as innocuous as
23 possible.

24 THE COURT: Right. That's what I'm
25 thinking too, and it's already been offered that

1 they may not stay the whole time. So think it's
2 fine. I don't think anybody will notice. You know,
3 I have no problem if Mr. Hymanson wants to say, you
4 know, just noting again, reminding you all yesterday
5 that, you know, our clients may come and go. I
6 don't think that's a problem.

7 Let's have Juror No. 385, Mr. Jeffrey Back
8 back.

9 (Juror No. 385 enters courtroom.)

10 THE COURT: Hi, Mr. Back. Come on through.
11 We're going to have you sit in the front here, not
12 your usual seat. Just that one right there, if
13 that's okay. It's about the same comfort level, I
14 hope, and it brings you a little bit closer.

15 We just felt we have an understanding of
16 obviously where this conversation is going to go,
17 and we just felt that maybe it was better that it be
18 had not in front of all the other jurors.

19 MR. BACK: I figured, yeah.

20 THE COURT: So that's why we -- and it was
21 good time to take a break for other reasons anyway.

22 So at this point, Mr. Hymanson, do you want
23 to pick up where you left off and finish the
24 inquiry, and then we can go from there, and I can
25 give other counsel an opportunity.

1 MR. H. HYMANSON: I'm happy to do that,
2 Your Honor.

3 THE COURT: And wherever it's more
4 comfortable for you to be. I just thought we needed
5 to have this conversation separately.

6 MR. BACK: I had a feeling, yeah.

7 MR. H. HYMANSON: I think I'll just go back
8 to where I was, if that's all right for you.

9 THE COURT: Whatever is easier. I know
10 I've got him here. I mean, I can put him back in
11 his other seat if it's easier.

12 MR. H. HYMANSON: I feel like I got a good
13 space going her now.

14 THE COURT: It's better for the court
15 reporter too.

16 MR. H. HYMANSON: So, Mr. Back, thank you
17 so much for coming back to talk with us. I
18 understand that this is going to be a difficult
19 thing to say and that this is, unfortunately, about
20 as private as we can make it.

21 But so you were talking about -- I had
22 asked about if you think there should be a limit on
23 pain and suffering damages. You said you think it
24 should be exactly the opposite, and then you were
25 going to tell us about your experience with your

1 sister. And so can you just tell us what you were
2 going to say about your sister.

3 MR. BACK: Yes. 385. I do apologize. I'm
4 losing my voice as well. So I was probably about
5 ten years old. So January 2006, my little sister,
6 Chloe, she was born ten weeks premie and with
7 Down Syndrome. She spent 75 days in NICU. About
8 halfway through, a nurse accidentally swapped her
9 breast milk in her IV. So breast milk went through
10 her brain. Had a series of seizures. Sorry.

11 MR. H. HYMANSON: Take your time. I know
12 this is very difficult, and if you'd like, there's
13 tissues right behind you, and there's also some
14 water if you'd like that also.

15 MR. BACK: She is happy. She's healthy
16 now. But, yeah, she did nearly die. We had a
17 six-years suit with Valley View Hospital and the
18 manufacturer.

19 MR. H. HYMANSON: Please take your time.

20 MR. BACK: Lucky enough for her, she was
21 able to -- she's set for life for now. And my mom,
22 she's now a care advocate for a pediatrician. She's
23 an ambassador for Community Patient Care Advocates.
24 But, yeah, luckily she's happy and healthy today and
25 going to school.

1 MR. H. HYMANSON: Very happy to hear that.

2 MR. BACK: Do you have any questions for
3 me, I guess?

4 MR. H. HYMANSON: I don't think I have any
5 further questions.

6 THE COURT: Mr. McBride, would you like to
7 inquire? You can keep your seat too, if you wish.

8 MR. MCBRIDE: I'll just step here.

9 THE COURT: Okay.

10 MR. MCBRIDE: Mr. Back -- and, again, on
11 behalf of all the counsel here, we do appreciate
12 your honesty. I know this is a very difficult thing
13 to have to relive. But as you can understand, from
14 my client's standpoint, I represent Dr. Lasry and
15 obviously Mr. Weaver represents APRN Bartmus.

16 It sounds like this event was a very
17 emotional event for you and for your family and it
18 continues to be. It brings up a lot of emotions for
19 you.

20 MR. BACK: Yep.

21 MR. MCBRIDE: Do you believe that your
22 experience that you had with your sister is going to
23 make you more favorable to whatever plaintiffs might
24 have in this case?

25 MR. BACK: Yeah, I thought about this a lot

1 last night because I figured that this is where it
2 was going to come to. I would like to think that I
3 would be impartial, but I'm not sure if I could be
4 impartial.

5 MR. MCBRIDE: Sure. And that's fine. And
6 that's what we're looking for. All counsel here is
7 looking for brutal honesty. You heard Mr. Hymanson
8 say that. That's what we're looking for.

9 So I guess the other question is would you,
10 if you were Dr. Lasry, would you want someone with
11 your same mindset sitting on the jury in judgment of
12 his care and treatment?

13 MR. BACK: I would guess no.

14 MR. MCBRIDE: Okay. Thank you very much.
15 I appreciate it.

16 MR. WEAVER: I don't have any questions,
17 Your Honor.

18 THE COURT: All right. Thank you.

19 MR. H. HYMANSON: No further questions,
20 Your Honor.

21 THE COURT: Any --

22 MR. ARNTZ: We'll stipulate, Your Honor.

23 THE COURT: I believe there's a stipulation
24 forthcoming, and I was trying to think of the artful
25 way to ask it.

1 we're all very appreciative of your
2 service, but I think we all agree that, as I
3 mentioned on the first day, not every trial is a
4 perfect fit for every person. We're sorry that this
5 trial has invoked these emotions for you, and we
6 thank you for your service, but we are going to go
7 ahead and excuse you at this time. If you have your
8 badge with you, give it to the marshal on your way
9 out, but you are excused.

10 MR. BACK: Thank you.

11 THE COURT: All right. Thank you.

12 And, you know, I'm reconsidering my thought
13 process about Ms. Jimenez. If the counsel are in
14 agreement to stipulate to excuse, I think we might
15 as well fill both seats and move forward before we
16 go too much further.

17 MR. WEAVER: Yes, Your Honor.

18 MR. ARNTZ: Sounds good to me.

19 THE COURT: Bear with me. I get there. It
20 was a really long calendar this morning.

21 MR. MCBRIDE: I don't know how you could do
22 it.

23 THE COURT: It was exhausting. That's what
24 my court clerk just said, and it was.

25 Joshua, we're going to also excuse

1 Ms. Jimenez. Thank her for her service. Tell her,
2 you know, no issue. Just, you know -- why don't we
3 bring everybody back in, hold her back. And then
4 once everybody's back in the room, keep her in the
5 alcove. You can let her go and take her badge.
6 Okay?

7 THE MARSHAL: Okay. No problem,
8 Your Honor.

9 THE COURT: Okay. Thank you.

10 (Jury panel enters the courtroom.)

11 THE COURT: All right. As everyone
12 finishes coming into the courtroom, I'll invite
13 everyone to have a seat.

14 MR. ARNTZ: I think they're going to take
15 this opportunity to leave, if that's okay.

16 THE COURT: That's fine. We're going to
17 excuse the Moores at this time and proceed with our
18 inquiry of the panel.

19 You will note that we have excused two
20 additional members from the panel, and we are going
21 to need to fill those two vacant seats. So the
22 first vacant seat is seat No. 5. It's in the back
23 row. And, again, for the folks who are coming
24 forward, come through the center, around, and enter
25 from the left of the jury box.

1 Next juror in line is:

2 THE CLERK: Badge 668, Marcel Brown.

3 THE COURT: Thank you, Ms. Brown.

4 And the other seat is seat No. 20. We have
5 a little path of travel here behind counsel table.
6 So it might be quicker to go that direction.

7 Filling seat No. 20 is:

8 THE CLERK: Badge 677, Jessica Chavez.

9 THE COURT: All right. Thank you, both.

10 I'm going to start with Ms. Brown. If
11 you're able to see the board or I can just ask you
12 the questions. Either way. Whatever is easier.

13 MR. BROWN: Yes. Question No. 1 is gone.
14 Is that my name?

15 THE COURT: Did it somehow fall off the
16 list? Yeah, we're moving the projector a little
17 bit. It's okay. I'll go through it. Yes, we have
18 your name and your --

19 MR. H. HYMANSON: Are you all right with me
20 standing here? I'm sorry to interrupt you.

21 THE COURT: No, you're fine. Perfectly
22 fine.

23 So, Ms. Brown, your badge number is 668.
24 Yes, the name. And then, of course, it kind of
25 jumps right to former job or current job. Either

1 way.

2 MS. BROWN: My current job, I'm a social
3 worker with Nevada Medicaid. Education, I have a
4 Master's degree in rehab counseling. Not married,
5 no children. I have -- my family's lived in
6 Las Vegas for about 20 years, and I've just been
7 back the last 11.

8 THE COURT: Okay.

9 MS. BROWN: I've never been a juror.

10 THE COURT: Here or anywhere?

11 MS. BROWN: No.

12 THE COURT: Okay. How about any
13 connections -- other than, you know, yourself
14 obviously perhaps in the way that you do the work
15 you do for Medicaid -- but how about, again,
16 yourself in a former position to also discuss or a
17 family member or a close friend in the medical
18 field?

19 MS. BROWN: No. Besides working for
20 insurance. No connections.

21 THE COURT: And meaning yourself and what
22 you do with Medicaid?

23 MS. BROWN: Uh-huh.

24 THE COURT: And what about any involvement
25 in or knowledge of any malpractice, medical

1 malpractice lawsuit?

2 MS. BROWN: No.

3 THE COURT: Okay. Coming now down to
4 Ms. Chavez. Are you able to see?

5 MS. CHAVEZ: Yes.

6 THE COURT: Okay.

7 MS. CHAVEZ: I'm Jessica Chavez, 677. I'm
8 a food server at Olive Garden. I have a high school
9 education.

10 THE REPORTER: I'm sorry.

11 THE COURT: She's a food server at
12 Olive Garden. She has a high school education.

13 Maybe just speak up just a touch.

14 MS. CHAVEZ: From Granada Hills,
15 California. High school. I'm married to Tony
16 Chavez. He's a Sunrun installer, solar installer.
17 we have no children. I've lived in Vegas for
18 11 years, and I've never been a juror.

19 THE COURT: Okay. Thank you. And what
20 about you, yourself, again, family member, close
21 friend with any kind of medical field connections?

22 MS. CHAVEZ: No.

23 THE COURT: Here or California? Nobody
24 does any of that kind of work?

25 MS. CHAVEZ: No.

1 THE COURT: What about anything related to
2 any kind of lawsuits involving medical malpractice?

3 MS. CHAVEZ: No.

4 THE COURT: All right. So we have our two
5 new jurors. We know it's difficult when you add to
6 the panel kind of late.

7 And, you know, I suppose a fair question
8 now because counsel for the Moores have been at it
9 for, total, maybe about an hour, a little over that
10 of questioning, is there anything that you heard
11 that's come up so far that, if you had been in the
12 box and would have answered or could have answered,
13 you might want to say?

14 Anything that you've listened to so far?
15 Any answers you think you might want to give?

16 MS. CHAVEZ: No.

17 THE COURT: All right. Well, there's going
18 to be more questions, and we'll get more time with
19 you. So Mr. Hymanson, whenever you're ready to
20 proceed.

21 MR. H. HYMANSON: Thank you so much,
22 Your Honor.

23 Hello again, ladies and gentlemen. So we
24 were just talking about -- before we took a break,
25 we were talking about if anyone had any negative

1 feelings about pain and suffering damages.

2 Mr. Grant, do you have any particular
3 feelings about pain and suffering damages?

4 MR. GRANT: 634. No strong feelings either
5 way. No. I don't think it's a -- no. Again, no
6 strong feelings. I'll just leave it there.

7 MR. H. HYMANSON: Well, let me ask you. So
8 I'm just picking up a little bit of hesitation when
9 you say you "don't think it's" and then you kind of
10 cut off. What's the -- just the hesitation there?

11 MR. GRANT: Everything is circumstantial.
12 So it depends on what's going on. We've been
13 talking a lot about if things are frivolous or not.
14 You know, if it's -- you know, if it ends up being
15 justified. If say something goes to trial, and then
16 that's fine, I suppose. But without knowing the
17 circumstances, I don't really want to say "yes" or
18 "no" on it.

19 MR. H. HYMANSON: Do you think that if
20 evidence were presented to you, in either via
21 testimony or documents or something, that
22 substantiated an individual's pain and suffering, if
23 you saw that, would you be comfortable awarding pain
24 and suffering damages?

25 MR. GRANT: Yeah, I think so probably.

1 MR. H. HYMANSON: Okay. well, and I'm
2 sorry that I keep hammering on you.

3 MR. GRANT: Yes.

4 MR. H. HYMANSON: But just to be exact with
5 you, when you say, you know, "I think so, probably,"
6 I need to dig in on that a little bit more. So why
7 the, you know, you think so probably?

8 So if there's, you know, documented proof
9 of it, you know, you were saying you needed to see
10 something; and then I changed the scenario if you
11 see something, and it still seems like there's some
12 hesitation.

13 MR. GRANT: Pardon me. With proof, yes.
14 I'd say yes.

15 MR. H. HYMANSON: Okay. So that actually
16 kind of dovetails to something we talked about a
17 little bit earlier, but we can go back to it for a
18 second. So we were talking about the distinction
19 between a frivolous case and a meritorious case.
20 And different people had different opinions about
21 that.

22 Some people talked about this notion of
23 he-said, she-said. And then you started talking
24 about "circumstantial"; right?

25 MR. GRANT: Uh-huh.

1 MR. H. HYMANSON: And so what do you mean
2 by "circumstantial"? What does that mean to you?

3 MR. GRANT: I suppose it would be whether
4 it's determined or not that whatever the complaints
5 are valid or not.

6 For example, there was a wedding
7 photographer I read about that, right after the
8 wedding, let's several years ago and let's say five
9 years later, the couple divorced. They were happy
10 with the photos beforehand. But then after they got
11 divorced, one of them sued the photographer for the
12 full amount of the services given several years
13 before, as well as the amount for the entire wedding
14 itself as for pain and damages, or something along
15 those lines, if I can remember.

16 So, to me, that's ridiculous because the
17 photographer didn't do anything wrong. That's a
18 cash grab, in my opinion.

19 MR. H. HYMANSON: He had nothing to do with
20 the divorce; right? It wasn't the pictures that
21 were the basis of the divorce?

22 MR. GRANT: Yeah, yeah. They were happy
23 with the photos from the start. They were just
24 trying to get some money back from the deal, I
25 think.

1 MR. H. HYMANSON: And is this kind of going
2 back to what you kind of talked about before, that
3 when you're taking your pictures or you do a job for
4 a wedding, you always have it in the back of your
5 mind that: Hey, you know what, I could be sued for
6 this. I've got to cover myself for everything?

