

Case No. _____

IN THE SUPREME COURT OF NEVADA

HARVEST MANAGEMENT SUB LLC,
Petitioner,

Electronically Filed
Mar 23 2020 09:51 a.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 1 OF 14**

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March 20, 2020

Attorneys for Petitioner
HARVEST MANAGEMENT SUB LLC

APPENDIX TO PETITION FOR EXTRAORDINARY WRIT RELIEF
VOLUME 1 OF 14

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APPENDIX TO PETITION FOR EXTRAORDINARY WRIT RELIEF

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TAB 1

TAB 1

DISTRICT COURT CIVIL COVER SHEET

A-15-718679-C

County, Nevada

Case No.

VII

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

Aaron M. Morgan

Defendant(s) (name/address/phone):

David E. Lujan; Harvest Management Sub LLC.

Attorney (name/address/phone):

Adam W. Williams

Richard Harris Law Firm

801 S. 4th Street

Las Vegas, Nevada 89101

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Negligence	Torts
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input checked="" type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	

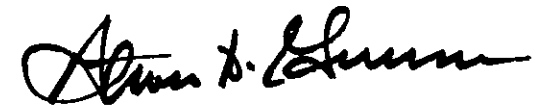
Business Court filings should be filed using the Business Court civil coversheet.

5/20/15

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

COMP
ADAM W. WILLIAMS, ESQ.
Nevada Bar No. 13617
RICHARD HARRIS LAW FIRM
801 South Fourth St.
Las Vegas, NV 89101
Tel. (702) 444-4444
Fax (702) 444-4455
Email Adam.Williams@richardharrislaw.com
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

AARON M. MORGAN, individually

Plaintiff,

vs.

DAVID E. LUJAN, individually; HARVEST
MANAGEMENT SUB LLC; a Foreign Limited-
Liability Company; DOES 1 through 20; ROE
BUSINESS ENTITIES 1 through 20, inclusive
jointly and severally,

Defendants.

CASE NO.: A-15-718679-C

DEPT. NO.: VII

COMPLAINT

COMES NOW, Plaintiff AARON M. MORGAN, individually, by and through his
attorney of record ADAM W. WILLIAMS, ESQ. of the RICHARD HARRIS LAW FIRM, and
complains and alleges as follows:

JURISDICTION

1. That at all times relevant herein, Plaintiff AARON M. MORGAN (hereinafter referred to as "Plaintiff") is, a resident of Clark County, Nevada.
2. That at all times relevant herein, Defendant, DAVID E. LUJAN was, and is, a resident of Clark County, Nevada.

- 1 3. That at all times relevant herein, Defendant, HARVEST MANAGEMENT SUB
- 2 LLC, was, and is, a foreign limited-liability Company licensed and actively
- 3 conducting business in Clark County, Nevada
- 5 4. All the facts and circumstances that gave rise to the subject lawsuit occurred in Clark
- 6 County, Nevada.
- 7 5. The identities of Defendant DOES 1 through 20, and ROE BUSINESS ENTITIES 1
- 8 through 20, are unknown at this time and are individuals, corporations, associations,
- 9 partnerships, subsidiaries, holding companies, owners, predecessor or successor
- 10 entities, joint venturers, parent corporations or related business entities of
- 11 Defendants, inclusive, who were acting on behalf of or in concert with, or at the
- 12 direction of Defendants and are responsible for the injurious activities of the other
- 13 Defendants.
- 14 6. Plaintiff alleges that each named and Doe and Roe Defendant negligently, willfully,
- 15 intentionally, recklessly, vicariously, or otherwise, caused, directed, allowed or set in
- 16 motion the injurious events set forth herein.
- 17 7. Each named and Doe and Roe Defendant is legally responsible for the events and
- 18 happenings stated in this Complaint, and thus proximately caused injury and
- 19 damages to Plaintiff.
- 20 8. Plaintiff requests leave of the Court to amend this Complaint to specify the Doe and
- 21 Roe Defendants when their identities become known.
- 22 9. On or about April 1, 2014, Defendants, were the owners, employers, family
- 23 members and/or operators of a motor vehicle, while in the course and scope of
- 24 employment and/or family purpose and/or other purpose, which was entrusted and/or
- 25 driven in such a negligent and careless manner so as to cause a collision with the
- 26 vehicle occupied by Plaintiff.

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FIRST CAUSE OF ACTION

Negligence Against Employee Defendant, DAVID E. LUJAN

10. Plaintiff incorporates paragraphs 1 through 9 of the Complaint as though said paragraphs were fully set forth herein.
11. Defendant DAVID E. LUJAN owed Plaintiff a duty of care. Defendant DAVID E. LUJAN breached that duty of care.
12. As a direct and proximate result of the negligence of Defendant, Plaintiff was seriously injured and caused to suffer great pain of body and mind, some of which conditions are permanent and disabling all to her general damage in an amount in excess of \$10,000.00.

SECOND CAUSE OF ACTION

Negligence Per Se Against Employee Defendant, DAVID E. LUJAN

13. Plaintiff incorporates paragraphs 1 through 12 of the Complaint as though said paragraphs were fully set forth herein.
14. The acts of Defendant DAVID E. LUJAN as described herein violated the traffic laws of the State of Nevada and Clark County, constituting negligence per se, and Plaintiff has been damaged as a direct and proximate result thereof in an amount in excess of \$10,000.00.

THIRD CAUSE OF ACTION

**Vicarious Liability/Respondeat Superior Against Defendant
HARVEST MANAGEMENT SUB LLC.**

15. Plaintiff incorporates paragraphs 1 through 14 of the Complaint as though said paragraphs were fully set forth herein.
16. Plaintiff is informed and believes that DAVID E. LUJAN was employed as a driver for Defendant HARVEST MANAGEMENT SUB LLC.
17. At all times mentioned herein, Defendant HARVEST MANAGEMENT SUB LLC. was the owner of, or had custody and control of, the Vehicle.
18. That Defendant HARVEST MANAGEMENT SUB LLC. did entrust the Vehicle to the control of Defendant DAVID E. LUJAN.

19. That Defendant DAVID E. LUJAN was incompetent, inexperienced, or reckless in the operation of the Vehicle.
20. That Defendant HARVEST MANAGEMENT SUB LLC. actually knew, or by the exercise of reasonable care should have known, that Defendant DAVID E. LUJAN was incompetent, inexperienced, or reckless in the operation of motor vehicles.
21. That Plaintiff was injured as a proximate consequence of the negligence and incompetence of Defendant DAVID E. LUJAN, concurring with the negligent entrustment of the Vehicle by Defendant HARVEST MANAGEMENT SUB LLC..
22. That as a direct and proximate cause of the negligent entrustment of the Vehicle by Defendant HARVEST MANAGEMENT SUB LLC. to Defendant DAVID E. LUJAN, Plaintiff has been damaged in an amount in excess of \$10,000.00.

