

Case No. \_\_\_\_\_

---

IN THE SUPREME COURT OF NEVADA

---

HARVEST MANAGEMENT SUB LLC,  
Petitioner,

Electronically Filed  
Apr 18 2019 01:37 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

vs.

EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE  
COUNTY OF CLARK, THE HONORABLE LINDA MARIE BELL, DISTRICT COURT  
CHIEF JUDGE,

Respondent,

- and -

AARON M. MORGAN and DAVID E. LUJAN,  
Real Parties in Interest.

---

District Court Case No. A-15-718679-C, Department VII

---

**APPENDIX TO PETITION FOR EXTRAORDINARY WRIT RELIEF  
VOLUME 2 OF 14**

---

DENNIS L. KENNEDY, Nevada Bar No. 1462  
SARAH E. HARMON, Nevada Bar No. 8106  
ANDREA M. CHAMPION, Nevada Bar No. 13461  
**BAILEY ♦ KENNEDY**  
8984 Spanish Ridge Avenue  
Las Vegas, Nevada 89148-1302  
Telephone: 702.562.8820  
Facsimile: 702.562.8821  
DKennedy@BaileyKennedy.com  
SHarmon@BaileyKennedy.com  
AChampion@BaileyKennedy.com

*Attorneys for Petitioner*  
HARVEST MANAGEMENT SUB LLC

**April 18, 2019**

---

**APPENDIX TO PETITION FOR EXTRAORDINARY WRIT RELIEF**  
**VOLUME 2 OF 14**

**TABLE OF CONTENTS**

<b>No.</b>	<b>Document Title</b>	<b>Page Nos.</b>
6A	Transcript of Jury Trial (November 6, 2017) - Part 1	32-271

## **APPENDIX TO PETITION FOR EXTRAORDINARY WRIT RELIEF**

### **INDEX**

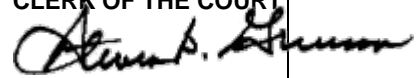
<b>Document Title</b>	<b>Volume No.</b>	<b>Tab No.</b>	<b>Page Nos.</b>
Complaint (May 20, 2015)	1	1	1-6
Decision and Order (April 5, 2019)	14	39	2447-2454
Defendant Harvest Management Sub LLC's Motion for Entry of Judgment (December 21, 2018)	12	24	2091-2119
Defendant Harvest Management Sub LLC's Notice of Objection and Reservation of Rights to Order Regarding Plaintiff's Counter-Motion to Transfer Case Back to Chief Judge Bell for Resolution of Post-Verdict Issues (February 7, 2019)	13	32	2369-2373
Defendant Harvest Management Sub LLC's Opposition to Plaintiff's Motion for Entry of Judgment (August 16, 2018)	11	19	1911-1937
Defendant, Harvest Management Sub, LLC's Responses to Plaintiff's First Set of Interrogatories (October 12, 2016)	1	4	23-30
Defendants' Answer to Plaintiff's Complaint (June 16, 2015)	1	2	7-13
Docket Report for Department Reassignment (July 2, 2018)	10	17	1846-1852
Docketing Statement Civil Appeals (January 31, 2019)	13	30	2312-2358
Jury Instructions (April 9, 2018)	10	15	1804-1843
Minute Order (April 24, 2017)	1	5	31
Minute Order (March 14, 2019)	14	37	2441-2443
Notice of Appeal (December 18, 2018)	12	23	2012-2090
Notice of Entry of Judgment (January 2, 2019)	12	25	2120-2129
Notice of Entry of Order on Plaintiff's Motion for Entry of Judgment (November 28, 2018)	11	22	2005-2011
Notice of Entry of Order Regarding	13	31	2359-2368

Plaintiff's Counter-Motion to Transfer Case Back to Chief Judge Bell for Resolution of Post-Verdict Issues (February 7, 2019)			
Opposition to Defendant Harvest Management Sub LLC's Motion for Entry of Judgment and Counter-Motion to Transfer Case Back to Chief Judge Bell for Resolution of Post-Verdict Issues	12	26	2130-2171
Order Denying Motion to Dismiss (March 7, 2019)	14	36	2438-2440
Plaintiff's First Set of Interrogatories to Defendant Harvest Management Sub LLC (April 14, 2016)	1	3	14-22
Plaintiff's Motion for Entry of Judgment (July 30, 2018)	11	18	1853-1910
Plaintiff's Reply in Support of Motion for Entry of Judgment (September 7, 2018)	11	20	1938-1992
Recorder's Transcript of Defendant Harvest Management Sub LLC's Motion for Entry of Judgment (March 5, 2019)	14	35	2420-2437
Reply in Support of Defendant Harvest Management Sub LLC's Motion for Entry of Judgment; and Opposition to Plaintiff's Counter-Motion to Transfer Case Back to Chief Judge Bell for Resolution of Post-Verdict Issues (January 23, 2019)	13	28	2285-2308
Respondent Harvest Management Sub LLC's Motion to Dismiss Appeal as Premature (January 23, 2019)	13	27	2172-2284
Respondent Harvest Management Sub LLC's Response to Docketing Statement (February 11, 2019)	13	33	2374-2380
Settlement Program Early Case Assessment Report (January 24, 2019)	13	29	2309-2311
Settlement Program Status Report (April 1, 2019)	14	38	2444-2446
Special Verdict (April 9, 2018)	10	16	1844-1845

Supplement to Harvest Management Sub LLC's Motion for Entry of Judgment (March 5, 2019)	14	34	2381-2419
Transcript of Hearing on Plaintiff's Motion for Entry of Judgment (November 6, 2018)	11	21	1993-2004
Transcript of Jury Trial (November 6, 2017) - Part 1	2	6A	32-271
Transcript of Jury Trial (November 6, 2017) - Part 2	3	6B	272-365
Transcript of Jury Trial (November 7, 2017)	3	7	366-491
Transcript of Jury Trial (November 8, 2017)	4	8	492-660
Transcript of Jury Trial (April 2, 2018) - Part 1	4	9A	661-729
Transcript of Jury Trial (April 2, 2018) - Part 2	5	9B	730-936
Transcript of Jury Trial (April 3, 2018)	6	10	937-1092
Transcript of Jury Trial (April 4, 2018)	7	11	1093-1246
Transcript of Jury Trial (April 5, 2018)	8	12	1247-1426
Transcript of Jury Trial (April 6, 2018)	9	13	1427-1635
Transcript of Jury Trial (April 9, 2018)	10	14	1636-1803

TAB 6A

TAB 6A



1 RTRAN

2  
3  
4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6  
7 AARON MORGAN,

8 Plaintiff,

9 vs.

10 HARVEST MANAGEMENT SUB, LLC,

11 Defendants.

)  
)  
) CASE NO. A718679  
)  
) DEPT. VII  
)  
)  
)

12  
13 BEFORE THE HONORABLE LINDA MARIE BELL, DISTRICT COURT JUDGE  
14 MONDAY, NOVEMBER 6, 2017

15 **TRANSCRIPT OF JURY TRIAL**

16 **APPEARANCES:**

17 For the Plaintiff:

BENJAMIN CLOWARD, ESQ.  
BRYAN BOYACK, ESQ.

18  
19 For the Defendants:

DOUGLAS GARDNER, ESQ.  
DOUGLAS RANDS, ESQ.

20 RECORDED BY: RENEE VINCENT, COURT RECORDER  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**INDEX**

PAGE

PRELIMINARY MATTERS.....3

PROSPECTIVE JURORS SWORN .....31

VOIR DIRE BY THE COURT .....31

VOIR DIRE BY MR. CLOWARD .....48

VOIR DIRE BY MR. GARDNER.....210

JURY INSTRUCTIONS .....319



1 Las Vegas, Nevada, Monday, November 6, 2017

2  
3 THE COURT: Okay. Just to recap, I have -- I've got a set of  
4 instructions from the Plaintiff, which were essentially agreed on.  
5 [Indiscernible] were in a draft and then we'll go through them. And right now  
6 there's no additional instructions that anybody is anticipating submitting.

7 Mr. Cloward?

8 MR. CLOWARD: Thank you, Your Honor. May I approach the  
9 podium here?

10 THE COURT: Sure.

11 MR. CLOWARD: Okay. At the risk of upsetting the Court  
12 before the case even gets going, it's not a -- that's not a good way to start --

13 THE COURT: That is not a good way --

14 MR. CLOWARD: -- off.

15 THE COURT: -- to start, Mr. Cloward.

16 MR. CLOWARD: Terrible way to start. But, you know, I have  
17 had some experience with the Court, and you know, this is my, I believe,  
18 third trial with the Court; second jury trial this year. There's just two things  
19 that I wanted the Court to maybe reconsider --

20 THE COURT: All right.

21 MR. CLOWARD: -- in the Court's protocol. And that is I know  
22 that the Court's preference is that the Counsel stand behind the table when  
23 it's addressing the vinere. I've done some research and obviously the Court  
24 has broad discretion to control the scope of voir dire. And I'd like to, I guess,  
25 present why I like to stand in front of the vinere when I ask the questions.

1 Body language is a huge way that we communicate. Oral communication,  
2 verbal communication studies out of UCLA show only account for about 17%  
3 of content delivery. It's important for me to be able to communicate on  
4 behalf of my client to the prospective vinere. It's also important for me, as  
5 the lawyer for Mr. Morgan, to be able to adequately read their body  
6 language. If somebody maybe is saying something to me, but their body  
7 language expresses otherwise, I need to have the full opportunity to see that  
8 and view that.

9 And so, I guess one thing I would ask the Court is, if the Court  
10 would allow me, and I'm happy to, you know, work within some parameters  
11 that the Court feels comfortable with. But the body language communication  
12 is very important in the way that I pick a jury. It's something that I've studied:  
13 facial expressions, you know, body movement, body gestures. And body  
14 language in communication is actually an important element that the  
15 Supreme Court has actually addressed. There was a case, I believe, up  
16 north, where the Defense lawyer -- it was a criminal case -- was trying to bait  
17 the Judge into getting upset with him so -- to create some weird dynamic  
18 with the jury, and he was doing that by using body language and the Court  
19 kind of talked about that. And so, I guess that's the first thing that I would  
20 ask the Court to reconsider.

21 And then the other thing that I would ask the Court to reconsider  
22 is group questions. And I know that the Court has expressed before that  
23 that reason the Court doesn't allow group questioning is that the length of  
24 time. I'm happy -- oh, I'm sorry. I thought was --

25 THE COURT: No. It's the record. Really, it's the terrible record

1 that it makes.

2 MR. CLOWARD: And I can --

3 THE COURT: So if I have to address a Batson challenge, I  
4 have no idea how I could do that --

5 MR. CLOWARD: Sure.

6 THE COURT: -- if we had 20 questions where people are  
7 answering all over the place. It makes a terrible record. Most lawyers, you  
8 know, will ask questions like raise your hand if you think this or that. Then  
9 there's no record of who is raising their hand --

10 MR. CLOWARD: Sure.

11 THE COURT: -- or it takes a very long time. But, in that's --  
12 regard, I suppose it is time to make to put all of those juror numbers on the  
13 record. And then it is very difficult to keep track of who has said what. So if  
14 I have to address a Batson issue, which is entirely possible in either a civil or  
15 criminal --

16 MR. CLOWARD: Sure.

17 THE COURT: -- case, I don't think I can do it effectively with  
18 allowing attorneys to use that method of questioning.

19 MR. CLOWARD: Yeah. And I guess my proposal would be, I  
20 can assure the Court that when I pick jurors, the admonition that I give the  
21 jurors is actually -- I have a piece of paper in my hand with your name, and  
22 every question that I ask you I will look down at my piece of paper to make  
23 sure that I call off your name and your badge number, so that it's crystal  
24 clear on the record. And then when that party starts to answer, if they don't  
25 recite their badge, I actually will stop them and say, could you please tell me

1 your badge number. Because I know that that is important. The *Jitna v.*  
2 *Oliver* case talks about the importance of creating a record. And that's not  
3 only important, I know, for the Court, but it's super important for Mr. Morgan  
4 as the Litigant in this case and his attorneys to have a clear record.

5 And I guess, you know, I would just ask if the Court would  
6 please allow me 30 minutes. And if the Court finds that that time that I'm not  
7 doing an effective job creating a record for the Court and doing an effective  
8 job for the Court staff, I will certainly revert back to the way that the Court  
9 wants it done. But I can assure the Court, I know that the record is super  
10 important. I have developed in my voir dire style literally that admonition so  
11 that every time a juror speaks they announce their badge number; every  
12 single time without exception, because that is so important.

13 I've been challenged on voir dire a couple of cases, and so I've  
14 recognized the need to do that and for the court to -- the Supreme Court to  
15 make an intelligent review pursuant to *Jitna v. Oliver*, they say, look, we  
16 have to have a clean record. And so, I'm pleading with the Court to just  
17 allow some. And I would --

18 THE COURT: Mr. Cloward, you are very hard to say no to, but,  
19 I feel really strongly about it. I know it frustrates attorneys sometimes.  
20 Sometimes it frustrates the jurors because it takes a long time for a voir dire.  
21 I feel really strongly about the mess that that makes of the record and the  
22 difficulty that it poses to me if I have to make it -- frankly, if I have to make a  
23 decision on a Batson challenge. It -- trying -- me trying to keep track of who  
24 said what it's just -- it's impossible, and so, I'm very uncomfortable doing  
25 that.

1           With respect to the standing up and walking around, you know,  
2 we're in a courtroom where everybody has a very clear view of the jurors in  
3 my courtroom on the third floor. That was not necessarily the case. That is  
4 a time issue. It takes some time for the lawyer to get up and walk around  
5 and stand in front of the jurors. I also think sometimes it can make the jurors  
6 a little bit uncomfortable. Not that you would, Mr. Cloward, but I think  
7 sometimes it can.

8           And so, my -- really my preference, and I'm going to continue to  
9 that in this trial, is to have the lawyers stay at their table during voir dire. I  
10 don't think that you lose, you know, anything. You examine witnesses from  
11 over there to here, too, and you're dealing with the same identical issues of,  
12 you know, reading body language and doing. You're actually further than  
13 you would be from any of the jurors whenever you question a witness.

14           MR. CLOWARD: Well, I'm directly on. That's the point is that  
15 I'm directly seeing the -- I mean, where the podium is and where the witness  
16 is, I'm directly -- they're directly in front of me. Whereas, if I'm standing  
17 behind counsel table --

18           THE COURT: If you want to go, you know, and if you want to  
19 go up to the lectern, I mean, I don't have any problem with that. What it --  
20 the -- I mean, that's fine with me. If you'd prefer to do it from there, that's  
21 fine with me. So counsel table or there, but I just don't want everybody  
22 walking up into the well every time. All right, so.

23           MR. CLOWARD: If it's a time consideration, if we -- if the  
24 Plaintiff agree to limit the amount of time that he took --

25           THE COURT: I don't want to limit your time.

1 MR. CLOWARD: Well --

2 THE COURT: I want you to ask whatever questions that you  
3 want. It is absolutely that -- but I don't want to spend dead time with people  
4 walking back and forth. And I also think that it can make the jurors  
5 uncomfortable, and I want to be consistent. Because if I do it for this trial, I  
6 got to do it for every trial, Mr. Cloward. And so, you know, if you want to be  
7 at the lectern, or you want to be at the table, fine with me. But I don't want  
8 people walking around in the well during the jury selection.

9 MR. CLOWARD: Okay.

10 THE COURT: In federal court they don't let you walk in the well  
11 for anything. Right? I mean, nothing. I don't know if you've been there. So  
12 I don't think that there's any statutory requirement or case or requirement to  
13 allow attorneys to walk in the well during jury selection. And I am not  
14 comfortable with that.

15 MR. CLOWARD: Okay. Just because this is an important  
16 issue, I'd like to put a couple cases on the record, if I may.

17 THE COURT: Of course.

18 MR. CLOWARD: The first is *Salazar v. State*, which is 823  
19 P.2d. 273, which indicates that the judicial limitation must not be arbitrary. It  
20 must be reasonable and it must have some relation to the circumstances of  
21 the case. Also *Whitlock v. Salmon*, which is 752 P2.d. 210, which indicates  
22 that the --

23 THE COURT: I'm sorry. Mr. Cloward, could you give me the --

24 MR. CLOWARD: The *Salazar v. State* citation again?

25 THE COURT: Hold on just a second. Let me. I'm not in the

1 right -- all right. Go ahead.

2 MR. CLOWARD: You would like that first citation again?

3 THE COURT: Yes.

4 MR. CLOWARD: *Salazar v. State*, and it is 823 P.2d. 273. And  
5 it's ultimately the second to the last paragraph that indicates the limitation of  
6 the -- this was of the District Court by imposing a time limit, was completely  
7 arbitrary having no relation to the circumstances of the case, and resulted in  
8 Defense Counsel being deprived of the opportunity to examine 11 of the  
9 prospective jurors. Such a restriction clearly amounted to an unreasonable  
10 restriction of counsel's examination of prospective jurors. And then, the  
11 next --

12 THE COURT: Right. Which is why I say I'm not going to limit  
13 you in time. I want you to have your statutory right to question the jurors.  
14 Absolutely.

15 MR. CLOWARD: Okay.

16 THE COURT: What is your other citation?

17 MR. CLOWARD: Your Honor, that case is the *Whitlock v.*  
18 *Salmon*, and it is 752 P2.d. 210, which indicates that the parties have a right  
19 to conduct examination of prospective jurors. And the important language, I  
20 think, that we get out of Whitlock is found on page 213, that indicates "that  
21 the likelihood of perceiving such attitude is greatly attenuated by a lack of  
22 dialogue between counsel and the individuals who may ultimately judge the  
23 merits of the case." And I understand the Court does not limit time-wise the  
24 jury selection. But, I guess, the point that I'm trying to make is that if the jury  
25 selection, because I firmly believe it's not as effective, I could have all the

1 time in the world, but if I'm not effectively communicating with the jurors and  
2 they're not effectively communicating with me, then all the time in the world  
3 doesn't really help. I would rather have a shortened period of time to  
4 address the Court's concerns of timing.

5 THE COURT: Okay. But in *Whitlock*, the Judge didn't allow the  
6 attorney to ask questions. I mean, Judge Mosley didn't let attorneys ask  
7 questions at all. I -- and I understand what you're saying, Mr. Cloward. I  
8 mean, I think that there's arguments to be made on the other side as well of  
9 this though that when you ask jurors questions in a panel, sometimes people  
10 slip through the cracks. I mean, I just -- I don't think that there is anything in  
11 the case law that requires the selection to be done in the manner that you're  
12 suggesting.

13 And I do think that there's pros and cons on both sides.  
14 Ultimately, I -- if I have to -- again, if I have to make a decision on particularly  
15 a Batson challenge, it's -- really and even on challenges for cause, it is just  
16 so much cleaner to be remembering the juror just said in the last, you know,  
17 10 or 15 minutes that they were talking to somebody than try to remember  
18 the, you know, answers that they gave you sporadically throughout, you  
19 know, the two hours that you were talking to them and then sporadically  
20 throughout the time that the Defense counsel was asking questions as well.

21 It makes it extraordinarily difficult, I think, for the Court, because  
22 I would -- I mean, I don't even know how I would do that. I would have to  
23 keep track of -- I guess, I would have to have some master list and keep  
24 track of every answer every juror gave, so that just in case something came  
25 up later that I would be able to remember what that was. And so, it just -- it



1 makes my job, I think, particularly difficult when that method of jury  
2 questioning is being used.

3 MR. CLOWARD: And I guess any accommodation, the Court  
4 would be unwilling to -- I mean, if I were to pay to have a live court reporter  
5 here?

6 THE COURT: No. I mean, I don't -- no. Because that's --  
7 because then we have to go through the whole voir dire to sift out what  
8 questions that person answered. I mean, it's really just much cleaner to do it  
9 this way in terms of the record. And you can ask any questions that you  
10 want. You can take whatever time that you think you need. And so, I -- I  
11 mean, you have the right to a fair and impartial juror, and you have the jury  
12 and you have the statutory right to ask questions. But the Court can control  
13 the method of those, you know, the technical way that that's done.

14 MR. CLOWARD: Okay. Well, I made my record.

15 THE COURT: Okay. Thank you, Mr. Cloward.

16 All right. Anything else that we need to take care of?

17 MR. CLOWARD: No, Your Honor.

18 MR. RANDS: No, Your Honor.

19 MR. GARNER: Well, there might be some scheduling issues  
20 that we need to talk about, but I don't think that needs to be done right now.

21 THE COURT: Well, we might as well while we are waiting for  
22 the jury.

23 MR. RANDS: Okay. We have our experts prepared, but they  
24 do need to be taken out of order. And I think that Counsel has agreed to this  
25 and I believe, but I never know for sure that my office has contacted your

1 office about having Sharon McNair testify today.

2 THE COURT: Okay. So hold on just a second. So what -- tell  
3 me how long do you all anticipate this case is going to take?

4 MR. GARDNER: Well, I don't know. I think we requested at  
5 least five days. And my concern is that I have a medical doctor who's not  
6 available until Thursday afternoon. I know Friday's a holiday, and I -- it  
7 would be my preference to be done by then, but I don't know what else to do  
8 with Dr. Sanders, because he's available Thursday afternoon. That's it.

9 Also, our CPA --

10 THE COURT: What time is he available Thursday afternoon?

11 MR. GARDNER: 2:00.

12 THE COURT: Okay. Okay.

13 MR. GARDNER: And then, Sharon McNair advised us that she  
14 was available today in the afternoon. I said, well, today's the first day of trial.  
15 And she says, well, that's when I'm available. So I may have to just contact  
16 her and tell her --

17 THE COURT: We're not going to get to her today. I mean, we'll  
18 get --

19 MR. CLOWARD: I -- that's news to --

20 MR. GARDNER: Yeah.

21 MR. CLOWARD: -- us and --

22 THE COURT: I mean, we may get a jury picked and do  
23 openings or may just get a jury picked. But we're not going to get to what --  
24 I mean, I would be very surprised. Well, I don't know. Having done a trial  
25 with Mr. Cloward before, he's very thorough in terms of jury selection. So I

1 think it's going to be quite different from the trial that we just did,  
2 Mr. Gardner. I think it's going to take, you know, I mean, the last --  
3 Mr. Gardner had a trial in here three weeks ago, and we picked the jury in  
4 like, I don't know, two-and-a-half hours. But I really don't anticipate that,  
5 because Mr. Cloward is just -- it's -- is more thorough. So, it -- I mean -- or  
6 so I don't anticipate we're going to be able to get to her today.

7 MR. GARDNER: We had a great panel, Your Honor. I was  
8 ready to pass everyone for cause just after looking at them. They all  
9 seemed pretty reasonable to me.

10 THE COURT: Yeah. You know, and not -- we have that, too.  
11 We didn't -- well, truly, I mean, I don't think there was even a cause  
12 challenge. Like we had a particularly good group of jurors, too, so we didn't  
13 have a lot of problems. And it was a -- I think there were a bunch of reasons  
14 that I don't think this is going to be as quick.

15 MR. CLOWARD: One other thing, I guess, we'd maybe like to  
16 have some clarification on is the witness that's being called, we had a wage-  
17 loss claim that we abandoned before the trial, before the last trial. And so, I  
18 don't see why it's relevant to bring the accountant to talk about the claim that  
19 was abandoned before we were here back in April. I mean, it's been several  
20 months. And I know how the Court, you know, if he wins on that issue if we  
21 abandon it, then it's no longer an issue that's contested, I don't know why  
22 they would bring that witness to testify. Number one --

23 THE COURT: Is that witness related to something else?

24 MR. GARDNER: We'll let it go. We'll call her.

25 THE COURT: Okay.

1 MR. GARDNER: You're -- if you're abandoning that claim,  
2 then --

3 THE COURT: They did.

4 MR. GARDNER: -- we're done, yeah. We don't need her if  
5 she -- if they're just going to abandon it.

6 THE COURT: Okay. Are there any other witness scheduling  
7 problems? Mr. Cloward, when do you have your experts scheduled?

8 MR. CLOWARD: So we have Dr. Muir tomorrow afternoon. Dr.  
9 Coppel Wednesday, and then Dr. Cash --

10 THE COURT: Dr. Coppel, what time Wednesday?

11 MR. CLOWARD: About 10:30.

12 MR. BOYACK: Late morning.

13 MR. CLOWARD: I understand you have a calendar that  
14 morning?

15 THE COURT: I do.

16 MR. CLOWARD: So we scheduled him for 10:30, just in case  
17 the Court gets done a little early.

18 THE COURT: Okay.

19 MR. CLOWARD: But if not, then --

20 THE COURT: No. I should be done by -- I should be done by  
21 then.

22 MR. CLOWARD: And we can have him earlier if you'd like.

23 THE COURT: No.

24 MR. CLOWARD: And Dr. Cash in the afternoon, right?

25 MR. BOYACK: Yeah.

1 THE COURT: No. I have a specialty court calendar, but we're  
2 usually done. I'm usually done with my calendars by 10:30. Every once in a  
3 while I'll get something weird, but usually. Just generally, I'm usually done  
4 with them, so.

5 MR. CLOWARD: And then Dr. Cash that afternoon, and then  
6 we would -- Dr. Cash will be short. He just had a couple, I think, one or two  
7 visits. And then, hopefully Mr. Morgan -- we have his mom and -- we may  
8 have a couple percipient before and after witnesses. But we could probably  
9 close Thursday morning or Wednesday night --

10 THE COURT: Okay.

11 MR. CLOWARD: -- with our case in chief. I guess the other  
12 question that I want a -- just clarification. If we have abandoned the wage  
13 loss, obviously, you know, Mr. Gardner, hopefully -- we notified him of that  
14 last week. I'm just concerned if there's going to be an attempt to try and  
15 back-door some of the wage stuff to discuss that. I don't think that would be  
16 appropriate.

17 THE COURT: No. I don't think so either. I'm sure there won't.

18 MR. CLOWARD: Okay.

19 THE COURT: Obviously, if you feel like there's something then  
20 let me know. I --

21 MR. GARDNER: I do intend to mention the lack of a wage  
22 claim. But if we -- if we're just going to flat out agree then, I wouldn't

23 THE COURT: I don't know what you mean by that.

24 MR. GARDNER: Excuse me?

25 THE COURT: I don't know what you mean by that.

1 MR. GARDNER: Well, I could ask the Plaintiff something such  
2 as, okay, how much work did you miss because of this. And he'll say none.  
3 I'll move on. I mean, that's a fair question I would think.

4 MR. CLOWARD: I would think that he's going to try and get into  
5 comments about Mr. Morgan not working for a period of time. And we've  
6 abandoned that. That's no longer an issue. They hired experts. We  
7 evaluated it. We completely abandoned it. If it's -- there's no other reason  
8 go get that in other than to try and draw him into an impeachment scenario.

9 THE COURT: Right. I --

10 MR. CLOWARD: I'm claiming it's abandoned.

11 THE COURT: So I'm trying to -- I think it okay for the Defense  
12 to ask that question or in the spirit of how seriously he was injured. But the  
13 wage-loss claim is not relevant. So, I mean, those questions are going have  
14 to be very careful.

15 Does that make sense, Mr. Cloward?

16 MR. CLOWARD: Yeah.

17 THE COURT: Yeah.

18 MR. CLOWARD: Okay.

19 THE COURT: Because we don't try issues that are not in  
20 question. And I don't think -- and I then I think all of that becomes irrelevant  
21 since that claim has been abandoned. The only relevance that I could see is  
22 just, you know, for example, if immediately after the accident he was unable  
23 because of his injuries he was unable to go to work for a period of time. Or  
24 if he was able to work the next day, that might say something about the  
25 severity of the injuries.

1 MR. CLOWARD: Okay.

2 THE COURT: But whether he was unemployed or I mean,  
3 that's not -- that's just not relevant. His employment status as a whole is not  
4 relevant.

5 MR. CLOWARD: Yeah. I mean that -- that's the question that I  
6 would worry would be that it would open up Pandora's Box on that issue.  
7 Because Mr. Morgan stopped working one of his jobs due to this accident,  
8 but we're not claiming -- we're not claiming that. He continued to work for a  
9 certain period of time and then stopped working. And then, he started back  
10 to work. And so it's, you know, we're going to have a whole collateral trial. If  
11 he's going to get into that, then we'll have to go down the road of, well, why  
12 did you stop working? You know, are you working now? What are you  
13 doing? And to me, it just looks like --

14 THE COURT: No. I don't think any of that's -- I don't think any  
15 of that's relevant at all.

16 MR. CLOWARD: And I guess my concern is, is allowing them  
17 to ask, you know, did you miss any time from this. It's going to open up that  
18 whole line of questioning where we abandoned that area. We had hired an  
19 expert and abandoned that long, long, long ago.

20 MR. RANDS: Your Honor, I know Mr. Gardner started this line,  
21 but the only thing I'm interested in with this particular area. I understand that  
22 they've abandoned the claim and that's fine. I just want them to understand  
23 that if he opens the door to that claim by saying I was so hurt I couldn't even  
24 work, then I think we're entitled to follow up on it.

25 MR. CLOWARD: We're not going to touch that. That's not

1 going to come into --

2 MR. RANDS: That's what I'm just putting that out there so that  
3 everybody knows that that would be my intention. If he opens the door, I  
4 think we're entitled to examine him on that issue. But other than that, I don't  
5 intend to get into it at all.

6 MR. CLOWARD: Okay. We certainly would not want.

7 THE COURT: All right. Let's do this. If something happens  
8 during the trial and the Defense intends to ask any questions about Mr.  
9 Morgan's employment, then let's just take that up outside the presence of  
10 the jury just to make sure that we don't have any problem.

11 MR. CLOWARD: Thank you.

12 THE COURT: Okay.

13 MR. GARDNER: That's all the Defendant had, Your Honor.

14 THE COURT: All right. So, Mr. Gardner, though or Mr. Rands,  
15 when -- so you have your doctor Tuesday at or Thursday at 2:00. What else  
16 do you have in terms of what are you anticipating in terms of witnesses?

17 MR. GARDNER: Well, we'll have our client and, again, I don't  
18 know if the Plaintiffs are going to call him in their case or we'll call him in  
19 ours and then they'll cross. I don't really know how they're planning --

20 THE COURT: All right.

21 MR. GARDNER: -- on handling him. But other than  
22 Dr. Sanders and Mr. Lujan, I don't think we're -- we're not witness heavy.

23 THE COURT: Okay. So, no. That's -- I would just like to know  
24 so that I can make sure we're staying on track. So it looks like we've got  
25 Dr. Muir Tuesday afternoon. Dr. Coppel -- I can't even ready my own



1 writing.

2 MR. CLOWARD: Wednesday morning.

3 THE COURT: The other doctor Wednesday morning. Dr. Cash  
4 Wednesday afternoon, and then you have about three, you said? Three or  
5 so?

6 MR. CLOWARD: I -- if we have disclosed them, I plan on  
7 calling them, Your Honor. Sorry for staying seated. But I'm not sure if we  
8 disclosed them, so I need to just double-check on that.

9 THE COURT: So how many --

10 MR. CLOWARD: Mr. Morgan -- we'd call Mr. .Morgan for sure,  
11 and then possibly his mom, and then his fiancée, his girlfriend, Alyssa  
12 Baker.

13 THE COURT: Okay. So it was three.

14 MR. CLOWARD: Yeah.

15 THE COURT: And then --

16 MR. CLOWARD: And those are obviously short, 10/15 minute  
17 witnesses.

18 THE COURT: Okay. So then we should be able -- it looks like -

19 -

20 MR. RANDS: They're 15-minute witnesses?

21 MR. CLOWARD: Yeah. They're short.

22 MR. RAND: Okay.

23 THE COURT: It looks like then, if everything goes as planned,  
24 which it doesn't always, we would be in the position to at least finish  
25 evidence Thursday. Probably, may be close, but I don't know. And if we're

1 getting a little bit later on Thursday, my preference probably would be to  
2 close on Monday morning only because I don't want the jurors to --

3 MR. CLOWARD: Sit down over?

4 THE COURT: Well, I just don't want them to rush. I don't want  
5 them to rush because it's a three-day weekend and they want to finish with  
6 jury service.

7 MR. CLOWARD: Sure.

8 THE COURT: So, I mean, I would rather send them home and  
9 close -- do closings on Monday so that they're coming back fresh and not -- I  
10 just -- I don't -- I had one time once a number of years ago where the jurors  
11 went out at about 4:40. And I felt like they kind of -- not that I made a  
12 decision that I disagreed with, but one of the jurors was really upset about  
13 the process because it was kind of rushed. And since then, I've tried to be  
14 really sensitive to that. Because I want the jurors to be giving adequate  
15 consideration to your case, not to we have a three-day weekend, right.

16 MR. GARDNER: Not to the clock.

17 MR. CLOWARD: I think that's smart because I think they do do  
18 that for sure.

19 THE COURT: So if we're -- so if I finish like after -- much after  
20 4:00, I usually send them home and I don't -- either don't let them deliberate  
21 or whatever, just because I don't -- and especially with the three-day  
22 weekend. I would be a little concerned about that. So anyway, so we'll  
23 have to see how that goes. Obviously, everybody should be prepared to  
24 close Thursday. If Dr. Sanders doesn't take very long -- if we can get him  
25 here a little bit earlier, I think we could probably start him a little bit earlier.

1 MR. GARDNER: I just looked at my notes, Your Honor. It --  
2 the note says between 2:00 and 3ish, but we'll get him here as quickly as  
3 possible, I'm sure.

4 THE COURT: All right. And if he were available Thursday  
5 morning, obviously, we could take him --

6 MR. RANDS: We'll contact --

7 THE COURT: I have a very short -- a pretty short -- I might  
8 even be able to start at 9:30 on Thursday. I don't really have that -- I don't  
9 have that much going on Thursday.

10 MR. RANDS: We'll contact his office at a break today. And just  
11 say if there's any way possible, can you give us a little bit earlier time on  
12 Thursday.

13 THE COURT: Yeah. That would work well.

14 MR. GARDNER: Thank you, Your Honor.

15 MR. RANDS: Thank you, Your Honor.

16 THE COURT: All right. So we'll get that all. In terms of  
17 scheduling, I do have, most unfortunately, a very brief meeting on tomorrow  
18 at 10:30 that I have had scheduled for a long time that I cannot move. But I  
19 would anticipate starting tomorrow at 11:00.

20 MR. CLOWARD: That's fine.

21 THE COURT: And then, on Wednesday I have mandatory  
22 training thing at the lunch hour, so I am going to have to keep that pretty -- I  
23 try to anyway, to keep the lunch to, you know, a fairly normal time, but I don't  
24 see anything else going on.

25 MR. CLOWARD: So Wednesday, we would start at maybe

1 10:30?

2 THE COURT: Wednesday, yeah, 10:00 or 10:30. I have my  
3 specialty-court program, but it's my smaller one. So I can -- I have a lot of  
4 control over how quickly I get through that.

5 MR. CLOWARD: Okay.

6 THE COURT: So we could even say 10:00. But your doctor  
7 isn't available until 10:30, so.

8 MR. CLOWARD: We'll have him here at 10:00.

9 THE COURT: But, you know, we'll just see how that goes. But  
10 the -- that's -- how long do you think he's going to take?

11 MR. CLOWARD: Probably no more than an hour or two. We  
12 could hopefully get him done before the Court --

13 THE COURT: Yeah. I mean, I just hate to hold him over lunch  
14 if that's at all possible. So let me -- let's just plan on starting at 10:00  
15 Wednesday. I'll make sure I get done with my stuff by 10:00. And then,  
16 hopefully we'll be done with him by noon.

17 [Counsel Confer]

18 MR. CLOWARD: Okay. We'll have him here at 10:00.

19 THE COURT: Great. What time do you have Dr. Muir?

20 MR. CLOWARD: Your Honor, I believe in the afternoon, so.

21 THE COURT: Just --

22 THE DEFENDANT: -- I think we were maybe 1:00 start, Bryan  
23 with Dr. Muir?

24 MR. BOYACK: I believe so, yeah.

25 THE COURT: 1:00?

1 MR. CLOWARD: Yeah.

2 THE COURT: Okay. And how -- did you give Dr. Cash a

3 specific time?

4 MR. BOYACK: I -- no, he's just in the afternoon.

5 THE COURT: Just in the afternoon? All right.

6 MR. CLOWARD: And then, Thursday we'll do a 9:30 start, the

7 Court thought, maybe?

8 THE COURT: Yeah. I think so.

9 MR. CLOWARD: Okay.

10 THE COURT: Let me just look real -- because it's been, you

11 know, a day since I've looked at all of it. Let me just double-check that. But

12 I recall it from -- yeah. [Pause] I have a bunch of status conferences and

13 status checks on things. I have just a couple of motions. Most of them are

14 HOA foreclosure cases, so we all -- well, not you, but you all in terms of

15 everybody --

16 MR. BOYACK: : We love those cases, too.

17 THE COURT: -- knows how it's going to come out, so there's

18 really not much for them to say, so.

19 MR. BOYACK: Yeah.

20 THE COURT: Yeah. We should be good with that.

21 MR. CLOWARD: Okay.

22 THE COURT: Okay. So 10:00 Wednesday. 9:30 tomorrow.

23 10:00, we have calendar calls. That always takes a little bit of time. So I'm

24 going to tell the jurors through Tuesday of next week.

25 MR. CLOWARD: I think that's perfect, Judge, yeah.

1 THE COURT: Okay. Try to add two days to what I think it's  
2 going to take, that way we have a little cushion and they're not upset with us.

3 MR. RANDS: Always better to under promise and over deliver.

4 MR. GARDNER: Yeah.

5 THE COURT: Yeah. Well, you know, we're asking these  
6 people to give up a bunch of their time to sit on the jury. And I feel like it's  
7 really important to keep the commitment we make to them in terms of what  
8 time, because they, you know, people organize work and child-care and all  
9 kinds of things around what we've told them. And so, if -- I've only done it  
10 twice, actually, gone over what we've told them. And I've only done it by,  
11 both times, by half a day, because I just feel really, really strongly about that.  
12 I can make some adjustments to my schedule. That's why I go through this  
13 in such detail --

14 MR. CLOWARD: Sure.

15 THE COURT: -- to make sure that I know what's going on. So I  
16 know if we're running behind so I can make whatever adjustments I need to  
17 on my end so that we're making sure that we get the jurors out when we tell  
18 them. Because I think it's -- I personally would be very upset if I was told,  
19 you know, it's going to be --

20 MR. CLOWARD: Oh, yeah.

21 THE COURT: -- five days and then it's, you know, two weeks or  
22 three weeks.

23 MR. CLOWARD: Yeah.

24 THE COURT: I have seen that happen, and I --

25 MR. CLOWARD: It's no fun.

1 THE COURT: It's just not fair to the jurors. And then, it's not  
2 fair to all of you either, because then you have a bunch of jurors who are --

3 MR. CLOWARD: Mad at us.

4 THE COURT: Yeah. Like really upset.

5 Mr. RANDS: It's not fair to the Defense either, because we're  
6 the ones who get blamed for it when it goes long.

7 THE COURT: No. It's not fair to all of you. It's not fair to any of  
8 the litigants, because then you have jurors who are more concerned with  
9 whatever they have going on than and, you know, how they've now missed  
10 a week more of work than they thought they were going to. Or they have,  
11 you know, whatever it is that they have -- what's going on that's important. I  
12 think it makes it a lot harder for them to concentrate when they can -- if we  
13 tell them five days and they clear the decks for five days, then, you know,  
14 we're good. So I usually take what I think it's going to be and then add two,  
15 that way, you know, because stuff happens. And then we're usually good.

16 MR. CLOWARD: Yeah. I don't think I've ever had a trial  
17 schedule that actually took place the way that I thought it would. Allison  
18 might --

19 THE COURT: No. They just don't go the way they're planned,  
20 right?

21 MR. CLOWARD: Yeah. She always teases me because she's  
22 like, you know, you always tell the Judge, oh, Judge, we're going to be done  
23 in four days. And then, like seven days later -- she was always good at  
24 tempering.

25 [Waiting for the jury from 9:37 a.m. to 9:47 a.m.]

1 THE MARSHAL: Please rise for the jury.

2 [Prospective jury enters.]

3 THE MARSHAL: Please be seated.

4 THE COURT: All right. Good morning, everyone. This is the  
5 time set for the trial of case number A718679, Morgan v. Lujan. Let the  
6 record reflect the presence of the parties with their counsel. Also present  
7 are the officers of the court.

8 Are the parties ready to proceed?

9 MR. CLOWARD: Yes, Your Honor.

10 MR. GARDNER: Yes, Your Honor.

11 THE COURT: All right. Ladies and Gentlemen, you are in  
12 Department 7 of the Eighth Judicial District Court. My name is Linda Bell.  
13 I'm the Judge in this department. I want to thank you for being here today.  
14 Jury service is very important. It's how we resolve disputes and we -- our  
15 system would not work if we didn't have people who were willing to come in  
16 and give their time.

17 We appreciate you being good citizens of our community by  
18 showing up for jury duty. We also really appreciate your time. I know,  
19 though, some of you are sitting here thinking I'm going to ask -- answer  
20 these questions in a way to get out of jury duty. And let me tell you how I  
21 know that. Well, I've done a few trials.

22 But also, so I had jury duty. I had jury duty a couple years ago.  
23 And while we were waiting in that line outside for like what seemed like  
24 about a year to come into the courtroom, the juror in front of me was having  
25 a conversation with the lady in front of him about how to answer the



1 questions to get out of jury duty, which was fascinating. Obviously, he didn't  
2 know what I did. But -- and he actually did get out of that jury, which was  
3 most interesting to me.

4           The thing is, this is the boring part. The picking the jury is the  
5 boring part. If you actually get to sit on a trial, most of the people who serve  
6 as jurors really enjoy it. And if you leave here, you may end up getting stuck  
7 on another jury panel and have to sit through the boring part a couple times,  
8 which is really not very helpful. And this, this case is anticipated to last  
9 about five days. Friday is a holiday, so it will go into next week and not later  
10 than Tuesday of next week -- we're anticipating. But some of the cases --  
11 Judge Johnson down the hall from me does construction defect cases, and  
12 some of those cases can last, you know, four months, six months. So this is  
13 a good way to get your jury service out of the way in a relatively short trial.

14           All right. So you've been summoned here today to serve as  
15 jurors in a civil lawsuit. The subject of a civil trial is a disagreement between  
16 people and/or companies. The parties are here to have their disagreement  
17 resolved by a jury. This particular case involves a personal injury. We do  
18 anticipate that the case will last no more than six days. And our trials, just  
19 keeping in mind that Friday is a holiday, so we won't have court on Friday.  
20 And our -- the trials generally run from no earlier than 8:30 in the morning to  
21 no later than 6:00 at night. Generally, I try to wrap up right at 5:00, but if  
22 we're, say, in the middle of a witness and we're going to be able to finish that  
23 witness before 6:00, we may just go a little bit longer past 5:00.

