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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

Docket No. 6:13-cv-1426

JOAN JARA, in her individual	:	
capacity and in her capacity	:	
as the personal representative	:	
of the Estate of Victor Jara,	:	
et al.	:	
	:	Orlando, Florida
Plaintiffs	:	June 13, 2016
	:	9:20 a.m.
v.	:	
	:	
PEDRO PABLO BARRIENTOS NUNEZ	:	
	:	
Defendant	:	
.....	:	

TRANSCRIPT OF JURY TRIAL, VOLUME I
BEFORE THE HONORABLE ROY B. DALTON, JR.
UNITED STATES DISTRICT JUDGE

Court Reporter: Amie R. First, RDR, CRR, CRC, CPE
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Proceedings recorded by mechanical stenography.

Transcript produced by Computer-Aided Transcription.

1 APPEARANCES:

2

3 For the Plaintiffs: Mark D. Beckett

4 Richard S. Dellinger

5 L. Kathleen Roberts

6 Daniel McLaughlin

7 Christian Urrutia

8 Amy Belsher

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10 For the Defendant: Sean W. Landers

11 Luis F. Calderon

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P R O C E E D I N G S

THE DEPUTY CLERK: Case Number 6:13-cv-13 --
1426-ORL-37GJK, Joan Jara, et al. versus Pedro Pablo
Barrientos.

Counsel, please state your appearance for the
record.

MR. BECKETT: Mark Beckett on behalf of the
plaintiffs.

MR. DELLINGER: Richard Dellinger on behalf of the
plaintiffs, the Jaras.

MS. ROBERTS: Kathy Roberts on behalf of the
plaintiffs.

MR. McLAUGHLIN: Daniel McLaughlin on behalf of
the plaintiffs.

MR. URRUTIA: Christian Urrutia on behalf of the
plaintiffs.

MS. BELSHER: Amy Belsher on behalf of the
plaintiffs.

THE COURT: Good morning.

MR. CALDERON: Good morning, Your Honor. Luis
Calderon here on behalf of Mr. Barrientos Nunez.

MR. LANDERS: Good morning, Judge. Sean Landers
on behalf of the defendant.

THE COURT: Good morning.

1 I understand our jurors are ready. My courtroom
2 deputy mentioned that there were a couple of things you all
3 wanted to talk about before our jurors came in,
4 Mr. Beckett, Mr. Calderon.

5 Who's got some issues? Mr. Landers?

6 MR. LANDERS: Yes, Judge. Good morning again.

7 THE COURT: Good morning.

8 MR. LANDERS: Given the tragic events that
9 happened in the city the last two days, we're asking the
10 Court to consider inquiring to the jury pool whether there
11 is a significant impact that affects their ability to focus
12 on this case.

13 The Court is well aware that the facts in this
14 case include a death, possible discussion of military-grade
15 weapons, and whether the events that happened outside this
16 courtroom in the last few days would impact their ability
17 to serve on this jury.

18 However the Court wants to word that, inquiring,
19 since it is so fresh in the jurors' minds, so fresh in the
20 news.

21 THE COURT: Do you have a position on it one way
22 or the other, Mr. Beckett?

23 MR. BECKETT: Judge, we don't have any objection
24 to that if Your Honor feels it's appropriate.

25 THE COURT: Well, it's sort of like the gorilla in

1 the room. I met with the jurors downstairs, as is my
2 practice, just to tell them welcome and we appreciate them
3 being here.

4 And I recognize that jury service is an
5 inconvenience. Obviously not about the case. In fact, I
6 met with all of the pool, which included, I think -- I
7 think we're picking four juries here this morning.

8 So I'll include that in my voir dire examination.
9 I'm not entirely sure how much in-depth I'll get into it.
10 But I will at least mention it and see whether or not it's
11 problematic for any of the jurors.

12 MR. LANDERS: Thank you, Judge.

13 THE COURT: Anything else that we need to take up?

14 By the way, that podium is adjustable. There's a
15 button on the right that will allow it to come up and down.
16 Somebody has it all the way down.

17 MR. CALDERON: Judge, Your Honor, there is one
18 more issue. It is with regards to a document that we're
19 seeking to introduce during the course of the trial. We
20 were going to discuss that during our opening statements.

21 Just to kind of quickly summarize what the issue
22 is, it's a document, an affidavit that was filled out or
23 that summarizes statements made by a specific witness, Baez
24 Duarte. It was executed with one of our witnesses.

25 We're seeking to introduce that as a prior

1 inconsistent statement from what he said at his deposition,
2 which will be played for the jury because the witness is
3 not available to be here.

4 During the deposition, he had the opportunity to
5 be confronted about those statements. And so we wanted to
6 possibly get a ruling with regards to the admission of that
7 document. We ask that it be discussed during the opening
8 statements.

9 THE COURT: I'm not going to rule on the
10 admissibility of the document pre-opening statement. I'll
11 take it up at the time.

12 You can certainly tell the jurors what you expect
13 the evidence will be, but you can't disclose or display the
14 disputed document. And then obviously you'll do that at
15 your peril if you get it in. So I would fashion my opening
16 so that you recognize that you may or may not actually get
17 the document in.

18 But I'm not going to make a dispositive ruling on
19 the admissibility of the evidence until I've had an
20 opportunity to see the case in better context.

21 So that will -- hopefully that will give you some
22 guidance with respect to your opening.

23 MR. CALDERON: Thank you, Your Honor.

24 THE COURT: You're welcome.

25 Anything else we can resolve before we bring our

1 panel in?

2 Mr. Beckett, anything else for the plaintiffs?

3 MR. BECKETT: No, sir, not at this time.

4 THE COURT: Mr. Landers, Mr. Calderon, anything
5 else from the defense?

6 MR. CALDERON: No, Your Honor. There is an issue
7 with regards to the use of an interpreter.

8 THE COURT: I can't hear you.

9 MR. CALDERON: With regards to the use of the
10 interpreter, we're only going to use them when our
11 witnesses are actually going to be testifying.

12 So we just want to make the Court aware of that.
13 So we don't expect our interpreters to be here until the
14 plaintiffs are done with their case, until they rest.

15 THE COURT: Okay. Thank you.

16 Okay. We'll be in recess, then, until we get our
17 jury into place. And our courtroom deputy will let me know
18 when our jurors are in place and we're ready to commence
19 with the voir dire examination.

20 MR. BECKETT: Thank you, Judge.

21 MR. DELLINGER: Oh, Judge, I apologize. We do
22 have an issue we can take up if we have the time,
23 Your Honor.

24 THE COURT: Okay.

25 MS. ROBERTS: Your Honor, our first witness -- can

1 you hear me?

2 THE COURT: Yes.

3 MS. ROBERTS: Our first witness has very
4 restricted vision. And I suspect -- I'm confident she will
5 not be able to see me from her seat if I'm here at this
6 podium. And I would like to ask permission just to be able
7 to step a bit closer to her so she can see me as I'm asking
8 her the questions.

9 THE COURT: You're going to have to examine her
10 from the podium. You can move the podium a little bit
11 closer if that will help you. The podium does move. But
12 you're going to have to stay behind the podium to conduct
13 your Q-and-A.

14 MS. ROBERTS: Thank you, Your Honor.

15 THE COURT: You're welcome.

16 The podium slides a little bit, and it's got some
17 electrical cords underneath it. But if you want to slide
18 it a little bit closer for the purposes of examining that
19 witness, I'll permit you to do that.

20 MS. ROBERTS: Thank you.

21 MR. BECKETT: Judge, a related question for
22 purposes of opening, can we move the podium over towards
23 the jury?

24 THE COURT: You can rotate it in place so it will
25 turn around in place and you all can then make your

1 openings from behind the podium facing the jurors.

2 MR. BECKETT: Very good, Judge.

3 THE COURT: All right.

4 (Recess at 9:27 a.m. to 9:46 a.m.)

5 THE COURT: Good morning, ladies and gentlemen.

6 Miss Flick, would you call the case, please,

7 ma'am.

8 THE DEPUTY CLERK: Yes, sir.

9 Case Number 6:13-cv-1426-ORL-37GJK, Joan Jara,

10 et al. versus Pedro Pablo Barrientos.

11 Counsel, please state your appearance for the

12 record.

13 MR. BECKETT: Mark Beckett on behalf of the

14 plaintiffs.

15 MR. DELLINGER: Richard Dellinger on behalf of the

16 plaintiffs.

17 MS. ROBERTS: Kathy Roberts on behalf of the

18 plaintiffs.

19 MR. McLAUGHLIN: Daniel McLaughlin on behalf of

20 the plaintiffs.

21 MR. URRUTIA: Christian Urrutia on behalf of the

22 plaintiffs.

23 MS. BELSHER: Amy Belsher on behalf of the

24 plaintiffs.

25 MR. CALDERON: Luis Calderon on behalf of

1 Mr. Barrientos Nunez.

2 MR. LANDERS: Sean Landers on behalf of the
3 defendant.

4 THE COURT: Good morning again, ladies and
5 gentlemen.

6 I had a chance to chat with you briefly. I
7 mentioned downstairs that my name is Roy Dalton. I'm one
8 of the United States District Judges here assigned to duty
9 station in Orlando. And it's my privilege to be presiding
10 over this case.

11 This is a civil case that we have set for trial
12 this morning. And I'm going to get into some more detail
13 about it as we go along. But just keep in mind, as I
14 mentioned, this is a civil case. And so it's not a
15 criminal proceeding.

16 I'm going to tell you a little bit more about the
17 circumstances as we go along. But I want to take just a
18 moment and visit with you about some general things and
19 tell you about the jury selection process.

20 The jury selection process is oftentimes,
21 oftentimes referred to as the voir dire or voir dire by the
22 lawyers, again, depending on what part of the country you
23 come from.

24 But the voir dire process is intended to do as the
25 name implies. That phrase means to speak the truth. And

1 the importance of speaking the truth in the voir dire
2 process is that, as I mentioned to you downstairs, my
3 principal responsibility in presiding over this case is to
4 make certain that the parties have a fair trial.

5 And in order to make sure that they have a fair
6 trial, it's important that we start off with a fair and
7 impartial jury.

8 So in order to make sure that we accomplish that
9 goal, I'm going to ask you all a number of questions this
10 morning. The purpose of my questions is not to intrude on
11 your personal lives or to make you uncomfortable or to
12 embarrass you in any way.

13 I am likely going to have to ask you some
14 questions that are in the category of, as my grandmother
15 used to say, none of your business category.

16 If I saw you in Publix or if I saw you out on the
17 street on the way to and from the courthouse, it would be,
18 let's say, socially unacceptable for me to ask you, well,
19 walk up to you and say, How are you? Have you ever been
20 convicted of a crime? Have you or your family ever been
21 investigated by the Justice Department? Have you and your
22 family ever been, you know, involved in nefarious activity?

23 I'm going to ask you some of those questions this
24 morning, the purpose of which, as I mentioned, is not to
25 embarrass you but to make sure I do my job of ferreting out

1 any information that might suggest that perhaps this is not
2 the best case for which you -- on which you should serve as
3 a juror.

4 Now, I recognize you don't know anything about the
5 case for the moment. We're going to try to rectify that as
6 we move forward.

7 Let me tell you a little bit about the jury
8 system. I mentioned to you downstairs, I was going to go
9 into a little bit more detail about that when I saw you
10 upstairs.

11 It probably goes without saying -- and this is a
12 refresher civics course, I'm sure, for most of you. The
13 importance of the participation of citizens as jurors goes
14 back to long before the beginning of our country.

15 It actually goes back to -- probably the best
16 benchmark for the origins of the civil jury system and the
17 use of juries in criminal cases as well, it goes back to
18 the Charter of Runnymede in 1215, which we commonly refer
19 to as the Magna Carta. It was actually the Charter of
20 Runnymede.

21 If you remember your history or if it's a case of
22 first impression for you, back around 1215, the English
23 Government, of course, was a monarchy. And the land was
24 divided up amongst, into feudal territories that were
25 supervised by barons or nobles. And the barons or nobles

1 had responsibilities for maintaining law and order in their
2 respective areas of the country.

3 And ultimately, disputes of any kind that couldn't
4 be sorted out by the baron had to go to the king and to the
5 king's court for resolution. And the barons had a number
6 of disagreements with King John at the time the Charter of
7 Runnymede was negotiated.

8 But one of those was that their citizens were
9 putting a lot of pressure on them to let them have their
10 disputes between each other be resolved by a jury of their
11 peers and to have their, at least to have an opportunity to
12 have charges that were being brought against them by the
13 Crown be determined by somebody other than magistrates, who
14 were appointed and answered directly to the King.

15 So the result of that was -- it's not exactly what
16 we have today. But the result of that was a citizen
17 participation that is -- it bore a great, close resemblance
18 to what we now call the impanelment of a citizen jury to
19 resolve both civil and criminal cases.

20 And it was so important to the founders of the
21 United States that you may recall -- again, to refresh your
22 memory on your civics classes -- that when the Declaration
23 of Independence was issued by the colonists to King George,
24 at that time there was a list of grievances that the
25 colonists included that were problematic and were driving

1 the colonists to want to separate from England.

2 And chief among those was the claim of the
3 colonists that they were being deprived of their right to a
4 trial by jury.

5 The English Parliament was passing a number of
6 legislative enactments that -- you may remember the Boston
7 Tea Party and the Stamp Act and things of that sort that
8 did not allow for the colonists to have those kinds of
9 claims sorted out by a jury.

10 And they were very much offended by that. And it
11 was one of the grievances that was lodged with King George
12 at the time the Declaration of Independence was signed.

13 So it has an historic and a well-steeped tradition
14 in our democracy and it is very much -- it was very much
15 important to the citizenry then. And it continues to be a
16 vital part of our democracy and the administration of
17 justice today.

18 So as I mentioned to you downstairs, we can't, we
19 can't really accomplish anything without you all being
20 willing to take yourselves away from your family, your
21 work, and your other responsibilities and give time to the
22 matters that come to the attention of the United States
23 District Court.

24 So I thank you again for that and for your
25 willingness to be here. And I just want to make sure you

1 understand how important it is and how seriously we take
2 your service.

3 And I know all of you were sworn downstairs. You
4 took an oath. The reason that we ask you to take an oath
5 is because, as I mentioned, it's important that we have
6 candor in our exchange.

7 Every case is not the best case, as you might
8 imagine, for people to participate in. I sometimes use the
9 example that I mentioned to you. This is not a criminal
10 case, so I'll use a criminal example.

11 So it won't have any -- there won't be any
12 prospect of it confusing you. Hopefully it wouldn't
13 anyway.

14 But, for instance, one of the things that we do
15 here is the United States District Court resolves criminal
16 cases where an individual is charged with a violation of
17 the Hobbs Act. The Hobbs Act is a federal law that makes
18 it a criminal, a federal criminal offense to rob a bank, a
19 federally insured financial institution.

20 So bank robbery of a federal institution is a
21 violation of the Hobbs Act. And that's a criminal
22 prosecution that's brought here in the United States
23 District Court.

24 Well, imagine that you all were seated where
25 you're seated today, and last week you or your loved one or

1 a close member of your family or somebody you care about
2 had worked as a teller in a bank that had been victimized
3 by a bank robbery.

4 Well, no matter how much you may want to be fair
5 and impartial, no matter how much you may recognize your
6 responsibility to serve as a juror, it's unlikely that you
7 would be able to set that circumstance out of your mind and
8 give the defendant or the Government a fair trial in the
9 prosecution of a bank robbery case, if you or somebody that
10 you cared or loved, cared about or loved had been
11 victimized in a bank robbery.

12 Does that make sense to you?

13 PROSPECTIVE JURY: (Nods head.)

14 THE COURT: One of the other things I'm going to
15 ask you to do -- and this is a good practice for me and for
16 you. Our court reporter takes down everything that
17 happens. So I need to make sure that I remind you all to
18 answer my questions out loud, audibly. If the answer is
19 yes, say yes out loud. If the answer is no, say no out
20 loud.

21 I'm going to be asking you some questions
22 collectively, both for reasons of efficiency and because I
23 think it's the best way to cover a large range of topics
24 with you.

25 And then what I'll do is, if your answer to the

1 question is, if almost everybody on the panel answers the
2 question yes, but you know that the question, if I were to
3 ask you individually, would be no, please stop me and let
4 me know. Get my attention. Raise your hand. Tell me my
5 answer to that question is no. That will let me know I
6 should follow up with you and ask you some more questions
7 about it.

8 Can all of you agree to do that?

9 PROSPECTIVE JURY: Yes.

10 THE COURT: Great. Thank you very much. You
11 passed your first exam. Well done.

12 So let's talk a little bit about the schedule.
13 And then I'm going to tell you a little bit more about the
14 case. And I'm going to let the lawyers introduce
15 themselves.

16 This case is expected to take a couple of weeks to
17 try. It's a -- I think that it's a case of some
18 significance as are most of the cases that are tried over
19 here. And it's obviously a case that is important to both
20 the plaintiffs and the defendants.

21 But a couple of weeks I know is a lot to ask
22 people to take away from their lives and their families.
23 And as I mentioned to you downstairs, second only to my
24 responsibility to make sure the parties have a fair trial
25 is my responsibility to be a good steward of your time.

1 So we're going to do everything we can to make
2 sure that the case moves along with dispatch. That said,
3 let me tell you a little bit about the schedule.

4 I know you all had to report here early this
5 morning. And I'm appreciative of that. The Middle
6 District of Florida, as I mentioned to you, is really large
7 geographically. It's about 350 miles from tip to tip.

8 The Orlando Division is one of five divisions in
9 the Middle District, but it's big as well. We call it the
10 Orlando Division. But it actually is, many of you know
11 because you come from outside of Orlando, it encompasses
12 Volusia County, Brevard County, Orange County, Osceola
13 County, Seminole County and also Marion County.

14 Marion County is actually in the Ocala Division.
15 But we hear a lot of that here in Orlando. So I know a lot
16 of you came from a long way away.

17 But to help you with your planning purposes, we
18 will start in the morning no earlier for you all than 9:00.
19 Occasionally, I'll have the lawyers come in prior to that
20 so that we can take care of things that don't require your
21 participation.

22 But you'll come in at 9:00. And I'll give you my
23 word that I'll get you out as close as possible to 5:00. I
24 let the lawyers know that if they have a witness who they
25 know they can't finish before 5:00 to make sure the witness

1 knows that if we have to interrupt anybody, we'll interrupt
2 the witness and have them come back the next day rather
3 that having you all stay over for some extended period of
4 time.

5 Because I know you all have children to collect,
6 your spouses to see about, or work you have to try to catch
7 up on in the evenings. So you can plan on getting out of
8 here very close to 5:00.

9 If it's a minute or two or a few minutes, I might
10 allow the witness to finish up. If it's going to be more
11 than that, I'll interrupt the witness and have them come
12 back in the morning.

13 We'll work, once we get settled into an ordinary
14 day, about 90 minutes before we take a break. So we'll
15 start at 9:00. We'll work for about 90 minutes. I don't
16 know about you all. I find that my attention span starts
17 to wane a little bit after I've been in my seat for
18 90 minutes.

19 And so figuring that you're not a lot different
20 than I am in this respect, we'll try to take fairly regular
21 breaks. Take about a 15-minute break in the morning,
22 15-minute break in the afternoon. Lunch break will be,
23 again, depending on kind of how things shake out with the
24 witnesses, somewhere between 12:00 and 12:30. It usually
25 works out to be around 12:15.

1 We take an hour and 15 for lunch. That extra
2 15 minutes is necessary to let you all get in and out of
3 the building.

4 Mr. Carter, I'll tell you more about Mr. Carter's
5 function as we get down the road. He'll be responsible for
6 helping you get in and out of the building.

7 If you go across town to eat, across town meaning
8 underneath the interstate over to downtown, that extra
9 15 minutes is sometimes necessary in order to get there and
10 get back.

11 So as I mentioned to you, I'm going to need to
12 have answers from you collectively. We'll get to that in
13 just a minute.

14 And then once I finish with my collective
15 questioning, what I'm going to do is I'm going to come back
16 to, is it Mr. Sundberg?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Okay. Mr. Sundberg. That gives me a
19 chance to practice my chart. I have a seating chart, and
20 the lawyers have your questionnaires.

21 So what I'll do after I finish, Mr. Sundberg, with
22 my collective questions, I'm going to come back to you. It
23 will be a little later on this morning, ask you to stand.
24 I'll give you a microphone. Mr. Carter will pass it to
25 you.

1 Ask you to tell us who you were, a little bit
2 about what you do, whether you're married, if your wife
3 works outside the home, whether you've ever had federal or
4 state jury service before. And I may follow up with you
5 with a couple of other questions.

6 And we'll work our way through all of you. We'll
7 get to know you all a little bit. It will move more
8 quickly than you might imagine, as you sit here right now,
9 as we get a little deeper into it. We'll have a chance to
10 visit with each of you privately.

11 Part of the reason I want to mention that is that
12 when I ask you some of these questions, if I ask you
13 something that's awkward for you or uncomfortable and you
14 want to talk to me about it in private, the most important
15 thing is that you tell me.

16 If you have an answer to my question, don't,
17 because you're awkward about it or uncomfortable or nervous
18 or embarrassed about it, please do not just simply keep
19 your mouth shut and not tell me about it.

20 Can all of you promise me you won't do that?

21 PROSPECTIVE JURY: Yes.

22 THE COURT: If you have something that makes you
23 feel awkward or uncomfortable or if you want to talk about
24 it in private, let me know. I'll bring it up to sidebar.
25 We'll talk about it in relative privacy.

1 I say relative privacy because there's no such
2 thing here as absolute privacy because the parties
3 obviously have a right to know any interactions that I have
4 with any members of the jurors.

5 So the lawyers will be participating. But we'll
6 have a chance to talk over here at sidebar. It's a little
7 bit more private if there's something that makes you feel
8 uncomfortable or awkward.

9 Let me tell you a little bit about the case so we
10 can start to try to put things in context and maybe move
11 into the next phase of me trying to flesh out if there's
12 anything in your background that might make this a
13 difficult or an awkward case for you to serve on in the
14 sense that there's anything in your own background that
15 might make it hard for you to be fair and impartial if you
16 were seated as a juror in this case.

17 This claim, I mentioned to you downstairs that
18 federal courts are courts of limited jurisdiction. And
19 cases that come here arise in one of several ways, one of
20 which is if there is a federal statute or an enactment of
21 Congress that's involved. This is one of those cases.

22 This action arises out of the alleged torture and
23 extrajudicial killing of Victor Jara in Chile on
24 September the 15th of 1973. The plaintiffs are the wife
25 and children of the late Victor Jara: Joan Jara, on behalf

1 of herself and the estate of Victor Jara; Amanda Jara
2 Turner; and Manuela Bunster.

3 Now, the defendant in the case is Pablo Barrientos
4 Nunez. And he was a former commander of the Chilean Army.

5 The plaintiffs allege in their complaint that the
6 defendant is liable for the arbitrary detention, torture,
7 and extrajudicial killing of Victor Jara that occurred on
8 or about September 15, 1973, during the Chilean Army
9 coup d'etat of the Chilean Government.

10 The plaintiffs are seeking both compensatory and
11 punitive damages for the torture and killing of Victor
12 Jara.

13 The defendant denies the claims.

14 You're going to hear more about the substance of
15 the claims as we move forward. And the lawyers have an
16 opportunity to make their opening statements and give you
17 an overview of what they think the evidence will involve.

18 But I do know that this case has received a fair
19 amount of media exposure. There's been some interest and
20 some coverage of this in the various media outlets.

21 Let me ask you all, as a group collectively, have
22 any of you heard anything about the case? Does anything
23 that I just mentioned in the summary sound familiar to any
24 of you? If so, could you raise your hand and let me know.

25 (No response.)

1 No?

2 PROSPECTIVE JURY: No.

3 THE COURT: Okay.

4 I'm going to give the lawyers an opportunity to
5 introduce themselves and their clients. I mentioned to you
6 that the plaintiffs are Joan Jara and Amanda Jara Turner
7 and Manuela Bunster. And the defendant is Pedro Pablo
8 Barrientos Nunez.

9 I'm going to let the lawyers introduce themselves
10 and introduce their clients. And then I'm going to come
11 back to you and ask you some follow-up questions.

12 Mr. Beckett?

13 MR. BECKETT: Good morning, ladies and gentlemen.
14 I'm Mark Beckett, counsel for the plaintiffs in this case.

15 And I'd like to introduce to you the plaintiffs
16 that are in this case. Miss Joan Jara, Amanda Jara Turner,
17 and Manuela Bunster. They are the plaintiffs in this case.

18 Thank you.

19 THE COURT: Thank you, Mr. Beckett.

20 Mr. Dellinger?

21 MR. DELLINGER: Good morning. I'm Richard
22 Dellinger with the Lowndes, Drosdick law firm in Orlando,
23 Florida.

24 THE COURT: And, Miss Roberts?

25 MS. ROBERTS: Good morning. I'm Kathy Roberts

1 from the Center for Justice and Accountability.

2 THE COURT: And, Mr. McLaughlin, can you
3 reintroduce yourself?

4 MR. McLAUGHLIN: Good morning. I'm Daniel
5 McLaughlin from the Center for Justice and Accountability.

6 THE COURT: Mr. Urrutia?

7 MR. URRUTIA: Christian Urrutia from Chadbourne &
8 Parke.

9 THE COURT: And, Miss Belsher, is it?

10 MS. BELSHER: That's right. I'm Amy Belsher from
11 Chadbourne & Parke.

12 THE COURT: Now, before I move over to the other
13 side of the courtroom, do any of you recognize or think
14 that you may have any familiarity, whether it's
15 professional, social, or otherwise, from any of the lawyers
16 or the parties that were just introduced?

17 PROSPECTIVE JURY: No.

18 THE COURT: Okay. Great. Thank you.

19 Mr. Landers, reintroduce yourself.

20 MR. LANDERS: Good morning. Sean Landers from
21 Baez Law Firm.

22 MR. CALDERON: Good morning. Luis Calderon. I
23 represent Pedro Pablo Barrientos Nunez.

24 THE COURT: And, Mr. Calderon, where does
25 Mr. Nunez reside at the moment?

1 MR. CALDERON: He resides in Daytona.

2 THE COURT: Okay. Mr. Nunez resides in Daytona
3 Beach. I don't know if we have any folks from Daytona
4 around.

5 Do any of you recognize any of the lawyers or the
6 defendant in the case, Mr. Nunez?

7 PROSPECTIVE JURY: No.

8 THE COURT: Great. Thank you very much.

9 MR. CALDERON: Thank you.

10 THE COURT: All right. Ladies and gentlemen, I'm
11 going to read to you a list of witnesses. These are names
12 that the lawyers have provided to me as folks who may --
13 and I stress may -- testify in the case.

14 The reason I stress may is that I don't want you
15 to be concerned about the number of names. The lawyers
16 have a responsibility, of course, to identify anybody that
17 may testify. Usually, they do a pretty good job of paring
18 down their case and providing only the testimony of the
19 essential witnesses.

20 But in the interest of being complete, I want to
21 read all of the possible names to you. If you're like I
22 am, oftentimes a name doesn't help me too much unless I
23 have some context with it. But if a name that I read to
24 you sounds even vaguely familiar, if you'll just make a
25 note.

1 When I finish, let me know; and I'll come back and
2 ask the lawyers for a little additional information so you
3 can try to hook it up with your memory, see if it's
4 somebody you recognize.

5 Joan Jara, obviously. Amanda Jara Turner, Manuela
6 Bunster, Hector Valentin Herrera Olguin.

7 And, Mr. Beckett, if -- or, Mr. Calderon, if I get
8 this pronunciation so wrong that you think it may interfere
9 with our jurors' ability to make the connection, please
10 don't be shy and let me know, and give me the connection.

11 I confess that I am not -- I wish I were
12 multilingual, but I'm not. So I may not get these names
13 exactly right.

14 The next name I have Manuel Isidoro Chaura Pavez,
15 Mario Arturo Gonzalez Riquelme, Carlos Daniel Rivero
16 Valenzuela, Jose Garcia Mella, Nelso Artemio Barraza
17 Morales, Ruben Vargas Matta, Gustavo Baez Duarte, Jose
18 Santiago Navarrete Barra, Denis Boris Navia Perez, Erica
19 Del Transito Osorio Araya, Cesar Leonel Fernandez Carrasco,
20 Pedro Pablo Barrientos, Lelia Perez, John Juan O'Brien,
21 Santiago Osiel Nunez, Maria Teresa Castro Barrientos,
22 Hector Manuel Hinojosa Retamal, Francisco del Carmen Quiroz
23 Quiroz.

24 Any of you recognize any of those names?

25 PROSPECTIVE JURY: No.

1 THE COURT: Thank you.

2 MR. BECKETT: Your Honor, there were three expert
3 witnesses as well. I'm not sure if Your Honor intended to
4 read their names.

5 THE COURT: Yes. If there's some that I did not
6 read, let's read those.

7 MR. BECKETT: Shall I do that, sir?

8 THE COURT: Yes, please.

9 MR. BECKETT: Professor Steve Stern, Monica
10 Gonzalez, and Professor Frederick Nunn.

11 THE COURT: Thank you. With those additional
12 names, any recognition?

13 PROSPECTIVE JURY: No.

14 THE COURT: Great. Thank you.

15 Now, one of the things I often forget to ask you
16 is whether or not any of you recognize each other. Any of
17 you see anybody else on the panel that you recognize, that
18 you know from school, home, office, Publix, anywhere else?

19 PROSPECTIVE JURY: No.

20 THE COURT: Is there anybody on the panel who's
21 ever had any legal training, either studied to be a lawyer,
22 had training as a paralegal, maybe taken some business law
23 for your work?

24 Could you raise your hand and keep those up?

25 And, Mr. Carter, could you help me with the

1 microphone.

2 And I think that's Mr. Marks in the front row.

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: The reason we need to be so vigilant
5 about using the microphone, because the court reporter,
6 even though you and I might be able to hear each other
7 perfectly well, the acoustics in the courtroom are pretty
8 good. Miss First listens to the proceedings only through
9 the sound system. So if it's not being picked up by the
10 sound system, she can't hear it.

11 So that's why I need to make sure we always use
12 the microphone. I'm asking you to stand and speak into it.

13 Yes, sir, tell me a little bit about your legal
14 training, Mr. Marks.

15 PROSPECTIVE JUROR: I've been an attorney for
16 20 years, since 1996.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR: Do you want to know my --

19 THE COURT: What area of law do you practice in?

20 PROSPECTIVE JUROR: Currently, I do real estate
21 closings. My office does real estate closings for some big
22 developers here in town, Mattamy and Paradise Homes.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR: Lowndes represents them.

25 I was a prosecutor for my first three years of

1 practice in Miami at the Office of the State Attorney in
2 Miami, Florida, from '96 to '99.

3 And then I did various areas of trial law until I
4 fell into this real estate thing.

5 THE COURT: Where are you officing now?

6 PROSPECTIVE JUROR: Maitland.

7 THE COURT: Maitland. Does the work that you do
8 that the Lowndes firm is involved in, does it involve
9 Mr. Dellinger at all that you know of?

10 PROSPECTIVE JUROR: I don't know this gentleman.
11 I wouldn't go so far -- they represent some builders that I
12 do closings for. I don't actually represent the builders
13 or work very closely with Lowndes. I know who they are.

14 THE COURT: Okay. Anything about your
15 relationship with Lowndes that you think would either be a
16 positive or a negative in terms of your ability to be fair
17 and impartial? Do you think it would influence your
18 ability to make a neutral decision in the case?

19 PROSPECTIVE JUROR: It would not influence my
20 ability, sir.

21 THE COURT: Okay. Great.

22 The other question I have for you, Mr. Marks, is
23 that, as you well know with your legal training, the
24 responsibility of the jury in this case is to make a
25 determination as to what the facts are.

1 And my responsibility is to not only administer
2 the proceedings and make sure the parties have a fair trial
3 but also to decide what the law is that applies to the
4 facts of the case.

5 Would you be able to follow the law as I instruct
6 you as it applies to the facts of this case and to put
7 aside any notions that you might have from your training or
8 work experience that might be to the contrary?

9 PROSPECTIVE JUROR: I'm not sure I would be able
10 to do that. I don't know. I would certainly try to do
11 that. I mean, I'm willing to listen to you. You're a
12 federal judge.

13 But I have a lot of legal experience. And, you
14 know, if I hear an explanation of the law I disagree with,
15 I don't know exactly how I would take that. I've never
16 been in that position before.

17 THE COURT: Okay. Well, what I would tell you is
18 it's not your prerogative to disagree with me whether you
19 enjoy that position or not.

20 PROSPECTIVE JUROR: I understand.

21 THE COURT: The question is, once I tell you what
22 the law is, knowing that you don't have the prerogative to
23 disagree with me, the question is whether or not you could,
24 even though you may not agree with the law -- and I will
25 tell you, I'll instruct you about that more at the close of

1 the case.

2 Even though you may not agree with the law, would
3 you be able to follow the law that I tell you applies to
4 the facts of the case?

5 PROSPECTIVE JUROR: I would follow the law as I've
6 sworn to do, yes.

7 THE COURT: That's not the question I asked you.

8 The question I asked you is, will you follow the
9 law that I instruct you applies to the facts of the case?

10 PROSPECTIVE JUROR: I'll try. I mean, I'm trying
11 to be honest with you. And I'm not trying to get out of
12 jury duty service or anything like that.

13 I mean, if you explain the law to me, I can
14 certainly apply the law of the facts to the case, yes.
15 I'll answer yes to your question.

16 THE COURT: All right. Thank you, Mr. Marks.

17 Any other hands in the first row here?

18 (No response.)

19 How about the second row?

20 Let me see. Let check on my chart here.

21 Are you Miss Young?

22 PROSPECTIVE JUROR: I am.

23 THE COURT: All right. Thank you.

24 Tell us about your legal training, Miss Young.

25 PROSPECTIVE JUROR: Well, when I lived in

1 Connecticut, I was trained for a paralegal certificate, but
2 I never really used it.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR: So that's about the size of
5 that.

6 THE COURT: Okay. You heard Mr. Marks and I have
7 an exchange about the jurors' responsibility to follow the
8 judge's instructions on the law.

9 Do you think that you would be able to do that?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Okay. To the extent that you may have
12 been taught something or learned something or formed some
13 impression about what the law is or should be, would you be
14 able to put that out of your mind and follow the
15 instructions that I give you as to the law that applies to
16 the facts in the case?

17 PROSPECTIVE JUROR: Yeah, I think so, yes.

18 THE COURT: Okay. Thank you, ma'am.

19 PROSPECTIVE JUROR: You're welcome.

20 THE COURT: Anybody else in the second row that
21 had some legal training?

22 (No response.)

23 No?

24 We had a hand in the back, and it looks like it
25 might be Miss Elliott first, on the left, yes, in the

1 purple.

