

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Jean Bookout; Charles Schwarz,)
individually and as Personal)
Representative of the Estate of)
Barbara Schwarz, deceased;)
Richard Forrester Brandt, as)
Personal Representative of the)
Estate of Barbara Schwarz,)
deceased,)
 Plaintiffs,)
)
vs. Case No. CJ-2008-7969
)
Toyota Motor Corporation; Toyota)
Motor Sales, U.S.A., Inc.;)
Toyota Motor Engineering and)
Manufacturing North America,)
Inc.; Aisan Industry Co., Ltd.,)
 Defendants.)

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TRANSCRIPT OF MORNING TRIAL PROCEEDINGS

HAD ON THE 7TH DAY OF OCTOBER, 2013

BEFORE THE HONORABLE PATRICIA G. PARRISH,

DISTRICT JUDGE

Reported by: Karen Twyford, RPR

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APPEARANCES

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Mr. J. Cole Portis, Attorney at Law
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1 (whereupon, the following trial proceedings were had
2 in the morning on the 7th day of October, 2013, to wit:)

3 THE COURT: We're on the record in the case of Jean
4 Bookout and Charles Schwarz individually and as personal
5 representative of the estate of Barbara Schwarz, deceased;
6 and Richard Forrester Brandt as personal representative of
7 the estate of Barbara Schwarz, deceased, versus Toyota Motor
8 Corporation and Toyota Motor Sales, Inc., USA, Case No.
9 CJ-2008-7969.

10 off the record the attorneys have already all
11 announced their appearance for the trial. And what I would
12 like to talk about before I bring the jury over is I have
13 reread the motion in limine having to with the recalls. And
14 what I intend to do, what I first would like to know is what
15 I do think is potentially that is relevant in this case has
16 to do with the e-mails back and forth having to do with what
17 was going on with NHTSA.

18 And I don't know that it is necessary that the
19 subsequent recall -- but I don't know how you get the
20 information regarding Toyota's relationship or their working
21 with NHTSA without mentioning the recall. So my first
22 question would be: These three e-mails that were attached,
23 which recall did they have to do with?

24 MR. CLARK: It was 70F and 7LF, your Honor. It was
25 the 2007 all-weather floor mat recall.

1 THE COURT: So all three of these had to do with
2 the floor mat recall?

3 MR. CLARK: I will let Mr. Baker correct me if I'm
4 incorrect on that, but I think that's right.

5 MR. BAKER: I think you're right.

6 THE COURT: The only thing that I would think would
7 be relevant for this would be anything that shows how the
8 relationship between Toyota and NHTSA with regard to these
9 other recalls, and in particular the three text (sic)
10 messages. So I'm going to allow the text messages with
11 limited discussion about the recall. But I don't even know
12 that it is necessary. And, again, I would have to go back
13 and read them all to point out -- I guess they do talk about
14 a recall in them.

15 The only one that I will allow any testimony
16 regarding is the 2007 all-weather floor mat recall. I will
17 not allow any testimony about the other two recalls.

18 MR. CLARK: Your Honor, as long as I'm standing up,
19 we do have one housekeeping matter.

20 MR. BEASLEY: Judge, may I ask before we get to
21 housekeeping, can we approach if it appears that the pedal
22 recall will come in? Because you're going to have people
23 who were dealing with NHTSA trying to restrict it to the
24 mats when they knew that they had the other problems. It
25 all is going the dovetail together at some point during the

1 trial. Before we attempt it, we will approach.

2 THE COURT: Yes, Mr. Beasley. As a matter of fact,
3 for each and every one of these issues that I've ruled, if
4 something happens during trial that you thinks should change
5 what my ruling is, please approach. Do not mention
6 anything, even if you think something changed, do not
7 mention it on your own until you have approached and I make
8 a ruling on it one way or the other.

9 Mr. Clark, did you have something further?

10 MR. CLARK: Yes, your Honor. I have an order,
11 plaintiffs' motion to permit additional counsel access to
12 source code. I believe it is consistent with your ruling on
13 the telephone and that the parties have agreed upon. Can I
14 approach with that?

15 THE COURT: And this is now Mr. Beasley and
16 Mr. Portis now have access. Okay.

17 MR. CLARK: So the court is aware, there is one
18 more source code order coming. I think we have pretty much
19 agreed on it, it is just kind of clerical, tickey tacky
20 stuff at this point. I hope we will be able to take care of
21 that tomorrow.

22 THE COURT: And it will not affect what we're doing
23 today?

24 MR. CLARK: No, ma'am.

25 THE COURT: Okay. It is my understanding that you

1 now have a final pretrial order. And I ruled last Friday
2 that I think there were some additional witnesses and
3 exhibits that had been listed by plaintiff. And I had ruled
4 Friday that the defendant could just reserve all of its
5 objections to anything new rather than spending the weekend
6 making your objections. So I don't know if it is somehow
7 indicated on there which ones we're reserving.

8 MR. TEAGUE: There is nothing in there. I made an
9 objection at the end of defendants' contentions, but there
10 is nothing in there about the court making a record on that.
11 If the court would make that record, then we need everyone
12 to sign off on it so I can have it copied and filed.

13 THE COURT: Okay. I previously ruled, and still do
14 rule, that the defendants have reserved any of their
15 objections to any of the additional exhibits or witnesses
16 that were listed on the pretrial conference order. And I
17 guess if some issue comes up, whether or not it was
18 previously listed and just no objected, or newly listed, we
19 will take those up as they arise. So did you have any
20 changes?

21 MR. ESDALE: There is just one thing, your Honor,
22 and I think it maybe cured in light of your telling us the
23 other day that you were going to remove all of this from the
24 system. But we also discussed, it is the subject of the
25 motion in limine, a settlement between the Schwarz estate

1 and Ms. Bookout's carrier. The amounts are listed in here.
2 My understanding of the court's ruling and motion in limine
3 is just the information about a claim was made, no amounts,
4 no settlement, or anything like that.

5 THE COURT: Right.

6 MR. ESDALE: And to the extent that this is listed
7 in here, I just wanted to bring to the court's attention. I
8 think it is probably okay since it will not be on the
9 computer system, but I didn't know if you just wanted it to
10 be redacted.

11 THE COURT: First of all, I need to go confirm that
12 our administrator has taken that off OSCN. What I will do
13 is I will make certain that does not get filed in the court
14 file until I confirm that it is not on OSCN. I think that
15 should protect us in that regard.

16 MR. ESDALE: That's fine.

17 MR. TEAGUE: But the amount is relevant to any
18 consideration of the creditor setoff, so that's why it is in
19 there for the purposes of the defendants. Can we just have
20 a copy of this made, and we not will not file it until you
21 tell us it is off?

22 THE COURT: Yes. This doesn't need to be on the
23 record.

24 (whereupon, an off-the-record discussion was had.)

25 MR. BAKER: You asked me to bring to the court's

1 attention if we had any issues related to the video
2 depositions. We worked -- their tech person and our tech
3 person worked over the weekend to combine theirs. As it
4 relates to the Japanese depositions, as you might imagine
5 all of it was translated. We have removed all the
6 translation to shorten it so you have an English question
7 and you have an English answer.

8 When they sift their portions over, it has all of
9 it, so it has the Japanese translations, which makes it
10 twice as long.

11 MR. ESDALE: Three times.

12 MR. BAKER: So if they are going to insist that it
13 be played that way, then we would like the jury to know that
14 that's not the way we did it, because it makes it incredibly
15 longer. So that is issue number one. There is also at
16 least one deposition, Mr. Osawa. Our clip was 16 minutes,
17 the entire clip. With the portions from the defendant, it
18 is now an hour and 34 minutes. We just think that is way
19 out of bounds in terms of responding to what we put in the
20 record.

21 THE COURT: Let me ask: On Mr. Osawa, the stuff
22 that was, the additional, was it stuff that would correctly
23 fall under cross examination, or was it all new materials?

24 MR. BAKER: It covers everything. Really the only
25 thing that we covered with Mr. Osawa related to whether the

1 monitor CPU met MISRA.

2 THE COURT: Okay. And he is not one coming on
3 today, so I will look at his and decide whether his needs to
4 be separated out. And same thing, Mr. Bibb, are you going
5 to insist that the Japanese come in first?

6 MR. BIBB: I think it should, your Honor, otherwise
7 you never see the witness answer a question. The way they
8 have edited it, you get the English question, and you don't
9 get to see the witness answer. You will hear -- you will
10 see the witness sitting there. And I think in every case,
11 the interpreter is female, so you will hear a woman's voice
12 with the witness just sitting there with his hands crossed
13 in front of him.

14 If the jury wants to see the demeanor of the
15 witness answering the question, you will at least need to
16 have that part of the interpretation there, the Japanese
17 language; otherwise, you never see the witness say anything.
18 So I feel it is appropriate to show the interpretation, at
19 least the witness answering the question, before the
20 interpretation. If they want to take out the interpretation
21 of the question to the witness, we can do that I suppose.
22 But I do think the witness ought to at least be seen
23 answering the question.

24 THE COURT: Okay. Even if it means that I will
25 separate your part from their part if we're going to do

1 that? By that I mean they will play their part in theirs,
2 and you will play your part in yours.

3 MR. BIBB: I would rather not do that, again, your
4 Honor, because it will slice up the examination. It needs
5 flow in a logical fashion as the deposition went. We can
6 feel relook at that again, but I do think the witness ought
7 to be seen answering the question, irrespective who is
8 showing it.

9 THE COURT: Okay. Do you have an objection to
10 having at least the answer in -- I guess the question is in
11 Japanese and then the answer --

12 MR. ESDALE: I do. It is a waste of time. We can
13 show the first question or two. And every time I've ever
14 done this, your Honor, we will show maybe the first question
15 or two to show the process, then we played the rest in
16 English so the jury knows we're not wasting their time.

17 THE COURT: If will tell you this: We can either
18 do it like that, along with an instruction from me to the
19 jury that this has all been interpreted, in an effort to
20 speed the trial along I have deleted the translation, and we
21 can play just the first part. If you really think it is
22 that important that they actually see the demeanor as they
23 answer the question in Japanese, then I think we need to
24 separate it out into two different segments.

25 MR. BIBB: If they will at least show some of the

1 question and answer there so the jury understands the
2 process so it doesn't appear that the witness doesn't just
3 has somebody answering for them, that was my sole concern.
4 So why don't we try the approach that they have taken with
5 that so we at least get a few questions and answers so the
6 jury understands the procedure and gets to see the witness
7 actually speak.

8 If we feel like it is not being fair to our
9 witnesses, I will revisit that with the court and we can
10 separate it out if need be.

11 THE COURT: We will see. I don't think we will get
12 to our first witness until at least tomorrow, if not
13 Wednesday, but I think that would be a fair way to do it.
14 And I can still instruct them that at the beginning you will
15 see the translation, and then we have deleted translation,
16 and you will just hear the actual answers, questions in
17 English. Are the questions in English?

18 MR. BIBB: The process is the question is in
19 English, the interpreter interprets the question from
20 English to Japanese, the witness then answers in Japanese,
21 and then the interpreter interprets the Japanese answer back
22 to English. As I understand, what the plan would be at
23 first we would have the whole process so the jury could
24 understand.

25 MR. BAKER: We can have two or three questions so

1 they see the whole process in the very beginning, and then
2 we run the English after that.

3 THE COURT: Okay. why don't you think about that.
4 If that's acceptable to you, then we can just do it that
5 way.

6 MR. BIBB: And as far as I'm concerned, we can try
7 it that way. And if that works that's fine.

8 THE COURT: Okay.

9 MR. BIBB: If it feel -- if we feel that Toyota is
10 not getting a fair shake on that, then we will go back and
11 if we have to split it up, then we will split it up.

12 THE COURT: If you have just certain witnesses that
13 you think it is important they see the witness's demeanor,
14 we can separate those out.

15 MR. BIBB: I can raise that with the court.

16 THE COURT: Then we will do it that way. Speaking
17 of which, gentlemen, I also have looked at it. It is my
18 understanding that Ms. Western and Mr. Lentz will be two of
19 the first witnesses that will be called. In light of my
20 ruling regarding the hearsay the other day, the only issue I
21 had with Ms. Western's deposition was, again, just that
22 small part on page 13 where she is talking -- it's the
23 language where -- starts with:

24 "Let me ask. Ms. Western, if you need to take a break,
25 let me know, sip some coffee."

