1	THE STATE COURT OF FULTON COUNTY STATE OF GEORGIA			
2	KEITH TRABUE, Individually and as			
3	Guardian of SHANNON MARIE TRABUE,) and ADVOCACY TRUST OF TENNESSEE LLC, as) Conservator of SHANNON MARIA TRABUE,)			
5) CIVIL ACTION FILE Plaintiffs,) NO. 14-EV-001821			
6) vs.			
7	j			
	ATLANTA WOMEN'S SPECIALISTS, LLC) AND STANLEY R. ANGUS, M.D.)			
8	Defendants.)			
9				
10	VOLUME II of IX			
11	Civil Jury Trial heard before the Honorable Fred C. Eady, Judge, Fulton County Justice Center Tower,			
12				
13	Courtroom 3B, State Court of Fulton County Atlanta, Georgia commencing			
L 4	February 7th, 2017.			
15	APPEARANCES OF COUNSEL			
16				
17	ON BEHALF OF THE PLAINTIFF: STONE LAW			
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	Ryals Stone James Stone			
19	Michael Regas			
20	On behalf of the Defendant: POWELL BAILEY & HUFF,			
21	Dan Huff, Tailor Tribble			
22				
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	MELISSA BROCK, RPR			

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1	PROCEEDINGS
2	The Court: Thank you, Ladies and Gentlemen. Be
3	seated. We are going to start this morning, Mr. Stone,
4	with Number 24, Willie Mae Smith. Is she here?
5	Prospective Juror: Yes.
6	The Court: Good morning.
7	Prospective Juror: Good morning. How are you?
8	The Court: Very well, thank you. All right.
9	Mr. Stone, you may address Willie Mae Smith.
10	Mr. Stone: Thank you, your Honor.
11	EXAMINATION
12	By Mr. Stone:
13	Q Good morning, Ms. Smith.
14	A Good morning, sir. How are you?
15	Q Doing fine.
16	Mr. Stone: Good morning, everybody.
17	The Jury Panel: Good morning.
18	By Mr. Stone:
19	Q All right. Let's see. Ms. Smith.
20	A Yes, sir.
21	Q You work for Aramark?
22	A Yes, sir.
23	Q Is that a food service business?
24	A Yes, sir.
25	Q Do the catering at the airport and things like
	MELISSA BROCK, RPR 196

- 1 that?
- 2 A No. Windy Hill.
- 3 Q Um?
- 4 A Windy Hill.
- 5 Q Okay.
- 6 A Cobb County.
- 7 Q Okay. All right. Do you have children?
- 8 A Yes, sir. Four sons.
- 9 Q Okay. How old are they?
- 10 A 50, 47, 40, 39.
- 11 Q And what do they do?
- 12 A My oldest one got murdered in 2005.
- 13 Q I'm sorry.
- 14 A I have one who lives in Newmar, Arizona. He works
- for the Sheriffs's Department.
- 16 Q Okay.
- 17 A I have two live here in Atlanta. One is in food
- 18 service. He's works for the senior citizens. He's a food
- 19 and beverage director for the senior citizens and the other
- 20 one work in food service also.
- 21 Q Okay. Do you know of any reason why you can't be
- fair and render a just verdict based on the evidence and the
- instructions the Court gives you in this case?
- 24 A No, sir.
- Q Okay. Do you understand that nobody is asking for

- 1 sympathy in this case? What we are here to seek is justice
- 2 in this case. We have got plenty of sympathy from friends
- and family. The jury is not supposed to give the sympathy.
- 4 They are supposed to give us justice, whatever that is that
- 5 you decide after hearing the evidence and applying the law.
- 6 Do you understand that?
- 7 A Yes, sir.
- 8 Q Okay. Thank you, ma'am.
- 9 A You are welcome.
- 10 EXAMINATION
- 11 By Mr. Huff:
- 12 Q Good morning, Ms. Smith.
- A Good morning, sir. How are you?
- 14 Q I'm well, thank you. Hope you are.
- 15 A I am wonderful.
- Mr. Huff: Good morning, everybody.
- 17 The Jury Panel: Good morning.
- 18 By Mr. Huff:
- 19 Q So, to follow up on what Mr. Stone asked you about
- 20 sympathy, yesterday when I asked that question who might
- 21 feel like sympathy might have an impact on deciding this
- 22 case based on the evidence and the law, did you raise your
- 23 hand about that?
- 24 A Yes, sir, I did.
- Q Okay. Tell me why you raised your hand about

- 1 that?
- 2 A I raised my hand because I -- when my son got
- 3 murdered I know how hard it was for me and I can have
- 4 sympathy for somebody but I also can look at the situation
- 5 and go according to the evidence.
- 6 Q Okay. And you have thought about this I think
- 7 probably since yesterday and feel comfortable that you will
- 8 be able to do that despite the sympathy in the case?
- 9 A Yes, sir.
- 10 Q All right. Do you or somebody close to you have
- 11 high blood pressure?
- 12 A I do. My whole family. And I know if you don't
- do what you are supposed to do or I have a -- not when I had
- 14 my kids -- my pressure was high and my blood pressure was
- low so I had to take blood shots in order to have my baby
- and after I had the baby, I couldn't even stand up for
- 17 several days after giving birth.
- And then another situation, my sister passed in
- 19 '82 from high blood pressure. She hadn't took her pressure
- 20 pill in two weeks.
- Q Okay.
- 22 A And the baby died in her and she also died.
- 23 Q I'm sorry. So did she -- was she high blood
- 24 pressure before the pregnancy?
- 25 A Yes.

- 1 Q Okay. And then did it get worse during the
- 2 pregnancy?
- 3 A Yes, it got worse.
- 4 Q And did that happen -- did she pass in the
- 5 hospital? Before?
- 6 A No. She passed at home. My mom had carried her
- 7 to the doctor and the doctor told my mom it was too late and
- 8 to carry her back home. And mama said she was standing in
- 9 the living room and she heard something say bloop and my
- 10 sister told her, mama, I'm blind, I can't see, and a couple
- of hours later, she passed.
- 12 Q I'm sorry to hear that. Do you have grandkids?
- 13 A 12.
- 14 Q 12 grandkids?
- 15 A Eight boys, four girls.
- 16 Q Any issues with the grandkids and their deliveries
- and the moms for those grandkids and being taken care of and
- 18 all that?
- 19 A No.
- 21 A From 23 to four months.
- Q Wow. All right. Last question. I think you may
- have raised your hand that you had consulted a lawyer or
- somebody close to you had consulted a lawyer at one point?
- 25 A My son was -- car accident.

- 1 Q Okay.
- 2 A So they resolved it.
- 3 Q All right. Ms. Smith. Thank you.
- 4 A You are welcome.
- 5 The Court: Genevieve. Pronounce your last name.
- 6 Prospective Juror: Amofah.
- 7 EXAMINATION
- 8 By Mr. Stone:
- 9 Q Ms. Amofah. I see that you have a post-graduate
- 10 degree.
- 11 A Yes, sir.
- 12 Q Can you tell us where you got it and what the
- 13 subject your degree is?
- 14 A Public Health from Waldon University in Minnesota.
- 15 Q Okay. Public Health?
- 16 A That's correct.
- 17 Q Okay. All right. And you now work with
- 18 Parkingsoft?
- 19 A That's correct.
- 20 Q What do you do there?
- 21 A I recently transitioned to database
- 22 administration.
- 23 Q I'm sorry. I can't hear you because you are
- 24 talking softly.
- 25 A Database administration.

- 1 Q Okay. All right. How long have you had that job?
- 2 A Three months.
- 3 Q Three months. Okay. Liking it so far?
- 4 A So far so good.
- 5 Q Okay. Do you know of any reason you can't be a
- 6 fair and impartial juror and reach the truth of this case
- 7 through the evidence, applying the instructions the Judge
- 8 gives you?
- 9 A No.
- 10 Q Okay. Thank you very much.
- 11 EXAMINATION
- 12 By Mr. Huff:
- Q Good morning, Ms. Amofah.
- 14 A Good morning.
- 15 Q I think you raised your hand about having a bad
- 16 experience with healthcare.
- 17 A Personally and with family and close friends, yes.
- 18 Q Okay. Start with personally and then tell me
- about family and close friends next.
- 20 A Personally nothing major except for claims. Had
- 21 doctors visits and treatment that were wrongly coded,
- 22 overpriced and I have worked in insurance claims before so I
- can see through that so I had back and forth.
- 24 Q About billing and charging and --
- 25 A Yes.

-- that kind of thing? 1 Q That's correct. 2 Α Okay. That's personally. How about close friends 3 Q and family? 4 Close friends and family, last year I had two 5 6 people receive treatment specifically from Northside in 7 connection with cancer and they did not have cancer. They were misdiagnosed and put on chemo. And for one of them 8 that landed him in a coma and he almost lost his life. 9 10 The care and treatment in this case happened at 11 Northside Hospital. 12 That is correct. 13 would that experience with your friends impact on how you would -- the issues in this case in any way? 14 The suit started in question. It makes me 15 16 skeptical and prejudice towards that specific behavior. 17 Okay. And not just the hospital itself but it 0 sound like the doctors as well? 18 19 Yes, especially a particular doctor that was 20 involved in those two cases, yes. 21 Q Sounds like that was a cancer doctor of some kind? That's right. 22 23 But you have some skepticism and prejudice about Q 24 Northside and the care and treatment there?

I personally haven't used them before but like I

25

Α

- said, I have two close family friends that have and so it's
- 2 not a place I would go.
- 3 Q Well, understanding that's the place that Mrs.
- 4 Trabue went to have labor and delivery, do you think your
- 5 feelings about Northside that you have based on what
- 6 happened to your friends would be something you would think
- 7 about if asked to be a juror in this case?
- 8 A Well, I'll tell you this, I mean based on what I
- 9 have experienced, I know there are bad doctors there and
- there are good doctors because people are going there and
- 11 getting good treatment so, I mean I will leave it to submit
- 12 the judgment. It's a split for me.
- 13 Q I gotcha. So you are willing to listen to the
- 14 evidence in this case. It's not -- you haven't prejudged
- this case based on that experience with the friends?
- 16 A That's right.
- 17 Q Okay. You raised your hand about the sympathy
- 18 question that I asked before also.
- 19 A That's right.
- 20 Q Tell me about that.
- 21 A Just from the little I saw yesterday and I believe
- I heard this case started in 2009 and knowing that, you
- know, period and the family finally getting this case to
- 24 trial, made me feel some sympathy for them as far as they
- 25 have been through enough already. So sympathy, yes.

- 1 Q Do you feel like -- and kind of -- the question is
- 2 do you feel like the sympathy would affect your ability to
- decide the case based on the evidence and the law, if
- 4 selected to be a juror?
- 5 A I could say yes especially when there was a close
- 6 aspect that I believe the Defendants don't have to prove
- 7 this case beyond a reasonable doubt. I have a problem with
- 8 that personally. Because I believe for me, this is my first
- 9 time being in a setting like this and if you are telling me
- to help judge a case without reasonable evidence, then I can
- 11 be a little bit held behind.
- 12 Q Okay. I'm not sure -- let me ask another
- 13 question. I'm not sure what you meant by that. So at the
- start of the case, are the parties on equal footing?
- 15 A Okay.
- 16 Q Are they?
- 17 A You asking me?
- 18 Q Yeah.
- 19 A Yes. For now. I don't know anything about the
- 20 case so.
- Q Gotcha. And my question is do you feel like
- having seen Mrs. Trabue yesterday and understanding the
- 23 sympathy in the case, do you feel like that would influence
- 24 you at all in deciding this case based on the evidence and
- 25 the law?

- 1 A I mean I believe no one is guilty until proven.
- Q Good. I think you raised your hand also about the
- doctor sometimes don't pay enough attention to their
- 4 patients. Is that related to the experiences you were
- 5 telling me about with your friends and the cancer diagnosis
- 6 or is it more to it than that?
- 7 A Nothing personally but my sister-in-law also was
- 8 given a drug that was -- had not passed FDA and so, yeah
- 9 that, you know, in relation to other people. I don't really
- do medication myself but that makes me distrust doctors.
- 11 Q Okay. Did anything happen to your sister-in-law
- 12 as a result of that medication?
- A She only found out because the insurance wouldn't
- 14 pay for it and that was the reason and they had found out
- 15 that way. She would have been on the wrong medication.
- 16 Q Gotcha. How about you or somebody close to you
- 17 has filed a lawsuit or brought a lawsuit against somebody?
- 18 A Personally it's a auto claim.
- 19 O Automobile accident?
- 20 A Right.
- 21 Q And I think the other question that was asked that
- 22 I think you raised your hand to was not trusting doctors and
- that sounds like that's related to these experiences that
- 24 you've had. Is there more to it than that?
- 25 A Same scenario. Plus I'm from a culture where we

- 1 rely more on natural remedies and, you know, healing
- 2 holistically than being pumped with medication so.
- 3 Q What -- understanding that this case may have a
- 4 lot of evidence that talks about medications that were given
- 5 to Mrs. Trabue during the course of her hospitalization,
- 6 would you have any -- understanding holistic medicine is
- 7 more of what you believe in, would you have any issues with
- 8 giving medications to her in general?
- 9 A Not if the person needed it.
- 10 Q Okay. And the philosophy that you have about
- 11 holistic medicine wouldn't impact listening to the evidence
- in this case and deciding the issues between the Trabues and
- 13 Dr. Angus?
- 14 A No.
- 15 Q Okay. All right. Ms. Amofah, thank you.
- 16 A You are welcome.
- 17 The Court: Harold Turner.
- 18 Prospective Juror: Yes, sir.
- 19 EXAMINATION
- 20 By Mr. Stone:
- 21 Q Mr. Turner, I understand that you are employed by
- 22 Delta Airlines?
- 23 A Yes, sir.
- Q Okay. What do you do for Delta?
- 25 A I'm in Customer Service.

- 1 O And what does that involve?
- 2 A Different departments. I have been in several
- 3 departments since I've been there.
- 4 Q Can you give me just a little bit of what your job
- 5 is?
- 6 A Cargo, baggage, a little bit about passenger
- 7 service.
- 8 Q Okay. Okay. Now, is that where you've gotten
- 9 safety training and things like that?
- 10 A Yes.
- 11 Q Okay. Delta thinks safety is pretty important,
- 12 don't they?
- 13 A Yes.
- 14 Q And Delta is not too happy about employees cutting
- 15 corners and they are making you follow the rules; right?
- 16 A That's true.
- 17 Q Follow the policies?
- 18 A Yes.
- 19 Q And you have pretty good experience doing that,
- 20 don't you?
- 21 A Yes.
- 22 Q You think Delta works better because they expect
- their employees to follow the policies?
- 24 A Yes.
- Q Now, you just heard Ms. Amofah says that she

- 1 believes that nobody is guilty until it's proven. Do you
- believe that?
- 3 A Yes.
- 4 Q Okay. Now, do you understand that on this
- 5 sympathy question that's been asked by everybody, Keith
- 6 Trabue and Shannon Trabue and the conservator Advocacy Trust
- 7 are not entitled to recover against the Defendants just
- 8 because Mrs. Trabue was injured and it's a sympathetic
- 9 injury? Do you understand that?
- 10 A I understand that.
- 11 O I mean there's a lot more it to than that. We
- 12 have to prove by evidence introduced in this courtroom to
- your reasonable satisfaction by a preponderance it's more
- 14 likely true than not that Mrs. Trabue's injuries were caused
- 15 by a failure of the Defendant to meet what's called medical
- 16 standard of care for her care and treatment. Do you
- 17 understand that?
- 18 A Yes.
- 19 Q Okay. And will you require us to do that? I mear
- 20 we have got that burden and we accept that burden and we are
- 21 prepared to go forward with it, okay.
- 22 A Yes.
- 23 Q And what we want here is a fair trial with people
- that will consider the evidence and consider the law and
- follow the law and do what the evidence leads to you do,

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1
      whatever way it comes out. Okay?
 2
                That's true.
           Α
                Okay. You think that's fair?
 3
           Q
                That's fair.
 4
           Α
                Okay. Can you do that?
 5
           Q
 6
           Α
                Yeah.
 7
                Mr. Stone: Thank you, sir.
 8
                               EXAMINATION
      By Mr. Huff:
9
                Hey, Mr. Turner. Good morning.
10
           Q
11
           Α
                Good morning. How you doing, sir?
                I'm well, thanks. How are you?
12
           Q
13
                All right.
           Α
14
                Have you been on a jury before?
           Q
15
                Yes.
           Α
16
                What kind of case?
           Q
17
                Civil case.
           Α
                Medical malpractice?
18
           Q
19
                Yes.
           Α
20
                Here in town?
           Q
21
                Yes.
           Α
22
                Okay. Were you the foreperson?
           Q
23
                No.
           Α
                Able to reach a verdict?
24
           Q
25
           Α
                Yes.
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- 1 Q Okay. Have you been a party to a lawsuit?
- 2 A No.
- 3 Q On the sympathy question just to kind of follow
- 4 up, the reason that question is important is we agree the
- 5 case should be based on the evidence and the law. But in
- 6 really sympathetic situations where you have natural
- feelings to want to help somebody, sometimes we are all
- 8 sympathetic. We all have that has part of who we are. You
- 9 want to do something for somebody and it may be against the
- 10 evidence and the law, but I'm comfortable if you tell me
- 11 based on what you just answered that you would be able to
- 12 consider this case based on the evidence and the law and not
- 13 let sympathy affect it.
- 14 A That's true, yes.
- 15 Q All right. And, lastly, about safety rules at
- 16 Delta, there are safety rules that apply to various
- 17 different positions?
- 18 A Yes.
- 19 Q But even when those safety rules are in place, you
- 20 can have less than desirable outcomes; true?
- 21 A True.
- 22 Q All right. Thank you, Mr. Turner.
- 23 A Only one thing about it. I just had knee
- replacement, too, about a month ago.
- The Court: I didn't hear his answer.

- 1 Prospective Juror: Sitting a while, I have to
- 2 stand up and straighten my leg out every now and then.
- 3 By Mr. Huff:
- 4 Q So you need to stand up --
- 5 A And straighten my leg. I just had surgery.
- 6 Q Okay. All right. How are you doing -- I mean
- 7 other than --
- 8 A I mean I'm in therapy but yeah.
- 9 Q If you are sitting down but able to stand up every
- once in a while; is that okay?
- 11 A Yes.
- 12 Q All right.
- 13 A Just want let you know.
- 14 Q Very good.
- The Court: All right. Anastasia Crump.
- 16 Prospective Juror: Good morning.
- 17 Mr. Stone: Good morning.
- 18 By Mr. Stone:
- 19 Q Ms. Crump, are you married?
- 20 A I am.
- 21 Q Your husband's name is Darius; is that correct?
- 22 A Yes.
- 23 Q You and Darius have kids?
- 24 A Darius has a child. I don't have any children of
- 25 my own but he does live with us.

- 1 Q Okay. How old is he?
- 2 A 17.
- 3 Q Okay. Tough duty. It won't much last longer.
- 4 A Yes, sir.
- 5 Q Okay. You work for Marriott?
- 6 A Yes, sir.
- 7 Q What do you do with Marriott?
- 8 A I'm a Preventative Maintenance Engineer.
- 9 Q And what does that involve?
- 10 A Ensuring that the rooms are completely safe and in
- 11 working order before the guests check in.
- 12 Q So you go check for things that might be wrong and
- 13 fix them before they --
- 14 A Yes.
- 15 Q -- hurt anybody or cause problems?
- 16 A Light bulbs, toilets, AC.
- 17 Q Sure, sure. And any other thing that -- like a
- 18 wall socket that had a short in it or something like that --
- 19 A Correct.
- 21 on?
- 22 A Yes, sir, paint, everything.
- 23 O So would your -- Marriott is in the hospitality
- business; right? Hotel and hospitality business?
- 25 A Yes, sir.

1 Q And they want their guests to have a good 2 experience? Yes, sir, and to come back. 3 Α Light bulbs that don't work and things that like 4 Q that don't make happy quests? 5 Not at all. 6 7 How long have you worked for Marriott? Q It will be five years. 8 Α Do you like this job? 9 Q 10 I do. I love it. Α 11 Good. You enjoy going to work every day? Q 12 I do. Α I'm going to ask the question I asked everything 13 else. Is there any reason you know of why you can't be fair 14 and judge the evidence that comes in this case and base a 15 16 verdict solely on the evidence you get in this courtroom and 17 the instructions the Judge gives about the law that applies to it? 18 No, sir. I will follow the Judge's instruction. 19 20 Thank you very much. Q 21 **EXAMINATION** By Mr. Huff: 22 23 Good morning, Ms. Crump. Q 24 Good morning. Α 25 You were or somebody close to you has had some Q

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- 1 legal training?
- 2 A My husband did some paralegal work before he
- 3 started working for Home Depot.
- 4 Q Okay. What does he do for Home Depot?
- 5 A He's a contract manager.
- 6 Q What type of paralegal work did he do? Who was he
- 7 working with? Do you remember?
- 8 A I don't remember. That was before we were
- 9 married.
- 10 Q Okay. Do you know somebody -- you or somebody
- 11 close to you that's disabled?
- 12 A That would be him. He's actually a T-12
- paraplegic, so he's confined to a wheelchair. Gunshot
- 14 wound.
- Q Okay. Was he that way when you guys met?
- 16 A He was.
- 17 Q Yeah. You raised your hand about the sympathy
- 18 question as I recall.
- 19 A Yes. Like I said, he is confined to a wheelchair
- so I see that every day but empathy more so than sympathy I
- 21 would say. I could definitely separate the two.
- 22 Q That's really why I ask that. Why I ask that
- 23 question and why I follow up on it is because I want to make
- sure that this -- anybody who is a juror in this case
- 25 understanding the sympathy would be able to put that aside

- 1 and decide it on the evidence?
- 2 A Yes, sir.
- 3 Q Okay. Now, you I think also raised your hand that
- 4 you had some issue of trusting doctors.
- 5 A Yes. Not more so personally but with him a lot of
- 6 times we spend more time in the waiting room than we
- 7 actually do communicating with the doctor. So as much as I
- 8 pay for insurance, yes, that's a problem for me, especially
- 9 with his situation. I mean, he's spinal cord injury so --
- 10 Q Right.
- 11 A -- it's nothing to play with.
- 12 Q Would that in way affect your ability --
- 13 A No.
- 14 Q Okay. And also doctors -- I think you raised your
- 15 hand to the questions doctors don't pay enough attention to
- 16 their patients.
- 17 A Yeah. Along those same lines. It's just basic
- 18 questions and, you know, don't want to spend too much of
- 19 their time.
- 20 Q Again, same question: Would that have any
- 21 influence on --
- 22 A No.
- 24 case?
- 25 A No.

- 1 Q All right. And the only one I have -- and this
- 2 may be wrong because I have written down plenty wrong things
- 3 on here -- but you may have a hard time waiting until the
- 4 end until all the evidence is presented to make up your
- 5 mind.
- 6 A I have a 17-year-old stepson so I'm not easily
- 7 persuaded. Once I make up my mind, it's pretty much made.
- 8 So I think that would be the only discrepancy there.
- 9 Q Sure, sure. Well, having a 17 year old myself,
- 10 you always -- things are said sometimes that you have to
- 11 take them with a grain of salt --
- 12 A Right.
- 13 Q -- and wait until you hear the whole story --
- 14 A That's true.
- 15 Q -- before you pass judgment on what happened.
- 16 A That's true.
- 17 Q All right. Okay. Thank you, Ms. Crump.
- 18 A Thank you.
- 19 The Court: Lauren Yawn.
- 20 Prospective Juror: Yes. Actually I said
- something yesterday. I didn't reflect my married name
- but I will answer to it. My name is Lauren Alexander.
- The Court: Alexander. And Yawn is what name?
- 24 Prospective Juror: It was my previous name.
- The Court: Previous name.

1 Prospective Juror: Yes. The Court: All right. Well, she want's -- she 2 Mrs. Alexander, Mr. Stone. 3 Mr. Stone: We'll make a note of that. I 4 certainly understand. 5 6 **EXAMINATION** 7 By Mr. Stone: That was one of those things that you have to 8 Q contact a lawyer to arrange; right? 9 10 Yes, sir. Okay. You have remarried Jeff Alexander; right? 11 0 Yes, sir. 12 Α And you are a realtor? You work for a realtor? 13 Q Yes, sir. I'm a real estate agent and I serve a 14 dual role as the officer manager as well. 15 16 Okay. How long have you worked as a real estate 0 17 agent? 18 As a agent two years and as a office manager almost six. 19 20 And you have had someone in your family that's had Q 21 experience with shortness of breath and cardiac arrest? No, sir. 22 Α 23 Okay. That's, you know, I think Mr. Huff and I 24 have agreed that sometimes when you are trying to write down 25 numbers and those paddles go up, you don't always get the

- 1 right number with the right face. I'm sorry about that, but
- 2 I'm glad you haven't had that experience in your family.
- 3 You heard the phrase a minute ago that Ms. Crump
- 4 had empathy more than sympathy for someone in a bad
- 5 situation. Do you feel like that?
- 6 A No, sir. I'm pretty -- I would be able to follow
- 7 the Judge's instructions and make a fair decision.
- 8 Q Yeah. That's what I'm talking about. You can
- 9 empathize with somebody without being overly sympathetic and
- 10 let it sway you; right?
- 11 A Yes.
- and consider the evidence that comes into the courtroom and
- 14 listen to the Judge's instructions and follow them and
- 15 reaching a just and true verdict?
- 16 A Absolutely.
- 17 Q Thank you very much. That's all we expect of you.
- 18 EXAMINATION
- 19 By Mr. Huff:
- 20 Q Ms. Alexander, you have been on a jury before?
- 21 A I have.
- 23 A Civil.
- Q Medical malpractice?
- 25 A No.