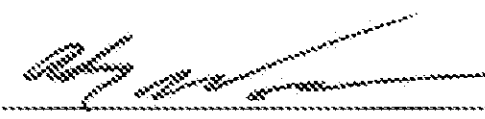
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment against Defendants as follows:

1. General damages in an amount in excess of \$10,000.00;
2. Special damages for medical and incidental expenses incurred and to be incurred;
3. Special damages for lost earnings and earning capacity;
4. Attorney's fees and costs off suit incurred herein; and
5. For such other and further relief as the Court may deem just and proper.

DATED this 20 day of May, 2015.

RICHARD HARRIS LAW FIRM


ADAM W. WILLIAMS, ESQ.
Nevada Bar No. 13617
801 S. Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff

1 **IAFD**
2 ADAM W. WILLIAMS, ESQ.
3 Nevada Bar No. 13617
4 RICHARD HARRIS LAW FIRM
5 801 South Fourth St.
6 Las Vegas, NV 89101
7 Tel. (702) 444-4444
8 Fax (702) 444-4455
9 Email Adam.Williams@richardharrislaw.com
10 *Attorneys for Plaintiff*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 AARON M. MORGAN, individually

14 Plaintiff,

15 vs.

16 DAVID E. LUJAN, individually; HARVEST
17 MANAGEMENT SUB LLC; a Foreign Limited-
18 Liability Company; DOES 1 through 20; ROE
19 BUSINESS ENTITIES 1 through 20, inclusive
20 jointly and severally,

21 Defendants.

CASE NO.:
DEPT. NO.:

**INITIAL APPEARANCE FEE
DISCLOSURE**

22 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for
23 parties appearing in the above entitled action as indicated below:

24 AARON M. MORGAN

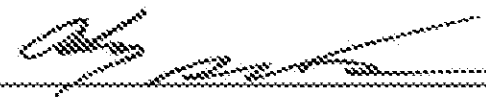
\$270.00

25 **TOTAL REMITTED:**

\$270.00

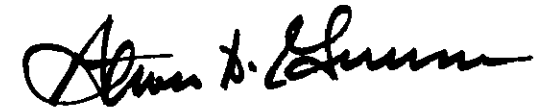
26 DATED this 20 day of May, 2015.

RICHARD HARRIS LAW FIRM

27 
28 ADAM W. WILLIAMS
Nevada Bar No. 13617
801 S. Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff

TAB 2

TAB 2



CLERK OF THE COURT

1 ANS
2 DOUGLAS J. GARDNER, ESQ.
3 Nevada Bar No. 4609
4 RANDES, SOUTH & GARDNER
5 1055 Whitney Ranch Drive, Suite 220
6 Henderson, Nevada 89014
7 (702) 940-2222
8 (702) 940-2220 - Facsimile
9 dgardner@rsglawfirm.com
10 Attorneys for Defendants
11 DAVID E. LUJAN; HARVEST
12 MANAGEMENT SUB, LLC

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DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually)

Plaintiff,)

vs.)

DAVID E. LUJAN, individually;)
HARVEST MANAGEMENT SUB LLC;)
a Foreign Limited-Liability Company;)
DOES 1 through 20; ROE BUSINESS)
ENTITIES 1 through 20, inclusive jointly)
and severally,)

Defendants.)

CASE NO.: A-15-718679-C

DEPT. NO.: VII

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

COME NOW, Defendants, DAVID E. LUJAN and HARVEST MANAGEMENT SUB LLC,
by and through their attorneys of record, the Law Offices of RANDES, SOUTH & GARDNER, and
answer Plaintiff's Complaint on file herein as follows:

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THIRD CAUSE OF ACTION
Vicarious Liability/Respondeat Superior Against Defendant
HARVEST MANAGEMENT SUB LLC.

8. Answering Paragraph 15 of the Third Cause of Action of Plaintiff's Complaint, these answering Defendants repeat and incorporate each and every response to Paragraphs 1 through 14 as though fully set forth therein.

7. Answering Paragraphs 16, 17 and 18 of Plaintiff's Complaint, these answering Defendants admit each and every allegation contained therein.

8. Answering Paragraphs 19, 20, 21 and 22 of Plaintiff's Complaint, these answering Defendants deny each and every allegation therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim against Defendants upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The negligence of Plaintiff caused or contributed to any injuries or damages that Plaintiff may have sustained; and the negligence of Plaintiff in comparison with the alleged negligence of Defendants, if any, requires that the damages of Plaintiff be denied or be diminished in proportion to the amount of the negligence attributable to the Plaintiff.

THIRD AFFIRMATIVE DEFENSE

Plaintiff had knowledge of and was fully aware of the condition existing at the time of the incident and assumed any risks incident thereto by voluntarily encountering said conditions. The injuries alleged by Plaintiff were caused by and arose out of such risks. Plaintiff appreciated and knew of the possibility of injury at the time.

1 **FOURTH AFFIRMATIVE DEFENSE**

2 The damages and injuries sustained by the Plaintiff, if any, as alleged in the Complaint, were
3 caused in whole or in part, or were contributed to by reason of Plaintiff's violation of the Nevada
4 Revised Statutes and the provision of applicable codes and ordinances concerning the operation of a
5 motor vehicle.
6

7 **FIFTH AFFIRMATIVE DEFENSE**

8 That the Plaintiff has failed to mitigate his damages.

9 **SIXTH AFFIRMATIVE DEFENSE**

10 That the occurrence during which Plaintiff received said injuries, if any, as alleged in the
11 Complaint, was the result of an unavoidable accident and occurred without the fault of either the
12 Plaintiff or Defendants.
13

14 **SEVENTH AFFIRMATIVE DEFENSE**

15 That the injuries sustained by the Plaintiff, if any, were caused by acts of unknown third
16 persons who are not agents, servants or employees of these answering Defendants and who were not
17 acting on behalf of these answering Defendants in any manner or form and, as such, these
18 Defendants are not liable in any manner to the Plaintiff.
19

20 **EIGHTH AFFIRMATIVE DEFENSE**

21 That the damages and injuries sustained by Plaintiff, as alleged in the Complaint herein, if
22 any, were the result of an unavoidable accident.
23

24 **NINTH AFFIRMATIVE DEFENSE**

25 The Plaintiff's Complaint should be dismissed based upon the doctrines of laches, estoppel
26 and waiver.

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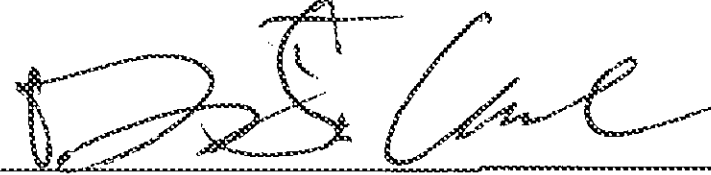
27

1 3. For such other and further relief as the Court deems proper.

