

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

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

15 THE COURT: ALL RIGHT. THERE ARE NO ISSUES THAT
16 WE NEED TO ADDRESS BEFORE WE GET THE JURY BACK IN?

17 MR. GALVIN: NOT THAT I CAN THINK OF.

18 THE COURT: OKAY. LET'S DO IT.
19

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

24 THE COURT: ALL RIGHT. WELCOME BACK. GOOD
25 AFTERNOON.

26 IN UNISON: GOOD AFTERNOON, YOUR HONOR.

27 THE COURT: MR. GALVIN, YOU MAY PROCEED.

28 MR. GALVIN: THANK YOU, YOUR HONOR.

1 GOOD AFTERNOON. WHAT I WANT TO DO IS I
2 WANT TO FINISH UP AND I WANT TO ADDRESS A FEW THINGS
3 THAT WE WENT OVER BRIEFLY THAT WE LOOKED AT WITH
4 MR. MARDIROSSIAN'S OPENING YESTERDAY.

5 BILL, COULD YOU BRING UP 5019-21. AND THEN
6 COULD YOU BRING UP THE CORRIGAN MODEL YOU SHOWED
7 YESTERDAY. IT'S IN THE SAME VANTAGE.

8 YESTERDAY YOU SAW IN PLAINTIFFS' CLOSING A
9 DISCUSSION -- MR. MARDIROSSIAN HAD A DISCUSSION WITH YOU
10 ABOUT -- OR WITH US ABOUT THE POSITION OF MRS. UNO'S
11 FOOT IN THE VEHICLE. AND THE DISCUSSION WAS IT'S UNDER
12 THE BRAKE AND SO MS. CORRIGAN'S MODEL IS INCORRECT
13 BECAUSE IT'S UNDER THE BRAKE.

14 WHAT I WANTED TO DO IS DIRECT YOUR
15 ATTENTION TO WHAT WE HAVE HERE ON THE RIGHT-HAND SIDE,
16 LADIES AND GENTLEMEN, IS EXHIBIT 5019-21, WHICH IS THE
17 PHOTOGRAPH TAKEN BY THE POLICE AT THE SCENE.

18 AND HERE YOU CAN SEE THE BRAKE PEDAL. AND
19 HERE YOU CAN SEE THE CLOTHING ON MRS. UNO'S LEG, THE
20 BLACK PANTS. AND HERE YOU OBVIOUSLY CAN SEE THE INSIDE
21 OF HER FOOT WHERE THE INJURY WAS BECAUSE YOU CAN SEE THE
22 LACERATION, THE INCISION RIGHT HERE AND YOU CAN SEE THE
23 EDGE OF THE BRAKE PEDAL RIGHT HERE. AND HER TOES GO
24 FURTHER OUT TO THE LEFT. AND HER LEG IS COMING UP HERE.

25 NOW, I WANT TO DIRECT YOUR ATTENTION TO THE
26 MODEL THAT DR. CORRIGAN DID, AND OBVIOUSLY THE PANTS ARE
27 NOT GOING DOWN ON THE FOOT AS FAR AS THIS ONE. YOU CAN
28 SEE THE PANTS IN THE PHOTOGRAPH GO DOWN PAST THE BRAKE

1 PEDAL. DR. CORRIGAN CUT THE PANTS OFF. THE BRAKE PEDAL
2 IS ON THE SIDE OF THE FOOT. YOU SEE THE LACERATION
3 THERE. THE BRAKE PEDAL IS RIGHT HERE (INDICATING) AND
4 YOU CAN SEE THE REST OF THE FOOT.

5 SO AS YOU CAN SEE FROM DR. CORRIGAN'S
6 MODEL, DR. CORRIGAN TRIED TO ACCURATELY REFLECT HOW THE
7 SCENE PHOTOGRAPHS DEPICTED MRS. UNO'S FOOT AT THE TIME.
8 AND THERE'S CONTACT CLEARLY BETWEEN THE FOOT AND THE
9 BRAKE. BUT TO SUGGEST THAT THE ENTIRE FOOT IS UNDER THE
10 ENTIRE BRAKE WOULD NOT BE ACCURATE BECAUSE THAT'S NOT
11 WHAT THIS PICTURE SHOWS, WHICH IS THE POLICE PICTURE,
12 AND THAT IS NOT WHAT DR. CORRIGAN'S MODEL SHOWS.

13 AND ALSO WITH RESPECT TO THE FOOT, THERE
14 WAS SURROGATE WORK DONE. EACH SIDE DID SURROGATE WORK
15 AND YOU ALL HAVE HEARD ABOUT IT PROBABLY UNTIL YOU DON'T
16 WANT TO HEAR IT ANYMORE. AND WE HEARD FROM
17 MR. CARPENTER THAT HE DID IT WITH A SIZE TEN FLIP-FLOP.
18 YOU KNOW THAT TOYOTA DID IT WITH A SIZE FIVE, SIX
19 FLIP-FLOP. AND I BELIEVE PLAINTIFFS USED THE SAME SIZE
20 OR IT MIGHT HAVE BEEN A FOUR, FIVE; BUT IT WAS SMALLER.

21 THE TESTIMONY HAS BEEN THAT WHETHER YOU USE
22 THE SIZE TEN FLIP-FLOP LIKE MRS. UNO HAD ON OR THE OTHER
23 SMALLER SIZE, IT DOESN'T MAKE A DIFFERENCE IN THE END AS
24 WE HEARD FROM DR. CARPENTER. IT'S ABOUT AN INCH AND A
25 HALF DIFFERENCE. AND WHEN YOU THINK OF THE DIFFERENCE,
26 EVEN WHEN MR. HILLE EXPLAINED IT, THE HEEL OF THE
27 FLIP-FLOP AND THE HEEL OF THE FOOT WERE STILL ON THE
28 FLOORBOARD.

1 THERE WAS ALSO TESTIMONY AND A SUGGESTION
2 THAT THE SURROGATE WORK DONE WITH ONLY ONE FLOOR MAT OR
3 NO FLOOR MAT AND NOT TWO FLOOR MATS WOULD MAKE A
4 DIFFERENCE. IN THE EVIDENCE THAT YOU WERE TOLD THAT WE
5 HEARD HERE IS IT DOESN'T MAKE ANY DIFFERENCE BECAUSE THE
6 AMOUNT OF SPACE THAT A SECOND FLOOR MAT TAKES IS ABOUT A
7 HALF AN INCH. AND THE DISTANCE THAT THE FOOT HAS TO BE
8 LEVITATED UP AND HELD IN THAT POSITION BEHIND THE BRAKE
9 LIKE THIS (INDICATING) IS MORE ON THE ORDER OF ABOUT
10 THREE INCHES.

11 YOU HAVE THE EVIDENCE. YOU HAVE THE
12 PICTURES. DR. CORRIGAN'S PICTURES SHOWING HOW HIGH UP
13 THE FOOT GOES TO GET INTO THAT POSITION. AND YOU CAN
14 LOOK AT IT FOR YOURSELF, BUT TO SUGGEST THAT BECAUSE
15 THERE'S SURROGATE WORK WITHOUT TWO FLOOR MATS IS NOT --
16 THAT IT'S NOT A VALID COMPARISON IS NOT ACCURATE.

17 SO YESTERDAY WE COVERED BASICALLY SIX
18 TOPICS. WE COVERED THE FOOT IS NOT STUCK. WE COVERED
19 THE ACCELERATOR PEDAL IS NOT STUCK. WE COVERED THE
20 POSITION OF THE FOOT AT THE END OF THE CRASH DOESN'T
21 PROVE WHERE THE FOOT WAS A HALF A MILE BEFORE THE
22 CRASH -- BEFORE THE IMPACT WITH THE TREE, AND IT DOESN'T
23 PROVE BRAKING.

24 WE TALKED ABOUT THE BRAKE SYSTEM DESIGN;
25 THAT THE BRAKE SYSTEM DESIGN IS NOT DEFECTIVE, AND WE
26 TALKED ABOUT THE BRAKE -- THE FACT THAT THE BRAKES WOULD
27 HAVE STOPPED THE CAR HAD THEY BEEN USED. THEN WE LEFT
28 OFF BASICALLY TALKING ABOUT THE FACT THAT NOT HAVING

1 BRAKE OVERRIDE ON THIS VEHICLE DOES NOT MAKE IT
2 DEFECTIVE.

3 SO THAT'S WHERE I WANT TO GO, AND WE'LL
4 WORK OUR WAY TO THE END. THE QUESTION, LADIES AND
5 GENTLEMEN, WHEN YOU ARE ANSWERING THE QUESTION ON THE
6 VERDICT FORM, "WAS THE 2006 TOYOTA CAMRY'S DESIGN A
7 SUBSTANTIAL FACTOR IN CAUSING HARM TO PETER UNO AND
8 JEFFREY UNO?" AS WE SAID YESTERDAY, YOU LOOK AT THE
9 DESIGN OF THE VEHICLE AS A WHOLE AND THAT INCLUDES THE
10 BRAKE SYSTEM, THAT INCLUDES WHAT WAS GOING ON WITH THAT
11 VEHICLE AT THAT TIME. AND CLEARLY AS YOU KNOW, THE
12 PLAINTIFFS CLAIM THAT BRAKE OVERRIDE SHOULD HAVE BEEN ON
13 THAT VEHICLE. BUT AS YOU ADDRESS THAT QUESTION YOU HAVE
14 TO ADDRESS THE QUESTION IN THE CONTEXT OF THIS ACCIDENT.

15 IN THIS ACCIDENT WAS THE LACK OF BRAKE
16 OVERRIDE A SUBSTANTIAL FACTOR IN CAUSING HARM? THE
17 QUESTION ISN'T IS BRAKE OVERRIDE A GOOD IDEA AND SHOULD
18 IT HAVE JUST BEEN THERE. YOU HAVE TO CONNECT THE
19 ABSENCE OF THAT FEATURE WITH THIS ACCIDENT. WOULD IT
20 HAVE MADE A DIFFERENCE? WOULD IT HAVE CHANGED THE
21 OUTCOME OF THIS ACCIDENT?

22 SO YOU COULD THINK PHILOSOPHICALLY, LADIES
23 AND GENTLEMEN, YOU KNOW, THAT BRAKE OVERRIDE TECHNOLOGY,
24 EVEN THOUGH IT HAS ONLY LIMITED BENEFIT AND A VERY
25 LIMITED SET OF CIRCUMSTANCES, IT WOULD BE GOOD JUST TO
26 HAVE IT. SO, YOU KNOW, THE CAR IS DEFECTIVE. YOU
27 CAN'T -- UNDER THE LAWS THAT APPLY TO THIS CASE YOU HAVE
28 TO CONNECT THAT ISSUE WITH THIS ACCIDENT; SO JUST

1 THINKING IT'S A GOOD IDEA AND THAT IT SHOULD HAVE BEEN
2 ON THERE ISN'T ENOUGH.

3 YOU HAVE TO DETERMINE IS THE ABSENCE OF
4 THAT CAUSALLY RELATED TO THIS ACCIDENT. AND THAT'S
5 IMPORTANT BECAUSE SOMETIMES YOU MIGHT GET IN THERE AND
6 SAY, YOU KNOW, "THEY HAD IT ON THAT LITTLE DIESEL ENGINE
7 AND THEY COULD HAVE HAD IT ON THIS VEHICLE. SO IT'S A
8 GOOD IDEA." AND, LADIES AND GENTLEMEN, YOU NEED TO
9 RESIST THAT BECAUSE THE QUESTION IS WAS IT A SUBSTANTIAL
10 FACTOR IN BRINGING ABOUT HARM TO THE UNOS IN THIS CRASH.
11 AND THE ANSWER TO THAT IS, NO, IT WAS NOT.

12 THE BRAKE SYSTEM IN THIS VEHICLE, AS IT
13 EXISTED AS IT CAME FROM THE FACTORY, WAS SUFFICIENT TO
14 PROVIDE EXCELLENT PROTECTION TO MRS. UNO IN THIS CRASH
15 HAD IT BEEN USED. AND WE DISCUSSED YESTERDAY THERE'S --
16 IT'S NOT DEFECTIVE. IT'S BEEN AROUND FOR DECADES. IT'S
17 NOT SOME NEW FANCY SYSTEM. AND THE TESTING SHOWS THAT
18 BOTH SIDES DID; THAT HAD SHE USED IT, IT WOULD HAVE
19 WORKED AND STOPPED THIS VEHICLE.

20 BUT LET'S SEE WHAT -- AND WE TALKED ABOUT
21 ACTIVATION. IN ORDER TO ACTIVATE THE BRAKE OVERRIDE,
22 YOU HAVE TO STEP ON THE BRAKE; SO THAT'S THE STARTING
23 POINT. IF MRS. UNO NEVER STEPPED ON THE BRAKE, IT NEVER
24 BECOMES AN ISSUE. BUT WE ALSO KNOW THAT THIS IS
25 SOMETHING. THE ISSUE OF BRAKE OVERRIDE -- WE'VE HEARD
26 ABOUT ACTIVATION. WE'VE HEARD ABOUT DEACTIVATION.

27 BUT JUST READ THIS, LADIES AND GENTLEMEN.

28 "WITHOUT KNOWING EXACTLY WHAT THE DRIVER IS

1 DOING, YOU CAN'T SAY WHETHER IN THAT GIVEN CIRCUMSTANCE
2 THE BRAKE OVERRIDE SYSTEM WOULD ACTIVATE OR DEACTIVATE;
3 CORRECT?"

4 "ANSWER: CORRECT. I DON'T THINK ANYONE
5 KNOWS EXACTLY WHAT MRS. UNO WAS DOING AND YOU COULDN'T
6 DETERMINE THAT WITHOUT KNOWING IT."

7 THIS IS PLAINTIFFS' EXPERT. SO WHEN YOU
8 TALK ABOUT SUBSTANTIAL FACTOR -- WAS THE LACK OF BRAKE
9 OVERRIDE A SUBSTANTIAL FACTOR IN THIS CASE -- WHEN YOU
10 TALK ABOUT PLAINTIFFS' EXPERT COMING HERE AND SAYING THE
11 VEHICLE SHOULD HAVE HAD BRAKE OVERRIDE AND IT WOULD HAVE
12 MADE A DIFFERENCE, THEY CAN'T SAY IT, LADIES AND
13 GENTLEMEN. BECAUSE THE QUESTION IS IN THIS CASE WITH
14 MRS. UNO WITH WHAT SHE WAS DOING IN THAT VEHICLE THAT
15 DAY CAN THEY SAY IT WOULD HAVE MADE A DIFFERENCE. AND
16 THEY DON'T EVEN KNOW WHAT SHE WAS DOING.

17 AND AGAIN LOOK AT THIS:

18 "YOU HAVE TESTIFIED THAT IN ORDER TO KNOW
19 WHETHER OR NOT BRAKE OVERRIDE SYSTEMS WOULD ACTIVATE OR
20 DEACTIVATE, YOU WOULD NEED TO KNOW EXACTLY WHAT THE
21 DRIVER WAS DOING, HAVEN'T YOU?

22 "ANSWER: WELL, I BELIEVE --

23 "YES OR NO? HAVE YOU TESTIFIED TO THAT?

24 "WELL, I BELIEVE I HAVE, YES. "

25 THE EVIDENCE IN THIS CASE IS THAT THEY
26 DON'T KNOW EXACTLY WHAT MRS. UNO WAS DOING. IF THEY
27 DON'T KNOW THAT UNDER THEIR OWN TESTIMONY, THEY CAN'T
28 TELL YOU THAT BRAKE OVERRIDE WOULD HAVE MADE A

1 DIFFERENCE. AND WE KNOW FROM THE TESTING THAT
2 MR. HANNEMANN DID HIMSELF THAT HIS -- THAT THE BRAKE
3 OVERRIDE WOULD HAVE CANCELLED IN THE TESTING HE DID.
4 NOT IN EVERY RUN. BUT IN RUNS. AND HE'S NOT IN A
5 POSITION TO TELL YOU, LADIES AND GENTLEMEN, IN A CASE
6 WHERE SOMEONE HAS ASKED YOU TO AWARD THEM \$20 MILLION
7 WHAT MRS. UNO WAS DOING. THAT'S NOT HOW THE SYSTEM
8 WORKS.

9 THE SYSTEM DOESN'T WORK WHERE YOU JUST COME
10 IN HERE AND ASK SOMEONE FOR \$20 MILLION. YOU BRING A
11 COUPLE OF EXPERTS AND THEY TELL YOU IN ORDER TO KNOW
12 WHETHER BRAKE OVERRIDE WOULD HAVE WORKED, YOU NEED TO
13 KNOW EXACTLY WHAT THE DRIVER IS DOING, WHETHER IT WOULD
14 ACTIVATE OR DEACTIVATE. THAT'S JUST NOT HOW IT WORKS.

15 THE BURDEN IS ON THE PLAINTIFFS TO PROVE
16 WHAT IS MORE LIKELY THAN NOT. AND WHEN A PLAINTIFFS'
17 EXPERT COMES IN OR AN EXPERT COMES IN AND SAYS "IN ORDER
18 TO KNOW SOMETHING YOU NEED TO KNOW" -- IN ORDER TO KNOW
19 WHETHER SOMETHING WOULD HAPPEN, WHETHER A SAFETY FEATURE
20 WOULD WORK OR NOT WORK, YOU NEED TO KNOW EXACTLY WHAT
21 THE DRIVER IS DOING. YOU NEED TO KNOW WHAT THE DRIVER
22 IS DOING. AND WHEN THEY DON'T KNOW WHAT THE DRIVER IS
23 DOING, YOU CAN'T CONCLUDE THAT THAT SAFETY FEATURE WOULD
24 HAVE MADE A DIFFERENCE. THERE'S NO CAUSATION.

25 EARLY IN THIS TRIAL WE LEARNED A NUMBER OF
26 THINGS AND THEY COME BACK TO US TODAY. THIS WHOLE CASE
27 IS ABOUT AN ACCIDENT FIRST INVOLVING A CRASH WITH THE
28 BELLO VEHICLE AND THEN ENDING A HALF-MILE DOWNSTREAM AT

1 THE FOOT OF A FOUR-FOOT WIDE TREE.

2 DURING THE COURSE OF THAT ACCIDENT THERE
3 WERE A NUMBER OF PEOPLE JUST REGULAR PEOPLE OUT DOING
4 THEIR DAILY ROUTINE. THEY SAW DIFFERENT PARTS OF THIS
5 ACCIDENT. AND DEPENDING ON THEIR POINT OF VIEW, THEY
6 HAD -- THEY SAW DIFFERENT THINGS. THEY ALL DESCRIBED NO
7 MATTER WHICH PART THEY SAW JUST ORDINARY OBSERVATIONS
8 THAT ANYONE WOULD REPORT BASED ON WHAT THEY SAW. NONE
9 OF THEM HAD ANY STAKE IN THIS CASE. THEY WEREN'T
10 RELATED TO EITHER OF THE PARTIES. AND SO THAT'S WHAT WE
11 HAVE WHEN WE LOOK AT THE WITNESS TESTIMONY. AND WE KNOW
12 FROM THE TESTIMONY THAT MOST OF THOSE PEOPLE SAW THINGS
13 GOING DOWN THE ONE WAY SIDE OF NORTH EUCLID.

14 BUT LET'S START AT 23RD STREET. WE KNOW
15 WHAT HAPPENED THERE. AND THAT IS THE BELLO VEHICLE HIT
16 THE CAMRY. THE CAMRY ROTATED AND CAME DOWN HERE AND
17 STOPPED. AND EVEN MR. HANNEMANN AGREED IT STOPPED. AND
18 THEN THE CAMRY DROVE AWAY. MRS. UNO DROVE AWAY. WE
19 KNOW THAT THE VEHICLE STOPPED AND WE KNOW THAT THERE WAS
20 AN ACCELERATION.

21 WE KNOW THAT IT DIDN'T JUST TAKE OFF LIKE A
22 ROCKET BECAUSE WE KNOW THAT THE POLICE AT THE SCENE,
23 WHEN THEY LOOKED AT THE TIRE MARKS FROM THE SPINNING
24 VEHICLE, FROM THE CAMRY, THAT THE RIGHT FRONT TIRE MARK
25 HAD A HOOK IN IT. AND WE ALSO KNOW THAT THE TIRE MARKS
26 WERE TIRE MARKS MADE BY A VEHICLE THAT WAS NOT UNDER
27 ACCELERATION OR BRAKING.

28 WE UNDERSTAND WHAT OFFICER SELLERS SAID,

1 WHAT DELANEY SAID. BUT KEEP IN MIND, LADIES AND
2 GENTLEMEN, THAT THE EVIDENCE IN THIS CASE IS OFFICER
3 DELANEY HAD NOT TAKEN ANY RECONSTRUCTION COURSE WHEN HE
4 WORKED ON THIS ACCIDENT. HE TOOK THAT RECONSTRUCTION
5 COURSE AFTERWARDS. AND WHEN MR. SMITH LOOKED AT THE
6 TIRE MARKS AND COMPARED THEM TO THE NORTHWEST
7 RECONSTRUCTION MANUAL, HE EXPLAINED TO YOU THAT THESE
8 TIRE MARKS WERE CHARACTERISTIC OF TIRE MARKS THAT WERE
9 MADE BY A VEHICLE THAT WAS NOT UNDER ACCELERATION AND
10 NOT UNDER BRAKING. SO THE VEHICLE WAS NOT ACCELERATING
11 DURING THE SPIN AND NOT BEING BRAKED DURING THE SPIN.

12 AND IN FACT, DR. CARPENTER WHO CAME IN HERE
13 WHO WAS BELLO'S EXPERT -- HE DID THAT COMPUTER RUN
14 BECAUSE HE JUST WANTED TO SEE WHAT THE FORCES WERE ON
15 THE VEHICLE. SO HE PICKED SPEEDS AND FORCES BETWEEN
16 PLAINTIFFS' RECONSTRUCTION AND DEFENSE RECONSTRUCTION
17 AND HE RAN HIS ANIMATION.

18 AND IF YOU WILL REMEMBER, THE ANIMATION HAD
19 THE VEHICLE SPINNING, COMING TO AN END AND THEN GOING
20 BACKWARDS. THAT'S EXACTLY WHAT DR. SMITH TESTIFIED TO.
21 AND DR. CARPENTER EVEN NOTED THAT IN HIS S.M.A.C. RUN,
22 THE COMPUTER RUN, HE GOT A HOOK ON THE TIRE MARK. JUST
23 LIKE THE POLICE GOT WHEN THEY SURVEYED THE --

24 MR. MARDIROSSIAN: YOUR HONOR, I KNOW WE'RE NOT
25 SUPPOSED TO BE OBJECTING DURING CLOSING, BUT COUNSEL IS
26 MISSTATING A LOT OF THE EVIDENCE, AND I OBJECT.