1 She answers:

2 "She was so kind, caressing my face."

3 Dah, dah, dah, dah, dah. I didn't think any of
4 that necessarily needs to come in. The only thing that I
5 thought would be relevant is the language in there about her
6 asking if she was going to -- Ms. Schwarz asking whether she
7 was going to die.

8 MR. BAKER: Which page?

9 THE COURT: Page 13 beginning at line 18. So we
10 can just go simply from line 2 down to just asking me if she
11 was going to die. Sorry. It would be -- it would start
12 with line 17.

13 "So I just sat there, and she was asking me if she was
14 going to die."

15 I don't think any of that -- although I really
16 don't know how much it hurts anything, but I didn't think
17 that was relevant, and certainly not an excited utterance
18 where she is telling her how beautiful she is and her hair.
19 So I would delete lines 18 through 25 up to the word "just."

20 MR. TEAGUE: Did you have a chance to consider the
21 objections on page 20 with respect to the discussion of
22 Mr. Allen where she was talking about he was a massive,
23 mighty man and a wonderful spirit?

24 THE COURT: Yes. And I will allow that in there.

25 MR. TAWWATER: Your Honor, just so we will have

1 some guidance, this issue that you have asked to have taken
2 out, there will be comments from other witnesses, including
3 family members, about the nature of this lady who has died,
4 which I think is relevant to the jury assesses damages,
5 particularly in this case where there is grief.

6 So anything that I think give the jury some picture
7 of what this lady was like I think is fair for them to take
8 into consideration for evaluation of that. And so I
9 understand your talking about taking this part out, but I'm
10 concerned about how far this goes. There are going to be --
11 for example, there is a comment that she made at some point
12 to the gentleman who helped her about she wanted her husband
13 there to hold her and cuddle here.

14 It is not probative of the liability in this case,
15 obviously, but it is probative of the loss that was suffered
16 in this case. And anything that reflects on this lady's
17 personality and her nature I think is relevant to that
18 issue. So I want to be sure we're not going to be
19 restricted from trying to gave the jury a full picture of
20 what this lady was really like because I think that's
21 important.

22 THE COURT: My concern on this language is the part
23 that is just the hearsay where she is talking about, She is
24 rubbing my face telling me how beautiful I am. That
25 certainly isn't an excited utterance.

1 MR. TAWWATER: Well, it is not being offered for
2 the truth of the statement, it is just being offered to show
3 the nature of this lady. She also, there is going to be
4 testimony, about how she wanted this gentleman to stay with
5 her, she didn't want to be left alone. Those are the kinds
6 of things that I think someone in her position who is dying,
7 I think it is important for the jury to know how she was
8 reacting at that time. That tells us a lot about the
9 personality. So I'm not trying to go back and reargue this,
10 although I guess I am.

11 THE COURT: We haven't really argued it yet.

12 MR. TAWWATER: But I sure want to clear that we
13 obviously intend to offer a lot of testimony about this lady
14 and her nature because that is the only way to help the jury
15 judge the loss of these folks is to know something about Ms.
16 Schwarz and certainly what she was doing after this period
17 after she has been badly injured I think reflects a lot on
18 her character.

19 THE COURT: Let me ask: Looking at just lines --
20 because I don't 18 through 21 comes in under anything, which
21 is the conversations about the attorneys. What is your
22 response to lines 22 through 25 coming in total that it is
23 not hearsay because it is not offered for the truth?

24 MR. TEAGUE: Are you on page 13, your Honor?

25 THE COURT: Yes.

1 MR. TEAGUE: Lines 22 through 25?

2 THE COURT: Yes.

3 MR. TEAGUE: I think your ruling that 18 through 24
4 should be excluded and 25 on is appropriate.

5 THE COURT: Let me ask: when I made that ruling it
6 was because I thought that was mainly hearsay type things,
7 and it wasn't an excited utterance. why would it not come
8 in if it is not being admitted for the truth of the
9 statement and fall out of the hearsay objections on those
10 grounds?

11 MR. TEAGUE: well, I think for the very reason that
12 you stated, it is not relevant or probative to any issue in
13 the case.

14 THE COURT: Okay. I am going to reverse my ruling.
15 I had not thought of the relevance from that standpoint. So
16 I'm going to reverse my ruling. Lines 18 through 21 do not
17 come in, 22 through 25 do come in.

18 with regard the other deposition that I wanted to
19 talk about before we got started was Mr. Lentz's deposition.

20 MR. CLARK: Your Honor, I think some of your
21 rulings on Friday probably will take care of a lot of our
22 objections in that either you already ruled on them and,
23 therefore, we sort of know the objection will be sustained,
24 or you already ruled on them that we already know the
25 objection will be overruled.

1 And I don't know -- and the plaintiffs will have to
2 help with timing wise where we are, but it make sense for us
3 to get together tonight and see if we can't agree on some of
4 it.

5 THE COURT: Okay. The only other one I was going
6 to talk about, these were the two that they said they
7 thought they would get to tomorrow, Ms. Western, and then
8 the other one was Mr. Lentz's deposition. If you want to
9 talk about Mr. Lentz and see what you can agree to, then we
10 can do it --

11 MR. BAKER: I'm happy to do it, your Honor, but I
12 have done it in the past.

13 THE COURT: Let me tell you what my concerns were
14 about Mr. Lentz. Starting with page 11 through line 18 --
15 and these are pages -- the objections are 61 to 62 -- but
16 this is all of this discussion about the brake override and
17 the Sailor (phonetic) family, I think it was. I didn't
18 understand the relevance of any of that. So I was thinking
19 about excluding that.

20 And then the other thing begins with the discussion
21 on page -- so my first is line 11 -- pardon me -- page 11
22 through your designation on page 18. I didn't understand
23 the discussion about the brake override. And you can look
24 at this and we can talk in more detail later, but that was
25 my first concern.

1 My second concern goes all the way over to page 69
2 through 73, the highlighted objections on there. My concern
3 with that is that all seemed to be a discussion about brake
4 override systems, and I didn't understand, again, how that
5 would be relevant to hear.

6 And so the next is on page 86 and 87. My concern
7 there is it was talking about documents that the gentleman
8 didn't recognize. And you just kind of hand them to him to
9 look at and he says he has never seen them, and you move
10 onto other questions. So that is page -- sorry. That is
11 wrong. This is the discussion with Mr. Wosnick (phonetic.)
12 I didn't understand how that would be -- sorry, page 86 and
13 87 -- how that would not be some type of hearsay. Look at
14 that from the standpoint of why that would not be hearsay.

15 The other one I had was page 92, and that is the
16 one where he is handed an exhibit then he is never really
17 questioned about it. On page 131, beginning at line 2,
18 again, he is handed an exhibit and then never really
19 questioned, lines 2 through 15, he is handed an exhibit and
20 he ends up saying that he doesn't recall seeing it. Then on
21 page 130, there were some questioning beginning at line 8
22 about these other complaints. And I'm just wondering, is
23 that information going to have come in from somebody else,
24 or is that assuming facts that have not been admitted into
25 evidence yet, and that was my question beginning 130, lines

1 8 through 15, that line of questioning.

2 Then my last big group starts on page 182 and goes
3 through line 902 (sic). It all has to do with that Star
4 system. And I don't know -- that Star system, I take it, is
5 some kind of safety system. Again, I question the relevancy
6 of any discussions about the Star, but I don't know a lot
7 about the Star system and how it pertains to this.

8 MR. BAKER: What page?

9 THE COURT: Starts on page 182 through page 209.
10 And those were the ones that I had questions about that I
11 wanted to talk with you. So if you want to look at those,
12 and then we can later today or at the end of the day talk
13 about that in more detail.

14 MR. CLARK: I think, your Honor, there are some
15 documents that you haven't talked about that may actually
16 relate to the 2009 and 2010 recalls that you excluded this
17 morning. And I would like to take a look at those exhibits.
18 Frankly, they are sitting on a hard drive back at the
19 office. I'm not sure I will have a chance to do it until
20 tonight as a practical matter, but we will do it as quickly
21 as we can.

22 THE COURT: All right. That gives you an idea of
23 where I'm going, and we can discuss that in more detail
24 before his deposition is actually played. On both of those
25 depositions, I didn't see that plaintiff objected to any of

1 the counterdesignations. If so, I didn't read those from
2 the standpoint of any type of objections on counter. If
3 there is something you objected to that I didn't see, the
4 objections to it, then we can discuss that at a later too.

5 All right. Counsel, anything else that we need to
6 do before we bring our jurors in? I'm assuming that you
7 will invoke the rule of sequestration. The way that I do
8 it, the witnesses are allowed in here through the opening
9 statement. Once the evidence actually begins, they're
10 excluded. Experts can stay in for my reason. And I need
11 you to help me keep an eye on the people coming in and out
12 because I will, obviously, not recognize a lot of these
13 people. If you will help me do that. And I assume that we
14 do want the rule invoked?

15 MR. JENNINGS: Yes, ma'am.

16 THE COURT: Counsel, is there anything in
17 particular that you would like me to ask in my portion of
18 the voir dire that is touchy or sensitive that you do not
19 want to ask?

20 MR. BEASLEY: Judge, we were going to ask about the
21 congressional hearing, because everybody -- I would think
22 they would want to know some responses on that issue.
23 Because if they watched it, they came out of it with some
24 preconceived, possibly, opinion. It might be best for you
25 to ask that. I was planning on it, but I don't want to

1 overstep.

2 THE COURT: I am going to ask them about if they
3 have read anything or seen any news reports, heard anything
4 on television, anything at all having to do with issues in
5 this case. Do you think it needs to be more specific than
6 that?

7 MR. BEASLEY: Yes, ma'am, I do. I think the
8 congressional hearing definitely needs to be addressed
9 during voir dire.

10 THE COURT: And I think I previously indicated on
11 Friday, that that statement of Mr. Toyoda would be allowed
12 into evidence with the appropriate redactions, and that is
13 all congressional hearing testimony, right?

14 MR. BIBB: It is, your Honor.

15 THE COURT: Then I will specifically inquire about
16 in particular if anyone has heard about that. I won't make
17 a special deal out of it, but I will include that, newspaper
18 reports, watch congressional hearings, television, that sort
19 of thing. Okay. All right.

20 MR. BEASLEY: One other thing, for example, the
21 recall got a great deal of media coming from NHTSA to Toyota
22 telling them that 70 percent of the vehicles are not under
23 either one of these two recalls, mat and the pedal. So
24 there is no way to really keep that out that at that
25 junction, because they supplied that to Toyota. And Toyota

1 was very skillfully trying to restrict that to the mats and
2 the pedal came into play, then they found out they were
3 already told that 70 percent of your vehicles are not under
4 either one of those recalls, and they are the ones that are
5 having the problem.

6 THE COURT: Okay. And that is that one e-mail or
7 that one quote from Mr. Lentz?

8 MR. BEASLEY: It is. It is also in, I believe, in
9 one of the contact persons, Toyota contact person with NHTSA
10 also.

11 THE COURT: Okay. I will look at that and see.

12 MR. ESDALE: One last thing on the voir dire,
13 Judge, as it relates to recalls too, they were hugely
14 publicized. And I know you don't have to necessarily
15 distinguish it. It may be something you want to address,
16 because it received so much media attention, if anybody
17 actually had a vehicle recalled or --

18 MR. BIBB: I certainly think that is fair inquiry
19 in voir dire to find out if any of these people's vehicles
20 were -- Toyota drivers and were their vehicles subject to
21 any recalls.

22 MR. ESDALE: Again, I just want to make sure
23 because of her ruling if we just talk generally, if Mr.
24 Beasley asked question generally in voir dire about recalls
25 that is acceptable for voir dire in lieu of your rulings.

1 THE COURT: Part of what I was going to ask in mine
2 was do any of them drive any Toyota type product. And I
3 specifically ask them what kind of car do they drive. And I
4 was going to ask them questions about have you had any bad
5 experiences, have you had any warranty issues with the, have
6 you had any recalls. So I was going to ask more in a
7 general nature, as opposed to specifically.

8 MR. BIBB: I think that's fine, your Honor. I
9 think if you're going to ask that question you might not
10 only inquire about Toyota but also Lexus, which is a Toyota
11 brand.

