

Case Nos. 85525 & 85656

**In the Supreme Court of Nevada**

UNITED HEALTHCARE INSURANCE COMPANY;  
UNITED HEALTH CARE SERVICES, INC.; UMR, INC.;  
SIERRA HEALTH AND LIFE INSURANCE COMPANY,  
INC.; and HEALTH PLAN OF NEVADA, INC.,

Appellants,

*vs.*

FREMONT EMERGENCY SERVICES (MANDAVIA),  
LTD.; TEAM PHYSICIANS OF NEVADA-MANDAVIA,  
P.C.; and CRUM STEFANKO AND JONES, LTD.,

Respondents.

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Case No. 85525

UNITED HEALTHCARE INSURANCE COMPANY;  
UNITED HEALTH CARE SERVICES, INC.; UMR, INC.;  
SIERRA HEALTH AND LIFE INSURANCE COMPANY,  
INC.; and HEALTH PLAN OF NEVADA, INC.,

Petitioners,

*vs.*

THE EIGHTH JUDICIAL DISTRICT COURT of the State  
of Nevada, in and for the County of Clark; and the  
Honorable NANCY L. ALLF, District Judge,

Respondents,

*vs.*

FREMONT EMERGENCY SERVICES (MANDAVIA),  
LTD.; TEAM PHYSICIANS OF NEVADA-MANDAVIA,  
P.C.; and CRUM STEFANKO AND JONES, LTD.,

Real Parties in Interest.

Case No. 85656

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469	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 2) (Filed Under Seal)	10/07/22	130 131	32,208–32,393 32,394–32,476
470	Appendix B to Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits (Volume 3) (Filed Under Seal)	10/07/22	131 132	32,477–32,643 32,644–32,751
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280	Appendix in Support of Plaintiffs' Opposition to Defendants' Motion to Apply Statutory Cap on Punitive Damages and Plaintiffs' Cross Motion for Entry of Judgment	01/20/22	52	12,791–12,968
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296	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 2	03/14/22	54 55	13,465–13,500 13,501–13,719
297	Appendix of Exhibits in Support of Health Care Providers' Verified Memorandum of Cost Volume 3	03/14/22	55 56	13,720–13,750 13,751–13,976
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36	Defendants' Reply in Support of Motion to Dismiss Plaintiffs' First Amended Complaint	06/03/20	6	1310–1339
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225	Defendants’ Response to TeamHealth Plaintiffs’ Trial Brief Regarding Defendants’ Prompt Pay Act Jury Instruction Re: Failure to Exhaust Administrative Remedies	11/16/21	40	9799–9806
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154	Notice of Entry of Order Denying Defendants' Motion for Order to Show Cause Why Plaintiffs Should not be Held in Contempt for Violating Protective Order	10/14/21	22	5309–5322
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176	Notice of Entry of Order Denying Defendants' Motion in Limine No. 5 Regarding Argument or Evidence that Amounts TeamHealth Plaintiffs Billed for Services are Reasonable [An Alternative Motion to Motion in Limine No. 6]	11/01/21	29	7100–7111
177	Notice of Entry of Order Denying Defendants' Motion in Limine No. 7 to Authorize Defendants to Offer Evidence of the Costs of the Services that Plaintiffs Provided	11/01/21	29	7112–7123
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181	Notice of Entry of Order Denying Defendants' Motion in Limine No. 13 Motion to Authorize Defendants to Offer Evidence Relating to Plaintiffs' Collection Practices for Healthcare Claims	11/01/21	29	7160–7171
182	Notice of Entry of Order Denying Defendants' Motion in Limine No. 14: Motion Offered in the Alternative MIL No. 13 to Preclude Plaintiffs from Contesting Defendants' Defenses Relating to Claims that were Subject to a Settlement Agreement Between CollectRx and Data iSight; and Defendants' Adoption of Specific Negotiation Thresholds for Reimbursement Claims Appealed or Contested by Plaintiffs	11/01/21	29	7172–7183
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185	Notice of Entry of Order Denying Defendants' Motion in Limine No. 20 to Exclude Defendants' Lobbying Efforts	11/01/21	29	7208–7219
186	Notice of Entry of Order Denying Defendants' Motion in Limine No. 24 to Preclude Plaintiffs from Referring to Themselves as Healthcare Professionals	11/01/21	29	7220–7231
187	Notice of Entry of Order Denying Defendants' Motion in Limine No. 27 to Preclude Evidence of Complaints Regarding Defendants' Out-Of-Network Rates or Payments	11/01/21	29	7232–7243
188	Notice of Entry of Order Denying Defendants' Motion in Limine No. 29 to Preclude Evidence Only Relating to Defendants' Evaluation and Development of a Company that Would Offer a Service Similar to Multiplan and Data iSight	11/01/21	29 30	7244–7250 7251–7255
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293	Notice of Entry of Order Denying Defendants' Motion to Apply Statutory Cap on Punitive Damages	03/09/22	53	13,179–13,197
62	Notice of Entry of Order Denying Defendants' Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiff to Supplement Their NRCP 16.1 Initial Disclosures on Order Shortening Time	10/27/20	11	2671–2683
78	Notice of Entry of Order Denying Defendants' Motion to Compel Responses to Defendants' First and Second Requests for Production on Order Shortening Time	02/04/21	15	3703–3713
193	Notice of Entry of Order Denying Defendants' Motion to Strike Supplement Report of David Leathers	11/01/21	30	7355–7366
353	Notice of Entry of Order Denying Defendants' Renewed Motion for Judgment as a Matter of Law	10/12/22	73	18,087–18,114
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203	Notice of Entry of Order Granting Defendants' Motion in Limine No. 25	11/04/21	33	8104–8115
204	Notice of Entry of Order Granting Defendants' Motion in Limine No. 37	11/04/21	33	8116–8127
205	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 9	11/04/21	33	8128–8140
206	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 21	11/04/21	33	8141–8153
207	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 22	11/04/21	33	8154–8165
341	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion to Retax Costs	08/02/22	71	17,726–17,739
358	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion to Seal Certain Confidential Trial Exhibits	10/18/22	75 76	18,609–18,750 18,751–18,755
215	Notice of Entry of Order Granting in Part and Denying in Part Plaintiffs' Motion in Limine to Exclude Evidence Subject to the	11/12/21	37	9162–9173

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242	Notice of Entry of Order Granting Plaintiffs' Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants' Reply in Support of Motion for Partial Summary Judgment	11/19/21	44	10,954–10,963
192	Notice of Entry of Order Granting Plaintiffs' Motion in Limine to Exclude Evidence, Testimony And-Or Argument Regarding the Fact that Plaintiff have Dismissed Certain Claims	11/01/21	30	7292–7354
63	Notice of Entry of Order Granting Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	10/27/20	11	2684–2695
335	Notice of Entry of Order Granting Plaintiffs' Motion to Modify Joint Pretrial Memorandum Re: Punitive Damages on Order Shortening Time	06/29/22	71	17,594–17,609
281	Notice of Entry of Order Granting Plaintiffs' Proposed Schedule for Submission of Final Redactions	01/31/22	52	12,969–12,979
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102	Notice of Entry of Order of Report and Recommendation #6 Regarding Defendants' Motion to Compel Further Testimony from Deponents Instructed Not to Answer Question	05/26/21	17	4157–4165
22	Notice of Entry of Order Re: Remand	02/27/20	3	543–552
142	Notice of Entry of Order Regarding Defendants' Objection to Special Master's Report and Recommendation No. 11 Regarding Defendants' Motion to Compel Plaintiffs' Production of Documents about which Plaintiffs' Witnesses Testified on Order Shortening Time	09/29/21	21	5104–5114
66	Notice of Entry of Order Setting Defendants' Production & Response Schedule Re: Order Granting Plaintiffs' Motion to Compel Defendants' List of Witnesses, Production of Documents and Answers to Interrogatories on Order Shortening Time	11/09/20	12	2775–2785
285	Notice of Entry of Order Shortening Time for Hearing Re: Plaintiffs' Motion to Unlock Certain Admitted Trial Exhibits	02/14/22	53	13,029–13,046
354	Notice of Entry of Order Unsealing Trial Transcripts and Restoring Public Access to Docket	10/12/22	73	18,115–18,125
86	Notice of Entry of Report and Recommendation #1	03/16/21	16	3887–3894
120	Notice of Entry of Report and Recommendation #11 Regarding Defendants' Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs'	08/11/21	18	4487–4497

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95	Notice of Entry of Report and Recommendation #3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Requests for Production on Order Shortening Time	04/15/21	17	4080–4091
104	Notice of Entry of Report and Recommendation #7 Regarding Defendants' Motion to Compel Plaintiffs' Responses to Defendants' Amended Third Set of Requests for Production of Documents	06/03/21	17	4173–4184
41	Notice of Entry of Stipulated Confidentiality and Protective Order	06/24/20	7	1517–1540
69	Notice of Entry of Stipulated Electronically Stored Information Protocol Order	01/08/21	12	2860–2874
289	Notice of Entry of Stipulation and Order Regarding Certain Admitted Trial Exhibits	02/17/22	53	13,074–13,097
360	Notice of Entry of Stipulation and Order Regarding Expiration of Temporary Stay for Sealed Redacted Transcripts	10/25/22	76	18,759–18,769
282	Notice of Entry of Stipulation and Order Regarding Schedule for Submission of Redactions	02/08/22	52	12,980–12,996
111	Notice of Entry Report and Recommendations #9 Regarding Pending Motions	07/01/21	18	4313–4325

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24	Notice of Intent to Take Default as to: (1) Defendant UnitedHealth Group, Inc. on All Claims; and (2) All Defendants on the First Amended Complaint's Eighth Claim for Relief	03/13/20	3 4	699–750 751
324	Notice of Posting <i>Supersedeas</i> Bond	04/29/22	69	17,114–17,121
10	Notice of Removal to Federal Court	05/14/19	1	42–100
333	Notice of Supplemental Attorneys Fees Incurred After Submission of Health Care Providers' Motion for Attorneys Fees	06/24/22	70 71	17,470–17,500 17,501–17,578
291	Objection to Plaintiffs' Proposed Judgment and Order Denying Motion to Apply Statutory Cap on Punitive Damages	03/04/22	53	13,161–13,167
345	Objection to Plaintiffs' Proposed Orders Denying Renewed Motion for Judgment as a Matter of Law and Motion for New Trial	09/13/22	72	17,941–17,950
377	Objection to R&R #11 Regarding United's (Filed Under Seal) Motion to Compel Documents About Which Plaintiffs' Witnesses Testified (Filed Under Seal)	08/25/21	84 85	20,864–20,893 20,894–20,898
320	Opposition to Defendants' Motion to Retax Costs	04/13/22	68	16,856–16,864
153	Opposition to Plaintiffs' Motion in Limine to Exclude Evidence, Testimony and/or Argument Regarding the Fact that Plaintiffs have Dismissed Certain Claims and Parties on Order Shortening Time	10/12/21	22	5301–5308



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2	Peremptory Challenge of Judge	04/17/19	1	18–19
415	Plaintiffs’ Combined Opposition to Defendants Motions in Limine 1, 7, 9, 11 & 13 (Filed Under Seal)	09/29/21	104	25,786–25,850
416	Plaintiffs’ Combined Opposition to Defendants’ Motions in Limine No. 2, 8, 10, 12 & 14 (Filed Under Seal)	09/29/21	104	25,851–25,868
145	Plaintiffs’ Motion for Leave to File Second Amended Complaint on Order Shortening Time	10/04/21	21	5170–5201
422	Plaintiffs’ Motion for Leave to File Supplemental Record in Opposition to Arguments Raised for the First Time in Defendants’ Reply in Support of Motion for Partial Summary Judgment (Filed Under Seal)	10/17/21	108	26,664–26,673
378	Plaintiffs’ Motion in Limine to Exclude Evidence Subject to the Court’s Discovery Orders (Filed Under Seal)	09/21/21	85	20,899–20,916
380	Plaintiffs’ Motion in Limine to Exclude Evidence, Testimony and/or Argument Relating to (1) Increase in Insurance Premiums (2) Increase in Costs and (3) Decrease in Employee Wages/Benefits Arising from Payment of Billed Charges (Filed Under Seal)	09/21/21	85	21,077–21,089
149	Plaintiffs’ Motion in Limine to Exclude Evidence, Testimony and-or Argument	10/08/21	22	5265–5279

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49	Plaintiffs' Motion to Compel Defendants' Production of Claims File for At-Issue Claims, or, in the Alternative, Motion in Limine on Order Shortening Time	08/28/20	7 8	1685–1700 1701–1845
250	Plaintiffs' Motion to Modify Joint Pretrial Memorandum Re: Punitive Damages on Order Shortening Time	11/22/21	47	11,594–11,608
194	Plaintiffs' Notice of Amended Exhibit List	11/01/21	30	7367–7392
208	Plaintiffs' Notice of Deposition Designations	11/04/21	33 34	8166–8250 8251–8342
152	Plaintiffs' Objections to Defendants' Pretrial Disclosures	10/08/21	22	5295–5300
328	Plaintiffs' Opposition to Defendants' Motion for New Trial	05/04/22	69 70	17,179–17,250 17,251–17,335
420	Plaintiffs' Opposition to Defendants' Motion for Partial Summary Judgment (Filed Under Seal)	10/05/21	107	26,498–26,605
327	Plaintiffs' Opposition to Defendants' Motion for Remittitur and to Alter or Amend the Judgment	05/04/22	69	17,165–17,178
144	Plaintiffs' Opposition to Defendants' Motion in Limine No. 24 to Preclude Plaintiffs from Referring to Themselves as Healthcare Professionals	09/29/21	21	5155–5169
143	Plaintiffs' Opposition to Defendants' Motion	09/29/21	21	5115–5154

<b>Tab</b>	<b>Document</b>	<b>Date</b>	<b>Vol.</b>	<b>Pages</b>
	in Limine Nos. 3, 4, 5, 6 Regarding Billed Charges			
279	Plaintiffs' Opposition to Defendants' Motion to Apply Statutory Cap on Punitive Damages and Plaintiffs' Cross Motion for Entry of Judgment	01/20/22	52	12,773–12,790
374	Plaintiffs' Opposition to Defendants' Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified on Order Shortening Time (Filed Under Seal)	07/06/21	84	20,699–20,742
25	Plaintiffs' Opposition to Defendants' Motion to Dismiss	03/26/20	4	752–783
34	Plaintiffs' Opposition to Defendants' Motion to Dismiss First Amended Complaint	05/29/20	5 6	1188–1250 1251–1293
349	Plaintiffs' Opposition to Defendants' Motion to Redact Portions of Trial Transcript	10/07/22	72	17,990–17,993
278	Plaintiffs' Opposition to Defendants' Motion to Seal Courtroom During January 12, 2022 Hearing	01/12/22	52	12,769–12,772
369	Plaintiffs' Opposition to Defendants' Motion to Supplement the Record Supporting Objections to Reports and Recommendations #2 and #3 on Order Shortening Time (Filed Under Seal)	06/01/21	81 82	20,066–20,143 20,144–20,151
329	Plaintiffs' Opposition to Defendants' Renewed Motion for Judgment as a Matter of Law	05/05/22	70	17,336–17,373
317	Plaintiffs' Opposition to Defendants' Rule 62(b) Motion for Stay	04/07/22	68	16,826–16,831
35	Plaintiffs' Opposition to Defendants' Supplemental Brief in Support of Their Motion to Dismiss Plaintiffs' First Amended	05/29/20	6	1294–1309

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83	Plaintiffs' Opposition to Motion for Reconsideration of Order Denying Defendants' Motion to Compel Plaintiffs Responses to Defendants' First and Second Requests for Production	03/04/21	16	3833–3862
55	Plaintiffs' Opposition to Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiff to Supplement Their NRCP 16.1 Initial Disclosures on an Order Shortening Time	09/29/20	9-10	2224–2292
72	Plaintiffs' Opposition to Motion to Compel Responses to Defendants' First and Second Requests for Production on Order Shortening Time	01/12/21	14	3420–3438
122	Plaintiffs' Opposition to United's Motion for Order to Show Cause Why Plaintiffs Should Not Be Held in Contempt and Sanctioned for Allegedly Violating Protective Order	08/24/21	19	4528–4609
270	Plaintiffs' Opposition to United's Motion to Seal	12/29/21	50	12,323–12,341
222	Plaintiffs' Proposed Jury Instructions (Contested)	11/15/21	38 39	9496–9500 9501–9513
260	Plaintiffs' Proposed Second Phase Jury Instructions and Verdict Form	12/06/21	49	12,064–12,072
243	Plaintiffs' Proposed Special Verdict Form	11/19/21	44	10,964–10,973
227	Plaintiffs' Proposed Verdict Form	11/16/21	40	9810–9819
84	Plaintiffs' Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions	03/08/21	16	3863–3883

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287	Plaintiffs' Reply in Support of Cross Motion for Entry of Judgment	02/15/22	53	13,054–13,062
364	Plaintiffs' Reply in Support of Renewed Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt and for Sanctions (Filed Under Seal)	04/01/21	78	19,157–19,176
366	Plaintiffs' Response to Defendants Objection to the Special Master's Report and Recommendation No. 2 Regarding Plaintiffs' Objection to Notice of Intent to Issue Subpoena Duces Tecum to TeamHealth Holdings, Inc. and Collect Rx, Inc. Without Deposition and Motion for Protective Order (Filed Under Seal)	04/19/21	78 79	19,389–19,393 19,394–19,532
195	Plaintiffs' Response to Defendants' Objection to Media Requests	11/01/21	30	7393–7403
371	Plaintiffs' Response to Defendants' Objection to Report and Recommendation #6 Regarding Defendants' Motion to Compel Further Testimony from Deponents Instructed Not to Answer Questions (Filed Under Seal)	06/16/21	82	20,212–20,265
376	Plaintiffs' Response to Defendants' Objection to Special Master Report and Recommendation No. 9 Regarding Defendants' Renewed Motion to Compel Further Testimony from Deponents Instructed not to Answer Questions (Filed Under Seal)	07/22/21	84	20,751–20,863
110	Plaintiffs' Response to Defendants' Objection to Special Master's Report and Recommendation #7 Regarding Defendants' Motion to Compel Responses to Amended	06/24/21	18	4281–4312

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	Third Set of Request for Production of Documents			
367	Plaintiffs' Response to Defendants' Objection to the Special Master's Report and Recommendation No. 3 Regarding Defendants' Motion to Compel Responses to Defendants' Second Set of Request for Production on Order Shortening Time (Filed Under Seal)	05/05/21	79	19,533–19,581
426	Plaintiffs' Response to Defendants' Trial Brief Regarding Evidence and Argument Relating to Out-of-State Harms to Non-Parties (Filed Under Seal)	11/08/21	109	26,965–26,997
246	Plaintiffs' Second Supplemental Jury Instructions (Contested)	11/20/21	46	11,255–11,261
261	Plaintiffs' Supplement to Proposed Second Phase Jury Instructions	12/06/21	49	12,072–12,077
236	Plaintiffs' Supplemental Jury Instruction (Contested)	11/17/21	42	10,308–10,313
248	Plaintiffs' Third Supplemental Jury Instructions (Contested)	11/21/21	46	11,267–11,272
216	Plaintiffs' Trial Brief Regarding Defendants' Prompt Payment Act Jury Instruction Re: Failure to Exhaust Administrative Remedies	11/12/21	37	9174–9184
223	Plaintiffs' Trial Brief Regarding Punitive Damages for Unjust Enrichment Claim	11/15/21	39	9514–9521
218	Plaintiffs' Trial Brief Regarding Specific Price Term	11/14/21	38	9417–9425
428	Preliminary Motion to Seal Attorneys' Eyes Documents Used at Trial (Filed Under Seal)	11/11/21	109	27,004–27,055
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126	Recorder's Partial Transcript of Proceedings Re: Motions Hearing (Via Blue Jeans)	09/15/21	19	4681–4708
31	Recorder's Transcript of Hearing All Pending Motions	05/15/20	5	1022–1026
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90	Recorder's Transcript of Hearing All Pending Motions	03/25/21	16	3967–3970
96	Recorder's Transcript of Hearing All Pending Motions	04/21/21	17	4092–4095
82	Recorder's Transcript of Hearing Defendants' Motion to Extend All Case Management Deadlines and Continue Trial Setting on Order Shortening Time (Second Request)	03/03/21	16	3824–3832
101	Recorder's Transcript of Hearing Motion for Leave to File Opposition to Defendants' Motion to Compel Responses to Second Set of Requests for Production on Order Shortening Time in Redacted and Partially Sealed Form	05/12/21	17	4155–4156
107	Recorder's Transcript of Hearing Motion for Leave to File Plaintiffs' Response to Defendants' Objection to the Special Master's Report and Recommendation No. 3 Regarding Defendants' Second Set of Request for Production on Order Shortening Time in Redacted and Partially Sealed Form	06/09/21	17	4224–4226
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213	Recorder's Transcript of Jury Trial – Day 10	11/10/21	36 37	8933–9000 9001–9152
217	Recorder's Transcript of Jury Trial – Day 11	11/12/21	37 38	9185–9250 9251–9416
224	Recorder's Transcript of Jury Trial – Day 12	11/15/21	39 40	9522–9750 9751–9798
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166	Recorder's Transcript of Jury Trial – Day 4	10/28/21	28	6775–6991
196	Recorder's Transcript of Jury Trial – Day 5	11/01/21	30 31	7404–7500 7501–7605
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201	Recorder's Transcript of Jury Trial – Day 7	11/03/21	32 33	7875–8000 8001–8091
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67	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	12/23/20	12	2786–2838
68	Recorder's Transcript of Proceedings Re: Motions (via Blue Jeans)	12/30/20	12	2839–2859
105	Recorder's Transcript of Proceedings Re: Motions Hearing	06/03/21	17	4185–4209
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123	Recorder's Transcript of Proceedings Re: Motions Hearing	09/02/21	19	4610–4633
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57	Reply in Support of Defendants’ Motion to Compel Production of Clinical Documents for the At-Issue Claims and Defenses and to Compel Plaintiff to Supplement Their NRCP 16.1 Initial Disclosures	10/07/20	10	2337–2362
331	Reply in Support of Defendants’ Renewed Motion for Judgment as a Matter of Law	06/22/22	70	17,386–17,411
332	Reply in Support of Motion for New Trial	06/22/22	70	17,412–17,469
87	Reply in Support of Motion for Reconsideration of Order Denying Defendants’ Motion to Compel Plaintiffs Responses to Defendants’ First and Second Requests for Production	03/16/21	16	3895–3909
344	Reply in Support of Supplemental Attorney’s Fees Request	08/22/22	72	17,935–17,940
229	Reply in Support of Trial Brief Regarding Evidence and Argument Relating to Out-Of-State Harms to Non-Parties	11/16/21	41	10,116–10,152
318	Reply on “Defendants’ Rule 62(b) Motion for Stay Pending Resolution of Post-Trial Motions” ( <i>on Order Shortening Time</i> )	04/07/22	68	16,832–16,836
245	Response to Plaintiffs’ Trial Brief Regarding Punitive Damages for Unjust Enrichment Claim	11/19/21	45 46	11,242–11,250 11,251–11,254

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458	Second Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits (Filed Under Seal)	01/05/22	126 127	31,309–31,393 31,394–31,500
231	Special Verdict Form	11/16/21	41	10,169–10,197
257	Special Verdict Form	11/29/21	49	12,035–12,046
265	Special Verdict Form	12/07/21	49	12,150–12,152
6	Summons – Health Plan of Nevada, Inc.	04/30/19	1	29–31
9	Summons – Oxford Health Plans, Inc.	05/06/19	1	38–41
8	Summons – Sierra Health and Life Insurance Company, Inc.	04/30/19	1	35–37
7	Summons – Sierra Health-Care Options, Inc.	04/30/19	1	32–34
3	Summons - UMR, Inc. dba United Medical Resources	04/25/19	1	20–22
4	Summons – United Health Care Services Inc. dba UnitedHealthcare	04/25/19	1	23–25
5	Summons – United Healthcare Insurance Company	04/25/19	1	26–28
433	Supplement to Defendants' Motion to Seal Certain Confidential Trial Exhibits (Filed	12/08/21	110 111	27,383–27,393 27,394–27,400

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439	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 1 of 18 (Filed Under Seal)	12/24/21	114	28,189–28,290
440	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 2 of 18 (Filed Under Seal)	12/24/21	114 115	28,291–28,393 28,394–28,484
441	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 3 of 18 (Filed Under Seal)	12/24/21	115 116	28,485–28,643 28,644–28,742
442	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 4 of 18 (Filed Under Seal)	12/24/21	116 117	28,743–28,893 28,894–28,938
443	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 5 of 18 (Filed Under Seal)	12/24/21	117	28,939–29,084
444	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 6 of 18 (Filed Under Seal)	12/24/21	117 118	29,085–29,143 29,144–29,219
445	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 7 of 18 (Filed Under Seal)	12/24/21	118	29,220–29,384
446	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 8 of 18 (Filed Under Seal)	12/24/21	118 119	29,385–29,393 29,394–29,527
447	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 9 of 18 (Filed Under Seal)	12/24/21	119 120	29,528–29,643 29,644–29,727
448	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial	12/24/21	120 121	29,728–29,893 29,894–29,907

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450	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 12 of 18 (Filed Under Seal)	12/24/21	121 122	30,052–30,143 30,144–30,297
451	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 13 of 18 (Filed Under Seal)	12/24/21	122 123	30,298–30,393 30,394–30,516
452	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 14 of 18 (Filed Under Seal)	12/24/21	123 124	30,517–30,643 30,644–30,677
453	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 15 of 18 (Filed Under Seal)	12/24/21	124	30,678–30,835
454	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 16 of 18 (Filed Under Seal)	12/24/21	124 125	30,836–30,893 30,894–30,952
455	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 17 of 18 (Filed Under Seal)	12/24/21	125	30,953–31,122
456	Supplemental Appendix of Exhibits to Motion to Seal Certain Confidential Trial Exhibits – Volume 18 of 18 (Filed Under Seal)	12/24/21	125 126	30,123–31,143 31,144–31,258

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467	Transcript of Proceedings re Status Check (Filed Under Seal)	10/06/22	129	31,944–31,953
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460	Transcript of Proceedings Re: Motions (Filed Under Seal)	01/20/22	127 128	31,597–31,643 31,644–31,650
461	Transcript of Proceedings Re: Motions (Filed Under Seal)	01/27/22	128	31,651–31,661
146	Transcript of Proceedings Re: Motions (Via Blue Jeans)	10/06/21	21	5202–5234
290	Transcript of Proceedings Re: Motions Hearing	02/17/22	53	13,098–13,160
319	Transcript of Proceedings Re: Motions Hearing	04/07/22	68	16,837–16,855
323	Transcript of Proceedings Re: Motions Hearing	04/21/22	69	17,102–17,113
336	Transcript of Proceedings Re: Motions Hearing	06/29/22	71	17,610–17,681
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39	Transcript of Proceedings, All Pending Motions	06/09/20	6	1385–1471
46	Transcript of Proceedings, Plaintiff's Motion to Compel Defendants' Production of Unredacted MultiPlan, Inc. Agreement	07/29/20	7	1644–1663
482	Transcript of Status Check (Filed Under Seal)	10/10/22	142	35,248–35,258
492	Transcript Re: Proposed Jury Instructions	11/21/21	146	36,086–36,250
425	Trial Brief Regarding Evidence and Argument Relating to Out-of-State Harms to Non-Parties (Filed Under Seal)	10/31/21	109	26,953–26,964
232	Trial Brief Regarding Jury Instructions on Formation of an Implied-In-Fact Contract	11/16/21	41	10,198–10,231
233	Trial Brief Regarding Jury Instructions on Unjust Enrichment	11/16/21	41	10,232–10,248
484	Trial Exhibit D5499 (Filed Under Seal)		142 143	35,264–35,393 35,394–35,445
362	Trial Exhibit D5502		76 77	18,856–19,000 19,001–19,143
485	Trial Exhibit D5506 (Filed Under Seal)		143	35,446
372	United's Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified on Order Shortening Time (Filed Under Seal)	06/24/21	82	20,266–20,290
112	United's Reply in Support of Motion to Compel Plaintiffs' Production of Documents About Which Plaintiffs' Witnesses Testified	07/12/21	18	4326–4340



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	on Order Shortening Time			
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**CERTIFICATE OF SERVICE**

I certify that on April 18, 2023, I submitted the foregoing appendix for filing *via* the Court's eFlex electronic filing system.

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I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, at Las Vegas, Nevada, addressed as follows:

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1 PROSPECTIVE JUROR 569: Uh-huh.

2 MR. ZAVITSANOS: -- but for the 10 million that we are  
3 seeking plus, if we established that in your mind by a preponderance and  
4 only by a preponderance, not the higher standard --

5 PROSPECTIVE JUROR 569: Sure.

6 MR. ZAVITSANOS: -- is this the kind of thing where you can  
7 follow the Court's instruction or is it the kind of thing where you're  
8 thinking that's -- you know, that's a lot of money, and I'm going to need a  
9 lot more compelling evidence in my mind that's closer to clear and  
10 convincing before I can award that kind of money?

11 PROSPECTIVE JUROR 569: I just -- the proof. I believe, you  
12 know, just you know, hearing witness testimony and just not having any  
13 emotions about it or any feelings like to a prior situation, you know, that  
14 could have happened. You know, personally for anybody involved.

15 MR. ZAVITSANOS: Okay. So if Her Honor says the standard  
16 is a preponderance of the evidence and we submit evidence -- proof like  
17 you're talking about -- and it meets that standard, are you able -- are you  
18 -- is this a situation where you are not able to award \$10 million if we  
19 meet that standard?

20 PROSPECTIVE JUROR 569: No, I don't think so.

21 MR. ZAVITSANOS: Okay. Thank you, sir.

22 Okay. Now, let me -- I'm going to change topics here. All  
23 right. So, and listen, I'm going to raise my hand first here, okay. How  
24 many people have been to the emergency room and the thought ran  
25 through your head, oh my goodness, I've been here X number of hours;

1 what is taking so long? Okay. Okay. Now -- all right. So let's get a  
2 couple of things out here. So when we go to the emergency room it's  
3 because it can't wait, right? And whether it's really or maybe not so  
4 serious but you think it's serious, it can't wait.

5 So here is the issue. Dr. Scherr and the other people are  
6 other doctors, okay. They work at these facilities that we've identified.  
7 And so what we need to know is for those people that have felt that kind  
8 of frustration, okay, the question is this. If you end up on the jury, okay,  
9 and you're hearing the evidence and it's about these facilities that you  
10 have been to, staffed by our doctors, how many of you are going to think  
11 man, there is no way I'm giving these guys a penny after what -- after  
12 how long I had to wait in the emergency room for myself, my close  
13 friend, or my family member, and so you're going to essentially decide  
14 the case not on the evidence but on your own experience outside of the  
15 evidence? You all with me? You following me? Okay.

16 Now, listen, I know some of you all are thinking this, okay. I  
17 know it. Okay. Because going to the emergency room is very stressful.  
18 And going to the emergency room sometimes brings out a lot of  
19 emotions in people, right? And sometimes those emotions don't go  
20 away, and that resentment is there like a lot of other things in our life  
21 that we come across. Okay. But here's the thing, right? None of that  
22 that you've gone through is at issue in this case.

23 So -- but if that tension is there and it's going to inhibit your  
24 ability to serve as a juror, please, this is really important to us, we just  
25 need to know, okay? Okay. Please. I mean, this is really important.

1                   So let's start in the back row. For those people that raised  
2 their hand and had to wait awhile and maybe felt some frustration,  
3 especially, at one of the facilities where we are at, okay? How many  
4 people here are going to -- in the back row -- where we're starting  
5 behind, and you think that experience is just going to -- it's going to  
6 creep into your deliberations and it's going to affect your ability to really  
7 kind of treat this thing evenly, okay? Are you with me? Okay? All right.

8                   So let's start in the back. And I saw some of you nodding  
9 your head as I was talking. So -- yes, ma'am? Juror number?

10                  PROSPECTIVE JUROR 004: 004

11                  MR. ZAVITSANOS: I'm sorry?

12                  PROSPECTIVE JUROR 004: 004.

13                  MR. ZAVITSANOS: Yes, ma'am?

14                  PROSPECTIVE JUROR 004: Yeah, I can -- to be honest with  
15 you, I could definitely tell I would be more emotionally involved with it  
16 trying to make a decision. Bringing my mother to MountainView  
17 emergency last year unfortunately, during the holiday season was the  
18 most stressful you know -- probably the most stressful thing that I ever  
19 had to go through as an adult.

20                  MR. ZAVITSANOS: Okay.

21                  PROSPECTIVE JUROR 004: Uh-huh.

22                  MR. ZAVITSANOS: Well, and listen, we only have one  
23 mother, right?

24                  PROSPECTIVE JUROR 004: Exactly.

25                  MR. ZAVITSANOS: Okay. I got it. Okay. I'm very tight with

1 my mother too. So is this the kind of thing where because of that  
2 experience with your mother, we're starting way behind; is that right?

3 PROSPECTIVE JUROR 004: Yeah.

4 MR. ZAVITSANOS: Okay. And it's the kind of thing where  
5 it's going to kind of affect your ability -- I mean, when they're presenting  
6 evidence, it's going to -- it's going to go down a lot easier than when  
7 we're presenting evidence; is that right?

8 PROSPECTIVE JUROR 004: Right. Yes.

9 MR. ZAVITSANOS: Okay. All right. thank you, ma'am. And  
10 therefore, maybe this is not the right case for you.

11 PROSPECTIVE JUROR 004: That would be correct. Yes,  
12 I'm --

13 MR. ZAVITSANOS: Okay. Okay, ma'am. Thank you for your  
14 honesty. Okay. Anybody else that was waiting in the emergency room  
15 where that's going to kind of creep into your mind? Same questions.

16 Yes, ma'am? How about -- and your juror number?

17 PROSPECTIVE JUROR 034: 034.

18 MR. ZAVITSANOS: Yes, ma'am?

19 PROSPECTIVE JUROR 034: Okay. so I have this -- to admit  
20 that I'm on the opposite end of what you're asking. I --

21 MR. ZAVITSANOS: Okay. Well, Mr. Roberts is going to have  
22 questions for you too.

23 PROSPECTIVE JUROR 034: My son had kidney failure --

24 MR. ZAVITSANOS: Yes, ma'am.

25 PROSPECTIVE JUROR 034: -- and every time I had taken him

1 to the emergency, and myself -- I've done it one time for myself -- at  
2 Mountain View, we've just had the best experience.

3 MR. ZAVITSANOS: Well, we're glad to hear that.

4 PROSPECTIVE JUROR 034: So I don't know whether I  
5 should --

6 MR. ZAVITSANOS: Yeah.

7 PROSPECTIVE JUROR 034: -- we've got to get it totally  
8 opposite of what you're asking.

9 MR. ZAVITSANOS: Yes, ma'am. Okay. So listen, so here's  
10 the one thing -- so, one of the things you're going to see if you end up on  
11 the jury, okay, Mr. Blalack -- and these are -- man, these are sensational,  
12 sensational lawyers, and it's a real honor to be in the same courtroom.  
13 They are among the best.

14 One of the things -- we're going to disagree about a lot of  
15 things. Okay. but the one thing we do agree on right now is we want to  
16 identify people that have feelings or beliefs or values that are going to  
17 make it tough for either our side when I'm asking questions or their side  
18 when they're asking questions to really get a fair shake here. You with  
19 me?

20 PROSPECTIVE JUROR 034: Yes.

21 MR. ZAVITSANOS: So I'm really looking for the people that  
22 kind of are -- would make it more difficult for us, right? I mean, as far as  
23 I'm concerned, I hope you make it on the jury, okay? Okay. So I'm -- so  
24 I'm going to say -- so listen, you -- I promise you're going to get asked a  
25 lot of questions, okay, but not from me. You with me? And please don't



1 take offense to it. Okay. I mean, I understand, and I'm delighted that you  
2 had a great experience. Okay. And Dr. Scherr especially is delighted.  
3 Okay.

4 So let me move on. Anybody else in the second row that  
5 had kind of a sour experience -- excuse me -- in the first row, sour  
6 experience at an emergency room? Okay. Next row? You know, like the  
7 hands that went up waiting, anybody in the second row? Where we're  
8 maybe starting a little bit behind? Third row? Okay. Yes, sir? What?  
9 Hold on. Did you raise your hand? Yeah, yeah. We've got to start this  
10 way. Yeah. Number?

11 PROSPECTIVE JUROR 441: 441.

12 MR. ZAVITSANOS: 441. Yes, sir?

13 PROSPECTIVE JUROR 441: So I took my mom to the  
14 emergency room a couple years back. It's not in -- I believe one of those  
15 hospitals you mentioned. So but I did wait a couple hours. I was under  
16 the impression that, you know, because of what happened, they'd take  
17 her in immediately, but we were kind of like sitting in the waiting room  
18 until she can fully get checked in. And all of that stuff. So it take a  
19 couple hours.

20 And then me, personally, I was kind of feeling frustrated just  
21 the fact that, you know, what if there's something a lot worse that you  
22 know, went on with my mom and you guys didn't see it right away? So  
23 you know, maybe those couple of hours -- you know, thankfully nothing  
24 serious you know, happened to my mom but -- or at least they didn't find  
25 anything serious for my mom but as far as you know, what if. You know,

1 those two hours would have been a critical time.

2 MR. ZAVITSANOS: Okay. So given that experience though,  
3 that kind of left a sour taste in your mouth?

4 PROSPECTIVE JUROR 441: Honestly, it did.

5 MR. ZAVITSANOS: And therefore, because we're the  
6 emergency room doctors and nurses, we're starting behind?

7 PROSPECTIVE JUROR 441: Yes, sir.

8 MR. ZAVITSANOS: Okay. And it's the kind of thing that  
9 would substantially impact your ability to serve on this jury?

10 PROSPECTIVE JUROR 441: At this moment, yes.

11 MR. ZAVITSANOS: Okay. Thank you, sir. Okay. Anybody  
12 else in the third row? Yes, sir. Let's pass it down. Number again, sir?

13 PROSPECTIVE JUROR 488: 488.

14 MR. ZAVITSANOS: 488?

15 PROSPECTIVE JUROR 488: Yes.

16 MR. ZAVITSANOS: Yes, sir. Please?

17 PROSPECTIVE JUROR 488: Multiple times I've taken my wife  
18 and we've had to wait for even family members, we'd have to wait a  
19 couple hours before they even get seen. My sister-in-law recently just --  
20 she had COVID. She had actually pneumonia, COVID in her lungs. They  
21 turned her away. Went back not a day later, went into a coma, went on  
22 the ventilator and passed away. We just buried her two weeks ago.

23 MR. ZAVITSANOS: Okay.

24 PROSPECTIVE JUROR 488: So --

25 MR. ZAVITSANOS: Okay. Now, listen, that is absolutely

1 tragic, and I would imagine right now you're thinking man, there is no  
2 way I'm giving these guys a dime given that terrible experience you just  
3 talked about; is that right?

4 PROSPECTIVE JUROR 488: Yes, sir.

5 MR. ZAVITSANOS: Okay. Thank you, sir. Okay. Thank you.  
6 And I'm sorry for your loss, sir.

7 Okay. Second row. Or fourth row I guess. We're finally  
8 getting [indiscernible]. Sorry. Okay. So let's see here. Okay. Man,  
9 we're getting the same people over and over. We're going to be good  
10 friends by the time this is done. Okay. All right.

11 PROSPECTIVE JUROR 544: 544.

12 MR. ZAVITSANOS: Yes, sir?

13 PROSPECTIVE JUROR 544: Yeah, I took my daughter to the  
14 hospital, and she had a erupted appendix at one of the hospitals. And  
15 they sent her away. They didn't know that she had an appendix. So we  
16 actually took her to the other hospital which is St. Rose, and they took  
17 her in right away. So I mean, the bad experience was from the first  
18 hospital and not the second one.

19 MR. ZAVITSANOS: Okay. And so given -- and it's your  
20 daughter?

21 PROSPECTIVE JUROR 544: Yes.

22 MR. ZAVITSANOS: Okay. So given that, it's your daughter,  
23 right?

24 PROSPECTIVE JUROR 544: Correct.

25 MR. ZAVITSANOS: I would imagine man; we're starting way

1 behind?

2 PROSPECTIVE JUROR 544: Not really, sir. No.

3 MR. ZAVITSANOS: Oh, not because of that?

4 PROSPECTIVE JUROR 544: Not because of that, no.

5 MR. ZAVITSANOS: Okay. Well --

6 PROSPECTIVE JUROR 544: I like to be fair at the same time,  
7 but I just have to hear everything else, and I know right now you can't  
8 say anything.

9 MR. ZAVITSANOS: So let me just ask this. Is that experience  
10 which sounds terrible --

11 PROSPECTIVE JUROR 544: It was terrible, yes.

12 MR. ZAVITSANOS: Yes, sir. No doubt about it. Okay. I got  
13 two daughters. I totally get it. That experience -- is that going to impact  
14 maybe the way you evaluate the evidence as it comes in so that when  
15 our people are talking or we're offering exhibits, they're not going to  
16 carry the same kind of weight in your mind that when these fine lawyers  
17 submit their evidence?

18 PROSPECTIVE JUROR 544: No, sir.

19 MR. ZAVITSANOS: Okay. You just wanted to tell me about  
20 that?

21 PROSPECTIVE JUROR 544: No, no. I just know that I have to  
22 hear both sides of the story --

23 MR. ZAVITSANOS: Okay. Got it.

24 PROSPECTIVE JUROR 544: -- in order for me to make the  
25 right assumption, so.

1 MR. ZAVITSANOS: Thank you, sir. Okay. There was another  
2 hand up here? Yes, sir?

3 PROSPECTIVE JUROR 555: I used to work at Santa Paula  
4 [phonetic] Hospital as a security officer --

5 THE COURT: Badge number?

6 MR. ZAVITSANOS: Oh, I'm sorry. Badge number?

7 PROSPECTIVE JUROR 555: 555.

8 MR. ZAVITSANOS: Okay. And can you speak up just a little  
9 bit so the court reporter can hear you?

10 PROSPECTIVE JUROR 555: I said I used to work as a security  
11 guard at Santa Paula Hospital, and they had the times where they were  
12 really busy so I can understand that. But still, I'm not -- I wasn't satisfied  
13 with the length of time it took. But I still try to take my -- be at ease with  
14 it.

15 MR. ZAVITSANOS: So is this the kind of thing where  
16 because you weren't satisfied with how long it was taking to --

17 PROSPECTIVE JUROR 555: Yeah, my wait time --

18 MR. ZAVITSANOS: -- attend to people that were ill or  
19 potentially ill --

20 PROSPECTIVE JUROR 555: -- yeah.

21 MR. ZAVITSANOS: -- we're starting out behind because  
22 we're the emergency room doctors?

23 PROSPECTIVE JUROR 555: Not really because I know you  
24 just -- doctors are practice medicine. They're practicing medicine.

25 They're not educated -- I mean, not educated -- expert, that's the word I

1 was looking for, expert person.

2 MR. ZAVITSANOS: Okay. Okay. Anybody else -- ma'am,  
3 you had your -- di you have your hand --

4 PROSPECTIVE JUROR: Yeah, I did.

5 MR. ZAVITSANOS: So let's pass that down, please. And  
6 juror number, please?

7 PROSPECTIVE JUROR 590: 590.

8 MR. ZAVITSANOS: Yes, ma'am?

9 PROSPECTIVE JUROR 590: My daughter was in quite a  
10 serious car accident.

11 MR. ZAVITSANOS: Okay.

12 PROSPECTIVE JUROR 590: And so we were -- had gone to  
13 an emergency room, and not one of the hospitals you mentioned. And  
14 so we were trying to leave after she had received some medical  
15 attention. And we were waiting, waiting, waiting, waiting. And they had  
16 forgotten about us. So we were trying to leave, and so finally, I had to  
17 make quite a scene to get our paperwork to leave. We just really needed  
18 a prescription. So they had forgotten about us. And she was in quite a  
19 bit of pain. We were trying to leave to go get our -- her prescription.

20 So it was kind of an unnecessary -- I think more of a clerical,  
21 you know? But nonetheless, she was in a lot of pain, and she didn't need  
22 to be.

23 MR. ZAVITSANOS: Okay. So given that experience, and it  
24 sounds -- that sounded very, very challenging, to say the least. Given  
25 that experience, are we starting out further back than maybe the

1 Defendant is in your mind?

2 PROSPECTIVE JUROR 590: You know, I don't know. I don't  
3 really -- I don't even really know where to place blame on that situation.  
4 I just know that I fell into that question you had asked.

5 MR. ZAVITSANOS: Yeah. So let me say this, and I don't  
6 know if this makes a difference to you or not. So the intake people, the  
7 pharmacists, the administrative folks, those -- for the most part, those  
8 are people that work for the hospital. Okay. Not us. We are the doctors,  
9 the nurses, the nurse -- the physician assistants. You with me? So in  
10 terms of processing, it's typically done by the hospital side, not by us.

11 Now, I'm not trying to make excuses and I'm not trying  
12 to -- but I don't -- and I don't know what hospital you were at. My  
13 question is really just -- I mean, that sounds like a terrible situation you  
14 went through. And so is this the kind of thing where, given that they  
15 forgot about you and you kind of slipped through the cracks, you're  
16 thinking, man, I'm just -- I'm not going to reward anybody that's in the  
17 emergency medicine sphere of the world, whether it's a hospital, a  
18 doctor, or otherwise, because of what I went through?

19 PROSPECTIVE JUROR 590: Yeah. I mean, I don't -- I don't  
20 know if it was -- it probably wasn't the doctor or nurse. You know, I  
21 don't know who was responsible for that part of the experience, so.

22 MR. ZAVITSANOS: Well, my question is a little broader,  
23 though.

24 PROSPECTIVE JUROR 590: Right.

25 MR. ZAVITSANOS: In other words, is it like because that was

1 a very negative experience that you had --

2 PROSPECTIVE JUROR 590: Right.

3 MR. ZAVITSANOS: -- I mean, are we on equal footing?

4 Because we're -- I mean, we're in the emergency medicine world. And  
5 you had a bad experience with the emergency medicine world.