27 THE COURT: WE'RE GOING TO HAVE TO COUNT ON THE
28 JURY TO REMEMBER THE TESTIMONY.

1 MR. GALVIN: WHEN THE POLICE OFFICERS SURVEYED
2 THIS SCENE, THERE WERE HOOK MARKS ON THE RIGHT FRONT
3 TIRE, TIRE MARK. THAT'S IN EVIDENCE. THE POLICE SURVEY
4 IS IN EVIDENCE, LADIES AND GENTLEMEN. YOU CAN LOOK AT
5 IT. AND YOU CAN ASK TO GET THE TESTIMONY OF
6 MR. CARPENTER ABOUT HIS COMPUTER RUN.

7 DR. CARPENTER WASN'T A RECONSTRUCTIONIST,
8 BUT HE RAN A RECONSTRUCTION PROGRAM TO GET FORCES ON THE
9 VEHICLE. SO WE HAVE THE VEHICLE COMING TO A STOP AND
10 THEN DRIVING, MAKING TWO RIGHT TURNS TO GET ONTO 23RD
11 AND TO THEN TAKE ANOTHER TURN ON 23RD. AND THE CAR IS
12 NOT TAKING OFF.

13 EVEN MR. HANNEMANN'S TESTIMONY WAS THAT
14 WHEN IT LEFT THE SCENE OF THE BELLO CRASH AND WENT
15 AROUND ONTO EUCLID, IT WASN'T UNTIL IT GOT ONTO EUCLID
16 AND STRAIGHTENED OUT AND AFTER THE PERCEPTION REACTION
17 PERIOD THAT SHE WAS UP TO 36 MILES PER HOUR. SO WE
18 DON'T HAVE A ROCKET TAKING OFF FROM THE END OF THE BELLO
19 CRASH.

20 MRS. UNO THEN MAKES THE TURN, AND SHE MAKES
21 THE TURN FROM THE SOUTHERN MOST PART OF 23RD BECAUSE
22 THAT'S WHAT THE WITNESSES SAY. MR. WUNSCH SAYS THAT.
23 SHE MAKES THE TURN ONTO NORTHBOUND EUCLID, BUT SHE'S
24 GOING SOUTHBOUND AND SHE GETS INTO THAT LANE RIGHT ALONG
25 THE MEDIAN THAT FIRST LANE.

26 MR. MARDIROSSIAN: THIS IS ALL CUMULATIVE. WE'VE
27 HEARD THIS A FEW TIMES YESTERDAY.

28 THE COURT: THE OBJECTION IS OVERRULED.

1 MR. GALVIN: AND SHE STAYED IN THAT LANE. SHE
2 STAYED IN THAT LANE. SHE GOT HERSELF SET UP IN THAT
3 LANE AND SHE STARTED DRIVING SOUTH THE WRONG WAY. THE
4 WRONG WAY ON A ONE-WAY STREET. SHE'S GOING THE WRONG
5 WAY AGAINST TRAFFIC. THIS IS NOT NORMAL. THIS IS NOT
6 NORMAL DRIVING BEHAVIOR. THERE'S SOMETHING WRONG. NO
7 ONE HAS EVER EXPLAINED WHY SHE WENT RIGHT THERE. SHE
8 COULD HAVE JUST STOPPED AT 23RD STREET. THIS COMMENT
9 YOU HEARD YESTERDAY ABOUT CHILDREN PLAYING -- THERE'S NO
10 EVIDENCE OF CHILDREN PLAYING. THERE'S NO EVIDENCE OF
11 TRAFFIC COMING. THERE'S NO EVIDENCE OF TRASH CANS THAT
12 SHE'S TRYING TO AVOID. THERE'S NO EVIDENCE OF ANYTHING
13 OTHER THAN THE FACT THAT SHE LEFT THE SCENE OF THE BELLO
14 CRASH AND SHE TURNED RIGHT AND RIGHT AND WENT THE WRONG
15 WAY DOWN A ONE-WAY STREET.

16 AND SHE DOES THIS FOR HALF A MILE. AND
17 ANYONE WHO SAW MRS. UNO DURING THAT HALF A MILE ALL SAY
18 PRETTY MUCH THE SAME THING. THEY TELL US WHAT THEY SAW.
19 AND WHAT DO THEY TELL US? SHE'S STARING STRAIGHT AHEAD.
20 HER HANDS ARE ON THE WHEEL. SHE'S SITTING UPRIGHT.
21 SHE'S NOT WRITHING OR WIGGLING AROUND. SHE'S NOT TRYING
22 TO -- THERE'S NO INDICATION SHE'S TRYING TO PULL HER
23 FOOT OUT. SHE'S NOT WAVING HER HANDS. SHE'S NOT
24 BANGING ON THE HORN. SHE'S NOT BLINKING HER LIGHTS.
25 SHE'S LOOKING STRAIGHT AHEAD.

26 MRS. PEEPLES SAID SHE LOOKED LIKE SHE
27 DIDN'T KNOW WHAT WAS GOING ON. SHE HAD -- MS. PEEPLES
28 SAID HER HANDS WERE AT 10:00 AND 2:00 AND SHE WAS

1 SITTING STRAIGHT UP JUST DRIVING AHEAD LIKE SHE DIDN'T
2 KNOW WHAT WAS GOING ON. AND, LADIES AND GENTLEMEN, THE
3 TRAFFIC MOVED OUT OF HER WAY.

4 THERE'S NO EVIDENCE THAT ANYONE SAW HER
5 ACTUALLY STEERING THE WHEEL. WHAT THE EVIDENCE IS IS
6 THAT THERE WAS VEHICLE BEHAVIOR WITH THE VEHICLE VEERING
7 IN DIFFERENT DIRECTIONS. AND THERE'S AN EXPLANATION FOR
8 THAT VEHICLE BEHAVIOR. THE FIRST VEHICLE BEHAVIOR --
9 WELL, NUMBER 1 IS THAT IF YOU ARE NOT STEERING,
10 ACCORDING TO WHAT PLAINTIFFS SAY, THEN THE CROWN OF THE
11 ROAD IS GOING TO CAUSE YOU TO GO TO THE RIGHT.

12 SO PERHAPS THAT'S THE EXPLANATION FOR WHEN
13 SHE GETS OFF ROAD IN FRONT OF THE FIRST POLE. BUT SHE
14 GETS OFF THE ROAD. SHE HITS THE POLE. THEN SHE HITS
15 POLE NUMBER 2. AND WHEN SHE HITS POLE NUMBER 2, THE
16 RIGHT SIDE BACK OF THE CAR, THE SIT PILLAR AREA BEHIND
17 THE BACK DOOR, HITS THE POLE. YOU SAW THAT. YOU SAW IT
18 GOES UP ABOVE 46 INCHES WHERE YOU SAW THE IMPACT, AND
19 THAT CAUSES THE REAR-END TO SWING OUT, WHICH IN AFFECT
20 IF YOU ARE LOOKING AT THE VEHICLE FROM DOWN AT 21ST
21 STREET, THAT GIVES THE APPEARANCE THAT THE VEHICLE IS
22 GOING TO THE RIGHT BECAUSE THE REAR END IS SWINGING OUT
23 TO THE LEFT AND THE FRONT IS GOING TO THE RIGHT. AND
24 THAT'S WHEN THE VEHICLE STARTS GOING DOWN TOWARDS 21ST
25 STREET WITH THE REAR END ROTATING AROUND TO THE LEFT AND
26 THEN IT SHOOTS DOWN THE ROAD, GOES OFF AND INTO THE
27 MEDIAN SOUTH OF 21ST STREET.

28 SO IF YOU WERE LOOKING UP, IF YOU WERE

1 LOOKING UP THAT WAY LIKE THE PEOPLE AT 22ND STREET, YOU
2 WOULD SEE A VEHICLE THAT IS VEERING TO THE RIGHT. AND
3 IF YOU WERE MR. EPPERSON, YOU WOULD SEE A VEHICLE THAT
4 IS VEERING TO THE RIGHT. BUT TO SAY THAT IS PURPOSEFUL
5 STEERING BY SOMEONE WHO IS DRIVING THE WRONG WAY ON A
6 STREET WHERE PEEPLES DESCRIBES HER AS LOOKING LIKE SHE
7 DOESN'T KNOW WHAT IS GOING ON, I DON'T THINK IT'S
8 ACCURATE. BUT IF WE SAY THAT THE VEHICLE BEHAVIOR HAD
9 THE VEHICLE DOING THIS AND THAT, THAT IS ACCURATE. BUT
10 TO SUGGEST THAT MRS. UNO WAS STEERING AND CONSCIOUSLY
11 DOING THINGS IS NOT ACCURATE.

12 AT THAT POINT MRS. UNO LIKELY DIDN'T KNOW
13 WHAT WAS GOING ON. SHE LIKELY DIDN'T KNOW WHAT WAS
14 GOING ON. AND WE KNOW THAT THE PLAINTIFF'S EXPERTS
15 DON'T KNOW WHAT IS GOING ON BECAUSE LOOK WHAT THEY SAY.
16 AND WE'RE TALKING ABOUT THIS HALF-MILE TRACK FROM 23RD
17 DOWN TO POLE NUMBER 1 AND THEN TO THE BIG TREE.

18 THIS IS MR. HILLE. LOOK AT THIS. READ
19 THIS FOR A SECOND. THE QUESTION IS: THE PLAINTIFFS
20 SUGGEST THAT MRS. UNO WAS DOING ALL THESE DIFFERENT
21 THINGS GOING DOWN THE ROAD. WE HAVE MR. HANNEMANN'S
22 TESTING WHERE HE TALKS ABOUT PERCENTAGES OF BRAKE,
23 PERCENTAGES OF GAS.

24 "SO, MR. HILLE, MY QUESTION IS A LITTLE
25 BROADER. YOU DON'T THINK ANYBODY CAN GET A PERCENTAGE
26 OF ACCELERATION PEDAL DEPRESSION AT ANY POINT IN THIS --

27 "THE WITNESS: AS I SAID, AT THE BELLO
28 COLLISION I'VE ALREADY TOLD YOU 50 TO 70 PERCENT. SO

1 THAT IS A POINT DURING THIS WHOLE COLLISION. I'VE GIVEN
2 YOU MY BEST ESTIMATE OF THE PERCENTAGE OF TRAVEL,"
3 MEANING ACCELERATOR PEDAL.

4 "QUESTION: OKAY. AFTER THAT? AFTER THE
5 BELLO ACCIDENT?

6 "OKAY. AFTER THAT? THE ANSWER IS.

7 "QUESTION: AFTER THAT YOU DON'T THINK
8 ANYBODY CAN GIVE A PERCENTAGE OF ACCELERATOR PEDAL
9 DEPRESSION AT ANY POINT IN THIS EVENT?

10 "ANSWER: PRECISELY NO.

11 "IN FACT, YOU THINK THERE ARE JUST TOO MANY
12 VARIABLES TO SPECIFY THE PERCENTAGE OF THROTTLE?

13 "ANSWER: DURING THE RUN DOWN NORTH EUCLID,
14 YES, I WOULD AGREE WITH THAT."

15 THAT'S MR. HILLE -- ONE OF THE PLAINTIFFS'
16 EXPERTS. HE AGREES THAT THERE'S JUST TOO MANY VARIABLES
17 TO SPECIFY THE PERCENTAGE OF ACCELERATOR PEDAL THROTTLE.
18 THERE'S TOO MANY VARIABLES. THEY DON'T KNOW. THIS GOES
19 TO THE POINT THE BURDEN OF PROOF. PLAINTIFF HAS THE
20 BURDEN OF PROOF TO PROVE WHAT IS MORE LIKELY THAN NOT,
21 AND THEY DON'T KNOW.

22 MR. HANNEMANN -- READ THIS. IT'S MORE OF
23 THE SAME. WITH RESPECT TO PEDAL MISAPPLICATION. IT'S
24 ANOTHER THING THAT DOESN'T RULE OUT THAT THERE COULD BE
25 SOME PEDAL MISAPPLICATION AT SOME OTHER LOCATION ALONG
26 NORTH EUCLID IN THE SOUTHBOUND DIRECTION. AND THAT IS
27 APROPOS TO THIS.

28 MR. HANNEMANN SAID THAT IF YOU STEPPED ON

1 THE GAS AT 23RD AND PUT IT TO THE FLOOR, YOU WOULD BE
2 GOING OVER 100 MILES AN HOUR AT THE POLE, SO, THEREFORE,
3 THERE WASN'T PEDAL MISAPPLICATION. SO THEREFORE HE SAID
4 SHE COULDN'T HAVE DONE PEDAL MISAPPLICATION BECAUSE IF
5 SHE JUST SLAMMED ON THE -- AT THE INTERSECTION OF 23RD
6 SHE WOULD HAVE BEEN GOING TOO FAST.

7 "BUT THAT DOESN'T RULE OUT THAT THERE COULD
8 BE SOME PEDAL MISAPPLICATION AT SOME OTHER LOCATION
9 ALONG NORTH EUCLID IN THE SOUTHBOUND DIRECTION?

10 "ANSWER: THAT'S CORRECT. AND I BELIEVE
11 THAT IS THE DEFENSE POSITION. TOYOTA'S POSITION.

12 "BUT YOU AGREE THAT JUST BECAUSE YOU RULE
13 OUT PEDAL MISAPPLICATION FROM 23RD STREET TO POLE NUMBER
14 1 DOESN'T MEAN THAT THERE COULDN'T BE PEDAL
15 MISAPPLICATION AT SOME OTHER LOCATION ALONG NORTH
16 EUCLID; CORRECT?

17 "ANSWER: THAT IS CORRECT. ALTHOUGH IF YOU
18 LOOK AT THE LIKELIHOOD OF PEDAL MISAPPLICATION, IT WOULD
19 MOST LIKELY HAVE STARTED AT THE FIRST IMPACT. BUT WE
20 KNOW THAT DIDN'T HAPPEN BECAUSE SHE DIDN'T TAKE OFF LIKE
21 A ROCKET FROM THE FIRST IMPACT. THERE'S NO PHYSICAL
22 EVIDENCE OF THAT, AND IT'S NOT CONSISTENT WITH HIS OWN
23 TESTIMONY.

24 SO PEDAL MISAPPLICATION IS AN EXPLANATION
25 FOR WHAT HAPPENED WITH MRS. UNO AND THEY AGREE. AND IT
26 DOESN'T HAVE TO HAVE STARTED FROM THE INTERSECTION OF
27 23RD STREET. MR. HANNEMANN AGAIN.

28 "YOU AGREE THAT IT IS POSSIBLE THAT

1 MRS. UNO COULD HAVE GONE AROUND THE CORNER, ACCELERATED
2 UP TO 35 MILES PER HOUR AND THEN THERE'S A POINT AT
3 WHICH IF SHE GOES FULL THROTTLE, SHE WILL HIT THE POLE,
4 POLE NUMBER 1, AT 80 TO 90 MILES PER HOUR?

5 "YES, THAT'S POSSIBLE."

6 SO, LADIES AND GENTLEMEN, THAT'S WHAT
7 HAPPENED GOING DOWN NORTH EUCLID. PLAINTIFFS DON'T KNOW
8 WHAT HAPPENED. THEY DON'T KNOW WHAT THE PERCENTAGE OF
9 THROTTLE ARE. BUT THEY AGREE THAT PEDAL MISAPPLICATION
10 COULD OCCUR AND IT DOESN'T HAVE TO START AT 23RD STREET.

11 LADIES AND GENTLEMEN, THIS IS A CASE OF
12 DRIVER ERROR. THIS IS A DRIVER PROBLEM, NOT A CAR
13 PROBLEM. MRS. UNO'S OVERALL BEHAVIOR OVER THE COURSE OF
14 THIS ACCIDENT SEQUENCE TELLS US THAT THERE WAS SOMETHING
15 WRONG WITH HER. THERE WAS NOTHING WRONG WITH THE
16 VEHICLE. SHE STOPPED BUT DIDN'T STAY AT 23RD STREET.
17 SHE TOOK OFF AND DROVE AWAY THE WRONG WAY DOWN A ONE-WAY
18 STREET.

19 SHE KEPT DRIVING STRAIGHT AHEAD AND
20 PROGRESSIVELY WENT FASTER AND FASTER. THIS ALL SPEAKS
21 TO THE FACT THAT THERE'S A DRIVER PROBLEM. SHE WAS
22 OBVIOUSLY CONFUSED. SHE WAS OBVIOUSLY DISORIENTED. AND
23 WE KNOW, LADIES AND GENTLEMEN, THAT SHE HAD MEDICAL
24 PROBLEMS THAT EXPLAIN DISORIENTATION. WE KNOW THAT.
25 SHE HAD DIABETES. SHE HAD HYPOGLYCEMIA DUE TO THE
26 MEDICATION SHE WAS NEWLY ON AND ADJUSTING TO. WE KNEW
27 SHE HAD ENCEPHALOPATHY.

28 AND YOU KNOW WHAT, LADIES AND GENTLEMEN?

1 JEFFREY KNEW. MR. UNO KNEW. JEFFREY WAS THE FIRST ONE
2 WHO RAISED IT. HE RAISED IT WITH THE POLICE OFFICER.
3 HE SAID TO THE POLICE OFFICER APPROXIMATELY ONE MONTH
4 AGO HIS MOTHER HAD A BLOOD SUGAR DROP TO ABOUT 83. AT
5 THAT TIME SHE SEEMED A LITTLE CONFUSED. AND THEN HE
6 SAID "BUT THERE WAS NOTHING THAT WOULD HAVE AFFECTED HER
7 DRIVING." AND MRS. UNO HAD NO PROBLEMS THAT JEFFREY WAS
8 AWARE OF REGARDING HER HEALTH OR TAKING HER MEDICATIONS.

9 BUT THE POINT IS IS THAT SOON AFTER THIS
10 ACCIDENT IN TRYING TO SORT THROUGH WHAT IS GOING ON HER
11 OWN SON BELIEVED THAT THERE WAS SOME CONNECTION BETWEEN
12 HER LOW BLOOD SUGAR, HER BLOOD SUGAR OF 83, CONFUSION
13 AND FORGETFULNESS THAT HE HAD REPORTED TO THE DOCTORS
14 BEFORE AND THIS ACCIDENT. THAT WASN'T SOMETHING THAT WE
15 MADE UP.

16 AND COME TO FIND OUT JEFFREY KNEW THAT
17 MRS. UNO HAD MANY PROBLEMS. THIS IS DR. AQEEL'S REPORT.
18 THE HISTORY THAT SHE GOT WAS MAINLY FROM JEFFREY. AND
19 WE KNOW FROM THE TESTIMONY THAT JEFFREY WAS ONE OF THE
20 PEOPLE THAT WENT TO THE DOCTOR TO HELP TRANSLATE AND
21 EXPLAIN THINGS.

22 WE KNOW THAT IN TERMS OF WHAT THEY TOLD
23 DR. AQEEL THAT SHE HAD FORGETFULNESS AND CONFUSION OFF
24 AND ON -- OFF AND ON NOT JUST ONE BURNING A POT. NOW,
25 LADIES AND GENTLEMEN, YOU CAN'T SAY JUST BECAUSE YOU
26 BURN FOOD THAT THAT'S IT. IF THAT'S IT, THEN WHY ARE
27 YOU TELLING IT TO THE DOCTOR?

28 EVERYONE SITTING HERE KNOWS -- EVERYONE

1 KNOWS THAT IF YOU HAVE LOVE ONES YOU'VE LIVED WITH YOUR
2 WHOLE LIFE, YOU KNOW WHEN SOMETHING IS OFF. AND IF
3 THERE'S SOMETHING OFF AND YOU GO TO THE DOCTOR AND YOU
4 ARE GIVING A HISTORY TO THE DOCTOR THAT THE DOCTOR IS
5 TREATING YOU, YOU ARE GOING TO TELL THEM WHAT YOU THINK
6 IS SIGNIFICANT.

7 SO COMING IN HERE NOW AFTER THEY FILE A
8 LAWSUIT AND SAY "OH, IT WAS JUST BURNING FOOD ON THE
9 STOVE," THAT'S NOT CREDIBLE. IF YOU'RE BRINGING YOUR
10 MOM TO THE DOCTOR AND SHE'S GOT ENCEPHALOPATHY, SHE'S
11 GOT DIABETES, SHE'S NOT IN GOOD SHAPE, YOU ARE GOING TO
12 TELL THE DOCTORS EVERYTHING YOU THINK THAT RELATES TO
13 THAT. SO I DON'T BUY THAT THIS WAS JUST FORGETFULNESS
14 AND CONFUSION BECAUSE SHE BURNED FOOD.

15 AND WE KNOW IN 2007 THAT SHE HAD
16 ENCEPHALOPATHY. THE DOCTORS THAT CAME HERE FOR
17 PLAINTIFFS NEVER EVEN TOLD YOU THIS. SHE HAD
18 ENCEPHALOPATHY. SHE HAD AMMONIA IN HER BLOOD DUE TO HER
19 LIVER PROBLEMS. WE KNOW THAT THE AMMONIA HAD BAD
20 EFFECTS ON THE BRAIN. AND WE KNOW THAT HAVING
21 ENCEPHALOPATHY IN 2007, THE DOCTORS HAVE EXPLAINED, IT
22 DOESN'T GET BETTER. IT GETS WORSE.

23 AND WE ALSO KNOW THAT BOTH MR. UNO AND
24 JEFFREY KNEW ABOUT IT BECAUSE WHEN THE DOCTORS SAID SHE
25 HAD ENCEPHALOPATHY HER HUSBAND AND SON WERE AT THE
26 BEDSIDE. SO NOT ONLY DID JEFFREY KNOW IT ON THAT DAY
27 WHEN HE TALKED TO THE POLICE OFFICER, WHEN HE EXPLAINED
28 TO YOU, LADIES AND GENTLEMEN, WHAT HE WAS SAYING AND HOW

1 THE POLICE OFFICER GOT IT ALL SCREWED UP, THAT THE
2 POLICE OFFICER DOESN'T KNOW ABOUT DIABETES, JEFFREY TOLD
3 YOU HE WAS TALKING ABOUT ENCEPHALOPATHY BECAUSE WHEN HE
4 LOOKED ENCEPHALOPATHY UP IN THE MEDLINE ON THE INTERNET,
5 HE SAW THAT IT CAUSES CONFUSION AND FORGETFULNESS.
6 THAT'S WHAT HE SAID; SO WHETHER IT'S HYPOGLYCEMIA ON
7 THAT DAY OF THE CRASH OR ENCEPHALOPATHY, MRS. UNO HAD
8 TWO DIAGNOSED MEDICAL CONDITIONS THAT EXPLAINED THIS ODD
9 AND UNUSUAL BEHAVIOR WHEN SHE LEFT THE SCENE OF THE
10 CRASH AND DROVE THE WRONG WAY DOWN THE STREET.

