

1 CASE NUMBER: JCCP4621
2 CASE NAME: TOYOTA MOTOR CASES
3 LOS ANGELES, CALIFORNIA THURSDAY, AUGUST 8, 2013
4 DEPARTMENT 322 HON. LEE SMALLEY EDMON, JUDGE
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: CLAUDIA VECCHI-CORTEZ,
7 CSR NO. 11630
8 TIME: A.M. SESSION
9
10

11 (THE FOLLOWING PROCEEDINGS
12 WERE HELD IN OPEN COURT
13 OUTSIDE THE PRESENCE OF THE JURY:)
14

15 THE COURT: GOOD MORNING.

16 IN UNISON: GOOD MORNING, YOUR HONOR.

17 THE COURT: ALL RIGHT. WE WILL BEGIN THIS MORNING
18 WITH THE PRE-INSTRUCTIONS THAT WERE PREVIOUSLY AGREED
19 TO. I HAVE THAT SET BEFORE ME, AND THEN WE'LL PROCEED
20 WITH OPENING STATEMENTS.

21 MR. MARDIROSSIAN, I DON'T KNOW HOW LONG
22 YOUR OPENING IS, BUT I SUSPECT WE'LL READ INSTRUCTIONS;
23 AND THAT WILL TAKE US TO 9:30 OR SO AND THEN YOU WILL
24 START.

25 AT SOME POINT, WE NEED TO TAKE A MORNING
26 BREAK; SO I'M JUST GOING TO ASK YOU TO KEEP YOUR EYES ON
27 THE CLOCK. AND WHENEVER IT IS A CONVENIENT TIME FOR YOU
28 TO TAKE A BREAK, LET'S DO THAT SO THAT THEY CAN HAVE A

1 MORNING BREAK. OKAY?

2 MR. MARDIROSSIAN: PERFECT. I WILL DO THAT, YOUR
3 HONOR.

4 THE COURT: ANYTHING THAT WE NEED TO ADDRESS THIS
5 MORNING BEFORE WE SEE THE JURY?

6 MR. GALVIN: I DON'T THINK SO, YOUR HONOR.

7 MR. MARDIROSSIAN: I THINK WE'RE GOOD, YOUR HONOR.

8 THE COURT: OKAY. I RECEIVED THIS MORNING ANOTHER
9 BRIEF FROM TOYOTA ON THE ISSUE OF EXPRESS WARRANTY.
10 I'VE HAD AN OPPORTUNITY TO REVIEW THAT. THE PROBLEM I
11 HAVE WITH THE DISCOVERY REQUESTS IS THAT THE
12 DISCOVERY WAS -- PARTICULAR INTERROGATORY WAS COMPOUND.
13 AND I CAN'T FIND ANYWHERE WHERE, AT LEAST IN THE
14 DOCUMENTS THAT HAVE BEEN PRESENTED TO ME, IT'S CLEAR
15 THAT THE PLAINTIFFS HAVE RESPONDED THIS IS ALL -- THESE
16 ARE ALL THE FACTS THAT WE HAVE IN SUPPORT OF OUR
17 CONTENTIONS IN SUPPORT OF THE EXPRESS WARRANTY CLAIM.

18 AND WITHOUT THAT, I THINK IT'S DIFFICULT TO
19 LIMIT THAT ISSUE AT THIS POINT.

20 MR. BERRY: THAT'S FINE, YOUR HONOR. I JUST
21 DIDN'T WANT IT -- I DIDN'T WANT THE RECORD LEFT THAT WE
22 HADN'T FOLLOWED UP AND PURSUED THIS DISCOVERY.

23 THE COURT: OKAY.

24 MR. GALVIN: IN PART, IT WAS -- IF YOU NOTE THAT
25 MEET-AND-CONFER PROCESS OCCURRED LATE IN THE GAME RIGHT
26 BEFORE EXPERT DISCOVERY. SO I THINK FROM OUR
27 PERSPECTIVE, FROM A PRACTICAL POINT OF VIEW, THE
28 ANTICIPATION WAS WE WOULD HEAR FROM THE EXPERTS. OF

1 COURSE THEIR FOCUS IN THE EXPERTS DEPOSITIONS WAS LACK
2 OF B.O.S. SO FROM OUR PERSPECTIVE IN HINDSIGHT, I GUESS
3 YOU CAN DO THINGS DIFFERENTLY. BUT LOOKING AT IT FROM A
4 DISCOVERY POINT OF VIEW, THAT'S WHAT THEIR CLAIMS WERE.

5 THE COURT: ALL RIGHT. I THINK THE RECORD IS
6 COMPLETE. I JUST DON'T THINK IT ADVANCES THE BALL IN
7 TERMS OF THAT ISSUE.

8 MR. AKARAGIAN.

9 MR. AKARAGIAN: YES. THANK YOU, YOUR HONOR. I
10 DID YESTERDAY, WITH THE COURT'S SUGGESTION, LOOK AT
11 COMMERCIAL CODE 2313. AND I THINK WHERE THE CODE IS
12 FOCUSING, AND THE COURT IS FOCUSING ON, IS THIS 1-C
13 ABOUT "THE WHOLE OF THE GOOD SHALL CONFORM: I THINK
14 THAT'S WHAT THE COURT WAS SAYING, "WELL, THEN THE WHOLE
15 GOODS COULD OPEN UP TO THE INDUSTRY." AND I MAY BE
16 MISTAKEN ON THAT BECAUSE 2313 IS A BROAD STATUTE.

17 AND WHEN YOU LOOK AT ACTUALLY 1230 OF THE
18 C.A.C.I. INSTRUCTIONS, THE ONE THAT WE WERE SUGGESTING
19 WOULD BE THE BREACH OF WARRANTY CLAIM..

20 THE COURT: 1230?

21 MR. AKARAGIAN: YEAH, C.A.C.I. 1230. IT'S ON
22 PAGE 736 OF MY VERSION. I DON'T KNOW WHAT VERSION THE
23 COURT HAS.

24 THE COURT: NOT THAT VERSION APPARENTLY.

25 MR. AKARAGIAN: WOULD YOU LIKE THIS VERSION, YOUR
26 HONOR?

27 THE COURT: HERE. OKAY. I'VE GOT MY VERSION.

28 MR. AKARAGIAN: OKAY. SO THE C.A.C.I. 1230, WE

1 LOOK AT ELEMENT 1, THAT NAME OF DEFENDANT -- INSERT ONE
2 OR MORE OF THE FOLLOWING. SEE THESE -- THE FOLLOWING
3 ARE ALL SEPARATED BY "ORS." THE ONE THAT WE'RE FOCUSED
4 ON IS THE FIRST ONE: "MADE A STATEMENT-OF-FACT PROMISED
5 THAT THE PRODUCT WAS SAFE," BASICALLY. SO WE'RE NOT
6 LOOKING AT, "GIVE A SAMPLE OR MODEL OF THE PRODUCT,
7 DESCRIPTION OF THE PRODUCT"; WE ARE FOCUSED ON THE FIRST
8 ONE.

9 SO I THINK WHAT THE COURT WAS TALKING ABOUT
10 WAS THIS SAMPLE OR THE GOODS -- YOU KNOW, THE WHOLE --
11 THE ALLOTTED GOODS. BUT WE'RE NOT ON THAT TOPIC,
12 BECAUSE WE'RE NOT SAYING THAT THEY GAVE HER A SAMPLE.
13 AND THE REST OF IT WE'RE ALSO NOT GOOD WITH IT. WE'RE
14 SAYING THAT -- OR I'M SORRY -- THAT IT CONFORMED TO THE
15 SAMPLE. WE'RE SAYING ON THIS SPECIFIC PRODUCT.

16 BUT, YOU KNOW, THIS ALL -- THIS EXPRESS
17 WARRANTY DISCUSSION IS SORT OF ESOTERIC IN A SENSE
18 BECAUSE WE DID CITE ALSO ABOUT CONSUMER EXPECTATION,
19 ABOUT HOW ADVERTISING, MARKETING IS RELEVANT ON THAT
20 TOPIC. AND WE CITED THE *BULLOCK* CASE YESTERDAY. SO IF
21 THE COURT'S THOUGHTS ALSO WERE TO ALLOW ADVERTISING
22 UNDER THE CONSUMER EXPECTATION TEST, THEN, YOU KNOW,
23 THIS EXPRESS WARRANTY TOPIC COULD BECOME MOOT. WE'RE
24 JUST NOT SURE WHAT THE COURT'S INCLINATION IS AT THIS
25 POINT.

26 MR. BERRY: IF I CAN ADDRESS THAT, YOUR HONOR. IT
27 DOESN'T BECOME MOOT BECAUSE THE ISSUE RELATES TO WHAT'S
28 RELEVANT EVIDENCE WITH RESPECT TO THE BREACH OF EXPRESS

1 WARRANTY CLAIM. IF THEY WANT TO PURSUE A BREACH OF
2 EXPRESS WARRANTY CLAIM UNDER 1230, THEY'RE PUTTING AT
3 ISSUE THE MEANING OF THE WORD "SAFE."

4 THE COURT: I MAY HAVE MISUNDERSTOOD,
5 MR. AKARAGIAN. I THOUGHT HE WAS SAYING -- AND CORRECT
6 ME IF I'M WRONG -- I THOUGHT YOU WERE SAYING IF YOU CAN
7 GET THAT EVIDENCE IN UNDER THE CONSUMER EXPECTATION
8 TEST, YOU WOULD DROP THE EXPRESS WARRANTY CLAIM.

9 MR. AKARAGIAN: THAT'S CORRECT.

10 THE COURT: GO AHEAD.

11 MR. BERRY: OKAY. WELL, OUR POSITION IS THAT THIS
12 IS NOT A CONSUMER EXPECTATION TEST -- CASE. OUR
13 POSITION IS, AS WE ARTICULATED BEFORE, AT THE END OF THE
14 DAY, IT'S A RISK BENEFIT TEST. CONSUMERS DON'T HAVE A
15 REASONABLE EXPECTATION WITH RESPECT TO AN ALLEGED SAFETY
16 DEVICE THAT WASN'T EVEN EQUIPPED IN VEHICLES BROADLY
17 UNTIL 2010 AND LATER; SO I DON'T BELIEVE IT'S A CONSUMER
18 EXPECTATION CASE. SETTING THAT ASIDE, IF YOU LOOK AT
19 THE CASE, THEY CITE *BULLOCK*, *BULLOCK* VS. --

20 THE COURT: -- *PHILIP MORRIS*.

21 MR. BERRY: *PHILIP MORRIS*. IT APPEARS IN *BULLOCK*
22 THAT THE COURT OF APPEAL DID ALLOW ADVERTISING,
23 MARKETING, EVIDENCE WITH RESPECT TO FORMING CONSUMER
24 EXPECTATIONS; HOWEVER, IT WAS A VASTLY DIFFERENT KIND OF
25 EVIDENCE. IT WAS YEARS AND YEARS OF THE TOBACCO COMPANY
26 DENYING THE LINK BETWEEN CANCER AND CIGARETTES -- YOU
27 KNOW, ALLEGEDLY STEERING SCIENTIFIC STUDIES AND MAKING
28 STATEMENTS TO CONGRESS AND ON AND ON.

1 THE ALLEGED ADVERTISING CAMPAIGN HERE IS AT
2 BEST TWO PRINT ADS THAT TALK ABOUT, YOU KNOW, "SAFE AND
3 SEXY." SO I DON'T THINK THIS CASE ARISES TO THE LEVEL
4 OF THE KIND OF ADVERTISING MARKETING EFFORT THAT THE
5 COURT OF APPEAL IN *BULLOCK* SAID WOULD BE SUFFICIENT TO
6 BE INFORMATIVE OF CONSUMER EXPECTATIONS.

7 BUT, YOU KNOW, IF THEY WANT TO -- IF THEY
8 DROP THE BREACH OF EXPRESS WARRANTY CLAIM, WE CAN
9 DISCUSS THE ADMISSIBILITY OR LACK OF ADMISSIBILITY OF
10 SAFETY REPRESENTATIONS WHEN IT'S OFFERED.

11 THE COURT: I THINK PLAINTIFFS DO NEED TO MAKE A
12 DECISION ABOUT THIS ONE WAY OR THE OTHER. IF YOU ARE
13 GOING FORWARD WITH THE EXPRESS WARRANTY CLAIM, THEN YOU
14 NEED TO PROVIDE ME WITH A BRIEF WHY THIS OTHER EVIDENCE
15 DOESN'T COME IN, BECAUSE I THINK IT DOES. IF YOU DECIDE
16 THAT YOU ARE DROPPING IT AND THEN -- AND GOING SIMPLY
17 WITH THE CONSUMER EXPECTATION ISSUE, I ACTUALLY THINK
18 CONSUMER EXPECTATION IS BROADER THAN HAS BEEN
19 ARTICULATED BY THE DEFENDANT.

20 I DON'T THINK THE ISSUE IS -- WAS A
21 CONSUMER EXPECTATION ABOUT HOW THE BRAKE OVERRIDE SYSTEM
22 WOULD WORK, BUT I THINK IT'S SIMPLY THAT -- HOW THEY
23 THOUGHT THE CAR WOULD BEHAVE AND WOULD STOP IF YOU
24 PRESSED ON THE BRAKE.

25 AND SO -- BUT I DO THINK THAT THE *BULLOCK*
26 *VS. PHILLIP MORRIS* CASE IS A VERY DIFFERENT CASE THAN
27 THIS ONE. IT IS A VERY BRIEF DISCUSSION ABOUT IT
28 APPLYING IN THE CONSUMER EXPECTATION CONTEXT IN THAT

1 CASE. AND IT WAS SPECIFICALLY WITH RESPECT TO A
2 TARGETED, LENGTHY CAMPAIGN THAT WAS RELEVANT TO THAT
3 PARTICULAR ISSUE. I THINK WHAT WE HAVE HERE IS VERY
4 DIFFERENT.

5 SO I THINK YOU JUST NEED TO LOOK AT IT AND
6 DECIDE WHICH WAY YOU WANT TO GO AND PROVIDE ME WITH A
7 BRIEF, IF THERE'S FURTHER SUPPORT OTHER THAN THE *PHILIP*
8 CASE --

9
10 MR. MARDIROSSIAN: CAN WE BE GIVEN UNTIL NEXT
11 COURT DATE, WHICH WOULD BE TUESDAY.

12 THE COURT: OF COURSE.

13 MR. AKARAGIAN: AND, YOUR HONOR, THAT'S FINE.
14 IT'S JUST A MATTER OF GUIDANCE, THOUGH, AS FAR AS THE
15 EXPRESS WARRANTY AREA. BECAUSE, AGAIN, I'M -- IN MY
16 READING OF THE STATUTE, I DON'T SEE WHERE ANALYSIS WOULD
17 COME IN WITH THE INDUSTRY, NOR DO I SEE WHERE OTHER
18 MOTIONS IN LIMINE'S RULINGS WOULD BE UPSET.

19 AND, I MEAN, I LOOKED AT 2313. AND IF
20 THERE'S ANY GUIDANCE THE COURT CAN GIVE ON, WELL, HERE'S
21 AN ISSUE I REALLY WANT YOU TO FOCUS ON, WE WOULD BE
22 HAPPY TO DO THAT.

23 THE COURT: LET'S DO THIS. I DON'T HAVE THE
24 STATUTE BEFORE ME RIGHT NOW. WHEN WE TAKE A BREAK, I'LL
25 TAKE A LOOK AT IT AND WE'LL DISCUSS IT FURTHER AT ONE OF
26 THE BREAKS TODAY.

27 MR. MARDIROSSIAN: OKAY. IT COULD BE DONE AT THE
28 END OF THE DAY TODAY.

1 THE COURT: I ACTUALLY HAVE A 4:30 CONFERENCE CALL
2 IN ANOTHER CASE, AND SO I'M GOING TO HAVE TO STOP RIGHT
3 AT 4:30 TODAY.

4 MR. MARDIROSSIAN: WE ARE HOPING TODAY, AFTER
5 OPENING STATEMENTS, YOUR HONOR, THAT WE PUT ON SOME LIVE
6 WITNESSES, AND I'VE ALREADY SHARED THOSE NAMES WITH
7 COUNSEL. AND WE MAY FINISH BEFORE 4:30. THOSE WITNESS
8 SHOULD NOT TAKE VERY LONG. THEY'RE EYEWITNESSS.

9 THE COURT: OKAY.

10 MR. BERRY: AND, YOUR HONOR, ON THE SUBJECT OF
11 WITNESSES, I THINK WE HAD THIS DISCUSSION OFF THE
12 RECORD; SO I JUST WANTED TO CONFIRM. WE'RE DOING
13 24 HOURS' NOTICE OF WITNESSES. YOU KNOW, I LOOKED IN
14 THE TRANSCRIPTS, AND I COULDN'T FIND IT IN ANY OF THE
15 ON-RECORD DISCUSSIONS. BUT I THOUGHT YOU HAD GIVEN US
16 YOUR VIEW OF --

17 MR. MARDIROSSIAN: HOW ABOUT THE EVENING BEFORE WE
18 SHARE WITH THEM WHAT WITNESSES WE'RE GOING TO HAVE?

19 THE COURT: I THOUGHT IT WAS THE END OF THE COURT
20 DAY BEFORE THE NEXT DAY, YOU WERE GOING TO ADVISE THE
21 OTHER SIDE.

22 MR. BERRY: END OF THE COURT DAY BEING 5:00. I
23 MEAN, "EVENING BEFORE" SOMETIMES TURNS INTO 11:59.

24 THE COURT: NO. BEFORE YOU LEAVE COURT THE DAY
25 BEFOREHAND, LET THE OTHER SIDE KNOW WHO IS COMING THE
26 NEXT DAY.

27 MR. BERRY: ALL RIGHT. THANK YOU.

28 MR. MARDIROSSIAN: FAIR ENOUGH.

1 YOUR HONOR, I KNOW THAT I'LL BE MOVING
2 AROUND AND MOVING INTO THE WELL AGAIN, JUST SO THE COURT
3 RECOGNIZES THAT I'LL BE BREACHING THAT AREA.

4 THE COURT: THAT'S FINE.

5 MR. MARDIROSSIAN: YOUR HONOR, AS I REFER TO THE
6 EXHIBITS, WOULD YOU LIKE ME TO GIVE THE NUMBER THE FIRST
7 TIME, OR ARE WE ALL OKAY WITH NOT HAVING TO GIVE
8 NUMBERS?

9 MR. GALVIN: FOR OPENING, I'M FINE JUST BEING
10 CASUAL.

11 THE COURT: THAT'S FINE.

12 MR. MARDIROSSIAN: OKAY. THANK YOU.

13 THE COURT: OKAY. JURORS ARE ALL HERE. IS
14 EVERYBODY READY TO PROCEED?

15 MR. AKARAGIAN: WE ARE.

16

17 (THE FOLLOWING PROCEEDINGS
18 WERE HELD IN OPEN COURT IN
19 THE PRESENCE OF THE JURY:)

20

21 THE COURT: GOOD MORNING, EVERYONE.

22 IN UNISON: GOOD MORNING.

23 THE COURT: ALL RIGHT. THIS IS THE CASE OF UNO
24 VS. TOYOTA, ET AL.

25 COUNSELOR, ARE YOU READY TO PROCEED?

26 MR. MARDIROSSIAN: WE ARE. THANK YOU, YOUR HONOR.

27 MR. GALVIN: YES, YOUR HONOR.

28 THE COURT: ALL RIGHT. WE'RE GOING TO START THIS

1 MORNING WITH SOME PRELIMINARY INSTRUCTIONS; SO I'M GOING
2 TO ASK YOU TO LISTEN VERY CAREFULLY. I'M GOING TO READ
3 THE INSTRUCTIONS, AND THEN WE'RE GOING TO GO RIGHT INTO
4 OPENING STATEMENTS.

5 YOU HAVE NOW BEEN SWORN AS JURORS IN THIS
6 CASE. I WANT TO IMPRESS ON YOU THE SERIOUSNESS AND
7 IMPORTANCE OF SERVING ON A JURY. TRIAL BY JURY IS A
8 FUNDAMENTAL RIGHT IN CALIFORNIA. THE PARTIES HAVE A
9 RIGHT TO A JURY THAT IS SELECTED FAIRLY, THAT COMES TO
10 THE CASE WITHOUT BIAS, AND THAT WILL ATTEMPT TO REACH A
11 VERDICT BASED ON THE EVIDENCE PRESENTED.

