

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

LINDA DE ROGATIS, INDIVIDUALLY AND)
AS SUCCESSOR-IN-INTEREST TO TARA DE)
ROGATIS; PETER DE ROGATIS,)
INDIVIDUALLY AND AS)
SUCCESSOR-IN-INTEREST TO TARA DE)
ROGATIS,)

PLAINTIFFS-APPELLANTS,)

VS.)

NO. B254024

KAREN MICHELLE SHAINSKY, D.O.,)

DEFENDANT-RESPONDENT.)

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE JAN A. PLUIM, JUDGE PRESIDING

REPORTER'S TRANSCRIPT OF PROCEEDINGS

OCTOBER 30, 2013

APPEARANCES:

FOR PLAINTIFFS-
APPELLANTS:

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KAREN E. KAY, CSR NO. 3862, RMR, CRR
COURT REPORTER PRO TEMPORE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

DEPARTMENT P

HON. JAN A. PLUIM, JUDGE

LINDA DE ROGATIS, INDIVIDUALLY AND)
AS SUCCESSOR-IN-INTEREST TO TARA DE)
ROGATIS; PETER DE ROGATIS,)
INDIVIDUALLY AND AS)
SUCCESSOR-IN-INTEREST TO TARA DE)
ROGATIS,)

PLAINTIFFS,)

VS.)

KAREN MICHELLE SHAINSKY, D.O., ET)
AL.,)

DEFENDANTS.)

NO. BC457891
(CONSOLIDATED WITH
NO. BC453966)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

OCTOBER 30, 2013

APPEARANCES:

FOR PLAINTIFFS:

BROWN WHITE & NEWHOUSE, LLP
BY: GEORGE B. NEWHOUSE, JR., ESQ.
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COURT REPORTER PRO TEMPORE

M A S T E R I N D E X

OCTOBER 30, 2013; VOLUME 3

EXHIBITS (CONTINUED)

<u>JOINT</u> <u>EXHIBIT</u>		<u>FOR I.D.</u>	<u>IN EVD.</u>	<u>WITHDRAWN</u> <u>OR REJECTED</u>
129-5	PHOTO OF A PAINTING BY TARA DE ROGATIS	72	73	

1 CASE NUMBER: BC457891
2 CASE NAME: DE ROGATIS VS. SHAINSKY
3 PASADENA, CALIFORNIA WEDNESDAY, OCTOBER 30, 2013
4 DEPARTMENT P HON. JAN A. PLUIM, JUDGE
5 REPORTER: KAREN E. KAY, CSR NO. 3862
6 TIME: A.M. SESSION

7 APPEARANCES:

8 PLAINTIFFS LINDA DE ROGATIS AND PETER DE ROGATIS
9 ARE PRESENT WITH THEIR COUNSEL, GEORGE B. NEWHOUSE,
10 JR., AND KATHERINE C. MC BROOM, ATTORNEYS AT LAW
11 DEFENDANT KAREN MICHELLE SHAINSKY, D.O., IS PRESENT
12 WITH HER COUNSEL, RAYMOND L. BLESSEY, ATTORNEY AT
13 LAW

14
15 (THE FOLLOWING PROCEEDINGS WERE HELD
16 IN OPEN COURT, OUTSIDE THE PRESENCE
17 OF THE PROSPECTIVE JURY:)

18
19 THE COURT: GOOD MORNING. WE'RE ON THE RECORD
20 OUTSIDE THE PRESENCE OF THE JURY. THE PARTIES ARE
21 PRESENT. LAWYERS ARE PRESENT.

22 COUNSEL?

23 MR. BLESSEY: YES, YOUR HONOR. TWO THINGS: ONE IS
24 THAT I WOULD REQUEST THAT AT THE END OF EACH DAY BOTH
25 COUNSEL WILL LET THE OTHER SIDE KNOW WHO THE WITNESSES ARE
26 THEY INTEND TO CALL.

27 THE COURT: I ASSUME YOU'D PROBABLY DO THAT.

28 MR. BLESSEY: TYPICALLY WE DO, YOUR HONOR. THAT'S

1 EASY.

2 THE SECOND IS, THERE'S A FAMILY MEMBER HERE
3 WHO LOOKS LIKE SHE'S TAKEN OFF -- SHE HAD A PHOTOGRAPH
4 PINNED TO HER LAPEL. IT LOOKS LIKE SHE'S TAKEN IT OFF SO
5 IT'S NOT AN ISSUE ANY LONGER, UNLESS SHE INTENDS TO WEAR
6 IT AGAIN.

7 THE COURT: IS SHE GOING TO BE A WITNESS?

8 MR. NEWHOUSE: NO. MAY I SPEAK TO THAT, YOUR
9 HONOR?

10 THE COURT: YES.

11 MR. NEWHOUSE: THIS LADY IS NOT A WITNESS. SHE IS
12 A FAMILY MEMBER. SHE'S HERE TO SUPPORT THE PLAINTIFFS.
13 SHE'S A MEMBER OF THE PUBLIC. SHE HAS A RIGHT TO BE HERE,
14 AND THIS LITTLE THING THAT SHE HAD ON WAS NOT THAT
15 NOTICEABLE.

16 THE COURT: IS THAT THE SAME ONE THAT --

17 MR. NEWHOUSE: YEAH, IT IS SIMILAR.

18 THE COURT: -- WORN YESTERDAY? I PREFER NOT TO
19 HAVE IT WORN, OKAY?

20 MR. NEWHOUSE: THAT'S FINE. CAN I APPROACH THE
21 COURT? I HAVE DR. RAMIN'S CONTACT INFORMATION.

22 THE COURT: OH, YEAH, THE ONE THAT YOU SAID YOU
23 MIGHT HAVE A PROBLEM WITH?

24 MR. NEWHOUSE: WE SERVED HIM. HE BASICALLY TOLD
25 MS. MC BROOM THAT HE DIDN'T CARE, HE WASN'T COMING. IT
26 WAS TOO BAD FOR US.

27 THE COURT: I SEE.

28 MR. NEWHOUSE: SO IF THE COURT COULD --

1 THE COURT: I'LL BE GLAD TO CALL HIM.

2 MR. NEWHOUSE: THAT WOULD BE GREAT. WHAT DAY DO
3 YOU WANT HIM?

4 MS. MC BROOM: IT PROBABLY WOULDN'T BE TILL MONDAY.

5 THE COURT: MONDAY AT WHAT TIME?

6 MR. NEWHOUSE: 9:00 A.M. GREAT. THANK YOU, YOUR
7 HONOR.

8 THE COURT: I'LL CALL TODAY, BUT I MAKE NO
9 PROMISES, BUT HE HAS BEEN SERVED, AND YOU'VE GOT A COPY OF
10 THE SERVICE?

11 MR. NEWHOUSE: YOUR HONOR, HE WAS --

12 MS. MC BROOM: I DO.

13 MR. NEWHOUSE: HE WAS PERSONALLY SERVED. WE THEN
14 CONTACTED HIM, PUT HIM ON AN ON-CALL ARRANGEMENT. WE
15 THOUGHT HE WAS ABIDING. WHEN WE CALLED TO SAY "NEW TRIAL
16 DATE," THAT'S WHEN HE DECIDED TO --

17 MS. MC BROOM: I CAN TELL YOU HE REFUSED AN ON-CALL
18 AGREEMENT. HE DIDN'T SHOW ON OCTOBER 28TH.

19 THE COURT: HAS HIS DEPOSITION BEEN TAKEN?

20 MS. MC BROOM: YES.

21 THE COURT: IF YOU CAN'T GET HIM HERE, YOU'LL HAVE
22 TO USE THE DEPOSITION, I GUESS. IT'S NOT AS EFFECTIVE,
23 BUT --

24 MR. BLESSEY: IF WE DO THAT, YOUR HONOR, THAT IS,
25 USE THE DEPOSITION, THEN I WOULD REQUEST THAT BOTH SIDES
26 SUBMIT A DESIGNATION OF THE TRANSCRIPT, THAT IS, WHAT THEY
27 INTEND TO READ.

28 THE COURT: WELL, I WOULD ORDER THAT YOU MEET AND

1 CONFER BEFOREHAND AND IRON OUT ANY OBJECTIONS.

2 MR. NEWHOUSE: THAT'S FINE.

3 THE CLERK: JUROR NO. 7, SYLVIA CRAW.

4 THE COURT: I'M SORRY. JUST A SECOND. JUROR

5 NO. --

6 THE CLERK: -- 7.

7 THE COURT: YES.

8 THE CLERK: SHE THINKS THAT ONE OF HER PATIENTS

9 SEES THE DOCTOR.

10 THE COURT: ONE OF HER PATIENTS?

11 THE CLERK: YES.

12 THE COURT: SHE'S A RECEPTIONIST IN AN

13 ORTHODONTIST'S OFFICE. ONE OF THE PATIENTS MAY HAVE SEEN

14 THE DOCTOR?

15 THE CLERK: YES. SHE JUST WANTS YOU TO KNOW.

16 THE COURT: DOES ANYBODY WANT ME TO MAKE AN INQUIRY

17 ABOUT THAT?

18 MR. BLESSEY: I WOULD JUST BE CURIOUS WHICH DOCTOR

19 WE'RE TALKING ABOUT, THE DEFENDANT, DR. SHAINSKY?

20 THE CLERK: ARE YOU ASSOCIATED WITH U.S.C.,

21 U.C.L.A.?

22 DR. SHAINSKY: I TRAINED AT U.S.C. AND I WORKED AT

23 CEDARS.

24 MR. NEWHOUSE: COULD WE MAKE --

25 THE CLERK: DO YOU WANT TO TALK TO HER BY HERSELF?

26 THE COURT: BRING HER IN AND WE'LL TALK TO HER.

27 ARE JURORS NOW HERE?

28 THE CLERK: YEAH, THEY'RE ALL HERE.

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(PROSPECTIVE JUROR MS. CRAW ENTERS
THE COURTROOM.)

THE COURT: GOOD MORNING. WE'RE ON THE RECORD
OUTSIDE THE PRESENCE OF THE JURY REGARDING JUROR NO. 7,
SYLVIA CRAW.

MY CLERK INFORMED ME THAT THERE'S A PATIENT
OF YOUR OFFICE -- AND IT'S NOT YOUR OFFICE. YOU'RE THE
RECEPTIONIST THERE, THE WAY I UNDERSTAND IT, OFFICE
MANAGER -- THAT MAY HAVE SEEN THE DEFENDANT --

PROSPECTIVE JUROR CRAW: YES.

THE COURT: -- AS A PATIENT.

PROSPECTIVE JUROR CRAW: WHEN SHE MENTIONED --

THE COURT: I'M SORRY. I CAN BARELY HEAR YOU.

PROSPECTIVE JUROR CRAW: WHEN YOU MENTIONED THAT
SHE'S ALSO A RHEUMATOLOGIST, I PUT TWO AND TWO TOGETHER.
AND THIS PATIENT WAS ABOUT SIX MONTHS AGO. AND I DON'T
KNOW IF SHE WAS U.S.C.-AFFILIATED OR U.C.L.A.-AFFILIATED;
BUT THIS LITTLE GIRL, SHE HAD JUVENILE ARTHRITIS. SO SHE
WENT TO SEE SOMEBODY. SHE COULDN'T GET BRACES PUT ON.

THE COURT: DOES THAT, IN YOUR MIND, AFFECT YOUR
ABILITY TO BE FAIR?

PROSPECTIVE JUROR CRAW: I -- I BECAUSE OF MY
FATHER'S SITUATION.

THE COURT: YOUR FATHER'S SITUATION?

PROSPECTIVE JUROR CRAW: MY FATHER HAS RHEUMATOID
ARTHRITIS. IT'S REALLY -- IT'S TOUGH. IT'S A REALLY

1 TOUGH DISEASE WITH A LOT OF PAIN INVOLVED; PLUS, HE WENT
2 DOWNHILL. MENTAL ILLNESS ATTACHES TO IT.

3 THE COURT: YOU KNOW, I UNDERSTAND THAT, AND I
4 APPRECIATE THAT. SO DO YOU THINK THAT BECAUSE OF --
5 YOU'VE NEVER MET THE DEFENDANT?

6 PROSPECTIVE JUROR CRAW: NO. BUT THE PATIENT --

7 THE COURT: I'M SORRY. PLEASE, JUST ANSWER MY
8 QUESTION. YOU'VE NEVER MET THE DEFENDANT, AND IT'S ONLY
9 THROUGH A PATIENT, AND WAS HER NAME MENTIONED?

10 PROSPECTIVE JUROR CRAW: YEAH.

11 THE COURT: IT WAS MENTIONED?

12 PROSPECTIVE JUROR CRAW: I ASKED FOR IT BECAUSE OF
13 MY FATHER, THINKING THAT MAYBE MY DAD COULD GO TO HER,
14 TOO.

15 THE COURT: I SEE. OKAY.

16 PROSPECTIVE JUROR CRAW: AND SO I ASKED HOW SHE
17 WAS, AND SHE SAID GOOD THINGS.

18 THE COURT: DID YOU ASK THIS PATIENT ABOUT THE TYPE
19 OF CARE SHE WAS RECEIVING?

20 PROSPECTIVE JUROR CRAW: NO. I JUST ASKED HOW SHE
21 WAS WITH THE DOCTOR, AND SHE SAID SHE WAS REALLY GOOD.
22 THAT'S ALL SHE SAID.

23 THE COURT: SHE SAID THE DOCTOR WAS GOOD?

24 PROSPECTIVE JUROR CRAW: YEAH.

25 THE COURT: WHO WAS THE PATIENT?

26 PROSPECTIVE JUROR CRAW: IT WAS A PATIENT --

27 THE COURT: WHAT'S THE PATIENT'S NAME?

28 PROSPECTIVE JUROR CRAW: ARINA REJAJA. YOUNG GIRL,

1 MAYBE ABOUT 18, 19 YEARS OLD.

2 DR. SHAINSKY: JUVENILE RHEUMATOID ARTHRITIS? IS
3 IT J.R.A.?

4 PROSPECTIVE JUROR CRAW: YEAH, YEAH, JUVENILE
5 RHEUMATOID ARTHRITIS.

6 DR. SHAINSKY: I DON'T REMEMBER IT WELL, BUT --

7 PROSPECTIVE JUROR CRAW: IT WAS JUVENILE ARTHRITIS,
8 AND HE COULDN'T PUT BRACES ON HER.

9 THE COURT: WHAT WE'RE ALL CONCERNED ABOUT IS IN
10 FAIRNESS TO BOTH SIDES.

11 AND DO YOU FEEL THAT THIS DISCUSSION THAT
12 YOU HAD WITH THE PATIENT IS GOING TO AFFECT YOUR ABILITY
13 TO BE FAIR TO THE PLAINTIFFS IN THIS CASE?

14 PROSPECTIVE JUROR CRAW: WELL, THE FACT THAT MY DAD
15 HAS IT, I TEND TO BE MORE TOWARDS THE DOCTOR'S SIDE.

16 THE COURT: PARDON?

17 PROSPECTIVE JUROR CRAW: MY DAD HAS RHEUMATOID
18 ARTHRITIS.

19 THE COURT: IF YOU HAD TO VOTE AS TO WHO WOULD WIN
20 RIGHT NOW, WHAT WOULD YOU DO?

21 PROSPECTIVE JUROR CRAW: AFTER HEARING YESTERDAY,
22 I'M MORE TOWARDS THE DOCTOR.

23 THE COURT: YOU REALLY CAN'T -- YOU HAVEN'T HEARD
24 ANY TESTIMONY, HAVE YOU?

25 PROSPECTIVE JUROR CRAW: NO.

26 THE COURT: AND THE TESTIMONY IS GOING TO COME FROM
27 HERE, UNDER OATH, SUBJECT TO CROSS-EXAMINATION. SO YOU
28 REALLY WOULDN'T BE ABLE TO VOTE.

1 PROSPECTIVE JUROR CRAW: NOT THIS VERY SECOND.

2 THE COURT: PLUS, YOU DON'T EVEN KNOW THE LAW.

3 PROSPECTIVE JUROR CRAW: I DEFINITELY DON'T.

4 THE COURT: COUNSEL, DO YOU HAVE ANY QUESTIONS?

5 MR. BLESSEY: YOU UNDERSTAND THIS ISN'T A CASE
6 ABOUT RHEUMATOID ARTHRITIS. YOU UNDERSTAND THAT, CORRECT?
7 THAT'S YOUR FATHER'S PROBLEM?

8 PROSPECTIVE JUROR CRAW: YEAH, YES.

9 MR. BLESSEY: I JUST WANT TO MAKE SURE, YOUR HONOR,
10 THERE'S NO CONFUSION HERE BECAUSE WE'RE TALKING ABOUT TWO
11 DIFFERENT TYPES OF PROBLEMS. SO I DON'T -- I JUST WANTED
12 TO MAKE SURE.

13 MR. NEWHOUSE: COULD I BE HEARD AT SIDEBAR, YOUR
14 HONOR?

15 THE COURT: WELL, DO YOU HAVE ANY QUESTIONS?

16 MR. NEWHOUSE: I DON'T HAVE ANY ADDITIONAL
17 QUESTIONS. I THINK I'VE HEARD ENOUGH.

18 THE COURT: OKAY. THANK YOU VERY MUCH. YOU CAN
19 STEP OUTSIDE. THANK YOU.

20

21 (PROSPECTIVE JUROR CRAW EXITS THE
22 COURTROOM.)

23

24 THE COURT: YES, COUNSEL?

25 MR. NEWHOUSE: YOUR HONOR, WE WOULD ASK THE COURT
26 TO EXCUSE HER FOR CAUSE. I MEAN, HAD SHE TOLD US
27 YESTERDAY IN COURT THAT SHE HAD ACTUALLY HEARD OF THE
28 DEFENDANT AND ONE OF HER CLIENT'S PATIENTS WAS TREATED BY

1 HER AND SAID GOOD THINGS ABOUT THE DOCTOR, THEN HER
2 STATEMENT IN COURT TODAY, THAT SHE WOULD ACTUALLY BE
3 INCLINED TO LEAN ON THEIR SIDE, THAT'S CLEARLY FAVORITISM.
4 I THINK IT'S NICE THAT SHE TOLD US NOW. HAD SHE TOLD ME
5 BACK THEN, I WOULD HAVE EXERCISED THE PEREMPTORY, BUT I
6 DON'T THINK WE NEED TO. I THINK SHE SHOULD BE EXCUSED FOR
7 CAUSE.

8 THE COURT: MR. BLESSEY, I'M INCLINED TO GRANT THE
9 REQUEST.

10 MR. BLESSEY: MAY I BE HEARD?

11 THE COURT: YES.

12 MR. BLESSEY: UNDER THE COURT'S INQUIRY, SHE SAID,
13 AFTER YOU ASKED HER ABOUT THE LAW, DID SHE KNOW THE LAW,
14 DID SHE KNOW THE FACTS OF THE CASE, SHE SAID, "NO, I
15 REALLY CAN'T VOTE NOW."

16 SO I UNDERSTAND EVERY ONE OF THE JURORS HAVE
17 A LITTLE BIT OF BIAS. AND AS TO MR. NEWHOUSE USING HIS
18 PEREMPTORY, HE USED SIX ON OTHER JURORS.

19 THE COURT: HE USED SIX ALREADY, BUT I THINK THIS
20 RISES TO ONE OF CAUSE, AND I'M GOING TO EXCUSE HER.

21 MR. BLESSEY: VERY WELL.

22 THE COURT: NOW, BRING ME UP TO DATE. WE ONLY HAVE
23 MR. SHIELDS TO VOIR DIRE, CORRECT?

24 MR. NEWHOUSE: CORRECT.

25 THE COURT: WE'VE VOIR DIERED EVERYBODY ELSE.

26 MR. NEWHOUSE: YES.

27 THE COURT: ALL RIGHT. BRING IN THE JURORS,
28 PLEASE. THANK YOU.

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(THE FOLLOWING PROCEEDINGS WERE HELD
IN OPEN COURT, IN THE PRESENCE OF
THE PROSPECTIVE JURY:)

THE COURT: ALL RIGHT. GOOD MORNING, LADIES AND
GENTLEMEN. WELCOME BACK. WE'RE BACK ON THE RECORD. ALL
JURORS ARE PRESENT IN THEIR PLACE. PARTIES ARE PRESENT.
LAWYERS ARE PRESENT.

JUROR NO. 7, SYLVIA CRAW, BASED ON THE
THINGS YOU TOLD ME, I'M GOING TO EXERCISE MY DISCRETION
AND EXCUSE YOU FOR CAUSE. AT THIS TIME YOU MAY RETURN TO
THE JURY ASSEMBLY ROOM. THANK YOU VERY MUCH.

AND, CIJI LINARES, I'LL HAVE YOU TAKE THE
EMPTY SEAT. I KNOW YOU'RE GOING TO HAVE TO SWEAR HER.
PLEASE.

LET ME SAY HERE, TECHNICALLY YOU STILL HAVE
A PEREMPTORY TO USE.

MR. BLESSEY: I BELIEVE I HAVE TWO.

THE COURT: YOU HAVE TWO TO USE.

MR. BLESSEY: RIGHT. MAYBE WE SHOULD --

THE COURT: LET ME JUST SEE COUNSEL.

(THE FOLLOWING PROCEEDINGS WERE HELD
IN CHAMBERS WITH ALL COUNSEL:)

THE COURT: WE'RE ON THE RECORD IN CHAMBERS. ALL
COUNSEL ARE PRESENT.

1 AND WE'VE KIND OF GOT A SEMI MESS ON OUR
2 HANDS. WE HAVE A SWORN JURY, AND I'VE EXCUSED ONE FOR
3 CAUSE, JUROR NO. 7, AND WE'VE GOT NOW FIVE JURORS SITTING
4 IN THE FRONT AS POTENTIAL JURORS, AND WE'VE KIND OF BEEN
5 DISCUSSING, HOW DO WE PROCEED? I HAD KICKED OUT THE IDEA
6 THAT I SHOULD BRING LINARES SITTING IN SEAT 7 BACK INTO
7 THE JURY POOL, IF YOU WILL; HOWEVER, DEFENSE COUNSEL HAS
8 RAISED THE FACT THAT HE STILL HAS TWO ALTERNATES -- STILL
9 HAS TWO PEREMPTORY CHALLENGES AND WOULD WISH TO USE THOSE
10 BECAUSE TECHNICALLY THIS JURY HAS NOT BEEN SWORN, THIS
11 JURY.

12 MR. NEWHOUSE: I THOUGHT THEY WERE SWORN.

13 THE COURT: THEY WERE. BUT NOW THAT WE'VE KIND OF
14 UNDONE IT, WE REPLACED ONE OF THEM, PLAINTIFFS' COUNSEL
15 SEEMS TO AGREE WITH THAT APPROACH. CORRECT ME IF I AM
16 WRONG.

17 MR. NEWHOUSE: I THINK YOU'RE RIGHT.

18 THE COURT: AND PERHAPS YOU CAN PUT ON THE RECORD
19 YOUR UNDERSTANDING OF WHAT WE'RE GOING TO DO.

20 MR. NEWHOUSE: ALTHOUGH THE ALTERNATIVE WOULD BE --

21 THE COURT: LET'S NOT TALK ABOUT THE ALTERNATIVE.
22 LET'S TALK ABOUT WHAT YOU SUGGESTED.

23 MR. NEWHOUSE: THE COURT WAS SUGGESTING -- WE WERE
24 MULLING IT OVER. WE THEN GO BACK AS IF WE HADN'T SWORN
25 THEM. WE UNSWEAR THE JURY, AND WE CONTINUE THIS PROCESS.
26 SO THE NEXT PERSON, LINARES, WOULD GO IN THE SEAT.
27 COUNSEL WOULD HAVE A PEREMPTORY. HE'S INDICATED HE WOULD
28 EXERCISE -- LET'S SAY HE EXERCISED BY EXCUSING HER. THEN

1 THE NEXT JUROR WOULD GO IN, AND THEN WE WOULD HAVE A
2 FINAL.

3 THE COURT: WE DO THIS AS IF THE JURY HAS NEVER
4 BEEN SWORN?

5 MR. NEWHOUSE: UNSWEAR THE JURY.

6 THE COURT: SO THEY'RE UNSWORN. HOW IS THAT -- WE
7 SWORE THE JURY AS A WHOLE, SO ACTUALLY --

8 MR. NEWHOUSE: I THINK YOU WOULD BE GOOD TO SWEAR
9 THE ENTIRE JURY PANEL AGAIN AB INITIO.

10 THE COURT: I WILL.

11 MR. BLESSEY: I WAS GOING TO REITERATE WHAT YOU
12 SAID, WHO WINDS UP IN THAT SEAT HAS NOT BEEN SWORN.

13 THE COURT: ALL RIGHT. WE'LL DO IT THAT WAY.

14 MR. NEWHOUSE: LET ME JUST SAY, WE EACH HAVE ONE
15 PEREMPTORY ON THE ALTERNATES OR TWO?

16 THE COURT: YOU HAVE ONE FOR EACH ALTERNATE.

17 MR. NEWHOUSE: ONE FOR EACH ALTERNATE. I WOULD
18 HAVE TWO?

19 THE COURT: EACH SIDE HAS TWO.

20 MR. NEWHOUSE: I DON'T THINK WE'RE GOING TO
21 EXERCISE BOTH OF OURS.

22 THE COURT: WE'LL DO THAT IN CHAMBERS ONCE WE GET A
23 JURY AND KIND OF MOVE ON.

24 MR. NEWHOUSE: I THINK THAT'S A SOLUTION, JUDGE.

25 THE COURT: OKAY. ALL RIGHT.

26 MR. BLESSEY: VERY GOOD. THANK YOU, YOUR HONOR.

27 THE COURT: BUT JUST FOR THE RECORD, PLAINTIFF HAS
28 NOW PASSED TECHNICALLY BECAUSE THEY HAVE USED ALL SIX OF

1 THEIR PEREMPTORIES, AND DEFENDANT HAS USED FOUR.

2 MR. BLESSEY: CORRECT, YOUR HONOR.

3
4 (THE FOLLOWING PROCEEDINGS WERE HELD
5 IN OPEN COURT, IN THE PRESENCE OF
6 THE PROSPECTIVE JURY:)

7
8 THE COURT: WE'RE BACK ON THE RECORD.

9 WE KIND OF HAVE A PROBLEM HERE, LADIES AND
10 GENTLEMEN. THE JURY HAS BEEN SWORN, ALL 12 OF YOU, AS
11 JURORS ON THE CASE. AND SO WHAT I'M NOW DOING IS
12 SELECTING ALTERNATES.

13 SYLVIA CRAW CAME IN THIS MORNING AND SAID
14 SHE'D BEEN THINKING ABOUT THIS CASE. ANYHOW, THERE WERE
15 THINGS THAT SHE NOW REMEMBERED SHE HAD FAILED TO TELL US
16 YESTERDAY THAT WERE PROBABLY PRETTY IMPORTANT IN THE EYES
17 OF SOME OF THE PARTIES HERE, SO I EXCUSED HER FOR CAUSE.
18 NOW WHAT WE HAVE, THEN, ARE 11 JURORS RATHER THAN 12.

19 SO WHAT I'M BASICALLY GOING TO DO AT THIS
20 TIME IS UNSWEAR ALL OF YOU, BECAUSE EACH SIDE HAS SIX
21 PEREMPTORY CHALLENGES. PLAINTIFFS HAVE EXERCISED THEIR
22 SIX. DEFENDANT HAS EXERCISED FOUR, SO THEY HAVE TWO
23 REMAINING.

24
25 (JURY UNSWORN.)

26
27 THE COURT: SO THE NEXT PEREMPTORY CHALLENGE,
28 BECAUSE TECHNICALLY PLAINTIFFS WOULD HAVE TO PASS, BEING

1 THAT THEY ALREADY USED UP THEIR PEREMPTORIES. SO AT THIS
2 TIME, I'M GOING TO REOPEN THIS, AND THE DEFENDANT CAN
3 EXERCISE YOUR PEREMPTORY IF YOU WISH TO.

4 MR. BLESSEY: YES, YOUR HONOR. THANK YOU.

5 AT THIS POINT WE'D LIKE -- THE DEFENSE WOULD
6 LIKE TO THANK AND EXCUSE MS. LINARES.

7 THE COURT: THANK YOU VERY MUCH. YOU ARE THANKED
8 AND EXCUSED. YOU MAY RETURN TO THE JURY ASSEMBLY ROOM.

9 AND MR. KEMPTON, I'LL HAVE YOU TAKE THE
10 EMPTY SEAT.

11 PLAINTIFFS, BY OPERATION OF LAW, HAVE
12 PASSED. DEFENDANT, YOU'VE EXERCISED FIVE. YOU HAVE ONE
13 LEFT.

14 MR. BLESSEY: YES. THANK YOU, YOUR HONOR. SEAT
15 NO. 7 IS THE HOT SEAT. WE'D LIKE TO THANK AND EXCUSE
16 MR. KEMPTON.

17 THE COURT: THANK YOU VERY MUCH. YOU'RE THANKED
18 AND EXCUSED.

19 AND, KEVIN WILLIAMS, I'LL HAVE YOU TAKE THE
20 EMPTY SEAT, PLEASE.

21 AND NOW DO BOTH SIDES AGREE WE HAVE A JURY?

22 MR. NEWHOUSE: YES, YOUR HONOR.

23 MR. BLESSEY: YES, YOUR HONOR.

24 THE COURT: CLERK, I'LL HAVE YOU SWEAR THE JURY.

25 THE CLERK: PLEASE STAND. PLEASE RAISE YOUR RIGHT
26 HANDS. DO YOU AND EACH OF YOU UNDERSTAND AND AGREE THAT
27 YOU WILL WELL AND TRULY TRY THE CAUSE NOW PENDING BEFORE
28 THIS COURT AND A TRUE VERDICT RENDER ACCORDING ONLY TO THE

1 EVIDENCE PRESENTED TO YOU AND TO THE INSTRUCTIONS OF THE
2 COURT? IF YOU UNDERSTAND AND AGREE, PLEASE ANSWER "YES."

3
4 (THE JURORS ANSWERED IN THE
5 AFFIRMATIVE.)

6
7 THE CLERK: PLEASE HAVE A SEAT.

8 THE COURT: WELL, MR. SHIELDS, GOOD MORNING. I
9 FAILED TO TALK TO YOU YESTERDAY AFTERNOON. YOU'RE THE
10 LAST REMAINING JUROR. PROVIDE THE INFORMATION TO THE
11 COURT AND COUNSEL ON THE BOARD, PLEASE.

12 PROSPECTIVE JUROR SHIELDS: MY NAME IS JOEL
13 SHIELDS. I LIVE IN PASADENA. I'M SINGLE. AND I'M AN
14 ENGINEER.

15 THE COURT: I'M SORRY?

16 PROSPECTIVE JUROR SHIELDS: ENGINEER.

17 THE COURT: AN ENGINEER. AND WHAT KIND OF ENGINEER
18 ARE YOU?

19 PROSPECTIVE JUROR SHIELDS: I WORK FOR CALTECH.

20 THE COURT: CALTECH. AND WHAT DO YOU DO THERE?

21 PROSPECTIVE JUROR SHIELDS: AEROSPACE ENGINEERING.

22 THE COURT: OKAY. NOW, YOU KNOW, TECHNICALLY, I
23 UNDERSTAND THERE'S SOME CONNECTION BETWEEN J.P.L. AND
24 CALTECH; IS THAT RIGHT?

25 PROSPECTIVE JUROR SHIELDS: CALTECH MANAGES J.P.L.,
26 SO ACTUALLY WE'RE ALL PRIVATE CALTECH EMPLOYEES.

27 THE COURT: SO WHEN YOU SAY YOU WORK FOR CALTECH,
28 ARE YOU ASSIGNED TO J.P.L.?

1 PROSPECTIVE JUROR SHIELDS: YES.

2 THE COURT: OH, YOU ARE.

3 PROSPECTIVE JUROR SHIELDS: YES.

4 THE COURT: HOW LONG HAVE YOU BEEN ASSOCIATED WITH
5 J.P.L.?

6 PROSPECTIVE JUROR SHIELDS: ABOUT 14 YEARS.

7 THE COURT: EVER BEEN A PARTY TO A LAWSUIT --

8 PROSPECTIVE JUROR SHIELDS: NO.

9 THE COURT: -- EITHER AS A PLAINTIFF OR A
10 DEFENDANT?

11 PROSPECTIVE JUROR SHIELDS: NO.

12 THE COURT: HAVE YOU EVER CONSULTED A LAWYER FOR
13 ANY REASON IN REGARD TO A PERSONAL INJURY?

14 PROSPECTIVE JUROR SHIELDS: NO.

15 THE COURT: FAMILY MEMBERS, CLOSE PERSONAL FRIENDS
16 THAT HAVE EVER BEEN A PARTY TO A MALPRACTICE, A MEDICAL
17 MALPRACTICE CASE?

18 PROSPECTIVE JUROR SHIELDS: I HAD A FRIEND WHO
19 WANTED TO SUE A DOCTOR FOR SOME MEDICATION THAT HE WAS
20 PRESCRIBED, BUT HE CONSULTED WITH A LAWYER, AND THE
21 ATTORNEY TOLD HIM THERE WAS NO CASE, SO IT DIDN'T GO ANY
22 FURTHER.

23 THE COURT: OKAY. BUT IT WASN'T A DEATH OR
24 ANYTHING LIKE THAT?

25 PROSPECTIVE JUROR SHIELDS: HE WAS -- HE WAS
26 DISABLED FOR A LONG PERIOD OF TIME.

27 THE COURT: BECAUSE OF THE MEDICATION?

28 PROSPECTIVE JUROR SHIELDS: YES.

1 THE COURT: OKAY. DID YOU GIVE HIM ANY ADVICE OR
2 TALK TO HIM ABOUT IT OR DISCUSS IT THOROUGHLY?

3 PROSPECTIVE JUROR SHIELDS: NO. THIS WAS SOMETHING
4 HE WAS MOSTLY TELLING ME.

5 THE COURT: I'M SORRY?

6 PROSPECTIVE JUROR SHIELDS: THIS WAS A SITUATION HE
7 WAS TELLING ME ABOUT. I DIDN'T --

8 THE COURT: DID YOU OFFER ANY OPINIONS IN REGARDS
9 TO THE MERITS OF WHAT HE WAS TALKING ABOUT? DO YOU
10 RECALL?

11 PROSPECTIVE JUROR SHIELDS: YEAH. IT TURNED OUT HE
12 TOOK CIPRO.

13 THE COURT: I'M SORRY?

14 PROSPECTIVE JUROR SHIELDS: IT TURNED OUT HE TOOK
15 THE MEDICATION CIPRO.

16 THE COURT: OKAY.

17 PROSPECTIVE JUROR SHIELDS: I'M TOLD THAT THAT'S
18 ACTUALLY THE MEDICATION THAT MAY HAVE CAUSED THE GULF WAR
19 SYNDROME.

20 THE COURT: IS THIS CIPROFLOXACIN?

21 PROSPECTIVE JUROR SHIELDS: I THINK THAT'S THE
22 RIGHT NAME, YEAH.

23 THE COURT: SO OFTENTIMES I WAS PRESCRIBED IT
24 BECAUSE WE WENT OVERSEAS AND GOT BACK. AND, YOU KNOW, IN
25 CASE THERE WAS A PROBLEM WITH THE FOOD THAT YOU MIGHT EAT,
26 THEY RECOMMEND TAKING IT.

27 IS THAT THE REASON WHY HE INITIALLY STARTED
28 TAKING IT, IF YOU RECALL?

1 PROSPECTIVE JUROR SHIELDS: HE NEVER TOLD ME THE
2 REASON WHY HE STARTED TALKING IT.

3 THE COURT: I SEE. OKAY.

4 PROSPECTIVE JUROR SHIELDS: HE HAD JOINT PROBLEMS
5 AFTER TAKING IT.

6 THE COURT: ALL RIGHT. PERCOCET, ARE YOU FAMILIAR
7 WITH THAT MEDICATION?

8 PROSPECTIVE JUROR SHIELDS: YES.

9 THE COURT: HOW IS THAT?

10 PROSPECTIVE JUROR SHIELDS: I JUST KNOW IT'S AN
11 OPIOID.

12 THE COURT: HAVE YOU EVER BEEN PRESCRIBED THAT
13 MEDICATION?

14 PROSPECTIVE JUROR SHIELDS: NOT PERCOCET, NO.

15 THE COURT: HAVE YOU EVER BEEN PRESCRIBED ANY TYPE
16 OF PAINKILLER?

17 PROSPECTIVE JUROR SHIELDS: VICODIN, YEAH.

18 THE COURT: OKAY. IS THAT SOMETHING THAT YOU TAKE
19 EVEN NOW OR NOT?

20 PROSPECTIVE JUROR SHIELDS: NO.

21 THE COURT: FAMILY MEMBERS, YOURSELF EVER BEEN
22 ADDICTED TO ANY TYPE OF NARCOTICS?

23 PROSPECTIVE JUROR SHIELDS: HAD AN UNCLE WHO WAS
24 ADDICTED AND COMMITTED SUICIDE.

25 THE COURT: AN OVERDOSE?

26 PROSPECTIVE JUROR SHIELDS: GUNSHOT. IT WAS DRUG
27 RELATED.

28 THE COURT: HOW LONG AGO WAS THAT?

1 PROSPECTIVE JUROR SHIELDS: THAT WAS ABOUT 20 YEARS
2 AGO.

3 THE COURT: THIS CASE IS ABOUT A YOUNG LADY THAT
4 COMMITTED SUICIDE BY AN OVERDOSE OF MEDICATION.

5 GIVE US YOUR THOUGHTS ABOUT THIS CASE OR
6 JUST WHAT YOU'VE HEARD AND HOW IT MIGHT AFFECT YOUR
7 ABILITY TO BE FAIR AND IMPARTIAL TO BOTH SIDES.

8 PROSPECTIVE JUROR SHIELDS: WHEN YOU SAID "MEDICAL
9 MALPRACTICE," MY KNEE-JERK REACTION WAS PAYBACK.

10 THE COURT: WHAT DO YOU MEAN BY THAT?

11 PROSPECTIVE JUROR SHIELDS: I'VE HAD MY OWN ISSUES
12 WITH DOCTORS AND PRESCRIBING MEDICATIONS, SO THAT WAS MY
13 INITIAL REACTION.

14 THE COURT: WHEN YOU HEARD THIS, LIKE, "GEE, NOW I
15 HAVE A CHANCE TO PAY BACK"?

16 PROSPECTIVE JUROR SHIELDS: THAT WAS MY HUMOROUS
17 KNEE-JERK RESPONSE. IT WAS ONLY HALF SERIOUS.

18 BUT THEN, YOU KNOW, I'M THINKING SUICIDE IS
19 A VERY COMMON THING, ACTUALLY. AND ULTIMATELY, IT'S A
20 PATIENT WHO DECIDES WHETHER TO TAKE THE MEDICATION OR NOT.
21 I MEAN, THE DOCTOR MAY HAVE MADE A MISTAKE IN PRESCRIBING
22 IT. I DON'T KNOW.

23 AND, YOU KNOW, ON THE PROSECUTION SIDE, I'M
24 KIND OF CURIOUS WHERE THE BEEF IS HERE, KNOWING THAT
25 DOCTORS ARE PRETTY PROTECTED UNDER THE LAW.

26 THE COURT: INQUIRY, COUNSEL?

27 MR. NEWHOUSE: YES, YOUR HONOR. THANK YOU. I CAN
28 DO THIS WITHOUT THE LECTERN.

1 GOOD MORNING. I'M JUST GOING TO BE
2 ADDRESSING MY COMMENTS RIGHT NOW TO THE THREE OF YOU.

3 MS. DAVIS -- LET ME ADDRESS THE THREE OF
4 YOU. SO YOU ALL HAVE SAT HERE NOW FOR MANY HOURS. YOU'VE
5 HEARD ALL OF THE QUESTIONS THAT -- AND THE DISCUSSION THAT
6 COURT AND COUNSEL HAD WITH THE JURY; IS THAT CORRECT? YOU
7 ARE NODDING YOUR HEAD "YES"?

8 PROSPECTIVE JUROR DAVIS: YES.

9 THE COURT: WOULD YOU HAVE RESPONDED DIFFERENTLY OR
10 DO YOU HAVE A PARTICULAR RESPONSE TO ANY OF THE OTHER
11 QUESTIONS THAT THE OTHER ATTORNEY, MR. BLESSEY, OR I
12 PROPOUNDED TO THE JURY? I DON'T WANT TO GO THROUGH THE
13 WHOLE LIST AGAIN. YOU HEARD THE QUESTIONS. IS THERE
14 SOMETHING UNUSUAL OR UNIQUE THAT YOU WOULD OFFER ON ANY OF
15 THOSE VARIOUS DISCUSSIONS THAT WE HAD?

16 MR. SYCZ?

17 PROSPECTIVE JUROR SYCZ: NO.

18 THE COURT: MS. DAVIS?

19 PROSPECTIVE JUROR DAVIS: NO.

20 PROSPECTIVE JUROR SHIELDS: NO.

21 THE COURT: I'D LIKE TO FOLLOW UP ON ONE COMMENT,
22 MS. DAVIS, THAT YOU MADE. YOU PUT IT OUT THAT THERE'S A
23 DIFFERENCE BETWEEN OPINIONATED, AND NOT ALL OF US, BUT
24 MOST OF US ARE OPINIONATED, AND WE FORM OPINIONS BASED
25 UPON INFORMATION THAT COMES TO US DURING OUR LIFE
26 EXPERIENCES. AND AS WE'VE ALREADY, I THINK, DEMONSTRATED,
27 THERE IS A WIDE DEGREE OF INFORMATION ABOUT OPIATES. AND
28 WE ALL HAVE OUR VIEWS AND OPINIONS ON DOCTORS. BUT THEN

1 YOU SAID THERE'S A DIFFERENCE BETWEEN OPINIONATED AND
2 INFORMED.

3 AND DO YOU UNDERSTAND THAT THAT'S AN
4 IMPORTANT DISTINCTION FOR YOU ON THE JURY BECAUSE THE
5 INFORMED BASIS UPON WHICH JURORS WILL BE ASKED TO MAKE
6 THEIR DECISION, SOLELY UPON THE EVIDENCE YOU'RE GOING TO
7 HEAR ON THE WITNESS STAND -- NOT ANY QUESTIONS THAT
8 MR. BLESSEY HAS SAID, NOT ANY QUESTIONS THAT I MAY HAVE
9 MADE IN VOIR DIRE -- SOLELY UPON THE EVIDENCE THAT YOU'RE
10 GOING TO HEAR ON THE WITNESS STAND, IF YOU WERE TO SIT AS
11 A JUROR, CAN YOU MAKE YOUR DECISION BASED UPON THAT
12 EVIDENCE, NOT UPON PRIOR NOTIONS AND PRECONCEPTIONS YOU
13 MIGHT BRING INTO IT?

14 PROSPECTIVE JUROR DAVIS: WELL, IT WOULD TAKE AN
15 EFFORT. I MEAN, LET ME JUST PUT IT THAT WAY. IF YOU
16 HAVE -- PEOPLE ON A JURY, THE OLDER THEY ARE, AND I'M UP
17 THERE IN AGE, HAVE OPINIONS, INFORMED OR NOT. SO ALL I
18 CAN TELL YOU IS THAT I WOULD DO MY BEST.

19 MR. NEWHOUSE: DO YOU THINK YOU COULD BE A FAIR AND
20 IMPARTIAL JUROR IF YOU WERE TO SIT AS A JUROR IN THIS
21 CASE, GIVEN EVERYTHING YOU'VE HEARD SO FAR?

22 PROSPECTIVE JUROR DAVIS: I THINK SO.

23 THE COURT: AND MR. SHIELDS?

24 PROSPECTIVE JUROR SHIELDS: YES.

25 MR. NEWHOUSE: DO YOU THINK YOU COULD BE A FAIR AND
26 IMPARTIAL JUROR?

27 PROSPECTIVE JUROR SHIELDS: YES.

28 MR. NEWHOUSE: YOU CAN TRY TO PUT OUT -- MS. DAVIS

1 MAKES A GOOD POINT. YOU CAN'T REALLY CHECK OUR OPINIONS
2 AND OUR LIFE EXPERIENCES AT THE DOOR. WE BRING THEM WITH
3 US.

4 BUT ARE YOU ABLE TO HEAR THE EVIDENCE,
5 LISTEN TO THE INSTRUCTIONS OF THE COURT, AND RENDER AN
6 OPINION IN A FAIR AND IMPARTIAL MANNER IF YOU WERE TO BE
7 SELECTED?

8 PROSPECTIVE JUROR SHIELDS: YES, I THINK I CAN.

9 MR. NEWHOUSE: NO FURTHER QUESTIONS, YOUR HONOR.

10 YOUR HONOR, MY COLLEAGUE JUST POINTED OUT
11 THAT JUROR NO. 7 RAISED HIS HAND. I WASN'T ADDRESSING
12 HIM, BUT I DON'T KNOW WHETHER HE HAS SOMETHING HE WANTS TO
13 BRING TO THE ATTENTION OF THE COURT.

14 PROSPECTIVE JUROR WILLIAMS: I GOT UP HERE BEFORE I
15 GOT AN OPPORTUNITY TO BE ADDRESSED BY THE ATTORNEYS. SO
16 HE'S ADDRESSING THEM, BUT I WAS ASKED UP HERE BEFORE -- I
17 WAS SITTING THERE, SO I NEVER GOT A CHANCE TO BE
18 ADDRESSED.

19 THE COURT: OKAY. GO AHEAD. YOU'VE HEARD ALL OF
20 THE QUESTIONS?

21 PROSPECTIVE JUROR WILLIAMS: YEAH. I GUESS
22 PERTAINING BACK TO YESTERDAY IS THAT I HAVE AN ACTING
23 BACKGROUND. I FORGOT WHICH SIDE BROUGHT UP THE ACTING
24 BACKGROUND. I DO HAVE AN UNDERGRADUATE DEGREE IN ACTING.
25 I ATTEMPTED TO BE AN ACTOR, WORKED IN RESTAURANTS WITH
26 ACTORS, SO I KNOW THAT ACTORS LIKE TO PARTY. I HAVE
27 PARTIED BEFORE. I KNOW THAT THEY DO GO THROUGH GREAT
28 LENGTHS, ACTORS THAT I'VE WORKED WITH. THEY SEEM LIKE

1 THEY WOULD GO THE EXTRA MILE, PLASTIC SURGERY. THEY
2 SEEMED LIKE THEY WERE READY TO DO PLASTIC SURGERY IF IT
3 MEANT THEIR BIG BREAK. I GUESS I FELT LIKE I NEEDED TO
4 BRING THAT UP.

5 MR. NEWHOUSE: COULD I JUST INQUIRE OF THIS JUROR?
6 ONE QUESTION.

7 THE COURT: SURE.

8 MR. NEWHOUSE: IS THERE ANYTHING -- BASED ON WHAT
9 YOU'VE HEARD SO FAR, AND NOW THERE'S BEEN A LOT OF
10 DISCUSSION, ANY REASON WHY YOU DON'T THINK YOU COULD BE A
11 FAIR AND IMPARTIAL JUROR TO BOTH SIDES IN THIS CASE?

12 PROSPECTIVE JUROR WILLIAMS: I GUESS NOT, NO.

13 MR. NEWHOUSE: THANK YOU, YOUR HONOR.

14 MR. BLESSEY: MAY I FOLLOW UP WITH MR. WILLIAMS AND
15 THEN THE OTHER THREE?

16 THE COURT: YES.

17 MR. BLESSEY: YOU MENTIONED THE ACTING BACKGROUND.
18 YOU'VE HEARD SOME SUGGESTION THAT THE DECEDENT WAS SOMEHOW
19 INVOLVED OR WANTING TO BE INVOLVED IN ACTING, CORRECT?

20 PROSPECTIVE JUROR WILLIAMS: YES.

21 MR. BLESSEY: THE FACT THAT YOU KIND OF SHARE THAT
22 INTEREST WITH THE DECEDENT, IS THAT SOMEHOW GOING TO
23 INFLUENCE YOUR THINKING HERE IN THIS CASE?

24 PROSPECTIVE JUROR WILLIAMS: NO, I GUESS NOT, NO,
25 NOT WITHOUT HEARING THE EVIDENCE.

26 MR. BLESSEY: YOU HESITATED. ARE YOU CONFIDENT IN
27 YOUR ANSWER?

28 PROSPECTIVE JUROR WILLIAMS: I GUESS. I DON'T

1 KNOW. I HAVE A TENDENCY TO LUMP ACTORS TOGETHER, I GUESS.

2 MR. BLESSEY: HOW SO?

3 PROSPECTIVE JUROR WILLIAMS: IN THAT THEY ARE A
4 SPECIAL BREED, AND THAT'S WHY I GOT OUT OF ACTING BECAUSE
5 I DON'T LIKE ACTORS. SO I GUESS IT'S -- YEAH, A MATTER OF
6 JUST WHEN I HEAR SOMEBODY IS AN ACTOR, I AUTOMATICALLY
7 THINK OF A CERTAIN MIND-SET AND CERTAIN BEHAVIOR.

8 MR. BLESSEY: OKAY. BUT YOU STILL FEEL YOU CAN BE
9 FAIR AND IMPARTIAL IN THIS CASE, CORRECT?

10 PROSPECTIVE JUROR WILLIAMS: I MEAN, I GUESS SO. I
11 BELIEVE I HAVE TO. NOT WITHOUT -- LIKE I SAID, NOT
12 WITHOUT HEARING THE EVIDENCE, I WOULDN'T KNOW.

13 MR. BLESSEY: THANK YOU VERY MUCH, MR. WILLIAMS.

14 MR. SYCZ?

15 PROSPECTIVE JUROR SYCZ: SYCZ.

16 MR. BLESSEY: I'M SORRY.

17 PROSPECTIVE JUROR SYCZ: THAT'S ALL RIGHT.

18 MR. BLESSEY: YOU'VE HAD SOME EXPERIENCE WITH
19 BEHAVIORAL ISSUES, MEANING EVALUATING BEHAVIOR OF OTHER
20 PEOPLE, CORRECT?

21 PROSPECTIVE JUROR SYCZ: YEAH.

22 MR. BLESSEY: THE POPULATION YOU DEALT WITH?

23 PROSPECTIVE JUROR SYCZ: MAINLY, I DEAL WITH PEOPLE
24 WITH DEVELOPMENTAL DISABILITIES, SPECIFICALLY RIGHT NOW,
25 AUTISM.

26 MR. BLESSEY: ANYTHING ABOUT YOUR TRAINING, YOUR
27 EDUCATION, YOUR EXPERIENCE THAT YOU THINK WOULD MAKE IT
28 DIFFICULT FOR YOU TO SIT HERE AND LISTEN TO THE

1 PSYCHIATRISTS --

2 PROSPECTIVE JUROR SYCZ: NO.

3 MR. BLESSEY: LET ME FINISH. -- WHO ARE GOING TO
4 TESTIFY ABOUT WHETHER OR NOT MS. DE ROGATIS WAS SUICIDAL
5 AT THE TIME THAT SHE SAW DR. SHAINSKY, AND IF NOT, WHEN
6 SHE DEVELOPED THOSE THOUGHTS TO TAKE HER OWN LIFE? ARE
7 YOU WILLING TO SIT HERE AND LISTEN TO THE EXPERT
8 PSYCHIATRISTS THAT ARE GOING TO TESTIFY HERE IN THIS CASE
9 AND NOT BRING INTO YOUR ANALYSIS WHATEVER TRAINING,
10 EDUCATION, BACKGROUND YOU HAVE?

11 PROSPECTIVE JUROR SYCZ: I'M WILLING TO HEAR THEM
12 OUT AND ESPECIALLY HEAR THE EVIDENCE THAT THEY BRING UP
13 AND SEE WHAT KIND OF OBSERVATION THAT I MAKE.

14 MR. BLESSEY: HAVE YOU EVER DEALT WITH THE ISSUE OF
15 SUICIDE WITH YOUR CLIENTELE OR SUICIDE ATTEMPTS?

16 PROSPECTIVE JUROR SYCZ: SUICIDE ATTEMPTS, ONCE.

17 MR. BLESSEY: TELL ME ABOUT THAT.

18 PROSPECTIVE JUROR SYCZ: IT WAS A 15-YEAR-OLD MALE
19 WHO HAD EMOTIONAL DIAGNOSES, AND HE ATTEMPTED TO KILL
20 HIMSELF BY TAKING A WHOLE BOTTLE OF ADVIL. THIS WAS OFF
21 MY WATCH. IT WAS AT THE HOME I WAS WORKING AT.

