

In the Matter of:  
Anthony Taylor vs. Samantha Schilling

Reporter's Transcript of Trial Proceedings

04/13/2018

Job #: 126356



(818)988-1900

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 41

HON. STEPHEN M. MOLONEY, JUDGE

ANTHONY TAYLOR, BY AND THROUGH HIS )  
GUARDIAN AD LITEM, SHARON TAYLOR )  
GRAFFT, )

PLAINTIFFS, )

VS. )

CASE NO. MC026518

SAMANTHA SCHILLING, AND DOES 1 )  
THROUGH 50, INCLUSIVE, )

DEFENDANTS. )

\_\_\_\_\_  
AND RELATED CROSS-ACTIONS. )  
\_\_\_\_\_)

REPORTER'S TRANSCRIPT OF TRIAL PROCEEDINGS

FRIDAY, APRIL 13, 2018

APPEARANCES:

FOR THE PLAINTIFFS:

PARRIS  
BY: R. REX PARRIS, ESQ.  
BY: ALEXANDER R. WHEELER, ESQ.  
BY: JONATHAN W. DOUGLASS, ESQ.  
BY: BERNADETTE N. MANIGAULT, ESQ.  
BY: RUTGER R. PARRIS, ESQ.  
43364 10TH STREET WEST  
LANCASTER, CALIFORNIA 93534

FOR THE DEFENDANTS:

MC NEIL, TROPP & BRAUN LLP  
BY: JEFF I. BRAUN, ESQ.  
BY: DEBORAH S. TROPP, ESQ.  
BY: TRACY L. BREUER, ESQ.  
2 PARK PLAZA  
SUITE 620  
IRVINE, CA 92614

REPORTED BY: REAGAN EVANS, CSR 8176, RPR, RMR, CRR,  
CCRR, CRC, CLR, OFFICIAL REPORTER PRO TEMPORE

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<p>1 CASE NUMBER: MC026518  2 CASE NAME: TAYLOR, ET AL., V. SCHILLING  3 LOS ANGELES, CA FRIDAY, APRIL 13, 2018  4 DEPARTMENT 41 HON. STEPHEN M. MOLONEY, JUDGE  5 REPORTER: REAGAN EVANS, CSR NO. 8176  6 TIME: 9:25 A.M.  7  8 APPEARANCES:  9 REPRESENTING PLAINTIFFS, R. REX PARRIS, ATTORNEY  10 AT LAW; ALEXANDER R. WHEELER, ATTORNEY AT LAW;  11 JONATHAN W. DOUGLASS, ATTORNEY AT LAW;  12 BERNADETTE N. MANIGAULT, ATTORNEY AT LAW; RUTGER  13 R. PARRIS, ATTORNEY AT LAW; REPRESENTING  14 DEFENDANTS, JEFF I. BRAUN, ATTORNEY AT LAW;  15 DEBORAH S. TROPP, ATTORNEY AT LAW; TRACY L.  16 BREUER, ATTORNEY AT LAW.  17  18 (THE FOLLOWING PROCEEDINGS WERE HELD IN  19 OPEN COURT IN THE PRESENCE OF THE  20 JURY:)  21 THE COURT: LADIES AND GENTLEMEN, AS AN ASIDE, I  22 SHOULD POINT OUT WE DON'T HAVE A CLOCK. LATE YESTERDAY  23 IT CAME DOWN, BUT DID NOT HIT ANYONE.  24 SO I HAVE AN ATOMIC CLOCK HERE. IT SAYS  25 9:25 AND WE'LL USE THAT ONE.  26 THANK YOU.  27 ALL RIGHT. WE'LL CONTINUE NOW.  28 MS. TROPP: THANK YOU, YOUR HONOR.</p>	Page 1	<p>1 THE COURT: ALL RIGHT. THAT'S THE ANSWER.  2 NEXT QUESTION, PLEASE.  3 BY MS. TROPP:  4 Q DID YOU ASK THE CRAIG INSTITUTE TO GIVE  5 YOU THE NAME OF SOMEBODY FOR A PATIENT OF YOURS?  6 A YES.  7 Q OKAY. AND THEY REFERRED YOU TO DR. KIM?  8 A YES.  9 Q AND DID YOU WORK WITH DR. KIM ON THIS  10 PARTICULAR PATIENT?  11 A YES.  12 Q AND IS THAT WHY YOU REFERRED MR. BRAUN TO  13 DR. KIM?  14 A YES.  15 Q IS DR. KIM THE ONLY EXPERT THAT YOU  16 PROVIDED THE DEFENSE WITH -- A RECOMMENDATION OF?  17 A YES.  18 Q YOU DIDN'T PUT TOGETHER A TEAM OF DOCTORS  19 FOR US?  20 A NO.  21 Q OKAY. SO WE WERE TALKING LAST WEEK ABOUT  22 CERVICAL FUSION IN THE NECK AND HOW THERE ARE TWO  23 APPROACHES, ANTERIOR AND POSTERIOR.  24 DO YOU RECALL THAT?  25 A CORRECT.  26 Q IN THE WORLD OF CERVICAL FUSIONS, WHAT  27 PERCENTAGE OF THOSE FUSIONS ARE DONE FROM THE FRONT,  28 ANTERIOR?</p>	Page 3
<p>1 MICHAEL WEINSTEIN, M.D.  2 CALLED AS A WITNESS BY THE DEFENSE,  3 HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:  4  5 DIRECT EXAMINATION (RESUMED)  6 BY MS. TROPP:  7 Q DR. WEINSTEIN, DID YOU HAVE A CONVERSATION  8 WITH JEFF BRAUN WHEREIN YOU SPOKE TO HIM ABOUT DR. SUZY  9 KIM?  10 A YES.  11 Q AND WHEN YOU SPOKE TO MR. BRAUN ABOUT  12 DR. SUZY KIM, WERE YOU DOING SO IN THE FORM OF A  13 RECOMMENDATION?  14 A YES.  15 Q AND HOW DO YOU KNOW DR. SUZY KIM?  16 A WELL, I'VE SPENT SOME TIME AT THE CRAIG  17 SPINAL INSTITUTE --  18 MR. REX PARRIS: OBJECTION, YOUR HONOR.  19 THE COURT: THE QUESTION, DOCTOR, IS TELL US HOW  20 YOU KNOW HER.  21 THE WITNESS: I WAS REFERRED FROM -- THE CRAIG  22 SPINAL INSTITUTE REFERRED HER TO ME AS THE --  23 MR. REX PARRIS: HEARSAY.  24 THE WITNESS: -- PERSON.  25 THE COURT: ALL RIGHT.  26 DOCTOR, SHE WAS REFERRED TO YOU BY THE  27 CRAIG SPINAL INSTITUTE; IS THAT CORRECT?  28 THE WITNESS: IN DENVER, COLORADO, YES.</p>	Page 2	<p>1 A PROBABLY AT LEAST 85 TO 90 PERCENT.  2 Q AND WHY IS THAT?  3 A WELL, FOR MANY REASONS. NO. 1, IT'S AN  4 EASIER ACCESS APPROACH WITH LESS MORBIDITY.  5 NO. 2, THE STABILITY YOU CAN GET WITH AN  6 ANTERIOR FUSION, THE SURFACE AREA WHERE YOU DO THE  7 FUSION IS SO MUCH LARGER ANTERIORLY. AND THE FUSION  8 OCCURS UNDER COMPRESSION.  9 I'LL TRY NOT TO BE TOO TECHNICAL HERE, BUT  10 IT OCCURS UNDER COMPRESSION SO IT'S THE MOST STABLE.  11 AND SO WHEN YOU GO IN FROM THE FRONT, NO. 1, MOST OF  12 THE PATHOLOGY YOU'RE OPERATING ON IS HERNIATED DISCS OR  13 SPURS, WHICH YOU CAN ACCESS EASIEST FROM THE FRONT.  14 NO. 2, WHEN YOU DO THE FUSION, IT'S UNDER  15 COMPRESSION.  16 AND, NO. 3, YOU GET THE MOST SOLID  17 CONSTRUCT SO YOU GET IMMEDIATE STABILITY SO PEOPLE CAN  18 WALK OUT OF THE HOSPITAL WITHOUT A BRACE ON WITH JUST A  19 COLLAR AND YOU CAN ALLOW THEM TO GET BACK TO ACTIVITIES  20 MUCH QUICKER.  21 Q YOU BROUGHT WITH YOU LAST WEEK AN  22 ANATOMICAL MODEL OF THE CERVICAL SPINE?  23 A I DO.  24 Q OKAY. AND WHAT YOU WERE SHOWING US LAST  25 WEEK WITH THE PLATE AND THE SCREWS, THAT IS  26 DEMONSTRATIVE OF A CERVICAL FUSION FROM AN ANTERIOR  27 APPROACH?  28 A THIS IS THE WAY ANTERIOR FUSIONS ARE DONE</p>	Page 4

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<p>1 IN TODAY'S AGE WITH A CAGE IN BETWEEN THE TWO VERTEBRA, 2 A PLATE AND FOUR SCREWS. IT MAKES IT VERY SOLID, VERY 3 IMMEDIATE STABILITY, AND ALLOWS PEOPLE TO GET BACK TO 4 THEIR ACTIVITIES OF DAILY LIVING RIGHT AWAY. 5 Q AND THE PLATE OR THE CAGE THAT YOU 6 DEMONSTRATED, THAT IS ACTUALLY SCREWED DIRECTLY INTO 7 THE DISCS? 8 A IT'S ACTUALLY SCREWED INTO THE VERTEBRA 9 ABOVE, TWO SCREWS IN THE VERTEBRA ABOVE AND TWO SCREWS 10 IN THE VERTEBRA BELOW. 11 WHEN I SAY "ABOVE," ABOVE THE DISK, AND I 12 MEAN BELOW, BELOW THE DISK. 13 Q AND WHEN YOU TESTIFIED A MOMENT AGO THAT 14 THERE'S MORE -- I'M NOT SURE WHAT WORD YOU USED, BUT 15 BASICALLY MASS OR SPACE TO PLACE THAT CAGE, THAT'S FROM 16 AN ANTERIOR APPROACH? 17 A CORRECT. 18 Q AND IT'S ON BONY STRUCTURE? 19 A IT'S ON BONY STRUCTURE, AND IT'S UNDER 20 COMPRESSION WHERE FUSIONS HEAL THE BEST UNDER 21 COMPRESSION. 22 Q SO IF SOMEBODY GOES INTO THE OPERATING 23 ROOM AND HAS A CERVICAL FUSION ONE LEVEL FROM AN 24 ANTERIOR APPROACH, THAT'S WHAT IT LOOKS LIKE WHEN THEY 25 LEAVE? 26 A YES. 27 Q AND THEY DON'T HAVE TO WEAR A BRACE OR A 28 HALO OF ANY KIND WHEN THEY HAVE THAT?</p>	<p>1 WE KNOW THERE'S SOME MICROMOTION IN THE FRONT. 2 Q LAST WEEK WHEN WE WERE DISCUSSING A 3 SPECIFIC STUDY THAT YOU AND DR. MOLDAWER ARE AWARE OF 4 THAT IDENTIFIES A 3 PERCENT YEAR INCREASE IN THE RISK 5 OF ADJACENT SEGMENT DISEASE FOLLOWING A SINGLE LEVEL 6 CERVICAL FUSION -- DO YOU RECALL THAT? 7 A I DO. 8 Q OKAY. IS THAT STUDY, AS FAR AS YOU KNOW, 9 BASED ON THE TYPE OF CERVICAL FUSION THAT YOU HAVE ON 10 YOUR MODEL? 11 A YES. 12 Q IT IS OR IT IS -- 13 A IT IS. 14 Q IT IS. ALL OF IT IS? 15 A ALL OF -- 16 Q THE ENTIRE STUDY IS BASED -- 17 A WELL, ON THAT STUDY, THERE WAS ALSO SOME 18 PEOPLE WHO HAVE MORE THAN ONE LEVELS; IN TWO LEVELS 19 ALSO. 20 Q BUT THEY WERE ANTERIOR APPROACHES? 21 A YES. 22 Q NOW, WHAT IS YOUR UNDERSTANDING, IF 23 ANYTHING, ABOUT THE CORRELATION BETWEEN A STIFF, FRONT 24 ANTERIOR CERVICAL FUSION AND ADJACENT SEGMENT DISEASE? 25 A WELL, YOU HAVE TO PUT IT IN THREE 26 DIFFERENT CRITERIA. 27 SO I'M TRYING NOT TO GET TOO TECHNICAL 28 HERE.</p>
Page 6	Page 8
<p>1 A USUALLY -- WELL, WE SOMETIMES PUT THEM IN 2 A SOFT COLLAR JUST BECAUSE YOU HAVE AN INCISION HERE 3 (INDICATING), IT HURTS. USUALLY YOU DON'T NEED TO WEAR 4 A BRACE. SOME PEOPLE PUT THEM IN A BRACE FOR THREE OR 5 FOUR WEEKS, BUT IT'S A PLASTIC BRACE. YOU DON'T 6 USUALLY USE ANYTHING OTHER -- MORE THAN THAT. 7 Q AFTER HOW LONG A PERIOD OF TIME WOULD THE 8 AVERAGE PATIENT, HAVING THAT SORT OF CERVICAL FUSION, 9 BE ABLE TO GET BACK TO THEIR NORMAL ACTIVITIES? 10 A CLINICAL ACTIVITIES, LIKE GOING BACK AND 11 FORTH TO WORK, WITHIN A WEEK OR TWO. GOING INTO THE 12 GYM, PROBABLY SLOWLY ABOUT FOUR WEEKS. WE DO PUT SOME 13 RESTRICTIONS ON THEM FOR THREE OR FOUR MONTHS BECAUSE 14 IT TAKES THAT LONG FOR IT TO CLINICALLY FUSE. SO WE 15 PUT SOME RESTRICTIONS. 16 BUT AFTER A ONE LEVEL FUSION ANTERIORLY, 17 WE DON'T HAVE ANY RESTRICTIONS ON THEM. THEY CAN GO 18 BACK AND PLAY IN THE N.F.L. 19 Q YOU MENTIONED THAT THAT ANTERIOR FUSION 20 WITH THE CAGE AND THE SCREWS, THAT IT'S STIFF. 21 WHAT DO YOU MEAN BY THAT? 22 A WELL, IT'S STIFF BECAUSE ALL FUSIONS 23 AREN'T THE SAME. FUSIONS THAT ARE IN COMPRESSION ARE 24 THE STIFFNESS. FUSIONS IN TENSION ARE NOT AS STIFF. 25 AND ALL FUSIONS ARE NOT THE SAME. THERE'S 26 ALWAYS SOME MICROMOTION. SO WHEN YOU DO A FUSION HERE 27 (INDICATING), THERE'S STILL SOME MICROMOTION HERE. 28 AND SO WHEN WE DO FUSIONS FROM THE BACK,</p>	<p>1 Q GO AHEAD. 2 A BUT ONE IS ADJACENT SEGMENT DISEASE IS A 3 RADIOLOGIC FINDING. YOU JUST SEE IT ON THE X RAY. 4 PEOPLE DON'T HAVE SYMPTOMS. 5 THEN YOU HAVE ADJACENT SEGMENT -- I'M 6 SORRY. ADJACENT SEGMENT DEGENERATION IS ON THE X RAY. 7 AND THEN YOU HAVE ADJACENT SEGMENT DISEASE 8 WHERE SOMEONE'S GETTING SYMPTOMATIC WITH NECK PAIN OR 9 SOME ARM PAIN. 10 AND THEN YOU HAVE ADJACENT SEGMENT DISEASE 11 THAT REQUIRES SURGERY. 12 SO YOU HAVE THREE DIFFERENT THINGS. 13 Q THE CERVICAL FUSION ON YOUR MODEL, 14 SOMEBODY COULD HAVE ADJACENT SEGMENT DEGENERATION ON 15 THE UPPER OR LOWER ADJACENT LEVELS AND NOT HAVE PAIN? 16 A CORRECT. 17 Q AND THE ONLY WAY IT WOULD BE DIAGNOSED IF 18 SOMEBODY DOESN'T HAVE PAIN WOULD BE FROM A RADIOLOGICAL 19 FINDING? 20 A CORRECT. 21 Q AND THE OTHER WAY THAT SOMETIMES THOSE 22 RADIOLOGICAL FINDINGS COME UP IS BECAUSE SOMEBODY IS 23 ACTUALLY SYMPTOMATIC, THEY COME TO THE DOCTOR, THEY SAY 24 THEY'RE HAVING PAIN, A STUDY IS DONE, AND YOU SEE, 25 OKAY, THEY HAVE ADJACENT SEGMENT DISEASE DEGENERATION? 26 A WE CALL IT DISEASE BECAUSE NOW THEY HAVE 27 SYMPTOMS, YES. 28 Q WE'VE GONE FROM DEGENERATION TO DISEASE</p>

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<p>1 AND THEN COMES TREATMENT FOR IT?</p> <p>2 A SURGERY.</p> <p>3 Q IS SURGERY THE ONLY TREATMENT THAT THERE</p> <p>4 IS FOR ADJACENT SEGMENT DISEASE?</p> <p>5 A NO. IN FACT, THE STUDIES SHOW THAT IF YOU</p> <p>6 HAVE ADJACENT SEGMENT DISEASE, ANY -- IF YOU LOOK AT</p> <p>7 ALL THE STUDIES, IT'S ANYWHERE FROM ONE-THIRD TO</p> <p>8 TWO-THIRDS OF PEOPLE WILL EVENTUALLY NEED SURGERY FOR</p> <p>9 THAT.</p> <p>10 Q AND WHAT ARE THE TREATMENTS THAT ARE GIVEN</p> <p>11 TO PATIENTS WITH ADJACENT SEGMENT DISEASE BEFORE GOING</p> <p>12 STRAIGHT TO SURGERY?</p> <p>13 A JUST LIKE YOU WOULD TREAT YOUR REGULAR</p> <p>14 PATIENTS, PHYSICAL THERAPY. YOU COULD HAVE SOME --</p> <p>15 PLACE SOMEONE IN A COLLAR. YOU COULD GET OCCUPATIONAL</p> <p>16 THERAPY. YOU SHOULD EVEN HAVE INJECTIONS OR</p> <p>17 MEDICATION.</p> <p>18 Q INJECTIONS OF WHAT?</p> <p>19 A STEROIDS, USUALLY.</p> <p>20 Q SO IS IT YOUR EXPERIENCE WITH ADJACENT</p> <p>21 SEGMENT DISEASE THAT THERE ARE STEPS THAT ARE TAKEN IF</p> <p>22 A PATIENT IS SYMPTOMATIC BEFORE YOU JUST JUMP TO</p> <p>23 SURGERY?</p> <p>24 A OH, OF COURSE.</p> <p>25 Q OKAY. AND, IN YOUR EXPERIENCE, WITH</p> <p>26 PATIENTS THAT HAVE HAD CERVICAL FUSIONS THAT HAVE LED</p> <p>27 TO ADJACENT SEGMENT DISEASE, HAVE YOU HAD SUCCESS IN</p> <p>28 TREATING THOSE PATIENTS WITH LESS INVASIVE MODALITIES</p>	<p>1 ANSWER, SO PLEASE REPHRASE.</p> <p>2 MS. TROPP: THANK YOU, YOUR HONOR.</p> <p>3 Q THE FRONT, THE ANTERIOR APPROACH, SOMEBODY</p> <p>4 CAN GO BACK TO THEIR REGULAR LIFE IN A FEW WEEKS?</p> <p>5 A REGULAR OFFICE WORK AND EVERYTHING. BUT</p> <p>6 GETTING INTO SPORTS AND EVERYTHING WOULD BE THREE TO</p> <p>7 FOUR MONTHS.</p> <p>8 Q OKAY. WITH THE POSTERIOR APPROACH THAT</p> <p>9 MR. TAYLOR HAD, HOW LONG DOES THAT PATIENT TYPICALLY</p> <p>10 HAVE TO WAIT FOR THAT FUSION TO TAKE?</p> <p>11 A IT DEPENDS ON HOW THE POSTERIOR APPROACH</p> <p>12 IS DONE. WITH A CABLE, IT WOULD TAKE A LOT LONGER</p> <p>13 BECAUSE IT'S HEALING. THERE'S OTHER WAYS TO DO</p> <p>14 POSTERIOR FUSIONS WITH SCREWS AND PLATES ALSO, WHICH</p> <p>15 WOULD BE FASTER, BUT THEY TEND TO BE A LITTLE SLOWER</p> <p>16 THAN THE -- ALL OF THEM TEND TO BE SLOWER THAN THE</p> <p>17 ANTERIOR FUSION.</p> <p>18 Q AND IS IT YOUR UNDERSTANDING THAT THAT IS</p> <p>19 WHY MR. TAYLOR WAS IN A HALO FOR EIGHT MONTHS?</p> <p>20 MR. REX PARRIS: OBJECTION, YOUR HONOR. SHE'S</p> <p>21 LEADING.</p> <p>22 THE COURT: THE FORM OF THE QUESTION SUGGESTS THE</p> <p>23 ANSWER.</p> <p>24 JUST REPHRASE.</p> <p>25 BY MS. TROPP:</p> <p>26 Q DO YOU HAVE AN UNDERSTANDING AS TO WHETHER</p> <p>27 OR NOT MR. TAYLOR WORE A HALO FOLLOWING THE SURGERY?</p> <p>28 A I THINK HE WORE A HALO FOR DECEMBER TO</p>
<p>1 BEFORE SURGERY?</p> <p>2 A YES. YOU IMMEDIATELY DON'T GO TO SURGERY.</p> <p>3 AND THE STUDIES SHOW THAT ONLY MAYBE ONE-THIRD TO MAYBE</p> <p>4 A LITTLE OVER TWO-THIRDS OF PEOPLE WOULD REQUIRE</p> <p>5 SURGERY.</p> <p>6 Q OKAY. SO THIS SURGERY WE'RE TALKING</p> <p>7 ABOUT, THIS ANTERIOR CERVICAL FUSION WITH A PLATE AND</p> <p>8 SCREWS, THAT'S NOT WHAT ANTHONY TAYLOR HAD?</p> <p>9 A NO, HE DOES NOT.</p> <p>10 Q WHAT DID ANTHONY TAYLOR HAVE?</p> <p>11 A HE HAD A POSTERIOR FUSION RIGHT HERE</p> <p>12 (INDICATING) WITH SOME CABLES. AND THAT'S A VERY GOOD</p> <p>13 WAY OF DOING IT IN THIS TYPE OF INJURY.</p> <p>14 Q THE POSTERIOR SURGERY THAT MR. TAYLOR HAD,</p> <p>15 WOULD YOU AGREE THAT THE RESULT IS NOT NEARLY AS STIFF</p> <p>16 AS IT WOULD HAVE BEEN IF IT HAD BEEN AN ANTERIOR</p> <p>17 APPROACH WITH A CAGE, POST, AND SCREWS?</p> <p>18 A STIFFNESS IS, I GUESS, A BIOMECHANICAL</p> <p>19 TERM. WE WOULD SAY IT'S PROBABLY LESS STIFF, YES, BUT</p> <p>20 IT'S STILL -- WE WOULD STILL CONSIDER IT A FUSION</p> <p>21 THOUGH.</p> <p>22 Q BUT THE FUSION THAT'S DONE FROM THE FRONT,</p> <p>23 A FEW WEEKS MAYBE THEY'RE IN A SOFT BRACE AND THEY'RE</p> <p>24 BACK TO NORMAL BECAUSE IT'S GOT A PLATE AND SCREWS;</p> <p>25 RIGHT?</p> <p>26 MR. REX PARRIS: OBJECTION, YOUR HONOR.</p> <p>27 OBJECTION. SHE'S LEADING.</p> <p>28 THE COURT: THE FORM OF THE QUESTION STATES THE</p>	<p>1 AUGUST.</p> <p>2 MR. REX PARRIS: OBJECTION, YOUR HONOR, THIS GOES</p> <p>3 BEYOND KENNEMUR.</p> <p>4 THE COURT: ALL RIGHT. OBJECTION IS KENNEMUR.</p> <p>5 MS. TROPP: I'M JUST MAKING SURE THAT HE HAS AN</p> <p>6 UNDERSTANDING OF THE PROCEDURE THAT MR. TAYLOR ACTUALLY</p> <p>7 HAD BEFORE HE GOES INTO DESCRIBING WHY, IN HIS OPINION,</p> <p>8 HE WON'T, TO A REASONABLE DEGREE OF MEDICAL</p> <p>9 PROBABILITY, HAVE ADJACENT SEGMENT DISEASE.</p> <p>10 THE COURT: ALL RIGHT. HE SAID, (AS READ AND/OR</p> <p>11 REFLECTED):</p> <p>12 I THINK HE WORE A HALO FROM</p> <p>13 DECEMBER TO AUGUST.</p> <p>14 I'LL ALLOW THAT AS AN ALLEGED FACTUAL</p> <p>15 STATEMENT AS OPPOSED TO AN OPINION AT THIS POINT.</p> <p>16 SO I'LL RESERVE ON THE KENNEMUR OBJECTION.</p> <p>17 BY MS. TROPP:</p> <p>18 Q GO AHEAD, DOCTOR.</p> <p>19 A YES, HE WORE A HALO FOR EIGHT MONTHS.</p> <p>20 Q OKAY. DO YOU HAVE AN UNDERSTANDING AS TO</p> <p>21 WHY THAT HALO HAD TO BE WORN?</p> <p>22 A WELL, BECAUSE --</p> <p>23 MR. REX PARRIS: OBJECTION, YOUR HONOR, IT'S</p> <p>24 LEADING. THERE'S NO --</p> <p>25 THE COURT: THE FORM OF THE QUESTION IS NOT</p> <p>26 LEADING. OVERRULED.</p> <p>27 THE WITNESS: BECAUSE IT'S A CABLE AND IT'S NOT</p> <p>28 AS STABLE AND SO YOU HAVE TO LET THE BONE FUSE IN. AND</p>

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<p>1 IT FUSES IN UNDER TENSION, WHICH TAKES A LOT LONGER 2 THAN COMPRESSION. 3 BY MS. TROPP: 4 Q DO YOU HAVE AN OPINION AS TO WHETHER OR 5 NOT ADJACENT SEGMENT DISEASE IS MORE OR LESS LIKELY IN 6 A POSTERIOR APPROACH WITH A CABLE VERSUS AN ANTERIOR 7 APPROACH WITH POST AND SCREWS BASED ON YOUR CLINICAL 8 EXPERIENCE, YOUR EDUCATION, OR ANY RESEARCH? 9 A YES. 10 Q AND WHAT IS THAT OPINION? 11 A POSTERIOR FUSIONS, IN MY OPINION -- IT'S 12 MY OPINION -- BUT I HAVE TO REALLY QUOTE THE 13 LITERATURE, THAT THEY'RE ASSOCIATED WITH LESS ADJACENT 14 SEGMENT DEGENERATION THAN ANTERIOR FUSIONS. 15 Q THERE IS LESS INCIDENT OF ADJACENT SEGMENT 16 DEGENERATION WITH A POSTERIOR CABLE APPROACH THAN THERE 17 IS WITH THE ANTERIOR FUSION? 18 A WITH ALL POSTERIOR APPROACHES, THERE WOULD 19 BE LESS THAN THE ANTERIOR APPROACH. 20 Q OKAY. SO IF WE WERE COMPARING 21 MR. TAYLOR'S SITUATION WITH THAT STUDY THAT MR. -- OR 22 DR. MOLDAWER CITED TO, WHICH RAISES THAT INCIDENCE OF 23 ADJACENT SEGMENT DISEASE 3 PERCENT A YEAR, ARE WE 24 COMPARING APPLES TO APPLES? 25 A I DON'T BELIEVE SO. 26 MR. REX PARRIS: OBJECTION, YOUR HONOR. 27 MISSTATES DR. MOLDAWER'S TESTIMONY. HE NEVER, NEVER 28 SAID WHICH STUDY.</p>	<p>1 YOUR OBJECTION IS ASKED AND ANSWERED. 2 MR. REX PARRIS: YES, YOUR HONOR, ASKED AND 3 ANSWERED. 4 THE COURT: JUST STATE THE LEGAL OBJECTION. 5 AND I'M GOING TO SUSTAIN IT. MY NOTES 6 INDICATE THAT HE TALKED ABOUT THE STUDY PREVIOUSLY, AND 7 YOU CAN FOLLOW UP WITH A QUESTION. 8 BY MS. TROPP: 9 Q SO THAT STUDY THAT WE'RE TALKING ABOUT 10 THAT I BELIEVE WE'VE NOW LAID FOUNDATION FOR, IS IT 11 COMPARING APPLES TO APPLES IF YOU TAKE THAT STUDY AND 12 WHAT IT FOUND AND MR. TAYLOR'S ACTUAL SURGERY HERE? 13 A I DON'T BELIEVE IT DOES. 14 Q WHY? 15 A BECAUSE THE ONE IS DONE FROM ANTERIOR 16 SURGERY AND THE ONE IS DONE FROM POSTERIOR SURGERY. 17 Q WHAT ABOUT THE FACT THAT MR. TAYLOR IS A 18 QUADRIPLEGIC AND HAS CERTAIN PHYSICAL LIMITATIONS? 19 DOES THAT AFFECT, IN YOUR OPINION, WHETHER OR NOT THAT 20 STUDY APPLIES? 21 A WELL, I DON'T SEE HOW YOU CAN SAY THAT 22 THAT STUDY APPLIES. THESE ARE NOT DONE IN PATIENTS WHO 23 ARE QUADRIPLEGIC. 24 AND MY OWN FEELING IS THAT THERE WOULD BE 25 LESS STRESS ON SOMEONE WHO IS A QUADRIPLEGIC THAN 26 SOMEONE WHO IS GOING OUT AND PLAYING SPORTS AND DOING 27 THEIR ACTIVITIES OF DAILY LIVING. BUT THAT'S MY 28 OPINION BECAUSE THERE AREN'T ANY STUDIES THAT I KNOW OF</p>
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<p>1 AND IN ADDITION, THERE'S NO INDICATION 2 THAT ANY OF THESE PEOPLE WERE QUADRIPLEGICS -- 3 MS. TROPP: IS THERE A LEGAL OBJECTION, YOUR 4 HONOR? 5 THE COURT: WHAT WAS THE LEGAL OBJECTION, 6 MR. PARRIS? 7 MR. REX PARRIS: LACK OF FOUNDATION. 8 THE COURT: LET ME READ THE QUESTION, PLEASE. 9 ALL RIGHT. YOU NEED TO LAY A FOUNDATION 10 THAT DR. MOLDAWER AND DR. WEINSTEIN ARE REFERRING TO 11 THE SAME STUDY BECAUSE THAT IS THE FIRST PORTION OF THE 12 QUESTION. 13 AND THEN AFTER THAT, YOU CAN RAISE THE 14 NEXT QUESTION. 15 MS. TROPP: FORGIVE ME, YOUR HONOR, I BELIEVE WE 16 COVERED THAT TWO DAYS AGO, BUT I'LL GO BACK INTO IT. 17 Q YOU READ DR. MOLDAWER'S DEPOSITION? 18 A YES. 19 Q DID YOU SEE IN HIS DEPOSITION WHERE HE 20 CITED TO A STUDY INDICATING THAT ADJACENT SEGMENT 21 DISEASE IN CERVICAL FUSIONS CAN OCCUR 3 PERCENT PER 22 YEAR? 23 A YES. 24 Q AND WHAT IS THAT STUDY? 25 MR. REX PARRIS: OBJECTION, YOUR HONOR. IT'S THE 26 SAME LACK OF FOUNDATION. HE'S ALREADY TESTIFIED 27 THERE'S 180 STUDIES. 28 THE COURT: ALL RIGHT. MR. PARRIS, I BELIEVE</p>	<p>1 THAT ARE DONE LIKE THAT. 2 Q OKAY. DR. WEINSTEIN, DO YOU HAVE AN 3 OPINION TO A REASONABLE DEGREE OF MEDICAL CERTAINTY 4 WHETHER OR NOT MR. TAYLOR IS LIKELY OR MORE THAN LIKELY 5 TO DEVELOP ADJACENT SEGMENT DISEASE IN THE NEXT 35 6 YEARS THAT WOULD REQUIRE SURGERY? 7 A YOU KNOW, I DON'T HAVE A STUDY THAT I 8 COULD REALLY RELY UPON THAT SAYS THAT HE WILL, BUT, I 9 MEAN, I THINK HE WILL HAVE INCREASED RISKS VERSUS 10 SOMEONE WHO DIDN'T HAVE SURGERY. AND THESE -- THIS IS 11 A META-ANALYSIS STUDY OF ALL THESE STUDIES WHERE, YOU 12 KNOW, I GUESS WE CAN GIVE OUR OPINIONS BUT WE SHOULD 13 REALLY GIVE OUR OPINIONS BASED ON THE LITERATURE 14 BECAUSE THIS IS SUCH A COMPLICATED, COMPLEX THING. 15 AND BASED ON THESE STUDIES, IT WAS, YOU 16 KNOW, PROBABLY AROUND 1 PERCENT. BUT I THINK IT MIGHT 17 BE A LITTLE LOW, 1 PERCENT. 18 BUT I DON'T THINK IT'S THE 3 PERCENT. 19 SO THAT'S THE BEST ANSWER THAT I CAN GIVE. 20 AND BASED ON ALL THESE STUDIES, THAT IT'S 21 A POSTERIOR FUSION, IT'S A LOT LESS -- IF SOMEONE IN A 22 LOT LESS ACTIVITY MODE, POSTERIOR FUSIONS HAVE LESS 23 ADJACENT SEGMENT DEGENERATION. 24 SO IT'S SIGNIFICANTLY LESS, I BELIEVE, 25 THAN 3 PERCENT. 26 Q CAN YOU SAY, TO A REASONABLE DEGREE OF 27 MEDICAL PROBABILITY, THAT MR. ANTHONY TAYLOR WILL HAVE 28 ADJACENT SEGMENT DISEASE SURGERY ANY TIME IN THE NEXT</p>

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<p>1 35 YEARS AS A RESULT OF HIS CERVICAL FUSION?  2 A I CAN'T SAY. I THINK THERE'S A  3 POSSIBILITY. I THINK IT'S A REAL POSSIBILITY, BUT I  4 CAN'T SAY IT'S MEDICALLY PROBABLE.  5 MS. TROPP: THANK YOU.  6 I DON'T HAVE ANYTHING FURTHER, YOUR HONOR.  7 THE COURT: THANK YOU. MR. PARRIS, PLEASE.  8 MR. REX PARRIS: YES. THANK YOU.  9  10 CROSS-EXAMINATION  11 BY MR. REX PARRIS:  12 Q GOOD MORNING, DOCTOR.  13 A GOOD MORNING.  14 Q YOU TESTIFIED IN A CASE WE HAD ABOUT A  15 MONTH AGO, DIDN'T YOU, IN DEPOSITION?  16 A IN DEPOSITION.  17 Q AND YOU'VE WORKED EXTENSIVELY WITH ONE OF  18 MY PARTNERS, MR. SCHECHTER; RIGHT?  19 A I HAVE.  20 Q IN FACT, YOU'RE FRIENDS?  21 A I AM.  22 Q OKAY. GOOD.  23 AND THERE'S A COUPLE THINGS I WANT TO GO  24 OVER WITH YOU.  25 HOW LONG HAVE YOU BEEN DOING THIS, COMING  26 IN AND/OR DOING DEPOSITIONS AND TESTIFYING?  27 A I HAVE BEEN IN PRACTICE 31 YEARS. I THINK  28 I'D SAY ABOUT 12 YEARS AGO I STARTED DOING MORE</p>	<p>1 THAT AT THE PRESENT TIME --  2 Q LISTEN TO MY QUESTION.  3 YOU HAVE MADE MILLIONS OF DOLLARS  4 TESTIFYING AGAINST INJURED PEOPLE, HAVEN'T YOU?  5 MS. TROPP: I'M GOING TO OBJECT. IT'S  6 ARGUMENTATIVE AS PHRASED, YOUR HONOR.  7 THE COURT: ALL RIGHT. THE FIRST PORTION IS  8 APPROPRIATE ON THE ISSUE OF BIAS. TESTIFYING AGAINST  9 INJURED PEOPLE IS AN ARGUMENT.  10 SO JUST REPHRASE.  11 BY MR. REX PARRIS:  12 Q WELL, AGAINST PEOPLE WHO ARE SITTING ON  13 THIS SIDE OF THE COURTROOM; RIGHT?  14 A WELL, ABOUT 90 PERCENT OF THE TIME I  15 TESTIFY IT'S FOR THE DEFENSE AND ABOUT 10 PERCENT FOR  16 THE PLAINTIFF.  17 Q AND YOU'VE MADE MILLIONS OF DOLLARS DOING  18 THAT?  19 A OVER THE COURSE OF TIME, IT WOULD BE MORE  20 THAN A MILLION DOLLARS, YES. IT WOULD BE MILLIONS OF  21 DOLLARS, THAT'S CORRECT.  22 Q AND IN THIS CASE, YOUR BILLING NOW IS OVER  23 50 GRAND, ISN'T IT?  24 A I DON'T BELIEVE SO.  25 Q WELL, WASN'T IT 38,000 AT THE TIME OF YOUR  26 DEPOSITION? I MEAN, I CAN GO THROUGH THE BILLS IF YOU  27 WANT.  28 A I DON'T KNOW. I ACTUALLY -- MY OFFICE</p>
Page 18	Page 20
<p>1 EVALUATIONS. AND I SAY THAT BECAME --  2 Q 12 YEARS?  3 A WELL, BECAUSE -- WHAT I MEANT TO SAY IS IT  4 BECAME ABOUT 5 PERCENT OF MY PRACTICE 12 YEARS AGO.  5 Q DIDN'T YOU TELL US IN YOUR DEPOSITION IT  6 WAS 3 PERCENT?  7 A WHAT'S THAT?  8 Q BEING AN EXPERT WITNESS WAS 3 PERCENT OF  9 THE ACTUAL WORK YOU DO?  10 A WELL, THE QUESTION WAS WHEN DID I START  11 DOING IT AND I SAID 12 YEARS AGO. AND I SAID 3 PERCENT  12 OF MY PATIENT CONTACTS AT THE PRESENT TIME WOULD BE  13 EVALUATIONS.  14 Q OKAY. FOR MED-LEGAL; RIGHT?  15 A CORRECT.  16 Q FOR CASES GOING TO TRIAL; RIGHT?  17 A WELL, 90 PERCENT OF THEM DON'T GO TO  18 TRIAL.  19 Q RIGHT. BUT, I MEAN, THEY HAVE A POTENTIAL  20 FOR GOING TO TRIAL; RIGHT?  21 A I REALIZE THEY ALWAYS HAVE A POTENTIAL TO  22 GO TO TRIAL.  23 Q IN THAT 3 PERCENT, IS 24 PERCENT OF YOUR  24 INCOME?  25 A CORRECT.  26 Q AND YOU HAVE MADE MILLIONS OF DOLLARS  27 TESTIFYING AGAINST INJURED PEOPLE, HAVEN'T YOU?  28 A I'VE DONE MEDICAL-LEGAL WORK, AND I'D SAY</p>	<p>1 PROVIDED THOSE BILLS TO YOU. I HAVEN'T SEEN THEM.  2 Q WELL, HERE --  3 MR. REX PARRIS: CAN I APPROACH, YOUR HONOR?  4 THE COURT: YES.  5 BY MR. REX PARRIS:  6 Q LET'S GO THROUGH THEM TOGETHER.  7 A OKAY.  8 Q ALL RIGHT. YOU HAD --  9 A THAT'S 32.  10 Q WHAT'S THE DATE THERE? DECEMBER 29TH,  11 2016.  12 A IT'S 32.  13 Q YOU BILLED \$3200.  14 A SO THAT'S --  15 Q LET'S GO TO THE NEXT TIME.  16 WHAT'S THE DATE?  17 A 26.  18 Q MARCH 28TH A YEAR AGO, YOU BILLED ANOTHER  19 \$2600; RIGHT?  20 A YES.  21 AND THEN THERE'S 200. SO THAT'S \$6,000  22 TOTAL.  23 Q OKAY.  24 A THAT'S 9,200.  25 Q WAIT A MINUTE. THE NEXT MONTH YOU BILLED  26 \$3200 ON THIS CASE; RIGHT?  27 A THAT'S 9,200. SO THIS IS 48 SO THAT'S --  28 Q IT'S NOT EVEN THE NEXT MONTH, IS IT?</p>



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<p>1 LET'S SEE, WHAT WAS THE DATE ON THIS?</p> <p>2 THIS IS JUNE 6TH. AND THEN 20 DAYS LATER YOU BILLED</p> <p>3 ANOTHER \$4,881; RIGHT?</p> <p>4 A THAT WOULD BE 14- -- 1400 -- 14 -- 2,000.</p> <p>5 Q AND THEN A FEW DAYS LATER YOU BILLED 200</p> <p>6 OR 193; RIGHT?</p> <p>7 A 14,200. SO THAT'S -- CORRECT ME IF MY</p> <p>8 MATH IS WRONG, 17.</p> <p>9 Q WE ADDED IT UP.</p> <p>10 A OKAY.</p> <p>11 Q JULY 13, IT WAS \$3500; RIGHT?</p> <p>12 A 17,8. AND THAT WOULD BE 19,8.</p> <p>13 Q AND THAT'S JULY 31ST, A WEEK LATER, ISN'T</p> <p>14 IT?</p> <p>15 A 19,8. I'M NOT LOOKING AT THE DATES. I'M</p> <p>16 JUST GOING BY THE TOTAL.</p> <p>17 Q NO, TWO WEEKS.</p> <p>18 A OKAY. 19,8. SO THAT WOULD BE 2200.</p> <p>19 Q AND THEN AUGUST 24TH, A MONTH LATER, YOU</p> <p>20 ONLY BILLED \$368. WAS THAT A SLOW MONTH?</p> <p>21 A WELL, NO. ESSENTIALLY WHAT OCCURS IS YOU</p> <p>22 GET MORE INFORMATION. YOU'RE ASKED TO REVIEW IT AND TO</p> <p>23 GIVE A REPORT. SO AS THE INFORMATION COMES IN, YOU</p> <p>24 REVIEW IT AND YOU MAKE A REPORT.</p> <p>25 Q OKAY. LET'S GO. LET'S KEEP GOING.</p> <p>26 A SO I THINK WE'RE AT 20 -- THAT'S \$125.</p> <p>27 Q THEN WHEN WAS THAT? THAT WAS A FEW DAYS</p> <p>28 LATER YOU DO ANOTHER 125; RIGHT?</p>	<p>1 Q \$34,000. AND THEN YOU CHARGE 5500 FOR</p> <p>2 EACH HALF DAY OF TESTIMONY.</p> <p>3 A CORRECT.</p> <p>4 Q AND SO HOW MUCH IS THAT?</p> <p>5 A THAT WOULD BE 44, 45.</p> <p>6 Q 45,000?</p> <p>7 A RIGHT.</p> <p>8 Q AND THAT DOESN'T INCLUDE THE AMOUNT OF</p> <p>9 PREPARATION FOR TRIAL; IS THAT RIGHT?</p> <p>10 A I DON'T BILL FOR PREPARATION FOR TRIAL.</p> <p>11 Q YOU BILL \$400 FOR A PHONE CALL WITH</p> <p>12 DEFENSE COUNSEL AND YOU DON'T BILL FOR PREPARING FOR</p> <p>13 TRIAL?</p> <p>14 A THAT'S INCLUDED IN MY TRIAL FEE.</p> <p>15 Q OKAY. 44,000. FAIR ENOUGH?</p> <p>16 A FAIR ENOUGH.</p> <p>17 Q GIVE OR TAKE.</p> <p>18 AND THERE'S 180 REPORT -- JOURNAL ARTICLES</p> <p>19 OUT THERE, I THINK YOU SAID, ON --</p> <p>20 MR. REX PARRIS: HELP ME OUT, ALEX --</p> <p>21 THE WITNESS: I'LL HELP YOU.</p> <p>22 BY REX MR. PARRIS:</p> <p>23 Q -- ADJACENT SEGMENT DISEASE?</p> <p>24 A THERE'S ACTUALLY 595.</p> <p>25 Q 595 --</p> <p>26 A 84 MET THE CRITERIA OF DOING THE -- WELL,</p> <p>27 ALL THREE CRITERIA WERE ACTUALLY LOOKED AT. 84.</p> <p>28 Q AND IN THAT BILLING, THERE'S NO RESEARCH,</p>
<p>1 A OKAY.</p> <p>2 Q AND THAT WAS FOR A PHONE CONFERENCE. WHO</p> <p>3 WERE YOU TALKING TO?</p> <p>4 A I DON'T KNOW. LET'S SEE. THAT WAS WITH</p> <p>5 STACEY HELVIN. OKAY.</p> <p>6 Q OH, STACEY. OKAY. GO ON.</p> <p>7 AND 9-21, SEPTEMBER, ANOTHER 5,000. SO</p> <p>8 WHAT ARE WE UP TO NOW?</p> <p>9 A 26, I BELIEVE.</p> <p>10 Q \$26,000. AND OCTOBER 17TH, 3500.</p> <p>11 A 3500. SO THAT'S 29. 29, 6.</p> <p>12 Q AND NOW WE'RE UP TO OCTOBER 31, ANOTHER</p> <p>13 1500? \$1487.</p> <p>14 A SO THAT'S 31, 31,7.</p> <p>15 Q AND THEN IN NOVEMBER, 625; RIGHT?</p> <p>16 A SO I'VE GOT ABOUT 34, I THINK.</p> <p>17 Q WAIT A MINUTE.</p> <p>18 A NO. I JUST COUNTED 625.</p> <p>19 Q YOU CHARGED \$475 TO LOOK AT FILMS? THAT'S</p> <p>20 NOT EVEN REVIEWING THE REPORTS, IS IT?</p> <p>21 A WELL, NO. IF I HAVE TO REVIEW THE FILMS</p> <p>22 AND IF IT TOOK ME AN HOUR TO REVIEW THE FILMS, I BILL</p> <p>23 FOR AN HOUR'S WORTH OF WORK.</p> <p>24 Q I SEE. OKAY.</p> <p>25 A I'M CHEAPER, I THINK, THAN YOU ARE. OKAY.</p> <p>26 SO I COUNT ABOUT 34. OKAY.</p> <p>27 Q WHAT IS IT?</p> <p>28 A I COUNTED ABOUT 34.</p>	<p>1 IS THERE?</p> <p>2 A NO, THERE ISN'T.</p> <p>3 Q THANK YOU.</p> <p>4 NOW, IN MAKING A DETERMINATION OF WHETHER</p> <p>5 OR NOT A PATIENT NEEDS SURGERY -- WELL, BEFORE I DO</p> <p>6 THAT, YOU ALREADY AGREE THAT ANTHONY IS SUFFERING FROM</p> <p>7 SOME DEGENERATION AT THE ADJACENT SEGMENTS.</p> <p>8 ISN'T THAT TRUE? DIDN'T YOU SAY THAT?</p> <p>9 A I BELIEVE HE DOES HAVE SOME, YES.</p> <p>10 Q AND HE'S HOW MANY YEARS PAST SURGERY?</p> <p>11 A HE WOULD BE ALMOST -- HE WOULD BE TWO</p> <p>12 YEARS AND A HALF, ALMOST TWO AND A HALF.</p> <p>13 Q OKAY. SO IN TWO AND A HALF YEARS, HE'S</p> <p>14 ALREADY SHOWING SIGNS OF IT, ISN'T HE?</p> <p>15 A WELL, HE HAS SOME -- WE ALL HAVE SOME</p> <p>16 DEGENERATION. SO IF WE DO A FUSION, WE -- A LOT OF US</p> <p>17 HAD THE DEGENERATION THERE BEFORE THE FUSION. SO WE</p> <p>18 ALL HAVE SOME DEGENERATION.</p> <p>19 Q HOW OLD WAS HE AT THE TIME?</p> <p>20 A 26, I BELIEVE.</p> <p>21 Q NOW YOU AND I PROBABLY HAVE A LOT OF</p> <p>22 DEGENERATION IN OUR CERVICAL SPINE; RIGHT?</p> <p>23 A ABSOLUTELY.</p> <p>24 Q A 26-YEAR-OLD, PROBABLY NOT SO MUCH;</p> <p>25 RIGHT?</p> <p>26 A NOT SO MUCH. AND I DON'T THINK HE HAS SO</p> <p>27 MUCH NOW, BUT I THINK THERE'S SLIGHT, YES.</p> <p>28 Q ONE OF THE THINGS YOU DO BEFORE YOU -- I</p>