24           Under Nevada law, we need eight people for a civil jury, so we  
25 will be selecting eight jurors and two alternate jurors, so a total of ten people

1 to go forward and hear the case.

2           Before we begin selecting a jury, I want to introduce you to the  
3 court staff. You've already met Officer Lamont Walker. He's our Marshal.  
4 His job is to maintain order and security in the courtroom. He's also my  
5 representative to the jury. So anything that you need, any problems that  
6 come up for you during the course of the trial should be brought up to him.  
7 However, please keep in mind that the marshal cannot talk to you about the  
8 case or answer any questions about the case. So if you want to know where  
9 the restroom is, a good place for lunch, if you're not feeling well, something  
10 like that, please let him know. He can't, you know, answer why do the  
11 lawyers ask so many questions or why did that witness take so long. Those  
12 kinds of questions he's not allowed to answer.

13           Down at the desk in front of me is Renee Vincent, our court  
14 recorder. Everything that happens in the courtroom is -- you can see there's  
15 cameras here and here. They're actually not on you as the folks in the jury  
16 box, but the witnesses, the lawyers, and me. Those are the -- everything  
17 that happens in the courtroom is recorded so that we have an accurate  
18 record of what happened during the trial.

19           To my left is Sylvia Perez, our court clerk. She swears in  
20 witnesses, marks exhibits, keeps track of evidence, and prepares minutes of  
21 the proceedings for the court record. And you may also see in the  
22 courtroom from time to time Tina Hurd, my assistant and my law clerk,  
23 Veronica Fink. They make sure everything runs behind the scenes. We  
24 have a bunch of other cases, so they just take care of everything else that's  
25 going on while we're all -- the rest of us in here.

1                   Going to ask Counsel for the Plaintiff to introduce himself and  
2 his client and counsel?

3                   MR. CLOWARD: You bet, Your Honor.

4                   Good morning, everybody. My name is Ben Cloward, and I  
5 have the privilege of representing Aaron Morgan here. And this is also  
6 co-counsel for me, Bryan Boyack sitting with me.

7                   THE COURT: Thank you.

8                   MR. CLOWARD: Thank you, Your Honor.

9                   THE COURT: Counsel for Defense?

10                  MR. GARDNER: Well, good morning. My name is Douglas  
11 Gardner. And I represent Mr. Lujan. And with me is Doug Rands. And  
12 another lawyer in our firm, you probably don't know, Brett South. He's from  
13 Reno. And then another lawyer that we -- yeah. That's it. Thank you.

14                  THE COURT: All right.

15                  Ms. Clerk, please call the roll of the panel prospective jurors.  
16 When your name is called, if you could please just raise your hand and say  
17 here or present.

18                  [Clerk calls roll of prospective jury panel]

19                  THE COURT: All right. Is there anyone who's name was not  
20 called? So Ladies and Gentlemen, we are about to begin the jury selection  
21 process. This is the part of the case where the parties and their lawyers  
22 have the opportunity to get to know a little bit about you so that they can  
23 make a decision about who can be fair and impartial. And they can decide  
24 who they think the jurors should be in the case. The process is going to go  
25 like this. First, I'm going to ask some general questions. When I ask those

1 questions, then after I ask those questions we're going to start with the  
2 jurors who are seated currently in the jury box. I'll ask some individual --  
3 additional individual questions and then each of the lawyers will have the  
4 opportunity to follow up on those.

5           The questions that you will be asked during this process are not  
6 intended to embarrass you or unnecessarily pry into your personal affairs.  
7 But it is important that the parties and their attorney know enough about you  
8 to make the important decision of who sits as a juror in this case. If a  
9 question is asked that you would prefer not to answer in front of your 35 new  
10 friends, please let us know and then you can come up here and answer the  
11 questions just in front of the lawyers and me. If you have a question of any  
12 of us, too, please don't hesitate to let us know.

13           There are no right or wrong answers to the questions that will  
14 be asked of you. The only thing that I ask is that you answer the questions  
15 honestly and as completely as you can. You will take an oath to answer the  
16 questions truthfully, and you must do so. Remaining silent when you have  
17 information you should disclose is a violation of the oath as well. If a juror  
18 violates this oath, it not only may result in having to try the case all over  
19 again, but it can result in penalties against the juror personally. So it's very  
20 important that you are honest and complete as possible. And if you don't  
21 understand the question, sometimes we think we're asking very clear  
22 questions, but they're really not. So if you don't understand the question,  
23 just ask for clarification. We'll be happy to do that.

24           At some point during the process of selecting a jury, the  
25 attorneys for both sides will have the right to ask that a particular person not

1 serve as a juror. That's called a challenge and there are two types of  
2 challenges. The first type of challenge is a challenge for cause. A challenge  
3 for cause is a request to excuse a juror because the juror might have a  
4 difficult time being fair and impartial hearing this particular case.

5           The second type of challenge is a peremptory challenge. A  
6 peremptory challenge means that a juror can be excused from service  
7 without counsel having to give any reason. And in this case, each side will  
8 have five peremptory challenges.

9           Please do not be offended if you are excused by either of the  
10 challenge procedures. They are simply a part of the process to assist the  
11 parties and their attorneys in selecting a fair and impartial jury. Once all the  
12 challenges are exercised, we'll have ten qualified jurors. And then, at the  
13 end of the trial, two of those ten will be identified as our alternates. The  
14 eight remaining jurors will deliberate in the case.

15           So the selection process, as I mentioned, is done under oath.  
16 So if you'll all please stand and raise your right hand, the clerk is going to  
17 swear you in.

18                           [The Prospective Jury was sworn]

19           THE PROSPECTIVE JURY COLLECTIVELY: I do.

20           THE CLERK: Thank you.

21           THE COURT: Thank you. Go ahead and be seated.

22           All right. I'm going to start with some general questions. If you  
23 have an answer to one of these questions, please raise your hand. When I  
24 get to you, if you could stand, just so that we can hear you. And then give  
25 me your juror number. Now I know that there are multiple numbers on that

1 badge. The juror number is going to be -- there's something -- there'll be a  
2 0-4 and a dash. The number after the dash is what we're looking for. It's a  
3 number somewhere between one and 53.

4 Is there anyone here who has a disability or a medical issue  
5 that might impact their ability to serve as a juror in this particular case?

6 Yes, sir. What's your juror number? Sir, you can stay seated.  
7 What's --

8 POTENTIAL JUROR NUMBER 0053: 0053.

9 THE COURT: Yes, sir?

10 POTENTIAL JUROR NUMBER 0053: I just recently got out of  
11 the hospital, and I've got a series of doctor's appointments scheduled for the  
12 next couple of weeks.

13 THE COURT: All right. So when are your appointments, sir?

14 POTENTIAL JUROR NUMBER 0053: I got one tomorrow at  
15 9:00. I got one on Wednesday at 11:00. And then, I got two scheduled for  
16 next Wednesday.

17 THE COURT: Okay. Aside from the doctor's appointments, are  
18 you feeling well enough to sit here?

19 POTENTIAL JUROR NUMBER 0053: Absolutely.

20 THE COURT: Okay. Thank you.

21 Anyone else? Is there anyone here who has been convicted of  
22 a felony? No response to that question.

23 Is there anyone here who is not a United States Citizen, not a  
24 resident of Clark County, or who has trouble understanding the English  
25 language?

1 Yes, sir?

2 POTENTIAL JUROR NUMBER 4: English.

3 THE COURT: I'm sorry.

4 POTENTIAL JUROR NUMBER 4: English.

5 THE COURT: Okay. Sir, what's your jury number?

6 POTENTIAL JUROR NUMBER 4: Four.

7 THE COURT: Four? All right. Sir, how long have -- what's

8 your first language?

9 POTENTIAL JUROR NUMBER 4: Española -- Spanish.

10 THE COURT: How long have you lived in the United States?

11 POTENTIAL JUROR NUMBER 4: Five years.

12 THE COURT: Where did you go to school?

13 POTENTIAL JUROR NUMBER 4: In Mexico.

14 THE COURT: How far did you go in school?

15 POTENTIAL JUROR NUMBER 4: High school.

16 THE COURT: Okay. Did you take English in school?

17 POTENTIAL JUROR NUMBER 4: Yes.

18 THE COURT: And have you taken any English classes since

19 you've been in the United States?

20 POTENTIAL JUROR NUMBER 4: At work.

21 THE COURT: Okay. What do you do for work?

22 POTENTIAL JUROR NUMBER 4: I work at the hotel MGM.

23 THE COURT: What do you do there?

24 POTENTIAL JUROR NUMBER 4: I work at the [indiscernible].

25 THE COURT: And what do you do at the theater?

1 POTENTIAL JUROR NUMBER 4: Just telling people what the  
2 seat.

3 THE COURT: Okay. Thank you, sir.

4 Anyone else? We do anticipate the -- this case is going to last  
5 six days. I recognize that serving on a jury is almost always a personal or a  
6 financial hardship. We understand that you all have important things going  
7 on. For that reason though, financial hardship is not generally considered as  
8 an excuse to serving as a juror. We do understand though, that you may be  
9 confronted with unique inconveniences or hardships that would impact your  
10 ability to sit in this particular trial at this particular time. Is there anyone who  
11 had an extraordinary reason why they cannot serve as a juror in this case?

12 POTENTIAL JUROR NUMBER 43: Your Honor?

13 THE COURT: Yes, sir. What's your badge number, sir?

14 POTENTIAL JUROR NUMBER 43: 43.

15 THE COURT: All right.

16 POTENTIAL JUROR NUMBER 43: I'm traveling. I leave  
17 Wednesday for New York for a major trade show that we participate in with  
18 my company.

19 THE COURT: All right. What time are you leaving  
20 Wednesday?

21 POTENTIAL JUROR NUMBER 43: I leave in the evening: 6  
22 p.m. I need to be at the airport.

23 THE COURT: Do you have your tickets with you or like on your  
24 phone?

25 POTENTIAL JUROR NUMBER 43: Yeah. I can show on my



1 phone.

2 THE COURT: Okay. Thank you. Thank you, sir. Go ahead  
3 and have a seat.

4 POTENTIAL JUROR NUMBER 43: All right. Thank you.

5 THE COURT: Anyone else?

6 POTENTIAL JUROR NUMBER 5: Your Honor?

7 THE COURT: Yes, sir? What's your number?

8 POTENTIAL JUROR NUMBER 5: 005 or 5.

9 THE COURT: Yep.

10 POTENTIAL JUROR NUMBER 005: I'm a wedding DJ, so I've  
11 got weddings this weekend. Also, my wife is pregnant, due December 5th,  
12 so.

13 THE COURT: Okay. So we won't be here this weekend.

14 POTENTIAL JUROR NUMBER 005: Sorry?

15 THE COURT: We are not going to be here this weekend.

16 POTENTIAL JUROR NUMBER 005: Okay.

17 THE COURT: I'm planning on being on Friday, Saturday,  
18 Sunday, so there won't be anybody -- okay -- I'm going to -- I'll be actually in  
19 town, but I'm not --

20 POTENTIAL JUROR NUMBER 005: It's not consecutive then,  
21 six days, but not consecutive?

22 MR. CLOWARD: Correct.

23 THE COURT: Right. So it'd be through this week Thursday,  
24 and then we anticipate it going into Monday or Tuesday of next week.

25 POTENTIAL JUROR NUMBER 005: Gotcha. Okay.

1 THE COURT: But no, we won't be here. We are not making  
2 you work the weekend.

3 POTENTIAL JUROR NUMBER 005: Our baby's not due until  
4 December 5th, so.

5 THE COURT: Okay. And obviously, you know, one of the  
6 reasons we have alternate jurors is because sometimes, you know, there  
7 are life emergencies, somebody gets sick. If, you know, if your wife went  
8 into labor, obviously, we would be able to sort that out. Okay?

9 POTENTIAL JUROR NUMBER 005: Okay.

10 THE COURT: So okay. So you're good other than that?

11 POTENTIAL JUROR NUMBER 005: Yes.

12 THE COURT: Great.

13 Anyone else? Yes, ma'am?

14 POTENTIAL JUROR NUMBER 0029: Your Honor? My badge  
15 number is 0029.

16 THE COURT: All right.

17 POTENTIAL JUROR NUMBER 0029: I'm a physical therapist.  
18 I'm the only female therapist at my clinic and I have clients that aren't as  
19 comfortable seeing a male. They're much more comfortable with a female  
20 practitioner.

21 THE COURT: All right. Thank you, ma'am.

22 POTENTIAL JUROR NUMBER 0029: Thank you.

23 THE COURT: Anyone else?

24 All right. Do any of you know the Plaintiff in this case,

25 Mr. Morgan? There is no response to that question.

1 Do any of you know the Plaintiff's attorneys in this case? And  
2 there is no response to that question.

3 Do any of you know the Defendant in this case, Mr. Lujan? No  
4 response to that question.

5 And do any of you know the Defense attorneys in this case?

6 All right. Mr. Valencia? What's your number, sir?

7 POTENTIAL JUROR NUMBER 44: Four -- 44.

8 THE COURT: And you know them because you are an  
9 attorney?

10 POTENTIAL JUROR NUMBER 44: Right. And I rent office  
11 space from them, so.

12 THE COURT: Okay.

13 MR. GARDNER: We agree to have, Your Honor, we'll have  
14 him --

15 POTENTIAL JUROR NUMBER 44: I'm just right next door to  
16 him.

17 MR. GARDNER: We'll stipulate.

18 THE COURT: All right. Sir, have you had any conversations  
19 with them about this trial?

20 POTENTIAL JUROR NUMBER 44: No.

21 THE COURT: Okay. Go ahead and have a seat.

22 MR. GARDNER: He does all my appellate work, Your Honor,  
23 so maybe he should sit here.

24 THE COURT: All right. Anyone else? I'm going to ask  
25 Counsel to read a list of witnesses who may be called to testify in the case.

1                   Sorry, Mr. Cloward, I forgot to --

2                   MR. CLOWARD: It's okay.

3                   THE COURT: -- remind you about that.

4                   And then, after they read the list, then I'm going to ask if you  
5 know any of people. So if you'll just pay attention.

6                   Go ahead.

7                   MR. CLOWARD: Your Honor, I also have a list of all of the  
8 attorneys in our firm if you'd like that as well.

9                   THE COURT: Sure.

10                  MR. CLOWARD: Okay. Would you like me to start with the  
11 witnesses first?

12                  THE COURT: Start with the attorneys and then I'll ask them  
13 that question and then -- because I know Mr. Gardner mentioned that  
14 before, but I didn't get that from you, so.

15                  MR. CLOWARD: Certainly. Okay. So it's Richard Harris,  
16 Joshua Harris, Elaine Marzola, Samantha Martin, Ryan Helmick, Kristopher  
17 Helmick, a little brother. They're brothers. Chris Henderson, Adam  
18 Williams, Mike Sandoval, Bryan Blackwell, Garnet Beal, Michaela Tramell,  
19 Kia -- Nia Killebrew, not Kia Nillebrew, Bryan Unguren, Jessica Munoz, and  
20 David Martin. Those are the attorneys, Your Honor.

21                  THE COURT: All right. Is anyone familiar with any of those  
22 people?

23                  Yes, ma'am?

24                  POTENTIAL JUROR NUMBER 1: I know Adam Williams and  
25 Nia Killebrew.

1 THE COURT: Okay. How do you know them, ma'am?

2 POTENTIAL JUROR NUMBER 1: Very close family friend.

3 THE COURT: And you're Juror Number 1, yes? Okay. Would

4 the fact that they work at Mr. Cloward's firm impact your ability to be fair and

5 impartial in this case?

6 POTENTIAL JUROR NUMBER 1: No.

7 THE COURT: Okay. Thank you. Go ahead and have a seat.

8 Anyone else?

9 Mr. Valencia?

10 POTENTIAL JUROR NUMBER 44: Yeah. I know Rick Harris --

11 THE COURT: Okay.

12 POTENTIAL JUROR NUMBER 44: -- personally, but I've done

13 some work for him actually, contract work.

14 THE COURT: Great.

15 Anybody else on that list?

16 POTENTIAL JUROR NUMBER 44: That was a long list. I don't

17 know --

18 THE COURT: That was a long list, wasn't it?

19 POTENTIAL JUROR NUMBER 44: Some of them sounded

20 familiar, but I don't know -

21 THE COURT: Not that you know of? All right.

22 Do any of you know me or any of the court staff?

23 Yes, ma'am?

24 UNIDENTIFIED POTENTIAL JUROR: Just Silvia.

25 THE COURT: All right. So and you used to work with --

1 UNIDENTIFIED POTENTIAL JUROR: Work together.  
2 THE COURT: -- the court clerk, right?  
3 UNIDENTIFIED POTENTIAL JUROR: Yeah. About --  
4 THE COURT: And that was about -- it was a long time ago.  
5 UNIDENTIFIED POTENTIAL JUROR: It was a long time ago.  
6 It was since --  
7 THE COURT: Would that impact you in any way in being able  
8 to serve as a juror?  
9 UNIDENTIFIED POTENTIAL JUROR: No. No.  
10 THE COURT: Thank you.  
11 Yes, Mr. Valencia?  
12 POTENTIAL JUROR NUMBER 44: I'm familiar with Your Honor  
13 and some of your court staff.  
14 THE COURT: All right. Thank you.  
15 Do any of you know any of the other perspective jurors? I've  
16 had -- I know that sounds like a weird question, but I've actually had a parent  
17 and child and I have had spouses both in jury panels previously.  
18 Do any of you believe that you may have heard or read about  
19 this case before coming to court today? No response to that. Does anyone  
20 have philosophical, religious, or other beliefs that would prevent them from  
21 serving as fair and impartial jurors? And there's no response to that  
22 question. Are there any of you who believe that for any other reason you  
23 would be unable to serve in this particular case? All right. No response to  
24 that question.  
25 Counsel, please approach.

1 MR. CLOWARD: Your Honor, did you want me to read the  
2 witnesses?

3 THE COURT: Oh my gosh, Mr. Cloward. I am so sorry.

4 MR. CLOWARD: That's okay.

5 THE COURT: Yes. I went right over that. Let's go back to that.

6 MR. CLOWARD: No problem.

7 So Dr. William Muir, Dr. Elaine Coppel, Dr. Andrew Cash, and  
8 obviously, Mr. Morgan, Mr. Morgan's mother, Rebecca. Those would be the  
9 witnesses.

10 THE COURT: Is her last name Morgan also?

11 MR. CLOWARD: Yes, Your Honor. And then, potentially  
12 Alyssa Baker.

13 THE COURT: Mr. Gardner? I know you had a couple in  
14 addition to that?

15 MR. GARDNER: Oh yeah. Just as the witnesses, doctors?

16 THE COURT: Yeah.

17 MR. GARDNER: Steven Sanders, medical doctor and then our  
18 client.

19 THE COURT: All right.

20 MR. GARDNER: Those are the two.

21 THE COURT: So is anyone familiar with any of those folks?  
22 Yes, ma'am?

23 POTENTIAL JUROR NUMBER 29: I see patients --

24 THE COURT: I'm sorry. I --

25 POTENTIAL JUROR NUMBER 29: Sorry.

1 THE COURT: And it's Number 29?

2 POTENTIAL JUROR NUMBER 29: Yeah. I see patients from  
3 Dr. Muir and Dr. Cash.

4 THE COURT: All right. Thank you.

5 Counsel, please approach.

6 [Bench conference begins at 10:10 a.m.]

7 THE COURT: At your spots. Make sure you stay in the same  
8 spot. I forgot to mention that earlier, just because we record everything. But  
9 sometimes the quality of the transcription is a little bit poor, so it's very  
10 difficult because in -- with witnesses and you're speaking at counsel table,  
11 the recorder can actually see who's talking. But when you're standing here  
12 we just get the backs of your heads. So they can't necessarily tell. So if you  
13 stay in the same place, it's extraordinarily helpful.

14 All right. So we have Ms. Smith who knows a couple people at  
15 Mr. Cloward's firm. I don't see that as being a huge issue. You certainly can  
16 follow up with questions if you have them. Ms. -- Juror Number 2, who  
17 worked with my court clerk, I mentioned that prior. Mr. Sanchez, regarding  
18 him, I actually think his English was really good.

19 MR. CLOWARD: Yeah. I mean, he --

20 THE COURT: And I was asking him questions very rapidly, and  
21 he had no problem --

22 MR. CLOWARD: Seemed to be following along just fine.

23 THE COURT: Yeah. He just did fine. Sometimes you feel very  
24 uncomfortable if this isn't their first language, so I appreciate him bringing it  
25 up, but I don't -- I didn't at least, with the limited interaction, I didn't see it as,



1 you know, a problem.

2 Mr. Nelson's okay, since we're not going to keep him six  
3 consecutive days. Amanda Johnson -- the physical therapist, I understand it  
4 might create some difficulties for her, but I'm not inclined to excuse her at  
5 least right now. If you want to ask her some more questions, let's see how it  
6 goes.

7 Mr. Sullivan who is leaving for New York, I'm going to let him  
8 go. Well, Mr. Valencia, do you want to keep him or let him go?

9 MR. GARDNER: I'm going to let him go.

10 THE COURT: Well, I know that --

11 THE DEFENDANT: Yeah. I think that --

12 MR. GARDNER: He's a good guy, though.

13 MR. CLOWARD: I think the statute, actually, as I was reviewing  
14 some of the case authority, I didn't know this until last night. But there's an -  
15 - so whether that's still an active statute I don't know. Could --said --

16 THE COURT: That exempts attorneys? No.

17 MR. GARDNER: No.

18 MR. CLOWARD: No. Not exempts attorneys, but actually if  
19 one of the venire has a business relationship with one of the partners or the  
20 attorneys --

21 THE COURT: Oh, yeah. That makes sense to me.

22 MR. CLOWARD: Yeah.

23 THE COURT: Yeah. So but, I mean, if you wanted to --

24 MR. CLOWARD: I just thought it was interesting to bring that  
25 up, because I learned it last night, so.

1 MR. GARDNER: Yeah. I was reading all of that.  
2 MR. CLOWARD: Yeah.  
3 MR. RANDS: Yeah. But he's got a business relationship.  
4 THE COURT: I have to --  
5 MR. GARDNER: Yeah. Your Honor, while we're here, could  
6 you remind Mr. Valencia that he needs to pay his rent on time?  
7 MR. CLOWARD: Oh, jeez.  
8 THE COURT: Yeah. I'm not getting in the middle of that. All  
9 right. So we'll excuse Mr. Valencia. Actually, it seems though, that's sort of  
10 even since he's worked for Mr. -- or not maybe the entirely. He's also  
11 worked for Mr. Harris. We've got a lot going on there with him. And then --  
12 that happened to me once, too. I had jury duty I was with the Public  
13 Defender's Office and I came in and it was for a criminal trial. But I had  
14 spent the whole weekend talking to a lawyer about the case because we  
15 were both working on the weekend, so.  
16 MR. CLOWARD: Interesting.  
17 THE COURT: All right. And then, Mr. Venneman has a lot of  
18 medical appointments.  
19 MR. CLOWARD: I'm not going to have --  
20 THE COURT: I don't think we can work around them.  
21 MR. CLOWARD: Yeah. I'm fine to let him go.  
22 THE COURT: We appreciate him being willing to tough it out,  
23 you know, so.  
24 MR. CLOWARD: I'm fine with that.  
25 THE COURT: Okay. So I'm going to -- 43, 44, and 53? I'm

1 holding on to the rest of the group.

2 MR. CLOWARD: Sounds good to me.

3 MR. GARDNER: Sounds good.

4 THE COURT: All right. Thank you.

5 MR. CLOWARD: Thank you.

6 MR. GARDNER: The guy whose wife is pregnant, we -- no  
7 problem there?

8 THE COURT: Oh, yeah. He's fine. He's fine. He was just  
9 worried that --

10 MR. GARDNER: He doesn't do it anyway, so --

11 MR. CLOWARD: If we were working through Sunday he was  
12 worried.

13 THE COURT: Yeah. We're not doing that.

14 [Bench conference ends at 10:15 a.m.]

15 THE COURT: All right. I'm going to ask the following folks if  
16 they would return to Jury Services. Juror Number 43, Mr. Sullivan, Juror  
17 Number 44, Mr. Valencia, and Juror Number 53, Mr. Venneman. Thank  
18 you, folks, all so much for being here today.

19 POTENTIAL JUROR NUMBER 43: Thank you, Your Honor.

20 THE COURT: Now I'm going to start with some individual  
21 questions. What I'm going to ask you to do, you have a card with a bunch of  
22 questions, those of you sitting in the jury box, so I'm going to have you start  
23 by introducing yourself when I get to you just by answering those questions  
24 on the cards

25 So, Ms. Smith, let's start with you.

1 POTENTIAL JUROR NUMBER 1: You want me to stand up?

2 THE COURT: If you can for this part. It's just a little bit easier  
3 to hear.

4 POTENTIAL JUROR NUMBER 1: Okay. I've lived here 28  
5 years, my whole life. I went to school at Shadow Ridge High School, which  
6 is pretty northwest. I am employed for Quest Diagnostics, a sales rep, so I  
7 sell laboratory services. I am married. I live with my husband. We've been  
8 together eight years, and I do have one child. She is one years old.

9 THE COURT: Thank you. Have you ever served as a juror  
10 before, ma'am?

11 POTENTIAL JUROR NUMBER 1: No.

12 THE COURT: Have you ever been a party to a lawsuit or a  
13 witness in a lawsuit before? You can have a seat.

14 POTENTIAL JUROR NUMBER 1: No.

15 THE COURT: Have you or anyone close to you worked in the  
16 legal field? You have a couple friends that you mentioned. Anyone else?

17 POTENTIAL JUROR NUMBER 1: Yeah. My dad is a police  
18 officer, and my mother-in-law is a court reporter.

19 THE COURT: Okay. What agency does your dad work for?

20 POTENTIAL JUROR NUMBER 1: I'm sorry. He works -- he's  
21 in Canada, so that --

22 THE COURT: All right.

23 POTENTIAL JUROR NUMBER 1: Not here. But in Calgary.

24 THE COURT: Have you or anyone close to you had medical  
25 training or worked in the medical field?

1 POTENTIAL JUROR NUMBER 1: Yes. My mom is a  
2 pacemaker rep, and my grandma's a respiratory therapist, and my  
3 grandfather is a doctor.

4 THE COURT: And what kind of doctor is your grandfather?

5 POTENTIAL JUROR NUMBER 1: He was just a primary  
6 physician.

7 THE COURT: Here in Clark County?

8 POTENTIAL JUROR NUMBER 1: Yes.

9 THE COURT: Have you or anyone close to you had a serious  
10 injury?

11 POTENTIAL JUROR NUMBER 1: No.

12 THE COURT: Can you wait to form an opinion until you've  
13 heard all of the evidence?

14 POTENTIAL JUROR NUMBER 1: Yes.

15 THE COURT: Can you follow the instructions on the law that I  
16 give you even if you don't personally agree with them?

17 POTENTIAL JUROR NUMBER 1: Yes.

18 THE COURT: Can you set aside any sympathy you may have  
19 for either side, and base your verdict solely on the evidence and the  
20 instructions on the law presented during the trial?

21 POTENTIAL JUROR NUMBER 1: Yes.

22 THE COURT: Is there any reason you couldn't be completely  
23 fair and impartial if you were selected to serve as a juror today?

24 POTENTIAL JUROR NUMBER 1: No.

25 THE COURT: And if you were party to the case, would you feel

1 comfortable having someone like yourself as a juror?

2 POTENTIAL JUROR NUMBER 1: Yes.

3 THE COURT: All right.

4 Mr. Cloward?

5 MR. CLOWARD: Thank you, Your Honor.

6 Good afternoon, or morning or mid-evening or mid-morning,  
7 whatever it is. How are you today?

8 POTENTIAL JUROR NUMBER 1: Good.

9 MR. CLOWARD: Good. So, Ms. Smith, I just have a couple  
10 follow-up questions.

11 Just to let everybody know, I have this list here. It's an outline  
12 of questions that I want to cover today, so I'm going to be referring to this  
13 and we're going to go through this list. It's actually -- it's not as long as  
14 normal. It's only three pages, so hopefully -- I've had them as long as like 30  
15 pages. So hopefully that's, you know, we won't go that long.

16 But there are some important questions that I do like to ask to  
17 all of the panel. And the first thing I talk about is just one thing to, I guess,  
18 explain this process and why it's so important to both of the parties. And it's  
19 a question I'd had for you, which would be if you were, let's say, you were a  
20 baker, and you'd, you know, you had mastered a pie, a cherry, pie. And you  
21 found out that I had been randomly selected to judge the contest that you  
22 were going to enter that pie into, and you knew that I hated cherry pie, how  
23 would that make you feel?

24 POTENTIAL JUROR NUMBER 1: I wouldn't want you to be a  
25 judge.

1 MR. CLOWARD: Okay.

2 And I think everyone could agree that that, you know, probably  
3 wouldn't want me to be the Judge. Maybe I could judge the chocolate cake  
4 contest. Maybe I could judge the open contest, but definitely not if it was  
5 just a cherry pie contest. Do you agree with that?

6 Well, the question that I have for you is what do you think the  
7 fair thing or the right thing for me to do as the judge would be? If I get  
8 randomly selected; I know that I hate cherry pie. You're a contestant. Do  
9 you think I ought to disclose that to you off the bat?

10 POTENTIAL JUROR NUMBER 1: Obviously, yeah.

11 MR. CLOWARD: How come?

12 POTENTIAL JUROR NUMBER 1: So that we're aware and we  
13 can maybe put somebody else in your place.

14 MR. CLOWARD: Okay. And you agree that it probably  
15 wouldn't be right for me to wait until we're walking out in the parking lot after  
16 I gave you the thumbs down and say, hey, you know, Ms. Smith, I should  
17 have told you this before, but I really cherry pie. Agree that probably  
18 wouldn't be the right thing to do?

19 POTENTIAL JUROR NUMBER 1: [Indiscernible].

20 MR. CLOWARD: Okay. So in this process, because the  
21 parties have an interest in selecting a panel that's fair to them, and fair --  
22 both really, to both side, it's super important that everybody talks to me, and  
23 that everybody is willing to be brutally honest with me about their feelings.

24 Ms. Smith, what do you think it means to be brutally honest?

25 POTENTIAL JUROR NUMBER 1: To answer your questions

1 truthfully and just give important information.

2 MR. CLOWARD: Okay. What if it's an answer that maybe  
3 might hurt my feelings?

4 POTENTIAL JUROR NUMBER 1: Importance -- still sharing.

5 MR. CLOWARD: Okay. What if it's an answer that might hurt  
6 my client's feelings?

7 MR. CLOWARD: Still important to share.

8 MR. CLOWARD: Still important to share even if it might hurt  
9 the Defendant or his fine attorneys' feelings, agree? Okay. Well, I would  
10 ask that you, as well as the other members, be as talkative as possible, so  
11 that we can really discuss the feelings that folks have, because some folks  
12 have really strong feelings toward personal injury cases. Some folks maybe  
13 not so strong of feelings, but I definitely want to learn about those feelings if  
14 you have them. And I'll give you one other example, and then I'm going to  
15 start on my list.

16 But I have an Aunt Nancy, and then I have a mother-in-law  
17 Nancy. My Aunt Nancy, she actually owned a fabric store up in []Provo,  
18 Utah. Somebody came into the store. They fell down and they hurt  
19 themselves and they ended up suing her. It was a slip and fall, trip and fall  
20 type of case, and they brought her into court and sued her.

21 My mother-in-law, on the other hand, was walking outside of an  
22 establishment and where the folks that drag the garbage can with the grease  
23 across the sidewalk. She slipped and fell and broke her knee right there on  
24 the spot. And she ended up having to bring a lawsuit against that  
25 establishment.



1 Ms. Smith, can you agree with me that both of those two ladies  
2 have completely different experiences with that type of a case?

3 POTENTIAL JUROR NUMBER 1: Uh-huh.

4 THE COURT: Do you agree with that?

5 POTENTIAL JUROR NUMBER 1: Yes.

6 MR. CLOWARD: Now neither of them, you agree, are bad  
7 people because of their experience, right?

8 POTENTIAL JUROR NUMBER 1: Uh-huh.

9 MR. CLOWARD: They just had a different experience in life.  
10 But the question is this. If, for instance, this isn't a slip and fall, but if this  
11 was a slip and fall, do you agree that maybe the Plaintiff might not want my  
12 Aunt Nancy who was sued on his case or her case because of that  
13 experience? And again, that's not to suggest that that -- that, you know, my  
14 Aunt Nancy had a -- that she's -- maybe she'd be perfect on a contract case,  
15 a real estate case, maybe a standard automobile, maybe a criminal case or  
16 so forth. But what I'm trying to find out through this process is who are the  
17 folks that maybe because of their experiences have a different view of  
18 personal injury cases that might not be fair to either my client. Really, they  
19 might not be fair to the Defendant either. Maybe somebody was sued and,  
20 you know, they have a view, or maybe they sued and didn't feel like they got  
21 full justice. So they kind of have a chip on their shoulder about that.

22 So I'm going to kind of go ahead and ask you some questions  
23 now about the process and two things I believe are really important in this  
24 process. Number one, that the parties have a fair fight, and number two,  
25 that the folks are brutally honest. So I'm going to be brutally honest with you

1 right now and just let you know we're here for money damages. We sued  
2 the Defendant for money damages. We're going to ask at the end of this for  
3 an amount into the millions of dollars. So it's not just a little bit of money  
4 damage. It's a lot. Just hearing me say that, you see my client here. He's  
5 not in a wheelchair. He's not, you know, missing an extremity. How do --  
6 how does that make you feel?

7 POTENTIAL JUROR NUMBER 1: Well, it's kind of hard to tell  
8 without knowing more evidence, what the situation was and how he was hurt  
9 and what his injuries were, psychological or, you know [indiscernible], to it,  
10 so. Without knowing all the full details it's hard to --

11 MR. CLOWARD: It's hard to say. And that's one thing that I  
12 know that is frustrating to perspective jurors. I've picked a lot of jurors.  
13 Talked to thousands of potential jurors. That's a rule that the parties, both of  
14 the parties, both myself as well as Mr. Gardner, we have to follow. We can't  
15 get into the facts. And so, I apologize right now up front for that.

16 But I guess, just the idea of, you know, discussing an amount  
17 into the millions, does that, I guess, cause some feelings to arise in you? A  
18 lot of times when I discuss that, folks talk about, well, you know what?  
19 There are a lot of frivolous lawsuits out there. You know, a lot of jackpot  
20 justice. People bringing lawsuits to try and get rich on the system. I've  
21 heard that a lot. And that's okay. But I wanted to hear, I guess, some of  
22 your feelings about that.

23 Yeah. I mean, that always comes to mind at first. You know,  
24 that it's justifiable --

25 MR. CLOWARD: Sure.

1 POTENTIAL JUROR NUMBER 1: -- to try and get that much  
2 money and so, that is always a thought in the back of, you know, anyone's  
3 mind, I'm sure. So -- but, yeah. We definitely listen to all of the details and  
4 see if it is a fair amount and fair [indiscernible].

5 MR. CLOWARD: Okay. And I certainly appreciate your  
6 feelings about that. Let me ask you a question. You know, we hear on the  
7 news about frivolous lawsuits. A lot of folks have heard about, like the, for  
8 instance, the McDonald's case, a frivolous lawsuit. Or there was a case in  
9 New York about an individual that sued the drycleaner over a lost pair of  
10 trousers. And they sued him for like \$10 million.

11 And just, you know, what -- that seems, you know, crazy. A lot  
12 of times you could tell right off the bat, you know, by the facts of the case  
13 that, hey, this is -- this is probably frivolous. Do you have any feelings one  
14 way or another as we sit here today about the case being frivolous or not  
15 just by the fact that Mr. Morgan's here or that the Defendant is here  
16 defending himself?

17 POTENTIAL JUROR NUMBER 1: No. I don't.

18 MR. CLOWARD: Okay. Have you heard of frivolous lawsuits  
19 before? Have you heard of, like, the McDonald's case or the case in New  
20 York with the trousers?

21 POTENTIAL JUROR NUMBER 1: I haven't heard of those.

22 MR. CLOWARD: Okay. Maybe we can discuss that with some  
23 other folks as we go along. But, how do you feel about a party that comes to  
24 court and asks for money for something like pain and suffering?

25 POTENTIAL JUROR NUMBER 1: I think, again, you know, if

1 the evidence is there and it's justifiable, then they should, you know, receive  
2 what they're looking for, if all the evidence is there and [indiscernible].

3 MR. CLOWARD: Sure. You're willing, I guess, to keep an open  
4 mind on that --

5 POTENTIAL JUROR NUMBER 1: Yes.

6 MR. CLOWARD: -- and listen to the evidence? And if the  
7 evidence supports it then you're okay with that idea if -- fundamentally, but if  
8 the evidence doesn't support, then you -- you agree that it wouldn't be  
9 justified?

10 POTENTIAL JUROR NUMBER 1: Right.

11 MR. CLOWARD: Okay. Have you had any experience with,  
12 say, like a worker's compensation claim versus a personal injury?

13 POTENTIAL JUROR NUMBER 1: Huh-uh.

14 MR. CLOWARD: Are you aware that a personal injury claim is  
15 different than a work comp claim in that a worker's compensation claim  
16 could be reopened down the road? So if somebody's having some  
17 problems ten years after the event, they can go back and petition the court  
18 and kind of reopen that and have their needs addressed. That's not the  
19 case for a personal injury case. This is kind of the one time, the one shot,  
20 the only opportunity that Mr. Morgan or any Plaintiff, when they bring a  
21 personal injury case, the only opportunity that they have to address anything  
22 that they might need down the road.

23 How would you feel sitting on a case where you were asked to  
24 potentially address concerns, healthcare concerns that somebody might  
25 have not just now, but maybe down the road ten years, maybe down the

1 road 15 years? How would that sit with you?

2 MR. GARDNER: Your Honor, let me object to that. I think  
3 we're going a little too far, and I'm not sure that there's --

4 THE COURT: Counsel, approach, please.

5 MR. GARDNER: Thank you.

6 [Bench conference begins at 10:28 a.m.]

7 MR. GARDNER: He's asking about prospective verdicts in my  
8 mind. He's asking about a verdict based upon the ten years or 15 years of  
9 pain and suffering with future damages. That goes a little bit too far into  
10 questioning their ability to be unbiased in this case at this time.

11 MR. CLOWARD: I don't think it does. I think what I'm trying to  
12 find out is if people are okay with the idea that they may be asked to address  
13 a future care need. Some folks might not be willing to do that. Just like a,  
14 you know, a death penalty case, somebody might not feel comfortable sitting  
15 on there for a specific reason. And I'm not asking them, well, hey, if the  
16 evidence shows X will you return a verdict of Y. All I'm saying is are you  
17 okay with the concept that you might be asked to consider those things. I'm  
18 not asking well, hey, if we presented evidence of Y, what will your verdict be  
19 or will your verdict be this. It's not a stakeout question. It's just simply are  
20 you okay with the idea.

21 THE COURT: I mean, overruled. I'm -- just make sure you're  
22 careful that --

23 MR. CLOWARD: Certainly. I will --

24 THE COURT: -- you're not wandering into the hypothetical.

25 MR. CLOWARD: Absolutely.

1 MR. GARDNER: Thank you, Your Honor.

2 THE COURT: Thank you.

3 [Bench conference ends at 10:29 a.m.]

4 MR. CLOWARD: Okay. So back to the question, I guess.

5 You're okay with, I guess, the concept of potentially having to listen to  
6 evidence about future care needs and nobody's asking you to make a  
7 decision about that, but just that you would be okay, to, I guess, consider  
8 those issues. Is that fair?

9 POTENTIAL JUROR NUMBER 1: Yeah. I think [indiscernible],  
10 yeah.

11 MR. CLOWARD: Okay. Thank you.

12 Now what I would like to do is, I guess, ask kind of a weird  
13 question. But, Ms. Smith, have you ever bought eggs before?

14 POTENTIAL JUROR NUMBER 1: Uh-huh.

15 MR. CLOWARD: What's the first thing you do when you buy  
16 eggs?

17 POTENTIAL JUROR NUMBER 1: I guess you look at the price.  
18 See which is -- the size, too. How many are in the -- half-a-dozen  
19 restraining order a dozen or the pricing. You look at that.

20 MR. CLOWARD: Okay. After you select, I guess, how many  
21 you want, whether it's half-a-dozen, dozen, and you pick those up, what do  
22 you do before you place those into your basket?

23 POTENTIAL JUROR NUMBER 1: You look at them and make  
24 sure there's no broken eggs.

25 MR. CLOWARD: How do you go about doing that?

1 POTENTIAL JUROR NUMBER 1: You just open up the --

2 MR. CLOWARD: Carton?

3 POTENTIAL JUROR NUMBER 1: -- box of them, check them  
4 out. Check the expiration date and make sure they're not expired.

5 MR. CLOWARD: Okay. Is there a reason that you just don't  
6 look at the outside of the carton to determine whether the eggs are broken  
7 on the inside?

8 POTENTIAL JUROR NUMBER 1: I guess because it's kind of  
9 harder to see on the outside than if you open it. You can get a full view of all  
10 of the eggs --

11 MR. CLOWARD: Sure.

12 POTENTIAL JUROR NUMBER 1: -- all at once.

13 MR. CLOWARD: Okay. And do you think that people are any  
14 different, meaning, do you think that you can look at a bumper or the  
15 damage to the vehicle in a car crash and say, you know what? That's a roll-  
16 over. That person's probably going to die. We might as well set up funeral  
17 arrangements for them. Or, hey, this is a small fender bender. Nobody had  
18 any injury at all. You think you can do that?

19 POTENTIAL JUROR NUMBER 1: No. You'd still need to  
20 collect full evidence and kind of do a full investigation to see the damages.  
21 Because just on the outside it isn't, you know, you don't know what  
22 happened on the inside.

23 MR. CLOWARD: And I guess just in helping you, as a  
24 prospective juror, you individually, what would things -- what kind of things  
25 would be important to you to, I guess, look at the full picture and look at the

1 damage to determine whether the person had the injuries that they were  
2 claiming or whether they, you know, maybe weren't hurt as bad as they were  
3 claiming. What would be important to you, Ms. Smith?

4 POTENTIAL JUROR NUMBER 1: I guess documentation from  
5 doctors and, you know, from hospital visits and proof that there was injuries  
6 and damages.