22 MR. BLESSEY: DID YOU HAVE -- HAD YOU SEEN THIS
23 YOUNG MAN SOON OR JUST PRIOR TO HIS ATTEMPT?

24 PROSPECTIVE JUROR SYCZ: YEAH.

25 MR. BLESSEY: AND DID YOU HAVE ANY INKLING THAT HE
26 WAS ABOUT TO DO WHAT HE DID?

27 PROSPECTIVE JUROR SYCZ: NO.

28 MR. BLESSEY: THANK YOU, SIR.

1 MS. DAVIS, GOOD MORNING.

2 PROSPECTIVE JUROR DAVIS: GOOD MORNING.

3 MR. BLESSEY: YOU ARE OPINIONATED. I'M GOING TO
4 TRY TO GET A SENSE ON WHAT YOUR OPINIONS ARE.

5 PROSPECTIVE JUROR DAVIS: YEAH, I KNOW YOU ARE.

6 MR. BLESSEY: WHAT'S YOUR OPINION ON THIS CASE AS
7 YOU SIT HERE RIGHT NOW?

8 PROSPECTIVE JUROR DAVIS: I THINK SINCE I SPENT 16
9 YEARS AS AN EXECUTIVE IN A DRUG COMPANY AND WATCHED A LOT
10 OF LITIGATION AROUND -- WATCHED A LOT OF ATTEMPTS TO
11 FIND -- I CAN'T QUITE ARTICULATE IT AS WELL AS I THOUGHT I
12 COULD. I DON'T WANT TO USE THE WORD "BLAME" -- BUT ASSIGN
13 RESPONSIBILITY OR ACCOUNTABILITY FOR A TRAGEDY OR AN
14 ADVERSE EVENT TO EITHER A PHARMACEUTICAL COMPANY WITH DEEP
15 POCKETS, A PHYSICIAN, AS REPRESENTED BY MALPRACTICE
16 INSURANCE, SOME POCKET, ET CETERA. SO I WATCHED A LOT OF
17 THAT HAPPEN.

18 SO FOR ME IT'S QUITE DIFFICULT TO
19 UNDERSTAND -- TO DRAW THE LINE BETWEEN -- IT'S VERY
20 DIFFICULT. THIS IS SO OUT OF CONTEXT, IT'S VERY
21 DIFFICULT. I DON'T UNDERSTAND. THERE'S SO MUCH OF IT I
22 DON'T UNDERSTAND THAT IT'S VERY HARD FOR ME NOT TO LET MY
23 OPINIONS FLOW INTO MY BRAIN WHEN I HEAR ALL OF YOU SPEAK
24 ABOUT IT BECAUSE I THINK BACK TO MY EXPERIENCE IN A DRUG
25 COMPANY AND SOME OF THE LITIGATION THAT CAME FORWARD THAT
26 AT TIMES SEEM PREPOSTEROUS TO ME, BUT AT OTHER TIMES
27 SEEMED REASONABLE. I DIDN'T ANSWER YOUR QUESTION, DID I?
28 I'M SORRY.

1 MR. BLESSEY: YOU DID ACTUALLY. THANK YOU.

2 LET ME ASK YOU, ANY OF YOUR PHYSICIANS
3 RELATED TO THE DRUG COMPANIES OR ANY OF THE MANUFACTURERS
4 YOU DEALT WITH MANUFACTURE TRAMADOL?

5 PROSPECTIVE JUROR DAVIS: NO.

6 MR. BLESSEY: HOW ABOUT LUNESTA?

7 PROSPECTIVE JUROR DAVIS: NO.

8 MR. BLESSEY: HOW ABOUT SEROQUEL?

9 PROSPECTIVE JUROR DAVIS: IS THAT THE GENERIC NAME
10 OR THE BRAND NAME?

11 MR. BLESSEY: THAT'S A GENERIC [SIC] NAME.

12 PROSPECTIVE JUROR DAVIS: I DON'T KNOW, THEN. I
13 DON'T REMEMBER ALL OF THEM.

14 MR. BLESSEY: HOW ABOUT AMBIEN?

15 PROSPECTIVE JUROR DAVIS: NO.

16 MR. BLESSEY: HOW ABOUT NORCO?

17 PROSPECTIVE JUROR DAVIS: I DON'T THINK SO. I
18 THINK THAT'S AVAILABLE OVER THE COUNTER IN EUROPE, ISN'T
19 IT?

20 MR. BLESSEY: I DON'T KNOW ABOUT IN EUROPE.

21 PROSPECTIVE JUROR DAVIS: I WORKED FOR A EUROPEAN
22 COMPANY. THAT'S WHY I WAS --

23 MR. BLESSEY: SO AS YOU SIT HERE RIGHT NOW, YOU'VE
24 GOT SOME BACKGROUND IN THIS AREA, BUT YOU FEEL THAT YOU
25 CAN BE FAIR AND IMPARTIAL? LET ME ASK YOU A DIFFERENT
26 QUESTION.

27 PROSPECTIVE JUROR DAVIS: OKAY.

28 MR. BLESSEY: AS FAR AS YOU'RE CONCERNED RIGHT NOW,

1 YOU HAVEN'T HEARD ANY EVIDENCE AT ALL, NOT ONE WITNESS HAS
2 TAKEN THE STAND -- IT'S GOING TO HAPPEN SOON, I HOPE --
3 BUT IS EITHER PARTY IN YOUR MIND STARTING OUT IN THIS CASE
4 RIGHT NOW WITH NO EVIDENCE A LITTLE BIT AHEAD OF THE
5 OTHER?

6 PROSPECTIVE JUROR DAVIS: (NO AUDIBLE RESPONSE.)

7 MR. BLESSEY: YOU'RE NODDING YOUR HEAD "YES."

8 PROSPECTIVE JUROR DAVIS: I'M SAYING "YES."

9 MR. BLESSEY: TELL ME WHAT YOU ARE FEELING IN THAT
10 REGARD. WHO IS THE PARTY YOU THINK IS AHEAD?

11 PROSPECTIVE JUROR DAVIS: DO I HAVE TO?

12 THE COURT: I'M SORRY. WHAT'S THE --

13 PROSPECTIVE JUROR DAVIS: DO I HAVE TO?

14 THE COURT: YES.

15 PROSPECTIVE JUROR: I HAVE DAUGHTERS AND I FEEL
16 UNCOMFORTABLE SAYING THIS, BUT BASED ON MY EXPERIENCE, I
17 FEEL CONCERNED FOR THE PHYSICIAN. I FEEL CONCERN FOR HER.

18 MR. BLESSEY: THANK YOU FOR THAT. I HAVE
19 DAUGHTERS, TOO. I THINK A LOT OF US IN THIS COURTROOM
20 HAVE DAUGHTERS, AND WE UNDERSTAND WHAT YOU'RE SAYING.
21 THANK YOU.

22 MR. SHIELDS, GOOD MORNING, SIR.

23 PROSPECTIVE JUROR SHIELDS: GOOD MORNING.

24 MR. BLESSEY: LET ME ASK YOU A TAKE-OFF ON THE
25 COMMENT YOU MADE, THE KNEE-JERK, YOU KNOW, THE PAYBACK.
26 YOU SAID THAT WAS HALF SERIOUS OR A HALF GESTURE.
27 REMEMBER THAT COMMENT?

28 PROSPECTIVE JUROR SHIELDS: YES.

1 MR. BLESSEY: WHAT DO YOU MEAN? TELL ME WHICH HALF
2 YOU'RE REALLY THINKING ABOUT.

3 PROSPECTIVE JUROR SHIELDS: WELL, I WAS PRESCRIBED
4 LUNESTA. I TOOK THE PRESCRIBED AMOUNT. I HAD AN OVERDOSE
5 TO IT. I HAD TO GO TO THE EMERGENCY ROOM AND I ALMOST
6 DIED.

7 MR. BLESSEY: OKAY. I'M SORRY ABOUT THAT.

8 IF YOU HEAR THAT SOME OTHER PHYSICIAN, NOT
9 DR. SHAINSKY, PRESCRIBED LUNESTA IN THIS CASE AND IT WAS
10 FOUND TO BE AT TOXIC LEVELS IN HER BLOODSTREAM AT THE TIME
11 OF THE AUTOPSY, WOULD THAT SOMEHOW INFLUENCE YOUR THINKING
12 IN THIS CASE, BASED ON YOUR --

13 PROSPECTIVE JUROR SHIELDS: ABSOLUTELY. IT'S A
14 DANGEROUS DRUG.

15 MR. BLESSEY: DO YOU RECOGNIZE THE NAMES OF THE
16 OTHER DRUGS? LET'S GO THROUGH THEM TOGETHER.

17 TRAMADOL, DO YOU HAVE ANY EXPERIENCE WITH
18 THAT?

19 PROSPECTIVE JUROR SHIELDS: NO.

20 MR. BLESSEY: HOW ABOUT AMBIEN?

21 PROSPECTIVE JUROR SHIELDS: YEAH.

22 MR. BLESSEY: WHAT'S YOUR KNOWLEDGE ABOUT AMBIEN?

23 PROSPECTIVE JUROR SHIELDS: AMBIEN IS VERY SIMILAR
24 TO LUNESTA. IT'S A SLEEPING PILL. CHEMICALLY, IT'S
25 ALMOST THE SAME. I'VE BEEN PRESCRIBED AMBIEN, ALSO.

26 MR. BLESSEY: ANY ADVERSE REACTIONS TO IT?

27 PROSPECTIVE JUROR SHIELDS: NOT TO AMBIEN.

28 MR. BLESSEY: HOW ABOUT SEROQUEL?

1 PROSPECTIVE JUROR SHIELDS: I'M NOT FAMILIAR WITH
2 THAT.

3 MR. BLESSEY: AND NORCO?

4 PROSPECTIVE JUROR SHIELDS: NORCO IS AN OPIATE, I
5 THINK.

6 MR. BLESSEY: EVER PRESCRIBED FOR YOU?

7 PROSPECTIVE JUROR SHIELDS: YES.

8 MR. BLESSEY: ANY ADVERSE REACTIONS TO THAT?

9 PROSPECTIVE JUROR SHIELDS: IT DOES SUPPRESS YOUR
10 RESPIRATION. I COULD SEE HOW SOMEONE COULD DIE FROM THAT.

11 MR. BLESSEY: ON THAT SCORE, LET ME JUST ASK YOU,
12 IT SOUNDS LIKE -- YOU'RE AN ENGINEER, AND YOU OBVIOUSLY
13 LIKE TO ANALYZE THINGS. THERE ARE GOING TO BE A NUMBER OF
14 EXPERTS THAT COME INTO THIS COURTROOM AND TESTIFY ABOUT
15 WHICH DRUGS CAUSED THE DEATH IN THIS CASE, OKAY? DO YOU
16 BELIEVE THAT YOU WOULD BE ABLE TO SIT THERE AND SET ASIDE
17 WHATEVER KNOWLEDGE YOU HAVE ABOUT THESE MEDICATIONS,
18 INCLUDING LUNESTA, AND EVALUATE THE CREDIBILITY OF THOSE
19 EXPERTS WHO ARE GOING TO OPINE ON WHICH DRUGS CAUSED THE
20 DEATH IN THIS CASE? DO YOU THINK YOU COULD DO THAT?

21 PROSPECTIVE JUROR SHIELDS: YEAH, I COULD DO THAT.

22 MR. BLESSEY: LET ME JUST ASK YOU ONE MORE
23 QUESTION, SAME QUESTION I ASKED MS. DAVIS.

24 AS YOU SIT HERE RIGHT NOW, NOT HAVING HEARD
25 ANY EVIDENCE AT ALL, IS EITHER PARTY STARTING OUT A LITTLE
26 BIT AHEAD IN YOUR MIND?

27 PROSPECTIVE JUROR SHIELDS: WELL, JUST IN A LEGAL
28 SENSE, THE DEFENDANT, I GUESS, IN MY OPINION, SHOULD BE

1 STARTING OUT AHEAD. THE BURDEN OF PROOF IS ON THE
2 PROSECUTION.

3 MR. BLESSEY: VERY GOOD. THANK YOU.

4 YOUR HONOR, NOTHING FURTHER.

5 THE COURT: PASS FOR CAUSE?

6 MR. NEWHOUSE: COULD WE BE HEARD AT SIDEBAR, YOUR
7 HONOR?

8 THE COURT: ALL RIGHT. LET'S DO IT IN CHAMBERS.

9 LADIES AND GENTLEMEN, IF YOU'D LIKE TO STAND
10 UP AND STRETCH, YOU MAY.

11
12 (THE FOLLOWING PROCEEDINGS WERE HELD
13 IN CHAMBERS WITH ALL COUNSEL:)

14
15 THE COURT: WE'RE IN CHAMBERS WITH COUNSEL ON THE
16 RECORD.

17 YES, SIR?

18 MR. NEWHOUSE: YOUR HONOR, THIS HAS JUST BEEN ONE
19 OF THESE SITUATIONS WHERE A NUMBER OF MISTAKES HAVE
20 OCCURRED.

21 UNFORTUNATELY -- AND I MISSED IT, BUT YOU'RE
22 RIGHT -- NONE OF US HAVE HAD A CHANCE TO VOIR DIRE
23 MR. WILLIAMS. WE BELIEVE THAT MR. WILLIAMS SHOULD BE
24 CHALLENGED FOR BECAUSE HE CLEARLY DOESN'T WANT TO SIT ON
25 THIS JURY. HE SAYS HE DOESN'T LIKE ACTORS. HE'S
26 INDICATED THAT MIGHT MAKE HIM INCLINED TO, I THINK, FAVOR
27 THE DEFENDANT.

28 I DON'T HAVE ANY -- I DIDN'T HAVE ANY

1 PEREMPTORIES LEFT, BUT ON THE -- ON THE OTHER HAND, WE
2 ALSO PUT HIM IN THE BOX BEFORE WE REALLY COMPLETED THE
3 PROCEDURE. I JUST WANTED TO PROTECT MY RECORD, MAKE A
4 MOTION TO EXCUSE HIM FOR CAUSE. WE CAN TALK ABOUT THE
5 ALTERNATES. WE CAN TALK ABOUT WHAT WE'RE GOING TO DO WITH
6 THE ALTERNATES, BUT THERE IS A PROBLEM WITH MR. WILLIAMS.

7 THE COURT: WHOSE PROBLEM IS IT?

8 MR. NEWHOUSE: WELL, I MEAN --

9 THE COURT: I LOOK AT THIS -- I KNOW WHAT YOU'RE
10 TALKING ABOUT BECAUSE I THOUGHT THE SAME THING. BUT I'M
11 ALSO THINKING YOU'RE A LAWYER WHO'S BEEN AROUND, DONE A
12 LOT OF TRIALS. SAME WITH DEFENSE COUNSEL, HE'S DONE A LOT
13 HAVE TRIALS.

14 WHETHER IT WAS IN HASTE OR OTHERWISE, I LOOK
15 AT THIS AS ALMOST INVITED ERROR. THERE'S ONLY SO MUCH THE
16 COURT CAN DO. AND, YOU KNOW, I CAN'T THINK ON YOUR BEHALF
17 AND IN HIS BEHALF AND ON MY OWN BEHALF. I RECOGNIZE
18 SOMETIMES THAT THINGS HAPPEN AND IT'S NOT ALWAYS PERFECT.
19 YOU KNOW, YOU EXERCISED TWO PEREMPTORIES AND BASICALLY
20 SAID THAT YOU'RE GOING TO DO IT, LEAVING MR. WILLIAMS, AND
21 YOU NEVER BROUGHT IT TO MY ATTENTION, WHICH IS UNFORTUNATE
22 THAT YOU HADN'T PASSED FOR CAUSE, NOR HAD YOU IN REGARDS
23 TO MR. WILLIAMS.

24 BUT, YOU KNOW, THE OTHER SIDE OF ME SAYS
25 "LOOK, JUDGE, WE'RE HERE FOR FAIRNESS. WE'RE HERE TO DO
26 THE RIGHT THING." AND I GO BACK AND I THINK, EVEN IF I
27 HAD TO GET A WHOLE NEW PANEL AND START ALL OVER AGAIN
28 TOMORROW, I'D HATE TO DO IT BECAUSE I THINK WE'VE GOT, YOU

1 KNOW, A GOOD GROUP OF PEOPLE. I'M JUST --

2 MR. BLESSEY: YOU KNOW, I DON'T WANT TO MAKE THIS
3 MORE COMPLICATED. WE HAVE ISSUES WITH THE ALTERNATES AS
4 WELL. IF MR. WILLIAMS GOES, I SUSPECT WE'RE GOING TO RUN
5 OUT OF THE ALTERNATES.

6 THE COURT: I'VE GOT THE NO. 1 CLERK IN THE WORLD.
7 YOU KNOW THAT.

8 MR. BLESSEY: I KNOW THAT.

9 THE COURT: AND YOU'LL SOON LEARN, CINDY IS
10 WONDERFUL, BEEN WITH THE COUNTY SINCE HIGH SCHOOL. SHE
11 GAVE ME A NOTE THAT SAID THE JURY HAS GOTTEN SOME
12 ADDITIONAL JITTERS. LIKE I SAID, I'M NOT IN A RUSH FOR
13 JUDGMENT. I WANT TO DO IT THE RIGHT WAY AND BE FAIR TO
14 BOTH SIDES AND GET A JURY WE CAN LIVE WITH AND GET
15 ALTERNATES. AND IF NEED BE, YOU KNOW, LIKE I SAID, IF I
16 HAD TO UNDO THE WHOLE THING BECAUSE OF A SCREW-UP, THAT
17 WASN'T CAUSED BY THE COURT.

18 MR. NEWHOUSE: IT IS WHAT IT IS, YOUR HONOR. LET
19 ME SAY THIS: WE DO NOT WANT TO HAVE TO GO BACK AND THROW
20 THIS OUT AND START OVER. THAT'S A WASTE OF THE COURT'S
21 TIME AND A WASTE OF ALL COUNSELS' TIME.

22 BUT IN LIGHT OF THE FACT THAT MS. DAVIS
23 CLEARLY IS A CHALLENGE FOR CAUSE AND THE PEREMPTORIES --
24 THAT WOULD LEAVE US WITH TWO. AND ASSUMING NO ONE ELSE
25 EXERCISES A PEREMPTORY, IT STRIKES ME WE'RE GOING TO NEED
26 TO BRING IN ADDITIONAL JURORS. OUR POSITION WOULD BE
27 MR. WILLIAMS SHOULD BE EXCUSED FOR CAUSE. WE CAN BRING IN
28 SIX MORE JURORS. WE CAN FAIRLY --

1 THE COURT: I THINK SHE SAID, "A FEW MORE." THAT
2 MEANS LIKE THREE OR FOUR. THAT'S ABOUT ALL I COULD GET.
3 YOU KNOW, I HAVE TO START THIS ALL OVER AGAIN, WHICH, YOU
4 KNOW, THAT'S NO PROBLEM. IF WE DON'T START THE CASE WITH
5 OUR FIRST WITNESS UNTIL TOMORROW, SO BE IT. IF I HAVE TO
6 LET 12 OF THEM GO HOME AND WE'LL JUST WORK ON THE
7 PEREMPTORIES -- I DON'T WANT TO KEEP THEM AROUND WHILE
8 WE -- NOT THE PEREMPTORIES, BUT THE ALTERNATES -- SO BE
9 IT. WE JUST -- YOU KNOW, WHAT'S A DAY OR TWO IF WE'RE
10 LOOKING FOR JUSTICE? YOU KNOW, YOU LOOK AT, YOU KNOW,
11 CASES DOWNTOWN, AND THEY CAN SPEND SIX MONTHS ON A CASE
12 THAT SHOULD HAVE PROBABLY TAKEN, YOU KNOW, TWO MONTHS.
13 BUT YOU KNOW, THAT'S JUST LIFE. SO I RESPECT WHAT YOU'RE
14 SAYING, AND I RESPECT WHAT MR. BLESSEY IS SAYING.

15 I'LL BE CANDID WITH YOU. I'M SPEAKING AND
16 SOMETIMES THEY SAY, "JUDGE, JUST SHUT UP AND DON'T SAY
17 ANYTHING BECAUSE YOU'RE JUST KICKING YOURSELF IN A HOLE."

18 BUT, YOU KNOW, IF MR. WILLIAMS HADN'T SAID
19 WHAT HE SAID, IT KIND OF WORKS BOTH WAYS. YOU KNOW, HE'S
20 AN ACTOR AND/OR A FORMER ACTOR AND KNOWS WHAT ACTORS DO.
21 BUT THE FACT OF THE MATTER IS, PERHAPS THE DEFENDANT
22 SHOULD HAVE RECOGNIZED THAT, YOU KNOW, THE DECEDENT WAS AN
23 ACTOR. BUT, YOU KNOW, HE ALSO IDENTIFIES WITH ACTORS, THE
24 IMPULSIVE NATURE OF ACTORS.

25 MR. BLESSEY: I DON'T KNOW, YOUR HONOR, IF HE SAID
26 ANYTHING THAT WOULD RISE TO THE LEVEL OF EXCUSING HIM FOR
27 CAUSES. I ASKED HIM AT THE END OF HIS -- HE JUST --
28 BASICALLY, I THINK HE WAS SHARING HIS BACKGROUND WITH

1 EVERYBODY SO WE KNEW. I DON'T THINK HE SAID THAT HE COULD
2 NOT BE FAIR AND IMPARTIAL. THAT WAS MY RECOLLECTION, BUT
3 I COULD BE WRONG.

4 MR. NEWHOUSE: I WOULD ASK THIS, YOUR HONOR: HOW
5 IS THIS: I WOULD AT LEAST ASK THE COURT TO GO BACK AND
6 CONDUCT A FEW LIMITED QUESTIONS AND AT LEAST ELICIT FROM
7 MR. WILLIAMS A COMMITMENT THAT HE CAN BE FAIR AND
8 IMPARTIAL. HE'S NOT MY IDEAL JUROR, TO BE CANDID WITH
9 YOU. IF HE SAYS HE COULD BE FAIR AND IMPARTIAL, THEN WE
10 CAN LIVE WITH HIM, AND WE'LL HAVE TO. WE STILL HAVE TO
11 DEAL WITH THE PROBLEM OF RUNNING OUT OF ALTERNATES.

12 THE COURT: OF THE THREE, I AGREE, MS. DAVIS IS AN
13 ISSUE. SHE'S VERY OPINIONATED.

14 MR. BLESSEY: I'D LOVE TO HAVE HER, YOUR HONOR.

15 THE COURT: I UNDERSTAND THAT SHE WORKED FOR A DRUG
16 COMPANY. I CAN UNDERSTAND THAT.

17 MR. SHIELDS HAS HIS ISSUES.

18 MR. BLESSEY: HE DOES.

19 THE COURT: WHAT IF I WERE TO DO THIS, WITH YOUR
20 CONCURRENCE: JUROR NO. 16, SYCZ --

21 MR. NEWHOUSE: SYCZ.

22 MS. MC BROOM: SYCZ.

23 THE COURT: -- USE HIM IN PLACE OF WILLIAMS?

24 MR. BLESSEY: I WAS GOING TO USE MY PEREMPTORY ON
25 HIM.

26 THE COURT: YOU DON'T HAVE ANY MORE PEREMPTORIES.

27 MR. BLESSEY: AS AN ALTERNATE.

28 THE COURT: OH, YOU WOULD USE YOUR -- I SEE.

1 MR. NEWHOUSE: WE ENDORSE THAT SUGGESTION, JUDGE.

2 THE COURT: ALL RIGHT. WELL --

3 MR. NEWHOUSE: CAN I ASK COUNSEL IF YOU'RE GOING TO
4 STRIKE MR. SYCZ? AND WE THINK MS. DAVIS SHOULD BE
5 EXCUSED. THEN WE NEED TO GET MORE --

6 THE COURT: WE NEED TO GET MORE ANYHOW.

7 MR. BLESSEY: THAT'S A GIVEN.

8 THE COURT: AT THIS POINT WHAT IF I WERE TO GET, I
9 GUESS -- LET ME JUST GET AS MANY ALTERNATES AS I CAN. I
10 JUST HATE TO HAVE ALL THESE JURORS GIVING UP THEIR TIME TO
11 THE COURT AND SITTING HERE FOR THE NEXT 3 HOURS OR 2 HOURS
12 AS WE GO THROUGH ALL THIS.

13 MR. NEWHOUSE: SEND THEM HOME.

14 MR. BLESSEY: DO THEY HAVE TO STAY HERE FOR THAT?

15 THE COURT: NO. I CAN EXCUSE THEM, HAVE THEM COME
16 BACK TOMORROW, AND GET THIS THING GOING. THAT MEANS
17 MR. WILLIAMS, I'VE GOT TO DEAL WITH HIM, YOU KNOW.

18 MR. BLESSEY: THAT SEEMS LIKE WITH ALL -- IF I CAN
19 SUGGEST THAT WOULD BE THE FIRST ORDER OF BUSINESS, WOULD
20 TO DEAL WITH HIM, SEE IF HE, AS COUNSEL SUGGESTS,
21 UNDERSTANDS YOUR QUESTIONING.

22 THE COURT: I'LL LET BOTH OF YOU HAVE LIMITED
23 QUESTIONING.

24 MR. NEWHOUSE: GOOD.

25 MR. BLESSEY: ARE WE GOING TO DO IT IN CHAMBERS
26 WITH MR. WILLIAMS?

27 THE COURT: WE'LL DO IT OUT IN THE -- LET ME JUST
28 FIND OUT HOW MANY I CAN GET. KNOCK ON THE DOOR. JUST ASK

1 CINDY TO COME IN, AND I'LL ASK HER HOW MANY JURORS I CAN
2 GET.

3 CINDY, DO YOU HAVE ANY IDEA?

4 THE CLERK: TEN. WE COULD HAVE MORE, BUT THEY'RE
5 WAITING TO SEE IF MONETTE IS GOING TO SETTLE.

6 THE COURT: ALL RIGHT. THAT'S A MISDEMEANOR CASE.
7 THIS IS HIGHER PRIORITY. WHAT I'M ALMOST THINKING ABOUT
8 IS PERHAPS GETTING SIX TO COME DOWN HERE.

9 AND, YOU KNOW, I SHOULD ALSO TELL YOU, CAN
10 WE ONLY HAVE ONE REPRESENTATIVE OF THE FAMILY AT COUNSEL
11 TABLE? IT GETS KIND OF CROWDED FOR YOU BACK AND FORTH.

12 MR. BLESSEY: FOR ME, TOO.

13 THE COURT: WHAT I WAS THINKING WAS TO PUT THEM IN
14 THE FRONT ROW AND USE OUR VOIR DIRE THAT WAY AND JUST OPEN
15 UP VOIR DIRE TO THE SIX AND SEE WHERE WE'RE AT, AND THAT
16 MEANS WE'D HAVE NINE.

17 MR. NEWHOUSE: YES.

18 THE COURT: AND THEN WE'LL DEAL IN THE MEANTIME
19 WITH MR. WILLIAMS AND COME BACK IN CHAMBERS AFTER WE ASK
20 HIM A FEW QUESTIONS, UNLESS YOU FEEL MORE COMFORTABLE
21 DOING IT IN CHAMBERS.

22 MR. BLESSEY: EITHER WAY IS FINE WITH ME.

23 MR. NEWHOUSE: I WOULD FEEL MORE COMFORTABLE DOING
24 IT IN CHAMBERS WITH JUST THAT ONE JUROR, BUT I DON'T HAVE
25 STRONG FEELINGS, YOUR HONOR. WHATEVER WORKS FOR THE
26 COURT.

27 THE COURT: LET'S DO IT IN OPEN COURT. I DON'T
28 HAVE THE ROOM FOR ALL THIS. OKAY. ALL RIGHT. WHY DON'T

1 YOU GET SIX IF YOU CAN.

2 THE CLERK: JUST SIX?

3 THE COURT: JUST SIX.

4

5 (THE FOLLOWING PROCEEDINGS WERE HELD
6 IN OPEN COURT, IN THE PRESENCE OF
7 THE JURY AND PROSPECTIVE
8 ALTERNATES:)

9

10 THE COURT: BACK ON THE RECORD IN OPEN COURT.

11 WE DID HAVE A CONVERSATION IN CHAMBERS ON
12 THE RECORD.

13 MS. DAVIS, I'M GOING TO EXCUSE YOU AT THIS
14 TIME. THANK YOU VERY MUCH, AND YOU CAN RETURN TO THE JURY
15 ASSEMBLY ROOM.

16 MR. WILLIAMS, I'VE GOT A FEW ADDITIONAL
17 QUESTIONS. YOU BROUGHT UP IN OPEN COURT HERE ABOUT YOUR
18 PRIOR ACTING CAREER AND WHAT YOU KNOW OF ACTORS AND SO ON.
19 I DON'T KNOW AND I CAN'T PREDICT WHO YOU -- BECAUSE I JUST
20 GOT THE CASE YESTERDAY OR THE DAY BEFORE YESTERDAY, AND I
21 DON'T KNOW WHAT THE WITNESSES ARE GOING TO SAY, NOR CAN, I
22 THINK, A JUROR PREDICT WHAT ANY OF THEM ARE GOING TO SAY.
23 AND THE LAWYERS KNOW A LOT MORE ABOUT IT BECAUSE THEY HAVE
24 DONE DISCOVERY THROUGH DEPOSITIONS AND SO ON OF EXPERTS.

25 IT'S IMPORTANT THAT WE JUDGE THIS CASE ON
26 ITS MERITS IN THE COURTROOM. CAN YOU SET ASIDE WHAT YOU
27 KNOW OR YOUR EXPERIENCES WITH ACTORS AND JUDGE THIS CASE
28 ON THE MERITS OF THIS CASE IN THIS COURTROOM THROUGH THE

1 WITNESSES THAT WILL BE CALLED TO THE WITNESS STAND?

2 PROSPECTIVE JUROR WILLIAMS: WELL, MY FEAR IS THAT
3 I'M NOT GOING TO BE ABLE TO HEAR TESTIMONY OF THE
4 DECEASED, SO I WILL NOT -- THE ONLY WAY I WILL KNOW HER IS
5 THROUGH TESTIMONY OF OTHER PEOPLE --

6 THE COURT: THAT'S TRUE.

7 PROSPECTIVE JUROR WILLIAMS: -- AND NOT KNOWING HER
8 HERSELF.

9 THE COURT: THAT'S TRUE.

10 PROSPECTIVE JUROR WILLIAMS: SO THAT, I FEEL LIKE I
11 HAVE A PROBLEM WITH.

12 THE COURT: THAT WOULD BE THE CASE IN ANY WHAT WE
13 CALL A WRONGFUL DEATH CASE, YOU KNOW, WHERE YOU DON'T HAVE
14 THE PERSON IN COURT.

15 PROSPECTIVE JUROR WILLIAMS: RIGHT.

16 THE COURT: AND THAT, OBVIOUSLY, IS SOMETHING THAT
17 THE LAWYERS ARE GOING TO PORTRAY THROUGH A PICTURE TO YOU
18 AND YOUR FELLOW JURORS. YOU UNDERSTAND THAT?

19 PROSPECTIVE JUROR WILLIAMS: YES.

20 THE COURT: WE WOULDN'T WANT YOU TO SPECULATE ABOUT
21 SOMETHING. WE WANT YOU TO JUDGE THIS CASE BASED STRICTLY
22 ON THE MERITS AND, OBVIOUSLY, THE DECEDENT, WHICH IS GOING
23 TO BE IN GRAPHIC DETAIL FOR ALL THE JURORS. COULD YOU DO
24 THAT WITHOUT LETTING YOUR PAST EXPERIENCE COLOR YOUR
25 OPINION ON THIS CASE?

26 PROSPECTIVE JUROR WILLIAMS: SEE, I'M -- I'M AFRAID
27 I MIGHT BE NOT BE ABLE TO BECAUSE I'M NOT GOING TO BE ABLE
28 TO HEAR HER SPEAK.

1 THE COURT: WELL, THAT'S TRUE OF ALL THE OTHER
2 JURORS, TOO, RIGHT?

3 PROSPECTIVE JUROR WILLIAMS: RIGHT.

4 THE COURT: YOU'RE ALL IN THE SAME BOAT.

5 PROSPECTIVE JUROR: YEAH.

6 THE COURT: SO HEARING THAT, COULD YOU BE FAIR AND
7 IMPARTIAL TO BOTH SIDES? THAT'S ULTIMATELY WHAT WE'RE
8 ASKING YOU AND BASE YOUR DECISION ON WHAT YOU HEAR IN THIS
9 COURTROOM, ALONG WITH 11 OTHER JURORS?

10 PROSPECTIVE JUROR WILLIAMS: YEAH, I BELIEVE SO,
11 YES.

12 THE COURT: OKAY. COUNSEL, YOU MAY INQUIRE.

13 MR. NEWHOUSE: THANK YOU, YOUR HONOR.

14 MR. WILLIAMS, WE, AGAIN, VERY MUCH
15 APPRECIATE YOUR HONESTLY AND YOUR CANDOR. IT'S VERY
16 IMPORTANT.

17 THE JUDGE JUST ASKED YOU THAT LAST QUESTION
18 ABOUT WHETHER YOU COULD PUT ASIDE FEELINGS ABOUT ACTORS,
19 ACTRESSES, AND THERE ARE OTHER ISSUES IN THIS CASE. YOU
20 PAUSED A VERY LONG TIME BEFORE YOU ANSWERED THAT YOU COULD
21 BE FAIR AND IMPARTIAL.

22 I TAKE IT YOU HAVE CONCERNS, DO YOU NOT,
23 ABOUT YOUR ABILITY TO BE, AS THE OATH THE OTHER JURORS
24 HAVE TAKEN, TO BE FAIR AND IMPARTIAL IN THIS CASE? YOU
25 HAVE DOUBTS ABOUT THAT, CORRECT?

26 PROSPECTIVE JUROR WILLIAMS: YES. I GUESS MY
27 BIGGEST DOUBT IS WHAT YOU GUYS DON'T KNOW ABOUT THE
28 DECEASED PERSONALLY, ABOUT WHAT THE DOCTOR DOESN'T KNOW,

1 ABOUT WHAT HER PARENTS DON'T KNOW, THE THINGS THAT SHE DID
2 ON HER OWN TIME ASIDE FROM BOTH PARTIES.

3 AND SO LIKE I SAID, I MEAN, OBVIOUSLY, NONE
4 OF US ARE GOING TO BE ABLE TO SPEAK TO HER. WE'RE NOT
5 GOING TO HEAR WHAT SHE HAS TO SAY. IT'S THOSE TIMES WHEN
6 SHE'S OUT AND ABOUT WITH FRIENDS AND WHATNOT THAT WE'RE
7 NOT GOING TO BE ABLE TO KNOW. AND I GUESS WITHOUT KNOWING
8 HER, YOU KNOW, WE'RE NEVER GOING TO KNOW, YOU KNOW -- I'M
9 NEVER GOING TO BE ABLE TO FORM AN OPINION EITHER WAY ABOUT
10 THE DECEASED.

11 MR. NEWHOUSE: DO YOU UNDERSTAND, MR. WILLIAMS,
12 AGAIN, THIS IS A CIVIL CASE? --

13 PROSPECTIVE JUROR WILLIAMS: RIGHT.

14 MR. NEWHOUSE: -- IT'S NOT A CRIMINAL CASE, AND WE
15 DON'T HAVE TO PROVE OUR CASE BEYOND A REASONABLE DOUBT?

16 PROSPECTIVE JUROR WILLIAMS: YES.

17 MR. NEWHOUSE: WE SIMPLY HAVE TO MAKE IT MORE
18 LIKELY THAN NOT THAT CERTAIN ELEMENTS HAVE BEEN
19 ESTABLISHED.

20 SO DO YOU UNDERSTAND THAT IN UNDERTAKING
21 YOUR DUTIES AS A JUROR, IT'S NOT INCUMBENT UPON YOU --
22 IT'S NOT NECESSARY FOR YOU OR ANY OF YOUR FELLOW JURORS TO
23 BE 100 PERCENT CERTAIN OF ANY PROPOSITION? DO YOU
24 UNDERSTAND THAT?

25 PROSPECTIVE JUROR WILLIAMS: OKAY.

26 MR. NEWHOUSE: SO I APPRECIATE THE DIFFICULTY THAT
27 YOU'RE EXPRESSING, BUT AS THE JUDGE CORRECTLY POINTED OUT,
28 IT'S A BURDEN THAT ALL OF THE JURORS ARE GOING TO SHARE,

1 WHICH IS DRAWING INFERENCES BASED UPON THE EVIDENCE THAT
2 THEY'RE GOING TO HEAR THERE ON THE WITNESS STAND AND THE
3 DOCUMENTS IN THE CASE AND MAKING A REASONABLE DECISION
4 BASED UPON THAT EVIDENCE. AND CERTAINTY IS NOT REQUIRED.
5 DO YOU UNDERSTAND THAT?

6 PROSPECTIVE JUROR WILLIAMS: OKAY.

7 MR. NEWHOUSE: LET ME ASK YOU ABOUT YOUR STATEMENT.
8 YOU SAID YOU DID SOME ACTING?

9 PROSPECTIVE JUROR WILLIAMS: YES.

10 MR. NEWHOUSE: AND DID YOU INDICATE THAT ONE OF THE
11 REASONS YOU GOT OUT OF THE ACTING FIELD WAS THAT, FRANKLY,
12 YOU DIDN'T CARE FOR ACTORS VERY MUCH?

13 PROSPECTIVE JUROR WILLIAMS: RIGHT.

14 MR. NEWHOUSE: AND YOU'VE ALREADY HEARD FROM THE
15 VOIR DIRE, AND THERE WILL BE EVIDENCE, ABOUT TARA BEING AN
16 ASPIRING ACTRESS?

17 PROSPECTIVE JUROR WILLIAMS: YES.

18 MR. NEWHOUSE: DO I UNDERSTAND YOU TO SAY THAT
19 KNOWING THAT FACT WOULD MAKE YOU, AT LEAST COMING OUT OF
20 THE BOX, THE CASE STARTING, A LITTLE BIT LESS INCLINED TO
21 SIDE WITH THE PLAINTIFF BECAUSE YOU DON'T REALLY LIKE
22 ACTORS; IS THAT A FAIR STATEMENT?

23 PROSPECTIVE JUROR WILLIAMS: I GUESS, YES.

24 MR. NEWHOUSE: IS IT FAIR TO SAY THAT, ALTHOUGH,
25 AGAIN, NOT TO REPEAT OURSELVES, NO ONE HAS HEARD ANY
26 EVIDENCE YET, BUT THAT AS THE CASE STARTS OFF, YOU'RE MORE
27 INCLINED TO FAVOR THE DEFENDANT THAN YOU ARE THE
28 PLAINTIFF, JUST AS SITTING WHERE YOU ARE TODAY WITHOUT ANY

1 EVIDENCE BEING PRESENTED?

2 PROSPECTIVE JUROR WILLIAMS: YES.

3 MR. NEWHOUSE: NO FURTHER QUESTIONS, YOUR HONOR.

4 THE COURT: DEFENSE?

5 MR. BLESSEY: MR. WILLIAMS, YOU UNDERSTAND THAT THE
6 ISSUES IN THIS CASE ARE NOT JUDGING THE DECEDENT IN THIS
7 CASE? DO YOU UNDERSTAND THAT?

8 PROSPECTIVE JUROR WILLIAMS: YES.

9 MR. BLESSEY: AND YOU UNDERSTAND THAT WHAT WE'RE
10 DEALING WITH IN THIS CASE IS WHETHER OR NOT DR. SHAINSKY'S
11 CARE AND TREATMENT OF MS. DE ROGATIS UNDER THE
12 CIRCUMSTANCES THAT SHE PRESENTED TO HER WAS REASONABLE,
13 WHETHER SHE MET THE STANDARD OF CARE? DO YOU UNDERSTAND
14 THAT'S PART OF YOUR CHARGE AS A JUROR IN THIS CASE?

15 PROSPECTIVE JUROR WILLIAMS: YES.

16 MR. BLESSEY: AND YOU ALSO UNDERSTAND THAT PART OF
17 YOUR CHARGE IN THIS CASE IS TO DECIDE WHAT WAS THE CAUSE
18 OF THE DEATH IN THIS CASE, WHETHER IT HAD ANYTHING TO DO
19 WITH DR. SHAINSKY? DO YOU UNDERSTAND THAT?

20 PROSPECTIVE JUROR WILLIAMS: YES.

21 MR. BLESSEY: UNDERSTANDING THOSE ISSUES, DOES IT
22 STILL BOTHER YOU THAT YOU'RE NOT GOING TO GET TO KNOW THE
23 DECEDENT IN THIS CASE DIRECTLY?

24 PROSPECTIVE JUROR WILLIAMS: I GUESS, NO.

25 MR. BLESSEY: YOU WILL -- YOU WOULD ASSUME, WOULD
26 YOU NOT, THAT YOU'RE GOING TO HEAR A LOT ABOUT THE
27 DECEDENT FROM HER PARENTS? --

28 PROSPECTIVE JUROR WILLIAMS: YES.

1 MR. BLESSEY: -- AND FROM PERHAPS SOME OTHER PEOPLE
2 THAT KNEW HER QUITE WELL, RIGHT?

3 PROSPECTIVE JUROR WILLIAMS: YES.

4 MR. BLESSEY: SO AT LEAST FROM THAT STANDPOINT, YOU
5 WILL GET TO LEARN SOMETHING ABOUT THE DECEDENT IN THIS
6 CASE; WOULD YOU AGREE?

7 PROSPECTIVE JUROR WILLIAMS: YES.

8 MR. BLESSEY: DOES THAT HELP YOUR CONCERN TO SOME
9 DEGREE?

10 PROSPECTIVE JUROR WILLIAMS: YES.

11 MR. BLESSEY: AND NOW, ON HAVING AN UNDERSTANDING
12 OF THE ISSUES IN THIS CASE THAT WE JUST TALKED ABOUT, DO
13 YOU BELIEVE THAT YOU CAN SET ASIDE YOUR BACKGROUND IN
14 ACTING AND WHAT YOU KNOW ABOUT ACTING AND FOCUS ON THOSE
15 TWO ISSUES OR OTHERS THAT THE COURT INSTRUCTS YOU ON AND
16 BE A FAIR AND IMPARTIAL JUROR IN THIS CASE? DO YOU THINK
17 YOU CAN DO THAT?

18 PROSPECTIVE JUROR WILLIAMS: YEAH.

19 MR. BLESSEY: THANK YOU. NOTHING FURTHER.

20 THE COURT: OKAY. LET'S TAKE OUR MORNING RECESS AT
21 THIS TIME. LADIES AND GENTLEMEN, 15 MINUTES. AGAIN,
22 PLEASE REMEMBER THE ADMONITION OF THE COURT. DO NOT
23 DISCUSS THE FACTS OF THIS CASE AMONGST YOURSELVES OR
24 ANYBODY ELSE. DO NOT FORM ANY OPINIONS OR CONCLUSIONS ON
25 THIS MATTER UNTIL IT'S FINALLY SUBMITTED TO YOU.

26 THE COURT'S IN RECESS FOR 15 MINUTES.

27
28 (RECESS.)

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(THE FOLLOWING PROCEEDINGS WERE HELD
IN OPEN COURT, OUTSIDE THE PRESENCE
OF THE JURY AND PROSPECTIVE
ALTERNATES:)

THE COURT: LET'S TALK IN OPEN COURT HERE OUTSIDE
THE PRESENCE OF THE JURY.

AS TO THE TWO THAT ARE IN THE FRONT ROW,
MR. SHIELDS AND SYCZ, MICHAEL SYCZ, PASS FOR CAUSE?

MR. NEWHOUSE: PASS FOR CAUSE, YOUR HONOR.

MR. BLESSEY: NO, YOUR HONOR. AS TO MR. SHIELDS, I
THINK HE MENTIONED HIS BIAS AND FELT THAT -- HE FELT ONE
OF THE PARTIES WAS ACTUALLY AHEAD OF THE OTHER AT THIS
POINT.

THE COURT: I AGREE. YOU REFRESHED MY MEMORY. I'M
GOING TO EXERCISE MY JUDGMENT. HE'S GOING TO BE EXCUSED
FOR CAUSE.

MR. BLESSEY: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT. MR. WILLIAMS, I'M NOT GOING
TO EXCUSE HIM FOR CAUSE, OKAY?

BOTH SIDES HAVE NOW EXERCISED THEIR SIX
PEREMPTORIES. HE'S BEEN SWORN. WE HAVE A JURY. WE'RE
GOING TO DEAL WITH OUR ALTERNATES AT THIS POINT. AGREED,
PLAINTIFF?

MR. NEWHOUSE: AGREED, YOUR HONOR. THANK YOU.

THE COURT: DEFENSE?

MR. BLESSEY: YES, YOUR HONOR.

1 THE COURT: OKAY. WHEN WE GET OUR SIX --

2 THE CLERK: THEY'RE HERE.

3 THE COURT: OKAY. CAN YOU PULL UP ONE MORE CHAIR?
4 I'M GOING TO HAVE TO ASK -- WE MIGHT HAVE TO USE YOUR
5 CHAIR. CINDY WILL GET --

6 MR. NEWHOUSE: I'LL MOVE IT OVER.

7 THE COURT: THANK YOU SO MUCH. WE'LL PUT THE ONE
8 CHAIR THERE. THANK YOU.

9 AND LET'S TAKE OUR MORNING RECESS. I DON'T
10 THINK I'M GOING TO EXCUSE OUR 12 JURORS. I THINK WE'RE
11 JUST GOING TO MOVE FORWARD WITH THE SIX. SO WE'LL HAVE
12 SEVEN JURORS.

13 MR. NEWHOUSE: I'M SORRY, YOUR HONOR? YOU ARE
14 GOING TO EXCUSE THEM?

15 THE COURT: NO, I'M NOT. NO. I'M GOING TO MOVE
16 FORWARD, AND I WILL AGAIN READ WHAT THE CASE IS ALL ABOUT.
17 WHAT I'LL DO, THOUGH, LET ME JUST -- I'LL DEAL WITH THE
18 SIX IN REGARDS TO SWEARING THEM AND TELLING THEM AND LET
19 THE JURY REMAIN OUTSIDE. I DON'T WANT THEM TO HAVE TO
20 DEAL WITH THAT.

21 MR. NEWHOUSE: I THOUGHT WHAT THE COURT WAS
22 PROPOSING, WHICH MADE SOME SENSE TO ME, IS LETTING THE
23 JURY THAT HAS BEEN SELECTED -- LETTING THEM GO, IF NOT FOR
24 THE DAY OR AT LEAST FOR THE PERIOD --

25 THE COURT: WE'RE GOING TO GET OUR ALTERNATES BY
26 NOON, NO DOUBT IN MY MIND. I COULD LET THEM GO, SAY, TO
27 1:30.

28 MR. NEWHOUSE: I AGREE WITH THAT.

1 THE COURT: AND NO SENSE IN -- LET THEM DO WHATEVER
2 THEY WANT TO DO. HOW DOES THAT SOUND, MR. BLESSEY?

3 MR. BLESSEY: IT SOUNDS PERFECT, YOUR HONOR. I
4 WOULD JUST SUGGEST THAT WE SWEAR THEM IN BEFORE WE LET
5 THEM GO BECAUSE I DON'T THINK WE'VE SWORN MR. WILLIAMS.
6 HAVE WE?

7 THE COURT: YEAH, WE DID, INCLUDING MR. WILLIAMS.

8 THE CLERK: YES.

9 MR. BLESSEY: OKAY. I'M LOSING TRACK.

10 THE COURT: I KNOW, IT'S TOUGH. THIS TRYING CASES
11 IS TOUGH.

12 MR. BLESSEY: FOR SOME OF US.

13 MR. NEWHOUSE: WE'RE ALL IN AGREEMENT, YOUR HONOR.

14 THE COURT: OKAY. WE'RE ALL IN AGREEMENT.

15 COULD YOU GO OUT AND TELL, OTHER THAN THE
16 SIX --

17 THE CLERK: THEY'RE ALL SPREAD OUT NOW ON BREAK.
18 WE'LL HAVE TO WAIT.

19 THE COURT: ALL RIGHT. LET'S WAIT. I CAN TELL
20 THEM. JUST GO OUT AND TELL THEM THAT WE'RE GOING TO DEAL
21 WITH THE ALTERNATES AND LET THEM GO UNTIL 1:30.

22 THE CLERK: SO YOU WANT THE TWO ALTERNATES AND THE
23 SIX ONES?

24 THE COURT: MR. SHIELDS IS STILL HERE, SO I HAVE
25 GOT TO EXCUSE HIM.

26 THE CLERK: OH, YOU'RE GOING TO EXCUSE HIM. OKAY.

27 THE COURT: HE'S BEING EXCUSED, SO THEN WE'LL ONLY
28 HAVE THE ONE. SO WE'LL HAVE SEVEN CHAIRS IN FRONT, OKAY?

1 MR. BLESSEY: THANK YOU, YOUR HONOR.

2 THE COURT: ALL RIGHT. THANK YOU, SIR. ALL RIGHT.
3 LET'S TAKE OUR RECESS.

4

5 (RECESS.)

6

7 (THE FOLLOWING PROCEEDINGS WERE HELD
8 IN OPEN COURT, OUTSIDE THE PRESENCE
9 OF THE JURY AND PROSPECTIVE
10 ALTERNATES:)

11

12 THE COURT: WE'RE BACK ON THE RECORD.

13 LET'S SEE. THERE WAS A MOTION TO EXCUSE
14 MR. SHIELDS FOR CAUSE, AND I GRANTED THAT, SO I'LL LET HIM
15 GO, AND THEN I'LL KEEP THE ONE JUROR, OKAY?

16 THE CLERK: BECAUSE YOU DON'T KNOW WHO IS WHO, DO
17 YOU WANT THE NEW ONES REALLY TO SIT IN THE AUDIENCE UNTIL
18 I CALL THEM UP?

19 THE COURT: WELL, I TELL YOU WHAT I'D REALLY KIND
20 OF LIKE TO DO, IF WE HAD MORE CHAIRS, I'D ALMOST LIKE TO
21 GET THEM ALL.

22 THE CLERK: WELL, YOU COULD SIT THEM IN THE BOX.

23 THE COURT: WHAT I CAN DO, I CAN PUT THEM IN --

24 MR. NEWHOUSE: -- THE BOX.

25 THE COURT: -- THE BOX, ALL TEN OF THEM.

26 THE CLERK: 12.

27 THE COURT: 12. SORRY. MISSPOKE. SO EASY. SO WE
28 CAN JUST -- CAN YOU GATHER UP THE NOTEBOOKS OR PUT THEM

1 UNDER THE CHAIR. I DON'T WANT THEM -- I SEE THEY'RE KIND
2 OF ALL OVER THE PLACE, CINDY. AND WE'LL START WITH ONE
3 THROUGH SIX. I CAN PUT ALL 12 RIGHT IN THERE.

4 THE CLERK: WE CAN PUT THE ALTERNATES IN THE FRONT.

5 MR. NEWHOUSE: SOMEONE HAS THEIR JACKET THERE.

6 THE CLERK: THAT'S OKAY. THEY'RE ONLY GOING TO
7 SIT. I'LL SEND THEM IN, ONE THROUGH 12, SO THEY CAN SIT
8 IN THE SEATS.

9 THE COURT: YEAH.

10 MR. NEWHOUSE: DID YOU TELL THE OTHER JURORS THEY
11 COULD GO UNTIL 1:30?

12 THE CLERK: I SURE DID.

13 MR. NEWHOUSE: GREAT.

14 THE COURT: CINDY, I'LL HAVE THEM IN THE AUDIENCE
15 FIRST, AND THEN I'LL PUT THEM IN. YOU CAN CALL THEIR
16 NAME, ONE THROUGH 12, OKAY?

17 THE CLERK: YEAH.

18

19 (THE FOLLOWING PROCEEDINGS WERE HELD
20 IN OPEN COURT, OUTSIDE THE PRESENCE
21 OF THE JURY AND IN THE PRESENCE OF
22 THE PROSPECTIVE ALTERNATES:)

23

24 THE COURT: YOU MAY HAVE A SEAT. WELL, GOOD
25 MORNING, LADIES AND GENTLEMEN. WELCOME TO DEPARTMENT P.
26 NICE TO HAVE YOU HERE.

27 WE'RE ON THE RECORD IN THE CASE OF LINDA
28 DE ROGATIS, INDIVIDUALLY AND AS SUCCESSOR-IN-INTEREST TO

1 TARA DE ROGATIS AND PETER DE ROGATIS, INDIVIDUALLY AND AS
2 SUCCESSOR-IN-INTEREST TO TARA DE ROGATIS VERSUS KAREN
3 MICHELLE SHAINSKY, D.O. THIS IS CASE NO. BC457891.