1 Q Were you the foreperson? 2 Α No. How about been a party to a lawsuit or somebody 3 Q close to you has been a party to a lawsuit? 4 It wasn't a lawsuit. It was actually through a 5 divorce. It was a financial situation. 6 7 Gotcha. And you or somebody close to you had high Q blood pressure during pregnancy? 8 Yeah. Friends. 9 10 Okay. Any complications from that that you are 0 aware of? 11 12 Α No. Do you know if they had the high blood pressure 13 0 after they delivered or was it before delivery? 14 Shortly after but it was resolved. 15 16 All right. Great. That's all. Thank you. 0 Mr. Stone: Can I ask her one more questions I 17 just overlooked, your Honor? 18 The Court: You may. 19 20 **EXAMINATION** 21 By Mr. Stone: 22 You have a four year undergraduate from where and 0 what field? 23 24 From Georgia Southern University and Public

Relations.

```
1
                 Mr. Stone: Thank you. Very much.
 2
                 The Court: All right. Now let's move to
           George -- pronounce your last name.
 3
                 Sonime.
 4
           Α
 5
                                EXAMINATION
 6
      By Mr. Stone:
 7
                 Mr. Sonime, I see you have a four year
           Q
      undergraduate degree also. Where did you get your degree?
 8
 9
           Α
                Georgia State.
10
                Georgia State.
           Q
11
                Yes, sir.
           Α
                Okay. And what field is your degree in?
12
           Q
13
           Α
                 Computer Information Systems.
                Computer what?
14
           Q
                 Information Systems.
15
           Α
16
                Okay. Computer Information Systems; right?
           Q
                Yes, sir.
17
           Α
18
                 How long -- is that what you do at NTT Data
           Q
      Corporation?
19
20
           Α
                Excuse me?
21
                You work at NTT Data Corporation?
           Q
22
                Yes.
           Α
                And are you working in the field of Computer
23
24
      Information Systems?
25
                 Yes, sir.
           Α
```

- 1 Q Okay. How long have you had that job?
- 2 A About seven years.
- 3 Q About seven years?
- 4 A Yes.
- 5 Q You like it?
- 6 A Oh, yeah. I love it.
- 7 Q You like going to work every day?
- 8 A Yes.
- 9 Q Like it a lot better than you do coming here;
- 10 right?
- 11 A Depends you know.
- 12 Q Well, we appreciate you and everybody else coming
- 13 here. It's not like you had any choice but we do
- 14 understand, okay.
- Now you have heard everybody talk about sympathy
- 16 and stuff like that. You can listen to the evidence that
- 17 comes in this courtroom and decide this case based only on
- 18 the evidence --
- 19 A Sure.
- 21 A Yes.
- Q Okay. And listen to what the Judge tells you the
- law is and apply it to the evidence that comes to you in
- 24 this courtroom?
- 25 A Yes.

```
1
                You have no trouble with that?
           Q
 2
                No trouble with that.
           Α
 3
           Q
                Okay. Thank you very much, sir.
 4
                               EXAMINATION
      By Mr. Huff:
 5
 6
           Q
                Hey, Mr. Sonime. You or somebody close to you has
 7
      been in a lawsuit?
                No, sir.
8
           Α
9
           Q
                okay.
10
                That's another one of those wrong.
11
                How about you or somebody close to you has been
           Q
      disabled?
12
13
           Α
                From surgery. Not really.
                All right. That's all. Thank you.
14
           Q
15
                The Court: Matthew Agan.
16
                Prospective Juror: Yes, sir.
17
                               EXAMINATION
18
      By Mr. Stone:
19
                Mr. Agan, you have a post-graduate degree?
           Q
                Yes, I do.
20
           Α
21
                Okay. In what field?
           Q
                I have a M.D. from Emory School of Medicine and
22
      also a HD from law on Public Health.
23
24
                So it's not Mr. Agan, it's Dr. Agan.
           Q
```

That's right.

Α

- 1 Q Okay. From Emory?
- 2 A Yes.
- 3 Q Okay. I see you work at Emory Healthcare. Are
- 4 you working as a physician there?
- 5 A Yes, sir. I'm a resident physician in Neurology
- 6 with Emory.
- 7 Q Does it -- how do I want to ask it? Would it be
- 8 difficult for you to sit as a juror on a case involving
- 9 another physician?
- 10 A I mean, I don't know -- I think I would bring a
- 11 unique perspective just from having personal experience.
- 12 For me, it wouldn't actually be difficult.
- Q Well, let me just ask it this way: Would you have
- any trouble holding a physician to the standard of care the
- 15 law requires of him?
- 16 A I would not.
- 17 Q Okay. Do you expect all doctors to perform in
- 18 accordance with the standard of care required by law in good
- 19 medicine?
- 20 A Well, yes, of course.
- 21 Q Sure. Because that's what you have spent a awful
- lot of your time training to do, is provide people with good
- care according to the law and according to medical science;
- 24 right?
- 25 A Yes.

- 2 A So I'm a resident physician in Neurology. When
- 3 you go through medical school, you don't actually have a
- 4 specialty at that point.
- 5 Q Okay. But you are currently studying in
- 6 Neurology; right?
- 7 A You know, it's training so you are practicing.
- 8 Q Okay.
- 9 A So I'm a doctor. I see patients.
- 10 Q Sure. Well, what I'm trying to get a feel for is
- 11 exactly what your medical practice is like over there at
- 12 Emory. You see patients. Do you see neurological patients?
- 13 A Yes.
- 14 Q Okay. Is that the only kind of patients you see
- 15 or --
- 16 A So when patients come on service, they have a
- 17 variety of medical conditions. We are expected to, you
- 18 know, treat those conditions. We don't just treat the
- 19 neurologic condition. And so there are patients who have a
- 20 wide variety of medical conditions that we treat or service.
- 21 We don't consult with internal medicine to help unless it's
- 22 something very complex.
- Q Okay. And I agree you would bring a unique
- 24 perspective to a case like this. And I guess what I'm
- 25 trying to figure out is whether that unique perspective

- 1 would be -- let me back up and ask a different question.
- 2 This case is going to be -- is going to involve
- 3 evidence of neurological injury. Okay. Would that be
- 4 something you think you have a unique perspective on?
- 5 A I mean it's something that I have a lot of
- 6 experience with.
- 7 Q Okay. And probably much more so than the average
- 8 person in this jury panel; right?
- 9 A Yes.
- 10 Q Because of your training and what you do for a
- 11 living.
- 12 A I'd say so.
- Q Okay. As I hear you today, you believe you can be
- 14 completely impartial and just follow the evidence and follow
- the law and do what that leads you to in this case without
- favoring a fellow physician.
- 17 A Yes.
- Q Right? And without -- without being prejudiced
- against the fellow physician as well; right?
- 20 A Yes.
- 21 Q Yeah. I mean I'm talking about you would be --
- you could be completely fair to both sides. That's all we
- ask for.
- 24 A I believe so.
- Q Okay. Thank you. I appreciate it.

1 **EXAMINATION** 2 By Mr. Huff: Dr. Agan, what year are you in your training? 3 Q I'm in my final year of training. 4 Α Do you know what -- what are your plans after you 5 6 finish training? Do you have them and what do you have? 7 Yes. I'm going to stay at Emory and do an Α epilepsy fellowship. 8 In part of your training, did you do OB-GYN 9 rotation? 10 11 Α So I -- really the only experience I have in that is from medical school. And so we do a six-week block for 12 We have consults on patients on the OB-GYN service 13 OB-GYN. for neurologic issues. But, you know, it's not something I 14 have the most experience in practicing with. 15 16 Okay. Do you manage blood pressure in some 0 17 patients --18 Α Sure. -- on your service? 19 Q 20 Yeah. Α 21 You raised your hand about having either you or Q 22 somebody close to you had actually had a bad experience with healthcare also. 23 24 Well, my wife had to have a medical procedure and

so we went to consult with a physician. He spent most of

- 1 the appointment addressing me because I was a physician
- 2 instead of her and she was actually the patient and I
- 3 thought it was highly inappropriate because it was specific
- 4 to that physician.
- 5 Q That influence any -- in deciding any issues in
- 6 this case one way or the other?
- 7 A No, no. It was a interventional radiologist.
- 8 Q How about somebody close to you who you felt like
- 9 had been injured by a physician? Did you raise your hand to
- 10 that?
- 11 A Yes. I have a first cousin actually, you know,
- when he was born had something happen during the birth and
- so essentially he had signs of fetal distress and there was
- 14 a long period when it happened and they did a C-section and
- so he has had seizures and developed mental delays as a
- 16 result. And so, you know, my family believed that something
- 17 could have done for him sooner but you know I wasn't
- 18 actually there. You know, I don't know, you know all the
- 19 details of it.
- 20 Q Would that have any impact on listening to the the
- 21 evidence in this case?
- 22 A No.
- Mr. Huff: Okay. Thank you.
- 24 Mr. Stone: Can I follow up with one question?
- The Court: Yes, sir.

1 EXAMINATION

- 2 By Mr. Stone:
- 3 Q Doctor, have you had experience treating
- 4 preeclamptic pregnant ladies?
- 5 A I mean honestly, it's something we continue to
- 6 treat. I mean, you know, even if it developed into
- 7 eclampsia that's something that we generally treat.
- 8 Q Okay. Well, what I'm getting at is that during
- 9 that six-week period where you had some experience dealing
- 10 with some exposure to OB-GYN, did you ever happen to deal
- 11 with a preeclamptic patient during that period?
- 12 A Yes, during that period I did.
- 13 O More than one?
- 14 A I mean, it would have been one or two. It was not
- 15 very many.
- 16 Q Okay. So you have some familiarity with that
- 17 problem?
- 18 A Well -- yes, I do.
- 19 O Some but not extensive?
- 20 A It's not something I generally treat but you know
- I know the signs and I would have to look at the information
- if I were going to say much.
- 23 Q You know enough about it to refer a patient like
- that to somebody that does a lot of about it?
- 25 A Yes, they would be referred.

```
1
                Mr. Stone: Okay. Thank you.
 2
                The Court: Sonia Khan.
                 Prospective Juror: That's me.
 3
 4
                                EXAMINATION
 5
      By Mr. Stone:
 6
           Q
                Ms. Khan, where did you -- what kind of graduate
 7
      degree do you have and where did you get it?
                Architecture.
 8
           Α
                Architecture?
 9
           Q
10
                 From the University of Illinois in Chicago.
11
                 Is that a Masters --
           Q
                Yes --
12
           Α
                -- in that?
13
           Q
14
                Yes.
           Α
                Are you licensed as an architect?
15
           Q
16
                Not yet but I'm in the process.
           Α
                You are in the process of getting that done. Good
17
           Q
      luck with that.
18
19
                Thank you.
20
                And this firm you work with, Greenberg Farrow, is
      that an architectural firm?
21
22
           Α
                 Yes.
                Okay. Here in Atlanta?
23
           Q
24
                Yes.
           Α
25
                what type of work do you -- when I say what type
           Q
                                                                   230
```

- of work, what kind of products do you normally work?
- 2 A My team specifically specializes in retail
- 3 rollouts. So we design mostly stores like Victoria Secret
- 4 and Ping and Bath and Body Works and Gap, Whole Foods,
- 5 retail businesses.
- 6 Q Okay. So you design retail for that?
- 7 A Yes.
- 8 Q Retail stores?
- 9 A Mostly, yes.
- 10 Q Okay. Okay. And your husband is with Arcis
- 11 Capital?
- 12 A That's correct.
- 13 Q What does he do with them?
- 14 A Okay. So he -- it's -- he works in finance. He
- works in real estate investment so basically sourcing
- 16 capital for large real estate investment. Like say you have
- someone who has a 300-room hotel and they want to sell it
- and so they are looking for a buyer and so he puts those
- 19 people together.
- 20 Q Okay.
- 21 A Not my field.
- 22 Q I understand. Necessary field nonetheless though;
- 23 isn't it?
- 24 A Sure.
- Q Sure. Now, you have heard all of the questions

- 1 about sympathy. Are you able to put sympathy aside and
- 2 decide this case impartially based on the evidence you hear
- in this courtroom and the law the Judge instructs you
- 4 applies to it?
- 5 A Yes.
- 6 Q Okay. Thank you, ma'am.
- 7 EXAMINATION
- 8 By Mr. Huff:
- 9 Q Good morning, Ms. Kahn.
- 10 A Good morning.
- 11 Q You raised your hand about you or somebody close
- to you had had a bad experience with a doctor --
- 13 A Yes.
- 14 0 -- or healthcare. Tell me about that.
- A My sister lives in Minnesota and she had had a bad
- 16 experience when she went in for surgery for fibroid cysts
- and the doctor made a bit of an error and it required later
- on another surgeon from the same hospital to come in and fix
- 19 that a few weeks later, but it took a bit of arguing and
- 20 pushing to get someone else to look at the problem and
- 21 understand that they needed to correct it.
- 22 Q Did she -- did it eventually get corrected?
- 23 A Yes.
- 24 Q Any consideration of a lawsuit or anything in
- 25 that?

- 1 A No.
- Q Any other bad experiences with healthcare with you or somebody close to you?
- 4 A Well, with insurance, yes, but not particular -- 5 with healthcare insurance, yes.
- Q Like billing, being charged for things or not charged for things and that kind of thing or something more?

A Generally speaking it was we had a lawsuit against our insurance company and we settled and we are not supposed to talk about the terms of the settlement as part of the settlement, but I can just very generally tell you that it was dealing with autism spectrum disorder.

Q Okay.

8

9

10

11

- 14 A And the health industry.
- Q Gotcha. Was it -- did it work out to your satisfaction, the lawsuit against the insurance company?
- 17 A Yes.
- Q Okay. And Mrs. Tribble asked you a question about
 who feels like they don't have -- the quality of the
 healthcare they and their family have is not what they would
 like it to be. Did you raise your hand about that?
- 22 A I did. But I mean, I think that goes to broader 23 issues of, you know, seeking healthcare in this country and, 24 you know, where I think that it could be and should be.
- Q Okay. It's not as personal as --

- 1 A It's not personal.
- 2 Q I got you.
- 3 A It's more just like overall.
- 4 Q All right. And I think you raised your hand about
- 5 maybe you or somebody close to you had high blood pressure
- 6 during pregnancy?
- 7 A Not during pregnancy. Well, a friend -- two
- 8 friends actually during pregnancy. But just high blood
- 9 pressure in general, like my dad has it. My grandparents
- 10 have it.
- 11 Q Sure. They make medications for it?
- 12 A Yes.
- 13 Q How about complications following a sur --
- 14 postpartum or after pregnancy complications, somebody who --
- 15 A Yeah. My husband's cousin had some complications.
- 16 She's the same one who had the high blood pressure as well
- 17 and I believe gestational diabetes as well. She had a lot
- of complications during her pregnancy but everything turned
- 19 out well in the end and --
- 20 Q Okay.
- 21 A -- she and her daughter are living now.
- 22 Q And they're the ones in Minnesota?
- 23 A No. She's actually in Pakistan.
- Q Okay.
- 25 A Different country.

```
2
                My daughter has a autism spectrum.
           Α
                How old is she?
 3
           Q
                She's five.
 4
           Α
                Five. All right. Any other kids?
 5
           Q
 6
           Α
                Yes, I have a son. He's three.
 7
                Okay. All right. Ms. Kahn, thank you.
           Q
                Prospective Juror: Thank you.
 8
                The Court: Zandore Nash.
 9
10
                 Prospective Juror: Zandore.
11
                The Court: Thank you.
12
                                EXAMINATION
13
      By Mr. Stone:
14
                Mr. Nash, I see that you are employed in a
      maintenance --
15
16
           Α
                Yes.
                -- job?
17
           Q
                Griffin Foods.
18
           Α
19
                sir?
           Q
                Griffin Foods.
20
           Α
21
                Griffith Foods. Okay. And what does that job
           Q
      involve?
22
                They actually process the biscuit mixes for Chic
23
           Α
24
      Fila and McDonalds and all the big places.
25
                Okay. Do you maintain the equipment that is used
           Q
                                                                   235
```

And somebody close to you is disabled?

1

Q

```
1
      to do that?
 2
                Pretty much the whole plant. I'm a general
      maintenance. Mixer, the building is painted, see that all
 3
      the lights are working, safety, no electrical outlet
 4
      shorting out, anything like that.
 5
 6
           Q
                Okay. Do you have children?
 7
                Yes, sir.
           Α
                How many?
 8
           Q
                I have four. Two girls and two boys.
 9
           Α
10
                What are their ages?
           Q
11
                Ranging from age 30 down to two years old.
           Α
                Okay. Cool. The maintenance job that you have,
12
           Q
      how long have you had that job?
13
                I worked it for a year as a temp. They just
14
      recently hired me permanently the 5th of December.
15
16
                You worked for how many years as a temporary
           0
      employee?
17
18
           Α
                About -- for a full year.
                Okay. Do you like the job?
19
           Q
                Love it.
20
           Α
21
                Um?
           Q
22
                I love it.
           Α
23
                You love it. Okay. Like going to work every day?
           Q
24
                Yes, sir.
           Α
```

Can you be fair in this case and judge it based on

MELISSA BROCK, RPR

236

25

Q

- 1 the evidence and on the instructions the Judge gives about
- 2 the law and apply it to that evidence?
- 3 A Yes, sir.
- 4 Q No problem with that?
- 5 A No, sir.
- 6 Q Okay. Thank you so much.
- 7 EXAMINATION
- 8 By Mr. Huff:
- 9 Q Good morning, Mr. Nash.
- 10 A Good morning.
- 11 Q You or somebody close to you has had a bad
- 12 experience with healthcare or a doctor?
- 13 A Well, the doctor. I was the primary caretaker for
- 14 my grandfather and he was on medication and I had to make
- sure he took his medication. So even if he couldn't swallow
- the pill, I would crush the pill up and make sure he take
- 17 it. I actually found out what Coumadin was. And once I
- found out what Coumadin was, me giving poison to my
- grandfather, I kind of had a problem with that.
- Q When you found out what Coumadin was, you were
- concerned about him getting the Coumadin or you as being the
- one to give him the Coumadin?
- A No. Me finding out what Coumadin was. Coumadin
- 24 is poison. I was actually poisoning my grandfather. So I
- took him off of Coumadin myself and put him on a herb which

- 1 is called Cerasee. I put him on Cerasee and had no more
- 2 problems out of him. He actually -- I think he lived longer
- 3 from that day from the Coumadin.
- 4 Q Do you remember why he was on the Coumadin?
- 5 A He had a blood clot.
- 6 Q Okay. And how long did he take the Coumadin
- 7 before you found out what it was?
- 8 A At least a month.
- 9 Q Okay. And then how long did he take the other?
- 10 A For about six months.
- 11 Q Okay. And that -- so when you talk about that
- being a bad experience, it's your feeling that the doctors
- should not have prescribed him Coumadin at all?
- 14 A At least that or put it on the label and let
- 15 people know what that is.
- 16 Q And you also raised your hand about physicians not
- 17 paying enough attention to patients. Is it related to that?
- 18 A That's the experience.
- 19 Q was that?
- 20 A That's the experience.
- Q Okay. Gotcha. How long ago was that, Mr. Nash?
- 22 A It was three years ago. He's since deceased.
- 23 Q And that's -- is that why you raised your hand,
- 24 too, about not trusting doctors related to that experience?
- 25 A Pretty much. Pretty much.

- 1 Q So tell me, other than that, the medication, the
- 2 Coumadin that your dad got that you were in helping with,
- 3 any other bad experiences with doctors or healthcare in your
- 4 life?
- 5 A Well, for me personally, I was shot six times with
- 6 a broken hip. They told me I wouldn't walk again.
- 7 Q And that's obviously not the case.
- 8 A Thank you.
- 9 Q All right. Any other bad experiences with
- 10 healthcare?
- A No, sir.
- 12 Q All right. How long ago was that where you had
- 13 the hip --
- 14 A That was actually in '91.
- 15 Q '91. Okay. Any lawsuit that you or somebody
- 16 close to you has filed against somebody for anything?
- 17 A No.
- Q And how about somebody close to you who actually
- 19 has medical experience or training?
- 20 A No, no, sir.
- 21 Q Do you have any firefighter or first responder
- 22 training?
- 23 A No.
- Q Okay. All right. Those experiences, talking
- about your hip and the experience with your father and the

- 1 Coumadin, would you be able to keep those aside, not let
- 2 them affect your ability to listen to the evidence in this
- 3 case and decide this case?
- 4 A Yes, sir.
- 5 Q All right. Thank you, Mr. Nash.
- 6 A Yes, sir.
- 7 The Court: Maria Quintero.
- 8 Prospective Juror: Yes, sir.
- 9 EXAMINATION
- 10 By Mr. Stone:
- 11 Q Ms. Quintero, I see that you are employed by Girls
- 12 Scouts of Greater Atlanta.
- 13 A Yes, sir.
- 14 Q What do you do with them?
- 15 A I am leader of a troop.
- 16 Q What?
- 17 A Leader of a troop.
- 18 Q Leader of a troop?
- 19 A Um hmm.
- 20 Q Okay. How many girls do you have in your troop?
- 21 A Two years.
- 22 Q Um?
- A Two years.
- Q No. Excuse me. How many children are in your
- 25 troop?

```
Sorry. Excuse me. My first language is
 1
 2
                I hard to understand English. I am working in
      Spanish.
 3
      seven schools and I work with grades Pre-K 3, two level, two
 4
      grades.
                Okay. Do you have children?
 5
           Q
 6
           Α
                Yes, I have one.
 7
                Boy or girl?
           Q
                Boy, 27 years old.
 8
           Α
                Okav. You survived.
 9
           Q
                                       Good.
10
                Mr. Stone: Thank you very much.
11
                Mr. Huff: No questions, Ms. Quintero. Thank you.
12
                The Court: Rebecca Settles.
13
                Prospective Juror: Yes, sir.
14
                               EXAMINATION
      By Mr. Stone:
15
16
                Hi, Ms. Settles. I understand you have a four
           Q
      year undergraduate degree. What field?
17
18
                Art History degree.
           Α
19
                Art History and from where?
           Q
                Mills College in California.
20
           Α
21
                Your employer is Beau Studio?
           Q
22
                Yes.
           Α
23
                Is that your studio?
           Q
24
                Currently it's sort of. I make custom furniture
           Α
25
      and the owner passed away this summer and so I'm learning
```

- 1 it.
- 2 Q You enjoy that kind of work?
- 3 A I do.
- 4 Q You enjoy going to work every day?
- 5 A Yes. After raising children, yes.
- 6 Q Okay. How many children do you have?
- 7 A Three.
- 8 Q And what are their ages?
- 9 A They are all getting ready to turn -- one is
- 10 almost 24, 21, and 18. Boy, girl, boy.
- 11 Q Boy, girl, boy. What do they do?
- 12 A All in school. Hopefully the 24 year old will be
- 13 out of school.
- 14 Q School seems to be popular thing to do sometime
- for kids.
- A He doesn't like it so hopefully he will be out
- 17 soon.
- 18 Q You would be able to be a completely fair and
- impartial juror and follow the evidence that you receive in
- this courtroom and the law the Judge gives you and reach a
- 21 true and justice verdict?
- 22 A Oh, yes.
- Mr. Stone: Okay. Thank you.
- 24 EXAMINATION
- 25 By Mr. Huff:

- 1 Q Good morning, Ms. Settles.
- 2 A Good morning.
- 3 Q Somebody close to you or you had some medical
- 4 training or experience?
- 5 A I have. Several nurses, my mother, my grandmother
- 6 three aunts.
- 7 Q You -- somebody close to you or you have some
- 8 legal training?
- 9 A Oh, wait a minute. Yes. Yes. My -- I have my
- 10 uncle and cousins.
- 11 Q What type of work does your uncle do?
- 12 A He was a civil litigator. He recently passed
- away.
- 14 Q Somebody -- you or somebody close to you had high
- 15 blood pressure during pregnancy?
- 16 A Not during pregnancy just had some high blood
- 17 pressure in the family not --
- 18 Q Controlled by medication?
- 19 A Yes.
- 20 Q And how about pulmonary embolism? Do you have
- 21 some experience with that?
- 22 A I'm just very familiar with it. My college
- roommate had a bilateral embolism. Had to be hospitalized
- for that and put on medication to control it --
- Q Okay.

```
2
                Did it work?
           Q
 3
                Yes.
                And, lastly, any lawsuits? You or somebody close
 4
           Q
      to you filed a lawsuit for injuries?
 5
                       My ex-sister-in-law filed a lawsuit because
 6
 7
      her daughter was hurt somewhere. It was not -- it didn't go
      forward.
 8
                All right.
 9
           0
10
                It was settled.
11
           Q
                Okay.
12
                 Mr. Huff: Thank you, Ms. Settles.
13
                 The Court: Roderick Rose.
14
                                EXAMINATION
15
      By Mr. Stone:
16
                Mr. Rose, you have a postgraduate degree in what
           Q
      field?
17
                 I have a Ph.D. in Public Policy.
18
           Α
19
                A what?
           Q
20
                A Ph.D. in Public Policy.
           Α
21
                Public Policy.
           Q
                 And a Master in Economics.
22
           Α
                Okay. And where did you get those degrees from?
23
           Q
                N C Chapel Hill.
24
           Α
25
                Okay. You liked it so much there that you have
           Q
```

244

-- to get rid of it.