7 MR. GRANT: I agree.

8 MR. H. HYMANSON: Okay. And but is there
9 anything about that that you think makes you more
10 hesitant about lawsuits in general?

11 Do you kind of question them? I'm just
12 kind of picking up a kind of consistent theme of,
13 you know, that you have some hesitation about
14 lawsuits. Is that fair to say?

15 MR. GRANT: I think they're overdone. A
16 little too abundant. That's my opinion.

17 MR. H. HYMANSON: And you also questioned,
18 potentially, the validity of pain and suffering
19 damages; correct?

20 MR. GRANT: I'll say yes.

21 MR. H. HYMANSON: Okay. What would you
22 need to see? Because we talked about circumstantial
23 evidence, and we changed, and you still had the
24 hesitation with that. So I just want to figure out
25 where it is. What do you need to feel comfortable

1 awarding pain and suffering damages?

2 MR. GRANT: I'm not really sure.

3 MR. H. HYMANSON: And I don't mean to put
4 you on the spot. I'm sorry if I'm going at you.

5 MR. GRANT: Oh, no, no. You're fine.
6 You're fine.

7 MR. H. HYMANSON: I just need to figure
8 these things out.

9 MR. GRANT: No. No problem. I think,
10 again, just proof that there was actual suffering
11 involved. Proof that financial compensation would
12 actually help the situation as opposed to it just
13 not being about taking advantage of someone else's
14 real pain, I suppose. You know, it's like, for
15 example, if someone wants to try and sue McDonald's
16 because they spill coffee on themselves, for
17 instance. That whole famous story. So maybe more
18 people would try that.

19 A restaurant in town had some food
20 poisoning, I remember, and I knew the owners, and
21 they were -- people were trying to take advantage of
22 them saying, "Yeah, I got sick off of this kind of
23 food that day too." So they were starting to try
24 and sue them. But what happened was is the food
25 that they ate wasn't the contaminated food. They

1 were trying to, you know, see if they could get some
2 money out of it, out of someone else's problem.

3 MR. H. HYMANSON: Okay. With your new
4 examples, is it fair to say that you have a distrust
5 of lawsuits?

6 MR. GRANT: Yeah.

7 MR. H. HYMANSON: And is it fair to say
8 that if starting out judging this case, that you
9 would give the defense a little bit of a -- that
10 let's say the plaintiff would be starting one step
11 behind than the defense?

12 MR. GRANT: No. I don't know the
13 circumstances. SO I reserve all judgment.

14 MR. H. HYMANSON: Okay. Well, you talked
15 about you think that things are frivolous.

16 So, for example, you talked about the
17 McDonald's hot coffee lawsuit; correct?

18 MR. GRANT: Uh-huh.

19 MR. H. HYMANSON: Do you know the facts of
20 that lawsuit?

21 MR. GRANT: No. It's just something I read
22 in the paper like 20plus years ago. It was just an
23 example or two.

24 MR. H. HYMANSON: If you found out that the
25 lady from the McDonald's case was --

1 well, what's your understanding of the
2 facts of what happened with that?

3 MR. GRANT: What I remember is someone
4 spilled hot coffee on themselves in the
5 drivethrough.

6 MR. H. HYMANSON: And has anyone else heard
7 about this case before?

8 MR. GRANT: They sued McDonald's and got
9 some sort of settlement out of it even though
10 everyone knows coffee is hot.

11 MR. H. HYMANSON: Okay. And does everyone
12 agree that they think this is a perfect example of a
13 frivolous lawsuit?

14 I see some people raising their hand.

15 Does anyone think that that was not a
16 frivolous lawsuit? Yes, sir. Mr. Maltese; correct?

17 MR. MALTESE: 665. It depends. Was it
18 coffee at boiling, and was it -- did she get scarred
19 on her lap or whatever the situation was? It
20 depends on the facts.

21 MR. H. HYMANSON: And so if the facts were
22 that she had third-degree burns, would that change
23 your assessment of that case?

24 MR. GRANT: Yeah.

25 MR. H. HYMANSON: Okay. And so that's

1 Mr. --

2 MR. GRANT: 634.

3 MR. H. HYMANSON: Mr. Grant, 634, just for
4 the record, for everything.

5 And if it was documented there was over
6 700 occasions where people had been burned before,
7 would that change your impression of that case?

8 MR. GRANT: Of course. The more facts that
9 get presented, then that could sway my opinion,
10 yeah.

11 MR. H. HYMANSON: Okay. I'm not going to
12 go really into this, but this brought it up a little
13 bit. So we talked about, you know, your impression
14 of frivolous lawsuits. And because of the
15 McDonald's case, does anybody ever think the media
16 exaggerates certain things when they're reporting
17 about lawsuits?

18 Couple people with their hands up.

19 Mr. Burke; correct?

20 MR. BURKE: Yep. 510.

21 MR. H. HYMANSON: Okay. Can you elaborate
22 on that a little bit.

23 MR. BURKE: I mean, I guess I'd say
24 sometimes they might even oversimplify it, as you
25 just listed some possible facts that could have been

1 from the McDonald's case that even swayed his
2 opinion. You know, if you put it in its simplest
3 terms, people watching TV could be easily swayed to
4 see things a certain way. Just kind of how the
5 media works.

6 MR. H. HYMANSON: And, Ms. Chavez, do you
7 ever think that sometimes -- do you think that
8 there's reports on cases where people file
9 meritorious lawsuits but they don't get what they
10 deserve? Do you think that there's many articles or
11 news stories about that?

12 MS. CHAVEZ: Yeah. 677. Sorry. I think
13 that does happen sometimes. I can't think of
14 anything right now, but I'm sure it does.

15 MR. H. HYMANSON: You think it gets
16 reported when people don't get what they deserve?

17 MS. CHAVEZ: Like I said sometimes. Maybe.
18 I don't know. I'll say I don't know.

19 MR. H. HYMANSON: No, that's totally fine.
20 And I don't mean to make you nervous. I just -- and
21 there's no wrong answers to this. We just want to
22 hear what you think of things, and so you're doing
23 just fine.

24 So let's talk about the specifics, this
25 type of case. So we've talked about, you know,

1 different types of damages. Is there anyone that is
2 uncomfortable with the fact that this is a medical
3 malpractice case?

4 Does anyone have a problem with medical
5 malpractice cases?

6 Yes, sir. Mr. Jones, 625; correct?

7 MR. JONES: Yeah. I don't have a problem
8 with it, in general. I have one specifically.

9 MR. H. HYMANSON: Okay.

10 MR. JONES: That, in 2017, I was diagnosed
11 as having prostate cancer. And so, you know, you
12 start the whole series of different things,
13 different tests; and they all lead to certain
14 different procedures going down the line in order to
15 ascertain whether or not you do have prostate
16 cancer. Well, the physician that had me in the
17 process, it wasn't until I got to the point where
18 they were going to do a biopsy. And you think,
19 well, it's 12 minutes, you'll be out. And the nurse
20 goes, "Oh, no. It's 48."

21 And so you do these 48, and then they find
22 out that only four have any type of abnormality.
23 But you have the statistics that say that
24 African-American men, particularly within my age
25 group, have a higher rate of dying from this. Now,

1 I'm not a physician. So, you know, I don't have all
2 of the information. But you go through all of the
3 tests, and had it not been for me having access to
4 another physician that looked at the report, the
5 physicians that were leading me down the path to,
6 more or less, make the situation right, forgot to
7 tell me a number of things.

8 So, yeah, I have some concerns because like
9 when I took a look at it, I began to recount all the
10 facts and asked questions, nothing from an
11 operational standpoint or from a procedural
12 standpoint was wrong. What was wrong is that you
13 have this very large organization of managed care,
14 all these physicians with different ownership
15 positions, and the thing was is to get him in the
16 system and keep him in.

17 So, yeah, I have some problem with it. You
18 know, everywhere you turn, every question you ask,
19 they have an answer for it. So, you know, even
20 through it didn't result in permanent damage; it did
21 result in damage that you could find significant --
22 you could live with it, but it's something I
23 probably never would have entered into without more
24 information.

25 So when I looked at it, I says, you know,

1 it's not worth a lawsuit. But somebody needs to
2 give people more information, and this whole thing
3 needs to be clearer on both sides. I don't want to
4 just run and jump and say, "well, you know, this
5 shouldn't happen or I should sue you" because I
6 can't really say because I'm not debilitated as a
7 result of the treatment. Are they something I would
8 have never entered into? Absolutely.

9 But I didn't think it was worth going
10 through a lawsuit on it. That's just where I'm at
11 right now. I do have some problems with how they
12 come out and some of the things that the people file
13 malpractice lawsuits on and what gets compensated.

14 MR. H. HYMANSON: well, thank you very much
15 for sharing that. I know that sometimes that's
16 difficult to talk about in a room with a lot of
17 other people.

18 Is there anything about that that would --
19 you think that -- you can't get into the facts of
20 the case -- but that you think that because you
21 didn't file a medical malpractice case but my client
22 did file, my clients did file a medical malpractice
23 case, that you would hold against my clients?

24 MR. JONES: No. I wouldn't say I'd hold it
25 against your client, but what I would like to find

1 out and we don't know because we're not into the
2 case, as to what this case is all about, what
3 exactly happened; what is the structure of the
4 organization that supposedly committed the offense
5 and all of those things. There's so much
6 information that not there.

7 And just like I said before, when we asked
8 a question about advertising and those things, I
9 think that some of the advertising cheapens the
10 seriousness of something like this. Just because
11 someone has the ability to pay doesn't mean that
12 they should necessarily be sued, unless it is
13 absolutely necessary and that they earned whatever
14 punishment they're going to receive.

15 MR. H. HYMANSON: Understood. Thank you
16 very much.

17 Does anyone else have any problems with the
18 fact that it's a medical malpractice case?

19 So I'll go from the front row first. So I
20 apologize. Mr. Read; correct?

21 MR. READ: Read, 637. I kind of like had
22 mentioned yesterday, like, my wife's a nurse, and
23 we -- again, she was kind of part of a situation. I
24 kind of still remember when she called me up from
25 work. Like, she worked graveyard at the time, and

1 she called me from work, and I was home for our
2 kids, and I still kind of remember like when she
3 told me that -- first she's like, "I got in
4 trouble."

5 And, like, this happened like it actually
6 was the day after my daughter's first birthday, and
7 it was like -- and this was like over the weekend.
8 So like this happened the week before, and she's
9 like this: "Something came up," and she kind of
10 like told me, she was whispering, and she goes,
11 "They're going to let me work today, but I'm
12 probably going to be put on leave, and like we're
13 probably going to have to hire a lawyer," and just
14 like and "There might be jail time and lose my
15 license" type thing.

16 I'm just like thinking, I'm like I wasn't
17 married too long ago, and my daughter just turned
18 one. And I thought, "Am I ready to take care of my
19 kids by myself?" It's like eventually we got
20 divorced, and we both very good parents, I think.
21 And I was like, at that time, just being, I think it
22 was like 26, 27 at the time, it was like -- it was
23 like scary.

24 And it's still like, even like when I kind
25 of heard about some kind of case like this, it

1 just -- it definitely struck a nerve. Like, you
2 know, it's like just certain things about this like
3 reminded me of the situation. Like the defendants
4 having two sets of attorneys. Like we didn't have
5 the same attorneys, the doctor. And I don't know
6 much about their case -- or I obviously know nothing
7 about their case. But like, you know, just like
8 certain things I've noticed in kind of the room
9 which just kind of reminded me of that situation.

10 And it's just it's more of like nothing
11 prejudging of medical malpractice, like heard things
12 either way. Like I've heard other things just being
13 friends and, you know, everything of medical
14 professionals because of my wife and my mom and
15 other family members, like from a family member of
16 medical professionals. But just like just different
17 things. But and sometimes like trivial, sometimes
18 not.

19 But just like -- just kind of like, and
20 it's just like. I don't know, I got a feeling. You
21 go to work and you kind of try to do your best, and
22 something maybe -- maybe you made a wrong judgment.
23 And not to go much into her case. It's just like --
24 it was like, you know, you got wrong information
25 like from a wrong family member, and it wasn't a

1 family member. It was like a girlfriend, and he was
2 still married --

3 MR. H. HYMANSON: Okay. Yeah, and we don't
4 have to get into all the specifics of that.

5 MR. READ: Just anxiety. And it just --

6 MR. H. HYMANSON: Understood. So let me
7 ask you, does that experience with your ex-wife,
8 does that change how you feel about walking into
9 being a juror for a medical malpractice case?

10 MR. READ: It does in the sense that it
11 definitely like makes me kind of nervous,
12 definitely. But, yeah, but I don't know if it makes
13 me feel like you know, like one way or the other.
14 Like, okay, where I necessarily would feel like I'd
15 side with the nurse or side with the plaintiff. I
16 don't know.

17 MR. H. HYMANSON: Yeah. Let's talk about
18 that a little bit more because you don't know if it
19 would necessarily make you feel that way. But your
20 ex-wife is a nurse, as we've been through; right?
21 And you know that one of the defendants here is a
22 nurse practitioner; correct?

23 MR. READ: Correct.

24 MR. H. HYMANSON: And you tell me, but is
25 it fair to say that you think you would be, just

1 inherently, given your relationship with your
2 ex-wife, what you've been through with her, that you
3 would be more sympathetic to the defendants in this
4 case?

5 MR. READ: Well, I definitely would be in
6 the sense that -- in the sense that they like -- and
7 not knowing any facts of the case, but yeah, in the
8 sense that sometimes you go to work; like, you know,
9 you do try to do a good job, and it's like and
10 something just didn't go right. It's like, you
11 know, it's like not always necessarily your fault.
12 And it's just like that would like in -- yeah, it's
13 like that would make me sympathetic.

14 MR. H. HYMANSON: Okay. And so, again,
15 Mr. Read, just as I've said today, I'm not trying to
16 put words in anyone's mouth. I'm just trying to
17 attempt to distill what we're saying with things.
18 But it sounds, and obviously I can't get into the
19 facts of this case. But it sounds, like you say,
20 that you think that you would be sympathetic to the
21 defendants in this case?

22 MR. READ: I guess if you would say that,
23 yeah.

24 MR. H. HYMANSON: Okay. And so just
25 fleshing that out a little bit, do you think that --

1 is it safe to say that going into this case, you
2 think that my clients would be one step behind the
3 defendants in this case, instead of starting out at
4 an equal starting point?

5 MR. READ: I don't like ever think I'm that
6 person. Like, and I put -- and like -- yeah, so I
7 would want to say no, but like maybe.

8 MR. H. HYMANSON: well, and this kind of
9 goes back to what we started with yesterday, when we
10 were talking about the apple pie competition. And
11 it's not saying that -- it's not a bad thing. When
12 you say that you're "that person," there's no such
13 thing with "that person" with things. But there's
14 such thing as it's not the right case for everyone
15 to judge to from everything.