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<p>1 MEAN, AND YOU DO. YOU WANT TO AVOID SURGERY AT ALL 2 COST, DON'T YOU? 3 A I THINK YOU SHOULD. 4 Q IF YOU CAN AVOID SURGERY, YOU WANT TO 5 AVOID IT; RIGHT? 6 A I THINK YOU SHOULD, YES. 7 Q YEAH. ESPECIALLY IF IT'S A QUADRIPLEGIC 8 WHO ALREADY HAS SEVERELY COMPROMISED SPINAL CORD 9 INJURY; RIGHT? 10 A ABSOLUTELY. 11 Q RIGHT. STAY OUT OF THAT NECK AS LONG AS 12 YOU CAN; RIGHT? 13 A CORRECT. 14 Q OKAY. YOU AGREE WITH THAT? 15 A I TOTALLY AGREE WITH YOU. 16 Q OKAY. BUT ONE OF THE THINGS YOU LOOK AT 17 IN MAKING THE DETERMINATION OF HOW TO TREAT THEM -- 18 OH, BY THE WAY, HAVE YOU EVER RENDERED A 19 DIAGNOSIS ON A PATIENT YOU HAVEN'T SEEN? 20 A WELL, IF I'VE -- IT WOULDN'T BE STRICTLY 21 MY PATIENT. IT WOULD BE AN EVALUATION I'M DOING. 22 Q IN ALL THOSE TIMES YOU'VE TESTIFIED IN 23 COURT, YOU HAVE ALWAYS SEEN THE PATIENT, HAVEN'T YOU? 24 A PROBABLY 90 PERCENT OF THE TIME. 25 SOMETIMES I'M JUST ASKED TO DO AN EVALUATION ON 26 RECORDS. 27 Q BUT YOU DON'T TESTIFY IN COURT ON THOSE? 28 A I HAVE OCCASIONALLY.</p>	<p>1 MOTION THAT DR. KIM DID UP IN OREGON. 2 THAT WOULD BE EXHIBIT 520. 3 (WHEREUPON EXHIBIT NO. 520 WAS MARKED 4 FOR IDENTIFICATION.) 5 BY MR. REX PARRIS: 6 Q WOULD YOU LOOK AT THAT ON YOUR SCREEN, 7 PLEASE. 8 (VIDEO PLAYED AS FOLLOWS:) 9 Q ALL RIGHT. SO JUST MOVE 10 FOR ME COMFORTABLY. YOU'RE LOOKING 11 STRAIGHT. 12 I WANT YOU TO, BEST YOU 13 CAN, PUT YOUR CHIN TO YOUR CHEST. 14 OKAY. AND THEN LOOK STRAIGHT. 15 AND THEN LOOK UP AT THE 16 CEILING AS HIGH AS YOU CAN GO. 17 OKAY. AND LOOK STRAIGHT. 18 AND SLOWLY LET'S LOOK OVER 19 YOUR LEFT SHOULDER. OKAY. COME 20 BACK. 21 SLOWLY LOOK OVER YOUR 22 RIGHT SHOULDER. 23 ANY PAIN OR DISCOMFORT 24 DOING THAT? 25 A NO. 26 Q OKAY. AND THEN TRY TO 27 DO -- THIS ONE'S A LITTLE BIT 28 HARDER -- EAR TO THE SHOULDER, EAR</p>
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<p>1 Q OKAY. IT WOULD HAVE HELPED IF YOU HAD 2 SEEN THE PATIENT; CORRECT? 3 A I THINK EVERYTHING HELPS; I MEAN, THE MORE 4 INFORMATION YOU HAVE. SERIOUSLY, I DO. 5 Q ONE OF THE THINGS YOU WOULD DO IS A RANGE 6 OF MOTION TEST ON HIS NECK, WOULDN'T YOU? 7 A A RANGE OF MOTION TEST? WELL, WE JUST 8 ASKED HIM TO MOVE THE NECK, YES. 9 Q RIGHT. SO A RANGE OF MOTION WOULD BE, 10 LOOK AS FAR AS YOU CAN TO THE LEFT; RIGHT? 11 A CORRECT. 12 Q HOW'S MY RANGE OF MOTION? 13 A ACTUALLY, PRETTY GOOD. 14 Q YEAH. 15 AND AS FAR AS YOU CAN TO THE RIGHT; RIGHT? 16 A CORRECT. 17 Q AS FAR BACK AS YOU CAN? 18 A CORRECT. 19 Q AND AS FAR DOWN? 20 A YES. ALSO, YOU TILT TO LEFT. 21 Q LIKE THIS (INDICATING)? 22 A AND YOU TILT TO THE RIGHT. YES. 23 THOSE ARE THE SIX RANGES OF MOTION WE 24 TEST. 25 Q SO ARE WE STILL DOING GOOD? 26 A YOU'RE STILL DOING GOOD. 27 Q OKAY. GREAT. 28 I'D LIKE TO SHOW YOU ANTHONY'S RANGE OF</p>	<p>1 TO THE OTHER SHOULDER. 2 OKAY. 3 AND I THINK IN YOUR 4 DEPOSITION YOU SAID THAT YOU -- 5 YOU -- OKAY. 6 SO FROM THE MOVEMENT YOU 7 HAVE IN YOUR NECK NOW, TRY TO 8 REMEMBER TO, YOU KNOW, BEFORE YOUR 9 CAR ACCIDENT, COULD YOU -- DO YOU 10 FEEL LIKE IT'S LIKE -- IF 11 100 PERCENT WAS JUST LIKE NORMAL, 12 WHAT WOULD YOU SAY NOW? 13 LOOKING OVER YOUR 14 SHOULDERS. 15 A (INAUDIBLE). 16 Q YEAH, YEAH. OKAY. 17 SO DO YOU FEEL LIKE YOU 18 COULD LOOK OVER YOUR SHOULDER MORE 19 OR LESS? 20 CAN YOU LOOK OVER YOUR 21 SHOULDER MORE NOW OR BEFORE MORE? 22 A JUST A HAIR MORE BEFORE. 23 Q OKAY. 24 A JUST A HAIR MORE BEFORE. 25 MR. REX PARRIS: THANK YOU. 26 (VIDEO STOPPED.) 27 BY MR. REX PARRIS: 28 Q YOU WOULDN'T CALL THAT A NORMAL RANGE OF</p>

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<p>1 MOTION, WOULD YOU?                  2 A NO, I WOULDN'T.                  3 Q AND WHEN YOU GAVE YOUR OPINIONS, YOU                  4 THOUGHT HE HAD A NORMAL RANGE OF MOTION, DIDN'T YOU?                  5 A I'M NOT CLEAR. HE JUST HAS A C5 -- I SAID                  6 WITH A C5-C6 FUSION, PEOPLE SHOULD HAVE PROBABLY ABOUT                  7 90 PERCENT RANGE OF MOTION.                  8 Q WHEN YOU READ DR. -- NEVER MIND. I'LL                  9 PULL BACK.                  10 IN ANY EVENT, WE KNOW FOR A FACT HE'S GOT                  11 A RESTRICTED RANGE OF MOTION, DOESN'T HE?                  12 A BASED ON THAT, HE HAS SOME RESTRICTED                  13 RANGE OF MOTION, YES.                  14 Q THANK YOU.                  15 YOU WERE ASKED SOME QUESTIONS -- WELL, YOU                  16 ALSO SAID THREE MONTHS LATER YOU CAN GO BACK TO THE                  17 N.F.L. YOU'RE NOT MEANING TO IMPLY FOR ONE SECOND THAT                  18 ANTHONY IS GOING TO HAVE A BETTER RESULT WHETHER HE HAS                  19 SURGERY OR NOT, ARE YOU? I MEAN --                  20 A I'M NOT SURE I UNDERSTAND THE QUESTION.                  21 Q ANTHONY'S GOING TO BE IN THAT CHAIR                  22 WHETHER HE HAS THE SURGERY OR NOT; RIGHT?                  23 A YES.                  24 Q OKAY. THANK YOU.                  25 AND WE ALSO KNOW IS THAT IF HE HAS                  26 ADJACENT SEGMENT DISEASE BEFORE IT GETS TO A POINT                  27 WHERE HE HAS TO HAVE SURGERY, HE'S GOING TO HAVE                  28 PROGRESSIVELY MORE PAIN; RIGHT?</p>	<p>1 THE COURT: BEFORE YOU PLAY IT, JUST ONE MOMENT.                  2 MS. TROPP: 31, WHAT ARE THE LINES?                  3 THE COURT: 21 TO 25.                  4 MS. TROPP: NO OBJECTION.                  5 (VIDEO PLAYED AS FOLLOWS:)                  6 Q YOU DIDN'T TALK FOR THAT LONG.                  7 A JUST TOLD HER THE C6                  8 QUADRIPLEGIC AND WE WERE JUST                  9 TALKING ABOUT FUTURE MEDICAL CARE                  10 AND IT WOULD BE IMPORTANT FOR US                  11 TO -- YOU KNOW, FOR THEM TO GET                  12 YOUR OPINIONS BECAUSE I CONSIDER                  13 YOU THE EXPERT ON THIS.                  14 (VIDEO STOPPED.)                  15 BY MR. REX PARRIS:                  16 Q SUZY KIM SAID SHE WAS PART OF THE DEFENSE                  17 TEAM. ARE YOU PART OF THE DEFENSE TEAM?                  18 A I'M HERE TO GIVE MY OPINIONS, AND I'M                  19 GIVING MY OPINIONS AND THE DEFENSE HIRED ME.                  20 Q ARE YOU PART OF THE DEFENSE TEAM?                  21 A I'M NOT SURE WHAT YOU CONSIDER A "TEAM."                  22 I'M JUST HERE TO GIVE MY OPINIONS.                  23 Q AND IT WOULD BE WRONG FOR YOU TO THINK                  24 THAT YOU'RE ON THE DEFENSE TEAM AND COMING HERE AND                  25 GIVE OPINIONS AS A MEMBER OF THE DEFENSE TEAM, WOULDN'T                  26 YOU?                  27 A I THINK IT WOULD BE WRONG.                  28 Q IT WOULD ACTUALLY BE UNETHICAL, WOULDN'T</p>
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<p>1 A I THINK THE MORE YOU HAVE ADJACENT SEGMENT                  2 DEGENERATION, THE MORE POSSIBILITY YOU'RE GOING TO HAVE                  3 SYMPTOMS. THE MORE YOU HAVE SYMPTOMS, THE MORE YOU'RE                  4 GOING TO HAVE PAIN. BUT IT'S NOT A STRAIGHT LINE.                  5 THERE ARE PEOPLE WITH A LOT OF ADJACENT                  6 SEGMENT DEGENERATION WHO DON'T HAVE PAIN. BUT I THINK                  7 AS A GENERAL STATEMENT, THAT'S TRUE.                  8 Q AND YOU ALSO WOULD AGREE THAT WHETHER HE                  9 EVER GETS TO THE POINT OF NEEDING SURGERY OR NOT, IT IS                  10 GOING TO GET WORSE?                  11 A I THINK ALL OF US GET WORSE AS WE GET                  12 OLDER, AND HIS WOULD BE NO DIFFERENT. AND HE HAS A                  13 FUSION.                  14 Q AND I'M 67 AND CAN DO THIS (INDICATING).                  15 AND HE'S 27; RIGHT?                  16 A YES.                  17 Q THANK YOU.                  18 THE LAST THING WAS YOU -- YOU DIDN'T REFER                  19 SUZY KIM TO DEFENSE COUNSEL. YOU CALLED SUZY KIM AND                  20 SAID, WE NEED YOU TO HELP US ON THIS -- ACTUALLY, YOU                  21 SAID, (AS READ AND/OR REFLECTED):                  22 IMPORTANT FOR US TO GET YOUR                  23 OPINION.                  24 "US." RIGHT?                  25 A I DON'T KNOW THE WORDS. I ASKED HER --                  26 Q DO YOU WANT ME TO PLAY IT FOR YOU?                  27 A SURE. I CAN'T REMEMBER WORDS SO --                  28 Q PAGE 31, LINES 21 THROUGH 25.</p>	<p>1 IT?                  2 MS. TROPP: OBJECTION, YOUR HONOR.                  3 ARGUMENTATIVE. RELEVANCE.                  4 THE COURT: WELL, IT CALLS FOR A LEGAL                  5 CONCLUSION, BUT JUST REPHRASE.                  6 BY MR. REX PARRIS:                  7 Q AS A DOCTOR IN YOUR MEDICAL ETHICS AND                  8 RULES YOU HAVE TO FOLLOW WHEN TESTIFYING, IT WOULD BE                  9 UNETHICAL FOR YOU TO COME IN HERE AND TESTIFY AS A                  10 MEMBER OF THE DEFENSE TEAM; ISN'T THAT TRUE?                  11 A I BELIEVE SO.                  12 Q THANK YOU.                  13 THE COURT: NOTHING FURTHER, MR. PARRIS?                  14 MR. REX PARRIS: NOTHING FURTHER.                  15 THE COURT: THANK YOU. MS. TROPP.                  16 MS. TROPP: YES, YOUR HONOR.                  17                  18 REDIRECT EXAMINATION                  19 BY MS. TROPP:                  20 Q DR. WEINSTEIN, I THINK WE CALCULATED YOU                  21 CHARGED APPROXIMATELY \$44,000 IN THIS CASE TO DATE?                  22 A I BELIEVE SO.                  23 Q DO YOU HAVE YOUR FILE WITH YOU, SIR?                  24 A I DO.                  25 Q AND IN YOUR FILE, DOES IT INDICATE FOR YOU                  26 WHAT YOU'VE REVIEWED IN THIS CASE?                  27 A YES.                  28 Q SO WHEN MR. PARRIS WAS GOING THROUGH EACH</p>

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<p>1 BILL SAYING, OH, MY, TWO WEEKS LATER YOU SPENT ANOTHER                  2 \$400, IS THAT BECAUSE WE SENT YOU ADDITIONAL MEDICAL                  3 RECORDS TO REVIEW EACH TIME YOU CHARGED?                  4 A CORRECT.                  5 Q IF I WANTED YOU TO CHARGE LESS, I COULD                  6 JUST PICK AND CHOOSE WHAT I SENT YOU; RIGHT?                  7 A I WOULD ONLY CHARGE BASED ON THE RECORDS I                  8 RECEIVE.                  9 Q SO LET'S JUST TAKE A MINUTE AND COMPARE                  10 WHAT YOU'VE REVIEWED VERSUS WHAT DR. MOLDAWER REVIEWED.                  11 SO DID YOU REVIEW DEPOSITIONS IN THIS                  12 CASE?                  13 A MANY, MANY DEPOSITIONS.                  14 Q GIVE ME AN ESTIMATE.                  15 A WELL, OVER 10, 12.                  16 Q ALL OF THEM AT LEAST OVER 100 PAGES?                  17 A I'M NOT SURE. THEY WERE ALL PRETTY LONG,                  18 BUT I'M NOT SURE WHICH ONE.                  19 Q SO DR. MOLDAWER TOLD US IN HIS REPORT THAT                  20 HE DIDN'T REVIEW ANY DEPOSITIONS.                  21 SO THAT WOULD HAVE TAKEN YOU TIME AND WE                  22 WOULD HAVE NEEDED TO PAY FOR YOUR TIME.                  23 A CORRECT.                  24 Q ALL RIGHT. DID YOU HAPPEN TO REVIEW THE                  25 MEDICAL RECORDS FROM CEDARS-SINAI IN THIS CASE?                  26 A YES, THEY WERE VERY EXTENSIVE.                  27 Q THE EXTENSIVE RECORDS FROM CEDARS-SINAI                  28 WHERE MR. TAYLOR ACTUALLY HAD THE RODS REMOVED FROM HIS</p>	<p>1 DEPOSITION, THAT HE PROVIDED HIS EXPERT FILE WITH IT?                  2 A YES.                  3 Q AND IN THAT EXPERT FILE, DO EXPERTS                  4 INDICATE WHAT RECORDS THEY REVIEWED PRIOR TO THEIR                  5 DEPOSITION?                  6 A YES.                  7 Q DO YOU RECALL THAT DR. MOLDAWER DID NOT                  8 LIST THE CEDARS-SINAI RECORDS ON HIS DOCUMENT THAT                  9 STATED ALL THE RECORDS HE'D REVIEWED PRIOR TO HIS                  10 DEPOSITION?                  11 A THAT'S MY UNDERSTANDING.                  12 Q THERE IS A DEXA SCAN THAT WAS TAKEN BY                  13 DR. FARRUKH. DO YOU KNOW THAT?                  14 A YES.                  15 Q HAVE YOU SEEN THAT DEXA SCAN?                  16 A THE --                  17 MR. REX PARRIS: OBJECTION, YOUR HONOR. IT WOULD                  18 BE KENNEMUR.                  19 THE COURT: WELL, I'LL ALLOW IT ONLY AS TO WHAT                  20 RECORDS HE REVIEWED. NOT AS TO THE CONTENT.                  21 THE WITNESS: YES.                  22 BY MS. TROPP:                  23 Q YOU SAW THE REPORT OF IT?                  24 A YES.                  25 Q AND DO YOU RECALL THAT DR. MOLDAWER,                  26 BEFORE HIS DEPOSITION, ALSO NEVER INDICATED HE'D EVER                  27 REVIEWED THAT DEXA SCAN?                  28 A I BELIEVE SO.</p>
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<p>1 THORACIC SPINE; RIGHT?                  2 A CORRECT.                  3 Q AND YOU'RE HERE TO TESTIFY ABOUT HIS                  4 SPINE; RIGHT?                  5 A CORRECT.                  6 Q SO IT TOOK YOU SOME TIME TO REVIEW THOSE                  7 RECORDS AND YOU BILLED US FOR IT?                  8 A CORRECT.                  9 Q OKAY. DR. MOLDAWER NEVER LOOKED AT THE                  10 CEDARS-SINAI RECORDS.                  11 DID YOU KNOW THAT?                  12 MR. REX PARRIS: OBJECTION, YOUR HONOR, NOW                  13 COUNSEL IS TESTIFYING. IF HE DIDN'T REVIEW                  14 DR. MOLDAWER'S TESTIMONY --                  15 THE COURT: THE LEGAL OBJECTION.                  16 MR. REX PARRIS: YEAH.                  17 THE COURT: NO. THE LEGAL OBJECTION.                  18 MR. REX PARRIS: YES. NO FOUNDATION AND LEADING                  19 AND BEYOND THE SCOPE.                  20 THE COURT: ALL RIGHT. WELL, I THINK IT ASSUMES                  21 FACTS. SO --                  22 MS. TROPP: I CAN REPHRASE.                  23 THE COURT: -- REPHRASE.                  24 BY MS. TROPP:                  25 Q DID YOU READ DR. MOLDAWER'S DEPOSITION?                  26 A YES.                  27 Q AND WHEN AN EXPERT -- WELL, LET ME JUST                  28 ASK YOU THIS: DID YOU SEE, AS PART OF DR. MOLDAWER'S</p>	<p>1 Q AND THE DEXA SCAN'S A SCAN OF MR. TAYLOR'S                  2 SPINE?                  3 A IT'S A BONE DENSITY SCAN OF -- LOOKING AT                  4 THE DENSITY OF THE BONE IN THE SPINE.                  5 Q SPECIFICALLY HIS LUMBAR SPINE?                  6 A YES.                  7 Q YOU TESTIFIED THAT IN SOME CASES -- STRIKE                  8 THAT.                  9 YOU TESTIFIED THAT YOU CONSIDERED                  10 MR. TAYLOR'S RANGE OF MOTION IN HIS NECK BEFORE                  11 PROVIDING US YOUR OPINION TODAY.                  12 A WELL, I TRIED TO CONSIDER EVERYTHING.                  13 Q DID YOU REVIEW DR. KIM'S I.M.E. REPORT IN                  14 THIS CASE WHEN SHE WENT TO OREGON AND PREPARED A REPORT                  15 FOLLOWING THAT?                  16 A YES.                  17 Q OKAY. AND DID ALL OF THE RANGE OF MOTION                  18 TESTING THAT DR. KIM DID DURING HER EXAM, WAS THAT IN                  19 HER REPORT?                  20 MR. REX PARRIS: OBJECTION. FOUNDATION.                  21 THE COURT: ALL RIGHT. LAY A FOUNDATION THAT HE                  22 ACTUALLY SAW THE REPORT.                  23 BY MS. TROPP:                  24 Q AS PART OF THE DOCUMENTS THAT YOU REVIEWED                  25 IN THIS CASE, DID YOU REVIEW DR. KIM'S -- I THINK IT'S                  26 AN EIGHT-PAGE I.M.E. REPORT, FOLLOWING HER EXAM OF                  27 MR. TAYLOR IN OREGON?                  28 A YES.</p>

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<p>1 Q OKAY. AND DO YOU RECALL IF IN THAT REPORT 2 DR. KIM IDENTIFIED RANGE OF MOTION TESTING? 3 A I CAN'T REMEMBER AT THIS POINT. 4 Q DID YOU ASK THE DEFENSE FOR ANY ADDITIONAL 5 DOCUMENTS, OR DID YOU FEEL THAT YOU HAD REVIEWED 6 EVERYTHING YOU NEEDED TO REVIEW IN THIS CASE? 7 A JEEZ, I THINK I REVIEWED MORE DOCUMENTS IN 8 THIS CASE THAN ANY CASE I'VE EVER HAD, SO I DON'T THINK 9 I ASKED FOR ANY MORE DOCUMENTS. 10 Q THOUSANDS AND THOUSANDS OF PAGES OF 11 MEDICAL RECORDS? 12 A I'VE NEVER REVIEWED SO MANY RECORDS IN A 13 CASE IN MY CAREER. 14 MS. TROPP: THANK YOU, DOCTOR. 15 I DON'T HAVE ANYTHING FURTHER, YOUR HONOR. 16 THE COURT: MR. PARRIS. 17 18 RE-CROSS-EXAMINATION 19 BY MR. REX PARRIS: 20 Q BUT YOU DIDN'T BILL FOR ANY RESEARCH; 21 RIGHT? 22 MS. TROPP: ASKED AND ANSWERED. 23 THE COURT: I'LL ALLOW IT. YOU REOPENED THE 24 ISSUE OF HIS BILLING. SO OVERRULED. 25 THE WITNESS: YOU KNOW, IT'S AN INTERESTING 26 QUESTION BECAUSE THE RESEARCH I DO ACTUALLY -- 27 BY MR. REX PARRIS: 28 Q COULD YOU ANSWER THE QUESTION?</p>	<p>1 HE'S OSTEOPOROTIC; RIGHT? 2 A YES. 3 Q BASED ON THE DEXA SCAN; RIGHT? 4 A CORRECT. 5 Q AND NONE OF THOSE STUDIES HAVE PEOPLE WHO 6 ARE OSTEOPOROTIC; RIGHT? 7 MS. TROPP: I'M JUST GOING TO OBJECT AS -- 8 THE WITNESS: I'M NOT SURE I UNDERSTAND THE 9 QUESTION. 10 THE COURT: IT WILL BE REPHRASED. 11 MR. REX PARRIS: I'LL WITHDRAW IT. 12 THE WITNESS: OKAY. 13 BY MR. REX PARRIS: 14 Q WHEN YOU HAVE OSTEOPOROSIS, YOU'RE 15 FRAGILE; RIGHT? 16 A YOU'RE MORE FRAGILE TO SUSTAIN FRAGILITY 17 FRACTURES, THAT'S CORRECT. 18 MR. REX PARRIS: THANK YOU. 19 MS. TROPP: THANK YOU. 20 MR. REX PARRIS: THANK YOU FOR COMING. 21 THE WITNESS: THANK YOU. 22 THE COURT: MAY THIS WITNESS BE RELEASED? 23 MS. TROPP: YES, YOUR HONOR. 24 THE COURT: MR. PARRIS? 25 MR. REX PARRIS: YES, YOUR HONOR. 26 THE COURT: THANK YOU. THANK YOU, DOCTOR. 27 THE WITNESS: THANK YOU. 28 THE COURT: MR. BRAUN AND MS. TROPP, ANY FURTHER</p>
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<p>1 A NO, I -- 2 Q DID YOU -- 3 A I DON'T BILL FOR RESEARCH BECAUSE I THINK 4 A DOCTOR IS SUPPOSED TO DO HIS OWN RESEARCH. 5 Q THANK YOU. 6 AND THE RANGE OF MOTION THAT DR. KIM 7 REPORTED WAS A NORMAL RANGE OF MOTION FOR THE NECK. 8 ISN'T THAT TRUE? 9 A BUT I JUST SAID I CAN'T REMEMBER THAT 10 EXACTLY. 11 Q OKAY. THANK YOU. 12 A THANK YOU. 13 Q BUT IN WATCHING THE EXAM, YOU KNOW FOR 14 CERTAIN IT WAS NOT A NORMAL RANGE OF MOTION? 15 A I DID NOT THINK THAT WAS A COMPLETELY 16 NORMAL RANGE OF MOTION. 17 Q THANK YOU. 18 AND THE DEXA SCAN IS NOT JUST OF THE 19 VERTEBRA. THE DEXA SCAN IS ALSO RIGHT THROUGH HERE 20 (INDICATING); RIGHT? 21 A CORRECT. IT'S THE LUMBAR VERTEBRA AND THE 22 HIP, THERMAL NECK, TROCHANTERIC, AND INTER- -- AND 23 SUBTROCHANTERIC. 24 Q AND YOU KNEW THAT; RIGHT? THAT IT WAS TWO 25 THINGS THAT THAT DEXA SCAN WAS DONE OF; RIGHT? 26 A WELL, IT'S DONE OF THE SPINE AND THE HIP, 27 YES. 28 Q OKAY. AND YOU READ WHERE DR. KIM SAID</p>	<p>1 WITNESSES? 2 MR. BRAUN: NO, YOUR HONOR. AT THIS TIME, 3 PENDING THE ADMISSION OF THE EXHIBITS, THE DEFENSE 4 RESTS. 5 THE COURT: MR. PARRIS, ANY FURTHER WITNESSES ON 6 BEHALF OF THE PLAINTIFF? 7 MR. REX PARRIS: NO, YOUR HONOR. 8 THE COURT: ALL RIGHT. CAN I SEE COUNSEL JUST 9 BRIEFLY AT THE SIDEBAR. 10 (THE FOLLOWING PROCEEDINGS WERE HELD AT 11 SIDEBAR:) 12 THE COURT: I'M GOING TO READ THE FOLLOWING TO 13 THE JURY UNLESS THERE'S AN OBJECTION. (AS READ AND/OR 14 REFLECTED): 15 YOUR AWARD MAY NOT INCLUDE 16 COMPENSATION OR AN AWARD FOR ANY 17 NONECONOMIC DAMAGES SUFFERED BY SHARON 18 TAYLOR GRAFFT, PLAINTIFF'S MOTHER, OR 19 GEORGE GRAFFT, PLAINTIFF'S STEPFATHER. 20 IS THAT AGREEABLE, MR. BRAUN? 21 MR. BRAUN: YES. 22 THE COURT: IS THAT AGREEABLE, MR. PARRIS? 23 MR. REX PARRIS: YES, YOUR HONOR. 24 THE COURT: OKAY. I HAVE MORE TO COVER, PLEASE. 25 THIS IS WHAT I'M GOING TO READ. YOU BOTH 26 AGREE I WILL READ ON THAT STIPULATION -- I'LL READ THE 27 STATEMENT OF THE CASE. 28 MR. BRAUN: YES.</p>

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<p>1 MR. REX PARRIS: YES.                  2 THE COURT: THEN HERE.                  3 GO OFF THE RECORD FOR A MINUTE.                  4 (OFF THE RECORD FROM 10:11 A.M. TO                  5 10:14 A.M.)                  6 (THE FOLLOWING PROCEEDINGS WERE HELD IN                  7 OPEN COURT IN THE PRESENCE OF THE                  8 JURY:)                  9 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE                  10 WERE JUST WORKING ON SCHEDULING AND WHAT WE'RE GOING TO                  11 DO IS WE'RE GOING TO TAKE -- I KEEP POINTING AT THE                  12 CLOCK. FOR THREE WEEKS I'VE POINTED TO THAT CLOCK AND                  13 NOW IT'S NOT HERE. I'M LOOKING AT THIS CLOCK. IT SAYS                  14 10:13, SO PLEASE RETURN AT 10:23. GIVE YOURSELF TEN                  15 MINUTES, USE THE RESTROOM, SOMETHING TO DRINK.                  16 AS SOON AS YOU GET BACK, I'M GOING TO                  17 INSTRUCT YOU ON THE LAW. THAT WILL PROBABLY TAKE ABOUT                  18 30 MINUTES, MAYBE 25 MINUTES.                  19 SINCE WE'VE TAKEN THE BREAK, WE'RE GOING                  20 TO GO INTO MR. PARRIS'S ARGUMENT. HE'LL ARGUE. THAT                  21 WILL TAKE US TILL NOON. WE'RE GOING TO BREAK FOR                  22 LUNCH.                  23 WE'RE GOING TO COME BACK AND HEAR                  24 MR. BRAUN'S CLOSING, AND THEN THE REBUTTAL FROM THE                  25 PLAINTIFF, AND THEN YOU'LL GET THE CASE.                  26 SO LET'S TAKE TEN MINUTES. IT'S 10:14.                  27 COME BACK AT 10:25.                  28 DON'T DISCUSS THE CASE AMONG YOURSELVES OR</p>	<p>1 COPY OF THESE INSTRUCTIONS WITH YOU                  2 WHEN YOU GO TO THE JURY ROOM TO                  3 DELIBERATE.                  4 AS TRIAL JURORS, YOU MUST DECIDE                  5 WHAT THE FACTS ARE. YOU MUST CONSIDER                  6 ALL THE EVIDENCE AND THEN DECIDE WHAT                  7 YOU THINK HAPPENED. YOU MUST DECIDE                  8 THE FACTS BASED ON THE EVIDENCE                  9 ADMITTED IN THIS TRIAL.                  10 DO NOT ALLOW ANYTHING THAT HAPPENS                  11 OUTSIDE THIS COURTROOM TO AFFECT YOUR                  12 DECISION.                  13 AND AS I'VE TOLD YOU PREVIOUSLY,                  14 DO NOT TALK ABOUT THIS CASE OR THE                  15 PEOPLE INVOLVED IN IT WITH ANYONE,                  16 INCLUDING YOUR FAMILY AND PERSONS                  17 LIVING IN YOUR HOUSEHOLD, INCLUDING                  18 FRIENDS AND COWORKERS, AND EVEN                  19 THERAPISTS.                  20 DO NOT DO ANY RESEARCH ON YOUR                  21 OWN.                  22 DO NOT USE ANY REFERENCE MATERIALS                  23 OR DICTIONARIES.                  24 AS I'VE PREVIOUSLY TOLD YOU, THESE                  25 PROHIBITIONS ON COMMUNICATION AND                  26 RESEARCH EXTEND TO ALL FORMS OF                  27 COMMUNICATION AND THEY CONTINUE RIGHT                  28 UP UNTIL THE TIME YOU REACH YOUR</p>
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<p>1 WITH ANYONE ELSE OR ALLOW ANYONE TO DISCUSS IT WITH                  2 YOU.                  3 WE'LL SEE YOU AT 10:25. THANK YOU.                  4 (RECESS TAKEN FROM 10:13 A.M. TO                  5 10:26 A.M.)                  6 (THE FOLLOWING PROCEEDINGS WERE HELD IN                  7 OPEN COURT OUTSIDE THE PRESENCE OF THE                  8 JURY:)                  9 THE COURT: BOTH SIDES READY?                  10 MR. BRAUN: YES.                  11 MR. REX PARRIS: YES, YOUR HONOR.                  12 THE COURT: OKAY. YOU CAN BRING THEM IN.                  13 (THE FOLLOWING PROCEEDINGS WERE HELD IN                  14 OPEN COURT IN THE PRESENCE OF THE                  15 JURY:)                  16 THE COURT: ALL RIGHT. ALL JURORS AND OUR                  17 ALTERNATE ARE PRESENT.                  18 (AS READ AND/OR REFLECTED):                  19 MEMBERS OF THE JURY, YOU HAVE NOW                  20 HEARD ALL THE EVIDENCE. THE ATTORNEYS                  21 WILL HAVE ONE LAST OPPORTUNITY TO TALK                  22 TO YOU IN THEIR CLOSING ARGUMENTS, BUT                  23 BEFORE THEY DO SO, IT IS MY DUTY TO                  24 INSTRUCT YOU ON THE LAW THAT APPLIES                  25 TO THIS CASE.                  26 YOU MUST FOLLOW THESE                  27 INSTRUCTIONS, AS WELL AS THOSE I                  28 PREVIOUSLY GAVE YOU. YOU WILL HAVE A</p>	<p>1 VERDICT.                  2 DO NOT USE ANY ELECTRONIC DEVICES                  3 OR MEDIA, SUCH AS YOUR CELL PHONE OR                  4 YOUR SMART PHONE OR ANY OTHER DEVICE.                  5 DON'T BLOG, DON'T GO ON WEBSITES,                  6 DON'T POST ON FACEBOOK, DON'T TWITTER.                  7 DON'T HAVE ANY ON-LINE                  8 COMMUNICATION CONCERNING THIS CASE.                  9 DO NOT SEND OR RECEIVE INFORMATION                  10 TO OR FROM ANYONE ABOUT THIS CASE OR                  11 TALK ABOUT YOUR EXPERIENCE AS A JUROR                  12 UNTIL YOU'VE BEEN DISCHARGED AS A                  13 JUROR.                  14 DO NOT INVESTIGATE THE CASE.                  15 DO NOT CONDUCT ANY EXPERIMENTS.                  16 WHILE YOU DELIBERATE, DO NOT                  17 CONTACT ANYONE TO ASSIST YOU WITH YOUR                  18 VERDICT, SUCH AS A FAMILY ACCOUNTANT                  19 OR A DOCTOR OR LAWYER.                  20 DO NOT VISIT THE SCENE OR VIEW THE                  21 SCENE WHERE THIS INCIDENT OCCURRED.                  22 IF YOU HAPPEN TO PASS BY THAT                  23 SCENE, DO NOT STOP AND INVESTIGATE.                  24 ALL JURORS AND OUR ALTERNATE MUST                  25 HEAR THE SAME EVIDENCE AT THE SAME                  26 TIME.                  27 IN ARRIVING AT YOUR VERDICT, YOU                  28 MUST NOT LET BIAS, SYMPATHY,</p>

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1	PREJUDICE, OR PUBLIC OPINION INFLUENCE	1	WHO WAS REQUIRED TO PROVE SOMETHING
2	YOUR DECISION.	2	NEED PROVE ONLY THAT IT IS MORE LIKELY
3	I WILL NOW TELL YOU THE LAW THAT	3	TO BE TRUE THAN NOT TRUE.
4	YOU MUST FOLLOW TO REACH YOUR VERDICT.	4	EVIDENCE CAN COME IN MANY FORMS.
5	YOU MUST FOLLOW THAT LAW EXACTLY AS I	5	IT CAN BE TESTIMONY ABOUT WHAT SOMEONE
6	GIVE IT TO YOU, EVEN IF YOU DISAGREE	6	SAW OR HEARD OR EVEN WHAT THEY
7	WITH IT.	7	SMELLED. IT CAN BE AN EXHIBIT, SUCH
8	IF THE ATTORNEYS SAY ANYTHING	8	AS A DOCUMENT ADMITTED INTO EVIDENCE.
9	DIFFERENT ABOUT WHAT THE LAW MEANS,	9	IT CAN ALSO BE SOMEONE'S OPINION.
10	AND I DO NOT ANTICIPATE THEY WILL, YOU	10	DIRECT EVIDENCE CAN PROVE A FACT
11	MUST FOLLOW WHAT I SAY.	11	BY ITSELF. FOR EXAMPLE, IF A WITNESS
12	IN REACHING YOUR VERDICT, DO NOT	12	TESTIFIES SHE SAW A JET PLANE FLYING
13	GUESS WHAT I THINK YOUR VERDICT SHOULD	13	ACROSS THE SKY, THAT TESTIMONY IS
14	BE FROM SOMETHING I MAY HAVE SAID OR	14	DIRECT EVIDENCE THAT A JET PLANE FLEW
15	DONE.	15	ACROSS THE SKY.
16	PAY CAREFUL ATTENTION TO ALL OF	16	SOME EVIDENCE PROVES A FACT
17	THE INSTRUCTIONS THAT I GIVE YOU. ALL	17	INDIRECTLY. FOR EXAMPLE, A WITNESS
18	OF THEM ARE IMPORTANT BECAUSE	18	TESTIFIED THAT HE ONLY SAW THE WHITE
19	TOGETHER, THEY STATE THE LAW THAT YOU	19	TRAIL THAT JET PLANES OFTEN LEAVE.
20	WILL USE IN THIS CASE.	20	THIS INDIRECT EVIDENCE IS SOMETIMES
21	YOU MUST CONSIDER ALL OF THE	21	REFERRED TO AS CIRCUMSTANTIAL
22	INSTRUCTIONS TOGETHER.	22	EVIDENCE.
23	AFTER YOU HAVE DECIDED WHAT THE	23	IN EITHER INSTANCE, THE WITNESS'S
24	FACTS ARE, YOU MAY FIND THAT SOME OF	24	TESTIMONY IS EVIDENCE THAT A JET PLANE
25	THESE INSTRUCTIONS DO NOT APPLY. IN	25	FLEW ACROSS THE SKY.
26	THAT CASE, FOLLOW THE INSTRUCTIONS	26	AS FAR AS THE LAW IS CONCERNED, IT
27	THAT DO APPLY AND USE THEM TOGETHER	27	MAKES NO DIFFERENCE WHETHER EVIDENCE
28	WITH THE FACTS TO REACH YOUR VERDICT.	28	IS DIRECT OR INDIRECT. YOU MAY CHOOSE
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1	AS I GO THROUGH THESE	1	TO BELIEVE OR DISBELIEVE EITHER KIND.
2	INSTRUCTIONS, IF I REPEAT ANY IDEAS OR	2	WHETHER IT IS DIRECT OR INDIRECT,
3	RULES OF LAW, THAT DOES NOT MEAN THAT	3	YOU SHOULD GIVE EVERY PIECE OF
4	THOSE IDEAS OR RULES OF LAW ARE MORE	4	EVIDENCE WHATEVER WEIGHT YOU THINK IS
5	IMPORTANT THAN THE OTHERS.	5	DESERVES.
6	IN ADDITION, THE ORDER IN WHICH	6	YOU MAY CONSIDER THE ABILITY OF
7	THE INSTRUCTIONS ARE GIVEN MAKES	7	EACH PARTY TO PROVIDE EVIDENCE. IF A
8	ABSOLUTELY NO DIFFERENCE.	8	PARTY PROVIDED WEAKER EVIDENCE WHEN IT
9	A PARTY -- A PARTY IS THE	9	COULD HAVE PROVIDED STRONGER EVIDENCE,
10	PLAINTIFF OR THE DEFENDANT. A PARTY	10	YOU MAY DISTRUST THE WEAKER EVIDENCE.
11	MUST PERSUADE YOU BY THE EVIDENCE	11	IF A PARTY FAILED TO EXPLAIN OR
12	PRESENTED IN COURT THAT WHAT HE OR SHE	12	DENY EVIDENCE AGAINST HIM OR HER WHEN
13	IS REQUIRED TO PROVE IS MORE LIKELY TO	13	HE OR SHE COULD REASONABLY BE EXPECTED
14	BE TRUE THAN NOT TRUE. THIS IS	14	TO HAVE DONE SO BASED ON WHAT THEY
15	REFERRED TO AS THE BURDEN OF PROOF.	15	KNEW, YOU MAY CHOOSE -- YOU MAY
16	AFTER WEIGHING ALL OF THE	16	CONSIDER THEIR FAILURE TO EXPLAIN OR
17	EVIDENCE, IF YOU CANNOT DECIDE THAT	17	DENY IN EVALUATING THAT EVIDENCE.
18	SOMETHING IS MORE LIKELY TO BE TRUE	18	IT IS UP TO YOU TO DECIDE THE
19	THAN NOT TRUE, YOU MUST CONCLUDE THAT	19	MEANING AND IMPORTANCE OF THE FAILURE
20	THE PARTY DID NOT PROVE IT.	20	TO EXPLAIN OR DENY EVIDENCE AGAINST
21	YOU SHOULD CONSIDER ALL THE	21	THE PARTY.
22	EVIDENCE NO MATTER WHICH PARTY	22	DURING THE TRIAL, YOU RECEIVED
23	PRODUCED THE EVIDENCE.	23	DEPOSITION TESTIMONY THAT WAS READ
24	IN CRIMINAL TRIALS, THE	24	FROM THE DEPOSITION TRANSCRIPT OR
25	PROSECUTION MUST PROVE THAT THE	25	SHOWN BY VIDEOTAPE. A DEPOSITION IS
26	DEFENDANT IS GUILTY BEYOND A	26	THE TESTIMONY OF A PERSON BEFORE
27	REASONABLE DOUBT. BUT IN CIVIL	27	TRIAL. AT DEPOSITION, THE PERSON IS
28	TRIALS, SUCH AS THIS ONE, THE PARTY	28	SWORN TO TELL THE TRUTH AND IS

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<p>1 QUESTIONED BY THE ATTORNEYS.</p> <p>2 YOU MUST CONSIDER THE DEPOSITION</p> <p>3 TESTIMONY THAT WAS PRESENTED TO YOU AT</p> <p>4 TRIAL THE SAME WAY YOU CONSIDER</p> <p>5 EVIDENCE PRESENTED IN COURT.</p> <p>6 A PARTY MAY OFFER INTO EVIDENCE</p> <p>7 ANY ORAL, WHICH IS VERBAL, OR WRITTEN</p> <p>8 STATEMENT MADE BY AN OPPOSING PARTY</p> <p>9 OUTSIDE THE COURTROOM. WHEN YOU</p> <p>10 EVALUATE EVIDENCE OF SUCH A STATEMENT,</p> <p>11 YOU MUST CONSIDER THESE QUESTIONS:</p> <p>12 FIRST, DO YOU BELIEVE THE PARTY</p> <p>13 ACTUALLY MADE THE STATEMENT?</p> <p>14 IF YOU DO NOT BELIEVE THAT THE PARTY</p> <p>15 MADE THE STATEMENT, YOU MAY NOT</p> <p>16 CONSIDER THE STATEMENT AT ALL.</p> <p>17 SECOND, IF YOU BELIEVE THAT THE</p> <p>18 STATEMENT WAS MADE, DO YOU BELIEVE IT</p> <p>19 WAS REPORTED ACCURATELY?</p> <p>20 YOU SHOULD VIEW TESTIMONY ABOUT AN</p> <p>21 ORAL STATEMENT MADE BY A PARTY OUTSIDE</p> <p>22 THE COURTROOM WITH CAUTION.</p> <p>23 DOCTORS HAVE TESTIFIED THAT</p> <p>24 ANTHONY TAYLOR MADE STATEMENTS TO THEM</p> <p>25 ABOUT HIS MEDICAL HISTORY. THESE</p> <p>26 STATEMENTS HELP THE DOCTORS DIAGNOSE</p> <p>27 ANTHONY TAYLOR'S CONDITION. YOU CAN</p> <p>28 USE THESE STATEMENTS TO HELP YOU</p>		<p>1 FACTS THE EXPERT RELIED ON, AND THE</p> <p>2 REASONS FOR THE EXPERT'S OPINION.</p> <p>3 THE LAW ALLOWS EXPERT WITNESSES TO</p> <p>4 BE ASKED QUESTIONS THAT ARE BASED ON</p> <p>5 ASSUMED FACTS. AND THAT OCCURRED IN</p> <p>6 THIS TRIAL. THESE ARE SOMETIMES</p> <p>7 CALLED HYPOTHETICAL QUESTIONS.</p> <p>8 IN DETERMINING THE WEIGHT TO GIVE</p> <p>9 TO THE EXPERT'S OPINION THAT IS BASED</p> <p>10 ON THE ASSUMED FACTS, YOU SHOULD</p> <p>11 CONSIDER WHETHER THE ASSUMED FACTS ARE</p> <p>12 TRUE.</p> <p>13 IF THE EXPERT WITNESSES DISAGREED</p> <p>14 WITH ONE ANOTHER, YOU SHOULD WEIGH</p> <p>15 EACH OPINION AGAINST THE OTHER'S. YOU</p> <p>16 SHOULD EXAMINE THE REASONS GIVEN FOR</p> <p>17 EACH OPINION AND THE FACTS OR OTHER</p> <p>18 MATTERS THAT EACH WITNESS RELIED ON.</p> <p>19 YOU MAY ALSO COMPARE THE EXPERTS'</p> <p>20 QUALIFICATIONS.</p> <p>21 NOW I'LL TALK TO YOU ABOUT DAMAGES. (AS</p> <p>22 READ AND/OR REFLECTED):</p> <p>23 YOU MUST DECIDE HOW MUCH MONEY</p> <p>24 WILL REASONABLY COMPENSATE ANTHONY</p> <p>25 TAYLOR FOR THE HARM CAUSED BY SAMANTHA</p> <p>26 SCHILLING'S ADMITTED NEGLIGENCE. THIS</p> <p>27 COMPENSATION IS CALLED DAMAGES. THE</p> <p>28 AMOUNT OF DAMAGES MUST INCLUDE AN</p>	
<p>1 EXAMINE THE BASIS OF EACH DOCTOR'S</p> <p>2 OPINION. YOU CANNOT USE THEM FOR ANY</p> <p>3 OTHER PURPOSE.</p> <p>4 HOWEVER, A STATEMENT BY ANTHONY</p> <p>5 TAYLOR TO DOCTORS ABOUT HIS CURRENT</p> <p>6 MEDICAL CONDITION MAY BE CONSIDERED AS</p> <p>7 EVIDENCE OF THAT MEDICAL CONDITION.</p> <p>8 WE HAD A NUMBER OF EXPERT WITNESSES DURING</p> <p>9 TRIAL. I'LL INSTRUCT YOU ON THAT. (AS READ AND/OR</p> <p>10 REFLECTED):</p> <p>11 DURING THE TRIAL YOU HEARD</p> <p>12 TESTIMONY FROM EXPERT WITNESSES. THE</p> <p>13 LAW ALLOWS AN EXPERT TO STATE OPINIONS</p> <p>14 ABOUT MATTERS IN HIS OR HER FIELD OF</p> <p>15 EXPERTISE, EVEN IF HE OR SHE HAS NOT</p> <p>16 WITNESSED ANY OF THE EVENTS INVOLVED</p> <p>17 IN THE TRIAL.</p> <p>18 YOU DO NOT HAVE TO ACCEPT AN</p> <p>19 EXPERT'S OPINION. AS WITH ANY OTHER</p> <p>20 WITNESS, IT IS UP TO YOU TO DECIDE</p> <p>21 WHETHER YOU BELIEVE THE EXPERT'S</p> <p>22 TESTIMONY AND CHOOSE TO USE IT AS A</p> <p>23 BASIS FOR YOUR DECISION.</p> <p>24 YOU MAY BELIEVE ALL, PART, OR NONE</p> <p>25 OF AN EXPERT'S TESTIMONY. IN DECIDING</p> <p>26 WHETHER TO BELIEVE AN EXPERT'S</p> <p>27 TESTIMONY, YOU SHOULD CONSIDER THE</p> <p>28 EXPERT'S TRAINING AND EXPERIENCE, THE</p>	Page 50	<p>1 AWARD FOR EACH ITEM OF HARM THAT WAS</p> <p>2 CAUSED BY SAMANTHA SCHILLING'S</p> <p>3 WRONGFUL CONDUCT, EVEN IF THE</p> <p>4 PARTICULAR HARM COULD NOT HAVE BEEN</p> <p>5 ANTICIPATED.</p> <p>6 ANTHONY TAYLOR DOES NOT HAVE TO</p> <p>7 PROVE THE EXACT AMOUNT OF DAMAGES THAT</p> <p>8 WILL PROVIDE REASONABLE COMPENSATION</p> <p>9 FOR THE HARM; HOWEVER, YOU MUST NOT</p> <p>10 SPECULATE OR GUESS IN AWARDED</p> <p>11 DAMAGES.</p> <p>12 THE DAMAGES CLAIMED BY ANTHONY</p> <p>13 TAYLOR FOR THE HARM CAUSED BY SAMANTHA</p> <p>14 SCHILLING FALL INTO TWO CATEGORIES,</p> <p>15 CALLED ECONOMIC DAMAGES AND</p> <p>16 NONECONOMIC DAMAGES.</p> <p>17 YOU WILL BE ASKED ON THE VERDICT</p> <p>18 FORM TO STATE THE TWO FORMS OF DAMAGES</p> <p>19 SEPARATELY.</p> <p>20 THE FOLLOWING ARE THE SPECIFIC</p> <p>21 ITEMS OF ECONOMIC DAMAGES CLAIMED BY</p> <p>22 ANTHONY TAYLOR:</p> <p>23 FUTURE MEDICAL EXPENSES. TO</p> <p>24 RECOVER DAMAGES FOR FUTURE MEDICAL</p> <p>25 EXPENSES, ANTHONY TAYLOR MUST PROVE</p> <p>26 THE REASONABLE COST OF REASONABLY</p> <p>27 NECESSARY MEDICAL CARE THAT HE IS</p> <p>28 REASONABLY CERTAIN TO NEED IN THE</p>	Page 52



