

1 CASE NUMBER: BC470714  
2 CASE NAME: DUVAL V COUNTY OF LOS ANGELES  
3 LOS ANGELES, CALIFORNIA MONDAY, SEPTEMBER 12, 2016  
4 DEPARTMENT 89 HON. WILLIAM A. MACLAUGHLIN  
5 APPEARANCES: (AS HERETO NOTED.)  
6 REPORTER: ELORA DORINI, CSR NO. 13755  
7 TIME: 10:11 A.M.

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11 THE COURT: WE ARE -- HAVE TWO JURORS THAT  
12 AREN'T GOING TO MAKE IT. AND ONE OF THEM SAYS THEIR  
13 PLANE WAS CANCELED TO GET BACK HERE, CAN'T GET HERE IN  
14 TIME. ONE IS SICK.

15 SO ON YOUR ALPHABETICAL LIST, LAST NAME IS  
16 BRAUCHT, B-R-A-U-C-H-T. DO YOU SEE IT? SHE'S THE ONE  
17 THAT'S PLANE WAS CANCELED. CAN'T GET HERE TIL LATER.  
18 AND THEN OVER ON THE SECOND PAGE, LAST NAME SHAHBOZAI,  
19 S-H-A-H-B-O-Z-A-I. SAYS HE'S SICK.

20 I CAN'T WAIT FOR HIM TO GET WELL. SO THEY'VE  
21 BEEN EXCUSED. AND THEN WE HAVE TWO THAT HAVE NOT YET  
22 APPEARED.

23 DO WE HAVE ANY WORD?

24 THE CLERK: TRYING TO GET PHONE NUMBERS FOR  
25 THEM.

26 THE COURT: OKAY. SO WE'RE GOING TO TAKE JUST  
27 A COUPLE OF MINUTES TO SEE IF WE CAN GET PHONE NUMBERS  
28 FOR THEM.

1 (PAUSE IN THE PROCEEDINGS)

2 THE COURT: BACK ON THE RECORD. WE'RE ON THE  
3 RECORD. COUNSEL ARE PRESENT. OUTSIDE THE PRESENCE OF  
4 ANY JURORS, I HAVE TWO MORE FROM THE LIST. HAMILTON,  
5 COURT ATTENDANT WAS ABLE TO REACH HIM. HE THOUGHT HE'D  
6 BEEN EXCUSED.

7 SO AT THIS POINT, I'M GOING TO HAVE TO EXCUSE  
8 HIM. AND THE OTHER ONE IS FOUR DOWN, HEYNE, H-E-Y-N-E,  
9 AND WE'RE UNABLE TO REACH MR. HEYNE. MESSAGE IS THE  
10 ONLY PHONE NUMBER WE HAVE. SO I'M GOING TO HAVE TO  
11 HAVE THE JURY ROOM DEAL WITH HIM AND RESCHEDULE.

12 WE'RE GOING TO HAVE TO GET THE JURORS IN TO  
13 GET STARTED. BEFORE I DO THAT, MR. GUTERRES, ARE SOME  
14 OTHER PERSONS PRESENT, CLIENTS, DEFENDANTS IN THE CASE?  
15 ARE SOME OF THESE PEOPLE HERE?

16 MR. GUTERRES: YES, YOUR HONOR. WE HAVE  
17 MS. SUSAN PENDER. SUSAN PENDER.

18 THE COURT: PENDER, OKAY.

19 MR. GUTERRES: CANDIS NELSON.

20 THE COURT: PARDON?

21 MR. GUTERRES: CANDIS NELSON.

22 THE COURT: CANDIS NELSON, OKAY. MS. NELSON,  
23 GOOD MORNING.

24 THE DEFENDANT: GOOD MORNING.

25 MR. GUTERRES: KIMBERLY ROGERS.

26 THE COURT: MS. ROGERS, GOOD MORNING.

27 THE DEFENDANT: GOOD MORNING.

28 MR. GUTERRES: AND THEN IN THE BACK, THE LEFT,

1 MS. ELBA PINEDO.

2 THE COURT: OKAY.

3 MR. GUTERRES: MS. VICTORIA SCHEELE.

4 THE COURT: OKAY.

5 MR. GUTERRES: AND MS. MUZEYYEN BALABAN.

6 THE COURT: ALL RIGHT. SO IS TIKA SMITH HERE?

7 MR. GUTERRES: MS. SMITH WAS NOT ABLE TO BE  
8 HERE TODAY.

9 THE COURT: OKAY. I JUST WANT TO MAKE SURE I  
10 HAVE THE ONES TO BE INTRODUCED. ALL RIGHT. ALSO  
11 BEFORE I GET STARTED, I'M GETTING -- THERE APPEARS TO  
12 BE A SECRET CODE ON HERE. I'VE NOT BEEN...(TECHNICAL  
13 ISSUE.)

14 ALL RIGHT. SO IF EVERYBODY'S READY THEN,  
15 WE'RE GOING TO GET THE JURORS IN. HOLD ON A SECOND. I  
16 DON'T KNOW WHAT HAPPENED TO THE COURT ATTENDANT.

17 THE CLERK: SHE'S GETTING THE JURORS.

18 (JURY PRESENT)

19 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN  
20 COURT IN THE PRESENCE OF THE JURY)

21 THE COURT: ALL RIGHT. GOOD MORNING TO ALL OF  
22 OUR PROSPECTIVE JURORS. YOU'VE BEEN SENT HERE THIS  
23 MORNING AS PROSPECTIVE JURORS IN A CIVIL CASE THAT'S  
24 ABOUT TO GO TO TRIAL.

25 SO THE FIRST THING I NEED TO HAVE YOU DO IS  
26 TURN OFF ALL OF YOUR ELECTRONIC COMMUNICATIONS, MEANING  
27 YOUR PHONE AND ANY OTHER FORM OF ELECTRONIC  
28 COMMUNICATION YOU HAVE WITH YOU. I'LL GIVE YOU A

1 CHANCE TO DO THAT.

2 NEXT THING I NEED TO HAVE YOU DO IS STAND,  
3 FACE THE CLERK, RAISE YOUR RIGHT HAND TO BE SWORN BY  
4 THE CLERK.

5 PROSPECTIVE JURORS: (COLLECTIVELY) I DO.

6 THE CLERK: THANK YOU, YOU MAY BE SEATED.

7 THE COURT: THIS IS A CIVIL CASE. IT'S ABOUT  
8 TO GO TO TRIAL AS OPPOSED TO A CRIMINAL CASE. IN A  
9 MOMENT, I'M GOING TO INTRODUCE THE PARTIES AND THEIR  
10 ATTORNEYS TO YOU. I'M GOING TO TELL YOU WHAT THE CASE  
11 IS ABOUT SO I CAN FIND OUT IF ANY OF YOU HAVE HEARD OF  
12 THIS MATTER BEFORE COMING HERE TODAY.

13 I'M GOING TO TELL YOU ABOUT THE WITNESSES THAT  
14 WE EXPECT COULD OR WILL BE TESTIFYING DURING THE COURSE  
15 OF THE TRIAL, TO FIND OUT IF ANY OF YOU KNOW THEM.

16 AND YOU'RE GOING TO HEAR A VERY -- IN ADDITION  
17 TO WHAT I TELL YOU WHAT THE CASE IS ABOUT, YOU'RE GOING  
18 TO HEAR FROM EACH SIDE A BRIEF, BUT A LITTLE MORE  
19 DESCRIPTION OF WHAT THE CASE IS ABOUT.

20 AND FOLLOWING ALL OF THAT, I WILL BE INQUIRING  
21 OF YOU AS TO WHETHER ANY OF YOU WOULD SUFFER AN UNDUE  
22 HARDSHIP IF YOU WERE TO ASKED TO SERVE AS A JUROR IN  
23 THIS CASE.

24 NOW, IN A CIVIL CASE, THE PARTIES THAT BRING  
25 THE CASE BEFORE THE COURT ARE REFERRED TO AS  
26 PLAINTIFFS. THERE'S NO SIGNIFICANCE TO THE NAME. IT'S  
27 JUST A NAME THAT GOES BACK FOR TOO MANY YEARS TO EVEN  
28 THINK ABOUT, TO DESCRIBE THE PERSON IN THE CAPACITY OF

1 HAVING BROUGHT THE ACTION TO COURT.

2 IN THIS INSTANCE, THE PARTY WHO BROUGHT THIS  
3 ACTION BEFORE THE COURT IS MS. RAFAELINA DUVAL, WHO IS  
4 PRESENT WITH HER ATTORNEYS.

5 STARTING OVER HERE, MR. MCMILLAN, MR. PRAGER,  
6 MR. KING, AND MS. CHUNG. AND THIS IS MS. DUVAL RIGHT  
7 HERE. DO ANY OF YOU KNOW THEM OR THINK YOU MAY KNOW  
8 THEM? IF SO, PLEASE RAISE YOUR RIGHT HAND. NO ONE  
9 INDICATES THEY DO, THANK YOU VERY MUCH.

10 ALSO IN A CIVIL ACTION, THE PARTY AGAINST WHOM  
11 THE ACTION IS BROUGHT IS REFERRED TO AS A DEFENDANT.  
12 AGAIN, THERE'S NO SIGNIFICANCE TO THE TERM, ONLY THAT  
13 IT INDICATES THAT THEY ARE THE ONES AGAINST WHOM THE  
14 ACTION HAS BEEN BROUGHT.

15 IN THIS INSTANCE, THE ACTION IS BROUGHT  
16 AGAINST THE COUNTY OF LOS ANGELES, WHICH IS APPEARING  
17 HERE TODAY, AND OTHER INDIVIDUALS I'LL INTRODUCE TO YOU  
18 IN A MOMENT.

19 BUT THE COUNTY OF LOS ANGELES IS REPRESENTED  
20 BY MS. CHRISTIE SWISS, MS. KELSEY NAU, MR. TOMAS  
21 GUTERRES, AND MS. CHRISTINA LEE NOT IN APPEARANCES IS  
22 HERE REPRESENTING THE COUNTY.

23 IN ADDITION TO THEM, CERTAIN OF THE INDIVIDUAL  
24 DEFENDANTS ARE PRESENT, AND THEY INCLUDE, AND I'LL ASK  
25 THEM TO STAND AS I CALL THEIR NAME, KIMBERLY ROGERS,  
26 MUZEYYEN BALABAN, CANDIS NELSON, VICTORIA SCHEELE,  
27 SUSAN PENDER -- ARE YOU HERE? OKAY.

28 AND ELBA PINEDO. DO ANY OF YOU KNOW --

1 OBVIOUSLY, YOU ALL HAVE HEARD OF THE COUNTY OF LOS  
2 ANGELES, BUT DO ANY OF YOU KNOW ANY OF THESE  
3 INDIVIDUALS? IF SO, PLEASE RAISE YOUR HAND. ALL  
4 RIGHT. NONE OF YOU DO. THANK YOU VERY MUCH, YOU MAY  
5 BE SEATED.

6 THE -- IN THIS MATTER, PLAINTIFF  
7 RAFAELINA DUVAL ALLEGES THAT DEFENDANTS SUSAN PENDER,  
8 KIMBERLY ROGERS, AND MUZEYYEN BALABAN VIOLATED HER  
9 RIGHTS UNDER THE UNITED STATES CONSTITUTION'S 14TH  
10 AMENDMENT.

11 FIRST BY SEIZING HER CHILD FROM HER CARE AND  
12 CUSTODY WITHOUT FIRST OBTAINING A WARRANT, THEN BY  
13 PRESENTING FALSE EVIDENCE AND/OR SUPPRESSING MATERIAL  
14 EXCULPATORY EVIDENCE, FROM THE JUVENILE COURT.

15 MS. DUVAL ALLEGES THIS MISCONDUCT CAUSED AND  
16 CONTINUED THE DETENTION OF HER CHILD, REFERRED TO  
17 DURING THE COURSE OF THIS TRIAL AS BY THE INITIALS RD  
18 TO PROTECT THE PRIVACY RIGHTS OF THAT CHILD, FROM HER  
19 CARE AND CUSTODY.

20 MS. DUVAL ALSO ALLEGES THAT THE DEFENDANT  
21 ELBA PINEDO VIOLATED HER RIGHTS UNDER THE UNITED STATES  
22 CONSTITUTION'S 14TH AMENDMENT BY MAKING FALSE  
23 STATEMENTS IN A JUVENILE DEPENDENCY PETITION, WHICH  
24 MS. PINEDO SIGNED UNDER PENALTY OF PERJURY.

25 MS. DUVAL ALLEGES THIS MISCONDUCT ALSO  
26 CONTRIBUTED TO THE CONTINUED DETENTION OF HER CHILD,  
27 RD, FROM HER CARE AND CUSTODY.

28 MS. DUVAL ALSO ALLEGES THAT DEFENDANTS

1 SCHEELE, NELSON, AND SMITH -- AND I'LL JUST STOP TO  
2 MENTION, ONE OF THE INDIVIDUAL DEFENDANTS IS A PERSON  
3 BY THE NAME OF TIKA SMITH, WHO IS UNABLE TO BE HERE AT  
4 THAT MOMENT IN TIME, BUT WILL BE HERE LATER.

5 I NEED TO ASK IF -- DO ANY OF YOU KNOW A  
6 PERSON BY THE NAME OF TIKA SMITH, WHO WORKS FOR OR HAS  
7 WORKED FOR THE COUNTY OF LOS ANGELES? IF SO, PLEASE  
8 RAISE YOUR HAND. NO ONE INDICATES THAT THEY HAVE.