1

Α

- 1 continued to work for them; right?
- 2 A That's correct.
- 3 Q Do you work from Atlanta?
- 4 A I do.
- 5 Q Okay. Do you work outside of your home or do they
- 6 have a --
- 7 A Yes.
- 8 Q -- facility here?
- 9 A Yes, I telecommute from home.
- 10 Q Okay. What do you actually do for the University
- of North Carolina? What's your job description?
- 12 A I'm a child and family policy researcher.
- 13 Q Okay. So your job involves doing research?
- 14 A Data analysis.
- 15 Q Do you enjoy it?
- 16 A I'm sorry.
- 17 Q Do you enjoy your job?
- 18 A Yes, thoroughly.
- 19 Q Okay. Great. Enjoying your work is probably one
- of the biggest blessing you can have in life. It would be
- 21 terrible to have a job that you just dreaded going to every
- 22 day.
- 23 Can you be completely fair in judging this case?
- 24 A I can do my best. I heard Judge Eady's message
- 25 yesterday so I feel like --

- 1 Q I understand.
- 2 A -- I'm able to do that.
- 3 Q And you understand that we are not asking the jury
- 4 for sympathy in this case. We are asking for justice,
- 5 whatever that is, based on the evidence and the law the
- 6 Judge says applies to it. Okay?
- 7 A Yes.
- 8 Q However it comes out, justice is what we want.
- 9 A Fair enough.
- 10 Q Can you do that?
- 11 A Yes.
- 12 Q Okay. Thank you.
- 13 EXAMINATION
- 14 By Mr. Huff:
- 15 Q Hey, Mr. Rose. Did you raise your hand about
- 16 having a medical hardship?
- 17 A Yes, I did.
- 18 Q Okay. Is that something you want to talk about
- 19 right now or later?
- 20 A If it's possible to talk about it privately, I
- 21 would prefer to do that, yes.
- The Court: All right. We can.
- 23 By Mr. Huff:
- 25 training?

- A My wife, Kelly, is a registered medical assistant.
- 3 A She's no longer with me.
- Q Do you or somebody close to you have been injured by physician in the past?
- A So, Kelly, she is autism spectrum and had juvenile epileptic seizures and they put her on Depakote as a child and she is, you know, fast-forward to her adulthood, she has thyroid issues and she's -- she has endometriosis and PCOS; not able to have children. So, you know, there's some
- 10 Hot able to have children. 30, you know, there 3 30me
- argument that the -- she should have -- when I answered,
- 12 yes, that's what I was referring to.
- 13 Q Gotcha. Thank you and sorry.
- 14 A Sure.
- Q Is that also the bad experience you or somebody close to you has had with healthcare as well or is there
- 17 more?
- 18 A So Kelly has had other bad experiences with the
- 19 healthcare system as a registered medical assistant. That
- 20 Would be one that I should probably share with you in
- 21 private as well because it involved a lawsuit she had to
- 22 bring against an employer.
- 23 Q All right. That's fine.
- 24 A Okay.
- Q Just tell me if there is anything you want talk

- 1 about in private about this as I'm going through this.
- 2 A Okay.
- 3 Q And I know you raised your hand about the sympathy
- 4 question yesterday but then Judge Eady spoke and you are
- 5 good with that now?
- 6 A I'm good with that.
- 7 Q Okay.
- 8 A Yes. I got it.
- 9 Q Very good.
- 10 And the last thing I want to ask you about was I
- think you raised your hand about physicians in your opinion
- don't always pay enough attention to their patients. Is
- this, again, related to Kelly or is it something more than
- 14 that?
- 15 A I mean both Kelly and I have issues that span
- 16 multiple specialties and -- I mean more so for her than for
- me but we both, you know, feel like they don't always
- 18 coordinate as well as they should the type the care that the
- 19 two of us need for special needs.
- 20 You know, like your primary care physician should
- 21 be sort of the coordinator of that type of care but I never
- really found one that did it in a way that was -- so she's
- 23 actually -- she's basically her own care coordinator which
- as an RNA she is at least somewhat equipped to do but I'm
- 25 not so.

1	Q Okay. Would those issues have any impact on
2	listening to the evidence in this case or deciding
3	A I hope not but
4	Q We all hope not but, you know, only you know
5	yourself. Do you feel like it might impact you a little bit
6	in thinking about the evidence in this case?
7	A No.
8	Q Okay. We can talk more about that.
9	A I don't know enough about the case.
10	Q Certainly. All right. Well, Mr. Rose, thank you
11	and we'll talk about anything else later.
12	The Court: Let's have Mr. Rose come up now and
13	come up Mr. Rose. Sheriff, let him come up to approach
14	the bench and let's talk about the issues that we need
15	to take privately.
16	(Whereupon, a discussion was held at the bench
17	between the court and counsel, after which the
18	following proceedings were had.)
19	Prospective Juror: So
20	The Court: Let's get those issues on the record.
21	Prospective Juror: Sure.
22	The Court: What issue you did raise your hand
23	for? Can you tell us?
24	Prospective Juror: Yes. So, I have IBS and
25	anxiety. Yesterday when I came in the courtroom I had
	MELISSA BROCK, RPR 249

1	a panic attack which I was able to mitigate with my
2	Klonopin. The problem is Klonopin makes me sleepy so
3	by the afternoon session, I was, you know, only half
4	awake. I don't even remember much because it also
5	affects memory recall.
6	The IBS is problematic particularly for getting
7	down here every morning because I often wake up in the
8	morning and have diarrhea and that's fine. That's one
9	of the reasons I work at home. You know, this is the
10	first time I have ever been called and I wasn't sure
11	what this was going to be like, so I didn't, you know,
12	seek medical exemption from my doctor. That's
13	something that if you need, I can certainly secure it.
14	I have actually had the foresight to bring the
15	medication if you wanted to see those. I mean
16	The Court: I won't know what I'm looking at.
17	Prospective Juror: Okay. The point is I take
18	multiple medications.
19	The Court: The medication you take the
20	medications every day
21	Prospective Juror: Yes.
22	The Court: in order to manage?
23	Prospective Juror: In particular stressful

situations I have to take more medication.

The Court: Right. All right.

24

Т	mr. Stone, any questions you want to ask nim about
2	that?
3	Mr. Stone: No.
4	The Court: Any?
5	Mr. Huff: No, no, Judge.
6	The Court: All right. What was the other issues
7	you wanted to talk about privately.
8	Prospective Juror: My wife had to sue her boss
9	who was a doctor for sexual assault. She got fired and
10	bough an EEOC lawsuit against him.
11	The Court: Okay.
12	Mr. Huff: What specialty is the doctor?
13	Prospective Juror: Rheumatoid.
14	The Court: Okay. Any other questions?
15	Mr. Stone: No.
16	Mr. Huff: No.
17	The Court: Thank you Mr. process.
18	Prospective Juror: You are welcome, your Honor.
19	The Court: You may take your seat.
20	All right. Let's continue with Emily Santos.
21	Prospective Juror: Yes.
22	EXAMINATION
23	By Mr. Stone:
24	Q Ms. Santos, you have a two-year college degree
25	from a college or technical school; is that correct?
	MELISSA BROCK, RPR 251

1 Α Yes. 2 Which is it? Junior College? Q I went to Stillman College for a year in 3 4 Tuscaloosa, Alabama, and I have been going Argosy on Snapfinger. 5 What were you studying at Stillman? 6 Q 7 Business Administration and Mortician Science. Α **Business Administration?** 8 Q And Mortician Science. 9 Α 10 Okay. All right. Are you still working on your Q 11 education? 12 Α Correct. 13 Q So are you employed now? 14 Α Yes. Where? 15 Q At the airport. I work for Delaware North. 16 Α Is that a airline? 17 0 18 The company inside the airport. Α No. 19 What do they do? Q They have different restaurants. I'm a stand 20 Α 21 attendant at a restaurant called Groundhouse.

252

I understand you have children.

I understand you have children.

I have a child. I can't hear you.

22

23

24

25

Q

Α

Q

Α

Um hmm.

- 1 O You have one child?
- 2 A Yes. I have a daughter. She's eight.
- 3 Q How is she doing?
- 4 A She's great.
- 5 Q I can just imagine. All eight year old girls are
- 6 great.
- 7 A She's eight. Into nails and stuff.
- 8 Q I understand that you had some problems with your
- 9 OB-GYN?
- 10 A Not so much my OB-GYN but the nurses.
- 11 Q Okay. So, it's -- it was just with the nurses not
- with the doctor himself or herself?
- A No. The doctor actually came and saved my life.
- 14 Q Okay. So that experience with an OB-GYN would
- 15 surely not be -- make you feel unfavorable towards other
- 16 OB-GYNs, would it?
- 17 A No.
- 18 Q Okay. Can you be fair in this case and consider
- only the evidence that you receive from -- in the courtroom
- and the law the Judge gives you and instructions and make a
- 21 true verdict based on the evidence and the law without
- 22 prejudice or sympathy for anybody?
- 23 A Correct. I can.
- 24 Q Okay. Thank you so much.
- 25 EXAMINATION

- 1 By Mr. Huff:
- Q Good morning, Ms. Santos.
- 3 A Good morning. How you doing?
- 4 Q I'm good. I have to move just a little bit. I
- 5 may block you. So tell me about the situation with the
- 6 nurses in the OB-GYN.
- 7 A When I was giving birth to my daughter, I'm
- 8 allergic to iodine and instead of the nurses reading the
- 9 charts, they put it on me anyway and the doctor rushed in
- just in the nick of time to get it off and to tell them off
- 11 all at the same time.
- 12 Q Okay. All right. Any other -- other than the
- iodine, any other issues with the pregnancy or the --
- 14 A I mean not for myself. I mean my mom did give
- 15 birth to my oldest brother and they didn't check her cervix
- to make sure that she had enough room, so they pushed --
- 17 they told her to push and she end up smushing the brain and
- 18 they pushed him back in and gave her a C-section. So you
- 19 know --
- 20 Q So that's your brother?
- 21 A Yeah. My oldest brother.
- 22 Q How is he now?
- A He died March the 19th, 1986, the day after I was
- 24 born.
- Q Okay. Was that here -- was he -- were you born in

 MELISSA BROCK, RPR 254

- town here?
- 2 A I was born in Atlanta but he was born in Blount
- 3 County Tennessee, Alcove.
- 4 Q Blount County?
- 5 A Yeah.
- 6 Q Okay. Any other bad experiences that you or your
- 7 family or close friends have had with doctors or nurses?
- 8 A No.
- 9 Q You happy with your O.B now --
- 10 A Yes.
- 11 Q -- that you go see? All right. Okay.
- 12 Any lawsuits or anything like that you or anybody
- 13 close to you filed?
- 14 A Other than the car lawsuits and as far as my
- 15 brother, no.
- 16 Q Was a lawsuit filed about your brother?
- 17 A Yes, it was.
- 18 Q You were pretty young it sounds like at the time.
- 19 A I wasn't even here.
- 20 Q Yeah. That's what I meant.
- 21 A Yes.
- 22 Q I think you raised your hand about you or somebody
- 23 close to you had high blood pressure during the pregnancy.
- 24 A I had -- I end up getting it like on -- my around
- 25 my fifth or sixth month.

- 1 Q Okay.
- 2 A I did end up getting it.
- 3 Q Did it stay with you til your daughter was born?
- 4 A Yes. That's why I end up having to have a
- 5 C-section.
- 6 Q Okay. Did you -- did you have high blood pressure
- 7 after your daughter was born?
- 8 A No.
- 9 Q Did you get any medication for your blood pressure
- in the hospital before the C-section was performed?
- 11 A No.
- 12 Q How high was it? Do you remember?
- 13 A No, not really. I just remember that it was real
- 14 high.
- 15 Q All right. And I think you mentioned that -- this
- 16 question was asked and you raised your hand. You didn't
- mention it but the doctors don't always pay attention
- 18 enough, attention to their patients?
- 19 A Yeah. Go back to my mom because at the end of the
- 20 day, I feel like if they would have checked her, he still
- 21 would have still been here.
- 22 Q Right. Those issues that you have, would any of
- those impact your ability to listen to the evidence in this
- case and decide this case based on the evidence and the law?
- 25 A No. not at all.

- 1 Q You will be able to keep all that aside?
- 2 A Yes. That was in the past.
- 3 Q I understand. I understand.
- 4 And sympathy you raised your hand about, too. You
- 5 know, I mean I think everybody has had a chance to --
- 6 everybody answered it yesterday. Then there was a little
- 7 bit more time to think about it. Some statements were made
- 8 by the Judge and now thinking about it more today,
- 9 understanding there will be sympathy in the case, do you
- 10 think you'd be able to put that aside and decide this case
- on the evidence and the law?
- 12 A Yes.
- 13 Q Okay. Feel pretty comfortable about that?
- 14 A Yeah.
- 15 Q All right. Thank, Ms. Santos.
- 16 A Thank you.
- 17 The Court: Okay. Let's move to James Smith.
- 18 Prospective Juror: Yes. Good morning.
- The Court: Good morning.
- 20 EXAMINATION
- 21 By Mr. Stone:
- Q Mr. Smith, you have a post graduate degree;
- 23 correct?
- 24 A I do.
- 25 O And what field?

- 1 A I have a MBA from University of Georgia.
- Q Okay. Terry College; right?
- 3 A Correct.
- 4 Q In what field?
- 5 A Masters in Business, Business Administration.
- 6 Q Is there a subspeciality like Accounting or
- 7 something like that Finance or --
- 8 A I have a couple. Focus on mergers and
- 9 acquisitions and leadership as far as that.
- 10 Q What do you do now?
- 11 A I work for ADP. I'm a Director in their health
- 12 compliance business.
- 13 O And what does that involve?
- 14 A Our business helps companies abide by the
- 15 Affordable Care Act from the employer mandate as well as the
- individual mandate. So I manage knowledge in performance,
- data, integrity and security and communication with our
- 18 clients.
- 19 Q Sounds like you are about to have to learn a whole
- 20 new set of rules?
- 21 A I have a lot.
- Q Okay. How long have you been doing that?
- 23 A I have been there two years.
- 24 Q Are you married?
- 25 A Yes.

- 1 Q What does your wife do?
- 2 A She is a high school English teacher.
- 3 Q Public schools here in Atlanta?
- 4 A Public high school, yes.
- 5 Q You've heard everybody talking about being fair
- 6 and the affects of sympathy and that kind of thing.
- 7 A Yes.
- 8 Q Can you listen to the evidence that you hear in
- 9 this courtroom and consider only that evidence and the law
- 10 that the Judge gives you in his instructions and apply that
- law to the evidence and reach a true and just verdict?
- 12 A Yes.
- Q Don't have any impartiality for one side or the
- 14 other; is that correct?
- 15 A I have sat on a jury.
- 16 Q So you know how that works?
- 17 A Yes.
- 18 Q Okay Everybody expect you to be fair and just
- 19 base your verdict solely on the evidence and the law and let
- the chips fall where they will; right?
- 21 A Yes.
- 22 EXAMINATION
- 23 By Mr. Huff:
- 24 Q I was going to ask you about it. You have been on
- 25 a jury before?

1 Α Yes. 2 Just one time? Q 3 Just one time. Α Medical malpractice? 4 Q Medical malpractice. 5 Α 6 Q Here in Fulton County? 7 Forsyth. Α Forsyth County. Okay. Were you able to reach a 8 Q verdict? 9 10 Α Yes. 11 Were you the foreperson? Q 12 I was not. Α 13 You or somebody close to you filed a lawsuit Q against anybody for --14 15 No. -- personal injury? No, I had that one wrong. 16 17 All right. Thank you, Mr. Smith. The Court: James pronounce your last name. 18 19 Prospective Juror: Mormino. 20 The Court: Mormino. 21 **EXAMINATION** 22 By Mr. Stone: 23 Mr. Mormino, I understand you work at Whole Foods 24 Market; is that correct?

Um hmm.

Α

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1 Q What do you do there for Whole Foods?
```

- 2 A I'm a regional development chef. A lot of items
- 3 that you buy at Whole Foods are created by me and my staff.
- 4 We help provide support for new store openings and odd
- 5 projects all across the Southeast.
- 6 Q Okay. Your wife is Christina. Is that her name?
- 7 A Christina.
- 8 Q She works at Gwinnett College?
- 9 A That's correct.
- 11 A She runs the French Department. She's the
- 12 Director of the International Religion program.
- 13 Q Do you have kids?
- 14 A Yes.
- 15 Q How many?
- 16 A One.
- 17 O How old?
- 18 A He's seven.
- 19 Q Boy or girl?
- 20 A Boy.
- Q Okay. Can you listen to the evidence in this case
- and the law the Judge gives you in his instructions and
- apply only the evidence to that law and reach a just and
- 24 truthful verdict regardless of the outcome?
- 25 A No problem with that.

1 Okay. No impartiality -- no partiality to either Q 2 side? 3 My job is looking at the evidence and figuring out Α information. 4 Okay. You have got a skill set with that? 5 0 6 Α Yes. 7 All right. Good. Okay. Thank you. Q 8 **EXAMINATION** By Mr. Huff: 9 Hey, Mr. Mormino. 10 Q 11 Α Hey. 12 You -- there's somebody close to you -- well, Q somebody close to you has had hypertension in pregnancy? 13 Actually my wife had hypotension. 14 Hypotension? 15 Q 16 She's always had low blood pressure. complications or anything of that affect. Just one of those 17 One of those duly noted. 18 things. Gotcha. They watched it? 19 Exactly. Everything went off fine without 20 Right. Α 21 out a problem. 22 And I think you may have raised your hand Q sometimes doctors don't pay enough attention to their 23 24 patients. Tell me about that.

My biggest concern is I have dealt with issues

25

Α

- 1 with my personal doctor having been told in a matter of ten
- 2 minutes, hey, guess what? We are going to do surgery on
- 3 your right hand. We are going to set you up for that in a
- 4 couple of weeks, and me actually physically having to lock
- 5 the door and say we are going to talk about whether this
- 6 surgery needs to happen or if there are other alternative
- 7 routes. It turned out Ibuprofen worked for a month didn't
- 8 have to have surgery. It's more about the rush. The rush
- 9 to see as many patients as possible.
- 10 Q I think several other jurors expressed that's same
- 11 concern. That is -- experience that you have had wouldn't
- 12 affect your ability to listen to the evidence in this case
- or deciding any of these issues?
- 14 A My big concern is kind of -- the bigger problem
- within healthcare that makes that bigger than the doctors
- 16 themselves.
- 17 Q All right. Thank you. Mr. Mormino.
- 18 The Court: Andrea Smith.
- 19 Prospective Juror: Correct.
- 20 EXAMINATION
- 21 By Mr. Stone:
- 22 Q Ms. Smith, you have a four year graduate degree.
- 23 What field?
- 24 A Education.
- O Okay. From what school?

- 1 A What school?
- 3 A I worked at mostly private schools in Atlanta.
- 4 Q Oh, okay. My fault. I asked a bad question. I
- 5 was asking what school did you get your degree from.
- 6 A Okay. University of Cincinnati and Georgia State
- 7 University.
- 8 Q Okay. And you are self employed?
- 9 A Am I self employed?
- 10 Q There is confusion in the form we are provided
- 11 about you.
- 12 A My husband is self employed.
- 13 Q Okay. The real part of the confusion here it says
- 14 that you are single but you have a husband. It's got me a
- 15 little puzzled right there.
- 16 A That actually works. I have been married 44
- 17 years.
- 18 Q Okay. And your husband is self employed?
- 19 A Yes, he is.
- 20 Q Doing what?
- 21 A He's a financial analyst.
- Q Okay. And without getting into it, we have all
- been advised of the note that you provided to the Court so
- we already understand all that. Okay?
- 25 A Yes.