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1	FUTURE.	1	WITH RESPECT TO ECONOMIC DAMAGES.
2	ALSO, ECONOMIC DAMAGES INCLUDE	2	YOUR VERDICT MAY NOT INCLUDE ANY
3	PAST AND FUTURE LOST EARNINGS. TO	3	COMPENSATION OR AN AWARD FOR ANY
4	RECOVER DAMAGES FOR PAST LOST	4	NONECONOMIC DAMAGES SUFFERED BY SHARON
5	EARNINGS, ANTHONY TAYLOR MUST PROVE	5	TAYLOR GRAFFT, THE PLAINTIFF'S MOTHER,
6	THE AMOUNT OF EARNINGS THAT HE EARNS	6	OR GEORGE GRAFFT, THE PLAINTIFF'S
7	THAT HE HAS LOST TO DATE.	7	STEPFATHER.
8	TO RECOVER DAMAGES FOR FUTURE LOST	8	YOU MUST NOT INCLUDE IN YOUR AWARD
9	EARNINGS, ANTHONY TAYLOR MUST PROVE	9	ANY DAMAGES TO PUNISH OR MAKE AN
10	THE AMOUNT OF EARNINGS HE WILL BE	10	EXAMPLE OF SAMANTHA SCHILLING. SUCH
11	REASONABLY CERTAIN TO LOSE IN THE	11	DAMAGES WOULD BE PUNITIVE DAMAGES AND
12	FUTURE AS A RESULT OF THE INJURY;	12	THEY CANNOT BE PART OF YOUR VERDICT.
13	ALSO, THE LOSS OF ANTHONY TAYLOR'S	13	YOU MUST AWARD ONLY THE DAMAGES
14	ABILITY TO EARN MONEY.	14	THAT FAIRLY COMPENSATE ANTHONY TAYLOR
15	TO RECOVER DAMAGES FOR THE LOSS OF	15	FOR HIS LOSS.
16	THE ABILITY TO EARN MONEY AS A RESULT	16	SHORTLY, YOU WILL HEAR THE
17	OF THE INJURY, ANTHONY TAYLOR MUST	17	ARGUMENTS OF THE ATTORNEYS. THE
18	PROVE THE REASONABLE VALUE OF THAT	18	ARGUMENTS OF THE ATTORNEYS ARE NOT
19	LOSS TO HIM. IT IS NOT NECESSARY THAT	19	EVIDENCE OF DAMAGES. YOUR AWARD MUST
20	HE HAVE A WORK HISTORY.	20	BE BASED ON YOUR REASONED JUDGMENT
21	THE FOLLOWING ARE THE SPECIFIC	21	APPLIED TO THE TESTIMONY OF THE
22	ITEMS OF NONECONOMIC DAMAGES CLAIMED	22	WITNESSES AND THE OTHER EVIDENCE THAT
23	BY ANTHONY TAYLOR:	23	HAS BEEN ADMITTED DURING THE TRIAL.
24	PAST AND FUTURE PHYSICAL PAIN,	24	SAMANTHA SCHILLING IS LEGALLY
25	MENTAL SUFFERING, LOSS OF ENJOYMENT OF	25	RESPONSIBLE FOR ANTHONY TAYLOR'S HARM,
26	LIFE, DISFIGUREMENT, PHYSICAL	26	AND SHE IS ALSO RESPONSIBLE FOR ANY
27	IMPAIRMENT, INCONVENIENCE, GRIEF,	27	ADDITIONAL HARM RESULTING FROM THE
28	ANXIETY, HUMILIATION, EMOTIONAL	28	ACTS OF OTHERS IN PROVIDING MEDICAL
Page 54		Page 56	
1	DISTRESS, DEPRESSION, LOSS OF	1	TREATMENT OR OTHER AID THAT ANTHONY
2	WELL-BEING, LOSS OF INDEPENDENCE, AND	2	TAYLOR'S INJURIES REASONABLY REQUIRED,
3	LOSS OF SEXUAL FUNCTION.	3	EVEN IF THOSE ACTS WERE NEGLIGENTLY
4	NO FIXED STANDARD EXISTS FOR	4	PERFORMED.
5	DECIDING THE AMOUNT OF THESE	5	ANTHONY TAYLOR IS NOT ENTITLED TO
6	NONECONOMIC DAMAGES. YOU MUST USE	6	RECOVER DAMAGES FOR HARM THAT SAMANTHA
7	YOUR JUDGMENT TO DECIDE A REASONABLE	7	SCHILLING PROVES ANTHONY TAYLOR WILL
8	AMOUNT BASED ON THE EVIDENCE AND YOUR	8	AVOID WITH REASONABLE EFFORTS OR
9	COMMON SENSE.	9	EXPENDITURES.
10	TO RECOVER FOR FUTURE NONECONOMIC	10	YOU SHOULD CONSIDER THE
11	DAMAGES, ANTHONY TAYLOR MUST PROVE	11	REASONABLENESS OF ANTHONY TAYLOR'S
12	THAT HE IS REASONABLY CERTAIN TO	12	EFFORTS IN LIGHT OF THE CIRCUMSTANCES
13	SUFFER THAT HARM. FOR FUTURE	13	FACING HIM AT THE TIME, INCLUDING HIS
14	NONECONOMIC DAMAGES, DETERMINE THE	14	ABILITY TO MAKE THE EFFORTS OF
15	AMOUNT IN CURRENT DOLLARS PAID AT THE	15	EXPENDITURES WITHOUT UNDUE RISK OF
16	TIME OF JUDGMENT THAT WILL COMPENSATE	16	HARDSHIP.
17	ANTHONY TAYLOR FOR FUTURE PHYSICAL	17	IF ANTHONY TAYLOR MAKES REASONABLE
18	PAIN, MENTAL SUFFERING, LOSS OF	18	EFFORTS TO AVOID HARM, THEN YOUR AWARD
19	ENJOYMENT OF LIFE, DISFIGUREMENT,	19	SHOULD INCLUDE REASONABLE AMOUNTS THAT
20	PHYSICAL IMPAIRMENT, INCONVENIENCE,	20	HE SPENT FOR THAT PURPOSE.
21	GRIEF, ANXIETY, HUMILIATION, EMOTIONAL	21	IF YOU DECIDE ANTHONY TAYLOR HAS
22	DISTRESS, DEPRESSION, LOSS OF	22	SUFFERED DAMAGES THAT WILL CONTINUE
23	WELL-BEING, LOSS OF INDEPENDENCE, AND	23	FOR THE REST OF HIS LIFE, YOU MUST
24	LOSS OF SEXUAL FUNCTION.	24	DETERMINE HOW LONG HE WILL PROBABLY
25	THE AMOUNT OF NONECONOMIC DAMAGES	25	LIVE. ACCORDING TO THE NATIONAL
26	SHOULD NOT BE FURTHER REDUCED TO	26	SPINAL CORD INJURY STATISTICAL CENTER
27	PRESENT CASH VALUE BECAUSE THAT	27	LOCATED IN BIRMINGHAM, ALABAMA, A
28	REDUCTION SHOULD ONLY BE PERFORMED	28	27-YEAR-OLD MALE WITH A C5-C7 SPINAL

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<p>1 CORD INJURY IS EXPECTED TO LIVE</p> <p>2 ANOTHER 34.4 YEARS.</p> <p>3 A 27-YEAR-OLD MALE WITH NO SPINAL</p> <p>4 CORD INJURY IS EXPECTED TO LIVE</p> <p>5 ANOTHER 49.72 YEARS.</p> <p>6 THESE ARE AVERAGE LIFE</p> <p>7 EXPECTANCIES. SOME PEOPLE LIVE LONGER</p> <p>8 AND OTHERS DIE SOONER.</p> <p>9 THIS PUBLISHED INFORMATION IS</p> <p>10 EVIDENCE OF HOW LONG A PERSON IS</p> <p>11 LIKELY TO LIVE BUT IS NOT CONCLUSIVE.</p> <p>12 IN DECIDING A PERSON'S LIFE</p> <p>13 EXPECTANCY, YOU SHOULD ALSO CONSIDER,</p> <p>14 AMONG OTHER FACTORS, THAT PERSON'S</p> <p>15 HEALTH, HABITS, ACTIVITIES, LIFESTYLE,</p> <p>16 AND OCCUPATION.</p> <p>17 YOU MUST NOT CONSIDER OR INCLUDE</p> <p>18 AS PART OF ANY AWARD ATTORNEY'S FEES</p> <p>19 OR EXPENSES THAT THE PARTIES INCURRED</p> <p>20 IN BRINGING OR DEFENDING THIS LAWSUIT.</p> <p>21 YOU MUST NOT CONSIDER WHETHER ANY</p> <p>22 OF THE PARTIES IN THIS CASE HAS</p> <p>23 INSURANCE. THE PRESENCE OR ABSENCE OF</p> <p>24 INSURANCE IS TOTALLY IRRELEVANT. YOU</p> <p>25 MUST DECIDE THIS CASE BASED ONLY ON</p> <p>26 THE LAW AND THE EVIDENCE.</p> <p>27 BEFORE WE STARTED THE TRIAL, I INSTRUCTED</p> <p>28 YOU ON EVIDENCE. I'M GOING TO REINSTRUCT YOU NOW. (AS</p>		<p>1 QUESTION SUGGESTED THAT IT WAS TRUE.</p> <p>2 HOWEVER, THE ATTORNEYS FOR BOTH</p> <p>3 SIDES HAVE AGREED THAT CERTAIN FACTS</p> <p>4 ARE TRUE. THIS AGREEMENT IS CALLED A</p> <p>5 STIPULATION. NO OTHER PROOF IS NEEDED</p> <p>6 AND YOU MUST ACCEPT THOSE FACTS AS</p> <p>7 TRUE IN THIS TRIAL.</p> <p>8 AND I WILL READ TO YOU AGAIN THE STATEMENT</p> <p>9 OF THE CASE WHICH WAS AGREED TO. (AS READ AND/OR</p> <p>10 REFLECTED):</p> <p>11 THE DEFENDANT, SAMANTHA SCHILLING,</p> <p>12 HAS ADMITTED THAT SHE IS 100 PERCENT</p> <p>13 RESPONSIBLE FOR CAUSING THE CRASH AND</p> <p>14 INJURING THE PLAINTIFF ANTHONY TAYLOR.</p> <p>15 MR. TAYLOR WAS PARALYZED IN THE</p> <p>16 CRASH, AND HE IS A QUADRIPLEGIC</p> <p>17 BECAUSE OF THE INJURIES HE SUFFERED IN</p> <p>18 THE CRASH.</p> <p>19 WHILE DEFENDANT ADMITS THAT SHE IS</p> <p>20 ACCOUNTABLE, SHE DISPUTES THE AMOUNT</p> <p>21 OF DAMAGES IT WILL TAKE TO COMPENSATE</p> <p>22 MR. TAYLOR FOR HIS INJURIES.</p> <p>23 EACH SIDE HAD THE RIGHT TO OBJECT</p> <p>24 TO EVIDENCE OFFERED BY THE OTHER SIDE,</p> <p>25 AND THAT OCCURRED DURING THE TRIAL.</p> <p>26 IF I SUSTAINED AN OBJECTION TO THE</p> <p>27 QUESTION, IGNORE THE QUESTION AND DO</p> <p>28 NOT GUESS AS TO WHY I SUSTAINED THE</p>	
<p>1 READ AND/OR REFLECTED):</p> <p>2 YOU MUST DECIDE WHAT THE FACTS ARE</p> <p>3 IN THIS CASE ONLY FROM THE EVIDENCE</p> <p>4 YOU HAVE SEEN OR HEARD DURING THE</p> <p>5 TRIAL, INCLUDING ANY EXHIBITS THAT I</p> <p>6 ADMIT INTO EVIDENCE.</p> <p>7 SWORN TESTIMONY, DOCUMENTS, OR</p> <p>8 ANYTHING ELSE MAY BE ADMITTED INTO</p> <p>9 EVIDENCE.</p> <p>10 YOU MAY NOT CONSIDER AS EVIDENCE</p> <p>11 ANYTHING THAT YOU SAW OR HEARD WHEN</p> <p>12 COURT WAS NOT IN SESSION, EVEN IF DONE</p> <p>13 BY ONE OF THE PARTIES, THE ATTORNEYS,</p> <p>14 OR WITNESSES.</p> <p>15 WHAT THE ATTORNEYS SAY DURING THE</p> <p>16 TRIAL IS NOT EVIDENCE. IN THEIR</p> <p>17 OPENING STATEMENTS, AND SHORTLY IN</p> <p>18 THEIR CLOSING ARGUMENTS THEY WILL TALK</p> <p>19 TO YOU ABOUT THE LAW AND THE EVIDENCE,</p> <p>20 WHAT THEY SAY MAY HELP YOU UNDERSTAND</p> <p>21 THE LAW AND THE EVIDENCE, BUT THEIR</p> <p>22 STATEMENTS AND ARGUMENTS ARE NOT</p> <p>23 EVIDENCE.</p> <p>24 THE ATTORNEYS' QUESTIONS DURING</p> <p>25 TRIAL ARE NOT EVIDENCE. ONLY THE</p> <p>26 WITNESSES' ANSWERS ARE EVIDENCE. YOU</p> <p>27 SHOULD NOT THINK THAT SOMETHING IS</p> <p>28 TRUE JUST BECAUSE AN ATTORNEYS'</p>	Page 58	<p>1 OBJECTION.</p> <p>2 IF THE WITNESS DID NOT ANSWER, YOU</p> <p>3 MAY NOT GUESS WHAT THEIR ANSWER MIGHT</p> <p>4 HAVE BEEN.</p> <p>5 IF THE WITNESS ALREADY ANSWERED,</p> <p>6 WHICH OCCURRED IN SOME CASES, YOU MUST</p> <p>7 IGNORE THE ANSWER.</p> <p>8 DURING THE TRIAL, I GRANTED A</p> <p>9 MOTION TO STRIKE THE TESTIMONY THAT</p> <p>10 WAS HEARD. YOU'LL RECALL I WOULD GO</p> <p>11 BACK AND REREAD IT AND THEN DECIDE IF</p> <p>12 I SHOULD STRIKE IT.</p> <p>13 IF THAT OCCURRED, YOU MUST TOTALLY</p> <p>14 DISREGARD THAT TESTIMONY. YOU MUST</p> <p>15 TREAT IT AS IF IT DOES NOT AND DID NOT</p> <p>16 EXIST.</p> <p>17 NOW I'LL TALK ABOUT WITNESSES, AS I DID</p> <p>18 BEFORE WE STARTED. (AS READ AND/OR REFLECTED):</p> <p>19 A WITNESS IS A PERSON WHO HAS</p> <p>20 KNOWLEDGE RELATED TO THIS CASE. YOU</p> <p>21 WILL HAVE TO DECIDE WHETHER YOU</p> <p>22 BELIEVE EACH WITNESS AND HOW IMPORTANT</p> <p>23 EACH WITNESS'S TESTIMONY IS TO THE</p> <p>24 CASE. YOU MAY BELIEVE ALL, PART, OR</p> <p>25 NONE OF A WITNESS'S TESTIMONY.</p> <p>26 IN DECIDING WHETHER TO BELIEVE A</p> <p>27 WITNESS'S TESTIMONY, YOU MAY CONSIDER,</p> <p>28 AMONG OTHER FACTORS, THE FOLLOWING:</p>	Page 60

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<p>1 HOW WELL DID THE WITNESS SEE, 2 HEAR, OR OTHERWISE SENSE WHAT HE OR 3 SHE DESCRIBED IN COURT? 4 HOW WELL DID THE WITNESS REMEMBER 5 AND DESCRIBE WHAT HAPPENED? 6 HOW DID THE WITNESS LOOK, ACT, AND 7 SPEAK WHILE TESTIFYING? 8 DID THE WITNESS HAVE ANY REASON TO 9 SAY SOMETHING THAT WAS NOT TRUE? FOR 10 EXAMPLE, DID THE WITNESS SHOW ANY BIAS 11 OR PREJUDICE OR HAVE A PERSONAL 12 RELATIONSHIP WITH ANY OF THE PARTIES 13 INVOLVED IN THE CASE OR HAVE A 14 PERSONAL STAKE IN HOW THE CASE IS 15 DECIDED? 16 WHAT WAS THE WITNESS'S ATTITUDE 17 TOWARDS THE CASE OR ABOUT GIVING 18 TESTIMONY? 19 NOW, SOMETIMES A WITNESS MAY SAY 20 SOMETHING THAT IS NOT CONSISTENT WITH 21 SOMETHING HE OR SHE PREVIOUSLY SAID. 22 SOMETIMES DIFFERENT WITNESSES WILL 23 GIVE DIFFERENT VERSIONS OF WHAT 24 HAPPENED. PEOPLE OFTEN FORGET THINGS 25 OR MAKE MISTAKES IN WHAT THEY 26 REMEMBER. ALSO, TWO PEOPLE MAY SEE 27 THE SAME EVENT BUT REMEMBER IT 28 DIFFERENTLY.</p>		<p>1 TRIAL. YOU MAY TAKE YOUR NOTEBOOKS 2 WITH YOU INTO THE JURY ROOM, AND 3 PLEASE DO SO. 4 YOU MAY USE YOUR NOTES ONLY TO 5 HELP YOU REMEMBER WHAT HAPPENED DURING 6 THE TRIAL. YOUR INDEPENDENT 7 RECOLLECTION OF THE EVIDENCE SHOULD 8 GOVERN YOUR VERDICT. YOU SHOULD NOT 9 ALLOW YOURSELF TO BE INFLUENCED BY THE 10 NOTES OF OTHER JURORS IF THOSE NOTES 11 DIFFER FROM WHAT YOU REMEMBER. 12 AT THE END OF THE TRIAL, YOUR 13 NOTES WILL BE COLLECTED BY 14 MS. GONZALEZ AND THEY WILL BE SHREDDED 15 AND DESTROYED AND NOT READ. 16 YOU MAY REQUEST IN WRITING, SIGNED 17 BY THE PRESIDING JUROR, THAT TRIAL 18 TESTIMONY BE READ BACK TO YOU. IF 19 THAT OCCURS, AFTER I CONSULT WITH THE 20 ATTORNEYS, I WILL HAVE THE COURT 21 REPORTER READ THE TESTIMONY TO YOU IN 22 THE JURY ROOM. 23 YOU MAY REQUEST THAT ALL OR A PART 24 OF A WITNESS'S TESTIMONY BE READ. IF 25 THIS OCCURS, PLEASE MAKE YOUR REQUEST 26 IN WRITING AS SPECIFIC AS POSSIBLE. 27 IT WOULD BE HELPFUL IF YOU COULD 28 TELL US:</p>	
<p>1 YOU MAY CONSIDER THESE 2 DIFFERENCES, BUT DO NOT DECIDE THAT 3 TESTIMONY IS UNTRUE JUST BECAUSE IT 4 DIFFERS FROM OTHER TESTIMONY. 5 HOWEVER, IF YOU DECIDE THAT A 6 WITNESS DELIBERATELY TESTIFIED 7 UNTRUTHFULLY ABOUT SOMETHING 8 IMPORTANT, YOU MAY CHOOSE NOT TO 9 BELIEVE ANYTHING THE WITNESS SAID. 10 ON THE OTHER HAND, IF YOU THINK 11 THE WITNESS TESTIFIED UNTRUTHFULLY 12 ABOUT SOME THINGS BUT TOLD THE TRUTH 13 ABOUT OTHERS, YOU MAY ACCEPT THE PART 14 YOU THINK IS TRUE AND IGNORE THE REST. 15 DO NOT MAKE ANY DECISION SIMPLY 16 BECAUSE THERE WERE MORE WITNESSES ON 17 ONE SIDE THAN ON THE OTHER SIDE. IF 18 YOU BELIEVE IT IS TRUE, THE TESTIMONY 19 OF A SINGLE WITNESS IS SUFFICIENT TO 20 PROVE A FACT. 21 YOU MUST NOT BE BIASED AGAINST ANY 22 WITNESS BECAUSE OF HIS OR HER 23 DISABILITY, GENDER, RACE, RELIGION, 24 ETHNICITY, SEXUAL ORIENTATION, AGE, 25 NATIONAL ORIGIN, OR SOCIOECONOMIC 26 STATUS. 27 MANY OF YOU, AS I SEE OUT THERE, 28 LIKE MYSELF, HAVE TAKEN NOTES DURING</p>	Page 62	<p>1 FIRST, THE NAME OF THE WITNESS YOU 2 WANT THE TESTIMONY READ FROM; 3 SECOND, THE SUBJECT OF THE 4 TESTIMONY YOU WOULD LIKE TO HAVE READ, 5 WHAT IT'S ABOUT; 6 AND, THIRD, THE NAME OF THE 7 ATTORNEY ASKING THE QUESTIONS, IF YOU 8 RECALL. 9 THE COURT REPORTER, WHEN SHE IS IN 10 THE JURY ROOM, IS NOT PERMITTED TO 11 TALK WITH YOU WHEN SHE IS READING THE 12 TESTIMONY YOU HAVE REQUESTED. 13 WHILE THE COURT REPORTER IS 14 READING THE TESTIMONY, YOU MAY NOT 15 DELIBERATE OR DISCUSS THE CASE. YOU 16 MUST SIMPLY SIT THERE IN SILENCE AND 17 ALLOW HER TO READ THE TESTIMONY. 18 YOU ALSO MAY NOT ASK THE COURT 19 REPORTER TO READ TESTIMONY TO YOU THAT 20 WAS NOT SPECIFICALLY MENTIONED IN YOUR 21 WRITTEN REQUEST. IF YOUR NOTES DIFFER 22 FROM THE TESTIMONY READ TO YOU, YOU 23 MUST ACCEPT THE COURT REPORTER'S 24 RECORD AS ACCURATE. 25 I HAVE A VERDICT FORM. IT HAS QUESTIONS 26 ON IT. EACH ONE OF YOU WILL RECEIVE A COPY OF THIS 27 VERDICT FORM. (AS READ AND/OR REFLECTED): 28 I WILL GIVE YOU, EACH ONE OF YOU,</p>	Page 64

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<p>1 A VERDICT FORM WITH QUESTIONS YOU MUST 2 ANSWER. I HAVE ALREADY INSTRUCTED YOU 3 ON THE LAW THAT YOU ARE TO USE IN 4 ANSWERING THESE QUESTIONS. YOU MUST 5 FOLLOW MY INSTRUCTIONS AND ALSO THE 6 INSTRUCTIONS ON THE FORM CAREFULLY. 7 YOU MUST CONSIDER EACH QUESTION 8 SEPARATELY. ALTHOUGH YOU MAY DISCUSS 9 THE EVIDENCE AND THE ISSUES TO BE 10 DECIDED IN ANY ORDER, YOU MUST ANSWER 11 THE QUESTIONS ON THE VERDICT FORM IN 12 THE ORDER THAT THEY APPEAR. AFTER YOU 13 ANSWER A QUESTION, THE FORM TELLS WHAT 14 YOU TO DO NEXT. 15 AT LEAST NINE OF YOU MUST AGREE ON 16 AN ANSWER BEFORE YOU CAN GO TO THE 17 NEXT QUESTION. 18 LET ME REPEAT THAT. (AS READ AND/OR 19 REFLECTED): 20 AT LEAST NINE OF YOU MUST AGREE ON 21 AN ANSWER BEFORE YOU CAN MOVE TO THE 22 NEXT QUESTION. HOWEVER, THE SAME NINE 23 OR MORE PEOPLE DO NOT HAVE TO AGREE ON 24 EACH ANSWER. SO YOU CAN HAVE NINE 25 PEOPLE THAT AGREE ON ONE ANSWER, AND A 26 DIFFERENT NINE THAT AGREE ON ANOTHER 27 ANSWER, BUT IT MUST BE NINE OR MORE. 28 ALL 12 OF YOU MUST DELIBERATE ON</p>		<p>1 DELIBERATING JURORS. 2 DO NOT DECIDE HOW YOU WOULD VOTE 3 IF YOU WERE DELIBERATING. 4 DO NOT FORM OR EXPRESS AN OPINION 5 ABOUT THE ISSUES IN THIS CASE UNLESS 6 YOU ARE SUBSTITUTED FOR ONE OF THE 7 DELIBERATING JURORS. 8 AND MS. GONZALEZ WILL MEET WITH YOU ONCE 9 THE JURY GOES INTO THE JURY ROOM AND TELL YOU WHERE TO 10 REMAIN WHILE WE WAIT. 11 LET ME TALK TO YOU ABOUT POLLING THE JURY. 12 IF YOU REACH A VERDICT IN THE CASE, YOU 13 WILL EACH BE ASKED ABOUT POLLING THE JURY. AFTER THE 14 VERDICT IS READ IN COURT, YOU WILL BE ASKED, EACH ONE 15 OF YOU, STARTING WITH JUROR NO. 1, TO INDICATE WHETHER 16 YOUR VOTE EXPRESSES YOUR PERSONAL VOTE. AND THAT'S WHY 17 YOU MUST HAVE THE VERDICT FORMS SO EACH ONE OF YOU CAN 18 LOOK DOWN AND SEE, DID I VOTE THAT WAY. 19 THIS IS REFERRED TO AS POLLING THE JURY 20 AND IS DONE TO ASSURE THAT AT LEAST NINE JURORS HAVE 21 AGREED ON THE ANSWER TO EACH QUESTION. 22 THE VERDICT FORM THAT YOU WILL RECEIVE 23 ASKS YOU TO ANSWER SEVERAL QUESTIONS. 24 AS I SAID A MOMENT AGO, YOU MUST VOTE 25 SEPARATELY ON EACH QUESTION. ALTHOUGH NINE OR MORE 26 JURORS MUST AGREE ON EACH ANSWER, IT DOES NOT HAVE TO 27 BE THE SAME NINE FOR EACH ANSWER. THEREFORE, IT IS 28 IMPORTANT FOR EACH ONE OF YOU TO REMEMBER HOW YOU VOTED</p>	
<p>1 AND ANSWER EACH QUESTION REGARDLESS OF 2 HOW YOU VOTED ON THE EARLIER QUESTION 3 OR QUESTIONS. 4 UNLESS THE VERDICT FORM TELLS YOU 5 TO STOP AND ANSWER NO FURTHER 6 QUESTIONS, YOU MUST DELIBERATE ON ALL 7 QUESTIONS. 8 WHEN YOU ARE FINISHED FILLING OUT 9 THE VERDICT FORM, YOUR PRESIDING JUROR 10 MUST WRITE IN INK THEIR NAME AND THE 11 DATE, AND SIGN IT AT THE BOTTOM OF THE 12 LAST PAGE, AND THEN NOTIFY 13 MS. GONZALEZ THAT YOU ARE READY TO 14 PRESENT YOUR VERDICT IN OPEN COURT IN 15 THE COURTROOM HERE. 16 LET ME SPEAK TO OUR ALTERNATE 17 JUROR. 18 THE JURY WILL SOON BEGIN 19 DELIBERATING, BUT YOU ARE STILL AN 20 ALTERNATE JUROR AND ARE BOUND BY MY 21 EARLIER INSTRUCTIONS ABOUT YOUR 22 CONDUCT. 23 UNTIL THE JURY IS DISCHARGED, DO 24 NOT TALK ABOUT THE CASE OR ANY OF THE 25 PEOPLE OR ANY OF THE -- ANY SUBJECT 26 INVOLVED WITH THE CASE WITH ANYONE, 27 NOT EVEN YOUR FAMILY OR FRIENDS. 28 DO NOT HAVE ANY CONTACT WITH THE</p>	Page 66	<p>1 ON EACH QUESTION SO THAT WHEN WE POLL YOU, EACH OF YOU 2 WILL BE ABLE TO ANSWER ACCURATELY HOW YOU VOTED. 3 SO WRITE DOWN YOUR ANSWER WHEN THE VOTE IS 4 TAKEN. EACH OF YOU WILL BE PROVIDED WITH A COPY SO YOU 5 CAN KEEP THAT AND BRING IT BACK TO COURT SO WE CAN MAKE 6 SURE AT LEAST NINE OF YOU VOTED THE WAY YOU INDICATED. 7 (AS READ AND/OR REFLECTED): 8 NOW, DURING THE TRIAL, MATERIALS 9 HAVE BEEN SHOWN TO YOU TO HELP EXPLAIN 10 TESTIMONY OR OTHER EVIDENCE IN THIS 11 CASE. 12 SOME OF THESE MATERIALS HAVE BEEN 13 ADMITTED INTO EVIDENCE, AND YOU'LL BE 14 ABLE TO REVIEW THEM IN THE JURY ROOM 15 DURING YOUR DELIBERATIONS. OTHER 16 MATERIALS HAVE BEEN SHOWN TO YOU 17 DURING THE TRIAL BUT HAVE NOT BEEN 18 ADMITTED INTO EVIDENCE. 19 YOU WILL NOT BE ABLE TO REVIEW 20 THEM DURING YOUR DELIBERATIONS BECAUSE 21 THEY ARE NOT, THEMSELVES, EVIDENCE OR 22 PROOF OF ANY FACTS. YOU MAY, HOWEVER, 23 CONSIDER THE TESTIMONY GIVEN IN 24 CONJUNCTION OR CONNECTION WITH THOSE 25 MATERIALS. 26 I HAVE ONE REMAINING INSTRUCTION THAT I 27 WILL GIVE THIS AFTERNOON AFTER BOTH ATTORNEYS HAVE 28 FINISHED THEIR ARGUMENT AND THE REBUTTAL BY THE</p>	Page 68

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<p>1 PLAINTIFF, AND I WILL EXPLAIN TO YOU HOW TO CONDUCT 2 YOURSELF IN THE JURY ROOM. 3 AT THIS TIME, WE'LL NOW HAVE THE OPENING 4 ARGUMENT OF MR. PARRIS. 5 THANK YOU. 6 MR. REX PARRIS: YOUR HONOR, I THOUGHT WE WERE 7 GOING TO TAKE FIVE MINUTES TO SET UP. 8 THE COURT: WE ARE GOING TO TAKE FIVE MINUTES. 9 THANK YOU. 10 MR. REX PARRIS: THANK YOU. 11 THE COURT: LADIES AND GENTLEMEN, I'LL HAVE YOU 12 GO INTO THE JURY ROOM FOR FIVE MINUTES WHILE WE SET UP 13 FOR THE CLOSING ARGUMENT. 14 THANK YOU. 15 (RECESS TAKEN FROM 10:59 A.M. TO 16 11:06 A.M.) 17 (THE FOLLOWING PROCEEDINGS WERE HELD IN 18 OPEN COURT IN THE PRESENCE OF THE 19 JURY:) 20 THE COURT: MR. PARRIS, PLEASE. 21 MR. REX PARRIS: THANK YOU. 22 23 CLOSING ARGUMENT BY MR. REX PARRIS 24 25 MR. REX PARRIS: GOOD MORNING. 26 THE JURY: GOOD MORNING. 27 MR. REX PARRIS: I CAN TALK TO YOU NOW. I CAN 28 ACTUALLY SMILE AT YOU, NOD AT YOU. I NO LONGER HAVE TO</p>	<p>1 ANTHONY AND MY FAMILY IS GRATEFUL THAT WE MET ANTHONY 2 BECAUSE HE MADE US LOOK AT LIFE IN A WAY I DON'T THINK 3 WE'VE EVER TRULY LOOKED AT, YOU KNOW. 4 WHEN WE WERE -- BEFORE I MET HIM, YOU 5 KNOW, IT WAS -- YOU'RE LOOKING AT ALL THE DIFFERENT 6 ISSUES. AND I'M NOT SURE HOW I FELT ABOUT HIM BEING 7 DEVELOPMENTALLY DISABLED. I'M JUST NOT SURE. UNTIL I 8 MET HIM. UNTIL I GOT TO KNOW HIM. UNTIL I GOT TO HEAR 9 HIS STORY. 10 AND I HAVE FOUR CHILDREN AND HE IS FAR 11 MORE VIBRANT IN MANY RESPECTS THAN THEY'VE EVER BEEN, 12 YOU KNOW. THERE WAS A PURITY TO HIM. THERE WAS A LOVE 13 TO HIM. THERE WAS AN EXCITEMENT THAT HE HAD THAT I 14 THINK EVERY DAY WE GET OLDER TENDS TO GET BLUNTED. 15 AND I THINK ONLY BECAUSE OF SHARON, HIS 16 MOTHER, THAT THAT WAS PRESERVED AND IT ACTUALLY WAS 17 MADE TO FLOWER. 18 THE OTHER ISSUE HAS ALWAYS BEEN, WHAT IS 19 THE AMOUNT TO REASONABLY COMPENSATE ANTHONY TAYLOR? 20 BUT LET'S NOT MAKE ANY MISTAKE ABOUT THIS. 21 IT SHOULDN'T MATTER WHETHER IT WAS ALEX OR ANTHONY. IT 22 SHOULDN'T MATTER. THE VALUE OF HIS LIFE IS THE SAME. 23 IT'S THE SAME. 24 THE PROBLEM WITH THE TYPE OF DAMAGES THAT 25 WE TALKED ABOUT WHEN WE FIRST STARTED PICKING THE JURY 26 IS IT'S PRICELESS. AND I THINK EVERYBODY AGREED WITH 27 THAT. IT'S PRICELESS WHAT WE'RE TALKING ABOUT. 28 AND WE'RE ASKING YOU TO APPRAISE THE VALUE</p>
Page 70	Page 72
<p>1 ACT LIKE YOU'RE NOT THERE. 2 I -- BEFORE I START, I WANT TO THANK YOU 3 FOR THE ENORMOUS INVESTMENT OF TIME AND THE RISKS THAT 4 IT HAS BEEN PROFESSIONALLY AND ON YOUR FAMILIES. AND 5 I'VE SEEN SOME OF YOU COME BACK AND CLEARLY YOU'RE 6 WORKING AT NIGHT AND HAVING TO TAKE CARE OF YOUR LIVES 7 AND THEN COMING HERE. AND I APPRECIATE THAT. 8 MORE IMPORTANTLY, ANTHONY TAYLOR AND HIS 9 FAMILY NEEDED YOU TO DO THAT. THE -- YOU KNOW, I'M 67 10 AND I'M VERY AWARE OF THE VALUE OF EVERY WEEK THAT GOES 11 BY. IT -- WE -- AS WE GET OLDER, WE UNDERSTAND JUST 12 HOW PRECIOUS THAT TIME IS, SO I KNOW WHAT YOU INVESTED 13 IN THIS. AND THANK YOU. 14 YOU KNOW, I LOVE BEING A LAWYER FOR 15 SOME -- MANY REASONS, BUT MOST IMPORTANTLY IS BECAUSE 16 IT REALLY DOES MATTER WHAT WE DO HERE. IT'S THE PLACE 17 WHERE EVERYBODY IS EQUAL. IT DOESN'T MATTER IF YOU'RE 18 A BILLIONAIRE OR IF YOU'RE DEVELOPMENTALLY DISABLED OR 19 WHOEVER YOU ARE. THERE'S AN EQUALITY HERE THAT COMES 20 OUT HERE. AND WE'RE GOING TO TALK MORE ABOUT THAT. 21 THE -- SOMEBODY SAID, WHEN WE WERE PICKING 22 THE JURY, THIS IS NOT A GAME. AND I THINK THAT ALL OF 23 YOU HAVE SEEN IN THIS CASE THIS IS NOT A GAME. AND THE 24 ISSUES AND THE FEELINGS AND THE STUFF THAT CAME OUT IN 25 THIS CASE HAVE BEEN SO DIFFERENT THAN -- I HAVE BEEN 26 DOING THIS ALMOST 40 YEARS. SO DIFFERENT HERE. 27 AND IN MANY WAYS, REGARDLESS OF WHAT 28 HAPPENS WHEN YOU COME BACK, I AM GRATEFUL THAT I MET</p>	<p>1 OF SOMETHING THAT IS PRICELESS. AND THERE'S NOTHING 2 EASY ABOUT BEING APPRAISERS OF THAT, BUT YOU CAN DO IT. 3 AND IN THIS CASE, YOU'VE AGREED TO DO IT. 4 YOU'RE GOING TO APPRAISE THE VALUE OF THINGS THAT ARE 5 PRICELESS. 6 THAT PAINTING WAS -- I THINK IT WAS TWO 7 MONTHS AGO THAT SHOCKED THE ART WORLD. IT'S A LEONARD 8 DA VINCI. AND WHEN IT FIRST CAME OUT -- WHEN IT WAS 9 FIRST FOUND -- IT WAS LITERALLY FOUND IN AN ATTIC. AND 10 THERE'S A STORY ABOUT FINDING IT, BUT ACTUALLY FOUND IN 11 AN ATTIC. 12 AND INITIALLY, THE APPRAISER SAID IT WAS 13 DONE BY HIS STUDENT. IT WASN'T DONE BY HIM. AND THEN 14 IN 1958 IT SOLD AT AUCTION FOR THE -- IT WAS IN POUNDS, 15 BUT IT WAS 1280-SOME DOLLARS IS WHAT IT SOLD FOR. 16 AND THEN THE APPRAISERS LOOKED AT IT AGAIN 17 AND SAID, NO, THIS IS A LEONARD DA VINCI. AND IT SOLD 18 FOR \$450,312,500 JUST TWO MONTHS AGO. 19 NOW, I'M NOT ASKING YOU TO DO THAT, BUT 20 LET'S BE CLEAR WHAT WE'RE TALKING ABOUT. IT'S 21 PRICELESS WHAT WE'RE TALKING ABOUT. 22 AND SO WHEN THERE WAS THIS -- YOU KNOW, AT 23 TIMES DURING THE JURY SELECTION, I DIDN'T FEEL GOOD 24 WITH HOW SOME PEOPLE WERE RESPONDING TO HOW -- WHAT WE 25 WERE GOING TO BE ASKING, AND IT WAS LIKE I HAD TO 26 DEFEND IT, YOU KNOW. I DON'T FEEL LIKE I HAVE TO 27 DEFEND IT AT ALL. IT'S PRICELESS WHAT THEY TOOK. IT'S 28 PRICELESS. AND THE VALUE OF THAT AT THE END OF THE DAY</p>

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<p>1 IS WHATEVER YOU SAY IT IS. WHATEVER YOU SAY IT IS.  2 THAT'S THE APPRAISED VALUE OF THOSE THINGS.  3 I WISH, AND I THINK WE ALL DO, I THINK WE  4 ALL WISH WE KNEW HIM BEFORE THE CRASH. YOU KNOW, THERE  5 WAS SOMETHING ABOUT HIM.  6 YOU KNOW, THE THING I THINK I LIKE THE  7 MOST IS THAT WHEN PEOPLE WOULD GET UPSET, HE WOULD GO  8 HUG THEM. HE DIDN'T LIKE PEOPLE BEING MEAN TO EACH  9 OTHER AND HE WOULD GO HUG THEM.  10 AND IT'S -- I MEAN, HE WAS ABLE TO  11 GRADUATE HIGH SCHOOL. IMAGINE HOW HARD THAT WAS.  12 IMAGINE JUST HOW HARD THAT WAS. HE -- IT WAS AN  13 OPTIMISM TO HIM. IT WAS -- I DON'T KNOW. I DON'T  14 THINK I EVEN NEED TO SAY IT.  15 REMEMBER THIS (INDICATING), THOUGH? THE  16 SWEETNESS OF THAT? AND YOU HEARD FROM COURTNEY, AND  17 YOU HEARD FROM HIM, AND HE NEVER GOT TO WEAR THAT RING.  18 HE NEVER GOT TO WEAR HIS RING.  19 AND ALL OF THAT CAME TO AN END AND IT CAME  20 TO AN END IN THE MOST HORRIBLE OF WAYS.  21 THERE ARE FEW THINGS THAT CAN HAPPEN TO  22 ANYBODY, I THINK WE WOULD ALL AGREE, THAT'S WORSE THAN  23 THIS. AND IT CAME TO AN END FOR ONE REASON. WHEN  24 PEOPLE BREAK THE RULES, WE'RE ALL AT RISK. WE'RE ALL  25 IN DANGER. OUR LIVES CAN CHANGE LIKE THAT  26 (INDICATING).  27 THE OTHER THING I'VE LEARNED AS I'VE  28 GOTTEN OLDER -- I MEAN, WHEN I WAS -- WHEN I WAS AS</p>		<p>1 I REMEMBER -- I REMEMBER WHEN MY FATHER  2 PASSED, IT WAS, WHAT I WOULD HAVE PAID FOR ONE MORE  3 DAY, JUST ONE MORE DAY. AND HERE WE'RE TALKING YEARS,  4 YEARS. NO, THEY DON'T GET A DISCOUNT. THEY DON'T.  5 AND YOU MUST REMEMBER THE CIVIL BURDEN OF  6 PROOF. IT'S NOT A CRIMINAL CASE. IT'S A CIVIL CASE.  7 MORE LIKELY TO BE TRUE THAN NOT TRUE.  8 AND BOTH SIDES -- EXCUSE ME -- BOTH SIDES  9 HAVE TO MEET A BURDEN OF PROOF. IT'S NOT JUST THE  10 PLAINTIFF WHO HAS THE BURDEN OF PROOF IN THIS CASE.  11 AND WE'LL TALK ABOUT THAT SOME MORE. AND IT JUST HAS  12 TO BE ONE-TENTH OF ONE-TENTH OF ONE-TENTH, YOU KNOW.  13 FOR EACH ITEM THAT'S ON THAT VERDICT FORM,  14 EACH ITEM THAT'S IN THAT INSTRUCTION -- AND REMEMBER  15 WHEN WE FIRST STARTED, WE TALKED ABOUT THAT; THAT YOU  16 WERE GOING TO GET A VERDICT FORM AND IT WAS GOING TO  17 HAVE ALL OF THESE THINGS LISTED, AND WE PUT THEM UP  18 THERE AND I ASKED EVERYBODY ABOUT IT. YOU'LL SEE THE  19 VERDICT FORM. EVERY ONE OF THOSE THINGS ARE LISTED.  20 AND THERE WAS TESTIMONY ABOUT THE EFFECT  21 OF INSURANCE AND THE WITNESSES WHO WORKED FOR INSURANCE  22 COMPANIES. YOU ARE NOT TO CONSIDER INSURANCE. AND IF  23 IT COMES UP, WRITE A NOTE TO THE JUDGE. TELL THE  24 JUDGE. YOU ARE NOT TO CONSIDER INSURANCE.  25 SO LET'S TIE IT IN. ECONOMIC DAMAGES.  26 THOSE ARE THE POCKETBOOK DAMAGES. THIS GOES TO OTHER  27 PEOPLE OVER TIME, OTHER HOSPITALS, OTHER DOCTORS. THIS  28 ISN'T SOMETHING HE GETS TO KEEP.</p>	
<p>1 YOUNG AS RUTGER, I HATED THE RULES, YOU KNOW. HATED  2 EVERY ONE OF THEM. AS I'VE GOTTEN OLDER, I REALIZE  3 THAT'S WHAT ALLOWS US TO LOVE EACH OTHER. WITHOUT  4 THOSE RULES, WE ARE BEASTS. THOSE RULES PROTECT US.  5 AND THE ONLY THING THIS CASE IS ABOUT IS HOW MUCH YOU  6 VALUE ALL OF THESE THINGS.  7 COMPENSATORY DAMAGES. THERE'S A DEBT AND  8 WHAT IS OWED. AND IT DOESN'T MATTER TO YOU WHO PAYS  9 IT, IF IT EVER GETS PAID, OR HOW IT'S PAID. YOUR JOB  10 IS TO APPRAISE THE VALUE.  11 AND IF YOU DO ANYTHING ELSE -- IF YOU  12 INCREASE IT BECAUSE YOU LIKE ANTHONY OR IF YOU DROP IT  13 BECAUSE YOU FEEL SORRY FOR THE DEFENDANT, YOU'RE  14 BREAKING THE RULES. THAT'S NOT YOUR ROLE HERE.  15 SO IT'S DIVIDED UP INTO TWO CATEGORIES.  16 IT'S PAST AND FUTURE LOSS OF EARNINGS AND FUTURE  17 MEDICAL EXPENSES.  18 AND THEN THE NONECONOMIC DAMAGES, WHICH I  19 THINK ARE THE PRICELESS PART, PAST AND FUTURE.  20 AND YOU'RE GOING TO HAVE TO DECIDE: IS IT  21 FOR THE WHOLE 49, 50 YEARS? OR DO THEY GET THE  22 DISCOUNT? DO THEY GET A 16-YEAR DISCOUNT?  23 AND LET'S BE CLEAR ABOUT THAT. IF WHAT  24 HAPPENED OUT ON THAT STREET RESULTS IN HIS DEATH, THEY  25 ARE ACCOUNTABLE FOR THAT TOO. AND IT'S NOT ACCOUNTABLE  26 FOR, OH, DEATH, AND YOU PUT A NUMBER. IT'S EVERY  27 SINGLE DAY THEY TAKE -- TOOK FROM HIM. THAT'S WHAT IS  28 OWED. AND THAT'S WHAT HAS TO BE COMPENSATED FOR.</p>	Page 74	<p>1 AND FUTURE -- PAST AND FUTURE LOST  2 EARNINGS.  3 I FOUND INTERESTING THAT THE DEFENSE  4 DIDN'T HESITATE TO SPEND MONEY IN THIS CASE, AND I  5 THINK WE SAW THAT, DIDN'T HESITATE. BUT THERE WAS NOT  6 A VOCATIONAL REHAB EXPERT FOR THE DEFENSE. IT WAS  7 UNDISPUTED AS TO THE VOCATIONAL REHAB TESTIMONY.  8 THE LAWYERS DISPUTED IT. REMEMBER? THE  9 LAWYERS DIDN'T LIKE IT, BUT THERE WASN'T ANY FACTS FOR  10 YOU TO CONSIDER COMING FROM THAT CHAIR.  11 AND THE ISSUE THAT YOU HAVE TO DECIDE IS,  12 WAS ANTHONY GOING TO BE ABLE TO GET A JOB AS A  13 CUSTODIAN IN THE PRIVATE SECTOR? EVERY INDICATION WAS  14 THAT HE WAS. YOU MIGHT DECIDE OTHERWISE, BUT THIS IS A  15 KID WITH ALL THOSE DISABILITIES GRADUATED FROM HIGH  16 SCHOOL. GRADUATED FROM HIGH SCHOOL.  17 I THOUGHT THAT WAS -- I MEAN, I'M SURE HE  18 WASN'T THE TOP OF THE CLASS. HE WAS HOME SCHOOLED, BUT  19 I'M SURE HE WASN'T THE TOP OF THE HOME SCHOOL.  20 I MEAN, THERE'S DIFFERENT LEVELS OF  21 GRADUATION, YOU KNOW. THERE'S A.P. STUDENTS.  22 THERE'S -- AND I'M SURE -- AND I'M NOT SAYING HE WAS  23 THAT, BUT HE DID GRADUATE FROM HIGH SCHOOL. HE DID  24 TAKE THE TEST AND HE DID PASS.  25 THERE'S NO DOUBT IN MY MIND HE WOULD HAVE  26 PROGRESSED INTO THE PRIVATE SECTOR PROBABLY AFTER HIM  27 AND COURTNEY GOT MARRIED, YOU KNOW. I MEAN, HE WAS  28 HAVING TOO MUCH FUN WITH COURTNEY IS WHAT WAS REALLY</p>	Page 76