9 MS. DUVAL ALSO ALLEGES THAT THOSE DEFENDANTS,  
10 SCHEELE, NELSON, AND SMITH, VIOLATED HER RIGHTS UNDER  
11 THE UNITED STATES CONSTITUTION'S 14TH AMENDMENT BY  
12 PRESENTING FALSE EVIDENCE AND/OR SUPPRESSING MATERIAL  
13 EXCULPATORY EVIDENCE FROM THE JUVENILE COURT.

14 MS. DUVAL ALLEGES THIS CONDUCT -- MISCONDUCT  
15 CONTRIBUTED TO THE CONTINUED DETENTION OF THE CHILD  
16 FROM HER CARE AND CUSTODY.

17 MS. DUVAL ALLEGES THAT ALL OF THE FOREGOING  
18 CONDUCT BY THE INDIVIDUAL DEFENDANTS WAS DONE IN  
19 ACCORDANCE WITH COUNTY OF LOS ANGELES' REGULARLY  
20 ESTABLISHED CUSTOMS AND PRACTICES, AND/OR THAT THE  
21 COUNTY OF LOS ANGELES FAILED TO ADEQUATELY TRAIN AND/OR  
22 SUPERVISE SOCIAL WORKERS PENDER, ROGERS, BALABAN,  
23 PINEDO, SCHEELE, NELSON AND SMITH.

24 IN ADDITION, MS. DUVAL ALLEGES THAT SHE IS A  
25 DISABLED PERSON, AND THAT DEFENDANTS COUNTY OF LOS  
26 ANGELES, CANDIS NELSON, AND VICTORIA SCHEELE FAILED TO  
27 PROVIDE HER WITH REASONABLE ACCOMMODATIONS FOR HER  
28 DISABILITY UPON REQUEST DURING THEIR HANDLING OF THE

1 JUVENILE DEPENDENCY PROCEEDING.

2 MS. DUVAL ALSO ALLEGES THAT THE DEFENDANTS  
3 COUNTY OF LOS ANGELES, VICTORIA SCHEELE, CANDIS NELSON  
4 AND TIKA SMITH MISREPRESENTED HER DISABILITY IN  
5 JUVENILE COURT PROCEEDINGS TO UNDERMINE HER CREDIBILITY  
6 WITH THE JUVENILE COURT AND TO SUGGEST THAT A  
7 POTENTIAL -- A PERCEIVED MENTAL ILLNESS WAS THE CAUSE  
8 OF HER SON'S FAILURE TO THRIVE CONDITION.

9 MS. DUVAL ASSERTS THAT DEFENDANTS SCHEELE AND  
10 NELSON VIOLATED MS. DUVAL'S RIGHTS TO BE FREE FROM  
11 DISCRIMINATION, AND THAT SHE WAS HARMED.

12 ALL THE DEFENDANTS DENY LIABILITY IN THESE  
13 ALLEGATIONS. DEFENDANT MUZEYYEN BALABAN DENIES THAT  
14 SHE HAD ANY INVOLVEMENT IN THE DETENTION OF  
15 RAFAELINA DUVAL'S CHILD, OR IN THE INITIAL DECISION TO  
16 DETAIN THE CHILD.

17 HAVE ANY OF YOU HEARD OF THIS MATTER BEFORE  
18 COMING HERE THIS MORNING? IF SO, PLEASE RAISE YOUR  
19 HAND. ALL RIGHT, NO ONE INDICATES THAT YOU HAVE.

20 NOW, I'M GOING TO READ YOU THE NAMES OF SOME  
21 POTENTIAL 78 WITNESSES. APPROXIMATE SIZE OF THE TOWN I  
22 GREW UP IN. THE NAMES OF THE WITNESSES THAT I'M GOING  
23 TO READ TO YOU ARE NAMES OF POTENTIAL WITNESSES.

24 A NUMBER OF THEM WILL TESTIFY, BUT I THINK  
25 IT'S VERY LIKELY THAT THERE ARE GOING TO BE A NUMBER OF  
26 PERSONS ON THIS LIST WHO WILL NOT ACTUALLY TESTIFY.

27 NEVERTHELESS, THEIR NAMES ARE BEING GIVEN TO  
28 YOU TO COVER THE CONTINGENCY THAT THEY MAY END UP



1 TESTIFYING, BUT ALSO BECAUSE THEIR NAME MAY COME UP IN  
2 THE EVIDENCE, EVEN IF THEY DON'T APPEAR AS A WITNESS IN  
3 THE CASE.

4 THE PURPOSE OF READING ALL OF THESE NAMES TO  
5 YOU IS NOT BECAUSE I LIKE TO DO IT, BUT BECAUSE I'M  
6 GOING TO HAVE TO ASK YOU, AFTER I'VE READ THE NAMES TO  
7 YOU, IF ANY OF YOU KNOW ANY OF THESE PERSONS. SO I'LL  
8 DO THE BEST I CAN.

9 I'M SURE I'LL BE -- MISPRONOUNCE SOME OF THEM,  
10 AND SOME OF WHERE I RECOGNIZE MY THAT PRONUNCIATION  
11 WILL PROBABLY NOT BE TOO GOOD, I'LL LIKELY SPELL THEM  
12 TO YOU.

13 I'LL ASK YOU TO JUST LISTEN, AND TRY TO  
14 REMEMBER. IF YOU HEAR ANYONE THAT YOU KNOW OR THINK  
15 YOU KNOW, SAVE IT, BECAUSE WHEN I'M DONE I'M GOING TO  
16 ASK YOU IF YOU KNOW ANY OF THEM.

17 SO TO BEGIN WITH: ALANDRIA SAIFER, SAIFER  
18 SPELLED S-A-I-F-E-R. ALANDRIA KOHL. ALLISON R. THIEM,  
19 YM, MD. ART LA CILENTO, L-A C-I-L-E-N-T-O, ESQUIRE.  
20 AMIR AHARONOV, I'M GOING TO BUTCHER THIS ONE,  
21 A-H-A-R-O-N-O-V. AMY LEY-SANCHEZ, LAST NAME IS L-E-Y  
22 HYPHEN S-A-N-C-H-E-Z. ANGELA ESPINOSA.

23 BETH MINOR, M-I-N-O-R. BIAS, EXCUSE ME, BLAS,  
24 B-L-A-S. CABANBAN, C-A-B-A-N-B-A-N. BOB HOWELL.  
25 CANDIS NELSON, WHO YOU HAVE ALREADY MET. CARMEN MILLS.  
26 DR. CAROL BERKOWITZ, B-E-R-K-O-W-I-T-Z. CASSANDRA  
27 GONZALES.

28 DR. CHARLES NIESEN, N-I-E-S-E-N. DR. CHARLES

1 SOPHY, S-O-P-H-Y. DR. COLIN STOCKOL, S-T-O-C-K-O-L.  
2 CYNTHIA HERNANDEZ-BUTER, HYPHENATED LAST NAME,  
3 HERNANDEZ HYPHEN B-U-T-E-R. DR. DANIEL BROUSSEAU,  
4 B-R-O-U-S-S-E-A-U. DONNY COX.

5 DOUGLAS HUNTER. ELBA PINEDO, WHOM YOU'VE  
6 ALREADY MET. FRANCESCA LERUE, L-E-R-U-E. GUY  
7 TRIMARCHI, T-R-I-M-A-R-C-H-I. JOI, SPELLED J-O-I,  
8 RUSSELL. KAREN VANCE. KRISTEN HENRICH, H-E-N-R-I-C-H.  
9 DR. IRA LOTT, L-O-T-T.

10 JAIME URQUIZO, U-R-Q-U-I-Z-O. DR. JASMEET  
11 GILL, FIRST NAME IS SPELLED J-A-S-M-E-E-T, LAST NAME  
12 G-I-L-L. JESSICA BROWN. JULIAN, ALSO GOING BY THE  
13 NAME OF JERRY, DOMINGUEZ. KIMBERLY ROGERS, WHOM YOU'VE  
14 ALREADY MET.

15 IT'S POSSIBLE THERE WILL BE A REPRESENTATIVE,  
16 WE DON'T KNOW THE NAME, OF SOMEONE FROM THE LOS ANGELES  
17 TIMES. AND I ASSUME YOU ALL KNOW THE LOS ANGELES  
18 TIMES. WE DON'T KNOW THAT PERSON YET.

19 LAURA AUSTIN, A-U-S-T-I-N. LYNETTE,  
20 L-Y-N-E-T-T-E, MORGAN HYPHEN NICHOLS, N-I-C-H-O-L-S.  
21 LYNN, L-Y-N-N, BOWLES, B-O-L, EXCUSE ME, B-O-W-L-E-S,  
22 CONDON, C-O-N-D-O-N. DR. MARGARET SODDERBERG,  
23 S-O-D-D-E-R-B-E-R-G. DR. MAXINE BAUM, B-A-U-M.  
24 DR. MELISSA EGGE, E-G-G-E. DR. MELVIN HILL.

25 MICHELLE HOCHSTEIN, H-O-C-S-H-S-T-E-I-N.  
26 MICHELLE VICTOR. JUDGE MICHAEL NASH.  
27 MICHAEL WEINRAUB, DOCTOR. LAST NAME -- DR. WEINRAUB'S  
28 LAST NAME IS W-E-I-N-R-A-U-B.

1 DR. MICHELLE EVANS. MICHELLE SWART,  
2 S-W-A-R-T. MONIQUE BUSTOS, B-U-S-T-O-S.  
3 MUZEYYEN BALABAN, WHO YOU HAVE ALREADY MET. NANCY  
4 EGIZII, E-G-I-Z-I-I. NICOLE WILLIAMS.  
5 NERISSA ENNIS. OLAF MARSHALL. DR. PATRICK  
6 DAHL, D-A-H-L. RAFAELINA DUVAL, WHO YOU'VE ALREADY  
7 MET. REECE NEYLAND, N-E-Y-L-A-N-D. ROBBY WERK,  
8 W-E-R-K. ROBERT BOUDIN, B-O-U-D-I-N.

9 ROBERT POWELL. RD, THAT'S THE MINOR I  
10 MENTIONED TO YOU. I DON'T KNOW WHETHER RD WILL  
11 ACTUALLY BE A WITNESS, BUT HE'LL BE IDENTIFIED ONLY BY  
12 THOSE INITIALS.

13 ROSA BAGHDASSARIAN, B-A-G-H-D-A-S-S-A-R-I-A-N.  
14 RYAN MILLS. DR. STEVEN SANDERS, THE DOCTOR IS A PHD AS  
15 OPPOSED TO AN MD. DR. SURAJ ACHAR, FIRST NAME  
16 S-U-R-A-J, LAST NAME A-C-H-A-R. SUSAN PENDER, WHO  
17 YOU'VE MET.

18 TIKA SMITH, WHO I MENTIONED WILL BE HERE  
19 LATER. AGAIN, WITH A PHD, DR. TWILA, T-W-I-L-A CLARK,  
20 C-L-A-R-K, AGAIN, A PHD AS OPPOSED TO AN MD.  
21 VALERIE ANN BAGGIO, B-A-G-G-I-O.

22 VICTORIA SCHEELE, WHOM YOU'VE ALREADY MET.  
23 WENDY CRUMP, C-R-U-M-P. AND URBANA PEREZ TAPIA,  
24 T-A-P-I-A.

25 ANY OF YOU THINK YOU KNOW ANY OF THOSE  
26 PERSONS? YES.

27 THE JUROR: DR. IRA, IRA LOTTO? OR --

28 THE COURT: BEATS ME, I'LL GO BACK AND LOOK.

1 (LAUGHTER)

2 MR. MCMILLAN: IRA LOTT.

3 THE COURT: LOTT, L-O-T-T.

4 THE JUROR: L-O-T-T. AND I KNOW HIM.

5 THE COURT: OKAY, ANYONE ELSE? YOU MIGHT  
6 THINK YOU MAY KNOW ONE OF THESE PERSONS? ALL RIGHT.  
7 APPARENTLY NOT.

8 SO THE NEXT THING THAT I WANT TO TALK TO YOU  
9 ABOUT IS THE -- IS WHETHER OR NOT -- EXCUSE ME -- THE  
10 NEXT THING I NEED TO DO IS I'LL GIVE THE ATTORNEYS A  
11 CHANCE TO, ONE FOR EACH SIDE, GIVE YOU A LITTLE MORE  
12 EXPLANATION OF WHAT THE CASE IS ABOUT.

13 WHEN I GAVE THE -- READ TO YOU THE DESCRIPTION  
14 OF WHAT THE CASE IS ABOUT, THAT DESCRIPTION IS  
15 DELIBERATELY NOT VERY SPECIFIC AS TO WHAT ACTUALLY  
16 HAPPENED. I TOLD YOU WHAT IT WAS ABOUT. BUT DOESN'T  
17 REALLY DESCRIBE WHAT HAPPENED.

18 AND THE REASON FOR THAT IS THAT, FOR THOSE  
19 PERSONS WHO EVENTUALLY SERVE AS JURORS IN THE CASE,  
20 YOU'LL HAVE TO DECIDE ALL ISSUES IN THE CASE BASED ON  
21 THE EVIDENCE RECEIVED HERE IN COURT.

22 AND MY READING TO YOU OF THAT DESCRIPTION OF  
23 JUST WHAT THE CASE IS ABOUT IS SOLELY FOR THE PURPOSE  
24 OF MY BEING ABLE TO ASK YOU IF YOU'VE HEARD OF THIS  
25 MATTER BEFORE COMING HERE TODAY. BUT WHAT I SAID ABOUT  
26 THE CASE IS NOT EVIDENCE.