```
Hope everybody works all right for that.
 1
           Q
                The Court: Yes. Okay.
 2
 3
                Mr. Stone: Thank you.
 4
                Mr. Huff:
                           No questions, Ms. Smith. Thank you.
                The Court: Very well. All right. Let's move to
 5
           Laurie Wolfert. Thank you.
 6
 7
                               EXAMINATION
8
      By Mr. Stone:
                Ms. Wolfert, you are employed at Starbucks.
9
           0
10
           Α
                Yes.
                Is that correct? What do you do at Starbucks?
11
           0
                Oh, I take money and I make sandwiches. They
12
           Α
      won't let me behind the bar so you don't have to worry.
13
                I thought you were going to tell me you made
14
           0
      coffee.
15
16
                     Well, I can do that.
           Α
                No.
                All right. Do you have children?
17
           0
18
                I do. I have two grown sons. One is 40. One is
           Α
19
      27.
20
                Okay. Have you had a bad experience with a
           Q
21
      doctor?
22
                It was a bad experience because my first born, my
      40 year old, was born three weeks past due date.
23
24
                Okay.
           Q
```

He was 10 pounds 11 and a half ounces.

MELISSA BROCK, RPR

265

25

Α

- delivered vaginally but he got to the shoulders and that was
- 2 far as they could get him. They forced him out and he was
- 3 born blue, put in intensive care and into a ambulance and
- 4 brought down to Egleston and I didn't see him until he was
- 5 probably four days old. So it wasn't so much the doctor, it
- 6 was the whole experience.
- 7 Q Okay. And do you feel you should have been
- 8 induced and delivered earlier?
- 9 A Yes. I think looking back on it now, at the time
- 10 it was trouble but looking back on it, I don't think I
- should have been allowed to go that far in the pregnancy to
- 12 begin with. I guess back in the olden days they didn't
- monitor as closely. It was in a small town.
- 14 0 Sure.
- 15 A But it was fortunate that the doctor that was on
- 16 call that day was a cardiac specialist and she recognized
- 17 the problem and they took care of him.
- 18 Q Is he okay today?
- 19 A He was in hospital for a month. Came home the day
- 20 before Christmas and then he had corrective surgery when he
- 21 was four.
- 22 o okay.
- A He wasn't supposed to live and he's 40 and a
- 24 paramedic today.
- Q Okay. Well that's great. That's a great story.

- 1 Does he have any deficits from this experience?
- 2 A He's got ADHD. We are not sure, you know, if that
- 3 has to do with the difficult delivery.
- 4 Q Okay. All right. But all in all, he's getting
- along pretty well for the bad experience that you had?
- 6 A Yeah. Because these children typically didn't
- 7 live.
- 8 Q That's a blessing okay. With that experience in
- 9 mind, can you be fair in this case --
- 10 A Yes.
- 11 Q -- and consider the evidence and the law the Judge
- 12 charges and reach a verdict based solely on that --
- 13 A Yes, sir.
- 14 Q -- without any partiality to either side or
- 15 against either side.
- Mr. Stone: Thank you very much.
- 17 EXAMINATION
- 18 By Mr. Huff:
- 19 Q Hey, Ms. Wolfert. Can you hear me okay?
- 20 A Yes.
- Q Okay. You or somebody close to you has some
- 22 medical training. Is that your --
- 23 A That's my son and my daughter-in-law are both
- 24 paramedics.
- 25 Q They are both paramedics. Okay. Great.

- 1 You have been on a jury before?
- 2 A A civil case that got settled before we went in.
- 3 Q Okay. Any other bad experiences other than the
- 4 situation with your son?
- 5 A No, sir.
- 6 Q How about somebody close to you who has had high
- 7 blood pressure during pregnancy?
- 8 A That was me during my pregnancy.
- 9 Q You had high blood pressure in your pregnancy.
- 10 Okay. First one or both?
- 11 A The first one.
- 12 Q Did it continue after you delivered? Did you take
- any medication for it?
- 14 A NO.
- 15 Q Do you know how high your blood pressure got?
- 16 A I don't. He was monitoring it and I was on bed
- 17 rest for a few days. Okay. All right. Thank you,
- 18 Ms. Wolfert.
- The Court: Tiffany Burns.
- 20 Prospective Juror: Yes.
- 21 EXAMINATION
- 22 By Mr. Stone:
- Q Ms. Burns, you have a four year undergraduate
- 24 degree?
- 25 A Yes.

- 1 Q Where did you get that from?
- 2 A Southern A & M University.
- 3 Q In what field?
- 4 A English.
- 5 Q English?
- 6 A Yes.
- 7 Q Okay. And I understand you are currently employed
- 8 by Morehouse School of Medicine; is that correct?
- 9 A Yes.
- 10 Q What do you do there?
- 11 A Residency Program Manager.
- 12 Q Residency Program Manager?
- A Um hmm.
- 14 Q And I am supposing it is the mission at Morehouse
- 15 School of Medicine to teach its graduate doctors to practice
- 16 medicine according to the standard of care for doctors?
- 17 A Yes.
- 18 Q Provided by law?
- 19 A Yes.
- 20 Q Right. You hope and expect that they will all do
- 21 that?
- 22 A Yes, sir.
- Q Okay. Do you have any problems since you work for
- 24 a medical school passing judgment on a doctor who is alleged
- with having not done that and caused injury?

1 Α No. 2 Do you have any children? Q 3 Yes. 4 How many? Q 5 One. Α 6 Q And how old is he or she? 7 She's two. Α Two. Okav. How are the terrible twos? 8 Q Two with 'tude. 9 Α 10 All right. Can you be completely fair and Q 11 impartial in deciding this case? 12 Α Yes. We have talked a lot about sympathy and that kind 13 0 14 of thing. Can you distinguish between sympathy and empathy? I believe so, yes. 15 16 Of course. And you understand that we are not Q 17 interested in asking for sympathy in this case but what we are asking for a jury to do is do justice under the evidence 18 19 and the law, whatever that turns out to be; right? Yes, sir. 20 Α 21 Could you do that? Q 22 Yes. Α 23 Okay. Thank you so much. Q 24 **EXAMINATION** By Mr. Huff: 25

- 1 Q Hey, Ms. Burns.
- 2 A Hey. Good morning.
- 3 Q Do you -- you or somebody close to you has medical
- 4 training or experience. Is that you?
- 5 A Yeah. I was just -- I have worked at the medical
- 6 school for almost 20 years.
- 7 Q Have you had the same position the whole time?
- 8 A No, I have been in two departments and then I was
- 9 promoted in my current position.
- 10 Q How long have you been in your current position?
- 11 A 17 years almost.
- 12 Q All right. Great. You have been on a jury
- 13 before?
- 14 A I have.
- 15 Q What kind of case was it?
- 16 A It was criminal and I was the -- I was the back
- 17 up. I was -- so I didn't get to deliberate.
- 18 Q The extra, alternate?
- 19 A Yes. I got to sit for the whole thing.
- 20 Q They told you thanks but no thanks.
- 21 A Yes.
- 22 You or somebody close to you had a bad experience
- 23 with healthcare?
- 24 A Yeah. I have had a few surgeries and they've
- 25 always had complications. In high school there was actually

- a hematoma under my tongue and they didn't know so they sent
- 2 me home and then basically forced me -- my mom forced me to
- 3 take medication. I choked and had to call 911. I couldn't
- 4 figure out if that would be cardiac arrest. I don't know if
- 5 I went into it. I just know I couldn't breathe and the
- 6 paramedics had to be called.
- 7 Q Okay.
- 8 A And then for the -- which also falls into the
- 9 lawsuit case but I had a back injury and so I was treated by
- 10 a physical therapist who then I had a case against for
- 11 sexual harassment and I won.
- 12 Q Okay. Was there a lawsuit related to the
- 13 hematoma?
- 14 A My mom didn't do it, no. I wish she would.
- 15 Q How about Northside Hospital? Have any of your
- 16 bad experiences been with you or somebody close to you at
- 17 Northside Hospital?
- 18 A Yes. One of my best friends had an emergency
- 19 C-section there and her baby was cut on his forehead during
- 20 the C-section.
- 21 Q Did they pursue anything lawsuit wise?
- 22 A I know they received counsel but they didn't move
- 23 forward.
- Q Would that be the person close to you that had a
- 25 bad experience with an O.B. --

- 1 A Yes.
- 3 A Yes.
- 4 Q And, again, to follow up on what Mr. Stone was
- 5 asking, I know you raised your hand yesterday about
- 6 sympathy. He wanted people to raise your hand about that.
- 7 Do you feel like you would be able to put the sympathy aside
- 8 and decide this case based on the evidence and the law?
- 9 A I hope so. I mean I'm a very empathetic person,
- 10 you know, I just -- I'm a feeler so -- and I'm a sensitive
- 11 person, probably overly sensitive, so, you know, I jut know
- 12 that about me. That's who I am but I believe so.
- 13 0 Yeah.
- A But I did want to say, too, that I am the primary
- 15 caregiver and the solo care for my two year old. So that's
- the only other thing on that.
- 17 Q Well, let me ask you about that. Thank you for
- 18 bringing that up. So your two year old, you are the primary
- 19 caretaker?
- A Um hmm.
- 21 Q Okay. Is she in daycare at all right now?
- 22 A Yeah, she's in daycare.
- Q When does daycare end during the day?
- 24 A They have a 10-hour limit. So yesterday I had to
- 25 speak with the Judge because I had been here early and so I

- 1 knew I had to get there before they had charged me or I
- don't even know what happens. I have never done that.
- 3 Q Right. Okay. There's not anybody else who can
- 4 take care --
- 5 A My family in Oregon so, no.
- 6 Q Okay. And so a daycare -- and these are just
- 7 details that may be important for all of us -- it's a
- 8 10-hour limit so if you drop her after at 8:00 a.m.
- 9 A I need to get her by 6.
- 10 Q You need to get her by 6. Okay. All right.
- 11 Thank you.
- Ms. Burns, anything else about your daughter and
- daycare we need to know about?
- 14 A NO.
- Mr. Huff: Thank you.
- 16 The Court: All right. Let's move to Martin
- 17 Johnson.
- 18 Prospective Juror: Correct.
- 19 EXAMINATION
- 20 By Mr. Stone:
- Q Good morning, Mr. Johnson.
- A How you doing?
- 23 Q Tell me about your four year undergrad degree.
- 24 Where did you get it?
- 25 A Colgate University. Political Science, History

- 1 minor.
- Q And you now work for IBX?
- 3 A Yes.
- 4 Q What does IBX do?
- 5 A We are a specialty division of an insurance
- 6 brokerage agency.
- 7 Q Okay.
- 8 A I'm a National Sales Director licensed in all 50
- 9 states.
- 11 A Division of the life insurances Alliant.
- 12 O Alliant.
- A Alliant with a "T" and we work in the health and
- 14 life arena and we provide outsourcing and experience
- 15 regarding RFPs.
- 16 Q Okay. So you have some experience about what
- amount of life insurance people normally carry, that kind of
- 18 thing?
- 19 A I have extensive history with sales and marketing
- and management within life and disability and understanding
- the actuarial concepts.
- 22 o okay.
- A And discussion points.
- 24 Q You understand life. You understand disability,
- you understand health, and I assume that means you have some

1 good feel for what medical and other healthcare costs these 2 days? 3 Α Correct. Okay. All right. With that understanding, would 4 you be able to be a fair and impartial juror in this case? 5 6 Yes, sir. 7 Don't have any leanings one way or the other about how it should come out; right? 8 I think any preconceive notion and knowledge is 9 10 something that we all come here with and you know but I 11 think I can be impartial. Okay. Well, let me ask you this: Can you listen 12 0 13 and take the evidence that comes in this courtroom --14 Α Sure. -- and apply the law that the Judge tells you 15 16 apply to this case --17 Absolutely. Α And reach a fair and justice verdict regardless of 18 Q 19 the outcome? Yes, sir. 20 Α 21 **EXAMINATION** By Mr. Huff: 22 23 Hey, Mr. Johnson. Q 24 How you doing? Α 25 Good. You or somebody close to you has had a bad Q

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- 1 experience with a doctor at some point in time?
- 2 A Yes, sir.
- 3 O Tell me about that.
- 4 A Mother was 51. Went through a minor heart attack;
- 5 rushed to have an angioplasty; had a massive heart attack on
- 6 the table; was in intensive care and died a week later.
- 7 Q How long ago was that?
- 8 A It was 24 years ago.
- 9 Q Would -- did you or any member of your family feel
- 10 like that was because the doctor did something wrong or
- didn't do what they should have been doing or --
- 12 A Yes. And later to find out that there were issues
- 13 with that surgeon.
- 14 Q Okay. Any lawsuits contemplated or pursued?
- 15 A Nothing that ever was pursued.
- 16 Q Would that impact at all you listening to the
- 17 evidence in this case, deciding any issues in this case?
- 18 A I don't think it would impact, no.
- 19 Q How about somebody close to you had high blood
- 20 pressure during pregnancy?
- A My sister and my mother also had previous high
- 22 blood pressure.
- 23 Q All right. Anything -- do you know with respect
- to your sister, did she have to be on medication for it?
- 25 Did she have any complication?

- 1 A No complications. It was her third pregnancy.
- 2 Q How about somebody close to you who's disabled?
- 3 A I went through cancer treatment and was treated
- 4 with chemotherapy and radiation and by definition was on
- 5 partial disability, so I have a little bit of knowledge of
- 6 experiences of going through the healthcare system, going
- 7 through second opinions and receiving both pay and benefits,
- 8 et cetera.
- 9 Q Gotcha. And you are doing tell now?
- 10 A I'm a 24-year cancer survivor.
- 11 Q Congratulations.
- 12 A Thank you.
- The Court: Let's move to John Emens.
- 14 EXAMINATION
- 15 By Mr. Stone:
- 16 Q Mr. Emens, where does your four year undergraduate
- 17 come from?
- 18 A Western Maryland College, History.
- 19 Q And when did you graduate?
- 20 A 1966.
- 21 Q Okay. Your jury questionnaire does not tell us
- who your employer is. Are you employed or retired?
- 23 A I'm retired, sir.
- Q Okay.
- 25 A Former banker.

- 1 Q Okay. What were your job duties as a banker?
- 2 A I ran the commercial portion of a \$20 billion
- 3 bank. Had 300 people that were primarily loan officers and
- 4 they sold banking services.
- 5 Q Okay. Your wife's name is Nancy?
- 6 A Correct.
- 7 Q I understand from the questionnaire that she is
- 8 also retired?
- 9 A Yes. She's a retired occupational therapist.
- 10 Q I have you down as one of the jurors who raised
- 11 the paddle indicating that you would not be able to award a
- verdict of at least \$50 million in any case under any
- circumstances regardless of what the evidence shows;
- 14 correct?
- 15 A Correct.
- 16 Q Can you share with us why you feel that way?
- 17 A I think awards that are made in the court system
- 18 are outrageous.
- 19 Q And you just disagree with that system all
- 20 together; is that correct?
- 21 A I don't disagree with the system. I disagree with
- the outcome.
- 23 Q And do you think there should be some caps or
- limits on how much a person can recover when they have been
- 25 injured?

- 1 A No.
- 2 Q Do you think the amount of any recovery ought to
- 3 be measured by the evidence in the case?
- 4 A Yes.
- Okay. And in that regard, do you mean that there
- 6 should be some way to take a calculator tape and run the
- 7 damages when the damages are intangible?
- 8 A Would you repeat that, please? I'm hard of
- 9 hearing.
- 10 Q Okay. Sure. What I'm getting at is, you know,
- 11 there's different kinds of injuries that people can receive.
- 12 And one of them is medical expenses and other expenses it
- going to take to care for. Do you understand that?
- 14 A I do.
- 15 Q Then there's loss income, loss earning capacity.
- 16 You understand those things?
- 17 A I do.
- 18 Q Those are things that can be either measured by
- 19 present losses or predicted by an accountant or an economist
- or something in like that. Do you understand that?
- 21 A I do.
- 22 Q Because in your business, you have dealt with pro
- former projections for what some commercial entity thinks
- they are going to be able to do when your bank was making
- 25 loans; right?

- 1 A That's right. Many times they never achieved it.
- 2 Q Sure. I understand that but I mean, you still --
- 3 A I understand the concept.
- 4 Q You wanted something like that to look at before
- 5 you make the loan because that's part of your due diligence;
- 6 right?
- 7 A That's correct.
- 8 Q And sometimes it works and sometimes it doesn't
- 9 work?
- 10 A Correct.
- 11 Q And sometimes you can tell from pro former
- information that has been given to you that it's not going
- 13 to work; right?
- 14 A I agree.
- 15 Q Okay.
- A And sometimes you think it probably will work and
- 17 things just don't work out right.
- 18 Q Correct. Is that right? And sometimes it works
- 19 real well; right?
- 20 A Yes, sir.
- 21 Q That's the spectrum of where we go with all of
- 22 that?
- 23 A That's right.
- Q But there are other injuries that people can
- 25 suffer like physical and mental pain and suffering

- disability, loss of enjoinment of life that we can't put a
- 2 number on. Do you have a problem --
- 3 A Right. I understand the concept of pain and
- 4 suffering.
- 5 Q Okay. Do you have a problem with making awards
- 6 for pain and suffering?
- 7 A No.
- 8 Q Okay. Do you think there ought to be some limit
- 9 imposed on what one can recover for intangible losses like
- 10 pain and suffering?
- 11 A No.
- 12 Q So when you say you think the awards are
- outrageous, what do you mean by that?
- 14 A It's a subjective view that I have. I don't
- believe that awards need to be as high as I have seen them
- in the past.
- 17 Q Okay.
- 18 A That were in the press.
- 19 Q Okay. And do you know whether or not those
- awards, in fact, were true? That they actually have been
- 21 made?
- 22 A I didn't study the results, sir.
- Q Okay. But you are telling me now that no matter
- 24 what evidence we put on in this case or any other case that
- 25 might be tried here, you just couldn't award \$50 million

1 under any circumstances no matter what; is that right?

A I understand when I asked the question for you to quantify the word large award and you used 50, I understood it to be a arbitrary number. And so my comments relate to the large number. You can put a number on it, I will put a number on it. I have issues with large awards but if they are mitigated by whatever empirical data that is provided that is the basis of the award, I can make that judgment myself.

- Q Okay. So you can look at the evidence that's presented and see just how badly you feel a person has been injured or hurt or damaged and from that evidence come up with an award you think is fair?
- 14 A I believe I could.
- Q Okay. And if you thought that 50 million or more was fair, you could award that; is that true?
- 17 A Yes.

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- 18 Q Is that what you are telling me? Okay.
- My sticking point with it is I thought you were
 saying that you couldn't award that much money under the
 evidence in any case, under any circumstances regardless of
 what it was. You just had a block about that but that's not
 so.
- 24 A The way I responded to your question obviously was 25 misleading.

Well, I don't think it was misleading. I think I 1 2 must have misunderstood you, okay. I wouldn't say it was misleading but I did want to ferret that out because it is 3 4 important. Because we expect to put on serious evidence, so some extensive damages in this case, and I am not happy 5 6 without, you know, jurors that have a bar right there that 7 you just can't cross, I don't care what contained of evidence you put up. You understand? 8 I understand. 9 10 Okay. It's my job to try to select a jury that 11 doesn't have that kind of problem. As I understand and what 12 you have told us now, you don't really have problem. You iust have to wait and see what the evidence shows? 13 14 Correct. Okay. Thank you, sir that's fair. 15 Q 16 **EXAMINATION** By Mr. Huff: 17 18 Hey, Mr. Emens. You mentioned your wife was an Q occupational therapist? 19 Retired. 20 Α 21 Do you have any other folks with medical training Q 22 or experience in your family? 23 Α No. How about legal training or experience? 24 Q I have a son-in-law who is a former U.S. Assistant 25 Α

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- 1 District Attorney and he's currently a litigator with Alston
- 2 & Bird.
- 3 Q All right. Thank you.
- 4 Prospective Juror: Could I also mention, your
- 5 Honor, I mentioned I'm hearing impaired and I was told
- 6 after yesterday that anyone over 70 can be excused from
- 7 jury duty. I'm 72. I didn't realize that yesterday
- 8 while I sat here. I'd like to go on record.
- 9 The Court: We will make note.
- 10 Prospective Juror: Thank you.
- 11 The Court: All right. Let's go to Warren Fraser.
- 12 Prospective Juror: Yes.
- 13 EXAMINATION
- 14 By Mr. Stone:
- 15 Q Mr. Fraser, I understand that you are self
- 16 employed. Is that correct?
- 17 A Yes.
- 18 Q What do you do?
- 19 A I was a general contractor. I'm not now.
- Q What to do now?
- 21 A Just tend my garden.
- 22 Q So are you telling me that right now you don't
- 23 really have a job?
- 24 A I don't need a job.
- Q Oh, good.

- 1 A That's even better.
- Q I wish we could all say that.
- 3 So you are retired. Would that be a fair way of
- 4 putting it?
- 5 A That's a fair way to put it.
- 6 Q Okay. All right. When you were a general
- 7 contractor, what type of contracting did you do?
- 8 A Basically bought old houses and rented them and
- 9 live off the passive income.
- 10 Q Okay. If selected to serve as a juror on this
- 11 case, could you be completely impartial and fair and
- consider the evidence and only the evidence that comes in
- this courtroom and instructions about the law the Judge
- 14 gives you, apply that law to those facts and reach a just
- 15 verdict?
- 16 A Yes.
- 17 Q No problem with that. No partiality to either
- 18 side?
- 19 A I think I'm a little bit of a contentious
- 20 objective to it. The idea of \$50 million is a little
- 21 challenging for me.
- 22 Q Tell me why you feel that way.
- 23 A I spend a lot of times in orphanages and something
- 24 shifted inside of me.
- 25 Q You spend a lot of time with what?

- 1 A With the poor in orphanages in Mexico. I spent
- 2 three years.
- 3 Q Okay.
- 4 A Worked with a lot of poverty.
- 5 Q Okay. What I'm trying to get at is whether or not
- 6 you could award a damage award that's commensurate with the
- 7 injury done, okay. Regardless of how much that number comes
- 8 to. If the evidence supports it, could you award it or not?
- 9 A I would say no.
- 10 Q Okay.
- 11 Mr. Stone: Thank you.
- 12 EXAMINATION
- 13 By Mr. Huff:
- 14 Q Hey, Mr. Fraser. You had a bad experience here.
- 15 Somebody close has had a bad experience with healthcare?
- 16 A Yes.
- 17 O Tell me about it.
- 18 A My brother had throat cancer and they put a
- 19 feeding tube in and they cut an artery in the stomach and it
- took about five days before they realized it because he was
- 21 continuing to vomit blood every day and literally came right
- 22 to the point of death and they figured out what it was and
- 23 were able to correct it.
- Q Was that here in town?
- 25 A Yes.

- 1 O Okay. Any contemplation of a lawsuit --
- 2 A No.
- 3 Q -- or anything likes that?
- 4 Your brother felt like it was -- the doctor's
- 5 didn't do their job in taking care of him?
- 6 A I really can't speak for what he felt but that was
- 7 the facts.
- 8 Q Okay. You felt that way?
- 9 A I'm just answering the questions if there was any
- 10 problem with medical care.
- 11 Q Got it. Any other bad experience with healthcare
- with you or somebody close to you?
- 13 A I have had my life saved, so, no, not personally.
- Q On the issue of damages before we start this
- trial, not having heard any evidence in this case, do you
- have a number that you would award or wouldn't award or you
- are waiting to hear the evidence before you decide?
- 18 A I really don't know how to answer that. I have
- 19 seen internal stuff that I think -- and I don't know if it's
- 20 right to bring up but --
- Q Okay.
- 22 A -- I have challenges with lawsuits to begin with
- 23 so. I have not sued anybody. I'm 52 years old. I had
- opportunities to and I didn't.
- 25 Q That experience, would you hold that against the

- 1 Trabues in this case?
- 2 A Which experience?
- 3 Q You had an opportunity to sue somebody and you
- 4 chose not to do, would be something you would hold against
- 5 the Trabues in this case?
- 6 A Everybody is entitled to, you know, justice. So,
- 7 no, I wouldn't.
- 8 Q All right. Okay. Thank you, Mr. Fraser.
- 9 The Court: Christopher Potts.
- 10 Prospective Juror: Yes, sir.
- 11 EXAMINATION
- 12 By Mr. Stone:
- 13 Q Mr. Potts, I understand you are a chef at Kona
- 14 Grill. Is that correct?
- 15 A Yes, sir.
- 16 Q What type of food do you fix there?
- 17 A It's a Japanese steakhouse. We serve sushi, any
- 18 type of variety of Thai food or whatever. It's a wide
- 19 variety of really lots of food.
- 20 Q Where is that located?
- 21 A Alpharetta, Georgia.
- Q Okay. How long have you worked there?
- 23 A Going on a year and a half.
- 24 Q You like the job?
- 25 A Yes, sir, I do.

```
1
                You like going to work every day?
           Q
 2
                 I do.
           Α
                 Okay. Is there any reason why you couldn't be
 3
           Q
      fair and impartial in this case?
 4
                 No, sir, it's not.
 5
 6
           Q
                 And you could consider the evidence, listen to
 7
      what the Judge tells you the law is, apply that law to the
      evidence and come up with a just verdict you think?
8
 9
                 Yes, sir, I can.
10
           0
                 Thank you, sir.
11
                                EXAMINATION
      By Mr. Huff:
12
13
           Q
                Good morning, Mr. Potts.
                How you doing?
14
           Α
                 I'm good. Bad experience you or somebody close to
15
           Q
16
      you with healthcare?
                 Other than my mother getting in car accidents, no.
17
           Α
                Okay. You know somebody who had high blood
18
           Q
      pressure during their pregnancy?
19
                No. sir.
20
           Α
21
                Nobody. Okay.
           Q
22
                 How about consulted a lawyer about something,
      filing a lawsuit? Was that related to your mom and the car
23
24
      accident?
25
                       To my mother in the car accident, yes, sir.
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- 1 Q Okay. Has your healthcare been -- have you been
- 2 satisfied with it the times --
- 3 A My healthcare, yes.
- 5 interacted with doctors?
- 6 A I feel they can get more personal and more in
- 7 depth. You know like everybody said, they don't take as
- 8 much time. It's all about getting to the next patient.
- 9 That's what it's about.
- 10 Q That feeling and experience that you have had
- about doctors, is that something that you would hold against
- 12 Dr. Angus --
- 13 A Oh, no, sir.
- 14 Q -- or any other -- okay.
- 15 You are willing to listen to the evidence about
- this case and be fair like you have told us?
- 17 A Yes, sir.
- 18 Q All right. Thank you. Mr. Potts.
- 19 A No. problem.
- The Court: Andrew Watts.
- 21 Prospective Juror: Yes, sir.
- 22 EXAMINATION
- 23 By Mr. Stone:
- Q Mr. Watts, where does your four year undergraduate
- 25 degree come from?

- 1 A University of Alabama.
- Q Okay. What field is your study?
- 3 A Supply chain logistics.
- 4 Q You now work at AT&T?
- 5 A Yes, sit.
- 6 Q What do you do there?
- 7 A Project management in the Engineering Department.
- 8 Q Project management?
- 9 A In the Engineering Department.
- 10 Q What type of projects do you manage?
- 11 A Software upgrades.
- 12 Q Okay. You like your job there?
- 13 A Yeah. It's great.
- 14 Q Okay. You like going to work every day?
- 15 A Yes.
- 16 Q You also indicated that you would have a problem
- 17 with awarding a verdict of at least \$50 million regardless
- 18 of what the evidence showed.
- 19 A I think I understood the question yesterday. It
- 20 wasn't exactly clear.
- Q Okay. Sometime I ask bad questions.
- 22 A That's fine.
- Q I will be the first to admit that.
- 24 A It was just a long day.
- Q Okay. So is it fair to say that if the evidence

- supported a verdict of at least \$50 million, you would have
- 2 no problem with rendering it?
- 3 A Yes, sir.
- 4 Q Okay. Thank you, sir.
- 5 EXAMINATION
- 6 By Mr. Huff:
- 7 Q Mr. Watts, good morning.
- 8 A Good morning.
- 9 Q You have -- you or somebody close to you had some
- 10 medical training or experience?
- 11 A My grandmother was a nurse.
- 12 Q How about legal training or experience?
- 13 A My grandfather was a lawyer.
- 14 Q A lawyer and a nurse. Okay. How about a bad
- 15 experience you or somebody close to you has had with
- 16 healthcare?
- 17 A My grandfather has had complications when he was
- 18 hospital with some medication he was given and it caused him
- 19 to pass away. He hurt his hip.
- Q How long ago was that?
- 21 A I was 10, so it's been 15 years ago.
- Q Will that have any impact on listening to the
- evidence in this case or deciding this case?
- 24 A None whatsoever.
- Mr. Huff: Thank you, Mr. Watts.

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1
                 The Court: Mr. Colby Cleavenger.
 2
                 Prospective Juror: It's Cleavenger.
 3
                                EXAMINATION
 4
      By Mr. Stone:
                 Mr. Cleavenger, where did you get your
 5
 6
      undergraduate degree?
 7
                 URN University.
           Α
                Okay. And what field is your degree in?
 8
           Q
                 Business Management.
 9
           Α
10
                 And you work at Guggenheim?
           Q
11
                 Yep. Guggenheim Partners.
           Α
                 where does that firm do?
12
           Q
                Commercial real estate field.
13
           Α
                And you are married to Robyn Cleavener; correct?
14
           Q
                That's correct.
15
           Α
16
                And she works at PWC?
           Q
17
           Α
                Yes.
                What is that firm?
18
           Q
19
                 Price Waterhouse Cooper.
           Α
                Oh, oh, okay. All right. I didn't get that.
20
           Q
21
      She's an accountant?
22
                Yes, she's in the accounting field. She's does
      valuations for businesses.
23
24
                okay.
           Q
                 She determines how much your business is worth.
25
           Α
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- 1 Q So she has to work with accountants -- with the
- 2 economists and things like that sometimes?
- 3 A Correct.
- 4 Q Is that right?
- 5 A Yep.
- 6 Q And lots of times with commercial real estate
- 7 management you have to look at that kind of data, too, don't
- 8 you?
- 9 A Correct.
- 10 Q Whether you can put things together and make it
- 11 work lots of times depends on the economic viability of the
- 12 project; right?
- 13 A Correct.
- Q Okay. You have to look at the data that would
- 15 help you decide that?
- 16 A Correct. Very detailed oriented.
- 17 Q Kind of like what we expect the jury to do in this
- 18 case and everything is to look at the data that they are
- 19 providing in this case to determine what the damages are?
- 20 A Correct.
- 21 Q And that brings me to my question. You raised the
- 22 paddle and said that you would have problems returning a
- verdict of at least \$50 million in any case under any
- 24 circumstances regardless of the evidence.
- 25 A Yeah. It was more of a miscommunication -- I

1 mean --2 Okay. I asked a bad question. Q 3 Α Yes. It wasn't a clear question. So I'm sorry about 4 that? 5 6 I'm fine. No. 7 Is what you are telling me now is that after you Q have thought about it and everything, you would follow the 8 evidence and you could award whatever damage award the 9 evidence supported? 10 11 Α Um hmm. 12 If the damage award should be made; right? 0 13 Α Yep. 14 Okay. And could you be completely impartial 0 between the parties in this case and reach a verdict based 15 on nothing but the evidence and the law the Judge instructs 16 you to apply? 17 18 Α Yep. 19 Thank you, sir. Q 20 **EXAMINATION** 21 By Mr. Huff: 22 Hey, Mr. Cleavenger. Q 23 How are you doing? Α 24 I'm good. You have been on a jury before? Q 25 I have. Α

- 2 A It was civil.
- 3 Q Medical mal?
- 4 A Juvenile case. It was like I think it was 2004 or
- 5 '3.
- 6 Q Okay. Did you reach a verdict?
- 7 A Yes.
- 8 Q Okay. Somebody close to you has some medical
- 9 training?
- 10 A Yeah. Three uncles who in are the medical field
- 11 that are family practice --
- 12 0 Doctors?
- 13 A Yes.
- 14 Q How about high blood? You or somebody close to
- 15 you has had high blood.
- 16 A Yeah. It runs in my family.
- 17 Q Do you have it?
- 18 A Slight. I don't take medication or anything.
- 19 Just diet.
- 21 pregnancy? Anybody close to you has had high blood pressure
- in pregnancy?
- 23 A Yes. My sister when she had her son.
- Q Any issues, complications with it?
- A Nothing that couldn't be managed.