4 I HAVE 12 PROSPECTIVE JURORS HERE. THIS IS
5 A VERY INTERESTING CASE. I THINK ALL OF YOU ARE GOING TO
6 ENJOY HEARING IT, BUT I NEED TO HAVE YOU STAND AND BE
7 SWORN, PLEASE.

8 THE CLERK: RAISE YOUR RIGHT HANDS. DO YOU AND
9 EACH OF YOU UNDERSTAND AND AGREE THAT YOU WILL ACCURATELY
10 AND TRUTHFULLY ANSWER UNDER PENALTY OF PERJURY ALL
11 QUESTIONS PROPOUNDED TO YOU CONCERNING YOUR QUALIFICATIONS
12 AND COMPETENCY TO SERVE AS A TRIAL JUROR IN THE MATTER
13 PENDING BEFORE THIS COURT AND THAT FAILURE TO DO SO MAY
14 SUBJECT YOU TO CRIMINAL PROSECUTION? IF YOU UNDERSTAND
15 AND AGREE, PLEASE ANSWER "YES."

16
17 (THE PROSPECTIVE ALTERNATE JURORS
18 ANSWERED IN THE AFFIRMATIVE.)
19

20 THE CLERK: IS THERE ANYONE WHO DOES NOT UNDERSTAND
21 OR AGREE? PLEASE HAVE A SEAT.

22 THE COURT: THE FIRST ISSUE IS, THIS CASE IS LIKELY
23 TO TAKE APPROXIMATELY NINE DAYS TO TRY. IS THAT GOING TO
24 CREATE A HARDSHIP OR IMPOSSIBILITY ON THE PART OF ANYONE
25 TO SPEND UP TO NINE DAYS WITH US? PLEASE RAISE YOUR HAND.
26 ALL RIGHT. I SEE A FEW HANDS.

27 LET ME START IN THE BACK ROW, FARTHEST TO MY
28 RIGHT. GIVE ME YOUR NAME FOR THE RECORD, PLEASE.

1 PROSPECTIVE JUROR MACHI: MY NAME IS DALE MACHI.

2 THE COURT: YES, MR. MACHI?

3 PROSPECTIVE JUROR MACHI: MY COMPANY DOES NOT PAY
4 FOR JURY DUTY, AND I WORK NIGHTS, FROM 4:00 TO 12:30. I
5 WORK IN A PRINTING COMPANY. AND IT WOULD -- IF I COULD
6 WORK A JURY THAT WOULD BE LESS THAN THAT, MAYBE A DAY TO A
7 WEEK, WOULD PROBABLY BE BETTER FOR ME.

8 THE COURT: OKAY. HAVE A SEAT. THANK YOU.

9 IS THERE SOMEBODY ELSE WHO HAD THEIR HAND UP
10 IN THE BACK ROW? ALL RIGHT. NEXT?

11 PROSPECTIVE JUROR WRIGHT: MY NAME IS LYNDA WRIGHT.
12 I'M A PAYROLL PROCESSOR, AND I HAVE --

13 THE COURT: JUST ONE SECOND. LET ME GET YOUR NAME.
14 IT'S L-Y- --

15 PROSPECTIVE JUROR WRIGHT: L-Y-N-D-A.

16 THE COURT: YES, MA'AM?

17 PROSPECTIVE JUROR WRIGHT: I'M A PAYROLL PROCESSOR.
18 I HAVE PAYROLL ON MONDAY, AND I ONLY HAVE A LIMITED AMOUNT
19 OF TIME IN WHICH TO PROCESS PAYROLL.

20 THE COURT: WHAT COMPANY DO YOU WORK FOR?

21 PROSPECTIVE JUROR WRIGHT: I WORK FOR CALIFORNIA
22 INSTITUTE OF TECHNOLOGY.

23 THE COURT: OTHERWISE KNOWN AS CALTECH?

24 PROSPECTIVE JUROR WRIGHT: YES, SIR.

25 THE COURT: AND SO YOU JUST CAN'T BE REPLACED?

26 PROSPECTIVE JUROR WRIGHT: THERE'S ONLY TWO OF US
27 THAT PROCESS 350 EMPLOYEES, AND THEY HAVE LIMITED THE
28 AMOUNT OF TIME THAT WE ARE ALLOWED TO PROCESS.

1 THE COURT: OKAY. HAVE A SEAT THANK YOU.

2 NEXT.

3 PROSPECTIVE JUROR CAPOUYA: HI. I HAVE TWO --

4 THE COURT: I'M SORRY. I NEED TO HAVE YOUR NAME.

5 PROSPECTIVE JUROR CAPOUYA: LAINNIE CAPOUYA.

6 THE COURT: THAT'S L-A-I-N-N-I-E?

7 PROSPECTIVE JUROR CAPOUYA: CORRECT.

8 THE COURT: YES, MA'AM?

9 PROSPECTIVE JUROR CAPOUYA: I HAVE TWO YOUNG KIDS,
10 AND THEY DON'T DRIVE, AND I NEED TO GET THEM TO AND FROM
11 SCHOOL. IT'S A LOT TO ASK. I PREFER TO --

12 THE COURT: HOW YOUNG ARE THEY?

13 PROSPECTIVE JUROR CAPOUYA: 12 AND 13.

14 THE COURT: OKAY. HAVE A SEAT.

15 PROSPECTIVE JUROR CAPOUYA: THANK YOU.

16 THE COURT: IS THERE SOMEBODY ELSE IN THAT ROW?

17 YES, MA'AM?

18 PROSPECTIVE JUROR VASQUEZ: PAULA FISCHBACH.

19 THE COURT: I'M SORRY. FIRST NAME?

20 PROSPECTIVE JUROR VASQUEZ: PAULA.

21 THE COURT: VASQUEZ?

22 PROSPECTIVE JUROR VASQUEZ: FISCHBACH, "F" AS IN
23 FISH.

24 THE CLERK: I DON'T HAVE IT.

25 THE COURT: I'M SORRY. I HAVE A PAULA VASQUEZ.

26 PROSPECTIVE JUROR VASQUEZ: THAT'S ME. I HAVE A
27 HYPHENATED NAME. COULD IT BE UNDER MARTIN?

28 THE COURT: I DON'T HAVE THAT EITHER.

1 DID YOU CALL ROLL?

2 THE CLERK: NO, I DIDN'T BECAUSE YOU HAD ME BRING
3 THEM IN.

4 THE COURT: HAVE A SEAT. WE HAVE SOME CONFUSION
5 HERE. NOT THE FIRST TIME.

6 BUT ANN SANDERS? OKAY. THOMAS SHEEDY?

7 PROSPECTIVE JUROR SHEEDY: YES.

8 THE COURT: OKAY. ESTHER LEE? THANK YOU.

9 AND ENRIQUE GARCIA?

10 PROSPECTIVE JUROR GARCIA: YES.

11 THE COURT: ALL RIGHT. EDGARDO ROLDAN?

12 PROSPECTIVE JUROR ROLDAN: HERE.

13 THE COURT: THANK YOU. DALE MACHI?

14 PROSPECTIVE JUROR MACHI: HERE.

15 THE COURT: LAINNIE CAPOUYA?

16 PROSPECTIVE JUROR CAPOUYA: HERE.

17 THE COURT: SOPHIA PHUNG?

18 PROSPECTIVE JUROR PHUNG: HERE.

19 THE COURT: ROSALIND DU?

20 PROSPECTIVE JUROR DU: HERE.

21 THE COURT: PAULA VASQUEZ?

22 PROSPECTIVE JUROR VASQUEZ: HERE.

23 THE COURT: OLIVER CARIAGA?

24 PROSPECTIVE JUROR CARIAGA: HERE.

25 THE COURT: AND LYNDA WRIGHT.

26 THERE'S ONE NAME I DIDN'T CALL, AND THAT WAS
27 YOURS.

28 UNIDENTIFIED PROSPECTIVE JUROR: YES.

1 THE COURT: LET'S SEE. WE HAVE THREE, FIVE, SEVEN.
2 AND YOU ARE EXCUSED. YOU CAN GO BACK UP TO
3 THE JURY ASSEMBLY ROOM. FOR SOME REASON -- IT'S NICE TO
4 HAVE YOU HERE, BUT --

5 UNIDENTIFIED PROSPECTIVE JUROR: THANK YOU.

6 THE COURT: OKAY. LET'S GO BACK, THEN, TO THE TOP
7 ROW. I'VE HEARD FROM THREE JURORS.

8 MR. SHEEDY, ANY ISSUE?

9 PROSPECTIVE JUROR SHEEDY: NO.

10 THE COURT: AND, MA'AM, ANY ISSUE?

11 PROSPECTIVE JUROR WRIGHT: NO.

12 THE COURT: "NO." OKAY.

13 FRONT ROW, ANY OF YOU HAVE AN ISSUE SPENDING
14 NINE DAYS WITH US ON A GREAT CASE?

15 YES, SIR. YOUR NAME?

16 PROSPECTIVE JUROR GARCIA: ENRIQUE GARCIA.

17 THE COURT: YES, MR. GARCIA?

18 PROSPECTIVE JUROR GARCIA: YOUR HONOR, ON MONDAY
19 MORNING I FLY OUT TO BOSTON FOR A BUSINESS TRIP THAT IS
20 GOING TO BE THROUGH THURSDAY OF THAT WEEK, MONDAY THROUGH
21 THURSDAY.

22 THE COURT: AND WHO DO YOU WORK FOR?

23 PROSPECTIVE JUROR GARCIA: LIBERTY MUTUAL
24 INSURANCE.

25 THE COURT: WHAT DO YOU DO FOR THEM?

26 PROSPECTIVE JUROR GARCIA: I'M A RISK CONTROL --
27 RISK CONTROL SPECIALIST.

28 THE COURT: RISK CONTROL, WHAT DOES THAT MEAN?

1 PROSPECTIVE JUROR GARCIA: I EVALUATE COMPANIES
2 THAT WANT TO BE INSURED BY LIBERTY MUTUAL. SO I EVALUATE
3 THE RISK AND ANALYZE WHETHER IT'S A GOOD OR BAD RISK.

4 MR. NEWHOUSE: SO DO YOU HAVE A FINANCIAL
5 BACKGROUND, DO YOU, IN MATHEMATICS?

6 PROSPECTIVE JUROR GARCIA: NO. IT'S MORE OF --
7 MORE OF A SCIENCE-BASED ENGINEERING.

8 THE COURT: I SEE. YOU DON'T DO ANY TYPE OF RISK
9 ANALYSIS FOR PERSONAL INJURY CASES?

10 PROSPECTIVE JUROR GARCIA: I DO NOT, NO.

11 THE COURT: HAVE YOU EVER DONE THAT?

12 PROSPECTIVE JUROR GARCIA: NO.

13 THE COURT: OKAY. AND THEY PROVIDE 14 DAYS?

14 PROSPECTIVE JUROR GARCIA: THEY DO, YES.

15 THE COURT: PAID?

16 PROSPECTIVE JUROR GARCIA: YES, SIR.

17 THE COURT: THE WORLD ISN'T GOING TO COME TO AN END
18 IF YOU DON'T GO BACK THERE, IS IT?

19 PROSPECTIVE JUROR GARCIA: I WOULD IMAGINE IT MIGHT
20 NOT, NO. BUT IT'S A SMALL GROUP THAT I'M PART OF.
21 THERE'S 14 OF US IN OUR DEPARTMENT WITH 2,000 SIZE OR SO
22 EMPLOYEES.

23 THE COURT: WHAT IF I TELL YOU I'M GOING TO KEEP
24 YOU HERE?

25 PROSPECTIVE JUROR GARCIA: IT WOULD BE VERY
26 DIFFICULT ON ME, YES.

27 THE COURT: I UNDERSTAND. HAVE A SEAT.

28 PROSPECTIVE JUROR GARCIA: THANK YOU.

1 THE COURT: IS THERE SOMEBODY ELSE IN THAT FRONT
2 ROW? YES, MA'AM. STAND AND I NEED YOUR NAME.

3 PROSPECTIVE JUROR DU: MY NAME IS ROSALIND DU.

4 THE COURT: I'M SORRY. I COULDN'T HEAR YOU.

5 PROSPECTIVE JUROR DU: ROSALIND DU,
6 R-O-S-A-L-I-N-D.

7 THE COURT: I'M WORKING OFF OF TWO SHEETS. THAT'S
8 THE REASON WHY I COULDN'T FIND IT QUITE AS EASILY AS I
9 OTHERWISE WOULD. YES, MA'AM?

10 PROSPECTIVE JUROR DU: I WORK FOR A VERY SMALL
11 COMPANY. I'M THE ONLY EMPLOYEE THERE.

12 THE COURT: THAT IS PRETTY SMALL, HUH? YOU'RE THE
13 ONLY EMPLOYEE.

14 PROSPECTIVE JUROR DU: BECAUSE THEY LAID OFF THE
15 OTHER TWO, SO I'M THE ONLY ONE THERE.

16 AND THEN MY BOSS'S WIFE WAS DIAGNOSED WITH
17 LEUKEMIA EARLIER THIS YEAR. AND RIGHT NOW MY BOSS HAS TO
18 ACCOMPANY HIS WIFE TO CITY OF HOPE EVERY SINGLE DAY, SEVEN
19 DAYS A WEEK. SO RIGHT NOW IT'S THE PEAK SEASON FOR US
20 BECAUSE WE ARE IN THE GARMENT INDUSTRY. SO A LOT OF GOODS
21 FROM OVERSEAS NEED TO DELIVER BEFORE THANKSGIVING OR
22 BEFORE CHRISTMAS, SO --

23 THE COURT: THE COMPANY DOES PAY FOR JURY DUTY?

24 PROSPECTIVE JUROR DU: THEY PAY TWO DAYS. I ASKED
25 THEM.

26 THE COURT: BUT YOU COULD USE VACATION IF NEED BE?

27 PROSPECTIVE JUROR DU: YEAH.

28 THE COURT: HAVE A SEAT. LET ME SEE COUNSEL AT

1 SIDEBAR, PLEASE. HAVE A SEAT.

2 PROSPECTIVE JUROR DU: OKAY. THANK YOU.

3 THE COURT: ALL RIGHT.

4 PROSPECTIVE JUROR GARCIA: YOUR HONOR, I THINK
5 THERE'S ONE MORE THAT HAD HER HAND UP.

6 THE COURT: OH, IS THERE ANOTHER ONE? CAN I HAVE
7 YOUR NAME?

8 PROSPECTIVE JUROR LEE: ESTHER LEE.

9 THE COURT: ESTER --

10 PROSPECTIVE JUROR LEE: ESTHER LEE. I HAVE A --

11 THE COURT: JUST ONE SECOND, PLEASE.

12 YES, MA'AM?

13 PROSPECTIVE JUROR LEE: I HAVE TWO KIDS AND I HELP
14 THEM --

15 THE COURT: I'M SORRY. YOU HAVE TWO CHILDREN?

16 PROSPECTIVE JUROR LEE: TWO CHILDREN, 11 --

17 THE COURT: AND DO YOU HAVE A HOUSEKEEPER?

18 PROSPECTIVE JUROR LEE: I'M A HOUSEKEEPER.

19 THE COURT: I'M SORRY, MA'AM? PLEASE, YOU HAVE TWO
20 CHILDREN. HOW OLD ARE THEY?

21 PROSPECTIVE JUROR LEE: 11 AND 13.

22 THE COURT: 11 AND 13.

23 PROSPECTIVE JUROR LEE: BUT I HELP THEM TO GO TO
24 SCHOOL AND PICK THEM UP, SO I HAVE TO TAKE CARE OF THEM.

25 THE COURT: I UNDERSTAND. HAVE A SEAT.

26 LET ME SEE COUNSEL.

27

28 (AN UNREPORTED CONFERENCE WAS HELD

1 IN CHAMBERS.)

2

3 THE COURT: MR. SHIELDS, AT THIS TIME I'M GOING TO
4 THANK AND EXCUSE YOU. YOU CAN RETURN TO THE JURY ASSEMBLY
5 ROOM. THANK YOU.

6 DALE MACHI, THANK YOU. YOU ARE EXCUSED.
7 YOU MAY RETURN TO THE JURY ASSEMBLY ROOM.

8 ROSALIND DU, THANK YOU. WHERE IS SHE? OH,
9 THANK YOU. JUST THE TWO OF YOU.

10 PROSPECTIVE JUROR DU: THANK YOU, YOUR HONOR.

11 THE COURT: THAT'S ALL. ALL RIGHT.

12 PROSPECTIVE JUROR MACHI: THANK YOU.

13 THE COURT: LET ME READ -- DID I READ THE CASE TO
14 EVERYBODY?

15 MR. NEWHOUSE: YOU HAVE NOT, YOUR HONOR.

16 THE COURT: I HAVE NOT. ALL RIGHT. LET ME READ TO
17 YOU WHAT THIS CASE IS ALL ABOUT, LADIES AND GENTLEMEN.

18 THIS IS THROUGH A STIPULATION OF COUNSEL, AN
19 AGREED STATEMENT OF THE CASE:

20 "THIS LAWSUIT ARISES OUT OF A
21 COMPLAINT." THAT MEANS THAT THE FORMAL
22 PAPERWORK TO START A LAWSUIT "FOR WRONGFUL
23 DEATH," SLASH, "MEDICAL MALPRACTICE."

24 AS I HAD MENTIONED, THE DEFENDANT IS A
25 DOCTOR. "THE PLAINTIFFS LINDA DE ROGATIS AND
26 PETER DE ROGATIS CONTEND THAT KAREN SHAINSKY,
27 D.O., ACTED NEGLIGENTLY IN HER CARE AND
28 TREATMENT OF THE DECEDENT, TARA DE ROGATIS,"

1 WHICH IS THEIR DAUGHTER, "CAUSING HER DEATH
2 BY SUICIDE."

3 "DEFENDANT KAREN SHAINSKY CONTENDS
4 THAT HER CARE AND TREATMENT OF TARA
5 DE ROGATIS WAS AT ALL TIMES WITHIN THE
6 APPLICABLE STANDARD OF CARE AND THAT HER CARE
7 AND TREATMENT NEITHER CAUSED NOR CONTRIBUTED
8 TO TARA DE ROGATIS' DEATH OR TO ANY INJURIES
9 ALLEGED BY PLAINTIFFS."

10 PLAINTIFFS SIT CLOSEST TO THE JURY, OKAY?

11 HAS ANYONE HEARD OF OR HAS ANY KNOWLEDGE OF
12 THE FACTS OR EVENTS IN THIS LAWSUIT AS I READ THEM TO YOU?
13 PLEASE RAISE YOUR HAND. I SEE NO HANDS.

14 DO ANY OF YOU BELIEVE THAT A CASE OF THIS
15 NATURE SHOULD NOT BE BROUGHT INTO COURT FOR A
16 DETERMINATION BY A JURY? PLEASE RAISE YOUR HAND. I SEE
17 NO HANDS.

18 WAS THERE ANYTHING I READ REGARDING THE
19 NATURE OF THIS CASE OR THE PARTIES INVOLVED THAT WOULD NOW
20 CAUSE YOU TO BE BIASED, PREJUDICE, OR NOT FAIR TO EACH
21 PARTY? PLEASE RAISE YOUR HAND. I SEE NO HANDS.

22 ALL RIGHT. PLAINTIFFS' COUNSEL, IF YOU
23 COULD INTRODUCE YOURSELF AND READ OFF YOUR LIST OF
24 WITNESSES. THANK YOU.

25 MR. NEWHOUSE: THANK YOU, YOUR HONOR.

26 LADIES AND GENTLEMEN, THE POTENTIAL JURY,
27 GOOD MORNING. MY NAME IS GEORGE NEWHOUSE. THIS IS MY
28 ASSOCIATE, KATHERINE MC BROOM. WE'RE THE PLAINTIFFS'

1 LAWYERS. LET ME INTRODUCE THE PLAINTIFFS IN THIS CASE,
2 PETER DE ROGATIS, THE FATHER OF TARA DE ROGATIS; AND LINDA
3 DE ROGATIS, THE MOTHER.

4 WE APPRECIATE YOUR TIME.

5 THE COURT: COULD YOU READ OFF THE LIST?

6 MR. NEWHOUSE: SORRY. I DID NOT DO THAT, YOUR
7 HONOR. THANK YOU.

8 SO WE ANTICIPATE THE FOLLOWING PERSONS MAY
9 BE CALLED AS WITNESSES IN THIS CASE: DAVID MAC EACHERN;
10 KAREN SHAINSKY, THE DEFENDANT --

11 THE COURT: AND, LADIES AND GENTLEMEN, PLEASE
12 LISTEN UP BECAUSE I'M GOING TO ASK IF ANY OF YOU KNOW OR
13 ARE FAMILIAR WITH ANY OF THE PERSONS THAT HE'S NOW TELLING
14 YOU.

15 MR. NEWHOUSE: -- DR. KAREN SHAINSKY. LINDA
16 DE ROGATIS WILL TESTIFY. PETER DE ROGATIS WILL TESTIFY.
17 ANTHONY LOPEZ, DR. RAFFI DJABOURIAN, GINNI CUMMINGS,
18 MARCIA RIPALDI, DR. RODNEY BLUESTONE, DR. MANFRED WOLFF,
19 DR. DAVID RUDNICK, DR. BRUCE STARK, DR. PAUL BOHN,
20 DR. DAVID RAMIN, DR. BRADLEY SPIEGEL, DR. MICHAEL SAFANI,
21 DR. ALLEN WEINBERGER, DR. LUKAS ALEXANIAN, AND DR. LAURA
22 AUDELL. THAT WOULD BE THE WITNESSES WE ANTICIPATE
23 CALLING.

24 THE COURT: ALL RIGHT.

25 MR. BLESSEY: THANK YOU, YOUR HONOR. GOOD MORNING,
26 LADIES AND GENTLEMEN. MY NAME IS RAYMOND BLESSEY, AND I
27 HAVE THE PRIVILEGE AND THE HONOR OF REPRESENTING
28 DR. SHAINSKY.

1 MR. NEWHOUSE WAS KIND ENOUGH TO SAVE MY
2 VOICE AND ACTUALLY READ OFF THE NAMES OF SOME OF THE
3 DOCTORS THAT WE WILL CALL. SO, YOUR HONOR, I SEE NO POINT
4 IN --

5 THE COURT: THERE ARE NO ADDITIONAL OTHER THAN WHAT
6 HE READ?

7 MR. BLESSEY: CORRECT.

8 MR. NEWHOUSE: SORRY.

9 MR. BLESSEY: IT'S OKAY.

10 THE COURT: HAS ANYONE HEARD OF OR IN ANY WAY
11 ACQUAINTED WITH ANY OF THE WITNESSES OR PARTIES TO THIS
12 LAWSUIT, INCLUDING THE ATTORNEYS? ANYBODY FAMILIAR WITH
13 THE NAMES? NO.

14 DOES ANYONE HAVE A BELIEF OR A FEELING
15 TOWARDS ANY OF THE PARTIES, ATTORNEYS, OR WITNESSES THAT
16 MIGHT --

17 MR. NEWHOUSE: YOUR HONOR --

18 MS. MC BROOM: SOMEONE RAISED A HAND, YOUR HONOR.

19 THE COURT: I'M SORRY.

20 PROSPECTIVE JUROR SANDERS: I JUST KNOW ONE OF THE
21 ATTORNEYS FROM MY PARISH, MR. NEWHOUSE.

22 THE COURT: OH. HOW WELL DO YOU KNOW HIM?

23 PROSPECTIVE JUROR SANDERS: WELL, WE'VE HAD
24 CHILDREN IN THE SAME GRADE, BUT --

25 THE COURT: AND YOUR NAME?

26 PROSPECTIVE JUROR SANDERS: ANN SANDERS.

27 THE COURT: DO YOU KNOW THEM?

28 MR. NEWHOUSE: I DO, YOUR HONOR. I KNOW THEM WELL.

1 THEY'RE GOOD PEOPLE.

2 THE COURT: WELL, I DOUBT IF SHE THINKS THE SAME,
3 THOUGH.

4 MR. NEWHOUSE: THAT MAY BE THE CASE.

5 THE COURT: THANK YOU VERY MUCH. YOU'RE THANKED
6 AND EXCUSED. I'LL HAVE YOU RETURN TO THE JURY ASSEMBLY
7 ROOM.

8 IS THERE ANYBODY ELSE NOW THAT KNOWS ANY OF
9 THE LAWYERS OR WITNESSES? ALL RIGHT.

10 DOES ANYBODY HAVE A BELIEF OR FEELING
11 TOWARDS ANY OF THE PARTIES, ATTORNEYS, OR WITNESSES THAT
12 MIGHT NOW BE REGARDED AS A BIAS OR PREJUDICE AGAINST ANY
13 OF THEM? PLEASE RAISE YOUR. HAND I SEE ONE HAND.

14 CAN I SEE YOU IN CHAMBERS, PLEASE?

15 PROSPECTIVE JUROR GARCIA: ME?

16 THE COURT: YOU RAISED YOUR HAND. AND YOUR NAME
17 IS?

18 PROSPECTIVE JUROR GARCIA: ENRIQUE GARCIA.

19 THE COURT: WITH THE COURT REPORTER.

20

21 (THE FOLLOWING PROCEEDINGS WERE HELD
22 IN CHAMBERS WITH ALL COUNSEL AND
23 PROSPECTIVE JUROR GARCIA:)

24

25 THE COURT: ALL RIGHT. WE'RE IN CHAMBERS. ALL
26 COUNSEL ARE PRESENT WITH ENRIQUE GARCIA.

27 WELCOME. THANK YOU, SIR. HOW IS IT THAT
28 YOU'RE BIASED OR PREJUDICED AS YOU SIT THERE NOW?

1 PROSPECTIVE JUROR GARCIA: NOW THAT I'VE HEARD WHAT
2 THE CASE IS ABOUT, MY NIECE HAD ATTEMPTED SUICIDE WHEN SHE
3 WAS 11 YEARS OLD, AND WE TOOK HER TO A COUNTY FACILITY TO
4 SEE A SPECIALIST OR A DOCTOR.

5 I GOT A VERY BAD BIAS BASED ON THE DOCTOR.
6 NO TREATMENT. DISREGARDED OUR INPUT FOR HER SAFETY AND
7 BASICALLY TOOK ON THE ATTITUDE THAT SHE WAS JUST A SPOILED
8 LITTLE KID. AND HE BASICALLY GAVE ME A BAD IMPRESSION OF
9 DOCTORS WHO MAY BE TREATING KIDS IN NEED.

10 THE COURT: SO YOU'RE TELLING ME THIS BECAUSE YOU
11 FEEL THAT YOU WOULDN'T BE ABLE TO BE FAIR TO THE DOCTOR --

12 PROSPECTIVE JUROR GARCIA: THAT'S CORRECT, YOUR
13 HONOR.

14 THE COURT: -- AND NOT KNOWING ANY MORE FACTS ABOUT
15 THIS CASE?

16 PROSPECTIVE JUROR GARCIA: NONE WHATSOEVER.

17 THE COURT: OKAY. ANYTHING WITH THIS THAT HAS TO
18 DO WITH YOUR TRIP AT ALL OR ANYTHING LIKE THAT?

19 PROSPECTIVE JUROR GARCIA: NOT AT ALL, YOUR HONOR.

20 THE COURT: ALL RIGHT. INQUIRY?

21 MR. NEWHOUSE: IS THERE ANYTHING ABOUT YOUR
22 IMPRESSION -- BECAUSE WE ALL BRING INTO THE COURTROOM OUR
23 PAST EXPERIENCES, IS THERE ANYTHING ABOUT THAT THAT IS SO
24 INDELIBLE YOU CAN'T PUT IT ASIDE, LISTEN TO THE EVIDENCE
25 THAT'S GOING TO BE IN THE CASE AND DECIDE BASED UPON THE
26 COURT'S INSTRUCTIONS? I MEAN, THAT'S ALL WE ASK, IS THAT
27 YOU BE A FAIR AND IMPARTIAL JUROR AND LISTEN TO THE
28 EVIDENCE IN THIS CASE, BECAUSE THIS INVOLVES A DIFFERENT

1 DOCTOR ENTIRELY, A DIFFERENT SET OF FACTS. NOTHING, I
2 PREDICT, ABOUT YOUR EXPERIENCE WILL BE WHAT YOU HEAR IN
3 THIS COURTROOM. THIS IS A TOTALLY DIFFERENT CASE.

4 IS THAT SOMETHING -- CAN YOU PUT YOUR PAST
5 EXPERIENCE ASIDE AND BE FAIR AND IMPARTIAL?

6 PROSPECTIVE JUROR GARCIA: I FEEL THAT I COULD.

7 MY FEAR IS THAT -- I SERVED AS A JUROR ON A
8 CASE BEFORE. I WAS EVEN THE FOREMAN OF THE JURY. AND SO
9 I BELIEVE THAT I CAN BE IMPARTIAL IF I -- AS I'M BEING
10 ASKED TO. MY FEAR IN THIS PARTICULAR CASE IS THAT IT WAS
11 SUCH A STRONG ATTACHMENT TO MY NIECE IN THIS PARTICULAR
12 CASE. AND THE DISREGARD BY THE MEDICAL PROFESSION FOR HER
13 NEED MIGHT BIAS MY OPINION, AND I FEAR IT. I'M NOT SURE
14 IF IT WILL, BUT I FEAR THAT IT WOULD.

15 MR. BLESSEY: NOTHING FURTHER, YOUR HONOR.

16 THE COURT: OKAY. THANK YOU VERY MUCH. YOU CAN GO
17 BACK OUT THERE.

18 PROSPECTIVE JUROR GARCIA: OKAY. THANK YOU.

19 THE COURT: THANK YOU, SIR.

20

21 (PROSPECTIVE JUROR GARCIA EXITS THE
22 CHAMBERS.)

23

24 MR. NEWHOUSE: HE WANTS TO MAKE HIS TRIP TO BOSTON.

25 MR. BLESSEY: I BELIEVE IT'S TRUE. FOR WHAT IT'S
26 WORTH, LOOKING IN HIS EYES AND WATCHING HIM TALK, I
27 BELIEVE WHAT HE IS SAYING.

28 MR. NEWHOUSE: I'LL STIPULATE, YOUR HONOR.

1 THE COURT: I'LL EXCUSE HIM.

2 MR. NEWHOUSE: THANK YOU.

3 THE COURT: NOW HE CAN GO TO BOSTON. PROBABLY GOOD
4 WEATHER RIGHT NOW.

5

6 (THE FOLLOWING PROCEEDINGS WERE HELD
7 IN OPEN COURT, OUTSIDE THE PRESENCE
8 OF THE JURY AND IN THE PRESENCE OF
9 THE PROSPECTIVE ALTERNATES:)

10

11 THE COURT: MR. GARCIA, THANK YOU VERY MUCH.
12 YOU'RE THANKED AND EXCUSED. YOU MAY RETURN TO THE JURY
13 ASSEMBLY ROOM.

14 PROSPECTIVE JUROR GARCIA: THANK YOU.

15 THE COURT: LASTLY, OF THE JURORS THAT REMAIN, DO
16 ANY OF YOU HAVE A FINANCIAL INTEREST IN THE OUTCOME OF
17 THIS LAWSUIT? PLEASE RAISE YOUR HAND. I SEE NO HANDS.

18 ALL RIGHT. LET'S SEE, WE'LL USE THE FIRST
19 LIST FIRST, AND IF I COULD HAVE ALL THE JURORS CALLED INTO
20 THE BOX, PLEASE.

21 THE CLERK: THOMAS SHEEDY, PLEASE HAVE A SEAT IN
22 SEAT NO. 1, WHICH IS AGAINST THE WALL, ALL THE WAY TO THE
23 RIGHT.

24 MR. NEWHOUSE: YOUR HONOR, ARE WE GOING TO MOVE THE
25 OTHER ALTERNATE?

26 THE COURT: NO. HE'S JUST GOING TO REMAIN THERE.

27 MR. NEWHOUSE: HE'LL STAY THERE. OKAY.

28 THE COURT: SORRY ABOUT THAT.

1 THE CLERK: ESTHER LEE, L-E-E, YOU'RE IN SEAT
2 NO. 2. EDGARDO ROLDAN, R-O-L-D-A-N, SEAT NO. 3. LAINNIE
3 CAPOUYA, C-A-P-O-U-Y-A, NO. 4. SOPHIA PHUNG, P-H-U-N-G,
4 SEAT NO. 5. PAULA VASQUEZ, V-A-S-Q-U-E-Z. OLIVER
5 CARIAGA, C-A-R-I-A-G-A, SECOND ROW, ALL THE WAY TO THE
6 RIGHT. AND LYNDA WRIGHT, W-R-I-G-H-T, NO. 8.

7 PROSPECTIVE JUROR WRIGHT: THANKS.

8 THE COURT: GOOD MORNING, MR. SHEEDY, HOW ARE YOU?

9 PROSPECTIVE JUROR SHEEDY: FINE.

10 THE COURT: YOU'RE NOT A LAWYER, ARE YOU?

11 PROSPECTIVE JUROR SHEEDY: I'M NOT.

12 THE COURT: THERE'S A LAWYER WITH THAT NAME.

13 COULD YOU DO US A FAVOR? DO YOU SEE ON THE
14 WALL HERE? PROVIDE US WITH THAT INFORMATION, PLEASE.

15 PROSPECTIVE JUROR SHEEDY: MY NAME IS TOM, THOMAS
16 SHEEDY, THE SECOND. I LIVE IN LA CANADA. I'M MARRIED
17 WITH CHILDREN. I CURRENTLY WORK PART TIME IN A STRUCTURAL
18 ENGINEERING PRACTICE. MY WIFE WORKS FOR RIGHT TO LIFE OF
19 SOUTHERN CALIFORNIA?

20 THE COURT: I'M SORRY. WHAT?

21 PROSPECTIVE JUROR SHEEDY: RIGHT TO LIFE.

22 THE COURT: WHAT IS THAT?

23 PROSPECTIVE JUROR SHEEDY: IT'S ANTI-ABORTION
24 GOALS.

25 THE COURT: I SEE.

26 PROSPECTIVE JUROR SHEEDY: PRIOR JURY EXPERIENCE,
27 YES.

28 THE COURT: I'M SORRY. "YES"?

1 PROSPECTIVE JUROR SHEEDY: YES. CRIMINAL. WE
2 REACHED A VERDICT.

3 THE COURT: YOU DID. HAVE YOU EVER SAT ON A CIVIL
4 CASE?

5 PROSPECTIVE JUROR SHEEDY: NO.

6 THE COURT: JUST THE ONE CRIMINAL?

7 PROSPECTIVE JUROR SHEEDY: YES.

8 THE COURT: OKAY. SO DID YOU SAY YOU'RE WORKING
9 PART TIME.

10 PROSPECTIVE JUROR SHEEDY: I'M SEMIRETIREED.

11 THE COURT: OKAY. BUT YOUR WIFE IS WORKING FULL
12 TIME?

13 PROSPECTIVE JUROR SHEEDY: NO. SHE'S PART TIME,
14 ALSO.

15 THE COURT: AND HOW MANY CHILDREN DO YOU HAVE?

16 PROSPECTIVE JUROR SHEEDY: SEVEN.

17 THE COURT: SEVEN CHILDREN. OCCUPATIONS?

18 PROSPECTIVE JUROR SHEEDY: FIRST ONE IS A
19 CONSTRUCTION MANAGER. SECOND ONE DOWN IS A C.P.A.
20 CURRENTLY WORKING FOR YAHOO! MY THIRD DAUGHTER IS A
21 PHYSICIAN'S ASSISTANT. SHE WORKS IN ORTHOPEDICS. NEXT
22 ONE DOWN IS A PRINCIPAL OF A HIGH SCHOOL IN SAN JOSE.
23 NEXT ONE DOWN IS A REGISTERED NURSE WORKING FOR THE
24 UNIVERSITY OF SAN FRANCISCO -- EXCUSE ME -- UNIVERSITY OF
25 CALIFORNIA AT SAN FRANCISCO. MY NEXT ONE DOWN IS AN
26 ATTORNEY WORKING IN -- WORKS FOR -- WORKS IN NORTH
27 CAROLINA, CHARLOTTE.

28 THE COURT: WHAT TYPE OF LAW?

1 PROSPECTIVE JUROR SHEEDY: HE IS IN FINANCIAL LAW.

2 THE COURT: THAT'S SIX.

3 PROSPECTIVE JUROR SHEEDY: THAT'S SIX. THE NEXT
4 ONE IS A PHYSICIAN'S ASSISTANT. SHE GRADUATED FROM
5 MIDWESTERN SCHOOL OF OSTEOPATHY IN PHOENIX, ARIZONA, AND
6 SHE'S CURRENTLY WORKING ALSO FOR THE UNIVERSITY OF
7 SAN FRANCISCO IN ONCOLOGY.

8 THE COURT: OKAY. THIS IS A MEDICAL MALPRACTICE
9 CASE, WHICH PLAINTIFFS CLAIM THAT MEDICAL MALPRACTICE
10 CAUSED THE DEATH OF THEIR DAUGHTER.

11 YOU HAVE A NUMBER OF CHILDREN -- AND
12 CONGRATULATIONS, IT SOUNDS LIKE A WONDERFUL FAMILY -- AT
13 LEAST THREE THAT I RECOGNIZE AS BEING IN THE MEDICAL
14 PROFESSION?

15 PROSPECTIVE JUROR SHEEDY: THAT'S CORRECT.

16 THE COURT: WHAT ARE YOUR THOUGHTS ABOUT SITTING ON
17 A JURY LIKE THIS IN WHICH WE HAVE A DEFENDANT THAT IS A
18 DOCTOR?

19 PROSPECTIVE JUROR SHEEDY: WELL, WE WILL BE
20 PRESENTED WITH THE FACTS AND MAKE A DECISION.

21 THE COURT: I MEAN, AS YOU SIT HERE RIGHT NOW,
22 OBVIOUSLY, YOU COULDN'T VOTE BECAUSE YOU HAVEN'T HEARD ANY
23 OF THE EVIDENCE WHATSOEVER?

24 PROSPECTIVE JUROR SHEEDY: RIGHT.

25 THE COURT: SO YOU'D BE FAIR AND IMPARTIAL TO BOTH
26 SIDES?

27 PROSPECTIVE JUROR SHEEDY: THAT'S CORRECT.

28 THE COURT: INTERESTS OR HOBBIES?

1 PROSPECTIVE JUROR SHEEDY: INTERESTS, PLAYING GOLF.
2 THAT'S ABOUT IT.

3 THE COURT: THANK YOU VERY MUCH.

4 PROSPECTIVE JUROR SHEEDY: YOU'RE WELCOME.

5 THE COURT: NEXT JUROR, PLEASE.

6 PROSPECTIVE JUROR LEE: ESTHER LEE. I'M LIVING IN
7 SOUTH PASADENA.

8 THE COURT: YOU'RE GOING TO HAVE TO SPEAK UP. I
9 CAN HARDLY HEAR YOU.

10 SOUTH PASADENA?

11 PROSPECTIVE JUROR LEE: SOUTH PASADENA. AND I'M
12 MARRIED, AND I HAVE TWO CHILDREN. RIGHT NOW -- I WAS A
13 PRESCHOOL TEACHER BEFORE. I DON'T HAVE A JOB RIGHT NOW.

14 THE COURT: I'M SORRY. I CANNOT HEAR YOU. YOU
15 WERE A PRESCHOOL TEACHER?

16 PROSPECTIVE JUROR LEE: TEACHER.

17 THE COURT: WHEN YOU SAY YOU WERE, THAT MEANS PAST
18 TENSE TO ME.

19 PROSPECTIVE JUROR LEE: PAST.

20 THE COURT: WHAT ARE YOU CURRENTLY DOING?

21 PROSPECTIVE JUROR LEE: I ONLY TAKE CARE OF MY
22 KIDS.

23 THE COURT: OKAY.

24 PROSPECTIVE JUROR LEE: AND MY HUSBAND IS A PASTOR.

25 THE COURT: YOUR TWO CHILDREN, HOW OLD ARE THEY?

26 PROSPECTIVE JUROR LEE: 11 AND 13.

27 THE COURT: 11 AND 13.

28 PROSPECTIVE JUROR LEE: THEY GO TO SOUTH PASADENA

1 MIDDLE SCHOOL.

2 THE COURT: INTERMEDIATE SCHOOL ON FAIR OAKS?

3 PROSPECTIVE JUROR LEE: SOUTH PASADENA MIDDLE
4 SCHOOL, FAIR OAKS.

5 THE COURT: OKAY. TELL ME ABOUT YOUR INTERESTS OR
6 HOBBIES.

7 PROSPECTIVE JUROR LEE: READING -- READING.

8 THE COURT: HAVE YOU EVER SERVED ON A JURY?

9 PROSPECTIVE JUROR LEE: NO.

10 THE COURT: NEVER HAVE. DO YOU BELIEVE YOU CAN BE
11 A FAIR AND IMPARTIAL JUROR?

12 PROSPECTIVE JUROR LEE: (NO AUDIBLE RESPONSE.)

13 THE COURT: YOU HAVE TO SAY "YES" OR "NO."

14 PROSPECTIVE JUROR LEE: YES.

15 THE COURT: THANK YOU VERY MUCH. NEXT JUROR,
16 PLEASE.

17 PROSPECTIVE JUROR ROLDAN: MY NAME IS EDGARDO
18 ROLDAN, AND I AM AN OWNER OF A SMALL BUSINESS. I AM A
19 BROKER OF AUTO INSURANCE.

20 THE COURT: I'M SORRY. WHAT?

21 PROSPECTIVE JUROR ROLDAN: AUTO INSURANCE.

22 THE COURT: AUTO INSURANCE?

23 PROSPECTIVE JUROR ROLDAN: YES. I AM A BROKER.

24 THE COURT: A BROKER?

25 PROSPECTIVE JUROR ROLDAN: YES. I'M A TAX
26 PREPARER, TOO.

27 THE COURT: YOU WHAT?

28 PROSPECTIVE JUROR ROLDAN: TAX PREPARER.

1 THE COURT: OH, TAX PREPARER?

2 PROSPECTIVE JUROR ROLDAN: YES.

3 THE COURT: WHERE DO YOU LIVE?

4 PROSPECTIVE JUROR ROLDAN: PASADENA.

5 THE COURT: IN PASADENA HERE?

6 PROSPECTIVE JUROR ROLDAN: YES, SIR. I PERFORM
7 WEDDINGS, TOO.

8 THE COURT: WEDDINGS?

9 PROSPECTIVE JUROR ROLDAN: WEDDINGS.

10 THE COURT: YOU KNOW, I DO WEDDINGS ONCE IN A
11 WHILE, TOO, BUT I'D PREFER PROBABLY TO HAVE YOU DO THEM.

12 PROSPECTIVE JUROR ROLDAN: I AM MARRIED.

13 THE COURT: YOU ARE MARRIED?

14 PROSPECTIVE JUROR ROLDAN: YES. MY WIFE IS FROM
15 PERU. I HAVE TWO CHILDREN. ONE IS MARRIED. HE IS A
16 BUSINESS -- HE STUDY BUSINESS ADMINISTRATION. AND MY
17 OTHER SON, A MINOR AS -- IN HE'S TAKING INCOME TAX COURSES
18 RIGHT NOW.

19 THE COURT: I SEE.

20 PROSPECTIVE JUROR ROLDAN: MY HOBBIES ARE READING
21 AND WRITING.

22 THE COURT: HAVE YOU EVER SERVED ON A JURY BEFORE?

23 PROSPECTIVE JUROR ROLDAN: NO, NEVER.

24 THE COURT: OKAY.

25 PROSPECTIVE JUROR ROLDAN: I JUST -- I CAME, BUT
26 BECAUSE MY LANGUAGE, MAYBE THEY PASS.

27 THE COURT: YOU DON'T HAVE ANY PROBLEM IN
28 UNDERSTANDING?

1 PROSPECTIVE JUROR ROLDAN: I DON'T THINK SO, NO.

2 THE COURT: OKAY. I UNDERSTAND WHAT YOU'RE SAYING.

3 DO YOU BELIEVE THAT YOU COULD BE A FAIR AND
4 IMPARTIAL JUROR?

5 PROSPECTIVE JUROR ROLDAN: FAIR?

6 THE COURT: COULD YOU BE FAIR TO BOTH SIDES?

7 LISTEN TO THE EVIDENCE, SIT DOWN IN A JURY ROOM WITH 11

8 OTHER JURORS, TALK ABOUT THE CASE, AND COME UP WITH A FAIR
9 VERDICT? COULD YOU DO THAT?

10 PROSPECTIVE JUROR ROLDAN: YES, SIR.

11 THE COURT: OKAY. THANK YOU VERY MUCH.

12 PROSPECTIVE JUROR ROLDAN: THANK YOU.

13 THE COURT: NEXT JUROR.

14 PROSPECTIVE JUROR CAPOUYA: HI. I'M LAINNIE

15 CAPOUYA. I LIVE IN SAN MARINO. I'M MARRIED WITH TWO

16 CHILDREN. MY HUSBAND IS A CARDIOTHORACIC SURGEON. LET'S

17 SEE. I'M CURRENTLY A HOMEMAKER. I WAS PREVIOUSLY A

18 TALENT AGENT. I SERVED ON A GRAND JURY LAST YEAR IN

19 DOWNTOWN LOS ANGELES.

20 THE COURT: GRAND JURY, WOULD THAT BE COUNTY?

21 PROSPECTIVE JUROR CAPOUYA: YOU KNOW, I'M UNCLEAR

22 ABOUT THAT BECAUSE I WAS TALKING TO THE LADIES IN THE

23 OFFICE UPSTAIRS ABOUT IT. I GUESS IT WAS COUNTY BECAUSE

24 IT DOESN'T INTERMINGLE WITH THIS PARTICULAR COURT, RIGHT?

25 THE COURT: DO YOU REMEMBER -- THIS IS LIKE A

26 FULL-TIME ASSIGNMENT FOR SIX MONTHS AS A GRAND JUROR?

27 PROSPECTIVE JUROR CAPOUYA: NO.

28 THE COURT: WAS THIS A FEDERAL --

1 PROSPECTIVE JUROR CAPOUYA: MUST HAVE BEEN A
2 FEDERAL, YEAH. A MAN WAS SUING THE POLICE DEPARTMENT FOR
3 BATTERY. IS THAT FEDERAL? I'M SORRY. I DON'T REMEMBER
4 ALL THE DETAILS.

5 THE COURT: ALL RIGHT.

6 PROSPECTIVE JUROR CAPOUYA: IT WAS DISMISSED.

7 THE COURT: WHEN DID YOU SERVE ON THIS JURY?

8 PROSPECTIVE JUROR CAPOUYA: IT WAS IN OCTOBER. I
9 BELIEVE IT WAS 10TH THROUGH THE 16TH.

10 THE COURT: OF LAST YEAR?

11 PROSPECTIVE JUROR CAPOUYA: YES, SIR.

12 THE COURT: SO IT'S BEEN ALMOST A YEAR?

13 PROSPECTIVE JUROR CAPOUYA: YES, SIR.

14 THE COURT: WELL, WELCOME.

15 PROSPECTIVE JUROR CAPOUYA: THANK YOU.

16 THE COURT: WHAT DO YOU THINK ABOUT THIS CASE?

17 PROSPECTIVE JUROR CAPOUYA: I DON'T KNOW WHAT TO
18 THINK. MY FATHER COMMITTED SUICIDE, MY GRANDFATHER DID,
19 TOO. MY HUSBAND HAS BEEN INVOLVED IN A NUMBER OF CASES
20 LIKE THIS. AND COULD I BE FAIR AND IMPARTIAL? I THINK I
21 COULD, BUT I DEFINITELY HAVE SOME HISTORY WITH A LOT OF
22 THE ISSUES THAT WILL BE DISCUSSED IN THIS CASE. SO I
23 THINK THAT I WOULD COME WITH A LOT OF MY OWN EXPERIENCE.

24 THE COURT: YOU SAID YOUR HUSBAND IS A SURGEON?

25 PROSPECTIVE JUROR CAPOUYA: HE IS.

26 THE COURT: AND IS HE AFFILIATED WITH A LOCAL
27 HOSPITAL?

28 PROSPECTIVE JUROR CAPOUYA: SEVEN.

1 THE COURT: PARDON?

2 PROSPECTIVE JUROR CAPOUYA: SEVEN, YES, SIR.

3 THE COURT: INCLUDING HUNTINGTON?

4 PROSPECTIVE JUROR CAPOUYA: YES, SIR.

5 THE COURT: L.A. COUNTY?

6 PROSPECTIVE JUROR CAPOUYA: NO. GOOD SAMARITAN,
7 ST. JOSEPH'S, GLENDALE ADVENTIST --

8 THE COURT: WHERE IS HIS OFFICE?

9 PROSPECTIVE JUROR CAPOUYA: GOOD SAMARITAN.

10 THE COURT: AND YOU HAVE TWO CHILDREN, DID YOU SAY?

11 PROSPECTIVE JUROR CAPOUYA: YES.

12 THE COURT: ARE THEY AT HOME?

13 PROSPECTIVE JUROR CAPOUYA: THEY'RE IN SCHOOL RIGHT
14 NOW, YEAH, BUT, YEAH, THEY'RE HOME.

15 THE COURT: SCHOOL MEANING COLLEGE?

16 PROSPECTIVE JUROR CAPOUYA: NO, SIR. THEY'RE
17 YOUNG. THEY'RE TEENAGERS, YOUNG TEENAGERS. THEY'RE BOTH
18 IN SAN MARINO PUBLIC SCHOOL SYSTEM.

19 THE COURT: TELL ME ABOUT YOUR INTERESTS OR
20 HOBBIES.

21 PROSPECTIVE JUROR CAPOUYA: I COOK AND I MOTHER.

22 THE COURT: AT THIS POINT IN TIME, CAN YOU BE FAIR
23 AND IMPARTIAL, YEAH?

24 PROSPECTIVE JUROR CAPOUYA: YES.

25 THE COURT: THANK YOU. NEXT JUROR, PLEASE.

26 PROSPECTIVE JUROR PHUNG: SOPHIA PHUNG, AND I'M
27 LIVING IN ARCADIA.

28 THE COURT: I CAN BARELY HEAR YOU. YOU LIVE IN

1 ARCADIA. OKAY.

2 PROSPECTIVE JUROR PHUNG: PRESENTLY DIVORCED.

3 THE COURT: I'M SORRY?

4 PROSPECTIVE JUROR PHUNG: I'M DIVORCED.

5 THE COURT: DIVORCED. OKAY.

6 PROSPECTIVE JUROR PHUNG: I HAVE TWO GIRLS, TWO
7 COLLEGE GIRLS, ONE IN U.S.C. AND ONE IN P.C.C.

8 THE COURT: I'M SORRY. WHAT WAS THE OTHER ONE?

9 PROSPECTIVE JUROR PHUNG: U.S.C. AND P.C.C.

10 THE COURT: P.C.C. THANK YOU.

11 PROSPECTIVE JUROR PHUNG: AND CURRENTLY WORKING
12 HERE IN THIS COURTHOUSE.

13 THE COURT: YOU WORK HERE IN THIS COURTHOUSE?

14 PROSPECTIVE JUROR PHUNG: YES. I'M A CLERK.

15 THE COURT: LIKE CINDY? ARE YOU A COURTROOM CLERK?

16 PROSPECTIVE JUROR PHUNG: NO. I'M WORKING IN THE
17 OFFICE.

18 DO YOU KNOW HER?

19 THE CLERK: YES.

20 THE COURT: DO YOU KNOW CINDY?

21 PROSPECTIVE JUROR PHUNG: YES.

22 THE COURT: OH, THAT'S WONDERFUL. HOW LONG HAVE
23 YOU WORKED FOR THE COUNTY?

24 PROSPECTIVE JUROR PHUNG: MORE THAN TEN YEARS.

25 THE COURT: MORE THAN TEN YEARS. YOU'RE A CLERK IN
26 WHAT SECTION?

27 PROSPECTIVE JUROR PHUNG: IN THE U.D. HUB.

28 THE COURT: U.D.?

1 PROSPECTIVE JUROR PHUNG: YES.

2 THE COURT: YOU WORK WITH BONDS?

3 PROSPECTIVE JUROR PHUNG: YES.

4 THE COURT: OKAY. HAVE YOU EVER BEEN ON A JURY
5 BEFORE?

6 PROSPECTIVE JUROR PHUNG: YES. I WAS IN THE PANEL,
7 BUT I NEVER GOT IN.

8 THE COURT: YOU NEVER ACTUALLY GOT SELECTED TO
9 SIT --

10 PROSPECTIVE JUROR PHUNG: RIGHT.

11 THE COURT: -- IN JUDGMENT. OKAY.

12 TELL ME ABOUT YOUR INTERESTS OR HOBBIES.

13 PROSPECTIVE JUROR PHUNG: I LIKE TO COOK. I LIKE
14 TO INVITE FRIENDS OVER.

15 THE COURT: YOU'VE HEARD SOMETHING ABOUT THIS CASE,
16 JUST A BRIEF, YOU KNOW, THUMBNAIL SKETCH THAT I GAVE THE
17 PEOPLE. DO YOU BELIEVE THAT YOU COULD BE A FAIR AND
18 IMPARTIAL JUROR?