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<p>1 GOING ON.</p> <p>2 AND WHAT WAS THE DEFENSE RESPONSE?</p> <p>3 REMEMBER THIS? I MEAN, THIS JUST -- SOMETIMES IT'S</p> <p>4 HARD FOR ME NOT TO GET ANGRY WHEN I'M SITTING IN THIS</p> <p>5 CHAIR. HE CAN BE A TICKET TAKER? REMEMBER THAT? A</p> <p>6 TICKET TAKER. HE CAN'T CLOSE HIS HANDS AND HE CAN BE A</p> <p>7 TICKET TAKER? REALLY? IF THAT'S TRUE, THEN PUT UP A</p> <p>8 WITNESS THAT SAYS IT, THAT HAS THE CREDENTIALS TO SAY</p> <p>9 IT. IT WAS INSULTING.</p> <p>10 AND EVERY TIME I START TO GET ANGRY LIKE</p> <p>11 THAT, I REMEMBER, YOU KNOW -- ONE TIME I WAS READING A</p> <p>12 BOOK BY THE DALAI LAMA AND HE SAID, WHENEVER -- HOW DID</p> <p>13 IT GO -- IN THE FACE OF ANGER, JUSTICE EVAPORATES. AND</p> <p>14 THAT'S SOMETHING YOU ALL WANT TO REMEMBER TOO. NO</p> <p>15 MATTER WHAT HAPPENS IN THAT ROOM. IF ANYBODY STARTS</p> <p>16 GETTING ANGRY, TAKE A BREAK. BECAUSE IN THE FACE OF</p> <p>17 ANGER, JUSTICE EVAPORATES. AND I THINK THAT'S TRUE</p> <p>18 EVERYWHERE.</p> <p>19 SO WHAT ARE -- THIS IS YOUR VERDICT FORM.</p> <p>20 AND AS I SAID, ALL OF THOSE THINGS ARE LISTED ON THE</p> <p>21 VERDICT FORM. BUT YOU START OUT AT THE TOP: WHAT ARE</p> <p>22 HIS LOST EARNINGS?</p> <p>23 PAST, 9,170.</p> <p>24 FUTURE, 756,759.</p> <p>25 AND LET'S NOT MAKE ANY MISTAKE ABOUT THIS.</p> <p>26 IT'S 759. I WANT EVERY DIME THAT IS COMING TO HIM.</p> <p>27 NOT A DIME MORE, BUT I WANT EVERY DIME THAT IS COMING</p> <p>28 TO HIM.</p>	<p>1 AND WOULDN'T BE TRICKED. SHE WOULDN'T BE TRICKED.</p> <p>2 REMEMBER?</p> <p>3 NO, IT'S 140 OR WHATEVER IT WAS TIMES</p> <p>4 FOUR. IT'S 15-MINUTE INCREMENTS. REMEMBER THAT?</p> <p>5 AND LET'S TALK -- WE'RE GOING TO TALK</p> <p>6 ABOUT THIS TRACH ISSUE THAT TOOK A WEEK OF OUR TIME.</p> <p>7 AND WHAT DOES IT MATTER? WHAT DOES IT MATTER IN</p> <p>8 REGARDS TO THE QUALITY OF CARE HE SHOULD GET? DOES IT</p> <p>9 MATTER AT ALL?</p> <p>10 REMEMBER THIS?</p> <p>11 REMEMBER THAT? DR. KIM DID THAT.</p> <p>12 NOW, LET ME TALK A LITTLE BIT ABOUT HER.</p> <p>13 I LIKED HER. I LIKED HER AS A DOCTOR. I DIDN'T LIKE</p> <p>14 HER AS AN EXPERT. AND SHE SAID IT. SHE SAYS, NO, I</p> <p>15 WASN'T HERE AS A DOCTOR. I WAS HERE AS PART OF THE</p> <p>16 DEFENSE TEAM. I WAS FROM THEIR OFFICE.</p> <p>17 AND -- BECAUSE WHEN WE STARTED TALKING</p> <p>18 ABOUT BEING A DOCTOR AND HELPING PEOPLE, WHAT DID SHE</p> <p>19 SAY? WE'LL TALK ABOUT THAT. BUT THINK BACK. IT WAS</p> <p>20 DIFFERENT. IT WAS DIFFERENT. AND I UNDERSTAND HOW YOU</p> <p>21 CAN GET CAUGHT UP INTO THIS, YOU KNOW. BEFORE YOU KNOW</p> <p>22 IT, BIAS IS SOMETHING WE DON'T SEE UNTIL IT GETS</p> <p>23 POINTED OUT TO US.</p> <p>24 IF MY CHILD WAS A QUADRIPLLEGIC LIKE</p> <p>25 ANTHONY, I WOULD WANT DR. KIM TO BE THE DOCTOR BECAUSE</p> <p>26 WHAT DID SHE SAY? MY PATIENTS, MY PATIENTS, THEY LIVE</p> <p>27 A LOT LONGER. THEY LIVE A LOT LONGER.</p> <p>28 BUT IT TAKES -- IT TAKES MORE THAN HIRING</p>
<p style="text-align: center;">Page 78</p> <p>1 REMEMBER THIS IN THE OPENING? REMEMBER</p> <p>2 WHEN THE DEFENSE LAWYER TOLD YOU THIS IN THE OPENING?</p> <p>3 (AS READ AND/OR REFLECTED):</p> <p>4 THE DEFENSE IN THIS CASE REALLY</p> <p>5 WISHES THREE THINGS FOR MR. TAYLOR:</p> <p>6 GOOD HEALTH, QUALITY CARE, AND</p> <p>7 INCREASED INDEPENDENCE. WE BELIEVE WE</p> <p>8 CAN PROVIDE FOR HIM AN INCREASED</p> <p>9 QUALITY OF LIFE.</p> <p>10 NO, THEY CAN'T. THE ONLY PEOPLE THAT CAN</p> <p>11 DO THAT NOW ARE YOU AND YOU AND YOU. AND HOW MUCH OF</p> <p>12 THAT YOU WANT TO PROVIDE WILL BE YOUR DECISION.</p> <p>13 REMEMBER, ONE OF THE PEOPLE -- REMEMBER</p> <p>14 THE MONEYBALL GUY FROM THE DODGERS? I REALLY LIKED</p> <p>15 HIM. I REMEMBER HIM SAYING (AS READ AND/OR REFLECTED):</p> <p>16 I THINK HE SHOULD GET THE BEST</p> <p>17 CARE, THE BEST CARE WHEN YOU DO THIS.</p> <p>18 WHEN YOU RENDER SOMEBODY A QUADRIPLLEGIC.</p> <p>19 I THINK THAT TOO. AND I THINK YOU THINK THAT ALSO.</p> <p>20 YOU KNOW, IN SOME COUNTRIES IF THIS WERE</p> <p>21 TO HAPPEN, YOU WOULD ACTUALLY TAKE CARE -- BE EXPECTED</p> <p>22 TO TAKE CARE OF THAT YOUNG MAN FOR THE REST OF HIS</p> <p>23 LIFE. THAT MEANS YOU WOULD VISIT HIM. YOU WOULD</p> <p>24 PROVIDE FOR HIM. YOU WOULD HELP HIM. UNFORTUNATELY,</p> <p>25 WE DON'T DO THAT IN THIS COUNTRY. IN THIS COUNTRY, WE</p> <p>26 COME HERE.</p> <p>27 I THOUGHT JAN ROUGHAN HANDLED EVERY</p> <p>28 QUESTION ON CROSS-EXAMINATION WITH CANDOR AND CLEARLY</p>	<p style="text-align: center;">Page 80</p> <p>1 A HOME HEALTH WORKER WITH TRAINING YOU DON'T KNOW. IT</p> <p>2 TAKES RECOGNIZING THAT THESE PEOPLE ARE FRAGILE.</p> <p>3 THEY'RE IN DANGER OF DYING ALL THE TIME, ALL THE TIME.</p> <p>4 AND YOU DON'T GIVE THAT TO UNTRAINED PEOPLE.</p> <p>5 NOW, COULD YOU GET A -- I HAVE TO GO</p> <p>6 FASTER. I'M RUNNING OUT OF TIME.</p> <p>7 COULD WE GET SOMEBODY AND TRAIN THEM?</p> <p>8 ABSOLUTELY. ABSOLUTELY. I DON'T THINK THAT WHETHER OR</p> <p>9 NOT YOU'RE AN R.N., L.V.N., OR C.N.A. MATTERS AS TO</p> <p>10 WHAT YOUR TRAINING IS.</p> <p>11 BUT IF YOU DO THAT AND TRAIN SOMEBODY AND</p> <p>12 SEND THEM TO SANTA CLARA AND THEN THEY QUIT, OR THEY'RE</p> <p>13 SICK OR THEY'RE, YOU KNOW, ALL THE DIFFERENT THINGS</p> <p>14 THAT COULD HAPPEN, THEN FOR THOSE DAYS WHILE YOU HAVE</p> <p>15 TO TRAIN SOMEBODY ELSE UP, HE'S AT RISK. AND WHY IS HE</p> <p>16 AT RISK? I MEAN, LOOK AT THIS. EVERY SINGLE</p> <p>17 QUADRIPLLEGIC, EVERY SINGLE ONE, THEIR BLADDER CAN KICK</p> <p>18 IN THIS HIGH BLOOD PRESSURE THAT CAN KILL THEM. AND</p> <p>19 SHE SAID THAT. THIS IS HER CHART. AND SHE EXPLAINED</p> <p>20 IT VERY WELL. THAT WHEREVER THAT CORD STOPS,</p> <p>21 EVERYTHING GETS MESSED UP AT THAT POINT.</p> <p>22 THE BOWEL PROGRAM THAT HE HAS TO ENDURE</p> <p>23 EVERY SINGLE DAY, EVERY TIME, IT'S AT -- HE'S AT RISK</p> <p>24 OF TRIGGERING THIS MASSIVE SYMPATHETIC RESPONSE. AND</p> <p>25 THAT'S WHY THE TRAINING OF THE PEOPLE TAKING CARE OF</p> <p>26 THEM IS SO IMPORTANT. THAT'S JUST ONE OF THE THINGS</p> <p>27 THAT CAN GO WRONG.</p> <p>28 THAT DOESN'T INCLUDE HYPERBARIC TREATMENTS</p>

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<p>1 THAT -- WHAT WAS IT, 300 -- NO, \$680 A TREATMENT, 30  2 TREATMENTS FOR EVERY TIME HE GETS A PRESSURE SORE.  3 DR. KIM AND MS. ROUGHAN ALL AGREE, BOTH AGREED, FIVE TO  4 SIX TIMES THAT THIS -- YOU CAN EXPECT THIS TO HAPPEN.  5 AND IT DOESN'T INCLUDE THE 150,000 IF HE NEEDS THE  6 SPINE SURGERY -- THE NECK SURGERY THAT EVEN  7 DR. WEINSTEIN SAID VERY POSSIBLE. THAT WAS THE LAST  8 THING HE SAID. VERY POSSIBLE.  9 AND ALL THAT CAME DOWN TO ONE THING. ALL  10 OF THAT CAME DOWN TO ONE THING. THE L.V.N., THE HOME  11 HEALTH, THE C.N.A., ALL OF IT. IT WAS -- IT'S NOT THE  12 L.V.N./C.N.A. DICHOTOMY, IT'S AGENCY VERSUS PRIVATE  13 HIRE.  14 IF YOU COME OUT OF AN AGENCY, WHICH  15 DR. KIM SAYS (AS READ AND/OR REFLECTED):  16 I ALWAYS RECOMMEND AGENCIES JUST  17 BECAUSE THERE IS ALWAYS A BACK-UP.  18 IT WAS \$1 AN HOUR. \$1 AN HOUR. THE  19 L.V.N. WAS 29, THE C.N.A. WAS 28.  20 COULDN'T YOU GIVE HIM THE \$1? COULDN'T  21 YOU JUST MAKE THAT ACCOMMODATION? I MEAN, SERIOUSLY.  22 YOU'VE RENDERED HIM A QUADRIPLEGIC AND YOU'RE QUIBLING  23 ABOUT \$1 AN HOUR? BECAUSE BOTH STACEY HELVIN, BOTH THE  24 DEFENSE LAWYER, EVERYBODY SAID THE AGENCY WAS THE  25 BETTER WAY TO GO.  26 THIS -- YEAH, THIS IS A LOT OF MONEY AND  27 IT SHOULDN'T BE ABOUT NICKELS AND DIMES LIKE THAT WHEN  28 YOU'RE TALKING ABOUT WHETHER HE LIVES OR DIES AND THE</p>	<p>1 A BECAUSE OF THE REASONS WE  2 MENTIONED: WEIGHT SHIFTS, TURNING  3 IN BED, AND, OF COURSE, THE TRACH  4 MANAGEMENT, WHICH I WAS NOT  5 ADDRESSING, BUT IT SOUNDS LIKE HE  6 MAY NEED ISSUES -- HE HAS ISSUES  7 WITH HIS TRACH.  8 Q OKAY.  9 A BUT LIKE I SAID, I WOULD  10 DEFER THAT TO DR. WEBSTER.  11 (VIDEO STOPPED.)  12 MR. REX PARRIS: REMEMBER YESTERDAY WHEN HE WAS  13 BEING CROSS-EXAMINED IN HIS DEPOSITION? AND HE  14 WOULD -- HE WOULD WAIT AND WAIT TO ANSWER THE QUESTION.  15 AND HE KIND OF KNEW HE WAS BEING LAWYERED. THAT'S WHAT  16 WE CALL IT. HE WAS BEING LAWYERED.  17 BUT WHEN ALEX CAME BACK, IT WAS, WELL,  18 WAIT A MINUTE. LET'S ASSUME HIS MOTHER'S NOT THERE.  19 AND LET ME ASK YOU THIS: I MEAN, I  20 THOUGHT -- I THOUGHT HIS MOTHER WAS -- WOW, IF WE COULD  21 ALL HAVE A MOTHER LIKE THAT, YOU KNOW. I MEAN, IF WE  22 COULD ALL.  23 AND WHAT -- WHAT WAS THEIR ATTITUDE ABOUT  24 THAT? WELL, SHE'S SUPPOSED TO DO IT. WE SHOULDN'T  25 HAVE TO HIRE SOMEBODY TO DO THAT.  26 NO, YOU DO. YOU DID IT TO HIM. YOU DID  27 IT TO HIM. YOU DON'T GET TO KEEP LAYERING AND LAYERING  28 ALL THIS WORK ON THE FAMILY AND SAY YOU'RE BEING</p>
<p>1 QUALITY OF THE LIFE HE MIGHT HAVE.  2 THE REAL DIFFERENCE IN THE COST WAS IN  3 THINGS LIKE THIS THEY DIDN'T TALK A LOT ABOUT. THE  4 BACLOFEN PUMP WHERE YOU IMPLANT IT. AND REMEMBER WHY  5 YOU NEED THAT. ANTHONY IS LIKE THIS (INDICATING). YOU  6 CAN'T EVEN SPREAD HIS LEGS. THEY'RE COMING TOGETHER.  7 IT'S THAT BAD. AND YOU'RE GOING TO FIGHT ABOUT A  8 BACLOFEN PUMP?  9 (VIDEO PLAYED AS FOLLOWS:)  10 Q IF WE ASSUME THAT  11 MR. TAYLOR'S -- THAT'S WHY I ASKED  12 YOU TO ASSUME THAT MR. TAYLOR'S  13 MOTHER CAN'T DO THE JOB FOR HIM.  14 A OKAY.  15 Q IF WE ASSUME THAT  16 MR. TAYLOR'S FAMILY AND MOTHER  17 EITHER CAN'T DO THE JOB OR  18 SHOULDN'T BE ASKED TO DO THAT JOB  19 FOR HIM, GIVEN HIS QUADRIPLEGIA  20 THAT HAPPENED IN A CAR ACCIDENT, IF  21 WE ASSUME ALL THAT, WOULD YOU, IF  22 YOU WERE PUTTING TOGETHER A PLAN TO  23 TAKE CARE OF MR. TAYLOR FOR THE  24 REST OF HIS LIFE, WOULD YOU INCLUDE  25 AN ITEM FOR 24/7 MEDICAL CARE FOR  26 HIM?  27 A YES.  28 Q OKAY. AND WHY IS THAT?</p>	<p>1 ACCOUNTABLE. THAT'S NOT ACCOUNTABILITY.  2 THAT'S WHEN THE DOLLAR CAME OUT. IT WAS  3 IN HIS TESTIMONY YESTERDAY, THE DOLLAR. THAT'S ALL IT  4 WAS, IF YOU'RE JUST LOOKING AT THE -- TAKING THE TRACH  5 OUT OR NOT TAKING IT OUT.  6 NOW, THERE WERE OTHER DIFFERENCES.  7 THERE'S THE DISCOUNT RATE. AND YOU CAN EITHER  8 RECOGNIZE HOW DR. HUNT DID IT OR YOU CAN GO WITH HOW HE  9 DID IT. HE WENT BACK 30 YEARS, SHE WENT BACK 50 YEARS.  10 BUT WHAT HE SAID TO YOU WAS SOMETHING YOU  11 WANT TO REMEMBER. HE SAID, YEAH, I'VE BEEN WRONG FOR A  12 LONG TIME. I KEPT EXPECTING IT TO GO UP. RIGHT?  13 BUT -- THAT WAS SHOCKING TO ME. AND THIS IS WHY IT WAS  14 SHOCKING.  15 TWO TO 3,000 TIMES HE'S TESTIFIED. TWO TO  16 3,000 PEOPLE WHO WERE INJURED ENOUGH THAT THEY CAME  17 HERE. TWO TO 3,000. WHAT ARE THOSE PEOPLE DOING WHEN  18 THE MONEY RAN OUT?  19 BUT THIS STUFF ABOUT, WELL, YOU BUY AND  20 SELL IT EVERY YEAR, WE ALL KNOW HE DIDN'T DO THAT.  21 FINANCE PEOPLE DO THAT. BUT REGULAR PEOPLE DON'T.  22 THAT WAS NO SMALL ADMISSION.  23 AND THIS IS REALLY WHAT IT COMES DOWN TO:  24 RESOURCES.  25 DR. KIM COULDN'T GO THERE, WASN'T GOING TO  26 GO THERE. WAS NOT GOING TO EMBRACE THAT AT ALL.  27 THAT'S WHAT'S WRONG WITH COURTROOMS. IT  28 REALLY IS. ALL OF THE MEDICAL SCIENCE SAYS YOU CAN GO</p>



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<p>1 THROUGH THE CAPPING TRIAL AND THEN YOU ASSESS. THEN  2 YOU DO THE MEASUREMENTS, THE VOLUME METRIC MEASUREMENTS  3 OF THE LUNG.  4 I DON'T HAVE ANYTHING GOOD TO SAY ABOUT  5 HIM.  6 SO I WON'T SAY ANYTHING.  7 (VIDEO PLAYED AS FOLLOWS:)  8 Q SO IF THERE'S A PHYSICIAN  9 HIRED BY THE DEFENSE IN THE CASE  10 WHO SAYS THE TRACH CAN COME OUT  11 RIGHT NOW TODAY, WOULD YOU DISAGREE  12 WITH THAT?  13 A I WOULD STATE THAT  14 REMOVING HIS TRACHEOSTOMY TUBE  15 WOULD PUT HIM AT RISK FOR  16 MORTALITY.  17 Q IN OTHER WORDS, IF A  18 DOCTOR WERE TO SAY THAT MR. TAYLOR  19 COULD SAFELY HAVE HIS TRACH REMOVED  20 TODAY, NO PROBLEM, YOUR RESPONSE,  21 AS HIS TREATING PHYSICIAN, WOULD BE  22 THAT WOULD PUT HIM AT RISK FOR  23 DYING; IS THAT TRUE?  24 A YES.  25 (VIDEO STOPPED.)  26 MR. REX PARRIS: DECIDE WHATEVER YOU WANT ON THE  27 TRACH. YOU KNOW. I THINK WE'RE ALL TIRED OF LISTENING  28 TO IT, AREN'T WE? DECIDE WHATEVER YOU WANT, BUT HOLD</p>	<p>1 TO GET THE QUESTION ANSWERED.  2 BUT IF WE ASSUME THAT  3 MR. TAYLOR HAS ONLY BEEN ABLE TO  4 TOLERATE 12 HOURS OF CAPPING AT A  5 TIME BEFORE HE GETS IRRITATED AND  6 CAN'T CONTINUE, IF WE ASSUME THAT,  7 WHAT'S YOUR OPINION, AS TO WHETHER  8 OR NOT IT'S MORE LIKELY THAN NOT,  9 THAT MR. TAYLOR WILL EVER BE ABLE  10 TO HAVE THAT TRACH REMOVED?  11 A MY OPINION, BASED ON HIS  12 PHYSICAL EXAM AND THE HISTORY OF  13 NOT BEING ABLE TO TOLERATE GREATER  14 THAN 12 HOURS, MY BELIEF WOULD BE  15 THAT MOST LIKELY, HE WOULD NOT BE  16 ABLE TO BE DECANNULATED.  17 Q AND THAT'S FOR THE  18 REMAINDER OF HIS LIFE; IS THAT  19 TRUE, DOCTOR?  20 A YES.  21 (VIDEO STOPPED.)  22 MR. REX PARRIS: AND LET'S ASSUME IT'S NOT TRUE.  23 GIVE IT TO THEM. GIVE IT TO THEM. THEY SEND IT AWAY  24 AND EVENTUALLY TAKE IT OUT. LET HIM HAVE THAT. HE  25 STILL NEEDS AN L.V.N. HE STILL NEEDS SOMEBODY HIGHLY  26 TRAINED TO RECOGNIZE WHEN HE'S IN TROUBLE, TO RECOGNIZE  27 WHEN HE HAS A BLADDER INFECTION, TO RECOGNIZE WHEN HE'S  28 DEHYDRATED. AND YOU CANNOT GET THAT PERSON UNLESS</p>
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<p>1 THEM TO WHAT THEY SAID. THEY WANT TO GIVE HIM A  2 QUALITY OF CARE. GIVE IT TO HIM.  3 AND THEN IN THE END WHEN SHE'S -- WHEN WE  4 WERE TALKING ABOUT THE DIFFERENCE OF BEING ON THE  5 DEFENSE TEAM AND BEING A PHYSICIAN, WHAT DOES SHE SAY?  6 SHE SAID, I THINK IT'S JUST A POSSIBILITY. AND I THINK  7 WE ALL AGREE WITH THAT.  8 I DON'T EVEN KNOW IF IT'S A GOOD  9 POSSIBILITY OR A BAD POSSIBILITY. BUT I DON'T THINK IT  10 MATTERS. HE NEEDS HIGH QUALITY, TRAINED PEOPLE IF HE'S  11 GOING TO LIVE.  12 AND THEY ALWAYS KNEW THIS WAS A HUGE CASE.  13 AND THEY KIND OF LET THAT LEAK DUE TO THE MAGNITUDE OF  14 THIS CASE. THEY'VE ALWAYS KNOWN THIS WAS A HUGE CASE.  15 AND THE ONLY REASON IT MIGHT NOT BE IS BECAUSE HE'S  16 DEVELOPMENTALLY DISABLED. THEY'RE COUNTING ON THAT.  17 (VIDEO PLAYED AS FOLLOWS:)  18 Q AND I KNOW THERE ARE A LOT  19 OF QUESTIONS ABOUT LIKELY AND  20 UNLIKELY AND ALL THAT, BUT I DO  21 WANT TO ASK YOU IF THE SCALE IS  22 MORE LIKELY THAN NOT, IN OTHER  23 WORDS, 51 PERCENT VERSUS 49  24 PERCENT, YOUR OPINION -- I'LL JUST  25 ASK IT OPEN ENDED.  26 WHAT IS YOUR OPINION,  27 GIVEN -- AND I KNOW THAT I HAVE TO  28 GIVE YOU THIS INFORMATION IN ORDER</p>	<p>1 THEY'RE TRAINED. AND YOU CANNOT BE ABSOLUTELY  2 GUARANTEED THEY'RE GOING TO BE THERE UNLESS YOU GET  3 THEM FROM THE AGENCY. AND EVEN THEN, THAT'S WHY YOU  4 NEED THE NURSE.  5 AND IF IT WAS RUTGER -- WHERE IS MY SON --  6 IT WOULD BE WHATEVER IT TOOK TO MAKE CERTAIN HE DOESN'T  7 HAVE TO RISK ONE MORE DAY OF SOMETHING TERRIBLE  8 HAPPENING.  9 IF HE HAS A FULL LIFE EXPECTANCY, THAT'S  10 THE AMOUNT THAT DR. HUNT TESTIFIED TO. IF YOU WANT TO  11 SHORTEN HIS LIFE, AND I DON'T MEAN THAT YOU SHORTEN HIS  12 LIFE, I MEAN IF YOU WANT TO USE A SHORTENED LIFE  13 EXPECTANCY OF BY 16 YEARS, THIS IS WHAT IT WILL TAKE.  14 BUT LET'S NOT MAKE ANY MISTAKE ABOUT THAT.  15 THOSE WERE CONSERVATIVE NUMBERS. AND THE DAY THAT  16 MONEY RUNS OUT, HE GOES BACK TO A PLACE LIKE PACIFICA  17 CARE -- PACIFICA HOSPITAL.  18 IT'S ABOUT SPOTTING THE COMPLICATION  19 BEFORE IT HAPPENS AND MAKING SURE IT DOESN'T HAPPEN.  20 AND THEY KIND OF WANTED TO GLOSS OVER THAT  21 ONE, HOW MUCH AT RISK QUADRIPLEGIC PATIENTS ARE AT HIS  22 LEVEL.  23 HE'S HAD SEPTICEMIA TWO OR THREE TIMES  24 NOW. I THOUGHT IT WAS THREE. I THINK SOMEBODY SAID  25 TWO.  26 AND HE'S ALREADY HAD CHRONIC RESPIRATORY  27 PROBLEMS.  28 MORE IMPORTANTLY, YOU SAW. YOU SAW WHAT</p>

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<p>1 HAPPENS WHEN THEY PUT THAT PASSY VALVE ON. AND HIS 2 MOTHER SAID SOME DAYS ARE BETTER THAN OTHER DAYS. AND 3 YOU TALK TO THE NURSE THAT SLEEPS NEXT TO HIS BED WHILE 4 HE WAS HERE AND SHE SHOWED YOU THE PICTURES OF WHAT WAS 5 COMING OUT OF HIS LUNGS. AND YOU CAN BELIEVE HER OR 6 YOU CAN CHOOSE NOT TO. 7 BUT OF ALL THE WITNESSES THAT TESTIFIED, I 8 THOUGHT SHE WAS THE MOST CREDIBLE. SHE ANSWERED THE 9 QUESTION. AND YOU BETTER ASK THE RIGHT QUESTION. AT 10 LEAST I THOUGHT. YOU REMEMBER. 11 FOR THE ECONOMIC DAMAGES, IT'S \$17,916,377 12 FOR A FULL LIFE SPAN. AND MAYBE HE WILL DIE A FEW 13 YEARS EARLY. 14 LET'S WEIGH THAT FOR A SECOND. SHOULD YOU 15 NOT GIVE IT TO HIM BECAUSE HE MIGHT DIE A COUPLE YEARS 16 EARLIER THAN THAT? OR SHOULD YOU NOT GIVE IT TO HIM 17 AND GUARANTEE THAT? 18 TOTAL ECONOMIC DAMAGES, 18,692,306. 19 AND THIS IS THE PRICELESS STUFF. AND 20 THROUGH IT ALL, THROUGH IT ALL, YOU KNOW, THAT SPIRIT 21 IS STILL THERE. 22 AND THESE ARE THE RULES THAT YOU AGREED TO 23 FOLLOW, THAT WE'RE REQUIRED TO FOLLOW, AND ANTHONY AND 24 YOU AND EVERYBODY IS HERE BECAUSE SOMEBODY DIDN'T. AND 25 ALL I WANT IS THAT THIS TIME THE RULES GET FOLLOWED. 26 AND YOU DECIDE WHAT THAT MEANS, BUT DON'T LEAVE ONE OF 27 THOSE RULES BROKEN. 28 YOU MUST INCLUDE AN AWARD FOR EACH ITEM OF</p>	<p>1 AND IT'S TWO PARTS. IT'S THE PAST AND 2 THEN IT'S FOR THE REST OF HIS LIFE. BECAUSE WE KNOW 3 ONE THING FOR CERTAIN: NO MATTER HOW HARD HE WORKS, NO 4 MATTER HOW MUCH PHYSICAL THERAPY HE GETS, THERE IS A 5 MERE LIMIT TO HOW MUCH OF THIS IS EXPECTED TO EVER 6 CHANGE. 7 THIS IS FOR THE PAST. 8 AND I JUST CANNOT GET OVER THAT EVERY ONE 9 OF THOSE EXPERTS, IT WAS REASONABLE. IT WAS FINE. IF 10 THAT'S REASONABLE AND THAT'S FINE, WE ARE ALL IN SUCH 11 TROUBLE. IT WAS UNFORGIVABLE, UNFORGIVABLE THAT WHEN 12 THEY TOOK THAT HALO OFF IN CEDARS WHAT THEY SAY. AND 13 FOR THOSE PEOPLE TO GET UP AND SAY IT WAS REASONABLE -- 14 AND, YOU KNOW, THEY KEPT BOUNCING. ARE THEY HERE 15 REPRESENTING THE DEFENSE ATTORNEYS OR ARE THEY HERE AS 16 DOCTORS, YOU KNOW? AND TO DEFEND THAT. REALLY? 17 AND YOU START LOOKING AT ALL THE PAST 18 HARMS. A LOT FOR A 25-YEAR-OLD BOY IN 28 MONTHS. 19 THEN IT'S 34.4 YEARS IF YOU REDUCE HIS 20 LIFE EXPECTANCY. NOW, I'M NOT ARGUING WITH YOU THAT 21 HE'S PROBABLY GOING TO DIE EARLY. PROBABLY. I JUST -- 22 NOBODY KNOWS WHEN. BUT I KNOW IF YOU GIVE HIM THE VERY 23 BEST QUALITY CARE AND DENY HIM NO CARE THAT COULD 24 POSSIBLY HELP HIM, IT'S GOING TO BE A LOT LONGER THAN 25 16 YEARS. AND I THINK WE ALL KNOW THAT. 26 HOW LONG IS 35 YEARS? 27 THAT WAS A COMPUTER, YOU KNOW. I REMEMBER 28 SAVING UP FOR ONE OF THOSE. IT WAS LIKE A REALLY BIG</p>
<p>Page 90</p> <p>1 HARM. NOT GROUP IT ALTOGETHER AND THROW A CHECK AT IT. 2 EACH ITEM OF HARM, YOU MUST INCLUDE AN AWARD FOR EACH. 3 AND THIS IS WHAT YOU'LL SEE ON THE VERDICT 4 FORM. AND THIS IS WHAT YOU'LL SEE IN THE JURY 5 INSTRUCTION. 6 IMPAIRMENT. WEAKENED STATE OR CONDITION. 7 I DON'T THINK WE HAVE ANY QUESTION THAT THE IMPAIRMENT 8 IN THIS CASE IS BEYOND IMAGINED. 9 THIS WHOLE ARGUMENT ABOUT PHYSICAL PAIN. 10 REALLY? REALLY? I MEAN, JUST THE PAIN OF BEING STUCK 11 IN THE SAME POSITION. I GUESS IT'S HOW YOU DEFINE IT. 12 THE TWISTING INTO THAT -- YOU KNOW, THEY CALL THEM 13 MEDICAL TORTURE DEVICES, YOU KNOW. 14 LYING IN A BED WHILE YOU SMELL THE ROT. 15 REMEMBER WHEN HIS BACK WAS ROTTING? LYING IN THAT BED 16 FOR EIGHT MONTHS AS IT GOT WORSE AND WORSE AND WORSE? 17 REMEMBER THE INCONVENIENCE? IT'S, LIKE, 18 OH, NO BIG DEAL, IT'S INCONVENIENT. INCONVENIENCE 19 WE'RE TALKING ABOUT IS SOMETHING MUCH DIFFERENT. YOU 20 HAVE TO WAIT FOR EVERY -- FOR SOMEBODY FOR EVERYTHING. 21 AND A.S.H. AT SAN LUIS OBISPO, YOU KNOW, IT'S THE SUPER 22 MAX PRISON WHERE, YOU KNOW, THEY PUT THEM IN A CLOSET, 23 THE PRISONERS TALK ABOUT ONE OF THE WORST THINGS ABOUT 24 IT IS YOU HAVE TO WAIT FOR OTHER PEOPLE TO GIVE YOU 25 ANYTHING -- EVERYTHING YOU NEED. YOU HAVE TO WAIT FOR 26 THE GUARDS TO GIVE IT TO YOU. YOU ARE NOT ALLOWED TO 27 DO ANYTHING. 28 ISN'T THAT WHAT ANTHONY'S GOING THROUGH?</p>	<p>Page 92</p> <p>1 DEAL. 2 REAGAN WAS PRESIDENT. MICHAEL JACKSON 3 CAME OUT WITH THE MOON WALK. THE COLD WAR WAS RAGING. 4 AND RETURN OF THE JEDI IN THE THEATERS. THAT'S HOW 5 LONG 35 YEARS IS. 6 AND 50 YEARS AGO, NIXON WAS PRESIDENT. 7 THE VIETNAM WAR WAS RAGING. YOU KNOW, IT AMAZES ME 8 THAT MY KIDS AND ALL, THEY REALLY HAVE NO CONCEPTION OF 9 THE VIETNAM WAR. IT'S LIKE, YOU KNOW, IT WAS SO LONG 10 AGO. IT WAS HISTORY. 11 AND GAS WAS 34 CENTS A GALLON. 12 SO WHEN YOU START PLAYING WITH DISCOUNT 13 RATES AND START PLAYING WITH INTEREST RATES, REMEMBER 14 THIS: 34 CENTS A GALLON. 15 AND I THINK IN MANY RESPECTS THAT WAS THE 16 BIGGEST LOSS, IS THE LONELINESS AND THE LONELINESS TO 17 COME. 18 IS IT ANY DOUBT? I MEAN, WAS I REALLY 19 HAVING TO ARGUE ABOUT HEALTH, LIFESTYLE, WORK, 20 WELL-BEING, SEX, INDEPENDENCE? HIS FUTURE WAS TAKEN. 21 AND ALL WE HAD TO DO WAS SHOW YOU WITH A 22 FEATHER. IT'S NOT BEYOND A REASONABLE DOUBT. IT'S BY 23 PREPONDERANCE OF EVIDENCE. 24 I'M GOING TO SHOW YOU HOW WE GOT THERE, 25 BUT IT'S 94,500,000. 26 IF YOU LOOK AT EACH AND EVERY ONE OF THOSE 27 THINGS, LIKE YOU MUST DO, AND YOU DON'T REDUCE IT TO A 28 PRESENT CASH VALUE, THAT'S ONLY FOR ECONOMIC -- SO</p>

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<p>1 LET'S GO THROUGH IT AND THEN WE'LL BE DONE.                  2 THESE ARE THE NUMBERS WE THINK IS                  3 APPROPRIATE. THE PAST PAIN HAD TO HAVE BEEN SEVERE.                  4 IF IT WAS JUST -- I MEAN, IT JUST HAD TO HAVE BEEN.                  5 THE SCREWING IN THE HALO, ALL OF THAT STUFF. AND THE                  6 FUTURE, IT'S GOING TO BE THERE. BUT IT'S GOING TO BE A                  7 LOT BETTER BECAUSE HE'S GOING TO HAVE QUALITY MEDICAL                  8 CARE.                  9 AND IS SUFFERING BEYOND ENDURANCE, AND                  10 SOMEHOW HE ENDURES.                  11 YOU KNOW, TO LOVE SOMEBODY IS TO BE                  12 CONCERNED ABOUT THEIR WELL-BEING. AND WE HAVE GROWN TO                  13 LOVE ANTHONY. AND I THINK MAYBE YOU HAVE TOO. JUST A                  14 LITTLE.                  15 AND TO ME, THIS IS THE BIG ONE, YOU KNOW.                  16 THE JOY OF RIDING THE QUADRICYCLE, RIDING THE BICYCLE,                  17 OF GOING TO WORK IN THE MORNING, OF KNOWING YOU WERE                  18 GOING TO WAKE UP AND COURTNEY WOULD BE AT BREAKFAST                  19 WITH YOU. THE JOY OF ALL OF THOSE THINGS IS NOW ALL                  20 GONE. THAT WAS TAKEN. AND, TO ME, THAT'S THE MOST                  21 IMPORTANT. THAT HAS THE MOST VALUE.                  22 COULD YOU BE MORE DISFIGURED? THOSE LEGS,                  23 THE SCARS IN YOUR HEAD, AND THE CATHETER IN YOUR                  24 STOMACH AND THE ...                  25 YOU CERTAINLY COULDN'T BE MORE IMPAIRED --                  26 WELL, YOU COULD, I GUESS, BUT IT CERTAINLY IS TOWARDS                  27 THE END OF THE SPECTRUM.                  28 WE'VE TALKED ABOUT THE INCONVENIENCE. AND</p>	<p>1 SOMEBODY FOR ALL OF THOSE THINGS NONE OF US HAVE EVER                  2 THOUGHT WE HAD TO THINK ABOUT.                  3 ISN'T IT -- IS IT A BIG NUMBER?                  4 IT IS. IT'S A CATASTROPHIC CASE.                  5 94,500,000. IT'S FOR THE NEXT 50 YEARS.                  6 IT'S NOT JUST FOR THIS TODAY. IT'S NOT JUST FOR THIS                  7 YEAR. IT'S FOR 50 YEARS. AND IF YOU DECIDE IT'S JUST                  8 FOR 35 YEARS, THEN WHAT IS THE VALUE OF SOMEBODY                  9 KILLING YOU? BECAUSE THAT'S WHAT HAPPENED. WE DON'T                  10 WANT TO THINK ABOUT IT. WE DON'T LIKE TO TALK ABOUT                  11 IT, BUT THAT'S WHAT HAPPENED.                  12 MY LIFE HAS CHANGED HAVING MET HIM AND I                  13 THINK YOURS HAS TO. AT LEAST I HOPE IT HAS.                  14 THANK YOU.                  15 THE COURT: THANK YOU, MR. PARRIS.                  16 LADIES AND GENTLEMEN, IT'S THE NOON HOUR.                  17 WE WILL BE IN RECESS. WE WILL COME BACK AT 1:35. FIVE                  18 MINUTES LATER. 1:35.                  19 THE ADMONITION STILL APPLIES. PLEASE DO                  20 NOT DISCUSS THE CASE AMONGST YOURSELVES OR WITH ANYONE                  21 ELSE. WE'LL SEE YOU BACK HERE AT 1:35. THANK YOU.                  22 MR. REX PARRIS: YOUR HONOR, I WOULD LIKE TO                  23 POINT OUT IT'S EXACTLY NOON.                  24 (AT 12:00 P.M., THE PROCEEDINGS WERE                  25 ADJOURNED FOR NOON RECESS.)                  26 ///                  27 ///                  28 ///</p>
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<p>1 THE GRIEF. AND THE GRIEF THAT EVERY MORNING WAKING UP                  2 KNOWING IT'S GONE.                  3 YOU KNOW, IN SPITE OF HIS DEVELOPMENTAL                  4 DISABILITIES, HOW- -- WHATEVER YOU WANT TO CALL THAT,                  5 IN SPITE OF IT, HE HAD A GREAT LIFE.                  6 I MEAN, HE -- YOU CAN JUST SEE HOW HE                  7 WAS -- COULDN'T WAIT TO WAKE UP, YOU KNOW.                  8 IT'S THE LIFE I THINK ALL OF US WORK                  9 TOWARDS.                  10 IMAGINE THE ANXIETY WHEN THIS HAPPENS.                  11 SHOULD I EVEN TALK ABOUT THIS? EVERY                  12 MORNING.                  13 AND THERE'S THIS FIGHT ABOUT DEPRESSION.                  14 REALLY? REALLY? WHEN ALL THE -- WHEN MOST OF THE JOY                  15 IS TAKEN, WHAT'S LEFT BUT DEPRESSION?                  16 TO ME, THAT'S A BIG ONE, YOU KNOW. NO                  17 MATTER WHAT, THAT NEED TO BE INDEPENDENT IS WITHIN ALL                  18 OF US. IT'S WITHIN OUR CHILDREN. IT'S WITHIN OUR                  19 SPOUSES. WE HAVE TO BE ABLE TO DO THINGS FOR                  20 OURSELVES. AND THE MORE DEPENDENT WE ARE ON OTHERS,                  21 THE LESS QUALITY WE HAVE IN OUR LIFE.                  22 AND THAT'S ALWAYS A DIFFICULT CONVERSATION                  23 FOR PEOPLE WHO DON'T EACH OTHER WELL, BUT IT'S A                  24 CONVERSATION YOU HAVE TO HAVE.                  25 WE THINK THAT'S FAIR. WE THINK IT'S A                  26 VERDICT YOU CAN BE PROUD OF. A VERDICT THAT WHEN YOU                  27 TALK ABOUT IT, YOU WILL FEEL GOOD ABOUT IT. BECAUSE                  28 YOU WILL HAVE WORKED OUT WHAT IT TAKES TO COMPENSATE</p>	<p>1 (AT 1:34 P.M., THE PROCEEDINGS WERE                  2 RECONVENED.)                  3 (THE FOLLOWING PROCEEDINGS WERE HELD IN                  4 OPEN COURT OUTSIDE THE PRESENCE OF THE                  5 JURY:)                  6 THE COURT: MR. BRAUN, ARE YOU READY?                  7 MR. BRAUN: I AM READY, YOUR HONOR.                  8 THE COURT: OFF THE RECORD.                  9 (OFF THE RECORD FROM 1:34 P.M. TO                  10 1:36 P.M.)                  11 THE COURT: YOU MAY BRING THEM IN.                  12 (THE FOLLOWING PROCEEDINGS WERE HELD IN                  13 OPEN COURT IN THE PRESENCE OF THE                  14 JURY:)                  15 THE COURT: ALL RIGHT. MR. BRAUN, ARE YOU READY                  16 TO PROCEED?                  17 MR. BRAUN: YES, YOUR HONOR.                  18 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,                  19 WE'LL NOW HEAR THE CLOSING ARGUMENT OF THE DEFENSE BY                  20 MR. BRAUN.                  21                  22 CLOSING ARGUMENT BY MR. BRAUN                  23                  24 MR. BRAUN: GOOD AFTERNOON.                  25 THE JURY: GOOD AFTERNOON.                  26 MR. BRAUN: MUCH LIKE MR. PARRIS, ON BEHALF OF                  27 MYSELF, MS. TROPP, MS. BREUER, AND MS. SCHILLING, I                  28 WOULD REALLY LIKE TO THANK YOU FOR THE AMOUNT OF TIME</p>

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<p>1 THAT YOU'VE DEVOTED TO THIS CASE, PUT ASIDE THE TIME 2 WITH YOUR FAMILIES, YOUR WORK. 3 I'M SURE YOU HAD A LOT GOING ON OVER THE 4 LAST FEW WEEKS, BUT I CAN TELL THAT YOU UNDERSTAND FROM 5 EVEN THE THINGS YOU'VE SEEN FROM THE WITNESS STAND THE 6 MAGNITUDE OF THE CASE THAT WE'RE DEALING WITH HERE AND 7 HOW IMPORTANT IT IS TO BOTH SIDES THAT ARE INVOLVED. 8 SO THANK YOU SO MUCH FOR WHAT YOU'VE DONE 9 OVER THE LAST FEW WEEKS TO PAY CLOSE ATTENTION TO THE 10 EVIDENCE. 11 I THINK IT'S PRETTY CLEAR THAT YOU CAN 12 TELL BY LOOKING AT SAMANTHA SCHILLING THAT IF SHE CAN 13 JUST TAKE BACK ONE SECOND OF TIME IN HER LIFE, JUST ONE 14 MOMENT OF TIME IN HER LIFE, SHE'D SEIZE THAT IN A 15 HEARTBEAT. 16 I MEAN, JUST THAT SPLIT SECOND OF CHOOSING 17 TO MOVE FROM A STOP SIGN WHEN IT'S NOT YOUR TURN TO 18 MOVE FROM A STOP SIGN, AND ACCEPT THE GRAVITY OF THAT 19 SITUATION, THE WEIGHT OF THAT SITUATION OF WHAT YOU'VE 20 CAUSED TO A PERSON. I MEAN, IT'S A HUGE 21 RESPONSIBILITY. 22 AND I THINK YOU CAN ALL RECOGNIZE THE 23 GRAVITY OF THAT SITUATION AND APPRECIATE THAT, 24 UNDOUBTEDLY, MR. TAYLOR'S LIFE -- UNBELIEVABLE WHAT'S 25 GOING ON WITH MR. TAYLOR'S LIFE, BUT NO DOUBT, WE'RE 26 DEALING WITH TWO PEOPLE THAT WILL FOREVER BE AFFECTED 27 BY THIS LOSS. 28 I THINK IT'S IMPORTANT, THOUGH, THAT WHILE</p>	<p>1 GIVE TO MR. TAYLOR TO MAKE HIM AS COMFORTABLE AS HE 2 POSSIBLY CAN BE UNDER THE CIRCUMSTANCES? THAT'S WHAT 3 WE'RE HERE TO DISCUSS TODAY. 4 AND WE KNOW THAT HIS HONOR SPENT ABOUT 5 HALF AN HOUR INSTRUCTING YOU THROUGH HIS INSTRUCTIONS 6 BEFORE MR. PARRIS SPOKE THIS MORNING. THAT AS YOU 7 HEARD ALL OF THE INSTRUCTIONS, THERE WAS ONE THEME THAT 8 WAS PRETTY CONSISTENT THROUGH ALL THE INSTRUCTIONS, AND 9 THE ONE THEME IS BE REASONABLE. 10 BE REASONABLE IN YOUR JUDGMENT. BE 11 REASONABLE IN YOUR EVALUATION OF THE EVIDENCE. BE 12 REASONABLE IN YOUR RESULT. AND PERHAPS MOST 13 IMPORTANTLY OF ALL, ONE OF THE THINGS HE TOLD YOU IS 14 JUST USE YOUR COMMON SENSE. THAT'S ALL WE ASK. 15 IT'S VERY EASY WHEN YOU TRY TO ASSESS A 16 SITUATION LIKE THIS TO COME TO A REASONABLE RESULT TO 17 BE SYMPATHETIC. THERE'S NOT ONE OF US IN THIS ROOM 18 THAT IS NOT SYMPATHETIC TO WHAT HAS HAPPENED TO 19 MR. TAYLOR. NOT ONE OF US. AND PARTICULARLY 20 MS. SCHILLING. 21 BUT THE FACT OF THE MATTER IS IS THAT YOU 22 HEARD THE JUDGE TALK TO YOU IN HIS INSTRUCTIONS. 23 SYMPATHY DOESN'T PLAY A ROLE IN YOUR DECISION IN THIS 24 CASE. IT'S NOT ALLOWED AND YOU SEE IT IN THIS 25 INSTRUCTION HERE. THAT'S TITLED C.A.C.I. NO. 5000. 26 IT'S A LONGER INSTRUCTION THAN THIS, BUT PART OF THE 27 INSTRUCTION READS (AS READ AND/OR REFLECTED): 28 YOU MUST NOT LET BIAS, SYMPATHY,</p>
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<p>1 SHE WISHES SHE COULD TAKE THAT MOMENT BACK IN TIME, 2 SHE'S HERE TO ACCEPT COMPLETE RESPONSIBILITY FOR WHAT 3 HAPPENED THAT DAY. THERE'S NO TRYING TO GET AROUND ANY 4 RESPONSIBILITY IN THIS CASE. SHE'S SAT HERE WITH YOU 5 FOR MOST EVERY DAY OF THIS TRIAL, LISTENED TO THE 6 EVIDENCE WITH YOU AND WHATEVER COMES OUT OF THAT JURY 7 VERDICT, SHE'S PREPARED TO ACCEPT THAT BECAUSE SHE 8 TRUSTS YOU. 9 WE SPEND A GREAT AMOUNT OF TIME SELECTING 10 OUR JURY, BOTH SIDES, ASKING YOU QUESTIONS ABOUT YOUR 11 PAST. YOU OPENED UP YOUR LIVES TO US IN A 61-QUESTION 12 QUESTIONNAIRE THAT YOU DON'T SEE IN MOST CASES. YOU 13 ANSWERED QUESTIONS THAT WERE VERY PERSONAL TO YOU, AND 14 WE WENT THROUGH THOSE DETAILS. 15 AND THEN WE ASKED YOU QUESTIONS OVER THE 16 COURSE OF A FEW DAYS. AND WE LOOKED AT YOU IN THE FACE 17 AND WE ASKED YOU, DO YOU THINK YOU'RE THE RIGHT JUROR 18 FOR THIS CASE? AND I THINK, UNDOUBTEDLY, EACH OF YOU, 19 MAYBE NOT EVERY ONE OF YOU, BUT EACH OF YOU THOUGHT 20 THAT YOU WOULD BE THE RIGHT JUROR FOR THIS CASE. 21 SO THERE'S ABSOLUTE TRUST NOT ONLY BY 22 MS. SCHILLING IN YOU, BUT I'M SURE ON BEHALF OF 23 MR. PARRIS, MR. WHEELER, AND PARTICULARLY MR. TAYLOR, 24 THEY TRUST YOU AS WELL. 25 MS. SCHILLING IS HERE TODAY TO ASK A VERY 26 SIMPLE QUESTION OF YOU. AND THE SIMPLE QUESTION THAT 27 SHE'S ASKING OF YOU IS ALSO A VERY COMPLICATED ONE. 28 AND THE QUESTION IS: WHAT AMOUNT OF MONEY CAN SAMANTHA</p>	<p>1 PREJUDICE, OR PUBLIC OPINION INFLUENCE 2 YOUR DECISION. 3 NOW, I TRUST THAT THERE'S NOBODY SITTING 4 IN THIS ROOM THAT HAS ANY BIAS TOWARDS ONE OF THE 5 PARTIES, CERTAINLY NOT PREJUDICE TOWARDS ONE OF THE 6 PARTIES. AND I WOULDN'T IMAGINE THERE'S ANY PUBLIC 7 OPINION THAT'S HAVING AN INFLUENCE ON YOUR DECISION IN 8 THE CASE. 9 BUT I SUSPECT, BECAUSE WE'RE ALL HUMAN 10 BEINGS, SYMPATHY HAS THE OPPORTUNITY TO KIND OF GET 11 INTO YOUR DECISION-MAKING PROCESS. THAT'S NATURAL, BUT 12 THE LAW IS ASKING YOU TO PUT SYMPATHY ASIDE AND TRY TO 13 REVIEW THE EVIDENCE AND MAKE THE REASONABLE DECISION 14 WITHOUT LETTING SYMPATHY OVERTAKE THAT. 15 THERE'S SOME ITEMS OF IMPORTANCE THAT CAME 16 THROUGH THIS TRIAL THAT I WOULD LIKE TO TAKE YOU 17 THROUGH. YOU'VE SEEN THE VERDICT FORM IN PART WHEN 18 MR. PARRIS SPOKE. I'M GOING TO KIND OF TAKE YOU 19 THROUGH THE HISTORY OF WHAT YOU'VE HEARD IN THIS CASE 20 SO THAT YOU CAN MAYBE FOLLOW THE VERDICT FORM A LITTLE 21 MORE EASILY ONCE YOU GET IN THAT ROOM AND START 22 DISCUSSING AMONGST YOURSELVES. 23 SO THE THINGS THAT ARE OF IMPORTANCE IN 24 THIS CASE ARE CLEARLY THE PARTIES THAT ARE INVOLVED. 25 YOU WANT TO KNOW WHAT THE INJURIES ARE THAT MR. TAYLOR 26 SUSTAINED IN THE CASE. AND YOU CERTAINLY WANT TO KNOW 27 THE PLAN FOR HIS FUTURE CARE THAT THE SIDES HAVE PUT 28 TOGETHER.</p>