12 BEFORE WE BEGIN, I NEED TO EXPLAIN HOW YOU
13 MUST CONDUCT YOURSELF DURING THE TRIAL. DO NOT ALLOW
14 ANYTHING THAT HAPPENS OUTSIDE THIS COURTROOM TO AFFECT
15 YOUR DECISION. DURING THE TRIAL, DO NOT TALK ABOUT THIS
16 CASE OR THE PEOPLE INVOLVED IN IT WITH ANYONE, INCLUDING
17 FAMILY AND PERSONS LIVING IN YOUR HOUSEHOLD, FRIENDS,
18 AND COWORKERS, SPIRITUAL LEADERS, ADVISORS, OR
19 THERAPISTS. YOU MAY SAY YOU ARE ON A JURY AND HOW LONG
20 THE TRIAL MAY TAKE, BUT THAT IS ALL. YOU MUST NOT EVEN
21 TALK ABOUT THE CASE WITH THE OTHER JURORS UNTIL AFTER I
22 TELL YOU THAT IT IS TIME FOR YOU TO DECIDE THE CASE.

23 THIS PROHIBITION IS NOT LIMITED TO
24 FACE-TO-FACE CONVERSATIONS. IT ALSO EXTENDS TO ALL
25 FORMS OF ELECTRONIC COMMUNICATIONS. DO NOT USE ANY
26 ELECTRONIC DEVICE OR MEDIA, SUCH AS A CELL PHONE OR A
27 SMART PHONE, P.D.A., COMPUTER, THE INTERNET, ANY
28 INTERNET SERVICE, ANY TEXT OR INSTANT MESSAGING SERVICE,

1 ANY INTERNET CHAT ROOM, BLOG, OR WEBSITE, INCLUDING
2 SOCIAL NETWORKING, WEBSITES, AND ON-LINE DIARIES TO SEND
3 OR RECEIVE ANY INFORMATION TO OR FROM ANYONE ABOUT THIS
4 CASE OR YOUR EXPERIENCE AS A JURY UNTIL AFTER YOU HAVE
5 BEEN DISCHARGED FROM YOUR JURY DUTY.

6 DURING THE TRIAL, YOU MUST NOT LISTEN TO
7 ANYONE ELSE TALK ABOUT THE CASE OR THE PEOPLE INVOLVED
8 IN THE CASE. YOU MUST AVOID ANY CONTACT WITH THE
9 PARTIES, THE LAWYERS, THE WITNESSES, AND ANYONE ELSE WHO
10 MAY HAVE A CONNECTION TO THE CASE. IF ANYONE TRIES TO
11 TALK TO YOU ABOUT THIS CASE, TELL THAT PERSON THAT YOU
12 CANNOT DISCUSS IT BECAUSE YOU ARE A JUROR. IF HE OR SHE
13 KEEPS TALKING TO YOU, SIMPLY WALK AWAY AND REPORT THE
14 INCIDENT TO THE COURT AS SOON AS YOU CAN. AFTER THE
15 TRIAL IS OVER AND I HAVE RELEASED YOU FROM JURY DUTY,
16 YOU MAY DISCUSS THE CASE WITH ANYONE BUT YOU ARE NOT
17 REQUIRED TO DO SO.

18 DURING THE TRIAL, DO NOT READ, LISTEN TO,
19 OR WATCH ANY NEWS REPORTS ABOUT THIS CASE. THIS
20 PROHIBITION EXTENDS TO USE OF THE INTERNET IN ANY WAY,
21 INCLUDING READING ANY BLOG ABOUT THE CASE OR ABOUT
22 ANYONE INVOLVED IN IT. IF YOU RECEIVE ANY INFORMATION
23 ABOUT THIS CASE FROM ANY SOURCE OUTSIDE OF THE
24 COURTROOM, PROMPTLY REPORT IT TO THE COURT ATTENDANT OR
25 BAILIFF. IT IS IMPORTANT THAT ALL JURORS SEE AND HEAR
26 THE SAME EVIDENCE AT THE SAME TIME.

27 DO NOT DO ANY RESEARCH ON YOUR OWN OR AS A
28 GROUP. DO NOT USE DICTIONARIES, THE INTERNET OR OTHER

1 REFERENCE MATERIALS. DO NOT INVESTIGATE THE CASE OR
2 CONDUCT ANY EXPERIMENTS. DO NOT CONTACT ANYONE TO
3 ASSIST YOU, SUCH AS A FAMILY ACCOUNTANT, DOCTOR, OR
4 LAWYER. DO NOT VISIT OR VIEW THE SCENE OF ANY EVENT
5 INVOLVED IN THIS CASE OR USE ANY INTERNET MAPS OR
6 MAPPING PROGRAMS OR ANY OTHER PROGRAM OR DEVICE TO
7 SEARCH FOR OR TO VIEW ANY PLACE DISCUSSED IN THE
8 TESTIMONY.

9 IF YOU HAPPEN TO PASS BY THE SCENE, DO NOT
10 STOP OR INVESTIGATE. IF YOU DO NEED TO VIEW THE SCENE
11 DURING THE TRIAL, YOU WILL BE TAKEN THERE AS A GROUP
12 UNDER PROPER SUPERVISION. IF YOU VIOLATE ANY OF THESE
13 PROHIBITIONS ON COMMUNICATIONS AND RESEARCH, INCLUDING
14 PROHIBITIONS ON ELECTRONIC COMMUNICATIONS AND RESEARCH,
15 YOU MAY BE HELD IN CONTEMPT OF COURT OR FACE OTHER
16 SANCTIONS. THAT MEANS THAT YOU MAY HAVE TO SERVE TIME
17 IN JAIL, PAY A FINE, OR FACE OTHER PUNISHMENT FOR THAT
18 VIOLATION.

19 IT IS IMPORTANT THAT YOU KEEP AN OPEN MIND
20 THROUGHOUT THIS TRIAL. EVIDENCE CAN ONLY BE PRESENTED A
21 PIECE AT A TIME. DO NOT FORM OR EXPRESS AN OPINION
22 ABOUT THIS CASE WHILE THE TRIAL IS GOING ON. YOU MUST
23 NOT DECIDE ON A VERDICT UNTIL AFTER YOU HAVE HEARD ALL
24 THE EVIDENCE AND YOU HAVE DISCUSSED IT THOROUGHLY WITH
25 YOUR FELLOW JURORS IN YOUR DELIBERATIONS.

26 DO NOT CONCERN YOURSELF WITH THE REASONS
27 FOR THE RULINGS I WILL MAKE DURING THE COURSE OF THE
28 TRIAL. DO NOT GUESS WHAT I MAY THINK YOUR VERDICT

1 SHOULD BE FROM ANYTHING I MIGHT SAY OR DO. WHEN YOU
2 BEGIN YOUR DELIBERATIONS, YOU MAY DISCUSS THE CASE ONLY
3 IN THE JURY ROOM AND ONLY WHEN ALL THE JURORS ARE
4 PRESENT.

5 YOU MUST DECIDE WHAT THE FACTS ARE IN THIS
6 CASE. DO NOT LET BIAS, SYMPATHY, PREJUDICE, OR PUBLIC
7 OPINION INFLUENCE YOUR VERDICT. AT THE END OF THE
8 TRIAL, I WILL EXPLAIN THE LAW THAT YOU MUST FOLLOW TO
9 REACH YOUR VERDICT. YOU MUST FOLLOW THE LAW AS I
10 EXPLAIN IT TO YOU, EVEN IF YOU DO NOT AGREE WITH THE
11 LAW.

12 YOU WILL BE GIVEN NOTEBOOKS AND MAY TAKE
13 NOTES DURING THE TRIAL. DO NOT TAKE THE NOTEBOOKS OUT
14 OF THE COURTROOM OR THE JURY ROOM AT ANY TIME DURING THE
15 TRIAL. YOU MAY TAKE YOUR NOTES INTO THE JURY ROOM
16 DURING DELIBERATIONS. YOU SHOULD USE YOUR NOTES ONLY TO
17 REMIND YOURSELF OF WHAT HAPPENED DURING THE TRIAL.

18 DO NOT LET YOUR NOTE-TAKING INTERFERE WITH
19 YOUR ABILITY TO LISTEN CAREFULLY TO ALL THE EVIDENCE AND
20 TO WATCH THE WITNESSES AS THEY TESTIFY, NOR SHOULD YOU
21 ALLOW YOUR IMPRESSION OF A WITNESS OR OTHER EVIDENCE TO
22 BE INFLUENCED BY WHETHER OR NOT OTHER JURORS ARE TAKING
23 NOTES. YOUR INDEPENDENT RECOLLECTION OF THE EVIDENCE
24 SHOULD GOVERN YOUR VERDICT, AND YOU SHOULD NOT ALLOW
25 YOURSELF TO BE INFLUENCED BY THE NOTES OF OTHER JURORS
26 IF THOSE NOTES DIFFER FROM WHAT YOU REMEMBER.

27 THE COURT REPORTER IS MAKING A RECORD OF
28 EVERYTHING THAT IS SAID. IF DURING DELIBERATIONS YOU

1 HAVE A QUESTION ABOUT WHAT THE WITNESS SAID, YOU SHOULD
2 ASK THAT THE COURT REPORTER'S RECORDS BE READ TO YOU.
3 YOU MUST ACCEPT THE COURT REPORTER'S RECORD AS ACCURATE.
4 AT THE END OF THE TRIAL, YOUR NOTES WILL BE COLLECTED
5 AND DESTROYED BUT NOT AS A PART OF THE CASE RECORD.

6 THERE ARE TWO DEFENDANTS IN THIS TRIAL.
7 YOU SHOULD DECIDE THE CASE AGAINST EACH DEFENDANT
8 SEPARATELY AS IF IT WERE A SEPARATE LAWSUIT. EACH
9 DEFENDANT IS ENTITLED TO SEPARATE CONSIDERATION OF HIS
10 OR HER OWN DEFENSES.

11 DIFFERENT ASPECTS OF THIS CASE INVOLVE
12 DIFFERENT PARTIES. EACH INSTRUCTION WILL IDENTIFY THE
13 PARTIES TO WHOM IT APPLIES. PAY PARTICULAR ATTENTION TO
14 THE PARTIES NAMED IN EACH INSTRUCTION.

15 SEVERAL CORPORATIONS ARE DEFENDANTS IN THIS
16 LAWSUIT. THE TOYOTA DEFENDANTS ARE ENTITLED TO THE SAME
17 FAIR AND IMPARTIAL TREATMENT THAT YOU WOULD GIVE TO AN
18 INDIVIDUAL. YOU MUST DECIDE THIS CASE WITH THE SAME
19 FAIRNESS THAT YOU WOULD USE IF YOU WERE DECIDING THE
20 CASE BETWEEN INDIVIDUALS. WHEN I USE WORDS LIKE
21 "PERSON" OR "HE" OR "SHE" IN THESE INSTRUCTIONS TO REFER
22 TO A PARTY, THOSE INSTRUCTIONS ALSO APPLY TO THE TOYOTA
23 DEFENDANTS.

24 YOU MUST NOT CONSIDER WHETHER ANY OF THE
25 PARTIES IN THIS CASE HAS INSURANCE. THE PRESENCE OR
26 ABSENCE OF INSURANCE IS TOTALLY IRRELEVANT. YOU MUST
27 DECIDE THIS CASE BASED ONLY ON THE LAW AND THE EVIDENCE.
28 YOU MUST DECIDE WHAT THE FACTS ARE IN THIS CASE ONLY

1 FROM THE EVIDENCE THAT YOU SEE OR HEAR DURING THE TRIAL.

2 SWORN TESTIMONY DOCUMENTS OR ANYTHING ELSE
3 MAY BE ADMITTED INTO EVIDENCE. YOU MAY NOT CONSIDER AS
4 EVIDENCE ANYTHING THAT YOU SEE OR HEAR WHEN COURT IS NOT
5 IN SESSION, EVEN SOMETHING SAID OR DONE BY ONE OF THE
6 PARTIES, ATTORNEYS, OR WITNESSES.

7 WHAT THE ATTORNEYS SAY DURING THE TRIAL IS
8 NOT EVIDENCE. IN THEIR OPENING STATEMENTS AND CLOSING
9 ARGUMENTS, THE ATTORNEYS WILL TALK TO YOU ABOUT THE LAW
10 AND THE EVIDENCE. WHAT THE LAWYERS SAY MAY HELP YOU
11 UNDERSTAND THE LAW AND THE EVIDENCE, BUT THEIR
12 STATEMENTS AND ARGUMENTS ARE NOT EVIDENCE.

13 THE ATTORNEY'S QUESTIONS ARE NOT EVIDENCE.
14 ONLY THE WITNESS'S ANSWERS ARE EVIDENCE. YOU SHOULD NOT
15 THINK THAT SOMETHING IS TRUE JUST BECAUSE AN ATTORNEY'S
16 QUESTION SUGGESTS THAT IT'S TRUE.

17 HOWEVER, THE ATTORNEYS FOR BOTH SIDES CAN
18 AGREE THAT CERTAIN FACTS ARE TRUE. THIS AGREEMENT IS
19 CALLED A STIPULATION. NO OTHER PROOF IS NEEDED, AND YOU
20 MUST ACCEPT THOSE FACTS AS TRUE IN THIS TRIAL.

21 EACH SIDE HAS THE RIGHT TO OBJECT TO
22 EVIDENCE OFFERED BY THE OTHER SIDE. IF I DO NOT AGREE
23 WITH THE OBJECTION, I WILL SAY IT IS OVERRULED. IF I
24 OVERRULE AN OBJECTION, THE WITNESS WILL ANSWER AND YOU
25 MAY CONSIDER THE EVIDENCE.

26 IF I AGREE WITH THE OBJECTION, I WILL SAY
27 IT'S SUSTAINED. IF I SUSTAIN AN OBJECTION, YOU MUST
28 IGNORE THE QUESTION. IF THE WITNESS DID NOT ANSWER, YOU

1 MUST NOT GUESS WHAT HE OR SHE MIGHT HAVE SAID OR WHY I
2 SUSTAINED THE OBJECTION. IF THE WITNESS HAS ALREADY
3 ANSWERED, YOU MUST IGNORE THE ANSWER.

4 AN ATTORNEY MAY MAKE A MOTION TO STRIKE
5 TESTIMONY THAT YOU HAVE HEARD. IF I GRANT THE MOTION,
6 YOU MUST TOTALLY DISREGARD THAT TESTIMONY. YOU MUST
7 TREAT IT AS THOUGH IT DID NOT EXIST.

8 A WITNESS IS A PERSON WHO HAS KNOWLEDGE
9 RELATED TO THIS CASE. YOU WILL HAVE TO DECIDE WHETHER
10 YOU BELIEVE EACH WITNESS AND HOW IMPORTANT EACH
11 WITNESS'S TESTIMONY IS TO THE CASE. YOU MAY BELIEVE
12 ALL, PART, OR NONE OF A WITNESS'S TESTIMONY.

13 IN DECIDING WHETHER TO BELIEVE A WITNESS'S
14 TESTIMONY, YOU MAY CONSIDER AMONG OTHER FACTORS THE
15 FOLLOWING: HOW WELL DID THE WITNESS SEE, HEAR, OR
16 OTHERWISE SENSE WHAT HE OR SHE DESCRIBED IN COURT? HOW
17 WELL DID THE WITNESS REMEMBER AND DESCRIBE WHAT
18 HAPPENED? HOW DID THE WITNESS LOOK, ACT, AND SPEAK
19 WHILE TESTIFYING? DID THE WITNESS HAVE ANY REASON TO
20 SAY SOMETHING THAT WAS NOT TRUE? FOR EXAMPLE, DID THE
21 WITNESS SHOW ANY BIAS OR PREJUDICE OR HAVE A PERSONAL
22 RELATIONSHIP WITH ANY OF THE PARTIES INVOLVED IN THE
23 CASE OR HAVE A PERSONAL STAKE IN HOW THE CASE IS
24 DECIDED? WHAT WAS THE WITNESS'S ATTITUDE TOWARDS THIS
25 CASE OR ABOUT GIVING TESTIMONY?

26 SOMETIMES A WITNESS MAY SAY SOMETHING THAT
27 IS NOT CONSISTENT WITH SOMETHING ELSE HE OR SHE SAID.
28 SOMETIMES DIFFERENT WITNESSES WILL GIVE DIFFERENT

1 VERSIONS OF WHAT HAPPENED. PEOPLE OFTEN FORGET THINGS
2 OR MAKE MISTAKES IN WHAT THEY REMEMBER.

3 ALSO, TWO PEOPLE MAY SEE THE SAME EVENT BUT
4 REMEMBER IT DIFFERENTLY. YOU MAY CONSIDER THESE
5 DIFFERENCES, BUT DO NOT DECIDE THE TESTIMONY IS UNTRUE
6 JUST BECAUSE IT DIFFERS FROM OTHER TESTIMONY; HOWEVER,
7 IF YOU DECIDE THAT A WITNESS HAS DELIBERATELY TESTIFIED
8 UNTRUTHFULLY ABOUT SOMETHING IMPORTANT, YOU MAY CHOOSE
9 NOT TO BELIEVE ANYTHING THAT WITNESS SAID. ON THE OTHER
10 HAND, IF YOU THINK THE WITNESS TESTIFIED UNTRUTHFULLY
11 ABOUT SOME THINGS BUT TOLD THE TRUTH ABOUT OTHERS, YOU
12 MAY ACCEPT THE PART YOU THINK IS TRUE AND IGNORE THE
13 REST.

14 DO NOT MAKE ANY DECISIONS SIMPLY BECAUSE
15 THERE WERE MORE WITNESSES ON ONE SIDE THAN THE OTHER.
16 IF YOU BELIEVE IT IS TRUE, THE TESTIMONY OF A SINGLE
17 WITNESS IS ENOUGH TO PROVE A FACT.

18 SOME TESTIMONY MAY BE GIVEN IN JAPANESE.
19 AN INTERPRETER WILL PROVIDE A TRANSLATION FOR YOU AT THE
20 TIME THE TESTIMONY IS GIVEN. YOU MUST RELY SOLELY ON
21 THE TRANSLATION PROVIDED BY THE INTERPRETER, EVEN IF YOU
22 UNDERSTAND THE LANGUAGE SPOKEN BY THE WITNESS. DO NOT
23 RETRANSLATE ANY TESTIMONY FOR OTHER JURORS. IF YOU
24 BELIEVE THE COURT REPORTER TRANSLATED TESTIMONY
25 INCORRECTLY, LET ME KNOW IMMEDIATELY BY WRITING A
26 NOTE -- I'M SORRY -- IF YOU BELIEVE THE COURT
27 INTERPRETER TRANSLATED TESTIMONY INCORRECTLY, LET ME
28 KNOW IMMEDIATELY BY WRITING A NOTE AND GIVING IT TO THE

1 CLERK.

2 NOW, SOME OF YOU ARE ALTERNATE JURORS. AS
3 ALTERNATE JURORS, YOU ARE BOUND BY THE SAME RULES THAT
4 GOVERN THE CONDUCT OF JURORS WHO ARE SITTING ON THE
5 PANEL. YOU WILL OBSERVE THE SAME TRIAL AND SHOULD PAY
6 ATTENTION TO ALL OF MY INSTRUCTIONS JUST AS IF YOU WERE
7 SITTING ON THE PANEL. SOMETIMES A JUROR NEEDS TO BE
8 EXCUSED DURING A TRIAL FOR ILLNESS OR SOME OTHER REASON.
9 IF THAT HAPPENS, AN ALTERNATE WILL BE SELECTED TO TAKE
10 THAT JUROR'S PLACE.