2 Good morning, Miss Elliott.

3 PROSPECTIVE JUROR: Good morning, Your Honor.

4 THE COURT: Tell me about your training.

5 PROSPECTIVE JUROR: I've been a lawyer since 1998.

6 I primarily started working on a PIP in a very small firm
7 in Tampa. And then I came to Orlando, and I've been
8 working as a staff attorney for the Circuit Court judges in
9 criminal law.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR: Eighteen years.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR: And then I retired. And
14 six months later I came back. And now I'm working in
15 Osceola County, still in the Ninth Judicial Circuit. And
16 I'm working again for Circuit Court judges as a staff
17 attorney in civil law stuff.

18 THE COURT: Okay. Let me ask you this question
19 first:

20 Is there anything about your work that gives you
21 any pause or concern about your ability to be neutral as a
22 trier of the facts in this case based on what little bit
23 you know that I've described?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: I know you have, obviously, lots of

1 legal training and you've practiced law for a number of
2 years in different areas.

3 Is there anything that would preclude you from
4 following my instructions on the law that applies to the
5 facts of this case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: All right. Do you understand what I
8 was talking with Mr. Marks about about the different
9 responsibilities that the jury and the judge have?

10 I know that's not a foreign concept to you, but
11 you recognize that the jury's responsibility is to decide
12 what the facts are and that I will instruct you as to the
13 law that applies in those facts?

14 PROSPECTIVE JUROR: Yes, I understand.

15 THE COURT: And do you think you could follow my
16 instructions on the law and put aside any notions that you
17 have that might be at variance with what I tell you the law
18 is?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Okay. Great. Thank you,
21 Miss Elliott.

22 Let's see. We had another hand there.

23 Is it Mr. Rahal? Did I pronounce that correctly?

24 PROSPECTIVE JUROR: You did, sir.

25 THE COURT: Okay. Great. Tell me about your

1 training.

2 PROSPECTIVE JUROR: There's no training, just some
3 business law in undergraduate and graduate school.

4 THE COURT: Is that something that you put to work
5 in your employment?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Anything about that training that you
8 think would be an impediment to your listening to my
9 instructions on the law and following the law that I tell
10 you applies to the facts of the case?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Okay. Great. Thank you, sir.

13 Anybody else that I overlooked that has had some
14 legal training?

15 (No response.)

16 Great. Thank you.

17 Now, one of the things that I want to touch base
18 with you on here at the outset before we get too much
19 farther along is that I know that all of us learned of the
20 news of the shootings in Orlando on Sunday. And this case
21 has absolutely nothing to do with that. And I want to make
22 that point first out of the box, which you all probably can
23 appreciate.

24 But I want to find out whether or not any of you,
25 as you sit here this morning, feel like -- I don't know

1 what your personal circumstances are, obviously. I don't
2 know whether any of you have any close connections to that.
3 Everybody in the community and the world, no doubt, was
4 impacted by it.

5 But some of you may have some more close
6 connections to that. I don't know that. So if you do and
7 I'm causing you problems, I regret that and I apologize for
8 it.

9 But is there anybody here on the panel that feels
10 like that the circumstances or the events of the weekend
11 are occupying a place in your mind or attention such that
12 you would not be able to listen to the evidence in this
13 case and render a fair and impartial verdict in light of
14 the events of the weekend?

15 PROSPECTIVE JURY: No.

16 THE COURT: Okay.

17 I have a hand. Yes, ma'am. Hang on just a
18 second. Let me give you the microphone. And I think
19 that's Miss Creamer.

20 Good morning. Is it Creamer?

21 PROSPECTIVE JUROR: Creamer.

22 THE COURT: Yes, ma'am.

23 PROSPECTIVE JUROR: I'm just not interested in
24 being in Orlando at all today.

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

1 PROSPECTIVE JUROR: I'm not interested in being in
2 Orlando at all today.

3 THE COURT: Okay. Is that because you have a
4 concern for your own safety or just because just being here
5 is just too depressing for you?

6 PROSPECTIVE JUROR: I just don't want to be in
7 Orlando at all.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR: My children hang out in this
10 area.

11 THE COURT: I can't hear you, I apologize.

12 PROSPECTIVE JUROR: My children hang out in this
13 area.

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

15 Anybody else that has concerns about their ability
16 to be fair and impartial or give this case your attention?

17 (No response.)

18 All right. One of the things that probably comes
19 as no surprise to you is that the presentation of evidence
20 in a civil case such as this, or a criminal case for that
21 matter, is oftentimes not in exact chronological order.

22 The lawyers will do the very best that they can to
23 make sure that they present the evidence to you in a way
24 that makes sense, that fits together. But oftentimes
25 because of the logistics involved, the locations of

1 witnesses, the time constraints, sometimes witnesses'
2 testimony comes in a little bit out of order.

3 And the question I want to ask you is whether or
4 not all of you think you'd be able to keep an open mind and
5 listen to all of the evidence and suspend your -- I'm not
6 asking you not to react to the evidence or to take it in.
7 Obviously we want you to do that.

8 But I want to make sure that you feel like you
9 would be able to commit to me that you can suspend judgment
10 about the ultimate outcome until you've heard all of the
11 evidence in the case and the Court's instructions on the
12 law.

13 Do all of you feel like you'd be able to do that?

14 PROSPECTIVE JURY: Yes.

15 THE COURT: I sometimes use the analogy of a
16 baseball game. I stayed up too late last night watching
17 the Gators play FSU in the rain-delayed baseball game,
18 which puts the baseball analogy in the forefront of my
19 mind.

20 And the reason I think it's a good analogy is that
21 if you're baseball fans, you recognize that sometimes the
22 home team in the first couple of innings scores a couple of
23 runs. And then nothing happens in the middle innings
24 often. And then in the late innings, sometimes the
25 visitors come back and score a few, or maybe a lot.

1 The point of which is, you never really know what
2 the outcome is going to be until after the last out in the
3 last inning. And that analogy works well, I think, in the
4 context of the presentation of evidence in a lawsuit such
5 as this one.

6 So the question I have for you is, would all of
7 you be able to -- would all of you commit to me that you'll
8 keep an open mind as to the outcome until the last out of
9 the last inning, that is, until all of the evidence has
10 come in and I've given you my instructions on the law?

11 PROSPECTIVE JURY: Yes.

12 THE COURT: Great.

13 Now, is there anybody on the panel that just
14 doesn't believe in the jury system, just doesn't think it's
15 a good way for parties to resolve disputes?

16 (No response.)

17 You probably know, and I think collectively we had
18 head shakes. Let me ask you to say out loud.

19 Do any of you have any problems with the jury
20 system?

21 PROSPECTIVE JURY: No.

22 THE COURT: The reason I ask that question
23 particularly is because we live in a country where we value
24 very much the freedoms that we have of difference of
25 opinions and the right of free expression and the right of

1 free speech.

2 And I wanted to ask you that because the
3 administration of justice, the civil justice system in the
4 United States, even though it's criticized in some places,
5 in some quarters -- you may have even had occasion yourself
6 to be critical of it or to hear others criticize it -- is
7 still recognized around the world as the benchmark, if you
8 will, of a fairness and equality and justice in terms of
9 the resolution of disputes.

10 So I don't have any -- I don't have any criticism
11 with you if you don't agree with the jury system. But if
12 you do, then you need to tell me about it now so that we
13 can sort that out and move on.

14 So as we go along, just make sure that you're
15 answering my questions, you know, from the heart. And if
16 you have a problem with the jury system, tell me about it.

17 Now, one of the other things that I wanted to
18 mention to you is that the -- this case involves claims
19 that are being made by the plaintiffs, you've heard a
20 little bit about, against the defendants.

21 I don't know your own personal circumstances. So
22 I need to ask you whether any of you have ever been either
23 a party to a lawsuit, have been a party to a lawsuit either
24 as a plaintiff, that's somebody who actually brings the
25 lawsuit or a claim; or as a defendant, that's somebody

1 against whom a claim or a lawsuit has been made.

2 If any of you have been a party to a lawsuit of
3 any sort, if you could just raise your hand, keep them up
4 for a minute. Because the lawyers are trying to make some
5 notes as well.

6 I want to -- I'm just going to ask you some
7 general questions about that.

8 Why don't we start on the end here, if we could,
9 Mr. Carter. I think that's Mr. Griffith.

10 PROSPECTIVE JUROR: Yes, sir.

11 THE COURT: Good morning, Mr. Griffith.

12 PROSPECTIVE JUROR: Morning.

13 THE COURT: How are you?

14 PROSPECTIVE JUROR: Very well.

15 THE COURT: Tell me about your prior litigation
16 experience.

17 PROSPECTIVE JUROR: At least 15 years ago I worked
18 as a detention officer in Charlotte, North Carolina, for
19 ten years. There's some civil right violation accusations
20 against me and some of my coworkers.

21 THE COURT: Did that arise in the context of a
22 custodial encounter with somebody that was in your
23 corrections department?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: And did that case actually go to

1 trial?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: And is there anything about that
4 experience that left you with -- I know it was probably a
5 difficult circumstance for you personally.

6 Did it color your judgment in terms of the justice
7 system or the administration of justice?

8 PROSPECTIVE JUROR: I don't agree with the
9 outcome. Yeah. But it was -- it wasn't criminal. That
10 was the good part.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR: They found me and my coworkers
13 were guilty and awarded the guy, for false accusation,
14 \$3,000.

15 THE COURT: Okay. So you did not agree with the
16 outcome?

17 PROSPECTIVE JUROR: Absolutely not. I didn't have
18 anything to do with it.

19 THE COURT: How long ago was it, Mr. Griffith?

20 PROSPECTIVE JUROR: 2000 -- it was 2003, somewhere
21 in there.

22 THE COURT: Understanding that that was a
23 difficult time for you personally and that you don't agree
24 with the way the case turned out, what about just the -- I
25 guess the fundamental questions about the efficacy of the

1 judicial administration system?

2 In other words, do you think, in light of that
3 experience, would you be able to be a neutral arbiter of
4 the facts? Would you be able to listen to the evidence in
5 this case --

6 PROSPECTIVE JUROR: Sure.

7 THE COURT: -- and weigh the evidence?

8 PROSPECTIVE JUROR: Absolutely.

9 THE COURT: Do you think you'd be able to be fair
10 to both the plaintiffs and the defendants in your
11 assessment of the evidence?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Okay. And I understand you don't
14 agree with the jury's result in your case, but do you at
15 least respect that the jury had the responsibility to make
16 that decision and that they did it presumably the best they
17 can?

18 PROSPECTIVE JUROR: Absolutely.

19 THE COURT: Okay. Thank you very much,
20 Mr. Griffith.

21 I think we had another hand or two on the back
22 row. Okay.

23 Back to Mr. Rahal. Yes, sir.

24 PROSPECTIVE JUROR: I was involved in a wage
25 lawsuit against me. I was involved in an unpaid rent

1 lawsuit for an apartment.

2 THE COURT: Okay. So let's talk about the first.
3 Was it a wage-and-hour claim?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: And was that a dispute by an employee
6 with respect to whether or not --

7 PROSPECTIVE JUROR: Overtime.

8 THE COURT: Overtime? Okay.

9 Did it actually go to trial?

10 PROSPECTIVE JUROR: Unfortunately not.

11 THE COURT: You say unfortunately not. It sounds
12 like it might have gotten settled.

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. And that brings me to a good
15 point. The parties here have not settled their dispute.
16 They've asked the jury to make the decision. That's a
17 right they have under the Seventh Amendment of the
18 Constitution of the United States. And the parties have an
19 absolute right to have a jury decide the disputed issues of
20 fact.

21 Is there anything about that that's problematic
22 for you?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Okay. How about your own personal
25 circumstance, does that color your judgment, or did it

1 leave you with such a bad taste in your mouth that you
2 think it might influence your ability to be fair?

3 PROSPECTIVE JUROR: I still would be fair.

4 THE COURT: Okay. You sound like you might be a
5 little hesitant. I want to give you an opportunity to
6 expand on that if you feel there's going to be a problem
7 like that.

8 PROSPECTIVE JUROR: I just think sometimes that
9 the fees outweigh the truth.

10 THE COURT: Okay. This is obviously not a claim
11 under the Fair Labor Standards Act. Completely different.
12 And you won't be asked to make any of those kinds of
13 questions here today.

14 You'll be asked to decide whether or not the
15 plaintiffs have carried their burden. Their burden is to
16 prove their case by what we call the greater weight or the
17 preponderance of the evidence. So they've made a claim,
18 and the defendants have disputed their claim.

19 Do you think you'd be able to listen to the
20 evidence and make a judgment at the end of the case?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Okay. All right. Thank you, sir.
23 Miss Elliott?

24 PROSPECTIVE JUROR: Yes. Your Honor, in 1990 --

25 THE COURT: Can you hold that right up to your

1 mouth?

2 PROSPECTIVE JUROR: Oh, sorry. In 1990 I was the
3 plaintiff in a divorce.

4 THE COURT: Okay. Anything about that that you
5 think would be a problem for you in being fair and neutral
6 in this case?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Okay. Great. Thank you,
9 Miss Elliott.

10 Anybody else on the back row?

11 (No response.)

12 We've got some in the center row, I think.

13 Mr. Carter, if you could retrieve the microphone
14 and give it to -- I think it might be, is it Meaux?

15 PROSPECTIVE JUROR: Meaux.

16 THE COURT: Meaux. Like Go Tigers?

17 PROSPECTIVE JUROR: Yeah.

18 THE COURT: Miss Meaux, could you stand please so
19 I can hear you better. Thanks.

20 PROSPECTIVE JUROR: Well, I've been involved in
21 two different automobile accidents, both my vehicle,
22 somebody pulled in front of me. And that was -- I believe
23 it was '98.

24 And then my daughter driving my vehicle, a guy
25 pulled out in front of her. So I was involved in that.

1 And less that, my husband was charged in Orange
2 County and Polk County for lewd and lascivious on my
3 daughter.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR: And he resides in Louisiana
6 now.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR: And I just recently tried to
9 instill a medical lawsuit on behalf of my daughter, and the
10 attorneys will not take the case because it involved too
11 much.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR: So --

14 THE COURT: Let's talk about all of those things
15 collectively first.

16 Collectively, do any of those situations stand out
17 in your mind as being a problem for you if you were seated
18 as a juror in this case in terms of giving the parties a
19 fair shake and making a judgment based only on the evidence
20 that you hear in this case and my instructions on the law?

21 PROSPECTIVE JUROR: Probably not. But I think
22 that people that do wrong ought to own up to their
23 mistakes, take what's coming to them.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR: And quit wasting the time of

1 taxpayers.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR: You know, that kind of a
4 thing. But, you know, our judicial system, for the most
5 part, is a wonderful thing.

6 You know, and I think that, you know -- my
7 daughter says, you know, Trump wins, let's move to
8 Australia.

9 And I'm proud to be an American.

10 I said, I'm not moving anywhere. I'll take it if
11 he gets elected.

12 But, you know, it's just par for the course.

13 THE COURT: Well, here's what gives me a little
14 bit of pause from what you said, which is why I want to
15 follow up with you. I want to make sure that the parties
16 in this case start off level.

17 PROSPECTIVE JUROR: I understand.

18 THE COURT: The playing field is level. So you're
19 going to hear evidence in this case. And when the case is
20 over, I'm going to tell you what the law is that applies to
21 the facts.

22 And my question to you is whether or not you would
23 be able to make a decision based on the evidence and my
24 instructions on the law and not some preconceived notion.

25 I don't judge you at all for the -- we're all

1 products of our environment.

2 PROSPECTIVE JUROR: Exactly.

3 THE COURT: But I need to make sure that if you're
4 a member of this jury, that none of those things that you
5 just described to me find their way into the verdict,
6 because that would not be fair.

7 And that's my responsibility, is to make sure the
8 parties have a fair trial.

9 So let me ask you, do you think that you would be
10 able to be fair and impartial and put those notions out of
11 your mind and make a judgment on the evidence and my
12 instructions on the law?

13 PROSPECTIVE JUROR: I think I'm a fair person.

14 THE COURT: So what's the answer to my question?

15 PROSPECTIVE JUROR: Yes.

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

17 All right. Let's see. We have another hand up.

18 It looks like, is it Miss Platt?

19 PROSPECTIVE JUROR: Miss Platt, yes.

20 THE COURT: Good morning.

21 PROSPECTIVE JUROR: Good morning. I was involved
22 in a traffic accident that went to -- I had to sue the
23 gentleman for medical costs in 2012, as well as I was
24 involved in a divorce in 2012.

25 THE COURT: Anything about those experiences that

1 you think would be a negative influence in your ability to
2 be a neutral decider of the facts in this case?

3 PROSPECTIVE JUROR: No, Your Honor.

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

5 Anybody else in the center row? I think that
6 might be Miss Young again.

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Yes, ma'am?

9 PROSPECTIVE JUROR: Yes. I was hurt up in
10 Connecticut where I used to work. And so my attorney -- I
11 still have an attorney up there because I have a back and
12 neck thing.

13 So she is still -- I've never gone to court for
14 it, but she's still working on it, I guess. And I've had
15 two divorces, but I don't think that says anything --

16 THE COURT: Okay.

17 PROSPECTIVE JUROR: -- other than -- that's it as
18 far as court goes.

19 THE COURT: Okay. Anything about those, the
20 injury claim or your interaction with the lawyer up there
21 that you think would be a negative factor in your ability
22 to be a neutral decider of the facts?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Okay. Thank you, ma'am.

25 Anybody else on the second row with claims

1 experience?

2 (No response.)

3 No. How about in the first row?

4 We've got a few hands there. Let's see. I think
5 that might be Mr. Chen first. Let's start down here,
6 Mr. Carter.

7 PROSPECTIVE JUROR: Yes. I have a property I rent
8 out. It's a condo. And sometime back in 2010 maybe,
9 around that time, my upstairs neighbor flooded their
10 apartment and damaged my ceiling.

11 And their insurance company refused to pay. I
12 took them to a small claim court, and they settled.

13 THE COURT: Okay. And did that ultimately get
14 sorted out to your satisfaction?

15 PROSPECTIVE JUROR: Yeah. Absolutely.

16 THE COURT: All right. Anything about that that
17 you think would be a problem for you in terms of sitting as
18 a juror in this case?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Okay. Great. Thank you, Mr. Chen.
21 And now I think that's Miss Laudner.

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Yes, Miss Laudner?

24 PROSPECTIVE JUROR: Several years ago, about
25 15, 20, I was in a car accident. I had to sue.

1 And currently I'm going through a divorce, and I
2 will be in mediation next Wednesday.

3 THE COURT: Okay. Do you know what time of the
4 day next Wednesday?

5 PROSPECTIVE JUROR: 9:00 a.m.

6 THE COURT: Okay. Thank you, ma'am.

7 PROSPECTIVE JUROR: Thank you.

8 THE COURT: Anybody -- yes, Mr. Marks?

9 PROSPECTIVE JUROR: I had a Workers' Comp claim
10 before I was a lawyer. I got hurt at work, and we settled
11 it, and I'm fine.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR: It won't affect my appearance.

14 THE COURT: Okay. Good. Thank you, Mr. Marks.

15 I know you all -- oh, I'm sorry. I skipped right
16 over you. Is it Mr. Anderson?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Good morning, Mr. Anderson.

19 PROSPECTIVE JUROR: Good morning.

20 THE COURT: Tell me about your --

21 PROSPECTIVE JUROR: A couple of years back I was
22 involved with probate. My father, his estate, I was
23 leading the estate, and my grandmother sued. So I was the
24 head of that.

25 THE COURT: Okay. Anything about that experience

1 that you think would influence your decision-making ability
2 here?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Thank you, sir.

5 Anybody else from claims? Great.

6 Thank you, Mr. Carter.

7 Yes, ma'am, Miss Camick? Did I pronounce that
8 correct?

9 PROSPECTIVE JUROR: What?

10 THE COURT: Your name.

11 PROSPECTIVE JUROR: Katherine Evans.

12 THE COURT: No, I didn't pronounce it right.

13 You're off my chart. I'm sorry.

14 Katherine Evans. Yes, Miss Evans.

15 PROSPECTIVE JUROR: I was sued at work for injury
16 to a client.

17 THE COURT: Can you speak up just a bit?

18 PROSPECTIVE JUROR: I was sued at work for injury
19 to a client.

20 THE COURT: Okay. And where do you work?

21 PROSPECTIVE JUROR: Gaylord Palms.

22 THE COURT: And how long ago was that?

23 PROSPECTIVE JUROR: I believe it was 2011, 2012.

24 THE COURT: Okay. And did it actually go to
25 trial?

1 PROSPECTIVE JUROR: Did not.

2 THE COURT: It was settled somewhere along the
3 way?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Anything about that experience that
6 you think would be a problem for you in being a --

7 PROSPECTIVE JUROR: No.

8 THE COURT: -- neutral arbitrator of the facts
9 here?

10 PROSPECTIVE JUROR: I don't believe so.

11 THE COURT: Okay. Great. Thank you, ma'am.

12 MR. BECKETT: Judge, may we approach?

13 THE COURT: All right.

14 (Discussion at sidebar on the record.)

15 MR. DELLINGER: Number one mentions --

16 THE COURT: You have to speak up a little bit.

17 MR. DELLINGER: Number one mentioned in response
18 to the questionnaire that he had testified in a federal
19 civil trial. He didn't discuss it. While you're on the
20 subject, we would ask a follow-up. That seems to be
21 directly --

22 THE COURT: That's what name?

23 MR. DELLINGER: Sundberg, number one.

24 THE COURT: Okay. Thanks.

25 (End of discussion at sidebar.)

1 THE COURT: Mr. Sundberg, the lawyers brought to
2 my attention that there is something on your form about
3 testifying in a federal civil trial. Let me get you to the
4 microphone.

5 Could you tell me what the circumstances of that
6 were?

7 PROSPECTIVE JUROR: Good morning.

8 THE COURT: Good morning.

9 PROSPECTIVE JUROR: It was 1994. I testified on
10 behalf of Michael Jackson in Denver Federal Court for a
11 song writing case.

12 THE COURT: All right.

13 PROSPECTIVE JUROR: Crystal Cartier, I think, was
14 the person that brought the suit.

15 THE COURT: Okay. That was an intellectual
16 property dispute of some sort?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: And anything about your participation
19 in that lawsuit as a witness that was -- that would be a
20 problem for you if you were seated as a juror in this case?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Great. Thank you very much.

23 Now, I mentioned in my summary of the case that
24 the claims that are at issue here arise out of the
25 extrajudicial killing and torture of Victor Jara back 1973.

1 Do any of you have any sort of association
2 currently or previously with any government officials of
3 Chile, including any members of the Chilean Armed Forces or
4 intelligence services?

5 Any of you have any Chilean connections -- let's
6 just talk about Chile in general, first, and then we'll
7 drill down and find out some more about it.

8 Any of you have any connections with any Chilean
9 authorities?

10 PROSPECTIVE JURY: No.

11 THE COURT: Now, do any of you have, are any of
12 you yourselves or a close member of your family currently
13 members of the military, whether the United States or any
14 other country? If so, could you raise your hand?

15 We've got quite a few hands there. Let me ask
16 Mr. Carter to help me out. Let's see.

17 That's Miss Soto?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Yes, Miss Soto, who in your family is
20 a member of the military?

21 PROSPECTIVE JUROR: I have a cousin who's
22 currently in the Army, who's currently stationed in Puerto
23 Rico.

24 THE COURT: Thank him for his service.

25 PROSPECTIVE JUROR: Thank you.

1 THE COURT: And this case is going to involve some
2 testimony, I suspect, about members of the Chilean
3 military. I don't think there will be any testimony about
4 any military members of any other countries, but the
5 lawyers can correct me if I'm wrong about that.

6 Other than having your family member in the U.S.
7 military, you don't have any other family members connected
8 with any military at all?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: Okay. Great. Thank you.

11 Let's see. Anybody else on the first row that's
12 got a family member in the military?

13 Yes, sir, Mr. Anderson?

14 PROSPECTIVE JUROR: I have a cousin in the
15 Air Force.

16 THE COURT: What's his job in the Air Force?

17 PROSPECTIVE JUROR: She does like -- she's a
18 police officer working on the base.

19 THE COURT: So she's in the military police?

20 PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: Is that yes?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Anything about that that you think
24 would be a problem for you to listen to the evidence in
25 this case?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Okay. Great. Thank you,
3 Mr. Anderson.

4 On the second row, Miss Platt?

5 PROSPECTIVE JUROR: I have a sister who served in
6 the U.S. Navy for six years.

7 THE COURT: What's her job in the Navy?

8 PROSPECTIVE JUROR: She was a machinist's mate as
9 well as a fireman.

10 THE COURT: Anything about that that you think
11 would be problematic for you in terms of evaluating the
12 evidence in this case? I know you don't know much about
13 it, but based on what little that you do know.

14 PROSPECTIVE JUROR: No, Your Honor.

15 THE COURT: Thank you. Thank her for her service
16 and you as well, Mr. Anderson.

17 Yes. Is it Miss Sandoval?

18 PROSPECTIVE JUROR: Good morning. I do have a
19 brother-in-law who serves for the U.S. Air Force. He's
20 deployed in Kuwait at this moment.

21 THE COURT: All right. What's his job in the
22 Air Force?

23 PROSPECTIVE JUROR: Drone pilot.

24 THE COURT: Drone pilot?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Is he actually in country, or does he
2 operate the drone from the United States?

3 PROSPECTIVE JUROR: He's in country.

4 THE COURT: He's in Kuwait now?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Great. Thank him for his service.

7 Anything about that that you think would influence
8 your ability to be a neutral decider of the facts in this
9 case?

10 PROSPECTIVE JUROR: No. But I do have -- my
11 grandfather, deceased already, was a Chilean sergeant.

12 THE COURT: Okay. Tell me a little bit more about
13 that.

14 PROSPECTIVE JUROR: I didn't meet him. He died
15 when my father was about 20 years old. All I know, he was
16 a sergeant for the Chilean Army. And I want to say he
17 passed away --

18 THE COURT: I'm having a hard time hearing you.

19 PROSPECTIVE JUROR: I'm sorry. I believe he
20 passed away in 1982.

21 THE COURT: And how did you learn that you had an
22 uncle who had been a sergeant in the Chilean Army?

23 PROSPECTIVE JUROR: It was my grandfather.

24 THE COURT: Oh, grandfather. I'm sorry.

25 PROSPECTIVE JUROR: That's okay. And my father,

1 stories and he talks about it.

2 THE COURT: Okay. Are you of Chilean ancestry?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: And do you have any current family
5 connections in Chile?

6 PROSPECTIVE JUROR: I do. Both my parents live
7 there, along with two of my sisters.

8 THE COURT: And your parents and sisters that live
9 in Chile, do any of them have any current affiliation with
10 the Government of Chile?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Do you know if any of them have been
13 involved in any investigations or criminal prosecutions of
14 any alleged unlawful conduct that might have taken place
15 during the coup d'etat in the Pinochet/Allende years?

16 PROSPECTIVE JUROR: No.

17 THE COURT: No, you don't know; or, no, they did
18 not?

19 PROSPECTIVE JUROR: No, they did not.

20 THE COURT: Knowing that this case is going to
21 involve testimony and claims arising out of that time
22 period and that set of circumstances, is there anything
23 about your background as a Chilean that gives you pause as
24 to whether or not you could be fair and impartial?

25 PROSPECTIVE JUROR: No. I think I would be very

1 fair.

2 THE COURT: Okay. Do you think you'd be able to
3 listen to the evidence and if you were not persuaded at the
4 end of the case -- in other words, if at the end of the
5 case you felt like the plaintiffs had not met their burden
6 of proving by the greater weight or the preponderance of
7 the evidence that Mr. Nunez was responsible for the acts
8 that they attribute to him, would you have any difficulty
9 returning a verdict in favor of the defendant?

10 PROSPECTIVE JUROR: No. I'll be very fair.

11 THE COURT: And the flip side of that, if you felt
12 like the plaintiffs had met their burden, would you have
13 any difficulty returning a favor -- a verdict in favor of
14 the plaintiffs and against Mr. Nunez?

15 PROSPECTIVE JUROR: No. I'll be very -- I'll
16 listen to all of the evidence and everything, and I'll be
17 very fair on that.

18 THE COURT: Okay. Have you done any reading or
19 investigation, anything to try to inform yourself or
20 educate yourself about any of the events that I've
21 described that arise out of the coup d'etat back in the
22 '70s and the Pinochet/Allende years?

23 PROSPECTIVE JUROR: No. This is the first time
24 I've heard of it.

25 THE COURT: The first time you've heard of it?

1 PROSPECTIVE JUROR: Of this type of case, yes.

2 THE COURT: Have you made trips to Chile yourself?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: When was the most recent time you've
5 been to Chile?

6 PROSPECTIVE JUROR: Two months ago.

7 THE COURT: Was that to visit your parents?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Great. All right. Thank you,
10 Miss Sandoval. We might have some more questions for you
11 down the road. Thank you for that.

12 PROSPECTIVE JUROR: Definitely.

13 THE COURT: And, let's see, Miss Nova, I think.
14 How are you, Miss Nova?

15 PROSPECTIVE JUROR: Fine. And yourself?

16 THE COURT: Good. Thank you. Thanks for asking.
17 How about your military connections?

18 PROSPECTIVE JUROR: My niece is in the Air Force.
19 And one of my nephews served in Iraq in the Army. And my
20 brother-in-law is in the Air Force.

21 THE COURT: Sounds like you have a big military
22 family. Thank them for their service. We're grateful.

23 Anything about their service, any of your family
24 members' service that you think would be a factor that
25 might make it hard for you to be neutral in your evaluation

1 of the evidence in this case?

2 PROSPECTIVE JUROR: No sir.

3 THE COURT: Okay. Great. Thank you, ma'am. No
4 connections with Chile or anybody that's associated with
5 Chile that you know of?

6 PROSPECTIVE JUROR: No. No, sir.

7 THE COURT: Thank you.

8 COURT SECURITY OFFICER: Just a couple more.

9 THE COURT: Okay. Good morning. Are you
10 Miss Berry?

11 PROSPECTIVE JUROR: Yes, I'm Miss Berry.

12 THE COURT: Good morning, Miss Berry.

13 PROSPECTIVE JUROR: Good morning. My husband
14 served in the Army for four years, excuse me, prior to us
15 meeting. And I have two cousins that served in Afghanistan
16 and another cousin that was a pilot in the Air Force. But
17 no one current.

18 THE COURT: All right. Thank them all for their
19 service.

20 No Chilean connections?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Anything about the military service of
23 your family members that you think would make it difficult
24 for you to be a fair and impartial decider of the facts in
25 this case?

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: All right. Thank you, Miss Berry.
3 Let's see. I think Miss Creamer.

4 PROSPECTIVE JUROR: My son-in-law is a Marine.
5 He's back from Qatar. He's in the States now.

6 THE COURT: Okay. What's his job in the Marines?

7 PROSPECTIVE JUROR: He worked on a Prowler, like
8 mechanic. Mechanic on the Prowler.

9 THE COURT: Okay. Thank you, ma'am.
10 Anything about that that's a problem for you,
11 Miss Creamer? No?

12 PROSPECTIVE JUROR: No, sir.

13 THE COURT: Thank you.

14 On the back row. Yes, sir, Mr. Rahal?

15 PROSPECTIVE JUROR: Yes. I was in the military
16 infantry back in the '90s. There might have been some
17 things that I've done that I want to talk to you personally
18 that may affect my --

19 THE COURT: Okay. Good. Remind me that we've got
20 something we need to discuss in private.

21 PROSPECTIVE JUROR: Sure.

22 THE COURT: Thank you, Mr. Rahal.

23 All right. We've kind of touched on this with the
24 questions -- oh, I'm sorry. Yes, Miss Elliott?

25 PROSPECTIVE JUROR: I'm sorry, Your Honor. I seem

1 to be answering all the questions.

2 THE COURT: That's quite all right. I'm happy to
3 hear from you.

4 PROSPECTIVE JUROR: I have a cousin who is in the
5 Army. He's stationed in Iraq for a year. He's home now.
6 He's in the Army reserves.

7 THE COURT: Okay. Thank him for his service.

8 Anything about that that you think would be a
9 problem for you?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Okay. No connections with Chile as
12 far as you know?

13 PROSPECTIVE JUROR: No, sir.

14 THE COURT: I was talking with Miss Sandoval a
15 little bit about the coup d'etat in 1973 in Chile and after
16 the -- and you'll hear this from the evidence in the case.
17 But it's the transition of the installation of the
18 dictatorship of Pinochet and then subsequently Chile's
19 transition to democracy.

20 I was talking to Miss Sandoval a little bit about
21 that. You're going to hear evidence about all of that. So
22 all of those things will get fleshed out for you and what
23 it means in relation to the plaintiffs' claims against the
24 defendant here.

25 I know Miss Sandoval has some family experience at

1 least with Chile and some of the time periods that are at
2 issue here.

3 How about any of the rest of you? Does anybody
4 else have any connection with or, you know, familiarity
5 with the facts and circumstances that led to the overthrow
6 of the Allende Government and the installation of the
7 Pinochet dictatorship or the things that happened
8 thereafter?

9 A couple of hands. Let me come to the front row.

10 Yes, ma'am, Miss Soto?

11 PROSPECTIVE JUROR: Your Honor, my family migrated
12 to the States in the early '80s. And I grew up listening
13 to the stories. I was born in Puerto Rico. My parents
14 were Colombian. So I lived in Colombia for several years.
15 I attended school. And then we migrated to the States.

16 So I grew up listening to the stories about the
17 different trials and about the Pinochet dictatorship. And
18 I grew up listening to all of that.

19 THE COURT: Okay. In light of the fact that you
20 had some exposure to that as a child and heard stories
21 about those events during your childhood, can you tell me
22 whether or not you think that you'd be able to listen to
23 the evidence in this case and weigh your, weigh the
24 evidence and make a decision only on the evidence that
25 comes into the courtroom and my instructions on the law?

1 PROSPECTIVE JUROR: I do not know about that,
2 Your Honor. The argument that -- again, like I said, I've
3 heard about the trials and all of that.

4 THE COURT: Well, let's not get too much in the
5 details.

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: Let me ask you this: In light of the
8 fact that you've had a lot of exposure to that growing up,
9 is it likely it would be hard for you to take that out of
10 your mind and to start fresh and have the parties start
11 from a neutral position?

12 PROSPECTIVE JUROR: I believe so, yes.

13 THE COURT: You think you might have some
14 predisposition as to how the case ought to come out even
15 without hearing any evidence?

16 PROSPECTIVE JUROR: I would say yes. Yes,
17 Your Honor.

18 THE COURT: Okay. Thank you very much for your
19 candor. I appreciate that, Miss Soto.

20 And we had another hand. Yes, sir, Mr. Marks?

21 PROSPECTIVE JUROR: Me again. I've just read a
22 lot about that.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR: Not recently. But a fair
25 amount. I'm not going to say what I've read.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR: But I am fairly familiar with
3 some of the facts of that era.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR: I read a lot of history.

6 THE COURT: Okay. Same question I put to
7 Miss Soto. Would the reading that you've done influence
8 you to such extent that you don't think the parties would
9 start off with a level playing field?