7 MR. CLOWARD: Okay. And, obviously, testimony from those  
8 individuals as well.

9 POTENTIAL JUROR NUMBER 1: Yeah.

10 MR. CLOWARD: Okay. Anything else that might be important  
11 for you?

12 POTENTIAL JUROR NUMBER 1: Not that I can think of. I  
13 don't know, you know, all the details.

14 MR. CLOWARD: Okay. Now, I want to ask a question about, I  
15 guess, the difference between, say, for instance, a criminal case versus a  
16 civil case. We've often heard, you know, the standard of proof beyond a  
17 reasonable doubt. And that's usually associated with a criminal case. The  
18 Judge will instruct you on the actual law in this case, so I won't tell you what  
19 that jury instruction is, but it's not the same as a criminal case. Criminal  
20 case, you've got to have a lot of proof. Civil cases, it's just usually more  
21 likely than not. And do you have any issues with that type of a decision  
22 process?

23 POTENTIAL JUROR NUMBER 1: So there's not as much  
24 evidence. I mean, I guess, in a way a little bit, because I would want as  
25 many causes, as many facts as was said to come to a fair decision, so --



1 MR. CLOWARD: Sure.

2 POTENTIAL JUROR NUMBER 1: So, yeah.

3 MR. CLOWARD: And maybe I'm not doing as good of a job  
4 explaining, but say for instance in a criminal case, if all the evidence is put  
5 onto the scales and the scales are kind of balanced, it's the State's  
6 obligation, because you're taking away somebody's life, liberty, and you  
7 know, putting them in jail, that you have to have significant proof. It can't be,  
8 you know, reasonable doubt.

9 In a civil case, you still put on all of the evidence, but let's say  
10 the scale's kind of even. They go like this and then at the end of the day just  
11 one side is just slightly ahead of the other, I guess. You know, they've just  
12 barely proved it. That's all that's required in this type of case. And some  
13 folks have a problem with that. Some folks say you know what, if I'm going  
14 to make a really important decision, it's got to be all the way. Other folks  
15 say, well, if that's what it is, then I'm willing to follow the rules. And I just  
16 wonder how you go about making decisions.

17 POTENTIAL JUROR NUMBER 1: I would say probably the  
18 first. You know, I would want as much evidence and details and more --  
19 especially when we're, you know, to the tune of, you know, millions of  
20 dollars --

21 MR. CLOWARD: Sure.

22 POTENTIAL JUROR NUMBER 1: -- and I need to look at  
23 everything that you can. I'd rather those scales to be one way or not versus  
24 nothing.

25 MR. CLOWARD: Gotcha. No. And I definitely understand that.

1 And that's not to suggest that we're not going to -- they're not going to prove  
2 their case. But when there are a lot of issue in the case and sometimes it  
3 might come down to that, and so I want to see where you're at with that. And  
4 so thank you for that.

5 Now it sounds like you've got quite a bit of family that's -- that  
6 are in the medical field. Grandfather was a doctor and I know that some  
7 other members of your family that were in the medical field. Sounds like  
8 you're a rep for Quest. Anything about that training that you feel like, you  
9 know, you might -- if you heard something out of a -- from a doctor, you  
10 know, you might be tempted to go back and say, you know what, Grandpa?  
11 The doctor said this on the stand. What do you think about that? Anything  
12 that would tempt you to do that? Because really, you're -- you wouldn't be  
13 allowed to do that.

14 POTENTIAL JUROR NUMBER 1: No. I don't think so. I have  
15 a lot of trust in the medical field and doctors. So I would trust what these  
16 doctors are saying.

17 MR. CLOWARD: Okay. Now, have you ever had, I guess,  
18 any -- it sounds like your mother-in-law, she's a court reporter. Is that here  
19 in Las Vegas?

20 POTENTIAL JUROR NUMBER 1: Uh-huh. Yes. She is.

21 MR. CLOWARD: Is she one of the judicial court reporters or is  
22 she --

23 POTENTIAL JUROR NUMBER 1: Oh my gosh. I know she  
24 works under Judge Whitman. I'm not sure what district.

25 THE COURT: Justice Court.

1 MR. CLOWARD: Okay. Perfect. Great. Great. I don't do a lot  
2 of work in Justice Court, so I'm not as familiar with -- but I appreciate the  
3 Judge coming to my rescue on that one. But that's great. She enjoys that?  
4 Okay. And, obviously, anything about that that would, I guess, would you be  
5 tempted to go talk to her about the case or the law or anything as the Judge  
6 would instruct you?

7 POTENTIAL JUROR NUMBER 1: No.

8 MR. CLOWARD: Now there are, I guess, three kind of  
9 questions that I'd like to ask to the jurors, which is just number one, a public  
10 figure that you admire and why. And then, I guess your favorite -- the  
11 favorite, the favorite job you've ever had. I know they're goofy questions, but  
12 they kind of give me little bit of insight as to who you are as an individual.  
13 And your favorite job you've ever had, and then the third question that I like  
14 to ask is just something that you're passionate about.

15 POTENTIAL JUROR NUMBER 1: Public figure, skip over that  
16 one. My favorite job that I've had has been my current job, Quest  
17 Diagnostics. I just enjoy going around and meeting new people and sales  
18 has always -- is a fun side of things, so just enjoy doing that. And what I'm  
19 passionate about, my family, I'm passionate about my family and my  
20 daughter, and we like to go out and, you know, picnics and walks. And go  
21 out of town and travel and things like that, so.

22 MR. CLOWARD: You celebrate Halloween?

23 POTENTIAL JUROR NUMBER 1: We did.

24 MR. CLOWARD: What was she?

25 POTENTIAL JUROR NUMBER 1: She was Charlie Brown, so

1 we all dressed up as Charlie Brown characters.

2 MR. CLOWARD: That's awesome. I have little kids, too, so it's  
3 a lot of fun.

4 POTENTIAL JUROR NUMBER 1: Yes. Public figure, I mean, I  
5 really can't even narrow somebody down that I look up to. I mean, yeah. I  
6 look up to my mother. That's --

7 MR. CLOWARD: Can you tell me why?

8 POTENTIAL JUROR NUMBER 1: -- that's kind of my -- she's  
9 just a really strong -- strong-willed person. She was a single mom and very  
10 successful trying to make sure she was successful and raised me, put me  
11 through college and so.

12 MR. CLOWARD: All right. Where did you attend college?

13 POTENTIAL JUROR NUMBER 1: UNLV.

14 MR. CLOWARD: Okay. And you're graduated, right?

15 POTENTIAL JUROR NUMBER 1: Skipped that question.  
16 Yeah. UNLV with a Bachelor's Degree in marketing.

17 MR. CLOWARD: Okay. And I think that the Judge covered this  
18 one, but I wanted to just kind of reconfirm. You haven't had any experience  
19 with lawsuits or you had any prior car accidents that you and your  
20 [indiscernible] were involved in or your family members with those issues?

21 POTENTIAL JUROR NUMBER 1: No.

22 MR. CLOWARD: No? No prior experience at all either one way  
23 or the other?

24 POTENTIAL JUROR NUMBER 1: No.

25 MR. CLOWARD: Okay. If you just give me one moment, Ms.

1 Smith, I just want to kind of check my outline here and make sure that there  
2 aren't any additional questions that I ask.

3 And, also, Your Honor, may I confer with Counsel for one  
4 moment?

5 THE COURT: Certainly.

6 [Counsel confer]

7 MR. CLOWARD: Your Honor, I have no further questions.

8 THE COURT: All right.

9 Mr. Gardner?

10 MR. CLOWARD: Thank you, Ms. Smith.

11 MR. GARDNER: Thank, Your Honor.

12 Hello, Ms. Smith.

13 POTENTIAL JUROR NUMBER 1: Hi.

14 MR. GARDNER: You feel like you've got put under the hot  
15 lights today?

16 POTENTIAL JUROR NUMBER 1: Yes. They're pretty hot.

17 MR. GARDNER: I can imagine how it is over there. Thank you  
18 for your cooperation and your time. We know that you don't have any family  
19 members that are -- that have been in accidents. Is that what you said  
20 before, that none of your family members have been in an automobile  
21 accident?

22 POTENTIAL JUROR NUMBER 1: Well, okay. Now that you  
23 say that, my mom was recently in an automobile accident, but it didn't go to  
24 a court or a trial or anything like that. That's what I thought you were  
25 referring to. So, yeah, she was in a car accident.

1 MR. GARDNER: Okay. Now was she injured?

2 POTENTIAL JUROR NUMBER 1: No.

3 MR. GARDNER: The one thing I always worry about is that my  
4 client's sitting here and the Plaintiff is sitting here. And I just really want to  
5 avoid having an impression made that because we're here, my client, Mr.  
6 Lujan must have done something wrong. Does that make sense? Do you  
7 have any kind of a feeling or a motivation to say to yourself, well, he's sitting  
8 here and he's sitting here and the lawyers are here. He must have done  
9 something wrong.

10 POTENTIAL JUROR NUMBER 1: Not at all.

11 MR. GARDNER: Not at all? Okay. You're going to find I go  
12 second this whole trial. So just bear with me. I try and take notes as quickly  
13 as I can, but I'm not perfect on this. And do you have any friends or  
14 acquaintances that perhaps have been injured in an automobile accident  
15 or -- automobile accident?

16 POTENTIAL JUROR NUMBER 1: No.

17 THE COURT: No? Okay. At Quest, I know you're in the sales  
18 department, but do you deal with individuals that do have any kinds of  
19 injuries?

20 POTENTIAL JUROR NUMBER 1: No.

21 MR. GARDNER: No? Okay. So typically, what are you doing  
22 then at Quest? What do you do?

23 POTENTIAL JUROR NUMBER 1: I go around and -- to -- we  
24 work on the risk-assessment side of like the life insurance. And so, I go  
25 around to financial advisors and tell them to use our -- get them to use our

1 laboratory services.

2 MR. GARDNER: Okay. So I can see why you wouldn't be  
3 dealing with patients and things of that nature. Okay. I understand that.  
4 Okay. Do you have any opinions or ideas about lawyers in general?

5 POTENTIAL JUROR NUMBER 1: No. I know a few, so great  
6 people.

7 MR. GARDNER: Okay. So these lawyers are great people. Is  
8 that what you said?

9 POTENTIAL JUROR NUMBER 1: Yes.

10 MR. GARDNER: What about the judge? What do you expect  
11 the judge to do during a trial? Do you have any kind of expectations or have  
12 any feelings about the role of, perhaps, a judge?

13 POTENTIAL JUROR NUMBER 1: No. I know they kind of  
14 mediate and kind of keep a pleasant courtroom and try to present all the  
15 facts and therein.

16 MR. GARDNER: Okay. Now earlier, we -- I think one of your  
17 answers was that before you could award something to someone you had to  
18 see the evidence that supported that. Did I get that right? Did I write that  
19 down right?

20 POTENTIAL JUROR NUMBER 1: Yeah. I think it's fair enough  
21 to take a look at all the evidence and --

22 MR. GARDNER: Okay. What in your mind is evidence? What  
23 would you need to see?

24 POTENTIAL JUROR NUMBER 1: I mean, it all depends on the  
25 case. You know, if they're claiming certain injuries and claiming certain

1 losses, and claiming, you know, certain things, I would want to see the  
2 doctor's reports, I guess, and financial -- if they were out financially, you  
3 know, things that they're looking for -- financial burdens. You know, what  
4 was the cause of all that, I guess.

5 MR. GARDNER: Now what if they did claim that they were  
6 injured but there was no claim for financial losses. Would that affect your  
7 ability to understand or to make a determination about how severe the  
8 injuries might have been?

9 POTENTIAL JUROR NUMBER 1: Well, no. Not financially is  
10 not the only thing. If, you know, yeah, you would want to see how severe  
11 the injuries were, but then the finances doesn't have -- it's not everything to  
12 do with it. I just know that that's what they're trying to claim.

13 MR. GARDNER: Have you ever owned your own business?

14 POTENTIAL JUROR NUMBER 1: No.

15 MR. GARDNER: And did I understand that you feel like you'd  
16 be a good juror on this case or if you were the one that was the party, that  
17 you would have the right kind of open mind to be a good juror on this case?

18 POTENTIAL JUROR NUMBER 1: I think so, yeah.

19 MR. GARDNER: Okay. Thank you.

20 I'll pass for cause.

21 THE COURT: All right.

22 Ma'am, how do you pronounce your last name?

23 POTENTIAL JUROR NUMBER 2: Koanui.

24 THE COURT: Koanui. All right. Ma'am, could you just go  
25 ahead and introduce yourself, please?



1 POTENTIAL JUROR NUMBER 2: Yeah. I've lived in Clark  
2 County for about 18 years. Went to school in Hawaii. Graduated high  
3 school there and then I did medical assisting school here. And that was a lot  
4 of [indiscernible]. I am no longer in the medical field. I'm currently employed  
5 by Hawaiian Airlines here in Las Vegas. Married with four children.

6 THE COURT: What do you do for Hawaiian Airlines?

7 POTENTIAL JUROR NUMBER 2: Ticketing.

8 THE COURT: And what does your spouse do?

9 POTENTIAL JUROR NUMBER 2: He works for the -- he's valet  
10 at the Palms and, yeah, just there.

11 THE COURT: How old are your kids?

12 POTENTIAL JUROR NUMBER 2: Twenty-three, eleven, nine,  
13 and six.

14 THE COURT: What does your 23-year-old do?

15 POTENTIAL JUROR NUMBER 2: He works for Smitts. He's a  
16 [indiscernible].

17 THE COURT: All right. Go ahead and have a seat, ma'am.  
18 Have you ever served as a juror before?

19 POTENTIAL JUROR NUMBER 2: Yeah.

20 THE COURT: How many times?

21 POTENTIAL JUROR NUMBER 2: Once in a case.

22 THE COURT: In a civil case or criminal case?

23 POTENTIAL JUROR NUMBER 2: It was a civil case, I believe.  
24 It was a personal injury. She got injured, not [indiscernible] . She just got  
25 injured on --

1 THE COURT: They were talking about money, though?  
2 POTENTIAL JUROR NUMBER 2: Yeah.  
3 THE COURT: There was a -- verdict was not guilty/not guilty.  
4 They were talking about money?  
5 POTENTIAL JUROR NUMBER 2: Absolutely. Yeah, yeah,  
6 yeah.  
7 THE COURT: Was that here in Clark County?  
8 POTENTIAL JUROR NUMBER 2: Uh-huh.  
9 THE COURT: How long ago was that?  
10 POTENTIAL JUROR NUMBER 2: I don't know. That was  
11 before -- trying to think of when I had my -- one of my kids. It was awhile.  
12 Maybe I want to say seven years ago maybe.  
13 THE COURT: All right.  
14 POTENTIAL JUROR NUMBER 2: Eight maybe?  
15 THE COURT: Without telling us what the verdict was, was the  
16 jury able to reach a verdict?  
17 POTENTIAL JUROR NUMBER 2: Yeah.  
18 THE COURT: And were you the foreperson?  
19 POTENTIAL JUROR NUMBER 2: I was the what?  
20 THE COURT: Were you the foreperson of the jury?  
21 POTENTIAL JUROR NUMBER 2: Yes.  
22 THE COURT: You were the foreperson?  
23 POTENTIAL JUROR NUMBER 2: The one to make the  
24 decision? What's the foreperson?  
25 THE COURT: The -- you know how the jurors select the

1 foreperson who's sort of the --

2 POTENTIAL JUROR NUMBER 2: That wasn't me. Not me.

3 THE COURT: Right. How to explain it.

4 POTENTIAL JUROR NUMBER 2: Yeah. I would know. That  
5 wasn't me.

6 THE COURT: But they're like the representative of the jury.

7 POTENTIAL JUROR NUMBER 2: Yeah. No.

8 THE COURT: Right. Okay. Is there anything about that  
9 experience that would affect your ability to sit as a juror in this case?

10 POTENTIAL JUROR NUMBER 2: No.

11 THE COURT: Have you ever been a party to a lawsuit or a  
12 witness in a lawsuit before?

13 POTENTIAL JUROR NUMBER 2: Well, I had a personal injury.

14 THE COURT: Okay. When was that?

15 POTENTIAL JUROR NUMBER 2: 2013.

16 THE COURT: So that was here in Clark County?

17 POTENTIAL JUROR NUMBER 2: It was settled out of court  
18 though.

19 THE COURT: All right. So you didn't go -- did you have to  
20 have a deposition or testify?

21 POTENTIAL JUROR NUMBER 2: No.

22 THE COURT: Have you or anyone close to you worked in the  
23 legal field?

24 POTENTIAL JUROR NUMBER 2: No.

25 THE COURT: And you have had a -- some work in the medical

1 field.

2 POTENTIAL JUROR NUMBER 2: Yes.

3 THE COURT: Anyone close to you that has medical training or  
4 still works in the medical?

5 POTENTIAL JUROR NUMBER 2: My niece. She works at  
6 UMC. She's just a registered nurse. And then, I have my husband's aunt,  
7 who we're really close to. She's a physician's assistant.

8 THE COURT: What kind of physician's assistant?

9 POTENTIAL JUROR NUMBER 2: Just a general at  
10 [indiscernible].

11 THE COURT: And your niece who's a nurse at UMC, what kind  
12 or nursing is she in?

13 POTENTIAL JUROR NUMBER 2: Registered nurse.

14 THE COURT: Do you know what department she works in?  
15 Like is Emergency Room or?

16 POTENTIAL JUROR NUMBER 2: She's actually in trauma.

17 THE COURT: Okay. Have you or anyone close to you had a  
18 serious injury?

19 POTENTIAL JUROR NUMBER 2: Besides me with my surgery,  
20 no.

21 THE COURT: And can you wait to form an opinion until you've  
22 heard all of the evidence?

23 POTENTIAL JUROR NUMBER 2: [Indiscernible].

24 THE COURT: Can you follow the instructions on the law that I  
25 give you even if you don't personally agree with them?

1 POTENTIAL JUROR NUMBER 2: [Indiscernible].

2 THE COURT: Can you set aside any sympathy you may have  
3 for either side and base your verdict solely on the evidence and the  
4 instructions on the law presented during the trial?

5 POTENTIAL JUROR NUMBER 2: Yes, ma'am.

6 THE COURT: Is there any reason you couldn't be completely  
7 fair and impartial if you were selected to serve as a juror in this case?

8 POTENTIAL JUROR NUMBER 2: No.

9 THE COURT: And if you were party to this case, would you be  
10 comfortable having someone like yourself as a juror?

11 POTENTIAL JUROR NUMBER 2: I don't know. Just because  
12 of my injury, I don't know. I can't hundred percent give the truth on that. I'll  
13 be honest.

14 THE COURT: Okay. So tell me what you're concerned about.

15 POTENTIAL JUROR NUMBER 2: I'm just -- I -- with my injury, I  
16 don't feel like I got what I wanted.

17 THE COURT: All right.

18 POTENTIAL JUROR NUMBER 2: I had an ACL tear, and it  
19 was against a company that had -- it was -- I was -- it was at the UFC gym.  
20 The trainer kicked me, tore my ACL, and I had to have surgery for it. So it's  
21 kind of -- and I was out of work for a long time. So I had to settle out of  
22 court. I didn't get what I wanted, but I just settled. So I don't know if I could  
23 be. I'm going to be honest.

24 THE COURT: All right.

25 Do you want to follow up?

1 POTENTIAL JUROR NUMBER 2: I might have emotion. I don't  
2 know. Let -- I'm just going to be honest. I don't know if I could be fair  
3 looking at both sides --

4 THE COURT: Sure.

5 POTENTIAL JUROR NUMBER 2: -- just because I feel like I  
6 wasn't treated that way.

7 THE COURT: Okay.

8 Mr. Cloward, do you want to follow up with that?

9 MR. CLOWARD: Sure. Thank you, Your Honor.

10 Hi. How are you?

11 POTENTIAL JUROR NUMBER 2: Hi.

12 MR. CLOWARD: My kids love the show that's --

13 POTENTIAL JUROR NUMBER 2: Mine do, too.

14 THE COURT: I bet your name became really popular recently,  
15 right?

16 POTENTIAL JUROR NUMBER 2: It did, yeah, it's -- yeah.

17 MR. CLOWARD: Okay. And they can watch it over and over  
18 and over back to back to back. It's amazing.

19 MR. GARDNER: Objection, Your Honor.

20 THE COURT: Counsel, approach for a second.

21 [Bench conference begins at 10:52 a.m.]

22 THE COURT: Mr. Cloward, you have statutory right to ask  
23 questions, but you can't make personal comments like that. So if you could  
24 just stick to the questions, I would really appreciate it.

25 MR. CLOWARD: Yeah. I mean, I'm fine with that. I think

1 there's a line that's crossed if you're trying to inject, you know, your personal  
2 views and opinions, but I don't think that we're required to be robots either.  
3 But I'll move on. That's -- I didn't mean anything by it. I just, you know --

4 THE COURT: I understand. I'm not --

5 MR. CLOWARD: -- her name's Moana. My kids watch Moana,  
6 so.

7 THE COURT: I understand. But you're here to determine  
8 whether the jurors are fair and impartial. And so, --

9 MR. CLOWARD: Certainly.

10 THE COURT: -- I don't think it is good for either side to make  
11 comments like my kids do that, too. You just need to ask the jurors. All  
12 right. Thank you.

13 MR. GARDNER: I got in trouble for this two weeks ago, so I,  
14 yeah. Thanks.

15 MR. CLOWARD: Well, just remember.

16 [Bench conference ends at 10:53 a.m.]

17 MR. CLOWARD: Thank you, Your Honor.

18 Back on the hot seat. Didn't get away with it, you know.

19 POTENTIAL JUROR NUMBER 2: I'm already getting kind of  
20 sweaty.

21 MR. CLOWARD: It's okay. It's okay. At least you have some  
22 [indiscernible].

23 So let me ask, I guess, you know you kind of heard about why  
24 the questions and the thing that's nice is, you know, everybody that's further  
25 on down the row, you're going to hear the questions over and over and over.

1 So, you know, it will get faster. The process will get a little bit faster. And I  
2 would just ask everybody that's involved is if there is an area that's important  
3 to you, you know, I'll ask you is there anything that was discussed previously  
4 that you feel strongly about, and we'll cut right to it. We'll get right to that  
5 issue and talk about that issue and not have to go through every single one,  
6 every single question again over and over. And, I know, I appreciate your  
7 candor on the personal injury situation.

8 Certainly, nobody wants to have an unfair panel sit for either the  
9 Plaintiff or for the Defendant. And in picking a lot of jurors, I've come to  
10 realize that folks will have either one of two positions with a prior injury like  
11 that. Either A, they'll be upset with the process, upset with the way that they  
12 were, maybe handled unfairly. And so, they'll want to take it out on, say, the  
13 Defendant. Or some folks, you know, they feel like, you know what? I didn't  
14 get what was fair to me, so this is my opportunity to make this right. So I'm  
15 going to go out of my way to make it over fair for the Plaintiff. And I think  
16 everyone can agree that both of those situations is not really fair.

17 Nobody wants you to take anything out on the Defense, and  
18 nobody wants you to have more sympathy or be more fair to the Plaintiff  
19 because of that. And so, the question that I have and I ask you to just level  
20 with me, search your heart and be brutally honest with is one way or  
21 another, and it's not going to hurt anybody's feelings. But are you willing to  
22 set those feelings aside to be a fair and impartial --

23 POTENTIAL JUROR NUMBER 2: Yeah. Absolutely. I  
24 consider myself a fair person. I don't judge people right off the bat. I really  
25 don't. What I was explaining earlier, it's just my own personal opinions. So I



1 can put things aside and not -- and I need evidence. I believe there's two  
2 sides to a story. I've always believed that. So that being said, for me, yes, I  
3 can put feelings aside and be brutally honest and be -- and listen to both  
4 sides. I'm not a judgmental person. I don't automatically just look at a  
5 person or hear a little bit of evidence, and, oh, you're guilty and have that in  
6 me for the rest of the -- that's not me.

7 MR. CLOWARD: Okay. You're willing to hear all of the  
8 evidence and wait until the very end of the case until the last witness has  
9 testified before you formed an opinion. Is that?

10 POTENTIAL JUROR NUMBER 2: Yeah. Yeah. Absolutely.  
11 That's how I live my life.

12 MR. CLOWARD: Okay. And even though it might be difficult  
13 for you based on your prior experience, and I'll kind of go back to the cherry  
14 pie and the, you know, my Aunt Nancy, my mother-in-law Nancy --

15 POTENTIAL JUROR NUMBER 2: Right.

16 MR. CLOWARD: Nobody wants you to, I guess, have a difficult  
17 time in evaluating the matter. And so, I guess that's the question that I  
18 would ask for you to search your heart, is would your prior experience make  
19 it difficult for you to listen or are you able to, you know what, that happened  
20 to me, but I'm not going to let that influence this decision and I'll set those  
21 things aside and I'll --

22 POTENTIAL JUROR NUMBER 2: Oh, yeah. Oh, yeah.

23 MR. CLOWARD: -- be able to do that.

24 POTENTIAL JUROR NUMBER 2: Absolutely. I can put that  
25 aside.

1 MR. CLOWARD: You'd be okay to do that?

2 POTENTIAL JUROR NUMBER 2: Yeah.

3 MR. CLOWARD: Okay. Thank you. Appreciate it.

4 POTENTIAL JUROR NUMBER 2: Yeah.

5 MR. CLOWARD: Now along some of the other questions that I  
6 asked Ms. Smith, one of the things that a lot of times folks have a hard time  
7 with is money damages. The law doesn't have a mechanism that you can  
8 file a lawsuit and have the event not take place. Really, the only remedy for  
9 this type of an action is money damages. And so, that's why we're here --  
10 brutally honest. And I would like to know how you feel about that. How do  
11 you feel about the millions of dollars that I mentioned, pain and suffering,  
12 medical bills, those types of things?

13 POTENTIAL JUROR NUMBER 2: I've experienced it. I mean,  
14 when I hear the million dollars, I'm going to be honest with that, too. It kind  
15 of like whoa, that's a lot of money.

16 MR. CLOWARD: Sure.

17 POTENTIAL JUROR NUMBER 2: That's my first impression.  
18 It's whoa, it'd have to have been really bad to have somebody to be asking  
19 for that much money, because I know what I got personally --

20 MR. CLOWARD: Sure.

21 POTENTIAL JUROR NUMBER 2: -- with my surgery. And  
22 today, it's been years later, I still can't run alongside my kids.

23 MR. CLOWARD: Yeah.

24 POTENTIAL JUROR NUMBER 2: So, you know, affects me  
25 when I hear that number compared to what I was settle with.

1 MR. CLOWARD: Sure.

2 POTENTIAL JUROR NUMBER 2: So it's a big number.

3 MR. CLOWARD: I think it's a big number all the way around, no  
4 matter what. I'll be frank with everybody.

5 POTENTIAL JUROR NUMBER 2: Right. All the way around,  
6 right.

7 MR. CLOWARD: It's a big number. There's no sugar coating  
8 that. It's a very large number. The question I have is, you know, when you  
9 had your incident, did you have medical bills that, you know, for --

10 POTENTIAL JUROR NUMBER 2: I had. That was taken care  
11 of though, and so it was just pretty much the pain and suffering part.

12 MR. CLOWARD: Okay.

13 POTENTIAL JUROR NUMBER 2: That was settled.

14 MR. CLOWARD: Okay. Can I ask you a question? Would you  
15 just level with me on this?

16 POTENTIAL JUROR NUMBER 2: Yeah. Absolutely.

17 MR. CLOWARD: Would your prior experience -- would it be  
18 harder for you or would Mr. -- or would Mr. Morgan have to show you more  
19 than somebody else based on the way that you were treated in this case?

20 POTENTIAL JUROR NUMBER 2: I want to say no, but I can't  
21 answer the question truthfully. Well, I don't know. Yeah. Maybe.

22 MR. CLOWARD: Okay. It's fair to say you're unable to say, I  
23 guess, with certainty whether you would be able to?

24 POTENTIAL JUROR NUMBER 2: For me, I -- for my situation,  
25 my personal injury, there was cameras. So there was hard evidence, but I

1 still was granted. So maybe, yes, I'm thinking, I would want to see if solid  
2 evidence --

3 MR. CLOWARD: Okay.

4 POTENTIAL JUROR NUMBER 2: -- to back him up.

5 MR. CLOWARD: The type of questions I asked Ms. Smith,  
6 some of the evidence that you would hear would be, you know, medical  
7 records, would hear witnesses like doctors, physicians that could come and  
8 take the stand over there -- would take the stand and be sworn to tell the  
9 truth and would come and testify or would you expect more than that type of  
10 evidence?

11 POTENTIAL JUROR NUMBER 2: For a million dollars?  
12 Depends on like how you were talking about eggshells. You can't really see  
13 on the outside what's going on. So it -- there is a lot of damage that can  
14 happen internally that's not on the outside. So maybe not. No. I mean,  
15 internally -- I mean, just hearing from the doctors would be beneficial.

16 Enough evidence -- but it just depends on what kind of internal damage--

17 POTENTIAL JUROR NUMBER 2: -- for that amount of money.

18 MR. CLOWARD: Okay. And what about the idea, I guess, the  
19 thought of having to make a decision about somebody's future care and, you  
20 know, how they addressed any potential future issues that they may have  
21 down the road? How do you feel about that?

22 POTENTIAL JUROR NUMBER 2: Yeah. I can relate to that a  
23 lot, because like I said with mine, I still feel the impact years later, so.

24 MR. CLOWARD: Would you be more along the lines of, you  
25 know what --

1 POTENTIAL JUROR NUMBER 2: Sympathetic. I would feel  
2 more sympathetic.

3 MR. CLOWARD: Okay.

4 POTENTIAL JUROR NUMBER 2: Because you don't -- things  
5 may not show up currently, but in the future, near, far, whatever, things will  
6 occur and you'll get affected by the situation some way, somehow in the  
7 future. I believe that, because I know I do.

8 MR. CLOWARD: Okay. Would you, based on your experience,  
9 be unfair to one side or to the other? Could you even know if you've had  
10 those experiences, would you be able to set those aside and make the  
11 decision not based on sympathy, but just based on the facts and the  
12 evidence?

13 POTENTIAL JUROR NUMBER 2: Yeah. Yeah. I think it does.  
14 I think just by facts.

15 MR. CLOWARD: Okay. Great. Thank you.

16 POTENTIAL JUROR NUMBER 2: Yeah.

17 MR. CLOWARD: Appreciate it. Now, just conceptually,  
18 oftentimes I talk to folks and conceptually they just don't like pain and  
19 suffering. They don't like the idea that somebody can come into court and  
20 ask for pain and suffering damages and that's okay. That's okay. Nothing  
21 wrong with that viewpoint. I just would like to know how you feel about it.

22 POTENTIAL JUROR NUMBER 2: What was the question  
23 again? Sorry.

24 MR. CLOWARD: How do you feel about just the concept of  
25 pain and damage -- money for pain and -- or pain and suffering?

1 POTENTIAL JUROR NUMBER 2: Depends on pain and  
2 suffering.

3 MR. CLOWARD: Okay.

4 POTENTIAL JUROR NUMBER 2: What kind of medical issues  
5 are there?

6 MR. CLOWARD: So it's, to you it's more of a fact intensive --

7 POTENTIAL JUROR NUMBER 2: Right.

8 MR. CLOWARD: Okay. That's great. That's great. You're not,  
9 I guess, foreclosed to the idea, but you want to make sure there are facts  
10 and evidence to support --

11 POTENTIAL JUROR NUMBER 2: Right. Absolutely. Yeah.

12 MR. CLOWARD: -- the claim. Fair enough. Now I asked  
13 Ms. Smith about, kind of, frivolous cases. Talked about the McDonald's  
14 case. Talked about the suit pant case. Have you ever heard of frivolous  
15 case -- have you heard of the McDonald's case before?

16 POTENTIAL JUROR NUMBER 2: Yeah. I did.

17 MR. CLOWARD: What do you know about that case?

18 POTENTIAL JUROR NUMBER 2: Was it to do with the hot  
19 coffee?

20 MR. CLOWARD: Correct.

21 POTENTIAL JUROR NUMBER 2: That's the one, yeah. Not  
22 too much. I mean, I just heard through my husband recently said I don't like  
23 watching news or reading news too much. It's just -- it gives me anxiety.  
24 But he would tell me the situation what happened. It's just something quick,  
25 nothing in detail.

1 MR. CLOWARD: Okay. Sure. I guess the -- so you have  
2 heard of some frivolous cases before?

3 POTENTIAL JUROR NUMBER 2: Yeah. Uh-huh.

4 MR. CLOWARD: Let me ask you this question. It's kind of the  
5 opposite side of the coin. And that is this: obviously, if money damages -- if  
6 folks can file a lawsuit in the attempt to get money damages, do you also  
7 agree that Defendant's sometimes may have a frivolous defense to save  
8 money? You think it goes -- it's a two-way street or do you think it's just a  
9 one-way street?

10 POTENTIAL JUROR NUMBER 2: No. Everything is a two-way  
11 street.

12 MR. CLOWARD: Okay.

13 POTENTIAL JUROR NUMBER 2: Yeah.

14 MR. CLOWARD: Have you heard of any frivolous defenses  
15 that or frivolous defense cases that you heard about?

16 POTENTIAL JUROR NUMBER 2: No. Not besides, no. Huh-  
17 uh. Not personally or anything. No.

18 MR. CLOWARD: Okay. Anything that happened in your case  
19 that might cause you to have those feelings?

20 POTENTIAL JUROR NUMBER 2: Huh-uh.

21 MR. CLOWARD: Okay. Thank you. And then, again, on the  
22 question about the eggs, do you agree that, you know, you've got to look  
23 inside at the eggs to determine whether their broken, not the outside?

24 POTENTIAL JUROR NUMBER 2: Yeah.

25 MR. CLOWARD: Do you think that people are any different?

1 Do you think you can judge from --

2 POTENTIAL JUROR NUMBER 2: No.

3 MR. CLOWARD: -- property damage? So, for instance, if you  
4 find out that there was property damage in this case that, you know, there  
5 was frame damage or whatever it is, you're not going to make the decision  
6 based on the fact that there was damage. You're not going to assume  
7 automatically that Mr. Morgan was hurt now based on the damage or that  
8 the Defendant was responsible for that there?

9 POTENTIAL JUROR NUMBER 2: No.

10 MR. CLOWARD: You'll listen to the facts and the evidence?

11 POTENTIAL JUROR NUMBER 2: Oh, yeah.

12 MR. CLOWARD: Okay. Now the question about the, I guess,  
13 the standards. You know we're here on a civil case. It's not a criminal case,  
14 so the standards are a little bit different. The standards in a criminal case,  
15 it's proof beyond a reasonable doubt. It's a much higher standard. And so,  
16 if there is a contested issue and everybody puts the evidence on there,  
17 because they're going to call a doctor. We're going to call doctors. Their  
18 side, version of events is different than our side of events, obviously. And  
19 so, you're going to have to weigh the evidence. You're going to have to  
20 weigh the evidence. But Mr. Morgan, he's not required -- it's not the  
21 burden. And I just want to know if you're okay with that, if you're okay to  
22 make the decisions based on a standard that doesn't require that?

23 POTENTIAL JUROR NUMBER 2: Yeah. But I also think that,  
24 just to be brutally honest again.

25 MR. CLOWARD: Sure.



1 POTENTIAL JUROR NUMBER 2: I just look at the amount of  
2 money --

3 MR. CLOWARD: Absolutely.

4 POTENTIAL JUROR NUMBER 2: -- and with the amount of  
5 money, truthfully, personally, if it was my family member, I'd want it to be a  
6 little bit more than just this. You know what I'm saying?

7 MR. CLOWARD: Okay. And I appreciate -- thank you.

8 POTENTIAL JUROR NUMBER 2: Yeah.

9 MR. CLOWARD: I appreciate.

10 POTENTIAL JUROR NUMBER 2: I mean, I said to be honest.

11 MR. CLOWARD: No, hey. I really, truly appreciate that. I  
12 sincerely do, so thank you.

13 POTENTIAL JUROR NUMBER 2: Oh, good.

14 MR. CLOWARD: But let me ask you this question. If at the end  
15 of the case you find out that even if Mr. Morgan had asked for \$10 million,  
16 the standard doesn't change. From \$1 to 10 million, or if it, you know, was,  
17 you know, some other case that even it was more money than that. The  
18 standard is not different the more that you ask. So for instance, if you ask  
19 for this amount of money, the standard doesn't go --

20 POTENTIAL JUROR NUMBER 2: Right. Different --

21 MR. CLOWARD: -- different.

22 POTENTIAL JUROR NUMBER 2: I understand that, yeah. It's  
23 just my personal feeling.

24 MR. CLOWARD: Okay. And I guess what I would ask for you  
25 to search inside is would you hold him, because of that personal feeling,

1 would you hold Mr. Morgan to a higher standard because he's asking for a  
2 lot of money?

3 POTENTIAL JUROR NUMBER 2: I would.

4 MR. CLOWARD: And you would not be able to set that aside,  
5 even if the Judge said, hey, you know what? This is what the rule is. This is  
6 what the law is. This is what you're required to do.

7 POTENTIAL JUROR NUMBER 2: Personally, yeah, I get the  
8 rule. But it's a personal feeling I feel inside, because of the amount of  
9 money.

10 MR. CLOWARD: Fair enough. I thank you for your candor. I  
11 sincerely thank you. Now the three questions really quick. Public figure you  
12 admire and why, most favorite job you've ever had, and then, I got a lot of  
13 folks rolling their eyes. I apologize, but it does tell me a little bit about you as  
14 an individual, so it's important for me to know these things, and something  
15 you're passionate about.

16 POTENTIAL JUROR NUMBER 2: Public figure, I was trying to  
17 think of one. I really don't -- I really did like Oscar Goodman.

18 MR. CLOWARD: Okay.

19 POTENTIAL JUROR NUMBER 2: But as far as -- I love my job  
20 right now that I'm currently at. So I think that's been my favorite job because  
21 I interact with people that travel from all over the world, you know.

22 MR. CLOWARD: The people that are going to Hawaii are  
23 probably super, --

24 POTENTIAL JUROR NUMBER 2: I am going to Hawaii and  
25 they are super happy.

1 MR. CLOWARD: -- super happy. You get them at their very  
2 best.

3 POTENTIAL JUROR NUMBER 2: I can catch them in -- but I  
4 love my job that I'm currently at, so that's -- and the third question you said is  
5 --

6 MR. CLOWARD: So you kind of -- you're passionate about  
7 your job.

8 POTENTIAL JUROR NUMBER 2: Yeah.

9 MR. CLOWARD: It was something you're passionate about,  
10 your favorite job, and then a public figure you admire a lot.

11 POTENTIAL JUROR NUMBER 2: Yeah.

12 MR. CLOWARD: But you're passionate about your job?

13 POTENTIAL JUROR NUMBER 2: Yeah. I mean --

14 MR. CLOWARD: Perfect.

15 POTENTIAL JUROR NUMBER 2: -- meeting people.

16 MR. CLOWARD: Perfect. Well, thank you very much. And  
17 other than, I guess, the UFC --

18 POTENTIAL JUROR NUMBER 2: Incident?

19 MR. CLOWARD: -- incident that you told me -- that you told us  
20 about, any other events, car crashes or?

21 POTENTIAL JUROR NUMBER 2: No.

22 MR. CLOWARD: Okay. Any that your family members have?

23 POTENTIAL JUROR NUMBER 2: No. No.

24 MR. CLOWARD: Fair enough. Thank you.

25 POTENTIAL JUROR NUMBER 2: Thank you.

1 MR. CLOWARD: Your Honor, thank you.

2 THE COURT: Mr. Gardner?

3 MR. GARDNER: Thank you.

4 It's Moana, right?

5 POTENTIAL JUROR NUMBER 2: Yeah.

6 MR. GARDNER: Hi, Moana. Let me ask you this. It sounded  
7 like there was some disappointment either in one of your instances or in a  
8 member of your family's instances that you didn't really feel like you liked the  
9 result of the injuries and the settlement that you had?

10 POTENTIAL JUROR NUMBER 2: Yeah. I'm okay with it, but  
11 I -- they, yeah. Yes.

12 MR. GARDNER: Was it you or your mother?

13 POTENTIAL JUROR NUMBER 2: It was me.

14 MR. GARDNER: Okay. Did your lawyer give you a chance to  
15 resolve -- I mean did the lawyer tell you everything about the potential  
16 resolution?

17 POTENTIAL JUROR NUMBER 2: Well, in the beginning it  
18 was -- I talked to the lawyer. It was a good case, yes. It looks really good.  
19 We're going for this. And in the end, he wanted the easy way out. Oh, it  
20 doesn't look good. You know, there's a contract. You signed it. And so,  
21 that's where I'm disappointed. It's like he didn't follow through with what the  
22 beginning really was.

23 MR. GARDNER: Okay. So in your circumstance that was  
24 disappointing to you and --

25 POTENTIAL JUROR NUMBER 2: Yeah.

1 MR. GARDNER: Now ultimately, however, were you given the  
2 opportunity to say yay or nay to a resolution settlement?

3 POTENTIAL JUROR NUMBER 2: He did. He gave me the  
4 opportunity, but -- there was a but. You know, going to court, it doesn't look  
5 good. There was that. And it's, you know, I talked and I said, well, you  
6 know, you told me in the beginning it did, and then, you know, I feel like he  
7 wanted to take the easy way out. That -- so that's more of my story.

8 MR. GARDNER: Well then, you had a lawyer that wanted to  
9 take the easy way out?

10 POTENTIAL JUROR NUMBER 2: I feel like that.

11 MR. GARDNER: I have never heard of that before.

12 I'll pass for cause. Thank you.

13 THE COURT: Mr. Sanchez, sir? Do you want to introduce  
14 yourself?

15 POTENTIAL JUROR NUMBER 4: I'm number 4, and I have  
16 been here in Vegas five years. I study Mexico in high school. I work for  
17 MGM. And I'm not married and no children.