12 MR. ESDALE: You may not have been here.

13 MR. BIBB: I know she owns one. For the benefit --
14 THE COURT: A lot of people may not know that.

15 MR. BIBB: And Scion, S-C-I-O-N. It is sort of a
16 lower, young people's car that Toyota makes.

17 THE COURT: And those are the three kinds of
18 brands. I wasn't going to specifically say Camry, Avalon.

19 MR. BIBB: Right. Those are the name plates, those
20 three.

21 THE COURT: All right.

22 (whereupon, the prospective jurors were brought to
23 the courtroom.)

24 THE COURT: Good morning ladies and gentlemen. My
25 name is Patti Parrish. I am going to be the district judge

1 that will be trying the case that you have been called to be
2 a potential juror in. I think it was probably Judge Bass
3 this morning, he is the chief judge this month. I know he
4 welcomed you to the courthouse this morning, and I want to
5 welcome you to my courtroom. I appreciate your being here
6 today. I know that this is probably something you would
7 rather be somewhere else, but we appreciate your attendance
8 today and thank you for your jury service.

9 You have been called to be potential jurors in the
10 case styled Jean Bookout, Charles Schwarz, individually and
11 as personal representative of the estate of Barbara Schwarz,
12 deceased, and Richard Forrester Brandt, as personal
13 representative of the estate of Barbara Schwarz, deceased,
14 versus Toyota Motor Corporation and Toyota Motor Sales USA,
15 Inc. It is Case No. CJ-2008-7969.

16 I would like to take a few minutes before we get
17 started with the jury selection process and introduce to you
18 my staff. To my right is Karen Twyford. She is the court
19 reporter. And she will be making a record of everything
20 that is said in the courtroom and, if necessary, can
21 actually make a transcript, a written transcript, of the
22 entire proceedings. You may also see another court
23 reporter, her name is Kim Lewin. She may be on and off in
24 here, depending on Karen's schedule.

25 To my immediate left is Janice Pitts, she is my

1 courtroom deputy. She will be the one later when we
2 actually begin the jury selection will be calling your names
3 at random from the box to bring you up into my jury box to
4 question you about being jurors in this case. Immediately
5 next to Janice is Molly Hildebrant. Molly is a brand new
6 court clerk, and she is training with my clerk. And so she
7 will be in and out also just to watch the proceedings and
8 learn how to do her duties.

9 And then to my far left is Chelsea Adkins. Chelsea
10 is my bailiff, and she will be the one -- we generally will
11 take a morning break, a lunch break and afternoon break.
12 And she will be the one that you will check in with at the
13 beginning or at the end of each one of those breaks.

14 I did not mention this to counsel, but if counsel
15 or their clients see you outside the courtroom, I'm
16 instructing them not to talk to you. Do not think they're
17 being rude, but sometimes even the most innocent of comments
18 can be misconstrued. So I'm asking them not to speak to you
19 if they see you outside of the courtroom. If anyone tries
20 to speak to you, please let me know and my office will take
21 care of the matter immediately.

22 For those of you that have been summoned today as
23 jurors, it know it is your legal duty as well as your civic
24 duty, but what we will do now before we begin jury service
25 is we're going to ask you and give you an oath. It will be

1 an oath that you will have truly and accurately answer all
2 questions given to you during the jury selection process.
3 So if the entire jury panel would stand and raise their
4 right hand.

5 (whereupon, the jury pool is sworn.)

6 THE COURT: Please be seated. Ladies and
7 gentlemen, this portion of the trial is called voir dire.
8 It is simply the jury selection process. This will be the
9 only time throughout the process that the counsel for both
10 the plaintiff and the attorneys will be able to ask you
11 questions. So at this point, we're going to call 20 of you
12 to come from the back of the courtroom and to take a seat in
13 my jury box.

14 For the first name that is called, please take a
15 seat on the very back row, starting with the seat that is
16 furthest away from me. We will fill the back row, the
17 middle row, and then the front row. Please bring your
18 personal items with you whenever your name is called. If we
19 mispronounce your name, please let us know and we will
20 attempt to pronounce it correctly the next time. Thank you.

21 COURT CLERK: Geneva Powell, P-O-W-E-L-L.

22 Elizabeth McCaskill, M-C-C-A-S-K-I-L-L. Katelyn,
23 K-A-T-E-L-Y-N Heineman, H-E-I-N-E-M-A-N. Janie Worley,
24 W-O-R-L-E-Y.

25 THE COURT: How do you spell her first name?

1 COURT CLERK: J-A-N-I-E.

2 JUROR WORLEY: I have a hearing problem.

3 THE COURT: Okay. Thank you.

4 COURT CLERK: Johnnie Henson. J-O-H-N-N-I-E
5 H-E-N-S-O-N. Travis Brock, B-R-O-C-K. Deborah Russell,
6 R-U-S-S-E-L-L. Sumar, S-U-M-A-R, last name, Grogg,
7 G-R-O-G-G. Kathryn, K-A-T-H-R-Y-N, Courtright,
8 C-O-U-R-T-R-I-G-T. Harold Garcia, Jr., G-A-R-C-I-A, Jr.
9 Michael McPherson, M-C-P-H-E-R-S-O-N. Eric, E-R-I-C,
10 Sperling, S-P-E-R-L-I-N-G. Chauncey, C-H-A-U-N-C-E-Y,
11 Sheppard, S-H-E-P-P-A-R-D. Naomi, N-A-O-M-I, Culbreath,
12 C-U-L-B-R-E-A-T-H. Erin, E-R-I-N, Medlin, M-E-D-L-I-N.
13 Maria, M-A-R-I-A, Crowe, C-R-O-W-E. Greg, G-R-E-G, Sabouri,
14 S-A-B-O-U-R-I. Pamela, P-A-M-E-L-A, Andrade, A-N-D-R-A-D-E.
15 Terese, T-E-R-E-S-E, Cook, C-O-O-K. Amir, A-M-I-R,
16 Golestani, G-O-L-E-S-T-A-N-I.

17 THE COURT: Ladies and gentlemen, as I indicated
18 earlier, this portion of the trial is where we will ask
19 questions of you to determine your qualifications to
20 determine your qualifications to serve as jurors in this
21 particular. I have questions that I will ask you, then
22 counsel for plaintiff will be able to ask questions, then
23 count for defendant will be able to ask you certain
24 questions.

25 Let me start out by saying, Ms. Worley, can you

1 hear me, what I'm saying?

2 JUROR WORLEY: If I hold my ear this way.

3 THE COURT: Would it be helpful if I have you
4 change seats with someone on the front row?

5 JUROR WORLEY: I don't know. I'm totally deaf in
6 this ear, and I can't hear too well in this one.

7 THE COURT: Mr. Golestani, would you please trade
8 places with Ms. Worley, and we will see if that helps at
9 all. Come down here, Ms. Worley.

10 Ms. Worley, if you cannot hear something that I say
11 or the attorneys say during the voir dire, you let me know
12 so we can repeat it, all right?

13 JUROR WORLEY: Okay. I can see your lips.

14 THE COURT: Okay. Can you hear okay?

15 JUROR WORLEY: Well, I have to hold my ear like
16 this. I'm sorry.

17 THE COURT: That is fine. Let me start out asking
18 you, Ms. Worley, and telling the rest of you on the bench
19 (sic), this trial is going to last three weeks, two to three
20 weeks. It will definitely go into the third week. So my
21 first question to you, Ms. Worley, because of your hearing
22 issues, is the length of that (sic) trial going to affect
23 your ability to hear and see everything that is going on in
24 this courtroom?

25 JUROR WORLEY: I don't know. I don't think I'm

1 able to hear unless I'm right up on you, like from here to
2 there, and I still have to hold my ear like this. I haven't
3 been able to get a hearing aid yet.

4 THE COURT: Okay. Tell you what, Ms. Worley, we
5 will keep you on the panel for a while and see how voir dire
6 goes. If you cannot hear, then we will determine whether
7 you should continue to serve on this jury, okay?

8 JUROR WORLEY: Come and do what?

9 THE COURT: Counsel, please approach for just a
10 moment.

11 (An off-the-record bench conference was had outside
12 the hearing of the jury:)

13 THE COURT: Ms. Worley, we're going to go ahead and
14 strike you. This trial is going to be so long, I think it
15 is going to be difficult for you to try to hear all the
16 different witnesses. So I'm going to go ahead and excuse
17 you from jury duty in this case. I cannot excuse you
18 completely because I am not the chief judge. But if you
19 will go back over to the jury assembly room, they will let
20 you know whether your services are needed for another case.

21 JUROR WORLEY: Okay. Thank you, ma'am.

22 THE COURT: Take your name back with you and give
23 it back to the jury clerk, to the gentleman in the jury
24 assembly room where you were this morning.

25 JUROR WORLEY: Okay. Thank you.

1 COURT CLERK: Shannon, S-H-A-N-N-O-N,
2 Stiger-Monahan, S-T-I-G-E-R-M-O-N-A-H-A-N.

3 THE COURT: Ladies and gentlemen, for those of you
4 that have not been called to the jury box, I need you to
5 stay in the courtroom. You're not excused unless I excuse
6 the entire jury. And I need you to listen carefully to the
7 questions. If one of these jurors is excused for some
8 reason from being a juror in this particular case, you may
9 be the next juror who is called. In the event that happens,
10 we must go back to the very first question and ask the same
11 questions of you that we're currently going to be asking of
12 the panel, and that will just help speed the process along.

13 For those of you in the jury room box, the whole
14 purpose of voir dire is to see if you do court today with
15 any preconceived ideas that may cause you to favor or
16 disfavor either the plaintiff or the defendant in this case.
17 We each obviously have our own life experiences. As a
18 result of those life experiences, they may tend to color how
19 we view certain things. So the entire purpose of voir dire
20 is to see if there is anything in your life experiences that
21 may cause you to either favor or disfavor either one of the
22 parties in this case.

23 As you will notice, there is currently 20 of you
24 sitting in the jury box. In Oklahoma, the law provides that
25 at the end of the voir dire questioning both counsel for

1 plaintiff, as well as counsel for defendant can strike three
2 of you as jurors in this case for any reason whatsoever as
3 long as it is not a reason that is prohibited by law. So at
4 the end of the voir dire process, there will be 14 of you
5 left in the jury box. The reason for that is that since
6 this is going to be a lengthy trial, I'm seating two
7 alternates. You will not know who the alternates are until
8 the case is submitted to you for your deliberation. As an
9 alternate, you will be treated in every respect as a juror
10 until the case is submitted for deliberation.

11 what I would like to do at this point in time is
12 introduce to you the parties to the lawsuit. I indicated
13 earlier the plaintiff in this case is Jean Bookout. Ms.
14 Bookout, please stand. And then Charles Schwarz, both
15 individually and as personal representative of the estate of
16 Barbara Schwarz, deceased, and then Richard Forrester
17 Brandt, who is also personal representative of the estate.
18 Is Mr. Brandt not present?

19 MR. ESDALE: No, ma'am.

20 THE COURT: So Mr. Schwarz will be representing the
21 estate?

22 MR. ESDALE: Yes, ma'am.

23 THE COURT: Thank you very much. Do any of you
24 know either Ms. Bookout, Mr. Schwarz, or Mr. Brandt? Is so,
25 please just raise your hand.

1 (All jurors respond in the negative.)

2 THE COURT: The plaintiffs in this case are going
3 to be represented by the following lawyer. Please stand
4 when I call your name. Larry Tawwater. He maybe assisted
5 by Darren Tawwater. It is my understanding he is not in the
6 courtroom right; is that correct?

7 MR. TAWWATER: That's correct.

8 THE COURT: They're with the law firm Tawwater Law
9 Firm. Then Jere Beasley, J. Cole Portis, Benjamin Baker,
10 and R. Graham Esdale. They we with the Law firm Beasley,
11 Allen, Crow, Methvin, Portis & Miles. Do any of you
12 recognize any of these attorneys or recognize either of the
13 names of their law firms? If so, please raise your hand

14 (All jurors respond in the negative.)

15 THE COURT: Thank you. The defendants in this
16 case, as I indicated early, are Toyota Motor Corporation and
17 Toyota Motor Sales USA, Inc. The corporate representative
18 for the defendants Ms. Alicia McAndrews. Ms. McAndrews,
19 please stand. And the defendants are represented by James
20 A. Jennings, J. Derrick Teague. They are with the law firm
21 Jennings, Cook & Teague. J. Randall Bibb, Jr., and Ryan
22 Clark. And they're with the law firm Lewis, King, Krieg &
23 Waldrop. Do any of you know either the Ms. McAndrews or the
24 attorneys for the defendants? Again, please raise your
25 hand.