6 PROSPECTIVE JUROR 590: Right.

7 MR. ZAVITSANOS: Whether it was, you know, our type of  
8 folks or hospital folks, you had a bad experience. And so are we starting  
9 out further back?

10 PROSPECTIVE JUROR 590: No, I don't think so. Not  
11 necessarily.

12 MR. ZAVITSANOS: Well, you say not necessarily. I just do  
13 not -- I mean, I hate to put you on the spot and I'm sorry. I just -- I mean,  
14 is this the kind of thing where we are -- you're going to listen to the  
15 evidence and both sides in your mind are going to get treated the same?  
16 Or is this where -- I think the term I'd use here; it's going to go down  
17 easier? It's going to be a little more of -- are you going to be a little more  
18 receptive to their evidence than to our evidence?

19 PROSPECTIVE JUROR 590: I'd like to think that I would have  
20 an open mind about it.

21 MR. ZAVITSANOS: Okay. Thank you. Thank you. Okay.  
22 Now, how about the front row? Anybody here?

23 Okay. So I'm going to change topics again now. Okay. So  
24 let me give you -- okay. Now, this one is -- let me give you the names of  
25 the Defendants again, and Mr. Roberts will explain what they do. I'm



1 just going to give you the names -- the ones that we care about, okay?  
2 And that's United Healthcare Insurance Company, Sierra Health and Life  
3 Insurance, and the Health Plan of Nevada. Now, there are some other  
4 Defendants here, and if you end up on the jury, you'll hear more about  
5 them. But those are three of the Defendants that actually act as  
6 insurance companies, okay? In other words, you pay a premium,  
7 they -- and then will pay the healthcare provider when you make a claim  
8 under the policy and if it's covered. Okay?

9 All right. So here's the issue: how many people here have  
10 health insurance with any of those three entities? Okay. Let's --

11 PROSPECTIVE JUROR 210: What if we used to have it?

12 MR. ZAVITSANOS: I'm sorry?

13 PROSPECTIVE JUROR 210: What if we used to have it?

14 MR. ZAVITSANOS: Great question. Thank you. Thank you  
15 very much. Okay, so I'm going to change my question a little bit. Thank  
16 you, sir. I'm going to give you an assist on that.

17 Okay. So here's my question, and I'm going to change it up  
18 a little bit: how many people have had -- in the past -- have a family  
19 member or a close friend, health insurance with any of those three? And  
20 let's identify, please -- I'm just going to go rapid-fire. Just raise your  
21 hand and give me your badge number, please. Let's start in the back  
22 row. Badge Number?

23 PROSPECTIVE JUROR 004: 004.

24 MR. ZAVITSANOS: 004. Who else in the back?

25 Insurance -- yes, ma'am?

1 PROSPECTIVE JUROR 141: 141.  
2 MR. ZAVITSANOS: 141. Next?  
3 PROSPECTIVE JUROR 210: 210.  
4 MR. ZAVITSANOS: 210. Yes?  
5 PROSPECTIVE JUROR 401: 401.  
6 MR. ZAVITSANOS: Yes?  
7 PROSPECTIVE JUROR 404: 404.  
8 MR. ZAVITSANOS: Okay. Next?  
9 PROSPECTIVE JUROR 555: 555.  
10 PROSPECTIVE JUROR 488: 488.  
11 MR. ZAVITSANOS: 488.  
12 PROSPECTIVE JUROR 544: 544.  
13 PROSPECTIVE JUROR 555: 555.  
14 PROSPECTIVE JUROR 532: 532.  
15 MR. ZAVITSANOS: 532. And the front?  
16 PROSPECTIVE JUROR 719: 719.  
17 MR. ZAVITSANOS: I'm sorry?  
18 PROSPECTIVE JUROR 719: 719.  
19 MR. ZAVITSANOS: 719, okay. Okay.  
20 PROSPECTIVE JUROR 593: Wait a minute. Wait a minute.  
21 MR. ZAVITSANOS: Oh, I'm checking. Now, this is a careful  
22 man.  
23 PROSPECTIVE JUROR 593: 593.  
24 MR. ZAVITSANOS: Okay. Thank you, sir.  
25 PROSPECTIVE JUROR 593: I'm dyslexic.

1 MR. ZAVITSANOS: That's all right. Okay. All right. So  
2 here's the question -- okay. So you know, sometimes on these, you  
3 know, a fair number of the cases that get tried in these great courts here  
4 in this building are car accident cases, right? I mean, we -- you know,  
5 you see the billboards all over town with these fellows that represent --  
6 and ladies that represent, you know, people that have been injured in car  
7 accidents. And some of those cases end up going to trial, okay?

8 And the ones that go to trial, you know, sometimes there are  
9 jurors who end up on the jury and they're thinking, you know, this  
10 person that got hurt, they got a good claim here, and it was the other  
11 person's fault. And they deserve to win, and they deserve the money  
12 they're asking for to make them whole, but I'm really concerned about  
13 the premiums of my own insurance. Okay? So I just can't do it.

14 Now -- and listen, just like the other question with the waiting  
15 in the emergency room, I know for a fact some of you are thinking of  
16 this, okay? So here's the question. Those of you that raised your hand,  
17 you've got your insurance company sitting here, right? Now, what effect  
18 it has on your rates, your rates, I need to know whether you're going to  
19 kind of hold back or require a higher burden of proof or award less even  
20 though we proved a certain amount because your concerned, man, this  
21 is going to really raise my premiums and I'm already paying a lot. Okay.

22 Now, you heard no evidence on what the premiums are, on  
23 what it's going to do, or anything like that. I'm just thinking before you  
24 hear any evidence, that thought is circulating in your mind right now, as  
25 I'm talking. Okay.

1 I see you nodding your head. Okay. So let's start with the  
2 back row. Row number one, how many people are thinking that right  
3 now? That have -- I'm sorry. Of the people that raised their hand that  
4 have insurance with one of the three companies that I just talked about.  
5 Okay? Let's go -- let's start in the back. And now I'm going to start with  
6 you.

7 PROSPECTIVE JUROR 004: So 004. And so I think that I'm  
8 thinking right now, honestly --

9 MR. ZAVITSANOS: Yes, ma'am.

10 PROSPECTIVE JUROR 004: What's been going on with  
11 insurance has been going on long before hearing about the case, about,  
12 you know, premiums going up. This has -- this has been an ongoing  
13 battle for years. So deep down, it's fearful, just thinking about it. Yeah,  
14 absolutely.

15 MR. ZAVITSANOS: So -- okay. Okay. Thank you, ma'am.  
16 And anybody else in the back row that is having that concern or thought?

17 Okay. Next row. Second row. All right. Yes, ma'am?

18 PROSPECTIVE JUROR 401: 401.

19 MR. ZAVITSANOS: Yes, ma'am.

20 PROSPECTIVE JUROR 401: Same thing. I agree with the  
21 person behind. We've been having trouble, or I've been having trouble  
22 with our insurance. Our premiums just went up and, just -- I mean --

23 MR. ZAVITSANOS: So -- okay. So my question -- I think you  
24 understood my question. And I'm sorry --

25 PROSPECTIVE JUROR 401: Yes.

1 MR. ZAVITSANOS: -- I don't mean to -- let me just elaborate  
2 a little bit.

3 PROSPECTIVE JUROR 401: Okay.

4 MR. ZAVITSANOS: Okay. My question is if you end up on  
5 the jury, is this the kind of thing where even though you've heard the  
6 evidence, you're going to be thinking even though these folks over here,  
7 they proved their case, I'm not going to award as much as they're  
8 asking --

9 PROSPECTIVE JUROR 401: No.

10 MR. ZAVITSANOS: -- because it's going to hurt my  
11 pocketbook?

12 PROSPECTIVE JUROR 401: Uh-huh. No. It wouldn't --

13 MR. ZAVITSANOS: Okay.

14 PROSPECTIVE JUROR 401: -- change my decision.

15 MR. ZAVITSANOS: Okay. All right. So how about the next  
16 row down? Third row from the top? Okay. How about the -- I'm sorry.  
17 Go ahead.

18 UNIDENTIFIED PROSPECTIVE JUROR: No. No.

19 MR. ZAVITSANOS: Oh, okay. Yes, sir?

20 UNIDENTIFIED PROSPECTIVE JUROR: No, I don't have  
21 them.

22 MR. ZAVITSANOS: No? Oh, or you're just thinking  
23 about -- okay. All right. Fourth row? Anybody in the fourth row? Okay.  
24 I know this is kind of putting you all to sleep here. Sorry. Okay. Next  
25 row? Front row? Anybody here?

1 PROSPECTIVE JUROR 719: I agree that that's a lot of --

2 THE CLERK: Badge Number, please.

3 MR. ZAVITSANOS: I'm sorry. Hold on, let me get it. Wait a  
4 minute. Wait a minute. Hold on.

5 PROSPECTIVE JUROR 719: 719.

6 MR. ZAVITSANOS: Yes, ma'am.

7 THE CLERK: Thank you.

8 PROSPECTIVE JUROR 719: I do agree I -- that's how I would  
9 feel, like somebody has to pay, you know, to get the money. So I feel  
10 like our premiums would be going up.

11 MR. ZAVITSANOS: Okay. So that's -- okay, my question is a  
12 little different than that.

13 PROSPECTIVE JUROR 719: Okay.

14 MR. ZAVITSANOS: My question is if you end up on the jury,  
15 okay, and the evidence comes in and in your mind, we have met the  
16 standard that the Judge, that Her Honor, gives you, okay, is this a  
17 situation where you either might rule against us or award less because  
18 of this thing that's in your mind that's not part of the evidence that would  
19 affect you?

20 PROSPECTIVE JUROR 719: Yes.

21 MR. ZAVITSANOS: Okay. So you would cut back the  
22 damages because of this concern that we're talking about right now?

23 PROSPECTIVE JUROR 719: Yes.

24 MR. ZAVITSANOS: And even if we met the standard of  
25 proof, you would not be able to award whatever it was that we proved

1 because of that concern?

2 PROSPECTIVE JUROR 719: Yes.

3 MR. ZAVITSANOS: Okay. And therefore, you would not be  
4 able to follow the Judge's instructions on that, right?

5 PROSPECTIVE JUROR 719: Yes, I would both --

6 MR. ZAVITSANOS: You would be -- you would have a hard  
7 time following those instructions, correct?

8 PROSPECTIVE JUROR 719: Uh-huh.

9 MR. ZAVITSANOS: Okay. Thank you. And was that a yes?

10 PROSPECTIVE JUROR 719: Yes.

11 MR. ZAVITSANOS: Okay. Thank you, ma'am. Okay.

12 THE COURT: Mr. Zavitsanos?

13 MR. ZAVITSANOS: Yes, Your Honor.

14 THE COURT: I'm going to ask the lawyers to do a sidebar.

15 MR. ZAVITSANOS: Yes, Your Honor.

16 [Sidebar at 4:36 p.m., ending at 4:37 p.m., not transcribed]

17 THE COURT: And we intend to go to 4:45 every day, and  
18 we'll start tomorrow at 9:30.

19 MR. ZAVITSANOS: May I proceed, Your Honor?

20 THE COURT: Please.

21 MR. ZAVITSANOS: Thank you, Your Honor. May it please  
22 the Court. Okay. All right. I'm going to change topics again, okay?  
23 Okay. All right. Here's what I'm going to do. Since I only have five  
24 minutes left before we break for the day, we're going to do a multiple-  
25 choice test just like we had at school, okay? And I'm not going to ask

1 you to elaborate. I'm just going to ask you to pick A, B, C, or D. Okay?

2 Now here's the question. The healthcare crisis in the United  
3 States, A, it's the doctors that are to blame; B, it's the insurance  
4 companies that are to blame; C, it's both of them; or D, I don't have an  
5 opinion on that. I need to hear more. Now, let me do it again. A, it's the  
6 doctors' fault, the healthcare crisis; B, it's the insurance companies, the  
7 health insurance companies; C, it's both of them; or D, I don't really have  
8 an opinion, I need to hear more. Everybody understand?

9 Okay. We're going to do this rapid fire. We're going to start  
10 in the back. You're going to give me a letter and your juror number.  
11 Okay? So let's start with the nice lady in the back.

12 PROSPECTIVE JUROR 004: 004, C.

13 MR. ZAVITSANOS: C, okay.

14 PROSPECTIVE JUROR 034: 034, C.

15 MR. ZAVITSANOS: Okay.

16 PROSPECTIVE JUROR 074: 074, D.

17 MR. ZAVITSANOS: Okay.

18 PROSPECTIVE JUROR 141: 141, C.

19 MR. ZAVITSANOS: Okay.

20 PROSPECTIVE JUROR 404: 0 -- I'm sorry, 404. D.

21 MR. ZAVITSANOS: Okay.

22 PROSPECTIVE JUROR 401: 401, D.

23 PROSPECTIVE JUROR 283: 283, C.

24 PROSPECTIVE JUROR 210: 210, D.

25 PROSPECTIVE JUROR 441: 441, C.



1 PROSPECTIVE JUROR 450: 450, D.  
2 MR. ZAVITSANOS: B?  
3 PROSPECTIVE JUROR 450: D.  
4 MR. ZAVITSANOS: D?  
5 PROSPECTIVE JUROR 450: D.  
6 MR. ZAVITSANOS: D like David.  
7 PROSPECTIVE JUROR 450: D like David.  
8 MR. ZAVITSANOS: Thank you, sir.  
9 PROSPECTIVE JUROR 488: 488, C.  
10 PROSPECTIVE JUROR 494: 494, C.  
11 MR. ZAVITSANOS: Okay.  
12 PROSPECTIVE JUROR 522: 522, C.  
13 PROSPECTIVE JUROR 532: 532, D, delta.  
14 MR. ZAVITSANOS: Thank you.  
15 PROSPECTIVE JUROR 544: 544 --  
16 MR. ZAVITSANOS: You must be a pilot.  
17 PROSPECTIVE JUROR 544: 544, C.  
18 MR. ZAVITSANOS: Okay.  
19 PROSPECTIVE JUROR 555: 555, C.  
20 PROSPECTIVE JUROR 564: 564, C.  
21 PROSPECTIVE JUROR 569: 569, C.  
22 PROSPECTIVE JUROR 590: 590, B as in bravo.  
23 MR. ZAVITSANOS: Okay. Let me. Thank you very much.  
24 There you go, sir.  
25 PROSPECTIVE JUROR 593: 593, C as in Charlie.

1 MR. ZAVITSANOS: Okay. Another pilot.

2 PROSPECTIVE JUROR 719: 719, D as in David.

3 MR. ZAVITSANOS: Okay.

4 PROSPECTIVE JUROR 729: 729, D.

5 MR. ZAVITSANOS: Okay. One more multiple-choice test.

6 Okay? All right. I didn't know we'd get done that fast. All right. Here's  
7 the next one. Okay. Everyone knows, everyone knows about the  
8 Affordable Care Act, also known as Obamacare. Okay. And you know, if  
9 you turn on these cable channels, there's a lot of people with opinions  
10 on them.

11 So here's the test on that. Obamacare, the ACA, A, it's good  
12 for the country; B, it's a bad idea; or C, not really sure, I need to hear  
13 more about it. Okay? You with me? Okay. We're going to start in the  
14 back and work across. Yes, ma'am?

15 PROSPECTIVE JUROR 004: 004, B as in boy.

16 MR. ZAVITSANOS: Okay. Not a good idea. Okay. Yes,  
17 ma'am?

18 PROSPECTIVE JUROR 034: 034, C.

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

20 PROSPECTIVE JUROR 074: 074, C.

21 MR. ZAVITSANOS: Yes, ma'am?

22 PROSPECTIVE JUROR 141: 141, C.

23 MR. ZAVITSANOS: Okay.

24 PROSPECTIVE JUROR 404: 404, A.

25 MR. ZAVITSANOS: Okay.

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1 PROSPECTIVE JUROR 401: 401, C.

2 PROSPECTIVE JUROR 283: 283, A.

3 PROSPECTIVE JUROR 210: 210, B.

4 MR. ZAVITSANOS: Okay.

5 PROSPECTIVE JUROR 441: 441, B.

6 MR. ZAVITSANOS: Thank you, sir.

7 PROSPECTIVE JUROR 450: 450, C.

8 PROSPECTIVE JUROR 488: 488, B.

9 PROSPECTIVE JUROR 494: 494, B.

10 MR. ZAVITSANOS: You can just -- we can go this way.

11 That's fine.

12 PROSPECTIVE JUROR 590: 590, A.

13 PROSPECTIVE JUROR 569: 569, B.

14 MR. ZAVITSANOS: Thank you, sir.

15 PROSPECTIVE JUROR 564: 564, C.

16 PROSPECTIVE JUROR 555: 555, D as in dog.

17 MR. ZAVITSANOS: Okay. You're changing my test.

18 PROSPECTIVE JUROR 544: 544, B.

19 MR. ZAVITSANOS: Okay.

20 PROSPECTIVE JUROR 532: 532, B.

21 MR. ZAVITSANOS: Okay. Thank you, sir.

22 PROSPECTIVE JUROR 522: 522, C.

23 PROSPECTIVE JUROR 593: 593, A.

24 PROSPECTIVE JUROR 719: 719, C.

25 PROSPECTIVE JUROR 729: 729, C.

1 MR. ZAVITSANOS: Thank you, ma'am. Your Honor, I'm  
2 about at another transition point. Would you like me to keep going or --

3 THE COURT: Nope. It's time for our recess.

4 MR. ZAVITSANOS: Thank you, Your Honor.

5 THE COURT: All right. So we'll start tomorrow at 9:30 sharp.  
6 Please be lined up in order.

7 Overnight, do not talk with each other or anyone else on any  
8 subject connected to the trial. Don't speculate about what it's going to  
9 be about, what the witnesses are or what the issue are. If it's covered in  
10 the press, do not read, watch, or listen to any report of it or commentary  
11 on the trial. Don't discuss this case with anyone connected to it by any  
12 medium of information, including without limitation newspapers,  
13 television, radio, internet, cell phones, or texting.

14 Don't conduct any research on your own relating to the case.  
15 Don't consult dictionaries, use the internet, or use any reference  
16 materials. Don't talk, text, tweet, Google, or do any social media on the  
17 fact that you're in jury selection. You may not do any other type of book  
18 or computer research with regard to any issue, party, witness, or  
19 attorney involved in this case.

20 Do not form or express any opinion on any subject  
21 connected to the matter unless you're chosen for the jury and the matter  
22 is submitted to you. You've been great today. Thank you so much for all  
23 the attention. See you tomorrow at 9:30.

24 THE MARSHAL: All rise for the jury.

25 THE COURT: If you have a letter for your employer, talk to

1 the marshal.

2 [Prospective jurors out at 4:44 p.m.]

3 [Outside the presence of the prospective jurors]

4 THE COURT: Okay. The room is clear. Plaintiff, do you have  
5 anything for the record?

6 MR. ZAVITSANOS: No, Your Honor.

7 THE COURT: Defendant, do you have anything for the  
8 record?

9 MR. BLALACK: Not with respect to voir dire, Your Honor. I  
10 do want to revisit --

11 THE COURT: Do you have something? Yeah. Let's take a  
12 housekeeping matter.

13 MR. BLALACK: Yes, Your Honor. I just wanted to revisit the  
14 issue we started with today, which is my request that opposing counsel  
15 identify subpoenaed witnesses they want starting for Monday or  
16 whenever they're going to start the trial and give us an order so that I  
17 can make the necessary arrangements with the relevant witnesses.

18 THE COURT: You know, I have to -- let me put on the record,  
19 the sidebar, I suggested you guys know there's anyone you're going to  
20 both agree to excuse based upon these questions. Mr. Roberts indicated  
21 he wasn't in a position to do that until he talked to them. So I have a  
22 feeling we're going to need all four days for the jury selection.

23 MR. BLALACK: I'm confident of that, Your Honor.

24 THE COURT: Yeah. So I would say give them your first three  
25 witnesses, but I'm not going to require them to be here Thursday.

1 MR. BLALACK: Thank you, Your Honor.

2 MR. ZAVITSANOS: So Your Honor, may I ask a question on  
3 that, Your Honor?

4 THE COURT: Of course.

5 MR. ZAVITSANOS: The question is when, Your Honor --  
6 because I -- what I have proposed with counsel was we would give each  
7 other 24 hours' notice and I'm happy to let them know Friday morning.  
8 But I mean, Your Honor, I -- look, they --

9 THE COURT: If I'm not going to require them to be here on  
10 Thursday, then you can do it Friday.

11 MR. ZAVITSANOS: Thank you, Your Honor.

12 THE COURT: Does that work for you?

13 MR. BLALACK: That's fine, Your Honor. I do --

14 THE COURT: All right. So --

15 MR. BLALACK: -- believe that's fine.

16 THE COURT: Thank you. My note is to ask Nessie about the  
17 trip to Palm Springs. And just so you guys know, the people I saw who  
18 had a little bit of nodding off were 555, 21, and 484, Ordaz, Villezcas, and  
19 Smith. So --

20 MR. ZAVITSANOS: Nodding off, Your Honor?

21 THE COURT: Not sleeping but getting drowsy.

22 MR. ROBERTS: Yeah.

23 THE COURT: And I try to tell you every day because -- just as  
24 a warning.

25 MR. BLALACK: Well, thank you, Your Honor.

1 UNIDENTIFIED SPEAKER: The rest of our lawyers are more  
2 exciting than Mr. Zavitsanos.

3 MR. ZAVITSANOS: 555 and 488?

4 THE COURT: Yeah. Smith, 555, and it could be -- he said he  
5 took antianxiety medicine. Villezcas -- or Villezcasa, 21, and Ordaz, 544,  
6 the one who has to go to truck training on Thursday.

7 MR. ZAVITSANOS: Yes.

8 THE COURT: Okay --

9 MR. ZAVITSANOS: So Your Honor, I suppose -- and I'm  
10 sorry. I know Your Honor told us this a couple of times. When I pass,  
11 that is the moment when I make my cause, Your Honor?

12 THE COURT: When you say that you have concluded your  
13 examination, I'll say, will you pass the panel for cause, or will you have a  
14 motion to make?

15 MR. ZAVITSANOS: Oh, I see, Your Honor.

16 THE COURT: And if you have a motion to make, I'll excuse  
17 the jury.

18 MR. ZAVITSANOS: Yes, Your Honor. Thank you.

19 THE COURT: Okay. Do the same thing for you. I also  
20 tracked the number of minutes you have in voir dire to make sure the  
21 Defendant gets as many as the Plaintiff.

22 MR. BLALACK: Thank you, Your Honor. We appreciate that.

23 THE COURT: Yeah. And I'll have that calculation for you  
24 tomorrow.

25 ////

1 MR. BLALACK: Thank you, Your Honor.

2 MR. ROBERTS: Thank you, Your Honor.

3 THE COURT: Have a good night, everybody.

4 [Proceedings adjourned at 4:48 p.m.]

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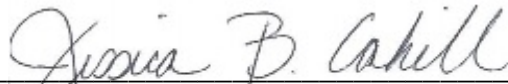
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20 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
21 audio-visual recording of the proceeding in the above entitled case to the  
best of my ability.

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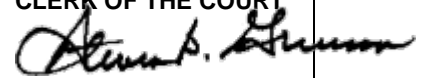
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DISTRICT COURT  
CLARK COUNTY, NEVADA

FREMONT EMERGENCY SERVICES  
(MANDAVIS) LTD., ET AL.,

Plaintiffs,

vs.

UNITED HEALTHCARE  
INSURANCE COMPANY, ET AL.,

Defendants.

CASE#: A-19-792978-B

DEPT. XXVII

BEFORE THE HONORABLE NANCY ALLF  
DISTRICT COURT JUDGE  
TUESDAY, OCTOBER 26, 2021

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

APPEARANCES:

For the Plaintiffs:

PATRICIA K. LUNDVALL, ESQ.  
JOHN ZAVITSANOS, ESQ.  
JASON S. MCMANIS, ESQ.  
JOSEPH Y. AHMAD, ESQ.  
KEVIN LEYENDECKER, ESQ.

For the Defendants:

D. LEE ROBERTS, JR., ESQ.  
K. LEE BLALACK, ESQ.  
JEFFREY E. GORDON, ESQ.  
GLENN STEVENS, ESQ.

RECORDED BY: BRYNN WHITE, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, October 26, 2021

2  
3 [Case called at 9:28 a.m.]

4 [Outside the presence of the prospective jurors]

5 THE COURT: Please, everyone, please be seated.

6 MR. BLALACK: Good morning, Your Honor.

7 MR. LUNDVALL: Good morning, Judge.

8 MR. ZAVITSANOS: Good morning, Your Honor.

9 THE COURT: All right. Let's call Fremont Emergency  
10 Services v. United Healthcare Insurance Company. Let's take  
11 appearances, please, for the record.

12 MR. LUNDVALL: Good morning, Your Honor. Pat Lundvall  
13 from McDonald Carano, here on behalf of the healthcare provider.

14 MR. ZAVITSANOS: John Zavitsanos on behalf of the  
15 healthcare providers.

16 MR. AHMAD: Joe Ahmad, also on behalf of the healthcare  
17 providers.

18 MR. LEYENDECKER: Good morning, Your Honor. Kevin  
19 Leyendecker, on behalf of the healthcare providers.

20 MR. MCMANIS: Good morning, Your Honor. Jason  
21 McManis, on behalf of the healthcare providers.

22 THE COURT: Thank you. And for the Defense, please?

23 MR. BLALACK: Good morning, Your Honor. Lee Blalack on  
24 behalf of the Defendants.

25 MR. ROBERTS: Good morning, Your Honor. Lee Roberts on

1      behalf of the Defendants.

2                   MR. GORDON: Good morning, Your Honor. Jeff Gordon, on  
3      behalf of the Defendants.

4                   MR. BLALACK: And then do you want to introduce our  
5      client?

6                   MR. ROBERTS: Oh, yes. He was not here yesterday. I  
7      previewed his arrival. Standing behind me is Mr. Glen Stevens, in-house  
8      counsel for Health Plan of Nevada and Sierra Health and Life.

9                   THE COURT: Thank you, and welcome.

10                  MR. STEVENS: Thank you.

11                  THE COURT: Okay, guys. Anything to take up before we  
12      bring in the venire?

13                  MR. ZAVITSANOS: One issue, Your Honor, and it's a gentle  
14      request. So, first off, the parties have agreed to strike for cause two  
15      venire members, and those are -- which ones are those, Mr. Roberts?

16                  MR. ROBERTS: Martinez, badge number 719, Ms. Martinez,  
17      and Mr. Villezcas, badge number 485.

18                  MR. AHMED: 488.

19                  MR. ROBERTS: I'm sorry, 488. I can't read my own writing,  
20      thank you.

21                  MR. ZAVITSANOS: May I continue, Your Honor?

22                  THE COURT: Please.

23                  MR. ZAVITSANOS: Yes. And along those lines, Your Honor,  
24      we have four others that we think are clearly potentially over the line.  
25      Mr. Roberts, obviously, would like to probe a little bit more, so with the

1 Court's permission, obviously, I don't have an objection to letting  
2 Mr. Roberts examine just those four. In other words, not to do his full  
3 voir dire. He can do a very, very brief introduction of who he is, but not  
4 to question any of the others, to see if we can get those over the line.

5 And the reason being, Your Honor, because of -- and I am  
6 being very, very respectful for the way Your Honor does it here, because  
7 otherwise, if Your Honor agrees with us at the end we got to, you know,  
8 start again, and this might save a little bit of time. And I know we all  
9 have the concern that we want to finish by Thanksgiving and so every  
10 hour counts.

11 So I don't have an objection to doing that. Mr. Roberts said  
12 he would like to do that, and we conferred, and we are -- I think we are in  
13 agreement on that, and so -- and then can address it at the bench, and if  
14 Your Honor agrees then we get to the replacements in and we just  
15 continue.

16 THE COURT: Is that correct?

17 MR. ROBERTS: Yes, Your Honor. That seems to be an  
18 efficient time, since we're just starting fresh, and we've got a new group  
19 of 55 coming in --

20 THE COURT: We do.

21 MR. ROBERTS: -- to go ahead and figure out if we're going  
22 to stipulate these two or ask the Judge to decide as cause challenge.

23 THE COURT: Who are the four? I think I know, but --

24 MR. AHMED: It's Juror number 4, 210, 441 and 544.

25 THE COURT: Is that correct?

1 MR. ROBERTS: That is what I have, Your Honor.

2 THE COURT: It matches up with my notes too. Okay. All  
3 right.

4 [Court and Court Recorder confer]

5 THE COURT: So let's go ahead and bring in the venire,  
6 excuse the two. We'll fill up the room with as many as we can. I have to  
7 start over for them, but I don't want to do that until we've made some  
8 decisions?

9 MR. ZAVITSANOS: Yes.

10 THE COURT: Okay. Good.

11 MR. ZAVITSANOS: Is that acceptable --

12 THE COURT: Yeah.

13 MR. ZAVITSANOS: -- what I requested, Your Honor?

14 THE COURT: Yes, absolutely.

15 MR. ZAVITSANOS: Okay. Thank you, Your Honor.

16 THE COURT: The marshal and I have a code, so I'm just --

17 MR. LEYENDECKER: Your Honor, is there a list of the new  
18 ones coming in?

19 THE COURT: When he picks them up he'll get the list.

20 THE MARSHAL: All rise for the jury.

21 [Prospective jurors in at 9:33 a.m.]

22 THE COURT: Thank you. Please be seated. Good morning,  
23 everyone.

24 GROUP RESPONSE: Good morning.

25 THE COURT: And welcome to Tuesday. So Mr. Nesci, did

1 you talk to the boss?

2 PROSPECTIVE JUROR 593: I did talk to the boss. She said,  
3 no, but I'm telling you if I'm requested I'll be here.

4 THE COURT: Thank you for your willingness to serve your  
5 community.

6 PROSPECTIVE JUROR 593: You're welcome.

7 THE COURT: Okay. So in consultation with lawyers this  
8 morning I'm going to ask two people to stand, Martinez, 719 and  
9 Villezcas, 488. We are going to thank you for being willing to serve your  
10 community and showing up for jury duty two days, without being  
11 selected, but we think that this case -- there might be a better case out  
12 there for you than this one. Please don't be offended, but you won't be  
13 selected for the jury, but thank you, and you are now excused.

14 PROSPECTIVE JUROR 719: Thank you.

15 THE COURT: So, Marshal Allen, let's reorder.

16 THE MARSHAL: Yes, ma'am.

17 [Pause]

18 MR. BLALACK: Excuse me, Your Honor. Can we approach  
19 for one second?

20 THE COURT: Of course.

21 [Sidebar at 9:35 a.m., ending at 9:36 a.m., not transcribed]

22 THE COURT: Can you do a roll call of the jurors?

23 THE CLERK: Okay. Samantha Robinson?

24 PROSPECTIVE JUROR 004: Here.

25 THE CLERK: Cristeta Wood?

1 PROSPECTIVE JUROR 034: Here.

2 THE CLERK: Nerissa Gonzaga?

3 PROSPECTIVE JUROR 074: Here.

4 THE CLERK: Cindy Springberg?

5 PROSPECTIVE JUROR 141: Here.

6 THE CLERK: Jacob Harrison?

7 PROSPECTIVE JUROR 210: Here.

8 THE CLERK: Katelyn Landau?

9 THE COURT: Okay. Ms. Landau didn't check in, or -- sorry,  
10 we just have to have a short delay. Jury service, this is why it takes four  
11 days, instead of like on TV, in an hour. So we're going to check with  
12 Landau. I have a cell phone number for her.

13 [Pause]

14 THE COURT: This would be a good time for a stretch break,  
15 if you want one. Sorry, guys.

16 [Pause]

17 THE COURT: So there's no response to the cell phone.  
18 Plaintiff, your response what you propose we should do at this time?

19 MR. ZAVITSANOS: I'm sorry, Your Honor. I did not hear  
20 you.

21 THE COURT: There was no response from the member of  
22 the venire who did not show up today. Do you have a recommendation  
23 of what you want the Court to do; I'll ask both sides.

24 MR. ZAVITSANOS: May I have 30 seconds, Your Honor?

25 THE COURT: You may.



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[Counsel confer]

THE MARSHAL: She's here, Your Honor.

THE COURT: Oh, okay.

MR. ZAVITSANOS: Your Honor, so can we approach again?

THE COURT: You may. The juror just did walk into the  
courtroom.

[Sidebar at 9:40 a.m., ending at 9:40 a.m., not transcribed]

MR. LUNDVALL: And that is that we finish the roll call.

THE COURT: Very good. Thank you. And, Defense, did you  
want to weigh in?

MR. ROBERTS: No objection, Your Honor.

THE COURT: Good enough.

MR. ROBERTS: Thank you. It's always helpful.

THE CLERK: Katelyn Landau.

THE COURT: Here? Please, audible?

PROSPECTIVE JUROR 283: Yes.

THE CLERK: Brenda Santoyo?

PROSPECTIVE JUROR 401: Here.

THE CLERK: Stephen Keith?

PROSPECTIVE JUROR 404: Here.

THE CLERK: Miguel Recto?

PROSPECTIVE JUROR 441: Here.

THE CLERK: Zerrick Walker?

PROSPECTIVE JUROR 450: Here.

THE CLERK: Steve Zabinski?

1 PROSPECTIVE JUROR 494: Here.

2 THE CLERK: Linda Friedrich?

3 PROSPECTIVE JUROR 522: Here.

4 THE CLERK: Randy Meyer?

5 PROSPECTIVE JUROR 532: Here.

6 THE CLERK: Gerardo Ordaz?

7 PROSPECTIVE JUROR 544: Here.

8 THE CLERK: Albert Smith?

9 PROSPECTIVE JUROR 555: Here.

10 THE CLERK: Ronald Rucker?

11 PROSPECTIVE JUROR 564: Here.

12 THE CLERK: Joshua Seid?

13 PROSPECTIVE JUROR 569: Here. [Si-ed].

14 THE CLERK: Seid, thank you. Melissa Neyman?

15 PROSPECTIVE JUROR 590: Here.

16 THE CLERK: Thomas Nesci?

17 PROSPECTIVE JUROR 593: Present.

18 THE CLERK: Thank you.

19 PROSPECTIVE JUROR 593: You're welcome.

20 THE CLERK: And Blanca Salvatierra.

21 PROSPECTIVE JUROR 729: Here.

22 THE CLERK: Thank you.

23 THE COURT: So will you please come take a seat down here.

24 [Pause]

25 THE COURT: Is there -- do the parties --

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1 MR. BLALACK: We have an empty seat, Your Honor. And I  
2 don't know if that was empty at the start of the day or if we're missing  
3 someone.

4 THE COURT: Well, we did excuse two people. We excused  
5 two people.

6 THE COURT: Okay. Counsel for the Plaintiff, counsel for the  
7 Defense, are we ready to proceed?

8 MR. ZAVITSANOS: For the Plaintiff, Your Honor, yes, we are.

9 MR. ROBERTS: For the Defense, yes, Your Honor.

10 THE COURT: All right. So we're going to go out of order a  
11 little bit, to try to save you time. Mr. Roberts, you may now inquire of  
12 several of the members of the venire.

13 MR. ROBERTS: Thank you, Your Honor. Good morning.

14 GROUP RESPONSE: Good morning.

15 MR. ROBERTS: Again, I'm Lee Roberts and I represent the  
16 Defendants, and I just have a few follow-up questions to ask some of the  
17 members of the potential panel about the burden of proof, and the  
18 preponderance of the evidence question. And before I ask the individual  
19 questions, I just want to preview a little bit, and reinforce some of the  
20 things Mr. Zavitsanos said, and that is, it's perfectly natural to have  
21 opinions about the way things should be, beliefs about what we think is  
22 right and wrong.

23 And we want to know that, today, we want to know your  
24 opinions, but once you're sworn, we also need to know whether those  
25 opinions are so strong that you're not going to be able to set them aside,

1 and follow the law given to you by the Court when you're deciding the  
2 case.

3 So the preponderance of the evidence, as Mr. Zavitsanos  
4 said, as the lawyers we can't tell you what the instructions from the  
5 Court are going to be. She hasn't given those instructions yet. She's  
6 going to give them to you after you're sworn and hear the evidence. But  
7 we can ask you just about, you know, if you look at it this way, then if  
8 you think you could follow it.

9 So I want you all to try to start fresh with this preponderance  
10 issue and assume that the Court may not say anything about feathers,  
11 may not say anything about coin flips. May not say anything about 51  
12 percent. But instead, the Court says something like this.

13 That a preponderance of the evidence is satisfied when it's  
14 enough evidence, when considered and weighed against the evidence  
15 opposed to it, that has more convincing force and produces in your mind  
16 a belief that what is sought to be proved is more than likely true than not  
17 true. Okay. It's enough evidence that produces in your mind a belief  
18 that what is sought to be proved is more likely true than not true.

19 Now, when you look at it that way some folks say that yeah,  
20 10 million's a lot of money But if it produces in your mind a belief it's  
21 more than likely owed than not owed, would it be fair to send the  
22 plaintiffs home with nothing?

23 What do you think? Juror number 4, Ms. Robinson. What do  
24 you think? If you look at it that way and the evidence was sufficient to  
25 form a belief in your mind it was more than likely true that they were

1 owed 10 million, would it be fair to send them home with nothing?

2 JUROR 004: 004. So your question to be honest, it would  
3 not be fair to send them home with nothing if you had the, you know,  
4 proof, and the evidence to prove it.

5 MR. ROBERTS: So going back and if you think about a  
6 preponderance that way, do you think you could follow an instruction of  
7 the Court that was something like that? That it doesn't have to be clear  
8 and convincing, it doesn't have to be beyond a reasonable doubt, but  
9 that it produces in your mind a belief that it is more likely true than not  
10 true that they're owed \$10 million. Do you think you could follow that  
11 instruction and set aside your belief that more ought to be required?

12 PROSPECTIVE JUROR 004: Well, let's see. Because we don't  
13 really know the full dynamics of the case.

14 MR. ROBERTS: Yes.

15 PROSPECTIVE JUROR 004: -- Set aside my belief, That  
16 would be a hard one. That would -- I would probably be undecided,  
17 honestly.

18 MR. ROBERTS: So you can't give us an assurance that if it  
19 was enough evidence for you to believe that it was more likely true than  
20 not true, you can't give us an assurance that you would follow the law  
21 and award the money under that circumstance?

22 PROSPECTIVE JUROR 004: That would be correct, yes.

23 MR. ROBERTS: Okay. Thank you, Ms. Robinson. I  
24 appreciate it. Let's pass the mic to Mr. Harrison, right in front of you.  
25 And Mr. Harrison, I think you told us yesterday you would need more

1 than 51 percent.

2 PROSPECTIVE JUROR 210: Yes, sir.

3 MR. ZAVITSANOS: I'm sorry, Your Honor. Can we just get a  
4 number please? I don't mean to interrupt.

5 THE COURT: Oh sure. 210.

6 MR. ROBERTS: My fault.

7 MR. ZAVITSANOS: That's all right. Go ahead. Thank you.

8 MR. ROBERTS: So you need more than 51 percent, but let's  
9 assume 51 percent isn't in the instruction by the Court but, it's  
10 something more along the lines of what I just said. You were convinced  
11 that it was more likely true than not true, in your mind that they were  
12 owed money; could you award it?

13 PROSPECTIVE JUROR 210: I would need to be certain that  
14 they were -- I'd need the evidence to be clear and convincing. I need to  
15 be certain of my decision.

16 MR. ROBERTS: Okay. Thank you, sir. Let's pass the mic to  
17 Mr. Recto. Badge 441.

18 PROSPECTIVE JUROR 441: 441.

19 MR. ROBERTS: Do you know what my question, Mr. Recto,  
20 is?

21 PROSPECTIVE JUROR 441: Same question? Okay. So I  
22 would agree with, you know, the two behind me. AS far as that goes, it  
23 has to be very convincing considering the amount of money owed.

24 MR. ROBERTS: And I understand that. There are a lot of  
25 folks that say that. And you, like, those two would not be able to set that

1 belief aside and follow the instruction by the Court in terms of deciding  
2 this case?

3 PROSPECTIVE JUROR 441: As far as kind of what the first  
4 lady mentioned earlier, in regards -- it's hard to decide at the moment  
5 because again, you guys aren't presenting any evidence just yet. So, but  
6 for the time being, I am on the same page as they are.

7 MR. ROBERTS: Okay. Thank you, sir. And last, if we could  
8 pass the mic to Juror 544, Mr. Ordaz. Mr. Ordaz, tell me, what's your  
9 thinking this morning?

10 PROSPECTIVE JUROR 544: 544. Same thing, with them.  
11 Clear and convincing. Right now, you guys don't have any evidence for  
12 us or anything like that, so we would have to see all the evidence just to  
13 make sure, but my answer right now would be clear and convincing.

14 MR. ROBERTS: Okay. And that's your belief. Can you set  
15 aside that belief?

16 PROSPECTIVE JUROR 544: No, sir. It would have to be clear  
17 and convincing to make sure that it's right.

18 MR. ROBERTS: Okay. Thank you, sir. I appreciate it. That's  
19 all I have, Your Honor.

20 THE COURT: Good. Counsel, please approach.

21 [Sidebar at 9:52 a.m., ending at 9:52 a.m., not transcribed]

22 THE COURT: All right. So I'm going to call out four names,  
23 and please when I call your name, please stand. Robinson, Juror 004;  
24 Harrison, 210; Recto, 441; and Ordaz, 544.

25 We are going to thank you and excuse you from jury service.

1 I actually thought all of you could have been good jurors, and I actually  
2 think that you may have answered that question in a way to get out of  
3 jury duty, and I'm really disappointed. But I hope that if you get that  
4 chance, that you can find out how rewarding an experience it is. So at  
5 this point, you'll be thanked and excused from further service.

6 PROSPECTIVE JUROR 210: Thank you, Your Honor.

7 PROSPECTIVE JUROR 004: Thank you, Your Honor.

8 THE COURT: And Marshal, let's reorder again.

9 And what I'm going to suggest to the lawyers, is that we  
10 continue -- both sides, counsel. I'm going to suggest that we continue  
11 with this group and send the marshal out to get the new jurors.

12 MR. ROBERTS: That's fine, Judge.

13 MR. ZAVITSANOS: Whatever the Court's preference is, Your  
14 Honor.

15 THE COURT: Let's do that. Okay. So how many of you have  
16 not played musical chairs since grade school? Okay.

17 So Plaintiff, you may continue to inquire of the venire.

18 MR. ZAVITSANOS: Thank you, Your Honor. And may it  
19 please the Court. And Counsel. Thank you, Your Honor. Okay, good  
20 morning.

21 THE JURORS: Good morning.

22 MR. ZAVITSANOS: All right. So I'm going to continue with  
23 where I left off yesterday. I'm going to try not to be repetitive. However,  
24 when the new members of the panel come in, we are going to be  
25 repetitive, because we have to ask them the same questions, in fairness,



1 to both parties. So please bear with us. This is a very important part of  
2 the process, and again, if you end up on the jury, I really do believe and I  
3 think Mr. Roberts believes, you really will enjoy your service. It's -- this  
4 is a really interesting case.

5 Okay. So let me just -- I'm not going to be repetitive, but I  
6 want to backtrack for just two members of the panel here that gave some  
7 answers yesterday that I did not follow up on. And that's -- where's  
8 Juror Number 34? Good morning, ma'am.

9 PROSPECTIVE JUROR 034: Good morning.

10 MR. ZAVITSANOS: so yesterday, I think you said that you  
11 were leaning in favor of the Plaintiff. Did I understand that correctly?

12 PROSPECTIVE JUROR 034: No, I didn't say that I was leaning  
13 towards that. I said that I had good --

14 THE CLERK: Can we pass the microphone, please?

15 MR. ZAVITSANOS: OH, yes, I'm sorry. My apologies.

16 THE COURT: The marshal just went to get the new panel, so  
17 does anyone have the microphone? It's back there. Thanks, guys.

18 PROSPECTIVE JUROR 034: You want me to talk real loud?  
19 034.

20 MR. ZAVITSANOS: Okay. Thank you, ma'am. So please  
21 continue.

22 PROSPECTIVE JUROR 034: So I didn't say I was leaning  
23 either way. I -- when you were asking about if anyone had any  
24 experiences where they had to wait in an ER.

25 MR. ZAVITSANOS: Yes.

1 PROSPECTIVE JUROR 034: I just said that I didn't have that  
2 experience.

3 MR. ZAVITSANOS: Oh that's, right. You had the positive  
4 experience.

5 PROSPECTIVE JUROR 034: Yes. Exactly. Uh-huh.

6 MR. ZAVITSANOS: Okay. So let me ask this then. So you  
7 heard -- you got to meet Mr. Roberts a little bit, and you're going to hear  
8 a lot more from him probably tomorrow, maybe today. But if you end  
9 up on the jury, okay, is there anything that you've heard so far, and I  
10 haven't gone through all the topics yet, okay, but is there anything  
11 you've heard so far that would cause you to form a belief that would  
12 interfere with your ability to follow Her Honor's instructions to follow the  
13 preponderance standard, give them a fair shake, just like you would do  
14 us, and weigh the evidence fairly and evenly?

15 PROSPECTIVE JUROR 034: Yes, definitely. I'd be fair about  
16 that. I liken it to a white sheet of paper. If they give me the like -- the  
17 preponderance is the light gray, clear evidence would be charcoal and  
18 black for beyond a reasonable doubt. If either one of you fill in that light  
19 gray matter for me, then yes, I would be fair.

20 MR. ZAVITSANOS: Oh, okay. Fair enough. And just to be  
21 clear, in fairness to them, I mean, we have the burden of proof. Okay?  
22 So we've got to get the ball across the 50-yard line or 51-yard line. And I  
23 think I was clear yesterday that the 51 percent is not in the Court's  
24 charge. That's just the shorthand way that we refer to it it's more likely  
25 so than not so. Meaning, if it's even, which one is more likely so than

1 not so. It's lower than the clear and convincing. So you would be able  
2 to follow that instruction?

3 PROSPECTIVE JUROR 034: Definitely.

4 THE COURT: Okay. And nobody has a head start right now?

5 PROSPECTIVE JUROR 034: No.

6 MR. ZAVITSANOS: Okay. Thank you, ma'am. All right.

7 Now I want to -- 404. There you are -- okay. So yesterday, you  
8 mentioned, I think you said you had your part of the case against Blue  
9 Cross. Is that right?

