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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MARGARET DALLO,)	C19-00865-TSZ
)	
Plaintiff,)	SEATTLE, WASHINGTON
)	
v.)	Trial conducted
)	remotely via
HOLLAND AMERICA LINE, INC.,)	ZoomGov.com
a Washington corporation;)	
HOLLAND AMERICA LINE - USA)	September 29, 2020
INC., a Delaware)	
corporation; HOLLAND AMERICA)	9:00 a.m.
LINE N.V. LLC, a Curacao)	
corporation; and HAL)	Trial - Day 1
ANTILLEN N.V., a Curacao)	
corporation,)	
)	
Defendants.)	

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE THOMAS S. ZILLY
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff:	Ken Friedman Friedman Rubin 1126 Highland Avenue Bremerton, WA 98337
	David P. Roosa Friedman Rubin 1109 1st Avenue Suite 501 Seattle, WA 98101

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For the Defendants: Lisa M. Conner
Melody Chang
Flynn Delich & Wise LLP
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EXAMINATION INDEX

EXAMINATION OF:

JACKLEN MICHAIL

DIRECT EXAMINATION
BY MR. FRIEDMAN

PAGE
29

EXHIBIT INDEX

EXHIBITS ADMITTED

PAGE

1 (Jury selection was not ordered transcribed.)

2 MR. ROOSA: Good afternoon, members of the jury. My
3 name is David Roosa, one of the attorneys for the plaintiff,
4 Margaret Dallo. With me today is attorney Ken Friedman, who
5 you spoke to you during voir dire. And somebody who is with
6 us today that you can't see is our trial tech assistant, and
7 his name is Cameron, Cameron Taylor. You may hear us
8 speaking to Cam throughout the trial, and I just wanted you
9 to know that there was a person we're talking to here in this
10 room. And we apologize, in advance, for any technical
11 difficulties that may occur. We're in uncharted waters here,
12 and we thank you for your time and attention.

13 So, with that aside, members of the court, counsel, jury,
14 this is a straightforward case of a Holland America Line
15 cruise ship crew member, Mr. Stefan Milic, who knocked down
16 and seriously injured a passenger, by pushing open a door
17 outward into a hallway while she was walking by.

18 There are two issues that you, the jury, will decide in
19 this case. The first is whether Holland America Line is at
20 fault for what happened to the passenger. The second issue
21 is what amount of damages adequately compensates the
22 passenger for the injuries that she sustained.

23 Can we see the first slide, please, Cam? This is an
24 overhead view of a hallway on the MS Eurodam, a Holland
25 America Line cruise ship. The evidence will show that

1 Mr. Milic opened the door as the passenger was walking in
2 this direction.

3 Next slide, please. This is a photo of the door, from the
4 perspective of Mr. Milic, as he pushed it open. This is a
5 photo of the door from the perspective of the passenger, as
6 she was walking down the hallway. She was walking on the
7 right-hand side, and the door in question is lined in silver
8 around the middle of the page.

9 Next slide, please. This is a picture of that same door
10 in the fully open position, shown from the direction the
11 passenger was walking.

12 Next slide, please. You'll hear from an eyewitness that
13 when the passenger fell, she struck her head on the frame of
14 this door on the other side of the hallway. And you can see
15 where there's a blue pen scribble where a witness indicated
16 that's where Ms. Dallo struck her head. The passenger was
17 the plaintiff in this case, 84-year-old Margaret Dallo. And
18 this is a picture of her taken just a few days before the
19 injury she sustained.

20 The evidence will show that on November 26, 2018, while at
21 sea, Holland America crew member, Stefan Milic, pushed open
22 the metal door that you just saw, from a crew assembly area,
23 striking Ms. Dallo on her right shoulder and knocking her
24 over. Ms. Dallo hit her head on the frame of the door on the
25 other side of the hallway that we just showed you. She

1 suffered a serious head injury that would later require
2 surgery.

3 At the time of the incident, the seas were calm, and
4 Ms. Dallo was walking in single file on the right side of the
5 hallway with her two daughters, Jacklen and Layla, one in
6 front of her and one walking behind her.

7 The witnesses all agree that these basic facts are true.
8 Mrs. Dallo was walking past the door down the hallway,
9 Mr. Milic opened the door and contacted her, and she fell
10 striking her head. Several reports were generated in
11 connection with the incident. Can we see the first one,
12 please?