2 DATED this 5 day of June, 2015.

3 RANDS, SOUTH & GARDNER

4
5 By



6 DOUGLAS J. GARDNER, ESQ.

7 Nevada Bar No. 4609

8 1055 Whitney Ranch Drive, Suite 220

9 Henderson, Nevada 89014

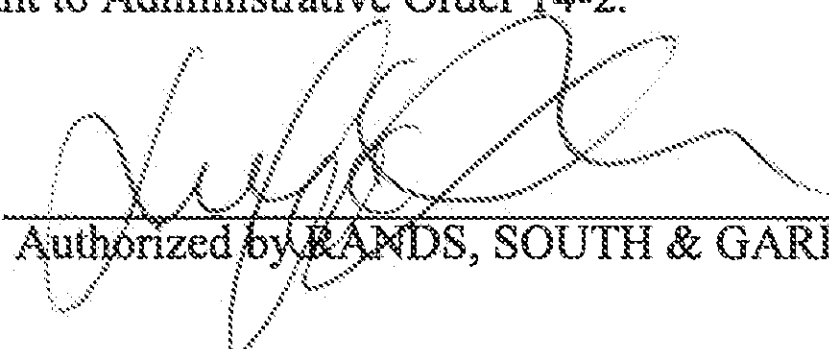
10 Attorneys for Defendants,

11 DAVID E. LUJAN; HARVEST

12 MANAGEMENT SUB, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of June, 2015, I served a correct copy of the foregoing DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT via electronic means in the Eighth Judicial District Court pursuant to Administrative Order 14-2.


Authorized by RANDS, SOUTH & GARDNER

TAB 3

TAB 3

INTG
BRYAN A. BOYACK, ESQ.
Nevada Bar No. 9980
RICHARD HARRIS LAW FIRM
801 South Fourth St.
Las Vegas, NV 89101
Tel. (702) 444-4444
Fax (702) 444-4455
Email Bryan@richardharrislaw.com
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually

Plaintiff,

vs.

DAVID E. LUJAN, individually; HARVEST
MANAGEMENT SUB LLC; a Foreign Limited-
Liability Company; DOES 1 through 20; ROE
BUSINESS ENTITIES 1 through 20, inclusive
jointly and severally,

Defendants.

CASE NO.: A-15-718679-C
DEPT. NO.: VII

**PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO
DEFENDANT HARVEST
MANAGEMENT SUB LLC**

TO: HARVEST MANAGEMENT SUB LLC, Defendant;

TO: DOUGLAS J. GARDNER, ESQ., of the law office of RANDS, SOUTH &
GARDNER, Attorney for Defendant.

COMES NOW, the Plaintiff, AARON M. MORGAN, under the authority of Rule 33 of
the Nevada Rules of Civil Procedure, by and through his attorney, BRYAN A. BOYACK,
ESQ., of the RICHARD HARRIS LAW FIRM, and hereby requests that Defendant, HARVEST
MANAGEMENT SUB LLC., answer, in writing and under oath, within thirty (30) days of
receipt hereof, the Interrogatories, hereinafter, set forth.

NOTE: When used in these interrogatories, the term "Defendant", its plural or any synonym thereof, is intended to and shall embrace and include in addition to the named party or parties, counsel for said party, and all agents, servants, employees, representatives, investigators, and others who are in possession of or may have obtained information for or on behalf of the named party or parties Defendant. As to each person named in response to each question herein, state the person's full name, last known residence address and telephone number, his last known business address and telephone number, and his job title, capacity or position at such last known employment.

These interrogatories shall be deemed continuing, and as additional information concerning the answers is secured, such additional information shall be supplied to Plaintiff.

PRELIMINARY STATEMENT AND DEFINITIONS

The following Preliminary Statement and Definitions apply to each of the Interrogatories set forth hereinafter and are deemed to be incorporated therein:

1. The singular number and the masculine gender, as used herein, also mean the plural, feminine or neuter, as may be appropriate.

2. These interrogatories call for all information (including information contained in writing) as is known or reasonably available to Defendant, Defendant's attorneys or any investigators or representatives or others acting on Defendant's behalf or under Defendant's direction or control, not merely such information as is known of Defendant's own personal knowledge.

3. If you cannot answer any of these Interrogatories in full after exercising due diligence to secure the information to do so, so state and answer the Interrogatory to the extent possible, specifying your inability to answer the remainder, the reasons therefor, the steps

1 taken to secure the answers to the unanswered portions, and stating whatever information or
2 knowledge you have concerning the unanswered portions, please also identify the persons you
3 believe to have such knowledge, what you believe the correct answer to be and the facts upon
5 which you base your answer.
6

7 4. If you consult any document or person in answering these Interrogatories,
8 identify in regard to each such Interrogatory the person and/or document consulted.

9 5. The term "person" as used herein shall be deemed to mean any natural person,
10 firm, association, partnership, corporation or any other form of legal entity or governmental
11 body, unless the context otherwise dictates.
12

13 6. The term "document" as used in these Interrogatories means all written,
14 recorded or graphic matters, however produced or reproduced and includes, but is not limited
15 to, any record, report, paper, writing, book, letter, note, memorandum, correspondence,
16 agreement, contract, journal, ledger, summary, minute of meeting, photograph, interoffice
17 communication, telegram, schedule, diary, log, memorandum of telephone or in-person
18 communication, meeting or conversation, Telex, cable, tape, transcript, recording, photograph,
19 picture or film, computer printout, program or data of other graphic, symbolic, recorded or
20 written materials of any nature whatsoever. Any document, as hereinabove defined, which
21 contains any comment, notation, addition, insertion or marking of any kind which is part of
22 another document, is to be considered a separate document.
23
24

25 7. The term "communication" as used in these Interrogatories shall mean any
26 dissemination of information of transmission or a statement from one person to another or in
27 the presence of another, whether by writing, orally or by action or conduct.
28

1 8. The term "fact" as used in these Interrogatories shall include, without limitation,
2 every matter occurrence, act, event, transaction, occasion, instance, circumstance,
3 representation or other happening, by whatever name it is known.
4

5 9. The term "identify" or request to "state the identity" as used in these
6 Interrogatories shall call for the following information:
7

8 With respect to a person:

- 9 (1) His full name;
10 (2) His last known business and residence address.
11 (3) His last known business and residence telephone numbers;
12 (4) His last know job title and capacity;
13 (5) His relationship to you, by blood or marriage, including former marriages;
14 (6) Whether any statement pertaining to any matter involved in this litigation,
15 whether written or oral, or by recording device or by court reporter, or whether signed
16 or unsigned, has been taken from him, and if so, how many such statements, and as to
17 each statement, state the identity of thereof.
18

19 With respect to each document:

- 20 (1) Its nature (e.g., letter, memorandum, etc.);
21 (2) Its title;
22 (3) The date it bears;
23 (4) The date it was sent;
24 (5) The date it was received;
25 (6) The identity of all persons who prepared it or participated in anyway in its
26 preparation;
27
28