27 AND SO IF YOU ARE EVENTUALLY SELECTED AS ONE  
28 OF THE JURORS TO HEAR THIS MATTER, YOU MUST COMPLETELY

1 DISREGARD MY DESCRIPTION OF THE CASE AND WHAT THE  
2 CLAIMS ARE IN THE CASE, BECAUSE THAT IS NOT EVIDENCE.

3 THE ATTORNEYS WHO WILL ADDRESS YOU NOW IN JUST  
4 A MOMENT, WE'LL BEGIN WITH MR. MCMILLAN, AND WHAT THEY  
5 TELL YOU IS WHAT WE REFER TO AS A MINI-OPENING  
6 STATEMENT. IT'S A VERY SHORT STATEMENT, A LITTLE MORE  
7 DETAIL OF WHAT THE CASE IS ABOUT.

8 AND THEN MS. SWISS WILL BE GIVING YOU ALSO A  
9 VERY SHORT VERSION OF AN OPENING STATEMENT. AND ALSO  
10 WHAT SHE TELLS YOU IS NOT EVIDENCE IN THE CASE. SO  
11 THIS -- PURPOSE OF THIS IS SIMPLY TO ACQUAINT YOU A  
12 LITTLE BIT MORE WITH THE SUBJECT MATTER OF THE CASE.

13 ONCE THAT'S COMPLETED, THEN I'LL TALK WITH YOU  
14 AS TO WHETHER ANY OF YOU WOULD SUFFER AN UNDUE HARDSHIP  
15 IF YOU WERE ASKED TO SERVE.

16 SO, MR. MCMILLAN, YOU MAY PROCEED.

17 MR. MCMILLAN: THANK YOU, YOUR HONOR.

18 OVER THE NEXT FEW DAYS, WE'RE GOING TO BE  
19 SPENDING QUITE A BIT OF TIME TOGETHER. WE'RE GOING TO  
20 LEARN A LITTLE BIT ABOUT EACH OTHER. WE'VE ALREADY  
21 LEARNED A LITTLE BIT ABOUT THE CASE. AND WE'RE GOING  
22 TO LEARN A LITTLE BIT ABOUT THE LAW.

23 ONE OF THE FIRST THINGS THAT YOU'LL LEARN IS  
24 THAT A CIVIL TRIAL LIKE THIS ONE IS SIMILAR IN MANY  
25 RESPECTS TO A MOVIE OR A STAGE PLAY, BOTH TELL A STORY.

26 WHILE IN A MOVIE, THE STORY MORE OR LESS MOVES  
27 ALONG CHRONOLOGICALLY, WITH EACH SCENE FLOWING  
28 NATURALLY TO THE NEXT, A TRIAL IS DIFFERENT. IT'S MORE

1       LIKE PUTTING TOGETHER A JIGSAW PUZZLE, BUT WITH LITTLE  
2       BITS AND PIECES OF LIVE ACTION.

3               AND AS THE WITNESSES, THEY COME ACROSS THE  
4       STAND, SWEAR TO TELL THE TRUTH, THE WHOLE TRUTH,  
5       NOTHING BUT THE TRUTH, YOU'LL SEE AS THE PIECES OF THE  
6       PUZZLE THAT THEY'LL LEAVE BEHIND, THEY START TO TAKE  
7       SHAPE AND FORM INTO A PICTURE.   A STORY.

8               AND WHAT YOU'LL LEARN IS THAT THE REASON THAT  
9       WE'RE HERE TOGETHER TODAY, AND THE REASON THAT SOME OF  
10      US WILL REMAIN HERE TOGETHER FOR THE NEXT SEVERAL WEEKS  
11      IS BECAUSE THE COUNTY OF LOS ANGELES AND THESE  
12      DEFENDANTS HERE, THEY ABUSED THEIR POWER.   THEY ABUSED  
13      OUR CLIENT, RAFAELINA DUVAL.

14              AND THE EVIDENCE WILL SHOW THEY DIDN'T DO IT  
15      FOR ANY JUST OR NOBLE CAUSE.   THEY DID IT TO GIVE HER  
16      AN ATTITUDE ADJUSTMENT, TO TEACH HER A LESSON.   SO WHAT  
17      DID THE DEFENDANTS DO?

18              MS. PENDER, MS. ROGERS, THEY SEIZED  
19      RAFAELINA'S BABY WITHOUT A WARRANT FOR JUST CAUSE, AND  
20      THEN THEY LIED ABOUT HER IN THEIR OFFICIAL REPORTS TO  
21      THE JUVENILE COURT.

22              THEY TOLD THE JUDGE THAT, UNDER PENALTY OF  
23      PERJURY, THAT MS. DUVAL -- SHE WILLFULLY AND  
24      INTENTIONALLY FAILED AND REFUSED TO FEED HER  
25      15-MONTH-OLD BABY.

26              THIS CAUSED THE BABY, ACCORDING TO THEM, TO  
27      FAIL TO THRIVE.   SO THEY TAKE HER BABY, AND THEY GIVE  
28      THE BABY TO THE FATHER.   AND THEN THE CASE, IT JUST

1 KIND OF MOVES ON DOWN THE LINE. AND IN THE PROCESS  
2 WITH THAT LIE, INITIAL LIE, IT KEEPS GROWING AND  
3 CHANGING.

4 YOU SEE, RAFAELINA, SHE SUFFERS FROM A  
5 DISABILITY THAT CAUSES HER HANDS TO SHAKE, SOMETIMES  
6 VIOLENTLY. IT'S CALLED FAMILIAL TREMORS, AND THE  
7 SOCIAL WORKERS, THEY KNOW THAT, AND THEY USE IT AGAINST  
8 HER.

9 THEY TELL THE COURT SHE'S ANXIOUS AROUND HER  
10 BABY, THAT'S WHY HER HANDS SHAKE. IMPLYING, OF COURSE,  
11 SHE CAN'T BE TRUSTED TO RAISE HER SON. BUT IT DOESN'T  
12 END THERE.

13 TO SOLIDIFY THE PLAN THAT THESE TWO PUT IN  
14 PLACE, TO CRUSH ANY HOPE THAT RAFAELINA MIGHT HAVE TO  
15 UNDO THE DAMAGE, THEY MISLEAD THE COURT. MS. NELSON  
16 AND MS. SCHEELE OVER THERE.

17 THEY TELL THE COURT, WE'RE CONCERNED, SHE  
18 MIGHT HAVE MUNCHAUSEN BY PROXY. WE NEED FURTHER  
19 ASSESSMENT. WHAT DOES THE COURT DO? THE COURT LIMITS  
20 RAFAELINA'S TIME WITH HER 15-MONTH-OLD BABY -- WHO, BY  
21 THE WAY, SHE IS NURSING AT THE TIME -- TO TWO VISITS A  
22 WEEK.

23 EACH ONE-AND-A-HALF HOURS LONG IN THE  
24 BEGINNING. LATER ON, THAT WAS EXPANDED TO THREE HOURS.  
25 TWO VISITS, ONE-AND-A-HALF-HOURS EACH. AND TODAY,  
26 SEVEN YEARS LATER, IT'S STILL THREE HOURS EACH VISIT,  
27 TWICE A WEEK.

28 AND FOLKS, THE REASON WHY THESE SOCIAL

1 WORKERS, THESE GOVERNMENT SOCIAL WORKERS, FELT SO  
2 COMFORTABLE DOING THESE THINGS IS BECAUSE THE COUNTY OF  
3 LOS ANGELES, DEPARTMENT OF FAMILY AND CHILDREN AND  
4 FAMILY SERVICES, THEY FOSTER A CULTURE THAT ENCOURAGES  
5 THIS TYPE OF BEHAVIOR.

6 AND THAT'S -- WE'LL PROVE TO YOU -- WE'LL  
7 PROVE TO YOU THAT THE COUNTY AND SOCIAL WORKERS, THEY  
8 VIOLATED RAFAELINA'S RIGHTS TO PARENT HER CHILD. THESE  
9 ARE RIGHTS THAT ARE PROTECTED UNDER THE 14TH AMENDMENT  
10 OF THE UNITED STATES CONSTITUTION, AND THEY'RE RIGHTS  
11 WE ALL SHARE. AND THESE PEOPLE, THEY KNEW IT.

12 WE WILL ALSO PROVE TO YOU THAT THESE  
13 GOVERNMENT SOCIAL WORKERS, THEY DID THESE THINGS. THEY  
14 SEIZED THE BABY WITHOUT A WARRANT, LIED ABOUT  
15 MS. DUVAL.

16 THEY DID IT WITH A KNOWING DISREGARD FOR HER  
17 RIGHTS. YOU SEE, THEY'LL ALL TELL YOU, THEY HAVE  
18 TRAINING. THEY KNOW WHAT HER RIGHTS ARE. THEY DID IT  
19 WITH A KNOWING DISREGARD.

20 AND FOR THAT, THE EVIDENCE WILL SHOW, THEY  
21 DESERVE TO BE PUNISHED.

22 THE COURT: THANK YOU. MS. SWISS?

23 MS. SWISS: THANK YOU.

24 THE COURT: YOU MAY PROCEED.

25 MS. SWISS: GOOD MORNING, ALL OF YOU. MY NAME  
26 IS CHRISTIE SWISS. AND ALONG WITH MY CO-COUNSEL,  
27 KELSEY NAU AND TOM GUTERRES, WE REPRESENT THE  
28 DEFENDANTS IN THIS CASE: THE COUNTY OF LOS ANGELES AND



1 SEVERAL EMPLOYEES OF THE DEPARTMENT OF CHILDREN AND  
2 FAMILY SERVICES, DCFS.

3 SO THIS CASE INVOLVES ONE OF THE MOST  
4 FUNDAMENTAL RIGHTS WE HAVE IN AMERICA. THE RIGHT TO  
5 FAMILIAL ASSOCIATION, THE RIGHT TO RAISE YOUR CHILD  
6 WITHOUT GOVERNMENTAL INTERFERENCE.

7 NOW, THE GOVERNMENT, THEY DON'T CHOOSE TO  
8 INTERFERE INTO PEOPLE'S LIVES. DCFS EXISTS FOR THE  
9 SOLE PURPOSE TO GET INVOLVED WITH FAMILIES WHEN ISSUES  
10 ARE IDENTIFIED BY PEOPLE LIKE MANDATED REPORTERS.

11 PEOPLE, REQUIRED BY LAW, TO CONTACT DCFS IF  
12 THEY SEE A POTENTIAL ISSUE WITH A CHILD. WHEN A CHILD  
13 IS BEING ABUSED OR NEGLECTED, THEY BECOME INVOLVED.  
14 WHEN A CHILD WHO CANNOT STAND UP FOR HIMSELF, WHEN HE  
15 NEEDS A VOICE, THAT IS WHEN THEY GET INVOLVED.

16 IN THIS CASE, A MANDATED REPORTER, A  
17 NUTRITIONIST NAMED WENDY CRUMP, SAW THIS BABY. WHAT  
18 SHE SAW WAS SHOCKING. HE WAS 14 MONTHS OLD AND HE  
19 WEIGHED 15 POUNDS.

20 THAT'S LESS THAN THE THIRD PERCENTILE. TO  
21 PAINT A PICTURE, THE BABY'S DEVELOPMENT WAS THAT OF  
22 ABOUT A SIX-MONTH-OLD. HE HAD NO AFFECT.

23 HE COULDN'T EASILY SIT UP, HE COULD NOT HOLD  
24 HIMSELF UP ON ALL FOURS, HE COULDN'T CRAWL, HE COULDN'T  
25 WALK. THIS BABY WAS BORN FULL-TERM, OVER SIX POUNDS.

26 SO BY THIS AGE, HE SHOULD HAVE ABOUT TRIPLED  
27 IN WEIGHT. HE SHOULD HAVE BEEN TALKING, BABBLING,  
28 SAYING WORDS BY 14 MONTHS.

1           THIS NUTRITIONIST SAW THIS CHILD WITH HIS  
2 PARENTS, WHO WERE IN THE MIDDLE OF A NASTY CUSTODY  
3 BATTLE. AND SHE CALLED THE DCFS HOTLINE, THE ONE AND  
4 ONLY TIME IN HER CAREER THAT SHE SAW A CHILD SUFFERING  
5 TO THE EXTENT THIS BABY WAS.

6           THE CHILD HAD NOT BEEN SEEN BY A PEDIATRICIAN  
7 SINCE HE WAS NINE MONTHS OLD, AND HE'S NOW 14 MONTHS  
8 OLD. THE EVIDENCE IN THIS CASE WILL SHOW THAT DCFS  
9 TOOK THIS CALL VERY SERIOUSLY, AND THEY INVESTIGATED  
10 THIS REFERRAL, THE INITIAL REFERRAL, OVER TWO WEEKS.

11           THE INVESTIGATION INCLUDED INTERVIEWS OF THE  
12 PARENTS, MEDICAL PROFESSIONALS WHO HAD BEEN INVOLVED  
13 WITH THE CHILD. AND ON OCTOBER 21, 2009, THE BABY WAS  
14 DIAGNOSED AT LA USC HOSPITAL WITH FAILURE TO THRIVE AND  
15 DEVELOPMENTAL DELAYS.