19 PROSPECTIVE JUROR PHUNG: I THINK SO, YES.

20 THE COURT: THANK YOU.

21 NEXT JUROR.

22 PROSPECTIVE JUROR VASQUEZ: PAULA VASQUEZ. I LIVE
23 IN SOUTH PASADENA. I'M MARRIED WITH TWO CHILDREN, AND I'M
24 A PHOTOGRAPHER. MY HUSBAND --

25 THE COURT: I'M SORRY. YOU'RE A PHOTOGRAPHER?

26 PROSPECTIVE JUROR VASQUEZ: A PHOTOGRAPHER. MY
27 HUSBAND IS A LOCATION MANAGER, AND I'VE NEVER BEEN ON A
28 JURY BEFORE.

1 THE COURT: OKAY. SO HOW DOES ONE BECOME A
2 PHOTOGRAPHER?

3 PROSPECTIVE JUROR VASQUEZ: GET A CAMERA.

4 THE COURT: YOU GOT A CAMERA AND YOU STARTED TAKING
5 PICTURES?

6 PROSPECTIVE JUROR VASQUEZ: YES.

7 THE COURT: OBVIOUSLY, YOU DO THIS AS A PROFESSION?

8 PROSPECTIVE JUROR VASQUEZ: YES.

9 THE COURT: SO DID YOU TAKE CLASSES?

10 PROSPECTIVE JUROR VASQUEZ: YEAH, YEAH, I DID.

11 THE COURT: YOU DO. OKAY.

12 PROSPECTIVE JUROR VASQUEZ: I WENT TO -- I WENT TO
13 SCHOOL FOR FASHION DESIGN AND KIND OF MADE MY WAY OVER TO
14 PHOTOGRAPHY.

15 THE COURT: SO AS A PHOTOGRAPHER, DO YOU HAVE YOUR
16 OWN STUDIO OR HOW DOES THAT WORK?

17 PROSPECTIVE JUROR VASQUEZ: I DON'T HAVE MY OWN
18 STUDIO, BUT I WORK WITH OTHER PHOTOGRAPHERS, AND I ALSO
19 RENT OUT STUDIOS, AND I DO A LOT OF OUTDOOR PHOTOGRAPHY.

20 THE COURT: OKAY. DO YOU LIKE THE WORK?

21 PROSPECTIVE JUROR VASQUEZ: YES.

22 THE COURT: TELL ME ABOUT YOUR INTERESTS OR
23 HOBBIES.

24 PROSPECTIVE JUROR VASQUEZ: I COOK. I DO ART,
25 FASHION, MAKEUP. AND WE'RE MAINLY ARTISTS, SO --

26 THE COURT: HAVE YOU EVER WORKED WITH ASPIRING
27 ACTRESSES OR ACTORS?

28 PROSPECTIVE JUROR VASQUEZ: YES.

1 THE COURT: TELL ME ABOUT THAT.

2 PROSPECTIVE JUROR VASQUEZ: IN WHAT RESPECT?

3 THE COURT: WELL, IN WHAT WAY DID YOU WORK WITH
4 THEM?

5 PROSPECTIVE JUROR VASQUEZ: I PHOTOGRAPH THEM.

6 THE COURT: I MEANT DID YOU HANG OUT WITH THEM?
7 DID YOU JUST, YOU KNOW, DO WHAT YOU HAD TO DO IN REGARDS
8 TO --

9 PROSPECTIVE JUROR VASQUEZ: I -- THEY'RE -- YES,
10 I -- THEY'RE ACTRESSES OR ACTORS. THEY'RE A BIG CIRCLE OF
11 OUR FRIENDS, ALSO, SO -- AND I WORK WITH THEM. I
12 PHOTOGRAPH THEM. MY HUSBAND WORKS WITH THEM, SO --

13 THE COURT: HAVE YOU FOUND IN YOUR EXPERIENCE THAT
14 THERE'S ANYTHING UNIQUE ABOUT ACTORS? AND I USE THAT IN A
15 GENERIC WAY.

16 PROSPECTIVE JUROR VASQUEZ: NOT NECESSARILY.

17 THE COURT: MRS. CAPOUYA, YOU WORK AND HAVE WORKED
18 WITH ACTORS?

19 PROSPECTIVE JUROR CAPOUYA: YES.

20 THE COURT: WHEN IS THE LAST TIME YOU WORKED WITH
21 ACTORS?

22 PROSPECTIVE JUROR CAPOUYA: MUST BE ABOUT 16 YEARS
23 AGO.

24 THE COURT: DO YOU FIND FROM YOUR PAST EXPERIENCE
25 ANYTHING UNIQUE ABOUT THE FIELD OF ACTING AND ACTORS,
26 WHETHER IT BE MALE OR FEMALE?

27 PROSPECTIVE JUROR CAPOUYA: I DON'T KNOW. THEY CAN
28 TAKE A LOT OF ABUSE. THEY ALMOST SIGN UP FOR IT. I USED

1 TO REPRESENT TALENT AND CAST THEM, SO I'VE HAD QUITE A BIT
2 OF EXPERIENCE WITH ACTORS AND ACTRESSES.

3 THE COURT: I CAN'T REMEMBER OFFHAND IN THE BRIEF
4 DESCRIPTION OF THIS CASE -- AND I'LL TELL ALL OF YOU --
5 THAT THE DECEDENT IN THIS CASE, 30 YEARS OLD, WAS AN
6 ASPIRING ACTRESS.

7 PROSPECTIVE JUROR CAPOUYA: I DIDN'T KNOW THAT.

8 THE COURT: DOES THAT CHANGE ANY OF YOUR VIEWS,
9 THOUGHTS?

10 PROSPECTIVE JUROR CAPOUYA: NO. BUT AS I SAY, I
11 HAVE A LOT OF EXPERIENCE WITH A LOT OF THE ASPECTS OF THIS
12 CASE.

13 THE COURT: HOW ABOUT MRS. VASQUEZ?

14 PROSPECTIVE JUROR VASQUEZ: I THINK I COULD BE FAIR
15 AND IMPARTIAL, SO I MEAN --

16 THE COURT: YOU COULD BE VERY IMPARTIAL?

17 PROSPECTIVE JUROR VASQUEZ: IMPARTIAL, YES.

18 THE COURT: MR. CARIAGA, DID I PRONOUNCE THAT
19 RIGHT?

20 PROSPECTIVE JUROR CARIAGA: YES.

21 THE COURT: OKAY. WELCOME.

22 PROSPECTIVE JUROR CARIAGA: OLIVER CARIAGA. I LIVE
23 IN MONROVIA. I'M MARRIED WITH TWO CHILDREN, TWO AND FOUR.
24 I'M A DISABILITY EVALUATION ANALYST FOR THE CALIFORNIA
25 DEPARTMENT OF SOCIAL SERVICES. MY WIFE IS AN OCCUPATIONAL
26 THERAPIST OVER AT ARCADIA METHODIST HOSPITAL. AND I'VE
27 BEEN ON A CIVIL JURY BACK IN 2000. THAT WAS THE ONLY TIME
28 I'VE EVER DONE IT.

1 THE COURT: WHAT WAS THAT CASE ABOUT?

2 PROSPECTIVE JUROR CARIAGA: IT WAS -- SOMEONE WAS
3 SUING A CONTRACTOR FOR SHODDY WORK DURING THE NORTHRIDGE
4 EARTHQUAKE.

5 THE COURT: WAS THAT DOWNTOWN LOS ANGELES?

6 PROSPECTIVE JUROR CARIAGA: NO. IT WAS IN
7 ALHAMBRA.

8 THE COURT: ALHAMBRA. OKAY. HOW LONG OF A CASE
9 WAS THAT?

10 PROSPECTIVE JUROR CARIAGA: I BELIEVE IT WENT ON
11 EXACTLY TWO WEEKS.

12 THE COURT: TWO WEEKS.

13 PROSPECTIVE JUROR CARIAGA: YEAH.

14 THE COURT: OKAY. YOUR INTERESTS OR HOBBIES?

15 PROSPECTIVE JUROR CARIAGA: LET'S SEE. I WATCH A
16 LOT OF HOCKEY. I PLAYED A LITTLE, TOO. RECENTLY GOT INTO
17 ARCHERY. AND LEARNING TO PLAY ELECTRIC GUITAR. AND I
18 PLAY VIDEO GAMES.

19 THE COURT: YOU'VE HEARD SOMETHING ABOUT THIS CASE,
20 OBVIOUSLY, NOT A LOT.

21 PROSPECTIVE JUROR CARIAGA: NO.

22 THE COURT: COULD YOU BE FAIR AND IMPARTIAL FROM
23 WHAT YOU'VE HEARD?

24 PROSPECTIVE JUROR CARIAGA: YES.

25 THE COURT: THANK YOU. NEXT JUROR, PLEASE.

26 PROSPECTIVE JUROR WRIGHT: MY NAME IS LYNDA WRIGHT.
27 I'M A PAYROLL PROCESSOR AND --

28 THE COURT: I'M SORRY. COULD YOU SPEAK UP?

1 PROSPECTIVE JUROR WRIGHT: MY NAME IS LYNDA WRIGHT.

2 THE COURT: YES, I HAVE THAT.

3 PROSPECTIVE JUROR WRIGHT: I WORK FOR CALTECH AS A
4 PAYROLL PROCESSOR IN JOB COSTING. I'M A WIDOW. I HAVE
5 ONE DAUGHTER AND ONE GRANDDAUGHTER. MY DAUGHTER ALSO
6 WORKS FOR CALTECH.

7 THE COURT: HOW LONG HAVE YOU BEEN ASSOCIATED WITH
8 CALTECH?

9 PROSPECTIVE JUROR WRIGHT: TEN YEARS.

10 THE COURT: PARDON?

11 PROSPECTIVE JUROR WRIGHT: TEN YEARS.

12 THE COURT: OKAY. GIVE ME YOUR THOUGHTS ABOUT
13 SITTING AS A JUROR ON THIS CASE FROM WHAT YOU'VE HEARD.

14 PROSPECTIVE JUROR WRIGHT: I WOULD PROBABLY BE FAIR
15 AND IMPARTIAL.

16 THE COURT: YOUR HUSBAND, WHAT TYPE OF WORK DID HE
17 DO?

18 PROSPECTIVE JUROR WRIGHT: HE WAS A LOG TRUCK
19 DRIVER.

20 THE COURT: PARDON?

21 PROSPECTIVE JUROR WRIGHT: HE WAS A LOG TRUCK
22 DRIVER.

23 THE COURT: OKAY. AND I FAILED TO NOTE, HAVE YOU
24 EVER SERVED ON A JURY?

25 PROSPECTIVE JUROR WRIGHT: NO, I HAVE NOT.

26 THE COURT: OKAY. I'VE GOT SOME QUESTIONS FOR
27 EVERYBODY, ALL EIGHT OF YOU.

28 HAVE ANY OF YOU -- AND JUST RAISE YOUR HAND

1 IF YOU CAN RESPOND TO THESE QUESTIONS. HAVE ANY OF YOU
2 EVER BEEN A PARTY TO A LAWSUIT?

3 JUROR NO. 4, CAN YOU TELL ME?

4 PROSPECTIVE JUROR CAPOUYA: MY FATHER'S ESTATE WAS
5 EMBATTLED FOR 25 YEARS IN A LAWSUIT IN LOUISIANA. IT
6 WOULD TAKE ME 25 YEARS TO TELL YOU ALL ABOUT IT.

7 THE COURT: WERE YOU CHALLENGING THE ESTATE OR WERE
8 REPRESENTING --

9 PROSPECTIVE JUROR CAPOUYA: HIS SISTER -- HIS
10 SISTER WAS CHALLENGING THE ESTATE.

11 THE COURT: I SEE. OKAY. AND YOU REPRESENTED THE
12 ESTATE? WERE YOU THE EXECUTRIX?

13 PROSPECTIVE JUROR CAPOUYA: NO. WE HAD MY MOTHER,
14 WHO WAS THE EXECUTRIX.

15 THE COURT: I SEE. ANYTHING ABOUT THAT EXPERIENCE
16 THAT WOULD -- YOU KNOW, 25 YEARS, IT SEEMS LIKE JUSTICE
17 SHOULD HAVE COME TO AN END.

18 PROSPECTIVE JUROR CAPOUYA: THANK YOU. YOU JUST
19 ANSWERED MY QUESTION FOR ME. LOUISIANA WE'RE TALKING
20 ABOUT, TOO. IT'S A TOTALLY DIFFERENT SITUATION.

21 THE COURT: ANYBODY ELSE PARTY TO A LAWSUIT,
22 WHETHER AS A PLAINTIFF OR A DEFENDANT? I SEE NO HANDS.

23 HAVE ANY OF YOU EVER CONSULTED WITH A LAWYER
24 ABOUT BRINGING A LAWSUIT? AND I'M REALLY TALKING ABOUT A
25 PERSONAL INJURY CASE, EITHER BRINGING OR DEFENDING A CASE,
26 HAVING SOMEBODY -- I SEE NO HANDS.

27 YES?

28 PROSPECTIVE JUROR PHUNG: BEFORE I WORKED FOR THE

1 COURT, I USED TO WORK FOR A PERSONAL INJURY ATTORNEY'S
2 OFFICE.

3 THE COURT: OKAY. AND WHAT DID YOU DO THERE?

4 PROSPECTIVE JUROR PHUNG: I WAS A LEGAL SECRETARY.

5 THE COURT: A LEGAL SECRETARY?

6 PROSPECTIVE JUROR PHUNG: YES.

7 THE COURT: HOW LONG AGO WAS THAT; TEN YEARS AGO OR
8 MORE?

9 PROSPECTIVE JUROR PHUNG: MORE LIKE ABOUT 13 YEARS.

10 THE COURT: OKAY. AND IF I WERE TO TALK TO YOU
11 ABOUT INTERROGATORIES, DEPOSITIONS, THAT SORT OF THING,
12 WOULD YOU KNOW WHAT I'M TALKING ABOUT?

13 PROSPECTIVE JUROR PHUNG: YES.

14 THE COURT: YOU WOULD KNOW?

15 PROSPECTIVE JUROR PHUNG: YES.

16 THE COURT: THIS PARTICULAR LAWYER, DID HE DO
17 PLAINTIFFS' WORK, DEFENSE WORK?

18 PROSPECTIVE JUROR PHUNG: HE MOSTLY DOES PLAINTIFF.

19 THE COURT: PLAINTIFFS' WORK.

20 PROSPECTIVE JUROR PHUNG: YES.

21 THE COURT: ANYTHING ABOUT THAT EXPERIENCE THAT
22 WOULD CAUSE YOU TO BE LESS THAN FAIR AND IMPARTIAL HERE?

23 PROSPECTIVE JUROR PHUNG: NO.

24 THE COURT: THANK YOU. ANY OF YOU HAVE ANY FAMILY
25 MEMBERS, CLOSE PERSONAL FRIENDS, THAT HAVE EVER BEEN A
26 PARTY TO A MEDICAL MALPRACTICE CASE?

27 YES, MA'AM?

28 PROSPECTIVE JUROR CAPOUYA: MY HUSBAND.

1 THE COURT: OKAY. AS A DOCTOR?

2 PROSPECTIVE JUROR CAPOUYA: YES, SIR.

3 THE COURT: OKAY. AND DID THAT MATTER GO TO TRIAL,
4 JURY TRIAL?

5 PROSPECTIVE JUROR PHUNG: YES, IT DID.

6 THE COURT: IT DID. AND WAS THE SYSTEM -- DID YOU
7 FOLLOW THE TRIAL AT ALL?

8 PROSPECTIVE JUROR CAPOUYA: HE REALLY DIDN'T TALK
9 MUCH ABOUT IT, BUT IT WAS IN THE NEWS.

10 THE COURT: IT WAS IN THE NEWS?

11 PROSPECTIVE JUROR CAPOUYA: JOHN RITTER'S CASE.

12 THE COURT: AND DO YOU FEEL THAT JUSTICE WAS
13 SERVED?

14 PROSPECTIVE JUROR CAPOUYA: I THINK THE HOSPITAL
15 SETTLED OUT OF COURT TO KEEP HIM QUIET.

16 THE COURT: WAS HE THE REMAINING DEFENDANT?

17 PROSPECTIVE JUROR CAPOUYA: MY HUSBAND?

18 THE COURT: YES. BECAUSE YOU SAID IT WENT TO
19 TRIAL.

20 PROSPECTIVE JUROR CAPOUYA: I DON'T KNOW IF IT
21 WENT -- HE WAS DISMISSED EARLY ON.

22 THE COURT: OH, HE WAS. OKAY.

23 PROSPECTIVE JUROR CAPOUYA: YEAH. HE WAS
24 DISMISSED.

25 THE COURT: SO HE DIDN'T GET INVOLVED IN THE ACTUAL
26 TRIAL?

27 PROSPECTIVE JUROR CAPOUYA: NO.

28 THE COURT: I THINK THE HOSPITAL DID SETTLE. I

1 CAN'T REMEMBER ALL THE DETAILS.

2 PROSPECTIVE JUROR CAPOUYA: SETTLED OUT OF COURT.

3 THE COURT: THIS HAPPENED -- WHAT? -- EIGHT TO TEN
4 YEARS AGO?

5 PROSPECTIVE JUROR CAPOUYA: YEAH.

6 THE COURT: WE'RE GOING TO BE TALKING IN THIS CASE
7 ABOUT NARCOTICS. METHAMPHETAMINE, PERCOCET, ANYBODY
8 FAMILIAR WITH THOSE TWO DRUGS?

9 PROSPECTIVE JUROR CAPOUYA: I KNOW WHAT THEY ARE.

10 THE COURT: OTHER THAN THE NAME.

11 PROSPECTIVE JUROR CAPOUYA: I'VE NEVER USED THEM.

12 THE COURT: PARDON?

13 PROSPECTIVE JUROR CAPOUYA: I'VE NEVER USED THEM.

14 THE COURT: MS. VASQUEZ?

15 PROSPECTIVE JUROR VASQUEZ: I'VE NEVER USED THEM
16 BUT I -- I HAVE EXPERIENCE WITH THEM WITH A FAMILY MEMBER.

17 THE COURT: WITH FAMILY MEMBERS.

18 ANY OF YOU HAVE ANY INTIMATE KNOWLEDGE ABOUT
19 THOSE TWO DRUGS? THERE MAY BE ADDITIONAL ONES THROUGHOUT
20 THE COURSE OF THIS TRIAL. ANYBODY?

21 HOW ABOUT PAINKILLERS; ANY OF YOU CURRENTLY
22 TAKING ANY SORT OF A PAINKILLER?

23 MR. SHEEDY?

24 PROSPECTIVE JUROR SHEEDY: WELL, YEAH, I MAY HAVE
25 BEEN PRESCRIBED PERCOCET. I DON'T KNOW VICODIN. I HAD
26 BAD BACK PROBLEMS. I TOOK IT FOR A PERIOD OF TIME.

27 THE COURT: ARE YOU CURRENTLY TAKING ANY OF THOSE
28 MEDICATIONS?

1 PROSPECTIVE JUROR SHEEDY: NO.

2 THE COURT: WHEN WAS THE LAST TIME YOU TOOK ANY OF
3 THOSE MEDICATIONS?

4 PROSPECTIVE JUROR SHEEDY: PROBABLY FIVE YEARS AGO.

5 THE COURT: ANYBODY ELSE?

6 YES, MA'AM?

7 PROSPECTIVE JUROR WRIGHT: I'M CURRENTLY ON PAIN
8 MEDICATION.

9 THE COURT: I'M SORRY?

10 PROSPECTIVE JUROR WRIGHT: I'M CURRENTLY ON PAIN
11 MEDICATION. I RECENTLY HAD SURGERY.

12 THE COURT: OKAY. HOW LONG AGO WAS THAT?

13 PROSPECTIVE JUROR WRIGHT: THE SURGERY?

14 THE COURT: YES.

15 PROSPECTIVE JUROR WRIGHT: LAST WEDNESDAY.

16 THE COURT: WHEN?

17 PROSPECTIVE JUROR WRIGHT: LAST WEDNESDAY.

18 THE COURT: LAST WEDNESDAY. WHAT MEDICATION ARE
19 YOU TAKING?

20 PROSPECTIVE JUROR WRIGHT: PERCOCET IS ONE OF THEM.
21 I DON'T REACT WELL TO IT.

22 THE COURT: DO YOU TAKE THAT FOR PAIN?

23 PROSPECTIVE JUROR WRIGHT: YEAH.

24 THE COURT: DO YOU TAKE IT LIKE ON A REGULAR BASIS?
25 I DON'T KNOW. IS IT LIKE EVERY 8 HOURS, 4 HOURS?

26 PROSPECTIVE JUROR WRIGHT: RIGHT NOW I'M TAKING
27 HYDROCODONE AT NIGHT SO THAT I CAN SLEEP.

28 THE COURT: I SEE. OKAY. AND ALL OF THESE WERE

1 PRESCRIBED --

2 PROSPECTIVE JUROR WRIGHT: YES.

3 THE COURT: -- LAST WEEK?

4 PROSPECTIVE JUROR WRIGHT: THE PERCOCET WAS
5 ORIGINALLY PRESCRIBED AT THE END OF JULY WHEN I WAS FIRST
6 TREATED. AND THEN I JUST FINALLY HAD THE SURGERY, SO I'M
7 STILL ON PAINKILLERS.

8 THE COURT: OKAY. I WANT YOU TO BE AS HONEST AS
9 YOU CAN WITH ME. ARE ANY OF YOU OR ANY FAMILY MEMBERS
10 THAT YOU HAVE ADDICTED TO ANY TYPE OF NARCOTICS,
11 PAINKILLERS?

12 YES, MA'AM?

13 PROSPECTIVE JUROR VASQUEZ: NOT ME. I HAVE A
14 FAMILY MEMBER.

15 THE COURT: DO YOU KNOW WHAT TYPE OF MEDICINE?

16 PROSPECTIVE JUROR VASQUEZ: METH.

17 THE COURT: IS THAT METH? PARDON?

18 PROSPECTIVE JUROR VASQUEZ: AND XANAX. METH AND
19 XANAX. PROBABLY ANYTHING THAT THEY CAN GET THEIR HANDS
20 ON.

21 THE COURT: OKAY. ANYBODY ELSE? THIS IS A SUICIDE
22 CASE. I WANT ALL OF YOU TO KIND OF THINK ABOUT, COULD YOU
23 BE A FAIR AND IMPARTIAL JUROR?

24 MR. SHEEDY?

25 PROSPECTIVE JUROR SHEEDY: I BELIEVE SO. MY
26 BROTHER-IN-LAW COMMITTED SUICIDE ABOUT 18 MONTHS AGO.

27 THE COURT: WAS THAT ON AN OVERDOSE OF NARCOTICS AT
28 ALL OR MEDICINE?

1 PROSPECTIVE JUROR SHEEDY: NO. FIREARM.

2 THE COURT: JUROR NO. 2, ANYTHING IN THE FAMILY
3 HISTORY ABOUT SUICIDE THAT MIGHT MAKE IT DIFFICULT FOR YOU
4 TO BE A JUROR?

5 PROSPECTIVE JUROR LEE: NO.

6 THE COURT: JUROR NO. 3?

7 PROSPECTIVE JUROR ROLDAN: NO EITHER.

8 THE COURT: OKAY. NO. 4?

9 PROSPECTIVE JUROR CAPOUYA: I HAVE LOTS OF
10 EXPERIENCE WITH IT.

11 THE COURT: I'M SORRY? LOTS?

12 PROSPECTIVE JUROR CAPOUYA: I HAVE A LOT OF
13 EXPERIENCE WITH SUICIDE -- MY FATHER AND MY GRANDFATHER
14 WERE BOTH ALCOHOLICS -- BY FIREARM.

15 THE COURT: ANYTHING ABOUT THOSE EXPERIENCES THAT
16 WOULD AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS
17 COURTROOM?

18 PROSPECTIVE JUROR CAPOUYA: I DON'T THINK SO.

19 THE COURT: OKAY. THANK YOU.

20 NEXT JUROR?

21 PROSPECTIVE JUROR PHUNG: I COULD BE FAIR.

22 THE COURT: PARDON?

23 PROSPECTIVE JUROR PHUNG: I COULD BE FAIR.

24 THE COURT: NO. I'M TALKING ABOUT SUICIDE. ANY
25 FAMILY MEMBERS, CLOSE PERSONAL FRIENDS, THAT HAVE TAKEN
26 THEIR LIFE?

27 PROSPECTIVE JUROR PHUNG: NO.

28 THE COURT: JUROR NO. 6?

1 PROSPECTIVE JUROR VASQUEZ: NO.

2 THE COURT: HOW ABOUT THE FRONT ROW HERE?

3 SIR?

4 PROSPECTIVE JUROR CARIAGA: NO.

5 THE COURT: MS. WRIGHT? I'M SORRY. "YES," "NO"?

6 PROSPECTIVE JUROR WRIGHT: I'M SORRY. MY

7 HUSBAND --

8 THE COURT: LET ME ASK YOU, THIS IS GOING TO BE A

9 DIFFICULT CASE FOR YOU, ISN'T IT?

10 PROSPECTIVE JUROR WRIGHT: YES, IT.

11 THE COURT: WOULD YOU PREFER NOT TO BE HERE?

12 PROSPECTIVE JUROR WRIGHT: YES.

13 THE COURT: STIPULATION OF COUNSEL?

14 MR. NEWHOUSE: YES, YOUR HONOR.

15 MR. BLESSEY: YES, YOUR HONOR.

16 THE COURT: THANK YOU VERY MUCH. YOU'RE THANKED

17 AND EXCUSED. YOU CAN RETURN TO THE JURY ASSEMBLY ROOM.

18 PROSPECTIVE JUROR WRIGHT: THANK YOU, SIR.

19 THE COURT: THANK YOU FOR BEING SO HONEST.

20 WITH THAT, I HAVE COMPLETED MY VOIR DIRE,

21 WHICH IS A FANCY FRENCH PHRASE TO SPEAK THE TRUTH, AND I'M

22 NOW GOING TO LET COUNSEL MAKE INQUIRY.

23 MR. NEWHOUSE: THANK YOU, YOUR HONOR.

24 GOOD MORNING, LADIES AND GENTLEMEN,

25 POTENTIALLY THE JURY. LET ME INTRODUCE MYSELF AGAIN. I'M

26 GEORGE NEWHOUSE, AND, ONCE AGAIN, THIS IS KATHERINE

27 MC BROOM, AND WE HAVE THE HONOR OF REPRESENTING PLAINTIFFS

28 IN THIS CASE.

1 NOW, AS THE JUDGE HAS INDICATED, I THINK
2 IT'S ALREADY BEEN VERY EVIDENT, THIS IS NOT GOING TO BE AN
3 EASY CASE TO TRY; IT'S NOT GOING TO BE AN EASY CASE TO BE
4 THE FINDER OF FACT. THERE ARE SOME EMOTIONAL ISSUES, AND
5 I ANTICIPATE THAT SOME OF THE TESTIMONY THAT YOU'RE GOING
6 TO HEAR COULD EVOKE EMOTIONS PROBABLY IN A LOT OF US.

7 SO IS ANYONE, OTHER THAN JUROR NO. 8, WHO
8 WAS EXCUSED, THINK THAT THEY WOULD HAVE DIFFICULTY
9 SITTING, PROCESSING THIS INFORMATION, AND THEN AT THE END
10 OF THE DAY, WHAT WE ASK OF YOU IS TO RENDER A FAIR AND
11 IMPARTIAL VERDICT BASED UPON THE EVIDENCE ONLY THAT YOU
12 HEAR ON THE WITNESS STAND AND THE INSTRUCTIONS OF THE
13 COURT? DOES ANYONE HAVE A DOUBT ABOUT WHETHER THEY CAN DO
14 THAT? I SEE NO HANDS.

15 SO THIS VOIR DIRE PROCESS, BY THE WAY, WHICH
16 WE APPRECIATE, IS OUR OPPORTUNITY, IN FACT, OUR ONLY
17 OPPORTUNITY, FROM THE ATTORNEYS' STANDPOINT IN ANY EVENT,
18 WHERE WE CAN TALK TO YOU AND YOU CAN SPEAK BACK TO US. SO
19 I APPRECIATE VERY MUCH YOUR HONESTY AND CANDOR.

20 AGAIN, SOME OF THE QUESTIONS THAT THE COURT
21 HAS ALREADY ASKED AND THAT COUNSEL MAY BE ASKING ARE
22 NECESSARILY PERSONAL, SO I HOPE YOU'RE NOT OFFENDED BY A
23 QUESTION THAT WE MAY ASK OF YOU. OUR MISSION IS TO ELICIT
24 INFORMATION FROM YOU AS PROSPECTIVE JURORS SO WE CAN
25 SELECT A JURY THAT'S FAIR AND IMPARTIAL.

26 AND NOT EVERYONE IS SUITED TO HEAR EVERY
27 KIND OF CASE, PARTICULARLY A CASE THAT MAY BE AS TECHNICAL
28 AND POTENTIALLY EMOTIONAL AS THIS ONE. SO WE APPRECIATE

1 YOUR CANDOR VERY MUCH.

2 AS THE JUDGE HAS INDICATED AND I ANTICIPATE
3 THAT WHEN THE EVIDENCE ACTUALLY STARTS -- NOW, THIS
4 PROCESS KNOWN AS VOIR DIRE, YOU'RE NOT HEARING ANY
5 EVIDENCE. NOTHING THAT I SAY, NONE OF THE QUESTIONS THAT
6 I ASK YOU, AND THE SAME, I BELIEVE, WILL PERTAIN TO
7 MR. BLESSEY -- AND HE'LL HAVE AN OPPORTUNITY TO QUESTION
8 HIMSELF. BEAR IN MIND THAT NOTHING THAT THE LAWYERS ARE
9 GOING TO SAY TO YOU IN OUR QUESTIONS IS EVIDENCE IN THE
10 CASE. YOU HAVEN'T HEARD ANY EVIDENCE IN THE CASE. THE
11 JUDGE HAS READ TO YOU A STATEMENT OF THE CASE THAT
12 DESCRIBES SOME OF THE ISSUES YOU MAY HEAR.

13 SO WE ASK YOU, AFTER THE JURY IS SELECTED,
14 TO PUT THIS PROCESS OUT OF YOUR MIND. AND IT'S IMPORTANT
15 AS JURORS TO, AGAIN, DECIDE THE CASE ONLY BASED UPON WHAT
16 YOU HEAR ON THE WITNESS STAND AND THE INSTRUCTIONS OF THE
17 COURT.

18 WE ALL BRING IN OUR LIFE EXPERIENCES
19 NECESSARILY, OUR OPINIONS AND OUR BIASES, AND THEY GO
20 ALONG WITH US EVERYWHERE. BUT AS JURORS IT'S IMPORTANT
21 YOU ENDEAVOR, IF YOU CAN, TO PUT THAT ASIDE AND DECIDE THE
22 CASE ON THE BASIS OF THE EVIDENCE.

23 DOES ANYONE HAVE ANY DOUBT AS YOU SIT HERE
24 NOW ABOUT YOUR ABILITY TO DO THAT? RAISE YOUR HAND IF
25 THAT'S THE CASE. THANK YOU.

26 THIS IS A CIVIL LAWSUIT. IT'S NOT A
27 CRIMINAL CASE. A CIVIL LAWSUIT IS DIFFERENT IN A NUMBER
28 OF RESPECTS. ONE OF THE RESPECTS THAT A CIVIL LAWSUIT IS

1 DIFFERENT IS THE BURDEN OF PROOF, OKAY? WE DON'T HAVE TO
2 PROVE NEGLIGENCE BY THE DEFENDANT FOR CAUSATION FOR THE
3 TRAGIC DEATH OF TARA DE ROGATIS BY A STANDARD THAT WOULD
4 APPLY IN A CRIMINAL CASE. SO YOU DON'T HAVE TO DECIDE
5 THE FACTS OF THE CASE BEYOND A REASONABLE DOUBT. THE
6 STANDARD IN A CIVIL CASE IS A MERE PREPONDERANCE. SO 51
7 PERCENT, 49 PERCENT, IF YOU DECIDED THAT ONE SIDE MORE
8 LIKELY THAN NOT, THAT WOULD BE SUFFICIENT, AND THEN WE
9 WOULD ASK YOU AT THE END OF THE DAY TO RETURN A JUDGMENT
10 OF MONEY DAMAGES.

11 DOES ANYONE THINK THEY MIGHT HAVE DIFFICULTY
12 APPLYING A CIVIL STANDARD OF PROOF AS OPPOSED TO A
13 CRIMINAL ONE, WHICH IS, AGAIN, BEYOND A REASONABLE DOUBT?
14 IF YOU THINK YOU MIGHT HAVE DIFFICULTY WITH THAT, RAISE
15 YOUR HAND. I SEE NO HANDS.

16 NOW, THIS IS, AS THE COURT HAS ALSO
17 INDICATED, A WRONGFUL DEATH CASE. SO IS THERE ANYONE HERE
18 WHO DOESN'T BELIEVE, FOR EXAMPLE, THAT DAMAGES SHOULD BE
19 AWARDED TO A CIVIL PLAINTIFF FOR WRONGFUL DEATH IF THE
20 EVIDENCE ESTABLISHES THAT THERE IS LIABILITY -- ON THE
21 BASIS THAT, IN A SENSE, MONEY IS AN IMPERFECT REMEDY.
22 IT'S CLEAR THAT NO AMOUNT OF MONEY IS GOING TO RETURN TARA
23 TO HER PARENTS. THEY'RE NOT GOING TO BE MADE WHOLE OR
24 EQUAL. IT'S AN IMPERFECT REMEDY.

25 ON THAT BASIS IS THERE ANYONE WHO WOULD HAVE
26 A PHILOSOPHICAL PROBLEM WITH RENDERING A MONEY JUDGMENT,
27 KNOWING THAT IT'S NOT GOING TO COMPLETELY EVEN THE SCALES?
28 I SEE NO HANDS.

1 YOU'VE ALREADY HEARD THE DEFENDANT IS A
2 DOCTOR. YOU'VE HEARD MY PROSPECTIVE WITNESS LIST AND THE
3 WITNESSES CALLED BY THE DEFENSE. YOU'RE GOING TO HEAR
4 TESTIMONY FROM A NUMBER OF PHYSICIANS, M.D.'S.

5 SO ONE ISSUE I'D TO RAISE WITH YOU AND GET
6 YOU THINKING ABOUT IS, THE DOCTOR HERE IS A DEFENDANT.
7 SHE IS DEFENDING THIS LAWSUIT. IN THIS SOCIETY WE TEND TO
8 PLACE DOCTORS ON A PEDESTAL. WE LOOK UP TO THEM. WE
9 RESPECT THEM. WE CALL THEM "DOCTOR." AND THIS IS ALL
10 GOOD. WE ALL -- DOCTORS PLAY A VERY IMPORTANT ROLE IN
11 SOCIETY.

12 IS THERE ANYONE IN THIS JURY WHO WOULD
13 NATURALLY TEND TO FAVOR A DOCTOR IN A LAWSUIT, MAYBE BE
14 JUST A LITTLE BIT RELUCTANT TO AWARD DAMAGES AGAINST THE
15 DOCTOR EVEN IF --

16 PROSPECTIVE JUROR CAPOUYA: I WOULD.

17 MR. NEWHOUSE: I WAS GOING TO COME BACK TO YOU.

18 PROSPECTIVE JUROR CAPOUYA: YEAH. I'M SORRY. I
19 RAISED MY HAND PREMATURELY.

20 MR. NEWHOUSE: FAIR ENOUGH. YOU RAISED YOUR HAND.

21 LAWYERS GET INTERRUPTED ALL THE TIME BY
22 JUDGES, AND WE'RE USED TO THAT. I APPRECIATE THAT.

23 I WAS GOING TO COME RIGHT TO THE POINT.

24 YOUR HUSBAND IS A CARDIOLOGIST, CORRECT?

25 PROSPECTIVE JUROR CAPOUYA: A CARDIAC SURGEON.

26 MR. NEWHOUSE: A CARDIAC SURGEON. AND HE'S BEEN
27 INVOLVED IN A LAWSUIT?

28 PROSPECTIVE JUROR CAPOUYA: MANY.

1 MR. NEWHOUSE: AND YOU HAVE HEARD HIM, I'M SURE,
2 TALK ABOUT HOW MUCH HE DOESN'T LIKE BEING SUED, CORRECT?

3 PROSPECTIVE JUROR CAPOUYA: YEAH.

4 MR. NEWHOUSE: AND YOU'VE HEARD HIM TALK PROBABLY
5 ABOUT HOW HE DOESN'T LIKE THE LAWYERS WHO SUE HIM WHO
6 BRING CASES AGAINST DOCTORS, CORRECT?

7 PROSPECTIVE JUROR CAPOUYA: HE'S ALSO AN EXPERT
8 WITNESS.

9 MR. NEWHOUSE: AND HE'S BEEN AN EXPERT.

10 PROSPECTIVE JUROR CAPOUYA: HE WORKS BOTH SIDES.

11 MR. NEWHOUSE: SO BASED UPON YOUR RELATIONSHIP WITH
12 YOUR HUSBAND -- AND I'M SURE HE'S A FANTASTIC CARDIAC
13 SURGEON -- IS IT FAIR TO SAY THAT YOU'RE GOING TO START
14 THE CASE, DESPITE YOUR BEST EFFORTS -- YOU'RE GOING TO BE
15 TENDING TO FAVOR THE DEFENDANT, THE DOCTOR, RATHER THAN
16 THE PLAINTIFFS?

17 PROSPECTIVE JUROR CAPOUYA: GOSH.

18 MR. NEWHOUSE: BE HONEST.

19 PROSPECTIVE JUROR CAPOUYA: MAYBE, YES.

20 MR. NEWHOUSE: JUST A LITTLE BIT?

21 PROSPECTIVE JUROR CAPOUYA: YOU KNOW, IF I HAD --
22 IF YOU SAID THE 49, 51 --

23 MR. NEWHOUSE: RIGHT.

24 PROSPECTIVE JUROR CAPOUYA: -- IF I HAD TO JUMP ON
25 ONE SIDE OR THE OTHER, I'D HAVE TO GO FOR THE DOCTOR.

26 MR. NEWHOUSE: YOU'RE GOING TO JUMP ON THE SIDE OF
27 THE DOCTOR?

28 PROSPECTIVE JUROR CAPOUYA: YEAH, INITIALLY, YES.

1 MR. NEWHOUSE: AND I APPRECIATE YOUR HONESTY, AND
2 THAT'S COMPLETELY UNDERSTANDABLE, GIVEN YOUR SITUATION.

3 DOES ANYONE AGREE WITH MS. CAPOUYA ON THAT,
4 THAT THEY LIKEWISE -- WELL, ACTUALLY, LET ME GO TO YOU,
5 MR. SHEEDY. YOU HAVE SOME, AMONGST YOUR MANY TALENTED
6 CHILDREN, SOME WHO ARE INVOLVED IN THE MEDICAL FIELD,
7 CORRECT?

8 PROSPECTIVE JUROR SHEEDY: THAT'S CORRECT.

9 MR. NEWHOUSE: AND, AGAIN, TELL ME WHAT PROFESSIONS
10 ARE, WHAT THEIR JOBS ARE.

11 PROSPECTIVE JUROR SHEEDY: ONE OF THEM IS IN
12 ORTHOPEDICS. THE OTHER ONE IS IN ONCOLOGY CURRENTLY.

13 MR. NEWHOUSE: ANY OF THEM DOCTORS?

14 PROSPECTIVE JUROR SHEEDY: NO. THEY'RE P.A.'S.

15 MR. NEWHOUSE: AND BASED ON THAT RELATIONSHIP, WHAT
16 ARE YOUR THOUGHTS ABOUT MEDICAL MALPRACTICE CASES? TOO
17 MANY LAWSUITS BROUGHT AGAINST DOCTORS, DO YOU THINK?

18 PROSPECTIVE JUROR SHEEDY: I DON'T KNOW IF THAT'S
19 THE CASE. YOU KNOW, THEY BOTH HAVE TO CARRY MALPRACTICE
20 INSURANCE. THEY HAVE TO GET CERTIFIED BY THE HOSPITALS
21 THAT THEY'RE AT. AND YOU KNOW, I MEAN, I THINK MOST -- I
22 TEND TO THINK -- I HAVE THREE KIDS IN THE MEDICAL
23 PROFESSION -- THAT THEY'RE ALL OUTSTANDING -- MOST MEDICAL
24 PROFESSIONALS ARE -- AND UPSTANDING CITIZENS. AND, YOU
25 KNOW, THEY'RE OUT THERE DOING THEIR BEST ALL THE TIME, AND
26 THINGS HAPPEN. BEYOND THAT, I THINK I CAN STILL BE FAIR.

27 MR. NEWHOUSE: DO YOU THINK YOU COULD BE FAIR AND
28 IMPARTIAL?

1 PROSPECTIVE JUROR SHEEDY: YES.

2 MR. NEWHOUSE: MR. SHEEDY MAKES AN EXCELLENT POINT.
3 DOCTORS ARE HUMAN BEINGS. THE ONLY PEOPLE IN THIS WORLD,
4 HUMAN BEINGS, WHO ARE INFALLIBLE, ARE JUDGES. OTHER THAN
5 JUDGES, DOCTORS, ALL THE REST OF US MAKE MISTAKES.

6 DOES ANYONE HAVE A PROBLEM WITH A CASE WHERE
7 YOU'RE GOING TO BE ASKED TO DECIDE WHETHER OR NOT A DOCTOR
8 HAS MADE A MISTAKE AND CAUSED DAMAGES TO MY CLIENTS BASED
9 UPON THAT? OKAY.

10 SO, MR. SHEEDY, WHAT I'M HEARING YOU SAY, I
11 HOPE, IS THAT NOTWITHSTANDING YOUR RELATIONSHIP WITH YOUR
12 CHILDREN, YOUR RESPECT FOR THE MEDICAL PROFESSION, WHICH
13 WE ALL SHARE, THAT YOU COULD BE FAIR AND IMPARTIAL, LISTEN
14 TO THE EVIDENCE, TAKE THE INSTRUCTIONS OF THE COURT, AND
15 RENDER A FAIR AND IMPARTIAL VERDICT?

16 PROSPECTIVE JUROR SHEEDY: I BELIEVE SO.

17 MR. NEWHOUSE: DOES ANYONE ELSE ON THE JURY HAVE
18 ANY FAMILY MEMBERS WHO ARE INVOLVED IN THE MEDICAL
19 PROFESSION?

20 HAVE ANY OF YOU BEEN ACTUALLY SUED? I DON'T
21 KNOW IF THIS QUESTION WAS ASKED. HAVE ANY OF YOU EVER
22 BEEN NAMED AS A DEFENDANT IN A LAWSUIT?

23 YES, SIR, MR. CARIAGA?

24 PROSPECTIVE JUROR CARIAGA: I GUESS IT HAPPENED
25 WHEN I WAS LIKE 22. I HAD A FRIEND RIDING WITH ME IN A
26 CAR. WE GOT IN A CAR ACCIDENT. THEY SUED MY INSURANCE.
27 AND ME AND MY FATHER AT THE TIME WERE NAMED ON THE
28 INSURANCE -- I MEAN AS DEFENDANTS, BUT THEY DROPPED IT

1 BECAUSE OF THE RISK OF THE FRIENDSHIP. I GUESS THEY SAID
2 SOMETHING ABOUT NOT REALIZING THAT SUING THE INSURANCE
3 MEANS SUING US, SO THEY DROPPED US FROM THE LAWSUIT.

4 MR. NEWHOUSE: SO YOU WERE DROPPED FROM THE
5 LAWSUIT?

6 PROSPECTIVE JUROR CARIAGA: YEAH.

7 MR. NEWHOUSE: SO I'M GUESSING THAT YOU WERE
8 SATISFIED THAT JUSTICE WAS DONE?

9 PROSPECTIVE JUROR CARIAGA: I BELIEVE SO, YEAH.

10 MR. NEWHOUSE: SO THERE WAS NOTHING ABOUT THAT
11 EXPERIENCE THAT WOULD MAKE YOU LESS PARTIAL TO SERVE IN
12 THIS CASE?

13 PROSPECTIVE JUROR CARIAGA: NO, ESPECIALLY AT THE
14 TIME, NOT REALLY EXPERIENCED WITH LIFE EXPERIENCES, I
15 REALLY DIDN'T KNOW -- HAVE AN INKLING OF WHAT WAS GOING
16 ON, SO --

17 MR. NEWHOUSE: THE OTHER ISSUE THAT WE'RE GOING TO
18 TOUCH UPON -- AND, AGAIN, THE JUDGE HAS DONE A VERY GOOD
19 JOB OF INTRODUCING SOME OF THE KEY CONCEPTS. BUT SOME OF
20 THE ISSUES THAT WILL BE RAISED IN THE CASE, I BELIEVE,
21 FIRST, YOU'RE GOING TO HEAR EVIDENCE THAT WILL -- FIRST OF
22 ALL, THAT TRAGICALLY TARA COMMITTED SUICIDE. YOU'RE GOING
23 TO HEAR THAT SHE WAS SEEN FOR A NUMBER OF YEARS BY VARIOUS
24 MEDICAL PROFESSIONALS, INCLUDING PSYCHIATRISTS, AND THAT
25 SHE WAS PRESCRIBED AT DIFFERENT TIMES VARIOUS
26 PHARMACEUTICALS. SOME OF THEM HAVE ALREADY BEEN
27 MENTIONED: PERCOCET, TRAMADOL.

28 IS ANYONE FAMILIAR WITH TRAMADOL, FOR

1 EXAMPLE? HAS ANYONE HEARD OF THAT PARTICULAR DRUG BEFORE.
2 ONE JUROR WHO IS MOST FAMILIAR IS SHAKING HER HEAD.

3 HOW ABOUT SEROQUEL?

4 IS THERE ANYTHING ABOUT HEARING THAT THE
5 DECEASED IN THIS CASE, TARA -- THAT SHE WAS UNDERGOING
6 PSYCHIATRIC TREATMENT OR SHE HAD MENTAL OR EMOTIONAL
7 PROBLEMS? IS ANYTHING ABOUT THAT GOING TO SWAY YOU ONE
8 WAY OR ANOTHER IN DECIDING THIS CASE? WOULD YOU FEEL
9 SYMPATHETIC TO HER OR ARE YOU GOING TO FEEL LIKE, YOU
10 KNOW, SHE IS LESS -- HER PARENTS ARE LESS DESERVING
11 BECAUSE OF HER PROBLEMS? RAISE YOUR HAND.

12 WE'RE ALSO GOING TO HEAR TESTIMONY ABOUT THE
13 USE OF ILLICIT DRUGS, SUCH AS METHAMPHETAMINE. I THINK
14 SOMEONE MENTIONED -- WHO WAS -- WHICH JUROR MENTIONED THAT
15 YOU HAD SOME EXPERIENCE WITH METHAMPHETAMINE?

16 YES. MS. VASQUEZ, WAS THIS A FAMILY MEMBER?

17 PROSPECTIVE JUROR VASQUEZ: YES.

18 MR. NEWHOUSE: AND WAS THIS -- TELL US ABOUT THAT.

19 HAS THAT EXPERIENCE IN ANY WAY INFLUENCED
20 YOU, AFFECTED YOUR LIFE?

21 PROSPECTIVE JUROR VASQUEZ: WELL, IT'S AFFECTED MY
22 LIFE.

23 MR. NEWHOUSE: HOW HAS IT AFFECTED YOUR LIFE?

24 PROSPECTIVE JUROR VASQUEZ: I'M NOT SURE HOW TO
25 ANSWER THAT.

26 MR. NEWHOUSE: THAT'S A VERY OPEN QUESTION. LET ME
27 ASK YOU, THIS WAS SOMEONE WHO BECAME ADDICTED TO
28 METHAMPHETAMINE?

1 PROSPECTIVE JUROR VASQUEZ: YES.

2 MR. NEWHOUSE: AND HOW LONG DID THEY STRUGGLE WITH
3 THIS PROBLEM?

4 PROSPECTIVE JUROR VASQUEZ: WELL, IT STARTED BEFORE
5 THAT, I GUESS. I MEAN, IT LED UP TO THAT. THREE, FOUR
6 YEARS.

7 MR. NEWHOUSE: WELL, IS THERE ANYTHING ABOUT THAT
8 EXPERIENCE THAT WOULD CAUSE YOU TO JUDGE TARA DE ROGATIS
9 MORE HARSHLY, KNOWING THAT SHE HAD DEVELOPED SOME OF THESE
10 SUBSTANCE-ABUSE ISSUES?

11 PROSPECTIVE JUROR VASQUEZ: ABSOLUTELY NOT.

12 MR. NEWHOUSE: YOU STILL COULD BE FAIR AND
13 IMPARTIAL?

14 PROSPECTIVE JUROR VASQUEZ: YES.

15 MR. NEWHOUSE: AND WHILE I'M ON THAT TOPIC, DOES
16 ANYONE GENERALLY FEEL THAT SOMEHOW MENTAL ILLNESS IS IN
17 SOME WAY THE FAULT OF THE PATIENT? I SEE NO HANDS.

18 DOES EVERYONE AGREE GENERALLY WITH THE
19 PROPOSITION THAT MENTAL ILLNESS IS LIKE ANY OTHER ILLNESS,
20 AND THAT THE PATIENT IS DESERVING OF THE SAME QUALITY OF
21 MEDICAL CARE THAT PEOPLE WHO GO TO DOCTORS FOR PHYSICAL OR
22 OTHER ORGANIC PROBLEMS HAVE, THAT THEY'RE ENTITLED TO THE
23 SAME QUALITY OF CARE THAT ALL THE REST OF US GET? DOES
24 ANYONE HAVE A PROBLEM OR DISAGREE WITH THAT PROPOSITION?
25 I SEE NO HANDS. THEN, AGAIN, WE'VE TOUCHED UPON IT.

26 THE IMMEDIATE CAUSE OF DEATH -- THE
27 EVIDENCE, I BELIEVE, WILL BE CLEAR -- YOU'RE GOING TO HEAR
28 EVIDENCE THAT TARA COMMITTED SUICIDE. YOU'RE GOING TO

1 HEAR THAT SHE COMMITTED SUICIDE AFTER INGESTING A LARGE
2 PRESCRIPTION OF PERCOCET TABLETS THAT DR. SHAINSKY HAD
3 PROVIDED TO HER ON THE SAME DAY.

4 IS THERE ANYONE WHO IS GOING TO, HOWEVER,
5 REACT TO THAT BY SAYING, "WELL, IF SHE COMMITTED SUICIDE,
6 THAT MUST HAVE ABOUT BEEN A VOLITIONAL ACT ON HER OWN,"
7 AND NOT CONSIDER THE DEFENDANT'S, IF YOU WILL, INVOLVEMENT
8 IN THAT PARTICULAR SITUATION? I SEE NO HANDS.

9 MR. BLESSEY: YOUR HONOR, A COUPLE QUESTIONS.

10 MR. NEWHOUSE: NO FURTHER QUESTIONS AT THIS TIME,
11 YOUR HONOR.

12 THE COURT: THANK YOU. MR. BLESSEY?

13 MR. BLESSEY: THANK YOU, YOUR HONOR.

14 LET ME PICK UP WHERE MR. NEWHOUSE LEFT OFF.
15 YOU'RE GOING TO HEAR EVIDENCE IN THIS CASE
16 THAT ON THE NIGHT OF THE SUICIDE, MS. DE ROGATIS ACTUALLY
17 INGESTED SIX DIFFERENT MEDICATIONS THAT WERE AT TOXIC TO
18 LETHAL LEVELS BASED ON THE AUTOPSY RESULTS.

19 ANYTHING ABOUT THAT KIND OF EVIDENCE THAT
20 YOU THINK WOULD MAKE IT DIFFICULT FOR YOU TO RENDER A
21 DECISION IN THIS CASE? SEEING NO HANDS.