18 THE COURT: All right. Sir, where did you live before you lived  
19 in Las Vegas?

20 POTENTIAL JUROR NUMBER 4: I live in Texas, in Houston.

21 THE COURT: How long did you live in Texas?

22 POTENTIAL JUROR NUMBER 4: Six months.

23 THE COURT: Okay. Go ahead and have a seat, sir. Sir, have  
24 you ever served as a juror before?

25 POTENTIAL JUROR NUMBER 4: Sorry?

1 THE COURT: Have you ever served as a juror before?  
2 POTENTIAL JUROR NUMBER 4: No.  
3 THE COURT: Have you ever been a party to a lawsuit or a  
4 witness in a lawsuit before? No?  
5 POTENTIAL JUROR NUMBER 4: No.  
6 THE COURT: Have you or anyone close to you worked in the  
7 legal field?  
8 POTENTIAL JUROR NUMBER 4: No.  
9 THE COURT: Have you or anyone close to you had medical  
10 training or worked in the medical field?  
11 POTENTIAL JUROR NUMBER 4: No.  
12 THE COURT: No? Have you or anyone close to you had a  
13 serious injury?  
14 POTENTIAL JUROR NUMBER 4: No.  
15 THE COURT: Can you wait to form an opinion until you've  
16 heard all of the evidence?  
17 POTENTIAL JUROR NUMBER 4: Sorry?  
18 THE COURT: Can you wait to make a decision until you've  
19 heard everything?  
20 POTENTIAL JUROR NUMBER 4: Yes.  
21 THE COURT: Can you follow the instructions on the law that I  
22 give you even if you don't personally agree with them? Do you think you  
23 would have trouble following the instructions in the case?  
24 POTENTIAL JUROR NUMBER 4: The language.  
25 THE COURT: Okay. It seems like you're understanding me

1 pretty well. Do you feel like you're understanding me pretty well?

2 POTENTIAL JUROR NUMBER 4: So-so.

3 THE COURT: So -- okay. Is it easier for you to understand  
4 things that are written down? It's a little easier to follow?

5 POTENTIAL JUROR NUMBER 4: Yes.

6 THE COURT: So we will give you a written -- every juror will  
7 get a written copy of the instructions. Do you think that would help you?

8 POTENTIAL JUROR NUMBER 2: No.

9 THE COURT: No?

10 Can I see Counsel for a second?

11 [Bench conference begins at 11:15 a.m.]

12 THE COURT: I don't want to waste time if we're not going to  
13 keep up. Do you want me to keep him here if you need him?

14 MR. CLOWARD: I -- I think it's, yeah. He obviously doesn't  
15 want to be here. I think he's using the language card. But if he doesn't want  
16 to be here, and he's not -- I agree with you.

17 THE COURT: I think he's pretty good on a substance level.  
18 When I get to the complicated --

19 MR. CLOWARD: Yeah. I think --

20 THE COURT: -- terms he gets a little bit wiggly, so --

21 MR. CLOWARD: I have no objection to dismissing him.

22 THE COURT: Mr. Gardner?

23 MR. GARDNER: Yeah. We're probably not going to keep him  
24 so.

25 THE COURT: Okay. I'm just going to -- that's what -- thank

1 you.

2 [Bench conference ends at 11:13 a.m.]

3 THE COURT: All right. Sir, I'm going to ask you if you could go  
4 back to jury services for me. Thank you so much.

5 And I will call up a juror to take that seat.

6 THE CLERK: Juror Number 029, Amanda Johnson.

7 UNIDENTIFIED SPEAKER: She just stepped away.

8 THE COURT: Ma'am, come right up there and take a seat.

9 Well, actually, don't take a seat. If you could introduce yourself?

10 POTENTIAL JUROR NUMBER 029: Where would you like me  
11 to stand?

12 THE MARSHAL: Up top.

13 THE COURT: In that empty chair right there.

14 POTENTIAL JUROR NUMBER 029: Okay. Thank you.

15 THE MARSHAL: Come this way.

16 POTENTIAL JUROR NUMBER 029: The other -- sorry.

17 THE MARSHAL: That's all right.

18 THE COURT: All right. Ma'am, if you could just introduce  
19 yourself?

20 POTENTIAL JUROR NUMBER 029: Okay. I'm Amanda  
21 Johnson.

22 THE COURT: Just go through the questions that are on that  
23 card if you would.

24 POTENTIAL JUROR NUMBER 029: Okay. I lived in Clark  
25 County for about two-and-a-half years, and before that I lived in Overland



1 Park, Kansas. And then in school, I earned my doctorate. I went to Rutgers  
2 University and studied physical therapy, which is what got my degree in.

3 THE COURT: All right.

4 POTENTIAL JUROR NUMBER 029: I am currently employed.  
5 I practice as a physical therapist. I am single, and I do not have children.

6 THE COURT: All right. Have you ever served on a jury before?

7 POTENTIAL JUROR NUMBER 029: No.

8 THE COURT: Have you ever been a party to a lawsuit or a  
9 witness in a lawsuit before?

10 POTENTIAL JUROR NUMBER 029: I have never been a  
11 witness in a lawsuit before.

12 THE COURT: Have you been a party in a lawsuit?

13 POTENTIAL JUROR NUMBER 029: No. I just work with  
14 lawsuit-related cases.

15 THE COURT: Okay. So you have patients who are involved in  
16 lawsuits, but you've never had the opportunity to go to court and testify?

17 POTENTIAL JUROR NUMBER 029: Yes.

18 THE COURT: But you've never sued anybody or been sued?

19 POTENTIAL JUROR NUMBER 029: No.

20 THE COURT: Have you or anyone close to you worked in the  
21 legal field?

22 POTENTIAL JUROR NUMBER 029: No.

23 THE COURT: And you have medical training and work in the  
24 medical field. Anyone else that's close to you?

25 POTENTIAL JUROR NUMBER 029: Yeah. My boyfriend is a

1 trained pathologist assistant. He's currently practicing as an anatomy  
2 college teacher.

3 THE COURT: Anyone else?

4 POTENTIAL JUROR NUMBER 029: I have a lot of friends in  
5 the healthcare field: nurses, physical therapists.

6 THE COURT: Have you or anyone close to you suffered a  
7 serious injury?

8 POTENTIAL JUROR NUMBER 029: No.

9 THE COURT: Can you wait to form an opinion until you've  
10 heard all of the evidence?

11 POTENTIAL JUROR NUMBER 029: I'll try.

12 THE COURT: Can you follow the instructions on the law that I  
13 give you even if you don't personally agree with them?

14 POTENTIAL JUROR NUMBER 029: Yes.

15 THE COURT: Could you set aside any sympathy you may  
16 have for either side and base your verdict solely on the evidence and the  
17 instructions on the law presented during the trial?

18 POTENTIAL JUROR NUMBER 029: I will try.

19 THE COURT: Is there any reason you couldn't be completely  
20 fair and impartial if you were selected to serve as a juror in this case?

21 POTENTIAL JUROR NUMBER 029: I mean, my only concern  
22 is with it, you know, being a personal injury case. I do rehabilitate a lot of  
23 those clients. I have a lot [indiscernible] field.

24 THE COURT: All right. If you were party to this case would you  
25 be comfortable having someone like yourself as a juror?

1 POTENTIAL JUROR NUMBER 029: I don't know. I don't think  
2 it depends on me, the case itself.

3 THE COURT: Okay.

4 Mr. Cloward?

5 MR. CLOWARD: Thank you, Your Honor.

6 Good afternoon, Ms. Johnson.

7 POTENTIAL JUROR NUMBER 029: Good afternoon.

8 MR. CLOWARD: So let me ask just a few questions. I want to  
9 start off, I guess, with your experience as a physical therapist. I think you  
10 mentioned earlier that you've actually worked with Dr. Coppel and Dr. Muir.  
11 Is that fair?

12 POTENTIAL JUROR NUMBER 029: No, Dr. Andrew Cash.

13 MR. CLOWARD: Oh, Dr. Cash.

14 POTENTIAL JUROR NUMBER 029: And Dr. Muir.

15 MR. CLOWARD: Okay . Dr. Cash and Dr. Muir. And can you, I  
16 guess, give us an idea of how often you work with those two doctors?

17 POTENTIAL JUROR NUMBER 029: I mean, it varies. I know  
18 they refer clients out to my clinic, so I've seen some of their clients. We do  
19 get referrals from all over.

20 MR. CLOWARD: Okay. [Phone rings.] Just give me time for  
21 one second. This happens to everybody, so I've had this happen in open  
22 court before. It's no problem. Happens to everybody. Everybody's had that  
23 happen versus a movie theater.

24 But Ms. Johnson, is there anything, I guess, about your  
25 relationship with either Dr. Cash or Dr. Muir that is going to, I guess, cause

1 you to maybe believe them over, say, Dr. Sanders that would take the  
2 stand?

3 POTENTIAL JUROR NUMBER 029: Actually, I think I know  
4 Dr. Sanders as well.

5 MR. CLOWARD: Okay. Steve Sanders?

6 POTENTIAL JUROR NUMBER 029: I'm not 100% sure on that,  
7 but.

8 MR. CLOWARD: Okay. I guess what -- and let's say that he  
9 didn't refer to you -- Dr. Sanders, he didn't refer to you patients. Would you  
10 be, I guess, more inclined to be working with Dr. Cash or Dr. Muir to believe  
11 them or disbelieve them? Maybe, you know, maybe you don't like those  
12 guys -- those two.

13 POTENTIAL JUROR NUMBER 029: No. I mean I know the  
14 quality of their work.

15 MR. CLOWARD: And do you have any feelings bad or good  
16 about them?

17 POTENTIAL JUROR NUMBER 029: No. I mean, from  
18 everything I've seen, they're good.

19 MR. CLOWARD: Okay. Now, obviously, jurors are allowed to  
20 have -- use their common sense and every day experience. And I'm not  
21 going to suggest that somebody shouldn't sit based on their occupation. Is  
22 there anything about, I guess, the work that you do that you would be unable  
23 to evaluate the specific facts of this case based on your prior experience?

24 POTENTIAL JUROR NUMBER 029: No. I rehabilitate a lot of  
25 clients with personal injury cases, so there are definitely some things that I

1 would be looking at.

2 MR. CLOWARD: Okay. What are the things that you might  
3 look at?

4 POTENTIAL JUROR NUMBER 029: I would be looking at, like,  
5 objective data, so manual muscle testing, range of motion, post-op report,  
6 that sort of information there.

7 MR. CLOWARD: Okay. And I guess based on your  
8 experience, do folks always get better after a crash?

9 MR. GARDNER: Your Honor, I'm going to -- there's no  
10 foundation for that.

11 THE COURT: Sustained.

12 MR. GARDNER: Thank you.

13 MR. CLOWARD: Your Honor, can we approach --

14 THE COURT: Sure.

15 MR. CLOWARD: -- on that?

16 [Bench conference begins at 11:23 a.m.]

17 MR. CLOWARD: I think I would be entitled to voir dire her on  
18 her views and opinions to use my peremptory challenges to intelligently use  
19 them. I mean, if her experience is one thing, you know, I should be allowed  
20 to --

21 THE COURT: Here's my concern, Mr. Cloward, is that because  
22 she has a Ph.D. in physical therapy that she may be or a doctorate degree.  
23 I'm not sure it's a -- patient, a doctorate degree with some sort of -- in  
24 therapy. But essentially it's like an expert witness. So, you know, perhaps  
25 may be the best course of action would to ask her questions outside the

1 presence of the other jurors.

2 MR. CLOWARD: I mean, if that's the choice, yeah, I'd prefer to  
3 do that, but, you know, I don't see why asking her questions in the presence  
4 of the venire -- I'm not saying, hey, you know, tell me why Dr. Muir's a great  
5 doctor. Tell me why. I'm just trying to find out, I guess, some of her views.

6 THE DEFENDANT: No, you're asking her for a medical opinion  
7 with the particular question that you asked, I think.

8 MR. GARDNER: Especially couches in the word always.

9 MR. CLOWARD: I'm just trying to find out what her experience  
10 is in treating patients. You know, she could be a, you know, she could be --  
11 and there are different types of physical therapists. There are, you know,  
12 types that are long-term. There are types that are acute. There are types  
13 that, you know, I mean.

14 THE COURT: I think those are okay. I think it was just having  
15 worded that particular person which was, you know --

16 MR. GARDNER: It could always get better.

17 THE COURT: -- in your experience, you know, what happens  
18 in these cases, which I think is basically like asking sort of for an expert  
19 opinion. I mean, it's complicated because she's in a medical profession.

20 MR. CLOWARD: Well, I guess the question that I am trying to  
21 genuinely get to is if she does carry those opinions, that if she has a view  
22 that, you know what, if somebody's -- goes after or, you know, because my  
23 client still has pain; still has issues. He's still receiving treatment. If her view  
24 of the world is that, you know what? If you're not better after eight weeks,  
25 then you must be lying, I want to know that. And I think I'm entitled to know

1 that. And so, you know, I guess what -- that's what I'm trying to find out is  
2 her views on rehabilitation. You know, if you -- take for instance like a --

3 THE COURT: I'm not worried about your questions. I'm  
4 worried about the impact of her answer on the other jurors because of her  
5 medical training.

6 MR. CLOWARD: Okay. Okay.

7 THE COURT: Do you understand?

8 MR. CLOWARD: Yeah.

9 THE COURT: So if you want to ask her some questions about  
10 this, I'm happy to excuse the other jurors.

11 MR. CLOWARD: Yeah. That's --

12 THE COURT: You're entitled to ask those questions. I'm just  
13 concerned that -- you know, if she gives some answer, which, frankly, could  
14 be good or bad for either side, right? That the other jurors are going to take  
15 that as some sort of, you know, expert opinion given her official professional  
16 background.

17 MR. CLOWARD: Sure.

18 THE COURT: So I don't want to cause issues with the rest of  
19 the panel, because I don't know what her answer's going to be. Right?

20 MR. CLOWARD: Yeah. That's fine. I mean, I'd prefer to --

21 THE COURT: I mean, if she says, if everybody, you know,  
22 should be better in eight weeks, and then if he says he still hurts, he's  
23 making it up, that's not very good for you with the other jurors. If she says,  
24 you know, nobody ever gets better, then that's not very good for the  
25 Defense.

1 MR. CLOWARD: Sure.

2 THE COURT: But I don't know what she's going to say.

3 MR. CLOWARD: Sure. Well, I'd like to ask her the questions

4 because I need to find out.

5 THE COURT: Yeah.

6 MR. CLOWARD: So we can dismiss them or --

7 THE COURT: Yeah.

8 MR. CLOWARD: -- we can move on and bring her back later,

9 whatever the Court wants to do.

10 MR. GARDNER: We're losing some jurors to the bathroom.

11 Frankly, I could use a bathroom break, too.

12 THE COURT: All right. Well, let's just --

13 MR. CLOWARD: I think actually there's --well, if he needs a

14 bathroom break, I'm not going to stand in the --

15 THE COURT: Just go if you want to go.

16 MR. GARDNER: Okay. I'll go. That's all I'm saying.

17 MR. CLOWARD: Our venire -- our in the box everyone's there.

18 THE COURT: There's 1-A there? Yeah. So we'll -- I'll just give

19 the rest of the jurors a five-minute break or something and we'll just ask her

20 the questions, okay?

21 MR. CLOWARD: Okay. Fair. Great.

22 THE COURT: All right.

23 MR. CLOWARD: Thanks.

24 THE COURT: Well, actually -- you know what? We can just

25 bring her up here if you want.



1 MR. CLOWARD: Well, okay. Whatever.

2 THE COURT: All right.

3 Ma'am, could you come up here for a second?

4 Oh, no, Renee. Don't stop with that.

5 [Individual voir dire of Potential Juror Number 21 at sidebar]

6 THE CLERK: Okay.

7 THE COURT: Mr. Cloward, can you come over on this side and

8 have her in the middle?

9 MR. CLOWARD: Yeah. I'm just doing that for -- come over

10 then slide over.

11 THE COURT: All right.

12 POTENTIAL JUROR NUMBER 029: Hi.

13 THE COURT: Not to worry. I just want to ask you a couple

14 questions outside the presence of the other jurors.

15 POTENTIAL JUROR NUMBER 029: Oh, okay.

16 So, Mr. Cloward?

17 MR. CLOWARD: I guess my question is just, you know, what is

18 your experience in treating patients? Do you have occasion to treat them for

19 a long period of time sometimes and for a short period of time sometimes or

20 is it the exact same period every single time?

21 POTENTIAL JUROR NUMBER 029: No. I mean, sometimes it

22 can be as little as like four weeks. At other times it will be six months. I've

23 even had clients do rehab for up to a year. It completely depends --

24 MR. CLOWARD: And, I guess based on the length of time,

25 does that, in your mind, mean anything significant to you?

1 POTENTIAL JUROR NUMBER 029: I mean, I think that's a  
2 difficult question to answer. I'm not really quite sure what -- is there a way  
3 you could rephrase that?

4 MR. CLOWARD: Sure. Let me try it this way. You know,  
5 sometimes folks -- some doctors may say, well, you know what? If they  
6 didn't figure it out in two months then there's probably nothing really going  
7 on. Other folks may say, you know, sometimes because medicine is an art,  
8 it takes time to figure it out. And I guess I'm trying to figure out how you see  
9 things in the world of rehab.

10 POTENTIAL JUROR NUMBER 029: Yes. I mean, I don't  
11 necessarily know that you can go off of duration of rehab alone. Sometimes  
12 clients will do like six weeks. They won't get better. They'll go back to their  
13 surgeon. They'll do injections, duh, duh, duh, duh. You know, so it's not  
14 always this stint of rehab means X correlation.

15 MR. CLOWARD: X,Y, Z? Okay.

16 POTENTIAL JUROR NUMBER 029: Yeah. I mean, there's  
17 some interpretation of those facts.

18 MR. CLOWARD: How do you personally feel about that?

19 POTENTIAL JUROR NUMBER 029: Like how do I feel about  
20 my clients that require sustained rehabilitation?

21 MR. CLOWARD: Yeah.

22 POTENTIAL JUROR NUMBER 029: I mean, it can. It varies.  
23 As a practitioner, I always try to make sure that they're getting better with  
24 their rehab and that it's not just counter-productive, so --

25 MR. CLOWARD: Sure.

1 POTENTIAL JUROR NUMBER 029: -- I always try to  
2 document that there's objective improvement with my cases.

3 MR. CLOWARD: Do you believe that sometimes it can be  
4 difficult, especially with the spine, because the multiple different pain  
5 generators that you have potential for -- say, I had a potential disk, potential  
6 this level, potential that level? Sometimes it's -- takes some time to figure  
7 those things out or do you think that it's something that, you know what, you  
8 should be able to easily figure out every time?

9 POTENTIAL JUROR NUMBER 029: I think determining the  
10 pain generator is not always a black and white situation in medicine. That's  
11 what I think.

12 MR. CLOWARD: Okay. Fair enough. Thank you.

13 POTENTIAL JUROR NUMBER 029: Thank you.

14 MR. GARDNER: Hold on.

15 THE COURT: Questions on this point?

16 MR. GARDNER: Are you familiar with the phrase secondary  
17 gain? Secondary gain?

18 POTENTIAL JUROR NUMBER 029: No, sir.

19 MR. GARDNER: Okay. Can I define this for her to tell her what  
20 I'm asking?

21 THE COURT: No.

22 MR. GARDNER: Okay.

23 THE COURT: All right.

24 MR. CLOWARD: And, I guess, there's no evidence of that. But  
25 we can address that outside her presence.

1 THE COURT: Yeah. Yeah.

2 MR. CLOWARD: I'd like to address it.

3 THE COURT: Okay. Have a seat.

4 MR. CLOWARD: Thank you.

5 THE COURT: Thank you, ma'am.

6 POTENTIAL JUROR NUMBER 029: Thank you.

7 MR. CLOWARD: I don't think that Dr. Sanders is, I mean, if -- I

8 mean, look. This is voir dire and also, I'm not trying to prevent him from

9 asking the questions he wants to ask, but I just want to make sure that

10 there's not going to be a claim that this is a secondary gain issue, because I

11 don't think that Dr. Sanders is qualified to make those opinions. And I don't

12 think that that's necessarily in his report anyway. So maybe that's

13 something we can just address outside the presence.

14 THE COURT: Yeah. Let's just talk about that later.

15 MR. CLOWARD: Okay.

16 THE COURT: We don't need to get to that right this second.

17 MR. CLOWARD: Okay.

18 THE COURT: So I --

19 MR. GARDNER: I'll pass the witness.

20 THE COURT: -- generally, don't allow that unless there's a

21 mental health professional, who's -- I think it's a psychiatric --

22 MR. CLOWARD: It is. It's 100 %.

23 THE COURT: -- psychological diagnosis.

24 MR. CLOWARD: We have great case law on it, too. So he

25 says he passes, but I'm not done.

1 THE COURT: No, go. Finish your questions.  
2 MR. CLOWARD: Yeah.  
3 MR. GARDNER: Well, you can -- we'll pass for you, too, then.  
4 MR. CLOWARD: Okay.  
5 THE COURT: Finish your questions.  
6 MR. GARDNER: Just to kill two birds with --  
7 THE COURT: Mr. Cloward, just finish your questions. Go.  
8 MR. CLOWARD: Try to help out. I got you. I got you. Thanks.  
9 Appreciate it.  
10 [Bench conference ends at 11:32 a.m.]  
11 MR. CLOWARD: Thank you, Your Honor.  
12 You were really on the hot seat there.  
13 POTENTIAL JUROR NUMBER 029: Yeah.  
14 MR. CLOWARD: Okay. So we appreciate you doing that.  
15 That's, you know, thank you for answering those questions. So I guess the  
16 question that I have, I'm going to just -- like we've talked about, I have the  
17 same kind of questions that I'd like to talk to everybody about. And so, I'd  
18 like to start off with the money issue. That's a thing that folks have a hard  
19 time with and to be quite honest to be candid with you, brutally honest, that's  
20 why we're here, the money damages. And I'd like to know how you feel  
21 about that.  
22 POTENTIAL JUROR NUMBER 029: I mean that is a significant  
23 amount.  
24 MR. CLOWARD: Sure.  
25 POTENTIAL JUROR NUMBER 029: I wouldn't take that lightly.

1 MR. CLOWARD: It's a lot.

2 POTENTIAL JUROR NUMBER 029: Yeah.

3 MR. CLOWARD: I know that, and I'm not going to pretend like  
4 it's not, because it is. But I guess what I want to know is whether or not, if  
5 the evidence -- if I'm able to show why that amount is required or needed, do  
6 you have any problems listening to the evidence and rendering verdict, the  
7 verdict that matched the evidence? Some folks just say I don't care what  
8 the evidence is, never in a million years would I ever write that number on  
9 the verdict form because if I did that, you know, my dad would make fun of  
10 me, or, you know, my wife would give me a hard time. Or I just  
11 fundamentally don't believe that, or, you know, some folks have that -- have  
12 those concerns and they're valid concerns. So I'd like to know if you have  
13 any of those.

14 POTENTIAL JUROR NUMBER 029: I think that's a little bit  
15 difficult to explain concisely. I mean, with my cases, I tend to have an idea  
16 for how -- like what monetary amount. A lot of my cases settle for my  
17 clients. So I think that would be a bit and [indiscernible].

18 MR. CLOWARD: Okay. You would maybe have your personal  
19 experience as a, maybe a backdrop?

20 POTENTIAL JUROR NUMBER 029: Yeah. As like a  
21 framework.

22 MR. CLOWARD: Okay. Would that cause you to maybe  
23 disregard the evidence in this particular case?

24 POTENTIAL JUROR NUMBER 029: I don't think it would make  
25 me disregard it, but it would make me evaluate it maybe differently than

1 somebody who doesn't have that framework.

2 MR. CLOWARD: Sure. Maybe you'd be a little more conscious  
3 of that?

4 POTENTIAL JUROR NUMBER 029: Yeah.

5 MR. CLOWARD: Okay. And there's no problem with that. We  
6 actually would appreciate that. So thank you and thank you for sharing.  
7 How do you feel about money for pain and suffering? Obviously, you know,  
8 there's money for different areas of damage -- medical bills, future medical  
9 bills, past pain and suffering, future pain and suffering, things like that. How  
10 do you feel about the topic of pain and suffering?

11 POTENTIAL JUROR NUMBER 029: I mean, you're asking a  
12 physical therapist how she feels about pain and suffering? I'm just kidding.  
13 I mean, I definitely think it's an important area.

14 MR. CLOWARD: Okay.

15 POTENTIAL JUROR NUMBER 029: It is definitely an important  
16 area. I mean, that being said, there -- there would be like a line in the sand  
17 for how much it would correlate to, you know, X dollar amount in my head.

18 MR. CLOWARD: Okay. And when you say it -- is that just a  
19 preconceived idea of what you just -- doesn't matter what the evidence  
20 shows or when you say there's a line in the sand, I guess that's the -- I  
21 would like to know a little bit more about. Is there a line you've already  
22 drawn?

23 POTENTIAL JUROR NUMBER 029: I mean, I don't know  
24 necessarily that there's a line that I've already drawn in regards to that. I  
25 would just want, you know, there to be sufficient evidence for. Like you said,

1 for the dollar amount there --

2 MR. CLOWARD: Sure.

3 POTENTIAL JUROR NUMBER 029: -- regarding the injury and  
4 expected course of care and treatment.

5 MR. CLOWARD: Okay. Great. So you're willing more, I guess,  
6 to base it on the evidence and the facts than the preconceived ideas. Is that  
7 fair?

8 POTENTIAL JUROR NUMBER 029: Yeah.

9 MR. CLOWARD: Thank you.

10 POTENTIAL JUROR NUMBER 029: You're welcome.

11 MR. CLOWARD: Now the question about, I guess, the eggs  
12 and the bumper and we've talked about that. Do you believe that there  
13 needs to be some sort of a threshold of property damage for a specific  
14 injury? You have a biomechanical expertise that, you know, if there's, hey, if  
15 there's frame damage and automatically the person's hurt, or, you know, the  
16 bumper looks like this, the injuries are automatically X, Y, Z. Do you have  
17 any experience like that?

18 POTENTIAL JUROR NUMBER 029: I don't have that level of  
19 auto experience, no.

20 MR. CLOWARD: Okay. Do you know anyone that's been, say,  
21 that has walked away from like a roll-over crash that didn't have any injuries  
22 at all?

23 POTENTIAL JUROR NUMBER 029: I don't, because the only  
24 people that I see in those situations have had injuries.

25 MR. CLOWARD: Okay. What about folks that are injured in,



1 say, what on the outset maybe looks like a minor fender bender. Do you  
2 treat those folks?

3 POTENTIAL JUROR NUMBER 029: Yeah.

4 MR. CLOWARD: And do they get injured in those crashes?

5 POTENTIAL JUROR NUMBER 029: Yes.

6 MR. CLOWARD: Okay. Anything about that area that I guess  
7 you have expertise or that you might think, I guess, or have an opinion  
8 already formed?

9 POTENTIAL JUROR NUMBER 029: I don't know. Just like we  
10 discussed, that I definitely do have that experience and that framework in my  
11 mind. So that that is one thing that will be in the background for me.

12 MR. CLOWARD: Okay. Fair enough. Thank you very much.

13 POTENTIAL JUROR NUMBER 029: You're welcome.

14 MR. CLOWARD: And the three questions: public figure you  
15 admire and why, your favorite job, and then something you're passionate  
16 about.

17 POTENTIAL JUROR NUMBER 029: A public figure I admire.  
18 That's -- gosh, that's a difficult one. Abraham Lincoln.

19 MR. CLOWARD: Okay.

20 POTENTIAL JUROR NUMBER 029: Favorite job that I have  
21 would probably be this one that I have working as an outpatient PT and then  
22 what was the third question?

23 MR. CLOWARD: Something that you're passionate about, like  
24 a hobby or an interest. Something that you really enjoy to do.

25 POTENTIAL JUROR NUMBER 029: I love hiking with my dog.

1 MR. CLOWARD: Okay. Fair enough. What kind of dog do you  
2 got?

3 POTENTIAL JUROR NUMBER 029: She's a chow-chow lab-  
4 beagle mix.

5 MR. CLOWARD: Oh. Chow-chow, lab-beagle mix?

6 POTENTIAL JUROR NUMBER 029: Yeah.

7 MR. CLOWARD: I'd like to see what that dog looks like.

8 POTENTIAL JUROR NUMBER 029: She's kind of all dogs.

9 MR. CLOWARD: She's kind of what?

10 POTENTIAL JUROR NUMBER 029: She's all the dogs kind of.

11 MR. CLOWARD: Okay. Yeah. Well, thank you. Thank you.

12 Now one last question. You've had some experience with this area. Would  
13 you feel comfortable if every juror -- let's say that you were the Plaintiff.

14 And you were -- you had a case and every single juror thought exactly like  
15 you. Would you feel comfortable have that panel sit in judgment of your  
16 case?

17 POTENTIAL JUROR NUMBER 029: No.

18 MR. CLOWARD: How come?

19 POTENTIAL JUROR NUMBER 029: Because I think the whole  
20 purpose of the jury is to have diversity and variety.

21 MR. CLOWARD: Sure.

22 POTENTIAL JUROR NUMBER 029: So I would want people  
23 that think differently than me in my jury.

24 MR. CLOWARD: But I guess, would you be afraid that you,  
25 yourself, would not be fair to either -- and it could be actually be both ways.

1 You can be the -- if you were the Plaintiff or you were the Defendant and  
2 you knew that all of the folks on the panel had your same frame of mind,  
3 would you feel comfortable having those folks sit in judgment of your case?

4 POTENTIAL JUROR NUMBER 029: I don't know.

5 MR. CLOWARD: Would there be anything that would be  
6 concerning to you that, you know, you had maybe let the -- either side  
7 know?

8 POTENTIAL JUROR NUMBER 029: I mean, I just think that it's  
9 hard when you do have that, you know, like we discussed. When you have  
10 that experience and that framework in your mind.

11 MR. CLOWARD: Sure.

12 POTENTIAL JUROR NUMBER 029: that's not something that I  
13 can necessarily check at the door. It's going to be a part of my clinical  
14 decision-making and my decision-making here as well.

15 MR. CLOWARD: Yeah. Okay. Well, I appreciate it. Thank  
16 you.

17 POTENTIAL JUROR NUMBER 029: Thank you.

18 MR. CLOWARD: Your Honor, I have no further questions.

19 THE COURT: All right.

20 Mr. Gardner, anything else?

21 MR. GARDNER: No, Your Honor. I will pass, but I do have  
22 objection for cause.

23 THE COURT: Counsel, approach please.

24 [Bench conference begins at 11:42 a.m.]

25 THE COURT: Mr. Garner, you're not supposed to do that in

1 front of the jurors.

2 MR. GARDNER: Okay. I know. That's why I did  
3 [indiscernible]. But I think she said that she wouldn't be able to sit with  
4 objectivity and watch this case. I think she said it twice. And I think that she  
5 also indicated that she'd probably insert her own expertise in the case rather  
6 than listen to the doctors.

7 MR. CLOWARD: My recollection was actually the opposite,  
8 that she said that she would be more objective based on her experience.  
9 That she wouldn't be able, I guess, to -- and I could have, I could have  
10 misheard. You know, but I actually thought that she went out of her way to  
11 say that her experience would cause her to see things -- that she would use  
12 that as a framework to analyze everything. I don't think jurors are required  
13 to set aside their experience. They're required to set aside their views if  
14 their views are biased. But in her case, her views aren't biased. Her views  
15 are just, look, I've had experience based on my expertise and experience  
16 and I'm going to look at -- I'm going to look at the case through that lens  
17 work or that -- those lenses. That was my understanding.

18 THE COURT: Nothing else. The only reason I challenge, I  
19 think that, I agree with Mr. Cloward. She's really just gone way over and  
20 above to make sure that, you know, we know that she has medical  
21 professional training and that's not something, you know, she's going to be  
22 able to forget when she's sitting as a juror. But I don't think other than that  
23 she's said anything to indicate that she favors one side or the other. So I  
24 don't think it's an issue of fairness. I think it's just an issue of, you know, with  
25 her training do either of you want to keep her, which I don't think is a

1 challenge for cause, but maybe a challenge for a different strike, so.

2 MR. GARDNER: Okay. Thank you.

3 THE COURT: Thank you.

4 [Bench conference ends at 11:44 a.m.]

5 THE COURT: All right. Mr. Nelson, sir, if you would introduce  
6 yourself?

7 POTENTIAL JUROR NUMBER 5: Harry Nelson. And I have  
8 lived in Clark County about 13 years. 2004 is when I moved here. High  
9 school graduate. I'm a DJ. I'm married and we have a baby on the way.

10 THE COURT: Nice. What does your spouse do?

11 POTENTIAL JUROR NUMBER 5: She's a photographer.

12 THE COURT: Have you ever served as a juror before? Go  
13 ahead and sit, sir.

14 POTENTIAL JUROR NUMBER 5: Yes.

15 THE COURT: How many times?

16 POTENTIAL JUROR NUMBER 5: Once.

17 THE COURT: And was that here in Clark County?

18 POTENTIAL JUROR NUMBER 5: Yes.

19 THE COURT: And how long ago was that?

20 POTENTIAL JUROR NUMBER 5: It feels like it was less than a  
21 year.

22 THE COURT: Do you think?

23 POTENTIAL JUROR NUMBER 5: Well, I've been married for  
24 two years now, so about a year-and-a-half maybe.

25 THE COURT: Okay. Was it a civil case or criminal case?

1 POTENTIAL JUROR NUMBER 5: Civil.  
2 THE COURT: You were deciding about money, not guilty/not  
3 guilty?  
4 POTENTIAL JUROR NUMBER 5: Yeah.  
5 THE COURT: Okay.  
6 POTENTIAL JUROR NUMBER 5: I don't remember the  
7 particulars.  
8 THE COURT: All right. Without telling us what the verdict was,  
9 was the jury able to reach a verdict?  
10 POTENTIAL JUROR NUMBER 5: I believe so. I believe I was  
11 just actually for the -- for this first phase.  
12 THE COURT: Oh. So you didn't sit in here the whole case?  
13 POTENTIAL JUROR NUMBER 5: Exactly.  
14 THE COURT: Got it. Okay. Have you ever been a party to a  
15 lawsuit or a witness in a lawsuit before?  
16 POTENTIAL JUROR NUMBER 5: No.  
17 THE COURT: Have you or anyone close to you worked in the  
18 legal field?  
19 POTENTIAL JUROR NUMBER 5: No.  
20 THE COURT: Have you or anyone close to you have medical  
21 training or worked in the medical field?  
22 POTENTIAL JUROR NUMBER 5: No.  
23 THE COURT: Have you or anyone close to suffered a serious  
24 injury?  
25 POTENTIAL JUROR NUMBER 5: My mother was in a car

1 accident, but she's healed and back to normal. But she had [indiscernible].

2 THE COURT: How long ago was that?

3 POTENTIAL JUROR NUMBER 5: Probably a good five years  
4 ago.

5 THE COURT: Can you wait to form an opinion until you've  
6 heard all of the evidence?

7 POTENTIAL JUROR NUMBER 5: Yes.

8 THE COURT: Can you follow the instructions on the law that I  
9 give you even if you don't personally agree with them?

10 POTENTIAL JUROR NUMBER 5: Yes.

11 THE COURT: Can you set aside any sympathy you may have  
12 for either side and base your verdict solely on the evidence and the  
13 instructions on the law presented during the trial?

14 POTENTIAL JUROR NUMBER 5: Yes.

15 THE COURT: Is there any reason you couldn't be completely  
16 fair and impartial if you were selected to serve as a juror in this case?

17 POTENTIAL JUROR NUMBER 5: No.

18 THE COURT: And if you were party to this case, would you be  
19 comfortable having someone like yourself as a juror?

20 POTENTIAL JUROR NUMBER 5: Yes.

21 THE COURT: Okay.

22 Mr. Cloward?

23 MR. CLOWARD: Thank you, Your Honor.

24 Mr. Nelson, how are you today?

25 POTENTIAL JUROR NUMBER 5: Good.

1 MR. CLOWARD: Did I hear you say your first name was Eric?

2 POTENTIAL JUROR NUMBER 5: Harry.

3 MR. CLOWARD: Oh, Harry. That's what I had written down,  
4 but I heard Eric. I had it right. I had it right, okay. I just wanted to make  
5 sure that I got it right. So you're a DJ?

6 POTENTIAL JUROR NUMBER 5: Yes.

7 MR. CLOWARD: Do you know a Robert Seville?

8 POTENTIAL JUROR NUMBER 5: No. I -- does he do private  
9 events or?

10 MR. CLOWARD: Yeah.

11 POTENTIAL JUROR NUMBER 5: [Indiscernible]?

12 MR. CLOWARD: Kind of. He's a guy that -- I want to make  
13 sure you don't know him. He worked at our firm and he' -- has kind of a DJ  
14 business on the side. Okay. You've never heard of him?

15 POTENTIAL JUROR NUMBER 5: I know a DJ Rob, but he  
16 goes by DJ Rob, R-O-B.

17 [Counsel confer.]

18 MR. CLOWARD: That -- I mean that sounds kind of familiar.  
19 We'll find out.

20 Oops. Sorry.

21 Okay. So you've had an opportunity to sit here. Now you're the  
22 fourth person. Has there been anything that, I guess, has been discussed  
23 so far that you in your mind you were thinking, you know what, I've got some  
24 pretty strong feelings about that? I'd like to talk to the attorneys about that.

25 POTENTIAL JUROR NUMBER 5: No. Just, you know, taking



1 in all the evidence, come to a conclusion prematurely. Just wait for the end.

2 MR. CLOWARD: Okay. Tell me your views on, I guess, the --  
3 we talked about medical decision-making, and, you know, deciding  
4 somebody's potential future care into the future. How do you feel about  
5 that? Do you have any feelings one way or another about that?

6 POTENTIAL JUROR NUMBER 5: As far as the damage,  
7 whether psychological or physical, you mean? Like --

8 MR. CLOWARD: Well, say, for instance, if somebody needed  
9 to have treatment into the future, if you were asked to hear evidence about  
10 that and make a decision, and your decision determined whether that person  
11 got the treatment that they needed or not, how would -- I mean, that's a big  
12 responsibility. And some folks, you know, they don't -- maybe they wouldn't  
13 feel comfortable doing that.

14 POTENTIAL JUROR NUMBER 5: I feel if someone is suffering  
15 from like the -- it could show up later. You know, everyone is different.

16 MR. CLOWARD: Okay. How about the, I guess, the discussion  
17 about the money damages? How do you feel about that?

18 POTENTIAL JUROR NUMBER 5: Just put everything on a  
19 scale, you know, because it is a significant amount.

20 MR. CLOWARD: Sure. Is it something that you've got a feeling  
21 strongly one way or the other or is it something that you're willing to put the  
22 evidence on the scale and do the fair, right thing to both the Defendant and  
23 the Plaintiff?

24 POTENTIAL JUROR NUMBER 5: Absolutely.

25 MR. CLOWARD: Would you be -- would you be tempted to

1 allow sympathy for either the Defense or for the Plaintiff to make the  
2 decision or are you willing to just look, you know, black and white this is  
3 what it is, and I'm going to take the feel bad factor out of it?

4 POTENTIAL JUROR NUMBER 5: Yes.

5 MR. CLOWARD: You're willing to do that? Thank you. What  
6 are your thoughts about, I guess, frivolous lawsuits. Have you heard of --  
7 have you heard like the, say, for instance, the McDonald's case? What are  
8 your feelings on that? How do you feel about that?

9 POTENTIAL JUROR NUMBER 5: You could open up a can of  
10 worms, I guess, because I would imagine, like in the McDonald's case, I'm  
11 sure there's been tons of people that have spilled coffee on themselves.

12 MR. CLOWARD: Sure.

13 POTENTIAL JUROR NUMBER 5: You know, and I think it is --  
14 a lot of people are in the position to [indiscernible], so it could open up a kind  
15 of a take advantage --

16 MR. CLOWARD: Sure.

17 POTENTIAL JUROR NUMBER 5: -- scenario to the justice --  
18 justice system could be taken advantage --

19 MR. CLOWARD: Absolutely.

20 POTENTIAL JUROR NUMBER 5: -- once things like this are  
21 pushed through.

22 MR. CLOWARD: Absolutely. And there's no question that, you  
23 know, there's some cases that just on the face-value, you know, they don't  
24 do anybody any good. You know, they're not helpful for our community here  
25 in Las Vegas or anywhere. But I guess the question I have is do you believe

1 that all lawsuits are frivolous based on hearing about those things?

2 POTENTIAL JUROR NUMBER 5: No.

3 MR. CLOWARD: Do you believe that maybe because of the  
4 ability of a Plaintiff to file a lawsuit and try and obtain money damages that  
5 more lawsuits are frivolous than less frivolous?

6 POTENTIAL JUROR NUMBER 5: No. For basis, just have to  
7 separate every case.

8 MR. CLOWARD: Look at each one individually?

9 POTENTIAL JUROR NUMBER 5: Look at -- exactly.

10 MR. CLOWARD: and on the flip side, just because, you know,  
11 Plaintiffs are seeking money damages and Defendants are trying to, I guess,  
12 protect money damages, you don't think that all cases are -- have frivolous  
13 defenses one way or another?

14 POTENTIAL JUROR NUMBER 5: I'm sorry. Can you?

15 MR. CLOWARD: That was a terrible question. I'll admit it. It  
16 didn't make sense in my head as it was coming out. It was like, oh boy, this  
17 is -- it's getting late in the day. I need a sandwich or something. I guess, do  
18 you view things the same for Plaintiffs versus Defendants? Do you agree  
19 that, you know what, while there might be some frivolous cases on behalf of  
20 the Plaintiff, you know what, there might be some frivolous cases on behalf  
21 of the Defendant. But I --

22 POTENTIAL JUROR NUMBER 5: I'm willing to put them aside  
23 and come at them with a clean slate.

24 MR. CLOWARD: Perfect. Just look at the facts of this  
25 particular case?

1 POTENTIAL JUROR NUMBER 5: Yes.

2 MR. CLOWARD: Fair enough. Is -- has there been anything  
3 that's been discussed so far that you felt strongly about, that you had some  
4 emotion, you had some feelings about?

5 POTENTIAL JUROR NUMBER 5: Just the amount of money,  
6 you know, that -- I have to know the why to -- but that does stir up an  
7 emotion.

8 MR. CLOWARD: Sure.

9 POTENTIAL JUROR NUMBER 5: It's a significant amount.

10 MR. CLOWARD: Sure. Does it stir up an emotion that causes  
11 you to believe that this case is one thing versus another, or does it just stir  
12 up an emotion that, you know what, I'm probably going to pay a little closer  
13 attention?

14 POTENTIAL JUROR NUMBER 5: Pay more attention.

15 MR. CLOWARD: Okay. That's what we want. That's what we  
16 want. We just want to make sure that, you know, if you have a feeling that  
17 due to the amounts that we've discussed that no matter what the evidence  
18 shows, you would never do that or never enter that amount. And that's all  
19 that I can ask for on behalf of Mr. Morgan, is that I'll have an opportunity to  
20 present his case. And I want to make sure that the folks who listen haven't  
21 already made up their mind before we even get started. So thank you --

22 POTENTIAL JUROR NUMBER 5: Thank you.

23 MR. CLOWARD: -- for your time. The three questions: public  
24 figure you admire and why, your more most favorable -- favorite job?