10 PROSPECTIVE JUROR 404: Yeah, it's 404. It's a settlement.  
11 It never went to trial. It's a Blue Cross Blue Shield antitrust lawsuit well,  
12 that never went to trial. They settled out of court for \$2.67 billion. And  
13 so, the 10 million doesn't seem -- but yeah, that's - and I was not -- I was  
14 solicited for that, to participate.

15 MR. ZAVITSANOS: Okay.

16 PROSPECTIVE JUROR 404: And I filled out information and  
17 online and sent it.

18 MR. ZAVITSANOS: Okay. So let me just follow up on that a  
19 little bit. So as I understand it, this was a class action.

20 PROSPECTIVE JUROR 404: It was.

21 MR. ZAVITSANOS: Meaning that the people on whose  
22 behalf the suit was brought was a very wide net, right?

23 PROSPECTIVE JUROR 034: Correct.

24 MR. ZAVITSANOS: Okay. And then as part of that class  
25 action, the group bringing the case would select a representative to

1 speak for that class. Were you that representative?

2 PROSPECTIVE JUROR 034: No.

3 MR. ZAVITSANOS: Okay. You were just a beneficiary. You  
4 filled out a form, right?

5 PROSPECTIVE JUROR 034: Correct.

6 MR. ZAVITSANOS: Okay. All right. So is there anything  
7 about that experience that would cause you to lean one way or another  
8 right now, before you've heard any evidence?

9 PROSPECTIVE JUROR 034: No. Not -- when you isolate it,  
10 no. The case -- the only thought that I had when I received that  
11 information and was solicited was that we will pay 2.67 billion. You  
12 know, I mean, there's no way that company is going to, you know, pay  
13 out these settlements and there not be repercussions. That was my  
14 thought that I had, and basically that was it.

15 MR. ZAVITSANOS: So when you say we will pay, are you  
16 getting back to the issue about the increase in premiums I just  
17 mentioned?

18 PROSPECTIVE JUROR 034: Yes. I do think that there will be -  
19 - I don't know how else they're going to absorb something like that.

20 MR. ZAVITSANOS: Well --

21 PROSPECTIVE JUROR 034: I don't have to decide, and I don't  
22 really think that that has anything to do here.

23 MR. ZAVITSANOS: Well, okay. And I agree with you. It  
24 doesn't. Now, my question is, is that thought that you have -- is that  
25 going to cause you -- let me do this incrementally. Is that going to cause

1 you to hesitate or pause or be reluctant to evaluate the evidence for  
2 either side because --

3 PROSPECTIVE JUROR 404: No.

4 MR. ZAVITSANOS: -- because you had that thought before?  
5 Okay. Do you think you would be able to follow Her Honor's instructions  
6 if you ended up on the jury.

7 PROSPECTIVE JUROR 404: Yes. Yesterday I was uncertain  
8 about that, but today I feel like I wouldn't have an issue. You know, for  
9 me, I was saying that I live -- you know, I like things black and white.  
10 They're not always, but that's the way I like them. And I thought, when I  
11 went home last night, that the courts came up with this, you know. I  
12 mean these three levels were devised, and everybody agrees to them;  
13 the lawyers, the judge.

14 So I would have to, you know -- I think everybody-knows-  
15 best kind of thing. And if it's a preponderance and everybody agrees  
16 that that's what will determine the outcome of the case, then I'm okay  
17 with that.

18 MR. ZAVITSANOS: You're with me on that? Okay. Let me  
19 raise one other thing. There is some possibility that Blue Cross may  
20 come up as part of the narrative in the case. Now, again, I can't get into  
21 what's going on. Now what I will tell you is Blue Cross Blue Shield is not  
22 a party to this case. They're not making a claim in this case. They're not  
23 being sued in this case. And I don't believe either side is going to call  
24 any witnesses that work for or represent Blue Cross Blue Shield, but their  
25 name may come up because they are -- they're an insurance company in

1 this -- in this health insurance space. Okay?

2 All right. So -- and I wish -- I wish I could go into more, but I  
3 can't. So with that said, is there anything about that that would cause  
4 you to lean one way or another -- not hearing anything else -- and, again,  
5 I'm giving you just like a drop of water compared to the gallons you're  
6 going to get if you end up on the jury. Okay. Anything about that that  
7 would cause you to lean way or another?

8 PROSPECTIVE JUROR 404: The short answer's no. But I do  
9 have prejudice about insurance companies, that -- you know, when I was  
10 growing up, they said insurance companies owned the world. You  
11 know? All -- they have all the money. And, of course, I don't -- I don't  
12 think that necessarily is true now. But my experience with HPN and  
13 UnitedHealthcare has not been stellar, so -- but I don't know that I'm any  
14 different than most people in that particular situation. And, you know, I  
15 mean I think everybody's had their dealings with the medical experience  
16 on both sides.

17 MR. ZAVITSANOS: Yep.

18 PROSPECTIVE JUROR 404: And I think if you're going to  
19 weed us all out, you're going to have an empty box up here.

20 MR. ZAVITSANOS: So here's the question: He question is,  
21 it's not -- there's nothing wrong with having opinions outside of this  
22 courtroom, having experiences outside of this courtroom. I mean  
23 it's impossible not to have those, right, because we all live lives, we all  
24 have --

25 PROSPECTIVE JUROR 404: Exactly.

1 MR. ZAVITSANOS: -- health insurance, we all have made  
2 claims at various times. The question is whether what is your mind  
3 about UnitedHealthcare or Blue Cross, or anyone else for that matter, it  
4 is going to impede or interfere with your ability to be fair and impartial  
5 and give both sides fully attention, equal weight, and evaluate, and come  
6 to a decision based on the evidence? What do you think?

7 PROSPECTIVE JUROR 404: I think I can set it aside.

8 MR. ZAVITSANOS: Okay. Okay. Thank you, sir.

9 All right. Okay. Now -- all right. Now, I'm going to change  
10 topics. All right. One of the -- one of the claims in this case is -- there are  
11 several claims in this case. One of them is something called breach of an  
12 implied contract. Okay? Now, I don't want to get into a definition about  
13 that because I think the lawyers may have a little bit -- a slight  
14 disagreement. And at the end of the day, the only place where the  
15 correct definition is going to come from is from Her Honor. Okay? So  
16 I'm just letting you know that claim is there.

17 Now, here's the issue: How many people here think that in  
18 order to have a binding agreement, you must have a written, signed  
19 agreement regardless of the evidence, regardless of the circumstances;  
20 no handshake deals, no your word is your bond, no course of dealings;  
21 you have to have a signed deal in order for there to be a binding  
22 contract? Okay?

23 So let me start on the back row, the first row. Anybody in the  
24 back row believe that in order to have an enforceable agreement with  
25 someone, you have to have -- it's got to be in writing, signed by both

1 sides were all the terms are agreed? I'm getting blank stares here. I'm  
2 getting the 4 p.m. look here.

3 Okay. All right. How about the second row? All right. Yes,  
4 ma'am? And your juror number, please?

5 PROSPECTIVE JUROR 401: 401.

6 MR. ZAVITSANOS: Yep.

7 PROSPECTIVE JUROR 401: I think so. I mean to make  
8 anything legal, there has to be something --

9 MR. ZAVITSANOS: Okay.

10 PROSPECTIVE JUROR 401: -- signed.

11 MR. ZAVITSANOS: So let me -- let me refine my question a  
12 little bit. Okay? Let's say that the Court gives an instruction that  
13 recognizes that you can have an agreement that is not in writing as long  
14 as certain conditions are met. Okay? So it doesn't have to be in writing,  
15 but certain conditions have to be met. Are you with me so far?

16 PROSPECTIVE JUROR 401: Uh-huh.

17 MR. ZAVITSANOS: Okay. So the question is, if the Court  
18 gives that kind of instruction, is this the kind of thing where, in your  
19 mind, you're thinking, I can't -- I don't really care what the instruction  
20 says. In my mind -- okay -- if it's not signed by both sides were all the  
21 terms of laid out, I can't -- I can't do it. It I just can't do it? Even if the  
22 Court says you can.

23 PROSPECTIVE JUROR 401: I think I would be able to.

24 MR. ZAVITSANOS: Okay. You'd --

25 PROSPECTIVE JUROR 401: Or I --



1 MR. ZAVITSANOS: -- be able to follow the Court's  
2 instructions --

3 PROSPECTIVE JUROR 401: I --

4 MR. ZAVITSANOS: -- on that?

5 PROSPECTIVE JUROR 401: I think so. I think so.

6 MR. ZAVITSANOS: Yeah. Now, look, let me be clear. I'm  
7 not asking whether ideally you should have a written agreement. That  
8 may be what you're talking about: Okay? That's fine. And I think  
9 everybody agrees it would be better ideally where there's no dispute  
10 about what the issue is. But here, okay, we are claiming an implied  
11 contract. And there are certain elements that go into that.

12 If the Court gives an instruction on that claim and one of the  
13 elements is not that it is in writing where all the terms are agreed, could  
14 you follow that instruction?

15 PROSPECTIVE JUROR 401: I think so.

16 MR. ZAVITSANOS: Okay. All right. How about anybody else  
17 in the second row think regardless of what the Court says, if you're going  
18 to make a claim for any kind of contract type claim, breach of implied  
19 contract or otherwise, it has to be in writing, signed by both sides,  
20 everything agreed to? Okay.

21 Third row? Anybody in the third row? Okay.

22 Fourth row? Nobody in the fourth row. Okay.

23 All right. One second here. All right. Now -- okay.

24 Yesterday I said I would get back to this point, and we'll do that now.

25 And that is the issue of punitive damages. Okay? The people heard that

1 term before? Have you all heard of term, punitive damages? And  
2 you're -- would -- I think -- could we pass the mic down? And I'm picking  
3 on you because you shook your head more aggressively --

4 PROSPECTIVE JUROR 593: I --

5 MR. ZAVITSANOS: -- than everyone else.

6 PROSPECTIVE JUROR 593: I will never do that again.

7 MR. ZAVITSANOS: Okay.

8 PROSPECTIVE JUROR 593: 593.

9 MR. ZAVITSANOS: Yes, sir. Okay. So --

10 PROSPECTIVE JUROR 593: Of course I've heard of punitive  
11 damage.

12 MR. ZAVITSANOS: Tell me what you've heard about it.

13 PROSPECTIVE JUROR 593: Well, if there's a certain case and  
14 the case is decided in your favor, the state of Nevada has a clause where  
15 punitive damages are awarded to the victim.

16 MR. ZAVITSANOS: Okay. And what do you understand that  
17 punitive damages are for? What's the purpose of it?

18 PROSPECTIVE JUROR 593: Compensation for a person's --  
19 or the victim's damages.

20 MR. ZAVITSANOS: Okay. So let me -- since you got the  
21 mic --

22 PROSPECTIVE JUROR 593: Uh-huh.

23 MR. ZAVITSANOS: -- let me ask you a couple of follow-up  
24 questions. Let's say that the Court, if you end up on the jury, gives an  
25 instruction that punitive damages are not for compensation, in other

1 words, to make someone whole, but rather to punish and make an  
2 example of. Okay? So, in other words, this is separate and apart from  
3 the ten plus million dollars we talked about yesterday. Do you follow me  
4 so far?

5 PROSPECTIVE JUROR 593: Uh-huh.

6 MR. ZAVITSANOS: Okay. So if punitive damages are not to  
7 compensate but rather to punish and to make an example of, okay, and  
8 to deter conduct like this from others, if that was the case, do you have  
9 any feelings about whether you could or could not award punitive  
10 damages? And let me add one other thing to this. Okay. For the  
11 punitive damage claim, okay, because that is a different type of damage,  
12 I think the Court is going to give an instruction that we, the Plaintiffs,  
13 have to satisfy not a preponderance standard but a clear and convincing  
14 standard, which is below beyond a reasonable doubt.

15 PROSPECTIVE JUROR 593: Uh-huh.

16 MR. ZAVITSANOS: Okay. So my first -- I'm going to give  
17 you two questions. Let's see if you can weave them in both. Okay. The  
18 first question is, having heard that explanation, do you have a problem  
19 with punitive damages conceptually, and then, second, if you don't have  
20 a problem with punitive damages, could you award punitive damages if  
21 we satisfy the clear and convincing, but we don't get to beyond a  
22 reasonable doubt? Okay.

23 PROSPECTIVE JUROR 593: I do have not a problem with  
24 punitive damages. Whatever the Court instructs the guidelines, the  
25 standards to be, I could -- that's what I will make my decision on.

1 MR. ZAVITSANOS: Okay.

2 PROSPECTIVE JUROR 593: Whether it's preponderance or  
3 anything else. Whatever the standard is, regardless of my beliefs, I will  
4 stick to that standard.

5 MR. ZAVITSANOS: And just to be clear, because I don't want  
6 to be misunderstood --

7 PROSPECTIVE JUROR 593: Uh-huh.

8 MR. ZAVITSANOS: -- on this, I am not suggesting that the  
9 Court is going to instruct you that you should award punitive damages.  
10 The Court is not going to do that. Okay.

11 PROSPECTIVE JUROR 593: Correct.

12 MR. ZAVITSANOS: Right. So the Court is going to say that  
13 you may award punitive damages; and if you award punitive damages,  
14 you got to satisfy this clear and convincing standard. And it is not to  
15 compensate; it's to punish and make an example. Okay. Because you've  
16 not to meet certain elements, which you'll hear if you end up on the jury.  
17 Okay. And the punitive damage claim in this case that we're going to be  
18 asking for, it's a big --

19 PROSPECTIVE JUROR 593: Uh-huh.

20 MR. ZAVITSANOS: -- number. A big, big, big, big number.  
21 Way more than the 10 million. Way, way more than 10 million. Okay?  
22 Because we think that the conduct here was so egregious that it warrants  
23 that.

24 MR. ROBERTS: Objection, Your Honor, on Local Rule 770(d).

25 THE COURT: The objection is sustained. The Court will

1 disregard the last sentence.

2 MR. ZAVITSANOS: There will be a claim for punitive  
3 damages. And so if we meet that standard, do you have any kind of a  
4 conceptual problem?

5 PROSPECTIVE JUROR 593: No.

6 MR. ZAVITSANOS: Okay. All right.

7 PROSPECTIVE JUROR 593: Give me the standard, and I will  
8 judge per the standard.

9 MR. ZAVITSANOS: Okay. So I'm going to work back. So  
10 let's -- anybody else in the front row? You've all been very attentive in  
11 listening to what I'm saying here. Anybody have a problem with  
12 punitive damages, along the lines of what I've just said, in the front row?  
13 Anybody? Ma'am, how about you?

14 PROSPECTIVE JUROR 590: No.

15 MR. ZAVITSANOS: Okay. And, I'm sorry, what's your badge  
16 number?

17 PROSPECTIVE JUROR 590: 590.

18 MR. ZAVITSANOS: Okay. Thank you, ma'am. Okay.  
19 Second row. Anybody in the second row? All right. How about the third  
20 row, or the second row from the back? Can we pass the microphone  
21 back, please?

22 PROSPECTIVE JUROR 404: I have two questions.

23 MR. ZAVITSANOS: Yes, sir.

24 PROSPECTIVE JUROR 404: 404. Sorry. 404.

25 MR. ZAVITSANOS: Yes, sir.

1 PROSPECTIVE JUROR 404: Who determines the dollar  
2 amount? Is that left to the jury?

3 MR. ZAVITSANOS: Yes, sir. We can suggest a number, but  
4 it's completely up to the discretion of the jury.

5 PROSPECTIVE JUROR 404: And does the punitive damages  
6 always go to the Plaintiff?

7 MR. ZAVITSANOS: I cannot respond to that. And you're not  
8 going to be asked to decide where it goes. And, in fact, I'm ethically  
9 prohibited from discussing that. Okay.

10 PROSPECTIVE JUROR 404: Okay.

11 MR. ZAVITSANOS: All I can tell you is that -- that there will  
12 be a -- I think, I anticipate, there's going to be a question on the charge  
13 that you get from the Court that's going to lay out two questions, which  
14 is first, have we met this clear and convincing standard, okay -- there's  
15 some preliminary questions before that, okay, sort of conduct, state of  
16 mind, which I will not get into right now. It's based on a clear and  
17 convincing. And then there will be -- if we meet that, there will be a  
18 blank that the jury will decide how much, if any. It could be zero. Okay?  
19 You're not required to award. Are you with me?

20 PROSPECTIVE JUROR 404: [No audible response.]

21 MR. ZAVITSANOS: Okay. So my question is --

22 PROSPECTIVE JUROR 404: Well, I still have -- I have --

23 MR. ZAVITSANOS: Yes, sir.

24 PROSPECTIVE JUROR 404: -- one more question.

25 MR. ZAVITSANOS: Sure.

1 PROSPECTIVE JUROR 404: Is -- can I ask something about  
2 historically how that money has been distributed?

3 MR. ZAVITSANOS: No.

4 PROSPECTIVE JUROR 404: Okay. So what's your question?

5 MR. ZAVITSANOS: Okay. So my question is, just based on  
6 what you've heard so far, any hesitation, trepidation, anything impeding  
7 your ability to consider that if we met the standard and if we meet all of  
8 the elements?

9 PROSPECTIVE JUROR 404: Well -- God, that is so hard. All  
10 the -- you know, you don't have everything laid out in front of you, but  
11 yet you're asked to make a decision on it. I -- typically I can follow  
12 instructions. I'm --

13 MR. ZAVITSANOS: Okay.

14 PROSPECTIVE JUROR 404: -- smart enough to follow  
15 instructions. But I also have, you know, like my feelings about would the  
16 Plaintiff -- would the Plaintiff be deserving of a punitive damage? That  
17 would come up for me because -- are we going to have one person --  
18 let's take the case of -- if I can, of Blue Cross Blue Shield, that  
19 \$2.67 billion, if that was similar here and it was, you know, some  
20 outrageous amount and we're going to hand it to an individual to punish  
21 a company, I would have a terrible time with that. If the money was  
22 going to go to educate the public, you know, to charities or something  
23 where I thought I could -- I could live with that when I walk out of this  
24 room, then I don't think I would have an issue with it.

25 But just to hand somebody money to punish someone else,

1 you've already been, in my opinion, made whole if you're asking for  
2 10 million and that's your damages and that -- and you win, and you get  
3 the 10 million, I feel like you've been made whole. And to say that, no, I  
4 want a punish them and I want the money, that seems a little out of line  
5 to me.

6 MR. ZAVITSANOS: Okay. So let me say one thing in  
7 response to that very briefly and then follow up with a question, okay? If  
8 that's all right. So I believe that when you get the charge, if you end up  
9 on the jury, the only conduct that you will be asked to evaluate is the  
10 Defendant's conduct.

11 PROSPECTIVE JUROR 404: Right.

12 MR. ZAVITSANOS: Okay. Assuming we meet these  
13 elements. Okay. And there's not going to be a question about where the  
14 money ultimately goes. I don't believe that's going to be in the charge.  
15 Okay. All right.

16 Now, my question is -- and, you know, this is -- this is always  
17 hard because we've got a chicken and egg thing because you haven't  
18 heard the basis for justification for this. And I can't really get into that.  
19 Okay. I've got to stay in my lane here.

20 So the question is -- I mean you just described some  
21 discomfort that you have. So if we met the elements, we checked off all  
22 the boxes, we met the clear and convincing and you got to that question  
23 about how much, is this a situation where you're going to be thinking,  
24 okay, it has to be zero because of beliefs and values I have outside of this  
25 lawsuit?



1 PROSPECTIVE JUROR 404: No. I don't -- no.

2 MR. ZAVITSANOS: Okay.

3 PROSPECTIVE JUROR 404: Zero? No.

4 MR. ZAVITSANOS: Okay. All right. Thank you. Sir.

5 Okay. Anybody else in the second row.

6 PROSPECTIVE JUROR 401: 401. Just a question. Well, if we  
7 are selected, will we ever know who the -- that money is going to?

8 MR. ZAVITSANOS: No.

9 PROSPECTIVE JUROR 401: We will not. Okay.

10 MR. ZAVITSANOS: It's -- it is not going to be -- so here's the  
11 thing, right, there is --

12 MR. ROBERTS: Your Honor, may we approach?

13 THE COURT: You may.

14 MR. ROBERTS: Thank you.

15 [Sidebar at 10:23 a.m., ending at 10:25 a.m., not transcribed]

16 MR. ZAVITSANOS: Sorry, Judge. Sorry, Your Honor.

17 THE COURT: All right. Please proceed.

18 MR. ZAVITSANOS: Okay. I'm sorry, ma'am. Were we  
19 finished talking or did you have a question?

20 PROSPECTIVE JUROR 401: I just asked that -- if we were  
21 ever going to know who the money was going to, and you said no.

22 MR. ZAVITSANOS: So, yes. I think the answer is no, but I'm  
23 going to move on. Do you have any other questions beyond that?

24 PROSPECTIVE JUROR 401: No.

25 MR. ZAVITSANOS: Okay. Anybody else in the back row?

1 Okay. May I continue?

2 THE COURT: Please.

3 MR. ZAVITSANOS: Okay. All right. Let me continue. Okay.

4 How many -- and by the way, if at any point I ask a question or Mr.

5 Roberts asks a question that you would rather address privately with Her

6 Honor, with the lawyers present and without the rest of the panel

7 hearing it, just let us know that you'd rather discuss that privately, okay?

8 We don't -- our intent is not to embarrass anyone, but we're just trying to  
9 get your opinions on things, okay?

10 All right. So here's the next topic area that I have and that is  
11 how many folks here are either on Medicare or Medicaid? Okay. So let's  
12 start in the first row in the back. Anyone on Medicare or Medicaid? Can  
13 we pass the microphone back?

14 PROSPECTIVE JUROR 034: 034. I'm on Medicare.

15 MR. ZAVITSANOS: Medicare. Okay. And -- all right. And  
16 how long have you been on Medicare, ma'am?

17 PROSPECTIVE JUROR 034: Five years.

18 MR. ZAVITSANOS: Okay. Do you have any opinions about  
19 Medicare? Any concerns about it?

20 PROSPECTIVE JUROR 034: Again, so far I've had really  
21 positive experiences. I don't know if I'm the exception, but I've had  
22 really good experiences --

23 MR. ZAVITSANOS: Okay.

24 PROSPECTIVE JUROR 034: -- with Medicare and the benefits  
25 that I receive.

1 MR. ZAVITSANOS: Okay. Thank you. Okay. Anybody else  
2 in the back row? Okay. How about the second row? Anybody on  
3 Medicare or Medicaid?

4 PROSPECTIVE JUROR 404: 404. I start Medicare November  
5 1st.

6 MR. ZAVITSANOS: Okay. And you're not on it now?

7 PROSPECTIVE JUROR 404: I am not on it now.

8 MR. ZAVITSANOS: Okay. Anyone else, Medicare or  
9 Medicaid? Okay. Let's go to the third row. Yes, sir.

10 PROSPECTIVE JUROR 555: Albert Smith, 555. I signed up  
11 for Medicare, but I'm not collecting it, because I'm insured by my  
12 company I'm working for.

13 MR. ZAVITSANOS: Okay. So you're still -- you still have  
14 private insurance?

15 PROSPECTIVE JUROR 555: Correct.

16 MR. ZAVITSANOS: Okay. Okay. Thank you, sir.

17 PROSPECTIVE JUROR 522: 522. Medicare three years.

18 MR. ZAVITSANOS: Okay. Any opinions, thoughts about  
19 Medicare or the Medicare system? Okay. Okay. How about in the first  
20 row? Medicare or Medicaid. Okay. Thank you very much. Okay. Next  
21 topic. Has anyone, either yourself, a family member or a close friend of  
22 yours ever worked for or with an insurance company? And I'm using  
23 that net as broadly as possible, whether you handled claims, you did  
24 appraisals. And it doesn't just have to be health insurance. Any kind of  
25 insurance. Okay. I see somebody nodding their head. Okay. We got

1 two people. So let's start in the back and we're going to work our way  
2 up. Yes, sir? Juror number?

3 PROSPECTIVE JUROR 404: 4-0 --

4 MR. ZAVITSANOS: Anybody -- hold on. Anybody in the  
5 back row? Okay.

6 PROSPECTIVE JUROR 404: I don't know -- I worked for an  
7 insurance defense firm.

8 MR. ZAVITSANOS: Okay. That's a law firm that typically  
9 defends claims, like personal injury-type claims and things of that sort?

10 PROSPECTIVE JUROR 141: Yes.

11 MR. ZAVITSANOS: Okay. Working with lawyers?

12 PROSPECTIVE JUROR 141: Yes.

13 MR. ZAVITSANOS: Okay. And what firm was that in?

14 PROSPECTIVE JUROR 141: At the time, it was Baron, Bavone  
15 and Pruitt [phonetic].

16 MR. ZAVITSANOS: Okay. And I would imagine that the folks  
17 that paid most of the bills for that law firm where insurance companies?

18 PROSPECTIVE JUROR 141: Correct.

19 MR. ZAVITSANOS: Okay. And did you -- what was your role  
20 with them?

21 PROSPECTIVE JUROR 141: Paralegal.

22 MR. ZAVITSANOS: Okay. Did you work with any of the  
23 adjustors or claims people?

24 PROSPECTIVE JUROR 141: Occasionally.

25 MR. ZAVITSANOS: Okay. And did you develop any kind of

1 friendships professionally --

2 PROSPECTIVE JUROR 141: Not long --

3 MR. ZAVITSANOS: -- long term --

4 PROSPECTIVE JUROR 141: -- not long-lasting, no.

5 MR. ZAVITSANOS: Okay. Anything about that that causes  
6 you to maybe be skeptical of people that bring claims against insurance  
7 companies, here in this type of a case?

8 PROSPECTIVE JUROR 141: No.

9 MR. ZAVITSANOS: Okay. All right. Thank you, ma'am. All  
10 right. How about -- all right. Now let's go to the second row. Number  
11 please?

12 PROSPECTIVE JUROR 404: 404. I just handled the insurance  
13 claims for Nextel Phone Company. That's basically if you dropped your  
14 phone in a pool, I took care of it.

15 MR. ZAVITSANOS: Oh, you're the guy?

16 PROSPECTIVE JUROR 404: I'm the guy.

17 MR. ZAVITSANOS: Okay. So let me make sure I understand.  
18 So you process claims for your company with an insurance carrier?

19 PROSPECTIVE JUROR 404: Yes.

20 MR. ZAVITSANOS: So you're kind of the --

21 PROSPECTIVE JUROR 404: Middle guy.

22 MR. ZAVITSANOS: -- the intermediary between the  
23 customer and the ultimate insurer?

24 PROSPECTIVE JUROR 404: Right.

25 MR. ZAVITSANOS: Is that right?

1 PROSPECTIVE JUROR 404: Yes.

2 MR. ZAVITSANOS: Okay. And so is it just property claims  
3 that you do?

4 PROSPECTIVE JUROR 404: Well, at the time, I was -- I  
5 handled the insurance, but I also handled retention, so if somebody  
6 called up and said my child -- my phone bill's \$600. I found out my kid  
7 talked on the phone overnight, you know, or something like that, I  
8 handled those kinds of disputes as well.

9 MR. ZAVITSANOS: Okay. Are you still doing that?

10 PROSPECTIVE JUROR 404: No. That was many years ago.

11 MR. ZAVITSANOS: I see. Are you doing -- what do you do  
12 now, sir?

13 PROSPECTIVE JUROR 404: I'm retired.

14 MR. ZAVITSANOS: Okay.

15 PROSPECTIVE JUROR 404: I've been an accountant most of  
16 my life and I was a realtor for 12 years in that time period.

17 MR. ZAVITSANOS: Got it. Got it. Okay. Anything about that  
18 experience being the middle man -- and I don't mean to --

19 PROSPECTIVE JUROR 404: Yeah.

20 MR. ZAVITSANOS: -- be denigrating in any way, shape or  
21 form, but anything about your role as the person who processed claims  
22 that would cause you to lean in favor of the insurance company here?

23 PROSPECTIVE JUROR 404: No.

24 MR. ZAVITSANOS: Or insurance companies?

25 PROSPECTIVE JUROR 404: Okay.

1 MR. ZAVITSANOS: Okay. All right. How about the second  
2 row? Okay. And I think somebody raised their hand in the first row.  
3 Was that you, ma'am? Can we pass that down, please?

4 PROSPECTIVE JUROR 590: Thank you. Hi. 590. My sister-  
5 in-law has been with Standard Insurance in Portland, Oregon for I want  
6 to say like 30 or 35 years.

7 MR. ZAVITSANOS: Okay. And forgive me. I'm not familiar  
8 with them. Is that a health insurance company? Is it property and  
9 casualty? Is it some specialized thing?

10 PROSPECTIVE JUROR 590: I don't know. I think it may have  
11 changed over the years. I think it's some kind of a group.

12 MR. ZAVITSANOS: Okay.

13 PROSPECTIVE JUROR 590: Passed that, I don't know. I just  
14 know she's been with them forever.

15 MR. ZAVITSANOS: Okay. And anything about that in any  
16 way, shape or form, stories she may share with you during Thanksgiving  
17 or Christmas or any of the holidays, where it causes you to maybe be  
18 skeptical of people --

19 PROSPECTIVE JUROR 590: No.

20 MR. ZAVITSANOS: -- bringing claims? Okay. Not one way  
21 or the other?

22 PROSPECTIVE JUROR 590: No.

23 MR. ZAVITSANOS: Okay. Thank you, ma'am. Your Honor,  
24 I'm going to change topics. I don't know if you'd like --

25 THE COURT: This is a good time for a re --

1 MR. ZAVITSANOS: Okay.

2 THE COURT: We'll take our morning recess. We have  
3 another panel of jurors who will come in after the recess. So let me give  
4 you an admonition.

5 Do not talk with each other or anyone else on any subject  
6 connected with the trial during the recess. Don't read, watch or listen to  
7 any report of commentary on the trial. Don't discuss this case with  
8 anyone connected to it by any medium of information, including without  
9 limitation, newspapers, television, internet, radio, cell phones or texting.

10 Don't conduct any research on your own. Don't speculate  
11 about what the case is going to be about. Don't speculate about the  
12 witnesses or the lawyers. Don't talk with anyone. Don't use any social  
13 media platform to say that you're in jury selection. After the trial's over,  
14 you can, but not now or not during.

15 So don't talk, text, tweet, Google or conduct any other type  
16 of research with regard to any issue, party, witness or attorney involved  
17 in the case. Most importantly, do not form or express any opinion on  
18 any subject connected with the trial, unless you're chosen for the jury  
19 and the matter is submitted to you.

20 Another great morning. Thanks for your attention. It is  
21 10:35. Let's be back at 10:50 in order.

22 [Prospective jurors out at 10:35 a.m.]

23 [Outside the presence of the prospective jurors]

24 THE COURT: Okay. The room is clear. Defendant, you made  
25 an objection during the voir dire. Let's put that on the record.



1 MR. ROBERTS: Yes, Your Honor. My objection was in  
2 connection with, I believe it was Mr. Keith, badge number 404. Mr.  
3 Zavitsanos was inquiring about punitive damages and the potential juror  
4 was asking him a question about whether -- where the money went,  
5 whether it went to the Plaintiff or whether it went to charity or someone  
6 else. And Mr. Zavitsanos indicated that the instructions would not  
7 indicate where that money went. The instructions haven't been settled.  
8 They'll come from the Court. And I thought that that comment was  
9 getting close, if not crossing the line, to responding to juror's inquiries,  
10 rather than inquiring of the jurors.

11 THE COURT: Is there a response for the record?

12 MR. ZAVITSANOS: Yes, Your Honor. Couple of things. First,  
13 I think I prefaced it by saying that I could not divulge where it goes.  
14 Second, I think this issue has been raised several times with the Court,  
15 most recently during the hearing on the motion in limine, where the  
16 Court indicated that the flow of money and where it goes is not going to  
17 be a relevant issue for the case. And then third, the -- as I understand it,  
18 the jury instructions do not indicate where punitive damages go. And I  
19 have not found any case or any type of authority under Nevada law that  
20 indicates where the money goes.

21 So I was -- I mean, I wish they had not asked me that  
22 question. I was trying to sidestep it as much as I could. And I certainly  
23 don't mean to put my thumb on the scale here. I just dealt with it the  
24 best that I could.

25 THE COURT: And you know, my comment out in the hall

1 was you know, you're right at the line, but I felt like you were kind of  
2 peeking over the line a little bit. So I asked you to dial it back and --

3 MR. ZAVITSANOS: Yes.

4 THE COURT: -- not far. You can go to the line.

5 MR. ZAVITSANOS: Yes, Your Honor.

6 THE COURT: Both sides can go to the line. I get it. But just  
7 as a caution.

8 MR. ZAVITSANOS: Yes, Your Honor.

9 THE COURT: Good. All right. Anything else to take up?  
10 Now, when -- at the next break, we're going to have more jurors. It's my  
11 intention to start at the beginning with them and try to weed them out  
12 for availability.

13 MR. ZAVITSANOS: Yes, Your Honor.

14 THE COURT: Any objection to that approach?

15 MR. ZAVITSANOS: No, Your Honor. And if I -- and you  
16 know, just again. I haven't conferred with counsel on this yet, but I  
17 expect he would agree to this. If we get people identified for cause, my  
18 request would be to do it just like you did this morning. If we get to a  
19 point where I would have no reason Mr. Roberts then probing --

20 THE COURT: Well, it -- certainly professional courtesy goes a  
21 long way and so if you all talk about something, it's your case. If you  
22 both agree --

23 MR. ZAVITSANOS: Yeah.

24 THE COURT: -- I will always --

25 MR. ZAVITSANOS: So let me visit with him.

1 THE COURT: I'll always say yes.

2 MR. ZAVITSANOS: Yeah.

3 THE COURT: All right. Have a good break. See you at 10:50.

4 MR. ZAVITSANOS: Thank you, Your Honor.

5 MR. ROBERTS: Thank you, Your Honor.

6 [Recess taken from 10:39 a.m. to 10:50 a.m.]

7 [Outside the presence of the prospective jurors]

8 THE COURT: Thank you. Please remain seated.

9 Now, when we bring in the jury, it is my intent to fill it up and  
10 start again. I can't see past this pillar, so we won't be able to put  
11 everybody in. 3A is overflow, and they're on BlueJeans.

12 MR. ROBERTS: Thank you, Your Honor.

13 MR. ZAVITSANOS: And, Your Honor, you are going to do  
14 the hardships first, just like --

15 THE COURT: Yeah.

16 MR. ROBERTS: Yes.

17 MR. ZAVITSANOS: Okay.

18 THE COURT: Yeah. But I have to start at the beginning of  
19 the script. So will you go stand back there so I can tell you who I can see  
20 and who I can't see? That's about as far as I can go.

21 THE MARSHAL: So right here, ma'am?

22 THE COURT: Yeah.

23 [Counsel confer]

24 THE MARSHAL: Is this good right here, Your Honor?

25 THE COURT: You can go one more.

1 THE MARSHAL: One more?

2 THE COURT: Right there. And did -- was anyone familiar  
3 with any of the names on the new panel?

4 MR. ROBERTS: Did we get the list?

5 MR. ZAVITSANOS: Yes, we did.

6 THE COURT: Take a minute. I'm going to --

7 MR. ZAVITSANOS: I have an extra one here, Joe.

8 THE COURT: We usually get that on the record, so.

9 [Counsel confer]

10 THE COURT: You never know. A number of our judges have  
11 served on jury duty in the last few years.

12 MR. ZAVITSANOS: Have you, Your Honor?

13 MR. ROBERTS: You actually made it?

14 THE COURT: No. I have not been called. But as a lawyer, I  
15 sat in the box one day for three days, a med mal case, to be perempted,  
16 so whatever.

17 MR. ROBERTS: Which justice was it that served? I can't  
18 remember now, but --

19 THE COURT: Gibbons.

20 MR. ROBERTS: Gibbons, that's right.

21 THE COURT: He's been doing trials. He's been helping us  
22 with the backlog.

23 MR. ROBERTS: Oh, that's great. That would be quite a draw  
24 for a senior judge.

25 THE COURT: So I did the math, and you guys held 16 of the

1 first 45?

2 MR. ZAVITSANOS: I'm sorry, Your Honor?

3 THE COURT: You held 16 of the first 45 is the way I am  
4 looking at it right now?

5 MR. ROBERTS: Yes, Your Honor.

6 MR. ZAVITSANOS: Yes.

7 [Counsel confer]

8 [Pause]

9 THE COURT: All right. He is about to bring in the new panel.  
10 Either of you know anyone --

11 THE MARSHAL: All rise for the jury, please.

12 THE COURT: -- on those lists?

13 MR. ROBERTS: No, Your Honor.

14 [Prospective jurors in at 10.55 a.m.]

15 THE COURT: Thank you, everyone. Please, be seated.

16 We are going to be bringing in new jurors, so I have to start  
17 at the beginning with them. Thank you for your patience. And by the  
18 end of every trial, he's the most beloved person in the room.

19 THE MARSHAL: Is that you?

20 THE COURT: Nope. It should -- it should be both lawyers,  
21 though, because they work so hard. Thank you.

22 [Pause]

23 THE COURT: I don't think it will take so long that I will ask  
24 you to continue with your voir dire.

25 MR. ZAVITSANOS: Would you like me to proceed, Your

1 Honor?

2 THE COURT: I think he is going to be lining them up. It  
3 should only be a couple of minutes. Thank you for your patience,  
4 everyone.

5 MR. ROBERTS: Thank you, Your Honor.

6 MR. ZAVITSANOS: Would you like me to proceed?

7 MR. ROBERTS: No. She's --

8 THE COURT: No, because I don't --

9 MR. ZAVITSANOS: Oh. Oh, I see. I see.

10 THE COURT: -- I don't, because I think I will have to interrupt  
11 you.

12 MR. ZAVITSANOS: Okay. I am sorry. I did not hear you. My  
13 apologies. Okay. Thank you, Your Honor.

14 THE COURT: So with the masks, it's really hard to hear. And  
15 in Courtroom 3A, there is a coffered ceiling, and the sound is even worse  
16 in there, so.

17 THE MARSHAL: All rise for the jury, please?

18 [Prospective jurors in at 10:59 a.m.]

19 [Pause]

20 THE MARSHAL: Your Honor, that is all the jurors.

21 THE COURT: That's great.

22 THE MARSHAL: Okay.

23 THE COURT: Thank you so much, Marshal.

24 THE MARSHAL: Yes, ma'am. I'll take the rest back.

25 THE COURT: Thank you. Thank you, everyone. Please be

1 seated.

2 So to those of you who joined us today, thank you for being  
3 willing to serve your community as a juror. We are maintaining COVID  
4 protocol. I am required to enforce an order of our chief judge that your  
5 mask must cover your nose and mouth at all times that you are in the  
6 courtroom.

7 Is everyone feeling well today? Is there anyone here who  
8 has a fever who just joined us today? If so, you can let the marshal know  
9 privately, and I could arrange for testing if you need it.

10 Now, so welcome to District Court. This is the trial in the  
11 case number A-792978, which is the case of Freemont Emergency  
12 Services (Mandavia), LTD, a Nevada professional corporation; Team  
13 Physicians of Nevada-Mandavia, P.C., a Nevada professional  
14 corporation; Crum, Stefanko and Jones, Ltd. d/b/a Ruby Crest Emergency  
15 Medicine, a Nevada professional corporation v. UnitedHealthcare  
16 Insurance Company, a Connecticut corporation, UnitedHealthcare  
17 Services, Inc., d/b/a UnitedHealthcare, a Minnesota corporation, UMR,  
18 Inc., d/b/a United Medical Resources, a Delaware corporation; Sierra  
19 Health and Life Insurance Company, Inc., a Nevada corporation, and  
20 Health Plan of Nevada, Inc., a Nevada corporation.

21 The record will reflect the presence of the new jurors. There  
22 are additional jurors in Courtroom 3A.

23 Are the parties ready to proceed? Plaintiff?

24 MR. ZAVITSANOS: Yes, Your Honor. We are.

25 THE COURT: Defendant?

1 MR. ROBERTS: Yes, Your Honor.

2 THE COURT: Okay. So good morning again. You have been  
3 summoned here to serve as prospective jurors in this case.

4 Before we begin, I need to introduce myself and the staff.  
5 My name is Nancy Allf. I am the judge assigned to this case. You've met  
6 Marshal Allen outside. Then we have Brynn who is our court recorder.  
7 And all phones have to be off because even if you're on vibrate, it can  
8 interfere with the recording. And the parties have spent a lot of time and  
9 money. They have chosen this place to resolve their dispute. We want  
10 to make sure that they get -- both have an equal good shot to have a  
11 good record and a good outcome.

12 So Brynn is the court recorder. And then we also have  
13 Nicole, who is our court clerk. She manages all of the evidence and  
14 keeps minutes of all of the matters. And they work really hard. So I try  
15 not to put them on the spot. So sometimes, my law clerk or  
16 administrative assistant may be in the courtroom, and don't be  
17 distracted by that.

18 But I am going to now ask the attorney for the Plaintiff and  
19 then the attorney for the Defendant to introduce themselves and their  
20 teams. And then I will ask if any of you are familiar with any of them.  
21 Plaintiff?

22 MR. ZAVITSANOS: Thank you, Your Honor.

23 Good morning everyone. To the new folks, my name is John  
24 Zavitsanos. That is a very different Greek name. If you end up on the  
25 jury, I promise you'll be able to pronounce it by the end. Let me



1 introduce the rest of our team. With us is Pat Lundvall. We have my law  
2 partner of 35 years, Joe Ahmad. Next to him, Kevin Leyendecker, also  
3 with our firm. Jason McManis. We have Colin Kennedy in back,  
4 Michelle Rivers who will be helping us with the electronic display of the  
5 exhibits, Michael Killingsworth, and Norm Revitz. And we represent the  
6 three Plaintiffs, the three groups of doctors, nurses, and nurse  
7 practitioners that have filed the case against the Defendants.

8 THE COURT: Okay. Is anyone in the room who has just  
9 joined us, familiar with any of those names or any of the people?

10 MR. ZAVITSANOS: Your Honor --

11 THE COURT: Did I cut you off?

12 MR. ZAVITSANOS: Yes. I think I deserve to put myself in the  
13 penalty box here. I forgot to introduce my client. Dr. Scott Scherr, who  
14 is here as a representative of the three entities.

15 THE COURT: If there is anyone who is familiar with any of  
16 those individuals, we start with our new people in the back. Then we  
17 start in the front row, and then we go from your right to left. So -- and I  
18 try to do it in order. And if you -- is there anyone in the front row from  
19 the right to left who is familiar? I think we had a hand in the second  
20 row? Yes. Please stand and give us your name and badge number?

21 PROSPECTIVE JUROR 116: Elizabeth Trambulo, 116.

22 THE COURT: Yes?

23 PROSPECTIVE JUROR 116: So I used to work at a law firm  
24 and Pat Lundvall is right there.

25 THE COURT: So you are familiar with Ms. Lundvall from

1 working at a law firm? And the fact that you have worked with her in the  
2 past, would that cause you to be more or less fair to either side?

3 PROSPECTIVE JUROR 116: No.

4 THE COURT: No. Thank you. And in the back row, we had  
5 one hand. Name and badge number, please?

6 PROSPECTIVE JUROR 198: Frederick Goll, 198. I am actually  
7 a physician, so I am familiar with both the physicians and the insurance  
8 companies.

9 THE COURT: Okay. Thank you both. Defendant, will you  
10 please do the same?

11 PROSPECTIVE JUROR 198: I'm sorry, Your Honor.

12 THE COURT: I just needed that on the record, thank you.  
13 We'll move on to let the Defendants introduce themselves.

14 MR. ROBERTS: Thank you very much, Your Honor.

15 My name is Lee Roberts, and I am with the Las Vegas Office  
16 of the law firm of Weinberg, Wheeler, Hudgins, Gunn & Dial. And I  
17 represent the Defendants in this matter, the people who have been sued.

18 Here at counsel table, my co-counsel Mr. Lee Blalack, my co-  
19 counsel Mr. Jeff Gordon. And then I don't know if you can all see them  
20 over here, but back in the corner are our law firms' paralegals, Audra  
21 Bonney and Dex Pagdilao. And they are the people in charge of keeping  
22 track of all of the exhibits and displaying the visuals for you.

23 My clients who are here today, I have two representatives.  
24 First, Mr. Ryan Wong who is here on behalf of UnitedHealthcare  
25 Insurance Company, UnitedHealthcare Services, and UMR. Right here is

1 Mr. Glen Stevens who is from Las Vegas. And he is here on behalf of  
2 Health Plan of Nevada and Sierra Health and Life. Thank you, Your  
3 Honor.

4 THE COURT: Thank you. For those of you who just joined us  
5 today, is anyone familiar with any of the parties, any of the lawyers? I  
6 see no one in -- how about in the front row, do I have any hands up?  
7 How about the middle row? And the back row? Doctor, are you familiar  
8 with any of the people introduced here?

9 PROSPECTIVE JUROR 198: The lawyers no, but the  
10 insurance companies, yes.

11 THE COURT: Very good. Does the fact that you are aware of  
12 the insurance company is a party cause you to be more or less favorable  
13 to either side?

14 PROSPECTIVE JUROR 198: It would depend on the evidence.

15 THE COURT RECORDER: I need the microphone down there,  
16 please.

17 PROSPECTIVE JUROR 198: We've had working with  
18 relationships for like 26 years with all the insurance companies. So it  
19 would depend on information presented.

20 THE COURT: I think what you said though, it depends on the  
21 evidence?

22 PROSPECTIVE JUROR 198: Correct.

23 THE COURT: Good enough. Thank you.

24 Okay. Now, Plaintiff, will you please list your witnesses and  
25 then I'll ask the Defendant to do the same. And we'll go through the

1 same exercise.

2 MR. ZAVITSANOS: Okay. Yes, Your Honor. Thank you,  
3 Your Honor. May I proceed?

4 THE COURT: Please.

5 MR. ZAVITSANOS: Okay. All right. So this is a pretty long  
6 list, and bear with me. So again, the three Plaintiffs, the entities that  
7 brought the claim, are Fremont Emergency Services. They're here in Las  
8 Vegas, in Clark County. And we're going to call them Fremont. The  
9 next one is Team Physicians of Nevada - Mandavia. They'll be referred  
10 to as Team Physicians. The third one sounds like a law firm, Crum,  
11 Stefanko, and Jones. They go by Ruby Crest Emergency Medicine. Now  
12 we will usually refer to all three of them as the healthcare providers.