1 (All jurors respond in the negative.)

2 THE COURT: Thank you. You may be seated. I'm
3 going to read to you a statement of the case. And this
4 statement of the case simply defines the issues in this
5 case, and the allegations or claims in this statement of the
6 case do not constitute evidence, nor do the statements or
7 arguments of counsel, but you will only consider as evidence
8 in this case the testimony heard from the witnesses from the
9 witness stand by the witnesses who are under oath. And many
10 of those witnesses -- I say "many" -- some of those
11 witnesses may be by video deposition, but that will still be
12 considered a witness.

13 You will also consider any exhibits which have been
14 introduced, any stipulations that the counsel make. And you
15 will consider that evidence under the instructions I'm
16 currently giving you and any instructions that I may give
17 you throughout the course of the trial, and then the final
18 instruction that I will give you at the very end of the
19 case.

20 The plaintiffs in this case, Jean Bookout and
21 Barbara Schwarz were traveling in a 2005 Camry on US Highway
22 69 in McIntosh County on September 20, 2007. Ms. Bookout
23 was the driver, Ms. Schwarz was the front seat passenger.
24 The vehicle exited the highway at Texana Road but did not
25 stop at the bottom of the exit ramp. It crossed Texana Road

1 and collided with a dirt embankment. Ms. Bookout and Ms.
2 Schwarz were injured in the crash. Ms. Schwarz died of her
3 injuries.

4 Ms. Bookout and the family of Ms. Schwarz allege
5 the vehicle was defective and unreasonably dangerous in its
6 design. They allege that defects in the brakes and the
7 throttle control caused the crash and the resulting injuries
8 and death.

9 Toyota, the manufacturer of the Camry, denies the
10 vehicle is defective and unreasonably dangerous. It alleges
11 the 2005 Camry was well designed and well manufactured. It
12 alleges that the sole cause of the crash and the resulting
13 injuries was the failure of the driver, Jean Bookout, to
14 operate the vehicle properly and safely. These will be the
15 issues that will be tried to you throughout this trial.

16 Before I go any further and read the list of
17 witnesses, I want to ask you-all: As I indicated earlier,
18 this trial is going to last two and probably three, into the
19 third week. So I would like to ask each of you: I know
20 that is very big inconvenience and it is going to cause
21 problems with you, perhaps, at work or home or wherever
22 else. But I want to know from each of you on the jury: Is
23 there anyone on the jury that this is going to work a severe
24 hardship? I know it's going to be a hardship on each and
25 every one of you, but is there anyone that it is going to

1 work a severe hardship on? If so, please raise your hand.

2 (Some jurors indicate.)

3 THE COURT: So, Mr. McPherson --

4 JUROR MCPHERSON: Yes.

5 THE COURT: Mr. McPherson, what is going to be the
6 hardship on you if you serve on this jury? I need you to
7 speak really loud because we don't have a microphone to pass
8 around and Ms. Twyford is trying to take everything down.

9 JUROR MCPHERSON: I'm a licensed therapist, and
10 that would cause me not to see clients for three weeks, so I
11 have to get all those people shifted to different
12 clinicians.

13 THE COURT: Do you have a partner or someone that
14 works with you that can take over your patients during these
15 three weeks?

16 JUROR MCPHERSON: For some. Yes.

17 THE COURT: Then the others you would have to
18 reschedule them to another day?

19 JUROR MCPHERSON: Yes.

20 THE COURT: Do you think, Mr. McPherson, if you
21 were here for three weeks that you would be able to
22 successfully get all of your patients rescheduled?

23 JUROR MCPHERSON: Possibly so.

24 THE COURT: Okay. Do you think that if you were
25 serving the three weeks, or -- and, again, it could go two,

1 but I'm thinking it will go into the third week, do you
2 think you would be able to focus on the issues in this case
3 and not be concerned about your patients during this
4 three-week time period?

5 JUROR MCPHERSON: Yes.

6 THE COURT: You would be able to?

7 JUROR MCPHERSON: Yes.

8 THE COURT: All right. Thank you. Then, Mr.
9 Sheppard, what is your reason?

10 JUROR SHEPPARD: Well, I'm being laid off on my
11 job, next couple of weeks, so the 21st. And I'm still
12 needing to find another job.

13 THE COURT: You're working until the 21st, then
14 they're going to be laid off at that point in time?

15 JUROR SHEPPARD: Yes.

16 THE COURT: Do you get paid, sir, while you're
17 actually working?

18 JUROR SHEPPARD: Yes.

19 THE COURT: So you would get paid while you're
20 here, you just wouldn't have the ability to go out and look
21 for another job?

22 JUROR SHEPPARD: Correct.

23 THE COURT: It has been a while since I have looked
24 for a job, but is a lot of that online that you can you do
25 during the lunch hour? we normally will take about an hour

1 and 15 minute lunch break.

2 JUROR SHEPPARD: I do some looking online, but the
3 majority is by phone.

4 THE COURT: Is it the type of thing you think you
5 can do -- we will take a morning break usually about 15
6 minutes, an afternoon break of about that long of time, then
7 an hour and 15 minute, usually, lunch break. Is that the
8 time that you will need to do the looking on the phone?

9 JUROR SHEPPARD: It's possible. Yes.

10 THE COURT: All right. I will leave you on for
11 right now then. Mr. Sabouri.

12 JUROR SABOURI: Yes. I am the owner of a software
13 business. we're on a tight production schedule. If I'm out
14 for three weeks, we will miss deadlines that we're
15 contracted to meet. And my role is irreplaceable. There
16 are 10 or 15 different people who are working for me that
17 will -- all of their activities will cease during the entire
18 three-week period.

19 THE COURT: So you're, as the owner, you're more
20 than just doing the books and keeping the doors open, you
21 have hands on on the software?

22 JUROR SABOURI: That's correct.

23 THE COURT: And you are telling the court that
24 there are deadlines right now that you will miss?

25 JUROR SABOURI: That's right.

1 THE COURT: And that there is no one else in the
2 business that can do your portion of the job?

3 JUROR SABOURI: No.

4 THE COURT: Counsel for plaintiff or defendant, do
5 either of you have any questions of this juror?

6 MR. BEASLEY: I have no questions.

7 THE COURT: Mr. Jennings, Mr. Bibb, do you have any
8 questions?

9 MR. JENNINGS: No, ma'am, I do not.

10 THE COURT: Then Mr. Sabouri, I will excuse you
11 from jury service in this particular case. Thank you.

12 COURT CLERK: Vickie, V-I-C-K-I-E, Potter,
13 P-O-T-T-E-R.

14 THE COURT: Ms. Potter, let me start with my
15 question about the three weeks. Is it going to work a
16 severe hardship on you?

17 JUROR POTTER: No.

18 THE COURT: When I introduced the parties and their
19 attorneys, did you recognize any of them?

20 JUROR POTTER: No, ma'am.

21 THE COURT: When I read the statement of the case,
22 was there anything about that case that you were familiar
23 with the facts of?

24 JUROR POTTER: No.

25 THE COURT: Let me start by asking that question

1 now of the entire panel. Based on the statement of the
2 case, is there anything about the case that sounds familiar
3 to you? Anything about the facts of the case? Again please
4 just raise your hand if anything sounded familiar.

5 Ms. Stiger-Monahan.

6 JUROR STIGER-MONAHAN: Yes, ma'am. I've heard
7 information about -- I don't know this specific case -- but
8 the scenario you gave, on the radio about Toyota's cars.

9 THE COURT: Okay. And what did you hear?

10 JUROR STIGER-MONAHAN: Pretty much the same
11 scenario that you just gave without the names.

12 THE COURT: Without the names. Okay. Has that
13 been something you heard recently?

14 JUROR STIGER-MONAHAN: Possibly.

15 THE COURT: Okay. Let me ask: Based on what you
16 heard on the radio, do you think that's going to cause you,
17 or have you already formed an opinion about the issues in
18 this case?

19 JUROR STIGER-MONAHAN: No, ma'am.

20 THE COURT: Do you think you can still be fair and
21 impartial to both sides in this case?

22 JUROR STIGER-MONAHAN: Yes.

23 THE COURT: Okay. Then, Ms. Crowe, did you raise
24 your hand?

25 JUROR CROWE: Yes. You were asking about hardship.

1 I'm a student and I work full time, so I'm having trouble
2 just keeping up with my school right now.

3 THE COURT: Ms. Crow, where do you go to school?

4 JUROR CROWE: I go to school at UCO, and studying
5 photography, so I have to have the light of day and certain
6 hours to do my work. So I'm trying to work that around my
7 full-time schedule.

8 THE COURT: How many hours are you currently taking
9 at UCO?

10 JUROR CROWE: Six hours.

11 THE COURT: Are they during the day?

12 JUROR CROWE: They're during the day.

13 THE COURT: Have you spoke to your professors about
14 the possibility of being on jury service?

15 JUROR CROWE: Not yet, because I'm not in school
16 today, so I wasn't sure if it was going go into tomorrow.

17 THE COURT: In addition to that -- let me ask this,
18 back to your six hours: Are those hours that you have to be
19 in a classroom, or is it an Internet class that you're?

20 JUROR CROWE: It's in the classroom, plus I'm
21 taking darkroom so I have to be at the school sometimes to
22 work late into the evening, early in the morning to get my
23 work done.

24 THE COURT: Then you also said that you're working
25 full time on top of that?

1 JUROR CROWE: Yes.

2 THE COURT: So if I did not excuse you from jury
3 duty, would that affect your ability to get credit for those
4 hours that you're currently taking?

5 JUROR CROWE: Probably.

6 THE COURT: Would you have to drop the cases, do
7 you think?

8 JUROR CROWE: I don't know if I can at this point.
9 I don't know if I would lose my money.

10 THE COURT: It is too late to drop without losing
11 your tuition?

12 JUROR CROWE: Yes.

13 THE COURT: Counsel, plaintiffs, do you have any
14 questions for this witness?

15 MR. BEASLEY: No, ma'am.

16 MR. JENNINGS: No, ma'am.

17 THE COURT: Ms. Crowe, I will excuse you from jury
18 duty. I need you to go back over to the jury assembly room
19 and there may be a shorter trial that you can be used on.
20 Ms. Heineman.

21 JUROR HEINEMAN: I have the same issue with her. I
22 go to school, four times a week from Monday to Thursdays,
23 usually in the morning time. And I work a full-time job,
24 too.

25 THE COURT: Where are you going to school?

1 JUROR HEINEMAN: OCCC.

2 THE COURT: And how many hours are you currently
3 enrolled in?

4 JUROR HEINEMAN: I take nine.

5 THE COURT: And are those classes that you actually
6 go to class, or are they Internet classes?

7 JUROR HEINEMAN: I go to class.

8 THE COURT: And the same thing, if you did not
9 continue to take those classes or attend class, would you
10 have to be forced to drop the class?

11 JUROR HEINEMAN: Yes. They take attendance.

12 THE COURT: Any questions, plaintiff, of Ms.
13 Heineman?

14 MR. BEASLEY: No questions.

15 MR. JENNINGS: No, ma'am.

16 THE COURT: Ms. Heineman, I will excuse you from
17 jury duty also. Before I get to you, sir, let me replace
18 two. We will call a juror to replace Ms. Crowe first.

19 COURT CLERK: Helen, H-E-L-E-N, Collett,
20 C-O-L-L-E-T-T.

21 THE COURT: Also call a replacement for Ms.
22 Heineman.

23 COURT CLERK: Michelle, M-I-C-H-E-L-L-E, Sampson,
24 S-A-M-P-S-O-N.

25 THE COURT: Mr. Golestani, you raised your hand.

1 what would be the severe hardship to you?

2 JUROR GOLESTANI: I have a time -- I don't have a
3 problem for the time, but my English is not perfect, and I
4 don't understand exactly what you say or anything it is. It
5 is a problem for the years. I have a time, but my English
6 is not perfect, as a little bit that I understand English.

7 THE COURT: Have you been able to follow what has
8 been said this morning so far?

9 JUROR GOLESTANI: I tell you, I don't understand
10 perfectly, but sometimes I -- there is -- my English is not
11 perfect. It is basically. You say after a long time -- it
12 is right now I understand is what you're asking. Because
13 that lady says I have this problem, I think you're asking
14 about the problem for them.