22 YOU NOTICE THAT MR. NEWHOUSE GETS TO ASK YOU
23 QUESTIONS FIRST AND THEN I GET MY TURN. THAT'S BECAUSE --
24 AND HIS HONOR WILL INSTRUCT YOU ON THIS LAW -- HE HAS THE
25 BURDEN OF PROOF.

26 AND HIS HONOR WILL TELL WHAT YOU THE JURY
27 INSTRUCTION IS IN CALIFORNIA. IT HAS NOTHING TO DO WITH
28 PERCENTAGES, BUT IT WILL BE DEFINED FOR YOU.

1 AND MY QUESTION TO YOU IS: ARE YOU ALL
2 WILLING TO HOLD MR. NEWHOUSE AND MS. MC BROOM TO THE
3 BURDEN OF PROOF THAT THEY BRING INTO THIS COURTROOM, THAT
4 THEY HAVE IN THIS COURTROOM; THAT IS, TO CONVINCING YOU,
5 BASED ON THEIR EVIDENCE, THAT THEIR EVIDENCE IS MORE
6 LIKELY TRUE THAN NOT? IS EVERYBODY WILLING TO HOLD THE
7 PLAINTIFFS TO THEIR BURDEN OF PROOF IN THIS CASE? PLEASE
8 RAISE YOUR HAND IF YOU'RE WILLING TO DO THAT. OKAY.

9 JUROR NO. 3, MR. ROLDAN, DID I PRONOUNCE
10 YOUR NAME CORRECTLY?

11 PROSPECTIVE JUROR ROLDAN: CAN YOU REPEAT AGAIN,
12 PLEASE?

13 MR. BLESSEY: DID YOU UNDERSTAND MY LAST QUESTION?

14 PROSPECTIVE JUROR ROLDAN: NO.

15 MR. BLESSEY: OKAY. SO YOU DIDN'T KNOW WHETHER YOU
16 SHOULD RAISE YOUR HAND OR NOT.

17 UNDER THE LAW IN A CASE LIKE THIS, THE
18 PLAINTIFFS HAVE THE BURDEN TO PROVE THEIR CASE. DO YOU
19 UNDERSTAND THAT CONCEPT?

20 PROSPECTIVE JUROR ROLDAN: YES.

21 MR. BLESSEY: ARE YOU WILLING, AS YOU LISTEN TO THE
22 EVIDENCE -- THIS IS GOING TO BE EVIDENCE, OBVIOUSLY, FROM
23 BOTH SIDES -- ARE YOU WILLING TO HOLD THE PLAINTIFFS TO
24 THEIR BURDEN AS INSTRUCTED BY HIS HONOR? HIS HONOR IS
25 GOING TO TELL YOU WHAT THE BURDEN OF PROOF IS FOR THE
26 PLAINTIFF.

27 MY QUESTION TO YOU IS: ARE YOU WILLING TO
28 FOLLOW THE LAW AND HOLD THE PLAINTIFFS TO THEIR BURDEN OF

1 PROOF?

2 PROSPECTIVE JUROR ROLDAN: YES.

3 MR. BLESSEY: MS. PHUNG, DID YOUR HAND GO UP?

4 PROSPECTIVE JUROR PHUNG: NO, IT DIDN'T.

5 MR. BLESSEY: ARE YOU WILLING TO HOLD THE

6 PLAINTIFFS TO THEIR BURDEN OF PROOF?

7 PROSPECTIVE JUROR PHUNG: YES.

8 MR. BLESSEY: NOW, A RELATED CONCEPT.

9 THE PLAINTIFFS GET TO PUT ON THEIR WITNESSES
10 FIRST. THEY WILL PUT ON THEIR SERIES OF WITNESSES AND
11 THEN WE WILL FOLLOW WITH OUR WITNESSES.

12 ARE ALL OF YOU WILLING TO WAIT UNTIL ALL THE
13 EVIDENCE IS IN THIS CASE BEFORE YOU MAKE YOUR MIND UP IN
14 TERMS THE OF WHETHER OR NOT IT WAS MALPRACTICE IN THIS IN
15 THIS CASE? ANYBODY NOT WILLING TO WAIT UNTIL ALL THE
16 EVIDENCE IS IN BEFORE MAKING YOUR DECISION? RAISE YOUR
17 HAND IF YOU'RE NOT WILLING TO WAIT. SEEING NO HANDS.

18 HOW MANY OF YOU HAVE HEARD THE TERM
19 "FIBROMYALGIA"? PLEASE RAISE YOUR HAND.

20 MR. SHEEDY, IS THERE SOMEONE IN THE FAMILY
21 OR HAVE YOU BEEN DIAGNOSED WITH THIS PROBLEM?

22 PROSPECTIVE JUROR SHEEDY: NO. I'VE JUST HEARD OF
23 IT.

24 MR. BLESSEY: DO YOU KNOW ANYTHING ABOUT THE
25 CONDITION?

26 PROSPECTIVE JUROR SHEEDY: NOT MUCH.

27 MR. BLESSEY: DO YOU KNOW ANYBODY WHO HAS BEEN
28 TREATED FOR THE CONDITION?

1 PROSPECTIVE JUROR SHEEDY: I DO NOT.

2 MR. BLESSEY: ARE THEY DAUGHTERS OR SONS THAT ARE
3 THE PHYSICIAN ASSISTANTS?

4 PROSPECTIVE JUROR SHEEDY: DAUGHTERS.

5 MR. BLESSEY: HAS EITHER ONE OF THEM TALKED TO YOU
6 ABOUT THIS PARTICULAR CONDITION?

7 PROSPECTIVE JUROR SHEEDY: NO. MY WIFE HAD A
8 CONDITION THAT THAT WAS ONE OF THE POSSIBLE DIAGNOSES. IT
9 WAS -- WHAT IS IT CALLED? -- P.M.R., POLYMYALGIA
10 RHEUMATICA, WHICH I THINK -- WHETHER OR NOT IT'S RELATED
11 OR NOT, BUT THEY HAD TO RULE OUT ONE OR THE OTHER, AND
12 BASICALLY SHE GOT THE BETTER DIAGNOSIS.

13 MR. BLESSEY: WAS SHE SUFFERING FROM A GREAT DEAL
14 OF PAIN?

15 PROSPECTIVE JUROR SHEEDY: FAIR AMOUNT OF PAIN,
16 YEAH. SHE'S CURRENTLY ON STEROIDS --

17 MR. BLESSEY: STEROIDS?

18 PROSPECTIVE JUROR SHEEDY: BUT NOT PAIN MEDICINE.

19 MR. BLESSEY: I HOPE SHE'S DOING WELL NOW.

20 PROSPECTIVE JUROR SHEEDY: BETTER.

21 MR. BLESSEY: WHO ELSE HAD THEIR HAND UP ON
22 FIBROMYALGIA?

23 MR. CARIAGA?

24 PROSPECTIVE JUROR CARIAGA: I HAVE SEVERAL CASES
25 FOR -- WELL, I'M A DISABILITY EVALUATION ANALYST, SO THERE
26 ARE CASES THAT I EVALUATE FOR TITLE XIX MEDI-CAL, WHERE
27 THAT'S ONE OF THEIR ALLEGATIONS. SO MAYBE HAVING SOME
28 MEDICAL KNOWLEDGE OR BACKGROUND ON "FIBRO," MUSCLE;

1 "MYALGIA," PAIN, IT'S USUALLY UNEXPLAINED. AND FROM WHAT
2 MY KNOWLEDGE OF IT IS, IN THE EVALUATION PROCESS THAT I GO
3 THROUGH, USUALLY THAT AND DEPRESSION GO HAND IN HAND,
4 SO --

5 MR. BLESSEY: DO YOU KNOW WHETHER OR NOT THERE'S A
6 PAIN SYNDROME ASSOCIATED WITH FIBROMYALGIA?

7 PROSPECTIVE JUROR CARIAGA: BASICALLY, THAT'S WHAT
8 IT IS. IT'S A PAIN SYNDROME. IT'S NOT NECESSARILY
9 SYNDROME, BUT THE WORD BEING -- YOU KNOW, MUSCLE PAIN FOR
10 WHICHEVER REASON, THAT'S THE INEXPLICABLE WHATEVER. THEY
11 HAVE DONE ELECTROMYO-NEUROGRAMS [SIC], EVERYTHING LIKE
12 THAT, AND THEY CAN'T EXPLAIN WHERE THE PAIN COMES FROM,
13 SO --

14 MR. BLESSEY: SO TELL ME A LITTLE BIT MORE ABOUT
15 YOUR SITUATION. YOU EVALUATE INDIVIDUALS FOR DISABILITY;
16 IS THAT CORRECT?

17 PROSPECTIVE JUROR CARIAGA: YES.

18 MR. BLESSEY: AND I DON'T WANT TO TAKE TOO MUCH
19 TIME, BUT HOW DO YOU -- WHAT DO YOU LOOK AT TO MAKE A
20 DETERMINATION OF WHETHER OR NOT THEY QUALIFY FOR
21 DISABILITY?

22 PROSPECTIVE JUROR CARIAGA: BASICALLY, MEDICAL
23 EVIDENCE THAT WE ORDER FROM THE VARIOUS SOURCES THEY
24 INDICATE ON THE APPLICATION. SO WE LOOK -- WE ORDER
25 THOSE, LOOK THOSE OVER. AND IF IT'S INSUFFICIENT TO MAKE
26 A DETERMINATION, WE ALSO ORDER OUR OWN EXAMS THROUGH, I
27 GUESS, THE VENDOR FILE SYSTEM WITHIN OUR DEPARTMENT.

28 MR. BLESSEY: AND WHEN YOU SAY YOU ORDER YOUR OWN

1 EXAMS, YOU MEAN THE SUBJECT PERSON IS GOING TO UNDERGO
2 FURTHER MEDICAL EXAMS, OR ARE YOU LOOKING FOR MORE
3 INFORMATION FROM THEIR MEDICAL RECORDS?

4 PROSPECTIVE JUROR CARIAGA: WE'RE ACTUALLY LOOKING
5 FOR INFORMATION THAT THE MEDICAL RECORDS AREN'T TELLING US
6 TO MAKE OUR DETERMINATION.

7 MR. BLESSEY: DO YOU SOMEHOW -- DO YOU HAVE DIRECT
8 CONTACT WITH PHYSICIANS AS PART OF YOUR EVALUATION OF
9 CANDIDATES?

10 PROSPECTIVE JUROR CARIAGA: WELL, I WORK ALONGSIDE
11 MEDICAL CONSULTANTS, WHO ARE BASICALLY EITHER RETIRED
12 DOCTORS OR -- WHICHEVER, BUT THEY'RE ALSO CONSIDERED STATE
13 EMPLOYEES.

14 BUT AS FAR AS ORDERING EXAMS, I DON'T DO
15 THAT. I DON'T TALK WITH ANY DOCTOR OTHER THAN THE MEDICAL
16 CONSULTANTS THAT ARE IN THE OFFICE.

17 MR. BLESSEY: DO YOU WORK WITH RHEUMATOLOGISTS FROM
18 TIME TO TIME?

19 PROSPECTIVE JUROR CARIAGA: NO.

20 MR. BLESSEY: IS THERE A CERTAIN GROUP OF DOCTORS
21 THAT YOU'RE MORE FAMILIAR WITH, THAT YOU WORK MORE CLOSELY
22 WITH ON YOUR CANDIDATES?

23 PROSPECTIVE JUROR CARIAGA: WELL, LET'S SEE. ONE'S
24 A PSYCHIATRIST, AND THE ANOTHER ONE IS A PEDIATRICIAN, AND
25 I WOULD SAY THERE WAS ONE MORE BEING AN OPHTHALMOLOGIST,
26 AND THAT'S ALL I WORK WITH OR THAT'S WHO I --

27 MR. BLESSEY: DO YOU UNDERSTAND YOUR JOB AS A JUROR
28 IN THIS CASE IS PROBABLY GOING TO BE SIMILAR TO WHAT YOU

1 DO, AND THAT IS, THERE'S GOING TO BE A GREAT DEAL OF
2 MEDICAL EVIDENCE THAT YOU'RE GOING TO HEAR FROM THE
3 WITNESS STAND. AND AS A JUROR, YOU'RE GOING TO ANALYZE
4 WHAT YOU BELIEVE ABOUT IT AND WHAT YOU DON'T AND COME TO A
5 DETERMINATION. THAT'S BASICALLY YOUR JOB AS A JUROR. DO
6 YOU UNDERSTAND THAT?

7 PROSPECTIVE JUROR CARIAGA: VERY MUCH.

8 THE COURT: DO YOU FEEL COMFORTABLE DOING THAT?

9 PROSPECTIVE JUROR CARIAGA: YES.

10 MR. BLESSEY: A LITTLE DIFFERENT QUESTION FOR YOU,
11 AND I'M NOT PICKING ON YOU, BUT YOU HAVE KIND OF A RELATED
12 FIELD.

13 YOU'VE HAD A LOT OF EXPERIENCE LOOKING AT
14 MEDICAL RECORDS, LOOKING AT REPORTS, YOU HAVE SOME
15 KNOWLEDGE OF VARIOUS MEDICAL CONDITIONS; IS THAT FAIR TO
16 SAY?

17 PROSPECTIVE JUROR CARIAGA: YEAH.

18 MR. BLESSEY: DO YOU THINK THAT YOU COULD PUT ASIDE
19 WHAT YOU MIGHT KNOW ABOUT CERTAIN CONDITIONS OR PATIENT
20 ISSUES AND LISTEN TO THE EVIDENCE FROM THE VARIOUS DOCTORS
21 THAT ARE GOING TO TESTIFY IN THIS CASE ABOUT, FOR EXAMPLE,
22 WHETHER OR NOT DR. SHAINSKY COMPLIED WITH THE STANDARD OF
23 CARE AND WHAT CAUSED THE DEATH IN THIS CASE? DO YOU THINK
24 YOU COULD DO THAT?

25 PROSPECTIVE JUROR CARIAGA: YES.

26 MR. BLESSEY: THANK YOU, SIR.

27 LET ME SEE IF I CAN GET THROUGH THIS
28 QUICKLY, SO I'M GOING TO ASK THE WHOLE GROUP.

1 HOW MANY OF YOU HAVE HAD POSITIVE
2 EXPERIENCES WITH YOUR MEDICAL CARE? PLEASE RAISE YOUR
3 HAND. THANK YOU. LOOKS LIKE EVERYBODY RAISED THEIR HAND.

4 A LITTLE DIFFERENT QUESTION, THE OPPOSITE
5 END. HOW MANY OF YOU HAVE HAD NEGATIVE EXPERIENCES WITH
6 YOUR MEDICAL CARE?

7 MS. VASQUEZ, CAN YOU TELL ME A LITTLE BIT
8 ABOUT THAT?

9 PROSPECTIVE JUROR VASQUEZ: WELL, MY YOUNGEST SON
10 HAS EDEMA IN ONE OF HIS LEGS, AND HE WAS JUST BORN WITH A
11 LIMP. THAT LEG DIDN'T DEVELOP PROPERLY. SO WHEN HE WAS
12 ABOUT THREE MONTHS, I TOOK HIM TO HIS PEDIATRICIAN, WHO
13 SAID, "HIS LEG IS LOOKING A LITTLE BIT SWOLLEN TO ME." IT
14 TOOK ABOUT A YEAR BEFORE ANYONE DIAGNOSED IT. I ACTUALLY
15 PRETTY MUCH WENT TO THEM AND SAID, "HEY, IT'S THIS."

16 SO WE WERE TOLD, "OH, GO TO THE EMERGENCY
17 ROOM. THEY WILL HAVE TO RUN TESTS THERE," WHICH WE DID.
18 THEY SENT US HOME WITH A DIAGNOSIS OF SWELLING IN THE LEG,
19 WHICH WE KNEW. AND SO IT JUST WAS A WHOLE KIND OF MESS
20 THAT I FELT -- I WENT SAYING, YOU KNOW, I HAVE KIND OF
21 SPEARHEADED IT, AND THEN KIND OF GOT THE BALL ROLLING,
22 SO -- BUT AFTER THAT, IT WAS GOOD.

23 MR. BLESSEY: YOUR SON IS OKAY?

24 PROSPECTIVE JUROR VASQUEZ: YEAH.

25 MR. BLESSEY: ANYTHING ABOUT THAT EXPERIENCE THAT
26 SOMEHOW WOULD COLOR YOUR THINKING ABOUT DR. SHAINSKY IN
27 THIS CASE, BEING IN THE SAME GENERAL FIELD?

28 PROSPECTIVE JUROR VASQUEZ: I DON'T THINK SO.

1 MR. BLESSEY: I THINK -- EXCUSE ME -- IT GOES
2 WITHOUT SAYING THAT THOSE OF US IN THIS COURTROOM THAT ARE
3 PARENTS, ONE OF THE WORST FEARS WE HAVE IS TO HAVE ONE OF
4 OUR CHILDREN PREDECEASE US. DO WE ALL AGREE TO THAT?

5 PROSPECTIVE JUROR SHEEDY: YES.

6 MR. BLESSEY: AND YOU KNOW THAT THAT'S, IN FACT,
7 WHAT HAPPENED IN THIS CASE; THE PARENTS HERE LOST THEIR
8 DAUGHTER. AND I'M SURE, WOULD YOU AGREE, THAT THAT EVOKES
9 A GREAT DEAL OF SYMPATHY IN ALL OF US? DOES EVERYBODY
10 AGREE WITH THAT?

11 THE QUESTION I HAVE FOR YOU, KNOWING THAT
12 THIS IS GOING TO BE A VERY SYMPATHETIC CASE BECAUSE OF THE
13 FACT PATTERN, DO YOU ALL TRULY BELIEVE THAT YOU CAN SET
14 ASIDE THE SYMPATHY YOU MIGHT FEEL FOR THESE PARENTS AND
15 THEIR LOSS AND FOCUS YOUR ATTENTION ON THE ISSUES YOU'RE
16 GOING TO BE ASKED TO DETERMINE AT THE END OF THE CASE;
17 THAT IS, WHETHER OR NOT DR. SHAINSKY'S CARE AND TREATMENT
18 OF THE DECEDENT WAS REASONABLE UNDER THE CIRCUMSTANCES?

19 AND THE SECOND ISSUE IS, WHAT CAUSED THE
20 DEATH?

21 MY QUESTION, AGAIN, IS, CAN YOU SET ASIDE
22 WHATEVER SYMPATHY YOU MIGHT HAVE FOR THESE PARENTS AND
23 FOCUS ON THOSE ISSUES THAT HIS HONOR IS GOING TO INSTRUCT
24 YOU ON? ANYBODY THINK YOU'LL HAVE A HARD TIME PUTTING THE
25 SYMPATHY ASIDE IN REACHING YOUR VERDICTS? PLEASE RAISE
26 YOUR HAND.

27 LET ME ASK IT A LITTLE DIFFERENT WAY. IF
28 YOU CAN IMAGINE THAT FROM THAT WITNESS STAND, UNDER THE

1 CIRCUMSTANCES OF HIS CASE, THERE'S GOING TO BE SOME VERY,
2 VERY EMOTIONAL TESTIMONY, AND IT'S PROBABLY GOING TO EVOKE
3 FEELINGS IN ALL OF YOU IF YOU SIT ON THIS JURY.

4 WOULD THAT FACT PATTERN IN MIND, WITH THAT
5 EXPERIENCE IN MIND, SYMPATHETIC, EMOTIONAL TESTIMONY, DO
6 YOU STILL THINK YOU CAN FOCUS ON THE ISSUES IN THIS CASE
7 THAT YOU'RE GOING TO BE ASKED TO RENDER DECISIONS ON AT
8 THE END? ANYBODY HAVE TROUBLE CONVINCING YOURSELF THAT
9 SYMPATHY IS NOT GOING TO BE A PROBLEM FOR YOU IN THIS
10 CASE? SEEING NO HANDS.

11 THERE HAVE BEEN A NUMBER OF YOU THAT HAVE
12 TOLD US ABOUT SUICIDES IN FAMILY MEMBERS.

13 MR. SHEEDY, YOU MENTIONED YOUR
14 BROTHER-IN-LAW, UNFORTUNATELY, TOOK HIS OWN LIFE, CORRECT?

15 PROSPECTIVE JUROR SHEEDY: CORRECT.

16 MR. BLESSEY: IT WAS BY WAY OF A GUNSHOT?

17 PROSPECTIVE JUROR SHEEDY: YES.

18 MR. BLESSEY: ANY INKLING ON YOUR PART THAT YOUR
19 BROTHER-IN-LAW WAS GOING TO TAKE HIS OWN LIFE BEFORE HE
20 DID IT?

21 PROSPECTIVE JUROR SHEEDY: NO.

22 MR. BLESSEY: TO MAKE IT QUICKER, WOULD YOU PLEASE
23 RAISE YOUR HAND IF YOU'VE HAD A LOVED ONE OR FAMILY MEMBER
24 WHO TOOK THEIR LIFE.

25 MS. CAPOUYA, I THINK YOU HAD TWO PEOPLE.

26 PROSPECTIVE JUROR CAPOUYA: I DID. MY FATHER AND
27 GRANDFATHER.

28 MR. BLESSEY: IN EITHER ONE OF THOSE SITUATIONS,

1 WERE YOU IN CLOSE CONTACT WITH THEM BEFORE THEY COMMITTED
2 SUICIDE?

3 PROSPECTIVE JUROR CAPOUYA: HOURS BEFORE.

4 MR. BLESSEY: DID YOU HAVE ANY INKLING HOURS BEFORE
5 THAT EITHER YOUR FATHER OR YOUR GRANDFATHER WAS GOING TO
6 TAKE HIS OWN LIFE?

7 PROSPECTIVE JUROR CAPOUYA: NOT MY GRANDFATHER
8 BECAUSE I WAS STILL YOUNG. BUT BECAUSE MY GRANDFATHER HAD
9 DONE THAT, IT WASN'T A SURPRISE WHEN MY DAD DID IT.

10 MR. BLESSEY: DIFFERENT QUESTION, THOUGH.

11 PROSPECTIVE JUROR CAPOUYA: AN INKLING?

12 MR. BLESSEY: YES.

13 PROSPECTIVE JUROR CAPOUYA: NO.

14 MR. BLESSEY: YOU WERE SURPRISED IN A SENSE BECAUSE
15 YOU DIDN'T HAVE AN INKLING THAT HE WAS GOING TO TAKE HIS
16 OWN LIFE AT THAT POINT IN TIME, CORRECT?

17 PROSPECTIVE JUROR CAPOUYA: CORRECT.

18 MR. BLESSEY: WHO ELSE HAS HAD A SUICIDE OF A LOVED
19 ONE OR A FAMILY MEMBER? THANK YOU.

20 LAST QUESTION FOR ALL OF YOU: HAVE ANY OF
21 YOU, AS YOU SIT HERE RIGHT NOW, FORMULATED ANY IDEAS OR
22 CONCLUSIONS OR SUSPICIONS ABOUT WHAT CAUSED THE DEATH IN
23 THIS CASE? DOES ANYONE HAVE A PRETTY GOOD IDEA OF WHAT
24 CAUSED THE DEATH IN THIS CASE? PLEASE RAISE YOUR HAND.

25 YOUR HONOR, NOTHING FURTHER.

26 THE COURT: OKAY. PLAINTIFF PASS FOR CAUSE?

27 MR. NEWHOUSE: NO, YOUR HONOR.

28 THE COURT: DEFENSE PASS FOR CAUSE?

1 MR. BLESSEY: YES, YOUR HONOR.

2 THE COURT: ALL RIGHT. LET ME SEE COUNSEL IN
3 CHAMBERS WITH THE COURT REPORTER.

4

5 (THE FOLLOWING PROCEEDINGS WERE HELD
6 IN CHAMBERS WITH ALL COUNSEL:)

7

8 THE COURT: ALL RIGHT. PLAINTIFF?

9 MR. NEWHOUSE: YOUR HONOR, WE WOULD CHALLENGE JUROR
10 NO. 4, MS. CAPOUYA, WHOSE HUSBAND IS A CARDIAC SURGEON,
11 BEEN INVOLVED IN LAWSUITS, AND SHE WAS VERY CANDID THAT
12 SHE SAID THE DEFENDANT IS GOING TO START THIS CASE OFF
13 WITH A LITTLE BIT OF AN ADVANTAGE HERE. I THINK IT WAS
14 CANDID OF HER, BUT IT DOES ESTABLISH, UNDERSTANDABLY, SHE
15 CAN'T REALLY BE FAIR AND IMPARTIAL.

16 MR. BLESSEY: I DON'T DISAGREE WITH WHAT HE SAID.
17 YOU CAN ALSO LOOK AT IT FROM THE STANDPOINT SHE MAY HAVE A
18 GREAT DEAL OF SYMPATHY FOR THE PARENTS IN THIS CASE SINCE
19 SHE'S EXPERIENCED A COUPLE OF SUICIDES OF CLOSE FAMILY
20 MEMBERS. SO I DIDN'T HEAR HER EXACTLY SAY, "I CANNOT BE
21 FAIR AND IMPARTIAL." SHE SAID, "BASED ON WHAT I KNOW
22 RIGHT NOW." BUT, ANYWAY, I'LL LEAVE IT AT THAT.

23 THE COURT: I'M GOING TO EXCUSE HER.

24 MR. NEWHOUSE: THANK YOU, YOUR HONOR.

25 THE COURT: SO THAT WOULD LEAVE US WITH SEVEN
26 AND -- I'M SORRY.

27 MR. NEWHOUSE: YOUR HONOR, CAN I INTERRUPT?

28 MS. MC BROOM RAISED ANOTHER GOOD POINT. I DON'T SEE IT AS

1 A CHALLENGE FOR CAUSE, BUT I THINK IT BEHOOVES US ALL.
2 MR. BLESSEY VERY ADROITLY ASKED SOME QUESTIONS THAT ARE
3 TRICKY.

4 THE COURT: 3?

5 MR. NEWHOUSE: HE DOESN'T UNDERSTAND ENGLISH VERY
6 WELL.

7 MR. BLESSEY: I DON'T DISAGREE WITH YOUR
8 CHARACTERIZATION.

9 THE COURT: LET ME JUST TELL YOU WHAT I'M FACED
10 WITH. THERE WAS A CASE THAT AROSE OUT OF ORANGE COUNTY, I
11 WANT TO SAY, PROBABLY FIVE OR SIX YEARS AGO IN A PUBLISHED
12 OPINION ABOUT VIETNAMESE IN THAT COMMUNITY SERVING ON A
13 JURY AND THAT THEY DIDN'T ALWAYS UNDERSTAND EVERYTHING
14 THAT TOOK PLACE. THE COURT OF APPEAL BASICALLY SAID, "YOU
15 KNOW, THAT'S PART OF THE MAKEUP, THE FABRIC OF OUR
16 SOCIETY," AND ACTUALLY SENT THE CASE BACK FOR RETRIAL,
17 SAYING THEY SHOULDN'T HAVE EXCUSED VIETNAMESE JUST BECAUSE
18 THEY HAD SOME DIFFICULTY WITH THE ENGLISH LANGUAGE.

19 I'M COGNIZANT OF THAT, BUT I'M ALSO AWARE
20 THAT THIS IS A MEDICAL MALPRACTICE CASE, AND I WANT THE
21 JURORS TO UNDERSTAND. IF THE TWO OF YOU STIPULATE, I'LL
22 LET HIM GO. BUT KEEP IN MIND, FOLKS, I WANT TO GET A
23 JURY.

24 MR. BLESSEY: WE DO, TOO.

25 THE COURT: WE'VE KIND OF --

26 MR. BLESSEY: I THINK WE HAVE ENOUGH, YOUR HONOR,
27 EVEN WITH THAT, WE WOULD -- LET'S SEE, WE'D STILL HAVE
28 FIVE LEFT.

1 THE COURT: LET ME ASK YOU THIS RIGHT HERE: CAN
2 YOU GUYS STIPULATE RIGHT NOW TO THREE JURORS, INCLUDING
3 THE ONE THAT'S SITTING THERE?

4 MR. BLESSEY: TO START WITH MR. SHEEDY, I WAS
5 INCLINED TO EXCUSE HIM. I WAS INCLINED TO EXCUSE HIM.

6 MS. MC BROOM: WHICH ONE?

7 MR. NEWHOUSE: THE ONLY ONE WE WOULD EXCUSE WOULD
8 BE ESTHER LEE. THE REST ARE FINE WITH THE PLAINTIFF.

9 MR. BLESSEY: JUST SO I'M CLEAR, YOU WOULD KEEP
10 CARIAGA?

11 MR. NEWHOUSE: CARIAGA IS FINE.

12 MR. BLESSEY: VASQUEZ.

13 THE COURT: PHUNG.

14 MR. BLESSEY: PHUNG IS FINE. HOW COULD SHE NOT BE
15 FINE?

16 THE COURT: GOT TO BE GREAT.

17 MR. NEWHOUSE: I CAN GO WITH THAT, YOUR HONOR.

18 THE COURT: OKAY. YOU KNOW, I DON'T EVEN HAVE A
19 PROBLEM KEEPING FOUR.

20 MR. BLESSEY: LET'S DO IT.

21 THE COURT: JUST OUT OF AN ABUNDANCE OF CAUTION, WE
22 HAVE ONE JUROR, OUR CHRISTIAN SCIENCE FELLOW, THAT IS
23 ALREADY SHOWING SOME HESITANCY. IF I REPLACE HIM WITH AN
24 ALTERNATE, I'M DOWN TO THREE.

25 MR. NEWHOUSE: I THINK FOUR IS AN EXCELLENT IDEA.

26 MR. BLESSEY: I WILL STIPULATE TO THAT.

27 MR. NEWHOUSE: SO THE FOUR WOULD BE SHEEDY --

28 THE COURT: SHEEDY.

1 MR. NEWHOUSE: -- CARIAGA, PHUNG, AND VASQUEZ.

2 THE COURT: I DO NOT DESIGNATE IT FIRST, SECOND,
3 THIRD, FOURTH. I'LL DO IT BY BLIND DRAWING.

4 MR. BLESSEY: AGREEABLE.

5 MR. NEWHOUSE: AGREEABLE.

6 THE COURT: HAVE A GOOD LUNCH.

7

8 (THE FOLLOWING PROCEEDINGS WERE HELD
9 IN OPEN COURT, OUTSIDE THE PRESENCE
10 OF THE JURY AND IN THE PRESENCE OF
11 THE PROSPECTIVE ALTERNATES:)

12

13 THE COURT: MR. ROLDAN, THANK YOU VERY MUCH. YOU
14 CAN RETURN TO THE JURY ASSEMBLY ROOM ON THE FIFTH FLOOR.

15 PROSPECTIVE JUROR ROLDAN: THANK YOU.

16 THE COURT: ESTHER LEE, THANK YOU VERY MUCH. YOU
17 CAN RETURN.

18 AND, LAINNIE CAPOUYA, THANK YOU. YOU CAN
19 RETURN. THANK YOU. YOU CAN GO TO THE FIFTH FLOOR.

20 PROSPECTIVE JUROR CAPOUYA: FOR --

21 THE COURT: YOU MIGHT GET CALLED FOR ANOTHER JURY,
22 OKAY? ALL RIGHT.

23 NOW, THE FOUR OF YOU ARE GOING TO BE OUR
24 ALTERNATES ON THIS CASE. WE ALREADY SELECTED THE JURY.

25 I WANT THE FOUR OF YOU TO STAND TO BE SWORN
26 AS ALTERNATES, PLEASE.

27 THE CLERK: PLEASE RAISE YOUR RIGHT HANDS. DO YOU
28 AND EACH OF YOU UNDERSTAND AND AGREE THAT YOU WILL WELL

1 AND TRULY TRY THE CAUSE NOW PENDING BEFORE THIS COURT AND
2 A TRUE VERDICT RENDER ACCORDING ONLY TO THE EVIDENCE
3 PRESENTED TO YOU AND TO THE INSTRUCTIONS OF THE COURT? IF
4 YOU UNDERSTAND AND AGREE, PLEASE ANSWER "YES."

5
6 (THE ALTERNATES ANSWERED IN THE
7 AFFIRMATIVE.)

8
9 THE COURT: DID ALL OF YOU AGREE? OKAY. HAVE A
10 SEAT.

11 WE'RE GOING TO TAKE OUR LUNCH BREAK NOW TO
12 1:30.

13 I'M GOING TO ISSUE AN ORDER. BY ORDER OF
14 THE COURT, YOU'RE ORDERED NOT -- THAT'S NOT, N-O-T -- TO
15 DISCUSS THE FACTS OF THIS CASE AMONGST YOURSELVES OR WITH
16 OTHER JURORS OR ANYBODY, OKAY? IT WOULDN'T BE FAIR FOR
17 YOU TO GO HOME TONIGHT AND TALK TO A SPOUSE, A NEIGHBOR, A
18 FRIEND, ABOUT THE CASE; BECAUSE I CAN ASSURE YOU, IF YOU
19 TALK TO OTHER PEOPLE, THEY'RE GOING TO TELL YOU, "YOU
20 KNOW, I SAT ON A CASE LIKE THAT, AND LET ME TELL YOU HOW
21 WE DECIDED IT." OKAY?

22 SO YOU CAN'T EVEN TALK TO YOUR FELLOW JURORS
23 UNTIL SUCH TIME AS YOU GO IN THE JURY ROOM AND YOU SIT
24 DOWN WITH 11 OTHER JURORS AND TALK ABOUT THE CASE IN A
25 CLOSED ROOM, OKAY?

26 SO YOU'RE ORDERED NOT TO FORM ANY OPINIONS
27 OR CONCLUSIONS ON THIS CASE.

28 PLAINTIFF WILL GO FIRST. THEY HAVE THE

1 BURDEN OF PROOF. THEY GO FIRST. THEN THE DEFENSE WILL
2 GO. SO YOU'VE GOT TO KEEP AN OPEN MIND. I KNOW IT'S VERY
3 DIFFICULT AT TIMES BECAUSE OUR BRAIN IS A FILTERING
4 SYSTEM, AND YOU HEAR THINGS -- AND YOU'VE ALREADY STARTED
5 TO FORM OPINIONS ABOUT ME, I'M SURE -- BUT THAT'S JUST THE
6 WAY WE WORK. BUT TRY AS BEST YOU CAN, BY ORDER OF THE
7 COURT, TO KEEP AN OPEN MIND SO THAT YOU HEAR BOTH SIDES OF
8 THE CASE, AND THEN YOU'LL WANT TO SIT DOWN WITH YOUR
9 FELLOW JURORS AND TALK ABOUT IT, OKAY?

10 IF YOU HAPPEN TO SEE ANY OF THE PARTIES,
11 LAWYERS, ANY POTENTIAL WITNESSES IN THE HALLWAY, YOU CAN
12 SAY, "GOOD MORNING," "GOOD AFTERNOON," BUT PLEASE, AGAIN,
13 BY ORDER OF THE COURT, DO NOT ENGAGE THEM IN ANY TYPE OF
14 CONVERSATION, OKAY?

15 PLEASE RETURN HERE AT 1:30, AND WE'LL BE
16 STARTING THE TRIAL. ALL RIGHT. HAVE A NICE LUNCH.
17 COURT'S IN RECESS UNTIL 1:30.

18
19 (THE NOON RECESS WAS TAKEN UNTIL
20 1:38 P.M. OF THE SAME DAY.)
21
22
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1 CASE NUMBER: BC457891
2 CASE NAME: DE ROGATIS VS. SHAINSKY
3 PASADENA, CALIFORNIA WEDNESDAY, OCTOBER 30, 2013
4 DEPARTMENT P HON. JAN A. PLUIM, JUDGE
5 REPORTER: KAREN E. KAY, CSR NO. 3862
6 TIME: P.M. SESSION

7 APPEARANCES:

8 PLAINTIFFS LINDA DE ROGATIS AND PETER DE ROGATIS
9 ARE PRESENT WITH THEIR COUNSEL, GEORGE B. NEWHOUSE,
10 JR., AND KATHERINE C. MC BROOM, ATTORNEYS AT LAW
11 DEFENDANT KAREN MICHELLE SHAINSKY, D.O., IS PRESENT
12 WITH HER COUNSEL, RAYMOND L. BLESSEY, ATTORNEY AT
13 LAW

14
15 (THE FOLLOWING PROCEEDINGS WERE HELD
16 IN OPEN COURT, OUTSIDE THE PRESENCE
17 OF THE JURY:)

18
19 THE COURT: WE'RE ON THE RECORD OUTSIDE THE
20 PRESENCE OF THE JURY. COUNSEL ARE PRESENT. PARTIES ARE
21 PRESENT. MR. BOTHWELL WROTE A NICE LETTER TO THE COURT.
22 I'M GOING TO MARK THIS AS THE COURT'S EXHIBIT A, AS AN
23 EXHIBIT, AND IT'S GOING TO GO INTO THE FILE.

24
25 (MARKED FOR IDENTIFICATION AND
26 RECEIVED IN EVIDENCE, COURT EXHIBIT
27 A, LETTER FROM JUROR NO. 10, GRAHAM
28 BOTHWELL.)

1
2 THE COURT: IF THE GUY'S INTELLECT IS BEING
3 DISTRACTED BY THINGS THAT ARE NOT EVIDENCE AND CAN'T MAKE
4 JUDGMENT ON THIS CASE, I HAVE PROBLEMS.

5 MR. NEWHOUSE: MAY I BE HEARD, YOUR HONOR?

6 THE COURT: YES.

7 MR. NEWHOUSE: I'VE DISCUSSED IT WITH MR. BLESSEY.
8 I THINK WE DISAGREE.

9 I'VE ALSO READ THE LETTER, AND A LITTLE BIT
10 RAMBLING, BUT I DON'T UNDERSTAND WHY MR. BOTHWELL CAN'T
11 SIT IN JUDGMENT ON A DOCTOR THE WAY WE WOULD SIT IN
12 JUDGMENT ON A PLUMBER OR A FINANCIAL ANALYST OR ANYONE
13 ELSE WHO HAPPENS TO BE SUBJECT TO A LAWSUIT.

14 WE DON'T NECESSARILY ALL KNOW OR COMPREHEND,
15 OR IN SOME CASES HE DOESN'T EVEN HAVE TO APPROVE, BUT
16 OBJECTIVELY I DON'T SEE ANY REASON WHY HE CAN'T HEAR THE
17 EVIDENCE AND RENDER A VERDICT. I DIDN'T READ IN THERE
18 THAT HE CAN'T BE FAIR AND IMPARTIAL.

19 THE COURT: LET ME READ INTO THE RECORD. IT'S
20 GOING TO BE PART OF THE RECORD. THIS IS THE
21 SECOND-TO-LAST PARAGRAPH:

22 "THAT'S NOT FAIR TO THE COURT PROCESS.
23 YOU MIGHT SAY THAT I'VE TRAINED MYSELF TO
24 THINK PRAYERFULLY ABOUT EVERYTHING AND NOT TO
25 WORK FROM A MATERIAL STANDPOINT. FOR MY OWN
26 GOOD, I CAN'T THINK ABOUT THINGS DIFFERENTLY
27 IF I'M THINKING PRAYERFULLY. I'M NOT
28 ACCEPTING MATERIAL EVIDENCE AND THAT MEANS MY

1 CONTRIBUTION TO THE JURY DELIBERATIONS WILL
2 NOT BE WHAT IT SHOULD BE."

3 IN OTHER WORDS, HE CAN'T CONCENTRATE. I
4 GUESS. THAT'S WHAT I'M TAKING FROM THIS.

5 MR. NEWHOUSE: AND I HEARD THAT.

6 THE COURT: PRAYER CURES EVERYTHING.

7 MR. NEWHOUSE: BUT ALSO, WE HAVEN'T HAD ANY
8 EVIDENCE. WE HAVEN'T EVEN HAD OPENING STATEMENTS. HE
9 HASN'T ACTUALLY BEEN FACED WITH THIS TASK.

10 THE COURT: ARE YOU SUGGESTING LEAVE HIM ON THE
11 JURY?

12 MR. NEWHOUSE: YES. WELL, WITH -- AND I THINK WE
13 SHOULD TELL HIM, "WE APPRECIATE YOUR SENTIMENTS, BUT" --
14 UNLESS HE JUST COMES IN AND SAYS, "YOU KNOW, NOW I CANNOT
15 BE FAIR AND IMPARTIAL FOR WHATEVER REASON," BECAUSE I
16 THINK WE HAVE FOUR ALTERNATES, WE LEAVE HIM ON THE JURY,
17 WE TELL HIM, "THIS TRIAL IS GOING TO START, AND WE GET TO
18 THE END OR AT SOME POINT AND YOU STILL FEEL THE SAME
19 WAY -- HAVING HEARD THE EVIDENCE, YOU STILL FEEL THE SAME
20 WAY, YOU CANNOT DO THE JOB THAT THE COURT WILL INSTRUCT
21 YOU," THEN WE CAN TAKE HIM OFF.

22 MR. BLESSEY: I WOULD MOVE TO EXCUSE HIM FOR CAUSE,
23 YOUR HONOR. HE'S TELLING US HE CANNOT BECAUSE OF HIS
24 RELIGIOUS CONVICTIONS.

25 THE COURT: LET'S BRING HIM IN. I MUST TELL YOU
26 FOLKS, AS I MENTIONED IN CHAMBERS, IN ALMOST 23 YEARS, IT
27 WILL BE THIS JANUARY, 23 YEARS -- JUST ONE SECOND -- OKAY,
28 COME ON IN. NO, NO, NO; COME ON IN.

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(JUROR NO. 10, GRAHAM BOTHWELL,
ENTERS THE COURTROOM.)

THE COURT: THIS HAS BEEN VERY DIFFICULT, I MUST
TELL YOU.

I HAVE YOUR LETTER, MR. BOTHWELL, AND WE'VE
DISCUSSED IT IN COURT AND I'M GOING TO MARK THIS AS THE
COURT'S EXHIBIT A AND I'LL HAVE IT PLACED IN THE FILE, BUT
MY SUMMATION OF WHAT YOU'RE TELLING THE COURT WAS PRETTY
MUCH SET FORTH IN THE LAST TWO PARAGRAPHS, AND THAT WAS
THAT YOU JUST DON'T KNOW WHETHER YOU COULD CONCENTRATE ON
THIS CASE BECAUSE OF YOUR RELIGIOUS BACKGROUND AND THAT
PRAYER CURES EVERYTHING.

JUROR NO. 10: NO. I'M THINKING ABOUT IT
DIFFERENT --

THE COURT: PARDON?

JUROR NO. 10: I'M THINKING ABOUT IT DIFFERENTLY
FROM THE WAY IT'S PRESENTED. I THINK SOME OF IT WOULD BE
HARD TO LISTEN TO. I'D SWITCH OFF LISTENING TO IT BECAUSE
TO ME IT'S NOT RELEVANT TO ME, TO MY WAY OF THINKING.

THE COURT: PERHAPS YOU CAN REPHRASE WHAT YOU'RE
TELLING US, BUT ARE YOU SUGGESTING THAT YOU WOULDN'T BE
ABLE TO LISTEN TO THE EVIDENCE CAREFULLY AND MAKE A
DECISION? YOU KNOW, THIS CASE, AS IN ALL CASES, I'M GOING
TO HAVE TO TELL YOU, COMES DOWN TO CREDIBILITY.

JUROR NO. 10: OH, SURE.

THE COURT: IN THIS CASE, PARTICULARLY MEDICAL

1 MALPRACTICE CASES, IT'S GOING TO BE DOCTORS ARE GOING TO
2 FIND FAULT WITH THE DOCTOR AND OTHER DOCTORS THAT COME TO
3 COURT AND SAY, "SHE DID NOTHING WRONG, DID NOT BREACH THE
4 STANDARD OF CARE." OKAY? THAT'S GOING TO BE THE ULTIMATE
5 TEST.

6 JUROR NO. 10: YES, IT IS, I AGREE, BUT IT'S BASED
7 ON THIS LONG -- I DON'T WANT TO SAY "IRRELEVANT" -- LONG
8 LITANY OF THINGS ABOUT VARIOUS KINDS OF DRUGS AND HOW THEY
9 IMPACT PEOPLE AND WHAT HAPPENED HERE AND WHAT HAPPENED
10 THERE AND THE MEDICAL DIAGNOSIS AND MEDICAL OPINIONS. AND
11 THAT SAYS THINGS ABOUT MANKIND, THAT WE'RE PURELY A
12 PHYSIOLOGICAL CREATURE, AND TO MY WAY OF THINKING, THERE'S
13 A HIGHER THING TO WORK WITH MYSELF ON THAT HIGHER BASIS.
14 I CARRY THAT PRAYERFUL THOUGHT WITH ME ALL THE TIME.

15 THE COURT: I REALIZE AND I RESPECT WHAT YOU'RE
16 SAYING. I'M JUST WONDERING, BECAUSE OF YOUR BELIEF, ARE
17 YOU TELLING THE COURT AND COUNSEL THAT THE THINGS THAT ARE
18 BEING SAID IN COURT YOU'RE NOT GOING TO HEAR? YOU'RE
19 GOING TO HEAR THEM BUT NOT UNDERSTAND THEM OR APPRECIATE
20 IT BECAUSE OF YOUR RELIGIOUS BACKGROUND?

21 JUROR NO. 10: SOME OF THEM, I WOULD SAY TO MYSELF,
22 "I DON'T WANT TO HEAR THIS. I NEED TO JUST THINK ABOUT
23 THIS DIFFERENTLY."

24 THE COURT: IF YOU SAY YOU DON'T WANT TO HEAR
25 SOMETHING -- I MEAN, YOU KNOW YOURSELF BETTER THAN I DO.
26 IF YOU SAY, "I DON'T WANT TO HEAR SOMETHING," IT'S KIND OF
27 LIKE --

28 JUROR NO. 10: IT MEANS I'M GOING TO DENY IT TO

1 MYSELF AS BEING TRUE FACTS.

2 THE COURT: YOU WOULDN'T BE ABLE TO INTELLECTUALLY
3 TALK ABOUT THE SUBJECT MATTER? EVEN THOUGH YOU HEARD IT,
4 YOU'RE GOING TO DENY UNDERSTANDING IT WHEN YOU GET BACK
5 INTO THE JURY ROOM? A FRIEND OF MINE SAYS AS SOON AS HIS
6 WIFE STARTS TALKING, HE HEARS HER, BUT HE DOESN'T
7 UNDERSTAND HER.

8 MR. NEWHOUSE: I DENY SAYING THAT, YOUR HONOR.

9 THE COURT: I'M SORRY. BUT I GUESS, ARE YOU
10 BASICALLY TELLING ME THAT YOU'D HAVE DIFFICULTY DISCUSSING
11 THE FACTS OF THIS CASE, THE CIRCUMSTANCES WHICH THIS YOUNG
12 LADY WAS FACED WITH AT THE TIME OF HER DEMISE, AND NOT BE
13 ABLE TO INTELLECTUALLY DISCUSS THE EXPERTS AND THE
14 CREDIBILITY OF EXPERTS BECAUSE YOU DON'T WANT TO HEAR AND
15 YOU WANT TO DENY HEARING IT?

16 JUROR NO. 10: SOME OF IT -- OVERALL, I CAN DISCUSS
17 THINGS CREDIBLY EVEN IF IT'S TOTALLY DIFFERENT FROM
18 ANYTHING I BELIEVE IN OR UNDERSTAND. LIKE WE ALL -- LIKE
19 YOU JUST REFERRED TO, THAT WE ALL CAN. BUT I THINK THAT
20 I'M -- SOME OF IT -- SOME OF THEM I MAY JUST SWITCH OUT
21 BECAUSE I JUST FEEL THIS ISN'T RIGHT AT ALL ABOUT MANKIND.

22 THE COURT: HAVE YOU EVER SERVED ON A JURY?

23 JUROR NO. 10: NO, I HAVEN'T, NO. I'VE BEEN A
24 CITIZEN FOR TEN YEARS AND I'VE BEEN CALLED UP TWICE
25 BEFORE, AND I HAVEN'T ACTUALLY SERVED ON A JURY. I'D BE
26 HAPPY TO DO SO IN OTHER KINDS OF CASES.

27 THE COURT: ALL RIGHT. I'M GOING TO EXCUSE YOU FOR
28 CAUSE. THANK YOU --

1 JUROR NO. 10: I THANK YOU VERY MUCH.

2 THE COURT: -- FOR DOING YOUR CIVIC DUTY AND COMING
3 TO COURT. I WISH YOU TOLD US THIS YESTERDAY, BUT I
4 UNDERSTAND THINGS WEIGH ON PEOPLE.

5 JUROR NO. 10: I APPRECIATE -- IT'S A DIFFICULT
6 DECISION FOR YOU. IT'S A DIFFICULT DECISION FOR ME, TOO,
7 THINKING HOW CAN I BEST HANDLE THIS AND THIS ISN'T GOING
8 TO WORK.

9 THE COURT: THANK YOU VERY MUCH. YOU MAY RETURN TO
10 THE FIFTH FLOOR TO THE JURY ASSEMBLY ROOM. THANK YOU.

11 JUROR NO. 10: THANK YOU.

12

13 (JUROR NO. 10, GRAHAM BOTHWELL,
14 EXITS THE COURTROOM.)

15

16 THE COURT: BEFORE WE BRING IN THE JURORS LET ME
17 TALK TO THE LAWYERS. WE ALL SET HERE?

18 MR. NEWHOUSE: YES, YOUR HONOR.

19 THE COURT: SO I'LL REPLACE -- LET'S SEE, WHERE WAS
20 HE -- JUROR NO. 10 -- WITH THE BLIND DRAW.

21 THE CLERK: YOU DON'T WANT TO DO IT IN FRONT OF
22 THEM?

23 THE COURT: I'LL DO IT, YES, IN FRONT OF THEM. I
24 JUST WANT YOU TO KNOW -- ACTUALLY, I'M TALKING TO THE
25 LAWYERS NOW. WHAT I'M THEN GOING TO DO IS I'M GOING TO
26 READ THEM THE C.A.C.I. INSTRUCTIONS WE TALKED ABOUT, AND
27 THEN I'M GOING TO TALK TO THEM A LITTLE BIT ABOUT TAKING
28 NOTES AND THEN ABOUT THE OPENING STATEMENT. WE'RE GOING

1 TO GET RIGHT INTO THAT.

2 AS FAR AS THE OPENING STATEMENT, HOW MUCH
3 TIME DOES EACH SIDE NEED? ARE YOU GOING TO --

4 MS. MC BROOM: I'M GIVING THE OPENING STATEMENT.
5 IT'S ABOUT HALF HOUR TO 40 MINUTES PROBABLY.

6 THE COURT: LET'S KEEP IT UNDER A HALF AN HOUR,
7 COULD WE?

8 MS. MC BROOM: I'LL TRY MY BEST.

9 THE COURT: CAN YOU LIVE WITH THAT?

10 MS. MC BROOM: I THINK I CAN TRY. I CAN GET CLOSE.

11 THE COURT: LET'S GET AS CLOSE AS WE CAN. LET'S
12 SEE WHERE WE ARE AT THAT TIME. IT'S NOW 10 MINUTES TO
13 2:00. IT'S GOING TO TAKE ME A WHILE TO READ THROUGH
14 C.A.C.I. 100, 101. CERTAINLY WE'LL GET OPENING STATEMENTS
15 IN. WE MIGHT BE ABLE TO START WITH OUR FIRST WITNESS.

16 MR. NEWHOUSE: FIRST WITNESS IS READY.

17 THE COURT: OKAY. LET'S BRING IN THE JURY.

18

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

22

23 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, WE'RE
24 BACK ON THE RECORD AT THIS POINT IN TIME. ALL JURORS ARE
25 PRESENT AND IN PLACE. PARTIES ARE PRESENT, LAWYERS ARE
26 PRESENT.

27

28 MR. BOTHWELL SENT ME A TYPED LETTER
EXPLAINING HIS RELIGIOUS BELIEFS AND HOW HE FELT IT WAS

1 GOING TO INTERFERE WITH HIS ABILITY TO LISTEN TO AND
2 CAREFULLY EVALUATE THE TESTIMONY IN THIS CASE. SO I HAVE
3 EXCUSED HIM FOR CAUSE AND I'M NOW GOING TO REPLACE HIM
4 WITH ONE OF THE FOUR JURORS.

5 MR. CARIAGA, YOU'RE SELECTED. LEAVE YOUR
6 NOTEBOOK THERE, IF YOU WILL, AND TAKE THE OPEN SEAT.

7 SO, LADIES AND GENTLEMEN, IN THE NEXT HOUR,
8 WHAT I WANT TO DO IS READ TO YOU SOME JURY INSTRUCTIONS.
9 NEED NOT TAKE NOTES. YOU WILL HAVE THESE IN WRITTEN FORM
10 AT THE END OF THE TRIAL. AT THE END OF THE TRIAL, I MAY
11 OR MAY NOT READ ALL THE SAME ONES THAT I'M NOW GOING TO
12 READ TO YOU, BUT THIS WILL KIND OF GIVE YOU A BACKGROUND
13 ON WHAT'S GOING TO TAKE PLACE IN THE NEXT SEVEN OR EIGHT
14 DAYS, OKAY?