11 IF DURING THE TRIAL YOU HAVE A QUESTION
12 THAT YOU BELIEVE SHOULD BE ASKED OF A WITNESS, YOU MAY
13 WRITE OUT THE QUESTION AND SEND IT TO ME THROUGH MY
14 COURTROOM STAFF. I WILL SHARE YOUR QUESTIONS WITH THE
15 ATTORNEYS AND DECIDE WHETHER IT MAY BE ASKED. DO NOT
16 FEEL DISAPPOINTED IF YOUR QUESTION IS NOT ASKED. YOUR
17 QUESTION MAY NOT BE ASKED FOR A VARIETY OF REASONS. FOR
18 EXAMPLE, THE QUESTION MAY CALL FOR AN ANSWER THAT IS NOT
19 ALLOWED FOR LEGAL REASONS.

20 ALSO YOU SHOULD NOT TRY TO GUESS THE REASON
21 WHY A QUESTION IS NOT ASKED OR SPECULATE ABOUT WHAT THE
22 ANSWER MIGHT HAVE BEEN. BECAUSE THE DECISION WHETHER TO
23 ALLOW THE QUESTION IS MINE ALONE, DO NOT HOLD IT AGAINST
24 ANY OF THE ATTORNEYS OR THEIR CLIENTS IF YOUR QUESTION
25 IS NOT ASKED. REMEMBER THAT YOU ARE NOT AN ADVOCATE FOR
26 ONE SIDE OR THE OTHER.

27 EACH OF YOU IS AN IMPARTIAL JUDGE OF THE
28 FACTS. YOUR QUESTIONS SHOULD BE POSED IN AS NEUTRAL A

1 FASHION AS POSSIBLE. DO NOT DISCUSS ANY QUESTION ASKED
2 BY ANY JUROR WITH ANY OTHER JUROR UNTIL AFTER
3 DELIBERATIONS BEGIN.

4 EACH ONE OF US HAS BIASES ABOUT OR CERTAIN
5 PERCEPTIONS OR STEREOTYPES OF OTHER PEOPLE. WE MAY BE
6 AWARE OF SOME OF OUR BIASES, THOUGH WE MAY NOT SHARE
7 THEM WITH OTHERS. WE MAY NOT BE FULLY AWARE OF SOME OF
8 OUR OTHER BIASES. OUR BIASES OFTEN AFFECT HOW WE ACT
9 FAVORABLY OR UNFAVORABLY TOWARD SOMEONE. BIAS CAN
10 AFFECT OUR THOUGHTS, HOW WE REMEMBER, WHAT WE SEE AND
11 HEAR, WHOM WE BELIEVE OR DISBELIEVE, AND HOW WE MAKE
12 IMPORTANT DECISIONS.

13 AS JURORS YOU ARE BEING ASKED TO MAKE VERY
14 IMPORTANT DECISIONS IN THIS CASE. YOU MUST NOT LET
15 BIAS, PREJUDICE, OR PUBLIC OPINION INFLUENCE YOUR
16 DECISION. YOU MUST NOT BE BIASED IN FAVOR OF OR AGAINST
17 ANY PARTY OR WITNESS BECAUSE OF HIS OR HER DISABILITY,
18 GENDER, RACE, RELIGION, ETHNICITY, SEXUAL ORIENTATION,
19 AGE, NATIONAL ORIGIN, OR SOCIOECONOMIC STATUS. YOUR
20 VERDICT MUST BE BASED SOLELY ON THE EVIDENCE PRESENTED.
21 YOU MUST CAREFULLY EVALUATE THE EVIDENCE AND RESIST ANY
22 URGE TO REACH A VERDICT THAT IS INFLUENCED BY BIAS FOR
23 OR AGAINST ANY PARTY OR WITNESS.

24 FROM TIME TO TIME DURING THE TRIAL, IT MAY
25 BE NECESSARY FOR ME TO TALK WITH THE ATTORNEYS OUT OF
26 THE HEARING OF THE JURY EITHER BY HAVING A CONFERENCE AT
27 THE BENCH WHEN THE JURY IS PRESENT AT THE COURTROOM OR
28 BY CALLING A RECESS TO DISCUSS MATTERS OUTSIDE OF YOUR

1 PRESENCE. THE PURPOSE OF THESE CONFERENCES IS NOT TO
2 KEEP RELEVANT INFORMATION FROM YOU BUT TO DECIDE HOW
3 CERTAIN EVIDENCE IS TO BE TREATED UNDER THE RULES OF
4 EVIDENCE.

5 DO NOT BE CONCERNED ABOUT OUR DISCUSSIONS
6 OR TRY TO GUESS ABOUT WHAT IS BEING SAID. I MAY NOT
7 ALWAYS GRANT AN ATTORNEY'S REQUEST FOR A CONFERENCE. DO
8 NOT CONSIDER MY GRANTING OR DENYING A REQUEST FOR A
9 CONFERENCE AS ANY INDICATION OF MY OPINION OF THE CASE
10 OR OF MY VIEW OF THE EVIDENCE.

11 I KNOW THAT MANY OF US ARE USED TO
12 COMMUNICATING, AND PERHAPS EVEN LEARNING, BY ELECTRONIC
13 COMMUNICATION AND RESEARCH; HOWEVER, THERE ARE GOOD
14 REASONS WHY YOU MUST NOT ELECTRONICALLY COMMUNICATE OR
15 DO ANY RESEARCH ON ANYTHING HAVING TO DO WITH THIS TRIAL
16 OR THE PARTIES.

17 IN COURT JURORS MUST MAKE IMPORTANT
18 DECISIONS THAT HAVE CONSEQUENCES FOR THE PARTIES. THOSE
19 DECISIONS MUST BE BASED ONLY ON THE EVIDENCE THAT YOU
20 HEAR IN THIS COURTROOM. THE EVIDENCE THAT IS PRESENTED
21 IN COURT CAN BE TESTED. IT CAN BE SHOWN TO BE RIGHT OR
22 WRONG BY EITHER SIDE. IT CAN BE QUESTIONED, AND IT CAN
23 BE CONTRADICTED BY OTHER EVIDENCE.

24 WHAT YOU MIGHT READ OR HEAR ON YOUR OWN
25 COULD EASILY BE WRONG, OUT OF DATE, OR INAPPLICABLE TO
26 THIS CASE. THE PARTIES CAN RECEIVE A FAIR TRIAL ONLY IF
27 THE FACTS AND INFORMATION ON WHICH YOU BASE YOUR
28 DECISIONS ARE PRESENTED TO YOU AS A GROUP WITH EACH

1 JUROR HAVING THE SAME OPPORTUNITY TO SEE, HEAR, AND
2 EVALUATE THE EVIDENCE. ALSO, A TRIAL IS A PUBLIC
3 PROCESS THAT DEPENDS ON DISCLOSURE IN THE COURTROOM OF
4 FACTS AND EVIDENCE. USING INFORMATION GATHERED IN
5 SECRET BY ONE OR MORE JURORS UNDERMINES THE PUBLIC
6 PROCESS AND VIOLATES THE RIGHTS OF THE PARTIES.

7 A PARTY MUST PERSUADE YOU BY THE EVIDENCE
8 PRESENTED IN COURT THAT WHAT HE OR SHE IS REQUIRED TO
9 PROVE IS MORE LIKELY TO BE TRUE THAN NOT TRUE. THIS IS
10 REFERRED TO AS THE BURDEN OF PROOF. AFTER WEIGHING ALL
11 OF THE EVIDENCE, IF YOU CANNOT DECIDE THAT SOMETHING IS
12 MORE LIKELY TO BE TRUE THAN NOT TRUE, YOU MUST CONCLUDE
13 THAT THE PARTY DID NOT PROVE IT. YOU SHOULD CONSIDER
14 ALL THE EVIDENCE NO MATTER WHICH PARTY PRODUCED THE
15 EVIDENCE.

16 IN CRIMINAL TRIALS, THE PROSECUTION MUST
17 PROVE THAT THE DEFENDANT IS GUILTY BEYOND A REASONABLE
18 DOUBT. BUT IN CIVIL TRIALS SUCH AS THIS ONE, THE PARTY
19 WHO IS REQUIRED TO PROVE SOMETHING NEED PROVE ONLY THAT
20 IT IS MORE LIKELY TO BE TRUE THAN NOT TRUE. CERTAIN
21 FACTS MUST BE PROVED BY CLEAR AND CONVINCING EVIDENCE,
22 WHICH IS A HIGHER BURDEN OF PROOF. THIS MEANS THE PARTY
23 MUST PERSUADE YOU THAT IT IS HIGHLY PROBABLE THAT THE
24 FACT IS TRUE. I'LL TELL YOU SPECIFICALLY WHICH FACTS
25 MUST BE PROVED BY CLEAR AND CONVINCING EVIDENCE.

26 EVIDENCE CAN COME IN MANY FORMS. IT CAN BE
27 TESTIMONY ABOUT WHAT SOMEONE SAW OR HEARD OR SMELLED.
28 IT CAN BE AN EXHIBIT ADMITTED INTO EVIDENCE. IT CAN BE

1 SOMEONE'S OPINION.

2 DIRECT EVIDENCE CAN PROVE A FACT BY ITSELF.
3 FOR EXAMPLE, IF A WITNESS TESTIFIES SHE SAW A JET PLANE
4 FLYING ACROSS THE SKY, THAT TESTIMONY IS DIRECT EVIDENCE
5 THAT A PLANE FLEW ACROSS THE SKY.

6 SOME EVIDENCE PROVES A FACT INDIRECTLY.
7 FOR EXAMPLE, A WITNESS TESTIFIES THAT HE SAW ONLY THE
8 WHITE TRAIL THAT JET PLANES OFTEN LEAVE. THIS INDIRECT
9 EVIDENCE IS SOMETIMES REFERRED TO AS CIRCUMSTANTIAL
10 EVIDENCE.

11 IN EITHER INSTANCE, THE WITNESS'S TESTIMONY
12 IS EVIDENCE THAT A JET PLANE FLEW ACROSS THE SKY. AS
13 FAR AS THE LAW IS CONCERNED, IT MAKES NO DIFFERENCE
14 WHETHER EVIDENCE IS DIRECT OR INDIRECT. YOU MAY CHOOSE
15 TO BELIEVE OR DISBELIEVE EITHER KIND. WHETHER IT IS
16 DIRECT OR INDIRECT, YOU SHOULD GIVE EVERY PIECE OF
17 EVIDENCE WHATEVER WEIGHT YOU THINK IT DESERVES.

18 DURING THE TRIAL, I MAY EXPLAIN TO YOU THAT
19 CERTAIN EVIDENCE IS ADMITTED FOR A LIMITED PURPOSE. YOU
20 MAY CONSIDER THAT EVIDENCE ONLY FOR THE LIMITED PURPOSE
21 THAT I DESCRIBE AND NOT FOR ANY OTHER PURPOSE. DURING
22 THE TRIAL, I MAY EXPLAIN TO YOU THAT CERTAIN EVIDENCE
23 CAN BE CONSIDERED AS TO ONE OR MORE PARTIES BUT NOT TO
24 EVERY PARTY. YOU MAY NOT CONSIDER THAT EVIDENCE AS TO
25 ANY OTHER PARTY.

26 DURING THE TRIAL, YOU WILL RECEIVE
27 DEPOSITION TESTIMONY THAT WAS EITHER -- THAT WILL BE
28 SHOWN FROM A VIDEOTAPE OR READ FROM A DEPOSITION

1 TRANSCRIPT. A DEPOSITION IS THE TESTIMONY OF A PERSON
2 TAKEN BEFORE TRIAL. AT A DEPOSITION, THE PERSON IS
3 SWORN TO TELL THE TRUTH AND IS QUESTIONED BY THE
4 ATTORNEYS. YOU MUST CONSIDER THE DEPOSITION TESTIMONY
5 THAT IS PRESENTED TO YOU IN THE SAME WAY AS YOU CONSIDER
6 TESTIMONY GIVEN IN COURT.

7 BEFORE TRIAL EACH PARTY HAS THE RIGHT TO
8 ASK THE OTHER PARTIES TO ANSWER WRITTEN QUESTIONS.
9 THESE QUESTIONS ARE CALLED "INTERROGATORIES." THE
10 ANSWERS ARE ALSO IN WRITING AND ARE GIVEN UNDER OATH.
11 YOU MUST CONSIDER THE QUESTIONS AND ANSWERS THAT ARE
12 READ TO YOU THE SAME AS IF THE QUESTIONS AND ANSWERS ARE
13 GIVEN IN COURT.

14 BEFORE TRIAL EACH PARTY HAS THE RIGHT TO
15 ASK ANOTHER PARTY TO ADMIT IN WRITING THAT CERTAIN
16 MATTERS ARE TRUE. IF THE OTHER PARTY ADMITS THOSE
17 MATTERS, YOU MUST ACCEPT THEM AS TRUE. NO FURTHER
18 EVIDENCE IS REQUIRED TO PROVE THEM; HOWEVER, THESE
19 MATTERS MUST BE CONSIDERED TRUE ONLY AS THEY APPLY TO
20 THE PARTY WHO ADMITTED THEY WERE TRUE.

21 DURING THE TRIAL, YOU ARE GOING TO HEAR
22 TESTIMONY FROM EXPERT WITNESSES. THE LAW ALLOWS AN
23 EXPERT TO STATE OPINIONS ABOUT MATTERS IN HIS OR HER
24 FIELD OF EXPERTISE, EVEN IF HE OR SHE HAS NOT WITNESSED
25 ANY OF THE EVENTS INVOLVED IN THE TRIAL.

26 YOU DO NOT HAVE TO ACCEPT AN EXPERT'S
27 OPINION. AS WITH ANY OTHER WITNESS, IT'S UP TO YOU TO
28 DECIDE WHETHER YOU BELIEVE THE EXPERT'S TESTIMONY AND

1 CHOOSE TO USE IT AS A BASIS FOR YOUR DECISION. YOU MAY
2 BELIEVE ALL, PART, OR NONE OF AN EXPERT'S TESTIMONY. IN
3 DECIDING WHETHER TO BELIEVE AN EXPERT'S TESTIMONY, YOU
4 SHOULD CONSIDER THE EXPERT'S TRAINING AND EXPERIENCE,
5 THE FACTS THE EXPERT HAS RELIED ON, AND THE REASONS FOR
6 THE EXPERT'S OPINION.

7 THE LAW ALLOWS EXPERT WITNESSES TO BE ASKED
8 QUESTIONS THAT ARE BASED ON ASSUMED FACTS. THESE ARE
9 SOMETIMES CALLED "HYPOTHETICAL QUESTIONS." IN
10 DETERMINING THE WEIGHT TO GIVE TO THE EXPERT'S OPINION
11 THAT IS BASED ON ASSUMED FACTS, YOU SHOULD CONSIDER
12 WHETHER THE ASSUMED FACTS ARE TRUE.

13 IF THE EXPERT WITNESSES DISAGREED WITH ONE
14 ANOTHER, YOU SHOULD WEIGH EACH OPINION AGAINST THE
15 OTHERS. YOU SHOULD EXAMINE THE REASONS GIVEN FOR EACH
16 OPINION AND THE FACTS OR OTHER MATTERS THAT EACH WITNESS
17 RELIES ON. YOU MAY ALSO COMPARE THE EXPERT'S
18 QUALIFICATIONS.

19 A WITNESS WHO IS NOT TESTIFYING AS AN
20 EXPERT MAY GIVE AN OPINION DURING THE TRIAL. YOU MAY
21 BUT ARE NOT REQUIRED TO ACCEPT THAT OPINION. YOU MAY
22 GIVE THE OPINION WHATEVER WEIGHT YOU THINK IS
23 APPROPRIATE.

24 CONSIDER THE EXTENT OF THE WITNESS'S
25 OPPORTUNITY TO PERCEIVE THE MATTERS ON WHICH THE OPINION
26 IS BASED, THE REASONS THE WITNESS GIVES FOR THE OPINION
27 AND THE FACTS OR INFORMATION ON WHICH THE WITNESS RELIES
28 IN FORMING THAT OPINION. YOU MUST DECIDE WHETHER THE

1 INFORMATION ON WHICH THE WITNESS RELIES IS TRUE AND
2 ACCURATE. YOU MAY DISREGARD ALL OR ANY PART OF AN
3 OPINION THAT YOU FIND UNBELIEVABLE, UNREASONABLE, OR
4 UNSUPPORTED BY THE EVIDENCE.

5 ALL RIGHT. ON THAT NOTE, WE'VE FINISHED
6 WITH THE PRE-INSTRUCTIONS, AND NOW WE'RE GOING TO GO
7 INTO OPENING STATEMENTS.

8 MR. MARDIROSSIAN, YOU CAN BEGIN.

9 MR. MARDIROSSIAN: THANK YOU, YOUR HONOR. I'M
10 JUST WAITING A MOMENT AS WE HAVE THESE NOTEBOOKS BEING
11 PASSED OUT, YOUR HONOR.

12 THE COURT: YOU KNOW, I'M GOING TO ASK YOU TO DO
13 SOMETHING, IF YOU WOULD. WHEN YOU GET YOUR NOTEBOOK,
14 WHY DON'T YOU JUST SET IT ON THE FLOOR RIGHT BY YOUR
15 CHAIR, BECAUSE WHAT I'M GOING TO ASK YOU TO DO IS YOU'RE
16 GOING TO LISTEN TO THE OPENING STATEMENTS FROM THE
17 LAWYERS.

18 AS I INDICATED AT THE BEGINNING, THE
19 OPENING STATEMENTS BY THE LAWYERS ARE NOT EVIDENCE, AND
20 SO I'M GOING TO ASK YOU TO BEGIN TAKING NOTES ONCE WE
21 GET TO THE EVIDENCE IN THE CASE. FOR RIGHT NOW, YOU CAN
22 JUST SET YOUR NOTEBOOKS DOWN.

23 MR. MARDIROSSIAN: GOOD MORNING.

24 IN UNISON: GOOD MORNING.

25 MR. MARDIROSSIAN: NO ONE IS ALLOWED TO PUT THE
26 PUBLIC IN DANGER NEEDLESSLY. DRIVERS MUST STOP AT STOP
27 SIGNS. IF A DRIVER DOES NOT STOP AT A STOP SIGN AND
28 DOES NOT SEE WHAT IS THERE TO BE SEEN AND CAUSES HARM,

1 THEN THAT DRIVER IS RESPONSIBLE FOR THE HARM.

2 COMPANIES THAT MAKE PRODUCTS MUST MAKE
3 THOSE PRODUCTS AS TECHNOLOGICALLY FEASIBLE AND
4 FINANCIALLY FEASIBLE. COMPANIES MUST MAKE SURE THAT
5 THEIR PRODUCTS GUARD THE PUBLIC FROM THE RISKS IN THOSE
6 PRODUCTS. WHEN A COMPANY DOES NOT AND SOMEONE IS
7 HARMED, THEN THE COMPANY IS RESPONSIBLE FOR THAT HARM.

8 NOW, LET ME TELL YOU THE STORY OF THIS
9 CASE. TOYOTA IS A COMPANY THAT WAS ESTABLISHED OVER
10 70 YEARS AGO. TOYOTA MADE A PLEDGE MORE THAN 70 YEARS
11 AGO THAT TOYOTA WOULD PROVIDE CUSTOMERS WITH THE SAFEST
12 AND MOST RELIABLE VEHICLES IN THE WORLD.

13 NOW, THAT WAS BY A GENTLEMAN NAMED "LENTZ."
14 MR. JAMES LENTZ IS THE C.E.O., THE CHIEF EXECUTIVE
15 OFFICER, OF TOYOTA OF AMERICA.

16 TOYOTA AND SAFETY -- TOYOTA'S APPROACH TO
17 SAFETY FOR TODAY AND FOR TOMORROW -- TOYOTA SAYS IT
18 BELIEVES THAT A RESPONSIBLE COMPANY MUST BE PROACTIVE,
19 PREDICTING PROBLEMS AND TAKING CORRECTIVE MEASURES
20 BEFORE THEY HAPPEN. FURTHER TOYOTA SAYS THE SAFETY
21 MEASURES WE ARE UNDERTAKING INCLUDE THE INCORPORATION OF
22 A BRAKE OVERRIDE SYSTEM THAT CUTS ENGINE POWER IF THE
23 ACCELERATOR AND THE BRAKE ARE DEPRESSED AT THE SAME
24 TIME.