15 THE COURT: Okay. Do you think based on your
16 limited English, are you going to believe able to follow and
17 understand what is going on in this courtroom?

18 JUROR GOLESTANI: Sorry.

19 THE COURT: Are you going to be -- do you
20 understand what I'm saying now? I don't quite -- when you
21 say "basic English," do you work outside of your home.

22 JUROR GOLESTANI: Yeah.

23 THE COURT: What type of job do you have?

24 JUROR GOLESTANI: Construction.

25 THE COURT: Construction. And are you able to

1 communicate your clients?

2 JUROR GOLESTANI: No. I work for myself.

3 THE COURT: Okay. So are you able to talk to
4 people to get the work?

5 JUROR GOLESTANI: No.

6 THE COURT: Okay. Plaintiff, do you have any
7 questions for this gentleman?

8 MR. BEASLEY: No, ma'am.

9 THE COURT: Mr. Jennings?

10 MR. JENNINGS: No.

11 THE COURT: Mr. Golestani, I will excuse you for
12 jury duty on this case. I need you to go back to the jury
13 assembly room, and they will let you know if you're needed
14 for another jury.

15 Ms. Collett, do you have any problems that would be
16 a severe hardship if you were chosen to serve on a jury that
17 may last three weeks?

18 JUROR COLLETT: Not at the moment.

19 THE COURT: Thank you. Then I think we need one
20 more replacement.

21 COURT CLERK: Hannah, H-A-N-N-A-H, Vick, V-I-C-K.

22 THE COURT: Ms. Vick, is there anything, or is it
23 going to work a severe hardship on you if you were asked to
24 serve on a jury that may last three weeks?

25 JUROR VICK: Yes.

1 THE COURT: what is the reason for that?

2 JUROR VICK: I'm a full-time student from Shawnee,
3 but my resident address is in Oklahoma City.

4 THE COURT: Are you going to OBU?

5 JUROR VICK: Yes.

6 THE COURT: How many hours are you currently
7 taking?

8 JUROR VICK: Sixteen.

9 THE COURT: Are they in class or online classes?

10 JUROR VICK: They're all in class.

11 THE COURT: Online, you said?

12 JUROR VICK: In class.

13 THE COURT: I'm assuming same thing, if you don't
14 go to class you will not get your grade, and you will have
15 to retake the class?

16 JUROR VICK: Yes.

17 THE COURT: Any questions from plaintiff?

18 MR. BEASLEY: No, ma'am.

19 MR. JENNINGS: No, ma'am.

20 THE COURT: Ms. Vick, I will excuse you from jury
21 duty also.

22 COURT CLERK: Pamela, P-A-M-E-L-A, Cross,
23 C-R-O-S-S.

24 THE COURT: Ms. Cross, do you have anything during
25 next three weeks that is going to work a severe hardship for

1 you if you were chosen for jury duty in this case?

2 JUROR VICK: I believe I can make accommodations.

3 THE COURT: Thank you very much. Ladies and
4 gentlemen, I'm going to excuse myself for one minute because
5 I left a sheet of paper on my desk that I need to go locate.
6 Excuse me for just one moment.

7 (Brief pause in proceedings.)

8 THE COURT: For those of you new jurors that I have
9 called up here to the bench, did you hear when I read the
10 list, or when I introduced the parties as well as their
11 counsel? Did any of you know either the parties or their
12 counsel or heard of the law firms? If so, please raise your
13 hand.

14 (All jurors respond in the negative.)

15 THE COURT: When I read the statement of the case,
16 was there anything in the statement of case that made you
17 think that you might know something about this particular
18 case?

19 (All jurors respond in the negative.)

20 THE COURT: All right. Again, no one raised their
21 hand. All right. Ladies and gentlemen, I'm going to read
22 to you a list of potential witnesses in this case. And it
23 is a rather lengthy list, so I'm going to read a few names
24 and then I will stop and ask if you know any of those names.

25 Other than the parties, Ms. Bookout, Charles

1 Schwarz, and Richard Brandt, these are additional witnesses
2 who may be called. After I've read a few of the names, I
3 will ask if you know or recognize any of those names.
4 Michael Bookout, Sherry Brandt, Margie Meibergen,
5 M-E-I-B-E-R-G-E-N, Julie Mayfield, Katherine Western, Milton
6 Allen, Trooper J. W. Duerson, Trooper Berkley Cash, Star
7 Caudle, C-A-U-D-L-E, Dr. Justin Atherton, Dr. David Min,
8 M-I-N, Dr. Robert Wienecke, W-I-E-N-E-C-K-E.

9 Do any of those names range a bell or sound
10 familiar to anyone on the panel? Yes, Ms. Medlin.

11 JUROR MEDLIN: Dr. Wienecke. I'm a physical
12 therapist, and I have seen some of his patients in the past.

13 THE COURT: You have worked with his patients in
14 the past?

15 JUROR MEDLIN: Yes.

16 THE COURT: Other than a professional relationship,
17 do you have an outside -- are you friends outside the
18 office?

19 JUROR MEDLIN: Not friends.

20 THE COURT: Is there anything about your working
21 for Dr. Wienecke that if he does, in fact, testify that you
22 would tend to put more weight or more credit on his
23 testimony as opposed to someone else?

24 JUROR MEDLIN: No.

25 THE COURT: Thank you very much. Anyone else know

1 any of those first names that I read? Yes, Ms. Cross.

2 JUROR CROSS: I had spinal surgery in June, and I
3 believe that the physician is one of the partners in that
4 medical practice, but I've never met him.

5 THE COURT: Are you talking about Dr. Wienecke?
6 which physician are you talking about?

7 JUROR CROSS: Mr. Nasr I believe --

8 THE COURT: Okay.

9 JUROR CROSS: -- is a partner in the medical
10 practice.

11 THE COURT: Okay. Who did you have your surgery
12 with?

13 JUROR CROSS: Dr. Fadi Nasr, N A S R.

14 THE COURT: Okay. And you think Dr. Wienecke might
15 be a partner in his?

16 JUROR CROSS: I think so.

17 THE COURT: But you have never met Dr. Wienecke?

18 JUROR CROSS: No.

19 THE COURT: Would you tend to put more weight on
20 Dr. Wienecke's testimony if he is, in fact, a partner with
21 Dr. Nasr?

22 JUROR CROSS: No.

23 THE COURT: Anyone else who knew any of those first
24 names?

25 (All jurors respond in the negative.)

1 THE COURT: Then I also have Jim Lentz, L-E-N-T-Z;
2 Keiichi Fukushima, K-E-I-I-C-H-I F-U-K-U-S-H-I-M-A; Satoshi
3 Ishii, S-A-T-O-S-H-I I-S-H-I-I; Shigeyuki Kawana
4 S-I-G-E-Y-U-K-I (sic), last name K-A-W-A-N-A; Keiichi Osawa,
5 K-E-I-I-C-H-I O-S-A-W-A; Akio Toyoda, A-K-I-O T-O-Y-O-D-A;
6 Masatami Takimoto, M-A-S-A-T-A-M-I, last name
7 T-A-K-I-M-O-T-O; Chris Santucci, S-A-N-T-U-C-C-I; Chris
8 Tinto, T-I-N-T-O; Hiroshi Hagiwara, H-I-R-O-S-H-I, last
9 name, H-A-G-I-W-A-R-A.

10 Do any of those names sound familiar to anyone?

11 (All jurors respond in the negative.)

12 THE COURT: No one raised their hands. Mike
13 McCort, M-C-C-O-R-T; Rick Gill, G-I-L-L; Philip Koopman,
14 K-O-O-P-M-A-N; Michael Barr; Neil Hannemann,
15 H-A-N-N-E-M-A-N-N; Allen Kam, K-A-M; Dr. Lee-Jen Wei, W-E-I;
16 Dr. Steve Loudon, L-O-U-D-O-N; Dr. Marthinus Van Schoor,
17 V-A-N-S-C-H-O-O-R; Dr. Todd Hubing, H-U-B-I-N-G.

18 Do any of you recognize any of those names?

19 (All jurors respond in the negative.)

20 THE COURT: Grady Bonds; Robert Gonzales; Anita
21 Jorge, J-O-R-G-E; Colleen Lambert; Joseph McClelland; Mary
22 Pries-Morrison; Sandra Reech, R-E-E-C-H; Ida St. John;
23 Shirlene Van Alfen, V-A-N A-L-F-E-N; Geraldine Waters;
24 Manfred Heinrich, H-E-I-N-R-I-C-H; Christell Johnson;
25 Charles Shepard; Margaret Sportsman; Deron Walker.

1 Do any of those names sound familiar?

2 (All jurors respond in the negative.)

3 THE COURT: Brad Smith; Dr. Dustin Buckley; Dr.
4 Catrina Bourne, B-O-U-R-N-E; Dr. Stephen Cagill; Dr. David
5 Fisher; Ashish Arora, first name, A-S-H-I-S-H, Arora,
6 A-R-O-R-A; Catherine Ford Corrigan, PhD; Robert Landis,
7 L-A-N-D-I-S; Robert Lange; Thomas Livernois,
8 L-I-V-E-R-N-O-I-S, PhD; Jeya Padmanaban, J-E-Y-A
9 P-A-D-M-A-N-A-B-A-N, PhD; Karl Stopschinski,
10 S-T-O-P-S-C-H-I-N-S-K-I; James Walker; Douglas Young, PhD;
11 Tsutomu Miyazaki, T-S-U-T-O-M-U M-I-Y-A-Z-A-K-I; and
12 Michihito, M-I-C-H-I-H-I-T-O, last name, Shimada,
13 S-H-I-M-A-D-A.

14 Does anyone recognize any of those last names?

15 Again, please raise your hand.

16 JUROR MEDLIN: Dr. Fisher, same thing. I mean,
17 I've seen some of his patients.

18 THE COURT: But you still could be fair to both
19 sides in this case, you would not give his testimony more
20 weight?

21 JUROR MEDLIN: No.

22 THE COURT: Ladies and gentlemen, if you would look
23 around the panel, do you know one another?

24 (All jurors respond in the negative.)

25 THE COURT: Anyone know anyone else on the panel?

1 (All jurors respond in the negative.)

2 THE COURT: Okay. Have any of you-all read -- I
3 know a couple of you, at least one, said that you perhaps
4 knew something about this case from reading something or
5 hearing something on the radio. Have you read anything in
6 the newspaper at all about the issues in this case involving
7 Toyota vehicles?

8 (All jurors respond in the negative.)

9 THE COURT: Have you read anything in or watched
10 anything on television that may -- that involved the issues
11 in this case?

12 (All jurors respond in the negative.)

13 THE COURT: Have you read anything in magazines
14 that is may involve the issues in this case?

15 (All jurors respond in the negative.)

16 THE COURT: Have you heard anything on television
17 or watched any of the congressional hearings that may have
18 been involved with the matters in this case?

19 (All jurors respond in the negative.)

20 THE COURT: So there is no one on the jury, or is
21 there anyone on the jury that knows anything at all about
22 the facts and issues from what little you know about the
23 issues in this case at this point in time?

24 (All jurors respond in the negative.)

25 THE COURT: Do any of you drive either a Toyota, a

1 Lexus product, or a Scion, S-C-I-O-N? Do any of you drive
2 one of those types of vehicles, makes or models of those
3 types of vehicles.

4 JUROR SPERLING: I do.

5 THE COURT: Mr. Sperling, what type of Toyota do
6 you drive?

7 JUROR SPERLING: It's a Rav 4.

8 THE COURT: Okay. How old is that vehicle?

9 JUROR SPERLING: It is five years old.

10 THE COURT: And have you had any -- would you say
11 your experience has been good or bad with that vehicle?

12 JUROR SPERLING: Generally good.

13 THE COURT: Okay. All right. Anyone else that
14 drives any one of those types of products?

15 (All jurors respond in the negative.)

16 THE COURT: Let me start with Ms. Powell, and I
17 want to go through the back row, middle row, and front row,
18 and just tell me what type of car you drive, and if there is
19 someone else in your house what type of car they drive.

20 Ms. Powell.

21 JUROR POWELL: I drive a Honda Sonata. And I live
22 alone.

23 THE COURT: Ms. McCaskill, what type of car do you
24 drive?

25 JUROR MCCASKILL: Mazda 3. And there is Honda in

1 my house, another Mazda.