25 POTENTIAL JUROR NUMBER 5: Well, the public figure is like

1 [indiscernible]. So I see all the founders and how they contribute to the arts  
2 and that really helped society.

3 MR. CLOWARD: Give back.

4 POTENTIAL JUROR NUMBER 5: My favorite job --

5 MR. CLOWARD: To give back.

6 POTENTIAL JUROR NUMBER 5: I'm sorry? To give back/

7 MR. CLOWARD: Yeah.

8 POTENTIAL JUROR NUMBER 5: Well, my previous job was a  
9 professional dancer and to travel to all the shows here in Vegas and Cirque  
10 de Soleil. Now I'm a DJ, so I kind of like them equally.

11 MR. CLOWARD: You kind of like what?

12 POTENTIAL JUROR NUMBER 5: I love them both, you know.  
13 The -- it was -- I enjoyed my occupation before because of the time and I'm  
14 enjoying my occupation now because of the time.

15 MR. CLOWARD: Great. Now I don't think I got to -- maybe I  
16 just missed it. You're a professional dancer or you were?

17 POTENTIAL JUROR NUMBER 5: I was.

18 MR. CLOWARD: Tell me about that.

19 POTENTIAL JUROR NUMBER 5: 15 years traveling and I  
20 would dance in shows in Vegas. Lots of people think I'm younger, but I'm  
21 going to be 43 this month.

22 MR. CLOWARD: Whoa.

23 POTENTIAL JUROR NUMBER 5: I was dancing in shows here  
24 before Cirque de Soleil, so --

25 MR. CLOWARD: I would have guessed 20s.

1 POTENTIAL JUROR NUMBER 5: And then they implode the  
2 casino and we'd because back to audition. But the other part of that is that  
3 when that shows over, this one's imploding. So you better go over here.

4 MR. CLOWARD: What shows did you primarily do?

5 POTENTIAL JUROR NUMBER 5: Country Tonight at the  
6 Aladdin, the old Aladdin, as far as Planet Hollywood. Employed in that one.  
7 Before that, MGM Grand Adventures theme park. That was my first job  
8 there when Vegas was trying to do the family thing. And then Spellbound  
9 and Harris.

10 MR. CLOWARD: So you did quite a few of them. Well, that's  
11 fantastic. And then, the Judge talked a little bit about it. The prior jury  
12 experience, that was just kind of this process?

13 POTENTIAL JUROR NUMBER 5: Yes.

14 MR. CLOWARD: You weren't actually selected and empaneled  
15 to hear the case? Is that fair?

16 POTENTIAL JUROR NUMBER 5: Yes.

17 MR. CLOWARD: Okay. Anything about the process that, I  
18 guess, you know, would cause you to feel one way or another?

19 POTENTIAL JUROR NUMBER 5: I just believe it is what it is.  
20 We have to get through.

21 MR. CLOWARD: Okay.

22 POTENTIAL JUROR NUMBER 5: I'm a wedding DJ, so pay  
23 attention to details.

24 MR. CLOWARD: And I always like to ask this question, and  
25 that's just simply, if you or either party, either the Plaintiff or the Defendant

1 and you knew that all of the folks on the panel had your same frame of mind,  
2 would you feel comfortable having those folks sit in judgment of your case?

3 POTENTIAL JUROR NUMBER 5: I believe diversity is the key.  
4 And so, no, I wouldn't feel comfortable. I'd feel -- but I guess with your  
5 viewpoints. Anything about your viewpoints or your experience that would ,  
6 you know, like for instance, if I ask my Aunt Nancy, I said, hey, Aunt Nancy,  
7 would you feel comfortable if you had a slip and fall and you had eight jurors  
8 that had your experience of getting sued, she'd probably say, well, no, I  
9 wouldn't feel comfortable because I don't like lawsuits. I don't -- especially  
10 don't like, you know, people that slip and fall, so I wouldn't be fair to them. Is  
11 there anything about your viewpoint that you think you could not be fair to  
12 either the Plaintiff, Mr. Morgan, or the Defendant, Mr. Lujan?

13 POTENTIAL JUROR NUMBER 5: No. I respect other people's  
14 viewpoints as well because they have different backgrounds and they can  
15 apply those backgrounds in making good decisions.

16 MR. CLOWARD: Okay. Okay. Well, Mr. Nelson, I appreciate  
17 your time. Thank you.

18 Your Honor, no further questions.

19 THE COURT: Okay.

20 MR. GARDNER: No questions, Your Honor. Pass for cause.

21 THE COURT: All right.

22 Folks, we're going to go ahead and break for lunch. During this  
23 break, you're admonished not to talk or converse among yourselves or with  
24 anyone else on any subject connected to this trial, or read, watch, or listen to  
25 any report of or commentary on the trial or any person connected with this

1 trial by any medium of information including with that limitation, newspapers,  
2 television, Internet, and radio, or form or express any opinion on any subject  
3 related to the trial until the case is finally submitted to you. I'm also going to  
4 ask that no one does any independent research about anything to do with  
5 this case during the break. We will see you back here at 1:00.

6 THE MARSHAL: Please rise for the jury.

7 [Jury out at 11:58 a.m.]

8 THE COURT: Mr. Cloward, you wanted to make a record on  
9 the issue regarding secondary gain.

10 MR. CLOWARD: Yeah. You know, during the, I guess, the  
11 sidebar, I believe it was Ms. Johnson was questioned outside the presence  
12 of the other venire members. And one of the questions that Mr. Gardner  
13 asked was whether she'd heard of the term "secondary gain." My  
14 understanding is, is that there's no claim of secondary gain. There's no  
15 psychiatrist or psychologist or medical -- mental health professional to give  
16 an opinion as to secondary gain, that Dr. Sanders doesn't have any  
17 experience with discussing secondary gain. And so, I just wanted to, out of  
18 the abundance of caution, make sure that that wasn't something that was  
19 somehow going to be presented in this case because it's not something, I  
20 think, that anybody's qualified to give an opinion as to secondary gain in this  
21 particular case.,

22 MR. GARDNER: No objection, Your Honor. I think that Dr.  
23 Sanders is capable of discussing secondary gain. I think he did some of it in  
24 his report. You know, I'll check that though that secondary gain is part of  
25 every trial, it seems like to me.



1 THE COURT: So, Mr. -- I think we just have to be really careful  
2 about the use of that particular term, because it is a -- I think it has a  
3 specific meaning in psychology or psychiatry. And I also think it's a bit of  
4 speculation. So I think it is fine for a doctor, medical doctor, just who is not a  
5 psychiatrist to come in and say, you know, the symptoms are inconsistent  
6 with every other person I've treated with this condition or something to that  
7 effect.

8 But when you -- a physician uses the term secondary gain  
9 they're attributing some motive to that that I think is speculative. I also think,  
10 you know, it's a psychological term for somebody who is basically  
11 magnifying or faking their symptoms in order to get attention, money,  
12 whatever, some benefit.

13 And so, while I generally dislike precluding people from using  
14 particular words, I really don't allow discussion of either malingering or  
15 secondary gain unless there's some actual expert testimony from a  
16 psychologist or a psychiatrist who has the necessary training to make that  
17 sort of a diagnosis. That does not in any way preclude your expert from  
18 saying this isn't consistent with the medical evidence or this is not a normal  
19 course. You know, this didn't take the normal course of treatment or that  
20 sort of thing. Or, you know, inconsistencies that they see in the medical  
21 documentation. It doesn't preclude you. I just think that those two particular  
22 terms have a very specific meaning. And so, I -- unless you have an expert  
23 to support that then I would prefer that you not use them.

24 MR. CLOWARD: Thank you, Your Honor.

25 MR. GARDNER: Thank you.

1 THE COURT: All right. And we'll see -- anything else?  
2 MR. CLOWARD: Not from us.  
3 THE COURT: See you all back at one.  
4 MR. CLOWARD: What time? 1:00?  
5 THE COURT: 1:00.  
6 MR. CLOWARD: Okay.  
7 [Lunch recess taken at 12:03 p.m.]  
8 [Proceeding resumed at 1:08 p.m.]  
9 THE MARSHAL: Please be seated.  
10 THE COURT: We're back on the record in Case Number  
11 A-718679, Morgan versus Lujan. Let the record reflect the presence of the  
12 parties with counsel and all of our prospective jurors.  
13 And we were on Mr. Bass. Sir, if you would, introduce yourself.  
14 PROSPECTIVE JUROR 6: I'm Kameron Bass. I have lived in  
15 Clark County for about 22 years, and I'm -- I am currently a sophomore in  
16 the [indiscernible] program at UNLV, and I graduated from CSN with a  
17 criminal justice degree. I am employed with the City of North Las Vegas as  
18 a program supervisor, and I supervise an afterschool program, and I'm also  
19 an Uber driver, and I may be working at the UNLV's preschool soon. I'm not  
20 married and I have no kids.  
21 THE COURT: All right. Sir, go ahead and have a seat.  
22 Have you ever served as a juror before?  
23 PROSPECTIVE JUROR 6: Nope.  
24 THE COURT: Have you ever been a party to a lawsuit or a  
25 witness in a lawsuit before?

1 PROSPECTIVE JUROR 6: Nope.

2 THE COURT: Have you or anyone close to you worked in the

3 legal field?

4 PROSPECTIVE JUROR 6: I've met many cops through the

5 City of North Las Vegas and my Jiu Jitsu --

6 THE COURT: Right.

7 PROSPECTIVE JUROR 6: -- training center.

8 THE COURT: Okay. Anyone else?

9 PROSPECTIVE JUROR 6: No.

10 THE COURT: Have you or anyone close to you had medical

11 training or worked in the medical field?

12 PROSPECTIVE JUROR 6: My mother is a doctor and I grew

13 up around a lot of doctors.

14 THE COURT: All right. What kind of doctor is she?

15 PROSPECTIVE JUROR 6: An internalist.

16 THE COURT: Okay. And she works here in Clark County?

17 PROSPECTIVE JUROR 6: Yes.

18 THE COURT: Does she work in her own practice or is she in a

19 hospital?

20 PROSPECTIVE JUROR 6: I just forgot the name of her

21 practice. It's somewhere around Centennial Hills. She also goes to the

22 prison and checks on patient [indiscernible] --

23 THE COURT: Does she --

24 PROSPECTIVE JUROR 6: -- sometimes.

25 THE COURT: Does she work at Centennial Hills Hospital or

1 does she work in an office with other doctors?

2 PROSPECTIVE JUROR 6: An office with other doctors.

3 THE COURT: Okay. Have you or anyone close to you had a

4 serious injury?

5 PROSPECTIVE JUROR 6: Not that I recall.

6 THE COURT: Can you wait to form an opinion until you've

7 heard all of the evidence?

8 PROSPECTIVE JUROR 6: Yes.

9 THE COURT: Can you follow the instructions on the law that I

10 give you, even if you don't personally agree with them?

11 PROSPECTIVE JUROR 6: Yes.

12 THE COURT: Can you set aside any sympathy you may have

13 for either side and base your verdict solely on the evidence and the

14 instructions on the law presented during the trial?

15 PROSPECTIVE JUROR 6: Yes.

16 THE COURT: Is there any reason you couldn't be completely

17 fair and impartial if you were selected to serve as a juror?

18 PROSPECTIVE JUROR 6: No.

19 THE COURT: And if you were a party to this case, would you

20 be comfortable having someone like yourself as a juror?

21 PROSPECTIVE JUROR 6: Yeah.

22 THE COURT: Okay.

23 Mr. Cloward.

24 MR. CLOWARD: Thank you, Judge.

25 Mr. Bass, how are you doing?

1 PROSPECTIVE JUROR 6: [Indiscernible].

2 MR. CLOWARD: So I hear -- I heard Jiu Jitsu? You're not

3 going to put me in like a chokehold if you don't like my questions, will you?

4 PROSPECTIVE JUROR 6: No, sir. [Indiscernible].

5 MR. CLOWARD: [Indiscernible]?

6 PROSPECTIVE JUROR 6: [Indiscernible].

7 MR. CLOWARD: The count? So can you tell me, it sounds like

8 you do -- you do quite a bit of volunteer work. You do some afterschool --

9 afterschool volunteer work?

10 PROSPECTIVE JUROR 6: Well, it's not volunteering. I get

11 paid for it, but I dabble in [indiscernible] and children [indiscernible].

12 MR. CLOWARD: Tell me what the -- I guess, the afterschool --

13 I wrote down afterschool program. What is it that you do in particular?

14 PROSPECTIVE JUROR 6: It's -- I haven't been there in a

15 couple of months because I'm in a show right now, but, basically, it's an

16 afterschool program for Cheyenne High School, Fairland Elementary School

17 and Swainston Middle School, and a few other kids that come in after school

18 to have a safe space for four or five hours --

19 MR. CLOWARD: Gotcha.

20 PROSPECTIVE JUROR 6: -- and then they go back home.

21 MR. CLOWARD: Gotcha. How long have you been doing that?

22 PROSPECTIVE JUROR 6: Almost three years.

23 MR. CLOWARD: Okay. And you're in the Screen Actors?

24 PROSPECTIVE JUROR 6: I -- it's a -- I'm basically a theater

25 student at UNLV, but I'm in a special program of the theater department --

1 MR. CLOWARD: Gotcha.

2 PROSPECTIVE JUROR 6: -- that does both theater and song.

3 MR. CLOWARD: Okay. And how much longer do you got in  
4 that program?

5 PROSPECTIVE JUROR 6: Because of my associate's, I could  
6 be out in a year and a half, but, ultimately, I have to be there for three more  
7 years.

8 MR. CLOWARD: Gotcha. And then, it sounded like, also, one  
9 of the other jobs you had was a route driver; did I hear that right?

10 PROSPECTIVE JUROR 6: Uber. Uber.

11 MR. CLOWARD: Oh. Oh, an Uber driver. Okay. Gotcha. I  
12 have somewhat of a little bit hard of hearing, so I appreciate the --

13 PROSPECTIVE JUROR 6: Sorry.

14 MR. CLOWARD: No. I said -- I just -- I thought you said route  
15 driver. And tell me about your mom. She's an internist?

16 PROSPECTIVE JUROR 6: Yeah.

17 MR. CLOWARD: Internal medicine? If you weren't able to ask  
18 her any questions during the pendency of this case, let's say you were  
19 chosen as -- as a juror and you were -- you know, the rules prevented you  
20 from talking to her about the case, would this -- would that be a problem?

21 PROSPECTIVE JUROR 6: No.

22 MR. CLOWARD: Okay. So let me talk to you about my outline,  
23 some of the questions that I have. We've kind of gone down the list. Was  
24 there anything that jumped out in the discussions with either myself or  
25 Mr. Gardner that, you know, you thought you know what, I actually have

1 some strong feelings about that?

2 PROSPECTIVE JUROR 6: Just the same as almost everyone  
3 [indiscernible] a million dollars. That's just a big number.

4 MR. CLOWARD: Can -- and --

5 PROSPECTIVE JUROR 6: [Indiscernible].

6 MR. CLOWARD: -- tell me how you felt. When you first heard  
7 that, tell me what the feeling -- some of the feelings that you had when you  
8 first heard those words.

9 PROSPECTIVE JUROR 6: That something must have gone  
10 horribly wrong to need or want a million dollars.

11 MR. CLOWARD: Okay. Did you have any, I guess,  
12 preconceived ideas about the type of case, or the type of person Mr. Morgan  
13 is or that I am, or Mr. Boyack, for coming to court and asking for that?

14 PROSPECTIVE JUROR 6: Not particularly, because growing  
15 up as a doctor's child, I know that I can't see everything that's going on. So I  
16 got to wait to find out more information.

17 MR. CLOWARD: Gotcha. Have you had any experience with,  
18 you know, injuries, accidents? Have you ever been sued or had to sue  
19 anybody, anything along those lines?

20 PROSPECTIVE JUROR 6: Nope.

21 MR. CLOWARD: What about your -- your mom in -- in the  
22 healthcare, has she ever had a suit brought against her?

23 PROSPECTIVE JUROR 6: I don't know about a suit brought  
24 against her, but I'm sure she's been to court for some of these things before.

25 MR. CLOWARD: Does she treat folks that are injured?

1 PROSPECTIVE JUROR 6: I don't know. As far as I know, no.  
2 Just check -- checkups and --

3 MR. CLOWARD: Gotcha.

4 PROSPECTIVE JUROR 6: -- prescriptions. She worked at  
5 hospices for many years, so --

6 MR. CLOWARD: Okay.

7 PROSPECTIVE JUROR 6: -- just like the -- just the insides.

8 MR. CLOWARD: Gotcha. Okay. Fair enough. Is there  
9 anything about lawsuits that you feel is unfair for one side or the other?

10 PROSPECTIVE JUROR 6: I mean, just the pure access to  
11 resources, but other than that, it is what it is.

12 MR. CLOWARD: When you say access to resources, can you  
13 help me understand a little more of what you mean there?

14 PROSPECTIVE JUROR 6: Like due to the people's financial  
15 situations, they can't always get the best lawyer and they have to have a  
16 public defendant or what have you --

17 MR. CLOWARD: Sure.

18 PROSPECTIVE JUROR 6: -- and that stuff.

19 MR. CLOWARD: Okay. How do you feel about that? How  
20 does that make you feel? Does it feel a little bit unfair?

21 PROSPECTIVE JUROR 6: It is unfair to a degree, but the --  
22 you're even given that opportunity to have somebody present still gives you  
23 a slight more edge than you had before.

24 MR. CLOWARD: Gotcha. How do you feel about the jury  
25 system? Do you think that the jury system kind of equalizes, hopefully, that -



1 - that inequity?

2 PROSPECTIVE JUROR 6: It does help. Instead of just two  
3 lawyers battling it out, and whichever one seems to present a bigger case,  
4 you at least have 12 more sets of ears --

5 MR. CLOWARD: Sure.

6 PROSPECTIVE JUROR 6: -- to figure it out.

7 MR. CLOWARD: Definitely. Let me think. I had a question and  
8 it slipped my mind. [Indiscernible 1:16:31p] courtroom. Oh, I was going to  
9 ask you about future care. How do you feel about sitting in judgment and  
10 determining whether or not somebody has the -- the needs for -- to obtain  
11 future care down the road, 5, 10, 15 years, maybe, down the road?

12 PROSPECTIVE JUROR 6: Being that I'm not a medical or a  
13 legal professional, to some degree, that makes me feel some type of way as  
14 I'm sure a lot of people here do, because these are -- these are people's  
15 lives, and I don't know either one of the gentlemen, but --

16 MR. CLOWARD: Sure.

17 PROSPECTIVE JUROR 6: -- if it affects everything for the next  
18 20 years for them, just --

19 MR. CLOWARD: How does -- it's a big responsibility, I'll be  
20 honest candidly. How does it make you feel?

21 PROSPECTIVE JUROR 6: That I need to make sure I fully  
22 understand the case being made on each side in order for me to make a  
23 decision.

24 MR. CLOWARD: Okay. Do you have any problems with -- with  
25 sitting on a case like this?

1 PROSPECTIVE JUROR 6: No.

2 MR. CLOWARD: Are you willing to -- to listen carefully to the  
3 evidence and deliberate with other members of our community to come to a  
4 reasonable decision?

5 PROSPECTIVE JUROR 6: Yes.

6 MR. CLOWARD: Are you willing to make sure that that's based  
7 on the evidence and not on passion and sympathy?

8 PROSPECTIVE JUROR 6: Yeah.

9 MR. CLOWARD: Okay. Sir, is there anything that -- that I have  
10 said or Mr. Gardner has said that, I guess, brought out some emotion or  
11 some feeling that you -- you felt like, you know, you wanted to let me know?

12 PROSPECTIVE JUROR 6: Not as of right now.

13 MR. CLOWARD: Okay. And, obviously, with the -- with the --  
14 I've talked about the money damages. I told you I would be brutally honest  
15 about that. That's something that you, I guess, are willing to listen to the  
16 evidence. Do you have any issues with that? Are you willing to allow me to  
17 at least present the case before you make a decision?

18 PROSPECTIVE JUROR 6: Yeah.

19 MR. CLOWARD: Okay. And can you tell me, I guess, if you  
20 have a perception; you know, some folks believe that, you know what, most  
21 lawsuits are frivolous; other folks believe that they're not. Do you have a  
22 perception or a leaning one way or another?

23 PROSPECTIVE JUROR 6: Some people are out there to do  
24 [indiscernible] to make money wherever they can, and some people  
25 [indiscernible]. So it's just a matter of trying to weed out what is --

1 MR. CLOWARD: Which one.

2 PROSPECTIVE JUROR 6: -- frivolous and what is truthful and  
3 honest.

4 MR. CLOWARD: Okay. Do you -- do you also believe the  
5 other side of the coin is true, that sometimes there are defenses that -- that  
6 aren't necessarily appropriate?

7 PROSPECTIVE JUROR 6: [Indiscernible] some people are just  
8 trying to save a buck.

9 MR. CLOWARD: Okay. Can you concede at least that it's a  
10 two-way street?

11 PROSPECTIVE JUROR 6: Yeah.

12 MR. CLOWARD: Do you have any beliefs or views about the  
13 litigants in this case just simply based on what we've discussed this  
14 morning?

15 PROSPECTIVE JUROR 6: I don't have enough to do that.

16 MR. CLOWARD: Fair enough. All right. And then the final  
17 three, I guess, would be a public figure that you admire, and why? And  
18 then, your favorite job you've ever had, and then something that you're  
19 passionate about.

20 PROSPECTIVE JUROR 6: The singer, songwriter Neo from  
21 Las Vegas, because he -- I like how he does his art, and I hope to do work  
22 like that in my life. I guess working at the rec center where I get to be with  
23 other children; black children, brown children, whatever --

24 MR. CLOWARD: Sure.

25 PROSPECTIVE JUROR 6: -- and give them a positive role

1 model to the best of my ability, and --

2 MR. CLOWARD: Make a difference in their life? Trying to help

3 them out?

4 PROSPECTIVE JUROR 6: [Indiscernible] what was the last

5 one you --

6 MR. CLOWARD: I guess, something that you're passionate

7 about.

8 PROSPECTIVE JUROR 6: Oh, passionate.

9 MR. CLOWARD: Passion, hobbies.

10 PROSPECTIVE JUROR 6: Self-defense.

11 MR. CLOWARD: Jiu Jitsu?

12 PROSPECTIVE JUROR 6: Yeah.

13 MR. CLOWARD: Are you a -- now, Jiu Jitsu, I used to do

14 Kenpo. Is Jiu Jitsu, do they do the -- the belt -- the belt system?

15 PROSPECTIVE JUROR 6: Yes.

16 MR. CLOWARD: Is -- does it end with black or purple?

17 PROSPECTIVE JUROR 6: It ends with black, yes.

18 MR. CLOWARD: Okay. So you have -- are you currently -- are

19 you a black belt in the Jiu Jitsu, or do you have a belt?

20 PROSPECTIVE JUROR 6: I'm a third-degree black belt.

21 MR. CLOWARD: What's that?

22 PROSPECTIVE JUROR 6: I'm a third-degree black belt.

23 MR. CLOWARD: Don't mess with that dude. All right. That's

24 good to know. I will make sure that I don't ask you any uncomfortable

25 questions [indiscernible] --

1 PROSPECTIVE JUROR 6: You're fine.

2 MR. CLOWARD: -- put in a headlock or something. Sir, I

3 appreciate your time. Thank you very much.

4 PROSPECTIVE JUROR 6: All right.

5 MR. CLOWARD: Thank you.

6 Judge, no further questions.

7 THE COURT: Thank you.

8 Mr. Gardner?

9 MR. GARDNER: All right. Just briefly.

10 I didn't -- I didn't hear an answer to your -- to your last

11 questions. Who did you say that you hold out as an idol?

12 PROSPECTIVE JUROR 6: Neo. He's a singer-songwriter. He

13 grew up here in Vegas.

14 MR. GARDNER: Okay.

15 PROSPECTIVE JUROR 6: As to what he does.

16 MR. GARDNER: But why -- why is he one of your heroes?

17 PROSPECTIVE JUROR 6: He is an R&B singer that doesn't

18 always stay in one part of the R&B. Like the over sexual parts, which is

19 funny, all the -- you got to -- you got to branch out. You got to -- you've got

20 to tell me how you're feeling sometimes to let me know how I'm feeling,

21 because sometimes the music speaks to you.

22 MR. GARDNER: Okay. Now, does he -- is he a singer, or does

23 he play the saxophone?

24 PROSPECTIVE JUROR 6: He's a -- he's a singer and a

25 songwriter.

1 MR. GARDNER: Okay. Now, do you know anyone, either in  
2 your family or friends or anyone that's been in an automobile accident, and  
3 again, if I'm asking the question over again, I wasn't of the best hearing  
4 during your first talks with counsel.

5 PROSPECTIVE JUROR 6: [Indiscernible].

6 MR. GARDNER: But have you had a friend or a family member  
7 ever hurt in a -- in an automobile accident?

8 PROSPECTIVE JUROR 6: As far as I know, no one has been  
9 seriously injured.

10 MR. GARDNER: Okay. And so, would you know if they would  
11 have sued or gone to court or anything like that?

12 PROSPECTIVE JUROR 6: I would have heard about  
13 something.

14 MR. GARDNER: They did go, some of them?

15 PROSPECTIVE JUROR 6: No. I said I would have heard  
16 about something, but I never did.

17 MR. GARDNER: Okay.

18 PROSPECTIVE JUROR 6: [Indiscernible].

19 MR. GARDNER: Okay. So there was no further litigation or  
20 anything over those. Now, you would be -- how do I phrase this? Well, I  
21 think that's it. Thank you.

22 THE COURT: All right.

23 Ms. Meegan, ma'am.

24 PROSPECTIVE JUROR 9: Hi. I'm Jennifer Meegan. I've lived  
25 in Clark County 20 years. I'm a high school graduate. I'm an escrow officer

1 with Chicago Title. My husband is retired. We have two children, an 18-  
2 year-old girl and a 20-year-old boy -- a 21-year-old boy.

3 THE COURT: All right. And so, what do your -- what do your  
4 children do?

5 PROSPECTIVE JUROR 9: They're both in college.

6 THE COURT: What are they studying?

7 PROSPECTIVE JUROR 9: One wants to be a nurse. May I sit  
8 down?

9 THE COURT: Yep, go ahead.

10 PROSPECTIVE JUROR 9: One wants to be a nurse, and my  
11 daughter is in international relations.

12 THE COURT: Have you ever served as a juror before?

13 PROSPECTIVE JUROR 9: No.

14 THE COURT: Have you ever been a party to a lawsuit or a  
15 witness in a lawsuit before?

16 PROSPECTIVE JUROR 9: No.

17 THE COURT: Have you or anyone close to you worked in the  
18 legal field?

19 PROSPECTIVE JUROR 9: My husband is a retired detective.

20 THE COURT: Okay. What -- was he assigned to a particular  
21 area when he was a detective?

22 PROSPECTIVE JUROR 9: Narcotics.

23 THE COURT: And other than your daughter, who you already  
24 mentioned, who is studying nursing, have you or anyone close to you had  
25 medical training or worked in the medical field?

1 PROSPECTIVE JUROR 9: My son is studying nursing, but, no.

2 THE COURT: Oh, I'm sorry.

3 PROSPECTIVE JUROR 9: No, that's okay. That's okay. No.

4 THE COURT: Okay. Have you or anyone close to you suffered  
5 a serious injury?

6 PROSPECTIVE JUROR 9: A good friend of mine was in an  
7 accident, and he's paralyzed from the waist down.

8 THE COURT: When did that happen? I'm sorry to hear that.

9 PROSPECTIVE JUROR 9: Fourteen years ago.

10 THE COURT: And what kind of accident was it?

11 PROSPECTIVE JUROR 9: He was on his motor, and he was  
12 working for Metro as well. He was on his motor and someone pulled out in  
13 front of him, and he made [indiscernible].

14 THE COURT: Okay. Can you wait to form an opinion until  
15 you've heard all of the evidence?

16 PROSPECTIVE JUROR 9: Yes.

17 THE COURT: Can you follow the instructions on the law that I  
18 give you, even if you don't personally agree with them?

19 PROSPECTIVE JUROR 9: Yes.

20 THE COURT: Can you set aside any sympathy you may have  
21 for either side and base your verdict solely on the evidence and the  
22 instructions on the law presented during the trial?

23 PROSPECTIVE JUROR 9: Yes.

24 THE COURT: Is there any reason why you couldn't be  
25 completely fair and impartial if you were selected to serve as a juror in this



1 case?

2 PROSPECTIVE JUROR 9: No.

3 THE COURT: And if you were a party to this case, would you  
4 be comfortable having someone like yourself as a juror?

5 PROSPECTIVE JUROR 9: Yes.

6 THE COURT: Okay.

7 Mr. Cloward?

8 MR. CLOWARD: Thank you, Your Honor.

9 Ms. Meegan, how are you today?

10 PROSPECTIVE JUROR 9: Fine, thanks.

11 MR. CLOWARD: May I ask you a question?

12 PROSPECTIVE JUROR 9: Yes.

13 MR. CLOWARD: Is your -- is your friend Jeff Roach?

14 PROSPECTIVE JUROR 9: Yes.

15 MR. CLOWARD: Okay. I know Jeff.

16 PROSPECTIVE JUROR 9: Oh, okay. Okay.

17 MR. CLOWARD: A great guy.

18 PROSPECTIVE JUROR 9: A very great guy.

19 MR. CLOWARD: I represent a lot of the moto motor guys.

20 PROSPECTIVE JUROR 9: Oh, okay. Okay.

21 MR. CLOWARD: So he's a great guy, though. He's --

22 PROSPECTIVE JUROR 9: He's a great guy.

23 MR. CLOWARD: He's -- now he's working doing the --

24 PROSPECTIVE JUROR 9: Yes.

25 MR. CLOWARD: -- kind of the work comp stuff.

1 PROSPECTIVE JUROR 9: Risk management.  
2 MR. CLOWARD: Yeah. For the Metro, for the motor guys.  
3 PROSPECTIVE JUROR 9: Uh-huh.  
4 MR. CLOWARD: So tell me about your husband. Was he a  
5 deep, undercover kind of a guy with the beard and the --  
6 PROSPECTIVE JUROR 9: Yeah.  
7 MR. CLOWARD: -- [indiscernible]?  
8 PROSPECTIVE JUROR 9: Well, they all have goatees, but,  
9 yeah, he was deep undercover for a while, and then, you know, he wasn't as  
10 deep as he got older. So, yeah.  
11 MR. CLOWARD: So he kind of got out of --  
12 PROSPECTIVE JUROR 9: Yeah.  
13 MR. CLOWARD: -- undercover and --  
14 PROSPECTIVE JUROR 9: Yeah. He wasn't doing a lot of  
15 buys at the end, no. No.  
16 MR. CLOWARD: Gotcha.  
17 PROSPECTIVE JUROR 9: No.  
18 MR. CLOWARD: What was the -- just curious, what -- what  
19 was it like those years when he was deep undercover?  
20 PROSPECTIVE JUROR 9: I didn't want to know when he was  
21 going to be undercover.  
22 MR. CLOWARD: Right.  
23 PROSPECTIVE JUROR 9: You know, I just wanted to know  
24 when he was done.  
25 MR. CLOWARD: Yeah.

1 PROSPECTIVE JUROR 9: But, you know, it's a little scary, but  
2 it's pretty calculated. You know, they're watching each other. I would rather  
3 have him do that than roll around in a black and white any day.

4 MR. CLOWARD: Yeah.

5 PROSPECTIVE JUROR 9: Yeah.

6 MR. CLOWARD: Yeah. Sometimes, yeah.

7 PROSPECTIVE JUROR 9: Uh-huh.

8 MR. CLOWARD: Okay. Is there anything about, I guess, your  
9 friendship with Jeff that -- or your experience with your husband, that would  
10 -- I guess, you would have an -- an idea or a preconceived idea about a  
11 personal injury case?

12 PROSPECTIVE JUROR 9: No. No.

13 MR. CLOWARD: Okay. Obviously, Jeff's injuries were -- were  
14 quite severe. He's --

15 PROSPECTIVE JUROR 9: Yes.

16 MR. CLOWARD: And anything about that experience that  
17 might, I guess, color your view about the case?

18 PROSPECTIVE JUROR 9: Not at all.

19 MR. CLOWARD: Okay. Do you happen to know Jerry Privel  
20 [phonetic]?

21 PROSPECTIVE JUROR 9: I've heard the name.

22 MR. CLOWARD: Okay. Just curious. So let me ask you some  
23 other questions. Your husband is retired, retired Metro. You're still working.  
24 You're at Chicago Title in escrow.

25 PROSPECTIVE JUROR 9: Yes.

1 MR. CLOWARD: I've always wondered, what exactly -- what  
2 does an escrow officer do?

3 PROSPECTIVE JUROR 9: We're a neutral third party in a real  
4 estate transaction.

5 MR. CLOWARD: Okay.

6 PROSPECTIVE JUROR 9: So we represent all parties;  
7 realtors, buyers, lenders, all of them.

8 MR. CLOWARD: Do you enjoy that?

9 PROSPECTIVE JUROR 9: I love it. I love it.

10 MR. CLOWARD: Good. How long have you been doing that?

11 PROSPECTIVE JUROR 9: I've been with Chicago Title for 20  
12 years.

13 MR. CLOWARD: Wow.

14 PROSPECTIVE JUROR 9: Yes.

15 MR. CLOWARD: That's fantastic.

16 PROSPECTIVE JUROR 9: Uh-huh.

17 MR. CLOWARD: And all here in Las Vegas?

18 PROSPECTIVE JUROR 9: Yes.

19 MR. CLOWARD: I'm assuming if it's named Chicago Title,  
20 maybe they do business there too?

21 PROSPECTIVE JUROR 9: Yeah. They do. They're  
22 nationwide.

23 MR. CLOWARD: Okay.

24 PROSPECTIVE JUROR 9: Yes.

25 MR. CLOWARD: And you enjoy that?

1 PROSPECTIVE JUROR 9: Love it.

2 MR. CLOWARD: And then, what about your -- your children;  
3 your 19-year-old -- or 18-year-old; he's studying to become a nurse, and  
4 your 20 --

5 PROSPECTIVE JUROR 9: He's -- he's 21, and he's studying to  
6 become a nurse, and the 19-year-old daughter is international relations.

7 MR. CLOWARD: Okay. And the judge may have asked this, I  
8 don't know if I -- obviously, I don't remember. So if she did, I apologize for  
9 asking again, but are they here in town?

10 PROSPECTIVE JUROR 9: No. One is -- the son -- my son is  
11 in Reno, my daughter is at the University of Arkansas.

12 MR. CLOWARD: Wow. Arkansas?

13 PROSPECTIVE JUROR 9: Yes.

14 MR. CLOWARD: Why -- because that just seems like --

15 PROSPECTIVE JUROR 9: Well, my nephew is attending law  
16 school there, so she applied there, and she loves it. She loves it there, so --  
17 she applied to ten schools, so we chose that one.

18 MR. CLOWARD: Do they get to hang out a little bit?

19 PROSPECTIVE JUROR 9: They do, but not as much now that  
20 he's in law school, but, yes.

21 MR. CLOWARD: Cool. Is he in his first year?

22 PROSPECTIVE JUROR 9: First year.

23 MR. CLOWARD: Okay. Awesome. Now, you would -- you  
24 wouldn't be calling him up asking him --

25 PROSPECTIVE JUROR 9: No.

1 MR. CLOWARD: -- you know, legal issues or anything like  
2 that?

3 PROSPECTIVE JUROR 9: No. He would like me to, I'm sure,  
4 but, no, I won't.

5 MR. CLOWARD: Okay. Was -- was year one towards the  
6 professor [indiscernible]?

7 PROSPECTIVE JUROR 9: Exactly.

8 MR. CLOWARD: Okay.

9 PROSPECTIVE JUROR 9: Exactly.

10 MR. CLOWARD: All right. Now, some of the other questions  
11 that were asked as we've kind of gone down -- gone down the list. Is there  
12 anything that stood out to you that you thought, you know what, I probably  
13 need to tell the -- the attorneys about that, because I feel strongly about  
14 that?

15 PROSPECTIVE JUROR 9: No.

16 MR. CLOWARD: Nothing at all?

17 PROSPECTIVE JUROR 9: Nothing.

18 MR. CLOWARD: Has there been anything that's said, either by  
19 myself or Mr. Gardner, that causes you to think or have views about my  
20 client or -- or the defendant?

21 PROSPECTIVE JUROR 9: No.

22 MR. CLOWARD: Okay. What about frivolous lawsuits? We've  
23 had a lot of discussion. Have you heard about, like, the McDonald's case?

24 PROSPECTIVE JUROR 9: I have.

25 MR. CLOWARD: How do you feel about that?

1 PROSPECTIVE JUROR 9: I mean, I don't have an opinion  
2 either way. I mean, it is what it is.

3 MR. CLOWARD: What is your understanding of that case?

4 PROSPECTIVE JUROR 9: Just what everyone else has  
5 spoken about it, that someone spilled coffee and sued McDonald's and then  
6 got paid for it. I don't --

7 MR. CLOWARD: Okay. Do you think that -- that a majority of  
8 cases are frivolous, or a majority of cases have frivolous defenses, or --

9 PROSPECTIVE JUROR 9: No. I don't think so.

10 MR. CLOWARD: Are you willing to listen to the facts and make  
11 your decision based only on the facts and evidence in the case?

12 PROSPECTIVE JUROR 9: Yes.

13 MR. CLOWARD: Now, how do you feel about the idea, the  
14 concept of pain and suffering damages?

15 PROSPECTIVE JUROR 9: I don't know enough about it at this  
16 point to make a decision on it.

17 MR. CLOWARD: Do you -- have you heard of that concept  
18 generally?

19 PROSPECTIVE JUROR 9: Yes.

20 MR. CLOWARD: What are your -- I guess, if you were having  
21 coffee with a friend and they said, you know what, I was reading the paper  
22 and the jury awarded, you know, a plaintiff yesterday, you know, \$1 million  
23 just for pain and suffering. What -- what kind of a discussion would you  
24 have with your friend about that?

25 PROSPECTIVE JUROR 9: Well, I would probably need to

1 know more about the case. I don't -- again, I don't have an opinion either  
2 way because I've never had to deal with it --

3 MR. CLOWARD: Sure.

4 PROSPECTIVE JUROR 9: -- personally -- personally.

5 MR. CLOWARD: Would you -- would you, I guess, wonder  
6 what happened in the case and what the facts were, or would you --

7 PROSPECTIVE JUROR 9: Absolutely.

8 MR. CLOWARD: Okay. So your first curiosity would be what --  
9 what -- I guess, what facts there were that supported that type of a result?

10 PROSPECTIVE JUROR 9: Yes.

11 MR. CLOWARD: Is that fair?

12 PROSPECTIVE JUROR 9: Yes.

13 MR. CLOWARD: Okay. Well, thank you for sharing, and I  
14 appreciate your views.

15 PROSPECTIVE JUROR 9: Thank you.

16 MR. CLOWARD: Is there anything that you feel like would be  
17 important for either of us to know, either of the parties to know, about you  
18 and your -- your life experiences?

19 PROSPECTIVE JUROR 9: No.

20 MR. CLOWARD: Have you ever had a friend say, for instance,  
21 that -- you know, that sometimes I will talk to jurors and they will say, you  
22 know what, my -- my friend was sued, and I just didn't like what happened in  
23 that -- in the case. What the lawyers did to him, I just didn't think it was right,  
24 or -- I mean, have you had any experiences other than, obviously, Jeff?

25 PROSPECTIVE JUROR 9: Right. No, I haven't.



1 MR. CLOWARD: Okay. Ever know anyone else, other than  
2 Jeff, that was injured in an accident?

3 PROSPECTIVE JUROR 9: No.

4 MR. CLOWARD: Okay. Can you tell me the three questions, a  
5 public figure you admire, your favorite job, and then something you're  
6 passionate about?

7 PROSPECTIVE JUROR 9: My public figure might be Steve  
8 Sisolak, just because he's in the news and everything; he's been known in  
9 our community.

10 MR. CLOWARD: Yeah.

11 PROSPECTIVE JUROR 9: So I admire that. He stepped up  
12 right away.

13 MR. CLOWARD: Yeah, he has.

14 PROSPECTIVE JUROR 9: I love my current job, escrow  
15 officer. So, I mean, I'm -- I'm passionate about traveling with family, friends.

16 MR. CLOWARD: Any -- do you have any hobbies?

17 PROSPECTIVE JUROR 9: No. I work all the time. So when  
18 I'm not working, I travel.

19 MR. CLOWARD: Okay. Where's -- where's the favorite place  
20 you've traveled?

21 PROSPECTIVE JUROR 9: Well, let me think for -- I love Maui.  
22 I love Chicago, so -- I love cities. I love big cities. I love Chicago. I love  
23 New York.

24 MR. CLOWARD: Gotcha. Okay. Let me just check my little  
25 outline here.

1 Ms. Meegan, thank you.

2 PROSPECTIVE JUROR 9: You're welcome.

3 THE COURT: Counsel, approach for a second.

4 [Bench conference ends at 1:33 p.m.]

5 THE COURT: Mr. Cloward.

6 MR. CLOWARD: Yeah.

7 THE COURT: I'm a little frustrated.

8 MR. CLOWARD: How come?

9 THE COURT: Because I think it is very inappropriate for you to

10 have any discussion with a juror about people you have represented, about

11 how you know somebody that they know. I have asked you already a

12 couple times, please do not --

13 MR. CLOWARD: Well --

14 THE COURT: -- even if --

15 MR. CLOWARD: There's a -- there's a specific reason why I

16 did that. I have personally lectured the Metro officers on UAM coverage. I

17 have personally -- and so if they know me, if they know Jerry Privel, Jerry

18 Privel worked at our -- his wife worked at our office. We have set up

19 insurance lectures for the Metropolitan --

20 THE COURT: Okay.

21 MR. CLOWARD: -- Moto officers.

22 THE COURT: But saying you know the guy. You represent a

23 lot of Metro officers, that you think he's a great guy. Like, that's -- it's not

24 appropriate. It's just not appropriate.

25 MR. CLOWARD: Okay. I mean, I didn't think I was -- just I

1 know -- I know the guy, and I go lecture Metropolitan officers.

2 THE COURT: I understand, Mr. Cloward, but your job here is to  
3 ask jurors questions to see if they can be fair, not becoming their best friend.  
4 I understand. But you need to ask them questions, not to have a  
5 conversation with them about what's going on in your life.