25 NOW, WE KNOW THAT THESE VEHICLES HAVE
26 CERTAIN SAFETY SYSTEMS IN THEM, INCLUDING SURESTOP
27 TECHNOLOGY. SURESTOP TECHNOLOGY AUTOMATICALLY REDUCES
28 ENGINE POWER WHEN THE BRAKE PEDAL IS PUSHED IF THE

1 ACCELERATOR PEDAL OR THROTTLE IS IN OPEN POSITION
2 BRINGING THE VEHICLE TO A QUICK, SAFE STOP.

3 WHAT I'M GOING TO DO IN A MOMENT IS
4 DEMONSTRATE FOR YOU SOME OF THESE PRINCIPLES. AND I'M
5 GOING TO DEMONSTRATE THOSE TO YOU WITH SOME
6 THREE-DIMENSIONAL MODELS THAT I HAVE HERE FOR YOU.

7 YOU SEE, BACK -- LET ME JUST BRING YOU UP
8 TO DATE A LITTLE BIT, BECAUSE WE TALKED ABOUT 70 YEARS
9 AGO AND TOYOTA. BUT BACK IN ABOUT 1987, A COMPANY NAMED
10 BOSCH, A GERMAN COMPANY, PATENTED A SAFETY FEATURE
11 CALLED "B.O.S.S.," BRAKE OVERRIDE SAFETY SYSTEM.

12 TOYOTA TOOK NOTE OF THAT. NOW, THAT
13 PARTICULAR PATENT DEALT WITH BRAKE OVERRIDES IN VEHICLES
14 THAT ARE "DRIVE BY WIRE," AS OPPOSED TO VEHICLES THAT
15 WERE "DRIVE BY CABLE." NOW, WHAT AM I TALKING ABOUT?

16 I HAVE BEFORE YOU HERE AN EXHIBIT THAT HAS
17 THE DRIVE-BY-CABLE MODEL. THIS EXHIBIT SHOWS A THROTTLE
18 BODY WHICH IS RIGHT HERE WHERE MY RIGHT HAND IS AND A
19 PEDAL. SO THIS THROTTLE BODY, WHEN IT OPENS UP, IT
20 ALLOWS AIR TO GO INTO THE ENGINE. AND THEN WHEN AIR
21 COMES IN, THE ENGINE THEN KNOWS HOW MUCH FUEL TO SEND
22 INTO THE CYLINDERS SO THAT THE PISTONS CAN FIRE AND THE
23 ENGINE CAN OPERATE. AND YOU WILL SEE A DEMONSTRATION OF
24 THAT LATER.

25 BUT THIS IS A SYSTEM THAT WE USED TO HAVE
26 IN VEHICLES THAT IS DRIVE BY CABLE. AS YOU CAN SEE, AS
27 I PRESS ON THE ACCELERATOR PEDAL, THE THROTTLE BODY
28 OPENS UP AND IT CLOSES. WELL, THERE HAVE BEEN

1 SIGNIFICANT ADVANCEMENTS IN VEHICLES AND VEHICLE
2 COMPONENTS. AND THOSE ADVANCEMENTS INCLUDE THE
3 ELECTRONIC THROTTLE CONTROL SYSTEM.

4 WHEN THOSE SYSTEMS CAME INTO BEING OVER A
5 DECADE AGO, IT MADE THINGS A LOT EASIER AND IT GAVE
6 MANUFACTURERS THE OPPORTUNITY TO INCORPORATE MANY MORE
7 THINGS MUCH MORE SIMPLER INTO THE VEHICLE BECAUSE MANY
8 OF THESE DIFFERENT THINGS THAT WERE BEING CONTROLLED BY
9 CABLE COULD NOW BE CONTROLLED BY AN E.C.U., ELECTRONIC
10 CONTROL UNIT, OR ELECTRONIC CONTROL MODULE. AND THAT IS
11 NOTHING MORE THAN A COMPUTER, A LOT LIKE THE COMPUTERS
12 WE KNOW ABOUT. THOSE COMPUTERS CAN THEN RECEIVE
13 SIGNALS, SEND SIGNALS, AND REGULATE MANY FEATURES IN THE
14 VEHICLE.

15 NOW LET'S GET BACK TO THESE MODELS. SO
16 THIS IS THE CABLE OPERATED (INDICATING), AND I'M GOING
17 TO SET THIS DOWN. AND THIS ONE HERE IS ONE THAT WOULD
18 BE OPERATED BY WIRE OR BY ELECTRONICS. THIS IS THE
19 MANIFOLD OF THE ENGINE. THE MANIFOLD -- THIS IS AN
20 INTAKE MANIFOLD. IT INTAKES AIR AND SENDS AIR TO THE
21 PISTONS WHERE THE FIRING TAKES PLACE.

22 THIS IS A THROTTLE BODY OF AN ELECTRONIC
23 THROTTLE CONTROL SYSTEM. THIS THROTTLE BODY -- A LOT
24 LIKE THE OTHER ONE I SHOWED YOU -- ALSO HAS A -- AN ITEM
25 IN HERE THAT OPENS AND CLOSES, AND IT'S CONTROLLED BY
26 THIS PLUG THAT WIRES WILL COME INTO. SO THIS IS
27 OPERATED BY A MOTOR.

28 AND THE MOTOR TURNS THIS THROTTLE BODY OPEN

1 AND CLOSED ALLOWING AIR IN, AND IT SENSES THE AMOUNT OF
2 AIR THAT'S COMING IN. AND IT GIVES THE FUEL THAT IS
3 NECESSARY TO MAKE THE VEHICLE GO. AND THAT FUEL, ALONG
4 WITH THE AIR MIXTURE, THEN COMBINES AND GOES INTO THE
5 CYLINDERS WHERE THE PISTONS GO UP AND DOWN.

6 I'M GOING TO DEMONSTRATE TO YOU HOW THIS
7 SORT OF WORKS ELECTRONICALLY ON THIS MODEL. HERE IS A
8 SYSTEM THAT HAS THE BRAKE PEDAL, AN ACCELERATOR PEDAL.
9 IT HAS A BATTERY FROM A MOTORCYCLE, JUST TO HELP US
10 OPERATE IT. IT HAS AN EXEMPLAR OF WHAT AN ELECTRONIC
11 CONTROL MODULE OR UNIT WOULD LOOK LIKE. RIGHT HERE.
12 THIS LITTLE BOX (INDICATING). AND IT ALSO HAS THE
13 THROTTLE BODY THAT WE SAW ON THESE OTHER TWO COMPONENTS
14 THAT I JUST SHOWED YOU.

15 SO THIS THROTTLE BODY GETS ITS INFORMATION
16 BY A WIRE. AS YOU CAN SEE HERE, THESE WIRES -- IT GETS
17 ITS INFORMATION BY WIRE INSTEAD OF BY CABLE SO THAT WHEN
18 ONE PRESSES ON THE ACCELERATOR, THE THROTTLE BODY -- IN
19 THIS CASE, I'VE GOT IT ALL THE WAY DOWN; SO IT'S OPENED
20 UP ALL THE WAY. AS THIS IS OPENED UP ALL THE WAY, AIR
21 GOES INTO THE MANIFOLD AND THE VEHICLE SENSES, FROM THE
22 PEDAL POSITION AND FROM THE AIR SUPPLY, TO GIVE THE
23 NECESSARY FUEL TO MAKE THE VEHICLE GO. WHEN I LET GO OF
24 THIS, IT SHUTS.

25 THIS IS THE BRAKE PEDAL (INDICATING). THE
26 BRAKE PEDAL AND THE ACCELERATOR PEDAL END UP
27 COMMUNICATING WITH ONE ANOTHER IN A BRAKE OVERRIDE
28 SAFETY SYSTEM WHERE THE BRAKE SAYS, "I AM THE BOSS OF

1 YOU," B-O-S-S, THAT WHEN I PRESS ON THE BRAKE, I DON'T
2 CARE HOW WIDE THE ACCELERATOR IS OPEN, THE BRAKE WILL
3 MAKE IT SHUT THE SLIGHTEST AMOUNT, JUST ENOUGH TO HAVE
4 THE BRAKE LIGHT IN THE REAR OF YOUR CAR GO ON, AS WE CAN
5 SEE IN THIS MODEL (INDICATING).

6 SO THE SLIGHTEST AMOUNT -- AS SOON AS THE
7 BRAKE LIGHT GOES ON, THAT MEANS THERE'S ENOUGH
8 INFORMATION NOW GOING INTO THE ACCELERATOR PEDAL AND TO
9 THE THROTTLE BODY THROUGH THE E.C.U., THROUGH THE
10 COMPUTER, TO SAY, "I AM THE BOSS OF YOU." AND THEN THE
11 THROTTLE BODY SHUTS DOWN AND THE VEHICLE GOES TO IDLE.

12 SO A VEHICLE DOESN'T JUST TURN OFF WHEN THE
13 THROTTLE BODY SHUTS DOWN, BECAUSE THERE'S AN IDLE
14 CIRCUIT. AND YOU WILL HEAR EXPERTS TALK ABOUT THIS.
15 THE IDLE CIRCUIT WILL ALLOW THE VEHICLE TO IDLE.

16 AS WE KNOW, WHEN WE HAVE OUR CAR IN DRIVE,
17 YOU HAVE IT IN IDLE, IT WILL MOVE, BUT IT WON'T MOVE
18 VERY FAST. AND THAT'S WHAT WILL HAPPEN HERE SO THAT
19 YOUR ENGINE IS STILL RUNNING, IT'S STILL CREATING VACUUM
20 FOR YOUR OTHER SYSTEMS, AND IT STILL GIVES YOU POWER
21 STEERING, POWER BRAKES, ET CETERA. SO THE BRAKE
22 OVERRIDE SYSTEM OVERRIDES THE ACCELERATOR, AND ALL IT
23 TAKES IS THE SLIGHTEST OF DEPRESSION OF THE BRAKE PEDAL.

24 NOW, TOYOTA FURTHER SAYS, "WE BELIEVE
25 EVERYONE HAS A RIGHT TO BE SAFE. BRING THE VEHICLE TO A
26 STOP EVEN IF THE ACCELERATOR PEDAL IS FULLY DEPRESSED."
27 NOW, THE 2006 CAMRY IS A VEHICLE THAT CAME TO BE AS A
28 PART OF GENERATION 5 OF CAMRYS. THERE WERE FOUR

1 GENERATIONS OF CAMRYS BEFORE IT. SO THIS WAS THE FIFTH
2 GENERATION. THE FIFTH GENERATION AND THE SIXTH
3 GENERATION ARE VERY SIMILAR, AND THE SIXTH GENERATION
4 BEGAN IN 2007 RIGHT AFTER THE 2006.

5 AND THIS IS DIRECTLY FROM A TOYOTA
6 MARKETING BROCHURE. IT SAYS "OUR VEHICLES, THE
7 GENERATION FIVE, ARE SAFE, SEXY." AND THEN THEY GO ON
8 TO SAY "HOW MUCH MORE CONTEMPORARY CAN YOU GET?"

9 YOU SEE, THE B.O.S.S. SYSTEM WAS PLACED IN
10 VEHICLES BY TOYOTA AS EARLY AS 2001. THEY WERE IN
11 VEHICLES LIKE THE COROLLA, LIKE THE YARIS, LIKE THE
12 CRUISER. EIGHT DIFFERENT MODELS OF VEHICLES HAD THE
13 B.O.S.S. SYSTEM AS EARLY AS 2001. THEY WERE IN EUROPE
14 AND OVERSEAS IN ASIA BUT NOT IN AMERICA. THE 2001
15 THROUGH 2006, OR THE FIFTH GENERATION CAMRY, DID NOT
16 HAVE THE B.O.S.S. SYSTEM.

17 TOYOTA FURTHER SAYS "INCLUDED IN CAMRY'S
18 IMPRESSIVE FEATURES IS A PEACE OF MIND. WE MADE SURE
19 SAFETY IS AN INTEGRAL PART OF EVERY CAMRY LE. AND BY
20 THE WAY, OUR VEHICLE WAS A CAMRY LE. THE VEHICLES THAT
21 WERE BEING SOLD IN EUROPE WITH THE B.O.S.S. SYSTEM WERE
22 VEHICLES THAT WERE LESS EXPENSIVE THAN THE TOYOTA CAMRY,
23 THE 2006 CAMRY.

24 WHAT TOYOTA FURTHER SAID IN THEIR MARKETING
25 BROCHURE IS THAT: "A CAR THAT'S COMFORTABLE, SAFE, AND
26 ALWAYS AND FOREVER FUN. SIMPLY PUT, THIS CAR NEEDS TO
27 BE AS PERFECT AS A CAR CAN BE." IN TERMS OF SAFETY,
28 TOYOTA FURTHER SHOWED IN ITS MARKETING STRATEGY THAT THE

1 KEY MESSAGE BY GRADE IS THIS VEHICLE, THE LE, IS SAFE.

2 IN TERMS OF DEMOGRAPHICS, WHO WAS IT THIS
3 VEHICLE WAS BEING MARKETING TO, THE PEOPLE? HE AGES?
4 TOYOTA FOUND THAT THE CAMRY ATTRACTS OLDER BUYERS, NOT
5 JUST OLDER BUYERS, BUT BUYERS OVER 60 AND FEMALE;
6 PREDOMINANTLY FEMALE. A HIGH PERCENTAGE OF BUYERS ARE
7 60 AND OLDER. SO 44 PERCENT OF THE CAMRY LE IS BEING
8 PURCHASED BY FEMALES; FEMALES OVER 60 YEARS OF AGE.

9 ON AUGUST 28, 2009, OLGA BELLO, 86 YEARS OF
10 AGE, PULLS UP TO A STOP SIGN. BUT SHE DRIVES THROUGH
11 IT, DRIVING OVER FOUR MILES AN HOUR, AND AT TEN MILES AN
12 HOUR PLUS STRIKES AND BROADSIDES A TOYOTA CAMRY, A 2006
13 EMERALD GREEN TOYOTA CAMRY.

14 WHAT I HAVE BEFORE YOU IS A MODEL OF THE
15 SCENE OF THIS ACCIDENT, THIS CRASH. FROM THE POINT OF
16 THE INITIAL CRASH TO WHERE THE VEHICLE FINALLY ENDED UP
17 AT A TREE IS A LITTLE OVER HALF A MILE LONG, OVER
18 2,600 FEET. THE STOP SIGN IS AT 23RD AND EUCLID.
19 EUCLID IS STATE HIGHWAY 83. IT IS A WIDE STREET. IT
20 HAS TWO LANES GOING NORTH, TWO LANES GOING SOUTH
21 SEPARATED BY A TREE-LINED CENTER MEDIAN, A WIDE CENTER
22 MEDIAN.

23 AT ABOUT 4:00 P.M. IN THE AFTERNOON OF
24 AUGUST 28, 2009, AFTER THE OLGA BELLO VEHICLE, A 2003
25 LEXUS 430, BROADSIDES THE EMERALD GREEN TOYOTA, THE
26 CAMRY IS SPUN AROUND AND THEN ACCELERATES AND GOES
27 AROUND THE 23RD STREET INTERSECTION AND BEGINS TO HEAD
28 SOUTHBOUND IN THE NORTHBOUND LANES AND MAKES THAT TURN

1 AT A HIGH RATE OF SPEED AND STARTS ACCELERATING ALL THE
2 WAY THROUGH, REACHING SPEEDS OF APPROXIMATELY 100 MILES
3 PER HOUR.

4 THERE ARE A DOZEN WITNESSES TO THIS EVENT.
5 THOSE WITNESSES WILL COME AND TESTIFY IN THIS TRIAL. AS
6 THE TOYOTA IS SPEEDING DOWN, THERE ARE VEHICLES COMING
7 THE OPPOSITE DIRECTION. THE TOYOTA DOES NOT STRIKE THE
8 OTHER VEHICLES.

9 AT ABOUT THIS POINT, THE TOYOTA GOES OFF
10 THE ROAD AND STRIKES A TELEPHONE POLE, COMES BACK ON THE
11 ROAD, STRIKES ANOTHER POLE. AND THEN AS IT STARTS GOING
12 SIDWAYS, GOES THROUGH TWO OBJECTS, A POLE AND A STOP
13 SIGN, GOES AIRBORNE SIDWAYS AND, AT A VERY HIGH SPEED,
14 HITS A SMALL PEPPER TREE, GOES RIGHT THROUGH THAT, AND
15 THEN HITS A LARGER PEPPER TREE WHERE IT COMES TO A
16 SUDDEN STOP.

17 WITNESSES HEAR THIS VEHICLE GOING BY.
18 WITNESSES HEAR WHAT THEY WILL DESCRIBE TO YOU AS THOUGH
19 THE ACCELERATOR WAS FULLY DEPRESSED. WITNESSES WILL
20 COME TESTIFY WHAT IT IS THAT THE TOYOTA DID AS IT WENT
21 DOWN EUCLID AVENUE.

22 HERE IS A STOP SIGN THAT THE LEXUS WAS
23 SUPPOSED TO STOP AT (INDICATING). HERE IS THE FRONT END
24 OF THE LEXUS. HERE IS WHERE THE TOYOTA CAME TO REST,
25 THE EMERALD GREEN 2006 TOYOTA CAMRY. WHEN THE EMERGENCY
26 RESPONDERS CAME TO THE SCENE, THEY FOUND NEXT TO NORIKO
27 UNO'S BODY THAT HER EMERGENCY HAND BRAKE WAS PULLED UP.

28 WE HAVE HERE PETER UNO. WHO WAS MARRIED

1 FOR 35 YEARS TO NORIKO UNO, AND THEIR SON, THEIR ONLY
2 CHILD, JEFFREY UNO, WHO IS 37 YEARS OLD. WE ARE SUING
3 BOTH TOYOTA AND OLGA BELLO BECAUSE THEY BOTH CONTRIBUTED
4 TO HER DEATH. WE ARE SUING OLGA BELLO BECAUSE SHE
5 VIOLATED RULES OF THE ROAD BY NOT STOPPING AT A STOP
6 SIGN AND SEEING WHAT SHE NEEDS TO SEE AND ENDANGERING
7 THE PUBLIC AND BROADSIDING MRS. UNO'S TOYOTA CAMRY.

8 MRS. BELLO CLAIMED UNDER OATH THAT SHE DID
9 COME TO A STOP. SHE TOLD THE POLICE WHO ARRIVED AT THE
10 SCENE THAT SHE WAS STOPPED BEHIND THE LIMIT LINE AND
11 THAT SOME HIT-AND-RUN VEHICLE CAME AND HIT HER AND TOOK
12 OFF AND NEVER SAW IT BEFORE AND NEVER SAW IT AFTER.

13 THE 2003 LEXUS SHE WAS DRIVING HAD A BLACK
14 BOX IN IT. ENGINEERS WERE ABLE TO READ THAT BLACK BOX.
15 IT'S SORT OF LIKE THIS WHERE THERE'S A COMPUTER, AND
16 IT'S HOOKED UP TO THE BLACK BOX, THAT THING IN THE
17 FOREGROUND WITH THE YELLOW STICKER ON IT (INDICATING).
18 AND THEY WERE ABLE TO READ WHAT THE BLACK BOX RECORDED
19 JUST A FEW SECONDS AND DURING THE IMPACT.

20 SEE, THE PRE-CRASH DATA THAT IS REFERRED TO
21 HERE FOR UP TO FIVE SECONDS BEFORE THE CRASH SPEAKS
22 LOUDLY. IT SAYS THAT THE OLGA BELLO VEHICLE, AT THESE
23 DIFFERENT INTERVALS, WAS TRAVELING THESE SPEEDS. IT WAS
24 GOING TEN MILES AN HOUR, IT SLOWED DOWN TO FOUR, NEVER
25 CAME TO A STOP, THEN IT ACCELERATED.