2 THE COURT: what type of Honda is it?

3 JUROR MCCASKILL: CX or no, the SUV. CRV.

4 THE COURT: And you said you have another Mazda?

5 JUROR MCCASKILL: Uh-huh.

6 THE COURT: What kind of model is it?

7 JUROR MCCASKILL: I think it's an RX8, and mine is
8 a Mazda 3.

9 THE COURT: Thank you. Ms. Sampson.

10 JUROR SAMPSON: Chevy Impala, Pontiac Grand Prix,
11 and a Ford Focus and Ford Escort.

12 THE COURT: Ms. Cross.

13 JUROR CROSS: Jeep Compass, and there is a Toyota
14 Yaris in my house.

15 THE COURT: How do you spell that?

16 JUROR CROSS: Y-A-R-I-S.

17 THE COURT: I'm not familiar with that type of car.
18 Is it a SUV?

19 JUROR CROSS: No. It's a small --

20 THE COURT: How long have you had that vehicle?

21 JUROR CROSS: I think my housemate has it two
22 years.

23 THE COURT: Do you know if her experiences have
24 they been good, bad, just indifferent?

25 JUROR CROSS: I think it's been good as far as I

1 know.

2 THE COURT: Thank you. Mr. Henson.

3 JUROR HENSON: GMC Sierra pickup, Mercury Sable.

4 THE COURT: Mr. Brock.

5 JUROR BROCK: Ford mustang, Ford Focus, and there
6 is a Dodge Ram in my household.

7 THE COURT: Ms. Russell.

8 JUROR RUSSELL: Chrysler 300 Hemi, and I think it
9 is a Ford Explorer.

10 THE COURT: So you said a Chrysler and a Ford
11 Explorer?

12 JUROR RUSSELL: Right.

13 THE COURT: Thank you. Ms. Grogg.

14 JUROR GROGG: Ford Mustang and a Honda Civic.

15 THE COURT: Mr. Courtright.

16 JUROR COURTRIGHT: I drive a Honda Odyssey, my
17 husband has an Accord. I do have a son that has a Toyota
18 vehicle. He has owned it for several years.

19 THE COURT: What kind of Toyota does he drive?

20 JUROR COURTRIGHT: It is a two-door sedan. I can't
21 remember the name of it.

22 THE COURT: Has his experience been good, bad or
23 otherwise?

24 JUROR COURTRIGHT: It has been good.

25 THE COURT: Mr. Garcia.

1 JUROR GARCIA: GMC pickup, GMC Envoy, Pontiac
2 Solstice.

3 THE COURT: Mr. McPherson.

4 JUROR MCPHERSON: Three Hyundais.

5 THE COURT: Are they Sonatas?

6 JUROR MCPHERSON: Sonata, XG-350, and Elantra.

7 THE COURT: Thank you. Mr. Sperling.

8 JUROR SPERLING: Other than the Rav 4 we have a
9 Volvo S60.

10 THE COURT: And then Mr. Sheppard.

11 JUROR SHEPPARD: Cadillac Deville.

12 THE COURT: Ms. Culbreath.

13 JUROR CULBREATH: Honda Civic.

14 THE COURT: Ms. Medlin.

15 JUROR MEDLIN: Nissan Pathfinder and Nissan Altima.

16 THE COURT: Ms. Collett, I will stick over to you.

17 JUROR COLLETT: I have a 20-year-old Mercury
18 Cougar.

19 THE COURT: Does it still run good?

20 JUROR COLLETT: It does.

21 THE COURT: Ms. Potter.

22 JUROR POTTER: Jeep Wrangler and Chevy Silverado
23 and a Monte Carlo, a Chevy.

24 THE COURT: Ms. Andrade.

25 JUROR ANDRADE: A Dodge Nitro and a Jeep Wrangler.

1 THE COURT: And Ms. Cook.

2 JUROR COOK: Hyundai Elantra.

3 THE COURT: And Ms. Stiger-Monahan.

4 JUROR STIGER-MONAHAN: Mazda 3.

5 THE COURT: For all of you that have just told me
6 about the type of vehicle that you own, have any of you ever
7 had any really good or really bad experiences with your
8 vehicles, as far as just the performance of your vehicles,
9 really good or really bad experiences?

10 (All jurors respond in the negative.)

11 THE COURT: Okay. What about have any of you ever
12 had to make any warranty claims under -- with your vehicles
13 for something that didn't work properly and you had to make
14 a warranty claim? Ms. Courtright, yes, what type of claim
15 did you have to make?

16 JUROR COURTRIGHT: It was a warranty on something
17 that had to do with one of the van doors getting recalled.

18 THE COURT: So it was subject to some sort of
19 recall notice?

20 JUROR COURTRIGHT: Yes.

21 THE COURT: Did you just take it in and get it
22 fixed?

23 JUROR COURTRIGHT: Yes.

24 THE COURT: In addition to warranty, if any of you
25 have been subject to a recall like Ms. Courtright just

1 mentioned, I would be interested in knowing that too. Mr.
2 Garcia, did you raise your hand?

3 JUROR GARCIA: Recall on the Envoy.

4 THE COURT: What was the issue involved in that?

5 JUROR GARCIA: It was some kind of software that
6 they needed to reprogram it.

7 THE COURT: And you took it in and had it fixed?

8 JUROR GARCIA: Yes.

9 THE COURT: Anyone else? Ms. Cross.

10 JUROR CROSS: Very similar. Recall something to do
11 with the programs on an air bag.

12 THE COURT: Okay. Which one of your cars was that?

13 JUROR CROSS: That was the jeep.

14 THE COURT: And you took it in and had it fixed?

15 JUROR CROSS: Yes.

16 THE COURT: Did you have any problems after that?

17 JUROR CROSS: No, ma'am.

18 THE COURT: Anyone else have warranty issues or
19 owned a vehicle subject to a recall? Ms. Cook.

20 JUROR COOK: I've had multiple recalls on past
21 vehicles. I had a GMC Savana, it was a van. I can't
22 remember. It was a van, electrical problems with the remote
23 mirrors. And then I had an S-10 pickup that I had a recall,
24 that was a short causing issues. And then I had another
25 S-10 pickup with the same issue.

1 THE COURT: On each one of those, did you just take
2 it in and have it taken care of?

3 JUROR COOK: On two of them I did, but on the van I
4 did not because I ended up selling it, so they took care of
5 it.

6 THE COURT: Anymore else that I missed? Ms.
7 Culbreath.

8 JUROR CULBREATH: I think I had a recall on a
9 previous Honda. I don't remember what it was about.

10 THE COURT: So it has been some time ago?

11 JUROR CULBREATH: Yes.

12 THE COURT: Are any of you, and by you I mean you
13 or your spouse close family member or friends, in any way
14 involved with the auto industry, mechanics, did you work
15 with a production company, like when GM was opened, involved
16 with car sales, anything having to do with the automobile
17 industry. Mr. Garcia, I see that you're raising your hand.
18 Who do you know, and what did they do?

19 JUROR GARCIA: Retired GM employee.

20 THE COURT: You are?

21 JUROR GARCIA: Yes, ma'am.

22 THE COURT: Mr. Brock, did you raise your hand?

23 JUROR BROCK: I'm an aircraft mechanic. On the
24 side I do racing and cars and stuff.

25 THE COURT: Dirt track?

1 JUROR BROCK: Drag racing.

2 THE COURT: All right. Yes. Ms. Cook.

3 JUROR COOK: My father worked for General Motors,
4 and my uncle works for Ford.

5 THE COURT: What does your uncle do for Ford?

6 JUROR COOK: He is retired now. I wasn't exactly
7 sure it was the assembly line.

8 THE COURT: Anyone else know anyone? Yes, Ms.
9 Andrade.

10 JUROR ANDRADE: My brother-in-law is a mechanic at
11 David Stanley Dodge.

12 THE COURT: And Ms. Potter.

13 JUROR POTTER: I made gaskets for automotive.

14 THE COURT: And do you still do that?

15 JUROR POTTER: I don't make those anymore.

16 THE COURT: Anyone else? Ms. Russell.

17 JUROR RUSSELL: My brother-in-law worked for GM,
18 but he is not any longer.

19 THE COURT: All right. Anyone else that I missed
20 have any involvement with automotive industry?

21 (All jurors respond in the negative.)

22 THE COURT: What about with computers and,
23 particularly, the design of software or hardware or just
24 something as simple as selling computers at Best Buy?
25 Anybody personally involved or know anyone that is involved

1 in the computer industry? Ms. McCaskill.

2 JUROR MCCASKILL: Yes. My dad writes software, but
3 he is in Florida.

4 THE COURT: He lives in Florida?

5 JUROR MCCASKILL: Yes.

6 THE COURT: What type of software programs, if you
7 know, does he write?

8 JUROR MCCASKILL: He tells me about it, but I don't
9 understand what he is saying. He does, I think, it is web
10 based.

11 THE COURT: Okay.

12 JUROR MCCASKILL: For a website.

13 THE COURT: And he lives in Florida?

14 JUROR MCCASKILL: Yes, ma'am.

15 THE COURT: And you didn't follow in his footsteps
16 and do software?

17 JUROR MCCASKILL: No.

18 THE COURT: Anyone else?

19 JUROR SAMPSON: Yes.

20 THE COURT: Ms. Sampson.

21 JUROR SAMPSON: My husband used to work for Seagate
22 when they were here just building the computer boards and
23 things like that.

24 THE COURT: Was his more the manufacturing of
25 putting the boards together or developing how the boards --

1 JUROR SAMPSON: It was the manufacturing.

2 THE COURT: Anyone else? Ms. Cook.

3 JUROR COOK: My brother-in-law, who lives in
4 Florida, he designs web pages as well as AutoCAD.

5 THE COURT: AutoCAD? What is that?

6 JUROR COOK: It has something to be doing with,
7 like, drawing design, but I'm not 100 percent sure. I don't
8 really talk to him about that kind of stuff, it's over my
9 head.

10 THE COURT: All right. Anyone else knows anyone in
11 the computer industry? Yes, Ms. Russell.

12 JUROR RUSSELL: My son, he does the -- I don't know
13 who now, it's top secret, but he does Oracle and -- what is
14 the other one? Java.

15 THE COURT: Okay. And that is your son?

16 JUROR RUSSELL: Yes.

17 THE COURT: And down just kind of generally what he
18 is without revealing the top secret information?

19 JUROR RUSSELL: Top secret.

20 THE COURT: He just tells you that he works at
21 Oracle and Java?

22 JUROR RUSSELL: Right. He does training and
23 everything. I don't ask, and I don't get into it.

24 THE COURT: It's not here in Oklahoma City, is it?

25 JUROR RUSSELL: No. It's in DC.

1 THE COURT: DC. All right. Anyone else?

2 (All jurors respond in the negative.)

3 THE COURT: Are any of you involved in the medical
4 field, doctors, nurses EMSA? Ms. Cook, there is always one
5 particular juror that answers everything. You are the lucky
6 one this time. Ms. Cook, who do you know, or are you
7 involved in the field?

8 JUROR COOK: Well, currently I'm working at
9 Concentra Urgent Care. I do front and back office work. I
10 worked in surgery for a while with spine specialists doing
11 pain management. I also worked at Oklahoma City Clinic,
12 Grady Memorial Hospital, The Heart Hospital.

13 THE COURT: Are you an RN?

14 JUROR COOK: No. But I can do all of that and do
15 AMA work because I've been cross trained to do everything.
16 I can do x-rays, I can do paperwork, pretty much anything.

17 THE COURT: So what do you normally do? Are you a
18 scrub tech?

19 JUROR COOK: I have done that too.

20 THE COURT: So --

21 JUROR COOK: Right now, my actual job description
22 is, like, a checkout technician. And I'm cross training to
23 do check in at this moment right now.

24 THE COURT: Where do you currently work?

25 JUROR COOK: Concentra Urgent Care, west side of

1 Crossroads Mall.

2 THE COURT: I was going to say your job description
3 is probably jack of all trades in the medical field.

4 JUROR COOK: Pretty much.

5 THE COURT: who did you when -- you worked with the
6 surgery, what doctors did you work for?

7 JUROR COOK: I work with J.G. Melton who is a
8 cardiologist. He now works at the Heart Hospital. I did
9 angiographies with him and scrubbed with him. When I was in
10 surgery with the spine doctors, I had four different
11 physicians that I worked with, and then fellows that came
12 in, and that was at Oklahoma City Clinic. And I ran an
13 x-ray machine when I was working with them.