15 AND AFTER THAT, YOU ALL HAVE NOTEBOOKS. I
16 WILL TALK TO YOU ABOUT TAKING NOTES DURING THE COURSE OF
17 THE TRIAL AND ABOUT AN OPENING STATEMENT OF WHICH YOU'RE
18 GOING TO HEAR. I'VE ADVISED BOTH SIDES TO KEEP THEIR
19 OPENING STATEMENT TO LESS THAN A HALF AN HOUR.

20 AND I'LL JUST TELL YOU NOW THAT AN OPENING
21 STATEMENT, LIKE A CLOSING ARGUMENT, IS NOT EVIDENCE. IT
22 IS NOT EVIDENCE. IT'S A ROAD MAP, PARTICULARLY THE
23 OPENING STATEMENT, OF WHAT YOU CAN EXPECT TO HEAR DURING
24 THE COURSE OF THE TRIAL.

25 AS IN ALL TRIALS, WHETHER THEY BE CRIMINAL
26 OR CIVIL, YOU'RE GOING TO FIND THAT THIS CASE DOES NOT
27 COME BEFORE YOU IN ORDERLY BLOCKS SUCH AS A, B, C, AND D.
28 IT COULD VERY WELL COME TO YOU SUCH AS, YOU KNOW, C, B, D,

1 A, JUST BECAUSE OF THE WITNESS PROBLEMS THAT WE HAVE AND
2 HOW WE CAN GET PEOPLE BEFORE THE COURT.

3 SO THE OPENING STATEMENT WILL GIVE YOU A
4 ROAD MAP, A PREVIEW OF WHAT YOU CAN EXPECT TO HEAR IN THE
5 NEXT SEVEN DAYS.

6 BUT FIRST LET ME READ TO YOU SOME OF THESE
7 JURY INSTRUCTIONS AND, AGAIN, YOU NEED NOT TAKE NOTES.
8 YOU WILL HAVE THESE IN WRITTEN FORM.

9 LADIES AND GENTLEMEN OF THE JURY, "YOU
10 HAVE NOW BEEN SWORN AS JURORS IN THIS CASE.

11 I WANT TO IMPRESS ON YOU THE SERIOUSNESS AND
12 IMPORTANCE OF SERVING ON A JURY. TRIAL BY
13 JURY IS A FUNDAMENTAL RIGHT IN CALIFORNIA.
14 THE PARTIES HAVE A RIGHT TO A JURY THAT IS
15 SELECTED FAIRLY, THAT COMES TO THE CASE
16 WITHOUT BIAS, AND THAT WILL ATTEMPT TO REACH
17 A VERDICT BASED ON THE EVIDENCE PRESENTED.
18 BEFORE WE BEGIN, I NEED TO EXPLAIN HOW YOU
19 MUST CONDUCT YOURSELVES DURING THE TRIAL.

20 "DO NOT ALLOW ANYTHING THAT HAPPENS
21 OUTSIDE THIS COURTROOM TO AFFECT YOUR
22 DECISION. DURING THE TRIAL DO NOT TALK ABOUT
23 THIS CASE OR THE PEOPLE INVOLVED IN IT WITH
24 ANYONE, INCLUDING FAMILY AND PERSONS LIVING
25 IN YOUR HOUSEHOLD, FRIENDS AND COWORKERS,
26 SPIRITUAL LEADERS, ADVISERS, OR THERAPISTS.
27 YOU MAY SAY YOU'RE ON A JURY AND HOW LONG THE
28 TRIAL MAY TAKE, BUT THAT IS ALL. YOU MUST

1 NOT EVEN TALK ABOUT THE CASE WITH THE OTHER
2 JURORS UNTIL AFTER I TELL YOU THAT IT IS TIME
3 FOR YOU TO DECIDE THE CASE."

4 AND THAT'S AFTER WE'VE COMPLETED ALL OF THE
5 ORAL TESTIMONY, GET THE EXHIBITS RECEIVED INTO EVIDENCE --
6 YOU'LL HAVE ALL OF THAT -- THE EXHIBITS CERTAINLY IN THE
7 JURY ROOM, AND THAT'S WHEN YOU CAN START YOUR
8 DELIBERATIONS, AND THAT'S AFTER WE HAVE CLOSING ARGUMENTS.

9 "THIS PROHIBITION IS NOT LIMITED TO
10 FACE-TO-FACE CONVERSATIONS. IT ALSO EXTENDS
11 TO ALL FORMS OF ELECTRONIC COMMUNICATIONS.
12 DO NOT USE ANY ELECTRONIC DEVICE OR MEDIA,
13 SUCH AS A CELL PHONE, SMARTPHONE, P.D.A.,
14 COMPUTER, THE INTERNET, ANY INTERNET SERVICE,
15 ANY TEXT OR INSTANT-MESSAGING SERVICE, ANY
16 INTERNET CHAT ROOM, BLOG, OR WEBSITE,
17 INCLUDING SOCIAL NETWORKING WEBSITES OR
18 ONLINE DIARIES, TO SEND OR RECEIVE ANY
19 INFORMATION TO OR FROM ANYONE ABOUT THIS CASE
20 OR YOUR EXPERIENCE AS A JUROR UNTIL AFTER
21 YOU'VE BEEN DISCHARGED FROM YOUR JURY DUTY.

22 "DURING THE TRIAL YOU MUST NOT LISTEN
23 TO ANYONE ELSE TALK ABOUT THE CASE OR THE
24 PEOPLE INVOLVED IN THE CASE. YOU MUST AVOID
25 ANY CONTACT WITH THE PARTIES, THE LAWYERS,
26 THE WITNESSES, AND ANYONE ELSE WHO MAY HAVE A
27 CONNECTION TO THE CASE. IF ANYONE TRIES TO
28 TALK TO YOU ABOUT THIS CASE, TELL THAT PERSON

1 THAT YOU CANNOT DISCUSS IT BECAUSE YOU ARE A
2 JUROR. IF HE OR SHE KEEPS TALKING TO YOU,
3 SIMPLY WALK AWAY AND REPORT IT TO [MY
4 COURTROOM STAFF] AS SOON AS YOU CAN.

5 "AFTER THE TRIAL IS OVER AND I HAVE
6 RELEASED YOU FROM JURY DUTY, YOU MAY DISCUSS
7 THIS CASE WITH ANYONE, BUT YOU ARE NOT
8 REQUIRED TO DO SO.

9 "DURING THE TRIAL DO NOT READ, LISTEN
10 TO, OR WATCH ANY NEWS REPORTS ABOUT THIS
11 CASE." AND I SHOULD TELL YOU, "I HAVE NO
12 INFORMATION THAT THERE WILL BE NEWS REPORTS
13 CONCERNING THIS CASE. THIS PROHIBITION
14 EXTENDS TO THE USE OF THE INTERNET IN ANY
15 WAY, INCLUDING READING ANY BLOG ABOUT THE
16 CASE OR ANYONE INVOLVED WITH IT. IF YOU
17 RECEIVE ANY INFORMATION ABOUT THIS CASE FROM
18 ANY SOURCE OUTSIDE OF THE COURTROOM, PROMPTLY
19 REPORT IT TO [MY COURTROOM STAFF]. IT IS
20 IMPORTANT" -- AND I EMPHASIZE AGAIN -- "IT IS
21 IMPORTANT THAT ALL JURORS, " ALL 12 OF YOU,
22 INCLUDING THE ALTERNATES, "SEE AND HEAR THE
23 SAME EVIDENCE AT THE SAME TIME" -- "THE SAME
24 EVIDENCE AT THE SAME TIME.

25 "DO NOT DO ANY RESEARCH ON YOUR OWN OR
26 AS A GROUP. DO NOT USE DICTIONARIES, THE
27 INTERNET, OR OTHER REFERENCE MATERIALS. DO
28 NOT INVESTIGATE THE CASE OR CONDUCT ANY

1 EXPERIMENTS. DO NOT CONTACT ANYONE TO ASSIST
2 YOU, SUCH AS A FAMILY ACCOUNTANT, DOCTOR, OR
3 LAWYER. DO NOT VISIT OR VIEW THE SCENE OF
4 ANY EVENT INVOLVED IN THIS CASE OR USE ANY
5 INTERNET MAPS OR MAPPING PROGRAMS OR ANY
6 OTHER PROGRAM OR DEVICE TO SEARCH FOR OR TO
7 VIEW ANY PLACE DISCUSSED IN THE TESTIMONY.
8 IF YOU HAPPEN TO PASS BY THE SCENE, DO NOT
9 STOP OR INVESTIGATE."

10 AND THAT REALLY PERTAINS TO, YOU KNOW, PI,
11 VEHICULAR CASES.

12 "IF YOU DO NEED TO VIEW THE SCENE
13 DURING THE TRIAL, YOU'LL BE TAKEN THERE AS A
14 GROUP UNDER PROPER SUPERVISION.

15 "IF YOU VIOLATE ANY OF THESE
16 PROHIBITIONS ON COMMUNICATIONS AND RESEARCH,
17 INCLUDING PROHIBITIONS ON ELECTRONIC
18 COMMUNICATIONS AND RESEARCH, YOU MAY BE HELD
19 IN CONTEMPT OF COURT OR FACE OTHER SANCTIONS.
20 THAT MEANS THAT YOU MAY HAVE TO SERVE TIME IN
21 JAIL, PAY A FINE, OR FACE OTHER PUNISHMENT
22 FOR THAT VIOLATION."

23 AND I DON'T THINK I'M GOING TO HAVE TO FACE
24 ANY OF THAT WITH ANY OF YOU.

25 "IT IS IMPORTANT THAT YOU KEEP AN OPEN
26 MIND THROUGHOUT THIS TRIAL. EVIDENCE CAN
27 ONLY BE PRESENTED A PIECE AT A TIME. DO NOT
28 FORM OR EXPRESS AN OPINION ABOUT THIS CASE

1 DEFENDANT, WHO IS THE DOCTOR.

2 "FIRST, EACH SIDE MAY MAKE AN OPENING
3 STATEMENT, BUT NEITHER SIDE IS REQUIRED TO DO
4 SO. AN OPENING STATEMENT IS NOT EVIDENCE.
5 IT'S SIMPLY AN OUTLINE TO HELP YOU UNDERSTAND
6 WHAT THAT PARTY EXPECTS THE EVIDENCE WILL
7 SHOW. ALSO, BECAUSE IT IS OFTEN DIFFICULT TO
8 GIVE YOU THE EVIDENCE IN THE ORDER WE WOULD
9 PREFER, THE OPENING STATEMENT ALLOWS YOU TO
10 KEEP AN OVERVIEW OF THE CASE IN MIND DURING
11 THE PRESENTATION OF THE EVIDENCE.

12 "NEXT, THE JURY WILL HEAR THE
13 EVIDENCE."

14 PLAINTIFFS WILL PRESENT THEIR CASE FIRST.
15 WHEN PLAINTIFFS ARE FINISHED, THE DEFENDANT WILL HAVE AN
16 OPPORTUNITY TO PRESENT HER EVIDENCE.

17 "EACH WITNESS WILL FIRST BE QUESTIONED
18 BY THE SIDE THAT ASKED THE WITNESS TO
19 TESTIFY. THIS IS CALLED DIRECT EXAMINATION.
20 THEN THE OTHER SIDE IS PERMITTED TO QUESTION
21 THE WITNESSES. THIS IS CALLED
22 CROSS-EXAMINATION.

23 "DOCUMENTS OR OBJECTS REFERRED TO
24 DURING THE TRIAL ARE CALLED EXHIBITS.
25 EXHIBITS ARE GIVEN A NUMBER [OR LETTER] SO
26 THAT THEY MAY BE CLEARLY IDENTIFIED.
27 EXHIBITS ARE NOT EVIDENCE UNTIL I ADMIT THEM
28 INTO EVIDENCE. DURING YOUR DELIBERATIONS,

1 YOU WILL BE ABLE TO LOOK AT ALL EXHIBITS
2 ADMITTED INTO EVIDENCE.

3 "THERE ARE MANY RULES THAT GOVERN
4 WHETHER SOMETHING WILL BE ADMITTED INTO
5 EVIDENCE. AS ONE SIDE PRESENTS EVIDENCE, THE
6 OTHER SIDE HAS THE RIGHT TO OBJECT AND ASK ME
7 TO DECIDE IF THE EVIDENCE IS PERMITTED BY THE
8 RULES. USUALLY, I WILL DECIDE IMMEDIATELY
9 BUT SOMETIMES I MAY HAVE TO HEAR ARGUMENTS
10 OUTSIDE OF YOUR PRESENCE.

11 "AFTER THE EVIDENCE HAS BEEN
12 PRESENTED, I WILL INSTRUCT YOU ON THE LAW
13 THAT APPLIES TO THIS CASE AND THE ATTORNEYS
14 WILL MAKE CLOSING ARGUMENTS. WHAT THE
15 PARTIES SAY IN CLOSING ARGUMENT IS NOT
16 EVIDENCE."

17 JUST LIKE IN THE OPENING STATEMENT, IT IS
18 NOT EVIDENCE.

19 "THE ARGUMENTS ARE OFFERED TO HELP YOU
20 UNDERSTAND THE EVIDENCE AND HOW THE LAW
21 APPLIES TO IT."

22 I'M GOING TO READ THIS ONE. I DIDN'T
23 MENTION IT, BUT TAKING NOTES DURING THE TRIAL.

24 "YOU HAVE BEEN GIVEN NOTEBOOKS AND MAY
25 TAKE NOTES DURING THE TRIAL. DO NOT TAKE THE
26 NOTEBOOKS OUT OF THE COURTROOM OR JURY ROOM
27 AT ANY TIME DURING THE TRIAL. YOU MAY TAKE
28 YOUR NOTES INTO THE JURY ROOM DURING

1 DELIBERATIONS.

2 "YOU SHOULD USE YOUR NOTES ONLY TO
3 REMIND YOURSELF OF WHAT HAPPENED DURING THE
4 TRIAL."

5 NOW, LET ME READ IT. DOES EVERYBODY HAVE A
6 NOTEBOOK? JUROR NO. 1, YOU HAVE ONE. IT SHOULD BE A 1 ON
7 THE BACK. AND THEN CONSECUTIVE NUMERICAL ORDER, 2, 3, 4.

8 A JUROR: NO PEN.

9 A JUROR: YOU HAVE TO WRITE WITH BLOOD.

10 THE COURT: NOW WE'VE GOT ONE. PENCIL. WE CAN
11 FILL THAT UP.

12 THE CLERK: YOU'VE GOT IT NOW?

13 THE COURT: DO YOU HAVE ONE?

14 A JUROR: OKAY.

15 THE COURT: OKAY. 6, 7, 8, 9, 10, 11, 12. AND
16 ALTERNATES, I DON'T KNOW HOW THEY'RE MARKED. YOU EACH
17 HAVE A NOTEBOOK THERE? DOES ONE SAY ALTERNATE 1 AND 2 OR
18 3? IS THAT 3 AND 4? OKAY. THOSE ARE YOUR NOTEBOOKS.

19 "YOU SHOULD USE YOUR NOTES ONLY TO
20 REMIND YOURSELF OF WHAT HAPPENED DURING THE
21 TRIAL.

22 "DO NOT LET YOUR NOTE-TAKING INTERFERE
23 WITH YOUR ABILITY TO LISTEN CAREFULLY TO ALL
24 THE TESTIMONY AND TO WATCH THE WITNESSES AS
25 THEY TESTIFY."

26 AND I CAN TELL YOU THAT FROM MY OWN PERSONAL
27 EXPERIENCE, WHEN I HAVE A TRIAL WITHOUT A JURY, SOMETIMES
28 I GET SO CARRIED AWAY IN TAKING NOTES, I FAIL TO LOOK UP

1 AND WATCH AND OBSERVE THE WITNESSES. PLEASE DON'T LET
2 THAT HAPPEN. TAKE DOWN THE PERSON'S NAME, SOME OF THE
3 PERTINENT THINGS THEY HAVE SAID, BUT DO WATCH AND OBSERVE
4 THE WITNESSES BECAUSE YOU'RE GOING TO BE THE JUDGES OF THE
5 CREDIBILITY OF EACH AND EVERY WITNESS THAT TESTIFIES,
6 INCLUDING EXPERT WITNESSES, OKAY?

7 "THE COURT REPORTER IS MAKING A RECORD
8 OF EVERYTHING THAT IS SAID. IF DURING
9 DELIBERATIONS YOU HAVE A QUESTION WHAT THE
10 WITNESS SAID, YOU SHOULD ASK THE COURT
11 REPORTER'S RECORDS TO BE READ TO YOU. YOU
12 MUST ACCEPT THE COURT REPORTER'S RECORD AS
13 ACCURATE.

14 "AT THE END OF THE TRIAL, YOUR NOTES
15 WILL BE COLLECTED AND DESTROYED" BY THE COURT
16 BUT WILL NOT BE A PART OF THE OFFICIAL
17 RECORD.

18 AND THIS IS PROBABLY THE MOST IMPORTANT JURY
19 INSTRUCTION:

20 "A WITNESS IS A PERSON WHO HAS
21 KNOWLEDGE RELATED TO THIS CASE. YOU WILL
22 HAVE TO DECIDE WHETHER YOU BELIEVE EACH
23 WITNESS AND HOW IMPORTANT EACH WITNESS'S
24 TESTIMONY IS TO THE CASE. YOU MAY BELIEVE
25 ALL, PART, OR NONE OF THE WITNESS'S
26 TESTIMONY.

27 "IN DECIDING WHETHER TO BELIEVE A
28 WITNESS'S TESTIMONY, YOU MAY CONSIDER, AMONG

1 OTHER FACTORS, THE FOLLOWING:

2 " (A) HOW WELL DID THE WITNESS SEE,
3 HEAR, OR OTHERWISE SENSE WHAT HE OR SHE
4 DESCRIBED IN COURT?

5 " (B) HOW WELL DID THE WITNESS
6 REMEMBER AND DESCRIBE WHAT HAPPENED?

7 " (C) HOW DID THE WITNESS LOOK, ACT,
8 AND SPEAK WHILE TESTIFYING?

9 " (D) DID THE WITNESS HAVE ANY REASON
10 TO SAY SOMETHING THAT WAS NOT TRUE? FOR
11 EXAMPLE, DID THE WITNESS SHOW ANY BIAS OR
12 PREJUDICE OR HAVE A PERSONAL RELATIONSHIP
13 WITH ANY OF THE PARTIES INVOLVED IN THE CASE
14 OR HAVE A PERSONAL STAKE IN HOW THIS CASE IS
15 DECIDED?

16 " (E) WHAT WAS THE WITNESS'S ATTITUDE
17 TOWARD THIS CASE OR ABOUT GIVING TESTIMONY?

18 "SOMETIMES A WITNESS MAY SAY SOMETHING
19 THAT IS NOT CONSISTENT WITH SOMETHING ELSE HE
20 OR SHE SAID. SOMETIMES DIFFERENT WITNESSES
21 WILL GIVE DIFFERENT VERSIONS OF WHAT
22 HAPPENED. PEOPLE OFTEN FORGET THINGS OR MAKE
23 MISTAKES IN WHAT THEY REMEMBER. ALSO, TWO
24 PEOPLE MAY SEE THE SAME EVENT BUT REMEMBER IT
25 DIFFERENTLY. YOU MAY CONSIDER THESE
26 DIFFERENCES, BUT DO NOT DECIDE THAT TESTIMONY
27 IS UNTRUE JUST BECAUSE IT DIFFERS FROM OTHER
28 TESTIMONY.

1 TRIALS, SUCH AS THIS ONE, THE PARTY WHO IS
2 REQUIRED TO PROVE SOMETHING NEED PROVE ONLY
3 THAT IT IS MORE LIKELY TO BE TRUE THAN NOT
4 TRUE.

5 "DURING THE TRIAL, YOU [WILL
6 UNDOUBTEDLY HEAR] DEPOSITION TESTIMONY THAT
7 [WILL BE] READ TO YOU FROM [A] DEPOSITION
8 TRANSCRIPT."

9 A DEPOSITION, IT LOOKS LIKE A TIME MAGAZINE,
10 IF YOU WILL, A BOOKLET, KIND OF LIKE WHAT I'M HOLDING UP
11 HERE.

12 "A DEPOSITION IS THE TESTIMONY OF A
13 PERSON TAKEN BEFORE TRIAL. AT A DEPOSITION
14 THE PERSON IS SWORN TO TELL THE TRUTH AND IS
15 QUESTIONED BY THE ATTORNEYS. YOU MUST
16 CONSIDER THE DEPOSITION TESTIMONY THAT WAS
17 PRESENTED TO YOU IN THE SAME WAY AS YOU
18 CONSIDER TESTIMONY GIVEN IN COURT."

19 AT A DEPOSITION THE DEPONENT IS PLACED UNDER
20 OATH AND THE ATTORNEYS ASK QUESTIONS. THIS IS ALL
21 TRANSCRIBED INTO A BOOKLET LIKE I JUST SHOWED YOU BY THE
22 COURT REPORTER. THE DEPONENT, THE PERSON THAT'S BEING
23 DEPOSED, THEN REVIEWS IT AND SIGNS THE DEPOSITION UNDER
24 PENALTY OF PERJURY.

25 AND THE LAST ONE I HAVE IS EXPERT WITNESS
26 TESTIMONY.

27 "DURING THE TRIAL YOU [WILL HEAR]
28 TESTIMONY FROM EXPERT WITNESSES. THE LAW

1 ALLOWS AN EXPERT TO STATE OPINIONS ABOUT
2 MATTERS IN HIS OR HER FIELD OF EXPERTISE EVEN
3 IF HE OR SHE HAS NOT WITNESSED ANY OF THE
4 EVENTS INVOLVED IN THE TRIAL.

5 "YOU DO NOT HAVE TO ACCEPT AN EXPERT'S
6 OPINION. AS WITH ANY OTHER WITNESS, IT IS UP
7 TO YOU TO DECIDE WHETHER YOU BELIEVE THE
8 EXPERT'S TESTIMONY AND CHOOSE TO USE IT AS A
9 BASIS FOR YOUR DECISION. YOU MAY BELIEVE
10 ALL, PART, OR NONE OF AN EXPERT'S TESTIMONY.

11 "IN DECIDING WHETHER TO BELIEVE AN
12 EXPERT'S TESTIMONY, YOU SHOULD CONSIDER:

13 "A, THE EXPERT'S TRAINING AND
14 EXPERIENCE;

15 "B, THE FACTS THE EXPERT RELIED ON;
16 AND

17 "C, THE REASONS FOR THE EXPERT'S
18 OPINION."

19 WITH THAT, LADIES AND GENTLEMEN, WE'RE GOING
20 TO HAVE OUR OPENING STATEMENTS.

21 PLAINTIFF?

22 MR. NEWHOUSE: MAY I STEP INTO THE WELL TO PUT THE
23 SCREEN UP?

24 THE COURT: YOU MAY.

25 MS. MC BROOM: GOOD AFTERNOON, LADIES AND
26 GENTLEMEN. NOW YOU GET TO HEAR FROM ME.

27 MY NAME IS KATHERINE MC BROOM, AND ALONG
28 WITH MR. NEWHOUSE, I HAVE THE HONOR OF REPRESENTING

1 PLAINTIFFS LINDA AND PETER DE ROGATIS.

2 AND NOW IS MY CHANCE TO INTRODUCE YOU TO THE
3 FACTS AND THE ISSUES OF THIS CASE. YOU'VE ALREADY HEARD
4 ABOUT A FEW ISSUES AT VOIR DIRE. WE SPOKE WITH YOU
5 EARLIER AND I NEED YOU TO ERASE THOSE FROM THE CHALKBOARD
6 AND WE'RE GOING TO START FROM SCRATCH HERE.

7 THE COURT ALREADY INSTRUCTED YOU THAT
8 OPENING STATEMENTS ARE NOT EVIDENCE. WHAT I'M HERE TO DO
9 IS GIVE YOU A ROAD MAP OF THE EVIDENCE WE INTEND TO
10 PRESENT AND WHAT I BELIEVE THE EVIDENCE WILL SHOW, AND THE
11 SAME GOES FOR MR. BLESSEY. AND YOU CAN HOLD US TO THAT;
12 YOU CAN HOLD US TO THIS OPENING STATEMENT AT THE END WHEN
13 MR. NEWHOUSE COMES UP AND GIVES HIS SUMMATION TO SEE IF
14 INDEED THOSE FACTS WERE SET FORTH.

15 I'D LIKE TO START BY INTRODUCING YOU TO TARA
16 DE ROGATIS. THIS IS TARA. SHE IS THE DECEASED DAUGHTER
17 OF OUR CLIENTS LINDA AND PETER DE ROGATIS, AND WE'RE HERE
18 TODAY BECAUSE OF THE APATHY, CARELESSNESS, AND
19 NEGLIGENCE --

20 MR. BLESSEY: YOUR HONOR, THIS IS ARGUMENT. I
21 BELIEVE THIS IS ARGUMENT.

22 THE COURT: MOVE ON. NOT ARGUMENT. JUST AN
23 OPENING STATEMENT.

24 MS. MC BROOM: THANK YOU, YOUR HONOR.

25 YOU'RE GOING TO HEAR TESTIMONY FROM DAVID
26 MAC EACHERN, WHO WAS THE LONGTIME BOYFRIEND AND FIANCÉ OF
27 TARA DE ROGATIS, AND HE'S GOING TO TELL YOU THAT ON THE
28 MORNING OF MARCH 22ND, 2010, TARA DE ROGATIS WAS IN A

1 STATE OF DESPAIR LIKE HE HAD NEVER SEEN. SHE WAS
2 DESPONDENT, SHE COULD BARELY SPEAK, SHE COMPLAINED TO HER
3 MOTHER THAT HER SOUL WAS BEING TORMENTED.

4 CONCERNED FOR HER MENTAL AND PHYSICAL
5 WELL-BEING, HER FIANCE TOOK HER TO HER TREATING PHYSICIAN
6 AT THE TIME, DR. KAREN SHAINSKY.

7 THAT DAY DR. SHAINSKY PROVIDED TARA
8 DE ROGATIS WITH A PRESCRIPTION FOR 100 PERCOCET, THE
9 HIGHEST AVAILABLE STRENGTH, KNOWING OF TARA DE ROGATIS'
10 TREMENDOUS RISK FOR SUICIDE, AND INDEED TARA USED THAT
11 PRESCRIPTION HOURS LATER TO END HER LIFE.

12 DAVID MAC EACHERN WILL TELL YOU THAT AS THEY
13 WERE WAITING FOR DR. SHAINSKY TO COME IN THE EXAMINATION
14 ROOM, SHE SAT THERE DISHEVELED, DESPONDENT, HOPELESS, SO
15 MUCH SO THAT WHEN DR. SHAINSKY ENTERED THAT EXAMINATION
16 ROOM, SHE STOPPED DEAD IN HER TRACKS. SHE WAS SHOCKED BY
17 HER APPEARANCE AND ASKED HER WHAT WAS WRONG, AND YOU WILL
18 HEAR EVIDENCE THAT TARA RESPONDED, "I WANT TO KILL MYSELF.
19 I CAN'T LIVE LIKE THIS."

20 YOU'RE GOING TO HEAR FROM DAVID MAC EACHERN
21 WHO WAS PRESENT DURING THE APPOINTMENT AND FROM
22 DR. SHAINSKY HERSELF THAT DESPITE HAVING HEARD TARA MAKE
23 THAT HORRIBLE STATEMENT WANTING TO END HER LIFE, DESPITE
24 HAVING KNOWLEDGE THAT THIS YOUNG WOMAN HAD A PSYCHIATRIC
25 MOOD DISORDER, INCLUDING PSYCHOTIC FEATURES, INCLUDING
26 AUDITORY HALLUCINATIONS AND TACTILE HALLUCINATIONS,
27 DESPITE HAVING KNOWLEDGE THAT THIS YOUNG WOMAN HAD A DRUG
28 ABUSE HISTORY, SHE HANDED TARA A PROVERBIAL LOADED GUN,

1 100 PERCOCET AT THE HIGHEST AVAILABLE DOSAGE, AND TARA
2 USED THAT GUN TO KILL HERSELF. DUE TO DR. SHAINSKY'S
3 ACTIONS, MY CLIENTS ARE WITHOUT THEIR DAUGHTER.

4 AT THE TIME OF HER DEATH, TARA WAS 30 YEARS
5 OLD. SHE WAS INTERESTED IN EVERYTHING ARTISTIC FROM
6 PHOTOGRAPHY, MEDIA ARTS. SHE TRIED HER HAND AT ACTING,
7 MANAGED TO GET A S.A.G. CARD, LANDED SOME COMMERCIALS AND
8 A HANDFUL OF SHORT FILMS. SHE HAD A REAL PASSION FOR
9 PAINTING, GOT VERY MUCH INVOLVED IN OIL PAINTING AND
10 ACCUMULATED QUITE A COLLECTION AND INTENDED ONE DAY TO
11 EXHIBIT THAT WORK AND MAYBE MARKET IT. SHE HAD A LOT LEFT
12 TO CONTRIBUTE TO THIS WORLD BEFORE SHE WAS TAKEN.

13 TARA WAS BORN IN NEW JERSEY ON JUNE 4, 1979.
14 SHE ALWAYS SHARED A VERY CLOSE RELATIONSHIP WITH HER
15 MOTHER AND FATHER. SHE HAS A BABY BROTHER, NAMED P.J.
16 HE'S NOW AN ADULT.

17 WHEN TARA WAS TEN YEARS OLD, SHE MOVED TO
18 THE LOS ANGELES AREA WITH HER FAMILY AND HER BROTHER.
19 SOON THEREAFTER IN THE '90S LINDA AND PETER DE ROGATIS
20 ENDED UP DIVORCING, AND PETER DE ROGATIS ENDED UP MOVING
21 BACK TO NEW JERSEY AND LINDA STAYED IN LOS ANGELES WITH
22 HER CHILDREN.

23 DESPITE THAT DISTANCE BETWEEN TARA AND HER
24 FATHER, THEY SHARED A VERY, VERY CLOSE RELATIONSHIP. EVEN
25 UPON HIM REMARRYING, SHE'S AN INTEGRAL PART OF THAT NEW
26 FAMILY. SHE'S VERY CLOSE TO HER STEPMOTHER AND SHE HAD A
27 STEPSISTER THAT LOOKS UP TO HER -- LOOKED UP TO HER.

28 WHEN TARA ATTENDED HIGH SCHOOL IN

1 LOS ANGELES AREA, WHEN SHE GRADUATED, SHE ENDED UP GOING
2 TO EMERSON COLLEGE IN BOSTON, WHICH IS HER MOTHER'S ALMA
3 MATER AND HER FATHER'S ALMA MATER AS WELL. IT'S IN
4 COLLEGE THAT SHE REALLY STARTED DEVELOPING THIS INTEREST
5 IN THE ARTS. SHE GOT A MINOR IN PHOTOGRAPHY. HER MAJOR
6 WAS IN MEDIA VISUAL ARTS, AND SHE TRIED HER HAND AT ACTING
7 AS WELL. SHE GRADUATED IN 2001 WITH A B.A. IN MEDIA
8 VISUAL ARTS.

9 AFTER FINISHING UP COLLEGE, SHE MOVED BACK
10 TO LOS ANGELES AND SHE LIVED WITH HER MOTHER FOR A TIME
11 AND, IN FACT, WORKED FOR HER MOTHER'S COMPANY, DE ROGATIS
12 PUBLISHING, WHICH IS AN ADVERTISING COMPANY. AT THE SAME
13 TIME, SHE BEGAN HAVING AN INTEREST IN AN ACTING CAREER.
14 SHE GOT THE HEADSHOTS DONE. SHE WAS GOING ON AUDITIONS,
15 AND AS I MENTIONED, WAS LUCKY ENOUGH TO LAND SOME PAYING
16 ROLES.

17 IN 2004 TARA BEGAN DATING DAVID MAC EACHERN,
18 WHO I MENTIONED EARLIER, AND HE WAS HER FIANCE AT THE TIME
19 OF HER DEATH. THEY FELL IN LOVE, MOVED IN TOGETHER, AND
20 SHORTLY THEREAFTER WERE ENGAGED.

21 DAVID HAS A WEALTH OF KNOWLEDGE ABOUT TARA
22 IN THE LAST FEW YEARS OF HER LIFE. HE LIVED WITH HER
23 UNTIL THE TIME OF HER DEATH.

24 HE IS GOING TO TELL YOU THAT IN ABOUT 2005
25 HE SAW TARA STARTING TO SLIP. SHE WAS COMPLAINING OF
26 EXPERIENCING PAIN, MOSTLY IN HER STOMACH, AND HIGH ANXIETY
27 AND HE NOTICED THE TWO WERE COINCIDING.

28 IN 2006 TARA REVEALED TO DAVID THAT SHE WAS

1 HEARING VOICES AND HAD BEEN HEARING VOICES FOR QUITE SOME
2 TIME. SHE CONFIDED IN HIM THAT THEY WERE DEEPLY
3 DISTURBING HER AND SHE WAS HAVING TROUBLE GETTING THROUGH
4 HER DAY-TO-DAY LIFE.

5 IT'S IN 2007 THAT TARA'S MENTAL HEALTH
6 REALLY STARTED TO DECLINE RAPIDLY AND IT IS IN THAT YEAR
7 WHICH SHE BEGAN SEEKING PSYCHIATRIC TREATMENT.

8 IN THE FALL OF 2007 TARA HAD HER FIRST VISIT
9 WITH DR. PAUL BOHN. HE WAS HER TREATING PSYCHIATRIST AT
10 THE TIME OF HER DEATH, AND YOU WILL HEAR FROM HIM DURING
11 THIS TRIAL.

12 HE'LL TELL YOU THAT WHEN TARA FIRST CAME TO
13 HIM, SHE REPORTED AUDITORY HALLUCINATIONS, CONFUSED
14 THINKING, ANXIETY. HE DIAGNOSED HER AND HE PRESCRIBED
15 PSYCHIATRIC MEDICATION. FROM THERE ON OUT, TARA WAS
16 TAKING PSYCHIATRIC MEDICATIONS. THEY CHANGED MEDICATIONS
17 UP UNTIL THE TIME OF HER DEATH.

18 SHORTLY AFTER TARA BEGAN SEEING DR. BOHN,
19 DAVID WILL TELL YOU THAT HE NOTICED TARA USING ILLICIT
20 DRUGS OCCASIONALLY, PARTICULARLY METHAMPHETAMINE. AND HE
21 WILL TELL YOU IT WAS TARA'S ESCAPE FROM THE TORMENT OF
22 VOICES AND ANXIETY.

23 FOR SOME TIME TARA HAD RECEIVED SOME DRUG
24 TREATMENT. SHE ATTENDED SOME A.A.'S AND WAS ABLE TO STOP
25 USING METHAMPHETAMINE FOR A TIME, BUT AT TIMES WENT BACK
26 TO IT WHEN HER SYMPTOMS JUST BECAME TOO OVERWHELMING.

27 IN 2008 TARA IS NOW NO LONGER GOING TO
28 AUDITIONS, SHE'S NO LONGER PAINTING, SHE'S NO LONGER

1 TAKING PART IN WHAT PREVIOUSLY HAD GIVEN HER SO MUCH JOY
2 AND HAD GIVEN HER PARENTS AND DAVID SO MUCH JOY.

3 YOU WILL HEAR EVIDENCE THAT IN 2008 TARA
4 BEGINS COMPLAINING OF PAIN, BURNING, A BURNING SENSATION
5 IN HER THROAT AS IF THE VOICES SHE'S HEARING ARE COMING
6 FROM HER THROAT. SHE FEELS THAT THINGS ARE CRAWLING ON
7 HER.

8 IN 2008 SHE BEGINS TO MENTION SUICIDE. IN
9 FACT, YOU'LL HEAR EVIDENCE THAT ON JANUARY 8TH, 2008,
10 DAVID MAC EACHERN, HER FIANCE, CONTACTED DR. PAUL BOHN, A
11 PSYCHIATRIST, PAGED HIM TO TELL HIM THAT TARA WAS
12 SUICIDAL.

13 LATER DURING THAT YEAR, 2008 -- TARA WOULD
14 GO AND VISIT HER PARENTS IN NEW JERSEY EVERY YEAR AROUND
15 THE HOLIDAYS, SPENDING THANKSGIVING AND CHRISTMAS WITH
16 THEM. LINDA MOVED TO NEW JERSEY, I BELIEVE, SOMETIME IN
17 2004.

18 WHILE TARA WAS HOME, HER PARENTS NOTICED A
19 SIGNIFICANT DIFFERENCE IN THEIR DAUGHTER. SHE DESCRIBED
20 TO THEM FEELING TORMENTED, SHE DESCRIBED THE BURNING,
21 CRAWLING, ITCHING, VOICES, AND SHE MENTIONED REPEATEDLY ON
22 THAT TRIP THAT SHE DID NOT WANT TO LIVE. SHE COULD NOT
23 LIVE THIS WAY, AND SHE WASN'T GETTING BETTER. SHE HAD
24 BEEN GOING TO A PSYCHIATRIST AND WASN'T GETTING BETTER.

25 IN 2009, UNFORTUNATELY, TARA CONTINUED TO
26 DECLINE, BUT I MUST SAY YOU'LL HEAR EVIDENCE THAT SHE
27 FOUGHT TO GET BETTER. SHE TOOK VITAMINS, SHE WENT TO
28 YOGA, SHE WENT TO ACUPUNCTURE, SHE WENT TO CHIROPRACTORS.

1 SHE WAS SEARCHING FOR THE SOLUTION, SHE WAS SEARCHING FOR
2 AN END TO HER DAILY TORMENT.

3 AND SHE ALSO SAW A LOT OF DOCTORS. IN FACT,
4 SHE WENT TO SEE A NEUROLOGIST, DR. ORFUSS, AND YOU'LL HEAR
5 SHE WENT TO SEE HIM IN EARLY 2009. SHE REPORTED AUDITORY
6 HALLUCINATIONS, SHE REPORTED SUICIDAL THOUGHTS, AND
7 ANXIETY AND ALTERED MEMORY. AND HE HAD AN E.E.G. DONE,
8 WHICH IS A BRAIN SCAN, AND THAT BRAIN SCAN CAME BACK
9 NORMAL.

10 AND YOU'LL HEAR EVIDENCE THAT THAT INDICATES
11 THAT THESE THINGS THAT WERE TORMENTING TARA WERE NOT DUE
12 TO SOME TYPE OF ORGANIC BRAIN INJURY, THAT THIS WAS A
13 PSYCHIATRIC CONDITION.

14 ON APRIL 12, 2009, TARA MADE A VISIT TO THE
15 CEDARS-SINAI EMERGENCY ROOM. DAVID MAC EACHERN WILL TELL
16 YOU THAT ON THAT DAY, TARA WAS IN A TERRIBLE CONDITION AND
17 SHE WAS SAYING SHE WANTED TO DIE, AND HE WAS FRIGHTENED
18 AND TOOK HER TO THE E.R. SHE REPORTED TO THE E.R. THAT
19 SHE WANTED TO DIE, THAT SHE HAD EXCRUCIATING PAIN, SHE WAS
20 HEARING VOICES, AND HAD TACTILE HALLUCINATIONS.

21 THEY KEPT HER, I BELIEVE, FOR ABOUT 13 HOURS
22 AND THEY RELEASED HER ON A CONDITION THAT DAVID WATCH HER,
23 AND THEY PROVIDED PSYCHIATRIC MEDICATIONS TO DAVID TO
24 DISPENSE TO HER.

25 NOW, AS I SAID, TARA WAS TRYING TO FIGHT
26 THROUGH THIS. SHE STILL THOUGHT PERHAPS THERE WAS A
27 CHANCE OF PURSUING AN ACTING CAREER.

28 SHE SCHEDULED A PLASTIC SURGERY IN MAY OF

1 2009, AND AFTER THAT SURGERY SHE WAS PRESCRIBED OPIATES.
2 AND THAT BEGAN HER RELATIONSHIP WITH OPIATES. YOU'RE
3 GOING TO HEAR OPIATES AND NARCOTICS USED INTERCHANGEABLY
4 IN THIS CASE. IN MY OPENING STATEMENT, I'M REFERRING TO
5 THE SAME THING HERE.

6 AT THAT POINT AFTER RECEIVING THOSE OPIATES,
7 YOU'LL SEE A PATTERN OF TARA CONSISTENTLY REQUESTING
8 OPIATES FROM HER PHYSICIANS. THESE OPIATES NUMBED TARA.
9 THEY WERE SOME TYPE OF ESCAPE.

10 ON MAY 15, 2009, IN FACT, TARA CALLS HER
11 PSYCHIATRIST, DR. PAUL BOHN, AND SAYS, "I NEED OPIATES.
12 I'M IN TREMENDOUS PAIN."

13 AND HE SAYS, "NO. I DON'T PRESCRIBE
14 OPIATES."

15 TWO MONTHS LATER SHE TRIES HIM AGAIN,
16 "DR. BOHN, I'M SUICIDAL. CAN'T LIVE LIKE THIS. I'M IN
17 TREMENDOUS PAIN. I NEED PAINKILLERS. I NEED OPIATES."

18 AND HE SAYS, "NO."

19 SAME DAY, TARA CALLS HER G.P., GENERAL
20 PRACTITIONER, DR. WARING, "DR. WARING, I NEED OPIATES."

21 HE SAID, "NO."

22 TARA HAD A TOUGH TRIP HOME IN 2009. AS I
23 MENTIONED, SHE MADE HER ANNUAL TRIP TO NEW JERSEY EVERY
24 YEAR. YOU'RE GOING TO HEAR A LOT ABOUT THAT TRIP FROM
25 LINDA AND PETER DE ROGATIS. THEY'RE GOING TO TELL YOU
26 THAT THEIR DAUGHTER WAS UNRECOGNIZABLE DURING THAT TRIP.
27 SHE DIDN'T LOOK THE SAME. SHE APPEARED TORTURED. SHE
28 MENTIONED WANTING TO DIE OVER AND OVER AGAIN.

1 SHE COMPLAINED OF THE CRAWLING, HER HAIR
2 FEELING LIKE IT WAS ON FIRE, BURNING IN HER THROAT, THE
3 VOICES, AND NOW SHE COULD NO LONGER DISTINGUISH THE
4 VOICES. IT WAS A CONSTANT CHORUS SPEAKING ALL THE TIME.

5 IT WAS HER FEELING THAT SHE COULDN'T ESCAPE
6 THE TORMENT. THIS WAS NEVER GOING TO GET BETTER. IT
7 WASN'T GETTING BETTER; IT WAS GETTING WORSE, DESPITE HER
8 BEST EFFORTS, DESPITE ALL THE DOCTORS.

9 IN FACT, TARA ENDED UP BEING INVOLUNTARILY
10 HOSPITALIZED DURING THAT VISIT TO NEW JERSEY. SHE WAS
11 HELD FOR FIVE DAYS FOR SUICIDE EVALUATION. THE DOCTOR
12 THAT SHE WOULD SEE WHEN SHE WOULD VISIT HOME IN NEW
13 JERSEY, DR. LATIMER, HAD HER COMMITTED BECAUSE HE BELIEVED
14 IN THIS, TOO. AND, IN FACT, SHE WAS HELD.

15 TARA CAME HOME TO LOS ANGELES CHRISTMAS DAY
16 IN 2009. 2010, YOU'LL HEAR EVIDENCE THAT TARA HAD A NEW
17 LEASE ON LIFE. "I'M GOING TO GET BETTER." SHE REENROLLED
18 IN ACTING CLASSES. SHE GOT INVOLVED IN THE CATHOLIC
19 CHURCH. SHE BECAME VERY MUCH INVOLVED AND, IN FACT, HAD
20 TAKEN CONFIRMATION CLASSES AND WAS PLANNING ON BEING
21 CONFIRMED. SHE STARTED TO PAINT AGAIN.

22 AND IT'S IN 2010 THAT TARA DE ROGATIS BEGAN
23 HER RELATIONSHIP WITH DR. KAREN SHAINSKY. AND JUST TO
24 GIVE YOU A LITTLE BIT OF BACKGROUND ON DR. SHAINSKY,
25 DR. SHAINSKY IS A RHEUMATOLOGIST, AND I DIDN'T KNOW WHAT
26 THAT MEANT BEGINNING OF THIS CASE, BUT I CAN TELL YOU IT'S
27 A DOCTOR WHO DIAGNOSES AND TREATS -- AND I'M SURE
28 MR. BLESSEY WILL CORRECT ME IF I AM WRONG -- BUT PATIENTS

1 WITH ARTHRITIS AND RHEUMATIC DISORDERS. THEY DEAL WITH
2 THINGS INVOLVING JOINTS AND SOFT TISSUES AND AUTOIMMUNE
3 DISEASES.

4 DR. SHAINSKY ATTENDED UNDERGRADUATE SCHOOL
5 IN TASHKENT, UZBEKISTAN. SHE WENT TO THE TASHKENT
6 PEDIATRIC MEDICAL INSTITUTE, AND SHE COMPLETED HER
7 UNDERGRADUATE STUDIES AT OCCIDENTAL COLLEGE HERE IN
8 LOS ANGELES. SHE ATTENDED TWO MEDICAL SCHOOLS, THE TOURO
9 UNIVERSITY COLLEGE OF OSTEOPATHIC MEDICINE IN VALLEJO AND
10 WESTERN UNIVERSITY OF HEALTH SCIENCE, COLLEGE OF
11 OSTEOPATHIC MEDICINE OF THE PACIFIC IN POMONA.

12 SHE COMPLETED HER INTERNSHIP AND RESIDENCY
13 IN INTERNAL MEDICINE AT U.S.C. AND SHE COMPLETED A
14 FELLOWSHIP IN RHEUMATOLOGY AT U.S.C.

15 DR. SHAINSKY BECAME BOARD CERTIFIED IN
16 RHEUMATOLOGY IN 2008 AND TREATED TARA DE ROGATIS IN 2010,
17 JUST TWO YEARS AFTER BECOMING BOARD CERTIFIED. SO SHE WAS
18 A FAIRLY NEW DOCTOR AT THE TIME.

19 NOW, I'D LIKE TO TALK TO YOU ABOUT A COUPLE
20 OF THE DOCTORS THAT TARA SAW BEFORE ENCOUNTERING
21 DR. SHAINSKY. AS I MENTIONED TO YOU, FOLLOWING HER
22 PLASTIC SURGERY IN 2008, TARA BEGAN -- I'M SORRY -- IN
23 2009, TARA BEGAN SEEKING OPIATES. AND ON JANUARY 11,
24 2010, TARA WENT TO SEE A PAIN MANAGEMENT SPECIALIST BY THE
25 NAME OF BRADLEY SPIEGEL. AND SHE GAVE HIM A -- YOU'LL
26 HEAR FROM HIM. SHE GAVE HIM A PRETTY COMPLETE PSYCH
27 HISTORY, SHE EXPLAINED HER MEDICATIONS, SHE EXPLAINED HER
28 BACKGROUND, AND SHE TOLD HIM SHE WAS SUFFERING FROM PAIN.

1 DR. SPIEGEL FELT HE NEEDED TO GET TO THE
2 BOTTOM OF WHAT WAS HAPPENING. HE DESCRIBED HER SYMPTOMS
3 AS VERY, VERY COMPLEX. SO WHAT HE DID WAS HE GAVE HER A
4 LIMITED NUMBER OF OPIATES. HE GAVE HER 20 NORCO, WHICH IS
5 HYDROCODONE.

6 AND HE TOLD HER, "LOOK, I NEED TO CONSULT
7 WITH YOUR DOCTORS BEFORE WE GET ON A COURSE OF OPIATE
8 TREATMENT. I NEED TO SEE WHAT'S HAPPENING WITH YOU,
9 WHAT'S CAUSING THIS." AND YOU'LL HEAR THAT TARA WAS QUITE
10 IRATE WITH THAT LIMITED NUMBER OF PILLS. SHE WAS UPSET,
11 SO MUCH SO THAT DR. SPIEGEL NOTED THAT IN HIS PROGRESS
12 NOTES.

13 NINE DAYS LATER, TARA WENT TO SEE AN
14 INTERNIST BY THE NAME OF DR. DAVID RAMIN. SAME THING.
15 SHE GAVE DR. RAMIN HER PSYCH HISTORY, SHE EXPLAINED HER
16 PAIN SYMPTOMS, AND IT WAS DR. RAMIN'S FEELING THAT TARA
17 NEEDED TO CONSULT WITH A PSYCHIATRIST FIRST AND FOREMOST
18 AND TO SEE A NEUROLOGIST GIVEN THE HALLUCINATIONS SHE WAS
19 EXPERIENCING.

20 HE, TOO, GAVE TARA A LIMITED NUMBER OF
21 OPIATES, 30 PILLS OF NORCO, AND HE ALSO PROVIDED HER WITH
22 SOMETHING CALLED ULTRACET, ALSO REFERRED TO AS TRAMADOL.
23 IT'S A SYNTHETIC OPIATE, WHICH IS FAR LESS POWERFUL THAN
24 OPIATES SUCH AS NORCO AND PERCOCET.

25 TARA HAD A SECOND VISIT WITH DR. RAMIN ON
26 FEBRUARY 3RD, 2010. AGAIN, DR. RAMIN PROVIDED HER WITH 30
27 NORCO. YOU'RE GOING TO HEAR FROM DR. RAMIN THAT HE WAS
28 NOT COMFORTABLE GIVING THIS PATIENT ANY FURTHER OPIATES.

1 HE WAS NOT COMFORTABLE BEING THAT DOCTOR. HE SAID -- HE'S
2 GOING TO SAY, "I DIDN'T WANT TO BE THAT DOCTOR. SHE NEEDS
3 TO GO TO A SPECIALIST. SOMETHING FELT WRONG." HE
4 REFERRED TARA TO DR. SHAINSKY.

5 ON FEBRUARY 9, 2010, TARA HAD HER FINAL
6 VISIT WITH HER PSYCHIATRIST, DR. BOHN. SHE TOLD HIM THAT
7 SHE HAD DISCONTINUED SOME OF HER PSYCH MEDS BECAUSE THEY
8 WEREN'T HELPING THE VOICES. SHE TOLD HIM SHE WAS
9 PRIMARILY TAKING OPIATES.

10 DR. BOHN PRESCRIBED SOME NEW MEDICATIONS FOR
11 HER, AND HE GAVE HER AN ADAMANT WARNING, "YOU ARE NOT TO
12 BE TAKING OPIATES. THEY ARE EXTREMELY DANGEROUS IN
13 COMBINATION WITH THE PSYCH MEDS THAT YOU'RE ON, AND THERE
14 IS A TREMENDOUS RISK FOR ACCIDENTAL OVERDOSE AND DEATH."

15 THE VERY NEXT DAY, TARA HAD HER FIRST VISIT
16 WITH DR. SHAINSKY AND REQUESTED OPIATES.

17 I'D LIKE TO TALK TO YOU -- I'D LIKE TO WALK
18 YOU THROUGH THE VISITS. THERE WERE THREE VISITS WITH
19 DR. SHAINSKY, THE FIRST BEING ON FEBRUARY 10TH OF 2010.
20 IT BEGAN WITH ABOUT AN HOUR CONSULTATION. DAVID
21 MAC EACHERN, TARA'S FIANCE, WAS PRESENT.

22 TARA GAVE HER HISTORY. SHE EXPLAINED THAT
23 SHE WAS SEEING A PSYCHIATRIST. SHE EXPLAINED THAT SHE HAD
24 REPORTED TO CEDARS E.R. IN THE PAST FOR PAIN-RELATED
25 SYMPTOMS. SHE DISCLOSED THAT SHE SUFFERED FROM
26 DEPRESSION. SHE DISCLOSED THAT SHE WAS ON PSYCHIATRIC
27 MEDICATION, AND SHE PROVIDED DR. SHAINSKY WITH SOME
28 NEUROLOGY RECORDS.