13 And then here are the witnesses that we -- that may be  
14 called. This is not everybody that will be called, but these are the may  
15 be called. Kent Bristow, Rena Harris -- I'm going to stand over here.  
16 Thank you. Leif Murphy, Jennifer Shrader, Dr. Scott Scherr, Daniel  
17 Jones, Dr. Jody Crane, Mark Kline, Paul Bevilacqua, Paula Dearolf, Joe  
18 Carman with a C, Jason Heuberger, Miles Snowden, Robert -- Dr. Robert  
19 Frantz, Jennifer Behn. That's B-E-H-N. Eddie Ocasio, Rhone D'Errico,  
20 Brent Davis, Dan Collard, Lisa Zima, Brad Belvins, Wade Sears, David  
21 Greenberg, David Leathers. That completes our --

22 THE COURT: Thank you. Is anybody who joined us today  
23 familiar with any of those names? I see no one raising their hands. How  
24 about in the --

25 THE CLERK: In the back.

1 THE COURT: I'll get to you just in a second. Let's do the first  
2 row first. First row, anyone familiar with any of the witnesses? I see no  
3 hands. Second row. Third row. All right. We have one. Your name and  
4 badge number, please.

5 PROSPECTIVE JUROR 175: Ken Weisman, 175. I don't know  
6 any of the individual named witnesses, but I have done lien reduction  
7 negotiations with Fremont Emergency Services. It should not impact.

8 THE COURT: All right. And how are you currently employed,  
9 Mr. Weisman?

10 PROSPECTIVE JUROR 175: I'm sorry?

11 THE COURT: How are you currently employed?

12 PROSPECTIVE JUROR 175: I'm self-employed. Actually, self-  
13 employed and yes, both.

14 THE COURT: Okay. Very good. Thank you. And was there  
15 anyone else who knew any of the Plaintiff's witnesses?

16 Defendant, the same exercise, please.

17 MR. ROBERTS: Thank you, Your Honor.

18 And just as the Plaintiff said, these are all people that you  
19 may hear from. Not definitely, but you may hear from the following  
20 witnesses if you're selected for the jury. Tom Ralston, Michael Schill,  
21 Jacy Jefferson, Liz Lord, Scott Ziemer, Bruce Singleton, Leslie Hare,  
22 Shaun Schoener, Bruce Deal, Chuck Lanier, Susan Mohler, Susan  
23 Dominey, Sean Crandell, Mike Bandomer, Jacqueline Kienzle, Karen  
24 King, John Haben, Dan Rosenthal, Greg Dosedel, Alexander Mizenko,  
25 Angie Nierman, Rebecca Paradise, Dan Schumacher, Emma Johnson,

1 Charles Sims, Jason Schoonover, Jolene Bradley, Lisa Dealy, Melissa  
2 Dotson, Vince Zuccarello, Mark Edwards, Kevin Ericson, Marty Millerliele,  
3 David Yerich, Jean Stenzel, and Joseph Esparraguera. Thank you, Your  
4 Honor.

5 THE COURT: Okay. Is anyone familiar with any of those  
6 possible witnesses? I see no one in the jury box.

7 How about the front row? I see no hands up. How about the  
8 second row? How about the third row? Any familiarity with any of the  
9 potential witnesses? Okay. Very good. Thank you all.

10 MR. ROBERTS: Thank you, Your Honor.

11 THE COURT: Please swear -- will the new members of the  
12 jury -- at least of the panel, please stand and raise your right hand? For  
13 our new members only, please. Everyone, please.

14 [Prospective jurors were sworn]

15 THE COURT: Thank you, everyone. Okay. Let me give you  
16 just a little intro for everyone since you guys are joining us on day two.  
17 Phones have to be off. If you need letters for your employers, we can  
18 give you those. If you write down your name and the contact  
19 information, where we're supposed to send it, we will either email or fax  
20 letters for you to your employers.

21 Now normally, I would allow you to bring a bottle of water  
22 into the courtroom, but because I'm obligated to enforce this mask rule, I  
23 don't do that. And so, I'll ask everyone to keep your mask on the whole  
24 time that you're here.

25 Now a couple of rules. If you need a break for any reason,

1 for your personal comfort or you've got something you need to address,  
2 let us know. I'll always be happy to take a break. But I do have to say  
3 that when one of us takes a break all of us take a break. So if we've just  
4 recently had one, I'll ask you to wait as long as you can and still be  
5 comfortable and still be able to participate.

6 Now we're at the point in jury selection where we have  
7 already talked to other people for a whole day, but I'm going to get some  
8 questions with regard to your availability and whether it would be a  
9 hardship for you to serve on this jury. We expect this jury to go -- the  
10 trial will start Monday. We believe that jury selection will last through  
11 Thursday of this week. And trial starts Monday. We think the trial will  
12 go to the week -- the Tuesday of the week of Thanksgiving, which is  
13 November 23. So I do have a couple of questions before we get into  
14 qualifying questions though.

15 In order to serve as a juror, you must be a citizen of the  
16 United States. Is there anyone in the jury box who joined us today who  
17 is not a citizen? I see no hands up.

18 How about in the first row? I see no one with a hand up.  
19 Second row? Third row?

20 Next qualification is that if you have been convicted of a  
21 felony, you would need to have your civil rights restored. And if you  
22 want privacy for any answer that you give, ask for privacy, and I will  
23 make sure you get it. Is there anyone in the jury box to whom that might  
24 apply?

25 How about in the first row? I see no hands up. Second row?

1 No hands. And third row? No hands. Okay. Very good. Thank you.

2 Now is there anyone who speaks English as a second  
3 language and is having a hard time following me? In the row back here?  
4 Anyone? How about anyone in this row? How about in the back?

5 We -- everything has to be in order, because we have to  
6 make sure the parties have a good record. In the first row, we have -- do  
7 we have any hands up? Give me --

8 PROSPECTIVE JUROR 081: Thida Heng, 081.

9 THE COURT: Give me your -- 81.

10 THE CLERK: 081.

11 THE COURT: Let me get there. Okay. Ms. Heng, yes. What  
12 is your native language?

13 PROSPECTIVE JUROR 081: Cambodian.

14 THE COURT: And are you having trouble following?

15 PROSPECTIVE JUROR 081: Yes.

16 THE COURT: Okay. Do you work outside the home?

17 PROSPECTIVE JUROR 081: Yes, I work.

18 THE COURT: Do you speak English for work?

19 PROSPECTIVE JUROR 081: I speak just for living, but for --  
20 just [indiscernible]. I don't understand.

21 THE COURT: Okay. Are you familiar with medical terms --

22 PROSPECTIVE JUROR 081: Oh, no.

23 THE COURT: -- in English? Or are you -- do you know legal  
24 terms in English?

25 PROSPECTIVE JUROR 081: No.



1 THE COURT: Thank you for your candor. Thank you for  
2 being honest.

3 Was there anyone else in this row who speaks English as a  
4 second language and is having a hard time following? Okay. So in the  
5 third row, is there anyone who speaks English as a second language.

6 PROSPECTIVE JUROR 111: No, not so much.

7 THE COURT: Oh. May I have your name and badge number,  
8 please.

9 PROSPECTIVE JUROR 111: Jose Becerra

10 THE COURT: I'm sorry. I can't hear you.

11 THE MARSHAL: Speak into the mic, please.

12 THE COURT: 77?

13 THE CLERK: Jose Becerra. It should be 111.

14 PROSPECTIVE JUROR 111: 111.

15 THE COURT: Hang on. 111. Okay. Jose Cruz Becerra.

16 PROSPECTIVE JUROR 111: Yeah.

17 THE COURT: Okay. Mr. Becerra, what's your first language?

18 PROSPECTIVE JUROR 111: Espanol.

19 THE COURT: Okay. And do you work outside the home --  
20 trabajar?

21 PROSPECTIVE JUROR 111: [Indiscernible]

22 THE COURT: And do you speak English at work?

23 PROSPECTIVE JUROR 111: No.

24 THE COURT: Thank you. Is there anyone else in that row to  
25 whom that might apply? How about in the back row? Is there anyone

1 who speaks English as a second language?

2 PROSPECTIVE JUROR 162: Hannah Lin, 162.

3 THE COURT: 162. Thank you, Ms. Lin. What's your first  
4 language?

5 PROSPECTIVE JUROR 162: Chinese.

6 THE COURT: Do you work outside the home?

7 PROSPECTIVE JUROR 162: Yes.

8 THE COURT: And do you speak English for your work?

9 PROSPECTIVE JUROR 162: Yes, I do. I speak English for like  
10 the common sentence, but like I don't [indiscernible] the medical things  
11 and the legal things.

12 THE COURT: Do you know any legal terms in English?

13 PROSPECTIVE JUROR 162: I know a little bit, but not  
14 [indiscernible].

15 THE COURT: Okay. Thank you.

16 PROSPECTIVE JUROR 162: Thank you.

17 THE COURT: Is there anyone else in that last row in the back  
18 who speaks English as a second language, having a hard time following?  
19 I see no hands up. Counsel, please approach.

20 [Sidebar at 11:23 a.m., ending at 11:23 a.m., not transcribed]

21 THE COURT: So, Ms. Heng, Juror 81.

22 PROSPECTIVE JUROR 081: Yes.

23 THE COURT: Will you please stand?

24 Mr. Becerra, Juror 111, please stand.

25 And Juror 162, Ms. Lin, please stand.

1           We want to thank you and excuse you from serving on the  
2 jury. But you -- before they leave, I have to give my speech.

3           This is the greatest system of justice the world has ever seen.  
4 And it's because of people like you who came here today being willing to  
5 serve their community. The parties chose to dissolve their disputes in a  
6 courtroom by a jury. And the fact that you showed up today means that  
7 the system works. So thank you. You'll be excused from jury services.  
8 You may leave.

9           Okay. The next portion of our jury selection is to deal with  
10 availability or if it would be a hardship for any of you to serve. But I  
11 have to read something to preface first. We have a script. It's not  
12 because we don't know what we're doing, but we like to promote  
13 consistency with all of the trials. But ultimately, we will end up with 12  
14 jurors in this case. And we -- which includes alternate jurors. We don't  
15 tell you who the alternates are until the end of the trial, because we want  
16 everyone to focus on the evidence.

17           We're very concerned with having a jury that is -- people who  
18 are completely openminded, neutral objective, and unbiased in their  
19 thinking. To accomplish that, we'll see about your availability. After  
20 that, I ask some questions, and then the lawyers have the ability to ask  
21 questions.

22           We all have personal prejudices. We have biases based on  
23 family experience, education, political views, religious views, financial  
24 situations, and the fact that you might start with a certain bias or  
25 prejudice doesn't mean that you can't serve on the jury. But the

1 questions we are asked -- we are asking is to determine if you will listen  
2 fairly and equally to both sides and if you're willing to apply the law to  
3 the facts as you find them.

4 So when we ask the questions, don't -- please don't hide  
5 anything about your personal beliefs. And some of the questions  
6 directed to -- are directed to the whole group, and some are directed to  
7 individuals.

8 Now before we start that, I need to know if anyone in this  
9 row in the jury box would be unavailable to serve through Thursday for  
10 jury selection, starting trial Monday to the Tuesday of Thanksgiving  
11 weekend, November 23rd. All right. We'll take these in order, please. I  
12 have to go in order.

13 [Court and Clerk confer]

14 THE COURT: The microphone.

15 [Pause]

16 THE COURT: I believe it's Mr. Johnson.

17 PROSPECTIVE JUROR 005: Yes. Michael Johnson, 005.

18 THE COURT: Yes.

19 PROSPECTIVE JUROR 005: So I am self-employed. I have  
20 meetings scheduled out of town. My phone is off, so I can't look at my  
21 calendar, but November 4th, November 16th, and November 17th, in  
22 Northern Nevada.

23 THE COURT: Okay. And those are not easily rescheduled?

24 PROSPECTIVE JUROR 005: They are not.

25 THE COURT: And would you lose money on travel if you

1 can't go?

2 PROSPECTIVE JUROR 005: I wouldn't lose money on travel.  
3 I would lose money on not being able to do my job.

4 THE COURT: Okay. Thank you. Anyone else? We have to  
5 go in order. No, no, in order. We have to -- I have to be really careful.  
6 I'm not ignoring you. Yes.

7 PROSPECTIVE JUROR 026: Ethan Lewis. I'm a high school  
8 football coach. And we're in the middle --

9 THE CLERK: Badge number, please.

10 PROSPECTIVE JUROR 026: Oh, 026. I'm a high school  
11 coach, and we're getting ready for our season. We're also concluding  
12 our football season. And so, obviously, it's based on high school kids  
13 and all their stuff and their seasons. Practices would start 1:30 each day.  
14 And obviously, I won't be able to be there. And I play a predominant  
15 role as the head coach in those roles. So being able to lead my team at  
16 the end of the season would be, you know, beneficial for us.

17 THE COURT: How many coaches are on the staff?

18 PROSPECTIVE JUROR 026: There's three in basketball and  
19 there's six in football.

20 THE COURT: And you're the head coach for football?

21 PROSPECTIVE JUROR 026: Yeah.

22 THE COURT: Yeah.

23 PROSPECTIVE JUROR 026: Yes, ma'am.

24 THE COURT: Thank you. Our next person, please.

25 PROSPECTIVE JUROR 029: D'Artagnan Webb, badge

1 number 029. I came across?

2 THE COURT: Yeah, I can hear you.

3 PROSPECTIVE JUROR 029: All right. I'm a single income  
4 household. And I work graveyard. Like I just got off at 4:00 in the  
5 morning. So mentally, I'm not even here right now.

6 THE COURT: Thank you. Do you have any dependents?

7 PROSPECTIVE JUROR 029: Yes. I have five.

8 THE COURT: Okay. Thank you. Can you please pass the mic  
9 down?

10 PROSPECTIVE JUROR 038: Angelo Torres, Number 038. I  
11 work at a funeral home. I'm available.

12 THE COURT: So you would be available to serve?

13 PROSPECTIVE JUROR 038: Yes.

14 THE COURT: Thank you, sir. Thank you for being willing to  
15 serve. Okay. Is there anyone in order here who would not be available?

16 PROSPECTIVE JUROR 052: Yes, Your Honor. 052, Steven  
17 Childress. Yes. I have a very important doctor's appointment on  
18 Monday at 2:20 p.m. This is something that I had difficulty scheduling.  
19 It's -- like I said, it's really -- it's important to me. It's to do with tests that  
20 I've had.

21 THE COURT: If you need privacy, I'm happy to give you  
22 privacy.

23 PROSPECTIVE JUROR 052: Yeah. I -- yeah, please.

24 THE COURT: Counsel, please approach.

25 [Sidebar at 11:30 a.m., ending at 11:30 a.m., not transcribed]

1 THE COURT: So for those of you who've indicated that you  
2 won't be able to serve, we're going to take that up over the noon hour.

3 But I have an agreement from both sides, Mr. Childress, that  
4 you may be excused from the jury. So thank you for your -- being here  
5 and being willing to serve. We all hope everything goes well on  
6 Monday. So I'm not going to reorder anybody, but you're excused. You  
7 may leave. And then we have one other person in the front row. Yes.

8 PROSPECTIVE JUROR 053: Jeffrey Kennedy, 053. I'm the  
9 sole provider for my family, and I'm actually booked for the next two  
10 weeks. I don't have time to take off. It's the convention industry.

11 THE COURT: Okay. Thank you. And in our front row up  
12 here starting from the right to left. Yes.

13 PROSPECTIVE JUROR 055: Howard Aden, 055.

14 THE COURT: Yes, sir?

15 PROSPECTIVE JUROR 055: Let me get this straight. I bought  
16 a house out of state, and I need to be off this Thursday to transfer the  
17 funds, wire transfer and then Friday we're going to close. And my home  
18 here in Las -- north Las Vegas, I've sold. It's under contract, and it's  
19 supposed to be closed by the 20th of November.

20 THE COURT: We don't usually start until 9:30. Could you do  
21 the funds transfer before court? Because Friday --

22 PROSPECTIVE JUROR 055: I have to go to the -- I have to go  
23 to the bank, and we have an appointment. I don't know.

24 THE COURT: I'm going to ask over the noon hour if you can  
25 see if you can do that Thursday morning before court or over the lunch

1 hour. And Friday is a holiday. Friday is Nevada day.

2 PROSPECTIVE JUROR 055: This Friday?

3 THE COURT: Yeah.

4 PROSPECTIVE JUROR 055: Well, I'm doing a wire transfer  
5 over the phone. The place is -- the place I'm buying is in Tennessee.

6 THE COURT: All right. So check on -- check about your bank  
7 appointment for Thursday over the noon hour, and we'll revisit this.

8 PROSPECTIVE JUROR 055: Okay. And also, well my new  
9 home I have to be out by the 20th.

10 THE COURT: Thank you, sir.

11 PROSPECTIVE JUROR 055: Thank you.

12 THE COURT: So when are you physically moving to  
13 Tennessee?

14 PROSPECTIVE JUROR 055: As soon as we have to get out  
15 between now and the 20th.

16 THE COURT: Okay. Thank you. Our next person, please?

17 PROSPECTIVE JUROR 059: Samuel King, 059.

18 THE COURT: And --

19 PROSPECTIVE JUROR 059: My work schedule, you know, it's  
20 like --

21 THE COURT: I can't hear you. Can you put the mic --

22 PROSPECTIVE JUROR 059: My work schedule -- the impact  
23 would be, you know, just too much.

24 THE COURT: Where --

25 PROSPECTIVE JUROR 059: I just barely started working.



1 THE COURT: Where are you employed?

2 PROSPECTIVE JUROR 059: Alorica.

3 THE COURT: Where?

4 PROSPECTIVE JUROR 059: Alorica.

5 THE COURT: And what is that?

6 PROSPECTIVE JUROR 059: A pharmacy.

7 THE COURT: And what do you do, sir?

8 PROSPECTIVE JUROR 059: Customer service.

9 THE COURT: How many employees are there?

10 PROSPECTIVE JUROR 059: I'm not certain.

11 THE COURT: And your employer can't affect your  
12 employment for jury service.

13 PROSPECTIVE JUROR 059: Right.

14 THE COURT: And I'm more than happy -- I have letters up  
15 here --

16 PROSPECTIVE JUROR 059: It's just the money part. I just  
17 started working like eight months ago so it's like you know, every check  
18 is like -- I'm trying to catch up on my bills.

19 THE COURT: And --

20 PROSPECTIVE JUROR 059: And today is like, you know, it's a  
21 huge impact.

22 THE COURT: And do you have any dependents?

23 PROSPECTIVE JUROR 059: No, but, you know, I don't want  
24 to be homeless though.

25 THE COURT: Thank you. Is there anyone else in order who

1 would not be available?

2 PROSPECTIVE JUROR 099: 099.

3 THE COURT: Your name, please?

4 PROSPECTIVE JUROR 099: Erica Aguilar. I work at a salon,  
5 and I'm pretty much one of the main techs there, and they rely on me  
6 heavily. Today there's only three staff there, which doesn't leave them  
7 with a lot of availability. So they actually need me pretty much every  
8 day.

9 THE COURT: And what are your normal days off?

10 PROSPECTIVE JUROR 099: Sunday. I do every other  
11 Saturday. So it's either Saturday and Sunday or just Sundays.

12 THE COURT: And do you lose -- would you lose income if  
13 you don't go to work?

14 PROSPECTIVE JUROR 099: Yes, I would.

15 THE COURT: Do you have any dependents?

16 PROSPECTIVE JUROR 099: No.

17 THE COURT: No?

18 PROSPECTIVE JUROR 099: No.

19 THE COURT: Okay. Thanks, Ms. Aguilar.

20 PROSPECTIVE JUROR 099: Thank you.

21 THE COURT: Anyone else in this row? Okay. Let's go to the  
22 second row, please, starting from your right to left.

23 PROSPECTIVE JUROR 108: Hi, my name is Patrice Detken,  
24 badge number 108.

25 THE COURT: Hang on. 108?

1 PROSPECTIVE JUROR 108: 108.

2 THE COURT: I'm getting there. Yes. Mr. Detken.

3 PROSPECTIVE JUROR 108: Yes, I'm a police Chaplin as well  
4 as a pastor. Next week I have a memorial service on Tuesday and a  
5 wedding on Thursday.

6 THE COURT: What time?

7 PROSPECTIVE JUROR 108: At noon for the one on Tuesday.  
8 And at four or I think, three o'clock, the one on Thursday.

9 THE COURT: Thank you, Mr. Detken. Anyone else in this  
10 row in order?

11 PROSPECTIVE JUROR 150: Judy Schuler, 150. I have cancer  
12 doctor appointments. I have one this coming Thursday and another one  
13 in November. I also work at a firm where I'm the main accounting  
14 person and in real estate and the funds come in around the first of the  
15 month that I have to take care of and book properly.

16 THE COURT: Thank you. Anyone else in that row? Let's go  
17 to the back row, please. Your name, please?

18 PROSPECTIVE JUROR 152: Good morning. Arlene Saucedo,  
19 152. Okay. I am an on-call employee, but my main priority is being a  
20 full-time mother. I have two children at home. One goes to school. My  
21 son did have to miss school today, because I wasn't sure what time I was  
22 going to be out.

23 THE COURT: Thank you, Ms. Saucedo. Okay. Let's go to the  
24 back row, please. And let's in order from your right to left, please.

25 PROSPECTIVE JUROR 161: Yes. My name is John Michalik,

1 616. I work the back shift at --

2 THE COURT: Hang on a second. I have to find you. Oh, I got  
3 you. 161.

4 THE CLERK: 161.

5 PROSPECTIVE JUROR 161: Yeah, 161. I'm sorry.

6 THE COURT: Please.

7 PROSPECTIVE JUROR 161: Yeah, I work the back shift --

8 swing shift at Treasure Island. The hours are basically from one to ten.

9 THE COURT: Right.

10 PROSPECTIVE JUROR 161: I have no dependents, but I don't  
11 know if that --

12 THE COURT: I believe the casinos pay their employees even  
13 though they serve on jury duty.

14 PROSPECTIVE JUROR 161: Okay.

15 THE COURT: So would you be able to check on that over the  
16 noon hour?

17 PROSPECTIVE JUROR 161: Yeah. Yeah, I can give them a  
18 call.

19 THE COURT: Thank you.

20 PROSPECTIVE JUROR 161: Thank you.

21 THE COURT: Anyone else in order?

22 PROSPECTIVE JUROR 164: Amanda Hoyer, juror number  
23 164.

24 THE COURT: Yes?

25 PROSPECTIVE JUROR 164: I'm committed to a house sitting

1 job from the 7th through the 14th. I also have doctor's appointments on  
2 the 5th and the 26th that were scheduled six months ago. And I need to  
3 complete them before the end of the year due to my health insurance  
4 requirements.

5 THE COURT: And where is the house sitting?

6 PROSPECTIVE JUROR 164: Where?

7 THE COURT: Uh-huh.

8 PROSPECTIVE JUROR 164: Here in Las Vegas up in  
9 Centennial Hills.

10 THE COURT: Okay. And would it preclude -- why would jury  
11 service preclude you from doing that?

12 PROSPECTIVE JUROR 164: Because I'm taking care of some  
13 medical needy pets that require injections multiple times a day.

14 THE COURT: Okay. And then you -- I think we're dark on the  
15 5th. But the appointment you have, is it November 26th?

16 PROSPECTIVE JUROR 164: I want to say it's the 26th. Yeah,  
17 my phone is off so I can't check my calendar right now.

18 THE COURT: So why don't you check that over the noon  
19 hour and get back to us.

20 PROSPECTIVE JUROR 164: Okay.

21 PROSPECTIVE JUROR 170: 170. Carole Glass-Beil. I'm 78. I  
22 live up in Mesquite and the way to drive in the dark -- I cannot drive  
23 nighttime driving. I'd have to have somebody bring me in and bring me  
24 home.

25 THE COURT: So I believe you're age exempt from jury

1 service. Did anyone explain that to you?

2 PROSPECTIVE JUROR 164: Nobody -- no.

3 THE COURT: The fact that you came today is very  
4 impressive to me. Thank you. All right. Next person in order, please?

5 PROSPECTIVE JUROR 171: Joseph Dolan, 171. I am the sole  
6 runner for my company, EDS Electronics, Inc.

7 THE COURT: I -- you'll have to slow down. I couldn't hear  
8 that. I'm sorry.

9 PROSPECTIVE JUROR 171: I am the sole runner for our  
10 company, EDS Electronics, Inc. If I am not there construction workers  
11 won't be able to get parts on time and jobs will be postponed as well as  
12 our inspections in our service department.

13 THE COURT: Okay. All right. When you take a vacation,  
14 who backs you up?

15 PROSPECTIVE JUROR 171: Nobody. They dismiss out for a  
16 week. But I couldn't -- we take a month on those parts.

17 THE COURT: Can't the QE step in for you?

18 PROSPECTIVE JUROR 171: We are a small company. We  
19 don't have very many people.

20 THE COURT: All right. Are you the QE?

21 PROSPECTIVE JUROR 171: I don't know what that means,  
22 QE.

23 THE COURT: Qualified employee.

24 PROSPECTIVE JUROR 171: Yes, I do the qualified --

25 THE COURT: Under the license.

1 PROSPECTIVE JUROR 171: -- I'm the runner for the  
2 warehouse.

3 THE COURT: Okay. Thank you. Next, please.

4 PROSPECTIVE JUROR 175: Good morning, Your Honor. Ken  
5 Weissman, number 175.

6 THE COURT: Yes?

7 PROSPECTIVE JUROR 175: I'm a sole practitioner and my  
8 office can't basically be left unsupervised, unmanaged, no one  
9 answering the phones [indiscernible] COVID. And in addition, I have a  
10 couple of trials scheduled during the next month as a --

11 THE COURT: So what courts are your trials scheduled?  
12 Because I can see if they're going to go.

13 PROSPECTIVE JUROR 175: I'm sorry?

14 THE COURT: Where are your trials scheduled, because I  
15 can --

16 PROSPECTIVE JUROR 175: Through the short trial program  
17 here as a presiding judge.

18 THE COURT: All right. So when -- do you know when they're  
19 scheduled?

20 PROSPECTIVE JUROR 175: I'm sorry?

21 THE COURT: Do you know when they're scheduled?

22 PROSPECTIVE JUROR 175: I don't offhand. I don't have my  
23 calendar with me.

24 THE COURT: All right.

25 PROSPECTIVE JUROR 175: In addition, I'm an employee of

1 LAPD as a hearing officer, but I don't think there's anything coming up in  
2 the next month.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR 175: My doctor's appointments are  
5 not a problem; I can reschedule those.

6 THE COURT: Good enough. Thank you.

7 PROSPECTIVE JUROR 175: But leaving my office unattended  
8 for a month I can't do. Thank you.

9 THE COURT: Thank you.

10 PROSPECTIVE JUROR 198: Frederick Goll, 198. As I  
11 mentioned previously, I'm a physician, and I currently have a full  
12 schedule booked past the end of the trial, actually into December. So it  
13 would result in significant delay in those patients' care, surgery,  
14 otherwise.

15 THE COURT: Thank you, Doctor. Next? Is there anyone else  
16 in that row?

17 PROSPECTIVE JUROR 208: Yes, Rui Costa, 208.

18 THE COURT: Yeah.

19 PROSPECTIVE JUROR 208: Oh, you found me. Okay. I'm  
20 sorry. My wife just had surgery on Friday, so I'm taking care of her until  
21 she feels better and bringing the kids to school. Probably would be a  
22 little bit difficult.

23 THE COURT: And what's her expected recovery time?

24 PROSPECTIVE JUROR 208: Not sure. When -- she's home.  
25 So whenever she feels better, and I'm giving her the medication and



1 things like that.

2 THE COURT: Thank you. All right. A couple more questions  
3 about ability to serve as the jury -- oh, we have one more? Oh, I'm sorry.

4 PROSPECTIVE JUROR 209: Sarah Bonilla, 209. I would just  
5 be losing income being here, and I am a single mother of two with my  
6 own rent to pay.

7 THE COURT: Okay. And you work for Cashman Photo.  
8 What do you do there?

9 PROSPECTIVE JUROR 209: Customer service representative,  
10 accounting. I do multiple things there.

11 THE COURT: Okay. And do you make -- well, you would get  
12 paid as a juror but is your regular pay more than \$40 a day?

13 PROSPECTIVE JUROR 209: Yeah, a lot more.

14 THE COURT: Okay. Thank you. And then we -- for the  
15 lawyers, we still have overflow in 3A. I'm not going to go there just yet.  
16 But what I'm going to do is -- we're going to take a lunch hour now. It's  
17 11:45. I'll ask everybody to be back at 12:45. Come at 12:40 so you can  
18 line up in order. Those of you have things to do over the -- check up on  
19 your calendars and your schedules, please do that over the noon hour.  
20 And then the lawyers and I will be ready at 12:45.

21 Let me give you an admonition before we take our break. So  
22 -- and for the people that just joined us, if you're selected for the jury, we  
23 only want you to think about the evidence that you hear, and you see,  
24 and the testimony in the courtroom. So if we run into any of you in the  
25 hallway or in the elevator, we're not allowed to talk to you. We're not

1 being antisocial. It's just we're bound by a very strict code of ethics that  
2 we won't want anything we say or do outside the courtroom to influence  
3 you as a juror. So please understand that.

4 Now, during the recess, do not talk with each other or  
5 anyone else on any subject connected to the trial. Don't speculate about  
6 who the parties are or what the issues might be. Don't speculate about  
7 who the witnesses are or what their testimony might be. Don't speculate  
8 with regard to the lawyers and anything about the lawyers. Don't read,  
9 watch, or listen to any report of or commentary on this trial. Do not  
10 discuss it with anyone connected to this case by any medium of  
11 information, newspapers, radio, internet, cell phones, television.

12 Don't conduct any research on your own with regard to what  
13 the case might be. You can't consult dictionaries, use the internet or use  
14 reference materials. You can't do anything on social media with the fact  
15 you are even in jury selection. Don't talk, text, tweet, Google or conduct  
16 any other type of research with regard to any issues, party, witness, or  
17 attorney involved in the case. Most importantly, do not form or express  
18 any opinion on any subject connected to the case unless you're chosen  
19 for the jury and the jury deliberates.

20 Have a good lunch, everybody. See you at 12:45. Please be  
21 on time.

22 THE MARSHAL: All rise for the jury.

23 [Prospective jurors out at 11:45 a.m.]

24 [Outside the presence of the prospective jurors]

25 THE COURT: Okay. The room is clear --

1 THE MARSHAL: Your Honor, we still have a prospective  
2 juror.

3 THE COURT: Oh. I'm sorry. Sorry. Okay. So now the room  
4 is clear. Anything for the record?

5 MR. ZAVITSANOS: No, Your Honor.

6 THE COURT: Anything for the record?

7 MR. ROBERTS: No, Your Honor.

8 THE COURT: I'm going to suggest that you guys talk about  
9 whether you want to examine more thoroughly the individuals who  
10 indicated unavailability and be back at 12:40 so we can talk about it.

11 MR. ZAVITSANOS: Your Honor, may I ask, how many --  
12 approximately how many additional new members are in the other  
13 room?

14 THE COURT: I don't know. But --

15 MR. ZAVITSANOS: Ball park is it --

16 THE MARSHAL: 24.

17 MR. ZAVITSANOS: How many?

18 THE MARSHAL: 24.

19 MR. ZAVITSANOS: 24. Okay.

20 THE COURT: 24.

21 MR. ZAVITSANOS: That might influence -- and so -- okay.

22 Thank you.

23 THE COURT: Thanks, guys.

24 MR. ROBERTS: Thank you.

25 [Recess taken from 11:47 a.m. to 12:47 p.m.]

1 [Outside the presence of the prospective jurors]

2 THE COURT: All right. Court will come to order. Do you  
3 have everyone? I see.

4 MR. ROBERTS: Yeah, we're all here.

5 THE COURT: Great. Okay. Did the parties talk about jury  
6 selection over the break?

7 MR. ZAVITSANOS: Your Honor, we did not. I think I did see  
8 an email regarding, I think, the lady who was over 70.

9 THE COURT: Age exempt.

10 MR. ZAVITSANOS: Yeah. And I think we're both in  
11 agreement to excuse her if she wants to be excused.

12 THE COURT: Juror 34, the first person in the box, is 70, and  
13 she sent a note through the Marshall to me. Is she exempt?

14 MR. ROBERTS: Isn't it over 70?

15 THE COURT: It's over 70.

16 MR. ROBERTS: So if she's 70, I don't think she's exempt.

17 MR. ZAVITSANOS: When's her birthday?

18 MR. ROBERTS: 34.

19 THE COURT: Well, Juror 34, we don't know. She says she's  
20 70 now, so --

21 MR. ROBERTS: I don't recall the wording of the statute. I  
22 know that Mr. White just sent it to us, but I didn't look at it because I was  
23 familiar with it, but --

24 THE COURT: It's 70 or 90 -- or let's see -- 90 miles or over 70.  
25 There's wiggle room after 65 if they can show cause.

1 MR. ROBERTS: If she's asked to be excused because of that,  
2 Your Honor, we would agree.

3 MR. ZAVITSANOS: Same, Your Honor.

4 THE COURT: All right. So we'll excuse 34, as well as the  
5 woman from Mesquite. Mesquite is only 82.8 miles from the  
6 courthouse, so --

7 MR. ZAVITSANOS: Yeah.

8 THE COURT: -- but she's 78, so she qualifies.

9 MR. ZAVITSANOS: Yeah.

10 [Court and Marshal confer]

11 THE COURT: You guys, Juror 569 is telling the Marshal that  
12 he has a problem and can't go forward. I'd like to bring him in  
13 separately. Any objection?

14 MR. ZAVITSANOS: No, Your Honor.

15 MR. ROBERTS: No objection, Your Honor.

16 THE COURT: Thank you.

17 MR. ROBERTS: And Your Honor, we are prepared to either  
18 go with -- through all the jurors with the Court or to briefly meet with the  
19 other side to reach an agreement, but we're ready to discuss all the  
20 jurors.

21 THE COURT: Good enough. Why don't you guys talk? You  
22 have a lot of professional courtesy. You know, the better the lawyers,  
23 the more professional courtesy.

24 MR. ZAVITSANOS: Yes, Your Honor. I think that's a great  
25 idea, so give us maybe five, ten minutes.

1 THE COURT: Can we have a minute to bring in 569 first?

2 MR. ROBERTS: Of course.

3 MR. ZAVITSANOS: Yeah.

4 MR. ROBERTS: Of course, Your Honor. He was the one that  
5 had anxiety and is on medication. Okay.

6 THE COURT: No.

7 MR. ROBERTS: According to my notes.

8 MR. BLALACK: Yeah, that's what I've got, too, Your Honor.

9 THE COURT: Oh, Mr. Seid.

10 MR. BLALACK: 569?

11 THE COURT: He has anxiety and so does Mr. Smith.

12 MR. ZAVITSANOS: Yes.

13 THE COURT: All right. Court will come to order. Mr. Seid,  
14 you've asked to speak to us.

15 PROSPECTIVE JUROR 569: Sure. It's just that maybe I'm not  
16 showing it from the outside like I told the gentleman here, but the  
17 anxiety is just driving me crazy on the inside.

18 THE COURT: And --

19 PROSPECTIVE JUROR 569: About being here and --

20 THE COURT: Is it the idea that you might have to decide who  
21 is going to be the winner or just the process?

22 PROSPECTIVE JUROR 569: It's a combination of all, ma'am.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR 569: Just, you know -- it's just that,  
25 you know, this is just totally out of my element. I mean, I respect the

1     heck out of what everybody does here, but it's just that --

2             THE COURT: We're not offended.

3             PROSPECTIVE JUROR 569: No, I understand.

4             THE COURT: We want to make sure you're okay.

5             PROSPECTIVE JUROR 569: Yeah. It's just that, you know,  
6 I'm not good at maybe showing it like physically, but in the inside, I'm,  
7 you know -- I'm just, you know -- I'm not good, you know -- you know,  
8 I'm not good for -- TV, for example, I can't -- you know, it's not good for  
9 -- like when I have to talk, it's hard for me to be like, you know, the light  
10 shining on me.

11            THE COURT: We're trying to be as nice as we can here.

12            PROSPECTIVE JUROR 569: I understand.

13            THE COURT: So --

14            PROSPECTIVE JUROR 569: But it's just -- just kind of -- you  
15 know, this is kind of driving me a little crazy on the inside.

16            THE COURT: How'd you sleep last night?

17            PROSPECTIVE JUROR 569: Okay. I mean -- sorry, sorry.

18            THE COURT: Is this something that gets accommodated at  
19 your work?

20            PROSPECTIVE JUROR 569: You know what? I've been there  
21 for so long, it really -- you know what I've been there for so long, it really  
22 doesn't affect me personally. There's times where, you know, I feel like  
23 I'm in deep -- you know, I'm under pressure to get things done the right  
24 way, but honestly, I don't show it, and -- but at the same time, like, you  
25 know, like this is just totally something new to me that, you know, I

1 didn't even know I was going to come down here until Sunday night, and  
2 then, you know, this is -- I don't know how to explain myself, ma'am.

3 THE COURT: Do you have trouble concentrating?

4 PROSPECTIVE JUROR 569: At times, yes.

5 THE COURT: Or do you have trouble listening and paying  
6 attention?

7 PROSPECTIVE JUROR 569: At times, yes.

8 THE COURT: Okay. Good enough. Thank you, sir. I'm sorry  
9 if we put you on the spot.

10 PROSPECTIVE JUROR 569: No, I'm not on the spot. I  
11 appreciate it.

12 THE COURT: Good enough. Why don't you step outside  
13 with the Marshal?

14 PROSPECTIVE JUROR 569: Yes, sir. Yes, ma'am. I'm sorry.

15 THE COURT: Actually, I didn't give you guys a chance to  
16 question him. Did you want to? Plaintiff? Defendant?

17 MR. ROBERTS: No, the Defense did not want to. We've  
18 heard enough, Your Honor.

19 THE COURT: Why don't you take a moment with your  
20 team --

21 MR. ZAVITSANOS: Yeah.

22 THE COURT: -- Mr. Zavitsanos?

23 MR. ZAVITSANOS: Let me -- Your Honor, may we just visit  
24 for a second?

25 THE COURT: Yeah.



1 [Counsel confer]

2 MR. ZAVITSANOS: Your Honor, no objection to releasing  
3 this gentleman.

4 THE COURT: Thank you.

5 MR. ROBERTS: We agree, Your Honor.

6 THE COURT: All right. So we're going to lose Juror 569, Mr.  
7 Seid. And then when they -- why don't you guys take a minute on how  
8 you want to proceed, and I'll be back as soon as you're ready.

9 MR. ZAVITSANOS: Yes, Your Honor. About 5 or 10 minutes  
10 ought to do it.

11 THE COURT: Yeah. And Juror 34 -- okay, so we've already  
12 agreed to 34 in Mesquite. Okay. And the Marshal confirmed over lunch  
13 there are 24 jurors in 3A. They're not hearing this, are they, Brynn?

14 THE COURT RECORDER: No.

15 THE COURT: Thank you. All right. Take your time.

16 MR. ZAVITSANOS: Thank you, Your Honor. Okay.

17 [Recess taken from 12:54 p.m. to 1:03 p.m.]

18 THE COURT: So in the statute, if the chaplain is a police  
19 officer, he's exempt by statute. I don't know if we need to ask that or  
20 not.

21 MR. ZAVITSANOS: Oh, okay.

22 THE COURT: Anyway, so I'm ready.

23 MR. ZAVITSANOS: Okay. Your Honor, these are the ones on  
24 which we reached an agreement. Badge numbers --

25 THE COURT: Agreement to excuse?

1 MR. ZAVITSANOS: Excuse me?

2 THE COURT: To excuse?

3 MR. ZAVITSANOS: Yes, Your Honor, to excuse.

4 THE COURT: Okay.

5 MR. ZAVITSANOS: To excuse. My apologies. Yes, to  
6 excuse. Okay. These are badge numbers 029, 053, 055, 099, 150, 152,  
7 164, 170, 198, 208, 209.

8 THE COURT: Is that correct?

9 MR. ROBERTS: That's correct.

10 THE COURT: All right. And then I will ask Juror 34 if she'd  
11 like to be excused?

12 MR. ZAVITSANOS: Yes, Your Honor.

13 MR. ROBERTS: Yes, Your Honor.

14 THE COURT: Okay. And did that include the police chaplain?

15 MR. ZAVITSANOS: No. The police chaplain, Your Honor, is  
16 108. We did not reach an agreement on that, and so we -- so Your  
17 Honor, probably we can ask the question if he's just [indiscernible].

18 MR. ROBERTS: If he's a police officer, if he says yes, then  
19 you'll ask him if he wishes to be excused.

20 THE COURT: And I'll ask 34 if she wishes to be excused.

21 MR. ROBERTS: Correct.

22 THE COURT: Okay.

23 MR. ZAVITSANOS: And Your Honor, on the others, I think  
24 the disagreement varied anywhere from, we just need to ask more  
25 questions to, you know, a hard no. So --

1 THE COURT: It's okay. I --

2 MR. ZAVITSANOS: Yeah.

3 THE COURT: You know, you're allowed to not agree.

4 MR. ZAVITSANOS: Yeah. No, I understand.

5 THE COURT: So --

6 MR. ZAVITSANOS: I didn't know if the Court was going to  
7 ask follow-up questions, like for example, the -- just as an example, the  
8 gentleman, 005, I think we -- that was the gentleman that's going to be  
9 out of town in Northern Nevada --

10 THE COURT: Oh.

11 MR. ZAVITSANOS: -- who has a business.

12 THE COURT: Right.

13 MR. ZAVITSANOS: So --

14 THE COURT: He was the first one.

15 MR. ZAVITSANOS: Yes, Your Honor.

16 MR. ROBERTS: And he confirmed he would not lose money  
17 on travel, just on business.

18 THE COURT: Yeah.

19 MR. ROBERTS: But I don't think we ever got to whether it  
20 would be a undue hardship for him to lose that money.

21 THE COURT: Good enough. Okay. All right. So are you  
22 ready to bring in this group? So Andrew, we're going to excuse --

23 THE MARSHAL: Your Honor, you want me to bring them in  
24 so that you can --

25 THE COURT: Yeah, but we are going to excuse 11 people,

1 just for a heads up.

2 THE MARSHAL: Thank you, ma'am.

3 THE COURT: Marshal is doing the job of three people right  
4 now. There are only three employees in jury services.

5 MR. ZAVITSANOS: Oh, wow.

6 THE COURT: So --

7 MR. ROBERTS: Hmm.

8 THE COURT: Yeah.

9 MR. ROBERTS: I did not realize that.

10 THE COURT: They are so overworked.

11 MR. ROBERTS: Are we going to bring more people in or just  
12 leave them over there?

13 THE COURT: Yeah. That's why I gave him a heads up --

14 MR. ROBERTS: Okay.

15 THE COURT: -- because when we excuse them, I'll ask him --

16 MR. ROBERTS: We'll fill them up.

17 THE COURT: -- to fill them in.

18 MR. ROBERTS: Okay, very good. Thank you, Your Honor.

19 Oh, and Your Honor --

20 THE COURT: Yes.

21 MR. ROBERTS: -- I should tell you that we have a new  
22 company representative here who is going to be taking over for Mr.  
23 Stevens tomorrow, and it's Dr. Lambert Wu.

24 THE COURT: Oh.

25 MR. ROBERTS: He's a medical director with Health Plan of

1 Nevada.

2 THE COURT: Very good. And thank you, and welcome.

3 MR. WU: Thank you, Your Honor.

4 [Pause]

5 THE MARSHAL: All rise for the jury.

6 [Prospective jurors in at 1:08 p.m.]

7 THE COURT: Okay. Thank you, everyone. Please be seated.

8 So Mr. Seid, 569, we spoke to you privately, and after  
9 consultation with the lawyers, we're going to thank you for being willing  
10 to serve your community and excuse you from further jury service.  
11 Thank you.

12 PROSPECTIVE JUROR 569: I appreciate it. Thank you.

13 THE COURT: All right. And then this will be pertaining to the  
14 new group of people who joined us this morning. Will the following of  
15 you please stand? Let's see. Number 029, 053, 055, 99, 150, 152, 164. Is  
16 164 standing, and I just can't see? Oh. 170. 170? 198, 208, and 209. We  
17 thank you for being here today and being willing to serve your  
18 community. This is the greatest system of justice the world has ever  
19 seen because of you, and we would have loved to work with you. We  
20 hope that the right trial will come, and you'll get your chance, so you  
21 may leave.

22 PROSPECTIVE JURORS: Thank you, Your Honor.

23 THE COURT: Now, Juror 34 --

24 MR. ZAVITSANOS: You did not excuse 59, did you, Your  
25 Honor?

1 THE COURT: No.

2 MR. ROBERTS: Okay.

3 THE COURT: 29, 53, 55, 99.

4 MR. ROBERTS: Okay.

5 MR. BLALACK: That's what I thought.

6 THE COURT: Okay. Let's just wait until the noise goes down  
7 a little because it's hard to hear with the mask.

8 Juror 34, you sent a message back through the Marshal to  
9 us. You are exempt based upon your age, unless you want to serve.

10 PROSPECTIVE JUROR 034: I do have a difficult time driving  
11 at night. I just --

12 THE COURT RECORDER: I need her on the microphone,  
13 please.

14 THE COURT: Oh. Sorry to put you on the spot like that.

15 PROSPECTIVE JUROR 034: It's all right.

16 THE COURT: For 34, please.

17 THE COURT RECORDER: The microphone.

18 THE MARSHAL: Oh.

19 PROSPECTIVE JUROR 034: Your Honor, I did not know until  
20 the lady that was about the age limit -- and I do also have a problem  
21 driving at night, and it gets dark earlier, so yes, I would like to be  
22 excused.

