

1 IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
2 FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
3 CIVIL TRIAL DIVISION

4 - - -

4	ANGELO HARMON,	:	JULY TERM, 2013
	Individually and as the	:	
5	Administrator of the	:	NO.: 00720 - Lead Case
	ESTATE of JUANITA HARMON,	:	
6	et al.,	:	Consolidated Cases:
		:	
7	Plaintiffs,	:	130600987; 130601108;
		:	130601235; 130601236;
8	vs.	:	130601353; 130601363;
		:	130601379; 130601453;
9	THE SALVATION ARMY OF	:	130601752; 130700678;
	GREATER PHILADELPHIA,	:	130801874; 130900159;
10	et al.,	:	130901429; 130901903;
		:	131201233; 140602818;
11	Defendants.	:	140702440; 150600013;
		:	150600196

12 - - -

13 JURY TRIAL
14 MORNING SESSION

15 - - -

16 Monday, September 19, 2016
17 Courtroom 653, City Hall
18 Philadelphia, Pennsylvania

19 - - -

20 BEFORE: THE HONORABLE M. TERESA SARMINA, J.

21 - - -

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23 OFFICIAL COURT REPORTER
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1 (The following proceedings were held
2 in the anteroom.)

3 THE COURT: So this is what I was
4 going to say to each of the jurors. And one
5 of them is already here. And we've already
6 lost one who had a child issue, but I'll let
7 all of you know in a little while.

8 So it's basically, Good morning,
9 Juror Number whatever Mr. Hardaway brings
10 back. Before we get started this morning I
11 wanted to inquire of you whether you followed
12 all the instructions I gave you after we
13 selected you to serve on this jury. Have you
14 followed those? So you have not spoken with
15 anyone about this case or let anyone speak to
16 you about the case? You have not sent any
17 texts or e-mails about the case or posted
18 anything to Facebook or any other social
19 networking sites which you visit. You have
20 not done any research about the case or the
21 attorneys or the court. You have not visited
22 the location of the building collapse. And
23 then just thank them and send them back and
24 tell them not to talk to the other jurors.

25 MR. MONGELUZZI: That's fine.

1 MR. HARE: That's fine.

2 THE COURT: I don't know if you want
3 to send Mr. Goodman back, if you want to have
4 Mr. Clain represent the defense, I don't care
5 who comes back, I'm going to say the exact
6 same thing to each juror. If they had
7 violated this maybe we might need to bring in
8 more people and ask that they give us a
9 moment.

10 MR. MONGELUZZI: When you say we
11 lost a juror, are you talking about another
12 juror?

13 THE COURT: Yeah. This morning she
14 texted George and said that her kid had had --
15 it's Alternate Number 4, I don't know other
16 than that. She said she could come tomorrow
17 but she had no child care, kid had a virus or
18 something, had a 103 fever, had to go to the
19 hospital. She's home now because she didn't
20 have child care for the child. So if we lose
21 two or three more we might not start until
22 tomorrow. So I know you're like all ready to
23 go. But, I mean, I couldn't force her to
24 leave her children, you know I mean.

25 MR. MONGELUZZI: I understand.

1 THE COURT: I would be in the news
2 in a bad way.

3 MR. HARE: Yes.

4 THE COURT: And I understand she's a
5 single parent. I had George verify that she
6 is a single parent so there was nobody else
7 there and we said okay. So for some reason we
8 should get derailed until tomorrow, then I
9 would have them call her back and say, You're
10 back on.

11 MR. MONGELUZZI: Okay. That's fine,
12 Your Honor.

13 MR. HARE: Okay.

14 THE COURT: If you could send Mr.
15 Clain and Mr. Goodman back and we can start
16 with questioning the jurors.

17 MR. MONGELUZZI: Okay.

18 MR. HARE: Thanks so much, Your
19 Honor.

20 (Brief pause.)

21 MR. CLAIN: Your Honor, I regret I
22 did not bring a pad and paper.

23 THE COURT: There should be
24 nothing -- if you wanted to read through that.

25 COURT CRIER: Juror Number 19 was

1 here first, Michele Foster.

2 THE COURT: She is not Juror Number
3 19, we don't have Juror 19.

4 COURT CRIER: All right.

5 THE COURT: That is what I'm asking
6 you, not what they came in as veneer persons,
7 they have now converted into some, Juror 1
8 through 14 and Alternate 1 through whatever.

9 COURT CRIER: She's Alternate 7.

10 THE COURT: How do we have seven
11 alternates when we lost two?

12 COURT CRIER: That was her original
13 when we seated her.

14 THE COURT: But it will no longer
15 be.

16 COURT CRIER: But we haven't moved
17 everybody up.

18 THE COURT: I asked you if you had
19 moved up after 129 and you said yes.

20 COURT CRIER: I misunderstood what
21 you were asking me, I thought you said did we
22 excuse 129.

23 THE COURT: No. Of course we
24 excused 129, we did that on Friday.

25 COURT CRIER: Right.

1 THE COURT: My question was whether
2 we -- once somebody is gone, everybody moves
3 up.

4 COURT CRIER: But we didn't -- we
5 would have to call them and say now you are --

6 THE COURT: I didn't mean calling
7 them, I mean on your list.

8 COURT CRIER: On my list.

9 THE COURT: You're going to need to
10 alter it anyway. This is Present Alternate
11 Number 7 prior to being moved up.

12 COURT CRIER: That is correct.

13 THE COURT: Anyone else here besides
14 her?

15 COURT CRIER: Juror Number 6, Donna
16 Young, she was the next person.

17 THE COURT: Okay. So can we have
18 Alternate Number 7, please.

19 (Alternate Number 7 entered the
20 anteroom.)

21 THE COURT: Good morning.

22 ALTERNATE NUMBER 7: Good morning,
23 how are you?

24 THE COURT: Thank you for being here
25 so early.

1 ALTERNATE NUMBER 7: You're welcome.

2 THE COURT: I just have a few
3 questions for you. You're presently Alternate
4 Number 7?

5 ALTERNATE NUMBER 7: Yes.

6 THE COURT: And before we get
7 started this morning I wanted to inquire of
8 you whether you followed all of the
9 instructions that I gave you after we selected
10 you to serve on the jury?

11 ALTERNATE NUMBER 7: Yes.

12 THE COURT: So you have not spoken
13 with anyone about this case or let anyone
14 speak to you about the case?

15 ALTERNATE NUMBER 7: No.

16 THE COURT: You have not sent anyone
17 texts or e-mails about the case or posted
18 anything to Facebook or any other social
19 sites which you might visit?

20 ALTERNATE NUMBER 7: No.

21 THE COURT: You have not done any
22 research about the case or about the attorneys
23 or the parties or the court?

24 ALTERNATE NUMBER 7: No.

25 THE COURT: And, lastly, you have

1 not visited the location of the building
2 collapse?

3 ALTERNATE NUMBER 7: No.

4 THE COURT: All right. Well,
5 excellent. Thank you very much for doing all
6 that. We're very glad to have you here.

7 ALTERNATE NUMBER 7: You're welcome.

8 THE COURT: And please don't tell
9 the other jurors what I asked you.

10 ALTERNATE NUMBER 7: Oh, no, I
11 wouldn't.

12 THE COURT: Okay, thank you.

13 ALTERNATE NUMBER 7: You're welcome.

14 (Alternate Number 7 exited the
15 anteroom.)

16 THE COURT: Mr. Hardaway.

17 COURT CRIER: Next person.

18 THE COURT: Juror Number who.

19 COURT CRIER: Juror Number 6.

20 THE COURT: Good morning.

21 (Juror Number 6 entered the
22 anteroom.)

23 JUROR NUMBER 6: Good morning.

24 THE COURT: Good morning. You are
25 Juror Number 6?

1 JUROR NUMBER 6: Yes.

2 THE COURT: All right. So just
3 before we get started this morning I just
4 wanted to inquire of you whether you followed
5 all of the instructions that I gave you after
6 we selected you to serve on the jury?

7 JUROR NUMBER 6: Yes, I did.

8 THE COURT: And so you have not
9 spoken with anyone about the case or let
10 anyone speak to you about the case?

11 JUROR NUMBER 6: No.

12 THE COURT: And you have not sent
13 anyone texts or e-mails about the case or
14 posted anything to Facebook or any other
15 social networking sites which you might visit?

16 JUROR NUMBER 6: No.

17 THE COURT: You have not done any
18 research about the case or about the attorneys
19 or the parties or the court?

20 JUROR NUMBER 6: No.

21 THE COURT: And you have not visited
22 the location of the building collapse?

23 JUROR NUMBER 6: No.

24 THE COURT: All right, excellent.

25 Thank you.

1 JUROR NUMBER 6: Thank you.

2 THE COURT: And welcome. And please
3 don't tell your fellow jurors what I'm asking.

4 JUROR NUMBER 6: Okay.

5 THE COURT: All right, thank you.

6 JUROR NUMBER 6: You're welcome.

7 (Juror Number 6 exited the
8 anteroom.)

9 LAW CLERK: Your Honor, this is
10 Mr. Livingood, he's asked to sit in from STB.

11 MR. LIVINGOOD: We didn't know Your
12 Honor was doing the colloquy.

13 THE COURT: Come on in. We will be
14 nice and cozy. That's the questions being
15 asked, basically.

16 Who is next?

17 COURT CRIER: Juror Number 7.

18 (Juror Number 7 entered the
19 anteroom.)

20 THE COURT: Good morning.

21 JUROR NUMBER 7: Good morning, Judge
22 Sarmina.

23 THE COURT: So before we get started
24 this morning, you are Juror Number 7?

25 JUROR NUMBER 7: Yes, ma'am.

1 THE COURT: Okay. I wanted to
2 inquire of you whether you followed all the
3 instructions that I gave you after we selected
4 you to serve on this jury?

5 JUROR NUMBER 7: Yes, I have.

6 THE COURT: And so you have not
7 spoken with anyone about the case or let
8 anyone speak to you about the case?

9 JUROR NUMBER 7: No. Other than --
10 well, I told my boss that I was going to be
11 here.

12 THE COURT: Yes, I told you that
13 was -- obviously, you had to let him know, you
14 couldn't just disappear for a month or so.

15 And you have not sent anyone texts
16 or e-mails about the case or posted anything
17 to Facebook or any other social networking
18 sites which you might visit?

19 JUROR NUMBER 7: No, ma'am.

20 THE COURT: And you have not done
21 any research about the case or about the
22 attorneys or the parties or the court?

23 JUROR NUMBER 7: No, ma'am.

24 THE COURT: And, lastly, you have
25 not visited the location of the building

1 collapse?

2 JUROR NUMBER 7: No, ma'am.

3 THE COURT: All right. And thank
4 you. And welcome. And please don't tell your
5 fellow jurors what I'm asking.

6 JUROR NUMBER 7: I won't.

7 THE COURT: Thank you.

8 (Juror Number 7 exited the
9 anteroom.)

10 MR. LIVINGOOD: In between jurors
11 can we just confirm since I wasn't here for
12 the first however many you did?

13 THE COURT: There's only been two
14 others, Alternate Number 7 and Juror Number 6.
15 And this was Juror Number 7.

16 COURT CRIER: Ready?

17 THE COURT: Who is next?

18 COURT CRIER: Number 9.

19 THE COURT: Good sign, they're all
20 here early. That's always a good sign, from
21 my perspective anyway.

22 (Juror Number 9 entered the
23 anteroom.)

24 THE COURT: Good morning.

25 JUROR NUMBER 9: Good morning.

1 THE COURT: So you are Juror Number
2 9?

3 JUROR NUMBER 9: Yes.

4 THE COURT: All right, I have a few
5 questions before we get started. I wanted to
6 inquire of you whether you followed all the
7 instructions I gave you after we selected you
8 to serve on the jury?

9 JUROR NUMBER 9: Yes.

10 THE COURT: So you have not spoken
11 with anyone about the case or let anyone speak
12 to you about the case?

13 JUROR NUMBER 9: No.

14 THE COURT: I know that you went and
15 let your boss know that you were selected?

16 JUROR NUMBER 9: Yes.

17 THE COURT: And, in fact, I wanted
18 you to know that Mr. Stiles called to see if
19 you would be able to work from October 27th
20 until November 12th or 13th or something like
21 that. We said yes, as long as you don't talk
22 about the case and as long as no one asks you
23 about the case.

24 JUROR NUMBER 9: Yes.

25 THE COURT: So I wanted you to be

1 aware of that.

2 JUROR NUMBER 9: Mm-hmm.

3 THE COURT: So you have not sent
4 anyone texts or e-mails about the case or
5 posted anything to Facebook or on any other
6 social networking sites which you might visit?

7 JUROR NUMBER 9: No.

8 THE COURT: And you have not done
9 any research about the case or about the
10 attorneys or the parties or the court?

11 JUROR NUMBER 9: No.

12 THE COURT: And you have not visited
13 the location of the building collapse?

14 JUROR NUMBER 9: No.

15 THE COURT: Okay, excellent, you
16 have done having perfectly correctly. And
17 welcome to service as a juror. Please don't
18 tell your fellow jurors what I am asking.

19 JUROR NUMBER 9: Okay.

20 THE COURT: All right, thank you.

21 (Juror Number 9 exited the
22 anteroom.)

23 COURT CRIER: 15 is next, Alternate
24 3, Alternate plus three.

25 THE COURT: Alternate 3, okay.

1 That's why I asked you this morning if you
2 converted their numbers to actual juror
3 numbers.

4 COURT CRIER: I didn't.

5 THE COURT: How do you know who is
6 what?

7 COURT CRIER: I have my original
8 list of what their original seated number.

9 THE COURT: How do you know now.
10 Never mind, just go get Alternate Number 3.

11 (Alternate Number 3 entered the
12 anteroom.)

13 THE COURT: Good morning.

14 ALTERNATE NUMBER 3: Good morning.

15 THE COURT: Thank you for being
16 here.

17 ALTERNATE NUMBER 3: You're welcome.

18 THE COURT: And you're Juror Number
19 is?

20 ALTERNATE NUMBER 3: 15.

21 THE COURT: Alternate Number 3 I
22 think you are at this point.

23 ALTERNATE NUMBER 3: Yes.

24 THE COURT: Okay, thank you. Before
25 we get started this morning I wanted to

1 inquire of you whether you followed all the
2 instructions I gave you after we selected you
3 to serve on this jury?

4 ALTERNATE NUMBER 3: I did.

5 THE COURT: So you have not spoken
6 with anyone about the case or let anyone speak
7 to you about the case?

8 ALTERNATE NUMBER 3: No.

9 THE COURT: Okay. You have not sent
10 anyone texts or e-mails about the case or
11 posted anything to Facebook or on any other
12 social networking site which you might visit?

13 ALTERNATE NUMBER 3: No.

14 THE COURT: You have not done any
15 research about the case or about the attorneys
16 or the parties or the court?

17 ALTERNATE NUMBER 3: No.

18 THE COURT: You have not visited the
19 location of the building collapse?

20 ALTERNATE NUMBER 3: No.

21 THE COURT: All right, thank you
22 very much. You followed everything perfectly.
23 And what was your original juror number?

24 ALTERNATE NUMBER 3: 15.

25 THE COURT: 15, okay. Thank you.

1 ALTERNATE NUMBER 3: You're welcome.

2 THE COURT: And please don't tell
3 your fellow jurors what I am asking back here.

4 ALTERNATE NUMBER 3: Oh, no.

5 THE COURT: Okay, thank you.

6 (Alternate Number 3 exited the
7 anteroom.)

8 COURT CRIER: Number 10 is next.

9 (Juror Number 10 entered the
10 anteroom.)

11 THE COURT: Good morning.

12 JUROR NUMBER 10: Good morning.

13 THE COURT: Before we get started,
14 you're Juror Number 10?

15 JUROR NUMBER 10: Yes, I am.

16 THE COURT: All right, thank you. I
17 wanted to inquire of you whether you followed
18 all the instructions that I gave you after we
19 selected you to serve on the jury?

20 JUROR NUMBER 10: Yes, I have.

21 THE COURT: So you have not spoken
22 with anyone about the case or let anyone speak
23 to you about the case?

24 JUROR NUMBER 10: No, Your Honor.

25 THE COURT: You have not sent anyone

1 texts or e-mails about the case or posted
2 anything to Facebook or on any other social
3 networking sites which you might visit?

4 JUROR NUMBER 10: No, Your Honor.

5 THE COURT: You have not done any
6 research about the case or about the attorneys
7 or the parties or the court?

8 JUROR NUMBER 10: No, Your Honor.

9 THE COURT: And, lastly, you have
10 not visited the location of the building
11 collapse?

12 JUROR NUMBER 10: No, Your Honor.

13 THE COURT: All right, well, you've
14 done everything perfectly well, Juror Number
15 10, thank you. And welcome to service as a
16 juror on this case.

17 JUROR NUMBER 10: Thank you.

18 THE COURT: And please don't tell
19 your fellow jurors what I'm asking.

20 JUROR NUMBER 10: Sure, thank you.

21 THE COURT: Thank you.

22 (Juror Number 10 exited the
23 anteroom.)

24 COURT CRIER: That is it so far.

25 (Brief pause.)

1 COURT CRIER: Juror Number 3.

2 (Juror Number 3 entered the
3 anteroom.)

4 THE COURT: Good morning.

5 JUROR NUMBER 3: Good morning.

6 THE COURT: So before we get started
7 this morning, welcome. And you are Juror
8 Number 3?

9 JUROR NUMBER 3: Okay.

10 THE COURT: That is right?

11 JUROR NUMBER 3: Yeah.

12 THE COURT: Okay. I wanted to
13 inquire of you whether you followed all the
14 instructions I gave you after we selected you
15 to serve on this jury?

16 JUROR NUMBER 3: Yeah.

17 THE COURT: So you have not spoken
18 with anyone about the case or let anyone speak
19 to you about the case?

20 JUROR NUMBER 3: Yeah.

21 THE COURT: Yes, you did not?

22 JUROR NUMBER 3: Yes, I did not.

23 THE COURT: All right.

24 JUROR NUMBER 3: Sorry.

25 THE COURT: You have not sent anyone

1 texts or e-mails about the case or posted
2 anything to Facebook or on any other social
3 networking sites that you might visit?

4 JUROR NUMBER 3: No, I did not.

5 THE COURT: You have not done any
6 research about the case or about the attorneys
7 or the parties or the court?

8 JUROR NUMBER 3: No, I did not.

9 THE COURT: And, lastly, you have
10 not visited the location of the building
11 collapse?

12 JUROR NUMBER 3: No, I did not.

13 THE COURT: Okay. Well, you have
14 done everything perfectly. So welcome. And
15 we'll be getting started when all the jurors
16 are here.

17 JUROR NUMBER 3: Okay, thank you.

18 THE COURT: And please don't tell
19 your fellow jurors what I'm asking.

20 JUROR NUMBER 3: Okay.

21 THE COURT: Thank you.

22 (Juror Number 3 exited the
23 anteroom.)