10 PROSPECTIVE JUROR: I'm sure the parties would
11 start off with a level playing field, Judge. It's just if
12 I heard facts presented in court that were at odds with
13 what I heard, read about, it might be difficult for me to
14 reconcile that. But assuming I don't, that would be fine.

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

16 Anybody else?

17 (No response.)

18 No.

19 How about let's start, first, with Spanish
20 speakers. Any of you that are bilingual and have Spanish
21 either as a first or second language, could you raise your
22 hands?

23 Let's see. Miss Camick?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Miss Camick, is Spanish your first

1 language or second language?

2 PROSPECTIVE JUROR: Second language.

3 THE COURT: And are you fluent?

4 PROSPECTIVE JUROR: Not fluent.

5 THE COURT: Okay. I know that we're going to have

6 a lot of testimony that will be in the Spanish language.

7 All of it will be interpreted.

8 But the question I have for you is whether or

9 not -- it gets difficult sometimes when we have folks who

10 speak a language that's being interpreted. We need to make

11 sure that you're going to rely upon the interpretation.

12 And, in other words, we have to make sure that everybody

13 has got the same evidence.

14 Does that make sense to you?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: So I guess my question to you is, do

17 you feel like you are -- are you fluent enough in Spanish

18 that you think you could -- for instance, if we had no

19 interpreter and witnesses were testifying in Spanish, would

20 you be comfortable or would you need some help?

21 PROSPECTIVE JUROR: I would definitely need an

22 interpreter.

23 THE COURT: Okay. So if the interpreter -- would

24 you have any difficulty relying upon the interpreter's

25 translation of Spanish into English --

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: -- and basing your judgment on that?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Thank you, ma'am.

5 And then Miss Soto. Miss Soto, is Spanish your
6 native language?

7 PROSPECTIVE JUROR: Yes, it is.

8 THE COURT: As I mentioned to Miss Camick, there's
9 going to be a lot of translation, I suspect, in this case
10 and interpretation.

11 If you were seated as a juror in this case, would
12 you be able to rely upon the translator's interpretation of
13 the witness' question --

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: -- the witness' answer to the
16 question?

17 PROSPECTIVE JUROR: Yes. There will be some
18 colloquialisms in the translations, but yes.

19 THE COURT: All right. Thank you.

20 Let's see. We have some other Spanish speakers.
21 I know Miss Sandoval is a Spanish speaker. And do you have
22 the -- I guess you're unique in that your Spanish is
23 Chilean in origin; correct?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Would you have any difficulty relying

1 upon the interpreter translating the Spanish into English?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Do you understand the point I was
4 making with Miss Camick down here? Everybody needs to have
5 the same information. So if you had a problem with the
6 translation, I would certainly want you to bring that to my
7 attention that you think the translation is not accurate or
8 not correct.

9 But assuming that that didn't occur, would you
10 have any difficulty relying upon the translation, some
11 translator interpreting the conversion from English to,
12 from Spanish to English?

13 PROSPECTIVE JUROR: No. That's fine.

14 THE COURT: Thank you.

15 And then I think that Miss Nova is also a Spanish
16 speaker. Now, is Spanish your native tongue, Miss Nova?

17 PROSPECTIVE JUROR: Yes sir.

18 THE COURT: Would you have any difficulty relying
19 upon an interpreter to translate Spanish into English?

20 PROSPECTIVE JUROR: No, sir.

21 THE COURT: Would you -- if you had a difficulty
22 or problem with what was being translated, would you be
23 comfortable bringing that to my attention?

24 PROSPECTIVE JUROR: Sure.

25 THE COURT: All right. Thank you.

1 Anybody else with Spanish? How about other
2 languages? Anybody else on the panel that's bilingual and
3 has another language in addition to English?

4 Yes, sir? Okay. Mr. Chen?

5 PROSPECTIVE JUROR: Yes. I speak Chinese.

6 THE COURT: Chinese. Okay. I don't think we're
7 going to have any Chinese. At least if we do, it will be a
8 surprise to me.

9 So if we do, you and I will be in the same --
10 well, I shouldn't say you and I will be in the same boat.
11 I'll be in the same boat as everybody else. You can help
12 us.

13 All right. We had some other languages.

14 Miss Platt, what other languages do you speak?

15 PROSPECTIVE JUROR: I'm actually in school to be
16 an American Sign Language interpreter and translator.

17 THE COURT: Okay. I don't know that we're going
18 to have any hearing-impaired testimony.

19 Counsel, any hearing impairment?

20 MR. BECKETT: No, sir.

21 THE COURT: Great. Thank you, ma'am.

22 Let's see. Mr. Rahal?

23 Did I skip somebody?

24 Miss Camick, yes, ma'am?

25 PROSPECTIVE JUROR: I'm also studying Russian and

1 German.

2 THE COURT: All right. We don't have any Russian
3 or any German either.

4 PROSPECTIVE JUROR: I don't think it will come up.

5 THE COURT: Thank you, ma'am.

6 Yes, sir, Mr. Rahal?

7 PROSPECTIVE JUROR: I speak Arabic.

8 THE COURT: I don't think we have any Arabic
9 either. At least if we have Arabic and Chinese, we'll have
10 to get you and Mr. Chen to help us out.

11 All right. Thank you, sir.

12 PROSPECTIVE JUROR: Sure.

13 THE COURT: Thank you. All right. Thank you,
14 sir.

15 How is everybody doing? It's almost 11:00. I
16 know you've been sitting for a long time. Could you use a
17 short break?

18 Why don't we do that. Let's take a short break.
19 It's a little bit hot in here. I'm going to see if I can
20 get some air conditioning. And if we can get some air
21 conditioning, that will make us all happier.

22 Let's take a 15-minute break. Let me see you all
23 back at 10 after the hour.

24 Ladies and gentlemen, if you could do me a favor
25 as you -- obviously we're using a seating chart here. So
it's really important that you come back and occupy the
same spot that you're in now. So take a look at your

1 neighbor and make sure you self-police. When you come
2 back, be in the same seats. And I'll get Mr. Carter to let
me know when you all are back in place, and I'll come back
and we'll --

3 When I come back, Mr. Sundberg, we're going to
4 move to you, and we'll start talking to you all
5 individually about some of the information that's contained
6 on your questionnaires.

7 Thank you all. Enjoy your break. I'll see you
8 back in 15 minutes.

9 (Prospective Jury exited the courtroom

10 at 10:54 a.m.)

11 THE COURT: Counsel, anything you all need from me
12 before we take our break?

13 MR. BECKETT: Judge, we have some follow-up that
14 we could talk about now or later, if you please. I'm sure
15 the judge has in mind some follow-up points with specific
16 questions.

17 THE COURT: Yeah. Well, when we get to that
18 stage. I'm going to go through these folks individually,
19 and then a lot of times those questions get answered in the
20 individual discussion.

21 Then I'll get you all to come to the sidebar, and
22 I'll hear from you as to topics you want me to cover that
23 you think I've not covered. And I'll either do that or not
24 depending on if I think it's appropriate.

25 Or if there's any individual inquiry that you want

1 me to pursue, again, I'll take that under consideration and
2 either do it or not. But I'll give you a chance obviously
3 to put on the record and try to persuade me to explore
4 additional areas that I haven't covered. Let's see if we
5 don't get some of those dragons slain when we talk to these
6 folks individually.

7 MR. BECKETT: Very good, Judge.

8 THE COURT: All right. See you back at 10 minutes
9 after.

10 (Recess at 10:56 a.m. to 11:13 a.m.)

11 THE COURT: Back on the record in Jara versus
12 Nunez, 6:13-civil-1426.

13 The Court notes all counsel and parties are
14 present.

15 During the break, it was brought to my attention
16 that Miss Nova is having some health issues. She's, I
17 guess, got migraines and suffering from a migraine. And my
18 intention would be to let her go. But I want to obviously
19 check with you all before we do that and see if you have
20 any objection.

21 What I may do is ask Miss Nova to come to sidebar
22 and make a record about her headache and see how
23 debilitating it is. And assuming that it is what she
24 described to my court security officer, I'd be inclined to
25 let her go rather than make her suffer through the rest of

1 the examination.

2 Of course, my concern always is that I don't want
3 the rest of the jurors to get any ideas about, you know,
4 maladies that may crop up. So I'll probably talk to her at
5 sidebar.

6 How about, plaintiffs have any issues with that?
7 We'll do that probably first thing.

8 MR. BECKETT: Judge, can we just have one minute
9 to chat?

10 THE COURT: Sure.

11 MR. BECKETT: Judge, we have no objection to
12 letting her go as you suggested.

13 THE COURT: Okay. Mr. Landers?

14 MR. LANDERS: Defense has no objection. We'll
15 leave it to the Court's discretion.

16 THE COURT: Okay. Thank you.

17 I am going to ask her to come to sidebar. Even
18 though that will take up a little bit of time, I think it's
19 probably the safest way to handle her.

20 So are they all ready to come back in, Mr. Carter?
21 Let's bring them back in, please, sir.

22 Why don't you just ask Miss Nova, when she comes
23 in, to stand to the side, and I'll call her over to sidebar
24 as soon as everybody gets seated.

25 I'll do it. I know who she is. I'll recognize

1 her when she comes in.

2 (Prospective Jury entered the courtroom
3 at 11:18 a.m.)

4 THE COURT: All right. Welcome back, ladies and
5 gentlemen.

6 I'm going to speak to Miss Nova for just a second
7 when we have enough lawyers.

8 Miss Nova, could you just walk around here to the
9 other side. We've got a microphone over here.

10 (Discussion at sidebar on the record.)

11 THE COURT: There's a microphone here. That's why
12 I have to get you close by. The court security officer
13 brought to my attention you're having some migraine
14 problems.

15 PROSPECTIVE JUROR: Continual, yes.

16 THE COURT: Is that making it hard for you to pay
17 attention and stay engaged?

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: Okay. I talked to the lawyers before
20 you came over. We're going to excuse you. I'm going to
21 excuse you with my thanks. I hope you feel better.
22 Knowing that migraines can be a problem if they are not
23 attended to.

24 PROSPECTIVE JUROR: My stomach is upset.

25 THE COURT: Your stomach is upset as well.

1 Okay. I'm going to let you go ahead and leave.
2 I'm going to just note for the record that you're being
3 excused for medical reasons.

4 If you'd just stop off at the jury assembly room
5 on the way out and let them know I excused you for medical
6 reasons, they'll give you any instructions you need from
7 there.

8 Counsel, you have anything you want to add for the
9 record?

10 MR. CALDERON: No, Judge.

11 MR. BECKETT: No, Judge.

12 THE COURT: Thank you, ma'am.

13 MR. DELLINGER: Mr. MacArthur filled in her seat.
14 You might want to move them back. Thank you.

15 THE COURT: Okay.

16 (End of discussion at sidebar.)

17 THE COURT: All right. Ladies and gentlemen,
18 Miss Nova had a medical issue we don't really need to go
19 into the details on. But just know that I've excused her
20 rather than have her continue to suffer.

21 And, thank you, Mr. MacArthur for figuring out
22 that you need to leave that space. I appreciate that.

23 Everybody is in their correct seat and back. When
24 we broke, Mr. Sundberg, I mentioned we're going to come to
25 you.

1 When I get you the microphone, if you could stand
2 and tell us what you do for a living. And if you're
3 married, if your spouse works outside the home, tell us a
4 little bit about that. If you have adult children that are
5 employed, that would be good information for us to have
6 also.

7 PROSPECTIVE JUROR: Good morning, Your Honor.

8 THE COURT: Good morning.

9 PROSPECTIVE JUROR: My name is Brad Sundberg. I
10 build home theaters, music and dance systems for a living
11 both in commercial and residential environments.

12 My wife works part time at Harvest Bible Chapel
13 Orlando.

14 I have four daughters. Two of them are grown,
15 graduated from college. One of them is in college. And
16 one of them is 13, home schooled.

17 THE COURT: Okay. Anything you've heard about the
18 summary of the facts of the case that I've given you so far
19 that gives you pause or raises any questions in your mind
20 about whether you could be fair and impartial or a neutral
21 decider of the facts if you were seated as a juror in this
22 case?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: I see from looking at your form that
25 you've got some prior jury service. It looks like maybe

1 one case went to verdict; is that right?

2 PROSPECTIVE JUROR: It was years ago. I don't
3 remember a lot of the details of it. But I was just on
4 jury duty about six weeks ago in county. So this was
5 ironic being called back.

6 I think I've sat on one jury and probably been
7 called two or three times.

8 THE COURT: The jury that you did sit on, do you
9 remember if that was in state court?

10 PROSPECTIVE JUROR: That was in California. L.A.
11 County, I believe.

12 THE COURT: Civil or a criminal case?

13 PROSPECTIVE JUROR: Criminal.

14 THE COURT: Criminal case. Okay. It gives me a
15 good opportunity to discuss the burden of proof.

16 In a criminal case you may either know or know
17 from watching criminal television shows that the burden of
18 proof in a criminal case is on the Government to prove the
19 defendant's guilt beyond a reasonable doubt.

20 That's not the burden of proof that applies in a
21 civil case. In a civil case, the plaintiff has the burden
22 of proving his entitlement to recover by what's called the
23 preponderance of the evidence, or the greater weight of the
24 evidence.

25 The plaintiff bears that burden, but it's not as

1 significant a burden as the Government bears in a criminal
2 prosecution.

3 Do you understand that?

4 PROSPECTIVE JUROR: I understand.

5 THE COURT: And if I tell you that's the law that
6 applies, would you have any difficulty following it?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Okay. Great. Thank you, sir.

9 PROSPECTIVE JUROR: Can I make one other quick
10 comment?

11 THE COURT: Yes, sir.

12 PROSPECTIVE JUROR: I have what I can only
13 describe as an extreme scheduling conflict. I have to fly
14 out of state on Friday.

15 THE COURT: This Friday?

16 PROSPECTIVE JUROR: Yes. I'm gone all next week
17 at a scheduled -- I'm hosting and producing an event in
18 Los Angeles.

19 THE COURT: Okay. What's the -- tell me a little
20 bit more about the nature of your conflict in terms of how
21 flexible it is.

22 PROSPECTIVE JUROR: It's not. I host and produce
23 seminars about working with Michael Jackson. And next week
24 is the anniversary of his passing. So we have people
25 coming in from all over the world. So I cannot change that

1 schedule at all.

2 THE COURT: Okay. Here's what we'll do,
3 Mr. Sundberg. I've made a note of that. That's -- the
4 responsibility to show up and serve jury duty is not -- if
5 everybody was excused for their schedule, we wouldn't have
6 any jurors. That would include doctors, lawyers,
7 engineers, concrete pourers.

8 So it's not a legal cause for you to be excused.
9 I'll take it into account. The lawyers will take it into
10 account. We'll see what we can do, but there are no
11 promises.

12 PROSPECTIVE JUROR: Right.

13 THE COURT: Understood? Thank you, Mr. Sundberg.
14 And thank you for bringing it to my attention.

15 While we're on that subject, before I get to you,
16 Miss McDermott, is there anybody else that based on the
17 schedule that I've described, like Mr. Sundberg, feels that
18 they have a conflict that's so compelling that we need to
19 talk about it?

20 In other words, that it would be an extreme
21 inconvenience for you if you were not able to meet either
22 the personal or professional obligation that you have on
23 your calendar this week or next?

24 And bear in mind that, as I just told
25 Mr. Sundberg, this is not -- I'm not asking you for things

1 that are going to be inconveniences that can be reset. I'm
2 asking you for things that are simply, in your mind,
3 inflexible. They cannot be moved and would cause you an
4 extreme hardship.

5 So let's see. I think I saw some hands on the
6 first row.

7 Yes, ma'am. Good morning. Is it Miss Swenson?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: How are you, Miss Swenson?

10 PROSPECTIVE JUROR: I'm fine.

11 My sister flew in last week. And I was scheduled
12 to drive her to Gautier, Mississippi. She is -- she can't
13 fly directly into Gulfport so she has to fly into Sanford.
14 And then I drive her to Gautier because I have a time-share
15 there.

16 And this way she gets to go both places if I drive
17 her. And we're scheduled to go on Friday because that's
18 the time-share, from Friday to Friday. That's all.

19 THE COURT: Okay. Thank you, ma'am.

20 Anybody else in the first row that's got a
21 schedule issue they want to bring to my attention?

22 PROSPECTIVE JUROR: I'm a full-time UCF student.
23 I go to class from Monday through Thursday from -- Monday
24 through Wednesday, it's from 11:00 to 1:00. And then on
25 Tuesday and Thursday, it's from 1:00 to 4:00. And the

1 class is six weeks long. And the other one is eight weeks
2 long. And other than that, that's it.

3 THE COURT: Okay. If necessary, I'll be happy to
4 give your professors a call and let them know where you are
5 and why you're not there.

6 Okay. Mr. Marks?

7 PROSPECTIVE JUROR: Yeah. I just -- I'm the only
8 lawyer in my office. I have papers I have to sign. I live
9 a long way from here.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR: I understand that's not legal
12 cause. I understand.

13 THE COURT: Okay. You are correct. Thank you,
14 Mr. Marks.

15 Yes, ma'am?

16 PROSPECTIVE JUROR: Can I now?

17 THE COURT: Yes, Miss Laudner.

18 PROSPECTIVE JUROR: I'm sorry. Mine is my
19 divorce. When we go to court next week, we decide -- is
20 when we start deciding with the children and with child
21 support and alimony.

22 THE COURT: Okay. Are there any proceedings that
23 are actually set?

24 PROSPECTIVE JUROR: Well, I know we're meeting the
25 mediator.

1 THE COURT: And that was on Wednesday of next
2 week?

3 PROSPECTIVE JUROR: Wednesday at 9:00.

4 THE COURT: Okay. Thank you, Miss Laudner.

5 PROSPECTIVE JUROR: Thank you.

6 THE COURT: Let's see. Hand down on the end.

7 Mr. Chambers. Yes, sir?

8 PROSPECTIVE JUROR: Yes, sir. I just felt
9 compelled, in light of the others, to say that I serve
10 children and adults with developmental disabilities, autism
11 spectrum disorder, and I provide their primary treatment.
12 So embarrassingly, though, I did not anticipate two weeks
13 and did not ask for, you know, dismissal or an excuse. But
14 I just felt compelled to say that.

15 THE COURT: I appreciate that. Thank you,
16 Mr. Chambers.

17 Miss Meaux.

18 PROSPECTIVE JUROR: We just had a death in our
19 family. And my sister-in-law's parents are from Vietnam.
20 And the earliest that they could get here because it is a
21 communist country, and they were already set to be here for
22 the baby's birth, would be this Saturday.

23 So my brother and his wife are supposed to make
24 the funeral arrangements today. I don't know when next
25 week it will be. But that's -- not to mention I have other

1 issues at home, but it's, you know, not a legal thing. But
2 it's just, you know, one of those things, life and death.

3 THE COURT: It is. It is. Thank you, Miss Meaux.
4 Miss Platt?

5 PROSPECTIVE JUROR: I'm currently a full-time
6 student at Valencia College, and I have classes every
7 Tuesday and Thursday.

8 THE COURT: Okay. What time are your classes?

9 PROSPECTIVE JUROR: The first one starts at 11:30,
10 and they don't end until 2:45. And then I have online
11 classes as well.

12 THE COURT: Okay. As I mentioned to Mr. Anderson,
13 if it's necessary, I'll be happy to contact your professors
14 and tell him what's going on with you.

15 PROSPECTIVE JUROR: Yes, thank you.

16 THE COURT: You're welcome.

17 Miss Young?

18 PROSPECTIVE JUROR: Thank you. Hi. I only have
19 one car. And like my boyfriend, we share it. So he
20 dropped me off here today. In fact, he's out in the
21 parking lot now. But otherwise, I mean, he has to do
22 things. So I don't know if I could do it every single day.
23 But I thought I should mention it.

24 THE COURT: I appreciate that.

25 PROSPECTIVE JUROR: Okay.

1 THE COURT: Anybody else? Scheduling issue.

2 Mr. Griffith. Oh, I'm sorry, Mr. Codner.

3 PROSPECTIVE JUROR: Just that I'm self-employed,
4 and I have a lot of jobs scheduled. It's not legal, but --

5 THE COURT: Okay. Yes, sir, Mr. Griffith.

6 PROSPECTIVE JUROR: Yes, sir. So this morning my
7 wife did the final walk-through for our house. We're
8 closing on our house tonight, a new house. And I'm sure it
9 would be more of an inconvenience for her to move us
10 without me being there. So --

11 THE COURT: Okay.

12 PROSPECTIVE JUROR: This week.

13 THE COURT: Anybody else? All right.

14 All right. Let's see. I think we left off, we
15 were getting ready to talk to Miss McDermott.

16 PROSPECTIVE JUROR: Good morning.

17 THE COURT: How are you?

18 PROSPECTIVE JUROR: I'm good.

19 THE COURT: Good. Tell us about yourself.

20 PROSPECTIVE JUROR: My name is Jamie McDermott. I
21 am a FedEx courier, which I've done for 26 years. I'm a
22 mom. I'm a wife. My husband is, he's in sales for -- he's
23 a print -- he sells printing.

24 And I have two girls who are 13 and 15.

25 THE COURT: Great. No prior jury service for you,

1 Miss McDermott?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Anything you've heard here this
4 morning that gives you any pause about whether you could be
5 fair and impartial if you were seated as a member of this
6 panel?

7 PROSPECTIVE JUROR: No, sir.

8 THE COURT: All right. Thank you, Miss McDermott.
9 Good morning, Miss Long.

10 PROSPECTIVE JUROR: Good morning.

11 THE COURT: Tell us about yourself.

12 PROSPECTIVE JUROR: I'm a nurse at Florida
13 Hospital for Children. I work on the critical care
14 transport team. So I take infants and the children from
15 hospital to hospital when they need advanced care at a
16 better place.

17 And I'm a wife. My husband is a middle school
18 science teacher. And I have two children. My daughter,
19 18, is a student at UCF. And my son, 15, high school
20 student.

21 THE COURT: Okay. Great. Thank you.

22 I see you have some prior jury service, it looks
23 like, in state court?

24 PROSPECTIVE JUROR: I guess. It was many years
25 ago. It was in the county.

1 THE COURT: Okay. County court. Do you remember
2 if it was a criminal or a civil case?

3 PROSPECTIVE JUROR: Criminal, I believe.

4 THE COURT: Did you hear what I said about the
5 difference in the burden of proof between criminal and
6 civil cases?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Do you think you'd be able to follow
9 my instructions on the law?

10 PROSPECTIVE JUROR: I do.

11 THE COURT: Okay. Thank you, ma'am.

12 PROSPECTIVE JUROR: Thank you.

13 THE COURT: Good morning again, Miss Elliott.

14 PROSPECTIVE JUROR: Good morning, Your Honor.

15 THE COURT: Tell us a little bit about yourself.
16 I know you've given us some information already. But go
17 ahead and remind us what you do for a living and tell us a
18 little bit about your family circumstances.

19 PROSPECTIVE JUROR: I've been an attorney since
20 1998. I do not prosecute. I do not defend. I work
21 strictly for Circuit Court judges behind the scenes, doing
22 research, writing, stuff like that. I started out in
23 criminal, and now I'm doing civil work.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR: I am married. My husband

1 works security. I have a stepson who works in construction
2 and a stepdaughter who works in the medical field.

3 THE COURT: Okay. Have you heard anything this
4 morning that gives you any pause or makes you worried about
5 whether or not you could be fair and impartial if you were
6 made a part of this jury?

7 PROSPECTIVE JUROR: No.

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

9 Good morning, Miss Barnes.

10 PROSPECTIVE JUROR: Good morning.

11 THE COURT: How are you?

12 PROSPECTIVE JUROR: I'm well, thank you.

13 Yourself?

14 THE COURT: Thank you for asking. I'm well.

15 Thanks.

16 PROSPECTIVE JUROR: My name is LeAnne Barnes. I
17 am currently a trade show coordinator for trade show and
18 events. I put all of the trade shows in at the convention
19 center so -- I'm pretty busy, actually.

20 I am a wife and a mother of a son who's seven, and
21 my elderly mother who doesn't drive lives with us. And my
22 husband is a traveling salesperson out of state -- or
23 excuse me -- within state.

24 THE COURT: And I see you had some prior jury
25 service, it looks like, in a criminal in state court?

1 PROSPECTIVE JUROR: Yes. It was in the State of
2 South Carolina.

3 THE COURT: Okay. And were you all able to reach
4 a verdict?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Anything about that experience that
7 was negative in any way?

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: And did you understand my explanation
10 of the difference in the burden of proof in a civil and a
11 criminal case?

12 PROSPECTIVE JUROR: Yes, I do.

13 THE COURT: And would you be able to follow my
14 instructions?

15 PROSPECTIVE JUROR: Yes, sir.

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

17 Good morning, again, Mr. Rahal. Tell us a little
18 bit about yourself.

19 PROSPECTIVE JUROR: So I am in marketing, and I am
20 a managing partner of a corporate marketing company.

21 I am married. My wife stays at home taking care
22 of two kids, a four-year-old and a two-year-old.

23 That's pretty much it.

24 THE COURT: And I know you told us a little bit
25 about your service. Remind me, what did you do when you

1 were in the Army?

2 PROSPECTIVE JUROR: I was in the light infantry.

3 THE COURT: Okay. And no prior jury service for
4 you?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Anything that you've heard that gives
7 you any worries about whether you could be impartial if you
8 were seated as a juror in this case?

9 PROSPECTIVE JUROR: There may be a conflict, and I
10 asked to --

11 THE COURT: You wanted to talk about that
12 privately. I remember that. All right. Thank you, sir.

13 Mr. Ferris, good morning.

14 PROSPECTIVE JUROR: Good morning, sir. How are
15 you?

16 THE COURT: Good. Tell us about yourself, please.

17 PROSPECTIVE JUROR: My name is Andrew Ferris. I
18 graduated college about two years ago. I'm an insurance
19 agent at an Allstate agency in Daytona Beach. It's one of
20 the largest Allstates in the county.

21 I am not married, but I've been dating my
22 girlfriend for about three years. And she just graduated
23 from physical therapy school.

24 THE COURT: Great. No prior jury service?

25 PROSPECTIVE JUROR: No, sir.

1 THE COURT: Anything you've heard this morning
2 that gives you any worries about whether you could be
3 impartial if you were seated as a juror?

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: Thank you, Mr. Ferris.
6 Good morning again, Mr. Codner.

7 PROSPECTIVE JUROR: Good morning.

8 THE COURT: Tell us about yourself. We know
9 you're self-employed. Tell us what you do.

10 PROSPECTIVE JUROR: First of all, my name is
11 Domingo Codner. I don't know or speak any Spanish. People
12 hear my name. A lot of people thought I'm Spanish.

13 I'm married for 34 years. I have two children.
14 One works at FedEx. One works at his master's in college.
15 And I reupholster chairs and cars and stuff like that.

16 THE COURT: And it looks like you do have some
17 prior jury service. How many times have you served before?

18 PROSPECTIVE JUROR: Four times. I was called to
19 sit.

20 THE COURT: All right. Have you ever actually
21 served and heard evidence and deliberated and reached a
22 verdict?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: How many times have you done that?

25 PROSPECTIVE JUROR: Two times.

1 THE COURT: Two times. Were those civil or
2 criminal cases, if you remember?

3 PROSPECTIVE JUROR: Criminal.

4 THE COURT: Were those in state court?

5 PROSPECTIVE JUROR: County.

6 THE COURT: County court. Okay. Anything about
7 that experience that you think was negative or that might
8 influence you negatively in terms of your ability to be a
9 neutral decider of the facts in this case?

10 PROSPECTIVE JUROR: No. It was a wonderful
11 experience for me.

12 THE COURT: Okay. Great. Thank you. I'm glad to
13 hear it.

14 Good morning again, Mr. Griffith.

15 PROSPECTIVE JUROR: Good morning, sir.

16 THE COURT: Other than relocating and selling your
17 house, what's all going on in your life?

18 PROSPECTIVE JUROR: Married 20 years. My wife
19 works in the healthcare industry. We have three kids.
20 Oldest daughter graduated from high school two weeks ago.
21 15-year-old son, 12-year-old daughter, wonderful family.

22 I work at Disney World, operational support for
23 the travel company. I've been there for seven years.
24 Different jobs over the years so --

25 THE COURT: No prior jury service?

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: Other than worrying about your wife
3 being left with the moving responsibilities in your
4 absence, anything you've heard today that gives you any
5 pause about your ability to be fair and impartial?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: All right. Thank you, sir.

8 Let's go down to the end and talk with Miss Meaux.
9 Good morning, Miss Meaux. Tell us about yourself,
10 please.

11 PROSPECTIVE JUROR: Good morning, sir.

12 I'm a single mom. Even though my children are now
13 grown, they are all at home still. My oldest daughter is
14 41, totally disabled, blind; and then she has several lung
15 issues, on 5 liters of oxygen a minute. She does get
16 around pretty well, though, I do say.

17 I have a 35-year-old daughter. She has a son, my
18 grandson, 15, in college -- or in high school now.

19 And then my youngest daughter, 33, is a nurse at
20 Florida South. And two dogs and two parrots.

21 THE COURT: Okay. Thank you, Miss Meaux. No
22 prior jury service for you, correct?

23 PROSPECTIVE JUROR: Just called. Never served.

24 THE COURT: Thank you, ma'am.

25 Good morning again, Miss Creamer. Tell us about

1 yourself.

2 PROSPECTIVE JUROR: Deborah Creamer. I worked at
3 Kennedy Space Center since 1980. My husband is deceased.
4 I have three children. A nurse in Havelock married to a
5 Marine, and two boys that just moved back home with me.

6 THE COURT: I'm having a hard time hearing you.

7 PROSPECTIVE JUROR: Do I have to do it all over
8 again?

9 THE COURT: I'm sorry. I'm sure the failing is
10 mine. But it's important that I hear what you have to say.
11 So I don't mean to interrupt you. But if you could hold
12 that microphone right up to your mouth and speak as clearly
13 as you can. And if you could start over, I would be
14 appreciative.

15 PROSPECTIVE JUROR: I work at Kennedy Space Center
16 for Jacobs since 1980. I have three children. My daughter
17 is married to a Marine, and is a nurse up in Havelock. And
18 my two boys are home with me. My husband is deceased.

19 THE COURT: Thank you, ma'am. No prior jury
20 service for you?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Thank you very much.

23 Miss Platt?

24 PROSPECTIVE JUROR: Good morning. My name is
25 Krystal Platt. I am divorced. I have two children, ages

1 seven and five. Both have special needs.

2 I have worked in accounting for just over ten
3 years. I'm a full-time student as well at Valencia
4 College.

5 THE COURT: Okay. No prior jury service?

6 PROSPECTIVE JUROR: I've only been called once but
7 never served.

8 THE COURT: Okay. All right.

9 And I apologize if you've mentioned something to
10 me previously. But is there anything that you've heard
11 this morning that gives you any concern about whether you
12 could be impartial if you were seated as a juror in this
13 case?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: Thank you, ma'am.

16 Good morning. Is it Berry? Yes, Miss Berry.

17 PROSPECTIVE JUROR: Yes. Good morning. Lisa
18 Berry. I'm a flight attendant. No children. My husband
19 is also a flight attendant as well.

20 THE COURT: Okay. Did you all meet while you were
21 flying?

22 PROSPECTIVE JUROR: No. We've been married for
23 almost 18 years.

24 THE COURT: Okay. Great. And it looks like you
25 had some prior jury service up in Virginia?

1 PROSPECTIVE JUROR: Yes, sir, the City of Norfolk.
2 And it was a criminal case.

3 THE COURT: You said district court. Is that a
4 state court in Virginia, or was it federal district court?

5 PROSPECTIVE JUROR: I believe it was just the
6 state court.

7 THE COURT: And anything about that experience
8 that was negative or that left you with a bad taste in your
9 mouth about jury service?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: Have you heard anything this morning
12 that gives you any worries about whether you could be
13 impartial if you were seated as a member of this jury?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: Thank you, Miss Berry.

16 Good morning again, Miss Young.

17 PROSPECTIVE JUROR: Good morning.

18 THE COURT: Tell us about yourself.

19 PROSPECTIVE JUROR: Kimberly Young. I worked for
20 32 years up in General Dynamics Electric Corporation up in
21 Connecticut. But I'm disabled and retired, so I just kind
22 of don't do much of anything.

23 I have no kids. Divorced twice. That's it.

24 THE COURT: Okay. No prior jury service?

25 PROSPECTIVE JUROR: No. I've been called also but

1 never served.

2 THE COURT: Any worries or concerns that you have
3 based on what little information you have about the case
4 about whether you could be impartial if you were seated?

5 PROSPECTIVE JUROR: No, I have no worries or
6 concerns.

7 THE COURT: Thank you, Miss Young.

8 PROSPECTIVE JUROR: You're welcome.

9 THE COURT: Good morning again, Miss Sandoval.

10 PROSPECTIVE JUROR: Good morning.

11 THE COURT: Tell us about yourself.

12 PROSPECTIVE JUROR: My name is Shelsy Sandoval.

13 I'm currently a server.

14 THE COURT: You're very soft-spoken as well, as I
15 mentioned with Miss Creamer.

16 PROSPECTIVE JUROR: I'm sorry.

17 THE COURT: That's all right. I just need to be
18 able to hear you. That's okay. Speak up.

19 PROSPECTIVE JUROR: My name is Shelsy Sandoval. I
20 am a part-time server, part-time college student at
21 Valencia. No children. Not married. Nothing crazy.

22 THE COURT: Okay. No prior jury service for you?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Now, we spent some time talking with
25 you previously about the fact that you have Chilean

1 heritage and that you have family members that currently
2 live in Chile.

3 Since we had that exchange and now, have you given
4 any thought to whether or not you think that might be a
5 factor that would influence whether you could be fair and
6 impartial if you were seated as a juror?

7 PROSPECTIVE JUROR: Well, I have thought about it,
8 and it will not be an issue.

9 THE COURT: Okay. Thank you, ma'am.

10 PROSPECTIVE JUROR: No problem.

11 THE COURT: Appreciate it.

12 Is it Wetherington?

13 PROSPECTIVE JUROR: Yes. Hi. My name is Ann
14 Marie Wetherington. I am a part-time sales associate for
15 Staples. I'm divorced. I have two children. My son is
16 15, and my daughter is 10.

17 THE COURT: Okay. And no prior jury service for
18 you, Miss Wetherington?

19 PROSPECTIVE JUROR: No.

20 THE COURT: How about you? Anything that you've
21 heard this morning that gives you a worry about your
22 ability to be fair and impartial if you were a member of
23 this jury?

24 PROSPECTIVE JUROR: No, nothing.

25 THE COURT: Thank you, Miss Wetherington.

1 And Mr. -- let's see. Is it MacArthur?

2 PROSPECTIVE JUROR: MacArthur.

3 THE COURT: Yes. Good morning. How are you,
4 Mr. MacArthur?

5 PROSPECTIVE JUROR: Fine.

6 THE COURT: Tell us about yourself.

7 PROSPECTIVE JUROR: Well, I work at vending
8 machines, which is my business. Usually taking care of the
9 house. I live with my parents.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR: So that's pretty much it.