6 MR. CLOWARD: Okay.

7 THE COURT: All right. Thank you. You can go.

8 MR. GARDNER: I would -- I would have done something, but  
9 he told me to [indiscernible].

10 THE COURT: Well, I didn't want to interrupt, but I just -- let's  
11 just ask the jurors questions, please.

12 [Bench conference ends at 1:35 p.m.]

13 THE COURT: All right. Mr. Gardner, whenever you're ready.

14 MR. GARDNER: Well, let's see. We've got someone who likes  
15 going to Hawaii, and don't we have a --

16 PROSPECTIVE JUROR 9: Yeah, I know.

17 MR. GARDNER: Yeah. So the two of you might --

18 PROSPECTIVE JUROR 9: [Indiscernible] talk to her  
19 [indiscernible].

20 MR. GARDNER: -- need to get together. Yeah. No kidding.

21 Now, your husband was an under -- a narcotics undercover  
22 cop; is that right?

23 PROSPECTIVE JUROR 9: Yes. Yes.

24 MR. GARDNER: Okay. You probably said this, and if you did, I  
25 apologize. How -- how long did he do that?

1 PROSPECTIVE JUROR 9: He was in narcotics 20 years. He  
2 was on the department 26.

3 MR. GARDNER: Okay. Was that something that he aspired to  
4 do when he was growing up, or what -- what got him interested in that line of  
5 work?

6 PROSPECTIVE JUROR 9: I can't -- honestly, he got out of the  
7 army and he didn't know what he was going to do, so he tested for the  
8 department. That's it. He had an uncle that lived here, I believe.

9 MR. GARDNER: Okay. So he's got that army background.  
10 Which -- how long was he in the army?

11 PROSPECTIVE JUROR 9: Four years.

12 MR. GARDNER: Four years?

13 PROSPECTIVE JUROR 9: Uh-huh.

14 MR. GARDNER: Okay. Excellent.

15 That's all, Your Honor. Thank you.

16 Pass for cause.

17 THE COURT: Mr. Balva, sir, if you could, introduce yourself.

18 PROSPECTIVE JUROR 11: Hi, I'm Dean Balva. I've lived in  
19 Clark County for about 15 years. I went to West Tech, and I'm currently  
20 attending CSN as a freshman. I work at Caesars Palace for my stepbrother  
21 doing sports memorabilia, and I'm not married and I don't have kids.

22 THE COURT: Great. Sir, go ahead and have a seat.

23 Have you ever served as a juror before?

24 PROSPECTIVE JUROR 11: No.

25 THE COURT: Have you ever been a party to a lawsuit or a

1 witness in a lawsuit before?

2 PROSPECTIVE JUROR 11: No.

3 THE COURT: Have you or anyone close to you worked in the  
4 legal field?

5 PROSPECTIVE JUROR 11: No.

6 THE COURT: Have you or anyone close to you had medial  
7 training or worked in the medical field?

8 PROSPECTIVE JUROR 11: My grandmother was a  
9 psychiatrist.

10 THE COURT: Okay. And did she work here in Clark County?

11 PROSPECTIVE JUROR 11: No.

12 THE COURT: Have you or anyone close to you suffered a  
13 serious injury?

14 PROSPECTIVE JUROR 11: I tore my ACL playing football in  
15 high school, but besides that, no.

16 THE COURT: All right. Can you wait to form an opinion until  
17 you've heard all of the evidence?

18 PROSPECTIVE JUROR 11: Yes.

19 THE COURT: Can you follow the instructions on the law that I  
20 give you, even if you don't personally agree with them?

21 PROSPECTIVE JUROR 11: Yes.

22 THE COURT: Can you set aside any sympathy you may have  
23 for either side and base your verdict solely on the evidence and the  
24 instructions on the law presented during the trial?

25 PROSPECTIVE JUROR 11: Yes.

1 THE COURT: Is there any reason why you couldn't be  
2 completely fair and impartial if you were selected to serve as a juror in this  
3 case?

4 PROSPECTIVE JUROR 11: No.

5 THE COURT: And if you were a party to this case, would you  
6 be comfortable having someone like yourself as a juror?

7 PROSPECTIVE JUROR 11: I don't know if I'd want to have a  
8 kid. I'm a young kid, but [indiscernible].

9 THE COURT: All right.

10 PROSPECTIVE JUROR 11: I don't know, because I'm  
11 still -- I'm still developing, so...

12 THE COURT: I think it's good for us to have a mix of all sorts of  
13 people. We have people your age serve on the grand jury here, so I  
14 wouldn't count yourself out just for that.

15 All right. Mr. Cloward?

16 MR. CLOWARD: Thank you.

17 Mr. Balva, how old are you?

18 PROSPECTIVE JUROR 11: I'm 19.

19 MR. CLOWARD: You're -- you know, you're -- you're right  
20 there -- right there with -- that's great. So you moved here 15 years ago.  
21 Where did you move from?

22 PROSPECTIVE JUROR 11: So my mom moved here from  
23 Jersey --

24 MR. CLOWARD: Okay.

25 PROSPECTIVE JUROR 11: -- when I was three, or three or

1 four. So -- I don't know. So I've basically been here my whole life, so --

2 MR. CLOWARD: Gotcha. Do you like it here?

3 PROSPECTIVE JUROR 11: Yeah, I love it here. The weather  
4 is great, and --

5 MR. CLOWARD: Do you still have family back in Jersey?

6 PROSPECTIVE JUROR 11: No. Actually, I have family in  
7 Florida, but everyone else lives out here.

8 MR. CLOWARD: Okay. And West Tech, is that one of the high  
9 schools here? I'm not familiar with that one.

10 PROSPECTIVE JUROR 11: So, yeah. It's -- it's up by  
11 Charleston, and it's been a year. So it's like up by Charleston.

12 THE COURT: It's by Red Rock.

13 PROSPECTIVE JUROR 11: It's kind of -- it's a tech school,  
14 so --

15 MR. CLOWARD: Okay. The one that had been --

16 PROSPECTIVE JUROR 11: -- it's not -- it's not like a  
17 [indiscernible] for you.

18 MR. CLOWARD: You have to test into it kind of deal?

19 PROSPECTIVE JUROR 11: Yeah.

20 MR. CLOWARD: Gotcha. What -- do you have -- was there an  
21 emphasis that you studied while you were there?

22 PROSPECTIVE JUROR 11: IT.

23 MR. CLOWARD: Oh, okay.

24 PROSPECTIVE JUROR 11: Yeah.

25 MR. CLOWARD: Great. And is that what you're studying now

1 at CSN?

2 PROSPECTIVE JUROR 11: No. I'm doing business --  
3 business marketing.

4 MR. CLOWARD: Okay. You got burnt out on the IT?

5 PROSPECTIVE JUROR 11: Well, I felt like I didn't really learn  
6 anything in high school, because, like, my teacher was kind of, like, I don't  
7 know, he didn't really care that much, so [indiscernible]. I mean, we just kind  
8 of screwed around, so --

9 MR. CLOWARD: Okay. Fair enough. Fair enough.  
10 You're -- you're choosing the path that you're, I guess, happy with now  
11 though?

12 PROSPECTIVE JUROR 11: Yeah. Because I want to like own  
13 my own business. Like, I don't like really working for other people. That's  
14 kind of actually one of the questions.

15 MR. CLOWARD: Sure.

16 PROSPECTIVE JUROR 11: [Indiscernible]. I don't think I will  
17 ever have like, a favorite job, you know, because I don't like working under  
18 people or answering to people, so --

19 MR. CLOWARD: Fair enough. Okay. While we're there --

20 PROSPECTIVE JUROR 11: Yeah.

21 MR. CLOWARD: -- we'll just knock those out of the way. Who  
22 is somebody that you're -- a public figure?

23 PROSPECTIVE JUROR 11: So this is going to be kind of like  
24 different, but George Carlin. He was kind of before my time, but he's -- I feel  
25 like he's a genius. So, like -- like, I don't really like being involved with stuff.



1 I like watching things from the outside.

2 MR. CLOWARD: Gotcha.

3 PROSPECTIVE JUROR 11: You know [indiscernible], so --

4 MR. CLOWARD: Okay. And what about something that you're  
5 passionate about?

6 PROSPECTIVE JUROR 11: I love my dog, my friends, working  
7 out, so --

8 MR. CLOWARD: What kind of a dog do you got?

9 PROSPECTIVE JUROR 11: He's a Shih Tzu and a Poodle, so  
10 he's cute.

11 MR. CLOWARD: Gotcha. And how long have you had the  
12 dog?

13 PROSPECTIVE JUROR 11: He's two years old.

14 MR. CLOWARD: Two years old. Okay. So we've had -- we've  
15 had some discussion, obviously, you know, and the more we get into this,  
16 the easier it kind of becomes. We don't have to cover all the -- all of the  
17 ground --

18 PROSPECTIVE JUROR 11: Yeah.

19 MR. CLOWARD: -- that we covered with some of the folks that  
20 we started with. But, I guess, the question that I have is: Was there  
21 anything that was discussed prior to right now that, you know, you were  
22 thinking in your mind, you know what, I -- I have some pretty strong feelings  
23 about that they ought to know?

24 PROSPECTIVE JUROR 11: So I know you're thinking about  
25 the money issue. Personally, it doesn't -- like, the money doesn't matter at

1 all. You know what I'm saying? Does that say anything?

2 MR. CLOWARD: Okay.

3 PROSPECTIVE JUROR 11: Like it's a case-to-case situation,  
4 you know, whatever he went through, you know? So that's how I feel about  
5 that. It's always case to case, really. It's just depends on what happened.  
6 So I don't really have anything specifically that I'm like -- that's on my mind.

7 MR. CLOWARD: Okay. What about lawsuits in general?  
8 Sometimes folks have -- have feelings one way or another about lawsuits,  
9 maybe their brother was sued or an aunt or an uncle or a friend, a family  
10 member, or, you know, those family members, friends, aunts, uncles had to  
11 bring a lawsuit. Do you have any feelings about lawsuits in general or  
12 lawyers?

13 PROSPECTIVE JUROR 11: So my grandma had an injury, I  
14 think, about 20 years ago.

15 MR. CLOWARD: Now, is this the same grandma that was the  
16 psychiatrist?

17 PROSPECTIVE JUROR 11: Yes.

18 MR. CLOWARD: Okay.

19 PROSPECTIVE JUROR 11: She got injured about 20 years  
20 ago where she -- she had knee problems, but it wasn't bad. She could still  
21 walk and play tennis, and the surgeon messed her knee up, like, on the  
22 table. So she has problems walking still. It's just tough for her, but, like,  
23 that's just about it. I mean, I don't really -- I'm not, like, going to be like -- like  
24 I said, it's case to case. I'm not -- it doesn't really matter to me.

25 MR. CLOWARD: Okay. So I guess, fair to say that that

1 experience that happened to your grandmother is not going to influence your  
2 decision in this matter?

3 PROSPECTIVE JUROR 11: Of course not.

4 MR. CLOWARD: Okay. If she was a psychiatrist, she was  
5 probably a medical doctor. Would you have any issues with not contacting  
6 her during the pendency of this if you were allowed to -- I guess, chosen to  
7 be on this jury?

8 PROSPECTIVE JUROR 11: Yeah. No, I wouldn't discuss it  
9 with her.

10 MR. CLOWARD: Okay. And you wouldn't have any problems  
11 with that?

12 PROSPECTIVE JUROR 11: [No audible response].

13 MR. CLOWARD: Okay. Now, you know, you mentioned -- you  
14 mentioned, and I'm going to use your words, and, please, if I -- if I don't say  
15 this exactly how you meant it, I'm asking for your forgiveness before I even  
16 say this, because there's always a danger in restating something that  
17 somebody said. I don't want to misstate what you said --

18 PROSPECTIVE JUROR 11: Yeah.

19 MR. CLOWARD: -- but it was something along the lines of, you  
20 know, I'm -- I'm a kid. Why would you want me on the jury, and --

21 PROSPECTIVE JUROR 11: Well, what I'm thinking is, like,  
22 from a lawyer's point of view. Like, I'm -- like, I'm young. So if you want  
23 someone who is like -- not like -- I don't have, like, all my ideas developed  
24 yet; you know what I'm saying? So it's just like, I don't have --  
25 [indiscernible], I guess, yet. So I don't have like a platform to base stuff off

1 as compared to most people.

2 MR. CLOWARD: Okay. Are you able to be fair?

3 PROSPECTIVE JUROR 11: Yes.

4 MR. CLOWARD: Are you able to be impartial?

5 PROSPECTIVE JUROR 11: Yes.

6 MR. CLOWARD: Are you able to listen to other members of  
7 this community and discuss issues that come up?

8 PROSPECTIVE JUROR 11: Yes.

9 MR. CLOWARD: Okay. That's all that I think the parties can  
10 ask for.

11 PROSPECTIVE JUROR 11: Okay.

12 MR. CLOWARD: So thank you for answering my questions,  
13 and I appreciate it. Thank you.

14 PROSPECTIVE JUROR 11: You're welcome.

15 MR. CLOWARD: No further questions.

16 THE COURT: Thank you.

17 Mr. Gardner?

18 MR. GARDNER: Now, did I hear you right that you wanted to  
19 own your own business someday?

20 PROSPECTIVE JUROR 11: Yes.

21 MR. GARDNER: Okay. Did you say what kind of business it  
22 was?

23 PROSPECTIVE JUROR 11: I don't have anything specific in  
24 mind, but honestly, just whatever I can do, because personnel -- like a -- like  
25 a job is fun, you know? At the end of the day, you're really just doing it for

1 money, so --

2 MR. GARDNER: Okay. Okay. Well, the money to -- to be able  
3 to take care of your needs and housing and things like that. I understand  
4 that.

5 PROSPECTIVE JUROR 11: Yeah. [Indiscernible].

6 MR. GARDNER: Have you -- have you spoken with anyone  
7 about what it takes to own your own business? What -- what do you need to  
8 have to start it?

9 PROSPECTIVE JUROR 11: So, you know, my -- my uncle and  
10 a couple of people I work out with own businesses. My uncle owns a  
11 window-tinting company, and he just sold it last year, I think. He was  
12 running it for about 25 years. So I know, like, business fundamentals, but  
13 that's obviously why I'm in college, so --

14 MR. GARDNER: Okay.

15 PROSPECTIVE JUROR 11: -- to learn that.

16 MR. GARDNER: It's kind of funny. We had the Hawaii  
17 connection. Also, didn't we have a marketing person on the jury also?  
18 Yeah, that's right. So we've got two marketers; two Hawaii people. Maybe  
19 you ought to get to know each other? You know, you never know. Okay.

20 We've heard -- we've heard a lot about the potential of this  
21 young man asking for a \$1 million award if necessary.

22 PROSPECTIVE JUROR 11: Yeah.

23 MR. GARDNER: What if you were convinced that his case  
24 wasn't legitimate or wasn't the way they claim it was, would you have any  
25 trouble checking the box saying that the defendant wins this case?

1 PROSPECTIVE JUROR 11: I'm -- I'm a little confused on what  
2 you're asking me. Like, are you -- because, like if -- if he wasn't  
3 [indiscernible 1:46:48p], then I wouldn't be, like, saying that he deserves the  
4 money. I'm a little confused on what you're asking.

5 MR. GARDNER: Okay. Fair enough. Well, what I'm asking is,  
6 throughout the course of our voir dire here --

7 PROSPECTIVE JUROR 11: Yeah.

8 MR. GARDNER: -- or our questioning, we've heard the plaintiff  
9 talk about this verdict that they're going to ask for, \$1 million or more --

10 PROSPECTIVE JUROR 11: Yeah.

11 MR. GARDNER: -- but what if the defendant convinces you  
12 that the case isn't worth \$1 million, and, in fact, isn't worth anything? Would  
13 you have a difficult time giving a person that's sitting here zero?

14 PROSPECTIVE JUROR 11: Like I told him, it's a case-to-case  
15 situation. If once all of the facts are presented and the whole situation is  
16 done and over with, then I could come to a decision. And if -- let's just say  
17 he does deserve a million, then I have no problem with that.

18 MR. GARDNER: Okay. Because, again, that's what we're  
19 going to be doing.

20 PROSPECTIVE JUROR 11: Okay.

21 MR. GARDNER: So don't be shocked by that. We're going to  
22 ask for that, but the other thing is, we're -- we're not supposed to use  
23 sympathy when coming up with an award. Well, if I were to ask you what  
24 sympathy means, what would -- what would you say about that? What --  
25 what do you think sympathy is?

1 PROSPECTIVE JUROR 11: Like, feel -- feel what someone  
2 else is feeling. You know, it's like feel toward them.

3 MR. GARDNER: Okay. And you think that if you were to go  
4 back into the jury box and deliberate and feel like this was you, then that  
5 would be sympathy? Would -- would that have an effect on how you  
6 determine the case outcome?

7 PROSPECTIVE JUROR 11: Well, I feel like you can't bring  
8 sympathy into a case. You can't put yourself in that situation, because, I  
9 mean, it's not objective.

10 MR. GARDNER: Okay. That's probably better than I could  
11 have done. Thank you. I can quote you on that near the end of this, okay?  
12 Let me just look at my notes here.

13 I'll pass the witness for cause, Your Honor.

14 THE COURT: All right.

15 Another juror. Mr. McManus, sir, will you introduce yourself?

16 PROSPECTIVE JUROR 12: Yes. Good afternoon all.

17 My name is Pat McManus. I've lived in Clark County for  
18 approximately 20 years. As far as school goes, I received my GED many  
19 years ago, but since then, I've been in two branches of the military services.  
20 I went through many a school there, and with my present position and job,  
21 I'm continually going through more, I guess you could say, technical training.

22 THE COURT: What sort of training have you had, sir, if you can  
23 tell us?

24 PROSPECTIVE JUROR 12: All kinds of aviation training,  
25 aircraft-type training, NDT training; quality -- because I am a quality

1 assurance rep, I've had quality assurance training; root-cause analysis, risk  
2 management, the list goes on.

3 THE COURT: All right.

4 PROSPECTIVE JUROR 12: So that kind of brings us down to  
5 employed. Yes, I am. I'm presently with Virgin America as a quality  
6 assurance tech ops, and probably many people aren't aware, Alaska has  
7 just bought Virgin, and so, this week, I'm finding out if I have a job still. So  
8 today, Judge, I am employed. Friday, I may be unemployed. I've been with  
9 my girlfriend now 20 years. We have no children together. She has three  
10 children from a previous marriage, and from that offspring, there is three  
11 grandchildren.

12 THE COURT: What does your girlfriend do for a living?

13 PROSPECTIVE JUROR 12: Right now, nothing. But, no, she  
14 used to be a casino dealer.

15 THE COURT: Okay. Sir, go ahead and have a seat. Have you  
16 ever served as a juror before?

17 PROSPECTIVE JUROR 12: No, ma'am.

18 THE COURT: Have you ever been a party to a lawsuit or a  
19 witness in a lawsuit before?

20 PROSPECTIVE JUROR 12: No, ma'am.

21 THE COURT: Have you or anyone close to you worked in the  
22 legal field?

23 PROSPECTIVE JUROR 12: No, ma'am.

24 THE COURT: Have you or anyone close to you had medical  
25 training or worked in the medical field?



1 PROSPECTIVE JUROR 12: No.

2 THE COURT: No medical training in that whole list of classes?

3 PROSPECTIVE JUROR 12: The sight of blood makes me faint.

4 THE COURT: Have you or anyone close to you suffered a

5 serious injury?

6 PROSPECTIVE JUROR 12: No.

7 THE COURT: Can you wait to form an opinion until you've

8 heard all of the evidence?

9 PROSPECTIVE JUROR 12: [Indiscernible].

10 THE COURT: Is that a yes?

11 PROSPECTIVE JUROR 12: What was the question, ma'am?

12 THE COURT: Can you wait to form an opinion until you've

13 heard all of the evidence?

14 PROSPECTIVE JUROR 12: Oh, yes, ma'am.

15 THE COURT: Can you follow the instructions on the law that I

16 give you, even if you don't personally agree with them?

17 PROSPECTIVE JUROR 12: Certainly.

18 THE COURT: Can you set aside any sympathy you may have

19 for either side and base your verdict solely on the evidence and the

20 instructions on the law presented during the trial?

21 PROSPECTIVE JUROR 12: Yes, ma'am.

22 THE COURT: Is there any reason you couldn't be completely

23 fair and impartial if you were selected to serve as a juror?

24 PROSPECTIVE JUROR 12: None that I'm aware of.

25 THE COURT: And if you were a party to the case, would you

1 be comfortable having someone like yourself as a juror?

2 PROSPECTIVE JUROR 12: Knowing my faults, I know that's  
3 questionable, but, yes.

4 THE COURT: All right.

5 Mr. Cloward?

6 MR. CLOWARD: Let's start right there. What are -- what are  
7 some things that may be -- might concern you?

8 PROSPECTIVE JUROR 12: For one, I still have that bad habit  
9 of smoking. I get antsy after two or three, four hours. That. Right now, as I  
10 stated, with my job situation --

11 MR. CLOWARD: Sure.

12 PROSPECTIVE JUROR 12: -- I'm -- I realize you have to be  
13 totally objective. Matter of fact, that's part of quality assurance is being  
14 objective and not subjective.

15 MR. CLOWARD: Sure.

16 PROSPECTIVE JUROR 12: So just to be concerned, I've got  
17 to get -- until I know where my job situation is, I'm trying to keep that to the  
18 back of my head.

19 MR. CLOWARD: Gotcha. Okay. Those seem pretty -- pretty  
20 tame about your fairness. So, I mean, it sounds like you have some  
21 concerns, but they wouldn't really prevent you from being fair. Is that --

22 PROSPECTIVE JUROR 12: Oh, no. Definitely not.

23 MR. CLOWARD: Okay.

24 THE COURT: And, sir, so you know, when we finish jury  
25 selection, we usually don't ever go more than two hours without taking a

1 break. So you will probably be okay on that front.

2 PROSPECTIVE JUROR 12: As long as the breaks are long  
3 enough for three cigarettes.

4 MR. CLOWARD: It depends on how fast you smoke them.  
5 Okay. Can you -- you said something that I was curious about. NDT  
6 training, what's -- what is that?

7 PROSPECTIVE JUROR 12: Nondestructive testing. It's  
8 inspecting materials, parts for damage without effectively damaging them.  
9 Florescent is one specification.

10 MR. CLOWARD: One way to -- one way to inspect it?

11 PROSPECTIVE JUROR 12: Right.

12 MR. CLOWARD: Okay.

13 PROSPECTIVE JUROR 12: To check for cracks, gouges, and  
14 things. We have X-ray, but I'm not X-ray qualified.

15 MR. CLOWARD: So you actually will go around and chest --  
16 and check the different -- the aircraft parts?

17 PROSPECTIVE JUROR 12: I could, but I haven't, but I've been  
18 trained to do it.

19 MR. CLOWARD: That's really cool.

20 PROSPECTIVE JUROR 12: It was more back when I was a  
21 maintenance technician side of the house. Like I said, I've moved up into  
22 quality assurance.

23 MR. CLOWARD: Okay. What, for instance, like on a day-to-  
24 day basis, would your job entail now versus maybe back then when you  
25 were going around and doing the nondestructive testing?

1 PROSPECTIVE JUROR 12: Well, nowadays, I work closely  
2 with the FAA, FARs for compliance issues. I have to go out to the various  
3 vendors, go through their systems to ensure that they are compliant with not  
4 only the Virgin America's requirements, but the FAA requirements. I will  
5 oversee heavy maintenance. As far as I won't actually go out there and do  
6 the job, but I will be out there to ensure the job is being done per  
7 requirements.

8 MR. CLOWARD: Okay. Fair enough. So Virgin is owned by  
9 Richard Branson, right? Well, I guess now it's owned by Alaska?

10 PROSPECTIVE JUROR 12: Yes. Yeah. Richard never owned  
11 Virgin, he was only about a 4 percent stockholder.

12 MR. CLOWARD: Okay. Gotcha. Okay. And was it -- I guess,  
13 Virgin, was that the entire company that was sold? I didn't even hear about  
14 that. We didn't even know.

15 PROSPECTIVE JUROR 12: No, just Virgin America. They're  
16 all sister companies. You have Virgin Atlantic, which is different from Virgin  
17 Australia --

18 MR. CLOWARD: I see.

19 PROSPECTIVE JUROR 12: -- versus Virgin America.

20 MR. CLOWARD: I see. So it's just a one kind of branch?

21 PROSPECTIVE JUROR 12: Yeah.

22 MR. CLOWARD: Okay. Fair enough. All right. Now, we've  
23 kind of gone through systematically and talked about a lot of these things. Is  
24 there anything that has come to your -- to your heart or your gut or your  
25 mind in discussing these things that, you know, you felt like, you know what,

1 I'd like to -- that's important to me. I'd like to share my feelings about that?  
2 PROSPECTIVE JUROR 12: No. I think being number 12, I got  
3 to hear --  
4 MR. CLOWARD: Yeah.  
5 PROSPECTIVE JUROR 12: -- nothing jumps out. No, sir.  
6 MR. CLOWARD: Well, I can go through one by one and ask  
7 you --  
8 PROSPECTIVE JUROR 12: And I'm sure my fellow jurors  
9 would love that.  
10 MR. CLOWARD: No, I know. I'm just teasing you. I'm just  
11 teasing there. I will ask a couple of direct questions, though.  
12 PROSPECTIVE JUROR 12: Please.  
13 MR. CLOWARD: Just about the lawsuits in general, frivolous  
14 versus non-frivolous, frivolous defenses, things of that nature. Anything  
15 about what has been said so far that cause you to believe anything about  
16 this case that you've already informed maybe an opinion?  
17 PROSPECTIVE JUROR 12: Not in the least.  
18 MR. CLOWARD: Okay. And the questions that counsel asked  
19 the last prospective juror, whereabout, you know, if the evidence warranted  
20 an award of zero, would you be comfortable doing that?  
21 PROSPECTIVE JUROR 12: I'm going to have to say, yes.  
22 Part of my job is being objective. I mean --  
23 MR. CLOWARD: Absolutely.  
24 PROSPECTIVE JUROR 12: I mean, there's a -- sometimes  
25 there's no gray areas [indiscernible].

1 MR. CLOWARD: Sure. I want to, I guess, just make sure that  
2 everybody understands that just because Mr. Morgan brought the lawsuit,  
3 you know, it doesn't mean that he should win the case. It doesn't mean that  
4 -- you know, that -- it doesn't mean anything. There is still a case to present,  
5 and we intend to do that; that's why we would -- we would call the doctors  
6 and so forth. So I want to make sure that -- that you're going to hold Mr.  
7 Morgan to his proof. Just because he's filed a lawsuit doesn't mean that,  
8 you know, he somehow is going to -- going to win this without proving it. Do  
9 you agree with that?

10 PROSPECTIVE JUROR 12: Well, yes. That's what I thought  
11 this was all about.

12 MR. CLOWARD: Absolutely. It certainly is.

13 PROSPECTIVE JUROR 12: The responsible party or...

14 MR. CLOWARD: Okay. And on the other side of that coin, so if  
15 -- if Mr. Gardner doesn't prove that this isn't -- this is a nothing case, okay, if  
16 he doesn't prove that and our doctors actually show objectively, here's the  
17 damage; here's the money that's going to be required to pay for the damage,  
18 and here are the care requirements that Mr. Morgan, as a young man, is  
19 going to have into the future. Is there anything that -- any of your views that  
20 would prevent me for doing that on his behalf? That you've already made  
21 up your mind, or are you willing to listen to the evidence and allow me to  
22 prove his case?

23 PROSPECTIVE JUROR 12: I believe we have to listen to the  
24 evidence and you have to look towards the future. I also believe that no  
25 amount of money covers pain and suffering.

1 MR. CLOWARD: Sure.

2 PROSPECTIVE JUROR 12: But in the same instance, large  
3 sums of money doesn't relieve pain and suffering, so --

4 MR. CLOWARD: And --

5 PROSPECTIVE JUROR 12: -- you have to have [indiscernible  
6 1:58:58p] accident.

7 MR. CLOWARD: That's a really good point. May I discuss that  
8 point with you for a moment?

9 PROSPECTIVE JUROR 12: Certainly.

10 MR. CLOWARD: There is no amount of money that will make  
11 something not have happened, okay? There is no amount of money that  
12 you put on the verdict form that will heal Aaron, if you believe the doctors  
13 when they take the stand, his injuries, okay? Some folks take the position  
14 that, you know what, because of that, because of that, there's really no  
15 sense in going through this exercise. If it can't make him better, no amount  
16 of money -- like you said, no amount of money will make -- will make this  
17 better. It's kind of a futile endeavor.

18 Other folks, on the other hand, they say, you know what, no,  
19 because there are rules in the community that if -- if you break it, you've got  
20 to pay for it. You've got to buy it, otherwise, people can go out there and do  
21 whatever the heck they want to do and there's no consequence, and -- and,  
22 you know, there's got to be balance. We don't want to allow somebody to  
23 come in and -- and, you know, take advantage of the system, but also, we  
24 don't want to let somebody off without having responsibility for their actions.  
25 And, I guess, where do you -- where do you fall in that?

1 PROSPECTIVE JUROR 12: That's kind of a hard question.

2 MR. CLOWARD: Yeah.

3 PROSPECTIVE JUROR 12: I believe there is justice and  
4 what's fair is fair. I believe in taking ownership.

5 MR. CLOWARD: Sure.

6 PROSPECTIVE JUROR 12: So I think that's always within the  
7 picture. That's an answer to your question.

8 MR. CLOWARD: Sure. No, it -- it -- I think -- I mean, that's the  
9 -- you know, I just wanted to discuss through it. I don't know if there's a --  
10 necessarily a right answer, a wrong answer, I just wanted to know your  
11 feelings, particularly about the pain and suffering, because you're absolutely  
12 right you know, it doesn't matter what the amount is on the verdict form; it's  
13 not going to take it away. But I wanted to just find out how your feelings  
14 were about responsibility and our community and whether there's any value  
15 to holding somebody responsible for damages that they cause.

16 PROSPECTIVE JUROR 12: To a degree. I don't think a hot  
17 cup of coffee in your lap is worth \$4 million --

18 MR. CLOWARD: I agree.

19 PROSPECTIVE JUROR 12: -- but I certainly do agree that  
20 there is pain and suffering, and the amount for the mistake or the -- should  
21 be corresponding to the pain and suffering.

22 MR. CLOWARD: Definitely. And you're willing to sit with fellow  
23 jurors in this community and discuss those things and deliberate and have a  
24 discussion about that?

25 PROSPECTIVE JUROR 12: Sure. If it comes to that, sir, yes.



1 MR. CLOWARD: Okay. Sir, I appreciate it very much. May I  
2 ask the three questions of you?

3 PROSPECTIVE JUROR 12: Yes. The first question, I have to  
4 be honest, there is nobody I actually really admire or looked up to in public.  
5 The second question, I would have to say my favorite job, I would have to  
6 use aviation, because that's all I've done for -- since '74, is something to do  
7 with aviation.

8 MR. CLOWARD: Sure.

9 PROSPECTIVE JUROR 12: And a passion I have is probably  
10 animals, children, my extended family's children.

11 MR. CLOWARD: Okay. Any -- any animals in particular you're  
12 fond of?

13 PROSPECTIVE JUROR 12: Oh, I just love all animals.

14 MR. CLOWARD: Okay.

15 PROSPECTIVE JUROR 12: I never met one I didn't like. I  
16 can't stand 90 percent of the human population.

17 MR. CLOWARD: That's right. That's right. And, sir, thank you.  
18 It's been -- it's been a pleasure. Thank you.

19 No further questions, Your Honor.

20 THE COURT: All right.

21 Mr. Gardner?

22 MR. GARDNER: Animals don't judge us, do they?

23 PROSPECTIVE JUROR 12: [Indiscernible].

24 MR. GARDNER: That's the key. No, the -- if that's -- if that's  
25 one of your passions, then -- then I, and I think everybody, respects that. I

1 think that's -- that's fun. I do know that the -- do you take in stray pets, or  
2 just the pets that you own?

3 PROSPECTIVE JUROR 12: No. Unfortunately, my situation  
4 where I live and all of that, I can't do that.

5 MR. GARDNER: Okay. You have done it, though?

6 PROSPECTIVE JUROR 12: Huh?

7 MR. GARDNER: Is that what you said, you could do it, though,  
8 but you're not doing it now?

9 PROSPECTIVE JUROR 12: Yes.

10 MR. GARDNER: Okay. Okay. What got you involved in  
11 aviation?

12 PROSPECTIVE JUROR 12: For the lack of going to high  
13 school.

14 MR. GARDNER: Okay. Fair enough.

15 PROSPECTIVE JUROR 12: I had to join the military. Signed in  
16 -- signed into the military at 16, left when -- three days after my 17th  
17 birthday.

18 MR. GARDNER: I thought you were supposed to be 18 to get  
19 into the army?

20 PROSPECTIVE JUROR 12: Well, first off, it was the Marine  
21 Corps, sir.

22 MR. GARDNER: Okay. Yeah. You know what, tell me --

23 PROSPECTIVE JUROR 12: And this was 1974 when the world  
24 was quite different.

25 MR. GARDNER: Okay. Okay. So you joined the Marine

1 Corps. Was -- was there any other branch of the military that you were a  
2 part of --

3 PROSPECTIVE JUROR 12: Yes.

4 MR. GARDNER: -- besides the --

5 PROSPECTIVE JUROR 12: Yes. I got when I was -- yeah, a  
6 Marine Corps for a while, and the travel bug hit me again, and I ended up  
7 joining the United States Air Force for a eight years.

8 MR. GARDNER: What did you do for the air force?

9 PROSPECTIVE JUROR 12: The air force, I was a flight  
10 engineer.

11 MR. GARDNER: Okay. Now that to me sounds very, very  
12 complicated. When you say a flight engineer, what does that mean?

13 PROSPECTIVE JUROR 12: You're a crew member in the flight  
14 deck. You control your -- your fuel panel, your flight -- your -- you had a  
15 panel that you ran, the pilots had his, the copilot had theirs.

16 MR. GARDNER: So you actually flew in the planes, the  
17 supersonic planes and things?

18 PROSPECTIVE JUROR 12: Well, I flew in the planes, yes, sir.

19 MR. GARDNER: Yeah. Okay. Were you -- did -- did you ever  
20 pilot one of the airplanes?

21 PROSPECTIVE JUROR 12: Not legally.

22 MR. GARDNER: We'd move to strike that.

23 MR. CLOWARD: Can we seal the record, Your Honor?

24 PROSPECTIVE JUROR 12: Yeah. Sometimes the pilot was  
25 tired. I would jump in his seat and take over for a while.

1 MR. GARDNER: Well, that gives me a lot of comfort. Okay. It  
2 -- it is survive, right?  
3 Gosh, I don't even know what to ask after that. I'm afraid of the  
4 answer.  
5 PROSPECTIVE JUROR 12: You made -- you made me swear  
6 to the truth.  
7 MR. GARDNER: Well, how about if I pass?  
8 PROSPECTIVE JUROR 12: Sweet.  
9 MR. GARDNER: How's that? Yeah. Thank you.  
10 THE COURT: All right.  
11 Ms. Avary, ma'am, could you introduce yourself, please?  
12 PROSPECTIVE JUROR 13: I'm Shavontae Avary. I have  
13 lived in Clark County for about eight years. I have a bachelor's degree in  
14 business leadership. I'm employed at Caesar's Palace as an admin  
15 assistant, married with three kids.  
16 THE COURT: Wait. What does your spouse do, ma'am?  
17 PROSPECTIVE JUROR 13: He works at Caesar's as well  
18 [indiscernible].  
19 THE COURT: And how old are your kids?  
20 PROSPECTIVE JUROR 13: Eight, five, four.  
21 THE COURT: All right. Ma'am, go ahead and have a seat.  
22 Have you ever served as a juror before?  
23 PROSPECTIVE JUROR 13: No.  
24 THE COURT: Have you ever been a lawsuit -- or a party to a  
25 lawsuit or a witness in a lawsuit before?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

PROSPECTIVE JUROR 13: Yes.

THE COURT: I'm sorry?

PROSPECTIVE JUROR 13: Yes.

THE COURT: Can you tell me about that?

PROSPECTIVE JUROR 13: So a few years ago, I had a lawsuit against the JC Penney hair salon. We ended up settling out of court. Like, I didn't have a whole thing like this. It was just my lawyer, their lawyer. They got it worked out.

THE COURT: All right. What was the general nature of the dispute?

PROSPECTIVE JUROR 13: The stylist was not paying attention while she was flat ironing and everything to my hair, and she sprayed it with the hairspray and held the flatiron for too long. I got home and, you know, checking out my new do, and a strand of my hair fell out.

THE COURT: All right. Have you or anyone close to you worked in the legal field?

PROSPECTIVE JUROR 13: No.

THE COURT: Have you or anyone close to you had medical training or worked in the medical field?

PROSPECTIVE JUROR 13: My mom is a nurse.

THE COURT: What kind of nurse?

PROSPECTIVE JUROR 13: Like, elderly care. Like, assisted-living care.

THE COURT: Does she work here in Clark County?

PROSPECTIVE JUROR 13: No, in South Carolina.

1 THE COURT: Have you or anyone close to you had a serious  
2 injury?  
3 PROSPECTIVE JUROR 13: Huh-uh. No.  
4 THE COURT: Can you wait to form an opinion until you've  
5 heard all of the evidence?  
6 PROSPECTIVE JUROR 13: Yes.  
7 THE COURT: Can you follow the instructions on the law that I  
8 give you, even if you don't personally agree with them?  
9 PROSPECTIVE JUROR 13: Yes.  
10 THE COURT: Can you set aside any sympathy you may have  
11 for either side and base your verdict solely on the evidence and the  
12 instructions on the law presented during the trial?  
13 PROSPECTIVE JUROR 13: Yes.  
14 THE COURT: Is there any reason you couldn't be completely  
15 fair and impartial if you were selected to serve as a juror in this case?  
16 PROSPECTIVE JUROR 13: No.  
17 THE COURT: And if you were a party to this case, would you  
18 feel comfortable having someone like yourself as a juror?  
19 PROSPECTIVE JUROR 13: Yes.  
20 THE COURT: All right.  
21 Mr. Cloward?  
22 MR. CLOWARD: Thank you.  
23 Ms. Avary, good afternoon. How are you?  
24 PROSPECTIVE JUROR 13: Good.  
25 MR. CLOWARD: So I guess about your prior lawsuit, is there

1 anything about that event that causes you maybe heartache or grief,  
2 heartburn about the legal process?

3 PROSPECTIVE JUROR 13: Not really the legal process. I  
4 mean, it was -- it was frustrating waiting for that -- waiting for my hair to grow  
5 -- grow back out.

6 MR. CLOWARD: Okay.

7 PROSPECTIVE JUROR 13: Do you know what I mean?

8 MR. CLOWARD: But, I guess, it wasn't -- your experience with  
9 that lawsuit or the process didn't cause you to form any views about the  
10 legal process altogether?

11 PROSPECTIVE JUROR 13: Oh, no.

12 MR. CLOWARD: Okay. And other than that experience, were -  
13 - were there other experiences that maybe -- you know, family members or  
14 friends have been in car crashes or had to file a lawsuit or a claim or  
15 anything along those lines?

16 PROSPECTIVE JUROR 13: Yeah. My husband and children  
17 were in a pretty bad accident in 2014.

18 MR. CLOWARD: Okay.

19 PROSPECTIVE JUROR 13: There was a claim out for that,  
20 but, again, not to this extent. We settled with their insurance company.

21 MR. CLOWARD: Okay. No lawsuit was filed or anything like  
22 that?

23 PROSPECTIVE JUROR 13: Huh-uh.

24 MR. CLOWARD: Okay. Was -- did you guys have to hire a  
25 lawyer for that?

1 PROSPECTIVE JUROR 13: We tried to, but no one really  
2 wanted to take the case. We were in Alabama at the time, a very small city,  
3 so --

4 MR. CLOWARD: Gotcha.

5 PROSPECTIVE JUROR 13: Yeah.

6 MR. CLOWARD: A tight-knit community?

7 PROSPECTIVE JUROR 13: Uh-huh.

8 MR. CLOWARD: Okay. Was there anything about that process  
9 that makes you -- you know, has -- has -- makes you have feelings about the  
10 -- the system?

11 PROSPECTIVE JUROR 13: No. I mean, I wish someone  
12 would have listened to us, but, you know, we didn't --

13 MR. CLOWARD: Can I ask you some more questions about  
14 that?

15 PROSPECTIVE JUROR 13: Sure.

16 MR. CLOWARD: May I?

17 PROSPECTIVE JUROR 13: Yeah.

18 MR. CLOWARD: It sounds like maybe you -- you weren't  
19 treated fairly in that accident, or maybe your children or your husband  
20 weren't?

21 PROSPECTIVE JUROR 13: Define fairly.

22 MR. CLOWARD: Well, it sounds like you went to try and talk to  
23 a lawyer, but they wouldn't, I guess, help you. I'm just wondering if you  
24 might talk. If you don't feel comfortable, I respect that as well. I just want to  
25 find out if -- if that experience is going to influence -- you know, certainly, we



1 don't want you to be unfair to the defendant. We don't want you to be unfair  
2 to the plaintiff. I think everybody wants an even -- or not even -- an even, level,  
3 I'm mashing words together, playing field. And so, was there anything about  
4 that experience that, I guess, causes you to have views about it one way or  
5 another.

6 PROSPECTIVE JUROR 13: No. I mean, I feel that had  
7 someone actually like took the time to sit and talk with us, they would have  
8 realized the severity of the issue. But, again, being in a small town in  
9 Alabama, and like you said, it's a little bit more close-knit.

10 MR. CLOWARD: Sure.

11 PROSPECTIVE JUROR 13: You know, it's a little bit harder,  
12 and then it's, we can't take the case, or take the situation outside of -- you  
13 know, to another county or to, you know, somewhere where --

14 MR. CLOWARD: Outside of that venue or jurisdiction.

15 PROSPECTIVE JUROR 13: Uh-huh.

16 MR. CLOWARD: Okay. Okay. Fair enough. Sorry about that.

17 PROSPECTIVE JUROR 13: It's okay. They're all still here.

18 Thank God.

19 MR. CLOWARD: Yeah.

20 PROSPECTIVE JUROR 13: So --

21 MR. CLOWARD: And your kids are eight, five, and four?

22 PROSPECTIVE JUROR 13: Yes.

23 MR. CLOWARD: Eight, five, and four. Okay. We've -- we've  
24 had some discussion along the way. Is there anything that's been brought  
25 up that caused you, you know, feelings inside that you felt like, you know

1 what, I feel strong about that issue. I should tell the parties about it?