16           THE INVESTIGATION CONTINUED, AND ON  
17 NOVEMBER 3RD, 2009, THE CHILD WAS TAKEN TO THE FAILURE  
18 TO THRIVE CLINIC, TO A HARBOR-UCLA SPECIALIST WHO  
19 TREATS FAILURE TO THRIVE.

20           AND ON THAT DAY, THE BABY WAS DIAGNOSED WITH  
21 FAILURE TO THRIVE FROM ENVIRONMENTAL CAUSES, MEANING  
22 THERE WAS NO MEDICAL -- THERE'S NO INTRINSIC DISEASE  
23 THAT HE WAS SUFFERING THAT WAS PREVENTING HIS  
24 DEVELOPMENT.

25           IT WAS SOMETHING IN HIS ENVIRONMENT, THAT HE  
26 WAS NOT BEING FED. AT THIS POINT, THE PLAINTIFF HAD  
27 88 PERCENT CUSTODY OF HER SON, AND THE FATHER HAD  
28 12 PERCENT, COUPLE OF VISITS PER WEEK. AND SOMETHING

1 IN THIS CHILD'S ENVIRONMENT WAS CAUSING HIM TO NOT BE  
2 FED.

3 NOW THAT NUTRITIONIST, WENDY CRUMP, WHEN SHE  
4 FIRST SAW THIS CHILD AND WHEN SHE CALLED DCFS, SHE GAVE  
5 THE PARENTS A LIST OF FOODS THE CHILD SHOULD BE FED TO  
6 HELP HIM GET BACK ON TRACK, TO GIVE HIM THE FOODS HE  
7 NEEDED TO DEVELOP.

8 AND THE DAY THAT THIS DIAGNOSIS, THAT FAILURE  
9 TO THRIVE WAS FROM ENVIRONMENTAL CAUSES WAS GIVEN, THE  
10 PARENTS, CERTAIN SOCIAL WORKERS, DIFFERENT FAMILY  
11 MEMBERS MET WITH DCFS, AT A TEAM DECISION-MAKING  
12 MEETING TO SEE IF THE PROFESSIONALS CAN COME UP WITH A  
13 PLAN FOR THIS CHILD.

14 WENDY CRUMP, THE NUTRITIONIST, ALSO ATTENDED.  
15 AND AT THAT MEETING, SHE REPORTED THAT THE PLAINTIFF  
16 WAS NOT FOLLOWING THE RECOMMENDATIONS OF WHAT TO FEED  
17 THIS CHILD, AND SHE DIDN'T BELIEVE THAT THE MOTHER  
18 WOULD FOLLOW THROUGH.

19 DCFS THEN DECIDED THE COURT NEEDED TO BECOME  
20 INVOLVED, THE JUVENILE COURT. THEY DETAINED THE CHILD  
21 FROM MOTHER AND PLACED WITH FATHER. BECAUSE A SOCIAL  
22 WORKER, AT THIS POINT, RECOGNIZED THE SEVERITY OF THIS  
23 BABY'S HEALTH.

24 NOW, THE EARLY YEARS OF A CHILD'S DEVELOPMENT  
25 ARE CRITICAL. EACH DAY A CHILD, AN INFANT, IS DEPRIVED  
26 OF FOOD CAN HAVE A VERY SERIOUS IMPACT ON THE HEALTH  
27 AND DEVELOPMENT OF THE CHILD.

28 NOW, THE PLAINTIFF IN THIS CASE IS GOING TO

1 ARGUE THERE WAS NO MEDICAL CONDITION CREATING ANY  
2 URGENCY AND THAT THE DCFS SHOULD HAVE GONE AND GOTTEN  
3 COURT ORDERS AND DONE ALL THESE THINGS BEFORE TAKING  
4 THE CHILD AWAY.

5 BUT THE EVIDENCE WILL SHOW THAT BY THE TIME IT  
6 GOT TO THIS MEETING BEFORE THEY DETAINED THE CHILD, THE  
7 BABY WAS IN A CONDITION THAT THE SOCIAL WORKER HERSELF  
8 NEEDED TO STOP AND GET COURT INVOLVED RIGHT AWAY.

9 ON NOVEMBER 6, 2009, THREE DAYS AFTER THE  
10 CHILD WAS DETAINED, THE JUVENILE COURT, ANOTHER COURT  
11 LIKE WITH A DIFFERENT JUDGE, HELD A HEARING. THE  
12 PARENTS WERE ALL THERE, ALL REPRESENTED BY ATTORNEYS.

13 ALL HAD THE OPPORTUNITY TO GO AND EXPLAIN TO  
14 THE COURT THEIR POSITION. THE COURT HEARD THAT  
15 TESTIMONY, HEARD THE ARGUMENTS FROM COUNSEL, AND  
16 DECIDED THAT THE CHILD SHOULD REMAIN WITH HIS FATHER.

17 THE CHILD REMAINED WITH THE FATHER, MOTHER  
18 RECEIVED VISITATIONS, INVESTIGATION CONTINUED, MORE  
19 REPORTS WERE MADE TO THE COURT, AND ON AUGUST 9TH,  
20 2010, THERE WAS AN ADJUDICATION HEARING, LIKE A TRIAL.

21 AFTER THAT TRIAL, THE COURT GRANTED FULL LEGAL  
22 AND PHYSICAL CUSTODY OF THE BABY TO THE FATHER AND  
23 TERMINATED JURISDICTION. SO HERE WE ARE TODAY, IN A  
24 CIVIL COURTHOUSE, NOT DEPENDENCY COURT.

25 THIS CASE IS ABOUT DUE PROCESS. THE EVIDENCE  
26 WILL SHOW THAT THE PLAINTIFF, THE CHILD, THE FATHER,  
27 AND THE COUNTY WERE ALL REPRESENTED BY ATTORNEYS, THEY  
28 ALL HAD THE OPPORTUNITY AND DID TAKE THE OPPORTUNITY TO

1 PROVIDE INFORMATION, ARGUMENTS TO THE JUVENILE COURT.

2 THE JUDGE HEARD ALL THE EVIDENCE, AND THE  
3 PLAINTIFF HERSELF, REPRESENTED BY AN ATTORNEY, MADE  
4 MOTIONS IN COURT, CALLED WITNESSES INCLUDING MEDICAL  
5 EXPERTS OF HER OWN. AND THE COURT, THE JUDGE MADE THE  
6 DECISION TO KEEP THE BABY WITH HIS FATHER.

7 NOW, THE PLAINTIFF IS GOING TO TELL YOU THIS  
8 CASE IS ABOUT HER, HOW SHE WAS WRONGFULLY TREATED, HOW  
9 SHE IS ALLEGEDLY DISABLED. BUT THE EVIDENCE WILL SHOW  
10 YOU THIS CASE IS NOT ABOUT THE MOTHER.

11 THERE'S NO DISABILITY INVOLVED THAT WOULD HAVE  
12 PREVENTED HER FROM FEEDING HER CHILD. THERE'S NO  
13 CONSPIRACY BY THE COUNTY AGAINST THE PLAINTIFF.

14 THE COUNTY ONLY BECAME INVOLVED WITH THIS  
15 CHILD AFTER THE NUTRITIONIST RECOGNIZED THIS CHILD WAS  
16 SUFFERING. HE WAS NOT DEVELOPING BECAUSE HE WASN'T  
17 BEING FED.

18 AND DCFS ONLY HAD ONE GOAL. LOOK OUT FOR THE  
19 BEST INTERESTS OF THE CHILD. GET HIM THE FOODS,  
20 HIGH-CALORIE FOODS HE NEEDED TO DEVELOP AND GROW, JUST  
21 LIKE EVERY CHILD. THE EVIDENCE IN THIS CASE WILL SHOW  
22 THAT DCFS SAVED THIS CHILD'S LIFE.

23 HE'S NOW IN THIRD GRADE, HE LIVES WITH HIS  
24 DAD, HE HAS VISITATIONS WITH HIS MOM. HE'S NOT ON  
25 MEDICATION, HE DOESN'T HAVE ALLERGIES, AND TODAY HE'S  
26 THRIVING.

27 THE COUNTY OF LOS ANGELES AND THESE WOMEN --  
28 THESE SOCIAL WORKERS AND SUPERVISORS TAKE THEIR JOBS,

1 THEIR VOCATIONS, VERY SERIOUSLY.

2 THEY UNDERSTAND THE INCREDIBLE RESPONSIBILITY  
3 THEY HAVE IN COMING INTO A FAMILY'S LIFE AND MAKING  
4 DECISIONS THAT COULD ALTER PEOPLE'S LIVES FOREVER. IF  
5 IT'S A BURDEN OR RESPONSIBILITY --

6 MR. MCMILLAN: OBJECTION, ARGUMENT.

7 THE COURT: SUSTAINED. MS. SWISS, I NEED TO  
8 HAVE YOU WRAP THIS UP. WE DON'T HAVE THE TIME RIGHT  
9 NOW FOR A FULL OPENING STATEMENT.

10 MS. SWISS: THE EVIDENCE WILL SHOW, IN THIS  
11 CASE, THESE WOMEN CAME INTO THIS FAMILY'S LIFE AND  
12 SAVED RD. THANK YOU.

13 THE COURT: THANK YOU VERY MUCH.

14 THE ESTIMATED LENGTH OF THIS TRIAL IS  
15 APPROXIMATELY 25 COURT DAYS. COURT DAY FOR THE JURY  
16 WILL BEGIN TYPICALLY AT 9:00 A.M. AND TYPICALLY WILL  
17 RECESS AT 4:30 P.M. IN THE AFTERNOON.

18 THERE IS A ONE-AND-A-HALF-HOUR BREAK DURING  
19 THE MIDDLE OF THE DAY FROM NOON TO 1:30. I TELL YOU  
20 THE LENGTH OF THE TRIAL AND ALSO THE LENGTH OF THE --  
21 DURATION OF THE TRIAL DAY SO YOU'D UNDERSTAND WHAT YOUR  
22 OBLIGATIONS WOULD BE IF YOU WERE CHOSEN AS A JUROR IN  
23 THIS CASE.

24 THE LAW PERMITS ANYONE TO BE EXCUSED FROM A --  
25 SERVICE AS A JUROR IN A PARTICULAR CASE IF THAT SERVICE  
26 WOULD CAUSE THEM AN UNDUE HARDSHIP.

27 THE LAW ALSO REQUIRES -- THE STATE  
28 CONSTITUTION OF THE STATE OF CALIFORNIA REQUIRES THAT

1 EVERYBODY, AND I MEAN EVERYBODY, IS REQUIRED TO SERVE  
2 AS A JUROR WHEN CALLED.

3 THE EXCEPTION TO THAT IS THAT YOU'RE NOT  
4 OBLIGATED TO SERVE ON A PARTICULAR CASE IF THE SERVICE  
5 WOULD CAUSE YOU THAT UNDUE HARDSHIP. I WANT YOU TO  
6 KNOW THESE ARE NOT MY RULES. THESE ARE RULES OF THE  
7 STATE OF CALIFORNIA.

8 THEY'RE SET FORTH BOTH IN THE CONSTITUTION, BY  
9 STATUTE, AND ONE SET OF RULES -- RULES THAT WE REFER TO  
10 AS THE CALIFORNIA RULES OF COURT. BUT IT'S MY JOB TO  
11 ENFORCE THE RULES.

12 NOW, AN UNDUE HARDSHIP MEANS A HARDSHIP TO  
13 YOU, NOT TO SOMEBODY ELSE. THAT HARDSHIP MUST BE A  
14 HARDSHIP WHICH IS UNDUE. THAT IS, NOT SOMETHING JUST  
15 BECAUSE YOU WERE HERE AND WOULD PREFER TO BE SOMEPLACE  
16 ELSE.

17 IT MEANS THERE MUST BE A SPECIFIC DEFINABLE  
18 HARDSHIP TO YOU PERSONALLY THAT IS DIFFERENT FROM AND  
19 IN ADDITION TO THE OBLIGATION TO SERVE AS A JUROR.

20 NOW, ONE EXCEPTION TO THAT, WHEN I SAY THE  
21 HARDSHIP HAS TO BE TO YOU, IS THAT IF YOU HAVE A  
22 RESPONSIBILITY FOR CARING FOR SOMEBODY OTHER THAN  
23 YOURSELF WHO WAS UNABLE TO CARE FOR THEMSELVES.

24 A GOOD EXAMPLE MIGHT BE EITHER YOUNG CHILDREN  
25 OR OLDER PERSONS. THEN YOU MAY BE EXCUSED FROM SERVICE  
26 IN A PARTICULAR CASE BECAUSE OF THOSE OBLIGATIONS. SO  
27 IN A MOMENT I'M GOING TO ASK YOU AS TO ANY OF YOU FEEL  
28 YOU WOULD SUFFER AN UNDUE HARDSHIP IF YOU WERE ASKED TO

1 SERVE IN THIS CASE.

2 BUT TO SPEED THE PROCESS UP, FOR THOSE OF YOU  
3 WHO WOULD NOT SUFFER AN UNDUE HARDSHIP, I'M GOING TO  
4 HAVE YOU GO OUT IN THE HALLWAY IN JUST A MOMENT, WHERE  
5 WE HAVE COURT ATTENDANT, DEANNA, WHO WILL PROVIDE YOU  
6 WITH A QUESTIONNAIRE, WHICH YOU WILL -- WHICH YOU MUST  
7 ANSWER THE QUESTIONS.

8 YOU'LL BE GIVEN A CLIPBOARD WITH A CRAYON OR A  
9 PEN. AND DEPENDING ON HOW LONG IT IS, IT'S LIKE FIVE,  
10 SIX PAGES LONG, A LOT OF THINGS YOU JUST CHECK OFF,  
11 REALLY "YES" OR "NO" ANSWER.