14 THE COURT: Do you recall the names of any of those
15 four physicians?

16 JUROR COOK: Yeah. I worked Mark Strayhan, who has
17 moved. Then Dr. -- I worked with Dr. Lee, not that Dr. Lee.
18 And then I worked with a female Dr. Wienecke at OU Med. I
19 don't know if she is related to that one. And then Dr.
20 McCombs, McSomething. I can't remember. And I don't
21 remember the other one.

22 THE COURT: All right. Thank you. Anyone else
23 have any involvement in the medical field?

24 JUROR COLLETT: Retired LPN.

25 THE COURT: Did you have specifically that you did

1 when you were working?

2 JUROR COLLETT: In my younger days it was the heart
3 surgeries like at St. Anthony. Then as I got progressively
4 older, it was nursing homes.

5 THE COURT: Thank you. Ms. Medlin.

6 JUROR MEDLIN: I'm a physical therapist.

7 THE COURT: That's right. Ms. Courtright.

8 JUROR COURTRIGHT: I work for an optometrist.

9 THE COURT: Anyone else? Yes, Ms. Cross.

10 JUROR CROSS: I direct a nonprofit organization
11 that coordinates healthcare for low-income uninsured people.

12 THE COURT: What is the nonprofit that you work
13 for?

14 JUROR CROSS: It is called the Health Alliance for
15 the Uninsured.

16 THE COURT: All right. Thank you. Anyone else
17 that I missed? Yes, Ms. Cook.

18 JUROR COOK: Dr. Wienecke's first name is Gretchen.

19 THE COURT: All right. Thank you very much. What
20 about law enforcement? Any of you ever been in the police,
21 have you ever worked for any type of law enforcement,
22 deputy's office, anything at all with law enforcement? Yes,
23 Ms. Andrade.

24 JUROR ANDRADE: My husband is a former police
25 officer.

1 THE COURT: Did he work here in Oklahoma City?

2 JUROR ANDRADE: Edmond.

3 THE COURT: And he is not retired from that?

4 JUROR ANDRADE: No. He just switched jobs.

5 THE COURT: Ms. Collett.

6 JUROR COLLETT: I worked at the county jail for a
7 while.

8 THE COURT: All right. Thank you. Anyone else,
9 any type of law enforcement? Yes, Ms. Cook.

10 JUROR COOK: Well, I did janitorial when we owned
11 our own business when I lived at home. But then the police
12 officers would also use me to go and buy underage alcohol
13 and things like that. I don't know if that is considered
14 working with them.

15 THE COURT: Close enough. What about just
16 governmental agencies outside law enforcement? Anyone know
17 anyone that is part of the governmental agency? Ms.
18 McCaskill.

19 JUROR MCCASKILL: I work for the state of Oklahoma.

20 THE COURT: What do you do?

21 JUROR MCCASKILL: I work for the Department of
22 Environmental Quality for the radiation management section,
23 so I do licensing and inspections in the state.

24 THE COURT: Thank you. Anyone else work for the
25 state or federal government? Mr. Brock.

1 JUROR BROCK: I work for the DOD at Tinker.

2 THE COURT: Anyone else work at Tinker, have any
3 military background?

4 (All jurors respond in the negative.)

5 THE COURT: Anyone else with government, state, or
6 federal government?

7 (All jurors respond in the negative.)

8 THE COURT: All right. Have any of you ever been
9 in a car accident before?

10 (Some jurors respond.)

11 THE COURT: All right. Ms. Sampson, yes.

12 JUROR SAMPSON: Yes. Well, I have been rear-ended
13 a couple of times. Last one was in March when we were
14 rear-ended in the Impala.

15 THE COURT: Were you injured in either one of
16 those?

17 JUROR SAMPSON: No.

18 THE COURT: Was there any type of lawsuit filed in
19 either one of those cases?

20 JUROR SAMPSON: No.

21 THE COURT: Was anyone at all injured in the
22 accidents?

23 JUROR SAMPSON: No. Just minor injuries. Just a
24 few medical bills, but the insurance took care of that.

25 THE COURT: Anyone else on the back row been

1 involved in a car accident? Ms. Powell, I missed you.

2 JUROR POWELL: Yes.

3 THE COURT: What type of accident did you have?

4 JUROR POWELL: I was hit broadside, but it has been
5 years ago.

6 THE COURT: Were you injured?

7 JUROR POWELL: No, but my child was.

8 THE COURT: What type of injuries did your child
9 have?

10 JUROR POWELL: A broken leg.

11 THE COURT: Did your child recover?

12 JUROR POWELL: Yes.

13 THE COURT: Was there any type of lawsuit filed in
14 that case?

15 JUROR POWELL: No.

16 THE COURT: Thank you very much. Anyone else on
17 the back row ever been involved in a car accident? Ms.
18 Russell.

19 JUROR RUSSELL: I was rear-ended.

20 THE COURT: Any injuries.

21 JUROR RUSSELL: No.

22 THE COURT: No one at all was injured?

23 JUROR RUSSELL: No.

24 THE COURT: Any type of lawsuit filed?

25 JUROR RUSSELL: Insurance company took care of it.

1 THE COURT: All right. Thank you very much.
2 Anyone in the middle row ever been involved in a car
3 accident? Mr. Garcia.

4 JUROR GARCIA: Rear-ended in 2009.

5 THE COURT: Any injuries?

6 JUROR GARCIA: Yes.

7 THE COURT: What type of injuries did you have?

8 JUROR GARCIA: Back injury.

9 THE COURT: Did it require surgery? Did it resolve
10 itself?

11 JUROR GARCIA: No, it was mostly therapy.

12 THE COURT: Therapy? Okay. Has it now resolved
13 itself?

14 JUROR GARCIA: Yes.

15 THE COURT: Was there any type of lawsuit filed?

16 JUROR GARCIA: Yes, we did.

17 THE COURT: Did you actually have to go to court,
18 or did it settle outside of court?

19 JUROR GARCIA: It was settled out of court.

20 THE COURT: Did you have to give a deposition in
21 the case?

22 JUROR GARCIA: Yes, ma'am.

23 THE COURT: For those that don't know, prior to
24 coming into the courtroom today, both the plaintiff and the
25 defendant have been allowed to do what we call discovery.

1 That means they get to find out the basis and the facts of
2 each others case, each other's basically side of their case.
3 One of those discovery tools is a deposition. And as I
4 indicated earlier, some of the witnesses may not be
5 testifying live, they maybe testifying through a deposition.
6 And so it is just like testifying at trial, you're sworn,
7 put under oath, and then both sides, both attorneys for both
8 sides are allowed to ask you questions.

9 Anyone else on the second row that has ever been
10 involved in a car accident? Mr. McPherson.

11 JUROR MCPHERSON: Hit and run.

12 THE COURT: Were you injured?

13 JUROR MCPHERSON: No.

14 THE COURT: All right. Anyone else on the middle
15 row? What about the front row? I'm sorry, Mr. Sperling.

16 JUROR SPERLING: Rear-ended a long time ago.

17 THE COURT: Ms. Courtright.

18 JUROR COURTRIGHT: I've been rear-ended, but no
19 injuries, no lawsuit.

20 THE COURT: Thank you. What about the front row.
21 Anyone else? Ms. Andrade.

22 JUROR ANDRADE: I was in an accident in '06. I had
23 run -- it was a green light when it should have been -- it
24 is where it switches from an arrow to a green light. I had
25 hit a car, and there was no lawsuit filed. It was

1 insurance.

2 THE COURT: Neither one of you were hurt?

3 JUROR ANDRADE: Just minor injuries.

4 THE COURT: Anyone else on the front seat row?

5 Yes, Ms. Cook.

6 JUROR COOK: I got broadsided. I was a passenger
7 in a small Chevy, and I got whiplash. And then --

8 THE COURT: What type of treatment did you have to
9 have for that?

10 JUROR COOK: To be honest I couldn't even tell you.
11 It's been 25 years ago. And then I got hit in my front
12 corner panel of my car, a valet service was speeding through
13 a parking garage and came off a ramp and hit the front end,
14 front corner panel. And I ended up -- I didn't have any
15 injuries, but I ended up having to take them to court to fix
16 the car. And I believe we ended up settling out of court.

17 THE COURT: All right. Thank you. Ms.
18 Stiger-Monahan.

19 JUROR STIGER-MONAHAN: Yes, ma'am. I've been
20 rear-ended, but no injuries and no lawsuit.

21 THE COURT: Okay.

22 JUROR POTTER: Same here, just rear-ended.

23 THE COURT: No injuries?

24 JUROR POTTER: No.

25 THE COURT: Have any of you ever served on a jury

1 before? Yes, Ms. Sampson, what type of jury was it?

2 JUROR SAMPSON: Murder trial.

3 THE COURT: Here in Oklahoma County?

4 JUROR SAMPSON: Uh-huh.

5 THE COURT: And I don't want to know what the
6 verdict was, but did the jury reach a verdict?

7 JUROR SAMPSON: Yes. I actually have been on two,
8 and both reached a verdict.

9 THE COURT: One was a murder and -- both were
10 murders. And in both cases did the jury reach a verdict?

11 JUROR SAMPSON: Yes.

12 THE COURT: In either case were you the jury
13 foreman?

14 JUROR SAMPSON: No.

15 THE COURT: Anyone else ever served on a jury
16 before? Yes, Ms. Courtright.

17 JUROR COURTRIGHT: It was a drunk-driving
18 situation.

19 THE COURT: Do you remember, was it a criminal case
20 or civil case?

21 JUROR COURTRIGHT: I think it was a criminal case.

22 THE COURT: Was it here in Oklahoma County?

23 JUROR COURTRIGHT: Yes.

24 THE COURT: Without telling me the verdict, did the
25 jury reach a verdict?

1 JUROR COURTRIGHT: Yes.

2 THE COURT: Were you the jury foreman?

3 JUROR COURTRIGHT: No, ma'am.

4 THE COURT: Mr. Garcia?

5 JUROR GARCIA: Civil case.

6 THE COURT: Do you remember what it was about?

7 JUROR GARCIA: It was -- if I remember right, it
8 was an accident.

9 THE COURT: Car accident?

10 JUROR GARCIA: Yes.

11 THE COURT: Did the jury reach a verdict?

12 JUROR GARCIA: Yes.

13 THE COURT: Were you the foreman?

14 JUROR GARCIA: No.

15 THE COURT: Was it very long ago? Do you recall
16 how long?

17 JUROR GARCIA: About five days.

18 THE COURT: How long ago was the trial? Was it
19 last year?

20 JUROR GARCIA: That was probably five years ago.

21 THE COURT: All right. Thank you. Anyone else on
22 the middle row? Mr. McPherson.

23 JUROR MCPHERSON: It was a civil case.

24 THE COURT: Do you recall what it was about?

25 JUROR MCPHERSON: Medical malpractice.

1 THE COURT: Did the jury reach a verdict?

2 JUROR MCPHERSON: Yes.

3 THE COURT: Were you the jury foreman?

4 JUROR MCPHERSON: No.

5 THE COURT: Anyone else? Ms. Culbreath?

6 JUROR CULBREATH: Yes. It was a criminal case, or
7 yeah, criminal case.

8 THE COURT: Do you remember what the charge was?

9 JUROR CULBREATH: No.

10 THE COURT: Did the jury reach a verdict?

11 JUROR CULBREATH: Yes.

12 THE COURT: Were you the jury foreman?

13 JUROR CULBREATH: No.

14 THE COURT: Was it here in Oklahoma County?

15 JUROR CULBREATH: Yes.

16 THE COURT: Anyone on the front row ever served on
17 a jury?

18 (All jurors respond in the negative.)

19 THE COURT: Has anyone ever been a party to a
20 lawsuit? I don't care whether it was a divorce, an FED,
21 eviction type of case, small claims, worker's comp, have you
22 ever been a party to a lawsuit? On the back row, yes, Mr.
23 Henson, what type of lawsuit was it?

24 JUROR HENSON: Workers' comp.

25 THE COURT: workers' comp. Is the case, is it over

1 now?

2 JUROR HENSON: It's over now.

3 THE COURT: Anything about your experience in that
4 case that would cause you to favor one side or the other in
5 this case?