11 WE ALSO HAVE LAB REPORTS THAT SHOW THE
12 AMMONIA IN HER BLOOD ABOVE THE LIMIT. LET'S SEE WHAT
13 DR. AQEEL SAYS BECAUSE DR. AQEEL AT HER DEPOSITION SAID
14 ONE THING AND THEN CAME HERE AND SAID SOMETHING ELSE.
15 JEFFREY TOLD HER SHE HAD FORGETFULNESS AND CONFUSION OFF
16 AND ON.

17 YES. THOSE WERE THE WORDS HE USED:
18 FORGETFULNESS AND CONFUSION. SO WITH RESPECT TO WHAT
19 HER BLOOD SUGAR LEVEL NEEDED TO BE --

20 "QUESTION: SO IN TERMS OF WHAT YOU WOULD
21 HAVE TOLD MRS. UNO, ISN'T IT TRUE THAT WHAT YOU WOULD
22 HAVE TOLD HER IS TO HAVE HER BLOOD SUGAR DEFINITELY
23 ABOVE 100 AND BETWEEN 110 AND 150 WOULD BE ACCEPTABLE?

24 "YES, FOR SAFETY SAKE, WHEN I START
25 PATIENTS ON INSULIN, THAT'S WHAT I TELL MOST PATIENTS."
26 SHE HAD STARTED HER ON INSULIN. THAT'S WHAT SHE TOLD
27 HER. THAT'S WHAT SHE TOLD US AT HER DEPOSITION. YOUR
28 INSTRUCTIONS TO MRS. UNO WOULD HAVE BEEN IF HER BLOOD

1 SUGAR WAS BELOW 110, SHE SHOULD HAVE CALLED YOUR OFFICE
2 TO RELAY THIS INFORMATION AND SEEK CORRECTION; RIGHT?

3 "YES."

4 ON THE DAY OF THE CRASH, MRS. UNO'S BLOOD
5 SUGAR WAS 83. IS IT A COINCIDENCE THAT JEFFREY REPORTED
6 TO THE POLICE ABOUT A MONTH OR SO AGO IT WAS 83 AND SHE
7 WAS CONFUSED? IS IT A COINCIDENCE THAT DR. AQEEL TELLS
8 US THAT IT SHOULD BE BETWEEN 110 AND 150, AND DURING THE
9 MONTH BEFORE THE ACCIDENT, MRS. UNO HAD MUCH DIFFICULTY
10 GETTING IT IN THAT RANGE. IT WAS WHEN SHE CAME TO TRIAL
11 HERE THAT NOW ALL OF A SUDDEN IT'S 70 TO 150.

12 THE PROBLEM IS THAT MRS. UNO WAS ON
13 MEDICATION -- THE GLYBURIDE AND INSULIN. AND BECAUSE OF
14 HER LIVER PROBLEM, IT WAS NOT USING UP THE GLYBURIDE AND
15 INSULIN BECAUSE HER BODY WASN'T USING IT UP. SO IT WAS
16 TAKING LONGER TO DISAPPEAR.

17 SO WHEN DR. TAYEK TALKS TO YOU ABOUT THE
18 HALF LIFE AND IT WOULDN'T BE THERE, THAT'S NOT TRUE. HE
19 DIDN'T EVEN FACTOR IN THE LIVER PROBLEM AND THE FACT
20 THAT IT WASN'T METABOLIZING. SHE HAD A PROBLEM WITH
21 BLOOD SUGAR. AND HER OWN RECORDS TELL US THAT. THE
22 RECORD FOR THAT MORNING OF 83 TELLS US THAT. AND IT'S
23 JEFFREY THAT TOLD US THAT BEFORE THIS ACCIDENT AT 83 HIS
24 MOTHER HAD CONFUSION.

25 AND, LADIES AND GENTLEMEN, AT DEPOSITION WE
26 HEAR THAT MRS. UNO HAD BREAKFAST, BUT NO ONE KNOWS WHAT
27 IT WAS. SHE JUST HAD A BOWL AND CHOPSTICKS AND MR. UNO
28 DIDN'T KNOW WHAT IT WAS. AT DEPOSITION JEFFREY SAID SHE

1 HAD LEFTOVERS. AND AT TRIAL HE COMES IN AND SAYS "WELL,
2 I HAD STEAK, POTATOES AND RICE AND SHE ATE SOME OF MY
3 LUNCH."

4 WELL, CERTAINLY AT DEPOSITION IT SOUNDS
5 LIKE LEFTOVERS, AND BY THE TIME HE GETS TO TRIAL, IT
6 SOUNDS LIKE A THREE-COURSE MEAL.

7 THERE WAS A PROBLEM WITH MRS. UNO AND HER
8 BEHAVIOR DESCRIBES THIS. THE DOCTORS HAVE EXPLAINED
9 THAT WITH THE CONDITION SHE HAD, SHE COULD BE
10 COGNITIVELY IMPAIRED. AND WHETHER IT HAPPENED AT
11 SOMEPLACE ON THE ROUTE OR AFTER THE BELLO IMPACT, WE
12 KNOW THAT SHE DID -- HER CONDUCT MAKING TWO RIGHT TURNS
13 AND GOING THE WRONG WAY IN TRAFFIC IS NOT NORMAL.

14 AND, IN FACT, THERE'S A WORD FOR IT.
15 THERE'S PEDAL MISAPPLICATION. AND WE TALKED ABOUT THAT.
16 WE TALKED ABOUT IT WITH DR. YOUNG. THERE ARE
17 SITUATIONAL FACTORS. AND THE ONE THAT APPLIED TO HER IS
18 UNEXPECTED EVENTS. AND THERE ARE MEDICAL CONDITIONS
19 THAT ARE CHARACTERISTICS OF DRIVERS WHO EXPERIENCE PEDAL
20 MISAPPLICATION. WE HAVE MEDICATION, SENSORY DEFICITS,
21 COGNITIVE DYSFUNCTION, TWO-FOOTED DRIVERS.

22 WE HAVE THE MEDICAL CONDITIONS. WE HAVE
23 HER PROBABLE HYPOGLYCEMIA THAT DR. SCHWARTZ TESTIFIED
24 ABOUT. WE HAVE THE COGNITIVE EFFECT OF HER LIVER
25 PROBLEMS AND THE HYPOGLYCEMIA THAT DR. CASSINI TALKED
26 ABOUT. WE ALSO HAVE A SITUATION WHERE NOW SHE'S TURNED
27 THE WRONG WAY DOWN A ONE-WAY STREET AND SHE'S CONFRONTED
28 WITH TRAFFIC. AND SHE'S GOING TO BECOME HYPERVIGILANT,

1 AND SHE CAN STEP ON THE GAS WHEN SHE INTENDS TO STEP ON
2 THE BRAKE, IF THAT'S WHAT HAPPENS.

3 SO WE HAVE UNDERLYING MEDICAL CONDITIONS
4 THAT EXPLAIN AND KIND OF ACCOUNT FOR PEDAL
5 MISAPPLICATION, AND WE ALSO HAVE A SITUATION WHERE IF
6 SHE'S SETTING ASIDE THOSE MEDICAL CONDITIONS, IF SHE'S
7 NOW GOING THE WRONG WAY DOWN A STREET AND SHE'S
8 CONFRONTED WITH SOMETHING, SHE CAN HIT THE WRONG PEDAL.
9 AND THE ISSUE -- AND DR. YOUNG EXPLAINED THAT. THE
10 ISSUE IS YOU CAN'T PARSE IT OUT SO MANY FEET DOWN THE
11 ROAD AND SO MANY SECONDS DOWN THE ROAD. IT HAPPENED AND
12 HE'S NOT ABLE TO REALLY PRECISELY SAY WHERE IT HAPPENED.

13 AND WE SEE FROM WHAT EVEN MR. HANNEMANN
14 AGREED. SHE COULD HAVE COME AROUND THAT CORNER AT 35,
15 36, GOTTEN UP TO 35 AND 36, AND AT SOME POINT SHE COULD
16 HAVE STEPPED ON IT AND GOTTEN INTO POLE NUMBER 1 AT 80
17 TO 90, WHICH IS WHAT SHE WAS AT BY PEDAL MISAPPLICATION.
18 SO WE'VE GOT A SITUATION WHERE PEDAL MISAPPLICATION --
19 PEDAL MISAPPLICATION IS A KNOWN CAUSE OF EVENTS LIKE
20 THIS.

21 MR. MARDIROSSIAN: EXCUSE ME, YOUR HONOR. THERE'S
22 NO EVIDENCE OF O.S.I.'S OF EVENTS LIKE THIS. THIS IS
23 COMPLETELY OUT OF BOUNDS.

24 MR. GALVIN: I THOUGHT THE EVIDENCE WAS UNINTENDED
25 ACCELERATION.

26 MR. MARDIROSSIAN: PEDAL MISAPPLICATION IS WHAT
27 COUNSEL JUST SAID. THERE'S NO EVIDENCE OF THAT.

28 THE COURT: THE OBJECTION IS SUSTAINED.

1 MR. GALVIN: PEDAL MISAPPLICATION OCCURS WHEN
2 DRIVER'S HAVE CERTAIN FACTORS -- ARE IN CERTAIN
3 SITUATIONS AND HAVE CERTAIN CHARACTERISTICS. AND THAT'S
4 WHAT HAPPENED HERE. AND WHEN YOU LOOK AT HER DRIVING
5 BEHAVIOR AND YOU LOOK AT THE FACTS OF THIS ACCIDENT,
6 IT'S EASY TO SEE THAT. THIS WAS AN ACCIDENT. IT WAS
7 NOT A DEFECT IN THIS VEHICLE. A DEFECT DIDN'T CAUSE
8 THIS ACCIDENT. BRAKE OVERRIDE WOULD NOT HAVE MADE A
9 DIFFERENCE IN THIS ACCIDENT. THIS IS NOT -- THIS IS
10 SIMPLY AN ACCIDENT THAT WAS THE RESULT OF PEDAL
11 MISAPPLICATION, PEDAL ERROR, BY THIS DRIVER, MRS. UNO.

12 HAD SHE STEPPED ON THE BRAKES AT ANY TIME
13 FROM BELLO CRASH GOING DOWN NORTH EUCLID WHEN SHE WAS
14 GOING DOWN THE WRONG WAY, THIS VEHICLE WOULD HAVE
15 STOPPED. IT WOULD HAVE DONE EXACTLY WHAT SHE TOLD IT TO
16 DO. IT WOULD HAVE STOPPED. JUST LIKE EVERY TIME SHE
17 STEPPED ON THE BRAKES FOR THE THREE OR SO YEARS SHE
18 OWNED THIS VEHICLE, THE VEHICLE WOULD HAVE STOPPED. BUT
19 THIS TIME SHE DIDN'T DO THAT.

20 PLAINTIFFS HAVE TO PROVE THEIR CASE. THEY
21 HAVE A BURDEN OF PROOF. THEY HAVEN'T PROVED IT. THEY
22 HAVEN'T SUSTAINED THEIR BURDEN. THEY HAVEN'T
23 ESTABLISHED ALL THE LITTLE ELEMENTS THEY NEED TO PROVE
24 ON THIS CASE UNDER THESE FACTS. THEY'RE NOT ENTITLED TO
25 A VERDICT AGAINST TOYOTA AT ALL. ZERO.

26 AND WHEN WE TALKED ABOUT THIS TRIAL AND WE
27 TALKED ABOUT BEING JURORS IN THIS CASE, THE QUESTION WAS
28 IF PLAINTIFFS DIDN'T PROVE THEIR CASE, WOULD YOU HAVE

1 ANY PROBLEM TELLING THEM THEY DON'T GET ANYTHING FROM
2 TOYOTA? AND EVERY ONE OF YOU SAID, NO, YOU WOULDN'T.

3 THEY HAVEN'T PROVED THEIR CASE. THEY ARE
4 NOT ENTITLED TO A DOLLAR FROM TOYOTA. AND NOT ONLY
5 THAT, PLAINTIFFS WANT PUNITIVE DAMAGES AGAINST TOYOTA.
6 AND WE TALKED YESTERDAY ABOUT THE E-MAIL THAT THEY WERE
7 BASING THAT ON. BUT LET'S LOOK AT THE INSTRUCTIONS
8 BECAUSE TO GET PUNITIVE DAMAGES THERE'S A HIGHER BURDEN,
9 A HIGHER BURDEN, A HIGHER LAW THEY HAVE TO COMPLY WITH.

10 AND THAT IS, THEY HAVE TO PROVE THEIR CASE
11 FOR PUNITIVE DAMAGES BY CLEAR AND CONVINCING EVIDENCE.
12 THEY HAVE CERTAIN -- CERTAIN FACTS MUST BE PROVED BY
13 CLEAR AND CONVINCING EVIDENCE WHICH IS A HIGHER BURDEN
14 OF PROOF. THIS MEANS THE PARTY MUST PERSUADE YOU THAT
15 IT'S HIGHLY PROBABLE THAT THE FACT IS TRUE. I WILL TELL
16 YOU SPECIFICALLY WHICH FACTS MUST BE PROVED BY CLEAR AND
17 CONVINCING EVIDENCE.

18 AND THEN THE INSTRUCTION THAT APPLIES TO IT
19 IS 3945, AND YOU WILL GET THAT IN THE JURY ROOM. AND
20 WHAT THEY HAVE TO PROVE IS THEY HAVE TO PROVE THE
21 CONDUCT WAS MALICIOUS, IT WAS OPPRESSION AND IT WAS
22 FRAUD.

23 MR. MARDIROSSIAN: THAT MISSTATES THE LAW, YOUR
24 HONOR. IT'S NOT "AND." IT'S "OR."

25 THE COURT: THE COURT WILL INSTRUCT ON THE LAW,
26 AND YOU WILL FOLLOW THE INSTRUCTIONS AS YOU ARE GIVEN BY
27 THE COURT.

28 MR. GALVIN: AND WHAT YOU SHOULD ALSO SEE, LADIES

1 AND GENTLEMEN, YOU WILL SEE ON THE INSTRUCTIONS THIS
2 CONCEPT OF PUNITIVE DAMAGES. "PUNITIVE DAMAGES MAY NOT
3 BE AWARDED TO PETER UNO OR JEFFREY UNO FOR THEIR
4 PERSONAL LOSS OF NORIKO UNO'S LOVE, COMPANIONSHIP,
5 COMFORT, CARE, ASSISTANCE, PROTECTION, AFFECTION,
6 SOCIETY OR MORAL SUPPORT OR FOR THEIR OWN PERSONAL
7 GRIEF, SORROW OR SUFFERING ASSOCIATED WITH THE DEATH OF
8 NORIKO UNO." SO THAT'S NOT WHAT THE PUNITIVE DAMAGE IS
9 ABOUT. IT'S ABOUT THE THOUSAND DOLLARS IN PROPERTY
10 DAMAGE.

11 MR. MARDIROSSIAN: THAT ALSO MISSTATES THE LAW,
12 YOUR HONOR.

13 THE COURT: THE COURT WILL INSTRUCT THE LAW AND
14 YOU SHOULD FOLLOW THE INSTRUCTIONS YOU'RE GIVEN.

15 MR. GALVIN: BUT IMPORTANTLY, YOU ARE NOT GOING TO
16 GET THERE, LADIES AND GENTLEMEN, BECAUSE THE DOCUMENT
17 THAT COUNSEL SHOWED YOU YESTERDAY WAS AN E-MAIL FROM
18 2010 THAT HAD NOTHING TO DO, NO CONDUCT, NOTHING RELATED
19 TO THE DESIGN AND DEVELOPMENT OF THIS VEHICLE.

20 AND THE DATE IS CRUCIAL WHEN YOU CONSIDER
21 THAT BECAUSE THE CONDUCT AT ISSUE HAS TO HAVE CAUSED THE
22 HARM. AND THERE'S NOTHING THAT CAUSED THE HARM. THIS
23 ISN'T A CLAIM THAT WE SHOULD HAVE GONE BACK AND DONE
24 SOMETHING WITH THIS VEHICLE. THE CLAIM IS THAT THIS
25 VEHICLE, WHEN IT CAME OUT, SHOULD HAVE HAD A CERTAIN
26 FEATURE, A FEATURE THAT THE EVIDENCE SHOWS WOULDN'T HAVE
27 MADE ANY DIFFERENCE.

28 BUT, YOU KNOW, WHEN THE UNOS BOUGHT THIS

1 VEHICLE IN 2005, THEY WERE IN CONTROL OF WHAT THEY DID
2 AND THEY CHOSE NOT TO BUY A SAFETY PACKAGE THAT WAS
3 AVAILABLE FOR THIS VEHICLE. IT'S NOW IN COURT WHEN
4 MR. MARDIROSSIAN IS IN CONTROL OF THIS THAT HE IS SAYING
5 IT SHOULD HAVE HAD BRAKE OVERRIDE. BUT WHEN THEY WERE
6 IN CONTROL, THEY DIDN'T BUY THE SAFETY PACKAGE.

7 THERE'S NO EVIDENCE OF FRAUD. THERE'S NO
8 EVIDENCE OF OPPRESSION. THERE'S NO EVIDENCE OF A DEFECT
9 IN THIS VEHICLE THAT CAUSED OR CONTRIBUTED TO THIS
10 ACCIDENT. THERE'S NO EVIDENCE HER FOOT WAS STUCK.
11 THERE'S NO EVIDENCE THAT THE BRAKES WERE USED AND THE
12 EVIDENCE IS THAT HAD THE BRAKES BEEN USED THIS VEHICLE
13 WOULD HAVE STOPPED AND THERE WOULDN'T HAVE BEEN AN
14 ACCIDENT.

15 THE EVIDENCE IS IS THAT MRS. UNO HAD SOME
16 PROBLEM THAT WAS UNRELATED TO TOYOTA. SHE WASN'T WITH
17 IT. SHE DIDN'T KNOW WHAT WAS GOING ON. THAT'S WHAT
18 MRS. PEEPLES SAID. "SHE LOOKED LIKE SHE DIDN'T KNOW
19 WHAT WAS GOING ON." IT WAS AN ACCIDENT. IT WAS AN
20 UNFORTUNATE ACCIDENT, BUT IT WAS AN ACCIDENT
21 NONETHELESS. AND IT'S NOT A VEHICLE PROBLEM. THERE'S
22 NOTHING WRONG WITH THIS VEHICLE.

23 LADIES AND GENTLEMEN, TOYOTA IS ENTITLED TO
24 A DEFENSE VERDICT. PLAINTIFFS HAVEN'T PROVEN THEIR
25 CASE. THANK YOU VERY MUCH.

26 THE COURT: THANK YOU. MR. DUFFY.

27 MR. DUFFY: DO YOU THINK MAYBE WE SHOULD TAKE A
28 BREAK NOW?

1 THE COURT: WE CERTAINLY CAN DO THAT. WE'LL TAKE
2 A BREAK FOR ABOUT TEN MINUTES.

3 YOU ARE REMINDED NOT TO DISCUSS THIS MATTER
4 AMONG YOURSELVES OR WITH ANY OTHER PERSON, NOT TO FORM
5 OR EXPRESS AN OPINION ON THE MATTER UNTIL IT'S SUBMITTED
6 TO YOU FOR A DECISION.

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

11
12 THE COURT: NOTHING FOR THE RECORD?

13 MR. AKARAGIAN: THERE'S ONE ISSUE WE WOULD LIKE TO
14 RAISE, YOUR HONOR. BASED ON MR. GALVIN'S ARGUMENT, WE
15 WOULD RENEW OUR REQUEST TO READ THE REQUEST FOR
16 ADMISSION ESPECIALLY WHEN WE HEAR ARGUMENT THAT THIS
17 ACCIDENT IS SIMPLY THE RESULT OF PEDAL MISAPPLICATION BY
18 THIS DRIVER MRS. UNO; THAT THIS IS A CASE OF DRIVER
19 ERROR DUE TO HER MEDICAL CONDITIONS.

20 WE HEAR NO REFERENCE TO MRS. BELLO, HOW SHE
21 CAUSED OR CONTRIBUTED TO THIS; SO THIS SOUNDS COMPLETELY
22 LIKE THIS IS ALL MRS. UNO'S FAULT. SO WE RENEW OUR
23 REQUEST TO READ THE R.F.A. AS THE COURT HAD SAID IF --
24 YOU KNOW, YOU CAN ASK ME AGAIN DURING CLOSING ARGUMENT.

25 THE COURT: I'M GOING TO DECLINE THE REQUEST.
26 OVERRULE IT. THANK YOU.

27
28 (A RECESS WAS TAKEN.)

1 (THE FOLLOWING PROCEEDINGS WERE
2 HELD IN OPEN COURT OUT OF THE
3 PRESENCE OF THE JURY:)

4
5 THE COURT: LET'S GO ON THE RECORD.

6 MR. MARDIROSSIAN: YES, YOUR HONOR. I WOULD LIKE
7 THE COURT TO GIVE THE JURY A CURATIVE INSTRUCTION.
8 MR. GALVIN TOLD THIS JURY THAT THERE WERE OTHER
9 INCIDENTS INVOLVING PEDAL MISAPPLICATION, AND THIS IS
10 EXACTLY WHAT IT IS THAT HAPPENS IN THESE KIND OF
11 SCENARIOS.

12 THERE IS NO SUCH EVIDENCE. WHEN I
13 OBJECTED, THE COURT SUSTAINED MY OBJECTION. BUT THIS
14 JURY HAS HEARD WHAT MR. GALVIN SUGGESTED TO THEM. AND I
15 WOULD LIKE THIS COURT TO GIVE THE JURY A CURATIVE
16 INSTRUCTION BASICALLY TELLING THEM THAT THERE IS NO
17 EVIDENCE OF OTHER PEDAL MISAPPLICATION SITUATIONS FOR
18 THEM TO TAKE INTO CONSIDERATION.

19 THE COURT: I'LL LEAVE THAT TO YOU TO ARGUE AS
20 PART OF YOUR ARGUMENT, BUT I'M NOT GOING TO GIVE AN
21 INSTRUCTION ON IT. I'VE CONTINUED TO TELL THE JURY THAT
22 THEY HAVE GOT TO REMEMBER WHAT THE EVIDENCE IS. THERE
23 WERE OBJECTIONS THAT WERE SUSTAINED DURING YOUR ARGUMENT
24 AS WELL; SO I DON'T THINK IT'S APPROPRIATE TO DO ANY
25 SORT OF INSTRUCTION FROM THE COURT. I THINK YOU CAN
26 CLEAR IT UP JUST FINE IN CLOSING.

27 MR. MARDIROSSIAN: ALL RIGHT.

28 THE COURT: MARIBEL, PLEASE.

1 MR. MARDIROSSIAN: JUST SO THE COURT KNOWS, I WILL
2 NEED AT LEAST AN HOUR FOR MY REBUTTAL. SO I DON'T KNOW
3 WHAT MR. DUFFY IS GOING TO DO.