- 1 (7) The identity of the person sending it and who such person represented at that
- 2 time;
- 3 (8) The identity of the person to whom it was sent;
- 5 (9) The identity of the person who presently has custody of it and its present
- 6 location;
- 7 (10) Its subject matter and its substance;
- 8 (11) Whether the document is claimed to be privileged;
- 9 (12) If you exercise the option to produce business records pursuant to NRCP
- 10 34(c), please answer, nonetheless, subparts (1) through (9) hereof in regard to each
- 11 pertinent Interrogatory.
- 12
- 13

14 With respect to "communication":

- 15 (1) The maker;
- 16 (2) The receiver;
- 17 (3) When made;
- 18 (4) Where made;
- 19 (5) The identity of all persons present when made;
- 20 (6) The mode of communication;
- 21 (7) The subject matter and substance;
- 22 (8) Whether the communication is claimed to be privileged.
- 23
- 24

25 With respect to each "fact":

- 26 (1) The date and time it occurred;
- 27 (2) The place where it occurred;
- 28 (3) The identity of each person present;

1 (4) An identification of the subject matter, nature and substance of the fact.

2 10. With respect to each document or communication identified and claimed to be
3 privileged, state the type of privilege claimed and its basis.
4

5 11. If you object in whole or in part to any of the following Interrogatories, please state
6 in complete detail the basis for your objection and all the facts in which you rely to support your
7 objection.
8

9 **INTERROGATORY NO. 1:**

10 State the name and address of each person who was a witness to or has any knowledge
11 of the relevant facts related to the subject matter.
12

13 **INTERROGATORY NO. 2:**

14 Please identify any and all documents, color photographs, surveillance video, or other
15 items in your possession regarding the subject incident.
16

17 **INTERROGATORY NO. 3:**

18 Please identify any statements you have from Plaintiff AARON M. MORGAN, either
19 written, verbal or recorded, regarding the subject incident.
20

21 **INTERROGATORY NO. 4:**

22 Please identify any and all insurance agreements and/or policies you had at the time or
23 the subject incident. Your response should include but not be limited to the insurance carrier,
24 the policy number and the policy liability limits.

25 **INTERROGATORY NO. 5:**

26 Please identify all pre-hiring procedures you performed prior to hiring Defendant,
27 DAVID E. LUJAN. Your response should include, but not be limited to, any background
28

1 checks performed, any pre-hiring testing performed and any other procedure followed by you
2 prior to hiring Mr. Lujan.

3 **INTERROGATORY NO. 6:**

5 Please identify any and all documents in your possession and/or information pertaining
6 to any property damage to your vehicle or to Plaintiff's vehicle. Your response should include
7 but not be limited to the amount of property damage sustained, where the property damage was
8 repaired, how any repairs were paid for and the contact information for the insurance company
9 that paid for the property damage to be repaired.
10
11

12 **INTERROGATORY NO. 7:**

13 Describe in your own words and in detail, without legal conclusion, how you believe the
14 subject accident occurred.

15 **INTERROGATORY NO. 8:**

16 Please identify any disciplinary actions taken against Defendant, DAVID E. LUJAN,
17 during the five years immediately preceding the subject accident through the present regarding
18 Mr. Lujan's driving or operating one of your vehicles.
19

20 **INTERROGATORY NO. 9:**

21 Please give the date on which Defendant, DAVID E. LUJAN, was hired by you.
22

23 **INTERROGATORY NO. 10:**

24 Please identify what Defendant, DAVID E. LUJAN's job duties were at the time of the
25 subject accident.
26

27 **INTERROGATORY NO. 11:**

28 Is Defendant, DAVID E. LUJAN, still employed by you?

INTERROGATORY NO. 12:

If your answer to Interrogatory No. 11 is "yes", please identify Mr. Lujan's current job title and current job duties.

INTERROGATORY NO. 13:

Was the vehicle that was owned and operated by the Defendant(s) with regard to the subject accident equipped with any devices which monitor the driver's performance, behavior, driving habits or speed at the time of the incident that is the subject of this lawsuit.

INTERROGATORY NO. 15:

Please provide the full name of the person answering these interrogatories on behalf of Defendant HARVEST MANAGEMENT SUB LLC, and state in what capacity are you authorized to respond on behalf of said Defendant.

DATED THIS 12 day of April, 2016.

RICHARD HARRIS LAW FIRM

BY: 

BRYAN A. BOYACK, ESQ.
Nevada Bar No. 9980
801 South Fourth Street
Las Vegas, Nevada 89101
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of RICHARD HARRIS LAW FIRM, and that on this 14th day of April, 2016, I served a copy of the foregoing

PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANT HARVEST

MANAGEMENT SUB LLC as follows:


☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or

☒ Pursuant to N.E.F.C.R. 9 by serving it via electronic service

☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile number(s) shown below and in the confirmation sheet filed herewith. Consent to service under NRCP 5(b)(2)(D) shall be assumed unless an objection to service by facsimile transmission is made in writing and sent to the sender via facsimile within 24 hours of receipt of this Certificate of Service; and/or

☐ Hand Delivery—By hand-delivery to the addresses listed below.

Douglas J. Gardner, Esq.
RANDS, SOUTH & GARDNER
1055 Whitney Ranch Drive, Suite 220
Henderson, Nevada 89014
Attorneys for Defendant


An employee of the Richard Harris Law Firm

TAB 4

TAB 4

1 **RSPN**
2 DOUGLAS J. GARDNER, ESQ.
3 Nevada Bar No. 4609
4 RANDS, SOUTH & GARDNER
5 1055 Whitney Ranch Drive, Suite 220
6 Henderson, Nevada 89014
7 (702) 940-2222
8 (702) 940-2220 - Facsimile
9 dgardner@rsglawfirm.com
10 Attorneys for Defendants
11 DAVID E. LUJAN; HARVEST
12 MANAGEMENT SUB, LLC

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DISTRICT COURT
CLARK COUNTY, NEVADA

AARON M. MORGAN, individually

Plaintiff,

vs.

DAVID E. LUJAN, individually;
HARVEST MANAGEMENT SUB LLC;
a Foreign Limited-Liability Company;
DOES 1 through 20; ROE BUSINESS
ENTITIES 1 through 20, inclusive jointly
and severally,

Defendants.

CASE NO.: A-15-718679-C

DEPT. NO.: VII

**DEFENDANT, HARVEST MANAGEMENT SUB, LLC.'S RESPONSES TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES**

COMES NOW, Defendant HARVEST MANAGEMENT SUB, LLC, by and through their
attorneys of record, the Law Office of RANDS, SOUTH & GARDNER, and hereby responds to
PLAINTIFF'S FIRST SET OF INTERROGATORIES as follows:

///

///

1 **INTERROGATORY NO. 1:**

2 Please state the name and address of each person who was a witness to or has any
3 knowledge of the relevant facts related to the subject matter.