23 THE COURT: Even if we spring -- or let's see, we're going to  
24 fall back next weekend.

25 PROSPECTIVE JUROR 034: Yeah.

1 THE COURT: Okay. So you're not obligated. You don't have  
2 to give an excuse.

3 PROSPECTIVE JUROR 034: Okay.

4 THE COURT: All right.

5 PROSPECTIVE JUROR 034: Thank you so much, Your Honor.

6 THE COURT: So you'll be excused, as well. All right. Let's  
7 take a --

8 MR. ROBERTS: Your Honor, and I apologize if I'm confused,  
9 but I would request that the Court take a roll call for Juror number 59.

10 THE COURT: Let's --

11 MR. ROBERTS: Samuel King.

12 THE COURT: Let's just do a roll call so that I can also mark  
13 on my list who has been excused.

14 MR. ROBERTS: Thank you, Your Honor.

15 THE COURT: Let's start with Mr. Johnson.

16 PROSPECTIVE JUROR 005: Here.

17 THE COURT: The Clerk will do it.

18 PROSPECTIVE JUROR 005: Oh.

19 THE CLERK: Ethan Lewis?

20 PROSPECTIVE JUROR 026: Here.

21 THE CLERK: Angelo Torres?

22 PROSPECTIVE JUROR 038: Here.

23 THE CLERK: Karyl Kelly?

24 PROSPECTIVE JUROR 048: Here. Karyl.

25 THE CLERK: Karyl. Thank you. Christina Carr?

1 PROSPECTIVE JUROR 049: Here.

2 THE CLERK: Samuel King?

3 THE COURT: Oh. We let Steven Childress go. What about  
4 Jeffrey Kennedy, 53?

5 THE CLERK: We let --

6 THE COURT: We let him go.

7 THE CLERK: We let him go.

8 THE COURT: Okay.

9 THE CLERK: The next one, we have is Samuel King. Is he  
10 here?

11 UNIDENTIFIED SPEAKER: We X'ed him.

12 THE CLERK: Did we excuse 55?

13 MR. ZAVITSANOS: Yes.

14 THE COURT: What about 54?

15 MR. ZAVITSANOS: I think we excused 55, Your Honor.

16 THE CLERK: Oh, I'm so sorry. Is 59 here? Samuel King.

17 THE COURT: Go back. What about 54?

18 THE CLERK: 54 was Howard Aden. He was excused.

19 THE COURT: Okay.

20 THE CLERK: That's 55. Which numbers are you going by?  
21 Panel number or badge number?

22 UNIDENTIFIED SPEAKER: I know what happened, Your  
23 Honor.

24 THE COURT: Badge number. We've been going pretty fast.  
25 I didn't keep up. What happened?



1 UNIDENTIFIED SPEAKER: Well, we called out 55, and I think  
2 he must've thought we were talking about the panel number because he  
3 is 55 in the panel number.

4 THE COURT: Oh.

5 UNIDENTIFIED SPEAKER: And he got up when 55 was  
6 called, but he's really 59 by the badge number. I was confused when he  
7 stood up, too, but he should not have been excused.

8 THE COURT: Okay. So Andrew, Juror Number 059 is the  
9 one who left by mistake.

10 THE MARSHAL: Yes.

11 MR. ZAVITSANOS: Yes.

12 THE COURT: Oh. Andrew, see if you can call 059. Mr.  
13 Samuel King. Sorry, everybody. Yes?

14 PROSPECTIVE JUROR 034: Your Honor, may I be excused?

15 THE COURT: Yes, you may. You may leave the room.

16 UNIDENTIFIED PROSPECTIVE JUROR: Okay. Thank you so  
17 much.

18 THE COURT: And thank you for being willing to serve. This  
19 is a good time for a stretch break while we're in limbo here for a minute.

20 [Pause]

21 PROSPECTIVE JUROR 048: Your Honor.

22 THE COURT: Yes.

23 PROSPECTIVE JUROR 048: I take the transit bus --

24 THE COURT: Yeah.

25 PROSPECTIVE JUROR 048: -- and if it's going to run past 5, I

1 only have a half hour period.

2 THE COURT: The bus station is a block away, and we always  
3 stop at 4:45.

4 PROSPECTIVE JUROR 048: Okay.

5 THE COURT: So make sure --

6 PROSPECTIVE JUROR 048: But it's not the regular bus. It's  
7 the scheduled one.

8 THE COURT: A different one. Okay. Did all of you hear that  
9 explanation? And what's your name and badge number, please?

10 PROSPECTIVE JUROR 048: Karyl Kelly, Karyl was with a K.

11 THE COURT: That's right.

12 PROSPECTIVE JUROR 048: And 489.

13 THE COURT: We just were on the roll call here.

14 PROSPECTIVE JUROR 048: 048.

15 MR. ZAVITSANOS: 48, Your Honor.

16 PROSPECTIVE JUROR 048: 48.

17 THE COURT: We always stop at 4:45. The schedule most  
18 days is 9:30 to 4:45. We're going to hope that we can do shorter lunches,  
19 like half an hour instead of a hour, so that -- with the hope of finishing on  
20 time or maybe early.

21 PROSPECTIVE JUROR 048: Okay.

22 THE COURT: So you know, I don't have the Marshal here to  
23 give you guys a recess, but if I give you a short one, will you be ready in  
24 10 minutes? If I give you guys a short recess, can everybody be back in  
25 order in 10 minutes? Yes? All right.

1           During the recess, don't talk with each other or anyone else  
2 on any subject connected to the trial. Don't read, watch or listen to any  
3 report of or commentary on the trial, don't discussing this case with  
4 anyone connected to it by any medium of information, including, without  
5 limitation, newspapers, television, radio, internet, cell phone, or texting.

6           Don't conduct any research, don't speculate about the  
7 witnesses, don't speculate about the lawyers, don't use the internet,  
8 don't do any social media, even about being in jury selection, and then  
9 don't tweet, Google, conduct any type of book or computer research with  
10 regard to any issue, party, witness, or attorney involved in the case. Do  
11 not form or express any opinion on any subject connected with the trial  
12 until the matter is submitted to you.

13           It is 1:18. Please be ready at 1:30.

14           MR. ZAVITSANOS: Thank you, Your Honor. And Your  
15 Honor, we have a quick question.

16           THE COURT: Whenever you're ready.

17           MR. ZAVITSANOS: It doesn't need to be on the record.

18                   [Prospective jurors out at 1:18 p.m.]

19                   [Recess taken from 1:18 p.m. to 1:28 p.m.]

20                   [Outside the presence of the prospective jurors]

21           THE MARSHAL: Back in session.

22           THE COURT: Thanks, everybody. Okay. So Samuel King  
23 has left the building, Juror 59. Is there a response?

24           MR. ZAVITSANOS: From the Plaintiff, no, Your Honor. We  
25 actually were okay with excusing him, so we don't have any -- no

1 response, Your Honor.

2 THE COURT: I know you don't have your co-counsel. Do you  
3 want to defer your response?

4 MR. ROBERTS: I would momentarily.

5 THE COURT: Sure.

6 MR. ROBERTS: I'm inclined to agree as it'd be too disruptive,  
7 I believe, to bring him back at the chance he might dismiss --

8 THE COURT: Take a moment with Mr. Blalack.

9 MR. ROBERTS: Your Honor, Defendants would agree to  
10 dismiss Mr. King.

11 THE COURT: Thank you. I think that his work schedule may  
12 have really been real. Now, the police chaplain, Juror 108, has inquired  
13 of the marshal whether or not the chaplain can be dismissed, so that you  
14 know. And I will just take him out of order and voir dire him on whether  
15 or not he's an officer.

16 MR. ROBERTS: Okay. Thanks, Your Honor.

17 THE COURT: And then I think we've got some notes from  
18 jurors. No. Oh, good. Okay. And then, when they come back, they  
19 should be ready any time, we'll reorder, and we'll bring new people  
20 down from 3A. And you guys are standing. Did you have something  
21 you wanted?

22 MR. ZAVITSANOS: No, Your Honor. I was just going to ask  
23 on that point where you just left off, when you bring the new folks in, will  
24 you kind of requalify and go through the hardships again with the new  
25 folks?

1 THE COURT: I have to do it with the --they've heard  
2 everything.

3 MR. ZAVITSANOS: Yes.

4 THE COURT: So they'll be ready to hear the hardship  
5 excuses.

6 MR. ZAVITSANOS: I got it. Got it. Okay. Thank you, Your  
7 Honor.

8 [Pause]

9 THE MARSHAL: All rise for the jury.

10 [Prospective jurors in at 1:33 p.m.]

11 THE COURT: Thank you. Please be seated. All right. So Mr.  
12 Detken, Juror 108. You're a police chaplain. Are you also a police  
13 officer?

14 PROSPECTIVE JUROR 108: No, ma'am.

15 THE COURT: Okay. So you're a civilian?

16 PROSPECTIVE JUROR 108: Yes, ma'am.

17 THE COURT: Because police officers are exempt from jury  
18 service if they choose. We need to ask a few more questions before we  
19 can determine whether or not you'll stay with us.

20 PROSPECTIVE JUROR 108: Okay.

21 THE COURT: Okay. I'm going to ask that everybody be  
22 reordered, and we're going to bring some more jurors in. And thank you  
23 for your patience.

24 [Pause]

25 THE COURT: Okay. Thank you, Mr. Marshal. You can bring

1 in the new members, please.

2 THE MARSHAL: All right.

3 THE COURT: All right. So for those of us who just joined us  
4 today, and in the same order that we've been in, I have to ask if any of  
5 you have any medical conditions that would preclude you from serving  
6 on a jury for the next few weeks. And that would be starting with Mr.  
7 Johnson, and to his right. Are there any -- is there anyone in that row  
8 who has a medical condition that would preclude them from serving?

9 How about on our front row over here? I see no hands up.  
10 Thank you. How about in the back? Anyone in this first row, does  
11 anyone have any medical conditions that would preclude you from  
12 serving?

13 Thank you. Okay. Now, does anyone have a religious or  
14 philosophical belief that they should not stand in judgment of another  
15 such that they could not serve on a jury?

16 Anyone in our second row here or anyone in the first row? I  
17 see no hands up. How about in the back? Okay. All right.

18 Let me start with just a few basic questions for our new  
19 people. Mr. Johnson, how long have you lived in Las Vegas?

20 PROSPECTIVE JUROR 005: I live in Boulder City.

21 THE CLERK: We need the --

22 THE COURT: Oh, we don't have the microphone. Sorry.  
23 We'll get there.

24 MR. ZAVITSANOS: With the Court's permission, could we  
25 ask when you're doing this to get the number -- the badge number,

1 please?

2 THE COURT: That's a good idea.

3 MR. ZAVITSANOS: Thank you, Your Honor.

4 THE COURT: Yes.

5 PROSPECTIVE JUROR 005: Name is Martin Johnson, Badge  
6 005.

7 THE COURT: And you live in Boulder City.

8 PROSPECTIVE JUROR 005: I live in Boulder City. That is an  
9 important distinction.

10 THE COURT: Yes, it is.

11 PROSPECTIVE JUROR 005: And I have lived there for the  
12 most part since 1982, so --

13 THE COURT: Great.

14 PROSPECTIVE JUROR 005: -- almost 40 years.

15 THE COURT: And would it be possible for you to reschedule  
16 without having damage to your business, those business meetings that  
17 you have scheduled?

18 PROSPECTIVE JUROR 005: A couple of meetings could be  
19 rescheduled, but others have been on my calendar for months and are  
20 beyond my control. School board meetings, meetings with the state  
21 Board of Finance, those types of things. I can't control when those are.

22 THE COURT: Can you tell us more about the nature of your  
23 business?

24 PROSPECTIVE JUROR 005: I advise state and local  
25 governments on acquiring funds to build. In fact, many years ago, I

1 helped Clark County get the money to build this facility as part of my job.

2 THE COURT: I'm sure you know the history of this building.

3 PROSPECTIVE JUROR 005: Unfortunately, yes. I do. And so  
4 as such, I go to school board meetings, county commission meetings, et  
5 cetera, to discuss with them those plans and how best to finance the  
6 facilities that they're looking to get.

7 THE COURT: I see. Okay. Let me ask you a few more  
8 questions, then. Have you ever served before as a juror?

9 PROSPECTIVE JUROR 005: I have not.

10 THE COURT: Have you ever sued or been sued?

11 PROSPECTIVE JUROR 005: No.

12 THE COURT: And if you're married, does your spouse work?

13 PROSPECTIVE JUROR 005: She's a coach for the high school  
14 volleyball team, so I would have to say no.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR 005: She gets paid five cents an hour.

17 THE COURT: So -- okay. That might be work.

18 PROSPECTIVE JUROR 005: It's psychological work.

19 THE COURT: Good enough. And I think that's it for now.

20 Thank you, Mr. Johnson. Mr. Lewis?

21 PROSPECTIVE JUROR 026: Yes, ma'am.

22 THE COURT: What -- where do you coach football?

23 PROSPECTIVE JUROR 026: Shadow Ridge High School.

24 THE CLERK: Badge Number, please.

25 PROSPECTIVE JUROR 026: 026.



1 THE COURT: Shadow Ridge?

2 PROSPECTIVE JUROR 026: Yes, ma'am.

3 THE COURT: Okay. Who's their big rival?

4 PROSPECTIVE JUROR 026: Arbor View.

5 THE COURT: Okay. And have you played them yet this  
6 season?

7 PROSPECTIVE JUROR 026: We actually got reclassified at  
8 the start of the season, so we didn't actually end up playing them this  
9 year.

10 THE COURT: So how long have you lived in this area?

11 PROSPECTIVE JUROR 026: Seven years.

12 THE COURT: If you're married, does your spouse work?

13 PROSPECTIVE JUROR 026: She's a full-time student right  
14 now. She graduates in December.

15 THE COURT: Have you ever served before on a jury?

16 PROSPECTIVE JUROR 026: I have.

17 THE COURT: Was it here in Clark County?

18 PROSPECTIVE JUROR 026: Yes, ma'am.

19 THE COURT: Was it a civil or a criminal case?

20 PROSPECTIVE JUROR 026: Criminal.

21 THE COURT: Did the jury deliberate?

22 PROSPECTIVE JUROR 026: No. He ended up taking a plea  
23 deal.

24 THE COURT: All right. So you didn't deliberate. You weren't  
25 the foreperson.

1 PROSPECTIVE JUROR 026: Yeah.

2 THE COURT: Okay. Have you ever sued or been sued?

3 PROSPECTIVE JUROR 026: No, ma'am.

4 THE COURT: Thank you. Let's hear from our next person,  
5 please.

6 PROSPECTIVE JUROR 038: Angelo. Angelo Torres.

7 THE COURT: Thank you. How long have you lived in the Las  
8 Vegas area?

9 THE CLERK: Badge Number, please?

10 PROSPECTIVE JUROR 038: 038. Since 1965.

11 THE COURT: And you said that you have a funeral coming  
12 up?

13 PROSPECTIVE JUROR 038: No. Actually, I'm -- work in that  
14 industry.

15 THE COURT: Oh, you work in the funeral industry, and so  
16 you were available.

17 PROSPECTIVE JUROR 038: Yes.

18 THE COURT: Sorry about that. So you've lived here since  
19 '65. If you're married, does your spouse work?

20 PROSPECTIVE JUROR 038: Not married. Single.

21 THE COURT: Have you ever sued or been sued?

22 PROSPECTIVE JUROR 038: I've been sued.

23 THE COURT: And having been sued in the past, would it  
24 affect your ability to be equally fair to both sides?

25 PROSPECTIVE JUROR 038: Yes.

1 THE COURT: How?

2 PROSPECTIVE JUROR 038: It would -- I would be -- my  
3 apologies. Please repeat that question.

4 THE COURT: All right. So you've been sued before. Is the  
5 matter resolved?

6 PROSPECTIVE JUROR 038: Yes, it was.

7 THE COURT: Did it leave you with hard feelings?

8 PROSPECTIVE JUROR 038: No. Actually, it -- we won the  
9 case.

10 THE COURT: Okay. So would the fact that you have been in  
11 a lawsuit before, keep you from being equally fair to both sides?

12 PROSPECTIVE JUROR 038: I could be fair.

13 THE COURT: Thank you, sir. Our next person. Ms. Kelly,  
14 048?

15 PROSPECTIVE JUROR 048: Yes?

16 THE COURT: Yes. How long have you lived in the Las Vegas  
17 area?

18 PROSPECTIVE JUROR 048: Twenty-one years.

19 THE COURT: If you're married -- what kind of work do you  
20 do?

21 PROSPECTIVE JUROR 048: I'm on disability.

22 THE COURT: And if you're married, does your spouse work?

23 PROSPECTIVE JUROR 048: I am not married.

24 THE COURT: What did you do before your disability?

25 PROSPECTIVE JUROR 048: I was a merchandiser and also

1 worked in art galleries.

2 THE COURT: Okay. And have you ever sued anyone before  
3 or been sued?

4 PROSPECTIVE JUROR 048: Yes.

5 THE COURT: And is that resolved now?

6 PROSPECTIVE JUROR 048: Yes.

7 THE COURT: Is there anything about having gone through  
8 that keep you from being equally fair to both sides?

9 PROSPECTIVE JUROR 048: No.

10 THE COURT: Okay. And have you ever served before on a  
11 jury?

12 PROSPECTIVE JUROR 048: No.

13 THE COURT: Thank you. Next person, please. Ms. Carr. Are  
14 you badge 49?

15 PROSPECTIVE JUROR 049: Yes, 049.

16 THE COURT: Okay. Thank you. How long have you lived in  
17 the Las Vegas area?

18 PROSPECTIVE JUROR 049: About four years.

19 THE COURT: And are you currently employed?

20 PROSPECTIVE JUROR 049: Yes.

21 THE COURT: What kind of work do you do?

22 PROSPECTIVE JUROR 049: I'm an accounting analyst for a  
23 property management company.

24 THE COURT: If you're married, does your spouse work?

25 PROSPECTIVE JUROR 049: Yes.

1 THE COURT: What kind of work?

2 PROSPECTIVE JUROR 049: He's a consultant for FICA.

3 THE COURT: Have you ever sued or been sued?

4 PROSPECTIVE JUROR 049: No, ma'am.

5 THE COURT: And have you ever served before on a jury?

6 PROSPECTIVE JUROR 049: No, ma'am.

7 THE COURT: Okay. Thank you. Can you please pass the  
8 mic down to the corner here?

9 PROSPECTIVE JUROR 082: My badge is 082, Daisy  
10 Nepomuceno.

11 THE COURT: Thank you. How long have you lived in the Las  
12 Vegas area?

13 PROSPECTIVE JUROR 082: For about 30 years.

14 THE COURT: And if you're currently employed, what kind of  
15 work do you do?

16 PROSPECTIVE JUROR 082: I'm a payroll administrator for a  
17 construction company.

18 THE COURT: And if you're married, does your spouse work?

19 PROSPECTIVE JUROR 082: I'm not married.

20 THE COURT: Have you ever sued anyone or been sued?

21 PROSPECTIVE JUROR 082: No.

22 THE COURT: Have you ever served before on a jury?

23 PROSPECTIVE JUROR 082: No.

24 THE COURT: Thank you. Our next person, please.

25 PROSPECTIVE JUROR 093: Catherine Ross, Badge Number

1 093.

2 THE COURT: And how long have you lived in the Las Vegas  
3 area?

4 PROSPECTIVE JUROR 093: 27 years.

5 THE COURT: What kind of work do you do?

6 PROSPECTIVE JUROR 093: I'm unemployed right now.

7 THE COURT: What did you do before?

8 PROSPECTIVE JUROR 093: IT specialist.

9 THE COURT: If you're married, does your spouse work?

10 PROSPECTIVE JUROR 093: Not married.

11 THE COURT: And have you ever sued anyone or been sued?

12 PROSPECTIVE JUROR 093: No.

13 THE COURT: Have you ever served before on a jury?

14 PROSPECTIVE JUROR 093: No.

15 THE COURT: Thank you. Next person, please?

16 PROSPECTIVE JUROR 095: Jennifer Wilson, badge number

17 95.

18 THE COURT: So how long have you lived in the Las Vegas  
19 area?

20 PROSPECTIVE JUROR 095: For three years.

21 THE COURT: And what kind of work do you do?

22 PROSPECTIVE JUROR 095: I am a financial center manager  
23 for a bank.

24 THE COURT: If you're married, does your spouse work?

25 PROSPECTIVE JUROR 095: Yes. He's a substitute teacher for

1 Clark County.

2 THE COURT: Have you sued or -- anyone ever sued you or  
3 have you sued someone else?

4 PROSPECTIVE JUROR 095: Have not been sued. I think  
5 we're involved with a lawsuit with a builder right now.

6 THE COURT: Does it have to do with your residence?

7 PROSPECTIVE JUROR 095: Yes.

8 THE COURT: And is it a construction defect --

9 PROSPECTIVE JUROR 095: Yes. Yes.

10 THE COURT: -- type of situation?

11 PROSPECTIVE JUROR 095: Yes.

12 THE COURT: And is it resolved?

13 PROSPECTIVE JUROR 095: It is not resolved yet, no.

14 THE COURT: Is the fact that you've been going through that  
15 going to keep you from being equally fair to both sides?

16 PROSPECTIVE JUROR 095: I can be fully fair.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 095: Yeah.

19 THE COURT: And did I ask if you've ever served on a jury?

20 PROSPECTIVE JUROR 095: Never served on a jury.

21 THE COURT: Okay. Thank you. Mr. Detken?

22 PROSPECTIVE JUROR 108: Yes. Patrice Detken, badge  
23 number 108.

24 THE COURT: And let me know a little bit about your work.

25 You have a memorial service next week and a wedding. Are there

1 people who could cover those if you can't be there?

2 PROSPECTIVE JUROR 108: I tried during the afternoon to  
3 see, and it doesn't look like it.

4 THE COURT: Are there --

5 PROSPECTIVE JUROR 108: So there's no one that I know  
6 that can officiate that's a part of our service.

7 THE COURT: Okay. And is it they came to you because  
8 they're police officers and wanted a police chaplain, or?

9 PROSPECTIVE JUROR 108: No, it's part of our church.

10 THE COURT: I see.

11 PROSPECTIVE JUROR 108: So I've got a service on Tuesday  
12 at noon, and then I've got a wedding on Thursday.

13 THE COURT: What time is the wedding?

14 PROSPECTIVE JUROR 108: Three o'clock.

15 THE COURT: Where is it?

16 PROSPECTIVE JUROR 108: And the funeral is at -- the  
17 funeral is on Tuesday at noon.

18 THE COURT: Yeah. The wedding, where is it scheduled?

19 PROSPECTIVE JUROR 108: It's at our church.

20 THE COURT: And if we did it over the -- took a break for you,  
21 could you do it, or?

22 PROSPECTIVE JUROR 108: I don't -- probably not. I mean,  
23 I'm there with the family the whole day. So -- especially when someone  
24 gets married.

25 THE COURT: You're there the whole day?



1 PROSPECTIVE JUROR 108: I mean, they're there a couple of  
2 hours beforehand, and then we spend time praying together, and then,  
3 we're there afterwards, as well.

4 THE COURT: I see.

5 PROSPECTIVE JUROR 108: For the reception.

6 THE COURT: Because I prefer weddings, but my part takes  
7 ten minutes.

8 PROSPECTIVE JUROR 108: Yeah.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR 108: Yeah.

11 THE COURT: I'm sorry. I don't mean to put you on the spot.  
12 So how long have you lived in the Las Vegas area?

13 PROSPECTIVE JUROR 108: Eight years.

14 THE COURT: And we know your employment. Do you have  
15 other employment or is that your full-time?

16 PROSPECTIVE JUROR 108: No, that's my full-time job.

17 THE COURT: Okay. And then, if you have a spouse, does  
18 your spouse work?

19 PROSPECTIVE JUROR 108: She does.

20 THE COURT: What kind of work?

21 PROSPECTIVE JUROR 108: She's a professor at UNLV.

22 THE COURT: Have you ever sued anyone or been sued?

23 PROSPECTIVE JUROR 108: I have not.

24 THE COURT: And have you ever served before on a jury?

25 PROSPECTIVE JUROR 108: I have not.

1 THE COURT: Thank you. Our next person, please?

2 PROSPECTIVE JUROR 114: Badge number 114. Dinah  
3 Hortillas.

4 THE COURT: Thank you. How long have you lived in the Las  
5 Vegas area?

6 PROSPECTIVE JUROR 114: Going eight years.

7 THE COURT: And what kind of work do you do?

8 PROSPECTIVE JUROR 114: Pharmacy technician.

9 THE COURT: If you're married, does your spouse work?

10 PROSPECTIVE JUROR 114: Widowed, ma'am.

11 THE COURT: I'm sorry?

12 PROSPECTIVE JUROR 114: I'm a widow.

13 THE COURT: I'm sorry for your loss. What did your spouse  
14 do before?

15 PROSPECTIVE JUROR 114: Landscaper.

16 THE COURT: Okay. And how long have you -- oh, no, no,  
17 no. Sorry. Have you ever served before on a jury?

18 PROSPECTIVE JUROR 114: No, ma'am.

19 THE COURT: And have you ever sued anyone or been sued?

20 PROSPECTIVE JUROR 114: No, ma'am.

21 THE COURT: Thank you. All right. So Brynn, can you help  
22 me get the microphone to the back?

23 THE COURT RECORDER: Okay.

24 THE COURT: Yeah. And it'll start on the -- on their right.

25 MR. ZAVITSANOS: Your Honor, I think we have an

1 agreement on two other issues. Would you like to wait until you're  
2 through or would you like us to approach?

3 THE COURT: No, why don't you guys approach?

4 [Sidebar at 1:50 p.m., ending at 1:51 p.m., not transcribed]

5 THE COURT: Okay. I'm going to call out two names. I'll ask  
6 you to stand. Mr. Johnson, 005, and Mr. Detken, 108. We would like to  
7 thank you for being here and being willing to serve your community. In  
8 consultation with the attorneys, you'll be excused from serving on this  
9 trial. I hope you get the chance someday to feel like you're benefiting  
10 your community more than you already do now by serving on a jury.  
11 Thank you again for being here.

12 PROSPECTIVE JUROR 005: Thank you, Your Honor.

13 PROSPECTIVE JUROR 108: Thank you, Your Honor.

14 THE COURT: And I believe that takes us to Ms. Trambulo,  
15 Juror 116; is that correct? And you've worked at law firms in the past?

16 PROSPECTIVE JUROR 116: I did. I was a runner when I was  
17 in college.

18 THE COURT: Oh, okay. So how long have you lived in the  
19 Las Vegas area?

20 PROSPECTIVE JUROR 116: 17 years.

21 THE COURT: And what kind of work do you do now?

22 PROSPECTIVE JUROR 116: Software engineering manager  
23 at a VHR company.

24 THE COURT: Give me just a second. If you're married, does  
25 your spouse work?

1 PROSPECTIVE JUROR 116: Not married.

2 THE COURT: And how -- have you ever sued anyone or been  
3 sued?

4 PROSPECTIVE JUROR 116: No.

5 THE COURT: Anything about having worked a law firm make  
6 you adverse to litigation?

7 PROSPECTIVE JUROR 116: No.

8 THE COURT: And have you ever served before on a jury?

9 PROSPECTIVE JUROR 116: No.

10 THE COURT: Thank you. All right, Marshal Allen, please  
11 bring in the new people. We're going to pause for a moment to orient  
12 the new people.

13 THE MARSHAL: Your Honor.

14 THE COURT: I know it seems -- sorry.

15 THE MARSHAL: Do you want me to fix this?

16 THE COURT: Yeah. We're going to reorder.

17 THE MARSHAL: Ma'am, could you come on up? Everybody  
18 else just slide over a seat.

19 All rise for the jury.

20 [Prospective jurors in at 1:54 p.m.]

21 THE COURT: Wait, Andrew. Andrew, wait, wait. Are -- don't  
22 you want -- thank you, everyone. Andrew, is that everyone? The jurors  
23 may be seated.

24 THE MARSHAL: Fill in all the seats, please. Your Honor, can  
25 you -- can you see now?

1 THE COURT: I can see everyone. Thanks everyone. Please  
2 be seated.

3 For those of you who are just joining us, I have some  
4 questions directed only for you. And that will be only our new people.  
5 All of you were in courtroom3A since this morning, so you should have  
6 heard all of the questions that have been asked. Does anyone need any  
7 of them repeated? All right. And if there's someone who -- I can't -- I  
8 don't have eye -- if there's someone I don't have eye contact with, if you  
9 need to answer a question, you'll need to make eye contact with me,  
10 please.

11 All of you have heard about the jury selection will be through  
12 Thursday of this week. The trial will start Monday. We expect to go until  
13 the Tuesday of Thanksgiving week, which is November 23rd. Is there  
14 anyone in the order you came in, so if there's anyone who's not  
15 available to work that long as a juror, and serve your community, after  
16 you're sworn in --

17 [Court and Clerk confer]

18 THE COURT: Okay. So we'll ask for your hardship excuses  
19 or availability concerns as soon as you take the oath.

20 THE CLERK: Those of you that have been sworn in yet, that  
21 are new to the courtroom, please stand up. Raise your right hand.

22 [The Prospective jurors were sworn]

23 THE CLERK: Thank you.

24 THE COURT: Thank you. And our first new person, what is  
25 your name and badge number, please?

1 PROSPECTIVE JUROR 217: John Onyema, 217.

2 THE COURT: Okay, thank you. I just need to know where to  
3 start. Okay. So is there anyone in the front row here who would be  
4 unavailable to serve their community as a juror, starting with Mr.  
5 Onyema?

6 PROSPECTIVE JUROR 217: Yeah.

7 THE COURT: If you'll please give us your name and badge  
8 number.

9 PROSPECTIVE JUROR 217: Yeah, John Onyema, badge  
10 number 217. I work for a software company, and I have several projects  
11 in development. And I need to be available for that week before Black  
12 Friday, to get all the programs online and, yeah, and I'll be in need  
13 during that time.

14 THE COURT: Okay. And are there people who can cover  
15 you?

16 PROSPECTIVE JUROR 217: No.

17 THE COURT: And what happens when you go on vacation?

18 PROSPECTIVE JUROR 217: Well, I time my vacations, so  
19 they don't line up with these projects.

20 THE COURT: Thank you. Is there anyone else in order, in  
21 this front row, who would not be available?

22 PROSPECTIVE JUROR 220: My name is Albert, 220.

23 THE COURT: And let me get your -- 220. Let me just get  
24 there, sir. Okay, and that's Borboa?

25 PROSPECTIVE JUROR 220: Borboa.

1 THE COURT: Yes. Can you stand so I can hear you?

2 PROSPECTIVE JUROR 220: There's only two people in the  
3 house, my sister of mine, older, 71, and me. She works, and I take her to  
4 work back and forth. Nobody else takes care of her but me. And she --  
5 she goes to work. And however, if I don't ---

6 THE COURT: Why does -- why would you need to be there?

7 PROSPECTIVE JUROR 220: Huh?

8 THE COURT: What is your hardship? I don't understand.

9 PROSPECTIVE JUROR 220: That -- that my sister needs me  
10 to take her to work and back. And because she can't -- she doesn't drive.  
11 She's 71.

12 THE COURT: Okay. And --

13 PROSPECTIVE JUROR 220: And my -- I have a bad hip that I  
14 can't really stand for more than three or four hours, usually I'm in pain.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR 220: I'm 67. So that would be it.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 220: Uh-huh.

19 THE COURT: Anyone else in the front row here?

20 PROSPECTIVE JUROR 222: My name is Leslie Hamilton,  
21 badge number 222. The question was posed earlier about full disclosure  
22 in relationships with the Plaintiffs and the Defendants.

23 THE COURT: Right.

24 PROSPECTIVE JUROR 222: So I've had past and present  
25 interactions with both the Plaintiffs and the Defendants. In 2001, I was a

1 pharmaceutical sales representative calling upon the Fremont Medical  
2 Center Outpatient Physician Groups, and I served them until 2008. As it  
3 relates to the Defendants, in June 2020, I started a dialogue with the  
4 provider relations individuals at United Healthcare and Health Plan of  
5 Nevada to initiate the process for addition of my pulmonary device for  
6 addition to their formulary. I continue to work in the medical sales  
7 environment. I cover five states. I do work autonomously. And  
8 beginning next week on November 3rd and 4th, I have meetings with  
9 two pulmonology groups in Long Beach. Beginning Wednesday,  
10 November 10th and 11th, I'm meeting two internal medicine groups in  
11 Bakersfield, in addition to the Bakersfield Memorial Hospital case  
12 manager meeting.

13 Typically, if I were to miss these meetings, ask for permission  
14 for my manager to cover those meetings. Unfortunately, starting  
15 tomorrow, Wednesday, he's on a seven-day hunting trip. So I'd have no  
16 one to cover.

17 THE COURT: Would jury service pose a hardship to you?

18 PROSPECTIVE JUROR 222: Jury service would mean I would  
19 be unable to work, and I would be unable to fulfill the five meetings and  
20 in-services and evaluations with my pulmonary device, that no one could  
21 cover.

22 THE COURT: Would that pose a hardship?

23 PROSPECTIVE JUROR 222: It would pose a hardship to the  
24 customers and the pulmonary patients that I serve.

25 THE COURT: Okay. And have anything about your past



1 interactions with either side have anything to do with the hardship?  
2 Could you be neutral otherwise?

3 PROSPECTIVE JUROR 222: I could otherwise be neutral, yes,  
4 if I were forced to be made available, yes.

5 THE COURT: Thank you, Ms. Hamilton. The next person in  
6 order then. If there -- are there any hands in the next -- is that row --  
7 everyone in that row's had a chance to give me a hardship? Yeah.

8 PROSPECTIVE JUROR 224: 24, Kelsey Dudley. I have -- I  
9 would be available.

10 THE COURT: Thank you. All right. Let's hear from in the  
11 second row of anyone who would be unavailable, starting with your  
12 right to left. And if someone -- if you -- if I can't see you, you'll have to  
13 stand.

14 PROSPECTIVE JUROR 237: Okay. It's Robert Biondo. The  
15 number is 237.

16 THE COURT: I can't hear you, sir.

17 PROSPECTIVE JUROR 237: Oh, can you hear me now?

18 THE COURT: Yes.

19 PROSPECTIVE JUROR 237: Sorry. 237, it's Robert Biondo.  
20 So I actually work at a retail cosmetology store actually on the strip. My  
21 schedule's already been put out for, like, at least, like, the next couple  
22 weeks. I can't request any other time off because they already blacked  
23 out. But my grandma also does stay at my place. And she actually has  
24 dementia. She had a really hard fall at least a couple years ago. So she  
25 has a really hard time walking. I have a two-story house. So I'm the one

1 that actually helps her come up and down the stairs to try to get her legs  
2 to actually move more. If not, she gets, like, the -- she gets, like, back up  
3 inside of her throat, and it's really hard for her actually to breathe. And  
4 she's actually choking up a lot. So I have to literally walk her up and  
5 down the stairs every day.

6 THE COURT: Okay. What are your normal work hours?

7 PROSPECTIVE JUROR 237: Mine change all the time. I'm the  
8 only guy -- the only guy that works at my location. So I actually work for  
9 Sephora. So they use me doing like receiving and also, even on stage,  
10 also.

11 THE COURT: What happens --

12 PROSPECTIVE JUROR 237: So usually, like, I would usually  
13 work, like, early mornings sometimes. Like usually, Monday and  
14 Tuesday, usually 6 a.m. to like 2. And then after that, then it like changes  
15 throughout the week.

16 THE COURT: And what happens when you go on vacation?  
17 Do they have other people who can come in?

18 PROSPECTIVE JUROR 237: They do. But it's already blacked  
19 out. November and December is already blacked out. So no one can  
20 actually request any kind of time off at all.

21 THE COURT: And is your business seasonal?

22 PROSPECTIVE JUROR 237: No. I have actually been with the  
23 company for six years.

24 THE COURT: Okay. And what does your grandmother do  
25 when you're at work?

1 PROSPECTIVE JUROR 237: So she actually -- I usually have  
2 her stay downstairs actually on the couch, that way she's closer to like  
3 the nearest restroom that's in my house. She has a walker. So she can  
4 actually move herself that way, that way she's always walking around. If  
5 not, if she's sitting in bed, like I said, she gets backed up inside there.  
6 And she's already -- we've already had to rush her to the hospital at least  
7 already once because when it does back up, it's -- they said I guess  
8 that's -- I guess that's the reason why she's already had at least two  
9 strokes already. So --

10 THE COURT: Sorry. Thank you.

11 PROSPECTIVE JUROR 237: No problem.

12 THE COURT: Is there anyone else in order in that row who  
13 would be unavailable?

14 PROSPECTIVE JUROR 257: Hello, my name is Wellington To.  
15 My badge number is 257. I currently am a student at University of Las  
16 Vegas Nevada. And the hard -- this hardship would be that I can't attend  
17 class since my classes are Monday, Wednesday, Friday from 8:30 a.m. to  
18 2:15 p.m. And if I was to attend jury duty, I wouldn't be able to pass my  
19 classes since my classes are currently very difficult.

20 THE COURT: Thank you. Let's -- you may pass the  
21 microphone to the next person who has unavailability or a hardship.

22 PROSPECTIVE JUROR 258: My name is Jamie Stopper,  
23 number 258. I work for the Department of Family Services with child that  
24 are neglected and abused. It's the end of the month. So I've already --  
25 I'm trying to get everything done before the end of the month. I'm

1 getting a new case tomorrow with five new children. I'm expected in  
2 family court on November 2nd and November 4th. And I have a  
3 vacation that I've been planning for the last two years from November  
4 9th through November 21st.

5 THE COURT: Thank you. Next person in order, please.

6 PROSPECTIVE JUROR 259: Mary Hamlin, 259. I'm an  
7 independent contractor. So I will not be able to get paid through the  
8 course of the trial.

9 THE COURT: And would that pose a financial hardship to  
10 you?

11 PROSPECTIVE JUROR 259: Yes, ma'am.

12 THE COURT: As an independent contractor, do you have  
13 more flexible hours so that you could still get your work done?

14 PROSPECTIVE JUROR 259: Normally, yes. I'm in a contract  
15 with one of the gaming companies here. And my hours at this point for  
16 the next three months will be 8:30 to 4:30.

17 THE COURT: Thank you. Next person in order, please.

18 PROSPECTIVE JUROR 284: My name is Dilcia McDougall,  
19 and my badge is 284. And unfortunately, I have a trip to my country,  
20 Honduras the 12th through 23. I can be available after Thanksgiving.

21 THE COURT: But when is your trip again?

22 PROSPECTIVE JUROR 284: The 12th through the 23.

23 THE COURT: And is it -- would you lose money? Would you  
24 be able to reschedule it? Is everything paid already?

25 PROSPECTIVE JUROR 284: Everything is paid already.

1 THE COURT: Thank you. Next person in order, please.

2 PROSPECTIVE JUROR 290: My name is Nicole Hunt, and my  
3 number is 290. So I actually have two reasons. I'm a teacher. And we  
4 have a shortage of substitute teachers. And I teach seventh graders, so  
5 nobody's jumping at the bit to do them. Today alone, I've already had  
6 six kids at the principal's office. But I also have a vacation planned. I'm  
7 flying to Florida on November 18th, which is that Thursday before  
8 Thanksgiving. And we're not flying home until after Thanksgiving.  
9 We're -- we have nonrefundable tickets to Universal Studios, and our  
10 hotel is paid and our car rental.

11 THE COURT: I think Ms. Nierman over here is also -- are you  
12 a seventh-grade teacher also, or --

13 MS. NIERMAN: Yes.

14 THE COURT: We have two seventh-grade teachers in the  
15 room. Thank you, Ms. Hunt. Anyone else on that row?

16 PROSPECTIVE JUROR 292: My name is Susana Arroyo. My  
17 number is 292. I'm not sure if I'm going to be able to understand what  
18 they're talking about. My English is like about 70 percent, let's say. And  
19 I'm a single mother. And I don't know if I can afford to be missing any  
20 days.

21 THE COURT: And do you work outside the home?

22 PROSPECTIVE JUROR 292: Yeah. I work at the Wynn Hotel.

23 THE COURT: What kind of work do you do?

24 PROSPECTIVE JUROR 292: I'm a shift manager.

25 THE COURT: And do you speak English for your job?

1 PROSPECTIVE JUROR 292: I do. I do. I speak English. But  
2 most of the people that I work with, they speak Spanish.

3 THE COURT: Okay. And do you understand medical terms  
4 in English?

5 PROSPECTIVE JUROR 292: Not 100 percent.

6 THE COURT: Do you understand legal terms in English?

7 PROSPECTIVE JUROR 292: Not 100 percent. I've never been  
8 on these, so I'm not sure.

9 THE COURT: All right. It's not -- the purpose was not to  
10 embarrass you. I just -- I had to put you on the spot.

11 PROSPECTIVE JUROR 292: Okay.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR 292: Thank you.

14 THE COURT: All right. Now, let's start in the back row on  
15 your right, if there's anyone who is unavailable. Unavailable or  
16 hardship?

17 PROSPECTIVE JUROR 315: Hello. My name is Jacquelyn  
18 Redmer. Badge number is 315. I'm a single mom. I work a full-time job  
19 and take care of my mother. So I wouldn't be available right now.

20 THE COURT: And how old are your children?

21 PROSPECTIVE JUROR 315: They are 12 and 13.

22 THE COURT: And what are your normal work hours?

23 PROSPECTIVE JUROR 315: I work 8 to 5, Monday through  
24 Friday.

25 THE COURT: Would it pose a financial hardship to you?

1 PROSPECTIVE JUROR 315: Absolutely.

2 THE COURT: Are you the sole --

3 PROSPECTIVE JUROR 315: Yes.

4 THE COURT: -- breadwinner at the house?

5 PROSPECTIVE JUROR 315: Yes.

6 THE COURT: And what kind of work do you do?

7 PROSPECTIVE JUROR 315: I'm a receptionist.

8 THE COURT: What type of business?

9 PROSPECTIVE JUROR 315: Executive Suites.

10 THE COURT: Thank you.

11 Next in order, anyone who has a hardship.

12 PROSPECTIVE JUROR 327: My name is --

13 THE COURT: You'll have to speak up. I'm sorry, I can't hear  
14 you.

15 PROSPECTIVE JUROR 327: Hello.

16 THE COURT: Yes?

17 PROSPECTIVE JUROR 327: My name is Baoling Fu. My  
18 name badge number is 327. Because I have two kids, I need the  
19 mornings them go to school. I have a small one. I need to take them  
20 daytime.

21 THE COURT: How old are your children?

22 PROSPECTIVE JUROR 327: Eight and four.

23 THE COURT: Eight and twelve?

24 PROSPECTIVE JUROR 327: Eight and four.

25 THE COURT: Eight and four. Do you work?

1 PROSPECTIVE JUROR 327: Yes. I have work.

2 THE COURT: What are your normal work hours?

3 PROSPECTIVE JUROR 327: I work Red Rock Casino.

4 THE COURT: And --

5 PROSPECTIVE JUROR 327: I start day shift 11 to 7.

6 THE COURT: Do you speak English for your work? Are you  
7 having any trouble following us today?

8 PROSPECTIVE JUROR 327: Excuse me?

9 THE COURT: Do you -- do you understand everything we're  
10 doing here? Do you understand in English the work we're doing today?

11 PROSPECTIVE JUROR 327: Half, half.

12 THE COURT: Half and half. Do you understand medical  
13 terms in English?

14 PROSPECTIVE JUROR 327: No.

15 THE COURT: Do you understand legal terms in English?

16 PROSPECTIVE JUROR 327: No.

17 THE COURT: Thank you very much.

18 PROSPECTIVE JUROR 327: Thank you.

19 THE COURT: Let's pass the mic to the next person who  
20 would be unavailable or who would have a hardship.

21 PROSPECTIVE JUROR 335: Hello. I'm Karen Osborne. My  
22 badge number is 335. I work from home. I work for a bank. I work 8:30  
23 to 5, Monday through Friday. I also have an elderly mom that I take care  
24 of. I am there even -- I work from home, so I am able to be there in case  
25 she needs me. She doesn't drive. She can't move around very well. So



1 I do my part to take care of her. I just moved her here from Florida. So  
2 that's what I've got.

3 THE COURT: Okay. Are you the sole breadwinner?

4 PROSPECTIVE JUROR 335: I am.

5 THE COURT: Or do you have a spouse?

6 PROSPECTIVE JUROR 335: I don't have a spouse. No.

7 THE COURT: And did you have children?

8 PROSPECTIVE JUROR 335: No.

9 THE COURT: No children, but it's your mother?

10 PROSPECTIVE JUROR 335: It's my mother. Yes.

11 THE COURT: And how old is your mom?

12 PROSPECTIVE JUROR 335: She's going to be 75 next month.

13 THE COURT: And what is her health status?

14 PROSPECTIVE JUROR 335: She is immunocompromised.

15 She has COPD. And she has a difficult time walking. She's bigger than  
16 the average bear. But she's -- she's a great mom. So --

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 335: You're welcome.

19 THE COURT: All right. I always feel like I'm prying into  
20 everybody's life up here. Okay. Next person, please.

21 PROSPECTIVE JUROR 339: Hi. My name is Bobbie Dudley.  
22 My badge number is 339. And I was just wondering if I can say my  
23 reason in private.

24 THE COURT: If you could do what?

25 PROSPECTIVE JUROR 339: Say my reason in private.

1 THE COURT: You may.

2 PROSPECTIVE JUROR 339: Thank you.

3 THE COURT: Please come up here without the microphone.  
4 Counsel, please approach.

5 [Sidebar at 2:15 p.m., ending at 2:16 p.m., not transcribed]

6 THE COURT: Ms. Dudley, we have respected your privacy.  
7 And you have given us a sufficient reason for you not to serve on this  
8 jury. We hope that your day gets better.

9 PROSPECTIVE JUROR 339: Thank you.

10 THE COURT: Okay. The microphone will go to our next  
11 person, please.

12 PROSPECTIVE JUROR 349: Hi. I'm Robbie Broneske, and my  
13 badge number is 349. My husband doesn't drive, so I'm the one who  
14 takes him to work. For him to take Uber, he has anxiety problems. So  
15 he wouldn't be able to do that.