4 THE COURT: OKAY.

5
6 (THE FOLLOWING PROCEEDINGS WERE
7 HELD IN OPEN COURT IN THE
8 PRESENCE OF THE JURY:)

9
10 THE COURT: MR. DUFFY, YOU MAY PROCEED.

11 MR. DUFFY: THANK YOU, YOUR HONOR.

12 GOOD AFTERNOON, LADIES AND GENTLEMEN.

13 IN UNISON: GOOD AFTERNOON.

14 MR. DUFFY: THE GOOD NEWS IS WHEN YOU SEE ME GET
15 UP, YOU KNOW YOU ARE TOWARD THE END; RIGHT? SO THAT'S
16 WHERE WE ARE. WE'RE JUST ABOUT WRAPPING UP; SO NOW I
17 WOULD LIKE TO SAY ONE THING BEFORE WE GET STARTED, AND
18 THAT IS THANKING YOU FOR THE TWO MONTHS OUT OF YOUR LIFE
19 THAT YOU'VE PUT IN HERE AND YOU ARE GOING TO PUT IN SOME
20 MORE TIME IN GOING THROUGH YOUR DELIBERATIONS.

21 AND AS MR. MARDIROSSIAN INDICATED, THE JURY
22 SYSTEM IS A VERY IMPORTANT PART OF OUR LIFE IN THIS
23 COUNTRY. AS ABRAHAM LINCOLN SAID, IT IS THE CORNERSTONE
24 OF A FREE SOCIETY. SO THE TIME THAT YOU HAVE PUT IN IS
25 SOMETHING THAT IS IMPORTANT JUST LIKE THERE ARE OTHER
26 THINGS WITH OUR SOLDIERS PUTTING TIME IN AND THINGS LIKE
27 THAT. BUT THIS IS AN IMPORTANT THING, AND IT'S
28 DIFFICULT FOR THIS MUCH TIME.

1 BUT THE JURY SYSTEM THAT WE DEAL WITH IS A
2 SYSTEM THAT WORKS. WE ASK JURORS SUCH AS YOURSELVES TO
3 COME IN HERE. YOU HAVE NO RELATIONSHIP TO THE PARTIES
4 AND THEN LISTEN TO THE EVIDENCE THAT'S PRESENTED AND
5 WITHOUT ANY BIAS, WITHOUT ANY PREJUDICE, WITHOUT ANY
6 PASSION, PREJUDICE OR SYMPATHY CULL THROUGH ALL OF THIS
7 EVIDENCE IN ORDER TO RENDER A FAIR AND IMPARTIAL
8 DECISION.

9 THAT'S A TREMENDOUS RIGHT THAT WE HAVE IN
10 THIS COUNTRY. AND SO I THANK YOU FOR TAKING THE TIME TO
11 DO THIS FOR ALL OF US WHO OBVIOUSLY COULD NOT RESOLVE
12 THIS DISPUTE.

13 SO WITH THAT I WOULD SAY THIS. YOU'VE
14 HEARD THE EVIDENCE AND HER HONOR HAS GIVEN YOU THE LAW
15 THAT APPLIES TO THAT EVIDENCE. THIS IS THE POINT WHERE
16 WE GET TO SPEAK TO YOU ABOUT THE LAW AND THE EVIDENCE.
17 AND YOU'VE HEARD MR. MARDIROSSIAN AND YOU'VE HEARD
18 MR. GALVIN. AND NOW I'M GOING TO COVER SOME THINGS AND
19 I'M NOT GOING TO GO INTO EVERY SINGLE DETAIL.

20 OBVIOUSLY THIS WAS AN ALMOST TWO-MONTH
21 TRIAL, AND SO THERE'S A LOT OF INFORMATION THAT'S OUT
22 THERE. AND, IN FACT, WHEN WE GET TO THE END,
23 MR. MARDIROSSIAN IS GOING TO COME UP AND TALK ABOUT SOME
24 OF THE THINGS THAT I FORGOT TO TALK TO YOU ABOUT.

25 BUT WHAT IS MOST IMPORTANT IS WHEN YOU
26 RENDER YOUR DECISION, IT'S BASED UPON THE EVIDENCE THAT
27 YOU REMEMBER. IT'S BASED ON YOUR MEMORY OF THE
28 EVIDENCE. IT'S BASED ON THE WEIGHT THAT YOU AS JURORS

1 GIVE TO THAT EVIDENCE, AND IT'S BASED UPON YOUR
2 INTERPRETATION OF THAT EVIDENCE.

3 AND I'VE SAID "EVIDENCE" THREE TIMES. AND
4 THE REASON I SAID EVIDENCE THREE TIMES IS BECAUSE IT'S
5 EVIDENCE THAT MUST DECIDE -- MUST BE THE BASIS FOR YOUR
6 DECISION. NOT SPECULATION, NOT HYPOTHESIS, BUT
7 EVIDENCE. AND SO WHAT I'M GOING TO TALK TO YOU NOW
8 ABOUT IS THE EVIDENCE IN THIS CASE. BUT FIRST WHEN I
9 FIRST SPOKE TO YOU, WE TALKED ABOUT -- IN THAT OPENING
10 STATEMENT. THAT WAS THE OPPORTUNITY FOR US TO TELL YOU
11 WHAT THE EVIDENCE WOULD SHOW.

12 BUT THE FIRST THING I SAID TO YOU IN THAT
13 OPENING STATEMENT WAS THERE'S NO DISPUTE THAT MRS. BELLO
14 CONTACTED MRS. UNO IN THE INTERSECTION OF 23RD AND
15 EUCLID. AND THAT IN THAT ACCIDENT THAT WAS NEGLIGENCE
16 ON THE PART OF MRS. BELLO. WHY WAS THAT NEGLIGENCE?
17 IT'S VERY SIMPLE. IT'S NOT THE FACT -- THERE WAS A STOP
18 SIGN THERE. SO THAT IS MRS. BELLO IS TO STAY AT THE
19 STOP SIGN BEFORE SHE ENTERS THAT INTERSECTION. BUT
20 WHETHER THE STOP SIGN WAS THERE OR NOT THERE IS REALLY
21 OF NO CONSEQUENCE.

22 WHAT IS THE NEGLIGENCE HERE WAS THE FACT
23 THAT MRS. BELLO DID NOT SEE MRS. UNO. SHE SHOULD HAVE
24 SEEN HER. SHE WAS THERE. WE KNOW THAT. AT LEAST WE
25 KNOW THAT SHE WAS THERE AT THE TIME WHEN THE CONTACT
26 OCCURRED; SO SHE SHOULD HAVE SEEN HER THERE. THAT'S
27 WHAT HAPPENS IN ACCIDENTS. THAT'S WHAT HAPPENS. PEOPLE
28 DON'T SEE THE OTHER PARTY.

1 "OH, MY GOD. I DIDN'T SEE YOU." SO MANY
2 TIMES ACCIDENTS THAT HAPPEN THROUGHOUT THIS COUNTRY
3 EVERY DAY AND PEOPLE SAY "I'M SORRY. I DIDN'T SEE YOU."
4 THAT'S WHAT HAPPENED. BUT THAT IS NEGLIGENCE BECAUSE IT
5 IS MRS. BELLO'S OBLIGATION TO LOOK UP AND SEE MRS. UNO
6 WHEREVER SHE WAS. BUT FOR WHATEVER REASON SHE DIDN'T
7 SEE HER. AND SO WE TOLD YOU OKAY. THAT'S -- THAT ENDS
8 THAT PART OF THE DISCUSSION. BUT I ALSO TOLD YOU IN
9 THAT OPENING STATEMENT THAT THERE WAS A SIGNIFICANT
10 DISPUTE AS TO WHAT OCCURRED AS A RESULT OF THE IMPACT AT
11 23RD AND EUCLID.

12 AND THAT'S WHAT I'M GOING TO TALK TO YOU
13 ABOUT TODAY. BECAUSE NOW WE HAVE THE EVIDENCE, NOW WE
14 HAVE THE INFORMATION TO EVALUATE WHAT HAPPENED IN THAT
15 ACCIDENT. SO WHAT WE'RE DEALING WITH HER IS -- AND I'LL
16 PUT -- WE'RE GOING -- YOU'VE HEARD THE JURY
17 INSTRUCTIONS, BUT I WANT TO TALK ABOUT ONE IN
18 PARTICULAR. THIS IS INSTRUCTION 424.

19 NOW, THIS IS IMPORTANT BECAUSE THIS TELLS
20 YOU EVERYTHING THAT IS IN PLAY DEALING WITH MRS. BELLO.
21 AND BASICALLY IT IS -- IT SAYS "OLGA BELLO AGREES THAT
22 SHE WAS NEGLIGENT BUT DENIES THAT THE NEGLIGENCE CAUSED
23 PETER AND JEFFREY UNO ANY HARM, THE FULL EXTENT OF THE
24 HARM CLAIMED BY PETER AND JEFFREY UNO."

25 SO THAT'S WHAT I TALKED ABOUT IN THAT
26 OPENING STATEMENT. TREMENDOUS DISPUTE ABOUT WHAT
27 OCCURRED AS A RESULT OF THE FORCES THAT TOOK PLACE IN
28 THIS ACCIDENT. SO WHAT DO WE HAVE? WE HAVE PETER AND

1 JEFFREY UNO WERE HARMED. THAT TERM "HARM" WE TALK ABOUT
2 IT IN THE LAW AS DAMAGES.

3 BUT HARM -- ESSENTIALLY THEY ARE MAKING A
4 CLAIM, WHICH I'LL GO INTO A LITTLE BIT LATER ABOUT
5 WRONGFUL DEATH AND WHAT IT IS IN THAT THE NEGLIGENCE WAS
6 A SUBSTANTIAL FACTOR IN CAUSING THAT HARM. AND THAT'S
7 WHAT WE'RE GOING TO BE TALKING ABOUT OVER THE NEXT FEW
8 MINUTES.

9 SO, FIRST OFF LET'S TAKE A LOOK AT -- LET'S
10 GO BACK AND LOOK AT THE EVIDENCE THAT HAS OCCURRED IN
11 THIS CASE. NOW, THE FIRST THING IS EXHIBIT NUMBER 6234.
12 NOW, EXHIBIT 6234 YOU'VE SEEN THIS BEFORE. THIS WAS
13 DR. SMITH WHO CAME IN HERE AND RECONSTRUCTED THE
14 ACCIDENT FOR ALL OF YOU. AND HE BEGAN HIS PRESENTATION,
15 AS I'M DOING RIGHT NOW BECAUSE THIS IS THE POINT -- THIS
16 IS WHAT WE'RE TALKING ABOUT.

17 WE'RE TALKING ABOUT MRS. BELLO. WE'RE
18 TALKING ABOUT THIS AREA IN HERE (INDICATING) 23RD AND
19 EUCLID. AND WHAT WE KNOW IS MRS. UNO WAS TRAVELING
20 SOUTHBOUND ON EUCLID IN THE SOUTHBOUND. AND IT APPEARS
21 FROM EVERYTHING WE CAN TELL FROM THE PHYSICAL
22 EVIDENCE -- WE'RE GOING TO GET INTO THAT IN A MINUTE --
23 IN THAT NUMBER 2 LANE.

24 AND MRS. BELLO WAS RETURNING HOME AND SHE
25 WAS TRAVELING IN THIS WESTERLY DIRECTION. MRS. UNO WAS
26 ON A STREET THAT HAD THE 45-MILE-AN-HOUR SPEED LIMIT.
27 MRS. BELLO'S WAS 35 MILES AN HOUR. THOSE ONLY COME INTO
28 PLAY -- DOWN THE ROAD I'M GOING TO TALK ABOUT THAT A

1 LITTLE BIT. HERE IS ONE WAY IN THIS DIRECTION. ONE WAY
2 IN THIS DIRECTION.

3 NOW, WHAT WE HAVE HERE IS -- IF WE CAN TAKE
4 A LOOK AT THE NEXT PHOTO, WHICH IS 6016-086. SO WHAT WE
5 HAVE HERE IS MRS. UNO IS TRAVELING SOUTHBOUND. AND THIS
6 GIVES US THE VIEW OF WHAT MRS. UNO WOULD HAVE SEEN AS
7 SHE WAS APPROACHING THAT INTERSECTION. THIS IS A POLICE
8 PHOTO THAT WAS TAKEN BY THE POLICE SHORTLY AFTER THE
9 ACCIDENT BECAUSE -- AND WE KNOW THAT BECAUSE HERE IS THE
10 POLICE CAR. HERE IS THE AMBULANCE THAT WE'VE TALKED
11 ABOUT ALREADY, AND OVER HERE IS MRS. BELLO'S LEXUS.

12 SO WE KNOW THAT THIS IS COMING SOUTHBOUND.
13 HERE IS 23RD. AND MRS. BELLO WOULD BE TRAVELING IN THIS
14 DIRECTION TO GO ACROSS THE INTERSECTION. NOW, MRS. UNO
15 WOULD BE COMING DOWN IN THIS DIRECTION. WE DO NOT KNOW
16 WHAT MRS. UNO SAW OR IN ANY WAY HOW SHE REACTED WITH
17 MRS. BELLO COMING INTO THE INTERSECTION. WE DON'T KNOW
18 THAT BECAUSE WE CAN'T KNOW THAT. THAT'S AN
19 IMPOSSIBILITY.

20 BUT WHAT WE DO KNOW IS -- BILL, WOULD YOU
21 GO TO THE NEXT THING WHICH IS 5194-23.

22 WHAT WE DO KNOW IS WHAT OCCURRED IN THE
23 FIVE SECONDS BEFORE THE ACCIDENT. AND THERE WERE A
24 NUMBER OF QUESTIONS THAT WERE ASKED OF MRS. BELLO WHEN
25 SHE CAME IN HERE. AND MRS. BELLO -- SHE DOESN'T
26 REMEMBER A LOT OF WHAT HAPPENED. SHE DIDN'T EVEN KNOW
27 WHAT HAPPENED ON THE DAY OF THE INCIDENT BECAUSE OFFICER
28 SELLERS TOLD US THAT; THAT HE INVESTIGATED THE ACCIDENT

1 AND OFFICER SELLERS SAID THAT HE FOUND THE DEBRIS IN THE
2 ROADWAY. AND WE'LL TALK ABOUT THAT IN A SECOND.

3 BUT HE ALSO ASKED MRS. BELLO: "YOU KNOW
4 WHAT HAPPENED?" AND SHE SAID, "I DON'T KNOW. I WAS
5 STOPPED AND THEN I GOT HIT." SHE DOESN'T KNOW WHAT
6 HAPPENED BECAUSE SHE DIDN'T SEE, YOU KNOW, MRS. UNO.
7 SHE NEVER SAW HER AT ANY POINT IN TIME AFTER THIS --
8 BEFORE THE ACCIDENT OR AFTER THE ACCIDENT, BUT SHE DID
9 TELL US FROM THE WITNESS STAND THE SAME THING THAT SHE
10 TOLD OFFICER SELLERS. "I DON'T KNOW WHAT HAPPENED. I
11 REMEMBER THE BANG AND THEN WHEN I FINALLY REALIZED WHAT
12 HAD HAPPENED, I'M IN THE INTERSECTION."

13 SHE WAS WORRIED ABOUT HER DAUGHTER. HER
14 DAUGHTER WAS UPSET. SHE WAS WORRIED ABOUT -- SHE WAS
15 LOOKING AT HER. SHE REALIZED SHE'S IN THE INTERSECTION,
16 SO SHE SAYS OKAY. I HAVE TO MOVE THE CAR. I'VE GOT TO
17 GET THE CAR OUT OF THE INTERSECTION. SHE CAME TO A
18 STOP. SHE HAD TO MOVE THE CAR. SHE TOLD THAT TO
19 OFFICER SELLERS.

20 OFFICER SELLERS, WHEN HE SAW THE DEBRIS ON
21 THE STREET EVEN SAID TO HER, "WELL, DO YOU REMEMBER
22 WHERE YOU WERE?" SHE SAYS "WELL, I THINK I WAS BEHIND
23 THE STOP SIGN." BUT HE SAID THE DEBRIS IS HERE IN THE
24 STREET. AND SO THAT WOULD INDICATE THAT THERE WAS SOME
25 KIND OF CONDUCT. WHY DID HE SAY THAT? BECAUSE HE SAW
26 THE SKID MARKS, THE YAW MARKS. HE SAW THEM THERE.

27 HE KNEW THAT THEY WERE THERE SO HE ASKED
28 HER AGAIN WHAT TRANSPIRED. AND SHE SAID, "I DON'T

1 KNOW." IN FACT, HE TOLD US THAT HE DOESN'T KNOW WHERE
2 SHE CAME TO REST BECAUSE BY THE TIME HE HAD GOTTEN THERE
3 SHE HAD MOVED THE CAR.

4 BUT WHAT WAS IMPORTANT IS WHAT I ASKED HIM.
5 I ASKED HIM AFTERWARDS. I SAID, "NOW, WHEN YOU WERE
6 TALKING TO MRS. BELLO, WAS SHE COOPERATIVE WITH YOU?"

7 "ANSWER: VERY.

8 AND AGAIN I ASKED HIM "DID IT APPEAR TO YOU
9 THAT SHE WAS BEING DISHONEST?"

10 "NO.

11 "DID IT APPEAR TO YOU THAT SHE WAS TRYING
12 TO COMMUNICATE TO YOU WHAT SHE RECALLED?"

13 "YES."

14 THIS WASN'T A SITUATION WHERE MRS. BELLO
15 WAS TRYING TO HIDE SOMETHING. SHE DIDN'T KNOW WHAT HAD
16 HAPPENED. SHE DIDN'T SEE MRS. UNO. SHE NEVER SAW
17 MRS. UNO. NOT BEFORE, NOT AFTER. THAT'S THE
18 NEGLIGENCE. SHE DIDN'T SEE HER. BUT WHAT HAPPENED IN
19 THAT COLLISION IS NOW WHAT WE'RE GOING TO BE TALKING
20 ABOUT.

21 SO WE LOOK HERE ON -- AND YOU'VE SEEN THIS
22 EXHIBIT, AND YOU'VE SEEN THE SPEEDS AND EVERYTHING.
23 THIS TELLS US -- THIS GIVES US ONE PIECE OF EVIDENCE AS
24 TO WHAT HAPPENED IN THAT ACCIDENT FROM APPROXIMATELY
25 FIVE SECONDS BEFORE THE IMPACT UNTIL THE IMPACT. IT
26 ALSO TELLS US WHAT THE SPEED WAS AT VARIOUS POINTS. I
27 MEAN, WE'RE TALKING SECONDS. IT'S VERY SHORT PERIODS OF
28 TIME AND IT'S THIS EVIDENCE PLUS WE'RE GOING TO GO TO

1 THE PHYSICAL EVIDENCE, WHICH IS THE TIRE MARKS THAT ARE
2 ON THE ROADWAY.

3 THAT'S GOING TO TELL US WHAT ACTUALLY
4 OCCURRED, HOW THE CARS WERE IN RELATION TO ONE ANOTHER.
5 VERY, VERY IMPORTANT IN THIS CASE ESPECIALLY AS WE GET
6 DOWN THE ROAD TO WHAT HAPPENED TO THE FOOT. ALL RIGHT?
7 SO HERE WE HAVE VEHICLE SPEED. NOW, WE HAVE TEN MILES
8 AN HOUR AT ABOUT FIVE SECONDS BEFORE THE COLLISION. IF
9 WE GO BACK TO THAT PHOTOGRAPH, WE'RE NOT GOING TO GO
10 BACK TO IT -- BUT YOU ARE BACK ON 23RD. SHE'S PULLING
11 OVER. SHE HAD MADE THE TURN ONTO 23RD. SHE SLOWS DOWN
12 TO SIX MILES AN HOUR. SHE SLOWS DOWN TO FOUR MILES AN
13 HOUR.

14 NOW, WHAT WE HAVE HERE IS HER SLOWING DOWN
15 TO FOUR MILES AN HOUR, BUT WE REFER TO THIS A LOT OF
16 TIMES AS A CALIFORNIA STOP. IT'S A ROLLING STOP. IT'S
17 NOT APPROPRIATE. I MEAN, YOU ARE SUPPOSED TO STOP
18 BEHIND THE STOP SIGN. BUT THAT'S NOT REALLY THE ISSUE
19 IN THIS CASE BECAUSE WE KNOW THAT SHE DIDN'T -- YOU
20 KNOW, SHE SLOWED DOWN, BUT SHE DID NOT STOP.

21 SHE GOES SEVEN MILES AN HOUR THEN TEN MILES
22 AN HOUR. THAT'S WHERE THE IMPACT OCCURS. TEN MILES AN
23 HOUR. NOW, SOMETIMES WHEN YOU ARE HERE IN THE COURTROOM
24 THINGS TAKE ON A SENSE OF ITS OWN IN THE SENSE THAT YOU
25 DON'T HAVE ANY PERCEPTION OF WHAT THAT MEANS.

26 WELL, LAST NIGHT I WAS ON THE FREEWAY GOING
27 BACK TO MY OFFICE AND I WAS VERY FRUSTRATED BECAUSE THE
28 FREEWAY WAS LIKE A PARKING LOT. AND AT ONE POINT I'M

1 JUST CRAWLING ALONG AND I JUST HAPPENED TO LOOK DOWN TO
2 SEE WHAT MY SPEED WAS AND IT WAS TEN MILES AN HOUR. AND
3 IT SEEMED LIKE I WAS -- I COULD HAVE WALKED FASTER THAN
4 THAT.

5 NOW, WALKING YOU CAN'T -- RUNNING YOU CAN
6 ACTUALLY DO THAT, BUT THAT'S IMPORTANT IN LOOKING AT THE
7 FORCES THAT WERE GENERATED IN THIS ACCIDENT BECAUSE THAT
8 SPEED -- THAT'S WHY EVEN MR. HILLE REFERRED TO IT AS A
9 LOW SPEED IMPACT. HE SAYS LOW DELTA V. FOUR MILES PER
10 HOUR. WE'RE GOING TO TALK A LITTLE BIT ABOUT THAT. BUT
11 YOU'VE GOT -- IT'S NOT LIKE SHE BLEW THE STOP SIGN, RAN
12 THE STOP SIGN.

13 NOW, MR. MARDIROSSIAN SAYS SHE RAN THAT
14 STOP SIGN. SHE DIDN'T SEE IT. SHE JUST -- AND THEN
15 SHE'S ACCELERATING INTO THAT INTERSECTION. WHY DID HE
16 ASK THOSE QUESTIONS? THOSE QUESTIONS WERE ASKED AND
17 THAT ARGUMENT WAS MADE BECAUSE IT'S LIKE YOU WANT TO
18 GENERATE SOME EMOTION ON THIS. SHE BLEW THROUGH THAT
19 STOP SIGN.