6 JUROR HENSON: No, ma'am.

7 THE COURT: Thank you. Middle row? Yes, Mr.
8 Garcia.

9 JUROR GARCIA: Small claims.

10 THE COURT: Okay, here in Oklahoma County?

11 JUROR GARCIA: Yes.

12 THE COURT: Is it over, or is it pending?

13 JUROR GARCIA: It is gone.

14 THE COURT: It is much different procedure than
15 this. You would have already been in and out. Mr.
16 McPherson?

17 JUROR MCPHERSON: Small claim.

18 THE COURT: Are there any currently pending?

19 JUROR MCPHERSON: No.

20 THE COURT: Anyone else on the front row? Yes, Mr.
21 Sperling.

22 JUROR SPERLING: Yes. I was actually deposed
23 involving a fatality incident for a previous employer.

24 THE COURT: Okay. Was it like a work related?

25 JUROR SPERLING: Work related.

1 THE COURT: How long ago was that?

2 JUROR SPERLING: I want to say about 13 years ago.

3 THE COURT: Can you tell me a little bit about what
4 this event was that caused the death?

5 JUROR SPERLING: This individual did not work for
6 the company that I worked for. He was a person working for
7 a different entity. And I worked with the gas business, and
8 he was working for a company that tested rock saws,
9 excavating tools, and they hit our pipeline, and he was
10 fatally injured as a result of that. And there was a
11 lawsuit by his estate and his family against the
12 manufacturer of the seat belt and equipment that he was
13 operating.

14 THE COURT: And you had the actually testify for
15 the deceased or for the --

16 JUROR SPERLING: I testified. I was deposed by
17 both sides of the case because our company owned the
18 pipeline that he hit.

19 THE COURT: Okay. But your company wasn't sued,
20 correct?

21 JUROR SPERLING: Correct.

22 THE COURT: It was the manufacturer of the
23 equipment, correct?

24 JUROR SPERLING: Correct.

25 THE COURT: All right. Did you say you also had to

1 testify at trial or did it settle before trial?

2 JUROR SPERLING: I don't know how it was
3 adjudicated finally. I was just deposed, and that was it
4 for me.

5 THE COURT: Ms. Culbreath?

6 JUROR CULBREATH: Just a divorce.

7 THE COURT: Is it over now?

8 JUROR CULBREATH: Oh, yeah.

9 THE COURT: Front row. Anybody ever been a party
10 to a lawsuit? Ms. Cook is secretly raising her hand.

11 JUROR COOK: Yes. Divorce ten years ago or so, and
12 then workers' comp I still have open medical.

13 THE COURT: But the case has been adjudicated other
14 than your current treatment or your ongoing treatment?

15 JUROR COOK: Correct.

16 THE COURT: Ms. Stiger-Monahan?

17 JUROR STIGER-MONAHAN: Divorce.

18 THE COURT: All right. Ms. Collett, did you raise
19 your hand?

20 JUROR COLLETT: No. I was scratching my nose.

21 THE COURT: Have you ever had to testify? I know
22 that you indicated, Mr. Sperling, you had to testify. Has
23 anyone had to testify for someone in a lawsuit? Yes, Ms.
24 Stiger-Monahan.

25 JUROR STIGER-MONAHAN: I've testified for a company

1 that I worked for for worker's comp.

2 THE COURT: Okay. All right. Has that been very
3 long in the recent past?

4 JUROR STIGER-MONAHAN: It has been over ten years
5 ago.

6 THE COURT: All right. Let me see. What I would
7 like to do now, and this is the final thing that I will ask
8 of you before I turn you over to the attorneys, starting
9 with Ms. Powell, I need you each to state your name again
10 for the record. If you have a spouse or significant other,
11 I want you to give us your spouse or significant other.

12 And then I would like to know -- some of you have
13 told me -- but what you do for a living, what your spouse or
14 significant other does for a living. And if you have grown
15 children that are working, which I pray some day all of my
16 grown children will be working, but if you have grown
17 children that are working, I would like to know what they do
18 for a living. If you have done one thing, like you were a
19 teacher and then you retired from that and did something
20 else, I'm trying to get a general idea of your work history.

21 Starting with you, Ms. Powell.

22 JUROR POWELL: Geneva Powell. I am a retired
23 teacher, 38 year. I have grown children. Yes.

24 THE COURT: What do they do?

25 JUROR POWELL: My daughter works for a medical

1 center.

2 THE COURT: Is she an RN?

3 JUROR POWELL: No. She works in bookkeeping. And
4 my son is a machinist.

5 THE COURT: Do you have a spouse or significant
6 other?

7 JUROR POWELL: Oh, no.

8 THE COURT: Okay. Ms. Powell, where did you teach,
9 and what did you teach?

10 JUROR POWELL: I retired from Douglas High School,
11 and I taught 8th grade English. And I taught grades 1
12 through 8 during the course of my experience.

13 THE COURT: Okay. Thank you. Ms. McCaskill.

14 JUROR MCCASKILL: Elizabeth McCaskill. I work for
15 the state.

16 THE COURT: You don't look old enough to have grown
17 children. Spouse or significant other?

18 JUROR MCCASKILL: My significant other is an RN in
19 obstetrics.

20 THE COURT: Thank you very much. Ms. Sampson.

21 JUROR SAMPSON: My name is Michelle Sampson. My
22 husband is Roger Sampson. He works in pavement payment
23 maintenance industry making sealers and things like that for
24 roads. I have an education degree. I taught for one year,
25 but my family owns a business, and so I'm manager of that.

1 It's a small business.

2 THE COURT: What type of business is it?

3 JUROR SAMPSON: It's a gift shop.

4 THE COURT: Thank you. Ms. Cross.

5 JUROR CROSS: Pamela Cross. I direct a nonprofit
6 organization, Health Alliance for the Uninsured. I've work
7 in the nonprofit sector for about 20 years. Before that I
8 was a neurodiagnostic technologist for neurologists here in
9 Oklahoma City. My significant other is Jim Cubit. He is a
10 buyer for Hager restaurant sales and service. And I have
11 one grown child who is in asset protection for Home Depot.

12 THE COURT: When you said that you did something
13 for neurologists, tell me again, I didn't catch that.

14 JUROR CROSS: Well, I did different types of
15 testing, electroencephalograms, nerve conduction studies,
16 assisted with electromyography. And previously, way back, I
17 worked at Baptist Hospital doing first electrocardiograms
18 and then electroencephalograms.

19 THE COURT: And your son at Home Depot, loss
20 protections, is that a way to keep track of inventory?

21 JUROR CROSS: It is more the end of shoplifting,
22 employee fraud, embezzling.

23 THE COURT: Thank you very much. Mr. Henson.

24 JUROR HENSON: Yes. Johnnie Henson, and I live on
25 disability.

1 THE COURT: Do you have a spouse or significant
2 other?

3 JUROR HENSON: No.

4 THE COURT: Any grown children?

5 JUROR HENSON: Yes. None of them is working
6 though.

7 THE COURT: All right. Let me go back. Ms.
8 Sampson, did you raise your hand?

9 JUROR SAMPSON: I have a daughter in college in
10 nursing school, and she does work at the hospital. So I
11 didn't know. She is at Integris.

12 THE COURT: Is she at OU Medical Center?

13 JUROR SAMPSON: She is at -- she goes school at
14 OCU. She does clinicals at different locations, but she is
15 actually employed at Integris Baptist.

16 THE COURT: Thank you. Mr. Brock.

17 JUROR BROCK: Travis Brock. I'm a licensed
18 aircraft mechanic. I work at Tinker on oxygen systems.
19 Before that, my family has owned automotive shops. I have
20 worked in automotive vehicle shops all my life.

21 THE COURT: Like mechanic work.

22 JUROR BROCK: Yes. I do some side mechanic stuff.

23 THE COURT: Do you have a spouse or significant
24 other?

25 JUROR BROCK: No.

1 THE COURT: Then Ms. Russell.

2 JUROR RUSSELL: Yes. My name is Deborah Russell.
3 I currently -- I'm working with -- I do work at home
4 Convergys Direct TV on the Internet. And I work worked at
5 Seagate. I was -- started out as secretary. Before then I
6 worked for CPAs, and I did bookkeeping, light bookwork. My
7 husband is retired military, and he works on computers also.

8 THE COURT: Which branch of the military did he
9 serve in?

10 JUROR RUSSELL: Air Force. And I have, my youngest
11 son is retired, well, disability Navy. And my oldest
12 stepson, he is retired Navy. And my son is a -- my oldest
13 son, he is a -- he works on airplanes. I don't know what he
14 does. And my daughter works for oil companies. She works
15 here downtown.

16 THE COURT: And what does she do for the oil
17 company? Do you know?

18 JUROR RUSSELL: She works for the lawyer.

19 THE COURT: Is she, like, a paralegal?

20 JUROR RUSSELL: No. Assistant or secretary, one of
21 them. I try not to be bothered.

22 THE COURT: Let me ask: You said your husband does
23 something with computers. Is that more for pleasure, or
24 does he repair people's computers.

25 JUROR RUSSELL: It is for pleasure. we both do it.

1 THE COURT: Do you take apart computers and try to
2 fix them?

3 JUROR RUSSELL: Yes.

4 THE COURT: And your husband does the same thing.

5 JUROR RUSSELL: Yes.

6 THE COURT: What about any programing, do you
7 design programs for the computer?

8 JUROR RUSSELL: No. I didn't like that very much.
9 I did a little bit when I was secretary. We did it, like,
10 for raw data and we built programs out of, like, Access for
11 Microsoft office. We built programs to enter the data.

12 THE COURT: Did your husband, does he do the same
13 sort of things?

14 JUROR RUSSELL: Similar. But, you know, he did --
15 part of his job was like the security monitors and things at
16 Tinker.

17 THE COURT: Okay. Thank you very much. Ms. Grogg.

18 JUROR GROGG: Sumar Grogg, and I work at a cleaning
19 company. And my significant other is Steven McKenzie, and
20 he works at Coca-Cola.

21 THE COURT: Ms. Courtright.

22 JUROR COURTRIGHT: I don't know if it matters, when
23 she spelled my name, she left out a letter.

24 THE COURT: What is it?

25 JUROR COURTRIGHT: It is C-O-U-R-T-R-I-G-H-T.

1 THE COURT: Thank you.

2 JUROR COURTRIGHT: I'm a certified teacher. I work
3 two part-time jobs right now. I direct a mother's day out
4 preschool two days a week, and I work for an optometrist
5 three days a week.

6 THE COURT: And do you have someone that will fill
7 in for you at those jobs for the next --

8 JUROR COURTRIGHT: Yes. They will have to work
9 around it.

10 THE COURT: Okay.

11 JUROR COLLETT: Excuse me. Can I go outside for a
12 second? Can I be excused for a minute?

13 THE COURT: why don't we -- tell you what, why
14 don't we go ahead -- I will take an early lunch break today
15 and we will come back and finish up voir dire. Ms. Collett,
16 let me remind you as you're backing up, do not discuss this
17 case during the lunch break. We're in recess until 1:00.
18 That will give you an hour and 25 minutes.

19 We're in recess until 1:00. For the rest of you,
20 during the lunch break do not discuss this case with anyone.
21 Do not get on the Internet and look at anything about this
22 case, about the parties. And I will give you a much more
23 detailed instruction on that later. At 1:00, if you will
24 just all gather outside my courtroom, we will have bring you
25 in.

1 For those of you in the jury box, I need you to
2 take the same seats that you're currently seated in. For
3 those in the back, just go back to the back of the courtroom
4 again. Some we're in recess until 1. off the record.

5 (Conclusion of morning proceedings.)

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1 STATE OF OKLAHOMA)
2 COUNTY OF OKLAHOMA)

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4 C-E-R-T-I-F-I-C-A-T-E

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6 I, Karen Twyford, Certified Shorthand Reporter, in
7 and for the County of Oklahoma, State of Oklahoma, do hereby
8 certify that the foregoing transcript is a true, correct,
9 and complete transcript of my stenographic notes.

10 I further certify that I am not related to any of
11 the parties herein, nor am I interested in any way in the
12 outcome of these proceedings.

13 WITNESS my Hand this _____ day of _____,
14 2013.

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KAREN TWYFORD
CERTIFIED SHORTHAND REPORTER
CERTIFICATE NO. 01780

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