16 And what I'm hearing from you is that you
17 think that you would be more sympathetic, despite
18 your best efforts. You want to be as objective as
19 you can. And, again, I'm not trying to put words in
20 your mouth. But you'd like to be as objective as
21 you can. But you feel as though, ultimately, when
22 it came down to it, that the defendants would be one
23 step ahead of my clients before this case started?

24 MR. READ: If you put it that way, yes.

25 MR. H. HYMANSON: Thank you very much.

1 Anyone else have any thoughts about medical
2 malpractice cases?

3 I'm sorry. Mr. Burke; correct.

4 MR. BURKE: 510.

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

6 MR. BURKE: I guess mine would come down
7 more to a couple of questions ago when we were
8 talking about damages or payments for pain and
9 suffering, and I just, I guess find that really hard
10 to determine. You know, people have different
11 tolerances of pain. People suffer in different
12 ways. Without being in their shoes -- and it's, I
13 guess, hard to say especially if you're looking at
14 future pain and suffering.

15 How do you know when their pain will end?
16 How do you know -- I mean, pain is a feeling more
17 than anything, and people's feelings are different.
18 And then as far as the amount of money awarded to
19 things like that is so monetarily -- like frivolous
20 lawsuits when people are looking for money, to go
21 after McDonald's, billion dollar corporations.
22 Doctors might be perceived as wealthy people,
23 hospital establishments, stuff like that.

24 So are you asking for more money because
25 they have more money, and where does that correlate

1 to your pain and suffering?

2 THE COURT: I just want to add because it
3 begs the followup that I had before. There will be
4 a jury instruction for those who are on the panel
5 that discusses how to determine pain and suffering
6 damages, if it's determined that any should be
7 awarded. Okay? So the instructions cover a lot of
8 the ground that maybe some uncertainty that the
9 jurors have in their mind. Okay.

10 MR. H. HYMANSON: Thank you very much,
11 Your Honor.

12 And thank you very much also, Mr. Burke.

13 Anybody else that thinks they have some
14 hesitations about the fact that this is a medical
15 malpractice case? Yes, sir. Mr. Taylor.

16 MR. TAYLOR: Taylor, 644. Well, yeah. If
17 it basically comes down to just the case of pain and
18 suffering, that's a very subjective view. We all
19 have to determine whether we believe that or not.
20 And just to come and say, "Okay. I'm going to give
21 you \$10 million because I believe," I mean, what's
22 the foundation for that?

23 I mean, is it loss of work time? Is it
24 just because I say I'm hurting? I mean, it comes
25 down to what you believe. If there's actual factual

1 evidence that supports that, that okay maybe I cut
2 off the wrong arm instead of this arm, which has
3 happened in medical history. We've seen that.
4 We've seen lawsuits justified. Those are very
5 justified. But if it comes down to basically, you
6 know, as I mentioned earlier, he-said, she-said,
7 then I don't know. I don't know if I can buy that.

8 MR. H. HYMANSON: Okay. Understood. Let's
9 talk about that a little bit more. So we talked
10 about he-said, she-said. We touched on this a
11 little bit yesterday, but let's go into it a little
12 bit more.

13 If it's he-said, she-said, do you think
14 that you could come to a decision based on just two
15 different people, their stories, and what they said;
16 or would you need to see more evidence than just
17 what he said or she said?

18 MR. TAYLOR: Basically, I would need more
19 because you could tell me something. I could tell
20 you something. Maybe we're both correct, you know,
21 or maybe we're both wrong. It's, you know, for all
22 of us to decide obviously.

23 But it's -- without some kind of evidence,
24 you know, a third person or perhaps a procedure or
25 some instance, say like if somebody gave a needle to

1 somebody that had been used by somebody else,
2 something resulted as that, obviously there's
3 evidence. But if it's basically: I'm hurting
4 because somebody forgot to check my heart or, you
5 know, take my blood pressure or whatever, you know,
6 that's minute.

7 MR. H. HYMANSON: Understood. Are you
8 comfortable being in a position to judge someone's
9 credibility?

10 I mean you're all going to be hearing
11 from -- if you're picked for this jury, you're going
12 to be hearing from witnesses that come up and take
13 the stand. And as the judge will tell you, it's
14 your job to judge their credibility and if you
15 believe them or not.

16 Is that something that you're comfortable
17 with? Are you comfortable judging whether the
18 individuals that take this stand are telling the
19 truth?

20 MR. TAYLOR: Yeah, I've been on a jury
21 before. I am comfortable to listen to facts and to
22 hear what's happening. But, ultimately, if it
23 really comes down to just basically one person
24 saying this and the other person saying this and
25 there's no evidence to support really either way, I

1 have questions about that.

2 THE COURT: Can you get the juror some
3 water, please.

4 MR. H. HYMANSON: And so just so -- again,
5 I'm trying to clarify that I'm hearing you
6 correctly, that being if a juror is up there -- if a
7 witness is up testifying and even if you believe
8 that they're credible, that's not sufficient for you
9 as a basis to make your decision? If you don't have
10 anything else in a vacuum, that basis alone is not
11 enough?

12 MR. TAYLOR: Not particularly, no.

13 MR. H. HYMANSON: So you're in agreement
14 with my statement; correct?

15 MR. TAYLOR: Yeah. Basically, if somebody
16 is just saying something, I can't -- I can't back it
17 up with any evidence that's been presented to me,
18 then it's just, why are they here? What's the point
19 of this whole thing?

20 MR. H. HYMANSON: Understood. Thank you
21 very much.

22 Anyone else that have any particular
23 reservations about the fact that this is a medical
24 malpractice case?

25 Okay. So we've already kind of touched on

1 the next topic I want to talk about. But at the end
2 of the day, what this case is about, unfortunately,
3 the only way that we can compensate -- that the
4 Moores can receive compensation for what's happened
5 to them is money, and so ultimately this is a case
6 about money, where we're going to be asking you to
7 award money to the Moores.

8 Does anyone have a problem with the fact
9 that this is a case about money?

10 Does that bother anyone?

11 MR. TAYLOR: Taylor, 644. Only if it's
12 excessive.

13 MR. H. HYMANSON: Okay, okay. Anybody
14 else? Yes, sir. Mr. Burke; correct?

15 MR. BURKE: Yeah, 510. Just same as I was
16 saying earlier.

17 MR. H. HYMANSON: Yes, ma'am. Ms. Price;
18 correct?

19 MS. PRICE: I was going to say what he
20 says. If it's too excessive, I think that would put
21 a point in my mind that already that this person is
22 just trying to get money.

23 MR. H. HYMANSON: Okay. And so it depends
24 on the amount of money that's being asked for. And,
25 again, not trying to put words in your mouth. But

1 I'm just trying to interpret what I'm hearing. You
2 think that if someone is asking for too much -- if
3 it's a number that you think is too much money, that
4 that fact alone, you think, takes away from their
5 credibility with something, and you think that it
6 makes it into at least the territory of a frivolous
7 lawsuit or a money grab or something like that?

8 MS. PRICE: Yes.

9 MR. H. HYMANSON: Okay. And how would that
10 affect your overall opinion? Would that make you
11 inclined to award no money or exactly what you think
12 they're entitled to?

13 How do you think that would affect you?

14 MS. PRICE: I somewhat dealt with that in
15 the last case that I was a jury on, and we tried to
16 come up with an amount that we felt was appropriate.
17 It wound up coming up we gave nothing.

18 MR. H. HYMANSON: Okay. And so it's at
19 least fair to say that you think that that would
20 influence that fact alone of asking for what you
21 determine to be too much money would influence how
22 you looked at the rest of the facts of the case --

23 MS. PRICE: Yes.

24 MR. H. HYMANSON: -- and whether you
25 thought that it was proper to award X-amount to

1 properly compensate the plaintiff for the damages?

2 MS. PRICE: Uh-huh.

3 MR. H. HYMANSON: Okay. Does anybody else
4 have a problem this case is about money?

5 Yes, sir. Mr. Headd; correct?

6 MR. HEADD: I pretty much agree with her --
7 633 -- that, you know, that if it's to an
8 astronomical level, that it takes away from the
9 credibility of, you know, what they're trying to
10 prove.

11 MR. H. HYMANSON: Okay. Thank you.
12 Does anybody else have any thoughts about
13 that?

14 Okay. So we're going to move to -- the
15 judge, as the Court has told you several times,
16 she's going to be the one that instructs you about
17 the law. But the standard of proof here is going to
18 be lower than the standard of proof in a criminal
19 trial. So everyone has heard in criminal trial
20 "beyond a reasonable doubt."

21 Here it's going to be "preponderance of the
22 evidence," and the Court will explain what that
23 means. But does anyone have a problem with the fact
24 that we're going to be asking for money based on a
25 lower standard than beyond a reasonable doubt?

1 Is there anyone that that gives someone
2 issue? Yes, sir, Mr. Jones.

3 MR. JONES: 625. It gives me issue because
4 if you're asking for what I consider to be a huge
5 amount of money, then you need to be able to
6 prove -- you know, there should be a high level of
7 proof. I mean, it shouldn't be a low bar for
8 something like that. I mean, if you genuinely and
9 sincerely believe that you have been wronged and the
10 evidence is there, then you should present it. I
11 mean, if anything, it should -- I feel it should be
12 higher.

13 MR. H. HYMANSON: Okay. And so, as I said,
14 the Court is going to instruct you of the law. And
15 your job is going to be to follow the law as
16 instructed by the Court. And so if the Court
17 instructs you that the law is this lower standard,
18 preponderance of the evidence, do you think that you
19 personally would have a hard time following the law?

20 MR. JONES: I wouldn't have a problem
21 following it. I necessarily may not like it. But I
22 wouldn't have a problem following it because those
23 are the instructions. That's what you've agreed to
24 do by being here.

25 MR. H. HYMANSON: Okay. Thank you very

1 much.

2 Does anyone else have an issue with the
3 fact that we're going to be asking for money and
4 that the standard is preponderance of the evidence?

5 Yes, sir. Mr. Withers.

6 MR. WITHERS: 618. I think there's a
7 quality of life to be considered when talking about
8 money. And, you know, did it change the person's
9 outcome because of the mistake? Is there an
10 ownership involved in whatever took place? And we
11 don't know the details, and I'm sure we'll find out.
12 But I think that plays a big role in this.

13 MR. H. HYMANSON: Okay. And how does that
14 play role to you? Just a little more.

15 MR. WITHERS: So there's responsibility,
16 and we talked about ownership earlier. Did the
17 mistake or what would be presumed was the mistake
18 change the person's quality of life? And because of
19 that, now they're going to be awarded this
20 exponential amount of money. You know, and are we
21 going to have any evidence, or is it somebody
22 saying, well, "Yeah, now I can't do this."

23 MR. H. HYMANSON: Thank you very much.

24 Is there anyone else that has an issue or
25 thinks that they have a question about that, that

1 that would be difficult for them?

2 All right. So let's go through just two
3 quick hypotheticals. So if the plaintiff was
4 seeking \$10,000 in damages, would you be comfortable
5 awarding \$10,000 of damages based on the
6 preponderance of the evidence standard?

7 And so the preponderance of the evidence
8 that the defendants harmed the plaintiff in the
9 amount of \$10,000, would anyone have a problem with
10 that?

11 MS. PRICE: Can you say it again.

12 MR. H. HYMANSON: Yeah. Does anyone have a
13 problem with the standard being that the plaintiff
14 has to prove, by a preponderance of the evidence,
15 that the defendant caused them harm and is asking
16 for \$10,000?

17 would you have a hard time awarding \$10,000
18 if you determined that the defendant was at fault
19 for the plaintiff's harm?

20 Is there anyone that would have a problem
21 with that?

22 MR. MALTESE: No. 665. No.

23 MR. H. HYMANSON: Okay. Thank you very
24 much. Let's change the hypothetical -- and this
25 kind of goes off what you were saying, Mr. Jones.

1 If it was proven that the defendant's harm
2 caused \$10 million in damages, would everyone be
3 comfortable awarding \$10 million in damages with
4 still using that preponderance of the evidence
5 standard to determine if the defendant was at fault?

6 Does that change anyone's perception?
7 we've kind of talked about it, but I just wanted a
8 direct example of that.

9 Does that change anyone's perception?
10 Thank you very much. And so I've got two more
11 hypotheticals that kind of go with that. But I want
12 you all to think about this:

13 If you thought it would only take five --
14 based on the facts and the evidence that you saw, if
15 you determined that the defendant was at fault for
16 the plaintiff's arm and you thought that all it
17 would take to compensate the plaintiff was \$500 and
18 the plaintiff was asking for \$10 million, would
19 everyone be comfortable awarding the plaintiff \$500?

20 Is there anyone that would have a problem
21 doing that?

22 Okay. So let's flip the scenario. If the
23 facts of that incident that you saw, you thought
24 warranted compensation for the harm of \$10 million
25 and if the defense was just asking for \$500, is

1 there any of you that would have a hard time
2 returning a verdict of \$10 million?

3 Yes. Ms. Price.

4 MS. PRICE: You said that if it was shown
5 that it was only worth 500, would I --

6 MR. H. HYMANSON: I'm sorry. No. This
7 hypothetical was different in the sense that the
8 defense is asking for 500, but the facts and the
9 evidence, in your determination, warrant a
10 \$10 million award and that's what the plaintiff is
11 asking.

12 MS. PRICE: And would I have a problem if
13 they award the \$10 million, if it was proved that it
14 really was done?

15 MR. H. HYMANSON: Exactly. If you believe
16 that, based on the facts and the evidence, it
17 warrants a \$10 million award, but the defense is
18 asking for a \$500 award, would that change -- would
19 that affect your ability to give that award?

20 MS. PRICE: No.

21 MR. H. HYMANSON: It's the same answer for
22 everyone?

23 THE COURT: There's a hand, Mr. Hymanson.

24 MR. TAYLOR: Taylor, 644. Slightly, just
25 based on the fact that, in a criminal trial, I've

1 experienced you have to have unanimous; whereas, in
2 this case, not quite the case. So there could be
3 the majority decision; yet I could have a dissenting
4 view on this and, unfortunately, almost stuck to it.

5 MR. H. HYMANSON: Okay. Well that brings
6 up a good point. So is there anyone that thinks
7 that they would have a problem deciding the way that
8 they think about this case?

9 So you're talking about, in the jury room,
10 that you think, if you had one opinion and the other
11 people had a different opinion, is there anyone that
12 feels like that they would let other people opinions
13 influence the way that they would vote?

14 So you think that no money should be
15 awarded; they think that money should be awarded.
16 Do you think that you would let that influence you,
17 even though you didn't think money should be
18 awarded, that you would vote to award money?

19 Does anyone think that they would be
20 influenced like that?

21 Now, let's talk about something that was
22 brought up by several of you, and as the Court
23 stated, she's going to give you the instructions,
24 the jury instructions of how you determine
25 everything. But let's talk about, you know, 1this

1 term of "pain and suffering" damages and emotional
2 distress. It's an amorphous term, and there's no
3 scale or metric or a thing that you can put up, you
4 know, what does it mean if you've lost an arm? If
5 you've lost a leg. But does anyone have any
6 thoughts about how you would try to determine what
7 factors you would look at to determine how to
8 compensate someone for pain and suffering or
9 emotional distress?