20 WELL, LADIES AND GENTLEMEN, THIS IS WHAT WE
21 HAVE. YES, SHE DIDN'T STOP. BUT BLEW THROUGH THE STOP
22 SIGN? FOUR MILES AN HOUR? THINK ABOUT THAT. THE OTHER
23 THING IS THERE WAS SOME QUESTIONS THAT WERE ASKED OF
24 MRS. BELLO WHEN SHE WAS HERE. SHE WAS ASKED "HOW MANY
25 DAUGHTERS DO YOU HAVE? DO YOUR DAUGHTERS EVER DRIVE YOU
26 ANYWHERE?" QUESTIONS SUCH AS THAT. "YOU HAD YOUR
27 DAUGHTER IN THE CAR, BUT YOU WERE DRIVING."

28 WHY WERE THOSE QUESTIONS ASKED. THOSE

1 QUESTIONS WERE ASKED AGAIN TO GENERATE EMOTION BECAUSE,
2 HEY, THIS IS AN 86-YEAR-OLD WOMAN. PEOPLE MAY SAY, OH,
3 SHE SHOULDN'T HAVE BEEN DRIVING AT 86 YEARS OF AGE.
4 AGAIN, THAT'S NOT THE ISSUE. SHE WAS DRIVING AND SHE
5 DID MAKE CONTACT WITH MRS. UNO. THAT'S THE ISSUE, NOT
6 WHETHER OR NOT SHE SHOULD OR SHOULD NOT HAVE BEEN
7 DRIVING. THE IMPLICATION IS THERE BECAUSE SHE GOT INTO
8 AN ACCIDENT. THE IMPLICATION IS THERE BECAUSE WE HAVE
9 AN ELDERLY DRIVER. THAT'S THE IMPLICATION HERE.
10 EMOTION. TRYING TO GENERATE EMOTION.

11 SO WHEN WE GET TO THIS POINT, THEN, WE SEE
12 THE SPEED. WE SEE THE R.P.M. -- LOW R.P.M.'S. THOSE
13 ARE THINGS THAT ARE COMMON. YOU KNOW, WHEN THE CAR
14 STARTS MOVING, YOU KNOW, R.P.M.'S PICK UP. BUT MOST OF
15 THIS IS IN THAT IDLE RANGE. BUT WE DO KNOW SHE WAS
16 MOVING TO GO THROUGH THE INTERSECTION. AND WHEN THE
17 ACCIDENT HAPPENED, SHE WAS STUNNED BY IT. SHE WAS
18 SURPRISED. SHE DIDN'T KNOW WHAT HAD HAPPENED BECAUSE
19 SHE DIDN'T SEE MRS. UNO.

20 WE DON'T KNOW WHAT MRS. UNO SAW OR DIDN'T
21 SAW (SIC). WE DON'T KNOW. EVEN DR. SMITH SAYS "I CAN'T
22 TELL. I SAID I PUT HER AT ABOUT A FIVE DEGREE -- I
23 DON'T KNOW IF THAT WAS A DRIFT. IF THAT WAS ANY KIND OF
24 EVASIVE ACTION. I CAN'T TELL. THERE'S NOTHING ON THE
25 STREET TO GIVE ME ANY INDICATIONS." EVEN MR. HILLE
26 INDICATED HE DIDN'T PUT HER AT A FIVE DEGREE. HE
27 THOUGHT SHE WAS GOING STRAIGHT DOWN THE ROAD. SO WE
28 DON'T KNOW WHAT MRS. UNO WAS DOING.

1 WE DON'T KNOW IF SHE WAS TAKING ANY EVASIVE
2 ACTION. BUT WE DO KNOW WHAT FORCES TOOK PLACE UPON THE
3 IMPACT AND WE DO HAVE SOME PHYSICAL EVIDENCE; SO LET'S
4 TALK A LITTLE BIT ABOUT THE PHYSICAL EVIDENCE.

5 BILL, WOULD YOU PUT UP 5020-14. NOW, WHAT
6 IS IMPORTANT HERE IS WE DO HAVE CORROBORATION NOW OF
7 WHAT HAS BEEN TALKED ABOUT WITH DR. SMITH, WITH
8 DR. CARPENTER OF THIS SLIDING EFFECT. WE HAVE THE
9 CONTACT BEING MADE. IT APPEARS SOMEWHERE IN THIS RANGE
10 (INDICATING) AND THEN IT SLIDES SO THAT YOU SEE THE
11 FRONT END OF THE LEXUS HAVING SOME SLIDING DAMAGE. THAT
12 TELLS US, THEN, WHAT OCCURRED IN THE ACCIDENT ITSELF;
13 THAT THERE'S A CONTACT -- AND YOU HEARD DR. SMITH TALK
14 ABOUT THIS WHERE THE CONTACT OCCURS AND THEN THE CAR
15 STARTS MOVING. BECAUSE IT WAS BEHIND THE CENTER OF
16 GRAVITY, YOU ARE GOING TO GET A SPIN FACTOR THAT OCCURS.

17 AND HE CAN TELL THAT FROM THE MARKS ON THE
18 STREET. THAT IS IMPORTANT IN HOW -- IN LOOKING AT THIS
19 BECAUSE WE'RE TRYING TO FIGURE OUT WHAT HAPPENED IN THAT
20 COLLISION. SO NOW YOU HAVE THIS DAMAGE AND THEN AS A
21 RESULT OF THE SLIDE ACROSS THE SIDE OF THE CAR -- THE
22 NEXT PHOTOGRAPH WE HAVE 6283-9.

23 WE SEE SOME DEBRIS IN THE STREET. THE
24 LICENSE PLATE, SOME OTHER THINGS FROM THE CAR AND THEN
25 UP IN THE CORNER. THEN WE SEE WHERE THE LICENSE PLATE
26 COMES TO REST HERE AND WE SEE IN THIS PHOTOGRAMMETRY.
27 DO YOU REMEMBER DR. SMITH TALKED ABOUT THE MARKS ON THE
28 STREET AND YOU SEE HOW IT GOES ALL THE WAY AROUND OVER

1 TO HERE? SO WE KNOW WHERE MRS. UNO'S VEHICLE CAME TO
2 REST, WHERE IT STOPPED.

3 AND THE NEXT PHOTO 6243-2. THIS TELLS US
4 WHERE THE PHOTO CAME TO REST AND SHOWS THE TIRE MARKS
5 THAT WERE ON THE STREET THAT DR. SMITH REFERRED TO. AND
6 WE HAVE OVER HERE SOME OF THE DEBRIS THAT WE SAW IN THE
7 LAST PICTURE. NOW, ALL OF THIS IS IMPORTANT FOR THE
8 RECONSTRUCTION BECAUSE WE HAVE TO HAVE THE
9 RECONSTRUCTION IN ORDER TO DETERMINE THE FORCES THAT
10 WERE OCCURRING ON THE VEHICLE. AND THEN WE'RE GOING TO
11 TALK ABOUT OCCUPANT KINEMATICS. AND WE TALKED ABOUT
12 THAT WITH DR. CORRIGAN AND DR. CARPENTER. BUT DR. SMITH
13 PUTS TOGETHER THE ACCIDENT RECONSTRUCTION. AND YOU'VE
14 SEEN THIS AND IT SHOWS WHAT HAPPENED IN THIS PARTICULAR
15 ACCIDENT AND HOW BY HITTING BEHIND THE CENTER OF GRAVITY
16 YOU END UP PUSHING THE WHEEL -- THE REAR WHEELS START
17 COMING AROUND FROM BEHIND THE CAR AROUND TO WHERE WE SEE
18 IT AT THE END IN THIS DIRECTION.

19 WHAT'S ALSO IMPORTANT -- AND IT'S ALREADY
20 BEEN TOUCHED ON -- IS THE FACT THAT BECAUSE OF THE HOOK
21 MARKS AND THE SKID PATTEN ON THE STREET THAT THE POLICE
22 OFFICERS NOTICED, WE KNOW THE VEHICLE CAME TO REST. AND
23 YOU KNOW THAT THERE WAS A BIG DISPUTE. THERE WAS A BIG
24 ARGUMENT AS TO WHAT DOES THAT MEAN? CAME TO REST.

25 WELL, DR. SMITH INDICATED CAME TO REST, AND
26 WE DON'T KNOW WHAT OCCURRED AFTER THAT. WE DON'T KNOW
27 HOW LONG MRS. UNO REMAINED IN THAT POSITION. NOW,
28 MR. HILLE INDICATED -- HE SAID IT WAS A MOMENTARY REST.

1 WELL, THAT GOES TO THIS WHOLE ISSUE OF THE FOOT, THE
2 MOVEMENT OF THE FOOT THAT WE'RE GOING TO GET INTO RIGHT
3 NOW.

4 SO THE NEXT THING THAT WE HAVE IS -- THIS
5 WAS THE ACCIDENT RECONSTRUCTION DONE BY DR. SMITH, AND
6 THEN WE HAVE -- BILL, WOULD YOU BRING UP 5235-19. --
7 319. SORRY, BILL. 319. MY MISTAKE. SO WHAT WE HAVE
8 HERE, THEN, IS YOU RECALL DR. CARPENTER TESTIFIED THAT
9 HE TOOK THE INFORMATION FROM THE C.D.R. READINGS SO WE
10 KNOW WHAT THE SPEEDS WERE. AND WHAT HE DID WAS HE THEN
11 PUT ALL OF THAT INFORMATION INTO THE COMPUTER AND HE
12 SAID -- HE PUT 35 MILES AN HOUR BECAUSE WE HAD DR. SMITH
13 INDICATING 28 TO 30 MILES AN HOUR AND WE HAD MR. HILLE
14 AT 38 TO 40 MILES PER HOUR.

15 SO WHAT'S THE LOGICAL THING BECAUSE SHE'S
16 TRYING TO DETERMINE WHAT THE FORCES WERE IN THE ACCIDENT
17 SO HE PUTS IT AT 35 AND SAYS IT'S NOT GOING TO BE THAT
18 MUCH OF A DIFFERENCE. SO AFTER ONE SECOND WE SEE HOW
19 THE CAR -- MRS. BELLO'S LEXUS MOVES FORWARD. IT
20 OCCUPIES THE SPACE THAT HAD BEEN EVACUATED BY MRS. UNO'S
21 VEHICLE.

22 THEN THE NEXT ONE, BILL, 5235-330. AFTER
23 TWO SECONDS YOU HAVE MRS. UNO'S VEHICLE WOULD BE BACK IN
24 THIS LOCATION FACING IN THE DIRECTION THAT DR. SMITH HAS
25 HER AT THE END. NOW, WHAT IS IMPORTANT ABOUT THIS IS
26 THAT THE SPIN THAT TOOK PLACE IS -- EVERYBODY AGREES
27 MR. HILLE AGREES, DR. SMITH AGREES TWO, TWO AND A HALF
28 SECONDS FOR THE SPIN TO OCCUR. AND THAT'S GOING TO BE

1 IMPORTANT IN DETERMINING FORCES AND THINGS THAT ARE
2 OCCURRING AS FAR AS THE INFLUENCE ON MRS. UNO.

3 SO WE HAVE -- AND SO HE THEN RAN IT THROUGH
4 TO THE END TO MAKE SURE THAT HE HAD COVERED EVERYTHING.
5 AND THAT'S THE LAST ONE IS 5235-1. AND THEY JUST PUT
6 FOUR SECONDS IN THERE. HE KNEW THAT THAT WOULD
7 ACCOMMODATE EVERYTHING BECAUSE WE KNOW IT'S TWO, TWO AND
8 A HALF SECONDS; SO HE SAYS FOUR SECONDS. AND THAT'S
9 WHERE WE HAVE HERE THE END RESULT SEEING HOW THE CAR
10 MOVES IN THIS DIRECTION. AND MRS. BELLO'S VEHICLE MOVES
11 SLIGHTLY TO THE SOUTHWEST IN THIS DIRECTION
12 (INDICATING).

13 SO WHAT WE HAVE, THEN, IS THE BASIC FACTS
14 UPON WHICH WE ARE NOW GOING TO DETERMINE WHAT OCCURRED
15 AS FAR AS THE VEHICLE ITSELF WAS CONCERNED; SO IF WE
16 LOOK, THEN -- IT'S IMPORTANT NOW TO UNDERSTAND THE
17 BURDEN OF PROOF. IT'S BEEN TALKED ABOUT A LITTLE BIT.
18 BUT, CURTIS, CAN YOU PUT UP C.A.C.I. 200.

19 NOW, WHAT WE HAVE HERE IS THAT "BY THE
20 EVIDENCE" -- AND THAT'S IMPORTANT. "BY THE EVIDENCE
21 PRESENTED IN COURT THAT WHAT HE OR SHE IS REQUIRED TO
22 PROVE IS MORE LIKELY TO BE TRUE THAN NOT TRUE."

23 THIS IS THE STANDARD THAT WE GO BY. "MORE
24 LIKELY TO BE TRUE THAN NOT TRUE AND THEN IF YOU CANNOT
25 DECIDE THAT SOMETHING IS MORE LIKELY TO BE TRUE THAN NOT
26 TRUE, YOU MUST CONCLUDE THAT THE PARTY DID NOT PROVE
27 IT."

28 WELL, IN THIS PARTICULAR CASE WE KNOW THAT

1 THE PLAINTIFFS, THE UNOS, DO NOT HAVE TO PROVE THAT
2 MRS. BELLO WAS NEGLIGENT, BUT THEY DO HAVE TO PROVE THAT
3 SHE WAS A SUBSTANTIAL FACTOR IN CAUSING THEIR HARM,
4 WHICH WAS THE LOSS OF NORIKO. AND THAT'S VERY IMPORTANT
5 BECAUSE IF THEY DIDN'T PROVE THAT THEY WERE A
6 SUBSTANTIAL FACTOR IN CAUSING THE HARM, THEN THEY
7 WOULDN'T BE ENTITLED TO YOUR VERDICT.

8 SO WHAT WE LOOK AT, THEN, IS WAS THIS
9 ACCIDENT AT 23RD AND EUCLID A SUBSTANTIAL FACTOR IN
10 CAUSING THE HARM? AND RARELY WHAT WE'RE LOOKING AT HERE
11 IS WAS IT A SUBSTANTIAL FACTOR IN CAUSING MRS. UNO'S
12 FOOT TO MOVE AS HYPOTHESIZED BY MR. HANNEMANN? BECAUSE
13 THAT'S THE CRITICAL POINT THAT HAS TO BE MET IN ORDER TO
14 SAY THAT THE ACCIDENT INVOLVING MRS. BELLO CAUSED THE
15 HARM TO MR. UNO AND JEFFREY UNO.

16 SO LET'S LOOK AT THE JURY INSTRUCTION
17 C.A.C.I. 430. "A SUBSTANTIAL FACTOR IN CAUSING HARM IS
18 A FACTOR THAT A REASONABLE PERSON WOULD CONSIDER TO HAVE
19 CONTRIBUTED TO THE HARM. IT MUST BE MORE THAN A REMOTE
20 OR TRIVIAL FACTOR."

21 NOW, WHAT'S IMPORTANT IN THAT IS
22 SUBSTANTIAL FACTOR. SUBSTANTIAL FACTOR -- I MEAN, IF
23 YOU JUST LOOK AT THE DEFINITION OF SUBSTANTIAL IS OF
24 REAL WORTH AND IMPORTANCE, NOT SEEMING OR IMAGINARY.
25 THAT'S THE DEFINITION. IT HAS NOTHING TO DO WITH
26 GUACAMOLE. IT HAS TO DO WITH IS THIS A FACTOR THAT
27 CAUSES THE HARM.

28 EVEN MR. HANNEMANN, AS YOU SAW YESTERDAY

1 WHEN MR. GALVIN WAS TALKING TO YOU ABOUT WHAT
2 MR. HANNEMANN SAID, MR. HANNEMANN SAID IF THE FOOT DOES
3 NOT GET CAUGHT, THEN THERE'S NO ACCIDENT. HE'S TALKING
4 ABOUT SUBSTANTIAL FACTOR THERE. THAT'S WHAT HE'S
5 REFERRING TO.

6 SO WHAT HAPPENS HERE IS NOW WE HAVE TO LOOK
7 AT MR. HANNEMANN'S HYPOTHESIS -- AND A HYPOTHESIS IS A
8 THEORY THAT REQUIRES TESTING TO SEE IF IT CAN BE
9 VALIDATED. SO WE KNOW THAT MR. HANNEMANN HAS CREATED A
10 HYPOTHESIS. IT'S A THEORY. NOW, THEORY. WHEN WE WERE
11 ALL IN GRAMMAR SCHOOL IN SCIENCE CLASS, ONE OF THE
12 THINGS THAT WAS ALWAYS TALKED ABOUT IS THAT THE
13 SCIENTIFIC METHOD IS PUT FORTH A HYPOTHESIS AND THEN
14 TEST THAT THEORY AGAINST THE LAWS OF PHYSICS.

15 AND WE'VE HEARD ABOUT, FROM A NUMBER OF
16 WITNESSES, NEWTON'S LAWS OF PHYSICS. THESE ARE THE LAWS
17 THAT GOVERN ALL MOVEMENT ON EARTH. AND IT TELLS US
18 EXACTLY WHAT OCCURS WHEN TWO FORCES MEET EACH OTHER.
19 WHAT HAPPENS IN THAT MEETING. HOW MUCH SPEED IS
20 GENERATED. THAT'S WHAT WE'RE LOOKING AT.

21 AND, IN FACT, THERE'S A FAMOUS BRITISH
22 SCIENTIST PETER MEDAWAR. HE HAS A QUOTE, AND THIS QUOTE
23 IS THIS: THE INTENSITY OF THE CONVICTION THAT A
24 HYPOTHESIS IS TRUE HAS NO BEARING ON WHETHER IT IS TRUE
25 OR NOT.

26 IN OTHER WORDS, JUST BY SAYING IT DOESN'T
27 MAKE IT SO. SIMPLY BECAUSE MR. HANNEMANN SAYS THAT THIS
28 IS WHAT OCCURRED DOESN'T MAKE IT SO. SCIENTISTS WOULD

1 NEVER ACCEPT THAT. AND SO NOW WHAT WE WANT TO DO IS WE
2 WANT TO TEST THIS. NOW, DR. POSEY CAME IN HERE AND
3 DR. POSEY SAID, "I DON'T KNOW ANYTHING ABOUT WHAT
4 HAPPENED UP AT 23RD AND EUCLID. I JUST ACCEPTED WHAT
5 MR. HANNEMANN TOLD ME. AND WHAT DID MR. HANNEMANN TELL
6 ME? THAT MRS. UNO'S FOOT WAS TURNED 45 DEGREES, HEEL ON
7 THE ACCELERATOR, TOES AND FOOT UNDERNEATH THE BRAKE."
8 SO HE JUST ACCEPTED THAT. BUT THAT'S NOT WHAT HAS TO BE
9 DONE HERE.

10 THIS HYPOTHESIS HAS TO BE TESTED. HERE IS
11 ANOTHER FACT THAT WE HEARD. IN FACT, I GOT INTO THE
12 CHAIR WHEN I WAS TALKING TO MR. HILLE AND I SAT DOWN IN
13 THE CHAIR AND I ASKED HIM. I SAID, "OKAY. WHEN
14 MRS. UNO PUTS HER FOOT IN POSITION TO MOVE THE CAR, IS
15 HER HEEL ON THE FLOOR?

16 "YES, IT IS."

17 SO HER HEEL IS ON THE FLOOR AND THEN HE
18 TELLS US HIS HYPOTHESIS AS TO WHAT OCCURS. BUT IT'S
19 VERY IMPORTANT THAT WE HAVE THE HEEL ON THE FLOOR. NOW,
20 THAT MAKES SENSE BECAUSE EVEN DR. BLACK SAYS THAT IS
21 NORMALLY WHAT OCCURS.

22 DO WE WANT THE FAN ON HERE? WOULD THAT BE
23 HELPFUL?

24 JUROR AGUJA: NO.

25 MR. DUFFY: WE HAVE ONE COLD; ONE A LITTLE BIT
26 WARMER. EVERYBODY -- THE FAN IS OKAY? GOOD. OKAY.

27 SO WHAT WE HAVE, THEN, IS MR. HILLE AGREES
28 THAT MRS. BELLO CONTACTS MRS. UNO AND PRODUCES A DELTA V

1 OF FOUR MILES AN HOUR. HE AGREES WITH DR. SMITH. HE
2 AGREES WITH DR. CARPENTER. THEY ALL AGREE THAT THIS IS
3 WHAT HAPPENED IN THIS COLLISION.

4 NOW, WHAT MR. HILLE SAYS IS THAT HE
5 BELIEVES THAT THE HEEL WILL STAY ON THE FLOOR OF THE CAR
6 BECAUSE AGAIN HE SAYS THIS IS A LOW SPEED DELTA V. SO
7 HE BELIEVES THE HEEL WOULD BE ON THE FLOOR, BUT HE
8 BELIEVES THAT THE TOES WOULD THEN MOVE TO THE LEFT.
9 NOW, HOW HE GETS TO THAT HE SAYS THAT HE BELIEVES THAT
10 SHE WAS DRIVING THE CAR DOWN THE ROAD AND THAT THAT HEEL
11 WAS THERE AND THEN IT JUST MOVES OVER. BUT HE DOESN'T
12 EXPLAIN HOW IT DOES THAT. HE DOESN'T EXPLAIN HOW THE
13 FORCES OF NATURE OPERATE TO DO IT; SO THAT'S AN
14 IMPORTANT ELEMENT.

15 SOMEHOW HE BELIEVES THOSE TOES CAME OFF THE
16 ACCELERATOR, BUT HE DOESN'T ACCOUNT FOR THE FRICTION
17 BETWEEN THE FLIP-FLOP AND THE ACCELERATOR. AND HE SAYS
18 THAT MRS. UNO MAY MOVE TO THE LEFT AND SHE MAY CONTACT
19 HER ARM AND SHOULDER AGAINST THE SIDE DOOR PANEL, BUT HE
20 DOESN'T -- BUT HE SAYS THAT NOW THE HEEL IS GOING TO
21 STAY IN THAT POSITION. THAT SHE'S GOING TO MOVE BUT THE
22 HEEL IS GOING TO STAY WHERE IT WAS, BUT IT'S GOING TO
23 MOVE.