4 **ANSWER TO INTERROGATORY NO. 1:**

5 Defendant David Lujan, Plaintiff Aaron Morgan, LVMPD Officer R. Schmitt

6 **INTERROGATORY NO. 2:**

7 Please identify any and all documents, color photographs, surveillance video, or other items
8 in your possession regarding the subject incident.

9 **ANSWER TO INTERROGATORY NO. 2:**

10 Please see photographs and documents previously in Defendants ECC List of Witnesses and
11 Documents and any supplements thereto. Discovery is continuing.

12 **INTERROGATORY NO. 3:**

13 Please identify any statements you have from Plaintiff AARON M. MORGAN, either
14 written, verbal or recorded, regarding the subject incident.

15 **ANSWER TO INTERROGATORY NO. 3:**

16 None.

17 **INTERROGATORY NO. 4:**

18 Please identify any and all insurance agreements and/or policies you had at the time or the
19 subject incident. Your response should include but not be limited to the insurance carrier, the
20 policy number and the policy limits.

21 **ANSWER TO INTERROGATORY NO. 4:**

22 Alterra Markel Insurance
23 Policy: MAX8HC0000440
24 Limit: \$8 million after \$2 million self-insured retention

1 The subject incident has been reported to the excess carrier under claim MXUL35043.

2 **INTERROGATORY NO. 5:**

3 Please identify all pre-hiring procedures you performed prior to hiring Defendant, DAVID
4 E. LUJAN. Your response should include, but not be limited to, any background checks performed,
5 any pre-hiring testing performed and any other procedure followed by you prior to hiring Mr.
6 Lujan.
7

8 **ANSWER TO INTERROGATORY NO. 5:**

9 Mr. Lujan was hired in 2009. As part of the qualification process, a pre-employment DOT
10 drug test was conducted as well as a criminal background screen and a motor vehicle record. Also,
11 since he held a CDL, an inquiry with past/current employers within three years of the date of
12 application was conducted and were satisfactory. A DOT physical medical certification was
13 obtained and monitored for renewal as required. MVR was ordered yearly to monitor activity of
14 personal driving history and always came back clear. Required Drug and Alcohol Training was also
15 completed at the time of hire and included the effects of alcohol use and controlled substances use
16 on an individual's health, safety, work environment and personal life, signs of a problem with these
17 and available methods of intervention.
18
19

20 **INTERROGATORY NO. 6:**

21 Please identify any and all documents in your possession and/or information pertaining to
22 any property damage to your vehicle or to Plaintiff's vehicle. Your response should include but be
23 limited to the amount of property damage sustained, where the property damage was repaired, how
24 any repairs were paid for and the contact information for the insurance company that paid for the
25 property damage to be repaired.
26

27 ///

1 ANSWER TO INTERROGATORY NO. 6:

2 Objection. Relevance. Without waiving this objection the Defendants says this about the
3 Property Damage: The Plaintiff's vehicle was considered a total loss and not repaired. This
4 responding Defendant reimbursed Mercury Insurance for the combined total loss and vehicle rental
5 costs. Please see Defendants ECC List of Witnesses and Production of Documents for copies of
6 documents pertaining to Plaintiff's property damage and Defendant's Responses to Request for
7 Production of Documents for documents pertaining to Defendant's vehicle damage.
8

9 INTERROGATORY NO. 7:

10 Describe in your own words and in detail, without legal conclusion, how you believe the
11 subject accident occurred.
12

13 ANSWER TO INTERROGATORY NO. 7:

14 Objection as to form of the question. Without waiving said objection, please refer to all
15 applicable documents previously produced in Defendants ECC List of Witnesses and Production
16 and any supplements thereto. This question also improperly invades the role of the finders of fact.
17

18 INTERROGATORY NO. 8:

19 Please identify any disciplinary actions taken against Defendant, DAVID E. LUJAN, during
20 the five years immediately preceding the subject accident through the present regarding Mr. Lujan's
21 driving or operating one of your vehicles.
22

23 ANSWER TO INTERROGATORY NO. 8:

24 None.

25 INTERROGATORY NO. 9:

26 Please give the date on which Defendant, DAVID E. LUJAN, was hired by you.

27 ///

1 ANSWER TO INTERROGATORY NO. 9:

2 June 24, 2009

3 INTERROGATORY NO. 10:

4 Please identify what Defendant, DAVID E. LUJAN's job duties were at the time of the
5 subject accident.
6

7 ANSWER TO INTERROGATORY NO. 10:

8 Operating the Commercial Bus

9 INTERROGATORY NO. 11

10 Is Defendant, DAVID E. LUJAN, still employed by you?
11

12 ANSWER TO INTERROGATORY NO. 11:

13 No, his last day of employment was July 28, 2015.

14 INTERROGATORY NO. 12:

15 If your answer to Interrogatory No. 11 is "yes", please identify Mr. Lujan's current job title
16 and current job duties.
17

18 ANSWER TO INTERROGATORY NO. 12:

19 Not applicable.

20 INTERROGATORY NO. 13:

21 Was the vehicle that was owned and operated by the Defendant(s) with regard to the subject
22 accident equipped with any devices which monitor the driver's performance, behavior, driving
23 habits or speed at the time of the incident that is the subject of this lawsuit.
24

25 ANSWER TO INTERROGATORY NO. 13:

26 No.

27 ///

1 INTERROGATORY NO. 14:

2 Please provide the full name of the person answering the interrogatories on behalf of
3 Defendant, HARVEST MANAGEMENT SUB LLC, and state in what capacity are you authorized
4 to respond on behalf of said Defendant.
5

6 ANSWER TO INTERROGATORY NO. 14:

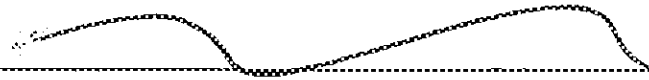
7 Erica Janssen, Holiday Retirement Risk Management
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2 VERIFICATION

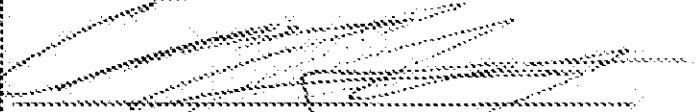
3 STATE OF OREGON)
4)ss
5 COUNTY OF CLACKAMAS)

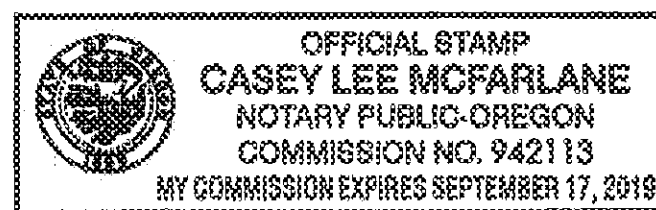
6 I, Erica Janssen, being first duly sworn, deposes and says:

7 I am the, Defendant's representative in the instant action; I have read the foregoing
8 DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES and know
9 the contents thereof; that the answers made therein are true to the best of my knowledge, except as to
10 those answers made on information and belief, and as to those answers, I believe them to be true.