13 This is Exhibit 11. This is a report written by a Holland
14 America Line security officer who investigated the incident.
15 And he wrote in his report, his accident narrative, "The
16 guest stated that whilst she was walking into the hallway on
17 Deck 3 midship portside, a crew member opened the blue door
18 and bumped her, which causes her to fell backward, and landed
19 her buttock on the carpeted floor, and the back of her head
20 bumped on the corner of the door.

21 "The CM ID 073866 alleges that he opened the door
22 partially and gently, and he felt someone collided against
23 the door, and he releases the door. He heard someone fell
24 down, and saw a lady laying on the ground. He immediately
25 calls 911 for assistance. He apologized to the guest and

1 stayed there the whole time until the medical assistance
2 arrived.

3 "Area of the accident was inspected and found the
4 emergency door and floor was in good condition. Sufficient
5 light was observed in the area."

6 Here's a written statement by one of Mrs. Dallo's
7 daughters, also provided on the day of the incident. She
8 writes, "Walking into the hallway, employee, crew member,
9 opened the door outward and fell backward and bumped her head
10 on the door. The door did not have a sign from inside saying
11 'open gently'. Crew from shop. In the hallway of the shops.
12 Did not get name of the employee." Then the name of the
13 employee is down there at the bottom, Stefan Milic.

14 We also have a written statement from Mr. Milic himself.
15 Mr. Milic wrote in his statement, "Today at 12 o'clock, noon
16 at midship area, Deck 3 crew area, crew staircase, I have
17 gently opened the crew portside to enter guest area. I was
18 together with my co-workers.

19 "While I was opening the door gently I have felt the bump,
20 and I have released the door. I have heard that someone have
21 fell down. I have opened the door very" -- "I have opened
22 the door" -- I cannot read that word -- "gently. And then I
23 saw the lady from the cabin 7002 laying on the ground. After
24 the accident I immediately called 911 to call for help. I
25 was with the guest the whole time until the help arrived. I

1 have accompanied her -- I have accompanied -- I have
2 apologized for the accident." Excuse me.

3 You will hear testimony from Holland America Line's own
4 representative that Mrs. Dallo was walking in a place where
5 she was allowed to walk and where guests were expected to be
6 walking. A representative for Holland America Line also
7 confirmed that in all of the written documentation, all of
8 the incident reports and guest accident reports, not a single
9 person, even Mr. Milic, who opened the door, said that
10 Mrs. Dallo did something wrong.

11 That same Holland America Line representative, the
12 security officer who performed the investigation, never spoke
13 to the other two witnesses that were mentioned in Mr. Milic's
14 report. You may recall from just now that in Mr. Milic's
15 crew member statement, he wrote, "I was together with my
16 co-workers" -- and these are a couple of brothers whose name,
17 I apologize, I am having difficulty reading here; however,
18 both of these individuals were there. However, Security
19 Officer Aguirre, who performed the investigation, never took
20 their statements or never recorded them.

21 The evidence will show that there was no signage on
22 Mr. Milic's side of the door instructing him to open the door
23 carefully or use caution. There was a sign on his side of
24 the door, and it said this: (Demonstrating).

25 You will also learn that there was no signage or other

1 indication on Mrs. Dallo's side of the door telling her it
2 was unsafe to walk where she was. This is, again, the view
3 from the direction that Mrs. Dallo was walking, with the door
4 on the right-hand side. And you'll notice there is no sign
5 indicating that she can't walk there. There's no sign
6 saying, "Door opens suddenly." And, in fact, there is a
7 handrail on the right-hand side of the hallway.

8 Plaintiff has retained a human factors and safety expert,
9 Ms. Joellen Gill. Ms. Gill has --

10 (Mr. Roosa cut out and the court reporter
11 requested he repeat.)

12 MR. ROOSA: Plaintiff has retained a human factors
13 and safety expert, Ms. Joellen Gill. Ms. Gill inspected the
14 area where this occurred and will testify, based on her
15 experience and education, that Mrs. Dallo's conduct was
16 foreseeable. She'll testify that the features of the hallway
17 and the door did not give warning to passersby that the door
18 would suddenly open or knock them over. She also testified
19 that this was a preventable incident that could have been
20 avoided if proper steps had been taken.