16 THE COURT: What are his work hours?

17 PROSPECTIVE JUROR 349: It varies.

18 THE COURT: And is there anyone else who can take him?

19 PROSPECTIVE JUROR 349: No. We have no family here.

20 THE COURT: Okay. Thank you.

21 That is the last juror on the list.

22 THE MARSHAL: I just want to make sure Ms. Dudley's  
23 excused.

24 THE COURT: Ms. Dudley, you're excused. You may leave.  
25 And we all thank you for being willing to walk into this courtroom.

1 PROSPECTIVE JUROR 339: Thank you.

2 THE COURT: All right. So that is -- did you have anything  
3 more, Mr. Broneske, about where -- where does he work, how far is it?

4 PROSPECTIVE JUROR 349: We live over by the South Point  
5 Casino, and he works in Summerlin. So to take an Uber there would be  
6 more than he would make.

7 THE COURT: And what kind of work does he do?

8 PROSPECTIVE JUROR 349: He works in retail. But he is in  
9 the back room. So he's like an associate that pushes the freight out.

10 THE COURT: Okay. Thank you.

11 PROSPECTIVE JUROR 349: And also, his mom has  
12 dementia, and she's at the middle stages of it. So we don't know when  
13 he might have to go back there either.

14 THE COURT: Thank you.

15 I know we just took a break, but I'm going to take a short  
16 break so that the lawyers can confer with regard to the information  
17 we've gotten from our new people. Thank you for your courtesy and  
18 understanding that we have to take another recess.

19 During the recess -- this is for everyone -- don't talk with  
20 anyone else on any subject connected with the trial. Don't read, watch,  
21 or listen to any report of or commentary on the trial. Don't discuss this  
22 case with anyone connected to it by any medium of information  
23 including without limitation, newspapers, television, radio, internet, cell  
24 phone, or texting.

25 Don't conduct any research on your own. Don't speculate

1 about what the case is about. Don't speculate about the witnesses.  
2 Don't speculate about the lawyers. And don't conduct any research.  
3 You can't even consult dictionaries, use the internet, or use reference  
4 materials. Don't post anything on social media. Don't text, Tweet,  
5 Google issues or conduct any other type of research with regard to any  
6 issue, party, witness, or attorney involved in the case. Do not form or  
7 express any opinion on any subject connected with the trial until the  
8 matter is submitted to the jury.

9 I don't -- my screen's not up. What time is it?

10 THE CLERK: 2:19.

11 THE COURT: It's 2:19. Let's be back at 2:35.

12 THE MARSHAL: All rise for the jurors.

13 THE COURT: And lawyers, I'll be back at 2:30. Why don't  
14 you guys confer?

15 UNIDENTIFIED SPEAKER: Yes, Your Honor.

16 [Prospective jurors out at 2:20 p.m.]

17 THE COURT: Okay. Room's clear. Why don't you guys  
18 discuss that with each other? Nicole's going to see if we could get  
19 another panel tomorrow, if needed.

20 MR. ROBERTS: Thank you, Your Honor.

21 THE COURT: And she hopefully will have an answer soon.  
22 I'll be back at 2:30.

23 MR. ROBERTS: Thank you, Your Honor.

24 MR. ZAVITSANOS: Thank you, Your Honor.

25 [Recess taken from 2:21 p.m. to 2:31 p.m.]

1 [Outside the presence of the prospective jurors]

2 THE MARSHAL: The Court is back in session.

3 THE COURT: Have you all had enough time? Did you all  
4 have enough time?

5 MR. ZAVITSANOS: Yes, Your Honor.

6 MR. ROBERTS: Yes, Your Honor.

7 THE COURT: I don't want to proceed without Mr. Blalack.  
8 Mr. Roberts, we can proceed without him. I'm kidding.

9 MR. ZAVITSANOS: Thank you, Your Honor. Would you like  
10 me to identify, Your Honor, who we've agreed upon?

11 THE COURT: Yes. And this time I'm going to need names  
12 and numbers, because I don't want to make another mistake and let  
13 somebody go.

14 MR. ZAVITSANOS: Yes, Your Honor. And forgive me, Your  
15 Honor, I only have the numbers. Mr. Roberts is probably more careful  
16 than I am, so he can fill in the name.

17 THE COURT: Well I have it up here too, so.

18 MR. ZAVITSANOS: Okay.

19 THE COURT: We're starting with Juror Number 217, was the  
20 first.

21 MR. ZAVITSANOS: No agreement on that one, Your Honor.

22 THE COURT: Got it.

23 MR. ZAVITSANOS: 220, we do have an agreement to excuse.

24 THE COURT: For Borboa?

25 MR. ZAVITSANOS: Borboa. 222, there is no agreement. 237

1 there is an agreement, Biondo.

2 THE COURT: 237, Biondo.

3 MR. ZAVITSANOS: 257, there is an agreement, To.

4 THE COURT: To.

5 MR. ZAVITSANOS: 258, there is an agreement, Stopper.

6 259, there is an agreement, Hamlin. 284, there is an agreement,

7 McDougall. 290, there is an agreement, Hunt. 292, there is an

8 agreement, Arroyo.

9 THE COURT: Hang on. I got to catch up.

10 MR. ZAVITSANOS: I'm sorry, Your Honor.

11 THE COURT: No. Okay.

12 MR. ZAVITSANOS: 315, there is an agreement, Redmer.

13 327, there is an agreement, Fu., 335, there is an agreement, Osborn.

14 THE COURT: Give me a sec here. Well, we let Dudley go.

15 MR. ZAVITSANOS: Yes.

16 THE COURT: Does that take us to our last --

17 MR. ZAVITSANOS: And 349, which is the last one. To be

18 charitable, I think both sides are largely indifferent on this one. We

19 neither have an agreement nor disagreement. I've rarely had a case

20 where it's the spouse's employers -- employment hardship.

21 THE COURT: It's the spouse's anxiety.

22 MR. ZAVITSANOS: Yes.

23 THE COURT: Is the issue.

24 MR. ZAVITSANOS: I guess if you put it that way, the anxiety

25 not to be an Uber --

1 MR. ROBERTS: It would cost more than --

2 MR. ZAVITSANOS: I think we're both receptive, and we want  
3 to get the Court's feelings.

4 THE COURT: If your spouse has so much anxiety that they  
5 can't drive, and they can't be driven by an Uber, I think it's enough.

6 MR. ZAVITSANOS: Okay. Stip to leave, Your Honor.

7 MR. ROBERTS: That's fine then, Your Honor.

8 MR. ZAVITSANOS: Thank you, Your Honor.

9 THE COURT: Nicole is asking about 276 and let me get there.  
10 I have -- on the top of page 15. Quach, Juror 276. But he was -- she  
11 didn't --

12 THE CLERK: Didn't she have a trip planned?

13 THE COURT: No. That was McDougall to the Honduras.

14 MR. ZAVITSANOS: I don't show it's 276 having spoken.

15 THE COURT: I don't either.

16 MR. ROBERTS: 349 was the last one, I believe, we addressed  
17 here.

18 THE COURT: Let me read this back to make sure I have it  
19 correct for you.

20 MR. ZAVITSANOS: Yes, Your Honor.

21 THE COURT: And one of the jurors told me if I tied knots,  
22 this thing would not slip off my face. I haven't done it yet.

23 220 Borboa. 237, Biondo. 257, To. 258, Stopper. 259  
24 Hamlin. 284, McDougall. 290, Hunt. 292, Arroyo. 315, Redmer. 327, Fu.  
25 335, Osborn. 349, Broneske. Is that correct?

1 MR. ZAVITSANOS: From the Plaintiff, Your Honor, yes, it's  
2 correct.

3 MR. ROBERTS: Defense agrees, Your Honor.

4 THE COURT: Thank you. All right, are we ready to bring in  
5 the jury?

6 MR. ZAVITSANOS: Yes. And, Your Honor, as with the  
7 others, with the two folks on the not agreed, that is 217 and 222, is Your  
8 Honor going to ask additional follow-up questions or would you like  
9 counsel to do that?

10 THE COURT: Well, hang on. Let me find them and then I'll  
11 see what you want to know. 217, Black Friday?

12 MR. ZAVITSANOS: Yeah.

13 THE COURT: I probably would have let him go, but --

14 MR. ZAVITSANOS: That was the gentlemen with the  
15 software company in projects and development.

16 THE COURT: Yes.

17 MR. ZAVITSANOS: And then 222 was the lady with the  
18 pulmonary device and has meetings in different states with different  
19 doctor groups.

20 THE COURT: And whose also worked with both parties.

21 MR. ZAVITSANOS: And she is currently working with  
22 United.

23 THE COURT: Right. Yeah. What other question would you  
24 want to clarify?

25 MR. ZAVITSANOS: Well I -- we would like to excuse both of



1 them. You know, I think, and I don't want to speak for counsel, my  
2 esteemed opposing counsel here. I thought they were both over the line  
3 in terms of hardship. But I'm just asking Your Honor if you, if Your  
4 Honor is going to ask additional questions or if you would like us to do  
5 it?

6 THE COURT: Why don't I pivot to Mr. Roberts on that.

7 MR. ROBERTS: Your Honor, I think -- I don't know if we need  
8 additional questions, although they may be helpful. But from our  
9 standpoint it sounded to us like those were both hardships for the  
10 company and not for the employee, not for the individual juror. And it  
11 almost sounded like, you know, the one, the pulmonary device was  
12 some sort of sales issue.

13 THE COURT: It's definitely a sales issue.

14 MR. ROBERTS: Which --

15 THE COURT: She said she had a hardship.

16 MR. ROBERTS: But I think it was her employer that had a  
17 hardship because -- I mean, maybe she works on commission. Maybe it  
18 would be a financial hardship, but I don't think it's come out yet.

19 MR. ZAVITSANOS: Well I think she actually said more than  
20 that, Your Honor. I think she said both patients, customers and her and  
21 she had visits with actual physician groups in connection with  
22 procedures that were coming up. So I think it's over the line, but.

23 THE COURT: I felt they both showed a hardship, but if you  
24 want additional questioning, you don't have to agree if you want that  
25 change.

1 MR. ROBERTS: And our recollection may be mistaken, but  
2 we thought when you directly asked her about hardship, she said to the  
3 companies.

4 THE COURT: She did at first, but I asked her a second time.  
5 So because then she kept giving more answers and that's when she  
6 went into the thing about the -- she had it about the next week meeting  
7 in Long Beach.

8 MR. ZAVITSANOS: And, Your Honor, the reason --  
9 obviously, it's obvious here, but the reason I'm asking now is because if  
10 Your Honor is going to excuse these two for hardship, from our  
11 standpoint we'd prefer that we do that now so we get the new people in  
12 so that we can resume with the jury selection, so that we can be sure of  
13 finishing this week. That's why I'm asking. Because otherwise, there's  
14 an extra step involved if we get to a point where there is hardship and  
15 then we got to stop and do this again. So that's why I'm asking. Forgive  
16 me, I was just trying to be efficient.

17 THE COURT: Was there a response?

18 MR. ROBERTS: Yes. If Your Honor recalls her saying that it  
19 was a hardship to her the second time around, we'll accept that, and  
20 we'll excuse 222.

21 THE COURT: I'll just verify it, and I can ask for questions on  
22 Onyema and that may resolve your issue.

23 MR. ROBERTS: Thank you, Your Honor.

24 THE COURT: That's okay too, you know. It's okay.

25 MR. ROBERTS: Thank you. I appreciate that, Your Honor.

1 THE CLERK: I did get a response from jury services. It says  
2 how many jurors would you like? An entire panel of 45? And what time  
3 did you need them available? I currently have two panels reporting for  
4 pickup at 11:00 a.m. and 12:00 p.m.

5 THE COURT: So if we could get another panel, I would say  
6 10:00 tomorrow?

7 MR. ZAVITSANOS: Excuse me, Your Honor?

8 THE COURT: If we could get another panel tomorrow, I  
9 would say 10:00 a.m.?

10 MR. ZAVITSANOS: Yeah, as early as possible.

11 THE COURT: Even if they have -- some of them have to be in  
12 the spillover.

13 MR. ZAVITSANOS: Yeah.

14 THE COURT: Thank you.

15 THE CLERK: So 10:00 a.m. if possible?

16 THE COURT: 45.

17 THE CLERK: Okay.

18 THE COURT: Thanks.

19 MR. ZAVITSANOS: And, Your Honor, not to beat a dead  
20 horse here, but for Number 217, I thought he said the same thing.

21 THE COURT: I'll clarify it.

22 MR. ZAVITSANOS: Okay.

23 THE COURT: All right. Let's bring in the jury.

24 MR. ROBERTS: Thank you, Your Honor.

25 THE COURT: Oh, did you guys see that there was a note

1 from -- I haven't read it.

2 MR. ROBERTS: It's effectively the same information.

3 THE COURT: Of Family Services?

4 MR. ZAVITSANOS: The penmanship is outstanding, Your  
5 Honor.

6 MR. ROBERTS: Yes, it is.

7 MR. ZAVITSANOS: It's impeccable.

8 THE COURT: Parochial school, for sure. There you go.  
9 Thank you.

10 MR. ROBERTS: And there's no one left in 3A. Correct, Your  
11 Honor?

12 THE COURT: That's it. That was the last person on panel  
13 two.

14 MR. ROBERTS: That's what we thought. Thank you.

15 THE MARSHAL: All rise for the jury.

16 [Prospective jurors in at 2:44 p.m.]

17 THE COURT: Thank you. Please be seated. So badge  
18 number 217, Mr. Onyema, we have some more questions for you. Tell  
19 us what the lead up to Black Friday is like for you.

20 PROSPECTIVE JUROR 217: It's just making sure the  
21 programs that we send to test in live are working as they should and  
22 testing and double testing and working with the customers and the  
23 programmers to make sure every -- all the bugs are kicked out. So when  
24 the volume goes up that things don't crash.

25 THE COURT: And how long do you need to ramp that up?

1 PROSPECTIVE JUROR 217: I mean, we've already started.

2 THE COURT: And do you work more time than usual during  
3 this time? Do you have overtime?

4 PROSPECTIVE JUROR 217: Usually we get it done between  
5 the 8:00 to 5:00 each day. Usually not overtime. Sometimes on the  
6 weekends we'll work extra, but usually we try to keep it through Monday  
7 through Friday 8:00 to 5:00.

8 THE COURT: And would it be hardship for you --

9 PROSPECTIVE JUROR 217: Yeah.

10 THE COURT: -- or for your employer if you have to serve on  
11 jury duty?

12 PROSPECTIVE JUROR 217: The hardship for me would be  
13 the decreased pay because you're not getting -- I make substantially  
14 more than \$5 or the \$40 of a day. Yeah. So, yes.

15 THE COURT: And do you have dependents?

16 PROSPECTIVE JUROR 217: No dependents.

17 THE COURT: No dependents. Are you the sole person in  
18 your household?

19 PROSPECTIVE JUROR 217: Yes.

20 THE COURT: So you don't have to work overtime. If you had  
21 to serve on the jury, are there other people your company could use to  
22 do the ramp up?

23 PROSPECTIVE JUROR 217: Yeah, they can pull people from  
24 other departments, yeah.

25 THE COURT: Okay, thank you. And then I have a couple

1 more questions for Ms. Hamilton.

2 PROSPECTIVE JUROR 222: Yes, ma'am?

3 THE COURT: Tell us about your meetings in Long Beach  
4 next week. The meetings next week.

5 PROSPECTIVE JUROR 222: Oh, yes. Right. So I'm in  
6 servicing two separate pulmonary physicians. One on Wednesday. One  
7 on Thursday. Both were inquiries made during this COVID environment  
8 while my particular pulmonary device isn't indicated for treatment of  
9 COVID, it is the pulmonologist's goal to keep there at risk pediatric and  
10 adult patient population safely at home. Using one of the other 56 ICB  
11 10 codes that may qualify them for high frequency chest wall oscillation.

12 THE COURT: And so, the way I understood your testimony  
13 was that first you thought it was really more of a hardship to your  
14 employer, but I thought I heard you say it would be a hardship to you if  
15 you had to serve on the jury?

16 PROSPECTIVE JUROR 222: No hardship to me. I would in  
17 lieu of the absence of my manager taking over my meetings, I would just  
18 cancel the meetings. So the hardship would be to the pediatric and adult  
19 patient populations who aren't getting the education that I'm providing  
20 through their physicians. But I wouldn't suffer any financial hardship,  
21 no.

22 THE COURT: All right, very good. Counsel, please approach  
23 really quickly.

24 [Sidebar at 2:49 p.m., ending at 2:50 p.m., not transcribed]

25 THE COURT: In consultation with the lawyers during the

1 break, and now we've made a determination that some people will be  
2 released from the jury for hardship. And I'll ask you to stand if I read  
3 your badge number and name. Borboa, 220, Hamilton, 222, Biondo, 237,  
4 To, 257, Stopper, 258, Hamlin, 259, McDougall, 284, Hunt, 290, Arroyo,  
5 292, Redmer, 315, Fu, 327, Osborn, 335, and Broneske, 349. We want to  
6 thank you for being willing to serve your community. We hope you get  
7 that chance to serve on a jury, and thank you again for willing, and you  
8 are excused.

9 IN UNISON: Thank you, Judge.

10 THE COURT: I just have to find my place to start the  
11 questioning again. Okay. I believe we are to Asato; is that correct? Yes.  
12 Sir, how long have you lived in the Las Vegas area?

13 PROSPECTIVE JUROR 130: Three years.

14 COURT REPORTER: And Your Honor, I'm sorry, may I ask  
15 the badge number, please?

16 THE COURT: Of course. It is 150.

17 COURT REPORTER: Thank you, Your Honor.

18 PROSPECTIVE JUROR 130: 130.

19 THE COURT: Wait, 130?

20 MR. LUNDVALL: That's what we have, Your Honor.

21 THE COURT: Hang on. You are correct. It's 130. Do we  
22 have the microphone?

23 Mr. Asato, your badge number, please?

24 PROSPECTIVE JUROR 130: Mike Asato, 130.

25 THE COURT: And you've lived in Las Vegas about three

1 years?

2 PROSPECTIVE JUROR 130: Three years, yeah.

3 THE COURT: And where are you employed?

4 PROSPECTIVE JUROR 130: I work for an air conditioning  
5 company.

6 THE COURT: And what kind of work do you do?

7 PROSPECTIVE JUROR 130: I do controls, building controls.

8 THE COURT: If you're married, does your spouse work?

9 PROSPECTIVE JUROR 130: She does not.

10 THE COURT: And have you ever served before on a jury?

11 PROSPECTIVE JUROR 130: Yes.

12 THE COURT: Here in Clark County?

13 PROSPECTIVE JUROR 130: No.

14 THE COURT: Where did you serve on a jury?

15 PROSPECTIVE JUROR 130: Colorado.

16 THE COURT: And was it a civil or criminal case?

17 PROSPECTIVE JUROR 130: Criminal.

18 THE COURT: Did the jury deliberate?

19 PROSPECTIVE JUROR 130: We did.

20 THE COURT: Did you participate in the deliberations?

21 PROSPECTIVE JUROR 130: Yes.

22 THE COURT: Did the jury reach a verdict?

23 PROSPECTIVE JUROR 130: Yes.

24 THE COURT: And were you the foreperson of the jury?

25 PROSPECTIVE JUROR 130: No.



1 THE COURT: Okay. Have you ever sued anyone, or been  
2 sued?

3 PROSPECTIVE JUROR 130: Small claims.

4 THE COURT: And is that resolved now?

5 PROSPECTIVE JUROR 130: Yes.

6 THE COURT: And anything about having gone through that  
7 cause you to be less than fair to either side?

8 PROSPECTIVE JUROR 130: No.

9 THE COURT: Thank you. I believe our next person would be  
10 Mr. Michalik; is that correct?

11 PROSPECTIVE JUROR 161: Yeah.

12 THE COURT: All right. And how long have you lived in the  
13 Las Vegas area?

14 PROSPECTIVE JUROR 161: 29 years.

15 THE COURT: And we know that you work at -- full time?

16 PROSPECTIVE JUROR 161: Yes.

17 THE COURT: Swing shift at the Treasure Island?

18 PROSPECTIVE JUROR 161: Yes.

19 THE COURT: If you're married, does your spouse work?

20 PROSPECTIVE JUROR 161: No.

21 THE COURT: Not married, or --

22 PROSPECTIVE JUROR 161: Not married.

23 THE COURT: Okay. Have you ever been on a jury before?

24 PROSPECTIVE JUROR 161: No.

25 THE COURT: Have you ever sued or been sued?

1 PROSPECTIVE JUROR 161: No.

2 THE COURT: Thank you. Our next person, please.

3 PROSPECTIVE JUROR 171: Joseph Dolan, 171.

4 THE COURT: Okay. And how long have you lived in the Las  
5 Vegas area?

6 PROSPECTIVE JUROR 171: My entire life, 30 years.

7 THE COURT: I think we had other natives here as well. I  
8 think one juror was excused yesterday. We note that you work as a  
9 runner for EBS Construction?

10 PROSPECTIVE JUROR 171: Runner/helper for our service  
11 department.

12 THE COURT: Tell us exactly what you do.

13 PROSPECTIVE JUROR 171: So if I'm running, I'm picking up  
14 checks for our company, picking up parts for construction, delivering  
15 parts to construction, and delivering parts and equipment to our service  
16 techs and our inspection agents.

17 THE COURT: And how many employees does the company  
18 have?

19 PROSPECTIVE JUROR 171: I'd say less than 50. We're a  
20 small company with lots of clients.

21 THE COURT: And isn't there someone who can do your job if  
22 you're not there?

23 PROSPECTIVE JUROR 171: If they take me out of the  
24 warehouse for a week, stuff gets backed up. Our construction guys  
25 won't get the parts they need. Our service techs can't find the stuff they

1 need because they have deadlines and times they have to be at jobsites.  
2 That's the whole reason I was hired was to do that for them because our  
3 jobs was getting backed up.

4 THE COURT: Okay. So if you're married, does your spouse  
5 work?

6 PROSPECTIVE JUROR 171: Yes, she does.

7 THE COURT: What kind of work does she do?

8 PROSPECTIVE JUROR 171: She's a cultivator for a grow  
9 house.

10 THE COURT: And can you tell me the name of the company?

11 PROSPECTIVE JUROR 171: Flower One.

12 THE COURT: Thank you. Have you ever sued anyone or  
13 been sued?

14 PROSPECTIVE JUROR 171: I have been sued, yes.

15 THE COURT: And is that matter resolved now?

16 PROSPECTIVE JUROR 171: Yes, it is.

17 THE COURT: Is there anything about having gone through  
18 that, that would cause you to be unfair to one or the other side?

19 PROSPECTIVE JUROR 171: I do not believe so.

20 THE COURT: Okay. And have you ever served on a jury  
21 before?

22 PROSPECTIVE JUROR 171: No.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR 175: Ken Weissman, Badge Number  
25 175.

1 THE COURT: Have you had a chance to check on the dates  
2 that you're short trials are scheduled?

3 PROSPECTIVE JUROR 175: I've called Stephanie Jackson  
4 over at the ADR office multiple times, every recess, and there's no  
5 answer. I do not have anyone in my office who can check my physical  
6 calendar.

7 THE COURT: Do you have any support staff at your office?

8 PROSPECTIVE JUROR 175: I'm sorry?

9 THE COURT: Do you have support --

10 PROSPECTIVE JUROR 175: No. Not since -- not since COVID  
11 closed it down.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR 175: It's just me in the big office.

14 THE COURT: Okay. So how long have you lived in the Las  
15 Vegas area?

16 PROSPECTIVE JUROR 175: 14 years.

17 THE COURT: We know you're employed as an attorney.

18 PROSPECTIVE JUROR 175: I'm an attorney in sole practice.  
19 I'm also employed by the Los Angeles Police Commissioner as a hearing  
20 officer. I'm also, as you know, a short trial judge, and I work as well as a  
21 property manager, helping my wife, who is a property manager.

22 THE COURT: Okay. All right. And have you ever sued or  
23 been sued?

24 PROSPECTIVE JUROR 175: Yes, quite a few times.

25 THE COURT: And having been -- is anything pending now?

1 PROSPECTIVE JUROR 175: I don't believe so.

2 THE COURT: And --

3 PROSPECTIVE JUROR 175: I'm reasonably sure everything  
4 is -- that there's nothing pending at the moment.

5 THE COURT: All right. Anything about having sued or been  
6 sued keep you from being less than fair to both sides?

7 PROSPECTIVE JUROR 175: I was named in a regal action,  
8 alleged to have conspired with one of the California Supreme Court  
9 Justices by filing an appeal in a case, and that left me with a very bad  
10 taste in my mouth, but it was resolved on appeal, and judgment --  
11 judgment was entered the correct way.

12 THE COURT: And have you ever served before on a jury?

13 PROSPECTIVE JUROR 175: I have served, civil. We went to a  
14 verdict, and I was not the foreperson.

15 THE COURT: Did you participate in the deliberation?

16 PROSPECTIVE JUROR 175: Yes, ma'am.

17 THE COURT: Thank you. You can pass the mic.

18 Your name and badge number?

19 PROSPECTIVE JUROR 217: John Onyema, badge number  
20 217.

21 THE COURT: And how long have you lived in the Las Vegas  
22 area?

23 PROSPECTIVE JUROR 217: More than 20 years.

24 THE COURT: We know your employment is software.

25 PROSPECTIVE JUROR 217: Yes.

1 THE COURT: And we know that you're single.

2 PROSPECTIVE JUROR 217: Yes.

3 THE COURT: Have you sued anyone or ever been sued?

4 PROSPECTIVE JUROR 217: Been sued.

5 THE COURT: And is that matter resolved now?

6 PROSPECTIVE JUROR 217: Yes, it's resolved.

7 THE COURT: Anything about having gone through that, that  
8 would cause you to be less than fair to one side?

9 PROSPECTIVE JUROR 217: No.

10 THE COURT: And have you ever served before on a jury?

11 PROSPECTIVE JUROR 217: No.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR 218: Kyle Zakahi, badge 218.

14 THE COURT: How long have you lived in the Las Vegas  
15 area?

16 PROSPECTIVE JUROR 218: A little over three years.

17 THE COURT: And what kind of work do you do?

18 PROSPECTIVE JUROR 218: I work for a medical billing  
19 company.

20 THE COURT: Are you familiar with either of the parties?

21 PROSPECTIVE JUROR 218: I know the companies, not the  
22 physicians though.

23 THE COURT: But none of the witnesses or the lawyers?

24 PROSPECTIVE JUROR 218: No.

25 THE COURT: Okay. If you're married, does your spouse

1 work?

2 PROSPECTIVE JUROR 218: I'm not married.

3 THE COURT: Have you ever served before on a jury?

4 PROSPECTIVE JUROR 218: No.

5 THE COURT: And have you ever sued or been sued?

6 PROSPECTIVE JUROR 218: No.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR 224: 224, Kelsey Dudley.

9 THE COURT: How long have you lived in the Las Vegas  
10 area?

11 PROSPECTIVE JUROR 224: 28 years.

12 THE COURT: What kind of work do you do?

13 PROSPECTIVE JUROR 224: Caregiver.

14 THE COURT: Can you tell us more about that?

15 PROSPECTIVE JUROR 224: I work for Assisted Hands

16 Homecare. It's a small business. We work with elderly, Alzheimer's,  
17 dementia patients, do personal care services.

18 THE COURT: Okay. If you're married, does your spouse  
19 work?

20 PROSPECTIVE JUROR 224: I am not married.

21 THE COURT: And have you ever served before on a jury?

22 PROSPECTIVE JUROR 224: I have not.

23 THE COURT: Have you ever sued anyone or been sued?

24 PROSPECTIVE JUROR 224: I have not.

25 THE COURT: Thank you. Okay.

1 PROSPECTIVE JUROR 244: Christine Stankoff, badge  
2 number 244.

3 THE COURT: Thank you. How long have you lived in the Las  
4 Vegas area?

5 PROSPECTIVE JUROR 244: 25 years.

6 THE COURT: What kind of work do you do?

7 PROSPECTIVE JUROR 244: I'm a cashier at the Venetian.

8 THE COURT: If you're married, does your spouse work?

9 PROSPECTIVE JUROR 244: No, he's disabled.

10 THE COURT: What did he do before?

11 PROSPECTIVE JUROR 244: Worked for the IRS.

12 THE COURT: We are only looking for conflicts of interest, not  
13 to pry into your life. Have you ever served before on a jury?

14 PROSPECTIVE JUROR 244: No.

15 THE COURT: And have you ever sued anyone, or been sued?

16 PROSPECTIVE JUROR 244: No.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 252: Cody Roberts, 252.

19 THE COURT: How long have you lived in the Las Vegas  
20 area?

21 PROSPECTIVE JUROR 252: Born and raised.

22 THE COURT: Oh, we have another local. Okay. What kind of  
23 work do you do?

24 PROSPECTIVE JUROR 252: I work for Clark County at the  
25 airport.



1 THE COURT: And if you're married, does your spouse work?

2 PROSPECTIVE JUROR 252: I'm single.

3 THE COURT: And have you ever served before on a jury?

4 PROSPECTIVE JUROR 252: No.

5 THE COURT: And have you ever served before on a jury?

6 PROSPECTIVE JUROR 252: No.

7 THE COURT: And have you ever served before on a jury?

8 PROSPECTIVE JUROR 252: No.

9 THE COURT: And have you ever sued anyone or been sued?

10 PROSPECTIVE JUROR 252: No.

11 THE COURT: Thank you.

12 Your name, please? And thank you for scooting over.

13 PROSPECTIVE JUROR 295: You're welcome. Scott Olin,

14 badge 295.

15 THE COURT: Thank you. How long have you lived in the Las  
16 Vegas area?

17 PROSPECTIVE JUROR 295: Almost 12 years.

18 THE COURT: And what kind of work do you do?

19 PROSPECTIVE JUROR 295: Marketing technology.

20 THE COURT: If you're married, does your spouse work?

21 PROSPECTIVE JUROR 295: She does.

22 THE COURT: What kind of work?

23 PROSPECTIVE JUROR 295: Email marketing.

24 THE COURT: Email marketing?

25 PROSPECTIVE JUROR 295: Yep.

1 THE COURT: And have you ever served before on a jury?

2 PROSPECTIVE JUROR 295: No.

3 THE COURT: Have you sued anyone or been sued?

4 PROSPECTIVE JUROR 295: I have been sued, yes.

5 THE COURT: And is that matter pending now?

6 PROSPECTIVE JUROR 295: No, that's resolved.

7 THE COURT: It's -- having gone through that, is there

8 anything about that, that would keep you from being fair, equally to both  
9 sides?

10 PROSPECTIVE JUROR 295: No.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR 308: Mandy Tat, badge 308.

13 THE COURT: Thank you. How long have you lived in the Las  
14 Vegas area?

15 PROSPECTIVE JUROR 308: 29 years.

16 THE COURT: What kind of work do you do?

17 PROSPECTIVE JUROR 308: Front desk at the Excalibur.

18 THE COURT: And if you're married, does your spouse work?

19 PROSPECTIVE JUROR 308: Yes.

20 THE COURT: What kind of work?

21 PROSPECTIVE JUROR 308: A chef at the Mandalay Bay.

22 THE COURT: Have you ever served before on a jury?

23 PROSPECTIVE JUROR 308: No.

24 THE COURT: And have you ever sued anyone or been sued?

25 PROSPECTIVE JUROR 308: No.

1 THE COURT: Thank you.

2 PROSPECTIVE JUROR 308: Thanks you.

3 PROSPECTIVE JUROR 313: Edward Mueller, 313.

4 THE COURT: Okay. Dr. Mueller, how long have you lived in  
5 the Las Vegas area?

6 PROSPECTIVE JUROR 313: 12 years.

7 THE COURT: And we know that you're a medical doctor.

8 PROSPECTIVE JUROR 313: Pardon?

9 THE COURT: You're -- are you a medical doctor?

10 PROSPECTIVE JUROR 313: Yes, I am.

11 THE COURT: Yes.

12 PROSPECTIVE JUROR 313: Former. Retired.

13 THE COURT: And if you're married, does your spouse work?

14 PROSPECTIVE JUROR 313: My spouse is a -- an owner of an  
15 employment -- an entertainment services company.

16 THE COURT: Okay. And who's your actual employer?

17 PROSPECTIVE JUROR 313: Pardon?

18 THE COURT: Who was your actual employer?

19 PROSPECTIVE JUROR 313: My actual employer is Onsite  
20 Healthcare. I'm a human resource manager.

21 THE COURT: And have you ever sued anyone or been sued?

22 PROSPECTIVE JUROR 313: No.

23 THE COURT: And have you ever served before on a jury?

24 PROSPECTIVE JUROR 313: No.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR 346: Doreen Ozoa, 346.

2 THE COURT: Thank you. How long have you lived in the Las  
3 Vegas area?

4 PROSPECTIVE JUROR 346: A little over 21 years.

5 THE COURT: And do you work?

6 PROSPECTIVE JUROR 346: Yes, I do.

7 THE COURT: What kind of work do you do?

8 PROSPECTIVE JUROR 346: I work as a EVS worker at the  
9 Tropicana. We do a lot of cleaning and bio.

10 THE COURT: Thank you. And if you're married, does your  
11 spouse work?

12 PROSPECTIVE JUROR 346: My husband is retired.

13 THE COURT: What did he retire from?

14 PROSPECTIVE JUROR 346: Repeat.

15 THE COURT: What did he retire from?

16 PROSPECTIVE JUROR 346: Bus driver.

17 THE COURT: Have you ever served before on a jury?

18 PROSPECTIVE JUROR 346: No.

19 THE COURT: And have you ever sued anyone or been sued?

20 PROSPECTIVE JUROR 346: No.

21 THE COURT: Thank you. I believe that's our last person. So  
22 Plaintiff, I can turn the veneer over to you for additional voir dire.

23 MR. ZAVITSANOS: Thank you, Your Honor.

24 MR. ROBERTS: Your Honor, I have one clarification.

25 THE COURT: Sure.

1 MR. ROBERTS: Juror badge number 276, Quach, has that  
2 juror been excused?

3 THE COURT: Is 276 here in the courtroom? Yes. Did I skip  
4 over you by mistake?

5 PROSPECTIVE JUROR 276: Excuse me?

6 THE COURT: Did I skip over you by mistake? So Mr. Quach?

7 PROSPECTIVE JUROR 276: Yeah.

8 THE COURT: What's your native language?

9 PROSPECTIVE JUROR 276: Chinese.

10 THE COURT: Okay. And have you been able to follow  
11 everything we're doing today? Do you speak English?

12 PROSPECTIVE JUROR 276: Just little bit.

13 THE COURT: Just a little bit?

14 PROSPECTIVE JUROR 276: Yes.

15 THE COURT: And where do you work?

16 PROSPECTIVE JUROR 276: Now I'm not working.

17 THE COURT: Okay. Do you understand medical terms in  
18 English?

19 PROSPECTIVE JUROR 276: Excuse me?

20 THE COURT: Yeah. Do you -- how much English do you  
21 understand? I don't want to embarrass you, but just a little bit of  
22 English?

23 PROSPECTIVE JUROR 276: I don't understand.

24 THE COURT: A little bit English?

25 PROSPECTIVE JUROR 276: Yeah.

1 THE COURT: Okay. Counsel, please approach.

2 [Sidebar at 3:06 p.m., ending at 3:07 p.m., not transcribed]

3 THE COURT: Mr. Quach, thank you for being here today, and  
4 you'll be excused from serving on this jury. And Marshal Allen, if you  
5 can help him. Thank you.

6 PROSPECTIVE JUROR 276: Thank you.

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

8 THE COURT: Go ahead, please.

9 MR. ZAVITSANOS: Thank you, Your Honor. May it please  
10 the Court. Okay. So first off, let me direct my comments to the folks out  
11 here. I'm not ignoring you, but I'm -- we're going to direct -- we're going  
12 to direct our questions to the new folks over here unless and until such  
13 time as you get into one of these seats, and then we're going to visit with  
14 you. So it would be helpful, I think, for both Mr. Roberts and I to listen to  
15 the questions, because if you do end up in one of the seats over here, it  
16 probably will go a little faster if you pay attention. Okay. So thank you  
17 for your indulgence.

18 To the folks that we visited with yesterday, okay, this is like  
19 that movie Groundhog Day, okay? Right. And I'm going to start singing  
20 Got You Babe from Sonny and Cher, so this is going to sound really  
21 familiar, right? So you know, I'm asking you all to kind of pay attention  
22 because I'm covering the same area. If at any point the folks that heard  
23 the questioning yesterday, if by chance you change your mind or you  
24 have a new opinion on something that we covered yesterday that's  
25 different today, both our side and the Defendant would appreciate it if

1 you would raise your hand and let us know, okay, because we are -- we  
2 are taking you at your word, and we are relying on what you are telling  
3 us. Okay.

4 So now I'm going to address my comments primarily to the  
5 fresh faces we have that -- and it's kind of weird because these folks  
6 were sitting down here before, and now they're kind of reshuffled, so  
7 now I'm going to direct it primarily to the new folks here.

8 So let me introduce myself first. My name is John  
9 Zavitsanos, and we are very proud to represent the doctors, nurses,  
10 nurse practitioners, and physician assistants of the three plaintiffs in this  
11 case. Now one thing that Her Honor did not cover is the facilities where  
12 our people work. Now emergency room doctors, now this is -- I didn't  
13 know this until we got on this case actually, but when you go to the  
14 emergency room at a hospital, the doctors and nurses that work in the  
15 emergency department are not employees of the hospital. All right.

16 So if you go to the emergency room, you get a bill from the  
17 hospital, you get a bill from the emergency room doctor, and then if you  
18 see a radiologist, they're not employees either, you get a bill from them,  
19 and if you see an anesthesiologist, they're not employees either, and you  
20 get a bill from them. So you get separate bills because they're not  
21 employees. Now if the hospital has employees, then you get a bill from  
22 them. Okay.

23 So we're not here representing any hospitals, we're here  
24 only representing the doctors, the emergency room doctors, the nurses,  
25 nurse practitioners, and physician assistants. Now I'm going to tell you

1 which hospitals we're at because probably some of you have been to  
2 some of these facilities. Okay? So bear with me. All right.

3 So the first Plaintiff, which is Freemont Emergency Services,  
4 the hospitals we're at there are Aliante, The Lakes, MountainView  
5 Hospital, and then Dignity Health at the Rose de Lima Campus, the San  
6 Martin Campus, the Siena Campus. We are also at Southern Hills  
7 Hospital, and we are at Sunrise Hospital. That's all in Clark County.  
8 Okay.

9 Team Physicians, one of the other groups, they're in Fallon.  
10 Okay. So quite a distance from here. They are in the Banner Churchill  
11 Community Hospital. And then finally, Ruby Crest, that's the third group  
12 that we represent, they're in Elko, and they work at Northeastern Nevada  
13 Regional Hospital. Okay. All right.

14 So for the new folks, can I just see a show of hands if -- and I  
15 may forget to do this, so just for every question I'm going to ask you, I'm  
16 going to ask about you, a family member, or a close friend. Okay. So  
17 every question is predicated on those three. So how many of you have,  
18 either you, a family member, or a close friend, have been to one of those  
19 facilities in the emergency room? Okay. Let's just go real quickly. Your  
20 number, please?

21 PROSPECTIVE JUROR 095: Badge 95, Jennifer Wilson.

22 MR. ZAVITSANOS: 95. I'm not going to ask the questions.  
23 Just have 95.

24 PROSPECTIVE JUROR 026: 26, 026.

25 MR. ZAVITSANOS: 026, okay, and?



1 PROSPECTIVE JUROR 048: 048.

2 MR. ZAVITSANOS: 048. Is there another hand too? Yes,  
3 ma'am.

4 PROSPECTIVE JUROR 082: 082.

5 MR. ZAVITSANOS: I'm sorry?

6 PROSPECTIVE JUROR 082: 082.

7 MR. ZAVITSANOS: 082. Okay. All right. So I'm going to  
8 have -- I'm not going to pry. I'm just going to ask just enough because  
9 what we're doing here is we're trying to figure out if your life  
10 experiences or values or beliefs or certain views that you have are going  
11 to impact your ability to treat both sides fairly. Okay.

12 So first thing is I'm going to be asking a series of questions,  
13 and these folks have heard -- they've heard many of these already, and  
14 I've got some that I haven't covered yet, so I'm going to address it to  
15 everybody when I get there, but what I need to know right now is for the  
16 new folks that are here, if I say something that you disagree with or  
17 something that you have an opinion on, or something that kind of  
18 touches on one of your personal values, can I -- can you raise your hand,  
19 please, and let me know that you're going to let me know about that?

20 Okay, okay, okay. Put the hands up. Come on. Come on,  
21 everybody. Okay. All right. Sir? Will you let me know? Thank you.  
22 Okay. Thank you, sir. Okay. So, all right.

23 The first thing I want to talk about, bear with me here now, is  
24 the -- so this case, I can't get into the facts at this point. I'm not  
25 permitted to do so. What I can tell you is it's a dispute about how much

1 emergency room doctors ought to be reimbursed at when patients  
2 receive out-of-network care at a facility by the Defendant. Okay. We say  
3 it's one number, they say it's another number. Okay. So there's a  
4 dispute about what the reimbursement rate's going to be. Everybody  
5 with me? Okay.

6           So we are the Plaintiffs, meaning we brought the lawsuit,  
7 and we have the burden of proof. Okay. Now what that means is we  
8 have to prove the case. Now there are different standards that apply  
9 when you bring a case like this and let me talk about one standard that  
10 does not apply. We've all seen TV, and we've all heard beyond a  
11 reasonable doubt, right? You all heard that term? So that applies only in  
12 criminal cases, and the reason it applies in criminal cases is because  
13 when you take someone's liberty, or you're going to restrict their  
14 freedom, we want the burden of proof to be as high as possible, so that  
15 there's very little room for doubt. Okay.

16           And so on a number scale, right? On how certain it is, it's  
17 like 95ish percent, okay? You don't want it -- it's not absolutely certain,  
18 but beyond any reasonable doubt.

19           Then below that is the next standard which is clear and  
20 convincing. In other words, there are some claims, and there's one claim  
21 in this case I'm going to get to in a little bit, where it has to be clear and  
22 convincing. So again, on a number scale, that's like 70, 75 percent  
23 certain. Okay.

24           And then the bottom scale is preponderance of the evidence.  
25 Now I'm going to read you the definition because that's the one that

1 applies to most of the claims in this case, and I'm going to give you kind  
2 of a shorthand way to think about it, okay? So this is what I believe the  
3 definition is. Now at the end of the day only the Court is going to give  
4 the definition if you end up on the jury, all right? So let me just read it  
5 first, and then I'll give you a shorthand way to think about it.

6 So that's preponderance of the evidence, which is the lowest  
7 standard, the one I'm about to ask you about: is evidence that enables a  
8 trier of fact, that's the jury, to determine the existence of the contested  
9 facts, that's what we're doing in this case, is more probably true than the  
10 nonexistence of the contested facts. So more likely so than not so,  
11 meaning, like on a number scale, it's like 51 percent. Okay?

12 So one thing that lawyers do is they talk about kind of the  
13 scales of justice, we just have to tip it ever so slightly in terms of in your  
14 mind is it more likely so than not, just like by a feather, to prove the fact.  
15 Everybody with me so far? Okay.

16 Now here's the questions. So this case involves thousands  
17 of claims, thousands of claims. Not just one claim, but thousands of  
18 them, and the total amount of those claims that we are suing for exceeds  
19 ten million dollars. That's a big number. Okay? It's a big number.

20 Now here's the question, and I can't tell you what -- I can't  
21 give you more facts than that, but right now that I just said that number,  
22 ten million dollars, how many people here are thinking oh, boy, it's a big  
23 number, man. If it was a hundred thousand, or 50 thousand, I got no  
24 problem with this preponderance standard, but at ten million dollars,  
25 you know, 51 percent or preponderance is not a enough. I need a lot

1 more proof before if I end up on the jury, I'm going to require somebody  
2 to pay somebody else ten million dollars when I may have some doubts  
3 even though it's more likely so than not. You follow what I'm saying?  
4 Okay?

5 So how many people here would require by clear and  
6 convincing evidence or beyond a reasonable doubt before they could  
7 award something like ten million dollars if we prove the case by a  
8 preponderance of the evidence, in your mind, but your values are it's not  
9 good enough, I need a standard? All right. How about in the second row  
10 here? Anybody feel that way? Sir, how about you? You're with your --  
11 can we get the microphone, please? And I'm not picking on you, I just --

12 PROSPECTIVE JUROR 026: No, you're good.

13 MR. ZAVITSANOS: We just need to get you talking, okay?

14 That's fine. I'll wake up. Listen, it's -- listen, it's 3:30.

15 PROSPECTIVE JUROR 026: Right, yeah.

16 MR. ZAVITSANOS: Okay?

17 PROSPECTIVE JUROR 026: My day's normal. I'm at practice  
18 right now.

19 MR. ZAVITSANOS: Yeah.

20 PROSPECTIVE JUROR 026: You're good. What's up?

21 MR. ZAVITSANOS: Oh, by the way. Wait a minute. Here's  
22 the most important question.

23 PROSPECTIVE JUROR 026: Okay, all right.

24 MR. ZAVITSANOS: What's your record?

25 PROSPECTIVE JUROR 026: We're seven and two, first time

1 we've been to the playoffs in ten years.

2 THE CLERK: Can I get a badge number, please?

3 PROSPECTIVE JUROR 026: 026.

4 MR. ZAVITSANOS: Okay. And I'm sorry, you said you were  
5 the head football coach?

6 PROSPECTIVE JUROR 026: Yeah. Offensive coordinator,  
7 head football coach.

8 MR. ZAVITSANOS: Oh, you're also the offensive  
9 coordinator?

10 PROSPECTIVE JUROR 026: Yeah.

11 MR. ZAVITSANOS: Okay.

12 PROSPECTIVE JUROR 026: So I'm --

13 MR. ZAVITSANOS: And are you at practice every day?

14 PROSPECTIVE JUROR 026: Yes.

15 MR. ZAVITSANOS: Pretty much? Yeah.

16 PROSPECTIVE JUROR 026: Yes, sir.

17 MR. ZAVITSANOS: And obviously at the games?

18 PROSPECTIVE JUROR 026: Yes. Yes, sir.

19 MR. ZAVITSANOS: Okay. Okay. Well, before you answer  
20 my question, let -- because I meant to follow up on this so --

21 PROSPECTIVE JUROR 026: No, you're good.

22 MR. ZAVITSANOS: -- tell me a little bit about the -- about  
23 that hardship if you can, sir?

24 PROSPECTIVE JUROR 026: So, I mean, obviously, we lost  
25 last season. I've got a lot of kids that are having an opportunity to play.