1 Q Okay. Very good. Thank you very much. The Court: Andrew Cantor. 2 Prospective Juror: Yes, sir. 3 4 **EXAMINATION** 5 By Mr. Stone: 6 Q Good morning. Mr. Cantor, you have a graduate 7 degree from where? 8 Α Emory. Emory. Okay. And what field? 9 Q Business Administration. 10 Α Any special emphasis in that field? 11 Q 12 No general. Α General Business Administration. What was your 13 0 undergraduate degree? 14 It was just Commerce and East Asia Studies at 15 16 Washington University. Okay. I don't have down here on your jury 17 0 questionnaire your occupation or employer. What is that? 18 19 I'm a self employed real estate broker. My license is at Marcus and Millichap. 20 21 Q Okay. How long have you been doing that? 22 I have been with Marcus and Millichap since January of 2015. 23 24 Q Prior to that, where were you? 25 Self employed as a commercial mortgage broker

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- specializing in recreational properties.
- Q Okay. And you are married to Jennifer?
- 3 A Yes, sir.
- 4 Q Okay. And does she have a job outside the home?
- 5 A Yeah. She's a commercial -- she's a commercial
- 6 insurance broker.
- 7 Q Okay.
- 8 A For high-risk product liability and fabric.
- 9 Q Okay. Any reason why you couldn't be completely
- 10 fair and impartial in this case?
- 11 A Well, I have some history of medical issues in my
- family as well as myself that I would say -- you remember
- 13 that saying trust but verify?
- 14 0 Sure.
- A So that's kind of my feeling relative to medical
- 16 professionals.
- 17 Q Okay.
- 18 A I'm fortunate that I have a doctor, my cousin's
- 19 wife, who I can run things by occasionally.
- 20 Q Okay. Well, it's -- a healthy degree of
- skepticism, that's usually a good thing, don't you think?
- 22 A Yes.
- 23 Q That way you know whoever you are dealing with is
- 24 being straight up with you; right?
- 25 A Um hmm.

- 1 Q Now you also held your paddle up to indicate that
- 2 you would never be able to award a verdict of at least \$50
- 3 million under any case, under any circumstances regardless
- 4 of what the evidence showed?
- 5 A I would -- I think I feel a little bit better
- 6 about that now big able to -- that doesn't bother me as
- 7 much. I would comment, though, that I don't think that --
- 8 you know, I'm not implying this at all to your client, but I
- 9 don't think that windfall should ever occur. People should
- 10 be made whole and plus be paid for pain and suffering but
- 11 they should never walk away as if it's a lottery.
- 12 Q Fair enough. I mean you think the compensation
- should be reasonable to both sides?
- 14 A Yes.
- Q But it should be commensurate with the injury
- 16 that's been done. Is that fair?
- 17 A Yes. And I do agree that some injuries are not
- 18 easily measured.
- 19 Q Right.
- 20 A So I would agree with that.
- 21 Q Do you agree with the concept that a person who
- 22 wrongfully causes the injury ought to bear the risk of how
- 23 much damage they have caused?
- 24 A Yes.
- Q Okay. Fair enough. And what you are telling me,

- 1 if I understand you right now, and I correct me if I'm wrong
- 2 is that you feel like having thought about it that you can
- 3 listen to the evidence in this case and you can return a
- 4 verdict for damages, if it's authorized based on what the
- 5 evidence shows and not any preconceived notion that you have
- 6 got that "X" is just too much?
- 7 A Correct.
- 8 Q Okay. Thank you, sir.
- 9 EXAMINATION
- 10 By Mr. Huff:
- 11 Q Hey, Mr. Cantor.
- 12 A Hi, good morning.
- 13 Q Good morning. You talked a little bit about your
- 14 philosophy of trust but verify.
- 15 A Yes.
- 16 Q Is that from some experiences that you've had that
- 17 have been negative with healthcare?
- 18 A Yeah. I -- so a couple of things. I have a uncle
- 19 who is my mother's twin that passed of liver cancer and the
- 20 doctor had told him don't worry about it. You don't need to
- 21 follow up on it or anything like that and he, you know, he
- 22 passed away because of it.
- 23 And I coincidentally just recently about eight
- 24 months ago they found two sort of spots on my liver and so
- 25 we had to get a scan, then we had the follow up scan and the

- doctor doesn't, you know, there never did a direct care. So
- 2 we get two reports that show two different sizes of growth
- and I was very much bothered by it -- and this isn't the
- 4 first time I've experienced this but I was sort of somewhat
- 5 dismissed in that regard.
- 6 And so I called my cousin -- it's a first
- 7 cousin -- who's a interventional radiologist. I said, Mark,
- 8 what do we need to do here? And he said, well, what we need
- 9 to do is get this report and dispatch to over a radiologist
- and plus I could send them to him as well to line these
- 11 things up together to get a direct comparison. I don't
- 12 understand why things like that aren't taken care of. It
- 13 bothers me.
- 14 There was -- there have been other incidents as
- 15 well that I just don't -- that I don't really -- things seem
- to be rushed and things seem to be missed. So I have a
- 17 little bill of a issue with how some approaches are taken
- and I think a lot of people share the same thing about time
- 19 and that sort of thing.
- 20 Q So starting this case, I mean do you feel -- have
- 21 you -- do you feel like those experiences would influence
- 22 how you listen to the evidence in this case?
- 23 A Yeah. I will be candid with you. Probably, yeah,
- 24 I think so.
- Q Do you feel like you would be able to put aside

- those negative experiences, if selected as juror but listen
- 2 to the evidence in this case or do you feel like those would
- 3 come back in and be swirling in your head?
- 4 A They can come back in and I'm dealing with a lot
- of other things that I think I tried to mention yesterday
- 6 that are personal that could impact me.
- 7 Q Well, here is -- I want you to take it all
- 8 together. These experiences you have talked about, what you
- 9 shared with us yesterday personally going on with you --
- 10 A Okay.
- 11 Q -- do you believe under all those things together
- you could be fair to the parties in this case in deciding
- 13 this case?
- 14 A I would hope so but I don't know. I would add one
- other thing. I didn't realize this but my wife, we have two
- children, a five year old and a two year old and my wife
- 17 gave birth to both of them at Northside and actually it's
- 18 kind of interesting. I don't know if it was high or low
- 19 blood pressure my wife had but they gave her something and I
- 20 was kind of like -- we were with my in-laws and I kind of
- 21 said, you know, we ought to -- she said go get lunch. I
- said, no, somebody ought to stay here with you. And sure
- 23 enough something happened there. I think it was hypoxia,
- the low blood pressure. We went and hit the call button.
- Nobody came. My mother-in-law actually ran out and grabbed

- 1 somebody and fortunately they got somebody there in time.
- 2 So I'm not exactly the best person for all this medical type
- 3 stuff.
- 4 Q Well, it sounds like you have had a lot of good
- 5 things that have happened that maybe don't make you the best
- 6 person for this case which involves Northside Hospital --
- 7 A Correct.
- 8 Q -- and medical mal -- allegations of medical
- 9 malpractice and that's what the issues are in the case as
- 10 well as what's going on with you personally that you
- 11 mentioned yesterday. Is that fair?
- 12 A That would be fair.
- Q Okay. So you can't assure me that, don't worry
- 14 about it. I will keep all of this stuff away. You don't
- have to worry about it. You can't make that assurance?
- 16 A No.
- 17 Q All right. Thank you. Mr. Cantor.
- The Court: All right. The last person on my list
- 19 for today is it Therese --
- 20 Prospective Juror: It's Therese.
- The Court: And pronounce the last name.
- 22 Prospective Juror: Lepionka.
- The Court: All right. Mr. Stone.
- 24 EXAMINATION
- 25 By Mr. Stone:

- Q Ms. Lepionka, tell me about your graduate degree and where it came from.
- 3 A I have -- I graduated from Penn State University.
- 4 I have a degree in insurance. It's a professional
- destination, a CPC, which is the highest professional
- 6 destination in the insurance industry.
- 7 I've worked as a property casualty underwriter in
- 8 Pittsburgh, Pennsylvania, before it became a large insurance
- 9 broker firm.
- I quit working about 20 years ago to raise my
- 11 children. I have two daughters. One is 30. She's a
- 12 biostatistician. She is pregnant with her first child.
- 13 She's a type one diabetic. My second daughter is 26 years
- 14 old. She a forensic accountant with Ernest & Young in
- 15 Charlotte, North Carolina.
- I have done voluntary work since my retirement and
- 17 I have also long-term substitute positions in Fulton County
- 18 at Northwestern Middle School.
- 19 I currently voluntary at the library on Ponce.
- I work part-time at Highland Hardware because my
- 21 husband who was the chief auditor the at HEL recently
- retired at the end of July. He does some consulting work
- and he turns as a hobby.
- 24 So what else do you need to know?
- One of my brother and sister is a geriatric nurse.

- 1 Q I wish it was that easy with everybody?
- 2 A I have sat here for 49 people.
- 3 Q I don't have really but one serious questions I
- 4 want to ask you. You have probably guessed what that is.
- 5 You raise your paddle and said you would never be able to
- 6 award a verdict of at least \$50 dollar in any case under any
- 7 circumstances regardless of what the evidence is.
- 8 A Okay. I found the question to be very opaque. I
- 9 am always going to look at the facts and the numbers. Even
- 10 when I was an account executive, my clients' money I treated
- 11 like it was my own.
- 12 Q Okay.
- A My daughter one day when she was studying for the
- 14 SAT came down and said I have a adjective to describe you.
- I said what is it? She goes parsimonious. I said what does
- 16 that mean? She said basically frugal or cheap. Okay. I
- 17 have 13 brothers and sisters. You don't raise that many
- 18 children not know how to stretch a dollar.
- 19 Q I understand.
- A And my mom didn't work. My father was the sole
- 21 provider and we all worked as soon as we were 16. We paid
- for our own college education so, yes, I am frugal.
- 23 Q I can understand. What I'm going to try to be
- 24 interested in right now --
- 25 A I'm going to look at the numbers. If I feel that

- 1 they, you know, if an award is justified, I'm going to look
- 2 at the numbers. You know, I know how much long term
- 3 healthcare will cost like on today's dollars. I know that
- 4 if you put that in the hands of a good financial advisor,
- 5 they can manage that money and dispense it as necessary.
- 6 But you have to take everything into account. I don't know
- 7 that yet because I don't know the circumstances.
- 8 Q Okay. You do understand, though, that some of the
- 9 damages in a case like this are not capable of being put
- into a calculator?
- 11 A Yes. Are you talking to punitive damages?
- 12 Q No. I'm not talking punitive damages. There are
- no punitive damages being sought in this case?
- 14 A Okay.
- 15 Q It's just strictly compensatory damages and that's
- damages for medical expenses past, present and future.
- 17 Damages for loss income in the past and loss future earning
- 18 capacity. And then there's a item called general damages
- which encompasses everything about an injury that you can't
- 20 prove by objective economic evidence. And the standard I
- 21 think the Judge is going to give the jury to use is the
- 22 enlightened conscious of fair and impartial jurors trying to
- do justice in a case. And do you have a problem with
- awarding damages based on that standard?
- 25 A No, I don't have a problem.

- 1 Q Okay. And damages are supposed to be awarded
- 2 basically commensurate with the injuries done?
- 3 A Yeah.
- 4 Q Can you do that?
- 5 A Yes.
- 6 Q Okay. One thing I want to inquire about is you
- 7 spent a good bit of time with your insurance background with
- 8 a property and casualty insurer in the Underwriting
- 9 Department so you surely are familiar with damage claims and
- 10 things like that, aren't you?
- 11 A Yes. I didn't work for claims but yes.
- 12 Q Well, I know that but in underwriting insurance
- for somebody you have to take into account what kind of
- 14 claims they might be exposed to; right?
- 15 A Correct.
- 16 Q Okay. And I wonder if that might have some impact
- on your ability to fairly judge general damages since there
- is no calculator tape there to help?
- 19 A I don't think sympathy will be a problem.
- 20 Q Okay. All right. I'm just asking because I need
- 21 to know. Sounds you like have a very interesting and
- fruitful career. All right. Thank you, ma'am.
- Mr. Huff: No questions, Ms. Lepionka.
- The Court: All right. With that, Ladies and
- Gentlemen of the jury panel, let's take a break,

morning break for 15 minutes and return to your seats
in 15 minutes. Let me have the lawyers approach,

please.

The Deputy: James Smith approach.

(Whereupon, a discussion was had between the Court and Counsel at the bench.)

The Court: All right. Ladies and gentlemen, we have completed the questioning and answering portion of the jury selection process and we are now in the process where we are about to select the jury. So if you would, please remain quietly in your seats as the jury is selected.

(Whereupon, silent jury striking began.)

Ladies and gentlemen, when your name is called, please come and take a seat in the jury box. Betty Noel, Ms. Schuon, Deborah Malik, Keith Coachman. Come on down Anastasia Richardson, Allegra Jackson, Willie Mae Smith, Harold Turner, Lauren Yawn, George T. Sonime, Sonia Kahn, Rebecca Settles, James Mormino, Martin Johnson.

First you, Mr. Stone, is this your jury as selected?

Mr. Stone: Yes, your Honor.

The Court: Mr. Huff, is this your jury as selected?

Mr. Huff: Yes, your Honor.

The Court: All right. With that, Ladies and Gentlemen, those of you who were not selected with thanks from the Court, your day and your period for this is over and you may be excused to go home.

All right. If you want to turn your seats around the other way, we are going to give some preliminary instructions and we'll go to lunch.

Ladies and gentlemen of the jury, you have been impaneled, ladies and gentlemen, to try this case. As I mentioned just a minute ago, we are not going to start with the Opening Statements now. After I complete my preliminary remarks, we are going to break for lunch and when we return from lunch, then we will have the opening statements by the lawyers.

Before we begin the case, I want to make a few comments to assist you during the course of this trial. Let me start by asking all of you to raise your right hands and let me administer to you a trial oath.

Do you affirm that you shall well and truly try
the case of Keith Trabue, individually, and as guardian
of Shannon Marie Trabue and Advocacy Trust of Tennessee
LLC as conservator of Shannon Marie Trabue as
Plaintiffs versus Atlanta Women's Specialists LLC and
Stanley R. Angus M.D. Defendants, and render a true

verdict according to the law as provided and the 1 opinion you entertain of the evidence presented to you to the best of your skill and knowledge without favor or affection to either party.

If so, the answer is I will.

The Juror: I will.

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The Court: Thank you. You may put your hands down.

Ladies and gentlemen, after we return from lunch, both sides are entitled to make to you opening statements. The opening statements of the lawyers, ladies and gentlemen, are made to assist you to better understand what the case is about and what they believe the evidence will be. These statements though ladies and gentlemen are not evidence and are not to be considered as evidence by you.

After the opening statements, the Plaintiff then will proceed with the introduction of their evidence and at the conclusion of the plaintiff's evidence, the Defendants have a right to introduce their evidence.

What I'm doing now is giving you an outline of how this case is going to proceed in front of you. At the conclusion of the presentation of the evidence to you ladies and gentlemen, then you are going to hear final arguments from the lawyers, sometimes referred to as

closing arguments.

After the closing arguments by the lawyers, then the Court will give to you final instructions on the law that is applicable to this case and then the case will be given to you, ladies and gentlemen, and you will retire to the jury room, follow the Court's instructions and deliberate this case on the issues that have been presented to you. That's a broad general outline of how this case is going to proceed.

Now, ladies and gentlemen, it is your duty to determine the facts in this case and to determine them from the evidence and from reasonable inference arising from the evidence.

In doing so, you are not to indulge in guesswork or in speculation.

The evidence which you will consider will consist of the testimony of the witnesses and those exhibits which are admitted into evidence.

Now ladies and gentlemen, the admission of evidence in court is governed by rules of law and whether or not you can consider it will be determined by rulings from this Court.

From time to time, it may be the duty of the lawyers involved in this case to make objections and then it will be my duty as the Judge in charge of this

trial to rule on those objections and decide whether or not you can consider such evidence.

I instruct you now that you must not consider or concern yourselves with any objections made by the lawyers or the rulings on those objections by this Court.

You must not consider testimony to which an objection is sustained. So if the Court sustains an objection you are not to consider that testimony which has been ordered stricken or an exhibit which is not admitted into evidence and nor should you speculate on what the evidence might have been or the reasons for this Court's ruling.

It might be necessary during the course of this trial for the Court to consider matters outside of your presence, either having to do with admissibility of evidence or some procedural aspect of the trial. It is my practice though to attempt to resolve those disputes with informal bench conference just as you saw the lawyers approach during voir dire when they have we may have them approach, to see if we can resolve it in that manner. And if they come up, those conferences are meant to be outside of your listening so do not attempt to listen to those in any way. If we are unable to resolve them that way, we may have the Sheriff to

excuse you to the jury room while we take those matters up outside of your presence.

You might not have one now. When you come back from lunch, each of you will have a note pad for you to take notes. And jurors are permitted to take notes during the course of this trial. Of course, you are not obligated to take any notes. Some feel that note taking is not helpful because it may distract you from hearing and evaluating all the evidence. If you do take notes, do not allow it to take and distract you from the ongoing proceedings.

Your notes should be used only as memory aids. You should not give your notes precedence over your independent recollection of the evidence.

You are not required to sit in the same seat that you are in now. The numbers are gone. You don't have any number anymore. So, when you return from breaks and lunches and recesses, whatever seat is appropriate for you, you can take that seat.

Ladies and gentlemen, you cannot discuss this case now among yourselves during lunches, breaks recesses. Talk about other things. Do not discuss any issue or any names or anything about this case. Get to know one another in other ways. Talk about other things: The weather, the Braves, the Falcons. Wait til next year

but do not discuss any aspect of this trial.

Also you are not to do, ladies and gentlemen, any independent research. We mentioned -- someone mentioned yesterday about some of the terminology, the medical terminology, that you may hear. You are not allowed to go and google it or do other research on any of the aspect. All the evidence that you are gonna receive on this case is going to be given to you from this witness stand and from the exhibits and evidence that's presented to you. So do not do any internet searches on anything about this trial, any aspect.

And by the way, if you happen to pass any of the attorneys in this case in the hallway in the morning coming in or back from lunch or break, if you speak to them, they may not speak back to you. Because they understand the rules that they are not to have any contact with you at all. Okay.

Ladies and gentlemen, until the case is submitted to you for deliberations, I remind you that the trial of any case or during the trial of any case, it is important to keep an open mind throughout the trial and not to the decide any issue in this case until the case is submitted to you after final instructions from this Court.

Now the Sheriff that will be taking care of you is

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1	in the back. You probably have met him, most of you.
2	If something happens and you need a break, shorter than
3	the breaks that you generally have, which will have a
4	morning break, we will have a lunch break and we'll
5	have a afternoon break. If any need arises during that
6	time for other things, if you will bring it to the
7	attention of Sheriff and he will bring it to my
8	attention and we will try to address it.

All right. I cannot see that clock. What time is it?

The Court Reporter: 15.

The Court: If I remember correctly that's the time we broke yesterday for lunch, wasn't it?

The Juror: Yes.

The Court: All right. All right. Ladies and gentlemen, we are going to break then one hour for lunch and when you return back from lunch now -- and probably the Sheriff is going to direct you there now -- your headquarters for the rest of the trial is the jury room which is through those doors so you will not come to the courtroom after lunch. You will go to the jury room.

Any issues from either party, Mr. Stone, before I release them for lunch.

Mr. Stone: Not for the Plaintiffs, your Honor.

1	The Court: All right. Mr. Huff?
2	Mr. Huff: No, your Honor.
3	The Court: All right. Sheriff, they are released
4	one hour for lunch.
5	The Deputy: Yes, sir. All rise for the exit of
6	the jury.
7	(Whereupon, the jury exited the courtroom at 1:09
8	p.m., after which the following proceedings were had.)
9	The Court: All right. Anything for the record?
10	Mr. Stone: Can we have an extra 15, 20 minutes or
11	so to get everything set up for the opening Statements?
12	The Court: Yes, sir.
13	Mr. Stone: Okay. Thank you.
14	The Court: Unless you can take away from that
15	lunch break.
16	Mr. Stone: Well, I have a witness out there I
17	would like to talk to as well during lunch.
18	The Court: All right. You are not going to be
19	the one setting up the equipment, Mr. Stone, I would
20	imagine.
21	Mr. Stone: I'm going to probably be setting it
22	up.
23	The Court: I imagine the fellows with less white
24	hair on their heads would be the ones that would take
25	care of that.

1	Mr. Stone: I was hoping you wouldn't notice that.
2	(Whereupon, a lunch break was taken.)
3	The Court: Where is Mr. Stone?
4	Mr. Huff: He was just here a second ago. He just
5	walked out the door.
6	The Court: Did he finish setting up?
7	Mr. Huff: I think so.
8	Ms. Tribble mentioned this to me to put on the
9	record juror Number 4 who's seated in the front
10	right I can't remember her name
11	Mrs. Tribble: Ms. Noel.
12	Mr. Huff: I'm not sure she said I will in
13	response to the Court's oath and she was not really
14	listening to kind of cover her face. I don't know if
15	she said it. Anyway, it's just an observation. I'm
16	not suggesting anything needs to be done at this point
17	but I thought if Mrs. Tribble mentioned it to me that I
18	would bring it to the Court's attention anyway. I
19	there's a lot of people that were not happy about being
20	picked for the jury but she seemed especially
21	distraught.
22	The Deputy: That's the same one.
23	The Court: That's the same one?
24	She had mentioned something to him about something
25	scheduled this week so.

1	Mr. Stone: Didn't you ask everybody to begin with
2	if they were going to have any problem being involved
3	in a two-week trial?
4	The Court: Yes.
5	Mr. Stone: I mean, this is kind of standard stuff
6	right there.
7	The Court: But the other one, it's just her
8	because the other one just wanted to remind us, the one
9	that has to stand up periodically.
10	Mr. Huff: Sure.
11	The Court: There's no issue. We can deal with
12	him.
13	The Deputy: Right, right.
14	Mr. Stone: As far as I'm concerned, whenever he
15	gets ready to stand, he can stand.
16	The Court: He can stand up.
17	Mr. Huff: Absolutely.
18	The Deputy: I have to make sure he's on the back
19	row.
20	The Court: Okay. All right. Well, I will
21	address Ms. Noel before the end of the day.
22	The Deputy: Okay. Let me know when you are ready
23	for Openings Statements.
24	Mr. Huff: Invoke the rule of sequestration.
25	Mr. Stone: Your Honor, I think both parties would

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like to invoke the Rule of Sequestration at this time. 1 The Court: Any witnesses in the courtroom 2 expected to be or anticipated to be witnesses? All 3 4 right, if there are, then you are asked to leave the court until you are call in to testimony. 5 6 Mr. Stone: I believe we are ready, your Honor. 7 The Court: All right. For planning purposes before we bring the jury in, what time is it? I can't 8 see that clock. 9 Mr. Huff: 2:35. 10 11 Mr. Stone: 2:35. The Court: In terms of calling a witness today --12 Mr. Stone: We have a witness we would like to put 13 up today. I don't know if we are going to be able. 14 may not be able to get him in. Let me walk out and 15 16 talk to him to make sure he can stay overnight. He's from Boston and I thought we would be further along 17 18 than we were today. I didn't want to be caught without my first witness. 19 20 The Court: Right. 21 Mr. Stone: He's a professor at Harvard Medical 22 He's got all his duties up there he's got to 23 get somebody to cover for him. 24 The Court: All right. Well, check with him.

Certainly we won't finish him if we start him, I'm sure

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unless he's a short witness.

Mr. Stone: Your Honor, Dr. Litcher says that he would -- if he's going to have to be here overnight anyway, he would preferred just to start his testimony in the morning, if that's all right with you.

In the meantime, we have got some things we can do to occupy our time this afternoon and not waste it, okay. We have got some -- we have got one witness that can tell the jury about these charts and how he put them together for us and all to summarize the medical records and get those in and we can put a number of records into evidence and just get that out of the way so we can just start moving right along in the morning. Okay.

The Court: Sounds good.

Mr. Stone: Okay. I don't want to take up any of the Court's time unnecessarily with something like that but that jury selection just took a good bit longer than I thought it was going to take. I thought we would have a jury seated yesterday.

The Court: Yes. I think we -- that's the timeframe we were all working with.

Mr. Stone: Okay.

The Court: And by the way we still have a couple or three motions remaining.

1	Mr. Stone: We do. We can do that this afternoon
2	as well when the jury leaves.
3	The Court: Very well. So we can get our work
4	done, even if they are not here. Very well. We'll
5	proceed in that manner.
6	Mr. Stone: All right. We're ready to proceed,
7	your Honor, whenever you are.
8	The Court: All right. I'm thinking about
9	Mrs. Tribble's observation, too. I probably need to go
10	ahead and address Ms. Noel now about the oath part.
11	Mr. Stone: Can you bring her in by herself
12	The Court: Yes.
13	Mr. Stone: to do that?
14	The Court: Bring her in, Sheriff. Ms. Noel,
15	Betty Noel.
16	All right. Lawyers let me have you approach.
17	(Whereupon, a discussion was held at the bench
18	between the court and counsel, after which the
19	following proceedings were had.)
20	The Court: All right. Sheriff, we are ready.
21	The Deputy: All right.
22	(Whereupon, the jury entered the courtroom after
23	which the following proceedings were had.)
24	The Deputy: All rise for the entrance of the
25	jury.

1	(Whereupon, the jury entered the courtroom.)
2	The Deputy: All the jurors are present.
3	The Court: Thank you. Ladies and gentlemen, you
4	maybe seated. All right. Y'all have notepads and
5	pencils.
6	All right. Mr. Stone, you may address the jury
7	with opening statement.
8	
9	
10	OPENING STATEMENTS
11	
12	
13	Mr. Stone: Thank you, your Honor. Good
L 4	afternoon.
15	The Juror: Good afternoon.
16	Mr. Stone: We met yesterday. My name is Bill
17	Stone and I'm a lawyer. These guys over here, James
18	Stone, Rylas Stone, Mike Regas back here, they are all
19	lawyers, too. I know some people don't like lawyers
20	very much until they really need one. Then they
21	pretend to like them a lot at that point in time. We
22	need to turn the mic on. There you go. It was down
23	here. Like I said they like them a lot at that point
24	in time.
25	But, you know, I'm proud to be a lawyer. I'm a

forth-generation lawyer in my family and these two young men right here are fifth generation lawyers in my family and Mike over here is a second generation lawyer in his family.