21 Next slide, please. Simply put, members of the jury, this
22 door, which opens outward into this hallway where passengers
23 are walking, combined with a lack of signage, was a dangerous
24 condition. The evidence will show that what happened to
25 Ms. Dallo was a foreseeable risk to passengers, and that

1 Holland America took insufficient steps to prevent it from
2 happening. There was no warning sign to the passengers, no
3 sign instructing crew members to open the door slowly, and
4 apparently insufficient training for crew members that the
5 door should be opened carefully and slowly.

6 The evidence will also show that Mr. Milic simply opened
7 the door without using reasonable caution, without due regard
8 for what or who could be on the other side of it.

9 As a result of Mrs. Dallo striking her head that day, she
10 developed a brain bleed or a subdural hematoma. Over the
11 following days and weeks, her family members began to notice
12 changes in her behavior. She became tired, sluggish, her
13 daughters could tell that something was wrong.

14 After giving her some time to see if she would get better,
15 they brought her to the hospital where she was sent for
16 imaging and was diagnosed with a bilateral subacute subdural
17 hematoma.

18 Just a little bit of medical jargon to talk about really
19 quickly here. Bilateral, in this sense, means on both sides
20 of the head. Subacute means that the bleed developed in the
21 days and weeks after the injury. Subdural hematoma, meaning
22 a pocket of blood inside the skull.

23 As the bleed progressed, pressure was building up inside
24 Mrs. Dallo's skull. You see here two exhibits. On the left
25 is a demonstrative exhibit that shows you, in a sense, what a

1 subdural hematoma looks like. You have a torn vessel of some
2 sort that causes blood to enter inside the skull. The blood
3 then compresses the brain, exerts pressure on it. On the
4 right you see a scan of Mrs. Dallo's head that was taken
5 several weeks -- a number of weeks after the incident
6 occurred, which shows the bleed on both sides of her brain.

7 We're going to present for you an expert who is going to
8 talk about these, about the brain condition and about the
9 surgery that was necessary to correct this. Once she was
10 diagnosed with this subdural hematoma, Mrs. Dallo was sent
11 for what is called a craniotomy procedure. And that is
12 essentially where the skull is opened up so that the pressure
13 can be relieved.

14 You'll hear from plaintiff's neurosurgeon expert, Dr. Cary
15 Alberstone, who is board certified with over 25 years of
16 experience. Dr. Alberstone has performed craniotomy
17 procedures. He'll testify that the fall where she struck her
18 head caused the subdural hematoma, and that the surgery, the
19 craniotomy, was required as a result of it.

20 He will also testify that her symptoms before and after
21 the surgery are completely consistent with the injury she
22 suffered on the ship.

23 You, the jury, are going to learn an awful lot about brain
24 injuries in this case. And one of the things you're going to
25 learn in this trial is that the older you get, the more

1 vulnerable you are to a brain injury. And that's because, as
2 Dr. Alberstone will explain, as you age, your brain gets
3 smaller inside of your head, and there's more space in the
4 cranium, making injury more likely if you experience trauma.
5 In general, being younger makes you more resistant to this
6 kind of injury.

7 And that's important in this case, because the evidence
8 will show that Margaret Dallo was born on July 1, 1934. She
9 was 84 years old when this injury occurred. She was born in
10 a small village in northern Iraq. Here is a picture of Mrs.
11 Dallo taken in 1954. Her family practices Chaldean
12 Christianity.

13 She moved with her family to the United States in 1976.
14 They first lived in Michigan, then moved to San Diego, where
15 she lives today. You'll meet Margaret Dallo in this case.
16 Mrs. Dallo speaks English, but she struggles with the
17 language. She can hold a basic conversation, but she'll have
18 the assistance of an interpreter when she testifies at this
19 trial.

20 Earlier I showed you a picture and I want to show it to
21 you again. This was taken just days before Mrs. Dallo was
22 hurt on the cruise ship. Before this fall, she was a proud
23 mother, a grandmother, and a great grandmother, of a large
24 family, who enjoyed cooking, hosting frequent gatherings in
25 her home.

1 show that her life is very different. She rarely goes to
2 church now, she can't go out and play bingo, she can no
3 longer cook or entertain when her family visits. She can't
4 tolerate the noise and the commotion of the visits with her
5 grandchildren running around. And as a result, the visits
6 have all but stopped.