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<p>1 SO WHAT I WOULD LIKE TO DO IS FIRST I 2 WOULD LIKE TO TALK TO YOU ABOUT THE PARTIES IN THE 3 CASE. MR. PARRIS AND MR. WHEELER HAVE DONE AN 4 OUTSTANDING JOB TELLING YOU ABOUT ANTHONY TAYLOR, 5 MS. GRAFFT, AND A LITTLE BIT ABOUT HIS STEPFATHER, 6 GEORGE GRAFFT. THESE ARE AMAZING PEOPLE. 7 ANTHONY'S AN OUTSTANDING MAN. HIS MOTHER 8 IS AN OUTSTANDING WOMAN. THAT IS A TERRIFIC FAMILY, 9 AND I DON'T THINK ANYBODY COULD DO MORE JUSTICE TELLING 10 YOU ABOUT THEM THAN WHAT MR. PARRIS AND MR. WHEELER 11 HAVE DONE FOR YOU IN THIS CASE. 12 SO RATHER THAN TALK TO YOU A LITTLE BIT 13 ABOUT ANTHONY, WHAT YOU ALREADY KNOW, I WOULD LIKE TO 14 TALK TO YOU A LITTLE BIT ABOUT SAMANTHA SCHILLING. 15 SHE WAS ON THE WITNESS STAND FOR A VERY 16 SHORT PERIOD OF TIME IN THIS CASE, PROBABLY WITHIN THE 17 FIRST COUPLE DAYS OF TRIAL. AND WHAT YOU LEARNED ABOUT 18 SAMANTHA SCHILLING IS THAT SHE'S 25 YEARS OLD. SHE WAS 19 BORN IN TORRANCE, CALIFORNIA. 20 SHE ULTIMATELY ATTENDED A.S.U. AND 21 GRADUATED WITH A DEGREE FROM ARIZONA STATE UNIVERSITY. 22 AND AFTER GRADUATING FROM ARIZONA STATE UNIVERSITY, SHE 23 CAME BACK TO SOUTHERN CALIFORNIA, AND SHE MOVED TO 24 LANCASTER IN 2013 WHERE SHE WAS SUCCESSFUL IN GETTING A 25 JOB AS A PROGRAM COST AND SCHEDULE CONTROL ANALYST AT 26 NORTHROP GRUMMAN. 27 LET'S TALK ABOUT THE INJURIES THAT ARE 28 INVOLVED IN THIS CASE BECAUSE I KNOW YOU'VE HEARD A LOT</p>		<p>1 OF HIS FINGERS. 2 NOW, I THINK YOU HEARD DURING THE COURSE 3 OF SOME OF THE TESTIMONY MOST RECENTLY THAT THERE'S 4 HOPE. THERE'S STILL SOME PROGRESS EVEN RECENTLY HE'S 5 CONTINUED TO HAVE SOME FLEXION AND MOVEMENT IN AN INDEX 6 FINGER OR THERE. 7 WE'RE NOT HERE TO TELL YOU THAT WILL 8 CONTINUE TO IMPROVE. I HOPE, GOD WILLING, HE CONTINUES 9 TO IMPROVE IN THAT REGARD, BUT IN MORE LIKELY THAN NOT 10 HIS CONDITION IS WHAT YOU'RE SEEING IN TERMS OF HIS 11 FUTURE ABOUT HIS ABILITY TO MOVE HIS HANDS. 12 BUT YOU CAN SEE WITH SOME ASSISTIVE 13 DEVICES, HE'S ABLE TO MAKE A FIST. HE'S ABLE TO GRASP 14 ITEMS. HE WORKS ON AN IPHONE. HE PLAYS ON AN IPAD. 15 HE PLAYS WITH HIS VIDEO GAMES. THESE ARE THINGS HE'S 16 STILL ABLE TO DO BECAUSE HE'S REGAINED FULL FUNCTION OF 17 UPPER EXTREMITIES AND USED HIS HANDS TO SOME EXTENT. 18 HE SUSTAINED WHAT'S CALLED A NEUROGENIC 19 BLADDER, WHICH IS A LATE EFFECT OF A SPINAL CORD 20 INJURY. AND WHAT THAT MEANS IS ESSENTIALLY HE DOESN'T 21 HAVE CONTROL OF HIS BLADDER. IT'S JUST THE WHOLE 22 REASON THAT ULTIMATELY AFTER A PERIOD OF TIME, THEY 23 INSTALLED WHAT'S CALLED A SUPRAPUBIC CATHETER. THIS 24 ALLOWS HIM TO USE -- GO TO THE BATHROOM WITHOUT HAVING 25 TO BE CONCERNED WITH GOING TO THE BATHROOM IN HIS 26 PANTS. 27 IT'S A TUBE THAT GOES IN THAT HE WILL LIVE 28 WITH FOR THE REST OF HIS LIFE, BUT IT WILL AT LEAST BE</p>	
<p>1 ABOUT THE INJURIES, AND THERE'S NO REASON TO SUGARCOAT 2 ANYTHING ABOUT THE GRAVITY OF THE INJURIES TO 3 MR. TAYLOR BECAUSE IT'S IMPORTANT FOR YOU TO KNOW THE 4 EXTENT OF THOSE INJURIES SO YOU CAN BETTER UNDERSTAND 5 WHAT MAY HAPPEN IN THE FUTURE. SO LET'S TALK A LITTLE 6 BIT IN DETAIL ABOUT HIS INJURIES. 7 WE KNOW THAT HE IS A C6 INCOMPLETE SPINAL 8 CORD INJURY WITH SACRAL SENSORY SPARING. IT'S A 9 MOUTHFUL. 10 HOPEFULLY THE DOCTORS DID SOME SERVICE IN 11 EXPLAINING THAT TO YOU, BUT WHAT THAT MEANS IS THAT HIS 12 LEVEL OF INJURY WAS AT THE C6 LEVEL, BUT HE HAS SOME 13 SPARING OF THE SENSORIES THAT GO FROM THAT LEVEL INTO 14 HIS UPPER EXTREMITIES, AND EVEN, AS YOU HEARD, TO SOME 15 EXTENT, HE STILL HAS FEELING IN HIS LOWER EXTREMITIES, 16 THOUGH, HE'S NOT CAPABLE OF MOTOR FUNCTION THERE. 17 WE KNOW THAT HE'S A C6 TETRAPLEGIC WITH 18 PARTIAL MOTOR PRESERVATION TO C7, BILATERALLY, AGAIN, 19 WITH PARTIAL SACRAL SENSORY PRESERVATION. 20 WHAT DOES THAT MEAN? THAT MEANS HE'S BEEN 21 ABLE TO REGAIN MOST FUNCTION OF HIS UPPER EXTREMITIES 22 OVER A COURSE OF TIME. YOU HEARD THAT SHORTLY AFTER 23 THE ACCIDENT HE DIDN'T HAVE MOVEMENT OF THE UPPER 24 EXTREMITIES. 25 BUT AS THE INJURY CONTINUED TO HEAL OVER A 26 COURSE OF TIME, HE REGAINED MOVEMENT IN HIS UPPER 27 EXTREMITIES. AND THE ONE THING THAT HE CONTINUES TO 28 SUFFER FROM IS THE FACT THAT HE DOESN'T HAVE DEXTERITY</p>	Page 102	<p>1 ABLE TO ALLOW HIM TO CONTROL HIS BLADDER AND HE WILL 2 ALWAYS HAVE ASSISTANCE 24/7 FOR SOMEBODY TO MANAGE THE 3 BAG THAT GOES ALONG WITH THE SUPRAPUBIC CATHETER AND 4 MANAGE THE CATHETER ITSELF. 5 WE KNOW THAT HE'S GOT A NEUROGENIC BOWEL, 6 AGAIN, A LATE EFFECT OF THE SPINAL CORD INJURY. AND 7 WHAT'S HAPPENING NOW IS THAT HE'S HAVING TROUBLE 8 MANAGING HIS BOWEL EVACUATION PROGRAM. THERE WAS A 9 PERIOD OF TIME, I THINK YOU HEARD FROM THE EVIDENCE, 10 THAT THAT WASN'T AS BAD OF A PROBLEM. 11 HE WAS ABLE TO ACTUALLY USE OR GO NO. 2 ON 12 HIS OWN AT TIMES. ALTHOUGH, IT WAS GOING ON IN THE 13 DIAPER BECAUSE HE HASN'T BEEN ABLE TO SHIFT TO A NORMAL 14 BATHROOM YET. 15 BUT WHAT'S HAPPENING RIGHT NOW IS THERE IS 16 SOME STRUGGLING GOING ON WITH HIS BOWEL PROGRAM, SO 17 THEY'RE USING SUPPOSITORIES AND UNDERGOING A BOWEL 18 EVACUATION PROGRAM. 19 NURSE HELVIN TOLD YOU THAT THERE IS STILL 20 PROGRESS TO BE MADE THERE IN PROGRAMS AND WITH THERAPY 21 THAT THEY CAN ULTIMATELY MANAGE THIS. 22 IF WE GET HIM THE RIGHT BATHROOM, GET HIM 23 ACCESS TO A BATHROOM, ALLOW HIM ACCESS TO A TOILET TO 24 SHIFT TO THOSE THINGS, WITH HOPE, WITH PROGRESS, WITH 25 THERAPY, THIS WILL BE BETTER IN THE FUTURE, BUT RIGHT 26 NOW, ABSOLUTELY IT'S AN EMBARRASSING SITUATION TO HAVE 27 SOMEBODY MANAGE YOUR BOWELS ON A DAILY BASIS. 28 BUT THERE IS HOPE. WE BELIEVE THAT TO BE</p>	Page 104

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<p>1 TRUE AND WE HOPE YOU AGREE. NOT ONLY WITH THE ISSUE OF 2 THE BOWEL, BUT OTHER ASPECTS OF MR. TAYLOR'S LIFE. 3 YOU'VE HEARD THAT HE'S GOT BILATERAL 4 FLEXION BASED LOWER EXTREMITY CONTRACTURES AT THE HIPS, 5 KNEES, AND ANKLES. YOU'RE PROBABLY TIRED OF HEARING 6 ABOUT CONTRACTURES AS MUCH AS YOU ARE HEARING ABOUT 7 TRACHEOSTOMIES. I'M SURE WHEN YOU'RE DONE WITH THIS 8 CASE, YOU'LL GO EDUCATE YOUR NEIGHBORS ABOUT 9 CONTRACTURE RELEASE SURGERIES AND TRACHEOSTOMY REMOVAL 10 AND G-TUBES, THINGS THAT A LOT OF US HAD NO IDEA ABOUT 11 UNTIL WE ENCOUNTERED MR. TAYLOR. 12 BUT WHAT YOU HAVE HEARD FROM THE EVIDENCE 13 IN THIS CASE IS THAT HE'S ESSENTIALLY STUCK AT THE 14 HIPS, THE KNEES, AND THE ANKLES. THAT HE'S 15 ESSENTIALLY -- YOU CAN KIND OF CALL IT LIKE HE'S 16 CALCIFIED THERE, LIKE, THEY'RE NOT MOVING. AND THAT'S 17 A PROBLEM. 18 AND THAT'S SOMETHING THAT HE WANTS TO 19 RESOLVE. IT'S SOMETHING MR. PARRIS AND MR. WHEELER 20 WANT TO RESOLVE. IT'S SOMETHING MS. GRAFFT WANTS TO 21 RESOLVE. AND FOR SURE IT'S SOMETHING WE WANT TO 22 RESOLVE. AND AS I'LL TALK TO YOU ABOUT IT IN A LITTLE 23 WHILE, AGAIN, THIS ISSUE CAN BE RESOLVED. 24 HE HAS SPASTICITY, WHICH IS A LATE EFFECT 25 OF THE SPINAL CORD INJURY. AND, AGAIN, ALTHOUGH WE'VE 26 NEVER WITNESSED IT WITH HIM HERE IN COURT. WE DIDN'T 27 SEE IT ON VIDEO. IN TALKING TO HIM ABOUT IT, HE TELLS 28 YOU THAT WHAT HAPPENS ON OCCASION IS HIS LEGS WILL GO</p>	<p>1 CONTINUES TO DEAL WITH THAT WE HOPE TO ADDRESS. 2 SO WE KNOW NOW WHAT THE INJURIES WERE THAT 3 HE SUFFERED IN THE ACCIDENT AND THE EFFECTS OF IT, BUT 4 WHAT DOES THAT MEAN ABOUT HIS CURRENT CONDITION? 5 SO, AGAIN, WE'VE TALKED ABOUT HOW THE 6 LOWER EXTREMITIES ARE STATIONED WITH A FLEXION BIAS AT 7 THE HIP, KNEE, AND PLANTAR FLEXION, BILATERALLY, 8 MEANING ON BOTH SIDES. 9 WE ALSO KNOW THAT HE'S REQUIRING TRACHEAL 10 SECRETIONS THAT ARE BEING CLEARED WITH SUCTIONING, AS 11 YOU WITNESSED, I'M SURE IN THE HALLWAY DURING TIMES 12 WHEN HE WAS HERE IN COURT. YOU SAW IT GOING ON. THERE 13 WERE OCCASIONS WHERE YOU HAD TO BE EXCUSED DURING THE 14 COURSE OF HIS TESTIMONY SO THAT THEY COULD TAKE PLACE. 15 THAT'S SOMETHING THAT IS STILL PRESENT. 16 WE ALSO KNOW THAT THERE'S STILL SPASTICITY 17 HAPPENING IN HIS LOWER EXTREMITIES. WE KNOW THAT HE 18 STILL HAS THE SUPRAPUBIC CATHETER AND WE KNOW HE'S 19 UNDERGOING THE BOWEL EVACUATION PROGRAM. 20 WE ALSO KNOW THAT THE G-TUBE IS STILL IN 21 PLACE. SO THESE ARE ALL ISSUES THAT ARE STILL GOING ON 22 CURRENTLY. 23 SO THE QUESTION ULTIMATELY BECOMES HOW HAS 24 HE PROGRESSED? LET'S TALK ABOUT THE THINGS THAT HAVE 25 BEEN POSITIVE THAT HAVE TAKEN PLACE AS HE'S GOTTEN PAST 26 THIS ACUTE AND SUBACUTE STAGE OF HIS INJURY. 27 POSITIVE PROGRESS. THERE ARE NO JOINT 28 CONTRACTURES IN THE UPPER EXTREMITIES. MEANING HE'S</p>
<p>1 INTO A SPASTIC STATE. AND, FORTUNATELY, IT'S NOT 2 CAUSING HIM ANY PAIN, BUT IT'S CERTAINLY AN 3 UNCOMFORTABLE FEELING FOR HIM. 4 AND SO WHAT WILL HAPPEN WITH THE 5 SPASTICITY, AS WE'LL TALK ABOUT IN A WHILE, THE RELEASE 6 SHOULD HAVE A GREAT IMPACT ON THE SUFFERING OF 7 SPASTICITY PRESENTLY. IT'S SOMETHING THAT WILL GET 8 BETTER WITH TIME. AND THERE ARE WAYS TO TREAT THAT, 9 AGAIN, WHICH WE'LL TALK ABOUT, BUT, UNDOUBTEDLY, THIS 10 IS SOMETHING THAT HE CONTINUES TO SUFFER FROM. 11 LASTLY, HE SUFFERED WHAT'S CALLED A 12 HISTORY OF DYSPHAGIA. WHAT THAT MEANS IS IT'S 13 DIFFICULTY SWALLOWING. IT WAS PRESENT AND BECAUSE IT 14 WAS PRESENT, ONE OF THE THINGS THEY DID WAS THEY 15 INSTALLED THE G-TUBE. THEY INSTALLED THE G-TUBE SO 16 THAT HE COULD HAVE HYDRATION, NUTRITION, THINGS THAT HE 17 WASN'T ABLE TO PREVIOUSLY TAKE BY MOUTH BECAUSE OF 18 THAT. 19 WE ALSO KNOW OF THE TRACHEOSTOMY. SO HE 20 WAS HAVING PROBLEMS WITH AIRWAY AND SWALLOWING. SO 21 THERE'S EVACUATION -- THERE'S EVACUATIONS BEING TAKEN 22 PLACE WITH RESPECT TO THE TRACHEOSTOMY, BUT ULTIMATELY 23 WITH SUPPORT THAT HE'S ALREADY HAD TO DATE, THERE'S 24 BEEN RESOLUTION OF THE DYSPHAGIA. HE'S ABLE TO EAT, 25 DRINK EVERYTHING BY MOUTH NOW, AND THAT'S A GREAT 26 THING. 27 OKAY. WHAT I WOULD LIKE TO NOW TALK TO 28 YOU ABOUT IS SOME OF THE ONGOING PROBLEMS THAT HE</p>	<p>1 NOT SUFFERING FROM ANYTHING THAT'S GOING ON IN THE 2 LOWER EXTREMITIES THAT HE'S GOT GOING ON IN HIS UPPER 3 EXTREMITIES. 4 WE KNOW THAT HE'S GOT FULL SHOULDER RANGE 5 OF MOTION IN BOTH ARMS. THAT WAS DOCUMENTED BY DR. KIM 6 IN HER EXAM. AND YOU SAW HOW DR. KIM WAS PRESENTED FOR 7 THE FIRST TIME WITH PHYSICAL THERAPY RECORDS FROM 8 SOUTHWEST PHYSICAL THERAPY FROM JUST THE MIDDLE OF 9 FEBRUARY OF THIS YEAR THAT SHOWED THAT HE HAD FULL 10 MOTION GOING ON IN HIS SHOULDERS IN THE THERAPISTS 11 RECORDS. 12 WE KNOW THAT FROM HER EXAM AND THE 13 SOUTHWEST PHYSICAL THERAPY EXAM, THERE'S FULL ELBOW 14 SUPINATION AND PRONATION, MEANING HE'S GOT NO 15 LIMITATIONS IN BEING ABLE TO EXTEND OR BRING IN HIS ARM 16 ON EITHER SIDE. 17 HE ALSO HAS FULL WRIST FLEXION AND 18 EXTENSION PER DR. KIM AND THE SOUTHWEST PHYSICAL 19 THERAPY RECORDS. 20 AND WE KNOW THAT HE'S GOT IMPROVED 21 CERVICAL SPINE FLEXION, EXTENSION, AND ROTATION RANGE 22 OF MOTION WITHOUT ANY DISCOMFORT. 23 I AGREE WITH MR. PARRIS, AS YOU LOOKED AT 24 THE VIDEO OF HIM THIS MORNING WHILE DR. WEINSTEIN IS ON 25 THE STAND, IT DOESN'T LOOK LIKE FULL RANGE OF MOTION 26 THERE. THERE ARE CERTAINLY LIMITATIONS THAT ARE GOING 27 ON THERE TO SOME EXTENT WHETHER IT'S BECAUSE OF THE 28 SEATING POSITION IN THE WHEELCHAIR, BUT PROBABLY MORE</p>

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<p>1 LIKELY BECAUSE OF THE FUSION THAT'S IN HIS NECK. 2 SO TYPICALLY WHEN SOMEBODY HAS A FUSION IN 3 THEIR NECK, YOU DON'T EXPECT THEM TO REGAIN ABSOLUTE 4 MOTION IN THEIR NECK. 5 BUT WHAT DID HE SAY WHEN DR. KIM ASKED HIM 6 ABOUT WHETHER OR NOT HE'S ABLE TO MOVE HIS NECK AS 7 SUCCESSFUL AS HE WAS BEFORE THE ACCIDENT? 8 HE'S ALL, "IT'S A HAIR SHORT." 9 I LOVE THIS MAN. HE'S ALWAYS POSITIVE IN 10 HIS APPROACH TO ANYTHING THAT YOU ASK HIM ABOUT. HE 11 ALWAYS TALKS ABOUT THINGS IN A POSITIVE FASHION. 12 AND TO SAY THAT HE'S ONLY GOT A HAIR RANGE 13 OF MOTION SHORTER THAN BEFORE, WE SAW THAT. IT'S MORE 14 THAN A HAIR. BUT TO HIM, IT'S NOT. AND THAT'S -- 15 THAT'S OKAY. 16 HE DESCRIBES FEELINGS IN ALL PARTS OF HIS 17 BODY. YOU HEARD HIS MOTHER TALK ABOUT THE FACT THAT 18 SHE'S EVEN TESTED HIM AT TIMES. NOT ALL PATIENTS THAT 19 HAVE AN INJURY OF THIS LEVEL ACTUALLY HAVE PRESERVED 20 FEELING IN THEIR LOWER EXTREMITIES. 21 IN A LOT OF CASES, PATIENTS THAT HAVE AN 22 INJURY AT THIS LEVEL NO LONGER HAVE FEELING IN THEIR 23 LOWER EXTREMITIES, BUT IT'S A GOOD THING THAT HE DOES. 24 AND SHE'S TESTED HIM AT TIMES TO SEE, ANTHONY, DO YOU 25 REALLY HAVE THE FEELING THAT YOU'RE TELLING ME THAT YOU 26 HAVE? 27 AND IN THE TIMES THAT SHE'S TESTED HIM, 28 MORE OFTEN THAN NOT, HE'S RIGHT. HE IS TELLING HER</p>		<p>1 DISORDER. 2 WE KNOW FROM THE TESTIMONY OF THE 3 WITNESSES THAT REVIEWED THE MORE RECENT RECORDS FROM 4 DR. CHEUNG. I THINK THE RECORD WAS DATED MARCH 8TH. 5 JUST ABOUT A MONTH AGO IN WHICH DR. CHEUNG IS REFERRING 6 HIM TO A PULMONARY REHABILITATION PROGRAM WITH THE GOAL 7 OF REMOVING THE TRACH. 8 AND WE KNOW THAT ALL DOCTORS ARE IN 9 AGREEMENT THAT THE G-TUBE CAN BE REMOVED. DR. MILLER, 10 DR. TERSIGNI, DR. CHEUNG, DR. KIM, ALL AGREE THAT 11 THERE'S NO REASON THAT THE G-TUBE NEEDS TO REMAIN IN 12 PLACE. 13 AND ONE OF THE BEST THINGS THAT HAS 14 HAPPENED IN THE LAST COUPLE MONTHS, AND HE FINALLY HAS 15 ACCESS TO HIS ELECTRIC WHEELCHAIR. BECAUSE YOU CAN SEE 16 IT IN HIS Demeanor. THE DOCTORS ARE TELLING YOU THEY 17 CAN SEE IT IN THE WAY HE COMMUNICATES WITH THEM IN THE 18 LAST COUPLE MONTHS. 19 THIS INCREASED MOBILITY WHERE HE DOESN'T 20 HAVE TO RELY ON ANYBODY HAS IMPROVED HIS INDEPENDENCE, 21 IT'S IMPROVED HIS ATTITUDE, AND, AGAIN, THAT'S A 22 POSITIVE THING. 23 I WANT TO TALK TO YOU SPECIFICALLY ABOUT 24 THE SOUTHWEST PHYSICAL THERAPY RECORDS BECAUSE APART 25 FROM THE ENTRY THAT YOU HEARD FROM THE STAND ABOUT 26 DR. CHEUNG'S MARCH 8TH VISIT FROM LAST MONTH, THE 27 SOUTHWEST PHYSICAL THERAPY RECORDS ARE THE MOST RECENT 28 RECORDS YOU'VE HEARD ABOUT THE PROGRESS THAT MR. TAYLOR</p>	
<p>1 THAT HE HAS FEELING WHEN SHE'S TOUCHING HIM IN CERTAIN 2 WAYS. AND THAT'S A GOOD THING. 3 HE'S GOT A NORMAL CARDIOVASCULAR EXAM BY 4 DRS. KIM, CHEUNG, AND WEBSTER, MEANING NOTHING'S GOING 5 ON WITH RESPECT TO THE HEART. 6 HIS LUNGS ARE CLEAR WITH NO SHORTNESS OF 7 BREATH, PER DRS. KIM, CHEUNG, AND WEBSTER. AGAIN, 8 THAT'S ALSO A POSITIVE BECAUSE WE KNOW SHORTLY AFTER 9 THE INJURY, HE HAD PROBLEMS WITH HIS AIRWAYS AND 10 BREATHING. 11 AND ULTIMATELY, THEY WERE ABLE TO DECREASE 12 THE SIZE OF THE TRACH TO THE POINT THAT IT'S NO LONGER 13 FUNCTIONING AS AN AIRWAY PASSAGE FOR HIM. 14 SO IT'S A POSITIVE THING THAT HIS LUNGS 15 ARE CLEAR AND HE'S GOT NO SHORTNESS OF BREATH. 16 WE KNOW THAT HE'S NO LONGER IN PAIN. AND 17 I AGREE WITH MR. PARRIS AND MR. WHEELER THAT, 18 UNDOUBTEDLY, THERE WILL BE THINGS THAT HAPPEN IN THE 19 FUTURE THAT WILL CAUSE HIM PAIN, BUT AT LEAST AS HE'S 20 BEEN SITTING AROUND FOR THE LAST FEW MONTHS, NOTHING 21 THAT HAS OCCURRED IN THE LAST FEW MONTHS THAT HAS 22 CAUSED HIM PAIN. 23 HE DENIES DEPRESSION TO DR. CHEUNG. 24 DR. READING, THE EXPERT PSYCHOLOGIST THAT 25 WAS RETAINED BY MR. PARRIS AND MR. WHEELER, TELLS YOU 26 THAT BASED ON HIS DISCUSSIONS WITH MR. TAYLOR OVER A 27 COURSE OF TIME, THAT HE IS NOT EXHIBITING SIGNS OF 28 DEPRESSION. HE'S NOT EXHIBITING SIGNS OF ANY ANXIETY</p>	Page 110	<p>1 IS HAVING WITH HIS DOCTORS. 2 YOU WILL SEE THAT ON FEBRUARY 1, 2018, 3 WHEN DR. KIM WAS ON THE STAND AND TALKING TO YOU ABOUT 4 THAT RECORD THAT HE WAS REPORTING THAT HE WAS STRONGER. 5 HE WAS ABLE TO MOVE HIMSELF AROUND EASIER. HE WAS 6 TELLING YOU -- THE THERAPIST THAT HE WAS BECOMING MORE 7 INDEPENDENT. 8 HE WAS PERFORMING EXERCISES IN WHICH HE 9 WAS ABLE TO PUNCH AND DO DOWNWARD SHOULDER PRESSES WITH 10 3 1/2 KILOGRAMS, WHICH I THINK DR. KIM TOLD YOU WAS 11 ABOUT 6 POUNDS. 12 HE WAS DOING OVERHEAD PRESSES AND HE EVEN 13 DEMONSTRATED THAT FOR YOU HERE IN THE COURTROOM WITH 14 MR. WHEELER WHEN HE PUT THE GLOVES ON AND MR. WHEELER 15 GAVE HIM A 5-POUND WEIGHT. HE'S DOING 5-POUND WEIGHTS 16 IN EACH OF HIS UPPER EXTREMITIES DOING SHOULDER 17 PRESSES, OVERHEAD PRESSES. 18 AND, LASTLY, WITH RESPECT TO THE 19 FEBRUARY 1 VISIT, WHICH IS AN OUTSTANDING THING, HE'S 20 WORKING ON WEIGHT SHIFTING, AND UPPER EXTREMITY 21 MOMENTUM WITH POSITION CHANGE FOR BALANCE. 22 WHAT ARE THEY TRYING TO DO FOR HIM AT 23 SOUTHWEST? THEY ARE TRYING TO GET HIM STRONG ENOUGH SO 24 THAT HE ON HIS OWN CAN HELP HIM RELIEVE THE PRESSURE ON 25 HIS BODY IN THE MIDDLE OF THE NIGHT BECAUSE RIGHT NOW 26 HE'S TOLD YOU THAT HE CAN MOVE HIS UPPER PART OF HIS 27 BODY WHEN HE'S IN BED. 28 HE CAN GRAB ONTO THE BEDPOST AND REACH</p>	Page 112

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<p>1 THAT BEDPOST AND HE CAN ROTATE HIS BACK SO THAT IT'S 2 NOT ON BED, BUT HE'S NOT YET STRONG ENOUGH TO MAKE IT 3 SO THAT HIS BUTT IS NO LONGER RESTING ON THE BED. 4 AND AS YOU CAN SEE FROM THE BEDSORES THAT 5 HE SUFFERED FROM OVER AT PACIFICA, THAT IS EXTREMELY 6 IMPORTANT FOR MR. TAYLOR. 7 SO IN SOUTHWEST, THEY'RE WORKING WITH HIM 8 TO TRY TO ACCOMPLISH THESE GOALS SO THAT HE PERSONALLY 9 CAN DO THAT. 10 THAT'S NOT TO SAY WE DON'T WANT 24/7 CARE 11 FOR HIM TO HELP HIM ACCOMPLISH THAT EVEN WHEN HE'S 12 STRONG ENOUGH TO DO THAT ON HIS OWN, BUT IF HE'S ABLE 13 TO DO THAT ON HIS OWN, IT CERTAINLY INCREASES HIS 14 ABILITY TO HAVE CONFIDENCE AND FUNCTION INDEPENDENTLY. 15 WE HEARD THAT AS OF FEBRUARY 15TH, JUST 16 TWO WEEKS AFTER THAT VISIT AT SOUTHWEST, MORE PROGRESS 17 WAS BEING MADE. YOU CAN SEE THE SLIDE BOARD IN THE 18 PICTURE OF THAT EXHIBIT, SIMILAR TO THE SLIDE BOARD 19 THAT MR. WHEELER BROUGHT IN AND ASKED ANTHONY TO TELL 20 YOU ABOUT. HE IS, ON FEBRUARY 15TH (AS READ AND/OR 21 REFLECTED): 22 REQUIRED MODERATE ASSISTANCE ON 23 THE SLIDE BOARD FROM A WHEELCHAIR TO A 24 MAT. 25 DR. KIM DEFINED FOR YOU WHAT MODERATE 26 ASSISTANCE WAS UNDER THE STANDARDS THAT ARE USED BY ALL 27 THERAPISTS THAT ARE WORKING WITH QUADRIPLEGICS. 28 SHE TOLD YOU THAT MODERATE ASSISTANCE IS</p>	<p>1 A POSITIVE THING FOR HIM TO BE ABLE TO SHIFT HIMSELF IN 2 BED. 3 OTHER THINGS THAT YOU'VE HEARD ABOUT 4 POSITIVE, THINGS THAT ARE CONTINUING TO OCCUR OVER THE 5 COURSE OF TIME, INCLUDED THE TESTIMONY OF THE 6 PLAINTIFF'S OWN PSYCHOLOGIST DR. READING. 7 HERE'S WHAT DR. READING TOLD YOU FROM THE 8 STAND. HE TOLD YOU THAT MR. TAYLOR IS NOT SHOWING ANY 9 SIGNS OF DEPRESSION OR ANXIETY DISORDER. 10 HE'S TELLING YOU THAT THERE'S BEEN A 11 SIGNIFICANT CHANGE IN MR. TAYLOR SINCE DECEMBER 2017 12 WHEN HE SAW HIM. 13 WHEN DID HE NOTICE THAT SIGNIFICANT 14 CHANGE? WHEN HE EVALUATED MR. TAYLOR AT THE HOTEL ROOM 15 THE NIGHT BEFORE HE TESTIFIED. SO EVEN IN THE THREE 16 AND A HALF, FOUR MONTHS SINCE HE HAD SEEN MR. TAYLOR, 17 HE WAS STILL NOTICING A SIGNIFICANT CHANGE IN HIS 18 PERSONALITY. 19 AND YOU'LL REMEMBER, IT WASN'T THAT HE 20 ACTUALLY SAW MR. TAYLOR IN DECEMBER. I THINK IT WAS BY 21 SKYPE OR SOME OTHER TYPE OF COMPUTER PROGRAM WHERE HE 22 WAS INTERVIEWING HIM OVER THE COMPUTER, BUT EVEN FROM 23 WATCHING HIM OVER THE COMPUTER BACK IN DECEMBER IN 24 COMPARISON TO LOOKING AT HIM THE NIGHT BEFORE HE 25 TESTIFIED, HE SAW A SIGNIFICANT CHANGE IN HIS Demeanor. 26 HE SAW A POSITIVE TRAJECTORY IN THE WAY 27 HIS PSYCHOLOGICAL CONDITION IS GOING. HE SEES A 28 POSITIVE Demeanor, WHICH HE'S SMILING MORE.</p>
<p>Page 114</p> <p>1 DEFINED AS REQUIRING MORE HELP FROM TOUCHING OR 2 EXPENDING ANYWHERE FROM 51 TO 75 PERCENT OF THE EFFORT. 3 ASSISTANCE IS ALSO NEEDED FOR HIM TO LIFT HIS TWO 4 LIMBS. HE NEEDS HELP TO RAISE HIS LEGS ONTO THE SLIDE 5 BOARD. AND WHEN HE WAS TRYING TO GET FROM THE 6 WHEELCHAIR TO THE MAT, HE REQUIRED ABOUT 50 TO 7 75 PERCENT OF ASSISTANCE. 8 BUT LOOK WHAT WAS EVEN GREATER AFTER HE 9 CONTINUED TO WORK ON IT IN THAT SESSION. 10 HE ONLY REQUIRED MINIMAL ASSISTANCE ON THE 11 SLIDE BOARD WHEN HE WAS TRYING TO GET BACK FROM THE MAT 12 TO THE WHEELCHAIR. SOMETHING YOU THINK THAT WOULD BE 13 MORE DIFFICULT TO HIM. 14 AND WHEN HE REQUIRED MINIMAL ASSISTANCE TO 15 GET BACK FROM THE MAT TO THE WHEELCHAIR, IT WAS NOW 16 UNDER THE DEFINITION OF THE THERAPY RECORDS ONLY 17 TOUCHING AND EXPENDING 75 PERCENT OR MORE OF THE 18 EFFORT. 19 IN OTHER WORDS, HE WAS DOING ABOUT 20 75 PERCENT OF THE WORK ON HIMSELF WITH THE THERAPIST 21 PROVIDING MINIMAL ASSISTANCE. 22 AND ACCORDING TO THIS DEFINITION, 23 ASSISTANCE WAS NEEDED TO ONLY LIFT ONE LIMB TO CHANGE 24 FOR BALANCE. 25 WE ALSO KNOW DURING A THERAPY SESSION THAT 26 HE WAS MOVING HIS HIPS FROM SIDE TO SIDE WITH 27 INSTRUCTIONS AND WEIGHT SHIFTING, IN ADDITION TO THE 28 HEAD AND TRUNK ROTATION, WHICH WE WERE TALKING ABOUT IS</p>	<p>Page 116</p> <p>1 THERE'S A GREATER LEVEL OF INDEPENDENCE 2 WITH HIS ACTIVITIES OF DAILY LIVING. 3 HE'S GOT A STRONG SOCIAL SUPPORT SYSTEM 4 BEING SUPPLIED BY HIS FAMILY, AND NOW THESE FRIENDS 5 THAT HE'S MAKING ON-LINE ON FACEBOOK AND EVEN IN HIS 6 COMMUNITY. 7 HE'S MORE SOCIAL. HE'S INTERACTING WITH 8 OTHERS ON FACEBOOK SUPPORT GROUP. 9 HE'S GETTING OUT MORE, WHICH IS IMPORTANT 10 TO HIM. 11 I WANT TO TALK TO YOU A LITTLE BIT ABOUT 12 DR. SUZY KIM. DR. SUZY KIM HAD A LOT TO SAY, NOT ONLY 13 ABOUT THE PROGRESS SHE ENVISIONS FOR MR. TAYLOR FROM A 14 PHYSICAL STANDPOINT, BUT SHE CERTAINLY HAD A LOT TO 15 EDUCATE US ABOUT, ABOUT THE FUTURE CARE THAT MR. TAYLOR 16 WILL REQUIRE. 17 DR. KIM'S A GREAT STORY IN AND OF HERSELF. 18 AS YOU HEARD HER STORY, SHE WAS IN THE PROCESS OF BEING 19 IN MEDICAL SCHOOL WHEN SHE SUFFERED HER OWN INJURY 20 HERSELF. SHE WAS BODYSURFING DOWN IN LAGUNA BEACH AND 21 ULTIMATELY SUSTAINED A SPINAL CORD INJURY OF HER OWN, 22 IN WHICH SHE LOST USE OF HER LOWER EXTREMITIES. 23 THERE'S NO DOUBT. WE'RE NOT COMPARING 24 DR. KIM TO MR. TAYLOR IN THIS CASE. THERE WAS SOME 25 EFFORT, I BELIEVE, ON CROSS-EXAMINATION OF DR. KIM 26 ABOUT HOW SHE'S EXTREMELY BRIGHT, AND SHE CERTAINLY 27 DOESN'T EXPECT MR. TAYLOR TO HAVE THE SUCCESS STORIES 28 THAT SHE HAD.</p>



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<p>1 WE'RE NOT HERE COMPARING DR. KIM TO 2 MR. TAYLOR, BUT WE BELIEVE THAT DR. KIM BECAUSE OF WHAT 3 SHE'S GONE THROUGH AND THE DEVOTION THAT SHE'S MADE IN 4 HER CAREER TO HELP SPINAL-CORD-INJURED PATIENTS GET 5 PAST INJURIES OF THIS MAGNITUDE, IT'S IMPORTANT THAT 6 YOU LISTEN TO WHAT SHE HAS TO SAY. 7 AND I THINK EVEN MR. PARRIS ACKNOWLEDGED 8 DURING THE COURSE OF HIS CLOSING ARGUMENT THAT SHE 9 APPEARS TO BE THE PREMIER EXPERT IN THIS COMMUNITY ON 10 THIS TOPIC. 11 SO I'M -- IT'S GREAT THAT WE'VE HAD 12 DR. KIM HERE. WE KNOW THAT SHE'S THE MEDICAL DIRECTOR 13 OF THE SPINAL CORD INJURY AT ST. JUDE'S CENTER. WE 14 KNOW THAT SHE'S A STAFF PHYSICIAN AT THE SPINAL CORD 15 INJURY AND DISORDERS HEALTH CARE GROUP OVER AT THE 16 LONG BEACH V.A. 17 WE KNOW THAT SHE'S BEEN A MEDICAL DIRECTOR 18 OF THE PARADIGM MANAGEMENT SERVICES GROUP. AND I THINK 19 EVEN SINCE THEN, SHE'S TOLD YOU ABOUT HER OWN CLINICAL 20 PRACTICE THAT SHE'S BEGUN IN ALISO VIEJO. 21 BUT WHAT WAS EVEN GREAT -- MORE IMPORTANT 22 ABOUT DR. KIM BEING HERE IS THE FACT THAT IT WAS HER 23 SUGGESTION FROM THE ONSET IN THIS CASE WHEN SHE FIRST 24 STARTED SEEING THE RECORDS ON THIS CASE AND EVALUATING 25 MR. TAYLOR, THAT, HEY, LET'S GET HIM TO SANTA CLARA 26 VALLEY MEDICAL CENTER. I WAS PART OF THAT PROGRAM. I 27 KNOW WHAT THAT PROGRAM IS ALL ABOUT. I WAS PART OF THE 28 PROGRAM IN DEVELOPING WHAT WE DO WITH PATIENTS THAT</p>	<p>1 REHABILITATION PROGRAM. BOTH LIFE CARE PLANS AFFORD 2 THE MONEYS FOR THAT PROGRAM. BOTH PROGRAMS AFFORD THE 3 MONIES FOR TRAVEL TO AND FROM THAT PROGRAM. AND BOTH 4 DR. KIM AND DR. MILLER AND THE NURSES ALL AGREE, LET'S 5 MAKE SURE THAT THE CAREGIVERS RESPONSIBLE FOR TAKING 6 CARE OF MR. TAYLOR ARE PRESENT WITH HIM AT THAT PROGRAM 7 SO THAT THEY CAN BE EDUCATED ABOUT THE THINGS THAT 8 MR. TAYLOR REQUIRES PRESENTLY AND IN THE FUTURE. 9 AND GOD FORBID, GOD FORBID, THAT HIS 10 MOTHER PASS SOMETIME IN THE FUTURE. WE KNOW IT'S 11 INEVITABLE. WE KNOW IT'S LIKELY GOING TO HAPPEN BEFORE 12 THE END OF MR. TAYLOR'S LIFE. 13 AT LEAST WE CONTINUE THIS CHAIN OF 14 KNOWLEDGE, THIS EDUCATION TO THE PEOPLE THAT CAN 15 CONTINUE TO HELP MONITOR AND CARE FOR HIM FOR THE REST 16 OF HIS LIFE. WHETHER IT'S MS. GRAFFT EDUCATING THE NEW 17 CAREGIVER, WHETHER IT'S THE CURRENT CAREGIVER EDUCATING 18 THE NEW ONE, WHETHER IT'S THE LICENSED VOCATIONAL NURSE 19 TALKING TO THE ONE THAT'S COMING ON THE NEXT SHIFT, 20 LET'S KEEP THE CHANNEL OF COMMUNICATION GOING. 21 AND AT SANTA CLARA VALLEY MEDICAL CENTER, 22 THEY TEACH THEM HOW TO DO THAT. ONE OF THE GOALS OF 23 THE PROGRAM THAT WE'VE BEEN TALKING ABOUT IN THIS 24 TRIAL -- AND, AGAIN, IT SEEMS LIKE FOR THREE WEEKS -- 25 IS THE TRACHEOSTOMY. 26 AND I BELIEVE EVERYBODY AGREES THAT IT IS 27 BEST FOR MR. TAYLOR IF HE DOESN'T HAVE THE TRACH IN 28 PLACE BECAUSE THEIR CONCERN IS IT'S ANOTHER SOURCE OF</p>
<p>1 HAVE AN INJURY AT THIS LEVEL. 2 AND DR. MILLER, PLAINTIFF'S EXPERT, AGREED 3 THAT THIS WAS A TERRIFIC IDEA. HE TALKED ABOUT, WELL, 4 MAYBE HE CAN GO TO CRAIG'S HOSPITAL IN DENVER, 5 COLORADO. ANOTHER FINE INSTITUTION. EITHER ONE OF 6 THOSE INSTITUTIONS WOULD BE TERRIFIC FOR MR. TAYLOR. 7 EVERYBODY AGREES TO THAT. 8 BUT IT APPEARS THAT NOW THE FACT THAT 9 THEY'RE LIVING IN MYRTLE CREEK, OREGON, IT MAKES SENSE 10 FROM A TRAVEL STANDPOINT THAT THE BEST PLACE IS FOR HIM 11 TO GO TO SANTA CLARA VALLEY MEDICAL CENTER. 12 SO WE HAD AN OPPORTUNITY TO LISTEN TO 13 DR. KIM TALK TO YOU ABOUT WHAT HAPPENS AT SANTA CLARA 14 VALLEY MEDICAL CENTER FROM HER EXPERIENCE. 15 LET'S LOOK AT SOME OF THE PROGRESS THAT 16 DR. KIM FORESEES FOR MR. TAYLOR. 17 OH, BUT BEFORE I DO THAT, I THOUGHT IT WAS 18 TERRIFIC WHEN I ASKED MR. TAYLOR WHEN HE WAS ON THE 19 STAND WHAT HE THOUGHT ABOUT DR. KIM WHEN SHE CAME TO 20 OREGON TO EXAMINE HIM. AND HIS RESPONSE WAS (AS READ 21 AND/OR REFLECTED): 22 SHE MADE ME FEEL BETTER ABOUT WHAT 23 THE FUTURE MAY HOLD. 24 SO HERE'S SOME THINGS THAT WOULD TAKE 25 PLACE AT THE SANTA CLARA VALLEY MEDICAL CENTER THAT 26 BOTH DR. KIM AND DR. MILLER ARE ENCOURAGING FOR 27 MR. TAYLOR. 28 WE KNOW THAT IT'S A FOUR-WEEK INPATIENT</p>	<p>1 INFECTION. HE'S ALREADY SHOWN TO HAVE SOME PRONATION 2 TO INFECTIONS. THE MORE FOREIGN OBJECTS WE CAN GET OUT 3 OF HIS BODY, THE BETTER. BUT WE CERTAINLY DON'T WANT 4 TO TAKE SOMETHING OUT OF HIS BODY IF HE'S NOT 5 COMFORTABLE DOING IT. 6 DR. KIM HAS TOLD YOU HE DOESN'T NEED TO 7 HAVE THE TRACHEOSTOMY REMOVED. MR. TAYLOR IS CERTAINLY 8 SCARED OF HAVING THE TRACHEOSTOMY REMOVED BECAUSE IT'S 9 CLEAR THAT HE'S BEEN UNDERGOING THESE SUCTIONS FOR 10 THESE SECRETIONS SINCE THE DAY THIS INJURY HAPPENED. 11 IT'S SOMETHING THAT HE'S CONTINUED TO LIVE 12 WITH. IT'S SOMETHING HE'S BECOME USED TO. AND NO 13 DOUBT IT'S SOMETHING THAT SCARES THE HECK OUT OF HIM. 14 AS YOU SAW THAT HERE WHEN YOU WITNESSED 15 HIM TESTIFYING BEFORE YOU, UNDERGOING A COUGHING 16 EPISODE, AFRAID ABOUT WHAT WAS GOING ON, WORRIED THAT 17 HE WAS CHOKING, REACHING OUT, HITTING HIS TRACH WHERE 18 THE PASSY MUIR VALVE GOES FLYING. WE ALL SAW THAT 19 HAPPEN. AND I WAS NERVOUS TO DEATH ABOUT THE 20 SITUATION. 21 I, TOO, WAS CONCERNED, LIKE EVERYBODY ELSE 22 IN THIS ROOM WAS CONCERNED, ABOUT WHAT WAS GOING ON 23 WITH MR. TAYLOR WHEN HE UNDERWENT THAT COUGHING 24 EPISODE. 25 WHAT'S THE FIRST THING WE DO? ARE WE 26 INSANE TO BE ASKING THAT THE TRACHEOSTOMY BE REMOVED? 27 DID YOU SEE WHAT WAS GOING ON WITH MR. TAYLOR? ARE WE 28 THAT STUPID TO THINK THAT THIS IS A POSSIBILITY? ARE</p>

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<p>1 WE REALLY -- IS THIS A NICKEL-AND-DIME SITUATION THAT 2 WE'RE REALLY WORRIED ABOUT? 3 FIRST THING THAT HAPPENS, LET'S GO GET 4 EDUCATED. LET'S FIND OUT IF THIS IS REALLY SOMETHING 5 THAT IS PROBABLE IN THE FUTURE. LET'S TALK TO THE 6 EXPERTS. LET'S HEAR FROM DR. KIM. LET'S HEAR FROM 7 DR. KLEIN. WHAT -- WHY WOULD WE WANT TO REMOVE THAT IF 8 THAT'S WHAT WE HAVE TO ENDURE? 9 AND THE RESPONSE IS, CALM DOWN. JUST CALM 10 DOWN. THIS IS PART OF THE PROCESS. IT'S PART OF THE 11 EDUCATION FOR MR. TAYLOR. IT'S PART OF THE EDUCATION 12 FOR MS. GRAFFT FOR THEM TO LEARN THAT THIS IS NORMAL. 13 THIS IS SOMETHING THAT YOU CAN PROGRESS FROM. 14 AND THE FIRST THING YOU HAVE TO DO IS GET 15 HIM INTO THIS PULMONARY REHAB PROGRAM BECAUSE IT HASN'T 16 HAPPENED. 17 I UNDERSTAND THAT UP UNTIL FEBRUARY OF 18 2017, MR. TAYLOR WAS BEING SHIFTED FROM FACILITY TO 19 FACILITY, GOING FROM ANTELOPE VALLEY MEDICAL CENTER, 20 OVER TO PACIFICA. STUFF GOES WRONG WITH HIM AT 21 PACIFICA. THINGS THAT ARE TERRIBLE GOING ON AT 22 PACIFICA. 23 WAS IT REASONABLE CARE? IT'S NOT AN ISSUE 24 IN THIS CASE. CERTAINLY NOBODY WANTS HIM TO HAVE 25 BEDSORES FROM THE CARE AT PACIFICA, BUT WE'VE HEARD 26 THAT HAPPENS WITH PATIENTS. WE HOPE THAT IT DOESN'T, 27 BUT BOTH OF THE LIFE CARE PLANS TELL YOU IT'S GOING TO 28 CONTINUE TO HAPPEN EVEN WITH 24/7 CARE THROUGH THE</p>	<p>1 GET THE RIGHT DOCTORS IN PLACE. SO THEY GET INVOLVED 2 WITH NORTH BEND MEDICAL CENTER AND THEY FIND 3 DR. CHEUNG, A PHYSICAL PAIN AND REHAB DOCTOR, THAT 4 TURNED OUT TO BE A RESIDENT UNDER DR. KIM. 5 THEY FIND DR. WEBSTER, AN E.N.T. DOCTOR 6 THAT TALKED TO HIM ABOUT THE TRACHEOSTOMY. THEY FIND 7 DR. TERSIGNI, SOMEBODY THAT WILL ADDRESS THE G-TUBE 8 WHENEVER NECESSARY. 9 BUT DO THEY FIND SOMEBODY TO GET HIM INTO 10 PULMONARY REHAB? DO THEY FIND SOMEBODY THAT WILL 11 CONTINUE TO TEACH HIM HOW TO DEAL WITH THE COUGHS, WITH 12 THE SECRETIONS, WITH THE ISSUES THAT HE'S SCARED ABOUT 13 THAT YOU SAW HERE IN COURT? 14 IT HASN'T HAPPENED YET. THEY TALK ABOUT 15 CAPPING TRIALS THAT ARE TAKING PLACE AT THE HOME. 16 MS. GRAFFT STRUGGLES WITH THESE CAPPING TRIALS BECAUSE 17 IT TAKES DEXTERITY TO GET THE CANNULA OUT, AND SHE HAS 18 ARTHRITIS WHICH SHE SUFFERS FROM. 19 THERE'S NOTES THAT YOU HEARD FROM IN THE 20 MEDICAL RECORDS ABOUT THE FACT THAT THEY'VE GOT TO WAIT 21 FOR HIS SISTER TO GET BACK TO THE HOUSE BECAUSE HIS 22 SISTER DOESN'T EVEN LIVE WITH THEM. AND ONLY WHEN THE 23 SISTER'S AROUND ARE THEY ABLE TO MANAGE SOMEBODY THAT 24 CAN ULTIMATELY PUT THE CAP ON AND REMOVE THE CANNULA. 25 THIS IS NOT THE IDEAL SITUATION FOR HIM. ABSOLUTELY. 26 AND I'M SURE THEY WILL CONTINUE TO 27 STRUGGLE TO GET PROPER HEALTH CARE FOR HIM IN OREGON, 28 BUT IT'S OCCURRING. AND THE FIRST STEP FOR THAT IS GET</p>
<p>1 FUTURE. SO BEDSORES ARE A NATURAL THING FOR PATIENTS 2 LIKE THAT. 3 BUT REGARDLESS, FROM PACIFICA, HE GOES 4 OVER TO CEDARS-SINAI TO HAVE HIS HARRINGTON RODS 5 REMOVED OUT OF HIS BACK BECAUSE HE'S STARTING TO GET 6 INFECTIONS FROM THE HARDWARE AND THE SCREWS THAT ARE 7 PROTRUDING THERE BECAUSE THE VEST HAS BEEN COVERING THE 8 HARDWARE, AND NOBODY'S SEEN THAT. 9 AGAIN, UNEXCUSABLE. 10 SO HE GOES FROM CEDARS-SINAI AND NOW HE'S 11 OVER TO MOUNTAIN VIEW CONVALESCENT. AND NOW HE'S IN 12 MOUNTAIN VIEW FOR A PERIOD OF TIME. 13 AND THEN FROM THERE, HE FINALLY GETS TO 14 HIS AUNT'S HOUSE FOR A PERIOD OF TIME IN LANCASTER. 15 AND ONLY AFTER THEY BELIEVE HE'S STABLE DO THEY GET HIM 16 BACK UP TO OREGON IN FEBRUARY OF 2017 SO HE CAN LIVE 17 WITH HIS FAMILY. 18 SO WHAT HAPPENS AS OF FEBRUARY 2017 WHEN 19 HE GETS UP TO OREGON? THEY STRUGGLE TO MAKE SURE THAT 20 HE STARTS GETTING ACCLIMATED WITH THE HEALTH CARE 21 PROVIDERS IN OREGON. IT TAKES THEM TIME TO FIND 22 SPECIALISTS. 23 THEY'RE STUCK WITH A NURSE PRACTITIONER 24 FOR A PERIOD OF TIME. NURSE PRACTITIONER FERGUSON, WHO 25 I'M SURE HAS DONE AN OUTSTANDING JOB, BUT THAT'S NOT AN 26 IDEAL SITUATION. WE ALL WANT TO MAKE SURE THAT HE'S 27 GOT A PRIMARY CARE PHYSICIAN TAKING CARE OF HIM. 28 AND THEN THEY GOT TO MAKE SURE THAT THEY</p>	<p>1 HIM TO SANTA CLARA. 2 AND YOU CAN SEE IN THE PLAN OUR GOAL IS, 3 BOTH SIDES, GET HIM THERE IN THE NEXT 6 TO 12 MONTHS 4 BECAUSE AT SANTA CLARA THEY'LL PUT HIM IN THE PULMONARY 5 REHAB PROGRAM, AND TEACH HIM HOW TO DO THINGS OF THAT 6 NATURE. THEY WILL GET HIM COMFORTABLE TO REMOVE THE 7 G-TUBE. 8 YOU HEARD FROM THE NURSE THAT WAS HERE 9 TALK -- TAKING CARE OF HIM FOR A COUPLE WEEKS DURING 10 THE COURSE OF TRIAL ABOUT HOW THE ONLY THING THAT SHE 11 WAS USING THE G-TUBE FOR IN THE MIDDLE OF THE NIGHT WAS 12 TO PROVIDE HYDRATION, AND SHE TOLD YOU IT WAS ABOUT 13 HALF A WATER BOTTLE. OKAY. THAT'S FINE. 14 BUT IS THAT REALLY NECESSARY WHEN HE'S 15 ABLE TO DO EVERYTHING BY MOUTH? MAYBE IN THE MIDDLE OF 16 THE NIGHT WHEN HE'S BEING WOKEN UP TO BE TURNED ONE WAY 17 OR THE OTHER, CAN HE NOT DRINK HALF A BOTTLE OF WATER 18 ON HIMSELF TO REMAIN HYDRATED? I THINK EVERYBODY 19 AGREES, ALL THE DOCTORS AGREE THAT THE G-TUBE CAN COME 20 OUT. 21 THEY'LL IMMEDIATELY DO THE CONTRACTURE 22 RELEASE SURGERY. THE SURGERY THAT WE ALL KNOW AND HAVE 23 HEARD WILL HAVE A DRAMATIC IMPACT ON THE WAY HE FEELS. 24 THEY'RE GOING TO FIT HIM FOR ALL DURABLE 25 MEDICAL EQUIPMENT, ADAPTIVE AIDS, ADDITIONAL 26 WHEELCHAIRS IF HE SO DESIRES, NEBULIZERS, ET CETERA. 27 THESE THINGS ARE ALL IN THE PLAN, THE LIFE CARE PLAN 28 THAT YOU'LL SEE WHEN YOU READ IT IN THE JURY ROOM THAT</p>