24 MR. CLAIN: Your Honor, I noticed
25 that Juror Number 3 was not wearing his badge.

1 THE COURT: I don't think they have
2 to. Are they supposed to wear badges?

3 COURT CRIER: Yes, in the room.

4 THE COURT: Juror Number 3 doesn't
5 have his on yet.

6 COURT CRIER: There are a stack of
7 them in the room.

8 THE COURT: You will tell them
9 before you bring them out, before they start
10 walking around the hallways anyway.

11 COURT CRIER: Number 14 is next.

12 THE COURT: There is no Number 14.

13 COURT CRIER: Alternate plus two.

14 THE COURT: So is that Alternate 2?

15 MR. GOODMAN: I think so.

16 (Alternate Number 2 entered the
17 anteroom.)

18 ALTERNATE NUMBER 2: Good morning.

19 THE COURT: Good morning. So
20 you're --

21 ALTERNATE NUMBER 2: 14.

22 THE COURT: I think you're Alternate
23 Number 2 also.

24 ALTERNATE NUMBER 2: Yes.

25 THE COURT: So before we get started

1 this morning I wanted to inquire of you
2 whether you followed all the instructions that
3 I gave you after we selected you to serve on
4 this jury?

5 ALTERNATE NUMBER 2: Yes.

6 THE COURT: And so you have not
7 spoken with anyone about this case or let
8 anyone speak to you about the case?

9 ALTERNATE NUMBER 2: No.

10 THE COURT: Thank you. You have not
11 sent anyone texts or e-mails about the case or
12 posted anything to Facebook or on any other
13 social networking sites which you might visit?

14 ALTERNATE NUMBER 2: No.

15 THE COURT: And you have not done
16 any research about the case or about the
17 attorneys or the parties or the court?

18 ALTERNATE NUMBER 2: No.

19 THE COURT: And, lastly, you have
20 not visited the location of the building
21 collapse?

22 ALTERNATE NUMBER 2: No.

23 THE COURT: All right. You've done
24 everything perfectly.

25 ALTERNATE NUMBER 2: Thank you.

1 THE COURT: I thank you. Welcome
2 for being here. And please don't tell your
3 fellow jurors what I'm asking.

4 ALTERNATE NUMBER 2: Okay, thank
5 you, Miss, thank you.

6 (Alternate Number 2 left the
7 anteroom.)

8 COURT CRIER: Juror Number 12.

9 (Juror Number 12 entered the
10 anteroom.)

11 THE COURT: Good morning.

12 JUROR NUMBER 12: Good morning.

13 THE COURT: Thank you for being here
14 so timely. And you're Juror Number 12?

15 JUROR NUMBER 12: Yes, ma'am.

16 THE COURT: Before we get started
17 this morning I wanted to inquire of you
18 whether you followed all the instructions I
19 gave you after we selected you to serve on
20 this jury?

21 JUROR NUMBER 12: Yes, I did.

22 THE COURT: So you have not spoken
23 with anyone about this case or let anyone
24 speak to you about the case?

25 JUROR NUMBER 12: No.

1 THE COURT: You have not sent anyone
2 texts or e-mails about the case or posted
3 anything to Facebook or on any other social
4 networking sites which you might visit?

5 JUROR NUMBER 12: No.

6 THE COURT: You have not done any
7 research about the case or about the attorneys
8 or the parties or the court?

9 JUROR NUMBER 12: No.

10 THE COURT: You have not visited the
11 location of the building collapse?

12 JUROR NUMBER 12: No.

13 THE COURT: Okay. Well, you have
14 done everything perfectly, Juror Number 12.
15 Thank you. And welcome. And please don't
16 tell your fellow jurors what I'm asking.

17 JUROR NUMBER 12: Okay, no problem.
18 All right, thank you.

19 (Juror Number 12 exited the
20 anteroom.)

21 COURT CRIER: Number 4 is here.

22 THE COURT: Thank you.

23 (Juror Number 4 entered the
24 anteroom.)

25 JUROR NUMBER 4: Good morning,

1 Judge. Good morning, everyone.

2 THE COURT: Good morning, how are
3 you?

4 JUROR NUMBER 4: I'm well, thank
5 you.

6 THE COURT: So before we get
7 started -- and you are Juror 4?

8 JUROR NUMBER 4: Yes, ma'am.

9 THE COURT: I wanted to inquire of
10 you whether you followed all the instructions
11 that I gave you after we selected you to serve
12 on this jury?

13 JUROR NUMBER 4: Yes, Your Honor.

14 THE COURT: So you have not spoken
15 with anyone about this case or let anyone
16 speak to you about the case?

17 JUROR NUMBER 4: No, Your Honor.

18 THE COURT: And you have not sent
19 anyone texts or e-mails about the case or
20 posted anything to Facebook or on any other
21 social networking sites which you might visit?

22 JUROR NUMBER 4: No, Your Honor.

23 THE COURT: You have not done any
24 research about the case or about the attorneys
25 or the parties or the court?

1 JUROR NUMBER 4: No, Your Honor.

2 THE COURT: And, lastly, you have
3 not visited the location of the building
4 collapse?

5 JUROR NUMBER 4: No, Your Honor.

6 THE COURT: All right. Well, you
7 have done everything perfectly.

8 JUROR NUMBER 4: Thank you, Your
9 Honor.

10 THE COURT: Thank you. And welcome
11 to service on this jury. And please don't
12 tell your fellow jurors what I'm asking.

13 JUROR NUMBER 4: Sure. Thank you,
14 Your Honor.

15 THE COURT: Okay.

16 (Juror Number 4 exited the
17 anteroom.)

18 COURT CRIER: Numbers 8 and 11 are
19 running late, but they are on their way.

20 THE COURT: Okay.

21 COURT CRIER: Number 1 is here.

22 THE COURT: Thank you.

23 (Juror Number 1 entered the
24 anteroom.)

25 THE COURT: Good morning.

1 JUROR NUMBER 1: Good morning.

2 THE COURT: So you're Juror Number
3 1?

4 JUROR NUMBER 1: Yes.

5 THE COURT: Before we get started
6 this morning I wanted to inquire of you
7 whether you followed all the instructions that
8 I gave you after we selected you to serve on
9 this jury?

10 JUROR NUMBER 1: Yes, I have.

11 THE COURT: Thank you. So you have
12 not spoken with anyone about this case or let
13 anyone speak with you about the case?

14 JUROR NUMBER 1: No, Your Honor.

15 THE COURT: And you have not sent
16 anyone texts or e-mails about the case or
17 posted anything to Facebook or on any other
18 social networking site which you might visit?

19 JUROR NUMBER 1: Right.

20 THE COURT: You have not done any
21 research about the case or about the attorneys
22 or the parties or the court?

23 JUROR NUMBER 1: I haven't. I have
24 not.

25 THE COURT: Okay. And finally, you

1 have not visited the location of the building
2 collapse?

3 JUROR NUMBER 1: I have not.

4 THE COURT: Thank you. You have
5 done everything perfectly. And welcome to
6 service as a juror on this case. And please
7 don't tell your fellow jurors what I am
8 asking.

9 JUROR NUMBER 1: Okay.

10 THE COURT: So go and get settled
11 in.

12 JUROR NUMBER 1: There?

13 THE COURT: To the left in that
14 little room on your left.

15 JUROR NUMBER 1: Thank you.

16 (Juror Number 1 exited the
17 anteroom.)

18 COURT CRIER: Juror Number 5.

19 THE COURT: Thank you.

20 COURT CRIER: Go right in there.

21 (Juror Number 5 entered the
22 anteroom.)

23 THE COURT: Good morning, sir.

24 JUROR NUMBER 5: Good morning.

25 THE COURT: So you're Juror Number

1 5?

2 JUROR NUMBER 5: Yes.

3 THE COURT: All right, thank you.

4 Before we get started, sir, I wanted to
5 inquire of you whether you followed all the
6 instructions that I gave you after we selected
7 you to serve on this jury?

8 JUROR NUMBER 5: Yes.

9 THE COURT: Okay. So you have not
10 spoken with anyone about this case or let
11 anyone speak to you about the case?

12 JUROR NUMBER 5: Correct.

13 THE COURT: You have not sent anyone
14 texts or e-mails about the case or posted
15 anything to Facebook or on any other social
16 networking sites which you might visit?

17 JUROR NUMBER 5: Correct.

18 THE COURT: You have not done any
19 research about the case or about the attorneys
20 or the parties or the court?

21 JUROR NUMBER 5: No.

22 THE COURT: And you have not visited
23 the location of the building collapse?

24 JUROR NUMBER 5: No.

25 THE COURT: Okay. Well, you have

1 done everything perfectly correct. And so
2 welcome to service on the jury. And please
3 don't tell your fellow jurors what I am
4 asking.

5 JUROR NUMBER 5: Okay.

6 THE COURT: Thank you.

7 JUROR NUMBER 5: No, problem.

8 THE COURT: Back to your left.

9 (Juror Number 5 left the anteroom.)

10 COURT OFFICER: Just wanted to let
11 you know that some of the clients are running
12 late.

13 THE COURT: If all the jurors are
14 here we are starting. Thank you very much.
15 We are saving the first three rows for
16 attorneys and the clients and things like
17 that, okay.

18 COURT OFFICER: Yes.

19 THE COURT: And I guess that's all I
20 need to know.

21 COURT OFFICER: And if it's okay,
22 Judge, that I make an announcement before we
23 get started about the electronic devices
24 making sure they're all --

25 THE COURT: Please let them know if

1 we hear it or see it the judge is going to
2 have a collection in the back, until the end
3 of the day.

4 COURT OFFICER: Okay.

5 COURT CRIER: Juror Number 2 is
6 here.

7 THE COURT: Thank you.

8 COURT CRIER: Go right in there.

9 (Juror Number 2 entered the
10 anteroom.)

11 THE COURT: Good morning.

12 JUROR NUMBER 2: Good morning.

13 THE COURT: So you are Juror Number
14 2?

15 JUROR NUMBER 2: Yes.

16 THE COURT: All right. Before we
17 get started this morning I wanted to inquire
18 of you whether you followed all of the
19 instructions that I gave you after we selected
20 you to serve on this jury?

21 JUROR NUMBER 2: Yes.

22 THE COURT: So you have not spoken
23 with anyone about the case or let anyone speak
24 with you about the case?

25 JUROR NUMBER 2: No.

1 THE COURT: You have not sent anyone
2 texts or e-mails about the case or posted
3 anything to Facebook or any other social
4 networking sites which you might visit?

5 JUROR NUMBER 2: No.

6 THE COURT: You have not done any
7 research about the case or about the attorneys
8 or the parties or the court?

9 JUROR NUMBER 2: Nope.

10 THE COURT: And, lastly, you have
11 not visited the location of the building
12 collapse?

13 JUROR NUMBER 2: No.

14 THE COURT: All right. Well, you've
15 done everything perfectly. Thank you. And
16 welcome. And please don't tell your fellow
17 jurors what I'm asking.

18 JUROR NUMBER 2: Okay.

19 THE COURT: All right.

20 JUROR NUMBER 2: Thank you.

21 THE COURT: Go back to the left.

22 JUROR NUMBER 2: Okay.

23 (Juror Number 2 exited the
24 anteroom.)

25 COURT CRIER: Alternate plus six

1 just parked her car, she's walking here now.
2 And Alternate plus one is downstairs signing
3 in.

4 THE COURT: Alternate plus one is
5 Alternate 1?

6 COURT CRIER: Alternate 1.

7 THE COURT: All right.

8 COURT CRIER: And then there's the
9 other two who already called me and saying
10 that they were running --

11 THE COURT: 8 and 11.

12 COURT CRIER: Those are the four.

13 THE COURT: What were the alternates
14 for -- the one who canceled this morning was
15 Alternate 4, is that who you told me this
16 morning?

17 COURT CRIER: One second.

18 THE COURT: It's probably on my cell
19 phone.

20 COURT CRIER: Yes, Alternate 4.

21 THE COURT: So Alternate 4. And
22 what was 129?

23 COURT CRIER: She was 17, Alternate
24 5.

25 THE COURT: Okay. So Alternate 4

1 and 5 are out.

2 LAW CLERK: Judge, should the phone
3 over here be unplugged so it doesn't ring
4 during opening statements?

5 THE COURT: No. But the ringer
6 should definitely be lowered and there is a
7 way to lower it, there's a volume button
8 somewhere.

9 COURT CRIER: Juror Number 8.
10 (Juror Number 8 entered the
11 courtroom.)

12 THE COURT: Come on in. Thank you
13 for calling and letting us know you may be a
14 little delayed, we appreciate that. So before
15 we get started this morning I wanted to
16 inquire of you whether you followed all the
17 instructions that I gave you after we selected
18 you to serve on this jury?

19 JUROR NUMBER 8: Yes.

20 THE COURT: So you have not spoken
21 with anyone about this case or let anyone
22 speak with you about the case?

23 JUROR NUMBER 8: No.

24 THE COURT: You have not sent anyone
25 texts or e-mails about the case or posted

1 anything to Facebook or on any other social
2 networking sites which you might visit?

3 JUROR NUMBER 8: No.

4 THE COURT: You have not done any
5 research about the case or about the attorneys
6 or the parties or the court?

7 JUROR NUMBER 8: No.

8 THE COURT: And, lastly, you have
9 not visited the location of the building
10 collapse?

11 JUROR NUMBER 8: No, ma'am.

12 THE COURT: All right. Well, you've
13 done everything perfectly, so thank you. And
14 please don't tell your fellow jurors what I'm
15 asking.

16 JUROR NUMBER 8: No, problem.

17 THE COURT: So if you go back to
18 your left.

19 JUROR NUMBER 8: Thank you.

20 THE COURT: Thank you.

21 (Juror Number 8 exited the
22 anteroom.)

23 COURT CRIER: Alternate 1 is here.

24 THE COURT: Thank you.

25 (Alternate Number 1 entered the

1 anteroom.)

2 ALTERNATE NUMBER 1: Good morning,
3 Your Honor. Good morning. I'm sorry.

4 THE COURT: You're fine. You're
5 good. So you're Alternate 1.

6 ALTERNATE NUMBER 1: Okay, great.

7 THE COURT: And what was your number
8 originally?

9 ALTERNATE NUMBER 1: 127.

10 THE COURT: Okay. And so before we
11 get started this morning I wanted to inquire
12 of you whether you followed all the
13 instructions that I gave you after we selected
14 you to serve on this jury?

15 ALTERNATE NUMBER 1: Yes.

16 THE COURT: So you have not spoken
17 with anyone about the case or let anyone speak
18 to you about the case?

19 ALTERNATE NUMBER 1: That's correct.

20 THE COURT: You have not sent anyone
21 texts or e-mails about the case or posted
22 anything to Facebook or on any other social
23 networking sites which you might visit?

24 ALTERNATE NUMBER 1: No, I have not.

25 THE COURT: You have not done any

1 research about the case or about the attorneys
2 or the parties or the court?

3 ALTERNATE NUMBER 1: That's correct,
4 Your Honor.

5 THE COURT: And, lastly, you have
6 not visited the location of the building
7 collapse?

8 ALTERNATE NUMBER 1: No, I have not.

9 THE COURT: All right, thank you.
10 So go back to your left and take a breath and
11 we will be with you shortly. Nice boots. I
12 like those boots.

13 ALTERNATE NUMBER 1: Thank you.

14 THE COURT: Perfect for today.

15 (Alternate Number 1 exited the
16 anteroom.)

17 COURT OFFICER: Excuse me, Your
18 Honor, this is Number 11.

19 (Juror Number 11 entered the
20 anteroom.)

21 THE COURT: Oh, come on in.

22 JUROR NUMBER 11: I apologize.

23 THE COURT: No problem. You're
24 good. Breathe, breathe. Come on in. Thank
25 you, Juror Number 11.

1 So before we get started this
2 morning I wanted to inquire of you whether you
3 followed all the instructions that I gave you
4 after we selected you to serve on this jury.

5 JUROR NUMBER 11: Yes.

6 THE COURT: So you have not spoken
7 with anyone about the case or let anyone speak
8 to you about the case?

9 JUROR NUMBER 11: No.

10 THE COURT: You have not sent anyone
11 texts or e-mails about the case or posted
12 anything to Facebook or any other social
13 networking sites which you might visit?

14 JUROR NUMBER 11: No.

15 THE COURT: You have not done any
16 research about the case or about the attorneys
17 or the parties or the court?

18 JUROR NUMBER 11: No.

19 THE COURT: And, lastly, you have
20 not visited the location of the building
21 collapse?

22 JUROR NUMBER 11: No.

23 THE COURT: All right, perfect. So
24 go ahead and catch your breath.

25 JUROR NUMBER 11: Thank you.

1 THE COURT: And we will be with you
2 shortly. We are waiting for one more person,
3 I think.

4 JUROR NUMBER 11: Okay, thank you.

5 THE COURT: Thank you.

6 (Juror Number 11 exited the
7 courtroom.)

8 THE COURT: Mr. Hardaway.

9 COURT CRIER: I got one of the
10 jurors on the phone.

11 THE COURT: Who was that?

12 COURT CRIER: Alternate 6, she's now
13 signing in. She was lost. She didn't know
14 what entrance to go through.

15 THE COURT: Can you do me a favor,
16 please, and remove the last two in the back
17 row, and then all the other seats need to be
18 moved over a tiny bit. We have lost two
19 jurors so now it's only 17.

20 COURT OFFICER: Okay, I will
21 re-adjust them.

22 THE COURT: Yes, but not really
23 changing the overall setup.

24 COURT OFFICER: Not the overall
25 setup.

1 THE COURT: Just take out the last
2 two chairs. Don't take them out from the
3 front because they're all numbered.

4 COURT OFFICER: So I will take out
5 19 and 18?

6 THE COURT: Yes.

7 (Alternate Number 6 entered the
8 anteroom.)

9 THE COURT: Good morning.

10 ALTERNATE NUMBER 6: Good morning.

11 THE COURT: Are you okay?

12 ALTERNATE NUMBER 6: No.

13 THE COURT: What's wrong?

14 ALTERNATE NUMBER 6: I'm tired, I
15 walked a mile, I'm wet. Just come in from
16 work.

17 THE COURT: Sorry. Do you need a
18 minute?

19 ALTERNATE NUMBER 6: I'm all right.

20 THE COURT: Okay. So before we get
21 started this morning I wanted to inquire of
22 you whether you followed all the instructions
23 I gave you after we selected you to serve on
24 the jury?