7 Now, her family visits her in small groups, just a few
8 people at a time, because they know she can't tolerate it.

9 She also uses a four-point walker when she moves around.
10 And she never used a walker before this happened. Whereas
11 she used to be able to move on her own and keep up with her
12 family members on excursions, now she needs help and she
13 struggles to get out of the house. She hasn't been on a
14 cruise or traveled taking a vacation since this happened in
15 November 2018.

16 Now, at some point during this trial, Holland America Line
17 hired a private investigator. This private investigator
18 followed Mrs. Dallo and took video of her, completely unknown
19 to her or anyone else. They did this to see if she was lying
20 about her condition. In that video, you will see a woman who
21 moves and walks nothing like what we've showed you in the
22 previous video.

23 You will also see and hear from a number of family
24 members: Mrs. Dallo's housekeeper, and her neighbor. You
25 may ask yourself, why? The reason for this is that Holland

1 America Line contends that Mrs. Dallo was not hurt when she
2 hit her head, and that her condition hasn't changed
3 substantially.

4 The defense will point to Mrs. Dallo's medical records
5 before her injury and argue that she had prior health
6 concerns. And that's true. She had a history of headaches.
7 She reported things like dizziness and being tired on
8 occasion. She had fallen a couple of times. One of her
9 doctors suspected that she might be depressed, though she
10 never reported depression herself.

11 Regardless of what was in those medical records, the
12 evidence from the witnesses you'll meet in this case will be
13 that Mrs. Dallo was still able to move independently, walk
14 without assistance, host large family gatherings, attend
15 weddings and other special occasions, cook meals, attend
16 church, right up to and until the Holland America Line crew
17 member opened the door and knocked her over.

18 And since her fall, her mobility, her energy, her ability
19 to do the things that she loved, is gone. She was a busy,
20 capable and active 84-year-old. Now she is severely limited.
21 And the evidence will show it's because of the injury she
22 suffered on November 26, 2018.

23 Members of the jury, the testimony and evidence we will
24 present will show that this incident has taken so much from
25 Margaret Dallo, so much that she had to look forward to in

1 the remaining years of her life. And at the end of this
2 case, we will ask you to return a significant verdict, one
3 that recognizes and fully compensates her for what she has
4 gone through, what was taken from her, and what she will have
5 to endure moving forward.

6 Thank you.

7 THE LAW CLERK: Judge, you're muted.

8 THE COURT: Ms. Conner, it's your time to make your
9 opening statement.

10 MS. CONNER: Thank you, Your Honor.

11 Good afternoon, ladies and gentlemen. I introduced myself
12 to you earlier this morning. My name is Lisa Conner. And I,
13 together with my colleague Melody Chang, have the pleasure of
14 representing the defendant in this case, Holland America
15 Cruise Lines. We're assisted today with Ms. Anneke Borst,
16 who might be -- if you see me mentioning Ms. Borst, she's
17 assisting with showing some of the exhibits that I'm going to
18 share with you during the opening statement.

19 Ms. Dallo sustained injuries while vacationing aboard the
20 Eurodam. My client, Holland America, is being sued for those
21 injuries. Ms. Dallo, as the plaintiff, bears the burden of
22 proof. She bears the burden of proving that my client was
23 negligent and that her injuries were caused by my client's
24 negligence.

25 Accidents are unfortunate, but they happen. And just

1 because an accident happened, doesn't mean someone is at
2 fault.

3 What will the evidence in this trial show? The evidence
4 will show that this accident is just that, an accident. I'm
5 going to tell you a story that is slightly different from the
6 one you just heard from Mr. Roosa. Ms. Dallo --

7 THE COURT: Keep your voice up, please.

8 MS. CONNER: Sure. Let me turn my microphone up,
9 Your Honor.

10 THE COURT: Thank you.

11 MS. CONNER: Ms. Dallo and her daughters were on a
12 two-week Hawaiian cruise aboard Eurodam. Every day of the
13 cruise, sometimes two or three times a day, they would walk
14 down the hallway on the promenade deck, through the gift
15 shops, towards the dining room. Every time they walked down
16 the hallway, they walked by the subject door. They walked up
17 and down this hallway for 15 days prior to Ms. Dallo's
18 accident. They will testify that before this accident
19 occurred, they did not notice the door existed.

20 During this trial, you're going to hear details about Mrs.
21 Dallo's accident and its investigation. You will hear
22 testimony from Holland America's security officer, Mark
23 Aguirre. He investigated the incident and he interviewed the
24 individual who was opening the door that bumped into
25 Ms. Dallo. His name is Stefan Milic. And he worked in the

1 gift shop aboard the cruise ship.