12 WE REQUIRE CERTAIN INFORMATION ABOUT YOUR  
13 EXPERIENCE AND BACKGROUND THAT MAY HAVE SOME EFFECT ON  
14 YOUR ABILITY TO BE FAIR IN DEALING WITH THE ISSUES IN  
15 THIS CASE.

16 SO FOR THOSE OF YOU WHO WOULD NOT SUFFER AN  
17 UNDUE HARDSHIP IF YOU WERE ASKED TO SERVE A TRIAL  
18 THAT'S GOING TO LAST ABOUT SOMEWHERE BETWEEN 20 AND 25  
19 COURT DAYS, I NEED TO HAVE YOU GO NOW OUT TO THE  
20 HALLWAY WHERE DEANNA WILL PROVIDE YOU WITH A  
21 QUESTIONNAIRE AND A CLIPBOARD TO FILL OUT.

22 FOR THOSE OF YOU WHO FEEL YOU WOULD SUFFER AN  
23 UNDUE HARDSHIP, REMAIN IN THE COURTROOM.

24 (PAUSE IN THE PROCEEDINGS)

25 THE COURT: COUNSEL, PLEASE BE SEATED. FOR  
26 THOSE PROSPECTIVE JURORS REMAINING IN THE COURTROOM, I  
27 ASSUME ALL OF YOU ARE STILL HERE BECAUSE YOU FEEL IF  
28 YOU WERE ASKED TO SERVE ON THIS CASE, YOU WOULD SUFFER



1 AN UNDUE HARDSHIP.

2 WHAT I'M GOING TO GO -- WHAT I'M GOING TO DO  
3 IS, I DON'T KNOW YOUR NAMES, BUT I'LL GO AROUND AND,  
4 WHILE IT'S SOMEWHAT IMPOLITE, I'LL POINT TO YOU AND  
5 MAKE SURE YOU KNOW WHO I'M TALKING WITH.

6 AND WHAT I NEED TO HAVE YOU DO WHEN I  
7 ACKNOWLEDGE YOU, IS PLEASE GIVE US YOUR NAME, AND SPELL  
8 YOUR LAST NAME SO I CAN FIND YOU ON OUR LIST.

9 I'LL THEN ASK YOU WHAT IS THE NATURE OF THE  
10 UNDUE HARDSHIP YOU WOULD SUFFER. AND YOU DON'T NEED TO  
11 ATTEMPT TO BE PERSUASIVE. ALL I NEED TO HAVE YOU DO IS  
12 SIMPLY EXPLAIN TO ME WHAT THE NATURE OF THE HARDSHIP  
13 IS.

14 YOU MAY OR MAY NOT BELIEVE IT, BUT I'VE DONE  
15 THIS MANY TIMES BEFORE, OVER MANY YEARS. AND IT'S NOT  
16 -- AND SO -- A VERY BRIEF DESCRIPTION WILL, IN MOST  
17 INSTANCES, BE SUFFICIENT FOR ME TO BE ABLE TO  
18 UNDERSTAND WHAT YOUR PROBLEM IS.

19 IF I DO NEED SOME ADDITIONAL INFORMATION,  
20 TYPICALLY WHAT I WOULD DO IS, AFTER I GO AROUND AND  
21 HEAR FROM EACH OF YOU, I WILL THEN PERHAPS ASK SOME  
22 ADDITIONAL QUESTIONS.

23 BUT LET'S BEGIN IT JUST BY BEING BRIEF AND  
24 GETTING TO THE HEART OF THE MATTER FOR ME, IF YOU  
25 WOULD. NOW, I HAVE THIS ONE GENTLEMEN WHO ASKED ABOUT  
26 A DOCTOR'S APPOINTMENT.

27 SO NO MORE AFTER THIS. I'M JUST ASKING, GIVE  
28 ME YOUR NAME.

1 PROSPECTIVE JUROR: MY NAME IS HARVEY GAZIN,  
2 G-A-Z-I-N.

3 THE COURT: OKAY MR. GAZIN, AND YOU HAVE A  
4 DOCTOR'S APPOINTMENT?

5 PROSPECTIVE JUROR: YES, SEPTEMBER 28TH, AT  
6 10:00 IN THE MORNING. I SEE A RHEUMATOLOGIST, DR.  
7 HORIZON IN BEVERLY HILLS. I'VE HAD A KNEE ISSUE FOR A  
8 WHILE, AND HE WILL CHECK MY KNEE OUT.

9 THE COURT: OKAY.

10 PROSPECTIVE JUROR: IT USUALLY TAKES ME  
11 TWO-AND-A-HALF MONTHS TO GET THE APPOINTMENT, BUT IF I  
12 CAN GET TO THE COURT LATE THAT DAY, PERHAPS --

13 THE COURT: WHAT TIME IS THE APPOINTMENT?

14 PROSPECTIVE JUROR: 10:00 A.M.

15 THE COURT: 10:00 A.M.? YOU KNOW, IT'S GOING  
16 TO BE RIGHT IN THE HEART OF THE TRIAL -- I DIDN'T  
17 MENTION, DURING THE TRIAL, IT'S NOT GOING TO BE 25  
18 CONSECUTIVE DAYS, BY THE WAY, ONCE WE START.

19 THERE ARE OTHER THINGS THAT HAPPEN. WE TRY TO  
20 HOLD THAT TO A MINIMUM. BUT THAT IS ONE DAY I EXPECT  
21 WE'LL BE IN SESSION.

22 EXCUSE ME ONE MOMENT. OFF THE RECORD.

23 (PAUSE IN THE PROCEEDINGS)

24 THE COURT: JUST FROM YOUR OWN PERSPECTIVE, IS  
25 THIS SOMETHING THAT COULD POTENTIALLY BE RESCHEDULED  
26 WITHOUT CAUSING ANY HARM TO YOU PERSONALLY?

27 PROSPECTIVE JUROR: DEPENDS HOW MY KNEE FEELS.  
28 SOME DAYS IT'S GOOD AND SOME DAYS I'M LIMPING AROUND.

1 SO I CAN'T ANSWER. TODAY IS PRETTY GOOD.

2 THE COURT: OKAY. GENERALLY SPEAKING, THAT  
3 WON'T CONSTITUTE UNDUE HARDSHIP. WHAT I'D LIKE TO HAVE  
4 YOU DO, HOWEVER, IF YOU WOULD, IS GO AHEAD INTO THE  
5 CORRIDOR AND FILL OUT THE QUESTIONNAIRE.

6 AND BY THE WAY, ALL THE JURORS HAVE THE  
7 QUESTIONNAIRES FILLED OUT WILL BE EXCUSED FOR TODAY TO  
8 COME BACK TOMORROW. IT WILL GIVE YOU A CHANCE, IF YOU  
9 WOULD, TO CHECK WITH THE DOCTOR'S OFFICE TO SEE IF  
10 THERE IS A TIME WHERE YOU CAN RESCHEDULE THE  
11 APPOINTMENT.

12 AND JUST AS AN EXAMPLE, I DON'T THINK IT'S  
13 GOING TO WORK, I DON'T THINK THIS WILL WORK FOR YOU,  
14 BUT WE'RE NOT GOING TO BE IN SESSION ON THIS CASE THIS  
15 COMING FRIDAY, FOR REASONS -- DOESN'T MAKE ANY  
16 DIFFERENCE TO THE JURORS, BUT THE TRIAL WILL NOT BE IN  
17 SESSION ON FRIDAY.

18 I CAN ALSO TELL YOU THAT PROBABLY ON NEXT  
19 WEEK, THURSDAY AFTERNOON, WHICH WILL BE THE 22ND OF  
20 SEPTEMBER, THAT WE'LL PROBABLY BE QUITTING EARLY  
21 BECAUSE I HAVE SOMETHING ELSE THAT IS -- HAS TO OCCUR  
22 AT THAT TIME. SO OTHERWISE, IT WOULD BE PERHAPS IN  
23 OCTOBER.

24 I CAN ALSO TELL YOU THERE'S ALSO A COURT  
25 HOLIDAY ON OCTOBER 10TH, AND THAT'S COLUMBUS DAY, I  
26 GUESS. SOMEBODY'S DAY. AND THE COURTS WILL NOT BE  
27 OPEN ON THAT DAY.

28 SO IF YOU WOULD, PLEASE GO OUT TO THE HALLWAY,

1 COMPLETE THE QUESTIONNAIRE, YOU WILL THEN BE EXCUSED.  
2 YOU'RE ORDERED TO RETURN AT 9:00 A.M. TOMORROW MORNING.  
3 AND I'LL TALK TO YOU FURTHER TO SEE IF YOU'VE HAD ANY  
4 SUCCESS.

5 I WOULD NOT IN ANY WAY DIMINISH PHYSICAL  
6 DISCOMFORT. YOU KNOW, IF YOUR KNEE IS BAD -- JUST  
7 ANECDOTALLY, I'VE HAD A BAD KNEE FOR MANY YEARS. AND I  
8 KNOW WHAT YOU'RE TALKING ABOUT.

9 MOST DAYS IT DOESN'T BOTHER ME, BUT SOME DAYS  
10 IT'S PRETTY BAD. SO --

11 PROSPECTIVE JUROR: I'LL SEE IF I CAN CHANGE  
12 THE APPOINTMENT, YOUR HONOR.

13 THE COURT: YEAH, SEE -- LET'S SEE IF YOU CAN  
14 DO THAT, TO A TIME THAT WOULD WORK FOR YOU. AND I  
15 APPRECIATE YOU ATTEMPTING TO DO THAT. THANKS VERY  
16 MUCH.

17 OKAY, SO, AS LONG AS WE'RE ON OVER ON THIS  
18 SIDE, LET ME TALK TO THE GENTLEMAN RIGHT NEXT TO YOU.  
19 SIR, IF YOU'LL GIVE ME YOUR NAME PLEASE.

20 PROSPECTIVE JUROR: MY NAME IS FRANCIS MOFFET,  
21 M-O-F-F-E-T.

22 THE COURT: OKAY, HANG ON A SECOND.  
23 MR. MOFFET, OKAY. AND WHAT'S THE NATURE OF YOUR  
24 HARDSHIP, MR. MOFFET?

25 PROSPECTIVE JUROR: I'M HAVING PROSTATE  
26 PROBLEMS RIGHT NOW, AND I SAW A DOCTOR ABOUT A WEEK  
27 AGO. THE DOCTOR SET UP AN APPOINTMENT AT THE HOSPITAL,  
28 KAISER, SET UP AN APPOINTMENT FOR ME THIS COMING MONDAY

1 ON THE 19TH OF SEPTEMBER TO BE CHECKED FOR CANCER  
2 BECAUSE MY BODY IS --

3 THE COURT: BIOPSY OR --

4 PROSPECTIVE JUROR: HE WANTS TO SEE IF THERE'S  
5 ANYTHING HAPPENING DOWN THERE, AND IT'S VERY IMPORTANT  
6 FOR ME BECAUSE OF THE WAY I'VE BEEN FEELING LATELY.  
7 THAT IS WHY I NEED AN EXCUSE FOR MONDAY ON THE 19TH OF  
8 SEPTEMBER.

9 THE COURT: OKAY.

10 PROSPECTIVE JUROR: IT WOULD NOT BE POSSIBLE  
11 TO CHANGE THE APPOINTMENT BECAUSE OF THE CHANGES THAT  
12 ARE HAPPENING WITH MY BODY.

13 THE COURT: OKAY. WELL, THIS APPOINTMENT'S  
14 WITH KAISER? THE EXAM YOU'RE GOING TO HAVE, THE STUDY,  
15 IS IT GOING TO BE DONE AT KAISER?

16 PROSPECTIVE JUROR: YES, SIR.

17 THE COURT: OKAY, WELL THEY'RE ALSO PRETTY  
18 BUSY TOO. I'LL GET BACK TO YOU. I UNDERSTAND. I MAY  
19 HAVE SOME ADDITIONAL QUESTIONS.

20 PROSPECTIVE JUROR: THANK YOU, SIR.

21 THE COURT: THANKS, MR. MOFFET.

22 PROSPECTIVE JUROR: WOULD YOU LIKE ME TO GO  
23 OUT AND WAIT, OR JUST STAY HERE?

24 THE COURT: NO, YOU WAIT HERE FOR NOW. I'M  
25 GOING TO TALK TO EVERYBODY, FIND OUT WHAT THE PROBLEMS  
26 ARE. AND THEN I'LL COME BACK TO YOU. SOME OF YOU I  
27 MAY EXCUSE IMMEDIATELY.

28 BUT A NUMBER OF YOU, I'LL COME BACK TO. SO

1 FOR NOW, JUST HANG ON. AND I WON'T FORGET YOU. YOU'RE  
2 SITTING RIGHT THERE, I CAN'T MISS YOU. (LAUGHTER)  
3 I'LL FIND YOU, DON'T WORRY.

4 ALL RIGHT, LET ME GO OVER HERE TO THIS LADY,  
5 YOU RAISED YOUR HAND. GIVE ME YOUR NAME, PLEASE.

6 PROSPECTIVE JUROR: KAREN HARMS. H-A-R-M-S.

7 THE COURT: ALL RIGHT, MS. HARMS, AND WHAT'S  
8 THE NATURE OF YOUR PROBLEM?

9 PROSPECTIVE JUROR: ON OCTOBER 10TH, I HAVE  
10 SCHEDULED A TRIP TO GO TO COLORADO TO TAKE CARE OF MY  
11 GRANDSONS. MY DAUGHTER IS GOING INTO TREATMENT FOR AN  
12 ADDICTION.