25 ALTERNATE NUMBER 6: I believe so.

1 THE COURT: All right. So you have
2 not spoken with anyone about the case or let
3 anyone speak to you about the case?

4 ALTERNATE NUMBER 6: No.

5 THE COURT: You have not sent anyone
6 texts or e-mails about the case?

7 ALTERNATE NUMBER 6: No.

8 THE COURT: Or posted anything to
9 Facebook or any other social networking sites
10 which you might visit?

11 ALTERNATE NUMBER 6: No.

12 THE COURT: You have not done any
13 research about the case or about the attorneys
14 or the parties or the court?

15 ALTERNATE NUMBER 6: No.

16 THE COURT: You have not visited the
17 location of the building collapse?

18 ALTERNATE NUMBER 6: No.

19 THE COURT: Then you have done
20 everything perfectly. So why don't you take a
21 few moments. Do you need to use the
22 facilities or just get your stuff together.

23 ALTERNATE NUMBER 6: No, I just
24 found out on Friday after I left here that my
25 job do give me pay, but I don't work Monday

1 through Friday, I work every other weekend.

2 THE COURT: Right, I remember you
3 saying that.

4 ALTERNATE NUMBER 6: On weekends I
5 don't get paid so I don't know how that's
6 going to work. And my husband works 3:00 to
7 11:00. We don't have anyone to watch my
8 daughter in between. So it's like a real big
9 fiasco right now.

10 THE COURT: Okay. For right now why
11 don't you just go join the other jurors and
12 then we'll end up talking during the day at
13 some point.

14 ALTERNATE NUMBER 6: Okay.

15 THE COURT: All right?

16 ALTERNATE NUMBER 6: All right,
17 thank you.

18 (Alternate Number 6 exited the
19 anteroom.)

20 MR. LIVINGOOD: I think we'll
21 probably have to at some point, the full come
22 plea meant of attorneys, talk about that.

23 THE COURT: About her?

24 MR. LIVINGOOD: But not with the
25 full courtroom of people.

1 THE COURT: No, no, no. And it
2 might not even be -- I mean, how does she get
3 paid by her job but she works weekends but she
4 won't get paid? I'm not sure I understand.

5 MR. GOODMAN: I got a sense that she
6 gets paid for her weekday shifts that she
7 misses, but she also has every other weekend
8 responsibilities and if she misses them she
9 doesn't get paid. That's what I heard.

10 MR. LIVINGOOD: That's what I heard.

11 MR. GOODMAN: I'm guessing she's a
12 nurse of some type based upon the attire.

13 MR. LIVINGOOD: And the shoes.

14 THE COURT: But she always knew she
15 had to come here at 9:00 o'clock in the
16 morning.

17 MR. LIVINGOOD: My bigger concern,
18 Your Honor, is her mental state.

19 MR. CLAIN: She was on the verge of
20 tears.

21 THE COURT: Right, that's why I
22 asked her if she wanted a little time.

23 MR. GOODMAN: And I know I'm nervous
24 that the original plan of having eight
25 alternates is down to five with one whom --

1 THE COURT: Might not be here.

2 MR. GOODMAN: I know.

3 THE COURT: So you will discuss that
4 with your colleagues, you on the plaintiffs'
5 side, and you two on the defense side. At
6 some point when we take a break, and hopefully
7 she will be so captivated by Mr. Mongeluzzi
8 that she will want to stay. We will see.

9 (The following proceedings were held
10 in the courtroom.)

11 COURT OFFICER: Good morning. And,
12 ladies and gentlemen, can I have your
13 attention, please. I need you to turn off
14 your phones, all electronic devices, please.
15 We appreciate it. And we're about to get
16 started in a few. Thank you.

17 THE COURT: Is everyone ready?

18 MR. MONGELUZZI: Ready, Your Honor.

19 MR. GOODMAN: Yes, Your Honor.

20 COURT OFFICER: Should we bring in
21 the panel, Your Honor?

22 THE COURT: Yes, thank you.

23 COURT CRIER: Bring the panel out,
24 Your Honor?

25 THE COURT: Yes, thank you.

1 COURT CRIER: May I?

2 THE COURT: Thank you.

3 COURT CRIER: Please remain seated
4 as the jurors enter the courtroom.

5 (The jury entered the courtroom.)

6 COURT CRIER: May I swear the panel
7 in, Your Honor?

8 THE COURT: Thank you.

9 COURT CRIER: Jurors, please stand
10 and raise your right hand.

11 (The jury panel was duly
12 sworn/affirmed.)

13 COURT CRIER: Jurors, you have now
14 been sworn in. Please be seated.

15 THE COURT: Good morning, ladies and
16 gentlemen.

17 THE JURY: Good morning.

18 THE COURT: First off, I want to
19 apologize to each of you because you are not
20 in the most comfortable of chairs and you will
21 be sitting for a number of weeks. If the slim
22 cushions on those chairs prove to be
23 insufficient, please let me know and I will
24 see if we can double them up or do something
25 else for you. I will also allow you to bring

1 in your own cushion, if you prefer.

2 At my request Court Administration
3 has brought in a decent sized refrigerator and
4 there is a microwave on top of it. I hope
5 everyone will be able to reach it. If not, we
6 will move it. I know that between
7 transportation and meals your juror
8 compensation will not go far so please feel
9 free to bring in your own lunch, if you wish.
10 But since you all will be sharing that space
11 as well as the space in the jury room itself,
12 please try to keep it neat.

13 Ladies and gentlemen, you have been
14 selected to perform one of the most solemn
15 duties of citizenship. You are to sit in
16 judgment on claims brought by your fellow
17 citizens against others of your fellow
18 citizens. And as I say this I want to point
19 out to you that some of the defendants are
20 corporations, but they are nonetheless fellow
21 citizens.

22 Under the law, corporations are
23 citizens just like anybody else and are to be
24 treated just the same as anybody else. Now,
25 corporations, of course, don't act like

1 everybody else, but I will tell you how they
2 do act. They act by and through their
3 employees when their employees are working for
4 the company. And anything an employee does
5 while working for the company is the same as
6 the corporation, the defendant, doing it. Or
7 anything that an employee or employees fail to
8 do is the same as if the corporation failed to
9 do that thing. So it is a case between your
10 fellow citizens.

11 The instructions -- I'm sorry, the
12 services which you render as jurors in the
13 matter are as important to the administration
14 of justice as those rendered by me, the Judge,
15 or by the attorneys for their respective
16 sides. You should pay close attention to
17 everything that is said and everything that
18 occurs throughout the trial. So that when it
19 comes time for you to deliberate, which will
20 be several weeks from now, you can faithfully
21 perform your sworn duties as jurors.

22 Now I will explain to you in a
23 general way what you can expect during the
24 trial. Can everyone hear me?

25 THE JURY: Yeah.

1 THE COURT: First, plaintiffs, by
2 their attorneys, will make opening statements.
3 And while there are 19 plaintiffs they have
4 agreed that they will not all speak to you in
5 opening statements. But I do expect that the
6 opening statements being presented to you will
7 take most of the day today. And while we are
8 on the subject of the attorneys, some lawyers
9 and parties may be present in the courtroom
10 during some portions of the trial and absent
11 from the courtroom during other portions of
12 the trial. The absence of a lawyer and/or a
13 party from the courtroom does not indicate
14 that the lawyer or party lacks interest in the
15 case. I have instructed the attorneys that
16 they or their clients' presence is not
17 mandatory during all phases of the trial. You
18 may not consider the absence or presence of
19 any party or lawyer in making your decisions
20 in this case.

21 In their opening statements the
22 attorneys will outline the case from their
23 viewpoint. After the plaintiffs' opening
24 statements the defense attorneys can address
25 you or they can reserve their right to address

1 you until a later point in the trial. And in
2 their speeches they will outline their
3 defenses. Defense counsel who want to address
4 you before the evidence begins will present
5 their opening statements to you tomorrow. No
6 one's opening statements are evidence.

7 Since I mentioned evidence, I think
8 this is a good time to tell you what is and is
9 not evidence, especially since I will use that
10 term more during these instructions. Evidence
11 includes the testimony of witnesses. Evidence
12 also includes documents and other exhibits
13 admitted during the trial. Certain things are
14 not evidence and you cannot base your verdict
15 upon them. I will now describe what is not
16 evidence. One, the lawyers are not witnesses
17 and what they say is not evidence in this
18 case. Their opening statements, questions,
19 comments and closing arguments are not
20 evidence.

21 Some of the documents, testimony and
22 videos you will see during the lawyers'
23 opening statements may be admitted as evidence
24 during the trial. Even where a document,
25 video or testimony that is presented in an

1 opening statement, is later admitted into
2 evidence during the trial, you are not to
3 consider these portions of the opening
4 statements or any characterizations by the
5 lawyers of the documents, videos or testimony
6 presented in the opening statements as
7 evidence. However, evidence admitted during
8 the trial that was presented during an opening
9 statement should be given the same weight as
10 other evidence that is admitted during the
11 trial.

12 Two, anything you see or hear about
13 this case outside the courtroom is not
14 evidence. And I truly hope that does not
15 happen because you should not be seeing any
16 evidence outside the courtroom. But if that
17 should happen it should never be considered by
18 you in reaching your verdict.

19 Three, I may strike from the record
20 certain statements or exhibits. If that
21 happens, I will tell you that you may not
22 consider it as evidence. I believe I will
23 most likely direct you to disregard it and you
24 must do so. All right, so that is what is not
25 evidence.

1 So after the opening statements of
2 both sides plaintiffs' counsel will call
3 witnesses to testify and through those
4 witnesses may offer exhibits such as documents
5 or physical objects. This is called direct
6 examination. The defense has a right to
7 cross-examine; that is, question any witnesses
8 called by the plaintiff.

9 Cross-examination is questioning
10 designed to test the truthfulness and the
11 accuracy of what that witness has told you.
12 And there are exceptions and there are times
13 when someone may call a witness who has not
14 yet had direct examination in what is called
15 as-of-cross. You might hear the lawyers say,
16 I'm calling the witness as-of-cross. And they
17 are examining that person as if they were
18 under cross-examination because of the
19 relationship of that person in adversity to
20 their case.

21 At the conclusion of the plaintiffs'
22 case defense counsel will have an opportunity
23 to present evidence and any witnesses called
24 by the defense will also be cross-examined,
25 but by plaintiffs' counsel, again, to test

1 their truthfulness and accuracy.

2 After all of the evidence has been
3 presented, the attorneys for each side will
4 have a final opportunity to make closing
5 arguments to you, in which they will explain
6 what they think you should conclude from all
7 the evidence that has been presented to you.
8 And as I have told you, the closing arguments
9 are also not evidence.

10 And then after the closing arguments
11 I will give you final instructions in which I
12 will tell you all the law that I think you
13 need to know in order to properly decide the
14 case. And perhaps some additional guidance on
15 how you may conduct your deliberations.

16 You will then retire to the jury
17 room for your deliberations. When you go to
18 the jury room to deliberate, if you find that
19 your recollection of a particular piece of
20 testimony has become confused or uncertain, I
21 may, at your request, permit the court
22 reporter, who makes a record of everything
23 that is said, to read back a portion of the
24 testimony to you. But you should not rely on
25 getting this kind of help from the court

1 reporter. Pay close attention and listen
2 attentively to every witness so that when it
3 comes time to deliberate collectively you will
4 be able to have a clear recollection of the
5 testimony.

6 Now, if you have any trouble hearing
7 any question or answer while the trial is
8 going on, let me know or let Mr. Hardaway know
9 or let any other court officer know who is
10 present here. And we will do everything
11 necessary to make sure that you hear all the
12 testimony. And please, don't wait a while and
13 then raise your hand and tell me that you
14 haven't heard anything for the last 15 or 20
15 minutes. If you do that, there's really
16 nothing that I can do about that. So please
17 let us know as soon as you think there's a
18 problem.

19 You will have notebooks and you will
20 be permitted to take notes. And you might be
21 wondering why you can't take notes yet. And
22 that is because the opening statements are
23 about to come up and you can only take notes
24 about evidence. And as I told you, what the
25 attorneys say to you in the opening statements

1 is not evidence.

2 You are not required to take notes.
3 And if you choose to take notes you don't have
4 to take a lot of notes. You can take as much
5 or as little as you choose. The notes are
6 memory aids, they're not the evidence and
7 they're not any kind of official record. But
8 don't become so consumed with note taking that
9 you are not allowing yourself the proper time
10 to observe the witnesses as they testify.

11 When you leave the courtroom leave
12 your notebooks on your chair. At the end of
13 the day Mr. Hardaway will collect all your
14 notebooks and secure them and the next morning
15 he will give them back to you. You will not
16 have all of your notes until it is time to
17 deliberate.

18 If you wish to share your notes with
19 your fellow jurors you may do so, but you are
20 not required to. It is totally up to you.
21 After the trial we will collect all your notes
22 and they will be destroyed without anyone
23 reading them. So the only time anybody will
24 share their notes will be during deliberations
25 and then only if you choose to.

1 Now, as I said, the notes are not
2 official records, they are only a memory aid.
3 And so jurors who take few notes or no notes
4 should not permit their independent
5 recollection of the evidence to be influenced
6 by the fact that somebody else has taken lots
7 of notes. Maybe the other person's notes will
8 remind you of what someone may have said
9 instead of what you thought they had said.
10 But just because somebody writes it down
11 doesn't mean they got it right. Especially
12 when witnesses have a lot to say or speak too
13 fast.

14 Members of the jury, you are the
15 judges of the credibility of the witnesses.
16 And, therefore, you have to evaluate what
17 weight or significance to give their
18 testimony. By credibility, I mean the
19 testimony's truthfulness and accuracy. And
20 that's the most critical thing that you, the
21 jurors, have to do. In judging credibility
22 you should use your own understanding of human
23 nature and common sense, observe each witness
24 as he or she testifies, be alert for anything
25 in his or her words, demeanor or behavior

1 while on the witness stand or for anything in
2 the other evidence in the case which might
3 help you to judge the truthfulness and
4 accuracy of the testimony.

5 It is my responsibility as the court
6 to decide all questions of law and, therefore,
7 you must accept and follow my rulings as to
8 matters of law. But I am not the judge of the
9 facts in this case. You, the jurors, are the
10 sole judges of the facts. It's not my
11 responsibility in this case to determine what
12 are the true facts concerning the claims
13 presented. You, the jurors, are the only
14 judge of the facts. So at the end of the
15 trial it will be your responsibility to weigh
16 and evaluate the evidence, to find the facts
17 and applying the law as I give it to you to
18 the facts as you find them to determine
19 whether the plaintiffs have proven the claims
20 presented.

21 I am not going to express any
22 opinion during the trial. I will not express
23 any opinion about any witness. And if you
24 think that I have expressed an opinion you are
25 mistaken. As I have said, you are the sole

1 judges of the facts and I completely respect
2 your critical role in this trial.

3 You are to keep an open mind
4 throughout the trial. You should avoid
5 forming any opinions about any disputed facts
6 or issues until you begin your deliberations.

7 And you should not talk with anyone
8 about the evidence or the case until it is
9 time to deliberate. More specifically, do not
10 discuss with anyone else the trial including
11 your family members, people at home or
12 friends. You are not permitted to do that.
13 You should recall that after we selected you
14 to serve as a juror I brought you back into
15 the courtroom and you sat in the jury box and
16 you promised that you would not do that. I
17 know that it will not be easy, but you must
18 follow all those assurances that you gave me.

19 And just to be clear, when I say you
20 should not talk to anyone, that includes
21 talking amongst yourselves. There will be
22 times, before court, during or after lunch,
23 even when we take breaks because someone needs
24 a break or because we need to do something in
25 the courtroom, where you will be in the jury

1 room and you're not to talk about the case
2 even amongst yourselves. You can talk about
3 other things, about the weather, or the sports
4 you like or about your families or kids if you
5 choose. You are going to be together for a
6 long time. But do not talk about the case or
7 make comments about a witness you just heard
8 testify.

9 You should also remember that you
10 are not to read any newspaper stories about
11 the trial. You are to avoid any radio or
12 television which might refer to the trial. So
13 if you should be somewhere where something
14 comes on about the trial, just leave the room
15 or turn it off. If there's an article in a
16 newspaper about the trial, do not read it.
17 And the reason is that it is the evidence that
18 is presented in court on which the case has to
19 be decided. And it's only the evidence
20 presented in court that the lawyers know
21 you're going to consider and that they can
22 confront either by cross-examination or by
23 calling other witnesses. So it's really
24 improper for you to use any outside sources.

25 You're not to make any investigation

1 of your own and you're not to go to the
2 locations that are testified to during the
3 course of the trial. The only information on
4 which this case has to be decided is what
5 comes to you while you are all together acting
6 as the jury in the presence of the court, the
7 attorneys and the parties.

8 And we have a pretty new rule
9 concerning internet use. Until your service
10 as jurors is concluded you may not use a
11 computer, cell phone or other electronic
12 device with communications capabilities during
13 trial or during deliberations. You may use
14 these devices during breaks or recesses, but
15 you are prohibited from using them at any time
16 to find out information about a party,
17 witness, attorney, judge, court officer,
18 another juror or about any aspect of the case
19 or to do any kind of search on any topic
20 raised or testimony offered by any witness or
21 any other research that you think would be
22 helpful in deciding the case. So the point is
23 that both sides have to know the evidence on
24 which you're going to decide the case.
25 Because if they knew what you were going to

1 use to decide the case then they could
2 question somebody about it and show you that
3 really that's wrong. Or they can call another
4 witness to show you that really that's wrong.
5 But if you do something outside of the
6 courtroom, if you look up something on the
7 internet, they wouldn't know you did it so
8 they can't possibly try to convince you that
9 that other source is mistaken or inaccurate or
10 not the whole picture. So it's very important
11 that you follow all of these restrictions
12 which might seem severe to you, but they are
13 necessary.

14 And you should also recall that I
15 gave you serious warnings about the
16 consequences about violating my orders
17 concerning these precise restrictions.

18 When you go to deliberate at the end
19 of all of the evidence it is your recollection
20 of the evidence which you have to rely on. So
21 you don't have to accept any opinion that the
22 attorney has expressed to you during the
23 appropriate time such as in the opening
24 statements or in the closing arguments. And
25 you don't have to accept any opinion, as I

1 already told you, that you might think I have
2 expressed. But I will not be expressing an
3 opinion, that is not my place.

4 I already told you that the
5 statements and comments of the attorneys are
6 not evidence. In fact, the questions which
7 the attorneys put to the witnesses are not
8 evidence. It is the answers that the
9 witnesses give which is the evidence in the
10 case. Obviously, the answers are given in the
11 context of the questions. So the questions
12 are important, but it is the answers that are
13 the evidence.

14 And so you also should not speculate
15 that a fact may be true simply because an
16 attorney asked questions assuming that a fact
17 is true. It's the answer coming from the
18 witness stand from a person who knows and who
19 is testifying under oath which is the evidence
20 on which you have to decide the case.

21 It is possible that I may question
22 some of the witnesses myself. My questions
23 will not reflect and are not intended to
24 reflect any opinion on my part about the
25 evidence or about the witness or about the

1 case. As I have said, you are the sole judges
2 of the facts. My only purpose would be to
3 inquire about matters which counsel may not
4 have fully explored or to seek to quickly
5 simplify issues which seem to have gotten
6 unnecessarily complicated or which I think
7 need to be clarified for you, especially since
8 you don't get to ask questions.