2 PROSPECTIVE JUROR 13: Not really. I mean, like everyone  
3 else has said, the money thing --

4 MR. CLOWARD: Sure.

5 PROSPECTIVE JUROR 13: -- comes up, but then I also would  
6 like to hear the other side of the story just to kind of --

7 MR. CLOWARD: Absolutely.

8 PROSPECTIVE JUROR 13: -- get both sides of everything.

9 MR. CLOWARD: Absolutely. And the fact that I've discussed a  
10 large amount of money, there's no question, millions of dollars, that's a lot --  
11 that's a ton of money. But the fact that I've just simply discussed that, does -  
12 - that doesn't cause you to believe that somehow my client is entitled to that,  
13 does it?

14 PROSPECTIVE JUROR 13: No.

15 MR. CLOWARD: You're going to -- you're going to make him  
16 put on the case, right?

17 PROSPECTIVE JUROR 13: Right.

18 MR. CLOWARD: Okay. And similarly, you know, if the defense  
19 says, look, he's not entitled to anything; you would make them put on that  
20 case, too, right?

21 PROSPECTIVE JUROR 13: [No audible answer].

22 MR. CLOWARD: Okay. Has there been anything that's said by  
23 either of the parties that causes you to have already formed a belief about  
24 the merits of either the case or the merits of the defense?

25 PROSPECTIVE JUROR 13: [No audible answer].

1 MR. CLOWARD: You're willing to listen to the facts when the  
2 witnesses take the stand, once -- once the juror is -- jury is -- is empaneled,  
3 you would be willing to do that?

4 PROSPECTIVE JUROR 13: Yes.

5 MR. CLOWARD: You would do that fairly?

6 PROSPECTIVE JUROR 13: Yes.

7 MR. CLOWARD: And that regardless of -- of the outcome,  
8 whether that was a zero verdict or whether that was a multi-million dollar  
9 verdict, you would be willing to listen to the facts and evidence?

10 PROSPECTIVE JUROR 13: Yes.

11 MR. CLOWARD: Is that fair?

12 PROSPECTIVE JUROR 13: [No audible answer].

13 MR. CLOWARD: Okay. Is there anything that I haven't  
14 covered that you feel like, you know what, it would be important for the  
15 parties to know this about me that I haven't shared; it hasn't come up, but  
16 I'm pretty sure they would want to know?

17 PROSPECTIVE JUROR 13: Nope.

18 MR. CLOWARD: Okay. Well, I appreciate it. Can I ask you the  
19 three questions? Your favorite person, someone that you look up to, a  
20 public figure, a favorite job, and then, something you are passionate about,  
21 maybe a hobby you -- something you enjoy doing?

22 PROSPECTIVE JUROR 13: My favorite job is probably the one  
23 that I have now, [indiscernible 2:14:06p], and public figures is going to be  
24 hard. I would probably have to say Ellen DeGeneres who is --

25 MR. CLOWARD: This is good.

1 PROSPECTIVE JUROR 13: -- humorous.  
2 MR. CLOWARD: Hilarious.  
3 PROSPECTIVE JUROR 13: A Philanthropist.  
4 MR. CLOWARD: When she scares the people --  
5 PROSPECTIVE JUROR 13: Yes.  
6 MR. CLOWARD: -- on the floor.  
7 PROSPECTIVE JUROR 13: Yes.  
8 MR. CLOWARD: It's a -- it's terrible, because, you know, it's  
9 probably not funny to them, but --  
10 PROSPECTIVE JUROR 13: Right.  
11 MR. CLOWARD: Okay. Well, I appreciate it. Thank you very  
12 much.  
13 PROSPECTIVE JUROR 13: You're welcome.  
14 MR. CLOWARD: No further questions, Your Honor.  
15 THE COURT: All right.  
16 Mr. Gardner?  
17 MR. GARDNER: Can you explain, one more time, why is it that  
18 you look up to Ellen DeGeneres?  
19 PROSPECTIVE JUROR 13: She's funny and philanthropic and  
20 she's passionate about her job as well.  
21 MR. GARDNER: She's not funny. She's hilarious.  
22 PROSPECTIVE JUROR 13: Yes.  
23 MR. GARDNER: And these -- go back to the auto accident.  
24 Your -- it was your husband and your three children were in that accident?  
25 PROSPECTIVE JUROR 13: Yes.

1 MR. GARDNER: You weren't in it?

2 PROSPECTIVE JUROR 13: No.

3 MR. GARDNER: Okay. And did they have -- I know you may  
4 have been having some difficulty with lawyers or something at that time, but  
5 was anything done, settled, resolved? Is it still going on? What -- what can  
6 you tell me about that?

7 PROSPECTIVE JUROR 13: Yeah. The -- the insurance  
8 company just paid my young -- my husband and all three kids.

9 MR. GARDNER: Did you feel comfortable with the -- the  
10 amount or the way that it was done?

11 PROSPECTIVE JUROR 13: Yeah.

12 MR. GARDNER: Okay. Would you explain one more time  
13 about the JC Penney problem?

14 PROSPECTIVE JUROR 13: Yes. So as part of the styling  
15 process, you know, in order to make it full, because in South Carolina there  
16 is a lot of humidity, so she was using hairspray so that it wouldn't frizz up as  
17 soon as I walked out the door. So she used the hairspray; she's take the  
18 flatiron and going through, and then she wasn't paying attention and she  
19 held onto it a little too long. So there was that patch in my hair, like, right  
20 here on the side, that, like I said, when I got home and was checking it all  
21 out and everything, it fell out, so --

22 MR. GARDNER: Two by two, one by one, what -- how big of a  
23 patch was it?

24 PROSPECTIVE JUROR 13: It was big.

25 MR. GARDNER: I didn't -- okay. So you're mentioning maybe

1 an inch and a half, two inches in that area?

2 PROSPECTIVE JUROR 13: Yeah. I would say about an inch  
3 and a half.

4 MR. GARDNER: How long did it take for that to clean itself up  
5 so to speak, to grow back?

6 PROSPECTIVE JUROR 13: Quite a while. I would say it took  
7 a while for it to reach the length of the rest of my hair first. It's about -- it  
8 took me about a year.

9 MR. GARDNER: Okay. Do you feel like when someone gets  
10 injured that they're entitled to be compensated; do you feel that way?

11 PROSPECTIVE JUROR 13: I do.

12 MR. GARDNER: Yeah. And do you feel that way, but they  
13 have to -- do you think that they're entitled to the compensation, or just the  
14 fact that they were inconvenienced, they deserve compensation? Where  
15 are you in that timeline so to speak?

16 PROSPECTIVE JUROR 13: That's a call, you know, because I  
17 have kids who are young, and, you know, if my four-year-old scrapes her  
18 knee, she's going to tell me that she needs ice cream because she scraped  
19 her knee. So, I mean, it's -- you know, I could very well give her that ice  
20 cream, because, you know, I feel bad for her and, you know? But I'm also  
21 going to say, well, what were you doing to scrape your knee? Did you, you  
22 know, run and jump when mommy told you not to do that? Or, you know,  
23 like I'd -- I'd have questions of why I need to be giving her ice cream. I  
24 mean, she's [indiscernible] person that had that, you know, that sympathy  
25 for her. Just like, Oh, my baby. You know what I mean? But --

1 MR. GARDNER: Well -- well, look, I mean, the four-year-old  
2 could do something you told her not to do and she can get hurt, you're going  
3 to have compassion for her --

4 PROSPECTIVE JUROR 13: Of course.

5 MR. GARDNER: -- and give her the ice cream, right?

6 PROSPECTIVE JUROR 13: Yes.

7 MR. GARDNER: Now, does that apply to --

8 PROSPECTIVE JUROR 13: Not every single time.

9 MR. GARDNER: Not every time. Well, it did for me. I had a  
10 friend that owned a Dairy Queen. Okay. But -- but the point is, is you know  
11 we're not dealing with family and things here.

12 PROSPECTIVE JUROR 13: Right.

13 MR. GARDNER: That this -- this court proceeding is -- it is  
14 serious, although it's -- you know, it's pressure packed, and, frankly, I like to  
15 joke and things of that nature. Maybe I'm not too funny sometimes, but the  
16 circumstances that we're in right now, the fact that he has sued and is going  
17 to claim to have been injured, does that make you believe that he is entitled  
18 to some kind of compensation?

19 PROSPECTIVE JUROR 13: I would have to see the evidence  
20 to know for sure.

21 MR. GARDNER: Okay. So you would have to see something  
22 that made you believe that he actually was injured, and then you would be  
23 fine giving him something; is that right?

24 PROSPECTIVE JUROR 13: [Indiscernible].

25 MR. GARDNER: Okay. Okay.

1                   That's all I have. Pass for cause.

2                   THE COURT: All right.

3                   Is it Yarush; is that correct?

4                   PROSPECTIVE JUROR 15: Yes.

5                   THE COURT: Sir, if you would, introduce yourself.

6                   PROSPECTIVE JUROR 15: Okay. Sean Yarush. I have lived

7 in Clark County for about 22 years. I have a bachelor's degree in

8 professional aeronautics. I'm employed at Lone Mountain Aviation as the

9 maintenance manager at North Las Vegas Airport, and my wife works for the

10 City of Henderson Municipal Court as an IT senior analyst, and I have two

11 children, a 14-year-old son and a two-year-old daughter.

12                  THE COURT: All right. Sir, go ahead and have a seat.

13                  PROSPECTIVE JUROR 15: Okay.

14                  THE COURT: Have you ever served as a juror before?

15                  PROSPECTIVE JUROR 15: No.

16                  THE COURT: Have you ever been a party to a lawsuit or a

17 witness in a lawsuit before?

18                  PROSPECTIVE JUROR 15: No.

19                  THE COURT: Have you or anyone close to you worked in the

20 legal field? Your wife works for the court.

21                  PROSPECTIVE JUROR 15: No.

22                  THE COURT: Okay. Have you or anyone close to you had

23 medical training or worked in the medical field?

24                  PROSPECTIVE JUROR 15: I have an uncle who is in sports

25 medicine for [indiscernible].



1 THE COURT: Here in Clark County?  
2 PROSPECTIVE JUROR 15: No. This was in California.  
3 THE COURT: Have you or anyone close to you suffered a  
4 serious injury?  
5 PROSPECTIVE JUROR 15: Specifically, anytime, or --  
6 THE COURT: Yeah.  
7 PROSPECTIVE JUROR 15: -- or [indiscernible] only? A good  
8 friend of mine, plane crash [indiscernible].  
9 THE COURT: Oh. I'm sorry to hear about that. Can you wait  
10 to form an opinion until you've heard all of the evidence?  
11 PROSPECTIVE JUROR 15: Yes.  
12 THE COURT: Can you follow the instructions on the law that I  
13 give you, even if you don't personally agree with them?  
14 PROSPECTIVE JUROR 15: Yes.  
15 THE COURT: Can you set aside any sympathy you may have  
16 for either side and base your verdict solely on the evidence and the  
17 instructions on the law presented during the trial?  
18 PROSPECTIVE JUROR 15: Yes.  
19 THE COURT: Is there any reason why you couldn't be  
20 completely fair and impartial if you were selected to serve as a juror in this  
21 case?  
22 PROSPECTIVE JUROR 15: No.  
23 THE COURT: And if you were a party to this case, would you  
24 feel comfortable having someone like yourself as a juror?  
25 PROSPECTIVE JUROR 15: Yes.

1 THE COURT: Mr. Cloward?  
2 MR. CLOWARD: Thank you, Your Honor.  
3 Yarush?  
4 PROSPECTIVE JUROR 15: Yes.  
5 MR. CLOWARD: Mr. Yarush, it sounds like if you ever need a  
6 quality assurance guy for [indiscernible], there's your guy actually.  
7 PROSPECTIVE JUROR 15: We're losing ours, so that would  
8 be a good thing.  
9 MR. CLOWARD: There's your guy. And he -- you know,  
10 depending on what happens on Friday, you know, it might be a good time  
11 to --  
12 PROSPECTIVE JUROR 15: Yeah. It's ironic, because our  
13 guy's last day is Friday. So --  
14 MR. CLOWARD: -- talk to him.  
15 PROSPECTIVE JUROR 15: It's fate.  
16 MR. CLOWARD: Hey, that's right. So as we've discussed all of  
17 -- all of these issues this morning and into the afternoon here, it's about  
18 2:30, are there anything -- was there anything that, you know, kind of came  
19 up in your -- in your stomach that you felt like, you know what, I really want  
20 to talk about that issue?  
21 PROSPECTIVE JUROR 15: I can get as in-depth as you wish.  
22 MR. CLOWARD: Please do. Please do.  
23 PROSPECTIVE JUROR 15: You know, if -- if we were to put  
24 out some kind of an example, my thinking process, I have a 26-mile drive to  
25 work.

1 MR. CLOWARD: Okay.

2 PROSPECTIVE JUROR 15: One day, I counted 39 billboards  
3 for attorneys on the drive.

4 MR. CLOWARD: Yeah.

5 PROSPECTIVE JUROR 15: Okay. So to skip right to  
6 your -- one of your questions you're going over and over again, do I believe  
7 that frivolous lawsuits are part of our society? I absolutely do. Now, go to  
8 your McDonald's example, I don't know the specifics of that case. On the  
9 surface, it seems to be, well, that's ridiculous. So he spills coffee in the drive  
10 through. They should know it's hot.

11 I had that opinion once, and then I was having a discussion with  
12 someone who said, Do you realize how hot McDonald's used to serve their  
13 coffee? It was to the point where it could severely burn you if you -- if you  
14 spilled it on yourself. So sometimes there is more than meets the eye --

15 MR. CLOWARD: Sure.

16 PROSPECTIVE JUROR 15: -- to the case. So we would have  
17 to know everything about it. Now, when it comes to attorneys in general, I  
18 think an attorney is kind of like a gun, but when you need one for self-  
19 defense, you need one. When someone is pointing one in your face trying  
20 to rob you, that's a scary thing.

21 MR. CLOWARD: Sure.

22 PROSPECTIVE JUROR 15: I've never needed an attorney,  
23 and I tremble at the thought of ever having to need an attorney.

24 MR. CLOWARD: Sure.

25 PROSPECTIVE JUROR 15: But I have a lot of friends who are

1 attorneys, and I have a lot of admiration for what it takes to get to the level  
2 you guys are at, however, I do think there is abuses in the system, but from  
3 my perspective, I think that I would just want to hear both sides of the case  
4 before I came to a conclusion.

5 That is, and as my counterpart in the industry will tell you, we --  
6 an airplane can't lie to you. There's only one way for it to be right. See, you  
7 have to gather all of the information to find out what's going on. You can't  
8 prejudge anything. If you get in that habit, you're going to be unemployed in  
9 short order.

10 MR. CLOWARD: Yeah. I sincerely appreciate your candor and  
11 willingness to discuss that, because there is no question, you walk outside  
12 and you see tons of billboards. My partner, Richard Harris, he -- he  
13 advertises. He's on TV. You see his billboards occasionally. Not as many  
14 as some of the other folks in town, but there is no question, lawyers in this  
15 town, they advertise. And I guess, I want to be -- I want to ask you, if you  
16 will level me on that issue, the fact that, you know, the attorneys in this case,  
17 that my partner, Richard Harris, that, you know, he advertises. Are you  
18 going to hold that against Mr. Morgan?

19 PROSPECTIVE JUROR 15: No. I wouldn't hold that against  
20 him. I'm just -- I'm stating an impression I have of the industry in general,  
21 where there is so much --

22 MR. CLOWARD: Sure.

23 PROSPECTIVE JUROR 15: -- solicitation for business  
24 that -- that it makes me somewhat reluctant to believe that every case is  
25 going to be a legitimate case.

1 MR. CLOWARD: Absolutely.

2 PROSPECTIVE JUROR 15: Now, if my son were using a  
3 hammer and he hit his finger, well, that's his fault. But if he were using the  
4 hammer and the hammer shattered, then that's the manufacturer's fault with  
5 the hammer. So there are cases where it is legitimate to be in this situation.

6 MR. CLOWARD: Okay. Is it fair to say you have a healthy  
7 skepticism? Is it -- would that be a fair and accurate representation?

8 PROSPECTIVE JUROR 15: And because of, basically, the  
9 characteristics of the business I'm in.

10 MR. CLOWARD: Okay. And absolutely nothing wrong with  
11 that. The huge difference between healthy skepticism and a preconceived,  
12 inflexible view of something, and like the example that I give about -- about  
13 cherry pie, I really -- I don't like it. I hate it. You know, that's -- that's the  
14 God's honest truth. Nothing is going to change my view on that, and that's  
15 all I'm trying to find out.

16 You know, if you have a view that's completely inflexible  
17 versus, you know what, maybe I don't like that kind of a pie, you know, an  
18 apple pie is not my favorite, you know, pecan, I love that, but I'd be willing to  
19 fairly judge an apple pie contest. If it's cherry, forget about it. The person  
20 can lose every time, guaranteed, if I'm the judge. I just don't like it, and so, I  
21 appreciate your candor. I really, sincerely do.

22 PROSPECTIVE JUROR 15: My argument would be, how do  
23 you know that cherry pie is not different this time?

24 MR. CLOWARD: Because I -- you know, I've been asked that,  
25 and it's just -- it's like -- it's like with asparagus. It's like with asparagus

1 and/or brussel sprouts; those things would kind of grow on you too. We like  
2 them. I've tried it periodically, and it's the same result. The older I get, you  
3 know, I -- every once in a while my wife will be, well, why don't you try it, and  
4 I try it and I hate it. I still hate it. It's just I don't know what it is.

5           You can tell, I get passionate about this. I don't -- sorry. I will  
6 move on. It's just gross. And I'm sorry if I offend anybody. I just really  
7 dislike it. But that's something that, I guess, I'm trying to just find out with  
8 everybody really is, you know, if you have a view, it's okay to have a healthy  
9 skepticism, and I certainly appreciate it, and I think that that helps to guard  
10 our community, to make sure that, you know, just because Aaron is here, or  
11 Mr. Morgan is here with lawyers, it doesn't mean that somehow he should  
12 win the case.

13           Or just conversely, just because the defendant is here with  
14 lawyers, it doesn't mean that he should win the case. You know, both  
15 parties have a side to prove and an obligation to do that. And are you willing  
16 to listen to the facts and evidence in the -- in the case?

17           PROSPECTIVE JUROR 15: Absolutely.

18           MR. CLOWARD: Okay. Now, you mentioned the 29-mile trip to  
19 work.

20           PROSPECTIVE JUROR 15: Twenty-six, yeah.

21           MR. CLOWARD: In that, I guess, are attorney signs the only  
22 thing you've counted, or are there other things that you've counted?

23           PROSPECTIVE JUROR 15: Oh, no. It's just the vast majority.  
24 It was just -- you're sitting in traffic every day for an hour a day, you just  
25 like --

1 MR. CLOWARD: Kind of like, what am I going to do?

2 PROSPECTIVE JUROR 15: -- and, you know, gee, I wonder,  
3 and just start noticing a trend --

4 MR. CLOWARD: Okay.

5 PROSPECTIVE JUROR 15: -- that the vast majority seem to  
6 be for attorneys.

7 MR. CLOWARD: Okay.

8 PROSPECTIVE JUROR 15: Variations, you know, would be  
9 what the practice is about, but --

10 MR. CLOWARD: Sure. Is there anything about that, I guess,  
11 that conclusion that you came to that would not allow you to be fully open or  
12 fair to listen to the evidence, or -- or is it a situation where you're going to --  
13 you're going to put on the -- the lens of, you know what, there's too many  
14 lawyers, and so that every piece of evidence that is presented on behalf of  
15 Mr. Morgan is going to be viewed through that lens, and it's going to maybe  
16 change the color somewhat? Do you see where I'm going with that  
17 question?

18 PROSPECTIVE JUROR 15: I see where you're going, and  
19 knowing my own personality, I am intrigued to find out exactly why we're  
20 here.

21 MR. CLOWARD: Okay.

22 PROSPECTIVE JUROR 15: And to make that determination  
23 based on the reason why we're here. And when it comes to pain and  
24 suffering and monetary awards, I believe that everybody on this planet goes  
25 through pain and suffering.

1 MR. CLOWARD: Sure.

2 PROSPECTIVE JUROR 15: Some people are compensated  
3 for it and some aren't --

4 MR. CLOWARD: Yeah.

5 PROSPECTIVE JUROR 15: -- depending on the  
6 circumstances. And I believe that there are times that -- that it is warranted,  
7 but I believe there are times where it is not.

8 MR. CLOWARD: Where it's not.

9 PROSPECTIVE JUROR 15: I do believe that we've become a  
10 society that just draws the attorney gun too often.

11 MR. CLOWARD: Okay.

12 PROSPECTIVE JUROR 15: That is kind of my point. But it's  
13 your job to convince me that the reason we're here now, that I'm spending  
14 my time here, is for a valid reason.

15 MR. CLOWARD: Do you think that on the other hand,  
16 conversely, I'm just going to -- I'm going to play devil's advocate here for a  
17 moment, if -- if I may, and please take no offense, I just want to see if -- if --  
18 you know, if I propose the other side of the coin, do you think that  
19 sometimes maybe in society we've gotten to a point where we don't want to  
20 be responsible anymore? And so, maybe -- maybe the defense hires the --  
21 the attorney gun too quick, but you know what, I know that I caused the  
22 accident, but I don't want the responsibility for it, so I'm going to get me a  
23 lawyer. Do you think that the other side of it happens too sometimes?

24 PROSPECTIVE JUROR 15: Well, of course, people try to shirk  
25 responsibility in situations throughout society. Whether or not that's the



1 majority of times or not, I couldn't tell you. When based on experiences with  
2 people I know, and just general life experiences, whether or not people own  
3 up to their responsibilities is -- that's really an unquantifiable thing to do.

4 MR. CLOWARD: Sure.

5 PROSPECTIVE JUROR 15: But, you know, when someone is -  
6 - has approached litigation, obviously, the natural thing that they have to do  
7 is to defend themselves. So I don't see that -- that's their responsibility after  
8 -- in and of itself, you have to defend yourself, so -- unless you find a way to  
9 not to get to this point we're at now.

10 MR. CLOWARD: Sure. Do you think that there are instances  
11 where it's clear who maybe is at fault, but through attorneys, that's kind of --  
12 that's -- that's a track to, I guess, be changed?

13 PROSPECTIVE JUROR 15: I would absolutely say that there  
14 are going to be examples of that I know, where specific ones off the top of  
15 my head, because I'm not used to being in this process.

16 MR. CLOWARD: Okay. But, I guess, is -- could you make  
17 room for the possibility that -- that it's not just the plaintiffs that sometimes  
18 draw that attorney -- that attorney gun, using your analogy, that it does  
19 happen on the defense as well? Can you make room --

20 PROSPECTIVE JUROR 15: Yes.

21 MR. CLOWARD: -- for that possibility?

22 PROSPECTIVE JUROR 15: Yeah. There's all kinds of  
23 examples in the entertainment of David and Goliath situations and  
24 everything else where it's the other way around. I understand what your --  
25 what your point is, and it can go either way.

1 MR. CLOWARD: Okay. Well, sir, I appreciate your -- your  
2 thoughts and your candor. Is there anything about this case or about what  
3 you've heard that, you know, if you were a party in this case, you would not  
4 feel comfortable having a juror with your frame of mind either sit on behalf of  
5 the plaintiff or on behalf of the defense?

6 PROSPECTIVE JUROR 15: I would feel comfortable.

7 MR. CLOWARD: Okay.

8 PROSPECTIVE JUROR 15: I would.

9 MR. CLOWARD: Great. And then, could you tell me the three  
10 things, the favorite public figure, favorite job?

11 PROSPECTIVE JUROR 15: Maybe once again, as far as the  
12 industry that we're from, but I'm not in the habit of looking up to people that I  
13 don't personally know.

14 MR. CLOWARD: Okay.

15 PROSPECTIVE JUROR 15: And that's kind of a cynical thing  
16 as well, but if I haven't met you, then how could I look up to you? If we were  
17 to kind of encapsulate that, maybe I could throw Ronald Reagan out there.

18 MR. CLOWARD: Okay. Trust but verify.

19 PROSPECTIVE JUROR 15: Trust but verify. I kind of --

20 MR. CLOWARD: Trust but verify.

21 PROSPECTIVE JUROR 15: What a great way to put it. So --

22 MR. CLOWARD: That's right.

23 PROSPECTIVE JUROR 15: As far as I'm concerned, the only  
24 dignified president we've had in my lifetime.

25 MR. CLOWARD: Okay. So Ronald Reagan. And then,

1 favorite job?

2 PROSPECTIVE JUROR 15: I like several parts that belongs to  
3 the job I'm in now. There have been points in my other employment that I've  
4 enjoyed quite a bit, but I would -- maybe in aircraft services. I used to travel  
5 quite a bit for what we called AOG events.

6 MR. CLOWARD: AOG?

7 PROSPECTIVE JUROR 15: AOG, aircraft on ground.  
8 Basically, somebody is broken somewhere. And that was a good job. That  
9 was a really good job, because we went to [indiscernible].

10 MR. CLOWARD: Cool. You would basically fly to that person,  
11 do whatever needed to be --

12 PROSPECTIVE JUROR 15: Yeah.

13 MR. CLOWARD: -- fixed on the -- okay. And then, the --  
14 something you're passionate about, a hobby or an interest?

15 PROSPECTIVE JUROR 15: Apart from family, I have a strong  
16 interest in automobiles, airplanes, any -- anything that moves people,  
17 transportation [indiscernible], and then politics and the 20th Century  
18 American history.

19 MR. CLOWARD: Okay. Quite a broad, diverse set of interests  
20 there. Okay. Anything else that we haven't touched upon that you feel like  
21 would be important for the parties to know?

22 PROSPECTIVE JUROR 15: No.

23 MR. CLOWARD: Okay. Thank you very much.

24 PROSPECTIVE JUROR 15: You're welcome.

25 MR. CLOWARD: Your Honor, thank you.

1 THE COURT: Mr. Gardner?

2 MR. GARDNER: All right. The cherry-pie hater. Tell me about

3 when you -- have you had a friend or a family member, and I'm taking notes,

4 I hope I don't duplicate this too much, but have you ever had a friend or a

5 family member, someone get -- get injured in -- an automobile accident?

6 PROSPECTIVE JUROR 15: No. Not -- not of any significant --

7 MR. GARDNER: Okay.

8 PROSPECTIVE JUROR 15: -- consequence. No.

9 MR. GARDNER: Okay. You're lucky that way, because there

10 are so many that -- that, you know, do say that. So you're lucky in that way.

11 Remind me one more time what it is you do for a living.

12 PROSPECTIVE JUROR 15: I'm a maintenance manager.

13 MR. GARDNER: Okay. And the maintenance deals with

14 aviation?

15 PROSPECTIVE JUROR 15: Yes.

16 MR. GARDNER: Okay. And what does the typical day for you

17 require? What is it -- what is it like?

18 PROSPECTIVE JUROR 15: Basically, interacting with

19 customers, scheduling, following work orders, insuring the work is done

20 correctly, assigning people to the work. We've got 23 employees, that

21 means I have 23 people's headaches that I have to deal with. Building,

22 quality control, hiring and firing; all of it.

23 MR. GARDNER: They tell me the HR part of the job is probably

24 the worst part of the job --

25 PROSPECTIVE JUROR 15: Yeah.

1 MR. GARDNER: -- isn't it?

2 PROSPECTIVE JUROR 15: Yeah. Yeah.

3 MR. GARDNER: Well, listen, how long have you -- how long  
4 have you been -- it sounds like you're in charge of something. Maybe not  
5 own it, but you're in charge of it, right?

6 PROSPECTIVE JUROR 15: Yeah.

7 MR. GARDNER: How long have you been in charge of that?

8 PROSPECTIVE JUROR 15: I've been in the position I'm in now  
9 for about two years. Before that, I was a chief inspector, which is somewhat  
10 of a -- kind of a way up the same ladder.

11 MR. GARDNER: Okay. Have you been in any other type of  
12 industry --

13 PROSPECTIVE JUROR 15: No, I've been doing this for --

14 MR. GARDNER: -- besides one year?

15 PROSPECTIVE JUROR 15: -- 28 years.

16 MR. GARDNER: Okay. Did you -- do you have any military  
17 background?

18 PROSPECTIVE JUROR 15: No.

19 MR. GARDNER: Did you ever get involved with plane crashes  
20 where they -- where they have to figure out the -- the reason why something  
21 happened?

22 PROSPECTIVE JUROR 15: Yes. I have had someone -- some  
23 -- some experience with that. I've had a lot of recovery experiences, but  
24 actual trying to find fault, I did have one higher-profile accident I was  
25 involved with where all of the manufacturers came out. The NTSB was

1 there leading the investigation, and I was kind of the man taking things apart  
2 on the airplane. So one manufacturer might say, I need that box sent to  
3 wherever, and I would have to be the one. They couldn't physically touch  
4 anything. It was -- I was the hands.

5 MR. GARDNER: And everyone there was pointing a finger at  
6 the other company, right?

7 PROSPECTIVE JUROR 15: No. It didn't really go down like  
8 that. Everybody conducted themselves in a professional manner, and like I  
9 said, the NTSB was there with the FAA, pretty much ramrodding the whole  
10 thing. People were on their best behavior.

11 MR. GARDNER: Okay. Do you ever feel like in society we've  
12 learned to avoid taking responsibility for things we do?

13 PROSPECTIVE JUROR 15: Well, of course, I think that.

14 MR. GARDNER: Of course?

15 PROSPECTIVE JUROR 15: I believe we do, yes.

16 MR. GARDNER: Okay. Is that a bad thing?

17 PROSPECTIVE JUROR 15: Well, I believe it is.

18 MR. GARDNER: Okay. Tell me why?

19 PROSPECTIVE JUROR 15: Because ownership of your -- your  
20 own actions is one of the things that makes us, I think, a decent society.  
21 When people try to blame everything on everyone else, I think that creates a  
22 lot of problems. No, I think that it's a big problem.

23 MR. GARDNER: Okay. That's all I have. Thank you.

24 PROSPECTIVE JUROR 15: Okay.

25 MR. GARDNER: Pass for cause.

1 THE COURT: All right.  
2 Mr. Knutson, if you would, introduce yourself, sir.  
3 PROSPECTIVE JUROR 18: My name is Theodore Knutson, I  
4 go by Tate. I live in -- I've lived in Clark County for ten years now. I moved  
5 here from Alaska. I was born and raised there. I got my bachelor's degree  
6 in kinesiology at UNLV. I'm employed at the Wynn and Encore as a  
7 supervisor there. I'm newly engaged.  
8 THE COURT: Congratulations.  
9 PROSPECTIVE JUROR 18: Thank you. And she has one  
10 daughter; she is seven years old.  
11 THE COURT: All right. Sir, if you would, go ahead and have a  
12 seat. Oh, what does your fiancée do?  
13 PROSPECTIVE JUROR 18: I'm sorry?  
14 THE COURT: What does your fiancée do?  
15 PROSPECTIVE JUROR 18: She works in food and beverage  
16 at Hard Rocks.  
17 THE COURT: All right. Have you ever served as a juror  
18 before?  
19 PROSPECTIVE JUROR 18: I have.  
20 THE COURT: You have? How many times?  
21 PROSPECTIVE JUROR 18: Once.  
22 THE COURT: And was it a civil case or a criminal case?  
23 PROSPECTIVE JUROR 18: Criminal.  
24 THE COURT: Here in Clark County?  
25 PROSPECTIVE JUROR 18: No, in Alaska.

1 THE COURT: Okay. And without telling us what the verdict  
2 was, was the jury able to reach a verdict?

3 PROSPECTIVE JUROR 18: Yes.

4 THE COURT: And were you the foreperson?

5 PROSPECTIVE JUROR 18: No.

6 THE COURT: Okay. Anything about that experience that  
7 would affect your ability to sit as a juror in this case?

8 PROSPECTIVE JUROR 18: Not necessarily.

9 THE COURT: Okay. And you understand that the -- this is a  
10 civil case, so the standards will be completely different from whatever the  
11 instructions were that you received in the criminal case?

12 PROSPECTIVE JUROR 18: See, I didn't -- I didn't know that  
13 before.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR 18: This is my second time being a  
16 juror, so I didn't know the difference.

17 THE COURT: All right. So you -- you would be able to forget,  
18 and you maybe already have forgotten all of the other [indiscernible  
19 2:39:20p] in that criminal case and follow the law in this case, right?

20 PROSPECTIVE JUROR 18: Yes.

21 THE COURT: Okay. Have you ever been a party to a lawsuit  
22 or a witness in a lawsuit before?

23 PROSPECTIVE JUROR 18: No.

24 THE COURT: Have you or anyone close to you worked in the  
25 legal field?



1 PROSPECTIVE JUROR 18: No.

2 THE COURT: And have you -- so you've had some medical  
3 training?

4 PROSPECTIVE JUROR 18: Yeah.

5 THE COURT: And have you ever worked in the medical field,  
6 or has anyone close to you had medical training or worked in the medical  
7 field?

8 PROSPECTIVE JUROR 18: I worked as a physical therapist  
9 technician for four plus years, and I know a few physical therapists around  
10 town.

11 THE COURT: All right. Have you or anyone close to you  
12 suffered a serious injury?

13 PROSPECTIVE JUROR 18: No.

14 THE COURT: Can you wait to form an opinion until you've  
15 heard all of the evidence?

16 PROSPECTIVE JUROR 18: Yes.

17 THE COURT: Can you follow the instructions on the law that I  
18 give you, even if you don't personally agree with them?

19 PROSPECTIVE JUROR 18: Yes.

20 THE COURT: Can you set aside any sympathy you may have  
21 for either side and base your verdict solely on the evidence and the  
22 instructions on the law presented during the trial?

23 PROSPECTIVE JUROR 18: Yes.

24 THE COURT: Is there any reason you couldn't be completely  
25 fair and impartial if you were selected to serve as a juror in this case?

1 PROSPECTIVE JUROR 18: No.

2 THE COURT: And if you were a party to this case, would you

3 be comfortable having someone like yourself as a juror?

4 PROSPECTIVE JUROR 18: Yes.

5 MR. CLOWARD: Thank you.

6 Mr. Knutson, how are you?

7 PROSPECTIVE JUROR 18: Great. Thank you.

8 MR. CLOWARD: Good afternoon. So we're in the -- we're kind

9 of in the home stretch. We're on the front row. That's a good thing.

10 So you moved here from Alaska? How long have you been

11 here?

12 PROSPECTIVE JUROR 18: Ten years.

13 MR. CLOWARD: Ten years. What part of Alaska?

14 PROSPECTIVE JUROR 18: Anchorage.

15 MR. CLOWARD: Anchorage. Good deal. And PT tech, you

16 wouldn't happen to know Ms. Johnson on the back -- the back row, would

17 you?

18 PROSPECTIVE JUROR 18: I don't. We've never met.

19 MR. CLOWARD: Okay. Okay. I just want to make sure. And

20 Alaska -- you're -- you're currently now you're at Wynn and Encore.

21 PROSPECTIVE JUROR 18: Correct.

22 MR. CLOWARD: And what do you -- what do you do?

23 PROSPECTIVE JUROR 18: I'm a supervisor for the Encore

24 Beach Club.

25 MR. CLOWARD: Okay. And is that a -- is that during the winter

1 hours as well, or --

2 PROSPECTIVE JUROR 18: No, just summer.

3 MR. CLOWARD: -- the summer?

4 PROSPECTIVE JUROR 18: Yeah. We actually just finished.

5 MR. CLOWARD: Just finished the season? Okay. And it  
6 sounds like your wife also works in the casino industry. She works for Hard  
7 Rock?

8 PROSPECTIVE JUROR 18: Correct.

9 MR. CLOWARD: Okay. Now, the judge asked if anybody you  
10 knew had been involved in a serious accident or serious injuries. Do you  
11 have any family members or friends that have, I guess, had car crashes or  
12 anything along those lines where they've made a personal injury claims?

13 PROSPECTIVE JUROR 18: Car crashes, yes, but not personal  
14 injury claims. No.

15 MR. CLOWARD: Okay. Do you know anybody, other than  
16 family members, friends, say, for instance, or homework -- home -- or just  
17 coworkers -- I don't know how I got that messed up, coworkers and  
18 homework; it's -- it's a long day. Any coworkers that have had those things?

19 PROSPECTIVE JUROR 18: One of my teammates from  
20 UNLV, he actually was operated on. The doctor operated on the wrong disc  
21 and he was no longer able to play. This was like his sophomore year in  
22 college. So I kind of went through that with him, and he actually -- I think he  
23 just settled the lawsuit, but that's a --

24 MR. CLOWARD: Okay. And was his name Beau?

25 PROSPECTIVE JUROR 18: Yeah.

1 MR. CLOWARD: Okay. And is there anything about that  
2 experience that -- that, I guess, causes you to view personal injury cases or  
3 view lawsuits or litigation in a certain light?

4 PROSPECTIVE JUROR 18: No. I mean, I felt extreme  
5 sympathy for him because he was a teammate for so long, and I only got to  
6 play with him two years, and then his career was cut short because of that.

7 MR. CLOWARD: Okay. You still in touch with him?

8 PROSPECTIVE JUROR 18: Yeah.

9 MR. CLOWARD: Okay. And I don't -- I don't want to be  
10 redundant. I just need to make sure that there is nothing about that  
11 experience, I guess, that would cause you to unfairly look at the facts in this  
12 case to either the plaintiff or the defense?

13 PROSPECTIVE JUROR 18: No. I believe, again, each case is  
14 situational and different.

15 MR. CLOWARD: Okay. Fair enough. Now, Mr. Knutson, as  
16 we have gone through the majority of -- of the questions here, is there  
17 anything that has been said that, you know, really caused you some -- some  
18 strong feelings that you wanted to talk about?

19 PROSPECTIVE JUROR 18: No, sir.

20 MR. CLOWARD: What about the -- the discussion of  
21 healthcare needs? You know, making a decision about somebody's  
22 healthcare into the future. How do you -- how does that set with you?

23 PROSPECTIVE JUROR 18: I mean, I believe that, like, as far  
24 as pain and suffering goes and the compensation for that?

25 MR. CLOWARD: Uh-huh.

1 PROSPECTIVE JUROR 18: I mean, in those case, like,  
2 absolutely, you know. And, again, every case is different, but, you know, he  
3 was -- again, his career was cut short, he -- and, you know, there's no -- you  
4 can't put a price on that, for one. But, also, you don't know if he would ever,  
5 you know, be able to -- or his career would have longevity.

6 MR. CLOWARD: Sure.

7 PROSPECTIVE JUROR 18: Like, if he was going to make it  
8 into the NFL. So how do you put a price on something like that?

9 MR. CLOWARD: Okay. While those things are difficult to  
10 quantify, is that something that you're willing to sit in deliberations with other  
11 members of our community and have a thoughtful, meaningful discussion  
12 about to try to reach some sort of an agreement?

13 PROSPECTIVE JUROR 18: Of course.

14 MR. CLOWARD: Okay. And do you agree with me that -- that  
15 just because the parties here, just because Mr. Morgan has some lawyers,  
16 and just because the defendant has some lawyers, it doesn't mean that -- it  
17 doesn't really mean anything, does it, to you?

18 PROSPECTIVE JUROR 18: No.

19 MR. CLOWARD: You're going to make both -- both parties, I  
20 guess, prove their case and present a case?

21 PROSPECTIVE JUROR 18: Correct.

22 MR. CLOWARD: Okay. Are you willing to listen to that without  
23 sympathy and without, I guess, feeling sorry for one side or the other?

24 PROSPECTIVE JUROR 18: Yes.

25 MR. CLOWARD: Now, obviously, the -- the discussion earlier

1 that, you know, I was brutally honest and up front, I said, you know, at the  
2 end of this, I'm going to ask for an amount into the millions, a lot of money,  
3 okay? And I will tell everybody that right now. I'm just being candid and  
4 brutally honest and up front about it. Anything about those numbers that you  
5 know what -- you just think, you know what, I -- it doesn't really matter what  
6 you prove; it doesn't matter what the evidence says; it doesn't matter what  
7 the doctors say, I guess, I could never enter that into a -- into a verdict form,  
8 regardless of what the evidence shows?

9 PROSPECTIVE JUROR 18: I believe I could.

10 MR. CLOWARD: Okay. And similarly, I'm going to ask the  
11 question on the other side. You know, if -- if, for instance, Mr. Gardner does  
12 prove somehow that -- that my client wasn't -- wasn't injured, you wouldn't  
13 have a problem putting a zero or checking the box of no, would you?

14 PROSPECTIVE JUROR 18: No.

15 MR. CLOWARD: I mean, just the fact that he's here doesn't  
16 mean that, you know, he has some -- some amount that people feel, right?

17 PROSPECTIVE JUROR 18: Correct.

18 MR. CLOWARD: Okay. You're willing to listen to the facts and  
19 evidence?

20 PROSPECTIVE JUROR 18: Absolutely.

21 MR. CLOWARD: Okay. Here's a very broad question, but I'm  
22 asking you to search in your -- in your gut, in your heart and your head, and  
23 -- and level with me. Is there anything that has been said so far that has  
24 caused you to feel one way or another or caused you to already form an  
25 opinion about the merits of this case or the parties in the case?

1 PROSPECTIVE JUROR 18: No, sir.

2 MR. CLOWARD: All right. And is there anything that you feel  
3 would be important for either me to know or for Mr. Gardner and the defense  
4 to know?

5 PROSPECTIVE JUROR 18: No.

6 MR. CLOWARD: All right. Now, the three questions; public  
7 figure, passion, favorite job.

8 PROSPECTIVE JUROR 18: The public figure, I would probably  
9 go with like Urban Meyer or Nick Saban, just because of their leadership  
10 abilities.

11 MR. CLOWARD: Yeah.

12 PROSPECTIVE JUROR 18: My favorite job was probably  
13 coaching high school. That wasn't necessarily to get paid for it, but it was --

14 MR. CLOWARD: Was that football?

15 PROSPECTIVE JUROR 18: Yeah, correct.

16 MR. CLOWARD: The Marshal I know coaches the -- coaches,  
17 maybe you guys could discuss that a little bit.

18 PROSPECTIVE JUROR 18: Yeah. And then -- sorry, what  
19 was the last one? What am I passionate about?

20 MR. CLOWARD: So, yeah. Something you're passionate --

21 PROSPECTIVE JUROR 18: I'm passionate about coaching,  
22 teaching, and traveling.

23 MR. CLOWARD: Okay. Where is your favorite place to travel?

24 PROSPECTIVE JUROR 18: Internationally, probably Thailand,  
25 and probably the United States, Portland.

1 MR. CLOWARD: Okay. Great. Well, thank you very much.  
2 Your Honor, no more questions.

3 THE COURT: All right.

4 Mr. Gardner?

5 MR. GARDNER: So I understand it, you did play college  
6 football. Is that right?

7 PROSPECTIVE JUROR 18: Yes, sir.

8 MR. GARDNER: Okay. And who did you play for?

9 PROSPECTIVE JUROR 18: UNLV.

10 MR. GARDNER: UNLV. Okay. And what position?

11 PROSPECTIVE JUROR 18: Wide receiver.

12 MR. GARDNER: What years?

13 PROSPECTIVE JUROR 18: It was '06 to 2010.

14 MR. GARDNER: Okay. That's -- that's pretty significant playing  
15 for a D1 school. I mean, that's amazing. So what is it about Urban Meyer  
16 that you like?