10 Yes, sir. Mr. Headd.

11 MR. HEADD: 633. Yeah, I guess it depends
12 on how it changes their life, you know, what they
13 were doing before the accident or whatever happened
14 and to what happens after and what they now can't
15 do. So I think that would be important for me.

16 MR. H. HYMANSON: Okay. Thank you.

17 Mr. Ehle, do you have any thoughts on this?

18 MR. EHLE: Yeah, I think about -- 606.

19 MR. H. HYMANSON: Thank you.

20 MR. EHLE: I think, yeah, about the same.
21 I think it would depend on how their life changes.

22 MR. H. HYMANSON: Okay. Thank you.

23 Ms. Chavez, what do you think? What kind
24 of factors would you look at?

25 MS. CHAVEZ: 677. Same thing that they're

1 saying, whether or not they can still work, if they
2 are able to take care of their children. Anything
3 like that.

4 MR. H. HYMANSON: Thank you.

5 Does anybody think that there's something
6 that has been -- that they think that they would use
7 that hasn't been brought up yet?

8 Yes, ma'am. Ms. Clinton.

9 MS. CLINTON: 658. Medical records,
10 medical testimony describing the type of injury and
11 the potential impact on life in terms of
12 physicality. That type of thing.

13 MR. H. HYMANSON: Thank you. Anybody else?

14 How many of you go to see a doctor on a
15 regular basis? Okay. I think there's, in general,
16 kind of two different types of people. There's a
17 type of people that something first shows up and
18 they want to go to the doctor right away and get it
19 checked out; and there's other people, like me, that
20 want to put it off and wait to go see a doctor.

21 Does anyone think that they're the type of
22 person that, when something first comes up, they're
23 going to go get it checked out right away?

24 Ms. Price. Okay.

25 Does anybody think that they would kind of

1 wait awhile to go see a doctor?

2 Okay. why do you go -- when you go to see
3 a doctor, why do you go to the doctor? kind of a
4 generic question. But why do you go see the doctor?

5 Yes, ma'am. Ms. Bechtold.

6 MS. BECHTOLD: 624. It depends on how it's
7 impacting my life, you know, and what is the -- is
8 it an injury, or is it some kind of chronic illness?
9 I mean, it depends on how it's affecting me or will
10 affect me as to when my decision is whether to run
11 to the doctor with a cold. Everyone's got a cold
12 this season.

13 So do we wait a few days or run -- is it
14 going to your lungs and your bronchitis so you
15 better go so it's not pneumonia. I mean, there's a
16 lot of different aspects when I go to the doctor.

17 MR. H. HYMANSON: Absolutely. And when you
18 go to the doctor, do you have an expectation that
19 they're going to diagnose what's wrong with you?

20 MS. BECHTOLD: Yes.

21 MR. H. HYMANSON: And that they're going to
22 properly treat you for what's wrong?

23 MS. BECHTOLD: Yes. Doesn't mean I always
24 agree with them though.

25 MR. H. HYMANSON: Understood.

1 Does everyone have that expectation when
2 they go to the doctor, that they're going to be
3 properly diagnosed? They're going to be properly
4 treated for what is wrong with them?

5 How many people trust hospitals?

6 I see a couple of hands up. I see a couple
7 basically saying "not so much."

8 How many people don't trust hospitals?

9 Okay. I see a lot of hands up.

10 Ms. Bebekyan, I keep butchering that. I
11 apologize.

12 MS. BEBEKYAN: No, it's correct.

13 MR. H. HYMANSON: Okay. Ms. Bebekyan, why
14 don't you trust hospitals?

15 MS. BEBEKYAN: 109. That's just my
16 opinion. I mean, I don't trust them in many ways
17 because you can get treated by not going to the
18 hospital or by not going to the doctors.

19 I mean, my situation, they said I might be
20 diabetic because I just started gaining a lot of
21 weight and not getting enough insulin, but I went to
22 the doctors, and he said, "Oh, I'll give you
23 Metformin. Go ahead and drink this once a day.
24 You'll be fine, and then you've just got to stick to
25 it."

1 And I'm like, "Okay. No, I'm not going to
2 take that. I'm not taking Metformin. I'm only
3 26 years old. I'm young. I'll just lose weight,
4 and I'll just exercise and keep myself healthy. And
5 I mean, knock on wood. I'm not diabetic. So why
6 trust a doctor to give you medicines when you can
7 cure yourself alone?

8 MR. H. HYMANSON: Understood.

9 Mr. Ehle, I think you had your hand up.

10 MR. EHLE: Yeah. Recently, I had a couple
11 of people I know die in hospitals from bad
12 decisions. One went in for something relatively,
13 you know, that he had before, a stint -- a "stent"
14 rather, and he ended up getting a staff infection
15 and dying.

16 MR. H. HYMANSON: I'm very sorry to hear
17 that.

18 MR. EHLE: I had another friend, she was in
19 a car accident, and she was in surgery for her back.
20 And in the middle of the surgery, they said
21 everything was going fine; everything was going
22 great; they were only going to do part of the
23 surgery. "We'll push on through, we'll do the rest
24 of it," she ended up her kidneys failing and, again,
25 the staff infection.

1 MR. H. HYMANSON: I'm sorry to hear that.

2 Does anybody have any different feelings
3 about nurses or nurse practitioner?

4 We've been talking about kind of doctors
5 and hospitals. What about nurses and nurse
6 practitioners? The same general thoughts?

7 Anyone have any specific thoughts about
8 nurses or nurse practitioners? No.

9 How many people think that just because
10 someone is a medical professional, that they have
11 more credibility? Okay. So Ms. Price and
12 Mr. Headd.

13 Mr. Headd, why do you think that?

14 MR. HEADD: Well, they go to school. They
15 do residency. They go through a lot to learn their
16 trade. So I think they have more credibility than
17 someone who doesn't.

18 MR. H. HYMANSON: Okay. And Ms. Price?

19 MS. PRICE: 632. I just want to clarify,
20 you're saying "credibility" as a person in general;
21 or "credibility" in the medical field?

22 MR. H. HYMANSON: I think as a person in
23 general.

24 MS. PRICE: Then no.

25 MR. H. HYMANSON: Okay. Does that change

1 your answer at all, Mr. Headd?

2 MR. HEADD: I'm talking about in the
3 medical field, I trust their information more than
4 somebody who's not in the medical field.

5 MR. ARNTZ: Ms. Chavez was going to say
6 something.

7 MR. H. HYMANSON: Thank you very much.
8 Ms. Chavez.

9 MS. CHAVEZ: 677. I was just going to say
10 the same thing as him. They went to school for it,
11 you know, more than me.

12 MR. H. HYMANSON: Okay. Thank you.

13 Is there anyone that thinks that just by
14 having a doctor or a nurse practitioner take the
15 stand, that you think that they're going to be
16 automatically more credible in what they're going to
17 say than anyone else?

18 MR. MALTESE: No. 665.

19 MR. H. HYMANSON: Does anybody think that?
20 Okay. Mr. Headd.

21 MR. HEADD: Well, they do take oaths to --
22 you know, the Hippocratic Oath, and so hopefully
23 they're not going to purposely lie up there. So,
24 you know, a lot of other witnesses maybe don't have
25 the same or are held to that same standard. I think

1 they might have a little more credibility than
2 Joe Schmoe off the street.

3 MR. H. HYMANSON: Okay. So you think the
4 fact -- and so what's your understanding of what the
5 Hippocratic Oath is?

6 MR. HEADD: Do no harm.

7 MR. H. HYMANSON: Okay. And so you think
8 the fact that a doctor or nurse practitioner took an
9 oath to do no harm, that you think that would give
10 them more credibility when they came and sat up on
11 the stand?

12 MR. HEADD: When it comes to a medical
13 case. I mean, I think they're doctors and nurses;
14 by default, they're trying to help people. You
15 know, they -- people come to them with a problem.
16 They try to help and fix it. So I think in this --
17 in that type of situation, they're called on the
18 stand to talk about medical things that, you know,
19 they're going to be more credible than somebody
20 who's not in the field.

21 MR. H. HYMANSON: Okay. So we've talked
22 about how people go to the doctor with the
23 expectation that they're going to be properly
24 diagnosed and properly treated. We talked about
25 responsibility earlier.

1 Earlier, Mr. Headd, you were just talking
2 about giving them potentially more credit because
3 they have taken this Hippocratic Oath.

4 Is there anyone that thinks that doctors or
5 nurse practitioners should be held to a higher
6 standard if they give improper care?

7 Meaning people put their trust in them to
8 be treated correctly, but if they aren't treated
9 correctly -- first of all, do you think that those
10 providers should take responsibility for those
11 actions? Ms. Price.

12 MS. PRICE: Yes. I think they should take
13 responsibility for that.

14 MR. H. HYMANSON: Okay. Thank you very
15 much. And 632; correct?

16 MS. PRICE: 632.

17 MR. H. HYMANSON: Sorry.

18 And, Mr. Ehle, you raised your hand also.

19 MR. EHLE: Yeah. 606. I think they should
20 be held to a higher standard because they're dealing
21 with a human life.

22 MR. H. HYMANSON: Does anybody else have
23 any thoughts about that?

24 Is anybody familiar with the phrase "If
25 it's not recorded, it didn't happen?"

1 Yes. I see some people nodding their
2 heads. Let's talk to Ms. Brown. You said you're
3 familiar with that phrase. And what does that
4 phrase mean to you?

5 MS. BROWN: If it's not documented, it
6 didn't take place.

7 MR. H. HYMANSON: Okay. And is that
8 important in your line of work?

9 MS. BROWN: Yes.

10 MR. H. HYMANSON: Why is it --

11 MS. BROWN: 668.

12 MR. H. HYMANSON: Thank you. I apologize.
13 Why is it important in your line of work?

14 MS. BROWN: Individual recipients could
15 come back and say that you didn't provide them a
16 service or they could tell you that you didn't call
17 them on X, Y, and Z. But if you can go back to your
18 documentation, you can prove all the different
19 aspects, all the different times that you made
20 contact or the resources that you gave them.

21 MR. H. HYMANSON: And is there ever a time
22 that you're worried that there may be an issue with
23 something and you decide to make a little more
24 detailed documentation?

25 MS. BROWN: More detailed documentation?

1 MR. H. HYMANSON: Yeah. well, just in
2 terms of for a specific note. Maybe something, I
3 don't know. You're worried about a specific issue
4 coming up, and so you may have a basic way to do
5 notes; but you may, in certain cases, make even more
6 detailed notes.

7 MS. BROWN: Oh. Yes.

8 MR. H. HYMANSON: Has that ever happened to
9 you?

10 MS. BROWN: Yes.

11 MR. H. HYMANSON: And why do you make more
12 detailed notes?

13 MS. BROWN: If we know that individuals --
14 usually you document everything that individuals are
15 saying; but if someone has a questioning component,
16 they question you on everything, to cover yourself,
17 you make every detail, put every detail in there.

18 MR. H. HYMANSON: Has anyone ever had any
19 issues with blood flow issues in their body?
20 Vascular issues or anything like that?

21 Mr. Ehle.

22 MR. EHLE: Yeah, a number of times.

23 MR. H. HYMANSON: And we don't have to get
24 into the medical history or anything. I can just
25 leave it at that. We don't need to --

1 MR. EHLE: Okay.

2 MR. H. HYMANSON: But Mr. Ehle, 022;
3 correct?

4 MR. EHLE: 606.

5 MR. H. HYMANSON: 606 jury number. I
6 apologize. I have it written down wrong. Thank you
7 so much. Anybody else? Oh, okay. Mr. Maltese.

8 MR. MALTESE: Yep.

9 MR. H. HYMANSON: What about does anyone
10 have any people from their family, family, friends
11 that have blood flow issues?

12 THE COURT: Mr. Wilder had raised his hand
13 previously.

14 MR. H. HYMANSON: Thank you so much,
15 Your Honor. Mr. Wilder.

16 MR. WILDER: 611. Well, I had a heart
17 attack four years ago.

18 MR. H. HYMANSON: Sorry to hear that.

19 MR. WILDER: And I was the one that --

20 THE REPORTER: I'm sorry. Could you
21 repeat, sir. I apologize.

22 THE COURT: She can't see you, Mr. Wilder,
23 so if you could please speak up.

24 MR. WILDER: I trust hospitals because they
25 saved my life.

1 MR. H. HYMANSON: Thank you very much,
2 Mr. Wilder. Let me ask you a couple of other
3 questions. So we talked about your hearing before;
4 correct? And you've been on jury panels before but
5 haven't been selected; correct?

6 MR. WILDER: Never made it that far.

7 MR. H. HYMANSON: Okay. And was the basis
8 for that sometimes your hearing?

9 MR. WILDER: Always my hearing.

10 MR. H. HYMANSON: Always your hearing.
11 Okay. Has your hearing improved since that time?

12 MR. WILDER: No.

13 MR. H. HYMANSON: Okay. We talked
14 yesterday, you were talking about different tones.
15 Certain tones you could hear, and certain tones you
16 couldn't hear; correct?

17 MR. WILDER: Correct.

18 MR. H. HYMANSON: And if I remember
19 correctly, you said that there were -- even when the
20 counsel were introducing themselves, you could hear
21 some people and you couldn't hear other people;
22 correct?

23 MR. WILDER: Correct.

24 MR. H. HYMANSON: I assume you've been able
25 to hear me while I've been talking today.

1 MR. WILDER: I can't hear you. I can hear
2 the judge, but I can't hear her (to reporter).

3 MR. H. HYMANSON: What about the other
4 jurors that have been talking? Have you been able
5 to hear all them, or do you have certain issues with
6 that?

7 MR. WILDER: About half of them.

8 MR. H. HYMANSON: About half you've heard.
9 Okay. Do you have any concerns -- and I don't mean
10 to call you out with everything. I'm sorry. But we
11 just need to know. Do you have any concerns about,
12 you know, given that you've heard about half of
13 what's going on, that you're not going to hear
14 certain testimony or certain evidence that is
15 presented during this trial?

16 MR. WILDER: Absolutely.

17 MR. H. HYMANSON: Okay. And do you think
18 that that will affect your ability to properly serve
19 as a juror in this case?

20 MR. WILDER: Well, unless I, you know, like
21 the judge suggested, I raise my hand and have
22 everybody repeat when I can't hear.

23 MR. H. HYMANSON: And do you have any --
24 and I don't know because I haven't seen you do that
25 yet, and I understand that is a dynamic process with

1 everything -- but do you have any concerns about
2 raising your hand during the trial when you can't
3 hear something?

4 MR. WILDER: No, not really.

5 MR. H. HYMANSON: But you are concerned
6 that you haven't been able to hear -- at least half
7 of what's been happening you haven't heard?