2 Security Officer Aguirre met with Mr. Milic and he took
3 him to the accident scene to show him where and how the
4 accident occurred. Security Officer Aguirre took photographs
5 of the area and prepared an incident report that counsel just
6 showed you.

7 You will see the guest statement from Ms. Dallo's daughter
8 that the door opened outward. And you will also see the
9 witness statement from Mr. Milic that the door opened gently.
10 These statements were both completed the day of Ms. Dallo's
11 accident.

12 You will hear Mr. Jim Colwell, the manager of claims and
13 litigation for Holland America Group, testify in this matter.
14 Mr. Colwell has worked for Holland America Group for over
15 30 years, and he's managed passenger-injury claims for over
16 20 years.

17 Mr. Colwell is going to describe the Eurodam to us, and
18 he's also going to describe that tens of thousands of
19 passengers sail on the Eurodam every year. Mr. Colwell will
20 testify that there is no evidence that any passenger has ever
21 been injured by this door, other than Mrs. Dallo.

22 After Mrs. Dallo's accident occurred, she was taken to the
23 ship's medical center where she was examined by the medical
24 staff. There was a bruise on the back of her head, or the
25 occipital area, but there was no bleeding. Her vital signs

1 were normal. She denied losing consciousness or being
2 confused. She could walk and talk. She described the
3 accident and what happened to her, in detail. Her eyesight
4 was fine. She was not nauseous.

5 She was offered pain medication, but declined, saying she
6 had brought her own pain medication on board. She was told
7 by the ship's doctor to call or return to the medical center
8 if her symptoms changed or if they became worse. Ms. Dallo
9 never called the ship's doctor. She never went back to the
10 infirmary. She finished her cruise and returned home.

11 Sometime after returning home from the cruise, Ms. Dallo
12 and her daughters thought Ms. Dallo wasn't quite right. Now,
13 you're going to hear testimony from quite a few of
14 Ms. Dallo's family members and her friends, and they're going
15 to tell you that before this accident occurred, Ms. Dallo was
16 a vibrant woman who cared for her family. She enjoyed
17 gardening. She enjoyed hosting large dinner parties. But
18 you're also going to hear from a Dr. Anderson and a
19 Dr. Allos. And they were Ms. Dallo's treating physicians for
20 many, many years before this accident.

21 Dr. Allos and Dr. Anderson are going to explain to you the
22 numerous health issues Ms. Dallo had before she came aboard
23 the Eurodam, to include chronic joint pain, knee replacement
24 surgeries, neck pain, back pain, itching, hypertension or
25 high blood pressure, thyroid issues, shortness of breath,

1 chest pains, sleep apnea, double vision, peripheral
2 neuropathy, diastolic heart failure and lung cancer.

3 At the time of the cruise, Ms. Dallo was on a number of
4 medications, including blood thinners. In fact, Dr. Anderson
5 and Dr. Allos testified they had some concerns that she was
6 experiencing medication overuse symptoms.

7 The doctors will testify that many of the injuries
8 Ms. Dallo claims were caused by the accident aboard the
9 Eurodam, in fact, had been plaguing her for years before she
10 was on the cruise ship, to include chronic daily headaches
11 for most of her life, depression, dizziness, anxiety, ringing
12 and buzzing in her ears, chronic fatigue, and mobility and
13 loss of balance issues.

14 You will hear the doctors testify that for years before
15 this accident occurred, they prescribed different types of
16 medication for Ms. Dallo's headaches, dizziness, fatigue and
17 depression. Dr. Anderson referred Ms. Dallo to a number of
18 specialists, including neurologists and fall-prevention
19 physical therapists, to treat her declining health and
20 cognitive and mobility issues.

21 As counsel described, a couple months after this cruise,
22 in January of 2019, Ms. Dallo had surgery to drain a
23 left-sided subdural hematoma from her skull. And as counsel
24 explained, a subdural hematoma is a medical word for bleeding
25 between the skull and the brain.

1 How do you get a subdural hematoma? Do you have to hit
2 your head to get a subdural hematoma? Who is more
3 susceptible to subdural hematomas? The expert neurologist
4 will provide answers to these questions for you to consider.
5 You're going to learn something in this trial about your head
6 and your brain, and you're going to learn the effect aging
7 has on your head and your brain.