11
12 
Erica Janssen, Holiday Retirement Risk Management

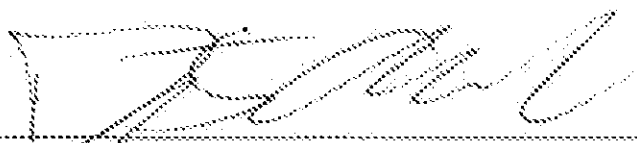
13
14
15 Subscribed and sworn to before me
16 this 12 day of October, 2016.

17 
18 NOTARY PUBLIC



19
20 Submitted by:

21 RANDS, SOUTH & GARDNER

22 
23 DOUGLAS J. GARDNER, ESQ.
24 Nevada Bar No. 4609
25 1055 Whitney Ranch Drive, Suite 220
26 Henderson, Nevada 89014
27 Attorneys for Defendants
DAVID E. LUJAN and HARVEST
MANAGEMENT SUB, LLC.
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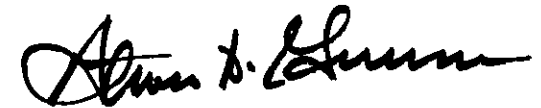
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of October , 2016, I served a correct copy of the foregoing DEFENDANT'S RESPONSES TO PLAINTIFF'S INTERROGATORIES via electronic means in the Eighth Judicial District Court pursuant to Administrative Order 14-2.


Authorized by RANDS, SOUTH & GARDNER

TAB 5

TAB 5



CLERK OF THE COURT

JPTM

BRYAN A. BOYACK, ESQ.

Nevada Bar No. 9980

RICHARD HARRIS LAW FIRM

801 South Fourth St.

Las Vegas, NV 89101

Tel: (702) 444-4444

Fax: (702) 444-4455

Email Bryan@richardharrislaw.com

Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually

Plaintiff,

vs.

DAVID E. LUJAN, individually; HARVEST
MANAGEMENT SUB LLC; a Foreign Limited-
Liability Company; DOES 1 through 20; ROE
BUSINESS ENTITIES 1 through 20, inclusive
jointly and severally,

Defendants.

CASE NO.: A-15-718679-C

DEPT. NO.: VII

**PLAINTIFF AARON M. MORGAN'S AND DEFENDANTS DAVID E. LUJAN AND
HARVEST MANAGEMENT SUB LLC'S JOINT PRE-TRIAL MEMORANDUM**

COME NOW, Plaintiff, AARON M. MORGAN, by and through his attorney of record,
BRYAN A. BOYACK, ESQ., of the RICHARD HARRIS LAW FIRM, and Defendant,
DAVID E. LUJAN and HARVEST MANAGEMENT SUB LLC, by and through their attorney
of record, DOUGLAS J. GARDNER, ESQ., of RANDS, SOUTH & GARDNER, respectfully
submit the following Joint Pre-Trial Memorandum pursuant to EDCR 2.67:

1. STATEMENT OF THE FACTS

This case arises from a motor vehicle accident that occurred on April 1, 2014. Plaintiff,
Aaron Morgan was traveling northbound on S. McLeod Dr. when he alleges that the vehicle

driven by Defendant David Lujan and owned by Defendant Harvest Management Sub, LLC, pulled out in front of Mr. Morgan thereby causing the subject accident. Plaintiff first sought treatment at Sunrise Hospital for his injuries and continues to seek extensive follow-up treatment in an effort to recover from his injuries.

As a result of the incident, Plaintiff allegedly sustained serious and debilitating injuries, including past medical treatment of approximately \$164,281.00. Plaintiff has been recommended for future epidural injections as well as plasma disc decompressions at L5-S1 and C5-6 and future radiofrequency ablations. The Plaintiff's future medical care also includes physical therapy, pain management and diagnostic testing. The Plaintiff's expert's estimate his future care to be approximately \$1,355,421.00. The Plaintiff is still treating for the severe injuries he sustained as a result of the Defendants' negligence. Defendant denies these allegations.

2. **LIST OF ALL CLAIMS FOR RELIEF**

Plaintiff alleges Defendants are liable in negligence. Plaintiff seeks general damages, medical and incidental expenses incurred and to be incurred, lost earnings and earning capacity, and attorney's fees and costs against Defendants.

3. **LIST OF AFFIRMATIVE DEFENSES**

Defendant has asserted the following affirmative defenses:

- A. Plaintiff's Complaint fails to state a claim against Defendant upon which relief can be granted.
- B. The negligence of Plaintiff caused or contributed to any injuries or damages that Plaintiff may have sustained; and the negligence of Plaintiff in comparison with the alleged

negligence of Defendants, if any, requires that the damages of Plaintiff be denied or be diminished in proportion to the amount of the negligence attributable to the Plaintiff.

- C. Plaintiff had knowledge of and was fully aware of the condition existing at the time of the incident and assumed any risks incident thereto by voluntarily encountering said conditions. The injuries alleged by Plaintiff were caused by and arose out of such risks. Plaintiff appreciated and knew of the possibility of injury at the time.
- D. The damages and injuries sustained by the Plaintiff, if any, as alleged in the Complaint, were caused in whole or in part, or were contributed to by reason of Plaintiffs violation of the Nevada Revised Statutes and the provision of applicable codes and ordinances concerning the operation of a motor vehicle.
- E. That the Plaintiff has failed to mitigate his damages.
- F. That the occurrence during which Plaintiff received said injuries, if any, as alleged in the Complaint, was the result of an unavoidable accident and occurred without the fault of either the Plaintiff or Defendants.
- G. That the injuries sustained by the Plaintiff, if any, were caused by acts of unknown third persons who are not agents, servants or employees of these answering Defendants and who were not acting on behalf of these answering Defendants in any manner or form and, as such, these Defendants are not liable in any manner to the Plaintiff.
- H. That the damages and injuries sustained by Plaintiff, as alleged in the Complaint herein, if any, were the result of an unavoidable accident.
- I. The Plaintiffs Complaint should be dismissed based upon the doctrines of laches, estoppel and waiver.

- J. That the injuries sustained by the Plaintiff, if any, were caused by acts of unknown third persons who were not agents, servants or employees of these answering Defendants and who were not acting on behalf of these answering Defendants in any manner or form and over whom these answering Defendants have exercised no control and over whom these answering Defendants have no right or duty to control, nor have ever had a right or duty to exercise control. As such, Defendants are not liable in any manner to the Plaintiff.
- K. That Defendants have been caused to employ counsel to defend this action and are entitled to a reasonable attorney's fee therefor.
- L. Pursuant to N.R.C.P, 11, as amended, all possible affirmative defenses may not have been alleged therein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Plaintiff's Complaint and these answering Defendants reserve the right to amend this answer to allege additional affirmative defenses, if subsequent investigation so warrants.
- M. Some or all of the affirmative defenses above pled may have been pled for purposes of non-waiver pending discovery.