26 AND YOU WILL SEE, AS WE GO INTO THE R.P.M.
27 CHART OF THE SAME EXHIBIT, HOW THE R.P.M.'S WENT UP AS
28 THE VEHICLE BEGAN TO ACCELERATE, R.P.M.'S MEANING

1 ROTATIONS PER MINUTE OF THE ENGINE OF A VEHICLE, WHICH
2 CORRESPOND WITH SPEEDS. THEN THE VEHICLE, NEVER COMING
3 TO A STOP, ROLLED RIGHT THROUGH, PICKED UP SPEED --
4 PICKED UP SPEED UP TO TEN-PLUS MILES AN HOUR, AND THEN
5 CRASHED INTO THE EMERALD GREEN CAMRY THAT NORIKO UNO WAS
6 DRIVING.

7 HERE IS THE LEXUS, THE FRONT END OF THE
8 LEXUS (INDICATING). THE PHOTO WAS TAKEN BY THE POLICE.
9 YOU SEE IN THE BACKGROUND -- THIS IS AT THE SCENE.
10 THAT'S AN UPLAND POLICE DEPARTMENT VEHICLE. THAT'S
11 EMERGENCY PERSONNEL AT THE SCENE (INDICATING).

12 THIS IS THE FRONT END OF THE VEHICLE
13 (INDICATING). WHAT YOU SEE IS A HEAVY BUMPER, A GRILLE
14 THAT IS DAMAGED, SOME PIECES MISSING FROM THE FRONT OF
15 THE VEHICLE. WHAT YOU DON'T SEE IS THE EXTENT OF THE
16 DAMAGE TO THE VEHICLE THAT'S BEHIND THE PLASTIC
17 COVERING.

18 THE VEHICLE HAD \$13,552 WORTH OF DAMAGE.
19 THAT DAMAGE INCLUDED FRAME DAMAGE TO THE VEHICLE; SO
20 THAT WHEN IT STRUCK THE SOFT PART OF THE CAMRY, THE SIDE
21 OF THE CAMRY, THE DOOR, DRIVER'S DOOR, AND PASSENGER
22 DOOR, IT ALSO WAS DAMAGED. AND YOU CAN SEE FROM THIS
23 ESTIMATE THE FRAME LABOR AND THE BODY SHOP LABOR TO
24 REPAIR THE CAR FOR A TOTAL OF \$13,552.

25 WHAT IS IT THAT OLGA BELLO SHOULD HAVE
26 DONE? OLGA BELLO SHOULD HAVE COME TO THAT STOP SIGN AND
27 STOPPED AND WATCHED FOR TRAFFIC TO SEE WHAT SHE COULD
28 SEE AND ALLOW THE TRAFFIC THAT HAS RIGHT-OF-WAY TO

1 PROCEED AND NOT PROCEED FORWARD AND ENDANGER THE PUBLIC.
2 AND OBVIOUSLY HAD SHE COME TO THAT STOP, WE WOULDN'T BE
3 HERE. NORIKO UNO WOULD STILL BE ALIVE.

4 WHY ARE WE SUING TOYOTA? WELL, THE ANSWER
5 IS BECAUSE TOYOTA KNEW FOR MANY YEARS THAT STUCK PEDALS
6 ARE A PHENOMENON WITH AUTOMOBILES. HERE IS A TOYOTA
7 DOCUMENT THAT SAYS "A STUCK, OPEN ACCELERATOR PEDAL MAY
8 RESULT IN VERY HIGH VEHICLE SPEEDS AND MAKE IT DIFFICULT
9 TO STOP THE VEHICLE, WHICH COULD CAUSE A CRASH, SERIOUS
10 INJURY, OR DEATH." SO TOYOTA KNEW THAT STUCK PEDALS ARE
11 DANGEROUS AND COULD CAUSE DEATH.

12 A TOYOTA EXPERT, A GENTLEMAN THAT'S BEEN IN
13 THE AUTOMOTIVE FIELD AND HAS BEEN AN EXPERT IN THIS CASE
14 FOR SOME TIME NOW, BY THE NAME OF LEE CARR CLEARLY SAID
15 THAT "TOYOTA KNEW THAT FOR 100 YEARS THAT STUCK PEDALS
16 ARE A PHENOMENON THAT WE ARE AWARE OF, THAT WE MUST
17 GUARD AGAINST."

18 HERE IS A PHOTO TAKEN BY THE UPLAND POLICE
19 DEPARTMENT PHOTOGRAPHER SHOWING OFFICER ARRIAGA HERE AS
20 HE'S GOT THE FLASHLIGHT POINTING DOWN AT THE PEDALS. AS
21 YOU CAN SEE HERE, THE EMERGENCY HAND BRAKE IS EXTENDED,
22 PULLED UP.

23 TOYOTA MADE A DECISION TO LEAVE OUT THE
24 BRAKE OVERRIDE SAFETY SYSTEM FROM THE AMERICAN VEHICLES,
25 INCLUDING THIS 2006 CAMRY. AND IT WASN'T UNTIL 2007
26 THAT THEY BEGAN TO PUT THEM IN THE CAMRY. AND THEY
27 CONTINUE TO PUT THEM.

28 NOW, HOW DO WE KNOW THAT? BECAUSE TOYOTA

1 ADMITS IT. TOYOTA ADMITS THAT "WE DID NOT PUT BRAKE
2 OVERRIDE SYSTEM IN AMERICA IN TOYOTAS UNTIL AFTER 2007."

3 NOW, HOW DO WE KNOW THAT THE BRAKE OVERRIDE
4 SYSTEM WOULD HAVE MATTERED IN THIS CASE? WELL, THE
5 FIRST THING WE HAVE, OF COURSE, IS WE SEE AT THE END.
6 BECAUSE WHEN WE LOOK AT THESE CASES, THESE INCIDENTS,
7 BACKWARDS SORT OF, WE SEE WHERE THE VEHICLE ENDED UP.
8 WE LOOK AT THE VEHICLE TO SEE WHAT THE VEHICLE TELLS US,
9 AND THEN WE GO BACKWARDS AND TRY TO MAKE SENSE OUT OF
10 WHAT HAPPENED.

11 FIRST THING WE NOTICE IS THAT THE HAND
12 BRAKE, THE EMERGENCY BRAKE, IS EXTENDED. NEXT, WE KNOW
13 FROM WITNESSES WHAT IT IS THAT THEY SAW AND HEARD. A
14 WITNESS BY THE NAME OF MICHELLE PEEPLES SAW THE TOYOTA
15 DRIVEN BY MRS. UNO FOR FIVE TO SIX SECONDS AS SHE SAW IT
16 PASSING HER.

17 TO GIVE YOU AN IDEA, MS. PEEPLES IS DRIVING
18 NORTHBOUND IN THE NORTHBOUND LANES. THE CAMRY IS
19 HEADING SOUTHBOUND. SHE SEES THE CAMRY AT A DISTANCE
20 AND THINKS TO HERSELF, "OH, MY GOD. LOOKS LIKE IT'S
21 COMING THE WRONG DIRECTION." AND FURTHER THINKS TO
22 HERSELF, "THAT'S MY MOM," BECAUSE HER MOM HAS A TOYOTA
23 CAMRY JUST LIKE THIS ONE COMING THE OPPOSITE DIRECTION.

24 AND SHE STARES AT THAT VEHICLE AS IT'S
25 COMING AT HER, AND SHE KEEPS HER EYE ON THAT VEHICLE AS
26 IT'S COMING AT HER. AS IT GOES BY, SHE TURNS AND SHE
27 LOOKS. SHE SEES THAT VEHICLE.

28 SHE SEES THE BACK OF THE VEHICLE. SHE SEES

1 THE BRAKE LIGHTS GO ON, STAY ON, THEN GO OFF, THEN GO
2 ON, THEN GO OFF, AND SO FORTH, UNTIL IT STRIKES THESE
3 OBJECTS THAT I SPOKE ABOUT. AND THERE'S A TREMENDOUS
4 AMOUNT OF DUST THAT FLIES AS THE VEHICLE ENTERS THE
5 CENTER MEDIAN.

6 WE HAVE OTHER WITNESSES THAT SEE THE TOYOTA
7 CAMRY COMING AT THEM. FOR INSTANCE, WE MAY VERY WELL
8 TODAY SEE ONE OF OUR WITNESSES IN THE AFTERNOON, THE
9 WUNSCHES. MR. AND MRS. WUNSCH WERE TRAVELING NORTHBOUND
10 ON EUCLID WHEN THEY SAW A TOYOTA CAMRY COMING AT THEM.
11 THEY SAW IT MAKE THE TURN AT A HIGH RATE OF SPEED AND
12 BEGIN TO APPROACH THEM. THEY WATCHED IT AS IT DROVE BY.

13 JUST ABOUT EVERY WITNESS, HOWEVER, DID NOT
14 LOOK BACK TO SEE THE BACK OF THE VEHICLE. THEY CAN'T
15 TELL US WHETHER THERE WERE LIGHTS ON OR NOT. THE ONLY
16 OTHER WITNESS THAT LOOKED TO THE BACK OF THE VEHICLE WAS
17 A MR. EPPERSON WHO WAS IN A DRIVEWAY PULLING OUT, AND
18 THAT'S WHEN THE TOYOTA VEERED AWAY FROM HIM AND WENT
19 INTO THE CENTER MEDIAN STRIKING TWO POLES.

20 AND HE WILL BE TESTIFYING THAT THE DRIVER
21 WAS IN CONTROL. EVERY ONE OF THESE WITNESSES WILL SAY
22 THAT THE DRIVER HAD HER HANDS 10:00 O'CLOCK,
23 2:00 O'CLOCK, LOOKING FORWARD HORRIFIED. EVERY ONE OF
24 THESE WITNESSES WILL SAY SHE WAS STEERING THE VEHICLE.

25 ONE CANNOT DRIVE A VEHICLE FOR HALF A MILE
26 AND GO STRAIGHT WITHOUT STEERING INPUTS. THESE ROADS,
27 AS WITH MOST, HAVE CROWNS IN THEM FOR RAIN PURPOSES; SO
28 IF THERE'S ANY KIND OF WATER BUILD UP, DRAINAGE SYSTEM

1 ALLOWS THE WATER NOT TO GATHER IN THE MIDDLE OF THE
2 ROAD. SO IT GOES OFF TO THE SIDES.

3 THAT CROWN ALSO ACTS AS A -- AS A MOUND
4 THAT MAKES THE VEHICLE PULL TO ONE SIDE OR THE OTHER.
5 HERE, FOR THIS VEHICLE TO TRAVEL FROM 23RD STREET ALL
6 THE WAY DOWN TO 21ST STREET, SOME HALF A MILE, MANY
7 STEERING INPUTS NEED TO BE PUT INTO THAT STEERING;
8 OTHERWISE, IT WOULD GO OFF THE ROAD. MRS. UNO MADE
9 THOSE STEERING INPUTS.

10 THE SPEED OF THIS VEHICLE -- IT HAS A TOP
11 SPEED OF ABOUT 120 MILES AN HOUR. IT'S BEEN TESTED ON A
12 TRACK. IT ONLY REACHED -- I SAY "ONLY" -- ABOUT 80 TO
13 90 MILES AN HOUR WHEN IT CAME IN CONTACT WITH THE POLE.
14 THERE WAS BRAKING IN BETWEEN 23RD AND WHEN MS. PEEPLES
15 FIRST SAW IT THAT KEPT THE SPEED FROM BEING AS HIGH AS
16 120 MILES AN HOUR.

17 EXPERTS WILL COME IN AND TESTIFY THAT IN
18 THAT DISTANCE WITH THE THROTTLE OPEN SOME 50 OR 70 OR
19 80 PERCENT, NOT 100 PERCENT, WILL REACH TOP SPEED OF
20 120 MILES PER HOUR, BUT FOR BRAKING BY MS. UNO.
21 FURTHER, BECAUSE THIS ROAD LEADS YOU UP TO MOUNT BALDY,
22 THIS ROAD HAS A GRADE, A 3 PERCENT GRADE DOWNHILL.

23 HAD TOYOTA PLACED THE BRAKE OVERRIDE SYSTEM
24 IN THIS VEHICLE, THIS VEHICLE WOULD HAVE COME TO A STOP.
25 THE COST OF ADDING BRAKE OVERRIDE TO THE SYSTEM IS ZERO.
26 IT'S MINIMAL BECAUSE IT ONLY TAKES ABOUT TWO KILOBYTES
27 OF SPACE TO PROGRAM AND TO FLASH THESE E.C.U.'S SO THAT
28 IT WOULD HAVE THE BRAKE OVERRIDE SYSTEM IN IT.

1 TWO KILOBYTES OF SPACE IS LIKE PULLING UP A
2 DOCUMENT AND TYPING IN THE WORD B-O-S-S. THAT'S ALL THE
3 SPACE THE COMPUTER NEEDED TO HAVE THE LOGIC, THE SIMPLE
4 LOGIC, OF SAYING WHEN THE ACCELERATOR IS DEPRESSED AND
5 THEN THE BRAKE ALSO IS DEPRESSED SIMULTANEOUSLY, THE
6 ACCELERATOR BECOMES SUBSERVIENT AND THE BRAKE BECOMES
7 THE BOSS OVER THE ACCELERATOR. THAT'S THE SPEED, UP TO
8 ABOUT 100 MILES AN HOUR THAT WITNESSES SPOKE ABOUT.

9 NOW, TOYOTA'S POSITION ON BRAKE OVERRIDE,
10 BY THE WAY, IS THAT "THE SYSTEM SHALL OPERATE WITH BRAKE
11 PEDAL FORCE THAT ANYONE CAN DEPRESS LESS THAN 90N'S OR
12 NEWTONS OF PEDAL FORCE." WHAT DOES THAT TRANSLATE TO?
13 90 NEWTONS IS LIKE 20 POUNDS, WHICH STUDIES SHOW
14 SOMEBODY IN AN EMERGENCY WILL APPLY 20 POUNDS OF BRAKE
15 FORCE AGAINST A PEDAL. AND 20 POUNDS IS NOT VERY HEAVY.
16 CERTAINLY IT'S SOMETHING THAT A 66-YEAR-OLD WOMAN WOULD
17 BE ABLE TO EXERT.

18 WE CONDUCTED SOME TESTS ON OUR OWN USING AN
19 EXEMPLAR, AN EXEMPLAR VEHICLE AND A SURROGATE. AND
20 BEFORE I TALK TO YOU ABOUT THAT, LET ME JUST TELL YOU
21 ONE OTHER REASON THAT WE'RE SUING TOYOTA. THE OTHER
22 IS -- OTHER THAN THE BRAKE OVERRIDE SYSTEM, IS THAT
23 TOYOTA USED TO USE ACCELERATOR PEDALS THAT WERE HINGED,
24 WHICH REQUIRED A SPRING RIGHT WHERE I'M HOLDING THIS
25 (INDICATING). SO THIS IS A HINGED PEDAL. AND THIS
26 SPRING IS WHAT CAUSES THE PEDAL TO GO BACK JUST AT THIS
27 PIVOT POINT. NOT UP HERE BUT RIGHT HERE (INDICATING).

28 HOWEVER, FOR THE GENERATION 5 TOYOTA, THEY

1 CHOSE TO PUT IN THIS TYPE OF PEDAL, ONE THAT DOESN'T
2 HAVE A HINGE, THAT IS SOLID. AND THAT IS RELEVANT
3 BECAUSE WHEN IT COMES TO STUCK ACCELERATOR PEDALS, THE
4 HINGE PEDAL GIVES THE OPERATOR MORE OF AN OPPORTUNITY TO
5 GET THEIR FOOT OUT, WHILE THE SOLID PEDAL DOES NOT. AND
6 THAT'S SOMETHING THAT TOYOTA KNEW.

7 I'M GOING TO SHOW YOU REAL QUICKLY HERE ONE
8 MORE MODEL WE HAVE. THIS IS BASICALLY HOW AN EMERGENCY
9 BRAKE SYSTEM WORKS. THIS VEHICLE HAD DRUM BRAKES IN THE
10 REAR.

11 WHAT WE'VE DONE HERE IS TAKEN A DRUM BRAKE
12 SYSTEM FROM TOYOTA AND CUT OUT SO YOU COULD SEE INSIDE
13 THE SYSTEM ITSELF. WE HAVE A COUPLE OF LUG NUTS HERE
14 THAT I CAN TAKE OFF AND EXPOSE THE BRAKE SYSTEM, JUST TO
15 DEMONSTRATE FOR YOU HOW IT WORKS. AS THIS DRUM COMES
16 OFF, YOU WILL SEE INSIDE OF IT THESE TWO YELLOW ITEMS
17 THAT ARE BRAKE SHOES.

18 BRAKE SHOES HAVE PADS ON THEM. AND THEN WE
19 HAVE A LITTLE CYLINDER HERE AT THE BRAKE, AND THEN WE
20 HAVE ADJUSTMENT SPRINGS. THIS LITTLE CYLINDER IS
21 HYDRAULICALLY OPERATED. THAT'S FOR THE MAIN BRAKE
22 SYSTEM; HOWEVER, THE EMERGENCY BRAKE SYSTEM OPERATES ON
23 CABLE. SO IT'S A DIRECT DRIVE SORT OF. IT'S ON A
24 CABLE.

25 SO IF I COULD JUST ROLL IT, PLEASE.

26 MR. GALVIN: I DON'T THINK THAT WAS WHAT WE WERE
27 PLANNING ON.

28 MR. MARDIROSSIAN: I'M NOT GOING TO STOP THIS.

1 THE COURT: YOU CAN CONTINUE.

2 MR. MARDIROSSIAN: CAN YOU JUST PULL ON IT,
3 PLEASE. AS ARMEN PULLS ON THAT, THESE OPEN UP. THEY
4 WIDEN. AS THEY WIDEN, THEY SPREAD OUT. THEY CREATE
5 FRICTION AGAINST THIS DRUM SURFACE, AND THAT FRICTION IS
6 WHAT STOPS A CAR, WHETHER YOU USE THE SERVICE BRAKES OR
7 USE THE EMERGENCY BRAKES. BASICALLY, AS THE EMERGENCY
8 BRAKE IS PULLED, IT WILL STOP THIS WHEEL FROM TURNING.
9 AND IT'S THE CABLES THAT ARE ATTACHED TO EACH OF THE
10 REAR WHEELS THAT WILL CAUSE THE SHOES TO EXPAND AND
11 CREATE FRICTION AND STOP THE WHEEL FROM TURNING.

12 WE LOOKED AT ALL THE LIKELY SCENARIOS OF
13 WHAT HAPPENED THAT CAUSED THIS VEHICLE TO ACCELERATE,
14 AND WE KNOW, FROM THEIR OWN EXPERTS AND THEIR OWN
15 EMPLOYEES THAT WORK AT TOYOTA, THAT THERE ARE MANY WAYS
16 THAT AN ACCELERATOR PEDAL CAN GET STUCK. AND YOU WILL
17 HEAR THEIR EXPERTS TALK ABOUT IT. IT COULD BE GROCERIES
18 THAT GET STUCK. IT COULD BE A FLOOR MAT. IT COULD BE
19 ANYTHING THAT SOMEHOW GETS IN THE WAY OF THAT
20 ACCELERATOR PEDAL AND HOLDS IT DOWN. AND TOYOTA KNEW
21 THIS. A BRAKE OVERRIDE SAFETY SYSTEM WOULD MAKE A
22 VEHICLE STOP ONCE THE BRAKE IS TOUCHED, EVEN IF THE
23 ACCELERATOR IS STUCK BY ANY FOREIGN OBJECT OR ANY OBJECT
24 AT ALL.

25 WHAT WE DID IS WE TOOK AN EXEMPLAR VEHICLE,
26 AND WE PLACED A SURROGATE IN IT WITH SANDALS. AND
27 MS. UNO WAS WEARING SANDALS LIKE THIS (INDICATING). AND
28 WE HAD THE SURROGATE, WHILE SITTING IN THE VEHICLE,

1 DEMONSTRATE HOW A FOOT CAN GET STUCK WHILE THE HEEL IS
2 ON THE ACCELERATOR PEDAL AND THE TOES ARE STUCK
3 UNDERNEATH THE BRAKE PEDAL. HOW COULD THAT PHENOMENON
4 OCCUR?