8 MR. WILDER: Correct.

9 MR. H. HYMANSON: Okay. Thank you very
10 much. I'm sorry to go through that but --

11 MR. WILDER: No problem. I can't hear my
12 own daughter.

13 MR. H. HYMANSON: Okay. Fair enough. Has
14 anyone here -- well, does anyone know anyone here
15 that has had a limb amputated? A limb amputated,
16 like an arm or a leg?

17 Yes, sir Mr. Jones.

18 MR. JONES: My grandfather had a limb
19 amputated after he had a knee surgery that went bad.
20 They eventually amputated the entire leg.

21 MR. H. HYMANSON: I'm sorry to hear that.

22 MR. JONES: Because it wouldn't properly
23 heal. He's been deceased now for about 15 years.

24 MR. H. HYMANSON: Okay. How did that
25 affect him?

1 MR. JONES: Well, it was pretty
2 debilitating. He was in a lot of pain and really
3 couldn't move around, you know, on that leg. So at
4 that point, he was an elderly man when that
5 happened, and he had some other physical issues.
6 But still the fact is it never healed properly, and
7 after a couple of operations, they realized there
8 was nothing that could be done, particularly with
9 the infection that set in, and they amputated his
10 leg.

11 MR. H. HYMANSON: I'm sorry to hear that.
12 You said you recall it was very painful for him?

13 MR. JONES: Before they decided to make the
14 decision. You know, I had a knee surgery myself.
15 So I knew what knee surgeries looked like, and his
16 looked bad. I mean, I don't know who his orthopedic
17 person was, but it just didn't look like a quality
18 surgery.

19 MR. H. HYMANSON: Understood. Do you know,
20 did you hear anything about him talking about
21 phantom limb pain?

22 MR. JONES: He felt like it was still there
23 once it was removed. He had mentioned that a number
24 of times, that he could feel his toes.

25 MR. H. HYMANSON: And did he ever talk

1 about being -- that he felt his leg that wasn't
2 there had pain? Do you remember having any
3 discussions with him about that?

4 MR. JONES: No pain.

5 MR. H. HYMANSON: Okay. No pain, but he
6 could feel it.

7 MR. JONES: Right.

8 MR. H. HYMANSON: Understood.

9 Has anyone here ever had a femoral
10 popliteal graft or bypass surgery called a
11 "fem-pop"? If you don't know what it is, that's
12 fine. I'm just curious if anyone has had an
13 experience or has a family member that's had that
14 experience?

15 THE COURT: How are we doing, Mr. Hymanson,
16 on time?

17 MR. H. HYMANSON: We're getting very close.
18 Court's indulgence, Your Honor.

19 MR. ARNTZ: Can we take a break?

20 THE COURT: Can I have counsel at the
21 bench.

22 (Bench conference.)

23 THE COURT: Ladies and gentlemen, we've
24 been at it about an hour, I think since we resumed,
25 and I think we want to take another brief recess.

1 Do about ten minutes, just to give everybody time to
2 stretch your legs, use the restrooms, and make sure
3 they're back and ready to start promptly at 3:40.

4 Reminding you again, please do not talk or
5 converse among yourselves or with anyone else about
6 this case. No Internet searches, no trying to
7 investigate anything. You've heard a lot of medical
8 terms here. Again, none of it -- your whole case
9 and your service as jurors is based on the evidence
10 that comes into this case through the witnesses and
11 through the exhibits. So make sure you avoid any of
12 those kinds of communications. But we'll see you
13 back here in a little over ten minutes. 3:40.

14 THE MARSHAL: All rise for the jury.

15 (Jury panel exits the courtroom.)

16 THE COURT: All right. I definitely want
17 to resume at 3:40. So whatever discussion you have
18 to streamline, let's do it. Okay.

19 MR. H. HYMANSON: Thank you so much,
20 Your Honor.

21 (Pause in the proceedings.)

22 THE COURT: I'll have everybody take their
23 seat and resume. I didn't mention this before.
24 we've had no problems with this. But please do make
25 sure your cellphones are off or silenced if you've

1 had them on during the break.

2 Mr. Hymanson, whenever you're ready.

3 MR. H. HYMANSON: Thank you very much,
4 Your Honor.

5 Mr. Everett, I'm sorry I haven't spoken to
6 you all day. I'm going to direct this question to
7 you. Do you think that it's important for a
8 treating medical physician to physically examine
9 patients?

10 MR. EVERETT: Physically examine?

11 MR. H. HYMANSON: Yes.

12 MR. EVERETT: Yes, I do.

13 MR. H. HYMANSON: What about, Mr. Newman, I
14 haven't spoken to you either. I apologize.

15 MR. NEWMAN: Could you repeat.

16 MR. H. HYMANSON: Yes. No problem. Do you
17 think it's important for a treating medical
18 professional to physically examine a patient?

19 MR. NEWMAN: Yes.

20 MR. H. HYMANSON: Does everyone agree with
21 that? Does anybody disagree with that?

22 Yes, sir. Mr. Headd.

23 MR. HEADD: Yes. 633. I think in certain
24 situations, if their assistants are taking good
25 notes or, you know, doing their job properly, that

1 maybe he doesn't have to actually see the person --
2 in certain situations, not all.

3 MR. H. HYMANSON: Understood. And so you
4 say "doing their job properly," what is doing job
5 properly?

6 MR. HEADD: Just, you know, following the
7 correct operating procedures that are, you know,
8 standard operating procedures, doing everything
9 they're, you know, they're trained to do.

10 MR. H. HYMANSON: Okay. And is part of
11 that -- so you're talking about if basically someone
12 like working under someone is doing -- looking at
13 the patient and then communicating that information
14 to the supervising person; is that correct?

15 MR. HEADD: Yeah, either verbally or
16 through notes.

17 MR. H. HYMANSON: Okay. But you think does
18 that require proper communication?

19 MR. HEADD: Yes.

20 MR. H. HYMANSON: Okay. Does anybody agree
21 with that, with what Mr. Headd just said?

22 Ms. Price, okay, 632.

23 Anyone else? Yes, sir. Mr. Taylor?

24 MR. TAYLOR: No. I just agree.

25 MR. H. HYMANSON: You agree. Okay.

1 Is anyone here or either themselves or
2 their close, you know, friends or family suffering
3 from any kidney problems?

4 Ms. Price. Okay. Thank you.

5 Anyone else?

6 Does anyone here know anyone that is
7 confined to a wheelchair? Mr. Newman.

8 MR. NEWMAN: 640 badge. My sister is.
9 She's had some illness that started in her head, and
10 basically she had surgery. She had a light stroke.
11 So she's basically unable to maybe move one side of
12 her body, particularly it's the left side.

13 MR. H. HYMANSON: I'm sorry to hear that.
14 Have you noticed that have an effect on her
15 life?

16 MR. NEWMAN: Yes. Considerably. She was
17 really outgoing doing everything, working her job.
18 And it basically, you know, took her quality of life
19 away.

20 MR. H. HYMANSON: Did she have to make any
21 modifications to her house?

22 MR. NEWMAN: Yes, yes.

23 MR. H. HYMANSON: And what kind of
24 modifications did she make?

25 MR. NEWMAN: Bathrooms, no stairs. Lifts

1 to come through in and out. It's a major life
2 change, no matter how you look at it.

3 MR. H. HYMANSON: Okay. Well, thank you
4 for sharing that. Does anyone else know someone
5 that is confined to wheelchair?

6 Yes, Mr. Ehle, 022 -- I keep getting that's
7 the one I have wrong. I apologize.

8 MR. EHLE: Yeah, a good friend of mine is
9 confined. I missed the part about the kidney
10 disease, but he has third-stage kidney disease.

11 MR. H. HYMANSON: I'm sorry to hear that.

12 MR. EHLE: Just kind of happened recently.
13 So he's been in a wheelchair now for probably three
14 months.

15 MR. H. HYMANSON: I'm sorry to hear that.

16 All right. Ladies and gentlemen, I'm
17 getting very close today, and I'll finally sit down
18 and you won't have to hear from me anymore.

19 Is there anyone here that thinks that they
20 will have an issue following the law as given to
21 them by the Court? No hands.

22 This is an important question: Is there
23 anything that I didn't ask or that I asked and
24 didn't follow-up with you about that you think that
25 we should know before we decide who should sit on

1 this jury? Anything anybody can think of?

2 Yes, ma'am. Ms. Brown.

3 MS. BROWN: Yes. 668. I do work on a
4 daily basis with a lot of individuals with
5 disability. So when you're talking about
6 wheelchairs and different handicaps, I do come
7 across a lot of people with Medicaid, and our
8 population is primarily disabled.

9 MR. H. HYMANSON: Okay. Thank you for
10 sharing that, and you have a Master's in, is it
11 rehab counseling?

12 MS. BROWN: Yeah.

13 MR. H. HYMANSON: And what is a Master's in
14 rehab counseling?

15 MS. BROWN: It's where you help individuals
16 who have disabilities find employment, but that's
17 what my Master's is in. That's not currently what
18 I'm working.

19 MR. H. HYMANSON: Okay. And so what's the
20 day-to-day description? I know you kind of said it,
21 but just is there anything else in the description
22 you said that describes what your job description
23 is?

24 MS. BROWN: What the rehab counseling is or
25 what my current job?

1 MR. H. HYMANSON: Your current job
2 description.

3 MS. BROWN: Well, I'm a supervisor, and I
4 supervise individuals who go out to nursing
5 facilities and hospitals, and we help them
6 transition individuals with Medicaid, transition
7 back home.

8 MR. H. HYMANSON: Okay. Thank you very
9 much. Is there anyone else that has something that
10 they think that I should really ask you about or
11 that you should tell me about.

12 Yes, sir. Mr. Ehle.

13 MR. EHLE: 606. I've had extensive medical
14 history, lots of dealings with doctors. You're
15 talking about giving an edge to somebody. I'd be
16 more inclined, right off the bat, to give an edge to
17 you.

18 MR. H. HYMANSON: Okay, okay. Thank you
19 very much. Is there anyone else that has any
20 statements? Oh, yes. Ms. Price.

21 MS. PRICE: I just don't know how much the
22 kidney thing is going to be. I just have a lot of
23 family history with kidney disease.

24 MR. H. HYMANSON: Okay, okay.

25 MS. PRICE: I don't know if that's

1 important or not.

2 MR. H. HYMANSON: Understood. I'll ask you
3 a couple of questions about that. Thank you. So
4 632; correct?

5 MS. PRICE: Yes.

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

7 MS. Price, so you say you have a lot of
8 family history with kidney disease. I don't want to
9 go into a lot with that, but can you expand on that
10 a little bit.

11 MS. PRICE: My family has a genetic
12 disorder with polycystic kidney disease. My brother
13 was actually just diagnosed on Saturday with it.

14 MR. H. HYMANSON: I'm sorry to hear that.

15 MS. PRICE: That's really it.

16 MR. H. HYMANSON: Okay. All right. Well,
17 thank you very much for sharing that. I appreciate
18 that.

19 Is there anything that any of you have
20 heard so far that makes you think that it would be
21 difficult for you to sit and serve as a juror on
22 this case?

23 All right. Ladies and gentlemen --

24 MR. ARNTZ: Wait.

25 MR. H. HYMANSON: Court's indulgence.

1 Apologies. Thank you very much, Your Honor.

2 (Pause in the proceedings.)

3 MR. H. HYMANSON: I'm not quite done. I
4 have a couple more.

5 So, Mr. Ehle, I want to just follow-up on
6 what you said. You said that you think that given
7 your issues with medical treatment before, you think
8 that you would be potentially having -- well, to ask
9 the question, would one side be more ahead than the
10 other? You think that my side would be more ahead,
11 the plaintiffs; correct?

12 MR. EHLE: Correct.

13 MR. H. HYMANSON: And so do you think
14 that -- you understand that the facts of this case
15 that are going to be presented are different from
16 any of the facts of what's happened to either
17 yourself or your friends; correct?

18 MR. EHLE: Yes, I think so.

19 MR. H. HYMANSON: Okay. And that's a
20 different scenario. Even if it's something similar,
21 it's not the same person, not the same set of facts;
22 correct?

23 MR. EHLE: Correct.

24 MR. H. HYMANSON: Do you think that there
25 is a way that you can still be fair and impartial

1 and sit and judge this case?

2 MR. EHLE: I'll try. I think, like I said,
3 I have a very extensive medical history, starting
4 when I was eight years old. I'm 69 now. A lot of
5 different doctors, a lot of different misdiagnoses.
6 A lot of -- I had a botched operation. I could go
7 on and on and on. I mean, I can try to be fair. It
8 would be, you know, just I'm afraid of whatever the
9 other side brings up, it's going to reference
10 something that I've already been through.

11 MR. H. HYMANSON: Understood. Thank you
12 very much for that.

13 Ladies and gentlemen, if you were a
14 plaintiff who was injured as a result of someone's
15 medical malpractice, would you feel comfortable with
16 someone with your viewpoint or disposition sitting
17 on the jury?

18 Is there anybody that feels that they
19 wouldn't be comfortable? If you were injured and
20 you were severely harmed by someone's medical
21 malpractice, would you be comfortable with someone
22 with your viewpoints sitting on the jury?

23 Is there anyone that wouldn't be
24 comfortable?

25 Seeing that, I have no further questions.

1 Thank you very much, Your Honor.

2 THE COURT: Thank you. We'll let Mr. --
3 are you going to use the podium?

4 MR. MCBRIDE: Sure. I might as well,
5 Your Honor. Thank you.

6 THE COURT: All right. And are you okay
7 with that location? We don't have the same line of
8 much sight issues from you.

9 MR. MCBRIDE: My voice is very loud too.
10 Good afternoon, everyone. Can everyone
11 hear me?

12 You can hear me all right, Mr. Wilder?

13 And one thing, so that we know -- and,
14 Mr. Wilder, in case you're concerned about being
15 able to hear anything, see these little microphones
16 in front of the jury box and over in front of the
17 witness stage, and the judge has one up there?
18 That's going to help, I think, project so you can
19 hear.

20 But you understand you can also use that
21 device that the judge told you about as well; right?
22 Okay. You feel comfortable given that information
23 the fact that there's microphones here to be able to
24 hear the witnesses testifying and the judge and
25 counsel, what they might say?

1 You feel comfortable with being able to
2 raise your hand if you can't hear anything?

3 MR. WILDER: I think so.

4 MR. MCBRIDE: All right. One question I
5 wanted to ask everyone in general -- and I think
6 we've covered this earlier -- is just, in general,
7 do the people here in this panel, do you feel or
8 have one opinion of physicians negatively or
9 positively? Either negatively or positively?

10 Mr. Ehle, we already know, I think, where
11 you're coming from.

12 MR. EHLE: Yeah.

13 MR. MCBRIDE: All right. I'll get to you
14 in a second. Anyone else here who has a very
15 favorable about physicians, Mr. Maltese?