12 THE COURT: All right. And not married, correct?

13 PROSPECTIVE JUROR: Not married.

14 THE COURT: Any prior jury service for you?

15 PROSPECTIVE JUROR: This is the first time.

16 THE COURT: And have you heard anything this
17 morning that gives you any worries about whether or not you
18 could be fair and impartial if you were a member of the
19 jury panel?

20 PROSPECTIVE JUROR: I don't think so.

21 THE COURT: Okay. Thank you, Mr. MacArthur.

22 Good morning again, Mr. Chambers.

23 PROSPECTIVE JUROR: Good morning to you.

24 THE COURT: Tell us about yourself.

25 PROSPECTIVE JUROR: Married. I've got two

1 children, three and one. I'm expecting a third in October.

2 THE COURT: Congratulations.

3 PROSPECTIVE JUROR: Thank you very much.

4 Like I said earlier, I work as a behavior analyst,
5 so I write and implement the programs for children, adults
6 with autism and developmental disabilities.

7 I stay busy. I work about 60-plus hours a week,
8 so I don't have a lot of hobbies.

9 THE COURT: No prior jury service for you?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: Keep that microphone just a second,
12 Mr. Chambers. What about you, anything -- I know you've
13 mentioned that you've got a lot of work responsibilities,
14 which I know is true for many members of the group.

15 But other than your work responsibilities,
16 anything that you've heard this morning that gives you any
17 concerns about whether you could be fair if you were seated
18 as a juror?

19 PROSPECTIVE JUROR: Perhaps I'll just show my
20 ignorance. I was confused. Is this an incident that
21 was -- that occurred 43 years ago in another country by
22 parties that were not U.S. citizens; is that correct?

23 THE COURT: It did happen -- if your math is
24 right -- I haven't done the math. But if your math is
25 right, yes, 43 years ago. It happened in Chile.

1 And it's being brought under a Congressional
2 enactment that's called the Torture Victim Protection Act
3 which is a federal law that gives individuals whose family
4 members have suffered torture or extrajudicial killing at
5 the hands of another in a foreign country the right to
6 bring a claim to the United States District Court.

7 And that's why it is here.

8 PROSPECTIVE JUROR: Okay. Then I do not have
9 anything that would stop me from being a fair juror.

10 THE COURT: Okay. Great. Thank you, sir.

11 Good morning again, Miss Swenson.

12 You can stay seated if it's difficult for you to
13 stand. It's just hard for me to hear you sometimes. I
14 don't want you to be uncomfortable. Just speak up as loud
15 as you can.

16 PROSPECTIVE JUROR: Susan Swenson. I used to work
17 at Dixon Ticonderoga.

18 THE COURT: The pencil people.

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: And what did you do for Dixon?

21 PROSPECTIVE JUROR: I was in accounts receivable
22 and collection and cash application.

23 THE COURT: All right. And are you married
24 presently?

25 PROSPECTIVE JUROR: Yes, I am. Jim works for the

1 City of Orlando.

2 THE COURT: Doing what?

3 PROSPECTIVE JUROR: He's a park supervisor.

4 THE COURT: Okay. And I see that you've got some
5 prior jury experience, it looks like, in state court; is
6 that right?

7 PROSPECTIVE JUROR: County, yeah.

8 THE COURT: And were you actually able to reach a
9 verdict?

10 PROSPECTIVE JUROR: Yes, not guilty on both
11 counts.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR: It was a drunk driving case.

14 THE COURT: All right. And did you hear my
15 explanation about the difference in the burden of proof
16 between a civil and a criminal case?

17 PROSPECTIVE JUROR: Yes, I did.

18 THE COURT: And would you be able to follow my
19 instructions in that regard?

20 PROSPECTIVE JUROR: Yes, I could.

21 THE COURT: Okay. Thank you, ma'am.

22 Have you heard anything this morning that gives
23 you a worry in the back of your mind about whether you
24 could be a fair, neutral decider of the facts if you were
25 seated as a juror?

1 PROSPECTIVE JUROR: No. Huh-uh.

2 THE COURT: Okay. Thank you, Miss Swenson.

3 PROSPECTIVE JUROR: Thank you.

4 THE COURT: Good morning again, Mr. Anderson.

5 PROSPECTIVE JUROR: Good morning. My name is
6 Kameron Anderson. I'm a full-time student at UCF. I'm
7 attending graduate school in August.

8 And I'm currently unemployed. I have no children.
9 And this is my first time serving on a jury.

10 THE COURT: Okay. Great. Thank you,
11 Mr. Anderson.

12 How about you? Have you heard anything that gives
13 you any worries about whether you could be fair or
14 neutral -- neutral decider is a better word than fair.
15 Everybody wants to say they could be fair.

16 What about you? Anything that gives you any, do
17 you have any nagging doubts about whether or not you could
18 give the parties a fair shake and start off with the folks
19 being on a level playing field?

20 PROSPECTIVE JUROR: I think I can be neutral.

21 THE COURT: Okay. Great. Thank you,
22 Mr. Anderson.

23 Good morning again, Mr. Marks. You've told us a
24 lot about yourself already. Anything new that you want to
25 add?

1 PROSPECTIVE JUROR: Just my wife is a teacher.
2 She teaches first grade at Old Kings Elementary in Flagler
3 County. We live over in Flagler Beach. And I have a
4 5-year-old and an 8-year-old. That's all.

5 I guess I'll be neutral.

6 THE COURT: Thank you, sir.

7 Good morning, Miss Laudner.

8 PROSPECTIVE JUROR: Good morning. My name is
9 Theresa Laudner. I was a stay-at-home mom for about
10 12 years. I just recently went back to work to Insurance
11 Office of America. I work part time. I have a 12-year-old
12 boy and a 10-year-old little girl.

13 THE COURT: I know that you're in the middle of
14 these divorce proceedings, which I'm sure is not
15 pleasant --

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: -- and a distraction. You've told us
18 about your scheduling issue next week.

19 Other than those things, is there anything that
20 you've heard about the facts or the summary that I've given
21 you about the case that makes you worry that this perhaps
22 is not a good case for you in terms of being neutral, in
23 terms of --

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: -- deciding who should win or lose?

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: Thank you, ma'am.

3 PROSPECTIVE JUROR: Thank you.

4 THE COURT: Hi, Miss Soto. I think you told us
5 already that you have some concerns about whether or not
6 you think you could be neutral. Let's start with that. Is
7 that true?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Okay. I appreciate that. And I
10 appreciate your candor in that.

11 Tell me just a little bit about what you do for a
12 living; and if you're married, what does your spouse do?

13 PROSPECTIVE JUROR: My name is Maria Soto. I'm a
14 high school teacher. I teach Spanish. I've been teaching
15 close to 15 years. I'm single. No children.

16 THE COURT: Thank you, ma'am.

17 Good morning again, Mr. Chen.

18 PROSPECTIVE JUROR: Good morning.

19 THE COURT: Tell us about yourself.

20 PROSPECTIVE JUROR: My name is Yong Chen. I am a
21 physician. I work for the Department of Veteran Affairs.

22 THE COURT: Can you speak directly into the mic?

23 PROSPECTIVE JUROR: My name is Yong Chen. I'm a
24 physician. I work at the Department of Veteran Affairs
25 where I take care of employees.

1 My wife stays at home, and she take care of kids.
2 I have two daughters, 14 and 13. My son is 10.

3 THE COURT: What's your area of specialty?

4 PROSPECTIVE JUROR: Employee health.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR: And I take care of injured
7 employees, their other medical needs.

8 THE COURT: Do you actually office at the V.A.
9 Hospital here?

10 PROSPECTIVE JUROR: Lake Nona.

11 THE COURT: Lake Nona. Yes. Okay. Great.
12 No prior jury service for you, Dr. Chen?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Is there anything that you've heard
15 this morning that makes you concerned about your ability to
16 be a neutral decider if you were part of the jury in this
17 case?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Okay. Thank you, Dr. Chen.
20 Good morning. Is it Stokes?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Good morning, Mr. Stokes. How are
23 you?

24 PROSPECTIVE JUROR: I'm doing well. Thanks.

25 THE COURT: Tell us about yourself, please.

1 PROSPECTIVE JUROR: I am a project manager for an
2 electrical distribution company. Married 18 years. My
3 wife is in the healthcare field.

4 She works with people with autism and Asperger's.
5 I have two kids; two girls, 14 and 9.

6 THE COURT: Okay. You don't know if there's any
7 connection -- Mr. Chambers, does the Stokes name ring a
8 bell at all? You guys are kind of in the same --

9 PROSPECTIVE JUROR: Not that I'm aware of.

10 THE COURT: Okay. Anything you've heard this
11 morning, Mr. Stokes, that gives you any worries or concerns
12 about whether you could be a neutral decider of the facts
13 in this case if you were part of the jury?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: You've not had prior jury service,
16 correct?

17 PROSPECTIVE JUROR: Only called.

18 THE COURT: Okay. Great. Thank you, Mr. Stokes.

19 PROSPECTIVE JUROR: Thank you.

20 THE COURT: Good morning again, Miss Camick.

21 PROSPECTIVE JUROR: Good morning.

22 THE COURT: Tell us about yourself.

23 PROSPECTIVE JUROR: Florence Camick. I am
24 currently a student at Georgia Tech for industrial design.
25 Never married. And I can't think of anything else.

1 THE COURT: Okay. How about the question I've
2 been asking to a lot of your colleagues? Did anything come
3 up in the course of our exchange this morning or my little
4 summary of the facts, what little you know about the case
5 that's giving you any worries about whether you could be,
6 you could start the parties off on a level playing field
7 and be a neutral decider of the facts if you were called
8 upon to do that?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: Great. Thank you, ma'am.

11 And, Miss Evans, good morning again.

12 PROSPECTIVE JUROR: Good morning. I'm Katherine
13 Evans. I'm a nail technician. I have been since --

14 THE COURT: Can you speak up just a bit? You're
15 soft-spoken as well.

16 PROSPECTIVE JUROR: I'm Katherine Evans. I'm a
17 nail technician. I have been since 1994. I have three
18 kids, 17, 14, and 7.

19 THE COURT: Any prior jury service for you?

20 PROSPECTIVE JUROR: No, sir.

21 THE COURT: All right. Is there anything that --
22 I see here, well, we talked a little bit already about your
23 claims experience. You told us about that.

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Anything about the facts or the

1 summary that I've given you about the case that gives you a
2 worry about your ability to be a neutral decider if you
3 were part of the jury?

4 PROSPECTIVE JUROR: It does. I am a highly
5 sensitive person. So the description that you gave, that
6 even bothers me.

7 THE COURT: Okay. Because there may be some
8 evidence that's difficult for you to handle?

9 PROSPECTIVE JUROR: Absolutely.

10 THE COURT: All right. And do you think that
11 would make it hard for you to evaluate the position of the
12 parties and make a decision about who should prevail?

13 PROSPECTIVE JUROR: Absolutely.

14 THE COURT: All right. Thank you, Miss Evans.

15 Mr. Rahal, you had something you wanted to talk to
16 me in private. Why don't you come down and let me ask the
17 lawyers to meet me at sidebar here, and we'll take that up.

18 (Discussion at sidebar on the record.)

19 THE COURT: Come on around here in the back. This
20 is where the microphone is.

21 PROSPECTIVE JUROR: Okay. So when I was in the
22 military --

23 THE COURT: Let me give these guys a chance to get
24 here so they can all hear you.

25 PROSPECTIVE JUROR: When I was in the military, I

1 was recon for air missile. So we were given specific
2 instructions what we would do with them. I would get
3 information out of them.

4 I was a team lead. I had to give it to my
5 teammates. It wasn't pleasant. I don't know if I could
6 be -- as far as from what you told me about the case, I
7 could see the resemblance, and I don't know if I could be
8 impartial.

9 THE COURT: You had interrogation
10 responsibilities?

11 PROSPECTIVE JUROR: If we were given specific
12 instructions what we do if we had hostages. I had to give
13 the information to my teammates. Specifically they were
14 found in my leadership. So they were doing what I told
15 them.

16 So it would be, in essence, if they did something
17 wrong, they would just say they followed my rule. If I was
18 given rules -- so it wasn't really my rule because I was
19 just following orders.

20 THE COURT: That's good insight. Because I
21 suspect it may come up in this case. I don't know what the
22 defense will be. But I suspect there may be at least some
23 argument that whatever transpired in Chile was a result of
24 orders that were not able to be countermanded, and the
25 people did what they were required to do.

1 I don't know that that's the case. I suspect it
2 may be. Do you feel like it would be tough for you to
3 evaluate that in light of your experience?

4 PROSPECTIVE JUROR: I think that I would overcome
5 the fact because it was an order that was given, so I don't
6 think personal responsibility would be an actual issue.
7 Because I don't think following orders should be personal
8 responsibility but the person giving the order. They were
9 just following orders.

10 THE COURT: Fair enough. Anything you want to add
11 or ask? You need to come up to the microphone.

12 MR. BECKETT: A prospective juror said it was
13 unpleasant. You were saying that the interrogation was
14 unpleasant?

15 PROSPECTIVE JUROR: The techniques. It was not
16 something I was comfortable with.

17 MR. BECKETT: Some of these were physical
18 techniques?

19 PROSPECTIVE JUROR: Physical, mental, of course,
20 for the purposes --

21 MR. BECKETT: You would supervise people using
22 these techniques?

23 PROSPECTIVE JUROR: It was an order I was giving.
24 I wouldn't be able to distinguish between something I could
25 do --

1 THE COURT: She can't hear you. You have to speak
2 into the microphone, or there will be no record.

3 MR. DELLINGER: Would the techniques include
4 killing?

5 PROSPECTIVE JUROR: There wasn't an end course.
6 So it wasn't like, you know -- there wasn't no stop point
7 until we felt we got all the information we needed.

8 MR. DELLINGER: So it would include --

9 PROSPECTIVE JUROR: It never got to that so --

10 MR. BECKETT: You would have inflicted physical
11 pain on people to get the information you needed, correct?

12 PROSPECTIVE JUROR: Yes.

13 MR. DELLINGER: Given that history, do you think
14 you'd have a hard time considering the facts of this case
15 given your training and your background?

16 PROSPECTIVE JUROR: I think my bias would be
17 towards, would be an example of it. I don't know what
18 happened. I mean, I'm just going by the information you
19 gave me. I think knowing that somebody gave that order and
20 he or she was given that order I would not think personal
21 responsibility would be an issue.

22 MR. DELLINGER: So you would come in with a bias
23 in favor of one of the parties?

24 PROSPECTIVE JUROR: Yeah, being that it wasn't
25 their responsibility to distinguish between right and

1 wrong.

2 MR. DELLINGER: Okay.

3 THE COURT: Thank you, Mr. Rahal.

4 MR. CALDERON: If you were given an instruction
5 with regards to where responsibility -- how responsibility
6 was to be determined, would you follow that instruction and
7 put aside your personal beliefs?

8 PROSPECTIVE JUROR: I don't understand the
9 question.

10 MR. CALDERON: So if you were given an instruction
11 of basically what responsibility means and when it's
12 applied by the judge, would you follow that instruction or
13 do you think you'd bring in your personal beliefs?

14 PROSPECTIVE JUROR: I think I'm biased. I mean,
15 it's hard. I'm sorry. I'm just being honest.

16 THE COURT: Thank you, Mr. Rahal. You can go back
17 to your seat. I'll have the lawyers stay here.

18 PROSPECTIVE JUROR: Thank you.

19 THE COURT: I'll be right back with you.

20 (End of discussion at sidebar.)

21 THE COURT: All right. Ladies and gentlemen, I
22 need to talk with the lawyers for just a moment. So we're
23 going to do what you've all been taught not to do is
24 whisper in your presence because it will be a little bit
25 more efficient.

1 But feel free to stand and stretch. Loosen up if
2 you want. I'll be back with you shortly. But if you can
3 do me a favor and not talk, that will help us be able to
4 hear one another over here. I'll be back with you shortly.

5 (Discussion at sidebar on the record.)

6 THE COURT: Okay. A couple of ground rules. The
7 reason I'm on you all about speaking into the microphone is
8 that it's up to you if you want to have a record. My
9 responsibility is to do the best I can. But if I have to
10 continue to admonish you to speak into the microphone, the
11 absence of a record is on you, not on me. Okay?

12 MR. BECKETT: Understood.

13 THE COURT: Use the microphone. We need it. The
14 court reporter cannot hear what you're saying.

15 The other thing is one lawyer per issue. No tag
16 teams. Whoever's lawyer is the witness, whoever handles
17 the voir dire handles the voir dire. Those are the ground
18 rules.

19 All of you understand that?

20 Yes. Great.

21 Let's talk about, let me hear from the plaintiffs,
22 first, on whether you have topics you want me to cover or
23 whether you have individual -- let's talk about topics
24 first.

25 Any topics you want me to cover with the panel I

1 have not gone over?

2 MR. BECKETT: Did Your Honor look at some of the
3 questions we suggested for voir dire?

4 THE COURT: I did. And I included a number of
5 those.

6 MR. BECKETT: Okay. We have some individual
7 follow-up, but I don't think we have any other general
8 questions.

9 THE COURT: Okay. You all look at your notes.
10 And I'll get back to you on the individual follow-up.

11 What about from the defense perspective? Any
12 topics that you want me to cover, Mr. Calderon?

13 MR. CALDERON: No, Your Honor. We had some
14 specific questions. But we can come back to that at the
15 end.

16 THE COURT: Okay. All right. Let me hear from
17 the plaintiffs, then, about individuals you want me to
18 follow up with.

19 MR. DELLINGER: May I speak?

20 THE COURT: Are you going to handle the voir dire?

21 MR. BECKETT: Go ahead.

22 MR. DELLINGER: Number 5 shook her head when
23 she -- when you described the TVPA. We'd like to ask you
24 to have a private follow-up question with her about whether
25 she had a concern about the Torture Victim Protection Act.

1 Follow up with her in private, not in front of the panel.

2 I think you covered Number 6.

3 Number 15, she had a grandfather who served in
4 Chile. We want to know the period in which he served, the
5 time frame that he served.

6 And she mentioned that she was recently in Chile.
7 So we want to know what city she is from, what city she is
8 from in Chile.

9 Number 18, from looking at 18's responses to the
10 individual questions, it caused us some concern that he may
11 have problems focusing on the evidence. If you look at his
12 questions, they are very short. And there's lots of errors
13 in the responses.

14 I'd like to have a follow-up question on whether
15 or not he has any problems, privately, focusing,
16 understanding, reading and writing.

17 Number 24, Miss Soto, she was asked a lot of
18 questions about whether she can be fair or not. We'd like
19 to follow up --

20 THE COURT: We don't need to spend any more time
21 on Miss Soto.

22 MR. DELLINGER: She can go home?

23 THE COURT: I don't know how she can possibly be
24 rehabilitated. Obviously I'll let Mr. Calderon speak to
25 that if he wants to be heard. I'm not going to spend any

1 more time on Miss Soto. I'm concerned about that.

2 MR. DELLINGER: We'd obviously like to try to
3 rehabilitate her if possible.

4 THE COURT: Not possible.

5 MR. DELLINGER: Okay. 19.

6 THE COURT: Yes.

7 MR. DELLINGER: We think there may have been
8 interaction in the hotel with one of the daughters this
9 morning.

10 MR. BECKETT: One of the experts.

11 MR. DELLINGER: One of the experts. I'm sorry.
12 At the Residence Inn this morning. That's what one of the
13 experts is telling us. A negative interaction between one
14 of our witnesses and him.

15 So we want to see -- do you know the name of the
16 expert?

17 Monica Gonzalez. He wouldn't know the name. But
18 we think there may have been a negative interaction with
19 the hotel. She identified -- she's here. And she thinks
20 she interacted with him in a negative way this morning.

21 THE COURT: Is he staying at the hotel?

22 MR. DELLINGER: Yes. He would have been at the
23 Residence Inn.

24 Okay. That's it.

25 THE COURT: Okay. Mr. Landers? Yes, sir.

1 Individual jurors you want me to follow up with?

2 MR. LANDERS: Judge, just as to Juror 15, the
3 plaintiff has already asked for some follow-up questions.
4 As far as just the name Victor Jara, also, if she's ever
5 heard that name before and has any knowledge based on the
6 information reports --

7 THE COURT: Okay.

8 MR. LANDERS: -- about his lifetime and his career
9 prior to his death.

10 THE COURT: Okay.

11 MR. DELLINGER: The stadium is now called Victor
12 Jara Stadium. It's hard to believe she wouldn't have heard
13 it. We'll find out.

14 MR. LANDERS: And also the same question as to
15 Jurors 19, 21, and 22 as to their -- as far as the TVPA and
16 whether it applies in the United States because people out
17 of the country, what triggered that essentially, why they
18 were curious about that.

19 THE COURT: The only one that asked that question
20 was Mr. Chambers. Did they react to Mr. Chambers?

21 MR. LANDERS: Yes, I did. I noticed -- I don't
22 know if the Court noticed, but Juror Number 21 and Juror
23 Number 22 did seem to have an off-record conversation after
24 he asked that question.

25 THE COURT: Okay.

1 MR. LANDERS: And that is all from the defense.

2 THE COURT: All right. So you want me to follow
3 up privately with Juror Number 5, Miss Barnes. And you
4 want me to follow-up privately with Juror Number 18,
5 Mr. MacArthur. And you want me to follow up privately with
6 Mr. Chambers. Correct?

7 Any other jurors you want me to talk to privately?

8 MR. DELLINGER: 15, the young lady from Chile.

9 THE COURT: Why does that have to be in private?

10 MR. DELLINGER: It can be done in front of the
11 group. Yes, Your Honor.

12 THE COURT: Okay. I just want to get -- while you
13 all are up here, I want to take care of the private
14 conferences. So let me get started, then, with that.

15 MR. DELLINGER: Thank you.

16 (End of discussion at sidebar.)

17 THE COURT: Let's see. A couple of you I'm going
18 to call up here just because I've got to ask you a couple
19 of questions. It might be easier to do it in private.

20 Let's see. Miss Barnes in the back row.

21 Miss Barnes, could you come up for just a minute?

22 Come on around over here. Yes, ma'am.

23 (Discussion at sidebar on the record.)

24 THE COURT: We don't mean for it to be
25 intimidating or imposing --

1 PROSPECTIVE JUROR: Not at all.

2 THE COURT: -- but it just works out that way.

3 Right here because we have a microphone.

4 And let's see. Mr. Dellinger, you wanted me to
5 follow up with Miss Barnes. You want me to ask the
6 question?

7 MR. DELLINGER: The judge gave some instruction
8 about the Torture Victim Protection Act.

9 PROSPECTIVE JUROR: Uh-huh.

10 MR. DELLINGER: We thought we saw a reaction from
11 you when he was discussing it.

12 PROSPECTIVE JUROR: It made me a little squeamish.

13 THE COURT: How so?

14 PROSPECTIVE JUROR: Will there be any pictures and
15 things like that that we might have to witness? I have a
16 very nervous stomach and kind of squeamish.

17 THE COURT: Sure. There may be some difficult
18 evidence for you to look at. And I think the question I
19 need to ask you is, recognizing there may be some difficult
20 evidence, would you be able to look at that?

21 Oftentimes these types of cases can't proceed
22 without the jurors looking at the evidence. Difficult as
23 it may be to see, would you be able to look at the evidence
24 and evaluate it?

25 Obviously we want you to pay attention to the

1 evidence, and we want you to also keep an open mind until
2 everything is finished and then make a decision as to how
3 the case ought to come out.

4 Do you think you could do that?

5 PROSPECTIVE JUROR: I don't know if I can. I do
6 have an issue with that kind of thing. I'm sorry.

7 THE COURT: No, don't be sorry. That's why we
8 have you here to tell us about it. Let me find out from
9 the lawyers.

10 What do you think? You all know the evidence
11 better than I do. Is the evidence likely to be --

12 MR. CALDERON: There are some reports from the
13 exhumation of the body. There are pretty graphic
14 descriptions about the actual torture.

15 THE COURT: Okay.

16 MR. CALDERON: So with that in mind, I think that
17 falls into the category of what this juror is concerned
18 with.

19 THE COURT: Do you think that would make it hard
20 for you to participate?

21 PROSPECTIVE JUROR: I do.

22 THE COURT: Okay. All right. Thank you.

23 Do you want to ask any questions?

24 MR. DELLINGER: No follow-up questions.

25 PROSPECTIVE JUROR: Go back to my seat?

1 THE COURT: Yes. Thank you. You can go back to
2 your seat.

3 (End of discussion at sidebar.)

4 THE COURT: And let's see. Let me just do these
5 in order. I think -- Miss Sandoval, could you come up for
6 a minute? We might as well do this here.

7 (Discussion at sidebar on the record.)

8 THE COURT: Come on up, Miss Sandoval. I need to
9 get you close to the microphone.

10 I want to follow up and ask you a few things about
11 your experiences in Chile when you were there last time.
12 Tell me, what city or cities did you visit?

13 PROSPECTIVE JUROR: I actually lived in San Jose
14 de Maipo, which is a little bit out of Santiago up in the
15 mountain range. My parents have a business there.

16 I worked for my parents for six months while I was
17 there, helping with the business basically.

18 And then what else did I do there? All I did was
19 work. I didn't really go out or anything.

20 THE COURT: Did you stay there in that location?

21 PROSPECTIVE JUROR: Yes, I stayed in that
22 location. I was there -- my father did have open heart
23 surgery. One of the main reasons I stayed was to help out.

24 We did travel to -- I can't remember where it
25 was -- to his hospital where he was hospitalized for the

1 three, four weeks. But it was in -- a little bit out of
2 Santiago. Clinica Santa Maria is the clinic he stayed at.

3 My parents own a business. They own another
4 company, which is a German company, I believe. They
5 provided housing, things like that.

6 THE COURT: How about the name Victor Jara, do you
7 recognize that, know anything about Mr. Jara?

8 PROSPECTIVE JUROR: No.

9 THE COURT: The stadium, I'm told by the lawyers,
10 where this execution allegedly took place -- I don't guess
11 there is any allegedly about the fact the execution took
12 place. Where this execution took place, I guess, now is
13 known as the Victor Jara Stadium.

14 What stadium is this?

15 MR. DELLINGER: It's in Santiago.

16 PROSPECTIVE JUROR: I didn't know it was called
17 that. That would make sense. I have seen the National
18 Stadium. They just called it the National Stadium.

19 THE COURT: But you don't know anything about
20 Victor Jara?

21 PROSPECTIVE JUROR: I don't know.

22 THE COURT: Anything about his life or works or
23 anything like that?

24 PROSPECTIVE JUROR: I do know about Pinochet and
25 President Allende. I should have mentioned that my father

1 was a sniper for the Chilean Government.

2 He was also a Marine. It took place years ago.
3 He was like 18, 19 when he joined. My father is turning 60
4 this year.

5 THE COURT: And you mentioned that. Tell me a
6 little bit about your father's service with the Chilean
7 Army.

8 PROSPECTIVE JUROR: He didn't do it for long. It
9 was maybe five, six years. After that he met my mother.
10 He left the Marines, decided to live the normal life. He
11 decided to become a bus driver.

12 My mom then had my -- they got married, had my two
13 sisters. And then they decided to come to the States to
14 try a better lifestyle.

15 As of five years ago, my father was deported. My
16 mom has her green card. She -- Mom has to come back every
17 three months due to her green card situation. My father
18 cannot come back into the States. Hopefully this year --
19 hopefully next year he can reapply for citizenship.

20 THE COURT: Was he deported as a result of illegal
21 entry?

22 PROSPECTIVE JUROR: Yes, but he was in the process
23 of getting his green card. And it turns out, when he is
24 getting his license here in the State of Florida, they
25 asked him if he would ever vote. And he said yes.

1 I mean, obviously if he had the chance to or if he
2 was an American citizen, they would have. They asked him
3 if he would vote. He said he would. And then that being a
4 main issue on why he could not get his green card here or
5 in the States for that matter.

6 THE COURT: So I'm puzzled about that. Let me ask
7 you a few things in follow-up. Where did this happen? Do
8 you know?

9 PROSPECTIVE JUROR: Here in the State of Florida.

10 THE COURT: Here in Florida?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: And your father was, was he prosecuted
13 for making a false statement?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Or attempts -- he was prosecuted for
16 making a false statement?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: So Immigration and Customs Enforcement
19 prosecuted him and deported him?

20 PROSPECTIVE JUROR: Yes. They give him the option
21 of leaving on his own terms or leaving forcefully by a
22 month's worth. He decided to leave on his own terms.

23 So at the time, being I was 17 and it was child
24 abandonment. So I had to move over there with them. I had
25 to live over there with my mom and dad and me. There were

1 six girls. Five of them stayed here.

2 After that, once I turned 18 around January, I had
3 to -- I moved back to Florida where I finished my high
4 school diploma, and I was able to finish my studies and
5 keep living here.

6 THE COURT: Okay. Let me back up a generation for
7 a minute and talk about your grandfather. What do you know
8 about what your grandfather did as far as his military
9 service?

10 PROSPECTIVE JUROR: All I know is that he was a
11 sergeant. I can tell you stories on stories. We're not
12 going to get into that. All I know is he was a sergeant.
13 He was stationed in Santiago. They moved him in San Jose
14 where my father was later on placed. His name was Sergio
15 Sandoval.

16 I'm just trying to think of whatever I can think
17 of.

18 THE COURT: What involvement, if any, do you know
19 did he have in the coup d'etat in terms of the government
20 transition from President Allende to Pinochet?

21 PROSPECTIVE JUROR: All I know, he was pro
22 Pinochet just because of the incidents that happened after
23 that by what history tells where Pinochet took over the
24 country.

25 That's all I know really.

1 THE COURT: Okay. And I don't mean to be --

2 PROSPECTIVE JUROR: Please go right ahead.

3 THE COURT: I know you just said you don't know.

4 Let me make sure you don't know. You said he was pro
5 Pinochet.

6 Do you know if he had any military
7 responsibilities in connection with Pinochet regime at the
8 time that the transition from President Allende to
9 Pinochet, as a result of the coup that took place?

10 PROSPECTIVE JUROR: I wouldn't really know about
11 that. Not too long ago there was a movie released. I
12 don't remember what it was called. Something about the
13 whole Pinochet/President Allende time. I'm trying to brush
14 up on my history, being the fact I'm a Chilean descendent.
15 I did watch that movie. And I didn't find it to be
16 anything like what people say.

17 Because, like I say, I did live there for
18 six months. One of the big things that always comes up
19 again is Pinochet/President Allende. It's a constant thing
20 that comes up. Everyone has different views on it.
21 Everyone. You'll never find the same two views on it.

22 THE COURT: Let me ask you this question.
23 Sometimes I call it my Thanksgiving table question. But
24 your parents live in Chile?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: And I'm sure you have family
2 gatherings from time to time.

3 PROSPECTIVE JUROR: We do.

4 THE COURT: If you were to sit as a juror in this
5 case, and if you were -- after listening to all the
6 evidence, if you were to find that you believe that
7 Mr. Jara had been executed and tortured by Mr. Nunez or at
8 his direction and you went -- you found in favor of the
9 plaintiffs, you went back to Chile to a family gathering
10 and described the case and your role in it, do you think
11 that would make you uncomfortable, or would it be an
12 awkward situation with your parents?

13 PROSPECTIVE JUROR: It wouldn't be an awkward
14 situation considering the fact that my parents are open on
15 the whole political views of everyone.

16 But like I said, everyone has different views on
17 everything. And our family is very known for having
18 different views on everything. So everyone is more than
19 welcome to give their views on what happened and their
20 history and everything. But no one ever really judges or
21 makes anything uncomfortable.

22 THE COURT: Here's the reason I ask that question,
23 is because I would not want -- none of the parties would
24 want, and I certainly would not want you to be back in the
25 jury room deliberating and, as you're trying to decide it,

1 in the back of your mind thinking, you know, my dad would
2 not be happy with this outcome.

3 PROSPECTIVE JUROR: I understand.

4 THE COURT: My grandfather would not be happy with
5 this outcome. Or my father would be happy with this
6 outcome. My grandfather would be happy with this outcome.
7 Because that would be unfair.

8 PROSPECTIVE JUROR: Correct.

9 THE COURT: So can you appreciate the fact that
10 would be unfair?

11 PROSPECTIVE JUROR: I can appreciate that. And I
12 can completely understand where the lawyers are coming
13 from.

14 THE COURT: And what do you think? Do you think
15 that might flicker across your mind?

16 PROSPECTIVE JUROR: No. I mean, I'm going to be
17 very honest with you. I'm a very liberal person. I don't
18 take into effect other people's opinions. I will listen to
19 them, but I do not take them. So I don't think it will
20 affect my decision-making or when we're back in the room
21 deciding things.

22 THE COURT: Okay.

23 Mr. Dellinger, do you have any follow-up questions
24 you want to ask?

25 MR. DELLINGER: Do you know what years your

1 grandfather was in the service?

2 PROSPECTIVE JUROR: No. All I know is that he
3 died while serving.

4 MR. DELLINGER: He died while in service?

5 PROSPECTIVE JUROR: Yes.

6 MR. DELLINGER: Do you know what year that was?

7 PROSPECTIVE JUROR: I believe it was 1982, if my
8 math is correct. We're going to go with 1982.

9 MR. DELLINGER: He was in Santiago during the
10 coup?

11 PROSPECTIVE JUROR: It must have been Santiago
12 because he never moved from Santiago to San Jose.

13 MR. DELLINGER: Given the -- was his age
14 similar -- does he appear to be a similar age as the man
15 seated at the defense table?

16 PROSPECTIVE JUROR: The man at the defense table
17 looks to be at the age of my father, not of my grandfather.

18 MR. DELLINGER: Do you think you'd have -- given
19 that the man at the defense table was also in the military
20 like your father, do you think you'd have a hard time kind
21 of making a decision close in time, it was, they were both
22 in the military?

23 PROSPECTIVE JUROR: I will tell you right now he
24 looks a lot like my father. I'm not going to lie. It's
25 the Chilean thing. It's the Chilean backgrounds. When you

1 look older, everyone looks the same, unfortunately.

2 But it will not change my mindset on anything.
3 Evidence will be evidence. And that will be my playing
4 field.

5 MR. DELLINGER: Okay.

6 MR. LANDERS: What was the name of the documentary
7 or movie that you said you recently watched regarding what
8 happened in Chile?

9 PROSPECTIVE JUROR: Man, I watched it like
10 three weeks ago.

11 THE COURT: If you remember.

12 PROSPECTIVE JUROR: I don't. It was a -- it was
13 about like a camp where people went type thing.

14 MR. LANDERS: Was it called "The Killing of Victor
15 Jara"?

16 PROSPECTIVE JUROR: No. I would remember the name
17 Victor Jara, but no.

18 THE COURT: Thank you, ma'am. You can go back to
19 your seat.

20 PROSPECTIVE JUROR: No problem.

21 (End of discussion at sidebar.)

22 THE COURT: Mr. MacArthur, can we see you for just
23 a minute over here?

24 PROSPECTIVE JUROR: Sure.

25 THE COURT: Thanks.

1 (Discussion at sidebar on the record.)