9 The admission of evidence at trial
10 is governed by rules of law. So it's my duty
11 during the trial to rule on objections to
12 evidence. Objections occur in every trial.
13 There is nothing unusual or extraordinary
14 about them. What might be a little different,
15 if you watch TV shows about law, is that --
16 Counsel, there will be no factual arguments in
17 front of the jury. If I ask for a basis I'm
18 asking for a legal basis only. If any factual
19 argument is thought necessary, ask to see me
20 at sidebar either before or after a ruling.
21 It will almost always be granted.

22 So what I have just told the
23 attorneys here in front of you is that they
24 are not to make arguments in front of you. We
25 will do that at sidebar, which means that we

1 will most likely either go to the back here or
2 go out there, even though I don't necessarily
3 want to do that because some of you might need
4 to use the facilities when we're doing that
5 and I don't want to be in your way or present
6 there.

7 And I hope that every one of the
8 attorneys will not find it necessary to come
9 to the sidebar discussions because you can see
10 there are a lot of them. And so if I should
11 need a more formal argument or even want to
12 hear what a witness is about to say before I
13 rule on an objection, I will then send all of
14 you out of the courtroom so that you can
15 stretch your legs or use the facilities and
16 not be sitting here in the courtroom wondering
17 what is taking so long.

18 In any event, if I overrule an
19 objection to the question that means that the
20 witness may answer and you are entitled to
21 consider that answer as evidence. If I
22 sustain an objection that means that the
23 witness should not answer and you won't be
24 entitled to consider the answer.

25 Sometimes the witness may answer the

1 question before I have issued my ruling
2 sustaining the objection. In that case I will
3 order the testimony stricken and will direct
4 you to disregard that testimony and you may do
5 so. And, I'm sorry, you must do so. That may
6 seem difficult to do, particularly in a trial
7 of this length, but when you are deliberating,
8 hopefully, at least some of you will remember
9 that I told you to disregard the answer. So
10 remind your fellow jurors about it. And if
11 anyone needs verification of that I can always
12 ask the court reporter to read that back to
13 you.

14 Now, with respect to applying the
15 law, at the end of the trial I will give you a
16 full description of all the law that you will
17 need. But I think it would be helpful at that
18 point to give you just some very, very basic
19 information. In civil cases such as this one,
20 plaintiffs bear the burden of proving those
21 contentions which they claim. Defendants are
22 not required to offer evidence on their own
23 behalf.

24 When a party has a burden of proof
25 the party's contention must be established by

1 a preponderance of the evidence. A
2 preponderance of the evidence means that you,
3 the jury, are persuaded that the contention is
4 more probably accurate and true than not true.

5 To put it another way, think, if you
6 will, of an ordinary balance scale with a pan
7 on each side. Onto one side of the scale
8 place all of the evidence favorable to the
9 plaintiffs. Onto the other place all of the
10 evidence favorable to each of the defendants
11 one at a time. If after considering the
12 comparable weight of the evidence you feel
13 that the scales tip ever so slightly or to the
14 slightest degree in favor of the plaintiffs
15 your verdict must be for the plaintiffs. If
16 the scales tip ever so slightly or to the
17 slightest degree in favor of a defendant or if
18 they remain equally balanced as to that
19 defendant your verdict must be for that
20 defendant.

21 So with that we are ready to begin
22 our opening statements. I am going to ask
23 before we begin whether anyone needs to use
24 the facilities. And if so, we can let you do
25 so now.

1 Counsel.

2 Jury.

3 Okay then. And regarding breaks, I
4 will also tell you jurors that whenever you do
5 need a break, please do not be stoic and
6 assume that the questioning will end soon. As
7 I said in the beginning, we want you to be
8 attentive at all times. So we certainly don't
9 want you worrying about when a break is
10 coming. So we are happy to take breaks
11 whenever you need them. And it is not
12 infrequent that when I have a trial a juror
13 sitting in the box might suddenly raise their
14 hand and the court officer will come over and
15 I will learn that you need to use the
16 facility. And so we can stop a witness even
17 in the middle of testifying. So we don't want
18 you worrying about breaks should you need a
19 break. And so at any time we are happy to
20 accommodate you.

21 We will take a break sometime this
22 morning during the opening statements. And I
23 assume that we'll either be at a logical place
24 or at a time that I decide we should go ahead
25 and take a break. And if not, if anyone

1 should need a break, just raise your hand and
2 we are happy to go ahead and take a break.

3 So with that, Mr. Mongeluzzi, you
4 may present your opening statements.

5 MR. MONGELUZZI: Thank you, Your
6 Honor.

7 THE COURT: Mr. Wigrizer, there's
8 one on the table next to you. Let's give that
9 other one to Mr. Hardaway, let's go in the
10 back and make sure it works because we will
11 need all of them.

12 MR. MONGELUZZI: Thank you, Your
13 Honor.

14 (Video playing.)

15 MR. MONGELUZZI: This was no
16 accident. The dictionary defines an accident
17 as something that is unexpected and
18 unpredictable. The tragedy of this horror of
19 the building collapse on Market Street on
20 June 5, 2013 was that it was expected and it
21 was predicted. It was expected from the first
22 day that the owner, Richard Basciano, and his
23 companies assigned Thom Simmonds to manage the
24 projects, someone who knew nothing about
25 managing a demolition project.

1 [Mr. Greiner rises.]

2 MR. MONGELUZZI: It became more
3 expected when they selected Plato Marinakos,
4 an architect, to work as an owner's
5 representative and be the eyes and ears of
6 that owner on this demolition project,
7 something he had no experience doing.

8 It became even more expected when
9 that owner selected Griffin Campbell, a
10 demolition contractor who had no demolition
11 employees, no demolition equipment, no
12 knowledge of demolition rules, whose sole
13 experience was tearing down two row houses
14 that had been burnt out, and who had spent 18
15 of his past 20 years working on a food truck.
16 This accident was expected back when those
17 decisions were made in December of 2012, seven
18 months before this accident.

19 The dictionary definition says an
20 accident is something that is the unexpected.
21 And as I explained to you, it was expected.
22 The other definition is that it was
23 unpredictable. And the most incredible
24 tragedy of this case is that this demolition
25 collapse, which resulted in the loss of lives

1 and limbs and headlines, was predicted by Thom
2 Simmonds and Joel Oshtry, Richard Basciano's
3 right-hand man and his attorney, in e-mails,
4 in letters that were sent in May of 2013 which
5 predicted that there was an increased risk of
6 collapse, a danger to life and limb, a threat
7 to public safety.

8 And the tragedy of this case is that
9 The Salvation Army Corporation got those
10 letters and got those e-mails and was warned
11 of the danger. Never communicated it to their
12 employees and never told their customers. And
13 the tragedy in this case is The Salvation Army
14 didn't live up to its mission statement of
15 doing the most good. When they got those
16 warnings they didn't do anything to help those
17 people.

18 I'm Bob Mongeluzzi. This is my
19 partner, Jeff Goodman. We represent Ann
20 Bryan's family, who was killed in the
21 accident, I'm going to introduce them later.
22 We represent Juanita Harmon's family, who was
23 killed in the accident and who we're going to
24 introduce later. We represent Danny Johnson's
25 family who was killed or died 23 days later,

1 and we're going to introduce those later.

2 MR. GOODMAN: We also represent
3 Felicia Hill, Nadine White and Rodney Geddis,
4 who were three workers at The Salvation Army
5 in the store when it collapsed. And we
6 represent Rosemary Kreutzberg, Jennifer
7 Reynolds and Bernie DiTomo, who also were all
8 hurt in this collapse.

9 MR. MONGELUZZI: This is the
10 aftermath. This is moments after the
11 collision. And you will see photographs
12 throughout this trial of the wreckage of this
13 collapse, the wreckage of property and people.

14 The question that this trial will
15 answer is why, why did this tragedy occur and
16 who caused it?

17 [Mr. Greiner rises.]

18 MR. MONGELUZZI: So we're going to
19 take a journey together. We're going to have
20 to go through the parties and the people, the
21 e-mails and the photographs together to come
22 to what the truth was about why this really
23 occurred. Missouri is the Show Me State.
24 People there don't want to hear what you have
25 to say, they want you to show it to them. And

1 that's what we are going to do in this
2 openings today. We are going to show you what
3 we're saying here, with their own photographs,
4 with their own e-mails and with their own
5 sworn testimony under oath.

6 By the end of this case what we will
7 have told you in opening will be proven, not
8 just by us, but by them and their witnesses on
9 the stand being cross-examined with their
10 documents, their contracts and their
11 photographs.

12 Richard Basciano is a New York real
13 estate owner and developer with commercial
14 property stretching from New York to Florida.
15 He owned multiple corporations in Philadelphia
16 that owned multiple properties.

17 [Mr. Greiner rises.]

18 MR. MONGELUZZI: The Hoagie City
19 building was owned by STB Investment
20 Corporation. Mr. Basciano was a 40 percent
21 shareholder of that, his two daughters owned
22 30 percent each. But STB didn't have any
23 employees.

24 There are several properties that
25 you're going to hear about as we go through

1 this, they're on the 2100, the 2200 block of
2 Market Street. All of them were owned by
3 corporations that Mr. Basciano had a
4 40 percent share in.

5 Let's go to what the gateway project
6 is. Mr. Basciano had a dream and a vision.
7 There's nothing wrong about having a dream or
8 a vision. And we are not going to be critical
9 of him and his companies for doing that. What
10 we are going to criticize and what we are
11 going to show you evidence is how they went
12 about it and why they went about it.

13 Let's look at the -- let's look at
14 this. And I'm sorry if I get in everyone's
15 way, it's a cramped courtroom.

16 So this is Market Street -- pardon
17 my back, please. This is Market Street here
18 and this is 22nd Street. These are the
19 buildings that were part of what
20 Mr. Basciano's company owned. The Forum
21 Theater, then 22nd Street and a little side
22 building here. This is the Hoagie City
23 building that collapsed onto the Salvation
24 Army building. This next door to it is 2134
25 and next to it is 2132. 2132 is owned by a

1 separate company and 2134 is owned by a
2 separate company. They don't have any
3 employees.

4 And this is what Mr. Basciano wanted
5 to do. He wanted to take down --
6 Mr. Sterling, could we go back to the other
7 slide.

8 His goal was to -- he owned this
9 garage here, he owned this parking lot here,
10 he had been trying to negotiate to purchase
11 The Salvation Army building here. This is a
12 firehouse and these are other commercial
13 properties. His vision was to be able to
14 develop the entire block and then build this,
15 as it was described, twin towers, which would
16 span the entire block from 21st to 22nd
17 Street.

18 So let's look at the buildings to be
19 demolished. We have The Forum Theater, which
20 was on 22nd Street, which was about a story
21 and-a-half, two stories high. And
22 Mr. Marinakos, the architect, owner's
23 representative, drew a diagram of this which
24 shows the basic outline. This is 22nd Street
25 here, this is Market Street which shows the

1 basic size. It was probably the smallest of
2 the buildings to be demolished.

3 And then we see here, this is 2132,
4 this is 2134, and this is what will be
5 referred to throughout this case as the Hoagie
6 City building. This is four stories, elevator
7 in the back, actually five at the elevator
8 section. This building, you're going to hear,
9 had been abandoned for about 20 years. And
10 that's going to become an important point that
11 I'm going to talk about later in my opening.

12 And here's the outline of what
13 needed to be demolished in order to get this
14 done. They were going to have to tear down
15 these buildings on a busy city street,
16 commercial buildings in the middle of
17 Philadelphia. And you are going to hear from
18 our experts that this was a complex
19 undertaking which required a sophisticated
20 demolition contractor, owner's representative
21 and manager for the owner.

22 And these are the players. You're
23 going to be seeing them at trial. You are
24 going to be hearing from them a lot. You will
25 hear from our experts that safety starts at

1 the top. And the person at the top was
2 Richard Basciano, the shareholder of 2132,
3 2134, and 2136-38 and The Forum. And because
4 he didn't have any employees he was going to
5 have to manage this through somebody. So he
6 assigned Thom Simmonds, his right-hand man, to
7 be the agent, we will prove, for the
8 corporations. But Mr. Simmonds was a personal
9 employee of Mr. Basciano.

10 Mr. Sterling, if we can come back to
11 an earlier slide.

12 And you're going to find that
13 Mr. Basciano assigned Thom Simmonds to be in
14 charge of this project. Approved Plato
15 Marinakos as the owner's representative
16 because these, Mr. Simmonds and Mr. Basciano,
17 were headquartered in New York, 78 miles away.
18 Griffin Campbell was chosen as the demolition
19 contractor. And we're going to go through
20 together, we're going to go through his
21 qualifications, or should I say lack of
22 qualifications. And Sean Benschop was an
23 excavator operator who was doing excavation at
24 that demolition project on the day of the
25 collapse.

1 We are going to present expert
2 testimony that a safe demolition project,
3 safety starts from the top. You need an
4 experienced, knowledgeable safe property
5 manager, a safe experienced, knowledgeable
6 owner's representative and an experienced,
7 knowledgeable and safe demolition contractor.
8 And the evidence in this case is going to
9 prove that all three of them were totally
10 inexperienced, utterly unqualified.

11 And there will be testimony about
12 when this project became dangerous. The
13 evidence is going to show that this project
14 became dangerous the day Mr. Basciano selected
15 Mr. Simmonds to act as his property manager to
16 administer this. It became more dangerous
17 when they selected Plato Marinakos, who had
18 never acted as an owner's representative
19 before, on a demolition project. And it
20 became more dangerous even still when they
21 selected Griffin Campbell.

22 Let's start. A safe demolition
23 project needs a knowledgeable and experienced
24 manager to manage it. This is who
25 Mr. Basciano assigned, Thom Simmonds. His

1 right-hand guy. A property manager whose
2 experience was basically getting contracts
3 signed for commercial projects, collecting
4 rent and making sure that maintenance people
5 performed basic maintenance like taking care
6 of broken toilets. He had no experience, no
7 experience managing a demolition project. And
8 you are going to hear that from Mr. Simmonds
9 himself.

10 And Mr. Simmonds acknowledges.
11 You're not just going to hear it from our
12 expert that the owner of the demolition
13 contract had a responsibility to select a
14 competent demolition contractor. That makes
15 sense. He admits it. Our expert is going to
16 tell you that as well. So let's see if he was
17 competent.

18 (Video playing:

19 Did you have any experience or
20 expertise selecting a competent demolition
21 contractor before this?

22 I had never selected a demolition
23 contractor prior to this.)

24 [Mr. Greiner rises.]

25 MR. MONGELUZZI: So he had no

1 experience doing it. And you are going to see
2 as we proceed through his testimony the
3 consequences of not knowing how to select a
4 safe demolition contractor. And how that led
5 directly to the collapse of June 5, 2013.

6 Any experience in construction or
7 demolition?

8 No.

9 Were you aware that there were
10 federal laws that applied to construction and
11 demolition?

12 At what point in time?

13 Before the collapse.

14 No.

15 Were you aware that there were
16 federal laws known as OSHA?

17 No.

18 Did you have any training in how to
19 select a contractor?

20 Not training.

21 So these are depositions. The
22 parties, plaintiff and defendant, had an
23 opportunity to ask questions under oath with
24 all attorneys present before trial so we know
25 what they're going to say. So some of these

1 slides like this one, rather than playing
2 video again and again, we are putting the text
3 up. But this is taken from a video deposition
4 and that's why you saw Mr. Simmonds' testimony
5 and that was him speaking.

6 Are you aware of any factors that
7 you need to look at before you choose a
8 contractor to assess whether they are
9 competent?

10 No, I'm not.

11 So Mr. Simmonds didn't know how to
12 act on a demolition project before because he
13 had never done it. He didn't know what it is
14 you should look at when you are selecting an
15 owner's representative. He didn't know what
16 factors you should consider when you're
17 selecting a demolition contractor. Which is
18 why he made the catastrophic errors of
19 selecting Plato Marinakos and approving him,
20 and Griffin Campbell and approving him. Which
21 led to this deadly collapse.

22 Mr. Marinakos was selected as the
23 owner's representative. So Mr. Basciano and
24 Mr. Simmonds are up in New York City at
25 43rd Street, they're 78 miles away. And this

1 project, this demolition project on a busy
2 street in Philadelphia was going to take place
3 78 miles away. So they decided to hire
4 someone to be their eyes and their ears, who
5 worked blocks away so that they had a
6 semblance of being able to understand what was
7 going on and to assure that this project would
8 be done correctly and safely. And they chose
9 Mr. Marinakos.

10 (Video playing:

11 You understood that as the owner's
12 representative and the person that was
13 actually going out to the job site on their
14 behalf, that you were their eyes and ears on
15 the project, right?

16 Yes.)

17 MR. MONGELUZZI: And let's see what
18 it is what Mr. Simmonds on behalf of
19 Mr. Basciano did to vet Plato Marinakos to
20 determine whether or not he would be a good
21 and safe owner's representative.

22 (Video playing:

23 And what did you do to vet Plato
24 Marinakos for whatever it is he was getting
25 recommended for?

1 Nothing.

2 Did you ask for a resume?

3 No.)

4 MR. MONGELUZZI: Nothing. He didn't
5 ask for a basic resume.

6 [Mr. Greiner rises.]

7 MR. MONGELUZZI: And that's why they
8 selected someone who didn't know what they
9 were doing.

10 [Mr. Clain rises.]

11 MR. MONGELUZZI: The contract, and
12 we're going to show you this, we're going to
13 get into it later, which, by the way,
14 Mr. Marinakos prepared, it is known as an AIA
15 contract. That stands for the American
16 Institute of Architects. And it says, The
17 architect will provide administration of the
18 contract and will be the owner's
19 representative during construction.

20 The representative for the owner,
21 who was 78 miles away, who was going to be
22 their eyes and their ears was Plato Marinakos.

23 My question was, what experience did
24 he have acting as an owner's representative on
25 a demolition contract?

1 I don't know.

2 Did you bother to ask him?

3 I don't recall asking him that
4 question.

5 And, therefore, you didn't get any
6 answer which was, I've never been an owner's
7 representative on a demolition project before.

8 Mr. Marinakos also had the
9 responsibility to keep the owner informed
10 about known deviations from the contract and
11 defects and deficiencies in the work. And as
12 we will prove to you with their own
13 photographs, there were defects and
14 deficiencies in the work from the moment they
15 illegally began doing demolition without a
16 permit in January. And that those defects and
17 deficiencies occurred and continued to worsen
18 day by day, week by week, month by month,
19 until it all came crashing down on June 5,
20 2013.

21 So what is it that was in the
22 contract that Mr. Marinakos would have to make
23 sure that the contractor was doing? The
24 contract, it's the contractor's primary
25 obligation, but Mr. Marinakos had the

1 responsibility under the contractor.

2 [Mr. Greiner rises.]