5 IN THIS CASE, AS MS. UNO IS DRIVING
6 SOUTHBOUND ON EUCLID, SHE GETS BROADSIDED BY THE BELLO
7 VEHICLE. THE VEHICLE SPINS. AND EXPERTS WILL TESTIFY
8 THAT THE BODY MOVES TO THE LEFT. THE BODY, ALONG WITH
9 THE FOOT, MOVES TO THE LEFT WITH THE HEEL ON THE
10 ACCELERATOR PEDAL. THE TOES MOVE TO THE LEFT UNDERNEATH
11 THE BRAKE PEDAL AND GET STUCK.

12 NOW, WE HAD TESTS DONE BOTH WITH OUR OWN
13 EXPERT WHO DID SOME DEMONSTRATIONS JUST TO SHOW WHAT
14 CLEARANCE SPACE THERE IS ON HIS OWN FOOT, AND WE ALSO
15 USED A SURROGATE WHO IS ABOUT THE SAME SIZE AND WEIGHT
16 WITH THE SAME SIZE FOOT AS MRS. UNO. MRS. UNO WAS
17 WEARING APPROXIMATELY SIZE 10 SANDALS, EVEN THOUGH HER
18 FOOT WAS MORE LIKE A SIZE 6, 7; SO SHE WAS WEARING
19 SANDALS THAT WERE A BIT LARGE FOR HER. THAT'S BECAUSE
20 SHE HAD LARGER FEET, "LARGE" MEANING HEAVIER FEET.

21 THEY WERE WIDER. SHE WAS A BIT HEAVY FOR
22 HER SIZE. SHE WAS ABOUT 5-FOOT TALL AND WEIGHED AROUND
23 150, 160 POUNDS.

24 WHEN I WAS JUST RELATING TO YOU WHY I
25 BELIEVE A BRAKE OVERRIDE SYSTEM WOULD HAVE HELPED AND I
26 SPOKE TO YOU ABOUT THE FACT THAT EMERGENCY BRAKE WAS
27 PULLED, WE HAD MS. PEEPLES THAT SAW THE BRAKE LIGHTS.
28 AND THIS PARTICULAR EXHIBIT -- WHAT WE'RE GOING TO DO

1 RIGHT NOW IS ACTUALLY PLAY THIS VIDEO FOR YOU OF WHAT
2 HAPPENS WHEN SOMEBODY GETS --

3 MR. GALVIN: I DON'T MIND IF YOU PUT THE VOLUME
4 UP.

5 MR. MARDIROSSIAN: SO WHAT IS HAPPENING THERE IS
6 WITH HER RIGHT HEEL ON THE ACCELERATOR PEDAL, THE
7 LEFT -- TO THE LEFT OF IT IS THE BRAKE PEDAL. YOU SEE
8 HER TOES AND THE UPPER PART OF HER FOOT RIGHT UNDERNEATH
9 THE BRAKE PEDAL. AND TAKE NOTE OF THAT BECAUSE WE'RE
10 GOING TO SEE SOME PICTURES, AND I'VE GOT TO WARN YOU NOW
11 THEY ARE A LITTLE GRAPHIC OF HER FOOT AND HOW IT IS THAT
12 HER FOOT WAS CUT, LACERATED WITH HER BONES IN THAT FOOT
13 BROKEN CONSISTENT WITH HER FOOT BEING STUCK IN THIS
14 POSITION.

15 PLUS, AS YOU CAN SEE, HER FOOT THERE
16 UNDERNEATH THE BRAKE PEDAL, THE BRAKE PEDAL HAS A --
17 THERE'S A PAD. I KNOW MOST OF US DON'T EVEN NOTICE IT,
18 BUT THERE'S A PAD OVER THE BRAKE PEDAL. THERE'S METAL
19 BELOW AND A PAD THAT COVERS IT. THE BRAKE PEDAL OF HER
20 VEHICLE, AFTER THE ACCIDENT, WAS FOUND TO BE LIKE SO
21 (INDICATING) WITH THIS PAD PEELED UP RIGHT WHERE YOU SEE
22 THAT TOE, RIGHT WHERE YOU SEE THE BIG TOE AND THE DORSAL
23 PART OF THE -- UPPER PART OF THE FOOT. AND EXPERTS WILL
24 BE TESTIFYING THAT THAT HAPPENED BECAUSE HER FOOT WAS
25 UNDERNEATH IT AND PULLED UP DURING THE ACCIDENT AND
26 CAUSED THIS PAD TO COME UP.

27 HERE IS THE PHOTO OF THE ACTUAL BRAKE PAD
28 AND THE BRAKE PEDAL. AND YOU CAN SEE HERE IS THE PEDAL

1 ITSELF, LOOKING AT IT FROM TOP DOWN. AND HERE IS THE
2 SIDE OF IT (INDICATING). SO THE ORIENTATION IS A LITTLE
3 UNUSUAL HERE, BUT THAT'S EXACTLY WHAT WE'RE SHOWING YOU
4 IN THAT OTHER PHOTO. THAT'S THE TOP RIGHT OF THE BRAKE
5 PEDAL WHERE YOU SEE THE SEPARATION, THE SPACE BETWEEN
6 THIS METAL BACKING AND THIS RUBBER PAD (INDICATING).

7 AS I WARNED YOU, I AM GOING TO SHOW YOU A
8 COUPLE OF PHOTOS HERE THAT ARE A BIT GRAPHIC TO
9 DEMONSTRATE THE INJURY. YOU CAN SEE IN THIS PHOTO THE
10 TOP OF MS. UNO'S FOOT AND THE CUT RIGHT ABOUT WHERE WE
11 SHOWED YOU IN THAT PHOTO WITH THE SURROGATE. WHAT YOU
12 ALSO NOTICE HERE ARE THE BROKEN BONES, AND THIS ANKLE IS
13 ACTUALLY LOCKED IN POSITION WITH THE BROKEN BONES. AND
14 WE'LL HAVE EXPERTS COME AND TESTIFY THAT IS CONSISTENT
15 WITH HER FOOT BEING UNDERNEATH THE PEDAL, THE BRAKE
16 PEDAL AND BRAKING.

17 NEXT, THIS IS ANOTHER PHOTO SHOWING THE
18 OTHER SIDE, AND THAT SHOWS YOU THE SANDAL SHE WAS
19 WEARING AND HOW WIDE HER FEET WERE AND THE CUT RIGHT --
20 STARTING FROM HERE, GOING ALL THE WAY UP TO THE TOP OF
21 HER FOOT (INDICATING).

22 NOW, WHAT CAN TOYOTA HAVE DONE TO PREVENT
23 THIS? THEY COULD HAVE HAD THE BRAKE OVERRIDE SYSTEM IN
24 THE VEHICLE. THEY COULD HAVE INCORPORATED A HINGED
25 PEDAL INSTEAD OF GOING TO A FIXED PEDAL. AND, OF
26 COURSE, THEY COULD HAVE WARNED.

27 IS THIS A GOOD TIME, YOUR HONOR?

28 THE COURT: THIS WOULD BE A PERFECT TIME. WE'RE

1 GOING TO TAKE OUR MORNING BREAK. YOU ARE REMINDED NOT
2 TO DISCUSS THIS MATTER AMONG YOURSELVES OR WITH ANY
3 OTHER PERSON, NOT TO FORM OR EXPRESS AN OPINION ON THE
4 MATTER UNTIL IT'S SUBMITTED TO YOU.

5 WE'LL TAKE A 15-MINUTE BREAK. START UP
6 PROMPTLY AT 10:45. THANK YOU.

7
8 (THE FOLLOWING PROCEEDINGS
9 WERE HELD IN OPEN COURT
10 OUTSIDE THE PRESENCE OF THE JURY:)

11
12 THE COURT: DURING BREAKS, THE JURY WILL BE BACK
13 IN THE JURY ROOM, WHICH IS ACROSS FROM MY CHAMBERS.

14 IS THERE ANYTHING FOR THE RECORD BEFORE WE
15 BREAK?

16 MR. GALVIN: NOT FROM TOYOTA.

17 THE COURT: ALL RIGHT. SEE YOU AT 10:45.

18 MR. FAUCHER: THANK YOU, YOUR HONOR.

19
20 (A RECESS WAS TAKEN.)

21
22 (THE FOLLOWING PROCEEDINGS
23 WERE HELD IN OPEN COURT IN
24 THE PRESENCE OF THE JURY:)

25
26 THE COURT: ALL RIGHT. WELCOME BACK, EVERYBODY.

27 MR. MARDIROSSIAN, YOU MAY PROCEED.

28 MR. MARDIROSSIAN: THANK YOU, YOUR HONOR.

1 GOOD MORNING AGAIN.

2 IN UNISON: GOOD MORNING.

3 MR. MARDIROSSIAN: JUST AS WE TOOK OUR BREAK, I
4 JUST BEGAN TO TALK ABOUT WARNINGS. LET ME JUST TELL YOU
5 WHAT I'M TALKING ABOUT. A COMPANY LIKE TOYOTA HAS AN
6 OBLIGATION TO WARN ITS CUSTOMERS OF KNOWN RISKS AND
7 DANGERS. HERE, BECAUSE TOYOTA KNEW FOR SOME 70-PLUS
8 YEARS IN ITS EXISTENCE THAT STUCK ACCELERATORS ARE A
9 PROBLEM, THEY HAD AN OBLIGATION TO WARN.

10 AND HOW DO WE KNOW THAT, THAT THEY DIDN'T
11 WARN? WELL, FIRST TOYOTA ADMITS IT. THEY ADMIT THEY
12 DIDN'T WARN ABOUT WHAT TO DO IN CASE OF A STUCK
13 ACCELERATOR.

14 AND HOW WOULD IT HAVE MATTERED? BECAUSE IT
15 WOULD HAVE GIVEN NORIKO UNO AT LEAST A FIGHTING CHANCE.
16 SHE WOULD HAVE AT LEAST HAD SOME NOTICE THAT IF THIS
17 HAPPENS, HERE ARE THE THINGS YOU CAN DO. AND THERE ARE
18 THINGS THAT ONE THAT IS NOT AS HORRIFIED AS SHE WAS
19 COULD HAVE DONE, WHETHER IT IS TURNING THE ENGINE OFF --
20 WHICH HAS ITS OWN RISKS, BUT AT LEAST IT WOULD HAVE KEPT
21 THE VEHICLE FROM ACCELERATING -- OR TRYING TO PUT THE
22 VEHICLE IN NEUTRAL.

23 BUT THESE ARE THE KINDS OF WARNINGS THAT
24 TOYOTA SHOULD HAVE GIVEN IN THEIR OWN DOCUMENTS, IN
25 THEIR OWN BROCHURES, IN THEIR OWN OWNERS MANUALS; AND
26 YET TOYOTA DID NOT. SO THAT'S YET ANOTHER REASON WHY
27 TOYOTA IS IN THIS CASE. YOU SEE, THE RISKS, OF COURSE,
28 IN TURNING OFF AN IGNITION IS THAT IF YOU TURN OFF THE

1 IGNITION, YOU LOSE A LOT OF THE POWER THAT THE VEHICLE
2 NEEDS TO GO ON.

3 FOR INSTANCE, THAT VACUUM WE SPOKE ABOUT
4 EARLIER, YOU LOSE THE VACUUM POWER; OR AS THIS VEHICLE
5 AND MANY VEHICLES HAVE POWER STEERING, YOU LOSE YOUR
6 POWER STEERING ONCE THAT ENGINE IS NO LONGER RUNNING BY
7 TURNING THE IGNITION OFF. AND YOUR BRAKE SYSTEM,
8 BECAUSE IT DOES ALSO OPERATE ON VACUUM, WILL ALSO NOT BE
9 AS EFFICIENT. AND THERE ARE MANY OTHER THINGS THAT GO
10 WRONG WITH THE ENGINE RUNNING THAT WILL NO LONGER BE
11 AVAILABLE ONCE THAT ENGINE IS TURNED OFF. AND, OF
12 COURSE, PUTTING IT IN NEUTRAL IS NOT AS EASY AS IT
13 SOUNDS. THESE ARE THINGS THAT TOYOTA NEVER WARNED,
14 NEVER GAVE NORIKO UNO AT LEAST AN OPPORTUNITY TO LEARN
15 ABOUT.

16 BEFORE WE -- AND THE UNO FAMILY HAD DECIDED
17 TO BRING THIS CASE FORWARD -- BEFORE DOING SO, WE LOOKED
18 AT VARIOUS THINGS. WE CONSIDERED MANY DIFFERENT THINGS,
19 INCLUDING DID NORIKO UNO HAVE A HEALTH CONDITION THAT
20 WOULD HAVE CAUSED THIS. SO WE LOOKED. AND WE FOUND,
21 THROUGH MEDICAL RECORDS AND THROUGH HER OWN BLOOD SUGAR
22 LEVELS, THAT EVERYTHING WAS NORMAL.

23 AS A MATTER OF FACT, WHEN THE POLICE CAME
24 TO THE SCENE AND THEY INVESTIGATED AND THE CORONERS TOOK
25 OVER THE CASE AND THEY CHECKED HER BLOOD LEVELS, THEY
26 FOUND THAT THERE WERE NO ABUSING DRUGS OR ANYTHING THAT
27 WOULD BE MIND ALTERING, ANY KIND OF DRUG IN HER SYSTEM
28 THAT WOULD AFFECT HER DRIVING. NO ALCOHOL IN HER

1 SYSTEM. THE CORONER RULED OUT STROKE OR HEART ATTACK OR
2 ANYTHING LIKE THAT THAT COULD HAVE POSSIBLY CONTRIBUTED.
3 ALL THOSE WERE RULED OUT.

4 WE OBTAINED HER MEDICAL RECORDS GOING ALL
5 THE WAY BACK TO THE 1990'S TO SEE WHAT HER CONDITION WAS
6 LIKE. SHE WAS A TYPE 2 DIABETIC, AND SHE WAS ON
7 GLYBURIDE, WHICH IS JUST AN ORAL MEDICATION UNTIL JUST A
8 COUPLE OF MONTHS BEFORE AUGUST OF 2009 WHEN SHE GOT
9 STARTED ON LEVEMIR, WHICH IS AN INSULIN SHOT. AND SHE
10 WAS GIVEN THE LOWEST POSSIBLE DOSAGES, 10 MILLIGRAMS.

11 AND SHE WAS COMPLIANT. HER CHARTS -- SHE
12 KEPT METICULOUS CHARTS, AS YOU COULD IMAGINE. SHE USED
13 TO WORK AT A BANK BEFORE OPENING UP A SUSHI RESTAURANT,
14 WHICH I'LL GET TO IN A WHILE. SO SHE WAS METICULOUS
15 ABOUT KEEPING RECORDS, AND WE HAVE IT ALL IN HER
16 HANDWRITING FOR THE TWO MONTHS BEFORE THIS ACCIDENT,
17 BEFORE THIS CRASH.

18 AND WE ALSO HAVE WHAT IS CALLED AN "A1C" --
19 A1C VALUES THAT GO BACK THREE MONTHS OR MORE TO SEE HOW
20 SHE WAS DOING WITH HER SUGAR IN HER BLOOD. AND ALL
21 THOSE VALUES WERE EXCELLENT. HER NUMBERS WERE IN THE
22 SEVENS, WHICH YOU WILL HEAR THE EXPERTS TALK ABOUT, SAY
23 THAT IS EXCELLENT. SHE HAD AN 83, AND YOU WILL HEAR
24 EXPERTS TALK ABOUT HOW A NUMBER BETWEEN 70 AND 110 IS
25 NORMAL FOR HER.

26 SHE HAD A DOCTOR THAT WAS FOLLOWING HER
27 THAT SHE HAD SEEN JUST WHEN SHE WENT ON TO INSULIN. A
28 DR. AQEEL, RUBINA AQEEL. SHE'S A MEDICAL DOCTOR. SHE

1 WILL BE COMING IN HERE TO TESTIFY.

2 SHE'S LOOKED AT ALL THE RECORDS. SHE WILL
3 BE TESTIFYING IN HERE TO TELL YOU THAT IT WOULD BE
4 VIRTUALLY IMPOSSIBLE FOR HER TO HAVE A HYPOGLYCEMIC
5 EVENT, GIVEN HER HISTORY, GIVEN HER BLOOD SUGAR LEVEL,
6 WHICH WAS 83 THAT MORNING, JUST SIX HOURS BEFORE THIS
7 CRASH. ESPECIALLY SINCE THAT MORNING SHE HAD BREAKFAST
8 WITH HER HUSBAND, PETER, AND THEN SHE HAD LUNCH WITH HER
9 SON, JEFFREY, WHO WENT TO WORK A BIT LATE. HE WAS
10 SUFFERING FROM A COLD. JEFFREY WAS.

11 SHE ALSO SAW HER PRIMARY CARE PHYSICIAN
12 THAT SHE WOULD SEE ON AN ANNUAL BASIS WHO DID AN
13 ALL-SYSTEMS CHECK, EVERYTHING FROM HER EXTREMITIES, HER
14 DERMATOMES. THEY CHECKED TO SEE HOW SHE WAS DOING, JUST
15 A SYSTEMS CHECK. THEY FOUND HER TO BE IN VERY GOOD
16 HEALTH.

17 AS A MATTER OF FACT, THE LAST TIME SHE SAW
18 DR. AQEEL, THE DOCTOR THAT WAS FOLLOWING HER SUGAR
19 LEVELS, DR. AQEEL BASICALLY TOLD HER, "THINGS LOOK GOOD.
20 I'LL SEE YOU IN A COUPLE OF MONTHS." THAT WAS WITHIN A
21 SHORT TIME OF THIS CRASH.

22 NOW, THAT MORNING, AUGUST 28, 2009, WAS
23 LIKE ANY OTHER MORNING FOR NORIKO UNO. SHE HAD GOTTEN
24 UP IN THE MORNING, MADE BREAKFAST FOR PETER. THEY SAT
25 DOWN. THEY ATE TOGETHER.

26 HE WENT OFF TO THE FAMILY BUSINESS, A SUSHI
27 RESTAURANT RIGHT DOWN THE STREET ON FOOTHILL. SHE
28 WAITED UNTIL JEFFREY WOKE UP. HE WAS A LITTLE SICK WITH

1 A COLD AND MADE A STEAK LUNCH FOR HIM, AND THEY HAD
2 STEAK TOGETHER BEFORE HE LEFT TO WORK.

3 WHEN SHE LEFT RIGHT AROUND 3:00, HE SAID,
4 "GOODBYE" TO HER. EVERYTHING WAS NORMAL.

5 JUST A LITTLE BEFORE 4:00 P.M., SHE DECIDED
6 SHE NEEDED TO GO DOWN TO RUN SOME ERRANDS. SHE HAD THE
7 CASH AND THE RECEIPTS FROM THE RESTAURANT FROM THE PRIOR
8 WEEK, AND SO SHE WAS GOING TO TAKE THAT DOWN TO THE
9 BANK. AND THE BANK WAS A BANK OF AMERICA, AS YOU DRIVE
10 DOWN EUCLID AND GET TO FOOTHILL, WHICH ISN'T TOO FAR
11 DOWN THE ROAD. IT WOULD BE RIGHT ON THE CORNER OF
12 EUCLID AND FOOTHILL. SO SHE WAS JUST GOING TO GO DOWN
13 AND PULL INTO THAT DRIVEWAY, AND THEN THEIR SUSHI
14 RESTAURANT IS JUST A COUPLE OF BLOCKS WEST OF THAT.

15 IN ORDER FOR HER TO GET TO THIS LOCATION AT
16 23RD AND EUCLID, SHE HAD TO MAKE SOME VERY SIGNIFICANT
17 MANEUVERS. BY THAT I MEAN THEY LIVE UP IN THE HILLS ON
18 A STREET THAT IS ALSO NAMED "EUCLID." IT'S EAST
19 CRESCENT EUCLID AVENUE, AND IT GOES ALL THE WAY UP OVER
20 A MILE AWAY UP IN THE HILLS.

21 SHE HAD TO MAKE -- AND I'M GOING TO HAVE
22 THIS PLAYED FOR YOU -- SHE HAD TO MAKE SEVERAL TURNS TO
23 GET TO THIS POINT. HER CAR WAS PARKED IN THE GARAGE,
24 AND WE'LL PICK UP FROM THE GARAGE AND WE'LL PLAY THIS
25 FOR YOU. THIS IS THE GARAGE THAT SHE PULLED OUT FROM AS
26 SHE BACKS UP (INDICATING).