1 AFTER THE APPOINTMENT -- DR. SHAINSKY HAS
2 PRIVILEGES AT CEDARS AND WAS ABLE TO ACCESS, I UNDERSTAND,
3 SOME LIMITED CEDARS E.R. RECORDS. SO RIGHT FROM HER
4 OFFICE WENT AHEAD AND LOOKED TARA UP, AND HERE IS WHAT SHE
5 LEARNED ABOUT THAT VISIT TO CEDARS-SINAI:

6 SHE LEARNED THAT LESS THAN A YEAR PRIOR TO
7 THIS APPOINTMENT ON APRIL 12, 2009, TARA DE ROGATIS
8 REPORTED TO THE E.R. WITH THE CHIEF COMPLAINT BEING BODY
9 PAIN AND, QUOTE, UNQUOTE, "I WANT TO DIE."

10 SHE LEARNED THIS WAS A YOUNG WOMAN WITH A
11 PSYCHIATRIC MOOD DISORDER WITH PSYCHOTIC FEATURES,
12 INCLUDING AUDITORY AND TACTILE HALLUCINATIONS.

13 SHE LEARNED THAT THIS WAS A YOUNG WOMAN WHO
14 STATED SHE WANTED TO DIE BECAUSE SHE COULDN'T TAKE IT
15 ANYMORE.

16 SHE LEARNED THAT TARA WAS COMPLAINING OF
17 LEFT-SIDED BODY PAIN AND THAT SHE HAD BEEN EXPERIENCING
18 SYMPTOMS FOR OVER A YEAR.

19 SHE LEARNED THIS WAS A YOUNG WOMAN WITH A
20 HISTORY OF METHAMPHETAMINE ABUSE AND, IN FACT, HAD
21 ADMITTED TO USING METHAMPHETAMINE A WEEK BEFORE APPEARING
22 AT CEDARS E.R.

23 SHE LEARNED THAT THIS WOMAN WAS TREATED WITH
24 PAIN MEDICATIONS AS WELL AS SOME VERY SERIOUS PSYCH DRUGS,
25 INCLUDING SEROQUEL AND RISPERDAL.

26 SHE ALSO -- DR. SHAINSKY WILL TELL YOU SHE
27 REVIEWED TARA'S NEUROLOGY RECORDS SHE PROVIDED TO HER, AND
28 FROM THOSE DR. SHAINSKY LEARNED THAT LESS THAN A YEAR

1 PRIOR TO THIS APPOINTMENT, TARA HAD BEEN REFERRED BY
2 PSYCHIATRY BECAUSE OF ALTERED MEMORY AND AUDITORY
3 HALLUCINATIONS.

4 SO ON THE DAY OF THIS FIRST APPOINTMENT,
5 DR. SHAINSKY BECOMES AWARE THAT THIS IS A WOMAN WITH A
6 HISTORY OF A PSYCHIATRIC MOOD DISORDER, INCLUDING
7 PSYCHOTIC FEATURES, PSYCHOSIS, VOICES, FEELING THINGS ON
8 HER BODY THAT AREN'T THERE.

9 SHE LEARNS THIS YOUNG WOMAN HAS A HISTORY OF
10 METHAMPHETAMINE ABUSE.

11 SHE LEARNS THAT THIS WOMAN HAS BEEN REFERRED
12 TO A NEUROLOGIST FOR HALLUCINATIONS AND ALTERED MEMORY.

13 SHE LEARNS THIS WOMAN HAS A TREATING
14 PSYCHIATRIST.

15 SHE LEARNS THIS WOMAN HAS REPORTED TO AN
16 EMERGENCY ROOM COMPLAINING OF PAIN AND VOICES AND TACTILE
17 HALLUCINATIONS AND WANTING TO THE DIE.

18 TARA TOLD DR. SHAINSKY THAT DAY THAT SHE WAS
19 EXPERIENCING BODY PAIN AND WANTED PAIN MEDICATION, AND
20 DR. SHAINSKY OBLIGED.

21 SHE MADE A WORKING DIAGNOSIS OF
22 FIBROMYALGIA.

23 SHE PRESCRIBED CYMBALTA, WHICH IS AN
24 ANTIDEPRESSANT WHICH IS NOW USED FOR THE TREATMENT OF
25 FIBROMYALGIA.

26 SHE RECOMMENDED POOL THERAPY, SWIMMING POOL.

27 AND SHE GAVE TARA A PRESCRIPTION FOR 60
28 NORCO PILLS.

1 YOU'RE GOING TO SEE DR. SHAINSKY'S PROGRESS
2 NOTES IN THIS CASE FROM EACH VISIT. YOU'RE GOING TO LEARN
3 THAT DR. SHAINSKY WROTE IN HER PROGRESS NOTES:

4 "THIS IS A WOMAN WITH UNDERLYING
5 PSYCHIATRIC MOOD DISORDER."

6 NO MENTION OF HALLUCINATIONS. THIS IS A
7 WOMAN WITH HISTORY OF METHAMPHETAMINE ABUSE.

8 SHE WRITES, "FIBROMYALGIA," A WORKING
9 DIAGNOSIS, AND THEN STATES:

10 "I STRONGLY DISCOURAGE HER FROM THE
11 USE OF NARCOTICS."

12 NOWHERE IN THE BODY OF THESE PROGRESS NOTES
13 IS ANY WORD ABOUT THE 60 NORCO PILLS SHE GAVE TO TARA
14 DESPITE STRONGLY ENCOURAGING THEM -- I'M SORRY -- DESPITE
15 STRONGLY DISCOURAGING THEM.

16 15 DAYS LATER DR. SHAINSKY CALLED IN ANOTHER
17 56 NORCO PILLS FOR TARA WITHOUT A SECOND APPOINTMENT OR
18 ANY TYPE OF CONSULTATION.

19 HERE'S WHAT DR. SHAINSKY DID NOT DO IN THAT
20 15 DAYS' TIME:

21 SHE NEVER CONTACTED THE PSYCHIATRIST TO
22 CHECK INTO THIS WOMAN'S MENTAL HEALTH, TO CHECK TO SEE,
23 SHOULD SHE PRESCRIBE AN ANTIDEPRESSANT, CYMBALTA, TO
24 SOMEONE WITH A PSYCHIATRIC MOOD DISORDER? WAS THERE GOING
25 TO BE A PROBLEM WITH A COMBINATION OF DRUGS? SHE DIDN'T
26 DO THAT. SHE DIDN'T FURTHER INQUIRE INTO CEDARS' E.R.
27 RECORD. SHE WAS AWARE THERE HAD BEEN A PSYCH EVALUATION
28 AT CEDARS E.R. DIDN'T BOTHER TO FIND IT OR READ IT.

1 SHE DIDN'T PROVIDE A LIMITED NUMBER OF PILLS
2 AS THE PHYSICIANS BEFORE HER HAD DONE SO THAT SHE COULD
3 RUN LAB TESTS, SO THAT SHE COULD DO A FURTHER EVALUATION.
4 IT WAS JUST EASIER TO WRITE THE 60 NORCO, TO GIVE HER THE
5 60 NORCO PILLS, AND 56 15 DAYS LATER. THAT'S 116 PILLS IN
6 15 DAYS.

7 TARA HAD HER SECOND VISIT WITH DR. SHAINSKY
8 ON MARCH 1ST, 2010, JUST FOUR DAYS AFTER RECEIVING 56
9 PILLS, AND ON THAT DATE WAS GIVEN ANOTHER 100 NORCO PILLS.
10 SO THE RUNNING TALLY IS 216 PILLS IN ABOUT 19 DAYS.

11 DURING THAT VISIT, TARA COMPLAINED OF SOME
12 STRESS IN HER LIFE. DR. SHAINSKY WAS AWARE THAT THIS
13 WOMAN, IN ADDITION TO HAVING SOME PSYCHIATRIC ISSUES,
14 TAKING PSYCHIATRIC MEDS, WAS UNDER STRESS. SHE WAS IN THE
15 PROCESS OF MOVING OUT OF HER HOME AND SHE WAS HAVING
16 FINANCIAL PROBLEMS. SHE THOUGHT ENOUGH TO MENTION THAT
17 DURING HER APPOINTMENT.

18 DR. SHAINSKY DECIDED TO INCREASE TARA'S
19 CYMBALTA AGAIN WITHOUT CALLING A PSYCHIATRIST. AS I
20 MENTIONED TO YOU, GAVE HER A PRESCRIPTION FOR 100 OPIATES,
21 100 NORCO.

22 ON MARCH 15, LINDA WILL TELL YOU THAT SHE
23 HAD A CONVERSATION WITH HER DAUGHTER AND WAS VERY
24 DISTRESSED BY THAT CONVERSATION. HER DAUGHTER WAS GONE,
25 DISTANT, DESPERATE, SLURRING HER WORDS. SHE WAS SO
26 CONCERNED THAT SHE CONTACTED DR. BOHN AND LEFT A MESSAGE
27 STATING, "SOMETHING IS VERY WRONG WITH MY DAUGHTER. I'M
28 WORRIED ABOUT THIS" -- "COMBINATIONS OF THE CYMBALTA AND

1 THE OTHER DRUGS PRESCRIBED BY THIS RHEUMATOLOGIST AND THE
2 COMBINATION OF THESE DRUGS WITH WHAT YOU'RE PRESCRIBING
3 HER."

4 THE COURT: COUNSEL, 5 MORE MINUTES.

5 MS. MC BROOM: THANK YOU.

6 AS I MENTIONED TO YOU, TARA WAS IN TERRIBLE
7 CONDITION IN HER FINAL VISIT WITH DR. SHAINSKY WHICH WAS
8 ON MARCH 22ND, 2010. ON THAT VISIT, UPON SEEING TARA,
9 DR. SHAINSKY EXCUSED HERSELF TO CALL TARA'S PSYCHIATRIST
10 AND SHE LEFT A MESSAGE FOR HIM.

11 AND HE'S GOING TO BE HERE. HE TOOK NOTES
12 WHILE HE WAS LISTENING TO THIS MESSAGE, AND HE'S GOING TO
13 TELL YOU THAT HIS NOTE SAID:

14 "DR. SHAINSKY. FIBROMYALGIA, ANXIETY
15 AND DEPRESSION."

16 AND THE LAST THING HE WROTE WAS, "S" SLASH
17 "I." SHE WILL TELL YOU MEANS SUICIDAL IDEATION.
18 DR. SHAINSKY MENTIONED SUICIDAL IDEATIONS ON THIS MESSAGE.

19 DR. SHAINSKY CAME BACK INTO THE OFFICE.

20 DAVID WILL TELL YOU HE SAID IN FRONT OF
21 DR. SHAINSKY, "TARA, TELL HER ABOUT YOUR SUICIDAL
22 TENDENCIES."

23 TARA SHOT HIM A LOOK AND SAID, "QUIET DOWN."

24 DR. SHAINSKY MADE AN INQUIRY.

25 AND TARA RESPONDED, "IT'S JUST A FIGURE OF
26 SPEECH. I WOULD NEVER HURT MYSELF."

27 THAT WAS THE END OF THE INQUIRY. THAT WAS
28 THE END OF THE INQUIRY DESPITE DR. SHAINSKY'S KNOWLEDGE OF

1 THIS WOMAN'S VERY, VERY SIGNIFICANT PSYCHIATRIC HISTORY.

2 THE CONVERSATION THEN TURNED TO PAIN
3 SYMPTOMS. TARA TOLD HER, "I'M AFRAID MY NORCO IS NOT
4 WORKING ANYMORE. I NEED SOMETHING STRONGER. I HAVE AN
5 OPERATION COMING UP IN A COUPLE OF DAYS, AND I'M AFRAID
6 I'M GOING TO BE EXPERIENCING PAIN."

7 DR. SHAINSKY, AT THE END OF THAT VISIT, GAVE
8 TARA A PRESCRIPTION FOR 100 PERCOCET PILLS. THAT'S THE
9 HIGHEST AVAILABLE STRENGTH.

10 DAVID WILL TELL YOU, AS SHE WAS HANDING THIS
11 PRESCRIPTION TO TARA, SHE HUNG ON TO IT AND SAID SOMETHING
12 TO THE EFFECT OF, "TARA, PROMISE ME YOU'RE NOT GOING TO
13 HURT YOURSELF WITH THIS," BECAUSE SHE KNEW EXACTLY WHAT
14 SHE WAS HANDING TARA. AND SHE WAS RIGHT TO BE CONCERNED,
15 AND SHE LET IT GO. SHE LET TARA WALK OUT OF HER OFFICE
16 WITH THAT PRESCRIPTION. SHE LET TARA WALK OUT OF HER
17 OFFICE WITH A LOADED GUN. SHE USED THAT GUN TO KILL
18 HERSELF.

19 I'M GOING TO TRY TO WRAP UP HERE.

20 YOU'RE GOING TO HEAR FROM A LOT OF EXPERTS
21 IN THIS CASE. NOT SURPRISINGLY, THEY'RE GOING TO HAVE
22 DIFFERING VIEWS.

23 YOU'RE GOING TO HEAR FROM A RHEUMATOLOGIST,
24 SAME TYPE OF DOCTOR AS DR. SHAINSKY. HIS NAME IS RODNEY
25 BLUESTONE, BEEN PRACTICING 30 YEARS, TEACHER AT U.C.L.A.,
26 AND HE WILL TELL YOU, "DR. SHAINSKY MISDIAGNOSED TARA.
27 SOMEONE EXHIBITING THOSE SYMPTOMS IS NOT EXPERIENCING
28 FIBROMYALGIA; RATHER, THEY HAVE A PSYCHIATRIC DISORDER."

1 HE'LL TELL YOU THAT CEDARS E.R. TOLD DR. SHAINSKY
2 EVERYTHING SHE NEEDED TO KNOW ABOUT TARA'S PROPER
3 DIAGNOSIS.

4 HE WILL TELL YOU YOU DON'T TREAT
5 FIBROMYALGIA WITH OPIATES, THAT OPIATES CAN ACTUALLY
6 WORSEN YOUR PAIN. HE'LL TELL YOU THAT YOU NEVER GIVE A
7 PATIENT IN TARA DE ROGATIS' SITUATION OPIATES. HE'S GOING
8 TO TELL YOU THAT DR. SHAINSKY IS NEGLIGENT IN HER CARE AND
9 TREATMENT OF TARA.

10 YOU'RE GOING TO HEAR FROM A PSYCHIATRIST
11 NAMED DR. RUDNICK. HE'S ALSO BEEN PRACTICING ABOUT 30
12 YEARS, ALSO TEACHES AT U.C.L.A. HE'S GOING TO TELL YOU
13 THAT AS AN INTERNIST, DR. SHAINSKY DID NOT DO AN
14 APPROPRIATE SUICIDE RISK ASSESSMENT. SHE DIDN'T DO THE
15 VERY BASICS REQUIRED OF HER AS AN INTERNIST. THAT TARA,
16 EVEN FROM DAY ONE, WAS HIGH RISK SUICIDE, BUT PARTICULARLY
17 DURING THAT THIRD APPOINTMENT GIVEN HER PRESENTATION AND
18 HER STATEMENTS.

19 HE WILL TELL YOU IT WAS BELOW THE STANDARD
20 OF CARE FOR DR. SHAINSKY TO JUST GO AHEAD AND GIVE HER 100
21 PERCOCET PILLS. HE WILL TELL YOU THAT DR. SHAINSKY ACTED
22 BELOW THE STANDARD OF CARE BY NOT TALKING TO DAVID WHO WAS
23 SITTING IN THE ROOM. "HEY, KEEP AN EYE ON HER, KEEP
24 THINGS OUT OF HER REACH."

25 DAVID WILL TELL YOU HE DIDN'T EVEN KNOW WHAT
26 WAS BEING HANDED TO TARA.

27 FINALLY, YOU'RE GOING TO HEAR FROM A
28 PHARMACOLOGIST, DR. WOLFF, AND HE'S GOING TO TESTIFY THAT

1 THE PRESCRIPTION PROVIDED TO TARA WAS A SUBSTANTIAL CAUSE
2 OF HER DEATH.

3 THE CORONER'S REPORT REVEALS THERE WERE
4 SEVERAL DRUGS DETECTED IN TARA'S SYSTEM, SEVERAL. THE TWO
5 HIGHEST, PERCOCET AND TRAMADOL.

6 DR. WOLFF IS GOING TO TELL YOU THAT TARA
7 DIED FROM THE INGESTION OF THE 100 PERCOCET PRESCRIBED BY
8 DR. SHAINSKY.

9 HE'S ALSO GOING TO TELL YOU THAT TARA
10 DE ROGATIS IS AMONG THE 8 PERCENT OF THE POPULATION WHO
11 CANNOT METABOLIZE TRAMADOL, AND THERE'S EVIDENCE OF THAT.
12 SHE DIDN'T USE THE DRUG FOR ONE, AND SHE REPORTED IT
13 DIDN'T WORK. HER BODY COULD NOT TRANSFORM THE DRUG INTO
14 ITS ACTIVE FORM AND, THEREFORE, IT DID NOT HAVE THE
15 ANALGESIC EFFECT. IT DID NOT CAUSE HER DEATH.

16 HE WILL TELL YOU THAT IF YOU TAKE PERCOCET
17 OUT OF THE EQUATION AND TARA TOOK ALL OF THE OTHER DRUGS
18 DETECTED BY THE CORONER, PARTICULARLY THE TRAMADOL, SHE
19 LIKELY WOULD HAVE SURVIVED.

20 SO I'M GOING TO CONCLUDE NOW. AT THE END OF
21 THIS CASE, MR. NEWHOUSE IS GOING TO HAVE AN OPPORTUNITY TO
22 GIVE YOU A SUMMATION OF THE EVIDENCE AND THE APPLICABLE
23 LAW, AND HE'S GOING TO ASK YOU TO RETURN A VERDICT IN
24 FAVOR OF LINDA AND PETER DE ROGATIS, AND HE'S GOING TO ASK
25 YOU TO COMPENSATE THEM FOR ECONOMIC DAMAGES. IN THIS
26 CASE, THOSE ARE FUNERAL AND BURIAL COSTS.

27 HE'S ALSO GOING TO ASK YOU FOR AN ADMITTEDLY
28 IMPERFECT REMEDY, AND THAT'S FINANCIAL COMPENSATION FOR

1 THE LOSS OF THE LOVE AND COMPANIONSHIP AND SOCIETY OF
2 THEIR DAUGHTER. IT'S IMPERFECT BECAUSE THEY CAN NEVER
3 HAVE HER BACK. THEY WANT HER BACK. WE CAN'T DO THAT, SO
4 THIS IS THE REMEDY THE LAW ALLOWS THEM.

5 SO I THANK YOU. I THANK YOU FOR YOUR TIME.
6 LINDA AND PETER DE ROGATIS THANK YOU FOR YOUR TIME, AND WE
7 LOOK FORWARD TO SPENDING THE NEXT FEW DAYS WITH YOU IN
8 TRIAL.

9 THE COURT: THANK YOU, COUNSEL. DEFENDANT?

10 MR. BLESSEY: YOUR HONOR, I JUST NEED A MINUTE TO
11 SET UP.

12 THE COURT: OKAY. I'LL TELL YOU WHAT. LET'S JUST
13 TAKE A SHORT BREAK FOR 2, 3 MINUTES. IF YOU HAVE TO USE
14 THE RESTROOM, PLEASE DO SO, AND THEN WE'LL HEAR FROM
15 DEFENSE IN THEIR OPENING STATEMENT.

16 AGAIN, PLEASE REMEMBER THE ADMONITION OF THE
17 COURT.

18

19 (RECESS.)

20

21 (THE FOLLOWING PROCEEDINGS WERE HELD
22 IN OPEN COURT, IN THE PRESENCE OF
23 THE JURY:)

24

25 THE COURT: ALL RIGHT. WE'RE BACK ON THE RECORD.
26 ALL JURORS ARE PRESENT AND IN PLACE. PARTIES ARE PRESENT.
27 LAWYERS ARE PRESENT. COUNSEL?

28 MR. BLESSEY: THANK YOU, YOUR HONOR. COUNSEL, MR.

1 AND MRS. DE ROGATIS, DR. SHAINSKY, LADIES AND GENTLEMEN OF
2 THE JURY, IN THE WORDS OF A FAMOUS RADIO COMMENTATOR,
3 MR. PAUL HARVEY, "NOW FOR THE REST OF THE STORY."

4 LADIES AND GENTLEMEN, THIS IS A CASE, THE
5 EVIDENCE WILL REVEAL, ABOUT AN UNPREDICTABLE AND
6 UNPREVENTABLE, IMPULSIVE ACT. THIS IS A CASE ABOUT A
7 30-YEAR-OLD WOMAN WHO FOR THE LAST TWO YEARS OF HER LIFE
8 WAS TREATED FOR CHRONIC PAIN SYMPTOMS CONSISTENT WITH
9 FIBROMYALGIA.

10 AND ON THE EVENING OF MARCH 22ND, 2010,
11 WITHIN A MATTER OF HOURS, THE EVIDENCE WILL REVEAL, WENT
12 FROM PLANNING HER FUTURE DAYS AHEAD, WHICH INCLUDED
13 COSMETIC SURGERY, BREAST IMPLANTS, AND LIPOSUCTION ON HER
14 LEGS, MEETING WITH HER LIFE COACH, GOING TO ACTING
15 CLASSES, WITHIN A MATTER OF HOURS OF DISCUSSING HER PLANS
16 WITH HER FIANCE, WHO WAS LIVING WITH HER, ACTED
17 IMPULSIVELY AND TOOK HER LIFE BY INGESTING SIX DIFFERENT
18 MEDICATIONS: TRAMADOL, PERCOCET, NORCO, AMBIEN, SEROQUEL,
19 AND LUNESTA. THESE MEDICATIONS ON AUTOPSY WERE FOUND TO
20 BE AT TOXIC TO LETHAL LEVELS.

21 THE EVIDENCE WILL REVEAL, LADIES AND
22 GENTLEMEN, THAT WITHOUT THE PERCOCET AND WITHOUT THE
23 NORCO, THE OPIATES WHICH WE'VE TALKED ABOUT, TARA
24 DE ROGATIS WOULD HAVE SUCCEEDED IN TAKING HER OWN LIFE.
25 YOU WILL LEARN THAT THE TRAMADOL THAT WAS PRESCRIBED BY
26 ANOTHER DOCTOR, I THINK YOU HEARD HIS NAME, DR. RAMIN, WAS
27 EIGHT TIMES THE LETHAL LEVEL IN HER BLOODSTREAM AT THE
28 TIME OF HER DEATH.

1 LET'S TALK A LITTLE BIT ABOUT THE CHRONOLOGY
2 OF THIS CASE. AS YOU HEARD IN 2007, TARA BEGINS TO SEE A
3 DR. BOHN, WHO IS A PSYCHIATRIST. DR. BOHN TREATS TARA UP
4 UNTIL THE TIME OF HER SUICIDE. HE'S THE PSYCHIATRIST
5 SHE'S SEEING ON A REGULAR BASIS.

6 THE EVIDENCE IS GOING TO REVEAL THAT
7 DR. BOHN, NOTWITHSTANDING HIS KNOWLEDGE ABOUT HER
8 METHAMPHETAMINE ABUSE AND HER PSYCHOTIC SYMPTOMS FROM TIME
9 TO TIME, HE'S GOING TO COME INTO THIS COURTROOM, THE
10 EVIDENCE WILL REVEAL, GET ON THAT STAND UNDER OATH, AND
11 TELL YOU THAT HE ASSESSED TARA DE ROGATIS AS A LOW-RISK
12 PATIENT FOR SUICIDE.

13 YOU'RE GOING TO LEARN, LADIES AND GENTLEMEN,
14 THROUGH THE EXPERTS AND THE EVIDENCE THAT THERE IS A
15 DISTINCT DIFFERENCE BETWEEN THE TERMS "SUICIDE IDEATION,"
16 WHICH CAN BE SOMETHING AS SIMPLE AS "I DON'T WANT TO LIVE
17 WITH THIS PAIN ANYMORE. I NEED HELP," VERSUS SUICIDE
18 INTENT.

19 DR. BOHN, KNOWING HIS PATIENT'S
20 METHAMPHETAMINE ABUSE HISTORY INTERMITTENTLY, KNOWING SHE
21 WAS ON NORCO IN 2010, AGAIN, ASSESSED HER AS LOW RISK FOR
22 SUICIDE BASED ON EVERYTHING THAT HE KNEW AND NEVER ONCE
23 TOOK ANY AFFIRMATIVE ACTION TO RECOMMEND TO HER OR ANY OF
24 THE TREATING PHYSICIANS THAT SHE SHOULD STOP HER OPIATES.
25 NEVER ONCE.

26 IN 2009, YOU HEARD A LITTLE BIT ABOUT AN
27 ADMISSION AT CEDARS HOSPITAL, THE E.R., AND WE BELIEVE
28 BASED ON THE DEPOSITION TESTIMONY OF MR. MAC EACHERN,

1 WHICH WAS GIVEN UNDER OATH, HE'S GOING TO TELL YOU WHAT
2 TARA SAID ON THAT DAY WAS, "I CAN'T LIVE WITH THIS PAIN
3 ANYMORE. I WANT TO BE WELL," NOT, "I WANT TO TAKE MY
4 LIFE." "I WANT TO BE WELL. I WANT A CURE FOR MY PAIN."

5 AND SHE'S EVALUATED BY A PSYCHIATRIST ON
6 THIS DAY, FOUND NOT TO HAVE INTENT OR A PLAN FOR SUICIDE
7 AND RELEASED HOME.

8 NOW, IN MAY OF 2009 MS. DE ROGATIS HAS, I
9 BELIEVE, THE FIRST OF HER BREAST SURGERIES AND OTHER
10 PLASTIC SURGERY WITH A DR. CASSILETH, AND IT IS TRUE THAT
11 AFTER THAT SURGERY, SHE WAS TREATED WITH OPIATES TO HELP
12 CALM DOWN HER PAIN SYMPTOMS.

13 NOW, FAST-FORWARD TO 2010. I'M GOING TO TRY
14 TO STICK WITHIN THE TIME LIMIT I'VE BEEN GIVEN. IN
15 JANUARY OF 2010, TARA DE ROGATIS SEES A DR. RAMIN, WHO IS
16 AN INTERNIST. HE ASSESSES WHAT SHE DESCRIBES AS CHRONIC
17 WIDE-SPREAD PAIN BASICALLY THROUGHOUT HER BODY, CLASSIC
18 SIGN AND SYMPTOM OF FIBROMYALGIA.

19 IN FACT, DR. RAMIN DIAGNOSES MS. DE ROGATIS
20 WITH FIBROMYALGIA AND TREATS HER WITH NORCO, AN OPIATE,
21 AND TRAMADOL IN AN EFFORT TO GET HER RELIEF FROM HER PAIN,
22 AGAIN, RELATED TO FIBROMYALGIA.

23 IN EARLY 2010, AGAIN, JANUARY 2010 AND
24 FEBRUARY 2010, MS. DE ROGATIS SEES TWO OTHER DOCTORS: A
25 PAIN SPECIALIST AND A NEUROLOGIST, BOTH OF WHOM ARE SO
26 IMPRESSED BY HER CHRONIC DIFFUSE PAIN SYMPTOMS CONSISTENT
27 WITH FIBROMYALGIA, THEY TREAT HER -- CONTINUE TO TREAT HER
28 WITH NORCO.

1 MR. MAC EACHERN IS GOING TO GET ON THE STAND
2 AND HE'S GOING TO TELL YOU THAT HE RECALLS DR. SPIEGEL,
3 THAT IS, THE PAIN SPECIALIST; THE NEUROLOGIST,
4 DR. GIOMBETTI; AND DR. RAMIN ALL MENTIONING THE FACT THAT
5 MS. DE ROGATIS HAD A CLINICAL SYMPTOM CONSISTENT WITH
6 FIBROMYALGIA.

7 IN LATE -- WELL, ACTUALLY, MAKE IT EARLY
8 2010, A SECOND VISIT OCCURS WITH DR. RAMIN AT WHICH TIME
9 HE'S IMPRESSED WITH HER SYMPTOMS, HE AGAIN PRESCRIBES
10 NORCO AND TRAMADOL, AND SAYS, "THIS IS A CONDITION THAT A
11 SPECIALIST NEEDS TO TREAT; THAT IS, A RHEUMATOLOGIST," AND
12 HE REFERS MS. DE ROGATIS SPECIFICALLY TO DR. SHAINSKY
13 BECAUSE HE KNOWS HER REPUTATION IN THE COMMUNITY AS AN
14 OUTSTANDING RHEUMATOLOGIST.

15 YOU'RE GOING TO LEARN THAT DR. SHAINSKY
16 COMPLETED HER MEDICAL SCHOOL TRAINING AND CONTINUED ON FOR
17 SIX YEARS IN POSTGRADUATE TRAINING, THE WHOLE TIME
18 TREATING PATIENTS, OF COURSE.

19 SHE DID AN INTERNSHIP AT U.S.C. YOU WILL
20 LEARN THAT THESE INTERNSHIPS ARE HIGHLY COVETED POSITIONS.
21 SHE WAS ONE OF HUNDREDS OF DOCTORS APPLYING FOR THE
22 INTERNSHIP AT U.S.C. AND ACCEPTED.

23 SHE WAS ONE OF HUNDREDS OF DOCTORS THAT
24 APPLIED FOR FURTHER SPECIALIZED TRAINING AT U.S.C. AND
25 FINALLY, SHE WAS ONE OF HUNDREDS OF DOCTORS WHO APPLIED
26 FOR A FELLOWSHIP, TWO ADDITIONAL YEARS, IN RHEUMATOLOGY.
27 SHE IS BOARD CERTIFIED IN INTERNAL MEDICINE AND BOARD
28 CERTIFIED IN RHEUMATOLOGY.

1 YOU WILL LEARN THAT BOARD CERTIFICATION IS A
2 PROCESS THAT PHYSICIANS GO THROUGH, A TESTING PROCESS, TO
3 ASSESS THEIR COMPETENCIES, AND IN DR. SHAINSKY'S POSITION,
4 SHE WAS TESTED THOROUGHLY BOTH IN WRITTEN AND ORAL EXAMS
5 ON HER COMPETENCY IN INTERNAL MEDICINE AND IN
6 RHEUMATOLOGY, SEPARATE EXAMS. AND, AGAIN, AS A RESULT OF
7 HER FINE PERFORMANCE ON THOSE EXAMINATIONS, WAS BOARD
8 CERTIFIED.

9 NOW, LET'S TALK A LITTLE BIT MORE ABOUT
10 THESE VISITS. THE FIRST ONE OCCURS ON FEBRUARY THE 20TH,
11 2010. AT THIS VISIT, AT THE TIME OF THIS VISIT, THERE IS
12 ABSOLUTELY -- I'M SORRY. I MISSPOKE -- FEBRUARY 10, 2010.
13 AT THIS VISIT TARA DE ROGATIS COMES INTO THE OFFICE
14 BECAUSE OF THIS WIDE-SPREAD PAIN, FIBROMYALGIA SYMPTOMS,
15 AND FILLS OUT A FORM, A TWO-PAGE FORM, THAT'S INQUIRING
16 ABOUT HER MEDICAL HISTORY.

17 NOWHERE ON THAT FORM -- YOU'RE GOING TO SEE
18 IT, I BELIEVE, IN EVIDENCE. NOWHERE ON THAT FORM DOES SHE
19 DISCUSS CURRENT PSYCHIATRIC OR PSYCHOLOGICAL PROBLEMS.
20 NOWHERE ON THAT FORM DOES SHE REVEAL SHE'S CURRENTLY
21 ACTIVELY ABUSING MEDICATIONS.

22 AND BY THE WAY, YOU WILL SEE THE LIST OF THE
23 MEDICATIONS THAT SHE TELLS DR. SHAINSKY SHE'S TAKING.
24 NONE OF THEM ARE PSYCHIATRIC MEDICATIONS. YES, THERE WAS
25 A MEDICATION FOR DEPRESSION. BUT IN TERMS OF WHAT THE
26 EXPERTS WILL IDENTIFY AS PSYCHIATRIC MEDICATIONS, ZERO ARE
27 LISTED.

28 YOU WILL LEARN THAT DR. SHAINSKY, IN

1 ADDITION TO HAVING THE PATIENT FILL OUT A QUESTIONNAIRE,
2 TALKED TO MS. DE ROGATIS ABOUT HER MEDICAL HISTORY.
3 MR. MAC EACHERN IS GOING TO SAY THAT DR. SHAINSKY WAS
4 EXTENSIVE AND THOROUGH IN HER QUESTIONING OF TARA
5 DE ROGATIS AND, AGAIN, DID NOT REVEAL ANY CURRENT
6 HALLUCINATIONS, TACTILE ISSUES, AUDITORY HALLUCINATIONS,
7 AND MR. MAC EACHERN DIDN'T SHARE ANY OF THAT INFORMATION
8 BECAUSE WE BELIEVE MS. DE ROGATIS WAS NOT EXPERIENCING
9 THEM AT THAT TIME.

10 NOW, ON THIS PARTICULAR VISIT, IN ADDITION
11 TO THE QUESTIONING, DR. SHAINSKY DOES A SPECIALIZED
12 EXAMINATION OF MS. DE ROGATIS BY ASSESSING WHAT YOU LEARN
13 IS CALLED TRIGGER POINTS. THERE ARE CERTAIN POINTS
14 THROUGHOUT YOUR BODY THAT PATIENTS WITH FIBROMYALGIA HAVE
15 THAT, ONE, ARE SENSITIVE TO PALPATION OR PRESSURE; THAT
16 ARE CONSISTENT, AGAIN, WITH A DIAGNOSIS. AND IN ADDITION
17 TO DIAGNOSING THESE POINTS, THEY ARE TREATED WITH
18 INJECTIONS AT THESE VARIOUS AREAS WITH BASICALLY
19 CORTICOSTEROIDS, SOMETHING TO CALM DOWN THE INFLAMMATION.

20 YOU WILL LEARN THAT TARA DE ROGATIS
21 RESPONDED VERY FAVORABLY TO THAT TREATMENT, AND SHE WILL
22 REPORT TO DR. SHAINSKY WHEN SHE COMES BACK FOR THE NEXT
23 VISIT THAT SHE EXPERIENCED EXTENSIVE IMPROVEMENT IN HER
24 SYMPTOMS AT LEAST FOR A FEW WEEKS.

25 NOW, THE TREATMENT PLAN FOR MS. DE ROGATIS,
26 AFTER HAVING ESTABLISHED THE FIBROMYALGIA DIAGNOSIS -- AND
27 BY THE WAY, THE ONLY DOCTOR THAT'S GOING TO COME INTO THIS
28 COURT AND GET ON THAT STAND AND RENDER AN OPINION THAT

1 MS. DE ROGATIS DID NOT HAVE FIBROMYALGIA IS DR. BLUESTONE.
2 PLAINTIFFS' OTHER EXPERT, DR. STARK, A PAIN SPECIALIST,
3 CONCEDES IN HIS DEPOSITION SHE HAD FIBROMYALGIA THAT SHE
4 BEEN TREATED WITH OPIATES. SO YOU'RE GOING TO SEE --
5 THERE'S GOING TO BE SOME CONFLICT IN THE OPINIONS OF
6 PLAINTIFFS' OWN EXPERTS. DR. STARK IS THEIR EXPERT.
7 DR. BLUESTONE IS THEIR EXPERT. LET ME CONTINUE, THOUGH.

8 THE SHORT-TERM PLAN OF TREATMENT WAS
9 OBVIOUSLY TO DECREASE HER PAIN SYMPTOMS.

10 NOW, REMEMBER THAT MS. DE ROGATIS COMES TO
11 DR. SHAINSKY ON THE NORCO THAT WAS PRESCRIBED BY
12 DR. RAMIN, AND DR. SHAINSKY KNOWS BASED ON HER TRAINING,
13 EDUCATION, AND EXPERIENCE, IF YOU STOP AN OPIATE SUDDENLY,
14 THE PATIENT IS GOING TO HAVE A SERIOUS REBOUND EFFECT IN
15 TERMS OF THEIR PAIN AND IT'S GOING TO DRIVE THEM INTO
16 SERIOUS PROBLEMS IN TERMS OF THEIR DISCOMFORT AND THEIR
17 ABILITY TO DEAL WITH IT.

18 SO THE SHORT-TERM PLAN WAS TO DECREASE HER
19 PAIN SYMPTOMS BY CONTINUING TEMPORARILY THE NORCO AND TO
20 ADD A MEDICATION CALLED CYMBALTA. CYMBALTA IS AN ANTI --
21 BASICALLY IT WORKS ON THE PAIN SYMPTOMS OF A PATIENT WITH
22 FIBROMYALGIA.

23 AS FAR AS I RECALL AND IN DEPOSITION
24 TESTIMONY, NOT ONE OF PLAINTIFFS' EXPERTS ARE CRITICAL OF
25 THE USE OF CYMBALTA. IN FACT, SEVERAL OF THEM SAY IT WAS
26 A GOOD TREATMENT APPROACH. IT WAS WELL WITHIN THE
27 STANDARD OF CARE.

28 SO THE PLAN, LADIES AND GENTLEMEN, THE

1 LONG-TERM PLAN, WAS TO GRADUALLY DECREASE THE NORCO AS
2 DR. SHAINSKY IS INCREASING THE CYMBALTA, TO REPLACE
3 ESSENTIALLY EVENTUALLY ONE MEDICATION FOR THE OTHER.

4 YES, DR. SHAINSKY KNEW THAT OPIATES AREN'T
5 THE DRUG OF CHOICE FOR A PATIENT WITH FIBROMYALGIA, BUT,
6 AGAIN, SHE KNEW THAT TO STOP THAT DRUG SUDDENLY, SHE WOULD
7 EXPOSE THIS PATIENT TO WORSE PROBLEMS.

8 NOW, LET'S TALK A LITTLE BIT ABOUT THE
9 PRESCRIPTION. ON THIS DAY OF FEBRUARY 10, 2010, SHE WROTE
10 A PRESCRIPTION FOR 60 TABLETS TO BE USED -- TO TAKE ONE TO
11 TWO TABLETS EVERY 4 HOURS AS NEEDED. LET'S DO THE MATH
12 TOGETHER. THE EVIDENCE WILL REVEAL 60 TABLETS, LET'S SAY
13 FOUR TABLETS A DAY, THAT'S 15 DAYS' WORTH OF PILLS.

14 HAD SHE TAKEN TWO PILLS EVERY 4 HOURS, THAT
15 WOULD HAVE BEEN THE EQUIVALENT OF A LITTLE OVER A WEEK'S
16 PRESCRIPTION.

17 60 TABLETS, WHEN DOES SHE COME BACK OR WHEN
18 DID SHE GET THE NEXT PRESCRIPTION? THE EVIDENCE WILL
19 REVEAL ON FEBRUARY 25TH, 2010, TWO WEEKS AFTER THE INITIAL
20 PRESCRIPTION OF 60 TABLETS, AGAIN, DEPENDING HOW
21 FREQUENTLY SHE TOOK THE MEDICATION, SHE COULD USE THOSE UP
22 IN A WEEK, A LITTLE OVER A WEEK, OR TWO WEEKS. SHE'S USED
23 THE MEDICATION OVER A TWO-WEEK PERIOD OF TIME. THE
24 EVIDENCE WILL BE FROM A PAIN SPECIALIST THAT AVERAGING
25 FOUR TABLETS A DAY OF NORCO OR ANY OTHER OPIATE IS NOT A
26 PATTERN THAT'S CONSISTENT WITH A PATIENT THAT'S ADDICTED
27 TO OPIATES.

28 PATIENTS WHO ARE ADDICTED TO OPIATES WILL

1 RUN OUT OF MEDICATION IN A DAY OR TWO, MAKE UP SOME EXCUSE
2 ABOUT WHY THEY DON'T HAVE ANY MORE, AND BE BEGGING FOR
3 MEDICATION. MS. DE ROGATIS TOOK 60 TABLETS OVER THE
4 COURSE OF TWO WEEKS.

5 NOW, THE SECOND PRESCRIPTION OF 56 TABLETS,
6 AGAIN OF NORCO, SAME PRESCRIPTION, ONE TO TWO TABLETS
7 EVERY 4 HOURS, PROVIDED HER WITH AN ADDITIONAL, DEPENDING
8 HOW FREQUENTLY SHE TOOK THEM AND HOW MANY PILLS SHE TOOK
9 EACH TIME, SEVEN TO EIGHT DAYS OF USE. WHEN DID SHE COME
10 BACK TO SEE DR. SHAINSKY NEXT? PRESCRIPTION 2/25/2010,
11 THE NEXT VISIT, MARCH 1ST, 2010, SECOND VISIT WITH
12 DR. SHAINSKY.

13 AT THIS TIME MS. DE ROGATIS IS DOING
14 REMARKABLY BETTER. IN FACT, IN THE TIME PERIOD BETWEEN
15 THE FIRST APPOINTMENT ON THE 10TH AND MARCH 1ST,
16 MR. MAC EACHERN IS GOING TO TELL YOU SHE WAS DOING
17 EXTREMELY WELL. SHE WAS BECOMING MORE ENGAGED IN HER
18 ACTING, IN THEIR RELATIONSHIP, AND IN THE CHURCH.

19 HER PAIN SYMPTOMS WERE BEING DIMINISHED BY
20 THE TRIGGER POINT INJECTIONS, HE'LL TESTIFY IT WAS HIS
21 OBSERVATION, AND THE ADJUSTMENT IN THE MEDICATIONS THAT
22 DR. SHAINSKY WAS PROVIDING.

23 AGAIN, ON THIS VISIT, LADIES AND GENTLEMEN,
24 THE EVIDENCE WILL REVEAL MS. DE ROGATIS WAS ALERT,
25 COHERENT, COOPERATIVE, DID NOT REPORT ANY TACTILE
26 HALLUCINATIONS OR ANY OTHER PSYCHOTIC SYMPTOMS AND, AGAIN,
27 WAS RESPONDING VERY WELL TO THE MEDICATION.

28 NOW, THE PLAN ON THIS PARTICULAR VISIT WAS

1 TO SEE MS. DE ROGATIS BACK IN APPROXIMATELY A MONTH,
2 RETURNED TO THE CLINIC IN ABOUT ONE MONTH. THAT WOULD BE,
3 THEN, THE END OF MARCH APPROXIMATELY.

4 SHE WAS GIVEN, BASED ON THE ANTICIPATED
5 RETURN AND HER POSITIVE RESPONSE TO THE NORCO, SHE WAS
6 GIVEN A PRESCRIPTION FOR NORCO AGAIN.

7 NOW, BEAR IN MIND THE EVIDENCE WILL REVEAL
8 AT THIS APPOINTMENT, DR. SHAINSKY IS INCREASING THE
9 CYMBALTA WITH AN ULTIMATE PLAN OF DECREASING THE NORCO
10 GIVEN HER RESPONSE TO THE MEDICATION SO FAR.

11 THIS TITRATING -- YOU'LL HEAR THE TERM
12 "TITRATING," INCREASING ONE MEDICATION, DECREASING
13 ANOTHER, NORMALLY, YOU WILL LEARN, TAKES USUALLY TWO TO
14 THREE MONTHS BEFORE YOU CAN EVENTUALLY WEAN THE PATIENT
15 OFF OF NORCO AND -- FOR EXAMPLE, AND INCREASE THE PATIENT
16 TO A HIGH ENOUGH DOSE OF CYMBALTA TO REPLACE ONE DRUG FOR
17 THE OTHER.

18 MS. DE ROGATIS FOLLOWED WITH DR. SHAINSKY A
19 MERE SIX WEEKS. THE LAST APPOINTMENT YOU HEARD OCCURRED
20 ON MARCH 22ND. THERE WASN'T EVEN SUFFICIENT TIME TO
21 TITRATE THE DRUGS COMPLETELY. LET'S GO ON.

22 SO THE PRESCRIPTION THAT HAD BEEN GIVEN HER
23 FOR NORCO WAS AGAIN A ONE-MONTH SUPPLY, AND SHE COMES BACK
24 THE NEXT VISIT ON THE 22ND, 2010, REPORTING THAT THE NORCO
25 IS NO LONGER WORKING, THAT SHE HAD COMPLETED HER
26 PRESCRIPTION AND SHE IS HAVING PAIN, BUT THE EVIDENCE IS
27 GOING TO REVEAL THE REASON FOR THIS APPOINTMENT, THE
28 REASON FOR THIS APPOINTMENT WAS BECAUSE MS. DE ROGATIS

1 KNEW IN FOUR DAYS SHE WAS GOING TO HAVE ANOTHER BREAST
2 AUGMENTATION SURGERY, SHE KNEW SHE WAS GOING TO HAVE
3 INCREASED PAIN BASED ON HER PRIOR EXPERIENCE, AND SHE WAS
4 HAVING MORE OF A FIBROMYALGIA PAIN BECAUSE THE NORCO WAS
5 NO LONGER WORKING.

6 NOW, I SHOULD BACK UP AND TELL YOU THAT ON
7 THE 19TH, THREE DAYS BEFORE THIS LAST APPOINTMENT,
8 MS. DE ROGATIS -- ACTUALLY, MAYBE ON THE 18TH, BUT IT'S IN
9 THAT TIME PERIOD -- DAYS BEFORE SHE SEES DR. SHAINSKY GOES
10 TO SEE HER PLASTIC SURGEON AND MAKES AN APPOINTMENT FOR
11 THIS SURGERY FOR MARCH THE 26TH, 2010.

12 THIS IS A MONDAY, MARCH 22ND, 2010, FRIDAY.
13 SO AT THE END OF THAT WEEK, SHE WAS ANTICIPATING HAVING A
14 REPEAT PLASTIC SURGERY.

15 I ALSO SHOULD TELL YOU THAT MR. MAC EACHERN
16 IS GOING TO GET ON THE STAND AND TELL YOU THAT THE WEEKEND
17 BEFORE THE MONDAY APPOINTMENT WITH DR. SHAINSKY, THE
18 SATURDAY AND THE SUNDAY, WAS IN HIS WORDS A BEAUTIFUL,
19 WONDERFUL WEEKEND FOR THE TWO OF THEM.

20 NOW, ON THIS PARTICULAR VISIT, WHAT HAPPENS,
21 IN FACT, THE EVIDENCE WILL REVEAL, THAT MS. DE ROGATIS
22 COMES INTO THE OFFICE. THE APPOINTMENT IS MADE IN THE
23 MID-AFTERNOON. AND NEAR THE END OF THAT APPOINTMENT AFTER
24 DR. SHAINSKY LEARNS THAT TARA HAS BEEN TOLD BY HER SURGEON
25 OR THE ANESTHESIOLOGIST FOR THE PLASTIC SURGERY TO HOLD OR
26 STOP HER ANTIDEPRESSANTS, DR. SHAINSKY BELIEVES THAT SHE
27 SHOULD HAVE AT LEAST LET THE PSYCHIATRIST KNOW.

28 SO SHE MAKES A PHONE CALL TO DR. BOHN AT THE

1 END OF THE APPOINTMENT, THE EVIDENCE WILL REVEAL, FOR THE
2 PURPOSE OF LETTING DR. BOHN KNOW THAT THE PATIENT HAS BEEN
3 ADVISED BY THE SURGEON AND/OR ANESTHESIOLOGIST TO STOP HER
4 ANTIDEPRESSANTS AND HE SHOULD KNOW ABOUT IT.

5 DR. BOHN IS GOING TO TELL YOU HE LISTENED TO
6 THE VOICE MAIL BY DR. SHAINSKY, DID NOT FIND IT
7 CONCERNING, DID NOT BELIEVE THAT DR. SHAINSKY FELT THAT
8 THERE WAS ANY EMERGENCY, AND, IN FACT, DID NOT CALL
9 DR. SHAINSKY BACK. HIS PLAN WAS TO GET PERMISSION FROM
10 THE PATIENT BEFORE HE COULD CALL DR. SHAINSKY BACK.

11 YOU'RE GOING TO LEARN THAT THERE IS A
12 SPECIAL PRIVILEGE BETWEEN A PSYCHIATRIC PATIENT AND A
13 PSYCHIATRIST, AND A PHYSICIAN CANNOT JUST -- ANOTHER
14 PHYSICIAN CANNOT JUST PICK UP THE PHONE AND CALL THAT
15 PSYCHIATRIST AND ASK THEM ABOUT THEIR PATIENT'S
16 PSYCHIATRIC CONDITION WITHOUT THE PERMISSION OF THE
17 PATIENT. AND THEY BETTER HAVE A VERY GOOD REASON FOR
18 ASKING ABOUT IT.

19 SO ON THIS VISIT AGAIN, THERE'S A PHONE CALL
20 TO DR. BOHN. IT'S AT THE END OF THE APPOINTMENT AND IT
21 RELATES TO THE PATIENT BEING TOLD SHE'S GOING TO WITHHOLD
22 HER MEDICATION, THAT IS, FOR HER DEPRESSION.

23 THE OTHER THING THAT OCCURS DURING THIS
24 VISIT IS, ONCE AGAIN, THESE TRIGGER POINTS ARE ASSESSED BY
25 DR. SHAINSKY, THEY ARE INJECTED. AND BY EVERYBODY'S
26 ADMISSION, THAT IS, MR. MAC EACHERN AND DR. SHAINSKY, THE
27 PATIENT FEELS SIGNIFICANTLY BETTER BEFORE SHE LEAVES.

28 YOU'RE GOING TO HEAR FROM MR. MAC EACHERN

1 THAT TARA DE ROGATIS SAID TO DR. SHAINSKY AT LEAST TWICE
2 DURING THAT VISIT, "I WANT TO LIVE. I LOVE LIFE. I HAVE
3 NO INTENTION OF HURTING MYSELF." AT LEAST TWICE. THOSE
4 ARE HIS WORDS THAT HE'S ATTRIBUTING TO THE PATIENT.

5 AND YOU'RE GOING TO LEARN FURTHER THAT WHEN
6 THEY LEFT THAT APPOINTMENT ON MARCH 22ND, 2010, HE CALLS
7 LINDA DE ROGATIS AND SAYS, "YOUR DAUGHTER, TARA
8 DE ROGATIS, IS DOING MUCH BETTER. SHE'S FEELING BETTER
9 AFTER SEEING DR. SHAINSKY."

10 LET'S CONTINUE ON NOW WITH THE TIMELINE OF
11 MARCH 22ND. THEY ARRIVE HOME, ACCORDING TO
12 MR. MAC EACHERN, AT AROUND 6:00 P.M. AFTER SEEING
13 DR. SHAINSKY. THEY STOP AT THE PHARMACY, THEY DROP OFF
14 THE PRESCRIPTION, AND THEY COME HOME AROUND 6:00 AND
15 MR. MAC EACHERN IS GOING TO SAY SHE WAS DOING WELL AT THIS
16 POINT.

17 A LITTLE LATER ON IN THE EVENING AROUND
18 SEVEN O'CLOCK, SHE GOES OUT BY HERSELF TO PICK UP THE
19 MEDICATION THAT DR. SHAINSKY HAD WRITTEN A PRESCRIPTION
20 FOR. USUALLY, I THINK YOU'RE GOING TO LEARN THAT
21 MR. MAC EACHERN GOES TO THE PHARMACY TO GET THE
22 MEDICATION, BUT FOR SOME REASON ON THIS INSTANCE SHE GOES
23 OUT BY HERSELF AND GETS THE PRESCRIPTION AND IS HOME BY
24 7:30 THAT EVENING, MARCH 22ND, 2010, THE DAY OF THE
25 APPOINTMENT WITH DR. SHAINSKY.

26 THEY, THE TWO OF THEM, MR. MAC EACHERN AND
27 MS. DE ROGATIS, ARE LIVING TOGETHER. THEY'RE IN THEIR
28 APARTMENT FOR THE REST OF THE EVENING.

1 AT NINE O'CLOCK TARA COMES OUT OF THE
2 BEDROOM, PERHAPS THE BATHROOM, AND STARTS DISCUSSING WITH
3 MR. MAC EACHERN, "YOU KNOW, I'VE GOT AN ACTING CLASS
4 TOMORROW." THE EVIDENCE IS GOING TO REVEAL THIS. "SHOULD
5 I WASH MY HAIR TONIGHT OR MAYBE I'LL DO IT IN THE
6 MORNING."

7 IN ADDITION TO THAT, THEY TALK ABOUT A
8 DINNER THAT'S BEEN PLANNED WITH HER LIFE COACH, MR. TIM OR
9 TOM STOREY THAT'S SCHEDULED AT THE END OF THE WEEK.

10 AND THERE'S SOME DISCUSSION ABOUT THE
11 PLASTIC SURGERY THAT'S COMING UP ON FRIDAY.

12 THE COURT: COUNSEL, 5 MORE MINUTES.

13 MR. BLESSEY: THANK YOU, YOUR HONOR.

14 YOU ALSO WILL LEARN THAT DURING THIS TIME
15 PERIOD, THERE'S COMMUNICATION BETWEEN TARA AND AN ABUSIVE
16 EX-BOYFRIEND WHO SHE WAS HOPING WAS GOING TO BUY HER
17 PAINTINGS TO HELP PAY FOR THE PLASTIC SURGERY. THAT
18 DOESN'T GO WELL. HE BASICALLY RENEGES ON THE DEAL AND
19 TELLS HER HE'S NOT GOING TO BUY THE PAINTINGS AT THIS
20 TIME.