16 MR. MALTESE: Yeah.

17 MR. MCBRIDE: And that's Mr. Maltese, you
18 are at 665.

19 MR. MALTESE: Correct. I have a
20 favorable -- I was in a hospital and had almost
21 20 surgeries in a hospital stay; and they, you know,
22 I was about to die. They just took me up and got me
23 better.

24 MR. MCBRIDE: So was that here locally in
25 Las Vegas, or was that back in New York?

1 MR. MALTESE: No. It was in New York,
2 yeah.

3 MR. MCBRIDE: And how long ago was that?

4 MR. MALTESE: Colon cancer survivor about
5 20 years ago.

6 MR. MCBRIDE: Congratulations. Do you
7 think that that positive experience that you had as
8 a result of the physicians and the healthcare
9 providers that took care of you, do you think that's
10 going to impact, one way or another on your ability
11 to be fair and impartial juror in this case?

12 MR. MALTESE: I could be fair and
13 impartial.

14 MR. MCBRIDE: Okay. Does everyone here
15 understand like, up to this point, no one has heard
16 a single thing about the facts of this case?
17 You'd agree with that; right? So everyone, you're
18 coming into this case with a clean slate; right?

19 Mr. Ehle, let's go to your concerns, and I
20 appreciate, I think counsel mentioned the term
21 "brutal honesty," and that's all we're asking for,
22 everyone's brutal honesty here, because it's very
23 important to both sides, to our clients as well as
24 to the plaintiffs.

25 And so, Mr. Ehle, I wanted to touch really

1 quickly on your feelings about physicians given your
2 extensive medical history. If you were in
3 Dr. Lasry's position or APRN Bartmus's position,
4 would you want someone with your same mindset, as
5 you sit here right now, judging against them in this
6 case?

7 MR. EHLE: I wouldn't want me judging
8 against them.

9 MR. MCBRIDE: Right. And is that because
10 you have had such bad experiences?

11 MR. EHLE: Yeah, yeah.

12 MR. MCBRIDE: And not just personally. I
13 think you told us about other individuals who you
14 believe have been victims of malpractice; is that
15 right? Maybe I -- I took that down in my notes.
16 Was there anyone else that you've encountered that
17 you felt to have had malpractice against them?

18 MR. EHLE: I don't think I know anybody
19 that had malpractice against them. I have a good
20 friend that's in a wheelchair because of third-stage
21 kidney disease. I've thought about doing
22 malpractice suits myself. I never have.

23 MR. MCBRIDE: And I guess what I'm trying
24 to get at and counsel even mentioned, there's other
25 cases that are in this courtroom, and some are not

1 medical malpractice. Some are criminal cases.
2 There's construction defect cases, as we've heard
3 about. Do you think, given your past experience,
4 that this is maybe not the right case for you to be
5 a juror on because of that?

6 MR. EHLE: Yeah, medical malpractice suits
7 aren't the right case for me. I've served before on
8 a criminal case.

9 MR. MCBRIDE: Right, right.

10 MR. EHLE: This is not -- I don't think you
11 want me.

12 MR. MCBRIDE: Okay. Well, and, again, and
13 I appreciate your brutal honesty, and that's all
14 we're asking for from everyone here. We want
15 everyone to disclose if there is some feeling, as
16 much as each of us want to believe we can be fair
17 and impartial, it's really important if there's
18 something maybe deep down or some past experience
19 that might affect our ability to be fair and
20 impartial. And I appreciate -- Mr. Ehle, I
21 appreciate that.

22 How about anyone else, given what Mr. Ehle
23 has talked about, anyone else kind of have that same
24 feeling, one way or the other? Mr. Read.

25 MR. READ: 637. Yeah, if you asked the

1 question like he asked and I probably should have
2 raised my hand when he kind of mentioned it like at
3 the end it was like "Is this the right case for
4 you?" And this is probably like -- like there's
5 probably like tons of cases on your dockets that
6 would be probably a better case for me to have
7 walked in and like where I would have. But, yeah,
8 if you're asking me the question, "Is this probably
9 the right case for me?" No.

10 MR. MCBRIDE: Okay. And, again, that's for
11 the opposite reason? That's because -- and I think
12 in response to questioning, you felt that you might
13 be more favorable, given your experience with your
14 ex-wife towards the defendants in this case.

15 MR. READ: Well, yeah, just also just kind
16 of being able to not think of like myself in that
17 situation and like, you know, just kind of like
18 we're like just being that family observer-type
19 person that, you know, like it's affecting their
20 lives. Yeah, it's more of that person and --

21 MR. MCBRIDE: And is that even the case,
22 Mr. Read, even though everyone agrees here we
23 haven't heard anything about the facts of the case?

24 MR. READ: Yeah, and that's where I kind of
25 like were kind of hesitant to even mention it when

1 he asked it before because I haven't heard anything.
2 so it's like, you know, it might be totally
3 something where it's just -- or it disappears or it
4 doesn't -- so I wouldn't know. But like if you're
5 asking me the question like right now, like just
6 even listening to like just his comments, it's like
7 if you're asking me that particular question, "Is
8 this the right case for you," you know, like move me
9 next-door, and then I'd love to serve, and I think
10 it might be a better fit than where this wouldn't be
11 a good fit for me.

12 MR. MCBRIDE: Understood. Anyone else have
13 any similar strong feelings, one way or another
14 about their ability to be fair and impartial in this
15 case? Mr. Headd.

16 MR. HEADD: Mr. Headd, 633. I don't know
17 if it will be an issue, but I heard it's an E.R.
18 case. Is that -- it's going to deal with the E.R.?

19 MR. MCBRIDE: It pertains to the care and
20 treatment rendered was in the emergency room; right?

21 MR. HEADD: Yeah, my just personal opinion
22 is it's a very -- you know, they don't know what's
23 coming in the door a lot of times, and they're going
24 to just -- they have to kind of take it as it comes
25 and do the best they can because, you know, they

1 don't have any prior knowledge of what's going on.

2 So I think, in that case, I potentially
3 might be skewed towards the E.R. doctor because
4 they're just trying to do the best they can with
5 what they know right that second. So like, you
6 know, their chances of making a mistake might be
7 higher because they don't have this long-term
8 history with the patient, and I think I would feel
9 more forgiving towards them in that situation versus
10 like a family practitioner.

11 MR. MCBRIDE: Understood. But you would
12 agree with me, you know absolutely no facts about
13 this case?

14 MR. HEADD: Yeah. I'm saying the facts
15 might come out and might not affect me at all.

16 MR. MCBRIDE: Right, right. And I
17 appreciate you being honest and telling me about
18 that and telling us about that. However, do you
19 think, again, in this case, that --

20 And I would ask this of everyone: Do you
21 think all of you can sit and wait until you hear all
22 of the evidence that comes in before you make up
23 your mind in this case?

24 Can everyone agree to do that?

25 Mr. Withers, can you agree with that too?

1 MR. WITHERS: Yes.

2 MR. MCBRIDE: All right. Mr. Newman.

3 MR. NEWMAN: Yes.

4 MR. MCBRIDE: And, Mr. Newman, you are 640.

5 MR. NEWMAN: Yes.

6 MR. MCBRIDE: And, Mr. Headd, I wanted to
7 just touch that based on that, in terms of your, you
8 know, feelings already that you've expressed about
9 this if this is an E.R. case, are you willing to
10 wait and until all the evidence has been in, until
11 plaintiff has put their evidence and submitted their
12 evidence and defendants have had an opportunity to
13 respond before you make any decision in this case?

14 MR. HEADD: Like I said, it's going to
15 depend on how the facts come out.

16 MR. MCBRIDE: Right.

17 MR. HEADD: But for me, in my mind, I'm
18 trying to look at it in a different scenario. If I
19 look at it as, you know, somebody is in a burning
20 house and the fireman pulls them out trying to save
21 their life and dislocates their shoulder, should
22 that fireman then be sued for dislocating their
23 shoulder while he was trying to save their life? I
24 feel no. But I mean, depending how the facts come
25 out, you know, if it's not a situation like that at

1 all, I'll be fine.

2 MR. MCBRIDE: Right. And, again, those are
3 not the facts of this case.

4 MR. HEADD: Yeah, okay. Just I don't want
5 to -- you know, if a certain scenario like that
6 comes on, I might shut down a little bit and, you
7 know what I'm --

8 MR. MCBRIDE: Understood, understood.

9 And, again, everyone has to wait until the
10 evidence comes in. How about this general question
11 in terms of we talked about the burden of proof.

12 Does everyone here understand that the
13 plaintiff is the one that has the burden of proof of
14 their case by a preponderance of the evidence?

15 Does everyone -- Mr. Headd, you understand
16 that?

17 MR. HEADD: Uh-huh.

18 MR. MCBRIDE: And that means that the
19 plaintiff will go first. That's why they ask
20 questions first of the jurors here, and then the
21 defense goes.

22 Do you think that everyone here can make a
23 promise to all of us that you'll wait until all of
24 the evidence has been presented before you make up
25 your mind in this case? Everyone can do that?

1 Mr. Headd, again, coming back to you, you
2 think, again, understanding what you told us, do you
3 believe that you could still be fair and impartial
4 and wait until all the evidence has been submitted?

5 MR. HEADD: Yeah, yeah.

6 MR. MCBRIDE: Okay. Thank you.

7 THE COURT: And I'm just going to interject
8 briefly, Mr. McBride. Don't lose your place on your
9 questions.

10 MR. MCBRIDE: Sure.

11 THE COURT: I think that's a good place to
12 just interrupt briefly and say we even have an
13 instruction that talks about how you are, you know,
14 nobody lives in a vacuum; right? We all have common
15 life experiences, and we're all entitled to bring to
16 our jury service our common life experiences; and
17 even if we have some empathy or sympathy or whatever
18 it is, one way or the other, what we need to know is
19 if you could not set that aside and if you could not
20 overcome whatever those feelings are and, at the end
21 of the day, deliberate with your fellow jurors to
22 render, you know, a verdict according to the
23 evidence. That's the concern.

24 We know people are going to have their life
25 experiences. We know people are going to have

1 their, again, empathies and sympathies, and there
2 are instructions that talk about this. But at the
3 end of the day, your duty, your oath is going to be
4 that you will listen to the evidence and you will
5 receive the instructions, and you will render a
6 verdict based on what you find the evidence to be.

7 Is there anyone here, as you sit here right
8 now, who does not believe that they can do that?
9 And there's no right or wrong answer?

10 MR. MCBRIDE: Mr. Ehle.

11 MR. EHLE: And I think, again, as I said --

12 MR. MCBRIDE: Mr. Ehle, you're 606?

13 MR. EHLE: 606. I think I'd be predisposed
14 for against your side.

15 MR. MCBRIDE: Against the doctor and the
16 healthcare provider.

17 MR. EHLE: Yeah, I wish it wasn't the case,
18 but I've had too many past experiences.

19 MR. MCBRIDE: Sure.

20 THE COURT: And you've explained. It was
21 just -- it was really a yes-or-no answer at that
22 point. I was just trying to clarify. So we
23 appreciate your additional information.

24 Go ahead, Mr. McBride.

25 MR. MCBRIDE: And that actually brings --

1 that was a perfect segue into my next line of
2 question. The judge just told you there's going to
3 be instructions on what the law is, and in terms of
4 one of those instructions is going to talk to you
5 about how you can't judge this case on the basis of
6 sympathy.

7 Does anyone, by the mere fact that
8 Mr. Moore, who you saw here earlier today and
9 yesterday, and Mrs. Moore sitting here, but
10 Mr. Moore is here in a wheelchair, is that going
11 to -- do you think you're going to be more
12 sympathetic towards him because of that he's in a
13 wheelchair? Anyone?

14 Okay. How many of you feel that simply
15 because we're here in court, that that means that
16 necessarily either my client, Dr. Lasry or APRN
17 Bartmus must have done something wrong?

18 Any of you come to that conclusion before
19 we started talking to you? Okay. Everyone --

20 Mr. Withers.

21 MR. WITHERS: Yeah. 618. I guess it's
22 kind of presumed. That's why, you know, there's ill
23 feelings or there's reasons to be here. Obviously
24 if there wasn't, there wouldn't be a lawsuit; right?

25 MR. MCBRIDE: Well, and you've managed a

1 car -- what's the general gist of the company that
2 you work for right now?

3 MR. WITHERS: A bus company.

4 MR. MCBRIDE: I'm sorry?

5 MR. WITHERS: A bus company.

6 MR. MCBRIDE: A bus company. And have you
7 said, in the past, that you've actually been
8 involved in lawsuits that have been filed against
9 your company?

10 MR. WITHERS: Many of them.

11 MR. MCBRIDE: And do you believe, on that
12 basis, that every one of those cases -- have any of
13 them ever ended up in the courtroom?

14 MR. WITHERS: I've been in deposition a
15 lot. Most of them got settled outside of court.

16 MR. MCBRIDE: Okay. Have you ever had
17 occasions, in your personal experience, where
18 there's -- a lawsuit is filed, but it's your belief
19 and after all the evidence that you've gathered as
20 part of your job that you feel that there was
21 absolutely nothing that was done inappropriately or
22 wrong?

23 MR. WITHERS: Yes.

24 MR. MCBRIDE: Given that information, do
25 you necessarily feel that -- would you agree with me

1 that a defendant -- if a plaintiff files a lawsuit,
2 a defendant or defendants is entitled to defend
3 themselves if they feel that they don't do anything
4 wrong?

5 MR. WITHERS: Absolutely.

6 MR. MCBRIDE: So with that in mind, do you
7 think that have you made any sort of decision in
8 your mind that, before you've even heard any of the
9 facts of this case, that either Dr. Lasry or Nurse
10 APRN Bartmus had done anything wrong in this case?

11 MR. WITHERS: I haven't heard any facts. I
12 can't come to that conclusion. Like I said earlier,
13 if you're here, somebody believes they did something
14 wrong.

15 MR. MCBRIDE: Fair enough.

16 MR. WITHERS: It's what evidence comes into
17 play. Once we see the evidence, I'd like to think I
18 could draw a conclusion.

19 MR. MCBRIDE: Fair enough. In other words,
20 I think you said this earlier in response to
21 counsel's questions about you need to see some sort
22 of evidence to be able to make your decision; is
23 that right?

24 MR. WITHERS: Absolutely.

25 MR. MCBRIDE: And does everyone pretty much

1 agree with that's your job as a juror by its very
2 essence, that you're here to judge the evidence and
3 the testimony that you're going to hear before you
4 make any sort of judgment against either in favor of
5 the plaintiff or against my clients? You understand
6 that? You're all good with that?

7 Okay. Thank you, Mr. Withers. I
8 appreciate it.

9 In terms of the medical care, I think there
10 was some of you -- I think, Ms. Bechtold, I think it
11 was you and actually Mr. Withers, and I want to talk
12 about you, Ms. Bechtold, you talked about you may
13 not go to a doctor necessarily on a regular basis;
14 is that right?