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<p>1 WE'VE PROVIDED YOU FROM NURSE HELVIN. AND IN LARGE 2 PART EVEN FROM NURSE ROUGHAN. 3 THERE'S GOING TO BE A SPINAL CORD 4 EDUCATION PROGRAM, AGAIN, TRAINING OF THE CAREGIVERS. 5 THEY'RE GOING TO PUT HIM THROUGH PHYSICAL 6 THERAPY AND TEACH HIM HOW TO DO CERTAIN THINGS, NOT 7 ONLY WITH THE ASSISTANCE OF CAREGIVERS, BUT ON HIS OWN. 8 HE WILL WORK WITH OCCUPATIONAL THERAPISTS. 9 ANTHONY, ARE YOU READY TO GO TO 10 SANTA CLARA? 11 YES, BECAUSE I WANT TO GET MY LIFE BACK IF 12 I CAN. 13 AGAIN, JUST THE POSITIVE THINGS THAT COME 14 OUT OF HIS MOUTH. THINGS THAT MAYBE YOU AND I WOULD 15 NEVER EVEN IMAGINE TO WORD IF SOMEBODY WAS UNDERGOING A 16 SITUATION LIKE THAT IN THEIR OWN PERSONAL LIFE. BUT 17 NOT ANTHONY BECAUSE IT'S NOT THE WAY HE IS. YES, I 18 WANT TO GO TO SANTA CLARA BECAUSE I WANT TO GET MY LIFE 19 BACK IF I CAN. 20 LET'S JUST BRIEFLY TALK ABOUT THOSE ITEMS 21 AND WHY THE EVIDENCE SUPPORTS THE FACT THAT THEY WILL 22 OCCUR. 23 THE REMOVAL OF THE G-TUBE HAS BEEN 24 ADDRESSED BY DR. TERSIGNI, DR. KIM, AND DR. CHEUNG. 25 YOU SAW DR. TERSIGNI, WHO HASN'T SEEN 26 MR. TAYLOR SINCE JUNE, I BELIEVE -- I BELIEVE IT WAS 27 JUNE. I'LL LET YOU DEFER TO YOUR NOTES THAT YOU TOOK 28 DURING THE COURSE OF TRIAL. JUNE OF 2017. PERHAPS</p>	<p>1 KNOW I JUST SPENT A LITTLE BIT OF TIME ON IT, BUT LET 2 ME RUN THROUGH THIS ABOUT WHAT THE DOCTORS HAVE SAID 3 ABOUT THE REMOVAL OF THE TRACHEOSTOMY. 4 DR. KLEIN. WHAT DR. KLEIN IS EXPLAINING 5 OR ATTEMPTING TO EXPLAIN TO YOU BY EVEN USING A SHILEY 6 NO. 4 TRACH THAT WAS HERE AS A PIECE OF EVIDENCE IN 7 TRIAL, WAS THAT IT'S SUCH A SMALL TRACH THAT IT IS IN 8 MR. TAYLOR'S THROAT THAT IT'S CAUSING THE SECRETIONS TO 9 ACTUALLY GATHER AND ADHERE TO THE CANNULA, TO THE TUBE 10 INSIDE HIS THROAT BECAUSE IT'S SO SMALL. 11 SO THINGS AREN'T GETTING THROUGH THE TUBE 12 BECAUSE YOU'VE GOT BUILDUP TAKING PLACE INSIDE THE 13 TUBE. AND HE SAYS THAT IS PART OF THE PROBLEM OF WHY 14 HE'S NOT BEING ABLE TO SECRETE ON HIS OWN AND ALLOW 15 THOSE SECRETIONS TO COME UP IN HIS THROAT, AND GET BACK 16 EITHER IN HIS ESOPHAGUS OR ULTIMATELY COUGH THEM OUT 17 THROUGH HIS MOUTH. 18 HE'S TOLD YOU IT'S ONLY A SIZE NO. 4 19 TRACH, AND IN AN ADULT THAT MEANS THAT THEY'RE 20 PREPARING THE PATIENT FOR DECANNULATION. THEY'RE 21 DECREASING THE SIZE OF THE TRACH BECAUSE THEY'RE NO 22 LONGER USING IT AS AN AIRWAY PASSAGE, BUT THEY'RE USING 23 IT TO START GETTING THE THROAT USED TO REMOVING THE 24 TUBE OUT. 25 DUE TO THE SMALL AND NARROW SIZE OF THE 26 TUBE, SECRETIONS ARE PLUGGING IN THE TUBE OR THEY'RE 27 SITTING INSIDE THE TUBE. 28 THE TUBE, IN DR. KLEIN'S OPINION, IS</p>
<p>1 AUGUST. 2 AND HE TELLS YOU WHEN HE WAS DEPOSED BY 3 MS. TROPP AND MR. WHEELER JUST ABOUT SIX WEEKS AGO, HE 4 MENTIONS THAT IF HE CAN EAT, HYDRATE, AND MEDICATE BY 5 MOUTH, THERE IS ABSOLUTELY NO REASON FOR HIM TO HAVE 6 THE G-TUBE STILL IN. 7 THERE'S A SIGNIFICANT BENEFIT IN HAVING 8 THE G-TUBE REMOVED BECAUSE OF THE ISSUES OF INFECTION 9 THAT WE'VE TALKED ABOUT. AND HE TELLS YOU THAT THE 10 KEEPING OF THE G-TUBE IN INCREASES THE CHANCES OF 11 INFECTION. 12 DR. KIM AND DR. CHEUNG, HE'S BEEN CLEARED 13 TO TAKE ALL FOOD, HYDRATION, AND MEDICATION BY MOUTH. 14 AND WHEN MR. TAYLOR WAS ON THE STAND, 15 QUESTIONS WERE ASKED OF HIM IN WHICH HE'S TOLD YOU HE 16 HAS NO PROBLEM DIGESTING. HE TAKES HIS PILLS WITH 17 APPLESAUCE OR PUDDING. 18 FOR THE FIRST TIME I HAD HEARD, AND I'M 19 SURE YOU HEARD AS WELL I THINK IN TRIAL THE OTHER DAY 20 WAS EVEN BEFORE THIS INCIDENT, HE APPARENTLY HAD SOME 21 ISSUES SWALLOWING PILLS. HE DIDN'T LIKE TO TAKE PILLS 22 EVEN BEFORE THE ACCIDENT IN DECEMBER OF 2015. OKAY. 23 THAT'S UNDERSTANDABLE. 24 WELL, HE CONTINUES TO DO THAT AND HE TAKES 25 THE PILLS WITH THE USE OF APPLESAUCE OR PUDDING, AND 26 HE'S GOT NO PROBLEM SWALLOWING THE PILLS AND HE'S 27 EATING AND DRINKING BY MOUTH. 28 LET'S TALK ABOUT THE TRACHEOSTOMY, AND I</p>	<p>1 GETTING IN THE WAY OF HIS PROGRESS. IT SHOULD COME OUT 2 NOW IN AN ACUTE CARE SETTING, LIKE DR. KIM IS TALKING 3 ABOUT OVER AT SANTA CLARA REHABILITATION AND ALLOW THE 4 SPECIALIST TO WORK WITH ANTHONY WHEN THAT TUBE IS 5 REMOVED SO THAT HE HAS THE CONFIDENCE TO BE ABLE TO GET 6 THE SECRETIONS OUT ON HIS OWN. 7 AND WE KNOW THAT HE'S NOT REQUIRED ANY 8 ASSISTANCE IN BREATHING, AND ANOTHER THING THAT HAS 9 COME FROM DR. KLEIN AND SEVERAL OTHER DOCTORS IN THIS 10 CASE IS THAT MOST SPINAL-CORD-INJURED PATIENTS WITH THE 11 LEVEL OF INJURY THAT MR. TAYLOR HAS SUFFERED DO NOT 12 HAVE A TRACHEOSTOMY AFTER THE FIRST YEAR. 13 AND, AGAIN, WE'RE TALKING TO YOU ABOUT WHY 14 IS THAT STILL THE CASE WITH MR. TAYLOR? I BELIEVE IT'S 15 BECAUSE THERE'S BEEN A DELAY IN GETTING HIM HIS PROPER 16 HEALTH CARE. 17 LET'S GET HIM THE BEST QUALITY CARE SO 18 THAT HE CAN ADVANCE AND LIVE A LIFE LIKE MOST PATIENTS 19 THAT HAVE A C5-6 INJURY LIKE HE DOES. 20 AND LIKE DR. KLEIN HAS TESTIFIED TO AND 21 THINGS THAT WOULD BE DONE AT SANTA CLARA, THEY WANT TO 22 TEACH CHEST PERCUSSION THERAPY. THEY WANT TO TEACH 23 POSTURAL DRAINAGE, AND THEY WANT TO USE A FLUTTER 24 VALVE. 25 AND THEN HE EVEN TALKED TO YOU ABOUT AN 26 INCENTIVE SPIROMETER THAT WILL ASSIST HIM TO GET 27 DECANNULATION ACCOMPLISHED AND FUTURE SECRETION 28 CONTROL.</p>

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<p>1 I THOUGHT IT WAS VERY COMPELLING. MAYBE 2 YOU DIDN'T. I DID. BUT WHEN DR. KLEIN WAS ASKED TO 3 PRETEND THAT ANTHONY WAS HIS PATIENT AND WHAT WOULD HE 4 DO IF ANTHONY WAS SITTING THERE IN FRONT OF HIM AND 5 EXPRESSED CONCERNS ABOUT HAVING THAT TRACHEOSTOMY 6 REMOVED. 7 AND YOU HEARD HIM TALK ABOUT THE THINGS 8 THAT WOULD BE PERFORMED TO MAKE HIM FEEL BETTER ABOUT 9 THAT. AND IT SOUNDED TO ME LIKE THOSE ARE THE SAME 10 KIND OF THINGS THAT WOULD BE TAKING PLACE IN PULMONARY 11 REHAB AND AT SANTA CLARA VALLEY MEDICAL CENTER. 12 DR. WEBSTER. FIRST, I'M JUST GOING TO 13 TALK TO YOU ABOUT WHAT DR. WEBSTER SAID. IN A BIT I'LL 14 TALK TO YOU ABOUT HOW IT APPEARS THAT SOME OF THESE 15 DOCTORS HAVE NOT BEEN PROVIDED A COMPLETE PICTURE 16 BEFORE THEY'RE ASKED THEIR OPINIONS. SO LET'S SEE WHAT 17 DR. WEBSTER DID SAY. 18 WE KNOW THAT DR. WEBSTER SAW HIM ONE TIME 19 IN JUNE OF 2017 AND THAT HE HASN'T SEEN HIM SINCE. 20 WE KNOW THAT HE SAID, UNDER OATH, ON 21 QUESTIONING BY MS. TROPP, THAT, AGAIN, PATIENTS WITH 22 SIMILAR SPINAL CORD INJURIES OR LEVEL OF INJURY WHO 23 DON'T REQUIRE ONGOING MECHANICAL VENTILATION CAN BE 24 DECANNULATED. 25 HE SAID THAT IN ORDER TO MAKE PROGRESS 26 WITH THIS IN THE CAPPING TRIALS, ANTHONY SHOULD BE 27 DOING THEM DAILY AND CONTINUING THEM EVEN AFTER 28 SUCTIONING.</p>		<p>1 AND HE ADMITTED THAT THE TRACH TUBE CAN BE 2 CAUSING SOME TYPE OF IRRITATION IN ANTHONY'S THROAT. 3 IT'S INCREASING HIS SECRETIONS BECAUSE OF THIS 4 SENSATION HE HAS IN HIS THROAT THAT SOUNDS LIKE IT'S A 5 TICKLE THING GOING ON. THAT IS VERY COMMON IN PATIENTS 6 THAT CONTINUE TO HAVE THE TRACHEOSTOMY IN PLACE. 7 OKAY. LET'S TALK ABOUT THE CONTRACTURE 8 SURGERY. 9 ANTHONY HAS SAID TO US, AS HAS MS. GRAFFT, 10 THAT WHEN HE -- HE WOULD CONSIDER THE CONTRACTURE 11 SURGERY, BUT YOU'VE HEARD FROM BOTH ANTHONY AND HIS 12 MOTHER THAT THEY'RE NOT GOING TO GO DOWN THIS PATH IF 13 MEDICAL SCIENCE EVER HAS A SUCCESSFUL BREAKTHROUGH AND 14 IT ELIMINATES HIS ABILITY TO WALK. 15 I DON'T BLAME THEM. WE DON'T KNOW WHAT'S 16 HAPPENING IN FIVE YEARS. WE DON'T KNOW WHAT'S 17 HAPPENING IN TEN YEARS. WE JUST DON'T KNOW WHAT'S 18 GOING TO HAPPEN IN HIS LIFETIME THAT PERHAPS WE'D HAVE 19 A SUCCESSFUL BREAKTHROUGH THAT WOULD ALLOW HIM TO WALK 20 AGAIN. 21 BUT IT'S CLEAR THAT THE DOCTORS WITH WHOM 22 HE SPOKE ABOUT -- AND I DON'T KNOW WHO IT WAS, PERHAPS 23 DR. CHEUNG, ARE NOT PROPERLY EDUCATING HIM BECAUSE 24 DR. KIM TOLD YOU THAT THIS IS NOT A MATTER OF SEVERING 25 THE TENDONS. YOU'RE NOT CUTTING THE TENDONS AND 26 ULTIMATELY ELIMINATING ALL FUTURE CHANCE OF SUCCESS IN 27 BEING ABLE TO AMBULATE. 28 WHAT YOU'RE DOING IS, IS YOU'RE</p>	
<p>1 YOU'VE HEARD FROM THE MEDICAL EVIDENCE IN 2 THIS CASE THAT EVEN WHEN THEY TRY TO GO THROUGH A 3 CAPPING TRIAL WITH ANTHONY, WHETHER IT LASTS FOUR 4 HOURS, WHETHER IT LASTS SIX HOURS, TEN, OR THE MOST, 5 12 HOURS, HE'LL ULTIMATELY COMPLAIN ABOUT THE FACT THAT 6 HE IS COUGHING OR NOT ABLE TO BREATHE. 7 SO THEY'LL GO THROUGH A SUCTIONING 8 PROCESS. THAT'S OKAY. THAT'S PART OF THE PROCESS. 9 BUT THE ONE THING THEY'RE NOT DOING THAT YOU CAN SEE 10 FROM THE RECORDS IS THEY'RE NOT PUTTING THE CAP BACK ON 11 AT THAT POINT IN TIME. 12 THEY'RE NOT RESTARTING THE CAPPING TRIALS 13 SO THAT HE CAN CONTINUE. AND I GET IT BECAUSE THERE IS 14 ANXIETY ON HIS PART. I GET IT. IT'S TOUGH FOR 15 MS. GRAFFT TO MANIPULATE THE CANNULA. I GET THESE 16 THINGS. 17 BUT THE ONLY WAY TO HAVE PROGRESS WITH THE 18 CAPPING TRIALS IS TO GET HIM THE CAREGIVERS THAT ARE 19 PROPERLY TRAINED IN THIS SITUATION THAT CAN HELP HIM 20 WITH THE CAPPING TRIALS SO THAT HE PROGRESSES. 21 KEEP WORKING AT THE CAPPING TRIALS, 22 DR. WEBSTER SAYS BECAUSE IF DECANNULATION IS ANTHONY'S 23 GOAL, THEN THAT HAS TO BE SOMETHING THAT'S 24 ACCOMPLISHED. 25 AND, AGAIN, HE SAYS HE'S GOT TO BE 26 COMPLIANT WITH THE RECOMMENDATIONS IN ORDER TO BE 27 SUCCESSFUL WITH THE CAPPING TRIALS BECAUSE OTHERWISE 28 HIS PROGRESS IS GOING TO BE DELAYED.</p>	Page 130	<p>1 LENGTHENING THE TENDONS BY CONDUCTING A PROCEDURE IN 2 WHICH YOU'RE CUTTING INTO THE SIDE OF THE TENDONS AND 3 ALLOWING THE TENDONS TO STRETCH SO THAT THE 4 CONTRACTURES IN HIS HIPS, IN HIS KNEES, IN HIS ANKLES, 5 ARE ELIMINATED BECAUSE YOU'RE LENGTHENING THE TENDONS. 6 AND, YES, YOU'RE PRESERVING THAT SUCCESS 7 STORY FOR HIM TO ULTIMATELY AND TO CONTINUE TO HAVE 8 HOPE THAT MAYBE ONE DAY WITH SCIENCE HE'LL HAVE THE 9 ABILITY TO WALK AGAIN. 10 HERE'S THE PROCEDURE DR. KIM IS TELLING 11 YOU ABOUT AT SANTA CLARA VALLEY MEDICAL CENTER. YOU 12 CAN SEE THE PROCEDURE IN THE DIAGRAM THERE ABOUT HOW 13 THEY'RE CUTTING THE SIDE OF THE TENDONS AND LENGTHENING 14 THEM. YOU CAN SEE, AGAIN, THAT IT'S NOT INVOLVING THE 15 CUTTING OF THE TENDONS. 16 IT'S LENGTHENING THE TENDONS SO IT DOESN'T 17 INTERFERE HIS ABILITY TO WALK IN THE FUTURE. AND IT 18 WOULD SOLVE -- DID YOU HEAR THAT? I DON'T THINK 19 ANYBODY HAS DISPUTED THIS. IT WOULD SOLVE THE 20 CONTRACTURE PROBLEM. 21 AND ALSO IN DR. KIM'S OPINION, IT WOULD 22 MAKE A BACLOFEN PUMP NOT NECESSARY BECAUSE IT WOULD 23 HAVE AN IMPACT ON SPASTICITY. DOES IT COMPLETELY 24 ELIMINATE SPASTICITY? NO. WISH IT DID, BUT IT 25 DOESN'T. 26 SO FOR THE REST OF HIS LIFE, MR. TAYLOR 27 WILL ALWAYS BE ON BACLOFEN. AND THAT'S OKAY BECAUSE 28 THE LIFE CARE PLAN GIVES HIM A LIFETIME SUPPLY OF</p>	Page 132

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<p>1 BACLOFEN THAT HE CAN TAKE ORALLY.  2 AND IF THE SPASTICITY IS REDUCED TO THE  3 EXTENT WHERE THERE'S SUCCESS LIKE THE DOCTORS EXPECT,  4 THERE'S NOTHING WRONG, ACCORDING TO THE DOCTORS, WITH  5 HIM TAKING BACLOFEN ORALLY TO MINIMIZE THE SPASTICITY  6 THAT REMAINS EVEN AFTER THE CONTRACTURE RELEASE  7 SURGERY.  8 AND WE HEARD FROM DR. KIM ABOUT WHY WE  9 DOESN'T WANT A BACLOFEN PUMP IN ANTHONY. BECAUSE HE'S  10 ALREADY EXHIBITED COMPLICATIONS WITH HARDWARE IN HIS  11 BODY. IT'S AN ADDITIONAL PROCEDURE WHICH CAN INCREASE  12 THE RISK OF INFECTION TO MR. TAYLOR.  13 SOMEBODY DESCRIBED IT AS THE SIZE OF A  14 HOCKEY PUCK SITTING IN YOUR BODY THAT CONTINUOUSLY HAS  15 TO BE MONITORED, MAINTAINED, AND REPLACED OVER THE  16 COURSE OF YOUR LIFETIME SEVERAL TIMES. THIS IS NOT A  17 PROCEDURE THAT IS MEDICALLY NECESSARY ONCE YOU HAVE THE  18 CONTRACTURE SURGERY PERFORMED.  19 ANTHONY CAN GET THE MEDICINE THAT HE  20 REQUIRES TO DEAL WITH THE SPASTICITY ORALLY AFTER THE  21 CONTRACTURE SURGERY IS CONDUCTED.  22 DR. CHEUNG. WE KNOW THAT HE'S THE  23 TREATING PHYSICAL PAIN AND REHAB DOCTOR IN OREGON. WE  24 KNOW OF ALL THE DOCTORS THAT YOU'VE HEARD TESTIFY IN  25 THIS CASE, HE IS THE DOCTOR THAT HAS SEEN MR. TAYLOR  26 THE MOST OF ANY DOCTOR IN THE LAST NINE MONTHS. HE'S  27 ESSENTIALLY BECOME, I THINK WHAT THE PLAINTIFFS HAVE  28 DESCRIBED FOR YOU IN SOME OF THEIR EXAMS, THE CAPTAIN</p>	<p>1 PULMONARY REHABILITATION FACILITY.  2 TELLS YOU HE'S BEEN CLEARED TO EAT, DRINK,  3 TAKE MEDICINE ORALLY, NO NEED FOR THE G-TUBE. AND TO A  4 REASONABLE DEGREE OF MEDICAL CERTAINTY, A TERM THAT I  5 WILL USE IN MORE DETAIL IN A LITTLE BIT AND SHOW YOU AN  6 INSTRUCTION, HE CAN, WITH SOME REHAB, REPOSITION  7 HIMSELF, DO SOME ACTIVITIES OF DAILY LIVING  8 INDEPENDENTLY AND ASSIST WITH TRANSFERS.  9 AND IF ANTHONY CAN REPOSITION HIMSELF, IN  10 DR. CHEUNG'S OWN OPINION, HE DOESN'T EVEN NEED  11 24/7 CARE. WE'RE NOT HERE TO ACCEPT THAT. WE'RE NOT  12 HERE TO TAKE THAT RISK.  13 AND WE APPRECIATE THE FACT THAT DR. CHEUNG  14 THINKS THAT IN ALL LIKELIHOOD AND SOMETIME IN THE  15 FUTURE IN ALL PROBABILITY MR. TAYLOR WILL BE ABLE TO  16 TAKE CARE OF HIMSELF AT NIGHT, WILL BE ABLE TO  17 REPOSITION HIMSELF, AND DO WHATEVER TRANSFERS THAT HE  18 FEELS ARE NECESSARY AS HE CONTINUES TO STRENGTHEN.  19 BUT DR. KIM, NURSE HELVIN, SAMANTHA  20 SCHILLING, WE'RE NOT HERE TO ASK FOR THAT RISK. LET'S  21 MAKE SURE THAT HE HAS A 24-HOUR-A-DAY CARE, SEVEN DAYS  22 A WEEK, DESPITE DR. CHEUNG'S BELIEF THAT HE DOESN'T  23 NEED IT IN THE FUTURE.  24 IF HE HAS THE CONTRACTURE SURGERY,  25 DR. CHEUNG ADMITS THAT HE WON'T NEED THE BACLOFEN PUMP.  26 YOU'LL NOTICED WHEN YOU LOOK AT THE  27 VERDICT FORM WHEN YOU GET INTO THE JURY ROOM THAT YOU  28 ARE NOT BEING ASKED TO DECIDE THE REASONABLE COST FOR</p>
<p>Page 134</p> <p>1 OF THE SHIP.  2 DOES HE APPEAR TO BE THE BEST CAPTAIN OF  3 THE SHIP? THAT'S UP FOR YOU TO DECIDE. THERE ARE  4 IMPROVEMENTS THAT HE COULD MAKE IN THE WAY HE'S  5 HANDLING THE CARE OF MR. TAYLOR.  6 PERHAPS HE CAN, BUT HE FEELS PRETTY GOOD  7 ABOUT HIS ASSESSMENT OF MR. TAYLOR BECAUSE, AS YOU'VE  8 NOTICED FROM HIS TESTIMONY THAT TOOK PLACE IN FEBRUARY,  9 ALL THE WAY UP UNTIL THE TIME OF THE MEDICAL RECORD  10 THAT HE TALKED -- THAT WAS DISCUSSED FROM HIM IN MARCH  11 THAT CONTINUES TO BE PROGRESS THAT PROVIDES HIM HOPE.  12 YOU SAW IN THE DEPOSITION THAT TOOK PLACE  13 IN FEBRUARY THAT HE APPEARED TO BE KIND OF CLUELESS  14 ABOUT THE PROGRESS WITH THE TRACH. HE MADE A COMMENT  15 IN HIS DEPOSITION THAT SUGGESTED, WELL, THAT'S  16 DR. WEBSTER'S DEAL. DR. WEBSTER'S TAKING CARE OF THAT.  17 DR. WEBSTER HASN'T TOUCHED HIM SINCE JUNE OF 2017.  18 SO I SUSPECT THAT WITH THE QUESTIONING OF  19 MS. TROPP AND MR. WHEELER UP IN OREGON WHEN THEY GO  20 INTO SOME DETAIL WITH HIM IN FEBRUARY ABOUT WHAT'S THE  21 DEAL WITH MR. TAYLOR'S TRACH? MAYBE A LIGHT BULB GOES  22 OFF.  23 BECAUSE IRONICALLY, THREE WEEKS LATER WHEN  24 MR. TAYLOR GOES TO SEE HIM ON MARCH 8TH, THERE YOU SEE  25 THE TRACHEOSTOMY DEALT WITH. THERE YOU SEE THE  26 RECOMMENDATION TO A PULMONARY REHABILITATION FACILITY.  27 THERE YOU SEE THE THOUGHT PROCESS THAT WE COULD  28 PROBABLY GET THE TRACH REMOVED IF HE GETS IN THE</p>	<p>Page 136</p> <p>1 PAST MEDICAL CARE. THAT IS NOT AN ISSUE FOR YOU TO  2 CONSIDER ABOUT THE COSTS RELATED TO ALL THE CARE THAT'S  3 TAKING PLACE FOR MR. TAYLOR TO DAY 1 BECAUSE THAT'S AN  4 ISSUE THAT HAS BEEN RESOLVED, AND IT DOES NOT REQUIRE  5 YOUR ASSISTANCE.  6 SO THE ONLY ELEMENT OF DAMAGES THAT YOU'RE  7 TALKING ABOUT --  8 MR. REX PARRIS: I OBJECT. THE STATEMENT THAT IT  9 HAS BEEN RESOLVED AND DOESN'T REQUIRE -- THAT'S  10 MISLEADING.  11 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,  12 IT'S NOT AN ISSUE THAT YOU HAVE TO ADDRESS AND WE'LL  13 LEAVE IT AT THAT.  14 MR. BRAUN: WHAT YOU'RE ASKED TO DECIDE ABOUT THE  15 PAST WITH RESPECT TO MR. TAYLOR IS ONLY THE REASONABLE  16 COST OF HIS LOST WAGES, AND THERE'S NO DISPUTE ON THAT  17 AND WE'LL SHOW THAT TO YOU IN A MOMENT.  18 BUT WHAT WE'RE ASKING YOU TO DETERMINE IS  19 WHAT IS THE REASONABLE COST OF THE FUTURE CARE THAT HE  20 IS CERTAIN TO REQUIRE?  21 LET'S TAKE A LOOK AT THE JURY INSTRUCTION  22 THAT YOU'RE GOING TO BE PROVIDED WITH IN THE JURY ROOM.  23 C.A.C.I. 3903(A).  24 IT SAYS (AS READ AND/OR REFLECTED):  25 TO RECOVER DAMAGES FOR FUTURE  26 MEDICAL EXPENSES, ANTHONY TAYLOR MUST  27 PROVE --  28 MR. PARRIS SAYS THERE ARE DIFFERENT</p>

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<p>1 BURDENS OF PROOF IN THIS CASE THAT WE MUST PROVE THINGS 2 AND HE MUST PROVE THINGS. I WILL PROMISE YOU THAT THE 3 LAW PUTS THE BURDEN FOR MR. TAYLOR ON THIS ISSUE SOLELY 4 WITH HIM. SO (AS READ AND/OR REFLECTED): 5 HE MUST PROVE THE REASONABLE COST 6 OF REASONABLY NECESSARY MEDICAL CARE 7 THAT HE IS REASONABLY CERTAIN TO NEED 8 IN THE FUTURE. 9 WE'RE NOT EVEN TALKING PROBABILITIES 10 ANYMORE WHEN YOU'RE TALKING ABOUT FUTURE MEDICAL CARE. 11 WE'RE CERTAINLY NOT TALKING POSSIBILITIES ABOUT FUTURE 12 MEDICAL CARE. 13 THE LAW EXPRESSLY DEFINES IT AS TALKING 14 ABOUT REASONABLE CERTAINTY WHEN TALKING ABOUT FUTURE 15 MEDICAL CARE. AND THAT'S AN IMPORTANT DISTINCTION FOR 16 YOU TO CONSIDER AS YOU LISTEN TO THE EVIDENCE ABOUT 17 WHAT FUTURE CARE HE WILL REQUIRE. 18 IT SHOULD BE QUITE EVIDENT TO YOU THAT ALL 19 OF THE MEDICAL EVIDENCE THAT HAS BEEN GOING ON WITH 20 MR. TAYLOR FOR THE PAST NINE MONTHS HAS BEEN PROVIDED 21 TO YOU THROUGH THE QUESTIONING OF THE DEFENSE. WE HAVE 22 PUT EXHIBIT AFTER EXHIBIT IN FRONT OF WITNESSES ABOUT 23 MEDICAL CARE THAT HAS TAKEN PLACE IN SEPTEMBER OF 2017, 24 IN OCTOBER OF 2017, IN JANUARY OF 2018, IN FEBRUARY OF 25 2018, OF MARCH 2018, ALL OFFERED TO WITNESSES PULLED 26 OUT OF BINDER BY THE DEFENSE AND PUT IN FRONT OF THE 27 WITNESSES. 28 WHY IS IT THAT THAT HAS HAPPENED? ASK</p>	<p>1 ABOUT HIS PROGRESS, ASK YOURSELF, WHY IS THAT 2 HAPPENING? 3 WHY DON'T THEIR EXPERTS KNOW WHAT'S GOING 4 ON WITH MR. TAYLOR? THERE'S GOT TO BE A REASON FOR 5 THAT. 6 YOU LISTEN TO THE OPINION OF SOMEONE LIKE 7 DR. FARRUKH WHO DID AN OUTSTANDING JOB OF TREATING 8 MR. TAYLOR BACK IN DECEMBER OF 2015 AND JANUARY OF 2016 9 TO TREAT THE INJURY THAT OCCURRED, BUT THEN WANTS TO 10 COME IN HERE AND OFFER YOU OPINIONS ABOUT HIS FUTURE, 11 AND THE PROBLEMS HE'S GOING TO HAVE WHEN HE HASN'T EVEN 12 SEEN HIM SINCE JANUARY OF 2016, BUT FOR SOME 15-MINUTE 13 EXAMINATION THAT TOOK PLACE IN HIS HOTEL ROOM THE NIGHT 14 BEFORE? 15 AND THEN THE TESTIMONY OF DR. CAPLAN, THE 16 SPECIALIST, THE PLAINTIFF'S SPECIALIST WITH RESPECT TO 17 THE TRACHEOSTOMY AND THE PULMONARY REHAB OF MR. TAYLOR. 18 DID YOU HEAR WHEN MS. TROPP ASKED HIM 19 ABOUT THE 2018 RECORDS, I DON'T GIVE A WHIT ABOUT THE 20 2018 RECORDS. 21 WHY? WHY DON'T YOU CARE ABOUT THE 2018 22 RECORDS? IT JUST DOESN'T MAKE SENSE. 23 IF YOU'RE REALLY GOING TO OFFER EXPERTS IN 24 THIS TRIAL OF THIS MAGNITUDE TO PROVIDE YOU OPINIONS ON 25 THE FUTURE, DON'T YOU WANT TO MAKE SURE THAT THEY'RE 26 FULLY INFORMED AND EDUCATED? 27 AND AT THAT POINT IN TIME, BOTH EXPERTS ON 28 THEIR SAME PLAYING FIELD LET THEM BATTLE IT OUT AND</p>
<p>Page 138</p> <p>1 YOURSELF WHY IS IT THAT WE'RE STUCK IN JUNE OF 2017. 2 IT SHOULD BECOME EXTREMELY CLEAR TO YOU ABOUT WHY WE'RE 3 STUCK IN THE PAST WITH ANTHONY TAYLOR. 4 BECAUSE IT'S THE PERIOD OF TIME UP TO JUNE 5 OF 2017 THAT EVERYBODY HAD THE MOST CONCERN ABOUT HIS 6 HEALTH. EVERYBODY WAS WORRIED ABOUT MR. TAYLOR'S 7 CONSEQUENCES THAT HAD TAKEN PLACE AT LEAST UP THROUGH 8 FEBRUARY OF '17. 9 BUT LET'S NOT GET STUCK IN THE PAST. 10 LET'S CONTINUE TO LOOK TOWARD THE FUTURE. BECAUSE WHEN 11 WE'RE TALKING ABOUT FUTURE MEDICAL CARE AND FUTURE 12 MEDICAL BILLS, YOU'RE REQUIRED TO LOOK TOWARD THE 13 FUTURE. 14 YOU'VE SEEN RECORDS FROM NORTH BEND 15 MEDICAL CENTER. YOU'VE SEEN RECORDS FROM COQUILLE 16 VALLEY HOSPITAL. YOU'VE SEEN RECORDS FROM SOUTHWEST 17 PHYSICAL THERAPY. YOU'VE HEARD TESTIMONY OF 18 DRs. CHEUNG AND KIM. 19 IT'S CLEAR FROM ALL THOSE RECORDS AND THAT 20 TESTIMONY THAT THE FUTURE IS A LOT BRIGHTER THAN IT WAS 21 IN JUNE OF 2017. 22 SO WHEN YOU LISTEN TO THE OPINIONS OF 23 SOMEBODY LIKE DR. MILLER, THE PLAINTIFF'S PHYSICAL 24 MEDICINE AND REHAB DOCTOR, THAT HAS BEEN GIVEN A STACK 25 OF 35 PAGES FROM A VOLUME OF 417 PAGES OF RECORDS ON 26 MR. TAYLOR REGARDING HIS ONGOING PROGRESS, OR HE'S BEEN 27 GIVEN A SAMPLE OF 15 PAGES WHEN WE'VE GOT OVER 28 100 PAGES OF RECORDS FROM NORTH BEND MEDICAL CENTER</p>	<p>Page 140</p> <p>1 IT'S UP TO YOU TO DECIDE WHO YOU WANT TO BELIEVE. IT'S 2 STILL UP TO YOU TO DECIDE WHO YOU WANT TO BELIEVE. 3 BUT I ASK YOU TO CONSIDER WHAT EACH EXPERT 4 HAD IN THEIR KNOWLEDGE BASE BEFORE THEY STARTED 5 OFFERING OPINIONS TO YOU IN THIS CASE. 6 EVEN THE VIDEO CLIP TESTIMONY THAT WAS 7 OFFERED BY THE PLAINTIFFS DURING THEIR CASE-IN-CHIEF 8 WAS KIND OF A CUT-AND-PASTE JOB ON YOU. YOU WOULD HEAR 9 SNIPPETS OF TESTIMONY PARTICULARLY FROM DR. WEBSTER 10 ABOUT HOW IF THE CAP IS -- OR THE TRACH IS REMOVED, 11 THERE'S INCREASED MORTALITY AND HE WILL DIE. 12 PROBABLY SO GIVEN THE KNOWLEDGE BASE THAT 13 DR. WEBSTER HAD AT THAT TIME, BUT DR. WEBSTER DIDN'T 14 KNOW EVERYTHING THAT WAS GOING ON AT THAT TIME. 15 SO WHEN MS. TROPP ASKED HIM QUESTIONS AND 16 WE PLAYED NEARLY 30 MINUTES OF TESTIMONY FROM 17 DR. WEBSTER, YOU CAN HEAR THAT AS HE CONTINUES TO HEAR 18 ABOUT THE NONCOMPLIANCE OF THE CAPPING PROCEDURES, HE 19 DOESN'T FEEL AS STRONGLY ABOUT THOSE OPINIONS THAT HE 20 HAD OFFERED AT SOME POINTS IN HIS DEPOSITION. 21 THEY ACCUSE US OF WANTING A DISCOUNT HERE. 22 AND I ASSURE YOU THAT A TERM LIKE THAT IS INSULTING TO 23 EVERYBODY THAT IS IN THIS COURT AND REPRESENTING THE 24 INTERESTS OF MS. SCHILLING. AND IT'S INSULTING TO 25 MS. SCHILLING, INSULTING TO THE LAWYERS. 26 THERE IS NO SUCH THING AS A NEED OR 27 REQUEST FOR A DISCOUNT HERE. WE'RE SIMPLY ASKING YOU 28 TO CONSIDER THE EVIDENCE AND ULTIMATELY MAKE YOUR OWN</p>

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<p>1 DECISION ABOUT THE CARE THAT HE REQUIRES. AND IT'S NOT 2 A DISCOUNT. 3 WE'RE SIMPLY ASKING YOU TO BE REASONABLE 4 IN YOUR DETERMINATION OF FIGURING OUT WHAT IS CERTAIN 5 TO OCCUR IN THE FUTURE. NOT DEAL WITH POSSIBILITIES. 6 NOT DEAL WITH PROBABILITIES. DEAL WITH CERTAINTIES. 7 IF THERE'S ANYTHING WE ARE GUILTY OF, IT'S 8 LIVING IN THE PRESENT WITH DREAMS OF HOPE AND SUCCESS 9 FOR MR. TAYLOR. THAT'S WHAT WE'RE GUILTY OF. 10 DR. KIM REVIEWED ALL HIS MEDICAL RECORDS, 11 WATCHED AND READ ALL THE VIDEOTAPED DEPOSITIONS OF 12 MR. TAYLOR AND HIS MOTHER, READ THE DEPOSITION 13 TESTIMONY OF ALL THE TREATING DOCTORS AND SURGEONS, 14 EXAMINED MR. TAYLOR FOR SEVERAL HOURS AT HIS HOME IN 15 MYRTLE POINT IN DECEMBER, CONSULTED WITH 16 DRs. WEINSTEIN, KLEIN, AND NURSE HELVIN, RELIED ON HER 17 CLINICAL EXPERIENCE OF PROPER CARE FOR A C5-6 18 TETRAPLEGIC. 19 AND THIS IS WHAT SHE ULTIMATELY 20 RECOMMENDS. YOU SEE A SAMPLE OF A G-TUBE IN THE UPPER 21 RIGHT. THAT CAN BE REMOVED. YOU SEE A SAMPLE OF A 22 TRACHEOSTOMY IN THE CENTER THERE. THAT CAN BE DONE. 23 YOU SEE THE CONTRACTURE RELEASE ON THE 24 RIGHT ON THE BOTTOM. 25 LET'S TALK ABOUT THE FUTURE HOME HEALTH 26 CARE, FUTURE HOME CARE. 27 SO DR. KIM AND NURSE HELVIN HAVE TOLD YOU 28 THAT UNTIL THAT G-TUBE AND TRACH ARE REMOVED, HE SHOULD</p>	<p>1 EXAMINED, AND REPLACED ON A PERIODIC BASIS AS NEEDED. 2 AND WE WANT PSYCHOLOGICAL COUNSELING. WE 3 AGREE WITH DR. READING. WE'VE GOT NO PROBLEM WITH THE 4 FACT THAT DESPITE THE FACT THAT ANTHONY IS NOT 5 EXHIBITING SIGNS OF DEPRESSION OR ANXIETY, THINGS ARE 6 GOING TO HAPPEN IN THE FUTURE, AND THERE'S NO DOUBT IN 7 OUR MINDS THAT WHEN HE LOSES HIS MOTHER, IT'S GOING TO 8 BE A BIG IMPACT ON HIM AND HIS ABILITY TO FEEL LIKE HE 9 STILL CAN MAINTAIN HIS INDEPENDENT FUNCTION, AND HE IS 10 GOING TO REQUIRE ASSISTANCE TO GET THROUGH THAT. 11 GIVE IT TO HIM. PLEASE. 12 AND A CASE MANAGER, SOMEBODY WHO WILL MAKE 13 SURE THAT ALL THESE THINGS ARE HAPPENING. SOMEBODY 14 THAT WILL BE THE TRUE CAPTAIN OF THE SHIP TO MAKE SURE 15 THAT HE'S GETTING ALL HIS APPOINTMENTS AND SEEING THE 16 SPECIALISTS THAT HE REQUIRES. AGAIN, THAT'S SOMETHING 17 IN NURSE HELVIN'S PLAN. 18 OTHER MEDICAL SERVICES, THERAPY, BOTH 19 PHYSICAL AND OCCUPATIONAL. SPEECH, IMPORTANT. 20 THERAPEUTIC EQUIPMENT NEEDS, MEDICATIONS. YOU'LL SEE A 21 DRIVING FORCE IN THE LIFE CARE PLANS IN BOTH INSTANCES 22 IS THE MEDICATION. HE'S GOING TO REQUIRE A LOT OF 23 MEDICINE IN THE FUTURE AND MEDICINE IS EXPENSIVE. SO 24 YOU'LL SEE IN YOUR EVALUATION OF THE PLANS THAT A BIG 25 PART OF THE PLAN IS THE COST OF MEDICATION. 26 HOME RENOVATIONS. WE ALL WANT THIS TO 27 OCCUR. WE WANT TO MAKE SURE HIS BATHROOM IS 28 ACCESSIBLE. WE WANT TO MAKE SURE THAT THERE'S A</p>
<p>Page 142</p> <p>1 HAVE A LICENSED VOCATIONAL NURSE AT HIS SIDE 24 HOURS A 2 DAY. AND THEY SUSPECT THAT WILL BE NECESSARY FOR THE 3 NEXT 6 TO 12 MONTHS BECAUSE THEY HAVE COMPETENCE IN THE 4 PROGRESS THAT HE'LL MAKE WHEN HE GETS TO SANTA CLARA 5 VALLEY MEDICAL CENTER. 6 THEY TELL YOU THAT ASSUMING THESE 7 PROCEDURES DO TAKE PLACE IN THE NEXT 6 TO 12 MONTHS, HE 8 CAN THEN BE CARED FOR BY EITHER A CERTIFIED NURSE AIDE 9 OR A PRIVATE HIRE 24 HOURS A DAY. 10 AND SHOULD -- AND EVEN IN THAT 11 CIRCUMSTANCE, THE PLAN STILL CALLS FOR HIM TO BE 12 VISITED BY A REGISTERED NURSE ON A MONTHLY BASIS TO 13 MONITOR AND MAINTAIN HIS PROGRAM, AND MAKE SURE THAT 14 EVERYBODY'S BEING EDUCATED ABOUT WHAT'S GOING ON. 15 FUTURE MEDICAL CARE THAT YOU SEE IN THE 16 PLAN RECOMMENDED BY DRs. KIM, KLEIN, AND WEINSTEIN. 17 YOU HAVE PHYSIATRISTS, WHICH IS LIKE A DR. KIM OR 18 DR. CHEUNG, SEEING HIM REGULARLY ON A YEARLY BASIS. 19 ORTHOPEDICS ARE SEEING HIM REGULARLY ON A 20 YEARLY BASIS. A UROLOGIST, A PULMONOLOGIST, A 21 PODIATRIST, A DENTIST. EVERYBODY AGREES THAT WE WANT 22 ONE OF THOSE DOCTORS SEEING HIM AT MINIMUM ONCE A YEAR, 23 AND DEPENDING ON THE CIRCUMSTANCE, MORE THAN THAT. 24 WE WANT DIAGNOSTIC TESTS LIKE X RAYS OR 25 SCANS DONE ON HIM, AS REGULARLY AS HE REQUIRES TO MAKE 26 SURE THAT HIS HEALTH IS PRESERVED. 27 WE WANT ORTHOTICS AND PROSTHETICS, SPLINTS 28 AND BRACES, TO BE NOT ONLY PROVIDED INITIALLY, BUT</p>	<p>Page 144</p> <p>1 MODIFICATION OF THE SHOWER SO THAT THERE'S A CHAIR 2 INSTALLED. 3 WE WANT APPROPRIATE HYDRAULICS AND 4 WALLED-MOUNTED LIFTS IN THAT HOUSE WHETHER IT BE THE 5 ONE HE CURRENTLY LIVES IN WITH HIS MOTHER, OR WHETHER 6 IT'S SOME HOME THAT HE HAS DOWN THE ROAD WHICH HE 7 CHOOSES TO LIVE IN. 8 IN ADDITION, WE WANT TO IMPROVE HIS 9 FUNCTIONAL -- OR HIS INDEPENDENCE. WE KNOW THAT THERE 10 ARE -- THERE IS THIS TECHNOLOGICALLY ADVANCED MANUAL 11 WHEELCHAIR THAT EXISTS OUT THERE SO THAT HE CAN HANDLE 12 HIS SURROUNDINGS. THAT'S IN THE PLAN. HE DOESN'T HAVE 13 THAT NOW. 14 THERE'S A POWER WHEELCHAIR WITH PROPER 15 TILT AND POSTURAL SUPPORT. WE KNOW THAT HE LOVES HIS 16 WHEELCHAIR RIGHT NOW, BUT IN THE PLAN WE ASK THAT YOU 17 GIVE HIM THE PERMOBIL, THE THING THAT KIND OF LOOKS 18 LIKE A TRANSFORMER THAT ALLOWS HIM WHEN HE GETS THE 19 CONTRACTURE RELEASE SURGERY TO FEEL MORE COMFORTABLE TO 20 STAND UP AND BE IN A SOCIAL SETTING AND TALK TO 21 SOMEBODY EYE TO EYE. AND WE'LL ALSO HELP HIS PULMONARY 22 FUNCTION. 23 SO MAKE SURE WHEN YOU'RE IN THERE, LOOK AT 24 THE COST OF WHAT THE PERMOBIL IS, AND PUT IT IN YOUR 25 PLAN. 26 INDOOR AND OUTDOOR RAMPS INSTALLED AT THE 27 HOUSE. YOU CAN SEE THE PORTABLE AND THE CEILING LIFTS. 28 EVERYBODY WANTS HIM TO HAVE A HANDICAP-ACCESSIBLE VAN</p>