4. **LIST OF ALL CLAIMS OR DEFENSES TO BE ABANDONED**

None.

5. **ANY PROPOSED AMENDMENTS TO THE PLEADINGS**

No amendments are proposed at this time.

6(a). **PLAINTIFF'S PROPOSED EXHIBITS**

Plaintiff may offer the following Exhibits at Trial

1. **EXHIBITS**

Plaintiff anticipates utilizing the following exhibits at the time of trial, which have been previously identified and/or produced:

1. Medical records and bills from American Medical Response/MedicWest Ambulance for date of service 04/01/2014 (AMR000001-000014)
2. Medical records and bills from Sunrise Hospital for date of service of 04/01/2014 (SUN000001-000047)
3. Medical records and bills from Urgent Care Extra (Todd Radivan, PA-C) for dates of service of 04/08/2014 (UCE000001-000014)
4. Medical records and bills from Grabow Hand to Shoulder Center (Ryan Grabow, M.D.) for date of service of 06/24/2014-06/27/2014 (GBW000001-000005)
5. Medical records and bills from Nevada Comprehensive Pain Center/Nevada Surgical Suites (Alain Coppel, M.D.) for date of service of 04/29/2014-08/28/2015 (NCP000001-000054)
6. Medical records and bills from Las Vegas Valley Chiropractic (Brett Wiesner, D.C.) for date of service 04/25/2014-08/11/2015 (LVC000001-000051)
7. Medical records and bills from Las Vegas Radiology for date of service 06/13/2014-08/04/2014 (LVR000001-000138)
8. Medical records from William Muir, M.D. for dates of service 03/05/2015 (WSM000001-000006)
9. Medical bills from Pay Later Pharmacy for dates of service 09/29/2015-12/02/2015 (PLP000001)
10. Medical records and bills from Nevada Comprehensive Pain Center/Nevada Surgical Suites (Alain Coppel, M.D.) (MORGAN000001 – 000093) (updated)
11. Medical bills from Pay Later Pharmacy for dates of service 09/29/2015-12/02/2015 (MORGAN000094) (updated)
12. Medical records and bills from Advanced Spine & Rehabilitation (Roger Russell, D.C.) (MORGAN000095 – 000102)
13. Medical records from William Muir, M.D. (MORGAN000103 – 000108) (updated)
14. Medical bills from Southern Hills Hospital (MORGAN000110 - 000112)
15. Photos (MORGAN000113 - 000115)
16. Medical records and bills from William S Muir, M.D. (MORGAN000116 – 000227)

17. Medical records and bills from Advanced Spine & Rehabilitation (Roger Russell, D.C.) (MORGAN000228 – 000260)
18. Medical bills from Radiology Specialists (MORGAN000261)
19. Medical records and bills from Grabow Hand to Shoulder Center (Ryan Grabow, M.D.) (MORGAN000262 – 000341) (updated)
20. Medical records from Southern Hills Hospital (MORGAN000342 – 000512)
21. Video taken at scene
22. Medical bills from PBS Anesthesia (MORGAN000513)
23. Medical records from William S. Muir, M.D. (MORGAN000514 - 000519) (updated)
24. Medical bills from Fremont Emergency Services (MORGAN000521)
25. William S. Muir, M.D., Life Care Plan, Curriculum Vitae, Trial History and Fee Schedule (MORGAN000532 - 000553)
26. Medical bills from William S. Muir, M.D. (MORGAN000554 - 000555) (updated)
27. Terrence M. Clauretie, Ph.D., Curriculum Vitae, Trial History and Fee Schedule (MORGAN000569 – 000597)
28. Terrance Dinneen, M.S., Curriculum Vitae, Trial History and Fee Schedule (MORGAN000613 – 000652)
29. Medical records and bills from Nevada Comprehensive Pain Center/Nevada Surgical Suites (Alain Coppel, M.D.) (MORGAN000653– 000657) (updated)
30. Medical records and bills from Nevada Comprehensive Pain Center/Nevada Surgical Suites (Alain Coppel, M.D.) (MORGAN000658– 000662) (updated)
31. Medical records and bills from Nevada Comprehensive Pain Center/Nevada Surgical Suites (Alain Coppel, M.D.) (MORGAN000663 – 000667) (updated)
32. Medical bills from Pay Later Pharmacy for dates of service 09/29/2015-12/02/2015 (MORGAN000668) (updated)
33. Medical records from Desert Institute of Spine Care (Andrew Cash, M.D.) (MORGAN000684 – 000688)

34. Medical records and bills from William S Muir, M.D. (MORGAN000689 – 000695) (updated)
35. Medical bills from Grabow Hand to Shoulder Center (Ryan Grabow, M.D.) (MORGAN000696 – 000703) (updated)
36. Medical billing from Desert Institute of Spine Care (Andrew Cash, M.D.) (MORGAN000704)
37. Medical records from Grabow Hand to Shoulder Center (Ryan Grabow, M.D.) (MORGAN000705 – 000706) (updated)
38. Medical records and bills from Nevada Comprehensive Pain Center/Nevada Surgical Suites (Alain Coppel, M.D.) (MORGAN000707 – 000711) (updated)
39. Medical records and bills from Las Vegas Radiology (MORGAN000712 – 000729) (updated)
40. Medical records and bills from William S Muir, M.D. (MORGAN000743 – 000750) (updated)
41. Medical records and bills from ATI Physical Therapy (MORGAN000751 – 000783)
42. All exhibits listed by any other party to this litigation.
43. All documents identified during discovery in this litigation.
44. All pleadings filed in the case
45. All responses to any Interrogatories and/or Request for Admissions by any Defendant in this litigation
46. All depositions including exhibits
47. Any document necessary for impeachment or rebuttal purposes
48. Demonstrative Exhibits, which include, but are not limited to the following:
 - a. Models of the human body in general;
 - b. Illustrative photos of the human body in general;
 - c. Any demonstrative exhibits necessary for a proper presentation of the evidence;

- d. Video, story board and/or PowerPoint images, blow ups and/or transparencies of exhibits;
- e. Diagrams and/or models of the human body, specifically related to Plaintiffs injuries;
- f. Actual diagnostic studies;
- g. Diagrams and drawings of various parts of the human body, diagnostic tests and surgical procedures; and/or
- h. PowerPoint production which will include images, drawings, diagrams, animations, and/or story boards, of the items involved, the parties involved, body parts injured, illl d what occurred in the incident

Plaintiff hereby reserves the right to utilize any and all exhibits, documents and/or tangible things, and/or items identified and/or produced by Defendant or any other parties to this action, whether or not they have been dismissed from the instant action at the time of trial of this matter.