3 [Mr. Clain rises.]

4 MR. MONGELUZZI: Remember, contracts
5 are promises. They had to make sure that the
6 contractor complied with all applicable laws
7 and regulations.

8 And you're going to hear testimony
9 in this case that OSHA, the federal government
10 under the Occupational Safety and Health
11 Administration, has specific laws regarding
12 demolition and how it is to be done safely for
13 the benefit of not only the men and women who
14 work on those job sites, but the public that
15 could be affected by it.

16 And you are going to see in the
17 photographs themselves a blizzard of OSHA
18 violations that would have let anybody who was
19 competent, who was following the progress and
20 the work, and who had the responsibility to
21 notify regarding defects and deficiencies,
22 that this was being done colossally wrong.

23 So Mr. Marinakos had the
24 responsibility to ensure that the work was
25 being performed in compliance with OSHA. He

1 knew there were some OSHA rules, yes, and that
2 they might apply to demolition or might not,
3 I'm not sure. So when you weren't sure
4 whether they were OSHA safety rules that
5 applied to demolition and you are the
6 architect of record on a demolition project,
7 did you decide, hey, it might be a good idea
8 for me to read them and read them? It wasn't
9 a city requirement so I didn't review them,
10 no. He's right. It wasn't a city
11 requirement, it was a federal requirement.

12 [Mr. Clain rises.]

13 MR. MONGELUZZI: And that is
14 applicable on every construction site and
15 every demolition project in the United States.
16 And you will hear that the entire construction
17 industry has adopted OSHA as the standard of
18 care and the custom and practice in the
19 industry since it was passed in 1970, 46 years
20 ago.

21 Griffin Campbell was the contractor
22 on a project, was totally in over his head.

23 [Mr. Greiner rises.]

24 MR. MONGELUZZI: You're going to
25 hear testimony about his skills. You will

1 hear that the contract says that the
2 contractor shall supervise and direct the
3 work. The contractor shall be solely
4 responsibility and have control over
5 construction means and methods. And you're
6 going to hear a lot of testimony in this case.
7 But you're going to hear from our expert that
8 you cannot rely on a contractor for means and
9 methods if you select an incompetent
10 contractor who doesn't understand means,
11 methods and how demolition is performed.

12 [Mr. Clain rises.]

13 MR. MONGELUZZI: And not only is our
14 expert going to tell you that, but
15 Mr. Simmonds, Mr. Basciano's employee and
16 right-hand man, is going to admit it for you.

17 (Video playing:

18 That it would not be reasonable to
19 rely upon the unlicensed, inexperienced and
20 incompetent contractor to perform means and
21 methods, right?

22 Yes.)

23 MR. MONGELUZZI: And of course it's
24 not reasonable. And that's what you're going
25 to hear in the courtroom. And, yet, that's

1 what they did.

2 Mr. Estrin is our construction
3 safety expert who will be up first. And he's
4 going to tell you that when you are selecting
5 a demolition contractor there are four basic
6 questions that every owner who wants to select
7 a safe and competent demolition contractor
8 needs to ask. Question one, do they actually
9 have a contractor's license in order to
10 perform construction or demolition work?

11 In the City of Philadelphia and the
12 County of Philadelphia you need a contractor's
13 license. And at the time this contract was
14 signed in late December of 2012, Mr. Campbell
15 wasn't even licensed. He had never been
16 licensed. He had never been licensed because
17 he had spent 18 of his past 20 years working
18 on a food truck. And I am not putting people
19 who work on food trucks or in restaurants or
20 who serve our food down. He didn't have the
21 experience to handle demolition and
22 particularly a sophisticated demolition of a
23 commercial building that was four and-a-half
24 stories tall in Center City Philadelphia on
25 one of the busiest streets in the city.

1 And Mr. Basciano acknowledges that
2 when you're making a decision as to whether or
3 not a demolition contractor is competent, you
4 should check to make sure they have a license.
5 And they didn't do it. And why didn't they do
6 it? Because Mr. Simmonds, who he assigned,
7 had never handled a demolition project before
8 and didn't even know to ask. A simple basic
9 fundamental question.

10 [Mr. Greiner rises.]

11 MR. MONGELUZZI: Let's hear from
12 Mr. Campbell about his background.

13 (Video playing:

14 Did Plato ask you whether you had a
15 contractor's license?

16 No, he know I didn't have any.)

17 MR. MONGELUZZI: And they knew he
18 didn't have any.

19 Second question. Now, a license is
20 okay. And I'll acknowledge to you, he isn't
21 going to get any smarter when he gets a
22 license. It's a ministerial act. It's a
23 fundamental first step which tells us a lot of
24 information about whether he had ever done
25 demolition before. But he didn't do that. He

1 didn't get any smarter if he got it. He got
2 one in January after the contract was signed.
3 Because what really matters is does he have
4 experience? Does he have experience in
5 demolition? And what was it, if you're going
6 to rely upon this contractor to take down this
7 building?

8 [Mr. Greiner rises.]

9 (Video playing:

10 Did Plato know in December of 2012
11 when you went and he said, I'm going to get
12 you the Market Street job, did he know that
13 your sole demolition experience were the two
14 burned out row homes?

15 Yes.)

16 MR. MONGELUZZI: That was it, two
17 four-day projects where he was the fourth guy.
18 Where they tore down a two and-a-half or three
19 story row home that had been burned out by
20 fire. That was Mr. Campbell's demolition
21 experience. And so I asked Mr. Simmonds, Had
22 Griffin Campbell ever taken down a building
23 that was higher than two stories?

24 I don't know.

25 Had he ever demolished a commercial

1 building?

2 I don't know.

3 And you're going to hear from our
4 expert that it was his responsibility to know.

5 (Video playing:

6 What personal knowledge did you have
7 of Griffin Campbell's construction knowledge
8 of demolition technologies and techniques?

9 None.)

10 MR. MONGELUZZI: None. And you're
11 going to hear from our expert, that's the
12 first thing that you got to start talking to
13 people about if you're going to hire them.
14 What have you done? What type of building?
15 Sophisticated? Where was it? Demolition
16 needs to be planned.

17 You're going to hear from Mr. Estrin
18 and others, demolition is more dangerous than
19 construction. Taking things apart is more
20 dangerous than building them up. But Griffin
21 had never prepared a demolition plan and he
22 wouldn't even know how to do it. And that is
23 the first thing that a demolition contractor
24 needs to do, plan the work. He didn't know
25 how to do it because he had never planned

1 before.

2 Did Plato ask whether you had ever
3 done a demolition plan?

4 No.

5 Whether they had a demolition safety
6 plan?

7 I didn't have a company.

8 Did Plato ask whether you even had a
9 company?

10 No.

11 He didn't even have a company. He
12 had no employees, he had no demolition
13 equipment.

14 [Mr. Greiner rises.]

15 (Video playing:

16 You didn't have any experience in
17 how to prepare a bid?

18 No, I never prepared a bid.)

19 MR. MONGELUZZI: And you have to bid
20 a working job. And you're going to hear that
21 he didn't make the bid, Plato did. And
22 Mr. Marinakos, Plato Marinakos denies that.
23 And you're going to have to determine between
24 the two of them who was it that came up with
25 the bid, which you will later learn is

1 incredibly lower than the other bids on this
2 job and whether it was Mr. Marinakos or
3 Mr. Campbell.

4 This is Mr. Benschop. This is the
5 excavator operator on June 5th. He was the
6 operator who worked on those two burned out
7 row houses, excuse me, that Mr. Campbell
8 worked on on Erie Avenue. And Mr. Benschop
9 was asked, Was it clear to you that he didn't
10 know what the heck he was doing regarding
11 demolition?

12 You absolutely right.

13 He would have been incompetent, am I
14 right?

15 Answer, Absolutely.

16 Third question, does the contractor
17 have the right tools and employees.

18 (Video playing:

19 Did you own any demolition
20 equipment?

21 No.

22 Did you have any permanent
23 employees?

24 No.

25 Did you have an office?

1 I've never had an office.

2 A corporate bank account?

3 No.

4 Did Mr. Campbell's company have any
5 equipment?

6 I don't know.

7 What demolition equipment should
8 demolition contractors have?

9 I have no idea.)

10 [Mr. Greiner rises.]

11 MR. MONGELUZZI: That's correct,
12 they had no idea. They had no idea how to
13 manage a demolition project. They had no idea
14 how to select a demolition contractor who
15 potentially could be putting their own
16 employees or the public at risk.

17 Fourth question, and critically
18 important, does the contractor know the safety
19 rules? Every expert witness who will get on
20 the stand will tell you that the single most
21 important aspect that you need to look at when
22 planning and conducting a demolition project
23 is the safety of the men and women who are
24 going to be working there and the men and
25 women of the public who could be affected by

1 it.

2 What you would expect is that the
3 professional who was determining whether the
4 demolition contractor was experienced and
5 competent should ask the basic question of
6 whether they knew the basic federal demolition
7 rules. I would agree that he should have done
8 it. Except, he didn't. Mr. Simmonds, his
9 personal employee, didn't do it.
10 Mr. Marinakos, the owner's representative,
11 didn't do it.

12 Mr. Campbell, would it be fair to
13 say you weren't familiar with the federal
14 rules?

15 I never knew there was rules.

16 Nobody ever told you there was some
17 OSHA rules about demolition?

18 No.

19 Nobody even asked you whether you
20 even knew that there were OSHA rules regarding
21 demolition?

22 No.

23 Which is why this project was done
24 in violation of federal OSHA demolition safety
25 standards from the moment it started until the

1 time it collapsed.

2 [Mr. Greiner rises.]

3 (Video playing:

4 I want to ask you about, at the time
5 that STB entered into a contract with you,
6 your demolition experience was just being
7 involved with taking down two burned out row
8 houses on Erie Avenue, correct?

9 Yes.

10 You had no knowledge of the OSHA
11 demolition standards, right?

12 Yes.

13 You had no permanent demolition
14 employees, correct?

15 Yes.

16 No demolition equipment?

17 No.

18 No office?

19 No.

20 No corporate bank account?

21 No.

22 And no contractor's license?

23 No.)

24 MR. MONGELUZZI: This is the last
25 person on earth the evidence will show who

1 should have been handling this demolition
2 project.

3 [Mr. Greiner rises.]

4 MR. MONGELUZZI: Thank you.

5 So what did Mr. Simmonds do to check
6 this out?

7 (Video playing:

8 Did you ever speak the Griffin
9 Campbell before the contract was signed?

10 No.

11 So you hired a contractor without
12 ever talking to him yourself?

13 Yes.

14 Did Mr. Basciano talk to him before
15 the contract was signed?

16 I don't believe so.)

17 MR. MONGELUZZI: And that's why they
18 hired a demolition contractor who was
19 clueless, didn't understand how demolition
20 worked and who made the project dangerous
21 every day. Because they didn't bother to pick
22 up the phone and ask him what he knew.

23 [Mr. Greiner rises.]

24 MR. MONGELUZZI: So one of the
25 issues is going to be, well, who actually

1 hired Griffin Campbell? Was it Mr. Marinakos
2 or was it Richard Basciano? You're going to
3 hear from our experts that says, and you're
4 going to hear testimony from Mr. Basciano and
5 Mr. Simmonds, that Mr. Marinakos actually
6 recommended Griffin Campbell. He had done
7 some projects before, he thought he was okay.
8 And you're going to hear from our experts that
9 says, they're going the say, Uhn-uhn, you're
10 an owner, you have to vet this yourself. You
11 can't blindly rely upon someone who's got a
12 casual relationship or acquaintance to make
13 these life and death critical decisions about
14 whether somebody is qualified to do this
15 sophisticated project.

16 So let's hear why what Mr. Basciano
17 himself said regarding the critical issue of
18 who approved the demolition contractor.

19 (Video playing:

20 Did you approve Griffin Campbell as
21 the contractor in this case?

22 It was through the recommendation of
23 the architect.

24 I understand that. Did you approve
25 it or not approve it?

1 I approved it.

2 Okay. Are you telling us you
3 approved the contractor and you weren't sure
4 if he had even had a truck?

5 I want to make it clear, sir, that
6 I'm relying on Thommy Simmonds, my property
7 manager, that looked into this and he gave me
8 the okay that everything was okay with the
9 people that he selected with my approval.)

10 MR. MONGELUZZI: I approved it and I
11 relied upon Thommy Simmonds who checked them
12 out. That is the testimony you're going to
13 hear in this case. It was their
14 responsibility. They had the responsibility
15 to approve it and they admitted that they did
16 it.

17 (Mr. Greiner rises.)

18 MR. MONGELUZZI: So why would they
19 have approved Griffin Campbell as the
20 demolition contractor? What possible reason
21 could they have had?

22 (Mr. Greiner rises.)

23 (Video playing:

24 Have you ever chosen a contractor
25 based on quality of their work rather than the

1 price?

2 No.)

3 MR. MONGELUZZI: He has been in
4 business for 50 years.

5 (Mr. Greiner rises.)

6 MR. MONGELUZZI: And he just told
7 you he has never made that choice based upon
8 anything other than money. And that's why
9 they chose Griffin Campbell. And that's why
10 this building collapsed on June 5th.

11 (Mr. Greiner rises.)

12 MR. MONGELUZZI: So let's start with
13 the money. Mr. Campbell was the lowest
14 bidder. And you'll see e-mails throughout
15 this case, Campbell was 30 for the garage and
16 a hundred for the rest. That's a 130.

17 Esposito was a hundred for the
18 garage and 390,000 for the rest. That's 490
19 grand. The other demo bid was 450. And, by
20 the way, Mr. Campbell then decided to do it
21 for \$112,000. Basically, less than a quarter
22 of why everyone bid. And they will tell you
23 that's because he was going to get salvage out
24 of the building. Well, any demolition
25 contractor who would be doing it would be

1 getting salvage out of the building, even the
2 ones charging 450 or \$390,000.

3 (Mr. Clain rises.)

4 MR. MONGELUZZI: And there wasn't
5 much salvage in this building because it was a
6 pre-World War II building and it didn't have
7 copper. And the only thing it had were
8 joists. And joists run from these beams to
9 these walls. And we're going to talk a little
10 bit about this building structure. These were
11 free standing walls.

12 (Mr. Greiner rises.)

13 (Mr. Clain rises.)

14 MR. MONGELUZZI: They did not have
15 steel in them. The only thing that kept them
16 up were joists that came in from the side
17 providing lateral support. And so those
18 joists -- go back. Those joists can be pulled
19 off. There were 900 of them in the building
20 and Mr. Campbell testified he sold 298 before
21 the collapse. I believe he testified that he
22 got about eight bucks a piece. Even if he had
23 gotten all 900, that would be \$7,200, which
24 would not, as our experts are going to tell
25 you, justify some crazy price discrepancy of

1 300 or \$400,000.

2 So they decided to enter into this
3 demolition contract with Mr. Campbell. And
4 Mr. Marinakos is the one who prepares it. And
5 who is it between? STB Investments,
6 Mr. Basciano's corporation.

7 (Mr. Clain rises.)

8 MR. MONGELUZZI: Corporation he's a
9 shareholder in, 2100 West Market, which owns
10 2134 and 2132. And what you're going to find
11 out, which I told you before, there's no
12 employees of all these. So the only person
13 who is managing it for these corporations that
14 Mr. Basciano is a shareholder of is Thommy
15 Simmonds, his right-hand guy.

16 Now, part of this contract required
17 the owners to provide all necessary surveys.
18 And you're going to hear that federal OSHA law
19 requires that before you begin, this is
20 Demolition 101, the first section of
21 demolition standards says before you begin a
22 demolition project a demolition engineering
23 survey needs to be prepared. And it was never
24 done. The owner promised to provide all
25 surveys.

1 (Mr. Greiner rises.)

2 MR. MONGELUZZI: But didn't do so.
3 They didn't make sure that the contractor did
4 it. And so this project began with without
5 taking the first step. Why? Because the
6 demolition contractor didn't know what he was
7 doing. And the owner's representative,
8 Mr. Marinakos, didn't know what he was doing.

9 (Mr. Greiner rises.)

10 MR. MONGELUZZI: And Tommy
11 Simmonds.

12 (Mr. Clain rises.)

13 MR. MONGELUZZI: The property
14 manager, didn't know what he was doing. And
15 the evidence will show you in this case that
16 this was the blind leading the blind leading
17 the blind.

18 (Mr. Clain rises.)

19 MR. MONGELUZZI: Mr. Simmonds
20 acknowledges. You didn't know there needed to
21 be an engineering survey before demolition
22 began. So what surveys did you get to satisfy
23 the promise they made in the contract to
24 furniture all surveys?

25 None.

1 (Mr. Clain rises.)

2 MR. MONGELUZZI: So what did they
3 do? Even though there's an obligation -- next
4 slide if you can, Mr. Sterling.

5 Even though there's an obligation to
6 do an engineering survey of the demolition
7 project.

8 (Mr. Greiner rises.)

9 MR. MONGELUZZI: Of the four
10 and-a-half story Hoagie City building, which
11 is towering over The Salvation Army building,
12 what does Mr. Basciano and his companies do?
13 Do they have someone do an engineering safety
14 survey? No. They send Mr. Marinakos in to
15 The Salvation Army building to take
16 photographs. Why? Because they're worried
17 about property damage claims from vibration
18 that would later be made.

19 And the evidence in this case is
20 going to establish to you that they did the
21 survey of the wrong building.

22 And you're going to hear later on
23 when Mr. Wigrizzer and Mr. Stern get to open
24 today, who are handling The Salvation Army
25 side, that when The Salvation Army was warned

1 of the danger they hired someone and that
2 person went into The Salvation Army building
3 to take pictures in case their property was
4 damaged and didn't go in to check out the
5 building next door. Both defendants doing the
6 same exact thing, choosing to protect
7 themselves from property damage claims.

8 (Mr. Greiner rises.)

9 MR. MONGELUZZI: Rather than
10 protecting the men and women who worked at the
11 site and men of women of the public who would
12 be affected by it.

13 Go to the next one.

14 So the project begins. And how does
15 it begin? It begins illegally.

16 (Mr. Clain rises.)

17 MR. MONGELUZZI: The permit is taken
18 out for the 2200 block of Market Street,
19 that's The Forum Theater that we showed you
20 earlier. And it is issued January 24th, 2013.
21 And it is issued with the admonition that
22 demolition can't be started until 21 business
23 days afterwards. That's February 25th.
24 Business days, not days. That's
25 February 25th. But Mr. Marinakos and

1 Mr. Simmonds and Mr. Campbell weren't going to
2 be paying attention to things like rules.

3 (Mr. Greiner rises.)

4 MR. MONGELUZZI: So let's see what
5 happens. This is their e-mail from
6 Mr. Marinakos to Mr. Simmonds, January 9th,
7 regarding the permit that's still with the
8 city reviewer, I thought we could get this in
9 the same day. I have done everything I can
10 do. I will keep pushing. The roof is almost
11 off The Forum. I will send photos. Campbell
12 is working away. I do not want to alert the
13 city that we do not have the permit issued.
14 Acknowledgment that they were doing it
15 illegally and they were trying to hide it.