2 THE COURT: Come on over. Step right up to the
3 microphone here. I just want to ask you a couple of
4 questions.

5 PROSPECTIVE JUROR: Sure.

6 THE COURT: In looking at your form, I couldn't
7 tell whether or not you were just not particularly
8 interested in filling it out or whether you were struggling
9 to some extent.

10 PROSPECTIVE JUROR: I was a little bit struggling.

11 THE COURT: Okay. Tell me a little bit about your
12 struggle? Do you have a hard time with reading or writing?

13 PROSPECTIVE JUROR: I have trouble with writing,
14 but I can read.

15 THE COURT: Okay. Just educate me a little bit.
16 And, again, I'm not trying to embarrass you. Tell me about
17 your struggles with writing.

18 PROSPECTIVE JUROR: Well, you see I home school.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: I mean, I'm still trying to
21 learn math.

22 THE COURT: Okay. And are your parents still home
23 schooling you?

24 PROSPECTIVE JUROR: Yeah.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR: Yeah. I usually take care of
2 my mother.

3 THE COURT: Right. And do you think that the
4 problems with writing, does that make it hard for you to --
5 do you have any trouble in terms of listening to
6 information and processing information?

7 PROSPECTIVE JUROR: A little bit, yeah.

8 THE COURT: Have you gotten -- do you see anybody
9 for any sort of developmental work or help tutoring or
10 trying to improve your skills, things of that?

11 PROSPECTIVE JUROR: I'm trying to improve my
12 skills.

13 THE COURT: Are you doing that yourself, or are
14 you seeing somebody for that?

15 PROSPECTIVE JUROR: I'm doing it myself.

16 THE COURT: As you've been in here this morning,
17 do you feel like you've been able to follow what's been
18 going on?

19 PROSPECTIVE JUROR: I think so.

20 THE COURT: Is it -- do you feel like it's a
21 challenge for you?

22 PROSPECTIVE JUROR: No.

23 THE COURT: No?

24 PROSPECTIVE JUROR: No. I can do this.

25 THE COURT: Okay. Other than having problems with

1 writing, and you mentioned that you're working on your math
2 skills, anything else that you feel like is a -- you know,
3 something that you struggle with from a communication or
4 educational standpoint?

5 PROSPECTIVE JUROR: No, I think I have no problem
6 with that.

7 THE COURT: Remind me, how old are you,
8 Mr. MacArthur?

9 PROSPECTIVE JUROR: Twenty-four.

10 THE COURT: Twenty-four. Were you home schooled
11 throughout?

12 PROSPECTIVE JUROR: Yeah.

13 THE COURT: And I know you've told me all this. I
14 apologize. But remind me, what do you do for a living? Do
15 you work at all?

16 PROSPECTIVE JUROR: Actually own a vending machine
17 business.

18 THE COURT: Okay. And do you do the pickup and
19 delivery and stocking of those machines?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: And do you own the machines?

22 PROSPECTIVE JUROR: Mostly, yes.

23 THE COURT: How many vending machines do you have?

24 PROSPECTIVE JUROR: I have three. It's in
25 Jacksonville.

1 THE COURT: Okay. What locations are those?

2 PROSPECTIVE JUROR: American Support. Of course,
3 now it's called Bernard. It's a company. My dad works
4 there. He actually got this idea I should get a job
5 working vending machines.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: And I do like the job.

8 THE COURT: Okay. Is there any paperwork
9 associated with the job?

10 PROSPECTIVE JUROR: I don't think so.

11 THE COURT: What do you do with the receipts? For
12 instance, when you get the money out of the machines, what
13 do you do with it?

14 PROSPECTIVE JUROR: I turn it in to the bank.

15 THE COURT: All right. Do you fill out the bank
16 deposit slips?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Okay. Are you able to do that?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Are you able to add up the money in
21 the machine and write the number down on the deposit slip?

22 PROSPECTIVE JUROR: Yes. Well, we don't have a
23 handheld device yet. We don't have a swipe card machine
24 yet.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR: We're just using cash.

2 THE COURT: Okay. So are you able to count the
3 cash without difficulty?

4 PROSPECTIVE JUROR: Yeah, I can count it.

5 THE COURT: Do you write the total on the deposit
6 slip?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Okay. So the banking transactions are
9 manageable for you?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Okay. And what about any other kinds
12 of reports? Do you have to file any reports for -- with
13 the City or with the County or with the State?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Do you have to get a license for your
16 machines?

17 PROSPECTIVE JUROR: I don't know. I mean, this is
18 a new thing for me.

19 THE COURT: Did your dad take care of that?

20 PROSPECTIVE JUROR: Yeah.

21 THE COURT: Did your dad buy the machines?

22 PROSPECTIVE JUROR: Yeah, he does.

23 THE COURT: Did he decide where to put them?

24 PROSPECTIVE JUROR: Yeah.

25 THE COURT: Does he help you with the business?

1 PROSPECTIVE JUROR: He helps me. So does my
2 mother.

3 THE COURT: Okay. They kind of look over what you
4 do and make sure everything is done right?

5 PROSPECTIVE JUROR: Yeah.

6 THE COURT: Okay.

7 Mr. Dellinger?

8 MR. DELLINGER: We probably have about
9 50 different exhibits that we're going to be going through
10 as evidence.

11 PROSPECTIVE JUROR: Okay.

12 THE COURT: Would you have any concerns about
13 going over that many documents and your ability to focus
14 over the course of two weeks going through documents and
15 listening to and reading 50 exhibits and understanding
16 them?

17 PROSPECTIVE JUROR: Yeah, I think so. I read
18 books.

19 THE COURT: Right. Okay. Some of the technical
20 stuff might be difficult for you, you think?

21 PROSPECTIVE JUROR: A little bit. But I think
22 I'll manage.

23 THE COURT: Okay.

24 Mr. Landers, do you want to ask Mr. MacArthur a
25 question?

1 Thanks for your patience with us.

2 PROSPECTIVE JUROR: No problem.

3 MR. LANDERS: No questions, Judge.

4 THE COURT: Okay. Great. Thanks, Mr. MacArthur.

5 (End of discussion at sidebar.)

6 THE COURT: Mr. Chambers, could we see you for
7 just a minute.

8 (Discussion at sidebar on the record.)

9 PROSPECTIVE JUROR: Hello, everyone.

10 THE COURT: How are you?

11 PROSPECTIVE JUROR: Good, sir.

12 THE COURT: The lawyers mentioned that you may
13 have had an encounter with one of their witnesses at the
14 Residence Inn this morning. You may not have known that
15 she had any connection with this case.

16 Does that ring a bell? Are you staying at the
17 Residence Inn?

18 PROSPECTIVE JUROR: No. You might have mistaken
19 me for someone else then. I live in Mount Dora. I drove
20 in this morning.

21 THE COURT: It's not a trick question. You didn't
22 stay at the Residence Inn?

23 PROSPECTIVE JUROR: Must have been mistaken.

24 THE COURT: We just wanted to clear that up.

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: While I have you up here, I wanted to
2 ask one other thing. I know you asked a question about the
3 length of time and the fact that it happened in a foreign
4 country.

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: And I gave you an explanation which I
7 hope answered your question. But the lawyers had a --
8 concerns about where did that question come from.

9 Can you elaborate on that a little bit?

10 Just talk into the microphone. They'll listen.

11 PROSPECTIVE JUROR: Who should I direct it to?

12 Well, my question was just more out of -- I mean,
13 I certainly wouldn't expect we wouldn't be hearing this
14 case if we shouldn't be hearing this case here in America.
15 I just didn't understand why we were hearing that case if
16 it was related to incidents decades ago in another country
17 by another country's citizens.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR: And that was the concern.

20 THE COURT: Well, I don't want to speak for the
21 lawyers, but I think a natural concern might be that that
22 question might spring from a notion that that's not
23 appropriate, why are you taking up my time to hear
24 something that's 43 years ago from citizens of another
25 country.

1 And I just want to -- I want to visit with you
2 about that candidly.

3 PROSPECTIVE JUROR: Sure. And I just, I mean, I
4 always assume ignorance on my part first because I
5 understand there's a lot I just don't know in general.

6 So if there's reasons why we should hear that here
7 in this country, I assume this is -- our tax dollars are
8 going to take care of this matter. And it's here because
9 we now have residents who are now -- who maybe they were
10 formerly residents of Chile but now they are residents here
11 and that's just how the order goes. And that's how we saw
12 those incidents or saw those cases, then I understand
13 that's just the way it is.

14 THE COURT: Okay. I guess, as I said, I'm the one
15 that has to make the decisions about the law that applies.
16 And if I tell you this case is properly where it's supposed
17 to be, does that take care of any -- does that assuage any
18 concerns you might have?

19 PROSPECTIVE JUROR: It does. The rules are the
20 rules. So yes, sir.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR: I respect that.

23 THE COURT: All right.

24 Mr. Dellinger, do you have any questions?

25 MR. DELLINGER: No follow-up questions.

1 THE COURT: How about you, Mr. Landers?

2 MR. LANDERS: No, Judge.

3 THE COURT: All right. Thanks.

4 (End of discussion at sidebar.)

5 THE COURT: Let's see. Mr. Anderson.

6 (Discussion at sidebar on the record.)

7 THE COURT: How are you?

8 PROSPECTIVE JUROR: Pretty good. How are you
9 doing?

10 THE COURT: Good. I've got a couple of quick
11 questions.

12 The lawyers mentioned to me -- I didn't notice it
13 myself. But the lawyers mentioned to me that when
14 Mr. Chambers asked the question about the Torture Victim
15 Protection Act and I explained to him how the case is here,
16 they thought you might have had an exchange or either had a
17 reaction to that or talked with somebody, one of your
18 fellow neighbors, and expressed some, what they interpret
19 as some concern about that.

20 I just wanted to ask you.

21 PROSPECTIVE JUROR: No, because when he had first
22 mentioned it, I didn't understand what was going -- they
23 said it was set in 1970 something. And then it's 2016. So
24 there's -- wasn't a lot brought up about that. I was
25 confused.

1 I asked the guy next to me. He said he couldn't
2 answer it. I just stopped talking about it. I was just
3 confused about it.

4 THE COURT: Okay. So what I mentioned to
5 Mr. Chambers -- and the lawyers will have an opportunity to
6 explain to you about what happened and what happened in the
7 interim.

8 PROSPECTIVE JUROR: Of course.

9 THE COURT: As I mentioned to Mr. Chambers, it's
10 my responsibility to make decisions of law. If I tell you
11 that this case is properly here pursuant to an Act of
12 Congress, despite the passage of time, would you have any
13 difficulty just accepting that?

14 PROSPECTIVE JUROR: Yeah, of course. I was just
15 confused because I didn't understand what was going on.
16 Then you explained later on. I was cool with it.

17 THE COURT: Fair enough.

18 Mr. Dellinger?

19 MR. DELLINGER: No follow-up.

20 THE COURT: Mr. Landers?

21 MR. LANDERS: No questions.

22 THE COURT: Thanks very much. I appreciate it.
23 Thanks, Mr. Landers.

24 (Prospective juror exited sidebar.)

25 MR. DELLINGER: Number 9.

1 You told us how you felt about Miss Soto. There
2 was no reason for follow-up.

3 Nine, nine was the guy who had the two civil
4 rights cases. Same kind of thing. Do I need to follow up
5 from there?

6 THE COURT: Did you want me to ask him questions
7 about it?

8 MR. DELLINGER: Yeah. Thank you.

9 (End of discussion at sidebar.)

10 THE COURT: Mr. Griffith, could I see you for just
11 a minute?

12 (Discussion at sidebar on the record.)

13 THE COURT: Come on up. Sorry for the fact that
14 it's a little imposing. I want to ask you a couple of
15 questions.

16 The lawyers wanted to follow up on some of the
17 information you gave about your prior civil rights claims,
18 I guess, while you were working in some detention or
19 correction center.

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: I think you told me those cases
22 actually went to trial and resulted in a verdict. It was
23 adverse to you; is that right?

24 PROSPECTIVE JUROR: One of them was. The other
25 was taken care of in mediation.

1 THE COURT: The one settled in mediation, the
2 other went to trial, and I understand you didn't agree with
3 the outcome?

4 PROSPECTIVE JUROR: It was in the news. Yeah, I
5 didn't agree with it.

6 THE COURT: How long ago was that?

7 PROSPECTIVE JUROR: I think it was 2003, if I'm
8 not mistaken.

9 THE COURT: Give me the CliffsNotes version of
10 what the claim was.

11 PROSPECTIVE JUROR: Guy was arrested for domestic
12 violence. White male. 37, 39. He was belligerent when he
13 came in. I never had any contact with him whatsoever.

14 Between D.C. and Atlanta, we had lots of inmates
15 there. I was also on the S.W.A.T. team, response team. So
16 I dealt with the more violent criminals.

17 But when he got out, he went over to internal
18 affairs and accused -- he went through a picture of all of
19 the people on the team and identified me as being a person
20 who hit him with my baton inappropriately.

21 THE COURT: Okay. Who was your employer at the
22 time?

23 PROSPECTIVE JUROR: It was Mecklenburg County
24 Sheriff's Office.

25 Yeah, they went through the whole -- there's no

1 criminal charges filed, but they found me and my two
2 coworkers guilty.

3 THE COURT: Okay. So do you think that that
4 experience -- I know I asked you that at least in a general
5 way before. Let me try to ask you a little bit more
6 specifically, especially since we're here in this
7 environment.

8 PROSPECTIVE JUROR: Sure.

9 THE COURT: Is there anything about that that
10 might cause you to start off with the scales tipped in one
11 way --

12 PROSPECTIVE JUROR: Human nature, yes.

13 THE COURT: Which way do you feel?

14 PROSPECTIVE JUROR: I'm not sure either way.
15 Because really the way my wife accuses me of guilty until
16 proven innocent. Based on spending ten years in jail,
17 that's where I start. Protective parent. Kind of where I
18 start off.

19 Then again, I've been on the other side where --

20 THE COURT: I'm having a little bit of a hard time
21 understanding.

22 PROSPECTIVE JUROR: I know. Me too. I'm not sure
23 which way. But as far as things go, I can look at
24 something objectively. But I've been in that seat before,
25 and I understand having a jury come back with a verdict

1 that was incorrect.

2 THE COURT: So do you think you start off with a
3 bias in favor of the defendant?

4 PROSPECTIVE JUROR: Probably not.

5 THE COURT: Probably not.

6 PROSPECTIVE JUROR: But in the same breath, I've
7 been in that seat too. So most people --

8 THE COURT: Well, and, again, I'm not trying to
9 talk you into --

10 PROSPECTIVE JUROR: No.

11 THE COURT: -- or out of anything. I'm trying to
12 get to the bottom of it.

13 When you say you've been in that seat, meaning
14 you've sat where the defendant is now sitting?

15 PROSPECTIVE JUROR: Right.

16 THE COURT: My question is, do you think, in
17 listening to the evidence, would you be likely to have
18 sympathy for the defendant that you think might color your
19 weighing of the evidence?

20 PROSPECTIVE JUROR: I probably would not have
21 sympathy for the defendant, despite having been in that
22 seat. So that's kind of awkward. But that's where I am.

23 THE COURT: Well, it sounds to me like you're
24 having a hard time articulating who it is that you think
25 you favor --

1 PROSPECTIVE JUROR: If you're asking me if I'm
2 going to have a leaning one way or the other, perhaps human
3 nature is going to lead me one way. I'm an intelligent
4 person who will look at the circumstances and evidence and
5 come to a unbiased conclusion.

6 Having spent two years in jail, but in the same
7 breath, I've had to dish out and defend myself against
8 people too.

9 THE COURT: Some of the evidence in this case is
10 going to, I think, at least touch on, if not directly
11 involve, whether or not actions that were taken by this
12 defendant and perhaps others were actions that were taken
13 in response to military orders or things that they perhaps
14 had control over, maybe they didn't.

15 Do you think that you'd be able to -- in light of
16 your experience in law enforcement and being in a
17 structured environment, would you be able to listen to the
18 evidence and make a decision --

19 PROSPECTIVE JUROR: Sure.

20 THE COURT: -- as to whether the conduct was
21 appropriate or not, even if it happened to come from
22 somebody that supposedly had some authority over them?

23 PROSPECTIVE JUROR: I'm going to go whichever way
24 you lead me towards, if they are allowed to do that. I
25 would follow your direction on what was legal and what

1 wasn't legal.

2 THE COURT: Okay. Well, it's probably going to
3 come down to you having to make a decision based on the
4 facts about whether or not you think the plaintiff has met
5 its burden of proof, their burden of proof with respect to
6 the conduct of the defendant, whether the defendant did
7 what's alleged, and whether they've proven that by the
8 greater weight of the evidence.

9 PROSPECTIVE JUROR: Okay.

10 THE COURT: Ultimately the question comes down to,
11 would you be able to separate whatever happened to you in
12 the past, whatever your life's experiences are, and make a
13 decision based on the evidence and my instructions on the
14 law?

15 PROSPECTIVE JUROR: Sure.

16 THE COURT: We're all products of our environment.

17 PROSPECTIVE JUROR: Exactly. We all have filters.
18 And knowing that, I do have a filter, it's -- yes.

19 THE COURT: Okay. Mr. Dellinger, do you have any
20 other questions for Mr. Griffith?

21 MR. DELLINGER: Yes. You mentioned that you were
22 a detention officer when -- this claim arose while you were
23 a detention officer?

24 PROSPECTIVE JUROR: Uh-huh.

25 MR. DELLINGER: Some of the evidence in this case

1 is going to potentially show that Mr. Barrientos was
2 running a detention facility in Chile Stadium --

3 PROSPECTIVE JUROR: Okay.

4 MR. DELLINGER: -- and that the plaintiff was
5 tortured or murdered in the stadium.

6 Would that impact your ability, given your history
7 as a detention officer, to kind of fairly decide this case
8 and look at the evidence neutrally?

9 PROSPECTIVE JUROR: I can look at the evidence
10 neutral, but I can account for what I seen happen in a
11 separate environment, too.

12 MR. DELLINGER: What do you mean, you can account
13 for what you've seen?

14 PROSPECTIVE JUROR: I've seen people abuse their
15 correctional facility. I've seen people accuse us of being
16 abused when they weren't abused.

17 So it can go either way.

18 THE COURT: Okay. All right. Mr. Landers,
19 anything?

20 MR. LANDERS: No, Judge, no questions.

21 THE COURT: Thanks very much. Thank you for
22 coming up.

23 PROSPECTIVE JUROR: Sure.

24 (Prospective juror exited sidebar.)

25 MR. DELLINGER: 11 said she didn't want to be in

1 Orlando.

2 THE COURT: We'll take that up later. I'm not
3 going to talk to her about it.

4 MR. DELLINGER: 23 can move her mediation. It's
5 just a mediation, not a hearing.

6 THE COURT: I'm not there yet.

7 Have I covered all the individual follow-ups
8 and --

9 MR. LANDERS: Yes, Judge. We withdraw our request
10 to question Number 22 based on 21's answer regarding any
11 off-the-record conversation.

12 THE COURT: All right. Thank you.

13 MR. DELLINGER: You've covered all of ours.
14 Thank you, Your Honor.

15 THE COURT: Thank you.

16 (End of discussion at sidebar.)

17 THE COURT: All right. Miss Laudner, I've got a
18 question here that was passed on to me that you think maybe
19 your husband knows some other members of the panel; is that
20 right?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Let me get you the microphone.

23 PROSPECTIVE JUROR: Thank you.

24 THE COURT: Yes, ma'am.

25 PROSPECTIVE JUROR: I just thought about it when

1 you asked this gentleman here if he knew the other one.
2 Because my husband is an electrical engineer, and now he
3 does sales and like lighting sales, a sales representative
4 for lighting. That's not --

5 PROSPECTIVE JUROR: No.

6 PROSPECTIVE JUROR: Okay. Thank you.

7 THE COURT: You're welcome.

8 Okay. And, Mr. Ferris, you had something you
9 wanted to mention about a schedule conflict potentially; is
10 that right?

11 PROSPECTIVE JUROR: Yes, Your Honor. But I'd like
12 to talk to you privately.

13 THE COURT: Do you want to do it privately? Let
14 me have the lawyers back up here and let's hear from
15 Mr. Ferris. Come on over.

16 (Discussion at sidebar on the record.)

17 THE COURT: Wait for everybody to gather up here.
18 I need you to speak directly into this microphone, if you
19 don't mind.

20 PROSPECTIVE JUROR: Yes, sir. It just dawned on
21 me I have surgery scheduled for the end of the month, on
22 the 28th. And I have a pre-op appointment for the
23 23rd.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR: I don't know why it didn't

1 dawn on me before. I do have surgery. I can have a doctor
2 provide anything.

3 THE COURT: Okay. Your surgery is the 28th?

4 PROSPECTIVE JUROR: Yes, sir, of June. The pre-op
5 appointment, I believe, is the 23rd.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: I wasn't sure if you wanted me
8 to go into detail on the surgery.

9 THE COURT: That's fine. What type of surgery?

10 PROSPECTIVE JUROR: It's a hernia surgery, which
11 -- I'm not inclined -- the type that's more riskier and
12 needs to be done sooner because it could go, instead of
13 shooting out, it could shoot down --

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: -- to my --

16 THE COURT: Okay. Great. All right. Thank you,
17 Mr. Ferris.

18 PROSPECTIVE JUROR: I appreciate it.

19 (End of discussion at sidebar.)

20 THE COURT: All right. Ladies and gentlemen,
21 you've been very patient with me. I appreciate that.

22 Here's what we're going to do. I need to spend a
23 little bit of time with the lawyers. That won't require
24 your participation. But I'm not quite ready, not at the
25 point yet where I can turn some of you loose.

1 So we're going to take a lunch break. It's about
2 12:40. If you all could be back at 2:00, that will give me
3 a chance to take care of what I need to take care of with
4 the lawyers and give them a chance to eat as well and give
5 my staff a chance to eat.

6 So if you all could go with Mr. Carter and be back
7 here in your seats -- remember where you're sitting. And
8 come back at 2:00. And we'll resume with the jury
9 selection process.

10 Let me just mention a couple of things to you.
11 It's not appropriate for you to discuss anything about the
12 case amongst yourselves or with anyone else. So even
13 though you don't know much about it, my instructions to you
14 are, don't talk about it at all to anybody or amongst
15 yourselves.

16 Also, the parties, the lawyers, they're under
17 strict instructions not to do anything that might create
18 any kind of appearance of impropriety. They are all, I'm
19 sure, very pleasant people and would likely say hello if
20 they saw you or good morning or good afternoon.

21 They're not going to do that. They're going to
22 avoid you if they see you. And they're going to get in
23 another elevator or move to another table if they happen to
24 be near you. Don't hold that against them. That's what
25 they're supposed to do.

1 So I appreciate your patience with us this
2 morning. I'll see you back here at 2:00.

3 (Prospective Jury exited the courtroom
4 at 12:41 p.m.)

5 THE COURT: You all can be seated.

6 What I'd like to do is I'd like to take up cause
7 challenges, give you all an opportunity to make cause
8 challenges to the entire panel. And then I'm going to give
9 you an opportunity over the lunch break to confer among
10 yourselves before you exercise your peremptory challenges.

11 And we'll come back a little bit in advance of our
12 jury, probably ask you all to come back at 1:45. And we'll
13 do our peremptory challenges then.

14 That way you'll have a chance to collaborate and
15 talk to one another about how you want to exercise your
16 three peremptory challenges per side.

17 What says the plaintiff with respect to the
18 venire? Do you have any challenges for cause,
19 Mr. Dellinger.

20 MR. DELLINGER: Yes, Your Honor.

21 With regard to Number 5 -- I'll just go in order.
22 First, Number 5. Number 5 was, had a hard time dealing
23 with photographs and said that that would make it difficult
24 for her to consider the evidence.

25 THE COURT: Let me see if Mr. Landers wants to be

1 heard on that. I'm not suggesting an outcome one way or
2 the other, Mr. Landers. But in the interest of time, let
3 me just find out which of these are contested.

4 Do you have any issue with respect to the cause
5 challenge for Miss Barnes?

6 MR. LANDERS: No, Judge. No objection from
7 defense.

8 THE COURT: All right. I'm going to grant the
9 plaintiffs' motion to excuse Juror Number 5, LeAnne Barnes,
10 for cause.

11 Who's your next cause challenge?

12 MR. DELLINGER: Number 6. What was disclosed to
13 us at the bench was extremely concerning to our side of the
14 case, what he said he was authorized to do and would do
15 based on orders, including -- including torturing people
16 and killing. And he mentioned that that would make it hard
17 for him to be fair and impartial in this case.

18 THE COURT: Mr. Landers, do you want to be heard
19 on Mr. Rahal?

20 MR. LANDERS: No objection from the defense.

21 THE COURT: All right. I'll grant the plaintiffs'
22 motion to excuse Juror Number 6, Mohammed Rahal, for cause.

23 MR. DELLINGER: Number 9, Your Honor, Mr. Griffith
24 disclosed that he has been a defendant in civil rights
25 cases himself. He himself was also a detention officer,

1 felt that some of the claims brought against him were not
2 meritorious, and said that he would have a hard time
3 deciding the case from a, another security officer.

4 THE COURT: Mr. Landers?

5 MR. LANDERS: Defense objects to juror in seat
6 nine being challenged for cause. The Court did a very
7 lengthy inquiry as to many different topics that plaintiff
8 brought up at the bench.

9 I believe that Mr. Griffith did tell the Court
10 that he can be fair and impartial, even put aside his
11 personal issues that he's had being on both sides of the
12 aisle, and that he can be fair and impartial and follow the
13 law in this case.

14 THE COURT: I had a hard time ascertaining from
15 Mr. Griffith, quite honestly, Mr. Dellinger, as I think the
16 record will reflect, any bias for or against either of the
17 parties in this case. I asked him a number of times to try
18 to help me understand which way he might be predisposed, if
19 at all, and he was not able to articulate any
20 predisposition.

21 So I'm going to deny your motion to excuse Juror
22 Number 9, Gregory Scott Griffith, for cause.

23 What's next?

24 MR. DELLINGER: Number 18, Mr. MacArthur.

25 Mr. MacArthur mentioned that he could read but he could not

1 write. His responses caused us all concern in terms of how
2 he answered the question.

3 He was very forthcoming in saying that he would
4 have a hard time reviewing 50 exhibits, would have a hard
5 time sitting for 10 days, and would have a hard time
6 understanding.

7 It's very clear, given his stage in life, that he
8 has a hard time functioning on his own. He's living with
9 his parents. He's covering a vending machine business that
10 his father turned over to him. And he said -- he disclosed
11 very honestly that he had a hard time doing just that.

12 THE COURT: Do you want to be heard on Juror 18,
13 Mr. Landers?

14 MR. LANDERS: No objection.

15 THE COURT: All right. I'll grant the plaintiffs'
16 motion to excuse Juror Number 18, Michael MacArthur, for
17 cause.

18 Next?

19 MR. DELLINGER: Number 15. I apologize for going
20 backwards. Number 15 is Miss Sandoval.

21 She disclosed that her father was a sniper under
22 the Pinochet regime, that her grandfather was also a
23 military officer in the Pinochet regime.

24 It was clear that her grandfather was in Santiago
25 at the same time as the coup. And she disclosed that her

1 family would lean towards the Pinochet leanings if asked.

2 THE COURT: Mr. Landers?

3 MR. LANDERS: Defense objects to juror in seat 15
4 being challenged for cause. The Court did a lengthy
5 inquiry as to her personal knowledge of some history from
6 Chile.

7 The Court actually asked her as far as whether she
8 would feel uncomfortable deciding the verdict based on
9 either the plaintiff or the defense, whether that would
10 impact her verdict based on the family's history. I
11 believe she said that it would not.

12 So she can be fair and impartial and follow the
13 law in this case. So we object.

14 MR. DELLINGER: She also mentioned, Your Honor,
15 for the record, that her father -- that the defendant looks
16 like her father and that her father was a sniper under the
17 Pinochet regime.

18 THE COURT: It's true that what Miss Sandoval
19 said, if you look at the transcript and only the transcript
20 of what she said, that she indicated that she thought she
21 could be fair and she was a liberal and open-minded person.

22 But I will tell you that what's not in the record
23 is the Court's disquiet as to whether or not Miss Sandoval,
24 in light of her Chilean ancestry, in light of her family's
25 involvement with the Chilean military, could be fair and

1 impartial.

2 And under the circumstances, I'm going to follow
3 my instinct. And I think that Miss Sandoval is subject to
4 excusal for cause.

5 I'm going to grant the plaintiffs' motion to
6 excuse Juror Number 15, Shelsy Sandoval, for cause.

7 MR. DELLINGER: Thank you, Your Honor.

8 Number 11.

9 THE COURT: You're going backwards, Mr. Dellinger.

10 MR. DELLINGER: Yes. I hope this is the last time
11 I go backwards.

12 THE COURT: Well, the other thing that's not going
13 to happen again is once you've made your argument, you've
14 made your argument.

15 MR. DELLINGER: I understand, Your Honor. Thank
16 you.

17 THE COURT: You're welcome.

18 MR. DELLINGER: Number 11, Miss Creamer, said
19 immediately when asked the question about the shooting that
20 she did not want to be in Orlando at all. She mentioned
21 that her children were here.

22 And she wasn't happy about it. She wasn't happy
23 about being here. It's clear that she doesn't want to be
24 here during this trial.

25 THE COURT: Mr. Landers?

1 MR. LANDERS: Defense would leave it in the
2 Court's discretion.

3 THE COURT: Yeah. I'm going to grant the motion
4 to excuse Miss Creamer for cause.

5 I'm not entirely persuaded that she doesn't just
6 not want to be here, which is a sentiment, I'm sure, that's
7 shared by others. But her personality is combative. And
8 she doesn't want to be here. And I think she presents a
9 possibility for problems or difficulties down the road.

10 So I'll take her at her word that she's
11 uncomfortable being in Orlando in light of the events of
12 the weekend.

13 And I'll grant the plaintiffs' motion to excuse
14 her for cause.

15 What's next?

16 MR. DELLINGER: Number 22, Mr. Marks, was --

17 THE COURT: Do you want to be heard on Mr. Marks?

18 MR. LANDERS: No objection.

19 THE COURT: I'll grant the motion to excuse
20 Mr. Marks for cause.

21 MR. DELLINGER: Your Honor, may I confer with my
22 team before I turn it over?

23 THE COURT: Yes, you may.

24 MR. DELLINGER: Nothing further, Your Honor, for
25 cause.

1 Thank you.

2 THE COURT: Thank you, Mr. Dellinger.

3 Mr. Landers, does the defense have cause
4 challenges?

5 MR. LANDERS: Yes, Judge.

6 Juror in seat 24, Miss Soto, I believe the
7 plaintiff at the bench asked the Court to readdress her,
8 and the Court said no, not at this time.

9 I believe that she has shown that any history that
10 she knows about possibly this case or the history of Chile
11 would impact her ability to be fair and impartial in this
12 case.

13 THE COURT: Do you want to be heard,
14 Mr. Dellinger?

15 MR. DELLINGER: I understand where the Court is
16 leaning. I do want to point out, Your Honor, that in the
17 Latin culture, it's kind of difficult not to hear this
18 story. She grew up hearing the story. It makes it
19 difficult for us to get Hispanic jurors.

20 But the fact that they have had history, they know
21 this story, but I understand the Court's leaning. I
22 understand the ruling.

23 But I object to the for cause challenge.

24 THE COURT: Well, I have the same disquiet with
25 respect to Miss Soto's capacity to be fair and impartial as

1 I have with respect to Miss Sandoval's. I think she was
2 candid in articulating that she has heard a lot about the
3 circumstances and suggested, at least in my mind, that she
4 might have a predisposition as to the outcome of the case.
5 So I'm going to excuse her for cause.

6 I'll grant the defense motion over the plaintiffs'
7 objection to remove Juror Number 24, Helena Soto, for
8 cause.

9 Any others, Mr. Landers?

10 MR. LANDERS: Yes, Judge.

11 Juror in seat 28, excuse me, Miss Evans. She
12 expressed to the Court her highly sensitive nature and
13 emotional nature as to any graphic pictures that she might
14 see and be uncomfortable.

15 We feel that might be a distraction based on
16 likely what she'll see in this case as to some graphic
17 pictures, autopsy pictures, some information about the
18 actual killing and injuries to Mr. Jara that might impact
19 her ability to view the evidence and be fair and impartial
20 in this case.

21 THE COURT: Do you want to be heard on Miss Evans?

22 MR. DELLINGER: We have no objection to exclude
23 her for cause, Your Honor.

24 THE COURT: Okay. All right. I'll grant the
25 defense motion to excuse Juror Number 28, Katherine Evans,

1 for cause.

2 Any other cause challenges for the defense?

3 MR. LANDERS: No, Judge.

4 THE COURT: Okay. It looks like that leaves us
5 19 jurors in our array, if my math is correct. You all
6 have three challenges per side. So I'll give you an
7 opportunity over the lunch break to decide how you want to
8 exercise those.

9 I'll come to you first, Mr. Dellinger, and then
10 we'll go to Mr. Landers. And as I indicated at the
11 pretrial conference, I'll go in order until either both
12 sides pass or you've exhausted your peremptory challenges.

13 It is my plan to seat eight jurors in light of the
14 two-week period of time you think will be required to try
15 the case.

16 MR. DELLINGER: Your Honor, co-counsel just
17 pointed out the scheduling issue that Number 1 has with
18 regard to the Michael Jackson issue next week.

19 I know I didn't point it out in my original
20 argument, but I do think it's grounds for cause, given that
21 he can't really hear this case based on what he told the
22 Court.

23 THE COURT: Mr. Landers?

24 MR. LANDERS: We'll just leave that in the Court's
25 discretion.

1 THE COURT: All right. I think we have plenty of
2 jurors in the array. So I'll grant the plaintiffs' motion
3 to excuse Mr. Landers for cause as a result of his work
4 schedule.

5 MR. DELLINGER: Mr. Sundberg?

6 THE COURT: I'm sorry. I misspoke. I said
7 Landers. I'm going to keep Mr. Landers here. You're not
8 leaving whether you want to or not.

9 MR. LANDERS: Understood, Judge.

10 THE COURT: Anything else before our lunch break,
11 Mr. Dellinger?

12 MR. DELLINGER: No, Your Honor.

13 THE COURT: Mr. Landers?

14 MR. LANDERS: Nothing further.

15 THE COURT: Let me ask you all to be back, if you
16 would, at 1:45. I know that's an abbreviated lunch period.
17 I apologize for that. I've got to swear in some pretrial
18 officers at 1:00. So I'm going to have an abbreviated
19 lunch schedule as well.

20 Let me give you a little more time. How about 10
21 of? That way it will give us 10 minutes to exercise your
22 peremptory challenges. And I can bring the jurors in; we
23 can swear our panel and turn loose those that are not going
24 to be part of this panel. So I'll see you all back here at
25 10 minutes until 2:00.

1 (Luncheon recess at 12:54 p.m. to 1:55 p.m.)