Plaintiff reserves the right to object to any and all exhibits offered by any other party until such time that they are admitted.

Defendant stipulates to the authenticity of the medical records and bills (invoices), but not to the treatment or amounts of bills as being reasonable, necessary, or customary within the Las Vegas community.

6(b). DEFENDANT'S PROPOSED EXHIBITS

Defendant may offer the following Exhibits at Trial (subject to redaction per the Court's rulings on the currently pending Motions in Limine):

1. EXHIBITS

Defendant anticipates utilizing the following exhibits at the time of trial, which have been previously identified and/or produced:

- A. Incident/Accident Report
- B. Driver Statement Report
- C. Incident Diagram
- D. Accident Information Card
- E. State of Nevada Traffic Accident Report
- F. Repair Estimate (Plaintiff's vehicle)
- G. Sixteen (16) colored photographs of Plaintiff's vehicle
- H. Nine (9) colored photographs of Defendant's vehicle
- I. U.S. Department of Transportation Alcohol Testing Forms/Results (as to Defendant)
- J. Las Vegas Metropolitan Police Department Traffic Collision Information
- K. Appraisal service documents (Defendant's vehicle)
- L. Sixteen (16) colored photographs of Defendant's vehicle

Defendant hereby reserves the right to utilize any and all exhibits, documents and/or tangible things, and/or items identified and/or produced by Plaintiff or any other parties to this action, whether or not they have been dismissed from the instant action at the time of trial of this matter.

Defendant reserved the right to object to any and all exhibits offered by any other party until such time that they are admitted.

Defendant stipulates to the authenticity of the medical records and bills (invoices), but not to the treatment as being reasonable, necessary or customary within the Las Vegas

Community or the amounts billed as being reasonable, necessary or customary within the Las Vegas Community

6(c). OBJECTIONS TO EXHIBITS

The parties reserve the right to object to exhibits. The parties have agreed to reserve any such objections until the time of trial.

Further, the parties agree that each day the parties will meet and confer regarding the exhibits to be presented the following day at trial.

7(a). PLAINTIFF'S LIST OF WITNESSES

A. Fact Witnesses:

1. Plaintiff Aaron M. Morgan
2. Defendant David Lujan
3. Defendant, Person(s) Most Knowledgeable of HARVEST MANAGEMENT SUB, LLC
4. Officer R. Schmitt, #3630 c/o Las Vegas Metropolitan Police Department
5. Officer M. Pence, #5451
c/o Las Vegas Metropolitan Police Department
6. Michael Morgan
7. Rebecca Morgan
8. Zachary Morgan

B. Expert Witnesses and Treating Doctors:

1. William S. Muir, M.D.
2. Terrence M. Clauretie
3. Terrance Dinneen, M.S., C.R.C., C.R.E.

Plaintiff reserves the right to call any witnesses listed by either party.

7(b). **DEFENDANT'S LIST OF WITNESSES**

1. Aaron Morgan (Plaintiff)
2. David Lujan (Defendant)
3. Person(s) Most Knowledgeable Harvest Management Sub, LLC
4. Expert, Steven M, Sanders, MD., F.A.A.O.S
5. Expert, Sharon J. McNair, CPA, CFE, FACFEI, CFF
6. Expert, Jeffrey F. Magrowski, Ph.D

Defendant reserves the right to call any witnesses listed by either party.

8. **CONTESTED ISSUES OF LAW**

A. Plaintiff

1. The issues raised in Plaintiff's Complaint.
2. The issues of law raised by Defendant at trial.

B. Defendant

1. The issues raised in Defendant's Answer.
2. The issues of law raised by Plaintiff at trial.

9. **ESTIMATED TIME OF TRIAL.**

The parties anticipate this trial to last 4-5 days.

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10. OTHER MATTERS.

Defendant's expert, Jeffrey Magrowski, is traveling from out of state. It may be necessary for him to be taken out of order.

DATED this 27 day of February, 2017

RICHARD HARRIS LAW FIRM



BRAN A. BOYACK, ESQ.
Nevada Bar No. 9980
801 South Fourth Street
Las Vegas, Nevada 89101
Attorney for Plaintiff

DATED this _____ day of February, 2017

RANDS, SOUTH & GARDNER

DOUGLAS J. GARDNER, ESQ.
Nevada Bar No. 4609
1055 Whitney Ranch Drive, Suite 220
Las Vegas, NV 89014
Attorney for Defendant

10. OTHER MATTERS.

Defendant's expert, Jeffrey Magrowski, is traveling from out of state. It may be necessary for him to be taken out of order.


DATED this _____ day of February, 2017

RICHARD HARRIS LAW FIRM

BRAN A. BOYACK, ESQ.
Nevada Bar No. 9980
801 South Fourth Street
Las Vegas, Nevada 89101
Attorney for Plaintiff

DATED this 27th day of February, 2017

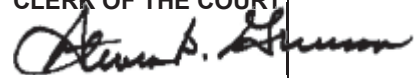
RANDS, SOUTH & GARDNER



DOUGLAS J. GARDNER, ESQ.
Nevada Bar No. 4609
1055 Whitney Ranch Drive, Suite 220
Las Vegas, NV 89014
Attorney for Defendant

TAB 6

TAB 6



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
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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?

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POTENTIAL JUROR NUMBER 2: [Indiscernible].

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

POTENTIAL JUROR NUMBER 2: Yes, ma'am.

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

POTENTIAL JUROR NUMBER 2: No.

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

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

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

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

THE COURT: All right.

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

THE COURT: All right.

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 PROSPECTIVE JUROR 13: Yes.
2 THE COURT: I'm sorry?
3 PROSPECTIVE JUROR 13: Yes.
4 THE COURT: Can you tell me about that?
5 PROSPECTIVE JUROR 13: So a few years ago, I had a
6 lawsuit against the JC Penney hair salon. We ended up settling out of court.
7 Like, I didn't have a whole thing like this. It was just my lawyer, their lawyer.
8 They got it worked out.
9 THE COURT: All right. What was the general nature of the
10 dispute?
11 PROSPECTIVE JUROR 13: The stylist was not paying
12 attention while she was flat ironing and everything to my hair, and she
13 sprayed it with the hairspray and held the flatiron for too long. I got home
14 and, you know, checking out my new do, and a strand of my hair fell out.
15 THE COURT: All right. Have you or anyone close to you
16 worked in the legal field?
17 PROSPECTIVE JUROR 13: No.
18 THE COURT: Have you or anyone close to you had medical
19 training or worked in the medical field?
20 PROSPECTIVE JUROR 13: My mom is a nurse.
21 THE COURT: What kind of nurse?
22 PROSPECTIVE JUROR 13: Like, elderly care. Like, assisted-
23 living care.
24 THE COURT: Does she work here in Clark County?
25 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.