16 [Mr. Werley rises.]

17 (Mr. Clain rises.)

18 (Mr. Greiner rises.)

19 MR. MONGELUZZI: Mr. Marinakos will
20 come in and tell you, Well, I didn't realize
21 ripping all this stuff out was really
22 demolition, almost the roof off. And that
23 will show you, you will either accept that and
24 find his testimony true. And if you do, that
25 establishes that he doesn't even understand

1 the basic demolition definition.

2 (Mr. Greiner rises.)

3 MR. MONGELUZZI: Which is the
4 dismantling of any piece of a building. This
5 was demolition and this was being done
6 illegally and they were trying to hide it.

7 (Mr. Greiner rises.)

8 MR. MONGELUZZI: Next slide.

9 (Mr. Clain rises.)

10 MR. MONGELUZZI: I am sorry about
11 that. I will tell Campbell to be careful not
12 to attract attention.

13 They are working inside, gutting the
14 building and separating the debris
15 January 9th.

16 We are ready to demo the 2200 block.
17 But the permit says we need to wait 21 days.
18 I'm not sure how closely the city follows
19 that. We have the building completely gutted.
20 Now we can push the walls in and level the
21 site.

22 The Hoagie City building collapsed
23 when Sean Benschop and an excavator was
24 mechanically demolishing the building. And
25 the evidence you're going to hear in this case

1 is that mechanical demolition was not the
2 first time the mechanical demolition was used
3 on this project. As a matter of fact, it was
4 used to tear down The Forum building.

5 (Video playing:

6 Plato knew that the interior
7 demolition was happening in the various
8 buildings even though a permit hadn't been
9 formally issued at that time?

10 Yes, he did, he gave us the keys to
11 start.)

12 MR. MONGELUZZI: And this
13 photograph, they bring the backhoe in and
14 that's when they knock the wall in. That's
15 the first of the three series of buildings
16 that go down with mechanical demolition.

17 Sir, you knew they were he illegally
18 doing the demolition without a permit, right?

19 They started before we got the
20 permit.

21 They didn't want to alert the city
22 to that, right?

23 I say that in my e-mail, yes. But
24 you were going to demolition sites that were
25 proceeding without a proper demolition permit?

1 Right.

2 And you documented it in your own
3 records?

4 Yes.

5 So let's talk about the building
6 itself. This building was built many, many
7 years ago, decades, decades, decades. Nobody
8 has an exact date, maybe 80 to a hundred years
9 old. There's no steel on the walls, they're
10 free standing brick walls. And they have, as
11 we showed earlier, they have joists. And
12 those joists provide lateral support. So when
13 you're talking about demolition safety, you
14 need to be able to safely demolish the
15 building. Because as you take those joists
16 off you are now robbing the building of its
17 lateral stability. And it has to be done
18 carefully and it has to be planned.

19 This is Mr. Estrin. This is our
20 expert. He was actually out on the rubble on
21 the Sunday after the accident. The accident
22 happened Wednesday, June the 5th. He went
23 there and he actually went through rubble with
24 his own hands. And he is an expert who has
25 been in the construction business for more

1 than 60 years. He was a carpenter. He
2 started working when he was six years old.
3 He's a guy who has actually built things with
4 his own hands, along with being a
5 superintendent, having an architecture degree,
6 knowledge of engineering. And he's going to
7 tell you about this building, how it was built
8 and what its structure was. Because that's
9 important for how you are going to safely take
10 it down.

11 So what do we have? These are those
12 joists that I showed you that earlier shot.
13 They connected in the wall. They literally go
14 into the wall. There's a pocket there called
15 a joist pocket. And they don't come all the
16 way across the building because this project
17 is so wide, 34 feet, that you have a set of
18 joists coming to here. And this is a girder
19 that holds this up. And then we have -- I'm
20 sorry, a post, and then we have this girder
21 here which goes horizontally. And that's what
22 gives the building its structure. And so what
23 you need to do is you need to take a --
24 demolition safety requires that you take a
25 building top down. So if we were demolishing

1 this courtroom the first thing they would do
2 is they would take off the roof. And then you
3 would put scaffolds on the interior and you
4 lower these walls --

5 (Mr. Greiner rises.)

6 MR. MONGELUZZI: -- all around us.
7 And once we're down, we're in 653, then you
8 take the scaffolds downstairs to 553 and you
9 take off that ceiling and you lower the walls
10 by hand. That is how it is safely done. But
11 it takes a lot of time and it takes a lot of
12 skill.

13 What compounded this, it was
14 sophisticated enough, but this building had
15 been abandoned for more than 20 years and
16 there were major water problems with it.

17 (Mr. Greiner rises.)

18 MR. MONGELUZZI: And we're going to
19 bring in witnesses who are going to tell you
20 about it. And so it soaked through this
21 building for decades. And that water, when it
22 goes inside the building, attacks the wood.
23 And so you're going to find out that there are
24 a significant number of those joists and those
25 girders that had rotted out and were incapable

1 of providing the support for which they had
2 been designed.

3 And we confronted Mr. Simmonds with
4 their own invoice, Remove all damaged joists.
5 September of 2010. That's what it said on the
6 estimate. So let's go through the demolition
7 timeline. I have the boring task of taking us
8 through photo by photo, day by day. But I
9 want to do it because it's important that we
10 work through this together and we understand
11 the timeline of what happened and how this
12 project became more and more dangerous.

13 (Mr. Greiner rises.)

14 MR. MONGELUZZI: And prove to you
15 that the emails were true when they said there
16 was a danger.

17 So this is a photograph taken by a
18 company called Pictometry. It is March 24th.
19 This is an overhead. This is The Salvation
20 Army building, here's the Hoagie City
21 building. And you will hear that there's
22 demolition already going on inside. You can
23 see the roof is still on.

24 And then on March 29th, only four
25 days later, Mr. Marinakos tells Mr. Simmonds,

1 Roof off Hoagie City. Metal facade will come
2 down early next week. And, in fact, attached
3 a photograph which was taken. As you look up
4 through these louvered windows you can see the
5 roof is off.

6 And as a matter of fact, if you look
7 at Mr. Marinakos' testimony, you know from
8 looking at the invoice and you know from
9 looking at the photograph that most of the
10 interior of the Hoagie City was removed by
11 April 8. Roof off late March. Most of the
12 interior April 8.

13 There was a time of the essence
14 clause in the contract. The contract had to
15 be done within 90 days. That would have made
16 it April 30th. And the contract required
17 Mr. Campbell to prepare and submit a
18 construction schedule for work. But
19 Mr. Campbell had never done a construction
20 schedule and Mr. Campbell didn't know how to
21 do a construction schedule. And Mr. Campbell
22 never gave them a construction schedule.
23 Which was another red flag that they were
24 dealing with someone who didn't know what he
25 was doing, was clueless. And they never asked

1 him for it.

2 (Mr. Greiner rises.)

3 MR. MONGELUZZI: So let's look at
4 late April when the project is supposed to be
5 gone and done. The one and-a-half story Forum
6 building is down, but these three buildings
7 are still up, one of them four stories, much
8 larger than the other three.

9 And Mr. Marinakos sends an e-mail on
10 April 22nd saying, The building will be down
11 by the end of the month. And you're going to
12 find that that would have been impossible
13 because they had already been working for
14 three months and the only building down out of
15 four was one of them. And so when you look at
16 this photograph on April 22nd you see 2132 and
17 2134 and the Hoagie City building, 36-38, are
18 still standing, and they haven't been
19 demolished and they're not going to be down by
20 the end of the month.

21 And if you look at the photograph
22 from Pictometry, on April 22nd you could see
23 the roof is off on 2134 and 36-38, but the
24 joists are still on the roof and there was a
25 massive amounts of demolition still to go.

1 And the evidence our expert is going to tell
2 you, that is further proof that Mr. Campbell
3 didn't have the skill, knowledge, manpower and
4 equipment to be able to get this done.

5 So it is now April 29th. Thom
6 Simmonds to Plato, Richard and his wife passed
7 by the above yesterday. He is shocked,
8 capitalized, that this project is not done.
9 In your last e-mail you advised that all three
10 properties would be down by the end of the
11 month, that means tomorrow, April 30th.
12 Please advise. Thank you.

13 Mr. Marinakos in return, I'm not
14 happy with the progress. I spoke with Griffin
15 this morning. He said the backhoe is coming
16 tomorrow to knock the remaining brick in. All
17 the buildings will come down this week.

18 Remember I told you up at The Forum
19 Theater they brought in a backhoe to knock the
20 brick down? And you're going to hear experts
21 talk about that and why that was inappropriate
22 and unsafe. And now at 2132 and 34 the same
23 thing is happening, they are unable to do this
24 by hand, they are unable to keep up with the
25 pace of the project and the schedule, though

1 there was none, but the promise made in
2 contract. And so they bring in mechanical
3 equipment to take it down.

4 And this photograph shows that
5 backhoe back here. This is a May 13th photo,
6 so this is a couple weeks after it was done.
7 And you can see the rubble and debris in what
8 used to be 2132 and 34.

9 It is May of 2013. Mr. Benschop,
10 the excavator operator, will tell you that he
11 walked in in early May, I'm going to say
12 25 percent of the joists were removed. The
13 joists provide the lateral stability, they
14 hold up the walls. And because Campbell
15 didn't know what he was doing, because he was
16 untrained, inexperienced and unskilled --

17 (Mr. Greiner rises.)

18 MR. MONGELUZZI: -- they began
19 robbing the building of its lateral stability
20 by taking out joists at different levels. Not
21 doing that top down, do one section and one
22 level at a time. And the building's lateral
23 stability was diminishing day by day.

24 And then when he comes back in
25 mid-May, 45 percent of the joists he estimates

1 were out and 45 percent of the lateral
2 stability of the building was gone.

3 So I'm going to run through the
4 e-mails quickly. I told you at the beginning
5 of my statement that there are e-mails that
6 come from Thom Simmonds, there are letters
7 that come from Joel Oshtry, Richard Basciano's
8 people to The Salvation Army, warning of the
9 danger, talking about the list of an
10 uncontrolled collapse, which actually
11 occurred. Talking about danger to life and
12 limb, which actually happened. Talking about
13 a threat to public safety, which occurred.

14 So I'm going to do this in swift
15 fashion because Mr. Stern and Mr. Wigrizer
16 going to cover this. It started with a May 10
17 phonecall between The Salvation Army and
18 Mr. Basciano's companies and people. And the
19 thing that's important about this is look who
20 is not on the list of participants. Griffin
21 Campbell, the demolition contractor, is being
22 kept in the dark.

23 [Mr. Greiner rises.]

24 MR. MONGELUZZI: And there is going
25 to come an issue in this case about who is

1 really calling the shots and who is really
2 calling the means and methods and whether that
3 was Mr. Marinakos and Mr. Campbell. And
4 Mr. Campbell says it was Mr. Marinakos and
5 Mr. Marinakos said it was Mr. Campbell. But
6 when discussions were going on with The
7 Salvation Army regarding access and
8 cooperation regarding this project,
9 Mr. Campbell wasn't even included on the
10 e-mails.

11 What do they say? Every minute --
12 from Mr. Simmonds, Every minute that passes
13 increases the liability exposure for all
14 parties. Your response is required to avoid
15 potential danger to the subject parties as
16 well as the public.

17 THE COURT: I'm sorry, it says
18 properties, not parties.

19 MR. MONGELUZZI: I'm sorry, Your
20 Honor?

21 THE COURT: It said properties, not
22 parties.

23 MR. MONGELUZZI: I'm sorry, Your
24 Honor.

25 Could we go back?

1 Oh, your response is required to
2 avoid potential danger to the subject
3 properties as well as to the public. I'm
4 sorry.

5 From Mr. Oshtry, STB. They all got
6 lawyers. It's a matter of urgency that
7 demolition be accomplished immediately. The
8 building is in a partial -- state of partial
9 demolition. And the longer it remains
10 un-demolished the greater the risk to the
11 public and all properties owners of an
12 uncontrolled collapse or part or loose debris.
13 And that prediction would, unfortunately, and
14 tragically come true on June 5th.

15 (Mr. Greiner rises.)

16 MR. MONGELUZZI: Mr. Simmonds,
17 complaining about The Salvation Army, They
18 have no regard for safety to life and limb.

19 Mr. Simmonds, May 16th, Your/his
20 continued delays in responding pose a threat
21 to life, limb and public safety.

22 Mr. Simmonds, when confronted about
23 this, wouldn't acknowledge whether those
24 statements were true or false. But said he
25 was exaggerating and puffing. And that's what

1 The Salvation Army says. I'm going to leave
2 it to you to determine whether or not those
3 warnings were real or exaggeration. But those
4 were warnings of danger, and danger of an
5 uncontrolled collapse, and danger to life and
6 limb.

7 (Mr. Greiner rises.)

8 MR. MONGELUZZI: And the photographs
9 and the evidence which you're going to see,
10 now and during this trial, is going to prove
11 that there was a danger of uncontrolled
12 collapse, there was a danger to life and limb.

13 Interestingly, Mr. Marinakos didn't
14 take any photos of the interior of the
15 building in May of 2013. But someone else
16 took a shot.

17 Let's go to the next one. Let's go
18 back. I'm sorry.

19 This is what you can see if you were
20 looking from the outside. Doesn't look like
21 there is anything wrong or amiss or unsafe or
22 in violation of OSHA. But the Mutter Museum
23 is on the back side of this. And a
24 construction worker there by the name of Brian
25 Stumm, on another project having nothing to do

1 with this, took a photograph, this photograph,
2 on May 15th.

3 And this shows, and Mr. Estrin will
4 go through it with you, approximately 14 OSHA
5 violations. The but most important of which
6 is that OSHA provides that you cannot have
7 more than one story of wall, of a free
8 standing wall that isn't braced. Once it goes
9 up against larger than one story it's an OSHA
10 violation and that's to protect against
11 collapse.

12 And you're going to see in this
13 photograph and the photographs that
14 Mr. Marinakos took later in the project that
15 this wall was unsupported and unbraced and
16 violated OSHA on May 15th. And by May 16th it
17 had gotten even worse. Because this whole
18 area of joists are off. This whole area of
19 joists that have been there -- and you have at
20 least a 20-foot wall here, two stairs. You
21 could actually see stairs coming up to another
22 level over here and then another story above
23 it. You're going to see and hear testimony
24 that the scaffolds that they were on violated
25 OSHA. That there were no walking surfaces to

1 allow the workers to safely get to their job.
2 That the housekeeping was improper. What
3 you're going to see and hear is that this was
4 totally done in violation of all OSHA
5 standards and the custom and practice in the
6 industry. And anybody who would have actually
7 gone up to this level would have been able to
8 see it.

9 And this shows the stark difference
10 between standing outside and looking at the
11 exterior and looking from top down or being
12 inside the building where you would have known
13 that this was being performed incompetently
14 and unsafely.

15 [Mr. Greiner rises.]

16 MR. MONGELUZZI: And you're going to
17 hear that this continued destruction and
18 demolition of the building, multiple levels at
19 the same time, was like a cancer in the
20 building that you could see from the inside
21 and not the outside.

22 It is May 20th. Mr. Campbell is
23 continuing to demolish now the third floor
24 causing more instability. And when we look at
25 May 22nd you can now see that they are

1 starting to rip off the exterior wall of the
2 third floor. You can see workers up there.
3 And this is a long, slow process because
4 you've got concrete on the outside, you've got
5 bricks on the inside, you have to make a saw
6 cut and now you have to pull it in towards
7 yourself. And these pieces can crack off and
8 go either way. And weigh a significant amount
9 of weight.

10 Go back, if you can, to the last.
11 One more before that.

12 And you could also see that The
13 Salvation Army roof was not protected, which
14 was a city requirement, and which was patently
15 visible to anybody from any company --

16 (Mr. Greiner rises.)

17 MR. MONGELUZZI: -- who just
18 bothered to look.

19 It is now May 22. Mr. Simmonds
20 talking about a situation that poses a threat
21 to life and lime. And you'll find from the
22 evidence in the case and the photographs that
23 there was a threat to life and limb. May 22,
24 This nonsense must end before someone is
25 seriously injured or worse. Those are

1 headlines none of us want to see or read.
2 And, unfortunately, people were seriously
3 injured or worse. And there were headlines
4 that no one wanted to read.

5 (Mr. Greiner rises.)

6 MR. MONGELUZZI: It is May 22nd.
7 For Mr. Simmonds, Wait for someone to be
8 killed? I have to look after the interests of
9 the owners.

10 And you're going to hear from our
11 expert that the first and primary
12 responsibility of an owner's manager,
13 Mr. Simmonds, is not to look after the
14 interests of the owners, but to look after the
15 interests of the public who could be harmed by
16 an unsafe demolition project.

17 And my colleagues, Mr. Stern and
18 Mr. Wigrizer, are going to talk to you about
19 The Salvation Army and their motto of, Doing
20 the Most Good.

21 Mr. Marinakos took this photograph,
22 which shows that the concrete that had been on
23 the outside of this brick has now flipped over
24 and is hanging above the Salvation Army
25 building. And the testimony will be that he

1 did nothing about it.

2 It is May 22nd. They are starting
3 to tear down more of the third floor and
4 starting to attack the eastern wall. We see
5 that on the May 22 photograph. And this
6 photograph -- let's go to Mr. Simmonds first.

7 (Video playing:

8 You accurately predicted in your
9 e-mails the very collapse and the catastrophe
10 that occurred, right?

11 Not exactly, but in part, yes.)

12 MR. MONGELUZZI: You're going to
13 also hear some controversy about whether or
14 not there was demolition between May 22nd and
15 June 22nd. This is Memorial Day weekend.
16 They didn't work these three days. The
17 testimony here is pretty equivocal about
18 whether they worked or not.

19 Saturday, June 1st, they deliver an
20 excavator to the site. So between the 22nd
21 and June 1st you have one, two, three, four,
22 five working days. And we'll show you with
23 photographs that there was work going on
24 during that period of time.

25 So this is the May 22nd photograph.

1 And pay attention to this red and black and
2 white panel up there.

3 Next one.

4 Griffin did not work over the
5 weekend, a little bit on Saturday. He told me
6 that he was working today. I'm going to the
7 site this evening to see if there's any more
8 progress and take more pictures.

9 If we could go back. That is
10 May 28. So there was work going on. And this
11 photograph proves it. Remember the red and
12 black and white panel we just pointed out?

13 If we can do it side by side.

14 You will see that the difference,
15 when we go to a close-up, and this is all out,
16 that was all done. This entire period was
17 done after May 22nd. And the excavator is
18 delivered on June 1st and is put in this lot.
19 So we know it's somewhere between May 22nd and
20 June 1st.