13 THE COURT: OKAY. I UNDERSTAND. YOU MAY BE  
14 SEATED. I'LL GET BACK TO YOU ON THAT.

15 ALSO, THE GENTLEMAN, JUST -- YES, SIR, IN THE  
16 SHIRT, YOU STOOD UP BEFORE. IF YOU'LL GIVE ME YOUR  
17 NAME.

18 PROSPECTIVE JUROR: JOSE GUTIERREZ,  
19 G-U-T-I-E-R-R-E-Z.

20 THE COURT: RIGHT. I'VE GOT IT,  
21 MR. GUTIERREZ. AND WHAT'S THE NATURE OF YOUR HARDSHIP?

22 PROSPECTIVE JUROR: I GOT AN INJURY ON THE  
23 BACK, GO TO MY BACK. I CAN'T STAND, SITTING OR  
24 STANDING FOR MORE THAN 20, 30 MINUTES. I HAVE MY  
25 SCHEDULE FROM WORKER'S COMP, WHICH I HAVE AN  
26 APPOINTMENT ON SEPTEMBER THE 20TH, SO I'M DEBATING.

27 I CANNOT STAY FOR TOO LONG WITHOUT RUNNING TO  
28 THE RESTROOM, SO THAT IS MY SITUATION.

1 THE COURT: OKAY. YOU MAY SIT DOWN. I'LL GET  
2 BACK TO YOU, MR. GUTIERREZ. LET ME JUST MAKE SOME  
3 NOTES OF WHAT YOU TOLD ME.

4 PROSPECTIVE JUROR: THANK YOU.

5 THE COURT: THE MEDICAL APPOINTMENT IS ON  
6 SEPTEMBER 20TH?

7 PROSPECTIVE JUROR: NO, NO, NO. MY INJURY WAS  
8 ON THE 20TH, BUT THIS IS A WORKER'S COMP SITUATION. MY  
9 INJURY IS PERMANENT, BUT I HAVE AN ATTORNEY FROM  
10 WORKER'S COMP. I HAVE A TRIAL ON SEPTEMBER THE 20TH.

11 THE COURT: SEPTEMBER 20TH? IS THAT ON THAT  
12 PAPER YOU'RE HOLDING?

13 PROSPECTIVE JUROR: YES.

14 THE COURT: CAN YOU GIVE THAT, IF YOU WOULD --  
15 YOU STAY RIGHT THERE. MY CLERK WILL COME GET THAT FROM  
16 YOU. LET ME TAKE A QUICK LOOK AT IT. I'M GOING TO  
17 HAVE THE CLERK GIVE THIS BACK TO YOU, MR. GUTIERREZ.  
18 THANK YOU FOR BRINGING IT IN.

19 THIS DOES CONFIRM YOU HAVE THE TRIAL SET FOR  
20 SEPTEMBER 20TH, IT'S DOWN IN SANTA ANA. I'M GOING TO  
21 EXCUSE YOU FROM SERVICE IN THIS CASE SO YOU CAN ATTEND  
22 THE TRIAL OF YOUR WORKER'S COMPENSATION MATTER.

23 PROSPECTIVE JUROR: THANK YOU VERY MUCH.

24 THE COURT: YOU'RE WELCOME. THANK YOU.

25 YES.

26 PROSPECTIVE JUROR: CRUZ, C-R-U-Z. FIRST NAME  
27 IRINA.

28 THE COURT: SPELL THE LAST NAME?

1 PROSPECTIVE JUROR: CRUZ, C-R-U-Z. AS IN  
2 ZEBRA.

3 THE COURT: CRUZ?

4 PROSPECTIVE JUROR: YES.

5 THE COURT: OKAY. THE FIRST NAME --

6 PROSPECTIVE JUROR: IRINA.

7 THE COURT: OKAY. AND MS. CRUZ, WHAT'S  
8 YOUR --

9 PROSPECTIVE JUROR: MY ONLY CONCERN IS THE  
10 ENDING TIME BECAUSE I HAVE TO BE IN WESTWOOD FOR A  
11 CLASS, AND IT STARTS AT SIX. SO I DON'T WANT TO BE  
12 LATE REPEATEDLY FOR THAT CLASS.

13 THE COURT: AND WHAT DAY IS THAT?

14 PROSPECTIVE JUROR: THURSDAY, STARTS THIS  
15 WEEK. IF WE END AT 4:00, THAT WOULD BE GOOD.

16 THE COURT: SURE. IF YOU END UP AS A JUROR ON  
17 THE CASE, I'LL SEE YOU GET OUT OF HERE IN TIME FOR  
18 CLASS. OKAY?

19 PROSPECTIVE JUROR: OKAY.

20 THE COURT: ALL RIGHT. GO OUTSIDE, GET A  
21 QUESTIONNAIRE FROM DEANNA AND FILL IT OUT, AND GIVE IT  
22 BACK TO HER. ALL RIGHT? THANK YOU.

23 PROSPECTIVE JUROR: I'LL REMIND YOU.

24 (LAUGHTER)

25 THE COURT: SIR, SITTING OUT IN THE AISLE --  
26 OKAY. SO LET ME -- I'M GOING TO GET TO YOU.  
27 NO. CAN YOU WAIT TIL I TALK TO SOME OTHERS?

28 PROSPECTIVE JUROR: YES.



1 THE COURT: GOOD. ALL RIGHT, I'LL GET TO YOU.  
2 SO I DO HAVE, RIGHT HERE IN THE FIRST ROW, LET  
3 ME TAKE -- YES, RIGHT HERE. YES. CAN YOU GIVE ME YOUR  
4 NAME, PLEASE?

5 PROSPECTIVE JUROR: NANCY VIMLA. V-I-M-L-A.

6 THE COURT: ALL RIGHT. AND MS. VIMLA, WHAT'S  
7 THE NATURE OF YOUR HARDSHIP?

8 PROSPECTIVE JUROR: WELL, MY PROPERTY, IT'S AN  
9 INCOME PROPERTY JUST WENT ON SALE, AND I -- THE LENGTH  
10 OF THIS TRIAL, MIGHT GET THINGS ALL MESSED UP FOR ME TO  
11 TRY TO DO THE THINGS I NEED TO DO.

12 IF I NEED TO DO THINGS, I HAVE NO IDEA WHAT'S  
13 GOING TO HAPPEN. I JUST FEEL LIKE I'LL BE UNDER A LOT  
14 OF ANXIETY IF I GET A GOOD OFFER, AND THEN THEY WANT  
15 SOME THINGS DONE, I WON'T BE ABLE TO DO IT.

16 I'M VERY ANXIOUS ABOUT THAT.

17 THE COURT: AND I CAN UNDERSTAND THE ANXIETY,  
18 BUT THAT WON'T -- WILL NOT BE SUFFICIENT GOOD CAUSE FOR  
19 ME TO BE ABLE TO EXCUSE YOU. SO I'M GOING TO -- AND I  
20 DON'T -- I WISH THERE WAS SOMETHING I COULD SAY THAT  
21 WOULD PERHAPS RELIEVE SOME OF THE ANXIETY, AND THERE'S  
22 PROBABLY NOT.

23 BUT -- AND I DO UNDERSTAND IT. BUT THAT WON'T  
24 CONSTITUTE GOOD CAUSE FOR ME TO BE ABLE TO EXCUSE YOU  
25 FROM THE CASE.

26 ONE OF THE THINGS THAT I MENTIONED IS, THAT IF  
27 SOMETHING DOES COME UP THAT REQUIRES SOMETHING -- FOR  
28 YOU TO RESPOND IMMEDIATELY, AS OPPOSED TO DURING A

1 BREAK, DURING -- WE TAKE A MID-MORNING BREAK, AND THEN  
2 AFTERNOON BREAK, WE HAVE THE MIDDAY BREAK -- OR THAT  
3 WOULD REQUIRE YOU TO HAVE TO, PERHAPS TO LEAVE EARLY ON  
4 A GIVEN DAY, I WOULD DO EVERYTHING I COULD TO  
5 ACCOMMODATE YOU IN ANY WAY.

6 AND IF YOU END UP BEING A JUROR IN THE CASE, I  
7 HAVE -- I HAVE A PRETTY GOOD MEMORY FOR SOME THINGS.  
8 OTHER THINGS, PERHAPS NOT. BUT I DO HAVE A GOOD MEMORY  
9 FOR THIS KIND OF THING.

10 AND SO IF YOU END UP AS A JUROR ON THE CASE,  
11 I'LL HAVE IT IN MIND IF SOMETHING DOES COME UP, WHERE  
12 YOU NEED TO TALK TO ME ABOUT IT, BECAUSE -- SOMETHING  
13 TO DO WITH THAT, AND I'LL DO EVERYTHING I CAN TO  
14 ACCOMMODATE YOU. OKAY?

15 SO IF YOU WOULD GO OUT INTO THE HALLWAY AND  
16 GET A QUESTIONNAIRE FROM OUR COURT ATTENDANT, DEANNA,  
17 AND COMPLETE THE QUESTIONNAIRE, ONCE YOU COMPLETE IT  
18 AND GIVE IT TO HER, SHE WILL TELL YOU TO BE BACK HERE  
19 TOMORROW MORNING AT 9:00 A.M. OKAY? THANK YOU.

20 SO THE GENTLEMAN SITTING RIGHT HERE, SIR.  
21 PLEASE GIVE ME YOUR NAME.

22 PROSPECTIVE JUROR: YES SIR. DANIEL BOONE.  
23 NO KIDDING. (LAUGHTER)

24 THE COURT: WELL.

25 PROSPECTIVE JUROR: MY REASON FOR AN EXCUSE IS  
26 THAT I HAVE AN APPOINTMENT FOR A DOCTOR I'VE BEEN  
27 WAITING TO SEE FOR ABOUT SIX MONTHS. IT'S A SKIN  
28 DOCTOR, DERMATOLOGIST, AND THEY'RE GOING TO CHECK ME

1 FOR SKIN CANCER.

2 AND I DON'T DRIVE, SO I DON'T -- SO I HAVE  
3 LIMITED ACCESS TO AVAILABILITY TO GET TO CERTAIN PLACES  
4 WHICH WOULD BE THIS ALSO.

5 THE COURT: OKAY. SO DID YOU TAKE PUBLIC  
6 TRANSPORTATION TO COME DOWN HERE?

7 PROSPECTIVE JUROR: NO. I HAD A FRIEND BRING  
8 ME HERE.

9 THE COURT: BUT IF YOU WERE SELECTED AS A  
10 JUROR, WOULD YOU HAVE SOME WAY OF GETTING HERE OTHER  
11 THAN PUBLIC TRANSPORTATION?

12 PROSPECTIVE JUROR: I CAN'T SAY THAT FOR SURE,  
13 BECAUSE I CAN'T SAY WHAT OTHER PEOPLE ARE GOING TO BE  
14 ABLE TO DO FOR ME.

15 THE COURT: YEAH. IN WHAT AREA OF TOWN DO YOU  
16 LIVE, MR. BOONE?

17 PROSPECTIVE JUROR: SUNLAND.

18 THE COURT: SUNLAND. OKAY. AND DO YOU KNOW  
19 IF YOU DID HAVE TO TAKE PUBLIC TRANSPORTATION, HOW LONG  
20 IT WOULD TAKE YOU TO GET DOWNTOWN FROM SUNLAND? I'M  
21 NOT SURE WHETHER YOU CAN TAKE THE TRAIN DOWN OR NOT.

22 I DON'T KNOW IF THAT WORKS.

23 PROSPECTIVE JUROR: I'VE NEVER DONE IT.

24 THE COURT: SO YOU DON'T REALLY --

25 PROSPECTIVE JUROR: I HAVE NO IDEA.

26 THE COURT: OKAY. IF YOU WILL HOLD ON, I'LL  
27 GET BACK TO YOU.

28 AND SO -- YES, LET ME GET THE LADY IN THE

1 FRONT ROW, YOUR NAME, PLEASE.

2 PROSPECTIVE JUROR: MY NAME IS TAMARA WYNN,  
3 W-Y-N-N.

4 THE COURT: OKAY. AND MS. WYNN, WHAT'S THE  
5 NATURE OF YOUR HARDSHIP?

6 PROSPECTIVE JUROR: I HAVE FIBROMYALGIA, AND I  
7 HAVE PROBLEMS SITTING FOR ANY LENGTH OF TIME,  
8 CONCENTRATING. I GET VERY TIRED VERY EASY, AS WELL AS  
9 I HAVE TWO DOCTORS' APPOINTMENTS THIS WEEK.

10 ONE ON WEDNESDAY WHERE THEY'RE GOING TO PUT A  
11 DEVICE INSTALLED IN MY -- BEHIND MY EAR, IT'S SUPPOSED  
12 TO STOP MY PAIN. I HAVE ANOTHER APPOINTMENT THURSDAY  
13 WITH MY PAIN MANAGEMENT DOCTOR.