8 You will hear from my expert, Dr. Venkat. Dr. Venkat is
9 the Professor of Neurology and Neurological Science at
10 Stanford University School of Medicine. She's trained in
11 neurology, stroke neurology, and neurocritical care. Her
12 experience is caring for brain-trauma injuries. She has been
13 involved in a number of clinical trials, with her primary
14 focus being on brain-hemorrhage injuries.

15 Dr. Venkat is going to take you inside of Ms. Dallo's
16 head. Dr. Venkat will show you pictures of Ms. Dallo's brain
17 before the accident happened on the Eurodam, including this
18 image that we're showing you right now from September 22,
19 2017, a year before the Eurodam accident. This image shows
20 that Ms. Dallo had a right-scalp hematoma and brain atrophy,
21 or shrinking.

22 Dr. Venkat will show you the white matter or silent
23 strokes in Ms. Dallo's brain. She will describe to you
24 Ms. Dallo's brain shrinkage and the stretching and leaking
25 blood vessels in her head that existed prior to this

1 accident. Dr. Venkat will testify that subdural hematomas
2 can develop spontaneously, without any trauma, due solely to
3 the aging process.

4 Now, if you have any interest in shipbuilding or design,
5 you're going to enjoy hearing from our expert, naval
6 architect Mr. Larry Greif. Mr. Greif has over 40 years of
7 experience in the shipbuilding industry as a naval architect,
8 a marine engineer, and a United States Coast Guard ship
9 inspector.

10 Mr. Greif is going to tell you about the different
11 regulations that apply to the Eurodam, and the safety
12 standards that the Eurodam has to meet to sail with
13 passengers to the ports of the United States, including
14 Hawaii. Mr. Greif is going to explain to you why this door
15 is where it is, and why the door is made out of solid steel.

16 Mr. Greif is going to testify about fire-safe zones on
17 cruise ships, and how ships are designed and built to keep
18 fires from spreading. Mr. Greif is also going to tell you
19 about fire-safe doors, such as this one, and the need for
20 crew members and passengers to have a way to exit the cruise
21 ship in case of an emergency.

22 Mr. Greif will testify that the subject double doors had
23 to swing outward to allow individuals to be able to exit from
24 the subject doors through the hallway, through the other sets
25 of double doors, and out to the deck where they could board

1 lifeboats in case of an emergency.

2 You're also going to hear from our biomechanical engineer
3 and accident reconstructionist, Mr. Issac Ikram. Mr. Ikram
4 came aboard the Eurodam with a 3D scanner. And he's going to
5 share with you a number of the 3D images that he obtained of
6 the ship. And he's going to try and give you a real sense of
7 the size of the door and the hallway where this accident
8 occurred. And if you're someone who likes numbers, you're
9 going to enjoy Mr. Ikram's testimony. He will share with you
10 his measurements and his dimensions and calculations of the
11 door and the hallway.

12 Mr. Ikram is going to describe for you something called a
13 "swing path," and testify about the swing path of the door.
14 He's also going to explain to you what visual cues are and
15 visual cues concerning this door. This door is not a secret
16 door leading to some hidden passage, it's a large double door
17 with visual cues, including silver trim that contrasts
18 against the color of the wall, silver doorknobs, silver
19 hinges, and an exit sign above the door pointing out the
20 direction of traffic flow in case of an emergency.

21 At the end of hearing all of the evidence in this matter,
22 you're going to have to apply the law to the evidence. The
23 evidence will show that Holland America met the safety
24 regulations that apply to passenger cruise ships and the
25 safety regulations concerning this fire-safe door.

1 The evidence will show that thousands of Eurodam
2 passengers have walked down this hallway and passed by this
3 door, without injury.

4 Ms. Dallo has the burden of proving, by a preponderance of
5 the evidence, that my client did not act reasonably and that
6 the door was a dangerous condition. When you hear the
7 evidence in this case, ladies and gentlemen, ask yourself,
8 was the Eurodam different from other cruise ships? Is this
9 fire-safe door different from other cruise ships' fire-safe
10 doors? Was this door a dangerous condition?

11 If you cannot agree that my clients did not act reasonably
12 or you cannot agree that the door was a dangerous condition,
13 then plaintiff has not met her burden of proof.

14 I'd also like you to ask yourself, was there anything
15 Ms. Dallo could have done differently? Was she using
16 reasonable care when she walked down this hallway? Did the
17 door knock her down? Did she lose her balance?