15 MS. BECHTOLD: I go for well checkups, yes.

16 MR. MCBRIDE: Well checkups.

17 MS. BECHTOLD: Yes.

18 MR. MCBRIDE: Okay. And but you might wait
19 a little while to see if there's really something
20 more wrong if you think you have the symptoms of a
21 cold; is that right?

22 MS. BECHTOLD: That's correct.

23 MR. MCBRIDE: Do you think a patient, such
24 as yourself, are you responsible, do you think
25 you're responsible for certain aspects of your own

1 health?

2 MS. BECHTOLD: Yes. My own self-care. I
3 think we know our own bodies better sometimes and
4 know our healing responses at this age especially,
5 so.

6 MR. MCBRIDE: And in terms of that, does
7 everyone kind of feel that same way that if you go
8 see a doctor, if you have other prior health
9 conditions, that each of us or each of you are
10 responsible, to a certain degree, with your own
11 health? You would agree with that?

12 That, and in terms of following a
13 physician's advice, do you think that if a doctor
14 tells you to go see another doctor, do you think
15 that that's something that's important for you to
16 follow? Everyone agree with that?

17 Anyone disagree with that? Okay.

18 MR. WEAVER: Ms. Brown, I think.

19 MS. BROWN: Brown, 668.

20 MR. MCBRIDE: Oh, I'm sorry. Yeah,
21 Ms. Brown. I'm sorry.

22 MS. BROWN: You said if anybody disagrees
23 like if a referral is made to a different doctor, I
24 would think that would be on their own personal
25 preference. It would depend on if you take the

1 doctor's information and then you process that
2 information. If you want to follow-up with a
3 referral, you can. It's free will.

4 MR. MCBRIDE: Fair enough. And that's
5 something that would you also agree that everyone is
6 entitled to a second opinion if they disagree with
7 another doctor?

8 MS. BROWN: Yes.

9 MR. MCBRIDE: Everyone agree with that
10 concept? Okay.

11 Thank you, Ms. Brown. I appreciate that.
12 I'm sorry I didn't see your hand raised.

13 Has anyone here either have you personally
14 experienced it where you've been disabled for a
15 period of time, or do you know people who, in your
16 family, immediate family, who have been disabled for
17 a period of time? I think we talked about some
18 people. Ms. Brown, you mentioned an individual you
19 knew about in -- excuse me.

20 Mr. Jones, you knew someone about who was
21 in a wheelchair.

22 MR. JONES: Yeah, well, I said I had a
23 grandfather who had a leg amputated. But I have a
24 nephew who was in a wheelchair as a result of a
25 surgery and caught some kind of a -- what do you

1 call it? He caught something in the hospital that
2 debilitated him and he couldn't recover from it. It
3 wasn't a staff infection. It was something else,
4 and he was never able to recover from it. He's
5 still in a wheelchair. He's only 41 years old.

6 MR. MCBRIDE: How long ago did that happen?
7 I'm sorry to hear that.

8 MR. JONES: About eight years ago.

9 MR. MCBRIDE: Would anything about that
10 particular instance and understanding that Mr. Moore
11 is in a wheelchair -- again, we don't know, you
12 don't know the circumstances behind that -- anything
13 which might cause you to be less than fair and
14 impartial in this case?

15 MR. JONES: No.

16 MR. MCBRIDE: Okay. Thank you. I
17 appreciate it.

18 Anyone else? Anyone else have anyone who
19 had a long-term disability that kept them out of
20 work or in a wheelchair for a long period of time?

21 All right. Mr. -- I'm going to get your
22 606, and it's Mr. Ehle.

23 MR. EHLE: I just have a question.

24 MR. MCBRIDE: Sure.

25 MR. EHLE: Personally or if we know

1 somebody?

2 MR. MCBRIDE: Either one.

3 MR. EHLE: Yeah. I been disabled several
4 times. I was on crutches for three years. After
5 that, I had a broken leg one time. I was on
6 crutches for about six weeks, I think, for that one.
7 Let me think. There might be another time. I can't
8 remember.

9 THE COURT: Okay.

10 MR. MCBRIDE: But fair to say a few times?

11 MR. EHLE: A few times, yeah.

12 MR. MCBRIDE: And in terms of there was
13 some questions about anyone who knew anyone who had
14 vascular insufficiency or any of those questions, do
15 you remember those questions? How about the term
16 DVT, deep vein thrombosis? Anyone know about that?

17 MR. JONES: I actually had a DVT.

18 MR. MCBRIDE: Oh, you did. Okay. And
19 without getting too personal, how long was that?

20 MR. JONES: Actually, I had two over a
21 12-year period. The last one was about six years
22 ago. And so they put me on a blood thinner as a
23 result of it. I played a lot of basketball, and a
24 leg injury and migrated blood clot. So not any
25 fault of -- just one those lumps, it was a P.E.,

1 pulmonary embolus.

2 MR. MCBRIDE: Pulmonary embolus. And in
3 terms of the medication you were on, is that going
4 to be something, without getting too invasive, is
5 that something you were on medication for a period
6 of time?

7 MR. JONES: I'm still on it. After you
8 have the second one, they usually kind of -- they
9 feel that you may have a predisposition for
10 clotting, and they put you on a thinner on a
11 permanent basis.

12 MR. MCBRIDE: Okay. And in terms of your
13 understanding of your condition, the reasons why
14 you're taking that medication, do you take that
15 medication on a daily basis?

16 MR. JONES: As instructed, right.

17 MR. MCBRIDE: And is that because you know
18 what could happen if you don't take that medication?

19 MR. JONES: Yeah.

20 MR. MCBRIDE: Okay. How did you feel about
21 the treatment you received as a result of the DVT
22 that you had?

23 MR. JONES: I had excellent treatment.

24 MR. MCBRIDE: All right. And in terms of
25 anyone else, anyone else heard that term "DVT" or

1 had experience? Ms. Price, 632.

2 MS. PRICE: I've just heard of it. My
3 father had coronary artery disease, had to have
4 surgery, was on blood thinners. So I know that he
5 had one in the past.

6 MR. MCBRIDE: Right, right. And there's a
7 medication known as Xarelto. Is that --

8 MR. JONES: Actually, I take Eliquis.

9 MR. MCBRIDE: Eliquis.

10 MR. JONES: It's the same family of
11 thinners but just a different brand name.

12 MR. MCBRIDE: Have all of you seen those
13 commercials on TV about Xarelto and Eliquis and all
14 those sorts of things? So people generally have an
15 understanding of blood thinners and what they're
16 used for? Okay. You're going to hear physicians,
17 experts get up here to talk and explain all of the
18 medical terminology to you that might come up in
19 this case, and that's a general question.

20 Does anyone here have any sort of
21 hesitation, without hearing any sort of evidence,
22 that they're not going to understand what this case
23 is about? Anyone at this point?

24 Mr. Fife, 614.

25 MR. FIFE: Yes.

1 MR. MCBRIDE: What's your concern, sir?

2 MR. FIFE: Well, just like you said, just
3 not understanding the terms or exactly what's going
4 on with it.

5 MR. MCBRIDE: And I think, you know, with
6 the exception of a couple of people that have
7 relatives -- Mr. Read, your ex-wife, who was a
8 nurse -- for the most part, I don't believe -- and
9 Ms. Jones (sic), I believe you're Medicaid, but
10 there's no other individuals here on this panel who
11 actually have medical background; is that right?

12 Did I miss that? Oh. Ms. Bebekyan.

13 MS. BEBEKYAN: Yes.

14 MR. MCBRIDE: Did I say that right?

15 MS. BEBEKYAN: Yes, 109. I work in a
16 medical call center. So I'm paging out to doctors
17 and nurses, and you hear all these words that are
18 familiar, and I didn't go to medical school. So I
19 learned it based off of two weeks. So and every
20 day, you just learn something new and catch up.

21 MR. MCBRIDE: And that's something I could
22 assure you that those of us who do this sort of
23 work, as attorneys I'm not a doctor, but we learn
24 things all the time, including in every trial.

25 So I could assure you we're going to have

1 witnesses who are going to testify, who are going to
2 be medical experts, as well as the defendants who
3 are going to testify, and they'll explain that
4 information to you, and hopefully you'll be able to
5 get a gist of what's happened.

6 That brings up another point. Does anyone
7 here have a problem with the fact that some of the
8 physicians who might be called in to testify, either
9 as experts or as treating physicians, that they may
10 be compensated for their time away from patients and
11 here on the stand? Anyone have a problem with that?

12 Ms. Price, what's your concern? 632.

13 MS. PRICE: It's not necessarily I have a
14 problem with it. It just puts -- I know that
15 they're getting paid for it. So it's not as -- I
16 don't know if I take the testimony with as much
17 weight as somebody who I know is doing it of their
18 own volition. They know that they're doing it
19 because they truly believe the stuff, what they're
20 saying.

21 MR. MCBRIDE: Sure. And if it's the case
22 that, on both sides, experts have been retained and
23 are going to testify, are you saying basically it
24 would be kind of a wash to you in terms of given the
25 fact that they're being paid to --

1 MS. PRICE: No, it wouldn't be a wash. I'd
2 just maybe take it with a grain of salt.

3 MR. MCBRIDE: Okay. Fair enough, fair
4 enough. I appreciate that.

5 THE COURT: Just to interject, there is
6 also an instruction on how to determine credibility
7 and believability of witnesses, and it kind of goes
8 into some detail. The counsel may inquire of any
9 person who's testifying and whether or not they're
10 being compensated. It's very hard in these trials
11 to predict timing and when to call and things like
12 that, and people have to rearrange their schedules
13 and circumstances.

14 So, you know, it really does boil down to
15 an understanding by all the parties and all the
16 counsel that certain folks with certain expertise in
17 certain areas of certain knowledge would be
18 compensated. So, and, again, it's all instructions.
19 The instructions talk about all factors to be
20 considered about credibility, believability of
21 witnesses, how you weigh them, whether you believe
22 them, all of those things.

23 So you'll get instructions on that. But,
24 again, it's not uncommon at all for witnesses to be
25 compensated.

1 MR. MCBRIDE: Thank you, Your Honor.

2 There was some questions -- I just wanted
3 to go briefly over it. There was some questions by
4 counsel about people taking responsibility for their
5 actions. Do you remember that line of questioning?

6 How many here believe that patients --
7 again, this kind of goes to a question I asked
8 earlier -- how many believe that patients have a
9 certain responsibility of their own when it comes to
10 their healthcare? Pretty much everyone?

11 Mr. Grant, you believe that as well?

12 MR. GRANT: Yes. 634.

13 MR. MCBRIDE: Okay. Anything about any
14 experience that you've had where you feel that if a
15 physician were to come in and defend his care and
16 treatment of this, that in a particular case -- and
17 in this case, Dr. Lasry -- would you have any
18 problem listening to his point of view before making
19 any sort of decision on the case relative to the
20 plaintiff?

21 MR. GRANT: I have no problem, no.

22 MR. MCBRIDE: How many of you have ever
23 been either judged by someone else on the benefit of
24 hindsight or you judged something on the benefit of
25 hindsight? Do you understand that?

1 MR. WITHERS: No.

2 MR. MCBRIDE: Okay. How about the term
3 "Monday morning quarterback," let's put it in a term
4 like that. Has everyone heard that term "Monday
5 morning quarterback"?

6 Ms. Price, you've not heard that term
7 before. MS. PRICE: No.

8 MR. MCBRIDE: 632.

9 Mr. Withers, why don't you explain what
10 your understanding is of a Monday morning
11 quarterback.

12 MR. WITHERS: 618. This is something I
13 deal with constantly, working for 24/7 business.
14 Things are going to happen when I'm not there.
15 Things are going to happen over the weekend,
16 overnight. It happened in a different department,
17 and I manly get a portion or a part of the truth,
18 and the first thing I would say to myself or to
19 others is "I wouldn't have done it that way" or "why
20 did they do it like that?"

21 That's the Monday morning quarterback is:
22 I would have done it different than you, even though
23 I wasn't in that situation.

24 MR. MCBRIDE: Right. And in those certain
25 circumstances, when someone comes back to you and

1 they have a good response to the reason why they did
2 it, do you accept that explanation for it?

3 MR. WITHERS: I expect it.

4 MR. MCBRIDE: Okay. And, again, in terms
5 of does everyone kind of feel that same way that if
6 you kind of look at something, you might have a
7 difference of opinion as to whether or not a certain
8 employee underneath you should have done certain
9 things a certain way, that you want to listen to
10 them and see what their explanation is for it?

11 And if the explanation is a reasonable
12 explanation, are you inclined to at least allow them
13 the benefit of that doubt?

14 Anyone so adamant that they cannot accept
15 that and it's only your decision, your hindsight
16 that should be the determinative factor? Anyone?

17 Mr. Everett, anything about that? We
18 haven't heard much from you today, and you're
19 probably thankful for that. But I wanted to ask you
20 some stuff about your work as a -- was it content
21 creator.

22 MR. EVERETT: Videographer.

23 MR. MCBRIDE: Videographer. And in terms
24 of the work that you do, do you have other people
25 who work for you?

1 THE COURT: Mr. Everett, I could barely
2 hear you. So I can only imagine certainly Mr.
3 wilder is not hearing you.

4 MR. EVERETT: Just maybe like one other
5 person.

6 THE COURT: We need your court reporter to
7 hear you.

8 MR. WEAVER: I still can't. I'm sorry.

9 THE COURT: You're really going to have to
10 speak up, sir.

11 MR. EVERETT: One other person.

12 MR. MCBRIDE: One other person. All right.
13 Thank you. And then you do you collaborate together
14 with that other person?

15 MR. EVERETT: Yeah. We do it together.

16 THE COURT: So I'm going to interrupt.
17 Mr. Everett, I've got to be honest. You're talking
18 to Mr. McBride. But nobody else can hear you. So I
19 know it's going to sound awkward, but you're going
20 to have to shout or you're going to have to stand
21 because you're just having a very soft conversation,
22 and even though we're telling you we can't hear you,
23 you haven't raised the decibels of your voice at
24 all.

25 MR. EVERETT: Okay.

1 THE COURT: So either stand up or project.
2 Okay? Thank you.

3 MR. EVERETT: Yes. We work together, one
4 other person.

5 MR. MCBRIDE: All right. And certainly
6 don't mean to call you out, sir. I just want to --
7 and in your line of work, is it important, do you
8 believe to collaborate with that other person and
9 take that other person's opinions and decisions as
10 well?

11 MR. EVERETT: Yes. All of it. Everything,
12 yeah.

13 MR. MCBRIDE: Do you think you're
14 ultimately the one in charge and the only one who
15 can make that decision?

16 MR. EVERETT: No.

17 MR. MCBRIDE: Thank you, sir. Appreciate it.

18 There was also some talk about award of
19 millions of dollars and whether you could feel
20 comfortable awarding \$10 million or \$5 million if
21 the found that the particular case and the facts
22 presented itself. How about the reverse of that?