2 THE COURT: All right. We're back on the record
3 in Jara versus Nunez, Case Number 6:14-civil-1426.

4 The Court notes counsel and the parties are
5 present.

6 Let's move to the exercise of peremptory
7 challenges.

8 Mr. Dellinger, the panel would currently consist
9 of Juror Number 2, Jamie McDermott; Julie Long, Juror 3;
10 Amy Elliott, Juror 4; Andrew Ferris, Juror 7; Domingo
11 Codner, Juror 8; Gregory Scott Griffith, Juror Number 9;
12 Suzan Meaux, Juror Number 10; and Krystal Platt, Juror
13 Number 12.

14 So what says the plaintiff to the current array of
15 jurors?

16 MR. DELLINGER: I have peremptories that I'd like
17 to exercise, Your Honor. We have peremptories that we'd
18 like. The array is correct based on the call of
19 challenges.

20 THE COURT: Yes. I'm asking for your
21 peremptories.

22 MR. DELLINGER: Number 4.

23 THE COURT: All right. Plaintiff excuses Juror
24 Number 4, Amy Elliott.

25 Mr. Landers, what says the defense to the array

1 which would now include Juror Number 13, Lisa Berry?

2 MR. LANDERS: We exercise a peremptory to the
3 juror in seat 10.

4 THE COURT: Juror Number 10, Suzan Meaux, is
5 excused by the defense.

6 That takes us now, Mr. Dellinger, through Juror
7 Number 14, Kimberly Young.

8 What says the plaintiff?

9 MR. DELLINGER: Number 9.

10 THE COURT: Plaintiff excuses Juror Number 9,
11 Gregory Griffith.

12 And that takes us now to Juror Number 16, Ann
13 Marie Wetherington.

14 What says the defense?

15 MR. LANDERS: Exercise a peremptory to the juror
16 in seat 14.

17 THE COURT: Juror Number 14, Kimberly Young, is
18 excused by the defense.

19 That takes us through Juror Number 19, Mark
20 Chambers.

21 What says the plaintiff?

22 MR. DELLINGER: May I discuss with my team,
23 Your Honor?

24 THE COURT: Yes.

25 MR. DELLINGER: Number 19, Mr. Chambers.

1 THE COURT: Plaintiff excuses Juror Number 19,
2 Mark Chambers.

3 That takes us through Juror Number 20, Susan
4 Swenson.

5 What says the defense?

6 MR. LANDERS: Panel acceptable.

7 THE COURT: All right. So our jury for the
8 plaintiff has exhausted its peremptory challenges.

9 So our panel will consist of Juror Number 2, Jamie
10 McDermott; Juror Number 3, Julie Anne Long; Juror Number 7,
11 Andrew Ferris. W.

12 Hat were Mr. Ferris' dates?

13 THE DEPUTY CLERK: Today is the 13th. He has
14 a preop on the 23rd. And his surgery is on the
15 28th.

16 THE COURT: What day of the week is the 23rd?

17 THE DEPUTY CLERK: Thursday.

18 THE COURT: So he's okay?

19 THE DEPUTY CLERK: Yes.

20 THE COURT: So McDermott, Number 2; Long, Number
21 3; Ferris, Number 7; Codner, Number 8; Platt, Number 12;
22 Berry, Number 13; Wetherington, Number 16; and Swenson,
23 Number 20.

24 Does that square up with your notes,
25 Mr. Dellinger?

1 MR. DELLINGER: Yes, Your Honor.

2 THE COURT: Is that consistent with your notes,
3 Mr. Landers?

4 MR. LANDERS: Yes, Your Honor.

5 THE COURT: All right. While our jury is out,
6 does either the plaintiff or the defense have any
7 objections they want to make for the record of the Court's
8 voir dire process?

9 Mr. Dellinger?

10 MR. DELLINGER: No, Your Honor.

11 THE COURT: Mr. Landers?

12 MR. LANDERS: No.

13 THE COURT: All right. Let's bring our jury back,
14 if we could, please, Mr. Carter.

15 Mr. Beckett, will you be making the opening
16 statement?

17 MR. BECKETT: Yes, Judge.

18 THE COURT: About how much time do you think you
19 need?

20 MR. BECKETT: About 45 minutes, Your Honor.

21 THE COURT: Seems long.

22 How about you, Mr. Calderon? Will you be making
23 one?

24 MR. CALDERON: About 20 minutes, Judge.

25 THE COURT: Okay.

1 I don't want to interfere with y'all's
2 decision-making, but my courtroom deputy and my court
3 reporter reminded me that Miss Swenson, Juror Number 20,
4 mentioned that she had a situation involving her sister.
5 She was going to drive her to a time-share.

6 She would be our eighth juror. I don't know if
7 you all want to give that some additional thought. It's
8 not -- it's obviously not a legal excuse. If she has to
9 make other arrangements, she has to make other
10 arrangements.

11 I don't know if you all had remembered -- I had
12 not remembered it. In candor, I had not remembered it.

13 MR. DELLINGER: We'd agree. Given the commitments
14 of Mrs. Swenson, we would agree she be released although we
15 accepted her as a juror.

16 Our team also did not remember that discussion.
17 But now that you mention it, I think there are grounds to
18 relieve her.

19 THE COURT: What do you think, Mr. Landers?

20 MR. LANDERS: No objection, Judge, to making the
21 second alternate juror seat 21.

22 THE COURT: So Mr. Drake Anderson would become our
23 eighth juror in the place of Miss Swenson.

24 Is that by agreement of the parties?

25 MR. LANDERS: Yes, Your Honor.

1 MR. DELLINGER: Yes, Your Honor.

2 THE COURT: Okay. I'm going to trim you just a
3 little bit, Mr. Beckett. I'll give you 40 minutes.

4 MR. BECKETT: Judge, based on your admonition that
5 an hour was too long at the pretrial case management
6 conference, that's why I pared it down to 45.

7 THE COURT: All right. I'm proud of your efforts.
8 You went in the right direction. I was hoping for 30, but
9 I'll give you 40.

10 And, Mr. Calderon, will you be making the opening?

11 MR. CALDERON: Yes, Your Honor.

12 THE COURT: Obviously, you're not required to use
13 40 minutes, but you'll have the same amount of time.

14 MR. CALDERON: Thank you, Judge.

15 THE COURT: No souls are saved after the first 20.

16 Mr. Beckett, do you want my courtroom deputy to
17 give you a warning, time warning? Some lawyers like to be
18 warned. Some like to be left alone.

19 MR. BECKETT: If it's not a scary one, yes.

20 THE DEPUTY CLERK: I'm scary.

21 THE COURT: Do you want to be warned at 30?

22 MR. BECKETT: Yeah, 30 would be great.

23 Judge, just to be clear -- and we've talked to
24 counsel about this -- we do intend to use some exhibits.
25 They're not controversial. They're mostly pictures and

1 maps just to orient the jury.

2 They are all part of the agreed set of exhibits at
3 this stage, but I wanted to inform the Court if it had an
4 issue with respect to that.

5 THE COURT: Have you all given me your joint
6 exhibits about which there is no objection?

7 MR. BECKETT: That's correct, Your Honor.

8 MR. CALDERON: That's correct, Your Honor.

9 THE COURT: Do you have those, Ginny?

10 THE DEPUTY CLERK: No, I don't have exhibits.

11 MR. BECKETT: Judge, we had talked about the
12 possibility of moving these in as a group at this time.
13 There are a few that are objected to, but the vast majority
14 are not, so you know.

15 THE COURT: Well, you should have a notebook that
16 contains joint exhibits about which there is no objection.

17 MR. BECKETT: We do, sir.

18 THE COURT: If you have that, I'll be happy to
19 admit those documents into evidence without any further
20 conversation. You can use anything in that group in
21 opening statement as you wish.

22 Anything that is disputed, leave out of that
23 collection and we'll take that up as time permits.

24 MR. BECKETT: Of course, Judge. We're handing up
25 now the joint exhibits, the agreed exhibits.

1 We should note that these are the A list exhibits.
2 The joint agreed A list exhibits, not the B.

3 Oh, they are both. Excuse me.

4 THE COURT: If they're joint exhibits, they don't
5 need to be designated A or B. They are just joint exhibits
6 about which there is no objection, and I'm going to admit
7 them into evidence in bulk.

8 MR. BECKETT: Thank you, Judge.

9 THE COURT: For the record, the parties have
10 handed up to the Court joint exhibits which are marked
11 1 consecutively through 116. Those exhibits will be
12 received in evidence without objection.

13 (Joint Exhibits 1 through 116 were received
14 in evidence.)

15 THE COURT: Correct, Mr. Beckett?

16 MR. BECKETT: That's correct, Your Honor.

17 THE COURT: Correct, Mr. Calderon?

18 MR. CALDERON: That's correct, Your Honor.

19 THE COURT: All right. Thank you.

20 Ready, Mr. Carter?

21 COURT SECURITY OFFICER: Yes, sir.

22 THE COURT: All right. Let's bring them in,
23 please.

24 (Prospective Jury entered the courtroom
25 at 2:10 p.m.)

1 THE COURT: Welcome back, ladies and gentlemen.
2 We're a little bit over time. But we made some good
3 progress in your absence, so hopefully that's good news.

4 In just a moment, I'm going to call some names.
5 And if I call your name, that means that you've been
6 selected to serve as a member of this jury.

7 If I do not call your name, it means you've not
8 been selected and you're free to go. I want you to know
9 how much I appreciate your being here. I doubt that you
10 do, but if any of you think that your not being selected is
11 some sort of a reflection that you are not qualified or
12 that you are lacking in some way in terms of some
13 qualification to participate, that that's not true.
14 Nothing could be further from the truth.

15 We, in order to make sure that I can get my job
16 done of impaneling a jury that's fair and impartial, we
17 have to call more people than we end up with ultimately.
18 But if we didn't have all of you willing to come and
19 participate in the process, we wouldn't be able to get very
20 far at all. So I'm going to excuse you with the thanks of
21 the Court.

22 If I've called your name, please stay behind. You
23 may have to wiggle out of the way to let your colleagues
24 slide by you.

25 But the following individuals have been selected

1 to serve on this jury:

2 Jamie McDermott. Julie Anne Long. Andrew Ferris.
3 Domingo Codner. Krystal Lee Platt. Lisa Louise Berry.
4 Ann Marie Wetherington. Drake Kameron Anderson.

5 If I did not call your name, you're not included
6 in the jury pool. And you can be excused with the thanks
7 of the Court.

8 If you would stop off at the jury assembly room on
9 your way out, I'd be appreciative. I don't know whether
10 they require your services any further. But I'm usually
11 the last to know what my colleagues are up to in terms of
12 whether they have things they need you for. So stop off at
13 jury assembly on your way out.

14 But I appreciate your being here. Thanks very
15 much.

16 (Prospective Jurors exited the courtroom
17 at 2:13 p.m.)

18 THE COURT: Mr. MacArthur, you're excused as
19 well. I don't think I called your name. Thank you. Thank
20 you very much. I appreciate you coming.

21 PROSPECTIVE JUROR: You're welcome.

22 THE COURT: So I should have left Miss McDermott.
23 Yes? Miss Long.

24 Mr. Ferris, we've taken your schedule into
25 account. You're okay. Either we'll take care of you on

1 the 23rd by working around you -- the lawyers have
2 assured me you'll be finished by the 28th. So we
3 should be hopefully finished by the 23rd. But if we're
4 not, we're not actually going to be in court that day
5 anyway on the 23rd for other reasons that have nothing
6 to do with you. So I didn't want you to be sweating that.

7 Mr. Codner and Miss Platt. And Miss Berry. And
8 Miss Wetherington. And Mr. Anderson.

9 All right. Mr. Anderson, would you slide back
10 here with the rest of your colleagues. I'm going to move
11 your seats around. This is a good time for you to begin to
12 feel part of the group. So if all of you would stand and
13 raise your right hand, I'm going to ask you to be sworn.

14 (Jury sworn.)

15 THE COURT: All right. Thank you. You all can be
16 seated.

17 Miss Flick is going to move you around a little
18 bit so that you get in the best positions for viewing the
19 evidence and listening to the lawyers.

20 She's also going to pass out some notepads for you
21 to use. I'm going to give you some more instructions about
22 your notepads in just a moment.

23 Mr. Anderson, I'll talk to you about that when we
24 have an opportunity. What I'll need you to do is give me
25 the names and telephone numbers for your professors. I

1 will give them a call as soon as I can, as soon as I have a
2 break in the proceedings, and let them know where you are,
3 what the circumstances are.

4 JUROR: Thank you.

5 THE COURT: And we'll make sure they understand
6 that it's not that you're not interested in being where
7 they want you. Fair enough?

8 JUROR: Yes.

9 JUROR: I too also need to give you my professors'
10 phone numbers.

11 THE COURT: Yes. I didn't mean to skip over you.
12 I forgot about you having school obligations as well.

13 So you all, maybe you can use your notepads. And
14 when you have a chance, write down the names of your
15 professors and how I can get ahold of them. And I'll make
16 sure I give them a call.

17 All right. Ladies and gentlemen, now that you've
18 been sworn, I want to explain to you some of the basic
19 principles about a civil trial and your responsibility as
20 jurors.

21 You don't need to take notes on this part. I'm
22 going to talk to you a little bit about notetaking in more
23 detail in just a minute.

24 So that you know who the parties are and who the
25 players are, I want to take a minute and introduce you to

1 the Court personnel, some of whom you've met already.

2 But sitting down in front of me to my right is
3 Virginia Flick. She goes by Ginny. So you may hear me
4 slip and call her Ginny instead of Miss Flick. I'll try to
5 call her Miss Flick most of the time.

6 Miss Flick is responsible for not only keeping
7 minutes of the proceedings, which is a general category of
8 what happens, but she'll also be responsible for swearing
9 all of the witnesses. She keeps track of all of the
10 exhibits.

11 She will ultimately be the one who brings the
12 exhibits back to you in the jury room for your
13 deliberations. She is my voice and face with the lawyers.
14 When I'm not on the bench, she lets me know if they have
15 questions or concerns that I need to come early for or take
16 up.

17 So that's -- it does a disservice to the -- the
18 responsibilities that she has are greater than that, but
19 that at least gives you an idea, a little bit of what she
20 does.

21 Sitting in front of me to my left is Amie First.
22 Amie is our court reporter. Amie's responsibility is to
23 take a verbatim transcript of everything that happens in
24 the proceedings and to prepare and certify that transcript
25 after the case is over in the event that it needs to be

1 reviewed, whether it needs to be reviewed again by me for
2 some reason or at the appellate level.

3 And just to anticipate something that may come up,
4 if you watch television or potentially if you had
5 involvement in a state court case, sometimes on television,
6 you know, the jurors say, We want to have the testimony of
7 John Smith read back to us.

8 In the real world that doesn't happen. And the
9 reason it doesn't happen is because even though Miss First
10 is taking the testimony down, she takes it down in several
11 different ways. She magically, through stenography,
12 records it with a series of strikes and marks that she can
13 read. She also records it by audio. And she also has a
14 computer program. She takes ultimately all of those
15 sources and puts them all together and certifies the
16 transcript, then, as accurate.

17 And until that happens, it's not an accurate
18 transcript. And so we can't rely on it for any reason. So
19 the reason I mention that to you is it's important that you
20 remember now and throughout the case that it will be your
21 responsibility to rely upon your own independent
22 recollection of the testimony.

23 Which brings me to the notepads. I've given each
24 of you a notepad. Some people are notetakers. Some people
25 are not. I have no judgment about it one way or the other.

1 I will tell you this. Oftentimes I see jurors in
2 the process of taking notes get so engrossed in their
3 notetaking that they miss the next few things that happen.
4 Don't let that happen to you. We have a court reporter
5 here who will take down the record. You don't need to do
6 that.

7 If you think the notes would help you jog your
8 memory about a witness, a place, a time, a date, you know,
9 perfectly appropriate, make a note, use it as you wish.
10 But I just caution you, don't let it keep you from hearing
11 the next question and the answer to the next question,
12 because obviously it's important that you consider all of
13 the evidence and not be distracted by your notetaking
14 during the presentation of the evidence.

15 Remember, too, that what you'll be told to rely
16 upon when you go back to deliberate is your own independent
17 recollection of the testimony and the evidence.

18 Your notes are not entitled to any greater weight
19 than your recollection. And that's certainly true for your
20 neighbor's notes as well. If your neighbor has notes that
21 are not consistent with your own memory of what the
22 evidence was, then it's your responsibility to rely upon
23 your own memory and recollection of the evidence.

24 So seated over to my far left, not to leave folks
25 out, is Jenna Winchester. Jenna is -- one of the great

1 benefits of my job is these brilliant young law clerks that
2 come to work for me usually for, I call it a two-year term.
3 I think they call it a two-year sentence.

4 But these are all folks who have already graduated
5 from law school. They passed the bar exam. They are
6 lawyers in their own right. Almost all of them finished at
7 the very top of their respective law school classes. It's
8 a very competitive environment. So it's a great privilege
9 for me to have them here.

10 They are essentially my lawyers during the course
11 of the proceedings. And they will take care of drafting
12 anything I need for them to draft. They will correct
13 any -- hopefully, before they get to you, they'll correct
14 any mistakes that I might make along the way and help
15 proofread my work product. And they will also do legal
16 research from time to time and help keep me up to speed on
17 what's happening.

18 I have, as probably no surprise to you, lots of
19 other cases in addition to this one. And so from time to
20 time, Jenna may have to leave to go tend to something else
21 that I ask her to do.

22 And if that happens, she'll come and go through
23 that back door which makes a lot of noise. We can't do
24 anything about that. But she'll try to do it as quietly as
25 she can.

1 You've already met Mr. Carter. Mr. Carter is our
2 court security officer. And in addition to being
3 responsible for me, for which I am always grateful, he is
4 also responsible for you while you are here in your
5 service.

6 So if you have any concerns or needs or anything
7 at all that you want to -- that you have a question about,
8 you just let Mr. Carter know. He'll either take care of it
9 himself if he can; or if it needs to come to my
10 attention -- and he knows the difference -- he'll bring it
11 to my attention. And I'll deal with it if I need to.

12 Anything that relates to your quarters, your
13 comfort, your schedule -- sort of your schedule. If you
14 have a problem that you know is going to impact the
15 schedule, you need to make sure you let Mr. Carter know
16 that so he can bring it to my attention.

17 I think that's a good canvass of who the folks are
18 in the courtroom.

19 Back in the jury room -- you haven't been there
20 yet, but you will shortly on your next break -- there is
21 a -- there are bathrooms back there just for your use.
22 There is a refrigerator. There is a microwave. There's a
23 coffeemaker. There's water.

24 It's a very secure area. So if you have something
25 you don't want to tote around, that you want to leave

1 there, it's perfectly secure. The only person that has
2 access to it is Mr. Carter.

3 And so that's -- you're welcome to do that.
4 You're going to have a lunch break every day. Those of you
5 that want to bring a snack or bring something you like to
6 drink other than water, which we have, feel free to bring
7 it and put it in the refrigerator and make yourself at home
8 there.

9 Now, on to the more substantive portion of your
10 instructions.

11 As jurors, it is your responsibility to listen to
12 the evidence and to follow the law in reaching your
13 verdict. You all will decide the disputed issues of fact.
14 It's my duty to explain the law that you must follow in
15 reaching your verdict.

16 You must follow the law as I explain it to you,
17 even if you do not agree with the law. You must decide
18 this case solely on the evidence that is presented here in
19 the courtroom.

20 Now, evidence comes in many forms. It can be
21 testimony about what someone saw or what someone heard or
22 smelled. It can be an exhibit or a document that is
23 admitted into evidence. It can also be someone's opinion.

24 Now, some evidence proves a fact directly. Some
25 evidence proves facts indirectly.

1 An example of indirect proof of a fact would be,
2 for instance, a witness who saw wet grass outside and then
3 saw people walking into the courthouse carrying wet
4 umbrellas. This may be indirect evidence of the fact that
5 it rained. Sometimes it's called circumstantial evidence.
6 It's simply a chain of circumstances that proves a fact.

7 As far as the law is concerned, it makes no
8 difference whether evidence is direct or indirect. You may
9 choose to believe or disbelieve either kind, and you should
10 give every piece of evidence whatever weight you think that
11 it deserves.

12 Now, there are some things that are not evidence
13 and should not be considered. I'm going to list those for
14 you now.

15 The statements that the lawyers make or any
16 arguments that the lawyers might make in the course of the
17 case are not evidence. The objections that the lawyers
18 make or the questions that the lawyers ask, those are not
19 evidence.

20 For instance, if a lawyer were to ask a question
21 of a witness, the lawyer's question is not evidence of
22 anything; only the witness' answer is evidence.

23 So you should not think that something is true
24 simply because a lawyer's question or intonation or
25 implication suggests that it is unless the witness were to

1 agree with it.

2 There are rules of evidence that control what can
3 be received into evidence. So when a lawyer asks a
4 question or offers an exhibit and a lawyer on the other
5 side thinks that it may not be permitted by the rules of
6 evidence, that lawyer can raise an objection.

7 If I overrule the objection, then the question may
8 be answered or the witness -- the exhibit may be received.

9 If I sustain the objection, then the question
10 cannot be answered and the exhibit cannot be received.
11 Whenever I sustain an objection to a question, you must
12 ignore the question and not try to guess what the answer
13 would have been.

14 There may be times when I will order that evidence
15 be stricken; that is, evidence that has already come into
16 the record, for whatever reason, I may order that it be
17 stricken. If that were to happen, I'm going to instruct
18 you that you should disregard or ignore that evidence in
19 your deliberations. And you'd be obliged to follow my
20 instructions in that respect.

21 There may be occasions where evidence would be
22 admitted only for a limited purpose. If that were to
23 happen, I would explain to you what the limited purpose is
24 in receipt of the evidence and instruct you that you should
25 consider it only for that limited purpose and not for any

1 other purpose.

2 Now, in reaching your verdict, it may fall upon
3 you to decide what testimony to believe and what testimony
4 not to believe. You may believe everything that a witness
5 says or part of it or none of it.

6 Now, in considering the testimony of any witness,
7 you may take into account the opportunity and the ability
8 the witness had to see or hear or know the things that they
9 testified to, the witness' memory, the witness' manner
10 while testifying, the witness' interest in the outcome of
11 the case, and any bias or prejudice that the witness may
12 have, whether there is other evidence that contradicts the
13 witness' testimony, and generally the reasonableness of the
14 witness' testimony in light of all of the evidence, as well
15 as any other factors that might bear on believability.

16 I'm going to give you sort of a repeat course on
17 these criteria that relate to the believability of
18 witnesses when I give you your final instructions in
19 connection with the case.

20 Now, when there is scientific, technical, or other
21 specialized knowledge that might be helpful, a person who
22 has special training or experience in that field may be
23 allowed to state an opinion about the matter, but that does
24 not mean that you must accept the witness' opinion. Just
25 as with any other witness' testimony, you must decide for

1 yourself whether to rely upon the opinion.

2 Now, to help you in following the evidence, I'm
3 going to summarize again for you what the parties'
4 positions in the case are.

5 The plaintiffs, as you already know, are Joan
6 Jara, in her individual capacity and in her capacity as the
7 personal representative of the estate of Victor Jara;
8 Amanda Jara Turner; and Manuela Bunster.

9 The plaintiffs claim that on or about
10 September 15, 1973, the defendant, Pedro Pablo Barrientos
11 Nunez, participated in the arbitrary detention, torture,
12 and extrajudicial killing of their late husband and father,
13 Victor Jara.

14 Alternatively, the plaintiffs contend that even if
15 the defendant did not personally commit these violations,
16 he is responsible for the torture and extrajudicial killing
17 of Victor Jara because he aided and abetted, conspired
18 with, and/or exercised effective control over the person or
19 persons who tortured and killed Victor Jara on or about
20 September 15, 1973.

21 The defendant denies those claims. The plaintiffs
22 have the burden of proving every essential part of their
23 claims by what we call a preponderance of the evidence or
24 greater weight of the evidence. This is sometimes called
25 the burden of proof or the burden of persuasion.

1 That means that the plaintiffs have to produce
2 evidence which, considered in light of all of the facts, is
3 enough to persuade you that what the plaintiffs claim is
4 more likely true than not true. If plaintiffs fail to meet
5 this burden, then your verdict must be for the defendant.

6 In deciding whether any fact has been proved by a
7 preponderance of the evidence, you may consider the
8 testimony of all of the witnesses; regardless of who may
9 have called them; and all of the exhibits that are received
10 in evidence, regardless of who may have produced them.

11 Those of you who have sat on criminal cases may
12 have heard of proof of what we call beyond a reasonable
13 doubt. That requirement does not apply to a civil case;
14 and, therefore, you should put it out of your mind.

15 During the trial, you should keep an open mind.
16 And you should avoid reaching any hasty impressions or
17 conclusions. You should reserve judgment until you have
18 heard all of the testimony and the evidence, the closing
19 arguments or summations of the lawyers, and my instructions
20 or explanations to you concerning the applicable law.

21 Now, our law requires that jurors follow certain
22 instructions regarding their personal conduct in order to
23 help assure a just and a fair trial.

24 I'm going to go over some of those constraints
25 that you're under now.

1 You're not to talk either amongst yourselves or
2 with anyone else about anything related to the case. You
3 may tell the people with whom you live and your employer
4 that you are a juror and give them information about when
5 you will be required to be in court, but you may not
6 discuss with them or anyone else anything related to the
7 case.

8 I'm going to digress here for just a moment. And,
9 Miss Platt and Mr. Ferris, I've already mentioned to you
10 I'm going to talk to your professors and explain to them
11 just that, where you are, that you're required to be here,
12 and make sure that they understand the circumstances of
13 your absence.

14 I'm going to give you a piece of unsolicited
15 advice. It's just, again, from the benefit of my
16 experience. You can take it for what it's worth.

17 But if your household is anything like mine, when
18 you arrive home at the end of the day, hopefully there will
19 be somebody there that likes you and that you like and that
20 you have some sort of a relationship with. And they may
21 ask you, How was your day? What did you do?

22 So that's question number one. How was your day?

23 My day was fine.

24 The next question -- if you answer that question
25 and say, I was called, as you may know, to federal jury

1 service and I reported to the federal courthouse. And I've
2 been selected to serve on a jury, and I have to be there at
3 9:00 in the morning.

4 So far so good.

5 The judge promises he'll get us out as close to
6 5:00 as possible.

7 Again, so far so good.

8 The case will take about two weeks.

9 So far so good.

10 Now, question number two, Gee, that's interesting,
11 dear. What's the case about?

12 My advice is, do not answer question number two,
13 because it's a slippery slope from which there is no
14 recovery. The reason being is that the most
15 well-intentioned person in the world, spouse, friend
16 acquaintance, employer, whatever, will invariably react to
17 whatever you tell them and give you information about,
18 that's interesting; I saw something on the news about that.
19 Or that's interesting; I saw something online about that.
20 That's interesting; I have an Uncle Joe who actually spent
21 some time in Chile. Let me tell you what he told me about
22 that.

23 So you see the problem. And once that happens,
24 it's a point from which we cannot recover.

25 And there's been a lot of time, a lot of money, a

1 lot of resources invested in getting to where we are today.
2 If that sort of thing happens and you all get information
3 from a source that's not evidence in the case or my
4 instructions on the law, first of all, there are serious
5 consequences for it. Again, not to threaten you or to hold
6 it over your head, but there are serious consequences for
7 it, which is why I'm spending so much time on it now.

8 And as you can recognize, it's fundamentally
9 unfair. It's unfair because the parties would have no idea
10 what information you had received. Your fellow jurors
11 would have no idea what other information you have
12 received. And it would be impossible for you to wash it
13 away.

14 So that same caveat goes with respect to the use
15 of technology. Even though my children and grandchildren
16 think I'm a dinosaur, I'm not a complete dinosaur. I
17 understand that there is a whole world of social media out
18 there.

19 I know that many of you may be participants,
20 active participants in it. I know my own children have no
21 compunction about telling everybody that they know or don't
22 know where they are, what they are doing, what's happening
23 in their lives.

24 I try to suspend judgment about the propriety of
25 that or the advisability of that. But I know it happens.

1 My advice to you, again, is, don't do it. Because if you
2 post on your Facebook, Myspace, LinkedIn, Google+,
3 whatever, if you post it, someone will respond to it.

4 And if they respond to it, again, they may provide
5 you with information that is not evidence in the case.

6 It's not fair to the parties. And it's a violation of a
7 court order which I have given you.

8 So just be mindful of that, hard as it is. I know
9 it's very difficult for those of you who are used to doing
10 it. Again, I make no judgment about it.

11 But don't do it. Don't post it. Don't put it on
12 Facebook. Don't text about it. Don't do anything other
13 than -- you know, if you have to do anything: I've been
14 selected for federal jury service. I'll be there at 9:00.
15 I have to be out at 5:00.

16 I recommend you not do any of that even on a
17 social website. Because someone will do some investigating
18 to find out where you are, which case you're on. So I'd
19 just encourage you to be vigilant about that.

20 So that's my advice.

21 Now, back to my script, for lack of a better place
22 to step off.

23 I want to remind you that you're not to -- this
24 may state the obvious, but I'd be remiss if I didn't tell
25 you -- not to at any time during the trial request, accept,

1 or agree to accept or discuss with any person any type of
2 payment or benefit in return for supplying any information
3 about the trial.

4 I would expect each of you to promptly tell me,
5 should you become aware of any incident involving you or
6 any other member of the jury, of an attempt by any person
7 to improperly influence you or to obtain information from
8 you or to communicate with you in any way improperly in
9 connection with your service on this case.

10 You're not to visit or view the premises or place
11 where the subject events allegedly occurred or any other
12 premises or place involved in the case.

13 You're not to use internet maps or Google Earth or
14 any other program or device to search for or view the
15 location discussed in the testimony.

16 You're not to read, watch, or listen to any
17 accounts or discussions that are related to the case which
18 may be reported by newspapers, television, radio, the
19 internet, or any other news media.

20 I suspect that you have all had the occasion, as I
21 know I have -- occasionally I have presided over lengthy
22 proceedings and then later a chance to see a newspaper
23 article about it that bore very little resemblance to what
24 I remember the proceeding to actually have been.

25 It's not a criticism of the fourth estate or

1 journalists or bloggers or anybody that is trying to record
2 and disseminate information about the case.

3 But remember this: That only you all have been
4 sworn to carry out the duty of jurors. Only you all have
5 been sworn to listen only to the evidence and my
6 instructions on the law. Nobody else is so qualified.
7 Nobody else has taken that oath.

8 As well intentioned as they may be, journalists,
9 bloggers, people that are covering the trial -- and I don't
10 know how much media coverage there will be about the trial.
11 I suspect there will be some.

12 I don't have any ability to control that. You
13 can't control it. So the only thing I can do is tell you:
14 Don't look at it.

15 If it's on the television, turn it off. If it's
16 in the newspaper, turn it over; don't read it. You'd
17 probably be well advised to try to keep your internet
18 access to a minimum. But if there's information on the
19 internet, do not read it.

20 I'm going to ask you every time I see you when you
21 come back after a break if you've been able to follow my
22 instructions in that regard.

23 And the same thing applies. If you -- if you're
24 not vigilant about that, then you're going to get
25 information that is not proper. It's not fair. And it

1 undermines the entire proceeding.

2 Remember what I told you my primary job was? To
3 make sure the parties get a fair trial. I take that
4 responsibility very seriously.

5 I also take it very seriously if you all don't
6 follow my instructions. I know you will. But I'd be
7 remiss if I didn't tell you that I expect it and there are
8 consequences if you don't because I know you will.

9 Now, you're also not to attempt to research any
10 facts, issue, or law related to the case, whether by
11 discussions with others, by library or internet research,
12 or by any other means or source.

13 I've touched on these things already, but it's
14 important that you understand why these rules exist. And
15 they exist because, as I mentioned, jurors must decide the
16 case solely on the evidence presented here in the four
17 walls of the courtroom. And you're not to be influenced by
18 anything or anybody other than the evidence in the case and
19 my instructions on the law.

20 The law requires that you not read or listen to
21 any news accounts in the case because, among the things --
22 in addition to the things I've already mentioned,
23 oftentimes the law may use words or phrases in special
24 ways. So it's important that any definitions that you
25 might hear should come only from me and not from any other

1 source.

2 Again, it would not be fair for the parties for
3 you to base your decision on a reporter's view or opinion
4 about the case or any other information that might come
5 from outside of the courtroom.

6 The law does not permit jurors to talk with anyone
7 else about the case or permit anyone to talk to them about
8 the case, again, because only jurors are authorized to
9 render a verdict. Only you have been examined extensively
10 and found to be fair, and only you have promised to be
11 fair. No one else is so qualified.

12 Now, the law does not permit jurors to talk among
13 themselves either until the Court tells them to begin
14 deliberations.

15 The reason for this, again, I think if you put
16 your common sense hat on, makes sense. And that's because
17 premature discussions can often lead to a premature final
18 decision. Again, my whole admonition about keeping an open
19 mind until all the evidence is in and you've had your
20 instructions on the law.

21 I've told you already about using the internet and
22 technology. And I'm not going to repeat myself here.

23 I've told you about not visiting places that are
24 referenced in the testimony. The importance of that,
25 again, put your common sense hat on, is that if you were to

1 go to a place that's mentioned in the testimony, first of
2 all, it may not be in the same condition that it was in at
3 the time of the events, at the time that you visit it.

4 And, secondly, if you go to the premises to
5 evaluate what you see there, well, now you become a witness
6 and not a juror. You may have a mistaken view of what you
7 saw at the time that you visited the scene. None of the
8 parties would have a chance to address that. They wouldn't
9 have an opportunity to correct it. And, again, it would be
10 fundamentally unfair.

11 So as I've mentioned, these rules are designed to
12 help guarantee a fair trial. The law, accordingly, sets
13 forth serious consequences if the rules are not followed.
14 I trust that you understand and appreciate the importance
15 of following these rules. And in accordance with your oath
16 and your promise to me, I know that you'll do that.

17 I've mentioned notetaking already. I've given you
18 admonition about not being distracted about taking your
19 notes. I won't repeat that here.

20 Now, during the course of the trial -- I've
21 alluded to this already -- I may be called upon from time
22 to time to make rulings of law on objections or motions
23 that are made by the lawyers. It's important that you not
24 infer or conclude from any ruling or other comment that I
25 make that I have any opinions of the merits of the case

1 favoring one side or the other.

2 Should I sustain an objection to a question that
3 goes unanswered by a witness, again, don't guess or
4 speculate about what the answer might have been. Nor
5 should you draw any inferences or conclusions from the
6 question itself.

7 Should it become necessary during the trial for me
8 to confer with the lawyers outside of your hearing with
9 regard to questions of law or procedure that requires
10 consideration by the Court or judge alone, I ask for your
11 patience.

12 As I told you before, I won't do that unless I
13 think it's absolutely necessary. I've explained to the
14 lawyers that I am not a fan of sidebars. I don't want the
15 jury to be waiting while we're talking to the lawyers about
16 things that are procedural in nature.