24 WHAT IS IMPORTANT ABOUT THAT IS THAT
25 MR. HILLE DOESN'T ACCOUNT FOR ANOTHER FORCE THAT'S
26 TAKING PLACE. AND THAT IS THE ROTATION OF THE CAR.
27 BECAUSE, AS WE KNOW, THE CAR ROTATES AND IT'S
28 APPROXIMATELY TWO TO TWO AND A HALF SECONDS; SO MRS. UNO

1 IN ABOUT TWO AND A HALF SECONDS COMES TO REST. BUT HE
2 DOESN'T ACCOUNT FOR THE ROTATIONAL FORCE.

3 HE NEVER EVER CALCULATED, HE SAID, THE G
4 FORCE THAT WAS OCCURRING. THERE'S A REASON FOR THAT.
5 HE KNEW WHAT IT WAS. IT WAS LESS THAN ONE G. THAT
6 FORCE WAS NOT VERY MUCH, BUT IT WAS ENOUGH THAT IT WOULD
7 HAVE SOME MOVEMENT, HAVE SOME EFFECT ON THE MOVEMENTS
8 THAT MRS. UNO WOULD TAKE AND IT WOULD HAVE SOME EFFECT
9 ON THE MOVEMENT OF THE FOOT; MINIMAL BUT SOME. AND
10 WE'LL TALK ABOUT THAT IN A SECOND. BUT HERE IS THE
11 IMPORTANT PART FROM MR. HILLE. HE HAS THE FOOT ON THE
12 FLOOR. MR. HANNEMANN HAS THE FOOT UP IN THE AIR ABOUT
13 THREE INCHES OFF THE FLOOR WITH THE HEEL ON THE
14 ACCELERATOR AND THE FOOT UNDERNEATH THE BRAKE PEDAL IN
15 THE POSITION THAT I'M IN RIGHT NOW.

16 YET MR. HILLE NEVER ACCOUNTS FOR HOW DOES
17 THE FOOT GET FROM THAT POSITION WHERE IT'S ON THE FLOOR
18 UP INTO THE POSITION WHERE MR. HANNEMANN HAS IT? BURDEN
19 OF PROOF. THERE'S NO CONNECTION THERE. NOW,
20 DR. SMITH -- WHEN WE TALK ABOUT THIS NOW, WE'RE TALKING
21 ABOUT -- WE'RE TESTING THE HYPOTHESIS NOW OF THE FOOT
22 MOVEMENT.

23 AND DR. SMITH SAYS THE FORCES THAT WERE
24 OCCURRING ON MRS. UNO WERE DELTA V OF OVERALL FORCES,
25 EVERYTHING THAT IS OCCURRING IN THIS ACTION OF
26 APPROXIMATELY 4.9 MILES PER HOUR AND THE OVERALL FORCES
27 THAT ARE OCCURRING TO MRS. BELLO ARE APPROXIMATELY FOUR
28 MILES PER HOUR. SO THEY ARE ALMOST THE SAME.

1 AND SO ALL OF THESE FORCES -- BUT HE SAYS
2 THE MOST SIGNIFICANT FORCE IS WHAT MRS. BELLO'S VEHICLE
3 DOES TO MRS. UNO'S VEHICLE. IN OTHER WORDS, IT'S
4 HITTING IT AND PUSHING IT AWAY BECAUSE SHE'S COMING AT
5 28 TO 31 MILES PER HOUR. SHE'S BEING SLOWED AT
6 APPROXIMATELY TWO MILES PER HOUR. SO WHAT THAT HAS TO
7 DO WITH IS HOW FAR THE CAR MOVES DOWN THE ROAD BEFORE IT
8 COMES TO REST. BUT IT ALSO SHOWS THAT IT'S NOT -- IT'S
9 NOT WHERE LIKE YOU ARE GOING INTO A WALL OR SOMETHING
10 LIKE THAT WHERE IT'S A SUDDEN STOP. IT'S A GRADUAL
11 MOVE. TWO MILES PER HOUR WITH A SPIN TO IT.

12 SO WHAT WE HAVE, THEN, IS DR. CORRIGAN THEN
13 TALKS ABOUT THE LEFTWARD MOVEMENT OF THE VEHICLE
14 TOGETHER WITH THE ROTATIONAL YAW. AND WE'VE HEARD ABOUT
15 YAW. REMEMBER? THAT'S WHERE THE TIRES LEAVE THE SKID
16 MARKS ON THE ROADWAY. SO WE HAVE THOSE TWO FORCES THAT
17 DR. CORRIGAN TALKS ABOUT. THOSE ARE THE TWO FORCES THAT
18 ARE OCCURRING IN THIS CAR.

19 THE FIRST FORCE THIS IS MOVING MRS. UNO TO
20 THE LEFT. THE SECOND FORCE IS BRINGING HER BACK TO THE
21 RIGHT. AND SO THAT -- BASED ON THAT DR. CORRIGAN SAYS
22 THAT THE LAW OF PHYSICS WOULD INDICATE THE FOOT PROBABLY
23 DOESN'T MOVE. IF IT DOES, IT'S VERY SLIGHT BECAUSE YOU
24 HAVE COUNTERVAILING FORCES AND THE FORCES ARE NOT
25 SIGNIFICANT ENOUGH.

26 DR. CARPENTER DOES THE SAME THING. AND HE
27 TALKS ABOUT -- HE SAYS MRS. UNO WAS IN THE SEAT. HER
28 FOOT IS FORWARD ON THE FLOOR; SO HER FOOT IS CLOSER TO

1 THE CENTER OF GRAVITY. SHE'S SEATED IN THE SEAT. THE
2 LATERAL FORCE COMES IN. THE LATERAL FORCE IS ABOUT FOUR
3 TO FOUR AND A HALF MILE PER HOUR DELTA V LIKE EVERYBODY
4 HAS SAID. BUT THE FORCE ON THE FOOT IS GOING TO BE
5 ABOUT THREE DELTA V -- DEALT V OF THREE. WHY? BECAUSE
6 IT'S CLOSER TO THE CENTER OF GRAVITY. IT'S CLOSER TO
7 THAT POINT IN THE FRONT RIGHT BEHIND THE ENGINE WHERE
8 THE CAR IS. AND SO HE THEN DOESN'T EXPECT TO SEE ANY
9 MOVEMENT OF THE FOOT BECAUSE, AGAIN, THE FRICTION OF THE
10 HEEL, FRICTION OF THE TOES AND THE FORCE IS TOO LOW.
11 BUT DR. CARPENTER DOES SOMETHING ELSE. WHAT HE DOES IS
12 WHAT WE DO WITH A HYPOTHESIS. YOU TEST THE HYPOTHESIS.

13 AND SO WHAT HE DOES IS HE DEMONSTRATES --
14 HE SETS UP A DEMONSTRATION, AND HE PUTS IN ALL OF THE
15 INFORMATION AS TO WHAT FORCES WOULD BE ON MRS. UNO AT
16 THAT POINT IN TIME. AND HE CONDUCTS THAT TEST BECAUSE
17 WHAT IS HE LOOKING FOR? HE TOLD US WHAT HE'S LOOKING
18 FOR. HE'S LOOKING TO SEE IF THE FOOT MOVES THE WAY
19 MR. HILLE SAYS IT'S GOING TO MOVE.

20 REMEMBER, MR. HILLE HAS IT GOING 45
21 DEGREES. HE DOESN'T THINK THAT'S GOING TO OCCUR. IT
22 DOESN'T MAKE SENSE, AND HE TOLD US WHY. HE SAID WHEN
23 THE FORCE HITS -- THE FORCE DOESN'T KNOW WHAT'S GOING ON
24 INSIDE THE CAR. BUT THE ONE THING THE FORCE DOES IS IT
25 SAYS DELTA V FOUR, FOUR AND A HALF, PUSHES THE VEHICLE.
26 WHAT DOES IT DO? IT MOVES THE CAR. IT'S NOT THE FOOT
27 THAT ACTUALLY MOVES. IT'S THE CAR THAT MOVES UNDERNEATH
28 THE FOOT.

1 SO WHEN YOU ARE TALKING ABOUT THESE FORCES,
2 THEN, YOU ARE LOOKING TO SEE WHAT DOES IT DO IN TERMS OF
3 THE FOOT. AND IF IT'S MOVING UNDERNEATH, THEN THAT FOOT
4 IS GOING TO STAY IN THAT VERTICAL POSITION WHERE IT WAS.
5 IT'S EITHER GOING TO STAY ON THE ACCELERATOR OR IF IT
6 MOVES, IT'S GOING TO MOVE A LITTLE BIT TO THE LEFT
7 BECAUSE THAT'S THE FORCE THAT'S BEING GENERATED ON THE
8 CAR. SO HE TESTS THAT AND WE SAW THE VIDEO THAT SHOWS
9 THAT THE FOOT MOVED.

10 NOW, HERE IS ANOTHER POINT THAT'S VERY
11 IMPORTANT IN THIS. WHEN THE DATA THAT WAS SECURED FROM
12 THAT TEST SHOWED THAT THE DATA OF THE DELTA V ON THE
13 FOOT -- BECAUSE REMEMBER IT WAS ALL WIRED UP. THE DELTA
14 V ON THE FOOT WAS ACTUALLY SIX; A DELTA V OF SIX. NOW,
15 THAT MAY NOT SEEM LIKE A LOT. THAT'S DOUBLE WHAT
16 MRS. UNO WOULD HAVE EXPERIENCED IN HER COLLISION.

17 WHY IS THAT IMPORTANT? THAT'S IMPORTANT
18 BECAUSE IT TELLS US WHAT THE FOOT IS GOING TO DO, AND IT
19 GOES BACK TO WHAT DR. CARPENTER SAID. I DON'T THINK THE
20 FOOT IS GOING TO MOVE, IF IT MOVES VERY LITTLE. HE HAD
21 A DELTA V OF 6 AND THE FOOT MOVED. IT MOVED MORE THAN
22 JUST AN INCH. IT MOVED A COUPLE OF INCHES. BUT WHAT
23 DID IT DO? IT REMAINED STRAIGHT UP AND DOWN. WHY?
24 BECAUSE IT'S THE CAR THAT'S MOVING. IT'S NOT THE FOOT
25 THAT IS MOVING. IT'S THE CAR.

26 WHEN I DO THIS, WHEN I SIT DOWN, I USE MY
27 LEG MUSCLES TO MOVE THE TOES. IF I'M JUST SITTING IN A
28 CAR AND THE CAR COMES AND I GET HIT ON THE SIDE, I'M NOT

1 EXERCISING MY MUSCLES; SO WHAT HAPPENS THEN IS JUST
2 SIMPLY WHAT HAPPENS FROM THE FORCES. THAT'S THE
3 IMPORTANT POINT HERE BECAUSE, AGAIN, IT'S TESTING THAT
4 HYPOTHESIS OF WHAT HAPPENS TO THE FOOT.

5 HE SAYS IT GOES VERTICAL AND THE HEEL. WE
6 SAW IT. THE HEEL DIDN'T MOVE OFF THE FLOOR. IT MOVES
7 SIDWAYS BECAUSE THE CAR IS ACTUALLY MOVING UNDERNEATH
8 THE HEEL. THE HYPOTHESIS IS THAT THIS PARTICULAR
9 ACCIDENT IS MRS. UNO'S FOOT GOES INTO THAT POSITION,
10 INTO THE HANNEMANN POSITION, AND IS HELD THERE FOR
11 35 SECONDS. AND THIS IS SOMETHING THAT WE HAVE TO LOOK
12 AT AND TEST BECAUSE THIS 35-SECOND TIME FRAME IS SUCH
13 THAT -- THERE'S A PHRASE THAT IS USED IN LITERATURE.
14 AND IT'S CALLED THE WILLING SUSPENSION OF DISBELIEF.

15 AND THIS PHRASE WAS ACTUALLY COINED IN 1817
16 BY THE FAMOUS AUTHOR BY THE NAME OF SAMUEL TAYLOR
17 COLERIDGE. HE WROTE *THE RIME OF THE ANCIENT MARINER*.
18 NOW, WHY DO I TELL YOU THIS? IT'S BECAUSE IN ORDER FOR
19 THE SUSPENSION OF DISBELIEF, THE WRITER MUST INFUSE
20 HUMAN INTEREST WITH SOME SEMBLANCE OF TRUTH IN A
21 FANTASTIC TALE. HE'S GOT TO GET THE READER TO SUSPEND
22 HIS JUDGMENT CONCERNING THE IMPLAUSIBILITY OF THE
23 NARRATIVE.

24 WHERE WE SEE THAT IN MODERN TIMES IS IN
25 MAGIC WHEN THE MAGICIAN SAYS HE'S GOING TO CUT A WOMAN
26 IN HALF. WE KNOW THAT CAN'T BE, BUT IN ORDER TO ACCEPT
27 WHAT HE'S GOING TO DO, WE HAVE TO SUSPEND OUR JUDGMENT.
28 YOU HAVE TO ACCEPT THAT THIS COULD POSSIBLY HAPPEN. YOU

1 SUSPEND ONE'S CRITICAL THINKING AND BELIEVE THE
2 UNBELIEVABLE. SACRIFICE REALISM AND LOGIC TO ACCEPT THE
3 STORY. THAT'S WHAT WE HAVE HERE.

4 THAT'S EXACTLY WHAT WE HAVE HERE BECAUSE WE
5 HAVE A FOOT THAT SOMEHOW LEVITATES OFF THE FLOOR WHEN
6 THERE'S NO FORCE THAT OCCURS IN THE ACCIDENT TO GENERATE
7 THAT. AND WE HAVE A FOOT WHICH IS DORSIFLEX. AND LET
8 ME EXPLAIN WHAT -- WE WENT THROUGH THIS QUITE A BIT. SO
9 I GOT A SHOE TREE HERE. A VERY SIMPLE CONCEPT. BUT
10 DORSIFLEX IS WHERE THE FOOT COMES UP.

11 WHEN I WAS TALKING TO MR. HILLE, I SAT DOWN
12 AND I PUT MY FOOT AND I BROUGHT IT BACK AND I ASKED HIM
13 "IS THIS THE DORSIFLEX POSITION?" HE GOES "YEAH." "IS
14 THIS THE PLANTARFLEX POSITION?" HE GOES "YEAH." BUT
15 WHAT WE'RE TALKING ABOUT IS DORSIFLEX, PLANTARFLEX
16 (INDICATING).

17 SO IN ORDER TO HAVE A DORSIFLEX FOOT, YOU
18 MUST EXERCISE THE MUSCLES IN YOUR LEGS BECAUSE IT IS AN
19 UNNATURAL POSITION BECAUSE THE NATURAL POSITION IS
20 PLANTARFLEX. THAT'S THE POSITION THAT THE FOOT WOULD
21 NORMALLY GO IN. AND THE FOOT CANNOT GET INTO A
22 DORSIFLEX POSITION WITHOUT EXERCISING YOUR MUSCLES.

23 THERE'S NO WAY YOU CAN JUST SIT HERE AND IF
24 YOU ARE SITTING AND EVEN IF YOU ARE SITTING AT A STOP
25 SIGN OR A STOPLIGHT, YOUR FOOT IS JUST GOING TO REMAIN
26 IN THAT POSITION. IN ORDER TO GET IT INTO THE DORSIFLEX
27 POSITION, YOU HAVE TO EXERCISE THE CALF MUSCLE, THE
28 THIGH MUSCLE AND THE HIP FLEXOR. AND I WENT THROUGH

1 THAT WITH MR. HILLE.

2 THAT'S WHAT HAS TO OCCUR. BUT WHAT MAKES
3 IT EVEN MORE DIFFICULT IS THAT THE FOOT REMAINS IN THIS
4 UNNATURAL POSITION FOR APPROXIMATELY 35 SECONDS. AT
5 SOME POINT, ACCORDING TO MR. HANNEMANN'S THEORY, THE
6 LEFT FOOT COMES ON THE BRAKE. NOW, MR. HANNEMANN TELLS
7 US THAT HE SUSPECTS THAT THERE WAS NO BRAKING ALL THE
8 WAY AROUND 23RD DOWN TO INTO NORTHBOUND EUCLID UNTIL
9 ABOUT 100 FEET DOWN HE SAYS. AT THAT POINT THEN HE
10 THINKS SOMETIME AFTER THAT THERE WAS SOME TYPE OF
11 BRAKING; SO THERE WAS NO BRAKING AS YOU COME AROUND THE
12 CORNER.

13 BUT THAT'S NOT -- SO WE KNOW THAT, AT LEAST
14 ACCORDING TO MR. HANNEMANN'S HYPOTHESIS, THE LEFT FOOT
15 DOESN'T COME INTO PLAY UNTIL SOME POINT THEREAFTER.
16 MAYBE TEN SECONDS LATER. BUT HERE IS THE IMPORTANT
17 THING. SO WHAT I DID WAS I BROUGHT MY RUNNING WATCH, A
18 WATCH THAT I USE WHEN I GO OUT RUNNING. AND I SAID,
19 "OKAY. LET'S EXAMINE THIS."

20 ALL RIGHT. LET'S GET THIS INTO POSITION IN
21 THE DORSIFLEX POSITION WITH THE HEEL ON THE ACCELERATOR
22 AND THE FOOT UNDERNEATH THE BRAKE AND GO FOR 35 SECONDS
23 IN THAT POSITION. NOW, AT SOME POINT ALONG THE WAY --
24 AND I'M ONLY AT TEN SECONDS RIGHT NOW. SO I'M IN THIS
25 POSITION. MY QUAD MUSCLE IS FLEXED. I CAN FEEL IT. MY
26 HIP FLEXOR IS FLEXED.

27 AT SOME POINT I COME AND I START WITH MY
28 LEFT FOOT ON THE BRAKE. IT'S STILL FLEXED. AND NOW I'M

1 TRYING TO DO BOTH OF THESE ACTIONS. AND I'M AT
2 30 SECONDS RIGHT NOW. AND AT A CERTAIN POINT IT ENDS.
3 BOOM. 35 SECONDS. THAT'S NOT AN EASY THING TO DO.
4 THAT TAKES SOME EFFORT TO DO ALL OF THAT.

5 AND THAT'S MR. HANNEMANN'S HYPOTHESIS; THAT
6 THIS IS ALL OCCURRING; YET WHAT THE WITNESSES ARE
7 TELLING US THAT THEY DON'T SEE ANYBODY DOING THIS. THEY
8 SEE TWO HANDS ON THE WHEEL STARING FORWARD. AND AS
9 MS. PEEPLES SAYS "SHE APPEARED TO BE NOT WITH IT,"
10 WHATEVER HER DESCRIPTION WAS.

11 THAT'S WHY MR. HANNEMANN'S THEORY DOESN'T
12 MAKE SENSE BECAUSE THE DORSIFLEX POSITION IS DIFFICULT
13 TO MAINTAIN THE FOOT IN. AND IF YOU ARE IN THAT
14 POSITION, THE NATURAL POSITION IS GOING TO GO TO THE
15 PLANTARFLEX. IF THAT BRAKE ACTUALLY DOES GO ON THE
16 FOOT, IT'S GOING TO GO LIKE THAT (INDICATING).

17 AND AS WE SAW WITH DR. CORRIGAN'S VIDEO,
18 THAT WILL END UP RESULTING IN THE FOOT JUST COMING OUT.
19 THAT'S THE NATURAL POSITION. TO GET INTO THIS OTHER
20 POSITION JUST DOESN'T MAKE ANY SENSE. AND WE SAW THAT
21 WHEN MR. JAMES SHOWED THE PHOTO OR THE VIDEOS OF HIS
22 SURROGATE GOING THROUGH AND DOING THESE THINGS.

23 AND ONE OF THE THINGS THAT IF YOU NOTICE
24 WHEN WE WERE GOING -- WHEN I WAS CROSS-EXAMINING
25 MR. JAMES -- AND I'M NOT GOING TO SPEND THE TIME TO GO
26 THROUGH THE VIDEO WITH YOU SO WE CAN MOVE THIS ALONG --
27 BUT I ASKED HIM -- I SAID WHAT ABOUT -- YOU COULD SEE
28 WHERE THE DRIVER WAS, AND YOU COULD SEE THE CAR MOVING.

1 AND HE SAID, "WHEN YOU FEEL THE CAR MOVING, PUT YOUR
2 FOOT ON THE BRAKE." AND THEN THERE WAS A PICTURE -- I
3 SAID, "IS THAT SPEED OR IS THAT BRAKE PEDAL FORCE?" HE
4 SAID, "NO, THAT'S BRAKE PEDAL FORCE." BUT THE SPEED OF
5 THE CAR WAS MOVING SO SLOWLY AT THAT POINT. IT WAS
6 GOING SIX MILES AN HOUR. AND WE TALKED ABOUT SEVEN
7 MILES AN HOUR TO TEN MILES AN HOUR. THAT'S WHY
8 EVERYBODY DESCRIBES THIS AS A LOW SPEED IMPACT.

9 SO WITH ALL OF THAT, THE QUESTION IS DOES
10 MR. HANNEMANN'S HYPOTHESIS MAKE ANY SENSE? BECAUSE IT
11 DEFIES LOGIC. YOU HAVE TO HAVE THE WILLFUL SUSPENSION
12 OF DISBELIEF TO THINK THAT THIS IS GOING TO OCCUR. SO
13 THEN WHAT WE HAVE IS DID ANYTHING OCCUR IN THE ACCIDENT
14 WITH MRS. BELLO WHICH WOULD HAVE CAUSED INJURY TO
15 MRS. BELLO?

16 AND THAT'S WHERE WE GET INTO WHEN WE TALK
17 ABOUT THE OCCUPANT KINEMATICS. TALKED ABOUT THAT WITH
18 DR. CORRIGAN. EVEN MR. HILLE INDICATED THAT IF SHE
19 MOVES, SHE'S GOING TO MOVE TO THE LEFT AND SHE'S GOING
20 TO CONTACT HER ARM, HER SHOULDER, IF SHE DOES. MAY.
21 MAY DO THAT. NOTHING ABOUT ANY TYPE OF INJURY TO THE
22 HEAD.

23 AND DR. CORRIGAN -- SHE WAS THE ONE THAT
24 HAD TALKED ABOUT THIS IDEA THAT THE FORCES WERE SIMPLY
25 TOO LOW. THERE WAS INSUFFICIENT FORCE TO PRODUCE A
26 MECHANISM OF INJURY. THAT'S, YOU KNOW, VERY TECHNICAL
27 BIOMECHANICAL TERMS. AND SHE SAYS THAT THE FORCES WERE
28 SIMILAR TO BUMPER CARS, NOT THAT THIS WAS BUMPER CARS.

1 BUT THE FORCES GENERATED WERE SUCH THAT YOU WOULDN'T
2 HAVE A MECHANISM OF INJURY IN THIS COLLISION.

3 DR. CARPENTER ALSO TALKS ABOUT THAT. TALKS
4 ABOUT THE LATERAL DELTA V, THE ROTATIONAL FORCES. HE
5 ALSO MENTIONS, HE ALSO TALKED ABOUT THIS IN SOME
6 QUESTIONING ON CROSS-EXAMINATION ABOUT HER HEAD AND
7 DR. CARPENTER INDICATED N.H.T.S.A. HAS A HEAD INJURY
8 CRITERIA. FORCE NECESSARY TO CAUSE INJURY. THE FORCES
9 IN THIS ACCIDENT WERE INSUFFICIENT 100 PERCENT TO CAUSE
10 HEAD INJURY. THERE'S NO TESTIMONY IN THIS CASE TO
11 INDICATE THAT MRS. UNO SUSTAINED ANY TYPE OF INJURY
12 WHICH WOULD HAVE CAUSED BRAIN MALFUNCTION.