21 So what happens? Just like they did
22 at The Forum and just like they did at
23 2132-34, they switched from safe hand
24 demolition to mechanical demolition. Why?
25 From Mr. Simmonds, We need to get the building

1 down ASAP. From Mr. Simmonds, What's the
2 status of the above? Richard has toured the
3 block over the weekend and observed that no
4 one was on site.

5 Mr. Marinakos, So on the day of this
6 deadly collapse the project was running late,
7 correct?

8 Yes.

9 That's no surprise to you because
10 there was a lot of pressure that you were
11 feeling from Richard Basciano and Thom
12 Simmonds about the project getting concluded,
13 right?

14 There was, you know, there was
15 pressure that, you know --

16 You said significant pressure in the
17 preliminary hearing, right?

18 Answer, Yes.

19 May 31st. Richard is on the phone
20 now. He passed by the job site and observed
21 no one working. Please advise. He will be
22 visiting over the weekend.

23 (Video playing:

24 It wasn't until Plato gave the order
25 to switch to mechanical demolition that the

1 plan changed, right?

2 Right.

3 MR. MONGELUZZI: And you will hear
4 that that plan made a dangerous project even
5 more dangerous. Because now you are slowly
6 taking down portions of the building in a
7 controlled fashion, but you are ripping them
8 down with a giant machine.

9 (Mr. Greiner rises.)

10 MR. MONGELUZZI: 28th, e-mail from
11 Simmonds to Plato, Richard toured the block
12 over the weekend and observed no one was on
13 site.

14 May 31st, e-mail from Simmonds,
15 Richard is on the phone now. No one is
16 working. He will be visiting the site over
17 the weekend.

18 And then Mr. Marinakos calls Griffin
19 Campbell. And then the next day, the very
20 next day, Sean Benschop arrives with an
21 excavator to now pivot from the safe,
22 dangerous, but less dangerous, to mechanical
23 demolition. And mechanical demolition begins
24 on June 2nd. It's a Sunday. And let's look
25 at it.

1 These photographs are taken by the
2 owner's representative, Mr. Marinakos. There
3 is no question that he knew about it and
4 actually photo documented it. And you can see
5 that the excavator, this giant piece of
6 construction equipment, will begin ripping
7 this building down, knocking the front off,
8 ripping the brick side walls off, smashing
9 through the front.

10 (Mr. Greiner rises.)

11 MR. MONGELUZZI: Smashing down
12 again.

13 You knew at this point they were
14 doing mechanical demolition of the front
15 facade bricks, right? You saw it with your
16 own eyes and you photographed it, right?

17 Yes.

18 And you were the owner's
19 representative, right?

20 Yes.

21 Other photographs which
22 Mr. Marinakos took himself now as the
23 excavator gets moved to the other site. And
24 by chance, someone in the Murano building,
25 that's the round building with the glass

1 that's on the other side of Market Street,
2 takes a picture. A picture that is taken at
3 the same time as Mr. Marinakos'. I think we
4 have that on a split screen next, yes, with
5 the boom in the same exact position.

6 So this is taken by Marinakos at the
7 same time this is taken by someone across from
8 the Murano.

9 If we can go back to this,
10 Mr. Sterling.

11 And what does this show? This shows
12 that before they start working on this all of
13 these joists have been taken out. That the
14 fourth floor level, the third floor level, the
15 second floor level and down to the floor. And
16 that's the same thing with this front part.
17 All of these joists, which are providing
18 lateral stability of the building, are gone.
19 In the back both joists and columns and
20 girders which provided lateral stability to
21 the building are gone. Walls in excess of one
22 story in violation of OSHA, having to
23 preventing collapse. Structural members taken
24 out on more than one floor in violation of
25 OSHA. And these were what led to this

1 collapse.

2 (Mr. Greiner rises.)

3 MR. MONGELUZZI: And who comes by --

4 (Mr. Clain rises.)

5 MR. MONGELUZZI: -- but Richard
6 Basciano, who has moved to Philadelphia and is
7 visiting the sites, as I just showed you in
8 the e-mails when he came and he complained
9 that nothing was going on and the work wasn't
10 happening. He was there and he saw with his
11 own eyes.

12 And he shows up on Sunday. And as
13 Mr. Marinakos indicates, Richard and his wife
14 stopped by and seemed pleased.

15 (Video playing.)

16 MR. MONGELUZZI: And so the building
17 was getting torn down mechanically and the
18 building was in violation of OSHA. And
19 Mr. Basciano was there on Sunday. And how
20 long a period of time did he supervise
21 construction projects for your business? All
22 his life. Actually, spent two years as a
23 bricklayer.

24 And then Mr. Marinakos sends an
25 e-mail to Simmonds regarding this dispute with

1 The Salvation Army. This is our thought with
2 the chimney, we will take our building down up
3 to the chimney area, then we will call L & I
4 and have L & I fine The Salvation Army for a
5 dangerous case. And you will have to
6 determine whether that was Mr. Marinakos' plan
7 and whether there was followed.

8 Next.

9 It is June 3rd. This photograph was
10 taken by Plato Marinakos. It's been raining
11 that day. In a clearer copy you can see the
12 water drops on his side view mirror of his
13 car. It shows that there are two stories, at
14 least, of unsupported wall. It shows that
15 there have been joists that have been ripped
16 out from multiple levels at the same time, a
17 girder hanging unsupported in space and
18 multiple egregious OSHA violations.

19 Lois Basciano comes the same day.
20 She photographs this and captures a worker
21 coming up a ladder doing work on the interior
22 wall. Capturing columns and joists which have
23 now collapsed inside the building as the
24 building has now begun to become more and more
25 dangerous. And Mr. Marinakos will tell you

1 that he knew that the loss of the joists were
2 critical.

3 (Video playing:

4 And you knew that the loss of the
5 joists affected the stability of that wall
6 tremendously, correct?

7 Yes.)

8 MR. MONGELUZZI: It is June 4, 2013.
9 The day begins with the front wall, a small
10 remnant of it still on one level of columns
11 and girders. The floor is out. It is filled
12 with brick and debris. The back of the
13 building is -- the columns have begun to lean.
14 Joists have collapsed into the interior of the
15 building. Mr. Marinakos comes later in the
16 day.

17 Before that happens, Mr. Simmonds
18 indicates either he or whoever The Salvation
19 Army delegates must be on site with our
20 architect contractor and at this stage a
21 structural engineer. But nobody had brought
22 in a structural engineer, even though there
23 was danger and structural danger, not The
24 Salvation Army and not Mr. Basciano and his
25 companies.

1 (Mr. Greiner rises.)

2 MR. MONGELUZZI: Mr. Marinakos comes
3 out. It is the late afternoon of June 4th.
4 The entire front portion has been ripped off,
5 all of the joists have been ripped out of
6 these beam pockets, robbing the wall of its
7 lateral stability. The columns have begun to
8 lean inside.

9 (Video playing:

10 On June 4, 2013 between 5:30 and
11 6:00 p.m. you went to the demolition site,
12 correct?

13 Yes.

14 When you got to the demolition site
15 you found that the western wall of the
16 demolition site was, quote, unbraced, unquote,
17 right?

18 Yes.

19 And it was true that on June 4th you
20 were concerned that the wall was unstable,
21 right?

22 Yes.

23 You actually testified that you were
24 upset, correct?

25 I was.

1 You were upset because there was an
2 unbraced, unstable wall at the site that was a
3 potential danger, right?

4 Yes.

5 It was of an immediate concern to
6 you, correct?

7 Yes.)

8 MR. MONGELUZZI: And we're going to
9 hear what he did. This immediate concern
10 would have been that there was an unbraced
11 wall. There was also and should have been
12 concern because the joists in the back, the
13 girders, were beginning to lean.

14 (Mr. Greiner rises.)

15 (Mr. Clain rises.)

16 MR. MONGELUZZI: And the building --
17 next slide.

18 Mr. Marinakos.

19 (Video playing:

20 When you stood there looking at the
21 unbraced, unstable wall that upset you and
22 concerned you and was crazy, there was a
23 potential that there could be headlines that
24 no one wants to see or read, right?

25 Yes, it was potential for the wall

1 to collapse, yes.)

2 MR. MONGELUZZI: So what did he do?

3 You saw an unbraced, unstable wall
4 that concerned you and upset you and was
5 crazy. And you didn't call either the police,
6 OSHA or licenses and inspections, right?

7 Answer, Yes. So what Mr. Marinakos
8 is going to tell you is that, When I got there
9 I saw Mr. Campbell. This was crazy. And that
10 Mr. Campbell assured me that it would be taken
11 down overnight. Mr. Campbell says, I never
12 said that, and it would have been impossible.

13 The entire floor where the basement
14 used to be is now filled with brick. He says
15 Mr. Campbell told him they were going to erect
16 a scaffold along the wall, but that would have
17 required them to use an excavator, the
18 evidence will show, to totally clean out
19 10 feet deep of brick, 40 feet long and
20 34 feet wide overnight. And then they would
21 have to call someone up to bring in a
22 four-story scaffold at night.

23 And then you're going to hear from
24 our experts that a four-story scaffold needs
25 to be bolted to the structure so it doesn't

1 tip over. And you can't bolt a scaffold to
2 the unstable wall that you are taking down
3 because the whole point is, is that that wall
4 is dangerous.

5 [Mr. Greiner rises.]

6 MR. MONGELUZZI: And so you're going
7 to have to decide the credibility of
8 Mr. Marinakos and his statement that
9 Mr. Campbell said he was going to take it down
10 overnight.

11 The owner had the right to stop the
12 work and didn't. As a matter of fact,
13 Mr. Marinakos did the opposite. Rather than
14 as the owner's representative telling him,
15 Stop. He told him to go ahead and take the
16 wall down.

17 (Video playing:

18 It would have been humanly and
19 physically impossible to have used the
20 excavator to remove the debris from the
21 basement to have erected scaffold, right?

22 Answer, correct.)

23 MR. MONGELUZZI: And look at the
24 rest of the building. This portion of the
25 joists and bay has collapsed. These joists

1 have collapsed. You'll hear evidence that
2 these columns have bowed. There's joist
3 sections that have been removed in the back.

4 It is June 5, 2013. And who comes
5 to the site? Richard Basciano and his wife
6 Lois, who take a cab from their condo at the
7 Symphony House to come up and observe and look
8 at and see the demolition project. And they
9 get off back here in a cab. And they slowly
10 walk together down 22nd Street, I'm sorry,
11 down the sidewalk of Salvation Army and then
12 directly in front of the demolition project
13 that they came to observe, look at and see.

14 When you walked past The Salvation
15 Army before you got to the garage you said you
16 had gone there to observe the work, right?

17 Observe the work because I had a
18 little time to see what was going on.

19 And Mr. Basciano is going to tell
20 you, That even though I went there to observe
21 it and look at it and see it as I walked past
22 the site and then had a conversation with
23 Griffin Campbell, I didn't observe it, look at
24 it and see it.

25 But Mr. Campbell, who has, on the

1 day of the accident, wrote out a sketch
2 showing exactly where Mr. and Mrs. Basciano
3 were standing and Mr. Campbell was standing.

4 On the day of the accident you gave
5 two statements and indicated you were talking
6 with the owners at the collapse and assisted
7 in two sketches, both of which showed you with
8 the owners at the time of the collapse?

9 Yes. That day.

10 And this is what was going on that
11 morning. These videos were taken by
12 Mr. Benschop's guy, a guy by the name of
13 Darryl Alston, who filmed them with his cell
14 phone.

15 (Video playing.)

16 MR. MONGELUZZI: The columns are
17 gone, the joists have collapsed, Mr. Benschop
18 is using a piece of steel to chip away at the
19 eastern wall. That is what he did at the
20 front of the building the prior day. This was
21 what he was doing here, chipping at this wall.
22 It's the same thing he did the day before as
23 he mechanically demolished the building from
24 front to back.

25 Mr. Campbell is talking with

1 Mr. Basciano. He said he was Mr. Basciano and
2 he was the owner. And then I'm introduced. I
3 told him who I was. And he's standing right
4 next to the curb and I'm facing him and his
5 wife.

6 Are you absolutely positive that
7 Lois and Richard Basciano were standing
8 looking at the demolition site at the time
9 that the collapse occurred?

10 I'm a hundred percent sure. He was
11 facing the site and I was facing him.

12 Mr. Basciano tells a different
13 story. He says that he had left to go into
14 the bathroom, even though he had just gone to
15 the bathroom before he left the Symphony
16 House, that he had left that conversation to
17 go to the bathroom and, therefore, wasn't
18 there at the time the building collapsed. And
19 you're going to have to decide that
20 credibility issue as to who you believe.

21 Mr. Benschop, because this excavator
22 isn't high enough to get that height, another
23 violation, uses a piece of steel to get some
24 extra reach. And he is just chipping away a
25 brick at a time, a couple bricks at a time.

1 But the building, because they didn't realize
2 it, because they didn't have the
3 sophistication, the experience and the
4 background --

5 (Mr. Greiner rises.)

6 MR. MONGELUZZI: -- was dangerous
7 because they didn't understand the impact of
8 taking away lateral stability on more than one
9 floor at the same time. And this is what
10 happened.

11 (Video playing.)

12 MR. MONGELUZZI: You're going to
13 hear evidence in this case from some who say
14 that the building collapsed purely of what
15 Mr. Benschop did, chipping away at the
16 building, taking away its supports, on
17 June 5th. But you will hear from us and what
18 we will prove to you with the photographs and
19 the evidence is that this collapse began when
20 they started in May and in April ripping out
21 the interior of the building, leaving walls
22 unsupported for more than two stories.

23 (Mr. Greiner rises.)

24 (Mr. Clain rises.)

25 MR. MONGELUZZI: And that it became

1 more dangerous in May.

2 Our expert will tell you it got
3 continually more dangerous. On June 2nd it
4 got more dangerous still. On June 3rd, more
5 dangerous still. On June 4th, more dangerous
6 still. And on June 5th it finally came down.

7 And the evidence from our experts is
8 going to be that it wasn't just what
9 Mr. Benschop did that day. It is what had
10 happened in the days and weeks and months
11 before that. So by merely taking that piece
12 of steel and knocking out a small section of
13 the eastern wall, the entire building
14 collapsed.

15 There's going to be an issue about
16 OSHA and L & I. You're going to hear
17 testimony that OSHA was out there on May 15th
18 and that an investigator was there. And you
19 are going to hear from our experts who are
20 going to tell you that whether OSHA was there
21 or wasn't there, what they did or didn't do
22 does not change the responsibilities of the
23 owner and contractor to have a safe job.

24 You will hear from our experts that
25 for someone who went to the top portion on

1 May 15th, who climbed up -- and, by the way,
2 the stairwell was out and the joists were
3 already being removed -- for someone who went
4 up here you would have seen the OSHA
5 violations. And you will hear no evidence
6 that anybody from OSHA went up into the upper
7 reaches of the building where the danger was
8 apparent and was known.

9 And the same holds true for Licenses
10 & Inspections. You will hear no evidence that
11 anybody from L & I went up into the exterior,
12 up to the top of the building so that they
13 could see the danger within and the cancer
14 within that you couldn't see from the exterior
15 of the building.

16 You're also going to hear testimony
17 about Sean Benschop and that Sean Benschop
18 tested positive for marijuana after the
19 accident. And what you're going to hear from
20 Mr. Benschop is that Mr. Benschop has a
21 disease. And he first started taking a THC
22 type pill because it spurs his appetite
23 because he loses his appetite. And that
24 pill -- and when that ran out and it wasn't
25 covered anymore he turned to street marijuana

1 rather than medical THC. Because that is what
2 aids these people who have this disease and
3 gives them an appetite.

4 And you're going to hear that he
5 tore down hundreds of buildings while doing
6 this every day. This photograph shows his
7 hand-eye coordination as he reaches with the
8 bucket and grabs the brick and not the wall
9 behind it. And our expert will tell you that
10 takes extreme hand-eye coordination.

11 And if you look at these pictures
12 you will find out that it wasn't the man, it
13 was the plan.

14 (Mr. Greiner rises.)

15 MR. MONGELUZZI: And the plan of
16 mechanical demolition, the tearing of the
17 building from front to back, the robbing it of
18 its lateral stability, was the cause of the
19 accident, not whether Mr. Benschop was
20 impaired or not impaired.

21 You're also going to hear that
22 Mr. Benschop pled guilty to involuntary
23 manslaughter and Griffin Campbell was found
24 guilty of involuntary manslaughter. But this
25 is the first case, and let me tell you what

1 the elements of that are. Gross negligence or
2 recklessness, either of them satisfy.

3 What we're going to prove to you in
4 this case where a jury for the first time will
5 hear from everybody and see all the evidence,
6 were they grossly negligent? Of course they
7 were. Clueless, but grossly negligent. But
8 so was everybody, the evidence will show, so
9 was everybody else who was involved in this
10 plan and made these decisions and knew about
11 the danger and did nothing to protect the
12 people who could be harmed for it.

13 Summarize. STB selected an
14 inexperienced and incompetent demolition
15 contractor, owner's representative and
16 property manager.

17 [Mr. Greiner rises.]

18 MR. MONGELUZZI: This is what you're
19 going to hear. He was totally inexperienced.
20 Two burnt out row homes. Not licensed at the
21 time the contract was signed. No demolition
22 equipment. No permanent demolition employees.
23 No company. No company office. Never bid a
24 demolition job and didn't know how to do it.
25 Never torn down or demolished a commercial

1 building. No experience tearing down
2 buildings of four stories or more. No
3 demolition safety plan, didn't know how to
4 prepare one. Didn't even know there were
5 demolition rules. No company safety manual.
6 Never created the federally required
7 engineering demolition safety plan and didn't
8 even know how to prepare one.

9 The owner didn't even ask if he had
10 a license. Didn't ask whether he had
11 equipment or employees. Didn't ask to see a
12 company demolition safety manual. Didn't ask
13 about his demolition experience. Didn't ask
14 if he had knowledge of basic demolition safety
15 rules. And the owner admitted he approved
16 Campbell.

17 (Video playing:

18 I'm not sure whether or not you
19 answered my question about whether you
20 carefully considered Griffin Campbell and his
21 competence before he's selected as the
22 demolition contractor. Did you carefully do
23 that?

24 I would say it was carefully
25 considered.

1 Will you admit to us, sir, that it
2 was unreasonable to select Griffin Campbell as
3 the demolition contractor?

4 (Inaudible.)

5 MR. MONGELUZZI: No. And you're
6 going to have the opportunity at the end of
7 this case to come back with a decision and let
8 them know what the answer to that question is.
9 Because it's your answer that matters. They
10 selected an incompetent owner's
11 representative. No experience acting as an
12 owner's representative on a demolition
13 project.

14 (Mr. Greiner rises.)