27 SHE HAS TO MAKE BASICALLY A THREE-POINT
28 TURN. AND AFTER SHE'S REVERSED, SHE'S GOT TO GO

1 FORWARD. AND HERE JUST BY WAY OF TURNS, IF YOU COUNT
2 THEM, THERE WILL BE 11 SEPARATE TURNS THAT SHE HAD TO
3 NEGOTIATE, FOUR STOP SIGNS THAT SHE HAD TO NEGOTIATE.
4 AND YOU WILL SEE THIS VIEW THAT THERE'S CONSTANT
5 STEERING BY HER AS SHE'S WINDING HER WAY DOWN, DOWN THE
6 HILL, DOWN TO EUCLID AND 24TH WHERE THERE'S A FIRE
7 STATION.

8 AND AS WE APPROACH THAT, YOU WILL SEE THAT
9 IF SHE WASN'T PAYING 100 PERCENT ATTENTION, IT WOULD
10 HAVE BEEN EASY TO GO STRAIGHT DOWN THE WRONG WAY AT
11 24TH, BUT SHE DID NOT DO THAT. SHE MADE A RIGHT TURN
12 AND THEN MADE ANOTHER LEFT. AND I'LL DEMONSTRATE THAT
13 FOR YOU IN ANOTHER PART OF THE MODEL IN A MOMENT. LET'S
14 WATCH THIS THROUGH SO YOU CAN APPRECIATE THE MOVEMENTS
15 THAT SHE MADE.

16 THIS MAY LOOK LIKE WHOEVER IS DRIVING THIS
17 CAR IS SPEEDING, BUT TRUST ME THEY'RE NOT. HERE IS THE
18 INTERSECTION OF 24TH AND EUCLID (INDICATING). HERE --
19 STOP IF YOU CAN, PLEASE.

20 THIS IS EUCLID SOUTHBOUND LANES -- EXCUSE
21 ME -- NORTHBOUND LANES (INDICATING). THIS IS EUCLID
22 SOUTHBOUND LANES (INDICATING).

23 HAD SHE JUST CONTINUED STRAIGHT DOWN HERE
24 AT 24TH, SHE WOULD BE GOING DOWN THE WRONG WAY. INSTEAD
25 SHE STOPPED, MADE A RIGHT TURN, STOPPED, MADE A LEFT
26 TURN.

27 CONTINUE, PLEASE. STOP THERE, PLEASE
28 (INDICATING).

1 SO THE FIRE STATION I'M SPEAKING OF WOULD
2 BE JUST TO THE RIGHT FROM US IN THIS VANTAGE POINT, AND
3 SO HERE'S THE GAS STATION AT THE NORTHWEST CORNER. THE
4 FIRE STATION WOULD HAVE BEEN RIGHT ACROSS FROM THE
5 CENTER MEDIAN THAT WE SPOKE ABOUT EARLIER. SO IT'S
6 BASICALLY UP HERE (INDICATING).

7 AND WHILE I'M AT THIS, LET ME JUST
8 DEMONSTRATE THAT FOR YOU FOLKS REAL QUICKLY. RIGHT
9 WHERE THAT VEHICLE IS STOPPED IN THIS VIEW IS WHAT WE'RE
10 SEEING IN THIS LITTLE PIECE. THIS IS THE INTERSECTION,
11 AND RIGHT WHERE THIS CAR IS, IS WHERE WE'RE SEEING THAT
12 VIEW (INDICATING).

13 IF YOU CAN GO BACK JUST A LITTLE BIT,
14 PLEASE.

15 RIGHT THERE IS WHERE WE ARE HERE, AND
16 THERE'S A STOP SIGN THAT WE SEE (INDICATING). AND RIGHT
17 HERE IS THE FIRE STATION. SO AS SHE'S COMING DOWN, SHE
18 COMES TO THIS STOP POSITION (INDICATING).

19 PLEASE CONTINUE.

20 AND RIGHT HERE IS THIS STOP POSITION.

21 THANK YOU.

22 NOW, SHE'S MAKING THIS TURN AND GOING DOWN
23 THE SOUTHBOUND LANES OF EUCLID AVENUE. SO THIS IS THE
24 INTERSECTION NORTH OF THIS CORNER AT 23RD AND EUCLID
25 (INDICATING). THIS IS 24TH AND EUCLID (INDICATING).

26 CONTINUE, PLEASE.

27 HERE YOU CAN SEE THE TREE-LINED CENTER
28 MEDIAN (INDICATING). YOU SEE THE SPEED LIMIT ON THE

1 GROUND INDICATING 45 MILES PER HOUR.

2 STOP.

3 HERE IS THE STOP SIGN, LIMIT LINE, AND THE
4 STOP SIGN FOR OLGA BELLO (INDICATING). THIS IS WHERE
5 THE CRASH OCCURS AND THE TOYOTA SPINS AROUND
6 (INDICATING). JUST AS SHE'S STRUCK AND THE VEHICLE
7 SPINS AROUND, THE VEHICLE THEN ACCELERATES THROUGH THIS
8 TURN (INDICATING) AND DRIVES FOR HALF A MILE, AVOIDING
9 OVER A HALF A DOZEN VEHICLES COMING THE OPPOSITE
10 DIRECTION. AND WITNESSES ALONG THIS PATHWAY AND IN THE
11 CENTER MEDIAN WILL COME IN AND TESTIFY THAT THEY HEARD
12 AN ENGINE AS THOUGH IT WAS AT FULL THROTTLE TO THEM,
13 WHAT THEY COULD HEAR.

14 AS SHE WAS HEADING SOUTHBOUND IN THESE
15 NORTHBOUND LANES, EVERY WITNESS THAT COULD SEE INSIDE
16 THE VEHICLE WILL BE TESTIFYING THAT SHE WAS IN CONTROL,
17 THAT HER HANDS WERE ON THE STEERING WHEEL. SHE WAS
18 HORRIFIED FOR THAT ENTIRE DISTANCE. AS SHE CAME AROUND
19 THIS INTERSECTION AFTER BEING SPUN AROUND -- 23RD STREET
20 IS A RESIDENTIAL STREET.

21 HAD SHE CHOSEN THAT, IT WOULD HAVE
22 ENDANGERED KIDS AND PEDESTRIANS IN THE AREA. SHE CHOSE
23 THE WIDEST ROAD AS SHE WENT DOWN EUCLID IN THE WRONG
24 LANE IN THE WRONG DIRECTION BECAUSE THE ACCELERATOR WAS
25 STUCK. HER VEHICLE WAS A RUNAWAY.

26 SHE TRIED TO STOP THE CAR ON NUMEROUS
27 OCCASIONS. HAD THIS VEHICLE BEEN EQUIPPED WITH
28 B.O.S.S., IT WOULD HAVE COME TO A STOP. SHE TRIED

1 EVERYTHING SHE COULD, FROM EMERGENCY BRAKES TO STEPPING
2 ON THE BRAKE. BUT IN THE END, AS MR. EPPERSON WILL
3 TESTIFY THAT SHE SAW HIM COMING OUT INTO THE STREET AND
4 SHE STEERED TO HER RIGHT TO AVOID HIM AND STRUCK THAT
5 FIRST POLE, CAME BACK ON THE ROAD, STRUCK THE SECOND
6 POLE.

7 DAMAGE WAS DONE TO HER UNDERCARRIAGE AND TO
8 HER RIGHT SIDE AXLE. AND SHE LEFT TIRE MARKS FROM THE
9 EMERGENCY BRAKE AS THE VEHICLE WENT AIRBORNE AFTER GOING
10 OVER THIS CENTER MEDIAN CURB, STRIKING THAT FIRST TREE,
11 BREAKING RIGHT THROUGH IT, AND THEN HITTING THE TREE
12 THAT YOU SAW THE PICTURE OF.

13 HAD SHE GONE STRAIGHT -- AND EYEWITNESSSS
14 WILL TESTIFY, WE HAD A CAR WITH A MOM IN IT MS. BRANDT,
15 CAMILLE BRANDT. SHE HAD SIX KIDS IN THE CAR. SHE SAW
16 THE TOYOTA COMING AT HER. SHE WAS HORRIFIED, AND SHE
17 WAS VERY ELATED, OF COURSE, WHEN SHE SAW THE TOYOTA
18 STEER AWAY FROM HER RATHER THAN CRASH INTO HER. BOTH
19 LANES WERE OCCUPIED BY VEHICLES COMING AT HER WHEN SHE
20 WENT INTO THE CENTER MEDIAN.

21 MRS. UNO ALSO HAD NON-ALCOHOL-RELATED LIVER
22 CIRRHOSIS, FOR WHICH SHE HAD TAKEN MEDICATION. AND IT
23 WAS UNDER CONTROL. SHE HAD NO SYMPTOMS. A COUPLE OF
24 YEARS EARLIER -- A YEAR AND A HALF OR SO EARLIER, SHE
25 HAD VARIOUS ISSUES, THREW UP SOME BLOOD, WENT TO THE
26 DOCTOR. THEY CHECKED IT OUT, AND THEY DID A PROCEDURE
27 ON HER AND SHE HAD NO PROBLEMS.

28 AND HER DOCTOR WHO WILL COME IN HERE AND

1 TESTIFY -- WILL BE TESTIFYING THAT HER LIVER FUNCTIONS
2 WERE NORMAL AND THAT SHE WAS IN GOOD SHAPE AS FAR AS
3 FUNCTIONALITY IS CONCERNED, THAT BOTH OF HER EXTREMITIES
4 WERE TESTED. IT'S SOMETHING SORT OF UNUSUAL TO TALK
5 ABOUT, BUT ONE OF THE THINGS THAT THE EXPERTS WILL TALK
6 ABOUT IS THE FACT THAT HER EXTREMITIES HAVE FULL
7 SENSATION AND FULL CIRCULATION. THOSE PICTURES THAT WE
8 SHOWED YOU OF HER FEET ACTUALLY SHOWS THAT THERE'S HAIR
9 ON HER TOES, WHICH MEANS THAT THERE'S BLOOD CIRCULATION
10 AND THERE'S GOOD SENSATION IN THE AREA AND THAT DIABETES
11 OR ANYTHING ELSE WAS NOT AFFECTING HER SENSATION AND HER
12 RANGE OF MOTION IN HER FEET.

13 I SPOKE A LITTLE BIT EARLIER ABOUT TIRE
14 TRACKS, AND THESE ARE THE TRACKS LEFT BY THE TOYOTA FROM
15 THE REAR EMERGENCY BRAKE BEING PULLED. HERE IS TOYOTA'S
16 DOCUMENT WHICH SAYS "YOU SHOULD ALSO INSTALL A NEWLY
17 DESIGNED OVERRIDE SYSTEM ON NON-HYBRID CAMRY VEHICLES TO
18 PROVIDE AN EXTRA MEASURE OF CONFIDENCE. THIS SYSTEM
19 WILL CUT ENGINE POWER IN CASE OF SIMULTANEOUS
20 APPLICATION OF BOTH ACCELERATOR AND BRAKE PEDALS AT
21 CERTAIN SPEEDS AND DRIVING CONDITIONS."

22 SO YOU REMEMBER WHEN I SHOWED THAT TO YOU,
23 IF THE ACCELERATOR PEDAL IS DEPRESSED AND DOWN AND THE
24 BRAKE PEDAL IS ALSO THEN SIMULTANEOUSLY DEPRESSED, THE
25 BRAKE ACTS AS THE BOSS AND CUTS OFF THE ACCELERATION OF
26 THE VEHICLE. AND SO TOYOTA DID PUT THIS IN THEIR
27 VEHICLES FROM 2007 THROUGH 2010 AND BEYOND, STARTING IN
28 2010. '11 IT BECAME STANDARD. AND IN 2007 CAMRY IS

1 JUST ABOUT IDENTICAL TO THE 2006 CAMRY: SAME ENGINE,
2 SAME BRAKE SYSTEMS, SUBSTANTIALLY SIMILAR HORSEPOWER,
3 SUBSTANTIALLY SIMILAR STOPPING POWER, STOPPING DISTANCE.

4 WE ALSO DETERMINED FROM THE WITNESSES,
5 INCLUDING OLGA BELLO, THAT AFTER THE IMPACT -- AFTER THE
6 CRASH WHEN HER VEHICLE SPUN AROUND -- YOU KNOW, YOU HAVE
7 THE CRASH. AND THEN ALL OF A SUDDEN OUT OF NOWHERE, THE
8 VEHICLE SPUN AROUND. THE VEHICLE CONTINUES TO
9 ACCELERATE AND GOES AROUND A CORNER.

10 OLGA BELLO TELLS THE POLICE, "I DO NOT KNOW
11 WHAT HIT ME AND WHERE IT WENT. I DIDN'T SEE IT BEFORE
12 AND I DIDN'T SEE IT AFTER." EXPERTS WILL TESTIFY THAT'S
13 IMPORTANT BECAUSE ONE WOULD EXPECT THAT WHEN AN ACCIDENT
14 OCCURS, THE FIRST THING YOU DO IS YOU LOOK TO SEE WHO
15 HIT YOU. AND SHE LOOKED AND DIDN'T SEE THE TOYOTA.
16 BECAUSE THIS WAS A VERY FAST EVENT, A VERY QUICK EVENT.
17 ONCE THE VEHICLE SPUN AROUND AND KEPT ACCELERATING, WENT
18 AROUND THAT CORNER REAL FAST, THEN SHE WAS GONE. AND
19 OLGA BELLO DIDN'T EVEN SEE THE TOYOTA DRIVEN BY
20 MRS. UNO.

21 WE ANSWER DEFENSE ALLEGATIONS, WHETHER IT
22 BE BELLO OR TOYOTA, THAT THE VEHICLE ACTUALLY CAME TO A
23 THREE-, FOUR-, FIVE-SECOND STOP AND THEN ACCELERATED OUT
24 OF THERE. AND SHE COULD HAVE JUST WALKED OUT OF HER CAR
25 BECAUSE THE VEHICLE WAS STOPPED, BUT THE EVIDENCE WILL
26 SHOW YOU THAT IT WOULD NOT COME TO ANY STOP.

27 IT DID CHANGE DIRECTIONS BECAUSE IT SPUN
28 AROUND, BUT IT DIDN'T SPIN AROUND AT 180 DEGREES. SO IF

1 IT'S POINTING IN THIS DIRECTION, IT CAME AROUND AND
2 POINTED IN THAT DIRECTION WHERE IT'S ABOUT A 160-DEGREE
3 CHANGE RATHER THAN A 180. AND IT CONTINUED TO MOVE.

4 WE LOOKED TO SEE WHAT IT IS THAT COULD HAVE
5 CAUSED THE EMERGENCY BRAKE TO BE PULLED OTHER THAN
6 MRS. UNO ACTUALLY PULLING ON THE EMERGENCY BRAKE. WE
7 CONSIDERED ALLEGATIONS BY TOYOTA OR BELLO THAT THE
8 EMERGENCY BRAKE PULLED ITSELF AT THE TIME OF THE
9 ACCIDENT, THAT WHEN IT HIT THE TREE, IT JUST WENT UP ON
10 ITS OWN OR SOMETHING RUBBED AGAINST IT OR CAUSED IT TO
11 PULL UP. WE SAW ALL THE EVIDENCE AND SAW THAT THAT
12 COULD NOT HAPPEN, ALTHOUGH IT MAY BE SUGGESTED.

13 THE BRAKE LIGHTS THAT PEOPLE SAW, WE LOOKED
14 TO SEE IF THOSE BRAKE LIGHTS COULD GO ON FOR ANY OTHER
15 REASON THAN SOMEBODY ACTUALLY APPLYING THE BRAKES, EVEN
16 THOUGH THERE WILL BE SUGGESTIONS BY THE BELLOS OR TOYOTA
17 THAT SOMETIMES BRAKE SIGNALS AND BRAKE SWITCHES
18 MALFUNCTION AND THEY FLICKER ON AND OFF, ESPECIALLY WHEN
19 THEY HIT POLES. AND MAYBE WHAT SHE SAW WAS A PHENOMENON
20 WHERE THE SWITCH GOES BAD RIGHT AT THAT MOMENT, AND
21 THAT'S WHY THOSE BRAKE LIGHTS WERE GOING ON AND OFF, ON
22 AND OFF, AND SO ON. SO WE CONSIDERED THOSE AND FOUND NO
23 EVIDENCE OF THAT.

24 TOYOTA EVEN DID A CRASH TEST WHERE THEY
25 TOOK A SIMILAR TOYOTA CAMRY AND RAN IT INTO AN OBJECT TO
26 SEE DURING THAT CRASH WHAT KIND OF DAMAGE THE TOYOTA
27 CAMRY WOULD SUSTAIN; HOWEVER, RATHER THAN TESTING FOR
28 THE EMERGENCY BRAKES TO SEE IF IT WOULD GO UP IN A

1 CRASH, THEY DID NOT TEST FOR THAT.

2 NOW, I SPOKE TO YOU A BIT EARLIER ABOUT
3 VACUUMING AND HOW THAT BECOMES AN ISSUE IN THIS CASE
4 BECAUSE THE DEFENSE HAVE RAISED THAT. AND VACUUMING IS
5 WHAT'S CREATED INSIDE AN ENGINE BECAUSE THE CYLINDERS
6 THAT HAVE THE PISTONS INSIDE THEM ARE THESE CHAMBERS
7 THAT, WHEN EACH PISTON GOES DOWN, IT SORT OF SUCKS AIR
8 IN, CREATING A VACUUM.

9 AND THAT VACUUM IS USED IN POWER BRAKES
10 BECAUSE THE POWER BRAKE BOOSTER USES THAT VACUUM TO
11 MULTIPLY THE AMOUNT OF PRESSURE THAT ONE PUTS AGAINST
12 THE BRAKE PEDAL. SO THAT IF YOU'RE PUTTING IN, JUST AS
13 AN EXAMPLE, ONLY 20 POUNDS, THE POWER BOOSTER WILL
14 MULTIPLY THAT BY MANY TIMES, DEPENDING ON THE RATE.

15 HOWEVER, STUDIES HAVE SHOWN THAT WHEN ONE
16 IS ACCELERATING AND THEN ATTEMPTS TO PUT THE BRAKE ON,
17 THE VEHICLE WILL NOT BEHAVE THE SAME AS PUTTING THE
18 BRAKE ON WITHOUT ACCELERATION. AND SO STUDIES HAVE
19 SHOWN THAT PEOPLE WILL LET GO OF THE BRAKE AND PRESS IT
20 AGAIN NOT KNOWING THAT LETTING GO OF THE BRAKE AND
21 PRESSING IT AGAIN ONCE OR TWICE WILL CAUSE THE VACUUM TO
22 BE DEPLETED; THEREFORE, YOU HAVE NO MORE POWER BOOSTER
23 IN THE BRAKE SYSTEM ASSISTING WITH THE BRAKING.

24 NOW, I'M GOING TO SEE IF I CAN DEMONSTRATE
25 THAT FOR YOU IN THIS QUICK LITTLE DEMONSTRATION.

26 STOP. THANK YOU.

27 SO YOU WILL SEE THE BLUE AND THEN THE RED,
28 THE RED BEING WHERE THERE'S COMBUSTION. THIS ITEM HERE

1 IS A PISTON THAT IS A ROD THAT'S CONNECTED TO A CRANK
2 SHAFT (INDICATING). THESE ITEMS HERE ARE VALVES THAT
3 ARE CONNECTED TO CAMS THAT PUSH THEM UP AND DOWN
4 (INDICATING). THESE VALVES ARE WHAT ALLOWS AIR AND FUEL
5 TO COME INTO THE COMBUSTION CHAMBER (INDICATING).

6 CONTINUE, PLEASE.

7 AND EVERY TIME THIS CYLINDER GOES DOWN, IT
8 CREATES VACUUM. SO THIS IS BASICALLY HOW AN INTERNAL
9 COMBUSTION ENGINE WORKS: CAMS, CRANKSHAFT IN THE
10 BOTTOM, PISTON.