14 I HAVE ANOTHER APPOINTMENT NEXT WEDNESDAY WITH  
15 MY ORTHOPEDIC SURGEON.

16 THE COURT: OKAY. I UNDERSTAND THE SITUATION.  
17 AND I'LL GET BACK TO YOU IN JUST A FEW MINUTES.

18 PROSPECTIVE JUROR: THANK YOU.

19 THE COURT: LOOKS LIKE THERE'S --

20 PROSPECTIVE JUROR: MY NAME IS CANDY KMETT,  
21 K-M-E-T-T.

22 THE COURT: ALL RIGHT. MS. KMETT?

23 PROSPECTIVE JUROR: I JUST WANTED TO LET YOU  
24 KNOW THAT I DO HAVE A NON-REFUNDABLE VACATION SCHEDULED  
25 OCTOBER 25TH. SO WHEN THEY FIRST ASKED FOR THE  
26 HARDSHIP, I THOUGHT IT WAS GOING TO BE FROM  
27 AUGUST 31ST.

28 I JUST -- WITH, MAYBE JUROR SELECTION, AND

1 DELIBERATIONS, IF IT WENT INTO THAT.

2 THE COURT: WE'RE GOING TO BE DONE.

3 PROSPECTIVE JUROR: THAT'S ALL I WANTED TO  
4 MAKE SURE.

5 THE COURT: SO GO OUT IN THE HALL, GET A  
6 QUESTIONNAIRE, GET IT FILLED OUT. WHEN YOU GET IT  
7 FILLED OUT, GIVE IT BACK TO DEANNA, AND SHE'LL TELL YOU  
8 TO BE BACK TOMORROW MORNING AT 9:00 A.M., WHEN WE'LL  
9 BEGIN THE ACTUAL JURY SELECTION.

10 PROSPECTIVE JUROR: OKAY, I JUST WANTED IT TO  
11 BE ON RECORD.

12 THE COURT: OKAY YES, I UNDERSTAND. IF YOU --  
13 WE'RE GOING TO BE DONE. BUT, YOU KNOW, I GUESS WE  
14 NEVER SAY NEVER, AND WE NEVER SAY ALWAYS AND THINGS  
15 LIKE THAT.

16 IF YOU WERE SELECTED FOR THE JURY IN THIS  
17 CASE, AND THE CASE TOOK LONGER THAN ANTICIPATED AND  
18 THIS CAME UP, I WOULD EXCUSE YOU FROM THE TRIAL. SO  
19 YOU'RE NOT GOING TO HAVE TO WORRY ABOUT IT.

20 PROSPECTIVE JUROR: OKAY, I JUST WANTED TO BE  
21 SURE.

22 THE COURT: OKAY. THANKS VERY MUCH.

23 AND LET ME GO THEN TO THE -- I GUESS IT'S THE  
24 NEXT, YES, SIR, THIS GENTLEMAN HERE, CLOSEST TO THE  
25 AISLE. GIVE ME YOUR NAME, PLEASE.

26 PROSPECTIVE JUROR: CHARLES HAUFFEN,  
27 H-A-U-F-F-E-N.

28 THE COURT: YES, MR. HAUFFEN.

1           PROSPECTIVE JUROR: MY DAUGHTER WAS PLACED ON  
2 A SELF HOLD THIS WEEKEND, SO I'M AWAITING CALLS FROM  
3 THE TREATMENT CENTER. SO I MAY HAVE TO LEAVE AT ANY  
4 MOMENT, AND LEAVING MY PHONE OFF IS KIND OF  
5 DISCONCERTING.

6           THE COURT: ALL RIGHT. I'LL GET BACK TO YOU.  
7 MR. HAUFFEN, DO YOU WANT TO -- IF YOU'D LIKE, I'LL LET  
8 YOU GO OUT IN THE HALLWAY TO TURN YOUR PHONE ON AND  
9 JUST CHECK RIGHT NOW. AFTER YOU DO, YOU CAN COME BACK  
10 IN.

11           PROSPECTIVE JUROR: THANK YOU.

12           THE COURT: ALL RIGHT. THAT'LL WORK. AND  
13 I'LL GO DOWN THE ROW HERE. THE GENTLEMAN THAT JUST  
14 CAME IN?

15           OBSERVER: YES, SIR.

16           THE COURT: ARE YOU HERE ON A CLAIM OF  
17 HARDSHIP?

18           OBSERVER: NO, SIR. JUST AS AN OBSERVER.

19           THE COURT: OKAY. THANK YOU. LET ME MOVE  
20 DOWN THE ROW HERE, TO THIS GENTLEMAN SITTING HERE.

21           PROSPECTIVE JUROR: SEKOU PAGE, S-E-K-O-U  
22 P-A-G-E.

23           THE COURT: OKAY, WOULD YOU SPELL IT AGAIN FOR  
24 ME?

25           PROSPECTIVE JUROR: S-E-K-O-U. LAST NAME  
26 PAGE, P-A-G-E.

27           THE COURT: I'VE GOT IT. I'M SORRY, I WAS  
28 LOOKING IN THE WRONG PLACE. SO MR. PAGE, WHAT'S THE

1 NATURE OF THE HARDSHIP?

2 PROSPECTIVE JUROR: FOR ME, IT'S JUST TIMING  
3 ISSUES, THERE'S THREE THINGS. ONE IS GETTING HERE BY  
4 9:30. IT'S A CHALLENGE BECAUSE I DROP MY SIX-YEAR-OLD  
5 AT SCHOOL, AND I CAN'T DROP HIM OFF MUCH EARLIER. I  
6 CAN GET HERE BY MAYBE 9:30, NOT 9:00.

7 THE SECOND THING IS, I WORK AT MICROSOFT, AND  
8 I HAVE AN INTERNAL INTERVIEW THIS THURSDAY, WHICH -- WE  
9 DO ALL-DAY INTERVIEWS. SO IT'S NOT LIKE JUST STEPPING  
10 OUT. IT'S FOR A LEAD ROLE, AND I CAN'T DELAY THAT VERY  
11 LONG.

12 AND THEN THE THIRD ONE IS I ALSO RUN A SMALL  
13 COMPANY, 50 CONTRACTORS AND EMPLOYEES, AND WE'RE  
14 STARTING -- I'VE BEEN DELAYING A SERIOUS PROJECT  
15 BECAUSE I THOUGHT JURY DUTY WAS STARTING IN -- NEXT  
16 WEEK.

17 AND WE'RE STARTING IT NEXT WEEK, AND I KNOW  
18 THERE'S SOMETHING PEOPLE THAT RUN BUSINESSES TELL YOU  
19 RUN A BUSINESS, THIS IS A -- THIS IS AN UNDERTAKING.  
20 SORRY I'M NOT --

21 THE COURT: OKAY, I GOT THE IDEA. HAVE A  
22 SEAT, AND I'LL GET BACK TO YOU. ALL RIGHT.

23 YES, THIS LADY HERE, YOU WANTED TO TALK TO ME  
24 BEFORE. YES.

25 PROSPECTIVE JUROR: MY NAME IS MARTA CAMPOS,  
26 C-A-M-P-O-S.

27 THE COURT: OKAY MS. CAMPOS, AND WHAT'S YOUR  
28 HARDSHIP?

1 PROSPECTIVE JUROR: WELL, FIRST THING, I'M A  
2 WIDOW WOMAN, AND THEN I DIDN'T UNDERSTAND VERY GOOD  
3 ENGLISH. AND THEN, I'M -- I'M CLEANING HOUSES BECAUSE  
4 I NEED TO PAY MY BILLS, AND I GOT MY HUSBAND PENSION,  
5 BUT IT'S NOT ENOUGH. AND THEN I HAVE DEPRESSION.

6 THE COURT: OKAY.

7 PROSPECTIVE JUROR: AND I WANT EXCUSE FOR THIS  
8 CASE, BECAUSE I DON'T KNOW --

9 THE COURT: OKAY. I UNDERSTAND. SO YOU BE  
10 SEATED FOR A MOMENT. I'LL GET BACK TO YOU IN JUST A  
11 MOMENT. THANK YOU VERY MUCH.

12 AND THE LADY RIGHT NEXT TO YOU.

13 PROSPECTIVE JUROR: MY NAME IS RAQUEL FARIAS.

14 THE COURT: SPELL YOUR LAST NAME?

15 PROSPECTIVE JUROR: F-A-R-I-A-S.

16 THE COURT: OKAY.

17 PROSPECTIVE JUROR: I DON'T SPEAK ENGLISH. SO  
18 A LITTLE, LITTLE ENGLISH. AND I DON'T UNDERSTAND.

19 THE COURT: ALL RIGHT. HAVE YOU UNDERSTOOD  
20 EVERYTHING I'VE SAID SO FAR?

21 PROSPECTIVE JUROR: NO.

22 THE COURT: NOT EVERYTHING? ALL RIGHT. I  
23 UNDERSTAND. YOU CAN BE SEATED. I'LL GET BACK TO YOU.  
24 SIT DOWN. ALL RIGHT.

25 ALL RIGHT, SO I THINK I HAVE A VOLUNTEER. AND  
26 YOUR NAME IS? (LAUGHTER) NO, THAT'S FINE. I WAS  
27 GOING TO COME TO YOU NEXT.

28 PROSPECTIVE JUROR: YOLANDA FORTSON,



1 F-O-R-T-S-O-N. AND I'M NOT SURE IF THIS IS A HARDSHIP.  
2 BUT THE THING IS, WHERE I'M EMPLOYED AT, I WORK WITH  
3 THE PUBLIC A LOT, A LOT OF TIMES.

4 I DON'T THINK I KNOW ANY OF THE PEOPLE THAT  
5 YOU NAMED ON THAT 79, THAT WITNESS LIST. BUT A LOT OF  
6 TIMES WHEN I'M IN THE SUPERMARKET, OR I'M OUT SOMEWHERE  
7 SINCE I WORK WITH THE PUBLIC, PEOPLE WALK UP TO ME, AND  
8 YOU KNOW, SAY, DON'T YOU WORK HERE AND THERE.

9 SO I DON'T KNOW IF I WOULD BE, YOU KNOW, WOULD  
10 I BE RECOGNIZED WITH PEOPLE THAT THINK THEY KNOW ME, OR  
11 SOMETHING. NOT REALLY PERSONALLY KNOW ME, BUT THAT'S  
12 JUST PRETTY MUCH IT.

13 SO I DON'T KNOW IF THAT'S A HARDSHIP.

14 THE COURT: IT'S NOT.

15 PROSPECTIVE JUROR: IT'S NOT?

16 THE COURT: NO.

17 PROSPECTIVE JUROR: I THOUGHT IT WASN'T.

18 OKAY.

19 THE COURT: DID YOU FILL OUT A QUESTIONNAIRE  
20 OUT THERE?

21 PROSPECTIVE JUROR: OKAY.

22 THE COURT: GO FILL IT OUT. THANK YOU VERY  
23 MUCH.

24 AND LET ME TAKE THIS NEXT GENTLEMAN HERE.

25 SIR, YOU'VE BEEN WAITING --

26 PROSPECTIVE JUROR: KENNETH MEDLIN,  
27 M-E-D-L-I-N.

28 THE COURT: OKAY, MR. MEDLIN, WHAT'S THE

1 NATURE OF THE HARDSHIP?

2 PROSPECTIVE JUROR: I SUFFER FROM PARKINSON'S,  
3 AND CONTINUAL SHAKING, WHICH -- IT'S TIRING.

4 THE COURT: OKAY.

5 PROSPECTIVE JUROR: AND THEN ALSO THURSDAY I  
6 TAKE MY WIFE IN FOR A MEDICAL PROCEDURE. SHE'S GOING  
7 TO BE PUT UNDER SEDATION, AND I HAVE NO OTHER WAY OF  
8 GETTING HERE.

9 THE COURT: OKAY. I'LL GET RIGHT BACK TO YOU,  
10 MR. MEDLIN, IN JUST A MOMENT HERE.

11 AND LET ME GET THE LAST GENTLEMAN OVER HERE.  
12 SIR, IF YOU'LL GIVE ME YOUR NAME?

13 PROSPECTIVE JUROR: MY NAME IS  
14 JOSEPH VAN METER, V-A-N SPACE M-E-T-E-R, AND IF THE  
15 TRIAL WAS TO GO PAST OCTOBER THE 27TH, I DO HAVE  
16 SCHEDULED OUT OF THE STATE FOR A PROLONGED PERIOD OF  
17 TIME.

18 THE COURT: WE'LL BE DONE. AND LIKE I TOLD  
19 THE OTHER ONE OF THE JURORS, IF FOR SOME REASON WE  
20 WEREN'T, I WOULD EXCUSE YOU BECAUSE YOU'VE TOLD ME IN  
21 ADVANCE.

22 SO IF YOU END UP GETTING ON THE JURY, AND THE  
23 TRIAL TOOK LONGER THAN ANTICIPATED, I WOULD EXCUSE YOU  
24 FOR THAT. BUT IT'S GOING TO BE DONE. SO IF YOU WOULD  
25 GO OUTSIDE AND SEE DEANNA, THE COURT ATTENDANT OUT  
26 THERE, SHE HAS THE QUESTIONNAIRE WE NEED TO HAVE YOU  
27 FILL OUT.

28 ONCE YOU FILL IT OUT, GIVE IT BACK TO HER, AND

1 THEN YOU'RE EXCUSED TO RETURN AT 9:00 A.M. TOMORROW  
2 MORNING. OKAY? THANK YOU.

3 MS. WYNN, YOU RAISED YOUR HAND.

4 PROSPECTIVE JUROR: I DID. I FORGOT I ALSO  
5 HAVE A VACATION ON THE 20TH OF OCTOBER.

6 THE COURT: OKAY, THAT WON'T BE A PROBLEM. I  
7 WILL CONSIDER THE OTHER MATTERS YOU TOLD ME, HOWEVER.

8 ALL RIGHT, LET ME SEE COUNSEL FOR JUST A  
9 MOMENT. EVERYBODY, JUST STAY WHERE YOU ARE. IT'LL BE  
10 A MINUTE, AND I'LL BE RIGHT BACK WITH OUR PROSPECTIVE  
11 JURORS.