17 But that said, sometimes things happen. And the
18 lawyers have a responsibility to represent their clients.
19 And if they think they need to get my attention to talk to
20 me about something that they either anticipate is coming up
21 that may be problematic or want me to be aware of something
22 outside of your presence, it's their responsibility to do
23 it.

24 I may or may not permit it, but I just want you to
25 know that if we do, if we do have sidebars, we're going to

1 do them as efficiently and expeditiously as we can and get
2 back to you and apologize for the interruption.

3 If it becomes necessary as a result of one of
4 those sidebars for me to talk to the lawyers in a more
5 robust environment, it might be necessary for me to ask you
6 all to be excused. Mr. Carter will take you back to the
7 jury room. I'll try to take care of whatever the problem
8 is as quickly as I can and get you back in here.

9 So, again, as I said, we're going to do everything
10 we can. And I take personal responsibility in being a good
11 steward of your time.

12 So the way the case will progress, in just a
13 moment, I'm going to turn it over to the lawyers and give
14 them an opportunity to make their opening statements to
15 you.

16 I think Mr. Beckett, if I'm correct, is going to
17 make the opening statement for the plaintiff; and
18 Mr. Calderon, if I'm correct, will make the opening
19 statement for the defendants.

20 After the opening statements, then the plaintiffs'
21 case will go forward with what we call the plaintiffs' case
22 in chief. This is the opportunity the plaintiff has to
23 call witnesses, to examine witnesses by asking them
24 questions. They can introduce documents, exhibits.

25 The defendants, after the questions have been

1 completed by the plaintiff, will have an opportunity to
2 cross-examine the witnesses, after which the plaintiffs
3 have a brief opportunity for redirect.

4 And then we'll move on to the next witness. And
5 we'll go in order, whatever the order the plaintiffs'
6 lawyers choose, until they've completed the presentation of
7 all of their evidence in the case.

8 After that, probably have to take up a procedural
9 issue that won't take too long, hopefully, with the
10 lawyers. And then the defendants will have an
11 opportunity -- if they want to put on additional evidence,
12 they'll have an opportunity to call witnesses.

13 And same thing applies. The plaintiffs can
14 cross-examine their witnesses. They get an opportunity for
15 brief redirect at which time then we'll move on to the next
16 witness.

17 Once all of the evidence is in, then what will
18 happen is, in all likelihood, I will probably give you your
19 instructions on the law before the lawyers make their
20 closing arguments to you.

21 If you watch television, that's a little bit out
22 of order. But the reason I do it that way commonly is
23 because I often find that it's helpful for the lawyers and
24 for you to know what I'm going to tell you the law is that
25 applies to the facts of the case before the lawyers have an

1 opportunity to provide their summation or their closing
2 arguments to you.

3 I've just found over time, again, with experience,
4 that sometimes it's a little better order than letting the
5 lawyers argue and then giving you your instructions on the
6 law.

7 So that's the way that the case will proceed.

8 And I'm going to turn it over now to Mr. Beckett
9 on behalf of the plaintiff to make his opening statement.
10 I'm going to remind you what I told you a number of times,
11 that what the lawyers say in their opening statements, what
12 they say later in their closing arguments is not evidence;
13 it's not to be considered by you as evidence.

14 But it is an effort for the lawyers to try to give
15 you some overview of what they expect the evidence is going
16 to be. It may or may not turn out that the evidence meets
17 their description. But that will be for you to decide.

18 They'll also have an opportunity to relay for you
19 how they think the evidence that you're likely to see or
20 that they expect you'll see may relate to some of the
21 issues that you're going to be called upon to decide. And
22 then, of course, Mr. Calderon will have an opportunity to
23 give you his view.

24 And then I'll tell you a little bit more about
25 closing arguments when we get closer to that time.

1 Mr. Beckett, are you ready to proceed?

2 MR. BECKETT: Thank you, Your Honor.

3 THE COURT: Yes, sir.

4 MR. BECKETT: May it please the Court. Ladies and
5 gentlemen of the jury, good afternoon.

6 THE COURT: Mr. Beckett, I apologize for the
7 interruption. I meant to do this, ladies and gentlemen.

8 While you were away, the lawyers have given me a
9 packet of exhibits, some of which may be referred to in the
10 opening statements. I want you to know that these exhibits
11 that are coming into evidence, I've already admitted them
12 into evidence. These are joint exhibits that have been
13 offered by both sides.

14 So there's no objection to any of these exhibits.
15 They are received in evidence. And the lawyers may or may
16 not -- I don't know what they intend to tell you. But they
17 may or may not refer to those. But if they do, it's
18 entirely appropriate.

19 Thank you, Mr. Beckett.

20 MR. BECKETT: Thank you, Your Honor.

21 OPENING STATEMENT BY THE PLAINTIFF

22 MR. BECKETT: Ladies and gentlemen, I want to
23 start this afternoon by talking to you a little bit about a
24 man named Victor Jara, J-A-R-A, Victor Jara.

25 In 1973 when the events of this case took place,

1 Victor Jara was a loving husband and a caring father to two
2 young girls. Victor was a vital, dynamic man who was
3 actively involved in the political and social causes of his
4 day. He was a famous musician in his country, which is
5 Chile.

6 He passionately believed that his music could
7 change the world. And it was because of his music, because
8 of his beliefs, because of his commitment to social change
9 that 42 years ago, he was brutally, repeatedly tortured and
10 killed.

11 This case is about the circumstances that led to
12 the untimely and tragic death of Victor Jara and finding
13 the person who is responsible for killing him.

14 You will hear that these events occurred when the
15 Chilean military forcibly overthrew the civilian government
16 back in 1973. And that brings me to the other man who this
17 case is about.

18 We're here today because the evidence will show
19 that this man sitting right over here, Pablo Pedro
20 Barrientos Nunez, is responsible for the torture and
21 killing of Victor Jara.

22 Barrientos was a lieutenant in the Chilean
23 military and part of the overthrow by force of the
24 democratically elected government back in 1973.

25 The evidence in this case will show that

1 Barrientos has stated that he killed Victor Jara by
2 shooting him twice in the head.

3 The evidence will also show that he conspired and
4 aided and abetted in the torture and killing of Victor
5 Jara.

6 The evidence will also show that over time, he has
7 given different and changing accounts of his whereabouts
8 and his activities during the critical dates in this case.

9 Barrientos' acts committed over a few days. And
10 then in an instant changed forever the lives of the Jara
11 family and helped to usher in a reign of darkness in Chile.

12 So you may ask, why are we here 42, almost
13 43 years after the fact? Well, I want to assure you that
14 that is no fault of the Jara family. The Jara family have
15 been diligently pursuing justice in this case for years.
16 For years, indeed for decades, they have tried to determine
17 who killed Victor Jara and to bring that person and person
18 who helped him to justice.

19 But this was not an easy task. For 18 years,
20 there was a military dictatorship in Chile that controlled
21 the country; and they covered up what happened.

22 Even after partial civilian control was
23 reestablished in 1988, the military remained a very
24 powerful force. And they didn't want the facts to come
25 out.

1 The Jaras only learned relatively recently of the
2 evidence pointing to Defendant Barrientos' role in these
3 events. And it was actually only after a Chilean
4 television crew found that Mr. Barrientos was living right
5 here in Florida that they knew where he was. And soon
6 after that, they brought the case of which you are now a
7 part.

8 And that brings me to the next point that you may
9 ask yourself. Why is this case which you've now heard
10 about centers on Chile, 4,000 miles from where we're
11 standing here in Orlando, here in the United States? And
12 that's also because of the defendant.

13 The military government, as I said a moment ago,
14 ended in 1988 when the people were finally given a voice
15 and voted it out.

16 The very next year, the defendant came to the
17 United States. He ultimately became a United States
18 citizen. He should, therefore, rightly be tried by a jury
19 of his peers, by members of his community. And you, ladies
20 and gentlemen of the jury, are a jury of his peers.

21 You now have before you the question of the legal
22 accountability of the defendant, Mr. Barrientos, for these
23 acts. For over four decades, Victor's family has worked
24 tirelessly to bring Victor's killer to justice. This case
25 is about achieving some measure of real justice and holding

1 the man the evidence will show is responsible for these
2 brutal atrocities accountable.

3 Now, to tell you about these events, I have to
4 take you back to another place and another time. Of
5 course, you know Chile is that narrow ribbon of a country
6 on the Pacific coast of South America.

7 And if we can, we're going to try to show you a
8 picture of that, if we're able to. We'll come back to it
9 when we can get it.

10 As I said, the time is September 1973. Victor
11 Jara at the time lived with his wife, Joan, and two young
12 children, Amanda and Manuela, in Santiago, the capital
13 city.

14 And when we have a moment, we'll show you pictures
15 of them from that time.

16 Amanda was eight, and Manuela was thirteen.

17 Joan and the children are plaintiffs in this case.
18 It is they who, along with the estate of Victor Jara who
19 Joan represents, who are pursuing this case before you.

20 THE COURT: Mr. Beckett, let me ask, why don't you
21 rest for a second.

22 MR. BECKETT: Sure.

23 THE COURT: Let's see if we can get this
24 technology working as this will not count against your
25 time. I want to make sure that we get it to work.

1 All right. Ladies and gentlemen, are your screens
2 alive?

3 JURY: Yes.

4 THE COURT: Okay.

5 MR. BECKETT: Okay.

6 THE COURT: There may be times during the course
7 of the proceedings where I will turn your screen off from
8 time to time. So help me if your screens are dark and you
9 think they should be lit. Make sure you get my attention
10 and let me know.

11 MR. BECKETT: Technology can be frustrating
12 sometimes. We'll get it going here.

13 THE COURT: Is that monitor not on?

14 MR. BECKETT: Yes, it's working now.

15 THE COURT: Okay. Great. Thank you, Mr. Beckett.

16 MR. BECKETT: Thank you, Judge.

17 You have before you an exhibit. This is JTX-21
18 that's now in evidence. Of course, you can see Chile,
19 which I know you're familiar with, that long, narrow
20 country there on the left panel. There on the bottom left,
21 you can see where Chile sits in South America.

22 Now, I talked a moment ago about how Victor lived
23 with his wife, Joan, and his two children, Amanda and
24 Manuela, in Santiago, the capital city. They were eight
25 and thirteen at the time.

1 This is a family photograph from just around that
2 time; Amanda at the bottom, Manuela on top, Joan to the
3 left, and Victor there on the right.

4 And here's another photo with Victor and his
5 guitar, with Joan and the children.

6 In the late 1960s and early 1970s, Victor Jara was
7 at the forefront of distinctive trend in music in Chile
8 that used traditional folk forms to depict the lives of
9 everyday people: workers, farmers, students, the poor.

10 The movement came to be known as the New Song
11 movement. And like other songs of the movement, Victor's
12 song had a political message and addressed social
13 conditions and the need for change.

14 Chile's a rich country in many ways. It has vast
15 natural resources. But there's a great gap between the
16 haves and the have-nots. And that's what Victor's music
17 was largely about.

18 Victor's music and legacy actually continue to
19 today. Artists that you might be familiar with, such as
20 Bruce Springsteen, U2, Bob Dylan, and many others cite him
21 as an influence and have paid tribute to him.

22 It's a token of how lasting Victor's legacy has
23 been. You'll get to hear some of his songs and his music
24 during the course of this trial.

25 Now, Victor's politics went hand in hand with his

1 music, at least from his point of view. Victor,
2 politically speaking, was a man of the left. He was a
3 member of the Chilean Communist Party as many people of his
4 generation were.

5 You'll hear expert testimony in this case that
6 being a communist at the time in Chile was not like being a
7 communist in Russia or in Cuba. Victor was committed to
8 democracy and to peaceful change. His only weapon was his
9 guitar.

10 Indeed, Victor worked for the democratic election
11 of the first socialist president in the history of Chile, a
12 man named Salvador Allende in 1970. Victor was a prominent
13 Allende supporter and a frequent presence at Allende
14 rallies.

15 Victor was extremely well known in Chile. I'm
16 showing you a picture of Victor here. I'm showing you that
17 because it says something about Victor's distinctive
18 appearance. He had a mass of wavy, dark hair. He dressed
19 not like a famous person but like a man of the people,
20 which is what he was. He was a common man.

21 He was of native descent. That made him stand out
22 in society where indigenous people weren't seen in the
23 media or part of the government for the most part.

24 You could say that Victor was a cultural icon.
25 His image and his music were pretty much everywhere at the

1 time.

2 Now, Victor was not without controversy. Don't
3 get me wrong. Not everyone liked Victor Jara. That's the
4 price you pay for being distinctive and the price you pay
5 for standing up and being different. Not everyone likes
6 change.

7 But even those who didn't like him, and perhaps
8 even more so for those who didn't like him, you felt his
9 influence and you darn sure knew who he was.

10 September 11, 1973, was an important day in the
11 life of the Jara family, in the history of Chile; and it's
12 an important day in this case.

13 On that day, Victor was to sing his songs at an
14 important speech that President Allende was to give to the
15 nation at the university where Victor was an instructor.
16 One of his other talents was that he was a theater
17 instructor.

18 On the morning of September 11th, Victor
19 grabbed his guitar and kissed his wife Joan good-bye. He
20 told her he loved her and he would see her later that
21 evening.

22 Although he could not have predicted it at the
23 time, that was the last kiss that Joan and Victor would
24 share and the last time Joan would see Victor alive.

25 Although they didn't know it then, just at the

1 time Joan and Victor were saying good-bye, the Chilean
2 Armed Forces were in the process of violently overthrowing
3 the democratically elected government.

4 Indeed, in a few hours, the Chilean Air Force
5 bombed the Presidential Palace, the equivalent of the
6 Chilean White House, demolishing it and setting it aflame.

7 Here on your screens is JTX-70, an exhibit in
8 evidence, that shows the bombing of La Moneda, the Chilean
9 White House.

10 By that afternoon, the elected president of Chile
11 was dead, and top military officers declared a military
12 dictatorship that would then rule the country.

13 This is why that day is seared indelibly into the
14 political consciousness of Chileans. The coup ended a long
15 tradition of democratically elected governments and
16 peaceful transitions that had ushered in a reign of
17 arbitrary arrests, torture, and killings in the weeks and
18 months that followed.

19 You'll hear that thousands of people were executed
20 and others were disappeared, taken off the streets, never
21 to be heard from again.

22 The night of September 11th, the military
23 surrounded the university where Victor had gone to perform
24 for the president. And Victor, his fellow faculty members,
25 and the many young students who were there were forced to

1 stay there overnight.

2 And the next morning -- on the next morning,
3 although there was no resistance, soldiers strafed the main
4 university with gunfire. Soldiers then rounded up students
5 and faculty at gunpoint, including Victor.

6 You will hear testimony that this was a part of a
7 systemic effort to detain perceived political opponents and
8 those who supported the democratically elected government
9 of President Allende. The suppressed political opposition
10 had created a climate of fear.

11 Victor and the others were transported under guard
12 in buses to an indoor stadium called Chile Stadium. You'll
13 hear that term over and over again. That's where almost
14 all of the relative events took place here. That was six
15 blocks away.

16 Ironically, this is the stadium where Victor had
17 won a New Song competition for his music just a few years
18 before, but now the military had converted it into a
19 makeshift prison.

20 From September 12th through
21 September 15th, Victor was detained there with about
22 5,000 other Chilean citizens. They were detained not
23 because they had weapons, not because they were violent,
24 but because of their opinions and their affiliations.

25 Those days, September 12th through

1 September 15th, are critical dates in this case. You
2 will hear how that stadium became a living hell for its
3 occupants during that time.

4 Untold numbers were brutally tortured and dozens
5 were killed. And the others lived in a state of constant
6 fear for their lives and safety.

7 The soldiers forced Victor and the faculty and
8 students from the university to enter the stadium with
9 their hands on their heads through a gauntlet of soldiers
10 who beat them as they passed by.

11 Because of who he was, the soldiers quickly
12 recognized Victor Jara and subjected him to even harsher
13 special abuse. They took him aside, beat him, verbally
14 abused him, screamed at him, and pistol-whipped him.

15 During the next four days, soldiers repeatedly
16 tortured Victor Jara. They then displayed his wracked body
17 as some kind of terrible trophy to officers who would visit
18 this makeshift detention center.

19 The evidence will show that Victor was targeted
20 because he was a symbol of the democratically elected
21 government and because they hated -- the soldiers hated his
22 beliefs and what he stood for.

23 The military detained so many people in that short
24 period of time, that within four days they had to move
25 people to a larger venue, to a soccer stadium that

1 ultimately held as many as 40,000 detained citizens.

2 Victor never made it to the soccer stadium. On
3 September 15th, 1973, the day that everyone was to be
4 moved to the new venue, Victor was separated from the
5 others.

6 Later that day, Victor was shot to death. You
7 will hear the Defendant Barrientos shot him once and then
8 again in the head. If that were not enough, the evidence
9 will show that he was then shot 40 additional times. His
10 lifeless body was then piled with a heap of other bodies.

11 By some small act of grace, Victor's body arrived
12 at the morgue the next day, and a brave young man working
13 at the morgue recognized who it was. He recognized it was
14 Victor.

15 And he took it upon himself to personally go to
16 tell Joan, Victor's wife, that her husband was dead. That
17 man's name is Hector Herrera. And you will hear from him
18 in the course of this trial.

19 Hector accompanied Joan to the morgue. He
20 cautioned her that when she saw the body she could not
21 portray any emotion for fear that that would attract
22 attention and subject him to arrest.

23 Joan saw and formally identified Victor's filthy
24 and bruised body riddled with bullet wounds. She noticed
25 that his hands were mangled. You can imagine where

1 Victor's body might have ended up if Hector had not alerted
2 Joan. You can imagine how Joan must have felt at that
3 moment.

4 You will hear expert testimony that many bodies
5 were never found and that hundreds of families never
6 learned the details of the fate that befell their loved
7 ones.

8 In fear for their lives, Joan and her young
9 daughters fled Chile a few weeks later. You will hear from
10 Joan about what Victor's tragic death and the inability to
11 identify and bring his killer to justice has done to her
12 and the impact it has had on her life for decades.

13 You'll also hear from his children about what it
14 was like to have their father taken from them in such a
15 brutal way and the void, the absence that this remarkable
16 figure created in their lives and the impact it had on
17 them.

18 The evidence in this case will show that Defendant
19 Barrientos killed Victor Jara and that he conspired with
20 other soldiers to torture and kill Victor Jara.

21 September 1973, Defendant Barrientos was a
22 lieutenant in the Army. It is not disputed that he
23 participated in the coup that violently overthrew the
24 democratically elected government.

25 In fact, the evidence will show that Barrientos

1 was a committed supporter of the new dictatorship. You
2 will hear that Mr. Barrientos was a member of the Tejas
3 Verdes regiment.

4 That's spelled T-E-J-A-S. New word, Verdes,
5 V-E-R-D-E-S, the Tejas Verdes regiment.

6 This was the regiment that formed a nucleus, the
7 nucleus of what would become the notorious secret police of
8 the military dictatorship called DINAMICA.

9 The evidence will show that Barrientos was at
10 Chile Stadium and was an active participant in a conspiracy
11 to forcibly detain, interrogate, torture, and kill Chilean
12 citizens who had not been formally accused of any crime,
13 including Victor Jara, and to aid and abet his conduct.

14 Mr. Barrientos has stated that he was never at
15 Chile Stadium. But you will hear from eyewitnesses that he
16 was present and actively participated in the conspiracy
17 during those critical days, from September 12th through
18 September 15th, 1973.

19 You will hear eyewitness testimony from two very
20 different points of view. You will hear testimony from six
21 soldiers who were on active duty at Chile Stadium during
22 those critical days. And you will hear from two citizens
23 who were forcibly detained and abused at Chile Stadium
24 during that time.

25 The soldiers you will hear from were serving their

1 two years of required military duty at the time. In Chile,
2 these soldiers are called conscripts. They are the
3 soldiers of the lowest level. We might call them privates
4 or grunts. For the most part, they were very young men at
5 the time, 17 or 18 years old.

6 And you'll learn something about the military
7 organization. You will learn that there's something called
8 a regiment, a term I used a minute ago in connection with
9 Tejas Verdes. A regiment is then made up of companies.
10 Tejas Verdes had combat companies as well as some other
11 companies. So it's regiment and then company.

12 And then beneath the company, you have a section.
13 Every company is made up of three sections. And each
14 section has 30 men. So each company has three sections
15 with around ninety men.

16 Of course, officers are the ones that were in
17 charge. The commander of the Second Combat Company of the
18 Tejas Verdes regiment was a man named Captain Luis German
19 Montero, Montero, M-O-N-T-E-R-O.

20 Beneath him were the three sections that I
21 mentioned, and Defendant Barrientos commanded the first
22 section. It's undisputed that after Captain Montero,
23 Barrientos was the highest-ranking officer in the Second
24 Combat Company. As such, he could issue orders to all of
25 the soldiers in the Second Combat Company except for

1 Captain Montero.

2 Soldiers from the Second Combat Company of Tejas
3 Verdes were stationed at Chile Stadium during that critical
4 period from September 12th to September 15th.

5 Soldiers of the Second Combat Company guarded the
6 citizens held forcibly at Chile Stadium during this period,
7 including Victor Jara.

8 Now, the conscripts knew Lieutenant Barrientos.
9 They were all from the Tejas Verdes regiment where
10 Barrientos was an officer, and they were part of the Second
11 Combat Company. Some of these conscripts were trained by
12 Lieutenant Barrientos.

13 The conscripts will testify, they will tell you
14 about Barrientos' activities at Chile Stadium during that
15 period from September 12th through September 15th.

16 Now, each conscript had its own task to perform at
17 the time, and no one saw or heard everything. But you will
18 hear that they saw and heard quite enough.

19 Now, something I need to tell you is the
20 conscripts have already testified in this case through
21 something called depositions. That's a process where a
22 witness gives sworn oral testimony. And then it's
23 recorded. In this case, it was recorded by video.

24 The depositions were taken in Chile. And the
25 conscripts testified in Spanish, of course, because that's

1 their native language. And that has been interpreted for
2 you into English.

3 Because the videos move a bit slowly because of
4 the interpretation, they require patience and attention.
5 But I ask you to watch them carefully because they contain
6 valuable evidence.

7 You will hear that on September 12, Barrientos led
8 soldiers from the Second Combat Company to Chile Stadium.
9 In preparation for the arrival of the civil detainees,
10 Barrientos organized the men into a guard. He positioned
11 conscripts at specific points throughout the stadium. One
12 conscript described Barrientos as the officer in charge of
13 the guards at the stadium.

14 During that four-day period in which Victor Jara
15 and other citizens were forcibly detained and were being
16 interrogated and tortured, these conscripts collectively
17 saw Mr. Barrientos on at least 20 occasions.

18 Among other things, Lieutenant Barrientos was
19 observed giving orders to conscripts and positioning
20 guards, as I just mentioned. One conscript has testified
21 that after a soldier fired his weapon at a detainee,
22 Lieutenant Barrientos arrived on the scene within minutes
23 to ensure that order was restored. Another conscript saw
24 Barrientos speaking with detainees.

25 But there is more. Mr. Barrientos himself admits

1 that between September 11th and 15th, he traveled
2 to meet the Ministry of Defense in Santiago and received
3 orders from aides to the generals who were commanding the
4 crew. He also says he delivered reports to the Ministry of
5 Defense.

6 The evidence will show that the location that
7 Mr. Barrientos went to, the Ministry of Defense, was the
8 nerve center of the plot to overthrow the democratic
9 government and to supervise the detention, torture, and
10 killing of citizens the military dictatorship believed were
11 internal enemies of the new regime.

12 The Ministry of Defense, which remains today where
13 it was then, is just about one and a half miles from Chile
14 Stadium, which is also in the same place, although you hear
15 it has a different name today.

16 The conscripts will testify that they saw
17 Lieutenant Barrientos at Chile Stadium regularly carrying a
18 briefcase or a folder. Some will testify that they
19 understood the briefcase or folder to contain orders and
20 reports.

21 One saw him sign a book that was taken to the
22 military command containing information about what was
23 happening in the stadium.

24 The accounts of some conscripts are more detailed
25 than those of others. But you will hear the conscripts

1 testify about hearing gunshots echoing through the stadium,
2 about screams of pain, and about how they saw detainees
3 being tortured and killed, and the dead bodies they saw or
4 that they themselves were required to carry out of the
5 stadium.

6 But that is not all. You will also hear from
7 another conscript who was not at Chile Stadium. This
8 conscript worked at an officer's club, or canteen, which is
9 called in Chile a casino, in another city called Arica.

10 Barrientos was stationed there a few years after
11 the coup. By this time, he had been promoted to captain.
12 And this conscript who you'll hear from was under his
13 ultimate command.

14 This conscript will testify that while he was in
15 the officer's club where the conscript worked as sort of a
16 waiter or bodyman, that Captain Barrientos would tell his
17 fellow officers about how he killed Victor Jara.

18 The conscript will testify that Barrientos
19 specifically bragged that he shot Victor Jara twice in the
20 head, proudly showing off the pistol that he used.

21 The medical evidence shows -- and it's not
22 contested by the defense -- that Victor Jara was shot twice
23 in the head. You'll see the report. And you'll see the
24 pictures of that.

25 The conscript will testify that Barrientos kept

1 these conversations limited to the officer's club. The
2 conscript has also testified that while in Arica,
3 Barrientos and another officer abused and beat another
4 conscript in Barrientos' company.

5 What was that conscript's offense? What did he do
6 wrong? The conscript that was beaten was singing a song, a
7 song that was written by Victor Jara. And that's what
8 caused the ire of Captain Barrientos.

9 Now, as I mentioned a minute ago, you'll also hear
10 from citizens who were held as prisoners in the stadium.
11 You'll hear from Denis Boris Navia Perez and from Erica del
12 Transito Osorio Arroya.

13 Each will tell you that it was terrifyingly clear
14 to them at all times that people were being brutally
15 tortured at Chile Stadium.

16 They will also testify that the detained citizens
17 were being told by officers, speaking over the stadium's
18 public address system in booming words that reverberated
19 through the stadium, that they would all die because of
20 their political beliefs.

21 They will tell you they saw Victor at the stadium,
22 badly beaten by soldiers, and that he had severe injuries.
23 And you'll hear them tell you that they saw Victor's
24 mangled, lifeless, bullet-ridden body in a pile tossed in a
25 corner with other bodies.

1 You'll also hear from experts, from some experts
2 in this case. You'll hear from Monica Gonzalez, a
3 distinguished journalist from Chile who has studied the
4 military regime for decades.

5 You'll hear from Professor Steven Stern, a
6 distinguished professor of Latin America studies, from the
7 University of Wisconsin; and from Professor Frederick Nunn,
8 a noted expert on the Chile military, from Portland State
9 University. They will provide testimony on the New Song
10 movement, which I told you about a moment ago, the
11 overthrow of the democratically elected government in
12 Chile, the Chilean dictatorship, and the subsequent
13 cover-up.

14 You'll also hear from the defendant, who testified
15 in a deposition. Among other things, as I mentioned, he
16 said he was never in Chile Stadium in 1973.

17 He testified that he did not hear about the
18 atrocities that occurred there until over 35 years after
19 the fact, although you will also hear evidence that the
20 torture and killings at Chile Stadium, including that of
21 Victor Jara, were widely discussed among the men in his own
22 company in the days and weeks following the coup.

23 Barrientos has also testified that he never heard
24 of Victor Jara until 35 years after the events in Chile
25 Stadium, even though, as I said, you will hear that Victor

1 Jara was one of the most famous musicians in Chile at the
2 time.

3 Lieutenant Barrientos has also provided changing,
4 differing accounts about those crucial days. First, you'll
5 hear that when asked by FBI agents where he was between the
6 12th and 15th of September, Lieutenant Barrientos
7 told the agents that he was, at all times, with
8 two companies of soldiers. That's 180 men.

9 Later, in the deposition, you'll hear that
10 Mr. Barrientos said that instead of being with 180 men, he
11 was actually with four men.

12 And what were the names of those four soldiers?
13 You'll hear that Mr. Barrientos does not remember any of
14 them.

15 THE DEPUTY CLERK: Mr. Beckett, 30 minutes.

16 MR. BECKETT: Thank you very much.

17 The defendant will also admit in the process of
18 becoming a U.S. citizen when asked if he had ever advocated
19 the violent overthrow of a government, he said no.

20 Now, in this case, the plaintiffs allege that
21 Defendant Barrientos is responsible for the torture and
22 extrajudicial killing of Victor Jara.

23 The judge, as he said, will give you instructions
24 about the law that governs this case and what those terms
25 mean.

1 The evidence, however, will show that Victor Jara
2 was killed for his beliefs, his politics, his public
3 associations with the democratically elected government,
4 and for his music.

5 The judge will also explain how an individual can
6 be held legally accountable if he was part of an agreement
7 with others to torture or kill, or if he aided and abetted
8 in torturing and killing; he assisted in the torture and
9 killing.

10 The evidence will show that Barrientos conspired
11 with other officers and soldiers to detain, interrogate,
12 torture, and kill citizens in Chile Stadium, including
13 Victor Jara, from September 12th through September
14 15th, 1973, and that he aided and abetted that conduct.

15 Now, throughout this trial, you'll hear a lot of
16 names of people and some place names. Maybe I can just
17 quickly show you a map to help orient you. This map is in
18 evidence as JTX-64, and it is a map showing Santiago and
19 the coastline.

20 San Antonio there on the left with the pink
21 diamond is the place where Tejas Verdes was based. And
22 this shows the route the troops took to come into Santiago,
23 which is where those cluster of pins are to the right.

24 The red dot in between is a place called Padre, or
25 Hurtado, which will also become a place that is of some

1 interest in this trial.

2 We go to the next slide.

3 This shows the relative proximity of all the
4 relevant places in this case. The green balloon is Estadio
5 Chile, Chile Stadium, which, as you see, is today called
6 Victor Jara Stadium, Estadio Victor Jara.

7 The black dot is Arsenales de Guerra, which
8 Mr. Barrientos will testify he was stationed at on
9 September 11th.

10 The light green balloon under the yellow line is
11 the Ministry of Defense. You can see the short distance
12 between Estadio Victor Jara, or Estadio Chile, and the
13 Ministry of Defense.

14 And the yellow balloon is La Moneda, palace, the
15 Presidential Palace that we talked about before.

16 Now, the judge has already instructed you about
17 what the burden of proof here is. So I won't repeat that
18 again except to say that he will tell you, as he already
19 has, that you must find that the evidence is sufficient to
20 find that the plaintiffs' claim is more likely true than
21 not true.

22 But because of the nature of this case, there are
23 some things you will not hear about. Because of the
24 passage of time and the failure of the responsible parties
25 to admit their role in the conduct that we're describing

1 here, and because of an ongoing cover-up, we don't have the
2 kind of evidence that we might have had if there had been a
3 proper investigation done back in 1973.

4 In 1973, there was a death certificate that was
5 put together but no autopsy and nothing like a forensic
6 investigation.

7 You will learn that Mr. Jara's body was exhumed,
8 and that yielded some helpful information. But by the time
9 that happened in 2009, 35 years after his death, the
10 remains were skeletal. You'll see photographs of those
11 remains. And they are an important part of the case. But
12 we will do that with as much dignity as possible.

13 You will also have before you the written report,
14 including the conclusions of the investigation conducted by
15 a forensic expert following the exhumation, which shows
16 that Victor Jara was killed by two shots to the head.

17 Of course, any investigation at the time would
18 also have been limited by the methods available in 1973.
19 So this isn't a case where anyone can reasonably expect
20 that there will be evidence or the techniques that you
21 might see on a television police drama like "CSI." That's
22 something I ask you to bear in mind.

23 In one song Victor wrote for Joan, his wife, about
24 their relationship, he sang that the two of them were,
25 quote, "working at the beginning of a story without knowing

1 the end."

2 Victor met a tragic end very soon after those
3 words were written. But his story, his story isn't over.
4 As terrible as the circumstances of his death were -- and
5 they were terrible -- they cannot overshadow his vibrant
6 life.

7 In a very real sense, this case is as much about
8 his life as it is about his death. But there's one
9 important part of his story that remains unresolved. And
10 that's why we're here today. And, in fact, that's why you
11 are here today.

12 At the end of this case, after you've had a chance
13 to see and hear all the evidence, I'm going to have the
14 opportunity to come back to you and review that evidence
15 with you.

16 And at that time, on the basis of the evidence
17 that we have put before you, I'm going to ask you to return
18 a verdict in favor of the plaintiffs for the torture and
19 extrajudicial killing of Victor Jara and to bring some
20 measure of long-delayed justice that Joan Jara, Victor's
21 wife; his children, Amanda and Manuela; and for Victor
22 Jara.

23 Thank you very much.

24 THE COURT: Thank you, Mr. Beckett.

25 Ladies and gentlemen, let's take our afternoon

1 break before we hear from Mr. Calderon. We'll take a
2 15-minute break. So we'll come back at 3:40. And we'll
3 hear from Mr. Calderon.

4 Remember, this is not the time to discuss the case
5 amongst yourselves.

6 And we'll see you back here in 15 minutes.

7 (Jury exited the courtroom at 3:24 p.m.)

8 THE COURT: We'll be in recess until 3:40.

9 (Recess at 3:25 p.m. to 3:46 p.m.)

10 THE COURT: Back on the record in Jara versus
11 Nunez, Case Number 6:13-civil-1426.

12 All counsel and parties are present.

13 Let's bring our jury back, please, Mr. Carter.

14 (Jury entered the courtroom at 3:48 p.m.)

15 THE COURT: All right. Welcome back, ladies and
16 gentlemen.

17 When we broke, we had heard from Mr. Beckett on
18 behalf of the plaintiff. Mr. Calderon will now have an
19 opportunity to make his opening statement on behalf of the
20 defendant.

21 Mr. Calderon?

22 MR. CALDERON: Thank you, Your Honor. If it
23 please the Court.

24 OPENING STATEMENT BY THE DEFENDANT

25 MR. CALDERON: Ladies and gentlemen, let me tell

1 you a little bit about Pedro Barrientos Nunez.

2 Mr. Barrientos is 67 years old. And it's true that he did
3 come here in 1989.

4 He came here to start a life, to try to live the
5 American dream. He started off doing landscaping and then
6 became a cook and at one point tried to open up his own
7 business delivering and making pizzas. And, unfortunately,
8 that didn't work out.

9 So then he went back to cooking, and he worked for
10 ten years at Perkins where he now resides in the Daytona
11 area. And he built his way up to head cook. That's who he
12 is today. He's a simple man leading a simple life.

13 Let's go back to 1973. Let's go back and let's
14 talk about what the evidence is going to show.

15 Now, prior to the events of September 11th,
16 the evidence will show that communism was raging in South
17 and Central America. It was taking over.

18 The evidence will show that in that period of
19 time, there was a leftist and Communist movement in Chile.
20 By a slim margin, that government ended up winning an
21 election.

22 The evidence will show, and you'll hear testimony,
23 that in the weeks, months leading up to September 11th
24 of 1973, the country was in dire straits. There wasn't
25 food on the shelves. There wasn't milk for babies. There

1 weren't even diapers.