Lawyers are officers of the Court. You come here as jurors to serve in a case like this because you have got a jury summons. You don't have any choice but to be here because that's part of your duties as citizenship to be here to serve on the jury. But it is with some sacrifice because I know you all have your own families that you need to be around. You need to have your jobs, your friends, your personal life that you need to attend to.

And I just want to tell you that we on the Trabue family side and I'm sure the defense feels the same way, we really appreciate your service and your sacrifice in this case because we can't get this resolved without you. Just isn't going to happen.

So this case has taken a while to get you to and we are going to try to do it as expeditiously as possible and I think you are going to find that the lawyers involved in this case are going to do a fine job on both sides. We all get along with each other. We are not fighting with each other when we are in the courtroom and having fun with each other when we are

out of the courtroom. We are just having a good time all the time. We try to treat each other right and everything seems to work right.

I want to tell you this: The only reason you have lawyers in a courtroom is to help you find the truth. That's our sole reason for being here is to help you find the truth of the case, whatever it is. But to do that, we need to respect what you are doing. You are here because you got that jury summons. It's our duty not to waste your time. It's our duty not to make your service take one bit longer or be one bit harder than it absolutely has to be so you can finish up, decide the case and go back to your personal lives. Okay.

I want to tell you this from the Trabue family.

If we as lawyers for them do anything to make this take one bit longer or be one bit harder than it has to be to help you find the truth, hold it against our clients the Trabues. We speak for them. Shannon Trabue can't even speak for herself. We are her voice. And so if we make it take longer, make it harder, you hold it against them but I will also tell you -- and I think my friends over here at defense table will agree with me -- that they, too, are officers of the court just like we are. And they have a duty to use just like we do, to not make this case take one bit longer or be --

or make your job one bit harder than it absolutely has to be so you can get home to your families and your businesses and what you do with your personal life.

And so I would ask you to do this. If they do that, then hold it against their clients because they speak for them to. We both have that obligation to you. We are going to do our level best to be worthy of that on this side of the table and I'm sure they will, too, because they are good lawyers. They understand.

Now, let's go ahead and put the PowerPoint up, please. All right. This is a lawsuit for damages for a professional medical liability under Georgia law. It's brought on behalf of -- these are the parties right here. It's brought on behalf of Keith Trabue, individually, and his guardian Shannon Marie Trabue and Advocacy Trust of Tennessee LLC as a conservator of Shannon Marie Trabue. Advocacy Trust has been appointed by Probate Court in the State of Georgia. It is conservator to manage her affairs because she obviously cannot do that. You have seen her during jury selection.

Keith has been appointed as her guardian. He's been appointed as her guardian by a Probate Court in Georgia. So both of them answer to the Court for what they do on behalf of Shannon. So whatever you award

here in this case, if you award anything, is gonna be managed under orders of a Probate Court. It's will be spent for her benefit and it will be spent wisely for her benefit. I want to tell you that to begin with.

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This is not going to be a situation where you are going to have to worry about what's gonna happen to the money because it's not going anywhere without a court order allowing it.

Now, Keith also brings this action in his individual capacity as the husband of Shannon Trabue because under our law when a spouse is injured by the wrongful conduct of someone else, the other spouse has a right to recover damages for the destruction or impairment of the marital relationship. Because the law believes in the sanctity of a marital relationship and people that come together and decide they are going to live their lives together have a right to do that free of interference by others. And when somebody's wrongful conduct interferes with that and prevents the fulfillment of that promise that these two people made to each other, then the law gives the other spouse the dignity, a derivative right of action for the injury to the marriage. So that's going to be something you will hear about as general damages in this case and it's just left up to your enlightened conscious as fair and

impartial jurors to do the right thing to award correct compensation.

The named Defendants in this case are Atlanta Womens Specialist right here. It's a OB-GYN practice with several locations here in Atlanta. We know of at least one of the people who was called for jury duty that was a patient of that practice and it can be confused with other practices, I suppose. You saw that too.

Dr. Angus seated over here at the table on the end is an obstetrician. He's a medical doctor. He's a obstetrician gynecologist. He works at Atlanta Womens Specialist and he's a member of that corporation as an employee.

Dr. Rebecca Simonsen who's not named as a defendant, is an Atlanta Womens specialist employee and they are responsible for the conduct of Dr. Angus and Dr. Simonsen in this case under the instructions the Judge will give you at the close of the evidence.

Now, in 2009 Keith and Shannon had been married for a good while and they had one daughter named Jordan. She was in 10 years old. They wanted another child but Keith had had a vasectomy. After Jordan was born, Keith and Shannon then made the decision that Keith's vasectomy would be reversed which was

successfully accomplished and thereafter Shannon became pregnant again in about January of 2009.

Shannon contracted with defendant, Atlanta Womens Specialist to provide her with prenatal perinatal labor and delivery and postpartum medical services within the standard of care for physicians generally under similar circumstances, similar conditions and like circumstances, which is the Standard of Care for physicians in Georgia made so by statute in this state.

Atlanta Womens Specialist was to perform these medical services through its agents and employees, including but not limited to Dr. Angus and Dr. Simonsen and another doctor named doctor Juanita Wyatt-Hathaway who actually delivered Jada, the young child.

Now this is what the family looked like before this tragedy happened. That was taken several years maybe before Jada, the young child, was born. This right here is, pretty lady right here, is the same lady that you saw wheeled into this courtroom in a wheelchair yesterday. That's what she was like before she was injured in this case. And you have seen what she's like today.

Now in August of 2009, 37 weeks into her pregnancy, Shannon developed a condition called preeclampsia requiring a close monitoring of blood

pressure and Albutein, protein in her urine.

Now what preeclampsia does is it causes vasal spasms in the blood vessels and the blood pressure is just uncontrollable. Sometimes it up. Sometimes it drops. It all depends on whether the blood vessel are expanding or contracting and they do this sort of on their own without any altering of the circulatory system because of things that are going on with the placenta with the baby. It doesn't happen in all women but it does happen in some and when it does happen it's a serious event.

It also causes protein in the urine. You get protein out of blood plasma, it keeps fluid from coming back into the vasculature from the cells and so it causes what's called fluid overload and it leads to a condition called edema which is swelling of the issues in the legs, the arms, extremities and ultimately if it last long enough, it gets into the lungs. And then it causes you problem breathing. We will talk about that in a minute.

Preeclampsia places the mother at risk for seizures due to high blood pressure. Magnesium sulfate is ordered to project against seizures. Preeclampsia occurs in many cases because of the affect of the placenta on the mother. I didn't do that right and

resolves after the baby is delivered.

Shannon had no harmful complications from preeclampsia prior to the events leading up to and including the pulmonary arrest you are going to hear about. It was being manged before she went for labor and delivery and for the first 24 hours after labor and delivery it was being managed pretty well also. Actually for the first 48 hours after labor and delivery it had been managed pretty well.

On August 21st Shannon checked into the Northside Hospital.

On August 22nd she gave birth to Jada by C-section performed by Dr. Wyatt-Hathaway. They did a trial of labor trying to induce labor and it just wasn't working so because of the high blood pressures, they decided to best thing to do was do a C-section and you heard something about other jurors that were examined here that had relatives that didn't have a C-section soon enough and had bad results from it and that's why today in today's world we try to have doctors deliver babies by C section more promptly so that we don't have things that happen that cause brain injuries and thing like that.

Now because of her high blood pressure and preeclampsia strict I's and O's, that's intake and

output -- you are going to see I's and O's a lot during this trial, that what it means, intake and output -- strict I's and O's are ordered to keep close track of fluid intake and output. What you want to do is to maintain a fluid balance.

Now, let me show you what I kind of mean by that. This is a gallon bucket, okay. Got this, this is just a shield to keep it from getting all over the floor when I pour some water in it. This is the sponge.

Now, each one of these bottles right here represent a liter. You can see it when you look at it right here. It says 1 liter of fluid, okay. So a gallon is about four liters roughly. So, see our bucket is getting kind of full now. This represents the fluid volume of a lady coming into the hospital to have a baby would normally have in her blood vessels, okay. About a gallon, 4 liters. All right.

Why is that important? It's important because blood vessels only hold so much. You know like balloons, you can't keep putting fluid in there and expect it to stay there.

So, Shannon was recovering from a C-section operation on August 23rd. By the way, Jada was delivered with no complication. She's a delightful young lady now and you will see her testify by

videotape in this trial because she is up in

Louisville, Kentucky, where they live in school and we

couldn't bring her down here and keep her down here for

the length of time this trial was going to take so we

took hers and Jordan, her older sister's, depositions

by videotape so you could hear from them in this case.

Shannon is continued on appropriate blood pressure and anti-seizure medication by Dr. Wyatt-Hathaway. Shannon's recovery was progressing well although she still had uncontrolled, erratic high blood pressure and was beginning to take in more fluid than she puts out. Something like this.

See what happens when you get like that. Okay. That's with added one more liter to the mix and you had to spillage and it gets into the tissues and it called edema, swelling. You -- any of you who had have babies probably understand you get swollen ankles and things like that, you know, most people as they get a little older have swollen ankles anyway. I know I do from time to time. All right.

On August 24 -- and this is the critical date and time -- at 8:00 in the morning on August 24th

Dr. Rebecca Simonsen took over from Dr. Wyatt-Hathaway.

Now Dr. Simonsen had seen Shannon before and had given her care in her prenatal period when she was coming in

to see the Atlanta Womens Specialist Clinic and Dr. Simonsen would see her.

And let me just say this before we get any further talking about these doctors. I'm sure both of these doctors, Dr. Angus and Dr. Simonsen, are fine people okay. This is not about criticizing them for being bad or not fine people or anything like that. It's about the fact that a medical error was made because of carelessness and the failure to adhere to that Standard of Care I was talking about and this is what results from it and that's why there's a -- the law gives a right of action for damages when a doctor harms a patient by failing to exercise appropriate Standard of Care. It keeps doctors responsible to their patients.

Dr. Simonsen was responsible for Shannon's medical care from 8:00 in the morning on August 24th through 8:00 a.m. on August 25th. At around 8:00 the nurses notes show that Shannon's cardiopulmonary respiratory and urinary status was abnormal. The nurses were checking her and they reported in their medical records that you will have all the records in evidence you can check on it and look at it, the urinary status was abnormal. She had plus 3 edema in both legs. Now plus 3 edema is kind of a serious thing because plus 3 edema means if you take your finger and press it into the

skin, you see an indention of about a quarter of an inch that takes 15 to 30 seconds to pop back out.

That's when you've got way too much fluid on board.

So by this time, Shannon is complaining of shortness of breath, and she has a pulse ox symmetry reading which is a little device that clips on your finger that measures the oxygenation of your blood. It's supposed to be at or around 98. Here she is low at 93. She has blood pressure of 154/65.

Now what you are going to learn is from management of blood pressure in a woman with preeclampsia, they don't want this figure. This is the systolic blood pressure. It's the blood pressure that records, you know when your heart is pumping blood out to the rest of your body. This is what's called the diastolic blood pressure and that diastolic blood pressure is what happens when the heart relaxes when it pumps. So you got a pump and a relax. A pump and a relax. Kind of like a bicycle pump. Okay.

Now, here, we have got blood pressure of 154/65. That's the upper end of acceptable in a woman with preeclampsia. 160 is the magic number. That doesn't mean you have a normal blood pressure or hypodermically stable. We will talk about that in a minute. That just means that you don't have sever high blood

pressure if you are below 160. But here we get a little close. Now it says within normal limits. Well, actually it's not within normal limit because the upper limit of normal is 150 on the systolic blood pressure.

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Dr. Simonsen did not come in to make rounds that morning to see Shannon. Shannon continued to have erratic, high blood pressure and was continued on blood pressure and seizure medication.

At 1:30 p.m. the nurses notified Dr. Simonsen that Shannon's cardiorespiratory urinary status was abnormal. Now what I mean by that is her blood pressure was abnormal. Her respiratory system was abnormal and her urinary output was abnormal. what they do they do with these strict I's and O's is they have a chart that they fill in in the nursing records and it says each shift, you know, each hour your intake and your output, you know, and then they add it all up and you have got a net up or down at the end of the column and add it up at the end of the shift and you can tell whether or not you are in what's called fluid balance. You see, if you have got about -- taking into 2500 or so CC's or milliliters that 2.5 liters a day of fluid that's kind of normal. If you are doing that, you normally are going to excrete either by sweat or by urine or something like

that about that same amount, so you will have a net zero fluid balance. You won't be overloaded and you won't be dehydrated and that's the goal of this game right here is to make sure that you are not overloaded or dehydrated and that you stay at or around zero. And right now as you can see when, I poured that in there, she was already plus 1 roughly at that point in time.

Now it continues to get worse. You will see the I's and O's record and everything you will see that by this time Shannon had probably taken on at least another liter. So here is what happened. It's not been -- hypertension, high blood pressure shuts your kidneys down because it constricts the blood vessels going into your kidneys and it prevents you from making urine. So you can't eliminate the fluid coming in. Remember she's there in an ICU unit being monitored and all that and she's got an IV line in taking fluid in every hour, more fluid is being added all that but it's not coming out. And here we have got what happens when it's not coming out.

Dr. Simonsen ordered Labetalol, a blood pressure medication. She ordered Labetalol and she said she would come in to the hospital to evaluate Shannon 1:30 p.m. but she failed to come. She was on a call that day. She was supposed to be taking care of

patients in the hospital but she never came by to see Shannon until later that evening, almost the next day.

At 7:00 the nurse again notified Dr. Simonsen that Shannon's cardiorespiratory and urinary status was abnormal, her blood pressure was still erratic. Her pulse ox symmetry was still low and she had decreased urine output. So by this time, if you are dripping at a rate of about a liter an hour, which is about what they do, you know, you're taking over even more. It's got to so somewhere. So it goes into area between the cells and the vascular picture is refer to as interspatial space or third spaces. It's the area in between your cell walls and your blood vessels and that's what causes the edema, the swelling, because it blows them all up like a balloon.

Now, at 10:45 p.m. Dr. Simonsen finally come in to evaluate Shannon for the first and only time on her 24-hour shift on the period of 8:00 August 24th to 8:00 August 25 in the morning. Dr. Simonsen fails to review I's and O's. She doesn't look at it. It's there. All you have got to do is pull it out of the the nurse's chart and look at it but she doesn't do that.

So they tell her that the Shannon is not making urine. She's already at a fluid imbalance of about

3500 cc's at this point in time. That's three and a half liters overloaded with fluid.

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So Dr. Simonsen decides to think to order 500 cc's of a fluid called Ringer's Lactate and tells Shannon to drink more fluids to improve her fluid out -- her urine output. So at this point in time what we do is add another half of liter. Get no fluid output but we have got another half liter of board. So now we are up to 4,000 cc's or 4 liters. All right.

At about 1:00 in the morning the nurse again calls Dr. Simonsen and says Shannon as cardiorespiratory urinary status is still abnormal. Now during this whole time -- well, I don't want to go -- she's still abnormal and her edema is 3 plus. Blood is still erratic and decreased urine output. During this whole time, Dr. Simonsen is not doing anything to come in and stay around this patient's bedside who is now a very She's got erratic high blood pressure sick woman. fluctuating all over the place and the Standard of Care you are going to hear from our doctors who are by the way world-class physicians. We have one Harvard professor, one professor from the University of Texas Medical School and one lady who practices at the hospital in Providence Rhode Island, Katherine Winstrom who writes the book that Dr. Angus says is a treatment

of obstetrics that he relies. She's one of the authors of this book.

We don't come here lightly to you to sue doctors. We come here with our gun loaded with all the bullets we put in it and we come here to do business and prove this case. We don't mind carrying the burden of proof. We can do that. All I ever told y'all we just need a fair jury panel to prove it to you. I think we have got about the best we could have gotten out of this panel that we lad available to us.

Now, what does Dr. Simonsen do? She orders another thousand cc's of normal saline fluid which is another liter. Doesn't get the last half of this one and bear in mind we have got the fluid coming in the whole time, too, with the IV line. Here is some more. You can see it's just running out into the third spaces the whole time. Now we've already got a lady who's got 3 plus pitting edema and it's not going to do anything but get worse if you keep adding fluid to it. You are not helping the situation.

What do you do when somebody has that much fluid? You give them a dieretic. You give them a drug called Lasix. It helps to make urine. You get the blood pressure under control which helps them make urine and then sooner or later, they diurese. They get the --

they go to the bathroom until they get rid of fluid.

That's what happens if you treat it right. If you don't treat it right, you subject them to the risk of death and brain injury and that kind of thing. But you have got to know what's going on with your patient in order to do something about it because knowledge is power. If you don't have knowledge, you are weak in what you are doing. And so you have got to look at the I's and O's when you come to evaluate the patient and see what the fluid balance status is. If you don't do that, you are falling beneath the Standard of Care and you are subjecting your patient to great harm.

Okay. Now. What does she do? She orders another thousand cc's so I just put 500 in. Let's put the other 500 in. Now where are we now? At this point we have got a lady who's making no urine unloading no fluid, her fluid balance started out over 3500 cc's plus and we have put in at least another 1500 cc's. So we have got up to 5,000 cc's. That's 5 liters overloaded. That's more than a gallon. That's more than that gallon bucket right there overloaded with fluid.

Dr. Simonsen failed to adequately brief Dr. Angus about Shannon's fluid overload and uncontrolled high blood pressures when he came in -- well, he had

actually come in the next morning. They had this
briefing on the telephone. It was about somewhere
around 10 patients in the labor and delivery unit up
there that Dr. Angus took over care for that morning at
8:00 on the 25th of August. And what doctors are
supposed to do is report to the oncoming, the incoming
doctor about the patient's status and tell them what
they need to know in order to take care of the patient
because knowledge is power and if you don't tell them,
the doctor that's coming on service what's been going
on with the patients while you were taking care of
them, then they have got to go take the time to dig it
out the records themselves, which is what they ought to
do if the report is not completely forward. But you
ought to make it easy or you relief. Tell them what's
going on. It's just a matter of failure to communicate
at this point. It's a failure of Dr. Simonsen to
understand and recognize and appreciate what's going on
with her patient's uncontrolled high blood pressure and
her fluid intake. She's creating a situation where
she's causing the heart to work harder to move a
heavier volume of fluid through her body and the heart
get tired.

August 25th is the day the event occurred. At 8:00 a.m. the nurses note that Shannon is 2 plus edema.

10:40 a.m. Dr. Angus sees Shannon for the first time. He fails to check the intake and output sheet. He notes in the chart that Shannon's urine output is normal when we know from what you see in all of the nurses notes and 24 hours before that that it's anything but normal it's nonexistent.

Shannon is now over 5,000 cc's in fluid overload because her high blood pressure prevents her blood flow to the kidneys for filtering. Shannon's blood pressures are erratic and they are over 160 systolic. Remember I told you that's the magic number. Her blood pressures are now spiking up over that. I'm going to show you that in just a minute. Once we get to the end of this, I'm going to show what it all looks like on a graphic representation.

At 3:00 Shannon's blood pressure is 173/77. It's dangerously high. Nurses report but nothing happens.

At 3:30 p.m. Shannon's blood pressure is now going up more. It's 179/73. Trending dangerously high.

At 4:00 Shannon complains of shortness of breath. Her O2 saturation is 88 percent. It's severely low. She is what Dr. Angus described to the doctor that saved her life on the code team as she was having a sever hypoxic event on the floor.

Now rather than come to see her, Dr. Angus is MELISSA BROCK, RPR

notified and orders give her oxygen by mask at 10-liters a minute flow and order a chest x-ray now to rule out pulmonary edema. Now what's pulmonary edema? That's when the vasculature can't hold the fluid any longer. It's gotten out to the third space. It's all over your body and now it's starting to get into your lungs and it puts you in a situation much like drowning. You know, if you get water all in your lungs, you can't breathe, you drown. So it interferes with your respiratory status. And the lungs are filling up. It's kind of like artificially inducing pneumonia.

At 4:50 p.m. Dr. Angus sees Shannon for the first time since 10 that morning or so. Her blood pressure is now 202/105. They rechecked it on her other arm and it was 209/88. It's dangerously high. Dr. Angus orders 5 milligrams of a drug called Hydralazine per hospital protocol to lower the blood pressure.

Now what you are going to hear about the Standard of Care from these doctors we are bringing in, is that when you have a woman that is persistently having high blood pressure, the first thing you need to be concerned about is regulating that blood pressure and bringing it down within normal limits and keeping it within normally and staying with that patient for three

or four hours until you have got that blood pressure down within normal limits for a long period of time. What -- you know, I don't care how many patients you have got in the hospital. You are in crisis mode at this point in time because high blood pressure and pregnancy and postpartum situations kills people.

You are going to hear that one out of 100,000 maternal deaths every year are caused by hypertension. You are going to hear pulmonary edema is probably the 17th largest cause of maternity death in this country. It can be prevented it basic OB-GYN 101.

These people that teach doctors that are going to come in here and talk to you will tell you their medical residents in the school where they teach know this. They don't even have a license to practice medicine but they are expected to do this. This is not rocket science. This is just managing the patient by keeping the fluid in balance and stabilizing the blood pressure within normally, using drugs to do it and the normal way they would do that is give a series of injections of Hydralazine and then once that takes affect and keeps the blood pressure down, switch to the Labetalol.

Now what do those drugs do. Hydralazine is a drug that's -- what's called a vasodilator. It makes the

blood vessels relax and open up. The bigger the tube, the smaller the pressure going through it at the same pump rate. It's kind of like trying to pump something into a 12-inch pipe with the same pump you would pump it through a garden hose and, you know, when you put a nozzle on a garden hose, you stretch the size of the hose, you get lots of water pressure from the same amount of flow, right?

So here what you have got is the Hydralazine is opening the blood vessels. Now, it's being given in combination with a drug called Labetalol. Labetalol is what is normally used to control blood pressure unless it gets really severe and you have to do something drastic like give hydralazine.

Well, Labetalol is what's called a beta blocker.

Labetalol controls blood pressure by slowing down the heart rate and making the heart work less hard. And so, it tampers down the flood blood because the heart is not pumping it as hard. But this heart here has got all this extra fluid in it. The vessels are full. TV every time the heart beats, it's having to pump this fluid and it just takes more effort to do that than normal.

Now the thing about these two medications is because they are called anti-hypertensive medications

and they do make the vasculature, they need to be monitored carefully and they need to be monitored continuously because people can overreact to them and when they are used together that's even more reason to pay attention to them because they can inflate the -- affect of each other and prolong the active life of the drug.

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Hydralazine, the published literature on it indicates that it will continue its active life cycle for 60 to 80 minutes after administering the drug. you can't watch it for 20 minutes and say, oh, you know, the blood pressure has dropped. Because if you stop watching it over the course of the next 20 minutes, it's likely to drop a lot more. Because it hasn't necessarily stopped working just because it's reached a point near where you hoped it would get to. It might keep going. And if it keeps going long enough you are going to take a patient who was hypertensive with high blood pressure and make them hypotensive with low blood pressure and then they are not getting a accurate circulatory volume to keep the brain working, to keep the heart working. So all this stuff has to be paid close attention to and if you don't, you wind up with a train wreck on your hands.

Now, 5:08 Shannon's blood pressure is 185/77.

Still too high but it's dropped in about 10 minutes about what, 30, 30 or so points.

5:21 her blood pressure has dropped another 25 points and it's still too high because it over 160.

And at that point, they take her out of the intensive care unit and send her down to Radiology to have a chest x-ray that Dr. Angus had ordered about a hour earlier. A hour, hour ten minutes or so earlier.

And he also has now included orders for a CT scan to check for a condition called pulmonary embolism blood clot in the lungs. There's no indication that she's got a blood clot in the lungs but it wasn't wrong for him to ask for that study to be done just to be on the safe side in case -- nobody is criticizing him for doing that but all things were pointing to pulmonary edema not pulmonary embolism. His first thought when he ordered a radiograph study, x-ray, was to order a chest x-ray because that's what you use to check for pulmonary edema. Okay. And it was only a hour or so later that it comes to his mind that he needs to do a CT scan to check for a pulmonary embolism.

Now you have got a very sick patient in that situation in an unstable condition all before being continuously monitored in a, at least a accept ICU setting in that hospital where she's got not only the

monitoring devices the keep track of what's going on she's got trained nursing staff up there. Everybody is on the redding to take care of medical disaster because that's what happens in ICU's. You know, they are Johnny on the spot ready to take of it. You don't have to wait for trauma team to get there because they are already there. Okay.

so they take her off all oxygen. They put her in a wheelchair and they send her down to x-ray after she had Hydralazine, after she had these spikes of very high blood pressure, after she had this bout of hypoxia because she wasn't -- her lungs were getting full. They're not delivering the oxygen flow that she needs.

And they send her down to x-ray to have this later, which is side to side, AP, which is front and back x-ray made to check first her pulmonary edema and then to do a CT can to check for pulmonary embolism.

What you are going to hear from our expert is that you have a very sick lady under those circumstances. You don't send them down to x-ray first. You stabilize them first. If you are worried about pulmonary edema give Laxis and let them start diuresing and ridding themselves of the additional fluid that will help your situation. Bring the blood pressure under control. That will help your situation.

If you are worried about a pulmonary embolism, you have to ask the question when you are thinking this thing through. What would you do if you send her down to radiology and they say yes, yes it's a pulmonary embolism what would you do? You would give her Heparin. Well, Heparin is not going to hurt. All Heparin is going to do is thin her blood so it won't clot. So what you do is you prophylactically use Heparin to stabilize her and keep her from having a bad episode or event while you are trying to stabilize the blood pressure and the fluid volume. And then when you get all that done, that's when you go down and take her x-rays and CT scan.