23 If you felt that after you heard all of the
24 evidence in this case and you listened to all of the
25 witnesses, if at the end of the day, you feel that

1 the plaintiff did not prove their case or they did
2 not prove that they are entitled to damages, would
3 you be okay turning the plaintiff away,
4 Mr. and Mrs. Moore away, without awarding anything?

5 Could everyone do that?

6 Anyone who would have a problem or
7 difficulty doing that, besides maybe Mr. Ehle? And
8 I don't mean to call you out.

9 Anyone else who would have a problem doing
10 that? No.

11 Ms. Brown, are you okay with if the facts
12 and evidence did not support the fact that plaintiff
13 was entitled to an award of damages, would you have
14 any problem turning Mr. and Mrs. Moore away?

15 MS. BROWN: No.

16 MR. MCBRIDE: How about in terms of medical
17 care in the practice of medicine, how many of you
18 believe that medicine is an exact science; in other
19 words, there's only one answer that can be for any
20 particular condition? Anyone?

21 All right. No hands.

22 All right. So in this particular case,
23 you've heard the term the "practice of medicine";
24 right? Ms. Price, what's your understanding of what
25 that means?

1 MS. PRICE: "Practice of medicine"?

2 MR. MCBRIDE: 632.

3 MS. PRICE: 632. A patient healthcare. So
4 basically people going in, getting a diagnosis,
5 getting prescription, surgery, mental care,
6 psychology, therapy. Anything that falls under the
7 umbrella of taking care of your body and mind.

8 MR. MCBRIDE: Okay. And I think there was
9 some discussion, Mr. Headd, you talked about it, I
10 think you did as well, Ms. Price, about physicians,
11 the fact that they go to medical school for years of
12 training and practice of medicine in a particular
13 area; right?

14 Do you feel that that makes them
15 necessarily the only experts to listen to? In other
16 words, do you --

17 MS. PRICE: Are you asking me?

18 MR. MCBRIDE: Yeah, I'm talking to you,
19 Ms. Price. I'm sorry. In other words, do you
20 believe that there's other ways to treat certain
21 conditions? And different physicians might have
22 different opinions as to how to treat those
23 conditions.

24 MS. PRICE: 632. And yes. Definitely,
25 there's multiple ways for something to have been

1 handled.

2 MR. MCBRIDE: Okay. And, again, Mr. Jones,
3 would you feel that same way?

4 MR. JONES: Yes.

5 MR. MCBRIDE: Ms. Sallee, you are 604. I
6 have not heard you today. But I wanted to just kind
7 of inquire of you, is there anything that you've
8 heard from either side here that raises a question
9 in your mind as to whether or not you could be fair
10 and impartial in this case?

11 MS. SALLEE: Not at all.

12 MR. MCBRIDE: Have you heard of the term
13 "standard of care"?

14 MS. SALLEE: Yes.

15 MR. MCBRIDE: Okay. What's your
16 understanding of that term as it relates to the
17 practice of medicine?

18 MS. SALLEE: I'd say it's the basics.
19 without it being a special -- just the basic normal
20 standard of care.

21 MR. MCBRIDE: And has anyone else heard
22 that term?

23 THE COURT: We didn't get Ms. Sallee's
24 number. It's 604.

25 MR. MCBRIDE: Oh, I'm sorry. 604.4.

1 Anyone else, have you heard that term, what
2 the "standard of care" is generally?

3 I guess let me just kind of finish it up
4 with this, and I think I'm actually done. Let me
5 just check my notes real quick. Oh, a couple of
6 things. Sorry. Sorry to give you false hope,
7 everyone. But has anyone here been treated at
8 St. Rose, San Martin, in the emergency room?

9 Has anyone here been treated or had any
10 close family members treated in the emergency room
11 at any hospital here in Las Vegas?

12 Show of hands. There's several of you.
13 Okay. Mr. Withers.

14 And how about, of those who raised their
15 hands, have any of you any bad experiences of the
16 emergency room departments that you've been treated
17 at here in Las Vegas? No one.

18 Okay. Any good experiences? I know that's
19 hard to even imagine, but any good experiences?

20 Mr. Newman, did you raise your hand there,
21 640?

22 MR. NEWMAN: 640. Yes.

23 MR. MCBRIDE: Okay. What was good
24 experience in the emergency room?

25 MR. NEWMAN: My sister, they did very well

1 with her. You know, she was really messed up for
2 quite awhile, but they stayed with it, and
3 everything they did, it helped her. Even now, she's
4 lost a lot of movement in one side, but the movement
5 is back. I mean, she's in a wheelchair. She can't
6 do what she normally was able to do, but she could
7 function; and, you know, and she could get around.

8 MR. MCBRIDE: Right. And were you there
9 when your sister was in the emergency room?

10 MR. NEWMAN: I came in later. She was
11 already inside.

12 MR. MCBRIDE: Did you have occasion to
13 personally interact with any of the healthcare
14 providers?

15 MR. NEWMAN: Sometimes, but not all the
16 time because my other sister, which is a nurse also.
17 I mean, she's retired. It's many years ago. So she
18 kind of controlled everything.

19 MR. MCBRIDE: Okay. And but were you and
20 your sister, were you happy with the answers that
21 you got from the physicians and the nurses who took
22 care --

23 MR. NEWMAN: Yes, I was. Yeah.

24 MR. MCBRIDE: Do you remember if you saw if
25 your sister was treated specifically by a physician,

1 or was the APRN or a P.A., a Physician's Assistant.

2 MR. NEWMAN: I think they had a team, a
3 team of them. You know, after she was recovered and
4 went home, she was back with a therapist and
5 everyone else, and that's what really helped her.

6 MR. MCBRIDE: Great. That's good to hear.

7 And then let's just talk real quick about
8 any other hospitalizations here in Las Vegas.
9 Besides those that you've already mentioned, anyone
10 who have had any hospitalizations of close family
11 members or yourselves at St. Rose, San Martin.

12 No one? Ms. Clinton. I'm sorry. And you
13 are 658.

14 MS. CLINTON: 658, yes. And where is
15 St. Rose, San Martin?

16 MR. MCBRIDE: San Martin campus is up off
17 of St. Rose Parkway.

18 MS. CLINTON: Okay. I believe I had a
19 brother who was in the hospital there.

20 MR. MCBRIDE: Okay. Anything -- did you go
21 visit that brother?

22 MS. CLINTON: Yes.

23 MR. MCBRIDE: Okay. And anything about
24 that experience that caused you any concern, one way
25 or another?

1 MS. CLINTON: No.

2 MR. MCBRIDE: Ms. Clinton, while I have you
3 there and you raised your hand, I want to ask you
4 another couple questions about your work in civil
5 litigation. I think you said you did mostly
6 business litigation and real estate.

7 MS. CLINTON: Yes.

8 MR. MCBRIDE: The fact that that's an
9 entirely different area of law compared to a medical
10 malpractice case or personal injury case, do you
11 feel that you're able to view this case impartially
12 and fairly as a juror in this case?

13 MS. CLINTON: Yes.

14 MR. MCBRIDE: All right. Anything about
15 that experience as a civil litigator you think
16 you're going to judge the attorneys harsher or less
17 harsh.

18 MS. CLINTON: No.

19 MR. MCBRIDE: Okay. Again, I'm going to
20 ask the final question, I think for me, similar to
21 what counsel had already asked, is there any
22 question that you think that I need to ask of you
23 that would help me decide whether or not, and
24 whether Dr. Lasry would need to know, about you
25 personally that would help us decide whether you

1 could be fair and impartial in this case?

2 Anything? No.

3 And all of you, I think, have promised us
4 if you were chosen to be jurors in this case, you
5 could view this evidence fair and impartially and
6 wait until all the evidence has been submitted?

7 would you agree that you will make every
8 effort to make sure that the plaintiff proves every
9 element of their case before you make a decision as
10 to whether or not damages are appropriate in the
11 case? Everyone agree with that?

12 That's all the questions I have. Thank you
13 very much.

14 THE COURT: All right. Thank you.

15 I'm going to have counsel at the bench for
16 a brief scheduling conference.

17 (Bench conference.)

18 THE COURT: All right. Ladies and
19 gentlemen, I wanted to have a conversation. I think
20 you probably have figured out that, based on the
21 classic and we're only 20 minutes or so before
22 5:00 o'clock and we really don't have the luxury to
23 go past 5:00 unless it's going to be circumstances
24 where it's just going to be just past 5:00 and we
25 know we can complete, we still have a party and

1 their counsel who have to finish inquiring of the
2 jurors.

3 We are not going to finish today. I'm
4 sorry for that. We had hoped to do that, but that
5 did not work, and this is not an exact science. We
6 do our very best. I can assure you that we will
7 finish tomorrow. We are going to return here
8 tomorrow at 1:30. We will take however long it
9 takes to qualify the final group of 20; and then
10 from there, the final selection of ten will be
11 complete. So I appreciate very much your indulgence
12 to have the ability to return at least one more day
13 for this process.

14 I will remind you again, and I will go over
15 the, you know, admonishment a little bit more in
16 detail again that you are to be reminded that you're
17 not to talk or converse among yourselves or with
18 anyone else about the trial, not to do any independent
19 researching, not to try to recreate any aspect of
20 the case, not to visit any of the locations we
21 talked about in the case and, you know, really most
22 importantly, not to form or express any opinion on
23 the case.

24 Of course, you have zero evidence in the
25 case, and the reason you know that is you can't

1 infer anything from the questions that are being
2 asked is this is just to sort of get to people's
3 mindsets on how certain things might work so final
4 selections can be made. But until you actually hear
5 the witnesses and until you actually see the
6 documents, you don't have any evidence in the case.
7 But please do not try to form or express any opinion
8 on the case.

9 I will check with the jury services. I
10 think if you're here on the third day, there might
11 be some compensation that comes. I don't want to
12 make any false promises, but that's my recollection.
13 And but, again, we will absolutely complete
14 tomorrow. There's no doubt about that. We have one
15 remaining set of inquiries and whatever slight
16 followup there might be. But thank you again for
17 patience while we complete this process.

18 We are still on track, by the way. I've
19 spoken with counsel, and the way we've looked at
20 things, that we still expect to finish on the 7th.
21 That does not delay us on the end of the trial. It
22 just is taking us a little bit longer to complete
23 this part of the process than we anticipate.

24 Thank you again for your patience. Have a
25 good night. Any questions, you can pose them to the

1 marshal.

2 THE MARSHAL: All rise for the jury.

3 (Jury panel exits the courtroom.)

4 THE COURT: Let me get the marshal back in
5 so we can have that conversation about storing
6 stuff, where we might put it.

7 MR. ARNTZ: Your Honor, I think we're all
8 in agreement that regardless -- we probably won't
9 get done until 3:00 or 3:30 tomorrow at the
10 earliest. If we all prefer just to plan on starting
11 our openings on Thursday.

12 THE COURT: That's fine. I figured that's
13 where you want to. We actually have some things we
14 have to work out. We can go off the record on this.
15 I don't think we have anything further on the
16 record.

17 THE REPORTER: Thank you.

18 (Pause in the proceedings.)

19 THE COURT: I'm sorry. I should have
20 thought of this. I just want to make one final
21 record before we adjourn for the day that I did
22 inform counsel at this last bench conference that we
23 had a concern about Mr. Wilder in seat No. 9,
24 Juror 611, and his ability to truly hear the
25 proceedings and whether or not he would, in fact,

1 engage in interruptions, so to speak, if he wasn't
2 hearing people speaking.

3 His indication that he can hear about half
4 the people, that it's based on tone, there's really
5 no way for us to know who he's hearing and who he is
6 not hearing, and we would have to be reliant on him
7 to interrupt the proceedings, I'm not really sure
8 since he certainly hasn't done that, not once here,
9 but he has indicated he could hear the counsel. So
10 maybe that's why.

11 But, of course, some of the questions feed
12 off of answers from other people's, you know, other
13 answers that people have given, and he's shown no
14 indication to want to know what that was or have you
15 missed anybody. There's no way he heard
16 Mr. Everett. There's no way he's heard lots of the
17 people. So I am concerned. But we're going to
18 wait, and by agreement of counsel, to deal with that
19 concern tomorrow. We still have obviously --

20 Mr. Weaver, are you doing any voir dire?

21 MR. WEAVER: Yes.

22 THE COURT: We have Mr. Weaver's voir dire
23 and then, of course, any final requests to traverse
24 anybody that might be in question. So we'll deal
25 with them.

1 There also obviously has been identified,
2 informally up to this, two potential cause excusals.
3 Perhaps there are more in counsels' mind. But we
4 talked about the two at the bench, Mr. Ehle,
5 Juror 606; and Mr. Read, Juror 637, and we agreed
6 also to wait until all of the questions have been
7 asked to deal with those. So that was the nature of
8 the final bench conference, besides the scheduling
9 of when we might break today and resume tomorrow.

10 I hope I did tell all the jurors to come
11 back at 1:30.

12 MR. MCBRIDE: You did.

13 THE COURT: But that's when we're going to
14 start, and then we'll complete. And if we complete
15 early tomorrow, that's fine, and we will wait and
16 begin with opening statements on Thursday morning.

17 It's never my preference to hit the ten who
18 are in shock that they just got selected with trying
19 to pay attention to opening statements. It just is
20 not conducive, I don't think, to anybody's efforts.
21 So we will do and plan on doing opening statements
22 at 9:00 on Thursday.

23 MR. MCBRIDE: Thank you, Your Honor.

24 THE COURT: Last housekeeping. I've gotten
25 from Mr. Weaver the order on his motions of limine,

1 but I haven't seen anyone else's. Again, I'm not
2 trying to push you. I know you're trying to prepare
3 for trial. But I obviously, in case any issues come
4 up, having the order in place would be ideal. If
5 not, I certainly have notes and things.

6 But do we have any potential for those
7 orders.

8 MR. MCBRIDE: I will have ours submitted by
9 tomorrow.

10 THE COURT: And Mr. Arntz, any ETA on
11 yours?

12 MR. ARNTZ: I'll contact the others.

13 THE COURT: Yeah, tomorrow or the next day.
14 Just somewhere in the process so that we have them
15 when things might become an issue. Okay?
16 Everybody, goodnight.

17 MR. WEAVER: And, Your Honor, on that
18 housekeeping point, we may also have a stipulation
19 that we can submit jointly on some of the ones that
20 weren't contested.

21 THE COURT: Okay. Fantastic.

22 MR. WEAVER: We'll get that to you.

23 THE COURT: That's great. Yeah, we did
24 talk about that too.

25 Thank you so much. Have a good night.

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(The proceedings concluded at 4:46 p.m.)

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C E R T I F I C A T E

STATE OF NEVADA)
)SS:
COUNTY OF CLARK)

I, Dana J. Tavaglione, RPR, CCR 841, 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, and prepared in daily
copy before the Hon. Kathleen E. Delaney, District
Court Judge, presiding.

Dated at Las Vegas, Nevada, this 29th day
of January 2020.

/S/Dana J. Tavaglione

Dana J. Tavaglione, RPR, CCR NO. 841
Certified Court Reporter
Las Vegas, Nevada

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