13 IT DOESN'T EXIST. NO EXPERT HAS COME IN
14 HERE TO SAY THAT. TO MAKE THAT LEAP THAT SHE HAD --
15 THAT SHE HAD SOME DISORIENTATION AS A RESULT OF THIS
16 IMPACT IS PURE SPECULATION. THERE'S NO EVIDENCE OF IT.
17 EVERY EXPERT THAT'S COME IN HERE HAS NEVER GIVEN ANY
18 OPINION ON THAT OTHER THAN "WELL, MAYBE THAT COULD OCCUR
19 IF THE FORCES WERE SUFFICIENT."

20 WE HAD THAT FROM DR. SCHWARTZ. "WELL,
21 MAYBE IF SHE SPUN AROUND." I MEAN, IF THERE WAS -- IF
22 YOU GET IN TEACUPS AT DISNEYLAND AND YOU SPIN AND SPIN
23 AND SPIN, YOU ARE GOING TO HAVE SOME DISORIENTATION.
24 BUT IF YOU GO IN A HALF TURN, THAT'S NOT GOING TO
25 HAPPEN; SO IT'S ALL -- THERE'S NO EVIDENCE HERE TO
26 PRESENT TO SAY THAT THERE WAS ANY TYPE OF INJURY WHICH
27 WOULD CAUSE DAMAGE.

28 SO WITH THAT THEN THERE HAS TO BE SOME

1 OTHER EXPLANATION AND I'M NOT GOING TO GO THROUGH
2 EVERYTHING. MR. GALVIN WENT THROUGH ALL THE INFORMATION
3 ABOUT THE CIRRHOSIS, AND THE DIABETES AND EVERYTHING
4 ELSE; SO I'M NOT GOING TO BURDEN YOU WITH THAT. BUT I
5 WILL SAY THAT'S WHAT WE -- WE HAVE TO HAVE SOME
6 EXPLANATION FOR WHAT HAPPENED HERE BECAUSE THE FORCES
7 GENERATED IN THE COLLISION DO NOT MAKE SENSE. THEY
8 DON'T PRODUCE ANY TYPE OF INJURY SUCH THAT YOU COULD END
9 UP HAVING MRS. UNO GOING THROUGH THIS AS A RESULT OF
10 THIS IMPACT.

11 SO THIS IS A QUESTION THAT I ASK OF YOU,
12 THEN. THINK ABOUT SOME OF THE THINGS THAT WE DON'T HAVE
13 ANSWERS TO. MRS. BELLO, ACCORDING TO THE PHYSICS OF THE
14 COLLISION -- MRS. UNO. EXCUSE ME. MRS. UNO, ACCORDING
15 TO THE PHYSICS OF THE COLLISION, IS GOING APPROXIMATELY
16 28 TO 30 MILES PER HOUR BASED UPON THE MOVEMENTS OF THE
17 CAR. THAT'S THE YAW MARKS ON THE STREET. THIS IS A
18 45-MILE-PER-HOUR ZONE. THIS IS CLASSIFIED AS A STATE
19 HIGHWAY GOING THROUGH A RESIDENTIAL AREA. THE 45 MILES
20 PER HOUR IN TWO LANES ONE DIRECTION. AND THEN ON THE
21 OTHER SIDE YOU HAVE TWO LANES IN THE OTHER DIRECTION.

22 THINK ABOUT THAT. 28 TO 31. WAS THERE
23 SOMETHING HAPPENING THERE THAT WAS SUCH THAT -- WE DID
24 HEAR ABOUT HER BEING A SLOW DRIVER, BUT THAT IS
25 EXTREMELY SLOW IN THAT KIND OF A ROADWAY. AND WAS THERE
26 SOMETHING HAPPENING AT THAT POINT? ANOTHER POINT. WHEN
27 THE COLLISION OCCURS I ASKED -- NO. I THINK MR. FAUCHER
28 ASKED DR. TAYEK.

1 NOW, HE IS -- HE CAME IN HERE TO TALK ABOUT
2 THE DIABETES. HE'S THE ENDOCRINOLOGIST. THERE WERE
3 ONLY A FEW QUESTIONS ASKED BY DR. FAUCHER TO DR. TAYEK.
4 ONE OF THOSE QUESTIONS WAS: "DOCTOR, IF AN ACCIDENT
5 OCCURS, WILL THE BLOOD SUGAR GO UP OR DOWN?"

6 AND HE SAID, "IT WOULD GO UP. SLIGHTLY BUT
7 UP."

8 WHY IS THAT IMPORTANT? BECAUSE IT'S NOT --
9 THE ACCIDENT WOULD NOT DROP THE BLOOD SUGAR. SO
10 WHATEVER WOULD HAVE OCCURRED IN THE ACCIDENT WOULD NOT
11 HAVE PUT HER INTO A STATE OF LOW BLOOD SUGAR BECAUSE
12 DR. TAYEK SAYS "NO, THAT'S NOT WHAT HAPPENS BECAUSE THE
13 STRESS OF GETTING HIT -- THAT'S GOING TO RELEASE THE
14 ADRENALIN. THE BLOOD SUGAR IS GOING TO GO UP IN THAT
15 MOMENT." SO WE KNOW THAT THIS ACCIDENT COULD NOT HAVE
16 CAUSED THE BLOOD SUGAR TO GO DOWN. VERY IMPORTANT
17 ASPECT OF THE ACCIDENT. AND THAT CAME FROM DR. TAYEK.
18 THAT DIDN'T COME FROM THE DEFENSE EXPERTS.

19 SO THE NEXT QUESTION IS IF THERE'S NO STUCK
20 FOOT, WHICH IN THIS PARTICULAR CASE, THERE'S NO
21 MECHANISM FOR IT. THERE WERE NO FORCES TO LIFT THAT
22 FOOT UP INTO THE AIR. WHY WOULD THE POLICE OFFICER --
23 ASK YOURSELVES THIS: WHY DID THE POLICE OFFICER ASK
24 JEFFREY "WAS THERE SOMETHING" -- "IS THERE ANYTHING WITH
25 YOUR MOTHER THAT WE COULD ATTRIBUTE THAT WOULD HAVE
26 CAUSED THIS?" WHY? BECAUSE THE WHOLE THING DOESN'T
27 MAKE ANY SENSE. SO YOU ASK THAT QUESTION.

28 JEFFREY ALSO SAID THAT HE TOLD THE POLICE

1 OFFICER ABOUT THE BLOOD SUGAR PROBLEM. NOW, JEFFREY WAS
2 VERY ATTUNED THAT HIS MOTHER HAD SOME PROBLEMS WITH HER
3 CONFUSION AND FORGETFULNESS. IT WAS SO PREVALENT THAT
4 JEFFREY HAD TO -- HE DID SOME RESEARCH ON IT. HE WAS
5 WORRIED ABOUT HER. HE DID SOME RESEARCH ON IT, AND HE
6 FOUND OUT THAT BECAUSE OF THE CIRRHOSIS OF THE LIVER,
7 THAT THIS WOULD CAUSE SOME AMMONIA IN THE BRAIN WHICH
8 THEN CAUSES THIS MALFUNCTION. HE WAS CONCERNED ABOUT
9 IT. IF THIS HAD JUST HAPPENED ONE TIME, THAT WOULDN'T
10 BE A SITUATION WHERE THAT WOULD RAISE CONCERN. IT WOULD
11 JUST BE KIND OF "OKAY. THAT JUST HAPPENED." BUT IT IS
12 AN ISSUE, AND HE TOLD THE POLICE OFFICER.

13 HE ALSO KNEW THAT MRS. UNO WAS HAVING
14 TROUBLE CONTROLLING HER DIABETES. AND I'M NOT GOING TO
15 GO THROUGH ALL OF THE INFORMATION. YOU'VE HEARD THAT
16 ALREADY. BUT I ASK YOU TO ASK THOSE QUESTIONS. SO THEN
17 THE ISSUE IS WHAT IS MORE LIKELY TO BE TRUE THAN NOT?
18 THAT THE ACCIDENT CAUSED -- WAS CAUSED BY THE STUCK
19 FOOT, CAUSED BY THE FORCES THAT TOOK PLACE IN THE
20 ACCIDENT AT 23RD AND EUCLID? OR WAS IT A MEDICAL
21 CONDITION WHICH CAUSED A PEDAL MISAPPLICATION? NOW, YOU
22 HAVE TO ANSWER THAT QUESTION. IT SEEMS PRETTY OBVIOUS.
23 WE KNOW THAT THE STUCK FOOT THEORY DOESN'T HOLD WATER.

24 THE LAST THING I WANT TO TALK TO YOU
25 ABOUT -- AND IT'S ALWAYS THE MOST DIFFICULT THING -- AND
26 THAT IS DAMAGES BECAUSE YOU ARE GOING TO MAKE YOUR
27 DETERMINATION AS TO WHAT YOU FIND. NOW, I DON'T BELIEVE
28 THERE'S ANY EVIDENCE TO SHOW THAT THERE WAS ANYTHING

1 THAT OCCURRED IN THIS ACCIDENT THAT COULD HAVE CAUSED
2 MRS. UNO TO DO THE THINGS THAT SHE DID.

3 BUT DAMAGES -- IT'S A VERY DIFFICULT
4 PORTION FOR A DEFENSE ATTORNEY TO ADDRESS WITH A JURY.
5 IT'S DIFFICULT IN A LOT OF WAYS. IT'S DIFFICULT, YOU
6 KNOW, WHEN SOMEBODY BREAKS A LEG IN AN ACCIDENT OR
7 SOMETHING LIKE THAT. WHAT IS IT THAT OCCURS TO THIS
8 PERSON? THAT'S ONE THING. AND THEN WHAT IS THE
9 COMPENSATION THAT SHOULD RESULT FROM THAT? THAT'S ONE
10 THING. BUT WHEN YOU HAVE A DEATH, THERE'S A LOT OF
11 EMOTION CONNECTED WITH THAT. TREMENDOUS AMOUNT OF
12 EMOTION.

13 AND SO WHAT WE HAVE TO TALK ABOUT IS WHAT
14 HAPPENS IN WHAT THE JURY INSTRUCTIONS ARE AS TO WHAT WE
15 CALL WRONGFUL DEATH. AND THIS IS ESPECIALLY DIFFICULT
16 BECAUSE WE HAVE -- YOU KNOW, MR. UNO SEEMS LIKE A NICE
17 MAN. MRS. UNO RAISED A LOVELY YOUNG MAN IN JEFFREY UNO.
18 SEEMS VERY LOVELY. AND MRS. UNO SEEMED TO BE A VERY
19 LOVELY WOMAN -- EVERYTHING THAT WE'VE SEEN FROM HER.

20 SO IT'S THAT EMOTIONAL THING IS WHAT IS
21 GOING TO BE DIFFICULT TO DEAL WITH. NOW, THE LAW OF
22 WRONGFUL DEATH IS A LITTLE BIT DIFFERENT THAN OTHER
23 TYPES OF LAW THAT WE DEAL WITH, AND IT'S THIS: THE LAW
24 OF WRONGFUL DEATH -- AS MR. MARDIROSSIAN TOLD YOU, WE
25 ARE -- OUR LAW COMES FROM THE COMMON LAW FROM ENGLAND.

26 IN THE COMMON LAW OF ENGLAND, THERE WAS NO
27 CAUSE OF ACTION FOR WRONGFUL DEATH. SO IT DOESN'T
28 DERIVE FROM THE COMMON LAW. IT DERIVES -- ACTUALLY, IT

1 CAME ABOUT BECAUSE IN 1846 THE BRITISH PARLIAMENT
2 CREATED WRONGFUL DEATH AS A CAUSE OF ACTION. IT'S WHAT
3 WE CALL A STATUTORY CAUSE OF ACTION.

4 THE CALIFORNIA COURT HAS -- CALIFORNIA
5 LEGISLATURE HAS ALSO CREATED THAT CAUSE OF ACTION. SO
6 IF WE LOOK AT JURY INSTRUCTION 3921 -- AND I'M GOING TO
7 GO THROUGH THIS WITH YOU. THE FOLLOWING NONECONOMIC
8 DAMAGES. THIS RIGHT HERE IS WHAT WE'RE TALKING ABOUT.
9 THE LOSS OF LOVE, COMPANIONSHIP, COMFORT, CARE,
10 ASSISTANCE, PROTECTION, AFFECTION, SOCIETY, MORAL
11 SUPPORT. THE LOSS OF TRAINING AND GUIDANCE.

12 THAT DEALS WITH MRS. UNO WHEN SHE WAS
13 RAISING JEFFREY, YOU KNOW, SHE WOULD HAVE GIVEN HIM
14 TRAINING AND GUIDANCE. SHE RAISED A FINE YOUNG MAN.
15 SHE DID A WONDERFUL JOB IN THAT REGARD. SO WHAT WE'RE
16 DEALING WITH HERE IS THIS SECTION UP HERE (INDICATING).

17 AND THAT IS WHAT WE -- WHAT THE LEGISLATURE
18 HAS SAID IS COMPENSABLE. NOW, WHAT I'M GOING TO TALK TO
19 YOU ABOUT NEXT IS ON THE NEXT PAGE. AND THE REASON IS
20 THIS IS THE MORE SIGNIFICANT PART. "IN DETERMINING
21 PETER UNO'S AND JEFFREY UNO'S LOSS, DO NOT CONSIDER
22 PETER AND JEFFREY UNO'S GRIEF, SORROW OR MENTAL
23 ANGUISH."

24 NOW, THAT MAY SEEM HARSH, BUT THERE'S A
25 REASON FOR THAT. THE REASON FOR THAT IS THAT IT'S WELL
26 KNOWN. EVERYBODY THAT LOSES A LOVED ONE, WHETHER THAT
27 LOVED ONE IS LOST IN AN ACCIDENT OR IS LOST WHEN THEY
28 DON'T WAKE UP IN THE MORNING FROM SLEEPING AT NIGHT,

1 THERE IS GRIEF, THERE IS SORROW, AND THERE'S MENTAL
2 ANGUISH THAT IS ASSOCIATED WITH THAT. THAT'S HUMAN
3 LIFE. IT'S THE CIRCLE OF LIFE THAT WE DEAL WITH.

4 EVERYONE EXPERIENCES THAT NO MATTER WHAT
5 THE CIRCUMSTANCES ARE OF THE DEATH. THAT IS WHY THE
6 LEGISLATURE HAS SAID THAT IS NOT WHAT YOU CAN CONSIDER.
7 AND EVEN JEFFREY TOLD US THAT HIS DAD THAT YEAR AFTER
8 THE ACCIDENT HE WAS EMOTIONALLY, YOU KNOW, UPSET. HE
9 HAD GRIEF; HE HAD SORROW. HE HAD THE MENTAL ANGUISH
10 THAT IS ASSOCIATED WITH THE DEATH OF A LOVED ONE. THINK
11 ABOUT IT. IN THAT FIRST YEAR AFTER DEATH ALL THE EVENTS
12 THAT OCCUR OVER THE YEAR ALWAYS BRING BACK THE MEMORY OF
13 WHAT YOU WERE DOING THE YEAR BEFORE. AND THAT'S NORMAL
14 HUMAN NATURE. THAT HAPPENS.

15 IN FACT, YEARS AGO IT WAS IN THE CULTURE
16 YOU WOULD SEE WOMEN WEARING BLACK IF THEIR HUSBANDS HAD
17 DIED. AND THEY WORE IT FOR AN ENTIRE YEAR BECAUSE THEY
18 WERE IN THAT YEAR OF GRIEF, SORROW, AND MENTAL ANGUISH.
19 REGARDLESS OF HOW IT HAPPENED, THAT'S GOING TO HAPPEN.

20 SO WHAT THE COURT THEN SAYS IS THAT YOU
21 MUST DISREGARD THAT AND NOT CONSIDER THAT. WHAT YOU ARE
22 GOING TO BE LOOKING AT IS THE DIFFERENTIAL IN THAT --
23 LOSS OF CARE, COMFORT AND SOCIETY IS THAT DIFFERENTIAL
24 OF HAVING LOST A LOVED ONE PREMATURELY VERSUS WHEN IT
25 WOULD HAPPEN AS A NORMAL COURSE OF LIFE.

26 THAT'S THE MEASUREMENT OF DAMAGES THAT
27 WE'RE TALKING ABOUT. IT'S A COMPLETELY DIFFERENT
28 MEASUREMENT OF DAMAGE. IT IS A DAMAGE THAT -- A SHORTER

1 PERIOD OF TIME WITH THAT LOVED ONE. AND, UNFORTUNATELY,
2 IN THIS PARTICULAR SITUATION WE DON'T KNOW HOW LONG
3 MRS. UNO WOULD HAVE LIVED. WE HAVE STATISTICS. BUT WE
4 ALSO KNOW FROM ALL OF THE MEDICAL INFORMATION THAT
5 THAT -- WE DON'T KNOW WHERE IT WOULD HAVE BEEN. BUT
6 IT'S A MUCH SMALLER AMOUNT THAT DIFFERENTIAL THAN JUST
7 LOSS OF CARE, COMFORT AND SOCIETY. AND WHAT YOU HAVE TO
8 LOOK AT IN THAT WHEN THIS IS NOT -- AND, YOU KNOW, GO
9 BACK, CURTIS, IF YOU WOULD, TO THE FIRST PAGE. IT IS
10 ALL OF THESE THINGS -- THIS IS THE LEGISLATURE TELLING
11 US "OKAY. THESE ARE THE THINGS TO CONSIDER." IT'S NOT
12 LIKE, YOU KNOW, THAT'S ONE THING AND THAT'S ANOTHER
13 THING. AND IF THE LEGISLATURE PUTS EIGHT OTHER THINGS
14 IN THERE THAT YOU COMPENSATE FOR ALL THOSE -- IT'S THAT
15 LOSS THAT OCCURS WHEN YOU COME HOME AND IT'S BEEN A
16 ROUGH DAY AND YOU NEED THAT -- YOU NEED A LITTLE
17 PICK-ME-UP. YOU KNOW, "HEY, HOW DID YOUR DAY GO?" "NOT
18 SO GOOD." THAT MORAL SUPPORT; THAT LOVE THAT OCCURS
19 DURING THAT TIME. IT DOESN'T HAPPEN EVERY DAY.

20 LIFE COMES AT US IN DIFFERENT WAYS. LIFE
21 COMES AT JEFFREY AND PETER IN DIFFERENT WAYS. AND, YES,
22 THERE'S GRIEF AND SORROW THAT OCCURS, BUT THAT'S NOT
23 COMPENSABLE. BUT THOSE TIMES -- THOSE QUIET TIMES WHEN,
24 YOU KNOW, NORIKO BEING THERE SHE COULD HAVE SAID, "HEY,
25 YOU KNOW, THAT'S OKAY. THAT'S OKAY. YOU WILL GET
26 THROUGH IT TOMORROW." YEAH, THAT'S THE DIFFERENTIAL
27 COMPENSATION THAT YOU ARE TALKING ABOUT.

28 YOU KNOW, MR. MARDIROSSIAN PUTS UP THESE

1 NUMBERS OF -- AND THIS IS DIFFICULT ON THE DEFENSE SIDE.
2 YOU KNOW, HE PUTS UP THESE NUMBERS \$20 MILLION. AND THE
3 DEFENSE -- I MEAN, THE ONLY THING THE DEFENSE COULD DO
4 IN RESPOND TO THAT IS SAY ZERO AND THEN YOU SPLIT THE
5 DIFFERENCE AND THEN, YOU KNOW, \$10 MILLION, THAT'S
6 NOT -- BECAUSE YOU CAN PUT THOSE NUMBERS ANY WAY YOU
7 WANT. THE NUMBERS HAVE TO BE BASED UPON THE EVIDENCE
8 AND YOUR COMMON SENSE AS TO WHAT IS -- WHAT EXPERIENCE
9 OF LIFE THAT YOU BRING TO THIS. THAT'S WHAT IS SO
10 IMPORTANT. AND SO A MILLION DOLLARS -- THAT'S 9944 IS
11 100 PERCENT OF THE PEOPLE IN THIS WORLD WILL NEVER SEE A
12 MILLION DOLLARS. THAT'S A HUGE AMOUNT OF MONEY.

13 WHAT YOU HAVE TO DECIDE IS WHAT IS THAT
14 INCREMENTAL DIFFERENCE IF YOU GET TO THAT POINT OF WHAT
15 WOULD HAVE OCCURRED NATURALLY JUST IN THE LOSS OF A
16 LOVED ONE VERSUS THAT SHORTER PERIOD OF TIME? THAT'S
17 THE MEASURE OF DAMAGES. AND THAT IS WHAT I WOULD ASK IF
18 YOU GET TO THAT POINT, THAT YOU ASK YOURSELF AM I
19 REACTING EMOTIONALLY? AM I ACTING WITH CALM
20 DELIBERATION? AM I DOING THIS BECAUSE MR. UNO AND
21 JEFFREY ARE NICE PEOPLE? AM I DOING THIS -- I DON'T
22 LIKE MRS. BELLO OR I DON'T LIKE MR. DUFFY. AM I DOING
23 THIS -- WHY AM I COMING UP WITH THIS NUMBER?

24 THINK ABOUT THAT WHEN YOU ARE TALKING ABOUT
25 THAT AMONGST YOURSELF. IT CAN'T BE BASED ON EMOTION.
26 IT CAN'T BE BASED UPON PASSION OR PREJUDICE. THAT
27 NUMBER -- THAT DIFFERENTIAL THAT WE'RE TALKING ABOUT.
28 THAT'S WHAT WE'RE TALKING ABOUT. THAT'S NOT GRIEF,

1 SORROW -- THAT CAN'T BE COMPENSATED. AND EVEN YESTERDAY
2 MR. UNO GOT UPSET, BUT THAT'S GRIEF, SORROW, MENTAL
3 ANGUISH. BUT THAT'S NOT COMPENSABLE. AND IT MAKES
4 TOTAL SENSE BECAUSE EVERYBODY GOES THROUGH IT IN LIFE.

5 SO I'M SURE I MISSED A FEW THINGS, AND I'M
6 SURE MR. MARDIROSSIAN IS GOING TO POINT THOSE OUT TO
7 YOU. AT THIS POINT I'M GOING TO BRING IT TO AN END AND
8 SAY AGAIN I WANT TO THANK YOU FOR THE TIME THAT YOU'VE
9 LISTENED. YOU'VE BEEN A WONDERFUL JURY. YOU GUYS HAVE
10 BEEN UNBELIEVABLE LISTENING THROUGH ALL OF THIS EVIDENCE
11 AND WATCHING AND STAYING AWAKE SOMETIMES WHEN IT'S HOT
12 AND EVERYTHING LIKE THAT.