17 PROSPECTIVE JUROR 18: Just his ability to lead a group of  
18 men, especially at that high of a level.

19 MR. GARDNER: Okay. The same for Nick Saban?

20 PROSPECTIVE JUROR 18: Correct.

21 MR. GARDNER: I've always joked about Nick Saban. He -- I  
22 always tell people, He's really not that good of a coach. He's just got better  
23 players than everybody.

24 PROSPECTIVE JUROR 18: Yeah. I know.

25 MR. GARDNER: Kind of like Gorman, you know, he's got better



1 players than everybody else.

2 PROSPECTIVE JUROR 18: They definitely have the cream of  
3 the crop.

4 MR. GARDNER: Yeah, they definitely do. Is there anything  
5 that you can point to to suggest that you wouldn't listen to the evidence and  
6 be fair in any decision you would make in this case?

7 PROSPECTIVE JUROR 18: I'm sorry. One more time?

8 MR. GARDNER: Is there any reason you can think of that you  
9 wouldn't be willing to listen to the evidence and then be impartial to the way  
10 it points you?

11 PROSPECTIVE JUROR 18: No.

12 MR. GARDNER: Okay. Thank you.

13 That's all I have. Pass for cause.

14 THE COURT: All right.

15 MR. CLOWARD: Thank you.

16 THE COURT: Ms. King, if you will, introduce yourself.

17 PROSPECTIVE JUROR 19: Hi. My name is Kelsey. I've been  
18 in Clark County for 26 years. I went to high school here, and [indiscernible0-  
19 and Las Vegas School of Insurance. I'm currently employed right for Design  
20 Concepts, Inc. I do outside sales for them [indiscernible] representative. I'm  
21 not married and I don't have any kids.

22 THE COURT: All right. Thank you, ma'am. Go ahead and  
23 have a seat.

24 Have you ever served as a juror before?

25 PROSPECTIVE JUROR 19: No.

1 THE COURT: Have you ever been a party to a lawsuit or a  
2 witness in a lawsuit before?

3 PROSPECTIVE JUROR 19: No.

4 THE COURT: Have you or anyone close to you worked in the  
5 legal field?

6 PROSPECTIVE JUROR 19: No.

7 THE COURT: Have your or anyone close to you had medical  
8 training or worked in the medical field?

9 PROSPECTIVE JUROR 19: No.

10 THE COURT: Have you or anyone close to you suffered a  
11 serious injury?

12 PROSPECTIVE JUROR 19: No.

13 THE COURT: Can you wait to form an opinion until you've  
14 heard all of the evidence?

15 PROSPECTIVE JUROR 19: Yes.

16 THE COURT: Can you follow the instructions on the law that I  
17 give you, even if you don't personally agree with them?

18 PROSPECTIVE JUROR 19: Yes.

19 THE COURT: Can you set aside any sympathy you may have  
20 for either side and base your verdict solely on the evidence and the  
21 instructions on the law presented during the trial?

22 PROSPECTIVE JUROR 19: Yes.

23 THE COURT: Is there any reason you couldn't be completely  
24 fair and impartial if you were selected as a juror?

25 PROSPECTIVE JUROR 19: No.

1 THE COURT: If you were a party to this case, would you be  
2 comfortable having someone like yourself as a juror?

3 PROSPECTIVE JUROR 19: Sure.

4 THE COURT: All right.

5 MR. CLOWARD: Thank you, Your Honor.

6 Ms. King, how are you today?

7 PROSPECTIVE JUROR 19: Good. How are you?

8 MR. CLOWARD: So is it Mrs. or Ms. King?

9 PROSPECTIVE JUROR 19: Ms. -- Miss -- Misses

10 MR. CLOWARD: Mrs.?

11 PROSPECTIVE JUROR 19: Misses. I'm not married, so --

12 MR. CLOWARD: Oh, I thought you said --

13 THE COURT: Miss.

14 PROSPECTIVE JUROR 19: No. I'm not married. We live  
15 together, me and my boyfriend, but we're not married.

16 MR. CLOWARD: I'm sorry. I have terrible hearing, obviously.

17 PROSPECTIVE JUROR 19: You're fine.

18 MR. CLOWARD: I thought you said I'm married but I have no  
19 kids.

20 PROSPECTIVE JUROR 19: No.

21 MR. CLOWARD: Okay. I'm sorry. So, Ms. King, then, and you  
22 -- you also mentioned you went to Las Vegas School of?

23 PROSPECTIVE JUROR 19: Insurance.

24 MR. CLOWARD: Of?

25 PROSPECTIVE JUROR 19: Insurance.

1 MR. CLOWARD: Oh, insurance.  
2 PROSPECTIVE JUROR 19: Uh-huh.  
3 MR. CLOWARD: What is that? I've never heard of that.  
4 PROSPECTIVE JUROR 19: Property, casualty, and bonding. I  
5 did that from high school for about six years on for an insurance brokerage.  
6 I did their bonding side, though, for automotive companies, garage bonds,  
7 and so on and so forth.  
8 MR. CLOWARD: Can you tell me a little bit more about that?  
9 What -- I've never even -- I don't even know what that means.  
10 [Indiscernible].  
11 PROSPECTIVE JUROR 19: Garage bonds?  
12 MR. CLOWARD: What I that?  
13 PROSPECTIVE JUROR 19: A mechanic shop needs to hold a  
14 bond for a certain amount of money to the DMV, in case the mechanic  
15 makes an oopsie on a vehicle, for the client to come back and put it on their  
16 bond in a sense. Like, it's an insurance. The same thing.  
17 MR. CLOWARD: Okay. Interesting. That's -- I've never even  
18 heard of that. So I didn't even know there was a school for that. It's --  
19 PROSPECTIVE JUROR 19: Yeah. I mean, you have to carry a  
20 property-casualty license to do insurance. So, yeah, it's a certification.  
21 MR. CLOWARD: Okay. Now, I noticed on the -- the little  
22 information we get, we get a teeny bit of information about everybody, just a  
23 little teeny --  
24 PROSPECTIVE JUROR 19: [Indiscernible].  
25 MR. CLOWARD: It's like -- it's like two facts.

1 PROSPECTIVE JUROR 19: That's good. You didn't see my  
2 Facebook, did you? No.

3 MR. CLOWARD: So -- but one of them the fact was, I guess,  
4 that you're -- you're employed by the company called Design Concepts?

5 PROSPECTIVE JUROR 19: Design Concepts, Inc. Yes, sir.

6 MR. CLOWARD: Now, is that a -- is that an insurance  
7 company?

8 PROSPECTIVE JUROR 19: No, that's a lighting design and  
9 manufacturer's representative company. It's actually a family business I  
10 swore I would never get into but got into.

11 MR. CLOWARD: Your family?

12 PROSPECTIVE JUROR 19: Uh-huh. Yeah.

13 MR. CLOWARD: Okay.

14 PROSPECTIVE JUROR 19: My father is one of the principals.

15 MR. CLOWARD: Okay.

16 PROSPECTIVE JUROR 19: My brother is one of the principals,  
17 and I could go on for days. The manufacturers, we have 92 manufacturers  
18 that we represent for the state of Nevada here in Reno, and our job is to  
19 show it to the electrical distributors, contractors, end-users, designers,  
20 engineers, so on and so forth and get out project onto plans and be  
21 [indiscernible].

22 MR. CLOWARD: Now, is it -- is this commercial? Is this  
23 residential?

24 PROSPECTIVE JUROR 19: Both.

25 MR. CLOWARD: Both?

1 PROSPECTIVE JUROR 19: I do from the high-mast down 15  
2 right now to the KB -- or the -- was it Shea Homes, and a lot of office  
3 buildings as well.

4 MR. CLOWARD: Okay. So, basically, here are the plans; here  
5 are the lights --

6 PROSPECTIVE JUROR 19: Yes.

7 MR. CLOWARD: -- and then you guys would go in there and  
8 say here are the different lighting options; here is the bid for that type of  
9 thing. Is that --

10 PROSPECTIVE JUROR 19: Yeah, that's one part of it.

11 MR. CLOWARD: One part of it.

12 PROSPECTIVE JUROR 19: Yeah.

13 MR. CLOWARD: Okay. Now, back to the -- the prior  
14 employment. Was there a company you worked for?

15 PROSPECTIVE JUROR 19: Prior to that, I worked for Nextrant  
16 -- NextGen Integrated Solutions. I was a project assistant with  
17 [indiscernible] electrical estimator. That was early last year.

18 MR. CLOWARD: Okay.

19 PROSPECTIVE JUROR 19: I was there for three years.

20 MR. CLOWARD: Now, about the -- the job where you were in  
21 the bonding --

22 PROSPECTIVE JUROR 19: Uh-huh.

23 MR. CLOWARD: -- were you ever in the adjusting --

24 PROSPECTIVE JUROR 19: Huh-uh.

25 MR. CLOWARD: -- area of that?

1 PROSPECTIVE JUROR 19: No.

2 MR. CLOWARD: No? So you weren't -- okay. Did you have

3 friends that were?

4 PROSPECTIVE JUROR 19: Yeah, but never no face-to-face.

5 They were in different states. I knew them by phone call, that was it.

6 MR. CLOWARD: Gotcha. Okay. Fair enough. Anything about

7 that experience or your education that, I guess --

8 PROSPECTIVE JUROR 19: It was so long ago, I couldn't even

9 -- I don't even remember. I forgot, to be honest. I don't really remember a

10 lot from the insurance side of it.

11 MR. CLOWARD: Okay. But fair to say that nothing about that

12 should concern you with myself or --

13 PROSPECTIVE JUROR 19: Oh, no.

14 MR. CLOWARD: -- Mr. Gardner?

15 PROSPECTIVE JUROR 19: No.

16 MR. CLOWARD: Okay. Has there been anything that's been

17 said so far, Ms. King, that you know you feel strong about and you have

18 some feelings about?

19 PROSPECTIVE JUROR 19: I think everybody has got opinions

20 on what they think. [Indiscernible].

21 MR. CLOWARD: I would like to know how -- how you feel

22 about it. What your feelings are.

23 PROSPECTIVE JUROR 19: I think this is a pretty difficult thing

24 that -- that we have to go through.

25 MR. CLOWARD: Okay.

1 PROSPECTIVE JUROR 19: I'm not opposed to any of it either.  
2 I have a friend who is on trial right now, too, and it's rough to see what he  
3 has to go through. He's the defendant side, and, you know, but he's strong  
4 about it. So, you know, being a friend, I'm there for him and supporting him  
5 through everything.

6 MR. CLOWARD: Sure.

7 PROSPECTIVE JUROR 19: I'm not -- I mean, this is life. We  
8 have to deal with it.

9 MR. CLOWARD: So he's actually in the middle of trial right now  
10 as we speak?

11 PROSPECTIVE JUROR 19: Yes.

12 MR. CLOWARD: In this same courthouse?

13 PROSPECTIVE JUROR 19: Yes.

14 MR. CLOWARD: Wow. What are the chances there? I bet he  
15 was wishing that you would get on his --

16 PROSPECTIVE JUROR 19: Yeah.

17 MR. CLOWARD: -- or not.

18 PROSPECTIVE JUROR 19: Yeah.

19 MR. CLOWARD: Okay. How long has that been going on?

20 PROSPECTIVE JUROR 19: It started from earlier this year, the  
21 beginning of this year.

22 MR. CLOWARD: It's been going on that long?

23 PROSPECTIVE JUROR 19: It's been going on for a while.

24 MR. CLOWARD: What was --

25 PROSPECTIVE JUROR 19: It's a pretty deep on.



1 MR. CLOWARD: Was he -- was he the driver, or --  
2 PROSPECTIVE JUROR 19: Yes.  
3 MR. CLOWARD: Wow. That's -- I didn't know that there was --  
4 PROSPECTIVE JUROR 19: I mean, I guess it really wasn't like  
5 earlier, earlier in this year, but it started --  
6 MR. CLOWARD: A while ago?  
7 PROSPECTIVE JUROR 19: Uh-huh.  
8 MR. CLOWARD: It's been going on for a long time?  
9 PROSPECTIVE JUROR 19: Yeah.  
10 MR. CLOWARD: Okay. Will you level with me for a minute?  
11 PROSPECTIVE JUROR 19: Huh? Sure.  
12 MR. CLOWARD: You sure you -- it sounds like you're pretty  
13 good friends with -- with him?  
14 PROSPECTIVE JUROR 19: Yeah. I don't know how much I'm  
15 allowed to say about it, but sure.  
16 MR. CLOWARD: I don't want you to say anything about the  
17 facts. I don't want to, you know, potentially jeopardize his case or anything  
18 along those lines, but seeing him go through that, does that cause you to  
19 have feelings one way or another?  
20 PROSPECTIVE JUROR 19: No. I think that it was a blessing  
21 in disguise, as bad as that sounds. You know, he was a good guy, but it  
22 definitely put him on a better track. He's changed his life around. He gave  
23 his wife full custody of his kids from a previous marriage, just in case  
24 anything does happen. He goes to church, and he volunteers 100 percent  
25 of his time after work to carry insulin and so forth on that side.

1                   So to watch him grow into a better man has been a fun journey,  
2 but to watch the -- his family have to go through what they're going through  
3 right now is tough --

4                   MR. CLOWARD: Sure.

5                   PROSPECTIVE JUROR 19: -- because they have four kids  
6 and, you know, he can't -- his living was driving, and he can't do that  
7 anymore. So it's tough to watch some of it, but they -- they're strong.

8                   MR. CLOWARD: Gotcha.

9                   PROSPECTIVE JUROR 19: [Indiscernible].

10                  MR. CLOWARD: Okay. When was the last time you  
11 communicated with him?

12                  PROSPECTIVE JUROR 19: I go to the gym with him every  
13 day.

14                  MR. CLOWARD: Wow.

15                  PROSPECTIVE JUROR 19: He's my gym partner. I've grown  
16 up with him though.

17                  MR. CLOWARD: Okay. So you saw him today?

18                  PROSPECTIVE JUROR 19: Uh-huh. No, I'll see him tonight.

19                  MR. CLOWARD: You will see him tonight. Gotcha. Okay.

20                  And anything about that experience -- just I'll be frank with you,  
21 just it worries me a little bit. Your friend is on trial; he's been on trial for a  
22 couple of months, and I just want to make sure that that experience wouldn't  
23 -- wouldn't, I guess, bleed over into somehow --

24                  PROSPECTIVE JUROR 19: No. I think it's different. Every  
25 situation is different.

1 MR. CLOWARD: Okay.

2 PROSPECTIVE JUROR 19: Yeah. No.

3 MR. CLOWARD: So you wouldn't -- you wouldn't, I guess, feel  
4 more sorry, maybe, for the defendant knowing what your friend has gone  
5 through and knowing what --

6 PROSPECTIVE JUROR 19: We're talking about this -- this  
7 situation?

8 MR. CLOWARD: Yeah.

9 PROSPECTIVE JUROR 19: Or his situation? This, no. It's a  
10 completely different situation. Obviously, we don't know what's going on, but  
11 --

12 MR. CLOWARD: Sure.

13 PROSPECTIVE JUROR 19: So, no. It wouldn't affect it. It -- I  
14 know what happened on his side, and that's something different. And I think  
15 it's a very unique one. I don't think anybody is going to be close to how his  
16 was, so --

17 MR. CLOWARD: Gotcha. Okay. Fair enough. Well, thank  
18 you.

19 PROSPECTIVE JUROR 19: Uh-huh.

20 MR. CLOWARD: Thank you for searching in your feelings  
21 and --

22 PROSPECTIVE JUROR 19: Sure.

23 MR. CLOWARD: -- telling me about that. Anything else that's  
24 been said throughout this process that brought some emotions that you feel  
25 like might be important to discuss?

1 PROSPECTIVE JUROR 19: Nope, not at all.

2 MR. CLOWARD: What about any of the concepts that we have

3 discussed?

4 PROSPECTIVE JUROR 19: No.

5 MR. CLOWARD: Okay. Anything that I should know or the

6 defense should know about you as an individual?

7 PROSPECTIVE JUROR 19: I think you kind of got the gist of

8 me. No, I don't think so.

9 MR. CLOWARD: Okay. Can you tell me the three things that --

10 passion, favorite job, somebody that you admire and why?

11 PROSPECTIVE JUROR 19: Sure. Passion, I would say

12 interior design and mountain biking. Favorite position, I would say -- or job

13 would be the one I'm currently in working with my family, and somebody I

14 look up to, I guess, I'm just throwing it out there, locally, Chuck Buchanan,

15 from "The Morning Zoo," and only because he's -- I know -- completely

16 involved into the community. He's very opinionated, but, also, listens to

17 other people's sides of their story. He just has a good -- a good talk show,

18 and he's leaving soon, so that's not [indiscernible].

19 MR. CLOWARD: Gotcha. Okay. Fair enough. Well, thank you

20 very much.

21 PROSPECTIVE JUROR 19: You're welcome.

22 MR. CLOWARD: Thank you.

23 No further questions, Your Honor.

24 THE COURT: Mr. Gardner?

25 MR. GARDNER: You said that it was Chuck Buchanan?

1 PROSPECTIVE JUROR 19: Chuck Buchanan, yeah.  
2 MR. GARDNER: Okay.  
3 PROSPECTIVE JUROR 19: Buchanan.  
4 MR. GARDNER: What -- when does he show up on the radio?  
5 PROSPECTIVE JUROR 19: I think it's like 6 a.m. is when he  
6 starts, and he goes until about 10:00.  
7 MR. GARDNER: Okay.  
8 PROSPECTIVE JUROR 19: Or 9:00 part of the time.  
9 MR. GARDNER: You like that he listens to both points of  
10 stories --  
11 PROSPECTIVE JUROR 19: Uh-huh.  
12 MR. GARDNER: -- and then --  
13 PROSPECTIVE JUROR 19: Yeah. Well, and he kind of -- he  
14 flips little things out there in your ears that are going wrong in the news,  
15 good stories of the day, and just a little pick-me-up for on your way to work  
16 to put a smile on your face.  
17 MR. GARDNER: Okay. Let's see. How long have you listened  
18 to Mr. Buchanan?  
19 PROSPECTIVE JUROR 19: Oh, gosh. Well, I've -- I've lived  
20 here, I'd say, the majority of my life. So probably since like sixth grade.  
21 He's been on the radio for a while. He's 20 plus years right now.  
22 MR. GARDNER: Okay. Okay. Have you ever met him?  
23 PROSPECTIVE JUROR 19: Yes. Yes.  
24 MR. GARDNER: Is he as good in person --  
25 PROSPECTIVE JUROR 19: Oh, yeah. Bubbly.

1 MR. GARDNER: -- as you thought he would be?  
2 PROSPECTIVE JUROR 19: He -- he will put a smile on your  
3 face as soon as you meet him. A good guy. I've met him multiple times.  
4 MR. GARDNER: Okay. Now, the other thing is you -- you say  
5 you've got a very good friend in trial right now, correct?  
6 PROSPECTIVE JUROR 19: Uh-huh.  
7 MR. GARDNER: And it's in this courthouse, correct?  
8 PROSPECTIVE JUROR 19: Uh-huh.  
9 MR. GARDNER: And was -- was he injure -- I know he's the  
10 defendant, right? He's the one being sued?  
11 PROSPECTIVE JUROR 19: No, he wasn't. He wasn't the one  
12 injured.  
13 MR. GARDNER: Okay. So was he the one that would be  
14 quote/unquote "responsible" for the accident?  
15 PROSPECTIVE JUROR 19: For --  
16 MR. GARDNER: Is that what they're claiming?  
17 PROSPECTIVE JUROR 19: For a portion of it, sure.  
18 MR. GARDNER: Okay. Okay. But he wasn't injured and he's  
19 not pursuing any kind of a personal injury claim; is that right?  
20 PROSPECTIVE JUROR 19: Correct.  
21 MR. GARDNER: Okay. Well, tell me a little bit about the  
22 accident. What -- what kind of a vehicle was he in, your friend?  
23 PROSPECTIVE JUROR 19: A sandrail.  
24 MR. GARDNER: What was it?  
25 PROSPECTIVE JUROR 19: A sandrail. An off-roading vehicle.

1 MR. GARDNER: Oh, okay. Okay. Was this a -- was this kind  
2 of like a recreational activity that he was on and the vehicle flipped or  
3 something of that nature? Just give me a little bit, would you?

4 PROSPECTIVE JUROR 19: He took a corner too fast.

5 MR. GARDNER: Okay.

6 PROSPECTIVE JUROR 19: And --

7 MR. GARDNER: And when he took the corner too fast, I'm  
8 assuming the buggy flipped. Did it hit someone on the side of the road; is  
9 that what happened?

10 PROSPECTIVE JUROR 19: So we'll say, yes; close enough.

11 MR. GARDNER: Okay. But his vehicle flipped? His -- his  
12 vehicle flipped, did it?

13 PROSPECTIVE JUROR 19: Uh-huh.

14 MR. GARDNER: Okay. How many times did it flip over?

15 PROSPECTIVE JUROR 19: I -- well, I don't know to be honest.

16 MR. GARDNER: Okay. Okay. Did it happen at Sand  
17 Mountain?

18 PROSPECTIVE JUROR 19: Sand Mountain, Southern Hills.

19 MR. GARDNER: So he was in a -- an accident, and, again, I'm  
20 not trying to put words in your mouth, but it was a fairly significant accident.

21 PROSPECTIVE JUROR 19: Uh-huh.

22 MR. GARDNER: He's here on trial.

23 PROSPECTIVE JUROR 19: Uh-huh.

24 MR. GARDNER: But he didn't get hurt in the accident at all?

25 PROSPECTIVE JUROR 19: No.

1 MR. GARDNER: No? Okay. That's -- that's good to know.  
2 Yeah. That's all I have, Your Honor. I'll pass.  
3 THE COURT: Okay. Mr. Schleppegrell, did I get that close?  
4 PROSPECTIVE JUROR 20: Ron Schleppegrell. I have lived in  
5 Clark County for eight years, and I got a bachelor's degree at the University  
6 of Alaska, and I'm in resort property management, and I'm married, no  
7 children.  
8 THE COURT: All right. Sir, where did you live before Clark  
9 County?  
10 PROSPECTIVE JUROR 20: Los Angeles.  
11 THE COURT: Okay. And are you -- do you work in a specific  
12 area of resort management?  
13 PROSPECTIVE JUROR 20: Yeah, sales.  
14 THE COURT: Okay. Thank you. So go ahead and have a  
15 seat, sir.  
16 What does your spouse do?  
17 PROSPECTIVE JUROR 20: What was that, again?  
18 THE COURT: What does your spouse do?  
19 PROSPECTIVE JUROR 20: She is a retired interior designer.  
20 THE COURT: Great. Have you ever served as a juror before,  
21 sir?  
22 PROSPECTIVE JUROR 20: No.  
23 THE COURT: Have you ever been a party to a lawsuit or a  
24 witness to a lawsuit before?  
25 PROSPECTIVE JUROR 20: No.



1 THE COURT: Have you or anyone close to you worked in the  
2 legal field?

3 PROSPECTIVE JUROR 20: No.

4 THE COURT: Have you or anyone close to you had medical  
5 training or worked in the medical field?

6 PROSPECTIVE JUROR 20: No.

7 THE COURT: Have you or anyone close to you suffered a  
8 serious injury?

9 PROSPECTIVE JUROR 20: No.

10 THE COURT: Can you wait to form an opinion until you've  
11 heard all of the evidence?

12 PROSPECTIVE JUROR 20: Yes.

13 THE COURT: Can you follow the instructions on the law that I  
14 give you, even if you don't personally agree with them?

15 PROSPECTIVE JUROR 20: Yes.

16 THE COURT: Can you set aside any sympathy you may have  
17 for either side and base your verdict solely on the evidence and the  
18 instructions on the law presented during the trial?

19 PROSPECTIVE JUROR 20: Yes.

20 THE COURT: Is there any reason you couldn't be completely  
21 fair and impartial if you were selected as a juror in this case?

22 PROSPECTIVE JUROR 20: No.

23 THE COURT: And if you were a party to this case, would you  
24 be comfortable having someone like yourself as a juror?

25 PROSPECTIVE JUROR 20: Yeah.

1 MR. CLOWARD: Thank you.

2 Mr. Schleppegrell, did I pronounce that correctly?

3 PROSPECTIVE JUROR 20: I've been called everything from  
4 Schleponthegrill to [indiscernible].

5 MR. CLOWARD: Call me anything, just not late for dinner,  
6 right?

7 PROSPECTIVE JUROR 20: Yeah.

8 MR. CLOWARD: Did I pronounce it right though?

9 PROSPECTIVE JUROR 20: Schleppegrell.

10 MR. CLOWARD: Schleppegrell. Okay. And then you went to  
11 Alaska, the University of Alaska.

12 PROSPECTIVE JUROR 20: Yeah.

13 MR. CLOWARD: Tell me about that?

14 PROSPECTIVE JUROR 20: Well, that's where I was -- lived all  
15 my life. My dad was -- went up there after the war and he became mayor of  
16 Fairbanks, and --

17 MR. CLOWARD: Wow.

18 PROSPECTIVE JUROR 20: -- I went to school there.

19 MR. CLOWARD: No kidding? How about that. So -- now, I  
20 wrote down, I thought Mr. Knutson was from Fairbanks.

21 PROSPECTIVE JUROR 20: Anchorage.

22 PROSPECTIVE JUROR 15: Anchorage.

23 MR. CLOWARD: Anchorage. See, I didn't write it down. I just  
24 thought that. So how close are those towns?

25 PROSPECTIVE JUROR 20: Well, nowadays, when I was a kid,

1 it was about 450 miles, but they built a new highway; it's only like, what,  
2 350?

3 MR. CLOWARD: Okay. So not -- not too bad.

4 PROSPECTIVE JUROR 20: No. It used to be a weekend  
5 game.

6 MR. CLOWARD: And tell me, you went -- you went to -- you  
7 grew up there it sounds like, and then you went to -- went to school there,  
8 then you moved away.

9 PROSPECTIVE JUROR 20: Yeah.

10 MR. CLOWARD: You moved down to LA?

11 PROSPECTIVE JUROR 20: No. No. I moved to Minnesota to  
12 play hockey.

13 MR. CLOWARD: Minnesota has one of the better -- better  
14 hockey teams, right?

15 PROSPECTIVE JUROR 20: They have a lot of good hockey  
16 teams there.

17 MR. CLOWARD: What's that?

18 PROSPECTIVE JUROR 20: They have a lot of --

19 MR. CLOWARD: The University of --

20 PROSPECTIVE JUROR 20: The University of Minnesota has  
21 won the national championship.

22 MR. CLOWARD: Yeah. Is that who you played for?

23 PROSPECTIVE JUROR 20: No. I played at Fairbanks.

24 MR. CLOWARD: Gotcha. What position did you play?

25 PROSPECTIVE JUROR 20: Center.

1 MR. CLOWARD: Are you a Knights fan?  
2 PROSPECTIVE JUROR 20: Absolutely.  
3 MR. CLOWARD: Cool. All right. So tell me a little bit about the  
4 bachelor's degree. What is your bachelor's degree in?  
5 PROSPECTIVE JUROR 20: Business administration  
6 management.  
7 MR. CLOWARD: And now you do, I think you said, timeshare --  
8 PROSPECTIVE JUROR 20: Timeshare sales. I have like a  
9 sales crew. I'm the director.  
10 MR. CLOWARD: Is there a particular company you work for?  
11 PROSPECTIVE JUROR 20: Yeah. Grandview.  
12 MR. CLOWARD: Grandview.  
13 PROSPECTIVE JUROR 20: That's the resort.  
14 MR. CLOWARD: Do you enjoy that?  
15 PROSPECTIVE JUROR 20: Yeah.  
16 MR. CLOWARD: So we've -- we've gone through the process.  
17 We've talked to a lot of folks already. We've asked a lot of questions. Is  
18 there anything that's been discussed so far that you kind of have some  
19 strong feelings about you would like to discuss?  
20 PROSPECTIVE JUROR 20: Huh-uh.  
21 MR. CLOWARD: Anything that you have any feelings about;  
22 whether they're strong or not?  
23 PROSPECTIVE JUROR 20: No.  
24 MR. CLOWARD: Nothing at all?  
25 PROSPECTIVE JUROR 20: No.

1 MR. CLOWARD: How do you feel about lawsuits?

2 PROSPECTIVE JUROR 20: Well, it seems to be necessary in  
3 some cases.

4 MR. CLOWARD: Okay. Do you feel like there are some  
5 frivolous ones out there?

6 PROSPECTIVE JUROR 20: Oh, I would say there has been  
7 frivolous everything.

8 MR. CLOWARD: Sure. Do you have a view one way or  
9 another about whether a majority of lawsuits or frivolous or --

10 PROSPECTIVE JUROR 20: No.

11 MR. CLOWARD: -- or not? It's kind of like fact by fact for you?

12 PROSPECTIVE JUROR 20: That's exactly right.

13 MR. CLOWARD: What do you think of the legal system  
14 altogether?

15 PROSPECTIVE JUROR 20: Necessary.

16 MR. CLOWARD: A necessary evil or necessary, necessary?

17 PROSPECTIVE JUROR 20: Necessary, necessary. Unless, of  
18 course, I'm on the wrong end of it.

19 MR. CLOWARD: Then it's necessary to you. What do you  
20 think about personal injury cases?

21 PROSPECTIVE JUROR 20: Well, if someone is injured and  
22 incapable of living their life that they were planning on living, of course it's --  
23 [indiscernible].

24 MR. CLOWARD: Okay. Do you think that -- do you think that  
25 there is a problem? Do you think the system is broken or do you think it

1 works just fine?

2 PROSPECTIVE JUROR 20: I don't know enough about the  
3 system to say one way or the other. I'm assuming its in good shape or else  
4 it wouldn't exist.

5 MR. CLOWARD: All right. Have -- prior to, I guess, our  
6 discussion with the other panel members, have you -- have you heard of,  
7 say for instance, the McDonald's case?

8 PROSPECTIVE JUROR 20: I kind of did, but not until I saw it  
9 about the similar situation on "Seinfeld" one time.

10 MR. CLOWARD: Tell me -- tell me about that episode.

11 PROSPECTIVE JUROR 20: When Kramer had the problem  
12 and Jackie was suing the occupants. Then somebody told me where that  
13 came from.

14 MR. CLOWARD: I didn't see that episode. Was it a good one?

15 PROSPECTIVE JUROR 20: It was a good one.

16 MR. CLOWARD: I'm going to go home and try to YouTube it  
17 [indiscernible]. Is there anything about your views that you think that I  
18 should know about, or that you think maybe would concern --

19 PROSPECTIVE JUROR 20: No. I'm some open-minded.

20 MR. CLOWARD: Okay. Are you willing to listen to the facts  
21 and the evidence?

22 PROSPECTIVE JUROR 20: Yeah.

23 MR. CLOWARD: Like "Dragnet"; just the facts?

24 PROSPECTIVE JUROR 20: Yeah. Yeah.

25 MR. CLOWARD: All right. Joe Friday, "Trust but verify." Are

1 you willing to trust and verify --

2 PROSPECTIVE JUROR 20: Absolutely.

3 MR. CLOWARD: Okay. Anything about the amounts that were  
4 discussed? They're -- they're very large amounts.

5 PROSPECTIVE JUROR 20: Well, you could say 10 million; you  
6 could say \$10. Until I know what the heck the deal is, how would I be able  
7 to judge that?

8 MR. CLOWARD: All right. And is it fair to say that until you  
9 hear those specific facts, you're willing to kind of hold off judgment?

10 PROSPECTIVE JUROR 20: Yeah.

11 MR. CLOWARD: You don't have a preconceived idea of the  
12 way things should be?

13 PROSPECTIVE JUROR 20: No.

14 MR. CLOWARD: Okay. Have you ever been sued or a family  
15 member of yours --

16 PROSPECTIVE JUROR 20: No.

17 MR. CLOWARD: -- that you know? What about injuries; have  
18 you ever been injured in a car accident or a work injury or anything?

19 PROSPECTIVE JUROR 20: Years ago a motorcycle accident.

20 MR. CLOWARD: And you were -- you were the driver?

21 PROSPECTIVE JUROR 20: I was on the motorcycle and the  
22 car ran a red light and hit me.

23 MR. CLOWARD: Okay. And how long ago was that?

24 PROSPECTIVE JUROR 20: Shoot, I was only about -- I was  
25 living in Fairbanks then. It had to be 45 years ago.

1 MR. CLOWARD: Wow. Did you file a claim, or was there any  
2 litigation or lawsuit?

3 PROSPECTIVE JUROR 20: There was no litigation. The guy  
4 that ran the red light was a military guy, and it didn't matter going to court or  
5 not, his max was 10 grand, and we -- and that's what I got.

6 MR. CLOWARD: Okay. Anything about that experience that  
7 you feel like might be important for the parties to know?

8 PROSPECTIVE JUROR 20: No. I just got a new car faster  
9 than I anticipated.

10 MR. CLOWARD: Okay. Well, I certainly appreciate --  
11 appreciate the discussion. Can you tell me the three -- the three things that  
12 I'm interested to know, a public figure that you admire?

13 PROSPECTIVE JUROR 20: I'm a history buff, so probably  
14 Winston Churchill. And passion, sports, primarily hockey. What was the  
15 other one?

16 MR. CLOWARD: Your favorite job.

17 PROSPECTIVE JUROR 20: Oh, if I could be doing what I'm  
18 doing now back in Hawaii where I was doing it.

19 MR. CLOWARD: Okay. Fair enough. Anything else you think  
20 the parties might want to know about you?

21 PROSPECTIVE JUROR 20: Not really.

22 MR. CLOWARD: Okay. Thank you very much.

23 PROSPECTIVE JUROR 20: You're welcome.

24 MR. GARDNER: Hello there.

25 PROSPECTIVE JUROR 20: Hi.



1 MR. GARDNER: What do you like about Churchill, Prime  
2 Minister Churchill?

3 PROSPECTIVE JUROR 20: I don't know. Just the more I read  
4 about him, the more I respect things that he was able to do, like running a  
5 country that was totally getting blown to smithereens and being able to close  
6 President Roosevelt jumping in the fray with him. I like that.

7 MR. GARDNER: A good -- a good man there. How did you like  
8 Thatcher?

9 PROSPECTIVE JUROR 20: The iron maiden?

10 MR. GARDNER: Iron maiden, yes.

11 PROSPECTIVE JUROR 20: Yeah, I -- I liked her.

12 MR. GARDNER: Again, you've probably been asked this, but  
13 you're comfortable sitting on a jury of this nature for an auto case? Yes?  
14 Okay.

15 Thank you. That's all I have.

16 THE COURT: All right.

17 Mr. Ramos, if you will, introduce yourself.

18 PROSPECTIVE JUROR 21: My name is Robert. I've been out  
19 here 28 years. I went to Basic High School in Henderson. I currently work  
20 as a supervisor at the Freemont Street Experience. I'm not married and no  
21 kids.

22 THE COURT: All right. Go ahead and have a seat, sir.

23 Have you ever served as a juror before?

24 PROSPECTIVE JUROR 21: Yes.

25 THE COURT: Have you -- how many times?

1 PROSPECTIVE JUROR 21: One time.  
2 THE COURT: Was that here in Clark County?  
3 PROSPECTIVE JUROR 21: Yes.  
4 THE COURT: And what kind of jury was it, criminal or civil?  
5 PROSPECTIVE JUROR 21: It was a kidnapping.  
6 THE COURT: Okay. So criminal.  
7 PROSPECTIVE JUROR 21: Yeah.  
8 THE COURT: Without telling us what the verdict -- so you were  
9 making a decision about guilty, not guilty?  
10 PROSPECTIVE JUROR 21: Yeah.  
11 THE COURT: Okay. Without telling us what the verdict was,  
12 was the jury able to reach a verdict?  
13 PROSPECTIVE JUROR 21: Yes.  
14 THE COURT: And were you the foreperson?  
15 PROSPECTIVE JUROR 21: No.  
16 THE COURT: Is there anything about that experience that  
17 would affect your ability to sit as a juror in this case?  
18 PROSPECTIVE JUROR 21: No.  
19 THE COURT: How long ago was that?  
20 PROSPECTIVE JUROR 21: A couple of years.  
21 THE COURT: Okay. You understand, this is a civil case, so  
22 the instructions and the law may be very, very different from what -- you  
23 probably don't remember from the case you sat on before, right?  
24 PROSPECTIVE JUROR 21: No, more like seven years.  
25 THE COURT: You're not going to -- you're not going to have

1 any problem following the instructions in this case --  
2 PROSPECTIVE JUROR 21: No.  
3 THE COURT: -- and forgetting those --  
4 PROSPECTIVE JUROR 21: No.  
5 THE COURT: -- to the extent that you remember them? Okay.  
6 PROSPECTIVE JUROR 21: But my partner is currently in a  
7 lawsuit for an auto accident right now. So I just want to make that aware.  
8 THE COURT: All right. All right. Have -- have you been a  
9 party to a lawsuit or a witness in a lawsuit?  
10 PROSPECTIVE JUROR 21: [Indiscernible].  
11 THE COURT: And have you or anyone close to you worked in  
12 the legal field?  
13 PROSPECTIVE JUROR 21: No.  
14 THE COURT: Have your or anyone close to you had medical  
15 training or worked in the medical field?  
16 PROSPECTIVE JUROR 21: No.  
17 THE COURT: And then, have you or anyone close to you had  
18 a serious injury?  
19 PROSPECTIVE JUROR 21: Yeah.  
20 THE COURT: Can you tell me about that?  
21 PROSPECTIVE JUROR 21: He was involved in an automobile  
22 accident about two or three weeks ago. So it's currently pending for the  
23 lawsuit right now.  
24 THE COURT: Okay. And what kind of injuries did he have?  
25 PROSPECTIVE JUROR 21: Neck and back.

1 THE COURT: Can you wait to form an opinion until you've  
2 heard all of the evidence?

3 PROSPECTIVE JUROR 21: Yes.

4 THE COURT: Can you follow the instructions on the law that I  
5 give you, even if you don't personally agree with them?

6 PROSPECTIVE JUROR 21: [No audible response].

7 THE COURT: Can you set aside any sympathy you may have  
8 for either side and base your verdict solely on the evidence and the  
9 instructions on the law presented during the trial?

10 PROSPECTIVE JUROR 21: yes.

11 THE COURT: Is there any reason you couldn't be completely  
12 fair and impartial if you were selected to serve as a juror in this case?

13 PROSPECTIVE JUROR 21: No.

14 THE COURT: And if you were a party to this case, would you  
15 be comfortable having someone like yourself as a juror?

16 PROSPECTIVE JUROR 21: Yes.

17 THE COURT: All right.

18 Mr. Cloward.

19 MR. CLOWARD: Your Honor, thank you.

20 Mr. Ramos?

21 PROSPECTIVE JUROR 21: Yes.

22 MR. CLOWARD: How are you doing?

23 PROSPECTIVE JUROR 21: I'm good.

24 MR. CLOWARD: Can you -- can you tell me a little bit about  
25 your partner's case? What -- what's -- what happened there?

1 PROSPECTIVE JUROR 21: A guy wasn't paying attention,  
2 they rear-ended him.

3 MR. CLOWARD: Okay. And I want to make sure that I heard  
4 everything correctly. It sounds like that this happened just two to three  
5 weeks ago?

6 PROSPECTIVE JUROR 21: Yes.

7 MR. CLOWARD: But did -- there is also a lawsuit already?

8 PROSPECTIVE JUROR 21: Yeah.

9 MR. CLOWARD: Is that accurate?

10 PROSPECTIVE JUROR 21: Yeah, because the driver didn't  
11 have insurance, and he gave him false information.

12 MR. CLOWARD: Oh, okay. So the lawsuit is -- had to be filed  
13 to get that, I guess?

14 PROSPECTIVE JUROR 21: Yes.

15 MR. CLOWARD: Okay. Now, can you tell me a little bit about  
16 the accident? What -- what -- I mean, obviously --

17 PROSPECTIVE JUROR 21: I wasn't there. I was at work.

18 MR. CLOWARD: Okay. It was just a -- you know that it was a  
19 rear-end accident and your partner was injured?

20 PROSPECTIVE JUROR 21: Yeah.

21 MR. CLOWARD: Okay. Is -- is he doing physical therapy?

22 PROSPECTIVE JUROR 21: Twice a week.

23 MR. CLOWARD: Twice a week.

24 PROSPECTIVE JUROR 21: Yeah.

25 MR. CLOWARD: And the names of the folks that we discussed

1 earlier, do you know or have you heard of those doctors or anything along  
2 those lines? Do you know what I'm saying?

3 PROSPECTIVE JUROR 21: I know his lawyer is Kutner.  
4 That's all I know.

5 MR. CLOWARD: Okay. And you work at the Freemont Street  
6 Experience?

7 PROSPECTIVE JUROR 21: Yes.

8 MR. CLOWARD: And how long have you done that?

9 PROSPECTIVE JUROR 21: I've been there six months now.

10 MR. CLOWARD: Now, is there anything -- going back now,  
11 kind of rather than going in line here, I'm going to kind of go back, is there  
12 anything about the experience with your -- with your partner that is going to,  
13 I guess, cause you to see the evidence one way or the other?

14 PROSPECTIVE JUROR 21: No.

15 MR. CLOWARD: It wouldn't influence -- influence you with  
16 having to feel sorry for one side or the other?

17 PROSPECTIVE JUROR 21: No.

18 MR. CLOWARD: Is that fair?

19 PROSPECTIVE JUROR 21: I would just get through the  
20 evidence and see what's -- you know, what's there before I could say -- you  
21 know, give my opinion or anything.

22 MR. CLOWARD: Gotcha. Have you ever been in a car crash?

23 PROSPECTIVE JUROR 21: Yes.

24 MR. CLOWARD: Were you injured?

25 PROSPECTIVE JUROR 21: Yes.