Because guess what happens down in the radiology? It's after 5:00 by this time. Okay. They are no nurses in radiology at 5:00. All you have got down there is radio, is x-ray technicians and they are down there taking pictures which will be read later by a radiologist but they don't have anybody down there to take care of patients and nobody was sent with her except an attendant that had no medical training.

She was not continuously monitored by blood pressure but we will be able to show some devices that could have been used when we put on the evidence in this case. You can get this little pulse ox symmetry

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device. Cost about \$50 to have one around just to use. Hospitals frequently make a profit center out of it by renting it to you rather than selling it to you for \$50 they rent it for \$50 a day to keep it. Now, I guess that's what everybody is kind of talking about medical prices being too high. You know, you can buy the thing cheaper --

Mr. Huff: Excuse me, your Honor. Objection.

This is complete argument at this point and it's not even related to any of this.

The Court: I'll sustain the objection Mr. Stone.

Mr. Stone: All right, Your honor. I will try to watch that.

Okay. Now, we send her down there unmonitored.

Unattended. What happens? She's transported by a single radiology tech and wheelchair, no nurse, no monitor to give readings of blood pressure, heart rate and oxygen status.

At 5:40 p.m. a AP chest x-ray was taken.

5:41 p.m. she stands up so her lateral x-ray can be taken and collapses losing consciousness and stops breathing. Code blue is called and the team responds. Shannon suffered a cardiorespiratory arrest. Her blood pressure dropped to zero over zero for a period of over 10 minutes and she was deprived of oxygen during that

period of time. The code team saved her life but Shannon suffered irreversible brain damage as a result of it.

So the life Shannon Trabue had was taken from her and the life she was given back is not a life she would have wanted. It's just not -- she's not the same person anymore. Never will be.

Liz, if you would please put up Exhibit 11 on the screen. Now what we have done -- this medical record you are going to see in a few minutes is about that thick and if you don't have training in reading medical records, you are going to have a lot of trouble going through here trying to find where stuff is. We have got tabs in there that will help you know where nurses notes are, where doctor progress notes are and you can figure it out. It's just going to take a lot of time.

You remember I said it's our job to help you find the truth and make it easy. So what we have done is we had somebody to do this for you. To go through this medical record and pick out all the salient important events that happened, like when was blood pressures taken. When or what were they when they taken and when was medication given. What was her fluid status at different points in time. What was her respiratory status at given points in time. What was her -- all of

her status at given points in time. And we had it put on charts like this so you can see it. So, let's go back -- what page is that, Liz.

The Witness: 11.

Mr. Stone: Is that 11?

The Witness: Yes, sir.

Mr. Stone: All right. Back it up, if you don't mind, to Page 9. This right here shows you what was going on with Shannon's systolic blood pressure, you know, that big number on top when the heart is beating, pumping blood. This is the magic line right here, the 160 over here you can see the scale where you have got zero up to 250 milligrams of Mercury, which is the scale for blood pressure. Okay. And then you have got systolic blood pressure. And, look, even -- back up Liz and pull it back over this way. All right. This is August the 22nd. She was spiked up to about 180. Came down and then it goes back up. Comes down. Goes back up keeps doing this thing right here. That is not stable blood pressure.

You are going to have defense expert tell you this lady was hemodynamically stable which means you will hear people tell you in this case hemodynamically stable means her blood pressure was within normal limits and staying there.

Now, this right here is the upper and lower end of where she can be and still be not seriously hypertensive, severely hypertensive. That doesn't mean it within normal limits. It just means she's not severely hypertensive.

But if you look at where these blood pressures are the systemic blood pressure, it's bouncing up and down over this line all the time during the time she's in the hospital. All you have to do is look at the thing and you will know. This blue line is fluid. This is the fluid overload I have been telling you about that keeps going up.

Well, you see where it was right here. This is 6 liters right here. At the time she had the arrest right here, it's about 6500 liters, about six and a half, 6500 milliliters. That's six and a half liters overloaded.

Now when you had 4 liters which is normal and six and a half liters, you get somewhere in the neighborhood of ten and a half liters and that's two and a half times as much fluid as you are supposed to have on your body and your heart is having to pump that stuff. And that's what makes the heart get tired and that's what makes the heart fail.

And right here -- go back up here, Liz, right here

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you see the crash, the systolic blood pressure right
here drops from just right around 200 and then
minutes from 4 5:00 p.m. until 5:40 p.m. it goes
to zero and that's like falling off the ending of the
Grand Canyon. And that's what happened to Shannon
Trabue.

Now, let's move to the next slide 11 right there. This is a bigger blow up of it right here. Go back to 11, Page 11. Okay. This is the hour from 12:00 noon until 6:00 in the evening and the code happened during this period of time, you can see it's bigger blown up where you get a better look at it. And so here you go from up here 200 all the way down to zero.

All right. Let's go back to the PowerPoint. What caused her collapse? She had persistent sever, unstable, uncontrolled high blood pressure.

Dr. Simonsen failed to adequately treat her high blood pressure. Shannon was grossly overloaded with over 5,000 milliliters, 5 liters of fluid.

Dr. Simonsen is the doctor who caused Shannon to become overloaded with fluid.

Dr. Angus failed to adequately to respond and treat Shannon's unstable condition.

who is responsible? Our liability experts will all independently conclude that Dr. Simonsen and Angus

violated the medical Standard of Care. Both failed to regulate Shannon's high blood pressure. Both failed to manage Shannon's fluid levels, high blood pressures and severely high fluid levels combined to cause the catastrophic event in radiology. And Shannon's resulting hypoxic brain damage that has permanently disabled her.

How did it happen? Our experts conclude that failure to control severe high blood pressure resulting in pulmonary edema adequately assessed and treated by Dr. Simonsen and Angus was the cause of Shannon Trabue's injuries.

Well, we know she had uncontrolled high blood pressure. You have seen that from the graph of the blood pressure reading all during her hospital course. It was uncontrolled the whole time. So we know that existed. It's all in the medical records. When you get them you look at it. You can see for yourself.

And then, what about that x-ray that was taken first before the collapse in radiology? Put up Exhibit 2, Page 558, please.

The Witness: Exhibit 2.

Mr. Stone: Exhibit 2, Page 558.

Blow this up right here so they can see it.

History. Shortness of breath. Heart size is

borderline enlarged diffuse bilateral pulmonary infiltrates are noted in central vascular congestion. There's suggestion of is Kerley V lines -- and you will hear from the radiologist about what that is noted in the left lung base. An effusion on the left side cannot be excluded. The study is otherwise unremarkable.

Go down a little bit further about the impression. Findings. Impression consistent with pulmonary edema. Exactly what Dr. Angus thought it was when he ordered the x-rays and didn't follow through to make sure she got it as soon as he ordered it. When he says do it now, it didn't get done for a hour and a half later.

All right. Let's look at the next page or the next exhibit. Put up exhibit 2, Page 560. This -- go ahead and blow it up right here all through impression. That's good. You can read all of this when you get it into evidence and we will through it with the doctors but for our purposes right now, it says diffuse interstitial edema. Now you remember I told you interstitial is that space in between the vasculature and the cells and it's like what's in this bucket right here. It's inspected with mineral alveolar edema also suspected which means the air sacs in the lungs are affected by it, with diffuse hazes. This is similar to

the prior.

what this x-ray is is one that was taken the next day after she was revived during the code they did another x-rays of her lungs and confirmed that she still had pulmonary edema. Looked like the other one did.

Now, chest x-ray is not real good for picking up on pulmonary embolism but another test is. She had a cardiopulmonary arrest before they got around to giving her the CT scan on the 25th of August but they did do one on the 26th of August. And, you know, a blood clot that is going to affect your breathing and do something like this to you is going to be a pretty good sized clot. It's not going to be something that just -- it's just vanishes into thin air once you have your episode. Doesn't work that way.

Now, put up Exhibit 2, Page 564, please. There you go. Now, there you go. It says pulmonary arteries are opacified, main pulmonary arteries, a portion of lobar pulmonary artery is opacified. This is -- the study is thought to be limited for evaluation of pulmonary artery embolus which is an embolus, a blood clot. The heart is normal in size, bilateral moderate effusion are identified with consolidation identified throughout the bilateral lower lobes. Posterior upper

lobes most likely compressive alexias but pneumonia cannot be fully excluded.

So they are confirming she's got fluid in her lungs, okay, with that. Endotracheal tube is in place. The heart is normal in size. Very small pericardial effusion is present. The aorta is normal in caliber. Evaluation of bone windows shows no aggressive lesions. Limited images of upper abdomen show no abnormality.

Go on down to the impression. This is the limited CT for evaluation of pulmonary artery embolism. It may be due to poor cardiac function, especially given the patient's history of pregnancy. Ventilation perfusion which is another test would, therefore, be recommended if there is a high suspension for pulmonary embolism.

Guess what? There was no high suspension after the code event of pulmonary embolism and so no ventil profusion imaging was ordered. They did not treat her for pulmonary embolism. They did not give her any therapeutic Heparin for it.

The treatment course for pulmonary embolism would require giving Heparin for a period of days and switching over to Coumadin to maintain thinner blood and keeping someone on a Coumadin course for at least three months. That wasn't done. She never took Coumadin. Nobody ordered that kind of treatment. You

know why? Because she didn't have a pulmonary embolism.

Now all the defense doctors are going to come in here and they are going to say, oh, we think it might have been pulmonary embolus. All of them say they don't really know what it is but they just -- it doesn't -- they want it to be a pulmonary edema like the study showed. They just want it to be pulmonary embolus because that is the sudden event that you know nobody can predict nobody can do anything about it.

There's not any evidence in this medical record objectively documenting anything close to a pull pulmonary embolus. And they will admit that in their testimony. They are just saying this is what we think it is. Well, depending on how this goes, that might not even be enough to create a issue of fact for you. But we have to prove that our theory of this case is more likely so than not so to a reasonable medical probability.

We don't get the luxury of coming in here saying I think it might be this. I think it might be that. I think it might be something else. We had to put on the evidence that, yes, in my professional medical opinion, I believe to a medical -- to a reasonable medical probability of certainty, this is what it is to the

exclusion of others. And we are going to ask them that question and we have already done it. They can't say it to that degree of certainty and there's no evidence to back it up.

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Put up Exhibit 2, Page 192, please. This is a consult done by Dr. Dawson and Stephanie Eaton, who ordered Lisa Johnston there at Northside. Patient is a 38-year-old woman who is in status post C-section on August 22nd, 2009, after failed induction for preeclampsia. She suffered respiratory rest last evening while in the radiology department waiting for a final CT Scan. She had been complaining of shortness of breath prior to her admission. She apparently had also -- she also had witnessed seizure activity. I am going to talk to you about that this a minute. I'm not a hundred percent clear whether or not the seizure occurred prior to or subsequent to respiratory arrest. She was intubated bated and loaded on Cerebyx. She has been maintained on propofol for sedation. She also received some Ativan.

Okay. Now let's go down a little bit. Go to the next page. Go down just a little bit more. Impression number two right there. Bring that out for me.

Respiratory arrest. This is a study that was done by a Dr. Johnston on August 26th, 2009. Respiratory

arrest. Discussed Dr. Reed of maternity fetal medicine who believes that she likely experience an episode of flash pulmonary edema which caused respiratory arrest. We are concerned about anoxia as she did apparently have a difficulty code that lasted approximately 11 minutes.

Everything that you see in this medical record that tries to point to what happened to her says pulmonary edema and high blood pressure. Nothing says anything about pulmonary embolism.

Now let me tell you about this so called seizure. What happened about that you will hear is that a clerk in the radiology department told Dr. Nixon, the radiologist, that she had apparently had a seizure because one of the radiology techs had told her that. She said a guy named James Hamm told her that the patient had had a seizure. Now you are going to hear James Hamm testify. You will see him testify by videotape deposition but he's not in county. And James Hamm is going to tell you that he never told anybody any such thing. And he and the other radiology technician who was there and saw what happened are going to tell when you she stood up, she started looking woozy and they grabbed her and they eased her down first to her chair and then to the floor and then

notice no tonicoclonic seizure activity or anything like that. All she did was just collapse and go flaccid. That's not a seizure. That's a cardiopulmonary arrest collapse. There's nobody that saw the event that's gonna say that there was a seizure. Everybody is gonna say exactly what I just told you. Dr. Nixon didn't see it. The clerk didn't see it. The defense experts didn't see it and they even admit that it wasn't a seizure that caused it. We will talk about that in a little bit. They finally they ruled that out.

So, I believe at the end of the day, you are going to believe our evidence because it's the most likely explanation for what happened and it's document throughout the medical records. That's the important key. It is the evidence you reach out see, touch, and put your hands on. You don't have to take a word of somebody that says I think it might be this. You have got everybody in that hospital that knows what they are doing right there saying this probably what it was. And then we are going to have three very high-class medical experts come in here to tell you that's exactly what it was more likely than not. Now, let me finish up here. Let's go back to the PowerPoint. Let's go a few forward from this.

Now that's Shannon now. She suffers from a disease called myoclonia. It's a tremoring disease because she lost the ability to control her arms and they just shake like she's got some kind of fallacy all the time. You will hear the neurologist from the hospital up in Louisville Kentucky where she lives now testify by way of videotape deposition about that condition.

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This is the little girl who was born then. You will hear her testimony. She's going to testify also. That's Jada. Cute little girl. See, the terrible thing about this is when Shannon was discharged, she had gone into the hospital to deliver a baby. delivered a perfectly healthy baby and she came home as a five-year-old with a baby. She has suffered a severe permanent brain injury and her days are kind of like She can no longer be a real mother to her this. She can't engage in any -- in the future in children. any kind of gainful employment. She has been reduced to a invalid. Keith's wife has been taken from him forever. His role as forever been changed to -- from being a husband to being a caretaker.

Shannon now has a guardian and a conservator because she can't manage her own affairs. She has the mentality of a child and requires constant and

expensive medical and other care and therapy.

Keith has not been able to keep a steady job since this happened because he has to stay home and be the caregiver to her.

Now a word about Keith before we get any further into this. Keith Trabue is an example of what a real man is. He has taken his marriage vows very seriously. He has without complaint taken care of his wife for almost the last eight years in that condition. He's very devote, religious person. He has raised his two girls and they are very nice, well-mannered children. You will see that. He's a very sensitive guy. But you are going to find out he's one of the most respected people I know and you will come to have that same respect for him after you hear him testify.

Now Shannon has limited, cognitive brain function. She's permanently impaired. Her daughter is more advanced that she is. She's unable to walk unassisted. Her hands and arm shake uncontrollably. She's unable to feed, dress, or bathe herself.

And here is the items compensatory damages we are going to be asking you to consider and return in this case after you have heard all of the evidence.

Both economic and non-economic damages for Shannon. First our economist in its in connectin with

our life care planner that it is going to cost somewhere in the neighborhood of ten and a half million dollars in present day dollars to compensate Shannon for all of her pass, present and future economic losses. That includes medical and other care. That includes home healthcare. That includes loss of past earnings and loss of past earnings up to the date of trial and future earnings capacity into the future.

We are going to put up an economist that will explain how he's made those projects.

Non economic damages, is that general damages I was telling you about. They are based on your judgment as to the intangible value of the life she has lost plus past, present and future pain and suffering and at the end of the trial, the Judge will give you a jury instruction and explain to you what is included with the terms general damages and pain and suffering.

Loss of consortium for Keith Trabue. It's based on your judgment only. There's no requirement that any value be placed on it by witnesses or evidence. You will hear people talk about their relationship and what it is, is it's compensation for loss of the marital relationship. It's not just a payment because their life in the bedroom is injured. Their life of companion and friends and help mates and the joy they

had together that's over. Keith's not a husband anymore. He's a caretaker. And he accepts that role very willingly, very gladly take care of the woman he loves but it's a big loss to him, too.

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So, at the end of the day, when we have put on all of this evidence that I have briefly run through with vou. tell you what this is all about, hopefully you will understand why it's so important when we select the jury to fairly consider all of the facts, all of the damages and return a verdict that is commensurate with the jury injuries that's been sustained. the injuries that has been sustained is gigantic. It's almost immeasurable but you can do it. Juries do it all the time. And we are going to ask you to use your best judgment and to return a verdict against Atlanta Womens Specialist and Dr. Angus in an amount that will fully fairly justly and adequately compensate Shannon Trabue for her losses and Keith Trabue for his losses and take care of her and the care she needs for the rest of her life. And it's going to cost a lot of money to do that. The economic loss alone is going to be 10 million plus and you have been selected, chosen and sworn to be the jurors in this case to decide these facts and I'm comfortable that you will be able to do that and put your head down on your pillow at night

1	after you finish and know that you did your job and be
2	proud to tell your friends about the job you did in
3	this courtroom with these two witnesses.
4	I thank you very much for your attention and I
5	thank you very much for your consideration of the case
6	that these good folks can't resolve without your help.
7	Mr. Huff: May I move the television, this
8	television?
9	The Court: Yes, you may.
10	All right. Mr. Huff, you may address the jury.
11	Mr. Huff: Thank you, your Honor. May it please
12	the Court. I put this here hopefully so it will be a
13	little easier to see. So you guys okay over here?
14	Good afternoon.
15	The Jury: Good afternoon.
16	Mr. Huff: In listening to Mr. Stone talk to you
17	this morning, this afternoon, two things, two things
18	came to mind. Number 1, reasonable doctors make
19	decision about taking care of their patients based on
20	the information they have and the decision made is made
21	in realtime. They don't have the luxury or the benefit
22	of hindsight. They don't know what is going to happen.
23	They have to make their decision based on the

And, secondly, pulmonary edema and I will talk a MELISSA BROCK, RPR

information they had at the time.

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lot about that but if you have the type of fluid overload that Mr. Stone is describing putting fluid into your lungs to cause you pulmonary edema, that would cause you to collapse in the hospital with respiratory arrest, you are going to have lungs that don't sound normal on exam.

And ladies and gentlemen if there is one thing about this case the evidence will show is that Dr. Angus Dr. Simonsen and nurses who were talking care of Mr. Trabue, they were checking her lungs. They were thinking about her lungs and they were documenting what her lungs sounded like the 23rd, the 24th, the 25th. And the reason is they are thinking about pulmonary edema because they know it is one of the things that can happen when you have to get fluid because of other medical problems and you have blood pressures that are erratic or labile. And you will see that they're evaluating this during this period of time to look at this specific thing, pulmonary edema and that they were evaluating it.

Let me back up and just thank you again. Like Mr. Stone we not only appreciate you being here and showing up, of course, we all understand that if you didn't come to jury duty what would happen. You get a knock at the door from the Sheriff's Department but we

do appreciate you being here and your attention to the case and Ms. Tribble and I are going to also do whatever we can to make this as efficient and expedited as possible. We are not going to bring you any evidence that we -- that is extra. That is over the top. That is cumulative. We are going to bring you what we think is the evidence you need to decide this case.

And there's a lot of things that are in dispute about this case. Let me just say at the outset one of the things that is not going to be in dispute is Ms. Trabue and her husband, Keith. He's a great husband. He's a wonderful man. You will get to meet him. You will like him.

Shannon had a terrible, terrible event happen to her. Nobody wanted that to happen to her at Northside on the 25th of August in 2009. It was catastrophic and she's catastrophically injured, there's no question about that. We are not going to be arguing about that. That's not in dispute in this case.

But what is in dispute is the allegations that that's Dr. Angus's fault and Dr. Simonsen's fault. And as we talked about yesterday a little bit and some today, the Plaintiffs, Mr. Stone and his team, they have the burden of proof. They have to prove to you

that Dr. Angus and Dr. Simonsen committed malpractice. They violated the Standard of Care. They did not do what reasonable doctors do under the same or similar circumstances. And it was those actions by them, not something else that caused Shannon Trabue's injuries and damage.

And it's the greater weight of the evidence. So we talked a little bit about the burden of proof. It's after all the evidence has been presented, next week if -- it's who has the greater weight after considering everything. If it's equal, if you you say know what there is a lot of testimony back and forth about this, it was equal, then haven't carried their burden of proof and you are going to hear a lot of medical testimony in this case. There's going to be a lot of doctors who are going to testify. There's medical records. All of it goes to that issue having to carry the burden of proof.

Okay. So let's talk about August of 2009.

Shannon at that time you have heard a little bit about her, she was 38 years old. She had pregnancy-induced hypertension or high blood pressure. Superimposed preeclampsia. And the C-section, they induced her, tried to induce her to have the baby, Jada, vaginally but they couldn't do that, so then they did a

C-section. That was done by Dr. Hathaway. And then if you look, I'm going to show you part of the actual medical records in this case because there's a little bit more to the story about Mrs. Trabue and when she was at the hospital.

This is when she first arrived to the hospital, the history and physical that Dr. Hathaway took from her. She had an elevated blood pressure when she got there. Blood pressure 170 to 180 over 85 to 90 and she had edema already. Like many pregnant women do when they arrive with or without preeclampsia. 3 plus edema at the time she came before the C section was done. So the edema was not something that developed at the hospital. She came to the hospital prior to the delivery with edema and with elevated blood pressures.

This is Dr. Hathaway's note that talk about failed induction, chronic hypertension superimposed preeclampsia stable on MGSO4, that's mag sulfate and that's a medication that you give to a lady who may be preeclamptic because you are trying to prevent her from having an issue with her brain or seizure active.

Labile blood pressures and Dr. Hathaway is actually the one who orders Labetalol. And you heard a little about Labetalol from Mr. Stone. Labetalol is a blood pressure medication. It's given to lower blood

pressure. And so it's Dr. Hathaway who orders the blood pressure to be given. This is oral blood pressure, 200 milligrams BID which means twice a day. Dr. Hathaway is ordering the blood pressure medication. It's not Dr. Simonsen the next day. It's already onboard at the point.

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And some of you know this from blood pressure but there's two numbers. There's the top number. That's systolic number and there's the bottom number, which is the diastolic number. So the concern with blood pressure is both numbers and you don't want either one of them high. But you will hear from the evidence in this case that one you really worry about with pregnant patients who have preeclampsia or pregnancy-induced hypertension is the bottom number. And the bottom number is what you really think about and that's not only reflected in the testimony you will hear but some of the medical literature as well as the hospital policies that talk about this. So one of the concerns about the blood pressure is not only top number but the bottom number as well.

So on August 23rd, Mrs. Trabue has got a few things going on and they are being managed by Atlanta Womens Specialist. She has got the chronic hypertension, preeclampsia, getting something mag

sulfate to prevent her from any type of seizures.

She's got labile elevated blood pressures and she's got
Labetalol was being provided for that and she's got
some edema and the orders are to monitor her input and
output because we want to make sure that we are
assessing how much is going in and how much is going
out.

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Now, output, ladies and gentlemen, is not just urine output. That's a big part of it but there's also something called sensible loss and some of you may have heard what sensible loss is. If you are like me and you have to go on diets a few times a year and you are checking your weight at night and in the morning, sometime you go to bed and you weigh yourself and get up the next morning and you have loss a couple of That's part of sensible loss. We all -pounds. because we are breathing, fluid leaves our body. We are sweating, fluid leaves our body and there's a natural loss of fluid from just living our life and particularly when we sleep. So we still want to be sure to monitor the inputs and the outputs in Mrs. Trabue.

So this is similar to kind of what Mr. Stone showed you. This is the blood pressures. This is the top number this systolic. And this is the lower number

the diastolic. And you can see they fluctuate this is on the 23rd. And they are fluctuating and they are being controlled with medication but as you can tell, the diastolic number or the bottom number is less fluctuating than the top number and closer to the normal range throughout the time she's there on the 23rd.

I will go forward. Same thing. Again, as they are providing medications and they are treating Shannon with fluids and blood pressure medication, she's getting more control of her blood pressure but it still a little bit elevated and they are watching it. No one is sending her home at this point in time or even planning on sending her home at this point in time because they want to get this under more control. But again the systolic number is within the normal range.

Okay. So let's talk about the 24th. The 24th is the day before she goes to radiology and she has the arrest. This is the day Dr. Simonsen is there. Shannon is getting up out of bed to go to the bathroom. She does have some shortness of breath and it's document by the nurses when she's moving.

Now Shannon's weight at that time upwards of 250 pounds and she had as you saw with Mr. Stone showed you those medical records a minute ago, some shortness of breath prior to her admission to the hospital. So that was part of her history. So shortness of breath certainly concerning but not something that's completely new in Shannon's case.

She had had some decreased urine output. Okay.

So let me talk to you a little bit about that because urine output is essentially when our body is taking fluids from our kidneys and excreting them when we pee or go to the bathroom. That is urine output. And so, one of the concerns with anybody whose has elevated blood pressure -- and this was a concern with Shannon -- is that her kidneys may not work as well. We want to make sure her kidneys continue to work well and there's not going to be a problem with her kidneys going forward. So decreased urine output is something that doctors like Dr. Angus an Dr. Simonsen were worried about and wanted to address.

The signs and symptoms of preeclampsia are not just high blood pressure. They can also be headaches and vision issues and other things that would -- seizures and there were no signs and symptoms of anything going on that day.

And again here on the 24th -- and this is all the vital signs: Blood pressure is at the top, pulse, as you can see the respiratory rate is very stable. Even

down to the temperature of oxygen saturations remained in the 90s. But again, the blood pressure is moving up and down consistent with what had been done before it was labile and it was being treated and addressed by Dr. Simonsen that day.

So I'm going to talk to you a little bit about who Dr. Simonsen is. So she was a physician at Atlanta womens Specialist back in 2009. She went to Georgia Tech for undergrad and then she went to medical school at the University of Kentucky. She did her residency at the University of Tennessee in Memphis. That's just the way -- the place where she trained to be an obstetrician and gynecologist. She learned how to take care of patients. She's married. She has two daughters and she in her career has been involved in delivering more than a thousand babies. She's taken care of many patients who have had pregnancy-induced hypertension or preeclampsia. Something she was familiar with not only in her training but in taking care of patients at Northside Hospital.