18 As counsel explained, you're going to hear from Ms. Dallo
19 during this trial. She will tell you that she has problems
20 with her memory, and headaches, and other symptoms since this
21 accident occurred. I'm going to spend some -- I'm going to
22 spend quite some time with Ms. Dallo reviewing her medical
23 records and falling accidents that she sustained before her
24 cruise on the Eurodam.

25 The evidence will show her years of complaints she had

1 concerning headaches, depression, fatigue and mobility
2 problems. Please keep in mind, I'm not trying to be
3 disrespectful to Ms. Dallo, but it's important that you, the
4 jurors, hear the evidence concerning her health issues and
5 complaints that she had prior to this cruise, so that you can
6 best evaluate whether this accident has affected her. It's
7 important that you hear the evidence concerning her balance
8 issues before this cruise, the falls she sustained before
9 this cruise, and her state of health before this cruise.

10 As you listen to the medical evidence and the doctors
11 testify in this case, ask yourself, what injury did Ms. Dallo
12 sustain on the Eurodam? Are her current complaints related
13 to the accident that occurred on the Eurodam? Plaintiff has
14 the burden of proving, by a preponderance of the evidence,
15 that she sustained injuries because of this accident, and
16 what those injuries are, specifically. If you cannot agree
17 on whether Ms. Dallo sustained injuries because of this
18 accident or what her injuries are, then she has not met her
19 burden of proof.

20 And what about damages? Ms. Dallo is suing my client for
21 monetary damages. You will need to agree whether Ms. Dallo
22 is entitled to any monetary damages. Your job is not to
23 punish either of the parties, but to rely on the evidence.
24 You will be instructed, "The plaintiff bears the burden of
25 proving damages by a preponderance of the evidence. It is

1 for you to determine, based upon the evidence, what damages,
2 if any, have been proved. Your award of damages must be
3 based upon evidence and not upon speculation, guess or
4 conjecture."

5 Ms. Dallo and her family are going to testify that she's
6 not the same anymore. She was 84 years of age when she went
7 on the Eurodam, and now she is 86 years old. The evidence
8 will show that she had declining health and cognitive issues
9 prior to this cruise. She continues to age. You may feel
10 sympathy for Ms. Dallo and her family, and that's okay,
11 that's being human, showing compassion. But the evidence
12 will show that the injuries and ongoing complaints Ms. Dallo
13 has are not my client's fault. Sympathy should not control
14 how you view this case. Your final decision in this case
15 must be based on the facts, the evidence, and the law.

16 At the end of the parties presenting their evidence, I'll
17 get to speak with you again about this case; it's called my
18 closing argument. I'll have a chance to summarize for you
19 the witness testimony and the evidence the parties presented
20 at trial. I'll remind you where this accident occurred, why
21 the subject door is there, what the subject door looks like,
22 and the fact that no other passenger has ever been injured by
23 this door.

24 I will ask you to consider the law and apply the law to
25 the facts and the evidence in this case. I will ask that you

1 enter a verdict in favor of Holland America.

2 Thank you.

3 THE COURT: Ladies and gentlemen, we're going to hear
4 our first witness in just a moment. But I'm going to suggest
5 we all take a stretch in place. Please stay in front of your
6 camera and take 30 seconds to a minute, and we'll just
7 stretch and move around a little bit. And perhaps Madame
8 Clerk can find our witness and bring the witness into the
9 courtroom.

10 THE CLERK: Thank you, Your Honor.

11 Mr. Roosa, do you have the witness ready?

12 MR. FRIEDMAN: We believe she's ready.

13 THE CLERK: Thank you very much, Mr. Friedman.

14 May I have the name of the witness, please, counsel?

15 MR. FRIEDMAN: Jacklen Michail, M-I-C-H-A-I-L.

16 THE CLERK: Thank you. Your Honor, we're ready to
17 proceed.

18 THE COURT: Go ahead.

19 THE LAW CLERK: Your Honor, we're not quite ready.

20 Ms. Michail's audio is not quite connected.

21 MR. FRIEDMAN: Ms. Michail, can you hear us?

22 THE CLERK: Ms. Michail, are you ready?

23 THE WITNESS: Yes.

24 THE CLERK: Thank you, Your Honor. May I proceed?

25 THE COURT: Yes.