12 (THE FOLLOWING PROCEEDINGS WERE HELD AT THE  
13 SIDEBAR OUTSIDE THE PRESENCE OF THE JURY)

14 THE COURT: WE'RE AT SIDEBAR, AND COUNSEL ARE  
15 PRESENT. AS TO THE DECISION OF WHETHER UNDUE HARDSHIP  
16 HAS BEEN SHOWN, WHICH WOULD CAUSE A JUROR TO BE  
17 EXCUSED, IS COLLECTIVELY FROM THE COURT.

18 I'M HAPPY TO HEAR FROM COUNSEL IF THERE'S  
19 SOMEONE IN PARTICULAR YOU'D LIKE TO ADDRESS. WE HAVE  
20 EXCUSED THIS MORNING BEFORE WE STARTED, WE HAD A JUROR  
21 PANEL WITH 60 PROSPECTIVE JURORS.

22 FOUR WERE EXCUSED, TWO CALLED IN, AND ONE  
23 RELEASED BY PHONE, AND ONE WE'RE STILL LACKING FOR. SO  
24 WE'RE STARTING WITH 56. AT THIS POINT I'VE GOT TEN  
25 JURORS REQUESTING HARDSHIPS.

26 SO IF THEY WERE EXCUSED, WE'D HAVE 46, WHICH  
27 IS ENOUGH TO GET OUR JURY SELECTED. SOME OF THESE, I  
28 COULD SPEND SOME TIME ON IT. BOTH MS. CAMPOS AND

1 MS. FARIAS OVER LANGUAGE ISSUES.

2 THAT'S ALWAYS A DIFFICULT QUESTION. BUT BY  
3 AND LARGE, MY FEELING IS THE PERSON THEMSELVES IS  
4 UNCOMFORTABLE, BECAUSE OF SOME LANGUAGE LIMITATION THAT  
5 ONE.

6 I DON'T LIKE PUTTING A JUROR IN THAT POSITION  
7 OF BEING UNCOMFORTABLE, AND ALSO VERY IMPORTANTLY AS  
8 FAR AS THE CASE IS CONCERNED, I DON'T WANT A PARTY TO  
9 RUN THE RISK OF SOMEBODY NOT BEING ABLE TO UNDERSTAND  
10 SOMETHING OF PARTICULAR IMPORTANCE.

11 SO ONGOING PROBLEM WITH THE COURT AND PERSONS  
12 WITH SOME LANGUAGE DIFFICULTY, BUT CERTAINLY FOR BOTH  
13 OF THOSE LADIES WHO SPOKE UP. IT SEEMED TO ME THAT  
14 PROBABLY WHAT THEY WERE TELLING US WAS A LEGITIMATE,  
15 REASONABLE CONCERN FOR THEM.

16 SO RATHER THAN TAKE THE TIME TO TALK TO THEM  
17 FURTHER, I'M INCLINED TO LET THEM GO IN VIEW OF THE  
18 FACT THAT THEY EXPRESSED THEIR LACK OF LANGUAGE SKILLS,  
19 SEEMED TO BE LEGITIMATE.

20 MR. MCMILLAN: SO YOUR HONOR, WE CAN CROSS  
21 THOSE OFF.

22 THE COURT: MR. MEDLIN WITH THE PARKINSON'S, I  
23 HAD A BETTER VIEW OF HIM THAN YOU ALL HAVE HAD. THE  
24 FACT OF THE PARKINSON'S IS VERY APPARENT, AND I DON'T  
25 THINK WITH HIM, AS HE SAID, IT'S TIRING, AND IT IS.  
26 AND THAT HE HAS SOME ISSUES WITH HIS WIFE.

27 SO, AGAIN, I'M NOT SURE IF IT'S A REAL  
28 HARDSHIP OR NOT, BUT THAT'S KIND OF A LONG DAY FOR

1 JURORS DOWN HERE, FOR THEM TO BE HERE AT 9:00 IN THE  
2 MORNING, TYPICALLY LEFT HOME AT 7:30, 7:45 TO BE HERE,  
3 THEY DON'T GET HOME TIL 6:00.

4 MR. MCMILLAN: MY ONE CONCERN, YOUR HONOR,  
5 THIS CASE HAS A DISABILITY COMPONENT TO IT, SOMEWHAT  
6 SIMILAR TO THE VERY DISABILITY THAT THIS GENTLEMAN  
7 SUFFERS FROM.

8 AND WHETHER OR NOT HE ENDS UP ON THE JURY, I  
9 DON'T KNOW IF HE'LL BE THERE NOT, BUT I DON'T KNOW IF  
10 JUST THE FACT THAT HE SUFFERS FROM THIS DISABILITY  
11 SHOULD BE ENOUGH TO GET HIM OFF THIS PARTICULAR JURY OF  
12 THIS PARTICULAR CASE.

13 THE COURT: WELL, ARE YOU QUESTIONING SOMEHOW  
14 HIS STATEMENT ABOUT TIRING AND --

15 MR. MCMILLAN: NO. I BELIEVE IT.

16 MR. PRAGER: YOUR HONOR, MAY BE REASONABLE TO  
17 GIVE AN ACCOMMODATION TO HIM, WHICH MAY INCLUDE  
18 SHORTENING THE COURT DAY.

19 THE COURT: I'M NOT GOING TO SHORTEN THE COURT  
20 DAY. I'VE GOT THE OBLIGATION OF GETTING THIS CASE  
21 DONE. TO SHORTEN THE DAY IS GOING TO CREATE PROBLEMS  
22 WITH OTHER PERSONS.

23 WE HAVE ALREADY A LENGTHY CASE, I'M NOT -- IF  
24 WE HAD A THREE- OR FOUR-DAY CASE, I CERTAINLY WOULDN'T  
25 MIND MAKING IT A FOUR- OR FIVE-DAY CASE BY QUITTING  
26 EARLIER.

27 IT JUST SEEMS TO ME, THOUGH, IT'S SUCH A  
28 COMMITMENT TO EVERYONE'S RESOURCES, INCLUDING ALL OF

1 YOU, CERTAINLY THE WITNESSES. AND FOR THE LENGTH OF  
2 THE TRIAL FOR THE JURORS, EVERYBODY WE PICK IS GOING TO  
3 BE AWAY FROM THEIR LIFE FOUR TO FIVE WEEKS.

4 TURNING THAT INTO SIX WEEKS I DON'T THINK  
5 WOULD WORK. IF THE JURORS WERE QUALIFIED FOR TIME, OUR  
6 25-DAY LIMIT, I FEEL I NEED TO HONOR HIS REQUEST. I  
7 UNDERSTAND WHAT YOU'RE SAYING, IF WE HAVE DIFFERENT  
8 CIRCUMSTANCES, I WOULD CERTAINLY BE HAPPY TO DO THAT.

9 ANYONE ELSE?

10 MR. PRAGER: NO, YOUR HONOR.

11 THE COURT: OKAY.

12 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN  
13 COURT IN THE PRESENCE OF THE JURY)

14 THE COURT: I'M GOING TO EXCUSE THE FOLLOWING  
15 JURORS FROM AS MUCH AS IN THIS CASE. AND I WANT TO  
16 HAVE YOU REMAIN SEATED UNTIL I COVER EVERYBODY, ALL THE  
17 NAMES. BUT ONCE I'M DONE, I'LL TELL YOU I'M DONE, AND  
18 THEN THOSE WHO ARE EXCUSED NEED TO GO DOWNSTAIRS TO THE  
19 JURORS' ASSEMBLY ROOM.

20 AND REMEMBER WHERE THAT IS? DOWN TO THE  
21 SECOND FLOOR, ROOM 253. IT'S RIGHT THERE AS YOU COME  
22 OFF THE ESCALATOR, IT'S RIGHT AROUND TO YOUR LEFT BY  
23 THE JURY ROOM.

24 AND I WANT ALL OF YOU TO KNOW THAT IN ESSENCE,  
25 I THINK I'M GOING TO BE EXCUSING EACH OF YOU. SOME OF  
26 THIS MAY OR MAY NOT QUALIFY FOR UNDUE HARDSHIP.

27 BUT EACH OF YOU HAS EXPRESSED SOMETHING TO ME  
28 THAT, AS FAR AS I'M CONCERNED, IS A VALID REASON WHY WE

1 SHOULD NOT ASK YOU TO BE HERE FOR THIS LENGTH OF TIME.  
2 IT'S A SOMEWHAT LENGTHY TRIAL.

3 I'M GOING TO EXCUSE MR. MOFFET, MS. HARMS.  
4 MR. BOONE?

5 PROSPECTIVE JUROR: YES.

6 THE COURT: I'M GOING TO EXCUSE YOU. AND IF  
7 YOU'D JUST WAIT A MOMENT TIL I FINISH GETTING THE NAMES  
8 OF PERSONS BEING EXCUSED, THEN I'LL HAVE YOU GO ON  
9 DOWNSTAIRS TO THE JURORS' ASSEMBLY ROOM ON THE SECOND  
10 FLOOR, TO TELL THEM -- YOU'LL HAVE TO CHECK IN WITH  
11 THEM -- CHECK OUT.

12 HOLD ON JUST A SECOND.

13 PROSPECTIVE JUROR: OKAY.

14 THE COURT: MS. WYNN, YOU'RE BEING EXCUSED.  
15 MR. HAUFFEN, I DON'T KNOW WHETHER YOU GOT YOUR CALL OR  
16 NOT, BUT YOU'RE EXCUSED. LET'S SEE -- MR. PAGE, AND  
17 MS. CAMPOS, AND MS. FARIAS, AND MR. MEDLIN. AND -- SO  
18 ALL OF YOU ARE NOW EXCUSED.

19 I WANT TO THANK YOU VERY MUCH FOR BEING HERE.  
20 GO DOWNSTAIRS TO THE JURORS' ASSEMBLY ROOM, SECOND  
21 FLOOR, ROOM 253. AND I APPRECIATE IT. THANK YOU.

22 SO WE'LL BE IN RECESS. AND WE'LL RESUME WITH  
23 COUNSEL HERE AT 8:30 TOMORROW MORNING. YOU CAN  
24 CHECK -- I'LL HAVE DON CHECK WITH DEANNA ON THE  
25 PROGRESS OF GETTING THE QUESTIONNAIRES COMPLETED AND  
26 TURNED IN.

27 I THINK AS LONG AS IT'S -- THE COLLINS FIRM IS  
28 GOING TO TAKE THEM AND GET THEM REPRODUCED AND SO ON,

1 BUT AS FAR AS PLAINTIFF'S COUNSEL'S CONCERNED, YOU'RE  
2 WELCOME TO STAY, BUT YOU CAN ALSO GO AHEAD. I'LL LEAVE  
3 THAT UP TO YOU.

4 WE'LL HAVE SOMEONE AT LEAST FROM COLLINS'  
5 OFFICE STAY UNTIL WE GET ALL THE QUESTIONNAIRES  
6 COMPLETED. AND THEN YOU'LL HAVE YOUR ARRANGEMENTS AS  
7 TO HOW YOU'LL -- YOU'LL BILL FOR COPIES DOWN HERE, AND  
8 YOU'LL COME BY THIS AFTERNOON AND PICK UP YOUR COPIES.  
9 ALL RIGHT?

10 SO WE'LL SEE YOU AT 8:30, AND ASSUMING ALL THE  
11 JURORS ARE HERE ON TIME IN THE MORNING, WHICH  
12 INCIDENTALLY, THEY WON'T BE.

13 IT'S A FACT OF LIFE. THEY DO ONCE THE TRIAL  
14 STARTS, BUT THERE'S SOMETHING THESE FIRST FEW DAYS,  
15 IT'S KIND OF HARD GETTING EVERYBODY ON THE SAME  
16 SCHEDULE. BUT THEY'LL BE HERE, AND WE'LL BEGIN WITH  
17 THE JURY SELECTION TOMORROW.

18 AND THEN YOU'LL HAVE THE SEATING CHARTS.  
19 TOMORROW WE'LL BEGIN BY PUTTING 12 PEOPLE IN THE BOX.  
20 WE'LL HAVE A FEW QUESTIONS, NOT NEARLY AS MANY AS  
21 OTHERWISE MIGHT HAVE BECAUSE OF THE QUESTIONNAIRE. AND  
22 I'LL BE TURNING IT OVER TO YOU.

23 AND, MR. MCMILLAN, ARE YOU GOING TO BE DOING  
24 THE VOIR DIRE?

25 MR. MCMILLAN: NO, YOUR HONOR, MR. KING WILL.

26 THE COURT: MR. KING WILL? OKAY, THANKS.

27 MS. SWISS, OR --

28 MR. GUTERRES: I WILL, YOUR HONOR.



1 THE COURT: MR. GUTERRES, OKAY. JUST WANT TO  
2 KNOW WHO TO CALL. ALL RIGHT. SO WE'LL BE IN RECESS,  
3 THEN. I'LL SEE YOU IN THE MORNING.

4

5 (WHEREUPON, AT THE HOUR OF 11:51 A.M.,  
6 THE PROCEEDINGS WERE ADJOURNED.)

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10 (THE NEXT PAGE NUMBER IS 901)

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