13 BUT WHAT I WOULD SAY TO YOU IS THIS: THAT
14 WHEN YOU MAKE THIS DECISION, MAKE IT BASED ON THE
15 EVIDENCE, NOT BASED UPON EMOTION. THAT'S ALL WE CAN
16 ASK. AND THAT PART IS WHERE YOUR OATH AS A JUROR -- YOU
17 COME IN HERE TO BE IMPARTIAL AND FAIR TO BOTH SIDES IN
18 REACHING THIS CONCLUSION. IT'S IMPORTANT TO BOTH SIDES.

19 AND YOU SAID IN THE BEGINNING THE FACT THAT
20 MRS. BELLO ISN'T HERE -- SHE CAME IN, TOLD YOU, YOU
21 KNOW, WHAT SHE REMEMBERED. SHE DIDN'T REMEMBER MUCH,
22 BUT SHE WASN'T HERE AS THE UNOS WERE HERE DURING THE
23 COURSE OF THE TRIAL. BUT YOU ALL INDICATED THAT THAT
24 WOULD NOT BEAR ON YOUR DECISION IN THIS CASE. AND SO I
25 ASK YOU TO BE FAIR AND IMPARTIAL WHEN YOU ARE REACHING
26 YOUR CONCLUSION AND THAT SHOULD NOT HAVE ANYTHING TO DO
27 WITH IT.

28 SO I'M GOING TO SIT DOWN NOW.

1 MR. MARDIROSSIAN IS GOING TO GET UP AND HE'S GOING TO
2 TALK TO YOU. THIS IS THE HARDEST PART ABOUT THE TRIAL
3 ON THE DEFENSE BECAUSE I DON'T GET TO COME UP HERE --
4 LIKE WHEN WE HAD WITNESSES ON THE STAND, YOU WOULD ASK A
5 WITNESS A QUESTION AND THEN THE OTHER SIDE WOULD
6 CROSS-EXAMINE AND THEN YOU JUMP UP AND ASK HIM ANOTHER
7 QUESTION -- CAN'T DO THAT. AND AS YOU SEE, I'M HALF
8 ITALIAN; SO I TALK WITH MY HANDS. SO I'M GOING TO BE
9 FRUSTRATED SITTING THERE IN THE CHAIR. SO I EITHER PUT
10 THEM UNDER MY THIGHS OR I -- BECAUSE I CAN'T SAY
11 ANYTHING. ALL I ASK IS WHEN MR. MARDIROSSIAN TELLS YOU
12 ALL OF THE THINGS THAT I DIDN'T TELL YOU OR FORGOT TO
13 TELL YOU OR EVERYTHING LIKE THAT, THINK ABOUT "WELL,
14 WHAT WOULD MR. DUFFY SAY ABOUT THAT OR WHAT DID THE
15 EVIDENCE SAY ABOUT THAT?"

16 SO THANK YOU, LADIES AND GENTLEMEN. WE
17 APPRECIATE YOUR TIME. AND I KNOW IT'S ALWAYS HARD WHEN
18 YOU ARE DEALING WITH A WRONGFUL DEATH CASE. THANK YOU.

19 THE COURT: MR. MARDIROSSIAN.

20 MR. MARDIROSSIAN: THANK YOU, YOUR HONOR.

21 WELL, I HAVE ITALIAN COUSINS VISITING FROM
22 ITALY, BUT I'M NOT ITALIAN. MAYBE I PICKED UP TALKING
23 WITH MY HANDS FROM THEM. YOU SEE, WHAT MR. DUFFY JUST
24 SAID IS THAT THE LIFE OF NORIKO UNO, THE VALUE OF HER
25 LIFE, THE LOSS OF COMFORT, SOCIETY -- LOVE, AFFECTION,
26 GUIDANCE, ADVICE, PROTECTION -- ALL THAT OVER THE
27 20 YEARS THAT THE TABLES TELL US YOU LIVE HAD HER LIFE
28 NOT BEEN TAKEN BECAUSE THAT CIRCLE OF LIFE WAS

1 INTERRUPTED BY TOYOTA AND BELLO IS WORTH LESS THAN WHAT
2 THEY PAID THEIR EXPERTS -- WHAT THEY PAID THEIR EXPERTS
3 TO COME IN HERE AND TELL YOU A STORY, TO TELL YOU TALES.

4 MR. GALVIN: YOUR HONOR, I OBJECT TO THE "THEY."
5 I NEVER MADE SUCH AN ARGUMENT.

6 MR. MARDIROSSIAN: ALL RIGHT.

7 THE COURT: CAN YOU CLARIFY?

8 MR. MARDIROSSIAN: VERY WELL. THE MILLION AND A
9 HALF DOLLARS OR MORE WAS PAID BY TOYOTA. I WILL GO
10 THROUGH FOR YOU EXACTLY WHAT IT IS THAT TOYOTA TOLD YOU
11 THEY WERE GOING TO PROVE IN THIS CASE IN THEIR OPENING,
12 AND HOW IT IS THAT THEY DIDN'T PROVE THAT IN THIS TRIAL.
13 AND I WILL BE ABLE TO ALSO GO THROUGH WHAT IT IS THAT
14 MR. DUFFY HAS SAID ABOUT THE INTERRUPTION OF LIFE OR
15 ABOUT THE CIRCLE OF LIFE.

16 AND THAT CIRCLE OF LIFE -- I REMEMBER
17 WATCHING *THE LION KING* WITH MY KIDS. AND WE HEARD ABOUT
18 THE CIRCLE OF LIFE. THERE'S A SONG ABOUT THAT. AND
19 THAT'S THE NATURAL CIRCLE OF LIFE. NOT WHEN A THIRD
20 PARTY INTERVENES AND CUTS OFF ONE'S LIFE UNNATURALLY.

21 IF IT WASN'T FOR TOYOTA AND BELLO GETTING
22 TOGETHER ON THAT FATEFUL DAY, MRS. UNO WOULD BE ALIVE
23 TODAY AND MR. UNO WOULD NOT BE AT DIALYSIS ALONE RIGHT
24 NOW. HE GOES FOUR TIMES A WEEK FOR KIDNEY DIALYSIS.
25 AND HE DID THAT BEFORE HER PASSING. AND SHE WOULD BE
26 THERE WITH HIM AS A FAITHFUL WIFE, JOKING, KEEPING IT
27 LIGHT AS MR. DUFFY SAID FOR THOSE SPECIAL MOMENTS WHEN
28 LOVE REALLY MATTERS. WHEN, YOU KNOW, THAT PERSON TELLS

1 YOU, "YOU KNOW, YOU PROBABLY HAD A TOUGH DAY. LIKE,
2 GOSH, YOU COME HOME 11:00, 12:00 O'CLOCK JUST ABOUT
3 EVERY NIGHT. YOU COME IN, I WAIT FOR YOU, I PREPARE A
4 SNACK. TELL ME WHAT HAPPENED TODAY. HOW MANY CUSTOMERS
5 SAID, 'YOU KNOW WHAT? I THINK THERE WAS A HAIR IN THAT
6 SUSHI YOU SERVED AND SO WE'RE NOT GOING TO PAY. GIVE US
7 A FREE ONE." OKAY. NO PROBLEM; NO PROBLEM. "HOW MANY
8 CUSTOMERS MAY HAVE SAID, YOU KNOW, THE SERVICE WASN'T
9 GOOD THAT DAY BECAUSE THE WAITER TOOK A LITTLE TOO LONG
10 TO BRING YOU WATER." NO PROBLEM; NO PROBLEM. AND SO
11 MRS. UNO WOULD SIT NEXT TO HIM AND SAY "I RELATE TO YOU
12 BECAUSE I WORK WITH YOU. I KNOW WHAT YOU GO THROUGH."
13 AND YOU GO THROUGH THAT EVERY DAY. AND LET'S TALK ABOUT
14 IT. LET'S THINK ABOUT THE BIG PICTURE. THAT WAS
15 NORIKO. JUST LIKE MR. DUFFY SAID. THAT WAS NORIKO.

16 NORIKO WAS THE PERSON THAT PUT A SMILE ON
17 HIS FACE BECAUSE SHE ALWAYS HAD A SMILE ON HER FACE.
18 WHEN WE LOOK AT THOSE PHOTOS, I REMINDED YOU. YOU
19 COULDN'T SEE A SINGLE PHOTO OF NORIKO WITHOUT THE BIG
20 BROAD SMILE ON HER FACE. HER TEETH WERE ALWAYS SHOWING
21 BECAUSE SHE WAS THE PERSON THAT WAS ALWAYS THERE TO GIVE
22 HIM THAT, YOU KNOW, "LET'S GET UP. LET'S THINK ABOUT
23 THE POSITIVE SIDE. LET'S MOVE ON. LET'S THINK ABOUT
24 ALL THE THINGS WE'RE BLESSED WITH. WE'VE GOT A
25 BUSINESS. WE SERVE A COMMUNITY. WE'VE GOT A SON." AS
26 MR. DUFFY SAID, HE IS A LOVELY YOUNG MAN. 37 YEARS OLD.
27 HE'S DEVOTED TO HIS MOM AND DAD AS THEY ARE TO HIM, AS
28 NORIKO WAS TO HIM. THE PROTECTION SHE GAVE HIM, THE

1 GUIDANCE, THE ADVICE, THE LOVE, THE CARE -- THAT'S GONE.

2 WE'RE NOT HERE ASKING YOU FOR SYMPATHY. I
3 MENTIONED THIS IN VOIR DIRE. WE'RE NOT HERE FOR
4 SYMPATHY. THEY GET PLENTY OF SYMPATHY FROM THE HUNDREDS
5 OF CUSTOMERS THAT COME TO THEIR BUSINESS AND SAY "WE'RE
6 SO SORRY ABOUT MR. NORIKO'S LOSS. WE'RE SO SORRY THAT
7 YOU LOST NORIKO. SHE WAS SUCH A WONDERFUL PERSON."
8 THEY GET SYMPATHY FROM FRIENDS, FAMILY, CUSTOMERS,
9 NEIGHBORS. AND WONDERFUL THAT YOU MIGHT HAVE SYMPATHY
10 FOR HER, BUT THAT'S NOT WHAT WE'RE HERE FOR.

11 WE'RE NOT HERE FOR SYMPATHY. WE'RE HERE
12 FOR WHAT THE LAW ALLOWS, WHAT THE LAW DIRECTS YOU TO DO.
13 AND THAT IS THAT ONCE YOU FIND THESE TWO DEFENDANTS TO
14 HAVE BEEN A SUBSTANTIAL FACTOR IN CAUSING HER HARM, THAT
15 YOU COMPENSATE FAIRLY. AND COMPENSATE, AGAIN, DOESN'T
16 MEAN JUST TILT IT SLIGHTLY BUT MAKE THEM EQUAL BECAUSE
17 THIS LOSS IS SUBSTANTIAL. IT'S CATASTROPHIC. IT IS
18 DEATH; IT IS DEATH.

19 SO TO BALANCE DEATH YOU CAN'T BALANCE THAT
20 BY SAYING, LOOK, A MILLION BUCKS -- THAT'S PLENTY OF
21 MONEY BECAUSE 90 SOME-ODD PERCENT OF THE PEOPLE IN THIS
22 WORLD WOULD NOT HAVE SEEN A MILLION DOLLARS. BUT LET'S
23 THINK ABOUT WHAT THAT REALLY MEANS. AS A SOCIETY WHAT
24 DO WE THINK ABOUT LIFE, HOW MUCH DO WE VALUE IT.

25 IF WE HAVE A NAVY FIGHTER GOING DOWN IN A
26 JET THAT IS WORTH 50 MILLION BUCKS AND HE'S GOT A CHOICE
27 AND HE RADIOS IN "HEY, I THINK I'M GOING TO LOSE THIS
28 THING, BUT SHOULD I TRY TO KEEP IT UP?" THEY WOULD

1 NEVER TELL HIM "NO, NO, NO. DO WHATEVER IT TAKES TO
2 KEEP THAT PLANE AFLOAT." NO. THEY WOULD SAY "EJECT.
3 SAVE YOUR LIFE. WE DON'T CARE WHAT THAT PLANE COSTS."

4 IF THERE'S SOMEBODY LOST AT SEA, WE DON'T
5 SAY "WELL, WE'VE ONLY GOT 250,000 BUCKS TO GO FIND HIM."
6 NO, WE SEND OUT HELICOPTERS, WE SEND OUT THE COAST
7 GUARD, WE SEND OUT WHATEVER IT TAKES TO GO FIND PEOPLE
8 THAT ARE LOST AT SEA. OR ANOTHER QUICK EXAMPLE. LET'S
9 SAY YOU'VE GOT A HOUSE BURNING DOWN AND YOU'VE GOT A
10 60-YEAR-OLD WOMAN AND YOU'VE GOT A \$50 MILLION PAINTING
11 GOING DOWN WITH THAT HOUSE AND FIREFIGHTERS COME IN --

12 MR. GALVIN: OBJECTION. GOLDEN RULE ARGUMENT.

13 THE COURT: OVERRULED.

14 MR. MARDIROSSIAN: WE WOULD NEVER SAY "LET THAT
15 WOMAN DIE. SAVE THE \$50 MILLION PAINTING." WE WOULD
16 NEVER SAY THAT. WE WOULD ALWAYS SAY SAVE THE LIFE; SAVE
17 THE LIFE. WE DON'T CARE HOW OLD THAT PERSON IS. THAT'S
18 A LIFE. YOU DON'T SACRIFICE THAT, NOT FOR A MILLION
19 BUCKS. 20 MILLION ISN'T ENOUGH. BUT I REASON WITH YOU,
20 AND I GAVE YOU SOME THOUGHTS. I GAVE YOU SOME IDEAS.
21 AND I KNOW I'M NOT GOING TO FINISH TODAY BECAUSE I HAVE
22 A LOT TO SAY. THERE'S A LOT THAT COUNSEL SAID -- BOTH
23 COUNSEL THAT I'M GOING TO RESPOND TO.

24 AND IN ORDER TO DO THAT, I'M GOING TO NEED
25 A LITTLE MORE TIME. AND I KNOW THE COURT HAS ASKED US
26 TO FINISH BY 4:30.

27 YOUR HONOR, I NEED TO PUT OUR MODEL UP. I
28 DON'T KNOW HOW MUCH TIME THE COURT IS GOING TO GIVE ME,

1 BUT I NEED ANOTHER 45 MINUTES TO AN HOUR. SO IF I CAN
2 GET SOME GUIDANCE FROM THE COURT BEFORE I GO ON. SHOULD
3 WE GO SIDEBAR?

4 THE COURT: WHY DON'T WE.

5 MR. MARDIROSSIAN: THANK YOU.

6 (SIDEBAR HELD AND NOT REPORTED.)

7
8 THE COURT: ALL RIGHT. WE HAVE PROBABLY ABOUT
9 ANOTHER HOUR OR SO TO GO. AND THE QUESTION IS ARE YOU
10 ABLE TO STAY AND FINISH UP TONIGHT, OR SHOULD WE DO THIS
11 IN THE MORNING? COULD I SEE HANDS OF ANYBODY WHO IS NOT
12 ABLE TO STAY? I DON'T WANT TO PUT PRESSURE ON YOU. IF
13 YOU AREN'T, YOU AREN'T. NOW, WE'VE TOLD YOU WHAT YOU
14 CAN COUNT ON --

15 MR. MARDIROSSIAN: WE'VE GOT A HALF AN ARM FROM
16 MS. LEWIS.

17 THE COURT: ALL RIGHT. AND MS. WOLDEYES. OKAY.
18 WELL, THEN, WHAT WE'RE GOING TO DO IS --

19 MR. MARDIROSSIAN, YOU WANT TO BREAK NOW?

20 MR. MARDIROSSIAN: YES, YOUR HONOR. THAT MIGHT BE
21 BEST.

22 THE COURT: OKAY. WE'RE GOING TO GO AHEAD AND
23 BREAK FOR THE EVENING. WISH YOU A VERY LOVELY EVENING
24 AND SEE YOU AT 9:00 O'CLOCK TOMORROW MORNING. YOU ARE
25 REMINDED NOT TO DISCUSS THIS MATTER AMONG YOURSELVES OR
26 WITH ANY OTHER PERSON, NOT TO FORM OR EXPRESS AN OPINION
27 ON THE MATTER UNTIL IT'S SUBMITTED TO YOU FOR A
28 DECISION. WE'LL SEE YOU TOMORROW MORNING.

1 (THE FOLLOWING PROCEEDINGS WERE
2 HELD IN OPEN COURT OUT OF THE
3 PRESENCE OF THE JURY:)

4
5 THE COURT: LET'S TALK JUST FOR A MOMENT, IF WE
6 COULD, ABOUT LOGISTICS. THERE ARE A NUMBER OF DAYS THAT
7 I NEED TO BE OUT OVER THE NEXT FEW DAYS AND INTO NEXT
8 WEEK. IT SEEMS TO ME THAT THE PROCESS THAT MAKES SENSE
9 TO ME IS THAT IF THERE'S A QUESTION FROM THE JURY, THAT
10 NANCY WILL SCAN IT AND SEND IT TO EVERYBODY INCLUDING
11 MYSELF.

12 AND THEN WHAT WE'LL PLAN TO DO IS HAVE A --
13 I WOULD LIKE YOU ALL TO TALK AMONG YOURSELVES TO SEE IF
14 YOU CAN REACH AN AGREEMENT ON A PROPOSED ANSWER. WE'LL
15 HAVE A CONFERENCE CALL 15 MINUTES OR SO AFTER WE GET THE
16 E-MAIL OF THE QUESTION AND THEN WE CAN TALK ABOUT HOW
17 BEST TO RESPOND AND THEN WE WILL TYPE OUT THE RESPONSE
18 SO THAT WE ENSURE THAT NOBODY HAS ANY OBJECTION AND
19 THAT'S THE WAY TO GO.

20 MR. GALVIN: THAT SOUNDS GOOD. I SUSPECT -- WE'LL
21 BE HERE, AT LEAST ON THE 12TH FLOOR. AND I WON'T SPEAK
22 FOR THEM, BUT IF WE'RE ALL PRESENT, WE COULD ALSO LEAVE
23 OUR NUMBERS AND NANCY COULD TELL US AND WE COULD COME UP
24 AND IT CAN BE SCANNED FOR YOUR HONOR AND WE COULD BE
25 HERE AS WELL.

26 THE COURT: WELL, THAT'S FINE. IF YOU WANT TO DO
27 IT THAT WAY. THE BOTTOM LINE IS WE NEED TO HAVE SOME
28 CONFERENCE CALL ABILITY.

1 MR. GALVIN: YES.

2 THE COURT: AND SO I DON'T KNOW IF ANYBODY'S FIRM
3 HAS THE ABILITY TO SET UP A CONFERENCE CALL --

4 MR. BERRY: YEAH, WE HAVE CONFERENCE NUMBERS.

5 THE COURT: -- THAT WE CAN USE SO THAT WE COULD
6 REGULARLY HAVE A LINE THAT WE CAN HAVE THOSE CALLS ON.
7 THE OTHER THING IS THURSDAY AND FRIDAY OF THIS WEEK I
8 WILL BE SORT OF DOWN THE ROAD IN LAGUNA NIGUEL FOR A
9 CONFERENCE. AND SO IF THE JURY COMES BACK, I WILL DRIVE
10 BACK IN ORDER TO TAKE IT UNLESS IT'S TOO LATE IN THE DAY
11 ON FRIDAY THAT I CAN'T GET HERE AND THEN I WILL JUST GET
12 ANOTHER JUDGE TO TAKE IT.

13 NEXT MONDAY IS THE DAY THAT MR. HE TOLD US
14 THAT HE HAS TO BE AT WORK; SO WE WILL NOT BE IN SESSION
15 NO MATTER WHERE THEY ARE IN TERMS OF THEIR
16 DELIBERATIONS. WE WON'T BE IN SESSION NEXT MONDAY. WE
17 NEED TO FIGURE OUT WHETHER THERE'S A STIPULATION BY ALL
18 OF YOU THAT THE ALTERNATES CAN GO EITHER BACK TO WORK OR
19 GO HOME UNTIL THEY ARE CALLED OR WHETHER YOU WANT THEM
20 TO COME AND SIT OUTSIDE THE JURY ROOM FOR THE ENTIRE
21 PERIOD OF THE DELIBERATION.

22 MR. GALVIN: I WOULD NOT THINK ALL OF THEM WOULD
23 NEED TO. MAYBE THE FIRST TWO OR MAYBE NONE OF THEM IF
24 THEY WERE CLOSE ENOUGH.

25 MR. DUFFY: I WOULD STIPULATE THAT NONE OF THEM
26 HAVE TO, AND THEN IF WE HAVE TO CALL THEM, WE CALL THEM.

27 MR. GALVIN: IF THEY CAN BE WITHIN "X" MINUTES.

28 MR. DUFFY: WELL, NONE OF THEM ARE MORE THAN AN

1 HOUR AWAY; SO I BELIEVE WE'VE IMPOSED ON THEIR LIFE LONG
2 ENOUGH; SO I WOULD SAY LET THEM GO.

3 MR. GALVIN: YEAH.

4 THE COURT: AND I THINK IT'S VERY DIFFICULT TO
5 HAVE THEM STAY HERE WHILE THEY AREN'T EVEN ALLOWED TO BE
6 IN THE DELIBERATION ROOM.

7 MR. MARDIROSSIAN, YOU AGREE WITH THAT AS
8 WELL?

9 MR. MARDIROSSIAN: YES.

10 THE COURT: OKAY. SO THAT'S WHAT WE WILL INSTRUCT
11 THEM TOMORROW. ANYTHING ELSE FURTHER FOR THE RECORD
12 TODAY? SO WE'LL START AT 9:00 O'CLOCK TOMORROW MORNING?

13 ALL RIGHT. THANK YOU. HAVE A GREAT
14 EVENING.

15

16 (THE PROCEEDINGS WERE ADJOURNED
17 UNTIL WEDNESDAY, OCTOBER 2, 2013,
18 AT 9:00 A.M.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 322

HON. LEE SMALLEY EDMON, JUDGE

COORDINATION PROCEEDINGS)
SPECIAL TITLE (RULE 1550 (B))
)
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TOYOTA MOTOR CASES)
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JCCP4621

REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

TUESDAY, OCTOBER 1, 2013

P.M. SESSION

APPEARANCES:

FOR PLAINTIFFS: MARDIROSSIAN & ASSOCIATES, INC.
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OFFICIAL PRO TEM COURT REPORTER

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APPEARANCES OF COUNSEL (CONTINUED):

FOR DEFENDANT

OLGA BELLO:

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I N D E X

OCTOBER 1, 2013 -- P.M. SESSION

CHRONOLOGICAL INDEX OF WITNESSES

(NONE)

EXHIBITS

(NONE OFFERED.)