1 Our practices run from 2 to 4:00 every day, 4:30 at the latest. I, you  
2 know, like I said, first time we've been in the playoffs in ten years. We're  
3 trying to, you know, we got a shot at winning a state title which means  
4 we'll play on November 20th. We're one of the top four teams in our  
5 class, and so we, you know, we're hosting a playoff game for the first  
6 time ever. There's a lot of -- there's a lot of big things that we're doing,  
7 and, you know, obviously, I missed practice today, and so we'll see  
8 what's going on.

9 MR. ZAVITSANOS: Okay. All right. So we'll visit more  
10 about that later, now --

11 PROSPECTIVE JUROR 026: Sounds good. Thank you.

12 MR. ZAVITSANOS: -- getting back to my question.

13 PROSPECTIVE JUROR 026: All right.

14 MR. ZAVITSANOS: Okay?

15 PROSPECTIVE JUROR 026: Yes, sir.

16 MR. ZAVITSANOS: So sounds like you did a good job with  
17 these kids, so --

18 PROSPECTIVE JUROR 026: I'm trying.

19 MR. ZAVITSANOS: Okay. All right. So getting back to my  
20 question.

21 PROSPECTIVE JUROR 026: Yes, sir.

22 MR. ZAVITSANOS: How do you feel about that in terms of  
23 like before, if you ended up on the jury, let's say you stuck around and  
24 you didn't get excused because of this hardship, and you ended up on  
25 the jury, how do you feel about if we prove by a preponderance, but not

1 by clear and convincing, would you have a hard time awarding ten  
2 million dollars?

3 PROSPECTIVE JUROR 026: No, I don't think so because I  
4 think if the facts are there and you're able to prove it, that it is, then I  
5 would say that no, that wouldn't be difficult.

6 MR. ZAVITSANOS: Okay. So now you hesitated a little bit.  
7 Is that because you got a little bit of doubt or were you just being  
8 careful?

9 PROSPECTIVE JUROR 026: Probably being careful how I'm  
10 wording everything.

11 MR. ZAVITSANOS: Okay. Okay. Okay. Hey, listen --

12 PROSPECTIVE JUROR 026: No --

13 MR. ZAVITSANOS: -- yeah, and here's the thing, and the  
14 others have heard of this already, okay, so at this point, this is the only  
15 time that we are permitted to speak to you and that where you can speak  
16 to us.

17 PROSPECTIVE JUROR 026: Right.

18 MR. ZAVITSANOS: It's the only part of the trial we can do  
19 that. After that, once you get in the box, we are actually prohibited. It's  
20 also the only time where you can disagree with what the law is, you can  
21 disagree with anything, actually, but once you get in the box, you are  
22 required to follow the instructions that the Court gives you.

23 And so what we're doing is if you've got a value or a belief  
24 that interferes with kind of your ability to follow the law and you're going  
25 to struggle with that, then maybe you shouldn't be on this jury and

1 maybe you should be on another one. You with me?

2 PROSPECTIVE JUROR 026: Yes, sir.

3 MR. ZAVITSANOS: Okay. Fine. So you're good with  
4 preponderance if we --

5 PROSPECTIVE JUROR 026: Yeah, my sister use -- my sister's  
6 studying to be a lawyer right now, and she uses that exact term all the  
7 time.

8 MR. ZAVITSANOS: You mean like at the Thanksgiving  
9 table --

10 PROSPECTIVE JUROR 026: Uh-huh.

11 MR. ZAVITSANOS: -- she's talking about preponderance?

12 PROSPECTIVE JUROR 026: Oh, yeah.

13 MR. ZAVITSANOS: Okay, well --

14 PROSPECTIVE JUROR 026: She's -- yeah, she thinks oh, well,  
15 if it is, it's 51 percent, sorry.

16 MR. ZAVITSANOS: All right. Where is she at school?

17 PROSPECTIVE JUROR 026: Tulsa University.

18 MR. ZAVITSANOS: Okay. All right. Okay. The Golden  
19 Eagles, right?

20 PROSPECTIVE JUROR 026: Golden Hurricanes.

21 MR. ZAVITSANOS: Golden Hurricanes, that's right.

22 PROSPECTIVE JUROR 026: That's pretty close, though. I'll  
23 give you credit.

24 MR. ZAVITSANOS: Okay, okay, all right. All right. So, okay.  
25 So how about the rest of the folks in the second row? I'm getting a lot of



1 blank stares, man. I know it's a -- I know, you know, we're kind of  
2 crashing here after lunch, so how about the rest of the folks? Ma'am,  
3 how about you? And I'm sorry, please, if you could give your juror  
4 number before you speak, the court reporter will thank you. Okay? So  
5 please.

6 PROSPECTIVE JUROR 048: 048. I wouldn't have a problem  
7 with it if -- as long as there was a little bit more proof, you know, to  
8 justify it. If it was like 50-50, then I'd have an issue, I think.

9 MR. ZAVITSANOS: Okay. So let me give you a scenario,  
10 okay? Let's say you end up on the jury, okay? And by the way, we've  
11 got the burden of proof, so we've got to prove our case as opposed to  
12 them having to disprove the case. You with me?

13 PROSPECTIVE JUROR 048: Uh-huh.

14 MR. ZAVITSANOS: But they're not going to be  
15 [indiscernible]. I promise you. These are really good lawyers. And what  
16 they're going to do is they're going to present evidence on their side,  
17 okay? And if you end up on the jury, and you go back there, and you're  
18 thinking, man, both sides were pretty compelling, but the Plaintiffs  
19 convinced me by just this much more -- I mean, if I had to pick one, I'd  
20 pick them because they got over the line a little bit more than the  
21 Defendant did. If that was the scenario, okay, in your mind, and we've  
22 established that in your mind, would you have a problem, given the size  
23 of the claim here, over \$10 million, in being able to reward that kind of  
24 damage?

25 PROSPECTIVE JUROR 048: No.

1 MR. ZAVITSANOS: Okay. All right. And I skipped you, sir.  
2 How about you? And what is your number, sir?

3 PROSPECTIVE JUROR 038: My number is 038. I agree with  
4 the two, also. If you have the preponderance, and you have all the facts,  
5 I have no problem with that.

6 MR. ZAVITSANOS: Okay. And are you gentleman -- did you  
7 say you work in a funeral home?

8 PROSPECTIVE JUROR 038: Yes.

9 MR. ZAVITSANOS: Okay. All right. How long have you  
10 done that, sir?

11 PROSPECTIVE JUROR 038: Forty-one years.

12 MR. ZAVITSANOS: Oh, wow. Wow. That's a long time.  
13 Okay. So I gather you don't really deal with insurance claims and things  
14 of that sort in your business, right?

15 PROSPECTIVE JUROR 038: No.

16 MR. ZAVITSANOS: Okay. All right. So ma'am, how about  
17 you? On the preponderance question, same thing. Given the size of the  
18 claim, any hesitation, any reluctance on your part to be able to reward  
19 those kind of damages if we satisfied that standard in your mind, but we  
20 didn't get the clear and convincing?

21 PROSPECTIVE JUROR 049: No.

22 MR. ZAVITSANOS: Okay. Okay. Thank you. Ma'am, how  
23 about you? Oh, I'm sorry. What was your number?

24 PROSPECTIVE JUROR 049: Oh, sorry. Badge number 049.

25 MR. ZAVITSANOS: See, I'm violating my own rule here.

1 Okay. What is your number?

2 PROSPECTIVE JUROR 082: Badge number 082.

3 MR. ZAVITSANOS: Yes, ma'am. Okay. How about you?

4 PROSPECTIVE JUROR 082: I wouldn't have an issue with  
5 that.

6 MR. ZAVITSANOS: Okay. You're okay with it?

7 PROSPECTIVE JUROR 082: Yeah.

8 MR. ZAVITSANOS: Okay. All right. Would you hand this up  
9 front, please? Okay. Sir, how about you? What's your badge number  
10 and how do you feel about that?

11 PROSPECTIVE JUROR 130: 130. I have no problem making  
12 that decision.

13 MR. ZAVITSANOS: Okay. You're okay with the standard?

14 PROSPECTIVE JUROR 130: Yes.

15 MR. ZAVITSANOS: Okay. Thank you, sir. Ma'am, how  
16 about you? What is your number?

17 PROSPECTIVE JUROR 116: 116.

18 MR. ZAVITSANOS: 116? Yes, ma'am. How about you?

19 PROSPECTIVE JUROR 116: I don't have an issue with it.

20 MR. ZAVITSANOS: Okay. Thank you. And ma'am, how  
21 about you?

22 PROSPECTIVE JUROR 114: 114. Same thing. I don't have an  
23 issue.

24 MR. ZAVITSANOS: You don't have an issue. Okay.

25 PROSPECTIVE JUROR 095: Badge 095.

1 MR. ZAVITSANOS: Yes, ma'am. How about you?

2 PROSPECTIVE JUROR 095: I don't have an issue with it.

3 MR. ZAVITSANOS: No issue? Okay. And last but not least.

4 PROSPECTIVE JUROR 093: 093, no issue.

5 MR. ZAVITSANOS: No issue. Okay. All right. Okay. So I'm  
6 going to move on. Now, here's the other thing. I'm going to jump  
7 around a little bit. I'm going to change topics now.

8 And this is primarily directed to the new folks who have been  
9 in the emergency room where our people are, but I'm directing this to all  
10 the new folks, as well, okay? I'm particularly interested in those folks.

11 All right. So here's the deal. We've all had either ourselves,  
12 a family member, or very close friend go to the emergency room, and  
13 you end up waiting, right? And you're frustrated, tempers are  
14 sometimes a little bit high, you think you've a situation that may be  
15 either serious, critical, or maybe even life-threatening, and sometimes,  
16 for whatever reason, you've got to wait. Okay. And you get kind of mad,  
17 okay. And look, we've all heard about that, and I know you all know  
18 what I'm talking about here.

19 So the question is, first off, how many people have  
20 experienced that at any time with anybody, whether it's a family  
21 member -- now, come on. I know you all have had, right? Okay. So all  
22 right. So the question is, did that experience where you either had to  
23 wait a little bit or maybe you got a little sour on the experience, are we  
24 starting a little bit behind because we happened to be the healthcare  
25 professionals in those emergency rooms? Okay. And I'm gonna go right

1 down the line again for the next folks.

2 PROSPECTIVE JUROR 026: 026. No.

3 MR. ZAVITSANOS: Okay. All right. And Coach, have you  
4 been to one of our facilities? Did I --

5 PROSPECTIVE JUROR 026: I've sent athletes. Our athletic  
6 training group works through Dignity Health, and so we send all of our  
7 athletes to Dignity Health.

8 MR. ZAVITSANOS: Okay. Now, I'm talking about just the  
9 emergency room. I'm not talking about --

10 PROSPECTIVE JUROR 026: Right. No, I'm saying -- yeah,  
11 like we've had -- we had a kid who broke his hand last week that went to  
12 the emergency room last week at Dignity.

13 MR. ZAVITSANOS: Okay. So nothing about that is causing  
14 us to maybe start a little bit behind? This was a 40 yard dash when  
15 we're five yards back?

16 PROSPECTIVE JUROR 026: I mean, we're gonna miss him.  
17 There's no doubt about that, but no, it's -- no, you guys aren't starting  
18 behind.

19 MR. ZAVITSANOS: Okay. Thank you, sir. All right. Sir, how  
20 about you?

21 PROSPECTIVE JUROR 038: Can we go back? 038. I have to  
22 ask this question, again. I have to go back on something.

23 MR. ZAVITSANOS: Yes, sir.

24 PROSPECTIVE JUROR 038: Did you say Saint Rose  
25 Dominican?

1 MR. ZAVITSANOS: I'm sorry?

2 PROSPECTIVE JUROR 038: Did you bring up St Rose  
3 Dominican?

4 MR. ZAVITSANOS: No. Rose Dominican.

5 PROSPECTIVE JUROR 038: Rose Dominican.

6 MR. ZAVITSANOS: Yeah.

7 PROSPECTIVE JUROR 038: On Lake Mead?

8 MR. ZAVITSANOS: Excuse me?

9 PROSPECTIVE JUROR 038: On Lake Mead Drive in  
10 Henderson?

11 MR. ZAVITSANOS: Yes.

12 PROSPECTIVE JUROR 038: Okay. So I'm going to go back. I  
13 was in the emergency room for a very short time, but it was nothing  
14 major, so my apology. I was raising my hand.

15 MR. ZAVITSANOS: No, no. That's okay. Hey, listen, there's  
16 no wrong answer here, okay. We would much rather you talk than not  
17 talk. I mean, I know I'm getting a lot of blank stares since it's late in the  
18 afternoon, but anything about that experience one way or another, okay,  
19 how did they treat you?

20 PROSPECTIVE JUROR 038: It was positive.

21 MR. ZAVITSANOS: It was good. Okay, all right. Okay. How  
22 about the next person? Let's get your badge number.

23 PROSPECTIVE JUROR 048: 048. I've been in a couple of  
24 those hospitals and had some not great experience.

25 MR. ZAVITSANOS: Okay.

1 PROSPECTIVE JUROR 048: Just felt understaffed. Maybe at  
2 times, almost like they were socializing when I had been like hitting the  
3 buzzer or requested something. And I understand they're busy, but  
4 when it looks like they're just, you know, sitting around BS'ing, it got  
5 very frustrating.

6 MR. ZAVITSANOS: Okay. So let me say one thing and then  
7 I'm going to ask you a follow-up question. I'm going to make one  
8 comment, okay? So the relationship between the emergency room  
9 doctors at these facilities and the people who work for the hospital, it's  
10 kind of like a Reese's peanut butter cup, okay? You don't know where  
11 the peanut butter ends and the chocolate begins, right? I mean, we're  
12 kind of joined at the hip.

13 And so it may be that the experience that you had, you know,  
14 maybe possibly one of the doctors or nurses that works with us could've  
15 done a better job. It may be that one of the people from the hospital  
16 could've done a better job. Now, what's clear, though, is that that  
17 experience, that was very unfortunate that you went through, is not  
18 going to be an issue in this case, but it's still in your mind, right? I mean,  
19 it's still there, you went through that experience, it was negative.

20 So my question is whether that's going to impact us,  
21 because it was one of the facilities you went to and we're there, and  
22 we've got doctors there and nurses, are we, you know -- because you're  
23 thinking the last thing I'm going to do is award these people \$10 million  
24 after the experience I went through. I mean is that kind of going through  
25 your mind right now as I'm talking?

1 PROSPECTIVE JUROR 048: Not really. I think, unknowingly,  
2 there may be that thought floating around in my head, but I can be  
3 objective --

4 MR. ZAVITSANOS: Okay.

5 PROSPECTIVE JUROR 048: -- to things, too.

6 MR. ZAVITSANOS: So because this is the only time I can ask  
7 you questions, right? Like if you end up on the jury, I can't even say  
8 good morning to you if I see you in the hall, okay? I mean, there's strict  
9 prohibitions in our ability to communicate, so this is my only time. So  
10 I'm not putting you on the spot here.

11 PROSPECTIVE JUROR 048: Yeah. No, that's fine.

12 MR. ZAVITSANOS: I've just got to know, because this is  
13 really important to us, and it's important to them, all right? So the issue  
14 is -- well, first of all, was it one negative experience or did it happen  
15 more than once?

16 PROSPECTIVE JUROR 048: With these hospitals, just once.

17 MR. ZAVITSANOS: Okay. So how long ago was that,  
18 ma'am?

19 PROSPECTIVE JUROR 048: Two years ago.

20 MR. ZAVITSANOS: Okay. So not that long ago. Pretty  
21 recent. All right. So consciously or subconsciously or somewhere in  
22 between, are we at a disadvantage here because of that experience?  
23 And either like you're going to be more receptive when they talk versus  
24 when we talk or you're going to drop the amount that we're claiming,  
25 even though we proved it by preponderance, because of that experience,



1 or you're going to require a higher burden of proof, or you're just not  
2 going to listen when one of our doctors gets on, or maybe not listen as  
3 carefully consciously or subconsciously because of that experience?

4 PROSPECTIVE JUROR 048: I think I'd still be listening. The  
5 only way that maybe I would think there needs to be more proof is if it  
6 just feels too close in my mind, and then, you know, what's going to tip  
7 it. Is it going to be something you guys say or is it going to be that  
8 experience in my head?

9 MR. ZAVITSANOS: So give me your best possible guess on  
10 what you think is going to influence it more. Is it going to be the  
11 evidence that you hear from both sides, or if it's a close call, and we're  
12 just at the preponderance standard, is it the kind of thing where you're  
13 thinking, you know what, okay, yeah, they met the standard, but it's  
14 close, and I really had a bad experience, so can't do it?

15 PROSPECTIVE JUROR 048: No, I think I would be able to go  
16 by the facts.

17 MR. ZAVITSANOS: Okay. Thank you, ma'am. All right.

18 PROSPECTIVE JUROR 048: Uh-huh.

19 MR. ZAVITSANOS: All right. Thank you for your honesty.  
20 All right. Juror number?

21 PROSPECTIVE JUROR 049: Juror number 049.

22 MR. ZAVITSANOS: Yes, ma'am.

23 PROSPECTIVE JUROR 049: Knock on wood, I've never had to  
24 visit any of these facilities.

25 MR. ZAVITSANOS: Wow, okay. Okay.

1 PROSPECTIVE JUROR 049: Family members, close friends --

2 MR. ZAVITSANOS: Okay.

3 PROSPECTIVE JUROR 049: -- has not been a personal  
4 circumstance or situation.

5 MR. ZAVITSANOS: So yesterday during lunch, I'm going  
6 with Dr. Scherr across the street, and I jaywalked, and he said, this is  
7 how most people end up in the emergency room. You see? So you  
8 must always walk inside the lines when the walk sign is on, okay?

9 PROSPECTIVE JUROR 049: Yes.

10 MR. ZAVITSANOS: He yelled at me about that, so, okay. All  
11 right. Thank you. Okay. Yes? Next?

12 PROSPECTIVE JUROR 082: Badge 082.

13 MR. ZAVITSANOS: Yes.

14 PROSPECTIVE JUROR 082: The bad experience that I've had  
15 hasn't been in one of your facilities.

16 MR. ZAVITSANOS: Okay. So well, listen, I think when Dr.  
17 Scherr gets on the stand, these emergency room doctors, they are a  
18 different breed, okay? You know, it's kind of this brotherhood and  
19 sisterhood. They're very bonded with one another, right? So even  
20 though it was not at one of our facilities, okay, did you have a negative  
21 experience?

22 PROSPECTIVE JUROR 082: I mean, I had forgotten about it  
23 until you mentioned that.

24 MR. ZAVITSANOS: Okay.

25 PROSPECTIVE JUROR 082: I had to think really hard about it.

1 MR. ZAVITSANOS: Okay, so --

2 PROSPECTIVE JUROR 082: So I guess it wasn't too bad now  
3 that --

4 MR. ZAVITSANOS: Okay. So hey, let me just get to the  
5 punchline, okay? Anything about that that's going to cause you to make  
6 us start a little bit further back?

7 PROSPECTIVE JUROR 082: No.

8 MR. ZAVITSANOS: Okay. All right, thank you. Okay. Let's  
9 go on down here.

10 PROSPECTIVE JUROR 130: Badge 130, Mike Asato.

11 MR. ZAVITSANOS: Yes, sir.

12 PROSPECTIVE JUROR 130: I haven't been to any of the  
13 facilities that you talked about, and my experience with emergency  
14 rooms has been mainly my parents, but long waits sometimes.

15 MR. ZAVITSANOS: Yeah. No, I get it. I get it.

16 PROSPECTIVE JUROR 130: That's it.

17 MR. ZAVITSANOS: We've all been there. So anything about  
18 that that's going to cause you to give one side a head start over the  
19 other?

20 PROSPECTIVE JUROR 130: No.

21 MR. ZAVITSANOS: Okay. Thank you. Let's go to the next  
22 one.

23 PROSPECTIVE JUROR 116: Badge 116.

24 MR. ZAVITSANOS: Okay. How about you?

25 PROSPECTIVE JUROR 116: I went to the emergency room

1 once for a close friend of mine. It took a while, but it doesn't impact --

2 MR. ZAVITSANOS: One way or the other?

3 PROSPECTIVE JUROR 116: No.

4 MR. ZAVITSANOS: Okay. Thank you. Okay. Next?

5 PROSPECTIVE JUROR 114: Badge 114. I'm with my three  
6 friends, and I end up walking out of the off. It took forever, like four  
7 hours waiting.

8 MR. ZAVITSANOS: Okay.

9 PROSPECTIVE JUROR 114: And the nurse, there was like -- I  
10 don't think -- maybe she started something, like give us an attitude, and  
11 so --

12 MR. ZAVITSANOS: Okay.

13 PROSPECTIVE JUROR 114: -- I ended up walking out,  
14 anyways.

15 MR. ZAVITSANOS: Okay, okay. So it was for yourself?

16 PROSPECTIVE JUROR 114: No, for my friend.

17 MR. ZAVITSANOS: Oh, for your friend, okay.

18 PROSPECTIVE JUROR 114: Yeah. So --

19 MR. ZAVITSANOS: Okay. So was it one of these facilities  
20 that I mentioned?

21 PROSPECTIVE JUROR 114: Yeah, one of your facilities.

22 MR. ZAVITSANOS: Okay. So that's a long wait, right?

23 PROSPECTIVE JUROR 114: Yeah.

24 MR. ZAVITSANOS: Four hours.

25 PROSPECTIVE JUROR 114: It is a long wait, and next day

1 you have to work, you know?

2 MR. ZAVITSANOS: Yeah. I got it, I got it. Okay. So given --  
3 how long ago was this?

4 PROSPECTIVE JUROR 114: Three years ago.

5 MR. ZAVITSANOS: Three years ago. Okay. So anything  
6 about that where you think if you end up on the jury, you know, is it  
7 going to make it harder on these doctors? Am I going to require more  
8 proof, or I'm going to cut the damages even though they proved it  
9 because of that experience?

10 PROSPECTIVE JUROR 114: No. I'll be neutral maybe.

11 MR. ZAVITSANOS: I'm sorry?

12 PROSPECTIVE JUROR 114: Neutral, like --

13 MR. ZAVITSANOS: Neutral?

14 PROSPECTIVE JUROR 114: Uh-huh.

15 MR. ZAVITSANOS: Okay. All right. You've got a soft voice,  
16 so I'm just having a hard time hearing.

17 PROSPECTIVE JUROR 114: I'm sorry.

18 MR. ZAVITSANOS: That's all right. That's okay. You know  
19 what the number one fear most people have? It's talking in public. It's  
20 ahead of the fear of cancer, okay? Seriously. And we know that, and so  
21 it's hard to get people to talk. So I appreciate you volunteering, okay.  
22 Okay. So you could be neutral, right?

23 PROSPECTIVE JUROR 114: Yes.

24 MR. ZAVITSANOS: Okay. That's not going to affect one way  
25 or the other?

1 PROSPECTIVE JUROR 114: No, no.

2 MR. ZAVITSANOS: Okay.

3 PROSPECTIVE JUROR 114: No.

4 MR. ZAVITSANOS: Okay, next?

5 PROSPECTIVE JUROR 095: Yes. Jennifer Wilson, 095.

6 MR. ZAVITSANOS: Yeah.

7 PROSPECTIVE JUROR 095: I've had two experiences at St  
8 Martin.

9 MR. ZAVITSANOS: Yeah.

10 PROSPECTIVE JUROR 095: One for myself and one for my  
11 husband. I mean, when you go to the hospital, it's not a good  
12 experience, right?

13 MR. ZAVITSANOS: Right.

14 PROSPECTIVE JUROR 095: But I visited the emergency room  
15 a few times. This is just the only time in Las Vegas for me. If I had to  
16 rate all of them, it probably was one of the best experiences I've had, if  
17 you could say it's the best. I've also -- because of the different visits I've  
18 had in the emergency rooms, I have experience on the insurance side.  
19 But for me, neither the insurance piece of it or the doctor piece of it is  
20 going to affect because -- it wouldn't affect it. Like this is a judgement  
21 about how doctors are getting paid, how the nurses are getting paid,  
22 right? So my experience wouldn't affect it one way or the other.

23 MR. ZAVITSANOS: Okay.

24 PROSPECTIVE JUROR 095: Okay.

25 MR. ZAVITSANOS: Okay.

1 PROSPECTIVE JUROR 095: Does that make sense?

2 MR. ZAVITSANOS: Yeah.

3 PROSPECTIVE JUROR 095: Yeah?

4 MR. ZAVITSANOS: Absolutely. Thank you.

5 PROSPECTIVE JUROR 095: You're welcome.

6 MR. ZAVITSANOS: Okay, and finally?

7 PROSPECTIVE JUROR 093: Catherine Ross, 093. I have  
8 never been to an emergency room in Nevada.

9 MR. ZAVITSANOS: You want inside the lines, too, right?  
10 Okay. All right. Thank you very much.

11 Okay. All right. Let me move on. All right. So the next thing  
12 is -- so again, we are not only seeking actual damages of 10 plus million  
13 dollars, but punitive damages. I'm going to get to that in a little bit. As  
14 I'm talking, have any of you -- have the thoughts started crossing your  
15 mind, well, I can't award -- even if they prove it, even if these Plaintiffs  
16 prove it, I can't award 10 plus million dollars because my goodness, it's  
17 going to affect my health insurance premiums? I'm going to end up  
18 paying more for health insurance if I -- you know, I'm part of a jury that  
19 awards some big numbers. Is anybody thinking that as I'm talking right  
20 now? If anybody feels that way, even the slightest -- in the second row --  
21 instead of going one-by-one, I'm just gonna try to catch up so that we  
22 can continue on with the folks in the back, as well.

23 Anybody in the second row feel that way? Anybody? Okay.  
24 How about the first row. Okay. I'm seeing a lot of noes here. Okay.  
25 Well, you're all paying attention. That's good. All right, thank you.

1 Okay. You Honor, may I ask, what time are you going to?

2 THE COURT: We'll go to 4:45 today. The last time they came  
3 in the room was 2:45, so we've just gone an hour --

4 MR. ZAVITSANOS: How much longer would you like me to  
5 go before you --

6 THE COURT: I'd like to do a 10 minute break now.

7 MR. ZAVITSANOS: Oh, now?

8 THE COURT: Yeah.

9 MR. ZAVITSANOS: Okay, all right. All right.

10 So during the recess -- and this is for everyone -- don't talk  
11 with anyone else on any subject connected with the trial. Don't read,  
12 watch or listen to any report of or commentary on the trial, don't discuss  
13 this case with anyone connected to it by any means of information,  
14 including, without limitation, newspapers, televisions, radio, internet, cell  
15 phones, or texting.

16 Don't conduct any research, don't talk about what the  
17 witnesses might be, what the testimony might be, don't use any social  
18 media with regard to the fact that you're in jury selection. You can't text,  
19 tweet, Google, or conduct any type of research with regard to any issue,  
20 party witness, or attorney involved in the case. Most importantly, do not  
21 form or express any opinion on any subject connected with the trial until  
22 the jury is selected and the jury deliberates.

23 Thank you. You guys have been great. It's been a lot of  
24 hurry up and wait today, and I haven't seen a single angry face yet, so  
25 thank you. And let's be ready at 4 p.m. sharp.



1 THE MARSHAL: All rise for the jury. Your Honor

2 [Prospective jurors out at 3:46 p.m.]

3 [Outside the presence of the prospective jurors]

4 THE COURT: And the room is clear. Defendant, did you  
5 have anything for the record?

6 MR. ROBERTS: Nothing. Nothing for the record, Your  
7 Honor.

8 THE COURT: Thank you. Plaintiff, did you have anything for  
9 the record?

10 MR. ZAVITSANOS: No, Your Honor.

11 THE COURT: Have a good break, guys.

12 MR. ZAVITSANOS: Thank you, Your Honor.

13 MR. ROBERTS: Thank you, Your Honor.

14 [Recess taken from 3:47 p.m. to 4:01 p.m.]

15 [Outside the presence of the prospective jurors]

16 THE COURT: Please seated.

17 MR. ROBERTS: Thank you, Your Honor.

18 THE COURT: Okay. So there were two messages from jurors  
19 during the recess. Juror 171 says that if he has jury duty, he won't be  
20 able to pay his rent.

21 MR. ZAVITSANOS: He won't be able to?

22 THE COURT: Pay his rent.

23 MR. ZAVITSANOS: Okay.

24 THE COURT: And Juror 295 has medical issues he did not  
25 previously disclose. So I'm going to suggest we bring them in

1 separately. Any objection to that?

2 MR. ZAVITSANOS: No, Your Honor. That would be -- that  
3 would be -- Plaintiff agrees with that.

4 THE COURT: Mr. Roberts?

5 MR. ROBERTS: No objection, Your Honor.

6 THE COURT: Okay. Let's bring in 171 first. So I have to ask  
7 you guys. You had a year with no trials, right?

8 MR. ZAVITSANOS: Excuse me?

9 MR. ZAVITSANOS: Yes, Your Honor.

10 MR. BLALACK: I tried one in April, Your Honor.

11 THE COURT: Did you have a year without trials? Jury trials?

12 MR. ZAVITSANOS: Nope.

13 MR. BLALACK: No, I tried one in April.

14 THE COURT: In April?

15 MR. ZAVITSANOS: This is my third one.

16 THE COURT: Okay.

17 MR. ROBERTS: I went February of 2020 until last month.

18 THE COURT: Got it. Come on in. Mr. Dolan, you're badge  
19 number 171?

20 PROSPECTIVE JUROR 171: Yes, ma'am.

21 THE COURT: You gave a message to the marshal. Can you  
22 relay it to us?

23 PROSPECTIVE JUROR 171: If I do this trial for a month, I  
24 won't be able to pay pretty much any of my bills. I will officially get  
25 evicted. Me missing work today already puts me in jeopardy of not

1 being able to pay my rent because I live paycheck to paycheck, me and  
2 my wife. So each day I'm out of work with no money, we're stressed on  
3 bills, or we have to push something off for a week or two weeks. We  
4 can't get the groceries we need. I got a daughter that I'm trying to help  
5 take care of, and I can barely do that as it is right now.

6 THE COURT: How old is your daughter?

7 PROSPECTIVE JUROR 171: She's 12. And her birthday's  
8 next month. And if I miss a month of work, I can't help out with  
9 Christmas or her birthday.

10 THE COURT: Okay. Does the Plaintiff have any questions for  
11 Mr. D?

12 MR. ZAVITSANOS: No, Your Honor.

13 THE COURT: Does the Defendant have any questions?

14 MR. ROBERTS: No, Your Honor.

15 THE COURT: Thank you, Mr. D. Please step out now. And  
16 we'll bring in 295. Did we ever get a confirmation, Nicole, about a new  
17 panel for tomorrow?

18 THE CLERK: Yes. 45 at 10 a.m.

19 THE COURT: We can get 45 people at 10 a.m. tomorrow.

20 MR. BLALACK: Thank you, Your Honor.

21 THE COURT: Do you have a position, Plaintiff?

22 MR. ZAVITSANOS: We believe he should be excused, Your  
23 Honor.

24 THE COURT: Defendant?

25 MR. ROBERTS: Defense stipulates, Your Honor.

1 THE COURT: Thank you. And may I have your name and  
2 badge number, please?

3 PROSPECTIVE JUROR 295: Yes. Scott Olin, badge 295.

4 THE COURT: Thank you. Mr. Olin, so apparently, you gave a  
5 message to the marshal over the recess. Can you relay that information  
6 to us?

7 PROSPECTIVE JUROR 295: Yeah. I just wanted to make it  
8 aware that I get migraines on a pretty regular basis. And when I get  
9 them, I'm out of commission for the entire day. So with an extended  
10 jury trial, it might be impossible for me to attend every single day.

11 THE COURT: And how much notice do you get? Because my  
12 sister gets them, and she -- if she takes the medicine, she --

13 PROSPECTIVE JUROR 295: About an hour. Yeah. And my --  
14 my medication knocks me out for about three or four hours at a time.

15 THE COURT: Okay. And how regular are they?

16 PROSPECTIVE JUROR 295: About once a week or so.

17 THE COURT: Does your work accommodate that?

18 PROSPECTIVE JUROR 295: Yes.

19 THE COURT: And how do they accommodate it?

20 PROSPECTIVE JUROR 295: Typically, I'll just finish up work  
21 when I'm awake or over the weekend or whatever.

22 THE COURT: Okay. Thank you. Do you have anything  
23 further?

24 PROSPECTIVE JUROR 295: No. Thank you.

25 THE COURT: Plaintiff, do you have any questions?

1 MR. ZAVITSANOS: No, Your Honor.

2 THE COURT: Defendant, do you have any questions?

3 MR. ROBERTS: No, Your Honor.

4 THE COURT: Thank you, both. You may step outside.

5 Okay. The room's clear. On 170 -- I'm sorry. 171, we have  
6 agreement. 295. Plaintiff, any objection to --

7 MR. ZAVITSANOS: We believe he should be excused, Your  
8 Honor.

9 THE COURT: Defendant, do you have -- do you want a  
10 moment to caucus with your group?

11 MR. BLALACK: Yes, just give use two seconds.

12 MR. ROBERTS: Yes. A moment, Your Honor.

13 THE COURT: Take your time.

14 MR. ZAVITSANOS: Your Honor, may I take a sip of water?

15 THE COURT: You may.

16 MR. ZAVITSANOS: Is that -- thank you.

17 THE COURT: Yeah. I -- you know, we're supposed to enforce  
18 this mandate, which is why I don't bring things in.

19 MR. ZAVITSANOS: I'm happy to step outside, if you like.

20 THE COURT: You can step right back in the hall.

21 MR. ZAVITSANOS: Okay. Thank you, Your Honor.

22 You got this, so.

23 THE COURT: It's only been 35 years, right? t's only been 35  
24 years?

25 MR. AHMAD: You know, I've actually known him from law

1 school, from the first day of law school. Yeah. So it's been a long time.

2 THE COURT: That's an enduring partnership.

3 MR. AHMAD: Most of my life now, I think.

4 MR. ZAVITSANOS: Thank you, Your Honor.

5 THE COURT: Uh-huh.

6 MR. ROBERTS: Sorry. I apologize for conferring, Your  
7 Honor.

8 THE COURT: No, no. No, no.

9 MR. ROBERTS: In the past, I've had judges say, well, if that  
10 happens, we'll accommodate you for the afternoon and come back the  
11 next day, but given our compressed time frame and our need to get  
12 done before Thanksgiving, we stipulate if the Court agrees that would be  
13 proper.

14 THE COURT: That's great. Thank you. All right. So since I  
15 see -- Marshal Allen, we can bring in the jury now.

16 MR. ZAVITSANOS: And, Your Honor, is it correct that there  
17 are no jurors left in the other room?

18 THE COURT: That's correct.

19 MR. ZAVITSANOS: Okay.

20 THE COURT: Yeah. We're at the bottom -- we have 45  
21 ordered for tomorrow at 10. Although, I haven't seen a lot of clues that  
22 there were going to be big objections to the people in the box.

23 MR. ZAVITSANOS: Yeah, so far.

24 THE COURT: And that doesn't mean I won't.

25 MR. ROBERTS: We saw a few, Your Honor. But, you know --

1 THE COURT: Oh, okay. Then I -- doesn't mean I won't see  
2 them.

3 MR. ROBERTS: One of them went home, I think, our  
4 70-year-old. We were going to make a run at her, but.

5 THE COURT: Good to know.

6 MR. ROBERTS: We still -- we'll see -- we still see a few more.

7 THE COURT: You know, I -- when you take this job, you're  
8 not an advocate anymore. So it just changes your point of view so  
9 different. So different. Anyway.

10 [Pause]

11 THE MARSHAL: All rise for the jury.

12 [Prospective jurors in at 4:09 p.m.]

13 THE COURT: Thank you. Please be seated. So I'm going to  
14 ask two jurors to stand. 171, Mr. Dolan; and 295, Mr. Olin.

15 They have revealed information to the marshal during the  
16 recess. We have talked to them about certain representations made. We  
17 will -- we thank you and excuse you from further jury service in this case.  
18 We believe that you have shown significant hardship. Thank you, both.  
19 And you may leave.

20 All right. So Mr. Zavitsanos?

21 MR. ZAVITSANOS: Yes, Your Honor.

22 THE COURT: Please continue.

23 MR. ZAVITSANOS: Thank you, Your Honor. May it please  
24 the Court. Okay. We are almost caught up to where we were yesterday  
25 with the other jurors. So let me get caught up, and then I'm going to

1 director questions to everyone, okay.

2 Okay. So -- and they heard this already, but I'm going to give  
3 you all two tests, okay? Multiple choice answers. Just like school. And  
4 there's no wrong answer, okay? I just -- and I don't need you to  
5 elaborate. I just need you to give me one of the choices that I'm going to  
6 give you. So here is the first test.

7 The first test is if there is a healthcare crisis: A, it's the fault of  
8 the doctors; B, it's the fault of the insurance companies; C, it's both of  
9 them; or D, I don't have an opinion on that. I need to learn more.

10 Everybody with me? I'm going to repeat those one more  
11 time.

12 If there is a healthcare crisis: A, it's the fault of the medical  
13 profession and the doctors; B, it's the fault of the insurance companies;  
14 C, it's both of them; or D, I don't have an opinion on that. I need to learn  
15 more. Okay. So we're going to start with the new folks. Coach, we're  
16 going to start with you. Just going to go rapid-fire.

17 PROSPECTIVE JUROR 026: Do I -- do I need to --

18 MR. ZAVITSANOS: No, we're just going to just --

19 PROSPECTIVE JUROR 026: D.

20 MR. ZAVITSANOS: Just say your number and what letter.

21 PROSPECTIVE JUROR 026: 026, D.

22 MR. ZAVITSANOS: D. Okay.

23 THE CLERK: Just speak loudly, please.

24 MR. ZAVITSANOS: Yes.

25 PROSPECTIVE JUROR 038: 038. I'm going to go with D.



1 MR. ZAVITSANOS: D like David?

2 PROSPECTIVE JUROR 038: D as in David.

3 MR. ZAVITSANOS: Yes.

4 PROSPECTIVE JUROR 048: 048, D.

5 MR. ZAVITSANOS: D like David. Okay.

6 PROSPECTIVE JUROR 049: 049, D.

7 MR. ZAVITSANOS: D like David.

8 PROSPECTIVE JUROR 082: 082, D.

9 MR. ZAVITSANOS: D like David?

10 PROSPECTIVE JUROR 082: Yes.

11 MR. ZAVITSANOS: Okay.

12 PROSPECTIVE JUROR 130: 130, D.

13 MR. ZAVITSANOS: D like David?

14 PROSPECTIVE JUROR 130: Yup.

15 PROSPECTIVE JUROR 116: 116, D.

16 MR. ZAVITSANOS: Are you guys in a club? Okay. Man, this  
17 is unbelievable. Okay, go ahead.

18 PROSPECTIVE JUROR 114: 114, D.

19 MR. ZAVITSANOS: Okay.

20 PROSPECTIVE JUROR 095: 095, C.

21 MR. ZAVITSANOS: Okay.

22 PROSPECTIVE JUROR 093: 093, D as in David.

23 MR. ZAVITSANOS: You had to be different; didn't you?

24 Okay. All right. Thank you very much. Thank you all for your answers.

25 All right.

1 Now, second test, okay? And here it is. Everybody has  
2 heard of the ACA, Obamacare, right? We've heard people debating it on  
3 TV, and politicians talking about it, and people running even for  
4 president talking about it, right? Okay. So here is the question.  
5 Obamacare: A, it's good for the country; B, it's a bad idea; or C, I'm not  
6 sure. I need to learn more about it. Okay. Are you with me?

7 So A, it's good for the country; B, it's not a good idea, it's a  
8 bad idea; or C, I'm not sure. I need to learn more about it. Okay. Coach,  
9 we're going to start with you.

10 PROSPECTIVE JUROR 026: My experience, B.

11 MR. ZAVITSANOS: Okay. Bad idea. Okay.

12 PROSPECTIVE JUROR 038: 038. I'm going to go with C.

13 MR. ZAVITSANOS: C, okay.

14 PROSPECTIVE JUROR 048: 048, C.

15 MR. ZAVITSANOS: Okay.

16 PROSPECTIVE JUROR 049: 049, C.

17 MR. ZAVITSANOS: Okay.

18 PROSPECTIVE JUROR 082: 082. Can you --

19 MR. ZAVITSANOS: Yes, no problem. Okay. The first one  
20 is -- that's okay, that's all right. The first one: A, it's good for the  
21 country; B, it's a bad idea; or C, I need to learn more about it.

22 PROSPECTIVE JUROR 082: B.

23 MR. ZAVITSANOS: B?

24 PROSPECTIVE JUROR 082: Yes.

25 MR. ZAVITSANOS: Okay.

1 PROSPECTIVE JUROR 130: 130, B.

2 MR. ZAVITSANOS: B like boy?

3 PROSPECTIVE JUROR 130: Boy.

4 MR. ZAVITSANOS: Okay.

5 PROSPECTIVE JUROR 116: 116, B.

6 MR. ZAVITSANOS: B.

7 PROSPECTIVE JUROR 114: 114, C.

8 MR. ZAVITSANOS: Okay.

9 PROSPECTIVE JUROR 095: 095, C.

10 MR. ZAVITSANOS: Okay.

11 PROSPECTIVE JUROR 093: 093, C.

12 MR. ZAVITSANOS: Thank you. Okay. Thank you, all. Okay.

13 All right.

14 Okay. For the new folks, I'm just going to kind of do this.

15 Just raise your hand, please, if this applies to you. Have any of you,  
16 family member or close friend ever worked with or for any kind of  
17 insurance company, whether it's health insurance, property and casualty,  
18 marine insurance, anything? Even -- you know, and I'm using as broad  
19 of an umbrella here as possible. Okay? Okay. So I think I saw -- yes,  
20 Coach?

21 PROSPECTIVE JUROR 026: My grandfather owned an  
22 insurance business for a long time.

23 THE CLERK: Badge number, please?

24 PROSPECTIVE JUROR 026: 026. I -- my apologies. I'm really  
25 bad at that.

1 THE CLERK: That's okay.

2 MR. ZAVITSANOS: He owned an insurance business.

3 Meaning he was an agent, or he was -- he worked worked for the  
4 insurance company like as an underwriter or an adjuster?

5 PROSPECTIVE JUROR 026: He -- like I guess he owned his  
6 own like practice that was an insurance company. I don't know if that  
7 was --

8 MR. ZAVITSANOS: And did he -- in other words, did he sell  
9 insurance?

10 PROSPECTIVE JUROR 026: Yes, as well.

11 MR. ZAVITSANOS: Okay. Okay. All right. And anybody  
12 else -- and that was your grandfather?

13 PROSPECTIVE JUROR 026: Yes.

14 MR. ZAVITSANOS: Okay. Anybody else in the second row?  
15 Yes, ma'am.

16 PROSPECTIVE JUROR 082: I --

17 MR. ZAVITSANOS: Your number?

18 PROSPECTIVE JUROR 082: 082.

19 THE COURT RECORDER: Can we get the microphone if there's  
20 going to be speaking?

21 MR. ZAVITSANOS: I'm sorry. Yes, yes. Marshal, we need --  
22 thank you, very much.

23 PROSPECTIVE JUROR 082: Badge number 082.

24 MR. ZAVITSANOS: Okay.

25 PROSPECTIVE JUROR 082: I worked for Anthem, Inc. in the

1 past. Health insurance.

2 MR. ZAVITSANOS: Okay. And tell me a little bit about that.

3 PROSPECTIVE JUROR 082: I worked for their member  
4 services in the ACA Department.

5 MR. ZAVITSANOS: In the what department?

6 PROSPECTIVE JUROR 082: ACA Department.

7 MR. ZAVITSANOS: ACA Department. Okay. Okay. So how  
8 long ago was that?

9 PROSPECTIVE JUROR 082: That was in 2018. I worked there  
10 for about eight months.

11 MR. ZAVITSANOS: Okay. So let me ask you this. Okay.  
12 That name, they're not a party. In other words, they're neither being  
13 sued, nor are they suing, okay, and I don't believe any Anthem  
14 employees are going to testify. All right. However, the name Anthem  
15 and what they do, and other facts about them, is probably going to come  
16 up in this case. Okay.

17 PROSPECTIVE JUROR 082: Okay.

18 MR. ZAVITSANOS: And I think there's a possibility that our  
19 folks may be a little critical of them. Okay. Are you with me?

20 PROSPECTIVE JUROR 082: Yes.

21 MR. ZAVITSANOS: Okay. Now I can't tell you anything more  
22 than that. Is this a situation where because you worked for them -- did  
23 you have friends there? I mean while you worked there.

24 PROSPECTIVE JUROR 082: Yeah.

25 MR. ZAVITSANOS: Okay. And they put food on your table,

1 and they paid you, right?

2 PROSPECTIVE JUROR 082: Yes.

3 MR. ZAVITSANOS: Okay. So is this a situation where if that  
4 happens, and we are critical -- and they're not -- look, this is not a major  
5 part of the case. Okay, this is a small part of the case. But if we do that,  
6 and we're critical of them, is this the kind of situation where if that  
7 evidence comes in, your mind is going to be thinking, oh, boy, well, I  
8 don't like this because of my own experience having worked there, and I  
9 had friends there, and that is -- that is going to color my view about how  
10 I look at this. Do you understand what I'm saying?

11 PROSPECTIVE JUROR 082: Yes.

12 MR. ZAVITSANOS: Okay, so well me how you feel about  
13 that.

14 PROSPECTIVE JUROR 082: I wouldn't feel a certain way. I  
15 mean I was only there eight months, so my experience wasn't the  
16 greatest with them. I just feel neutral. It's -- you know, I worked there,  
17 and I don't feel anything negative or positive.