2 The country was at a standstill. Most of the
3 wealthier class had left the country. And chaos was
4 starting to ensue.

5 You're going to hear testimony that soldiers were
6 informed about Cubans infiltrating Chile. Orders were
7 given to stay on high alert to watch out for snipers who
8 had come from Cuba to assist the Allende government,
9 because they were losing control.

10 You're going to hear testimony that orders were
11 given early on the morning of September 10th for
12 soldiers to get ready.

13 One of these soldiers was Pedro Barrientos Nunez.
14 He was a 24-year-old. At the time he had earned the rank
15 of sergeant. And we'll talk a little bit about the
16 structure of the Chilean military.

17 In 1973, Pedro had earned the grade of lieutenant.
18 He had started his military career at the young age of 13.
19 He had attended a military school, something similar to
20 that of a West Point Academy where he had kind of dedicated
21 his life to service for his country at that time.

22 And through that, he graduated as an officer. His
23 first training, once he had graduated the Academy -- and
24 that was his first simulated actual battle training. And a
25 few short years after that was when he got that fateful

1 order on September 10th to get ready.

2 What would happen in the next four or five days,
3 actually the next week, was events that changed Chile
4 forever.

5 Now, keep in mind, and the evidence will show,
6 that Mr. Barrientos was one of 3,000 lieutenants in the
7 military at that point in time, that there were about 1500
8 in Santiago at that time, just to give you an idea of the
9 actual power that he wielded.

10 Now, let's talk about his actual chain of command
11 and the way that the military was set up. Now, this is a
12 vertical chain of command. And so at the very top of
13 what's considered a battalion, which was called back then,
14 and the evidence will show, that it was the Bronze
15 Battalion which contained, as you heard earlier, members of
16 the Tejas Verdes, which was a school of engineers.

17 These were military personnel that had been
18 specifically trained to occasionally basically protect
19 borders, specifically this regiment with Bolivia. They
20 were trained in explosives with respect to demolition.
21 This was a school of architects and engineers and
22 construction workers.

23 But in this company, there was the Bronze
24 Battalion. And it was a combat company which
25 Mr. Barrientos was a member. This was the Second Combat

1 Company.

2 Now, within this second company, the commander of
3 that entire company was a, as you heard before, Captain
4 Montero. But above him was Major Faine. He was a major
5 who sent all commands to the Bronze Battalion.

6 And then aside from that -- and I'm trying to walk
7 you through this visually -- was where Mr. Barrientos
8 pertained to, which was the Second Company.

9 Within the Second Company, there were three
10 sections: Section one, section two, and section three.
11 And within those sections, there was Rodrigo Rodriguez
12 Fuschloger who was one of the lieutenants. There was
13 Mr. Barrientos, who was another lieutenant. And there was
14 another lieutenant who was in charge of the third company,
15 which was Del Valle.

16 Now, keep in mind Mr. Barrientos was assigned to
17 the first section. And Mr. Rodrigo Rodriguez Fuschloger
18 was in the second section. And the youngest of the three
19 was Del Valle, who was in charge of the third section.
20 Each of these sections contained 30 soldiers. That's it,
21 30 soldiers.

22 It's undisputed that the Second Company was one of
23 the companies assigned to the Estadio Chile. But it wasn't
24 the only company who had members there. There were members
25 from other regiments, from other companies, and the

1 evidence will show that Mr. Barrientos' section, section
2 one, wasn't even assigned to the stadium.

3 The section that he was in charge of was not
4 assigned to the stadium. Section -- members of sections
5 two, members of section three were assigned to that
6 stadium. The evidence will show this.

7 It will show also that there was a commander who
8 was in charge of the Estadio Chile. And the evidence will
9 show that it was common in the Chilean Army for basically
10 an officer, when they arrived at a location that was under
11 someone else's command, they were not allowed to give
12 orders to those soldiers, because they were under that
13 command.

14 That's what a vertical chain of command does.
15 There's a commander there. He's the highest ranking
16 officer, and they are the ones who give the orders. And
17 the evidence will show this.

18 Now, earlier I mentioned about the DINA. The DINA
19 was a -- the evidence will show that it stood for basically
20 the directive of intelligence, of national intelligence.
21 And this is made up of not just military personnel, but
22 military personnel as well as investigative police.

23 So it's part military but also part civilian. And
24 the evidence will show that there were civilians who were
25 witnessed having entered the Chilean stadium or the Estadio

1 Chile.

2 And it's important to know that because this DINA
3 is the intelligence-gathering arm of the Pinochet regime at
4 that point in time, at that early stage in time.

5 The evidence will show that the soldiers could not
6 identify who was a communist or a leftist or an anarchist.
7 These people were brought to them or identified to them at
8 that time.

9 Now, let's talk a little bit about the witnesses
10 that you're going to hear from today.

11 There are several witnesses that the plaintiffs
12 are going to put up. And among those witnesses are
13 conscripts who were involved.

14 And the evidence will show that Victor Jara's
15 death and the details regarding the death and the specifics
16 regarding the death are something that are well known in
17 Chile. The specific facts are public knowledge. They were
18 published. And they were known at the time that this was
19 done.

20 And you're going to hear evidence and testimony
21 about that. And we ask that you pay special, close
22 attention to the testimony that's actually given after
23 those details are released by these conscripts. And look
24 at the timing of when their statements come forward.

25 But more importantly, look at the conflicts among

1 those statements. The evidence will show that there are
2 conflicts among the witnesses themselves and what they saw.
3 And the evidence will show that there are conflicts with
4 reality, with what is possible.

5 So we ask that you not leave your common sense
6 outside, that you bring it with you when you're evaluating
7 this evidence and what can and can't happen.

8 Now, you're going to hear a lot today about Victor
9 Jara, who he was, the songs he sang. And we ask that you
10 pay close attention to and focus your attention to what is
11 important in this case. And that is the actual evidence of
12 whether or not Mr. Barrientos was involved directly or
13 indirectly.

14 We will present witnesses who will account for
15 Mr. Barrientos for all of his whereabouts during those
16 days. Bodyguards that were sworn to protect him will come
17 in and testify to where he went but, more importantly,
18 where he didn't go.

19 And that evidence and that testimony, because
20 testimony is evidence, will show that he never went to the
21 Estadio Chile during the days in question.

22 You will also hear with regards to these witnesses
23 exactly what he was wearing when he left and what he was
24 wearing about a week later when it correlates to the next
25 time he was seen by that witness.

1 And that witness is his wife at the time, Maria
2 Teresa Castro Barrientos. She will testify to the early
3 morning events on September 10th when Mr. Barrientos
4 left her side to go serve his country.

5 Now, it is undisputed that Mr. Barrientos went to
6 the Ministry of Defense. That's where the major was, the
7 major of his entire battalion was. Major Faine was located
8 there. And he did receive orders there. And he did return
9 orders there.

10 But what the evidence will not show is that he
11 ever dropped those orders off at the Estadio Chile or
12 picked any messages up from the Estadio Chile to bring back
13 there. And that's important. Because there's going to be
14 a lot of gaps in evidence with regards to what may or may
15 not happen.

16 And it's in those, just as much as you can
17 consider the evidence that is presented, you can also
18 consider the evidence that's not presented. Again, as the
19 Court will instruct you, it's the plaintiffs' burden to
20 fill in those gaps.

21 At the conclusion of this case, we're going to
22 have to separate legend from fact. And if you focus on the
23 facts and you focus on the testimony, the timing that this
24 testimony came out, the conflicts of the testimony, I am
25 confident that you will find that Mr. Barrientos was

1 neither directly or indirectly involved in the death and
2 torture of Victor Jara, which was a terrible thing, and it
3 is still an open wound for this country. They still mourn
4 his loss.

5 But it's important to set that aside and pay
6 attention to what is actually at stake here. And
7 Mr. Barrientos had no effective command over any of the
8 soldiers at the Estadio Chile; nor did he issue any
9 commands nor could he have stopped the command from being,
10 I guess, followed through with.

11 At that time with the chaos that was going on, if
12 you didn't follow an order -- and you will hear evidence of
13 this -- if you didn't follow an order, you would be a
14 detainee and you would be shot because now you are with the
15 opposition. Those were your options: Follow or die.

16 This was a time of chaos. It was a time of utter
17 madness. And Mr. Barrientos followed his orders. But none
18 of those orders ever included anything to do with the
19 Estadio Chile.

20 Thank you.

21 THE COURT: Thank you, Mr. Calderon.

22 Mr. Beckett, plaintiff, call your first witness.

23 MS. ROBERTS: Your Honor, plaintiffs call Joan
24 Jara.

25 And I'm also going to request some assistance from

1 the court staff in moving the podium a little closer to the
2 testifying spot because she has limited vision.

3 THE COURT: Okay.

4 We'll do that to the extent our cord will permit
5 it.

6 MS. ROBERTS: Thank you.

7 THE COURT: If you'll stop right there for a
8 moment, I'm going to have my courtroom deputy place her
9 under oath.

10 MS. ROBERTS: Actually, he's going to refer you to
11 the courtroom deputy. Right over there. Maybe she's going
12 to come back.

13 THE WITNESS: Okay.

14 THE DEPUTY CLERK: Please raise your right hand.

15 (Witness sworn.)

16 THE WITNESS: I do solemnly swear.

17 THE DEPUTY CLERK: Take a seat right here.

18 THE COURT: Let's use the padded chair. I think
19 it will be more comfortable.

20 We'll move the mic. We'll take care of all of
21 that. Help her get a seat. And we'll get her all squared
22 away.

23 MS. ROBERTS: Good afternoon.

24 THE COURT: Hang on just a minute, Miss Roberts.

25 MS. ROBERTS: Oh, I'm sorry. I'm excited.

1 THE COURT: All right. Miss Jara, would you state
2 your full name, please, ma'am, and spell your last name for
3 the court reporter.

4 THE WITNESS: Yes. My name now is Joan Jara. And
5 my second name is spelled J-A-R-A.

6 THE COURT: All right. Miss Jara, you're very
7 soft-spoken, so I need to ask you to try to be mindful of
8 the microphone and speak directly into it, if you can,
9 please.

10 THE WITNESS: Okay.

11 THE COURT: Thank you, ma'am.

12 You may inquire, Miss Roberts.

13 MS. ROBERTS: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MS. ROBERTS:

16 Q Good afternoon, Joan. Can you see me?

17 A Just about.

18 THE COURT: Miss Roberts, let's use surnames,
19 please. Miss Roberts, let's use surnames per the Court's
20 rules. Okay? No first-name references.

21 MS. ROBERTS: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 BY MS. ROBERTS:

24 Q Mrs. Jara, when were you born?

25 A I was born a long time ago, in 1927.

1 Q And where was that?

2 A That was in London, England.

3 Q And where do you live today?

4 A Today I live in Santiago, Chile.

5 Q How many children do you have?

6 A I have two daughters.

7 Q Are they here today?

8 A Yes, they are.

9 Q And what are their names?

10 A Manuela and Amanda.

11 Q Have you ever been married?

12 A Yes. I've been married twice.

13 Q And who was your first husband?

14 A My first husband was Patricio Bunster.

15 Q And your second husband?

16 A My second husband was Victor Jara.

17 Q And how long were you married to Victor Jara?

18 A To Victor, it was about for 13 years.

19 Q I want to ask you to tell the jury some of the things
20 that you think are most important for them to know about
21 Victor.

22 First, what kind of person was he?

23 A A very wonderful person. He was born into a very poor
24 peasant family in Chile, but as a young man, obtained a
25 university degree.

1 I met him when he was in the University of Chile. But
2 he showed me where he was born and where he was brought up.
3 And it was a tiny, tiny peasant house, not in Santiago, way
4 in the country.

5 And this was very typical of Victor because he never
6 lost his peasant roots. He always stayed a peasant,
7 although he became an important theater director. He kept
8 on with his peasant roots by singing the songs his mother
9 taught him.

10 Q What more can you tell us about his professional life?

11 A His professional life. Well, he was an extremely
12 successful professional. He was a prize-winning theater
13 director who became invited to England by the British
14 Council. Took part, created many important theater
15 productions in Chile and in other places.

16 But he never forgot his peasant roots. And the song
17 always accompanied him. And in the -- as he grew older, he
18 never forgot his peasant roots and sang and composed songs
19 which were dedicated to the life and aspirations of the
20 most humble people in his country.

21 In this too, in this work too, he was also given
22 prizes as the best whatever, yeah.

23 And he was a very gifted and creative artist in both
24 fields --

25 Q I'm sorry.

1 A -- music and theater.

2 Q And could you speak a little bit about his -- the kind
3 of father and husband that he was.

4 A Well, he was certainly a very loving husband. A
5 loving and sensitive father to both my daughters.

6 Also, with a great sense of fun.

7 Q And what could you tell us about his political life?

8 A Yes, he was a member of the Communist Youth when I met
9 him, although at that time he wasn't very busy in politics.
10 He did become much more occupied with the political life in
11 Chile during the '60s. That's all.

12 He was part of a community of artists there who had
13 very strong social conscioues about a need for change in
14 the country, which I -- oh, dear. Well.

15 I could understand all his concern when I saw the
16 barefooted children sleeping in the --

17 MR. CALDERON: Your Honor, may I object?

18 THE WITNESS: What?

19 THE COURT: I'm sorry. Grounds?

20 MR. CALDERON: Nonresponsive.

21 THE WITNESS: Nonresponsive. Yeah. Okay.

22 THE COURT: That's okay, Miss Jara. I'll take
23 care of the objections.

24 So the objection is overruled.

25 You can answer the question.

1 BY MS. ROBERTS:

2 Q You can continue.

3 A Yeah, okay.

4 One of the things that first shocked me when I first
5 arrived in Chile was the poverty of the poor. There was a
6 sort of poverty that in London, and even in England in the
7 poorest parts, I had never seen before with groups of
8 children at night sleeping in the beds of the River
9 Mapocho, begging, barefooted, ragged, ragged clothes,
10 living in wooden ranchos, I see. I had never seen this
11 sort of poverty before.

12 And although I -- I was a dancer at -- I'd never been
13 political.

14 THE COURT: I'm sorry, Miss Jara.

15 Let's get a new question, Miss Roberts.

16 THE WITNESS: Yeah, nonresponsive.

17 THE COURT: Miss Jara. Miss Jara.

18 MS. ROBERTS: It's okay.

19 THE COURT: Miss Jara, can you hear me?

20 THE WITNESS: Yes, I can hear you.

21 THE COURT: I'm actually over here to your right,
22 and I know you're having trouble seeing. That's okay.

23 But I may interrupt you from time to time because
24 I want you to listen to Miss Roberts' question --

25 THE WITNESS: Yeah, okay.

1 THE COURT: -- and answer that question as clearly
2 as you can and then catch a breath. And Miss Roberts will
3 ask you a new question, okay? So we'll --

4 THE WITNESS: Okay.

5 THE COURT: -- stay in a question-and-answer
6 format and try to stay away from these long narratives.
7 Okay?

8 THE WITNESS: Okay.

9 THE COURT: All right. Thank you.

10 You may inquire.

11 BY MS. ROBERTS::

12 Q After you were married to Victor, why did you never
13 remarry?

14 A Because I was still married to him. I had been very
15 much in love with him. And we had such a deep relationship
16 which I have never been able to make.

17 Q In 1972, what was your monthly income? Yours?

18 A Oh, I just had a raise. Wait a minute. It was 2,000
19 escudos, if that means anything to you.

20 It was the salary of a university professor who was
21 the head of -- the chief in -- Juan, Juan Cordelia
22 (phonetic) in the faculty of arts.

23 Q And was that per month, per week?

24 A Oh, yes. Per month. Well, it doesn't make much
25 difference if it's escudos but --

1 Q I'm sorry. I didn't --

2 A Yes, per month.

3 Q -- hear your answer.

4 A Per month.

5 Q Per month.

6 And how did Victor's income compare to yours?

7 A Slightly less, actually, because he was younger than
8 me, and he just entered the university. We had a system of
9 trilenios, when they put your salary up.

10 Q So directing your attention to 1973, and specifically
11 to September the 11th, 1973, what meaning does that
12 date hold for you?

13 A Well, literally I feel it was the end of my first
14 life. This is how I feel. Because I lost so much on that
15 date, as did so many people in Chile.

16 It changed, absolutely changed my life and the life of
17 my daughters.

18 Q And what was your understanding of what was happening
19 that day?

20 A Well, we had been threatened for a long time with a
21 military coup. There had been an attempt at one that same
22 year before.

23 I'm sorry. What was the question?

24 Q The question was, what was your understanding of what
25 was happening on that day --

1 A Yes.

2 Q -- September 11th --

3 A Well --

4 Q -- 1973?

5 A Yes. Okay.

6 When I heard the news of the military maneuvers in
7 Santiago and in El Valparaiso on the radio as I took the
8 children to school, I realized that the expected military
9 coup had already started.

10 Q How did you learn that the coup was happening?

11 A From the news on the radio. From the news on the
12 radio. I heard first about the maneuvers, military
13 maneuvers in Valparaiso, Valparaiso.

14 And saw -- as I returned home, I saw -- at that point
15 I didn't see soldiers or anything like that. But I did see
16 truckloads of young men armed with rifles who were right
17 wing supporters in our neighborhood.

18 Q So what did you do when you realized the coup had
19 started?

20 A I went back to school, took Amanda and Manuela.

21 Q And what did Victor do?

22 A Victor was at home when we got back home. Victor was
23 listening to the radio. He was listening to the military
24 announcements, bandos, giving instructions, and we had
25 military marches.

1 What did Victor do? He was listening to the
2 radio.

3 THE COURT: Miss Roberts, can I ask you to speak
4 into your microphone. Can you move it over?

5 MS. ROBERTS: Yes, Your Honor. Absolutely.

6 THE COURT: Thank you.

7 MS. ROBERTS: Is that better?

8 THE COURT: Yes. Thank you.

9 BY MS. ROBERTS:

10 Q What were you able to find out by listening to the
11 radio?

12 A Well, that a military coup had already begun, and the
13 military were beginning to take command of different places
14 in Santiago.

15 But above all -- well, we heard how different radios,
16 one by one, had to say farewell and shut down. And then we
17 heard military marches.

18 But above all --

19 Q What were you -- I'm sorry. What were Victor's
20 original plans for that day?

21 A Well, that day -- well, that's really what Victor was
22 doing was to find out if his original program was going to
23 happen. He was due to sing for the opening of an
24 exhibition in the Technical University, which would tell --
25 which would be about -- warned what a civil or a military

1 coup would be like for the people of Chile.

2 Because before this, there had been so much talk of a
3 threat of a military coup. And he was -- it was an
4 exhibition in the university which Allende was due to
5 attend and which was known that he was about to announce a
6 plebiscite to ask the opinion of the people of Chile about
7 the possibility of, of taking part in a plebiscite crisis,
8 a political crisis that there was.

9 Q So what did Victor decide to do?

10 A Well, in the end, Victor decided to -- he found the
11 university and found that the students and teachers,
12 director, were all assembled there already. And he decided
13 that he should go to his place of work and be together with
14 his fellow workers.

15 He asked me to stay at home to be with Mandy and
16 Manuela, Amanda and Manuela.

17 And that morning, quite early, he went out. He went
18 out, and that was the last time I saw him.

19 Q Did you -- that was the last time you saw him? Did
20 you ever hear from him again?

21 A Yes, I did. He phoned us a few hours later. Because
22 he had had great difficulty in arriving at the university
23 because the streets were cut off with the tanks or
24 whatever.

25 And he -- it must have been about 12:00 when he phoned

1 me. And he told me that he had arrived safely, that there
2 were about, say, 600 or so students there at the university
3 gathered, listening anxiously to the news.

4 And then he said, Well, I must ring her.

5 Because there's a tremendous queue for the telephone.
6 Some people wanted to ring to their homes to help -- that
7 their loved ones are okay.

8 Q What was going through your mind at this time?

9 A Oh, I was very afraid, but not as afraid as later on.
10 Very afraid because Victor had been threatened many times
11 because of the songs he sang. It was considered, I think,
12 songs were dangerous.

13 Q How many times did he call you from the university?

14 A He called me twice. Twice.

15 Q So when was the next time?

16 A The next time was around 4:00. And he said, he told
17 me, as I knew, that the curfew had -- a military curfew had
18 already been announced and that he wouldn't be able to get
19 home that day, but that the next morning he would come back
20 home as soon as he possibly could.

21 Q And did you ever hear from him again?

22 A Not directly, no.

23 Q How did you find out what happened next at the
24 university?

25 How did you find out --

1 A Yes.

2 Q -- what happened --

3 A Yes, yes.

4 Q -- at the university?

5 A Yes. I understand. Yes.

6 Listening to the, looking at the television. The next
7 morning there was an announcement saying that the Technical
8 University had been taken over by the military and had been
9 reduced and a large number of terrorists had been arrested,
10 detained.

11 Q And what was your reaction when you heard that.

12 A Well, horror. I started phoning around to people I
13 knew. I had the hope then. Although hope is that Victor
14 had managed to escape from the university in spite of the
15 curfew, it was a vague hope.

16 But I didn't really 100 percent know what happened,
17 what had happened to him until later on. And then I
18 managed to find out that all the people from the, all the
19 prisoners, the students and teachers of the university were
20 made to lie in the baby football court with their hands
21 behind their heads, then put in buses and taken to the
22 nearby Chile Stadium.

23 Q What did you think when Victor didn't come home that
24 night?

25 A Oh, well, in this situation, I think you don't really

1 think very much. You panic. I was very, very, very much
2 afraid for him because his life had been threatened and --
3 well, didn't sleep much.

4 Q You mentioned that you never heard from Victor again
5 directly. How did you hear from him indirectly?

6 A Yes. It was on the Friday after the coup, I think,
7 that I, I got a phone call from a young man whom I
8 didn't --

9 MR. CALDERON: Objection, Your Honor. Hearsay.

10 THE COURT: Not quite yet.

11 But, Miss Jara, you can tell us about the call,
12 but just don't tell us what was said in the call. Okay?

13 THE WITNESS: No.

14 MS. ROBERTS: Your Honor, I believe --

15 THE COURT: I'll give you an opportunity to be
16 heard once we get there. Let me see where we're going.

17 Ask a new question.

18 BY MS. ROBERTS:

19 Q What was the impact of that message on you?

20 A It made me go out in spite of what had been Victor's
21 instructions, Please don't go out. Please stay home. Take
22 care of the girls.

23 I went out.

24 MR. CALDERON: Objection, Your Honor. Hearsay.

25 THE COURT: Overruled.

1 BY MS. ROBERTS:

2 Q And what did you do next when you went out? What did
3 you do?

4 A I went down to fetch our car thinking that I might
5 need a vehicle later on.

6 When I reached the university, I saw the tremendous
7 plate glass windows shattered. And in the parking lot,
8 there was our little car in the middle with an old man
9 standing beside it, sitting beside it hunched up.

10 And as I approached, he said, this is Don Victor's
11 car.

12 And I said, yes, I know. I'm his wife.

13 And on the ground, there was broken glass that was
14 black. And he, the little man, the -- he was the -- take
15 -- the people who take care of the cars that were parked
16 every day there.

17 He said, I'll help you clean it inside.

18 And he did so very kindly. The windows wouldn't shut
19 but -- and afterwards, I thanked him. And he drove back to
20 our house.

21 Q Did you ever hear again from Victor directly or
22 indirectly?

23 A Victor directly?

24 Q Did you ever hear from Victor again?

25 A I'm sorry. I'm thinking about that.

1 Q That's okay. We can pass that question.

2 What did you do in those days while you were waiting
3 to hear from Victor?

4 A I tried to keep up a sort of spirit of normality for
5 my daughters, but it was very difficult because we
6 obviously needed to know the news. We had the radio on or
7 the television on. We had calls from friends telling us
8 what was happening.

9 And -- I -- I'm sorry.

10 Q What was your feeling during those days while you were
11 waiting?

12 A Oh, terrible anxiety, very terrible anxiety.

13 Q After you went to get the car, did you ever leave your
14 house again during this period where you were waiting for
15 Victor to come home?

16 A Yes, it was after. It was on Tuesday. It wasn't a
17 Tuesday. Sorry. It was on Sunday morning. I lost -- one
18 lost the idea of what day it was.

19 It was on Sunday. I was trying to sleep
20 unsuccessfully. And lying there in the dark in my empty
21 bed, I felt a tremendous explosion in my body. And I
22 remember sitting up in the dark and feeling a horrible
23 emptiness around me.

24 So that determined my decision. I got up the next
25 morning, dressed in my best clothes. I went off with my

1 British passport to the British Embassy to ask for help.

2 Q And what help were they able to offer you?

3 A None at all. The British Embassy was shut. It was
4 shut. The gate was shut on the outside. And as I
5 approached, I told the guard outside that I am a British
6 subject and I need help. Showed him my passport.

7 But he didn't open the gate. He phoned a British
8 diplomate. I think he was secretary. He came out, and he
9 told me then.

10 I said, I need help, please. I'm a British subject.
11 And my husband, I think he's imprisoned in Chile Stadium.
12 Please, can you help me?

13 And they said, Is he -- they said, is he British?

14 And I said, No, he's Chilean.

15 And he said, Sorry. There's nothing much we can do.

16 Q How did you first learn that Victor had died?

17 A On the Tuesday after, early in the morning, I heard
18 the gate of our house rattle. And I went down. I looked
19 out of the window, and it was a man.

20 And he said, Are you, are you the wife of Victor Jara?

21 And I said, Yes.

22 Please, I need urgently to speak to you.

23 I said -- well, I went downstairs, opened the front
24 door.

25 He said, Please don't be scared. I'm from the Jota

1 Jota. I am, I'm working. I work -- I'm working in the
2 morgue on the identification of the bodies there. Please,
3 I need to talk to you.

4 And I let him -- may I come in? I let him come in.

5 We sat there together on the sofa. And he said, I'm
6 afraid I have bad news for you. And perhaps you can tell
7 me what color are Victor's underpants?

8 What a strange question. But it wasn't, because
9 lately we had been on a journey to London. And so I was
10 able to answer, they are blue. Didn't exist in Chile.
11 These were bought in London.

12 And then the young man said, well, I'm afraid to tell
13 you that Victor's body has been recognized in the morgue.

14 And my whole body is sad.

15 And then he said, You must come with me to claim his
16 body. Otherwise, it will be taken away to a common grave.
17 It's already been there for two days.

18 Q Let me stop you there. How did you react to this
19 news?

20 A I said, Well, yes, I will come with you.

21 He didn't drive. This young man, his name was Hector.

22 And I drive down, I drive him in my car down to the
23 morgue.

24 Q And what did you see when you got to the morgue?

25 A He took me in a side door. This Hector had a pass

1 because he worked there.

2 And the first thing I saw was a large space, which I
3 understood later was the parking place of the morgue, and
4 heaps of, heaps of bodies, heaps of bodies of young men,
5 old men with helmets, and other people who were working,
6 pulling the bodies into heaps, different heaps.

7 Then I step in, at least a hundred bodies.

8 Q And did you see Victor's body there?

9 A No. Hector went to ask the people who were working
10 with these dead bodies. And they said -- they told him,
11 no, Victor had been taken up to the second floor, which was
12 the administrator, the administrative offices of the
13 morgue.

14 And so --

15 Q Could you describe how you got to Victor's body and
16 what you saw --

17 A Yeah. We went up, we went up a staircase. And then
18 we started walking along a long corridor. And in the
19 corridor, there were body after body after body after body.

20 These were younger people. They must have been
21 students. And all had blood on them and bullet holes.

22 And we came to the end, almost to the end of this
23 corridor. And I suddenly saw Victor's body lying face up.

24 Q And what was the state of his body?

25 A Yes. His eyes were open. One eye was bloody and

1 bruised. His hands were hanging in a strange, in a strange
2 angle from his wrists in front of his chest and covered in
3 blood.

4 He had about -- I think I saw 20 large bullet holes in
5 his abdomen and an enormous wound in the center of his
6 body, a really enormous wound. And his trousers and pants
7 were around his feet.

8 Q What did you have to do to claim the body?

9 A Well, I had to go down to the offices. And the first
10 thing that was asked was for my I.D. I hadn't thought to
11 bring it with me. So I said -- yeah, had to go to get it.

12 So I had to drive back home. And then I thought of a
13 friend who lived on the way to my home who I knew would
14 help me, who, strangely enough, was also called Hector.

15 And we drove, I drove off to -- passed his house,
16 stopped. And he came with me home ready to help me.

17 I went inside my house, fetched my passport. Didn't
18 speak to anyone. But there were already friends there who
19 were accompanying my family.

20 Q And how did you collect Victor's body from the morgue?

21 A Yes. Well, we had to go back to the cemetery.

22 And my friends were with me because really they did
23 all of the paperwork. Between Hector and Hector, they did
24 the paperwork. Hector went out to buy a coffin.

25 And the rule was that we had to go straight from the

1 cemetery -- to the cemetery. And there was no hope of
2 thinking of having a funeral.

3 Q So could you describe your path from the morgue to the
4 cemetery?

5 A That's another thing. An old man came from the
6 cemetery to pull the trolley. We put Victor's coffin on
7 the trolley.

8 We had a short time to get out of the morgue. And as
9 we were going through it, on the other end of the tunnel, a
10 military ambulance entered. And we were already in the
11 tunnel.

12 And I said, Don't look back. Don't. Stay with where
13 you are.

14 And we stood our ground. The military ambulance had
15 to backtrack and give way to us. And I think we all felt
16 that was some little triumph. No use but still a triumph.

17 And then we had a long, long walk to the end of the
18 cemetery. And I can never forget the sound, the old man
19 pulling the trolley bent over.

20 And then my two friends, one new, one old. And the
21 noise of the trolley that went --

22 All the way to the end of the cemetery.

23 And we found the niche that Hector had bought.

24 Q I'm sorry to interrupt you, but I'm going to ask you
25 another question.

1 What was involved in burying Victor's body? What did
2 you have to do?

3 A I had to climb up to the third, to the third level.
4 Is this what you mean?

5 Q Yes.

6 A Yeah, sure.

7 We had to climb up to the third level, because there
8 were four levels altogether, and put Victor's coffin there.

9 Oh, sorry.

10 And I hadn't thought to get any flowers.

11 Q How did you tell your daughters what happened?

12 A Well, I got home. I think Hector drove me home, I
13 think.

14 Hector drove me home. And then I found that Manuela
15 had already heard the news because there had been visitors.
16 The news had spread by telephone calls, our friends.

17 But mainly -- I think she was outside and came running
18 in. And I had to tell her. I had to tell her. And I told
19 her that Victor had been killed. And I will never forget,
20 never forget her scream, a terrible scream when she heard.

21 Q How was Victor's death described in the news?

22 A I think it was -- I don't know if it was immediately
23 or a few days later.

24 There was -- I think it was less important. There was
25 a little note, about two inches, two, three centimeters

1 high which said, folk singer, Victor Jara, is -- I think it
2 said -- I don't remember. But folk singer, Victor Jara,
3 died or is dead or -- I don't remember the exact words.

4 And his funeral took place privately with the
5 presence of his family.

6 THE COURT: Miss Roberts, I think this is a good
7 stopping point, unless you have some, unless you'd like to
8 go for a few more minutes.

9 MS. ROBERTS: I think I could finish up in about
10 five minutes.

11 THE COURT: Can you? Okay. All right. I'll let
12 you keep going then.

13 MS. ROBERTS: Thank you.

14 BY MS. ROBERTS:

15 Q Had you ever known Victor to be involved in any kind
16 of violence?

17 A Oh, no.

18 Q Did you ever advocate for violence?

19 A No. He had songs about the right to live in peace.

20 Q How has Victor's death affected your life?

21 A Totally. It changed it completely. And with the
22 petition of the British Embassy, we had to leave Chile.
23 They advised us strongly to leave Chile. We had to go into
24 exile.

25 We -- well, I lost my job and my profession. I

1 couldn't think of dance anymore. My life, my life was cut
2 in two. My children left their school, their friends,
3 their home, and their country.

4 MS. ROBERTS: I have no further questions.

5 THE COURT: Thank you, Miss Roberts.

6 Ladies and gentlemen, you've had a long day. I
7 appreciate very much your attention. I know you started
8 way early this morning in order to get here in time. So
9 I'm going to excuse you for the evening with my thanks for
10 your attention and patience with us today.

11 If I can ask you to try to adjust your schedules
12 in the morning so that you leave in time to account for
13 traffic and be here at 9:00. Remember we can't start until
14 you're all here.

15 And I know from personal experience that the
16 traffic coming in in the mornings can be difficult. So try
17 to factor that in.

18 And if you'll be back and ready to go at 9:00, let
19 me remind you this is not the time to discuss the case
20 amongst yourselves or with anyone else.

21 Let me remind you, again, to avoid any type of
22 media exposure in connection with the case and to be
23 vigilant about that. And I'll ask you in the morning
24 whether or not you've been able to do that successfully.

25 So I hope you have a pleasant evening, a safe

1 drive home. And I'll see you back here in the morning at
2 9:00.

3 If you just leave your notepads in the chair,
4 Mrs. Flick will pick those up. She'll make sure that she
5 keeps them safe and put them back in your chair so that
6 they are there for you when you arrive in the morning.

7 (Jury exited the courtroom at 4:54 p.m.)

8 THE COURT: Anything further from counsel before
9 we recess for the evening?

10 MR. DELLINGER: Judge, in one of your
11 instructions, you mentioned case and response. And I want
12 to let the Court know that if this statement comes in, this
13 disputed statement of one of the witnesses, that we're
14 going to have a rebuttal to that because we are
15 purposefully not putting in the response to that statement
16 on the assumption this is not going to come into evidence
17 during their responsive case.

18 Do you understand? Is that clear?

19 THE COURT: Well, not entirely. Because I don't
20 know exactly what the issue is.

21 MR. DELLINGER: There's a statement, we're not
22 going to put it in during our case in chief. It is a
23 statement of one of the witnesses. They're going to try to
24 put it in during their responsive case.

25 We're assuming that it's not going to come in.

1 But if it does come in, we're going to want to respond to
2 that statement in rebuttal.

3 THE COURT: I'll certainly give you an opportunity
4 to tell me if you have rebuttal evidence when the time
5 comes, and I'll decide if it is or it is not rebuttal. If
6 it is rebuttal and it's proper, I'll permit it. If it's
7 not proper rebuttal, then I won't.

8 MR. DELLINGER: Thank you, Your Honor.

9 THE COURT: You're welcome.

10 Anything else, Miss Roberts, before we adjourn for
11 the evening?

12 MS. ROBERTS: Thank you, Your Honor.

13 THE COURT: Mr. Calderon, anything further?

14 MR. CALDERON: Nothing further, Your Honor.

15 THE COURT: Thank you very much. We'll be in
16 recess until 9:00 in the morning. You all have a pleasant
17 evening.

18 (Proceedings adjourned at 4:55 p.m. until
19 Tuesday, June 14, 2016, at 9:00 a.m.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

s\Amie R. First, RDR, CRR, CRC, CPE

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