So this is a little busy but it's some of the nurses notes from the 24th. Because Mr. Stone mentioned to you that Dr. Simonsen got a call about Mrs. Trabue at 1:30 p.m. in the afternoon. This is what that's referencing. So here from the nurse's note

1:30, the nurses monitoring her. She was reported recent blood pressures, shortness of breath, pulse ox 95 percent, lungs clear. Sorry about that. Decreased urinary output. New orders verified and received.

So what happened here at 1:30 in the afternoon, the nurse says I'm going to call Dr. Simonsen. We are going to let her know what's going on. We've got some decreased urine output. The lungs are clear but Mrs. Trabue is short of breath and we have got some blood, the blood pressures are still continuing to be labile.

Now there was no order at this time for Labetalol. There was no order at this time for blood pressure medication. She's already on the blood pressure medication. What there was, was an order for something called incentive spirometry. And so what's that. Some of you may have been in the hospital after surgery where you have seen somebody in the hospital after surgery have to blow and take a big breath and the little ping-pong ball goes up and down, stuff like that. Okay. That's a way when somebody's had surgery or been on their back or been in the hospital for a while to get the lungs going and to expand them. That happened at that time.

And 4:00 the nurses come back and document. They

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check again. Complaint of shortness of breath but states it is not new, clear lungs. And I want you to remember anytime you look that medical records in this case everyday when nurses and doctor were evaluating her, they are listening to the lungs. That's important and they are always -- anytime there was a complaint of shortness of breath we are going to check the lungs and then the incentive spirometry at the bedside.

Now this is 4:00 in the afternoon on the 23rd.

There's not another complaint of shortness of breath,

problem with the lungs, difficulty breathing until 4:00

the next day when the nurse immediately calls

Dr. Angus.

This is not worsening pulmonary edema. This is not more fluid going into the lungs. There's -- that is not happening because if it did, these lung exams which are not being done just by Dr. Angus and Dr. Simonsen are being done by a bunch of different people, not even the same nurse, would not be clear. And that's what they are.

So we know that Dr. Simonsen comes in and evaluates Ms. Trabue at 10:45 in the evening. She comes in and does a full examination. She checks her out. And what are the important findings at this point in time? No chest pain. No shortness of breath. In

fact, no complaints. She documents all of her blood pressures so she knows what her blood pressures have been. She does an examination of her. And what I wanted to point out here is the chest. CTAB clear to auscultation bilaterally. Stethoscope auscultating both sides of the chest. Clear on both sides.

And remember that she had 3 plus edema when she came to the hospital. One plus edema at the time Dr. Simonsen sees her. That's improving edema. That's not worsening edema. That's actually improving. And what Dr. Simonsen noted was, again, there's Labetalol and then she notes it labile but notes less than 160 systolic all under 80 diastolic and then she notes here again paying attention to the urine output. Paying attention to the I's and O's. Decreased urine output and she wants to give a bolus 500 cc's to see if there is any improvement. So we are going to give her some more fluid in her IV and see if we can get some urine output going and also please drink more fluid. Because we want to get more urine output from her.

Okay. Now on this, one of the interesting things about this is when you get IV's of 500 cc's which is this, that's half a liter 500 cc's. When you give an IV, it goes into your bloodstream and it goes in to circulate and then your bloodstream, then it allows

your kidneys to hopefully begin to work better to have urine output. It doesn't go into your tissue. It doesn't leak into other parts of your body. It goes into vascular system.

And then she actually notes move to postpartum if urine output improves. So we know that? Right around -- this is 11:00, 10:00, 11:00 and this is 00:40 or 12;40. We have got patient out of bed to the bathroom. Patient moved to be non out of bed for wheelchair with effort. And use of incentives spirometry. Again, lung fields clear. No shortness of breath.

So the nurses are staying on top of this

Dr. Simonsen has come in. She has issued orders. The

nursing are continuing to evaluate Shannon and they are

not finding anything that's concerning about her.

Continuing that night. Now her blood pressure is down to 145/75. Her oxygen saturation is 98 percent. Again the lung fields are clear. And sorry I keep hitting the wrong button. And Dr. Simonsen again because there has been limited output orders another bolus of 1,000 milliliters. And again nurses will monitor closely. So that's in response to what we have here which is at 12:50, Dr. Simonsen is informed of urine output of 12 in last hour.

And so she wants to administer the bolus of a thousand cc's again to see if we can get the kidneys to start increasing the output. And here in the patient urine output increased and Mrs. Trabue is expressing some mild anxiety. Again the nurse wants to make sure let's make sure there's nothing going on, no shortness of breath, no difficulty breathing, oxygen saturations are good.

So Mr. Stone told you that there's no output during this period of time. And there actually is output. You will see Mrs. Trabue begins to make urine, her kidneys start working and she begins to have output from that. Again, later that morning, patient sleeping out to the bathroom, no shortness of breath, no difficulty breathing, there was some in the notes urine output is 125. Pulse ox 97 percent.

You maybe asking yourself, well, what is a average urine output? What's normal? So, normal is considered 30 cc's an hour. That doesn't mean you go every hour but 30 cc's an hour is considered the normal urine output. So when you see improvement in urine output, it's a good sign.

And here in the early morning hours, we have got -- this is before Dr. Angus comes in to see Mrs Trabue, we have got blood pressure 150/75, 151/75, and

this is actually urine output she had been making in the early morning at 1:25, 20, 55, 60, 200, 125 and she's seen by Dr. Angus.

So, a couple of things about that. You will see here 2:00 in the morning the fluid bolus was complete. It achieved the desired goal which was it got urine output to increase and there's not any signs or symptoms of any worsening for Mrs. Trabue. In fact, it look like it's improving her urine output and her blood pressure is getting better as well. It still fluctuates.

And this is the 23rd. You will have this out with you. The 23rd urine fluid output as you can see it's not just all in. It's not just all pouring it all in and it's staying in Mrs. Trabue's body. She's actually putting some out as well. This doesn't account for the sensible loss that I talked about that happens naturally so.

So the morning of the 25th, this is really the day in question that we are here to talk about, this Dr. Angus begins taking care of Mrs. Trabue. He's the doctor at the hospital for the group taking care of the hospitalized patients that day. And Dr. Angus he went to the University of Maryland and then he -- that was his undergraduate degree and then he went to the

University of Pennsylvania for medical school. That's where he got his M.D. He did his training as an OB-GYN at Leehigh Valley Hospital and he's been practicing since 2005 as a OB-GYN. Still affiliated with Northside Hospital. He's been at Atlanta Womens specialty since 2007. Like Dr. Simonsen, he's married. He has two children and he's also delivered a lot of babies. He's taken care of a lot pregnant patients and he taken care of a lot of pregnant patients with high blood pressure.

So what did Dr. Angus come in that morning at 10:40 p.m. First of all, he had not been contacted about the nursing any any concern. He comes in and see Mrs. Trabue that morning. And patient complaint denies fever, chills, nasal vomiting, chest pains, shortness of breath. So no complaints of chest pain, no complaints of shortness of breath. Blood pressure is 150 to 160s 60s to 80s.

He does an examination. You can see it right here. Lungs CTA. Lungs clear to auscultation. So after assessing Ms. Trabue, he notes here post-op day two status post C-section. He then says because her blood pressures have been a little bit more labile, he's going to increase the Labetalol instead of 200 milligrams twice a day, he's increasing it to

200 milligrams three times a day. So he's increasing the blood pressure medication for Shannon to hopefully control it more.

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Number 2, adequate urine tolerating P L fluid. He assessed that she had been given the fluids and she was beginning to make urine and it had reached the adequate level based on the numbers that were documented.

INT, there's will be no more IV fluids. He took out the line. So she's not going to be getting anymore IV fluid after he sees her that morning and then the magnesium had been given for the preeclampsia. Dr. Angus here is discontinuing any more fluids for Mrs. Trabue. He's taken into account she's making fluid. She making urine now. We don't need to continue to give fluids. This is a good sign. This is progressing forward. We don't need to keep giving fluids. That's why the INT is in there. And you will hear from people who testify in this case that this is perfectly appropriate. This assessment right here is reasonable. It's what a reasonable doctor would do when faced with this condition and it's all appropriate within the Standard of Care. Even some of the Plaintiffs witnesses will agree to that.

So we know here lungs clear, no shortness of breath, folic catheter was also discontinued with the

IV. Shannon's been out of the bed to the bathroom and the shower. She's got good urine output and the decision is immediate to move her to a different room. Not the ICU. She was not in the ICU that day. She was moved to a different room.

The hospital has a Labetalol policy that will be discussed quite a bit during this case. This is Northside Hospital's Labetalol policy. You have heard about the magic number being 160. You have heard a lot about well the top number is always what we really worry about it and it was the top number that was high with Shannon. That's not what the policy says.

The policy is the clinical indication for Labetalol use in the postpartum patient after delivery is hypertension, systolic BP 180 or greater or diastolic blood pressure 110 or greater with the goal of therapy. The goal of doing all this, of treating the blood pressure is to get the diastolic blood pressure to 95 to 105.

So why is this important? Because you are going to hear from some experts Mr. Stone is going to call they going to say no, no, no. 160, you know, if it's in the 160s you have got to lower it. And if it's -- that's just the top number. Forget the bottom number. If it's in the 160s you have got to lower it.

Well, that's not what the policy says at Northside
Hospital and Mrs. Trabue did have blood pressures that
would get into the 180s and that's when they were
appropriately treated.

So one of the things you have to think about in this case is were the blood pressures really managed appropriately or were they not as Mr. Stone suggested. The concern is the diastolic. It doesn't say anything about making sure the top number gets down somewhere else.

And you can see this is the 25th. These are the numbers here and we know this is being monitored by the nurses all day and that there's not any concern until it spikes at 4:00 and when that happened there was a call right away to Dr. Angus and Dr. Angus responded until 4:00 the lungs had been clear, no shortness of breath, the blood pressure had improved and the urine output had improved. And we get to this critical time period between 4 and 5:45 p.m. which is when Shannon has the arrest.

So 4:00 first indication of shortness of breath and the oxygen saturation, okay, that's the little clip that tell you how much oxygen you have in your blood, that's now under 90 for the first time. 88 percent.

Dr. Angus is called and he says all right, we are going

to do two things. I want you to put her on oxygen right away. She needs oxygen, 10 liters and then I want a chest x-ray done and I want it done right away.

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Now, Mr. Stone suggests that eventually Shannon was basically just sent down to radiology without any concerning for whether she was stable or not. Well, if there is no concern about whether she was stable or not, she would have gone down right at 4 or 4:05. She doesn't go down right away. They keep her on the floor and they watch her for a period of time and at 4:52 p.m. is when she has a real elevation in her blood pressure. Over 200 on the top number. And so, Dr. Angus issues an -- well, Hydralazine is ordered for her and Hydralazine is a different blood pressure medication than Labetalol is given her. And we that know Dr. Angus comes and evaluates Shannon before 5 and I will go through his evaluation but he sees her himself and assesses her before she leaves the floor to go to radiology.

This is his note. And it dated and time. This is 7:00, 1700. So he notes here oxygen stats secondary to -- oxygen status and increased blood pressure.

10-liters of oxygen, face mask to keep oxygen status above 90 percent and her blood pressure 200/80.

Dr. Angus listens to her lungs. He is concerned

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about what is going on with her and wants to make sure her lungs are okay. On exam, patient with normal respiratory effort cleared bilaterally. He listens to her lungs and her lungs are clear. This is during the period of time when the Plaintiffs would have you believe that there is massive pulmonary edema going on. There's fluid in the lungs. Mr. Stone described it as drowning. You don't have that if you lungs are clear.

So he has several things in mind. He wants to restart the IV, okay. And then he also wants to get PIH labs now. So PIH is pregnancy induced hypertension labs. Is something going on that's related to the preeclampsia or the high blood pressure that we can see on the labs. So we are going to do that right away. Hydralazine for per protocol for high blood pressure. We'll increase the Labetalol. Consider adding Procardia. So he's again worried this blood pressure has gotten very, very high. Do we need more medication onboard to address that. May need to restart magnesium for prophylaxis. We'll reassess after labs.

So he's now worried, look, we need to check these labs. If they are high, we may need to restart the magnesium because this could be, again, hypertension or preeclampsia. And then spiral CT to rule out PE or pulmonary embolism, the blood clot.

So that's his thought process at that time. He's got several possibilities for what's going on with Mrs. Trabue and he wants to assess them and he's ordering those test to do it. He's at the bedside.

what we know is that this is the note about the oxygen saturation right here. 4:00 and then here we have 5:20, 17:20, the next nurse's notes. Blood pressure 151/79. Appears relaxed. Talking with family. No complaints of shortness of breath. Stats are 98 percent.

So Dr. Angus has come and seen her. He has done his evaluation. We now have a nurse's note at 5:20 the blood pressure has gotten back into normal range. There is no shortness of breath anymore. Shannon appears to be relaxed talking with family and the nurse is noting that this is a patient who although at 4:00 was concerned is now stable.

So Dr. Angus after seeing her differential diagnosis, what's the possible cause of what happened at 4:00, okay, preeclampsia, let's order the PIH files. High blood pressure. Let's get some Hydralazine. Pulmonary embolism, we are going to go down and get a CT scan.

Other lung disease, let's get a chest x-ray and see CT scan and see what's going on. That's the

thought process. That's the realtime analysis that

Dr. Angus is doing of Mrs. Trabue then. He has no idea

she's going have an arrest nor should he.

Is he worried about her? Yeah, he clearly is.

He's looking at all these tests to try and find out what's going on at the bedside. And, again, we know that although her -- let me stand over here -- although her blood pressure rose 4:00, 17:08 185, 17:20, 161/79. And during this whole time, the only time that her diastolic pressure ever reached greater than 100, not even to that 110 level, was again right in the same time period when she's being evaluated, not being sent to radiology. Likewise oxygen saturations back up to normal with the oxygen that Dr. Angus ordered.

so she goes down to radiology at 5:30. Radiology is where they do the x-rays. And the evidence will be that when she's in radiology, she actually got up, went to the bathroom, got back in the wheelchair and then when she is standing up for the chest x-ray, she faints and she rests and the code was called.

So one of the questions that I think you have to answer in this case was Shannon stable to go to radiology when she went down there at that time. Her blood pressure had gone back into what it had been, the normal range before. Her respiratory status improved.

She went from 88 percent to 90 percent. She was relaxed and talking and no shortness of breath.

Was it reasonable for her to go down there? She was stable. She was on oxygen while she was down there. The Radiology Department is not an area that doesn't have medical professionals in it. The evidence in this case will be that it's right by the Emergency Room and that sometime people have arrests and chest x-rays and CT scans and MRIs and there are people there to respond. In fact, the evidence will be that it is actually faster to respond to an arrest in the Radiology Department than it would have been where Shannon was before. It's next to Emergency Room and you'll see in this case that the people responded to the code very quickly.

So the Plaintiff's theory and the witness are Dr. Angus you heard this already Dr. Angus and Dr. Simonsen committed malpractice and they are going to bring you some doctors who are going to give you that opinion.

It's gonna be important you all are the experts on the witnesses. You are the expert on the experts and the experts on the witnesses. And so you will hear that some of these folks who do a lot of teaching and do a lot of writing also do a lot of testifying and

1 make a lot of money working with lawyers and make a lot of money coming into courtrooms and giving opinions 2 about OB-GYN. And it's not a small amount of money. 3 It's actually a significant amount of money. And you 4 will hear that some of the experts who are coming and 5 6 testifying on behalf of the Plaintiff have some 7 different ideas about what really happened. And more importantly very different ideas about how it could be 8 prevented. There's not uniformity here. And it's true 9 not only in this case but it's true even at the time. 10 11 A lot of different people who were evaluating Shannon at the time, were not sure what happened and it's 12 reflected in the medical records and they were thinking 13 about all of the possibilities just like Dr. Angus was 14 at the time and the three things that you will see in 15 16 the records that came up are pulmonary embolism or blood clot, pulmonary edema and preeclamptic seizure. 17 So pulmonary embolism as you know has been talked 18 about already. It's a blood clot in the lungs. 19 Usually start in the legs so people who have been on 20

flights for a long time sometimes are at risk for that because it could break off and go to your lungs.

The symptoms are shortness of breath, anxiety, and fainting, among other things. But those are three of the most important symptoms about it. In pregnant

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patients you don't have to have a clot in your legs.

You can actually have it in the pelvis due to the nature of the pregnancy.

Preeclampsia. This is high blood pressure during pregnancy. Its symptoms are high blood pressure, headaches, decreased urine output, shortness of breath and it doesn't just go away when the delivery happens. It can continue after delivery for a period of time and it did in Shannon's case.

Pulmonary edema. This is excess fluid in the lungs. Excessive. Symptoms. Shortness of breath, you will hear that also one of the big signs is cracklings when you listen to the lungs. When you can hear the sound of fluid in the lungs when you have lay.

Orthopnea means that you can't really lay back and be able to breath. That if you are laying down, the fluid in your lungs affects your breathing so much that it's difficult for you to do that. And then if it goes on for a long time, it can be coughing blood.

So Mr. Stone showed you this. I want to show this, too. This is the chest x-ray that was done and it will be a lot of talk about this. One of the important findings about it is findings consistent with pulmonary edema. That's in the medical record. You will probably hear from the doctor who evaluated this

x-ray and will tell you about that. It's not a diagnosis of pulmonary embolism. It's that the findings are consist pulmonary edema. It's one piece of the puzzle in what happened to Shannon.

Another piece of the puzzle is respiratory care flow sheet. This is a lung technician who evaluated Shannon after the arrest five minutes to eight before any medication that would take any fluid off her lungs or anywhere else in the body to be given.

Breath sounds clear. Breath sounds clear. Not on the evidence on that exam that there was any pulmonary edema by the respiratory therapist.

So you can draw a couple of conclusions. One is, well, you may be the chest x-ray was right but it wasn't very severe because no one could even here any sounds or maybe the radiologist is just saying, look, these are findings that could be related to pulmonary edema or other things. It will be a lot of talk about that testimony in the case.

This is a a neurology note. It's another doctor who was involved in taking care of Shannon on the 26th in the morning the day after arrest. It is not clear to me at this point whether or not a respiratory arrest occurred prior to seizure and talks about the internal fetal note about that. Possibly secondary to eclampsia

but need to rule out primary. That's one with the degree sign C and S. Venous thrombosis, that's a pulmonary embolism is always a concern postpartum.

There's documentation in the medical record that people were thinking about pulmonary embolism and considering it because the evidence will be that this, what happened to Shannon that her lungs were clear on examination and she stood up and fainted is very consistent with a pulmonary embolism or a blood clot and not consistent with ongoing fluid building up in her lungs to the point where she couldn't withstand it or blood pressure that had to be worsening to the point that it would cause an arrest.

The chest CT scan, a more detailed study that Mr. Stone talked to you about, it says in its very own text that it's limited to evaluate pulmonary artery edema. So it's not definitive for a pulmonary embolism. What it doesn't say is that there's pulmonary edema or fluid in the lungs. That's what it doesn't say.

And the question is whether or not anybody else thought pulmonary embolism or pulmonary blood clot was one of the reasons for Mrs. Trabue's condition.

She was put on Heparin. She was put on a blood thinner. She had it for several days. After the blood MELISSA BROCK, RPR

thinner was stopped she was put on another blood thinner. There were doctors who were ordering ultrasounds of her legs to sees if there was any evidence of a clot. It was a legitimate concern at the time and people thought about it and wanted to evaluate it. And they were actually even treating it with Heparin. And so to suggest that there was nobody who was considering this as the cause of Mrs. Trabue's arrest is just simply not consistent with the evidence and you will have the evidence to be able to evaluate.

So again what was the cause of Mrs. Trabue's arrest? The Plaintiff's experts have different theories about it. They have different things they contend would have prevented it. All of those opinions are with the benefit of knowing the outcome. Knowing what happened.

Our experts are going to testify they can't rule out any of these other things. They can't rule out the possibility of seizure. They can't rule the possibility of it being pulmonary edema. But you know what, if we are doing an objective examination of all the information, not just the chest x-ray report that everything sounds most like a blood clot, that's the best explanation for what happened. They are not going to come in here and say look, ladies and gentlemen of

the jury, this is definitely a blood clot. You shouldn't consider anything else. That's not what our experts are going to say. They are saying you are going to have to -- that's the most likely knowing all of the information.

So what the evidence in this case we believe would be that Dr. Simonsen and Dr. Angus met the Standard of Care. We will bring the experts. OB-GYN specialized kind of OB-GYN called a maternal fetal medicine doctor. We will bring you adult critical care doctor. People would treat people for all kind of lungs diseases including pulmonary edema and they will come tell you that ones who practice like Dr. Simonsen and Dr. Angus they will come tell you they met the Standard of Care. They did what reasonable doctors did and that Mrs. Trabue's arrest was simply not predictable and not foreseeable based on everything that was going on that day. And, again, the most likely cause of it was a pulmonary embolism, taking everything into account.

You will hear from some other experts the Plaintiffs may call in different areas but the one, the one area where we will present expert testimony to you the plaintiffs will not is adult critical care. We have adult critical care experts who will come talk to you about lung diseases and how it happens including

with pregnant patients and that's not somebody the Plaintiffs will have come testify. We don't have any experts in that area of medicine.

In addition to experts who will come testify, we have got medical record of physicians who took care of Shannon. You have seen some of the nurses note that describe the nurses assessments of Shannon. There will be some other hospital employees that took care of Shannon who may testify by video. You have heard a little bit about it already and the medical records themselves. The evidence of the thought process of the doctors at the time they were seeing the Shannon. Not only Dr. Simonsen note but Dr. Angus two notes on the 25th.

There will be a lot of damages witnesses in this case. You will hear a lot about Shannon and what she was like before. What she's like now. Again, we are not -- we are not going to spend time or waste time on this part of the case. We recognize the damages in this case. We recognize what's happened. So as part of our effort to be very efficient, we are not going to -- you are not going to hear a lot of questions of the people who come and testify about damages.

The defense in this case is that Dr. Angus and Dr. Simonsen did what reasonable doctors would do when

they were taking of Shannon at the time based on the information that they had. They were managing her appropriately and that the cause of her arrest is not pulmonary edema as Mr. Stone has suggested to you, whether they were caused by blood pressure not caused by blood prejudicial.

I'm almost done. I know everybody is relieved so the Judge told you about the trial procedure in this case. They get to call, put up all of their witnesses before we put up any of our case. We may have one witness they have to take out of turn Friday but for the most part their entire case will be presented before we put up any of our evidence in the case. So you will hear entirely from the Plaintiffs before you hear from us and then after all of the evidence is in, when the attorneys get to come back up and give closing argument and tell you what the evidence has shown and then the Judge will read the law to you and then you go deliberate and decide the case.

Up until that point of the closing arguments it's important to keep an open mind. You will not have heard all of the evidence until you have heard the Defendants have rested and the Plaintiffs have rested on rebuttal. That's when all the evidence is closed. So they are going to start probably tomorrow with a lot

of witness and it's going to plaintiff's case for a period of time. We probably won't get into our case until next week. That's why it's important to keep an open mind until you hear everything about the case.

Again I want to thank you personally on behalf of Dr. Angus and on behalf of Ms. Tribble and Dr. Simonsen for your attention. I know it's really hard to come to court on a Monday and be picked for a jury and find out you are going to be on a jury for two weeks and then on Tuesday afternoon to have to listen to another technical opening statement about the case. And I appreciate everyone's attention to it.

I won't get a chance to come talk to you until the end of the case but Ms. Tribble or I both will ask you at that time after all this is happened to return a verdict in favor of Dr. Angus and Atlanta Womens Specialist.

And let me just tell you right now, we know that's not gonna be easy to do. There's a lot of sympathy in this case. Incredible amount. And it's a very, very sad situation that Shannon's in, there's no question about that.

And as Mr. Stone said y'all -- we had fifth people came. Y'all were the fairest of the fair and you will follow the law and you will follow the evidence and

1	render a true verdict. And that's all we are asking
2	you to do. Thank you again.
3	Thank you, your Honor.
4	The Court: All right. Ladies and gentlemen
5	ladies and gentlemen of the jury. It is 4:56. We are
6	going to conclude here for today.
7	We are going to get started in the morning.
8	Generally what I will do is I allow you an extra 15
9	minutes before we get started. I like to get started
10	at 9:15. You will start coming in I think at 8:30 a.m.
11	There will be coffee here for you in the jury room
12	waiting for you. You don't have to stop by Starbucks.
13	And so, the goal is to get started right at 9:15 so we
14	can move this case forward.
15	So I'm going to excuse you them, Sheriff, for just
16	a minute and there are two people I need to speak
17	juror Number?
18	Prospective Juror: 12.
19	The Court: He asked me to speak with him and also
20	Ms. Noel before they leave all right.
21	With that, ladies and gentlemen, you are excused
22	until in the morning.
23	The Deputy: All rise for the exit the jury.
24	(Whereupon, the jury exited the courtroom at 4:56
25	p.m. After which the following proceedings were had.)

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(Whereupon, the proceedings were concluded.)
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1	CERTIFICATE
2	
3	STATE OF GEORGIA:
4	COUNTY OF FULTON:
5	
6	I hereby certify that the foregoing pages
7	represent a true, complete, and correct transcript of
8	the proceedings taken down by me in the case aforesaid
9	(AND EXHIBITS ADMITTED, IF APPLICABLE).
LO	This certification is expressly withdrawn and
11	denied upon the disassembly or photocopying of the
L2	foregoing transcript of any part thereof, including
L3	exhibits, unless said disassembly or photocopying is
L4	done by the undersigned official court reporter and
15	original signature and seal is attached thereto.
16	This, the 5th day of April, 2017.
L7	
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20	Melissa Brock. RPR, CCR-B-1370 Official Court Reporter
21	State Court of Fulton County Atlanta Judicial Circuit
22	Actanca Sudicial Circuit
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