15 MR. MONGELUZZI: Owner never asked
16 him about his experience as an owner rep on a
17 demo project. Didn't even know that there
18 were demolition safety rules. Didn't
19 understand that Campbell's low bid was
20 evidence of his competence, and that's
21 assuming that Mr. Marinakos didn't prepare the
22 bid himself. You're going to hear testimony
23 on either side of that. Didn't know enough to
24 understand that ripping out the interior of
25 the Hoagie City or the roof of The Forum was

1 demolition. Didn't understand the basic
2 definition. Saw the mechanical demolition on
3 June 2nd, didn't realize it was terribly
4 dangerous. Knew that the demolition work was
5 being done without a permit. Saw the unbraced
6 wall and didn't know enough about demolition
7 to immediately stop the job. And his claimed
8 belief that it can be taken down overnight
9 shows his total lack of understanding
10 demolition. And then he says he relies upon
11 the demolition contractor who actually created
12 the hazard to now take care of the hazard.

13 And Mr. Simmonds was, the evidence
14 will show, was incompetent as well. Never
15 managed a demolition project before. Didn't
16 know how to select a competent demolition
17 contractor. Didn't know he should check to
18 see if he had a license. Didn't know he
19 should check his prior demolition experience.
20 Didn't even know to check references. Didn't
21 ask whether he had ever bid a demolition
22 project before, had done a demolition project
23 before, had a demolition safety program.
24 Didn't even know to ask whether they had a
25 company or an office or a bank account or

1 equipment or employees. He signed a contract
2 as agent for the owner that promised the owner
3 would provide all surveys and didn't even know
4 that there was a federal law requiring a
5 demolition engineering survey. Received
6 photographs documenting dangerous demolition
7 but didn't know enough about it to recognize
8 it.

9 So that's one of the major theories
10 against Mr. Basciano and his company,
11 negligent selection of his property manager,
12 his owner's representative, his demolition
13 contractor.

14 Second theory. That they took
15 control of the means and methods of
16 demolition. Who was really running the show
17 is what this is about. Well, Campbell didn't
18 know how to run the show. And he testified to
19 that. He wasn't on that e-mail where they
20 discussed means and methods. He told you
21 clearly that it was Plato who ordered the
22 switch from hand to mechanical demolition.
23 And the convergence of evidence of
24 Mr. Basciano's complaints documented in
25 e-mails with the sudden arrival of the

1 demolition equipment confirms that. And when
2 he told Campbell to take it down rather than
3 stop the work.

4 The plan of demolition was Plato's
5 plan?

6 Correct.

7 And Plato was in charge?

8 Yes.

9 And then the last theory of
10 liability is the owner actually knew of the
11 danger, this wasn't some case where the owner
12 didn't know of the danger. And that was
13 proven by the e-mails that the owner's
14 representatives authored themselves.

15 [Mr. Greiner rises.]

16 MR. MONGELUZZI: Their visit to the
17 site on June 2nd, the day the Hoagie City
18 building was ripped down and that sign came
19 crashing down. The photographs that
20 documented it. Plato's visit to the site on
21 June 3rd where you see the side view mirror
22 which shows the unbraced wall. His visit to
23 the site on June 4th with the crazy, unstable
24 wall and doing nothing about it. And then
25 Mr. Basciano and his wife being there on June

1 5th before and during the collapse.

2 What did they see and when did they
3 see it? Richard Basciano, the 31st he's at
4 the site. Basciano and Plato, June 2nd at the
5 site. Plato at the site June 3rd. Plato at
6 the site June 4th. Richard and Lois Basciano
7 at the site June 5th.

8 (Video playing:

9 Sir, Mr. Simmonds, as the property
10 manager for STB, 2100 and 2132, you admit that
11 the owner's representatives didn't do their
12 job right the night before when they were told
13 and saw or when they saw with their own eyes
14 that it was inherently dangerous without
15 alerting someone else or shutting the job
16 down, right?

17 That's correct.)

18 MR. MONGELUZZI: That's an admission
19 that their owner's representative didn't do
20 their job.

21 (Mr. Greiner rises.)

22 MR. MONGELUZZI: These are the
23 victims of the collapse.

24 (Mr. Greiner rises.)

25 MR. MONGELUZZI: This is Anne Bryan,

1 Anne was a 25-year-old student at the
2 Pennsylvania Academy of Fine Arts. Her
3 parents, Jay Bryan and Nancy Winkler, and
4 their family -- if you can stand up -- are
5 here in this courtroom.

6 Thank you.

7 Anne was buried under the rubble and
8 died.

9 (Mr. Greiner rises.)

10 MR. MONGELUZZI: Roseline Conteh was
11 also a victim of the collapse. And she is
12 going to be introduced by Mr. Wigrizer, who
13 will introduce her family and her.

14 Borbor Davis is another victim of
15 the collapse. And he is going to be, and his
16 family and his story are going to be
17 introduced by Harry Roth.

18 Kimberly Finnegan is another victim
19 of the collapse. And she is represented by
20 Adam Grutzmacher, and her family, who will
21 introduce her.

22 Juanita Harmon is our, Jeff and I,
23 client. Juanita was also killed in the
24 collapse. Her son, Andre. Juanita, 75 years
25 old, retired from Wharton as a secretary.

1 Thank you.

2 Danny Johnson, another victim of the
3 collapse. He died 23 days later of his
4 injuries. And his wife Bonnie is here.
5 Bonnie, is here in the courtroom, and Jeff and
6 I represent her.

7 Mary Simpson is another victim of
8 the collapse. And she is going to be
9 introduced by Mr. Wigrizer. Those are the
10 ones that died.

11 Here are the survivors. And their
12 lawyers are going to introduce them when it's
13 their turn. Margarita Agosto and Shirley Ball
14 and Linda Bell and Betty Brown, Bernard
15 DiTomo, Rodney Geddis, Felicia Hill, Rosemary
16 Kreutzberg, Jennifer Reynolds, Richard
17 Stasiorowski, Nadine White.

18 Why don't you introduce the ones
19 that are here to stand up.

20 MR. GOODMAN: Among Mr. Mongeluzzi's
21 and I's clients are going to be Rodney Geddis,
22 Nadine White, Felicia Hill, Rosemary
23 Kreutzberg and then Jennifer Reynolds and
24 Bernard DiTomo.

25 MR. MONGELUZZI: Along with those

1 survivors is Mariya Plekan who Mr. Stern
2 represents and will introduce her and her
3 photograph.

4 Slide of all 19.

5 (Mr. Greiner rises.)

6 MR. MONGELUZZI: Go back to the one
7 before. One more. There you go.

8 19 people came to the Salvation Army
9 that day. They came from different
10 backgrounds, different genders, different
11 races, they were born in different countries.
12 They were men and women, they were different
13 colors, they were there for different reasons.
14 Some were employees and others were shoppers.
15 They came for different reasons. But they
16 shared certain things in common. All of them
17 came to The Salvation Army thrift store
18 believing that the Salvation Army would keep
19 them safe and inform them of any dangers that
20 they were aware of. And the Salvation Army
21 failed them all. This was not an accident.

22 Thank you, Your Honor.

23 THE COURT: All right,
24 Mr. Mongeluzzi made a lot of statements which
25 were stated in a very conclusory fashion.

1 What counsel has told you in his opening
2 statement are the contentions that the
3 plaintiffs have. Nothing which Mr. Mongeluzzi
4 has said to you in his opening statement is
5 evidence. As you know, nothing that is said
6 in the opening statements by anyone is
7 evidence. Many things which were said to you
8 sound like they are established fact. But,
9 actually, everything counsel said to you has
10 to be proven during the trial. Nothing is yet
11 proven.

12 We'll take a very brief recess and
13 then we'll come back for the next opening
14 statement.

15 COURT CRIER: Everyone please remain
16 seated while the jurors exit the courtroom.

17 Jurors. Come with me.

18 THE COURT: And watch your steps.

19 (The jury left the courtroom.)

20 THE COURT: So we will take a brief
21 recess. All counsel are to go that way. The
22 ladies room is over here on this corner. When
23 you exit it will be to the right and so do not
24 go any further than that for counsel or the
25 parties. And the gentlemen will go to the

1 left, the restroom is on the far left corner.

2 Yes.

3 MR. MONGELUZZI: Use the bathroom on
4 the left?

5 THE COURT: On the left.

6 MR. GREINER: Your Honor, we will
7 have a motion, I don't know if you want to
8 hear it now or when we come back.

9 THE COURT: I think when we come
10 back.

11 MR. GREINER: Okay, thank you.

12 MR. T. SPRAGUE: What time are we
13 coming back?

14 THE COURT: Five, ten minutes.

15 MR. GREINER: We would obviously
16 like to do it outside the presence of the
17 jury.

18 MR. T. SPRAGUE: And, Your Honor,
19 would you like for that to be held after all
20 of the plaintiffs' openings?

21 THE COURT: Your motion?

22 MR. T. SPRAGUE: Yes.

23 THE COURT: But you want to argue it
24 now?

25 MR. T. SPRAGUE: No, it could be

1 whenever Your Honor wants.

2 THE COURT: I mean, did you want to
3 argue it as soon as we come back?

4 MR. T. SPRAGUE: Or it can be at the
5 conclusion of the plaintiffs.

6 THE COURT: If it should help you
7 form additional things.

8 MR. GREINER: It would help to form
9 additional things.

10 THE COURT: All right. We will do
11 that when we come back.

12 MR. GREINER: Thank you.

13 COURT CRIER: Everyone please remain
14 seated as the jurors enter the courtroom.

15 (The jury entered the courtroom.)

16 THE COURT: All right. Counsel, who
17 wanted to introduce their clients?

18 MR. ROTH: Thank you, Your Honor.

19 Borbor Davis, was 68 years old on
20 June 5th, 2013. I'm Harry Roth, Jim Begley,
21 we represent his estate. Mr. Davis was
22 working for The Salvation Army. He worked for
23 them for six years, arranging a barrel in the
24 basement of the store.

25 His wife, Maggie Davis, is here with

1 their daughter.

2 Stand up, please.

3 He was killed on June 5th, 2013.

4 THE COURT: Thank you.

5 MR. GRUTZMACHER: Thank you, members
6 of the jury. My name is Adam Grutzmacher.

7 THE COURT: Hold on.

8 MR. GRUTZMACHER: I got one, thank
9 you.

10 Kimberly Finnegan, she was 35 years
11 old and she was a senior sales associate at
12 the Salvation Army thrift store. She was
13 recently engaged. The day of the collapse was
14 her first day on the job at that location.
15 She had not been at the location for more than
16 two hours when she perished under the rubble.

17 She is survived by her mother, Jean,
18 her father Patrick and her brother Jonathan
19 who is here today. Thank you.

20 MR. GAMBURG: Good afternoon,
21 members of the jury. My name is Jerome
22 Gamburg and I represent Margarita Agosto.
23 Margarita is 40 years old and at the time of
24 the collapse was an employee at the Salvation
25 Army thrift store.

1 THE COURT: Thank you.

2 MR. PADILLA: Good afternoon, ladies
3 and gentlemen. My name is Evan Padilla.
4 Myself and Jim Golkow represent Shirley Ball.
5 Shirley Ball was a shopper at the Salvation
6 Army store during the collapse and she was
7 buried under the rubble. She was 60 years old
8 at the time of the accident. And at the time
9 she was married to her husband Stanley for 41
10 years. Thank you.

11 MS. PLAYO: Good afternoon. My name
12 is Pamela Playo and I'm with the law firm of
13 Jonathan M. Cohen. Our firm, along with the
14 Marrone law firm represents Richard
15 Stasiorowski and Linda Bell.

16 Richard Stasiorowski is here in the
17 courtroom today. He was an employee of The
18 Salvation Army. He was working at the store
19 at the time of the collapse. He had already
20 been working for The Salvation Army for
21 approximately seven months. He was 32 years
22 old at the time of the collapse.

23 THE COURT: Thank you.

24 MS. PLAYO: Linda Bell, who was also
25 here today, was a customer shopping at The

1 Salvation Army thrift store. She was shopping
2 for toys for children in need. She was a
3 mother of three and was 50 years old at the
4 time of the collapse. Thank you.

5 THE COURT: All right, thank you.

6 So members of the jury, it is 12:25
7 almost and I am going to send you to go and
8 get some lunch. As you know, you are not to
9 discuss the case amongst yourselves or with
10 anyone else. You are not to communicate in
11 any way, shape or form with anyone about the
12 case or about your service as a juror in the
13 case. If you hear someone -- and there are a
14 lot of people here. If you hear someone
15 starting to speak about the case you should
16 probably say, Please be quiet, I'm a juror. I
17 mean, you have your juror badges on, but
18 people might not automatically recognize that
19 and they might be behind you and can't see
20 them, et cetera. And so, as you know, it is
21 very important that the only place you get
22 your evidence is in this courtroom and nowhere
23 else. And the evidence has not yet begun.

24 So thank you and enjoy your lunch.
25 And I'll ask that you be back by 1:50. And we

1 will reconvene at that time. So please be on
2 time, try to get back by 1:45. And then we
3 will go ahead and pick up with the opening
4 statements.

5 COURT CRIER: Everyone please remain
6 seated as the jurors exit the courtroom.

7 Jurors.

8 (The jury left the courtroom.)

9 THE COURT: Yes, Mr. Greiner.

10 MR. GREINER: Your Honor, a couple
11 of things. First and foremost, I understand
12 that the court reporter inadvertently did not
13 take down each and every objection that was
14 noted during the opening and that was just a
15 miscommunication.

16 THE COURT: I may have gotten the
17 good number of them. I'm obviously not with
18 as much pinpoint accuracy as the court
19 reporter would, but I was trying to take notes
20 when both you and Mr. Clain were rising.

21 MR. GREINER: And, Your Honor, I
22 would ask to make sure that the record is
23 complete and accurate that either now or at a
24 later point you provide those notes or tell
25 the court reporter at what portions of the

1 testimony those objections were made.

2 THE COURT: Okay. And hopefully you
3 remember as well.

4 MR. GREINER: Your Honor, I stood up
5 so many times I'm not sure I do. And that's
6 the second --

7 THE COURT: Well, I'm sure you knew
8 when you were standing up and the reason for
9 it.

10 MR. GREINER: I certainly do, Your
11 Honor.

12 THE COURT: Okay.

13 MR. GREINER: And, Your Honor, the
14 second reason I'm standing up is that at this
15 time on behalf of the STB Defendants we would
16 ask the court to grant a mistrial. We believe
17 that first and foremost, Your Honor, the
18 presentation of evidence, as we have argued
19 previously in this matter, in the openings is
20 inappropriate. Your Honor has obviously
21 already ruled on that. However, in
22 conjunction with the legal and factual
23 arguments made by counsel in openings, this
24 was not an opening statement, Your Honor, this
25 was a closing. Mr. Mongeluzzi said over and

1 over again that this is red flags and I didn't
2 hear him use the words, evidence will show,
3 for 15 minutes in his opening. Even though we
4 had already talked about that, Your Honor.

5 THE COURT: It was up on the screen,
6 by the way.

7 MR. GREINER: Not at this point,
8 Your Honor, at later points it was. However,
9 what I would point out, Your Honor, is
10 regardless of whether or not it's up on the
11 screen, Mr. Mongeluzzi had control of what he
12 was saying. Mr. Mongeluzzi was arguing to the
13 jury, he was imploring the jury, he was not
14 making statements. The purposes of an opening
15 statement is to outline what is intended to be
16 proved and not to try to sway the jurors in
17 any way. And, Your Honor, I think that the
18 record is clear on those issues. We objected
19 each and every time. We believe that it was
20 inappropriate. But incredibly --

21 THE COURT: And that is part of why
22 I gave the admonition to the jury when he
23 finished.

24 MR. GREINER: I understand that,
25 Your Honor. But incredibly -- but even with

1 that, those two layers of what I believe, we
2 believe, were inappropriate argument to the
3 jury, both the presentation via video and
4 clips and Power Point, and also
5 Mr. Mongeluzzi's improper argument.

6 Incredibly, Your Honor, even though we talked
7 about this for days and days and days about
8 what could be said about certain individuals
9 in this case based on Your Honor's bifurcation
10 ruling in this case, not only Mr. Mongeluzzi,
11 but Mr. Grutzmacher, and I forget --

12 Mr. Padilla, all stated, and I will -- I wrote
13 it down, Your Honor Mr. Mongeluzzi said --

14 THE COURT: About individuals being
15 in the rubble it was.

16 MR. GREINER: Was Ms. Bryan buried
17 under the rubble and died. Ms. Finnegan
18 perished under the rubble. Ms. Ball buried
19 under the rubble. Your Honor, all of those
20 things were specifically told to plaintiffs'
21 counsel that they did not mention in their
22 openings. And these are, as we've all talked
23 about, very experienced trial attorneys. And
24 I believe, Your Honor, that the prejudice has
25 already been made in this case when talking

1 about these damages issues that were expressly
2 limited from the liability portion of this
3 case. This jury has already been poisoned
4 with that. And I would ask Your Honor to --
5 there is no other way to cleanse the poison
6 out of the case. We would ask Your Honor to
7 grant a mistrial.

8 MR. SNYDER: Your Honor, excuse me.
9 Salvation Army joins in that request.

10 MR. CLAIN: Your Honor, the
11 Marinakos Defendants also join in that motion.

12 THE COURT: I will note that
13 Mr. Clain did rise on a number of occasions,
14 not as often as Mr. Greiner. However, not
15 once did The Salvation Army counsel rise. I
16 would note that for the record.

17 MR. MONGELUZZI: Yes, Your Honor.
18 That was not argument. The majority of that
19 was their own testimony, their own documents
20 and their own photographs. When I talked
21 about a red flag I indicated that our expert
22 would be saying that this is a red flag. That
23 is not an argument, that is a preview of
24 testimony to come.

25 The jury saw the post accident

1 photographs. The issue about whether the
2 decedents were killed, obviously, this is not
3 a property damage case, we didn't get into
4 that they --

5 THE COURT: Excuse me, are there any
6 jurors in the back?

7 COURT OFFICER: No.

8 MR. MONGELUZZI: I didn't get into
9 that they were suffered, they were
10 asphyxiated, how long they were there. They
11 were killed in the collapse, Your Honor. And
12 I certainly don't believe that that, those
13 comments, in any way broach the bifurcation in
14 this case.

15 And we also know that there's --
16 well, I will leave it at that, Your Honor.

17 THE COURT: Anything else?

18 MR. MONGELUZZI: No, Your Honor.

19 THE COURT: Okay. Motion for a
20 mistrial is denied.

21 Was there anything else that you
22 wanted to address, Mr. Greiner?

23 MR. GREINER: No, Your Honor, thank
24 you.

25 THE COURT: So we are on luncheon

1 recess until 1:45.

2 (Luncheon recess.)

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I HEREBY CERTIFY THAT THE PROCEEDINGS
AND EVIDENCE ARE CONTAINED FULLY AND ACCURATELY
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ABOVE CAUSE, AND THAT THIS COPY IS A CORRECT
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KIMBERLY A. WILSON, RMR, CRR,
OFFICIAL COURT REPORTER

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