21 NOW, WHAT MR. MAC EACHERN IS GOING TO TELL
22 YOU, BECAUSE HE TOLD US IN DEPOSITION, IS THAT HE HAD ZERO
23 CONCERN THAT SHE WAS GOING TO DO ANYTHING TO HURT HERSELF
24 THAT NIGHT. HE HAD ABSOLUTELY NO SUSPICION OR RESERVATION
25 ABOUT ALLOWING HER TO TAKE HER MEDICATION IF SHE NEEDED TO
26 DO THE THINGS SHE NORMALLY DOES, ZERO.

27 HE APPARENTLY FALLS ASLEEP AT NINE O'CLOCK
28 OR SOON AFTER THIS DISCUSSION THAT THEY HAD AND RECEIVES A

1 PHONE CALL FROM MS. DE ROGATIS, THE PLAINTIFF, ASKING IF
2 SHE CAN TALK TO TARA, AND HE GOES IN THE ROOM AND FINDS
3 HER DEAD.

4 THE EVIDENCE IS GOING TO REVEAL, LADIES AND
5 GENTLEMEN, UP TO AND BEYOND NINE O'CLOCK THAT EVENING,
6 TARA DE ROGATIS WAS PLANNING ON LIVING, ZERO CONCERN FROM
7 THE FIANCE WHO KNOWS HER AS WELL AS ANYBODY ABOUT HER
8 TAKING HER OWN LIFE.

9 NOW, IN TERMS OF THE ISSUE OF THE STANDARD
10 OF CARE, YOU'RE GOING TO HEAR FROM DR. ALLEN WEINBERGER,
11 BOARD-CERTIFIED RHEUMATOLOGIST, WHO'S GOING TO TELL YOU
12 THAT IT IS COMMON AND WELL WITHIN THE STANDARD OF CARE IN
13 THIS CIRCUMSTANCE ON PATIENTS THAT ARE ON OPIATES, WHEN
14 THEY PRESENT TO THE RHEUMATOLOGIST INITIALLY, TO CONTINUE
15 THEM ON THE OPIATES WITH THE GOAL OF GRADUALLY DECREASING
16 THEM.

17 HE'S GOING TO TELL YOU FURTHER THAT THERE'S
18 NO STANDARD OF CARE REQUIREMENT TO CONTACT A PSYCHIATRIST
19 IN THIS SITUATION, THAT IT IS THE DUTY OF THE PHYSICIAN TO
20 ASSESS THE PATIENT BASED ON THEIR INTERACTIONS AND THE
21 INFORMATION THAT IS REPORTED TO THEM AND ACT ACCORDINGLY.

22 NOW, SINCE MY TIME IS LIMITED, LET'S TALK A
23 LITTLE BIT ABOUT THE CAUSE OF DEATH.

24 THE EVIDENCE IN THIS CASE FROM THE DEFENSE
25 EXPERT, DR. MICHAEL SAFANI, WHO IS A CLINICAL
26 PHARMACOLOGIST, WHO HAS TESTIFIED BEFORE ON CAUSES OF
27 DEATH RELATED TO MEDICATIONS, IS GOING TO TELL YOU THAT
28 THE TRAMADOL WAS AT EIGHT TIMES THE LETHAL LEVEL IN THIS

1 PATIENT AND IT WAS THE MEDICATION THAT ENDED HER LIFE.

2 THE OTHER THING HE'S GOING TO TELL YOU IS,
3 EVEN IF SHE HAD NOT TAKEN PERCOCET, THE COMBINATION OF THE
4 LUNESTA AND SOME OF THE OTHER WHAT THEY CALL BENZOS WITH
5 THE MEDICATIONS THAT SHE TOOK WOULD HAVE BEEN SUFFICIENT
6 TO TAKE HER LIFE.

7 AND YOU'RE GOING TO LEARN FROM THE CORONER
8 THAT THIS DEATH WAS ATTRIBUTABLE TO MULTIPLE DRUG
9 INTOXICATION, MULTIPLE DRUG INTOXICATION, BECAUSE YOU'RE
10 GOING TO LEARN THERE WERE SEVERAL DRUGS IN HER BODY THAT
11 WERE AT LETHAL TO TOXIC LEVELS.

12 YOU'RE GOING TO HEAR FROM DR. WOLFF, AND
13 DR. WOLFF IS GOING TO GET ON THE STAND AND TELL YOU THAT
14 THE ONLY MEDICATION THAT CAUSED HER DEATH WAS PERCOCET AND
15 HAD SHE NOT TAKEN PERCOCET, SHE WOULD HAVE JUST SLEPT FOR
16 A LITTLE WHILE AND WOKE UP AND WOULD HAVE BEEN FINE. AND
17 FOR THAT OPINION, DR. WOLFF WAS REIMBURSED MORE THAN
18 \$40,000. THAT WILL BE IN EVIDENCE IN THIS CASE.

19 LADIES AND GENTLEMEN, AT THE CLOSE OF THE
20 CASE, BECAUSE THE EVIDENCE WILL BE THAT DR. SHAINSKY
21 COMPLIED WITH THE STANDARD OF CARE UNDER THE CIRCUMSTANCES
22 OF THIS PATIENT'S PRESENTATION TO HER, AND THAT THE CAUSE
23 OF DEATH, LEGALLY SPEAKING, WAS NOT RELATED TO HER CARE
24 AND TREATMENT, I'M GOING TO ASK YOU FOR A VERDICT IN FAVOR
25 OF DR. SHAINSKY AND AGAINST THE PLAINTIFFS, THE
26 DE ROGATIS.

27 THANK YOU VERY MUCH.

28 THE COURT: ALL RIGHT. THANK YOU, COUNSEL. ALL

1 RIGHT, LADIES AND GENTLEMEN, WE'RE GOING TO HAVE OUR FIRST
2 WITNESS THIS AFTERNOON. WE'LL WORK FOR THE NEXT 35
3 MINUTES. ANYBODY NEED TO TAKE A BREAK? EVERYBODY IS GOOD
4 UNTIL FOUR O'CLOCK? ARE YOU GOOD?

5 THE REPORTER: YES.

6 THE COURT: IF YOU'LL COME OVER AND STAND BEHIND MY
7 COURT REPORTER AND RAISE YOUR RIGHT HAND TO BE SWORN BY MY
8 CLERK.

9 THE CLERK: DO YOU SOLEMNLY STATE THAT THE
10 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
11 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND
12 NOTHING BUT THE TRUTH, SO HELP YOU GOD?

13 THE WITNESS: I DO.

14 THE CLERK: PLEASE HAVE A SEAT IN THE WITNESS
15 STAND. PLEASE STATE YOUR NAME AND SPELL YOUR NAME FOR THE
16 RECORD.

17 THE WITNESS: MY NAME IS DAVID MAC EACHERN. IT'S
18 SPELLED --

19 THE COURT: IS THAT ON? CINDY, CAN YOU HELP NOW
20 THAT WE DON'T HAVE ANY ASSISTANCE ANYMORE? EITHER THAT OR
21 JUST KEEP YOUR VOICE UP SO ALL THE JURORS CAN HEAR YOU.

22 THE WITNESS: MY NAME IS DAVID MAC EACHERN.

23 THE COURT: JUST ONE SECOND.

24 LADIES AND GENTLEMEN, I HAVE TO EXPLAIN
25 SOMETHING TO YOU. YOU'VE PROBABLY READ IN THE PAPER ABOUT
26 THE BUDGET WITH THE COURTS, THE SUPERIOR COURTS. A YEAR
27 AGO, SIX MONTHS AGO, WE HAD OUR OWN COURT REPORTER. NOW
28 WE DON'T. WE HAD A COURTROOM ASSISTANT, WHO IS NOT THIS

1 LADY TO MY LEFT, THAT WOULD ASSIST US AND A CLERK. SO I
2 HAD THREE PEOPLE WORKING IN THIS COURTROOM BESIDES MYSELF.

3 WE ONLY HAVE ONE NOW. AND CINDY IS DOING
4 THE JOB OF THREE PEOPLE FOR THE SAME PAY AND SHE DOES A
5 REMARKABLE JOB.

6 ALL RIGHT. WELCOME, SIR.

7 THE WITNESS: THANK YOU.

8 THE COURT: NOW, IS THAT WORKING, CINDY?

9 THE CLERK: NO.

10 THE COURT: COULD YOU CALL A TECHNICIAN, IF WE CAN
11 EVER FIND ONE? JUST KEEP YOUR VOICE UP BECAUSE ALL THE
12 JURORS IN THE BACK HAVE TO HEAR YOU. ALL RIGHT?

13 THE WITNESS: MY NAME IS DAVID. I THINK IT'S
14 WORKING NOW.

15 THE CLERK: I GOT IT.

16 THE WITNESS: MY NAME IS DAVID MAC EACHERN, SPELLED
17 D-A-V-I-D, M-A-C-E-A-C-H-E-R-N.

18 THE COURT: ALL RIGHT. THANK YOU, MR. MAC EACHERN.
19 ALL RIGHT. YOU MAY PROCEED.

20 CAN YOU KEEP YOUR VOICE UP, TOO, SO --

21 MS. MC BROOM: SURE.

22 THE COURT: -- THE JURORS CAN HEAR EVERYBODY?

23

24 DAVID MAC EACHERN,
25 CALLED AS A WITNESS BY THE PLAINTIFFS, WAS DULY SWORN AND
26 TESTIFIED AS FOLLOWS:

27

28

DIRECT EXAMINATION

1
2 BY MS. MC BROOM:

3 Q CAN YOU TELL US YOUR BIRTHDAY AND PLACE OF
4 BIRTH.

5 A PENTICTON, BRITISH COLUMBIA, CANADA.
6 SEPTEMBER 21ST, 1955.

7 Q WHEN DID YOU MOVE TO THE UNITED STATES?

8 THE COURT: I'M SORRY. I CAN'T HEAR YOU.

9 BY MS. MC BROOM:

10 Q WHEN DID YOU MOVE TO THE UNITED STATES?

11 A I WOULD SUPPOSE THAT WOULD BE 1978.

12 THE COURT: COUNSEL, LET ME ASK YOU TO USE THE
13 PODIUM. THAT WAY WE GET A BETTER DIALOGUE. CAN WE DO
14 THAT OR DO WE HAVE TOO MUCH STUFF IN THE BACK?

15 MR. NEWHOUSE: WE'LL WORK IT IN, YOUR HONOR.

16 THE COURT: THANKS. KEEP IT IN THE BACK IF YOU
17 CAN, I'M SORRY.

18 MR. BLESSEY: I THOUGHT WE WOULD MOVE IT CLOSER.

19 THE COURT: NO, IT'S NOT ME. I JUST WANT TO MAKE
20 SURE THE JURORS CAN HEAR THE LAWYERS AND EVERYBODY ELSE.
21 THAT'S PERFECT, OKAY. KEEP OUR VOICES UP.

22 MR. NEWHOUSE: YOUR HONOR, COULD I ASK IF WE COULD
23 ASK THE JURY IF ANY OF THEM HAVE TROUBLE HEARING, IF THEY
24 CAN PUT THEIR HAND UP SO WE CAN CORRECT FOR THAT?

25 THE COURT: ALL RIGHT.

26 BY MS. MC BROOM:

27 Q BACK TO IT.

28 HOW OLD WERE YOU WHEN YOU MOVED TO THE

1 UNITED STATES?

2 A I GUESS 22.

3 Q OKAY. AND HOW WERE YOU EMPLOYED?

4 A I WAS A PROFESSIONAL MUSICIAN AT THE TIME.

5 Q WHAT INSTRUMENT?

6 A TRUMPET.

7 Q AND HOW LONG WERE YOU EMPLOYED AS A

8 MUSICIAN?

9 A EIGHT YEARS.

10 Q HOW ARE YOU CURRENTLY EMPLOYED?

11 A SELF-EMPLOYED.

12 Q DOING WHAT?

13 A WE RUN A DIGITAL MEDIA COMPANY PROVIDING
14 SOLUTIONS, PUBLIC EDUCATION AND OUTREACH SOLUTIONS FOR
15 CITIES AND BUSINESSES AND COMMUNITIES.

16 Q AND FOR HOW LONG HAVE YOU BEEN DOING THAT?

17 A FOR SEVEN YEARS NOW.

18 Q HOW LONG HAVE YOU BEEN IN THAT LINE OF WORK?

19 A IT'S REALLY MARKETING AND CAMPAIGNING, AND
20 THAT'S SINCE 1984.

21 Q ARE YOU FAMILIAR WITH A YOUNG WOMAN BY THE
22 NAME OF TARA DE ROGATIS?

23 A YES.

24 Q AND HOW DO YOU KNOW HER?

25 A SHE WAS MY FIANCEE. WE WERE TOGETHER ABOUT
26 SIX YEARS.

27 MS. MC BROOM: YOUR HONOR, MAY I APPROACH?

28 THE COURT: THAT'S FINE.

1 THE WITNESS: SORRY.

2 BY MS. MC BROOM:

3 Q THAT'S OKAY. ARE YOU OKAY? IF AT ANY TIME
4 YOU NEED A BREAK, JUST LET US KNOW.

5 HOW DID YOU MEET TARA?

6 A THROUGH -- SHE WORKED FOR HER MOTHER WHO
7 WORKED FOR ME AND MY COMPANY.

8 Q AND WHAT YEAR -- IN WHAT YEAR DID LINDA
9 DE ROGATIS WORK FOR YOU?

10 A THAT WOULD BE 2003, I BELIEVE.

11 Q AND AT THAT TIME TARA WAS AN EMPLOYEE OF HER
12 MOTHER'S COMPANY?

13 A YES. I BELIEVE THAT'S HOW WE STRUCTURED IT.

14 Q SO HOW DID YOU COME TO KNOW TARA?

15 A WELL, SHE WORKED IN OUR OFFICE SO I KNEW HER
16 ON A PROFESSIONAL LEVEL. AND THEN THEY -- BOTH HER MOTHER
17 AND TARA LEFT, AND SEVERAL MONTHS AFTER SHE LEFT, TARA AND
18 I BECAME FRIENDS.

19 Q SO WHEN DID YOU BECOME -- AT WHAT YEAR DID
20 YOU BECOME ROMANTICALLY INVOLVED?

21 A 2004.

22 Q AND AT SOME POINT -- WHEN WAS THAT IN 2004?
23 DO YOU HAVE ANY RECOLLECTION?

24 A IN THE SUMMER, JULY.

25 Q AND AT WHAT POINT DID YOU LIVE TOGETHER?

26 A IT STARTED SHORTLY AFTER WE MET.

27 Q AND WHERE DID YOU LIVE TOGETHER?

28 A WE LIVED IN HOTELS.

1 Q HOW LONG DID YOU DO THAT?

2 A FOR ABOUT SIX MONTHS.

3 Q AND WHEN YOU RAN OUT OF HOTELS, WHERE DID
4 YOU LIVE?

5 A WE GOT A HOUSE ON FRANKLIN AVENUE IN THE
6 HOLLYWOOD HILLS.

7 Q DID YOU LIVE WITH TARA UNTIL HER DEATH?

8 A YES.

9 Q YOU MENTIONED THAT TARA WAS YOUR FIANCEE.
10 WHEN DID THE TWO OF YOU BECOME ENGAGED?

11 A 2006, APPROXIMATELY.

12 Q THERE ARE SOME EXHIBIT BOOKS BY YOUR FEET TO
13 YOUR RIGHT. I'M GOING TO ASK YOU TO PICK UP VOLUME 2.
14 AND IF YOU WOULD, TURN TO EXHIBIT 121-8.

15

16 (MARKED FOR IDENTIFICATION, JOINT
17 EXHIBIT 121-8, PHOTO OF DAVID MAC
18 EACHERN AND TARA DE ROGATIS.)

19

20 BY MS. MC BROOM:

21 Q DAVID, DO YOU RECOGNIZE WHAT'S DEPICTED IN
22 EXHIBIT 121-8?

23 A YES, I DO.

24 Q CAN YOU TELL US WHAT'S DEPICTED IN THAT
25 EXHIBIT?

26 A THAT'S TARA AND I. HER BROTHER'S WEDDING,
27 2009.

28 Q WAS THAT A PHOTOGRAPH?

1 A YES, PHOTOGRAPH.

2 MS. MC BROOM: YOUR HONOR, MAY I OFFER
3 EXHIBIT 121-8 INTO EVIDENCE?

4 THE COURT: ANY OBJECTION?

5 MR. BLESSEY: NO, YOUR HONOR.

6 MS. MC BROOM: MAY I PUBLISH?

7 THE COURT: RECEIVED.

8

9 (RECEIVED INTO EVIDENCE, JOINT

10 EXHIBIT 121-8.)

11

12 MS. MC BROOM: MAY I PUBLISH IT, YOUR HONOR?

13 THE COURT: YES. IT'S BEEN RECEIVED.

14 BY MS. MC BROOM:

15 Q DAVID, CAN YOU TELL US --

16 MR. NEWHOUSE: THAT'S AS GOOD AS IT'S GOING TO GET.

17 BY MS. MC BROOM:

18 Q CAN YOU TELL US WHEN THAT PHOTOGRAPH WAS
19 TAKEN?

20 A IN THE SUMMER OF 2009.

21 Q AND WHERE ARE YOU IN THIS PHOTOGRAPH
22 PHYSICALLY? ARE YOU ON A TRIP?

23 A WE'RE AT HER BROTHER'S HOUSE.

24 Q WHERE IS THAT? WAS THAT IN NEW JERSEY?

25 A IN NEW JERSEY, YES.

26 Q AND THAT'S THE SUMMER OF 2009?

27 A I BELIEVE SO, YES.

28 Q SORRY. I'M GOING TO BE ASKING YOU TO RECALL

1 DATES .

2 A SURE .

3 Q I UNDERSTAND . IF YOU CAN GIVE ME AN
4 APPROXIMATION, THAT'S SUFFICIENT .

5 I'M SORRY, APPROXIMATELY WHEN WAS THIS
6 PHOTOGRAPH TAKEN?

7 A I BELIEVE THE SUMMER OF 2009 .

8 Q SO YOU LIVED WITH TARA FOR A NUMBER OF
9 YEARS? YOU HAD OCCASION TO SPEND A LOT OF TIME WITH HER?

10 A YES .

11 Q CAN YOU TELL US IN THE FIRST COUPLE YEARS OF
12 YOUR RELATIONSHIP HOW TARA SPENT HER TIME, HOW SHE WAS
13 EMPLOYED?

14 A IN THE FIRST COUPLE YEARS THAT WE WERE
15 TOGETHER, TARA DISCOVERED HER -- HER CREATIVE ABILITIES IN
16 PAINTING AND DRAWING AND ACTING, AND AT THE TIME I HAD THE
17 RESOURCES TO SUPPORT THAT ENDEAVOR .

18 Q AND WHAT TYPES OF ARTISTIC ENDEAVORS DID SHE
19 UNDERTAKE DURING THAT TIME?

20 A SHE BEGAN DOING A LOT OF SKETCHES AND THEN
21 SHE BEGAN DOING PAINTING . AND THEN SHE STARTED ACTING AS
22 WELL .

23 Q WHEN YOU SAY YOU ASSISTED HER IN PRODUCING,
24 CAN YOU BE A LITTLE BIT MORE SPECIFIC?

25 A I WAS JUST VERY NURTURING AND ENCOURAGING
26 TO -- TO FOLLOW HER -- HER DESIRES AND TO EXPRESS HERSELF
27 AS AN ARTIST .

28 Q DID SHE HAVE A STUDIO?

1 A WE CONVERTED OUR GARAGE TO HER ART STUDIO.

2 Q DID YOU EVER PUBLICLY DISPLAY HER ARTWORK?

3 A WE USED HER ART IN A FILM THAT WE DID
4 DEPICTING A FICTITIOUS -- A FICTIONAL CHARACTER AS AN
5 ARTIST THAT WAS NAMED "ALLISON" AND ALL OF THE ART AND THE
6 PAINTINGS IN THAT FILM WERE TARA'S. AND THAT FILM WAS
7 SHOWN AT THE -- SEVERAL SMALL FILM FESTIVALS AND SO FORTH,
8 SO -- IN MANY WAYS AND WE ALSO CREATED A WEBSITE WITH
9 HER -- WITH HER ART.

10 Q DID TARA EVER SELL ANY OF HER ARTWORK
11 THROUGH THE WEBSITE OR OTHERWISE?

12 A NO. WE -- WE -- WE WANTED TO AT ONE TIME,
13 BUT WE WANTED TO BUILD A PLAN TO DO THAT. WE WANTED TO
14 BUILD UP A BODY OF WORK FIRST AND BUILD UP SOME REPUTATION
15 SOMEWHAT.

16 AND THERE WAS ONCE WHEN SHE HAD SOMEBODY WHO
17 WANTED TO SELL HER ART AT THE DESIGN CENTER IN
18 LOS ANGELES. AND THE PAINTINGS WERE MOVED INTO THE TRUCK
19 AND IT WAS KIND OF LIKE A CHILD BEING TAKEN AWAY FROM THE
20 HOME. SHE RAN RIGHT OUT AND DECIDED SHE DIDN'T WANT TO
21 SELL THE ART AND BROUGHT ALL THE ART BACK IN THE HOUSE.

22 Q IF I CAN GET YOU TO LOOK -- LUCKILY IT'S IN
23 VOLUME 2 WHICH YOU HAVE IN FRONT OF YOU. IF I COULD HAVE
24 YOU TURN TO EXHIBIT TAB 129. TAKE A LOOK AT 129-1.

25

26 (MARKED FOR IDENTIFICATION, JOINT
27 EXHIBIT 129-1, PHOTO OF A PAINTING
28 BY TARA DE ROGATIS.)

1

2 BY MS. MC BROOM:

3 Q CAN YOU IDENTIFY WHAT'S DEPICTED IN THAT
4 EXHIBIT?5 A YEAH. IT'S A PHOTOGRAPH OF A PAINTING, AND
6 I WOULD HAVE BROUGHT THAT PAINTING; HOWEVER, IT'S 6 FEET
7 TALL, 4 FEET WIDE, AND IT WOULDN'T FIT IN THE CAR. IT'S A
8 PAINTING THAT WE WORKED ON TOGETHER, ACTUALLY.9 Q IT'S A PAINTING THAT YOU AND TARA WORKED ON
10 TOGETHER?

11 A YES.

12 Q DO YOU KNOW WHAT YEAR THIS PAINTING WAS
13 COMPLETED?

14 A THAT WOULD BE 2007.

15 MS. MC BROOM: YOUR HONOR, I MOVE TO ADMIT
16 EXHIBIT 129-1 INTO EVIDENCE.

17 THE COURT: ANY OBJECTION?

18 MR. BLESSEY: NO, YOUR HONOR.

19 THE COURT: RECEIVED. PUBLISH IT.

20 MR. NEWHOUSE: THANK YOU, YOUR HONOR.

21

22 (RECEIVED INTO EVIDENCE, JOINT
23 EXHIBIT 129-1.)

24

25 BY MS. MC BROOM:

26 Q DO YOU KNOW WHAT THIS PAINTING IS CALLED?

27 A DOLCE. IT MEANS SWEET.

28 Q I'M GOING TO HAVE YOU GO AHEAD AND TURN THE

1 PAGE. TAKE A LOOK AT 129-2.

2

3

(MARKED FOR IDENTIFICATION, JOINT
4 EXHIBIT 129-2, PHOTO OF A PAINTING
5 BY TARA DE ROGATIS.)

6

7 BY MS. MC BROOM:

8

Q AND CAN YOU IDENTIFY WHAT'S DEPICTED IN THAT
9 EXHIBIT?

9

10

A YES. IT'S ANOTHER PHOTOGRAPH OF A PAINTING
11 OF TARA'S.

11

12

Q DO YOU HAVE ANY IDEA WHEN THAT PAINTING WAS
13 COMPLETED?

13

14

A I THINK IN THE SAME PERIOD.

15

THE COURT: I'M SORRY, WHAT?

16

THE WITNESS: IN 2006, 2007.

17

MS. MC BROOM: YOUR HONOR, I MOVE TO ADMIT 129-2.

18

THE COURT: RECEIVED.

19

20

(RECEIVED INTO EVIDENCE, JOINT
21 EXHIBIT 129-2.)

21

22

23

THE WITNESS: THAT'S ONE OF THE PAINTINGS.

24

BY MS. MC BROOM:

25

Q YOU BROUGHT AN ORIGINAL OF THIS WITH YOU?

26

A YES.

27

MS. MC BROOM: MR. BLESSEY, DO YOU HAVE ANY

28

OBJECTION?

1 MR. NEWHOUSE: MAY I APPROACH, YOUR HONOR?

2 THE COURT: YOU MAY.

3 MR. BLESSEY: NO, I HAVE NO OBJECTION.

4 THE COURT: I'M NOT GOING TO HAVE THAT MARKED.

5 MR. NEWHOUSE: NO, WE DON'T WANT --

6 THE COURT: OKAY. OTHERWISE --

7 MR. NEWHOUSE: WE DON'T WANT TO MARK IT BECAUSE WE
8 HAVE A COPY MARKED, BUT WE JUST THOUGHT IF WE COULD PUT
9 THIS UP FOR THE WITNESS.

10 THE COURT: WHAT I'M SAYING IS, IF THAT'S RECEIVED
11 INTO EVIDENCE, WE'RE GOING TO HAVE DIFFICULTY WITH IT,
12 SO --

13 MR. NEWHOUSE: WE'RE NOT. THAT'S THE EXHIBIT, YOUR
14 HONOR. THIS IS JUST FOR DEMONSTRATIVE PURPOSES, IF WE
15 CAN.

16 THE COURT: OKAY.

17 MR. NEWHOUSE: CAN YOU HOLD IT?

18 THE WITNESS: SURE.

19 MR. NEWHOUSE: I'LL HOLD IT.

20 BY MS. MC BROOM:

21 Q DO YOU HAPPEN TO KNOW THE NAME OF THIS
22 PAINTING?

23 A NO.

24 Q I'M GOING TO HAVE YOU LOOK AT A COUPLE MORE.
25 IF I COULD HAVE YOU LOOK AT 129-4.

26

27 (MARKED FOR IDENTIFICATION, JOINT
28 EXHIBIT 129-4, PHOTO OF A PAINTING

1 BY TARA DE ROGATIS.)

2

3 BY MS. MC BROOM:

4 Q IF YOU CAN IDENTIFY WHAT'S IN THAT EXHIBIT?

5 A IT'S ANOTHER PAINTING OF HERS. IT WAS AN
6 EARLY PAINTING.

7 Q WHEN YOU SAY "EARLY," CAN YOU GIVE ME A
8 YEAR?

9 A 2006.

10 MS. MC BROOM: I WANT TO ADMIT 129-4, YOUR HONOR.

11 THE COURT: ANY OBJECTION?

12 MR. BLESSEY: NO, YOUR HONOR.

13 THE COURT: RECEIVED.

14

15 (RECEIVED INTO EVIDENCE, JOINT
16 EXHIBIT 129-4.)

17

18 BY MS. MC BROOM:

19 Q CAN I HAVE YOU LOOK AT ONE MORE, 129-5.

20

21 (MARKED FOR IDENTIFICATION, JOINT
22 EXHIBIT 129-5, PHOTO OF A PAINTING
23 BY TARA DE ROGATIS.)

24

25 THE WITNESS: THAT PAINTING IS VERY SMALL.

26 BY MS. MC BROOM:

27 Q THIS ONE HERE?

28 A IT'S ABOUT THIS BIG.

1 Q DO YOU HAVE THIS PAINTING?

2 A NO, I DO NOT.

3 Q I'LL HAVE YOU TAKE A LOOK AT 129-5.

4 A YES.

5 Q CAN YOU IDENTIFY THAT EXHIBIT?

6 A A PHOTOGRAPH OF ANOTHER PAINTING OF HERS.

7 Q DO YOU KNOW WHEN SHE COMPLETED THAT
8 PAINTING?

9 A AT THE SAME PERIOD SHE PAINTED THAT ONE.
10 IT'S ANOTHER SMALL PAINTING.

11 MS. MC BROOM: YOUR HONOR, I MOVE TO ADMIT 129-5.

12 MR. BLESSEY: NO OBJECTION.

13 THE COURT: RECEIVED.

14

15 (RECEIVED INTO EVIDENCE, JOINT
16 EXHIBIT 129-5.)

17

18 BY MS. MC BROOM:

19 Q NOW, DID TARA HAVE ANY INTEREST IN THE
20 PERFORMING ARTS AS WELL AS DIGITAL ARTS?

21 A YES, SHE DID.

22 Q OKAY. WELL, LET ME ASK YOU THIS: DID SHE
23 TAKE ACTING CLASSES IN THE EARLY PART OF YOUR
24 RELATIONSHIP, 2004, 2005?

25 A NOT AT THE VERY BEGINNING, BUT YEAR TWO SHE
26 STARTED SHOWING REAL INTEREST AND STARTING TAKING CLASSES,
27 ACTING CLASSES, ALL AROUND TOWN.

28 Q DID SHE ACTIVELY AUDITION?

1 A SHE ACTIVELY AUDITIONED, YES, SHE DID.

2 Q WAS SHE BUSY WITH THAT ON A WEEK-BY-WEEK
3 BASIS?

4 A YES, VERY BUSY.

5 Q DID SHE HAVE HEADSHOTS TAKEN?

6 A HEADSHOTS. SHE HAD AN AGENT.

7 Q DID SHE GET ANY ACTING GIGS THROUGH HER
8 AUDITIONING EFFORTS?

9 A YES, SHE DID. SHE GOT SEVERAL. THE BIGGEST
10 ONE WAS A BUDWEISER COMMERCIAL THAT WENT NATIONAL. SHE
11 MADE FAIRLY GOOD MONEY ON THAT.

12 Q ANY FILMS?

13 A WE DID FILMS. WE STARTED DOING OUR OWN
14 FILMS A YEAR OR SO AFTER THAT.

15 Q DO YOU RECALL ANY OF THE NAMES OF THE FILMS
16 SHE WAS IN?

17 A ONE WAS CALLED "ALLISON," WHICH DEPICTED AN
18 ARTIST, A STRUGGLING ARTIST.

19 Q DID YOU HAVE OCCASION EVER TO SEE HER
20 HEADSHOTS?

21 A YES.

22 Q I'M GOING TO HAVE YOU TAKE A LOOK AT
23 EXHIBIT 121-6.

24

25 (MARKED FOR IDENTIFICATION, JOINT
26 EXHIBIT 121-6, HEADSHOT OF TARA
27 DE ROGATIS.)

28

1 BY MS. MC BROOM:

2 Q GOT IT?

3 A YES.

4 Q CAN YOU IDENTIFY WHAT'S DEPICTED IN THAT
5 EXHIBIT?

6 A IT'S A PHOTOGRAPH OF TARA, ONE OF HER
7 HEADSHOTS.

8 Q DO YOU HAVE ANY IDEA WHEN SHE HAD THAT
9 TAKEN?

10 A THAT WOULD BE AROUND 2005, 2006.

11 MS. MC BROOM: YOUR HONOR, I MOVE TO ADMIT 121-6.

12 THE COURT: ANY OBJECTION?

13 MR. BLESSEY: NO, YOUR HONOR.

14 THE COURT: RECEIVED.

15

16 (RECEIVED INTO EVIDENCE, JOINT

17 EXHIBIT 121-6.)

18

19 BY MS. MC BROOM:

20 Q I'M ALSO GOING TO HAVE YOU TURN TO 121-7.

21

22 (MARKED FOR IDENTIFICATION, JOINT

23 EXHIBIT 121-7, HEADSHOT OF TARA

24 DE ROGATIS.)

25

26 BY MS. MC BROOM:

27 Q CAN YOU TELL ME WHAT'S DEPICTED IN THAT

28 EXHIBIT?

1 A THAT'S TARA DE ROGATIS, ANOTHER PHOTOGRAPH
2 THAT WE USED AS A HEADSHOT.

3 Q AND DO YOU HAVE SOME IDEA WHEN THAT WAS
4 TAKEN?

5 A IN THE SAME TIME PERIOD, 2005, 2006.

6 MS. MC BROOM: YOUR HONOR, I MOVE TO ADMIT 121-7.

7 MR. BLESSEY: NO OBJECTION, BUT AT SOME POINT THIS
8 BECOMES CUMULATIVE.

9 THE COURT: I THINK THIS IS ALL WE'RE GOING TO HAVE
10 RECEIVED.

11 MR. BLESSEY: THANK YOU.

12
13 (RECEIVED INTO EVIDENCE, JOINT
14 EXHIBIT 121-7.)

15
16 BY MS. MC BROOM:

17 Q AT SOME POINT DURING YOUR RELATIONSHIP, DID
18 TARA COMPLAIN TO YOU OF PAIN?

19 A YES, SHE DID.

20 Q OKAY. AND WHEN DID THOSE COMPLAINTS START?

21 A 2007.

22 Q CAN YOU DESCRIBE TO ME HOW SHE EXPLAINED THE
23 PAIN SYMPTOMS?

24 A SHE DESCRIBED THEM AS CONFUSION WHICH CAUSED
25 PAIN, AND IT KIND OF COINCIDED WHEN SHE STARTED TAKING
26 MEDICINE FROM HER PSYCHIATRIST.

27 THE COURT: I'M SORRY. STARTED TAKING MEDICINE
28 WHAT?

1 THE WITNESS: FROM HER PSYCHIATRIST, PRESCRIBED.

2 BY MS. MC BROOM:

3 Q LET'S TALK A LITTLE BIT ABOUT THIS.

4 WHEN DID YOU BECOME AWARE THAT TARA HAD SOME
5 PSYCHIATRIC ISSUES?

6 A IT WOULD BE AROUND 2007.

7 Q AND HOW DID YOU BECOME AWARE THAT SHE WAS
8 EXPERIENCING PSYCHIATRIC ISSUES?

9 A SHE CONFIDED IN ME THAT SHE WAS HAVING
10 AUDIBLE HALLUCINATIONS.

11 Q DID SHE DESCRIBE THOSE HALLUCINATIONS TO
12 YOU?

13 A SHE DESCRIBED THEM AS VOICES.

14 I ASKED, "WHAT WERE THEY SAYING?"

15 SHE COULDN'T MAKE OUT WHAT THEY WERE SAYING.
16 JUST VOICES.

17 Q DID SHE TELL YOU HOW OFTEN SHE WAS
18 EXPERIENCING THESE AT LEAST IN 2007?

19 A SHE DID NOT SHARE HOW OFTEN SHE WOULD BE
20 HAVING THEM. SHE WOULD SHARE OCCASIONALLY WHEN SHE WAS
21 HAVING THEM. I BELIEVE THAT THERE WAS, IN HINDSIGHT,
22 THINGS WERE GOING ON AND SHE WOULDN'T SHARE INFORMATION.

23 Q DO YOU RECALL EVER OBSERVING HER IN A STATE
24 WHERE SHE WAS HEARING VOICES OR APPEARED TO BE SPEAKING TO
25 SOMEONE WHO WASN'T THERE?

26 A YES.

27 I REMEMBER WALKING BY THE GARAGE ONCE AND I
28 THOUGHT THERE WAS SOMEONE IN THE ROOM, AND SHE WAS HAVING

1 A CONVERSATION WITH SOMEBODY.

2 AND I FOUND -- I THOUGHT SHE WAS IN THERE
3 WITH SOMEONE AND SHE WAS IN THERE WITH NO ONE, TALKING
4 WITH HERSELF OUT LOUD.

5 Q CAN YOU RECALL IN WHAT YEAR THAT WAS?

6 A I THINK IT WAS AROUND 2007. I'M NOT THE
7 BEST WITH DATES.

8 Q DID YOU TALK TO HER ABOUT THAT?

9 A YEAH. I ASKED HER WHO SHE WAS TALKING TO.

10 Q AND HOW DID SHE RESPOND?

11 A JUST A FRIEND OF HERS.

12 Q DID SHE -- DID TARA COMPLAIN OF ANY OTHER
13 SYMPTOMS OTHER THAN AUDITORY HALLUCINATIONS IN TERMS OF
14 PSYCHIATRIC PROBLEMS?

15 A AT ANY TIME?

16 Q LET'S STICK RIGHT NOW WITH 2004 TO 2007.

17 A SHE STARTED HAVING ITCHING ON THE HEAD, KIND
18 OF A THROAT THING WHERE HER THROAT FELT IT WAS CLOSED UP
19 AND THERE WAS SOMETHING IN THERE AND A PAIN KIND OF ON HER
20 SIDE. AND IT WAS AN ALL-OVER PAIN, IT WAS NEVER
21 PINPOINTED, AND IT SEEMED TO BE BROUGHT ABOUT WHEN THERE
22 WAS STRESS.

23 IF THERE WAS ANY STRESS WHATSOEVER, IT
24 WOULD -- SHE WOULD REACT. ANXIETY, SHE SEEMED TO REACT
25 AND HAVE THESE SYMPTOMS.

26 Q WAS SHE SEEING A PSYCHIATRIST DURING THE
27 PERIOD OF -- FROM 2004 TO 2007?

28 A NO. SHE BEGAN TO SEE A PSYCHIATRIST, I

1 BELIEVE IT WAS IN 2007.

2 Q DO YOU KNOW THE NAME OF HER PSYCHIATRIST?

3 A DR. BOHN.

4 Q DID YOU EVER ATTEND APPOINTMENTS WITH TARA
5 WHEN SHE SAW DR. BOHN?

6 A YES, I DID.

7 Q ABOUT HOW MANY APPOINTMENTS -- LET ME FIRST
8 ASK YOU: IS IT YOUR UNDERSTANDING THAT DR. -- THAT
9 DR. BOHN WAS TREATING TARA OR SEEING HER OCCASIONALLY
10 UNTIL THE TIME OF HER DEATH?

11 A THAT'S CORRECT.

12 Q OKAY. ABOUT HOW MANY TIMES DO YOU THINK YOU
13 ACCOMPANIED HER TO THE DOCTOR?

14 A I ACCOMPANIED HER ABOUT 80 PERCENT OF THE
15 TIME OVER A MULTI-YEAR PERIOD.

16 Q AND WHY IS IT THAT YOU ACCOMPANIED HER TO
17 THE DOCTOR?

18 A SHE ASKED ME TO.

19 Q NOW, IN 2007 WHEN TARA REVEALS THAT SHE'S
20 HEARING VOICES AND EXPERIENCING ITCHING AND SOMETHING IN
21 HER THROAT, DO YOU SEE THAT SHE'S STARTING TO -- THAT
22 THESE ARE INTERFERING WITH HER DAILY LIFE?

23 MR. BLESSEY: YOUR HONOR, I'M SORRY, YOUR HONOR,
24 THIS IS FOUNDATIONAL, BUT IT'S LEADING, THIS LAST SERIES
25 OF QUESTIONS, LEADING THIS WITNESS.

26 THE COURT: OVERRULED.

27 THE WITNESS: CAN YOU REPEAT THE QUESTION?

28 MS. MC BROOM: I CAN.

1 Q DID YOU FIND THAT THE SYMPTOMS SHE WAS
2 COMPLAINING OF, SPECIFICALLY AUDITORY HALLUCINATIONS,
3 ITCHING, CONFUSION, WERE INTERFERING WITH HER DAILY LIFE?

4 A YES, THEY BEGAN TO INTERFERE WITH HER LIFE
5 SIGNIFICANTLY.

6 Q HOW SO?

7 A SHE WOULD -- SHE SEEMED TO BEGIN TO LOSE HER
8 DRIVE FOR PAINTING, WHICH SHE JUST ABSOLUTELY LOVED.

9 AND SHE WAS WORRIED ABOUT MEMORIZING LINES.
10 AND SHE USED TO HAVE A TREMENDOUS MEMORY.

11 AND SHE STARTED GETTING SELF-CONSCIOUS
12 ISSUES AND SELF-ESTEEM ISSUES IF SHE COULDN'T REMEMBER
13 LINES. SO SHE WOULD BACK OFF OF AUDITIONS AND THINGS LIKE
14 THIS.

15 Q DID SHE TELL YOU HER MEMORY WAS BEING
16 AFFECTED BY THE SYMPTOMS?

17 A YES.

18 Q WHEN SHE WOULD HAVE THESE SYMPTOMS, WOULD
19 SHE DO SOMETHING TO FEEL BETTER? IS THERE ANYTHING -- DID
20 SHE HAVE SOME TYPE OF ROUTINE OR ACTIVITY SHE WOULD DO FOR
21 RELIEF?

22 A WELL, SHE WOULD SELF-MEDICATE AT TIMES.

23 Q AND WHAT DO YOU MEAN BY "SELF-MEDICATE"?

24 A SHE WOULD -- SHE WOULD USE -- SHE WOULD
25 DRINK VODKA. SHE'D GET SOME CRYSTAL METH. SHE WOULD DO
26 SOME PILLS OCCASIONALLY, SOME PAIN PILLS SHE WOULD GET
27 FROM FRIENDS AND THINGS LIKE THIS. IT WAS OCCASIONAL.

28 Q HOW MUCH IS "OCCASIONAL"?

1 A AT TIMES IT WOULD BE SEVERAL DAYS IN A ROW,
2 AND THEN WEEKS WOULD GO BY AT TIMES AND MONTHS WOULD GO BY
3 AT TIMES. ONE PERIOD WAS OVER SEVEN, EIGHT MONTHS FOR
4 SURE.

5 Q AND OVER WHAT TIME PERIOD ARE WE TALKING
6 THAT YOU SAW THIS OCCASIONAL, TO USE YOUR TERM,
7 "SELF-MEDICATION"?

8 A THE LAST TIME I BELIEVE SHE WAS INVOLVED --
9 I'M ONLY SPECULATING -- WOULD BE JULY OF 2009. I'M
10 SPECULATING THAT BECAUSE I NEVER SAW IT THEN.

11 Q AND WHEN DO YOU THINK THAT THE OCCASIONAL
12 DRUG USE, DRUG AND ALCOHOL, USE BEGAN?

13 A WHEN SHE WAS A YOUNG TEENAGER.

14 Q DID SHE EVER SEEK DRUG TREATMENT WHILE SHE
15 WAS WITH YOU?

16 A WOULD A.A. BE CONSIDERED DRUG TREATMENT?
17 BECAUSE WE WENT TO A.A. RELIGIOUSLY FOR ABOUT SEVEN
18 MONTHS, EIGHT MONTHS, AND SHE BECAME INVOLVED WITH THE
19 ORGANIZATION OR THE CHAPTER, I THINK IN SANTA MONICA, AND
20 SO FORTH.

21 Q WHEN DID YOU -- WHAT TIME PERIOD WERE YOU
22 GOING TO A.A. TOGETHER?

23 A I BELIEVE THAT WOULD BE 2008.

24 Q AND HOW DID SHE DO DURING THAT TIME?

25 A SHE DID VERY WELL.

26 THE PROBLEM WAS -- WELL, I'LL WAIT FOR THE
27 QUESTION.

28 Q WHAT WAS THE PROBLEM?

1 A THE PROBLEM WAS SHE WAS ALSO SEEING A
2 PSYCHIATRIST AND WHO WAS ISSUING PRESCRIPTIONS, AND BOTH
3 LINDA, HER MOTHER, AND I AT THE TIME -- THAT PARTICULAR
4 CHAPTER WAS VERY, VERY STRICT. THEY SAID, "IF YOU TAKE
5 ANYTHING THAT AFFECTS ANYTHING ABOVE THE NECK, YOU CAN'T
6 BELONG TO THIS CHAPTER," AND IT WAS A CONFLICT, AND SO
7 THAT DIDN'T HELP.

8 SO SHE HAD TO NOT BE FORTHRIGHT WITH THE
9 GROUP THAT SHE WAS TAKING SOME OF THESE PSYCHOTROPIC
10 DRUGS.

11 Q SO SHE STOPPED GOING?

12 A YES.

13 Q DO YOU KNOW HOW TARA FOUND DR. PAUL BOHN,
14 HER PSYCHIATRIST?

15 A YEAH. THAT WOULD BE THROUGH ME.

16 Q AND HOW DID YOU KNOW ABOUT DR. BOHN?

17 A I DIDN'T. HE WAS REFERRED -- HE WAS ONE OF
18 THREE PSYCHIATRISTS REFERRED TO ME THROUGH MY PHYSICIAN IN
19 SANTA MONICA WHO WAS -- WHO WAS A GOOD GUY AND WE JUST
20 STARTED CANVASSING, BUT HE WAS REFERRED BY A CREDIBLE
21 PERSON WHO I KNEW FOR QUITE A WHILE.

22 Q YOU MENTIONED THAT DR. BOHN PRESCRIBED --
23 WAS PRESCRIBING TARA PSYCHIATRIC MEDICATION.

24 WAS IT YOUR UNDERSTANDING HE WAS PRESCRIBING
25 MEDICATION FROM DAY ONE UP UNTIL HER DEATH?

26 A YES, I DO.

27 Q AND DID TARA TAKE HER MEDICATION, TO THE
28 BEST OF YOUR KNOWLEDGE?

1 A YES, SHE DID.

2 Q YOU MENTIONED THAT YOU ATTENDED ABOUT 80
3 PERCENT OF THE APPOINTMENTS WITH DR. BOHN.

4 DID YOU TYPICALLY ACCOMPANY TARA TO DOCTORS'
5 APPOINTMENTS IN GENERAL?

6 A YES.

7 Q AND WAS THAT OVER THE COURSE OF YOUR ENTIRE
8 RELATIONSHIP OR OVER A CERTAIN PERIOD OF TIME?

9 A COURSE OF THE ENTIRE RELATIONSHIP.

10 Q AND WHY IS THAT?

11 A I'D DRIVE HER, NUMBER ONE, AND WE WERE VERY
12 CLOSE.

13 AND I FELT LIKE I WAS HER PARTNER IN IT WITH
14 LINDA, AND LINDA AND I WOULD DISCUSS HER HEALTH OFTEN AND,
15 YOU KNOW, JUST TRY TO DO THE BEST WE COULD.

16 Q WHEN YOU SAY YOU WERE A PARTNER WITH LINDA,
17 CAN YOU DESCRIBE WHAT YOU MEAN BY THAT?

18 A I'M JUST GOING TO TURN MY PHONE OFF SO IT
19 DOESN'T GO OFF. I APOLOGIZE.

20 I'M READY.

21 Q YOU MENTIONED THAT YOU FELT YOU WERE
22 PARTNERS WITH LINDA.

23 A YES.

24 Q CAN YOU BE MORE SPECIFIC? CAN YOU TELL US
25 WHAT YOU MEAN BY THAT?

26 A LINDA WAS ALWAYS JUST VERY, VERY CONCERNED
27 OF THE HEALTH OF HER DAUGHTER. AND LINDA AND I
28 COMMUNICATED VERY WELL TOGETHER, AND WE WOULD SHARE

1 INFORMATION AS MUCH AS IT SEEMED REASONABLE IN TERMS OF I
2 TRIED TO NOT HOLD ANYTHING BACK. SOME THINGS WERE HELD
3 BACK, BUT BASICALLY WE WERE VERY CLOSE ON WHAT WAS GOING
4 ON.

5 LINDA WOULD CALL ME TO MAKE SURE TARA TOOK
6 HER PILLS. "DID SHE TAKE HER PILLS TONIGHT," "DID SHE
7 TAKE HER PILLS THIS MORNING," THIS KIND OF THING, AND SO
8 WE WERE JUST WATCHING, WHAT ARE THEY, AND LINDA WAS VERY
9 STUDIOUS AND WOULD LOOK UP THE PILLS. SO SHE WAS KIND OF
10 LIKE THE RESEARCH AND I WAS KIND OF LIKE THE PERSON ON THE
11 SCENE.

12 BUT WE TALKED OFTEN. I WOULDN'T SAY DAILY
13 BUT ALMOST DAILY, CLOSE TO DAILY, I WOULD THINK.

14 Q NOW, I'M GUESSING THAT OCCASIONALLY TARA WAS
15 PRESCRIBED MEDICATIONS BY VARIOUS DOCTORS?

16 A THAT'S CORRECT.

17 Q OKAY. AND DID YOU -- DID SHE FILL THOSE
18 PRESCRIPTIONS OR DID YOU TYPICALLY FILL THOSE
19 PRESCRIPTIONS FOR HER?

20 A IT WOULD BE 80 PERCENT ME, 20 PERCENT HER.

21 Q AND WHY THAT DIVIDE? WHY 80 PERCENT, 20?

22 A I DON'T KNOW. I WAS A BIT OF A -- RUNNING
23 AROUND FOR HER. I WAS HER ASSISTANT IN MANY WAYS.

24 Q AREN'T ALL SIGNIFICANT OTHERS?

25 EVEN IN THE LAST YEAR OF HER LIFE, WERE YOU
26 STILL FILLING HER PRESCRIPTIONS?

27 A YES. WE LIVED IN THE SAME HOUSE FOR FIVE
28 YEARS, AND THERE'S A REGULAR RITE AID -- THRIFTY, RITE AID

1 DOWN THE STREET.

2 Q DID THERE EVER COME A TIME WHEN SHE TOLD YOU
3 SHE DIDN'T WANT YOU FILLING HER PRESCRIPTIONS?

4 A NOT FILLING THE PRESCRIPTIONS, BUT THERE
5 CAME A TIME WHEN SHE REALLY TIGHTENED UP. SHE USED TO BE
6 A LOT MORE OPEN WITH ME ON WHAT WAS GOING ON.

7 AND IN THE LAST, I WOULD SAY, FOUR MONTHS
8 FROM -- FIVE MONTHS FROM ABOUT NOVEMBER THROUGH
9 MARCH 23RD, WAS -- SHE WAS MUCH MORE TIGHT-LIPPED, CLOSED
10 ON WHAT WAS GOING ON. I DIDN'T EVEN KNOW SHE HAD AN
11 APPOINTMENT WITH DR. BOHN AT THE END. SHE KIND OF TOOK
12 HER CARE INTO HER OWN HANDS IN MANY WAYS.

13 Q I'M GOING TO COVER -- WE'RE GOING TO GET TO
14 THAT PERIOD AND I'LL HIT THAT AGAIN. THANK YOU FOR THAT.

15 DID YOU EVER CONSIDER SENDING TARA TO DRUG
16 REHABILITATION DURING YOUR RELATIONSHIP?

17 A YES, WE DID. WE ASKED DR. BOHN IF HE COULD
18 REFER SOMETHING FOR HER, AND WE LOOKED INTO IT, AND 2008
19 CAME ALONG, IT BECAME VERY COST PROHIBITIVE FOR SOME OF
20 THESE PLACES THAT SEEMED TO QUALIFY FOR HER TO OUR
21 STANDARDS, AND IT WAS A FINANCIAL SITUATION. THEY WERE
22 LOOKING FOR 20,000, 30,000 A MONTH.

23 Q WHEN SHE STOPPED GOING TO A.A., DID YOU HAVE
24 KNOWLEDGE OF WHETHER OR NOT SHE WAS CONTINUING TO USE
25 DRUGS OCCASIONALLY?

26 A YES, YES.

27 Q AND WHAT WAS SHE USING, METHAMPHETAMINE?

28 A YES, ONCE IN A WHILE.

1 THE COURT: COUNSEL, WE NEED TO TAKE OUR EVENING
2 RECESS AT SOME POINT. SO WHENEVER IS CONVENIENT.

3 MS. MC BROOM: IF YOU'D LIKE TO BREAK NOW, THAT'S
4 FINE.

5 THE COURT: IF YOU'RE READY TO TAKE A BREAK?

6 MS. MC BROOM: YEAH, THIS IS A GOOD PLACE.

7 THE COURT: LADIES AND GENTLEMEN, LET'S TAKE OUR
8 EVENING RECESS UNTIL NINE O'CLOCK TOMORROW MORNING.
9 PLEASE REMEMBER THE ADMONITION OF THE COURT.

10 DO NOT DISCUSS THE FACTS OF THIS CASE
11 AMONGST YOURSELVES OR WITH ANYBODY ELSE. DO NOT FORM ANY
12 OPINIONS OR CONCLUSIONS ON THIS MATTER UNTIL IT'S FINALLY
13 SUBMITTED TO YOU.

14 HAVE A GOOD EVENING. SEE YOU AT 9:00 A.M.

15
16 (AT 4:00 P.M. THE PROCEEDINGS WERE
17 ADJOURNED UNTIL THURSDAY, OCTOBER
18 31, 2013, 9:00 A.M.)
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