11 NEXT.

12 NOW, TOYOTA, THROUGH ONE OF ITS FOUNDERS,
13 SAID THAT "TOYOTA MUST BE AT THE VANGUARD OF TIMES
14 THROUGH ENDLESS CREATIVITY, INQUISITIVENESS, AND PURSUIT
15 OF IMPROVEMENT." THEY FURTHER SAID THAT "NEVER ASK
16 WORTH OF PRODUCTS TO CUSTOMER WITHOUT ADEQUATE TESTING."
17 THIS IS IMPORTANT BECAUSE THIS PHENOMENON OF ACCELERATOR
18 DOWN AND THEN BRAKE WAS NEVER TESTED BY TOYOTA. IT WAS
19 NEVER TESTED, EVEN THOUGH IT'S FOUNDER MANY, MANY YEARS
20 EARLIER HAD SAID THIS IS THE VISION OF TOYOTA.

21 "IF A BRAKE SYSTEM IS DESIGNED PROPERLY,
22 EVEN THE VERY WEAKEST DRIVER SHOULD BE CAPABLE OF
23 GENERATING ENOUGH LEG FORCE TO DECELERATE THE VEHICLE."
24 AND SO THIS IS THE DOCUMENT WE SAW EARLIER THAT SAYS
25 TOYOTA, IN ITS OWN BRAKE SYSTEM REQUIREMENTS, SURVEYED
26 EMERGENCY PEDAL FORCE ON THE BRAKE THE WEAK CAN ONLY
27 DEPRESS ABOUT 90 NEWTONS, WHICH IS ONLY 20 POUNDS.

28 NOW, WE LOOKED TO SEE WHAT OTHER FACTS MAY

1 HAVE INFLUENCED TOYOTA'S DECISION TO NOT PLACE BRAKE
2 OVERRIDE SYSTEMS IN VEHICLES IN AMERICA. VEHICLES
3 OVERSEAS THAT HAD THE BRAKE OVERRIDE SAFETY SYSTEM ALL
4 HAD A ELECTRONIC CONTROL MODULE OR UNIT THAT WERE
5 MANUFACTURED BY BOSCH, THAT GERMAN COMPANY I SPOKE
6 ABOUT, THE COMPANY THAT HAD THE PATENT. EVERY ONE OF
7 THE ONES THAT WERE SOLD IN AMERICA WERE ANOTHER COMPANY
8 NAMED "DENSO," A JAPANESE COMPANY THAT TOYOTA OWNS A
9 SUBSTANTIAL PORTION OF. SO THEY CHOSE TO USE DENSO
10 E.C.U.'S THAT DID NOT CONTAIN BRAKE OVERRIDE SAFETY
11 SYSTEMS IN IT FOR AMERICANS, BUT FOR OVERSEAS THEY USED
12 BOSCH THAT HAD THE B.O.S.S. IN THEM, BRAKE OVERRIDE
13 SAFETY SYSTEM.

14 YOU WILL HEAR FROM AN EXPERT BY THE NAME OF
15 NEIL HANNEMANN. NEIL HANNEMANN SPENT HIS WHOLE LIFE AS
16 AN ENGINEER IN THE AUTOMOTIVE INDUSTRY. HE SPENT OVER
17 18 YEARS AT CHRYSLER. HE'S A GUY THAT WILL COME IN TO
18 TESTIFY ON BEHALF OF THE PLAINTIFFS.

19 HE HAS DESIGNED SOME OF THE MOST FAMOUS
20 SUPER CARS IN THE WORLD, STARTING WITH THE FORD GT. HE
21 WAS THE CHIEF ENGINEER FOR FORD MOTOR COMPANY WHEN THEY
22 DESIGNED THEIR PREMIERE SUPER CAR, THE FORD GT. HE WAS
23 ALSO AN ENGINEER ON THE PROJECT FOR THE CHRYSLER VIPERS,
24 THE INITIAL FIRST GENERATION VIPERS. THOSE ARE
25 CHRYSLERS OR DODGE'S SUPER CAR.

26 HE WAS ALSO THE ENGINEER FOR THE SALEEN,
27 THE FORD MUSTANG SALEEN SPECIAL MODEL RACE CAR. HE WAS
28 ALSO WITH MERCEDES WHEN THEY DESIGNED THE MCLAREN SUPER

1 CAR. HE WAS ALSO AN ENGINEER THERE.

2 HE WILL BE COMING IN. HE DID A LOT OF THE
3 TESTING FOR US IN THIS CASE. HE'S NOT SOMEONE THAT HAS
4 A LONG HISTORY OF TESTIFYING IN TRIALS. AS A MATTER OF
5 FACT, A VERY SHORT HISTORY OF BEING A FORENSIC EXPERT.

6 THE DEFENDANTS IN THIS CASE WILL ALSO HAVE
7 EXPERTS, MANY OF WHOM YOU WILL HEAR. AND MANY IN THIS
8 CASE AND THEIR EXPERIENCE AND THEIR BACKGROUND AS
9 EXPERTS IN TRIALS, AND YOU WILL TAKE THAT INTO
10 CONSIDERATION.

11 IN ORDER FOR US TO MOVE FORWARD IN THIS
12 CASE AGAINST TOYOTA FOR A PRODUCTS CASE THAT WE HAVE
13 AGAINST THEM, WE NEED TO SHOW THAT THERE WAS A PROBLEM
14 WITH THE CAMRY THAT MS. UNO WAS DRIVING AND THAT PROBLEM
15 CAUSED HER HARM. ONCE WE'VE DONE THAT, THEN TOYOTA HAS
16 TO SHOW YOU WHY IT WAS OKAY FOR THAT PROBLEM TO EXIST,
17 IN THIS CASE, WHY IT WAS OKAY NOT TO PUT A BRAKE
18 OVERRIDE SAFETY SYSTEM IN HER CAR. THEY HAVE TO SHOW
19 YOU THAT IT WAS MAYBE TECHNOLOGICALLY --

20 MR. GALVIN: YOUR HONOR, I'M GOING TO OBJECT.
21 THAT MISSTATES THE LAW IN A WAY THAT I THINK IS --

22 THE COURT: WELL, THE JURY IS REMINDED THAT YOU
23 WILL HEAR THE INSTRUCTIONS FROM THE COURT, AND YOU WILL
24 BE REQUIRED TO FOLLOW THE INSTRUCTIONS AS THE COURT
25 GIVES IT TO YOU.

26 MR. MARDIROSSIAN: THANK YOU, YOUR HONOR. SO WHEN
27 WE TALK ABOUT WHAT IT IS -- WHAT ONE SIDE HAS TO SHOW
28 AND THE OTHER SIDE HAS TO SHOW, YOU WILL SEE FROM WHAT

1 YOUR HONOR EDMON WILL BE GIVING YOU ABOUT THE LAW IN
2 THIS CASE AT THE END OF THE TRIAL HOW WHAT IT IS
3 TOYOTA'S OBLIGATIONS ARE. AND WE WILL PROVE TO YOU THAT
4 THEY CANNOT MEET THOSE OBLIGATIONS.

5 BY THE WAY, THE ONE WITNESS THAT WAS
6 PULLING OUT OF THE DRIVEWAY, MR. EPPERSON, HE ONLY SAW
7 THE CAMRY OR THE BACK OF THE CAMRY FOR ABOUT 100,
8 150 FEET, JUST FOR A SHORT PERIOD. AND HE ONLY SAW IT
9 AFTER SHE HIT THE POLE. MS. PEEPLES HAD SEEN THE CAMRY
10 LONG BEFORE THE CAMRY HAD HIT THE POLE.

11 AND WHEN MR. EPPERSON LOOKED AT THE BACK OF
12 THE CAMRY, HE DID NOT SEE BRAKE LIGHTS. BUT FOR THAT
13 SHORT PERIOD, IT COULD HAVE BEEN IN THE OFF PHASE. AND
14 IT WAS AFTER SHE HIT THE POLES. BUT HE'S ALSO THE
15 GENTLEMAN THAT SAYS "SHE WAS CLEARLY IN CONTROL, AND SHE
16 SAVED MY LIFE BY STEERING AWAY FROM ME."

17 NOW, BACK TO WHY WE'RE HERE. NORIKO UNO
18 WAS 66 YEARS OLD AT THE TIME OF THIS CRASH. NORIKO UNO
19 MARRIED PETER UNO BACK 35 YEARS BEFORE THAT DATE, BACK
20 IN 1974. SHE MET HIM AT A CHRISTMAS PARTY JUST A COUPLE
21 OF BLOCKS AWAY ON WILSHIRE AND VERMONT AT A BUSINESS.
22 THEY MET AT CHRISTMAS 1973. THEY GOT MARRIED IN '74,
23 AND THEN THE NEXT YEAR THEIR ONLY CHILD, JEFFREY, WAS
24 BORN.

25 MR. PETER UNO WAS A COLLEGE GRADUATE AND AN
26 ENGINEER. BUT IN AMERICA HE WANTED TO LIVE THE AMERICAN
27 DREAM, OWN HIS OWN BUSINESS. AND SO HE OPENED UP A
28 JAPANESE RESTAURANT IN A LOCATION WHERE THERE WERE NO

1 JAPANESE RESTAURANTS IN THE INLAND VALLEY, IN THE INLAND
2 EMPIRE. THEY OPENED UP A RESTAURANT NAMED "KISHI," AND
3 THEY RAN THAT RESTAURANT STARTING IN 1982 TO THE PRESENT
4 DAY. THAT RESTAURANT WAS THEIR LIFE. IT'S A JAPANESE
5 RESTAURANT SUSHI BAR.

6 WHEN THEY BOUGHT THAT LOCATION, THEY
7 STARTED THAT RESTAURANT, JEFFREY WAS ABOUT SEVEN YEARS
8 OLD. HE WOULD NOT GO HOME. HE WOULD COME TO THE
9 RESTAURANT AND DO HIS HOMEWORK IN THE BACK. AND WHEN HE
10 WAS DONE WITH HIS HOMEWORK, HE WOULD SEAT CUSTOMERS.

11 PETER WAS A SUSHI CHEF. NORIKO DID ALL THE
12 BOOKS AND HELPED WITH ALL THE SHOPPING FOR THE BUSINESS,
13 INCLUDING ALL THE VEGETABLES, ALL THE MEATS, ALL THE
14 FISH. SHE WOULD DO ALL THAT WORK FOR THE BUSINESS, FOR
15 THE RESTAURANT. AND SHE DID THAT FOR MANY YEARS.

16 BUT SHE ALSO TOOK CARE OF THE HOME. SHE
17 DID EVERYTHING AROUND THE HOUSE. AND SHE HAD HER LOVE
18 OF GARDENS AND PLANTS. SHE HAD HER OWN GARDEN WITH MANY
19 TREES, FROM FIG TO APPLE TO PLUM. SHE HAD ALL THESE
20 TREES THAT SHE WOULD TEND TO. SHE HAD HER OWN GARDEN IN
21 THE BACKYARD.

22 THEY HAD A SWIMMING POOL. SHE USED TO SWIM
23 REGULARLY. AND SHE, OF COURSE, HELPED RAISE JEFFREY,
24 AND SHE GAVE HIM GUIDANCE AND INSTILLED IN HIM THE NEED
25 TO GO TO SCHOOL.

26 EVEN THOUGH HE WAS AT THE BUSINESS EVERY
27 DAY HELPING RUN THE FAMILY BUSINESS, HE CONTINUED ON TO
28 COLLEGE GOING TO A U.C. COLLEGE AND THEN WENT TO LAW

1 SCHOOL JUST A COUPLE BLOCKS FROM HERE AT SOUTHWESTERN
2 WHERE HE GRADUATED, PASSED THE BAR. BUT BECAUSE THIS
3 FAMILY UNIT WAS SO STRONG, HE STAYED IN THE BUSINESS OF
4 THE RESTAURANT. AND EVERY ONCE IN A WHILE, HE WOULD
5 HELP SOMEBODY OUT WITH THE LAW. BUT THE RESTAURANT WAS
6 HIS NUMBER ONE PRIORITY, TO BE WITH MOM, TO BE WITH DAD,
7 AND TO RUN THE RESTAURANT.

8 THEY HAD PLANS OF JEFFREY GOING ON AND
9 DOING SOMETHING ELSE, WHICH IS WHAT MOM WANTED HIM TO
10 DO. GO TO LAW SCHOOL, BECOME A LAWYER, PRACTICE LAW, BE
11 DONE WITH THE SUSHI RESTAURANT. THOSE PLANS HAD TO
12 CHANGE BECAUSE NOW PETER IS ALONE.

13 PETER HAS TO HAVE KIDNEY DIALYSIS THREE
14 TIMES A WEEK WHERE HE HAS TO BE HOOKED UP TO A DIALYSIS
15 MACHINE ABOUT -- WITH A CABLE ABOUT 10 FEET LONG FOR
16 FOUR HOURS OR MORE THREE TIMES A WEEK TO CLEAN HIS
17 BLOOD. HE'S BEEN DOING THAT FOR MANY YEARS AND WAS
18 DOING IT EVEN BEFORE NORIKO'S PASSING. NORIKO USED TO
19 SIT NEXT TO HIM AND KEEP HIM COMPANY AND TALK TO HIM AND
20 TELL JOKES.

21 BY THE WAY, THAT'S WHAT PETER DOES A LOT.
22 AT THE RESTAURANT WHEN HE GREETES PEOPLE, SITS THEM DOWN
23 AT THE TABLE, AND HE TELLS JOKES. HE STILL TRIES. HE
24 NOW GOES TO THOSE KIDNEY DIALYSIS VISITS THREE TIMES A
25 WEEK ALONE. THERE'S A MEMORIAL AT THE TREE WHERE NORIKO
26 PASSED AWAY. HE'S THERE EVERY DAY WITH NOTES, WITH
27 FLOWERS.

28 SHE LOVED GAMBLING, AND THEY GOT MARRIED IN

1 LAS VEGAS. AND SHE LOVED GOING TO VEGAS. FIRST
2 OPPORTUNITY TO GET ANY VACATION, FIRST THING THEY WANT
3 TO TALK ABOUT, GOING ANYWHERE. YEAH, THEY TRAVELED A
4 LOT, BUT IT WAS ALWAYS "LET'S GO TO ONE OF THE CASINOS.
5 LET'S GO TO VEGAS." AND YOU WILL HEAR ABOUT HER LOVE OF
6 LIFE. HER FAMILY WAS ALWAYS NUMBER 2, WITH JEFFREY AND
7 WITH PETER.

8 I THINK THE DEFENDANTS AGREE THAT THIS WAS
9 A VERY, VERY TRAGIC LOSS. BUT YOU CAN'T LET YOUR
10 SYMPATHY PLAY A ROLE IN THIS CASE. THAT'S OUTSIDE THE
11 BOX IN TERMS OF THIS CASE.

12 YOU CAN CONSIDER THE LAW. YOU CAN CONSIDER
13 THE EVIDENCE. AND ALONG WITH THE JUDGE'S GUIDANCE IN
14 TERMS OF THE LAW, WE'LL GIVE YOU THE TOOLS WITH WHICH TO
15 TRY TO FIX THIS HARM, TRY TO COMPENSATE THIS LOSS TO
16 BALANCE THE BOOKS SORT OF BECAUSE THEY HAVE LOST SO MUCH
17 IN LOSING A MOTHER AND A WIFE.

18 AS YOU WOULD EXPECT, SHE WAS THERE EVERY
19 TIME JEFFREY HAD A COLD. SHE WAS THERE EVERY TIME
20 JEFFREY HAD A PROBLEM WITH ANYTHING TO HELP HIM. AND HE
21 LIVED AT HOME AS MUCH AS HE COULD EXCEPT WHEN HE WAS IN
22 LAW SCHOOL, EXCEPT WHEN HE WAS IN COLLEGE, ON VACATION,
23 AND THEN HE WOULD COME BACK. HE NOW LIVES AGAIN BACK
24 WITH HIS DAD IN THEIR FAMILY HOME. YOU WILL HEAR FROM
25 WITNESSES THAT KNEW NORIKO FROM THE RESTAURANT AND FROM
26 OUTSIDE THE RESTAURANT ABOUT WHAT SHE MEANT TO BOTH
27 JEFFREY AND TO PETER AND ABOUT WHAT A CATASTROPHIC LOSS
28 THIS IS TO THE FAMILY.

1 IN OUR SYSTEM OF JUSTICE, THE ONLY WAY YOU
2 COULD FIX THAT HARM IS THROUGH A MONETARY AWARD, A
3 MONETARY COMPENSATION. AND WITH THE RULES THAT YOU WILL
4 BE GIVEN AND WITH GUIDANCE FROM THE COURT, WE'LL SHOW
5 WHAT YOU THE REASONABLE SUM WILL BE, WITH THIS TYPE OF
6 TRAGIC LOSS, WITH THIS TYPE OF CATASTROPHIC LOSS.

7 AT THE END OF THIS TRIAL, I WILL BE ASKING
8 YOU TO COMPENSATE THIS FAMILY TO TRY TO FIX THE HARM THE
9 BEST YOU CAN. AND I KNOW THE NUMBER WILL SEEM LARGE TO
10 YOU NOW BECAUSE YOU DON'T KNOW ANYTHING ABOUT HER YET.
11 I'VE GIVEN YOU INSIGHT, BUT THAT'S JUST THE TIP OF THE
12 ICEBERG. AND AS YOU HEAR WITNESSES TALK ABOUT HER, AS
13 YOU HEAR FRIENDS AND FAMILY, CUSTOMERS TALK ABOUT WHO
14 SHE WAS, WHAT SHE WAS, IT WILL MAKE SENSE. BUT AT THE
15 CLOSE OF THIS TRIAL, I WILL BE ASKING YOU TO COMPENSATE
16 THE FAMILY WITH \$20 MILLION FOR THIS TRAGEDY. THIS
17 TRAGEDY SHOULD NOT HAVE OCCURRED, BUT IT DID AND HERE WE
18 ARE. THANK YOU VERY MUCH, LADIES AND GENTLEMEN.

19 THE COURT: THANK YOU VERY MUCH, MR. GALVIN.

20 MR. GALVIN: YOUR HONOR, I'D -- I NEED ROOM; SO I
21 NEED ALL OF THIS STUFF TAKEN OUT.

22 MR. MARDIROSSIAN: WE'VE AGREED THAT WE WILL MOVE
23 EVERYTHING OUT. WE PROBABLY NEED A FEW MINUTES. MAYBE
24 A QUICK BREAK.

25 THE COURT: WE CAN TAKE A QUICK BREAK.

26 MR. GALVIN: I HAVE MY STUFF TO SET UP. MAYBE IT
27 WOULD BE -- IF WE TOOK AN EARLY LUNCH AND CAME BACK
28 EARLY, MAYBE THAT'S AN OPTION. BUT IT'S YOUR COURTROOM.

1 THE COURT: OKAY. WE'LL TAKE OUR LUNCH BREAK NOW,
2 AND WE'LL BREAK UNTIL 1:00 O'CLOCK. AND WE'LL ASK YOU
3 TO COME BACK AT 1:00 O'CLOCK, AND WE'LL RESUME AGAIN.
4 ALL RIGHT?

5 YOU ARE REMINDED NOT TO DISCUSS THIS MATTER
6 AMONG YOURSELVES OR WITH ANY OTHER PERSON, NOT TO FORM
7 OR EXPRESS AN OPINION ON THE MATTER UNTIL IT'S SUBMITTED
8 TO YOU. THANK YOU.

9
10 (THE FOLLOWING PROCEEDINGS
11 WERE HELD IN OPEN COURT
12 OUTSIDE THE PRESENCE OF THE JURY:)

13
14 THE COURT: ALL RIGHT. ANYTHING FOR THE
15 RECORD BEFORE WE BREAK?

16 MR. GALVIN: NO, YOUR HONOR.

17 THE COURT: ALL RIGHT. THANK YOU SO MUCH.

18
19 (A LUNCH RECESS WAS TAKEN.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 322 HON. LEE SMALLEY EDMON, JUDGE
COORDINATION PROCEEDINGS)
SPECIAL TITLE (RULE 1550 (B))
TOYOTA MOTOR CASES) JCCP4621
_____)

REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

THURSDAY, AUGUST 8, 2013

A.M. SESSION

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