18 MR. ZAVITSANOS: Okay. So in other words, if that -- and  
19 look I'm not telling you it is going to come up, but if that's one of the  
20 many insurance companies whose name may or may not be on certain  
21 documents that the Court may or may not admit into evidence, okay.

22 PROSPECTIVE JUROR 082: Okay.

23 MR. ZAVITSANOS: If they are on there, will you be able to  
24 evaluate that evidence for what it is without --

25 PROSPECTIVE JUROR 082: Yes.

1 MR. ZAVITSANOS: -- you know, being affected by your  
2 experience there one way or another?

3 PROSPECTIVE JUROR 082: Yes. Yes, I'll be --

4 MR. ZAVITSANOS: You're okay with that, right?

5 PROSPECTIVE JUROR 082: Yes.

6 MR. ZAVITSANOS: Okay. All right. How about in the front  
7 row? Yes, sir. Hold on, wait a minute. I don't want to get in trouble  
8 here.

9 PROSPECTIVE JUROR 130: 130.

10 MR. ZAVITSANOS: 130. Okay.

11 PROSPECTIVE JUROR 130: Yeah, my wife worked at an  
12 insurance company for most of her career. It was quality service for auto  
13 and home.

14 MR. ZAVITSANOS: Okay, so she actually worked for the  
15 insurance company not an agency?

16 PROSPECTIVE JUROR 130: Right.

17 MR. ZAVITSANOS: Okay. And which company was that?

18 PROSPECTIVE JUROR 130: USAA.

19 MR. ZAVITSANOS: All right.

20 PROSPECTIVE JUROR 130: And a State Farm office, too. But  
21 that was more of a small office.

22 MR. ZAVITSANOS: Okay, USAA. Now they're the -- they're  
23 the ones that primarily it's for military --

24 PROSPECTIVE JUROR 130: Yeah.

25 MR. ZAVITSANOS: -- right?

1 PROSPECTIVE JUROR 130: Yes.

2 MR. ZAVITSANOS: Okay. San Antonio, right?

3 PROSPECTIVE JUROR 130: Yeah. This is in Colorado.

4 MR. ZAVITSANOS: Yeah. Okay. Well, they're based in San  
5 Antonio.

6 PROSPECTIVE JUROR 130: Right.

7 MR. ZAVITSANOS: Okay, so -- okay. So big insurance  
8 company, right?

9 PROSPECTIVE JUROR 130: Yes.

10 MR. ZAVITSANOS: And do you have children?

11 PROSPECTIVE JUROR 130: Two.

12 MR. ZAVITSANOS: Okay. So USAA, in a small part helped  
13 raise your kids.

14 PROSPECTIVE JUROR 130: Yes.

15 MR. ZAVITSANOS: Right? I mean they put food on your  
16 table and helped pay the bills.

17 PROSPECTIVE JUROR 130: Yeah.

18 MR. ZAVITSANOS: And how many years did your wife work  
19 for them?

20 PROSPECTIVE JUROR 130: Eighteen.

21 MR. ZAVITSANOS: Eighteen. Okay. That's a long time,  
22 right. Did she retire from there or did she go somewhere else?

23 PROSPECTIVE JUROR 130: No, she -- we moved and then  
24 she quit that job.

25 MR. ZAVITSANOS: Okay. All right. So now USAA is not -- I



1 don't think they're on any of the documents in this case. But since she  
2 worked for an insurance company, and we've got an insurance company  
3 being sued here, and there's going to be some pretty serious allegations  
4 against them, okay. But they're going to defend very vigorously. Is this  
5 the kind of situation, because your wife worked for an insurance  
6 company, you're going to find yourself just maybe a little bit kind of  
7 naturally drawn to their side where they get a little bit of a head start in  
8 your mind?

9 PROSPECTIVE JUROR 130: No.

10 MR. ZAVITSANOS: No?

11 PROSPECTIVE JUROR 130: Nope.

12 MR. ZAVITSANOS: Okay. You say that with some pride.  
13 Okay. So that -- they're not going to -- that's not going to color you one  
14 way or another?

15 PROSPECTIVE JUROR 130: No, I don't -- it will not.

16 MR. ZAVITSANOS: Okay. So -- and tell me -- I'm sorry, tell  
17 me again what your wife did for them.

18 PROSPECTIVE JUROR 130: Policy service for auto and home.

19 MR. ZAVITSANOS: Okay. So what does that mean?

20 PROSPECTIVE JUROR 130: People call in and want to add  
21 another car or they buy another house or --

22 MR. ZAVITSANOS: Okay. So it's a acquiring insurance?

23 PROSPECTIVE JUROR 130: There's a policy set up, and they  
24 service the policy.

25 MR. ZAVITSANOS: Okay. Did your wife work in handling

1 claims?

2 PROSPECTIVE JUROR 130: No.

3 MR. ZAVITSANOS: Okay. And you know what I mean by  
4 that, right?

5 PROSPECTIVE JUROR 130: Yes.

6 MR. ZAVITSANOS: Evaluating how much you pay.

7 PROSPECTIVE JUROR 130: Right.

8 MR. ZAVITSANOS: Whether it's covered. What a fair market  
9 value is. She didn't do any of that stuff.

10 PROSPECTIVE JUROR 130: No.

11 MR. ZAVITSANOS: Okay. And so -- and look this is real --  
12 this is a real important case for us. Okay. And again I take you all at  
13 your word, right.

14 PROSPECTIVE JUROR 130: Yeah.

15 MR. ZAVITSANOS: So is this -- is this the kind of deal where  
16 we are starting on equal footing with the insurance companies?

17 PROSPECTIVE JUROR 130: Yes.

18 MR. ZAVITSANOS: Okay. Thank you, sir. Okay. Anybody  
19 else in the front row here? Okay. All the way down here. Thank you.  
20 Okay. Yes, ma'am.

21 PROSPECTIVE JUROR 093: Badge number 093. So not  
22 worked like for an insurance company, but I've worked with health  
23 insurance. In 1998 I was hired by; it was called Circus Circus Enterprise  
24 at the time. And they processed in house medical and dental claims. So  
25 I'm familiar with like medical claims, providers, fee schedules.

1 MR. ZAVITSANOS: Okay. So that -- and you said Circus  
2 Circus.

3 PROSPECTIVE JUROR 093: Yeah, it was -- at the time it was  
4 Circus Circus. Then it went to Mandalay Resort Group. Then it was  
5 bought out by MGM Resorts. And when MGM Resorts took over, they  
6 closed us out.

7 MR. ZAVITSANOS: Okay. So let me ask you this. Okay. So I  
8 don't think I'll get in trouble for sharing this with you. Okay. So there's  
9 going to be -- there's going to be two types of roles that the Defendants  
10 -- the United companies over here served for purposes of this case. One  
11 of the roles is where they are the insurance company. You pay a  
12 premium. They have the risk. And the money that's paid out for those  
13 claims comes out of their treasury. Okay.

14 The other role that they have and that -- if you end up on the  
15 jury you'll hear about is where they are what's called the third party  
16 administrators. Okay.

17 PROSPECTIVE JUROR 093: Yes, I've worked for a couple of  
18 third party administrators. One was called Course Works and one was  
19 called L & H Administrators. They used to be here in Nevada, but then  
20 they went out of business.

21 MR. ZAVITSANOS: Okay. So what a third-party  
22 administrator does is when a company like Circus Circus, if they don't  
23 want to go out and buy insurance, and they themselves want to be the  
24 insurance company, so that they will pay the claims, they will hire a  
25 company, like a third party administrator --

1 PROSPECTIVE JUROR 093: Uh-huh.

2 MR. ZAVITSANOS: -- to manage those claims.

3 PROSPECTIVE JUROR 093: Yes.

4 MR. ZAVITSANOS: Are you with me?

5 PROSPECTIVE JUROR 093: Yes.

6 MR. ZAVITSANOS: Okay. So one of the big issues in this  
7 case, big issue in this case, is going to be how the Defendants operated  
8 these -- in their role as a third party administrator. Okay.

9 PROSPECTIVE JUROR 093: Uh-huh.

10 MR. ZAVITSANOS: We are very critical about the way they  
11 did that, and they are going to defend it as appropriate. You with me?  
12 Okay.

13 So having done what you've done in the past, and I can't get  
14 into more of the facts than what I've told you, okay. Having done what  
15 you've done in the past, do you think that as that evidence comes in,  
16 because you worked for a third party administrator, and you worked with  
17 third party administrators for Circus Circus, right -- how many years did  
18 you do that between these companies -- all the companies that you  
19 mentioned?

20 PROSPECTIVE JUROR 093: Ten years.

21 MR. ZAVITSANOS: Okay. So that's a long time.

22 PROSPECTIVE JUROR 093: But I didn't -- my job was an IT  
23 computers. So I was the one who like would add to the computer the  
24 benefits, or the providers, or the fee schedule.

25 MR. ZAVITSANOS: Okay.

1 PROSPECTIVE JUROR 093: I didn't actually pay the claim.

2 MR. ZAVITSANOS: I got it.

3 PROSPECTIVE JUROR 093: But I would set up the back end  
4 that paid the claim.

5 MR. ZAVITSANOS: I understand.

6 PROSPECTIVE JUROR 093: Okay.

7 MR. ZAVITSANOS: Right. And by the way there's -- I think  
8 if -- the Court may admit certain documents where that's an issue, too,  
9 okay.

10 PROSPECTIVE JUROR 093: Uh-huh.

11 MR. ZAVITSANOS: But I'm less concerned about that. So  
12 my question is the same one I asked this gentleman here. Which is the  
13 fact that you've worked with and for third party administrators, and you  
14 kind of know that lingo.

15 PROSPECTIVE JUROR 093: Right.

16 MR. ZAVITSANOS: And you know that process. Right. And  
17 that's okay. I mean we can't -- we can't leave our experiences at the  
18 door. Is that going to cause you to give them a head start because  
19 you've been in that world?

20 PROSPECTIVE JUROR 093: No.

21 MR. ZAVITSANOS: Okay. We're not starting behind.

22 PROSPECTIVE JUROR 093: No.

23 MR. ZAVITSANOS: Okay. All right. Thank you, ma'am.

24 PROSPECTIVE JUROR 093: Uh-huh.

25 MR. ZAVITSANOS: Okay. All right. Two more -- three more

1 areas, and then we're going to pick up where I left off yesterday. We're  
2 going to re-engage the folks in the back.

3 Okay, so how many of the new folks have health insurance  
4 that -- through either Sierra, Health Plan of Nevada, or United Healthcare  
5 or who work for a company where one of the United companies is the  
6 third party administrators as your health insurance? Any of the new  
7 folks have health insurance that's either issued by any of the United  
8 companies, or administered by any of United companies? Anybody?  
9 Okay. All right. We have one gentleman check his insurance card.

10 UNIDENTIFIED PROSPECTIVE JUROR: If you don't mind.

11 MR. ZAVITSANOS: Yeah, yeah, yeah, if you need to check.  
12 Please. It's very important. Okay. I'll give you all a second. Okay. All  
13 right. Just learned that. Okay. All right. Okay. All right. So if I  
14 understand this -- okay, nobody's raising their hand here now. So  
15 nobody has either Sierra, Health Plan of Nevada, or United Healthcare  
16 Insurance, right? Okay. We're going to move on then.

17 All right. Okay, next one. Punitive damages. Okay. All  
18 right. So here's the question on that. So we talked about  
19 preponderance, right. You all understood that. Now for punitive  
20 damages, I believe, and only the Court is going to issue these  
21 instructions, but I believe the Court will likely give you a standard that's  
22 high in order for us to qualify and be eligible to receive punitive  
23 damages, and that is clear and convincing evidence. It's not beyond a  
24 reasonable doubt, it's more than preponderance. It's kind of in between.  
25 Everybody with me?

1                   Okay. Now -- and the amount is entirely up to the jury, but  
2 these are not compensatory damages. In other words, they're not  
3 damages designed to make somebody whole. They're damages  
4 designed to punish, and to make an example of, and to deter.  
5 Everybody with me?

6                   Now some people have very strong opinions about that.  
7 They think, you know, if you've been made whole, and you're not out of  
8 pocket, you shouldn't get any more.

9                   So what I want to know is if we introduce evidence and we  
10 meet that threshold, clear and convincing, and we are eligible for  
11 punitive damages, and the amount is entirely up to you all, if you end up  
12 on the jury, is there anybody that in your mind is thinking, there's no  
13 way I'm going to award a penny above what you're actually out of  
14 pocket? Do you understand the question? Does everybody understand  
15 the question?

16                  Let's start with the second row, the new people. Anybody  
17 have any hesitation, thoughts, concerns about that? And I can't get into  
18 why we think we are owed punitive damages. You know, if you end up  
19 on the jury, you'll hear. But anybody have any issues with that, just  
20 philosophical kind of from your value system, in the second row?

21                  Okay. How about the first row? Anybody here? You're -- it  
22 looks like you're thinking. It's hard to read people's faces with these  
23 masks. So I'm just going by the eyes here, right. So it looks like you're  
24 thinking. What do you think? And let's get the mic, please. Okay. Juror  
25 number, please?

1 PROSPECTIVE JUROR 130: 130.

2 MR. ZAVITSANOS: Yeah. What do you think?

3 PROSPECTIVE JUROR 130: Well, I guess if it's a systemic  
4 problem --

5 MR. ZAVITSANOS: Hold on. Put it up --

6 PROSPECTIVE JUROR 130: -- if it's a systemic problem, then  
7 maybe the punitive damages is trying to change their attitude.

8 MR. ZAVITSANOS: Well, I don't want to get in trouble, and I  
9 can't step out of my lane here. Okay. So let me see if I can answer this  
10 carefully. So you're going to get -- there are some very detailed  
11 instructions that the Court's going to give you. Okay. And the lawyers  
12 right now may have a little bit of a disagreement about what that is. But  
13 in the end, the Court's going to decide what those instructions are.

14 So my question is, whatever those instructions are, if at the  
15 end of the day the standard is clear and convincing and we meet that, is  
16 there something in your values that is telling you, yeah, I just -- I get it, I  
17 just can't do it because I don't care what the instructions are, I don't care  
18 what the Court says, it's just not right and I can't even consider it? That's  
19 my question.

20 PROSPECTIVE JUROR 130: No. I don't have a problem with  
21 that.

22 MR. ZAVITSANOS: Okay. All right. Anybody else in the  
23 front row have an issue with punitive damages? Okay. All right. Let me  
24 check here. Okay.

25 How many people have either Medicaid or Medicare? Okay.



1 Of the new folks. We've already talked to the others. So let's go -- so in  
2 the second row, there's one hand. Would you please hand the mic this  
3 way, please? Thank you. And is it Medicare or Medicaid?

4 PROSPECTIVE JUROR 048: 048. Currently, it's Medicare.  
5 But previously, I had been also on Medicaid.

6 MR. ZAVITSANOS: Okay. And do you have any opinions,  
7 thoughts, concerns about either the Medicaid system or the Medicare  
8 system?

9 PROSPECTIVE JUROR 048: Nothing that comes to mind right  
10 away.

11 MR. ZAVITSANOS: Okay. I mean, critical, happy, neutral?

12 PROSPECTIVE JUROR 048: Overall, really, pretty happy with  
13 both. I thought it was going to be like more jumping through hoops and  
14 things like that. And I found that more with, you know, other insurance  
15 companies.

16 MR. ZAVITSANOS: Okay. Okay. All right. How about the  
17 front row? Anybody on Medicare or Medicaid in the front row? Okay.  
18 Thank you.

19 Okay. Last topic before we pick up with the rest of the folks  
20 again. Okay. So one of the claims in this case is -- one of the claims is  
21 breach of implied contract. Okay. Now, there's a whole bunch of parts  
22 to that. Okay. One part that is not going to be in there, that I don't  
23 believe is going to be in there is that you have to have a written  
24 agreement signed by both sides where all the terms are agreed upon.  
25 You all with me? Okay.

1                   So here's the question. How many of the new folks believe  
2 that if there is such a claim in the case, breach of implied contract, you're  
3 going to be thinking, well, okay, Mr. Zavitsanos, I -- unless we've got a  
4 written agreement signed by both sides, and everything's agreed upon, I  
5 just -- things are too much -- too up in the air, and I just can't consider  
6 that? It's -- if you're going to bring a claim for breach of an implied  
7 contract, it's either got to be signed by both sides, where everything's  
8 agreed on, or not. I can't consider anything else.

9                   And I'm not talking about what ideally it should be. I'm  
10 saying, in your mind are you going to be resistant to finding in favor of  
11 the healthcare providers, our group here, if we satisfy the elements of  
12 that claim by a preponderance of the evidence because we don't have --  
13 because the claims at issue were not pursuant to a written deal signed  
14 by both sides? Anybody?

15                  Do you understand the question? In other words, does it  
16 have to be in writing, signed by both sides, before you'll consider finding  
17 in our favor? Anybody? I'm getting a lot of blank stares. Okay.

18                  Yes, ma'am? Will you pass -- hold on. Let's pass the -- okay.

19                  PROSPECTIVE JUROR 049: Juror 049.

20                  MR. ZAVITSANOS: Yes.

21                  PROSPECTIVE JUROR 049: Can you give us an example of  
22 the gray area, or are you just pretty much saying, are you okay with a  
23 gray area --

24                  MR. ZAVITSANOS: Well --

25                  PROSPECTIVE JUROR 049: -- and deliberating on that?

1 MR. ZAVITSANOS: -- no. I guess I screwed up my question.  
2 Okay. Let me try -- let me try it this way. Okay. So we say that we had  
3 an implied agreement with them, okay, where -- that meets certain  
4 elements that the Court's going to give you. Okay. And that is at a  
5 certain rate of reimbursement that we should have received for treating  
6 folks who were insured by the various insurance companies under the  
7 United umbrella over here.

8 MR. ROBERTS: Your Honor, may we approach?

9 THE COURT: You may.

10 MR. ROBERTS: Thank you.

11 [Sidebar at 4:38 p.m., ending at 4:40 p.m., not transcribed]

12 MR. ZAVITSANOS: May I continue, Your Honor.

13 THE COURT: Yes, please.

14 MR. ZAVITSANOS: Thank you. Your Honor, may it please  
15 the Court and counsel. Okay.

16 So my question is, right, if the Court gives instructions on  
17 what this breach of implied contract is -- and I can't get too far into it,  
18 okay -- is this the kind of deal where because there's not a written  
19 agreement signed by both sides where everything's agreed to, you're  
20 going to think, well, you know what, you guys, you're just out of luck, I  
21 just -- I can't consider that, even if the Court instructs otherwise? That's  
22 my question. What do you think?

23 PROSPECTIVE JUROR 049: I think that if it's -- if what the  
24 gray area is is specified within I guess the Court -- once everything goes  
25 to the jury and all of that information is presented, then yes. It just

1 depends on certain things.

2 MR. ZAVITSANOS: You're going to have a wheelbarrow full  
3 of information. Okay. Okay. You're going to need boots by the time we  
4 get done. Right. I mean, it's -- believe me, there's going to be lots of  
5 evidence on both sides. So I just want to know though, from our  
6 standpoint, from the healthcare providers, okay, if the Court gives an  
7 instruction, part of that instruction does not include that it has to be in  
8 writing signed by both sides, are you going to have a problem with that?  
9 That's the question.

10 PROSPECTIVE JUROR 049: No.

11 MR. ZAVITSANOS: Okay. All right. Anybody else in the  
12 front row here on that issue about it has to be in writing signed by both  
13 sides? Okay. Let me just check here real quick.

14 [Pause]

15 MR. ZAVITSANOS: Your Honor, this is --

16 THE COURT: A good time to break?

17 MR. ZAVITSANOS: Yeah. So from here on out, they are  
18 questions that are going to be directed to everyone. So --

19 THE COURT: Very good.

20 MR. ZAVITSANOS: -- however the Court would like to  
21 proceed.

22 THE COURT: All right. We'll take our recess until tomorrow  
23 at 9:30. 9:30 tomorrow in this same courtroom.

24 During the recess, you're instructed, do not talk with each  
25 other or anyone else on any subject or issue connected with the trial.

1 Don't read, watch, or listen to any report of or commentary on the trial.  
2 Don't discuss this case with anyone connected to it by any medium of  
3 information, including without limitation, newspapers, television, radio,  
4 internet, cell phone, or texting.

5 Do not conduct any research on your own relating to this  
6 case, such as consulting dictionaries, using the internet, referencing  
7 reference materials. You are not to conduct any investigation, test any  
8 theory of the case, recreate any aspect of the case, or in any other way  
9 investigate or learn about it on your own. You may not Google, Tweet,  
10 text, conduct any type of book or computer research with regard to any  
11 issue, party, witness, or attorney involved in this case. Do not form or  
12 express any opinion on any subject connected with the trial until the jury  
13 is selected and the jury deliberates.

14 You're a great group. I love how attentive you all are. Even  
15 you guys in the back are attentive. So thank you for that. See you  
16 tomorrow at 9:30.

17 THE MARSHAL: All rise for the jury.

18 [Prospective jurors out at 4:43 p.m.]

19 [Outside the presence of the prospective jurors]

20 THE COURT: Okay. The room is clear. Defendant, you  
21 raised an objection. Let's get that on the record.

22 MR. ROBERTS: Thank you, Your Honor. The -- right before I  
23 asked to approach the bench, a juror had asked for clarification regarding  
24 a question about implied contracts. And in response, the -- I asked to  
25 approach before the answer was given. But Mr. Zavitsanos had started

1 to explain what the allegations in this case were. My concern was that  
2 by answering the question about what he meant by an implied contract,  
3 and giving his allegations in this case, he was presenting the juror with a  
4 hypothetical based on the facts of this case in order to try to find her  
5 verdict on those facts. And that's why I had asked to approach. I did not  
6 ask for a curative instruction because the line of inquiry had not been  
7 completed. Thank you, Your Honor.

8 THE COURT: And the response, please?

9 MR. ZAVITSANOS: I was not going to do that, Your Honor. I  
10 was not going to use any of the facts of the case to elicit a response from  
11 the juror. It's a difficult concept. The parties don't agree on what breach  
12 of implied contract is. I simply wanted to probe whether this particular  
13 venire member would require a written agreement signed by both  
14 parties. And most importantly, I never got it out.

15 THE COURT: Good enough.

16 MR. ZAVITSANOS: Okay.

17 THE COURT: Thank you, folks. Anything else for the record?

18 MR. ZAVITSANOS: I think Ms. Lundvall may have  
19 something.

20 MS. LUNDVALL: Not for the record, Your Honor.

21 THE COURT: Good enough. Anything -- Defendant, anything  
22 for the record?

23 /////

24 /////

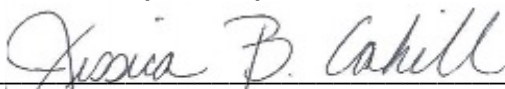
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1 MR. ROBERTS: Nothing else for the record, Your Honor.

2 THE COURT: All right. So I guess we're in recess.


3 [Proceedings adjourned at 4:46 p.m.]  
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
22 audio-visual recording of the proceeding in the above entitled case to the  
23 best of my ability.

24 

25 Maukele Transcribers, LLC

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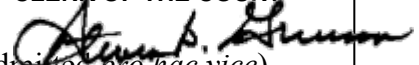
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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

FREMONT EMERGENCY SERVICES  
 (MANDAVIA), LTD., a Nevada professional  
 corporation; TEAM PHYSICIANS OF  
 NEVADA-MANDAVIA, P.C., a Nevada  
 professional corporation; CRUM,  
 STEFANKO AND JONES, LTD. dba RUBY  
 CREST EMERGENCY MEDICINE, a  
 Nevada professional corporation,

Plaintiffs,

vs.

UNITED HEALTHCARE INSURANCE  
 COMPANY, a Connecticut corporation;  
 UNITED HEALTH CARE SERVICES INC.,  
 dba UNITEDHEALTHCARE, a Minnesota  
 corporation; UMR, INC., dba UNITED  
 MEDICAL RESOURCES, a Delaware  
 corporation; SIERRA HEALTH AND LIFE  
 INSURANCE COMPANY, INC., a Nevada  
 corporation; HEALTH PLAN OF NEVADA,  
 INC., a Nevada corporation,

Defendants.

Case No.: A-19-792978-B  
 Dept. No.: XXVII

**JOINT PRETRIAL MEMORANDUM**  
**PURSUANT TO EDCR 2.67**

Trial Date: October 25, 2021

Plaintiffs Fremont Emergency Services (Mandavia), Ltd; Team Physicians of Nevada-Mandavia, P.C.; Crum, Stefanko and Jones, Ltd. dba Ruby Crest Emergency Medicine (“the Health Care Providers”) and Defendants UnitedHealthcare Insurance Company; United HealthCare Services, Inc.; UMR, Inc.; Sierra Health and Life Insurance Company, Inc.; and Health Plan of Nevada, Inc. (collectively “Defendants”) referred to individually as a “Party” or collectively as the “Parties,” hereby submit the following Joint Pretrial Memorandum:

## **I. Rule 2.67 Conference**

The Parties held the EDCR 2.67 conference on September 30, 2021, at 1:30 p.m. Pacific. Appearances of counsel were as follows:

Health Care Providers: John Zavitsanos, Jason McManis, and Michael Killingsworth, Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing P.C.

Defendants: K. Lee Blalack, II and Adam Levine, O’Melveny & Myers LLP; Colby Balkenbush and Lee Roberts, Weinberg Wheeler, Hudgins, Gunn & Dial, LLC.

## **II. Statement of the Facts of the Case**

### **A. The Health Care Providers’ Statement**

This action arises out of a dispute concerning the rate at which Defendants reimbursed the Health Care Providers for emergency medicine services provided to patients covered under health plans underwritten, operated, and/or administrated by Defendants. In the claims asserted by the Health Care Providers in their operative pleading, the Health Care Providers allege that Defendants are obligated to reimburse the Health Care Providers for the reasonable value of the emergency medical services provided by the Health Care Providers to the Defendants’ members and insureds, which the Health Care Providers’ contend is their billed charges. For the claims at issue, however, the Health Care Providers allege Defendants reimbursed the Health Care Providers at an amount below reasonable value, and that Defendants employed an arbitrary and selective means to unjustifiably reduce the overall amount Defendants paid to the Health Care Providers.

1 Through this lawsuit, the Health Care Providers seek actual damages in excess of  
2 \$10,000,000 for Defendants' systematic underpayment of claims, pre- and post-judgment  
3 interest, attorneys' fees and costs, and punitive damages, including damages under NRS  
4 42.005(2)(b).

5 B. Defendants' Statement<sup>1</sup>

6 This action is a payment dispute between TeamHealth Plaintiffs, a group of private-  
7 equity backed companies that offer outsourced emergency-room staffing services to hospitals  
8 located in 47 states including Nevada, and Defendants, which insure or administer health plans  
9 that provide healthcare coverage for members who allegedly received emergency medicine  
10 services from physicians contracted with TeamHealth Plaintiffs. Defendants are five different  
11 companies, each of which offers health insurance and/or administrative services to health plans  
12 sponsored by employers, unions and other organizations.

13 The terms under which Defendants reimburse healthcare providers for services rendered  
14 to Defendants' clients, including out-of-network emergency medicine services, are determined  
15 by the language of those clients' health plans. This includes the out-of-network benefits that  
16 those plans make available to their members and utilizing certain out-of-network programs that  
17 are designed to control healthcare costs and thereby restrain the growth in premiums and cost-  
18 sharing paid by health plan members. There was no written, oral or implied contract between  
19 Defendants and TeamHealth Plaintiffs that specified the rate of reimbursement for the disputed  
20 emergency medicine services.

21 The TeamHealth Plaintiffs contest in this action 11,584 individual benefit claims for  
22 which the Defendants already allowed payment of \$2,848,965.78. Defendants reimbursed  
23 TeamHealth Plaintiffs for the reasonable value of the services at issue in this case. But in this  
24 action, TeamHealth Plaintiffs want much more; they seek their full billed charges, which  
25  
26

---

27 <sup>1</sup> The Health Care Providers object to Defendants' Statement because it violates EDCR  
28 2.67(b)(1). Defendants' Statement is neither brief nor factual, and instead consists of improper  
attorney argument of the alleged facts.

represents another \$13,560,083.00. It is TeamHealth Plaintiffs' billed charges, *not* Defendants' reimbursements, that are unreasonable.

Because the \$2,848,965.78 that Defendants already allowed in payment for the disputed services equals or exceeds the reasonable value of those services, TeamHealth Plaintiffs have suffered no actual monetary damages and are not entitled to relief under any cause of action asserted in this case. But even if there was a determination that Defendants had underpaid TeamHealth Plaintiffs by some amount, TeamHealth Plaintiffs are still not entitled to any recovery due to their unclean hands. Fremont, a Las Vegas based staffing company, improperly billed some of its claims for reimbursement to Defendants under the tax identification number of Ruby Crest, an Elko based provider, even though the services were provided by emergency medicine providers contracted with Fremont in Las Vegas. This improper billing scheme was implemented to take advantage of the higher rates of reimbursement that TeamHealth Plaintiffs believed Ruby Crest was being paid by some of the Defendants and bars all of TeamHealth Plaintiffs' claims. In addition, TeamHealth Plaintiffs are not entitled to interest on any damages award, attorneys' fees and costs or punitive damages.

### III. Claims for Relief and Categories of Damages Requested

#### A. The Health Care Providers' Statement

The Health Care Providers allege the following claims for relief and categories of damages. The references and citations to the Health Care Providers' Second Amended Complaint are in no way intended to limit the applicability of any of the factual allegations in the Second Amended Complaint to any of the theories of recovery or the amount of damages sought under any theory of recovery.

**Count 1:** Breach of Implied-in-Fact Contract (Second Am. Compl. ¶¶ 62–79)

**Damages:** (1) actual damages; and (2) pre- and post-judgment interest.

**Count 2:** Unjust Enrichment (Second Am. Compl. ¶¶ 80–89)

**Damages:** (1) actual damages; and (2) pre- and post-judgment interest.

**Count 3:** Unfair Settlement Practices (Second Am. Compl. ¶¶ 90–97)

**Damages:** (1) actual damages; (2) punitive damages, including damages under NRS 42.005(2)(b); and (3) pre- and post-judgment interest.

**Count 4: Violations of Nevada Prompt Pay Statutes (Second Am. Compl. ¶¶ 98–105)**

**Damages:** (1) actual damages; (2) attorneys' fees and costs; and (3) pre- and post-judgment interest.

**B. Defendants' Statement**

1. With respect to TeamHealth Plaintiffs' Unfair Settlement Practices claim, Defendants dispute that punitive damages are available or that TeamHealth Plaintiffs may seek punitive damages with no statutory cap. Punitive damages are capped at three times the amount of compensatory damages pursuant to NRS 42.005(a).

**IV. Affirmative Defenses**

**A. First Affirmative Defense:** TeamHealth Plaintiffs' Second Amended Complaint fails to state a claim upon which relief can be granted.

**B. Second Affirmative Defense:** Some or all of the disputed claims are preempted by the Employee Retirement Income Security Act of 1974 ("ERISA") because the members in question obtained their health care coverage through employer-based health plans. These claims relate to payments under plans governed by ERISA, and all such claims are both conflict and completely preempted by ERISA.

**C. Third Affirmative Defense:** This Court does not have subject matter jurisdiction over the claims asserted against Defendants. TeamHealth Plaintiffs' claims arise under ERISA and therefore implicate federal question jurisdiction.

**D. Fourth Affirmative Defense:** The claims asserted are barred by the absence of an applicable duty running from Defendants to TeamHealth Plaintiffs. Among other reasons, as out-of-network providers, TeamHealth Plaintiffs have chosen not to enter into any contractual relationship or rate agreement with Defendants, nor has any duty arisen by operation of Nevada law.

**E. Fifth Affirmative Defense:** The terms and conditions of the applicable health plans

stand as a bar to some or all of the relief requested.

**F. Sixth Affirmative Defense:** Some or all of TeamHealth Plaintiffs' billed charges are excessive under the applicable standards, and/or TeamHealth Plaintiffs have failed to identify any basis for entitlement to demand receipt of any fixed percentage of billed charges.

**G. Seventh Affirmative Defense:** Some or all of the claims asserted are subject to rates set by TeamHealth Plaintiffs' participation in networks offered by MultiPlan, Inc.

**H. Eighth Affirmative Defense:** To the extent that TeamHealth Plaintiffs have any right to receive plan benefits, that right is subject to basic preconditions and prerequisites that have not been established, such as that the patients are members of health plan insured or administered by Defendants on the date of service, that the coordination of benefits has been applied, that the services were medically necessary, that an emergency medical condition was present, that TeamHealth Plaintiffs timely submitted correctly coded claims and supplied any requested documentation, and/or that any necessary authorizations were obtained.

**I. Ninth Affirmative Defense:** TeamHealth Plaintiffs lack standing to pursue claims against Defendants.

**J. Tenth Affirmative Defense:** Some or all of the Defendants did not function as an insurer or issuer of the health plan coverage alleged to be at issue, and TeamHealth Plaintiffs therefore lack standing as to any such Defendant.

**K. Eleventh Affirmative Defense:** TeamHealth Plaintiffs failed to timely correct known defects with respect to some or all of the claims asserted.

**L. Twelfth Affirmative Defense:** TeamHealth Plaintiffs' claims are barred, in whole or in part, to the extent that they seek to unjustly enrich TeamHealth Plaintiffs by allowing them to retain funds in excess of any amounts due for covered services under plans insured or administered by Defendants.

**M. Thirteenth Affirmative Defense:** TeamHealth Plaintiffs' claims are barred, in whole or in part, to the extent they have not suffered any damages.



- 1       **N. Fourteenth Affirmative Defense:** TeamHealth Plaintiffs' claims are barred, in  
2       whole or in part, to the extent any alleged liability to or damages suffered by  
3       TeamHealth Plaintiffs were not proximately caused by Defendants, or by the conduct  
4       alleged.
- 5       **O. Fifteenth Affirmative Defense:** TeamHealth Plaintiffs' claims are barred in whole  
6       or in part by the failure to exhaust mandatory administrative and/or contractual  
7       remedies.
- 8       **P. Sixteenth Affirmative Defense:** TeamHealth Plaintiffs' claims are barred, in whole  
9       or in part, to the extent that TeamHealth Plaintiffs have not mitigated their damages  
10      by seeking reimbursement from other sources, including, but not limited to, other  
11      health plans, programs, or entities that may have had an obligation to pay.
- 12      **Q. Seventeenth Affirmative Defense:** TeamHealth Plaintiffs' claims are barred, in  
13      whole or in part, by the equitable doctrines of waiver, estoppel, and/or laches.
- 14      **R. Eighteenth Affirmative Defense:** TeamHealth Plaintiffs' claims are barred, in  
15      whole or in part, to the extent TeamHealth Plaintiffs failed to sue the appropriate  
16      entity.
- 17      **S. Nineteenth Affirmative Defense:** TeamHealth Plaintiffs' claims are barred, in  
18      whole or in part, by the doctrines of accord and satisfaction and/or release.
- 19      **T. Twentieth Affirmative Defense:** TeamHealth Plaintiffs' claims are subject to setoff  
20      and/or recoupment with respect to claims for which Defendants made payment on the  
21      basis of current procedural terminology ("CPT") or other billing codes included in  
22      TeamHealth Plaintiffs' submissions that TeamHealth Plaintiffs' clinical records of  
23      their patients' care reveal to have been improperly submitted, either because  
24      TeamHealth Plaintiffs' clinical records do not support submission of the codes at all,  
25      or because TeamHealth Plaintiffs' clinical records establish that different codes  
26      should have been submitted.
- 27      **U. Twenty-First Affirmative Defense:** TeamHealth Plaintiffs' claims are subject to  
28      setoff and/or recoupment with respect to claims for which Defendants made payment



on the basis of TeamHealth Plaintiffs' billed charges and those billed charges exceeded the billed charges submitted to other payors, where TeamHealth Plaintiffs never intended to collect such charges from any other payors, or where the charges were otherwise in error.

**V. Twenty-Second Affirmative Defense:** TeamHealth Plaintiffs are not entitled to relief because they have received all payments due, if any, for the covered services they provided in accordance with the terms of their patients' health plans.

**W. Twenty-Third Affirmative Defense:** TeamHealth Plaintiffs' claim for punitive damages cannot be sustained because an award of punitive damages that is subject to no predetermined limit, such as a maximum multiple of compensatory damages or a maximum amount of punitive damages that may be imposed, would: (1) violate Defendants' Due Process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution; (2) violate Defendants' rights not to be subjected to an excessive award; and (3) be improper under the Nevada Constitution, Nevada statutes, common law and public policies of Nevada.

**X. Twenty-Fourth Affirmative Defense:** All of TeamHealth Plaintiffs' causes of action, both legal and equitable, are barred by the doctrine of unclean hands. TeamHealth Plaintiffs wrongfully and fraudulently billed Plaintiff Fremont Emergency Services' reimbursement claims under Plaintiff Ruby Crest Emergency Medicine's tax identification number in order to deceive the Defendants into paying a higher rate of reimbursement for Fremont Emergency Services' claims.

**Y. Twenty-Fifth Affirmative Defense:** It has been necessary for Defendants to employ the services of an attorney to defend the action and a reasonable sum should be allowed Defendants for attorney's fees and all incurred costs of the suit.

**V. Claims or Defenses to be Abandoned**

A. The Healthcare Providers' Claims to be Abandoned

None.

B. Defendants' Defenses to be Abandoned

1 None.

2 **VI. List of Exhibits and Objections to Admissibility**

3 Due to the complexity of the case and the disagreement between the Parties as to the  
4 scope of the case, the Parties have not agreed to a joint exhibit list. The Parties continue to meet  
5 and confer on objections and admissibility of exhibits.

6 The Health Care Providers' current list of exhibits, together with Defendants' objections,  
7 is attached hereto as **Exhibit 1**.

8 Defendants' current list of exhibits, together with the Health Care Providers' objections,  
9 is attached hereto as **Exhibit 2**. The Health Care Providers' objections to Defendants' current  
10 list of exhibits, if any, are attached hereto as **Exhibit 2A**.

11 Pursuant to the October 25, 2021 Stipulation and Order to Extend Certain Pretrial  
12 Deadlines, the Parties will submit deposition designations and objections to deposition  
13 designations to the Court on November 1, 2021.

14 The Health Care Providers propose that certain exhibit objections be taken up at the final  
15 pretrial conference, to be held on October 28, 2021.

16 **VII. Agreements as to the Limitation or Exclusion of Evidence**

17 The Parties continue to negotiate in good faith to reach agreement on the motions in  
18 limine where possible. Thus far, the Parties have agreed to the following:

- 19 • September 30, 2021 Stipulation and Order Regarding Defendants' Motion in Limine  
20 No. 34 and Purported Delay as Part of Defendants' Trial and Litigation Strategy;
- 21 • September 30, 2021 Stipulation and Order Regarding Plaintiffs' Motion in Limine No.  
22 2;
- 23 • September 30, 2021 Stipulation and Order Regarding Evidence of Defendants' Out-of-  
24 Network Programs that Do Not Relate to Disputed Reimbursement Claims;
- 25 • September 30, 2021 Stipulation and Order Regarding Evidence of Employee  
26 Performance Metrics and/or Evaluations;
- 27 • October 6, 2021 Stipulation and Order Regarding Evidence of Defendants' Financial  
28 Condition and the Amount of Punitive Damages Plaintiffs Should Be Awarded;
- October 6, 2021 Stipulation and Order Regarding Arguments to the Jury Related to  
ERISA Conflict Preemption;
- October 13, 2021 Stipulation and Order Regarding Defendants' Motion in Limine No.  
31;

- October 13, 2021 Stipulation and Order Regarding Plaintiffs' Expert David Leathers July 30, 2021 Initial Expert Report;
- October 14, 2021 Stipulation and Order Regarding Evidence of Executive Compensation; and
- Stipulation and Order Regarding Defendants' Motion in Limine No. 35: To Preclude Reference to Defendants Collectively as "United" or "United Defendants".

**VIII. List of Witnesses**

A. Plaintiffs' Expected Witnesses

Plaintiffs presently expect to present the following witnesses at trial:

- Kent Bristow
- Dr. Joseph Crane
- Dr. Robert Frantz
- John Haben
- Leslie Hare
- David Leathers
- Alexander Mizenko
- Leif Murphy
- Angie Nierman
- Rebecca Paradise
- Scott Phillips
- Dan Rosenthal
- Dan Schumacher
- Scott Ziemer
- Vince Zuccarello

B. Plaintiffs May Call Witnesses

Plaintiffs may present the following witnesses at the time of trial, if the need arises:

- Jennifer Behm
- Jolene Bradley
- Kevin Ericson
- Jacy Jefferson

- Dr. Daniel Jones
- Marty Millerliele
- Eddie Ocasio
- Jason Schoonover
- Jennifer Shrader
- Miles Snowden

Plaintiffs reserve the right to call any witnesses named by Defendants and to call any witnesses as may be necessary for the purpose of impeachment. Plaintiffs may call any and all witnesses in rebuttal to testimony given by Defendants' witnesses. Plaintiffs reserve the right to object to any of Defendants' witnesses at the time of trial.

C. Defendants' Expected Witnesses

Defendants presently expect to present the following witnesses at trial:

- Mike Bandomer
- Kent Bristow
- Sean Crandell
- Bruce F. Deal
- John Haben
- Rena Harris
- Daniel Jones
- Jacqueline Kienzle
- Karen B. King
- Alexander Mizenko
- Leif Murphy
- Shaun Schoener
- Bruce Singleton

D. Defendants' May Call Witnesses

Defendants may call the following witnesses at the time of trial, if the need arises:

- Jennifer Behm

- Jolene Bradley
- Joe Carman
- Brent Davis
- Lisa Dealy
- David Greenberg
- Leslie Hare
- Jacy Jefferson
- Mark Kline
- Angie Nierman
- Eddie Ocasio
- Rebecca Paradise
- Scott Scherr
- Dan Schumacher
- Jennifer Shrader
- Scott Ziemer

Defendants reserve the right to call any witnesses named by TeamHealth Plaintiffs and to call any witnesses as may be necessary for the purpose of impeachment. Defendants may call any and all witnesses in rebuttal to testimony given by TeamHealth Plaintiffs' witnesses. Defendants reserve the right to object to any of TeamHealth Plaintiffs' witnesses at the time of trial.

## **IX. Brief Statement of Each Principal Contested Issue of Law**

### **A. The Health Care Providers' Position**

The Health Care Providers' position is that any contested issues of law have been resolved by prior rulings of the Court, including Defendants' ERISA pre-emption arguments raised, below. The Health Care Providers note that many of the purposed issues of law identified by Defendants, below, are fact issues to be resolved by the jury at trial.

1 B. Defendants' Position

2 Defendants' position is that various issues of law that are contested in this case are  
3 reflected in their Motion for Partial Summary Judgment, the Parties' various motions in limine,  
4 the TeamHealth Plaintiffs' Motion for Further Sanctions Against Defendants, and Defendants'  
5 jury instructions that will be submitted to the Court on November 1, 2021. In addition,  
6 Defendants anticipate that the following issues of law will be presented for the Court's resolution  
7 at trial:

- 8 1. Whether TeamHealth Plaintiffs' claims for higher reimbursement conflict  
9 with the payment obligations in the health plan documents that govern the  
10 benefits of the patients who received the disputed services and are thus  
11 preempted by ERISA.
- 12 2. Whether TeamHealth Plaintiffs' implied-in-fact contract claim and Unfair  
13 Insurance Practices Act claim under NRS 686A.310 are subject to conflict  
14 preemption by ERISA.
- 15 3. Whether TeamHealth Plaintiffs have adduced any evidence that the Parties  
16 intended to contract without a written or oral agreement; whether the Parties  
17 exchanged any bargained-for promise; and whether the terms of any  
18 agreement between the Parties were sufficiently clear on all essential terms,  
19 including price, in support of TeamHealth Plaintiffs' implied-in-fact contract  
20 claim.
- 21 4. Whether the proper market for measuring the reasonable value of any  
22 services—including the reasonableness of Defendants' rates of  
23 reimbursement, TeamHealth Plaintiffs' billed charges, terms of any  
24 agreement between the Parties, or value of any benefit conferred onto  
25 Defendants by TeamHealth Plaintiffs—should be determined by looking to  
26 other emergency medicine services markets.
- 27 5. Whether TeamHealth Plaintiffs conferred a benefit on any Defendant from  
28 services provided by any TeamHealth Plaintiff and whether any Defendant

- 1 accepted and retained a benefit such that it would be inequitable for that  
2 Defendant not to have paid additional monies to any TeamHealth Plaintiff  
3 for that benefit.
- 4 6. Whether TeamHealth Plaintiffs are “insureds” and whether Defendants are  
5 “insurers” within the meaning of NRS 686A.310, and within the meaning of  
6 NRS 683A.0879, NRS 689A.410, NRS 689B.255, NRS 689C.485, NRS  
7 695C.185, and NAC 686A.675, such that they can prove liability under these  
8 statutes and regulation.
- 9 7. Whether a third party claimant other than an “insured” may bring a claim  
10 against an “insurer” under NRS 686A.310.
- 11 8. Whether TeamHealth Plaintiffs can present evidence sufficient to establish  
12 that Defendants are “guilty of oppression, fraud or malice, express or  
13 implied” to support the imposition of punitive damages for any of  
14 TeamHealth Plaintiffs’ claims and whether punitive damages are available to  
15 TeamHealth Plaintiffs on any claim for which that category of damages is  
16 asserted.
- 17 9. With respect to TeamHealth Plaintiffs’ Unfair Settlement Practices claim,  
18 whether TeamHealth Plaintiffs may seek punitive damages or seek punitive  
19 damages with no statutory cap, where punitive damages are capped at three  
20 times the amount of compensatory damages pursuant to NRS 42.005(a).
- 21 10. Whether Defendants’ reimbursement practices utilizing out-of-network  
22 reimbursement programs is relevant to the reasonableness of Defendants’  
23 reimbursement for emergency medical services.
- 24 11. Whether TeamHealth Plaintiffs have presented sufficient evidence to support  
25 their claim under NRS 686A.310, including: when, if at all, Defendants’  
26 liability became “reasonably clear” as required under NRS 686A.310; and  
27 whether TeamHealth Plaintiffs have adduced evidence that an officer,  
28