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<p>1 WITH FUNDS TO BOTH MAINTAIN IT AND REPLACE IT.  2 I THINK YOU'LL SEE IN THE PLAN THAT THE  3 AVERAGE REPLACEMENT FOR THAT VAN IS EVERY SEVEN YEARS.  4 GET HIM A NEW VAN EVERY SEVEN YEARS. PLEASE, GIVE HIM  5 THE MONEY TO DO THAT.  6 AND THEN YOU SEE THE HAND CYCLE ON THE  7 BOTTOM, WHICH WAS AN IMPORTANT THING TO MR. TAYLOR  8 BECAUSE, AS YOU SAW IN THE DAY-IN-THE-LIFE VIDEO, AND  9 YOU'VE HEARD HIS TESTIMONY AND HIS MOTHER'S TESTIMONY,  10 IT WAS ONE OF THE FUNNEST THINGS FOR HIM TO RIDE AROUND  11 THE NEIGHBORHOOD AND ENGAGE WITH THE NEIGHBORS AND TALK  12 TO THEM ABOUT THEIR DAY. THAT CAN STILL HAPPEN WITH  13 PROGRESS, WITH THERAPY. IT CAN STILL HAPPEN.  14 AND SO YOU'LL SEE THE HAND BICYCLE IN THE  15 LIFE CARE PLAN.  16 SO WHAT ARE ANTHONY TAYLOR'S PAST ECONOMIC  17 DAMAGES?  18 SO WHAT ARE THE PAST ECONOMIC DAMAGES?  19 THIS IS WHAT YOU'RE GOING TO SEE IN THE JURY ROOM.  20 AND, AGAIN, AS I MENTIONED, THERE'S NO DISPUTE AS TO  21 THE PAST ECONOMIC DAMAGES. WE'RE GOING TO GIVE YOU  22 THAT NUMBER IN A SECOND.  23 AND THAT PAST ECONOMIC DAMAGE NUMBER IS  24 THE PAST LOST EARNINGS THAT HE SUSTAINED.  25 AND THEN THE NEXT QUESTION YOU'RE GOING TO  26 BE ASKED AFTER THAT IS WHAT ARE ANTHONY TAYLOR'S FUTURE  27 ECONOMIC DAMAGES?  28 AND, AGAIN, I REFER YOU TO THE JURY</p>		<p>1 MAKE IT INTO NURSE ROUGHAN'S LIFE CARE PLAN.  2 WHY IS THAT?  3 IF NURSE ROUGHAN IS HERE TO TELL YOU ABOUT  4 WHAT THE FUTURE HOLDS FOR MR. TAYLOR, WHY DIDN'T SHE  5 PUT THE ADJACENT SEGMENT SURGERY IN HER LIFE CARE PLAN?  6 THE BACLOFEN PUMP. WE'VE TALKED ABOUT  7 THAT BEING A POSSIBILITY.  8 THE HYPERBARIC CHAMBER. WHERE DID THAT  9 COME FROM? WE HEARD DR. FARRUKH TALKING ABOUT A  10 HYPERBARIC CHAMBER OF SOME SORT. THAT'S NOT IN THE  11 LIFE CARE PLAN. NO OTHER EXPERT EVER TALKED TO YOU  12 ABOUT A HYPERBARIC CHAMBER, BUT DR. FARRUKH, WHO HASN'T  13 SEEN HIM SINCE JANUARY OF 2016, HAS THIS NEW SCIENCE  14 THAT HE WANTS TO INCLUDE OF A HYPERBARIC CHAMBER THAT  15 NEVER MAKES IT INTO A LIFE CARE PLAN?  16 THEN YOU'VE GOT THIS BOARD THAT  17 MR. WHEELER USED THIS MORNING FROM DR. KIM'S CHAPTER.  18 IT'S FABULOUS THAT WE'RE SPENDING TIME TALKING TO  19 DR. KIM ABOUT A PUBLISHED CHAPTER THAT SHE HAS IN AN  20 INTERNATIONAL OLYMPIC COMMITTEE HANDBOOK ABOUT ISSUES  21 THAT MAY RELATE TO THE PARAPLEGIC AND QUADRIPLEGIC  22 COMMUNITY THAT ARE COMPETING IN THE OLYMPICS. THAT'S  23 GREAT. VERY EDUCATIONAL.  24 BUT WHEN IT CAME DOWN TO IT AND SHE WAS  25 ASKED THE QUESTION, ARE ALL THESE THINGS THINGS THAT WE  26 SHOULD BE CONCERNED WITH FOR MR. TAYLOR? THE ANSWER  27 WAS NO. NONE OF THE THINGS THAT MR. PARRIS WAS  28 QUESTIONING HER ON OR PUT ON A BIG EXHIBIT BOARD FOR</p>	
<p>1 INSTRUCTION THAT SAYS HE'S GOT TO PROVE THAT WITH  2 CERTAINTY. NOT POSSIBILITIES. AND THAT RELATES TO A  3 DOLLAR FIGURE FOR FUTURE LOST EARNINGS FOR MR. TAYLOR,  4 AND IT RELATES TO A DOLLAR FIGURE FOR FUTURE MEDICAL  5 EXPENSES FOR MR. TAYLOR.  6 AND THEN ULTIMATELY, YOU'RE GOING TO TOTAL  7 OUT THE ECONOMIC DAMAGES. THAT'S WHAT THE VERDICT FORM  8 IS GOING TO LOOK LIKE FOR YOU WHEN YOU GET INTO THAT  9 JURY ROOM AT LEAST AS TO THE FIRST TWO QUESTIONS.  10 HERE ARE SOME OF THE THINGS YOU NEED TO  11 CONSIDER ON WHETHER OR NOT THEY'VE PROVEN THIS WITH  12 CERTAINTY AS OPPOSED TO EITHER POSSIBILITY OR  13 PROBABILITY.  14 DR. WEINSTEIN FINISHED HIS TESTIMONY THIS  15 MORNING TO TALK TO YOU ABOUT WHETHER ADJACENT SEGMENT  16 SURGERY WILL BE A NECESSITY IN THE FUTURE. AND I THINK  17 DR. MOLDAWER ESTIMATED THE COST OF THAT IS SOMEWHERE  18 BETWEEN 100- AND \$150,000.  19 IN THE GRAND SCHEME OF THINGS, THAT'S NOT  20 A LOT OF MONEY WITH WHAT WE'RE TALKING ABOUT; RIGHT?  21 WE'RE TALKING MILLIONS OF DOLLARS HERE. I AGREE THAT'S  22 NOT A BIG TICKET ITEM THAT WE SHOULD BE SPENDING A LOT  23 OF TIME TALKING ABOUT ON BOTH SIDES, BUT IT'S JUST AN  24 EXAMPLE OF THE TYPES OF THINGS THE PLAINTIFFS HAVE  25 PRESENTED IN THEIR CASE IN WHICH THEY'RE TALKING ABOUT  26 POSSIBILITIES AND MAYBES AS OPPOSED TO CERTAINTIES,  27 WHICH IS KIND OF ACTING LIKE A BIT OF A FEAR FACTOR.  28 THE ADJACENT SEGMENT SURGERY DIDN'T EVEN</p>		<p>1 YOU AND ASKED ABOUT HAD ANYTHING TO DO WITH MR. TAYLOR.  2 AND CERTAINLY NONE OF THE COMPLICATIONS  3 RELATED TO THOSE PROCEDURES MADE IT INTO THE LIFE CARE  4 PLAN. WHY DIDN'T IT MAKE IT IN THE LIFE CARE PLAN?  5 BECAUSE WE'RE TALKING ABOUT POSSIBILITIES HERE.  6 THE LAW DOES NOT ALLOW YOU TO AWARD  7 JUST-IN-CASE DAMAGES. YOU MAY REMEMBER AS DURING THE  8 VOIR DIRE PROCESS WHEN WE GAVE YOU THE JURY  9 QUESTIONNAIRE, THAT WAS ONE OF THE QUESTIONS. WOULD  10 YOU BE MORE PRONE TO AWARD JUST-IN-CASE DAMAGES SHOULD  11 SOMETHING HAPPEN IN THE FUTURE?  12 LOOK AT THE LAW. BECAUSE JUST-IN-CASE  13 DAMAGES DOES NOT TALK ABOUT DAMAGES THAT HAVE BEEN  14 ESTABLISHED TO A REASONABLE DEGREE OF MEDICAL  15 CERTAINTY. SO JUST-IN-CASE DAMAGES ARE THE SAME AS  16 POSSIBILITIES.  17 SO HERE WE GO. FUTURE COST OF CARE.  18 SO FOR THE FIRST NINE MONTHS, REMEMBER,  19 MR. VAVOULIS SAID THAT, OKAY, WE WANT MR. TAYLOR AT  20 SANTA CLARA VALLEY REHAB IN THE NEXT 6 TO 12 MONTHS.  21 SO WHAT HE DOES IS HE TAKES THE AVERAGE OF THE 6- TO  22 12-MONTH PERIOD AND EACH OF THE CATEGORIES SO HE'S  23 GIVEN YOU A NUMBER AT THE NINE-MONTH PERIOD.  24 SO FOR THE FIRST NINE MONTHS WE HAVE A  25 LICENSED VOCATIONAL NURSE TAKING CARE OF HIM AT \$29 AN  26 HOUR. AND THEN AFTER THAT, WE HAVE A CERTIFIED NURSE  27 ASSISTANT TAKING CARE OF HIM AT \$28 AN HOUR. WHEN YOU  28 HAVE THOSE CATEGORIES OF ATTENDANT CARE, THE NUMBER IS,</p>	



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<p>1 AS YOU SEE, \$7,509,153.  2 SAY THAT AGAIN. \$7,509,153.  3 SO WHAT'S THE SECOND CATEGORY?  4 AGAIN, THEY WILL SAY TO YOU, WELL, THERE'S  5 YOUR DISCOUNT RIGHT THERE. THEY'RE GIVING YOU A LOWER  6 NUMBER BECAUSE THEY'RE TALKING TO YOU ABOUT A PRIVATE  7 HIRE AFTER NINE MONTHS THAT'S ONLY COSTING 14.50 AN  8 HOUR.  9 WHY ARE WE TALKING TO YOU ABOUT A PRIVATE  10 HIRE? BECAUSE AS YOU HEARD FROM THE TESTIMONY FROM  11 NURSE HELVIN AND OTHERS, THEY LIVE IN A REMOTE AREA.  12 THERE ARE NO LICENSED VOCATIONAL NURSES IN THAT AREA.  13 AND THE ONE FACILITY THAT IS IN THE AREA IS ABOUT TO  14 CLOSE.  15 AND WHAT ARE THEY DOING RIGHT NOW?  16 THEY'VE GOT CERTIFIED NURSE AIDES COMING IN THERE.  17 WHAT ARE THEY PAYING THOSE CERTIFIED NURSE AIDES PER  18 HOUR? THEY'RE PAYING THEM 14.50 AN HOUR.  19 SO IF YOU BELIEVE THAT THE CIRCUMSTANCES  20 DICTATE THAT THIS IS WHAT'S GOING TO BE HAPPENING IN  21 THE FUTURE, THEN THE BOTTOM NUMBER IS \$5,370,979.  22 NOBODY WANTS YOU TO THINK THAT ANTHONY  23 TAYLOR'S GOING TO LIVE IN MYRTLE POINT, OREGON, FOR THE  24 REST OF HIS LIFE. NOBODY WANTS YOU TO THINK THAT. AND  25 IN ALL LIKELIHOOD, HE'S GOING TO GET TO AN AREA WHERE  26 THERE'S PROBABLY BETTER CARE AND ACCESS TO A LICENSED  27 VOCATIONAL NURSE.  28 SO IF YOU BELIEVE THAT, AS MUCH AS I DO,</p>	<p>1 SO YOU HAVE \$700,000 IN THEIR LIFE CARE  2 PLAN FOR A FLAP REPAIR.  3 TRACH MAINTENANCE, \$400,000.  4 AGAIN, IF YOU BELIEVE WITH CERTAINTY THAT  5 HE'S GOING TO REQUIRE THAT TRACH FOR THE REST OF HIS  6 LIFE, THEN LEAVE THAT \$400,000 IN.  7 BUT IF YOU BELIEVE IN THE HOPE THAT HE HAS  8 AND THE DOCTORS HAVE THAT THAT TRACH WILL BE REMOVED,  9 THAT'S A \$400,000 DIFFERENCE IN THE PLAN.  10 HOSPITALIZATION. I ONLY BRING THIS UP TO  11 SHOW AN EXAMPLE. YOU'LL SEE THAT THE DIFFERENCE IN  12 HOSPITALIZATION CHARGES BETWEEN THE TWO PLANS IS  13 \$180,000.  14 NOW'S, THAT'S NOT A BIG NUMBER, BUT THE  15 REASON I BRING IT UP IS BECAUSE REMEMBER I ASKED NURSE  16 ROUGHAN ABOUT THE C.P.T. CODES, AND HOW HER WHOLE PLAN  17 WAS LITTERED WITH C.P.T. CODES AND THE C.P.T. CODES IN  18 THE PLAN ARE NOTHING MORE THAN WHAT THESE PROVIDERS  19 CHARGE FOR THEIR SERVICES. IT'S WHAT THEY PUT A CODE  20 IN AND THAT'S THE BILL THEY'LL SEND YOU OR ANYBODY  21 ELSE.  22 BUT WHAT DOES NURSE HELVIN DO? NURSE  23 HELVIN DOES THE RESEARCH. SHE DOES THE MARKET SURVEY.  24 SHE CALLS AT LEAST THREE PROVIDERS IN EVERY SPECIALTY  25 IN THAT LOCATION TO FIND OUT WHAT'S THE COST THAT YOU  26 WILL ACCEPT IF SOMEBODY'S COMING IN HERE AND PAYING  27 THIS WITH CASH.  28 MR. TAYLOR WILL HAVE THE CASH WHEN WE'RE</p>
<p>Page 150</p> <p>1 GO WITH THE TOP NUMBER. GO WITH \$7,509,153. AND  2 IGNORE THE BOTTOM NUMBER. IGNORE WHAT'S CURRENTLY  3 GOING ON IN THE SITUATION BECAUSE WE WANT THE  4 CIRCUMSTANCES TO IMPROVE. WE THINK THE CIRCUMSTANCES  5 WILL IMPROVE.  6 AND IF THEY IMPROVE TO THE EXTENT THAT WE  7 BELIEVE THEY WILL IMPROVE, THAT'S THE NUMBER FOR FUTURE  8 CARE FOR MR. TAYLOR ON A PRESENT CASH VALUE BASIS.  9 HERE ARE SOME KEY DIFFERENCES BETWEEN  10 MS. ROUGHAN'S PLAN AND MS. HELVIN'S PLAN BECAUSE YOU'RE  11 WONDERING, WHERE'S THE DIFFERENCE; RIGHT?  12 BECAUSE THEIR PLAN AT A 35-YEAR LIFE  13 EXPECTANCY IS ABOUT 13 MILLION AND CHANGE. SO WHY ARE  14 WE ABOUT 5.5, \$6 MILLION OFF?  15 LET'S SEE SOME OF THE BIG TICKET ITEMS  16 THAT TELL YOU WHY WE'RE THAT FAR OFF.  17 NO. 1, THE BACLOFEN PUMP, \$800,000 IN THE  18 LIFE CARE PLAN FOR BACLOFEN PUMP.  19 NO. 2, THE FLAP REPAIRS. REMEMBER THAT  20 NURSE HELVIN AND DR. KIM TALKED ABOUT IF HE HAS THE  21 QUALITY CARE WE'RE TALKING ABOUT WHERE HE WILL BE  22 WATCHED 24 HOURS A DAY, THERE'S NO DOUBT THAT HE'S  23 GOING TO HAVE BEDSORES DOWN THE ROAD. THERE'S NO DOUBT  24 THAT WE'RE GOING TO REQUIRE WOUND DEBRIDEMENTS, WHICH  25 ARE ALSO IN THE PLAN, BUT IF HE HAS THE CARE WE'RE  26 TALKING ABOUT, YOU'RE NOT GOING TO HAVE TO HAVE THOSE  27 DECUBITUS ULCERS THAT ARE GOING TO REQUIRE A FLAP  28 REPAIR.</p>	<p>Page 152</p> <p>1 DONE HERE TODAY. YOU'RE GOING TO PROVIDE HIM THE CASH.  2 YOU'RE GOING TO PROVIDE HIM THE MONEY FOR A SPECIAL  3 NEEDS TRUST. YOU'RE GOING TO PROVIDE HIM WITH SOMEBODY  4 THAT'S GOING TO MANAGE THAT MONEY. DO IT. PLEASE.  5 AND WITH THAT MONEY, HE SHOULDN'T BE  6 PAYING THE C.P.T. CODE NUMBERS THAT YOU'RE SEEING  7 THROUGHOUT MS. ROUGHAN'S PLAN. HE SHOULD BE PAYING THE  8 MARKET RATES THAT YOU'RE SEEING THROUGH NURSE HELVIN'S  9 PLAN.  10 THE MOTORHOME, \$450,000.  11 HOME HEALTH. THERE'S YOUR DOLLAR  12 DIFFERENCE RIGHT THERE. THERE'S YOUR DOLLAR DIFFERENCE  13 OVER THE COURSE OF HIS LIFE.  14 THE ONLY DIFFERENCE BETWEEN HAVING HIM  15 TAKEN CARE OF BY A LICENSED VOCATIONAL NURSE AND A  16 C.N.A. WHO YOU'RE PAYING A DOLLAR LESS IS \$1.5 MILLION.  17 SO IF YOU FEEL THAT IT'S BETTER FOR HIM TO  18 HAVE THAT \$1.5 MILLION TO BE TAKEN CARE OF BY AN  19 L.V.N., THEN ADD \$1.5 MILLION TO NURSE HELVIN'S  20 \$7 MILLION.  21 AND IF YOU ADD THE \$1.5 MILLION TO NURSE  22 HELVIN'S \$7 MILLION, YOU NOW HAVE PROVIDED HIM THE  23 MONIES TO BE TAKEN CARE OF BY AN L.V.N.  24 THE TOTAL DIFFERENCES JUST THERE ACCOUNT  25 FOR \$4,030,000. SO JUST THE SIX ITEMS I'VE SHOWN YOU  26 ON THE BOARD THERE ACCOUNT FOR MORE THAN \$4 MILLION IN  27 THE DIFFERENCE BETWEEN THE TWO PLANS.  28 THE OTHER DIFFERENCES COME WITH RESPECT TO</p>

	Page 153		Page 155
<p>1 THE C.P.T. CODES AND THE HIGHER DOLLAR FIGURES THAT 2 THEY'RE TRYING TO TELL YOU THAT HE'S GOING TO HAVE TO 3 PAY. 4 LOST EARNINGS. PAST LOST EARNINGS 5 UNDISPUTED. \$9,170. 6 YOU'LL SEE A NUMBER THERE FOR FUTURE LOST 7 EARNINGS. YOU KNOW WHAT THAT NUMBER IS. THAT NUMBER 8 IS THE PART-TIME JANITORIAL NUMBER THAT HE COULD HAVE 9 PERFORMED AT FOR THE REST OF HIS LIFE. 10 WE KNOW FROM WHAT WE'VE HEARD IN THIS 11 TRIAL THAT HE WORKED FOR ABOUT THREE YEARS IN DESERT 12 HAVEN, AND THEY THOUGHT HE WAS WORKING ABOUT 41 TO 44 13 PERCENT CAPACITY. 14 I BELIEVE HE'LL GET PAST THAT IF THIS 15 ACCIDENT HADN'T HAPPENED. I TRULY BELIEVE HE WOULD 16 HAVE GONE INTO THE WORKING WORLD, BUT NEVER IN HIS LIFE 17 HAD HE EVER BEEN EMPLOYED FULL TIME, AND WE KNOW THE 18 QUALITY OF WORK AND THE TYPE OF WORK HE WAS DOING. 19 I BELIEVE WITH CERTAINTY HE WOULD HAVE 20 BECOME A JANITOR IN THE OPEN FIELD, BUT PROBABLY WOULD 21 HAVE MAINTAINED A PART-TIME JOB. SO THE NUMBER YOU'RE 22 SEEING THERE, \$373,795 IS THE SAME HOURS THAT HE WAS 23 WORKING BEFORE THIS ACCIDENT AT THE JANITORIAL WAGE 24 RATE OFFERED BY DR. SARKISIAN. SO THERE'S YOUR TOTAL 25 LOST EARNINGS FOR THE PAST. 26 LET'S TALK ABOUT NONECONOMIC DAMAGES. 27 I WANT TO EXPLAIN TO YOU A LITTLE BIT 28 ABOUT WHAT'S GOING ON WHEN MR. PARRIS STANDS UP AND</p>		<p>1 AND SO THE LAW REQUIRES YOU TO GO INTO THAT JURY ROOM 2 AND PUT YOURSELF IN THE SHOES OF MR. TAYLOR. 3 IT'S PRETTY INSULTING FOR MR. PARRIS TO 4 SAY THAT THE ONLY WAY THIS IS NOT A HUGE CASE IS 5 BECAUSE ANTHONY IS DEVELOPMENTALLY DISABLED, AND 6 THEY'RE COUNTING ON THAT. THEY'RE COUNTING ON THE FACT 7 THAT WE WANT YOU TO THINK HE'S DEVELOPMENTALLY DISABLED 8 OR HIS LIFE DOESN'T MEAN THAT MUCH. 9 HORSE MANURE. WE'RE NOT HERE DISCOUNTING 10 MR. TAYLOR'S LIFE. WE'RE NOT HERE LOOKING AT HIM AS 11 SOMEBODY THAT HAS DEVELOPMENTAL DISABILITIES. WE'RE 12 SIMPLY ASKING YOU TO LOOK AT THE EVIDENCE AND CONSIDER 13 ALL THE EVIDENCE, BOTH WHAT MR. TAYLOR LOVED BEFORE, 14 WHAT HE'S DOING NOW, AND ULTIMATELY DECIDE WHAT THE 15 DIFFERENCES ARE, AND PUT A DOLLAR FIGURE ON WHAT THE 16 DIFFERENCES ARE BETWEEN WHAT HE ENJOYED BEFORE AND WHAT 17 HE'S LEFT TO ENJOY IN THE FUTURE, AND KEEP IN MIND THAT 18 THE FUTURE WILL CONTINUE TO PROGRESS. 19 ANOTHER ITEM THAT YOU'RE LIKELY GOING TO 20 STRUGGLE WITH WHEN YOU GET IN THE JURY ROOM IS THIS 21 REDUCED LIFE EXPECTANCY ISSUE. BECAUSE WE KNOW THAT 22 THE MEDICAL SCIENCE APPEARS TO TELL US THAT PATIENTS 23 WITH THIS INJURY HAVE THE LIFE EXPECTANCY OF ABOUT 24 ANOTHER 35 YEARS, WHICH IS REDUCED BY ABOUT 15 TO 25 16 YEARS FROM SOMEONE WITH A NORMAL LIFE EXPECTANCY. 26 IF THAT'S TRUE, IF YOU BELIEVE THAT 27 MR. TAYLOR WILL PASS IN 35 YEARS, THEN ABSOLUTELY THERE 28 IS VALUE TO THE FACT THAT THE TRAGEDY OF THIS ACCIDENT</p>	
<p>1 TALKS TO YOU ABOUT THESE NONECONOMIC DAMAGE NUMBERS. 2 MUCH LIKE WAS DONE IN JURY SELECTION, HE 3 THREW OUT THAT NUMBER TO YOU RIGHT AWAY OF 4 \$113 MILLION. SO HE ANCHORED YOU WHEN HE WAS GOING 5 THROUGH JURY SELECTION AND ULTIMATELY HAD TO COME BACK 6 AFTER THE EVIDENCE AND KEEP HIS WORD THAT THAT WAS THE 7 NUMBER HE WAS GOING TO ASK OF YOU, TRYING TO GET YOU IN 8 THE MINDSET, OKAY, THIS IS THE BIG NUMBER THAT I'M 9 GOING TO HEAR. 113 MILLION SO THAT I'M ULTIMATELY -- 10 ULTIMATELY NOT SHOCKED BY IT BY THE TIME HE STANDS UP 11 HERE AT THE CONCLUSION OF TRIAL AND ASKS FOR IT. 12 SMART STRATEGY. BRILLIANT STRATEGY. 13 BECAUSE NOW IT'S A NUMBER THAT YOU'VE HEARD. OKAY. 14 I'VE HEARD THAT BEFORE. IT'S NOT A SHOCKING NUMBER TO 15 ME BECAUSE I'VE HEARD IT BEFORE. 16 BUT IF WE'RE TALKING ABOUT REASONABLE 17 AWARDS IN THIS CASE, IF WE'RE TALKING ABOUT THINGS THAT 18 WOULD HAPPEN WITH CERTAINTIES, IF WE'RE TALKING ABOUT 19 PUTTING SYMPATHY ASIDE AND BEING REASONABLE NOT ONLY TO 20 MR. TAYLOR, BUT TO MS. SCHILLING, IS THAT WHAT WE'RE 21 TALKING ABOUT WHEN WE'RE TALKING \$113 MILLION? 22 IT'S GOING TO BE EASY FOR YOU WHEN YOU GO 23 INTO THE JURY ROOM TO WANT TO PUT YOURSELF IN THE SHOES 24 OF MR. TAYLOR. THE LAW DOESN'T ALLOW YOU TO DO THAT. 25 THE LAW DOESN'T ALLOW YOU TO GO IN THERE AND SAY, OH, 26 MY GOD, WHAT WOULD THAT MEAN TO ME IF I WAS MR. TAYLOR? 27 BECAUSE WHAT IT WOULD MEAN TO YOU COULD BE 28 COMPLETELY DIFFERENT THAN WHAT IT MEANS TO MR. TAYLOR.</p>	Page 154	<p>1 ROBBED HIM OF 15 TO 16 YEARS OF HIS LIFE. ABSOLUTELY, 2 THERE'S VALUE TO THAT. 3 SO WHEN YOU GO IN THERE, CONSIDER THAT. 4 FIGURE OUT WHAT THAT MEANS TO YOU. I HOPE, WE ALL 5 HOPE, THAT WITH THE QUALITY OF CARE THAT WE ARE 6 OFFERING HIM THAT HE LIVES A NORMAL LIFE EXPECTANCY OR 7 SOMEWHERE CLOSE. 8 AND IF YOU BELIEVE THAT'S THE CASE, THEN, 9 AGAIN, YOU HAVE TO DO A BALANCING ACT IN TERMS OF THE 10 DAMAGES FOR HIS FUTURE CARE AND THE LOSS OF LIFE. 11 THERE IS -- THERE'S A GUESSTIMATE THAT'S 12 BEEN PROVIDED TO YOU. THEY'VE LOVED THE WORD THAT 13 DR. KIM USED HERE AND THEY APPEAR TO BE USING IT 14 AGAINST US. THERE IS NO ROCKET SCIENCE HERE. 15 ALL THEY CAN DO IS LOOK AT THE MEDICAL 16 EVIDENCE AND GIVE YOU AN OPINION. AND THEIR OPINION IS 17 THAT THIS IS THE MEDIAN AGE. 18 WILL HE LIVE LONGER? MAYBE. 19 WILL HE LIVE SHORTER? WE SURE HOPE NOT. 20 BUT IT'S FOR YOU TO DECIDE. AND 21 ULTIMATELY, PUT A VALUE ON WHAT YOU BELIEVE THAT LOSS 22 OF LIFE IS. 23 IT'S OKAY TO BE OPTIMISTIC FROM A MEDICAL 24 STANDPOINT ABOUT WHAT THE FUTURE HOLDS FOR MR. TAYLOR 25 AND ABOUT THE FACT THAT HE MAY LIVE LONGER THAN 26 35 YEARS. IT IS OKAY TO THINK THAT. 27 ONE THING THAT HE DID WITH RESPECT TO 28 NONECONOMIC DAMAGES IS HE DID AN ITEMIZATION FOR YOU,</p>	Page 156

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<p>1 AND I THOUGHT IT WAS A VERY EFFECTIVE THING ON HIS PART 2 TO TRY TO GIVE YOU AN ITEMIZATION FOR YOU AND LIST 3 EVERY SINGLE ITEM THAT WAS ON WHAT HE ASKED YOU ABOUT 4 IN JURY SELECTION; RIGHT? 5 HE PUT THAT BOARD UP, SOME JURORS GOT 6 ANGRY, THEY WEREN'T QUESTIONED ABOUT THE BOARD, BUT HE 7 PUT THE BOARD UP AND ASKED YOU YOUR POSITION ON EACH OF 8 THE ITEMS. 9 WELL, TAKE A LOOK AT THE VERDICT FORM THAT 10 YOU'RE GOING TO BE PRESENTED WITH. 11 AND THE VERDICT FORM YOU'RE PRESENTED WITH 12 DOES, IN FACT, CONTAIN EACH OF THE ITEMS THAT WE'RE 13 DEALING WITH IN THIS CASE AND IN ORDER FOR YOU TO 14 EVALUATE THEM. 15 SO YOU SEE IN BOTH THE PAST NONECONOMIC 16 AND THE FUTURE NONECONOMIC, ALL THOSE CATEGORIES THAT 17 HE LISTED FOR YOU ARE PRESENT. AND ALL OF THEM ARE 18 FACTORS THAT YOU SHOULD CONSIDER. 19 BUT YOU KNOW WHAT'S NOT PRESENT ON YOUR 20 VERDICT FORM IS A GROCERY, LAUNDRY LIST FOR EACH OF 21 THOSE ITEMS, FOR YOU TO OUTLINE A DOLLAR FIGURE 22 ASSOCIATED WITH EACH OF THOSE ITEMS. AND YOU WOULD 23 THINK IF THE LAW WANTED YOU TO DO THAT WE'D BE SEEING 24 IT IN THE VERDICT FORM. 25 AGAIN, THAT'S A STRATEGY ON HIS PART. 26 BRILLIANT STRATEGY ON HIS PART. AND NO DOUBT FOR YOU 27 TO ANALYZE AND ASSESS EACH OF THOSE ITEMS, BUT WHEN 28 YOU'RE IN THAT VERDICT FORM, THAT'S NOT WHAT YOU'RE</p>	<p>1 WHEN YOU'RE TALKING ABOUT THE ELEMENT OF NONECONOMIC 2 DAMAGES. MORE THINGS TO CONSIDER. 3 HE WANTS TO HAVE A NICE HOME WITH A LADY 4 AND A FAMILY. HE LIKES HIS LAMB CHOPS, RIBS, AND PIZZA 5 WHEN HE'S EATING THEM AT THE HOTEL. 6 HE LOVED HIS AIRPLANE RIDE TO CALIFORNIA. 7 IT WAS FUN. HE WANTS TO TRY NEW CONTROLLERS FOR 8 PLAYSTATION BECAUSE HE HADN'T HEARD OF THEM BEFORE. 9 HE PLAYS WITH HIS XBOX CONNECT. HE LIKES 10 TO PLAY THE BOWLING GAME. HE PLAYS FRUIT NINJA, AND 11 THERE'S ALSO A JET SKI GAME. 12 HE LIKES ACTION FILMS AND COMEDIES. HE 13 LIKES TO WATCH "COPS" WITH HIS STEPDAD BECAUSE IT'S 14 GEORGE'S FAVORITE SHOW. AND HE'S GONE TO THE BEACH 15 THREE TIMES. HE'S ENJOYING SHOPPING AND THE SCENERY 16 THERE. HE'S GONE TWICE TO THE OREGON FAIR. HE HAS 17 PLANS TO GO THIS YEAR, AND HE LOVES WALMART. 18 I MEAN, THESE ARE ALL THINGS THAT CONTINUE 19 TO GO ON IN HIS LIFE THAT WILL CONTINUE TO GO ON IN THE 20 FUTURE. 21 THIS IS MS. GRAFFT. SHE SAYS (AS READ 22 AND/OR REFLECTED): 23 BECAUSE OF MY BUSINESS, I 24 UNDERSTAND JUST BECAUSE THEY HAVE A 25 DISABILITY, THEY STILL NEED TO BE AS 26 INDEPENDENT AS THEY CAN OR WHAT THEIR 27 DISABILITY WILL ALLOW. 28 NO DOUBT. AGREE 100 PERCENT. SO YOU'VE</p>
<p>1 DOING. 2 YOU'RE TRYING TO TAKE ALL OF THOSE ITEMS 3 INTO CONSIDERATION AND ULTIMATELY COME TO SOME 4 CONCLUSION ABOUT WHAT THE VALUE IS OF THE NONECONOMIC 5 DAMAGES. 6 WHAT ARE ANTHONY'S PAST ECONOMIC DAMAGES? 7 WHAT ARE HIS FUTURE NONECONOMIC DAMAGES? 8 WE BELIEVE THAT BASED ON ALL THE EVIDENCE, 9 HERE'S THE EVIDENCE YOU SHOULD CONSIDER IN THE 10 NONECONOMIC DAMAGES. HE TELLS YOU ABOUT DISABLED-R-US 11 WHERE HE'S TALKING TO PEOPLE ON THE WEBSITE VIDEO 12 CHATTING, IF THEY'RE NOT TOO BUSY. 13 HE MET A GIRL FROM TENNESSEE -- SORRY, 14 COURTNEY -- ON THE FACEBOOK SITE. AND THEY'RE TAKING 15 IT SLOW AND THEY FACETIME OFTEN, AND SHE PLANS TO COME 16 OUT THIS SUMMER AND THEY MAY GO TO THE FAIR TOGETHER. 17 THE QUESTION'S ASKED OF HIM, NOW, 18 SOMETIMES PEOPLE DON'T LIKE THEIR PHYSICAL THERAPISTS 19 BECAUSE THEY PUSH THEM SO HARD. THAT'S WHAT 20 MR. WHEELER SAID. ANTHONY GOES, WELL, I WAS THAT WAY 21 AT FIRST WHEN I MET HER, BUT NOW I'M OKAY WITH IT 22 BECAUSE I KNOW I NEED IT. 23 FACEBOOK FRIENDS WITH DAVID, WHO HAS A 24 CYCLE CHAIR THAT HAS A MOTOR, TOO. IT LOOKS COOL. AND 25 HIS MOM THINKS HE SHOULD GET ONE SINCE HE LIKED TO BIKE 26 BEFORE THE ACCIDENT. 27 THESE ARE ALL THINGS COMING OUT OF 28 MR. TAYLOR'S MOUTH THAT YOU SHOULD ANALYZE AND CONSIDER</p>	<p>1 GOT RECENT ADVANCEMENTS IN TECHNOLOGY THAT ARE 2 IMPACTING THE LIVES OF TETRAPLEGICS BETTER. YOU'VE GOT 3 ADVANCES IN THE MEDICAL SCIENCE THAT ARE MOVING EVEN 4 FASTER TODAY THAN EVER BEFORE WITH STANDING 5 WHEELCHAIRS, ROBOTICS, ET CETERA. 6 YOU'VE GOT ADVANCEMENTS IN TECHNOLOGIES 7 THAT MAKE IT EASIER TO LIVE A FULFILLING LIFE EVEN WITH 8 A DISABILITY LIKE ANTHONY HAS WITH TOUCH SCREENS, VOICE 9 COMMANDS. 10 IT'S HARD TO IMAGINE WHAT TECHNOLOGICAL 11 ADVANCES WILL BE MADE IN THE FUTURE, BUT THEY WILL 12 DEFINITELY OCCUR. 13 SO WHAT IS THAT NUMBER FOR NONECONOMIC 14 DAMAGES? I STRUGGLED WITH THIS A LONG TIME BECAUSE, 15 REMEMBER, WE PROMISED YOU AT THE BEGINNING OF TRIAL 16 THAT WE WERE GOING TO GIVE YOU THE TOOLS. THAT'S A 17 WORD WE USED. WE'RE GOING TO GIVE YOU THE TOOLS TO 18 FIGURE THIS OUT. 19 WE'RE TRYING. WE'RE TRYING. IT'S A LOT 20 HARDER THAN IT IS WHEN WE'RE TALKING ABOUT MEDICAL 21 BILLS; RIGHT? BECAUSE WE'RE TALKING ABOUT THE VALUE OF 22 THESE LOSSES TO MR. TAYLOR. SO WHEN YOU THINK AND YOU 23 CONSIDER THOSE THINGS, WHEN YOU THINK ABOUT THE PAST, 24 WHEN YOU THINK ABOUT THE FUTURE, THE NUMBER, I BELIEVE, 25 THAT IS REASONABLE AND THE NUMBER THAT WE BELIEVE 26 MS. SCHILLING SHOULD BE RESPONSIBLE FOR FOR WHAT 27 HAPPENED TO MR. TAYLOR BOTH IN THE PAST AND THE FUTURE, 28 ON TOP OF THE NUMBER THAT WE'VE ALREADY TOLD YOU ABOUT</p>

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<p>1 FOR HIS MEDICAL CARE, IS ANOTHER \$8 MILLION.  2 SO TAKE THE NUMBER THAT WE'VE ALREADY  3 OFFERED IN TERMS OF THE MEDICAL CARE AND, PLEASE, ADD  4 ANOTHER \$8 MILLION ON TOP OF THAT. BECAUSE WE FEEL  5 THAT IF YOU GIVE MR. TAYLOR THAT ADDITIONAL \$8 MILLION  6 WITH THE ASSISTANCE OF THE SPECIAL NEEDS TRUST, WITH  7 THE ASSISTANCE OF THE CAREGIVERS, WITH THE ASSISTANCE  8 OF THE CONSERVATOR, HE WILL DO POSITIVE THINGS WITH  9 THAT MONEY.  10 HE WILL GO BUY HIMSELF A MOTORHOME IF HE  11 WANTS. HE WILL BUILD HIMSELF A HOME DOWN THE ROAD IN  12 THE FUTURE IF HE SO DESIRES. HE WILL TRY TO DO THE  13 BEST HE CAN WITH ANOTHER \$8 MILLION TO GET AS CLOSE AS  14 HE POSSIBLY CAN TO THE PARTS OF HIS LIFE THAT WERE  15 TAKEN FROM HIM ON THAT DAY.  16 AND MS. SCHILLING WANTS TO ACCEPT  17 RESPONSIBILITY FOR THAT. SO WE ASK YOU TO BE  18 REASONABLE IN YOUR AWARD WHEN YOU CONSIDER BOTH THE  19 PAST AND THE FUTURE WITH RESPECT TO MR. TAYLOR BECAUSE  20 MS. SCHILLING TRUSTS YOU.  21 SHE TRUSTS THAT YOU'RE GOING TO BE  22 THOROUGH AND DILIGENT IN YOUR REVIEW OF THE EVIDENCE  23 AND COME TO A REASONABLE JUDGMENT AND PLAY YOUR COMMON  24 SENSE. THAT'S ALL WE ASK. THAT'S ALL MR. TAYLOR CAN  25 ASK FOR.  26 ON BEHALF OF OUR CLIENT, ON BEHALF OF  27 MS. TROPP, ON BEHALF OF MS. BREUER, AND ON BEHALF OF  28 MYSELF, THANK YOU SO MUCH FOR YOUR TIME. THANK YOU.</p>	<p>1 REBUTTAL CLOSING ARGUMENT BY MR. REX PARRIS  2  3 MR. REX PARRIS: I IMAGINE YOU'RE GETTING TIRED  4 OF HEARING US. I UNDERSTAND.  5 I HOPE WHEN THIS IS OVER THAT YOU WILL  6 WAIT AROUND AND TALK TO US. YOU KNOW, I FEEL LIKE  7 WE'VE BEEN WITH YOU NOW FOR ALMOST A MONTH. AND IT  8 WOULD BOTHER ME A LOT IF YOU JUST LEFT AND WE DIDN'T  9 GET TO HEAR WHAT YOU THOUGHT THE DIFFERENT THINGS THAT  10 HAPPENED AND WHAT YOU WISH YOU HAD HEARD, OR YOU KNOW  11 WHAT I MEAN. I JUST HOPE YOU CAN.  12 AND I WANT TO TELL YOU THAT NOW BECAUSE  13 WHEN IT'S OVER, I DON'T WANT TO LOOK UP AND EVERYBODY  14 IS GONE, YOU KNOW, IF YOU WANT TO, WE'D LIKE YOU TO  15 STAY AND TALK TO US.  16 I THOUGHT DEFENSE COUNSEL'S ARGUMENT WAS  17 WELL DELIVERED. I THOUGHT HE HAD A COMMAND OF THE  18 FACTS. BUT I ALSO THINK THAT HE WAS BREAKING THE  19 RULES. YOU HEARD THE RULES. THE JUDGE READ THEM TO  20 YOU. YOU CAN EACH HAVE A COPY OF THEM. THE JURY  21 INSTRUCTIONS ARE THE RULES. THE REASON WE'RE HERE IS  22 BECAUSE SOMEONE DIDN'T FOLLOW THE RULES.  23 ONE OF THOSE RULES IS YOU MUST NOT LET  24 BIAS, SYMPATHY, PREJUDICE, OR PUBLIC OPINION INFLUENCE  25 YOUR DECISION. AND, YET, THERE IS PUBLIC OPINION. I  26 MEAN, IT'S NOT IN THE NEWSPAPER AND IT'S NOT  27 "U.S.A. TODAY," BUT THERE'S ALL KINDS OF FOLKS HERE.  28 THERE'S YOUR NEIGHBORS YOU'LL BE TALKING</p>
<p>Page 162</p> <p>1 THE COURT: MR. BRAUN, THANK YOU.  2 LADIES AND GENTLEMEN, IT'S 3:12. THE HOUR  3 IS 3:12, SO WE NEED TO TAKE A BREAK. AND THEN WE WILL  4 HEAR THE REBUTTAL ARGUMENT ON BEHALF OF THE PLAINTIFF.  5 SO LET'S TAKE A BREAK. IT'S 3:12. LET'S  6 BREAK UNTIL 3:25. THAT'S 13 MINUTES. WE WILL RETURN  7 AT 3:25.  8 PLEASE DON'T DISCUSS THE CASE AMONGST  9 YOURSELVES OR WITH ANYONE ELSE OR ALLOW ANYONE TO  10 DISCUSS IT WITH YOU.  11 THANK YOU.  12 (RECESS TAKEN FROM 3:12 P.M. TO  13 3:26 P.M.)  14 (THE FOLLOWING PROCEEDINGS WERE HELD IN  15 OPEN COURT OUTSIDE THE PRESENCE OF THE  16 JURY:)  17 THE COURT: MR. PARRIS, ARE YOU READY TO PROCEED?  18 MR. REX PARRIS: I'M READY.  19 THE COURT: YOU'LL DO THE REBUTTAL?  20 MR. REX PARRIS: I'M GOING TO DO THE REBUTTAL.  21 THE COURT: YOU CAN BRING THEM IN.  22 (THE FOLLOWING PROCEEDINGS WERE HELD IN  23 OPEN COURT IN THE PRESENCE OF THE  24 JURY:)  25 THE COURT: ALL JURORS AND OUR ALTERNATE ARE  26 PRESENT.  27 LADIES AND GENTLEMEN, WE'LL NOW HEAR THE  28 REBUTTAL ON BEHALF OF THE PLAINTIFF BY MR. PARRIS.</p>	<p>Page 164</p> <p>1 TO AFTER YOUR VERDICT HAS BEEN BROUGHT IN. NONE OF  2 THAT MATTERS. NOT ONLY DOES IT NOT MATTER, YOU HAVE TO  3 NOT LET IT MATTER. AND SO WHEN HE'S TALKING TO YOU  4 ABOUT SYMPATHY, I HAVEN'T ASKED YOU FOR THAT.  5 I TOLD YOU IN THE BEGINNING, DO NOT GIVE  6 US A VERDICT BASED ON SYMPATHY. BECAUSE WHAT THAT IS  7 IS GIVING LUNCH TO A HOMELESS PERSON. THAT'S ALL THAT  8 IS. THIS REQUIRES A GREAT DEAL OF WORK AND A GREAT  9 DEAL OF CONCENTRATION ON ONE OF THE RULES. AND WHETHER  10 WE LIKE IT OR NOT, THESE ARE THE RULES.  11 AND YOU MUST NOT CONSIDER INSURANCE JUST  12 LIKE YOU CANNOT CONSIDER SYMPATHY.  13 AND WE DO HAVE AN AGREEMENT. IT WAS THE  14 BEST MEDICAL CARE POSSIBLE. THEY SAID IT IN OPENING  15 AND HE JUST SAID IT TO YOU AGAIN.  16 NOW, YOU KNOW, THE THING ABOUT  17 ACCOUNTABILITY AND RESPONSIBILITY AND BEING AN ADULT IS  18 MEAN WHAT YOU SAY. DON'T SAY SOMETHING YOU DON'T MEAN.  19 DON'T DISTRACT PEOPLE WITH THIS IS WHAT WE THINK EVEN  20 THOUGH YOU DON'T.  21 BECAUSE THERE'S THREE LEVELS OF CARE.  22 IT'S BEST, GOOD, AND ADEQUATE. AND ALL OF YOU HAVE  23 HEARD THE DIFFERENCE, HAVEN'T WE?  24 SOME OF YOU CAME IN KNOWING THE DIFFERENCE  25 OF WHAT'S GOOD, WHAT'S THE BEST, AND WHAT'S ADEQUATE.  26 IF WE'RE TALKING ABOUT THE BEST CARE AND  27 THAT'S WHAT THEY SAID, AS WELL AS WHAT WE SAID, IT'S  28 NOT THEIR LIFE CARE PLAN.</p>

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<p>1 THE CASE MANAGER THEY SAID WAS SO 2 IMPORTANT. LOOK AT THE DIFFERENCE. FOR 50 YEARS I 3 THINK THEY HAVE HOW MUCH? 92,000 FOR 50 YEARS. 4 OURS IS 500 FOR 50 YEARS. THERE'S A LOT 5 OF TRICKS GOING ON HERE, AND I DON'T KNOW WHAT ELSE TO 6 CALL THEM. I DON'T KNOW WHAT ELSE TO CALL THEM WHEN 7 YOU MAKE SOMETHING APPEAR AS BEING SOMETHING IT'S NOT, 8 THAT'S A TRICK. 9 AND YOU CAN'T JUST TAKE THESE THINGS AT 10 FACE VALUE. WHAT IS THE BEST CARE FOR ANTHONY? 11 BECAUSE NOW IT'S OUT ON THE TABLE, BOTH SIDES ARE 12 ASKING YOU FOR THE BEST CARE. 13 AND, YOU KNOW, BEDSORES ARE NOT 14 INEVITABLE. REMEMBER DR. KIM SAID THAT. I THINK 15 EVERYBODY SAID THAT. IF PEOPLE ARE DOING THEIR JOB, IF 16 PEOPLE ARE WATCHING THE PATIENT, IF PEOPLE ARE TURNING 17 THE PATIENT, IF THEY'RE FLOATING THE HEELS, IF THEY'RE 18 DOING ALL THE THINGS YOU'RE SUPPOSED TO DO, THEY'RE NOT 19 INEVITABLE. 20 DO WE PLAN FOR THEM OCCURRING? YEAH, WE 21 DO. WE DO. BECAUSE DR. KIM TOLD YOU, FIVE TO SIX 22 TIMES. 23 AND ARE WE BEING UNREASONABLE IN SAYING WE 24 WANT TO BE ABLE TO DO THIS -- THE FLAP, THE MUSCLE FLAP 25 TO COVER IT? HE'S GOT TWO OF THEM NOW THAT HAVE NOT 26 BEEN FLAPPED. TWO OF THEM RIGHT NOW THAT WERE NEVER 27 FLAPPED AND ARE WAITING TO RE-ERUPT IF THEY HAVEN'T 28 ALREADY. I'M NOT GETTING IN THAT DEBATE.</p>		<p>1 YOU MAY WANT TO DENY HIM THAT AND SAY, YOU 2 CAN ONLY GO WHERE THE VAN GOES, BUT THAT'S WHAT YOU 3 HAVE TO DO. BECAUSE IF HE'S GOING TO BE RESTORED IN 4 THE FREEDOM OF TRAVEL HE HAD BEFORE, IT'S A MOTORHOME. 5 HE DIDN'T DO THIS TO HIMSELF. AND THIS 6 SYMPATHY IS, I'M SURE THAT -- I'M SURE SAMANTHA IS A 7 DECENT PERSON. ABSOLUTELY. I DON'T HAVE ANY QUALMS 8 WITH THAT. BUT ACCOUNTABILITY DOESN'T MEAN YOU GET A 9 BREAK BECAUSE THE JURY IS SYMPATHETIC TO YOUR -- TO 10 YOU. 11 WE ALL KNOW WHAT'S GOING ON HERE. IT'S 12 DISTRACTION. LOOK AT THIS. LOOK AT THIS. LOOK AT 13 THIS. 14 BUT FOR GOD SAKES, DON'T LOOK AT THE NEXT 15 50 YEARS. BECAUSE THAT'S ALL THAT CLOSING WAS ABOUT. 16 DON'T LOOK AT THE REALITY OF WHAT'S FACING HIM. THEY 17 CAN'T HAVE YOU DO THAT. BECAUSE IF YOU DON'T -- IF YOU 18 DO LOOK AT IT, YOU SEE THE ABSURDITY OF WHAT THEY THINK 19 IS REASONABLE. AND IT IS ABSURD. 20 THE 94 MILLION AND THE EMOTIONAL DISTRESS. 21 WHAT IS THAT DIVIDED BY 50 YEARS? AND WOULD ANYBODY 22 ACCEPT BEING IN HIS CONDITION? ANYBODY? IF IT WAS 23 JUST A YEAR. 24 MR. BRAUN: OBJECTION. GOLDEN RULE, YOUR HONOR. 25 THE COURT: ALL RIGHT. PLEASE PROCEED. 26 MR. REX PARRIS: AND COUNSEL DID TALK ABOUT YOU 27 CAN'T -- YOU CAN'T LOOK AT THIS AS IF THIS WAS YOU. 28 YOU CAN'T LOOK AT THIS AS IF THIS WAS YOUR CHILDREN.</p>	
<p>1 MS. LAMPKIN HAS COME BACK. SHE WAS THE 2 NURSE WHO WAS TAKING CARE OF HIM FOR TWO WEEKS AND SHE 3 TOLD YOU WHAT SHE WAS SEEING AND WHAT SHE WAS 4 EXPERIENCING. AND YOU DON'T GET TO JUST SAY, WELL, IF 5 YOU GO TO THIS PLACE, ALL THOSE PROBLEMS WILL GO AWAY. 6 DO I THINK ANTHONY'S TOUGH AND DO I THINK 7 ANTHONY IS WORKING HARD? YEAH, YOU BET I DO. YOU BET, 8 I DO. WE AGREE THAT THAT IS HAPPENING, BUT IF THEY 9 AGREED THAT THAT IS HAPPENING, WHY ARE THEY SO 10 RESISTANT TO THE IDEA HE WOULD HAVE BEEN ABLE TO HAVE 11 BEEN A CUSTODIAN IN THE PRIVATE SECTOR? 12 HE STRUGGLES. HE WORKS HARD. HE REACHES 13 GOALS. HE DOES THE BEST THAT HE'S ABLE TO BE. WHY 14 WOULD YOU LIMIT HIM? 15 YOU CAN'T HAVE IT BOTH WAYS. 16 YEAH. YEAH, THEY ARE. YOU CAN'T CALL IT 17 THE BEST CARE, AND THEN CUT IT IN HALF BECAUSE THAT'S 18 WHAT THEY'VE DONE. 19 YOU KNOW, REMEMBER THE -- ALMOST THE GLEE 20 WHEN THEY FOUND OUT THAT I PAID FOR A PLANE TO BRING 21 HIM DOWN? REMEMBER THAT? THAT THAT KEPT COMING UP. I 22 EVEN SAID, IT WASN'T MY PLANE, YOU KNOW. 23 WELL, WHAT WAS THE -- REMEMBER THE REASON 24 FOR THAT. YOU CAN'T PUT ANTHONY ON AN AIRLINE. AND IT 25 WAS EITHER THAT OR PUT HIM IN A TRAILER, WHICH IS HOW 26 HE GOT UP THERE. THAT WOULD HAVE BEEN WRONG. AND EVEN 27 IN THEIR LIFE CARE PLAN, THEY RECOGNIZE THE NEED FOR A 28 MOTORHOME IF HE'S GOING TO HAVE FREEDOM OF TRAVEL.</p>	Page 166	<p>1 HE'S CORRECT. YOU CAN'T. 2 AND THEN HE IMMEDIATELY DOES THE SWITCH. 3 YOU'VE GOT TO LOOK AT THIS AS IF YOU'RE 4 ANTHONY. AND I WAS INSULTED WHEN MR. PARRIS SUGGESTED 5 THAT WE WANTED IT TO BE SOMEHOW LESS BECAUSE OF HIS 6 DEVELOPMENTAL DISABILITIES. WHY THE SHIFT? YOU KNOW, 7 WHY DID THAT OCCUR? 8 IT'S THE REASONABLE PERSON YOU LOOK AT. 9 THE REASONABLE-MAN STANDARD. 10 WHAT DOES A PERSON LIKE THAT THINK, FEEL, 11 EXPERIENCE? 12 YEAH, THERE IS HOPE. AND IT'S NOT HOPE 13 HE'S EVER GOING TO WALK AGAIN. YOU KNOW, THEY -- 14 DR. KIM TOLD YOU THAT'S NOT GOING TO HAPPEN, NOT ANY 15 TIME SOON. AND IT'S CERTAINLY NOT GOING TO HAPPEN WITH 16 PEOPLE WHO HAVE BEEN QUADRIPLÉGICS FOR YEARS. 17 ALL OF THE RESEARCH IS MAYBE AT THE TIME 18 OF THE EVENT THEY'RE ABLE TO GO IN AND DO SOMETHING. 19 AND THE EXPENSE OF THAT, IT IS GOING TO BE 20 ASTRONOMICAL. IT'S LATEST, GREATEST HOPES. BUT LET'S 21 NOT GET DISTRACTED INTO THINKING THIS IS GOING TO 22 HAPPEN WITH ANTHONY OR DR. KIM. THERE'S NOTHING ON THE 23 HORIZON THAT EVEN SUGGESTS THAT AT THIS TIME. 24 LET'S LOOK AT WHAT THEY'RE SAYING. 25 THEY'RE SAYING THAT IF ANTHONY TAYLOR DOES THESE 26 THINGS, IT WILL BE CHEAPER MAYBE. THAT IS THEIR 27 BURDEN. 28 ANTHONY TAYLOR IS NOT ENTITLED TO RECOVER</p>	Page 168

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<p>1 DAMAGES FOR HARM THAT DEFENDANT PROVES ANTHONY TAYLOR 2 WILL AVOID WITH REASONABLE EFFORTS OR EXPENDITURES. 3 THAT IS ABSOLUTELY THEIR BURDEN. THEY 4 MUST PROVE THAT. 5 WHAT WE HAVE PROVEN TO YOU IS THAT ALL THE 6 DOCTORS THAT HAVE LOOKED AT THEM SAID THIS IS PROBABLY 7 WHAT'S GOING TO HAPPEN BASED ON ALL THEIR YEARS OF 8 EXPERIENCE OF TREATING THESE PATIENTS. 9 AND, AGAIN, DO IT WITH THE TRACH OR 10 WITHOUT THE TRACH BECAUSE I DON'T THINK THE CARE 11 CHANGES. I DON'T THINK THE BEST CARE POSSIBLE CHANGES 12 WHETHER THE TRACH'S IN THERE OR OUT. 13 THE BEST CARE POSSIBLE IS PEOPLE THAT WILL 14 SEE EMERGENT SITUATIONS AND STOP THEM BEFORE THEY 15 HAPPEN. WHO WILL BE WITH HIM 24 HOURS A DAY AND DO 16 EVERYTHING THEY CAN FOR HIM TO HAVE A FULFILLED 17 VIBRANT, AS MUCH AS POSSIBLE RESTORATION, OF WHAT HIS 18 LIFE SHOULD BE. 19 THAT'S WHAT THE BEST CARE IS AND THAT IS 20 NOT IN THEIR PLAN. 21 THAT IS OUR BURDEN OF PROOF. EVERYONE HAS 22 TESTIFIED AS TO WHAT'S REASONABLY CERTAIN TO OCCUR. 23 AND YOU DON'T GET TO WIPE IT AWAY OR DISCOUNT IT WITH 24 HOPE. YOU JUST DON'T. THAT'S NOT THE LAW. 25 DO WE HOPE FOR ANTHONY? YEAH, YOU BET WE 26 DO. BUT WE'RE ALSO REALISTIC. 27 EVERYBODY BELIEVES THAT. SO DO WE. BUT 28 WE ARE NOT WILLING TO TELL YOU TO DENY HIM THE THINGS</p>	<p>1 WORDS, 51 PERCENT VERSUS 49 2 PERCENT -- YOUR OPINION -- I'LL 3 JUST ASK IT OPEN ENDED. 4 WHAT IS YOUR OPINION 5 GIVEN -- AND I KNOW THAT I HAVE TO 6 GIVE YOU THIS INFORMATION IN ORDER 7 TO GET THE QUESTION ANSWERED. 8 BUT IF WE ASSUME THAT 9 MR. TAYLOR HAS ONLY BEEN ABLE TO 10 TOLERATE 12 HOURS OF CAPPING AT A 11 TIME BEFORE HE GETS IRRITATED AND 12 CAN'T CONTINUE, IF WE ASSUME THAT, 13 WHAT'S YOUR OPINION AS TO WHETHER 14 OR NOT IT'S MORE LIKELY THAN NOT 15 THAT MR. TAYLOR WILL EVER BE ABLE 16 TO HAVE THAT TRACH REMOVED? 17 A MY OPINION BASED ON HIS 18 PHYSICAL EXAM AND THE HISTORY OF 19 NOT BEING ABLE TO TOLERATE GREATER 20 THAN 12 HOURS, MY BELIEF WOULD BE 21 THAT MOST LIKELY HE WOULD NOT BE 22 ABLE TO BE DECANNULATED. 23 Q AND THAT'S FOR THE 24 REMAINDER OF HIS LIFE; IS THAT 25 TRUE, DOCTOR? 26 A YES. 27 (VIDEO STOPPED.) 28 MR. REX PARRIS: AND IF HE HAD DONE THIS AND IF</p>
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<p>1 HE'S GOING TO NEED IF IT DOESN'T HAPPEN. IF THEIR HOPE 2 IS NOT FULFILLED, YOU CANNOT DENY HIM WHAT HE NEEDS 3 BECAUSE YOU KNOW THE CONSEQUENCES OF SUCH A DECISION. 4 AND AT THE END OF THE DAY, DR. KIM SAYS 5 IT'S A POSSIBILITY. I THINK IT COULD COME OUT. I 6 THINK IF HE GOES TO SANTA CLARA, IT CAN COME OUT. BUT 7 EVERYBODY WANTS TO FORGET ABOUT ANTHONY HERE. 8 HOW MANY TIMES DOES ANTHONY HAVE TO FEEL 9 LIKE HE'S DROWNING? HOW MANY TIMES? IS ANTHONY'S I.Q. 10 SUCH THAT HE DOESN'T HAVE ANY INPUT AS TO IT'S MAYBE 11 JUST NOT WORTH IT ON THE HOPE IT'S GOING TO COME OUT? 12 WHEN I THINK OF THE TIMES THAT I WAS UNDER 13 WATER TOO LONG, THERE'S NOTHING MORE TERRIFYING. 14 AND YOU HEARD FROM THE PERSON WHO SLEPT 15 NEXT TO HIM THAT THAT'S EXACTLY WHAT WAS HAPPENING. 16 AND THEN YOU SAW IT. DID ANYBODY THINK 17 ANTHONY WAS FAKING THAT? DID ANYBODY THINK HE JUST 18 FAKED IT? I DON'T THINK ANY OF US DID. THAT WAS REAL. 19 AND HOW MANY TIMES HE HAS TO ENDURE IT IN THE HOPES OF 20 IT -- HE REALLY GETS TO HAVE SOME INPUT, JUST AS I 21 WOULD, JUST AS ALEX WOULD, AND JUST AS EVERYBODY OUT 22 THERE WOULD. THEY GET TO HAVE SOME INPUT INTO IT. 23 (VIDEO PLAYED AS FOLLOWS:) 24 Q AND I KNOW THERE WERE A 25 LOT OF QUESTIONS ABOUT LIKELY AND 26 UNLIKELY AND ALL THAT, BUT I DO 27 WANT TO ASK YOU IF THE SCALE IS 28 MORE LIKELY THAN NOT -- IN OTHER</p>	<p>1 HE COULD HAVE DONE THAT AND -- ALL KINDS OF IFS, MAYBE 2 IT WOULD BE DIFFERENT. BUT DO YOU KNOW HOW HARD IT IS 3 TO GET IN TO SEE AN E.N.T. WHEN YOU'RE IN ANTHONY'S 4 SITUATION? ANTHONY'S MOTHER'S SITUATION? ANTHONY'S 5 MOTHER'S RESOURCES? YOU DON'T GET TO CRITICIZE HIM 6 BECAUSE -- AND I MEAN YOU DON'T GET TO CRITICIZE HIM OR 7 HER BECAUSE THEY HAVEN'T SEEN HIM SINCE JUNE. 8 THEY DON'T GET TO DECIDE THAT. HE SAID, 9 GO HOME, DO THIS. IF YOU GET TO 24 HOURS, COME BACK. 10 HOW DID THEY GET TO GO BACK UNTIL THEY REACHED THAT? 11 THE ONLY WAY THEY GET TO GO BACK IS IF HE 12 HAS SOME CATASTROPHIC EMERGENCY. THAT'S THE REALITY OF 13 WHAT THEY'RE FACED WITH TODAY. 14 AND I KEEP GETTING SUCKED INTO TALKING 15 ABOUT THE TRACH WHEN THERE ARE SO MANY MORE IMPORTANT 16 THINGS TO TALK ABOUT. 17 THIS -- I DON'T THINK THERE'S ANY DOUBT 18 SHARON WANTS THAT, AND SO DOES ANTHONY WANT THAT TUBE 19 OUT, BUT WHAT DID SHE SAY? I MEASURE THE INPUT. I 20 MEASURE THE OUTPUT. IT'S NOT MAKING SENSE. I LOOK AT 21 THE URINE BAG, AND IT'S FILLED WITH SEDIMENT -- OR IT 22 HAD -- I'M OVERSTATING. 23 THERE'S SEDIMENT IN IT. I'M WORRIED ABOUT 24 HIS HYDRATION. 25 AND SO WHAT DID THE L.V.N. TAKING CARE OF 26 HIM SAY? SHE PUTS IT IN EVERY NIGHT INTO THE G-TUBE. 27 CAN YOU FORCE HIM TO DRINK? I DON'T KNOW. 28 IS IT APPROPRIATE TO FORCE HIM TO DRINK, OR DO YOU JUST</p>

	Page 173		Page 175
<p>1 BALANCE THE HYDRATION? 2 IF THE FLUIDS GET UP ENOUGH THAT IT CAN 3 COME OUT, THEY SHOULD TAKE IT OUT, BUT YOU DON'T GAMBLE 4 WITH ANTHONY'S LIFE OR ANYBODY ELSE'S LIFE UNTIL THE 5 INPUT EQUALS THE OUTPUT, AND IT HAS THE AMOUNT OF 6 HYDRATION THAT WILL LET HIM THRIVE. AND IT'S THAT 7 SIMPLE. 8 AND REMEMBER DR. CAPLAN? HE SAID, THIS 9 ISN'T ROCKET SCIENCE. IT'S A SIMPLE ANALYSIS. 10 24 HOURS, THEN YOU START ASSESSING WHETHER OR NOT YOU 11 CAN PULL THAT TRACH. 12 YOU KNOW, IT'S A LAWYER'S -- SOME LAWYERS, 13 THEY DO THIS (INDICATING) WE HAVE THOUSANDS OF RECORDS. 14 HOW MANY DID YOU SEE? THESE AREN'T THEIR 15 RECORDS. THESE ARE BOTH SIDES' RECORDS. AND WHAT IS 16 IT IN HERE YOU WANTED TO SEE? 17 REGARDLESS OF WHAT HAPPENS WITH ANY OF 18 THESE RECORDS, HE'S STILL A QUAD. HIS LEGS ARE STILL 19 DRAWN TOGETHER. HE'S PULLED UP -- HIS LEGS ARE PULLED 20 UP LIKE THIS (INDICATING). HE CAN'T TRANSFER HIMSELF 21 WITHOUT HELP. AND HE CAN'T REPOSITION HIMSELF WITHOUT 22 HELP. 23 IT IS NOT ADEQUATE TO REPOSITION YOUR 24 SHOULDERS. YOU HAVE TO REPOSITION YOUR WHOLE BODY. 25 AND THAT IS NOT GOING TO EVEN BE REMOTELY POSSIBLE 26 UNTIL HE CAN STRAIGHTEN OUT HIS LEGS. AND EVEN THEN, 27 HOW DOES HE MOVE HIS LEGS? 28 I GUESS MAYBE HE GETS THERE, BUT I DON'T</p>		<p>1 INFINITESIMALLY, YOU MUST MAKE AN AWARD OF DAMAGES. 2 YOU MUST COMPENSATE HIM FOR IT. THOSE ARE THE RULES. 3 AND IF WE PUT COLUMNS -- YOU KNOW, WE 4 DON'T WRITE THOSE JURY INSTRUCTIONS. WE DON'T WRITE 5 THE VERDICT FORM. THE JUDICIAL COUNCIL DOES. 6 IF YOU WANT A TEN-PAGE JURY FORM -- IT 7 MAKES NO SENSE. THEY LIST EVERY ONE OF THOSE THINGS ON 8 THE VERDICT FORM AND THEY GIVE YOU AN INSTRUCTION OF 9 HOW TO DO IT. 10 AND SO WHEN YOU GO IN, YOU'RE GOING TO GO 11 BACK THERE AND YOU'RE GOING TO PICK A FOREMAN. AND 12 THEN YOU START DELIBERATING. I WOULD LIKE TO GIVE YOU 13 SOME -- I HAVE BEEN DOING THIS FOR A LONG TIME. SOME 14 THINGS WE'VE LEARNED ABOUT JURIES. 15 WHEN WE BUILD A NEW COURTHOUSE, AND 16 THEY'RE WORKING ON IT, THE JURY TABLES BACK THERE WILL 17 BE ROUND. AND WHAT A LOT OF PEOPLE RECOMMEND IS EVERY 18 TIME YOU GO IN, SIT NEXT TO SOMEBODY ELSE BECAUSE 19 THERE'S NO VALUE TO FACTIONS. 20 AND, YOU KNOW, ONE OF MY OTHER SONS IN A 21 CASE WHERE THERE WAS ADMITTED LIABILITY LIKE THIS ONE 22 AND WE'RE SITTING THERE, YOU KNOW, AS YOU GUYS ARE 23 WALKING BACK AND FORTH, YOU KNOW, WHILE YOU'RE 24 DELIBERATING, AND WE'RE LOOKING AT YOU AND TRYING TO 25 GUESS WHAT YOU'RE THINKING, YOU KNOW. HE SAYS TO ME, 26 HE GOES, "DAD, NOBODY'S AGAINST US. IT'S AN ADMITTED 27 LIABILITY CASE. IT'S THEIR JOB TO COME TOGETHER AND 28 MAKE A DECISION. BUT NOBODY COULD BE AGAINST US."</p>	
<p>1 THINK ANYBODY THINKS HE REALLY IS. I MEAN, HIS SPINE 2 IS FUSED FROM TOP TO BOTTOM. 3 THEY TALK VERY WELL ABOUT THIS AND THEY'VE 4 GOT A JOB TO DO. WHAT ARE THEY GOING TO SAY? THEY 5 HAVE TO DO THEIR JOB. I'M NOT SAYING THEY'RE BAD 6 PEOPLE AT ALL, BUT I'M SAYING, UNDERSTAND WHAT THEY'RE 7 SAYING TO YOU. 8 ANTHONY TAYLOR'S HERE BECAUSE SOMEBODY 9 VIOLATED THE RULES? AND THEY STILL WANT TO VIOLATE THE 10 RULES. BUT THIS TIME THEY WANT YOU TO VIOLATE THE 11 RULES. AND ALL WE'RE SUGGESTING IS READ THE RULES. 12 AND THE RULES SAY (AS READ AND/OR 13 REFLECTED): 14 REASONABLE CASE OF REASONABLY 15 NECESSARY MEDICAL CARE THAT HE IS 16 REASONABLY CERTAIN TO NEED IN THE 17 FUTURE. 18 HOW IS HE NOT REASONABLY CERTAIN TO NEED 19 ALL OF THIS CARE, KNOWING EVERYTHING YOU KNOW? 20 AND I DON'T CARE WHAT HE TOLD YOU, YOU 21 READ THE INSTRUCTIONS AND YOU DISCUSS WITH EACH OTHER 22 WHAT DO THE RULES SAY? IT SAYS (AS READ AND/OR 23 REFLECTED): 24 THE AMOUNT OF DAMAGES MUST INCLUDE 25 AN AWARD FOR EACH ITEM OF HARM. 26 AND THEN IT LISTS ALL OF THOSE THINGS. 27 IF YOU DECIDE THAT HE HAS SUFFERED ANY ONE 28 OF THOSE THINGS OR ALL OF THOSE THINGS, EVEN</p>	Page 174	<p>1 NOW, THAT MIGHT HAPPEN IF IT'S DID HE DO 2 IT OR DIDN'T SHE DO IT; RIGHT? THAT COULD HAPPEN THEN. 3 THIS IS: WHAT DO THE INSTRUCTIONS SAY? 4 WHAT IS THE VALUE THAT YOU REACH; RIGHT? IT'S NOT 5 ANYTHING OTHER THAN THAT. 6 AND HOW WELL YOU FORM THAT GROUP AND COME 7 TO THAT PLACE, THE BETTER YOU'VE DONE YOUR JOB. 8 AND IN EVERY GROUP IT'S DEFINED BY THE 9 MARGINS. SOME PEOPLE ARE GOING TO THINK THE DEFENSE 10 LAWYERS SAID WE SHOULD GIVE TOO MUCH MONEY. 11 OTHER PEOPLE WILL THINK THE PLAINTIFF'S 12 LAWYER DIDN'T ASK FOR ENOUGH MONEY. AND THERE'S YOUR 13 MARGINS. 14 AND THAT'S WHEN THE DELIBERATION STARTS. 15 ANOTHER THING I WOULD LIKE TO SUGGEST TO 16 YOU IS THERE'S BEEN STUDIES WHERE -- FIVE, SIX. 17 EVERYBODY'S IN ON IT EXCEPT ONE PERSON AND THEY SAY, 18 WHICH LINE IS CLOSEST IN SIZE TO THIS LINE 19 (INDICATING)? 20 AND THE PERSON WHO IS NOT IN ON IT WILL 21 SAY, THIS ONE, OF COURSE. BUT THE OTHER FIVE WILL SAY 22 IT'S ONE OF THESE, OR IT'S THIS ONE. AND IT'S AMAZING 23 WHAT HAPPENS. ALMOST UNIVERSALLY IT'S BETWEEN 24 82 PERCENT AND 86 PERCENT OF EVERY STUDY THEY DID WITH 25 THAT, THIS PERSON, THE PERSON WHO IS GIVING THEIR 26 HONEST RESPONSE WILL SHIFT IN THE FACE OF ALL REASON, 27 THEY WILL SHIFT BECAUSE OF THE PEER PRESSURE. 28 SO HOW DO YOU AVOID THAT? ONE OF THE</p>	Page 176

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<p>1 THINGS YOU MIGHT DO, YOU MIGHT FIND SUCCESSFUL IS WHEN 2 YOU GO IN, WRITE DOWN WHAT YOU THINK, FOLD IT. AND 3 THEN START THE DISCUSSION. I'M NOT SAYING DON'T 4 DELIBERATE. I'M NOT SAYING STICK TO THAT NUMBER. 5 I'M SAYING BEFORE YOU LET THE PEER GROUP 6 MOVE YOU ONE WAY OR THE OTHER, THAT IS THE ONLY 7 EFFECTIVE METHOD THEY'VE FOUND TO PUSH BACK THAT PEER 8 PRESSURE. YOU MIGHT WANT TO USE IT. 9 I'M ALMOST DONE. 10 MY OTHER SON MADE THE POWERPOINT AND HE 11 DID THAT TO REMIND ME. WHEN YOU GO BACK, IF YOU THINK 12 THERE'S LOSS OF SEXUAL FUNCTION, PUT IT DOWN. PAST, 13 FUTURE. AND DO THE TOTAL. 14 THAT'S THE ONLY WAY I KNOW THAT YOU CAN 15 FOLLOW THE INSTRUCTION. YOU CAN FOLLOW THE RULES. IF 16 YOU DON'T THINK HE'S LOST THAT, PUT ZERO. BUT IF YOU 17 DO, MAKE THE EVALUATION. MAKE THE ASSESSMENT AND BE 18 THE APPRAISER. 19 YOU KNOW, THE CASE WOULD BE EXCEPTIONALLY 20 EASY IF ANTHONY HAD A BAG OF DIAMONDS, YOU KNOW, AND 21 REALLY, REALLY WHAT -- I DON'T THINK I'VE EVER SEEN 22 QUALITY ONES, BUT QUALITY HIGH-END DIAMONDS, A BAG OF 23 THEM. AND THE DEFENDANT FOR WHATEVER REASON THREW THEM 24 IN A RIVER AND WE COULDN'T FIND THEM. AND WE COULDN'T 25 GET THEM BACK. 26 THE CASE WOULD BE EASY. WE WOULD TAKE 27 EVERY ONE OF THOSE DIAMONDS. YOU WOULD LISTEN TO THE 28 EXPERTS, QUALITY, CLARITY, SIZE, MARKET VALUE, AND YOU</p>		<p>1 HE HAD A GREAT LIFE. IT WAS VIBRANT. IT 2 WAS FULL. IT WAS SATISFYING. AND NOW HE DOESN'T. 3 I CAN'T THINK OF -- IT'S WORSE THAN THAT, 4 THE PRISON HE'S IN. 5 SOMEBODY WHEN WE WERE TALKING TO THEM 6 ABOUT ANTHONY SAID IT'S LIKE BEING IN A DENTAL CHAIR 7 YOU CAN NEVER LEAVE. YOU CAN NEVER LEAVE. THAT'S WHAT 8 IT IS. 9 AND SO, NO, I'M NOT EMBARRASSED AT ALL 10 ABOUT 94 MILLION. IF IT WAS -- IF IT WAS ONE OF MINE, 11 THAT WOULDN'T BE ENOUGH. 12 AND FINALLY, IT'S PRICELESS. EVERYBODY 13 AGREES IT'S PRICELESS, THAT JOY OF LIFE IS PRICELESS. 14 SO LET'S IMAGINE FOR A MINUTE THE 15 DEFENDANT WENT UP TO THE PAINTING FOR WHATEVER REASON. 16 AND TOOK THAT PAINTING AND TORE IT UP AND VIRTUALLY 17 DESTROYED IT. AND THEN SAID, WELL, LOOK, WE COULD TAPE 18 IT BACK UP, AND IT'S ALMOST AS GOOD AS IT WAS. WE 19 SHOULDN'T HAVE TO PAY WHAT IT'S WORTH BECAUSE THAT'S 20 TOO MUCH. 21 AND YOU KNOW WHAT ELSE I COULDN'T GET 22 OVER? I JUST CAN'T GET OVER IT. THERE HAS NEVER BEEN 23 AN APOLOGY. NOT EVER. 24 NO. THE MONEY WE'RE ASKING IS NOT ENOUGH, 25 BUT IT'S REASONABLE. IT'S SOMETHING YOU CAN BE PROUD 26 OF. AND IT TELLS US WHAT YOU VALUE. WORK HARD. 27 WHATEVER YOU DECIDE, WE WILL ACCEPT. JUST 28 FOLLOW THE RULES. THANK YOU.</p>	
<p>1 WOULD WRITE IT DOWN. EVERY ONE OF THEM. 2 AND IF IT COMES TO \$200 MILLION, IT COMES 3 TO \$200 MILLION AND NOBODY WOULD SAY, LET'S GIVE HER A 4 BREAK BECAUSE SHE'S YOUNG AND IT WAS JUST ONE SECOND. 5 YOU DON'T KNOW IF IT WAS ONE SECOND OR NOT. ALL YOU 6 KNOW IS THAT SHE'S ACCOUNTABLE. 7 BUT YOU ADD IT UP, AND THAT'S THE AMOUNT. 8 AND YOU WOULDN'T GIVE ANTHONY MORE, WOULD YOU? THAT 9 WOULD BE SYMPATHY. BUT YOU WOULD DO THE CALCULATION. 10 WHATEVER NUMBER YOU COME TO IS THE RIGHT NUMBER. 11 ON BEHALF OF ANTHONY, WE JUST WANT YOU TO 12 FOLLOW THE RULES AND DO THE CALCULATION. 13 THE IDEA OF ANCHORING. ANCHORING PULLS 14 THINGS DOWN. WE DIDN'T WRITE THE RULES. THE 15 LEGISLATURE WROTE THE RULES. JUDGES ENFORCE THEM. 16 THAT'S WHAT THOSE INSTRUCTIONS COME FROM. WE DIDN'T 17 MAKE THEM UP. 18 IT'S A DEBT. THEY OWE IT. AND THEY 19 SHOULD PAY IT. 20 YEAH, HE DOES. PRAISE GOD, HE DOES. BUT 21 WE ALL KNOW IT COMES TO A STOP AT SOME POINT. HE'S 22 NEVER GOING TO GET OUT OF THAT CHAIR. HE IS NEVER 23 GOING TO DO SIMPLE THINGS LIKE GOING TO THE BATHROOM. 24 AND, NO, THAT BAG DOES NOT HELP HIM GO TO THE BATHROOM. 25 IT DRAINS HIS BLADDER 24 HOURS A DAY. 26 AND IT DOESN'T MATTER WHAT KIND OF 27 WHEELCHAIR YOU GIVE HIM. IT JUST -- IT IS WHAT HE WILL 28 ALWAYS BE.</p>	Page 178	<p>1 THE COURT: THANK YOU, MR. PARRIS. 2 LADIES AND GENTLEMEN, I HAVE ONE FINAL 3 INSTRUCTION AND THEN I'LL SWEAR IN MS. GONZALEZ AND 4 YOU'LL GO INTO THE JURY ROOM FOR A FEW MINUTES BEFORE 5 THE END OF THE DAY. 6 (AS READ AND/OR REFLECTED): 7 IN A FEW MINUTES WHEN YOU GO TO 8 THE JURY ROOM, THE FIRST THING YOU 9 SHOULD DO IS CHOOSE YOUR PRESIDING 10 JUROR. 11 THE PRESIDING JUROR SHOULD SEE TO 12 IT THAT YOUR DISCUSSIONS ARE ORDERLY 13 AND THAT EVERYONE HAS A FAIR CHANCE TO 14 BE HEARD. 15 AS JURORS, IT IS YOUR DUTY TO TALK 16 WITH ONE ANOTHER IN THE JURY ROOM AND 17 TO CONSIDER THE VIEWS OF ALL THE 18 JURORS. 19 EACH OF YOU MUST DECIDE THE CASE 20 FOR YOURSELF, BUT ONLY AFTER YOU HAVE 21 CONSIDERED THE EVIDENCE WITH THE OTHER 22 MEMBERS OF THE JURY. 23 FEEL FREE TO CHANGE YOUR MIND IF 24 YOU ARE CONVINCED THAT YOUR POSITION 25 SHOULD BE DIFFERENT. YOU SHOULD ALL 26 TRY TO AGREE, BUT DO NOT GIVE UP YOUR 27 HONEST BELIEFS JUST BECAUSE OTHERS 28 THINK DIFFERENTLY.</p>	Page 180



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1 PLEASE DO NOT STATE YOUR OPINIONS  
 2 TOO STRONGLY AT THE BEGINNING OF YOUR  
 3 DELIBERATIONS OR IMMEDIATELY ANNOUNCE  
 4 HOW YOU PLAN TO VOTE AS IT MAY  
 5 INTERFERE WITH AN OPEN DISCUSSION.  
 6 KEEP AN OPEN MIND SO THAT YOU AND  
 7 YOUR FELLOW JURORS CAN EASILY SHARE  
 8 IDEAS ABOUT THE CASE.  
 9 YOU SHOULD USE YOUR COMMON SENSE  
 10 AND EXPERIENCE IN DECIDING WHETHER  
 11 TESTIMONY IS TRUE AND ACCURATE.  
 12 HOWEVER, DURING YOUR DELIBERATIONS, DO  
 13 NOT MAKE ANY STATEMENTS OR PROVIDE ANY  
 14 INFORMATION TO OTHER JURORS BASED ON  
 15 ANY SPECIAL TRAINING OR UNIQUE  
 16 PERSONAL EXPERIENCES THAT YOU MAY HAVE  
 17 HAD RELATED TO MATTERS INVOLVED IN  
 18 THIS CASE.  
 19 WHAT YOU MAY KNOW OR HAVE LEARNED  
 20 THROUGH YOUR TRAINING OR EXPERIENCE IS  
 21 NOT A PART OF THE EVIDENCE RECEIVED IN  
 22 THIS CASE.  
 23 NOW, SOMETIMES JURORS DISAGREE OR  
 24 HAVE QUESTIONS ABOUT THE EVIDENCE OR  
 25 ABOUT WHAT THE WITNESSES SAID IN THEIR  
 26 TESTIMONY.  
 27 IF THAT HAPPENS, YOU MAY ASK TO  
 28 HAVE TESTIMONY READ BACK TO YOU OR TO

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1 SEE ANY EXHIBITS ADMITTED INTO  
 2 EVIDENCE THAT HAVE NOT ALREADY BEEN  
 3 PROVIDED TO YOU.  
 4 ALSO, YOU MAY ASK OR YOU MAY NEED  
 5 FURTHER EXPLANATION ABOUT THE LAW THAT  
 6 APPLIES TO THE CASE.  
 7 IF THAT HAPPENS DURING YOUR  
 8 DELIBERATIONS, YOUR PRESIDING JUROR  
 9 SHOULD WRITE DOWN YOUR QUESTIONS AND  
 10 GIVE THEM TO THE JUDICIAL ASSISTANT,  
 11 MS. GONZALEZ. SHE WILL COPY THEM FOR  
 12 MYSELF AND THE LAWYERS AND I WILL TALK  
 13 TO THE ATTORNEYS BEFORE I ANSWER YOU.  
 14 SO IT MAY TAKE SOME TIME.  
 15 IF YOU SEND OUT A QUESTION OR  
 16 QUESTIONS, YOU SHOULD CONTINUE YOUR  
 17 DELIBERATIONS WHILE YOU WAIT FOR MY  
 18 ANSWER. I'LL DO MY BEST TO ANSWER  
 19 YOUR QUESTION.  
 20 BUT WHEN YOU WRITE ME A NOTE,  
 21 DON'T TELL ME HOW YOU OR ANYONE ELSE  
 22 HAS VOTED ON ANY ISSUE UNLESS I ASK  
 23 FOR THAT INFORMATION IN OPEN COURT.  
 24 AS I TOLD YOU EARLIER, AT LEAST  
 25 NINE JURORS MUST AGREE ON A VERDICT AS  
 26 TO EACH QUESTION.  
 27 WHEN YOU HAVE FINISHED FILLING OUT  
 28 THE VERDICT FORM -- AND THAT WILL BE

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1 DONE BY YOUR PRESIDING JUROR WHO WILL  
 2 SIGN IT IN PEN AND DATE IT -- YOU WILL  
 3 THEN ADVISE THE JUDICIAL ASSISTANT  
 4 THAT YOU HAVE REACHED A VERDICT AND  
 5 ARE READY TO PRESENT IT IN OPEN COURT.  
 6 YOUR DECISION MUST BE BASED ON  
 7 YOUR PERSONAL EVALUATION OF THE  
 8 EVIDENCE PRESENTED IN THE CASE.  
 9 AND EACH ONE OF YOU WILL BE ASKED  
 10 IN OPEN COURT HOW YOU VOTED ON EACH  
 11 QUESTION.  
 12 NOW, WHILE I KNOW YOU WOULD NOT DO  
 13 THIS, I AM REQUIRED TO ADVISE YOU THAT  
 14 YOU MUST NOT BASE YOUR DECISION ON  
 15 CHANCE, SUCH AS THE FLIP OF A COIN.  
 16 IF YOU DECIDE TO AWARD DAMAGES,  
 17 WHICH, AS THE EVIDENCE HAS SHOWN, YOU  
 18 WILL, YOU MAY NOT AGREE IN ADVANCE TO  
 19 SIMPLY ADD UP THE AMOUNTS THAT EACH  
 20 JUROR THINKS IS RIGHT AND THEN WITHOUT  
 21 FURTHER DELIBERATIONS MAKE THE AVERAGE  
 22 YOUR VERDICT. YOU MAY NOT DO THAT.  
 23 FINALLY, AS YOU DELIBERATE, YOU  
 24 MAY TAKE BREAKS, BUT THE SAME  
 25 ADMONITION APPLIES. DO NOT DISCUSS  
 26 THE CASE WITH ANYONE, INCLUDING EACH  
 27 OTHER, UNTIL YOU ARE BACK IN THE JURY  
 28 ROOM.

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1 IF SOMEONE GOES TO THE RESTROOM,  
 2 YOU DON'T HAVE ALL 12 JURORS. WAIT  
 3 UNTIL ALL 12 JURORS ARE AROUND THE  
 4 TABLE. YOU CAN STAND OR SIT AROUND  
 5 THE TABLE, BUT BE IN THAT AREA SO YOU  
 6 CAN HEAR EVERYTHING THAT'S BEING SAID.  
 7 I'LL SWEAR IN THE JUDICIAL ASSISTANT.  
 8 DO YOU SOLEMNLY SWEAR THAT YOU WILL TAKE  
 9 CHARGE OF THE JURY AND KEEP THEM TOGETHER, THAT YOU  
 10 WILL NOT SPEAK TO THEM YOURSELF, NOR ALLOW ANYONE ELSE  
 11 TO SPEAK TO THEM UPON MATTERS CONNECTED WITH THE CASE,  
 12 EXCEPT ON ORDER OF THE COURT; AND THAT WHEN THEY HAVE  
 13 AGREED UPON A VERDICT, YOU WILL RETURN THEM INTO COURT,  
 14 AND, FURTHER, THAT YOU WILL TAKE CHARGE OF OUR  
 15 ALTERNATE, MR. KIM, AND KEEP HIM APART FROM THE JURY  
 16 WHILE THEY ARE DELIBERATING ON THE CASE UNTIL OTHERWISE  
 17 SO INSTRUCTED BY THE COURT, SO HELP YOU GOD?  
 18 THE CLERK: I WILL.  
 19 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE  
 20 ONLY HAVE ABOUT 23 MINUTES UNTIL THE 4:30 HOUR.  
 21 SO MS. GONZALEZ WILL TAKE YOU INTO THE  
 22 JURY ROOM SO YOU CAN BEGIN YOUR DELIBERATIONS AND  
 23 SELECTION OF A PRESIDING JUROR.  
 24 (THE FOLLOWING PROCEEDINGS WERE HELD IN  
 25 OPEN COURT OUTSIDE THE PRESENCE OF THE  
 26 JURY:)  
 27 THE COURT: I WOULD ASK THAT WHOEVER IS GOING TO  
 28 TAKE THE VERDICT, IF YOU'RE GOING TO BE HERE, THAT'S

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<p>1 FINE, BUT IF YOU LEAVE TO GO ACROSS THE STREET OR TO 2 THE STARBUCKS AND WE GET A QUESTION, WE NEED TO HAVE 3 YOUR PHONE NUMBER, SO PLEASE GIVE IT TO MS. GONZALEZ. 4 LET US KNOW WHO IS GOING TO BE LEAD ON 5 THAT SO THAT IF WE GET A QUESTION, WE DON'T HAVE TO 6 WAIT AN HOUR FOR SOMEONE. 7 SO, MR. WHEELER, YOU'RE GOING TO BE IN 8 CHARGE OF THAT. 9 MR. WHEELER: YES, YOUR HONOR. 10 THE COURT: IF YOU'LL GIVE MS. GONZALEZ YOUR 11 CELL. 12 AND, MR. BRAUN? 13 MR. BRAUN: YES. 14 THE COURT: IF YOU'LL GIVE IT TO MS. GONZALEZ. 15 SHE CAN CONTACT -- IT'S PRIMARILY RELATED TO A 16 QUESTION. THANK YOU. 17 MR. REX PARRIS: YOUR HONOR, THANK YOU FOR A 18 WONDERFUL TRIAL. 19 THE COURT: MR. DOUGLASS, WE'LL NEED THIS ON THE 20 RECORD. 21 MR. DOUGLASS, THE HELP YOU HAVE BEEN 22 GIVING US, I NEED YOU TO -- LET ME GET THE 23 INSTRUCTIONS. IF IT'S ALL RIGHT, IF I CAN ASK YOU. 24 MR. DOUGLASS: YES. 25 THE COURT: I NEED YOUR HELP. 26 MR. DOUGLASS: OH, SURE. 27 THE COURT: THE -- I NEED A CLEAN -- WE CAN GET 28 IT OR MS. GONZALEZ CAN DO IT. I NEED A CLEAN -- HERE</p>	<p>1 WHAT I READ EXCEPT PORTIONS OF IT WERE NOT REPEATED 2 FOUR TIMES. 3 DID I CORRECTLY STATE THAT? 4 MR. WHEELER: YES, YOUR HONOR. 5 MS. BREUER: YES. 6 THE COURT: AND BOTH SIDES AGREE? 7 MS. BREUER: CORRECT. 8 THE COURT: I JUST WANT TO MAKE SURE YOU AGREE ON 9 THAT. 10 MR. WHEELER: I THOUGHT I SAID YES. 11 THE COURT: OKAY. MY EARS. 12 MR. WHEELER: I'M A LITTLE SLOW TODAY. 13 THE COURT: THE SECOND ISSUE IS THE EXHIBITS. 14 PLEASE TAKE OVER. 15 MR. WHEELER: WE WENT THROUGH THE EXHIBITS THAT 16 WERE ADMITTED. THERE WERE SEVERAL THAT HAD TAGS ON 17 THEM AS ADMITTED THAT SHOULDN'T HAVE BEEN. 18 SO COUNSEL, MS. BREUER AND I WENT THROUGH 19 THE LIST OF ALL THE ADMITTED EXHIBITS, CULLED IT DOWN 20 TO WHAT THE PARTIES AGREED TO, AND WE NOW HAVE A MUCH 21 SHORTER BINDER. 22 THE COURT: AND DO YOU AGREE TO THAT, MS. BREUER? 23 MS. BREUER: YES. 24 THE COURT: THANK YOU. 25 MR. WHEELER: SO WHAT WE'LL DO NOW IS READ INTO 26 THE RECORD THE EXHIBITS THAT WE'VE ALL AGREED, BOTH 27 SIDES HAVE AGREED WILL GO BACK TO THE JURY ON MONDAY. 28 THE COURT: VERY GOOD. THANK YOU.</p>
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<p>1 IT IS. I NEED A CLEAN 3905(A). I READ IT TO THEM SO 2 THAT I DIDN'T HAVE TO READ ALL THE ELEMENTS OF DAMAGES 3 FOUR TIMES. BUT I'M GOING TO PUT IT IN -- SO I 4 SHORTENED IT, BUT I NEED A CLEAN 3905(A). 5 MR. DOUGLASS: GOT IT. 6 THE COURT: THAT HAS TO GO TO MS. GONZALEZ. 7 BOTH COUNSEL SHOULD LOOK AT IT TO MAKE 8 SURE IT'S APPROPRIATE. I'M GOING TO LEAVE THE OLD ONE 9 IN HERE, MICHELLE, BUT IT HAS TO BE REMOVED AND I RAN 10 OUT OF POST-ITS. 11 MR. DOUGLASS: YOUR HONOR, DO YOU WANT ME TO MAKE 12 THE CHANGES YOU'VE MADE? 13 THE COURT: NO. JUST PUT -- I DIDN'T WANT TO 14 READ IT FOUR TIMES. SO JUST THE WAY IT WAS, BUT I 15 CHANGED IT TO NONECONOMIC DAMAGES INSTEAD OF READING 16 THE SAME THING FOUR TIMES, AND COUNSEL AGREED. 17 THE OTHER THING I NEED IS I NEED THIS 18 TYPED AND I THINK MAYBE LET ME ASK MICHELLE -- 19 OFF THE RECORD. 20 (OFF THE RECORD FROM 4:09 P.M. TO 21 4:34 P.M.) 22 THE COURT: WE'RE BACK ON THE RECORD. 23 THE COURT HAS REVIEWED THE JURY 24 INSTRUCTIONS THAT WERE READ. THERE WAS AN INSTRUCTION 25 THAT WAS HANDWRITTEN. THAT WAS RETYPED BY 26 MS. GONZALEZ. THAT IS IN THERE. 27 THERE WAS AN INSTRUCTION ON NONECONOMIC 28 DAMAGES AND A NEW ONE WAS PLACED IN THERE IDENTICAL TO</p>	<p>1 MR. WHEELER: THAT STARTS WITH EXHIBIT 1, WHICH 2 IS EXHIBIT 1-4 AND 1-5. 3 (WHEREUPON EXHIBIT NOS. 1-4 AND 1-5 4 WERE RECEIVED INTO EVIDENCE.) 5 MR. WHEELER: EXHIBITS 4-1, 4-2, 4-4, AND 4-5. 6 (WHEREUPON EXHIBIT NOS. 4-1, 4-2, 4-4, 7 AND 4-5 WERE RECEIVED INTO EVIDENCE.) 8 MR. WHEELER: EXHIBIT 5-1. 9 (WHEREUPON EXHIBIT NO. 5-1 WAS RECEIVED 10 INTO EVIDENCE.) 11 MR. WHEELER: EXHIBIT 6-2, 6-3, AND 6-5. 12 (WHEREUPON EXHIBIT NOS. 6-2, 6-3, AND 13 6-5 WERE RECEIVED INTO EVIDENCE.) 14 MR. WHEELER: EXHIBIT 7-1, 7-2, 7-3, 7-34, 7-35, 15 7-36, 7-37, 7-38, 7-39, 7-40, 7-42, 7-44. 16 (WHEREUPON EXHIBIT NOS. 7-1, 7-2, 7-3, 17 7-34, 7-35, AND 7-36 WERE RECEIVED INTO 18 EVIDENCE.) 19 (WHEREUPON EXHIBIT NOS. 7-37, 7-38, 20 7-39, 7-40, 7-42, AND 7-44 WERE 21 RECEIVED INTO EVIDENCE.) 22 MR. WHEELER: AND THEN WE GO TO EXHIBIT 379, 23 WHICH IS ONE PAGE. 24 (WHEREUPON EXHIBIT NO. 379 WAS RECEIVED 25 INTO EVIDENCE.) 26 MR. WHEELER: 380 IS ONE PAGE. 27 (WHEREUPON EXHIBIT NO. 380 WAS RECEIVED 28 INTO EVIDENCE.)</p>

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<p>1 MR. WHEELER: 381, ONE PAGE. 2 (WHEREUPON EXHIBIT NO. 381 WAS RECEIVED 3 INTO EVIDENCE.) 4 MR. WHEELER: 402-1 THROUGH -4. 5 (WHEREUPON EXHIBIT NOS. 402-1, 402-2, 6 402-3, AND 402-4 WERE RECEIVED INTO 7 EVIDENCE.) 8 MR. WHEELER: 407 IS THE PLAINTIFF'S LIFE CARE 9 PLAN, WHICH IS 407-1 THROUGH 407-37. 10 (WHEREUPON EXHIBIT NO. 407 WAS RECEIVED 11 INTO EVIDENCE.) 12 MR. WHEELER: EXHIBIT 412 IS THE -- OUR 13 EXHIBIT 412, OUR TWO PAGES OF THE ECONOMIST'S SUMMARIES 14 FOR THE TWO DIFFERENT LIFE EXPECTANCY SCENARIOS. 15 (WHEREUPON EXHIBIT NO. 412 WAS RECEIVED 16 INTO EVIDENCE.) 17 MR. WHEELER: EXHIBIT 432 IS THE ONE-PAGE SUMMARY 18 FROM THE ECONOMIST, THE DEFENSE ECONOMIST. 19 (WHEREUPON EXHIBIT NO. 432 WAS RECEIVED 20 INTO EVIDENCE.) 21 MR. WHEELER: AND THEN EXHIBIT 516, WHICH WILL BE 22 RIGHT AFTER 432 BY STIPULATION, IS THE DEFENSE LIFE 23 CARE PLAN. 24 (WHEREUPON EXHIBIT NO. 516 WAS RECEIVED 25 INTO EVIDENCE.) 26 MR. WHEELER: THEN WE HAVE EXHIBIT 501, WHICH IS 27 A TWO-PAGE DOCUMENT. AND EXHIBIT 510, WHICH IS A 28 ONE-PAGE DOCUMENT.</p>		<p>1 TALKED ABOUT. 2 AND JUST SAY WHAT THAT IS. 3 MR. WHEELER: 518 IS THE ILLUSTRATION FROM 4 DR. KIM'S ARTICLE THAT SHE WAS CROSS-EXAMINED ON AND 5 BOTH SIDES AGREED TO ADMISSION, I THINK OVER OBJECTION 6 ACTUALLY. I DIDN'T STATE THAT CORRECTLY. 7 THE COURT: IT'S IN. I'VE RULED ON IT AND IT'S 8 IN, AND THERE'S THE SMALLER COPY THAT I TALKED ABOUT. 9 (WHEREUPON EXHIBIT NO. 518 WAS RECEIVED 10 INTO EVIDENCE.) 11 MR. WHEELER: THANK YOU, YOUR HONOR. 12 MS. BREUER: THANK YOU, YOUR HONOR. 13 (WHEREUPON, AT 4:40 P.M., THE 14 PROCEEDINGS WERE ADJOURNED FOR THE 15 DAY.) 16 17 18 19 20 21 22 23 24 25 26 27 28</p>	
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<p>1 (WHEREUPON EXHIBIT NO. 501 WAS RECEIVED 2 INTO EVIDENCE.) 3 (WHEREUPON EXHIBIT NO. 510 WAS RECEIVED 4 INTO EVIDENCE.) 5 THE COURT: MS. BREUER, DID MR. WHEELER CORRECTLY 6 STATE WHAT YOU'VE AGREED TO? 7 MS. BREUER: THAT IS CORRECT, YOUR HONOR. 8 THE COURT: ALL RIGHT. ALL OF THOSE WILL BE 9 GOING TO THE JURY MONDAY MORNING AT NINE O'CLOCK. 10 LET ME JUST INQUIRE. THERE WERE THREE 11 BINDERS AND THOSE ARE NOT GOING IN. ARE THOSE 12 BASICALLY VOLUMES OF MEDICAL RECORDS? 13 MR. WHEELER: YES, YOUR HONOR. 14 THE COURT: AND THOSE ARE NOT GOING IN? 15 MR. WHEELER: THEY ARE NOT. 16 THE COURT: VERY GOOD. 17 MR. WHEELER: ALL THREE OF THEM. 18 THE COURT: THANK YOU. 19 ANYTHING ELSE ON THE EXHIBITS? 20 MS. BREUER: THAT'S ALL, YOUR HONOR. 21 THE COURT: THANK YOU. I THINK WE'VE COVERED 22 EVERYTHING. 23 MS. BREUER: I THINK SO. 24 THE COURT: AS I SAID THE OTHER DAY, WE'RE CLOSED 25 NOW. 26 HAVE A NICE WEEKEND. THANK YOU. 27 MR. WHEELER: WAIT. WE DID MISS ONE, YOUR HONOR. 28 THE COURT: EXHIBIT 518, AND THAT'S THE ONE WE</p>			